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FEDERAL HOUSING FINANCE BOARD

12 CFR Part 918

[No. 2001–06]

RIN 3069–AB05

Maintenance of Effort—Minimum Number of Annual Bank Board of Directors Meetings

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending the maintenance of effort provision of its regulations to eliminate the three-year averaging requirement and to reduce the required minimum number of in-person board of directors meetings that a Federal Home Loan Bank (Bank) must hold annually to six meetings.

DATES: The interim final rule shall become effective on May 14, 2001. The Finance Board will accept written comments on the interim final rule on or before June 13, 2001.

ADDRESSES: Address written comments to Elaine L. Baker, Secretary to the Board, by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Scott L. Smith, Acting Director, at (202) 408–2991, Patricia L. Sweeney, Program Analyst, at (202) 408–2872, Office of Policy, Research, and Analysis; or Sharon B. Like, Senior Attorney-Advisor, at (202) 408–2930, Thomas Hearn, Senior Attorney-Advisor, at (202) 408–2976, Office of the General Counsel; or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. A telecommunications device for deaf persons (TDD) is available at (202) 408–2579.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

The Gramm-Leach-Bliley Act (GLB Act) amended section 7(i) of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. 1427(i)) by imposing specific limits on annual compensation for the Chairperson, Vice Chairperson, and other members of a Bank's board of directors. *See* GLB Act, § 606(b), Pub. L. No. 106–102, 113 Stat. 1338 (Nov. 12, 1999). Because the new statutory limits generally would result in most directors receiving less compensation than allowed under the then existing Finance Board regulation, for safety and soundness reasons, the Finance Board included in its interim final rule implementing the new statutory limits a requirement that each Bank's board of directors continue to maintain its level of oversight of the management of the Bank (maintenance of effort standard). The interim final rule further required that, consistent with this maintenance of effort standard, each Bank's board of directors must hold no fewer in-person meetings in any year than it held on average over the immediately preceding three years (three-year averaging requirement). *See* 64 FR 71275 (Dec. 21, 1999).

In the **SUPPLEMENTARY INFORMATION** section of the final rule that finalized the interim final rule, the Finance Board recognized that a pure averaging requirement incorporates the vagaries of timing into the calculation of the minimum meetings requirement for a particular Bank. *See* 65 FR 13663, 13664 (March 14, 2000). For that reason, in order to reflect the operational reality at the Banks regarding the average number of meetings held over the preceding three years, the Finance Board revised the minimum meetings requirement in § 918.7(a) of the final rule to the lesser of: (1) nine; or (2) the three-year averaging requirement. *See id.* In addition, § 918.7(b) of the final rule clarified that a Bank could apply to the Finance Board for a waiver of the minimum meetings requirement pursuant to the procedures of 12 CFR part 907. *See* 12 CFR 918.7(b).

II. Analysis of Interim Final Rule

Since the maintenance of effort standard was adopted, the Finance Board has received several requests from Banks for waivers under § 918.7(b) to hold fewer annual in-person board of directors meetings than mandated by their three-year averaging requirement. Two Banks, in particular, have argued that they would be able to more efficiently and effectively conduct their business by holding only six annual in-person board meetings. The Banks indicated that they would be able to continue to maintain their level of oversight over the management of the Banks by conducting more business at fewer, but longer, board meetings, and/or placing greater reliance on board committees for the conduct of board business. The Banks noted that the three-year averaging requirement creates a standard that varies among the Banks. For example, one Bank, based on its three-year averaging requirement, already holds only six in-person board meetings annually.

Based on the experience with the minimum meetings requirement over the past year, the Finance Board is persuaded that the three-year averaging requirement should be eliminated from § 918.7(a)(2). In addition, based on the Banks' arguments that they can operate more efficiently and effectively, while continuing to maintain their level of oversight of the management of the Bank, with six annual in-person board meetings, the Finance Board is persuaded that it would be reasonable to reduce the minimum of nine meetings in § 918.7(a)(1) to six meetings.[1]

The Finance Board also surveyed the number of board of directors meetings held in 1999 by 12 bank holding companies with total assets ranging from $11.0 billion to $99.8 billion, four thrift institution holding companies with total assets ranging from $35 billion to $186.5 billion, and two housing Government-Sponsored Enterprises (GSEs)—the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)—with total assets of $575.2 billion and $386.7 billion, respectively. In 1999, the total assets of the 12 Banks ranged from $24.4 billion to $115.9 billion. The number of directors on the boards of the financial institution holding companies, Fannie Mae and Freddie Mac generally ranged from 14 to 18; which is

[1] Of course, a Bank's board may, in its discretion, continue to consider its three-year average, along with other factors, in determining it annual number of meetings, provided that number is no less than six.

comparable in size to the number of directors serving on the boards of the Banks. For only two of the bank holding companies, the board was comprised of 12 directors, and for a third bank holding company, the board was comprised of 21 directors. The number of board meetings for the bank holding companies ranged from 4 to 12, averaging 7.33 meetings in 1999. The number of board meetings for the thrift institution holding companies ranged from 4 to 9, averaging 7.00 meetings in 1999. Fannie Mae held 8 board meetings in 1999, and Freddie Mac held 5 board meetings in 1999.

In short, requiring at least six in-person Bank board of directors meetings in any year is within the range of the number of annual board meetings held by financial institution holding companies and other housing GSEs. Providing the boards of the Banks with greater discretion in determining the number of board meetings to hold annually also is consistent with the GLB Act's emphasis on devolving governance issues to the Banks.

Although the interim final rule reduces the minimum meetings requirement, § 918.7(a) still requires the board of directors of a Bank to continue to maintain its level of oversight of the management of the Bank, notwithstanding the limits on annual directors' compensation established by section 7(i) of the Bank Act. See 12 U.S.C. 1427(i). Therefore, if a Bank's board intends to hold fewer annual in-person board meetings than it has held in past years, it would be in the board's best interest to document how it will continue to meet the maintenance of effort standard and its fiduciary duties regarding the Bank's safety and soundness.

The interim final rule also removes the waiver provision of § 918.7(b), since the right to seek a waiver generally of Finance Board regulatory provisions is already provided for in 12 CFR part 907.

III. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this interim final rule, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

IV. Notice and Public Participation

Because of the exigency of the Banks setting their schedules of board of directors meetings for 2001, the Finance Board finds for good cause that the notice and public comment procedure required by the Administrative Procedure Act is impracticable, unnecessary, or contrary to the public interest in this instance. See 5 U.S.C. 553(b)(B). The Finance Board welcomes written comments on this interim final rule.

V. Paperwork Reduction Act

This interim final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 601 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 918

Federal home loan banks, Reporting and recordkeeping requirements, Wages.

Accordingly, the Finance Board hereby amends title 12, chapter IX, part 918, Code of Federal Regulations, as follows:

1. The authority citation for part 918 continues to read as follows:

Authority: 12 U.S.C. 1422b(a), and 1427.

2. Revise § 918.7 to read as follows:

§ 918.7 Maintenance of effort.

Notwithstanding the limits on annual directors' compensation established by section 7(i) of the Act, as amended, the board of directors of each Bank shall continue to maintain its level of oversight of the management of the Bank. In maintaining its level of oversight, the board of directors of a Bank shall hold at least six in-person meetings in any year.

Dated: May 2, 2001.

By the Board of Directors of the Federal Housing Finance Board.

Allan I. Mendelowitz,

Chairman.

[FR Doc. 01–11993 Filed 5–11–01; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 9704–28099–0127–10]

RIN 0694–AB60

Entity List: Revisions and Additions

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contain a list of such entities called the Entity List. This rule adds to the Entity List twelve entities located in the People's Republic of China (PRC). This rule also modifies three Russian entity listings and one Chinese entity listing, and makes one correction to an Israeli entity.

EFFECTIVE DATE: This rule is effective May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

General Prohibition Five (§ 736.2(b)(5) of the EAR) prohibits exports and reexports to certain end-users or end-uses (described in part 744 of the EAR) without a license. In the form of Supplement No. 4 to part 744, BXA maintains an "Entity List" to provide notice informing the public of certain entities subject to such licensing requirements.

There are three levels of license requirements for the twelve entities added to the Entity List by this rule. A license will be required for the export or reexport of all items subject to the EAR having a classification other than EAR99 to the following two PRC entities: Baotou Guanghua Chemical Industrial Corporation and Xian Research Institute of Navigation Technology. A license will be required for the export or reexport of all items subject to the EAR to the following five PRC entities: 13 Institute, China Academy of Launch Vehicle Technology, (CALT), aka 713 Institute or Beijing Institute of Control Devices, PRC; Beijing Power Machinery Institute, PRC; Beijing University of Aeronautics and Astronautics (BUAA), PRC; First Department, China Academy of Launch Vehicle Technology, (CALT), PRC; and Xiangdong Machinery Factory, PRC. A license will be required for the export or reexport of all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits are "999" of the ECCN, *e.g.*, XX999 to the following five PRC entities: 35 Institute, aka Beijing Huahang Radio Measurements Research Institute; 33 Institute, aka Beijing Institute of Automatic Control Equipment; Southwest Research Institute of Electronics Technology, Chengdu; Northwestern Polytechnical University; and 54th Research Institute of China, aka Communication, Telemetry and Telecontrol Research Institute (CTI).

License applications to export or reexport these items to all but one of the entities (the Baotou Guanghua Chemical Industrial Corporation, 202 Factory Baotou located in Inner Mongolia, PRC) will be reviewed based on the license review standards for missile end-uses found in section 744.3 of the Export Administration Regulations. Therefore, applications will be considered on a case-by-case basis to determine whether the export would make a material contribution to the proliferation of missiles. When an export or reexport is deemed to make a material contribution, the license will be denied.

License applications to export or reexport all items subject to the EAR having a classification other than EAR99 to Baotou Guanghua Chemical Industrial Corporation, 202 Factory Baotou, Inner Mongolia, PRC will be reviewed based on the license review criteria set out for nuclear end-uses found in section 744.2 of the Export Administration Regulations.

This rule also clarifies the location of the Russian entities "All-Russian Scientific Research Institute of Technical Physics", "All-Union Scientific Research Institute of Experimental Physics", and "Ministry for Atomic Power of Russia" by adding in parentheticals that "Sarov" is an alternate name for the city of Kremlev, *i.e.*, Kremlev (Sarov).

In addition, this rule adds an alternate name that is used by the Chinese Academy of Engineering Physics, Southwest Institute of Nuclear Physics and Chemistry. This institute is also known as the China Academy of Eng[ineering] Physics [CAEP]'s 902 Institute located in Mianyang, PRC.

On March 10, 2000, a rule was published that revised the license requirement section of Ben Gurion University on the Entity List. This rule adds the inadvertently omitted **Federal Register** citation of the March 10 revision to the **Federal Register** Citation column of the Israeli entity "Ben Gurion University'.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control number 0694–0088, "Multi-Purpose Application," which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA–748P. Notwithstanding any other provision of law, no person is required to respond nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; Pub. L. 106–508; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13206 (66 FR 18397, April 9, 2001); Notice of November 9, 2000 (65 FR 68063, November 13, 2000).

PART 744—[AMENDED]

2. Supplement No. 4 to part 744 is amended as follows:

a. In the country "Israel" entry, in the entry for the Israeli entity "Ben Gurion University, Israel" in the "**Federal Register** Citation" column, revise the entry to read "62 FR 4910, 2/3/97; 65 FR 12919, 3/10/00.";

b. Amending the country "China, People's Republic of" entry by revising the entry for the Chinese entity "Chinese Academy of Engineering Physics" and amending the country "Russia" by revising the Russian entities "All-Russian Scientific Research Institute of Technical Physics", "All-Union Scientific Research Institute of Experimental Physics", and "Ministry for Atomic Power of Russia", to read as follows; and

c. Adding, in alphabetical order, the following entities for "China, People's Republic of", to read as follows:

Supplement No. 4 to Part 744—Entity List

Country and entity	License requirement	License review policy	Federal Register citation
• • •	• • •	• • •	• • •
China, People's Republic of:			
13 Institute, China Academy of Launch Vehicle Technology, (CALT), aka 713 Institute or Beijing Institute of Control Devices.	For all items subject to the EAR.	See § 744.3(d) of this part	66 FR 24265, May 14, 2001.

Country and entity	License requirement	License review policy	Federal Register citation
33 Institute, aka Beijing Institute of Automatic Control Equipment.	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", e.g., XX999.	See § 744.3(d) of this part	66 FR 24266, May 14, 2001.
35 Institute, aka Beijing Huahang Radio Measurements Research Institute.	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", e.g., XX999.	See § 744.3(d) of this part	66 FR 24266, May 14, 2001.
54th Research Institute of China, aka Communication, Telemetry and Telecontrol Research Institute (CTI).	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", e.g., XX999.	See § 744.3(d) of this part	66 FR 24266, May 14, 2001.
Baotou Guanghua Chemical Industrial Corporation, 202 Factory Baotou, Inner Mongolia.	For all items subject to the EAR having a classification other than EAR99.	See § 744.2(d) of this part	66 FR 24266, May 14, 2001.
• •	• •	•	• •
Beijing Power Machinery Institute	For all items subject to the EAR.	See § 744.3(d) of this part	66 FR 24266, May 14, 2001.
Beijing University of Aeronautics and Astronautics (BUAA).	For all items subject to the EAR.	See § 744.3(d) of this part	66 FR 24266, May 14, 2001.
• •	• •	•	• •
Chinese Academy of Engineering Physics (aka Ninth Academy, including the Southwest Institutes of: Applied Electronics, Chemical Materials, Electronic Engineering, Explosives and Chemical Engineering, Environmental Testing, Fluid Physics, General Designing and Assembly, Machining Technology; Materials, Nuclear Physics and Chemistry (aka China Academy of Eng[ineering] Physics [CAEP]'s 902 Institute, Mianyang), Structural Mechanics; Research and Applications of Special Materials Factory; Southwest Computing Center (all of preceding located in or near Mianyang, Sichuan Province); Institute of Applied Physics and Computational Mathematics, Beijing; and High Power Laser Laboratory, Shanghai).	For all items subject to the EAR.	Case-by-case basis	62 FR 35334, 6/30/97; 66 FR 24266, May 14, 2001.
• •	• •	•	• •
First Department, China Academy of Launch Vehicle Technology, (CALT).	For all items subject to the EAR.	See § 744.3(d) of this part	66 FR 24266, May 14, 2001.
• •	• •	•	• •
Northwestern Polytechnical University	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", e.g., XX999.	See § 744.3(d) of this part	66 FR 24266, May 14, 2001.

Country and entity	License requirement	License review policy	Federal Register citation
• •	• •	•	• •
Southwest Research Institute of Electronics Technology, Chengdu.	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", e.g., XX999.	See § 744.3(d) of this part	66 FR 24267, May 14, 2001.
• •	• •	•	• •
Xian Research Institute of Navigation Technology.	For all items subject to the EAR having a classification other than EAR99.	See § 744.3(d) of this part	66 FR 24267, May 14, 2001.
Xiangdong Machinery Factory	For all items subject to the EAR.	See § 744.3(d) of this part	66 FR 24267, May 14, 2001.
• •	• •	•	• •
Russia:			
All-Russian Scientific Research Institute of Technical Physics, (aka VNIITF, Chelyabinsk-70, All-Russian Research Institute of Technical Physics, ARITP, Russian Federal Nuclear Center) located in either Snezhinsk or Kremlev (Sarov).	For all items subject to the EAR.	Case-by-case basis	62 FR 35334, 6/30/97; 66 FR 24267, May 14, 2001.
All-Union Scientific Research Institute of Experimental Physics, (aka VNIIEF, Arzamas-16, Russian Federal Nuclear Center, All Russian Research Institute of Experimental Physics, ARIEP, Khariton Institute) located in either Snezhinsk or Kremlev (Sarov).	For all items subject to the EAR.	Case-by-case basis	62 FR 35334, 6/30/97; 66 FR 24267, May 14, 2001.
• •	• •	•	• •
Ministry for Atomic Power of Russia (any entities, institutes, or centers associated with) located in either Snezhinsk or Kremlev (Sarov).	For all items subject to the EAR.	Case-by-case basis	62 FR 35334, 6/30/97; 66 FR 24267, May 14, 2001.
• •	• •	•	• •

Dated: May 9, 2001.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 01–12188 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–33–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 202

[Docket No. RM 2001–4]

Renewal Copyright Registration

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule: technical amendment.

SUMMARY: The Copyright Office is making technical amendments in the regulation regarding copyright renewal to reflect the modification in duration of the extended renewal term from forty-seven years to sixty-seven years as a result of the Sonny Bono Copyright Term Extension Act.

EFFECTIVE DATE: May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Kent Dunlap, Principal Legal Advisor for the General Counsel, Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On October 27, 1998, President Clinton signed into law the Sonny Bono Copyright Term Extension Act, Pub. L. 105–298, extending for an additional 20 years the term of copyright protection in the United States. This law increased the extended copyright renewal term under section 304 of the copyright law, from forty-seven years to sixty-seven years. These technical amendments add a reference to Pub. L. 105–298 and substitute sixty-seven years in places where the renewal regulation designates forty-seven years.

List of Subjects in 37 CFR Part 202

Copyright registration.

Technical Amendment

In consideration of the foregoing, the Copyright Office is amending part 202 of 37 CFR, chapter II in the manner set forth below.

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 202.17 [Amended]

2. In § 202.17:

a. Paragraph (a) is amended by adding "and Pub. L. 105–298." at the end of the paragraph.

b. Paragraph (c) is amended by removing the phrases "extended forty-seven year second term" and "forty-seven year extended term" and adding "extended sixty-seven year second

term" and "sixty-seven year extended term," respectively.

c. Paragraph (e)(1) is amended by removing the phrase "extended forty-seven year second term" and adding "extended sixty-seven year second term".

d. Paragraph (f)(1) is amended by removing the phrase "forty-seven year renewal term" and adding "sixty-seven year renewal term."

Dated: May 9, 2001.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 01–12053 Filed 5–11–01; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6970–4]

RIN 2060–AH74

National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical corrections.

SUMMARY: Under the Clean Air Act (CAA), the EPA issued a final rule on December 22, 2000 (65 FR 80755) to amend the pulp and paper national emission standards for hazardous air pollutants (Pulp and Paper NESHAP). The Pulp and Paper NESHAP limit and control hazardous air pollutants (HAP) that are known to cause or suspected to cause cancer or have other serious health or environmental effects. These technical corrections will correct an error in the amendatory instructions and correct referencing errors in the December 22, 2000 final rule amendments. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the Pulp and Paper NESHAP. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

EFFECTIVE DATE: May 14, 2001.

ADDRESSES: Docket No. A–92–40 contains supporting information for the Pulp and Paper NESHAPS, subsequent amendments, and this technical correction. The docket is located at the U.S. EPA, in Room M–1500, Waterside Mall (ground floor), 401 M Street SW., Washington, DC 20460 and is available for inspection and copying from 8:30 a.m. to 5:30 p.m., Monday through Friday except Federal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Shedd, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5397, facsimile number: (919) 541–0246, electronic mail address: *shedd.steve@epa.gov*.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Entities potentially regulated by this action include:

Category	SIC	NAICS	Examples of regulated entities
Industry	26	3221	Pulp mills and integrated mills (mills that anufacture pulp and paper/paperboard) that chemically pulp wood fiber.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether this action would regulate your facility, you must carefully examine the applicability criteria in § 63.440 of the Pulp and Paper NESHAP. If you have questions regarding the applicability of this action to a particular situation or questions about compliance approaches, permitting, enforcement, and rule determinations, please contact the local or State air pollution control agency who has permitting authority for your facility.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's technical corrections will be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be available on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control. Also, a separate page on the TTN provides all the proposal and promulgation notices, support documents, and implementation information for the Pulp and Paper NESHAP which is located at *http://www.epa.gov/ttn/uatw/pulp/pulppg.html*. If you need more information regarding the TTN, call the TTN HELP line at (919) 541–5384.

I. Description of the Technical Corrections

The EPA promulgated the Pulp and Paper NESHAP on April 15, 1998 (63 FR 18504), with subsequent amendments for corrections and clarifications. On December 22, 2000 (65 FR 80755), we issued final rule amendments to the Pulp and Paper NESHAPS to revise the compliance demonstration procedures for combustion devices used to control pulping vent gases and for biological treatment systems used to treat pulping condensates. In the final rule text we incorrectly referenced two subparagraphs. Section 63.457(l)(1) incorrectly referenced § 63.446(e)(2)(i). The correct reference is § 63.446(e)(2) and (3). Section 63.457(l)(2) incorrectly referenced § 63.446(e)(2)(ii) and (iii). The correct reference is § 63.446(e)(2) and (4), or (e)(2) and (5). Also the amendatory instructions were incorrect for § 63.457(l) and (m)(2)(ii). The incorrect instruction is to revise the introductory text. Instead, the whole text is to be revised. This action corrects those typographical errors.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because the EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute (see Summary), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate as described in sections 203 and 204 of UMRA. This final rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This final rule does not have substantial direct effects on the States, on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10,1999). This final rule also is not subject to Executive Order 13045 (62 FR19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The technical correction also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this technical correction, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the December 22, 2000 final rule amendments (65 FR 80755).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, the EPA has made such a good cause finding, including the reasons therefor, and established an effective date of May 14, 2001. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and record keeping requirements.

Dated: April 18, 2001.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations are amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart S—[Amended]

2. Section 63.457 is amended by revising paragraphs (l) and (m)(2)(ii) to read as follows:

§ 63.457 Test methods and procedures.

* * * * *

(l) *Biological treatment system percent reduction and mass removal calculations.* To demonstrate compliance with the condensate treatment standards specified in § 63.446(e)(2) and the monitoring requirements specified in § 63.453(j)(3) using a biological treatment system, the owner or operator shall use one of the procedures specified in paragraphs (1)(1) and (2) of this section. Owners or operators using a nonthoroughly mixed open biological treatment system shall also comply with paragraph (1)(3) of this section.

(1) *Percent reduction methanol procedure.* For the purposes of complying with the condensate treatment requirements specified in § 63.446(e)(2) and (3), the methanol percent reduction shall be calculated using the following equations:

Where:

$$R = \frac{f_{bio}(MeOH)}{(1+1.087(r))} * 100$$

$$r = \frac{F_{(nonmethanol)}}{F_{(methanol)}}$$

R = Percent destruction.

$f_{bio}(MeOH)$ = The fraction of methanol removed in the biological treatment system. The site-specific biorate constants shall be determined using the appropriate procedures specified in appendix C of this part.

r = Ratio of the sum of acetaldehyde, methyl ethyl ketone, and propionaldehyde mass to methanol mass.

$F_{(nonmethanol)}$ = The sum of acetaldehyde, methyl ethyl ketone, and propionaldehyde mass flow rates (kg/Mg ODP) entering the biological treatment system determined using the procedures in paragraph (j)(2) of this section.

$F_{(methanol)}$ = The mass flow rate (kg/Mg ODP) of methanol entering the system determined using the procedures in paragraph (j)(2) of this section.

(2) *Mass removal methanol procedure.* For the purposes of complying with the condensate treatment requirements specified in § 63.446(e)(2) and (4), or § 63.446(e)(2) and (5), the methanol mass removal shall be calculated using the following equation:

$$F = F_b * \left(f_{bio}(MeOH) / \left(1+1.087(r)\right)\right)$$

Where:

F = Methanol mass removal (kg/Mg ODP).

F_b = Inlet mass flow rate of methanol (kg/Mg ODP) determined using the procedures in paragraph (j)(2) of this section.

$f_{bio}(MeOH)$ = The fraction of methanol removed in the biological treatment system. The site-specific biorate constants shall be determined using the appropriate procedures specified in appendix C of this part.

r = Ratio of the sum of acetaldehyde, methyl ethyl ketone, and propionaldehyde mass to methanol mass determined using the procedures in paragraph (1) of this section.

(3) The owner or operator of a nonthoroughly mixed open biological treatment system using the monitoring requirements specified in § 63.453(p)(3) shall follow the procedures specified in section III.B.1 of appendix E of this part to determine the borate constant, Ks, and characterize the open biological

treatment system during the initial and any subsequent performance tests.

(m) * * *

(2) * * *

(ii) Compliance with the segregation requirements specified in § 63.446(c)(3) is demonstrated if the total HAP mass determined in paragraph (m)(2)(i) of this section is equal to or greater than the appropriate mass requirements specified in § 63.446(c)(3).

* * * * *

[FR Doc. 01–12048 Filed 5–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 270

[FRL–6978–4]

NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Implementation of court orders.

SUMMARY: In *Chemical Manufacturers Association* v. *EPA*, 217 F. 3d 861 (D.C. Cir. 2000), the court vacated the Notice of Intent to Comply (NIC) provisions of EPA's rules relating to the standards for hazardous waste combustors. Today's action takes the ministerial step of removing these provisions from the Code of Federal Regulations (CFR). Since the vacated NIC provision is also referenced in the permit modification procedures of RCRA in Part 270, today's action modifies this reference as well. In addition, at EPA's request, the D.C. Circuit vacated certain parameter limits of baghouses and electrostatic precipitators in order for EPA to solicit further comment on these provisions. *CKRC* v. *EPA*, no. 99–1457 (Order of April 5, 2001). Today's action likewise takes the ministerial step of removing these provisions from the CFR.

DATES: This rule is effective on May 14, 2001.

ADDRESSES: The official record (i.e., the public docket) of this rulemaking is identified as Docket Number F–2001–RC3F–FFFFF, located in RCRA Information Center (RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA HQ), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002. The RIC is open from 9 am to 4 pm Monday through Friday, excluding Federal holidays. To review docket materials or for information on accessing an electronic copy of those materials, please call 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $ 0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Call Center is open Monday–Friday, 9 am to 5 pm, Eastern Standard Time. For more information on specific aspects of this rule, contact Mr. Shiva Garg at 703–308–8459, *garg.shiva@epa.gov*, or write him at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Vacatur of Requirements for Early Cessation of Hazardous Waste Burning

In anticipation of establishing revised emission standards for cement kilns and incinerators burning hazardous waste, EPA promulgated at 63 FR 33821–2 (June 19, 1998) that sources which elect to stop burning hazardous waste rather than comply with the new emission standards must do so within two years of the effective date of the emission standards (the so-called "early cessation" requirement). These regulations were later recodified as 40 CFR 63.1206(a)(2)(i) and 1211(b)(2)(iii) and (5), at 64 FR 53038, September 30, 1999. Sources that continued to burn hazardous wastes but seek to comply with the new emission limits, such as by improving their emission control capabilities, have three years to comply. 40 CFR 63.1206(a)(1). Both methods of compliance were implemented by submission of two reporting requirements: a Notification of Intent to Comply ("NIC"), and a Progress Report. 40 CFR 63.1210(b), 63.1211(b), and 63.1212.

In the case of sources intending to comply by meeting the emission standards, submittal of a NIC is a condition required for eligibility for accelerated modification of the source's existing permit under the Resource Conservation and Recovery Act ("RCRA"). 40 CFR 70.42(j)(1). These accelerated permit modifications (so-called "Class I modifications") allow sources to modify their existing hazardous waste permits issued pursuant to RCRA by simply submitting an application to the permitting authority rather than waiting for prior Agency approval and going through public hearings (63 FR 33803, June 19, 1998). Permit modifications are necessary because, unless modified, existing RCRA permits limit the ability of sources to modify their design or operation, and such modifications may be necessary to comply with the Clean Air Act emission standards. *Id.* Accelerated permit modifications are needed (where modifications are needed at all) because usual permit modification procedures entail prior agency approval and public hearings, an often lengthy process which could preclude compliance with the emission standards within the three years allowed (with a possible one-year extension) under section 112(i)(3) of the Clean Air Act (42 U.S.C. 7412(i)(3), forcing facilities to choose between violating RCRA and violating the Clean Air Act. EPA therefore amended its permitting rules to use the accelerated Class I modification procedures to amend permits to allow sources to make technology changes—such as installation of new air pollution control devices or process modifications—needed to comply with the new air emission standards, provided, as noted above, that the "[f]acility * * * must comply with the Notification of Intent to Comply (NIC) requirements * * * before a permit modification can be requested under this section." 40 CFR 270.42(j)(1) and Appendix I, entry L (9) to § 270.42.

In *Chemical Manufacturers Ass'n* v. *EPA*, 217 F. 3d 861 (D.C. Cir. 2000) the panel majority held that EPA possesses legal authority to impose an early cessation requirement, but held further that the agency had impermissibly interpreted the statute to allow it to impose the requirement without a showing that it would lead to human health or environmental benefit (benefits such as "the amount of hazardous waste produced, the amount of hazardous waste burned, or the levels of hazardous air pollutant emissions"). 217 F. 3d at 865, 866–67.[1] The Court therefore vacated the early cessation requirement. The Court further held that because it could not determine whether EPA would have promulgated the NIC and Progress Report reporting requirements absent an early cessation provision, the provisions were so

[1] Judge Sentelle dissented, arguing that since the early cessation requirement was in accord with the express statutory command for compliance with section 112 emission standards "as expeditiously as practicable", it was not arbitrary and capricious. CAA section 112(i)(3)(A), 42 U.S.C. 7412(i)(3)(A). 217 F.3d at 868–69.

interlinked as to require vacatur as well. *Id.* at 867–68.

In response to EPA's Motion to Withhold Issuance of Mandate (EPA, Motion to Stay Issuance of Mandate, filed Sept. 8, 2000 in *Chemical Mfrs. Ass'n* v. *EPA*, no. 99–1236 (D.C. Cir.), the Court agreed to stay issuance of its mandate for a long enough period to allow affected sources to submit Notices of Intent to Comply so that they would be eligible for Class I permit modifications. EPA worked closely with the regulated community to assure that all sources submitted NICs before the Mandate issued.

This action takes the ministerial step of directing the Office of the Federal Register to remove the vacated provisions from the CFR.

II. Vacatur of Compliance Assurance Monitoring Requirements for Baghouses and Electrostatic Precipitators

The final rule requires sources to establish and monitor limits on the following parameters for electrostatic precipitators (ESPs) and baghouses for compliance assurance: (1) Minimum power (kVA) per field of an ESP; and (2) minimum and maximum pressure drop for each cell of a baghouse. See §§ 63.1209(m)(1)(ii) and (iii). EPA filed a motion with the D.C.Circuit to vacate this provision in order to allow a considered opportunity for notice and comment on the issue (see *CKRC* v. *EPA*, no. 99–1457, EPA Motion of November 14, 2000). The court granted EPA's motion on April 5, 2001, and ordered the vacatur of the above two paragraphs of § 63.1209. In accordance with the above, we are deleting these two paragraphs of the regulation. Permit writers are, of course, authorized under the provisions of § 63.1209(g)(2), to adopt operating parameters for baghouses and ESPs on a case-by-case basis if "necessary to document compliance with the emission standards."

III. Implementation Issues: Sources' Ability To Request a RCRA Permit Modification Using the Streamlined Modification Procedure of § 270.42(j)

In 40 CFR 270.42(j)(1), the regulations require facilities to comply with the NIC requirements of 40 CFR 63.1211 before they can use the streamlined permit modification procedures. This requirement enhances the public participation procedures for these streamlined Class 1 modifications which otherwise would have been classified as Class 2 and Class 3 modifications. Facilities were required to submit their NICs by October 2, 2000, and EPA worked closely with the regulated community to assure that all sources intending to continue operating submitted these NICs. The court issued its mandate to vacate the NIC provisions on October 11, 2000. Since the mandate did not go into effect until after facilities were required to submit their NICs, we have determined that the court's action does not impact a facility's ability to request a RCRA permit modification using the streamlined procedures of 40 CFR 270.42 (j), provided, of course. they submitted the NIC as required by the rule. As long as a facility complied with the NIC provisions, the facility met the requirements in 40 CFR 270.42(j)(1) and is therefore eligible for the streamlined modification process.

We also note, as a matter of technical drafting, that in 40 CFR 270.42(j)(1), the ability to seek a fast-track permit modification by filing a NIC (as referenced by 40 CFR 63.1211) is no longer available. The NIC requirements were promulgated in the fast-track rule (63 FR 33782, June 19, 1998) and placed in 40 CFR 63.1211. In the final rule (64 FR 52828, September 30, 1999), the NIC requirements were moved to 40 CFR 63.1210, but the corresponding reference in 40 CFR 270.42(j)(1) was not changed through oversight. 40 CFR 270.42(j)(1) should have been conformed to reference the NIC requirements of 40 CFR 63.1210.

Although the NIC requirements in 40 CFR 63.1210 are now being removed from the regulations, the substantive requirement to have submitted a NIC in order to use the fast-track permitting option still remains a part of the RCRA rule as explained above. In today's rulemaking, we are therefore clarifying the language in 40 CFR 270.42(j)(1) to reference 40 CFR 63.1210 that was in effect prior to July 1, 2000 and published in "40 CFR Part 63 Revised as of July 1, 2000". Thus, facilities that want to use streamlined permit modification process must have complied with the NIC provisions as specified in the now-vacated § 63.1210(b).

IV. Administrative Requirements

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B),[2] provides that when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because this action is in direct response to the Court's Mandate, and implements that Mandate. With respect to the rules relating to operating parameters for baghouses and ESPs, the rule implements the Court's order vacating those provisions. Thus, notice and opportunity for public comment are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). For the same reason, EPA finds that there is good cause, within the meaning of 5 U.S.C. 553(d)(3), to make the rule immediately effective.

[2] The provisions of 5 U.S.C. 553(b)(B) of the Administrative Procedure Act apply to this action, even though it arises under the Clean Air Act (to which section 553 normally does not apply). See Clean Air Act section 307(b)(1) (final sentence).

V. Regulatory Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because the Agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule is also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This action does not involve technical standards, thus the requirements of section 12(d) of National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear

legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of May 14, 2001, for this rule. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

VII. Immediate Effective Date

As noted earlier, EPA is making this rule effective immediately. This rule adopts amendments which are purely technical, in that they implement the Court's mandate. Comment on such changes is unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B). For the same reason, there is good cause to make the rule effective immediately pursuant to 5 U.S.C. 553(d)(3).

List of Subjects

40 CFR Part 63

Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: May 8, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for Part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors

2. Section 63.1206 is amended by revising paragraph (a)(1), removing paragraph (a)(2), and redesignating paragraph (a)(3) as (a)(2) to read as follows:

§ 63.1206 When and how must sources comply with the standards and operating requirements?

(a)* * * (1) *Compliance date for existing sources.* You must comply with the standards of this subpart no later than September 30, 2002 unless the Administrator grants you an extension of time under § 63.6(i) or § 63.1213.

* * * * *

§ 63.1209 [Amended]

3. Section 63.1209 is amended by removing and reserving paragraphs (m)(1)(ii) and (iii).

§ 63.1210 [Amended]

4. Section 63.1210 is amended as follows:

a. In the table to paragraph (a)(1) by removing the entry "63.1210(b) and (c)"; and

b. By removing paragraph (b) and (c) and redesignating paragraph (d) as (b).

§ 63.1211 [Amended]

5. Section 63.1211 is amended by removing paragraph (b) and redesignating paragraphs (c) through (e), as (b) through (d) respectively.

§ 63.1212 [Removed and Reserved]

6. Section 63.1212 is removed and reserved.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

7. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

8. Section 270.42 is amended by revising paragraph (j)(1) to read as follows:

§ 270.42 Permit modifications at the request of the permittee.

* * * * *

(j) * * *

(1) Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that was in effect prior to May 14, 2001, (See 40 CFR Part 63 Revised as of July 1, 2000) in order to request a permit modification under this section.

* * * * *

[FR Doc. 01–12043 Filed 5–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL–6950–2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a petition submitted by Tyco Printed Circuit Group, Melbourne Division, Melbourne, Florida, (Tyco), formerly Advanced Quick Circuits, L.P., to exclude (or "delist") a certain hazardous waste from the list of hazardous wastes under RCRA regulation. Tyco generates the petitioned waste by treating liquid waste from Tyco's printed circuit board manufacturing processes. The waste so generated is a wastewater treatment sludge that meets the definition of F006. Based on careful analyses of the waste-specific information provided by the petitioner, the Agency has concluded that Tyco's petitioned waste will not adversely affect human health and the environment. This action responds to Tyco's petition to delist this waste on a "generator-specific" basis from the hazardous waste lists, and to public comments on the proposed rule. In response to comments received on the proposed rule, the delisting levels in this final rule are based, in part, on the EPACML model, rather than the generic levels for high temperature metal recovery residues. In accordance with the conditions specified in this final rule, the petitioned waste is excluded from the requirements of hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

EFFECTIVE DATE: This rule is effective on May 14, 2001.

ADDRESSES: The RCRA regulatory docket for this final rule is located at the EPA Library, U.S. Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

The reference number for this docket is R4–99–01-TycoF. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at a cost of $0.15 per page for additional copies. For copying at the Florida Department of Environmental protection, please see below.

FOR FURTHER INFORMATION CONTACT: For general and technical information concerning this final rule, please contact Judy Sophianopoulos, RCRA Enforcement and Compliance Branch, (Mail Code 4WD–RCRA), U.S. Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8604, or call, toll free, (800) 241–1754, and leave a message, with your name and phone number, for Ms. Sophianopoulos to return your call. Questions may also be e-mailed to Ms. Sophianopoulos at *sophianopoulos.judy@epa.gov*. You may also contact Janine Kraemer, Central District Office, Florida Department of Environmental Protection (FDEP), 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803–3767. If you wish to copy documents at FDEP, please contact Ms. Kraemer for copying procedures and costs.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Background
  A. What Is a Delisting Petition?
  B. What Laws and Regulations Give EPA the Authority to Delist Wastes?
  C. What is the History of this Rulemaking?
II. Summary of Delisting Petition Submitted by Tyco Printed Circuit Group, Melbourne Division, Melbourne, FL Circuits, LP (Tyco), Melbourne, Florida
  A. What Waste Did Tyco Petition EPA to Delist?
  B. What Information Did Tyco Submit to Support This Petition?
III. EPA's Evaluation and Final Rule
  A. What Decision Is EPA Finalizing and Why?
  B. What Are the Terms of This Exclusion?
  C. When Is the Delisting Effective?
  D. How Does This Action Affect the States?
IV. Public Comments Received on the Proposed Exclusion
  A. Who Submitted Comments on the Proposed Rule?
  B. Comments and Responses From EPA
V. Regulatory Impact
VI. Congressional Review Act
VII. Executive Order 12875

I. Background

A. What Is a Delisting Petition?

A delisting petition is a request made by a hazardous waste generator to exclude one or more of his/her wastes from the lists of RCRA-regulated hazardous wastes in §§ 261.31, 261.32, and 261.33 of Title 40 of the Code of Federal Regulations (40 CFR 261.31, 261.32, and 261.33). The regulatory requirements for a delisting petition are in 40 CFR 260.20 and 260.22. EPA, Region 6 has prepared a guidance manual, *Region 6 Guidance Manual for the Petitioner*[1], which is recommended by EPA Headquarters in Washington, D.C. and all EPA Regions.

B. What Laws and Regulations Give EPA the Authority To Delist Wastes?

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (*i.e.*, ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in § 261.11 (a)(2) or (a)(3). Discarded commercial chemical product wastes which meet the listing criteria are listed in § 261.33(e) and (f).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, §§ 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show, first, that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See § 260.22(a) and the background documents for the listed wastes. Second, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (i.e., ignitability, reactivity, corrosivity, and toxicity), and must present sufficient information for the EPA to determine whether the waste contains any other toxicants at hazardous levels. See § 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (i.e., excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their wastes continue to be nonhazardous based on the hazardous waste characteristics (i.e., characteristics which may be promulgated subsequent to a delisting decision.)

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See 40 CFR 261.3 (a)(2)(iv) and (c)(2)(i), referred to as the "mixture" and "derived-from" rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the "mixture/derived-from" rules and remanded them to the EPA on procedural grounds. *Shell Oil Co.* v. *EPA*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the mixture and derived-from rules, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). These rules became final on October 30, 1992, 57 FR 49278), and should be consulted for more information regarding waste mixtures and solid wastes derived from treatment, storage, or disposal of a hazardous waste. The mixture and

[1] This manual may be down-loaded from Region 6's Web Site at the following URL address: http://www.epa.gov/earth1r6/6pd/rcra_c/pd-o/dlistpdf.htm

derived-from rules are codified in 40 CFR 261.3 (b)(2) and (c)(2)(i). EPA plans to address waste mixtures and residues when the final portion of the Hazardous Waste Identification Rule (HWIR) is promulgated.

On October 10, 1995, the Administrator delegated to the Regional Administrators the authority to evaluate and approve or deny petitions submitted in accordance with §§ 260.20 and 260.22, by generators within their Regions (National Delegation of Authority 8–19), in States not yet authorized to administer a delisting program in lieu of the Federal program. On March 11, 1996, the Regional Administrator of EPA, Region 4, redelegated delisting authority to the Director of the Waste Management Division (Regional Delegation of Authority 8–19).

C. What Is the History of This Rulemaking?

Tyco manufactures printed circuit boards, and is seeking a delisting for the sludge generated by treating liquid wastes from its electroplating operations. This waste meets the listing definition of F006 in 40 CFR Section 261.31[2]

Tyco petitioned the Administrator, on August 26, 1998, to exclude this F006 waste, on a generator-specific basis, from the lists of hazardous wastes in 40 CFR part 261, subpart D. In accordance with the delegation of delisting authority, the Administrator transmitted the petition to EPA, Region 4, and on September 11, 1998, Tyco submitted the petition to EPA, Region 4.

The hazardous constituents of concern for which F006 was listed are cadmium, hexavalent chromium, nickel, and cyanide (complexed). Tyco petitioned the EPA to exclude its F006 waste because Tyco does not believe that the waste meets the criteria of the listing.

Tyco claims that its F006 waste is not hazardous because the constituents of concern are either present at low concentrations, or do not leach out of the waste at significant concentrations. Tyco also believes that this waste is not hazardous for any other reason (i.e., there are no additional constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4). As a result of the EPA's evaluation of Tyco's petition, the Agency proposed to grant a delisting to Tyco, on August 8, 2000. See 65 FR 48434–48444, August 8, 2000 for details. Today's rulemaking addresses public comments received on the proposed rule and finalizes the proposed decision to grant Tyco's petition for delisting.

II. Summary of Delisting Petition Submitted by Tyco Printed Circuit Group, Melbourne Division, Melbourne, FL (Tyco), Melbourne, Florida

A. What Waste Did Tyco Petition EPA To Delist?

Tyco petitioned EPA, Region 4, on September 11, 1998, to exclude a maximum annual weight of 300 tons of its F006 waste, on a generator-specific basis, from the lists of hazardous wastes in subpart D of 40 CFR part 261. Tyco operates two electroplating operations on John Rodes Boulevard in Melbourne, Florida, that electroplate copper, tin/lead, nickel, and gold in the process of manufacturing printed circuit boards. The sludge generated by treatment of the wastewater from these operations meets the listing definition of F006 in § 261.31.

B. What Information Did Tyco Submit To Support This Petition?

In support of its petition, Tyco submitted: (1) Descriptions of its manufacturing and wastewater treatment processes, the generation point of the petitioned waste and the manufacturing steps that contribute to its generation; (2) Material Safety Data Sheets (MSDSs) for process materials; (3) quantities of petitioned waste generated each year from 1983 through 1997; (4) results of analysis for water, metals, cyanide, [illegible], and oil and grease in the waste; (5) results of the analysis of waste leachate obtained by means of the Toxicity Characteristic Leaching Procedure ((TCLP), SW–846 Method 1311[3]) for metals; (6) results of the determinations for the hazardous characteristics of ignitability, corrosivity, and reactivity; (7) results for total analysis of metals; and (8) results of the Multiple Extraction Procedure (MEP), SW–846 Method 1320, analysis of the waste to determine long-term resistance to leaching.

The hazardous constituents of concern for which F006 was listed are cadmium, hexavalent chromium, nickel, and cyanide (complexed). Tyco petitioned the EPA to exclude its F006 waste because Tyco does not believe that the waste meets the criteria of the listing.

Tyco submitted to the EPA analytical data on nine samples of its F006 waste collected during a six-month period. Based on this information, EPA identified the following constituents of concern: barium, cadmium, chromium, cyanide, lead, and nickel. The maximum reported concentrations of the toxicity characteristic (TC) metals, barium, cadmium, chromium, and lead in the TCLP extracts of the samples were below the TC regulatory levels. The maximum reported concentration of cyanide was below the generic exclusion level for high temperature metal recovery (HTMR) residues in 40 CFR 261.3(c)(2)(ii)(C)(*1*). Nickel was undetected in the TCLP extract at a detection level of 0.50 milligrams per liter, and the maximum reported concentration of nickel in unextracted samples was 2,100 milligrams per kilogram. See the proposed rule, 65 FR 48434–48444, August 8, 2000, for a detailed discussion of the information submitted by Tyco. EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has maintained a spot-check sampling and analysis program to verify the representative nature of data for some percentage of the submitted petitions. A spot-check visit to a selected facility may be initiated before or after granting a delisting. Section 3007 of RCRA gives EPA the authority to conduct inspections to determine if a delisted waste is meeting the delisting conditions.

III. EPA's Evaluation and Final Rule

A. What Decision Is EPA Finalizing and Why?

For reasons stated in both the proposal and this final rule, EPA believes that Tyco's petitioned waste should be excluded from hazardous waste control. EPA, therefore, is granting a final generator-specific exclusion to Tyco, of Melbourne, Florida, for a maximum annual generation rate of 590 cubic yards of the waste described in its petition as EPA Hazardous Waste Number F006. This waste is required to undergo verification testing before being considered as excluded from Subtitle C regulation. Requirements for waste to be land disposed or smelted have been included in this exclusion. The exclusion applies only to the waste as described in Tyco's petition, dated August 1998.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of the delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation. See 40 CFR part 260, appendix I. Tyco's preferred method of waste management is to send its excluded waste to a smelter for metal recovery.

B. What Are the Terms of This Exclusion?

In the rule proposed on August 8, 2000, EPA requested public comment on which of the following possible methods should be used to set delisting levels for the petitioned waste (see 65 FR 48436, August 8, 2000):

(1) Delisting levels based on the EPACML model;

(2) Delisting levels equal to either the Universal Treatment Standards (UTS) levels of the Land Disposal Restrictions (LDR) regulations in 40 CFR part 268 or the generic exclusion levels for residues from treatment of F006 by High Temperature Metal Recovery (HTMR), in 40 CFR 261.3(c)(2)(ii)(C)(*1*), whichever yields the lower value;

(3) Setting limits on total concentrations of constituents in the waste of 20,000 milligrams per kilogram (mg/kg) for nickel, and 500 mg/kg of each of the metals, barium, cadmium, chromium, and lead;

(4) Use of the MEP to evaluate the long-term resistance of the waste to leaching in a landfill; and

(5) Delisting levels for waste that will be sent to a smelter for metal recovery, calculated in accordance with EPA's Human Health Risk Assessment Protocol (HHRAP) for combustion risk assessment or set equal to the same delisting levels as for land disposal, with the additional requirement that the smelting facility be in compliance with a permit issued under the authority of the Clean Air Act.

After considering all public comments on the proposed rule, EPA is granting Tyco, in today's final rule, an exclusion from the lists of hazardous wastes in subpart D of 40 CFR part 261, for its petitioned waste, whether disposed in a Subtitle D landfill or smelted for metal recovery. Tyco must meet all of the following delisting conditions in order for this exclusion to be valid:

(1) Delisting levels, in mg/l in the TCLP extract of the waste, based on the EPACML model, of 100 for Barium; 0.5 for Cadmium; 5.0 for Chromium; 20 for Cyanide; 1.5 for Lead; and 73 for Nickel;

(2) Delisting levels based on total concentrations, in milligrams of constituent per kilogram of unextracted waste, of 2,000 for Barium; 500 for Cadmium; 1,000 for Chromium; 200 for Cyanide (Total, not Amenable); 2,000 for Lead; and 20,000 for Nickel; and

(3) Recordkeeping and certification requirements for waste to be smelted for metal recovery, which include records in the facility files, available for inspection by EPA or the State of Florida, that contain names, addresses, telephone numbers, and contact persons for smelters; amounts of waste smelted; certification that smelters are subject to regulatory controls on discharges to air, water, and land; and analytical data on smelted wastes to demonstrate compliance with conditions (1) and (2).

EPA believes that the limits on total concentrations in condition (2) above are protective of human health and the environment. In response to public comment, EPA set higher limits on total concentrations in today's final rule than in the proposed rule, because EPA agrees with the commenter that MEP analysis of the petitioned waste indicated long-term resistance to leaching (see 65 FR 48439, August 8, 2000). EPA also believes that these limits are realistic, attainable values for wastewater treatment sludges that contain metals and cyanide. The limit for cyanide was chosen so that the waste could not exhibit the reactivity characteristic for cyanide by exceeding the interim guidance for reactive cyanide of 250 mg/kg of releasable hydrogen cyanide (SW–846, Chapter Seven, Section 7.3.3.)

In response to public comments, EPA is promulgating the recordkeeping and certification requirements for waste to be smelted, in today's final rule, instead of the proposed risk assessment in accordance with HHRAP or the proposed requirement for a permit under the Clean Air Act. EPA is retaining the proposed requirement that waste to be smelted meet the same delisting levels as waste to be landfilled.

Table 1, Appendix IX of part 261 has been amended to add the three delisting conditions described above, to retain the verification and data submission requirements of the proposed rule (see 65 FR 48442–48443, August 8, 2000), to delete delisting levels based on the generic exclusion levels for metal recovery in 40 CFR 261.3(c)(2)(ii)(C)(*1*), and to delete the requirement for a risk assessment based on EPA's Human Health Risk Assessment Protocol for combustion facilities. Thus, EPA is retaining in today's final rule to exclude Tyco's petitioned waste Conditions (2), (4), (5), (6), and (7) in Table 1, Appendix IX of part 261 of the proposed rule, and is changing proposed Conditions (1), (3) and (8), in response to public comments, as described in the three preceding paragraphs.

C. When Is the Delisting Effective?

This rule is effective on May 14, 2001. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule reduces the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this exclusion should be effective immediately upon final publication.

These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

D. How Does This Action Affect the States?

The final exclusion being granted today is issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the States. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact State regulatory authorities to determine the current status of their wastes under the State laws.

[2] "Wastewater sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum."

[3] "SW–846" means EPA Publication SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." Methods in this publication are referred to in today's final rule as "SW–846," followed by the appropriate method number.

Furthermore, some States are authorized to administer a delisting program in lieu of the Federal program, i.e., to make their own delisting decisions. Therefore, this exclusion does not apply in those authorized States. If the petitioned waste will be transported to and managed in any State with delisting authorization, Tyco must obtain delisting authorization from that State before the waste may be managed as nonhazardous in that State.

IV. Public Comments Received on the Proposed Exclusion

A. Who Submitted Comments on the Proposed Rule?

EPA received public comments on the proposed rule published in 65 FR 48434–48444, August 8, 2000, from (1) the International Precious Metals Institute (IPMI) and (2) Delphi Automotive Systems (DAS). EPA commends and appreciates the thoughtful comments submitted by IPMI and DAS.

B. Comments and Responses From EPA

Comment: IPMI stated that Tyco's sludge is a feedstock for copper and precious metal reclamation, rather than a material that is disposed of, and that EPA's proposal to delist the sludge is appropriate, because "it facilitates the efficient and environmentally sound recovery of precious metals." However, EPA's proposal to use Universal Treatment Standards or generic exclusion limits for high temperature metal recovery (HTMk) residues as delisting levels is inappropriate. Delisting levels calculated on the basis of the EPACML model are very conservative and protective, particularly since they have been validated with the Multiple Extraction Procedure (MEP). HTMR levels are unnecessarily stringent, because the petitioned sludge "has not, at the point of generation, been subjected to any HTMR processes."

Response: EPA believes that IPMI's point is well taken, and the final delisting levels in Appendix IX of part 261 are based, in part, on the EPACML model. See section III.A. and B. of today's preamble. EPA also agrees with the commenter that the MEP evaluation of Tyco's sludge supports the delisting decision and that Tyco's preferred method of waste management for the petitioned sludge is metal recovery rather than land disposal.

Comment: IPMI disagrees with both of EPA's proposed methods of setting delisting levels for petitioned waste that will be sent to a smelter for metal recovery. Regarding proposed Method I, IPMI sees no reason why sludge to be smelted should have to meet the same delisting levels as landfilled sludge and disagrees with the Method I requirement that the smelter be permitted under the Clean Air Act. IPMI stated that precious metal recovery from secondary materials "has been carried on for millennia," and the majority of sludges generated in the United States are smelted in other countries. IPMI believes that smelters should be and are well regulated in developed countries, and that the requirement for a Clean Air Act Permit would prohibit unduly the participation of foreign countries in the smelting business.

Response: EPA appreciates IPMI's concerns regarding requirements for waste to be smelted. However, EPA believes that it is reasonable and that the Agency has an obligation to set conditions a waste must meet in order to be excluded from regulation as a listed hazardous waste under RCRA. EPA believes that the conditions described in Section III.A. and B. of today's preamble will be protective of human health and the environment, whether the waste is smelted for metal recovery or disposed in a Subtitle D landfill, and will not be unduly burdensome to Tyco. The requirement in proposed Method I for a Clean Air Act permit in addition to the same delisting levels as waste to be landfilled has been amended, in response to this commenter, with the recordkeeping and certification requirements described in today's preamble Section III.A. and B.

Comment: IPMI agrees that analysis of feedstocks, exposure, and risk are applicable criteria for granting an air permit to a smelter. However, IPMI believes that the requirement for a risk assessment of smelting Tyco's sludge in accordance with EPA's HHRAP is inappropriate and unnecessary. The commenter asserts that Tyco's sludge has only one of the seven categories of compounds of potential concern in the HHRAP, in that it contains toxic metals. IPMI points out that these concentrations are quite small, and that the toxic metals in Tyco's sludge are common constituents of copper ore. IPMI also notes that Tyco's sludge could meet the requirements for a variance from being a solid waste, pursuant to 40 CFR 260.30, when it is to be smelted for metal recovery, and that there are no risk assessment requirements for smelters of such materials.

Regarding chromium, IPMI states that the HHRAP is concerned with hexavalent, rather than trivalent, chromium, which Tyco does not use in its production processes. IPMI notes that Tyco's analytical data indicate very low concentrations of total chromium.

Response: EPA agrees that human health and the environment can be protected, in this case, without requiring a risk assessment in accordance with the HHRAP. EPA believes that the delisting conditions of today's final rule are protective of human health and the environment. As discussed in today's preamble Section III.A. and B., Tyco's sludge, whether smelted or landfilled, must meet limits on concentrations of toxic constituents both in the TCLP extract of the waste and in the unextracted waste. In addition, Tyco must meet verification, recordkeeping, and certification requirements.

With respect to chromium, EPA takes the conservative position that any chromium present is hexavalent, and calculates delisting levels accordingly.

Comment: Delphi Automotive Systems (DAS) recommends using the EPACML model for delisting levels, instead of either the Universal Treatment Standards (UTS) of the Land Disposal Restrictions (LDR) regulations or generic exclusion levels for high temperature metal recovery (HTMR) residues. DAS believes that the EPACML model is appropriately conservative and is risk-based, rather than technology-based as the UTS and HTMR values are.

Response: After consideration of DAS's comment and discussion, Tyco's analytical profile for the petitioned sludge, and the Multiple Extraction Procedure (MEP) data indicating long-term resistance to leaching, EPA agrees with the commenter that the appropriate method of calculating delisting levels in the waste leachate is the EPACML model. (See today's preamble Section III.A and B.)

Comment: DAS believes that it would be burdensome to require the MEP for all delisting petitions, due mainly to the cost of this analytical method. DAS believes that EPA should address any concerns that the MEP addresses by requiring disposal in a landfill that is in compliance with EPA Criteria for Municipal Solid Waste Landfills.

Response: Each delisting petition is evaluated individually, and requiring the MEP for one petition does not mean that it will automatically be required for all. However, the MEP is useful as a measure of long-term resistance to leaching from a landfill, which is usually a concern of the general public. EPA agrees that it can require that delisted waste be disposed in a Subtitle D landfill, but believes that it is more protective of human health and the environment to calculate delisting levels based on a distribution of landfill properties, rather than on one specific landfill. The MEP is useful, in that it simulates what would happen even if all a landfill's controls failed.

Comment: DAS does not agree with EPA's proposal to set limits on total concentrations of constituents of concern in Tyco's unextracted waste. DAS states that the delisting levels in the TCLP extract, based on the EPACML model, are conservative and adequate, particularly since Tyco's constituents of concern are all non-volatile metals.

Response: EPA agrees that the commenter's point is well taken. However, EPA is setting limits on total concentrations of constituents of concern in today's final rule, which EPA believes are protective of human health and the environment and which address concerns of the general public about delisted waste. After considering comments from DAS and IPMI, EPA has raised the proposed limits on total concentrations, as shown in today's preamble Section III.B, to values EPA believes are realistic and attainable for wastewater treatment sludges that contain metals and cyanide. The limit for cyanide was chosen so that the waste could not exhibit the reactivity characteristic for cyanide by exceeding the interim guidance for reactive cyanide of 250 mg/kg of releasable hydrogen cyanide (SW–846, Chapter Seven, Section 7.3.3.)

Comment: DAS "welcomes the Agency's consideration for establishing site specific limits for a smelter," but does not agree with the proposal to do a risk assessment for all constituents in accordance with the HHRAP. DAS states that Clean Air Act requirements for smelters should be adequate to address risk from most waste constituents, but also states that the HHRAP might be appropriate for constituents that are not usually present in raw materials for smelters. DAS believes the Agency should use specific language in the delisting final rule "to direct how a delisted waste should be managed, specifically smelter, in this instance."

Response: EPA has taken into account DAS's comments about delisting levels for waste sent to a smelter, and is finalizing recordkeeping and certification requirements as a delisting condition to be met, in addition to limits on constituent concentrations in the TCLP extract of the petitioned waste and on total constituent concentrations in the unextracted waste. See today's preamble Section III.B. and Waste Description and Conditions (1), (3), and (8) of Table 1, Appendix IX, part 261.

V. Regulatory Impact

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a rule of general applicability and therefore is not a "regulatory action" subject to review by the Office of Management and Budget. Because this action is a rule of particular applicability relating to a facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because the rule will affect only one facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA, or communities of tribal governments, as specified in Executive Order 13084 (63 FR 27655, May 10, 1998). For the same reason, this rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards; thus, the requirements of section 12(c) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VI. Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will become effective on the date of publication in the **Federal Register**.

VII. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and Recordkeeping requirements.

Dated: February 26, 2001.

Richard D. Green,

Director, Waste Management Division.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of appendix IX to part 261 add the following wastestream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Tyco Printed Circuit Group, Melbourne Division.	Melbourne, Florida	Wastewater treatment sludge (EPA Hazardous Waste No. F006) that Tyco Printed Circuit Group, Melbourne Division (Tyco) generates by treating wastewater from its circuit board manufacturing plant located on John Rodes Blvd. in Melbourne, Florida. This is a conditional exclusion for up to 590 cubic yards of waste (hereinafter referred to as "Tyco Sludge") that will be generated each year and disposed in a Subtitle D landfill or shipped to a smelter for metal recovery after May 14, 2001. Tyco must demonstrate that the following conditions are met for the exclusion to be valid. (Please see Condition (8) for certification and recordkeeping requirements that must be met in order for the exclusion to be valid for waste that is sent to a smelter for metal recovery.) (1) *Verification Testing Requirements:* Sample collection and analyses, including quality control procedures must be performed according to SW–846 methodologies, where specified by regulations in 40 CFR Parts 260–270. Otherwise, methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that representative samples of the Tyco Sludge meet the delisting levels in Condition (3). (A) *Initial Verification Testing:* Tyco must collect and analyze a representative sample of every batch, for eight sequential batches of Tyco sludge generated in its wastewater treatment system after May 14, 2001. A batch is the Tyco Sludge generated during one day of wastewater treatment. Tyco must analyze for the constituents listed in Condition (3). A minimum of four composite samples must be collected as representative of each batch. Tyco must report analytical test data, including quality control information, no later than 60 days after generating the first batch of Tyco Sludge to be disposed in accordance with the delisting Conditions (1) through (7). (B) *Subsequent Verification Testing:* If the initial verification testing in Condition (1)(A) is successful, i.e., delisting levels of condition (3) are met for all of the eight initial batches, Tyco must test a minimum of 5% of the Tyco Sludge generated each year. Tyco must collect and analyze at least one composite sample representative of that 5%. The composite must be made up of representative samples collected from each batch included in the 5%. Tyco may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are non-hazardous. (2) *Waste Holding and Handling:* Tyco must store as hazardous all Tyco Sludge generated until verification testing as specified in Condition (1)(A) or (1)(B), as appropriate, is completed and valid analyses demonstrate that Condition (3) is satisfied. If the levels of constituents measured in the samples of Tyco Sludge do not exceed the levels set forth in Condition (3), then the Tyco Sludge is non-hazardous and must be managed in accordance with all applicable solid waste regulations. If constituent levels in a sample exceed any of the delisting levels set forth in Condition (3), the batch of Tyco Sludge generated during the time period corresponding to this sample must be retreated until it meets the delisting levels set forth in Condition (3), or managed and disposed of in accordance with Subtitle C of RCRA. (3) *Delisting Levels:* All leachable concentrations for these metals and cyanide must not exceed the following levels (ppm): Barium—100; Cadmium—0.5; Chromium—5.0; Cyanide—20, Lead—1.5; and Nickel—73. These metal and cyanide concentrations must be measured in the waste leachate obtained by the method specified in 40 CFR 261.24, except that for cyanide, deionized water must be the leaching medium. The total concentration of cyanide (total, not amenable) in the waste, not the waste leachate, must not exceed 200 mg/kg. Cyanide concentrations in waste or leachate must be measured by the method specified in 40 CFR 268.40, Note 7. The total concentrations of metals in the waste, not the waste leachate, must not exceed the following levels (ppm): Barium—2,000; Cadmium—500; Chromium—1,000; Lead—2,000; and Nickel—20,000. (4) *Changes in Operating Conditions:* Tyco must notify EPA in writing when significant changes in the manufacturing or wastewater treatment processes are necessary (e.g., use of new chemicals not specified in the petition). EPA will determine whether these changes will result in additional constituents of concern. If so, EPA will notify Tyco in writing that the Tyco sludge must be managed as hazardous waste F006, pending receipt and evaluation of a new delisting petition. If EPA determines that the changes do not result in additional constituents of concern, EPA will notify Tyco, in writing, that Tyco must repeat Condition (1)(A) to verify that the Tyco Sludge continues to meet Condition (3) delisting levels.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(5) *Data Submittals:* Data obtained in accordance with Condition (1)(A) must be submitted to Jewell Grubbs, Chief, RCRA Enforcement and Compliance Branch, Mail Code: 4WD–RCRA, U.S. EPA, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, Atlanta, Georgia 30303. This notification is due no later than 60 days after generating the first batch of Tyco Sludge to be disposed in accordance with delisting Conditions (1) through (7). Records of analytical data from Condition (1) must be compiled, summarized, and maintained by Tyco for a minimum of three years, and must be furnished upon request by EPA or the State of Florida, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted: Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's void exclusion. (6) *Reopener Language:* (A) If, anytime after disposal or shipment to a smelter of the delisted waste, Tyco possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in the delisting verification testing is at a level higher than the delisting level allowed by EPA in granting the petition, Tyco must report the data, in writing, to EPA within 10 days of first possessing or being made aware of that data. (B) If the testing of the waste, as required by Condition (1)(B), does not meet the delisting requirements of Condition (3), Tyco must report the data, in writing, to EPA within 10 days of first possessing or being made aware of that data. (C) Based on the information described in paragraphs (6)(A) or (6)(B) and any other information received from any source, EPA will make a preliminary determination as to whether the reported information requires that EPA take action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If EPA determines that the reported information does require Agency action, EPA will notify the facility in writing of the action believed necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing Tyco with an opportunity to present information as to why the proposed action is not necessary. Tyco shall have 10 days from the date of EPA's notice to present such information. (E) Following the receipt of information from Tyco, as described in paragraph (6)(D) or if no such information is received within 10 days, EPA will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment, given the information received in accordance with paragraphs (6)(A) or (6)(B). Any required action described in EPA's determination shall become effective immediately. (7) *Notification Requirements:* Tyco must provide a one-time written notification to any State Regulatory Agency in a State to which or through which the delisted waste described above will be transported, at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting conditions and a possible revocation of the decision to delist.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(8) *Recordkeeping and Certification Requirements for Waste to be Smelted for Metal Recovery:* Tyco must maintain in its facility files, and make available for inspection by EPA and the Florida Department of Environmental Protection (FDEP), records that include the name, address, telephone number, and contact person of each smelting facility used by Tyco for its delisted waste, quantities of waste shipped, analytical data for demonstrating that the delisting levels of Condition (3) are met, and a certification that the smelter(s) is(are) subject to regulatory controls on discharges to air, water, and land. The certification statement must be signed by a responsible official and contain the following language: Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the smelter(s) used for Tyco's delisted waste is(are) subject to regulatory controls on discharges to air, water, and land. As the company official having supervisory responsibility for plant operations, I certify that to the best of my knowledge this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's void exclusion.

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BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes In Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Executive Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Sarasota (FEMA Docket No. D–7501).	Unincorporated Areas.	April 28, 2000, May 5, 2000, *Sarasota Herald-Tribune.*	Mr. Jim Ley, Sarasota County Administrator, 1660 Ringling Boulevard, 2nd Floor, Sarasota, Florida 34236.	Apr. 21, 2000	125144 D
Georgia: Cherokee (FEMA Docket No. D–7501).	Unincorporated Areas.	May 17, 2000, May 24, 2000, *Cherokee Tribune.*	Ms. Emily Lemcke, Chairwoman of the Cherokee County Board of Commissioners, 90 North Street, Suite 310, Canton, Georgia 30114.	Aug. 22, 2000	130424 C
Illinois:					
McHenry (FEMA Docket No. D–7503).	Unincorporated Areas.	July 14, 2000, July 21, 2000, *The Northwest Herald.*	Mr. Michael Tryon, Chairperson, McHenry County Board, McHenry County Government Center, 2200 North Seminary Avenue, Woodstock, Illinois 60098.	June 29, 2000	170732 C
Madison (FEMA Docket No. 7302).	City of Wood River.	January 7, 2000, January 14, 2000, *The Telegraph.*	The Honorable Lon A. Smith, Mayor of the City of Wood River, 111 North Wood River Avenue, Wood River, Illinois 62095–1938.	Apr. 12, 2000	170451 C
Michigan: Macomb.	City of Sterling Heights.	September 14, 2000, September 21, 2000, *The Macomb Daily.*	The Honorable Richard J. Notte, Mayor of the City of Sterling Heights, 40555 Utica Road, P.O. Box 8009, Sterling Heights, Michigan 48311–8009.	Sept. 6, 2000	260128 E
Ohio: Cuyahoga (FEMA Docket No. D–7503).	City of Highland Heights.	June 22, 2000, June 29, 2000, *The Plain Dealer.*	The Honorable Francine G. Hogg, Mayor of the City of Highland Heights, 5827 Highland Road, Highland Heights, Ohio 44143.	Aug. 28, 2000	390110 D
Pennsylvania: Allegheny (FEMA Docket No. D–7505).	Municipality of Monroeville.	August 29, 2000, *Tribune-Review.*	Mr. Marshall W. Bond, Municipality of Monroeville Manager, 2700 Monroeville Boulevard, Monroeville, Pennsylvania 15146–2388.	Sept. 22, 2000	420054 E

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 3, 2001.

Margaret E. Lawless,

Acting Executive Associate Director for Mitigation.

[FR Doc. 01–12030 Filed 5–11–01; 8:45 am]
BILLING CODE 5718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–D–7509]

Changes In Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Executive Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base

flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform.

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Autauga, Lowndes, Elmore & Montgomery.	City of Montgomery	March 30, 2001, April 6, 2001, *The Montgomery Advisor.*	The Honorable Bobby N. Bright, Mayor of the City of Montgomery, City Hall, P.O. Box 1111, Montgomery, Alabama 36101.	Mar. 22, 2001	010174 F
Florida:					
Alachua	Unincorporated Areas.	March 9, 2001, March 16, 2001, *The Gainesville Sun.*	Mr. Randall H. Reid, Alachua County Manager, P.O. Box 2877, Gainesville, Florida 32602.	Feb. 26, 2001	120001 A
Orange	City of Apopka	February 9, 2001, February 16, 2001, *Apopka Chief.*	The Honorable John H. Land, Mayor of the City of Apopka, P.O. Box 1229, Apopka, Florida 32704–1229.	Jan. 31, 2001	120180 E
Monroe	Unincorporated Areas.	March 13, 2001, March 20, 2001, *The Key-West Citizen.*	Mr. James Roberts, Monroe County Administrator, 5100 College Road, Key West, Florida 33040.	Feb. 27, 2001	125129 G
Pasco	Unincorporated Areas.	February 6, 2001, February 13, 2001, *St. Petersburg Times.*	Mr. John J. Gallagher, Pasco County Administrator, West Pasco Government Center, 7530 Little Road, New Port Richey, Florida 34654.	Jan. 25, 2001	120230 D
Georgia: Bryan	City of Richmond Hill	February 14, 2001, February 21, 2001, *Bryan County Times.*	The Honorable Richard R. Davis, Mayor of the City of Richmond Hill, P.O. Box 250, Richmond Hill, Georgia 31324.	Feb. 7, 2001	130018 B
Illinois:					
DuPage	Village of Addison	February 21, 2001, February 28, 2001, *Daily Herald.*	The Honorable Lorenz Hartwig, Mayor of the Village of Addison, 1 Friendship Plaza, Addison, Illinois 60101–2786.	Feb. 14, 2001	170198 C
DuPage	Unincorporated Areas.	February 21, 2001, February 28, 2001, *Daily Herald.*	Mr. Robert Schillerstrom, Chairman of DuPage County, DuPage Center, 421 North County Farm Road, Wheaton, Illinois 60187.	Feb. 14, 2001	170197 D
St. Clair	City of Mascoutach	February 15, 2001, February 22, 2001, *Belleville News-Democrat.*	The Honorable Gerald Daugherty, Mayor of the City of Mascoutah, 3 West Main Street, Mascoutah, Illinois 62258.	May 24, 2001	170630
St. Clair	Unincorporated Areas.	February 15, 2001, February 22, 2001, *Bellevue News-Democrat.*	Mr. John Baricevic, Chairman of the St. Clair County Board, St. Clair County Courthouse, 10 Public Square, Bellevue, Illinois 62220–1623.	May 24, 2001	170616 A
DuPage	Village of Villa Park	February 21, 2001, February 28, 2001, *Daily Herald.*	Ms. Rae Rupp Srch, President of the Village of Villa Park, 20 South Ardmore Avenue, Villa Park, Illinois 60181.	Feb. 14, 2001	170217 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Kentucky: Warren	City of Bowling Green.	March 13, 2001, March 20, 2001, *Daily News.*	The Honorable Sandy Jones, Mayor of the City of Bowling Green, P.O. Box 430, Bowling Green, Kentucky 42102–0430.	June 19, 2001	210219 D
Mississippi: Clarke	Unincorporated Areas.	February 1, 2001, February 8, 2001, *Clarke County Tribune.*	Mr. Paul Mosley, President of the Clarke County Board of Supervisors, P.O. Box 616, Quitman, Mississippi 39355.	July 19, 2001	280220 B
New Hampshire: Rockingham.	Town of Rye	February 23, 2001, March 2, 2001, *Portsmouth Herald.*	Mr. Kenneth S. Fox, Chairman, Town of Rye Board of Selectmen, Rye Town Office, 10 Central Road, Rye, New Hampshire 03870.	Feb. 15, 2001	330141 B
New Jersey:					
Morris	Borough of Madison	March 22, 2001, March 29, 2001, *Madison Eagle.*	The Honorable John J. Dunne, Mayor of the Borough of Madison, Hartley Dodge Memorial, 50 Kings Road, Madison, New Jersey 07940.	June 12, 2001	340347 B
Cape May	City of North Wildwood.	January 10, 2001, January 17, 2001, *The Leader.*	The Honorable Aldo A. Palombo, Mayor of the City of North Wildwood, Municipal Building, 901 Atlantic Avenue, North Wildwood, New Jersey 08260.	Dec. 27, 2000	345308 E
New York: Schoharie	Village of Cobleskill	February 21, 2001, February 28, 2001, *Times Journal.*	The Honorable William Gilmore, Mayor of the Village of Cobleskill, Village Offices, P.O. Box 169, Cobleskill, New York 12043.	Aug. 9, 2001	360743 B
Ohio:					
Lake	Unincorporated Areas.	February 16, 2001, February 23, 2001, *News-Herald.*	Mr. Daniel Troy, President of the Lake County Board of Commissioners, 105 Main Street, Painesville, Ohio 44077.	May 25, 2001	390771 C
Licking	City of Newark	June 5, 2000, June 12, 2000, *The Advocate.*	The Honorable Frank L. Stare III, Mayor of the City of Newark, 40 West Main Street, Newark, Ohio 43055.	Sept. 11, 2000	390335 F
Pennsylvania:					
Montgomery	Township of Abington.	March 28, 2001, April 4, 2001, *The Record.*	Ms. Barbara Ferrara, President, Township of Abington Board of Commissioners, 1176 Old York Road, Abington, Pennsylvania 19001.	Mar. 16, 2001	420695 E
Lancaster	Township of East Cocalico.	February 19, 2001, *Intelligence Journal.*	Mr. Douglas Mackley, Chairman of the Board of Supervisors, East Cocalico Township Office, 100 Hill Road, Denver, Pennsylvania 17517.	Mar. 15, 2001	420547 C
Montgomery	Township of Perkiomen.	February 15, 2001, *Times Herald.*	Mr. William Patterson, Chairman of the Board of Supervisors, Township of Perkiomen, 1 Trappe Road, Collegeville, Pennsylvania 19474.	Mar. 17, 2001	421915 E
Schuylkill	City of Pottsville	April 6, 2001, April 13, 2001, *Pottsville Republican.*	The Honorable John D. W. Reiley, Mayor of the City of Pottsville, P.O. Box 50 Pottsville, Pennsylvania 17901.	Mar. 23, 2001	420785 B
Puerto Rico	Commonwealth	March 22, 2001, March 29, 2001, *San Juan Star.*	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, P.O. box 82, La Fortaleza, San Juan, Puerto Rico 00901.	June 11, 2001	720000 E
Rhode Island: Providence.	City of Crantson	March 1, 2001, March 8, 2001, *Cranston Hearald.*	The Honorable John O'Leary, Mayor of the City of Cranston, City Hall, 869 Park Avenue, Cranston, Rhode Island 02910.	June 7, 2001	445396 B
South Carolina: Kershaw.	Unincorporated Areas.	March 21, 2001, March 28, 2001, *The Kershaw News-Era.*	Mr. Gordon Hartwig, Kershaw County Administrator, 1121 Broad Street, Camden, South Carolina 29020.	June 27, 2001	450115 D
Tennessee:					
Montgomery	City of Clarksville	March 23, 2001, March 30, 2001, *The Leaf-Chronicle.*	The Honorable Johnny Piper, Mayor of the City of Clarksville, 102 Public Square, Clarksville, Tennessee 37040.	June 29, 2001	470137 C
Montgomery	Unincorporated Areas.	March 23, 2001, March 30, 2001, *The Leaf-Chronicle.*	Mr. Douglas Weiland, Montgomery County Executive, 126 Main Street, Clarksville, Tennessee 37041.	June 29, 2001	470136 B
Virginia:					
Fauquier	Unincorporated Areas.	March 29, 2001, April 5, 2001, *Fauquier Citizen.*	Mr. G. Robert Lee, Fauquier County Administrator, 40 Culpeper Street, Warrenton, Virginia 20186.	July 5, 2001	510055 A
Independent City	City of Roanoke	March 30, 2001, April 6, 2001, *Roanoke Times.*	The Honorable Ralph Smith, Mayor of the City of Roanoke, 215 Church Avenue, S.W., Room 452, Roanoke, Virginia 24011.	July 6, 2001	510130 D
Spotsylvania	Unincorporated Areas.	March 30, 2001, April 6, 2001, *Free Lance Star.*	Mr. L. Kimball Payne III, Spotsylvania County Administrator, P.O. Box 99, Spotsylvania, Virginia 22553.	Sept. 21, 2001	510308 C

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 3, 2001.

Margaret E. Lawless,

Acting Executive Associate Director for Mitigation.

[FR Doc. 01–12029 Filed 5–11–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ILLINOIS	
LaSalle (City), LaSalle County (FEMA Docket No. 7307)	
Illinois River:	
Approximately 0.82 mile downstream of State Route 351	*463
Approximately 0.95 mile upstream of Illinois Central Railroad	*465
Maps available for inspection at the LaSalle City Hall, 745 Second Street, LaSalle, Illinois.	
LaSalle County (Unincorporated Areas) (FEMA Docket No. 7307)	
Goose Creek:	
At downstream corporate limits	*509
At upstream corporate limits	*516
Illinois River:	
Approximately 2.5 miles downstream of State Route 251	*462
Approximately 1.1 miles upstream of South Main Street (State Route 170)	*497
Fox River:	
At the confluence with the Illinois River	*472
Approximately 850 feet downstream of confluence of Clear Creek	*554
Prairie Creek:	
At the confluence with the Vermilion River	*573
A point approximately 2,850 feet upstream of Otter Creek Road	*628
Vermilion River:	
Upstream of Oakley Road	*567
Approximately 0.77 mile upstream of Bridge Street	*580
Clark Run Creek:	
At confluence with Illinois River	*466
Approximately 625 feet upstream of abandoned Illinois and Michigan Canal	*473
Coal Run Creek:	
Approximately 50 feet upstream of South Otter Creek Road	*614
Approximately 585 feet upstream of South Otter Creek Road	*615
Rat Run:	
At the confluence with the Illinois River	*494
At the Missouri, Kansas, Texas Railroad	*501
Lake Holiday:	
Entire shoreline within community	*644
First Creek:	
Approximately 970 feet upstream of confluence with Little Vermilion River	*715
Approximately 250 feet upstream of 6th Street	*719
Approximately 4,400 feet upstream of confluence of Fox River	*473
Fox River:	
Approximately 500 feet upstream of confluence with the Illinois River	*472
Approximately 0.98 mile upstream of confluence of Goose Creek	*474
Maps available for inspection at the Ottawa City Hall, 301 West Madison Street, Ottawa, Illinois.	
Peru (City), LaSalle County (FEMA Docket No. 7007)	
Illinois River:	
Approximately 7,350 feet downstream of State Route 251	*462
A point approximately 2,600 feet upstream of State Route 251	*463
Maps available for inspection at the Peru City Clerk's Office, 1727 Fourth Street, Peru, Illinois.	
Seneca (Village), LaSalle County (FEMA Docket No. 7307)	
Illinois River:	
Approximately 1.1 miles downstream of South Main Street (State Route 170)	*494
Approximately 400 feet upstream of upstream county boundary	*497
Rat Run:	
Approximately 2,750 feet downstream of Main Street (State Route 170)	*494
Approximately 1,000 feet downstream of Main Street (State Route 170)	*494
Maps available for inspection at the Seneca Village Hall, 116 West Williams Street, Seneca, Illinois.	
Sheridan (Village), LaSalle County (FEMA Docket No. 7307)	
Fox River:	
At the most downstream corporate limits	*540
Approximately 1,725 feet upstream of North 41st Road	*545
Maps available for inspection at the Sheridan Village Hall, Engineer's Office, Robinson Street, Sheridan, Illinois.	
INDIANA	
Decatur County (Unincorporated Areas) (FEMA Docket No. D–7502)	
Righthand Fork:	
At confluence with Lake Santee	*997
Approximately 1,850 feet upstream of the confluence of Righthand Fork Tributary	*1,025
Righthand Fork Tributary:	
At confluence with Righthand Fork	*1,017
Approximately 1,003 feet upstream of the confluence with Righthand Fork	*1,023
Lake Santee:	
For its entire shoreline within the community	*997
Maps available for inspection at the Decatur County Area Planning Commission Office, 150 Courthouse Square, Greensburg, Indiana.	
MAINE	
Wilton (Town), Franklin County (FEMA Docket No. D–7506)	
Butterfield Brook:	
At U.S. Route 2/State Route 17	*477
Approximately 0.64 mile upstream of Butterfield Road	*727
Cram Brook:	
At confluence with Sevenmile Stream	*611
At confluence of Ice Pond Brook	*617
Ice Pond Brook:	
At confluence with Cram Brook	*617
Approximately 230 feet upstream of Gordon Road	*638
Pine Brook:	
At confluence with Wilson Stream	*581
Approximately 85 feet upstream of State Route 156 (Weld Road)	*592
Potash Brook:	
At U.S. Route 2/State Route 17	*488
Approximately 120 feet upstream of Cemetery Road	*515
Sevenmile Stream:	
At downstream U.S. Route 2/State Route 17 crossing	*520
At upstream corporate limits	*633
Temple Brook:	
At confluence with Wilson Stream	*635
Approximately 0.95 mile upstream of State Road 156 (Weld Road)	*775
Wilson Stream:	
At confluence with Wilson Pond	*576
Approximately 0.7 mile upstream of Tobin Flats Road	*726
Varnum Pond:	
Approximately 1,250 feet west of the intersection of Rupert Road and Walker Hill Road	*758
Maps available for inspection at the Wilton Town Hall, Code Enforcement Office, 158 Weld Road, Wilton, Maine.	
NEW HAMPSHIRE	
Durham (Town), Strafford County (FEMA Docket No. D–7502)	
Pettee Brook:	
At confluence with Beard's Creek	*8
A point approximately 20 feet upstream of Durham Reservoir Spillway	*84
College Brook:	
Approximately 40 feet upstream of the confluence with Oyster River	*15
At Concord Road	*69
Oyster River:	
Approximately 1,500 feet upstream of Mill Pond Dam	*15
A point approximately 15 feet upstream of State Route 155A	*65
Lamprey River:	
Approximately 40 feet upstream of Wiswall Road	*63
At upstream corporate limits	*64
Hamel Brook:	
At the confluence with Oyster River	*15
Approximately 1,600 feet upstream of the confluence with Oyster River	*15

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Durham Town Hall, 15 New Market Road, Durham, New Hampshire.	
NEW JERSEY	
Chatham (Borough), Morris County (FEMA Docket No. D–7500)	
Passaic River:	
Approximately 125 feet downstream of Main Street	*180
Approximately 300 feet upstream of Stanley Avenue	*205
Maps available for inspection at the Chatham Borough Hall, 54 Fairmount Avenue, Chatham, New Jersey.	
Chatham (Township), Morris County (FEMA Docket No. D–7500)	
Passaic River:	
Approximately 0.38 mile downstream of Mount Vernon Avenue	*205
Approximately 1,520 feet upstream of Snyder Avenue	*212
Maps available for inspection at the Chatham Township Hall, 58 Meyersville Road, Chatham, New Jersey.	
Frenchtown (Borough), Hunterdon County (FEMA Docket No. D–7504)	
Delaware River:	
At downstream corporate limit	*124
At upstream corporate limit	*127
Nishisakawick Creek:	
At confluence with Delaware River	*125
A point approximately 450 feet upstream of Kingswood Avenue (State Route 12)	*126
Little Nishisakawick Creek:	
At confluence with Delaware River	*125
Approximately 760 feet upstream of State Route 29 (Trenton Avenue)	*126
Maps available for inspection at the Frenchtown Borough Hall, 29 Second Street, Frenchtown, New Jersey.	
Phillipsburg (Town), Warren County (FEMA Docket No. D–7504)	
Delaware River:	
At downstream corporate limits	*183
Approximately 50 feet upstream of U.S. Route 22/Memorial Parkway	*196
Lopatcong Creek:	
At confluence with Delaware River	*188
Approximately 1,600 feet upstream of CONRAIL	*188
Maps available for inspection at the Phillipsburg Town Hall, 675 Corliss Avenue, Phillipsburg, New Jersey.	
NEW YORK	
Champlain (Town), Clinton County (FEMA Docket No. D–7502	
Great Chazy River:	
Confuence with Lake Champlain	*102
Approximately 275 feet downstream from I–87 bridge	*130
Maps available for inspection at the Champlain Town Hall, 729 Rougt 9, Champlain, New York.	
Champlain (Village), Clinton County (FEMA Docket No. D–7502)	
Great Chazy River:	
Approximately 3,580 feet downstream of Elm Street bridge	*103
Approximately 3,300 feet upstream of U.S. Route 9 bridge	*127
Maps available for inspection at the Champlain Village Hall, 1104 Route 9 Main Street, Champlain, New York.	
North Elba (Town), Essex County (FEMA Docket No. D–7502)	
West Branch Ausable River:	
Approximately 50 feet downstream of State Route 86	*1,644
Approximately 170 feet upstream of State Route 73	*1,680
Chubb River, Reach 1:	
At the confluence with West Branch Ausable River	*1,664
Approximately 0.76 mile upstream of confluence with West Branch Ausable	*1,668
Chubb River, Reach 2:	
Approximately 20 feet downstream of CONRAIL	*1,727
Approximately 0.46 mile upstream of Old Military Road	*1,738
Maps available for inspection at the North Elba Town Clerk's Office, 301 Main Street, Lake Placid, New York.	
OHIO	
Brooklyn Heights (Village), Cuyahoga County (FEMA Docket No. D–7502)	
Cuyahoga River:	
At downstream corporate limit	*597
At upstream corporate limit	*602
Maps available for inspection at the Western Reserve Engineering Company, 5805 Valley Belt Road, Independence, Ohio.	
Cuyahoga Heights (Village), Cuyahoga County (FEMA Docket No. D–7502)	
Cuyahoga River:	
Approximately 800 feet downstream side of Harvard Denison Bridge	*588
Approximately 1,700 feet upstream side of Interstate 77	*606
Maps available for inspection at the Cuyahoga Heights Village Hall, 4863 East 71st Street, Cuyahoga Heights, Ohio.	
Glouster (Village), Athens County (FEMA Docket No. D–7504)	
Mud Fork:	
Confluence with West Branch Sunday Creek	*687
Approximately 2,300 feet upstream of Oak Street	*694
Sunday Creek:	
Approximately 2,960 feet downstream of Oak Street	*684
Downstream side of State Route 78	*691
West Branch Sunday Creek:	
Confluence with Sunday Creek	*687
Approximately 2,200 feet upstream of Embrey Street	*687
Maps available for inspection at the Glouster Village Hall, 16 1/2 Front Street, Glouster, Ohio.	
Independence (City), Cuyahoga County (FEMA Docket No. D–7502)	
Cuyahoga River:	
At downstream corporate limits	*602
At Pleasant Valley Road	*620
Maps available for inspection at the City of Independence Building Department, 6335 Selig Drive, Independence, Ohio.	
VIRGINIA	
Danville (City), Pittsylvania County (FEMA Docket No. 7307)	
Apple Branch:	
At confluence with Dan River	*418
Approximately 25 feet upstream of Northmont Boulevard	*535
Dan River:	
At downstream corporate limits	*396
Approximately 970 feet downstream of upstream corporate limits	*458
Sandy Creek:	
At confluence with Dan River	*424
At downstream side of U.S. Route 58	*424
Sandy River:	
At confluence with Dan River	*427
Just downstream of old U.S. Route 58	*427
Pumpkin Creek:	
At confluence with Dan River	*401
750 feet upstream of State Route 265	*401
Jackson Branch:	
At confluence with Dan River	*403
Approximately 1,725 feet upstream of Goodyear Boulevard (Whitmell Street)	*403
Fall Creek:	
At confluence with Dan River	*404
100 feet downstream of Halifax Street	*404
Maps available for inspection at the Department of Community Development, 427 Patton Street, Danville, Virginia.	
Pittsylvania County (Unincorporated Areas) (FEMA docket No. D–7502)	
Dan River:	
At State boundary	*396
Approximately 3.0 miles downstream of Southern Railway	458
Maps available for inspection at the Pittsylvania County Zoning Officer, 53 North Main Street, Chatham, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 3, 2001.

Margaret E. Lawless,

Acting Executive Associate, Director for Mitigation.

[FR Doc. 01–12028 Filed 5–11–01; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 010409084–1084–01; I.D. 030601A]

RIN 0648–AP16

Sea Turtle Conservation; Shrimp Trawling Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) issues an interim final rule to add the double cover flap Turtle Excluder Device (TED) to the list of hard TEDs approved for use by shrimp trawlers operating in the Atlantic Ocean off the southeastern United States and in the Gulf of Mexico and as a TED approved for use without modification in a closed portion of the leatherback conservation zone. NMFS is adding this TED to these lists because upon completion of the testing protocols the TED has been found to meet all criteria for approval. The intent of this rule is to provide an additional option by which fishermen can comply with the requirement that all nets rigged for fishing in the Atlantic or Gulf Areas have an approved TED installed for use.

DATES: This interim final rule is effective May 14, 2001.Comments on this interim final rule are requested, and must be received by June 13, 2001. Comments sent by email or the internet will not be accepted.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Robert Hoffman, 727–570–5312.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (Eretmochelys imbricata) are listed as endangered. The loggerhead (*Caretta caretta*) and green turtle (*Chelonia mydas*) are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of sea turtles as a result of trawling activities has been documented in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. The incidental taking of turtles during shrimp or summer flounder trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR part 223) are followed. The regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic Area, Gulf Area, and summer flounder sea turtle protection area) to have a NMFS–approved TED installed in each net that is rigged for fishing to provide for the escape of sea turtles. TEDs currently approved by NMFS include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, two types of special hard TEDs (the flounder TED and the Jones TED), and one type of soft TED–the Parker soft TED.

TEDs incorporate an escape opening, usually covered by a webbing flap, that allows sea turtles to escape from trawl nets. To be approved by NMFS, a TED design must be shown to be 97 percent effective in excluding sea turtles during experimental TED testing. Most approved hard TEDs are described in the regulations (50 CFR 223.207(a)) according to generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape. In the Atlantic Area, the opening must be at least 35 inches (89 cm) in width and 12 inches (30 cm) in height. In the Gulf Area, the opening must be at least 32 inches (81 cm) in width and 10 inches (25 cm) in height.

Leatherback Contingency Plan

NMFS, in cooperation with the U.S. Fish and Wildlife Service, South Carolina Wildlife & Marine Resources Department, Georgia Department of Natural Resources, and Florida Department of Environmental Protection developed the Leatherback Contingency Plan to reduce leatherback mortality in shrimp trawls and, in 1995, NMFS established the leatherback conservation zone regulations to implement the Leatherback Contingency Plan (60 FR 25620, May 12, 1995). Leatherback turtles are too large to fit through the standard size TED opening; when mature they can weigh between 600 and 1300 pounds (273 and 591 kg). The Leatherback Contingency Plan includes procedures to identify when and where TEDs with larger escape openings should be used to protect leatherbacks during their annual, spring migration along the Atlantic seaboard. The leatherback conservation zone is the waters north of Cape Canaveral, FL, to the North Carolina–Virginia border. Within this zone, weekly aerial surveys for leatherback sightings are conducted from January 1 through June 30 of each year. If sightings, in replicate surveys, exceed 10 leatherback turtles per 50 nautical miles (nm)(92.6 km) of trackline, NMFS closes, for a 2-week period, waters within 1°lat. of the trackline to shrimp trawlers unless they use a TED modified with the leatherback exit opening. There is currently one approved leatherback modification for hard TEDs and one for the Parker soft TED.

Double Cover Flap TED

In June 2000 NMFS tested the new double cover flap TED design. This design includes the use of a split flap. This TED has an escape opening with a width of 56 inches (142 cm), covered with a split flap composed of two equal size rectangular panels. Each panel must be no less than 58 inches (147 cm) wide and must not overlap each other by more than 15 inches (38 cm). The panels may only be sewn together along the leading edge of the cut. The edge of the panels may be attached 6 inches (15 cm) behind the posterior edge of grid, and the end of each panel must not extend more than 6 inches (15 cm) past the center of the bottom of the grid.

Double Cover Flap TED Testing

A total of ten turtles were exposed to a double cover flap TED in the bottom opening configuration. Five of these turtles were exposed to a double cover flap TED with the flap extending 24 inches (61 cm) past the grid and the other five were exposed to a TED with the flap extending 3 inches (8 cm) past the grid frame. All ten turtles escaped, but escape from the short flap TED was faster by an average of 33 seconds. The long flap in this configuration also had trouble maintaining its integrity during

use. After disturbances (i.e., debris or an animal going through the opening) the flaps sometimes became caught in the grid causing large gaps which could lead to shrimp loss. Shorter flaps (6 inches (15 cm) or less) did not have this problem.

During the evaluation of the flaps, gear specialists paid particular attention to the overlap-split flap and whether it was capable of re-closing correctly and repeatedly. Due to the fact that the individual flap-pieces overlap, once opened, the bottom flap must fold back in place before the top flap. During dives, efforts to distort the two flap pieces did not affect the manner in which the flap closed. No matter how much the diver opened and distorted the flap, it always closed in the correct sequence.

This TED was also tested to see if a large object could easily pass through. NMFS obtained the carapace measurements of 15 nesting female leatherback turtles and used these measurements to construct a pipe framed model of a leatherback turtle. This model measured 40 inches wide by 21 inches deep (102 cm by 53 cm). The test was performed by a diver swimming through the trawl with the model and pushing it through the TED opening. During this test, the diver was able to push the model through the opening with ease. When the model was inverted (simulating the dorsal surface of the turtle being against the TED frame), the diver was still able to push the model through the opening with ease.

The double cover flap TED was tested to determine its ability to retain shrimp when compared to a currently available commercial TED with a standard flap. Twenty–four comparative tows were made. The double cover flap TED gained 0.00257 pounds of shrimp per tow when compared to the TED with the standard flap.

Provisions of the Interim Final Rule

This interim final rule allows the use of the double cover flap TED in all trawls required to use a TED in the Atlantic off the southeastern United States and the Gulf of Mexico, including during times when the leatherback contingency plan has been implemented due to high concentrations of leatherback turtles in a specific area. The double cover flap TED is a modification of a standard, single–grid hard TED with the escape opening enlarged to at least 56 inches (142 cm) wide and 20 inches (51 cm) forward and aft, covered with a split flap composed of two equal size rectangular panels. Each panel must be no less than 58 inches (147 cm) wide and must not overlap each other by more than 15 inches (38 cm). The panels may only be sewn together along the leading edge of the cut. The edge of the panels may be attached 6 inches (15 cm) behind the posterior edge of the grid, and the end of each panel must not extend more than 6 inches (15 cm) past the center of the posterior edge of the grid. Chafing webbing must not be used with this TED, as such use would defeat the center-opening design of this TED. Use of accelerator funnels with this TED is prohibited. NMFS is concerned that the amount of webbing that would have to be used to construct an accelerator funnel that is large enough to exclude leatherback turtles could result in slack webbing in the throat of the net and potentially hinder the escape of sea turtles of all sizes. Although the regulations for hard TEDs modified to have an escape opening large enough to exclude leatherback turtles (227.207(a)(7)(ii)(B) (*1*)) currently allow the use of an accelerator funnel NMFS is considering proposing a rule which would prohibit the use of an accelerator funnel.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. This interim final rule will not have significant economic impact on a substantial number of small entities because the provisions of the interim final rule would allow fishermen an additional TED option. As a result, a regulatory flexibility analysis was not prepared.

This interim final rule adds a new TED to the list of TEDs approved for use, thus helping the fishermen by giving them one more TED option from which to choose. Fishermen do not have to use this new TED (they can continue to use existing ones if they so choose.) Accordingly, the agency determined to permit use of the TED immediately, but will receive and consider comments prior to making the interim rule a final rule.

Because this interim final rule does not create any new regulatory burden, but instead relieves regulatory restrictions by adding an option for complying with existing sea turtle conservation requirements, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effective date.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: May 8, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 *et seq.*

2. In § 223.207, paragraph (a)(7)(ii)(B) is revised to read as follows:

§ 223.207 Approved TEDs

* * * * *

(a) * * *

(7) * * *

(ii) * * *

(B) *Escape opening for leatherback turtles— (1) Standard leatherback opening.* A single-grid hard TED escape opening shall be enlarged to allow leatherback turtles to escape by cutting an exit hole in the extension forward of the TED frame 26 inches (66 cm) deep, on each side, by 83 inches (211 cm) across (Figures 12a and 12b to this part). Excess webbing is removed by cutting across ½ mesh forward of the TED frame. The exit hole cover is made by cutting a 133-inch (388 cm) by 58-inch (148 cm) piece of webbing no smaller than 1½ inch (4 cm) stretch mesh and no larger than 1 ⅝ inch (4.2 cm) stretch mesh. The 133-inch (338 cm) edge of the cover is attached to the forward edge of the opening (83-inch (211 cm) edge) with a sewing sequence of 3:2. The cover must overlap 5 inches (13 cm) of the exit hole on each side. The side of the cover is attached, maintaining the 5-inch (13 cm) overlap, to the side of the opening by sewing 28 inches (71 cm) of the cover to 26 inches (66 cm) of the opening forward of the TED frame and by sewing 15 inches (38 cm) of the extension behind the TED frame. The cover may extend no more than 24 inches (61 cm) behind the posterior edge of the TED frame. The circumference of the exit opening must be 142 inches (361 cm) when stretched. If an accelerator funnel is used with a single-grid hard TED, modified as above, it must have a minimum circumference of 142 inches (361 cm).

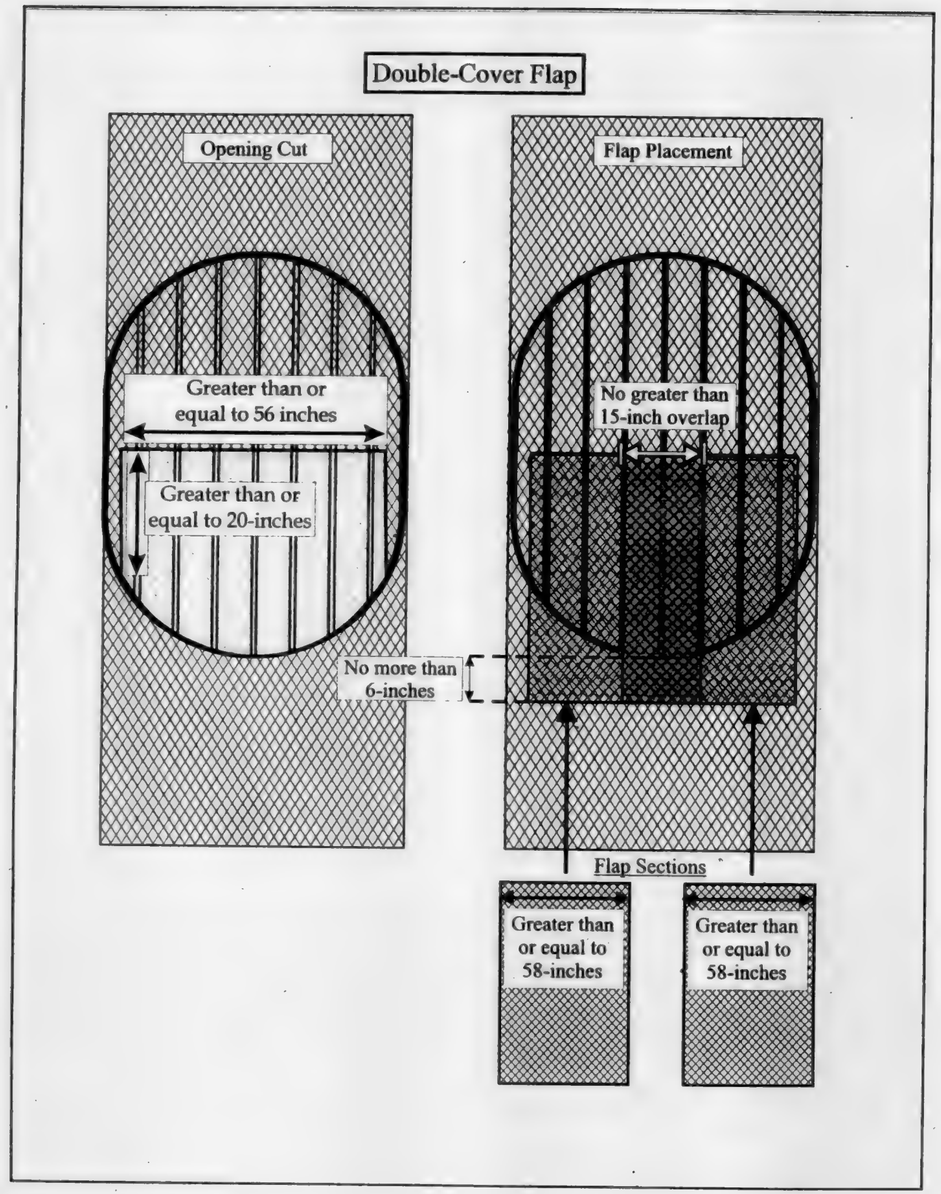
(2) Double cover flap TED opening. A single-grid hard TED escape opening shall be enlarged to allow leatherback turtles to escape by cutting an exit hole in the extension forward of the TED frame 20 inches (51 cm) deep, on each side, by 56 inches (142 cm) across. Excess webbing is removed by cutting across ½ mesh forward of the TED frame. The exit hole cover is made by cutting two equal size rectangular panels of webbing with mesh sizes no smaller than 1½ inch (4 cm) stretch mesh and no larger than 1 ⅝ inch (4.2 cm) stretch mesh. Each panel must be no less than 58 inches (147 cm) wide. The 58-inch (147 cm) edges of each panel are attached to the forward edge of the opening (56-inch (142 cm) edge) with a sewing sequence of 3:2. When both panels are attached, they may overlap each other by no more than 15 inches (38 cm). The panels may only be sewn together along the leading edge of the cut. The panels may not overlap the escape hole cut by more than 3 meshes on either side. The outer edges of the panels may be attached in the same row of meshes forward and aft. The end of each panel may not extend more than 6 inches (15 cm) past the posterior edge of the grid. Accelerator funnels and chafing webbing may not be used with this TED. (Figure 16 of this part illustrates the escape opening and flap dimensions for the double cover flap TED.)

* * * * *

3. Figure 16 to part 223-Escape Opening and Flap Dimensions for the Double Cover Flap TED is added to read as follows:

BILLING CODE 3510–22–S

FIGURE 16 TO PART 223—Escape Opening and Flap Dimensions for the Double Cover Flap TED



[FR Doc. 01–12081 Filed 5–11–01; 8:45 am]
BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 66, No. 93
Monday, May 14, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV01–929–2 PR]

Cranberries Grown in the States of Massachusetts, et al.; Establishment of Marketable Quantity and Allotment Percentage; Reformulation of Sales Histories and Other Modifications Under the Cranberry Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on whether to establish volume regulation on cranberries and if so, at what level. If a volume regulation is implemented, it would limit the volume of cranberries handlers may purchase from, or handle for, growers during the 2001–2002 crop year, which begins on September 1, 2001, and ends on August 31, 2002. The Cranberry Marketing Committee (Committee), the agency responsible for local administration of the cranberry marketing order, recommended a marketable quantity of 4.7 million barrels, an allotment percentage of about 67 percent, and an exemption for fresh and organically-grown cranberries. An alternative, supported by a number of independent growers, includes a marketable quantity of 4.0 million barrels, an allotment percentage of about 54 percent, and no exemption for fresh and organically-grown cranberries.

Both levels of regulation are intended to stabilize marketing conditions, help reduce burdensome inventories, and improve grower returns. A third option is to issue no volume regulation at all. This rule also proposes adding a date by which transfers of sales histories on leased acreage must be completed, deleting the Committee review process in the sales history appeal procedure, and giving fresh fruit growers whose fruit has to be used for processing priority in the allocation of excess allotments. Finally, this action proposes amending a proposed rule published on January 12 to revise the sales history reformulation calculation, and withdraw the proposed reinstatement of the June 1 allotment notification date. These additional actions are designed to improve the operation of the producer allotment provisions of the order.

DATES: Comments must be received by May 29, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938 or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at the following website: www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, Maryland 20737; telephone: (301) 734–5243, Fax: (301) 734–5275; or Anne Dec or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 929 (7 CFR Part 929), as amended, regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the "Act."

Question and Answer Overview

What Does This Rule Propose?

This rule invites comments on whether a volume regulation should be in place for the 2001 cranberry crop. Comments are requested on whether a volume regulation should be established and if so, at what level. This proposal includes two levels of regulation that have been widely discussed within the cranberry industry in recent months. It also proposes a number of administrative changes designed to improve the producer allotment program under the cranberry marketing order.

Who Would Be Affected by This Action?

Growers and handlers/processors located in the 10-State production area would be affected by this action. The 10-State production area covers Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York.

Why Is Volume Control Being Recommended For This 2001 Crop?

The Committee recommended volume control the 2001–02 crop year to address the oversupply situation being experienced by the industry. Specifically, the Committee recommended a marketable quantity of 4.7 million barrels, an allotment percentage of about 67 percent, and an exemption for fresh and organically-grown fruit. For the 2001 crop year, continued low grower prices are expected to accompany high production and inventories. Many cranberry growers are experiencing difficulties dealing with current market conditions.

What Is The Marketable Quantity and Allotment Percentage?

The marketable quantity is defined as the number of pounds of cranberries needed to meet total market demand and to provide for an adequate carryover into the next season. The Committee determined that the marketable quantity for the 2001–2002 crop year should be established at 4.7 million barrels. This proposed rule also contains a proposal

for a marketable quantity of 4.0 million barrels.

The allotment percentage equals the marketable quantity divided by the total of all growers' sales histories. Total growers' sales histories were estimated by the Committee to be 7.4 million barrels including all sales, and 7.0 million barrels if it includes only processed sales. The latter figure is intended to be used if fresh fruit is exempt from volume regulation.

How Are Growers' Annual Allotments Calculated?

A grower's annual allotment is the result of multiplying the individual grower's sales history by the allotment percentage.

Why Is the Department Soliciting Comments on Alternative Proposals?

A number of growers favor a marketable quantity of 4.0 million barrels because they expect that it will bring grower returns closer to the cost of production more quickly than the Committee's 4.7 million barrel recommendation. The Department is soliciting comments on both levels of regulation because both levels have been determined to have the potential to improve grower returns and establish more orderly conditions in the cranberry market. Comments are also being solicited on not establishing volume regulations and allowing growers and handlers to voluntarily and individually decide how much fruit to market.

Why Are Additional Comments Being Requested on the Proposal To Recalculate Sales Histories?

A proposed rule to reformulate sales history calculations for the 2001–2002 crop year was published in the **Federal Register** on January 12, 2001, with a comment period ending February 12, 2001. The main feature of that proposal was to provide additional sales history for acres planted in 1995 or later. At the Committee meeting on February 5, 2001, concerns were raised that the proposed formula would give an unfair advantage to growers who only have acres with 1 to 3 years of sales history (as opposed to growers with a combination of mature acres and new or replanted acres).

Under the January 12 proposal, actual sales histories for growers with only newer (or replanted) acreage would be computed by dividing total sales by the actual number of years plus an adjustment based on the year planted. A grower with a combination of mature and newer acres would have his/her sales divided by 4 before the adjustment was added. At its meeting on February 5, the Committee recommended a modification of the sales history calculations so that all growers' sales histories would be divided by 4 before the new acreage adjustment is added. The January 12 proposal is proposed to be amended to include the sales history modification, to withdraw a proposal to reinstate the June 1 annual allotment notification date, and to correct an inadvertent error.

How Can I Comment on This Action?

Interested persons have 15 days from the date of publication of this proposed rule to file written comments. Such comments should be sent to: Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938 or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

When Will This Action be Effective?

After analyzing all comments received, the Department will make a final decision. We could choose to issue a final rule to set a regulation or withdraw this proposal and have no volume restriction in place for the 2001 crop. Any final rule issued would be effective for the 2001–2002 crop year, which begins on September 1, 2001.

Executive Orders 12866 and 12988

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866. This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, a marketable quantity and allotment percentage may be established for cranberries during the crop year. This proposed rule invites comments on the volume of cranberries that handlers may purchase from, or handle for, growers during the 2001–2002 crop year beginning September 1, 2001, through August 31, 2002. This proposal would also add a date by which transfers of sales histories must be made; streamline the sales history appeal process; and give fresh fruit handlers priority in allocating excess allotment. It would also modify a previously-issued proposed rule to revise the sales history calculations, withdraw a proposed reinstatement of the annual allotment notification date, and correct an inadvertent error. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The Committee met on February 5, 2001, to discuss implementing a volume regulation to restrict the marketing of the 2001 cranberry crop. Because the Committee was divided on the volume of cranberries that should be released to market, it established a subcommittee to consider volume regulation alternatives to help the industry overcome its oversupply situation. Since 1996, cranberry production has been greater than demand by increasing margins. Large carryover inventories and higher production yields have resulted in a market burdened by large supplies and low grower prices. Grower returns have fallen 73 percent from 1997 to 2000, dropping from $65.90 to $15–20 per barrel.

During the 1999 crop year, production totaled 6.34 million barrels, a 17 percent increase over 1998. Market demand has not kept up with mounting carryover inventories and production.

The subcommittee, comprised of independent and cooperative growers, and a representative of the public, explored various options for helping to stabilize market supply and demand conditions in 2001–02. After analyzing various alternatives, the subcommittee decided to recommend the establishment of a marketable quantity of 4.0 million barrels applicable to all sales. The public representative on the subcommittee developed an econometric model showing that a marketable quantity of 4.0 million barrels would eliminate excess inventories in a single year and bring grower prices closer to the cost of production. A marketable quantity at this level would permit growers to deliver an estimated 54 percent of their sales history to handlers, keeping approximately 46 percent of their sales history off the market.

The econometric model also shows that inventories would decline to 2.2 million barrels, and that grower prices would increase to $31 per barrel. The estimated average cost of production is $35 per barrel, although the range in individual costs is quite broad, being as low as $15 and as high as $45 per barrel.

The subcommittee presented its recommendation to the full Committee at a March 4–5, 2001, meeting. At that meeting, the full Committee discussed the 4.0 million barrel marketable quantity. It indicated that it is supportive of raising grower prices and reducing excessive inventories. However, it believed that a restriction this large would be harmful to the industry in the long run. The Committee believes that a more gradual correction in inventory and grower prices is necessary to allow efforts to expand demand through the introduction of new products and foreign market development. It further believes that a substantial price increase in a single season could result in buyers substituting other commodities for cranberries in their products. It is also the Committee's view that the more restrictive level of regulation could result in a less than desirable carryover into the 2002 season. It is preferable to freeze and store cranberries for several months after harvest in October before processing them. Sales for the first 3 months of the season are estimated at about 2.0 million barrels.

In addition, a large number of independent handlers oppose a regulation of this magnitude. There is concern that under a 4.0 million barrel marketable quantity there will not be enough excess fruit to fill their needs. If independent handlers were short of fruit, and not able to meet the needs of their customers, they could lose market share.

While acknowledging that bringing grower prices to profitable levels is necessary as soon as possible, the Committee also believes that it is very important to provide enough fruit for market growth. The Committee ultimately recommended a marketable quantity of 4.7 million barrels to be implemented through an allotment program that would permit producers to move about 67 percent of their sales history to handlers, applied to processed fruit only. This would result in about 33 percent of sales histories being held off the market as opposed to approximately 46 percent under the 4.0 million barrel proposal. Fresh and organic sales would be exempt under this recommendation and add about 300,000 barrels to the available marketable supply.

The Committee believes that a 4.7 million barrel marketable quantity is a sustainable solution to eliminating the surplus, because it would contribute toward reducing supplies in the short term and provide enough fruit to increase demand in the long term. The Committee believes that supply reduction and market growth are important to the long term viability of the industry.

After reviewing these alternative proposals, the Department believes that each could help the industry solve its oversupply problems and improve grower prices. Therefore, the Department is soliciting comments on both levels of regulation. The Department is also soliciting comments on not establishing volume regulations and allowing growers and handlers to voluntarily and individually decide how much fruit to market.

At the March 4–5, 2001, meeting, the Committee also recommended adding a date by which transfers of sales histories on leased acreage must be completed, deleting the Committee review process from the sales history appeals procedures, and giving fresh fruit growers priority in the allocation of excess allotment. The Committee also recommended revising a sales history reformulation calculation contained in a proposed rule published on January 12. The Department is proposing withdrawing a proposal to reinstate a June 1 grower allotment notification date.

Introduction

Section 929.49 of the order currently provides that if the Secretary finds from the recommendation of the Committee or from other available information, that limiting the quantity of cranberries purchased from or handled on behalf of growers during a crop year would tend to effectuate the declared policy of the Act, the Secretary shall determine and establish a marketable quantity for that year. In addition, the Secretary would establish an allotment percentage which shall equal the marketable quantity divided by the total of all growers' sales histories.

Section 929.49(b) of the order provides that the marketable quantity be apportioned among growers by applying the allotment percentage to each grower's sales history. Handlers can only purchase or handle cranberries that are covered by the grower's annual allotment.

Total growers' sales histories have been estimated by the Committee to be about 7.0 million barrels if they include only processed sales, and 7.4 million barrels if they include all sales (fresh and processed). If fresh fruit sales are exempt from volume regulation, it is intended that the 7.0 sales history figure be used. Otherwise, the 7.4 million barrel sales history would be used.

Growers are required to file a form with the Committee by April 15 each year if they wish to receive an annual allotment. Among other things, growers also must notify the Committee of any new acreage that will be coming into production for the upcoming crop year. The Committee notifies each grower of his or her annual allotment and notifies each handler of the annual allotment that can be handled for each grower whose total crop will be delivered to such handler. In cases where a grower delivers a crop to more than one handler, the grower may determine how to apportion the annual allotment among those handlers.

A grower who does not produce cranberries equal to his or her annual allotment must transfer any unused allotment to such grower's handler(s). The handlers are then required to equitably allocate the unused allotment to growers with excess cranberries (those not covered by allotment) who deliver to those handlers. Unused allotment remaining after all such transfers have taken place are transferred to the Committee.

Handlers who receive more cranberries than are covered by their growers' annual allotments have excess cranberries. The Committee is required to equitably distribute any unused allotment it receives to those handlers that have excess cranberries.

The Committee's Marketing Policy for the 2001 Crop

Section 929.46 of the order requires the Committee to develop a marketing policy each year prior to May 1. In its marketing policy, the Committee projects expected supply and market conditions for the upcoming season, including an estimate of the marketable quantity (defined as the number of pounds of cranberries needed to meet total market demand and to provide for an adequate carryover into the next season).

At its February 2001 meeting, the Committee estimated 2001–2002 domestic production of cranberries at 5,675,000 barrels. Carryin as of September 1, 2001, is estimated at 3,325,000 barrels. Foreign production (primarily Canada) is projected at 835,000 barrels. Allowing for shrinkage of approximately 2 percent on carryin and 4 percent on production (327,000 barrels), the total adjusted available

supply of cranberries is expected to be 9,508,000 barrels. Based in large part on historical sales figures, the Committee estimated utilization of processing fruit at 5,198,000 barrels and of fresh fruit at 310,000 barrels. The carryout as of August 31, 2002, is projected to be 4 million barrels.

A summary of the marketing policy follows:

CRANBERRY MARKETING POLICY

[2001 crop year estimates]

	Barrels
Carryin as of 9/1/2001	3,325,000
Domestic production	5,675,000
Foreign production	835,000
Available supply (sum of the above)	9,835,000
Minus shrinkage	327,000
Adjusted Supply	9,508,000
Fresh Fruit	310,000
Processing fruit	5,198,000
Total Sales and Usage	5,508,000
Carryout as of 8/31/2002	4,000,000

The industry is expected to enter the 2001–2002 crop year with inventories estimated at about 3,325,000 barrels (assuming USDA purchases 1.0 million barrels). This level of inventory, coupled with the industry's current capacity to produce in excess of estimated demand, has resulted in the industry debating two volume regulation levels for the 2001–2002 crop year. These alternatives are discussed below.

Option 1

Proposed Establishment of a Marketable Quantity of 4.0 Million Barrels and an Allotment Percentage Applicable to All Sales

As mentioned earlier, in early February 2001, the Committee established a volume regulation subcommittee to discuss volume regulation methods available under the order. This subcommittee was comprised of growers. The subcommittee discussed several issues involving the upcoming season and how the order could be used to address industry needs. One of the subcommittee's main concerns was that grower prices be increased to cover production costs.

The subcommittee met with handlers in the industry to also try and address their concerns for the upcoming season. Some handlers, who do not have a large inventory of cranberries, expressed that if there were a very restrictive volume regulation, they would not have adequate supplies of cranberries to meet their market needs and would have to purchase cranberries from their competitors. Moreover, these handlers were concerned about availability and about the prices they would have to pay for such cranberries.

The subcommittee also discussed the idea of a buy-back provision in a producer allotment program which would allow a handler to buy back cranberries from the Committee to fulfill his/her needs. The Committee in turn would purchase free cranberries from another handler to replace those that were bought back. The subcommittee also discussed the possibility of using both of the volume control programs under the order, the producer allotment program and handler withholding program, in the same crop year. However, buyback is not authorized under an allotment program, and the simultaneous use of producer allotments and handler withholding is not authorized under current order provisions.

The subcommittee recommended to the full Committee on March 4, 2001, by a 6 to 2 vote, that a marketable quantity be set at 4.0 million barrels for the upcoming season with no exemption for fresh or organically-grown fruit. In recommending this level of regulation, the subcommittee stated that it would like to decrease excessive industry inventories to desirable levels in one year. It believes that by reducing inventories, grower prices and revenues will increase. It further believes that this level of marketable quantity balances supply with demand with a 2.325 million barrel carryout inventory which should sufficiently meet the next year's demand until the new crop is properly frozen and stored. The subcommittee also believes that this level of regulation would bring grower prices closer to the average cost of production, and that this would allow growers, both large and small, to more easily obtain loans which are used to cover operating and planting expenses during the course of the season. Prices have been below the average cost of production for several years. Some in the industry have informed the Department that lenders are becoming reluctant to fund these losses.

A 4.0 million barrel marketable quantity would result in an allotment percentage of about 54 percent based on sales histories of about 7.4 million barrels. Sales histories would be set at 7.4 million barrels instead of 7.0 million barrels because fresh fruit and organic sales would not be deducted from sales histories. The subcommittee expects that a marketable quantity at this level would increase grower returns to about $31 per barrel. The estimated average cost of production is $35 per barrel, although the range in individual costs is quite broad, being as low as $15 and as high as $45. The subcommittee also felt that a fresh fruit exemption was not necessary, and that it could lead to an oversupply of fresh fruit and decrease the value of such product.

The Committee believes that under a 4.0 million barrel marketable quantity, there would not be enough carryover fruit in inventory to meet market demand early next season (2002–2003). They also expressed the belief that a significant increase in grower returns in one season may make growers more reluctant to reduce production at this time.

Option 2

Establishment of a Marketable Quantity of 4.7 Million Barrels and an Allotment Percentage Applicable to Processed Sales Only

The subcommittee's recommendations were not adopted by the Committee. Instead, the Committee chose to recommend a higher marketable quantity of 4.7 million barrels applicable to processed sales only. This would add an estimated 300,000 barrels to the available marketable supply and set a less restrictive allotment percentage (67 percent instead of 54 percent).

Most independent handlers have indicated that they do not have inventories of cranberries to carry into the 2001 season. The Committee felt that a restriction based on a marketable quantity of 4.7 million barrels applicable to processed sales only would allow handlers to purchase additional cranberries if they needed them from other handlers, while having adequate supplies to expand markets with new products. Some handlers have indicated that they cannot support volume regulation unless they have assurances that they will have sufficient supplies to meet their customers' needs. They contend that a 4.0 marketable quantity applicable to all sales would not allow them to meet their customers' needs, which could result in giving up market share. However, there is no mechanism in the order which could provide such assurances.

The Committee determined that the marketable quantity for the 2001–2002 crop year should be established at 4.7 million barrels. The Committee recommended this volume regulation level by a 6 to 2 vote. With sales history estimated at 7 million barrels of processed fruit, the allotment percentage would be about 67 percent. Fresh fruit sales are not included in the sales history figure because fresh fruit would not be covered by the allotment percentage. The fresh fruit exemption would add about 300,000 barrels to the available marketable supply. The Committee determined that a 5.0 million barrel available marketable supply (4.7 million-barrel marketable quantity plus about 300,000 barrels of fresh fruit) is an appropriate amount to deplete some of the existing inventory but not short the handlers from supplying market needs. Exports are expected to increase and enough marketable quantity must be available to meet this demand.

Those voting against this level of regulation wanted a more restrictive volume regulation. Those Committee members were also of the opinion that cheap and abundant cranberries allow handlers to undercut product prices in order to build market share without increasing total industry sales or grower returns.

Fresh and Organic Fruit Exemption Recommended by the Committee

The Committee also recommended that fresh fruit and organically-grown cranberries be exempted from regulation this season. Fresh and organically-grown fruit would be exempt pursuant to § 929.58 of the order which provides that the Committee may relieve from any or all order requirements cranberries in such minimum quantities as the Committee, with the approval of the Secretary, may prescribe.

Under current marketing practices, there is a distinction between cranberries for fresh market and those for processing markets. Cranberries intended for fresh fruit outlets are grown and harvested differently. Fresh cranberries are dry picked while cranberries used for processing are water picked. When cranberries are water picked, the bog is flooded and the cranberries that rise to the top are harvested. Dry picking is a more labor intensive and expensive form of harvesting. Cranberry bogs are designated as "fresh fruit" bogs and are grown and harvested accordingly. Only the lower quality fruit from a fresh bog goes to processing outlets.

Fresh fruit accounts for less than 6.0 percent of total production. The Committee estimated that about 310,000 barrels will be sold fresh this year, compared to 280,000 barrels sold last season. All fresh cranberries can be marketed and do not compete with processing cranberries. Fresh cranberries are seasonal (due to their limited shelf life) and are not a part of the growing industry inventories. The Committee concluded that fresh supplies do not contribute in any meaningful way to the current cranberry surplus. Therefore, the Committee recommended that such cranberries be exempt from the allotment percentage this rule proposes.

The Committee addressed the impacts of having a sales history that includes only processed fruit, and how the allotment percentage would be applied. In the fresh fruit industry, there are instances when growers deliver fresh fruit that fails the handler's fresh fruit specifications and therefore is used as processing fruit. In this case, if a grower has an inadequate processing fruit allotment to cover the rejected fruit, the handler can allocate unused allotment from other growers to cover the excess. Each handler should give priority to these growers when allocating unused allotment to cover excess cranberries. This would allow the grower to deliver the rejected fruit for processing. This proposal would be implemented by adding a new paragraph (f) to § 929.149 of the order's rules and regulations.

Organically-grown cranberries comprise an even smaller portion of the total crop than fresh cranberries. The Committee estimated that about 1,000 barrels of organic fruit will be sold this season, compared to 450 barrels last season. Organic cranberries are a growing niche market and regulating them could have an adverse effect on the production and marketing of this product. Like fresh cranberries, demand for organic cranberries is in line with the current limited production. Thus, organic cranberries do not contribute in any meaningful way to the current oversupply experienced with processing fruit. The Committee, therefore, recommended that organically-grown cranberries be exempt from volume regulation during the upcoming season. To be exempt, organic cranberries would have to be certified as such by a certifying organization acceptable to the Committee, as required under § 929.158 of the order's rules and regulations.

Option 3

Establish No Volume Regulation for the 2001–2002 Crop

USDA is also soliciting comments on issuing no volume regulation. Under this third option, cranberry growers and handlers would voluntarily and individually decide how much fruit to market.

Although this rule proposes two levels of regulation discussed within the industry, it is still possible that no volume regulations will be implemented for the 2001 crop.

To fully analyze the issue of an appropriate volume restriction for the 2001 cranberry crop, the Department has decided to solicit comments on both levels of regulation as well as issuing no volume regulation. Comments are invited on which option would be more feasible and why, in view of current demand in foreign and domestic markets, and which option would be more consistent with the short and long term goals of the industry to correct the oversupply situation in the interest of the industry and the public, and why.

Appeal Procedures

The Committee unanimously recommended that the Committee review step be removed from the sales history appeals process. Currently, § 929.125 provides that a grower may appeal to an appeals subcommittee within 30 days of receipt of the Committee's determination of his/her sales history. If the grower is not satisfied with the subcommittee's decision, the grower may further appeal to the full Committee. Such grower must notify the full Committee of his or her appeal within 15 days after notification of the subcommittee's decision. The Committee has 15 days to review the appeal. The grower may further appeal to the Secretary, within 15 days after notification of the full Committee's findings, if the grower is not satisfied with the Committee's decision. All decisions by the Secretary are final.

The appeals procedure as described above could take 60 or more days to complete. Last season, the Committee recommended and the Department approved, removing the Committee's review from the procedures to shorten the process. Growers were able to take their appeals directly to the Secretary for a final decision if they were not satisfied with the appeals subcommittee's determinations.

The Committee recommended for this season and future seasons that the full Committee review step of the appeals process described in the rules and regulations be removed in order to expedite the process. The appeals subcommittee reviewed over 250 appeals for the 2000–2001 crop year. This required many hours of meetings and recalculations of appealed sales histories, when warranted. The Committee determined that the appeal process, absent Committee review, was efficient and provided the grower with a quicker response than would have otherwise occurred. Therefore, the Committee recommended that the Committee review of sales history appeals is not needed and should be removed from the procedures.

Transfers of Sales Histories on Leased Acreage

The Committee also unanimously recommended that, during a year of volume regulation, transfers of sales histories through partial or total leases of acreage only be recognized by the Committee during the period January 1 through July 31 of each crop year. The appropriate paperwork would have to be received in the Committee's office by close of business on July 31.

Currently, § 929.50 provides that, during a year of regulation, no transfer or lease of cranberry producing acreage, without accompanying sales history, shall be recognized until the Committee is in receipt of a completed transfer or lease form. The Committee has found through experience last season that many growers were delaying these adjustments until the busy harvest season. The review and approval of such transfers required a great deal of time and this placed an added burden on the Committee's staff, especially during the busy harvest season. Therefore, the Committee recommended that all transfers must be received by close of business on July 31 during a year of volume regulation. This change would be implemented for the 2001–2002 season, which begins September 1, 2001. This would allow sales histories to be distributed in a more equitable manner and also allow the Committee to complete the transfers prior to the busy harvest season. All forms associated with this issue have been previously approved by the Office of Management and Budget under OMB No. 0581–0103.

This proposal would be implemented by adding a new paragraph (d) to § 929.110 of the order's rules and regulations.

Amendment of Proposed Rule Published on January 12, 2001

A proposed regulation to reformulate sales history calculations for the 2001–2002 crop year was published in the **Federal Register** on January 12, 2001 (66 FR 2838), with a comment period ending February 12, 2001. The January proposal would modify the current sales history formula to apportion sales histories more equitably among producers. The January proposal also would clarify the exemption provisions for fresh cranberries under the volume regulation provisions, modify the outlets for excess cranberries and reinstate the dates for the Committee to notify growers and handlers of their allotments. The final rule will include a determination on the January proposals as well as the proposals contained in this rule.

This action proposes amending the January proposal to revise the sales history reformulation, and withdraw the proposed reinstatement of the June 1 allotment notification date. This action also corrects an inadvertent error in the January proposal regarding the definition of commercial crop.

Reformulation of Sales History Calculations for the 2001–2002 Crop Year

Under the January proposal, actual sales histories for growers with only newer or replanted acreage were proposed to be computed by dividing the total sales by the actual number of years plus an adjustment based on the year planted. A grower with a combination of mature and newer acreage would have his/her sales divided by 4 before the adjustment was added.

At a Committee meeting on February 5, 2001, concerns were raised that the proposed formula would give an unfair advantage to growers who only had acres with 1 to 3 years of sales history (as opposed to growers with mature acres combined with new or replanted acres). The Committee believed that these growers would be provided an adjusted sales history in excess of average yields. The Committee recommended that the proposal be modified to be more equitable to all growers by providing that growers with acreage with 1 to 3 years of sales histories divide their total sales by 4 instead of all available years and then be provided additional sales history in accordance with the formula which is provided in the proposed rule for adjusting sales history.

The Committee's recommendation to modify how sales histories are calculated would not change the formula that provides the additional sales history. The additional sales history would still be calculated using the figures in Table 1.

TABLE 1.—ADDITIONAL SALES HISTORY ASSIGNED TO ACREAGE

	Expected 2001 yield (bbl/acre)	Average sales history (bbl/acre)	Additional 2001 sales history per acre (bbl/acre)
Date Planted:			
1995	275	226	49
1996	275	158	117
1997	252	95	157
1998	222	39	183
1999	156	0	156
2000	75	0	75

The Committee recommended changing the way the actual sales histories are calculated. The January proposal states that for growers with 7 or more years of sales a new history would be computed using an average of the highest 4 of the most recent 7 years of sales. If the growers have acreage with 6 years of sales history, a new sales history would be computed by averaging the highest 4 of the 6 years.

For growers with acreage with 5 years of sales history which was planted prior to 1995, a new sales history would be computed by averaging the highest 4 of the 5 years.

For growers with acreage of 5 years or less of sales history planted in 1995 or later, the sales history is proposed to be computed using the average of all available years and adjusting it by providing additional sales history in accordance with the formula. For growers with acreage with no sales history or for the first harvest of replanted acres, the sales history was proposed to be 75 barrels per acre for acres planted or re-planted in 2000 and first harvested in 2001, and 156 barrels per acre for acres planted or re-planted in 1999 and first harvested in 2001.

The portion of the proposal that the Committee is concerned with is the calculation for growers with 1 to 3 years of sales history (and no mature acres) whose total sales from that acreage are divided by all available years. The Committee believes that the formula already compensates these growers by providing additional sales history as if the grower also had mature acres and divided the sales history by 4. The recommendation of February 5 proposed that these growers also divide by 4, like every other grower is expected to do under this scenario. At the meeting, the following examples were used to explain the situation:

Example 1

A grower with two acres has the following sales history:

	Sales history						
	1994	1995	1996	1997	1998	1999	2000
Planted 1992	156	222	252	275	275	275	275
Planted 1996					156	222	252
Total Sales	156	222	252	275	431	497	527

Under the proposal of January 12, 2001, this grower's sales history would be calculated by totaling the highest 4 years of sales and dividing by 4 (275+431+497+527/4) or 432.5 barrels. Using the table for assigning additional sales history, this grower would be provided an additional 117 barrels for the one acre planted in 1996 for a total sales history of 549.5 barrels. This grower's sales history represents approximately 275 barrels per acre for each of the two acres, which is a reasonable average for acreage of that age.

Example 2

A grower with one acre has the following sales history:

	Planted			
	1996	1998	1999	2000
Sales		156	222	252

Under the proposal of January 12, 2001, this grower's sales history would be the total of the 3 years divided by all available years (156+222+252/3) or 210. Using the table for assigning additional sales history, this grower would be provided an additional 117 barrels for a total of 327 barrels of sales history for 1 acre. The amount of 327 barrels is far in excess of the average yield for acreage of that age. If the total sales were divided by 4 (156+222+252/4), the actual sales history would be 157.5 barrels. Using the table for assigning additional sales history, this grower would be assigned the same 117 barrels for a total of 274.5 barrels of sales history. The Committee believes this number is more in line with average yields.

Therefore, the Committee's recommendation would require modifying § 929.149 in the following manner: For growers whose acreage has 5 years of sales history and was planted in 1995 or later, the sales history would be computed by averaging the highest 4 of the 5 years and adjusting in accordance with Table 1; For growers whose acreage has 4 years of sales history, the sales history would be computed by averaging all 4 years and adjusting in accordance with Table 1; For growers whose acreage has 1 to 3 years of sales history, the sales history would be computed by dividing the total years sales by 4 and adjusting in accordance with Table 1.

Since this recommendation directly relates to the 2001–2002 volume regulation, the Committee's recommendation to modify the sales history calculations is being incorporated into this proposal so that interested parties are provided the opportunity to comment on this modification. This proposed modification to the sales history formula should be more equitable to growers in the event volume regulations are implemented for the 2001–2002 season.

Twenty-five comments were received on the January 12, 2001 proposed rule. Three comments supported the recalculation of sales history as proposed, five comments supported that proposal but recommended modifying the way sales histories are calculated as recommended by the Committee at its meeting on February 5, 2001, and three comments opposed the proposal on sales history reformulation. The remaining comments received concerned other changes proposed in the January 12, 2001, issue of the **Federal Register**. These comments will be considered along with any additional comments received during this comment period prior to issuing a final rule.

Reinstatement of Allotment Notification Date

The proposal of January 12, 2001, proposed reinstating the June 1 deadline for the Committee to notify growers and handlers of their annual allotments. Section 929.49 of the order provides, that in any year in which an allotment percentage is established by the Secretary, the Committee must notify growers of their annual allotment by June 1. That section also requires the Committee to notify each handler of the annual allotments for that handler's growers by June 1. The June 1 date was indefinitely suspended in the final rule establishing a volume regulation for the 2000–2001 crop year (65 FR 42598) to allow adequate time for interested parties to comment on the volume regulation proposal for that season and for the Department to give due consideration to the comments received and issue a final rule.

The Department has determined that this time is needed again for this year's proposed volume regulation. Therefore, the proposal to reinstate the June 1 deadline date is being withdrawn.

Definition of Commercial Crop

The proposal to remove § 929.107 from the rules and regulations is not being modified in any way from the proposed rule published January 12, 2001. However, in the proposed rule, the removal of this section was inadvertently not included in the amendatory text. This section would be removed, and that change is included in this document.

The Regulatory Flexibility Act and Effects on Small Businesses

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action and alternatives considered on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions, in order that small businesses are not unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

According to the Small Business Administration (13 CFR 121.201) small handlers are those having annual receipts of less than $5,000,000 and small agricultural producers are defined as those with annual receipts of less than $500,000. Based on recent years' price and sales levels, AMS finds that nearly all of the cranberry producers and some of the handlers are considered small under the SBA definition. Of the 1,100 cranberry growers, between 86 and 95 percent are estimated to have sales equal to or less than $500,000. Fewer than 60 growers are estimated to have sales that would have exceeded this threshold in 2000. Thus, the consequences of this proposed rule would apply almost exclusively to small entities.

Six handlers handle over 97 percent of the cranberry crop. Using Committee data on volumes handled, AMS has determined that none of these handlers qualify as small businesses under SBA's definition. The remainder of the crop is marketed by about a dozen grower-handlers who handle their own crops. Dividing the remaining 3 percent of the crop by these grower-handlers, all would be considered small businesses.

This rule invites comments on whether to establish volume regulations and if so, at what level. Two alternatives for volume regulation contained in this document would establish a marketable quantity and an allotment percentage for cranberries in a 10-State production area during the crop year from September 1, 2001, through August 31, 2002. Handlers would only be allowed to handle those cranberries that are covered by annual allotment. This action proposes two levels of volume regulation with the requisite marketable quantities and allotment percentages as well as no volume regulation. One level of volume regulation includes an exemption for fresh and organic cranberries, and the other does not. This proposed rule would also add a deadline date by which requests for transfers of sales histories on leased acreage must be filed with the Committee, delete the Committee review step in the sales history appeal process, and give fresh fruit growers whose fruit had to be used for processing due to quality or other problems first priority over other growers when excess allotment is allocated. Finally, this rule would amend a previously issued proposed rule to change the way in which sales histories are reformulated, and withdraw a proposal to reinstate a June 1 allotment notification date. The RFA analysis in the previous proposal discussed the impacts and alternatives relevant to the previously proposed amendments. These actions are designed to improve grower returns, establish more orderly marketing conditions for cranberries, and improve the operation of the volume regulation program.

Industry Profile

Cranberries are produced in 10 States, but the vast majority of farms and production are concentrated in Massachusetts, New Jersey, Oregon, Washington, and Wisconsin. Massachusetts was the number one producing State until 1990, when Wisconsin took over the lead. Since 1995, Wisconsin has been the top producing State. Together, both States account for over 80 percent of cranberry production.

Average farm size for cranberry production is very small. The average across all producing States is about 33 acres. Wisconsin's average is twice the U.S. average, at 66.5 acres, and New Jersey averages 83 acres. Average farm size is below the U.S. average for Massachusetts (25 acres), Oregon (17 acres) and Washington (14 acres).

Small cranberry growers dominate in all States: 84 percent of growers in Massachusetts harvest 10,000 or fewer barrels of cranberries, while another 3.8 percent harvest fewer than 25,000 barrels. In New Jersey, 62 percent of growers harvest less than 10,000 barrels, and 10 percent harvest between 10,000 and 25,000 barrels. More than half of Wisconsin growers raise less than 10,000 barrels, while another 29 percent produce between 10,000 and 25,000 barrels. Similar production patterns exist in Washington and Oregon.

About 94 percent of the cranberry crop is processed, with the remainder sold as fresh fruit. In the 1950's and early 1960's, fresh production was considerably higher than it is today, and in many years, constituted as much as 25 to 50 percent of total production. Fresh production began to decline in the 1980's, while processed utilization and output soared as cranberry juice products became popular. Today, fresh fruit claims only about 5 to 6 percent of total production. Three of the top five States produce cranberries for fresh sales. New Jersey and Oregon produce fruit for processed products only.

Historical Trends and Near Term Outlook

The cranberry industry has operated under a Federal marketing order since 1962. For many years, the industry enjoyed increasing demand for cranberry products, primarily due to the success of cranberry juice-based drinks. This situation encouraged additional production. Between 1960 and 1999, production increased from 1.34 million barrels (one barrel equals 100 pounds of cranberries) to a record 6.3 million barrels. This represents a 370 percent increase from 1960 and a 17-percent gain from the 1998 crop year. Production in the 2000 crop year declined to 5.5 million barrels, due to the use of volume control by the industry and a decrease in yields in some production areas due to adverse weather conditions during the growing season.

While production capacity continues to rise, demand has leveled off. Over the past several years, per capita consumption of cranberries in the United States has averaged 1.69 pounds. Per capita consumption peaked in 1994 at 1.80 pounds and began trending downward. In 1999, per capita consumption was 1.68 pounds. Associated with these per capita consumption figures is the fact that total domestic sales also peaked in 1994 at 4,692,507 barrels but declined to 4,506,632 barrels in 1999.

In 1998, sales totaled 5.1 million barrels, slightly above the prior 5-year average. In 1999, sales were 5.5 million barrels, and sales for 2000 are estimated at 5.9 million barrels. Most of the recent increase in sales can be attributed to stronger activity in export markets.

Increased total supplies in excess of demand have resulted in large inventories. Carryin inventories have grown from 883,773 barrels in 1988 to 3,058,921 barrels in 1999, to 4,273,067 barrels in 2000. From 1988 through 1997, carryin as a percent of production ranged from 21 to 36 percent. However, in 1998, carryin as a percent of production increased to 40 percent; in 1999 it increased to 49 percent. Carryin inventory for the 2000 season exceeded 4 million barrels for the first time in the industry's history. Carryin for the 2001 crop is estimated at 3.3 million barrels.

When supply outpaces demand, resulting in high levels of carryover inventories, grower prices can be negatively impacted. Grower prices rose from $8.83 per barrel in 1960 to a peak level of $65.90 per barrel in 1996. These rising price levels provided an incentive for producers to expand planted acres and to increase yields. In recent seasons, prices have declined dramatically. In 1998, grower prices decreased to $36.60 per barrel. The returns for the 1999 crop year were $17.70 per barrel. Returns for the 2000 season are expected to be between $15 and $20 per barrel. The cost of production ranges from $15 to $45 per barrel.

Similarly, grower revenues have dropped from a high of $350 million in 1997 to $112 million in 1999. Grower revenues declined by 68 percent in just two growing seasons. Grower revenues are expected to be less than $100 million for the 2000 crop year, potentially the first time that grower revenues will be less than $100 million since the 1980 crop year.

Impacts of Volume Control

To help stabilize market supply and demand conditions, volume regulation was introduced in 2000, marking the first time in 30 years that such regulation was implemented. This, in addition to a planned government purchase of up to 1,000,000 barrels, assisted somewhat in relieving market pressures. Also, yields in parts of the production area were below normal due to adverse weather during the growing season.

In an industry such as cranberries, where the product can be stored for long periods of time, volume control is a method that can be used to reduce supplies so that they are more in line with market needs. Large inventories are costly to maintain and, with the outlook for continued high production levels, these inventories would be difficult to market. Producers may not receive full payment for cranberries delivered to storage for several years, and storage costs are deducted from their final payment.

The demand for cranberries is inelastic. A producer allotment program results in a decrease in supply because producers can only deliver a certain portion of their past sales history. With an inelastic demand, a small shift (decrease) in the supply curve results in relatively large impacts on grower prices. An allotment program results in increasing grower prices and grower revenues.

The level of unsold inventory, the current capacity to produce in excess of expected demand, and continuing low grower prices have resulted in the industry debating various alternatives under their marketing order.

Level of Volume Restriction for the 2001 Crop

As previously discussed, two levels of volume regulation for the 2001 crop have been widely discussed within the cranberry industry in recent months and are included in this proposed rule. Also included is a proposal to have no volume regulation. The Department believes that the two levels of volume regulation proposed could tend to further the goals of the Act—that is, improve grower returns and establish more orderly conditions in the cranberry market. One of these levels would establish a marketable quantity of 4.0 million barrels and an allotment percentage of 54, applicable to all fruit. The second would establish a marketable quantity of 4.7 million barrels and an allotment percentage of 67, with an exemption for fresh and organically-grown fruit.

To assist in our initial analysis of these options, the Department has relied upon an econometric model developed by the University of Wisconsin and widely discussed industry to project the impact of each on grower returns and revenues for the 2001 crop. We looked at both levels of regulation recommended by the industry as well as what might occur with no regulation. In making our projections, we used figures from the Committee's marketing policy. For example, carryin inventory is estimated at 3.325 million barrels, domestic production is estimated at 5.675 million barrels, imports are projected at 0.835 million barrels, and total sales for the 2001–02 crop year are projected at 5.508 million barrels. We used a figure of 1.8 million barrels for the desirable carryout into the 2002 crop year. The following table summarizes our findings.

MARKETABLE QUANTITIES

[In millions of barrels]

	No volume control	4.0 with no fresh fruit exemption	4.7 with a fresh fruit exemption
Supply:			
Domestic production	5.675	4.000	5.000
Carrying Inventory	3.325	3.325	3.325
Imports	0.835	0.835	0.835
Shrink	0.327	0.327	0.327
Total Available Supply	9.508	7.83	8.833
Demand:			
Processed Domestic and Export Sales	5.198	5.198	5.198
Fresh Fruit	0.310	0.310	0.310
Total Sales	5.508	5.508	5.508
Carryout Inventories	4.000	2.325	3.325
Desirable Carryout	1.800	1.800	1.800
Surplus	2.200	0.525	1.525
Allotment Percentage	0	54	67
Estimated Price per Barrell	$10.00	$31.00	$19.50
Estimated Total Revenue (millions)	$56.750	$124.000	$97.500

As shown above, ample supplies are expected to be available during the upcoming year, and prices will likely continue to fall in 2001 without some form of market intervention. Absent any regulation in 2001, the estimated grower price per barrel is projected to decline to $10, grower revenue would drop to $56.75 million, and ending inventories would grow to 4 million barrels. Heavy inventories would put downward pressure on grower prices for ensuing seasons.

The second column of the table shows that a 4.0 million barrel marketable quantity would result in inventories declining to 2.325 million barrels, and the grower price increasing to $31 per barrel. Total grower revenue under this option is projected to reach $124 million. Under this option, sales would have to reach 6.0 million barrels to reach the desirable carry out level of 1.8 million barrels. A marketable quantity of 4.0 million barrels applicable to total sales history of an estimated 7.4 million barrels would result in an allotment percentage of about 54 percent.

As shown in the last column, the 4.7 million barrel alternative would result in carryout inventories remaining at 3.325 million barrels. The grower price would be an estimated $19.50 per barrel, and revenues would total $97.5 million. With a marketable quantity of 4.7 million barrels, sales would have to increase to 6,723,000 barrels to reach the desirable carry out inventory level of 1.8 million barrels. Under this option, total growers' sales histories are estimated at 7.0 million barrels of processed sales. Using the formula established under the order (4.7 million barrels divided by 7.0 million barrels), the annual allotment percentage would be about 67 percent.

The econometric model looks at the short-term impact of reducing supplies at the grower level. According to the above table, of the three options presented, the 4.0 million barrel marketable quantity alternative would result in the highest grower price for the upcoming season, and the lowest level of carry out inventories. However, in deciding whether to issue a volume regulation for the 2001 crop, and at what level, other factors need to be considered as well.

As long as production capacity exceeds market demand, the cranberry industry will continue to be in a surplus situation. An alternative solution to reducing supply through regulation would be to increase demand. Supporters of the 4.7 million barrel proposal argue that a more restrictive regulation would thwart planned market expansion activities. They argue that a more gradual correction in prices is needed to increase demand through the introduction of new products and export market development. A substantial increase in product cost from one season to the next may hinder these expansion efforts, and result in a loss of current customers as well.

Supporters of the 4.0 million barrel proposal argue that until inventories are reduced to more desirable levels, grower prices will remain low. With cheap cranberries, handlers destructively undercut prices to ingredient customers in an attempt to build market share without increasing the overall demand for cranberries.

The probable impact of these alternatives at the handler level also needs to be considered. While carry-in inventories are estimated at 3.325 million barrels, these supplies are expected to be concentrated in the hands of only some of the major handlers. The handlers without substantial inventories claim that a reduction of their growers' crops at the 46 percent level would leave them without enough fruit to supply their customers. Overly restricting this year's crop would therefore hurt their competitive position by requiring them to surrender market share to other handlers. They claim that any losses they incur will be passed on to their growers.

Grower prices are a small component of the cost of finished cranberry products, and are not closely associated with movements in retail prices. Neither level of volume regulation is expected to have a meaningful impact on the retail price of cranberry products.

We are soliciting comment on all three alternatives, including the short term and longer range impacts of these alternatives at the grower, handler, and consumer levels.

Exemption for Fresh and Organically-Grown Fruit

The Committee also recommended that organic cranberries be exempt from volume regulations. Fresh and organically-grown fruit would be exempt pursuant to ' 929.58 of the order which provides that the Committee may relieve from any or all requirements, cranberries in such minimum quantities as the Committee, with the approval of the Secretary, may prescribe.

Fresh fruit accounts for about 6 percent of the total production. The Committee estimated that about 310,000 barrels will be sold fresh this year, compared to 280,000 barrels sold last season. All fresh cranberries can be marketed and do not compete with processing cranberries. Fresh cranberries are seasonal (due to their limited shelf life) and are not part of the growing industry inventories. The Committee recommended that such cranberries be exempt from the proposed allotment percentage.

Organically-grown cranberries comprise an even smaller portion of the total crop than fresh cranberries do. The Committee estimated that about 1,000 barrels of organic fruit will be sold this season, compared to 450 barrels last season. Organic cranberries are a growing niche market and regulating them could have an adverse effect on marketing this product. Demand for organic cranberries is in line with the current limited production. Thus, all organic cranberries can be marketed, and they do not contribute in any meaningful way to the current oversupply experienced with processing fruit. The Committee therefore recommended that organically-grown cranberries be exempt from volume regulation during the upcoming season.

The supporters of the 4.0 million barrel level of regulation felt that a fresh fruit exemption was not necessary and that it added administration problems for the Committee. Growers who delivered fresh and processed fruit last season were able to deliver all of their processed fruit since such grower's sales history contained processed and fresh fruit sales. They also believe that an exemption could result in an oversupply in the fresh fruit market.

Revision in the Appeals Process

The Committee also unanimously recommended that the appeals process be shortened by removing the Committee's review. Currently, § 929.125 provides an appeal procedure for growers that are dissatisfied with a determination made pursuant to § 929.48(a) and (b) of the order which describes the computation of a grower's sales history.

Currently, § 929.125 provides that a grower may appeal to an appeals subcommittee within 30 days of receipt of the Committee's determination of his/her sales history. If the grower is not satisfied with the subcommittee's decision, the grower may further appeal to the full Committee. Such grower must notify the full Committee of his or her appeal within 15 days after notification of the subcommittee's decision. The Committee has 15 days to review the appeal. The grower may further appeal to the Secretary, within 15 days after notification of the full Committee's findings, if the grower is not satisfied with the Committee's decision. All decisions by the Secretary are final.

The appeals procedure as described above could take 60 or more days to complete. Last season, the Committee recommended and the Department approved through rulemaking, the suspension of the Committee's review from the procedures to shorten the process. Thus, growers were able to take their appeals directly to the Secretary for a final decision if they are not satisfied with the appeals subcommittee's determinations. The Committee believes that this process would prove to be more efficient in considering grower appeals, and recommended that the Committee review be permanently removed from the appeals procedure.

Establishment of a July 31 Deadline for Transfers of Sales History

The Committee also unanimously recommended that, during a year of volume regulation, transfers of annual allotments through partial or total leases of acreage would only be recognized by the Committee through July 31 of each crop year. The appropriate paperwork would have to be received in the Committee's office by close of business on July 31.

Currently, § 929.50 provides that, during a year of regulation, no transfer or lease of cranberry producing acreage, without accompanying sales history, shall be recognized until the Committee is in receipt of a completed transfer or lease form. The Committee has found through experience last season that many growers were leasing acreage and transferring sales history many times throughout the season and even after harvest. Growers were able to take advantage of additional sales history through these transactions. In addition, such actions require a great deal of time on the part of Committee staff, and became particularly burdensome during the busy harvest season.

Therefore, the Committee recommended that all transfers must be received by close of business on July 31 during a year of volume regulation. This would allow sales histories to be distributed in a more equitable manner and also allow the Committee to complete the transfer prior to the busy harvest season.

Amendments to January Proposed Rule

The amendments to the sales history calculations proposed in this rule would benefit a majority of growers, and would be especially beneficial to growers who planted acreage in 1995 or later and growers who have a combination of mature acres and acreage planted in 1995 or later. Specifically, the amendment to the sales history calculation modifies the way growers' sales histories are calculated so that the additional sales history provided is more in line with average acreage yields. The amendment also ensures that growers with mature acreage who also have newer acreage and growers with only newer acreage are treated equitably. Approximately 30 percent of all cranberry acreage was planted in 1995 or later and would be impacted by this proposed amendment.

The amendment to the January 12 proposal would also withdraw the proposed reinstatement of the June 1 allotment notification date. Reinstating this date would be impractical and therefore is being withdrawn from the proposal. The January proposal is also being amended to include the removal of the section on determining cranberry acreage which was inadvertently omitted from the January proposal. This amendment merely corrects that omission.

In the event volume regulations are implemented for the 2001–2002 crop year, these proposed further changes would have a positive effect on all growers and handlers because they would more equitably provide additional allotment for newer or replanted acreage, and clarify the present regulations.

Other Alternatives Considered

Withholding Volume Regulation

The marketing order provides for two methods of volume controls, the producer allotment and the withholding programs. Prior to recommending a producer allotment program for the 2001–2002 crop, the Committee also considered the benefits of a withholding program.

Unlike the producer allotment program which allows cultural practices to be changed at the grower level closer to harvest, growers deliver all their cranberries to their respective handlers under the withholding program. The handler is responsible for setting aside restricted cranberries and ultimately disposing of the cranberries in authorized noncommercial and noncompetitive outlets. This could result in a large volume of cranberries being disposed of and perhaps destroyed. In addition, the withholding provisions require that all withheld cranberries be inspected by the Federal or Federal-State Inspection Service, which would add costs. Although the benefits to growers under a withholding program are that all cranberries can be delivered to handlers, growers would generally only be paid by their handlers for unrestricted cranberries. In addition, it would be expected that costs associated with disposal of withheld cranberries would be deducted from grower returns, further reducing grower revenues. This could result in grower returns well below cost of production.

As with the 2000–2001 volume regulation, the Committee again determined that the producer allotment method of volume regulation was preferable over the withholding method. The producer allotment program allows for less fruit to be produced and would not require the disposal of as many cranberries as with the withholding provisions. In addition, inspections are not required under the producer allotment method, which is more cost effective and would be simpler to administer. This helps growers reduce some of the variable costs associated with preparing and maintaining a bog for production and harvest.

Establishing a Cranberry Marketing Pool Under a Producer Allotment Program

A group of independent handlers indicate that any volume regulation cannot be supported unless there are some assurances that sufficient supplies of cranberries would be made available to meet their customer needs. Most independent handlers claim that they do not have inventories of cranberries to carry into the new season. Although handler to handler purchases are a normal business practice (with or without a volume regulation), a producer allotment restriction increases the need for handlers to purchase from handlers with inventories to maintain market share. Some handlers believe this places them in a vulnerable position, needing more fruit than normal from their competitors.

The marketing order does not contain a mechanism to provide the assurances some of the independent handlers are seeking. The amendment subcommittee is working towards amending the order to incorporate a handler marketing pool, whereby a specified amount of cranberries would be pooled to allow for handlers with little or no inventories to purchase cranberries at a price established by the Committee. However, amending the order in this manner cannot be accomplished prior to the 2001 season.

Using All or Part of Both Methods of Volume Regulation in the Same Year

Also considered by the Committee was utilizing both methods of volume regulation in the same year. Some growers and handlers believe that the producer allotment program does not adequately address all the concerns faced by the different segments of the

industry. It was thought that using the most useful parts of each program would address a broader range of issues. For example, under the withholding program, handlers can apply to the Committee for a release of their restricted cranberries. To receive a release, they have to deposit with the Committee an amount equal to the fair market value of the cranberries they want to be released. The fair market value is determined by the Committee. The Committee uses these funds to purchase an equal amount of free cranberries from other handlers and to dispose of those cranberries. This provision of the withholding program is referred to as the "buy-back" provision.

Some growers and handlers indicated if there were a buy-back provision under the producer allotment program, the concern of handlers without inventories having access to fruit would be specifically addressed. There is no authority in the marketing order to use both methods of volume control concurrently, and buy-back cannot be used under the producer allotment program. Additionally, the intent of a producer allotment program is to discourage production at the grower level so that less fruit is delivered to handlers. Establishing a "buy-back" under a producer allotment program is problematic for that reason. If growers believed that some of their excess fruit could eventually be "bought back", increased production could be encouraged, defeating the purpose of the program. Also, it is unclear exactly what amount would be "bought back'.

Other growers and handlers have indicated that if a producer allotment and a withholding program were recommended in the same year, growers would still be encouraged to reduce growing and handlers would be in a position to buy-back berries to meet market needs. For example, if a 20 percent restriction under a producer allotment were recommended in February for the upcoming season, growers would be encouraged to reduce production. If a withholding provision were recommended in August of the same year with a restricted percentage of 10 percent, handlers would have the opportunity to buy back cranberries to meet their marketing needs.

Section 929.52 of the order specifies that either a withholding or a producer allotment program may be implemented during any fiscal period, not both. Also, further discussion is needed to determine what problems would be associated with implementing both programs in one year, if authorized. The amendment subcommittee is considering this as an amendment to the order.

The Committee recommendation for a 4.7 million barrel marketable quantity resulting in an allotment percentage of about 67 percent passed by a six to two vote. As discussed earlier, the persons voting against the recommendation wanted a more restrictive allotment percentage that would in turn increase returns to growers to cover production costs. All of the other recommendations were passed by unanimous votes. The other changes discussed in this document are designed to improve the operation of the volume regulation should volume regulation be implemented for the 2001–2002 season.

The subcommittee's proposal of setting the marketable quantity at 4.0 million barrels and an allotment percentage of about 54 percent passed by a 6 to 2 vote. Those voting against the recommendation favored a higher marketable quantity.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors.

As previously discussed in the proposed rule published on January 12, 2001, that proposed rule would necessitate reconfiguring one form currently approved by OMB. The form is entitled CMC–AL 1, Growers Notice of Intent to Produce and Qualify for Annual Allotment. Growers are required to supply the Committee with information relative to their cranberry acreage in order to qualify for an annual allotment. The information includes how many existing and new acres would be producing cranberries in the following season and who would be handling the cranberries. The estimated time for 1,285 growers to complete this form is 20 minutes, once a year, for total annual burden hours of 424.05. If the relevant portion of that proposed rule were implemented, the Committee would reconfigure this form to ensure that information relative to this proposal would be included, particularly the date of planting of the acreage. The burden hours of the form would not change and the reconfigured form would be submitted to OMB to replace the current form.

All of the forms associated with the transfer of sales histories associated with leases have been previously approved by OMB. There are also some other reporting and recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. This rule does not change those requirements.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by this order have been previously approved by OMB and assigned OMB Number 0581–0103.

The Committee's meetings were widely publicized throughout the cranberry industry and all interested persons were invited to attend them and participate in Committee deliberations. Like all Committee meetings, the March 4–5, 2001, meeting was a public meeting and all entities, both large and small, were able to express their views on these issues.

The Committee itself is composed of eight members, of which seven members are growers and one represents the public. Also, the Committee has a number of appointed subcommittees to review certain issues and make recommendations. The Committee manager also held several meetings with growers throughout the production area to discuss the methods of volume regulation and the procedures for regulation.

The Department has not identified any relevant Federal rules which duplicate, overlap or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule, if adopted, needs to be in place as soon as possible to allow growers to implement cultural practices that could curtail the production of the crop should volume regulation be implemented for the 2001–2002 season. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 929 is proposed to be amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR Part 929 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 927.107 [Removed]

2. Section 929.107 is removed.

3. Section 929.110(d) is added to read as follows:

§ 929.110 Transfers or sales of cranberry acreage.

* * * * *

(d) During a year of regulation, all transfers of growers' sales histories for partial or total leases of acreage shall be received in the Committee office by close of business on July 31.

4. Section 929.125 is revised to read as follows:

§ 929.125 Committee review procedures.

Growers may request, and the Committee may grant, a review of determinations made by the Committee pursuant to section 929.48, in accordance with the following procedures:

(a) If a grower is dissatisfied with a determination made by the Committee which affects such grower, the grower may submit to the Committee within 30 days after receipt of the Committee's determination of sales history, a request for a review by an appeals subcommittee composed of two independent and two cooperative representatives, as well as a public member. Such appeals subcommittee shall be appointed by the Chairman of the Committee. Such grower may forward with the request any pertinent material for consideration of such grower's appeal.

(b) The subcommittee shall review the information submitted by the grower and render a decision within 30 days of receipt of such appeal. The subcommittee shall notify the grower of its decision, accompanied by the reasons for its conclusions and findings.

(c) The grower may further appeal to the Secretary, within 15 days after notification of the subcommittee's findings, if such grower is not satisfied with the appeals subcommittee's decision. The Committee shall forward a file with all pertinent information related to the grower's appeal. The Secretary shall inform the grower and all interested parties of the Secretary's decision. All decisions by the Secretary are final.

5. Section 929.149 is revised to read as follows:

§ 929.149 Determination of sales history.

A sales history for each grower shall be computed by the Committee in the following manner.

(a) For each grower with acreage with 7 or more years of sales history, a new sales history shall be computed using an average of the highest 4 of the most recent 7 years of sales. If the grower has acreage with 6 years sales history, a new sales history shall be computed by averaging the highest 4 of the 6 years. If the grower has acreage with 5 years of sales history and such acreage was planted prior to 1995, a new sales history shall be computed by averaging the highest 4 of the 5 years.

(b) For growers whose acreage has 5 years of sales history and was planted in 1995 or later, the sales history shall be computed by averaging the highest 4 of the 5 years and shall be adjusted as provided in paragraph (d). For growers whose acreage has 4 years of sales history, the sales history shall be computed by averaging all 4 years and shall be adjusted as provided in paragraph (d). For growers whose acreage has 1 to 3 years of sales history, the sales history shall be computed by dividing the total years sales by 4 and shall be adjusted as provided in paragraph (d).

(c) For growers with acreage with no sales history or for the first harvest of replanted acres, the sales history will be 75 barrels per acre for acres planted or re-planted in 2000 and first harvested in 2001 and 156 barrels per acre for acres planted or re-planted in 1999 and first harvested in 2001.

(d) In addition to the sales history computed in accordance with paragraphs (a) and (b) of this section, additional sales history shall be assigned to growers with acreage planted in 1995 or later. The additional sales histories depending on the date the acreage is planted are shown in Table 1.

TABLE 1.—ADDITIONAL SALES HISTORY ASSIGNED TO ACREAGE

Date planted	Additional 2001 sales history per acre
1995	49
1996	117
1997	157
1998	183
1999	156
2000	75

(e) Sales histories shall be calculated separately for fresh and processed cranberries. Fresh fruit sales history, in whole or in part, may be added to process fruit sales history with the approval of the Committee in the event that the grower's fruit does not qualify as fresh fruit at delivery because of quality reasons.

(f) If a grower's fruit does not qualify as fresh fruit upon delivery to the handler, and it is converted to processed fruit, the handler shall give priority to this grower when allocating unused allotment if the grower does not have sufficient processed sales history to cover the converted fruit.

6. A new section 929.251 is added to read as follows:

Option 1

§ 929.251 Marketable quantity and allotment percentage for the 2001–2002 crop year.

The marketable quantity for the 2001–2002 crop year is set at 4.7 million barrels and the allotment percentage is designated at about 67 percent. Fresh and organically grown fruit shall be exempt from the volume regulation provisions of this section.

Option 2

§ 929.251 Marketable quantity and allotment percentage for the 2001–2002 crop year.

The marketable quantity for the 2001–2002 crop year is set at 4.0 million barrels and the allotment percentage is designated at about 54 percent.

Option 3

Issue no volume regulation for the 2001–2002 crop year.

Dated: May, 8, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–11987 Filed 5–9–01; 2:00 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–350–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require an inspection of the flap drive transmission of the trailing edge flaps at positions 2 and 7 to determine if a wound-spring torque brake is installed, and corrective action, if necessary. This action is necessary to prevent damage to the flap system, adjacent systems, or structural components; or excessive skew of the trailing edge flap, which could result in flap asymmetry and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 28, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–350–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–350–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2983; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–350–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–350–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report that, during overhaul of certain torque brakes of the trailing edge flap transmissions on certain Boeing Model 747 series airplanes, the brakes did not lock out at the intended torque levels. This has been attributed to the actual lock-out torque being higher than the design levels. If the torque brake fails to limit torque out of the transmission during a flap jam condition, the resulting force could cause the transmission mounts to fail. Such failure of a transmission mount on a transmission with a no-back brake could push the flap into the wing, which could result in a full flap asymmetry. These conditions could cause damage to the flap system, adjacent systems, or structural components; or excessive skew of the trailing edge flap, and which could result in flap asymmetry and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–27–2374, dated November 18, 1999, which describes procedures for inspection of certain flap drive transmissions of the trailing edge flaps at positions 2 and 7 to determine if a wound-spring torque brake is installed, and corrective action, if necessary. The corrective action includes, but is not limited to, replacement of the flap drive transmission with a new, improved transmission; and rework or replacement of the torque brake assembly with a new, improved assembly, if a wound-spring torque brake is installed.

The service bulletin references MOOG Service Bulletin 544666–27–16, dated November 1, 1999, as the source of service information for accomplishment of rework of the torque brake. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between This Proposed AD and the Service Bulletin

Although the service bulletin recommends doing the inspection at the earliest convenient maintenance opportunity, the FAA has determined that this compliance time may not ensure that the identified unsafe condition is addressed in a timely manner. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the proposed AD. In light of all of these factors, the FAA finds a compliance time of 6,000 flight hours after the effective date of this AD to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

The service bulletin also recommends replacement of the flap drive transmission and/or torque brake of the trailing edge flap transmission at positions 2, 4, 5, and 7. The FAA has determined that an unsafe condition exists at positions 2 and 7 only. This determination was made from a probability assessment indicating that positions 4 and 5 do not warrant mandatory action because the likelihood of failure of a torque brake to limit torque out of the transmission during a flap jam condition at these positions is extremely remote. Additionally, full flap asymmetry is not likely to occur at positions 4 and 5. Therefore, this proposed AD is applicable to positions 2 and 7 only.

Cost Impact

There are approximately 1,181 airplanes of the affected design in the worldwide fleet. The FAA estimates that 263 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $15,780, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2000–NM–350–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Service Bulletin 747–27–2374, dated November 18, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the flap system, adjacent systems, or structural components; or excessive skew of the trailing edge flap; which could result in flap asymmetry and consequent reduced controllability of the airplane, accomplish the following:

Part Verification/Replacement/Modification

(a) Within 6,000 flight hours after the effective date of this AD: Inspect the flap drive transmission of the trailing edge flaps at positions 2 and 7 to determine if a wound-spring torque brake is installed in the transmission, by verifying the transmission part number, per Boeing Service Bulletin 747–27–2374, dated November 18, 1999. Then do the actions specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD, as applicable.

(1) If the part number of the flap drive transmission shows that no wound-spring torque brake is installed, no further action is required by this AD.

(2) If the part number of the flap drive transmission shows that a wound-spring torque brake may be installed, before further flight, inspect the part number of the torque brake to verify whether it is a wound-spring torque brake, per the Accomplishment Instructions of the service bulletin.

(i) If the part number of the torque brake shows that it is not a wound-spring torque brake, no further action is required by this AD.

(ii) If the part number of the torque brake shows that it is a wound-spring torque brake, before further flight, rework the torque brake or replace the torque brake with a new, improved brake, as applicable; per the Accomplishment Instructions of the service bulletin.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane any transmission or torque brake assembly identified in the "Existing Part Number" column of Paragraph 2.E. of Boeing Service Bulletin 747–27–2374, dated November 18, 1999.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permit

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 8, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12008 Filed 5–11–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–351–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767–200 series airplanes. This proposal would require replacement of certain duct assemblies of the air distribution system for the flight compartment with new duct assemblies with improved insulation, and follow-on actions. This action is necessary to prevent ignition of foam insulation on the air distribution ducts, which could result in a fire in the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 28, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–351–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–351–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2788; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–351–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–351–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report that an operator found burned insulation on an air distribution system duct located in the Electronics and Electrical (E/E) bay. The burned insulation was discovered while the airplane was on the ground when a maintenance crew noticed an odor of burning. Investigation revealed that the ignition source was an overheated heater tape for the water line. Polyurethane foam insulation which was touching the water line heater tape ignited and burned completely. The foam had lost its original fire-retardant properties. The reason for the degradation of the foam's fire retardant properties is unknown; however, contamination and aging of the material are suspected. Ignition of foam insulation on the air distribution ducts could result in a fire in the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–21A0154, dated March 16, 2000, which describes procedures for replacement of certain duct assemblies of the air distribution system for the flight compartment (which are located under the main deck) with new duct assemblies having fiberglass insulation. The service bulletin also describes procedures for a general visual inspection of the water line heater tape where it passes close to the new duct assembly to detect damage such as wear, chafing, pinching, discoloration, or localized burn marks. The service bulletin specifies that any damaged tape should be replaced with new heater tape. If no damage is found, the service bulletin specifies that any heater tape that is too close to the new duct assemblies must be rerouted to increase the distance between the water line heater tape and duct insulation. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that the service bulletin does not define appropriate clearance between the new duct assemblies and the water line heater tape. This proposed AD would require that a minimum clearance of 0.25 inch be maintained between the new duct assemblies and the water line heater tape.

Also, operators should note that the service bulletin recommends accomplishment of the actions in that bulletin at the earliest opportunity. The FAA finds that a more definite compliance time is necessary to ensure that the proposed actions are done in a timely manner. Therefore, the proposed AD would require the replacement of the duct assemblies with new assemblies and the other follow-on actions be accomplished within 18 months after the effective date of the AD. The FAA finds that such a compliance time is adequate to ensure the safety of the airplane fleet while allowing enough time so that the majority of affected operators would be able to accomplish the proposed requirements at a normal scheduled maintenance visit.

Cost Impact

There are approximately 81 airplanes of the affected design in the worldwide fleet. The FAA estimates that 52 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost a maximum of $7,285 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $385,060, or $7,405 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2000–NM–351–AD.

Applicability: Model 767–200 series airplanes, as listed in Boeing Alert Service Bulletin 767–21A0154, dated March 16, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent ignition of foam insulation on the air distribution ducts, which could result in a fire in the airplane, accomplish the following:

Replacement and Follow-On Actions

(a) Within 18 months after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD per the Accomplishment Instructions of Boeing Alert Service Bulletin 767–21A0154, dated March 16, 2000.

(1) Replace subject duct assemblies of the air distribution system for the flight compartment (which are located under the main deck) with new duct assemblies having fiberglass insulation.

(2) Before further flight after replacement of the ducts, perform a one-time general visual inspection of the water line heater tape where it passes close to the new duct assemblies to detect damage, including wear, chafing, pinching, discoloration, localized burn marks, etc.

(i) If no damage is detected, measure the clearance between the new duct assemblies and the water line heater tape. If clearance is less than 0.25 inch, re-route the heater tape per the service bulletin.

(ii) If any damage is detected, before further flight, replace the heater tape with new heater tape, per the service bulletin. When installing the new tape, make sure that clearance between the water line heater tape and the new duct assemblies is a minimum of 0.25 inch.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR

21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 8, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12009 Filed 5–11–01; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 39

RIN 3038–AB65

A New Regulatory Framework for Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing rules to implement various provisions of the Commodity Futures Modernization Act of 2000 ("CFMA"), which fundamentally alters the regulation of derivatives clearing organizations. These proposed rules apply to derivatives clearing organizations that are, are required to, or seek to become registered with the Commission and implement the statutory framework in the CFMA governing those entities.

DATES: Comments must be received by June 13, 2001.

ADDRESSES: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or, by e-mail to secretary@cftc.gov. Reference should be made to "Clearing Organizations."

FOR FURTHER INFORMATION CONTACT: Alan L. Seifert, Deputy Director, Division of Trading and Markets, Lois J. Gregory, Special Counsel, or David P. Van Wagner, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone (202) 418–5260 or e-mail ASeifert@cftc.gov., LGregory@cftc.gov, or DVanWagner@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Congress on December 15, 2000, passed, and the President on December 21, 2000, signed into law, the CFMA,[1] which substantially amended the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* ("Act"). New Section 5b(a) of the Act, added by the CFMA, requires that contracts of sale of a commodity for future delivery, options on such contracts, and options on a commodity be cleared only by a derivatives clearing organization ("DCO") registered with the Commission,[2] unless the contracts are: (i) Excluded under the Act, (ii) exempted under the Act, or (iii) security futures products cleared by a securities clearing agency. Contracts traded on a designated contract market, if cleared, must be cleared by a DCO.[3] Excluded or exempted contracts, including those elected pursuant to section 5a(g) to be traded on a registered derivatives transaction execution facility, are not required to be cleared by a DCO, although a clearing organization that clears these contracts may voluntarily apply, pursuant to section 5b(b), to register with the Commission as a DCO.[4] In addition, a DCO may clear other contracts, agreements, or transactions, including, but not limited to, certain over-the-counter ("OTC") derivative instruments referenced in section 5b(b) of the Act and transactions in spot and forward contracts.[5]

To be registered as a DCO, an applicant must demonstrate that it complies with fourteen core principles set forth in the CFMA. Section 5b requires any person desiring to so register to submit to the Commission an application in such form and containing such information as the Commission may require for the purpose of determining whether the applicant meets the core principles.

The Commission is now proposing rules to implement section 5b of the Act. This proposal follows the Commission's proposal of regulations to implement the CFMA's provisions governing trading facilities, which was published for comment on March 9, 2001.[6] Part 39 would stipulate the form and provide guidance for the content of applications for DCO registration, as well as procedures for processing such applications. Other provisions would assist the Commission in carrying out its oversight responsibilities with respect to the operations and activities of DCOs, enforcing compliance by DCOs with the core principles and other provisions of the Act and regulations, protecting clearing participants from fraud, and ensuring the enforceability of contracts cleared on DCOs. Part 39 does not apply to the execution of transactions cleared by DCOs; its provisions apply specifically and only to the clearing of transactions by DCOs.[7]

II. Proposed Part 39

A. Application and Approval Procedures

Proposed part 39 would apply to any DCO, as defined under section 1a(9) of the Act,[8] that is registered with the

[1] See Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

[2] For purposes of this release, use of the term "derivatives clearing organization" means an applicant seeking registration as a DCO, or a DCO registered or required to be registered, with the Commission pursuant to section 5b of the Act.

[3] The Commission will consider, however, under the exemptive authority provided by section 4(c) of the Act, requests to clear transactions through alternative means.

[4] Thus, under the CFMA, DCOs are treated as entities that are separate and distinct from the markets for which they provide clearing services.

[5] Under section 409 of the Federal Deposit Insurance Corporation Act of 1991, as amended by section 112 of the CFMA, OTC derivatives also may be cleared by a multilateral clearing organization supervised by federal banking authorities, a clearing agency registered under the Securities Exchange Act of 1934, or a clearing organization supervised by a foreign financial regulator that satisfies appropriate standards as determined by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, or the CFTC. This approach to clearing is consistent with the Report of the President's Working Group on Financial Markets ("PWG"), which encouraged the development of clearing systems for OTC derivatives to reduce systemic risk. *See* Over-the-Counter Derivatives Markets and the Commodity Exchange Act, Report of the PWG (Nov. 1999). The Commission believes that appropriate standards referred to above include regulating and overseeing the organization pursuant to principles comparable to the core principles set forth in section 5b of the Act and a requirement to participate in appropriate and adequate information sharing arrangements.

[6] 66 FR 14262. That release, when it is published as a final rulemaking, will be conformed to this release insofar as this release clarifies the application of the DCO-related provisions of the CFMA.

[7] Section 1a(9) of the Act defines the term DCO to encompass entities that, "with respect to an agreement, contract, or transaction—(i) enables each party to the agreement * * * to substitute, through novation or otherwise, the credit of the [DCO] for the credit of the parties; (ii) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from such agreements * * * executed by participants in the [DCO]; or (iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the [DCO] the credit risk arising from such agreements * * * executed by the participants."

[8] The CFMA's definition of DCO does not necessitate the performance of a direct credit enhancement function. *See* section 1a(9)(ii). Thus, the provision of certain settlement or netting services in the absence of direct credit enhancement would generally meet the definition of a DCO. An organization that intends to provide settlement or other clearing-type services to a designated contract market without accompanying credit enhancement must still demonstrate compliance with all section 5b core principles to obtain unconditional registration as a DCO. Otherwise, the Commission may grant DCO registration with conditions when and as appropriate.

Commission, is required to become so registered, or which voluntarily seeks to become so registered. If certain conditions were met, an organization would be deemed to be registered with the Commission as a DCO under part 39 or, as determined by Commission order, registered upon conditions, sixty days after receipt by the Commission of an application for registration, unless notified otherwise.[9] This would include submission of the applicant's rules, a demonstration that the applicant satisfies the core principles of the Act, submission of any agreements with third parties that enable the applicant to meet one or more of the core principles, and descriptions of any system test procedures and results.

Appendix A to part 39 would provide guidance that applicants could use to meet the core principles. The CFMA provides that an applicant shall have reasonable discretion in establishing the manner in which it complies with the core principles. The guidance in proposed Appendix A is intended merely to illustrate the manner in which a clearing organization may meet a core principle and is not intended to be a mandatory checklist.

If an applicant did not meet registration requirements, Commission staff would inform the applicant of the shortcomings and notify it that the Commission was terminating review under part 39 and would continue review of its application under section 6 of the Act. Within ten days of being notified, the applicant could ask the Commission to either register it or commence registration denial proceedings. An applicant also could withdraw its application.

An applicant may request that the Commission approve any of its rules. If an applicant requests approval of one or more of its rules, it would be required to do so pursuant to the applicable provisions of proposed § 40.5 in proposed part 40 governing the procedures and timeframes for rule approval.[10] An applicant may request approval of one or more of its rules at the time it makes its initial application or thereafter. In accordance with new section 5b(c)(3) of the Act, an applicant also may request that the Commission issue an order concerning whether a rule or practice of the applicant is the least anticompetitive means of achieving the objectives, purposes, and policies of the Act. In considering any requests for such orders, the Commission intends to apply section 15(b) of the Act in a manner consistent with its previous application of section 15(b) to contract markets.

B. Existing Derivatives Clearing Organizations

New section 5b(d) of the Act provides that existing DCOs shall be deemed to be registered with the Commission to the extent that the DCO clears agreements, contracts, or transactions for a board of trade that has been designated by the Commission as a contract market for such agreements, contracts, or transactions prior to enactment of the CFMA. This provision captures all futures clearing organizations regulated by the Commission that have ever cleared any futures contracts for designated contract markets prior to December 21, 2000, the effective date of the CFMA. This language does not capture any organization approved to clear futures in connection with a pre-CFMA contract market designation which has not yet cleared any contracts.[11] However, since review and approval of such an organization took place pursuant to criteria comparable to that contained in the fourteen core principles set forth in the amended Act, the Commission clarifies that any such organization will be deemed by the Commission to be registered with the Commission as a DCO upon receipt by the Commission of a certification that the organization currently meets and will continue to meet the core principles and all applicable requirements of the Act and Commission regulations.

C. Derivatives Clearing Organizations

Under proposed part 39, a DCO and the clearing of transactions on a DCO are exempt from all Commission regulations except for proposed parts 39 and 40, and certain select regulations relating to, for example, the segregation of customer funds and recordkeeping.[12] To maintain registration as a DCO, part 39 would require DCOs to remain in compliance at all times with the core principles. The Commission could ask a DCO to submit in writing at any time, any information that the Commission deemed necessary to demonstrate that the DCO is in compliance with one or more of the core principles.[13] The guidance in Appendix A with respect to applicants may be used by registrants as well, for guidance on ongoing compliance with the core principles. A DCO may request that the Commission approve any of its rules either prior to or after implementation of the rule(s).[14] Such requests would be handled under the applicable procedures of proposed part 40. Any new or amended rule not voluntarily submitted to the Commission for approval must be submitted with a certification that the new rule or amendment complies with the Act, pursuant to applicable procedures of proposed part 40. As noted above, a DCO also may request that the Commission issue an order concerning whether a rule or practice of the applicant is the least anticompetitive means of achieving the objectives, purposes, and policies of the Act. The Commission intends to apply section 15(b) of the Act in a manner consistent with its previous application of section 15(b) to contract markets.

In addition to the information requests relevant to demonstrating compliance with core principles, proposed rule 39.5 requires that large trader information be provided to the Commission by futures commission merchants, clearing members and foreign brokers. This requirement complements the rules relating to large trader position reports for transaction execution facilities. The Commission has also proposed special call authority parallel to that proposed for transaction execution facilities.

Proposed part 39 also contains an antifraud provision. This provision

[9] The Act does not include an express time limit for Commission consideration of applications to become registered DCOs.

[10] 66 FR 14262 (March 9, 2001).

[11] This includes one organization, namely, FutureCom Commodity Exchange, Ltd.

[12] Commission Regulation 1.31 is reserved in part 39. Regulation 1.31 was updated and amended by the Commission in 1999 so as to provide broad, flexible performance standards for recordkeeping. In addition, Regulation 1.31 is substantially similar to the recordkeeping requirements maintained by the Securities and Exchange Commission. Pursuant to the guidance provided in the appendix to part 39, a DCO's recordkeeping has to satisfy the performance standards in Regulation 1.31.

[13] Section 5c(d) of the Act provides a mechanism for notifying DCOs (and other registered entities) that they are violating a core principle. The request for a demonstration of compliance operates independently of the section 5c(d) procedure. Indeed, the request for such a demonstration from a registered entity, and the Commission's consideration of the entity's response may constitute a useful alternative to the more formal procedures of section 5c(d) of the Act. It would be the Commission's intent to explore such informal methods of resolving issues of compliance with core principles by DCOs prior to invoking more formal mechanisms.

[14] The Act limits a registered entity seeking approval to request approval only "prior" to implementation. Thus, the Commission is proposing to use its section 4(c) exemptive authority with respect to this provision. The Commission believes that this exercise of exemptive authority should provide DCOs with greater procedural flexibility and would be consistent with the public interest.

would be specifically limited to prohibit fraudulent actions by persons in or in connection with the clearing of transactions on a DCO. Part 39's antifraud provision is proposed pursuant to the authority provided by section 8a(5) of the Act to make such rules, as in the judgment of the Commission, are reasonably necessary to effectuate the provisions of the Act. Section 5b of the Act grants new authority to the Commission to regulate DCOs, which is separate from the authority to regulate the trading facilities for which they clear. In this context, the proposed antifraud provision is necessary to address fraud in or in connection with clearing, which might not be covered by any other antifraud provision or by one of the core principles. As is the case with the other provisions of part 39, the antifraud rule would apply specifically and only to the activity of clearing.

Proposed part 39 would not interfere with the enforceability of contracts cleared on DCOs. It provides that a contract or transaction cleared pursuant to the rules of a DCO shall not be void, voidable, subject to rescission, or otherwise invalidated or rendered unenforceable as a result of a violation by the DCO of the provisions of section 5b of the Act or part 39, or as a result of any Commission proceeding to alter, supplement, or require the DCO to adopt a specific rule or procedure or refrain from taking a specific action.

III. Section 4(c) Findings

One of the provisions of the proposal contained in this **Federal Register** notice is being proposed under section 4(c) of the Act, which grants the Commission broad exemptive authority. Section 4(c) of the Act provides that, in order to promote responsible economic or financial innovation and fair competition, the Commission may by rule, regulation or order exempt any class of agreements, contracts, or transactions, either unconditionally or on stated terms or conditions, from any of the requirements of any provision of the Act (except certain provisions governing a group or index of securities and security futures products). As relevant here, when granting an exemption pursuant to section 4(c), the Commission must find that the exemption would be consistent with the public interest.

The Commission is proposing to use its section 4(c) exemptive authority here to provide registered entities with greater procedural flexibility than is contained in the Act. Pursuant to proposed rule 39.4, a DCO may request that the Commission approve its rules or rule amendments prior to their implementation or any time thereafter, notwithstanding the Act's limitation on registered entities seeking approval to do so only prior to implementation. The Commission believes that this exercise of exemptive authority should provide DCOs with greater procedural flexibility and would be consistent with the public interest.

IV. Cost-Benefit Analysis

Section 15 of the Act, as amended by section 119 of the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. The Commission is applying the cost-benefit provisions of section 15 in this rulemaking and understands that, by its terms, section 15 as amended does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15 simply requires the Commission to "consider the costs and benefits" of its action.

The amended section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could, in its discretion, give greater weight to any one of the five enumerated areas of concern and could in its discretion determine, that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

Part 39 is part of a package of related rule provisions implementing the CFMA. The Commission has considered the costs and benefits of proposed part 39 and the costs and benefits of the related rule provisions. Significantly, part 39 would limit the period of time for Commission review of DCO applications to 60 days, thereby providing the important benefit of an expedited review, even though the Act does not specify any time limit for review of DCO applications. The rules also provide the benefit of substantial additional, non-binding guidance to DCO applicants and DCOs as to how they may comply with the statutory core principles. The rules only impose reporting, recordkeeping and other informational requirements on DCOs that either are mandated by or carry out, or are fully consistent with the new provisions of the CFMA concerning DCOs.

The Commission has considered the costs and benefits of this rule package in light of the specific areas of concern identified in the CFMA. The rules would impose limited costs on the entities in requiring them to gather, compile, and submit certain information that the Commission needs in order to perform its function of overseeing futures and clearing and enforcing compliance by DCOs with the provisions of the Act. The proposed rules would not increase costs related to market competitiveness and would not affect the price discovery function of markets. The Commission believes that part 39's antifraud provision would benefit market participants and the public interest by deterring illegal behavior and that its enforceability provision would benefit the public interest by furthering legal certainty.

After considering these factors, the Commission has determined to propose part 39. Commenters are invited to submit any data that they may have quantifying the costs and benefits of the proposed rules.

V. Implementation

The provisions of the Act governing DCOs contained in the CFMA became effective on December 21, 2000, the same date that the CFMA was signed into law. In light of the need to promulgate implementing regulations without delay, the Commission encourages commenters to submit their comments on the proposed rulemaking as early as possible during the comment period, but in any event, by the end of the comment period. The Commission believes at this time that any extension of the comment period would be contrary to the public interest. The Commission will not bring any enforcement action against any person who complies with the rules proposed herein. Persons who do comply with the proposed rules, however, will be required to bring their conduct into compliance with the final rules to the extent that the final rules differ from the proposed rules.

VI. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–612, requires that agencies, in proposing regulations, consider the impact of those regulations on small entities. The rules adopted herein would affect DCOs. The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[15] In its previous determinations, the Commission has concluded that contract markets are not small entities for the purpose of the RFA.[16] DCOs clear contracts executed on contract markets and other trading facilities. DCOs, as defined in the CFMA, should not be considered small entities. Accordingly, the Commission does not expect the rules, as proposed herein, to have a significant economic impact on a substantial number of small entities. Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed amendments will not have a significant economic impact on a substantial number of small entities. The Commission invites the public to comment on whether DCOs covered by these rules should be considered small entities for purposes of the RFA.

B. Paperwork Reduction Act

Part 39 contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Commission has submitted a copy of this part to the Office of Management and Budget ("OMB") for its review.

Collection of Information: Clearing Organizations, OMB Control Number 3038–0051.

The proposed rules will not change the burden previously approved by OMB. The burden associated with the proposed new rules is estimated to be 2,000 hours that will result from new submission requirements for first-time applicants for registration as DCOs. The estimated burden of the new part 39 was calculated as follows:

Estimated number of respondents: 10.

Reports annually by each respondent: 1.

Total annual responses: 10.

Estimated Average number of hours per response: 200.

Annual burden in fiscal year: 2,000.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10202 New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

[15] 47 FR 18618 (April 30, 1982).

[16] 47 FR 18618, 18619 (discussing contract markets).

The Commission considers comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 39

Commodity futures, Consumer protection.

In consideration of the foregoing, and pursuant to the authority contained in section 7b of title 7 of the U.S.C., as added by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000), the Commission proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by adding part 39 to read as follows:

PART 39—DERIVATIVES CLEARING ORGANIZATIONS

Sec.

39.1 Scope.
39.2 Exemption.
39.3 Procedures for registration.
39.4 Procedures for implementing derivatives clearing organization rules.
39.5 Information relating to derivatives clearing organization operations.
39.6 Enforceability.
39.7 Fraud in connection with the clearing of transactions on a derivatives clearing organization.
Appendix A to Part 39—Application Guidance and Compliance With Core Principles

Authority: 7 U.S.C. 7b as added by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

§ 39.1 Scope.

The provisions of this part apply to any derivatives clearing organization as defined under section 1a(9) of the Act which is registered with the Commission as a derivatives clearing organization, is required to register as such with the Commission pursuant to section 5b(a) of the Act, or which voluntarily applies to register as such with the Commission pursuant to section 5b(b) or otherwise.

§ 39.2 Exemption.

A derivatives clearing organization and the clearing of agreements, contracts and transactions on a derivatives clearing organization are exempt from all Commission regulations except for the requirements of this part 39 and §§ 1.12(f)(1), 1.3, 1.20, 1.24, 1.25, 1.26, 1.27, 1.29, 1.31, 1.36, 1.38, 33.10, part 40 and part 190 of this chapter, and as applicable to the agreement, contract or transaction cleared, parts 15 through 18 of this chapter, which are applicable to a derivatives clearing organization and its activities as though they were set forth in this section and included specific reference to derivatives clearing organizations.

§ 39.3 Procedures for registration.

(a) *Registration by application.* An organization shall be deemed to be registered as a derivatives clearing organization sixty days after receipt by the Commission of an application for registration as a derivatives clearing organization unless notified otherwise during that period, or, as determined by Commission order, registered upon conditions, if:

(1) The application is labeled as being submitted pursuant to this part 39;

(2) The applicant meets the definition of derivatives clearing organization contained in section 1a(9) of the Act;

(3) The application includes a copy of the applicant's rules;

(4) To the extent it is not self evident from the applicant's rules, the application demonstrates how the applicant satisfies each of the core principles specified in section 5b(c)(2) of the Act;

(5) The applicant submits any agreements entered into or to be entered into between or among the applicant, its

operator or its participants that enable or empower the applicant to comply with the core principles specified in section 5b(c)(2) of the Act, and descriptions of any system test procedures, tests conducted or test results;

(6) The applicant does not amend or supplement the application except as requested by the Commission or for correction of typographical errors, renumbering or other nonsubstantive revisions, during that period; and

(7) The applicant has not instructed the Commission in writing during the review period to review the application pursuant to the time provisions of and procedures under section 6 of the Act.

(b) *Termination of part 39 review.* If, during the sixty-day period for review provided by paragraph (a) of this section, it appears that the application's form or substance fails to meet the requirements of this part, the Commission shall notify the applicant seeking registration that the Commission is terminating review under this section and will review the proposal under the time period and procedures of section 6 of the Act. This termination notification will state the nature of the issues raised and the specific condition of registration that the applicant would violate, appears to violate, or the violation of which cannot be ascertained from the application. Within ten days of receipt of this termination notification, the applicant seeking registration may request that the Commission render a decision whether to register the applicant or to institute a proceeding to deny the proposed application under procedures specified in section 6 of the Act by notifying the Commission that the applicant views its submission as complete and final as submitted.

(c) *Withdrawal of application for registration.* An applicant for registration may withdraw its application by filing with the Commission such a request. Withdrawal of an application for registration shall not affect any action taken or to be taken by the Commission based upon actions, activities, or events occurring during the time that the application for registration was pending with the Commission.

(d) *Guidance for applicants and registrants.* Appendix A to this part provides guidance to applicants and registrants on how the core principles specified in section 5b(c)(2) of the Act may be satisfied.

(e) *Delegation of authority.* (1) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Trading and Markets or the Director's delegatees, with the concurrence of the General Counsel or the General Counsel's delegatees, the authority to exercise the functions under paragraphs (a) and (b) of this section and under § 39.5.

(2) The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter which has been delegated in this paragraph.

(3) Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in paragraph (e)(1) of this section.

§ 39.4 Procedures for implementing derivatives clearing organization rules.

(a) *Request for approval of rules.* An applicant for registration, or a registered derivatives clearing organization, may request, pursuant to the procedures of § 40.5 of this chapter, that the Commission approve any or all of its rules and subsequent amendments thereto, including operational rules, prior to their implementation or, notwithstanding the provisions of section 5c(c)(2) of the Act, at any time thereafter, under the procedures of § 40.5 of this chapter. A derivatives clearing organization may label as, "Approved by the Commission," only those rules that have been so approved.

(b) *Self-certification of rules.* Proposed new or amended rules of a derivatives clearing organization not voluntarily submitted for prior Commission approval pursuant to paragraph (a) of this section must be submitted to the Commission with a certification that the proposed new rule or rule amendment complies with the Act and rules thereunder pursuant to the procedures of § 40.6 of this chapter.

(c) *Orders regarding competition.* An applicant or a registered derivatives clearing organization may request that the Commission issue an order concerning whether a rule or practice of the organization is the least anticompetitive means of achieving the objectives, purposes, and policies of the Act.

§ 39.5 Information relating to derivatives clearing organization operations.

(a) Upon request by the Commission, a derivatives clearing organization shall file with the Commission such information related to its business as a clearing organization, including information relating to trade and clearing details, in the form and manner and within the time as specified by the Commission in the request.

(b) Upon request by the Commission, a derivatives clearing organization shall file with the Commission a written demonstration, containing such supporting data, information and documents, in the form and manner and within such time as the Commission may specify that the derivatives clearing organization is in compliance with one or more core principles as specified in the request.

(c) Information regarding transactions by large traders cleared by a derivatives clearing organization shall be filed with the Commission, in a form and manner acceptable to the Commission, by futures commission merchants, clearing members, foreign brokers or registered entities other than a derivatives clearing organization, as applicable. Provided, however, that if no such person or entity is required to file large trader information with the Commission, such information must be filed with the Commission by a derivatives clearing organization.

(d) Upon special call by the Commission, each person.registered as a futures commission merchant, clearing member or foreign broker shall provide information to the Commission concerning customer accounts or related positions cleared on a derivatives clearing organization or other multilateral clearing organization in the form and manner and within the time specified by the Commission in the special call.

§ 39.6 Enforceability.

An agreement, contract or transaction cleared pursuant to the rules of a derivatives clearing organization shall not be void, voidable, subject to rescission, or otherwise invalidated or rendered unenforceable as a result of:

(a) A violation by the derivatives clearing organization of the provisions of section 5b of the Act or this part 39; or

(b) Any Commission proceeding to alter or supplement a rule under section 8a(7) of the Act, to declare an emergency under section 8a(9) of the Act, or any other proceeding the effect of which is to alter, supplement, or require a derivatives clearing organization to adopt a specific rule or procedure, or to take or refrain from taking a specific action.

§ 39.7 Fraud in connection with the clearing of transactions on a derivatives clearing organization.

It shall be unlawful for any person, directly or indirectly, in or in connection with the clearing of transactions by a derivatives clearing organization:

(a) To cheat or defraud or attempt to cheat or defraud any other person;

(b) Willfully to make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof; or

(c) Willfully to deceive or attempt to deceive any other person by any means whatsoever.

Appendix A to Part 39—Application Guidance and Compliance With Core Principles

This appendix provides guidance concerning the core principles with which a clearing organization must demonstrate compliance to be granted and to maintain registration as a derivatives clearing organization under section 5b of the Act and § 39.3 and § 39.5 of the Commission's regulations. The guidance follows each core principle and can be used to demonstrate core principle compliance under § 39.3(a)(iv) and § 39.5(d). The guidance for each core principle is illustrative only of the types of matters a clearing organization may address, as applicable, and is not intended to be a mandatory checklist. Addressing the criteria set forth in this appendix would help the Commission in its consideration of whether the clearing organization is in compliance with the core principles. To the extent that compliance with, or satisfaction of, a core principle is not self-explanatory from the face of a clearing organization's rules, an application pursuant to § 39.3 or a submission pursuant to § 39.5 should include an explanation or other form of documentation demonstrating that the clearing organization complies with the core principles.

Core Principle A: In General—To be registered and to maintain registration as a derivatives clearing organization, an applicant shall demonstrate to the Commission that the applicant complies with the core principles specified in this paragraph. The applicant shall have reasonable discretion in establishing the manner in which it complies with the core principles.

An entity preparing to submit to the Commission an application to operate as a derivatives clearing organization is encouraged to contact Commission staff for guidance and assistance in preparing its application. Applicants may submit a draft application for review prior to the submission of an actual application without triggering the application review procedures of § 39.3 of the Commission's regulations. The Commission also may require a derivatives clearing organization to demonstrate to the Commission that it is operating in compliance with one or more core principles.

Core Principle B: Financial Resources—The applicant shall demonstrate that the applicant has adequate financial, operational, and managerial resources to discharge the responsibilities of a derivatives clearing organization.

In addressing Core Principle B, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. The amount of resources dedicated to supporting the clearing function:

a. The amount of resources available to the clearing organization and the sufficiency of those resources to assure that no break in clearing operations would occur in a variety of market conditions; and

b. The level of member/participant default such resources could support as demonstrated through use of hypothetical default scenarios that explain assumptions and variables factored into the illustrations.

2. The nature of resources dedicated to supporting the clearing function:

a. The type of the resources, including their liquidity, and how they could be accessed and applied by the clearing organization promptly;

b. How financial and other material information will be updated and reported to members, the public, and the Commission on an ongoing basis; and

c. Any legal or operational impediments or conditions to access.

Core Principle C: Participant and Product Eligibility—The applicant shall establish (i) appropriate admission and continuing eligibility standards (including appropriate minimum financial requirements) for members of and participants in the organization; and (ii) appropriate standards for determining eligibility of agreements, contracts, or transactions submitted to the applicant.

In addressing Core Principle C, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Member/participant admission criteria:

a. How admission standards for its clearing members/participants would contribute to the soundness and integrity of operations; and

b. Matters such as whether these criteria would be in the form of organization rules that apply to all clearing members/participants, whether different levels of membership/participation would relate to different levels of net worth, income, and creditworthiness of members/participants, and whether margin levels, position limits and other controls would vary in accordance with these levels.

2. Member/participant continuing eligibility criteria:

a. A program for monitoring the financial status of its members/participants; and

b. Whether and how the clearing organization would be able to change continuing eligibility criteria in accordance with changes in a member's/participant's financial status.

3. Criteria for instruments acceptable for clearing:

a. How the clearing organization would establish specific criteria for the types of agreements, contracts, or transactions it will clear; and

b. How those criteria take into account the different risks inherent in clearing different agreements, contracts, or transactions and how they affect maintenance of assets to support the guarantee function in varying risk environments.

4. The clearing function for each instrument the organization undertakes to clear.

Core Principle D: Risk Management—The applicant shall have the ability to manage the risks associated with discharging the responsibilities of a derivatives clearing organization through the use of appropriate tools and procedures.

In addressing Core Principle D, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Use of risk analysis tools and procedures:

a. How the adequacy of the overall level of financial resources would be tested on an ongoing periodic basis in a variety of market conditions;

b. How the organization would use specific risk management tools such as stress testing and value at risk calculations; and

c. What contingency plans the applicant has for managing extreme market events.

2. Use of collateral:

a. How appropriate forms and levels of collateral would be established and collected;

b. How amounts would be adequate to secure prudentially obligations arising from clearing transactions and performing as a central counterparty;

c. The process for determining appropriate margin levels for an instrument cleared and for clearing members/participants;

d. The appropriateness of required or allowed forms of margin given the liquidity and related requirements of the clearing organization;

e. How the clearing organization would value open positions and collateral assets; and

f. The proposed margin collection schedule and how it would relate to changes in the value of market positions and collateral values.

1. Use of credit limits:

If systems would be implemented that would prevent members/participants and other market participants from exceeding credit limits and how they would operate.

Core Principle E: Settlement Procedures—The applicant shall have the ability to (i) complete settlements on a timely basis under varying circumstances; (ii) maintain an adequate record of the flow of funds associated with each transaction that the applicant clears; and (iii) comply with the terms and conditions of any permitted netting or offset arrangements with other clearing organizations.

In addressing Core Principle E, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Settlement timeframe:

a. Procedures for completing settlements on a timely basis during times of normal operating conditions; and

b. Procedures for completing settlements on a timely basis in varying market circumstances including during a period when one or more significant members/participants have defaulted.

2. Recordkeeping:

a. The nature and quality of the information collected concerning the flow of funds involved in clearing and settlement; and

b. How such information would be recorded, maintained and accessed.

3. Interfaces with other clearing organizations:

How compliance with the terms and conditions of netting or offset arrangements with other clearing organizations would be met, including, among others, common banking or common clearing programs.

Core Principle F: Treatment of Funds—The applicant shall have standards and procedures designed to protect and ensure the safety of member and participant funds.

In addressing Core Principle F, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Safe custody:

a. The safekeeping of funds, whether in accounts, in depositories, or with custodians, and how it would meet industry standards of safety;

b. Any written terms regarding the legal status of the funds and the specific conditions or prerequisites for movement of the funds; and

c. The extent to which the deposit of funds in accounts in depositories or with custodians would limit concentration of risk.

2. Segregation between customer and proprietary funds:

Requirements or restrictions regarding commingling customer with proprietary funds, obligating customer funds for any purpose other than to purchase, clear, and settle the products the clearing organization is clearing, or procedures regarding customer funds which are subject to cross-margin or similar agreements, and any other aspects of customer fund segregation.

3. Investment standards:

a. How customer funds would be invested consistent with high standards of safety; and

b. How the organization will gather and keep associated records and data regarding the details of such investments.

Core Principle G: Default Rules and Procedures—The applicant shall have rules and procedures designed to allow for efficient, fair, and safe management of events when members or participants become insolvent or otherwise default on their obligations to the derivatives clearing organization.

In addressing Core Principle G, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Definition of default:

a. The definition of default and how it would be established and enforced; and

b. How the organization would address failure to meet margin requirements, the insolvent financial condition of a member/participant, failure to comply with certain rules, failure to maintain eligibility standards, actions taken by other regulatory bodies, or other events.

2. Remedial action:

The authority pursuant to which, and how, the clearing organization may take appropriate action in the event of the default of a member/participant which may include, among other things, closing out positions, replacing positions, set-off, and applying margin.

3. Process to address shortfalls:

Procedures for the prompt application of clearing organization and/or member/participant financial resources to address monetary shortfalls resulting from a default.

4. Use of cross-margin programs:

How cross-margining programs would provide for clear, fair, and efficient means of covering losses in the event of a program participant default.

5. Customer priority rule:

Rules and procedures regarding priority of customer accounts over proprietary accounts of defaulting members/participants and, where applicable, in the context of specialized margin reduction programs such as cross-margining or trading links with other exchanges.

Core Principle H: Rule Enforcement—The applicant shall (i) maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with rules of the applicant and for resolution of disputes; and (ii) have the authority and ability to discipline, limit, suspend, or terminate a member's or participant's activities for violations of rules of the applicant.

In addressing Core Principle H, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Surveillance:

Arrangements and resources for the effective monitoring of compliance with rules relating to clearing practices and financial surveillance.

2. Enforcement:

Arrangements and resources for the effective enforcement of rules and authority and ability to discipline and limit or suspend a member's/participant's activities pursuant to clear and fair standards.

3. Dispute resolution:

Where applicable, arrangements and resources for resolution of disputes between customers and members/participants, and between members/participants.

Core Principle I: System Safeguards—The applicant shall demonstrate that the applicant (i) has established and will maintain a program of oversight and risk analysis to ensure that the automated systems of the applicant function properly and have adequate capacity and security; and (ii) has established and will maintain emergency procedures and a plan for disaster recovery, and will periodically test backup facilities sufficient to ensure daily processing, clearing, and settlement of transactions.

In addressing Core Principle I, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Oversight/risk analysis program:

a. Whether a program addresses appropriate principles and procedures for the oversight of automated systems to ensure that its clearing systems function properly and have adequate capacity and security. The Commission believes that the guidelines issued by the International Organization of Securities Commissions (IOSCO) in 1990 and adopted by the Commission on November 21, 1990 (55 FR 48670), as supplemented in October 2000, are appropriate guidelines for an automated clearing system to apply.

b. Emergency procedures and a plan for disaster recovery; and

c. Periodic testing of back-up facilities and ability to provide timely processing, clearing, and settlement of transactions.

2. Appropriate periodic objective system reviews/testing:

a. Any program for the periodic objective testing and review of the system, including tests conducted and results; and

b. Confirmation that such testing and review would be performed or assessed by qualified independent professionals.

Core Principle J: Reporting—The applicant shall provide to the Commission all information necessary for the Commission to conduct the oversight function of the applicant with respect to the activities of the derivatives clearing organization.

In addressing Core Principle J, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Information available to or generated by the clearing organization that will be made routinely available to the Commission, upon request and/or as appropriate, to enable the Commission to perform properly its oversight function, including counterparties and their positions, stress test results, internal governance, legal proceedings, and other clearing activities;

2. Information the clearing organization will make available to the Commission on a non-routine basis and the circumstances which would trigger such action;

3. The information the organization intends to make routinely available to members/participants and/or the general public; and

4. Provision of information:

a. The manner in which all relevant routine or non-routine information will be provided to the Commission whether by electronic or other means; and

b. The manner in which any information will be made available to members/participants and/or the general public.

Core Principle K: Recordkeeping—The applicant shall maintain records of all activities related to the business of the applicant as a derivatives clearing organization in a form and manner acceptable to the Commission for a period of 5 years.

In addressing Core Principle K, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. The different activities related to the entity as a clearing organization for which it must maintain records; and

2. How the entity would satisfy the performance standards of Commission Regulation 1.31 (17 CFR 1.31), reserved in this part 39 and applicable to derivatives clearing organizations, including:

a. What "full" or "complete" would encompass with respect to each type of book or record that would be maintained;

b. The form and manner in which books or records would be compiled and maintained with respect to each type of activity for which such books or records would be kept;

c. Confirmation that books and records would be open to inspection by any representative of the Commission or of the U.S. Department of Justice;

d. How long books and records would be readily available and how they would be made readily available during the first two years; and

e. How long books and records would be maintained (and confirmation that, in any event, they would be maintained for at least five years).

Core Principle L: Public Information—The applicant shall make information concerning the rules and operating procedures governing the clearing and settlement systems (including default procedures) available to market participants.

In addressing Core Principle L, applicants and registered derivatives clearing organizations may describe or otherwise document:

Disclosure of information regarding rules and operating procedures governing clearing and settlement systems:

a. Which rules and operating procedures governing clearing and settlement systems should be disclosed to the public, to whom they would be disclosed, and how they would be disclosed;

b. What other information would be available regarding the operation, purpose and effect of the clearing organization's rules;

c. How members/participants may become familiar with such procedures before participating in operations; and

d. How members/participants will be informed of their specific rights and obligations preceding a default and upon a default, and of the specific rights, options and obligations of the clearing organization preceding and upon the member's/participant's default.

Core Principle M: Information Sharing—The applicant shall (i) enter into and abide by the terms of all appropriate and applicable domestic and international information-sharing agreements; and (ii) use relevant information obtained from the agreements in carrying out the clearing organization's risk management program.

In addressing Core Principle M, applicants and registered derivatives clearing organizations may describe or otherwise document:

1. Applicable appropriate domestic and international information-sharing agreements and arrangements including the different types of domestic and international information-sharing arrangements, both formal and informal, which the clearing organization views as appropriate and applicable to its operations.

2. How information obtained from information-sharing arrangements would be used to carry out risk management and surveillance programs:

a. How information obtained from any information-sharing arrangements would be used to further the objectives of the clearing organization's risk management program and any of its surveillance programs including financial surveillance and continuing eligibility of its members/participants;

b. How accurate information is expected to be obtained and the mechanisms or procedures which would make timely use and application of all information; and

c. The types of information expected to be shared and how that information would be shared.

Core Principle N: Antitrust Considerations—Unless appropriate to achieve the purposes of this Act, the derivatives clearing organization shall avoid (i) adopting any rule or taking any action that results in any unreasonable restraint of trade; or (ii) imposing any material anticompetitive burden on trading on the contract market.

Pursuant to section 5b(c)(3) of the Act, a registered derivatives clearing organization or an entity seeking registration as a derivatives clearing organization may request that the Commission issue an order concerning whether a rule or practice of the organization is the least anticompetitive means of achieving the objectives, purposes, and policies of the Act. The Commission intends to apply section 15(b) of the Act to its consideration of issues under this core principle in a manner consistent with that previously applied to contract markets.

Dated: May 8, 2001.

By the Commission.

Jean A. Webb,

Secretary.

[FR Doc. 01–12084 Filed 5–11–01; 8:45 am]

BILLING CODE 6351–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[FRL–6978–6]

Public Information and Confidentiality: Advance Notice of Proposed Rulemaking; Notice of Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of comment period.

SUMMARY: On December 21, 2000 (65 FR 80394), EPA published an advance notice of proposed rulemaking (ANPRM) regarding potential revision of the confidential business information (CBI). EPA is reopening the comment period in order to afford the public the opportunity to provide additional comments concerning the ANPRM. The comment period will close on June 13, 2001. We believe it is necessary to reopen the comment period as a courtesy to the public in response to public requests for additional time to consolidate comments on the proposal following the public meeting held on March 7, 2001.

DATES: EPA must receive comments on the ANPRM by June 13, 2001.

ADDRESSES: Written comments should be submitted (in duplicate if possible) to Docket Number EC–2000–004, Enforcement and Compliance Docket and Information Center (ECDIC), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Room 4033, Mail Code 2201A, Washington, DC 20460; Phone, 202–564–2614 or 202–564–2119; Fax, 202–501–1011 E–Mail, *docket.oeca@epa.gov*. Documents related to this advance notice of proposed rulemaking are available for public inspection and viewing by contacting the ECDIC at this same address. The ECDIC is open from 8 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alan Margolis, Office of Information Collection, Office of Environmental Information, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Mail Code 2822, Washington, DC 20460; Phone, 202–260–9329; Fax, 202–401–4544; Email, *margolis.alan@epa.gov*.

Dated: May 7, 2001.

Margaret N. Schneider,

Acting Assistant Administrator, Office of Environmental Information.

[FR Doc. 01–12044 Filed 5–11–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7508]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management

Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Connecticut	New Britain (City), Hartford County.	Webster Brook	Approximately 500 feet downstream of corporate limits.	None	*51
			Approximately 170 feet upstream of New Britain Avenue.	None	*66
		Piper Brook	At downstream corporate limits	None	*80
			Approximately 280 feet upstream of corporate limits.	None	*80
		Bass Brook	At downstream corporate limits	*90	*87
			Approximately 770 feet upstream of Lewis Road.	*267	*265
		Batterson Park	At Alexander Road	*180	*182
		Pond Brook	Approximately 275 feet upstream of Brittany Farms Road culverts.	*206	*207
		Sandy Brook	At confluence with Bass Brook	*90	*87
			Approximately 575 feet upstream of Ella Grasso Boulevard.	*131	*130
Maps available for inspection at the New Britain City Hall, 27 West Main Street, New Britain, Connecticut. Send comments to The Honorable Lucian J. Pawlak, Mayor of the City of New Britain, New Britain City Hall, 27 West Main Street, New Britain, Connecticut 06051.					
Connecticut	Newington (Town), Hartford County.	Mill Brook	At the confluence with Piper Brook	*53	*50
			Approximately 380 feet upstream of dam with footbridge.	*75	*74
		Schoolhouse Brook	Approximately 0.3 mile downstream of Wilson Avenue.	*75	*74
			At Robbins Avenue	*80	*81
		Piper Brook	At the downstream corporate limits	*53	*49
			Approximately 350 feet upsiream of confluence of Bass Brook.	*80	*79
		Rock Hole Brook	Approximately 340 feet downstream of Stonehedge Drive.	*50	*51

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.54 foot upstream of Willard Avenue.	None	*89
		Webster Brook	Approximately 0.54 mile downstream of Kelsey Street.	*45	*48
			Approximately 0.52 mile upstream of railroad embankment.	None	*74
		Webster Brook Tributary	At the confluence with Webster Brook	None	*68
			Approximately 1,300 feet upstream of Liberty Street.	None	*71
		Bass Brook	At confluence with Piper Brook	*80	*79
			Approximately 100 feet upstream of Route 9.	None	*100
Maps available for inspection at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut. Send comments to The Honorable Robert A. Randich, Mayor of the Town of Newington, Newington Town Hall, 131 Cedar Street, Newington, Connecticut 06111.					
Florida	Astatula (Town), Lake County.	Little Lake Harris	Entire shoreline within community	None	*64
Maps available for inspection at the Town of Astatula Clerk's Office, 25019 CR 561, Astatula, Florida. Send comments to The Honorable James D. Ellrodt, Mayor of the Town of Astatula, P.O. Box 609, Astatula, Florida 34705.					
Florida	Clermont (City), Lake County.	Wilma Lake North	Entire shoreline within community	*89	*91
		Lake Felter	Entire shoreline within community	None	*89
		Wilma Lake South	Approximately 1,900 feet northeast of intersection of State Route 25 and Steves Road.	*89	*90
Maps available for inspection at the City of Clermont Planning & Zoning Department, 1 Westgate Plaza, Clermont, Florida. Send comments to Mr. Wayne Saunders, Clermont City Manager, P.O. Box 120219, Clermont, Florida 34712–0219.					
Florida	Eustis (City), Lake County.	Ponding Area H5B	Entire shoreline within community	None	*70
		Lake Eustis	Entire shoreline within community	*65	*64
Maps available for inspection at the City of Eustis Building Department, 10 North Grove Street, Eustis, Florida. Send comments to Mr. Michael G. Stearman, Eustis City Manager, P.O. Drawer 68, Eustis, Florida 32727–0068.					
Florida	Fruitland Park (City), Lake County.	Dream Lake	Entire shoreline within community	None	*73
		Fountain Lake East	Entire shoreline within community	None	*86
		Lake Gem	Entire shoreline within community	None	*91
		Lake Eustis	Entire shoreline within community	*65	*64
		Fountain Lake West	Entire shoreline within community	*85	*84
		Lake Griffin	Approximately 1,000 feet northeast of the intersection of Hamlet Court and Picciola Cutoff.	None	*61
		Myrtle Lake	Entire shoreline within community	None	*72
Maps available for inspection at the City of Fruitland Park City Hall, Building Department, 506 West Berckman Street, Fruitland Park, Florida. Send comments to Mr. Bruce D. Banning, Fruitland Park City Manager, 506 West Berckman Street, Fruitland Park, Florida 34731.					
Florida	Groveland (City), Lake County.	Stewart Lake	Approximately 100 feet northwest of the intersection of Parkwood Road and Gadson Street.	None	*100
Maps available for inspection at the City of Groveland Building Department, 156 South Lake Avenue, Groveland, Florida. Send comments to Mr. Jason Yarborough, Groveland City Manager, 156 South Lake Avenue, Groveland, Florida 34736.					
Florida	Gulf County (Unincorporated Areas).	Gulf of Mexico	Along the coast of the Gulf of Mexico approximately 1,000 feet north of Eagle Harbor.	*13	*12
			Along the Gulf of Mexico shoreline, approximately 1,500 feet west of Indian Pass.	*14	*13
		St. Joseph Bay	Approximately 1,500 feet inland from St. Joseph Bay, along the shoreline of St. Joseph Bay.	*9	*8
			Along the St. Joseph Bay shoreline, approximately 3 miles southeast of Pig Island.	*10	*11

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Indian Lagoon	Along the shoreline of Indian Lagoon, approximately 1,000 feet west of Indian Pass.	*11	*9
			Approximately 500 feet west of Indian Pass.	*11	*10

Maps available for inspection at the Gulf County Courthouse, 1000 Cecil G. Costin, Sr., Boulevard, Room 302, Port St. Joe, Florida.

Send comments to Mr. Nathan Peters, Jr., Chairman of the Gulf County Board of Commissioners, 1000 Cecil G. Costin, Sr., Boulevard, Room 302, Port St. Joe, Florida 32456.

Florida	Howey in the Hills (Town), Lake County.	Ponding Area 455–1	Approximately 100 feet west of the intersection of Marilyn Avenue and Poinsettia Street.	None	*84
		Lake Harris	Entire shoreline within community	None	*64
		Little Lake Harris	Entire shoreline within community	None	*64

Maps available for inspection at the Town of Howey in the Hills Town Hall, 101 North Palm Avenue, Howey in the Hills, Florida.

Send comments to The Honorable Gregory J. Bittner, Mayor of the Town of Howey in the Hills, P.O. Box 67, Howey in the Hills, Florida 34737.

Florida	Lake County (Unincorporated Areas).	Lake Denham	Entire shoreline within county	None	*64
		Zephyr Lake	Entire shoreline within county	None	*109
		Spring Lake	Entire shoreline within county	None	*74
		Unity Lake	Entire shoreline within county	None	*64
		Ponding Area 07–3	Entire shoreline within county	None	*74
		Ponding Area 07–5	Approximately 450 feet northeast of the intersection of Thomas Avenue and U.S. Route 44A.	None	*74
		Ponding Area 461–1	Entire shoreline within county	None	*87
		Ponding Area Q3–4	Entire shoreline within county	None	*78
		Ponding Area G9–1	Entire shoreline within county	None	*69
		Ponding Area G1–4	Entire shoreline within county	None	*65
		Ponding Area 725–1	Entire shoreline within county	None	*114
		Lake Needham	Entire shoreline within county	None	*106
		Ponding Area 650–1	Entire shoreline within county	None	*103
		Ponding Area 650–2	Entire shoreline within county	None	*105
		Ponding Area 525–1	Entire shoreline within county	None	*98
		Ponding Area 525–2	Entire shoreline within county	None	*94
		Ponding Area 525–3	Entire shoreline within county	None	*95
		Lake Harris	Entire shoreline within county	None	*64
		Ponding Area D 2 E 2		None	*84
		Ponding Area D 2 B		None	*69
		Lake Alice	Entire shoreline within county	None	*99
		Ponding Area E 3 B		None	*75
		Ponding Area K 1 A		None	*74
		Ponding Area K 4 1		None	*65
		Martins Lake	Approximately 650 feet northwest from the intersection of Old Highway 50 and Forestwood Drive.	None	*69
		Ponding Area J–1–1	Approximately 100 feet west of the intersection of Orange Court and Bay Avenue.	None	*74
		Sunset Valley Lake	Entire shoreline within county	*79	*82
		Ponding Area 359–2		None	*168
		Ponding Area 362–1	Entire shoreline within county	None	*80
		Lake Tem	Entire shoreline within county	None	*81
		Ponding Area	Approximately 250 feet in a southwesterly direction from the intersection of Indianola Drive and Woodland Avenue.	None	*64
		Lake Illinois	Approximately 1,100 feet southwest from the intersection of Magnolia and Cypress Avenues.	None	*79
		Ponding Area K–11–3	Approximately 1,900 feet southwest from Magnolia and Cypress Avenues.	None	*84
		Emeralda Marsh	Entire shoreline within county	None	*60
		Ponding Area 4	Entire shoreline within county	None	*74
		Dukes Lake	Entire shoreline within county	None	*99
		Lake Catherine	Entire shoreline within county	None	*99
		Ponding Area 535–2		None	*99
		Minneola Annex Pond 1		None	*95

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Minneola Annex Pond 2		None	*97
		Ponding Area 395–1	Entire area within county	None	*62
		Gallows Lake	Entire shoreline within county	None	*104
		Ponding Area 510–1	Entire shoreline within county	None	*95
		Little Bluff Creek	Entire shoreline within county	None	*99
		Lake Douglas	Entire shoreline within county	None	*97
		Wolf Branch Sink	Entire area within county	*79	*82
		Sorrento Swamp	Entire shoreline within county	None	*80
		Lake Eustis	Entire shoreline within county	None	*64
		Leesburg Tributary 1	Approximately 310 feet downstream of Airport Runway.	None	*64
			Approximately 0.61 mile upstream of South Whitney Road.	None	*78
		Leesburg Tributary 2	Approximately 1,000 feet downstream of Youngs Road.	None	*64
			Approximately 0.48 mile upstream of State Route 468.	None	*80
		Leesburg Tributary 3	Approximately 1,400 feet upstream of El Rancho Drive.	None	*64
			Approximately 2,050 feet downstream of El Rancho Drive.	None	*77
		Lake Griffin	Entire shoreline within county	None	*61
		Lake Woodward	Approximately 900 feet north of the intersection of Codding Place and Mt. Mitchell Drive.	None	*74
		Park Lake	Entire shoreline within county	None	*74
		Ponding Area 380–1		None	*69
		Ponding Area 380–4		None	*71
		Ponding Area 378–7		None	*80
		Ponding Area 380–2		None	*70
		Ponding Area 380–3		None	*70
		Lake Gary	Entire shoreline within county	None	*103
		Saw Mill	Entire shoreline within county	None	*102
		Grassy Lake	Entire shoreline within county	None	*85
		Little Grassy Lake	Entire shoreline within county	None	*90
		Lake Idamere	Entire shoreline within county	None	*69
		Indianhouse Lake West	Entire shoreline within county	None	*87
		Indianhouse Lake East	Entire shoreline within county	None	*87
		Ponding Area 395–2		None	*55
		Ponding Area 378–2		None	*161
		Ponding Area 378–6		None	*86
		Ponding Area 378–5		None	*108
		Ponding Area 378–4		None	*120
		Ponding Area 378–3		None	*150
		Lake Maggie		None	*154
		Lake Taveres	Entire shoreline within county	*64	*71
		Lake Arthur	Entire shoreline within county	None	*84
		Big Prairie Lake	Entire shoreline within county	None	*94
		Blacks Still Lake	Entire shoreline within county	None	*85
		Boggy Marsh	Entire area within county	None	*118
		Church Lake	Entire shoreline within county	None	*85
		Lake Nellie	Entire shoreline within county	None	*101
		Neighborhood Lakes North	Entire shoreline within county	None	*60
		Neighborhood Lakes South.	Entire shoreline within county	None	*61
		Pike Lake	Entire shoreline within county	None	*102
		Trout Lake	Entire shoreline within county	None	*98
		Pine Island Lake	Entire shoreline within county	None	*108
		Plum Lake	Entire shoreline within county	None	*87
		Island Road	Entire shoreline within county	None	*70
		Lake Seneca	Entire shoreline within county	None	*78
		Lake Madge	Entire area within county	None	*80
		Sawgrass Bay	Entire area within county	None	*106
		Lake Spencer	Entire shoreline within county	None	*85
		Horseshoe Lake (East)	Entire shoreline within county	None	*89
		Horseshoe Lake (West)	Entire shoreline within county	None	*85
		Dilly Marsh	Entire shoreline within county	None	*87
		Dilly Lake	Entire shoreline within county	None	*87
		Hancock Bay North	Entire shoreline within county	None	*110
		Hancock Bay South	Entire shoreline within county	None	*114

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
		Hancock Lake	Entire shoreline within county	None	*115
		Myrtle Lake	Entire shoreline within county	None	*72
		Lake Lucie	Entire shoreline within county	None	*64
		Crooked Lake	Entire shoreline within county	None	*118
		Keene Lake	Entire shoreline within county	None	*111
		Hidden Lake	Entire shoreline within county	None	*112
		Stewart Lake	Entire shoreline within county	None	*100
		Sumner Lake	Entire shoreline within county	None	*97
		Olsen Lake	Entire shoreline within county	None	*100
		Crescent Lake	Entire shoreline within county	None	*107
		Crystal Lake	Entire shoreline within county	None	*79
		Lake Felter	Entire shoreline within county	None	*89
		Lake Gertrude	Entire shoreline within county	None	*72
		Lake Glona	Entire shoreline within county	None	*103
		Sawgrass Lake	Entire shoreline within county	None	*106
		Shepherd Lake	Entire shoreline within county	None	*86
		Square Lake	Entire shoreline within county	None	*110
		Wash Lake	Entire shoreline within county	None	*101
		Wilma Lake North	Entire shoreline within county	None	*91
		Wilma Lake South	Entire shoreline within county	None	*90
		Island Lake	Entire shoreline within county	None	*104
		Ponding Area 535–1	Approximately 500 feet northeast of the intersection of Media Road and County Route 561A.	None	*100
		Ponding Area 535–3	Approximately 500 feet northeast of the intersection of Media Road and County Route 561A.	None	*100
		Ponding Area 535–4	Entire shoreline within county	None	*99
		Wash Pond 1	Entire shoreline within county	None	*101
		Wash Pond 2	Entire shoreline within county	None	*101
		Wash Pond 3	Entire shoreline within county	None	*101
		Wash Pond 4	Entire shoreline within county	None	*101
		Wash Pond 5	Entire shoreline within county	None	*105
		Ponding Area 470–1	Entire shoreline within county	None	*88
		Ponding Area 345–1		None	*82
		Ponding Area 455–1	Entire area within county	None	*84
		Lake 530–1	Entire shoreline within county	None	*90
		Lake Saunders	Entire shoreline within county	*74	*78
		Wolf Branch	Approximately 0.49 mile upstream of State Route 46.	*79	*95
			At Griffin Lane	None	*166
		Ponding Area 555–1		None	*82
		Ponding Area 555–2		None	*82
		Ponding Area 555–3	Approximately 1,200 feet southwest of the intersection of Arabian Way and Thoroughbred Lane.	None	*90
		Lake Ella	Entire shoreline within county	*80	*70
		Lake Umatilla	Entire shoreline within county	None	*69
		Lake Willie	Entire shoreline within county	None	*104
		Jacks Lake	Entire shoreline within county	None	*89
		Lake Ella 170	Entire shoreline within county	None	*79
		Lake Junietta	Entire shoreline within county	None	*68
		Ponding Area Q2–1	Entire shoreline within county	None	*77
		Lake Hermosa	Entire shoreline within county	None	*84

Maps available for inspection at the Lake County Public Works, 123 North Sinclair Avenue, Tavares, Florida.
Send comments to Mr. Jim Stivender, Jr., P.E., P.L.S., 123 North Sinclair Avenue, Tavares, Florida 32778.

Florida	Leesburg (City), Lake County.	Leesburg Tributary 2	From approximately 1,325 feet upstream of Youngs Road.	None	*77
			Upstream side of State Route 44	None	*81
		Lake Denham	Entire shoreline within county	None	*64
		Ponding Area Q2–1	Entire shoreline within county	None	*77
		Ponding Area Q–3–4	Entire shoreline within county	None	*78
		Leesburg Tributary 1	Approximately 300 feet upstream of South Whitney.	None	*78
			Approximately .80 mile upstream of South Whitney Road.	None	*79

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
Maps available for inspection at the City of Leesburg Public Works Department, 413 East North Boulevard, Leesburg, Florida. Send comments to The Honorable Ben Perry, Mayor of the City of Leesburg, P.O. Box 490630, Leesburg, Florida 34749.					
Florida	Montverde (Town), Lake County.	Lake Florence	Entire shoreline within County	*84	*76
		Ponding Area 555–1		*84	*82
		Ponding Area 555–2		None	*82
Maps available for inspection at the Montverde Town Hall, 17404 Sixth Street, Montverde, Florida. Send comments to The Honorable Helen Pearce, Mayor of the Town of Montverde, P.O. Box 560008, Montverde, Florida 34756.					
Florida	Mount Dora (City), Lake County.	Lake Franklin	Entire shoreline within County	*105	*106
		Lake Nettie	Entire shoreline within county	*86	*89
		Lake John	Entire shoreline within county	*81	*82
		Wolf Branch Sink		*79	*82
		Lake Woodward	Approximately 900 feet northeast of the intersection of Codding Place and Mt. Mitchell Drive.	None	*74
		Ponding Area 359–1	None	*76	
		Wolf Branch	At upstream side of Wooden Driveway Bridge.	None	*127
			Approximately 200 feet upstream of Country Club Boulevard.	None	*164
Maps available for inspection at the City of Mount Dora Building & Zoning Department, 900 North Donnelly Street, Mount Dora, Florida. Send comments to The Honorable Jim Yatsuk, Mayor of the City of Mount Dora, P.O. Box 176, Mount Dora, Florida 32757.					
Florida	Tavares (City), Lake County.	Lake Eustis	Entire shoreline within County	*65	*64
		Lake Harris	Entire shoreline within county	None	*64
Maps available for inspection at the City of Tavares Planning & Zoning Department, 201 East Main Street, Tavares, Florida. Send comments to Ms. Dorothy Keedy, Tavares City Administrator, 201 East Main Street, Tavares, Florida 32778.					
Georgia	Adel (City), Cook County.	Morrison Creek Tributary	A point approximately 650 feet downstream of Nelson Road.	None	*221
			Upstream side of Nelson Road	None	*221
		Bear Creek Tributary	A point approximately 900 feet upstream of the confluence with Bear Creek.	None	*230
			A point approximately 0.72 mile upstream of the confluence with Bear Creek.	None	*237
Maps available for inspection at the Cook County Commissioner's Office, 209 North Parrish Avenue, Adel, Georgia. Send comments to Mr. Jerry Permenter, City of Adel Manager, P.O. Box 658, Adel, Georgia 31620.					
Georgia	Cook County (Unincorporated Areas).	Morrison Creek Tributary	At the confluence with Morrison Creek	None	*209
			A point approximately 150 feet upstream of Interstate Route 75.	None	*221
		Bear Creek Tributary	A point approximately 750 feet upstream of the confluence with Bear Creek.	None	*230
			A point approximately 0.72 mile upstream of the confluence with Bear Creek.	None	*237
Maps available for inspection at the Cook County Commissioner's Office, 209 North Parrish Avenue, Adel, Georgia. Send comments to Ms. Faye Hughes, Cook County Administrator, 209 North Parrish Avenue, Adel, Georgia 31620.					
Georgia	Sparks (Town), Cook County.	Bear Creek Tributary	At the confluence with Bear Creek	None	*230
			A point approximately 750 feet upstream of the confluence with Bear Creek.	None	*230
Maps available for inspection at the Town of Sparks City Hall, 115 East Colquitt, Sparks, Georgia. Send comments to The Honorable Jimmy Young, Mayor of the Town of Sparks, P.O. Box 899, Sparks, Georgia 31647.					
Maine	Mount Vernon (Town), Kennebec County.	Flying Pond	Entire shoreline within community	None	*349
		Echo Lake	Entire shoreline within community	None	*318
		Torsey Lake	Entire shoreline within community	None	*266
		Long Pond	Entire shoreline within community	None	*242

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
		Belgrade Stream	Between downstream corporate limits and Wings Mills Dam.	None	*238
			Between Wings Mills Dam and Long Pond.	None	*242
		Minnehonk Lake	Entire shoreline within community	None	*333
		Taylor Pond	Entire shoreline within community	None	*328
Maps available for inspection at the Mount Vernon Town Hall, Readfield (North) Road, Mount Vernon, Maine.					
Send comments to Ms. Karen Stevens, Chairman of the Town of Mount Vernon Board of Selectmen, R.R. 1, Box 3340, Mount Vernon, Maine 04352.					
Maine	York (Town), York County.	Atlantic Ocean	Approximately 900 feet southeast of the intersection of Hiram Street and Willard Street.	*15	*22
			Approximately 1,000 feet southeast of Bayview Avenue and Long Sands Road.	*9	*10
		Shallow Flooding Area	Approximately 150 feet northeast of the intersection of Ocean Avenue and Marietta Avenue.	None	#2
			Approximately 300 feet southwest of the intersection of Nubble Road and Long Beach Avenue along the west side of Long Beach Avenue.	#2	#1
			Along Shore Road in the vicinity of Phillips Cove.	None	#1
			Approximately 1,350 feet southeast of the intersection of Shore Road and Agamenticus Avenue in the vicinity of Pint Cove.	None	#1
			Along Bay Haven Road in the vicinity of Cape Neddick Harbor.	None	#1
			Along York Street, south of Long Sands Road, in the vicinity of Little River.	*9	#1
			Approximately 1,700 feet south of intersection of Seabreeze Lane and Surf Point Road.	None	#1
		Cape Neddick River	At Shore Road	*9	*10
			Approximately 650 feet downstream of U.S. Route 1.	*9	*10
Maps available for inspection at the York Town Planner's Office, 186 York Street, York, Maine.					
Send comments to Mr. Michael Palumbo, Chairman of the Town of York Board of Selectmen, 186 York Street, York, Maine 03909.					
Massachusetts	Northbridge (Town), Worcester County.	Riverdale Mills	Approximately 675 downstream of Riverdale Street.	*257	*256
		Sluice Gates and Tail Race.	Approximately 500 feet upstream of Riverdale Street.	*261	*260
		Blackstone River	Approximately 25 feet downstream of Riverdale Street.	*258	*257
			Approximately 0.9 mile upstream of Factory Bridge.	*275	*274
Maps available for inspection at the Northbridge Town Hall, Zoning Office, 7 Main Street, Whitinsville, Massachusetts.					
Send comments to Mr. Charles Ampagoomian, Chairman of the Town of Northbridge Board of Selectmen, Memorial Square, 7 Main Street, Whitinsville, Massachusetts 01500.					
New York	Davenport (Town), Delaware County.	Charlotte Creek	At the confluence with the Susquehanna River.	None	*1,101
			At upstream of corporate limits	None	*1,327
Maps available for inspection at the Davenport Town Hall, Route 23, Davenport Center, New York 13751.					
Send comments to Mr. Tod Rider, Town of Davenport Supervisor, P.O. Box 88, Davenport Center, New York 13571.					
New York	Evans (Town), Erie County.	Reisch Creek	At the confluence with Lake Erie	*579	*580
			A point approximately 180 feet upstream of Revere Drive.	*683	*681
		Lake Erie	Southwest corporate limits along Lake Erie.	*579	*580
			Northeast corporate limits along Lke Erie	*580	*581

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
Maps available for inspection at the Evans Town Hall, 8787 Erie Road, Angola, New York 14006–9600.					
Send comments to Mr. Robert R. Catalino II, Evans Town Supervisor, Evans Town Hall, 8787 Erie Road, Angola, New York 14006–9600.					
New York	Leray (Town), Jefferson County.	Indian River	Approximately 0.43 mile downstream of Joachim Road.	None	*406
			Approximately 1.48 miles upstream of Elm Ridge Road.	None	*413
		West Creek	At its confluence with Indian River	None	*410
			Approximately 1.07 miles upstream of the confluence with Indian River.	None	*410
Maps available for inspection at the Leray Town Hall, 8433 Willow Street, Evans Mills, New York 13637.					
Send comments to Mr. Ronald Taylor, Leray Town Supervisor, 8433 Willow Street, Evans Mills, New York 13637.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 3, 2001.

Margaret E. Lawless,

Acting Executive Associate, Director for Mitigation .

[FR Doc. 01–12027 Filed 5–11–01; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register
Vol. 66, No. 93
Monday, May 14, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–508–809; C–508–810; A–821–813]

Notice of Postponement of Final Antidumping Determination and Extension of Provisional Measures and Postponement of Final Countervailing Duty Determination: Pure Magnesium From Israel; and Notice of Postponement of Final Antidumping Determination: Pure Magnesium From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney (Israel) or James Nunno (Russian Federation), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1778 and (202) 482–0783, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act"), as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, all citations to the Department's regulations are to 19 CFR Part 351 (April 2000).

Postponement of Final Determinations and Extension of Provisional Measures

On April 23, 2001, the Department issued its affirmative preliminary determination in the antidumping duty investigation of pure magnesium from Israel (*see Notice of Preliminary Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 21325 (April 30, 2001) and its negative preliminary determination in the antidumping duty investigation of pure magnesium from the Russian Federation ("Russia") (*see Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Pure Magnesium from the Russian Federation*, 66 FR 21319 (April 30, 2001). These notices stated we would issue our final determinations in these investigations not later than 75 days after the date of the preliminary determinations.

On April 25, 2001, in accordance with section 735(a)(2)(B) of the Act and section 351.210(b)(2)(i) of the Department's regulations, the petitioners in this investigation (*i.e.*, Magnesium Corporation of America, the United Steelworkers of America, Locals 482 and 8319, and Concerned Employees of Northwest Alloys, Inc.), requested a 60-day postponement of the final determination in the investigation of pure magnesium from Russia. Because the preliminary determination for Russia was negative, the petitioners' request serves as an adequate basis upon which the Department may extend the final determination.

In addition, on May 1, 2001, in accordance with 16 CFR 351.210(b)(2)(ii), Dead Sea Magnesium Ltd. (DSM), the respondent in the Israel investigation, requested that the Department grant a 60-day postponement of the final determination in that case. DSM also requested that the Department extend provisional measures to a period not to exceed six months, in accordance with section 733(d) of the Act and section 351.210(e)(2) of the Department's regulations. Because the preliminary determination for Israel was affirmative, DSM's request serves as an adequate basis upon which the Department may extend the final determination.

As no compelling reasons exist for denying the requests for postponement in either case, we are extending these final determinations to not later than 135 days after the date of publication of the preliminary determinations (*i.e.*, until September 12, 2001). Suspension of liquidation for Israel will be extended accordingly.

Further, because the final determination in the countervailing duty investigation of pure magnesium from Israel has been aligned with the final determinations in the antidumping duty investigations of pure magnesium from Israel, Russia, and the People's Republic of China (*see Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Pure Magnesium From Israel, the Russian Federation, and the People's Republic of China and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determinations: Pure Magnesium from Israel*, 66 FR 14546 (March 13, 2001), we are postponing the final determination in the countervailing duty investigation until September 12, 2001, accordingly.

This notice of postponement is published pursuant to section 735(a) of the Act and 19 CFR 351.210(g).

Dated: May 7, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–12062 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–201–802

Gray Portland Cement and Clinker from Mexico; Notice of Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: On March 14, 2001, the Department of Commerce published the final results of administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers one manufacturer/exporter, CEMEX, S.A. de C.V.(CEMEX), and its affiliate, Cementos de Chihuahua, S.A. de C.V. (CDC). The period of review is August 1, 1998, through July 31, 1999. Based on a correction of a ministerial error, we have changed the antidumping duty margin from 39.34 to 38.65 percent.

EFFECTIVE DATE: May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Dave Dirstine, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4033.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (2000).

Background

On March 14, 2001, the Department published the final results of administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (66 FR 14889) (Final Results). The review covered one manufacturer/exporter and the period August 1, 1998, through July 31, 1999.

After publication of our final results, we received a timely allegation from the respondent, CEMEX, S.A. de C.V. (CEMEX), that we had made two ministerial errors in calculating the final results. CEMEX alleged that: 1) the Department used an incorrect conversion factor at one of four places where the computer program converted short tons to metric tons; and 2) the Department did not include the general and administrative (G&A) and interest fields for the calculation of constructed value. We also received a timely submission from the petitioner, The Southern Tier Cement Committee, in which it agreed with the first alleged ministerial error, but opposed the second alleged ministerial error. We agree with the petitioner and have corrected the first error which was the result of using an incorrect conversion factor. As to the second alleged ministerial error, we disagree with the respondent that we did not correctly calculate constructed value. The respondent proposes to introduce data which is not on the record in this review and add it to the programming language that we used to calculate the weighted-average margins for the final results. We conclude that the computer-programming language we used to calculate the weighted-average antidumping duty margin for the final results does not contain a ministerial error and correctly calculates constructed value. See the Amended Final Analysis Memorandum from the analyst to the file, dated April 27, 2001, for a description of the change we made to correct the conversion-factor error.

Amended Final Results of Review

As a result of the correction of the ministerial error and amended margin calculations, the following weighted-average margin exists for the collapsed parties, CEMEX and CDC, for the period August 1, 1998, through July 31, 1999:

Company	Margin (percent)
CEMEX/CDC	38.65

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will also direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of review (66 FR 14889) and as amended by this determination. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

We are issuing and publishing this determination and notice in accordance with sections 751(h) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: May 4, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–12065 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–819]

Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Low Enriched Uranium from France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Affirmative Countervailing Duty Determination.

EFFECTIVE DATE: May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Grossman at (202) 482–2786, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of low enriched uranium (subject merchandise) from France. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by USEC Inc., its wholly owned subsidiary, United States Enrichment Corporation (USEC) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO, CLC, and Local 5–550 and Local 5–689 (collectively PACE) (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom*, 66 FR 1085 (January 5, 2001) (*Initiation Notice*)), the following events have occurred: On January 11, 2001, we issued countervailing duty questionnaires to the Government of France (GOF) and to Eurodif, S.A. (Eurodif), the producer/exporter of subject merchandise cited in the December 7, 2000 petition. On March 20, 2001, we received questionnaire responses from Eurodif, S.A. and its majority owner, Compagnie Generale des Matieres Nucleaires (COGEMA), and the GOF. COGEMA acts as a sales agent for Eurodif's exports to the United States. On March 27 and April 10, 2001, we issued supplemental questionnaires to Eurodif/COGEMA and the GOF (collectively respondents). On April 26, 2001, we issued an additional supplemental questionnaire to Eurodif/COGEMA. On April 5 (amended on April 9), April 25, and May 1, 2001, we received supplemental questionnaire responses from respondents.

On February 21, 2001, we issued an extension of the due date for this preliminary determination from March 2, 2001 to May 7, 2001. *See Low Enriched Uranium from France,*

Germany, the Netherlands, and the United Kingdom: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations, 66 FR 11000 (February 21, 2001) (*Extension Notice*).

On May 3, 2001, consultations in accordance with Article 13.2 of the Agreement on Subsidies and Countervailing Measures were held in Geneva, Switzerland with the Government of France and the Delegation of the European Commission.

In the *Initiation Notice*, we invited interested parties to comment on the scope of these investigations. We received comments from respondents on January 17, 2001, and from petitioners on January 23, 2001. In addition, we received comments from the Ad Hoc Utilities Group, an industrial user/consumer, on April 5, 2001. Our analysis of these comments can be found in the May 7, 2001 Public Memorandum to Bernard Carreau entitled *Low Enriched Uranium from France, Germany, the Netherlands and the United Kingdom; Comments on the Scope of the Investigations*, on file in the Central Records Unit, Room B–099, of the Main Commerce Building.

On April 27, 2001, petitioners submitted a new subsidy allegation stemming from Eurodif's contract with Electricite de France (EdF). Due to the lateness of the allegation, we have not yet had an opportunity to fully review petitioners' allegation and decide whether to initiate an investigation. We will address it after this determination. If we decide to initiate on this allegation, then prior to making our final determination, we will issue a preliminary analysis memorandum regarding this allegation and allow the parties to comment.

Scope of the Investigation

For purposes of this investigation, the product covered is low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this investigation. Specifically, this investigation does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this investigation. For purposes of this investigation, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of the investigation.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

In the *Initiation Notice* we invited parties to comment on scope issues raised by this investigation. These comments are addressed in a scope memo dated May 7, 2001. However, to the extent that some of the comments on scope issues re-argue the determination of industry support for the petition, we draw parties attention to Section 702(c)(4)(E) and 732(c)(4)(E) which states in pertinent part: "after the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered."

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Injury Test

Because France is a "Subsidy Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from France materially injure or threaten material injury to a U.S. industry. On January 31, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from France of subject merchandise. *See Low Enriched Uranium from France, Germany, the Netherlands and the United Kingdom*, 66 FR 8424 (January 31, 2001).

Alignment With Final Antidumping Duty Determination

On May 4, 2001, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping duty investigation of low enriched uranium from France.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 1999, through December 31, 1999.

Company History

Eurodif was formed in 1973 by French and foreign government agencies to provide a secure source of LEU, in order to facilitate the development of nuclear energy programs in participating countries. During the POI, Eurodif was 44.65 percent-owned by COGEMA, which itself is principally owned by a subsidiary of the Commissariat d'Energie Atomique (CEA), an agency of the GOF. Further, Eurodif was 25 percent-owned by SOFIDIF, a French company 60 percent-owned by COGEMA, thereby effectively placing COGEMA's ownership of Eurodif during the POI at approximately 60 percent. The remaining major shareholders of Eurodif during the POI were ENUSA, an entity of the Spanish government, SYNATOM, an entity of the Belgian government, and ENEA, an entity of the Italian government.

Programs Preliminarily Determined To Confer Subsidies

1. Purchase at Prices That Constitute "More Than Adequate Remuneration"

Eurodif provides low enriched uranium to EdF. EdF is a wholly-owned French government agency that supplies, imports and exports electricity. EdF is regulated by the Gas, Electricity and Coal Department of the Ministry of Industry (DIGEC) and the Budget and Treasury Departments of the Ministry of France. EdF is the predominant supplier of electricity in France, having provided 94 percent of the total electricity generated in France in 1998. EdF's nuclear facilities account for approximately 75 percent of the power supplied by EdF. To date, EdF has entered into three long-term contracts with Eurodif to secure LEU. The first contract was negotiated in 1975; Eurodif began enrichment at its Georges-Besse gaseous diffusion facility in 1979.

Petitioners have alleged that the GOF, through EdF, purchased LEU from Eurodif at prices that constitute "more than adequate remuneration" under section 771(5)(E)(iv) of the Act. Petitioners have alleged that the prices paid by EdF were established to cover Eurodif's depreciation charges on the Georges-Besse plant, and to provide Eurodif with a stable cash flow to help meet its financial obligations.

Respondents have argued that, as alleged, the subsidy relates to the provision of services, not the purchase of goods. Therefore, any such subsidy, were it to exist, would not be countervailable. In this context, respondents assert that Congress, the courts, and USEC itself have recognized that USEC (and its predecessors) is a service provider.[1] Absent any difference between the operations of USEC and Eurodif, respondents assert that Eurodif is merely a service provider, like USEC.

In our determination of industry support at the time of initiation of this investigation, we found that USEC is the producer of LEU because of the nature and extent of its manufacturing operations. *See* Memorandum for Holly A. Kuga entitled *Determination of Industry Support for the Antidumping and Countervailing Duty Petitions on Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom* (December 27, 2000). In accordance with section 702(c)(4)(E) of the Act, the Department cannot revisit a determination of industry support after initiation. Further, we noted that the Department bases its determination of who qualifies as a producer upon an examination of a company's production operations, not the particular configuration of the sales. For purposes of this determination, we accept Eurodif's assertion that its operations are no different from those of USEC. Therefore, we preliminarily find that Eurodif is the producer of LEU, the product subject to this investigation.

We preliminarily determine that EdF's purchases from Eurodif constitute a government financial contribution because EdF is wholly-owned and controlled by the GOF. This treatment of EdF is consistent with our policy with respect to the treatment of government-owned utility companies. *See, e.g.*, the *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 64 FR 73176 (December 29, 1999) and *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela*, 62 FR 55014 (October 22, 1997). In addition, because this program is available only to Eurodif, we preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act. Because the government is purchasing a good from Eurodif, a financial contribution is being provided under section 771(5)(D)(iv) of the Act.

Next, we must determine whether a benefit is provided to Eurodif under this program. Under section 771(5)(E)(iv) of the Act, a countervailable benefit may be provided by a government's purchase of a good for "more than adequate remuneration." Under section 771(5)(E)(iv) of the Act, the adequacy of remuneration will be determined in relation to the prevailing market conditions for the goods being purchased in the country which is subject to investigation. Therefore, in order to determine whether the prices paid by EdF constitute "more than adequate remuneration," we must compare the prices paid by EdF to Eurodif with the prices paid to Eurodif by its other customers.

Due to the difference in the pricing structure between Eurodif and EdF, as compared with the pricing between Eurodif and its other customers, it is important to make certain adjustments to our comparison. Unlike most other customers, EdF provides its own energy for Eurodif to use when producing LEU for EdF. Eurodif pays EdF for the energy it uses and re-bills EdF an identical amount. Respondents state that this billing procedure for energy is done simply for tax purposes and argue that the actual prices paid by EdF for LEU cover the costs of operation only, not energy costs. Other customers that do not provide their own electricity simply pay one price, which takes into account both operational and energy costs. In order to make a proper comparison to the prices paid by other customers to Eurodif, the Department has included both operational and energy prices paid by EdF in order to determine the prices paid by EdF.

As part of the arrangement for obtaining LEU, customers often provide an amount of natural uranium equal to that which went into the LEU they are purchasing. The record does not contain information on the value of the natural uranium provided by EdF or other customers to Eurodif. Therefore, for purposes of this comparison, we have assumed that the value of all natural uranium is the same, regardless of the customer. Thus, in making the comparison we have not included a value for the natural uranium component of the LEU purchased by EdF. Additionally, to ensure that our benchmark is representative of market conditions, we used prices paid by Eurodif's customers which are not Eurodif shareholders.

In order to determine whether a benefit was provided to Eurodif during the POI, we compared the price paid to Eurodif by EdF during the POI with the weighted-average price paid to Eurodif by its non-shareholder customers during the POI. Based on our analysis, we preliminarily determine that prices paid by EdF to Eurodif were higher than prices Eurodif received from its non-shareholder customers. Therefore, in accordance with section 771(5)(E)(iv) of the Act, we preliminarily determine that this program conferred countervailable benefits to Eurodif during the POI.

Because EdF's purchases of this product from Eurodif are not exceptional but, rather, are made on an ongoing basis from year to year, we determine that the benefit conferred under this program is recurring under section 351.524(c) of the CVD Regulations. Therefore, the benefit is expensed in the year of receipt, *i.e.*, the year in which the purchases are made.

To calculate the benefit conferred to Eurodif, we multiplied the calculated price differential by the quantity of separative work units (SWUs) component of the LEU purchased from Eurodif by EdF during the POI. Although the cash component of EdF's LEU purchases was paid on a "per-SWU" basis, the contracts also contained provisions for the natural uranium component of the LEU as well as the electricity used by Eurodif in the production of EdF's LEU. Because we have determined that the value of the natural uranium component of the LEU is equal for both EdF and Eurodif's other

[1] Respondents have cited several U.S. court cases in which USEC is claimed to have represented itself as a service provider, rather than a producer of goods. None of the cited cases pertain to the AD/CVD law. Rather, these cases pertain to different laws which have separate and distinct purposes from that of the AD/CVD law. Moreover, the parties' own characterizations of their activities in other contexts does not establish how the Department is to examine such activities for purposes of the AD/CVD law. Respondents also contend that USEC identifies itself as an "enrichment service provider" in a number of other fora, including in submissions made to the Department in the context of the suspended antidumping duty investigation on uranium from Kazakhstan. Regardless of how a party has characterized itself in the past in other contexts, the Department is charged with determining whether the manufacturer's activities qualify to establish it as the producer of the subject merchandise and must reach that determination on the record before it.

customers, as stated above, we did not need to calculate a price differential for the natural uranium component of the LEU. Rather, the natural uranium component of the LEU purchased by different classes of customers cancelled each other out.

Next, we divided this result by Eurodif's adjusted total sales during the POI. Based on our review of the responses, it appears as though respondents did not report a value for the natural uranium component of certain LEU sales. Therefore, in order to determine more accurately the level of subsidy applicable to the subject merchandise, we have estimated a value for this component. Based on petitioners' estimation that the enrichment component accounts for 60 percent of the value of LEU, we have increased the reported sales value to include an estimated value for the natural uranium component. We recognize that this is an estimate of the value of LEU sold by respondents. We intend to seek additional information from respondents prior to our final determination. On this basis, we preliminarily determine a net countervailable subsidy under this program of 13.62 percent *ad valorem* for Eurodif.

2. Exoneration/Reimbursement of Corporate Income Taxes

Under a specific governmental agreement entered into upon Eurodif's creation, Eurodif is only liable for income taxes on the portion of its income relating to the percentage of its private ownership. Eurodif is fully exonerated from payment of corporate income taxes corresponding to the percentage of its foreign government ownership and is eligible for a reimbursement of the amount of corporate income taxes corresponding to its percentage of French government ownership. Based on this governmental agreement, Eurodif was exonerated from a portion of its 1998 corporate income taxes filed during the POI. This tax exemption is a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Further, because the tax exemption is limited to Eurodif, the benefit is specific in accordance with section 771(5A)(D)(i) of the Act. Therefore, we preliminarily determine that the exoneration of income taxes under this program is countervailable.

As noted above, Eurodif was also eligible for a reimbursement of the amount of income taxes corresponding to its percentage of French government ownership. Eurodif reported that the portion of its taxes attributable to French government ownership was paid in 1999, but was not reimbursed until 2000, which is outside the POI. In addition, Eurodif reported that it did not receive any reimbursements of corporate income taxes during the POI for any taxes previously paid. Therefore, we preliminarily determine that Eurodif did not receive a benefit during the POI with respect to the portion of its income tax corresponding to French government ownership.

To calculate the benefit conferred upon Eurodif from the exoneration part of this program, we took the amount of exonerated taxes and divided by Eurodif's total sales during the POI, adjusted as noted in the "Purchase at Prices that Constitute "More Than Adequate Remuneration"" section, above. On this basis, we preliminarily determine a net countervailable subsidy to Eurodif from this program of 0.32 percent *ad valorem*.

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for Eurodif, the only company under investigation. We preliminarily determine that the total estimated net countervailable subsidy rate is 13.94 percent *ad valorem*. The All Others rate is 13.94 percent *ad valorem*, which is the rate calculated for Eurodif.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from France, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR § 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Any requested hearing will be tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: May 7, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–12063 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–428–829; C–421–809; C–412–821]

Notice of Preliminary Affirmative Countervailing Duty Determinations and Alignment With Final Antidumping Duty Determinations: Low Enriched Uranium From Germany, the Netherlands, and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Affirmative Countervailing Duty Determination.

EFFECTIVE DATE: May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Copyak (Germany) at (202) 482–2209, Stephanie Moore (the Netherlands) at (202) 482–3692, and Eric B. Greynolds (United Kingdom) at (202) 482–6071, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of low enriched uranium (subject merchandise) from Germany, the Netherlands, and the United Kingdom. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by USEC Inc., its wholly-owned subsidiary, United States Enrichment Corporation (USEC), and Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, and Local 5–550 and Local 5–689 (collectively PACE) (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom*, 66 FR 1085 (January 5, 2001) (*Initiation Notice*)), the following events have occurred: Beginning on January 16, 2001, we issued countervailing duty questionnaires to the Government of Germany (GOG), the Government of the Netherlands (GON), and the Government of the United Kingdom (UKG).[1] Beginning on March 22, 2001, we received questionnaire responses from Urenco Deutschland GmbH of Germany (Urenco Deutschland), Urenco Nederland BV of the Netherlands (UNL), and Urenco (Capenhurst) Limited (UCL), the GOG, the GON, and the UKG (collectively referred to as respondents). Beginning on April 9, 2001, we issued supplemental questionnaires to respondents. Beginning on April 23, 2001, we received supplemental questionnaire responses from respondents.

On February 21, 2001, we issued an extension of the due date for this preliminary determination from March 2, 2001 to May 7, 2001. *See Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations*, 66 FR 11000 (February 21, 2001) (*Extension Notice*).

On May 3, 2001, consultations in accordance with Article 13.2 of the Agreement on Subsidies and Countervailing Measures were held in Geneva, Switzerland with the Governments of Germany, the Netherlands, the United Kingdom, and the Delegation of the European Commission.

In our *Initiation Notice*, we invited interested parties to comment on the scope of these investigations. We received comments from respondents on January 17, 2001, and from petitioners on January 23, 2001. In addition, we received comments from the Ad Hoc Utilities Group, an industrial user/consumer, on April 5, 2001. Our analysis of these comments can be found in the May 7, 2001 Public Memorandum to Bernard Carreau, entitled *Low Enriched Uranium from France, Germany, the Netherlands and the United Kingdom; Comments on the Scope of the Investigations*, on file in the Central Records Unit, room B–099, of the Main Commerce Building.

Petitioners' New Subsidy Allegations

On April 23, 2001, petitioners submitted a new subsidy allegation involving Urenco Deutschland, UNL, and UCL (collectively referred to as the Urenco Group). In their submission, they alleged that the one-third ownership obtained by British Nuclear Fuels Limited (BNFL) and Ultra-Centrifuge Nederland (UCN) along with the shareholder loans made by the two government-owned companies constituted equity infusions into the Urenco Group, which they assert was unequityworthy at the time the alleged infusions were made. In support of their allegation, petitioners cite to various annual reports of BNFL, UCN, and Uranitisotopentrennungsgeselleschaft mbH (Uranit) (the privately-held German arm of the Urenco Group) as well as several corporate studies which they claim indicated a bleak outlook for the LEU industry in the years preceding the impending merger. In addition, petitioners claim that, prior to the merger there was no objective evidence before BNFL or UCN indicating that the planned restructuring and merger would do anything to improve the efficiency and financial prospects of the companies involved. On this basis, petitioners request that the Department investigate whether the investments constituted countervailable equity infusions into an unequityworthy company.

We have determined not to initiate an investigation of this allegation. As discussed in further detail below in the "Urenco Group Corporate History" section, immediately preceding the creation of the Urenco Group, the enrichment operations were controlled by BNFL in the United Kingdom, UCN in the Netherlands, and Uranit in Germany. Both BNFL and UCN were owned and controlled by their respective governments while Uranit was privately-held. On September 1, 1993, pursuant to the terms of the merger agreement, BNFL, UCN, and Uranit transferred their enrichment operations to the Urenco Group. In return, BNFL, UCN, and Uranit each received a one-third ownership interest in the Urenco Group. Thus, based on the information submitted by respondents, we find that this aspect of the merger did not constitute an equity infusion but rather represented a restructuring of the Urenco Group in which the three companies, BNFL, UCN, and Uranit,

[1] Upon the issuance of the questionnaire, we informed the GOG, GON, and the UKG that it was their governments' responsibility to forward the questionnaires to all producers/exporters that shipped subject merchandise to the United States during the period of investigation.

contributed their respective assets in return for one-third ownership of the Group.

In addition to the allegation involving the E23 asset write down, which we are addressing in this preliminary determination, on April 27 and 30, 2001, petitioners made an allegation with respect to the Netherlands and the United Kingdom involving an additional asset write down. We are not addressing this allegation in this determination due to the lateness of the allegation. We will address it after this determination. If we decide to initiate on this allegation then prior to making our final determination, we will issue a preliminary analysis memorandum regarding this allegation and allow the parties to comment.

Scope of the Investigation

For purposes of these investigations, the product covered is low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of the investigation. Specifically, this investigation does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these investigations. For purposes of this investigation, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of the investigation.

The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

In our notice of initiation we invited parties to comment on scope issues raised by these investigations. These comments are addressed in a scope memo dated May 7, 2001. However, to the extent that some of the comments on scope issues re-argue the determination of industry support for the petition, we draw parties attention to section 702(c)(4)(E) and 732(c)(4)(E) which states in pertinent part: "after the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered."

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Injury Test

Because Germany, the Netherlands, and the United Kingdom are "Subsidy Agreement Countries" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from these countries materially injure or threaten material injury to a U.S. industry. On January 31, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Germany, the Netherlands, and the United Kingdom of subject merchandise. *See Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom*, 66 FR 8424 (January 31, 2001).

Alignment With Final Antidumping Duty Determination

On May 4, 2001, petitioners submitted a letter requesting alignment of the final determination in these investigations with the final determinations in the companion antidumping duty investigations. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in these investigations with the final determinations in the antidumping duty investigations of low enriched uranium from Germany, the Netherlands, and the United Kingdom.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 1999, through December 31, 1999.

Urenco Group: Corporate History

Pre-Merger

Prior to the Treaty of Almelo, the production group of the U.K. Atomic Energy Authority (UKAEA) was responsible for the U.K. enrichment program. BNFL was created from the existing assets of UKAEA. The Capenhurst site assets and all of the British centrifuge enrichment development work were transferred to BNFL. In the Netherlands, UCN was incorporated in November 1969, as a limited company, with the Dutch government holding 55 percent and the remaining 45 percent held by various industrial interests. UCN was designated by the Dutch government to develop ultracentrifuge technology for uranium enrichment in the Netherlands. By the time the Treaty of Almelo (the Treaty) came into effect in 1971, Germany already had two centrifuge companies dedicated to the enriched uranium industry: Gesellschaft fur Nuklearverfahrestechnik mbH (GnV), which was involved in centrifuge development and manufacturing and plant design; and Uranit, which took over earlier R&D and cascade work. Both companies were owned by private industrial shareholders.

Treaty of Almelo

In March 1970, the GOG, the GON, and the UKG signed the Treaty, which became effective in July 1971. The purpose of the Treaty was for the three governments to collaborate in the development and exploitation of the gas centrifuge process for producing enriched uranium. Prior to 1971, the centrifuge R&D programs in each country were independent.

Pursuant to Article 1(2) of the Treaty, the three governments agreed that there should be two "joint industrial enterprises" to carry out the centrifuge collaboration: one to conduct R&D and to design and build centrifuge equipment, and the other, an enrichment organization to own and operate the enrichment plants and market the output. Centec GmbH was established in Germany, its shareholders being BNFL, UCN and GnV, to conduct R&D and plant design work. Urenco Ltd., located in the U.K., gained responsibility for the marketing. Urenco Ltd. was incorporated in September 1971, and its shareholders were BNFL, UCN and Uranit.

In addition, in 1971, the production organization had two established partnerships. The first was Urenco (U.K.), a partnership under English Law, between BNFL (75 percent), UCN (12.5 percent) Uranit (12.5 percent), and Urenco Ltd. with a nominal share. The second was the Dutch partnership, Urenco Nederland v.o.f., which then consisted of UCN (43.75 percent), Uranit (43.75 percent), BNFL (12.5 percent), and Urenco Ltd. with a nominal share. In the late 1970s, a third partnership, Urenco Deutschland was established under German law. The partners were Uranit (96 percent), BNFL and UCN with two percent shares each, and Urenco Ltd. with a nominal share. In 1980, ownership in Urenco Nederland v.o.f. changed; UNC and Uranit increased their share in the company to 49 percent each, while BNFL reduced its participation to 2 percent. Likewise, for Urenco (U.K.), BNFL's share increased to 96 percent, while UCN and Uranit decreased their participation to two percent each.

In preparation for the merger, each of the three operating partnerships was combined and their assets transferred into a limited company, owned in each case by the managing partner. Specifically, BNFL changed the name of its subsidiary BNFL Enrichment Ltd. to Urenco (Capenhurst) Ltd. (UCL), and transferred to UCL the relevant portion of the Capenhurst site, buildings and equipment related to the enrichment business. The activities of the former Urenco Nederland v.o.f. (enrichment) and of UCN (centrifuge manufacturing) were transferred into a new company, Urenco Nederland B.V. (UNL). At the request of Uranit, the German shareholder, the enrichment plant was initially leased to Urenco Deutschland on a basis comparable to UCL and UCN. Each of these limited companies became the sole owner of the relevant plants, including the sites, buildings, R&D facilities and centrifuge manufacturing.

1993 Merger

Subsequently, in September 1993, the Urenco operations in the three countries were merged.[2] This was accomplished by a two-step process whereby the partnerships in each country were collapsed and replaced by newly created limited companies, UCL of the United Kingdom managed by International Nuclear Fuels Limited (INFL), BNFL's wholly-owned subsidiary, Urenco Deutschland of Germany managed by Uranit, and UNL of the Netherlands managed by UCN and Uranit. The limited companies became the sole owners of the enrichment facilities. On September 1, 1993, the voting shares of the limited companies were transferred to Urenco Ltd. in exchange for one-third interest in Urenco. Therefore, Urenco Ltd., became the parent company and, indirectly, ultimate owner of the plants, R&D facilities, and centrifuge manufacturing facilities.

Joint Committee

Pursuant to Article II 5(e) of the Treaty, a Joint Committee of government representatives was created to ensure that the terms of the Treaty were carried out. Through the Joint Committee and under the Treaty, each of the member countries had to give their consent and approval for the merger. Since the merger, Urenco Ltd. provides status reports to the Joint Committee twice a year. These reports include a description of operations, volume of production and secured service contracts as well as any health and safety issues, and capacity extension and major production milestones.

Post Merger

Urenco Ltd. is a private limited company which wholly owns four subsidiary companies: UCL, Urenco Deutschland, UNL and Urenco Inc. (UI). Urenco Ltd. owns 100 percent of the voting shares and exercises control over the subsidiaries. Urenco Ltd. functions as the "headquarters" for the Urenco Group and is also the worldwide marketing arm of the Urenco Group. The Board of Directors (Board) is made up of four Executive Directors, ten non-Executive Directors, nine of which are appointed by the shareholders of Urenco and one of which is elected by the board as an independent Director. The Board meets four times a year, during which it sets major policies, monitors financial performances, and monitors the performance of the executive directors. The Board is further divided into three sub-committees: The Executive Board, which is responsible for conducting day-to-day management, the Remuneration Committee, which decides the terms of employment and remuneration of the Executive Directors, and the Audit Committee.

UCL, Urenco Deutschland, UNL

While Urenco Ltd. is responsible for the marketing and contracting of the Urenco Group, it is the responsibility of each of the subsidiaries to produce and deliver the product based upon the contractual terms. The day-to-day responsibilities of running the operations, meeting the agreed targets and implementing the group strategies lies with each of the companies. Each of the companies continues to provide the enrichment products sold by Urenco Ltd. While the enrichment facilities were transferred to the managing partnerships and then to Urenco's subsidiaries, local business activities were not transferred to Urenco Ltd. and are not shared across the group. Each company within the Urenco Group is a separate legal entity, with its own directors and senior management team; however, they work under the direction and in close co-operation with the Executive Board.

International Consortium

As discussed above, the Treaty of Almelo was signed in 1970 by the Governments of Germany, the Netherlands, and the United Kingdom in order to collaborate in the development and exploitation of the gas centrifuge process for producing enriched uranium. Towards this end, the three governments provided subsidies for the research and development of gas centrifuge technology and for the construction and support of enrichment production operations. For example, the GOG provided grants specifically to help construct enrichment plants used by the Urenco Group in the Netherlands and the United Kingdom. Further, as a result of the 1993 merger, each of the respective participants in Germany, the Netherlands, and the United Kingdom owns a one-third interest in Urenco Ltd. Therefore, given that the Treaty of Almelo was specifically entered into by the three governments to produce and sell the subject merchandise and that each of these participating companies share R&D, as well as share in the production and marketing of the subject merchandise, we preliminarily determine that such an arrangement constitutes an international consortium.

Under section 701(d) of the Act, if the members of an international consortium engaged in the production of the subject merchandise receive countervailable subsidies from their respective home countries to assist, permit, or otherwise enable their participation through production or manufacturing operations in their respective home countries, then

[2] Respondents have argued that this merger constituted a "change in ownership" under section 771(5)(F) of the Act. However, in both the Netherlands and the UK, the assets at the enrichment operations were directly owned by their respective governments before the merger and indirectly after the merger. We preliminarily determine that there was no change in ownership in 1993 but merely a merging and restructuring of assets by the three Urenco Group partners, *i.e.*, the Government of the Netherlands, the Government of the United Kingdom, and the private German shareholders of the Group, each of whom remained as owners in Urenco Ltd.

the Department will cumulate all such countervailable subsidies, as well as subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise. Based upon the information on the record, section 701(d) of the Act is applicable to these investigations. As explicitly instructed by Congress in the legislative history of this provision, section 701(d) of the Act "is applicable to cases in which foreign governments provide subsidized assistance for participation in international production and marketing ventures."[3]

Therefore, because we find the Urenco Group of companies to constitute an international consortium, pursuant to section 701(d) of the Act, we have cumulated all countervailable subsidies received by the member companies from the GOG, GON, and the UKG in order to calculate one countervailing duty rate applicable to the production and exportation of the subject merchandise from this consortium.

Subsidies Valuation Information

Allocation Period

Under section 351.524(d)(2) of the Department's CVD Regulations, we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System (IRS Tables), as updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant. In this instance, however, the IRS Tables do not provide a specific asset guideline class for the uranium enrichment industry.

In their questionnaire responses, the Urenco Group companies have calculated company-specific AULs by dividing their respective aggregate, annual, average gross book values of their depreciable productive fixed assets by their aggregated annual charge to accumulated depreciation for a ten-year period in the manner specified by section 351.524(d)(2)(iii) of the CVD Regulations. Based on this calculation, Urenco Deutschland reports an AUL of 13 years, UNL reports an AUL of 12 years, and UCL reports an AUL of 10 years. Based on information submitted by respondents, we have preliminarily used company-specific AUL data when calculating the AUL of the Urenco Group.

As discussed above, we preliminarily determine that the companies of the Urenco Group operate as an international consortium within the meaning of section 701(d) of the Act. We note that our decision to apply the international consortium provision affects the manner in which we must calculate the AUL in this investigation. The legislative history clarifies the application of that provision. It points out that the amendment, i.e., section 701(d) of the Act, explicitly authorized the Department to "* * * cumulate the amounts of subsidies from all {participating countries in an international consortium} in determining the relevant countervailing duty to be applied to the product subject to that investigation." *See* Conference Report at 589. Thus, consistent with the Congressional intent, which directed the Department to cumulate the subsidies received from countries in an international consortium, we have calculated a single AUL for the Urenco Group by weight-averaging the company-specific AULs of the Urenco Group companies by their respective total average gross book values. On this basis, we derived an AUL of 12 years for the Urenco Group.

We note that at verification we will closely examine the AUL information submitted by the Urenco Group companies. In addition, we welcome any comments interested parties may have with regard to our approach on this issue.

In the *Initiation Notice*, we stated that, with respect to petitioners' allegations regarding UNL's receipt of certain research and development (R&D) subsidies, we would determine during the course of this investigation whether the provisions of section 351.524(d)(2)(iv) of the CVD Regulations should apply to this case. *See* page 14 of the December 27, 2000, Initiation Checklist, the public version of which is on file in room B–099 of the main Commerce Building (Initiation Checklist). Section 351.524(d)(2)(iv) of the CVD Regulations states that under certain "extraordinary circumstances" the Department may consider an allocation period other than the AUL or it may determine that the benefit stream of a non-recurring subsidy should begin at a date other than the date at which the subsidy was bestowed. In the Preamble to the CVD Regulations, we explain that when a government provides a subsidy to fund the development of certain new technologies, or to fund an extraordinarily large project for the development of new products that encompasses not only basic research and development, but also implementation and commercialization, the duration of the benefit may not necessarily be related to the AUL of assets for that industry. *See* the Preamble, 63 FR 65348, 65396 (November 25, 1998). We further state in the Preamble that there could be a significant lead time between receipt of the subsidy and development of the product and the product's commercialization. We have explained that, in those instances, even if we were to rely on the AUL of assets, there is a question as to whether the benefit stream should begin at the time the grant is received or at the time the product reaches commercial production. *Id.* at 65396.

As stated above, we have preliminarily determined that the AUL for the Urenco Group companies is 12 years. Thus, in using a 12-year AUL, 1988 marks the last year in which one of the Urenco Group companies could have received a non-recurring grant and still have those subsidies be allocable to the POI. With respect to R&D subsidies received by the Urenco Group companies, namely those of UNL and Urenco Deutschland, in which the application of the "extraordinary circumstances" provision under section 351.524(d)(2)(iv) of the CVD Regulations might have been an issue, we note that all of the production plants for which the R&D subsidies were received began commercial production prior to 1988. In other words, even if the Department were to apply the "extraordinary circumstances" provision under section 351.524(d)(2)(iv) of the CVD Regulations to the R&D subsidies received by the Urenco Group companies, the use of a 12-year AUL would result in the benefit streams of the respective subsidies being fully allocated prior to the POI. Accordingly, we preliminarily determine that section 351.524(d)(2)(iv) of the CVD Regulations is not relevant to this case.

Benchmarks for Loans and Discount Rate

In accordance with section 351.524(d)(3)(i)(A) of the CVD Regulations, we used, where available, discount rates that were based on the cost of long-term, fixed-rate financing for commercial loans received by the Urenco Group companies. Where the Urenco Group companies had no comparable commercial loans, we used national average interest rates as provided by the companies' corresponding government as specified by section 351.505(a)(3)(ii) of the CVD Regulations. In addition, we note that one countervailable program used by the Urenco Group required the use of discount rate benchmarks denominated in several foreign currencies. In those instances where the Urenco Group did not report a comparable, commercial discount rate benchmark for a particular foreign currency, we used currency-specific "Lending Rates" from private creditors as published in the *International Financial Statistics* as the foreign currency denominated discount rate.

Treatment of the Denominator

Based on our review of the responses, it appears as though respondents did not report a value for the natural uranium component of certain LEU sales. Therefore, in order to determine more accurately the level of subsidy applicable to the subject merchandise, we have estimated a value for this component. Based on petitioners' estimation that the enrichment component accounts for 60 percent of the value of LEU, we have increased the reported sales value to include an estimated value for the natural uranium component. We recognize that this is an estimate of the value of LEU sold by respondents. We intend to seek additional information from respondents prior to our final determination.

I. Programs Preliminarily Determined To Confer Subsidies From the Government of Germany

A. Enrichment Technology Research and Development Program

Under this program, the Government of Germany promoted the research and development of uranium enrichment technologies. The Federal Ministry for Research and Technology provided Urenco Deutschland a series of grant disbursements for the funding of research and development projects. The funds were provided to encourage continuous improvements of centrifuge technologies and to fund the research of lasers and other advanced technologies. The grant disbursements under this program were made during the years 1980 through 1993. The total amount of grant disbursements made under both this program equaled DM 244.3 million.

Assistance under this program was provided for in two agreements entitled "Financing Agreement" and "Terms and Conditions for Allocations on a Cost Basis to Companies in Industry for Research and Development Projects' (Laser R&D Agreement). According to Article 4, Section 6, of the Financing Agreement, the funds provided to Urenco Deutschland under this agreement had repayment obligations. The funds were repayable within five years of disbursement, contingent upon the company's earnings. If the funds were not repaid within five years, then the repayment obligation lapsed. The second agreement covered grants for laser enrichment R&D. Under the Laser R&D Agreement, the obligation to make repayment began three years after the project's completion, and repayment was to be made in five equal annual installments. However, the obligation for repayment would be terminated if the objective of the project was not achieved. According to the responses of both the company and the government, no portion of any of the disbursements received by Urenco Deutschland was repaid.

We preliminarily determine that the assistance provided under this program constitutes countervailable subsidies within the meaning of section 771(5) of the Act. The grant disbursements constitute a financial contribution and confer a benefit, as described in sections 771(5)(D)(i) and 771(5)(B) of the Act. Also, we preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act because provision of assistance under this program was limited to one company. In addition, we preliminarily determine that this program provided non-recurring benefits to Urenco Deutschland under section 351.524(c)(2) of the CVD Regulations because the assistance provided to Urenco Deutschland was made pursuant to specific government agreements and was not provided under a program that would provide assistance on an ongoing basis from year to year.

Under the Financing Agreement, there was a contingent repayment obligation attached to each of the grant disbursements. Within the first five years of receipt of the funds, Urenco Deutschland had an obligation to repay the government contingent upon the company's earnings. At the end of the five-year period, the repayment obligation expired. Because the company was no longer obligated to repay the assistance, the amount of the funds disbursed became a grant equal to the amount of the disbursement. Consistent with our treatment of "contingent liabilities," we determine the year of receipt of the grant to be the year in which the five-year time frame for repayment expired, that is, the fifth year from the day the funds were disbursed to the company. (*See e.g.*, the treatment of the "Export Promotion Capital Goods Scheme" in the *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From India*, 64 FR 73131 (December 29, 1999); and "Government Debt Forgiveness in 1989" in the *Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Germany*, 58 FR 6233 (January 27, 1993)). With respect to the grant disbursements made under the Laser R&D Agreement, we find that the obligation for repayment ended when the GOG terminated the project in 1993 because it was determined the project would not achieve commercial results. Therefore, consistent with our treatment of contingent liabilities, we determine that the R&D funds provided under this Agreement should be treated as grants having been received in 1993 when the repayment obligation effectively ended.

In order to calculate the benefits received under this program, we first determined the total amount of grants provided each year under both the Financing Agreement and the Laser R&D Agreement. We then applied the Department's standard grant methodology and allocated the grants over the AUL. *See* the allocation period discussion under the "Subsidies Valuation Information" section, above. We used as our discount rates the long-term corporate bond rates in Germany because the grants were denominated in Deutschmarks. We then summed the benefits received by Urenco Deutschland during 1999, from each of the grant disbursements. We then divided the total benefit attributable to the POI by the Urenco Group's total sales for the POI.[4] On this basis, we preliminarily determine the countervailable subsidy rate under this program to be 0.77 percent *ad valorem* for the Urenco Group.

B. Forgiveness of Centrifuge Enrichment Capacity Subsidies

In accordance with the "Risk Sharing Agreement" and the "Profit Sharing Agreement" signed between the GOG and Urenco Deutschland, the GOG agreed to provide funds to Urenco Deutschland to support the promotion of an uranium enrichment industry.

[3] H.R. No. 100–576, 100th Cong., 2d Sess. 589 (1988) ("Omnibus Trade and Competitiveness Act of 1988," Conference Report) (Conference Report).

[4] Because we have determined that the Urenco Group constitutes an international consortium as defined by section 701(d) of the Act, we have calculated the *ad valorem* rates by dividing the benefits received by the companies of the Urenco Group by the applicable sales denominator of the Urenco Group.

These two Agreements were signed on July 18, 1975. Under the Risk Sharing Agreement and the Profit Sharing Agreement, the GOG provided contributions totaling DM 338.3 million to Urenco Deutschland in support of the Treaty of Almelo's goal of creating and promoting the enrichment industry. An amount of DM 158.8 million was provided during the years 1980 through 1993 with regard to expanding the enrichment capacity of the Urenco Group. Prior to 1980, the GOG provided Urenco Deutschland with a total amount of funds equal to DM 179.5 million, which was used for the construction of enrichment facilities in Almelo and Capenhurst.

Under the terms of the assistance provided by the GOG under the Risk Sharing Agreement and Profit Sharing Agreement, the funds were conditional in that Urenco Deutschland was required to make repayments to the GOG based upon the financial performance of the company. However, in no case was the amount of the total repayments to exceed twice the amount of the funds provided to Urenco Deutschland by the GOG under these Agreements. Repayment obligations were of indefinite duration. During the years 1980 through 1992, Urenco Deutschland made repayments to the GOG equal to DM 5.6 million.

In 1987, Urenco Deutschland and the GOG signed an Adjustment Agreement, under which the GOG would be relieved of providing further funding under the program and Urenco Deutshland's repayment obligations would be capped at MDM 370.

According to the response of the company, with the 1993 merger of the Urenco Group enrichment operations, the German enrichment operation would be merged with its counterparts in the Netherlands and the United Kingdom. Prior to the merger, the GOG and Urenco Deutschland negotiated a basis to terminate the repayment obligations of the Risk Sharing Agreement and the Profit Sharing Agreement. Based upon the negotiations between the GOG and Urenco Deutschland, a "Termination Agreement" was signed on July 13, 1993, and amended on October 27, 1993. Under the terms of the Termination Agreement, Urenco Deutschland was to pay the government DM 101.1 million in final payment of the funds provided under the Risk Sharing and Profit Sharing Agreements. With this payment under the Termination Agreement, the repayment obligations under the Risk Sharing and Profit Sharing Agreements terminated. On July 1, 1994, the entire amount of the DM 101.1 million was repaid by the company to the GOG.

We preliminarily determine that assistance provided under this program to Urenco Deutschland is specific under section 771(5A)(D)(i) of the Act because the program was limited to one company. In addition, we determine that a financial contribution was provided under section 771(5)(D)(i) of the Act. A benefit was also provided to the company, within the meaning of section 771(5)(E) of the Act to the extent that the repayments made to the GOG were less than the amount of assistance provided to the company under this program.

Under this program, the company was provided with a total of DM 338.3 million in repayable funds and was obligated in a 1987 Agreement signed with the GOG to repay the GOG DM 370 million for this assistance. Prior to the Termination Agreement, the company had made repayments totaling DM 5.6 million. Under the Termination Agreement, which terminated the company's repayment obligations, Urenco Deutschland made a final repayment of DM 101.1 million to the government. However, Urenco Deutschland was obligated to make DM 370 million in repayments for the assistance it received under this program, but only repaid DM 106.7 million by the time the repayment obligation was terminated in 1993. Therefore, we preliminarily determine that the difference, DM 263.3 million, constitutes a grant provided to Urenco Deutschland in 1993, the year in which the repayment obligation under the program was terminated. Therefore, we preliminarily determine that a countervailable benefit was provided to Urenco Deutschland under this program. Because the termination of the repayment obligation was a one-time government action, we preliminarily determine the resultant benefit arising from this program to be non-recurring under section 351.524(c)(2) of the CVD Regulations.

To determine the benefit conferred by this program during the POI, we applied the Department's standard grant methodology and allocated the grant amount of DM 263.3 million over the AUL. *See* the allocation period discussion under the "Subsidies Valuation Information" section, above. We used as our discount rate the long-term corporate bond rate in Germany for 1993. We then took the benefit attributable to Urenco Deutschland during the POI from the grant and divided that benefit by the Urenco Group's total sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy under this program to be 1.98 percent *ad valorem* for the Urenco Group.

C. Investment Allowance Act

Urenco Deutschland received grants from the GOG under the Investment Allowance Act. This program is administered by the Federal Ministry of Economics. Under this program, grants are provided by the GOG to companies located in identified regional development areas within the country. Urenco Deutschland received grants under this program for its enrichment plant in Gronau and for its R&D facility in Julich. Under the Investment Allowance Act, both Gronau and Julich qualified as regional development areas. A total of DM 51.403 million in grant disbursements was received by Urenco Deutschland during the years 1982 through 1990.

We preliminarily determine this program to be specific under section 771(5A)(D)(iv) of the Act because grants provided under this program are limited to companies located in designated regions within Germany. A financial contribution is also provided by this program under section 771(5)(D)(i) of the Act. In addition, a benefit is provided to Urenco Deutschland within the meaning of section 771(5)(E) of the Act in the amount of grant disbursements it received under this program. Therefore, we preliminarily determine this program to be countervailable. We also preliminarily determine that this program provided non-recurring benefits to Urenco Deutschland under section 351.524(c)(2) of the CVD Regulations because the assistance provided to Urenco Deutschland was tied to the capital assets of the company and assistance under this program was not provided on an ongoing basis from year to year.

To determine the benefit during the POI, we applied the Department's standard grant methodology and allocated the grants it received over the AUL. *See* the allocation period discussion under the "Subsidies Valuation Information" section, above. We used as our discount rate the long-term government bond rate in the Netherlands at the time of the grant approval. We then took the benefit attributable to Urenco Deutschland during the POI from the grants and divided that amount by the Urenco Group's total sales for the POI. On this basis, we preliminary determine the net countervailable subsidy rate under this program to be 0.18 percent *ad valorem* for the Urenco Group.

II. Program Preliminarily Determined To Confer Subsidies From the Government of the Netherlands

A. Regional Investment Premium

Under the Regional Investment Premium (IPR) program, the GON provided UCN grants for the expansion of its centrifuge manufacturing facilities. Grants under this program are only available to companies located in certain regions of the Netherlands. UCN received four grants under this program. Although grants under this program were first approved by the GON in 1982, the disbursement of the grants occurred during the years 1982 through 1993.

We preliminarily determine that this program is specific under section 771(5A)(D)(iv) of the Act because grants provided under this program are limited to companies in designated regions of the country. A financial contribution is also provided by this program under section 771(5)(D)(i) of the Act. In addition, a benefit is provided to UCN under section 771(5)(E) of the Act in the amount of grants it received under this program. Therefore, we preliminarily determine this program to be countervailable. We also preliminarily determine that this program provided non-recurring benefits to UCN under section 351.524(c)(2) of the CVD Regulations because the assistance provided to UCN was tied to the capital assets of the company and the assistance under this program was not provided on an ongoing basis from year to year.

To determine the benefit during the POI, we applied the Department's standard grant methodology and allocated the grants UCN received over the AUL. *See* the allocation period discussion under the "Subsidies Valuation Information" section, above. We used as our discount rate the long-term government bond rate in the Netherlands at the time of the grant approval. The Department took the allocated benefits received during the POI for the two grant amounts and converted this amount to Pounds using the average Dutch Guilder to Pounds exchange rate for the POI. We then took this amount over the adjusted total sales of Urenco Group. Based on the information on the record, the Department preliminarily determines that the net countervailable subsidy rate under this program to be 0.06 percent *ad valorem* for the Urenco Group.

III. Program Preliminarily Determined To Confer Subsidies From the Government of the United Kingdom

A. Assumption of Debt: European Investment Bank Loans

Beginning in 1978, BNFL received four long-term loans from the European Investment Bank that were guaranteed by the UKG under the Nuclear Industry (Finance) Act (NIFA). According to UCL's questionnaire response, the loans were extended to finance the construction of two enrichment plants at the Capenhurst facility.

As explained above in the "Urenco Group: Corporate History" section of this notice, in preparation for the 1993 merger, BNFL changed the name of its subsidiary BNFL Enrichment Ltd. to UCL, and transferred to UCL the relevant portion of the Capenhurst site (the buildings and equipment related to the enrichment business), which included the buildings that were constructed with the EIB financing. Though BNFL transferred the enrichment operations to UCL, it retained the liabilities for the EIB loans that were tied to those facilities.

Because BNFL is owned by the UKG, we find that BNFL's retention of the EIB liabilities constitutes a government assumption of debt. Therefore, we preliminarily determine that BNFL's failure to transfer those liabilities to UCL constituted a financial contribution and conferred a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. Furthermore, because the benefit stemming from this event was limited to UCL, we preliminarily determine that it was specific to a particular enterprise within the meaning of section 771(5A)(D)(i) of the Act. We note that this approach is consistent with the approach taken by the Department in past proceedings involving the assumption or retention of debts that resulted in the bestowal of countervailable subsidies. *See, e.g., Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30624, 30628 (June 8, 1999).

Under section 351.508(a) of the CVD Regulations, in the case of an assumption or forgiveness of a firm's debt obligation, a benefit exists equal to the amount of the principal and/or interest (including accrued, unpaid interest) that the government has assumed or forgiven. Furthermore, section 351.508(c) states that the benefit from an assumption of debt will be treated as a non-recurring subsidy. Therefore, for purposes of this preliminary determination, we are treating the benefit attributable to UCL under this program as a non-recurring subsidy that is equal to the principal payments made by BNFL after the merger.

According to information in the questionnaire responses of the UKG and UCL, the transfer of the enrichment operations took place in September of 1993. Therefore, for purposes of this preliminarily determination, we are using September 1993 as the date of bestowal. In addition, in accordance with section 351.508(c) of the CVD Regulations, we are treating the principal outstanding retained by BNFL as a non-recurring subsidy received as of the date of the merger.

Because the subsidy amounts were denominated in foreign currencies, we allocated the subsidies over time in their original currency. We used as our discount rates the rates discussed in the "Benchmarks for Loans and Discount Rate" section of this notice. Once we allocated the foreign currency-denominated benefit to the POI, we converted the benefit amount into pounds using the average annual exchange in effect during the POI. We then divided the amounts of the benefits attributable to the POI by the Urenco Group's total sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy under this program to be 0.73 percent *ad valorem* for the Urenco Group.

IV. Programs Preliminarily Determined Not To Confer a Benefit From the Government of Germany

Based upon the information in the response, the programs listed below meet the requirements for specificity and provision of a financial contribution under the Act.[5] However, based upon a 12 year AUL, we have preliminarily determined that no benefit was received under these programs during the POI.

A. Regional Government Provision of Industrial Site

B. Regional Development Grants

V. Programs Preliminarily Determined Not To Confer a Benefit From the Government of the Netherlands

Based upon the information in the response, the programs listed below meet the requirements for specificity

[5] The Regional Government Provision of Industrial Site program is specific under section 771(5A)(D)(i) of the Act because the program was limited to one company. A financial contribution was also provided under section 771(5)(D)(iii) of the Act. The Regional Development Grant program is specific under section 771(5A)(D)(iv) of the Act because grants under this program are issued to companies located in designated regions. A financial contribution is also provided under section 771(5)(D)(i) of the Act.

and provision of a financial contribution under the Act.[6] However, based upon a 12 year AUL, we have preliminarily determined that no benefits were received under these three programs during the POI.

A. Centrifuge Enrichment Technology Research and Development

B. 1981 Equity Conversion

VI. Program Preliminarily Determined Not To Confer a Benefit From the Government of the United Kingdom

A. Regional Development Grants

Based upon the information in the response, this program meets the requirements for specificity and provision of a financial contribution under the Act.[7] However, based upon a 12 year AUL, we have preliminarily determined that no benefits were received under this program during the POI.

B. Centrifuge Development Grant

Petitioners alleged that BNFL/E received a grant of £47.8 million from the UKG to fund the development work and plant construction of a tripartite gas centrifuge project. According to UCL's questionnaire response, the Centrifuge Development Grant received by BNFL was repaid in 1987 as a lump sum. Supporting documentation confirms that in 1987 a payment of £47.5 million was made to the UKG in full and final settlement of the grant.

We note that information submitted by UCL indicates that it paid back £47.5 million of the original grant amount of £47.8 million, leaving £300,000 unpaid. Although this £300,000 could be considered a subsidy to UCL, the amount is so small that, pursuant to section 351.524(b)(2) of the CVD Regulations, it would be expensed in the year of receipt, 1987. Therefore, we preliminarily determine that no benefits were provided under this program during the POI.

C. Fossil Fuel Levy

Petitioners state that pursuant to the Electricity Act of 1989, the UKG established a governmental levy known as the Fossil Fuel Levy (FFL) that was in place from 1990 until the late 1990s. This tax was placed on electricity sales to make up the difference between the price of fossil-fuel fired electricity and the cost of nuclear-generated electricity. Petitioners allege that the portion of the levy received by the nuclear power companies was dedicated, in principle, to fund the future decommissioning of the United Kingdom's nuclear electrical power plants.

UCL states in its questionnaire response that neither Urenco Ltd. nor UCL was eligible to receive benefits under the FFL. According to UCL's questionnaire response, the money for the levy was paid out to generators of electricity from non-fossil fuel sources, such as producers of nuclear power. UCL states that because Urenco and UCL are not nuclear generators, they were not eligible to receive monies under the FFL. They add that BNFL did receive such benefits from the FFL solely with respect to electricity generated by its Calder Hall Sellafield Power Station.

We preliminarily determine that this program did not confer countervailable benefits on subject merchandise during the POI. According to information in its questionnaire response, BNFL received FFL levies with respect to a power-generating plant that was not related to the production or exportation of LEU. Therefore, we preliminarily determine that any assistance received by BNFL under this program was tied to non-subject merchandise, and, therefore, did not provide a benefit to subject merchandise.

D. Forgiveness of Decommissioning Debt

Starting in 1983, the year after the facility ceased operations, and continuing to the present day, BNFL decommissioned its gaseous diffusion plant which was located at the Capenhurst enrichment plant. Petitioners allege that the retention by BNFL of responsibility for decommissioning the older gaseous diffusion enrichment plant was a liability that should have been borne by Urenco and UCL, and, therefore, constitutes, in effect, a financial contribution that bestowed a countervailable grant to Urenco in the form of debt forgiveness. According to UCL's questionnaire response, the decommissioning liabilities of BNFL relating to its gaseous diffusion plant were not transferred to UCL because that plant was built to produce high enriched uranium (HEU) for defense purposes, and, therefore, is not related to the business and asset base of the Urenco organization. According to UCL's questionnaire response, BNFL's gaseous diffusion plant was never used to produce subject merchandise, LEU, and neither Urenco nor any of the predecessor entities within BNFL had any involvement in its operation.

Because the plant in question was never related to the production of LEU, we preliminarily determine that any benefits received by BNFL under this program are tied to non-subject merchandise, and, therefore, do not confer a benefit on the subject merchandise.

VII. Program Preliminarily Determined Not Countervailable From the Government of the Netherlands

A. Subordinated Shareholder Loan Provided to Urenco Ltd. by UCN

Petitioners allege that the Dutch government directly subsidized the Urenco Group through a 1993 shareholder loan made by UCN on non-commercial terms. As part of the 1993 restructuring arrangements a loan was made by the shareholders of Urenco Ltd. UCN, as one-third shareholder in Urenco Ltd., granted one-third of the loan.

According to information in UCL's questionnaire response, the shareholders of the Urenco Ltd., (International Nuclear Fuels Limited (INFL),[8] UCN, and Uranit), advanced subordinated shareholder loans to the company. Each shareholder contributed equal principal amounts and each charged the same interest rate. In its questionnaire response, UCN further explains that in the event of the liquidation of Urenco Ltd., the subordinated loans would be repaid only after all other creditors had been repaid, but before share capital would be returned to investors. Information in UCN's questionnaire response also indicates that the repayment terms (principal, interest rates charged, repayment periods) are set by reference to a number of factors, including likely period of the loans and the risks attached to the loans.

Section 771(5)(E)(ii) of the Act and section 351.505(a)(1) of the CVD Regulations stipulate that in the case of a loan, a benefit exists to the extent that the amount a firm pays on the

[6] The Centrifuge Enrichment Technology Research and Development Programs (R&D Program), funding given from 1969 through 1981, and the 1981 Equity Conversion are specific under section 771 (5A)(D)(i) of the Act because these programs are limited to one company. The R&D program provided a financial contribution under section 771(5)(D)(i) and the 1981 Equity Conversion Program provided a financial contribution under section 771(5)(D)(i) of the Act because we determine that no objective studies of the company had been prepared prior to the GON's 1981 equity infusion as reqiired under section 351.5079(a)(4)(ii) of the CVD Regulations.

[7] The Department found this program countervailable in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Preliminary Results of Countervailing Duty Administrative Review*, 64 FR 16920, 16923 (April 7, 1999). Affirmed in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Countervailing Duty Administrative Review*, 64 FR 43673, 43675 (August 11, 1999).

[8] INFL is a wholly-owned subsidiary of the UKG-owned BNFL.

government-provided loan is less than the amount the firm would pay on a comparable commercial loan that the firm could actually obtain on the market. Under section 351.505(a)(2) of the CVD Regulations, a comparable commercial loan is defined as a loan that is comparable to the government-provided loan. The provision goes on to state that the Department will place primary emphasis on similarities in the structure of the loans.

There are three shareholders of Urenco Ltd., with each shareholder owning one-third interest in the company. Two of the shareholders are government-owned, one by the UKG and one owned by the GON. The third shareholder, Uranit, is a privately-owned company in Germany. According to information on the record, this private shareholder also extended a loan to Urenco Ltd., in the same amount, at the same terms and on the same date as the UCN loan to Urenco Ltd. The Department finds that this loan from Uranit, a private source, constitutes a comparable commercial loan to use as the benchmark. *See* section 351.505(a)(2)(ii) of the CVD Regulations. Because the two government loans were on the same terms as the Uranit loans, we preliminarily determine that this loan was made on a commercial basis and is not countervailable. We note that for the final determination, we will examine the use of this benchmark closely, given the nature of the three governments' involvement in the consortium.

B. 1998 Shareholder Loan

Petitioners alleged that a loan on Urenco Ltd.'s annual report may be a shareholders loan made by UCN. Petitioners further alleged that the loan may be non-commercial and not consistent with the usual practices of private investors. In UNL's questionnaire response, it stated that the 1998 loan is not a shareholder loan; it was provided from a commercial bank and did not carry a government guarantee. Based upon this information, we preliminarily determine that this loan does not constitute a countervailable subsidy under 701(a)(1) of the Act.

VIII. Programs Preliminary Determined Not Countervailable From the Government of the United Kingdom

A. Loan-Stock Debt Forgiveness Program

Petitioners allege that UCL received countervailable benefits when its obligation to repay loan stock issued to BNFL was nullified in the 1993 corporate restructuring of the Urenco Group.

In its questionnaire response, UCL stated that all loans from BNFL to UCL were repaid with the exception of a £16.2 million "loan waiver."[9] With respect to the £16.2 million "loan waiver," which is referred to in Urenco's 1994 Annual report, UCL explains that the figure reflects the loss incurred by BNFL in connection with the merger. Specifically, UCL explains that the £16.2 million represents the difference between the total sum owed to BNFL in the books of UCL on the merger date and the agreed merger valuation of UCL. UCL further states that the £16.2 million appears on its financials as a "loan waiver" because, according to its accounting practices, the amount had to be accounted for either as a loss on a disposal of assets or a failure to recover money advanced.

Based on information submitted by UCL, it appears that the 6.2 million at issue is the result of a difference in the manner in which the assets that were transferred from BNFL to Urenco Ltd. were valued rather than the result of a loan waiver. Therefore, we preliminarily determine that there was no debt forgiveness under this program. However, we must also examine whether there was a potential countervailable subsidy provided in this transaction.

We addressed a similar program in the *Initiation Notice* involving the transfer of assets from BNFL and whether the transfer provided a subsidy on enrichment production. In the *Initiation Notice*, we determined not to initiate on petitioners' allegation that the transfer of one of the enrichment plants from BNFL to Urenco Ltd. was at less than adequate remuneration. Specifically, in the *Initiation Notice*, we stated that "{t}he mere fact that the A3 plant was allegedly sold at a price that was below its book value is not enough information to warrant initiating an investigation of less than adequate remuneration allegation without any reference to prevailing market conditions for the good in question." *See*, 66 FR at 1087.

With respect to the program under investigation, the amount of £16.2 million is due to the transfer or sale of assets to Urenco at below the book value as recorded by BNFL. Similar to the situation with the sale of the A3 plant addressed in the *Initiation Notice*, there is no evidence on the record that indicates that these assets were sold for less than adequate remuneration. Therefore, based on the information on the record and on our approach in the *Initiation Notice*, we preliminarily determine that this program is not countervailable. We will, however, examine all aspects of the restructuring and subsequent merger of the Urenco Group during verification.

B. Subordinated Shareholder Loan Provided to Urenco Ltd. by INFL

Petitioners allege that the UKG directly subsidized Urenco Ltd. through a 1993 shareholder loan made on non-commercial terms by INFL.

According to information in UCL's questionnaire response, the shareholders of Urenco Ltd., INFL, UCN, and Uranit, advanced subordinated shareholder loans to the company. Each shareholder contributed equal principal amounts and each charged the same interest rate. In its questionnaire response, UCL further explains that in the event of the liquidation of Urenco Ltd., the subordinated loans would be repaid only after all other creditors had been repaid, but before share capital would be returned to investors. Information in UCL's questionnaire response also indicates that the repayment terms (principal interest rates charged, repayment periods) are set by reference to a number of factors, including duration of the loans and the risks attached to the loans.

Section 771(5)(E)(ii) of the Act and section 351.505(a)(1) of the CVD Regulations stipulates that in the case of a loan, a benefit exists to the extent that the amount a firm pays on the government-provided loan is less than the amount the firm would pay on a comparable commercial loan that the firm could actually obtain on the market. Under section 351.505(a)(2) of the CVD Regulations, a comparable commercial loan is defined as a loan that is comparable to the government-provided loan. The provision goes on to state that the Department will place primary emphasis on similarities in the structure of the loans.

There are three shareholders of Urenco Ltd., with each shareholder owning one-third interest in the company. Two of the shareholders are government-owned, one by the UKG and one owned by the GON. The third shareholder, Uranit, is a privately-owned company in Germany. According to information on the record, this private shareholder also extended a loan to Urenco Ltd., in the same amount, at

[9] In the *Initiation Notice*, we also initiated an investigation of the 1993 Debt Forgiveness of £16.2 million as a separate program. *See* 66 FR at 1087. According to information in UCL's questionnaire response, this loan is the same loan that was involved in the Loan Stock Debt Forgiveness program.

the same terms and on the same date as the INFL loan to Urenco Ltd. The Department finds that this loan from Uranit, a private source, constitutes a comparable commercial loan to use as the benchmark. *See* section 351.505(a)(2)(ii) of the CVD Regulations. Therefore, we preliminarily determine that the loan provided to Urenco Ltd. by INFL was made on a commercial basis and is not countervailable. We note that for the final determination, we will examine the use of this benchmark closely, given the nature of the three governments' involvement in the consortium.

C. Extraordinary Asset Write Downs Prior to Transfer of BNFL Enrichment Facilities

Petitioners explain that the 1992–1993 Annual Report of UCL indicates that the value of the physical assets of the Capenhurst enrichment operations decreased to £196 million as of March 31, 1993, due in large part to a extraordinary depreciation charge of £20 million. Petitioners allege that this extraordinary depreciation charge could have conferred a benefit upon UCL.

In its questionnaire response, UCL states that the extraordinary depreciation relates to the value of a building known as the E23 building, which was constructed in the mid-1980s for the purpose of housing centrifuge operations. UCL further explains in its response that due to a downturn in market conditions, the centrifuge machines were never installed in the E23 building. Because it was estimated during the merger that there was little chance that production of LEU would ever take place in the E23 building, the parties to the merger agreed to write down the value of the building.

According to information provided in the response, the write down of the E23 plant was required by law. Under the Companies Act of 1985, Schedule 4 Paragraph 19(2), the government requires that:

> Provisions for diminution in value shall be made in respect of any fixed asset which has diminished in value if the reduction in its value is expected to be permanent. * * * and any such provisions which are not shown in the profit and loss account shall be disclosed (either separately or in aggregate) in a note to the accounts.

Furthermore, UCL's questionnaire response indicates that the extraordinary write downs taken by BNFL on the E23 building did not give rise to any changes in the corporation tax computation or any benefits on the tax returns filed in fiscal years 1992–1993 or 1993–1994 for UCL.

According to information on the record of this investigation, pursuant to UKG corporate law, BNFL was apparently required to write down the value of the E23 building in order to more accurately reflect its true value. On this basis, we preliminarily determine that this program is not countervailable.

IX. Programs Preliminarily Determined Not To Be Not Used in the Netherlands

A. Wet Investeringsrekening Law (WIR)

B. Subsidized Loan Forgiveness

X. Program Preliminarily Determined Not To Be Not Used in the United Kingdom

A. Financial Assistance Under the Electricity Act of 1989

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for the Urenco Group. The "all others" rate is the same as the rate for UCL. These rates are summarized in the table below:

Producer/exporter	Net subsidy rate
Urenco Group Ltd.	3.72% *ad valorem.*
All Others	3.72% *ad valorem.*

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from the UK, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Any requested hearing will be tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: May 7, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–12064 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval and availability of revision to the Final Revised Management Plan for the Jobos Bay National Estuarine Research Reserve, 2001–2005.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, has approved the revised Management Plan for the Jobos Bay National Estuarine Research Reserve (JBNERR). The JBNERR was designated in 1981 and has been operating under a Management Plan approved in 1982. Pursuant to Section 315 of the Coastal Zone Management Act, 16 U.S.C. Section 1461, and Section 921.33(c) of the implementing regulations, a state must revise its management plan at least every five years, or more often if necessary. This revision is Puerto Rico's effort to comply with this requirement.

FOR FURTHER INFORMATION CONTACT: Nathalie Peter, OCRM, Estuarine Reserves Division, 1305 East-West Highway, 11th Floor (N/ORM5), Silver Spring, Maryland 20910. (301) 713–3155, Extension 119.

SUPPLEMENTARY INFORMATION: The JBNERR Management Plan Revision contains the program mission, goals and objectives of the JBNERR, and establishes policies that will protect the natural resources and ecological integrity of the reserve. It provides guidance for reserve operation and management with the objective of providing long-term opportunities for research, education and stewardship.

The JBNERR Management Plan Revision was prepared by the Puerto Rico Department of Natural and Environmental Resources (DNER). It was presented at a public hearing at the JBNERR Visitors Center on March 30, 1999. The Puerto Rico Planning Board adopted the plan on March 3, 2000, under Resolution Number JB–2000–PM–JOBANERR. It was subsequently approved by an Executive Order signed by the Governor on December 29, 2000. The Planning Board approval process renders the JBNERR Management Plan an enforceable document to be upheld by the Government of Puerto Rico.

The JBNERR Management Plan Revision submitted for the Planning Board approval process contained an action plan covering the years 2000–2004. NOAA is approving the Management Plan revision for the years 2001–2005. To remedy the discrepancy in the five-year time period, NOAA has requested and DNER has agreed to submit a supplemental 2005 action plan and update for NOAA approval in 2004.

Revisions to the JBNERR Management Plan include the following:

1. Updated and detailed boundary maps and maps of natural resources and land uses within and adjacent to the reserve.

2. A full discussion of the management issues at the reserve.

3. A section detailing staffing needs, roles, and responsibilities.

4. A facilities description. Under a NOAA matching grant, the DNER has renovated a historic building to serve as the Visitors Center. This central facility consists of administrative offices, an information center, a conference and exhibit area, and a laboratory.

5. A new section addressing resource protection that includes goals and objectives; a management sector zoning plan establishing preservation, conservation, and limited use sectors; and resource protection guidelines that prohibit jet skis and allow seasonal hunting in designated areas.

6. Appendices that provide a set of regulations for the use and protection of JBNERR resources; summaries of the commonwealth legal authorities applicable to the reserve; a surveillance and enforcement plan for the DNER Ranger Corps; and guidelines for research, monitoring, manipulation, and education activities to be undertaken at the reserve.

The chief areas of concentration for the JBNERR in the next four years are as follows:

1. Establishing a Citizens' Advisory Committee, Research Advisory Committee, and Education Advisory Committee.

2. Increasing coordination among Federal and local agencies related to surveillance and enforcement.

3. Expanding the reserve's role in protecting and restoring reserve resources through boundary delineation and increased signage, acquisition, the special area planning process, and action on the U.S. Environmental Protection Agency consent order related to the northern boundary of the reserve.

4. Improving the transfer of estuarine information between reserve programs and external groups (e.g. local neighbors, local and commonwealth decision-makers in the scientific, governmental and educational communities) through exhibits, newsletters, interpretive trails, teaching guides and curriculum materials, and coastal decision-maker workshops.

5. Encouraging community stewardship of the estuary and watershed through an expanded outreach program and enhanced access to the reserve.

6. Initiating a reserve volunteer program.

7. Completing an environmental characterization and site profile for the reserve.

8. Designing and implementing a long-term environmental monitoring program that incorporates the national System-Wide Monitoring Program.

9. Actively promoting collaborative research activities.

Copies of the document can be obtained from the Jobos Bay National Estuarine Research Reserve, Department of Natural and Environmental Resources, Call Box B, Aguirre, Puerto Rico, 00704. (787) 853–4617.

Federal Domestic Assistance Catalog Number 11.420

Dated: May 3, 2001.

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–11995 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Office of Oceanic and Atmospheric Research; Notice of Solicitation for NOAA Science Advisory Board Members

ACTION: Notice of solicitation for NOAA Science Advisory Board members.

SUMMARY: The Under Secretary for Oceans and Atmosphere is soliciting nominations for membership on the NOAA Science Advisory Board (SAB). The SAB is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on long- and

short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB was originally chartered under the Federal Advisory Committee Act, 5 U.S.C. App. 2., on September 25, 1997, with the General Services Administration's concurrence.

DATES: Resumes should be sent to the address specified and must be received by June 13, 2001.

ADDRESSES: Dr. Michael S. Uhart, Executive Director; NOAA Science Advisory Board; 1315 East-West Highway, Room 11142; Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Uhart at the address given above; telephone (301) 713–9121 or fax (301) 713–3515.

SUPPLEMENTARY INFORMATION: SAB activities and advice provide necessary input to ensure that NOAA science programs are of the highest quality and provide optimal support to resource management and environmental assessment and prediction. The panel provides advice to the Under Secretary of Commerce for Oceans and Atmosphere on such matters as:

(a) climate monitoring, assessment, and prediction;

(b) recovering protected and endangered species;

(c) R & D leading to advances in short-term weather warning and forecast services;

(d) the effective collection, management, and utilization of environmental data;

(e) assessment, development, utilization, and conservation of ocean and coastal resources;

(f) the integration of technology and scientific information into decision-making and operational processes; and

(g) such other matters as the Under Secretary refers to the panel for review and advice.

The SAB is to consist of 15 members reflecting the full breadth of NOAA's areas of responsibility. The SAB meets at least twice each year, exclusive of subcommittee, task force, and working group meetings. Panel members must be willing to participate in periodic reviews of the conduct, support, and use of science in NOAA laboratories and programs. Panel members are appointed for a 3-year term.

Dated: May 7, 2001.

Louisa Koch,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research.

[FR Doc. 01–11994 Filed 5–11–01; 8:45 am]

BILLING CODE 3510-KD-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042601F]

Marine Mammals; File No. 633–1483–02

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the Center for Coastal Studies (CCS), P.O. Box 1036, Provincetown, MA 02657 (Executive Director: Mr. Peter Borrelli, Principal Investigator: Dr. Charles A. Mayo) has been issued an amendment to scientific research Permit No. 633–1483–01

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301) 713–0376; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9200; fax (978) 281–9371.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Tammy Adams (301) 713–2289.

SUPPLEMENTARY INFORMATION: On October 31, 2000, notice was published in the **Federal Register** (65 FR 64932) that an amendment of Permit No. 633–1483–01, issued June 14, 1999, and published June 22, 1999 (64 FR 33270), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

Project I: Amendment No. 2 authorizes attachment of a non-invasive optical device ("critter cam") to seven North Atlantic right whales in Cape Cod Bay for collecting video documentation of the zooplankton stream passing by feeding whales in order to better assess the decision-making of the whales during foraging and the quality of the food layer supporting the whales. This documentation will provide a subsurface tool for supplementing CCS' on-going oceanographic surveys and for "ground-truthing" current estimates of prey patch density and area in Cape Cod Bay.

Issuance of this amendment, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 8,2001.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12077 Filed 5–11–01; 8:45 am]

BILLING CODE 3510-22-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

May 9, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 81846, published on December 27, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 9, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 16, 2001, you are directed to adjust the limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit [1]
Group I	
200, 218, 219, 226, 237, 239, 300/301, 313–315, 317/326, 331, 333–336, 338/339, 340–342, 345, 347/348, 350–352, 359–C [2], 359–V [3], 360–363, 369–D [4], 369–H [5], 369–L [6], 410, 433-436, 438, 440, 442–444, 445/446, 447, 448, 607, 611, 613–615, 617, 631, 633–636, 638/639, 640–643, 644/844, 645/646, 647–652, 659–C [7], 659–H [8], 659–S [9], 666, 669–P [10], 670–L [11], 831, 833, 835, 836, 840, 842 and 845–847, as a group.	1,506,349,283 square meters equivalent.
Sublevels in Group I	
200	822,125 kilograms.
218	12,305,019 square meters.
219	2,730,144 square meters.
226	12,396,833 square meters.
237	2,294,269 dozen.
239	3,362,973 kilograms.
300/301	2,521,821 kilograms.
313	46,346,731 square meters.
314	55,300,038 square meters.
317/326	24,188,063 square meters of which not more than 4,685,451 square meters shall be in Category 326.
331	5,664,540 dozen pairs.
333	112,528 dozen.
334	352,429 dozen.
335	411,802 dozen.
336	195,516 dozen.
338/339	2,493,464 dozen of which not more than 1,878,956 dozen shall be in Categories 338–S/339–S [12].
340	845,534 dozen of which not more than 422,766 dozen shall be in Category 340–Z [13].
341	732,648 dozen of which not more than 439,590 dozen shall be in Category 341–Y [14].
342	288,412 dozen.
345	136,026 dozen.
347/348	2,473,725 dozen.
350	191,468 dozen.
351	633,390 dozen.
352	1,778,321 dozen.
359–C	694,231 kilograms.
359–V	973,342 kilograms.
360	8,901,590 numbers of which not more than 5,958,254 numbers shall be in Category 360–P [15].
361	4,858,123 numbers.
362	7,918,078 numbers.
363	23,385,756 numbers.
369–D	5,213,292 kilograms.
369–H	5,679,550 kilograms.
369–L	3,737,939 kilograms.
410	1,090,467 square meters of which not more than 874,128 square meters shall be in Category 410–A [16] and not more than 874,128 square meters shall be in Category 410–B [17].
433	22,534 dozen.
434	14,408 dozen.
435	25,970 dozen.
436	16,304 dozen.
438	27,997 dozen.
440	40,761 dozen of which not more than 23,290 dozen shall be in Category 440–M [18].
442	42,340 dozen.
443	136,789 numbers.
444	225,851 numbers.
445/446	303,053 dozen.
447	74,891 dozen.
448	24,076 dozen.
607	3,678,454 kilograms.
611	6,098,897 square meters.
613	8,629,934 square meters.
614	13,561,324 square meters.
615	28,232,212 square meters.
617	19,725,561 square meters.
631	1,476,877 dozen pairs.
633	63,257 dozen.
634	688,198 dozen.
635	725,929 dozen.
636	603,075 dozen.
638/639	2,610,113 dozen.
640	1,470,492 dozen.
641	1,392,987 dozen.
642	376,799 dozen.
643	559,790 numbers.
644/844	3,949,119 numbers.
645/646	869,802 dozen.
647	1,682,506 dozen.
648	1,202,140 dozen.
649	1,066,811 dozen.
650	129,628 dozen.
651	853,731 dozen of which not more than 150,305 dozen shall be in Category 651–B [19].
652	3,120,203 dozen.
659–C	451,974 kilograms.
659–H	3,149,199 kilograms.
659–S	692,731 kilograms.
666	3,914,396 kilograms of which not more than 1,419,780 kilograms shall be in Category 666–C [20].
669–P	2,250,130 kilograms.
670–L	17,908,622 kilograms.
831	658,470 dozen pairs.
833	33,469 dozen.
835	133,025 dozen.
836	313,659 dozen.
840	527,329 dozen.
842	302,173 dozen.
846	195,496 dozen.
847	1,349,229 dozen.
Group II	
330, 332, 349, 353, 354, 359–O [21], 431, 432, 439, 459, 630, 632, 653, 654 and 659–O [22], as a group.	133,676,563 square meters equivalent.

Category	Adjusted twelve-month limit [1]
Group III	
201, 220, 222, 223, 224–V [23], 224–O [24], 225, 227, 229, 369–O [25], 400, 414, 464, 465, 469, 600, 603, 604–O [26], 606, 618–622, 624–629, 665, 669–O [27] and 670–O [28], as a group.	277,291,547 square meters equivalent.
Sublevel in Group III	
224–V	4,030,871 square meters.
225	6,954,022 square meters.
Group IV	
832, 834, 838, 839, 843, 850–852, 858 and 859, as a group.	13,203,073 square meters equivalent.
Levels not in a Group	
369–S [29]	659,424 kilograms.
863–S [30]	9,380,847 numbers.
870	35,278,620 kilograms.

[1] The limit has not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[3] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[4] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[5] Category 369–H: only HTS numbers 4202.22.4020, 4202.22.4500 and 4202.22.8030.

[6] Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905.

[7] Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8060.

[9] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[10] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[11] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907.

[12] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[13] Category 340–Z: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.

[14] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[15] Category 360–P: only HTS numbers 6302.21.3010, 6302.21.5010, 6302.21.7010, 6302.21.9010, 6302.31.3010, 6302.31.5010, 6302.31.7010 and 6302.31.9010.

[16] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[17] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.3030, 5112.11.3060, 5112.11.6030, 5112.11.6060, 5112.19.6010, 5112.19.6020, 5112.19.6030, 5112.19.6040, 5112.19.6050, 5112.19.6060, 5112.19.9510, 5112.19.9520, 5112.19.9530, 5112.19.9540, 5112.19.9550, 5112.19.9560, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

[18] Category 440–M: Only HTS numbers 6203.21.0030, 6203.23.0030, 6205.10.1000, 6205.10.2010, 6205.10.2020, 6205.30.1510, 6205.30.1520, 6205.90.3020, 6205.90.4020 and 6211.31.0030.

[19] Category 651–B: only HTS numbers 6107.22.0015 and 6108.32.0015.

[20] Category 666–C: only HTS numbers 6303.92.2010 and 6303.92.2020.

[21] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070 (Category 359–V).

[22] Category 659–C: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6060, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[23] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[24] Category 224–O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224–V).

[25] Category 369–O: all HTS numbers except 6302.60.0010, 6302.91.0005 and 6302.91.0045 (Category 369–D); 4202.22.4020, 4202.22.4500, 4202.22.8030 (Category 369–H); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905 (Category 369–L); and 6307.10.2005 (Category 369–S).

[26] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[27] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000 (Category 669–P).

[28] Category 670–O: only HTS numbers 4202.22.4030, 4202.22.8050 and 4202.32.9550.

[29] Category 369–S: only HTS number 6307.10.2005.

[30] Category 863–S: only HTS number 6307.10.2015.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–12060 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

May 9, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 75671, published on December 4, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 9, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 28, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 15, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
338/638	1,220,984 dozen.
342/642	608,793 dozen.
443	155,732 numbers.
444	75,984 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–12059 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Restraint Limit and Sublimit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Fiji

May 8, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting a limit and sublimit.

EFFECTIVE DATE: May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 338/339/638/639 and sublimit for Categories 338–S/339–S/638–S/639–S are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69911, published on November 21, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Fiji and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 15, 2001, you are directed to increase the limit and sublimit for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
338/339/638/639	1,866,582 dozen of which not more than 1,469,455 dozen shall be in Categories 338–S/339–S/638–S/639–S [2].

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–12057 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

May 8, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for the recrediting of carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 79344, published on December 19, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 13, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 15, 2001, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
326	10,767,061 square meters.
334/634	181,088 dozen.
335/635	806,200 dozen.
336/636	1,152,790 dozen.
338/339	4,527,934 dozen.
340/640	2,335,802 dozen.
341	4,967,483 dozen of which not more than 3,004,725 dozen shall be in Category 341-Y [2].
342/642	1,632,558 dozen.
345	255,486 dozen.
347/348	822,431 dozen.
351/651	345,091 dozen.
363	56,656,554 numbers.
369-D [3]	1,689,182 kilograms.
641	1,900,714 dozen.
647/648	1,103,727 dozen.
Group II	
200, 201, 220-227, 237, 239pt. [4], 300, 301, 331-333, 350, 352, 359pt. [5], 360-362, 600-604, 606 [6], 607, 611-629, 631, 633, 638, 639, 643-646, 649, 650, 652, 659pt. [7], 666, 669pt. [8], 670, 831, 833-838, 840-858 and 859pt. [9], as a group.	149,797,032 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 341-Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[3] Category 369-D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[5] Category 359pt.: all HTS numbers except 6406.99.1550.

[6] Category 606: all HTS numbers except 5403.31.0040 (for administrative purposes Category 606 is designated as 806(1)).

[7] Category 659pt.: all HTS numbers except 6406.99.1510 and 6406.99.1540.

[8] Category 669pt.: all HTS numbers except 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 5406.10.9040.

[9] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01-12055 Filed 5-11-01; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Nepal

May 9, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of customs adjusting limits.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 347/348 is being increased for swing and special swing from Category 341 for which the limit is being reduced; and the current limit for Categories 347/348 is being adjusted for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66972, published on November 8, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 9, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 2, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 16, 2001, you are directed to adjust the limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Nepal:

Category	Adjusted twelve-month limit [1]
341	951,772 dozen.
347/348	1,005,252 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01-12061 Filed 5-11-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

May 8, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits are being adjusted for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 64 FR 66972, published on November 8, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 2, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 15, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Specific limits	
226/313	126,621,838 square meters.
315	82,767,511 square meters.
317/617	45,789,691 square meters.
331/631	3,312,144 dozen pairs.
334/634	338,313 dozen.
335/635	519,772 dozen.
336/636	683,800 dozen.
338	6,492,127 dozen.
339	1,946,977 dozen.
340/640	865,319 dozen of which not more than 319,532 dozen shall be in Categories 340-D/640-D [2].
341/641	1,025,699 dozen.
342/642	507,668 dozen.
347/348	1,139,302 dozen.
351/651	458,222 dozen.
352/652	1,203,572 dozen.
360	7,360,962 numbers.
361	8,559,257 numbers.
363	60,386,297 numbers.
369-F/369-P [3]	3,244,944 kilograms.
369-R [4]	15,955,319 kilograms.
369-S [5]	1,049,238 kilograms.
615	34,472,347 square meters.
638/639	618,933 dozen.
647/648	1,173,474 dozen.
666-P [6]	988,129 kilograms.
666-S [7]	5,231,269 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 340-D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640-D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[3] Category 369-F: only HTS number 6302.91.0045; Category 369-P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[4] Category 369-R: only HTS number 6307.10.1020.

[5] Category 369-S: only HTS number 6307.10.2005.

[6] Category 666-P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[7] Category 666-S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01-12056 Filed 5-11-01; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

May 8, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of customs adjusting limits.

EFFECTIVE DATE: May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66728, published on November 7, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products,

produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 15, 2001, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
363	25,964,353 numbers.
619	8,921,285 square meters.
Group II	
237, 331–348, 350–352, 359–H [2], 359pt. [3], 431, 433–438, 440, 442–448, 459pt. [4], 631, 633–652, 659–H [5], 659pt. [6], 831, 833–838, 840–858 and 859pt. [7].	362,068,351 square meters equivalent.
338/339	2,222,399 dozen.
340	353,331 dozen.
345	380,177 dozen.
347/348/847	1,053,088 dozen.
638/639	2,643,349 dozen.
647/648	1,409,872 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060.

[3] Category 359pt.: all HTS numbers except 6505.90.1540, 6505.20.2080 (Category 359–H); and 6406.99.1550.

[4] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6080, 6405.20.6090, 6406.99.1505 and 6406.99.1550.

[5] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[6] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540.

[7] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–12058 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Export Visa Stamp for Certain Textile Products Produced or Manufactured in Hungary

May 8, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs providing for the use of a new export visa stamp.

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Beginning on June 1, 2001, the Government of the Republic of Hungary will start issuing a new export visa stamp for shipments of textile products, produced or manufactured in Hungary and exported from Hungary on or after June 1, 2001 to reflect the name change of "Ministry of Economic Affairs" to "LICENSING AND ADMINISTRATION OFFICE OF THE MINISTRY OF ECONOMIC AFFAIRS." There will be a one-month grace period from June 1, 2001 through June 30, 2001, during which products exported from Hungary may be accompanied by either the old or new export visa stamp. Products exported from Hungary on or after July 1, 2001 must be accompanied by the new export visa stamp.

See 49 FR 8659, published on March 8, 1984.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 5, 1984, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain textile products, produced or manufactured in Hungary for which the Government of the Republic of Hungary has not issued an appropriate export visa.

Beginning on June 1, 2001, you are directed to amend further the directive dated March 5, 1984 to provide for the use of a new export visa stamp issued by the Government of the Republic of Hungary to accompany shipments of textile products, produced or manufactured in Hungary and exported from Hungary on or after June 1, 2001. This new visa stamp reflects the name change of "Ministry of Economic Affairs" to "LICENSING AND ADMINISTRATION OFFICE OF THE MINISTRY OF ECONOMIC AFFAIRS."

Textile products exported from Hungary during the period June 1, 2001 through June 30, 2001 may be accompanied by either the old or new export visa stamp. Products exported from Hungary on or after July 1, 2001 must be accompanied by the new export visa stamp.

A facsimile of the new visa stamp is enclosed with this letter.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

BILLING CODE 3510–DR–F

Export Visa Stamp for the Republic of Hungary

[FR Doc. 01–12054 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DR–C

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Wednesday, May 23, 2001, 10 a.m.–12 noon; 2–4 p.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Baby Bath Seats (Petition HP 00–4)

The staff will brief the Commission on Petition HP 00–4, filed by the Consumer Federation of America and nine other organizations, requesting that the Commission ban baby bath seats to address a risk of injury or death by drowning.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 9, 2001.

Sadye E. Dunn,

Secretary.

[FR Doc. 01–12224 Filed 5–10–01; 2:41 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) way to minimize the burden of the collection on respondents, including through use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 13, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of Army, HQDA, ODCSPER (DAPTE–PRO) Attn: Mr. Raymond C.V. Robinson, Jr., 300 Pentagon, Washington, DC 20301–0300.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at 703/614–4766.

Title, Associated Form, and OMB Control Number: Automated Repatriation Reporting System, DD Form 2585. OMB Number 0704–0334.

Needs And Uses: This information collection is necessary for personnel accountability of all evacuees, regardless of nationality, who are processed through designated Repatriation Centers throughout the United States. The information obtained from the DD Form 2585 is entered into an automated system; a series of reports is accessible to DoD Components, Federal and State Agencies, and Red Cross, as required.

Affected Public: Individuals or households, Federal Government, State and Local governments, not-for-profit institutions.

Annual Burden Hours: 1,667.

Number of Respondents: 5,000.

Responses Per Respondent: One.

Average Burden Per Response: 20 minutes.

Frequency: One-time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Executive Order 12656 (Assignment of Emergency Preparedness Responsibilities) assigns Federal departments and agencies responsibilities during emergency situations. In its supporting role to the Departments of State and Health and Human Services (DHHS), the Department of Defense will assist in planning for the protection, evacuation and repatriation of U.S. citizens in threatened areas overseas. The DD Form

2585, Repatriation Processing Center Processing Sheet, has numerous functions, but is primarily used for personnel accountability of all evacuees who process through designated Repatriation Centers. During processing, evacuees are provided emergency human services, including food, clothing, lodging, family reunification, social services and financial assistance through federal entitlements, loans or emergency aid organizations. The information, once collected, is input into the Automated Repatriation Reporting System, and available to designated offices throughout Departments of Defense, State, Health and Human Services, the American Red Cross, and State government emergency planning offices for operational inquiries and reporting and future planning purposes.

Dated: May 4, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–11963 Filed 5–11–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 13, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (DeCA), Attn: Herman Weaver, 1300 E Ave, Ft Lee, Virginia 23801–1800.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (804) 734–8322.

Title, Associated Form, and OMB Control Number: Commissary Customer Service Survey, DeCA Form 60–28, OMB Number 0704–0380.

Needs and Uses: This information collection requirement is necessary to the Defense Commissary Agency for the purpose of measuring customer service, which is our number one Strategic and Performance goal. This management tool uses a survey form, DeCA Form 60–28, Commissary Customer Service Survey, designed to extract objective, subjective, and demographic information from our customers so we can better serve their needs. The results will be reported and distributed to the regional headquarters and commissaries to use the past and present trends for the purpose of future improvement. Also, the results will directly affect our policies and quality initiatives for an efficient and cost-effective commissary system.

Affected Public: Individuals or households.

Annual Burden Hours: 500.

Number of Respondents: 7,500.

Responses Per Respondent: 1.

Average Burden Per Response: 4 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The primary purpose for this information is to determine how well each commissary is satisfy the customer. This will serve as a measuring stick for future trends and give management vital information to make cost-effective decisions. The information received will impact return customers and inspire new customers, which will increase our surcharge accounts that provide new commissary construction and renovations. Our primary goal is to preserve the military's most valued benefit through customer satisfaction.

Each commissary (CONUS & OCONUS) will be sent their numbered Commissary Customer Service Surveys (DeCAF 60–28) based on its class (1–9). Class is based on annual sales. Each commissary officer will select an administrator who will distribute the surveys randomly three times each day (one hour after store opens, midday, and two hours before closing) for ten consecutive days. The following information will be collected: Customer relations, savings, cleanliness, scheduling, atmosphere, quality of meat and produce, managers and employees knowledge and helpfulness, and their most valued benefit.

Dated: May 3, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–11964 Filed 5–10–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Substitutions for Military or Federal Specifications and Standards, Defense Federal Acquisition Regulation Supplement (DFARS) Section 211.273, and related Clause in DFARS 272.211–7005; OMB Number 0704–0398.

Type of Request: Reinstatement.

Number of Respondents: 257.

Responses per Respondent: 3.

Annual Responses: 771.

Average Burden per Response: 1.

Annual Burden Hours: 771.

Needs and Uses: This information collection permits offerors to propose Single Process Initiative (SPI) processes as alternatives to military or Federal specifications and standards cited in DoD solicitations for previously developed items. DoD uses the information to verify Government acceptance of an SPI process as valid replacement for a military or Federal specification or standard.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. David M. Pritzker.

Written comments and recommendations on the proposed information collection should be sent to Mr. Pritzker at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 4, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–11965 Filed 5–11–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense will submit to OMB for emergency processing, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: TRICARE for Life Beneficiary Information Update Form; OMB Number 0720–[To Be Determined].

Type of Request: New Collection; Emergency processing requested with a shortened public comment period ending May 22, 2001. An approval date by May 25, 2001 has been requested.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Annual Responses: 1,200,000.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 99,600.

Needs and Uses: The Department of Defense (DoD), TRICARE Management Activity, will collect Medicare and other health insurance information in support of the TRICARE for Life Program. This information is necessary to allow the Department to accurately interface with Medicare to validate Medicare Part A and Part B coverage in accordance with the National Defense Authorization Act for Fiscal Year 2001, prior to extending TRICARE's health benefits to TRICARE eligible beneficiaries. Additionally, DoD will collect other health insurance information prospectively to allow the accurate adjudication of claims for health benefits. Other health insurance information is routinely collected during the health care claims adjudication process; however, delaying the collection of this information for approximately 1.5 million new TRICARE for Life beneficiaries will result in very significant delays in the adjudication of TRICARE for Life medical claims. As such, the Department will request Medicare and other health insurance information from TRICARE for Life beneficiaries early this summer to maximize the delivery of health care financing service provided TRICARE for Life beneficiaries on October 1, 2001. It is important to note that no benefits will be denied as a result of a beneficiary electing not to provide the information. The Department will implement normal processes foe obtaining the required information during the claims adjudication process for any beneficiary who elects not to provide the information prospectively.

Affected Public: Individuals or Households.

Frequency: One-Time.

Respondent's obligation: Voluntary.

OMB Desk Officer: Mr. Stuart Shapiro.

Written comments and recommendation on the proposed information collection should be sent to Mr. Shapiro at the Office of Management and Budget, Desk Officer for DoD (Health Affairs), Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302, or by fax at (703) 604–6270.

Dated: May 4, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–11966 Filed 5–11–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 13, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 8, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: New.

Title: Federal Direct Loan Program and Federal Family Education Loan Program Teacher Loan Forgiveness Forms.

Frequency: Annually Other: once for the application and anually for the forbearance.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; Federal Government State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 21,425.

Burden Hours: 6,929.

Abstract: Borrowers who received loans from the William D. Ford Federal

Direct Loan Program and/or the Federal Family Education Loan Program and who teach in low-income areas for five complete consecutive years, and who meet other requirements will use this application to receive up to $5,000 of their subsidized Federal Stafford Loans, unsubsidized Federal Stafford Loans, Direct Subsidize Loans, and/or Direct Unsubsidized loans forgiven. The information on the forbearance form will be used to determine whether borrowers with low balances are eligible for forbearance while they are performing qualifying teaching service.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–11989 Filed 5–11–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 13, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 8, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer

Office of Postsecondary Education

Type of Review: Extension.

Title: Application for Ability to Benefit Testing Approval.

Frequency: Annually.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 150,090

Burden Hours: 77,040

Abstract: The Secretary will publish a list of approved tests which can be used by postsecondary educational institutions to establish the ability to benefit for a student who does not have a high school diploma or its equivalent for Student Financial Assistance Programs.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–11990 Filed 5–11–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 13, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 8, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: New.

Title: Loan Discharge Application: Unpaid Refund.

Frequency: On Occasion.

Affected Public: Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 600.

Burden Hours: 300.

Abstract: If a school fails to make a refund, a borrower uses this form to apply for a corresponding discharge of all or a portion of his or her Federal Family Education Program loan or William D. Ford Federal Direct Loan Program loan.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–11991 Filed 5–11–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 13, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 8, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: Extension.

Title: Streamlined Process for Education Department General Administrative Regulations (EDGAR) Approved Grant Applications.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Businesses or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 1—Burden Hours: 1.

Abstract: Since April 1997, EDGAR's menu of selection criteria became effective. For each competition, the Secretary would select one or more criteria that best enable the Department to identify the highest quality applications consistent with the program purpose, statutory requirements, and any priorities established. This allows the Secretary the flexibility to weigh the criteria according to the needs of each individual program. This menu of selection criteria will provide the Department the flexibility to choose a set of criteria tailored to a given competition and obviate the need to create specific selection criteria through individual program regulations. ED is requesting a streamlined clearance process for programs of approved applications who choose to change: (1) Criteria from the same EDGAR menu; (2) old EDGAR to new EDGAR criteria, or (3) program criteria to EDGAR criteria.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her internet address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–11992 Filed 5–11–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.235M]

Special Demonstration Programs—Model Demonstration Projects Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Purpose of Program: To provide funding for model demonstration projects with innovative methods of promoting achievement of high-quality employment outcomes for individuals with disabilities. These projects will expand and improve the provision of rehabilitation services, as defined in 34 CFR part 373, for individuals with disabilities.

Eligible Applicants: State vocational rehabilitation agencies; community rehabilitation programs; Indian tribes or tribal organizations; and public or nonprofit agencies or organizations, including institutions of higher education.

Supplementary Information: Funds under this competition will be used to support projects in FY 2001. In FY 2002, the Assistant Secretary may consider funding high-quality applications submitted in FY 2001.

Applications Available: May 18, 2001.

Deadline for Transmittal of Applications: July 18, 2001.

Deadline for Intergovernmental Review: September 17, 2001.

Available Funds: $1,600,000.

Estimated Range of Awards: $225,000 to $300,000.

Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. It is suggested that you limit Part III to 35 pages.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, and 99; and (b) The regulations for this program in 34 CFR part 373.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Background

The unemployment rate for working-age adults with disabilities has hovered at 70 percent for over a decade. Model demonstration projects that promote high-quality employment outcomes will provide opportunities for individuals with disabilities to be placed in jobs at which they will—(1) receive the minimum wage or higher, with benefits; (2) have opportunities for advancement; (3) work on a full-time basis, or as close to full-time as appropriate; (4) work in an integrated setting, if appropriate; and (5) obtain employment that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual with disabilities.

Absolute Priority

This competition focuses on projects designed to meet a priority that we have chosen from allowable activities specified in the program statute (see 34 CFR 75.105(b)(2)(v) and section 303(b)(4)(B) and (5)(B)(ix) of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 773(b)). For FY 2001 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority.

The projects must be model demonstrations with innovative service methods for promoting achievement of high-quality employment outcomes for individuals with disabilities. To meet the absolute priority requirements for model demonstration projects of rehabilitation service delivery, the application must—

(1) Demonstrate a model of rehabilitation service delivery that is innovative for the applicant and in the local service area and is expected to lead to high-quality employment outcomes for individuals with disabilities;

(2) Certify that the project includes activities that have not been funded previously, for that applicant or in that service area, under an award from the Special Demonstration Programs; and

(3) Include a plan to widely disseminate the results of the project, including any rehabilitation service delivery model proven to be effective, so the model may be adapted, replicated, or integrated into fee-for-service arrangements by State vocational rehabilitation agencies and other disability organizations.

Competitive Preference Priority

Within the absolute priority for this competition for FY 2001, this competition focuses on projects designed to meet the competitive preference priority in the notice of final competitive preference for this program, published in the **Federal Register** on November 22, 2000 (65 FR 70408). Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application that is otherwise eligible for funding under this program, depending on the extent to which the application meets the competitive preference priority.

Invitational Priorities

Within the absolute priority for this competition for FY 2001, we are particularly interested in applications that meet one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(1), we do not give an application that meets one or more of these invitational priorities a competitive or absolute preference over other applications.

Invitational Priority 1—Model Demonstrations To Increase Employment Outcomes, Especially Self-employment, Telecommuting, or Business Ownership, for American Indians With Disabilities Who Reside on or Near Reservations or in Urban Settings

We are interested in projects that would increase employment opportunities by providing vocational rehabilitation services to American Indians with disabilities. These projects, which would provide services to American Indians and may provide training and instruction to other nonprofit agencies to provide these services, would lead to vocational outcomes related to self-employment, telecommuting, or business ownership. Services may include, but are not limited to, technical assistance and other consultation services to conduct market analyses, develop business plans, and obtain loans, occupational licenses, tools, equipment, initial stocks, and supplies for eligible individuals. These projects would work closely with the National Technical Assistance Center to increase employment opportunities and vocational outcomes for Native Americans with disabilities.

Invitational Priority 2—Programs That Demonstrate Methods That Lead to Employment Opportunities With Career Advancement for Individuals With Disabilities Who Are Homeless or Reside in Supportive or Subsidized Housing

We are interested in projects that would demonstrate service delivery models that would further high-quality employment outcomes for individuals with disabilites who are homeless or reside in supportive or subsidized housing. Projects would focus on developing systems to link the supportive or the subsidized housing industry with the public vocational rehabilitation system. Projects supported under this invitational priority may include, but are not limited to, maintaining and replicating successful approaches to link the supportive or the subsidized housing industry with the vocational rehabilitation (VR) system; developing methodologies to expedite entry into the VR system for those individuals with disabilities who are homeless or residing in supportive or subsidized housing who need and may benefit from VR services; developing appropriate mechanisms to build on existing supportive or subsidized housing systems to provide VR services to increase employment outcomes including long-term job placements in competitive work, in a cost effective and efficient manner; and developing linkages with the Department of Labor's One-Stop service delivery system and focusing on individuals with disabilities in the Department of Housing and Urban Development's housing programs, including the Shelter Care Plus and the Section 8 programs. The goal would be to not only increase employment rates but to encourage new local collaboration between employment and housing providers. Projects would provide services that may include, but are not limited to, training, education, counseling, placement, and follow-up activities that would allow the individuals with disabilites to possess the knowledge and skills necessary to compete for jobs with the potential for career advancement and higher wages and benefits. Projects may also provide services to improve career advancement opportunities for individuals with disabilities who are employed.

Invitational Priority 3—Programs That Demonstrate Methods of Providing Affordable Transportation Services to Individuals With Disabilities

We are interested in projects that would demonstrate methods of providing affordable transportation services to individuals who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available or, if available, does not adequately meet the needs of the consumers (e.g., need for 24-hour service).

Selection Criteria: In evaluating an application for a new grant under this competition, we use selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs via its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *ed pubs@inet.ed.gov*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.235M.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

For Further Information Contact: Alfreda Reeves, U.S. Department of Education, 400 Maryland Avenue, SW., room 3314, Switzer Building, Washington, DC. 20202–2650. Telephone: (202) 205–9361. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 29 U.S.C. 773(b).

Dated: May 8, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–11996 Filed 5–11–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–719B–000; FERC–719B]

Proposed Information Collection and Request for Comments

May 10, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Request for Office of Management and Budget Emergency Processing of proposed information collection and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is providing notice of a request to the Office of Management and Budget (OMB) for emergency processing of a proposed collection of information in connection with the California electricity markets, and is soliciting public comment on that information collection.

DATES: Comments are requested on or before May 14, 2001.

ADDRESSES: Send comments to: (1) Michael Miller, Office of the Chief Information Officer, CI–1, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Mr. Miller may be reached by telephone at (202) 208–1415 and by e-mail at *mike.miller@ferc.fed.us*; and (2) Amy Farrell, FERC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202 NEOB, 725 17th Street NW., Washington, DC 20503. Ms. Farrell may be reached by telephone at (202) 395–7318 or by fax at (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Stuart Fischer, Office of the General Counsel, Federal Energy Regulatory Commission, (202) 208–2103.

SUPPLEMENTARY INFORMATION: The Federal Power Act directs the Commission to ensure just and

reasonable rates for transmission and wholesale sales of electricity in interstate commerce. See 16 U.S.C. 824e(a). To enable the Commission to fulfill this duty, the Federal Power Act also authorizes the Commission to conduct investigations of, and collect information from, public utilities. See 16 U.S.C. 825, 825c, 825f, and 825j. Commission staff has been investigating the California electricity market, which is in a state of emergency with prices at extremely high levels and, on some days, rotating blackouts.

One of the likely reasons for the high prices is forced and scheduled outages by electric generators in California. Each day, for the past few months, the California Independent System Operator (ISO) has reported outages of well over 10,000 megawatts for generating plants in California. In addition to causing higher prices, the outages limit the availability of electric power in California, leading the ISO to order rotating blackouts in the state to preserve the transmission system. The ISO ordered rotating blackouts on May 7 and 8, 2001, and many more such blackouts are anticipated over the next few months if increased summer demand is not matched by generation supply. Further, in 2000 electricity prices continued to be high even after the summer cooling season, and the same pattern may recur this year.

Commission staff believes that it is in the public interest to monitor generation outages in California to assess their causes, particularly during the summer cooling season when electricity demand is at its highest. Commission staff proposes to do so by requesting that selected generators in the state of California electronically provide to the Commission information on total or partial generation unit outages within 24 hours of their occurrence, whether scheduled, forced or otherwise.

Specifically, Commission staff will be requesting information only from generators that own, operate or control in California an individual generation unit with a generating capacity of 30 MW or more or generation units aggregating capacity of 50 MW or more. Commission staff will not request information concerning generation units owned by the independent transmission utilities in California (Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company). For the purposes of this data collection, Commission staff considers an outage partial if it reduces the available output of a generation unit below its nameplate rated capacity or below the reliable capacity of the unit as determined by contract with the California ISO. The Commission staff will treat information provided by the generators as non-public pursuant to the provisions of 18 CFR 1b.9.

Commission staff will be requesting that the information be provided through a template that will be mailed to the generators and that can be requested from Commission staff at the E-Mail address *CALoutages@ferc.fed.us*. That electronic address is also the address to which Commission staff is requesting that the generators send the outage information. To further assist monitoring efforts, Commission staff will be requesting that generators provide the information on the template for all outages that are current as of the date they receive the letter containing the template. Although Commission staff will be requesting information from municipalities concerning their generation units in California, Commission staff is requesting such data on a voluntary basis and is not questioning the jurisdictional status of those entities.

Because Commission staff is requesting information from a large number of generators (over 100) concerning future outages, the data collection may be subject to the Paperwork Reduction Act, which requires OMB to review certain federal reporting requirements. 44 U.S.C. 3507. In light of the critical condition of the California electricity markets, particularly during the summer heating season, Commission staff will be requesting emergency processing of this proposed information collection. If the Commission followed the regular provisions of the Paperwork Reduction Act, Commission staff would be unable to collect this information until most of the summer cooling season was over.

The electronic template asks for the following data: Date of Report; Outage Report Type (Beginning or Ending); Company Name; Name of the Contact Person and Telephone Number; Unit Name; Year Unit Was Built; Unit Type; Is the Unit RMR (Reliability-Must-Run) or Non-RMR; Fuel Type; Nameplate Capacity; Re-Rated Capacity; Output Before Outage; Outage Type (Forced or Scheduled); Complete or Partial Outage; Megawatts Out; Date Outage Began; Time Outage Began; Date Outage Ended or Expected to End; Time Outage Ended or Expected to End; Reason for Outage; and whether a post-outage report was created. Most of the information asked for on the template, such as the identification and operating characteristics of a generation unit, would remain constant and would not require additional time to compile after the first report. The only new data in later reports would be in those fields asking for information about an outage.

Commission staff estimates that between 100 and 125 entities owning generation could be subject to this reporting request, and that during any given week, only 15–25 of those entities would likely have an outage to report. However, many entities own several generation units, so that actual number of reports submitted by each entity would vary. Based on information compiled by the California ISO, for the seven day period between May 2 and May 8, 2001, there were 157 instances in which a report would have been submitted pursuant to the proposed information collection. Therefore, for the 180 days the reporting request would be in place, Commission staff anticipates that a maximum of approximately 4,082 reports would be filed.

Because Commission staff has created a pre-existing template, generators need not take any time to develop a reporting format. Commission staff estimates that it would take each generator approximately one hour to fill out an initial report for a generation unit, but, as most of the unit information will remain constant (such as its name, fuel type and megawatt rating), it should take 20 minutes or less to fill out and send each subsequent report.

The outage reports are to be submitted electronically within 24 hours of when a total or partial unit outage begins or ends. As stated above, based on information compiled by the California ISO, for the seven day period between May 2 and May 8, 2001, there were 157 instances in which a report would have been submitted. Assuming the same number of instances for the 180 days for which this information collection is requested, the total number of hours it would take to comply with the reporting requirement would be approximately 1,465 hours (157 hours for initial submission and 1,308 hours for subsequent submissions, assuming 20 minutes per submission). Commission staff estimates a cost of $50 per hour for complying with the reporting requirement, based on salaries for professional and clerical staff, as well as direct and indirect overhead costs. Therefore, the total estimated cost of compliance would be $73,250.

Commission staff will submit this reporting requirement to OMB for approval. OMB's regulations describe the process that federal agencies must follow in order to obtain OMB approval of reporting requirements. See 5 CFR Part 1320. The standards for emergency processing of information collections appear at 5 CFR 1320.13. If OMB approves a reporting requirement, it will assign an information collection control number to that requirement. If a request for information subject to OMB review does not display a valid control number, or if the agency has not provided a justification as to why the control number cannot be displayed, then the recipient is not required to respond.

OMB requires federal agencies seeking approval of reporting requirements to allow the public an opportunity to comment on the proposed reporting requirement. 5 CFR 1320.5(a)(1)(iv). Therefore, comments are being solicited on:

(1) Whether the collection of the information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility;

(2) The accuracy of Commission staff's estimate of the burden of the collection of this information, including the validity of the methodology and assumptions used;

(3) The quality, utility, and clarity of the information to be collected; and

(4) How to minimize the burden of the collection of this information on respondents, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

David P. Boergers,

Secretary.

[FR Doc. 01–12175 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–407–000]

Algonquin Gas Transmission Company; Notice of Tariff Filing

May 8, 2001.

Take notice that on May 4, 2001, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets proposed to be effective June 4, 2001:

Ninth Revised Sheet No. 600
Original Sheet No. 718
Sheet Nos. 719–798

Algonquin states that the purpose of this filing is to amend its tariff, as suggested by the Commission in its April 12, 2001, Order Denying Clarification and Rehearing in Docket No. CP95–218–004, to include a generic waiver of the "shipper must have title" rule and a general statement that it will only transport for others on off-system capacity pursuant to its existing tariff and rates.

Algonquin states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11983 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–410–000]

Algonquin LNG, Inc.; Notice of Tariff Filing

May 8, 2001.

Take notice that on May 4, 2001, Algonquin LNG, Inc. (ALNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets proposed to be effective June 4, 2001:

Fourth Revised Sheet No. 29
Original Sheet No. 84
Sheet Nos. 85–88

ALNG states that the purpose of this filing is to amend its tariff, as suggested by the Commission in its April 12, 2001, Order Denying Clarification and Rehearing in Docket No. CP95–218–004, to include a generic waiver of the "shipper must have title" rule and a general statement that it will only transport for others on off-system capacity pursuant to its existing tariff and rates.

ALNG states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11986 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–94–000]

American Electric Power Service Corp.; Notice of Filing

May 8, 2001.

Take notice that on April 27, 2001, American Electric Power Service Corporation, on behalf of West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company, filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act requesting authorization to transfer operational control of certain jurisdictional transmission facilities to

the Southwest Power Pool Regional Transmission Organization as proposed and described in the filing made by the Southwest Power Pool on October 13, 2000 in Docket No. RT01–34–000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 18, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–12023 Filed 5–11–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–408–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

May 8, 2001.

Take notice that on May 4, 2001, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective June 4, 2001:

Sixth Revised Sheet No. 101
Third Revised Sheet No. 177

East Tennessee states that the purpose of this filing is to amend its tariff, as suggested by the Commission in its April 12, 2001, Order Denying Clarification and Rehearing in Docket No. CP95–218–004, to include a generic waiver of the "shipper must have title" rule and a general statement that it will only transport for others on off-system capacity pursuant to its existing tariff and rates.

East Tennessee states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–11984 Filed 5–11–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1771–001]

Idaho Power Company; Notice of Filing

May 8, 2001.

Take notice that on April 25, 2001, Idaho Power Company (Idaho Power) tendered for filing under its Market-Based Rates Tariff the First Amendment to the Power Purchase Agreement between Idaho Power, Doing Business as IDACORP Energy, and the City of Oakland, California, Acting by and through Its Board of Port Commissioners, for Wholesale Electricity Supply and Related Services at the Metropolitan Oakland International Airport and at the Former FISCO Facilities, dated February 8, 2001 and executed February 27, 2001.

Idaho Power requests an effective date of February 1, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 16, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–11971 Filed 5–11–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–311–000]

Kinder Morgan Interstate Gas Transmission, LLC; Notice of Application

May 8, 2001.

Take notice that on April 27, 2001, Kinder Morgan Interstate Gas Transmission LLC (KMIGT), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP01–311–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon by sale, certain secondary lateral pipelines, measuring and tap facilities located in various counties of the State of Nebraska. KMIGT further requests a finding that the facilities to be sold to Kinder Morgan Inc. (KMI), the purchasing party, nor KMI itself, would be subject to the Commission's jurisdiction under the NGA as a result of KMI's purchase of the facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

KMIGT states that the facilities proposed for abandonment are currently utilized by KMIGT to make deliveries of natural gas to KMI at its local distribution systems. KMIGT further states that the secondary laterals are basically an extension of KMI's existing distribution systems and would better serve its retail customers if they were owned and operated by KMI.

It is said that the abandonment of these facilities would serve the public interest by enabling KMIGT to reconfigure its interstate pipeline into more of a typical trunkline system and would facilitate and simplify business transactions. The reconfiguration of assets, it is said, would provide KMIGT with more accurate and timely metering information. It is further said that the abandonment would have no material impact on KMIGT's cost of service nor would it result in or cause any interruption, disruption, or termination of the transportation service presently rendered by KMIGT.

Any questions regarding this application should be directed in writing to Skip George, Manager, Certificates, Kinder Morgan Interstate Gas Transmission, LLC, P.O. Box 281304, Lakewood, Colorado 80228–8304 or by telephone at (303) 914–4969.

Any person desiring to be heard or any person desiring to make any protests with reference to said application should on or before May 29, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for KMIGT to appear or be represented at the hearing.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–11974 Filed 5–11–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–409–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Tariff Filing

May 8, 2001.

Take notice that on May 4, 2001, Maritimes & Northeast Pipeline L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets proposed to be effective June 4, 2001:

First Revised Sheet No. 201
Original Sheet No. 309
Sheet Nos. 310–399

Maritimes states that the purpose of this filing is to amend its tariff, as suggested by the Commission in its April 12, 2001, Order Denying Clarification and Rehearing in Docket No. CP95–218–004, to include a generic waiver of the "shipper must have title" rule and a general statement that it will only transport for others on off-system capacity pursuant to its existing tariff and rates.

Maritimes states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–11985 Filed 5–11–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–034]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

May 8, 2001.

Take notice that on April 30, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets, with an effective date of May 1, 2001.

Natural states that the purpose of this filing is to implement three negotiated rate transactions with Duke Energy Lee, LLC under Natural's Rate Schedule FTS and FRSS pursuant to Section 49 of the General Terms and Conditions of Natural's tariff.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the

Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11980 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–405–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

May 8, 2001.

Take notice that on May 4, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to be part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets, to be effective June 4, 2001.

Natural states that the purpose of this filing is to revise Rate Schedule DSS and the in-ground transfer provisions of the General Terms and Conditions of Natural's Tariff to provide Shippers under Rate Schedule DDS with greater injection flexibility.

Natural states that copies of the filing have been mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(l)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11981 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–406–000]

Natural Gas Pipeline Company of America; Notice of Proposed Change in FERC Gas Tariff

May 8, 2001.

Take notice that on May 4, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets, to be effective June 4, 2001.

Natural states that the purpose of this filing is to make several minor revisions to Natural's Tariff including changes to the General Terms and Conditions, to pro forma service agreements and to several rate schedules. These changes correct or clarify various provisions of Natural's Tariff and remove or modify outdated provisions.

Natural states that copies of the filing have been mailed to its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11982 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–73–000]

Northeast Texas Electric Cooperative, Inc., Rusk County Electric Cooperative, Inc., Upshur-Rural Electric Cooperative, Inc., Wood County Electric Cooperative, Inc., Notice of Filing

May 7, 2001.

Take notice that on May 1, 2001, Northeast Texas Electric Cooperative, Inc., Rusk County Electric Cooperative, Inc., Upshur-Rural Electric Cooperative, Inc. and Wood County Electric Cooperative, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission), a Petition for a Declaratory Order in the above-captioned proceeding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 31, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11970 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–580–002]

Southern LNG Inc.; Notice of Site Visit

May 8, 2001.

On May 17, 2001, at 9 a.m., staff from the Office of Energy Projects (OEP) will conduct a pre-certification site visit of the proposed Sendout Modification Project at Southern LNG Inc.'s (Southern LNG) existing liquefied natural gas import terminal on Elba Island near Savannah, Georgia. Representatives of Southern LNG will accompany the OEP staff.

At 1:30 p.m. on May 17, 2001, OEP staff and Southern LNG will conduct an informal Plant Open House to discuss general LNG issues.

All interested parties may attend the site visit and/or open house. Those planning to attend must provide their own transportation. For further information on attending the site visit or open house, please contact the Commission's Office of External Affairs at (202) 208–0004.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11973 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–233–001]

Transwestern Pipeline Company; Notice of Motion To Vacate

May 8, 2001.

On December 11, 2000, Transwestern Pipeline Company (Transwestern), P.O. Box 3330, Omaha, NE 68103, filed a Motion to Vacate the Abandonment Order issued by the Commission in Docket Nos. CP98–233–000, *et al.* On December 22, 1998, the Commission issued an Order Approving Abandonment and Authorizing Facilities Under Blanket Certificate (December 22 order). In such order, the Commission granted permission and approval for Transwestern to abandon by sale the Lipscomb Mocane and Leedy Lateral facilities to KN Interstate Gas Transmission Co. (KN Interstate), and for KN Interstate's prior notice request to acquire and operate such facilities. Transwestern states that the sale of the subject facilities was never completed under the Asset Purchase Agreement; and therefore, Transwestern is requesting the Commission vacate the December 22 Order, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Any questions regarding this application should be directed to Keith L. Petersen, Director, Certificates and Reporting for Transwestern, P.O. Box 3330, Omaha, Nebraska 68103, at (402) 398–7421.

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 18, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the motion for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11972 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–75–000]

Cities of Vernon, California v. California Independent System Operator Corp. Notice of Complaint

May 8, 2001.

Take notice that on May 7, 2001, the City of Vernon, California (Vernon) tendered for filing a Complaint Requesting Fast Track Processing against the California Independent System Operator Corporation (ISO). The Vernon Complaint seeks an order from the Commission that the ISO may not require Vernon to interrupt firm service to Vernon customers so that energy scheduled by Vernon for that load may be appropriated and provided to other utilities that have chosen not to procure or schedule in advance sufficient resources to serve their loads.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before May 18, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before May 16, 2001. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12022 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1936–000, et al.]

PJM Interconnection, L.L.C., et al; Electric Rate and Corporate Regulation Filings

May 7, 2001.

Take notice that the following filings have been made with the Commission:

1. PJM Interconnection, L.L.C.

[Docket No. ER01–1936–000]

Take notice that on May 1, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing proposed amendments to the PJM Open Access Transmission Tariff and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. to amend its station power service rules.

Copies of this filing have been served on all PJM Members and the state electric regulatory commissions in the PJM control area.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Services, Inc.

[Docket No. ER01–1937–000]

Take notice that on May 1, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Calpine Energy Services, L.P.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Indiana Gas & Electric Company

[Docket No. ER01–1938–000]

Take notice that on May 1, 2001, Southern Indiana Gas & Electric Company (SIGECO), tendered for filing revisions to its Open Access Transmission Tariff (OATT) to: (1) Revise the rates for ancillary services in OATT Schedules 1, 2, 3, 5 and 6 to better reflect the current costs of providing these services; (2) restate and amend OATT Schedule 4 to make Schedule 4 more consistent with recent Commission decisions regarding Energy Imbalance Service; (3) restate and amend OATT Schedules 7 and 8 to better reflect the current costs of providing these services; (4) establish Schedule 9 for Power Factor Correction Service; (5) revise the annual transmission revenue requirement contained in Attachment H; (6) establish a new OATT Attachment J that provides procedures for interconnecting new generating facilities to SIGECO's system or increasing an existing generators output; and (7) revise the OATT as necessary to make the OATT consistent with the changes made to the Schedules and Attachments.

Copies of the filing were served upon the public utility's jurisdictional customers who took service under the OATT and the Indiana Utility Regulatory Commission.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Citizens Communications Company

[Docket No. ER01–1939–000]

Take notice that on May 2, 2001, Citizens Communications Company (Citizens) tendered for filing two service agreements: (i) A Service Agreement with Sheldon Springs Hydro for Non-Firm Point-to-Point Transmission Service, designated as Service Agreement No. 9 under Citizens' Vermont Electric Division's Open Access Transmission Tariff, Electric Tariff Original Vol. 2; and (ii) a Service Agreement with Village of Swanton Village Electric Department for Non-Firm Point-to-Point Transmission Service, designated as Service Agreement No. 10 under Citizens' Vermont Electric Division's Open Access Transmission Tariff, Electric Tariff Original Vol. 2. Citizens also filed First Revised Sheet No. 182 (Attachment E, Index of Point to Point Transmission Service Customers) to Citizens' Vermont Electric Division's Open Access Transmission Tariff, Electric Tariff Original Vol. 2, replacing Original Sheet No. 182.

The filing relates to transmission service that Citizens' Vermont Electric Division (VED) provided to Sheldon Springs Hydro and Village of Swanton Village Electric Department during an emergency VELCO transmission outage on April 21 and 22, 2001. Citizens requests waiver of the Commission's prior notice requirements, and an effective date of April 20, 2001 for the service agreements and revised tariff sheet.

Copies of this filing were served on the wholesale customers, state commission, and other entities listed on the certificate of service attached to the filing. In addition, a copy of the rate schedule is available for inspection at the offices of Citizens' Vermont Electric Division during regular business hours.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Independent Scheduling Administrator Association

[Docket No. ER01–1940–000]

Take notice that on May 2, 2001, the Arizona Independent Scheduling Administrator Association (Az ISA) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act, four service agreements: two with Arizona Public Service Company and two with Tucson Electric Power Company. Also included in the filing are revised tariff sheets to reflect modifications to the definitions of Market Price and System Incremental Cost (SIC) in the Az ISA Protocols Manual. Az ISA requests that all of the foregoing be permitted to take effect May 3, 2001.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER01–1941–000]

Take notice that on May 2, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., tendered for filing an Interconnection and Operating Agreement with Duke Energy Hot Spring, LLC (Duke Hot Spring), and a Generator Imbalance Agreement with Duke Hot Spring.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. New York Independent System Operator, Inc.

[Docket No.ER01–1942–000]

Take notice that on May 2, 2001, the New York Independent System Operator, Inc. (NYISO) tendered for filing revisions to Attachment F of its Open Access Transmission Tariff in order to specify its treatment of requests for confidential information from a court or regulatory body with appropriate jurisdiction. The NYISO has requested an effective date of May 2, 2001 for the filing.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's OATT and Services Tariff.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. American Transmission Company LLC

[Docket No. ER01–1943–000]

Take notice that on May 2, 2001 (ATCLLC) tendered for filing a Firm and Non-Firm Point-to-Point Service Agreement between ATCLLC and Minnesota Municipal Power Agency. ATCLLC requests an effective date of April 5, 2001.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Western Systems Power Pool

[Docket No. ER01–1944–000]

Take notice that on May 2, 2001, the Western Systems Power Pool, Inc. (WSPP) tendered for filing changes to the WSPP Agreement intended to modify certain commercial terms pertaining to the sale of power. WSPP seeks an effective date of July 1, 2001, for these changes.

Copies of this filing have been served on all WSPP members and on all state commissions within the United States. This filing also has been posted on the WSPP homepage (www.wspp.org).

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Ameren Energy Marketing Company

[Docket No. ER01–1945–000]

Take notice that on May 2, 2001, Ameren Energy Marketing Company (AEM) tendered for filing amendments to an existing rate schedule to allow sales of certain ancillary services at flexible/market-based rates and requested certain blanket approvals and waivers of certain regulations promulgated under the FPA. AEM seeks an effective date of May 3, 2001, for the amendments and related market-based rate authorization.

Copies of this filing were served on the affected state utility commissions.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Pool

[Docket No. ER01–1946–000]

Take notice that on May 2, 2001, the New England Power Pool (NEPOOL) Participants Committee tendered for filing in the above-captioned docket, a correction to Sections A.1 and A.1.b of Supplement 1 to NEPOOL Tariff Ancillary Service Schedule 16 (System Restoration and Planning Service from Generators). The correction deletes an incorrect reference to a non-existent FERC account in a portion of the formula for determining the Schedule 16 revenue requirement, and inserts a reference to the correct FERC accounts to be used in the formula. NEPOOL requests that this filing be made effective retroactive to September 1, 1998, the same date that Schedule 16 was ordered into effect.

The NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants and the six New England state governors and regulatory commissions.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Southwest Power, Inc.

[Docket No. ER01–1947–000]

Take notice that on May 2, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing two executed service agreements for Firm Point-to-Point Transmission Service with Exelon (PECO Energy) (Transmission Customer), as Service Agreement Nos. 544 and 545, respectively. SPP requests an effective date of June 1, 2001, for Service Agreement No. 544, and January 1, 2002, for Service Agreement No. 545.

A copy of this filing was served on the Transmission Customer.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER01–1948–000]

Take notice that on May 2, 2001, Entergy Services, Inc. (Entergy Services), as agent for System Energy Resources, Inc. (SERI), tendered for filing the annual informational update (Update) containing the 2001 redetermination of the Monthly Capacity Charges, prepared in accordance with the provisions of SERI's Power Charge Formula (PCF) Tariff. Entergy Services states that the Update redetermines the formula rate in accordance with the annual rate redetermination provisions of section 2(B) of the PFC.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Power Provider LLC

[Docket No. ER01–1949–000]

Take notice that on May 2, 2001, Power Provider LLC tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, an application for authorization to make sales of capacity and/or electric energy at market-based rates.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. American Electric Power Service Corporation

[Docket No. ER01–1970–000]

Take notice that on April 30, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission Service Agreements for EnergyUSA–TPC. These agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after April 1, 2001.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Elwood Energy II, LLC, Elwood Energy III, LLC

[Docket No. ER01–1051–001 and Docket No. ER01–1055–001]

Take notice that on May 2, 2001, Elwood Energy II, LLC and Elwood Energy III, LLC tendered for filing revised market-based rate tariffs to include a prohibition on sales to an affiliated traditional utility absent a separate section 205 filing.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Arizona Independent Scheduling Administrator Association

[Docket No. ER00–3583–003]

Take notice that on May 2, 2001, the Arizona Independent Scheduling Administrator Association (Az ISA) tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing that revises certain portions of the Az ISA Tariff and provides information on start-up costs as required by the Commission's Order issued in this case on November 30, 2000.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Alliant Energy Corporate Services, Inc.

[Docket No. ER01–870–003]

Take notice that on May 2, 2001, Alliant Energy Corporate Services, Inc.

(Alliant Energy Corporate Services) on behalf of IES Utilities Inc. (IES), Interstate Power Company (IPC) and Wisconsin Power and Light Company (WPL), tendered for filing in compliance with the Federal Energy Regulatory Commission's (Commission) Order dated April 13, 2001, in Docket Nos. ER01–870–001 and ER01–870–002, 95 FERC ¶ 61,064.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, the Public Service Commission of Wisconsin, and all parties listed on the service list as compiled by the Secretary in this proceeding.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Central Maine Power Company

[Docket No. ER01–1741–001]

Take notice that on May 2, 2001, Central Maine Power Company (CMP), tendered for filing as an initial rate schedule pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (the Commission) regulations, 18 C.F.R. § 35.12, (i) an unexecuted Form of Service Agreement for Non-Firm Local Point-to-Point Transmission Service between CMP and S.D. Warren Company (S.D. Warren), and (ii) an unexecuted Form of Service Agreement for Non-Firm Local Point-to-Point Transmission Service between CMP and Engage Energy America LLC (Engage), designated as Original Service Agreements 123 and 124, respectively, to CMP's FERC Electric Tariff, Fifth Revised Volume No. 3.

CMP is requesting that these unexecuted transmission service agreements become effective March 30, 2001.

Copies of this filing have been served upon the Commission, the Maine Public Utilities Commission, S.D. Warren, and Engage.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Callaway Golf Company

[Docket No. ER01–1701–001]

Take notice that on May 2, 2001, Callaway Golf Company (Callaway) petitioned the Commission for acceptance of Callaway Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Callaway intends to engage in wholesale electric power and energy purchases and sales as a marketer. Callaway is not in the business of generating or transmitting electric power. Callaway and its subsidiaries and affiliates are in the business of designing, manufacturing, marketing, distributing and selling golf equipment.

Callaway requests that the Callaway Rate Schedule FERC No. 1 be made effective April 26, 2001, as originally requested.

Comment date: May 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Warren Power, LLC

[Docket No. EG01–202–000]

Take notice that on May 3, 2001, Warren Power, LLC, Parkwood Two Building, Suite 150, 10055 Grogan's Mill Road, the Woodlands, Texas, 77380, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Section 329(a)(1) of the Public Utility Holding Company Act of 1935, as amended. The applicant is a limited liability company that will be engaged directly or indirectly and exclusively in the business of developing and ultimately owning and/or operating a 340 megawatt gas-fired, simple cycle electric generating facility located in Vicksburg, Mississippi and selling electric energy at wholesale.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

22. Zion Energy LLC

[Docket No. EG01–203–000]

Take notice that on May 2, 2001, Zion Energy LLC (Zion) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Zion, a Delaware limited liability company, proposes to own and operate an 825 MW electric generating facility and sell the output at wholesale to electric utilities, an affiliated power marketer and other purchasers. The facility is a natural gas-fired, simple cycle generating facility, which is under development in Lake County, Illinois.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

23. Western Systems Coordinating Council, Southwest Regional Transmission Association, Western Regional Transmission Association

[Docket No. EL01–74–000]

Take notice that on May 3, 2001, Western Systems Coordinating Council WSCC), Southwest Regional Transmission Association (SWRTA) and Western Regional Transmission Association (WRTA), tendered for filing with the Federal Energy Regulatory Commission (Commission), a Petition For Declaratory Order or For An Order Approving The Transfer Of Certain WSCC, WRTA and SWRTA Functions To The Western Electricity Coordinating Council (Petition).

The Petition describes in detail the anticipated structure and function of the Western Electricity Coordinating Council (WECC), and the petitioners' plan for their merger into WECC. On the grounds that the merging regional organizations are not currently regulated by the Commission and the merger will not substantially alter existing functions performed by WSCC, WRTA and SWRTA, petitioners request an order approving the transfer of those functions to WECC.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. California Independent System Operator Corporation

[Docket No. ER01–1953–000]

Take notice that on May 3, 2001, the California Independent System Operator Corporation, on May 3, 2001, tendered for filing a Participating Generator Agreement between the ISO and Point Arguello Pipeline Company for acceptance by the Commission.

The ISO states that this filing has been served on Point Arguello Pipeline Company and the California Public Utilities Commission.

The ISO is requesting the Participating Generator Agreement be made effective April 25, 2001.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–1958–000]

Take notice that on April 30, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), submitted for filing a Notice of Cancellation of the Service Agreement between GPU Energy and Woodruff Oil Company (d/b/a Woodruff Energy), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 79.

GPU Energy requests that cancellation be effective the 27th day of June 2001.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–1959–000]

Take notice that on April 30, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) submitted for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Eastex Power Marketing, Inc. (now El Paso Merchant Energy, L.P.), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 40.

GPU Energy requests that cancellation be effective the June 27, 2001.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. ANP Bellingham Energy Company, LLC (Successor to ANP Bellingham Energy Company)

[Docket No. ER01–1967–000]

Take notice that on May 1, 2001, ANP Bellingham Energy Company, LLC tendered for filing a Notice of Succession to succeed to the market-based rate tariff of ANP Bellingham Energy Company, effective April 24, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. ANP Blackstone Energy Company, LLC (Successor to ANP Blackstone Energy Company)

[Docket No. ER01–1968–000]

Take notice that on May 1, 2001, ANP Blackstone Energy Company, LLC tendered for filing a Notice of Succession to succeed to the market-based rate tariff of ANP Blackstone Energy Company, effective April 24, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

29. Ameren Services Company

[Docket No. ER01–1969–000]

Take notice that on May 1, 2001, Ameren Services Company (ASC) tendered for filing an unexecuted Service Agreement for Network Integration Transmission Service and an unexecuted Network Operating Agreement between ASC and Wayne-White Counties Electric Cooperative, Inc. (Customer). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to customer pursuant to Ameren's Open Access Tariff.

ASC requests that the Network Service Agreement and Network Operating agreement, subject to refund, become effective April 1, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11969 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 8, 2001.

Take notice that the following hydroelectronic application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2145–041.

c. *Date Filed:* May 3, 2001.

d. *Applicant:* Public Utility District No. 1 of Chelan County, Washington.

e. *Name of Project:* Rocky Reach Hydroelectronic Project.

f. *Location:* On the Columbia River near the city of Wenatchee, in Chelan and Douglas Counties, in Washington state. The project occupies lands managed by the Bureau of Land Management and the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert A. Salter, Public Utility District No. 1 of Chelan County, Washington, P.O. Box 1231, Wenatchee, WA, 98807; (509) 663–8121.

i. *FERC Contact:* Questions about this notice can be answered by Vince Yearick at (202) 219–3073 or e-mail address: *vince.yearick@ferc.fed.us*. The Commission cannot accept comments, recommendations, motions to intervene or protests sent by e-mail; these documents must be filed as described below.

j. *Deadline for filing comments, motions to intervene, and protests:* 14 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Filing:* Public Utility District No. 1 of Chelan County, Washington, has filed an application requesting that its license for the Rocky Reach project be amended to allow for a temporary, 1-year increase of 1-foot in the maximum normal reservoir pool elevation (from 707 to 708 feet above sea level). The applicant also proposes to install a 1.5-foot splashguard on top of

each of 12 existing spillway tainter gates to reduce winter ice buildup from wave action. The splashguards would remain in place after the reservoir is returned to a normal pool level 707 feet. Comments and reply comments on the Amendment of License are due on the dates listed in item j above.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11975 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 8, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amend the project boundaries for the Middle Chattahoochee Hydroelectric Project.

b. *Project No.* 2177–045.

c. *Dates Filed:* April 18, 2001.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Chattahoochee Hydroelectric Project.

f. *Location:* The Project is located on the Chattahoochee River, in Lee and Russell Counties Alabama, and in Harris and Muscogee Counties, Georgia.

g. *Filed Pursuant to:* 18 CFR 4.201.

h. *Applicant Contact:* Mike A. Phillips, Land Resources Supervisor, Georgia Power Company, Bin 10151, 241 Ralph McGill Boulevard, Atlanta, Georgia 03308–3374; (404) 506–2392.

i. *FERC Contact:* Any questions on the notice should be addressed to Robert Shaffer at (202) 208–0944 or by e-mail at Robert.Shaffer@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* 30 Days from the issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in Lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Please include the project number (P–2177–045) on any comments or motions filed.

k. *Description of Filing:* Georgia Power Company is proposing to revise the project boundary by sale of approximately 7.948 acres that is adjacent to Lake Oliver to Mr. Donald Peek.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NW., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on *http://www.ferc.fed.us/online/rims.htm* [call (202) 208–2222 for assistance]. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11976 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Soliciting Motions to Intervene, Protests, Comments, Recommendations, and Terms and Conditions

May 8, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 11897–000.

c. *Date filed:* February 26, 2001.

d. *Applicant:* Francis Carrington.

e. *Name of Project:* Buckhorn Ranch Project.

f. *Location:* On Mill Ditch, in Shasta County, California. Project has no Federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert Smythe, 14824 Fern Road, Whitmore, California, 90096, phone (530) 472–1931.

i. *FERC Contact:* Robert W. Bell (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* June 15, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11897–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project consists of a proposed powerhouse on a pipe section of Mill Ditch with one new generating unit having an installed capacity of 500-kW and will be discharged into a stock pond. The applicant would sell all the power generated to a local utility. The average annual generation would be 4,336,200 kWh.

l. *Competing Application:* Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

m. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

n. *Protests or Motions to Intervene:* Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

o. *Filing and Service of Responsive Documents:* The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 30 days from the issuance date of this notice. All reply comments must be filed with the Commission within 45 days from the date of this notice. Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause of extraordinary circumstances in accordance with 18 CFR 385.2008.

p. All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS", "TERMS AND CONDITIONS", "PRESCRIPTIONS"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

q. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address shown in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11977 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 8, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11966–000.

c. *Date filed:* April 18, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Keyhold Dam Hydroelectric Project would be located on the Belle Fourche River in Crook County, Wyoming. The

project would utilize the U.S. Bureau of Reclamation's existing Keyhold Dam.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper, See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11966–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project, using the existing Keyhole Dam, would consist of: (1) an 800-foot-long, 6-foot-diameter steel penstock liner; (2) a concrete powerhouse containing one generating unit with an installed capacity of 1.5 megawatts; (3) a tailrace; (4) a two-mile-long, 15-kV transmission line; and (5) appurtenant facilities. The project would have an average annual generation of 7.9 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, if will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11978 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 8, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11968–000.

c. *Date filed:* April 18, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Corbett Dam Hydroelectric Project would be located on the Shoshone River in Park County, Wyoming. The project would utilize the U.S. Bureau of Reclamation's existing Corbett Diversion Dam.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11968–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project, using the existing Corbett Diversion Dam, would consist of: (1) a 200-foot-long, 12-foot-diameter steel penstock; (2) a concrete powerhouse containing one generating unit with an installed capacity of 2 megawatts; (3) a tailrace; (4) a 1.5-mile-long, 15–kV transmission line; and (5) appurtenant facilities. The project would have an average annual generation of 8.8 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who filed a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing a Service of Responsible Document—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11979 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

May 9, 2001

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 16, 2001, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

766th—Meeting May 16, 2001 Regular Meeting, 10 a.m.

Consent Agenda—Markets, Tariffs and Rates—Electric

CAE–1.
DOCKET# ER01–1677 000 PUBLIC SERVICE COMPANY OF NEW MEXICO
CAE–2.
DOCKET# ER01–1579 000 CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
OTHER#S ER01–1579 001 CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–3.
DOCKET# ER01–1587 000 CONSUMERS ENERGY COMPANY
CAE–4.
DOCKET# ER01–1619 000 DUKE ENERGY MOHAVE, LLC
CAE–5.
DOCKET# ER01–1615 000 SOUTHERN POWER COMPANY
OTHER#S ER00–2998 001 SOUTHERN COMPANY SERVICES, INC.; ER00–2999 001 SOUTHERN COMPANY SERVICES, INC.; ER00–3000 001 SOUTHERN COMPANY SERVICES, INC.; ER00–3001 001 SOUTHERN COMPANY SERVICES, INC.
CAE–6.
DOCKET# ER01–1671 000 PJM INTERCONNECTION, L.L.C.
CAE–7.
DOCKET# ER01–1654 000 NINE MILE POINT NUCLEAR STATION, LLC
CAE–8.
OMITTED
CAE–9.
DOCKET# ER01–1681 000 CINCINNATI GAS & ELECTRIC COMPANY
CAE–10.
DOCKET# ER01–1405 000 MISSISSIPPI POWER COMPANY AND SOUTHERN COMPANY SERVICES, INC.
OTHER#S ER01–1405 001 MISSISSIPPI POWER COMPANY AND SOUTHERN COMPANY SERVICES, INC.; ER00–2998 001 SOUTHERN COMPANY SERVICES, INC.; ER00–2999 001 SOUTHERN COMPANY SERVICES, INC.; ER00–3000 001 SOUTHERN COMPANY SERVICES, INC.; ER00–3001 001 SOUTHERN COMPANY SERVICES, INC.
CAE–11.
DOCKET# ER01–1284 000 MISSISSIPPI POWER COMPANY AND SOUTHERN COMPANY SERVICES, INC.
OTHER#S ER01–1284 001 MISSISSIPPI POWER COMPANY AND SOUTHERN COMPANY SERVICES, INC.; ER00–2998 001 SOUTHERN COMPANY SERVICES, INC.; ER00–2999 001 SOUTHERN COMPANY SERVICES, INC.; ER00–3000 001 SOUTHERN COMPANY SERVICES, INC.; ER00–3001 001 SOUTHERN COMPANY SERVICES, INC.
CAE–12.
DOCKET# ER01–1801 000 TUCSON ELECTRIC POWER COMPANY
OTHER#S ER00–2998 001 SOUTHERN COMPANY SERVICES, INC.; ER00–2999 001 SOUTHERN COMPANY SERVICES, INC.; ER00–3000 001 SOUTHERN COMPANY SERVICES, INC.; ER00–3001 001 SOUTHERN COMPANY SERVICES, INC.
CAE–13.
DOCKET# ER00–2621 000 ENTERGY LOUISIANA, INC.
OTHER#S ER00–3671 000 ENTERGY SERVICES, INC.
CAE–14.
OMITTED
CAE–15.
DOCKET# ER01–1521 000 PJM INTERCONNECTION, L.L.C.
OTHER#S ER01–1521 001 PJM INTERCONNECTION, L.L.C.
CAE–16.
DOCKET# ER01–1209 000 COMMONWEALTH EDISON COMPANY
CAE–17.
DOCKET# ER01–1586 000 EDISON SAULT ELECTRIC COMPANY
CAE–18.
DOCKET# EL00–40 002 DIGHTON POWER ASSOCIATES LIMITED PARTNERSHIP, FPL ENERGY, L.L.C., SOUTHERN ENERGY NEW ENGLAND, L.L.C. AND SOUTHERN ENERGY KENDALL, L.L.C. V. ISO NEW ENGLAND, INC.
CAE–19.
OMITTED
CAE–20.
DOCKET# EL00–63 005 NSTAR SERVICES COMPANY V. NEW ENGLAND POWER POOL
OTHER#S EL00–62 023 ISO NEW ENGLAND, INC.; ER00–2052 010 ISO NEW ENGLAND, INC.; ER00–2811 005 ISO NEW ENGLAND, INC.; ER00–2937 003 ISO NEW ENGLAND, INC.
CAE–21.
DOCKET# ER01–179 002 PJM INTERCONNECTION, L.L.C.
CAE–22.
DOCKET# EL01–22 001 IDAHO POWER COMPANY
CAE–23.
DOCKET# ER99–993 001 MID-CONTINENT AREA POWER POOL
CAE–24.
DOCKET# ER99–1374 002 NEW ENGLAND POWER POOL
OTHER#S ER99–1556 002 NEW ENGLAND POWER POOL; ER99–1609 002 NEW ENGLAND POWER POOL
CAE–25.
DOCKET# ER98–3853 005 NEW ENGLAND POWER POOL
CAE–26.
DOCKET# RM87–3, 038, ANNUAL CHARGES UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986 (KOCH ENERGY TRADING, INC., ET AL.)
OTHER#S RM87–3, 039, ANNUAL CHARGES UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986 (KOCH ENERGY TRADING, INC, ET AL.); RM87–3, 041, ANNUAL CHARGES UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986 (KOCH ENERGY TRADING, INC., ET AL.)
CAE–27.
DOCKET# ER99–3206, 002, ISO NEW ENGLAND, INC.
CAE–28.
DOCKET# EC99–53, 001, FIRST OPERATING COMPANIES (THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, TOLEDO EDISON COMPANY, OHIO EDISON COMPANY AND PENNSYLVANIA POWER COMPANY) AND AMERICAN TRANSMISSION SYSTEMS, INC.
CAE–29.
DOCKET# ER00–565, 001, PACIFIC GAS AND ELECTRIC COMPANY
CAE–30.
DOCKET# ER00–1378, 001, MIDWEST GENERATION, LLC
CAE–31.
DOCKET# EL00–62, 004, ISO NEW ENGLAND, INC.
OTHER#S ER00–2052, 005, ISO NEW ENGLAND, INC.; ER00–2016, 002, NEW ENGLAND POWER POOL; EL00–59, 002, CENTRAL MAINE POWER COMPANY, NORTHEAST UTILITIES SERVICE COMPANY, UNITED ILLUMINATING COMPANY, UNITIL POWER CORPORATION, FITCHBURG GAS AND ELECTRIC LIGHT COMPANY AND VERMONT ELECTRIC POWER COMPANY V. NEW ENGLAND POWER POOL AND ISO NEW ENGLAND, INC.; ER00–2005, 002, CENTRAL MAINE POWER COMPANY, NORTHEAST UTILITIES SERVICE COMPANY, UNITED ILLUMINATING COMPANY, UNITIL POWER CORPORATION, FITCHBURG GAS AND ELECTRIC LIGHT COMPANY AND VERMONT ELECTRIC POWER COMPANY V. NEW ENGLAND POWER POOL AND ISO NEW ENGLAND, INC.
CAE–32.
OMITTED
CAE–33.
DOCKET# EC00–106, 001, ENTERGY POWER MARKETING CORPORATION AND KOCH ENERGY TRADING, INC.
CAE–34.
DOCKET# ER00–3691, 002, SITHE EDGAR LLC, SITHE NEW BOSTON LLC, SITHE FRAMINGHAM LLC, SITHE WEST MEDWAY LLC, SITHE WYMAN LLC, SITHE MYSTIC LLC, AG-ENERGY, L.P., POWER CITY PARTNERS, L.P., SENECA POWER PARTNERS, L.P., STERLING POWER PARTNERS, L.P., SITHE POWER MARKETING, L.P. AND SITHE POWER MARKETING, INC.
CAE–35.
DOCKET# RT01–74, 001, CAROLINA POWER & LIGHT COMPANY, DUKE ENERGY CORPORATION, SOUTH CAROLINA ELECTRIC & GAS COMPANY AND GRIDSOUTH TRANSCO, LLC
CAE–36.
DOCKET# EL01–53, 000, PPL LEASING COMPANY, LLC
CAE–37.
DOCKET# EL01–49, 000, COGEN LYONDELL, INC., COGEN POWER, INC., OYSTER CREEK LIMITED, DYNEGY POWER CORPORATION, AES DEEPWATER, INC., BAYTOWN ENERGY CENTER, L.P., CHANNEL ENERGY CENTER, L.P., CLEAR LAKE COGENERTION, L.P., CORPUS CHRISTI COGENERATION, PASADENA COGENERATION, L.P., TEXAS CITY COGENERATION, L.P., CALPINE CORPORATION, CONOCO, INC., THE DOW CHEMICAL COMPANY AND GREGORY POWER PARTNERS, L.P.
OTHER#S EL01–60, 000, TEXAS PUBLIC UTILITY COMMISSION OF TEXAS
CAE–38.
DOCKET# EL01–46, 000, AXIA ENERGY, LP V. SOUTHWEST POWER POOL, INC.
CAE–39.
DOCKET# EL01–52, 000, BARNET HYDRO COMPANY, COMTU FALLS, DODGE FALLS ASSOCIAATES L.P., EMERSON FALLS HYDRO, INC., HYDRO ENERGIES CORPORATION, KILLINGTON HYDROELECTRIC COMPANY, KINGSBURY HYDRO, MARTINSVILLE WATER POWER, MORETOWN ENERGY COMPANY, MISSISSIPPI ASSOCIATES, NANTANNA MILL, NEWBURY HYRO, OTTAUQUECHEE HYDRO COMPANY, INC., RYEGATE ASSOCIATES, SPRINGFIELD HYDROELECTRIC COMPANY, WINOOSKI HYDROELECTRIC COMPANY, WINOOSKI ONE PARTNERSHIP, WOODSIDE HYDRO, WORCESTER HYDRO AND VERMONT MARBLE POWER DIVISION OF OMYA, INC. V. CENTRAL VERMONT PUBLIC SERVICE CORPORATION, BARTON VILLAGE INCORPORATED ELECTRIC DEPARTMENT, VILLAGE OF ENOSBURG FALLS ELECTRIC LIGHT DEPARTMENT, VILLAGE OF HYDE PARK ELECTRIC DEPARTMENT, VILLAGE OF JACKSONVILLE ELECTRIC DEPARTMENT, VILLAGE OF JOHNSON ELECTRIC LIGHT DEPARTMENT, VILLAGE OF LUDLOW ELECTRIC LIGHT DEPARTMENT, VILLAGE OF LYNDONVILLE ELECTRIC DEPARTMENT, VILLAGE OF MORRISVILLE WATER & LIGHT DEPARTMENT, NORTHFIELD ELECTRIC DEPARTMENT, VILLAGE OF ORLEANS ELECTRIC DEPARTMENT, TOWN OF READSBORO ELECTRIC DEPARTMENT, STOWE ELECTRIC DEPARTMENT AND VILLAGE OF SWANTON ELECTRIC DEPARTMENT
CAE–40.
DOCKET# EL97–19, 000, VILLAGE OF BELMONT, CITY OF JUNEAU, CITY OF PLYMOUTH, CITY OF REEDSBURG, CITY OF SHEBOYGAN FALLS, CITY WISCONSIN RAPIDS, WISCONSIN, ADAMS-COLUMBIA ELECTRIC COOPERATIVE, CENTRAL WISCONSIN ELECTRIC COOPERATIVE AND THE ROCK COUNTY ELECTRIC COOPERATIVE V. WISCONSIN POWER & LIGHT COMPANY
OTHER#S SC97–3, 000, VILLAGE OF BELMONT, CITY OF JUNEAU, CITY OF PLYMOUTH, CITY OF REEDSBURG, CITY OF SHEBOYGAN FALLS, CITY WISCONSIN RAPIDS, WISCONSIN, ADAMS-COLUMBIA ELECTRIC COOPERATIVE, CENTRAL WISCONSIN ELECTRIC COOPERATIVE AND THE ROCK COUNTY ELECTRIC COOPERATIVE V. WISCONSIN POWER & LIGHT COMPANY
CAE–41.
DOCKET# EL99–14, 000, SOUTHWESTERN ELECTRIC COOPERATIVE, INC. V. SOYLAND POWER COOPERATIVE, INC.
OTHER#S EL99–14, 001, SOUTHWESTERN ELECTRIC COOPERATIVE, INC. V. SOYLAND POWER COOPERATIVE, INC.
CAE–42.
DOCKET# EL01–58, 000, POWEREX CORPORATION V. U.S. DEPARTMENT OF ENERGY—WESTERN AREA POWER ADMINISTRATION, ROCKY MOUNTAIN REGION/WESTERN AREA COLORADO MISSOURI
CAE–43.
DOCKET# EL01–47, 000, REMOVING OBSTACLES TO INCREASED ELECTRIC GENERATION AND NATURAL GAS SUPPLY IN THE WESTERN UNITED STATES
OTHER#S EL01–47, 001, REMOVING OBSTACLES TO INCREASED ELECTRIC GENERATION AND NATURAL GAS SUPPLY IN THE WESTERN UNITED STATES
CAE–44.
DOCKET# EL00–95, 020, SAN DIEGO GAS & ELECTRIC COMPANY V. SELLERS OF ENERGY AND ANCILLARY SERVICES INTO MARKETS OPERATED BY THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR AND THE CALIFORNIA POWER EXCHANGE
OTHER#S EL00–98, 019, INVESTIGATION OF PRACTICES OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR AND THE CALIFORNIA POWER EXCHANGE; EL01–47, 002, REMOVING OBSTACLES TO INCREASED ELECTRIC GENERATION AND NATURAL GAS SUPPLY IN THE WESTERN UNITED STATES; EL01–72, 000, SECTION 210(d) PROCEEDING APPLICABLE TO ELECTRIC UTILITIES IN CALIFORNIA
CAE–45.
OMITTED
CAE–46.
DOCKET# ER01–1572, 000, THE DETROIT EDISON COMPANY AND DTE ENERGY TRADING, INC.
CAE–47.
DOCKET# ER01–1385, 000, CONSOLIDATED EDISON COMPANY OF NEW YORK
OTHERS EL01–45, 000, CONSOLIDATED EDISON COMPANY OF NEW YORK
CAE–48.
DOCKET# ER01–1740, 000, NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
CAE–49.
OMITTED

Consent Agenda—Markets, Tariffs and Rates—Gas

CAG–1.
DOCKET# RP01–379, 000, TUSCARORA GAS TRANSMISSION COMPANY
CAG–2.
DOCKET# RP98–430, 000, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–3.
DOCKET# RP00–632, 001, DOMINION TRANSMISSION, INC.
OTHERS RP00–632, 000, DOMINION TRANSMISSION, INC.
CAG–4.
DOCKET# RP93–151, 028, TENNESSEE GAS PIPELINE COMPANY
CAG–5.
DOCKET# RP00–162, 011, PANHANDLE EASTERN PIPE LINE COMPANY
CAG–6.
DOCKET# OR99–5, 000, COLONIAL PIPELINE COMPANY
CAG–7.
DOCKET# RP96–347, 021, NORTHERN NATURAL GAS COMPANY
OTHER#S RP01–382, 000, NORTHERN NATURAL GAS COMPANY
CAG–8.
DOCKET# RP97–406, 031, DOMINION TRANSMISSION, INC.
OTHER#S RP01–74, 006, DOMINION TRANSMISSION, INC.
CAG–9.
DOCKET# RP98–42, 015, ANR PIPELINE COMPANY
OTHER#S RP98–42, 020, ANR PIPELINE COMPANY
CAG–10.
DOCKET# RP00–543, 002, TEXAS EASTERN TRANSMISSION CORPORATION
OTHER#S RP00–543, 001, TEXAS EASTERN TRANSMISSION CORPORATION
CAG–11.
OMITTED
CAG–12.
DOCKET# MG00–7, 002, TEXAS GAS TRANSMISSION CORPORATION
CAG–13.
DOCKET# OR01–2, 000, BIG WEST OIL COMPANY V. FRONTIER PIPELINE COMPANY AND EXPRESS PIPELINE PARTNERSHIP
OTHER#S OR01–3, 000, BIG WEST OIL COMPANY V. ANSCHUTZ RANCH EAST PIPELINE, INC. AND EXPRESS PIPELINE PARTNERSHIP; OR01–4, 000, CHEVRON PRODUCTS COMPANY V. FRONTIER PIPELINE COMPANY AND EXPRESS PIPELINE PARTNERSHIP; OR01–5, 000, CHEVRON PRODUCTS COMPANY V. ANSCHUTZ RANCH EAST PIPELINE, INC. AND EXPRESS PIPELINE PARTNERSHIP
CAG–14.
DOCKET# RP01–377, 000, NORTHERN BORDER PIPELINE COMPANY

Consent Agenda—Energy Projects—Hydro

CAH–1.
DOCKET# P–2035, 008, CITY AND COUNTY OF DENVER, COLORADO

CAH–2.
DOCKET# P–11855, 001, JLH HYDRO INC.
CAH–3.
DOCKET# P–9100, 016, JAMES M. KNOTT
CAH–4. OMITTED
CAH–5. OMITTED
CAH–6. OMITTED

Consent Agenda—Energy Projects—Certificates

CAC–1.
DOCKET# CP00–138, 000, NORTHWEST NATURAL GAS COMPANY
CAC–2.
OMITTED
CAC–3.
OMITTED
CAC–4.
DOCKET# CP00–471, 000, WYOMING INTERSTATE COMPANY, LTD.
CAC–5.
DOCKET# CP01–1, 000, COLORADO INTERSTATE GAS COMPANY
CAC–6.
DOCKET# CP01–64, 000, TRAILBLAZER PIPELINE COMPANY
CAC–7.
DOCKET# CP01–70, 000, COLUMBIA GAS TRANSMISSION CORPORATION
CAC–8.
DOCKET# CP01–23, 000, NORTH BAJA PIPELINE LLC
OTHER#S CP01–22, 000, NORTH BAJA PIPELINE LLC; CP01–24, 000, NORTH BAJA PIPELINE LLC; CP01–25, 000, NORTH BAJA PIPELINE LLC
CAC–9.
DOCKET# CP01–50, 000, THE MONTANA POWER COMPANY AND THE MONTANA POWER, L.L.C.
OTHER#S CP01–51, 000, THE MONTANA POWER COMPANY AND THE MONTANA POWER, L.L.C.
CAC–10.
DOCKET# CP00–401, 001, SUPREX ENERGY CORPORATION AND ALTAGAS FACILITIES (U.S.), INC.
CAC–11.
DOCKET# CP00–233, 002, SOUTHERN NATURAL GAS COMPANY

Energy Projects—Hydro Agenda

H–1.
RESERVED

Energy Projects—Certificates Agenda

C–1.
RESERVED

Markets, Tariffs and Rates—Electric Agenda

E–1.
RESERVED

Markets, tariffs and Rates—Gas Agenda

G–1.
RESERVED

David P. Boergers,

Secretary.

[FR Doc. 01–12178 Filed 5–10–01; 11:14 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6977–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Indoor Air Quality Practices in Schools Survey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Title: Indoor Air Quality Practices in Schools Survey, The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 13, 2001.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at *farmer.sandy@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1885.01. For technical questions about the ICR contact John Guevin at EPA by phone at (202) 564–9055.

SUPPLEMENTARY INFORMATION:

Title: Indoor Air Quality Practices in Schools Survey, EPA ICR No. 1885.01. This is a new collection.

Abstract: As part of its authorization under Title IV of SARA, 1986, EPA has been working to promote more effective approaches for preventing, identifying, and solving indoor air quality (IAQ) problems in schools and has developed low-cost guidance entitled IAQ Tools for Schools for that purpose.

The Indoor Air Quality Practices in Schools Survey will allow EPA to gain information regarding the number of schools that have implemented sound IAQ-management practices, such as those activities recommended in its guidance. These data are essential for measuring the effectiveness of EPA's outreach efforts against the Agency's established GPRA goal. EPA is working towards achieving the implementation of sound IAQ practices in 15 percent (or 16,650) of the nation's public and private schools by 2005.

This survey is voluntary. EPA does not expect to receive confidential information from the schools voluntarily participating in the Survey. However, if a respondent does consider the information submitted to be of a proprietary nature, EPA will assure its confidentiality based on the provisions of 40 CFR Part 2, Subpart B, "Confidentiality of Business Information."

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 10/20/2000 (FR–6886–3); 1 comment was received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 1.3 hours per response for completing the survey by mail and 0.8 hours per response for completing the survey by telephone. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Public and private elementary and secondary schools operating in the United States.

Estimated Number of Respondents: 1,612.

Frequency of Response: Twice.

Estimated Total Annual Hour Burden: 564 hours.

Estimated Total Annualized Capital and O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1885.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: May 3, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–12047 Filed 5–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6977–5]

RACT/BACT/LAER Clearinghouse: Notice of Public Workshops

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshops.

SUMMARY: The EPA operates a clearinghouse of air pollution control technology information known as the Reasonably Available Control Technology (RACT), Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER) Clearinghouse (RACT/BACT/LAER Clearinghouse or RBLC). The RBLC has recently received funding needed to implement major improvements and gather missing information. To effectively use these resources, the RBLC needs to communicate with and consider the needs of its users and potential clients. Consequently, several public workshops will be held in 2001 to get user input. The purpose of this notice is to announce the dates and locations of the initial workshops.

DATES: The first two public workshops are scheduled for June 6, 2001 and June 13, 2001. Two additional workshops are under consideration for July 2001 and August 2001.

ADDRESSES: The first workshop will be held in the Ronald Reagan Building in Washington, DC. The second workshop will be held in the EPA's Environmental Research Center in Research Triangle Park, North Carolina. Both workshops will run from 9 a.m. until 5 p.m., Eastern Daylight time, with registration from 8:30 a.m. to 9 a.m. Two other workshops are tentatively scheduled to be held in Denver, Colorado and Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: The Clean Air Technology Center (CATC) website at *http://www.epa.gov/ttn/catc* contains detailed information regarding each workshop. Alternatively, you may send an e-mail to catcmail@epa.gov or call the CATC hotline at 919–541–0800 with general questions. A pre-registration form is available on the website. Participants are encouraged to pre-register for the workshops.

SUPPLEMENTARY INFORMATION: The terms RACT, BACT, and LAER indicate emission control and pollution prevention measures required by different provisions of the Clean Air Act. New Source Review (NSR) requirements are case-by-case decisions or determinations based on the requirements of the applicable regulation. The NSR BACT requirements apply to major new and modified sources located in attainment areas (i.e., areas attaining the National Ambient Air Quality Standards (NAAQS)) and subject to Prevention of Significant Air Quality Deterioration (PSD) permitting requirements. The NSR LAER requirements apply to major new and modified sources located in nonattainment areas (i.e., areas that do not meet a NAAQS). Existing sources located in nonattainment areas are subject to RACT requirements. The RACT determinations may also be made on a case-by-case basis, but typically RACT requirements have been prescribed by State and local rules and regulations. The RBLC is primarily a Clearinghouse for air pollution control and pollution prevention technology determinations required for major new and modified sources subject to NSR (BACT & LAER) permitting requirements.

The RBLC will be hosting several public workshops in 2001 to get user input for our efforts to implement improvements to the RBLC. Permitting agency staff represent about one-third of those using the RBLC. The remaining two-thirds of users represent industry, consultants and lawyers preparing NSR permit applications or searching for good technology options for their air pollution abatement problems. The first public workshop will be held in Washington, DC on June 6, 2001. The second public workshop will be held in Research Triangle Park, NC on June 13, 2001. Two other workshops under consideration are tentatively scheduled for Denver, CO in July 2001 and Chicago, IL in August 2001.

Further information regarding the public workshops can be found on EPA's Clean Air Technology Center (CATC) website at http://www.epa.gov/ttn/catc. The website contains the details of the first two workshops (location, agenda, etc.) and will include information on additional workshops after arrangements have been made. We will not publish a separate **Federal Register** notice to announce future workshops. The website contains a pre-registration form, and we encourage participants to pre-register for the workshops. In addition to the website, you may contact us via e-mail at catcmail@epa.gov or call the CATC hotline at 919–541–0800.

Dated: April 27, 2001.

Thomas C. Curran,

Acting Director, Office of Air Quality, Planning and Standards.

[FR Doc. 01–12046 Filed 5–11–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

May 8, 2001.

Deletion of Agenda Item From May 10th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the May 10, 2001, Open Meeting and previously listed in the Commission's Notice of May 3, 2001.

ITEM NO: 2.

BUREAU: Mass Media.

SUBJECT:

TITLE: Cross-Ownership of Broadcast Stations and Newspapers; and Newspaper/Radio Cross-Ownership Waiver Policy (MM Docket No. 96–197).

SUMMARY: The Commission will consider a Notice of Proposed Rule Making proposing to modify, eliminate, or retain its rule that prohibits common ownership of broadcast stations and newspapers within the same geographic area.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–12157 Filed 5–10–01; 9:58 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1354–DR]

Arkansas; Amendment No. 10 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas, (FEMA–1354–DR), dated December 29, 2000, and related determinations.

EFFECTIVE DATE: April 24, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice is hereby given that as authorized by the President in a letter dated March 1, 2001, FEMA is extending the time period for Federal funding for debris removal at 100 percent of total eligible costs through June 28, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director.

[FR Doc. 01–12031 Filed 5–11–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1365–DR]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1365–DR), dated April 17, 2001, and related determinations.

EFFECTIVE DATE: April 17, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 17, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Mississippi, resulting from severe storms and flooding on April 3–5, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint John D. Hannah of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster:

Attala, Holmes, and Lee Counties for Individual Assistance.

Attala, Holmes, Leake, Lee, and Neshoba Counties for Public Assistance.

All counties within the State of Mississippi are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 01–12032 Filed 5–11–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting of the Federal Interagency Committee on Emergency Medical Services (FICEMS)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: FEMA announces the following open meeting.

Name: Federal Interagency Committee on Emergency Medical Services (FICEMS).

Date of Meeting: June 7, 2001.

Place: Room N–408, Building N, National Emergency Training Center (NETC), 16825 South Seton Avenue in Emmitsburg, Maryland 21727.

Time: 10:30 a.m.

Proposed Agenda: Review and submission for approval of previous FICEMS Committee Meeting Minutes; Ambulance Design Subcommittee and Technology Subcommittee Reports; presentation of member agency reports; reports of other Interested parties; and a discussion on Data Collection on the Use of Automatic External Defibrillators (AED) by Federal agencies.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Cindy Wivell, United States Fire Administration, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, (301) 447–1083, on or before Tuesday, June 5, 2001.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved at the next FICEMS Committee Meeting on September 6, 2001. The minutes will also be posted on the United States Fire Administration website at *http://www.usfa.fema.gov/ems/ficems.htm* within 30 days after their approval at the September 6, 2001 FICEMS Committee Meeting.

Dated: May 4, 2001.

Kenneth O. Burris, Jr.,

Acting U.S. Fire Administrator, United States Fire Administration.

[FR Doc. 01–12034 Filed 5–11–01; 8:45 am]

BILLING CODE 6718–08–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Mine Safety and Health Research Advisory Committee (MSHRAC): Notice of Recharter

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Mine Safety and Health Research Advisory Committee, National Institute for Occupational Safety and Health, of the Department of Health and Human Services, has been rechartered for a 2-year period, through November 30, 2002.

For further information, contact Larry Grayson, Ph.D., Executive Secretary, MSHRAC, CDC, 200 Independence Avenue, SW., Room 715–H, Humphrey Building, Washington, DC 20201. Telephone 202/401–2192, fax 202/260–4464, e-mail *lhg9@cdc.gov*.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 8, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–12000 Filed 5–11–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01086]

Centers of Excellence for Autism and Other Developmental Disabilities Epidemiology; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for Centers of Excellence for Autism and Other Developmental Disabilities Epidemiology. This program addresses the "Healthy People 2010" focus area Maternal, Infant, and Child Health.

The purpose of the program is to collect and analyze epidemiologic data on the prevalence, correlates, and causes of autism and other developmental disabilities. The Centers will be part of a collaborative network investigating autism spectrum disorder (ASD) and other developmental disabilities. The Centers will conduct active population-based surveillance; multi-Center analytic case-control studies; and Center-initiated special studies (see Attachment II for Background).

B. Eligible Applicants

Assistance will be provided only to the Health Departments of States or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, federally recognized Indian tribal governments, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Competition is limited to State Health Departments because they maintain public health responsibility for these health conditions, and their record systems and expertise are essential to program success. State agencies, or their bona fide agents, applying under this announcement, that are other than the official State Health Department must provide written concurrence on the application from the official State Health Department.

Only one application from each State or Territory may be submitted.

Applicants must document a study population of at least 30,000 live births per year within a State, a contiguous area of a State (such as the catchment of a local health agency), or a contiguous area comprised of a combination of States.

Applicants who are unable to document the minimum study population size based on live birth data from their State Health Department or proxy data from the US Census Bureau (based on 1999 Postcensal estimates) will be determined ineligible. The applicant should include this information as part of the abstract. If it is not included, then the application will be determined as non-responsive and returned without review.

C. Availability of Funds

Approximately $2,000,000 will be available in FY 2001 to fund approximately four awards. It is expected that the average award will be $500,000, ranging from $400,000 to $700,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preferences

Priority consideration may be given to the establishment of Centers of Excellence in different geographic areas of the United States, its Territories, and Indian tribal governments to assure a broad geographic representation insofar as possible. This is based on legislative intent as provided in the Children's Health Act of 2000. Additional priority consideration may be given to the selection of Centers of Excellence which, as a group, provide for a diverse racial and ethnic population.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), CDC will be responsible for the activities listed under 2. (CDC Activities). A Coordinating Committee will be established to coordinate cross-Center activities as listed under 3. (Collaborative Responsibilities).

1. Recipient Activities

A. Surveillance System

1. Develop or enhance a population-based epidemiologic surveillance system for ASD and other developmental disabilities to generate timely population-based data. Activities may include, but not be limited to, development or enhancement of surveillance case definitions, multiple source case ascertainment methods (e.g., from educational and medical sources), and data collection instruments.

2. Establish or enhance a multiple-source methodology for case ascertainment by developing collaborative relationships with appropriate professionals and organizations.

3. Develop or enhance a plan for training community service providers to improve case ascertainment.

4. Implement or enhance quality assurance procedures to ensure that study protocols are followed.

5. Develop or enhance an evaluation plan for estimating the validity and completeness of the surveillance system.

6. Develop, implement, and evaluate a plan to use surveillance data to

improve community and service provider awareness of ASD and other developmental disabilities and/or access of children with ASD and other developmental disabilities to comprehensive, community-based, family-centered care.

B. Collaborative Case-Control Study

Collaborate with other Centers funded by this announcement to design, implement, analyze, and evaluate joint case-control studies based on a pooled study data base (see 3., Collaborative Responsibilities, below). The pooled data will be used by Centers funded under this announcement to address a variety of epidemiologic research issues related to ASD and other developmental disabilities. It is anticipated that the collaborative protocol would be developed and initiated in the first year of the grant award. Each Center will be responsible independently for on-site activities, such as selection and enrollment of study subjects, implementation of the joint study protocol, quality assurance procedures, data management, and timely submission of computerized data to a central repository for inclusion in a pooled data set (see 3., Collaborative Responsibilities, below).

C. Center-Initiated Special Studies

Develop, implement, and evaluate a Center-initiated special study drawing on special strengths and expertise of Center staff. It is anticipated that development of the special study would be initiated in Year 2 of the grant award and utilize the Center's surveillance and case-control study infrastructure. The study could include, but may not be limited to, the following issues related to ASD or other developmental disabilities:

1. Evaluation of pre-, peri-, and/or postnatal risk factors, including genetic factors and environmental exposures.

2. Evaluation of natural history, including associated developmental disabilities and secondary conditions.

3. Identification of biomarkers.

4. Evaluation of economic costs.

5. Development, implementation, and evaluation of intervention programs for children with ASD and their families.

D. Disseminate Findings of the Surveillance, Collaborative Case Control, and Center-Initiated Special Studies Activities for the Professional Community and the Public to Increase Public Health Awareness

E. Coordinating Committee (CC)—Participate Fully in the Establishment and Operation of the CC, Comprised of Principle Investigators of the Centers of Excellence (see 3., Collaborative Responsibilities, below)

2. CDC Activities

A. Surveillance Activities

1. Assist recipient, as requested, in the development and implementation of surveillance activities including the development of standardized surveillance case definitions.

2. Provide current information on surveillance methods, as requested, including the identification of potential sources for surveillance.

3. Assist recipient, as requested, in the development of quality assurance procedures.

4. Provide assistance, as requested, in the development of an evaluation plan for the completeness and validity of data from the surveillance system.

5. Facilitate communication/coordination among Centers, as requested, to improve efficiency of activities and quality of surveillance data.

6. Provide technical consultation regarding data analyses as requested.

B. Collaborative Case-Control Studies

1. Assist recipients as requested in developing a plan for on-site activities, such as selection and enrollment of study subjects, implementation of the joint study protocol, quality assurance procedures, data management, and timely submission of computerized data to a central repository for inclusion in a pooled data set.

2. Obtain Center for Disease Control Institutional Review Board clearances and OMB clearance as necessary.

C. Coordinating Committee

Provide assistance as requested to the Centers in the establishment and conduct of activities carried out by the CC.

3. Collaborative Responsibilities (Coordinating Committee)

The CC will provide leadership and collaborative work to: (1) Enhance surveillance efforts across all Centers, including establishment of a multi-Center pooled data set, (2) develop a plan for the multi-Center case-control study, and (3) enhance communication and collaboration among Centers. The CC will combine the expertise and resources of the Centers to achieve a more integrated and effective program in surveillance and epidemiologic studies of ASD and other developmental disabilities. It is anticipated that critical issues for understanding the epidemiology of ASD and other developmental disabilities will be better defined through the deliberations of the CC. Periodic scientific meetings and proceedings of these meetings will be used to advance the state of knowledge in the field of ASD and developmental disabilities epidemiology. The CC may designate working groups for specific purposes, made up of staff members from the Centers. The working groups could include, but may not be limited to:

1. Surveillance work groups to establish common case definitions and surveillance data elements for a multi-Center pooled surveillance data set;

2. For the collaborative case-control study, working groups to establish (a) suitable study hypotheses, (b) case and control definitions, (c) study protocol and methodology, such as collection of biosamples, and/or (d) data collection instruments.

A plan will be developed by the CC for a Center-funded repository for the pooled surveillance and case-control study data for common use by all Centers. The CC, or a designated work group, will establish procedures for management, access and use of the repository and it's pooled data.

E. Application Content

Applicants should use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important for applicants to follow them in laying out the program plan. Forms are in the application kit.

F. Submission and Deadline

Letter of Intent

A letter of intent (LOI) is requested to enable CDC to determine the level of interest in the announcement. Include name, address, and telephone number.

The LOI is requested on or before June 11, 2001. Submit the letter of intent to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and five copies of PHS 398 (OMB Number 0925–0001) on

or before July 09, 2001, to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the Objective Review Panel. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding the Problem (15 Points)

a. Extent to which applicant has a clear, concise understanding of the requirements and purpose of the cooperative agreement;

b. Extent to which applicant understands the issues, challenges, and barriers associated with developing and implementing population-based surveillance and epidemiologic studies for ASD and other developmental disabilities;

c. Extent to which applicant understands the issues, challenges, and barriers associated with case ascertainment for ASD; and

d. Extent to which applicant describes the need for funds to develop/enhance ASD and other developmental disability surveillance and epidemiologic studies in their State.

2. Goals and Objectives (15 Points)

a. Extent to which applicant clearly describes the short-term and long-term goals and measurable objectives of the project;

b. Extent to which applicant's goals and objectives are realistic and are consistent with the stated goals and purpose of this announcement;

c. The degree to which applicant has met the CDC policy requirements regarding the inclusion of women, ethnic and racial groups in the proposed research. This includes:

i. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

ii. The proposed justification when representation is limited or absent.

iii. A statement as to whether the design of the study is adequate to measure differences when warranted.

iv. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

3. Description of Program and Methodology (30 Points)

a. Extent to which applicant describes the methods they will use to (1) identify all relevant sources for surveillance case ascertainment for ASD and other developmental disabilities within the study area; (2) obtain permission to access records from relevant sources; (3) develop standard case definitions for ASD and other developmental disabilities and implement a strategy to conduct multiple-source case ascertainment; (4) train community service providers to improve case ascertainment; (5) develop and implement quality assurance procedures and an evaluation plan for the surveillance system; (6) develop and implement a plan to use surveillance data to improve public awareness of ASD and other developmental disabilities and/or access to care of affected children; and (7) develop an analytic and dissemination plan, and prepare manuscripts.

b. Extent to which applicant describes the plan for implementing the collaborative case-control study, including selection and enrollment of cases and controls from the applicant's study population.

c. Extent to which the applicant describes the objectives, based on special strengths and expertise of the applicant, for a Center-initiated special study.

4. Collaborative Efforts (15 Points)

a. Extent to which applicant demonstrates the ability to collaborate with multiple sources such as school systems, diagnostic centers, health/mental health service providers and other intervention service providers for the purpose of case ascertainment (include written assurances).

b. Extent to which applicant demonstrates their willingness to collaborate with other Centers to develop joint project efforts and carry out the joint project efforts in a manner that allows for pooling of standardized data.

c. Extent to which recipient identifies possible collaborative relationships with existing surveillance and research programs that may enhance recipients' future research activities (e.g., birth defects surveillance, NIH CPEAs, PROS).

d. Extent to which collaborative efforts with other relevant programs are documented (such as Part C, State developmental disabilities programs, genetics programs etc.)

5. Evaluation Plan (10 Points)

a. Extent to which applicant describes an evaluation plan that will monitor reliability, progress, timeliness, and completeness of the objectives and activities of the project.

b. Extent to which applicant describes a study to evaluate the completeness of ascertainment of children for the surveillance portion of the study.

6. Staffing and Management System (15 Points)

a. Extent to which key personnel have qualifications, skills and experience in epidemiologic methods, public health surveillance, data management and analysis to develop and implement surveillance and analytic studies in ASD and other developmental disabilities.

b. Extent to which applicant has the ability to manage and coordinate surveillance, research, and integration components of the project.

c. Extent to which applicant demonstrates expertise in abstracting and reviewing records.

d. Extent to which there is appropriate dedicated staff time to develop and implement the project.

e. Extent to which applicant provides an appropriate time line and includes activities and personnel responsibilities.

f. Extent to which applicant demonstrates an organizational structure (include an organizational chart) and facilities/space/equipment that are adequate to carry out the activities of the program.

7. Human Subjects Review (Not Scored)

Does the applicant adequately address the requirements of 45 CFR Part 46 for the protection of human subjects?

8. Budget (Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds. Applicants should include in their first year budget two trips to CDC, Atlanta for up to two persons and two days each trip.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Progress reports (semiannual);
2. Financial status report, no more than 90 days after the end of the budget period; and
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

For descriptions of the following Other Requirements, see Attachment I.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 317 of the Public Health Service Act [42 U.S.C. sections 241 and 247b] as amended, and Section 102 of the Children's Health Act of 2000 (Pub. L. 106–310). The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov* Click on "Funding" then "Grants and Cooperative Agreements."

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Nancy Pillar, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2721, Email: nfp6@cdc.gov.

For program technical assistance, contact: Diana Schendel, Ph.D., National Center on Birth Defects and Developmental Disabilities, 4770 Buford Highway, Mail Stop F–15, Atlanta, Georgia 30341, Telephone number: 770–488–7359, Email: dcs6@cdc.gov.

Dated: May 8, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–11997 Filed 5–11–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01095]

Building Quality Parent Components for School-Based Health Programs in Elementary and Middle Schools; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for Building Quality Parent Components for School-Based Health Programs in Elementary and Middle Schools. This program addresses the "Healthy People 2010" focus areas of Family Planning, HIV, Nutrition and Over weight, Physical Activity and Fitness, Sexually Transmitted Disease, and Tobacco Use. A goal of this program is to eliminate health disparities among different segments of the population.

The purpose of this cooperative agreement is to develop and evaluate parent-focused intervention components to be used as a supplement for school-based sexual risk reduction and chronic disease risk factor prevention programs in elementary and middle schools. These intervention components would be designed to assist parents in reducing the risk behaviors of their children. The risk factors among young people being targeted by this program are sexual risk behaviors and chronic disease risk factors which include tobacco use, physical inactivity, poor nutrition, and being overweight or at risk of becoming overweight. Interventions will target parents (i.e., primary caregivers) of elementary or middle school students.

For the purposes of this announcement, parents are defined as primary caregivers who are biological parents or legal guardians (e.g., adoptive parent, stepparent, grandparent) of elementary and middle school students. Primary caregivers are individuals who take primary responsibility for providing care for their children. Parents (i.e., primary care-givers) are eligible for the study if their elementary or middle school children currently reside with them and if they have lived in the same residence with their elementary or middle school children for at least one year prior to the study.

Sexual risk reduction interventions are programs that show promise of success or have demonstrated evidence of efficacy in delaying initiation of sexual activity among young people, increasing condom or contraceptive use among sexually active young people, or decreasing frequency of intercourse or number of sexual partners among sexually active young people. Chronic disease risk factor prevention interventions are programs that show promise of success or have demonstrated evidence of efficacy in preventing initiation or promoting a decrease of tobacco use among young people, increasing physical activity, increasing healthy eating, or decreasing the number of children who are overweight or at risk of becoming overweight. Youth tobacco use prevention programs are included in this announcement, however, youth tobacco cessation programs are not within the scope of this announcement.

Please reference to Appendix 1 for background information relevant to this program announcement.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State, territorial, and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Successful applicants shall demonstrate a history of conducting evaluation research in partnership with interdisciplinary groups of health researchers and local racial and ethnic minority communities on applied social and behavioral science projects.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

A. Availability of Funds

Approximately $300,000 is available in FY 2001 to fund one award. It is expected that the award will begin on or about August 31, 2001, and will be made for a 12-month budget period within a project period of up to five years. First year funding will be approximately $300,000 because the first year of the project is expected to be a planning year.

Subsequent funding years are expected to be funded at approximately $700,000. Funding estimates may vary and are subject to change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

B. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Establish and maintain appropriate staff positions allocated to specific responsibilities including a Research Director and a Project Director with research and training experience and allocated time sufficient to achieve the objectives of this program announcement.

b. Lead an expert panel of individuals with demonstrated experience in conducting research on parental influences on adolescent risk behaviors or who have developed and implemented parent-based interventions. The purpose of the panel should be to refine and further develop the parent intervention components. Develop final version of the parent components.

c. Develop a quasi-experimental or experimental evaluation design in which sites or individual participants (or some other justified unit) will be randomized to the control or comparison condition or the experimental condition. An evaluation plan should be developed to include both process and outcome evaluation components. Refine research questions, conceptual frameworks, measurement and analysis strategies, and intervention protocols to meet program goals. Develop strategies to maintain an adequate response rate through the follow-up period.

d. Collaborate and coordinate efforts with appropriate school, parent, and community organizations to identify schools to participate in the study and obtain approvals. Efforts should be made to include members of the targeted population in developing and revising the research and intervention activities whenever appropriate and feasible. Plans to collaborate with schools to sustain successful interventions beyond the duration of the project should be made.

e. Develop a research protocol for local and CDC Institutional Review Board review.

f. Recruit participants into the study. Conduct intervention components designed to assist parents in reducing sexual risk behavior and preventing chronic disease risk factors among young people in elementary or middle school.

g. Collect data from participants at baseline (i.e., prior to the delivery of the intervention), immediately following the completion of the intervention, and 12 months following the completion of the intervention.

h. Analyze data according to planned strategies in order to measure the success of interventions with targeted populations in comparison to a control/comparison group, which should consist of the existing sexual risk reduction and chronic disease risk factor prevention programs without the parent component supplements. Behavioral outcomes (e.g., increasing condom use, preventing tobacco initiation, increasing healthy eating) should be measured, on both parents and children. Knowledge and attitude assessment may be included, in additional to behavioral outcomes. Parental outcomes (e.g., measures of parental monitoring, communication, parental modeling) should be measured with both parents and children.

i. Develop a plan for disseminating results of the research to members of the scientific, programmatic, and targeted communities through scientific publications, presentations and other appropriate methods.

2. CDC Activities

a. Assist in selection of the student interventions. Participate in an expert panel to refine and further develop the parent intervention components. Assist with the development of the final version of the parent components.

b. Assist in the development of research and evaluation protocols for the study and for IRB review by all cooperating institutions participating in the research project. The CDC IRB will review the protocol initially and on at least an annual basis until the research project is completed.

c. Assist with the scientific and technical coordination of the general operation of the research project, including data management support.

d. Assist in the analysis of data gathered from program activities and the reporting of results.

e. Collaborate in the dissemination of evaluation findings through scientific publications and presentations.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections and the instructions and format provided below to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

The application should include an abstract and general introduction, followed by one narrative subsection per application content element (1–7) in the order in which the elements appear below. Each narrative subsection should be labeled with the element title and contain all of the information needed to evaluate that element of the application (except for curriculum vitae, references, intervention descriptions and materials, and letters of support). The referenced exception materials should be placed in the appendices section of the application.

1. Specific Aims, Background and Significance

a. List the broad, long-term objectives and what the specific research proposed in this application is intended to accomplish. State the hypotheses to be tested.

b. Provide a review of the relevant literature to specify a theoretical and empirical justification for the proposed research, and clearly describe how the proposed intervention will advance efforts to reduce sexual risk behaviors and prevent chronic disease risk factors among young people in elementary or middle school by intervening with parents (i.e., primary caregivers) of elementary or middle school young people. Specifically, the application should include explicit models (with schematic drawings) that illustrate factors to be modified through the intervention and that explain the mechanisms by which outcome effects are produced.

2. Intervention Plan

a. Describe, in detail, the school-based sexual risk reduction and chronic

disease risk factor prevention curricula to which a parent component will be added. Provide evidence that the selected programs have been found to be efficacious or promising with elementary or middle school students. Describe the proposed potential parent components to be added to these curricula and how these will fit into the proposed interventions for young people. Provide evidence justifying inclusion of the proposed parent components as promising strategies to reduce risk behaviors.

b. Discuss why the planned parent intervention components are promising. Intervention descriptions should be provided if possible. Discuss feasibility and acceptability of the intervention in a school setting and among parents and why it is expected that the planned intervention components will avoid the problems of parent recruitment and retention encountered by other parent programs.

3. Research Plan

a. Describe all aspects of the study design and methods, including the evaluation design (both process and outcome), and how threats to validity will be handled; a detailed description of the targeted population, including but not limited to age, grade, sex, race, socioeconomic status, and how the population will be accessed; instrumentation; the sampling strategy (including a justification for the sampling unit, sample size, power analysis justifying the sample size, an indication of expected effect sizes, and the randomization strategy); and training plans for individuals collecting data, and data collection plans, including but not limited to, linking participants' responses between measurement periods.

b. Describe plans for recruitment and retention of both parents and children into the study, including expected sample attrition during both intervention and measurement phases. Describe how study participants will be tracked and what strategies will be used to increase retention.

c. Describe how the intervention implementation process will be measured and how the findings will be used to monitor implementation and provide feedback to staff, and to explicate other findings. Include plans to maintain detailed records of the costs involved in implementation such that cost-effectiveness and cost-benefit analyses can be performed.

d. Describe the plans and quality assurance monitoring for data management, plans for data analysis, and interpretation.

e. Describe the potential limitations of the results given the complexity of the research focus, the targeted population, and the applied nature of the evaluation; to whom the findings will be generalizeable; and how they can be used to develop national recommendations for including parents in efforts to reduce sexual risk behaviors and prevent chronic disease risk factors among children in elementary and middle schools.

f. Discuss how the proposed study will meet the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

1. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

2. The proposed justification when representation is limited or absent.

3. A statement as to whether the design of the study is adequate to measure differences when warranted.

4. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

4. Research and Intervention Capacity

a. Demonstrate the feasibility of the proposed research by providing a detailed time-line, with specific products, specifying which staff person will be responsible for which task.

b. Describe the research team and show that the proposed research staff for the project represents an interdisciplinary team of behavioral and social scientists with the scientific training and the previous scientific and practical experience needed to conduct and complete high quality research within the specified time-line, as evidenced by the successful completion of past research in the areas proposed in this application. Describe previous service or research conducted with this population.

c. Demonstrate the adequacy of the proposed staff, through curriculum vitae and position descriptions that detail responsibilities, to carry out all proposed activities (i.e., sufficient in number, percentage of time commitments, behavioral or social scientists in key project positions, and qualifications).

d. Describe the facilities, data processing and analysis capacity, and systems for management of data security and participant confidentiality.

5. Collaboration, Sustainability, and Dissemination

a. Describe how academic, program, and community partners will participate in developing, conducting, and evaluating the proposed research. Specifically, describe the involvement of appropriate key organizations and members of the targeted population and discuss previous work of the proposed collaborators. Include letters of support from proposed collaborating organizations indicating willingness to participate in the proposed research, including but not limited to, evidence of past successful collaboration, willingness to be randomized to a control/comparison or experimental condition, and the number and demographic characteristics of young people served.

b. Define the responsibilities of collaborating partners and identify a primary contact within collaborating organizations.

c. Discuss efforts to be made throughout the project period to ensure that the intervention will be sustained once Federal funding ends.

d. Provide a clear dissemination plan to include, but not limited to, the timely sharing of findings with local partners; and include a plan to work with other sites to ensure that analysis and production of scientific papers and reports give priority to findings that can be used to develop national prevention recommendations for inclusion of parents in efforts to reduce sexual risk behavior and prevent chronic disease risk factors among young people in elementary or middle school. Describe key dissemination products including peer-reviewed publications and presentations that can be used by program planners, policy makers, and other interested parties.

6. Budget with Justification

Provide a detailed budget with a line-item justification that is consistent with the proposed activities.

7. Human Subjects

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

F. Submission and Deadline

Application

Submit the original and five copies of PHS 398 (OMB Number 0925–0001). Forms are available at the following Internet address: http://forms.psc.gov, or in the application kit.

On or before June 22, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria (Total 100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Specific Aims, Background, and Significance (10 points)

a. The extent to which the specific aims and objectives of the proposed research are clearly stated and justified and the stated hypotheses are testable.

b. The extent to which a comprehensive review of the relevant literature and specification of a theoretical and empirical justification for the proposed research is provided.

2. Intervention Plan (25 points)

a. The extent to which the applicant adequately describes the school-based sexual risk reduction and chronic disease risk factor prevention intervention curricula to which a parent component will be added and describes the proposed parent components. The extent to which evidence is provided that the selected programs have been found to be efficacious or promising with elementary or middle school students.

b. The extent to which the applicant addresses the issues of feasibility and acceptability of the intervention in a school setting and among parents. The extent to which the planned intervention components can be expected to avoid the problems of parent recruitment and retention encountered by other parent programs.

3. Research Plan (30 points; a–e, 25 pts.; f, 5 pts.)

a. The extent to which the study and evaluation design (both process and outcome) and methods are scientifically sound. Demonstrated ability to access the target population. The adequacy of the proposed instrumentation; the sampling strategy; training plans for individuals collecting data, and data collection plans.

b. The adequacy with which study participants will be tracked, and the extent to which strategies presented are likely to produce adequate recruitment and retention of participants (includes expected attrition).

c. The extent to which the intervention implementation process can be measured and findings used to monitor implementation and provide feedback to staff as well as to replicate the intervention in other settings, including the ability to perform cost-effectiveness and cost-benefit analyses.

d. The extent to which the plans for data management, data analysis, and interpretation are clear, appropriate and are monitored adequately for quality.

e. The extent to which the evaluation will provide results that are scientifically sound, generalizeable, and useful for developing national recommendations for the inclusion of parent components in school programs.

f. The extent to which the applicant has met the CDC Policy requirements regarding the inclusion of women and ethnic and racial groups in the proposed research.

4. Research and Intervention Capacity (20 points)

a. The feasibility of the proposed research plan and the adequacy of the time-line with specific products, specifying which staff person will be responsible for which task.

b. The extent to which the proposed research staff represents an interdisciplinary team of behavioral and social scientists with the scientific training and the previous experience needed to conduct high quality research within the specified time-line.

c. The adequacy of the proposed staff, as evidenced by curriculum vitae and position descriptions that detail responsibilities, to conduct all proposed activities (i.e., sufficient in number, percentage of time commitments, behavioral scientists in key project positions, and qualifications).

d. The adequacy of facilities, data processing and analysis capacity, and systems for management of data security and participant confidentiality.

5. Collaboration, Sustainability, and Dissemination (15 points)

a. The extent to which the applicant includes academic and community partners in developing, conducting, and evaluating the proposed research, and includes the involvement of appropriate key organizations and members of the targeted population. Degree to which applicant includes letters of support from proposed collaborating organizations. The extent to which the responsibilities of collaborating partners are defined.

b. The adequacy of efforts to be made throughout the project period to ensure that the intervention will be sustained once Federal funding ends.

c. The extent to which the dissemination plan is clearly articulated and includes the timely sharing of findings with local partners.

6. Budget (Not Scored)

Extent to which the budget is reasonable, itemized, clearly justified, and consistent with the intended use of the funds.

7. Human Subjects (Not Scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Progress reports (annual, semiannual, or quarterly);

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

For a description of the following Other Requirements, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301(a), 311(b) and (c) and 317(k)(2)[42 U.S.C. section 241(a), 243(b) and (c), and 247b(k)(2)], of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.938.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

For more information on effective programs, visit the Department of Justice website, http://www.usdoj.gov, the Department of Education website, http://www.ed.gov and CDC's "Programs That Work" website, http://www.cdc.gov/nccdphp/dash/rtc/index.htm.

Should you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Announcement 01095, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2757, E-mail address: coc9@cdc.gov.

For program technical assistance, contact: Patricia Dittus, Ph.D., Division of Adolescent and School Health, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS K–33, Atlanta, GA 30341, Telephone number: 770–488–6196, E-Mail address: pdittus@cdc.gov.

Dated: May 08, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–11998 Filed 5–11–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01061]

Longitudinal Studies of Rodent Reservoirs of Hantaviruses in the Southwestern United States; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement to provide assistance for longitudinal studies of rodent reservoirs of hantaviruses in the Southwestern United States. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases.

The purpose of the program is to continue to improve understanding of the ecological dynamics of the transmission cycle of hantaviruses in their natural host populations and to provide precise data linking environmental changes to changes in rodent population densities and prevalence of infection. These data will be used to parameterize mathematical models that will use satellite-derived environmental descriptors to predict changes in risk of hantavirus disease at precise times and places in North America.

The preliminary success of the current studies in identifying environmental factors that lead to increased risk of human disease has illustrated that (1) more precise and detailed measurements of environmental variables are required as input parameters and to calibrate accurate, predictive, mathematical models of disease risk; (2) mathematical models must be calibrated using data from many years and geographically dispersed sites; and (3) fine-scale remotely sensed (satellite) data must be used in order to make predictive models generalizable and applicable across wide geographic areas.

B. Eligible Applicants

Assistance will be provided only to the University of New Mexico (UNM), Colorado State University (CSU), and Yavapai College (YC).

Hantaviruses have been shown in the United States to be responsible for serious human disease, specifically, Hantavirus Pulmonary Syndrome (HPS). There have been over 280 identified cases of HPS, the majority of which have occurred in the Southwestern United States. Other North American species of Hantavirus have now been described from various sigmodontine rodent reservoirs, including Sigmodon hispidus, Peromyscus leucopus, Oryzomys palustris, Peromyscus boylii, and Reithrodontomys megalotis. All of these species, except O. palustris, coexist in the Southwestern U.S.

A complete understanding of the cycle of HPS in humans will require knowledge of the dynamics of viral infection in the rodent reservoir. Cross-sectional studies have identified several reservoir species, demonstrated the widespread distribution of infection in populations of these species and shown that the prevalence of infection is highly variable on a spacial scale. Long-term studies of reservoir populations are necessary to determine temporal patterns of infection, incidence rates, mechanisms of transmission, effects of climate, habitat quality, and host populations dynamics on the transmission cycle, and effects of infection on host movements, growth, longevity and population dynamics.

Longitudinal mark-recapture studies of reservoir populations have been conducted at established trapping sites in Arizona, Colorado, and New Mexico since 1994 through separate cooperative agreements with UNM, CSU, and YC. These academic institutions established the trapping sites, performed the research, collected and interpreted the data, and published the results in peer-reviewed scientific literature. Due to the inherent temporal variability in environmental, climatological, and population parameters at the sites, comparative data must be collected over a period of many years for the objectives of long-term studies to be met.

The previous longitudinal studies have greatly improved understanding of hantivirus-host ecology and have elucidated general patterns that implicate environmental factors that are associated with increased risk of human hantaviral disease. Nevertheless, these data have shown that discerned patterns vary tremendously both spatially and temporally. In addition, many environmental changes are extremely rare events and conditions that lead to rodent population irruptions and human epidemics are infrequent. Thus, the ultimate usefulness of these studies depends upon adequate replication in time and space and their long-term maintenance.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an

award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $625,000 is available in FY 2001 to fund approximately three awards. It is expected that the average award will be $208,000, ranging from $100,000 to $250,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under 1. (Recipient Activities), and CDC shall be responsible for conducting activities under 2. (CDC Activities).

1. Recipient Activities

a. Conduct longitudinal mark recapture studies of rodents on existing established webs in the Southwestern United States to identify and determine the dynamics of populations of rodents that are confirmed or potential reservoirs of hantaviruses.

b. Develop a plan that will use ecological techniques that will provide continuity of rodent sampling and processing so that data can be appropriately analyzed and integrated with previously collected ecological data from the established sites. Ecological techniques should include capture-mark-release and may be supplemented by radio-tracking.

c. Collect and submit blood samples on all captured animals for further laboratory analysis and storage.

d. Identify, characterize, and archive samples of all rodents collected. Perform morphological measurements, karyotypes, allozyme studies, molecular genetic studies, and other appropriate studies necessary for characterization of rodents.

e. Design and conduct concurrent/parallel studies of vertebrate populations at sites of future HPS investigations as appropriate, including identification, characterization, and archiving of samples.

f. Carefully monitor environmental variables that are likely to be associated with changes in rodent population density and prevalence of hantavirus infection. Variables should include, but are not limited to: Local precipitation, temperature, and humidity; vegetative cover and greenness; availability of food items (seeds of grasses and forbs; oak, pinyon, and juniper mast; arthropod biomass).

g. Collaborate with all partners to analyze and publish study results.

2. CDC Activities

a. Provide consultation and scientific and technical assistance in the design, conduct, and evaluation of the project.

b. As necessary, perform appropriate laboratory testing and analysis of blood samples from captured animals.

c. Collaborate with the recipient to analyze and publish study results, as requested.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 14 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

F. Submission and Deadline

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit.

On or before June 30, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (33 Points)

Extent to which applicant demonstrates a clear understanding of the purpose and objectives of this proposed cooperative agreement and demonstrates a clear understanding of the requirements, responsibilities, interactions, problems, constraints, complexities, etc., that may be encountered in conducting the project and performing the studies.

2. Capacity and Personnel (33 Points)

Extent to which applicant demonstrates experience and qualifications of professional personnel in are suitable for conducting the studies proposed in this cooperative agreement. Extent to which applicant demonstrates it has adequate administrative personnel and support. Extent to which applicant demonstrates it has adequate scientific resources and facilities to successfully conduct the activities.

3. Objectives and Technical Approach (34 Points)

Extent to which applicant describes objectives of the proposed project which are consistent with the purpose and goals of this grant/cooperative agreement program and which are measurable and time-phased. Extent to which applicant presents a detailed operational plan for initiating and conducting the project, which clearly and appropriately addresses all Recipient Activities. Extent to which applicant clearly identifies specific assigned responsibilities of all key professional personnel. Extent to which the plan clearly describes applicant's technical approach/methods for conducting the proposed studies and extent to which the plan is adequate to accomplish the objectives. Extent to which applicant describes specific study protocols or plans for the development of study protocols that are appropriate for achieving project objectives. Extent to which applicant describes adequate and appropriate collaboration with CDC and/or others during various phases of the project. Extent to which applicant provides a detailed and adequate plan for evaluating study results and for evaluating progress toward achieving project objectives.

4. Budget (Not Scored)

Extent to which applicant presents a detailed, line-item budget with a detailed narrative justification (by line-item) that is consistent with the purpose and objectives of this cooperative agreement.

5. Animal Subjects (Not Scored)

Does the application adequately address the requirements of PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Progress reports semiannually;
2. Financial status report, no more than 90 days after the end of the budget period; and
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–3 Animal Subjects Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non Profit Status

I. Authority and Catalog of Federal Domestic Assistance

This program is authorized under section(s) 301a (42 U.S.C. 241(a)), 311 (42 U.S.C. 243), 317 (k)(3) (42 U.S.C. 247b(k)(3), and 319(a)) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

To obtain additional information, contact: Gladys Gissentanna, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number: 770–488–2753, Email address: gcg4@cdc.gov.

For program technical assistance, contact: Dr. James Mills, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Atlanta, GA 30333, Telephone number: 404–639–1396, Email address: jum0@cdc.gov.

Dated: May 8, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12002 Filed 5–11–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01082]

School Health Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for grant programs entitled "School Health Programs". This program addresses "Healthy People 2010," focus areas of Access to Quality Health Care, Educational and Community-Based Programs, and Health Communication.

The purpose of the program is to establish and strengthen school programs to prevent serious health problems among youth.

B. Eligible Applicants

Assistance will be provided only to the organizations listed below. No other applications are solicited. The Conference Report H.R. 4577, Consolidated Appropriations Act, 2001, specified these funds for the organizations listed below.

1. Loyola University of Chicago in collaboration with Proviso East High School, Maywood, Illinois, and the Cook County Board of Health to improve the delivery of on-site primary care, preventive care and health outreach to low-income parents and students in the community. ($135,980).
2. Forum Health of Youngstown, Ohio, for a pediatric/adolescent asthma school program and an adult Diabetes preventive care assessment program. ($879,782).
3. Cross Roads Foundation, for a pilot project to sponsor single mothers self-help groups to improve parenting skills. ($8,740).

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $1,024,502 is available in FY 2001 to fund three awards. It is expected that the award will begin on or about July 15, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov. Click on Funding then Grants and Cooperative Agreements.

To obtain business management technical assistance contact: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Program Announcement 01082, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, MS E–18, Atlanta, GA 30341–4146, Telephone: (770) 488–2757, Email Address: coc9@cdc.gov.

For program technical assistance, contact: Holly Conner, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–31, Atlanta, Georgia 30341, Telephone: (770) 488–3195, E-Mail Address: hcc3@cdc.gov.

Dated: May 8, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–11999 Filed 5–11–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01068]

Texas-Mexico Border Infectious Disease Monitoring Program; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a grant program for a Texas-Mexico Border Infectious Disease Monitoring Program. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases.

The purpose of the program is to initiate emerging infectious disease surveillance and related activities along the Texas-Mexico border, focusing on infectious diseases and conditions that are important in the region.

B. Eligible Applicants

Assistance will be provided to the University of Texas Medical Branch at Galveston (UTMB–G). No other applications are solicited. Eligibility is limited to UTMB–G because fiscal year 2001 Federal appropriations specifically directs CDC to award this applicant funds to conduct a project to monitor infectious diseases along the Texas-Mexico border.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $961,000 is available in FY 2001 to fund the award. It is expected that the award will begin on or about August 1, 2001, and will be made for a 12-month budget period within a project period of one year. The funding estimate may change.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov*. Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Merlin Williams, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2765, Email address: *mqw6@cdc.gov*.

For program technical assistance, contact: Greg Jones, M.P.A., Office of the Director, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop C–12, Atlanta, GA 30333, Telephone number: (404) 639–4180, Email address: *gjj1@cdc.gov*.

Dated: May 8, 2001.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12001 Filed 5–11–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee, Subcommittee on Future Vaccines, Subcommittee on Immunization Coverage, and Subcommittee on Vaccine Safety and Communication Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meetings.

Name: National Vaccine Advisory Committee (NVAC).

Times and Dates: 9 a.m.–2:15 p.m., June 5, 2001.

8:30 a.m.–1:15 p.m., June 6, 2001.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 a.m. and 8:30 a.m. or 12:30 p.m. and 1 p.m. Entrance to the meeting at other times during the day cannot be assured.

Purpose: This committee advises and makes recommendations to the Director of the National Vaccine Program on matters related to the Program responsibilities.

Matters to be Discussed: Agenda items will include: a report from the National Vaccine Program Office (NVPO) and the Interagency Vaccine Workgroup; a report from the Acting Assistant Secretary for Health; Pediatric and Adult Immunization Standards Action: Approval; discussions on Autism and Measles-Mumps-Rubella (MMR); Vaccine Safety and Communication Subcommittee report; Immunization Coverage Subcommittee report; Future Vaccines Subcommittee report; update on the Vaccine Supply Workgroup; an update on the Pandemic Plan; a report on the Polio Laboratory Containment Workgroup; reports from Advisory Commission on Childhood Vaccines/Division of Vaccine Injury Compensation, Vaccine Related Biological Products Advisory Committee/Food and Drug Administration, Advisory Committee on Immunization Practices/National Immunization Program/National Center for Infectious Diseases.

Name: Subcommittee on Future Vaccines.

Time and Date: 2:15 p.m.–5 p.m., June 5, 2001.

Place: Hubert H. Humphrey Building, Room 305A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee develops policy options and guides national activities that lead to accelerated development, licensure, and the best use of new vaccines in the simplest possible immunization schedules.

Matters to be Discussed: Agenda items will include plans for the September 5–6, meeting on rotavirus and intussusception; position paper based on the CMV Workshop; Stability of the vaccine supply—where do new vaccines fit in; and a discussion of topic for 2002 Workshop.

Name: Subcommittee on Immunization Coverage.

Time and Date: 2:15 p.m.–5 p.m., June 5, 2001.

Place: Hubert H. Humphrey Building, Room 325A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee will identify and propose solutions that provide a multifaceted and holistic approach to reducing barriers that result in low immunization coverage for children.

Matters to be Discussed: Agenda items will include discussions on Immunization Among Prison Populations; A report on the Introduction of New Vaccines Workgroup; discussions on Influenza Supply Issues; an update on the Mandatory Immunization Guidelines Workgroup; discussion of Td/DTaP Supply Issues; an IOM Report: Calling the Shots; an update on Registry Issues and Unmet Needs Priority Setting.

Name: Subcommittee on Vaccine Safety and Communication.

Time and Date: 2 p.m.–5 p.m., June 5, 2001.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee reviews issues relevant to vaccine safety and adverse reactions to vaccines.

Matters to be Discussed: Review of the agenda; review of National Infant Immunization Week; discussion on strengthening the vaccine supply; follow-up to the "Workshop on Vaccine Communications"; review of the IOM report on MMR Vaccine and Autism, discussion of the process for suggesting and selecting immunization safety issues for review by the IOM in 2002; public comment on immunization safety issues for review in 2002; and committee discussion.

Special Note: The Subcommittee on Vaccine Safety and Communications will provide a forum for input from the public regarding potential issues and topics for review in 2002 by the IOM's Immunization Safety Review Committee. This will be the first opportunity for the public to provide comments on the hypotheses that are being considered for future review.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria Sagar, Committee Management Specialist, NVPO, CDC, 1600 Clifton Road,

NE, M/S D–66, Atlanta, Georgia 30333, telephone 404/687–6672.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 8, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–12003 Filed 5–11–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF–CCB–2201–04]

Child Care Policy Research Discretionary Grants

AGENCY: Administration on Children, Youth, and Families (ACYF), ACF, DHHS.

ACTION: Announcement of the availability of funds and request for applications for Field Initiated Child Care Research Projects, Child Care Research Scholars, and State Child Care Data and Research Capacity Projects.

SUMMARY: The purpose of this program announcement is to announce the availability of $3.7 million in fiscal year 2001 funds for child care research, demonstration, and evaluation activities. Grants will be funded in the following three priority areas: (1) Field Initiated Child Care Research Projects; (2) Child Care Research Scholars; and (3) State Child Care Data and Research Capacity Projects. Universities and colleges, public agencies, non-profit organizations, and for-profit organizations agreeing to waive their fees are invited to submit applications for Field Initiated Child Care Research Projects. Accredited universities and colleges may submit a Child Care Research Scholar application on behalf of a doctoral student conducting dissertation research on a child care policy topic. Child Care and Development Fund Lead Agencies seeking to improve their capacity for data analysis and policy-relevant research are invited to submit applications for the State Child Care Data and Research Capacity Projects.

Projects funded under each of the priority areas are expected to address critical questions with implications for children and families, especially low-income working families and families transitioning off welfare. In addition, projects will contribute to a comprehensive research agenda designed to increase the capacity for child care research at the national, State, and local levels and promote better linkages among research, policy, practice, and outcomes for children and families.

Statutory authority: The Child Care and Development Block Grant Act of 1990 as amended (CCDBG Act); section 418 of the Social Security Act; Consolidated Appropriations Act, 2001 (P.L. 106–554).

DATES: The closing date for submission of applications is June 28, 2001. Mailed applications postmarked after the closing date will be classified as late.

Note: The full announcement, including all the Standard Federal Forms can be downloaded from the Internet at *http://www.acf.dhhs.gov/programs/ccb* or by contacting ACYF's Operations Center at 1–800–351–2293. For each priority area, the required Standard Federal Forms are identified under "Project Description and Application Requirements."

Notice of Intent to Submit Application: If you intend to submit an application, please contact ACYF's Operations Center at 1–800–351–2293 with the number and title of this announcement; your organization's name and address; and your contact person's name, phone number, fax number, and Email address. The information will be used to determine the number of expert reviewers need to evaluate applications and to update the mailing list for program announcements.

FOR FURTHER INFORMATION CONTACT: For information about the application process contact ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209, Phone: 800–351–2293. For program information contact Dr. Ivelisse Martinez-Beck, Policy Fellow, Administration for Children and Families, Child Care Bureau, Room 2046, Mary E. Switzer Building, 330 C Street, SW., Washington, DC 20447, Phone: 202–690–7885, Fax: 202–690–5600, Email: *imartinezbeck@acf.dhhs.gov.* or Dr. Patricia L. Divine, Program Specialist, Administration for Children and Families, Child Care Bureau, Room 2046, Mary E. Switzer Building, 330 C Street, SW., Washington, DC 20447, Phone: 202–690–6705, Fax: 202–690–5600, Email: *pdivine@acf.dhhs.gov.*

SUPPLEMENTARY INFORMATION:

Priority Area 1: Field Initiated Child Care Research Projects

A. Number of Awards

Approximately 7–10 grants will be awarded during fiscal Year 2001, for an initial budget period of twelve months, subject to the availability of funds and results of the evaluation process.

B. Project Duration, Funding Levels and Budget Periods

This priority area is soliciting applications for project periods up to three years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Application for continuation grants funded under these awards beyond the one-year budget period, but within the three year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the government. Significant findings by the end of the first budget period will be necessary to demonstrate satisfactory progress on the part of the grantee.

Funding for Field Initiated Child Care Research Projects will range between $150,000 and $250,000 for the first budget period and up to $200,000 per year (12 months) in subsequent periods.

C. Federal State

To maximize the Federal investment in Field Initiated Child Care Research Projects and in the interest of project sustainability, a financial commitment by the applicant organization (or other participating entities) is required. The Grantee must provide at least 20 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting $250,000 for the first budget period must include a match of at least $62,500. A project receiving the maximum total of $650,000 for the three-year project period must include a match of at least $162,500 for the three-year project period. Applicants are encouraged to meet their match requirements through cash contributions. However, the non-Federal share may also be in-kind contributions of staff time, employee benefits, facilities, utilities, equipment, materials, supplies or other forms of project support. Grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in disallowance of unmatched Federal funds.

D. Eligible Applicants

Eligible applicants include public agencies, non-profit organizations, and for-profit entities that agree to waive their fees.

1. Public agencies include state or local child care agencies; education agencies, welfare or other human services agencies, public schools, colleges and universities; and other public agencies with an interest in child care.

2. Non-profit agencies include, but are not limited to, community child care and early childhood programs, child care resource and referral programs, professional organizations, schools, colleges and universities, civic and community groups, and foundations.

3. For-profit entities include, but are not limited to, child care businesses, private research corporations, and other profit-making organizations. These entities are only eligible to receive a grant directly if they agree to waive their fees. However, they may participate in projects as subcontractors, sub-grantees, or consultants without such a waiver.

Criterion 1: Objectives and Need for Assistance (Maximum of 20 points)

In this section, applicants demonstrate their understanding of the relevant literature on critical issues and existing knowledge, describe their objectives, and demonstrate the significant of their proposal.

Applicants are expected to show how their proposal will address the Child Care Bureau's research agenda and priorities, answer key questions, and contribute to the child care research infrastructure. Specifically, applicants are expected to demonstrate a command of the policy and research literature in child care, as well as emerging issues. The proposal is expected to demonstrate understanding of current policies and programs, to show how the proposed research would further understanding, and to suggest practical applications which might be derived from the findings.

Applications should clearly show how the research would build on the current knowledge base and contribute to policy, practice, and future research. Applicants are asked to consider the significance, reliability, and validity of existing data pertaining to key questions. In addition, applicants should identify important gaps in the literature and areas in which findings are contradictory or ambiguous. It will also be important to consider what demographic, economic, and social data are available as a context for the proposed child care research. A bibliography of relevant literature must be supplied.

Criterion 2: Approach (Research Design and Methodology) (Maximum of 30 Points)

This section of the Project Narrative Statement requires that the applicant describe the technical approach for addressing issues and achieving objectives described in Criterion 1 above. In this section the applicant should clearly demonstrate their ability to produce significant and usable results within the first 12-month budget period.

The methodological discussion must include technical details of the proposed research design, including (as relevant): (1) Conceptual framework for the research; (2) research questions, hypotheses, and variables; (3) data sources and sampling plan; (4) new data on human subjects; (5) administrative data; (6) secondary analysis of existing data sets; (7) linkages with other research; (8) data collection; (9) data processing and statistical analysis; and, (10) product development and information dissemination. Qualitative studies with well-defined methodology are invited as well as those that use quantitative methodology. As part of the design section, applicants should discuss the strengths and limitations of all proposed approaches and techniques. Applicants are also asked to provide a flow chart or table showing interrelationships among the proposed research issues, questions, variables, and data elements.

Criterion 3: Approach (Management Plan) (Maximum of 10 Points)

The Management Plan is expected to describe a sound and workable plan of action for how the proposed project will be carried out. This section should detail how the project will be structured and managed.

Applicants should provide a diagram showing the organizational structure of the project and the functional relationships among components. If the project is a collaborative, describe how the project will be managed by the lead organization to ensure that members of the collaborative operate as a cohesive research team and that cross-cutting goals of the project are carried out efficiently and cost-effectively. Describe the make-up and role of any steering or management committees, technical work groups, advisory panels, and other coordinating bodies.

Produce a project management chart that lays out sequence and timing of the major tasks and subtasks, including startup activities such as staffing and procurement of services, responsibilities and time commitments to staff, important milestones, reports, and completion dates. Explain how timeliness of activities will be ensured, how quality control will be maintained, and how costs will be controlled.

Applicants should discuss their management of the project as a whole, and the management and coordinating roles of any collaborating entities. Discuss potential problems or difficulties with the proposed management approach, including factors which may affect the quality of the research or its outcomes, may undermine the ability of different entities to collaborate effectively, and may hinder the early spring, review and dissemination of information.

Criterion 4: Staff and Position Data (Maximum of 20 Points)

In this section, applicants must provide evidence that project staff have the experience, expertise and commitment of sufficient time to carry out the proposed project on time, within budget, and with a high degree of quality.

Identify all key staff positions for this project, the professional requirements for each, the proportion of time staff holding these positions will be committed to the project, the period of time they will be employed, and whether continued employment will be dependent solely on the funds to be awarded under this announcement.

Include a position description for each key position, outlining the qualifications necessary to carry out the duties and responsibilities of each. Include letters of commitment from any key individuals who have been selected but not yet hired. Describe the makeup of the data collection team, what expertise will be represented, and how individuals will be selected. Identify all proposed consultants or advisors, document their expertise, and describe how their services will be utilized. Include letters of commitment or intent if possible. And, identify the authors of the proposal and describe their continuing role in the project, if funded.

Criterion 5: Organizational Profiles (Maximum of 10 Points)

In this section, the applicant must demonstrate that the official grantee has the organizational capacity and fiscal resources to successfully carry-out the project on time and to a high standard of quality, including the capacity to resolve a wide variety of technical and management problems that may occur.

Provide evidence of sufficient organizational resources to ensure successful project management, compliance with terms and conditions of the grant, and oversight of the proper use of Federal funds.

If the project is a collaborative, provide evidence that all collaborators have the ability, willingness and flexibility to collaborate effectively with one another in carrying out the proposed project. Include examples of past or current collaborations that demonstrate the ability to carry out collaborative research. Describe how each entity was included in the planning of the project. Include letters of specific commitment or support from each entity. Describe all cooperative agreements, subcontracts and other formal relationships within the collaborative. Entities who will provide access to data or records must provide a letter stipulating the terms of their agreement with the researchers. Describe the future commitment each entity will make to ensure success of the collaboration as it evolves. Include a separate two-page organizational capability statement for each participating entity that documents the entity's ability to carry out its assigned roles and functions.

Describe the relationship between this project and other relevant work planned, anticipated or underway by the applicant or its collaborators. Include funding sources for work in progress. Provide a list of research and financial partners including the name and address of each organization, the names of its director and primary contact for this proposal, and the telephone, fax and internet numbers of each.

Criterion 6: Budget and Budget Justification (maximum of 10 points)

Describe the nature and extent of financial participation from all sources during the proposed project period. Present a detailed budget for each 12-month interval of the proposed project period, i.e., the 12 month budget period to be funded under this announcement and subsequent budget period that may be funded under a non-competing continuation process. Include a detailed budget narrative that describes and justifies line time expenses within the object class categories listed on the Standard Form 424A. (Line item allocations and justification are required for both Federal and non-Federal funds.) If project funds will be subcontracted, a detailed budget for the use of those funds must be also included. In estimating costs, applicant should consider down time due to staff vacancies, administrative processes, etc. The budget should include funds to allow key representatives from Field Initiate Child Care Research Projects to participate in the Child Care Bureau Annual Policy Research Meeting in Washington, DC.

Describe the extent to which funds, staff time, in-kind services, and other resources have been committed to the research effort during the planning period. Describe what other resources are expected to help support the proposed research, including existing commitments and negotiations in progress. Describe anticipated efforts to obtain other funding partners throughout the project.

Priority Area 2: Child Care Research Scholars

A. Number of Awards

Up to 5 scholarships will be awarded. No individual educational institution will be funded for more than one candidate unless applications from different universities or colleges do not qualify for support.

B. Project Period

The project period will be for a period of up to 24 months (9/30/01–9/29/03). For 24 month projects, the first 12 months will be funded through this competition. The subsequent year awards (12 months) will be considered on a non-competitive basis subject to the availability of funds from future appropriations, satisfactory progress of the grantee, and a determination that continued funding is in the best interest of the government. Significant findings by the end of the first budget period will be necessary to demonstrate satisfactory progress on the part of the grantee. A subsequent year award will not be approved if the student has graduated by the end of the first year.

C. Funding Levels

Up to $30,000 will be awarded to each successful applicant for a 12-month budget period. If the applicant expects to receive a doctorate by the end of the first one-year budget period, the application should request funding for a single grant period.

D. Matching Requirements and Non-Federal Share

There are no matching requirements.

E. Maximum Federal Share

The maximum federal share is $30,000 for the first 12-month budget period and $20,000 for one subsequent 12-month period.

All monies must be used for the dissertation research including required personnel costs, travel, and other expenses directly related to the research.

F. Eligible Applicants

Eligible applicants include universities or colleges on behalf of doctoral candidates conducting dissertation research on a child care topic consistent with the research goals described in Part II of the full announcement, and who anticipate completing the child care-related dissertation within the two-year scholarship period.

To be eligible to administer the grant on behalf of the student, the institution must be fully accredited by one of the regional accrediting commissions recognized by the Department of Education. Although the faculty advisor will be listed as the Principal Investigator, this grant is intended for dissertation work being conducted by a doctoral candidate. Information about both the graduate student and the student's faculty advisor is required as part of this application. Any resultant grant award is not transferable to another student.

Criterion 1: Objectives and Need for Assistance (Maximum of 20 Points)

The extent to which the application reflects a solid understanding of critical issues, information needs, and research goals.

- The extent to which the conceptual model, research issues, objectives and hypotheses are significant, well formulated and appropriately linked, reflect the Child Care Bureau's research agenda and priorities, and will contribute new knowledge and understanding.
- The extent to which the proposed project framework is appropriate, feasible, and would significantly contribute to the importance, comprehensiveness, and quality of the proposed research.
- The effectiveness with which the proposal articulates the current state of knowledge relative to issues being addressed, including: critical child care issues and the complex interrelationships among major variables; the significance of these issues and variables for child care policies and programs; how current knowledge would be brought to bear on the proposed research; and how the research would benefit various audiences.
- The importance of research priorities identified for the first budget period, the degree to which early findings would be useful for policy and practice, and the significance of these data for the ongoing research goals if the project is continued beyond the first 17-month period.

Criterion 2: Approach (Research Design and Methodology) (Maximum of 40 Points)

The extent to which the applicant's proposed research design:

- Appropriately links critical research issues, questions, variables, data sources, samples, and analyses;
- Employs technically sound and appropriate approaches, design elements and procedures;
- Reflects sensitivity to technical, logistical, cultural and ethical issues that may arise;
- Includes realistic strategies for the resolution of difficulties;
- Adequately protects human subjects, confidentiality of data, and consent procedures, as appropriate;
- Includes an effective plan for the dissemination and utilization of information by researchers, policy-makers, and practitioners in the field; and,
- Effectively utilizes collaborative strategies, as appropriate to the project goals and design.

Criterion 3: Approach (Management Plan) (Maximum of 20 Points)

The extent to which the project summary provides a management plan that:

- Presents a sound, workable and cohesive plan of action demonstrating how the work would be carried out on time, within budget and with a high degree of quality;
- Includes a reasonable schedule of target dates and accomplishments;
- Presents a sound administrative framework for maintaining quality control over the implementation and ongoing operations of the study; and,
- Demonstrate the ability to gain access to necessary organizations, subjects, and data.

Criterion 4: Organizational Profile (Applicant Qualifications and Commitment) (maximum of 10 points).

The extent to which the applicant:

- Demonstrates competence in areas addressed by the proposed research, including relevant background, experience, training and work on related research or similar projects; and
- Demonstrates necessary expertise in research design, sampling, field work, data processing, statistical analysis, reporting, and information dissemination.

Criterion 5: Budget and Budget Justification (maximum of 10 points). The extent to which proposed project costs are reasonable, the funds are appropriately allocated across component areas, and the budget is sufficient to accomplish the objectives. The budget should include funds to allow the research scholar to participate in the Child Care Bureau's Annual Policy Research Meeting in Washington, DC.

Priority Area 3: State Child Care Data and Research Capacity Projects

A. Eligible Applicants

State and Territorial Lead Agencies administering child care programs under the Child Care and Development Block Grant (CCDBG) of 1990 as amended.

B. Number of Awards

Five to six State Child Care Data and Research Capacity Grants will be funded in Fiscal Year 2001, subject to availability of funds and results of the evaluation process.

C. Project Duration, Funding Levels and Budget periods

State Child Care Data and Research Capacity Grants will be awarded for project periods of up to three years. The Child Care Bureau expects to invest up to $250,000 during the initial 12-month funding period for each project. Non-competitive applications for continuation of State Child Care Data and Research Capacity Projects will be considered in fiscal years 2002 and 2003 with up to $250,000 per project being available for a 12-month period. Applications for continuation grants funded beyond the 12-month budget period, but within the 36-month project period, will be entertained in the subsequent year on a noncompetitive basis, subject to the availability of funds from future appropriations, satisfactory progress of the grantee, and a determination that continued funding is the best interest of the government.

D. Federal Share

To maximum the Federal investment in the State Child Care Data and Research Capacity Projects and in the interest of project sustainability, a financial commitment by the applicant organization (or other participating entity) is required. The grantee must provide at least 20 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting $250,000 per budget period must include a match of at least $62,500. A project receiving the maximum $750,000 during the three-year project period must include a match of at least $187,500 for the three-year project period. Applicants are encouraged to meet their match requirements through cash contributions. However, the non-Federal share may be in-kind contributions. Grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Criterion 1: Objectives and Need for Assistance (35 Points)

In this section, applicants are expected to provide a clear and comprehensive description of their agency's current capacity to collect, analyze and report child care administrative data. This description should include data collection, analysis and reporting required by the State and Federal governments, as well as reports designed for the legislature and other constituencies. Applicants are encouraged to provide a description of the internal and external information needs of the agency, constituencies for information, and the types of data required or requested by these agencies, organizations or groups.

Applicants are expected to describe the current structure, management, and process for collecting, analyzing and reporting data. This description should include a consideration of the strengths and weaknesses of the current operating system and analytic components. The need for assistance should be clearly stated.

In addition, applicants should describe the research and evaluation that would be conducted by the proposed analysis unit. Applicants are encouraged to identify specific research questions to be addressed by the unit and explain how the agency's data systems would be used to answer these questions.

Criterion 2: Approach (30 points)

In this section, applicants are expected to describe in detail how they will implement the proposed analysis unit, improve the State's capacity for collection, analysis, interpretation, and reporting of data, and conduct child care policy-relevant research. Applicants are advised to present their assessment of the advantages and disadvantages of an in-house analysis unit versus a contractual partner. Applicants should describe in detail why they have selected one approach over the other. The justification should include a description of how the chosen

approach will mesh with current information demands, operations and procedures, management structure, staffing and other resources.

Regardless of the approach selected (in-house or contractual), the applicant is expected to present an implementation plan and describe in detail how the unit will be established, managed, operated and evaluated. This section should also include a plan for sustaining the unit after Federal funding has ceased.

This section of the Project Narrative Statement also requires that the applicant describe the technical approach for addressing issues and achieving the objectives described in Criterion above. This should include a detailed plan that identifies goals and objectives, relates those goals and objectives to the strengths and weakness identified regarding the State's current methods and systems used to collect and compile administrative data, and provides a work plan identifying specific activities necessary to accomplish the stated goals and objectives. The plan must demonstrate that each of the project objectives and activities support the needs identified and can be accomplished with the available or expected resources during the proposed project period.

For any research that is proposed within the project period, a methodological discussion must be provided that includes technical details of the proposed research design, including: (1) conceptual framework for the research; (2) research questions, hypotheses and variables; (3) data sources; (4) linkages with other research; (5) data processing and statistical analysis; and (6) product development and information dissemination. (For more details on the information required in this section, see Criterion 2, Research Design and Methodology, in Evaluation Criteria for Field Initiated Child Care Research Projects.)

Criterion 3: Organization Profiles (25 Points)

Applicants need to demonstrate that they have the capacity to implement the proposed project. This criterion consist of the three broad topics: (1) Management plan, (2) staff qualifications and commitment, and (3) organizational capacity and resources.

Management Plan

Overview

Applicants are expected to present a sound and feasible management plan for implementing the analysis unit. This section should detail how the unit will be structured and managed, how the timeliness of activities will be ensured, how quality control will be maintained, and how costs will be controlled. The role and responsibilities of the lead agency should be clearly defined and, if appropriate, applicants should discuss the management and coordination of activities carried out by any partners, subcontractors and consultants.

Applicants are required to provide a plan that describes the role, responsibilities and time commitments of each proposed staff position, including consultants, subcontractors and/or partners. The plan should include a list of organizations and consultants who will work with the program along with a short description of the nature of their effort or contribution.

Applicants are expected to have the project fully staffed and ready for implementation as quickly as possible after notification of the grant award. Therefore, strategies for ensuring timely staffing and implementation should be clearly and succinctly presented in the management plan. The narrative should include a description of the timeline for hiring and procurement in the State, and methods that the applicant will use to expedite the process.

Applicants are also expected to produce a timeline that presents a reasonable schedule of target dates, accomplishments and deliverables by quarter. The timeline should include the sequence and timing of the major tasks and subtasks, important milestones, reports, and completion dates. The proposal should also discuss factors that may affect project implementation or the outcomes and present realistic strategies for the resolution of these difficulties. For instance, downtime due to staff vacancies at start should be reflected. Additional, if appropriate, applicants should present a plan for training project staff, as well as stuff of cooperating organizations.

Staff Qualifications and Commitment (10 Points)

Overview

In this section, applicants should describe the qualifications of the project manager and key staff, including analysts who will staff the analysis unit and the positions they will fill. Applicants are also expected to describe the educational background and professional experience of other professionals who will form the interdisciplinary analysis unit or organization. (Brief resumes should be provided.) The proposed staff should include persons with educational backgrounds and professional experiences in early childhood services, child development, social work, public policy, economics and other social science disciplines such that the analysis unit or organization will be able to conduct research on a broad range of child care issues and approaches.

Organizational Capacity and Resources (5 Points)

Overview

Applicants must show that they have the organizational capacity and resources to form, manage, operate, evaluate and sustain an analysis unit, including the capacity to resolve a wide variety of technical and management problems that may occur. If the proposal involves partnering and/or subcontracting with other agencies/organizations, then the proposal should include an organizational capability statement for each participating organization documenting the ability of the partners/and or subcontractors to carry out their assigned roles and functions.

Criterion 4: Budget and Budget Justification (10 Points)

Applicants are expected to present a budget with reasonable project costs, appropriately allocated across component areas, and sufficient to accomplish the objectives. They should demonstrate that costs for the proposed project are reasonable and justified in terms of the proposed tasks and the anticipated results and benefits. Applicants should refer to the budget information as presented on Standard Forms 424 and 424A and the budget justification.

The proposed budget should include sufficient funding to cover travel expenses for a key person from the project and the evaluator to attend two two-day meetings of grantees in the Washington DC area hosted by the Child Care Bureau. Attendance at these meetings is a grant requirement.

Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under there Order, States may design their own process for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-four jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the accommodation or explain rule.

When comments are submitted directly to ACF, they should be addressed to: Marguerite Pridgen, Office of Grants Management, 330 C Street, SW., Washington, DC 20447, Attn: Child Care Policy Research Discretionary Grants. A list of the Single Points of Contact (SPOCs) for each State and Territory can be found on the following web site: *http://www.whitehouse.gov/omb/grants/spoc.html.*

The Catalog of Federal Domestic Assistance number for all priority areas is 93.647.

Dated: May 8, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–12010 Filed 5–11–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0476]

Determination of Regulatory Review Period for Purposes of Patent Extension; Infergen

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Infergen and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Regulatory Policy Staff (HFD–007),Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product Infergen (interferon alfacon–1 or consensus interferon). Infergen is indicated for the treatment of chronic hepatitis C virus (HCV) infection in patients 18 years of age or older with compensated liver disease who have anti-HCV serum antibodies and/or presence of HCV RNA (ribonucleic acid). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Infergen (U.S. Patent No. 4,695,623) from Amgen, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 9, 1998, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of Infergen represented the first permitted commercial marketing or use of the product. Later, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Infergen is 4,394 days. Of this time, 3,849 days occurred during the testing phase of the regulatory review period, while 545 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: September 27, 1985. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on September 27, 1985.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262)*: April 10, 1996. FDA has verified the applicant's claim that the product license application (PLA) for Infergen (PLA 96–0486) was initially submitted on April 10, 1996.

3. *The date the application was approved*: October 6, 1997. FDA has verified the applicant's claim that PLA 96–0486 was approved on October 6, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by July 13, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 13, 2001. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 26, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–12025 Filed 5–11–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–3082]

International Conference on Harmonisation; Choice of Control Group and Related Issues in Clinical Trials; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled "E10 Choice of Control Group and Related Issues in Clinical Trials." The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance sets forth general principles that are relevant to all controlled trials and are especially pertinent to the major clinical trials intended to demonstrate drug (including biological drug) efficacy. The guidance describes the principal types of control groups and discusses their appropriateness in particular situations. The guidance is intended to assist sponsors and investigators in the choice of control groups for clinical trials.

DATES: This guidance is effective May 14, 2001. Submit written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX: 888–CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Robert Temple, Center for Drug Evaluation and Research (HFD–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6758.

Regarding the ICH: Janet J. Showalter, Office of International Affairs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In accordance with the agency's regulation on good guidance practices (GGP) (21 CFR 10.115; 65 FR 56468, September 19, 2000), this document is being called a guidance, rather than a guideline.

To facilitate the process of making ICH guidances available to the public, the agency has changed its procedures for publishing ICH guidances. Beginning April 2000, we no longer include the text of ICH guidances in the **Federal Register**. Instead, we will publish a notice in the **Federal Register** announcing the availability of an ICH guidance. The ICH guidance is placed in the docket and can be obtained through regular agency sources (see the **ADDRESSES** section). Draft ICH guidances are left in the original ICH format. Final guidances are reformatted to conform to the GGP style before publication.

In the **Federal Register** of September 24, 1999 (64 FR 51767), FDA published a draft tripartite guidance entitled "E10 Choice of Control Group in Clinical Trials." The notice gave interested persons an opportunity to submit comments by December 23, 1999.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in July 2000.

This guidance sets forth general principles that are relevant to all controlled trials and are especially pertinent to the major clinical trials intended to demonstrate drug (including biological drug) efficacy. The guidance includes a description of the five principal types of controls, a discussion of two important purposes of clinical trials, and an exploration of the critical issue of assay sensitivity, i.e., whether a trial could have detected a difference between treatments when there was a difference, a particularly important issue in noninferiority/equivalence trials. In addition, the guidance presents a detailed description of each type of control and considers, for each: (1) Its ability to minimize bias; (2) ethical and practical issues associated with its use; (3) its usefulness and the quality of inference in particular situations; (4) modifications of study design or combinations with other controls that can resolve ethical, practical, or inferential concerns; and (5) its overall advantages and disadvantages.

This guidance represents the agency's current thinking on the choice of control group in clinical trials. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the guidance at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/publications.htm.

Dated: May 4, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12026 Filed 5–11–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 6, 2001, 8 a.m. to 5 p.m..

Location: Holiday Inn, 8120 Wisconsin Ave., Bethesda, MD.

Contact: Sandra Titus, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD–21), 5600 Fishers Lane, Rockville MD 20857, 301–827–7001, e-mail: Tituss@ cder.fda.gov. FAX 301–827–6801, or FDA Advisory Committee Information Line at 1–800–741–8138 (301–443–0572 in the Washington, DC area) code 12543. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 6, 2001, the committee will consider the safety and efficacy of new drug application (NDA) 21–196, Xyrem® (sodium oxybate, Orphan Medical, Inc.) proposed to reduce the incidence of cataplexy and to improve the symptom of daytime sleepiness for persons with narcolepsy. A main focus of the deliberations will be on risk management issues.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 29, 2001. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 29, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Background material from the sponsor and FDA will be posted 24 hours before the meeting at the Peripheral and Central Nervous System Drugs Advisory Committee docket site at http://www.fda.gov/ohrms/dockets/ac/acmenu.htm. (Click on the year 2001 and scroll down to the Peripheral and Central Nervous Systems Drugs meetings.) This is the same Web site where you can find the minutes, transcript, and slides from the meeting. This material is generally posted about 3 weeks after the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 8, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–12085 Filed 5–10–01; 10:28 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–267]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Medicare Plus Choice Program Requirements Referenced in 42 CFR 422.000–422.700; *Form No.:* HCFA–R–0267 (OMB# 0938–0753); *Use:* Section 4001 of the Balanced Budget Act of 1997 added sections 1851 through 1859 to the Social Security Act to establish a new Part C of the Medicare Program, known as the Medicare+Choice program. Under this program, every individual entitled to Medicare Part A and enrolled under Part

B may elect to receive benefits through either the existing Medicare fee-for-service program or a Part C M+C plan. The regulations implementing these sections was published on June 26, 1998. The regulations revising these sections was published on February 17, 1999 and June 29, 2000.; *Frequency:* Other: as needed; *Affected Public:* Business or other for-profit, Individuals or Households, Not-for-profit institutions, Federal Government, and State, Local, or Tribal Government; *Number of Respondents:* 2,450; *Total Annual Responses:* 7,657,534; *Total Annual Hours:* 2,120,006.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address and phone number, to *Paperwork@hcfa.gov*. or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 24, 2001.

John P. Burke, III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–11967 Filed 5–11–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision: Final Environmental Impact Statement; Lake McDonald/Park Headquarters Wastewater Treatment System Rehabilitation, Glacier National Park, A Unit of Waterton-Glacier International Pesce Park Flathead and Glacier Counties, MT

The Department of Interior, National Park Service (NPS) has prepared this Record of Decision on the Final Environmental Impact Statement on the Lake McDonald/Park Headquarters Wastewater Treatment System Rehabilitation for Glacier National Park, Montana. This Record of Decision is a statement of the decisions made as a result of environmental and socioeconomic analysis and consideration of public input. It describes the following: project background, the preferred alternative, other alternatives considered, the National Park Service decision and the basis for the decision, the environmentally preferable alternative, mitigation measures and the involvement of public, agencies and other nations.

Project Background

Glacier National Park (Park) attracts about 1.7 million visitors annually. Approximately 60 percent of these visitors enter the Park through the west entrance. The existing Lake McDonald wastewater treatment facility serves developed areas at Lake McDonald Lodge, Apgar Village, Sprague Creek, Apgar and Fish Creek Campgrounds, and Park Headquarters, park maintenance area, seasonal park and concession staff and year-round park employee residences.

In 1996, the Park determined that improvements and upgrades to the wastewater facility and collection system were needed to restore the original treatment capacity and protect resources from potential damage due to accidental wastewater discharges. Since 1997, the Park has upgraded lift stations at Lake McDonald Lodge and Sprague Creek Campground and has replaced the sewage collection system and made other improvements as necessary. The purpose of the proposed project is to rehabilitate and improve the existing wastewater treatment facility because it is no longer meeting its original treatment objectives or operating at the capacity it was originally designed for. In addition, the existing spray field used as part of the treatment process, is within the 100-year floodplain of McDonald Creek and the Middle Fork of the Flathead River and is only able to operate seasonally due to snow cover and or a high water table. The existing sewage storage lagoon is inadequate to store all the winter flow and precipitation during wet years, until the spray field is operational in the summer.

Decision (Selected Action)

The National Park Service will implement Alternative 3 as described in the Final Environmental Impact Statement on the Lake McDonald/park Headquarters Wastewater Treatment System Rehabilitation, with some minor clarifications and changes as indicated below to replace the existing wastewater treatment system with an advanced tertiary treatment wastewater facility that achieves the highest level of nutrient and pathogen removal of all the alternatives considered. The proposed wastewater treatment plant (WWTP) will incorporate sequencing batch reactors for nitrogen and phosphorus removal combined with chemicals that will remove additional phosphorus and suspended solids. In addition, UV disinfection will be used to kill pathogens prior to discharge. The proposed facility will require enlargement of the existing WWTP building to 60 feet × 100 feet. This method will insure that nutrients will be removed in accordance with treatment levels established by EPA and regulated by Montana DEQ.

In response to public comment received on the FEIS, the method for discharging the effluent has been changed from what was described in the FEIS. During the late spring, summer and early fall, when the plant will be treating up to 250,000 gallons of waste per day, the effluent will be treated to meet Montana DEQ standards for surface water discharge and will be disposed of by spray irrigation. Approximately 30 acres of the existing 58 acre spray field will be refurbished with new heads, pumps and controls and will cost approximately $150,000. Since the effluent will be treated to surface water discharge standards, irrigating the meadow by using the spray field is not part of the treatment process. However, it will provide a polishing effect. Any remaining nitrogen and phosphorus allowed by the discharge permit will be taken up by the plants and not enter the groundwater.

During the winter, when the plant will treat up to 12,000 gallons of waste per day, the effluent will be treated to a higher level to meet EPA underground injection control standards. To meet these higher standards, the effluent will be disinfected with ozone prior to filtration and then UV prior to discharge into an exfiltration gallery. The gallery (also known as a groundwater injection system) will be located southwest of the horse barn, within the vicinity of the existing spray field. The new plant's biological nutrient removal, filtration and disinfection process will achieve treatment standards set by EPA and regulated by DEQ. Chlorine and the disinfection by-products produced by chlorine will not be used or generated. Treated effluent discharges will meet Montana DEQ non-degradation water quality requirements in addition to EPA's underground injection control requirements.

The new site for the exfiltration gallery is within the area analyzed as part of the affected environment in the DEIS and FEIS. This site was not surveyed for the velvetleaf blueberry, although according to the park's Ecologist, it is not expected velvetleaf blueberry habitat. Once the snows have melted and prior to construction, the site will be surveyed. If any plants are located, the site for the exfiltration gallery will be adjusted to avoid them.

The proposed exfiltration gallery, described in the FEIS that was located closer to the Middle Fork of the Flathead River, is no longer being considered. Concerns about adversely affecting the hyporheic community and continued perceptions by the public that we were putting waste into a wild and scenic river led the NPS to reconsider this part of the proposal. Continued consultation with Dr. Jack Stanford, EPA and DEQ also contributed to redesign of the effluent discharge system.

Other Alternatives Considered

Several alternative wastewater treatment systems were evaluated in the Draft and Final EIS. Alternatives 1A and 1B would continue to use a lagoon treatment system similar to the existing facility. Alternative 1A would add an additional aerated lagoon plus a new 13 acre spray field outside the 100-year floodplain. Treated effluent would be discharged into the existing and new spray fields during the summer. During the winter, sewage would be stored in holding ponds. Alternative 1B would add additional lagoons for winter sewage storage until the existing spray field was operational in the in the late spring or early summer. This alternative would require disturbance of about 16 acres of new land for construction of additional storage lagoons. Treated effluent discharge would meet Montana DEQ water quality standards.

Alternative 2 is an advanced water treatment facility similar to the preferred alternative, but does not include the chemical and filtration treatments for phosphorus removal. This facility would use a series of three rapid infiltration basins to discharge the treated effluent to ground water in a terrace outside of the 100-year floodplain. About 9 acres of forest would need to be cleared to construct the infiltration basins. Montana DEQ ground water discharge standards would be met.

The No Action Alternative would continue operation of the existing WWTP and spray field. Because this facility is no longer treating to original design criteria, biological oxygen demand and suspended sediment concentrations would continue to increase. Occasional sewage spills from the lagoon may occur during wet springs when storage capacity is exceeded and the spray field cannot be operated. To reduce the potential for spills, it may be necessary to restrict Park or concession operations in the winter or early spring. The current facility would continue to meet state water quality requirements. The existing facility may not meet future demand because it is no longer capable of operating at the original capacity it was designed for.

The selected action (Alternative 3) is discussed in detail above, however several options for the discharge of the treated effluent were considered for this alternative. These were use of a constructed wetland, construction of an artificial pond or channel for infiltration, continued use of the existing spray field in the floodplain, direct discharge into the Middle Fork of the Flathead River and an exfiltration gallery in the floodplain of the Middle Fork of the Flathead River. Because the effluent is treated to the highest degree possible with available technology, (tertiary treatment), the type of discharge outlet is not a critical factor necessary to achieve treatment objectives. A constructed wetland would only be functional during a relatively short growing season, would require disturbance of approximately 2 acres, and may be difficult to operate efficiently because of the wide fluctuations in effluent discharges over the year. Furthermore it is not expected to substantially improve the quality of the effluent discharge since it is already being treated to the highest degree possible. Construction of infiltration ponds or channels would require clearing about 10 acres of forested land and would introduce a large visual artificial drainage feature to the landscape.

Environmental Preferred Alternative

The environmentally preferable alternative is defined as "the alternative that will promote the national environmental policy as expressed in the National Environmental Policy Act's section 101. Typically, this means the alternative that causes the least damage to the biological, and physical environment. It also means the alternative that best protects, preserves and enhances historic, cultural and natural resources" (Forty Most Asked Questions Concerning Council of Environmental Quality's (CEQ) National Environmental Policy Act Regulations, 1981).

Each of the action alternatives provides an environmentally preferable alternative in comparison to continued operation of the existing WWTP under the No Action Alternative. However, the selected action (Alternative 3) and the modifications made to the discharge of effluent, that has become the NPS decision, provides the highest level of sewage treatment of all the alternatives under consideration, with the least amount of adverse impacts to resources. In addition to biological nutrient removal, filtration and disinfection, the selected action (Alternative 3) disposes of effluent via land application. Protection of our surface and ground water is greatly enhanced by allowing the plants in the spray field to naturally uptake any nutrients remaining in the waste system. This provides the highest level of treatment possible.

National Park Service Decision

The National Park Service will implement the Alternative 3 (the preferred alternative) as described in the Final EIS and this ROD with the changes as explained above. The final decision on how to discharge the effluent was not described in the DEIS or FEIS. However, the area affected by this change in the preferred alternative was analyzed in the EIS, and there will be no additional or new impacts on resources from this change. Therefore a supplemental FEIS will not be prepared. The effluent discharge system as described in the FEIS would have adversely affected the hyporheic community located in the floodplain of the Middle Fork of the Flathead River. The basis for this decision is discussed below.

Basis for the Decision

Although each of the action alternatives evaluated in the FEIS would meet the purpose and need of the project, Alternative 3 provides the highest level of treatment (tertiary) and has the least impact on Park resources including the Middle Fork of the Flathead River, a Wild and Scenic River. Alternative 3 provides for biological and chemical treatment to remove both nitrogen and phosphorus and ozone and UV disinfection to kill pathogens. The water quality of treated effluent will meet Montana DEQ non-degradation requirements and further be polished by irrigating the pasture, so there will be no adverse impact to the Middle Fork of the Flathead River or groundwater. Construction of the exfiltration gallery southwest of the horse barn will cause temporary disturbance during construction of about .4 hectares (1 acre). Although this site is located within the 100 year floodplain of the Middle Fork of the Flathead River and McDonald Creek, it will be buried to avoid any adverse impacts to the floodplain and is exempt from compliance with NPS Guidelines for EO

11988. A floodplain permit will be obtained from the Flathead Regional Development Office to install the exfiltration gallery.

Alternative 3 will not have an adverse effect on the outstanding and remarkable values and qualities inherent within the recreational segment of the Middle Fork of the Flathead Wild and Scenic River, because there will be no adverse impact to water quality, scenic values, recreational use, or the free-flowing status of the river.

Alternative 3 will not adversely affect any federally listed threatened or endangered species or state listed species. There will be no long-term loss of Park natural resources. Adverse impacts to natural resources will be temporary and occur within an already disturbed area. The existing wastewater treatment building will be enlarged within an already disturbed area. The site where the exfiltration gallery will be buried will be revegetated.

Why the Other Alternatives Were Not Selected

Alternatives 1A and 1B would improve the quality of the treated effluent, meet anticipated water demands, and eliminate potential adverse environmental effects associated with the existing WWTP. However construction of new lagoons and spray fields would require a long-term surface disturbance. This would add an additional unnatural disturbance to the Park and would eliminate or modify plant communities and wildlife habit t. Several velvetleaf blueberry plants (a species listed as rare by the State of Montana) would be adversely affected and destroyed if these alternatives were implemented. There also would be minor changes in the visual landscape with the construction of new lagoons and forest clearing for a new spray field. These alternatives require the continued use of the existing 54 acre spray field within the 100 year floodplain of the Middle Fork of the Flathead River and the artificial irrigation of meadow habitat. Alternatives 1A and 1B were not selected because of the environmental effects associated with the need for additional ground disturbance and the desire to discontinue use of the existing spray field as part of the treatment process and provide a higher level of sewage treatment.

Alternative 2 is an advanced water treatment facility similar to Alternative 3, but does not include additional treatment to remove phosphorus. In addition, about 9 acres of forest would need to be cleared to construct the infiltration basins. Alternative 2 was not selected because of the larger disturbance and associated loss of natural plant communities and wildlife habitat that would be required.

The No Action alternative was rejected because continuation of the existing situation places park resources at significant risk and because the existing WWTP is no longer operating at the level of treatment, efficiency or capacity for which it was originally designed. Continued use of the facility may result in significant adverse effects on park resources, and result in limitations on Park and visitor operations.

The proposed exfiltration gallery, described in the FEIS, was located closer to the Middle Fork of the Flathead River, is no longer being considered. Concerns about adversely affecting the hyporheic community and continued perceptions by the public that we were putting waste into a wild and scenic river led the NPS to reconsider this part of the proposal. Further consultation with Dr. Jack Stanford, EPA and DEQ also contributed to the redesign of the effluent discharge system.

Measures To Minimize Environmental Harm

Measures to minimize environmental effects that could result from implementation of Alternative 3 have been incorporated into the decision. The NPS selected action minimizes environmental effects primarily by avoiding sensitive habitat and confining the area of disturbance to previously disturbed areas. This includes locating the WWTP building addition within the existing parking area, and burying the effluent discharge pipe and gallery within an already disturbed area in the vicinity of the horse barn. All areas disturbed by construction will be revegetated with native plant species. Restrictions in the timing and season of construction activity will be used to minimize impacts to wildlife species. Specific mitigation measures will be incorporated into construction specifications to prevent the introduction of hazardous materials and noxious and exotic plant material to the environment. Other protective measures will be used to prevent attracting wildlife and to minimize the potential for human/wildlife conflicts during construction. Environmental effects to water quality, groundwater, the hyporheic community and the Wild and Scenic River, will be minimized by the selection of the alternative that offers the highest level of sewage treatment available with current technology and incorporating a treatment level necessary to meet EPA and Montana DEQ non-degradation requirements.

Finding on Impairment of Park Resources and Values

In addition to determining the environmental consequences of the preferred and other alternatives, National Park Service policy (Management Policies 2001) requires analysis of potential effects to determine whether or not actions would impair park resources. Because implementation of the preferred alternative will not result in any major, adverse impacts to a resource or value whose conservation is (1) necessary to fulfill specific purposes identified in the establishing legislation of Glacier National Park; (2) key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning documents, there will be no impairment of Glacier National Park's resources or values.

Public and Interagency Involvement

A Notice of Intent was published in the **Federal Register** on October 18, 1999. Two public open houses were held in October 1999 to conduct scoping and solicit input from the public on the proposed improvements to the wastewater treatment facility. The draft EIS was released in January 2000 and two additional public open houses were held in March 2000. A Notice of Availability for the Draft EIS was issued in the **Federal Register** on February 7, 2000. And a Notice of Availability for the Final EIS appeared in the **Federal Register** on August 28, 2000.

Consultation and coordination was held with the U. S. Forest Service, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Environmental Protection Agency, Montana Department of Environmental Quality, Flathead Regional Development Office, Flathead County Department of Health and Dr. Jack Stanford (Director of the Flathead Lake Biological Station at Yellow Bay). A Biological Assessment was submitted to the US Fish and Wildlife Service in April 2000. On September 21, 2000, they wrote stating they concurred with our determination of "not likely to adversely effect" grizzly bears, gray wolves, Canada Lynx and bald eagles. They agreed with the "no effect" determination for bull trout. On July 17, 2000 the Army Corps of Engineers surveyed the site for wetlands and found no evidence that they were present. On October 23, 2000, NPS Ecologist, Tara Williams conducted a wetland survey on additional lands in the area to determine if an existing wetland could be used as part of the treatment process. None were found.

Comments received on the Final EIS also concluded that the Environmental Protection Agency supported the Preferred Alternative. They also recommended that the ultimate sludge disposal location be identified and selected. A subsequent phone call clarified they did not intend for the NPS to delay in issuing the Record of Decision before resolving this, but to explain in the ROD our progress to date in locating a site. The NPS has continued to communicate with local landfills and sewage treatment plants throughout the Flathead Valley. Columbia Falls and Kalispell indicated that they will take the sludge, however they are unwilling to sign a contract today for sludge disposal that won't be necessary for another 8 years.

Two letters were also received from the Coalition for Canyon Preservation during the 30 day no-action period on the FEIS. One of these letters raised a new concern about impacts to groundwater that had not been raised in their comments on the Draft EIS. Groundwater resources and impacts were addressed in the Draft and Final EIS under the heading Water Resources and Floodplains. Specific references to groundwater are found on pages 45, 58, 59, 60, 62. Specific references to the hyporheic community that also lives in the groundwater are found on pages 67, 68, 69. The NPS decision and preferred alternative, as described in the FEIS and ROD, provides for treatment of wastewater at the highest level that technology allows. Concerns raised by CCP and other members of the public contributed to the NPS taking another look at how best to protect the hyporheic community and the Wild and Scenic River. This resulted in further modification of the effluent discharge method described in the FEIS. The new location for the exfiltration gallery and the use of the spray field during the spring, summer and fall months as described in this ROD, will result in an even better treatment system than proposed in the DEIS or FEIS.

Neither direct discharge to the Middle Fork of the Flathead River or constructing an exfiltration gallery just outside the 10 year floodplain of the River will be further considered.

As described in this record of decision treating the effluent during the late spring, summer and early fall to surface water standards and then discharging it through the existing spray field (which is not part of the treatment process) will ensure that the groundwater and hyporheic communities are not adversely affected. Use of an exfiltration gallery (near the horse barn) and treatment of the effluent to meet drinking water standards, will ensure that groundwater is not adversely affected. It will also provide protection to the water quality of the wild and scenic river and the values for which it was designated a wild and scenic river.

Concerns were also raised by the CCP about development within floodplains. The exfiltration gallery will be buried 6 feet below the surface in an already disturbed area within the existing spray field. It will not present an obstruction within the floodplain. This is also exempted from compliance with the Executive Order 11988, in accordance with NPS Guidelines for implementing the executive order, because it is water dependent. Siting it within an already disturbed area was suggested by CCP in a letter dated October 12, 2000.

All comments received on this project are on file at Park headquarters in West Glacier, Montana. Public and agency comments were obviously an important component of this project and greatly assisted with modification and selection of Alternative 3 and the NPS decision.

Conclusion

Alternative 3 with the changes described in this record of decision, provides the most comprehensive and effective method among the alternatives considered for rehabilitating the wastewater treatment system in the Lake McDonald/Park Headquarters area. The selection of Alternative 3 as reflected by the analysis contained in the environmental impact statement, would not result in the impairment of park resources and will allow the National Park Service to conserve park resources and provide for their enjoyment by visitors.

Recommended:
Dated: March 30, 2001.

Suzanne Lewis,

Superintendent, Glacier National Park, National Park Service.

Approved:
Dated: April 9, 2001.

Michael D. Synder,

Regional Director, Intermountain Regional Office, National Park Service.

[FR Doc. 01–12013 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Public Scoping for Proposed Construction of a Two-Unit Vault Toilet Comfort Station To Replace the Existing Portable Chemical Toilets at Gravelly Point, a Unit of the George Washington Memorial Parkway (GWMP)

AGENCY: National Park Service Interior.

ACTION: Availability of the proposal for the construction of a two-unit vault toilet comfort station to replace the existing portable chemical toilets at Gravelly Point.

SUMMARY: Pursuant to Council on Environmental Quality regulations and National Park Service policy, the National Park Service announces the availability of a proposal for the construction of a two-unit vault toilet comfort station to replace the existing portable chemical toilets at Gravelly Point within the George Washington Memorial Parkway (GWMP). The proposal is examining several alternatives for the specific location of the temporary vault toilet unit. The National Park Service is soliciting comments on this proposal. These comments will be considered in preparing the Environmental Assessment pursuant to the National Environmental Policy Act (NEPA).

DATES: The proposal will remain available for public comment on or before June 13, 2001. Written comments should be post marked no later than this date.

ADDRESSES: Comments on this Environmental Assessment should be submitted in writing to: Ms. Audrey F. Calhoun, Superintendent, George Washington Memorial Parkway, Turkey Run Park, McLean, Virginia 22101. The Environmental Assessment will be available for public inspection Monday through Friday, 8 a.m. through 4 p.m. at GWMP Headquarters, Turkey Run Park, McLean, VA, on the National Park Service Website www.nps.gov/gwmp and at various libraries in the City of Alexandria and Arlington County, Virginia.

SUPPLEMENTARY INFORMATION: The National Park Service proposes to construct a two-unit vault toilet comfort station to replace the existing 2–4 portable chemical toilets at Gravelly Point within the GWMP and the possible relocation of an area designated as Governors Grove. An estimated 1 million visitors per year use the Gravelly Point area, which is accessible from the northbound GWMP as well as

the Mount Vernon Trail (MVT). Since there is no water or sewer available at Gravelly Point, the National Park Service currently provides 4 portable toilets between April and November and 2 portable toilets December through March on a rental basis. The NPS would like to replace these rental units with an alternative that is less likely to cause environmental concern from being tipped over, that is fully accessible in accordance with the Americans with Disabilities Act and that have a larger holding capacity than the portable toilets. This would reduce the number of portable toilets needed and the frequency of pumping them. The intent of the proposed two-unit vault toilet comfort station is to provide an environmentally sound and fully accessible comfort station for visitors to this site that will better serve the public until a more permanent solution is found such as water and sewer eventually being brought to Gravelly Point. The overall goal is to meet this visitor need while preserving the viewshed from the GWMP, a property listed on the National Register of Historic Places, protecting the integrity of cultural landscape features such as Governors Grove and preventing interference with ground radar at National Airport (height restrictions). The proposed action is based on observations by National Park Service staff that existing conditions are in need of improvement at this location.

All interested individuals, agencies, and organizations are urged to provide comments on the proposal. The National Park Service, in preparing an EA regarding this matter, will consider all comments received by the closing date.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Sealy (703) 289–2531.

Dottie Marshall,

Acting Superintendent, George Washington Memorial Parkway.

[FR Doc. 01–12083 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF INTERIOR

National Park Service

Saint-Gaudens National Historic Site, Cornish, NH: Environmental Assessment—Purple Loosestrife Management; Notice of Availability and Public Comment Period

In accordance with the National Environmental Policy Act (Pub. L. 91–190) the National Park Service (NPS) announces that the document "Environmental Assessment, Purple Loosestrife Management, Saint-Gaudens National Historic Site" will be available for public review and comment for thirty days from the date of its publication in the **Federal Register**.

The document presents four alternatives for managing the non-native, invasive plant, purple loosestrife (*Lythrum salicaria*) at the site. Ultimately, an alternative will be selected that will guide the park in the management of this invasive species.

During the thirty-day comment period, interested persons may review the document and provide written comments to the Superintendent, Saint-Gaudens National Historic Site, RR 3, Box 73, Cornish, NH 03745.

The NPS will distribute a summary of the Environmental Assessment to the site's mailing list, interested individuals and institutions. The NPS will then distribute a complete version of the document to federal, state, regional, and local agencies. Both versions will be available at local libraries and at the Saint-Gaudens National Historic Site.

Queries and requests for copies of the complete Environmental Assessment or of the summary document should be directed to the Saint-Gaudens National Historic Site at (603) 675–2175.

Dated: April 30, 2001.

John H. Dryfhout,

Superintendent, Saint-Gaudens NHS.

[FR Doc. 01–12014 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Correction—Native American Graves Protection and Repatriation Review Committee: Meeting

AGENCY: National Park Service, Interior.

ACTION: Correction.

Notice is hereby given in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1988), that a meeting of the Native American Graves Protection and Repatriation Review Committee will be held on May 31, and June 1 and 2, 2001, in Kelseyville, CA. This notice corrects the agenda, and the telephone number and e-mail address of the Assistant Director, Cultural Resources Stewardship and Partnerships in the meeting notice published on March 26, 2001.

The third paragraph of the March 26, 2001, notice is corrected as follows:

The agenda for the meeting will include discussion of the 1999/2000 and 2001 reports to Congress, Federal agency compliance, status of pending disputes, contamination of cultural items, reburial on Federal lands, and implementation of the statute in the western United States.

The seventh paragraph of the March 26, 2001, notice is corrected as follows:

Persons wishing further information concerning this meeting may contact Mr. John Robbins, Assistant Director, Cultural Resources Stewardship and Partnerships, 1849 C Street NW., 350 NC, Washington, DC 20240, telephone **(202) 343–3388**, fax (202) 343–5260, e-mail **john_robbins@nps.gov**. Transcripts of the meeting will be available for public inspection approximately eight weeks after the meeting at the office of the Assistant Director, Cultural Resources Stewardship and Partnerships, 800 North Capitol Street NW., Suite 350, Washington, DC 20001.

Dated: May 1, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–12015 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 28, 2001. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by May 29, 2001.

Carol D. Shull,

Keeper of the National Register Of Historic Places.

ARIZONA

Pinal County

Grewe Site, Address Restricted, Coolidge, 01000565

FLORIDA

St. Lucie County

Fort Pierce Old Post Office, 500 Orange Ave., Fort Pierce, 01000567

IDAHO

Bonner County

Olson, Charles A. and Mary, House, 401 Church St., Sandpoint, 01000566

Minidoka County

Empire School, (Public School Buildings in Idaho MPS) 300 South 50 East, Rupert, 01000568

ILLINOIS

Champaign County

Warm Air Research House, 1108 W. Stoughton St., Urbana, 01000595

Cook County

Chicago Telephone Company Kedzie Exchange, 17 S. Homan Ave., Chicago, 01000594

Lake County

Lake Forest Cemetery, 1525 N. Lake Rd., Lake Forest, 01000597

Paddock, Henry I., House, 346 Sheridan Rd., Winthrop Harbor, 01000596

Marion County

Bachmann, Charles and Naomi, House, 401 S. Walnut St., Salem, 01000598

Randolph County

Piney Creek Site, (Native American Rock Art Sites of Illinois MPS) Address Restricted, Campbell Hill, 01000601

Piney Creek South Site, (Native American Rock Art Sites of Illinois MPS) Address Restricted, Campbell Hill, 01000602

Piney Creek West Site, (Native American Rock Art Sites of Illinois MPS) Address Restricted, Campbell Hill, 01000600

Tegtmeyer Site, (Native American Rock Art Sites of Illinois MPS) Address Restricted, Campbell Hill, 01000599

LOUISIANA

St. James Parish

Mather House, (Louisiana's French Creole Architecture MPS) 5666 LA 44, Convent, 01000569

MICHIGAN

Lenawee County

Jackson Branch Bridge No. 15, Southern Michigan RR over River Raisin, Raisin Township, 01000572

Mason County

Scottville School, 209 N. Main St., Scottville, 01000571

Wayne County

New Amsterdam Historic District, 435, 450 Amstersam; 440, 41–47 Burroughs; 5911–5919, 6050–6160 Cass; 6100–6200 Second; 425 York, Detroit, 01000570

NEVADA

Douglas County

Gale, Lena N., Cabin, 726 Cedar St., Zephyr Cove, 01000586

Washoe County

Bethel AME Church, 220 Bell St., Reno, 01000587

NEW YORK

Albany County

Lainhart Farm Complex and Dutch Barn, 6755 Lainhart, Altamont, 01000579

Newtonville United Methodist Church, Louden Rd. at Maxwell Rd., Colonie, 01000580

Van Derheyden House, 823 Delaware Ave., Delmar, 01000582

Delaware County

Skene Memorial Library, Main St.—Old NY 28, Fleischmanns, 01000576

Onondaga County

First Baptist Church of Camillus, 23 Genesee St., Camillus, 01000573

Rockland County

Philadelphia Toboggan Company Carousel Number 15, 1000 Palisades Center, West Nyack, 01000583

Schoharie County

Gallupville Methodist Church, Factory St., Schoharie, 01000584

Seneca County

Wilson, Aaron, House, 2037 Wilson Rd., Ovid, 01000577

St. Lawrence County

Childwold Memorial Presbyterian Church, Bancroft Rd., Piercefield, 01000585

Sullivan County

First Methodist Episcopal Church of Parksville, 10 Short Ave., Parksville, 01000575

Hebrew Congregation of Mountaindale Synagogue, NY 55, Mountaindale, 01000578

Roscoe Presbyterian Church and Westfield Flats Cemetery, Old NY 17, Roscoe, 01000574

Ulster County

Jenkins-DuBois Farm and Mill Site, Jenkinstown Rd., Gardiner, 01000581

NORTH DAKOTA

Walsh County

State Bank of Edinburg, 300 Main Ave., Edinburg, 01000588

OHIO

Clermont County

Harmony Hill Dairy House, 299 S. Third St., Williamsburg, 01000592

Columbiana County

East Liverpool Downtown Historic District, (East Liverpool Central Business District MRA) Roughly bounded by W. Sixth St., Dresden Ave., Welch Ave., Broadway, Walnut St., E. Fourth St., and East Alley, East Liverpool, 01000591

Perry County

New Straitsville School, 402 Clark St., New Straitsville, 01000590

Warren County

Corwin Council House and Jail, 946 Harveysburg Rd., Corwin, 01000589

PENNSYLVANIA

Allegheny County

Frew, John, House, 105 Sterrett St., Pittsburgh, 01000593

Bradford County

Protection of the Flag Monument, 715 S. Main St., Athens, 01000604

Somerset County

Stoystown Historic District, (Lincoln Highway Heritage Corridor Historic Resources: Franklin to Westmoreland Counties MPS) Roughly bounded by W & E Forbes Rds., E Main St., Meadow St. E Penn Ave, S Sommerset St., W Penn Ave. and W Main St., Stoystown Borough, 01000605

Washington County

Parkinson, Robert, Farm, PA 18, 0.4 mi. N of Old Concord Village, Morris Township, 01000603

SOUTH CAROLINA

Beaufort County

Beaufort Historic District, Bounded by Beaufort River, Hamar St., and Boundary St., Beaufort, 01000608

Florence County

Jamestown Historic District, Approx. 1 mi. N of US76/301, Florence, 01000610

Hampton County

Bank of Hampton, 15 Elm St., E, Hampton, 01000606

Marion County

Teasley, J.C., House, (Flue-Cured Tobacco Production Properties TR) 131 E. Wine St., Mullins, 01000609

Union County

Woodland Plantation, 3435 Santuc-Carlisle Hwy-SC 215, Carlisle, 01000607

TEXAS

Fannin County

Lake Fannin Organizational Camp, 1 mi. W jct of Cty. Rd. 2025 and State Farm-to-Market Rd. 2554, Caddo National Grasslands, Duplex, 01000611

Travis County

Cox-Craddock House, 720 E. 32nd St., Austin, 01000612

VIRGINIA

Norfolk Independent city Downtown Norfolk Historic District (Boundary Increase), Granby, Freemason, Charlotte, Bute, and York Sts., College Pl. and Monticello Ave., Norfolk (Independent City), 01000613

A request for REMOVAL has been made for the following resources:

ARIZONA

Maricopa County

Smurthwaite House 602 N. 7th St. (Nineteenth Century Residential Buildings in Phoenix MPS) Phoenix, 94001539

VIRGINIA

Albemarle County

Enniscorthy VA 627 .5 mi. S of jct with VA 712 Keene vicinity, 92001273

[FR Doc. 01–12012 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Colorado Historical Society, Denver, CO

AGENCY: National Park Service, Interior.
ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of Colorado State Historical Society, Denver, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains and associated funerary objects was made by Colorado Historical Society professional staff in consultation with representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Kiowa Indian Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah. The following tribes were invited, but were unable to participate in consultations: Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Shoshone Tribe of the Wind River Reservation, Wyoming; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

In August 1994, human remains representing one individual were observed by a Colorado Springs man and his children in an arroyo slump in Colorado Springs, CO. Without disturbing the remains, the man contacted the Colorado Springs sheriff, who visited the site to collect all of the visible remains. The Office of the State Archaeologist was contacted on August 26 and, with the assistance of local archaeologists, the remaining portions of the burial were excavated between August 26 and 30, 1994. The remains, consisting of the nearly complete skeleton of an adult male, were originally buried in a flexed position. The teeth show unusually heavy wear and polish on all sides, with wear patterns on the front teeth suggestive of their use as tools. The totality of these circumstances supports the identification of this individual as Native American. No known individual was identified. The six associated funerary objects are a jasper biface, a ground and polished animal scapula, three flakes, and a piece of stone shatter.

Based on the totality of the circumstances surrounding the acquisition of these human remains and associated funerary objects, and evidence of traditional territories, oral traditions, archaeological context, material culture, and dentition, officials of the Colorado Historical Society have determined that the burial dates to the prehistoric period, and that there is cultural affiliation with the present-day tribes who jointly claim a presence in the region prior to and during the contact period. Official representatives of 12 tribes signed and submitted a document to the Colorado Historical Society on October 12, 2000, jointly claiming cultural affiliation to these human remains and associated funerary objects. The 12 tribes are the Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Kiowa Indian Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

Based on the above-mentioned information, officials of the Colorado Historical Society have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Colorado Historical Society also have determined that, pursuant to 43 CFR 10.2(d)(2), the six objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, pursuant to 43 CFR 10.2(e), officials of the Colorado Historical Society have determined that, based upon traditional territories and oral traditions, there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Kiowa Indian Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Indian Tribe, Oklahoma; Crow Tribe of Montana; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico, Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma; and Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Anne W. Bond, Director of Collections and Exhibitions, Colorado Historical Society, 1300 Broadway, Denver, CO 80203–2137, telephone (303) 866–4691, before June 13, 2001. Repatriation of the human remains to the Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Kiowa Indian Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may begin after that date if no additional claimants come forward.

Dated: April 27, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–12019 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Kansas State Historical Society, Topeka, KS

AGENCY: National Park Service, Interior.
ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Kansas State Historical Society, Topeka, KS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Kansas State Historical Society professional staff in consultation with representatives of the Pawnee Nation of Oklahoma.

In 1975, human remains representing four individuals were donated to the Kansas State Historical Society by Jerry Bobey who reportedly excavated these human remains from a low rock-filled earthen mound at the Bobey site, 14RP325, on a bluff above Salt Creek in Republic County, KS. No known individuals were identified. The 68 associated funerary objects are pottery shards, a pipebowl section, chipped stone tools and debris, and 12 pieces of limestone.

Based on osteological analysis, the reported archeological context, and the associated funerary objects, these individuals have been identified as Native American. Based on geographic location and material culture, particularly pottery characteristics, the Bobey site has been identified as a manifestation of the Central Plains Tradition (C.E. 900–1400). Based on temporal position and continuities of material culture, the Central Plains Tradition has been identified as ancestral to the present-day Pawnee Nation of Oklahoma.

Based on the above-mentioned information, officials of the Kansas State Historical Society have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of four individuals of Native American ancestry. Officials of the Kansas State Historical Society also have determined that, pursuant to 43 CFR 10.2(d)(2), the 68 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Kansas State Historical Society have determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Pawnee Nation of Oklahoma. This notice has been sent to officials of the Pawnee Nation of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Randall M. Thies, Archaeologist, Kansas State Historical Society, 6425 Southwest Sixth Avenue, Topeka, KS 66615–1099, telephone (785) 272–8681, extension 267, before June 13, 2001. Repatriation of the human remains and associated funerary objects to the Pawnee Nation of Oklahoma may begin after that date if no additional claimants come forward.

Dated: April 20, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–12018 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Correction—Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior
ACTION: Correction

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Peabody Museum of Archaeology and Ethnology, Cambridge, MA.

This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

This notice corrects the list of tribes in the Notice of Inventory Completion published April 3, 2001 (Federal Register Document 01-8170, pages 17733-17735) to whom repatriation of the human remains may begin after May 3, 2001 if no additional claimants come forward. In the last paragraph of the April 3, 2001, notice, add the following tribe to the list of tribes following "Repatriation of the human remains to . . .": **Spirit Lake Tribe, North Dakota.**

Dated: April 23, 2001

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships

[FR Doc. 01–12020 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Putnam Museum of History and Natural Science, Davenport, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Putnam Museum of History and Natural Science, Davenport, IA, that meet the definition of "sacred objects" under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The cultural items are two gourd rattles (catalog number AE 103 A–B, accession number 1957–35). The handles are made of hand-carved wood and have been stained black. The top of each gourd has been removed so that the handle fits snugly into the neck of the gourd. The handles form the axis with 1.75 inches protruding at the top. There are small brown beads inside each of the rattles. One gourd has a dyed blackish-brown knotted rope (0.25 inches in diameter) tied to the handle.

The rattles were purchased by A. Lang Baily during the summer of 1956 at Tama, IA. The rattles were donated to the Davenport Public Museum (now the Putnam Museum of History and Natural Science) on October 22, 1957, by his wife, Kay Baily.

Cultural affiliation with the Sac and Fox Tribe of the Mississippi in Iowa is indicated by the rattles' acquisition at Tama, IA, where the Sac and Fox Tribe of the Mississippi in Iowa settlement is located. Also, according to the accession record as well as to the catalog card the objects are designated as being "Mesquaki," which is the name the Fox use for themselves.

Correspondence with the Sac and Fox Tribe of the Mississippi in Iowa indicates that the rattles are sacred according to past and current traditional practices and standards of Sac and Fox religious integrity. Furthermore, information presented in the consultation indicates that these rattles are specific ceremonial objects that are needed by the present-day adherents of traditional Sac and Fox religious practices. Correspondence with the tribe further suggests these rattles may also be objects of cultural patrimony since the objects were tribal property at the time of alienation.

Based on the above-mentioned information, officials of the Putnam Museum of History and Natural Science have determined that, pursuant to 43 CFR 10.2(d)(3), these rattles are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Putnam Museum of History and Natural Science also have determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity that can be reasonably traced between these rattles and the Sac and Fox Tribe of the Mississippi in Iowa.

This notice has been sent to officials of the Sac and Fox Tribe of the Mississippi in Iowa; the Sac and Fox Nation of Missouri in Kansas and Nebraska; and the Sac and Fox Nation, Oklahoma. Representatives of any other Native American tribe that believes itself to be culturally affiliated with these sacred objects should contact Janice Hall, Chief Curator, Putnam Museum of History and Natural Science, 1717 West 12th Street, Davenport, IA 52804, telephone (563) 324–1054, before June 13, 2001. Repatriation of these sacred objects to the Sac and Fox Tribe of the Mississippi in Iowa may begin after that date if no additional claimants come forward.

Dated: April 13, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–12016 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the San Diego Museum of Man, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the San Diego Museum of Man, San Diego, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by San Diego Museum of Man professional staff in consultation with representatives of the Klamath Indian Tribe of Oregon, Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of the Warm Springs Reservation of Oregon, Fort Bidwell Indian Community of the Fort Bidwell Reservation of California, and Quartz Valley Indian Community of the Quartz Valley Reservation of California.

In 1922, human remains representing one individual were recovered from beneath the lakebed of Tule Lake, Siskiyou County, CA, by George Redicial. At some time after 1922, Mr. Redicial donated these human remains to the San Diego Museum of Man, San Diego, CA. No known individual was identified. No associated funerary objects are present.

Based on skeletal morphology, condition of the remains, and the lakebed recovery location, these human remains have been determined to be Native American from the pre-contact period. The Tule Lake area is located within the ancestral lands of the Modoc people, represented by the Klamath Indian Tribe of Oregon and the Modoc Tribe of Oklahoma. The Modoc Tribe of Oklahoma has authorized the Klamath Indian Tribe of Oregon to represent the Modoc Tribe of Oklahoma regarding all NAGPRA issues and repatriations.

Based on the above-mentioned information, officials of the San Diego Museum of Man have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the San Diego Museum of Man also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Klamath Indian Tribe of Oregon. This notice has been sent to officials of the Klamath Indian Tribe of Oregon, Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of the Warm Springs Reservation of Oregon, Fort Bidwell Indian Community of the Fort Bidwell Reservation of California, and Quartz Valley Indian Community of the Quartz Valley Reservation of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Jennifer Luksic, NAGPRA Coordinator, San Diego Museum of Man, 1350 El Prado, San Diego, CA 92101, telephone (619) 239-2001, before June 13, 2001. Repatriation of the human remains to the Klamath Indian Tribe of Oregon may begin after that date if no additional claimants come forward.

Dated: April 25, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–12021 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Denver Department of Anthropology and Museum of Anthropology, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Denver Department of Anthropology and Museum of Anthropology, Denver, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of Denver Department of Anthropology and Museum of Anthropology professional staff in consultation with representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne-Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota (Prior Lake); Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota (formerly known as the Devils Lake Sioux Tribe); Standing Rock Sioux Tribe of North and South Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; and Yankton Sioux Tribe of South Dakota.

In 1933, human remains representing three individuals were recovered from an unknown location in Nebraska by an unknown person. The remains were given to Dr. E.B. Renaud, founder of the University of Denver Department of Anthropology, who brought them to the museum. No known individuals were identified. No associated funerary objects are present.

The physical anthropological characteristics of these remains indicate that they are Native American. The museum's records of Dr. Renaud's research and collecting in Nebraska show that he collected remains only in western Nebraska, making it likely that these remains are from that portion of the state.

In 1933, human remains representing two individuals were recovered from an unknown site in Bridgeport, Morrill County, NE, by Paul Henderson. The remains were given to Dr. E.B. Renaud, of the University of Denver Department of Anthropology, who brought them to the museum. No known individuals were identified. No associated funerary objects are present.

The physical anthropological characteristics of these remains indicate that they are Native American.

In 1933, human remains representing one individual were recovered from Benkelman, Dundy County, NE, by Dr. E.B. Renaud, of the University of Denver Department of Anthropology. No known individual was identified. No associated funerary objects are present.

The physical anthropological characteristics of these remains indicate that they are Native American.

Collections documentation is nonexistent concerning possible dates, cultural affiliation(s), or the circumstances under which these Native American human remains were found. The "Indian Land Areas Judicially Established 1978 Map" indicates the legal claim to land based upon traditional use for the Southern Cheyenne, Southern Arapaho, Northern Cheyenne, Northern Arapaho, Sioux, and Pawnee. The "Early Indian Tribes, Culture Areas, and Linguistic Stocks Map" establishes the presence of the Arapaho, Sioux, and Pawnee at the time of contact with Europeans. Representatives of the Pawnee Nation presented oral testimony connecting the Pawnee geographically to western Nebraska. Representatives of seven Sioux tribes presented oral testimony during consultation that placed the Sioux in Nebraska, which was the site of many conflicts. The seven Sioux tribes are the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Rosebud

Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; and Yankton Sioux Tribe of South Dakota.

Based on the above-mentioned information, officials of the University of Denver Department of Anthropology and Museum of Anthropology have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of six individuals of Native American ancestry. Officials of the University of Denver Department of Anthropology and Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Arapahoe Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne-Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota (Prior Lake); Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota (formerly known as the Devils Lake Sioux Tribe); Standing Rock Sioux Tribe of North and South Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; and Yankton Sioux Tribe of South Dakota.

This notice has been sent to officials of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne-Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota (Prior Lake); Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota (formerly known as the Devils Lake Sioux Tribe); Standing Rock Sioux Tribe of North and South Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; and Yankton Sioux Tribe of South Dakota may begin after that date if no additional claimants come forward.

Dated: April 20, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–12017 Filed 5–11–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF LABOR

Employment and Training Administration

Section 167, Workforce Investment Act: Migrant and Seasonal Farmworker Housing Programs

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The U.S. Department of Labor, Employment and Training Administration (ETA), announces the availability of $3,666,667 to award competitive grants for projects that assist farmworkers in seeking and securing temporary or permanent housing. This program is supported by funds made available pursuant to Section 167, of the Workforce Investment Act (WIA).

DATES: Applications for grant awards will be accepted commencing May 15, 2001. The closing date for receipt of applications shall be June 15, 2001 at 2 p.m. (Eastern Standard Time) at the address below.

ADDRESSES: Submit an original and four copies of the application to: U.S. Department of Labor, Employment and Training Administration, Office of Grants and Contract Management, Division of Federal Assistance, 200 Constitution Avenue, NW., Room S–4203, Washington, DC 20210. ATTN: Ms. Serena Boyd, Reference SGA/DAA 01–108

FOR ADDITIONAL INFORMATION CONTACT: Ms. Serena Boyd, telephone (202) 693–3338 (this is not a toll-free number) or email *SBoyd@doleta.gov).* This solicitation will be published on the internet on the Employment and Training Administration's Home Page at *http://doleta.gov.* Award notifications will also be published on this Home Page.

SUPPLEMENTARY INFORMATION: This Solicitation for Grant Applications (SGA) consists of five parts. Part I provides the background, objectives and allowable activities of the Farmworker Housing Assistance program. Part II describes the content of the technical proposal and the selection criteria used in reviewing proposals. Part III describes the financial proposal and other required documents of the proposal. Part IV sets forth the application process. Part V describes the reporting requirements. This notice contains all information required to submit a grant application.

Part I—Background

To meet the problems of agriculture-related unemployment and underemployment, the Congress has directed the Secretary of Labor to establish employment and training programs specifically for migrant and seasonal farmworkers. Under section 167 of WIA, the Department of Labor (DOL) provides employment, training and supportive services to eligible migrant and seasonal farmworkers in the conterminous forty-eight (48) States, the State of Hawaii, and the Commonwealth of Puerto Rico.

Housing needs are a primary barrier to employment and job retention for many farmworkers. Farmworker housing assistance has been an authorized activity under the Job Training Partnership Act (JTPA) and continues to be under WIA section 167. To further support this needed service, the DOL has long invested in strategic efforts to increase farmworker access to rental housing and home ownership opportunities. The DOL awarded a total of $3,000,000 in farmworker housing assistance grants for Program Year (PY) 2000 in support of this effort. DOL also awarded $333,333 for support of the staff who operated the Hope Migrant Rest Center in PY 2000.

In the past year, working in coordination with current Migrant and Seasonal Farmworker (MSFW) housing assistance grantees, DOL has reviewed the farmworker housing program allowable activities to ensure continued appropriateness under WIA section 167. The activities acceptable for implementation in PY 2001 fall in two categories: (1) activities which serve to leverage funds leading to increased farmworker housing stock, and (2) farmworker housing activities directly delivered to farmworkers.

Applications must show how proposed activities promote and expand housing to migrant and seasonal farmworkers. Proposed activities are limited to the two categories of direct housing activities and leveraging. The farmworkers eligible for housing assistance are those who are employed in agricultural labor that is characterized by chronic unemployment and underemployment.

In Program Year 2001, the DOL will award up to nine grants for a total of $3,666,667. DOL will consider applications from regional consortia or applications that feature sub-grant arrangements to facilitate services within a proposed service delivery area. Inasmuch as some grant applications may contain proposed service areas which geographically overlap the service areas of other prospective grantees, the Department reserves the right to determine the service area for each prospective grantee.

Overall Objectives

As this farmworker housing grant program continues into a new program year there will be increased emphasis on efficiency and reliance on quantifiable (hence measurable) results.

Part II—Technical Proposal and Rating Criteria

The technical proposal shall consists of four (4) sections. The rating criteria and points are described immediately following each respective section.

1. Statement of Need

The Statement of Need sets forth the objectives, general specification and conditions for providing farmworker housing assistance during Program Year 2001 grant period.

The applicant must describe the proposed geographic service delivery area and the demographics of the farmworker population in the proposed service delivery area. The description of demographics must include (but is not limited to) the number and type (migrant or seasonal) of farmworkers; family status (single or families), income range, type of work and approximate length of time the farmworkers are generally engaged in. The statement of need must clearly describe the housing needs of the farmworker population in the specific service delivery area and, the housing needs which are the most critical for the population in this area.

Rating Criteria for Statement of Need—20 Points: Clear and descriptive response to each of the above identified categories of information.

2. Program Design

The applicant's program design must include:

A. The service or activities to be provided and rationale for the selection of the proposed activities/services proposed, relative to the identified needs.

B. The services/activities proposed must be within the following categories of activities:

(1) Direct assistance to farmworkers leading to access and maintenance of affordable rental homes or home ownership;

(2) Leveraging of resources

- Leading to increased farmworker housing stock, and/or
- Maintenance of current farmworker housing stock.

C. The applicant must set measurable (quantitative) goals by category, for each activity identified, for each quarter of the program year (funding period).

D. *Budget Narrative:* The applicant must include in this section an itemized, line item annual budget with a narrative description of the costs supporting each line item. Proposed expenditures must be consistent with and fully support the proposed housing activities. Total budget costs shall be equal to the total Federal Assistance requested in the applicant's financial proposal.

Rating Criteria for Program Design—50 Points: Rating will be based on the completeness, applicability, and appropriateness of the applicant response to the elements in items A through D.

3. Technical and Organizational Capacity

The applicant must demonstrate technical capacity to provide proposed services by providing a descriptive narrative of:

(a) The specific types of farmworker housing activities and services it has provided for no less than the past five years; and

(b) The outcomes achieved through the above activities.

If the applicant constitutes a consortium of agencies/organizations where the expertise lies with the consortium members, items (a) and (b) above must also apply to the consortium members who will be the deliverers of the service, a descriptive narrative demonstrating this must be included as an addendum to this application package.

Applicants must demonstrate organizational capacity in the delivery of services by providing a listing of all federal grants it has administered in the past five years. The list must include: project name, objectives, grant number and amount, grant period, and grant funding source. Each applicant must also include in this section the applicant's organizational chart and a list of names of key agency officials and all staff to be specifically funded with this proposed project. For each agency

official and staff to be specifically funded (in whole or in part) by this proposal, please include a resume and the position description. For any position to be funded by this proposal but for which a staff person has not yet been identified, please include a position description.

Rating Criteria for Technical and Organizational Capacity—20 Points: Rating will be based on the completeness of the applicant's response to each of the specific items of information requested in this section. Secondly, the application will also be rated on the technical and organizational experience which is directly related to farmworker housing services and activities documented by the applicant.

4. Linkages and Coordination

The applicant should identify and demonstrate (including letters of support) linkages with farmworker organizations and specifically with NFJP grantees. Additionally, the applicant should fully describe the direct connection between the identified linkages and services the applicant will provide to farmworkers. For purposes of the application, simply listing the services the linkage provides will not suffice. Linkages and coordinative efforts relevant to this application and considered for rating purposes must directly correspond to the proposed services and needs of the population to be served, and must directly enhance the applicant's capacity to provide such services.

Rating Criteria for Linkages and Coordination—10 Points: Rating will be based on the completeness of the applicant's response, and the relevancy of the linkages to meeting the needs identified in the application.

Part III—Financial Proposal

The financial proposal must include a completed "Application for Federal Assistance" (SF–424), and Budget Information Sheet. Both required forms are attached to this SGA. For purposes of this application, the Catalog of Federal Domestic Assistance Number is 17.255.

Rating Criteria for Part III—0 points: No points are allocated to the Financial Proposal however, incomplete information to this part will render the application non-responsive and thereby it will not be considered for funding. A budget narrative is required as specified in the Technical Proposal of this application under the Program Design discussion.

Part IV—Application Process

A. Eligible Applicants

Eligible applicants for grant funds under this SGA include public organizations and private nonprofit organizations authorized by their charters or articles of incorporation to provide housing assistance services to the migrant and seasonal farmworker community. Entities described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this SGA. The Lobbying Disclosure Act of 1995, 2 U.S.C. 1601 *et,* prohibits the award of federal funds to 501(c)(4) entities.

B. Application Procedures

(1) Submission of Proposal

All instructions and information required for submission of this application are included in this announcement.

The application package shall consist of two (2) separate and distinct parts. Part I, The Financial Proposal and Part II the Technical Proposal. The Financial Proposal must contain the SF–424, "Application for Federal Assistance" (Attachment No. 1) and Budget (Attachment No. 2). The Catalog of Federal Domestic Assistance Number is 17.255. The budget must include on separate page(s) a cost analysis of the budget, identifying in detail the amount of each budget line item attributable to each cost category. The technical proposal as described in Part II, must demonstrate the applicant's capability to provide the services described in this SGA.

The Technical Proposal is limited to forty (40) doubled spaced, single-sided, 8.5 inch x 11 inch pages with 1 inch margins and 12-point text type. Appendices, which are separately numbered, must not exceed twenty (20) pages.

Applications not meeting these requirements will be considered non-responsive. Final decisions on the awards will be based on what is most advantageous to the Federal Government as determined by the Grant Officer.

(2) Hand-Delivered Proposals

Proposals may be mailed or delivered by hand. Hand delivered proposals will be accepted if they are received by 2 p.m., Eastern Standard Time on *June 15, 2001.* All overnight 9 mail will be considered to be hand-delivered and must be received at the designated place by the specified time on the closing date. Applications transmitted by electronic mail, telegraph, facsimile and/or faxed will not be honored. Except as provided in paragraph 3 below, failure to adhere to these instructions will render a proposal non-responsive.

(3) Late Proposals

An application not received by the specified time and date and reaching the designated place, will not be considered, unless it is received before funds are awarded and was either:

(a) Sent by U. S. Postal Service registered or Certified mail no later than the fifth (5th) calendar day before the date specified for receipt of application; or

(b) Was sent by U.S. Postal Express Mail Next Day Service through a U.S. Post Office to the addressee, no later than 5 p.m. at the place of mailing two working days (excludes week-ends and U.S. Federal holidays) prior to the closing date for receipt of proposals.

The only acceptable evidence for establishing the date of mailing by the U.S. Postal Service for applications received after the closing date and time is the U.S. Postmark. The U.S. Postmark must be on the envelope or wrapper and on the original receipt from the U.S. Postal Service with a clearly legible date. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. Postal Service on the date of mailing. Therefore, applicants should request the postal clerk to place a legible hand 10 cancellation "bull's eye" postmark on both the receipt and the envelope.

(4) Period of Performance

The period of performance will be 12 months beginning July 1, 2001, and continuing through June 30, 2002.

(5) Option To Extend

The Department reserves the right to extend this grant for an additional one year, based on the availability of funds, a grantee's success in completing work under this SGA, and the needs of the Department.

Part V—Reporting Requirements

Recipients of grant funds under this SGA will be required to submit reports, as determined by the Division of Migrant and Seasonal Farmwork Programs, Office of National Programs, Employment and Training

Administration, U. S. Department of Labor.

Lorraine H. Saunders,

Grant Officer, Division of Federal Assistance.

BILLING CODE 4510-30-F

ATTACHMENT 1

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐-☐☐☐☐☐☐☐

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
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ATTACHMENT Z

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. ***Personnel:*** *Show salaries to be paid for project personnel.*

2. ***Fringe Benefits:*** *Indicate the rate and amount of fringe benefits.*

3. ***Travel:*** *Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. ***Equipment:*** *Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. ***Supplies:*** *Include the cost of consumable supplies and materials to be used during the project period.*

6. ***Contractual:*** *Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. ***Other:*** *Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. ***Total, Direct Costs:*** *Add lines 1 through 7.*

9. ***Indirect Costs:*** *Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. ***Training /Stipend Cost:*** *(If allowable)*

11. ***Total Federal funds Requested:*** *Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

[FR Doc. 01–12011 Filed 5–11–01; 8:45 am]
BILLING CODE 4510–30–C

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

May 8, 2001.

TIME AND DATE: 10 a.m., Wednesday, May 16, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Alan Good*, Docket Nos. WEST 2000–44–M, etc. (Issues include whether the judge erred when he found that Alan Good violated (1) 30 CFR 56.11002 for failure to provide handrails on elevated platforms, (2) 30 CFR 56.14101(a)(3) for an inoperative parking brake on a front-end loader, and (3) 30 CFR 56.14107(a) for inadequate guards on moving machine parts).

TIME AND DATE: 2 p.m., Thursday, May 17, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Sec'y of Labor on behalf of Bernardyn* v. *Reading Anthracite Co.*, Docket Nos. PENN 99–129–D, etc. (Issues include whether substantial evidence supports the judge's finding that the operator's discharge of the complainant did not violate section 105(c) of the Mine Act).

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sandra G. Farrow,
Acting Chief Docket Clerk.

[FR Doc. 01–12195 Filed 5–10–01; 12:15 pm]
BILLING CODE 6735–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meetings

TIME AND DATE: 10 a.m., Thursday, May 17, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from a Federal Credit Union to Convert to a Community Charter.

2. Request from a Corporate Federal Credit Union for a National Field of Membership.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, May 17, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Action under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).

2. Two (2) Personnel Matters. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,
Secretary of the Board.

[FR Doc. 01–12230 Filed 5–10–01; 2:48 pm]
BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Folk Arts Section (Creativity and Organizational Capacity categories) will be held from 9 a.m.–4:30 p.m. on Friday, June 8, 2001 in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 12, 2000, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: August 4, 2001.

Kathy Plowitz-Worden,
Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–12052 Filed 5–11–01; 8:45 am]
BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

Amergen Energy Company, LLC, Three Mile Island Nuclear Station, Unit 1; Exemption

1.0 Background

AmerGen Energy Company, LLC (the licensee or AmerGen) is the holder of Facility Operating License No. DPR–50 which authorizes operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Dauphin County in Pennsylvania.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR), Part 50, Section 50.44, "Standards for combustible gas control system in light-water-cooled power reactors," requires, among other items, that each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy or ZIRLO cladding must, as provided in paragraphs (b) through (d) of that section, include means for control of hydrogen gas that may be generated, following a postulated loss-of-coolant accident (LOCA) by—(1) Metal-water reaction involving the fuel cladding and the reactor coolant, (2) Radiolytic decomposition of the reactor coolant, and (3) Corrosion of metals.

Section 50.46, "Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors," requires, among other items, that each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated LOCAs conform to the criteria set forth in paragraph (b) of that section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be

calculated for a number of postulated LOCAs of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated LOCAs are calculated.

Appendix K of Part 50, "ECCS Evaluation Models," requires, among other items, that the rate of energy release, hydrogen generation, and cladding oxidation from the metal/water reaction shall be calculated using the Baker-Just equation (Baker, L., Just, L.C., "Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the Zirconium-Water Reaction," ANL–6548, page 7, May 1962) and implicitly assumes that either zircaloy or ZIRLO shall be used as the fuel rod cladding material.

Sections 50.44, and 50.46, and Appendix K of 10 CFR Part 50, make no provisions for use of fuel rods clad with other than zircaloy or ZIRLO. The licensee has requested the use of Framatome Cogema Fuels (FCF) "M5" advanced alloy for fuel rod cladding for the TMI–1 Cycle 14 operation. In order to accommodate the high fuel rod burnups that are required for today's modern fuel management schemes and core designs, FCF developed the M5 advanced fuel rod cladding and fuel assembly structural material. The M5 alloy is a proprietary zirconium-based alloy comprised of primarily zirconium (~99 percent) and niobium (~1 percent). The elimination of tin has resulted in superior corrosion resistence and reduced irradiation induced growth relative to both standard Zircaloy and low-tin Zircaloy. The addition of niobium increases ductility. Since the chemical composition of the M5 alloy differs from the specifications of Zircaloy or ZIRLO, a plant-specific exemption is required to allow the use of the M5 alloy as a fuel rod cladding material at TMI–1. The M5 would also be used for fuel assembly spacer grids, fuel rod end plugs and fuel assembly guide and instrument tubes.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever application of the regulations in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of Section 50.46 is to ensure that facilities have adequate acceptance criteria for ECCS. FCF demonstrated in its topical report, BAW–10227P–A, "Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel," dated September 30, 1997, and approved on February 4, 2000, that the effectiveness of the ECCS will not be affected by a change from zircaloy fuel rod cladding to M5 fuel rod cladding. The analysis described in BAW–10227P–A also concludes that the ECCS acceptance criteria applied to reactors fueled with zircaloy fuel are also applicable to reactors fueled with M5 fuel rod cladding.

The underlying purposes of Section 50.44 and Appendix K, paragraph I.A.5, are to ensure that cladding oxidation and hydrogen generation are appropriately limited during a LOCA and conservatively accounted for in the ECCS evaluation model. Specifically, Appendix K requires that the Baker-Just equation be used in the ECCS evaluation model to determine the rate of energy release, cladding oxidation, and hydrogen generation. In BAW–10227P–A, FCF demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of M5 advanced alloy as fuel rod cladding material. The licensee has stated that the amount of hydrogen generated in an M5-clad core will remain within the TMI–1 design basis. The NRC staff has reviewed the FCF's advanced cladding and structural material, M5, for pressurized water reactor fuel mechanical designs as described in BAW–10227P–A. In its February 4, 2000, safety evaluation, the NRC staff concluded that, to the extent specified and with limitations noted in the NRC staff's evaluation, the assumptions related to M5 material properties and mechanical design methodology are acceptable for referencing in fuel reload licensing applications. The NRC staff has determined that since the licensee and FCF have ongoing processes which assure that LOCA analysis input values for peak cladding temperature-sensitive parameters bound the as-operated plant values for those parameters at TMI–1 and also have ongoing processes to determine mixed-core penalties as needed, the methodologies and analyses described in BAW–10227P–A apply to TMI–1 and the plant can be safely operated within the bounds of those analyses with mixed- and full-core loadings of M5 clad fuel and other M5 core structures. The NRC staff further concluded that since fuel assemblies which utilize the two different alloys (M5 and zircaloy) and which will be co-resident in the core have only slight geometry differences, there will be virtually no thermal-hydraulic effect, and a mixed core penalty in LOCA evaluations would not have to be assessed to compensate for the material differences. Therefore, based on the information described above, the NRC staff has determined that the underlying purposes of Section 50.44, and 50.46, and Appendix K of 10 CFR Part 50 have been achieved through the use of M5 advanced alloy as fuel rod cladding material and core structure material, and that the special circumstances required by 10 CFR 50.12(a)(2)(ii) for granting exemptions from 50.44, and 50.46, and Appendix K of 10 CFR Part 50 exist.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(ii), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants AmerGen Energy Company, LLC, an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50, for Three Mile Island Nuclear Station, Unit 1, as to the use of M5 cladding and core structures in lieu of Zircaloy or ZIRLO as currently specified or implied in those regulations.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 23279).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 8th day of May 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–12035 Filed 5–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

PSEG Nuclear LLC, Salem Nuclear Generating Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix G, for Facility Operating License Nos. DPR–70 and DPR–75, issued to PSEG Nuclear LLC (the licensee), for operation of the Salem Nuclear Generating Station (Salem), Unit Nos. 1 and 2. The facility is located at the licensee's site on the southern end of Artificial Island in Lower Alloways Creek Township, Salem County, New Jersey. Salem, New Jersey is located approximately 7.5 miles northeast of the site.

Environmental Assessment

Identification of the Proposed Action

Title 10 of the Code of Federal Regulations, Part 50, Appendix G, requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR Part 50, Appendix G, states, "The appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions." The purpose of 10 CFR Part 50, Appendix G, is to protect the integrity of the reactor coolant pressure boundary in nuclear power plants. This is accomplished through these regulations that, in part, specify fracture toughness requirements for ferritic materials of the reactor coolant pressure boundary. Appendix G of 10 CFR Part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code), Section XI, Appendix G limits.

The proposed action would exempt the licensee from implementing specific requirements of 10 CFR Part 50, Appendix G, for operation of Salem, Unit Nos. 1 and 2. In conjunction with the staff granting the proposed exemption to the requirements of 10 CFR Part 50, Appendix G, the licensee is proposing to substitute ASME Code Case N–640, "Alternative Reference Fracture Toughness for Development of P/T Limit Curves for ASME Section XI, Division I."

The proposed action is in accordance with the licensee's application for exemption dated November 10, 2000, as supplemented by letters dated March 28 and April 2, 2001.

The Need for the Proposed Action

ASME Code Case N–640 is needed to revise the method used to determine the reactor coolant system (RCS) P–T limits, since continued use of the present curves unnecessarily restricts the P–T operating window. The methodology currently used to determine the lower bound fracture toughness of RPV material for development of P–T limit curves is based on the K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1. The licensee has determined that the use of the K_{Ia} curve provided appropriate conservatism when it was codified in 1974 due to the limited knowledge of RPV materials. However, since that time, additional knowledge has been gained about RPV materials, that demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. Implementation of ASME Code Case N–640 would provide an alternative to the methodology used to develop P–T limit curves. The code case methodology uses the K_{Ic} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1, in lieu of the K_{Ia} fracture toughness curve of ASME Section XI, Appendix G. Other margins involved with the ASME Section XI, Appendix G process for establishing P–T limit curves would remain unchanged. P–T curves based on the K_{Ic} curve would enhance overall plant safety by opening the P–T operating window with the greatest safety benefit in the region of low temperature operations. The operating window through which the operator heats up and cools down the RCS is determined by the difference between the maximum allowable pressure determined by ASME Section XI, Appendix G, and the minimum required pressure for the reactor coolant pump (RCP) seals adjusted for instrument uncertainties.

The staff has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation to protect the integrity of the reactor coolant pressure boundary will continue to be served with the implementation of Code Case N–640.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption and implementation of the proposed alternative as described is consistent with the intent of the applicable regulations and would provide an acceptable margin of safety against brittle failure of the Salem, Unit Nos. 1 and 2 RPV material.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological environmental impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Salem Nuclear Generating Station, dated April 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on May 1, 2001, the staff consulted with the New Jersey State official, Mr. R. Pinney of the New Jersey Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 10, 2000, as supplemented by letters dated March 28 and April 2, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from

the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 8th day of May 2001.

For the Nuclear Regulatory Commission.

Robert J. Fretz,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–12036 Filed 5–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Public Meeting on an Overview of Activities Related to the Potential High-Level Waste Repository at Yucca Mountain, NV

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting in Mesquite, Nevada.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff will hold a public meeting on the high-level waste repository licensing process. The meeting is intended to foster a common understanding among the stakeholders on issues that would be associated with the licensing process, should the U.S. Department of Energy (DOE) submit a license application to the NRC for a possible geologic repository at Yucca Mountain, Nevada. All meetings will be facilitated by Francis X. Cameron, Special Counsel for Public Liaison, of the NRC Office of the General Counsel.

The meeting is primarily to acquaint the public with the NRC's high-level waste licensing process. It will begin with an overview of the licensing process, followed by NRC presentations on the role of the NRC technical staff in evaluating the DOE license application, and the NRC role with respect to the transportation of high-level waste. An opportunity for questions will be provided. In addition, members of the NRC staff will be available for informal discussion with members of the public. The time, date, and location of the Public Meeting is shown below.

Time/Date: Thursday, May 24, 2001, from 5:30 p.m.–7 p.m. (Pacific time).

Place: Mesquite City Hall, Council Chamber, 10 E. Mesquite Boulevard, Mesquite, Nevada.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Special Counsel for Public Liaison, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, or by telephone: (301) 415–1642 or e-mail: fxc@nrc.gov.

Dated at Rockville, Maryland this 8th day of May, 2001.

For the Nuclear Regulatory Commission,

Newton K. Stablein,

Acting Chief, High-Level Waste and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–12037 Filed 5–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Public Meetings on Issues Associated With the Licensing Process for a Possible High-Level Waste Repository at Yucca Mountain, Nevada; Overview of NRC's Formal Hearing Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meetings in Pahrump, Nevada and Las Vegas, Nevada.

SUMMARY: In response to public requests, the U.S. Nuclear Regulatory Commission (NRC) staff will continue its series of public meetings on the high-level waste repository licensing process. The next meetings are intended to foster an understanding of the hearing process that the NRC would use to decide whether to issue a construction authorization for a possible repository at Yucca Mountain, Nevada, if the U.S. Department of Energy (DOE) were to submit a license application to the NRC. On April 15, 2001, the Commission announced its intent to retain a formal hearing process for evaluating a potential license application for a geologic repository. Both meetings will be facilitated by Francis X. Cameron, Special Counsel for Public Liaison, of the NRC Office of the General Counsel.

Two meetings on this topic will be conducted to acquaint the public with the NRC's high-level waste hearing process. They will begin with an overview of the events that would have to take place before NRC would initiate a formal hearing, a general review of the NRC's licensing role, and a general description of the NRC's formal hearing process. These presentations will be followed by a question and answer period. In addition, members of the NRC staff will be available for informal discussion with members of the public. The time, date, and location of the Public Meetings are shown below.

Time/Date: Tuesday, May 22, 2001, from 6:30 p.m. to 9 p.m. (Pacific time).

Place: Mountain View Casino and Bowl, 1750 Pahrump Valley Boulevard, Pahrump, Nevada 89048.

Time/Date: Wednesday, May 23, 2001, from 1 p.m. to 4 p.m. (Pacific time).

Place: Regional Transportation Commission Building (Next to Clark County Government Center) Room 108, 600 South Grand Central Parkway, Las Vegas, Nevada 89155.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Special Counsel for Public Liaison, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, or by telephone: (301) 415–1642 or e-mail *fxc@nrc.gov.*

Dated at Rockville, Maryland this 8th day of May 2001.

For the Nuclear Regulatory Commission.

C. William Reamer,

Chief, High-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–12038 Filed 5–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 14, 21, 28, June 4, 11, 18, 2001.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 14, 2001

There are no meetings scheduled for the Week of May 14, 2001.

Week of May 21, 2001—Tentative

There are no meetings scheduled for the Week of May 21, 2001.

Week of May 28, 2001—Tentative

Wednesday, May 30, 2001

10:25 a.m. Affirmation Session (Public Meeting) (If needed)

Week of June 4, 2001—Tentative

Tuesday, June 5, 2001

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

2 p.m. Discussion of Management Issues (Closed-Ex. 2)

Wednesday, June 6, 2001

10:30 a.m. All Employees Meeting (Public Meeting)

1:30 p.m. All Employees Meeting (Public Meeting)

Week of June 11, 2001—Tentative

Thursday, June 14, 2001

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Meeting with Nuclear Waste Technical Review Board (Public Meeting)

1:30 p.m. Briefing on License Renewal Program (Public Meeting) (Contact: David Solorio, 301–415–1973)

Week of June 18, 2001—Tentative

There are no meetings scheduled for the Week of June 18, 2001.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: May 9, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–12190 Filed 5–10–01; 11:40 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. IC–24974; File No. 812–12154]

Western-Southern Life Assurance Co., et al.

May 7, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the "1940 Act") approving substitution of securities.

SUMMARY OF APPLICATION: Applicants request an order approving the proposed substitution of shares of the Touchstone Variable Series Trust's ("TVST") Touchstone High Yield Portfolio for shares of TVST's Touchstone Income Opportunity Portfolio held by Western-Southern Life Assurance Company Separate Account 1 ("Separate Account 1") and Western-Southern Life Assurance Company Separate Account 2 ("Separate Account 2") to support certain variable annuity contracts (the "Contracts").

APPLICANTS: Western-Southern Life Assurance Company ("WSLAC"), Separate Account 1 and Separate Account 2.

FILING DATE: The application was filed on June 30, 2000 and amended on April 13, 2001, and April 27. 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested parties may request a hearing on this application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on June 1, 2001, and accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Donald J. Wuebbling, Esq., Western-Southern Life Assurance Company, 400 Broadway, Cincinnati, Ohio 45202, and Kevin L. Cooney, Esq., Frost Brown Todd LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Senior Counsel, or Keith E. Carpenter, Branch Chief at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. WSLAC is a stock life insurance company organized under the laws of the State of Ohio on December 1, 1980. WSLAC is a wholly owned subsidiary of The Western and Southern Life Insurance Company, a stock life insurance company originally organized under the laws of the State of Ohio on February 23, 1888 ("WSLIC"). WSLAC is in the business of issuing insurance and annuity contracts. WSLAC is the depositor and sponsor, as those terms have been interpreted by the Commission with respect to variable annuities separate accounts, of both Separate Account 1 and Separate Account 2.

2. Separate Account 1 and Separate Account 2 (together, the "Separate Accounts") were established by WSLAC as separate investment accounts under Ohio law. The board of directors of WSLAC established Separate Account 1 on July 27, 1992 and Separate Account 2 on June 1, 1994. The Separate Accounts are registered under the 1940 Act as unit investment trusts and interests in the Separate Accounts are offered through the Contracts which are registered under the Securities Act of 1933 (the "1933 Act") on Form N–4. Each Separate Account is currently divided into 19 sub-accounts. Contract owners also may invest in a fixed rate option, backed by the general assets of WSLAC. Each sub-account invests exclusively in shares representing an interest in a separate corresponding portfolio of ("TVST") or certain unaffiliated investment companies.

3. The Contracts include three variable annuity contracts identified as Touchstone Gold Variable Annuity (the "Gold Contract"), Touchstone Select Variable Annuity (the "Select Contract") and Touchstone Advisor Variable Annuity (the "Advisor Contract").

4. The Gold Contract is a flexible purchase payment contract designed for individual investors and group plans. Payments made by owners of a Gold Contract are invested in one more sub-accounts of Separate Account 1 or in a fixed-rate option through WSLAC's general account (the "Fixed Account"). The Gold Contract offers four fixed annuity income options and a death benefit payable to the designated beneficiary if the annuitant dies prior to the Income Date as defined in the Gold Contract. Withdrawals from a Gold Contract generally are subject to a contingent deferred sales charge ranging from 7% on amounts withdrawn less than one year after the date of the purchase payment to 0% on amounts withdrawn at least seven years after the date of the purchase payment. Additional charges related to the Gold Contract are: a Contract Maintenance charge of $35 each year during the first ten years of the Contract and the lesser of $35 and 0.17% of Contract Value after the tenth anniversary of the Contract Date; a Contract Administration charge at an effective annual rate of 0.15%; and

a Mortality and Expense Risk charge at an effective annual rate of 1.20%.

5. The Select Contract is a flexible premium contract designed for individual investors and group plans. Payments made by owners of a Select Contract are invested in one or more sub-accounts of Separate Account 1 or in the Fixed Account. The Select Contract offers five income payment options and three death benefit options payable to the designated beneficiary if the owner dies prior to the Income Date as defined in the Select contract. Withdrawals from a Select Contract generally are subject to a contingent deferred sales charge ranging from 8% on amounts withdrawn less than one year after the date of the purchase payment to 0% on amounts withdrawn at least seven years after the date of the purchase payment. Additional charges related to the Select Contract are: A Contract Maintenance charge of $40 each year during the first ten years of the Contract and the lesser of $40 and 0.14% of Contract Value after the tenth anniversary of the Contract Date; a Contract Administration charge at an effective annual rate of 0.15%; and a Mortality and Expense Risk charge with a standard death benefit an effective annual rate of 1.20%, an annual step up death benefit an effective annual rate of 1.30%, and a 6% accumulating death benefit an effective annual rate of 1.40%.

6. The Advisor Contract is a flexible purchase payment contract designed for individual investors and group plans. Payments made by owners of an Advisor Contract are invested in one or more sub-accounts of Separate Account 2. Withdrawals from an Advisor Contract are not subject to a contingent deferred sales charge. The Advisor Contract offers four fixed annuity income options and a death benefit payable to the designated beneficiary if the annuitant dies prior to the Income Date as defined in the Advisor Contract. Charges related to the Select Contract are: A Contract Maintenance charge of $35 each year; a Contract Administration charge at an effective annual rate of 0.10%; and a Mortality and Expense Risk charge at an effective annual rate of 0.70%.

7. Subject to certain limitations, an owner of any Contract may transfer all or part of the Contract Value among the sub-accounts and, if applicable, the Fixed Account. The owner of a Contract is limited to one transfer among sub-accounts in a 30-day period, a minimum transfer amount generally of $250, one transfer from one or more sub-accounts to the Fixed Account per Contract Year, and one transfer from the Fixed Account to one or more sub-accounts per Contract Year with a maximum transfer amount of 25% of the Fixed Account value.

8. TVST was organized as a Massachusetts business trust as of February 7, 1994. TVST is registered under the 1940 Act as an open-end diversified management investment company and the shares offered by TVST are registered under the 1933 Act.

9. TVST is currently comprised of 11 investment portfolios (each a "TVST Portfolio," and together the "TVST Portfolios"): Touchstone Small Cap Value, Touchstone Emerging Growth, Touchstone International Equity, Touchstone Income Opportunity, Touchstone High Yield, Touchstone Value Plus, Touchstone Growth & Income, Touchstone Enhanced 30, Touchstone Balanced, Touchstone Bond and Touchstone Standby Income, all of which are investment options under each of the Contracts.

10. Touchstone Advisors, Inc. ("Touchstone"), an indirect subsidiary of WSLAC, serves as the investment advisor and sponsor for the TVST Portfolios. Touchstone has engaged sub-advisers for each TVST Portfolio for which it acts as adviser and the sub-advisers are responsible for the day-to-day investment management of the assets of those TVST Portfolios. The sub-adviser of the Touchstone Income Opportunity Portfolios is Alliance Capital management L.P. The sub-adviser of Touchstone High Yield Portfolio is Fort Washington Investment Advisors, Inc. ("Fort Washington"). Fort Washington is a subsidiary of WSLIC, which is also the parent of WSLAC and Touchstone.

11. The investment objective of the Touchstone High Yield Portfolio is to seek to achieve a high level of current income as a main goal with capital appreciation as a secondary goal. To achieve this objective, the Touchstone High Yield Portfolio invests primarily (at least 65% of total assets) in non-investment grade debt securities of domestic corporations. The Portfolio's investments may include: (a) Securities of foreign companies (up to 15%), but only up to 5% of its assets in securities of foreign companies that are denominated in a currency other than the U.S. dollar; (b) debt securities of issuers in emerging market countries (up to 10%); (c) mortgage-related securities and other types of loans and loan participations; and (d) securities issued by the U.S. government, its agencies or instrumentalities and securities of foreign governments.

12. Expense and performance information for the Touchstone High Yield Portfolio from the date it commenced operations (May 1, 1999) through December 31, 2000, and information about its size and portfolio composition at December 31, 1999, and December 31, 2000, is set forth in the tables below.

[In percent]

	Touchstone high yield portfolio	
	For the year ended 12/31/00	For the period ended 12/31/99
Expense Information:		
Expense ratio before waiver and reimbursement	1.50	1.53
Expense ratio after waiver and reimbursement	0.80	0.80
Contractual Management Fee	0.60	0.60
12b–1 Fees	None	None
Other expenses	0.20	0.20
Performance Information:		
Total return*	(0.70)	(8.11)

*Exclusive of charges that apply to the sub-accounts.

	Touchstone high yield portfolio	
	12/31/00	12/31/99
Asset Information:		
Net assets	$15,748,310	$14,915,932
Portfolio Composition as a percentage of net assets:		
Corporate debt (percent)	87.5	95.6
Convertible debt (percent)	02.2	00.0
Cash and other assets net of liabilities (percent)	10.3	04.4

13. The investment objective of the Touchstone Income Opportunity Portfolio is to seek to achieve a high level of current income as a main goal and to increase the value of its shares, if consistent with its main goal. To achieve this objective, the Touchstone Income Opportunity Portfolio invests primarily in debt securities. The debt securities will generally be more risky non-investment grade corporate and government securities (up to 100% of total assets). Government securities include both domestic and foreign government securities. The Touchstone Income Opportunity Portfolio's investment may include: (a) Securities of foreign companies (up to 100%), but only up to 30% of its assets in securities of foreign companies that are denominated in a currency other than the U.S. dollar; (b) debt securities that are emerging market securities (up to 65%); (c) mortgage-related securities, loans and loan participations; and (d) currency futures and option contracts.

14. Expense and performance information for the Touchstone Income Opportunity Portfolio for the last four fiscal years, and information about its size and portfolio composition at December 31, 1999, and December 31, 2000, is set forth in the tables below.

[In percent]

	Touchstone income opportunity portfolio for the year ended			
	12/31/00	12/31/99	12/31/98	12/31/97
Expense Information:				
Expense ratio before waiver and reimbursement	1.36	1.29	1.25	1.72
Expense ratio after waiver and reimbursement	0.85	0.85	0.85	0.85
Contractual Management Fee	0.65	0.65	0.65	0.65
12b–1 Fees	None	None	None	None
Other Expenses	0.20	0.20	0.20	0.20
Performance Information:				
Total return*	(1.10)	2.74	(12.27)	12.03

*Exclusive of charges that apply to the sub-accounts.

	Touchstone income opportunity portfolio	
	12/31/00	13/21/99
Asset Information:		
Net assets	$18,888,658	$25,487,559
Portfolio Composition as a percentage of net assets:		
Corporate debt (percent)	42.6	52.2
Sovereign government obligations (percent)	41.1	45.3
Warrants (percent)	00.0	00.0
Cash and other assets net of liabilities (percent)	16.3	02.5

15. WSLAC has been informed that the Board of Trustees of TVST has determined that as of an appropriate date after the issuance of the requested order from the Commission, it does not intend to offer the Touchstone Income Opportunity Portfolio as an available investment to the sub-accounts of Separate Account 1 and Separate Account 2. WSLAC, on behalf of Separate Account 1 and Separate Account 2, has determined that it would be in the best interest of the Contract owners to effect the proposed substitution.

16. WSLAC, on its own behalf and on behalf of Separate Account 1 and Separate Account 2, proposes to substitute shares of TVST Touchstone High Yield Portfolio for shares of TVST Touchstone Income Opportunity Portfolio currently held by corresponding sub-accounts of Separate Account 1 and Separate Account 2.

Applicant's Legal Analysis

1. The Applicants request an order pursuant to section 26(b) of the 1940 Act approving the proposed substitution. Section 26(b) provides, in pertinent part, that "it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution." Section 26(b) also provides that the Commission shall approve the substitution of the evidence establishes that the substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants submit that the Touchstone High Yield Portfolio is the Portfolio with the investment objective that is most similar to the investment objective of the Touchstone Income Opportunity Portfolio. Both Portfolios seek to achieve a high level of current

income, with capital appreciation as a secondary consideration.

3. Applicants assert that the investment strategies of the two Portfolios are similar in many respects. Both Portfolios invest primarily in non-investment grade debt securities. Both Portfolios may invest in debt securities of domestic companies, foreign companies, the U.S. government and foreign governments. The investment strategy of the Touchstone High Yield Portfolio and the Touchstone Income Opportunity Portfolio differ. For example, the Touchstone High Yield Portfolio must invest at least 65% of its total assets in debt securities of domestic corporations. The Touchstone Income Opportunity Portfolio, on the other hand, may invest up to 100% of its assets in debt securities of either foreign companies or foreign governments or a combination thereof. In addition, the Touchstone Income Opportunity Portfolio may invest up to 65% of its assets in debt securities that are emerging market securities, while the Touchstone High Yield Portfolio must limit its investments in debt securities of issuers in emerging market countries to 10% of its assets.

4. Applicants state that the proposed substitution of Contract Values and Account Values to the Touchstone High Yield Portfolio will be made in the same manner as any other transfer among sub-accounts, except no transfer charge otherwise applicable will be made. The substitution will not count against any limit on the permitted number of transfers. In connection with the substitution, shares remaining in the Touchstone Income Opportunity sub-accounts will be redeemed and the cash proceeds thereof will be applied to the purchase of shares of the Touchstone High Yield Portfolio, in each case at the net asset value determined in accordance with the requirements of the 1940 Act.

5. According to the Applicants, the current expense levels of the Touchstone High Yield Portfolio are more favorable to the affected Contract owners. The current expense ratio of the Touchstone High Yield Portfolio after waiver and reimbursement is 0.80%, which is 0.05% lower than the current expense ratio of the Touchstone Income Opportunity Portfolio after waiver and reimbursement. Touchstone has agreed to waive its fees under the sponsor agreement between Touchstone and TVST or to reimburse certain other fees and expenses of the Touchstone High Yield Portfolio, such that after such waivers and reimbursements, the aggregate operating expenses of the Touchstone High Yield Portfolio do not exceed 0.80% of its average daily net assets on an annualized basis. Touchstone has agreed that it will continue to waive fees and reimburse the Touchstone High Yield Portfolio as described above through December 31, 2001.

6. WSLAC or Touchstone will pay all expenses and transaction costs of the substitution, including any related brokerage fees. Contract owners will not bear any expenses, transaction costs or fees in connection with the substitution.

7. Applicants submit that the substitution will not cause the fees and charges under the Contracts currently being paid by Contract owners to be greater after the substitution than before the substitution. The rights of the Contract owners and the obligations of WSLAC under the Contracts will not be altered in any way.

8. Applicants represent that in the event that the TVST Touchstone High Yield Portfolio has operating expenses (taking into account expense waivers and reimbursements) for any fiscal period (not to exceed a fiscal quarter) during the 24 months following the date of the proposed substitutions equal on an annualized basis to an amount greater than 0.85%, WSLAC will make adjustments to the expenses for the sub-accounts that invest in the TVST Touchstone High Yield Portfolio for those Contract owners who were Contract owners on the date of substitution. These adjustments will limits those Contract owners' expenses so that the amount of the new portfolio's operating expenses together with the corresponding sub-account's asset-based expenses paid during such period on an annualized basis will be no greater than the sum of the replaced portfolio's expenses after waivers and reimbursements (i.e., 0.85%) together with the corresponding sub-account's asset-based expenses during the fiscal year preceding the proposed substitution, which were as follows:

Contract	Sub-account expense limit (as a percentage of average daily net asset sub-account value on an annual basis)
Gold Contract	1.35
Select Contract:	
Option 1	1.35
Option 2	1.45
Option 3	1.55
Advisor Contract	.80

In addition, for those Contract owners who were Contract owners on the date of the substitution, WSLAC will not increase asset-based or non-asset-based expenses for a period of 24 months following the date of the substitution, except to the extent of any increase in premium taxes charged by one or more states. The non-asset-based expenses include the Contract Maintenance Charge and Surrender Charges.

9. Applicants submit that the proposed substitution will not result in any adverse tax consequences to any Contract owner.

10. Applicants state that WSLAC has notified Contract owners of the proposed substitution and will permit Contract owners to make one transfer from the Touchstone Income Opportunity sub-account to any of the other available sub-accounts at any time before the proposed substitution is completed without the assessment of any charge that might otherwise apply. Within 5 days after the proposed substitution is completed, WSLAC will send to Contract owners who were affected by the substitution a notice informing them that they may transfer all amounts that were transferred from the TVST Touchstone Income Opportunity sub-account to the TVST Touchstone High Yield sub-account as part of the substitution, such additional transfer will not count against any limit on the number of permitted transfers, and no charges that might otherwise apply will be imposed on such additional transfer. The Contract owners who were affected by the substitution will have 30 days from the date of such post-substitution notice to make this additional "free" transfer from the TVST Touchstone High Yield sub-account.

11. The Applicants submit that the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act and is not the type of substitution that section 26(b) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner that permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer account values into other sub-accounts. Moreover, WSLAC will offer contract owners the opportunity to transfer amounts out of the Touchstone Income Opportunity sub-account without cost or other disadvantage. The proposed substitution, therefore, will not result in the type of costly forced redemption that section 26(b) was designed to prevent. In addition, other factors that may have influenced a Contract owner to purchase a Contract, such as the reputation of WSLAC and the type of insurance coverage and benefits provided by the Contract, will remain the same.

Conclusion

Applicants assert that, for the reasons summarized above, the terms of the proposed substitution meet the standards set forth in section 26(b) of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12024 Filed 5–11–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44269; File No. SR–BSE–00–22]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Minimum Equity Requirements for Derivative-Based Products

May 7, 2001.

On January 3, 2001, the Boston Stock Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change relating to minimum equity requirements for derivative-based products.

The proposal amends the Rules of the Board of Governors of the Exchange to reduce from $1,000,000 to $200,000 the minimum equity requirement for firms trading Portfolio Depositary Receipts ("PDRs"), if the firm arranges to clear its trades through another forum and obtains Exchange approval to do so.

Notice of the proposed rule change was published for comment in the **Federal Register** on April 5, 2001.[3] No comments were received on the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[5] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The proposed rule change would reduce capital requirements for firms trading PDRs pursuant to clearing arrangements approved by the Exchange, while ensuring maintenance of adequate capital.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–BSE–00–12) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11988 Filed 5–11–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44101 (March 26, 2001), 66 FR 18126 (April 5, 2001).

[4] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority; Correction

AGENCY: Social Security Administration.

ACTION: Notice; correction.

SUMMARY: The Social Security Administration published a document in the **Federal Register** of April 24, 2001, regarding the Statement of Organization, Functions and Delegations of Authority. The document contained an incorrect title for the Division of Information Technology Integration in the Office of Management in the Office of Hearings and Appeals (OHA).

Corrections

In the **Federal Register** of April 24, 2001, in FR Doc. 01–10081, on page 20703, in the first column, H. 5. Correct the title to read:

5. The "Office Automation Support Staff" as "Division of Information Technology Integration" (TAHE7).

In the **Federal Register** of April 24, 2001, in FR Doc. 01–10081, on page 20703, in the second column, under "Functions" item H.5. Correct the title to read:

5. The "Office of Automation Support Staff" as "Division of Information Technology Integration" (TAHE7).

In the **Federal Register** of April 24, 2001, in FR Doc. 01–10081, on page 20703, in the third column, line 12: Remove the period between the word "needs" and the word "and".

Dated: May 4, 2001.

Lewis H. Kaiser,

Director, Center for Classification and Organization Management.

[FR Doc. 01–11962 Filed 5–11–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (01–06–U–00–YKM) to Use the Revenue From a Passenger Facility Charge (PFC) at Yakima Air Terminal-McAllister Field, Submitted by the Yakima Air Terminal Board, Yakima Air Terminal-McAllister Field, Yakima, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use, PFC revenue at Yakima Air Terminal-McAllister Field under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 13, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington, 98055. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bob Clem, Airport Manager, at the following address: 2400 West Washington Avenue, Yakima, Washington 98903.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Yakima Air Terminal-McAllister Field, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton,

Washington, 98055. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 01–06–U–00–YKM to impose and use PFC revenue at Yakima Air Terminal-McAllister Field, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 30, 2001, the FAA determined that the application to impose and use, the revenue from a PFC submitted by Yakima Air Terminal Board, Yakima, Washington, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 3, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 2000.

Proposed charge expiration date: February 1, 2002.

Total requested for use approval: $182,313.

Brief description of proposed project: Construct West Perimeter Road.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yakima Air Terminal-McAllister Field.

Issued in Renton, Washington on April 30, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–11471 Filed 5–11–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34031]

Florida Midland Railroad Company—Acquisition and Operation Exemption—CSX Transportation, Inc.

Florida Midland Railroad Company (FMID), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from CSX Transportation, Inc. (CSXT) two rail lines described as follows: (1) The Lake Wales Line, extending (a) from milepost SV–863.28, in West Lake Wales, FL, to milepost SV–867.47, in Lake Wales, FL, and (b) from milepost AVC–843.30, in Lake Wales, to milepost AVC–857.50, in Frostproof, FL, a distance of approximately 18.39 miles; and (2) the Winter Haven Line, extending from milepost AW–842.0, in Winter Haven, FL, to milepost AW–848.0, in Gordonville, FL, a distance of approximately 6 miles. The total distance of the Lake Wales and Winter Haven Lines is approximately 24.39 miles. FMID will acquire only the track and track materials. CSXT will retain ownership of the real property underlying the right-of-way of the Lake Wales and Winter Haven Lines, and FMID will lease that underlying property from CSXT.[1]

The transaction is scheduled to be consummated shortly after May 7, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34031, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Esq., Fletcher & Sippel LLC, Two Prudential Plaza, Suite 3125, 180 North Stetson Avenue, Chicago, IL 60601–6721.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: May 7, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–12050 Filed 5–11–01; 8:45 am]

BILLING CODE 4915–00–P

[1] FMID's operation of the Lake Wales and Winter Haven Lines was exempted in *Florida Midland Railroad Company-Acquisition and Operation Exemption-Rail Lines of CSX Transportation, Inc.*, Finance Docket No. 31151 (ICC served Nov. 27, 1987).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–31 (Sub No. 38)]

CSX Corporation and CSX Transportation, Inc.—Adverse Abandonment—Canadian National Railway Company and Grand Trunk Western Railroad Inc.

On April 24, 2001, CSX Corporation and CSX Transportation, Inc. (collectively, CSX) filed an adverse application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (Board) authorize the abandonment by Canadian National Railway Company (CNR)[1] and its wholly owned affiliate Grand Trunk Western Railroad Incorporated (GTW), of a portion of a rail line known as Track No. 239 extending from milepost 26.4 to milepost 27.0 near 43rd Street and Damen Avenue, in Chicago, Cook County, IL, a distance of 2,952 feet. The track is situated on property leased from New York Central Lines, L.L.C. (NYC). The line traverses United States Postal Service ZIP Code 60609 and includes no stations. In the alternative, CSX seeks an order of adverse discontinuance against GTW's operations on the line.

CSX indicates that it filed the adverse abandonment application so that it could proceed with plans to utilize the track to service its new 59th Street intermodal facility. CSX asserts that serious congestion problems near its facility have magnified its need to access and control the right-of-way. CSX maintains that GTW ceased using the line in 1996. Under its Operating Agreement with NYC, CSX Transportation, Inc. is the operator of the leased property and the entity with rights to enforce the lease, acquired as part of CSX's acquisition of certain assets of Consolidated Rail Corporation (Conrail). CSX asserts that, although it has trackage rights over the line, GTW has not allowed it to make necessary changes to utilize the track, has refused in recent years to make rent payments due under the lease agreement, and has refused to vacate the premises. CSX seeks to enforce a termination clause contained in the lease under state law.[2] This agency and its predecessor have long held that granting an adverse abandonment application would remove this agency's primary jurisdiction over the line, thereby subjecting the line to actions under state law.[3]

In a decision served in this proceeding on March 2, 2001, CSX was granted a waiver from many of the filing requirements of the Board's abandonment regulations at 49 CFR 1152 that were not relevant to its adverse abandonment application. Specifically, CSX was granted waiver from the notice requirements at 49 CFR 1152.20(a)(2)(i) and the content requirements at 49 CFR 1152.22(a)(5), (b), (c), (d), (e)(1), (e)(2), (e)(4), and (g). However, CSX was required to comply with the notice requirements at 49 CFR 1150.20(a)(1), (a)(2) and (b)(1) and 1152.21, the content requirements at 49 CFR 1152.22(e)(3), and the filing and service requirements at 1152.24(b). Also, the Board did not waive the environmental regulations at 49 CFR 1152.22(f).

CSX states that, to the best of its knowledge, the line does not contain federally granted rights-of-way. Any documentation in CSX's possession will be made available promptly to those requesting it. The applicant's entire case in chief for abandonment was filed with the application, and it describes alternative routing options that will be available to GTW should the application be granted.

The interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed abandonment or protests (including protestant's entire opposition case) by June 8, 2001. All interested persons should be aware that, following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) or for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by June 8, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27). However, in its application, CSX seeks an exemption from the following statutory provisions: 49 U.S.C. 10903(a)(2)(C), which requires a statement concerning interested subsidy or sale offers; section 10904, which relates to offers of financial assistance for the purchase of or subsidy for a rail line proposed for abandonment; and section 10905, which relates to offers for sale for public purposes of abandoned rail properties. These requests will be addressed in the decision on the merits.[4] The due date for applicant's reply is June 25, 2001.

Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Parties seeking information concerning the filing of protests should refer to section 1152.25.

All filings in response to this notice must refer to STB Docket No. AB–31 (Sub-No. 38) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) David Coburn, Steptoe & Johnson LLP, 1330 Connecticut Av., NW., Washington, DC 20036–1795. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

The March 2 decision noted that CSX had requested waiver from the environmental requirements of 49 CFR 1152.22(f), arguing that its proposal has no environmental impact and therefore qualifies for treatment under 49 CFR 1105.6(c). However, the March 2 decision indicated that CSX should make that showing in its application, rather than seeking a waiver.

In its application, CSX asserts that the proposal is analogous to the discontinuance of trackage rights where the affected line will continue to be operated and, consequently, is exempt from environmental review under 49 CFR 1105.6(c). Nonetheless, CSX has prepared an Environmental Report in consultation with the Board's Section of Environmental Analysis (SEA). On the basis of that report, CSX urges the Board to find that a grant of this application will not have any significant or adverse environmental impacts. Questions concerning environmental issues may be directed to SEA at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 8, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–12049 Filed 5–11–01; 8:45 am]

BILLING CODE 4915–00–P

[1] GTW states in its February 21, 2001 Reply to CSX's Petition for Waiver that it owns Track 239 and contends that CNR is not a proper party to this proceeding. That contention would properly be the subject of a motion to dismiss accompanied by supporting evidence.

[2] Conrail exercised its lease termination rights to recover possession of the underlying land by giving 30 days' notice. It also sought possession of the track, pursuant to lease terms that allowed CSX to retain improvements on the property if GTW fails to remove all improvements within 10 days after the lease is terminated. Specifically, in May 2000, CSX filed a forcible entry and detainer action against GTW in the U.S. District Court for the Northern District Illinois, *CSX Transportation, Inc. v. Canadian National Railway Co., et. al*, Case No. OOC 1462 (N.D. Ill.). The District Court granted defendants' motion to dismiss concluding that the Board has exclusive jurisdiction to determine whether the track is subject to its regulatory jurisdiction.

[3] *See Modern Handcraft, Inc.—Abandonment*, 363 I.C.C. 969 (1981); *Kansas City Pub. Ser. Frgt. Operations Exempt.—Aban.*, 7 I.C.C.2d 216, 244–26 (1990); and *Chelsea Property Owners—Aban.—The Consol. R. Corp.*, 8 I.C.C.2d 773, 778 (1992), *aff'd sub nom. Conrail v. ICC*, 29 F.3d 706 (D.C. Cir. 1994).

[4] CSX also requests an exemption from statutory requirements at 49 U.S.C. 10903(a)(3) and 10903(c). However, because the Board has already ruled on CSX's previous request for waivers from corresponding Board regulations, that portion of the request will be dismissed as moot.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040 and Schedules A, B, C, C–EZ, D, D–1, E, EIC, F, H, J, R and SE

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040, U.S. Individual Income Tax Return, and Schedules A, B, C, C–EZ, D, D–1, E, EIC, F, H, J, R, and SE.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Individual Income Tax Return.

OMB Number: 1545–0074.

Form Number: 1040A and Schedules A, B, C, C–EZ, D, D–1, E, EIC, F, H, J, R, and SE.

Abstract: These forms are used by individuals to report their income tax liability. The data is used to verify that the items reported on the forms are correct, and also for general statistics use.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 74,487,259.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 1,393,882,763.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 8, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12066 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 945, 945–A, and 945–V

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 945, Annual Return of Withheld Federal Income Tax; Form 945–A, Annual Record of Federal Tax Liability; and Form 945–V, Form 945 Payment Voucher.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Return of Withheld Federal Income Tax (Form 945), Annual Record of Federal Tax Liability (Form 945–A), and Form 945 Payment Voucher (Form 945–V).

OMB Number: 1545–1430.

Form Numbers: 945, 945–A, and 945–V.

Abstract: Form 945 is used to report income tax withholding on nonpayroll payments including backup withholding and withholding on pensions, annuities, IRAs, military retirement, and gambling winnings. Form 945–A is used to report nonpayroll tax liabilities. Form 945–V is a payment voucher that is used by those taxpayers who submit a payment with their return.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 193,468.

Estimated Time Per Respondent: 10 hours, 20 minutes.

Estimated Total Annual Burden Hours: 2,001,199.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 2, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12067 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040A and Schedules 1, 2, 3 and EIC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040A, U.S. Individual Income Tax Return, and Schedules 1, 2, 3 and EIC.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Individual Income Tax Return.

OMB Number: 1545–0085.

Form Number: 1040A and Schedules 1, 2, 3, and EIC.

Abstract: This form is used by individuals to report their income subject to income tax and to compute their correct tax liability. The data are used to verify that the income reported on the form is correct and are also for statistics use.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 26,780,076.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 278,723,537.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 1, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12068 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8655

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8655, Reporting Agent Authorization for Magnetic Tape/Electronic Filers.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Reporting Agent Authorization for Magnetic Tape/Electronic Filers.

OMB Number: 1545–1058.

Form Number: Form 8655.

Abstract: Form 8655 allows a taxpayer to designate a reporting agent to file certain employment tax returns electronically or on magnetic tape, to receive copies of notices and other tax information, and to submit Federal tax deposits. This form allows IRS to disclose tax account information and to provide duplicate copies of taxpayer correspondence to authorized agents.

Current Actions: There are no changes being made to this form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 11,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 2, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12069 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1065, Schedule D, and Schedule K–1

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1065, U.S. Return of Partnership Income, Schedule D, Capital Gains and Losses, and Schedule K–1, Partner's Share of Income, Credits, Deductions, etc.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Return of Partnership Income (Form 1065), Capital Gains and Losses (Schedule D), and Partner's Share of Income, Credits, Deductions, etc. (Schedule K–1).

OMB Number: 1545–0099.

Form Number: 1065, Schedule D, and Schedule K–1.

Abstract: Internal Revenue Code section 6031 requires partnerships to file returns that show gross income items, allowable deductions, partners' names, addresses, and distribution shares, and other information. This information is used by the IRS to verify correct reporting of partnership items and for general statistics. The information is used by partners to determine the income, loss, credits, etc., to report on their tax returns.

Current Actions: There are no changes being made to the form or schedules at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms, and individuals or households.

Estimated Number of Respondents: 1,487,900.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 1,196,492,929.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 3, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12070 Filed 5–14–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–4

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–4, Employee's Withholding Allowance Certificate.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employee's Withholding Allowance Certificate.

OMB Number: 1545–0010.

Form Number: W–4.

Abstract: Employees file Form W–4 to tell employers their marital status, the number of withholding allowances claimed, the dollar amount they want withholding increased each pay period, and if they are entitled to claim exemption from withholding. Employers use this information to figure the correct tax to withhold from the employee's wages.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 54,209,079.

Estimated Time Per Respondent: 2 hours, 8 minutes.

Estimated Total Annual Burden Hours: 116,007,430.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 5, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12071 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8815

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8815, Exclusion of Interest From Series EE and I U.S. Savings Bonds Issued After 1989.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Exclusion of Interest From Series EE and I U.S. Savings Bonds Issued After 1989.

OMB Number: 1545–1173.

Form Number: Form 8815.

Abstract: If an individual redeems series I or series EE U.S. savings bonds issued after 1989 and pays qualified higher education expenses during the year, the interest on the bonds may be excludable from income. Form 8815 is used by the individual to figure the amount of savings bond interest that is excludable.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 2 hours, 3 minutes.

Estimated Total Annual Burden Hours: 51,470.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 3, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12072 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8736

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C.

3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts.

OMB Number: 1545–1054.

Form Number: Form 8736.

Abstract: Form 8736 is used by partnerships, REMICs, and by certain trusts to request an automatic 3-month extension of time to file Form 1065, Form 1066 or Form 1041. Form 8736 contains data needed by the IRS to determine whether or not a taxpayer qualifies for such an extension.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 36,000.

Estimated Time Per Respondent: 4 hours, 3 minutes.

Estimated Total Annual Burden Hours: 145,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 2, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12073 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453, U.S. Individual Income Tax Declaration for an IRS e-file Return.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U. S. Individual Income Tax Declaration for an IRS e-file Return.

OMB Number: 1545–0936.

Form Number: Form 8453.

Abstract: Form 8453 is used to secure the taxpayer's signature and declarations in conjunction with the Electronic Filing program. This form, together with the electronic transmission, will comprise the taxpayer's income tax return. The information on Form 8453 will be used by the IRS to verify the electronic return, allow for direct deposit of any refund, provide consent for the IRS to disclose the status of the return to the Electronic Return Originator and/or transmitter, and obtain the required signatures.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 12,300,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 3,075,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 3, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12074 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2350

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2350, Application for Extension of Time To File U.S. Income Tax Return.

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File U.S. Income Tax Return.

OMB Number: 1545–0070.

Form Number: Form 2350.

Abstract: Form 2350 is used to request an extension of time to file in order to meet either the bona fide residence test or the physical presence test to qualify for the foreign earned income exclusion and/or the foreign housing exclusion or deduction. The information furnished is used by the IRS to determine if the extension should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 22,594.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 22,594.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 4, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12075 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–127–86; PS–128–86; PS–73–88]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–127–86, PS–128–86, and PS–73–88 (TD 8644), Generation-Skipping Transfer Tax (§§ 26.2601–1, 26.2632–1, 26.2642–1, 26.2642–2, 26.2642–3, 26.2642–4, 26.2652–2, and 26.2662–1).

DATES: Written comments should be received on or before July 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Generation-Skipping Transfer Tax.

OMB Number: 1545–0985.

Regulation Project Number: PS–127–86; PS–128–86; PS–73–88.

Abstract: This regulation provides rules relating to the effective date, return requirements, definitions, and certain rules covering the generation-skipping transfer tax. The information required by the regulation will require individuals and/or fiduciaries to report information on Forms 706, 706NA, 706GS(D), 706GS(D–1), 706GS(T), 709, and 843 in connection with the generation-skipping transfer tax. The information will facilitate the assessment of the tax and taxpayer examinations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 7,500.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 3,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection

of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 4, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12076 Filed 5–11–01; 8:45 am]

BILLING CODE 4830–01–P

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 132/P.L. 107–6

To designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the "Goro Hokama Post Office Building". (Apr. 12, 2001; 115 Stat. 8)

H.R. 395/P.L. 107–7

To designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the "Ronald W. Reagan Post Office of West Melbourne, Florida". (Apr. 12, 2001; 115 Stat. 9)

Last List March 21, 2001

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[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

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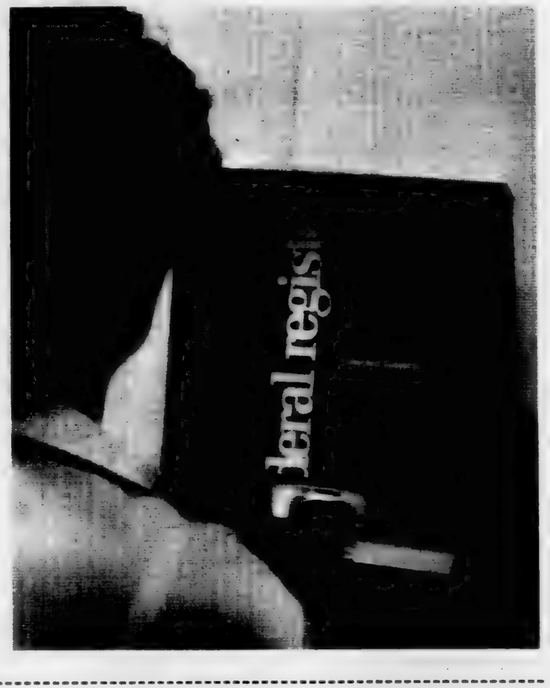

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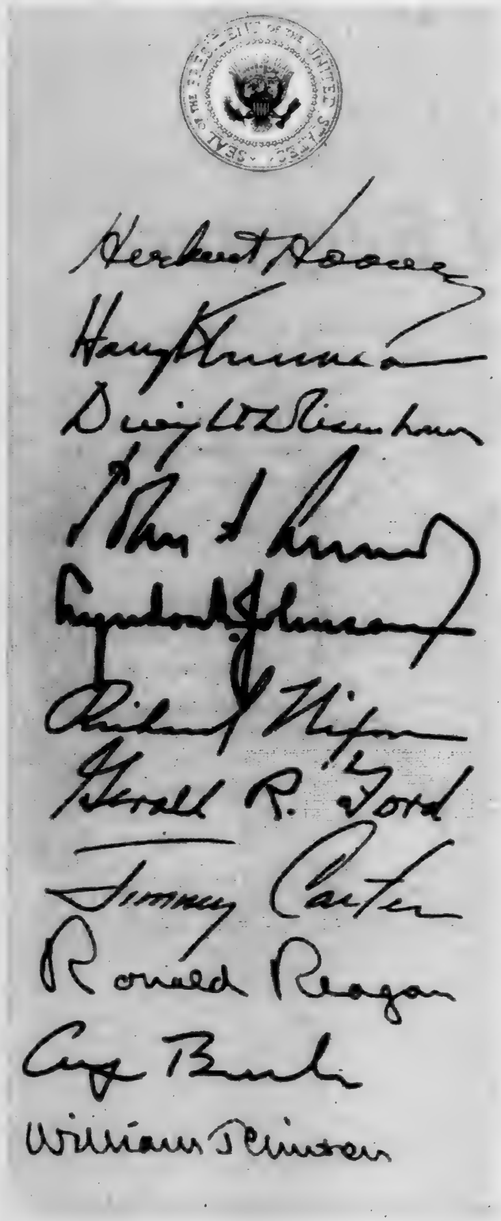

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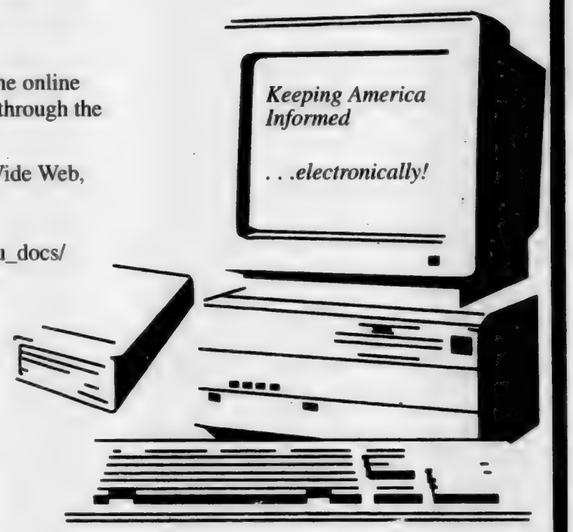

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Monday,
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Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

REGULATORY INFORMATION SERVICE CENTER

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing (5 U.S.C. 602). Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry.

The Unified Agenda helps agencies fulfill all of these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication.

The following separate parts in this issue of the **Federal Register** are the agency agendas, followed by indexes to the entries. Together, these constitute the April 2001 edition of the semiannual Unified Agenda. We welcome your comments on this publication and your suggestions for improving future editions.

ADDRESSES: Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: Ronald C. Kelly, Executive Director, Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405, (202) 482-7340. You may also send comments to us by e-mail at:

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I. What Is the Unified Agenda?

The **Unified Agenda of Federal Regulatory and Deregulatory Actions** (Unified Agenda) provides information, in a uniform format, about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983. This edition includes regulatory agendas from 60 Federal departments and agencies. Agencies of the United States Congress are not included.

The Regulatory Information Service Center (the Center) compiles the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of E.O. 12866. The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies have the option of including activities that will have a next action beyond 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last agenda. The agendas do not contain regulations that were excluded under Executive Order 12866, such as those concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Unified Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in this publication. The information in this edition is accurate as of April 1, 2001, in the judgment of the submitting agencies, except as otherwise noted by the agencies. In addition, some agencies submitted updates after that date.

Where applicable, individual actions will be subject to review for compliance with applicable Executive orders, the Regulatory Flexibility Act, and the Paperwork Reduction Act at appropriate points in the regulatory process.

II. Why Is the Unified Agenda Published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

The *Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610).

Executive Order 12866

Executive Order 12866 entitled "Regulatory Planning and Review" (September 30, 1993; 58 FR 51735) requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their "most important significant regulatory actions," which appears as part of the October Unified Agenda.

Executive Order 13132

Executive Order 13132 entitled "Federalism" (August 4, 1999; 64 FR 43255) directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have "federalism implications" as defined in the Order. Under the Order, an agency that is proposing regulations with federalism implications, which either preempt State law or impose nonstatutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such regulations, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.

Unfunded Mandates Reform Act of 1995

The *Unfunded Mandates Reform Act of 1995* (P.L. 104-4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions "that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year . . . ." The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Small Business Regulatory Enforcement Fairness Act

The *Small Business Regulatory Enforcement Fairness Act* (P.L. 104-121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 et seq.), which defers, unless exempted, the effective date of a "major" rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is "major" if it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. If the issuing agency believes that a rule may be major, it indicates this under the "Priority" heading of the entry. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

III. How Is the Unified Agenda Organized?

Each agency's agenda appears as a separate part in this edition of the **Federal Register**. The parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Departments may in turn be divided into subagencies.

Each part of the Agenda begins with a preamble providing information specific to that part. For each agency that requests it, the Center provides a table of contents that appears in the Agenda after the agency preamble.

Each agency presents its entries under one of five headings according to the rulemaking stage of the entry. The stages are:

1. *Prerule Stage* — actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage* — actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage* — actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. *Long-Term Actions* — items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions* — actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

An agency may use subheadings to identify regulations that it has grouped according to particular topics. When these subheadings are used, they appear above the title of the first regulation in each group.

A bullet (•) preceding an entry indicates that the entry appears in this publication for the first time.

All entries are numbered sequentially from the beginning to the end of the publication. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The same number is used in the indexes to enable readers to find entries on specific subjects.

This publication contains six indexes. Index A lists entries for which agencies have indicated that they are conducting a periodic review under section 610(c) of the Regulatory Flexibility Act. Index B lists the regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis. Index C lists additional regulatory actions for which agencies have chosen to indicate that some impact on small entities is likely even though a Regulatory Flexibility Analysis may not be required. Index D lists entries that agencies believe may have effects on levels of government. Index E lists entries that agencies believe may have federalism implications as defined in Executive Order 13132. Index F is a subject index based on the **Federal Register Thesaurus of Indexing Terms**.

IV. What Information Appears for Each Entry?

All entries in the Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation — a brief description of the subject of the regulation; possibly including section 610 review designation. The notation "Section 610 Review" following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews

Priority — an indication of the significance of the regulation. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an "economically significant" rule is similar but not identical to the definition of a "major" rule under 5 U.S.C. 801 (P. L. 104-121). (See below.)

(2) Other Significant

A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that the agency anticipates will be reviewed under E.O. 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

(4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

In addition, if an agency believes that a rule may be "major" under 5 U.S.C. 801 (P.L. 104-121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act, the agency indicates this under the "Priority" heading. (The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.)

Unfunded Mandates — whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate. If the agency believes the entry is not subject to the Act, this data element will not be printed.

Legal Authority — the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation — the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline — whether the action is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract — a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Timetable — the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date printed in the form 12/00/01 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is "To Be Determined." "Next Action Undetermined" indicates the agency does not know what action it will take next.

Regulatory Flexibility Analysis Required — whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected — the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected — whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Federalism — whether the action has "federalism implications" as defined in Executive Order 13132. This term refers to actions "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." If the action does not have federalism implications, this data element will not be printed. Independent regulatory agencies are not required to supply this information.

Agency Contact — the name and phone number of a person in the agency who is knowledgeable about the rulemaking action. The agency may also provide the title, address, fax number, e-mail address, and TDD for the agency contact.

Procurement — whether the action is related to procurement and, if so, whether it is required by statute and whether it involves a paperwork burden. The Procurement heading appears only if the entry is related to procurement.

Some agencies have provided the following optional information:

Compliance Cost to the Public — the estimated gross compliance cost of the action.

Affected Sectors — the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by North American Industry Classification System (NAICS) codes.

Some of the agencies that participated in the October 2000 edition of **The Regulatory Plan** have chosen to include the following information for those entries that appeared in the Plan:

Statement of Need — a description of the need for the regulatory action.

Summary of the Legal Basis — a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives — a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of E.O. 12866.

Anticipated Costs and Benefits — a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks — a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM — An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR — The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO — An Executive order is a directive from the President to executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR — The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY — The Federal fiscal year runs from October 1 to September 30.

NPRM — A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- a statement of the time, place, and nature of the public rulemaking proceeding;

- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL — A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 105-4 is the fourth public law of the 105th Congress.

RFA — A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN — The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in **The Regulatory Plan** and the Unified Agenda, as directed by E.O. 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No. — The Sequence Number identifies the location of an entry in this publication. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers in different editions of **The Regulatory Plan** and the Unified Agenda.

USC — The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

VI. How Can Users Get Copies of the Agenda?

Printed copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, (202) 512-1800.

Copies of individual agency materials may be available directly from the agency. Please contact the particular agency for further information.

All editions of **The Regulatory Plan** and the **Unified Agenda of Federal Regulatory and Deregulatory Actions** since October 1995 are also available in electronic form. You can search the Agenda and the Plan on the World Wide Web at:

http://reginfo.gov

You may also search the Agenda and the Plan on the Government Printing Office's GPO Access, which is accessible through:

http://www.access.gpo.gov

Dated: April 25, 2001.

Ronald C. Kelly,

Executive Director.

[FR Doc. 01–10803 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, April 2001

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 118-E, Jamie Whitten Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

Dated: March 12, 2001.

Jacquelyn Y. Chandler,

Chief, Legislative and Regulatory and Automated Systems Staff.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1	Processed Fruits and Vegetables: Qualified Through Verification (QTV)	0581-AB58
2	General Specifications for Dairy Plants Approved for USDA Inspection and Grading	0581-AB59
3	Tobacco Fees and Charges for Permissive Inspection: Fee Increase	0581-AB86
4	Hass Avocado Promotion, Research, and Information Order	0581-AB92
5	Revision of User Fees for 2001 Crop Cotton Classification Services to Growers (CN-00-010)	0581-AB94

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
6	Voluntary Shell Egg Regulations; Repackaging of Shell Eggs Under USDA's Grading Program	0581-AB56
7	Honey Research, Promotion, and Consumer Information Order	0581-AB84
8	Tobacco Fees and Charges for Mandatory Inspection: Fee Increase	0581-AB87

Agricultural Marketing Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
9	National Laboratory Accreditation Program	0581-AB42
10	Olive Oil Promotion, Research, and Information Order	0581-AB62
11	Changes in Fees for Federal Grading and Certification of Livestock for Chicago Mercantile Exchange Futures Deliveries	0581-AB66
12	Program To Assess Organic Certifying Agencies	0581-AB70
13	Regulations Governing the Inspection of Eggs	0581-AB74
14	Voluntary Grading of Shell Eggs (PY-01-002)	0581-AB88
15	Discontinue the Official Grading of Imported Beef, Lamb, Veal, and Calf Carcasses Under the Authority of the Agricultural Marketing Act of 1946	0581-AB90
16	Subpart A—Regulations Governing the Inspection and Grading Service of Manufactured or Processed Dairy Products	0581-AB93

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Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
17	National Organic Program	0581-AA40
18	Livestock Mandatory Reporting Act of 1999	0581-AB64
19	Regulations Governing the Certification of Sanitary Design and Fabrication of Equipment Used in the Processing of Livestock and Poultry Products	0581-AB69
20	Changes in Fee for Voluntary Federal Fruits and Vegetables, Processed	0581-AB85
21	Changes in Fees for Science and Technology Laboratory Service (S&T-99-008 PR)	0581-AB91

Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
22	Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs	0560-AF60
23	Livestock Indemnity Program and Livestock Indemnity Program for Contract Growers	0560-AG33
24	Conservation Reserve Program—Failure To Establish Cover and Good Faith Reliance	0560-AG37
25	Implementation of the U.S. Warehouse Act of 2000	0560-AG45

Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
26	Part 1946 Mediation; Subpart A—Agricultural Loan Mediation Program	0560-AE26
27	Lamb Meat Adjustment Assistance Program	0560-AG17
28	Reduction of Amortized Shared Appreciation Recapture Interest Rate	0560-AG43
29	Collecting Guaranteed Loss Payments from FSA Farm Loan Program Borrowers	0560-AG44

Farm Service Agency—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
30	Selection and Functions of Farm Service Agency State and County Committees	0560-AE33
31	Amendments to the Standards for Approval of Warehouse for Commodity Credit Corporation Storage Contracts	0560-AE50
32	Deletion of FSA Regulations Regarding Colorado River Basin Salinity Control Program	0560-AE54
33	Amendments to the Debt Settlement Policies and Procedures To Conform to the Debt Collection Improvement Act of 1996	0560-AF22
34	Amendment to the Farm Reconstitution Regulations	0560-AF36
35	Dairy Recourse Loan Program	0560-AF41
36	1999-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF50
37	Remove Internal Agency Provisions From FSA Farm Credit Program Regulations for Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property	0560-AF53
38	Small Hog Operation Payment Plan	0560-AF70
39	Low Documentation Loan	0560-AF71
40	Streamlining of the Emergency Farm Loan Program Regulations	0560-AF72
41	Amendments to the Conservation Reserve Program Regulations Regarding Land Eligibility	0560-AF77
42	2000-Crop Peanuts National Poundage Quota, National Average Loan Rates for Quota and Additional Peanuts and Minimum Export-Edible Sales Price for Additional Peanuts	0560-AF83
43	2000-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AF84
44	Disaster Set-Aside Program	0560-AF91
45	Designation of Non-Auction Tobacco	0560-AG07
46	Agricultural Disaster and Market Assistance	0560-AG14
47	Noninsured Crop Disaster Assistance Program Regulations for the 2001 and Succeeding Crop Years	0560-AG20
48	Northeast Interstate Dairy Compact	0560-AG25
49	Emergency Conservation Program	0560-AG26
50	2001-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AG28

USDA

Farm Service Agency—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
51	2001-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AG29
52	2001-Crop Marketing and Price Support Levels for Five Kinds of Tobacco	0560-AG30
53	2001-Crop Peanuts National Poundage Quota, National Average Loan Rates for 2001-Crop Quota and Additional Peanuts and Minimum Export Edible Sales Price for Additional Peanuts	0560-AG31
54	Conservation of Farmable Wetlands	0560-AG38
55	Tobacco Loss Assistance Program and Amendments to the Tobacco Marketing Quota Regulations	0560-AG40
56	Collection of Appraisal Fees for Farm Loan Programs, Insured Loans	0560-AG42

Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identification Number
57	Small Farmer Outreach Training and Technical Assistance Program	0560-AE17
58	Amendments to the Farmer Account Servicing Policies	0560-AE42
59	Amendment to the Cotton Warehouse Regulations Regarding the Definition of "Unnecessary Delay"	0560-AF13
60	Amendments to the Forage Provisions of the Noninsured Crop Disaster Assistance Program	0560-AF23
61	Sugar Program Information Reporting and Recordkeeping Requirements	0560-AF31
62	Debt Settlement for Indian Tribal Land Acquisition Loans	0560-AF43
63	Noninsured Crop Disaster Assistance Program Regulations for the 1998 and Succeeding Crop Years	0560-AF46
64	Cleaning and Reinspection of Farmers' Stock Peanuts	0560-AF56
65	Amendments to the Regulations Governing the Peanut Poundage Quota and Price Support Programs	0560-AF61
66	Production Flexibility Contracts for Wheat, Feed Grains, Rice, and Upland Cotton	0560-AF79
67	Suspension of Collection of Recapture Amount for Borrowers with Certain Shared Appreciation Agreements	0560-AF80
68	2000-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF85
69	2000-Crop Marketing Quotas and Price Support Levels for Five Kinds of Tobacco	0560-AF86
70	Noninsured Crop Disaster Assistance Program Regulations for the 1999 and Succeeding Years	0560-AF90
71	Farm Storage Facility Loan Program	0560-AG00
72	Clarification of Cash Flow Margin Requirements for Farm Service Agency Guaranteed Loans	0560-AG15
73	Bioenergy Program	0560-AG16
74	2000-Crop Agricultural Disaster and Market Assistance	0560-AG18
75	Market Assistance for Tobacco, Wool and Mohair, and Cottonseed	0560-AG19
76	Amendments to the Tobacco Program Regulations	0560-AG21
77	Grazing Payments for 2001 Wheat, Barley, or Oats	0560-AG22
78	Special Apple Program and Emergency Loan for Seed Producers Program	0560-AG23
79	Handling Payments from the Farm Service Agency to Delinquent Farm Credit Program Borrowers	0560-AG24
80	Sugar Payment-In-Kind Program	0560-AG27
81	Livestock Assistance, American Indian Livestock Feed, Pasture Recovery, and Dairy Price Support Programs	0560-AG32
82	Dairy, Honey, and Cranberry Market Loss Assistance and Sugar Programs	0560-AG34
83	Wool, Mohair, and Apples	0560-AG35
84	2000 Crop Disaster Program	0560-AG36
85	2001 Dairy Indemnity Payment Program	0560-AG39
86	Limited California Cooperative Insolvency Payment Program	0560-AG41

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
87	Plant Pest Regulations; Update of Current Provisions **(Section 610 Review)**	0579-AA80
88	Importation of Solid Wood Packing Material	0579-AA99
89	Blood and Tissue Collection at Livestock Slaughtering Establishments	0579-AB13
90	Importation of Unshu Oranges	0579-AB17
91	Phytosanitary Certificates for Imported Fruits and Vegetables	0579-AB18
92	Bees, Beekeeping Byproducts, and Beekeeping Equipment **(Section 610 Review)**	0579-AB20
93	Exportation of Livestock **(Section 610 Review)**	0579-AB21
94	Veterinary Diagnostic User Fees—5-Year Plan for Fees **(Section 610 Review)**	0579-AB22

USDA

Animal and Plant Health Inspection Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
95	Nursery Stock Regulations **(Section 610 Review)**	0579-AB23
96	Animal Welfare—Standards for Marine Mammals **(Section 610 Review)**	0579-AB24

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
97	Karnal Bunt	0579-AA83
98	Interstate Movement of Sheep and Goats From States That Do Not Quarantine Scrapie-Infected and Source Flocks **(Section 610 Review)**	0579-AA90
99	Animal Welfare; Inspection, Licensing, and Procurement of Animals **(Section 610 Review)**	0579-AA94
100	Irradiation Phytosanitary Treatment of Imported Fresh Fruits and Vegetables	0579-AA97
101	Establishment of Regions in the European Union for Hog Cholera, Foot-and-Mouth Disease, and Swine Vesicular Disease	0579-AB03
102	Commercial Transportation of Equines to Slaughter	0579-AB06
103	Citrus Canker; Payments for Commercial Citrus Tree Replacement and Lost Production Income	0579-AB15
104	Plum Pox Compensation	0579-AB19
105	Animal Welfare; Policy on Environment Enhancement for Nonhuman Primates	0579-AB25

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
106	Importation of Certain Embryos and Animal Semen **(Section 610 Review)**	0579-AA63
107	Importation of Fuji Apples From the Republic of Korea	0579-AA93
108	Restrictions on the Importation of Ruminants, Meat and Meat Products From Ruminants, and Certain Other Ruminant Products	0579-AA98
109	Requiring Treatment of Solid Wood Packing Material From China	0579-AB01
110	Importation of Unmanufactured Wood Articles From Mexico	0579-AB02
111	Horse Protection; Horse Industry Organizations	0579-AB04
112	Noxious Weeds; Weed Categories and Priorities **(Section 610 Review)**	0579-AB07
113	Noxious Weeds; Restrictions on Interstate Movement	0579-AB08
114	Aquaculture; Farm-Raised Fin Fish	0579-AB09
115	Pseudorabies in Swine; Payment of Indemnity	0579-AB10
116	Importation of Beef From Brazil	0579-AB16

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
117	Animal Welfare—Standards for Marine Mammals	0579-AA59

Cooperative State Research, Education, and Extension Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
118	Higher Education Multicultural Scholars Program; Administrative Provisions	0524-AA09
119	Hispanic-Serving Institutions Education Grants Program Administrative Provisions	0524-AA17
120	Community Food Projects Administrative Provisions	0524-AA19
121	Small Business Innovation Research Program Administrative Provisions	0524-AA20
122	Biotechnology Risk Assessment Research Grants Program Administrative Provisions	0524-AA21

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Cooperative State Research, Education, and Extension Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
123	National Research Initiative Competitive Grants Program Administrative Provisions	0524-AA22

Rural Housing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
124	Civil Rights Compliance Requirements—1901-E to 1940-D	0575-AA83
125	Servicing Community Programs Loans and Grants	0575-AC12
126	Multi-Family Housing Reinvention	0575-AC13
127	Self-Help Technical Assistance Grants	0575-AC20
128	Operating Assistance for Migrant Farmworker Projects	0575-AC24

Rural Housing Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
129	Reengineering and Reinvention of the Direct Section 502 and 504 Single-Family Housing Program	0575-AB99
130	Guaranteed Rural Housing Loan Single Family	0575-AC18

Rural Housing Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
131	Denying Credit to Applicants Delinquent on Any Federal Debt	0575-AA66
132	Environmental Program	0575-AB98
133	National Flood Insurance Regulations	0575-AC07
134	Technical Assistance To Encourage the Development of Domestic and Migrant Farm Labor Housing	0575-AC25

Rural Housing Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
135	Rural Development Loan Payment and Collection Procedures	0575-AC22
136	Community Programs Guaranteed Loan Program	0575-AC23

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
137	General Administrative Regulations; Subpart D; Application for Crop Insurance	0563-AB00
138	Common Crop Insurance Regulations; Coarse Grains Crop Insurance Provisions	0563-AB64
139	General Administrative Regulations; Movement of Business Among Insurance Providers	0563-AB71
140	General Administrative Regulations; Sanctions	0563-AB73
141	Common Crop Insurance Regulations; Blueberry Crop Insurance Provisions	0563-AB76
142	General Administrative Regulations; Civil Rights Data Collection	0563-AB78
143	Common Crop Insurance Regulations; Nursery Crop Insurance Provisions	0563-AB80
144	General Administrative Regulations; Actual Production History	0563-AB83
145	General Administrative Regulations; Submission of Policies and Provisions of Policies and Rates of Premiums	0563-AB84

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Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
146	General Administrative Regulations; Subpart S; Regulations for Insurance Coverage by Written Agreement	0563-AB07
147	Common Crop Insurance Regulations; Small Grains Crop Insurance Provisions and Wheat Winter Coverage Endorsement	0563-AB63
148	General Administrative Regulations; Nonstandard Underwriting Classification System	0563-AB66
149	General Administrative Regulations; Premium Reductions; Payments of Rebates, Dividends, and Patronage Refunds; and Payments to Insured-Owned and Record-Controlling Entities	0563-AB70
150	Common Crop Insurance Regulations; Millet Crop Insurance Provisions	0563-AB79
151	Catastrophic Risk Protection Endorsement; Group Risk Plan of Insurance Regulations; Basic Provisions	0563-AB81
152	Common Crop Insurance Regulations; Basic Provisions and General Administrative Regulations, Subpart T, Regulations for Implementation	0563-AB85

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identification Number
153	General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions	0563-AB82

Grain Inspection, Packers and Stockyards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
154	Review Inspection Requirements	0580-AA58
155	Livestock Purchase or Sale: Prohibit Non-Reporting of Price	0580-AA65
156	Fees for Official Inspection and Official Weighing Services	0580-AA75

Grain Inspection, Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
157	Tolerances for Dividers	0580-AA57
158	Swine Packer Marketing Contracts	0580-AA71
159	Fees for Commodity and Rice Inspection Services	0580-AA74

Grain Inspection, Packers and Stockyards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
160	Poultry Grower Contracts	0580-AA51
161	Regulations To Ensure More Equitable Competition in the Livestock and Meat Packing Industries (Livestock and Poultry Marketing)	0580-AA72
162	How Can USDA Best Facilitate the Marketing of Grains, Oilseeds, Fruits, Vegetables, and Nuts in Today's Marketplace	0580-AA73

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
163	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions	0584-AB10
164	Food Stamp Program Matching Programs and Privacy Protections	0584-AB51

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Food and Nutrition Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
165	Food Stamp Program Regulatory Review: FSP Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer Systems	0584-AC37
166	FSP: Civil Rights Data Collections	0584-AC75
167	Commodity Supplemental Food Program: Plain Language, Program Accountability, and Program Flexibility	0584-AC84
168	Food Stamp Program: Administrative Cost Reimbursement	0584-AC86
169	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages	0584-AC90
170	Improving Access to the Food Stamp Program for Persons With Limited English Proficiency	0584-AD06

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
171	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts	0584-AB52
172	Food Stamp Program: Anticipating Income and Reporting Changes	0584-AB57
173	Disclosure of Free and Reduced-Price Eligibility Information Under the School Nutrition, Summer Food Service, and Child and Adult Care Food Programs	0584-AC21
174	Child and Adult Care Food Program: Improving Management and Program Integrity	0584-AC24
175	Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools: Provision 2 and Provision 3	0584-AC25
176	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Food Stamp Provisions of the Balanced Budget Act of 1997	0584-AC45
177	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula	0584-AC68
178	Child Nutrition Programs: Reimbursement for Snacks in Afterschool Care Programs	0584-AC72
179	Food Distribution Program: Deletion of Requirement To Evaluate State-Run Commodity Distribution and Warehousing Systems Every 3 Years	0584-AC79
180	FSP: Electronic Benefit Transfer (EBT) Systems Interoperability and Portability	0584-AC91
181	National School Lunch and School Breakfast Programs: Identification of Blended Beef, Pork, Poultry, or Seafood Products	0584-AC92
182	Child and Adult Care Food Program: Implementing Legislative Reforms To Strengthen Program Integrity	0584-AC94
183	Special Nutrition Programs: Disclosure of Children's Eligibility Information to State Medicaid and the State Children's Health Insurance Program (SCHIP)	0584-AC95
184	State Administrative Expense Funds: Plain Language Rewrite	0584-AC96
185	Special Milk Program for Children: Plain Language Revision and Reorganization	0584-AC97
186	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 250, Donation of Foods for Use in the United States, Its Territories and Possessions, and Areas Under Its Jurisdiction	0584-AC98
187	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 251, The Emergency Food Assistance Program (TEFAP)	0584-AC99
188	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 252, The National Commodity Processing Program (NCP)	0584-AD00
189	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 253, the Food Distribution Program on Indian Reservations (FDPIR)	0584-AD01
190	Food Distribution Programs: Plain Language Rewrite of 7 CFR Part 254, the Food Distribution Program on Indian Reservations (FDPIR) in Oklahoma	0584-AD02
191	Nutrition Education and Training Program: 7 CFR Part 227, Plain Language Rewrite	0584-AD03
192	State Agency Liabilities and Federal Sanctions, 7 CFR 276	0584-AD04
193	Payments of Certain Administrative Costs of State Agencies, 7 CFR 277	0584-AD05
194	Implementation of Poultry Substitution Pilot as Permanent and Modification of Commodity Recordkeeping Requirements	0584-AD08

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
195	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems	0584-AA80
196	Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance	0584-AB90

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Food and Nutrition Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
197	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC39
198	FSP: Noncitizen Eligibility and Certification Provisions of Public Law 104-193 (Previously Entitled State Flexibility and Certification Provisions)	0584-AC40
199	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC41
200	Regulatory Reform: Provisions Relating to Firms Participating in the Food Stamp Program	0584-AC48
201	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC51
202	WIC: Certification Integrity	0584-AC76
203	FDPIR: Income Deduction and Miscellaneous Provision Rule	0584-AC81
204	WIC: Non-Discretionary Funding Modifications of Public Law 106-224	0584-AC93
205	Notice—Food Stamp Program Grants To Improve Applicant and Recipient Information	0584-AD07

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
206	Grant and Inauguration of Inspection	0583-AC07
207	Performance Standards for Ready-To-Eat Meat and Poultry Products	0583-AC46
208	Performance Standards for Bacon	0583-AC49
209	Shell Egg and Egg Products Inspection Regulations	0583-AC58
210	Labeling—Generic Approval and Regulation Consolidation	0583-AC59
211	Nutrition Labeling of Ground or Chopped Meat and Poultry Products and Single-Ingredient Products	0583-AC60
212	Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems; Additions to Generic E. Coli Criteria	0583-AC63
213	Other Consumer Protection Activities	0583-AC64
214	Food Standards; Guiding Principles and Standards Modernization	0583-AC72
215	Poultry Inspection: Revision of Finished Product Standards With Respect to Ingesta	0583-AC77
216	Petitions for Rulemaking	0583-AC81
217	Classes of Poultry	0583-AC83
218	Mandatory Inspection of Ratites and Squabs	0583-AC84

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
219	Beef or Pork With Barbecue Sauce; Revision of Standards	0583-AC09
220	Meat Produced by Advanced Meat/Bone Separation Machinery and Recovery Systems	0583-AC51
221	Incorporation of Food and Color Additives Into 21 CFR	0583-AC69
222	Sharing Recall Information With State and Other Federal Government Agencies	0583-AC75
223	Agency Organization	0583-AC78
224	Labeling of Natural or Regenerated Collagen Sausage Casings	0583-AC80
225	Food Standards: Requirements for Substantive Standardized Meat and Poultry Products Named by Use of an Expressed Nutrient Content Claim and a Standardized Term	0583-AC82

Food Safety and Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
226	Transportation, Storage, and Other Handling of Potentially Hazardous Foods	0583-AC05
227	Performance Standard for the Chilling or Other Processing of Livestock Carcasses and Ready-To-Cook Poultry	0583-AC21
228	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry	0583-AC43
229	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products	0583-AC44

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Food Safety and Inspection Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
230	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration	0583-AC53
231	Reform of Regulations on Imported Meat and Poultry Products	0583-AC56
232	Food Labeling; Nutrient Content Claims, Definition of the Term Healthy	0583-AC65
233	Elimination of Requirements for Total Quality Control Systems	0583-AC68
234	Performance Standards for On-line Antimicrobial Reprocessing of Pre-Chill Poultry Carcasses	0583-AC73
235	Terminology	0583-AC79

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
236	Retained Water in Raw Meat and Poultry Products; Poultry-Chilling Performance Standards	0583-AC26
237	Agency Terminology	0583-AC57
238	Transfer and Development of Shell Egg Requirements	0583-AC70
239	Increases in Fees for Meat, Poultry, and Egg Products Inspection Services—Fiscal Year (FY) 2001	0583-AC74

Foreign Agricultural Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
240	Export Sales Reporting Requirement	0551-AA51

Foreign Agricultural Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
241	CCC Supplier Credit Guarantee Program	0551-AA30
242	Facility Guarantee Program	0551-AA35

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
243	Hydropower Applications	0596-AA47
244	Small Tracts Act Regulations	0596-AA79
245	Species Surplus to Domestic Manufacturing Needs	0596-AB27
246	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands	0596-AB45
247	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber	0596-AB48
248	Law Enforcement Support Activities	0596-AB61
249	Noncompetitive Sale of Timber	0596-AB70
250	Categorical Exclusion for Certain Special Uses Permit Actions (FSH 1909.15, Chapter 30)	0596-AB73
251	Clarification of Exemptions From Special-Use Authorizations	0596-AB74
252	Sale and Disposal of National Forest System Timber; Timber Export and Substitution Restrictions	0596-AB75
253	Use of Fixed Anchors in Wilderness	0596-AB80
254	Special Forest Products and Forest Botanical Products	0596-AB81
255	Determining Fair Market Value for Recreation Residence Use Authorizations	0596-AB83

USDA

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
256	Indian Allotments on National Forest System Lands	0596-AA52
257	Disposal of National Forest Timber; Cancellation of Timber Sale Contracts	0596-AB21
258	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36
259	Preference for Visitor Service; Alaska National Forest Conservation System Units	0596-AB57

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
260	National Forest System Land and Resource Management Planning	0596-AB20
261	Administration of the Forest Development Transportation System	0596-AB67
262	Appeal of Regional Guides and National Forest Land and Resource Management Plans; Multi-Agency Decisions	0596-AB76
263	Special Areas: Roadless Area Conservation	0596-AB77

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
264	General Nonprocurement Regulations	0503-AA21

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
265	Nondiscrimination in USDA-Conducted Programs and Activities	0503-AA15
266	Designation of Rural Empowerment Zones and Enterprise Communities	0503-AA20

Rural Business-Cooperative Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
267	Intermediary Relending Program Participation Agreements	0570-AA33

Rural Business-Cooperative Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
268	Business and Industry Direct Loan Program	0570-AA22
269	Business and Industrial Guaranteed Loan Program—Miscellaneous Changes	0570-AA23
270	Affirmative Fair Housing Marketing Plan	0570-AA24
271	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock	0570-AA26
272	Rural Business Enterprise Grant Program	0570-AA28

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Rural Business-Cooperative Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
273	Rural Economic Development Loan and Grant Program	0570-AA19
274	Allocation Formulas	0570-AA30
275	The Rural Business Enterprise Grants and Television Demonstration Grants	0570-AA32

Rural Business-Cooperative Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
276	Rural and Rural Area Under the Rural Community Advancement Program	0570-AA27
277	Business and Industry Guaranteed Loan Program—Domestic Lamb Industry Adjustment Assistance Program Set-Aside	0570-AA31

Rural Utilities Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
278	Telecommunications Standards and Specifications for Materials, Equipment, and Construction	0572-AB40
279	Servicing of Water Programs Loans and Grants	0572-AB59
280	Mergers and Consolidations of Electric Borrowers	0572-AB63
281	Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans	0572-AB64
282	Demand Side Management and Renewable Energy Systems	0572-AB65

Rural Utilities Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
283	Post-Loan Policies and Procedures Common to Guaranteed and Insured Loans	0572-AB48
284	Water and Waste Disposal Programs Guaranteed Loans	0572-AB57
285	Elimination of Current Ratio Requirements	0572-AB58
286	Extensions of Payments of Principal or Principal and Interest	0572-AB60
287	Settlement of Debt	0572-AB61
288	Policy on Audits of RUS Borrowers; Generally Accepted Government Auditing Standards (GAGAS)	0572-AB62
289	Policy on Audits of RUS Borrowers: Management Letter	0572-AB66

Rural Utilities Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
290	Electric Standards and Specifications for Materials and Construction	0572-AA67
291	RUS Approval of Additions and Extensions to Electric Plants	0572-AB38
292	Telecommunications System Construction Contract and Specifications	0572-AB41
293	The "Buy American" Requirement	0572-AB55

Rural Utilities Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
294	Solid Waste Management Grants	0572-AB14
295	Technical Assistance and Training Grants	0572-AB15

USDA

Rural Utilities Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
296	Seismic Safety	0572-AB47
297	General and Pre-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AB52
298	Electric Engineering, Architectural Services, and Design Policies and Procedures	0572-AB54

Natural Resources Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
299	Conservation of Private Grazing Land	0578-AA29
300	Emergency Watershed Protection Program	0578-AA30

Natural Resources Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
301	Forestry Incentives Program	0578-AA26
302	Wetland Categorical Minimal Effects Exemptions	0578-AA27

Natural Resources Conservation Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
303	Highly Erodible Land and Wetland Conservation	0578-AA17

Office of Procurement and Property Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
304	Agriculture Acquisition Regulation: Amendment to Part 442, Contract Administration	0599-AA08
305	Agriculture Acquisition Regulation; Part 419 Amendment; North American Industrial Classification System	0599-AA09
306	Office of Procurement and Property Management (OPPM); Uniform Procedures for the Acquisition and Transfer of Excess Federal Property	0599-AA10

Office of Procurement and Property Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
307	New Restrictions on Lobbying	0599-AA03
308	Agriculture Acquisition Regulation (AGAR); Contractor Employment of Migrant and Seasonal Agricultural Workers	0599-AA05

Office of Procurement and Property Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
309	Department of Agriculture Priorities and Administrative Guideline for Donation of Excess Research Equipment	0599-AA06

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

1. PROCESSED FRUITS AND VEGETABLES: QUALIFIED THROUGH VERIFICATION (QTV)

Priority: Other Significant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 52

Legal Deadline: None

Abstract: The Department of Agriculture (USDA) is proposing to revise the regulations governing inspection and certification of processed fruits and vegetables and certain other products by making changes to the definitions for the terms "inspection service, general"; "inspection service, types of"; "official identification"; and "official marks" to specifically provide for a new voluntary audit-based inspection service for food safety and wholesomeness under the authority of the Agricultural Marketing Act (AMA) of 1946, amended. The "Qualified Through Verification" (QTV) Program was developed as a pilot program in 1995 at the request of the fresh-cut produce industry. The industry asked for a voluntary audit and verification service using science-based techniques that would help maintain public confidence in the wholesomeness of minimally processed fruits and vegetables. AMS finds that the economic impact of this action on businesses should be similar in effect to other existing voluntary programs within the Agency and that firms availing themselves of the QTV program will not necessarily have a significant marketing advantage or risk over those that do not use the service. It is reasonable to assume that a company would not choose to participate in the program unless it expected benefits to exceed costs. AMS went out in a variety of ways, public meetings and public notice to inform the public of the new service which was requested initially by the fresh-cut produce industry. The AMA of 1946 provides AMS authority for offering voluntary quality assurance and related services.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: James R. Rodeheaver, Chief, Processed Products Branch, Department of Agriculture, Agricultural Marketing Service, MS 0709, Fruit & Vegetable Programs, P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 720-4693
Fax: 202 690-1087
Email: james.rodeheaver@usda.gov

RIN: 0581–AB58

2. GENERAL SPECIFICATIONS FOR DAIRY PLANTS APPROVED FOR USDA INSPECTION AND GRADING

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 58

Legal Deadline: None

Abstract: The proposed rule would: (1) Lower the maximum allowable bacterial estimate for manufacturing-grade producer milk from 1,000,000 per milliliter to 500,000 per milliliter; (2) lower the maximum allowable somatic cell count from 1,000,000 to 750,000 cells per milliliter; (3) lower the maximum permitted bacterial estimate in commingled milk from 3,000,000 per milliliter to 1,000,000 per milliliter; (4) modify the follow-up procedures when producer herd milk exceeds the maximum allowable bacterial estimate; (5) delete the laboratory screening test for somatic cells in producer-held milk samples (no change for goat milk); and (6) make editorial changes where necessary.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Duane R. Spomer, Chief, Standardization Branch, Department of Agriculture, Agricultural Marketing Service, Rm. 2746-South, Dairy Programs, P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 720-7473
Fax: 202 720-2643
Email: duane.spomer@usda.gov

RIN: 0581–AB59

3. TOBACCO FEES AND CHARGES FOR PERMISSIVE INSPECTION: FEE INCREASE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 511 et seq

CFR Citation: 7 CFR 29

Legal Deadline: None

Abstract: The U.S. Department of Agriculture (the Department) is proposing to increase the fees and charges currently in force for permissive grading of quota and nonquota tobacco to reflect the increased costs of operating the program. The Tobacco Inspection Act requires the Secretary to fix and collect fees and charges for the voluntary inspection and certification of tobacco, and fees must cover, as nearly as practicable, the Department's costs for performing these services. The Agricultural Marketing Service is proposing that the base hourly rate be revised to $47.40, the overtime rate shall be revised to $54.22, and Sunday and holiday rate will be revised to $69.38. These fees would cover expenses and maintain a reserve that would meet any reasonable contingency.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John P. Duncan III, Deputy Administrator, Department of Agriculture, Agricultural Marketing Service, Ag Code 0280, Tobacco Programs, Room 502 Annex Bldg., P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 205-0567
Fax: 202 205-0235
Email: john.duncan3@usda.gov

RIN: 0581–AB86

4. • HASS AVOCADO PROMOTION, RESEARCH, AND INFORMATION ORDER

Priority: Routine and Frequent

Legal Authority: 7 USC 7801 to 7813

CFR Citation: 7 CFR 1219

Legal Deadline: None

USDA—AMS

Proposed Rule Stage

Abstract: Under the Hass Avocado Promotion, Research, and Information Order, Hass avocado producers and importers will pay an assessment of 2.5 cents per pound on Hass avocados produced and imported into the U.S. The funds will be used by the Hass Avocado Board to increase demand for Hass avocados in the U.S.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	
Referendum	09/00/01	
Final Action	11/00/01	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Margaret B. Irby, Assistant Branch Chief, Department of Agriculture, Agricultural Marketing Service, Stop 0244, Fruit & Vegetable Programs, 14th & Independence Avenue SW, Washington, DC 20250-0244
Phone: 202 720-9915
Fax: 202 205-2800
Email: margaret.irby@usda.gov

RIN: 0581–AB92

5. • REVISION OF USER FEES FOR 2001 CROP COTTON CLASSIFICATION SERVICES TO GROWERS (CN-00-010)

Priority: Info./Admin./Other

Legal Authority: 7 USC 473a

CFR Citation: 7 CFR 28

Legal Deadline: Final, Statutory, June 1, 2001.

Abstract: This action would increase the user fees for cotton producers for the 2001 crop cotton classification services under the Cotton Statistics and Estimates Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Darryl Earnest, Assistant to the Associate Director, Department of Agriculture, Agricultural Marketing Service, Room 2633 - Stop 0224, Washington, DC
Phone: 202 720-2145
Fax: 202 690-1718

RIN: 0581–AB94

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Final Rule Stage

6. VOLUNTARY SHELL EGG REGULATIONS; REPACKAGING OF SHELL EGGS UNDER USDA'S GRADING PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: Currently about one-third of the Nation's table eggs are marketed under the voluntary shell egg-grading program. Shell egg processors that choose to use this service pay a fee to have graders in their plants monitor processing operations and verify the grade and size of eggs packaged into packages bearing the USDA grade shield. The proposal would provide that, in order to be officially identified with a USDA consumer grade shield, shell eggs must not be more than 15 days old (or some other period between 15 and 30 days if justified by public comment) and must not have been previously shipped for retail sale.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40522
NPRM Comment Period End	09/27/99	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Bowden, Jr., Chief, Standardization Br., Poultry Programs, Department of Agriculture, Agricultural Marketing Service, Room 3944-S, MS 0259, 1400 Independence Avenue SW, Washington, DC 20250-0259
Phone: 202 720-3506
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Email: david.bowden@usda.gov

RIN: 0581–AB56

7. HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Priority: Routine and Frequent

Legal Authority: PL 105-185

CFR Citation: 7 CFR 1240

Legal Deadline: None

Abstract: This action amends the Honey Research, Promotion, and Consumer Information Order (Order) and its rules and regulations. The Order is authorized under the Honey Research, Promotion, and Consumer Information Act (Act) (October 30, 1984), as amended. The Act was most recently amended in the Agricultural Research Extension and Education Reform Act of 1997, which was signed into law on June 23, 1998. This action would amend the Order to implement the numerous amendments contained in the Act.

Timetable:

Action	Date	FR Cite
NPRM	02/28/00	65 FR 10600
NPRM Comment Period End	04/28/00	
Second NPRM	08/07/00	65 FR 48324
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kathie Birdsell, Research and Promotion Branch, Department of Agriculture, Agricultural Marketing Service, Room 2535-South, Stop 0244, Fruit and Vegetable Program, 14th and Independence Avenue SW, Washington, DC 20250-0244
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Email: kathie.birdsell@usda.gov

RIN: 0581–AB84

USDA—AMS — **Final Rule Stage**

8. TOBACCO FEES AND CHARGES FOR MANDATORY INSPECTION: FEE INCREASE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 511 et seq

CFR Citation: 7 CFR 29

Legal Deadline: None

Abstract: The U.S. Department of Agriculture (the Department) is increasing the fees and charges for mandatory inspection and certification of producer tobacco sold at designated auction markets. The current fee of $.0083 per pound has been in effect since 1995. The new rate will be $.0100 per pound. Due to reduced quotas, the volume of tobacco delivered for inspection has declined. An increase of $.0017 per pound is necessary to adequately fund the level of service the industry desires.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/26/00	65 FR 34039
Interim Final Rule Effective	05/30/00	
Interim Final Rule Comment Period End	06/26/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John P. Duncan III, Deputy Administrator, Department of Agriculture, Agricultural Marketing Service, Ag Code 0280, Tobacco Programs, Room 502 Annex Bldg., P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 205-0567
Fax: 202 205-0235
Email: john.duncan3@usda.gov

RIN: 0581–AB87

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS) — **Long-Term Actions**

9. NATIONAL LABORATORY ACCREDITATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	11/20/92	57 FR 54727
ANPRM Comment Period End	01/19/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: James V. Falk
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RIN: 0581–AB42

10. OLIVE OIL PROMOTION, RESEARCH, AND INFORMATION ORDER

Priority: Routine and Frequent

CFR Citation: 7 CFR 1217

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46754
NPRM Comment Period End	12/03/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret B. Irby
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RIN: 0581–AB62

11. CHANGES IN FEES FOR FEDERAL GRADING AND CERTIFICATION OF LIVESTOCK FOR CHICAGO MERCANTILE EXCHANGE FUTURES DELIVERIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 53

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John E. VanDyke
Phone: 202 720-6231
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Email: john.vandyke@usda.gov

RIN: 0581–AB66

12. PROGRAM TO ASSESS ORGANIC CERTIFYING AGENCIES

Priority: Other Significant

CFR Citation: 7 CFR 37

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/99	64 FR 30861
Interim Final Rule Effective	06/10/99	
Interim Final Rule Comment Period End	08/09/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Larry R. Meadows
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Email: larry.meadows@usda.gov

RIN: 0581–AB70

13. REGULATIONS GOVERNING THE INSPECTION OF EGGS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 57

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rex A. Barnes
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Email: rex.barnes@usda.gov

RIN: 0581–AB74

14. VOLUNTARY GRADING OF SHELL EGGS (PY-01-002)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 56

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0581–AB88

USDA—AMS — **Long-Term Actions**

15. DISCONTINUE THE OFFICIAL GRADING OF IMPORTED BEEF, LAMB, VEAL, AND CALF CARCASSES UNDER THE AUTHORITY OF THE AGRICULTURAL MARKETING ACT OF 1946

Priority: Other Significant

CFR Citation: 7 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	02/01/00	65 FR 4780
NPRM Comment Period End	04/03/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Craig A. Morris
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Email: craig.morris@usda.gov

RIN: 0581–AB90

16. • SUBPART A—REGULATIONS GOVERNING THE INSPECTION AND GRADING SERVICE OF MANUFACTURED OR PROCESSED DAIRY PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 58

Legal Deadline: None

Abstract: These regulations have not been updated since December 1, 1976. The proposal will establish a revision of the existing regulations to strengthen program integrity, to update the regulations to accurately reflect inspection and grading services available, and to clarify the meaning of the regulation provisions. The proposed changes are not expected to have any major impact on program participants as most participants are operating in a manner that is consistent with the proposed changes.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: F. Tracy Schonrock, Chief, Dairy Grading Branch, Department of Agriculture, Agricultural Marketing Service, Dairy Programs, Rm. 2746 S., P.O. Box 96457, Washington, DC 20090-6456
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Fax: 202 720-2643
Email: tracy.schonrock@usda.gov

RIN: 0581–AB93

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS) — **Completed Actions**

17. NATIONAL ORGANIC PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 205

Completed:

Reason	Date	FR Cite
Final Action	12/21/00	65 FR 80548
Final Action Effective	02/20/01	
Delay of Effective Date until 04/21/2001	03/20/01	66 FR 15619

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Tribal

Agency Contact: Keith Jones
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RIN: 0581–AA40

18. LIVESTOCK MANDATORY REPORTING ACT OF 1999

Priority: Economically Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	12/01/00	65 FR 75463
Final Action Effective Date Postponed to 04/02/2001	01/30/01	66 FR 8151

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: John E. VanDyke
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RIN: 0581–AB64

19. REGULATIONS GOVERNING THE CERTIFICATION OF SANITARY DESIGN AND FABRICATION OF EQUIPMENT USED IN THE PROCESSING OF LIVESTOCK AND POULTRY PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 54

Completed:

Reason	Date	FR Cite
Final Action	01/05/01	66 FR 1190
Final Action Effective	01/08/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Craig A. Morris
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RIN: 0581–AB69

20. CHANGES IN FEE FOR VOLUNTARY FEDERAL FRUITS AND VEGETABLES, PROCESSED

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	11/06/00	65 FR 66485
Final Action Effective	11/19/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0581–AB85

USDA—AMS — **Completed Actions**

21. CHANGES IN FEES FOR SCIENCE AND TECHNOLOGY LABORATORY SERVICE (S&T-99-008 PR)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 90 to 94; 7 CFR 98

Completed:

Reason	Date	FR Cite
Final Action	10/26/00	65 FR 64302
Final Action Effective	10/27/00	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

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RIN: 0581–AB91

BILLING CODE 3410–02–S

DEPARTMENT OF AGRICULTURE (USDA) — **Proposed Rule Stage**

Farm Service Agency (FSA)

22. REGULATORY STREAMLINING OF THE FARM SERVICE AGENCY'S DIRECT FARM LOAN PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 7; 7 CFR 18

Legal Deadline: None

Abstract: The Farm Service Agency (FSA) direct farm loan programs are still using the regulations and handbooks from the former Farmers Home Administration and still share many of its regulations, forms, and handbooks with the Rural Housing Service, Rural Utilities Service, and the Rural Business-Cooperative Services of the Rural Development Agency. This is very cumbersome and confusing to both Agency employees and the general public. This action will move all the direct farm loan program regulations from 7 CFR chapter 18 to 7 CFR chapter 7 and will allow FSA the opportunity to rewrite and re-engineer its direct farm loan program regulations. This action also consolidates a number of actions that were previously included in the regulatory agenda under separate RINs: 0560-AE04, 0560-AE07, 0560-AE09, 0560-AE11, 0560-AE13, 0560-AE14, 0560-AE15, 0560-AE37, 0560-AE87, 0560-AE88, 0560-AE90, 0560-AE98, and 0560-AE99.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AF60

23. • LIVESTOCK INDEMNITY PROGRAM AND LIVESTOCK INDEMNITY PROGRAM FOR CONTRACT GROWERS

Priority: Other Significant

Legal Authority: PL 106-387

CFR Citation: 7 CFR 1439

Legal Deadline: None

Abstract: This rule implements provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 related to the 2000 Livestock Indemnity Program (LIP 2000) and Livestock Indemnity Program for Contract Growers (LIP-CG). It will make benefits available under LIP 2000 for livestock losses incurred during calendar year (CY) 2000 and extend the availability of benefits under LIP-CG to include benefits for livestock losses incurred during the period January 1, 2000, through February 7, 2000. Other provisions of those programs will remain unchanged. $10 million was appropriated for LIP; no new funding was provided for LIP-CG, but about $9 million remains from LIP-CG funding for 1999.

Timetable:

Action	Date	FR Cite
Final Rule: LIP-CG	12/29/00	65 FR 82892
NPRM: LIP 2000	03/07/01	66 FR 13679
NPRM Comment Period End: LIP 2000	04/06/01	
Final Rule: LIP 2000	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG33

24. • CONSERVATION RESERVE PROGRAM—FAILURE TO ESTABLISH COVER AND GOOD FAITH RELIANCE

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-387

CFR Citation: 7 CFR 1410

Legal Deadline: None

Abstract: Section 817 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for FY 2001, amends section 1232 of the Food Security Act of 1985 to provide that the Secretary shall not terminate Conservation Reserve Program contracts for failure to establish an approved vegetative or water cover on the land if the failure to establish the cover was due to excessive rainfall or flooding, the land capable of being established to a cover is established to that cover, and the land on which the owner or operator was prevented from planting a cover is planted when the wet conditions subside. Section 755 of the Act authorized the Secretary to provide equitable relief to an owner or operator that has entered into a contract and is subsequently determined to be in violation of the contract, if the owner or operator in attempting to comply with the terms of the contract and enrollment requirements took actions in good faith reliance on the action or advice of an authorized representative of the Secretary. These actions are not expected to change program costs.

USDA—FSA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	03/15/01	66 FR 15048
NPRM Comment Period End	05/14/01	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0560–AG37

25. • IMPLEMENTATION OF THE U.S. WAREHOUSE ACT OF 2000

Priority: Other Significant

Legal Authority: PL 106-432

CFR Citation: 7 CFR 735 to 742

Legal Deadline: NPRM, Statutory, February 7, 2001.
Final, Statutory, May 8, 2001.

Abstract: The U.S. Warehouse Act of 2000 replaced the existing statutes governing federally licensed warehouses. This action implements that Act and will re-write all the CFR parts governing warehouses. The new statute requires the Secretary of Agriculture to promulgate new regulations that will revitalize and streamline the Federal program governing agricultural commodity warehouses on or before August 1, 2001. This will make U.S. agriculture more competitive in both domestic and foreign markets through efficiencies and cost savings provided by today's computer technology and information management systems.

The Warehouse Act of 2000 makes this program more relevant to today's agricultural marketing system. The statute and its regulations authorize and standardize electronic documents and allow their transfer from buyer to seller across State and international boundaries. This new paperless flow of agricultural commodities from farm gate to end-user will provide significant savings and efficiencies for farmers across the Nation.

The Congress originally enacted the USWA in 1916, and it was subsequently amended in 1919, 1923, and 1931. However, since that time, the authorizing legislation for this program has seen little change. At the same time, U.S. agriculture and our society have seen drastic changes. Computer technology has revolutionized our world and laptops and handheld computers have become commonplace. The new USWA provides USDA the tools to bring its agricultural warehouse program fully into the information age.

The new USWA allows federally licensed warehouse operators to issue electronic warehouse receipts for any approved agricultural product, an authority previously granted to cotton, as well as electronically transmit other business documents, such as grade and weight certificates, certificates, bills of lading, export evidence certificates, and business-related documents required by letters of credit.

In 1992, the Congress directed the Secretary of Agriculture to establish electronic warehouse receipts for the cotton industry. Since then, participation in the electronic-based program has grown to more than 90 percent of the U.S. cotton crop. Recently, the cotton industry estimated that this electronic system saves them $5 to $15 per bale, a savings of more than $275 million per year. The proposed legislation would extend this electronic warehouse receipt program to all agricultural commodities covered by the U.S. Warehouse Act. This reduced paperwork, increased efficiency, and substantial time savings will make U.S. agriculture more competitive in world markets.

The USWA is paid for through user fees. Therefore, implementation of the USWA is basically budget neutral statute.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG45

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**

Farm Service Agency (FSA)

26. PART 1946 MEDIATION; SUBPART A—AGRICULTURAL LOAN MEDIATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 7 USC 301; PL 103-354, sec 282; PL 106-472, sec 306

CFR Citation: 7 CFR 1946 subpart A

Legal Deadline: Final, Statutory, October 13, 1994.

Abstract: Legislation expanded the State Mediation Programs to include wetland determinations, conservation compliance, and other issues the Secretary deems appropriate. This action will establish procedures for certification and for administering the matching grant program, and set out the Department's duties to participate in such programs. The USDA Reorganization Act of 1994 requires mediation to be a part of the informal hearing process when an officer, employee, or committee of an agency makes an adverse decision. The legislation also requires certification of a State's Mediation Program in order to participate in mediation pursuant to a State's Certified Mediation Program and to enable a State to receive a Federal matching grant(s) to be used for the operation and administration of the program. The Agriculture Improvement Act of 1992 increased the percentage

USDA—FSA — **Final Rule Stage**

of grants to 70 percent from 50 percent of the cost of a State's program, limited to $500,000, whichever is the lesser. The Reorganization Act of 1994 extended the mediation program authority through fiscal year 2000. The Grain Standards and Warehouse Improvement Act of 2000 (Pub. L. 106-472) re-authorizes the mediation program by extending it until 2005, clarifies that funds appropriated by Congress to the mediation program be used for farm credit cases, including USDA direct and guaranteed loans and loans from commercial entities, and stresses that mediation services can facilitate counseling services to prepare farmers prior to mediation.

Timetable:

Action	Date	FR Cite
NPRM	11/09/99	64 FR 61034
NPRM Comment Period End	01/10/00	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: This entry was reported as RIN 0575-AB91 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AE26

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27. LAMB MEAT ADJUSTMENT ASSISTANCE PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 612c

CFR Citation: 7 CFR 784

Legal Deadline: None

Abstract: This program will provide monetary assistance to eligible sheep and lamb producers who have recently experienced record low prices and poor market conditions due the recent surge of low-priced, imported lamb meat. Lamb meat is being imported into the United States in such increased quantities as to be a substantial cause of threat of serious injury to the domestic lamb meat industry. During the first year of the program, benefits will be provided to eligible sheep and lamb producers throughout the United States based on the number of rams purchased, the number of sheep enrolled in the National Sheep Improvement Program, and the cost of lambing facility improvements during the period August 1, 1999, through July 31, 2000. During the second and third year, benefits will be provided to eligible sheep and lamb producers throughout the United States based on the number of slaughter lamb and feeder lamb marketed, grade, weight, and muscling during the period August 1, 2000, through July 31, 2002. The expected cost is $30 million.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	06/19/00	
Interim Final Rule	06/21/00	65 FR 38412
Interim Final Rule Comment Period End	07/21/00	
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG17

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28. • REDUCTION OF AMORTIZED SHARED APPRECIATION RECAPTURE INTEREST RATE

Priority: Other Significant

Legal Authority: PL 87-128; PL 106-387

CFR Citation: 7 CFR 761; 7 CFR 1910; 7 CFR 1927; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945

Legal Deadline: None

Abstract: The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act (Pub. L. 106-387) did not adequately fund the Agency's administrative expenses associated with loan making and loan servicing functions. Specifically, the administrative expenses associated with loan making and loan servicing for fiscal year 2001 are estimated to exceed the $4.3 million appropriated. When the funds appropriated are expended, which is estimated to occur around June or July 2001, the Agency will have no alternative but to discontinue all loan making and servicing activities requiring the expenditure of administrative program funds. Applicants and borrowers would experience delays in receiving loan making and servicing assistance. In certain situations, the Government's security interest may be adversely affected. Public Law 87-128, the Consolidated Farm and Rural Development Act, CONACT sec 307(b) and sec 339(a), provides the legal authority to charge applicants and borrowers fees associated with administering the loan program. Therefore, the Agency intends to begin charging applicants and borrowers (those currently indebted to USDA, FSA) a portion of the fee associated with real estate appraisals. This action, when approved, will conform to lending practices currently in use by commercial agricultural lenders. The expected cost to the public will be about $2.3 million.

Timetable:

Action	Date	FR Cite
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG43

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29. • COLLECTING GUARANTEED LOSS PAYMENTS FROM FSA FARM LOAN PROGRAM BORROWERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716

CFR Citation: 7 CFR 762

Legal Deadline: None

USDA—FSA — **Final Rule Stage**

Abstract: This action will revise FSA regulations to provide that any amounts paid by FSA on account of a guaranteed loan borrower will constitute a Federal debt owed to FSA by the guaranteed loan borrower. The rule will not affect any guaranteed borrowers who have had loss claims paid on their guaranteed loans at the present time. Under the new rule, when farmers apply for a guaranteed loan, they will sign a loan application, which includes a section entitled "Federal Debt," in which they agree that any amounts paid by FSA on account of the liabilities of the guaranteed loan borrower will constitute a Federal debt owed to FSA by the guaranteed loan borrower. In such cases, FSA may use all remedies available to it, including offset under the Debt Collection Improvement Act, to collect the debt from the borrower. It will affect only those guaranteed borrowers who have a loss claim paid by FSA to the lender from whom they received a guaranteed loan. Currently, there are approximately 40,000 guaranteed farm loan borrowers with 67,000 loans. Approximately 1,200 loss claims are paid on guaranteed loans per year, and approximately 100 of those loans are discharged in bankruptcy, leaving approximately 1,100 loans that could be considered for offset.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG44

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Long-Term Actions

30. SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Priority: Info./Admin./Other

CFR Citation: 7 CFR 7

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE50

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31. AMENDMENTS TO THE STANDARDS FOR APPROVAL OF WAREHOUSE FOR COMMODITY CREDIT CORPORATION STORAGE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1421; 7 CFR 1423; 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM-Part 1421	To Be	Determined
NPRM-Part 1423	To Be	Determined
NPRM-Part 1427	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AE54

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32. DELETION OF FSA REGULATIONS REGARDING COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 702; 7 CFR 703; 7 CFR 752

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE33

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33. AMENDMENTS TO THE DEBT SETTLEMENT POLICIES AND PROCEDURES TO CONFORM TO THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

Priority: Other Significant

CFR Citation: 7 CFR 792; 7 CFR 1403; 7 CFR 1404

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF22

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34. AMENDMENT TO THE FARM RECONSTITUTION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 718

Timetable:

Action	Date	FR Cite
NPRM	02/04/00	65 FR 5444
NPRM Comment Period End	03/06/00	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF36

35. DAIRY RECOURSE LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1430

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39442
NPRM Comment Period End	09/07/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF41

36. 1999-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF50

37. REMOVE INTERNAL AGENCY PROVISIONS FROM FSA FARM CREDIT PROGRAM REGULATIONS FOR LIQUIDATION OF LOANS SECURED BY REAL ESTATE AND ACQUISITION OF REAL AND CHATTEL PROPERTY

Priority: Info./Admin./Other

CFR Citation: 7 CFR 1955

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF53

38. SMALL HOG OPERATION PAYMENT PLAN

Priority: Other Significant

CFR Citation: 7 CFR 761

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	02/05/99	
Interim Final Rule	02/10/99	64 FR 6495
Interim Final Rule Comment Period End	03/12/99	
Interim Final Rule Comment Period End (Information Collections)	04/12/99	
Interim Final Rule Effective (SHOP II)	08/26/99	
Interim Final Rule	08/30/99	64 FR 47097
Interim Final Rule Comment Period End	09/29/99	
Interim Final Rule Comment Period End (Information Collections)	10/29/99	
Correction	11/17/99	64 FR 62565
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF70

39. LOW DOCUMENTATION LOAN

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1941

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/01	66 FR 1570
Interim Final Rule Effective	01/09/01	
Interim Final Rule Comment Period End	03/12/01	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF71

40. STREAMLINING OF THE EMERGENCY FARM LOAN PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1945

Timetable:

Action	Date	FR Cite
NPRM	09/12/00	65 FR 54973
NPRM Comment Period End	11/13/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF72

41. AMENDMENTS TO THE CONSERVATION RESERVE PROGRAM REGULATIONS REGARDING LAND ELIGIBILITY

Priority: Other Significant

CFR Citation: 7 CFR 1410

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF77

42. 2000-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES FOR QUOTA AND ADDITIONAL PEANUTS AND MINIMUM EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 729; 7 CFR 1446

Timetable:

Action	Date	FR Cite
NPRM	11/30/99	64 FR 66790

Action	Date	FR Cite
NPRM Comment Period End	12/10/99	
Quota Announcement	12/13/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF83

43. 2000-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Quota Announcement	12/15/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF84

44. DISASTER SET-ASIDE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/00	65 FR 31248
Interim Final Rule Comment Period End	07/17/00	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF91

45. DESIGNATION OF NON-AUCTION TOBACCO

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1464

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG07

46. AGRICULTURAL DISASTER AND MARKET ASSISTANCE

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1411; 7 CFR 1427; 7 CFR 1439; 7 CFR 1464; 7 CFR 1478

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/00	65 FR 36550
Interim Final Rule Comment Period End	07/10/00	
Correction	08/01/00	65 FR 47840
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG14

47. NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 2001 AND SUCCEEDING CROP YEARS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1437

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG20

48. NORTHEAST INTERSTATE DAIRY COMPACT

Priority: Other Significant

CFR Citation: 7 CFR 1430

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG25

49. EMERGENCY CONSERVATION PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 701

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG26

50. 2001-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG28

51. 2001-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG29

52. 2001-CROP MARKETING AND PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG30

53. 2001-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES FOR 2001-CROP QUOTA AND ADDITIONAL PEANUTS AND MINIMUM EXPORT EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 729; 7 CFR 1421; 7 CFR 1446

Timetable:

Action	Date	FR Cite
Announcement	12/15/00	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG31

54. • CONSERVATION OF FARMABLE WETLANDS

Priority: Other Significant

Legal Authority: 16 USC 3831 et seq, as amended by PL 106-387

CFR Citation: 7 CFR 1410

Legal Deadline: None

Abstract: Title XI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for FY 2001 amended the statute governing the Conservation Reserve Program (CRP) to provide that the Secretary shall carry out during 2001 and 2002 a pilot program for the enrollment of wetland and buffer acreage in the CRP in the States of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota. Wetlands must have been cropped in at least 3 of the immediately preceding 10 crop years, and buffer acreage must be contiguous to, and used to protect, the wetland. The maximum wetland size shall be 5 contiguous acres and the maximum buffer size shall be the greater of 3 times the size of the associated wetland or 150 feet on either side of the wetland. The maximum total tract size shall be 40 acres. Up to 500,000 acres may be enrolled in all of the States combined, with no more than 150,000 in any one State. Section 1105 of the Act exempts the promulgation of the regulations and administration of the program from the public notice requirements of 5 U.S.C. 553 and the requirements of the Paperwork Reduction Act. The program is not expected to change Government outlays.

Timetable:

Action	Date	FR Cite
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG38

55. • TOBACCO LOSS ASSISTANCE PROGRAM AND AMENDMENTS TO THE TOBACCO MARKETING QUOTA REGULATIONS

Priority: Other Significant

Legal Authority: PL 106-387

CFR Citation: 7 CFR 1464

Legal Deadline: None

Abstract: Section 841 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 requires the Secretary to make payments to each person who owns or operates, or produces eligible tobacco on, a farm for which the quota was reduced from the 1999 to the 2000 crop year, without regard to the program's requirement under its original statute that the farm be used for production during the 2000 crop year. This will make payments available to producers who had been denied benefits because they did not use their quota during 2000. Payments to an eligible person shall be in the same amount as were made to an eligible person in the earlier program. This action will also implement the provisions of Public Law 106-224 regarding the lease, transfer, and sale of burley tobacco marketing quotas and allotments. These provisions are exempt from the public notice requirements of 5 U.S.C. 553 and will be issued as final. The expected cost is less than $5 million.

Timetable:

Action	Date	FR Cite
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG40

56. • COLLECTION OF APPRAISAL FEES FOR FARM LOAN PROGRAMS, INSURED LOANS

Priority: Substantive, Nonsignificant

Legal Authority: section 307(b), PL 87-128; PL 106-387

CFR Citation: 7 CFR 761; 7 CFR 1910; 7 CFR 1927; 7 CFR 1941; 7 CFR 1945; ...

Legal Deadline: None

Abstract: The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act (Pub. L. 106-387) did not adequately fund the Agency's administrative expenses associated with loan making and loan servicing functions. Specifically, the administrative expenses associated with loan making and loan servicing for fiscal year 2001 are estimated to exceed the $4.3 million appropriated. When the funds appropriated are expended, which is estimated to occur around June or July 2001, the Agency would have no alternative but to discontinue all loan making and servicing activities requiring the expenditure of administrative program funds. Applicants and borrowers would experience delays in receiving loan making and servicing assistance. In certain situations, the Government's security interest may be adversely affected. Public Law 87-128, the Consolidated Farm and Rural Development Act, CONACT sec 307(b) and sec 339(a), provides authority to charge applicants and borrowers fees associated with administering the loan program. Therefore, the Agency intends to begin charging applicants and borrowers (those currently indebted to USDA, FSA) a portion of the fee associated with real estate appraisals. This action, when approved, will conform to lending practices currently in use by commercial agricultural lenders. The expected cost to the public is expected to be about $2.3 million.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG42

DEPARTMENT OF AGRICULTURE (USDA)

Farm Service Agency (FSA)

Completed Actions

57. SMALL FARMER OUTREACH TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1943 subpart C

Completed:

Reason	Date	FR Cite
No further action to be taken by FSA	02/15/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

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RIN: 0560–AE17

58. AMENDMENTS TO THE FARMER ACCOUNT SERVICING POLICIES

Priority: Economically Significant

CFR Citation: 7 CFR 1900; 7 CFR 1965; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962

Completed:

Reason	Date	FR Cite
No further action to be taken	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AE42

59. AMENDMENT TO THE COTTON WAREHOUSE REGULATIONS REGARDING THE DEFINITION OF "UNNECESSARY DELAY"

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 735

Completed:

Reason	Date	FR Cite
Final Action	10/25/00	65 FR 63765

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF13

60. AMENDMENTS TO THE FORAGE PROVISIONS OF THE NONINSURED CROP DISASTER ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1437

Completed:

Reason	Date	FR Cite
No further action to be taken	01/03/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF23

61. SUGAR PROGRAM INFORMATION REPORTING AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Completed:

Reason	Date	FR Cite
Withdrawn-Rulemaking not needed	11/29/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF31

62. DEBT SETTLEMENT FOR INDIAN TRIBAL LAND ACQUISITION LOANS

Priority: Other Significant

CFR Citation: 7 CFR 1823; 7 CFR 1951

Completed:

Reason	Date	FR Cite
Final Rule	01/09/01	66 FR 1563
Final Rule Effective	04/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Tom Witzig
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RIN: 0560–AF43

63. NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 1998 AND SUCCEEDING CROP YEARS

Priority: Other Significant

CFR Citation: 7 CFR 1437

Completed:

Reason	Date	FR Cite
No further action to be taken	01/03/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF46

64. CLEANING AND REINSPECTION OF FARMERS' STOCK PEANUTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1446

Completed:

Reason	Date	FR Cite
Final Action	01/10/01	66 FR 1807
Correction	02/15/01	66 FR 10353

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF56

65. AMENDMENTS TO THE REGULATIONS GOVERNING THE PEANUT POUNDAGE QUOTA AND PRICE SUPPORT PROGRAMS

Priority: Other Significant

CFR Citation: 7 CFR 714; 7 CFR 729; 7 CFR 1446

Completed:

Reason	Date	FR Cite
Final Action	10/30/00	65 FR 64594

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF61

66. PRODUCTION FLEXIBILITY CONTRACTS FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1412.401

Completed:

Reason	Date	FR Cite
NPRM	10/06/00	65 FR 59759
Withdrawn	04/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF79

67. SUSPENSION OF COLLECTION OF RECAPTURE AMOUNT FOR BORROWERS WITH CERTAIN SHARED APPRECIATION AGREEMENTS

Priority: Other Significant

CFR Citation: 7 CFR 1951

Completed:

Reason	Date	FR Cite
Final Rule	08/18/00	65 FR 50401

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF80

68. 2000-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Rule	12/15/00	65 FR 78405

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AF85

69. 2000-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Rule	10/30/00	65 FR 64589

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF86

70. NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 1999 AND SUCCEEDING YEARS

Priority: Other Significant

CFR Citation: 7 CFR 1437

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AG20	12/14/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF90

71. FARM STORAGE FACILITY LOAN PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1436

Completed:

Reason	Date	FR Cite
Final Rule	01/18/01	66 FR 4607

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG00

72. CLARIFICATION OF CASH FLOW MARGIN REQUIREMENTS FOR FARM SERVICE AGENCY GUARANTEED LOANS

Priority: Other Significant

CFR Citation: 7 CFR 762

Completed:

Reason	Date	FR Cite
Final Rule	01/24/01	66 FR 7565
Final Rule Effective	02/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG15

73. BIOENERGY PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1424

Completed:

Reason	Date	FR Cite
Final Rule	11/13/00	65 FR 67608

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG16

74. 2000-CROP AGRICULTURAL DISASTER AND MARKET ASSISTANCE

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1411; 7 CFR 1421; 7 CFR 1427; 7 CFR 1434; 7 CFR 1439

Completed:

Reason	Date	FR Cite
Final Rule	11/02/00	65 FR 65709

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AG18

75. MARKET ASSISTANCE FOR TOBACCO, WOOL AND MOHAIR, AND COTTONSEED

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1427; 7 CFR 1464; 7 CFR 1469

Completed:

Reason	Date	FR Cite
Final Rule	11/02/00	65 FR 64718

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0560–AG19

76. AMENDMENTS TO THE TOBACCO PROGRAM REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 723

Completed:

Reason	Date	FR Cite
Merged With RIN 0560-AG40	01/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG21

77. GRAZING PAYMENTS FOR 2001 WHEAT, BARLEY, OR OATS

Priority: Other Significant

CFR Citation: 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Rule	03/06/01	66 FR 13402

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG22

78. SPECIAL APPLE PROGRAM AND EMERGENCY LOAN FOR SEED PRODUCERS PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 773; 7 CFR 774

Completed:

Reason	Date	FR Cite
Final Rule	12/06/00	65 FR 76115

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG23

79. HANDLING PAYMENTS FROM THE FARM SERVICE AGENCY TO DELINQUENT FARM CREDIT PROGRAM BORROWERS

Priority: Other Significant

CFR Citation: 7 CFR 1951

Completed:

Reason	Date	FR Cite
Final Rule	08/21/00	65 FR 50598

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AG24

80. SUGAR PAYMENT-IN-KIND PROGRAM

Priority: Economically Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	08/23/00	65 FR 51280

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG27

81. • LIVESTOCK ASSISTANCE, AMERICAN INDIAN LIVESTOCK FEED, PASTURE RECOVERY, AND DAIRY PRICE SUPPORT PROGRAMS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 106-387

CFR Citation: 7 CFR 1430; 7 CFR 1439

Legal Deadline: None

Abstract: This rule implements provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 related to the Livestock Assistance (LAP), American Indian Livestock Feed (AILFP), Pasture Recovery (PRP), and Dairy Price Support Programs. LAP, AILFP, and PRP are being extended to cover disaster-related losses that occurred in calendar year 2000, and Dairy Price Support is extended through calendar year 2001. Also, LAP, AILFP, and PRP are exempt from the public notice requirements of 5 U.S.C. 553 and will be issued as final. Dairy is not exempt and will be issued as interim. The expected cost is LAP: $438 million; AILFP: $12 million; PRP: $40 million; Dairy Price Support: Not yet determined.

Timetable:

Action	Date	FR Cite
Final Rule	03/19/01	66 FR 13679

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AG32

82. • DAIRY, HONEY, AND CRANBERRY MARKET LOSS ASSISTANCE AND SUGAR PROGRAMS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 106-387

CFR Citation: 7 CFR 1400; 7 CFR 1430; 7 CFR 1434; 7 CFR 1435

Legal Deadline: None

Abstract: This action will implement the provisions of the 2001 Appropriations Act regarding the Dairy Market Loss Assistance Program (DMLAP), honey marketing assistance loans, cranberry purchases and payments, payment limitations, and sugar non-recourse loans. Under DMLAP, benefits will be 35 percent of the reduction in market value from the previous 5-year average. Under the honey program, non-recourse marketing assistance loans will be made at the rate of 65 cents per pound. For cranberries, market loss payments will be made on the basis of 1999 production, up to a total of 1.6 million pounds. The Sugar Program will be changed to provide nonrecourse instead of recourse loans for sugar. Finally, this rule will revise the payment limitations for marketing loan gains and loan deficiency payments, for 2000 only, from $75,000 to $150,000. The statute exempted these provisions from the public notice requirements of 5 U.S.C., and they are thus issued as final. Expected Cost: DMLAP: $667 million; Honey: $26 million; Cranberry: $20 million; Sugar: None; Payment Limitations: Not yet determined, but likely to be relatively insignificant.

Timetable:

Action	Date	FR Cite
Final Rule	03/15/01	66 FR 15172

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
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RIN: 0560–AG34

83. • WOOL, MOHAIR, AND APPLES

Priority: Economically Significant

Legal Authority: PL 106-387

CFR Citation: 7 CFR 1469; 7 CFR 1478

Legal Deadline: None

Abstract: Section 811 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for FY 2001 provides that the Secretary shall make payments to apple producers to provide relief for loss of markets. Payments are to be made on a per pound basis equal to either of a producer's 1998 and 1999 production, or an average of the 2 years, up to a maximum of 1.6 million pounds for a particular farm. Section 814 of the Act provides that the Secretary shall make direct payments to wool and mohair producers, for the 2000 marketing year, at the rate of 40 cents per pound. The statute exempted these provisions from the public notice requirements of 5 U.S.C. 553, and they are thus issued as final. Expected Cost: Apples: $100 million is available until expended; Wool and Mohair: $20 million.

Timetable:

Action	Date	FR Cite
Final Action	03/03/01	66 FR 13839

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG35

84. • 2000 CROP DISASTER PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 106-387

CFR Citation: 7 CFR 1480

Legal Deadline: None

Abstract: Section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for FY 2001 provides that the Secretary shall make payments to producers for 2000 crop losses in the same manner as was done for the 1999 Crop and Market Loss Program. Payments may be made for quantity, quality, or severe economic losses. Section 811 of the Act provides, separately, for $38 million in payments to apple and potato producers for quality losses for the 1999 and 2000 crop that were due to fireblight or weather-related disaster, without payment limits. Finally, section 807 of the Act extends coverage of the 1999 Program to include nursery stock losses due to Hurricane Irene on October 16 and 17, 1999. The statute exempted these provisions from the public notice requirements of 5 U.S.C. 553, and they are thus issued as final. Expected Cost: Crop Loss: $2 billion; Apples and Potatoes: $38 million; Nursery Stock: About $60 million may be available.

Timetable:

Action	Date	FR Cite
Final Rule	03/21/01	66 FR 15976

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG36

85. • 2001 DAIRY INDEMNITY PAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-387

CFR Citation: 7 CFR 760

Legal Deadline: None

Abstract: The Dairy Indemnity Payment Program indemnifies dairy farmers for milk dumped because of contamination that was not the fault of the producer and indemnifies dairy manufacturers for dairy products removed from the market through no fault of their own. This action is needed to reauthorize the program through 9/30/01 in accordance with the FY 2001 Appropriations Act. Reauthorization of the program is mandatory. The Act appropriated $450,000.

Timetable:

Action	Date	FR Cite
Final Rule	01/12/01	66 FR 2800

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG39

86. • LIMITED CALIFORNIA COOPERATIVE INSOLVENCY PAYMENT PROGRAM

Priority: Other Significant

Legal Authority: PL 106-387

CFR Citation: 7 CFR 1481

Legal Deadline: None

Abstract: This rule sets forth the regulations for the Limited California Cooperative Insolvency Payment Program authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001. Fruit and vegetable producers who are members of a large California cooperative recently suffered losses due to the insolvency of that cooperative. Congress has designated $20 million for their benefit. This rule implements that program.

Timetable:

Action	Date	FR Cite
Final Rule	03/13/01	66 FR 14479
Correction	04/12/01	66 FR 18869

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Farm Service Agency, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
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RIN: 0560–AG41

BILLING CODE 3410–05–S

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

87. PLANT PEST REGULATIONS; UPDATE OF CURRENT PROVISIONS (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 7 USC 450; 7 USC 2260; 7 USC 7701-7772; 19 USC 1306; 21 USC 111, 114a, 136 and 136a; 31 USC 9701; 42 USC 4331 and 4332

CFR Citation: 7 CFR 330

Legal Deadline: None

Abstract: APHIS is undertaking rulemaking to amend its plant pest regulations by: (1) Setting out the criteria that will be used by APHIS when considering whether an organism is a plant pest; (2) adding a permit category for organisms that would be released into the environment for purposes such as the biological control of weeds; (3) establishing a notification system that could be used in place of permits for the importation and interstate movement of regulated organisms; and (4) revising or amending existing portions of the regulations to clarify or update requirements, eliminate redundancy, and make the regulations easier for the public to use. This action will serve as a follow-up to the advance notice of proposed rulemaking that APHIS published in the Federal Register on September 27, 1996, to solicit input on the need for regulatory changes and alternative methods of addressing plant pest risk.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/96	61 FR 50767
ANPRM Comment Period End	12/26/96	
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Robert Flanders, Permits and Risk Assessment, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 141, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-5930

RIN: 0579–AA80

88. IMPORTATION OF SOLID WOOD PACKING MATERIAL

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 166 and 450; 7 USC 7701-7772

CFR Citation: 7 CFR 319

Legal Deadline: None

Abstract: APHIS is undertaking rulemaking to strengthen restrictions on the importation of solid wood packing material (e.g., crates, dunnage, wooden spools, pallets, packing blocks) into the United States. Imported solid wood packing material (SWPM) has been linked to introductions of exotic plant pests, such as the pine shoot beetle and the Asian longhorned beetle. These and other plant pests that could be carried by imported SWPM pose a serious threat to U.S. agriculture and to natural, cultivated, and urban forests. SWPM accompanies nearly all types of imported commodities, from fruits and vegetables to machinery and electrical equipment.

Timetable:

Action	Date	FR Cite
ANPRM	01/20/99	64 FR 3049
ANPRM Comment Period End	03/22/99	
Notice	07/07/99	64 FR 36608
Comment Period End	09/07/99	
Notice	10/17/00	65 FR 61301
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Robert Flanders, Permits and Risk Assessment, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 141, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-5930

RIN: 0579–AA99

89. BLOOD AND TISSUE COLLECTION AT LIVESTOCK SLAUGHTERING ESTABLISHMENTS

Priority: Other Significant

Legal Authority: 21 USC 111 to 113; 21 USC 114a; 21 USC 114a-1; 21 USC 115 to 117; 21 USC 120 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 71

Legal Deadline: None

Abstract: We are considering establishing requirements for the collection of blood and tissue samples from livestock (horses, cattle, bison, sheep, and swine) and poultry at slaughter establishments when it is necessary for disease surveillance. Under this proposal, any person who moves an animal interstate for slaughter could only move the animal to a slaughter establishment that has been approved by the Administrator. The Administrator would approve a slaughter establishment after determining that it is not necessary to conduct testing at the establishment or determining that it is necessary to conduct testing at the establishment and the establishment provides space and facilities to collect blood and tissue samples for disease testing. This collection of blood and tissue samples would enable us to identify animals at slaughter that are affected by various communicable diseases. This change would affect persons moving animals interstate for slaughter, slaughter plants that receive animals in interstate commerce, and in cases where an animal that tests positive can be successfully traced back to its herd or flock of origin, the owners of such herds or flocks. The long-term effects of this change would be to improve surveillance programs for animal diseases and to contribute to the eventual control or eradication of such diseases.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Diane Sutton, Senior Staff Veterinarian, VS, National Animal Health Programs, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 43, Riverdale, MD 20737-1231
Phone: 301 734-4363

RIN: 0579–AB13

USDA—APHIS

Proposed Rule Stage

90. IMPORTATION OF UNSHU ORANGES

Priority: Other Significant

Legal Authority: 21 USC 136 and 136a; 7 USC 166; 7 USC 450; 7 USC 7701-7772

CFR Citation: 7 CFR 319.28

Legal Deadline: None

Abstract: We are proposing to amend the regulations governing the importation of citrus fruit to allow, under certain conditions, Unshu oranges grown on Kyushu Island, Japan, to be imported into the United States. We are also proposing to amend the regulations for importing Unshu oranges from Honshu Island, Japan, by requiring fumigation using methyl bromide prior to exportation and by allowing the fruit to be imported into commercial citrus-producing areas of the United States. In addition, we are proposing to remove the requirement for individually wrapping Unshu oranges imported from Japan or the Republic of Korea. These actions would relieve restrictions on the importation into and distribution within the United States of Unshu oranges without presenting a significant risk of introducing citrus canker or other diseases or pests of plants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Dr. Inder Paul Gadh, Senior Staff Officer, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AB17

91. PHYTOSANITARY CERTIFICATES FOR IMPORTED FRUITS AND VEGETABLES

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 450; 7 USC 7701 to 7772; 21 USC 136 and 136a

CFR Citation: 7 CFR 319.56 through 319.56-8

Legal Deadline: None

Abstract: Currently APHIS does not require a phytosanitary certificate to accompany fruits and vegetables imported into the United States except for certain fruits and vegetables grown in designated foreign regions. This proposed rule would amend our regulations to require that a phytosanitary certificate accompany all fruits and vegetables imported into the United States, with certain exceptions. This proposal would include commercial produce imported into the United States, as well as fruits and vegetables brought in by travelers. We would exempt from this requirement fruits and vegetables that are dried, cured, frozen, or processed, as well as fruits and vegetables that travelers and shoppers bring into the United States for personal use through land ports-of-entry located along the Canadian and Mexican borders. If implemented, this proposal would require changes in the practices of importers and travelers who bring produce into the United States from other countries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne Burnett, Senior Import Specialist, PIM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AB18

92. BEES, BEEKEEPING BYPRODUCTS, AND BEEKEEPING EQUIPMENT (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 7 USC 281; 7 USC 7701 to 7772

CFR Citation: 7 CFR 319; 7 CFR 322

Legal Deadline: None

Abstract: We propose to revise the regulations for the importation of honeybees and honeybee semen. Among other things, we propose to allow, under certain conditions, the importation into the United States of honeybees from Australia and honeybees and honeybee germ plasm from New Zealand. We also propose changes to make these regulations more consistent with standards established by the Office International des Epizooties, to update them to reflect current research and terminology, and to simplify them and make them more useful.

In addition, we propose to combine the regulations for the importation of honeybees and honeybee semen with the regulations established to prevent the introduction of exotic bee diseases and parasites through the importation of bees other than honeybees, certain beekeeping byproducts, and used beekeeping equipment. This change would make the regulations more useful by consolidating all of the requirements related to the importation of bees, beekeeping byproducts, and used beekeeping equipment into one part.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Wayne Wheling, Permits and Risk Assessment, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 141, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-8757

RIN: 0579–AB20

93. EXPORTATION OF LIVESTOCK (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 105; 21 USC 112; 21 USC 113; 21 USC 114a; 21 USC 120; 21 USC 121; 21 USC 134b; 21 USC 134f; 21 USC 136; 21 USC 136a; 21 USC 612; 21 USC 613; 21 USC 614; 21 USC 618; 46 USC 466a and 466b; 49 USC 1509(d)

CFR Citation: 9 CFR 91

Legal Deadline: None

Abstract: Cyclical review of 9 CFR part 91 "Importation and Handling of Livestock for Exportation." We will

propose specific changes after we thoroughly review the existing requirements. At this time, we do not know the potential cost and benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Najam Faizi, Senior Staff Veterinarian, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 38, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-4356

RIN: 0579–AB21

94. VETERINARY DIAGNOSTIC USER FEES—5-YEAR PLAN FOR FEES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5542; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114 and 114a; 21 USC 134a; 21 USC 134b; 21 USC 134c; 21 USC 134d; 21 USC 134f; 21 USC 135; 21 USC 136 and 136a; 31 USC 3701; 31 USC 3716; 31 USC 3717; 31 USC 3719; 31 USC 3720A

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: We are proposing user fees for multiple fiscal years for APHIS' Veterinary Services' veterinary diagnostic user fee goods and services. We are proposing this action in order to ensure that we recover the full costs of providing these goods and services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Donna Ford, User Fee Section Head, FSSB, BASE, MRPBS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-8351

RIN: 0579–AB22

95. NURSERY STOCK REGULATIONS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 166 and 450; 7 USC 7701 to 7772

CFR Citation: 7 CFR 300; 7 CFR 319

Legal Deadline: None

Abstract: We are proposing to amend the regulations for importing nursery stock to provide additional treatment certifications for the importation of niger seed and lilac, to reflect recent changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also proposing several other amendments to update and clarify the regulations and improve their effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne Burnett, Senior Import Specialist, PIM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AB23

96. ANIMAL WELFARE—STANDARDS FOR MARINE MAMMALS (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: The Department of Agriculture regulates the treatment of certain marine mammals under the Animal Welfare Act. The present standards for treatment of these animals have been in effect for over 10 years. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. In addition to identifying regulatory provisions for revision based on negotiated rulemaking (described separately), the Department is conducting separate rulemaking to establish standards governing "swim with the dolphins" (SWTD) programs and to propose changes to the marine mammal standards on which consensus was not reached during negotiated rulemaking.

Timetable:

Action	Date	FR Cite
NPRM Marine Mammals (SWTD and other)	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 84, 4700 River Road, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AB24

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Animal and Plant Health Inspection Service (APHIS)

97. KARNAL BUNT

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 7701-7772

CFR Citation: 7 CFR 301

Legal Deadline: None

Abstract: Karnal bunt is a fungal disease of wheat (Triticum aestivum), durum wheat (Triticum durum), and triticale (Triticum aestivum x Secale cereale), a hybrid of wheat and rye. In the absence of measures taken by the U.S. Department of Agriculture, the establishment of Karnal bunt in the United States would have significant consequences with regard to the export of wheat to international markets. Prior to March 8, 1996, Karnal bunt was not known to exist in the United States. Since March 8, 1996, Karnal bunt has been detected within several States. In response, we have established regulations that define regulated areas in certain States because of Karnal bunt, restrict the movement of certain articles from the regulated areas to prevent the spread of Karnal bunt, and provide compensation for certain growers, handlers, and other individuals in the regulated areas to mitigate losses and expenses incurred because of actions taken by the Secretary to prevent the spread of Karnal bunt. As part of a continuing Karnal bunt program, we anticipate that the regulations concerning regulated areas, movement restrictions, and compensation will be revised as more is known about the Karnal bunt situation in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35102
NPRM	08/02/96	61 FR 40354
NPRM Comment Period End	09/03/96	
Final Rule Classifying Regulated Areas, Movement of Regulated Articles	10/04/96	61 FR 52190
Interim Final Rule Change Classification of Regulated Areas	05/01/97	62 FR 23620
Final Rule Compensation for 1995-96 Crop Season	05/06/97	62 FR 24746
NPRM Compensation for 1996-97 Crop Season	07/11/97	62 FR 37159
NPRM Compensation for Wheat Seed and Straw, 1995-96 Crop Season	07/30/97	62 FR 40756
Interim Final Rule Additions to Regulated Areas	11/24/97	62 FR 62504
Interim Final Rule Approved Treatments	12/05/97	62 FR 64263
Final Rule Compensation for Wheat Seed and Straw, 1995-96 Crop Season	01/09/98	63 FR 1321
NPRM Movement From Regulated Areas	01/28/98	63 FR 4198
Final Rule Compensation for 1996-97 Crop Season	06/10/98	63 FR 31593
AIR as Final Rule Approved Treatments	09/04/98	63 FR 47127
Final Rule Movement From Regulated Areas	09/23/98	63 FR 50747
NPRM Compensation for the 1997-98 Crop Season	12/17/98	63 FR 69563
NPRM Reclassification of Regulated Areas	03/09/99	64 FR 11392
NPRM Reclassification of Regulated Areas Comment Period End	04/08/99	64 FR 11392
Final Rule Reclassification of Regulated Areas	05/04/99	64 FR 23749
Final Rule Change Classification of Regulated Areas	06/02/99	64 FR 29541
Final Rule Compensation for the 1997-98 Crop Season	06/25/99	64 FR 34109
Proposed Rule Compensation for the 1999-2000 Crop Season	01/16/01	66 FR 3505
NPRM Comment Period End	03/19/01	
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Dr. Vedpal Malik, National Karnal Bunt Coordinator, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 134, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6774

RIN: 0579–AA83

98. INTERSTATE MOVEMENT OF SHEEP AND GOATS FROM STATES THAT DO NOT QUARANTINE SCRAPIE-INFECTED AND SOURCE FLOCKS (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 21 USC 111 to 114; 21 USC 114a; 21 USC 115; 21 USC 117; 21 USC 120 to 121; 21 USC 123 to 126; 21 USC 134a to 134h

CFR Citation: 9 CFR 54; 9 CFR 79

Legal Deadline: None

Abstract: After soliciting public comment to help us develop options for potential changes to our regulations for the interstate movement of sheep and goats, we believe changes are necessary to improve control and limit the spread of scrapie, a serious disease of sheep and goats. We are undertaking rulemaking to correlate Federal interstate movement restrictions with the effectiveness of individual State scrapie programs.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/98	63 FR 3671
ANPRM Comment Period End	03/27/98	
NPRM	11/30/99	64 FR 66791
NPRM Comment Period End	01/14/00	
NPRM (reproposal)	08/15/00	65 FR 49770
NPRM Comment Period End	09/14/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Dr. Diane Sutton, Senior Staff Veterinarian, VS, National Animal Health Programs, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 43, Riverdale, MD 20737-1231
Phone: 301 734-4363

RIN: 0579–AA90

99. ANIMAL WELFARE; INSPECTION, LICENSING, AND PROCUREMENT OF ANIMALS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 1 and 2

Legal Deadline: None

Abstract: This action would make several amendments to the Animal Welfare Act regulations to clarify them and improve their enforceability. In addition, it would amend a number of administrative procedures to make them more efficient. We believe these actions are necessary to help ensure compliance with the regulations and the Animal Welfare Act.

Timetable:

Action	Date	FR Cite
NPRM	08/04/00	65 FR 47908
NPRM Comment Period End	10/03/00	
Final Action	07/00/01	

USDA—APHIS — **Final Rule Stage**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 84, 4700 River Road, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA94

100. IRRADIATION PHYTOSANITARY TREATMENT OF IMPORTED FRESH FRUITS AND VEGETABLES

Priority: Other Significant

Legal Authority: 7 USC 7701-7772

CFR Citation: 7 CFR 305; 7 CFR 319.56

Legal Deadline: None

Abstract: This rulemaking would establish irradiation as a new treatment alternative for the importation of certain fresh fruits and vegetables. Irradiation would be allowed as an alternative to mitigation measures that are required to control certain species of fruit flies in a variety of imported fruits and vegetables. If this proposal is adopted, importers of certain fruits and vegetables will have an additional alternative to the currently approved treatments, such as fumigation and cold treatment, for treating their articles. No net societal gains and losses other than small price-related changes are expected from this proposed rule change.

Timetable:

Action	Date	FR Cite
Policy Statement for Irradiation Treatment of Fresh Fruits and Vegetables	05/15/98	63 FR 24433
NPRM	05/26/00	65 FR 34113
NPRM Comment Period End	07/25/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis J. Hannapel, Phytosanitary Issues Management, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6799

RIN: 0579–AA97

101. ESTABLISHMENT OF REGIONS IN THE EUROPEAN UNION FOR HOG CHOLERA, FOOT-AND-MOUTH DISEASE, AND SWINE VESICULAR DISEASE

Priority: Other Significant

Legal Authority: 21 USC 134a to 134d; 21 USC 134f; 21 USC 135 to 136a; 31 USC 9701; 42 USC 4331 to 4332; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a

CFR Citation: 9 CFR 92; 9 CFR 94; 9 CFR 98

Legal Deadline: None

Abstract: This action would recognize certain regions in the European Union as regions where hog cholera is not known to exist and from which live swine, swine semen, and pork and pork products may be imported into the United States under certain conditions. Additionally, it would recognize Greece as free of swine vesicular disease and recognize 17 regions in Italy as free of swine vesicular disease.

Timetable:

Action	Date	FR Cite
NPRM	06/25/99	64 FR 34155
NPRM Comment Period End	08/24/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Gary Colgrove, Assistant Director, Sanitary Trade Issues Team, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 38, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-8364

RIN: 0579–AB03

102. COMMERCIAL TRANSPORTATION OF EQUINES TO SLAUGHTER

Priority: Other Significant

Legal Authority: 7 USC 1901

CFR Citation: 9 CFR 88 (New)

Legal Deadline: None

Abstract: This action would establish regulations pertaining to the commercial transportation of equines to slaughter. The purpose of these regulations is to establish minimum standards to ensure the humane movement of equines to slaughter via commercial transportation. We are proposing these regulations to fulfill our responsibility under the 1996 Farm Bill to regulate the commercial transportation of equines to slaughter by persons regularly engaged in that activity within the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/19/99	64 FR 27210
NPRM Comment Period End	07/19/99	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Timothy R. Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 43, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-3279

RIN: 0579–AB06

103. CITRUS CANKER; PAYMENTS FOR COMMERCIAL CITRUS TREE REPLACEMENT AND LOST PRODUCTION INCOME

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 7701 to 7772; PL 106-113; PL 106-224; PL 106-387

CFR Citation: 7 CFR 301.75

Legal Deadline: None

Abstract: APHIS has published an interim rule amending its citrus canker regulations to establish provisions under which eligible owners of commercial citrus groves may receive payments to replace commercial citrus trees removed because of citrus canker. APHIS has also published a proposed rule that would provide those eligible owners with payments to recover production income lost as a result of the removal of commercial citrus trees to control citrus canker. APHIS anticipates finalizing both regulatory actions after addressing the comments received.

Provisions for the payment of these funds were contained in the Consolidated Appropriations Act for FY 2000 (Pub. L. 106-113), the Agricultural Risk Protection Act of 2000 (Pub. L. 206-224), and the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 206-387). The payment of these funds is intended to reduce the economic effect of the citrus canker quarantine on affected commercial citrus growers in Florida.

Timetable:

Action	Date	FR Cite
IRM (Tree Replacement)	10/16/00	65 FR 61077
PRM (Lost Production)	12/07/00	65 FR 76582
IRM Comment Period End	12/15/00	
PRM Comment Period End	01/08/01	
FRM (Tree Replacement)	05/00/01	
FRM (Lost Production)	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen R. Poe, Operations Officer, Program Support Staff, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 134, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-8247

RIN: 0579–AB15

104. PLUM POX COMPENSATION

Priority: Other Significant

Legal Authority: 7 USC 166; 7 USC 7701 to 7772

CFR Citation: 7 CFR 301.74-5

Legal Deadline: None

Abstract: APHIS has published an interim rule amending its plum pox regulations to provide for the payment of compensation to the owners of commercial stone fruit orchards and fruit tree nurseries who had stone fruit trees or nursery stock destroyed in order to control plum pox. The payment of these funds is necessary in order to reduce the economic impact of the plum pox quarantine on affected commercial stone fruit growers and fruit tree nursery owners. APHIS anticipates finalizing this interim rule after addressing the comments received.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/00	65 FR 55431
Interim Final Rule Comment Period End	11/13/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Poe, Operations Officer, Program Support Staff, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 134, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-8247

RIN: 0579–AB19

105. • ANIMAL WELFARE; POLICY ON ENVIRONMENT ENHANCEMENT FOR NONHUMAN PRIMATES

Priority: Other Significant

Legal Authority: 7 USC 2131-2159

CFR Citation: 9 CFR 3.81

Legal Deadline: None

Abstract: APHIS' Animal Welfare Act regulations require that dealers, exhibitors, and research facilities that maintain nonhuman primates develop and follow a plan for environment enhancement adequate to promote the psychological well-being of nonhuman primates.

APHIS is preparing a policy statement to provide guidance on what we believe must be considered and included in the plan in order for dealers, exhibitors, and research facilities to adequately promote the psychological well-being of nonhuman primates.

Timetable:

Action	Date	FR Cite
Draft Policy Statement	07/15/99	64 FR 38145
Comment Period End	10/13/99	
Final Policy Statement	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 84, 4700 River Road, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AB25

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS) — **Long-Term Actions**

106. IMPORTATION OF CERTAIN EMBRYOS AND ANIMAL SEMEN (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 98

Timetable:

Action	Date	FR Cite
ANPRM	07/08/93	58 FR 36625
ANPRM Comment Period End	09/07/93	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Perkins
Phone: 301 734-8364

RIN: 0579–AA63

107. IMPORTATION OF FUJI APPLES FROM THE REPUBLIC OF KOREA

Priority: Other Significant

CFR Citation: 7 CFR 319.56-2cc

Timetable:

Action	Date	FR Cite
NPRM	04/26/00	65 FR 24423
NPRM Comment Period End	06/26/00	
NPRM Comment Period Extended	08/22/00	65 FR 50937
NPRM Comment Period End	10/23/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dennis J. Hannapel
Phone: 301 734-6799

RIN: 0579–AA93

108. RESTRICTIONS ON THE IMPORTATION OF RUMINANTS, MEAT AND MEAT PRODUCTS FROM RUMINANTS, AND CERTAIN OTHER RUMINANT PRODUCTS

Priority: Other Significant

CFR Citation: 9 CFR 93.404(c); 9 CFR 94.18; 9 CFR 95.4(a); 9 CFR 96.2(b)

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Malloy
Phone: 301 734-8715

RIN: 0579–AA98

109. REQUIRING TREATMENT OF SOLID WOOD PACKING MATERIAL FROM CHINA

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 319.40

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/18/98	63 FR 50100
Interim Final Rule Comment Period End	11/17/98	
Interim Final Rule	12/17/98	63 FR 69539
Interim Final Rule Effective	12/17/98	
Interim Final Rule Comment Period End	02/16/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Flanders
Phone: 301 734-5930

RIN: 0579–AB01

110. IMPORTATION OF UNMANUFACTURED WOOD ARTICLES FROM MEXICO

Priority: Other Significant

CFR Citation: 7 CFR 319.40

Timetable:

Action	Date	FR Cite
NPRM	06/11/99	64 FR 31512
NPRM Comment Period End	08/10/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane E. Levy
Phone: 301 734-8295

RIN: 0579–AB02

111. HORSE PROTECTION; HORSE INDUSTRY ORGANIZATIONS

Priority: Other Significant

CFR Citation: 9 CFR 11

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Willems
Phone: 919 716-5544

RIN: 0579–AB04

112. NOXIOUS WEEDS; WEED CATEGORIES AND PRIORITIES (SECTION 610 REVIEW)

Priority: Other Significant

CFR Citation: 7 CFR 360; 7 CFR 361

Timetable:

Action	Date	FR Cite
ANPRM	03/20/00	65 FR 14927
ANPRM Comment Period End	05/19/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Polly Lehtonen
Phone: 301 734-8896

RIN: 0579–AB07

113. NOXIOUS WEEDS; RESTRICTIONS ON INTERSTATE MOVEMENT

Priority: Other Significant

CFR Citation: 7 CFR 360.300

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/99	64 FR 41007
Interim Final Rule Comment Period End	09/27/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan V. Tasker
Phone: 301 734-5225

RIN: 0579–AB08

114. AQUACULTURE; FARM-RAISED FIN FISH

Priority: Other Significant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	05/04/99	64 FR 23795
ANPRM Comment Period End	07/06/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Otis Miller
Phone: 301 734-6188

RIN: 0579–AB09

115. PSEUDORABIES IN SWINE; PAYMENT OF INDEMNITY

Priority: Other Significant

CFR Citation: 9 CFR 52

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/99	64 FR 2545
Interim Final Rule Comment Period End	04/16/99	
Interim Final Rule	04/18/00	65 FR 20706
Interim Final Rule Comment Period End	06/19/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Arnold C. Taft
Phone: 301 734-7708

RIN: 0579–AB10

116. IMPORTATION OF BEEF FROM BRAZIL

Priority: Other Significant

CFR Citation: 9 CFR 94

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen Garris
Phone: 301 734-4356

RIN: 0579–AB16

DEPARTMENT OF AGRICULTURE (USDA)

Completed Actions

Animal and Plant Health Inspection Service (APHIS)

117. ANIMAL WELFARE—STANDARDS FOR MARINE MAMMALS

Priority: Other Significant

CFR Citation: 9 CFR 3

Completed:

Reason	Date	FR Cite
Final Rule Animal Welfare; Marine Mammals (Reg Neg)	01/03/01	66 FR 239
Final Action Effective	02/02/01	
Delay of Effective Date until 04/03/2001	02/02/01	66 FR 8744

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Kohn
Phone: 301 734-7833

RIN: 0579–AA59

BILLING CODE 3410–34–S

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Cooperative State Research, Education, and Extension Service (CSREES)

118. HIGHER EDUCATION MULTICULTURAL SCHOLARS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152(b)(5); PL 103-111; PL 103-330; PL 104-37; PL 104-180

CFR Citation: 7 CFR 3409

Legal Deadline: None

Abstract: Regulations will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Multicultural Scholars Program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA09

119. HISPANIC-SERVING INSTITUTIONS EDUCATION GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3241

CFR Citation: 7 CFR 3412

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Hispanic Education Partnership Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA17

120. COMMUNITY FOOD PROJECTS ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2034

CFR Citation: 7 CFR 3416

Legal Deadline: None

Abstract: This regulation proposes to establish administrative provisions for the Community Food Projects to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
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Email: pcarter@reeusda.gov

RIN: 0524–AA19

121. SMALL BUSINESS INNOVATION RESEARCH PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 638

CFR Citation: 7 CFR 3403

Legal Deadline: None

Abstract: The Cooperative State Research Education and Extension Service (CSREES) proposes to modify the Small Business Innovation Research Program Administrative Provisions by changing the language of when a Phase I awardee is eligible to apply for a Phase II award. Currently, a Phase I awardee may apply for a Phase II award in the next fiscal year funding cycle or the second fiscal year funding cycle. CSREES intends to revise this language to allow Phase I awardees to apply in either of the two fiscal years following the end of the initial project period; this does not include any no-cost extensions of time. This revision will allow an 18-month Phase I awardee the same privileges as that of a 6-month Phase I awardee. Privileges as used herein refers to the opportunity for a no-cost extension of time, if necessary, and two options of when a Phase I awardee may apply for a Phase II award.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA20

122. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 5921; 5 USC 301

CFR Citation: 7 CFR 3415

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to revise and modify the Biotechnology Risk Assessment Research Grants Program Administrative Provisions. The revision and modification updates 7 CFR part 3415 to delete references to the Office of Agricultural Biotechnology and the Agricultural Biotechnology Research Advisory Committee clarifying the requirements for the pre-proposals, clarifying what is to be included in the 15-page limit on proposals, and revising the language regarding conflicts of interests (3415.12).

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA21

123. NATIONAL RESEARCH INITIATIVE COMPETITIVE GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 450i(b)

CFR Citation: 7 CFR 3411

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to revise and modify the National Research Initiative Competitive Grants Program administrative provisions. The revision and modification will update 7 CFR 3411 to reflect changes in the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105-185) and to comply with a recent OIG audit. Specifically, the equipment grant eligibility requirements need to be revised, along with other administrative changes. In addition; CSREES plans to comply with the proposed plain language requirements set out in the Presidential memo dated June 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA22

BILLING CODE 3410-22-S

124. CIVIL RIGHTS COMPLIANCE REQUIREMENTS—1901-E TO 1940-D

Priority: Other Significant

Legal Authority: PL 100-259; 29 USC 794; PL 94-135; 42 USC 6101 et seq; PL 94-239; 15 USC 1601 et seq; EO 11246; PL 88-352; 42 USC 2000d et seq; PL 90-284; 42 USC 3601 to 3619; PL 100-430; PL 92-318; 20 USC 1681 et seq; PL 93-112; EO 12898

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14; 7 CFR 1940 subpart D; 7 CFR 1901 subpart E

Legal Deadline: None

Abstract: This ruling will effectuate a comprehensive civil rights regulation implementing the following laws: The Equal Credit Opportunity Act (ECOA); title VI of the Civil Rights Act of 1964; title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair Housing Act); section 504 Federally Conducted and Federally Assisted Programs; title IX of the Education Amendments of 1972; Age Discrimination Act of 1975; and Executive Orders 11246 and 12898 (Environmental Justice). The revised regulations will provide detailed guidelines for field offices for improved enforcement and compliance with these laws, which heavily impact the Agency's programs. Mechanisms for monitoring compliance by field offices and recipients of Federal financial assistance at all levels will decrease the Agency's vulnerability that exist due to noncompliance with recently enacted Civil Rights legislation.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Carlton L. Lewis, Chief, Program Compliance Branch, Department of Agriculture, Rural Housing Service, STOP 0703, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 692-0097
Fax: 202 358-5657
Email: cllewis@rdmail.rural.usda.gov

RIN: 0575–AA83

125. SERVICING COMMUNITY PROGRAMS LOANS AND GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3711; 42 USC 1480

CFR Citation: 7 CFR 3570 subpart E; 7 CFR 1951 subpart E; 7 CFR 1951 subpart O; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart C; 7 CFR 1951 subpart F

Legal Deadline: None

Abstract: The Agency is combining seven regulations affecting the servicing of Community Programs loans and grants into one regulation. Justification: This is part of the Reinventing Government Initiative. There are no policy or procedural changes. The published regulation will be simplified by removing the administrative portion and will only contain the information affecting the public.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beth Jones, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, Room 0183/Stop 0787, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1498
Email: epjones@rdmail.rural.usda.gov

RIN: 0575–AC12

126. MULTI-FAMILY HOUSING REINVENTION

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 1490a; 7 USC 1989; 42 USC 1475; 42 USC 1479; 42 USC 1480; 42 USC 1481; 42 USC 1484; 42 USC 1485; 42 USC 1486

CFR Citation: 7 CFR 1806 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart B; 7 CFR 1965 subpart B; 7 CFR 1965 subpart E; 7 CFR 1930 subpart C; 7 CFR 1944 subpart D; 7 CFR 1944 subpart E; 7 CFR 1951 subpart C; 7 CFR 1951 subpart D; 7 CFR 1951 subpart K; 7 CFR 1951 subpart N; 7 CFR 1955 subpart A

Legal Deadline: None

Abstract: Reinvention of the Rural Housing Service's Multi-Family Housing Programs will consolidate regulations pertaining to section 515 Rural Rental Housing, section 514 Farm Labor Housing Loans, section 516 Farm Labor Housing Grants, and section 521 Rental Assistance Payments. Fourteen published regulations will be reduced to one regulation and handbooks for program administration. This will simplify loan origination and portfolio management for applicants, borrowers, and housing operators as well as Rural Development field staff. This will also provide flexibility for program modifications to reflect current and foreseeable changes. It will also reduce regulations that address solely internal Agency program administration. Finally, the regulation will be more customer friendly and responsive to the needs of the public.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Sheridan, Assistant Deputy Administrator, MFH, Department of Agriculture, Rural Housing Service, Room 1263/Stop 0782, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1609
Email: psheridan@rdmail.rural.usda.gov

RIN: 0575–AC13

127. SELF-HELP TECHNICAL ASSISTANCE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 1480

CFR Citation: 7 CFR 1944; 7 CFR 3551

Legal Deadline: None

Abstract: The regulations for 7 CFR 1944-I "Self-Help Technical Assistance Grants" is being rewritten and

USDA—RHS — **Proposed Rule Stage**

renumbered to 7 CFR 3551. Changes are proposed for clarification of policy and procedures relative to the: 1) Application procedure, which is changing to an annual competitive grant process; 2) labor contribution of participating families; 3) monitoring of grantee progress through Self-Help Automated Reporting and Evaluation System (SHARES); and 4) define the roles of Technical and Management Assistance Contractors.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Daryl Cooper, Senior Loan Specialist, Department of Agriculture, Rural Housing Service, Room 2209/Stop 0783, 1400 Independence Avenue SW, Washington, DC 20250-0783
Phone: 202 720-1366
Fax: 202 720-2232

RIN: 0575–AC20

128. OPERATING ASSISTANCE FOR MIGRANT FARMWORKER PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1484; 42 USC 1486; 42 USC 1490a; PL 105-276, sec 599c

CFR Citation: 7 CFR 1944 subpart D; 7 CFR 1930 subpart C

Legal Deadline: None

Abstract: Regulation implements the provisions of Public Law 105-276, enacted October 21, 1998, which amended section 521 of the Housing Act of 1949. This amendment provides that, for migrant farmworker housing projects financed under section 514 or 516 of the Housing Act, the Secretary may, at the request of the owner, permit amounts provided for rental assistance under section 521 to be used to provide assistance for the costs of operating the project.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David LayField, Senior Loan Specialist, Department of Agriculture, Rural Housing Service, Room 1239/STOP 0781, 1400 Independence Ave, Washington, DC 20250-0781
Phone: 202 690-0759
Fax: 202 690-3444
Email: dlayfield@rdmail.rural.usda.gov

RIN: 0575–AC24

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**

Rural Housing Service (RHS)

129. REENGINEERING AND REINVENTION OF THE DIRECT SECTION 502 AND 504 SINGLE-FAMILY HOUSING PROGRAM

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480; 31 USC 3700

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1965; 7 CFR 3550

Legal Deadline: None

Abstract: Rural Housing Service (RHS) has purchased a state-of-the-art dedicated loan origination servicing system (DLOSS), which includes escrow capability. To conform to this new system, RHS proposes to make further amendments to the regulations to allow the Agency to provide escrow services to single-family housing borrowers, which follow industry standards. In addition, the Agency proposes to amend its regulations to conform to processes and techniques currently utilized by the private sector.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Interim Final Rule	11/22/96	61 FR 59762
Interim Final Rule Comment Period End	12/26/96	
Interim Final Rule Effective	12/26/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carolyn Bell, Senior Loan Officer, Department of Agriculture, Rural Housing Service, Stop 0783, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1532

RIN: 0575–AB99

130. GUARANTEED RURAL HOUSING LOAN SINGLE FAMILY

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 3555; 7 CFR 1980 subpart D

Legal Deadline: None

Abstract: The Rural Housing Service is revising the regulation for the Guaranteed Rural Housing (GRH) program in order to increase the number of rural households that are able to make homeownership a reality, strengthen internal controls of the program, streamline and "reinvent" the regulation by making it clearer and more concise, and improve performance by lenders and servicers.

Timetable:

Action	Date	FR Cite
NPRM	12/15/99	64 FR 70124

USDA—RHS — **Final Rule Stage**

Action	Date	FR Cite
NPRM Comment Period End	02/14/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Roger Glendenning, Director, Guaranteed Loan Division, Department of Agriculture, Rural Housing Service, Room 2248/Stop 0784, 1400 Independence Avenue SW, Washington, DC 20250-0780
Phone: 202 720-1480
Fax: 202 205-2476
Email: rglendenning@rdmail.rural.usda.gov

RIN: 0575–AC18

DEPARTMENT OF AGRICULTURE (USDA) — **Long-Term Actions**

Rural Housing Service (RHS)

131. DENYING CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart C; 7 CFR 1944 subpart E; 7 CFR 1948 subpart B; 7 CFR 1951 subpart E; 7 CFR 1942 subpart A; 7 CFR 1942 subpart G; 7 CFR 1944 subpart D; 7 CFR 1980 subpart E

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 23018
NPRM Comment Period End	07/05/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Local, Tribal, Federal

Agency Contact: Chris Burgess
Phone: 314 539-2360
Fax: 314 539-2780
Email: cb167@rdmail.rural.usda.gov

RIN: 0575–AA66

132. ENVIRONMENTAL PROGRAM

Priority: Other Significant

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400; 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	09/14/00	65 FR 55784
NPRM Comment Period End	11/13/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan Wieferich
Phone: 202 720-9647

RIN: 0575–AB98

133. NATIONAL FLOOD INSURANCE REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1926 subpart B; 7 CFR 1806 subpart B

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Baxter Hill
Phone: 202 720-1499

RIN: 0575–AC07

134. TECHNICAL ASSISTANCE TO ENCOURAGE THE DEVELOPMENT OF DOMESTIC AND MIGRANT FARM LABOR HOUSING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1944 subpart D

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David LayField
Phone: 202 690-0759
Fax: 202 690-3444
Email: dlayfield@rdmail.rural.usda.gov

RIN: 0575–AC25

DEPARTMENT OF AGRICULTURE (USDA) — **Completed Actions**

Rural Housing Service (RHS)

135. RURAL DEVELOPMENT LOAN PAYMENT AND COLLECTION PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1902 subpart C; 7 CFR 1951 subpart A; 7 CFR 1951 subpart B; 7 CFR 1980 subpart E

Completed:

Reason	Date	FR Cite
Withdrawn	01/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Huntley
Phone: 314 539-6063
Fax: 314 539-2764
Email: mark.huntley@stl.rural.usda.gov

RIN: 0575–AC22

136. COMMUNITY PROGRAMS GUARANTEED LOAN PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 3575 subpart A

Completed:

Reason	Date	FR Cite
Withdrawn	01/31/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Wetherbee
Phone: 202 720-1503
Email: swetherb@rdmail.rural.usda.gov

RIN: 0575–AC23

BILLING CODE 3410-07-S

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Proposed Rule Stage

137. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART D; APPLICATION FOR CROP INSURANCE

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations by revising the "Collection of Information and Data (Privacy Act)" statement found on the general crop insurance application. The proposed amendments to the statement include defining "substantial beneficial interest" as those persons whose interest in the policyholder is in excess of 10 percent. Other minor changes have been made to more fully comply with provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB00

138. COMMON CROP INSURANCE REGULATIONS; COARSE GRAINS CROP INSURANCE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.113

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to make changes to the Coarse Grains Crop Insurance Provisions for corn, grain, sorghum, and soybeans for the 2000 crop year specific to the way corn grain versus corn silage is insured and to clarify the insurability of specialty corn and soybeans.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB64

139. GENERAL ADMINISTRATIVE REGULATIONS; MOVEMENT OF BUSINESS AMONG INSURANCE PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To ensure that the interests of policyholders are protected and that the policies and policyholder data are transferred in an orderly manner, the Risk Management Agency is providing comprehensive regulations that will apply to agents, managing general agents, policy-issuing companies, and reinsured companies. The objective of this regulation is to prescribe uniform administrative requirements for the movement or assumption of crop insurance policies.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB71

140. GENERAL ADMINISTRATIVE REGULATIONS; SANCTIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(m); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To add a new section to the Sanction regulation that will specify the conditions under which a person and affiliate may qualify for a waiver or reduction of a civil penalty imposed by the Agency.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB73

141. COMMON CROP INSURANCE REGULATIONS; BLUEBERRY CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The purpose of this rule is to solicit public comments on FCIC's proposed action to convert the blueberry pilot insurance program to a permanent insurance program. The pilot was initiated for the 1995 crop year for selected counties in Michigan, Mississippi, New Jersey, and North Carolina and covered highbush and rabbiteye blueberry varieties.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB76

142. GENERAL ADMINISTRATIVE REGULATIONS; CIVIL RIGHTS DATA COLLECTION

Priority: Other Significant

Legal Authority: 28 CFR 42.403; 28 CFR 42.406

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The purpose of this action is to ensure compliance with title VI civil rights requirements. This data collection includes race/national origin, sex, disability, and age. This will allow the Agency to better assess if discrimination has occurred and to identify areas in need of outreach.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB78

143. COMMON CROP INSURANCE REGULATIONS; NURSERY CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The purpose of this proposed rule is to solicit public comments on FCIC's proposed action to revise the Nursery Crop Provisions (99-073) for the 2002 crop year to: Specify that container grown and field grown plants are separate crops, provide optional units by location for field grown nursery plant, incorporate the "lower of" rule into section 6 of the provisions, permit insureds to purchase insurance coverage on a year-round basis, incorporate provisions to provide a rehabilitation payment for plants damaged by an insured cause of loss.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB80

144. GENERAL ADMINISTRATIVE REGULATIONS; ACTUAL PRODUCTION HISTORY

Priority: Other Significant

Legal Authority: 7 USC 1506 (l); 7 USC 1506 (p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To revise actual production history regulations to reflect changes in calculation of approved APH yields as mandated by the Agricultural Risk Protection Act of 2000. Revisions will include: Assigned yields for crops produced on land not farmed before (added land), rotations to crops not previously produced (new crops), and for prevented planting acreage if planted to a substitute crop; adjustments for successful pest control efforts and for organic crops destroyed to maintain organic certification; and substitution of 60 percent of the transitional yield for low actual yields if producers elect that option.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB83

145. GENERAL ADMINISTRATIVE REGULATIONS; SUBMISSION OF POLICIES AND PROVISIONS OF POLICIES AND RATES OF PREMIUMS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: Minor revisions will be made to the regulation for clarification and other revisions will be made as specified: Remove the need to publish policies from 508(h) submissions as a Notice of Availability in the Federal Register; information will be made available electronically to producers and approved insurance providers; confidential information may be withheld from the public under the standard for privileged or confidential information pertaining to trade secrets and commercial or financial information even after approval by the Board; there will be an expert review of submissions; the applicant will be notified in writing at least 30 days prior to the Board disapproving a submission, if the Board intends to disapprove the submission; a submission will be deemed approved by the Board if the Board fails to make

a determination within a prescribed time period; applicants will be reimbursed for research and developmental costs and maintenance costs; and companies selling the product will pay fees to the developer of the product after the fourth year of the applicant being paid maintenance costs unless maintenance for the product is transferred to FCIC.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB84

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Final Rule Stage

146. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART S; REGULATIONS FOR INSURANCE COVERAGE BY WRITTEN AGREEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes regulations to allow insurance coverage by written agreement for crops in counties which have no actuarial table. Currently, FCIC provides insurance by written agreement for only program crops. By providing insurance by written agreement, FCIC will provide a risk management tool to a broader base of producers.

Timetable:

Action	Date	FR Cite
NPRM	06/20/97	62 FR 33575
NPRM Comment Period End	08/19/97	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB07

147. COMMON CROP INSURANCE REGULATIONS; SMALL GRAINS CROP INSURANCE PROVISIONS AND WHEAT WINTER COVERAGE ENDORSEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.101; 7 CFR 457.102

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to revise and clarify existing policy provisions, establish winter wheat coverage in certain South Dakota and Wisconsin counties, reduce coverage under Option B of the Wheat Winter Coverage Endorsement, and to require insurance on spring wheat planted to replace damaged winter wheat covered under the Wheat Winter Coverage Endorsement.

Timetable:

Action	Date	FR Cite
NPRM	04/20/00	65 FR 21144
NPRM Comment Period End	06/19/00	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

RIN: 0563–AB63

148. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD UNDERWRITING CLASSIFICATION SYSTEM

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to remove and reserve subpart O of the General Administrative Regulations, effective for the 1999 (2000 for Texas and Arizona and California Citrus) and succeeding crop years. This action is intended to eliminate the unintended adverse effects of the Nonstandard Classification System (NCS), simplify and update program underwriting rules consistent with the program's current and future anticipated experience, and ensure that crop insurance premiums are applied to all producers in a fair and consistent manner.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/97	62 FR 48798
ANPRM Comment Period End	10/17/97	
NPRM	09/02/98	63 FR 46703
NPRM Comment Period End	10/19/98	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department

of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB66

149. GENERAL ADMINISTRATIVE REGULATIONS; PREMIUM REDUCTIONS; PAYMENTS OF REBATES, DIVIDENDS, AND PATRONAGE REFUNDS; AND PAYMENTS TO INSURED-OWNED AND RECORD-CONTROLLING ENTITIES

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p); 7 USC 1508(e)(3)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To allow approved insurance providers to apply to the Federal Crop Insurance Corporation for authority to reduce the premium charged producers in accordance with section 508(e)(3) of the Federal Crop Insurance Act, as amended, and to provide the limitations and requirements applicable to the payment of rebates, dividends, and patronage refunds to insureds and payments to insured-owned and record-controlling entities.

Timetable:

Action	Date	FR Cite
NPRM	05/12/99	64 FR 25464
NPRM Comment Period End	07/12/99	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Heyward Baker, Director, Reinsurance Services Division, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0804
Phone: 202 720-4286

RIN: 0563–AB70

150. COMMON CROP INSURANCE REGULATIONS; MILLET CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The purpose of this rule is to solicit public comments on FCIC's proposed action to convert the millet pilot crop insurance program to a permanent insurance program and clarify existing crop provisions and methodology for calculated losses for the 2001 and succeeding crop years. FCIC believes this proposed rule will provide additional coverage benefits and improve the risk management tool for millet producers in all regions of the country.

Timetable:

Action	Date	FR Cite
NPRM	06/19/00	65 FR 37919
NPRM Comment Period End	08/18/00	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB79

151. CATASTROPHIC RISK PROTECTION ENDORSEMENT; GROUP RISK PLAN OF INSURANCE REGULATIONS; BASIC PROVISIONS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 1506(l), 1506(p)

CFR Citation: 7 CFR 402; 7 CFR 407; 7 CFR 457

Legal Deadline: Final, Statutory, June 30, 2000.

Abstract: The Federal Crop Insurance Corporation (FCIC) amends the Catastrophic Risk Protection Endorsement (7 CFR part 402), the Group Risk Plan of Insurance Regulations (7 CFR part 407), and the Common Crop Insurance Regulations, Basic Provisions (7 CFR part 457) to revise those provisions affected by the changes in the administrative fees and subsidies and the substitution of yields in the producer's actual production history mandated by the Agricultural Risk Protection Act of 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	06/28/00	65 FR 40483
Interim Final Rule	06/30/00	65 FR 40483
Interim Final Rule Comment Period End	08/29/00	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB81

152. COMMON CROP INSURANCE REGULATIONS; BASIC PROVISIONS AND GENERAL ADMINISTRATIVE REGULATIONS, SUBPART T, REGULATIONS FOR IMPLEMENTATION

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400; 7 CFR 457.8

Legal Deadline: Final, Statutory, October 18, 2000.

Abstract: The purpose of these rules is to propose changes to the Common Crop Insurance Regulations, Basic Provisions and the General Administrative Regulations, Subpart T—Insurance Implementation, mandated by the Agricultural Risk Protection Act of 2000. The changes will be proposed to be effective beginning with the 2002 crop year for all crops with a contract change date on or after June 30, 2001. The major changes to the Common Crop Insurance Regulations, Basic Provisions are: 1) Limit indemnities and premiums when

USDA—FCIC — **Final Rule Stage**

more than one crop is planted on acreage within the same crop year; 2) if an initial crop is prevented from being planted and a substitute crop is planted on the acreage within the same crop year, allow reduced prevented planting coverage for the initial crop, and the initial crop's Actual Production History (APH) will be reduced to 60 percent of the producer's APH; and 3) add scientifically sound sustainable and organic farming practices as good farming practices.

Timetable:

Action	Date	FR Cite
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB85

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Completed Actions

153. GENERAL ADMINISTRATIVE REGULATIONS; INTERPRETATIONS OF STATUTORY AND REGULATORY PROVISIONS

Priority: Info./Admin./Other

CFR Citation: 7 CFR 400

Completed:

Reason	Date	FR Cite
Withdrawn	02/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB82

BILLING CODE 3410–08–S

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

154. REVIEW INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.125; 7 CFR 800.135; 7 CFR 800.87

Legal Deadline: None

Abstract: GIPSA is proposing to revise regulations under the U.S. Grain Standards Act to allow interested persons to stipulate the quality factors that would be redetermined during a reinspection or appeal inspection for grade. Currently reinspections and appeal inspections for grade must include a review for all factors that (1) may determine the grade; (2) are reported on the original certificate; or (3) are required to be shown. GIPSA has determined that mandating all quality factors be reexamined during a review inspection is inefficient, time consuming, and costly. Further, such a complete review of the preceding inspection service is usually not needed to confirm the true quality of the grain. This proposed action will allow interested parties to specify which official factors should be redetermined during the reinspection or appeal inspection service. However, to safeguard against inadvertent misgrading, official personnel may determine other factors, when deemed necessary.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon L. Vassiliades, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 1647-S, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1738
Fax: 202 690-2755
Email: svassili@gipsadc.usda.gov

RIN: 0580–AA58

155. LIVESTOCK PURCHASE OR SALE: PROHIBIT NON-REPORTING OF PRICE

Priority: Other Significant

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 201.54

Legal Deadline: None

Abstract: Following a review of comments received in response to the ANPRM, the Agency is proposing a regulation that would make purchasing or selling livestock with the condition that the price not be reported a violation of the Packers and Stockyards Act.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/98	63 FR 48450
ANPRM Comment Period End	12/09/98	
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0580–AA65

156. • FEES FOR OFFICIAL INSPECTION AND OFFICIAL WEIGHING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 800.71

USDA—GIPSA — **Proposed Rule Stage**

Legal Deadline: None

Abstract: The Agency is proposing an approximate 6.1 percent increase in contract and noncontract hourly rates, certain unit rates, and the administrative tonnage fee for official inspection and weighing services performed in the United States under the U.S. Grain Standards Act. The proposed increase is based on the cost-of-living increases utilizing an average of the locality pay adjustments and actual cost of performing official inspection services of 2.4 percent and 3.7 percent in FY 2000 and FY 2001, respectively.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0580–AA75

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Final Rule Stage

157. TOLERANCES FOR DIVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 801.10

Legal Deadline: None

Abstract: GIPSA proposes to remove section 801.10, Tolerance for Dividers, from the CFR. Since GIPSA no longer tests dividers, the rule is no longer needed. By using the direct final rule process, GIPSA will give the public general notice of its intent to remove the rule and provide interested persons an opportunity to participate in the rulemaking through submission of comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0580–AA57

158. SWINE PACKER MARKETING CONTRACTS

Priority: Other Significant

Legal Authority: 7 USC 181; PL 106-78

CFR Citation: 9 CFR 206

Legal Deadline: NPRM, Statutory, May 1, 2000.

Abstract: The Agency is proposing rules under the Packers and Stockyards Act to implement the Swine Packer Marketing Contracts subtitle of the Livestock Mandatory Reporting Act of 1999. The proposal is intended to establish a swine marketing contract library and provide information on the contracting practices of swine packers.

Timetable:

Action	Date	FR Cite
NPRM	09/05/00	65 FR 53653
NPRM Comment Period End	10/05/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0580–AA71

159. • FEES FOR COMMODITY AND RICE INSPECTION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621

CFR Citation: 7 CFR 868.90; 7 CFR 868.91

Legal Deadline: None

Abstract: The agency proposes an approximate 3.7 percent fee increase for all hourly rates and certain unit rates for inspection services performed under the Agricultural Marketing Act of 1946 in the commodity and rice inspection programs. These increases are needed to cover increased operational costs resulting from the mandated January 2001 Federal pay increase.

Timetable:

Action	Date	FR Cite
NPRM	11/03/00	65 FR 66189
NPRM Comment Period End	01/02/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0580–AA74

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Long-Term Actions

160. POULTRY GROWER CONTRACTS

Priority: Other Significant

CFR Citation: 9 CFR 201.100

Timetable:

Action	Date	FR Cite
ANPRM	02/10/97	62 FR 5935
ANPRM Comment Period End	05/12/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 0580–AA51

161. REGULATIONS TO ENSURE MORE EQUITABLE COMPETITION IN THE LIVESTOCK AND MEAT PACKING INDUSTRIES (LIVESTOCK AND POULTRY MARKETING)

Priority: Other Significant

CFR Citation: 9 CFR 201

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 0580–AA72

162. HOW CAN USDA BEST FACILITATE THE MARKETING OF GRAINS, OILSEEDS, FRUITS, VEGETABLES, AND NUTS IN TODAY'S MARKETPLACE

Priority: Other Significant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	11/30/00	65 FR 71272
ANPRM Comment Period End	02/28/01	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 0580–AA73

BILLING CODE 3410–EN–S

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Proposed Rule Stage

163. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule responds to a variety of program concerns, most of which have been expressed by WIC State agencies. The proposal increases State agency flexibility regarding the sharing of participant information with other programs and streamlines Federal requirements for financial and participation reporting by State agencies. Several minor clarifications and technical corrections are also made. (89-515)

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	07/00/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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RIN: 0584–AB10

164. FOOD STAMP PROGRAM MATCHING PROGRAMS AND PRIVACY PROTECTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552(a) Computer Matching and Privacy Protection Act; 7 USC 2015(b) Food Stamp Act

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This proposed rule describes requirements for State agencies to report information on individuals disqualified from the program for intentional program violations to FNS and the related FNS computer matching program known as the Disqualified Recipient Subsystem (DRS). This proposed rule also describes protections to persons whose benefits could be adversely affected by computer matches used in the Food Stamp Program. Such protections must include independent verification of computer information, notification to the affected individual, and provision of an opportunity to respond to the information before an adverse action becomes effective. (89-010)

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	
Final Action	01/00/03	
Final Action Effective	04/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AB51

USDA—FNS

Proposed Rule Stage

165. FOOD STAMP PROGRAM REGULATORY REVIEW: FSP STANDARDS FOR APPROVAL AND OPERATION OF FOOD STAMP ELECTRONIC BENEFIT TRANSFER SYSTEMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 2011 TO 2034

CFR Citation: 7 CFR 274.12

Legal Deadline: None

Abstract: This rule proposes revisions to food stamp regulations affecting the standards and administration of EBT systems for food stamp issuance. Current regulations at 7 CFR 274.12 delineate the standards that EBT systems must meet in order to be approved for operation. This rule will revise those regulations to provide the State agency more flexibility in implementing and operating those systems. Clarifications and FNS settlement improvements will also be incorporated into the rule. (96-016)

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0584–AC37

166. FSP: CIVIL RIGHTS DATA COLLECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 88-352, sec 601

CFR Citation: 7 CFR 272

Legal Deadline: None

Abstract: Title VI of the Civil Rights Act of 1964 requires the collection of racial/ethnic data for all programs utilizing Federal funds. State agencies are required to collect the data by racial/ethnic categories set by the Federal Government. In 1997, those categories changed. This proposed rule would change the racial categories for State Food Stamp Program reporting to comply with the new Federal racial categories. (98-010)

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	12/00/01	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC75

167. COMMODITY SUPPLEMENTAL FOOD PROGRAM: PLAIN LANGUAGE, PROGRAM ACCOUNTABILITY, AND PROGRAM FLEXIBILITY

Priority: Other Significant

Legal Authority: PL 101-624; PL 104-127

CFR Citation: 7 CFR 247

Legal Deadline: None

Abstract: This rule will rewrite regulations pertaining to the Commodity Supplemental Food Program (7 CFR part 247) in "plain language." It will also amend regulatory provisions in this part to increase program accountability and flexibility for program operators. The rule will affect program accountability by : (1) Requiring State agencies to initiate a claim against participants for repayment of the value of program benefits obtained as a result of intentional misrepresentation; (2) extending the period that State agencies may disqualify participants for program violations for up to 1 year; (3) requiring State agencies to disqualify participants for engaging in dual participation or for other selected program violations; (4) including under program violations the physical abuse, or the threat of physical abuse, of program staff.

Amendments to increase program flexibility include: (1) Allowing the State to extend the certification of elderly persons on a fixed income for an indefinite period without a formal review of eligibility; (2) increasing the period of time the State agency has to review a local agency's application for participation; (3) allowing State agencies to request to retain more than the maximum amount of administrative funds allocated whether or not they perform warehouse services; (4) reducing the frequency of State management evaluations of local agencies; and (5) making State plans and Federal-State agreements permanent, with amendments submitted as needed.

Other miscellaneous proposed changes include: (1) Requiring local agencies to notify applicants of a decision on their application within 10 days of the date of application; (2) including the specific factors that FNS uses to determine the amount of caseload that States will receive in addition to base caseload; (3) making the caseload cycle the period from January 1 to December 31; and (4) including a pregnant woman's embryo or fetus in utero as a household member in determining the family's income eligibility.

The rule will also incorporate legislative provisions that have been implemented through program policy, including: (1) Increasing the percentage of the program appropriation, and of funds carried over from the pervious year, to be allotted for administrative support of State and local agencies from 15 to 20 percent; and (2) requiring that State and local agencies provide information on certain other public assistance programs to participants. (99-005)

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

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USDA—FNS **Proposed Rule Stage**

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RIN: 0584–AC84

168. FOOD STAMP PROGRAM: ADMINISTRATIVE COST REIMBURSEMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-185, sec 502

CFR Citation: 7 CFR 277

Legal Deadline: Final, Statutory, October 1, 1998, Payment reduction required by law.

Abstract: This rule will allow State agencies to charge the FSP for its share of common costs for determining eligibility of Temporary Assistance for Needy Families (TANF) households for FSP in accordance with new HHS policy and approved cost allocation plans. (99-007)

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	
Final Action	08/00/02	
Final Action Effective	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

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RIN: 0584–AC86

169. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): REVISIONS IN THE WIC FOOD PACKAGES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule will amend regulations governing the WIC food packages to disallow low-iron WIC formulas in food packages for infants; revise the maximum monthly allowances and minimum requirements for certain WIC foods; revise the substitution rates for certain WIC foods and allow additional foods as alternatives; make technical adjustments in all of the food packages to accommodate newer packaging and physical forms of the WIC foods; add vegetables as a food category in Food Packages III-VII for women and children; require that State agencies make available the full maximum foods allowed in each package; revise the criteria for developing State agency proposals for alternative food packages to accommodate participant food preferences more effectively; revise the purpose, content, and requirements for Food Package III; and address general provisions that apply to all the food packages. These revisions will improve the likelihood that WIC recipients achieve the food servings recommendations of the Dietary Guidelines for Americans and nutritional recommendations, providing WIC participants with a wider variety of foods, accommodating newer packaging and physical forms of WIC foods, and providing WIC State agencies with greater flexibility in prescribing food packages, especially to accommodate participants with hardships or cultural/food preferences. (99-006)

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	01/00/02	
Final Action	07/00/02	
Final Action Effective	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 0584–AC90

170. • IMPROVING ACCESS TO THE FOOD STAMP PROGRAM FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

Priority: Other Significant

Legal Authority: 42 USC 2000d

CFR Citation: 7 CFR 272.4(b)

Legal Deadline: None

Abstract: On August 11, 2000, the President signed an Executive order requiring Federal agencies to examine the services they provide and to develop and implement a system that ensures persons with limited English proficiency (LED) have meaningful access to Federal health and human services programs and activities. The Executive order clarifies long-standing title VI principles that prohibit discrimination based on national origin. (00-016)

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	
Final Action	07/00/02	
Final Action Effective	10/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

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RIN: 0584–AD06

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) **Final Rule Stage**

171. WIC: REQUIREMENTS FOR AND EVALUATION OF WIC PROGRAM REQUESTS FOR BIDS FOR INFANT FORMULA REBATE CONTRACTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: At the time the current cost containment regulations were published in 1989, there were only minor differences in infant formula wholesale prices and few differences in types of infant formulas offered by manufacturers; i.e., milk- and soy-based infant formula. However, current wholesale prices vary considerably among manufacturers for similar formulas and several new infant formulas have emerged on the market over the last decade. Therefore, to reflect market changes in the infant formula industry and to optimize competition in the WIC Program's infant formula rebate contracts, this interim rule would require WIC State agencies to award infant formula rebate contracts based on the lowest net price, allowing highest gross rebate as a basis of award only when retail prices of the different brands of infant formula vary, on average, by 5 percent or less. Additionally, this rule would define the types and forms of infant formula that must be included in cost containment systems. It would also expand on conditions that must be met for the issuance of infant formulas not covered by rebate contracts. (92-013)

Timetable:

Action	Date	FR Cite
NPRM	07/16/98	63 FR 38343
NPRM Comment Period End	09/14/98	
Interim Final Rule	08/23/00	65 FR 51213
Interim Final Rule Effective	10/23/00	
Interim Final Rule Implementation Date	11/21/00	
Interim Final Rule Comment Period End	08/23/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 0584–AB52

172. FOOD STAMP PROGRAM: ANTICIPATING INCOME AND REPORTING CHANGES

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This rule revises Food Stamp Program procedures for reporting and acting on changes in earned income. The changes are designed to increase State agency flexibility and improve procedures for determining the eligibility and benefits of households whose income fluctuates unpredictably. Under this rule, State agencies would choose from four different reporting requirements for households with earned income. The reporting requirement a State agency selects would replace the current requirement that households report a change of more than $25 in earned income. In addition to reporting a change in source of income, households would be required to report one of the following: A change in wage rate or salary and a change in part-time or full-time status, provided the household is certified for no more than 3 months; a change in wage rate or salary and a change of more than 5 hours a week that is expected to continue for more than a month; or a change in the amount earned of more than $100 a month. The reporting requirement for changes in unearned income would be increased to changes of more than $50 a month from the current threshold of changes of more than $25 a month. In addition to the above reporting options, State agencies would also be able to select the option of requiring households to report changes through a quarterly reporting system rather than at the time the changes become known to the household. (93-005)

Timetable:

Action	Date	FR Cite
NPRM	12/17/96	61 FR 66233
NPRM Comment Period End	02/18/97	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AB57

173. DISCLOSURE OF FREE AND REDUCED-PRICE ELIGIBILITY INFORMATION UNDER THE SCHOOL NUTRITION, SUMMER FOOD SERVICE, AND CHILD AND ADULT CARE FOOD PROGRAMS

Priority: Other Significant

Legal Authority: PL 103-448, sec 108

CFR Citation: 7 CFR 215; 7 CFR 225; 7 CFR 226; 7 CFR 245

Legal Deadline: None

Abstract: This rule would allow limited disclosure of children's free and reduced price meal eligibility status or information, as authorized under Public Law 103-448, to persons directly connected with the administration or enforcement of (1) programs under the Richard B. Russell National School Lunch Act or Child Nutrition Act of 1966; (2) Federal education programs; (3) State health and education programs; (4) means-tested nutrition programs with eligibility standards comparable to the lunch program; and (5) the Comptroller General and certain law enforcement officials. The rule also proposes safeguards to protect the free and reduced-price application and personal information from misuse and includes penalties for unauthorized disclosures. (95-022)

Timetable:

Action	Date	FR Cite
NPRM	07/25/00	65 FR 45725
NPRM Comment Period End	11/22/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC21

174. CHILD AND ADULT CARE FOOD PROGRAM: IMPROVING MANAGEMENT AND PROGRAM INTEGRITY

Priority: Other Significant

Legal Authority: 42 USC 1766; PL 103-448; PL 104-193; PL 105-336

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This rule amends the Child and Adult Care Food Program (CACFP) regulations. The changes in this rule result from the findings of State and Federal Program reviews and from audits and investigations conducted by the Office of Inspector General. This rule will revise: State agency criteria for approving and renewing institution applications; program training and other operating requirements for child care institutions and facilities; State- and institution-level monitoring requirements; and criteria for terminating agreements with institutions and day care homes. This rule also includes changes that are required by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448), the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (Pub. L. 104-193), the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105-336), the Agricultural Risk Protection Act of 2000 (Pub. L. 106-224), and the Grain Standards and Warehouse Improvement Act of 2000 (Pub. L. 106-472).

The changes are designed to improve program operations and monitoring at the State and institution levels and, where possible, to streamline and simplify program requirements for State agencies and institutions. (95-024)

Timetable:

Action	Date	FR Cite
NPRM	09/12/00	65 FR 55103
NPRM Comment Period End	12/11/00	
Final Action	10/00/01	
Final Action Effective	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

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RIN: 0584–AC24

175. DETERMINING ELIGIBILITY FOR FREE AND REDUCED-PRICE MEALS AND FREE MILK IN SCHOOLS: PROVISION 2 AND PROVISION 3

Priority: Other Significant

Legal Authority: PL 103-448

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: Under an alternative known as Provision 2, schools that serve all meals at no charge for 3 consecutive years may distribute applications and make free and reduced price meal eligibility determinations once every 3 years. During year 1 of the 3-year cycle, they count and claim meals by category (free, reduced price, and paid) and use these counts to develop claiming percentages to use during years 2 and 3. Public Law 103-448 amended the NSLA to allow schools to extend these procedures an additional 2 years and allow subsequent 5-year cycles, without making new free and reduced price eligibility determinations, provided the income level of the school's population remained stable. Public Law 103-448 also added a new Provision 3 for schools that serve all meals at no charge for 4 consecutive years. These schools receive the same level of cash and commodity assistance they received in the last year free and reduced price eligibility determinations and actual meal counts were taken. Additional 4-year cycles were permitted, without making new free and reduced price eligibility determinations, provided the income level of the school's population remained stable. For both provisions, schools must make up the difference between Federal reimbursement and meal costs. Public Law 105-336 subsequently amended the timeframe for Provision 2 so that both Provisions 2 and 3 are 4-year cycles, which may be extended, without making new eligibility determinations, if the income level of the school's population remains stable. The rule will codify these provisions and specify technical aspects, such as the measurement of the income level of the school's population and the types of data that may be used. (96-003)

Timetable:

Action	Date	FR Cite
NPRM	02/07/00	65 FR 5791
NPRM Comment Period End	04/07/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC25

176. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 AND THE FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 104-193

CFR Citation: 7 CFR 273.7; 7 CFR 273.22

Legal Deadline: None

Abstract: This proposed rule will implement revisions to the Food Stamp Program's work and employment and training requirements, as well as new provisions for a work supplementation or support program and an employment initiative program. (96-025)

Timetable:

Action	Date	FR Cite
NPRM	12/23/99	64 FR 72196

Action	Date	FR Cite
NPRM Comment Period End	02/22/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC45

177. WIC FARMERS MARKET NUTRITION PROGRAM (FMNP): EXPANSION FUNDS ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786(m)(6)

CFR Citation: 7 CFR 248

Legal Deadline: None

Abstract: The Child Nutrition Act of 1966 as amended (42 USC 1786(m)(6)) sets forth funding requirements of State agencies currently operating the program and for State agencies wishing to start a new program. The law leaves it to the discretion of the Secretary to determine the method of allocating funds to currently operating State agencies. This interim rule would implement a funding formula for the allocation of such expansion funds to existing FMNP State agencies. (98-003)

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	
Interim Final Rule Comment Period End	08/00/01	
Interim Final Rule Effective	09/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

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RIN: 0584–AC68

178. CHILD NUTRITION PROGRAMS: REIMBURSEMENT FOR SNACKS IN AFTERSCHOOL CARE PROGRAMS

Priority: Other Significant

Legal Authority: PL 105-336

CFR Citation: 7 CFR 210; 7 CFR 226; 7 CFR 235; 7 CFR 245

Legal Deadline: None

Abstract: The William F. Goodling Child Nutrition Reauthorization Act of 1998 amended the National School Lunch Act to authorize reimbursement for snacks served under the NSLP in afterschool care programs operated by schools. The afterschool program must be organized primarily to provide care for children and have an educational or enrichment purpose. Additionally, the statute mandates free snacks for all children enrolled in afterschool care programs operated by schools in areas served by a school in which at least 50 percent of the enrolled children are certified for free or reduced price meals.

In the CACFP, the statute authorizes free snacks to children through age 18 enrolled in afterschool programs located in low-income areas. Low-income areas are defined in the law as areas in which at least 50 percent of the children are eligible for free or reduced price school meals. Therefore, individual eligibility determinations are not required for these programs. This rule also implements the provision of the law which permits outside school hours care programs to participate in CACFP if they meet health and safety standards where no State or local licensing or approval is required. (98-007)

Timetable:

Action	Date	FR Cite
NPRM	10/11/00	65 FR 6050
NPRM Comment Period End	01/09/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC72

179. FOOD DISTRIBUTION PROGRAM: DELETION OF REQUIREMENT TO EVALUATE STATE-RUN COMMODITY DISTRIBUTION AND WAREHOUSING SYSTEMS EVERY 3 YEARS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-237

CFR Citation: 7 CFR 250.14; 7 CFR 250.15

Legal Deadline: None

Abstract: Section 250.14(a) currently requires State distributing agencies that operate their own warehousing and distribution system to make a cost comparison of that system with a commercial system every 3 years. Most State distributing agencies have now either switched to a commercial system or evaluated their own system at least twice and determined it to be the most cost effective. Therefore, we propose to remove that requirement from our regulations. We will maintain the authority to require a cost comparison when circumstances warrant. We are suggesting a direct final rule rather than a proposed rule because we do not expect any objections to this discretionary change. (99-001)

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AC79

180. FSP: ELECTRONIC BENEFIT TRANSFER (EBT) SYSTEMS INTEROPERABILITY AND PORTABILITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-171

CFR Citation: 7 CFR 272.1; 7 CFR 274.12

Legal Deadline: Other, Statutory, September 7, 2000, PL 106-171 sec 3.
Other, Statutory, February 11, 2001, PL 106-171 sec 4.
Other, Statutory, October 1, 2002, PL 106-171 sec 3.

Abstract: This rule revises Food Stamp regulations to ensure that recipients can use their electronic food stamp benefits across State borders by requiring interoperable State electronic issuance systems. The regulations establish uniform national standards to achieve this requirement. Also, 100 percent funding is available under the regulation to pay for the operational cost of this functionality up to a national limit of $500,000. Costs beyond this level will be covered at the standard 50 percent program reimbursement rate for State administrative costs. (00-001)

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/15/00	65 FR 49719
Interim Final Rule Effective	09/19/00	
Interim Final Rule Comment Period End	11/13/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0584–AC91

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181. NATIONAL SCHOOL LUNCH AND SCHOOL BREAKFAST PROGRAMS: IDENTIFICATION OF BLENDED BEEF, PORK, POULTRY, OR SEAFOOD PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1751 to 1760; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: None

Abstract: This interim rule addresses the use of beef, pork, poultry, or seafood products containing 30 percent or more alternate protein products (APP) in the National School Lunch Program and the School Breakfast Program. If participating school food authorities identify foods offered in reimbursable meals on menus provided to children and their parents, on serving lines or by other methods, schools must identify beef, pork, poultry, or seafood products containing 30 percent or more fully hydrated APP (of the hydrated APP and meat, seafood, or poultry total) in a manner that does not characterize these products solely as a beef, pork, poultry, or seafood product. This rule is intended to ensure that program participants are advised of the use of blended products. (00-002)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/00	65 FR 36315
Interim Final Rule Effective	07/10/00	
Interim Final Rule Comment Period End	08/07/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

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RIN: 0584–AC92

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182. CHILD AND ADULT CARE FOOD PROGRAM: IMPLEMENTING LEGISLATIVE REFORMS TO STRENGTHEN PROGRAM INTEGRITY

Priority: Other Significant

Legal Authority: PL 106-224, sec 243

CFR Citation: 7 CFR 226

Legal Deadline: Final, Statutory, October 20, 2000.

Abstract: This interim rule incorporates changes to the Child and Adult Care Food Program as required by the Agricultural Risk Protection Act (Pub. L. 106-224) to strengthen the management and integrity of the program. Provisions include 1) changes to eligibility requirements for participating institutions; 2) conditions for approval, such as ensuring financial viability, stipulating that new sponsoring organizations are allowed to participate only where there is need for the program, and the elimination of "moving toward tax exempt status" of institutions; 3) new program monitoring requirements; 4) new parental notification requirements by CACFP centers or homes that describe the program and benefits and provide parents with access to the sponsoring organization and State agency; 5) rules on allowing corrective action and appeals in situations involving the termination or suspension of participating institutions, facilities, and individuals; 6) funds recovery in situations involving fraud, abuse, or improper submissions for reimbursement; and 7) limitation on the percentage of funds that sponsoring organizations of centers can retain from day care meal reimbursements for their administrative expenses. These changes support the Department's ongoing efforts in management and integrity improvement. (00-005)

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

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RIN: 0584–AC94

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183. SPECIAL NUTRITION PROGRAMS: DISCLOSURE OF CHILDREN'S ELIGIBILITY INFORMATION TO STATE MEDICAID AND THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP)

Priority: Other Significant

Legal Authority: PL 106-224, sec 242

CFR Citation: 7 CFR 215; 7 CFR 225; 7 CFR 226; 7 CFR 245

Legal Deadline: Final, Statutory, October 20, 2000.

Abstract: This rule permits the disclosure of children's free and reduced price meal and free milk eligibility information to State Medicaid (Medicaid) and SCHIP, provided the State Child Nutrition Agency and agency that made the eligibility determination (determining agency) agree to the disclosure; limits the use of the information by recipients to identifying and seeking to enroll children in Medicaid and SCHIP; requires a written agreement between the determining agency and Medicaid/SCHIP; requires notification to households that their information may be shared with Medicaid/SCHIP; and requires that households be given the opportunity to elect not to have their information shared. Section 263 of the Agricultural Risk Protection Act of 2000 mandates promulgation without regard to notice and comment. (00-004)

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/00	
Interim Final Rule	01/11/01	66 FR 2195
Interim Final Rule Comment Period End	04/11/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

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RIN: 0584–AC95

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184. • STATE ADMINISTRATIVE EXPENSE FUNDS: PLAIN LANGUAGE REWRITE

Priority: Info./Admin./Other

Legal Authority: 42 USC 1776, 42 USC 1779

CFR Citation: 7 CFR 235

Legal Deadline: None

Abstract: The President's Memorandum of June 1, 1998, recommended that existing Federal Government documents be rewritten in plain language as time and resources are available. This direct final rule contains the plain language rewrite of the procedures for administering State administrative expense funds. These procedures are found at 7 CFR part 235. The rewrite contains shorter sections, simpler words and phrases, personal pronouns, and lists and tables. These plain language tools are intended to make the procedures clearer and easier to both read and understand. However, this direct final rule does not include any changes in policy, and will not have a significant impact on the economy or program participants. (00-006)

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0584–AC96

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185. • SPECIAL MILK PROGRAM FOR CHILDREN: PLAIN LANGUAGE REVISION AND REORGANIZATION

Priority: Info./Admin./Other

Legal Authority: 42 USC 1772; 42 USC 1779

CFR Citation: 7 CFR 215

Legal Deadline: None

Abstract: The intent of this regulation is to comply with the President's memorandum of June 1, 1998, entitled "Plain Language in Government Writing" (63 FR 31885, June 10, 1998). This memorandum encourages all existing Agency regulations to be rewritten in plain language. The revision and reorganization of part 215 will allow affected persons to easily understand the regulations of the Special Milk Program for Children. This revision and reorganization does not alter the existing policies and requirements contained within this part. (00-007)

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AC97

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186. • FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 250, DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS, AND AREAS UNDER ITS JURISDICTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 7 USC 612c; 7 USC 612c note; 7 USC 1431; 7 USC 1431b; 7 USC 1431e; 7 USC 1431 note; 7 USC 1446a-1; 7 USC 1859; 7 USC 2014; 7 USC 2025; 15 USC 713c; 22 USC 1922; 42 USC 1751; 42 USC 1755; 42 USC 1758; 42 USC 1760; 42 USC 1761; 42 USC 1762a; 42 USC 1766; 42 USC 3030a; 42 USC 5179; 42 USC 5180

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and two-fold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows

the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-008)

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 0584–AC98

187. • FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 251, THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)

Priority: Info./Admin./Other

Legal Authority: 7 USC 7501 to 7516

CFR Citation: 7 CFR 251

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and two-fold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-009)

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AC99

188. • FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 252, THE NATIONAL COMMODITY PROCESSING PROGRAM (NCP)

Priority: Info./Admin./Other

Legal Authority: 7 USC 1431

CFR Citation: 7 CFR 252

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and two-fold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-010)

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, Room 910, 3101 Park Center Drive, Alexandria, VA 22302
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RIN: 0584–AD00

189. • FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 253, THE FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS (FDPIR)

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2036

CFR Citation: 7 CFR 253

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and twofold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by

presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-011)

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 0584–AD01

190. • FOOD DISTRIBUTION PROGRAMS: PLAIN LANGUAGE REWRITE OF 7 CFR PART 254, THE FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS (FDPIR) IN OKLAHOMA

Priority: Info./Admin./Other

Legal Authority: PL 97-98, sec. 1338; PL 95-113

CFR Citation: 7 CFR 254

Legal Deadline: None

Abstract: This rule makes no changes in the meaning of the regulations; it is only a reorganization and rewriting of the existing text in plain language. Our goal in rewriting is simple and twofold: Allow the reader to quickly find and easily understand desired subject matter. The rewrite accomplishes our first goal by presenting material in a more logical sequence where needed, and most importantly, by splitting the text into much smaller and more easily scanned units. We have greatly increased the number of sections within the part, also increased the number of paragraphs within each of the new sections, and made greater use of italicized headings. By increasing the number of sections, we have "flattened" the regulation's structure. This in turn generally allows the elimination of at least one level of codification, despite the increased number of paragraphs and subparagraphs within each section. The result is much easier scanning of the sections for subject matter, further aided by the italicized headings. Each section is headed by a question on a major aspect of the regulations, which is then answered in the headings and paragraphs which follow. Finally, our second goal, greater comprehensibility, is accomplished by the use of shorter sentences, the active voice, and common words, except for necessary technical terms. (00-012)

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 0584–AD02

191. • NUTRITION EDUCATION AND TRAINING PROGRAM: 7 CFR PART 227, PLAIN LANGUAGE REWRITE

Priority: Info./Admin./Other

Legal Authority: 42 USC 1788

CFR Citation: 7 CFR 227

Legal Deadline: None

Abstract: The President's Memorandum of June 1, 1998, recommended that existing Federal Government documents be rewritten in plain language as time and resources are available. This direct final rule contains the plain language rewrite of the procedures for administering the Nutrition Education and Training Program. These procedures are found at 7 CFR part 227. The rewrite contains shorter sections, simpler words and phrases, and lists. These plain language tools are intended to make the procedures clearer and easier to both read and understand. However, this direct final rule does not include any changes in policy, and will not have a significant impact on the economy or program participants. (00-013)

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0584–AD03

192. • STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS, 7 CFR 276

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2036

CFR Citation: 7 CFR 276

Legal Deadline: None

Abstract: 7 CFR part 276 has been rewritten in plain language format. The document contains only plain language and format changes. No policy has been changed, added, or deleted by this rewrite. (00-014)

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

USDA—FNS — Final Rule Stage

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RIN: 0584–AD04

193. • PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES, 7 CFR 277

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2036

CFR Citation: 7 CFR 277

Legal Deadline: None

Abstract: 7 CFR part 277 has been rewritten in plain language format. The document contains only plain language writing and format changes. No policy has been changed, added, or deleted by this rewrite. (00-015)

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, Room 910, 3101 Park Center Drive, Alexandria, VA 22302
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RIN: 0584–AD05

194. • IMPLEMENTATION OF POULTRY SUBSTITUTION PILOT AS PERMANENT AND MODIFICATION OF COMMODITY RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 612c; 7 USC 612c note; 7 USC 1431; 7 USC 1431b; 7 USC 1431e; 7 USC 1431 note; 7 USC 1446a-1; 7 USC 1859; 7 USC 2014; 7 USC 2025; 15 USC 713c; 22 USC 1922; 42 USC 1751; 42 USC 1755; 42 USC 1758; 42 USC 1760 to 1761; 42 USC 1762a; 42 USC 1766; 42 USC 3030a; 42 USC 5179 to 5180

CFR Citation: 7 CFR 250.14; 7 CFR 250.16; 7 CFR 250.30

Legal Deadline: None

Abstract: 1) Poultry and fruit and vegetables may currently be substituted for commodities under pilots and waivers. Due to the success of these programs, the regulations will be changed to allow such commercial substitution on a permanent basis. 2) Due to changes in the commercial market and the food donation program, the Department will allow vendors to use their own labels in place of USDA donated labels for school programs. This will complicate school's recordkeeping and inventory procedures. The regulations will be modified to accommodate the change in labels. (01-001)

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 0584–AD08

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Completed Actions

195. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS

Priority: Other Significant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Action	12/29/00	65 FR 83248
Final Action Effective	04/28/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 0584–AA80

196. FOOD STAMP PROGRAM: REVISIONS TO THE RETAIL FOOD STORE DEFINITION AND PROGRAM AUTHORIZATION GUIDANCE

Priority: Other Significant

CFR Citation: 7 CFR 271; 7 CFR 278

Completed:

Reason	Date	FR Cite
Final Action	01/12/01	66 FR 2795
Final Action Effective	08/13/01	66 FR 18869

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman
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RIN: 0584–AB90

197. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 272; 7 CFR 273

Completed:

Reason	Date	FR Cite
Final Action	01/17/01	66 FR 4438
Final Action Effective	06/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

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RIN: 0584–AC39

USDA—FNS — Completed Actions

198. FSP: NONCITIZEN ELIGIBILITY AND CERTIFICATION PROVISIONS OF PUBLIC LAW 104-193 (PREVIOUSLY ENTITLED STATE FLEXIBILITY AND CERTIFICATION PROVISIONS)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 272.3; 7 CFR 273.11(e); 7 CFR 273.11(j); 7 CFR 273.13; 7 CFR 273.14(b); 7 CFR 273.14(e); 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.4; 7 CFR 273.9(c); 7 CFR 273.9(d); 7 CFR 273.10(a); 7 CFR 273.10(c) to 273.10(f); 7 CFR 273.11(a) to 273.11(c)

Completed:

Reason	Date	FR Cite
Final Action	11/21/00	65 FR 70134
Final Action Effective	01/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC40

199. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 271.2; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.8; 7 CFR 273.9; 7 CFR 273.10; 7 CFR 276.2(e)

Completed:

Reason	Date	FR Cite
Final Action	10/30/00	65 FR 64581
Final Action Effective	12/29/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC41

200. REGULATORY REFORM: PROVISIONS RELATING TO FIRMS PARTICIPATING IN THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 278; 7 CFR 279

Completed:

Reason	Date	FR Cite
Withdrawn - The decision to promulgate this discretionary rule has been overtaken by events.	01/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC48

201. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WIC: IMPLEMENTATION OF WIC-RELATED PROVISIONS OF PUBLIC LAW 104-193, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Interim Final Rule Comment Period End	11/06/00	
Final Action	12/21/00	65 FR 80280
Final Action Effective	01/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC51

202. WIC: CERTIFICATION INTEGRITY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Action	12/11/00	65 FR 77245
Final Action Effective	01/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC76

203. FDPIR: INCOME DEDUCTION AND MISCELLANEOUS PROVISION RULE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 253

Completed:

Reason	Date	FR Cite
Final Action	08/04/00	65 FR 47831
Final Action Effective	10/03/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC81

204. WIC: NON-DISCRETIONARY FUNDING MODIFICATIONS OF PUBLIC LAW 106-224

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Rule	12/13/00	65 FR 77769
Final Action Effective	01/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC93

205. • NOTICE—FOOD STAMP PROGRAM GRANTS TO IMPROVE APPLICANT AND RECIPIENT INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2026(a)(1)

CFR Citation: None

Legal Deadline: None

Abstract: The Department intends to award grants to organizations to

conduct research on improving applicant and recipient program access. The deadline for applying for these grants was January 5, 2001.

Timetable:

Action	Date	FR Cite
Final Action	12/27/00	65 FR 81819

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, Room 910, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AD07

BILLING CODE 3410–30–S

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

206. GRANT AND INAUGURATION OF INSPECTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 304; 9 CFR 305

Legal Deadline: None

Abstract: FSIS is proposing to clarify the regulations in 9 CFR parts 304 and 305, which provide for grant and inauguration of inspection in meat and poultry establishments to address issues raised by the Office of Inspector General and others.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC07

207. PERFORMANCE STANDARDS FOR READY-TO-EAT MEAT AND POULTRY PRODUCTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 430

Legal Deadline: None

Abstract: FSIS is proposing to establish pathogen reduction performance standards for all ready-to-eat meat and poultry products. The performance standards spell out the objective level of pathogen reduction that establishments must meet during their operations in order to produce safe products but allow the use of customized, plant-specific processing procedures other than those prescribed in the earlier regulations. Along with HACCP, food safety performance standards will give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, while providing objective, measurable standards that can be verified by Agency inspectional oversight. This set of performance standards will include and be consistent with those already in place for certain ready-to-eat meat and poultry products. FSIS also is proposing testing requirements intended to reduce the incidence of Listeria in ready-to-eat meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	02/27/01	66 FR 12590
NPRM Comment Period End	05/29/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC46

208. PERFORMANCE STANDARDS FOR BACON

Priority: Other Significant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 424.22(b)

Legal Deadline: None

Abstract: FSIS is proposing to revise the regulatory provisions concerning the production and testing of bacon (9 CFR 424.22(b)). FSIS is proposing to remove provisions that require the Agency to test bacon for nitrosamines and to remove provisions that prescribe the substances and amounts of such substances that must be used to produce bacon. FSIS is proposing to replace these provisions with performance standards that establishments producing bacon must meet. To meet these proposed performance standards, the process used would be required to prevent the multiplication of Clostridium botulinum and limit the multiplication of Clostridium perfringens. In addition, the process would be required to limit the presence of nitrosamines when the product is cooked. Under the hazard analysis and critical control points (HACCP) system, establishments would incorporate the proposed performance standards into their HACCP plans.

FSIS is proposing these regulations in order to allow establishments to develop alternative means of producing bacon. In addition, FSIS is proposing these regulations to remove the Agency's testing responsibilities and to require establishments producing bacon, instead, to control and monitor their own processes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC49

209. SHELL EGG AND EGG PRODUCTS INSPECTION REGULATIONS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 1031 to 1056

CFR Citation: 9 CFR 590.570; 9 CFR 590.575; 9 CFR 590.146; 9 CFR 590.10; 9 CFR 590.411; 9 CFR 590.502; 9 CFR 590.504; 9 CFR 590.580; 9 CFR 591; ...

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to require shell egg packers and egg products plants to develop and implement Hazard Analysis and Critical Control Points (HACCP) systems and Sanitation Standard Operating Procedures (SOPs). FSIS also is proposing pathogen reduction performance standards that would be applicable to pasteurized shell eggs and egg products. Plants would be expected to develop HACCP systems that ensure products meet the pathogen reduction performance standards. Finally, FSIS is proposing to amend the Federal egg and egg products inspection regulations by removing current requirements for prior approval by FSIS of egg products plant drawings, specifications, and equipment prior to their use in official plants. The Agency also plans to eliminate the prior label approval system for egg products.

The actions being proposed are part of FSIS's regulatory reform effort to improve FSIS's egg and egg products food safety regulations, better define the roles of Government and the regulated industry, encourage innovations that will improve food safety, remove unnecessary regulatory burdens on inspected egg products plants, and make the egg and egg products regulations as consistent as possible with the Agency's meat and poultry products regulations. FSIS is also taking these actions in light of changing inspection priorities and recent findings of salmonella in pasteurized egg products.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC58

210. LABELING—GENERIC APPROVAL AND REGULATION CONSOLIDATION

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 to 470; 21 USC 601 to 695

CFR Citation: 9 CFR 317; 9 CFR 327; 9 CFR 381; 9 CFR 412

Legal Deadline: None

Abstract: This rulemaking will continue an effort initiated several years ago by amending FSIS's regulations to expand the types of labeling that are generically approved. FSIS plans to propose that the submission of labeling for approval prior to use be limited to certain types of labeling, as specified in the regulations. In addition, FSIS plans to reorganize and amend the regulations by consolidating labeling rules that currently are stated separately for livestock products and poultry products (in part 317, subpart A, and part 381, subpart N, respectively) and by amending their provisions to set out clearly various circumstances under which these products are misbranded.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC59

211. NUTRITION LABELING OF GROUND OR CHOPPED MEAT AND POULTRY PRODUCTS AND SINGLE-INGREDIENT PRODUCTS

Priority: Economically Significant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to amend the Federal meat and poultry products inspection regulations to require nutrition labeling of the major cuts of single-ingredient, raw meat and poultry products. The Agency is proposing to require that nutrition information be provided for these products either on their label or at their point-of-purchase. FSIS is proposing to require nutrition labeling of the major cuts of single-ingredient, raw meat and poultry products because during the most recent surveys of retailers, the Agency did not find significant participation in the voluntary nutrition labeling program for single-ingredient, raw meat and poultry products.

In this proposed rule, FSIS is also proposing to amend its regulations to extend mandatory labeling to single-ingredient ground or chopped products. Under this proposal, individual retail packages of ground or chopped meat and ground or chopped poultry products would bear nutrition labeling. The Agency has determined that ground or chopped products are different from other single-ingredient products in several important respects. Thus, FSIS is proposing to make nutrition labeling requirements for ground or chopped products consistent with those for multi-ingredient products.

Finally, FSIS is proposing to amend the nutrition labeling regulations to provide that when a ground or chopped product does not meet the criteria to be labeled "low fat," a lean percentage claim may be included on the product label as long as a statement of the fat percentage also is displayed on the label.

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4970
NPRM Comment Period End	04/18/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC60

212. PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP) SYSTEMS; ADDITIONS TO GENERIC E. COLI CRITERIA

Priority: Other Significant

Legal Authority: 21 USC 601 to 695; 21 USC 451 to 470

CFR Citation: 9 CFR 310; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to add generic E. coli criteria to the regulations. In addition, FSIS is proposing to revise the terms used to identify and define certain classes of product listed in the salmonella tables.

FSIS is proposing to delay making the proposed criteria and standards applicable for 1 year for small establishments and for 2 years for very small establishments.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC63

213. OTHER CONSUMER PROTECTION ACTIVITIES

Priority: Other Significant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) published an advance notice of proposed rulemaking to request comments on the need and desirability of revising its approach to verifying that meat and poultry products are not misbranded, economically adulterated, or otherwise unacceptable for reasons that do not necessarily raise food safety concerns. FSIS will refer to these program activities as "other consumer protection" (OCP) activities. This notice defines and describes FSIS' OCP activities and discusses the Agency's need for revised regulations and verification and enforcement procedures.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/00	65 FR 14486
ANPRM Comment Period End	06/15/00	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC64

214. FOOD STANDARDS; GUIDING PRINCIPLES AND STANDARDS MODERNIZATION

Priority: Other Significant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) are proposing to modernize their food standards. The agencies are proposing that the standards be reviewed and revised by outside parties and submitted to the agencies via the petition process. The agencies are proposing a set of guiding principles that interested parties outside the agencies would use to establish, revise, or eliminate a food standard. The agencies are proposing that petitions to establish standards or to revise or eliminate existing standards adhere to these guiding principles. If the guiding principles are adopted in the regulations, the agencies may encourage petitioners to submit revised food standards that follow the guiding principles and will review petitions submitted to ensure that they adhere to the guiding principles. If a petition does adhere to the guiding principles, the agencies may publish proposed rules to establish, revise, or eliminate standards based on the petition.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robert Post, Director, Labeling and Consumer Protection Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0279

RIN: 0583–AC72

215. POULTRY INSPECTION: REVISION OF FINISHED PRODUCT STANDARDS WITH RESPECT TO INGESTA

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 451 to 470 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: FSIS is seeking to clarify its Poultry Inspection Regulations regarding visible ingesta on poultry carcasses and parts. A preliminary regulatory impact analysis conducted by FSIS determined that costs to achieve zero tolerance far outweighed benefits. This action was precipitated by a civil suit filed against USDA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC77

216. • PETITIONS FOR RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553

CFR Citation: 9 CFR 392

Legal Deadline: None

Abstract: FSIS is proposing to amend its regulations to add a new part that prescribes procedures for the submission, consideration, and disposition of petitions for rulemaking. The proposal also describes the Agency's expectations for the type of documentation that must be submitted in support of a petition and that will facilitate regulatory development. FSIS is proposing this action to provide clear guidance to those who would like to participate in the rulemaking process by petitioning FSIS to issue, amend, or repeal a rule administered by the Agency.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC81

217. • CLASSES OF POULTRY

Priority: Other Significant

Legal Authority: 21 USC 451

CFR Citation: 9 CFR 381.170(a)

Legal Deadline: None

Abstract: FSIS is proposing to amend the official U.S. classes of poultry so that they more accurately and clearly describe the characteristics of poultry in the market today. Poultry classes are defined primarily in terms of age and sex of the bird. Genetic improvements and new poultry management techniques have reduced the grow-out period for some poultry classes while extensive cross breeding has produced poultry with higher meat yields but blurred breed distinctions. This action is being taken to ensure that poultry products are labeled in a truthful and non-misleading manner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Post, Director, Labeling and Consumer Protection Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0279

RIN: 0583–AC83

218. • MANDATORY INSPECTION OF RATITES AND SQUABS

Priority: Other Significant

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 361; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is amending the regulations to include ratites and squabs under mandatory poultry inspection.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Arshad Hussain, Staff Director, Inspection and Enforcement Standards Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AC84

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Final Rule Stage

219. BEEF OR PORK WITH BARBECUE SAUCE; REVISION OF STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 319

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal meat inspection regulations by removing a meat yield requirement for the standardized products "Beef With Barbecue Sauce" and "Pork With Barbecue Sauce." Current regulations for these products require that the product contain not less than 50 percent of the species identified on the label and that the weight of the cooked pork or beef not exceed 70 percent of the uncooked weight of the meat. The first requirement is consistent with other meat and sauce requirements, but the second requirement is not. The petitioner asserts that the product standard (promulgated in 1952) does not reflect current production practices or the commercial marketability of beef or pork with barbecue sauce. The petitioner further states that producers of these products are at a competitive disadvantage with other meat and sauce producers, because other meat and sauce producers do not have a 70 percent yield requirement. For example, producers of the standardized products "Beef with Gravy," "Meat Pies," and "Spaghetti with Meat and Sauce" and similar standardized products do not have any meat yield requirements.

FSIS has determined that the petitioner's request should be granted. This action would permit fair competition between meat and barbecue sauce producers, and poultry and sauce producers, and would provide consistent requirements in both the meat and poultry inspection regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/03/97	62 FR 46450
NPRM Comment Period End	11/03/97	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC09

220. MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND RECOVERY SYSTEMS

Priority: Economically Significant

Legal Authority: 21 USC 601 to 695

CFR Citation: 9 CFR 301.2; 9 CFR 318.24 (Revision); 9 CFR 320.1(b)(10)

Legal Deadline: None

Abstract: In 1994, the Food Safety and Inspection Service amended its regulations to recognize that product resulting from advanced meat/bone separation machinery comes within the definition of meat when recovery systems are operated to assure that the characteristics and composition of the resulting product are consistent with those of meat. Subsequent compliance problems and other concerns have made it apparent that the regulations are confusing and inadequate to prevent misbranding and economic adulteration. Therefore, FSIS is developing a rule to clarify the regulations and supplement the rules for assuring compliance. The Agency is reviewing information obtained since publication of the proposal.

Timetable:

Action	Date	FR Cite
NPRM	04/13/98	63 FR 17959
NPRM Comment Period End	06/12/98	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC51

221. INCORPORATION OF FOOD AND COLOR ADDITIVES INTO 21 CFR

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 602 et seq; 21 USC 451 et seq; 21 USC 321 et seq

CFR Citation: 9 CFR 318.7; 9 CFR 381.147

Legal Deadline: None

Abstract: This final rule will amend the meat and poultry inspection regulations by completing earlier efforts to incorporate current listings in 9 CFR into 21 CFR.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Post, Director, Labeling and Consumer Protection Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0279

RIN: 0583–AC69

222. SHARING RECALL INFORMATION WITH STATE AND OTHER FEDERAL GOVERNMENT AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552; 7 CFR 1.3; 7 CFR 2.7

CFR Citation: 9 CFR 390

Legal Deadline: None

Abstract: FSIS proposes to add regulations concerning sharing recall information with State and other Federal Government agencies.

Timetable:

Action	Date	FR Cite
NPRM	09/19/00	65 FR 56503
NPRM Comment Period End	11/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC75

223. AGENCY ORGANIZATION

Priority: Info./Admin./Other

Legal Authority: 21 USC 451 to 470; 21 USC 601 to 695; 21 USC 1031 to 1056

CFR Citation: 9 CFR 300; 9 CFR 301; 9 CFR 306; 9 CFR 320; 9 CFR 381; 9 CFR 590; ...

Legal Deadline: None

Abstract: This rulemaking will amend FSIS's regulations by consolidating and updating organizational provisions that, until now, have been addressed separately in regulations adopted under the Federal Meat Inspection Act, the Poultry Products Inspection Act, and in some instances, the Egg Products Inspection Act. The rulemaking will complete a task that the Agency began in a December 31, 1998, final rule that added information on FSIS's current responsibilities and organizational structure to the Agency's regulations and reflected the current allocation of responsibilities within the Department by redesignating regulations adopted under the EPIA and transferring them to FSIS's regulations (from those of the Agricultural Marketing Service).

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC78

224. • LABELING OF NATURAL OR REGENERATED COLLAGEN SAUSAGE CASINGS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 to 695; 7 USC 138f; 7 USC 450; 21 USC 451 to 470

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is requiring that the source of natural sausage casings be disclosed on the product label if they are derived from a different type of meat or poultry than the meat or poultry in the enclosed sausage. Establishments producing, manufacturing, or using natural sausage casings or sausages encased in natural casings are also required to maintain records identifying the source of the casings. FSIS is not requiring source labeling or recordkeeping requirements for regenerated collagen casings at this time.

Timetable:

Action	Date	FR Cite
NPRM	07/17/97	62 FR 38220
NPRM Comment Period End	09/15/97	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5627

RIN: 0583–AC80

225. • FOOD STANDARDS: REQUIREMENTS FOR SUBSTANTIVE STANDARDIZED MEAT AND POULTRY PRODUCTS NAMED BY USE OF AN EXPRESSED NUTRIENT CONTENT CLAIM AND A STANDARDIZED TERM

Priority: Other Significant

Legal Authority: 21 USC 601; 21 USC 451

CFR Citation: 9 CFR 381.172; 9 CFR 319.10

Legal Deadline: None

Abstract: FSIS is amending the Federal meat and poultry inspection regulations to establish a general definition and standard of identity for standardized meat and poultry products that have been modified to qualify for use of an expressed nutrient content claim in their product names. These products will be identified by an expressed nutrient content claim, such as "fat free," "low fat," and "light," in conjunction with an appropriate standardized term. FSIS is taking this action to 1) assist consumers to maintain healthy dietary practices by providing for modified versions of standardized meat and poultry products that have reductions of certain constituents that are of health concern to some people, 2) increase regulatory flexibility and support product innovation and, 3) provide consumers with an informative nutrition labeling system.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67474
NPRM Comment Period End	02/27/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Post, Director, Labeling and Consumer Protection Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0279

RIN: 0583–AC82

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Long-Term Actions

226. TRANSPORTATION, STORAGE, AND OTHER HANDLING OF POTENTIALLY HAZARDOUS FOODS

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 9 CFR 308; 9 CFR 317; 9 CFR 325; 9 CFR 381

Timetable:

Action	Date	FR Cite
ANPRM	11/22/96	61 FR 59372
ANPRM Comment Period End	02/20/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AC05

227. PERFORMANCE STANDARD FOR THE CHILLING OR OTHER PROCESSING OF LIVESTOCK CARCASSES AND READY-TO-COOK POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AC21

228. ANTE-MORTEM AND POST-MORTEM INSPECTION OF LIVESTOCK AND POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 309; 9 CFR 310; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	03/00/03	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5627

RIN: 0583–AC43

USDA—FSIS **Long-Term Actions**

229. REQUIREMENTS FOR DISPOSITION AND DISPOSAL OF INSPECTED RAW MEAT AND POULTRY PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 311; 9 CFR 314; 9 CFR 320; 9 CFR 325; 9 CFR 381; 9 CFR 428; 9 CFR 455

Timetable:

Action	Date	FR Cite
NPRM	03/00/03	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC44

230. REWORKING OF MEAT AND POULTRY CARCASSES ACCIDENTALLY CONTAMINATED DURING EVISCERATION

Priority: Other Significant

CFR Citation: 9 CFR 310; 9 CFR 381; 9 CFR 433

Timetable:

Action	Date	FR Cite
NPRM	11/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC53

231. REFORM OF REGULATIONS ON IMPORTED MEAT AND POULTRY PRODUCTS

Priority: Other Significant

CFR Citation: 9 CFR 327; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC56

232. FOOD LABELING; NUTRIENT CONTENT CLAIMS, DEFINITION OF THE TERM HEALTHY

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 371; 9 CFR 381

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/99	64 FR 72490
Interim Final Rule Comment Period End	01/27/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Post Phone: 202 205-0279

RIN: 0583–AC65

233. ELIMINATION OF REQUIREMENTS FOR TOTAL QUALITY CONTROL SYSTEMS

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC68

234. PERFORMANCE STANDARDS FOR ON-LINE ANTIMICROBIAL REPROCESSING OF PRE-CHILL POULTRY CARCASSES

Priority: Other Significant

CFR Citation: 9 CFR 381; 9 CFR 424

Timetable:

Action	Date	FR Cite
NPRM	12/01/00	65 FR 75187
NPRM Comment Period End	01/30/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC73

235. • TERMINOLOGY

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 to 470; 21 USC 601 to 695; 21 USC 1031 to 1056

CFR Citation: 9 CFR 301; 9 CFR 311; 9 CFR 327;; 9 CFR 381; 9 CFR 590

Legal Deadline: None

Abstract: This rulemaking will amend FSIS's regulations by consolidating and updating definitions of various terms that, until now, have been addressed separately in regulations adopted under the Federal Meat Inspection Act, the Poultry Products Inspection Act, and in some instances, the Egg Products Inspection Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations and Directive Development Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5627

RIN: 0583–AC79

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) **Completed Actions**

236. RETAINED WATER IN RAW MEAT AND POULTRY PRODUCTS; POULTRY-CHILLING PERFORMANCE STANDARDS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 440

Completed:

Reason	Date	FR Cite
Final Action	01/09/01	66 FR 1750

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC26

237. AGENCY TERMINOLOGY

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 301; 9 CFR 311; 9 CFR 327; 9 CFR 381; 9 CFR 590; ...

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC57

238. TRANSFER AND DEVELOPMENT OF SHELL EGG REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn	02/05/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC70

239. INCREASES IN FEES FOR MEAT, POULTRY, AND EGG PRODUCTS INSPECTION SERVICES—FISCAL YEAR (FY) 2001

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 391.2; 9 CFR 391.3; 9 CFR 391.4; 9 CFR 590.126; 9 CFR 590.128(a)

Completed:

Reason	Date	FR Cite
Final Action	10/10/00	65 FR 60093

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5627

RIN: 0583–AC74

BILLING CODE 3410–DM–S

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS) **Final Rule Stage**

240. EXPORT SALES REPORTING REQUIREMENT

Priority: Other Significant

Legal Authority: 7 USC 5712

CFR Citation: 7 CFR 20

Legal Deadline: None

Abstract: Consideration of a proposal to add meat and meat products to the list of commodities for which advanced notice of export is reported and a streamlined electronic reporting system as the means to accomplish that reporting.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/96	61 FR 58343
ANPRM Comment Period End	01/13/97	
NPRM	03/03/00	65 FR 11483
NPRM Comment Period End	05/02/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 0551–AA51

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS) **Long-Term Actions**

241. CCC SUPPLIER CREDIT GUARANTEE PROGRAM

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1493

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37025
NPRM Comment Period End	09/18/95	
Interim Final Rule	07/01/96	61 FR 33825
Interim Final Rule Effective	08/30/96	
Interim Final Rule Comment Period End	12/30/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0551–AA30

242. FACILITY GUARANTEE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 17; 7 CFR 1493

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/93	58 FR 11786
Interim Final Rule Comment Period End	06/01/93	
Interim Final Rule	08/08/97	62 FR 42651
Interim Final Rule Comment Period End	10/07/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0551–AA35

BILLING CODE 3410–10–S

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Forest Service (FS)

243. HYDROPOWER APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is revising its current policy and procedures, implemented in February 1987, concerning administration of hydropower authorizations and the processing of proposals for hydropower projects affecting National Forest System lands. These revisions are necessary to make Agency policy and procedures consistent with regulatory changes by the Federal Energy Regulatory Commission (FERC). The proposed policy was published in the Federal Register on May 22, 1995 (60 FR 27153), for a 60-day public comment period, which was extended for another 45 days (60 FR 36401). As a result of the comments received, substantial changes were made to the proposed policy (60 FR 36401). Therefore, the Forest Service is publishing a revised proposed policy for public comment.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27153
NPRM Comment Period Extended	07/17/95	60 FR 36401
NPRM Comment Period End	09/05/95	
Second NPRM	08/00/01	
Second NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AA47

244. SMALL TRACTS ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations (adopted in 1984) has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
NPRM Comment Period End	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AA79

245. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend 36 CFR 223.200 to list species proposed to be surplus to domestic manufacturing needs. This proposed rule would implement a portion of section 620a(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 USC 620 et seq.). Section 620a(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange, or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 620a(b) of the Act provides that the prohibition contained in section (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary determines, through rulemaking, to be surplus to domestic manufacturing needs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB27

246. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251; 36 CFR 214

Legal Deadline: None

Abstract: These proposed regulations would redesignate these appeals rules as a new part 214, thus placing all appeals and notices and comment rules in close proximity. Additionally, this proposed rule would revise a number of existing provisions. For example, changes to part 251 would clarify the application of this rule to the issuance of permits for occupancy and use of National Forest System lands. When 36 CFR part 251, subpart C, regulations were promulgated in 1989, NEPA analysis and documentation was not consistently applied to the authorization of special uses. Now the authorization and the issuance of permits and other authorization requires application of the NEPA process prior to issuance. In addition, since these regulations were implemented, Congress has passed the Appeal Reform Act. The proposed changes to the permit-related appeal rules are needed to make this regulation consistent with regulations at 36 CFR part 215. Among specific proposed changes being considered are removing the second level of appeal opportunity, removing the discretionary review option, shortening timeframes for scheduling oral presentations, and changes to conform terminology and definitions with 36 CFR part 215.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB45

247. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; EXTENSION OF TIMBER SALE CONTRACTS TO PERMIT URGENT REMOVAL OF OTHER TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620

CFR Citation: 36 CFR 223.50; 36 CFR 223.53

Legal Deadline: None

Abstract: This rule and policy change will provide for extension of National Forest System (NFS) timber sale contracts when such extension will permit the prompt removal and utilization of non-NFS-owned timber damaged by catastrophic events. The change will define the responsibilities of the parties for requesting and approving such extensions and specify when such extension should be approved. This change will also allow for the use of scarce timber resources and the recovery of economic benefits from timber that might otherwise be lost because of contractual obligations to harvest undamaged timber.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB48

248. LAW ENFORCEMENT SUPPORT ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1011(f); 16 USC 472; 16 USC 551; 16 USC 559(a) to 559(g); 40 USC 484(m)

CFR Citation: 36 CFR 262

Legal Deadline: None

Abstract: In February 1994, the Forest Service published proposed rule changes for parts 261 and 262 of title 36 of the Code of Federal Regulations. Due to the high level of interest in and comment on part 261, the decision was made to publish a second proposed rule. The majority of the public comment on part 262 referred to the definition section which has been revised to respond to those comments. The Forest Service has decided to issue a second proposed rule for comment on part 262, Law Enforcement Support Activities. Proposed revisions to part 261 will proceed separately.

In addition, the proposed amendment to 36 CFR part 262, Law Enforcement Support Activities, would amend the rules that govern monetary rewards and payments for information leading to the arrest and conviction of people who harm natural resources or threaten employees. The proposed rule would remove established rewards for damaging or stealing yew trees, the natural source of taxol, as taxol is now produced synthetically. The change also would clarify the procedures in subpart B for administrative impoundments and removals of livestock, dogs, and personal property.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	08/00/01	
Second NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB61

249. NONCOMPETITIVE SALE OF TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472(a)

CFR Citation: 36 CFR 223.85

Legal Deadline: None

Abstract: This proposed rule would revise 36 CFR 223.85 by removing references to section 2001(k) of Public Law 104-19 (109 Stat. 246) and define "extraordinary conditions" to allow forest officers, without advertisement, to make modifications to timber and forest product sales, which result in the substitution of timber or forest products from outside the sale area specified in the contract. Under the proposed rule, substitute timber or forest products would have to come from the same administrative national forest and meet Agency requirements for compliance with the National Environmental Policy Act and other environmental laws. This proposed rule would not compel a timber purchaser to accept a timber sale modification offered under this rule. The rule only authorizes the Forest Service to propose modifications and to enter into discussions with purchasers on such modifications.

This proposed rule will reduce timber sale cancellations and partial cancellations, thus reducing future damage claims on timber sales.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB70

250. CATEGORICAL EXCLUSION FOR CERTAIN SPECIAL USES PERMIT ACTIONS (FSH 1909.15, CHAPTER 30)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 to 4346

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In April 1997, the Forest Service completed a reengineering study of its special uses program. One finding in that study was that the Forest Service is conducting extensive National Environmental Policy Act (NEPA) analysis and documentation for the renewal or transfer of ownership of special use authorizations having no significant effect on the human environment, either individually or cumulatively. This level of NEPA compliance is costly, time consuming, and not commensurate with the risk attributed to the activity. Therefore, the Forest Service proposes to add a new category of categorical exclusions from NEPA documentation at sections 31.1b and 31.2 of FSH 1909.15, Environmental Policy and Procedures Handbook. This action would give clearer direction regarding the NEPA obligation, when issuance of a special use authorization is a purely ministerial action and no changes are proposed in permitted activities or facilities.

Further, the Forest Service proposes to amend section 30.3 to clarify the NEPA documentation that is needed for processing applications and authorizations under a categorical exclusion when extraordinary circumstances exist. There is confusion surrounding section 30.3 about the "mere presence" of an extraordinary circumstance and the implication of a need for an Environmental Assessment (EA) or Environmental Impact Statement (EIS). The Forest Service proposes to amend this section to provide that an identified extraordinary circumstance must clearly have a significant impact on the National Forest resource to merit preparation of an EA or EIS.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB73

251. CLARIFICATION OF EXEMPTIONS FROM SPECIAL-USE AUTHORIZATIONS

Priority: Info./Admin./Other

Legal Authority: 16 USC 477 to 482; 16 USC 551; 43 USC 1761 to 1771

CFR Citation: 36 CFR 251.50(c)

Legal Deadline: None

Abstract: In April 1997, the Forest Service completed a reengineering study of its special uses program on how to manage the program in a more businesslike, customer-service-oriented way. The Agency proposes the following revisions to 36 CFR 251.50 that would implement recommendations from this study. The study determined that many units are issuing special use authorizations unnecessarily, thereby increasing workloads. The study concluded that the Agency should clarify the special uses rules at section 251.50(a) to make explicitly clear that special use authorizations should not be issued for activities that are regulated by other Forest Service regulations; for example, those governing the disposal of timber (part 223); minerals (part 228); the use of forest development roads and trails (part 212 and section 251.110); and the grazing of cattle (part 222). The study also concluded that section 251.50(d) should be revised to direct that special use authorizations should not be issued where such authorization would serve no land or resource management objective and would have nominal effects on National Forest System lands; for example, where activities are adequately regulated by other governmental entities or where an authorized officer determines that normal operation and maintenance by the holder is within the scope of a right-of-way, easement, or other valid existing real property interest. Further, the rule at section 251.50(c) would be revised to clarify that, in emergency situations, a special use authorization should be sought at the earliest opportunity following the emergency to ensure that appropriate measures are carried out to protect National Forest System lands after the emergency situation no longer exists.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB74

252. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; TIMBER EXPORT AND SUBSTITUTION RESTRICTIONS

Priority: Other Significant

Legal Authority: 16 USC 620

CFR Citation: 36 CFR 223; 36 CFR 261

Legal Deadline: None

Abstract: The proposed rule for timber export and substitution restrictions would implement the Forest Resources Conservation and Shortage Relief Act of 1990, as amended. The proposed rule defines the certain terms necessary to facilitate uniform compliance; prohibits transfer of unprocessed private timber for export by a person who possesses or acquires unprocessed Federal timber; prohibits export of such unprocessed private timber by a third or successive party; prescribes procedures for reporting the acquisition and disposition of NFS and private timber requiring domestic processing, including transfers; prescribes procedures for identifying unprocessed National Forest Service and private timber requiring domestic processing; and establishes procedures for assessing civil and criminal penalties and applying administrative remedies for violations of the Act, its implementing regulations, and contracts subject to the Act.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB75

253. • USE OF FIXED ANCHORS IN WILDERNESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: The Forest Service is proposing to issue regulations on the use of climbing equipment in designated wilderness areas within the National Forest System (NFS). Prior to the adoption of the Wilderness Act, certain climbing equipment, including rock bolts, have been placed in rock faces by climbers. This practice has continued for several decades and is the focus of controversy among wilderness users. An increase in the popularity of bolt-intensive form of rock climbing in the early 1990s has fueled this controversy. Some wilderness advocates consider rock bolts and other anchors, left behind by climbers, as permanent improvements.

To address this issue on NFS lands, a negotiated rulemaking committee was convened in June 2000. After four 2-day meetings, the group failed to reach consensus on several aspects of the issue; however, consensus was reached on other aspects. The Agency is moving forward with a proposal that utilizes the advice of the committee and the aspects that were agreed upon by the committee. The Agency intends to propose for public comment several alternatives to define and regulate permanent fixed anchors, including bolts. Resolving these issues through rulemaking is preferable to other dispute resolution alternatives, such as litigation or legislative amendment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0596–AB80

254. • SPECIAL FOREST PRODUCTS AND FOREST BOTANICAL PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 36 CFR 223

Legal Deadline: None

Abstract: The Forest Service proposes to promulgate regulations for managing special forest products and forest botanical products. The regulations will guide the Forest Service in the administration of the broader category of special forest products. The proposed rule also implements Public Law 106-113, Pilot Program of Charges and Fees for Harvest of Forest Botanical Products, Appropriations Act H.R.

3423, section 339, Forest Botanical Products. Forest botanical products include products, such as herbs, berries, seeds, and wildflowers that are not wood products. The intended effect of this rule is to give guidance and consistency for the sustainability and sale of special forest products and forest botanical products.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB81

255. • DETERMINING FAIR MARKET VALUE FOR RECREATION RESIDENCE USE AUTHORIZATIONS

Priority: Info./Admin./Other

Legal Authority: 16 USC 497; PL 106-291, title VI

CFR Citation: None

Legal Deadline: None

Abstract: The appropriations act for the Department of the Interior and related agencies for fiscal year 2001 (Pub.L. 106-291) contains provisions in title VI "Cabin User Fee Fairness Act of 2000" to ensure consistent and fair processes for appraising the fee simple value of recreation residence lots on National Forest System (NFS) lands. This act (1) establishes in law that the base annual fee for recreation residences is 5 percent of the market value of the lot; (2) changes the appraisal cycle period from 20 years to 10 years; and (3) requires the Secretary of Agriculture to (a) complete an inventory of utilities, access, and facilities serving each recreation residence tract or lot and document who paid for the installation of those improvements; (b) develop a new set of guidelines for conducting appraisals for recreation residences on NFS lands; (c) use a different annual indexing indicator; and (d) issue new Agency direction to implement the provisions of the Act within 2 years of its passage (10/11/2000). The Forest Service proposes to publish notice in the Federal Register of policy changes to the Forest Service Manual (FSM 2723) and Handbooks (FSH 2709.11, sec. 33; and FSH 5409.12, ch. 6) that would make Agency direction consistent with the requirements in the Act for the base annual fee and appraisal cycle (described in the preceding items (1) and (2)) and to request public comment on those policy changes related to the inventory, guidelines for appraisals, and indexing indicator (described in the preceding items (3)(a) to (3)(d). Comments will be considered in development of the final policy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0596–AB83

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Forest Service (FS)

256. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: This rule sets forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals require the Forest Service to set forth its own regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	
Final Action	09/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AA52

257. DISPOSAL OF NATIONAL FOREST TIMBER; CANCELLATION OF TIMBER SALE CONTRACTS

Priority: Other Significant

Legal Authority: 16 USC 472a; 16 USC 551; 16 USC 618

CFR Citation: 36 CFR 223.30; 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Current regulations governing cancellation of National Forest timber sale contracts do not adequately protect the Government's financial interests in the event the Forest Service is forced to cancel contracts due to events beyond its control arising from compliance with environmental statutes. This rulemaking would remove an unworkable compensation-of-damages formula and establish a termination-for-environmental-protection clause in timber sale contracts, a standard in most Federal procurement contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68690
NPRM Comment Period End	02/13/97	
Final Action	05/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB21

258. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1764; 30 USC 181

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The objective of this proposal is to incorporate into regulation the authority contained in the Mineral Leasing Act and the Federal Land Policy and Management Act to reimburse the United States for reasonable administrative costs associated with the issuance and administration of special-use authorizations on National Forest System lands. It responds to a recommendation contained in GAO Audit Report RCED-97-16 (12/96).

Timetable:

Action	Date	FR Cite
NPRM	11/24/99	64 FR 66341
NPRM Comment Period Extended	12/29/99	64 FR 72971
NPRM Comment Period End	02/04/00	
Comment Period Extended	02/25/00	65 FR 10042
Comment Period End	03/09/00	
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Cost reimbursement for processing special-use applications and administration of special-use authorizations was originally included under RIN 0596-AA36. All provisions pertaining to the special-use application and administration process have been merged with RIN 0596-AB35. Thus, this rulemaking addresses only the cost-reimbursement provisions.

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RIN: 0596–AB36

259. PREFERENCE FOR VISITOR SERVICE; ALASKA NATIONAL FOREST CONSERVATION SYSTEM UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3197

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is issuing regulations to define and establish procedures for administering the statutory rights and preferences established by the Alaska National Interest Lands Conservation Act of 1980 for historical operators, Native Corporations, and local residents to conduct revenue producing visitor services on certain National Forest System Lands in Alaska. The regulations are necessary to comply with section 1307 of the Alaska National Interest Lands Conservation Act, which requires the Secretary of Agriculture to give preference to persons he determines by rule are local residents. The regulations, which have been developed in close consultation with the other Federal land managing agencies in Alaska, will apply only to Conservation System Units administered by the Forest Service. As applied to these regulations, administered Conservation System Units are Forest Service national monuments units of the National Wild and Scenic River Systems, National Trails System, and the National Wilderness Preservation System in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	04/25/97	62 FR 20140
NPRM Comment Period End	06/24/97	
Final Action	10/00/01	
Final Action Effective	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
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RIN: 0596–AB57

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)
Completed Actions

260. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Priority: Other Significant

CFR Citation: 36 CFR 219

Completed:

Reason	Date	FR Cite
Final Action	11/09/00	65 FR 65714
Final Action Effective	11/09/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB20

261. ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Priority: Other Significant

CFR Citation: 36 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	01/12/01	66 FR 3205
Final Action Effective	01/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly
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RIN: 0596–AB67

262. APPEAL OF REGIONAL GUIDES AND NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLANS; MULTI-AGENCY DECISIONS

Priority: Other Significant

CFR Citation: 36 CFR 217

Completed:

Reason	Date	FR Cite
Withdrawn	03/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly
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RIN: 0596–AB76

263. SPECIAL AREAS: ROADLESS AREA CONSERVATION

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 36 CFR 294

Completed:

Reason	Date	FR Cite
Final Action	01/12/01	66 FR 3243
Extension Final Effective Date	02/05/01	66 FR 8899
Final Action Effective	05/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0596–AB77

BILLING CODE 3410–11–S

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)
Proposed Rule Stage

264. • GENERAL NONPROCUREMENT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 901 et seq

CFR Citation: 7 CFR 3020

Legal Deadline: None

Abstract: USDA published 7 CFR part 3015, Uniform Federal Assistance Regulations, in 1981 to establish and codify departmentwide policies and standards for administering grants and cooperative agreements to governmental and nongovernmental entities. Since that time, the Office of Management and Budget has lead efforts to establish Governmentwide common rules for governmental and nongovernmental recipients of grants and cooperative agreements. Consequently, over the years, USDA has codified its Governmentwide common rules in other parts of title 7 of the CFR. This has resulted in corresponding amendments to part 3015 to revise its scope accordingly. We are proposing to remove part 3015 and to add part 3020 to parts of title 7. We are proposing to include other administrative requirements that were never codified. The alternative would be to continue to work with the disjointed, outdated part 3015. Expected results are that the new part 3020 will be more clear and concise and will only contain those crosscutting requirements not included in other USDA departmentwide administrative regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Federalism: Undetermined

Agency Contact: Gerald Miske, Supervisory Management Analyst, Office of the Chief Financial Officer, Department of Agriculture, Office of the Secretary, Room 3022-S, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1553

RIN: 0503–AA21

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)
Long-Term Actions

265. NONDISCRIMINATION IN USDA-CONDUCTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	04/23/96	61 FR 17851
NPRM Comment Period End	05/23/96	
Second NPRM	11/10/98	63 FR 62962
Second NPRM Comment Period End	12/10/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Winningham
Phone: 202 720-5212

RIN: 0503–AA15

266. DESIGNATION OF RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Priority: Other Significant

CFR Citation: 7 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	04/27/00	65 FR 24656
NPRM Comment Period End	05/26/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Jay Norman Reid
Phone: 202 619-7980

RIN: 0503–AA20

BILLING CODE 3410–90–S

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)
Prerule Stage

267. • INTERMEDIARY RELENDING PROGRAM PARTICIPATION AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1932 note

CFR Citation: 7 CFR 4274 subpart D

Legal Deadline: None

Abstract: The Agency is considering authorizing Intermediary Relending Program intermediaries to sell participation agreements in their loans.

Timetable:

Action	Date	FR Cite
ANPRM	08/00/01	
ANPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne Stansbery, Loan Specialist, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250-3225
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RIN: 0570–AA33

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)
Proposed Rule Stage

268. BUSINESS AND INDUSTRY DIRECT LOAN PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart E; 7 CFR 1942 subpart A; 7 CFR 1951 subpart E; 7 CFR 4274 subpart I; 7 CFR 4287 subpart H

Legal Deadline: None

Abstract: The Agency currently utilizes RD Instructions 1980-A and E, 1942-A, and 1951-E to make and service new and existing direct B&I loans. These regulations contain very limited direction in direct B&I loanmaking. The Agency is writing new regulations to replace the instructions for direct loanmaking and servicing. This program will complement the Agency's existing guaranteed (B&I) loan program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Richard Bonnet, Senior Loan Specialist, Processing Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6864/Stop 3224, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0570–AA22

269. BUSINESS AND INDUSTRIAL GUARANTEED LOAN PROGRAM—MISCELLANEOUS CHANGES

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 4287 subpart B; 7 CFR 4279 subpart A; 7 CFR 4279 subpart B

Legal Deadline: None

Abstract: Revisions are proposed in the following areas: Exclusion of financing agriculture production, limiting debt refinancing, definition of rural and rural area, criteria for reducing percent of guarantee, revising loan priority criteria, eligibility issues when an applicant is delinquent on Federal debt, title IX provisions, additional administrative guidance, tightening eligibility criteria for non-bank lenders, removing the need for a Regional Attorney review for transfers and

USDA—RBS — **Proposed Rule Stage**

assumptions of existing loans, limiting debt refinancing, limiting packaging fees, adjusting loan priorities, additional application requirements for certain applicants, and various other minor editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bonnet, Senior Loan Specialist, Processing Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6864/Stop 3224, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0570–AA23

270. AFFIRMATIVE FAIR HOUSING MARKETING PLAN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 1942 subpart G; 7 CFR 4284 subpart D; 7 CFR 4287 subpart B; 7 CFR 4279 subpart B; 7 CFR 4274 subpart D; 7 CFR 4280 subpart A; 7 CFR 4287 subpart H

Legal Deadline: None

Abstract: This action will incorporate the requirement for housing-related projects (such as apartment buildings, nursing homes, group homes, and assisted living type facilities) to develop an Affirmative Fair Housing Marketing Plan (plan) when receiving funding from the Intermediary Relending Program, Rural Business Enterprise Grant Program, Rural Business Opportunity Grant Program, Rural Economic Development Loan and Grant Programs, and the Business and Industry Direct and Guaranteed Loan Programs. The plan will describe strategies to attract applications from all groups in a housing market area and efforts to reach those persons in the market area who traditionally would not be expected to apply for housing. The Rural Housing Service Multifamily Housing Program regulations currently include this borrower requirement. We estimate this action will impact a total of 100 housing-related projects not previously required to complete a plan.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Concepcion Malazo, Loan Specialist Servicing Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6858/Stop 3224, 1400 Independence Avenue SW, Washington, DC 20250-3224
Phone: 202 690-3810

RIN: 0570–AA24

271. BUSINESS AND INDUSTRY GUARANTEED LOAN PROGRAM—FINANCING COOPERATIVE STOCK

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 4279 subpart B; 7 CFR 4279 subpart A

Legal Deadline: None

Abstract: The Agency proposes to revise the Business and Industry Program regulations to incorporate additional guidance and eliminate or reduce certain requirements when financing cooperative stock. It also proposes to develop a streamlined application form when financing working capital, which includes cooperative stock.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Richard Bonnet, Senior Loan Specialist, Processing Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6864/Stop 3224, 1400 Independence Avenue SW, Washington, DC 20250
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RIN: 0570–AA26

272. RURAL BUSINESS ENTERPRISE GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1932; 7 USC 1989; 16 USC 1005

CFR Citation: 7 CFR 1942; 7 CFR 4284

Legal Deadline: None

Abstract: The Agency proposes to rewrite and renumber 7 CFR 1942, subpart G, "Rural Business Enterprise Grant Program" to 7 CFR part 4284, subpart B, to incorporate public law changes and clarify administrative regulatory procedures and guidelines in order to improve program administration.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Amy Cavanaugh, Loan Specialist, Department of Agriculture, Rural Business-Cooperative Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250-3225
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RIN: 0570–AA28

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS) — **Final Rule Stage**

273. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 940c

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 4280 subpart A

Legal Deadline: None

Abstract: This action is part of a reinvention laboratory initiative of the Department of Agriculture and Rural Business-Cooperative Service. The regulations will be written in a "plain language" style. The regulation will be simpler and improve the ease of use by the public and program beneficiaries. The regulation will be written in a question and answer format from the perspective of questions from the applicant under this program. The regulations will simplify the application format, review and selection process, and recipient's recordkeeping requirements. It will also add a section on the appeal of adverse decisions. The comment period on the proposed rule ended February 14, 2000. The Agency received 28 written comments. The Agency conducted a meeting, which was open to the public on August 2, 2000, to allow the Agency to listen to oral presentations from the general public on the proposed rule. The Agency will respond to the comments made at the meeting in the preamble to the final rule as part of the rulemaking processing under the Administrative Procedures Act.

Timetable:

Action	Date	FR Cite
NPRM	12/15/99	64 FR 69937
NPRM Comment Period End	02/14/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Wing, Loan Specialist, Department of Agriculture, Rural Business-Cooperative Service, Room 6867, South Building, STOP 3225, Washington, DC 20250
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RIN: 0570–AA19

274. ALLOCATION FORMULAS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1940 subpart L

Legal Deadline: None

Abstract: This action will amend existing regulations for allocating program funds among Agency State offices. It will add the Rural Business Opportunity Grant Program and update the formulas used for Rural Business Enterprise Grant and Business and Industry Programs.

Timetable:

Action	Date	FR Cite
NPRM	08/03/00	65 FR 47695
NPRM Comment Period End	10/02/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne Stansbery, Loan Specialist, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250-3225
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RIN: 0570–AA30

275. • THE RURAL BUSINESS ENTERPRISE GRANTS AND TELEVISION DEMONSTRATION GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1932; 7 USC 1989; 16 USC 1005

CFR Citation: 7 CFR 1942 subpart G

Legal Deadline: None

Abstract: The Agency proposes to revise its regulation by clarifying the definition of small and emerging private business enterprise. This action will streamline the regulation and reduce the burden to the applicant in meeting the restricted definition.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/01	
Interim Final Rule Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Amy Cavanaugh, Loan Specialist, Department of Agriculture, Rural Business-Cooperative Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250-3225
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RIN: 0570–AA32

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS) — **Long-Term Actions**

276. RURAL AND RURAL AREA UNDER THE RURAL COMMUNITY ADVANCEMENT PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 4279; 7 CFR 1980; 7 CFR 1942; 7 CFR 4284

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Bill Hagy
Phone: 202 720-7287

RIN: 0570–AA27

277. BUSINESS AND INDUSTRY GUARANTEED LOAN PROGRAM—DOMESTIC LAMB INDUSTRY ADJUSTMENT ASSISTANCE PROGRAM SET-ASIDE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 4279 subpart B

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/00	65 FR 64596

USDA—RBS — **Long-Term Actions**

Action	Date	FR Cite
Interim Final Rule Effective	10/30/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0570–AA31

BILLING CODE 3410–07–S

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS) — **Proposed Rule Stage**

278. TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT, AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend 7 CFR 1755 to include requirements presently contained in RUS Bulletin 345-3. This rule would establish and codify provisions for the inclusion and removal for products from I.P. 344-2. This rule also proposes to integrate the existing section on field trials in the procedures for product acceptance and inclusion in this codification, as well as clarifying the reorganizing the field trials section.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB40

279. SERVICING OF WATER PROGRAMS LOANS AND GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 7 CFR 1782; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956

Legal Deadline: None

Abstract: This proposed action combines nine existing loan-servicing regulations of Water Programs into one. The new regulations will codify and clarify Water Programs policy relating to loan-servicing by incorporating simplified language without significantly changing any of the Agency's servicing policies or procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
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RIN: 0572–AB59

280. MERGERS AND CONSOLIDATIONS OF ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 to 950b; 7 USC 1981; PL 99-591; PL 103-354

CFR Citation: 7 CFR 1717

Legal Deadline: None

Abstract: The Rural Utilities Service is proposing to amend subpart D to eliminate the additional 24-month extension to the reimbursement period offered as transitional assistance in connection with new loans to systems that have merged after December 19, 1996, as stated in section 1717.154(c).

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB63

281. PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED TELECOMMUNICATIONS LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; PL 103-354

CFR Citation: 7 CFR 1737

Legal Deadline: None

Abstract: The Rural Utilities Service proposes to revise subparts A, C, D, E, F, H, and J to update the requirements related to the preparation and review of loan applications.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg

USDA—RUS — **Proposed Rule Stage**

Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
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RIN: 0572–AB64

282. • DEMAND SIDE MANAGEMENT AND RENEWABLE ENERGY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1710

Legal Deadline: None

Abstract: The Agency is removing subpart H in its entirety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
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RIN: 0572–AB65

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS) — **Final Rule Stage**

283. POST-LOAN POLICIES AND PROCEDURES COMMON TO GUARANTEED AND INSURED LOANS

Priority: Other Significant

Legal Authority: 7 USC 941 et seq; 7 USC 6941 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1610; 7 CFR 1744

Legal Deadline: None

Abstract: As part of the Rural Utilities Service's (RUS) continuing effort to streamline and simplify regulations and to reduce burdens on borrowers, RUS and RTB intend to revise and reform their loan contract and mortgage documents.

Timetable:

Action	Date	FR Cite
ANPRM	08/18/98	63 FR 44175
ANPRM Comment Period End	09/17/98	
NPRM	12/15/99	64 FR 69946
NPRM Comment Period End	02/14/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB48

284. WATER AND WASTE DISPOSAL PROGRAMS GUARANTEED LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 16 USC 1005

CFR Citation: 7 CFR 1779; 7 CFR 1980

Legal Deadline: None

Abstract: The Agency is issuing a final rule to consolidate its regulations governing the Water and Waste Disposal Guaranteed Loan Program from two regulations into one regulation. Current terms and processes will be used.

Timetable:

Action	Date	FR Cite
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB57

285. ELIMINATION OF CURRENT RATIO REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1717

Legal Deadline: None

Abstract: As part of its ongoing program to streamline regulations, RUS is amending it regulations to eliminate the requirement that a borrower maintain a current ratio, equal to or greater than one, immediately following a cash distribution. RUS believes the requirement that a borrower maintain a current ratio, greater than or equal to one, following a cash distribution severely restricts the borrower's ability to independently manage cash flow. The elimination of this requirement will provide borrowers additional flexibility as they manage cash flow and determine when to declare or pay dividends, pay or determine to pay any patronage refunds, retire any patronage capital, or make any other cash distributions.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB58

USDA—RUS — Final Rule Stage

286. EXTENSIONS OF PAYMENTS OF PRINCIPAL OR PRINCIPAL AND INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1721

Legal Deadline: None

Abstract: This rule will add subpart b which will set forth the procedures under which borrowers may request an extension for the payment of principal and interest.

Timetable:

Action	Date	FR Cite
NPRM	01/09/01	66 FR 1604
NPRM Comment Period End	03/12/01	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB60

287. SETTLEMENT OF DEBT

Priority: Other Significant

Legal Authority: 7 USC 901 to 950b; 7 USC 1981; PL 99-591; PL 103-354

CFR Citation: 7 CFR 1717

Legal Deadline: None

Abstract: The Rural Utilities Service will amend subpart Y to provide the Administrator with needed flexibility when addressing requests by borrowers to excercise authority thereunder in circumstances not otherwise explicitly contemplated in the regulation.

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
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Fax: 202 720-4120

RIN: 0572–AB61

288. POLICY ON AUDITS OF RUS BORROWERS; GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS (GAGAS)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1773

Legal Deadline: None

Abstract: The Rural Utilities Service is amending its regulations to include in its audit requirements for electric and telecommunications borrowers recent amendments to the Generally Accepted Government Auditing Standards (GAGAS) issued by the Government Accounting Office (GAO) and to make other minor changes and corrections.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
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RIN: 0572–AB62

289. • POLICY ON AUDITS OF RUS BORROWERS: MANAGEMENT LETTER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1773

Legal Deadline: None

Abstract: RUS is amending its regulations by revising certain requirements regarding the management letter to be provided by RUS by certified public accountants as part of audits of RUS borrowers.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
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RIN: 0572–AB66

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Long-Term Actions

290. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1728

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe
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RIN: 0572–AA67

USDA—RUS — Long-Term Actions

291. RUS APPROVAL OF ADDITIONS AND EXTENSIONS TO ELECTRIC PLANTS

Priority: Other Significant

CFR Citation: 7 CFR 1717.603

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
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RIN: 0572–AB38

292. TELECOMMUNICATIONS SYSTEM CONSTRUCTION CONTRACT AND SPECIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1755

Timetable:

Action	Date	FR Cite
ANPRM	09/16/98	63 FR 49504
ANPRM Comment Period End	12/15/98	
NPRM	08/25/00	65 FR 51773
NPRM Comment Period End	12/26/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB41

293. THE "BUY AMERICAN" REQUIREMENT

Priority: Other Significant

CFR Citation: 7 CFR 1787

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
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RIN: 0572–AB55

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Completed Actions

294. SOLID WASTE MANAGEMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpart B

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Local

Federalism: Undetermined

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB14

295. TECHNICAL ASSISTANCE AND TRAINING GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpart A

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Local

Federalism: Undetermined

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
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RIN: 0572–AB15

296. SEISMIC SAFETY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1792 C

Completed:

Reason	Date	FR Cite
Final Action	12/28/00	65 FR 76915

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
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RIN: 0572–AB47

297. GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1710

Completed:

Reason	Date	FR Cite
Notice of Confirmation of Direct Final Rule	11/20/00	65 FR 69657

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB52

298. ELECTRIC ENGINEERING, ARCHITECTURAL SERVICES, AND DESIGN POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1724

Completed:

Reason	Date	FR Cite
Final Action	10/23/00	65 FR 63195

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
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RIN: 0572–AB54

BILLING CODE 3410-15-S

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Proposed Rule Stage

299. CONSERVATION OF PRIVATE GRAZING LAND

Priority: Other Significant

Legal Authority: 16 USC 2005b

CFR Citation: 7 CFR 610

Legal Deadline: None

Abstract: Private grazing land constitutes nearly one-half of the non-Federal land of the United States and is basic to environmental, social, and economic stability of rural areas. In fact, grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water for all of the many uses in the watershed. Congress recognized the importance of grazing lands in subtitle H, section 386, of the Federal Agriculture Improvement and Reform Act of 1996 by authorizing the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing lands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Helen Huntington, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, Mail Stop 5460, 5601 Sunnyside Avenue, Beltsville, MD 20705
Phone: 301 504-2165
Email: helen.huntington@usda.gov

RIN: 0578–AA29

300. EMERGENCY WATERSHED PROTECTION PROGRAM

Priority: Other Significant

Legal Authority: PL 81-516; 33 USC 701; PL 95-334; 16 USC 2203

CFR Citation: 7 CFR 624

Legal Deadline: None

Abstract: A revision is necessary to incorporate changes in the program, which have resulted from the passage of the 1996 Farm Bill; to fulfill a desire to make the program more responsive and efficient; and to respond to concerns of the public and the Agency. The rule is being reorganized and several items added.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas A Weber, Deputy Chief for Programs, Department of Agriculture, Natural Resources Conservation Service, Room 5004-S, PO Box 2890, Washington, DC 20013
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RIN: 0578–AA30

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Final Rule Stage

301. FORESTRY INCENTIVES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 2101 and 2103

CFR Citation: 7 CFR 635; 7 CFR 701

Legal Deadline: None

Abstract: The Forestry Incentives Program (FIP) supports good forest management practices on privately owned, non-industrial forest lands nationwide. FIP is designed to benefit the environment while meeting future demands for wood products. The Cooperative Forestry Assistance Act of 1978, as amended by Public Law 95-313, is the source of authority for FIP. FIP was reauthorized for fiscal year 2002 by Public Law 104-127. The interim rule sets forth FIP policies and procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Helen Huntington, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, Mail Stop 5460, 5601 Sunnyside Avenue, Beltsville, MD 20705
Phone: 301 504-2165
Email: helen.huntington@usda.gov

RIN: 0578–AA26

302. WETLAND CATEGORICAL MINIMAL EFFECTS EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3801 et seq

CFR Citation: 7 CFR 12

Legal Deadline: None

Abstract: The 1985 Farm Bill, as amended, gives producers a major incentive to conserve wetlands by tying eligibility for most USDA program benefits to conservation of wetlands. However, producers can convert wetlands based on available exemptions, including a minimal effect exemption. A minimal effect applies if the action, individually and cumulatively, will have minimal effect on the functional hydrological and biological value of the wetlands in the area. A categorical minimal effect is one that, when carried out, will always have a minimal effect on the hydrologic and biological functions of wetlands in the area. These activities will be identified on a regional basis.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Helen Huntington, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, Mail Stop 5460, 5601 Sunnyside Avenue, Beltsville, MD 20705
Phone: 301 504-2165

USDA—NRCS

Final Rule Stage

Email: helen.huntington@usda.gov

RIN: 0578–AA27

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Long-Term Actions

303. HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

Priority: Other Significant

CFR Citation: 7 CFR 12

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	
Interim Final Rule Comment Period End	11/05/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Helen Huntington
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RIN: 0578–AA17

BILLING CODE 3410-16-S

DEPARTMENT OF AGRICULTURE (USDA)
Office of Procurement and Property Management (OPPM)

Final Rule Stage

304. AGRICULTURE ACQUISITION REGULATION: AMENDMENT TO PART 442, CONTRACT ADMINISTRATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 442

Legal Deadline: None

Abstract: USDA proposes to amend part 442 of the Agriculture Acquisition Regulation (AGAR) to require USDA agencies to use a single automated performance evaluation system for recording and accessing contractor past performance information. This system will be the National Institutes of Health Contractor Performance System.

Timetable:

Action	Date	FR Cite
NPRM	09/12/00	65 FR 54986
NPRM Comment Period End	11/13/00	
Final Action	05/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph J. Daragan, Procurement Analyst, Department of Agriculture, Office of Procurement and Property Management, Mail Stop 9303, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 720-5729
Email: joe.daragan@usda.gov

RIN: 0599–AA08

305. • AGRICULTURE ACQUISITION REGULATION; PART 419 AMENDMENT; NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 419.508; 48 CFR 452.219-70

Legal Deadline: None

Abstract: USDA is amending the Agriculture Acquisition Regulation (AGAR) (48 CFR chapter 4) to remove references to Standard Industrial Classification Codes and to replace them with references to North American Industrial Classification System (NAICS) codes. This amendment updates the AGAR to reflect the Federal Acquisition Regulation's adoption of NAICS codes.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph J. Daragan, Procurement Analyst, Department of Agriculture, Office of Procurement and Property Management, Mail Stop 9303, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 720-5729
Email: joe.daragan@usda.gov

RIN: 0599–AA09

306. • OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT (OPPM); UNIFORM PROCEDURES FOR THE ACQUISITION AND TRANSFER OF EXCESS FEDERAL PROPERTY

Priority: Info./Admin./Other

Legal Authority: 7 USC 2206a; 7 USC 301 note; 7 USC 321 et seq; 20 USC 1059c(b)

CFR Citation: 7 CFR 3200

Legal Deadline: None

Abstract: The Office of Procurement and Property Management (OPPM) is amending its procedures for the acquisition and transfer of excess personal property to 1994 Institutions (as defined in section 532 of the Equity in Education Land Grant Status Act of 1994); Hispanic-serving Institutions (as defined in section 316(b) of the Higher Education Act of 1965); and any college or university eligible to receive funds under the Act of August 30, 1890. This amendment clarifies administrative rules regarding equipment transfer and

USDA—OPPM — **Final Rule Stage**

reduces the administrative burden placed on recipient Institutions.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen N. Fay, Property Utilization Specialist, Department of Agriculture, Office of Procurement and Property Management, Mail Stop 9304, 1400 Independence Avenue SW, Washington, DC 20250
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Email: kathy.fay@usda.gov

RIN: 0599–AA10

DEPARTMENT OF AGRICULTURE (USDA) — Long-Term Actions
Office of Procurement and Property Management (OPPM)

307. NEW RESTRICTIONS ON LOBBYING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3018

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Joseph J. Daragan
Phone: 202 720-5729
Email: joe.daragan@usda.gov

RIN: 0599–AA03

308. AGRICULTURE ACQUISITION REGULATION (AGAR); CONTRACTOR EMPLOYMENT OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 422; 48 CFR 452

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph J. Daragan
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Email: joe.daragan@usda.gov

RIN: 0599–AA05

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions
Office of Procurement and Property Management (OPPM)

309. DEPARTMENT OF AGRICULTURE PRIORITIES AND ADMINISTRATIVE GUIDELINE FOR DONATION OF EXCESS RESEARCH EQUIPMENT

Priority: Info./Admin./Other

CFR Citation: 7 CFR 2812

Completed:

Reason	Date	FR Cite
Final Action	11/21/00	65 FR 69856
Final Action Effective	12/21/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Kathleen N. Fay
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RIN: 0599–AA06

[FR Doc. 01–6919 Filed 05–11–01; 8:45 am]
BILLING CODE 3410–13–S

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION 1985

Federal Register

Monday,
May 14, 2001

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

April 2001 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, as amended, the Department of Commerce, in April and October of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the October 2000 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's April 2001 regulatory agenda includes regulatory activities that are expected to be conducted during the period April 1, 2001, through March 31, 2002.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Daniel Cohen, Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-3151.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of January 16, 2001, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the April 2001 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to publish, in April and October of each year, a regulatory flexibility agenda which contains a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. The agenda also identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Export Administration, the Patent and Trademark Office, and the International Trade Administration, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries, which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC April 2001 regulatory agenda follows.

Alden Abbott,
Acting General Counsel.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
310	Standards of Ethical Conduct—Department of Commerce Supplemental Regulations	0690-AA23
311	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	0690-AA30

DOC

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
312	Civil Monetary Penalties; Adjustments for Inflation	0690-AA31

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
313	Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign Persons—2001	0691-AA41

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identification Number
314	Change in Reporting Requirements for BE-577, Direct Transactions of U.S. Reporter With Foreign Affiliate	0691-AA37
315	Change in Reporting Requirements for BE-82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons	0691-AA38
316	Change in Reporting Requirements for BE-93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons	0691-AA39
317	Change in Reporting Requirements for BE-11, Annual Survey of U.S. Direct Investment Abroad	0691-AA40

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
318	Special Services and Studies by the Bureau of the Census; General	0607-AA24
319	Furnishing Personal Census Data From Census of Population Schedules; General Requirements	0607-AA25
320	Furnishing Personal Census Data From Census of Population Schedules; General Requirements	0607-AA26
321	Special Services and Studies by the Bureau of the Census; Fee Structure for Age Search and Citizenship Information	0607-AA27

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
322	Reporting Value on Shipper's Export Declaration for Inland Freight and Insurance Charges	0607-AA29
323	Reporting the Value of Repairs and Replacement Parts on the Shipper's Export Declaration	0607-AA30
324	Notation of the Shipper's Export Declaration Filing Exemption Statement on Manifest Documents	0607-AA31

Economic Development Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
325	Economic Adjustment Program—Revolving Loan Fund (RLF) Grants	0610-AA62

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General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
326	Uniform Administrative Requirement for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofits and Commercial Organizations	0605-AA09
327	Public Information, Freedom of Information and Privacy	0605-AA14
328	Governmentwide Debarment and Suspension (Nonprocurement)	0605-AA16

International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
329	Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders	0625-AA51
330	Export Trade Certificates of Review (15 CFR 325)	0625-AA52
331	Proposed Changes in the Insular Possessions Watch, Watch Movement and Jewelry Program	0625-AA57
332	Import of Certain Worsted Wool Fabric: Implementation of Tariff Rate Quote Established Under Title V of the Trade and Development Act of 2000	0625-AA58

Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
333	Offsets in Military Exports	0694-AC27

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
334	Chemical Weapons Convention Regulations	0694-AB06
335	Revisions to the Export Administration Regulations; Additions to the Entity List	0694-AB60
336	Exports and Reexports of Explosive Detection Systems; Expansion of Foreign Policy Controls	0694-AB87
337	Definition Harmonization	0694-AC03
338	Export Administration Regulations: Support Documentation	0694-AC04
339	Exports and Reexports to Sudan	0694-AC05
340	Anti-Terrorism Controls on Iraq	0694-AC06
341	Revisions to the North Korean Embargo Policy	0694-AC10
342	License Exception CTP and PRC End-User Certificates	0694-AC12
343	Expansion of License Exception GOV; Exports and Reexports to International Organizations	0694-AC15
344	De Minimis Expansion of Eligibility: U.S. Origin Software Incorporated Into Foreign Made Retail Commodities	0694-AC17
345	Revisions to the Export Administration Regulations To Add Members of the Missile Technology Control Regime	0694-AC22
346	Revision to the Export Administration Regulations: Replacement Licenses	0694-AC23
347	Revisions and Clarifications to the Export Administration Regulations	0694-AC24
348	Entity List: Additions and Revisions	0694-AC28
349	Crime Control Items: Revisions to the Commerce Control List	0694-AC31
350	License Exception AVS: Cuba, Libya, Serbia	0694-AC33
351	Clarifications to Part 753: Special Comprehensive License Requirements	0694-AC34
352	Chemical Weapons Convention: Revisions to the Export Administration Regulations	0694-AC35
353	Exports of Agricultural Commodities, Medicines and Medical Devices	0694-AC37
354	Entity List: Removal of Two Russian Entities	0694-AC40
355	Implementation of the Wassenaar Arrangement List of Dual-Use Items Revisions: Computers; and Revisions to License Exception CTP	0694-AC42
356	Revisions and Clarifications to the Commerce Control List; Chemical and Biological Weapons Controls; Australia Group	0694-AC43
357	Implementation of the Wassenaar Arrangement List of Dual-Use Items: Revisions to Categories 1, 2, 3, 4, 5, 6, 7 and 9 of the Commerce Control List and Revisons to Reporting Requirements	0694-AC44

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Bureau of Export Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
358	Transfer of Dual-Use Items From U.S. Munitions List to the Commerce Control List	0694-AA52
359	Administration of State Log Exports Ban	0694-AB25
360	Libya: Expansion of Foreign Policy Controls	0694-AB28
361	Change the Commerce Control List To Revise Controls on Communication Intercepting Devices (Export Commerce Control Number ECCN 5A980)	0694-AB41
362	Clarification of License Exception GFT (Humanitarian Donations)	0694-AB49
363	Revisions to Commerce Control List: Addition of Technology and Software Controls for Certain Crime Control Commodities	0694-AB53
364	Exports of Technology and Software; Release of Technology or Source Code to Foreign Nationals in the United States	0694-AB59
365	De Minimis Exclusion for Technology and Software	0694-AB62
366	India and Pakistan Sanctions	0694-AB73
367	Revisions to the Export Administration Regulations; Country Groups D:1 and E:2; License Exception TMP	0694-AB76
368	Expansion of License Exception CIV Eligibility for "Microprocessors" Controlled by ECCN 3A001	0694-AB90
369	Export of Technology and Software Through Electronic Transmissions, Downloads, and Programmed Onto Hardware	0694-AB97
370	SNAP: Simplified Network Application Process	0694-AC20
371	Short Supply Controls: Crude Oil Exports	0694-AC25
372	Revisions to Encryption Items	0694-AC32

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
373	Revisions to EAR as a Result of the Addition of Brazil, Ukraine, and Latvia to the Nuclear Suppliers Group	0694-AB50
374	Implementation of the Chemical Weapons Convention; Revisions to the Export Administration Regulations	0694-AB67
375	Effect of Imported Articles on the National Security	0694-AC07
376	Exports to the Government of Serbia	0694-AC09
377	Reexports to Serbia of Foreign Registered Aircraft Subject to the Export Administration	0694-AC26
378	Exports to Eritrea and Ethiopia; Imposition of Foreign Policy Controls	0694-AC29
379	Exports to Serbia: Revision of Foreign Policy Controls	0694-AC36
380	General Order Concerning Shaykh Hamad bin Ali bin Jaber Al-Thani, Gulf Falcon Group, Ltd., and Related Parties	0694-AC38
381	Implementation of the Wassenaar Arrangement List of Dual-Use Items Revisions: Microprocessors	0694-AC39
382	Implementation of Presidential Announcement of January 10, 2001: Revisions to License Exception CTP	0694-AC41

National Institute of Standards & Technology—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
383	National Voluntary Laboratory Accreditation Program	0693-AB50

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
384	Establish a Control Date for Permit Ownership; Sablefish Fishery	0648-AO97
385	Atlantic Highly Migratory Species; Pelagic Longline Management	0648-AP13

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National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
386	Fishery Management Plan for Tilefish	0648-AF87
387	Amendment 3 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AG87
388	Amendments to the Observer Program - Amendment 47 to the FMP for BSAI Groundfish and Amendment 47 to the FMP for GOA Groundfish	0648-AI69
389	Regulatory Amendment To Establish Permit and Reporting Requirements for Pelagic Troll and Handline Vessels Fishing Off Pacific Remote Islands of the United States	0648-AJ08
390	Amend the Foreign Fishing Regulations To Implement the Provisions of a Pacific Insular Area Fishery Agreement	0648-AJ60
391	Establish "Central Registry for Limited Access System Permits"	0648-AJ77
392	Regulatory Amendment To Update Regulations Governing the Operation of Regional Fishery Management Councils	0648-AJ82
393	Regulatory Amendment To Develop a C. Bairdi Vessel Incentive Program	0648-AK08
394	Regulatory Amendment To Allocate Pacific Halibut to the Charter Boat Fleet	0648-AK17
395	Regulatory Amendment To Require Mandatory Observer Coverage in the At-Sea Processing Sector of the Whiting Fishery	0648-AK26
396	Amendment 54 to FMP for Groundfish Fishery of Bering Sea and Aleutian Islands Area and Amendment 54 to FMP for Groundfish of Gulf of Alaska	0648-AK70
397	Adjustment of Management Program: Bottomfish Fisheries in the Hawaiian Islands	0648-AK82
398	Revise Exempted Fishing Regulations To Specify Compensatory Fishing Under Exempted Fishing	0648-AK84
399	Regulatory Amendment To Prohibit Fishing by Vessels Over 50 Feet From Fishing for Pelagic Management Unit Species Within 50 Nautical Miles of American Samoa	0648-AL41
400	Amendment 14 to the Pacific Coast Groundfish Fishery Management Plan	0648-AL50
401	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species	0648-AL65
402	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet	0648-AL66
403	Adjustment of Management Program: Crustacean Fisheries in the Western Pacific	0648-AL67
404	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries	0648-AL69
405	Fishery Management Plan for Calico Scallop Fishery in the South Atlantic Region (FMP)	0648-AL78
406	Comprehensive Amendment Addressing Sustainable Fisheries Act Requirements Regarding Overfishing, Bycatch, Fishing Communities and Provisions for Fishery Management Plans for the Caribbean	0648-AL86
407	Crab Community Development Quota Reserves	0648-AL92
408	Amendments to Alaska Groundfish and Crab FMPs To Revise the License Limitation Program	0648-AL95
409	Regulatory Amendment To Reinstate 6000 Pound Trip Limit of Halibut in Area Northeast of the Bering Sea	0648-AL97
410	Amendment 6 - Definition of Overfishing for Salmon Fisheries Off Alaska	0648-AL98
411	Fishery Management Plan Amendment To Revise CDQ Regulations	0648-AM07
412	Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)	0648-AM23
413	Adjustment of Management Program; Crustacean Fisheries of the Hawaiian Islands; Temporary Closure of the Northwestern Hawaiian Islands Lobster Fishery	0648-AM26
414	Enhanced Measures To Mitigate Seabird Bycatch in the Alaska Longline Fisheries	0648-AM30
415	Steller Sea Lion Conservation Measures for the BSAI and GOA Pollock Fisheries	0648-AM32
416	Alaska Groundfish Fishery Management Plan Amendment To Revise Improved Retention/Improved Utilization Program	0648-AM39
417	Amendment 67 to the FMP for the Groundfish Fishery of the Bering Sea and the Aleutian Islands area	0648-AM40
418	Regulatory Amendment To Change the Regulations Implementing the North Pacific Observer Program	0648-AM44
419	Amendment 53 to the Groundfish Fisheries of the Gulf of Alaska Fishery Management Plan	0648-AM51
420	Framework Regulatory Amendment for the Atlantic Highly Migratory Species (HMS) Fisheries	0648-AM91
421	Amendment 62 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area and Amendment 62 to the FMP for the Groundfish of the Gulf of Alaska	0648-AM94
422	Implementation of Western Pacific Community Development Program	0648-AM96
423	Implementation of Western Pacific Coral Reef Ecosystem Fishery Management Plan (FMP)	0648-AM97
424	Adjustment of Management Program: Bottomfish Fisheries in the Western Pacific	0648-AM98
425	Atlantic Highly Migratory Species Fisheries; Management of the Atlantic Blue Marlin and White Marlin Recreational Fisheries	0648-AN06
426	Amendment 7 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic FMP	0648-AN08
427	Amendment 18 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AN09
428	Amendment 7 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico	0648-AN10

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
429	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan	0648-AN12
430	Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan	0648-AN16
431	Regulatory Amendment To Redefine Vessel Length Overall	0648-AN23
432	Atlantic Highly Migratory Species; Gulf of Mexico Closed Area	0648-AN63
433	Annual Specifications for Fishing Year 2001 for Atlantic Herring	0648-AN65
434	Deep-Sea Red Crab Fishery Management Plan	0648-AN68
435	Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2001	0648-AN70
436	Regulatory Amendment To Prevent or Mitigate the Take of Sea Turtles in the Western Pacific Pelagic Fisheries	0648-AN75
437	Amendment 9 to the Fishery Management Plan Amendment for the Pelagic Fisheries of the Western Pacific Region	0648-AN76
438	Resubmission of Sustainable Fisheries Act Amendment Crustaceans, Bottomfish, and Pelagics Regarding Overfishing Definitions and Bycatch Provisions	0648-AN79
439	Generic Amendment Addressing the Establishment of the Tortugas Marine Reserves Under the Fishery Management Plans of the Gulf of Mexico	0648-AN83
440	Regulatory Amendment Modifying the Gulf of Mexico BRD Protocol Under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)	0648-AN84
441	Regulatory Amendment Modifying the South Atlantic BRD Testing and Certification Protocol	0648-AN86
442	Fishery Management Plan for Sargassum Habitat of the South Atlantic (FMP)	0648-AN87
443	Revisions to Recordkeeping and Reporting Requirements for 2001	0648-AO20
444	Amendment 3 to the Fishery Management Plan for the Golden Crab Fishery Off the Southern Atlantic States (FMP)	0648-AO23
445	Regulating Bycatch in the Purse Seine Fishery and Establishing a Vessel Register in the Eastern Pacific Ocean	0648-AO42
446	Adjustment of Management Program: Precious Coral Fisheries in the Hawaiian Islands	0648-AO47
447	Amendment 11 to Fishery Management Plan for Shrimp Fishery of Gulf of Mexico (FMP)	0648-AO51
448	Specifications for Fishing Year 2001 for the Spiny Dogfish Fishery	0648-AO53
449	Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan	0648-AO55
450	Regulatory Amendment to Address Inaccuracies in Current Northeast Fisheries Regulations	0648-AO57
451	Amendments to FMPs for Gulf of Mexico Reef Fish and Gulf of Mexico and South Atlantic Coastal Migratory Pelagic Resources To Limit Entry Into Gulf of Mexico Recreational-for-Hire Fisheries	0648-AO62
452	Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic, Caribbean, and Gulf of Mexico (FMP)	0648-AO63
453	Amendment 9 to the Coastal Pelagic Species Fishery Management Plan	0648-AO64
454	Atlantic Highly Migratory Species; Reducing Possibility of Serious Injury and Mortality of Right Whales by Operation of the Southeast Atlantic Shark Gillnet Fishery	0648-AO65
455	Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna Incidental Catch	0648-AO75
456	Atlantic Highly Migratory Species; Pelagic Longline Fishery; Gear Requirements	0648-AO76
457	Atlantic Highly Migratory Species; Exempted Fishing Permits Procedures	0648-AO79
458	Rulemaking to Establish a Vessel Monitoring System to the Pollock, Pacific Cod, and Atka Mackerel Groundfish Fisheries in the BSAI and GOA	0648-AO81
459	Revision to the Restriction on Frequency of Limited Entry Permit Transfers and Other Permit Updates in the Pacific Coast Groundfish Fishery	0648-AO87
460	Notice of Determination of Noncompliance; Declaration of a Moratorium on Fishing for American Lobster in Rhode Island State Waters	0648-AO88
461	Magnuson-Stevens Fishery Conservation and Management Act; Amendment of Foreign Fishing Regulations	0648-AO89
462	Atlantic Highly Migratory Species; Swordfish Quotas and Fishing Areas	0648-AO93
463	Atlantic Highly Migratory Species; Trade Measures and Monitoring	0648-AO94
464	Atlantic Highly Migratory Species; 2001 Bluefin Tuna Quota Specifications and Effort Controls	0648-AO96
465	Regulatory Amendment Under the Fishery Management Plan for Gulf of Mexico Reef Fish (FMP) To Establish a Red Snapper Stock Rebuilding Plan and To Set Red Snapper Overfishing Targets and Thresholds	0648-AP02
466	Amendment 13 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region	0648-AP03
467	Regulatory Amendment Under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) Regarding Use of Powerheads	0648-AP04
468	Specifications for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2002	0648-AP06
469	Specifications for the Spiny Dogfish Fishery for Fishing Year 2002	0648-AP07
470	Specifications for the Atlantic Mackerel, Squid, and Butterfish Fisheries for Fishing Year 2002	0648-AP08
471	Specifications for the Atlantic Surf Clam and Ocean Quahog Fisheries for Fishing Year 2002	0648-AP09
472	Framework Adjustment 2 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AP12
473	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries	0648-AE54

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
474	Proposed Rule To Provide Regulations for Permits for Capture, Transport, Import and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648-AH26
475	Proposed Rule Governing the Issuance of Permits for Marine Mammal Photography	0648-AH31
476	Proposed Guidelines for Defining Serious Injury; Request for Comments	0648-AL44
477	Section 4(d) of ESA Protective Regulations for Johnson's Seagrass, a Threatened Species	0648-AL59
478	Rulemaking for the Incidental Taking of Marine Mammals During Worldwide Deployment of the U.S. Navy's Low Frequency Active Sonar	0648-AM62
479	North Atlantic Whale Protection	0648-AM85
480	Swimming or Recreational Interaction With Wild Population of Marine Mammals	0648-AN43
481	Sea Turtle Conservation Regulations; Fisheries	0648-AN64
482	Designated Critical Habitat: Proposed Critical Habitat for Northern California Steelhead	0648-AO04
483	Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates	0648-AO40
484	Captive Steller Sea Lions	0648-AO61
485	Revision of Overflight Regulations	0648-AI91
486	Interagency Consultation for the National Marine Sanctuary Program	0648-AL06
487	Natural Resource Damage Assessment Under the Oil Pollution Act of 1990	0648-AM80
488	Coastal Zone Management Act Consistency Regulations	0648-AM88

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
489	Consolidate the Rules for Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic and Stone Crab Fishery of the Gulf of Mexico With 50 CFR 622	0648-AJ28
490	Guidelines for the Description, Identification, Conservation, and Enhancement of Essential Fish Habitat	0648-AJ30
491	Adjustment of the Management Program for Precious Corals Fisheries in the Western Pacific	0648-AK23
492	Proposed Highly Migratory Species Process	0648-AK40
493	Amendment to Portions of Individual Fishing Quota Program Regulations	0648-AK50
494	Amendment 14 to the Pacific Coast Salmon Plan	0648-AL51
495	Rule to Prohibit Fishing and Anchoring of Fishing Vessels in the EEZ Seaward of Navassa Island	0648-AL93
496	BSAI FMP Amendment 66 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area	0648-AM72
497	Prohibit Use of Set Net Gear to Harvest Groundfish in Certain Portions of the Exclusive Economic Zone Waters Seaward of California	0648-AN03
498	Regulatory Amendment to Implement an At-Sea Observer Program on All Entry and Open Access Catcher Vessels in the Pacific Coast Groundfish Fishery	0648-AN27
499	Atlantic Highly Migratory Species; Spotter Aircraft	0648-AN54
500	Distribute U.S. Allocations From the Northwest Atlantic Fisheries Organization	0648-AN60
501	Specifications for the Atlantic Bluefish Fishery for Fishing Year 2001	0648-AN66
502	Specifications for the Atlantic Mackerel, Squid, and Butterfish Fisheries for Fishing Year 2001	0648-AN69
503	Specifications for the Summer Flounder, Scup, and Black Sea Bass Fisheries for the Fishing Year 2001	0648-AN71
504	Atlantic Highly Migratory Species; Atlantic Tunas Reporting and Allocations	0648-AN97
505	Atlantic Coast Horseshoe Crab EEZ Regulations	0648-AO02
506	Annual Framework Adjustment (Framework 14) for the Atlantic Sea Scallop Fishery Management Plan for Fishing Year 2001	0648-AO07
507	Regulatory Amendment to Modify the Management Program for the Western Pacific Pelagic Fisheries to Mitigate the Take of Seabirds	0648-AO35
508	Amendment 13 to the Pacific Coast Groundfish Fishery Management Plan — Bycatch Reduction/Reporting, Framework Changes to Annual Management Measures Process	0648-AO41
509	2001 Quotas for Purse Seine Fisheries in the Eastern Pacific	0648-AO48
510	2001-2002 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AO49
511	Omnibus Framework to FMPs for Summer Flounder, Scup, Black Sea Bass, Atlantic Mackerel, Squid, Butterfish, Atlantic Surf Clam, Ocean Quahog, Spiny Dogfish, and Atlantic Bluefish Fisheries	0648-AO54
512	Modify American Lobster Regulations Under Atlantic Coastal Fisheries Cooperative Management Act	0648-AO58
513	Pacific Coast Groundfish Fishery; Announcement of the 2002 Groundfish Fishery Specifications and Management Measures	0648-AO69

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National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
514	Emergency Interim Rule To Establish Harvesting Restrictions for the Dolphin and Wahoo Fishery in the Atlantic EEZ	0648-AO83
515	Atlantic Highly Migratory Species; Large and Small Coastal Sharks; Commercial Quota Adjustment	0648-AO85
516	Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2002	0648-AO91
517	Framework Adjustment 2 to the Fishery Management Plan for The Summer Flounder, Scup, and Black Sea Bass Fisheries	0648-AO92
518	Announcement of the Optimum Yield and Harvest Limit for Pacific Sardines	0648-AP00
519	Announcement of the Optimum Yield and Harvest Limit for Pacific Mackerel	0648-AP01
520	Framework 36 to the Northeast Multispecies Fishery Management Plan	0648-AP05
521	Establish Measures to Address the Imminent Rapid Increase in Landings and to Halt Overfishing in the Atlantic Red Crab Fishery	0648-AP10
522	Annual Framework Adjustment for the Monkfish Fishery Management Plan for Fishing Year 2002	0648-AP11
523	Policy for Review of Mandatory Conditions Developed by the Departments of the Interior and Commerce in the Context of Hydropower Licensing	0648-AO84
524	Establish Guidelines for Nonlethally Deterring Marine Mammals From Endangering Personal Safety or Damaging Public or Private Property	0648-AH19
525	General Authorization for Scientific Research Involving Level B Harassment	0648-AH20
526	Implementation of 1997 MMPA Amendments Affecting Yellowfin Tuna Purse Seine Fishing in the Eastern Tropical Pacific	0648-AI85
527	Draft Policy for Evaluation of Conservation Efforts in Making Listing Decisions	0648-AL91
528	Sea Turtle Conservation Regulations; Summer Flounder Fishery	0648-AM89
529	Endangered and Threatened Species: Listing Status for White Abalone	0648-AM90
530	Regulations Governing the Approach to Humpback Whales in Alaska	0648-AN29
531	Taking of Marine Mammals Incidental to Shock Testing the USS Winston Churchill Off the U.S. Atlantic Coast	0648-AN59
532	Sea Turtle Conservation Regulations; Shrimp Fishery	0648-AN62
533	List of Fisheries for 2001	0648-AN92
534	Taking of the Cook Inlet, Alaska, Stock of Beluga Whales by Alaska Natives	0648-AO16
535	Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Operation of a Low Frequency Sound Source by the North Pacific Acoustic Laboratory	0648-AO24
536	Endangered and Threatened Species; Threatened Status for One Evolutionarily Significant Unit of Steelhead in California and Oregon	0648-AO86
537	Operations of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary	0648-AK01
538	Florida Keys National Marine Sanctuary; Tortugas Ecological Reserve	0648-AO18

National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
539	General Provisions for Domestic Fisheries—Standard Definitions	0648-AG46
540	Implementation of Data Collection and Reporting Requirements to the Fishery Management Plan for the American Lobster Fishery	0648-AJ75
541	Regulatory Amendment To Allocate Pacific Halibut to the Halibut Subsistence Fishery	0648-AK16
542	Fishing Capacity Reduction Program	0648-AK76
543	Halibut Bycatch Accounting for the Yellowfin Sole	0648-AM76
544	Recordkeeping and Reporting Requirement Revisions to the Alaska Groundfish Fisheries Alaska Commercial Operator's Annual Report (ACOAR)	0648-AN01
545	Amendment 13 to the Northeast Multispecies Fishery Management Plan	0648-AN17
546	Amendment 1 to the Atlantic Herring Fishery Management Plan	0648-AN19
547	Amendment 14 to the Northeast Multispecies Fishery Management Plan	0648-AN20
548	Regulatory Amendment To Clarify the Alaska Groundfish Individual Fishing Quota Program Appeals Regulations	0648-AN21
549	Amendment 63 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area and Amendment 63 to the FMP for the Groundfish of the Gulf of Alaska	0648-AN24
550	Amendments to Alaska FMPs for Groundfish, Crab, and Scallop To Reduce Halibut Mortality	0648-AN26
551	Amendments 61/61 for BSAI and GOA Groundfish; Amendment 13 for Commercial King and Tanner Crab; and Amendment 8 for Alaska Scallop Fishery	0648-AN55
552	Fishery Management Plan for Northeast Skate	0648-AO10
553	Emergency Interim Rule for American Fisheries Act Regulations	0648-AO14

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National Oceanic and Atmospheric Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
554	Multispecies Community Development Quota Program Bycatch Accounting	0648-AO26
555	Continue Closure of Two Mid-Atlantic Areas to Scallop Fishing	0648-AO71
556	Implement Management Measures for the Pacific Cod Fisheries in the Gulf of Alaska, the Bering Sea, and the Aleutian Islands	0648-AO73
557	Emergency Rule To Implement Steller Sea Lion Reasonable and Prudent Alternative Under the November 30 Biological Opinion on the Alaska Groundfish Fisheries	0648-AO82
558	Observer Program Electronic Reporting Requirements	0648-AG90
559	Amendment 65 to BSAI Groundfish, Amendment 65 to GOA Groundfish, Amendment 12 for Commercial King and Tanner Crab of BSAI, and Amendment 7 for Scallop Fishery Off Alaska	0648-AO98
560	Interagency Policy on the Prescription of Fishways Under Section 18 of the Federal Power Act	0648-AO70
561	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238	0648-AG80
562	Amend Regulations Governing the Taking and Importing of Marine Mammals	0648-AH83
563	Endangered and Threatened Species: Take of Threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) Coho Salmon	0648-AJ91
564	Pacific Offshore Cetacean Take Reduction Plan	0648-AL70
565	Rule for Gear Modifications to the Atlantic Large Whale Take Reduction Plan	0648-AN88
566	Designate Critical Habitat; Designation of Marine Areas as Critical Habitat for Pacific Salmon	0648-AN89
567	Endangered and Threatened Species: Permit Exemptions	0648-AO37
568	Endangered and Threatened Species: Permits: Suspension Criteria and Procedures and Revocation Criteria and Procedures	0648-AO59
569	Installing and Maintaining Commercial Submarine Cables in National Marine Sanctuaries	0648-AO36
570	Regional Marine Research Program	0648-AF20

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
571	Fishery Management Plan for the Atlantic Herring Fishery	0648-AI78
572	Amendment 59 to the Fishery Management Plan for Groundfish in the Gulf of Alaska To Close an Area	0648-AK74
573	Rule To Implement Amendment 9 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AK80
574	Observer Funding Policy	0648-AL08
575	Regulatory Amendment To Establish Program for Collection and Use of Fees in Community Development Quota Program	0648-AL71
576	PR/FR Vessel Monitoring System for Aleutian Island Atka Mackerel Fishery	0648-AM34
577	Amendment 4 - Scallop License Limitation Program	0648-AM42
578	Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2000	0648-AM46
579	Quotas for the Atlantic Bluefish Fishery for Fishing Year 2000	0648-AM47
580	Observation Coverage Multispecies Groundfish and Halibut Community Development Quota Fisheries	0648-AM53
581	Simplification of Capital Construction Fund Rules	0648-AM95
582	Antarctic Marine Living Resources; Vessel and Dealer Permits, Vessel Monitoring Systems and Catch Documentation	0648-AN42
583	Notice of Determination of Noncompliance; Notice of Intent To Implement a Moratorium on Fishing for Tautog in Rhode Island State Waters	0648-AN48
584	Atlantic Highly Migratory Species; Implementation of 1999 ICCAT Recommendations	0648-AN52
585	Specifications for Fishing Year 2001 for the Atlantic Surf Clam, Ocean Quahog, and Maine Mahogany Ocean Quahog Fisheries	0648-AN72
586	2001 Harvest Guidelines for the Northwestern Hawaiian Islands Lobster Fishery	0648-AN77
587	Announcement of the Optimum Yield and Harvest Limit for Pacific Sardine	0648-AN78
588	Pacific Coast Groundfish Fishery; Announcement of the 2001 Groundfish Fishery Specifications and Management Measures	0648-AN82
589	2000-2001 Gulf Group King Mackerel Catch Specifications Under the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AN85
590	Regulatory Amendment To Extend the Pacific Halibut Donation Program	0648-AN98
591	Annual Framework Adjustment for the Northeast Multispecies Fishery Management Plan for Fishing Year 2001	0648-AO08
592	Annual Framework Adjustment for the Monkfish Fishery Management Plan for Fishing Year 2001	0648-AO09

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National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
593	Extend the Interim Observer Program	0648-AO25
594	Amendment 14 to the FMP for the King and Tanner Crab Fisheries - Opilio Rebuilding Plan	0648-AO27
595	Amendment 15 to the King and Tanner Crab FMP - St. Matthew Blue King Crab Rebuilding Plan	0648-AO28
596	Amendment 12 to the Pacific Coast Groundfish Fishery Management Plan — Overfished Species Rebuilding Plans Procedural Framework	0648-AO31
597	Notice of Determination of Noncompliance; Notice of Intent to Implement a Moratorium on Fishing for Horseshoe Crabs in Virginia State Waters	0648-AO33
598	Notice of Determination of Noncompliance; Notice of Intent to Implement a Moratorium on Fishing for American Shad in South Carolina State Waters	0648-AO34
599	Establish Control Date To Limit Use of Limited Entry Permits Owned by Owners of Vessels Eligible for Benefits Under the American Fisheries Act	0648-AO45
600	Establishment of New Control Date for Pelagic Fishery in American Samoa	0648-AO50
601	Modify the Scup Northern Gear Restricted Area in the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (FMP)	0648-AO56
602	Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaii-Based Pelagic Longline Area Closure; Emergency Interim Rule	0648-AO66
603	Implement American Fisheries Act (AFA) Cooperative Measures	0648-AO72
604	Changes to the Area 2A Pacific Halibut Catch Sharing Plan for 2001, Sport Fishery Regulations for 2001, and Annual Management Measures	0648-AO80
605	Atlantic Highly Migratory Species; Regulatory Adjustments for Blue Sharks	0648-AO95
606	Sea Turtle Conservation; Shrimp Trawling Requirements	0648-AK56
607	Endangered and Threatened Species: Proposed Range Extension for Southern California Steelhead	0648-AO05
608	Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations; Changes to List of Exempted Waters	0648-AO30
609	Rule for Gear Modifications to the Atlantic Large Whale Take Reduction Plan	0648-AO60
610	Whaling Provisions: Aboriginal Subsistence Whaling Quotas (Bowhead Whales)	0648-AO68
611	Whaling Provisions: Aboriginal Subsistence Whaling Quotas (Gray Whales)	0648-AO77
612	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act	0648-AD83

National Telecommunications and Information Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
613	Mandatory Reimbursement Rules for Relocation of Federal Spectrum	0660-AA14

National Telecommunications and Information Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
614	Improvement of Technical Management of Internet Names and Addresses	0660-AA11

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
615	Requirements for Registration to Practice Before the PTO in Patent Cases	0651-AA93
616	Technical and Nontechnical Requirements for Registration To Practice Before the PTO in Patent Cases, Disciplinary Rules, and Investigations and Disciplinary Proceedings	0651-AA95
617	Patent and Trademark Office Acquisition Regulations	0651-AB11
618	Procedures for Service of Process, Obtaining Evidence, Indemnifying Employees. and Making a Claim Under the Federal Tort Claims Act	0651-AB22
619	Rules of Practice Before the Board of Patent Appeals and Interferences in Appeals Under 35 U.S.C. 134	0651-AB27

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Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
620	Revision of Patent and Trademark Fees for Fiscal Year 2002	0651-AB01

Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
621	Complaints Regarding Invention Promoters	0651-AB12
622	Correspondence Filed in the Patent and Trademark Office	0651-AB17
623	Study of Alternative Fee Structures	0651-AB24
624	Request for Comment on Preliminary Draft Convention on Jurisdiction and Foreign Judgments and Civil and Commercial Matters	0651-AB25
625	Notification of Required and Optional Search Criteria for Computer-Implemented Business Method Patent Applications in Class 705 and Request for Comments	0651-AB26
626	Protection of Audiovisual Performances To Be Considered by the WIPO Diplomatic Conference	0651-AB28
627	Standard for Declaring a Patent Interference	0651-AB29
628	Establishment of Database Containing Official Insignia of Federally Recognized Native American Tribes	0651-AB30
629	Electronic Submission of Application for Trademark Registration and Other Documents	0651-AB31
630	Changes in Rules of Practice for Patent Interferences and Related Proceedings	0651-AB32
631	Changes to the Time Period For Making Any Necessary Deposits of Biological Materials	0651-AB33
632	Development of Plan To Remove Patent and Trademark Classified Paper Files From Public Search Facilities	0651-AB34
633	Revision of Patent Corporation Treaty Application Procedure	0651-AB35

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identification Number
634	Changes To Implement Optional Inter Partes Reexamination Proceedings	0651-AB04
635	Revised Utility Examination Guidelines	0651-AB09
636	Revised Guidelines for Examination of Patent Applications Under the 35 USC Section 112, Paragraph 1 "Written Description" Requirement	0651-AB10
637	Simplification of Certain Requirements in Patent Interference Practice	0651-AB15
638	Madrid Protocol Implementation Act Rules Change	0651-AB16
639	Treatment of Misplaced Application and Patent Files	0651-AB19

Technology Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
640	Amendment to Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA18

Technology Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
641	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA14
642	Acquisition and Protection of Foreign Rights in Inventions	0692-AA15
643	Licensing of Government-Owned Inventions	0692-AA17

DOC

Technology Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
644	Promotion of Private Sector Industrial Technology Partnerships	0692-AA13

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Long-Term Actions

310. STANDARDS OF ETHICAL CONDUCT—DEPARTMENT OF COMMERCE SUPPLEMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Maggi
Phone: 202 482-5384

RIN: 0690–AA23

311. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 8; 15 CFR 8b; 15 CFR 8c; 15 CFR 20

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lawrence N. Self
Phone: 202 482-0625
Fax: 202 482-5375

RIN: 0690–AA30

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Completed Actions

312. • CIVIL MONETARY PENALTIES; ADJUSTMENTS FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-410; PL 104-134

CFR Citation: 15 CFR 6

Legal Deadline: Every 4 years, beginning October 23, 1996.

Abstract: This final rule is being issued to adjust each civil monetary penalty provided by law within the jurisdiction of the Department of Commerce (the Department). The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires the head of each agency to adjust its civil monetary penalties for inflation no later than October 23, 1996, and at least once every four years thereafter. These inflation adjustments will apply only to violations that occur after the effective date of this rule.

Timetable:

Action	Date	FR Cite
Final Action	11/01/00	65 FR 65260
Final Action Effective	11/01/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James L. Taylor, Director for Financial Management and Deputy Chief Financial Officer, Department of Commerce, Office of the Secretary, HCHB Room 6827, 14th & Constitution Avenue, NW., Washington, DC 20230
Phone: 202 482-1207

RIN: 0690–AA31

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Proposed Rule Stage

313. BENCHMARK SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS—2001

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR part 801 to provide for the conduct of the BE-20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons—2001. The existing rule covers a similar survey for 1996 which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	
Final Action	09/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: No

DOC—BEA — Proposed Rule Stage

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA41

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Completed Actions

314. CHANGE IN REPORTING REQUIREMENTS FOR BE-577, DIRECT TRANSACTIONS OF U.S. REPORTER WITH FOREIGN AFFILIATE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 806

Completed:

Reason	Date	FR Cite
Final Action	12/18/00	65 FR 78919
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: R. David Belli
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA37

315. CHANGE IN REPORTING REQUIREMENTS FOR BE-82, ANNUAL SURVEY OF FINANCIAL SERVICES TRANSACTIONS BETWEEN U.S. FINANCIAL SERVICES PROVIDERS AND UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 801

Completed:

Reason	Date	FR Cite
Final Action	12/11/00	65 FR 77282
Final Action Effective	01/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: R. David Belli
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA38

316. CHANGE IN REPORTING REQUIREMENTS FOR BE-93, ANNUAL SURVEY OF ROYALTIES, LICENSE FEES, AND OTHER RECEIPTS AND PAYMENTS FOR INTANGIBLE RIGHTS BETWEEN U.S. AND UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 801

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 77812
Final Action Effective	01/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: R. David Belli
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA39

317. CHANGE IN REPORTING REQUIREMENTS FOR BE-11, ANNUAL SURVEY OF U.S. DIRECT INVESTMENT ABROAD

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 806

Completed:

Reason	Date	FR Cite
Final Action	12/18/00	65 FR 78920
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: R. David Belli
Phone: 202 606-9807
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA40

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Proposed Rule Stage

318. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; GENERAL

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.1(d)

Legal Deadline: None

Abstract: Chapter 1, part 50.1(d) should be amended to read as follows: If a search is unsuccessful and additional information for a further search is requested by the Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA24

DOC—CENSUS — Proposed Rule Stage

319. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES; GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(c)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(c): Change the address from Pittsburg, Kansas 66762 to Jeffersonville, Indiana 47131.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA25

320. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES; GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(g)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(g): The language may be clarified by changing it to read: Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC-600.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA26

321. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; FEE STRUCTURE FOR AGE SEARCH AND CITIZENSHIP INFORMATION

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.5

Legal Deadline: None

Abstract: Chapter 1, part 50.5: The note following the chart of the fee structure can be eliminated since we have not had a fee increase since February 1993.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA27

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Final Rule Stage

322. REPORTING VALUE ON SHIPPER'S EXPORT DECLARATION FOR INLAND FREIGHT AND INSURANCE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301; 13 USC 302

CFR Citation: 15 CFR 30.7(q)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify the provisions for reporting the value of merchandise on the Shipper's Export Declaration (SED) when the inland and freight and insurance charges are not known. Current provisions define the value to be reported on the SED as the value at the U.S. port of export including inland freight and insurance charges. In situations where inland freight and insurance charges are not known the Census Bureau will require that the exporter add 3 percent of the value of the commodity to the value to determine the total value to be reported on the SED.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA29

323. REPORTING THE VALUE OF REPAIRS AND REPLACEMENT PARTS ON THE SHIPPER'S EXPORT DECLARATION

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301; 13 USC 302

CFR Citation: 15 CFR 30.30(c)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify provisions for reporting the value of exports that were previously imported for repairs or alterations, and the value of replacement parts. This amendment will clarify provisions for reporting the

DOC—CENSUS

Final Rule Stage

cost of repairs and/or alterations and reporting the value of replacement parts on the Shipper's Export Declaration.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA30

324. NOTATION OF THE SHIPPER'S EXPORT DECLARATION FILING EXEMPTION STATEMENT ON MANIFEST DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301; 13 USC 302

CFR Citation: 15 CFR 30.50

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations (FTSR) to clarify provisions for notating the Shipper's Export Declaration (SED) filing exemption statement on the bill of lading, air waybill, or other loading document for carrier use, in all cases, when an SED is not required to be filed. This amendment will require the exporter to reference the specific FTSR section, explaining the exemption criteria, whenever an SED is not required to be filed with the statement "No SED Required, FTSR 30.XX" on the manifest document.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA31

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Completed Actions

325. ECONOMIC ADJUSTMENT PROGRAM—REVOLVING LOAN FUND (RLF) GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 13 CFR 308; 13 CFR 314

Completed:

Reason	Date	FR Cite
Interim Final Rule	01/18/00	65 FR 2530
Interim Final Rule Effective	01/18/00	
Interim Final Rule Comment Period End	03/20/00	
Final Action	11/28/00	65 FR 71022
Final Action Effective	11/28/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Dayle M. Ginsburg
Phone: 202 482-4687
Fax: 202 482-5671
Email: dginsburg@doc.gov

RIN: 0610–AA62

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Final Rule Stage

326. UNIFORM ADMINISTRATIVE REQUIREMENT FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFITS AND COMMERCIAL ORGANIZATIONS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 14

Legal Deadline: None

Abstract: On November 29, 1993, Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements, with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" was published in the Federal Register (58 FR 62992). In the published revised circular, OMB specified as "required action" that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein, shall adopt the language of the Circular unless other provisions are required by Federal Statute or exceptions or deviations are approved by OMB. This interim final rule adopts the provisions of the Circular and its language to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/04/98	63 FR 47155
Interim Final Rule Effective	10/01/98	
Interim Final Rule Comment Period End	11/03/98	
Final Action	10/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L. Dorfman, Acting Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration,

DOC—ADMIN

Final Rule Stage

14th Street and Constitution Avenue NW, Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA09

327. PUBLIC INFORMATION, FREEDOM OF INFORMATION AND PRIVACY

Priority: Other Significant

Legal Authority: 5 USC 301; 5 USC 552 to 553; 44 USC 3101; 44 USC 3717; Reorganization Plan No. 5 of 1950

CFR Citation: 15 CFR 4; 15 CFR 4a; 15 CFR 4b

Legal Deadline: None

Abstract: The Department of Commerce plans to amend the regulations pertaining to the Freedom of Information Act, Privacy Act, and declassification and public availability of national security information. The proposed rule contains new provisions implementing the Electronic Freedom of Information Act Amendment of 1996, reflects the principles established by the President and Attorney General in the FOIA Policy Memoranda of October 4, 1993, incorporates updated cost figures to be used in charging fees, and streamlines and clarifies the present regulations at 15 CFR parts 4, 4a and 4b.

Timetable:

Action	Date	FR Cite
NPRM	05/31/00	65 FR 34606
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: None.

Agency Contact: Andy McCready, Attorney Advisor, Department of Commerce, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-8044

RIN: 0605–AA14

328. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; PL 103-355, sec 2455; 31 USC 6101; EO 12549; EO 12689

CFR Citation: 15 CFR 26

Legal Deadline: None

Abstract: Periodically, OMB amends the Governmentwide common rule for suspension and debarment of contractors and assistance participants who threaten the integrity of Federal programs because of criminal misconduct or poor performance. Agencies must issue changes to their individual codified versions to conform to the common rule. Recently, the Interagency Suspension and Debarment Coordinating Committee prepared recommendations for comprehensive changes to the Common Rule to conform to changes made in the Federal Acquisition Regulation (FAR) as a result of the Federal Acquisition Streamlining Act. In addition, several other proposals to improve or change the rule are included.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Kugelman, Director, Office of Executive Budgeting and Assistance Management, Department of Commerce, HCHB Room 6022, 14th & Constitution Avenue, NW., Washington, DC 20230
Phone: 202 482-4115
Fax: 202 482-3270

RIN: 0605–AA16

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Long-Term Actions

329. PROCEDURES FOR CONDUCTING FIVE-YEAR (SUNSET) REVIEWS OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 351

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/98	63 FR 13516
Interim Final Rule Effective	03/20/98	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stacy Ettinger
Phone: 202 482-4618

RIN: 0625–AA51

330. EXPORT TRADE CERTIFICATES OF REVIEW (15 CFR 325)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 325

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Vanessa Bachman
Phone: 202 482-5131
Fax: 202 482-1790

RIN: 0625–AA52

331. • PROPOSED CHANGES IN THE INSULAR POSSESSIONS WATCH, WATCH MOVEMENT AND JEWELRY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-446, sec 110; PL 103-465, sec 602; PL 94-241, sec 601; PL 106-36, sec 2401

CFR Citation: 15 CFR 303

Legal Deadline: None

Abstract: The proposed rule would amend ITA regulations by further clarifying the range of documents that may be needed for verification of the duty-free shipments of jewelry into the United States and by clarifying which wages qualify as creditable and which do not for purposes of calculating the duty-refund for watches and jewelry. The proposed rule would also amend the regulations by making minor editorial changes within the definition

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of "new firm" for watches. Finally, the proposed rule would amend the duty-refund process by dividing the amount of the duty refund allowed under the annual certificate of entitlement into two installments thereby helping producers receive benefits in a more timely fashion.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Faye Robinson, Acting Director, Department of Commerce, International Trade Administration, HCHB Room 4211, Statutory Import Staff Programs, 14th & Pennsylvania Avenue, NW., Washington, DC 20230
Phone: 202 482-3526

RIN: 0625–AA57

332. • IMPORT OF CERTAIN WORSTED WOOL FABRIC: IMPLEMENTATION OF TARIFF RATE QUOTE ESTABLISHED UNDER TITLE V OF THE TRADE AND DEVELOPMENT ACT OF 2000

Priority: Other Significant

Legal Authority: PL 106-200, sec 501-504; Title V of the Trade and Development Act of 2000; Presidential Proclamation No. 7383 (December 1, 2000)

CFR Citation: 15 CFR 335; 15 CFR 340

Legal Deadline: None

Abstract: On January 22, 2001, the Department of Commerce issued interim regulations implementing section 501(e) and section 504(b) of the Trade and Development Act of 2000 ("the Act"). Section 501(e) requires the President to fairly allocate tariff rate quotas on the import of certain worsted wool fabrics, tariff rate quotas which were established by sections 501(a) and 501(b) of the Act. Section 504(b) authorizes the President to modify the limitations on worsted wool fabric imports under the tariff rate quotas. The President has delegated to the Secretary of Commerce the authority to allocate the quantity of imports under the tariff rate quotas and to determine whether the limitations on the quantity of imports under the tariff rate quotas should be modified. Final regulations will be issued after the period for notice and comment has expired.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/01	66 FR 6459
Interim Final Rule Comment Period End	03/23/01	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sergio Botero, Industry Economist, Department of Commerce, International Trade Administration, HCHB Room 3119, Office of Textiles and Apparel, 14th and Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4058
Fax: 202 482-0667

RIN: 0625–AA58

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Proposed Rule Stage

333. OFFSETS IN MILITARY EXPORTS

Priority: Other Significant

Legal Authority: PL 102-558, title I, sec 124; 106 Stat. 4207; 50 USC app 2099

CFR Citation: 15 CFR 701

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) proposes to amend the National Security Industrial Base Regulations to refine current defense offset reporting requirements. These changes will allow BXA to more accurately address the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States. These changes will also further standardize the data collection framework, thus reducing the burden of reporting requirements on U.S. firms.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Brad Botwin, Director, Trade Analysis Division, Department of Commerce, Bureau of Export Administration, Room 3878, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-4060
Fax: 202 482-5650

RIN: 0694–AC27

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

334. CHEMICAL WEAPONS CONVENTION REGULATIONS

Priority: Other Significant

Legal Authority: EO 13128; 22 USC 6701 et seq

CFR Citation: 15 CFR 710 et seq

Legal Deadline: None

Abstract: The final rule will make effective the proposed rule published July 21, 1999. The purpose of the regulation is to implement the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention) and the Chemical Weapons Convention Implementation Act of 1998, requiring private facilities to submit information on certain activities involving toxic chemicals, and to make certain private facilities subject to periodic inspection by the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization created to administer the Convention and to monitor compliance by States Parties.

Timetable:

Action	Date	FR Cite
NPRM	07/21/99	64 FR 39193
Interim Final Rule	12/30/99	64 FR 73744
Correction	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB06

335. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; ADDITIONS TO THE ENTITY LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); 30 USC 185; 10 USC 7429; 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c)

CFR Citation: 15 CFR 744

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule adds entities to the Entity List, and requires a license for all exports and reexports of all items subject to the EAR.

Timetable:

Action	Date	FR Cite
Addition to Entity List	05/16/97	62 FR 26922
Addition to Entity List	06/30/97	62 FR 35334
Addition to Entity List	06/30/97	62 FR 35335
Revision to Entity List	10/01/97	62 FR 51369
Addition to Entity List - Russian Entities	07/29/98	63 FR 40363
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB60

336. EXPORTS AND REEXPORTS OF EXPLOSIVE DETECTION SYSTEMS; EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations by expanding the current scope of control of explosive detection systems controlled by Export Control Classification Number (ECCN) 2A993 to include all types of systems that detect the presence of explosives or explosive residue. This rule also expands the control of these explosive detection systems to Iraq. In addition, this rule establishes a new licensing requirement on the export and reexport of software designed or modified for the development, production, or use of explosive detection systems to Iran, Iraq, Sudan, and Syria for antiterrorism reasons.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3856

RIN: 0694–AB87

337. DEFINITION HARMONIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 772

Legal Deadline: None

Abstract: This regulation harmonizes the list definitions of terms found in the EAR with the list that accompanied the Wassenaar Arrangement list of dual-use items.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
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Email: scook@bxa.doc.gov

RIN: 0694–AC03

338. EXPORT ADMINISTRATION REGULATIONS: SUPPORT DOCUMENTATION

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 748

Legal Deadline: None

Abstract: This rule clarifies and organizes the sections in the Export

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Administration Regulations that pertain to support documentation requirements for license applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
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RIN: 0694–AC04

339. EXPORTS AND REEXPORTS TO SUDAN

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) to reflect the imposition of economic sanctions on Sudan, as a result of the issuance of Executive Order 13067 on November 3, 1997. The Executive Order delegates implementation responsibility to the Department of the Treasury's Office of Foreign Assets Control, including authority for exports and certain reexports. In addition, this rule makes editorial revisions to the EAR relating to embargoes and anti-terrorism controls.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3856

RIN: 0694–AC05

340. ANTI-TERRORISM CONTROLS ON IRAQ

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations to impose foreign policy controls on Iraq for anti-terrorism reasons.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3856

RIN: 0694–AC06

341. REVISIONS TO THE NORTH KOREAN EMBARGO POLICY

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 42 USC 2139(a); 42 USC 2139(a); 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On September 17, 1999, the President announced his decision to ease sanctions against North Korea. Under this new policy, most items subject to the EAR designated as EAR99 may be exported or reexported to North Korea without a license. In addition, BXA is changing the licensing policy for certain items on the Commerce Control List (CCL) destined to North Korean civil end-users from a policy of denial to case-by-case review. This regulation adds certain categories of items to the CCL for which a license will be required to North Korea. This easing of sanctions does not affect U.S. anti-terrorism or nonproliferation export controls on North Korea.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/19/00	65 FR 38148
Interim Final Rule Comment Period End	07/19/00	
Correction	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3856

RIN: 0694–AC10

342. LICENSE EXCEPTION CTP AND PRC END-USER CERTIFICATES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations by revising License Exception CTP with respect to requirements for the People's Republic of China (PRC) End-User Certificate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Final Rule Stage

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3856

RIN: 0694–AC12

343. EXPANSION OF LICENSE EXCEPTION GOV; EXPORTS AND REEXPORTS TO INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration maintains the Export Administration Regulations. This rule expands availability of License Exception GOV to allow certain exports and reexports to the North Atlantic Treaty Organization and to the United Nations for those organizations' official use.

Timetable:

Action	Date	FR Cite
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3856

RIN: 0694–AC15

344. DE MINIMIS EXPANSION OF ELIGIBILITY: U.S. ORIGIN SOFTWARE INCORPORATED INTO FOREIGN MADE RETAIL COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations (EAR) by allowing foriegn-made retail commodities that incorporate a de minimis, i.e., low percentage, value of controlled U.S. origin software to be considered "not subject" to the Export Administration Regulations (EAR) after: a one time report has been submitted to the Bureau of Export Administration (BXA); 30 days have elapse since receipt of the report by BXA; and BXA has not informed the submitter of the report of any objections to the report. The review will determine if the foriegn-made commodity meets the criteria for "retail" and verify the calculations of the de minimis value.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AC17

345. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS TO ADD MEMBERS OF THE MISSILE TECHNOLOGY CONTROL REGIME

Priority: Substantive, Nonsignificant

Legal Authority: Notice of August 3, 2000 (65 FR 48347, August 8, 2000); 50 USC app. 2401 et seq; 50 USC 1701 et seq; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; ...

CFR Citation: 15 CFR 740

Legal Deadline: None

Abstract: This final rule amends Country Group A:2, Missile Technology Control Regime (MTCR), to add the Czech Republic, Poland, Turkey, and Ukraine. Country Groups are used to identify groups of countries for ease of reference when stating license requirements, license review policy or eligibility for License Exceptions. These countries were recently admitted to the MTCR.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AC22

346. REVISION TO THE EXPORT ADMINISTRATION REGULATIONS: REPLACEMENT LICENSES

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app. 2401 et seq; 50 USC 1701 et seq; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; ...

CFR Citation: 15 CFR 748 to 750

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) licenses items subject to the Export Administration Regulations (EAR) that are classified on the Commerce Control List (CCL) and require a license. The information on a license application is deemed to be a continuing representation of the existing facts or circumstances of the transaction. If a license application is under consideration by BXA, any material or substantive change in the terms of the order, or in the facts relating to the transaction, must be promptly reported to BXA. However, if a license has been issued and information submitted on the original license application has changed or will change, and these changes are not specifically excepted by the EAR, then the licensee must apply for either a new license or a replacement license to obtain prior authorization for these changes before exporting or reexporting. This rule clarifies the instructions for applying for a replacement license.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC23

347. REVISIONS AND CLARIFICATIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app. 2401 et seq, 1701 et seq; EO 12924, 3 CFR, 1994 Comp., p. 917; EO 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; EO 13026, 3 CFR, 1996 Comp., p. 228; ...

CFR Citation: 15 CFR 730; 15 CFR 732; 15 CFR 734; 15 CFR 736; 15 CFR 740; 15 CFR 746; 15 CFR 748; 15 CFR 752; 15 CFR 758; 15 CFR 772; 15 CFR 774

Legal Deadline: None

Abstract: This rule amends the EAR by making certain revisions and clarifications and, in some cases, inserts material inadvertently omitted from previous rules.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC24

348. ENTITY LIST: ADDITIONS AND REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 30 USC 185; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contain a list of such entities called the Entity List. This rule makes additions, modifications and corrections to the Entity List.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC28

349. CRIME CONTROL ITEMS: REVISIONS TO THE COMMERCE CONTROL LIST

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations by expanding controls on restraint devices, such as handcuffs, and on discharge type arms, such as stun guns or shock batons. In addition, this rule modifies the license review policy to include consideration of whether there is civil disorder in the country or region or whether there is evidence that the government of the importing country may have violated internationally recognized human rights.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/00	65 FR 55177
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3856

RIN: 0694–AC31

350. LICENSE EXCEPTION AVS: CUBA, LIBYA, SERBIA

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 2401; 50 USC 1701; EO 12924; EO 13026; EO 12854; ...

CFR Citation: 15 CFR 740

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by allowing equipment, spares, and plane stores under the provisions of License Exception AVS on foreign registered aircraft subject to the EAR that are temporarily reexported to Libya and Serbia, and on U.S. or foreign registered aircraft subject to the EAR that are temporarily exported or reexported to Cuba.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th &

Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC33

351. • CLARIFICATIONS TO PART 753: SPECIAL COMPREHENSIVE LICENSE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 700 - 799

Legal Deadline: None

Abstract: The Bureau of Export Administration administers the Special Comprehensive License (SCL) program to provide an effective export control mechanism for exporters who routinely ship to multiple end-users. This rule amends the SCL provisions of the Export Administration Regulations (EAR) to conform with changes in the SCL licensing process and to provide SCL applicants and consignees with additional guidance on how to fill out the forms required to submit a license application or to request changes in their SCLs. This rule also creates two new elements for SCL Internal Control Programs. These new elements require the establishment of procedures for screening customers and items to ensure that SCL transactions conform with the antiboycott provisions of the EAR and with EAR provisions concerning entities involved in weapons of mass destruction activities.

Timetable:

Action	Date	FR Cite
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC34

352. • CHEMICAL WEAPONS CONVENTION: REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) administers export controls on certain toxic chemicals and precursors that are listed in the "Schedules of Chemicals" contained within the "Annex on Chemicals" to the "Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction," also known as the Chemical Weapons Convention (CWC). This rule amends the CWC provisions in the Export Administration Regulations (EAR) to clarify BXA licensing requirements and policies for chemicals and precursors controlled for CW reasons.

Timetable:

Action	Date	FR Cite
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC35

353. • EXPORTS OF AGRICULTURAL COMMODITIES, MEDICINES AND MEDICAL, DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: Final, Statutory, February 25, 2001, Trade Sanctions Reform and Export Enhancement Act of 2000.

Abstract: This rule amends the Export Administration Regulations (EAR) to implement the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000. This rule also amends the EAR to reflect the comprehensive economic sanctions on Sudan, administered by the Department of the Treasury's Office of Foreign Assets Control (OFAC), pursuant to Executive Order 13067 issued on November 3, 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3856

RIN: 0694–AC37

354. • ENTITY LIST: REMOVAL OF TWO RUSSIAN ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 2401, 50 USC 1701, 42 USC 2139a, EO 12058; EO 12924, EO 12938, EO 13026; ...

CFR Citation: 15 CFR 744

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contain a list of such entities called the Entity List. This rule removes two Russian entities from the Entity List: INOR Scientific Center, Moscow, Russia; and Polyus Scientific Production Association, 3 Ulitsa Vvedenskogo, 117342, Moscow.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC40

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355. • IMPLEMENTATION OF THE WASSENAAR ARRANGEMENT LIST OF DUAL-USE ITEMS REVISIONS: COMPUTERS; AND REVISIONS TO LICENSE EXCEPTION CTP

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 2401; PL 106-508; 50 USC 1701; EO 12924; EO 13026; ...

CFR Citation: 15 CFR 740; 15 CFR 742; 15 CFR 743; 15 CFR 774; 15 CFR 748

Legal Deadline: None

Abstract: On December 1, 2000, the Wassenaar Arrangement agreed to implement several changes in its List of Dual-Use Goods and Technologies. This final rule revises the CCL to implement certain recently agreed to changes in Category 4 (Computers) of the Wassenaar List of Dual-Use Goods and Technologies, specifically in the area of computers. These changes are being implemented to reflect rapid technological advances and controllability factors. Additional changes in other categories of the Wassenaar Dual-Use List will be implemented in the CCL in a supplemental regulation.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
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Email: scook@bxa.doc.gov

RIN: 0694–AC42

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356. • REVISIONS AND CLARIFICATIONS TO THE COMMERCE CONTROL LIST; CHEMICAL AND BIOLOGICAL WEAPONS CONTROLS; AUSTRALIA GROUP

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to implement certain agreements reached at the October 2000 plenary meeting of the Australia Group Chemical and Biological Weapons Nonproliferation Control Regime. The Australia Group (AG), a multilateral form consisting of 30 participating countries (including the United States), maintains export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in the production of chemical or biological weapons.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willard Fisher, Export Administration Specialist, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC43

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357. • IMPLEMENTATION OF THE WASSENAAR ARRANGEMENT LIST OF DUAL-USE ITEMS: REVISIONS TO CATEGORIES 1, 2, 3, 4, 5, 6, 7 AND 9 OF THE COMMERCE CONTROL LIST AND REVISONS TO REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export controls. This final rule revises certain entries controlled for national security reasons in Categories 1, 2, 3, 4, 5, 6, 7 and 9 to conform with changes in the Wassenaar Arrangement's List of Dual-Use Goods and Technologies maintained and agreed to by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). The Wassenaar Arrangement controls strategic items with the objective of improving regional and international security and stability.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC44

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358. TRANSFER OF DUAL-USE ITEMS FROM U.S. MUNITIONS LIST TO THE COMMERCE CONTROL LIST

Priority: Other Significant

CFR Citation: 15 CFR 774 Supplement No. 1

Timetable:

Action	Date	FR Cite
Transfer of Communications Satellites	10/23/92	57 FR 48312
Navigation and Avionics	06/23/93	58 FR 34211
Final Rule - Transfer of Commercial Communication Satellites	09/08/93	58 FR 47322
Transfer of Items From the USMI to the CCL; Imposition of Certain Foreign Policy Controls	10/26/93	58 FR 57549
Satellite Fuel	09/29/97	62 FR 50865
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian Nilsson
Phone: 202 482-4196

RIN: 0694–AA52

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359. ADMINISTRATION OF STATE LOG EXPORTS BAN

Priority: Other Significant

CFR Citation: 15 CFR 754

Timetable:

Action	Date	FR Cite
ANPRM	06/07/95	60 FR 30030
ANPRM Comment Period End	07/07/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local

Agency Contact: Willard Fisher
Phone: 202 482-2440

RIN: 0694–AB25

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360. LIBYA: EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

CFR Citation: 15 CFR 746

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB28

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361. CHANGE THE COMMERCE CONTROL LIST TO REVISE CONTROLS ON COMMUNICATION INTERCEPTING DEVICES (EXPORT COMMERCE CONTROL NUMBER ECCN 5A980)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 742

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis
Phone: 202 482-4196
Email: jlewis@bxa.doc.gov

RIN: 0694–AB41

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362. CLARIFICATION OF LICENSE EXCEPTION GFT (HUMANITARIAN DONATIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 740

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB49

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363. REVISIONS TO COMMERCE CONTROL LIST: ADDITION OF TECHNOLOGY AND SOFTWARE CONTROLS FOR CERTAIN CRIME CONTROL COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 774 Supplement No. 1

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB53

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364. EXPORTS OF TECHNOLOGY AND SOFTWARE; RELEASE OF TECHNOLOGY OR SOURCE CODE TO FOREIGN NATIONALS IN THE UNITED STATES

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB59

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365. DE MINIMIS EXCLUSION FOR TECHNOLOGY AND SOFTWARE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB62

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366. INDIA AND PAKISTAN SANCTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Timetable:

Action	Date	FR Cite
Interim Final Rule - India and Pakistan Sanctions and Other Measures	11/19/98	63 FR 64322
Interim Final Rule - Correction to India and Pakistan Sanctions and Other Measures	11/27/98	63 FR 65352
Final Rule	03/17/00	65 FR 14444
Final Rule	07/26/00	65 FR 45842
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
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Email: hhess@bxa.doc.gov

RIN: 0694–AB73

367. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COUNTRY GROUPS D:1 AND E:2; LICENSE EXCEPTION TMP

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB76

368. EXPANSION OF LICENSE EXCEPTION CIV ELIGIBILITY FOR "MICROPROCESSORS" CONTROLLED BY ECCN 3A001

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/08/99	64 FR 36779
Interim Final Rule	11/26/99	64 FR 66372
Interim Final Rule	06/13/00	65 FR 37039
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
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Email: hhess@bxa.doc.gov

RIN: 0694–AB90

369. EXPORT OF TECHNOLOGY AND SOFTWARE THROUGH ELECTRONIC TRANSMISSIONS, DOWNLOADS, AND PROGRAMMED ONTO HARDWARE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB97

370. SNAP: SIMPLIFIED NETWORK APPLICATION PROCESS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 748

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
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Email: scook@bxa.doc.gov

RIN: 0694–AC20

371. SHORT SUPPLY CONTROLS: CRUDE OIL EXPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 750; 15 CFR 754

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willard Fisher
Phone: 202 482-2440

RIN: 0694–AC25

372. REVISIONS TO ENCRYPTION ITEMS

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Rule	10/19/00	65 FR 62600
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis
Phone: 202 482-4196
Email: jlewis@bxa.doc.gov

RIN: 0694–AC32

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

373. REVISIONS TO EAR AS A RESULT OF THE ADDITION OF BRAZIL, UKRAINE, AND LATVIA TO THE NUCLEAR SUPPLIERS GROUP

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Final Action	04/09/01	66 FR 18401

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB50

374. IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION; REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willard Fisher
Phone: 202 482-2440

RIN: 0694–AB67

375. EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 705

Completed:

Reason	Date	FR Cite
Final Action	10/19/00	65 FR 62599

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Baker
Phone: 202 482-4060

RIN: 0694–AC07

376. EXPORTS TO THE GOVERNMENT OF SERBIA

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 746

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AC09

377. REEXPORTS TO SERBIA OF FOREIGN REGISTERED AIRCRAFT SUBJECT TO THE EXPORT ADMINISTRATION

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Final Action	07/27/00	65 FR 46091

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer
Phone: 202 482-3856

RIN: 0694–AC26

378. EXPORTS TO ERITREA AND ETHIOPIA; IMPOSITION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Completed:

Reason	Date	FR Cite
Withdrawn	12/08/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer
Phone: 202 482-3856

RIN: 0694–AC29

379. • EXPORTS TO SERBIA: REVISION OF FOREIGN POLICY CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 50 USC 1701 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 3, 2000 (65 FR 48347, August 8, 2000); ...

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This final rule amends the Export Administration Regulations by removing the additional license requirements imposed on Serbia in May 1999. However, a license is required for all exports and reexports by U.S. persons of any item subject to the EAR to persons listed pursuant to Executive Order 13088, as amended by Executive Order 13192 of January 17, 2001. The persons subject to sanctions under amended Executive Order 13088 include Slobodan Milosevic, his family, his close associates, and those indicted for war crimes. These sanctioned persons are on the list of specially designated nationals and blocked persons maintained by the Department of the Treasury's Office of Foreign Assets Control and identified by the bracketed suffix initials [FRYM]. Controls are maintained under the EAR on arms and related materiel to the Federal Republic of Yugoslavia (Serbia and Montenegro) consistent with United Nations Security Council Resolution 1160 of March 3, 1998.

Timetable:

Action	Date	FR Cite
Final Action	03/01/01	66 FR 12845

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheila Quarterman, Export Policy Analyst, Department of Commerce, Bureau of Export Administration, 14th Street and Pennsylvania Ave, NW, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC36

380. • GENERAL ORDER CONCERNING SHAYKH HAMAD BIN ALI BIN JABER AL-THANI, GULF FALCON GROUP, LTD., AND RELATED PARTIES

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 2401, 50 USC 1701, EO 12924, EO 13026,

CFR Citation: 15 CFR 736, 15 CFR 744

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) by issuing General Order No. 3 which imposes a license requirement for exports and reexports of all items subject to the EAR that are on the Commerce Control List destined to or for: Shaykh Hamad bin Ali bin Jaber Al-Thani; Gulf Falcon Group, Ltd. located in Doha, Qatar; Air Gulf Falcon; Falcon Aircraft Maintenance Center; and Falcon Air Leasing. This order also prohibits the use of License Exceptions for exports and reexports of all items subject to the EAR that are listed on the Commerce Control List to these parties.

Timetable:

Action	Date	FR Cite
Final Action	12/07/00	65 FR 76561

DOC—BXA

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC38

381. • IMPLEMENTATION OF THE WASSENAAR ARRANGEMENT LIST OF DUAL-USE ITEMS REVISIONS: MICROPROCESSORS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 2401, 50 USC 1701, 22 USC 3201,; 18 USC 2510, 43 USC 1354, EO 12924, EO 13026; EO 12058, EO 12851; ...

CFR Citation: 15 CFR 740, 15 CFR 742, 15 CFR 743; ...

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export controls. This final rule revises certain entries controlled for national security reasons in Categories 3 (Electronics) to conform with changes in the Wassenaar Arrangement's List of Dual-Use Goods and Technologies maintained and agreed to by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). Other agreed upon revisions will be published in a separate regulation. The Wassenaar Arrangement controls strategic items with the objective of improving regional and international security and stability. This final rule revises the CCL to implement recently agreed changes to the Wassenaar List of Dual-Use Goods and Technologies in the area of microprocessors. These changes are being implemented to reflect rapid technological advances and controllability factors.

Timetable:

Action	Date	FR Cite
Final Action	04/09/01	66 FR 18402

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BXA will also be publishing a separate regulation to implement other changes recently agreed to the Wassenaar List of Dual-Use Goods and Technologies. These revisions will include changes to ECCNs in Categories 1 (Materials, Chemicals, "Microorganisms," and Toxins), 2 (Materials Processing), 3 (Electronics), 5 part 1 (Telecommunications), 5 part 2 (Information Security), 6 (Lasers and Sensors), 7 (Navigation and Avionics), and 9 (Propulsion Systems, Space Vehicles and Related Equipment).

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AC39

382. • IMPLEMENTATION OF PRESIDENTIAL ANNOUNCEMENT OF JANUARY 10, 2001: REVISIONS TO LICENSE EXCEPTION CTP

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 2401, 50 USC 1701, EO 12924, EO 13026; ...

CFR Citation: 15 CFR 740; 15 CFR 742; 15 CFR 748; 15 CFR 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by revising License Exception CTP to reflect rapid technological advances in computing capability. This rule implements the President's sixth revision to U.S. export controls on high performance computers (HPCs), announced January 10, 2001. License Exception CTP is revised by removing Computer Tier 2 and merging its countries into Computer Tier 1. All HPCs continue to be eligible for export to a Computer Tier 1 country under License Exception CTP. Additionally, HPCs with CTP up to 85,000 MTOPS can be exported to Computer Tier 3 countries under License Exception CTP, and beginning March 20, 2001, exporters will no longer be required to submit National Defense Authorization Act (NDAA) advance notifications for HPCs with CTP exceeding 85,000 MTOPS. The NDAA advance notification will not be required for these computers, because exporters will be submitting a license for exports to Computer Tier 3 countries of HPCs with CTP exceeding 85,000 MTOPS. This rule also moves Lithuania from Computer Tier 3 to Computer Tier 1, effective May 19, 2001. The President's action will promote our national security, enhance the effectiveness of our export control system and ease unnecessary regulatory burdens on both government and industry.

Timetable:

Action	Date	FR Cite
Final Action	01/19/01	66 FR 5443
Correction	01/22/01	66 FR 6465

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Avenue NW., Washington, DC 20230
Phone: 202 482-2440
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Email: scook@bxa.doc.gov

RIN: 0694–AC41

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Final Rule Stage

383. • NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 272 et seq

CFR Citation: 15 CFR 285

Legal Deadline: None

Abstract: Final rule implementing operating procedures for the National Voluntary Laboratory Accreditation Program.

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66659
Final Action	07/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David F. Alderman, Chief, National Voluntary Laboratory Accreditation Program, Department of Commerce, National Institute of Standards & Technology, Stop 2140, 100 Bureau Drive, Gaithersburg, MD 20899-2140
Phone: 301 975-4016
Email: david.alderman@nist.gov

RIN: 0693–AB50

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Prerule Stage

NATIONAL MARINE FISHERIES SERVICE

384. • ESTABLISH A CONTROL DATE FOR PERMIT OWNERSHIP; SABLEFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: The Pacific Fishery Management Council recommended that NMFS publish an advance notice of proposed rulemaking, announcing a control date of November 1, 2000, regarding the proposed ownership restrictions. The Council also is proposing to restrict at-sea processing of sablefish except for vessels that can demonstrate fixed-gear landings of at least 2,000 pounds of frozen sablefish from Council managed fisheries in 1998, 1999, 2000, and wants this announced in the advance notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AO97

385. • ATLANTIC HIGHLY MIGRATORY SPECIES; PELAGIC LONGLINE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS proposes regulations to extend the Charleston Bump time/area closure for the year 2001 from April 30 to May 31. This rule is intended to regain some of the environmental benefits lost due to a prior delay in closing the area.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AP13

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

NATIONAL MARINE FISHERIES SERVICE

386. FISHERY MANAGEMENT PLAN FOR TILEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP would manage tilefish (Lopholatilus chamaeleonticeps) in the EEZ along the Atlantic Coast north of the Virginia/North Carolina border to rebuild the stock.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action	05/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AF87

387. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 3 would restrict the use of gillnets, fish traps, and other gear in the reef fish fishery in the Caribbean exclusive economic zone.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AG87

388. AMENDMENTS TO THE OBSERVER PROGRAM - AMENDMENT 47 TO THE FMP FOR BSAI GROUNDFISH AND AMENDMENT 47 TO THE FMP FOR GOA GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendments to FMP Amendment 47 to the Groundfish of the BSAI and FMP Amendment 47 to the Gulf of Alaska Groundfish to implement an observer program, replacing the interim Observer Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI69

389. REGULATORY AMENDMENT TO ESTABLISH PERMIT AND REPORTING REQUIREMENTS FOR PELAGIC TROLL AND HANDLINE VESSELS FISHING OFF PACIFIC REMOTE ISLANDS OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will establish NMFS permit/reporting requirements for pelagic troll and handline vessels fishing in waters off U.S. Pacific Island possessions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	
Final Action	09/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AJ08

390. AMEND THE FOREIGN FISHING REGULATIONS TO IMPLEMENT THE PROVISIONS OF A PACIFIC INSULAR AREA FISHERY AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Amend the foreign fishing regulations at 50 CFR part 600 subpart F to authorize foreign fishing under a Pacific Insular Area Fishery Agreement (PIAFA). Foreign fishing vessels fishing under a PIAFA would be authorized to fish in the EEZ around American Samoa, Guam, the Northern Mariana Islands and other U.S. insular areas in the Pacific. Prior to the negotiation of a PIAFA, American Samoa, Guam and the Northern Mariana Islands must develop a three-year Marine Conservation Plan (MCP) detailing the use of funds collected under a PIAFA. A MCP must be consistent with relevant Fishery Management Plans. The Magnuson-Stevens Act further provides that fees received by the Secretary for foreign fishing under a PIAFA for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which the funds were collected.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AJ60

391. ESTABLISH "CENTRAL REGISTRY FOR LIMITED ACCESS SYSTEM PERMITS"

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking and Request for Comments regarding establishment of a Central Registry for Limited Access System Permits as required by the Magnuson-Stevens Fishery Conservation and Management Act section 305(h).

Timetable:

Action	Date	FR Cite
ANPRM	05/07/97	62 FR 24897

Action	Date	FR Cite
ANPRM Comment Period End	08/05/97	
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396
Email: charles.cooper@noaa.gov

RIN: 0648–AJ77

392. REGULATORY AMENDMENT TO UPDATE REGULATIONS GOVERNING THE OPERATION OF REGIONAL FISHERY MANAGEMENT COUNCILS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 5 USC 561

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Regulations governing the operation of the Regional Fishery Management Councils will be revised based on provisions in the Magnuson-Stevens Act. The revisions will clarify recent administrative and policy changes, as well as editorial changes for readability, clarity, and uniformity. The intent is to update Council regulations to reflect current policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AJ82

393. REGULATORY AMENDMENT TO DEVELOP A C. BAIRDI VESSEL INCENTIVE PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Develop a C. bairdi crab fishery vessel incentive program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK08

394. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE CHARTER BOAT FLEET

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 773c

CFR Citation: 50 CFR 300

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Establish measures to manage the halibut charter boat industry off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK17

395. REGULATORY AMENDMENT TO REQUIRE MANDATORY OBSERVER COVERAGE IN THE AT-SEA PROCESSING SECTOR OF THE WHITING FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would require observer coverage on vessels in the at-sea processing sector of the whiting fishery.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	06/00/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AK26

396. AMENDMENT 54 TO FMP FOR GROUNDFISH FISHERY OF BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 54 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: These FMP amendments would change sablefish use limits from percentages to quota share units; add a leasing provision to allow initial recipients of quota shares to lease 10 percent of their individual fishing quota pooled across all areas, with an option to restrict this allowance to the Bering Sea; and modify plan language to allow an individual who holds an initial allocation of quota share to hire a skipper to fish individual IFQ on a collectively owned vessel.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK70

397. ADJUSTMENT OF MANAGEMENT PROGRAM: BOTTOMFISH FISHERIES IN THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of NPRM comment period.

Abstract: This regulatory action would facilitate and enable adjustments to management measures governing bottomfish fisheries of the main and Northwestern Hawaiian Islands. Possible measures include area closures, harvest limits, size limits, season closures, and permit and reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AK82

398. REVISE EXEMPTED FISHING REGULATIONS TO SPECIFY COMPENSATORY FISHING UNDER EXEMPTED FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: This action would revise current exempted fishing regulations to specifically authorize the use of an exempted fishing permit as the method of allowing the compensation of private vessels for their conduct of resource assessment. Specific methodology for vessel compensation would be developed on a fishery-by-fishery basis. The rule would also make other minor changes in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AK84

399. REGULATORY AMENDMENT TO PROHIBIT FISHING BY VESSELS OVER 50 FEET FROM FISHING FOR PELAGIC MANAGEMENT UNIT SPECIES WITHIN 50 NAUTICAL MILES OF AMERICAN SAMOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final Regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would prohibit fishing by vessels over 50 feet from fishing for pelagic management unit species within 50 nautical miles of American Samoa.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AL41

400. AMENDMENT 14 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 14 would link sablefish cumulative trip limits during the regular sablefish fishery to limited entry permits instead of to vessels. This linkage would allow limited entry permit holders to associate more than one limited entry permit with a vessel without having to combine those permits. A vessel attached to multiple limited entry permits would be able to pursue multiple cumulative trip limits.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	
Final Action	09/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL50

401. REGULATORY AMENDMENT TO IMPLEMENT A LIMITED ACCESS PROGRAM THAT REQUIRES SPECIES ENDORSEMENTS TO PARTICIPATE IN FISHERIES TARGETING CERTAIN GROUNDFISH SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would implement species-specific permit endorsement requirements for commercial groundfish fisheries. Limited entry permit holders would be either allowed to or prohibited from landing those species, based on historic dependence on those species.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	01/00/02	
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL65

402. REGULATORY AMENDMENT TO FUND PURCHASE OF LIMITED ENTRY TRAWL PERMITS TO REDUCE EXCESS CAPACITY IN PACIFIC COAST GROUNDFISH FLEET

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of final rule comment period.

Abstract: Regulations would authorize Federal purchase of Pacific Coast groundfish limited entry trawl permits, under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act, "Fishing Capacity Reduction Program." Federal purchase of trawl permits would be considered a "loan" to the trawl fleet, which would be repaid by that fleet through a tax on groundfish landings by limited entry trawl vessels. The goal of this program would be to match effort within the fishery more closely with available resources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	01/00/02	
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL66

403. ADJUSTMENT OF MANAGEMENT PROGRAM: CRUSTACEAN FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action, under an amendment to the Western Pacific Crustaceans FMP, would add the EEZ waters off the U.S. Pacific Island Possessions and Commonwealth of the Northern Mariana Islands as crustaceans management areas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AL67

404. REGULATORY AMENDMENT TO ALLOCATE LINGCOD AND BOCACCIO ROCKFISH BETWEEN COMMERCIAL AND RECREATIONAL GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would set allocations of lingcod and bocaccio rockfish between the commercial and recreational fisheries for Pacific Coast groundfish.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	01/00/02	
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070 Phone: 206 526-6150

RIN: 0648–AL69

405. FISHERY MANAGEMENT PLAN FOR CALICO SCALLOP FISHERY IN THE SOUTH ATLANTIC REGION (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The FMP could include the following measures: (1) Definitions of management unit, MSY, OY, and overfishing; (2) requirement for a vessel permit to harvest or possess calico scallops in or from the South Atlantic EEZ; (3) designation of essential fish habitat for calico scallops; (4) prohibition on harvest of calico scallops in the area bounded to the west by 80 degrees W. longitude, to the north by 28 degrees 30' N. latitude, to the south by 27 degrees 30' N. latitude, and to the east by the 100 fathom depth contour; and (5) requirement for use of transponders by calico scallop vessels.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 727 570-5301

RIN: 0648–AL78

406. COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERIES ACT REQUIREMENTS REGARDING OVERFISHING, BYCATCH, FISHING COMMUNITIES AND PROVISIONS FOR FISHERY MANAGEMENT PLANS FOR THE CARIBBEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This comprehensive amendment will amend the Caribbean Fishery Management Council's existing fishery management plans for queen conch, coral resources, spiny lobster, and reef fish to address the Sustainable Fisheries Act requirements regarding section 102 definitions (e.g., overfished, overfishing), bycatch provisions, fishery impact statements, effects on fishing communities, and preventing overfishing and rebuilding overfished stocks.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 727 570-5301

RIN: 0648–AL86

407. CRAB COMMUNITY DEVELOPMENT QUOTA RESERVES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Regulatory amendment to specify crab community development quota reserves by calendar year.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	06/00/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AL92

408. AMENDMENTS TO ALASKA GROUNDFISH AND CRAB FMPS TO REVISE THE LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 60 to the BSAI Fishery Management Plan (FMP), Amendment 58 to the GOA FMP, and Amendment 10 to the King and Tanner crab FMP. Restrict license transfers, establish gear designation, remove exemption of CDQ vessels, and revise crab License Limitation Plan to establish recent participation requirements for qualification.

Timetable:

Action	Date	FR Cite
Notice	01/16/01	66 FR 3501
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AL95

409. REGULATORY AMENDMENT TO REINSTATE 6000 POUND TRIP LIMIT OF HALIBUT IN AREA NORTHEAST OF THE BERING SEA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would reinstate a 6000 pound halibut trip limit in the halibut management area northeast of the Bering Sea.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AL97

410. AMENDMENT 6 - DEFINITION OF OVERFISHING FOR SALMON FISHERIES OFF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 6 to the Fishery Management Plan for salmon fisheries in the EEZ off Alaska would define overfishing.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AL98

411. FISHERY MANAGEMENT PLAN AMENDMENT TO REVISE CDQ REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revisions to the CDQ regulations that would include: overage/underage provisions, pooling, and removing species from CDQ; revise observer coverage requirements shoreside; crab CDQ regulations change to allow start in September crab management year instead of calendar year; change start date for CDQ trawl fisheries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AM07

412. AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 10 would extend the FMP requirements for using bycatch reduction devices in shrimp trawls in the EEZ from Cape San Blas, Florida, east and south to the boundary line (in South Florida) between the areas of jurisdiction of the Gulf of Mexico and South Atlantic Fishery Management Councils.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 727 570-5301

RIN: 0648–AM23

413. ADJUSTMENT OF MANAGEMENT PROGRAM; CRUSTACEAN FISHERIES OF THE HAWAIIAN ISLANDS; TEMPORARY CLOSURE OF THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would temporarily close the lobster fishery around the Northwestern Hawaiian Islands as a precautionary measure due to uncertainty over population assessment model parameters. Possible regulatory changes could include closure of all or part of the fishery for one or more years.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM26

414. ENHANCED MEASURES TO MITIGATE SEABIRD BYCATCH IN THE ALASKA LONGLINE FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, One year from approval of overfishing definitions. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would enhance measures designed to mitigate seabird bycatch in the longline fisheries off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM30

415. STELLER SEA LION CONSERVATION MEASURES FOR THE BSAI AND GOA POLLOCK FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Implement Steller Sea Lion conservation measures, consistent with court order, for the Bering Sea/Aleutian Island and Gulf of Alaska Pollock Fisheries; Total Allowable Catch allocation system for outside critical habitat and east-western 170, overage/underage rollover provisions, revise trip limit regulations for western-central Gulf of Alaska, and additional pollock exclusion zones.

Timetable:

Action	Date	FR Cite
Emergency Interim Final Rule (Effective 01/20/2000 to 07/19/2000)	01/25/00	65 FR 3892
Emergency Final Rule Effective Date Extended to 12/31/2000	06/12/00	65 FR 36795
NPRM	06/00/01	
NPRM Comment Period End	07/00/01	
Final Action	08/00/01	
Final Action Effective	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM32

416. ALASKA GROUNDFISH FISHERY MANAGEMENT PLAN AMENDMENT TO REVISE IMPROVED RETENTION/IMPROVED UTILIZATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revise regulations implementing Improved Retention/Improved Utilization Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM39

417. AMENDMENT 67 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND THE ALEUTIAN ISLANDS AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 67 will establish gear and Pacific cod species endorsements. This requires an additional species/gear endorsement on the License Limitation Program license of fishermen who wish to fish for Pacific cod with fixed gear.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM40

418. REGULATORY AMENDMENT TO CHANGE THE REGULATIONS IMPLEMENTING THE NORTH PACIFIC OBSERVER PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This would change the regulations implementing the North Pacific Observer program, including authority to place NMFS personnel onboard fish or processing vessels, revised requirements for shoreside accommodations for observers, and revisions to observer coverage levels.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM44

419. AMENDMENT 53 TO THE GROUNDFISH FISHERIES OF THE GULF OF ALASKA FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP amendment is to require full retention of demersal shelf rockfish to provide State of Alaska fishery managers an enhanced estimate of bycatch rates.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM51

420. FRAMEWORK REGULATORY AMENDMENT FOR THE ATLANTIC HIGHLY MIGRATORY SPECIES (HMS) FISHERIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: Framework regulatory amendment to the HMS FMP will adjust gear/permitting/reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AM91

421. AMENDMENT 62 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA AND AMENDMENT 62 TO THE FMP FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-277

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, January 30, 2000.

Abstract: Fishery Management Plan amendment to comply with the requirements of the American Fisheries Act by revising inshore/offshore directed pollock allocations and replacement requirements for eligible vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM94

422. IMPLEMENTATION OF WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action would provide guidance on implementation of the Magnuson-Stevens Fishery Conservation and Management Act provisions that establish the Western Pacific Community Development Program and announcement of eligibility criteria for participation in the program, including collection of fees for observer and reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM96

423. IMPLEMENTATION OF WESTERN PACIFIC CORAL REEF ECOSYSTEM FISHERY MANAGEMENT PLAN (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would implement the Western Pacific Coral Reef Ecosystem FMP. Possible initial management measures include permit and reporting requirements, framework procedures, gear restrictions, harvest limits/restrictions, marine protected areas, no anchoring zones, etc.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM98

424. ADJUSTMENT OF MANAGEMENT PROGRAM: BOTTOMFISH FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would facilitate and enable adjustments to management measures for the bottomfish fisheries in Guam and American Samoa. Possible regulatory changes include closed areas, gear restrictions, seasons, permit and notification/reporting requirements, etc. Also, under an amendment to the FMP, the EEZ waters of the U.S. Pacific Island Possessions and Commonwealth of the Northern Mariana islands would be governed as bottomfish management areas.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM98

425. ATLANTIC HIGHLY MIGRATORY SPECIES FISHERIES; MANAGEMENT OF THE ATLANTIC BLUE MARLIN AND WHITE MARLIN RECREATIONAL FISHERIES

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: The International Commission for the Conservation of Atlantic Tuna recommended that the United States limit annual recreational landings of Atlantic blue marlin and white marlin to 250 marlin, combined, for 2001 and 2002. NMFS may consider an adjustment of the minimum size, as well as management measure to enhance reporting of non-tournament landings to comply with the ICCAT framework provisions of Amendment 1 to the Atlantic Billfish Fishery Management Plan.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/00	65 FR 48671
ANPRM Comment Period End	09/25/00	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AN06

426. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC FMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 640

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 7 would address issues regarding the impacts of the FMP's tailing permit provisions on State spiny lobster conservation efforts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN08

427. AMENDMENT 18 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 18 would address the need for improved conservation of grouper stocks in the Gulf of Mexico by establishing additional closed seasons and areas.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN09

428. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE STONE CRAB FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 654

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 7 would adopt the relevant provisions of Florida's approved limited entry trap reduction program for the stone crab fishery and apply them to vessels fishing in the exclusive economic zone off Florida's west coast.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN10

429. AMENDMENT 13 TO THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 13 is being developed to bring the disapproved Essential Fish Habitat portions of Amendment 12 into compliance with the Sustainable Fisheries Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	
Final Action	03/00/02	
Final Action Effective	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN12

430. AMENDMENT 10 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 10 would implement a management strategy that would incorporate rotational closed areas for rebuilding the sea scallop resource. This action may replace or modify the current DAS reduction schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930

Phone: 978 281-9200

RIN: 0648–AN16

431. REGULATORY AMENDMENT TO REDEFINE VESSEL LENGTH OVERALL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would redefine and clarify the definition of vessel length overall.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AN23

432. ATLANTIC HIGHLY MIGRATORY SPECIES; GULF OF MEXICO CLOSED AREA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS issues a proposed regulation in accordance with framework procedures for adjusting management measures of the Final Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks. This proposed regulation would prohibit all fishing for HMS within two areas in the eastern Gulf of Mexico that the Gulf of Mexico Fishery Management Council (Council) has identified to be important for spawning aggregations of gag, black grouper, and red grouper by eliminating bycatch mortality attributable to HMS fisheries. The intended effect of the closure is to support Council action to protect these gag/grouper spawning aggregations. This regulation would complement a similar regulation prepared by the Council that would close the two areas to all fisheries other than HMS fisheries. This action is not significant under the meaning of E.O. 12866 since it is below the economic threshold of impact, and has no novel or legal policy issues associated with it.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AN63

433. ANNUAL SPECIFICATIONS FOR FISHING YEAR 2001 FOR ATLANTIC HERRING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish specifications for fishing year 2001 for the Atlantic herring fishery. These quotas consist of an optimum yield, domestic harvest, domestic processing, joint venture processing, U.S. at-sea processing and a total allowable level of foreign fishing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action	06/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN65

434. DEEP-SEA RED CRAB FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish a fishery management plan for the red crab fishery to address major current and potential issues in the fishery.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	02/00/02	
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN68

435. RECREATIONAL MEASURES FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the possession limit, size limit, and other management measures for the recreational fisheries for fishing year 2001.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action	06/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN70

436. REGULATORY AMENDMENT TO PREVENT OR MITIGATE THE TAKE OF SEA TURTLES IN THE WESTERN PACIFIC PELAGIC FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would modify the management program for the western Pacific pelagic fisheries to mitigate or prevent the take of sea turtles.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AN75

437. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN AMENDMENT FOR THE PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would prevent or mitigate and conserve, manage, and allow full utilization of sharks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AN76

438. RESUBMISSION OF SUSTAINABLE FISHERIES ACT AMENDMENT CRUSTACEANS, BOTTOMFISH, AND PELAGICS REGARDING OVERFISHING DEFINITIONS AND BYCATCH PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would bring these FMPs into compliance with the Sustainable Fisheries Act regarding previously disapproved overfishing definitions and bycatch provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AN79

439. GENERIC AMENDMENT ADDRESSING THE ESTABLISHMENT OF THE TORTUGAS MARINE RESERVES UNDER THE FISHERY MANAGEMENT PLANS OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Generic Tortugas Amendment would amend the Gulf of Mexico Fishery Management Council's fishery management plans to establish the portion of the Tortugas North ecological reserve that falls within the Gulf of Mexico EEZ and to establish the Tortugas South Ecological Reserve, which resides entirely within the EEZ and includes Riley's Hump (a fish spawning aggregation site). Fishing for any species, including Atlantic highly migratory species, would be prohibited within these marine reserves. Additionally, anchoring by fishing vessels would be prohibited within the marine reserves. Along with regulations issued by the Florida Keys National Marine Sanctuary (under NOAA's National Ocean Service), the Generic Tortugas Amendment would protect unique and valuable reef resources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721

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Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN83

440. REGULATORY AMENDMENT MODIFYING THE GULF OF MEXICO BRD PROTOCOL UNDER THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: In accordance with the FMP's framework procedure for regulatory adjustments, the Gulf Council requested that NMFS develop alternative data collection procedures and statistical tests to certify bycatch reduction devices (BRDs) for use in the shrimp fishery of the Gulf of Mexico. The regulation would provide additional flexibility in sampling procedures to facilitate BRDS meeting the testing/certifying protocol's requirements while maintaining the scientific and statistical credibility in achieving the FMP's established bycatch reduction criterion for certified BRDs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN84

441. REGULATORY AMENDMENT MODIFYING THE SOUTH ATLANTIC BRD TESTING AND CERTIFICATION PROTOCOL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: In accordance with the framework procedure of the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region, the South Atlantic Fishery Management Council proposes to modify the data collection procedures and statistical tests used to certify BRDs for use in the Shrimp Fishery. The regulation would provide additional flexibility in the sampling procedures to facilitate meeting the protocol's requirements while maintaining the scientific and statistical credibility in achieving the established bycatch reduction criterion.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN86

442. FISHERY MANAGEMENT PLAN FOR SARGASSUM HABITAT OF THE SOUTH ATLANTIC (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Sargassum habitat is defined as essential fish habitat for several managed fish stocks in the South Atlantic region under the provisions of the South Atlantic Fishery Management Council's fishery management plans. To further conserve and manage Sargassum habitat, the Council's proposed new FMP would restrict the commercial harvest of Sargassum to avoid further expansion of the current limited fishery and to reduce the potential for habitat loss.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN87

443. REVISIONS TO RECORDKEEPING AND REPORTING REQUIREMENTS FOR 2001

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: Revise regulations for the recordkeeping and reporting requirements for the year 2001; to make the regulations more user-friendly; to make technical edits and clarifications to existing requirements, standardization of text, removal of duplication, and creation of table formats to replace complicated numbered paragraphs, revisions and corrections to the text, figures, and tables; and removal of outdated text. Revise logbook and reporting form formats, including revisions to the combined International Pacific Halibut Commission/NMFS groundfish/ Individual Fishing Quota catcher vessel and catcher/processor logbooks by adding a new data field to indicate the type of seabird device used when fishing with hook-and-line gear; addition of new observer fields and an additional logsheet will be incorporated into each logbook for use by the observer, and addition of new management block on all logbooks and forms to describe fishery program plan (e.g., Community Development Quota, and the American Fisheries Act).

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO20

444. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE GOLDEN CRAB FISHERY OFF THE SOUTHERN ATLANTIC STATES (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 3 would: (1) extend the use of cable for main lines through December 31, 2002; (2) require that escape panel or doors on traps must measure at least 11 7/8 inches by 11 7/8 inches; (3) remove the 5,000 pound harvest requirement for renewing the biannual permit; (4) allow up to a 20 percent increase in vessel size from the vessel size on the original permit; (5) create a sub-zone within the southern zone for smaller vessels, as agreed to by the affected fishermen; (6) allow two new vessels to be permitted to fish only in the northern zone; (7) specify MSY, OY, and status determination criteria; and (8) modify the FMP framework procedure to allow modifications to the subzone.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO23

445. REGULATING BYCATCH IN THE PURSE SEINE FISHERY AND ESTABLISHING A VESSEL REGISTER IN THE EASTERN PACIFIC OCEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 955 et seq

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This rule would implement the conservation and management measures recommended by the Inter-American Tropical Tuna Commission (IATTC) and approved by the Department of State to reduce bycatch in the tuna purse seine fisheries conducted in the Eastern Pacific Ocean (EPO). The rule would also establish reporting requirements so that the United States can provide the IATTC information on U.S. vessels that fish for tuna in the area of competence of the IATTC. Among measures recommended in 2000 is a regional vessel registry, with specification of vessel information to be provided. Currently, United States and State licensing programs do not generate all the required information, so new rulemaking is required to ensure that the United States can meet its obligations to the IATTC.

Timetable:

Action	Date	FR Cite
NPRM	03/30/01	66 FR 17387
NPRM Comment Period End	04/30/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Rebecca Lent, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AO42

446. ADJUSTMENT OF MANAGEMENT PROGRAM: PRECIOUS CORAL FISHERIES IN THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP amendment would facilitate and enable adjustments to management measures for the precious coral fisheries in the Commonwealth of the Northern Mariana Islands (CNMI). Possible regulatory changes could include inclusion of the EEZ around CNMI, within the management area of the FMP, as well as permit and reporting requirements for harvesters in this area.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AO47

447. AMENDMENT 11 TO FISHERY MANAGEMENT PLAN FOR SHRIMP FISHERY OF GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 11 would require vessels using shrimp trawls in the Gulf of Mexico EEZ to obtain Federal permits for the purposes of identifying vessels and reporting and describe permit qualification criteria

and permit application, issuance, and transferability requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO51

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448. SPECIFICATIONS FOR FISHING YEAR 2001 FOR THE SPINY DOGFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: The annual specifications for spiny dogfish would implement a coastwide quota and management measures to achieve a target fishing mortality rate specified in the Spiny Dogfish FMP.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	04/00/01	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO53

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449. AMENDMENT 14 TO THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 14 is being developed to modify the quota allocations and monitoring, the permit issuance regulations, and establish trap/pot restrictions for the black sea bass fishery. In addition, this action may include additional management measures for scup and summer flounder.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	10/00/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO55

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450. REGULATORY AMENDMENT TO ADDRESS INACCURACIES IN CURRENT NORTHEAST FISHERIES REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would modify the current regulations for the fisheries of the northeastern United States to fix problems and inaccuracies that have resulted from numerous regulatory changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO57

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451. AMENDMENTS TO FMPS FOR GULF OF MEXICO REEF FISH AND GULF OF MEXICO AND SOUTH ATLANTIC COASTAL MIGRATORY PELAGIC RESOURCES TO LIMIT ENTRY INTO GULF OF MEXICO RECREATIONAL-FOR-HIRE FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: These amendments to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico and to the FMP for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic would impose additional measures limiting entry into the recreational-for-hire (i.e., charter vessel and headboat) fisheries for reef fish and coastal migratory pelagic fish (e.g., king and Spanish mackerel) in the exclusive economic zone of the Gulf of Mexico. NMFS published an advanced notice of proposed rulemaking announcing that the Council was considering November 18, 1999, as a possible control date for this action (63 FR 64031). The FMP amendments would address the issue of the recreational sectors exceeding their annual allocations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO62

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452. FISHERY MANAGEMENT PLAN FOR THE DOLPHIN AND WAHOO FISHERY OF THE ATLANTIC, CARIBBEAN, AND GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: This new FMP, as prepared jointly by the South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils, is to provide a comprehensive management program for dolphin and wahoo in the Atlantic Ocean, Gulf of Mexico, and Caribbean exclusive economic zone.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO63

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453. AMENDMENT 9 TO THE COASTAL PELAGIC SPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 9 would define maximum sustainable yield for market squid, and address bycatch provision requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The amendment also addresses Indian treaty rights in the coastal pelagic species fisheries.

Timetable:

Action	Date	FR Cite
NPRM	03/30/01	66 FR 17395
NPRM Comment Period End	05/14/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Rebecca Lent, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AO64

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454. ATLANTIC HIGHLY MIGRATORY SPECIES; REDUCING POSSIBILITY OF SERIOUS INJURY AND MORTALITY OF RIGHT WHALES BY OPERATION OF THE SOUTHEAST ATLANTIC SHARK GILLNET FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This proposed rule would prohibit all fishermen who possess a valid Federal directed shark permit from leaving port with a shark gillnet on board without reporting to NMFS via an approved vessel monitoring system unit. This would allow NMFS to enforce existing closed critical habitat regulations off the coast of Florida during right whale season (November 15 through March 31).

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO65

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455. • ATLANTIC HIGHLY MIGRATORY SPECIES FISHERIES; ATLANTIC BLUEFIN TUNA INCIDENTAL CATCH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS is considering rulemaking on modifications to the target catch requirements for the incidental longline fishery for Atlantic bluefin tuna (BFT). NMFS requests comments on possible changes to Atlantic tuna regulations prior to drafting proposed changes to those regulations.

Timetable:

Action	Date	FR Cite
ANPRM	11/17/00	65 FR 69492
ANPRM Comment Period End	12/14/00	
Comment Period Extended	01/16/01	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910

Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO75

456. • ATLANTIC HIGHLY MIGRATORY SPECIES; PELAGIC LONGLINE FISHERY; GEAR REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS will issue a proposed rule that would require the possession and use of line clippers on board all pelagic longline vessels that have been issued Federal highly migratory species permits. These gear requirements would allow captains, crew members, and observers to disengage sea turtles hooked or entangled by longline fishing gear. The proposed rule would require the use of specific methods for the handling, resuscitating, and releasing of sea turtles. The intended effect of the proposed measures is to minimize the mortality of, or injury to, sea turtles hooked or entangled by longline gear.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO76

457. • ATLANTIC HIGHLY MIGRATORY SPECIES; EXEMPTED FISHING PERMITS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS amends procedures for issuing exempted fishing permits for fishing activities that are otherwise prohibited, and for scientific research permits.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO79

458. • RULEMAKING TO ESTABLISH A VESSEL MONITORING SYSTEM TO THE POLLOCK, PACIFIC COD, AND ATKA MACKEREL GROUNDFISH FISHERIES IN THE BSAI AND GOA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulation to be published within 30 days of end of NPRM comment period.

Abstract: Establish rulemaking to require the installation and use of a vessel monitoring system (VMS) on catcher/processors, motherships, and catcher vessels participating in the directed fisheries for pollock, Pacific cod, or Atka mackerel in the BSAI and GOA. The VMS would provide NMFS with accurate and timely information about the vessels' location, necessary to manage catch limits inside Steller sea lion critical habitat areas and to monitor fishing activities when these areas are closed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action Effective	06/00/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO81

459. • REVISION TO THE RESTRICTION ON FREQUENCY OF LIMITED ENTRY PERMIT TRANSFERS AND OTHER PERMIT UPDATES IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: Regulations would change the restriction on frequency of permit transfers to allow transfers once per calendar year, rather than once every 12 months. Allowing permit transfers once per calendar year will accomplish the same effort limitation, yet give permit holders a bit more flexibility in when they make permit transfers. Regulations would also include "housekeeping" changes to: (1) apply the restriction on frequency of transfers only when a permit is transferred from one vessel to another vessel, rather than one permit holder to another permit holder, and (2) clarify in the regulations the documents needed to make a permit transfer.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AO87

460. • NOTICE OF DETERMINATION OF NONCOMPLIANCE; DECLARATION OF A MORATORIUM ON FISHING FOR AMERICAN LOBSTER IN RHODE ISLAND STATE WATERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 5101 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In accordance with the Atlantic Coastal Fisheries Cooperative Management Act (Act) 16 U.S.C. et seq., NMFS, upon a delegation of authority from the Secretary of Commerce (Secretary), has determined that the State of Rhode Island is not in compliance with Amendment 3 to the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (IFSMP) for American lobster, because the State has failed to implement and enforce a measure that is necessary for the conservation of American lobster. Pursuant to the Act, a Federal moratorium on fishing for American lobster within Rhode Island State waters is hereby declared and will be effective on May 1, 2001. If Rhode Island is found to be in compliance with the ISFMP for American lobster before that date, the moratorium will be withdrawn. The purpose of this action is to support and encourage implementation and enforcement of the Commission's American lobster ISFMP.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Thomas Meyer, Fisheries Biologist, Office of Intergovernmental/Recreational Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 425, 8484 Georgia Avenue, Silver Spring, MD 20910
Phone: 301 427-2014

RIN: 0648–AO88

461. • MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT; AMENDMENT OF FOREIGN FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Regulations at 50 CFR part 600, subpart F govern foreign fishing under the Magnuson-Stevens Act (16 USC 1801 et seq). Section 204 (6)(10) of the Magnuson-Stevens Act requires the establishment of a schedule of reasonable fees to apply non-discriminatorily to each foreign fishing nation. This rule will amend the table listing foreign fees to remove species no longer available for allocation, clarify listings for certain species appearing in the table, add Atlantic herring as an allocable species, and establish the fees to be paid for the resulting list of allocable species.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dean Swanson, Chief, International Fisheries Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2276
Email: dean.swanson@noaa.gov

RIN: 0648–AO89

462. • ATLANTIC HIGHLY MIGRATORY SPECIES; SWORDFISH QUOTAS AND FISHING AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This rulemaking would implement several recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) in November 2000. These recommendations include the establishment of a 400 mt conservation reserve for North Atlantic swordfish and the establishment of a 2001 catch limit for South Atlantic swordfish, consistent with catch limits in recent years. This rule will also clarify authorized fishing areas for highly migratory species in the Atlantic Ocean.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO93

463. • ATLANTIC HIGHLY MIGRATORY SPECIES; TRADE MEASURES AND MONITORING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This rulemaking would implement several recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT). In November 2000, ICCAT agreed to ban the import of bigeye tuna from non-members Belize, Honduras, Cambodia, and St. Vincent and the Grenadines, and ICCAT member Equatorial Guinea. ICCAT also agreed to develop statistical document programs for swordfish and bigeye tuna to monitor harvests and assist in the collection of trade data. The United States already has a certificate of eligibility for swordfish; this program will be updated and expanded to include bigeye tuna.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable

Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO94

464. • ATLANTIC HIGHLY MIGRATORY SPECIES; 2001 BLUEFIN TUNA QUOTA SPECIFICATIONS AND EFFORT CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS proposes specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas and General category effort controls for the 2001 fishing year. This action will implement the U.S. annual BFT quota as recommended by the International Commission on Conservation of Atlantic Tunas and allocate that quota among the domestic fishing categories. Effort controls for the General category will allocate monthly quotas and set certain restricted fishing days.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
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RIN: 0648–AO96

465. • REGULATORY AMENDMENT UNDER THE FISHERY MANAGEMENT PLAN FOR GULF OF MEXICO REEF FISH (FMP) TO ESTABLISH A RED SNAPPER STOCK REBUILDING PLAN AND TO SET RED SNAPPER OVERFISHING TARGETS AND THRESHOLDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment under the FMP's framework procedure would establish a revised red snapper stock rebuilding plan and red snapper overfishing targets and thresholds, all intended to meet requirements of the Magnuson-Stevens Fishery Conservation and Management Act as amended by the Sustainable Fisheries Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AP02

466. • AMENDMENT 13 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 13 will revise permit transfers, revise MSY and overfishing definitions, revise snowy grouper and golden tilefish management measures, and include a formal section 7 analysis on the interaction of gear (with an emphasis on black sea bass traps) with endangered and threatened species.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AP03

467. • REGULATORY AMENDMENT UNDER THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION (FMP) REGARDING USE OF POWERHEADS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment under the FMP's framework procedure would restrict the use of a powerhead (other than for safety reasons) to harvest species in the snapper-grouper complex off the east coast of Florida to fishermen who (1) hold a Federal commercial snapper-grouper permit, and (2) hold a Florida SPL and Restricted Species Endorsement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AP04

468. • SPECIFICATIONS FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish allowable harvest levels and other management measures for fishing year 2002.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	11/00/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP06

469. • SPECIFICATIONS FOR THE SPINY DOGFISH FISHERY FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: These annual specifications for spiny dogfish would implement a coastwide quota and management measures to achieve a target fishing mortality rate specified in the Spiny Dogfish FMP.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	03/00/02	
Final Action	04/00/02	
Final Action Effective	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP07

470. • SPECIFICATIONS FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This action would establish initial annual amounts, for fishing year 2002, of optimum yield as well as the amounts for allowable biological catch, domestic annual harvest, domestic annual processing, joint venture processing, and total allowable levels of foreign fishing for these species.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	11/00/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP08

471. • SPECIFICATIONS FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This action would establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone for fishing year 2002.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	09/00/01	
Final Action	10/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP09

472. • FRAMEWORK ADJUSTMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Framework Adjustment 2 would implement a 5-year extension of the Illex squid moratorium; a rollover of the mackerel specifications in the event the current annual specifications are not in place (excluding TALFF specifications); a modification to the

overfishing definition and in-season adjustment provision for the Loligo squid fishery; and a Loligo squid trip limit exemption in the directed Illex squid fishery during the months of June to September in the event the directed Loligo squid fishery is closed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	06/00/01	
Final Action	09/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP12

473. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP FISHERIES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 222; 50 CFR 223; 50 CFR 224

Legal Deadline: None

Abstract: NMFS proposes to protect sea turtles through the implementation of sea turtle conservation measures on nonshrimp fisheries. Bottom trawlers in the mid-Atlantic take sea turtles when not using turtle excluder devices (TEDs) and may jeopardize the continued existence of endangered sea turtles. NMFS proposes to require TEDs in all bottom trawlers operating from Texas through Delaware. Other non-shrimp fisheries using tow lines, gill nets, or other gear probably take significant numbers of sea turtles. In order to better quantify that level of take, NMFS proposes to require observers in all fisheries suspected of taking turtles in all U.S. waters.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathryn Conant, Habitat Specialist, NMFS, Office of Habitat Conservation, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
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Email: kathryn.conant@noaa.gov

RIN: 0648–AE54

474. PROPOSED RULE TO PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This proposed rule would revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gene Nitta, Permits Analyst, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH26

475. PROPOSED RULE GOVERNING THE ISSUANCE OF PERMITS FOR MARINE MAMMAL PHOTOGRAPHY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide for the issuance of permits to take marine mammals by only level B harassment for the purpose of educational or commercial photography.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Trevor Spradlin, Marine Mammal Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289
Email: trevor.spradlin@noaa.gov

RIN: 0648–AH31

476. PROPOSED GUIDELINES FOR DEFINING SERIOUS INJURY; REQUEST FOR COMMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: Under the Marine Mammal Protection Act (MMPA), the National Marine Fisheries Service (NMFS) is responsible for assessing and reducing the level of serious injury and mortality that occurs incidental to commercial fishing operations. NMFS is issuing proposed guidelines for determining what constitutes a serious injury to a marine mammal. If finalized, NMFS will use these guidelines in assessing fisheries beginning in 2001.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Emily E. Hanson, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, NMFS (F/PR2), Marine Mammal Division, 1315 East-West Highway, Silver Spring, MD 20910
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Email: emily.hanson@noaa.gov

RIN: 0648–AL44

477. SECTION 4(D) OF ESA PROTECTIVE REGULATIONS FOR JOHNSON'S SEAGRASS, A THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543 et seq; 16 USC 1361 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS will issue protective regulations for Johnson's seagrass, a threatened species under section 4(d) of the Endangered Species Act (ESA). This will allow NMFS to tailor protective measures to best fit Johnson's seagrass.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
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Email: marta.nammack@noaa.gov

RIN: 0648–AL59

478. RULEMAKING FOR THE INCIDENTAL TAKING OF MARINE MAMMALS DURING WORLDWIDE DEPLOYMENT OF THE U.S. NAVY'S LOW FREQUENCY ACTIVE SONAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.101

Legal Deadline: None

Abstract: NMFS has received an application from the U.S. Navy for authorization to take marine mammals incidental to the worldwide deployment of its new low frequency active sonar system. The U.S. Navy anticipates deployment of up to 4 shipboard systems within the next 5 years. This authorization can be granted under the Marine Mammal Protection Act provided the taking of marine mammals is incidental, is having no more than a negligible impact on small numbers of marine mammals and is not having an unmitigatable impact on Arctic subsistence needs. If an authorization is granted monitoring and reporting takings will be required.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/99	64 FR 57026
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20912
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AM62

479. NORTH ATLANTIC WHALE PROTECTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1361 et seq; 16 USC 1531 et seq

CFR Citation: 50 CFR 216; 50 CFR 222

Legal Deadline: None

Abstract: Investigate the need to adopt regulations to decrease negative action of whale watching.

Timetable:

Action	Date	FR Cite
ANPRM	01/04/00	65 FR 270
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kira Alvarez, Staff Attorney, Department of Commerce, National Oceanic and Atmospheric Administration, Room 18109, 1325 East-West Highway, Silver Spring, MD 20910
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Cathy E. Campbell, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
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Email: cathy.e.campbell@noaa.gov

RIN: 0648–AM85

480. SWIMMING OR RECREATIONAL INTERACTION WITH WILD POPULATION OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: Announces that NMFS is considering whether to issue regulations that would prohibit the public from swimming with or otherwise interacting with dolphins and other marine mammals in the wild.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cathy E. Campbell, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
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Email: cathy.e.campbell@noaa.gov

RIN: 0648–AN43

481. SEA TURTLE CONSERVATION REGULATIONS; FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS proposes to amend the sea turtle handling and resuscitation regulations. Recent scientific and technical information indicate that the current procedures need to be updated. This measure is necessary to safely handle sea turtles that are incidentally captured during scientific research or in fishing operations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kathryn Conant, Habitat Specialist, NMFS, Office of Habitat Conservation, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2325
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RIN: 0648–AN64

482. DESIGNATED CRITICAL HABITAT: PROPOSED CRITICAL HABITAT FOR NORTHERN CALIFORNIA STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: Final, Statutory, June 7, 2001.

Abstract: On June 7, 2000, NMFS listed the Northern California steelhead evolutionarily significant unit of steelhead as threatened under the Endangered Species Act. NMFS will now designate critical habitat for these steelhead.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
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RIN: 0648–AO04

483. MARINE MAMMALS; SUBSISTENCE TAKING OF NORTHERN FUR SEALS; HARVEST ESTIMATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1151 et seq; 16 USC 1371(b)

CFR Citation: 50 CFR 216.21

Legal Deadline: Final, Statutory, April 1, 2000.

Abstract: To establish harvest estimates for the taking of fur seals by Alaska natives.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal, Federal

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
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RIN: 0648–AO40

484. CAPTIVE STELLER SEA LIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1531-1543; subpart B, 3223.12; 16 USC 1361 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: This rule is to provide exception to captive Steller sea lions (those captured before listing) to assist the public display community in commerce involving these animals.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer Lyn Skidmore, Knauss Sea Grant Fellow, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13710, 1315 East-West Highway, Silver Spring, MD 20910
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RIN: 0648–AO61

NATIONAL OCEAN SERVICE/OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT

485. REVISION OF OVERFLIGHT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations are being revised to clarify that they are for resource protection purposes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Moore, Sanctuaries and Resources Division, Department of Commerce, National Oceanic and Atmospheric Administration, N ORM 2, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AI91

486. INTERAGENCY CONSULTATION FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 1434(d)

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA is considering issuing regulations to implement the Federal-agency consultation requirements of the National Marine Sanctuaries Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Helen Golde, Department of Commerce, National Oceanic and Atmospheric Administration, Room 11536, Marine Sanctuaries Division, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AL06

487. NATURAL RESOURCE DAMAGE ASSESSMENT UNDER THE OIL POLLUTION ACT OF 1990

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2706(e)

CFR Citation: 15 CFR 990

Legal Deadline: None

Abstract: This proposed rulemaking amends the natural resource damage assessment rule under the Oil Pollution Act of 1990, codified at 15 CFR 990, due to court remand (General Electric vs. Commerce, 128 F. 3d 767. DC Cir. 1997).

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eli Reinharz, Ecologist, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA/DAC, Room 10218, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3038
Fax: 301 713-4387

RIN: 0648–AM80

488. COASTAL ZONE MANAGEMENT ACT CONSISTENCY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 930 et seq

Legal Deadline: None

Abstract: This rulemaking revises existing Federal regulations governing consistency promulgated in 1979. These changes reflect statutory changes in the Coastal Zone Management Act in 1990 and 1996 as well as experience of 18 years of implementation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Interim Final Rule	05/00/01	
Final Action	12/00/01	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Molly Holt, Attorney Advisor, Department of Commerce, National Oceanic and Atmospheric Administration, Ocean Services, 1305 East-West Highway, 6th Floor, Silver Spring, MD 20910
Phone: 301 713-2967

RIN: 0648–AM88

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

NATIONAL MARINE FISHERIES SERVICE

489. CONSOLIDATE THE RULES FOR SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC AND STONE CRAB FISHERY OF THE GULF OF MEXICO WITH 50 CFR 622

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622; 50 CFR 640; 50 CFR 654

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS had proposed to withdraw the Fishery Management Plans for Spiny Lobster and Stone Crab (FMPs). The regulations implementing these FMPs were not included in the consolidated regulations for Fisheries of the Caribbean, Gulf, and South Atlantic at 50 CFR part 622. NMFS withdrew the proposed rules that would have withdrawn the FMPs. This final rule (technical amendment) will incorporate the rules implementing these FMPs in the consolidated regulations at 50 CFR 622 without substantive change.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AJ28

490. GUIDELINES FOR THE DESCRIPTION, IDENTIFICATION, CONSERVATION, AND ENHANCEMENT OF ESSENTIAL FISH HABITAT

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory, April 11, 1997, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Guidelines to assist Fishery Management Councils in the description and identification of essential fish habitat (EFH) in fishery management plans, and in the consideration of actions to conserve and enhance EFH, and procedures for

consultation, coordination, and recommendations to protect EFH.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/96	61 FR 57843
ANPRM	01/09/97	62 FR 1306
NPRM	04/23/97	62 FR 19723
Interim Final Rule	12/19/97	62 FR 66531
Interim Final Rule Comment Period End	03/19/98	63 FR 8607
Supplemental Comment Period	11/08/99	64 FR 60731
Supplemental Comment Period End	12/23/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rolland Schmitt, Director, Office of Habitat Conservation, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3282
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Email: rolland.schmitt@noaa.gov

RIN: 0648–AJ30

491. ADJUSTMENT OF THE MANAGEMENT PROGRAM FOR PRECIOUS CORALS FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation would modify the management program for the fisheries for precious corals in the western Pacific region. In response to new information on changes that may occur in the fishery, possible changes to the management program include the establishment of or adjustments to fishing seasons, permit requirements, quotas, closures, area limitations, gear, coral size restrictions, and fishery-dependent data reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	09/05/00	65 FR 53646
NPRM Comment Period End	10/05/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AK23

492. PROPOSED HIGHLY MIGRATORY SPECIES PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS proposes to revise the administrative procedures it follows to prepare and issue highly migratory species (HMS) management plans (FMPs), FMP amendments and implementing regulations for the Atlantic Ocean, Gulf of Mexico and Caribbean Sea in response to recent amendments to the Magnuson-Stevens Fishery Management Act.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 48990
NPRM Comment Period End	10/15/97	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AK40

493. AMENDMENT TO PORTIONS OF INDIVIDUAL FISHING QUOTA PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to amend portions of the regulations implementing the Individual Fishing Quota Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	12/14/00	65 FR 78126
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK50

494. AMENDMENT 14 TO THE PACIFIC COAST SALMON PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998.
Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.
See Additional Information.

Abstract: Amendment 14 would provide a change in the management of salmon fisheries in the exclusive economic zone (EEZ) (3 to 200 miles offshore) off Washington, Oregon, and California, which are managed by the Pacific Fishery Management Council (Council) and NMFS under the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California (FMP) as revised and updated in 1996 for implementation in 1997. The amendment will revise the FMP to bring it into compliance with the recently amended Magnuson-Stevens Fishery Conservation and Management Act. The primary changes relate to issues of optimum yield, overfishing, essential fish habitat, and bycatch specifications. Editorial and organizational changes to improve and update the FMP and its environmental impact statement, in addition to refinements harvest allocation standards among the recreational fisheries north of Cape Falcon, are also part of the amendment.

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63047
NPRM Comment Period End	12/04/00	
Final Action	05/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297).

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL51

495. RULE TO PROHIBIT FISHING AND ANCHORING OF FISHING VESSELS IN THE EEZ SEAWARD OF NAVASSA ISLAND

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: Rule to prohibit fishing and anchoring of fishing vessels in the exclusive economic zone (EEZ) within 15 nautical miles seaward of the baseline of Navassa Island, a U.S. territory in the Caribbean Sea. This is to protect unique and unprotected marine resources in the area, including reef fish and invertebrates, especially coral, live rock, sponges, queen conch, and spiny lobsters, from unregulated harvest. These resources are in relatively pristine condition due to the area's isolation and distance from commercial fishing grounds of major fishing nations.

Timetable:

Action	Date	FR Cite
NPRM	10/04/00	65 FR 59170
NPRM Comment Period End	11/03/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL93

496. BSAI FMP AMENDMENT 66 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Remove squid from CDQ Program.

Timetable:

Action	Date	FR Cite
NPRM	07/17/00	65 FR 44018
NPRM Comment Period End	08/31/00	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM72

497. PROHIBIT USE OF SET NET GEAR TO HARVEST GROUNDFISH IN CERTAIN PORTIONS OF THE EXCLUSIVE ECONOMIC ZONE WATERS SEAWARD OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rule would prohibit the use of set net gear to take groundfish species in a portion of the exclusive economic zone (EEZ) seaward of California. This rule has been requested by the Pacific Fishery Management Council (Council) under procedures in the Pacific Groundfish Fishery Management Plan (FMP) that allow for implementing Federal regulations to conform to State regulations for the groundfish fishery in selected circumstances. The Council has determined that the State regulations prohibiting the use of set net gear used to take groundfish species in certain areas are consistent with the FMP and requested Federal adoption of consistent regulations in the EEZ. The conformance with State regulations is desired to ensure consistent application of conservation and management measures and enforcement in the EEZ and in State waters to the extent practicable.

Timetable:

Action	Date	FR Cite
NPRM	05/19/00	65 FR 31871
NPRM Comment Period End	06/19/00	
Comment Period Extended	07/05/00	65 FR 41426
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Rebecca Lent, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AN03

498. REGULATORY AMENDMENT TO IMPLEMENT AN AT-SEA OBSERVER PROGRAM ON ALL ENTRY AND OPEN ACCESS CATCHER VESSELS IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS proposes to amend the regulations implementing the Pacific Coast Groundfish Fishery Management Plan to provide for an at-sea observation program on all limited entry and open access catcher vessels. This proposed rule would require vessels in the groundfish fishery to carry observers when notified by NMFS or its designated agent; establish notification requirements for vessels that may be required to carry observers; and establish responsibilities and define prohibited actions for vessels that are required to carry observers. The at-sea observation program is intended to improve estimates of total catch and fishing mortality.

Timetable:

Action	Date	FR Cite
NPRM	09/14/00	65 FR 55495
NPRM Comment Period End	10/16/00	
Final Action	04/00/01	
Final Action Effective	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AN27

499. ATLANTIC HIGHLY MIGRATORY SPECIES; SPOTTER AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 635

Legal Deadline: Final, Statutory, December 2, 2000, Effective 12/21/2000 as part of PL 106-553, sec 639.

Abstract: As part of Public Law 106-553, signed on December 21, 2000, Congress prohibited the Department of Commerce from using funds now, or in the future, to issue fishing permits to vessels fishing in the Highly Migratory Species (HMS) Atlantic tunas General or Harpoon categories using spotter aircraft to assist, locate, catch or possess Atlantic bluefin tuna. NMFS needs to revise its HMS prohibitions and regulations regarding permit issuance and conditions to implement this statutory prohibition.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AN54

500. DISTRIBUTE U.S. ALLOCATIONS FROM THE NORTHWEST ATLANTIC FISHERIES ORGANIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 5601 to 5610

CFR Citation: 50 CFR 300

Legal Deadline: Final, Statutory, March 1, 2000, Deadline Based on NAFO Fishing Season.

Abstract: This rule would allow NMFS to create a procedure to distribute fishing privileges by Northwest Atlantic Fisheries Organization.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Patrick Edward Moran, Foreign Affairs Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13137, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2276
Fax: 301 713-2313
Email: pat.moran@noaa.gov

RIN: 0648–AN60

501. SPECIFICATIONS FOR THE ATLANTIC BLUEFISH FISHERY FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the quotas for the Atlantic bluefish fishery in the exclusive economic zone for fishing year 2001.

Timetable:

Action	Date	FR Cite
NPRM	02/21/01	
NPRM Comment Period End	03/23/01	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN66

502. SPECIFICATIONS FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish initial annual amounts, for fishing year 2001, of optimum yield as well as the amounts for allowable biological catch, domestic annual harvest, domestic annual processing, joint venture processing, and total allowable levels of foreign fishing for these species.

Timetable:

Action	Date	FR Cite
NPRM	12/05/00	65 FR 75912
NPRM Comment Period End	01/04/01	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN69

503. SPECIFICATIONS FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR THE FISHING YEAR 2001

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish allowable harvest levels and other management measures for fishing year 2001.

Timetable:

Action	Date	FR Cite
NPRM	11/28/00	65 FR 71042
NPRM Comment Period End	12/19/00	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN71

504. ATLANTIC HIGHLY MIGRATORY SPECIES; ATLANTIC TUNAS REPORTING AND ALLOCATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS proposes to amend the Atlantic Highly Migratory Species (HMS) regulations to adjust the north-south division of the BFT Angling category, and to adjust the subquota percentages allocated to each zone in conjunction with the boundary line adjustment. NMFS also proposes to amend the regulations governing the Atlantic HMS fisheries to require mandatory dealer reporting of all purchases of Atlantic bigeye, albacore, yellowfin, and skipjack (BAYS) tunas. The proposed regulatory amendment is necessary to comply with the United States' obligations under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, and the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks.

Timetable:

Action	Date	FR Cite
ANPRM	04/10/00	65 FR 18960
ANPRM Comment Period End	05/22/00	
NPRM	12/07/00	65 FR 76601
NPRM Comment Period End	01/30/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AN97

505. ATLANTIC COAST HORSESHOE CRAB EEZ REGULATIONS

Priority: Other Significant

Legal Authority: 16 USC 5101 et seq

CFR Citation: 50 CFR 697

Legal Deadline: None

Abstract: NMFS proposes to close a 30-nautical mile radius to fishing for horseshoe crabs in the EEZ beginning from the mouth of the Delaware Bay (measured from the territorial sea boundary midway between Cape May, New Jersey and Cape Henlopen, Delaware) and extending seaward, and to establish permitting a reporting requirements for vessels that harvest and dealers then sell horseshoe crabs from the EEZ and to prohibit transfers at sea of horseshoe crabs in the EEZ from Maine through Florida. The intent of these rules is to provide protection for the Atlantic coast stocks of horseshoe crabs and to ensure the effectiveness of the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Horseshoe Crabs.

Timetable:

Action	Date	FR Cite
NPRM	10/16/00	65 FR 61135
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries Affairs, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 425, 8484 Georgia Avenue, Silver Spring, MD 20910
Phone: 301 427-2014

RIN: 0648–AO02

506. ANNUAL FRAMEWORK ADJUSTMENT (FRAMEWORK 14) FOR THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would implement management measures for the scallop fishery for fishing year 2001. Measures would include days at sea allocations for 2001. In addition, the annual adjustment would include an access program for the Mid-Atlantic closed areas that may include shell stocking restrictions, possession/trip limit restrictions, bycatch restrictions and gear specification.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	
Final Action Effective	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO07

507. REGULATORY AMENDMENT TO MODIFY THE MANAGEMENT PROGRAM FOR THE WESTERN PACIFIC PELAGIC FISHERIES TO MITIGATE THE TAKE OF SEABIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS proposes a rule under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region that would require operators of vessels registered for use under Hawaii pelagic longline limited access permits to use specific bird mitigation techniques when fishing with pelagic longline gear north of 23 degrees N. latitude; annually attend a protected species workshop conducted by NMFS; and release all hooked or entangled sea birds in a manner that maximizes their post-release survival. This interim final rule would reduce fishery impacts on black-footed and Laysan albatrosses that are accidentally hooked or entangled and killed by Hawaii pelagic longliners during the setting and hauling of longline gear. This interim final rule would also reduce the potential for interactions between pelagic longline fishing vessels and endangered short-tailed albatrosses, which are known to occasionally visit the Northwestern Hawaiian Islands.

Timetable:

Action	Date	FR Cite
NPRM	07/05/00	65 FR 41424
NPRM Comment Period End	08/21/00	
Interim Final Rule	05/00/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AO35

508. AMENDMENT 13 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN — BYCATCH REDUCTION/REPORTING, FRAMEWORK CHANGES TO ANNUAL MANAGEMENT MEASURES PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 13 to the Pacific Coast Groundfish Fishery Management Plan (FMP) would make the FMP consistent with Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provisions on bycatch and standardized reporting methodologies. Amendment 13 would also revise the Pacific Fishery Management Council process for setting annual routine management measures, so that the Council may use that process to meet Magnuson-Stevens Act overfishing and bycatch requirements. Revisions to the annual management measures process are expected to improve the Council's flexibility in managing the fisheries to protect overfished and depleted stocks while allowing fisheries access to healthy stocks. Finally, Amendment 13 would update the FMP to remove unused and expired limited entry permit endorsements. Regulatory changes resulting from this amendment may include: standards and procedures for participation in an increased utilization program for the at-sea Pacific whiting fishery; amendments to the management measures framework at 50 CFR 660.323(b) to allow increased flexibility; and minor "housekeeping" changes to remove outdated references to unused and expired limited entry permit endorsements from the 50 CFR 660 subpart G regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/21/00	65 FR 69898
NPRM Comment Period End	01/05/01	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AO41

509. 2001 QUOTAS FOR PURSE SEINE FISHERIES IN THE EASTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 995 et seq

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This notice would advise the public and U.S. industries of the quotas for yellowfin and bigeye tuna established by the Inter-American Tropical Tuna Commission (IATTC) and approved by the Department of State. The notice would be published in accordance with a rule that established authority and procedures for the Southwest Regional Administrator, NMFS, to implement measures to carry out management recommendations of the IATTC as provided in the Tuna Conventions Act of 1950. Under that rule, among the actions that could be taken were announcing quotas, closure of the U.S. purse seine fishery for yellowfin tuna, closure of the U.S. purse seine fishery for tuna associated with floating objects, prohibiting the use of tender vessels used to service fish-aggregating devices, and prohibiting the transfer-at-sea of purse seine-caught tuna in the Eastern Pacific Ocean.

Timetable:

Action	Date	FR Cite
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Rebecca Lent, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AO48

510. 2001-2002 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: The annual management measures for the 2001-2002 fishing year specify allowable ocean harvest levels (including quotas), allocations, management boundaries and zones, minimum size limits, gear definitions, seasons, selective fisheries, and in-season notice procedures.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AO49

511. OMNIBUS FRAMEWORK TO FMPS FOR SUMMER FLOUNDER, SCUP, BLACK SEA BASS, ATLANTIC MACKEREL, SQUID, BUTTERFISH, ATLANTIC SURF CLAM, OCEAN QUAHOG, SPINY DOGFISH, AND ATLANTIC BLUEFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM period.

Abstract: This omnibus framework action is being developed to modify the quota setting process for all of the respective fishery management plans within the purview of Mid-Atlantic Fishery Management Council by allowing a portion of the respective quotas to be dedicated to research activities. The intent of this action is to facilitate the collection of data that the Council and public deem important for fishery management purposes.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO54

512. MODIFY AMERICAN LOBSTER REGULATIONS UNDER ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 5101 et seq

CFR Citation: 50 CFR 697

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would provide an exemption from the lobster trap regulations to black sea bass fishers in the southernmost lobster management area. The action would grant an option to substitute (for the gear restrictions) an incidental allowance equal to 100 lobsters per day to a maximum of five days to vessels having limited access eligibility in both the black sea bass and lobster fisheries and fishing in lobster management area 5. The program would be implemented through a new lobster permit category and provides dual black sea bass and lobster fishers an opportunity to fish as closely to historical practices as possible.

Timetable:

Action	Date	FR Cite
NPRM	12/05/00	65 FR 75916
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO58

513. • PACIFIC COAST GROUNDFISH FISHERY; ANNOUNCEMENT OF THE 2002 GROUNDFISH FISHERY SPECIFICATIONS AND MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: NMFS announces the 2001 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) and State waters of the coasts of Washington, Oregon, and California. The specifications include the levels of the acceptable biological catch (ABC) and optimum yields (OYs). The commercial OYs (the OYs reduced by expected discard and by amounts expected to be taken in tribal, recreational, and compensation fisheries) are allocated between the limited entry and open access fisheries. The management measures for 2002 are designed to keep landings within the OYs for those species for which there are OYs and to achieve the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) and associated rebuilding plans for overfished stocks, consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the guidelines based on the National Standards in the Magnuson-Stevens Act published in the Federal Register on May 1, 1998. These management measures are intended to prevent overfishing and to rebuild Pacific Coast groundfish stocks. These measures are also intended to achieve as much harvest of healthier stocks as possible given the conservation requirements of the Magnuson-Stevens Act.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Tribal, Federal

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AO69

514. • EMERGENCY INTERIM RULE TO ESTABLISH HARVESTING RESTRICTIONS FOR THE DOLPHIN AND WAHOO FISHERY IN THE ATLANTIC EEZ

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622; 50 CFR 600.725

Legal Deadline: None

Abstract: This emergency interim rule for dolphin fish and wahoo in the Atlantic EEZ would (1) establish trip limits, (2) specify fishing gear, and (3) prohibit use of surface and pelagic longlines within any time/area closure in the Atlantic EEZ to the use of that gear for Atlantic highly migratory species.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph Powers, Acting Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AO83

515. • ATLANTIC HIGHLY MIGRATORY SPECIES; LARGE AND SMALL COASTAL SHARKS; COMMERCIAL QUOTA ADJUSTMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This emergency rule implements a court order and settlement agreement to maintain the large and small coastal shark commercial quotas at 1997 levels, pending an independent review of the 1998 large coastal shark stock assessment and new small coastal shark stock assessment, respectively. The independent review and new stock assessment are anticipated to be completed in 2001.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO85

516. • RECREATIONAL MEASURES FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish the possession limit, size limit, and other management measures for the recreational fisheries for fishing year 2002

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO91

517. • FRAMEWORK ADJUSTMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: Framework 2 proposes a management system that would constrain the recreational summer flounder fishery to either a coastwide recreational harvest limit or allow states to implement conservation equivalent measures by customizing summer flounder recreational management measures. On an annual basis, the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Commission will decide whether to implement a coastwide recreational harvest limit or allow states to implement summer flounder recreational management measures, provided that certain procedures and requirements are satisfied.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO92

518. • ANNOUNCEMENT OF THE OPTIMUM YIELD AND HARVEST LIMIT FOR PACIFIC SARDINES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: NMFS announces the annual harvest guidelines for Pacific sardine in the exclusive economic zone off the Pacific coast. The coastal pelagic species fishery management plan and its implementing regulations require NMFS to establish annual harvest guidelines for Pacific sardine based on a formula in the FMP. The intended effect of this action is to establish allocated harvest levels for coastal pelagic species in the Pacific.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Rebecca Lent, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AP00

519. • ANNOUNCEMENT OF THE OPTIMUM YIELD AND HARVEST LIMIT FOR PACIFIC MACKEREL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: NMFS announces the annual harvest guideline for Pacific mackerel in the exclusive economic zone off the Pacific coast. The coastal pelagic species fishery management plan and its implementing regulations require NMFS to establish annual harvest guidelines for Pacific mackerel based on a formula in the FMP. The intended effect of this action is to establish allowable harvest levels for coastal pelagic species in the Pacific.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Rebecca Lent, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AP01

520. • FRAMEWORK 36 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action will primarily focus on measures to decrease regulatory discards in the Gulf of Maine (GOM) cod fishery. Based on the discard information ascertained from the SARC 33 review of GOM cod in June 2001, management measures will be developed to decrease GOM cod discards. This action also proposes to allow tuna purse seine vessels access to the current groundfish closed areas; expand the area available for the northern shrimp harvest in the GOM; and possibly revise the size and extend the time frame of the Western GOM Closure Area (currently scheduled to reopen May 1, 2002).

Timetable:

Action	Date	FR Cite
Final Action	09/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP05

521. • ESTABLISH MEASURES TO ADDRESS THE IMMINENT RAPID INCREASE IN LANDINGS AND TO HALT OVERFISHING IN THE ATLANTIC RED CRAB FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would temporarily establish emergency or interim measures for the deep-sea and red crab fishery to address overfishing in the fishery.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	
Interim Final Rule Effective	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP10

522. • ANNUAL FRAMEWORK ADJUSTMENT FOR THE MONKFISH FISHERY MANAGEMENT PLAN FOR FISHING YEAR 2002

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This action would implement management measures for the monkfish fishery for fishing year 2002.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AP11

523. • POLICY FOR REVIEW OF MANDATORY CONDITIONS DEVELOPED BY THE DEPARTMENTS OF THE INTERIOR AND COMMERCE IN THE CONTEXT OF HYDROPOWER LICENSING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 791a et seq; 16 USC 811; 16 USC 797(e); 16 USC 8251(b)

CFR Citation: 18 CFR 385.713

Legal Deadline: None

Abstract: The Department of the Interior and the Department of Commerce (Departments) have formalized a process for public review of and comment on mandatory conditions and prescriptions the Departments develop for inclusion in hydropower licenses issued by the Federal Energy Regulatory Commission pursuant to part I of the Federal Power Act. This policy provides an opportunity for public comment on the Departments' mandatory conditions and prescriptions for both the traditional licensing process and the alternative licensing process.

Timetable:

Action	Date	FR Cite
Notice	12/13/00	65 FR 77889
Notice Comment Period End	01/03/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathryn Conant, Habitat Specialist, NMFS, Office of Habitat Conservation, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2325
Fax: 301 713-1043
Email: kathryn.conant@noaa.gov

RIN: 0648–AO84

524. ESTABLISH GUIDELINES FOR NONLETHALLY DETERRING MARINE MAMMALS FROM ENDANGERING PERSONAL SAFETY OR DAMAGING PUBLIC OR PRIVATE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law implemented a new section 101(a)(4) to authorize the nonlethal harassment takings by citizens of the United States to deter marine mammals from: (1) Damaging commercial fishing gear or catch; (2) damaging private property; (3) endangering public safety; or (4) damaging public property. The amendments require a list of guidelines for use in safely deterring marine mammals and provide for prohibiting certain deterrent measures that may have a significant adverse impact on marine mammals.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22345
NPRM Comment Period End	07/05/95	
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20912
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AH19

525. GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH INVOLVING LEVEL B HARASSMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 16 USC 1151 et seq Fur Seal Act; 16 USC 1631 et seq Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, August 30, 1994.

Abstract: This final rule is required by the 1994 amendments to the Marine Mammal Protection Act. These regulations establish a general authorization for bona fide scientific research on non-endangered and non-threatened marine mammals that may result in harassment with only the potential to disturb. Inclusion under the general authorization is achieved by letter of intent to the National Marine Fisheries Service and a letter of confirmation from the Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/94	59 FR 50372
Interim Final Rule Comment Period End	11/17/94	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Trevor Spradlin, Marine Mammal Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289
Email: trevor.spradlin@noaa.gov

RIN: 0648–AH20

526. IMPLEMENTATION OF 1997 MMPA AMENDMENTS AFFECTING YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC

Priority: Economically Significant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This rule would implement the 1997 amendments to the Marine Mammal Protection Act (MMPA) regarding regulation of the U.S. yellowfin tuna fishery in the eastern tropical Pacific Ocean, and the regulation of yellowfin tuna into the United States from other nations.

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 31806
Interim Final Rule	01/03/00	65 FR 30
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: Legislation amending the MMPA regarding the yellowfin tuna fishery will require implementation of regulations 3 months after the effective date of the legislation.

Agency Contact: Nicole LeBoeuf, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AI85

527. DRAFT POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN MAKING LISTING DECISIONS

Priority: Info./Admin./Other.

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 424

Legal Deadline: None

Abstract: A policy to evaluate conservation efforts in making listing decisions under the Endangered Species Act. Policy identifies considerations to be used in determining whether conservation plans and agreements, management plans or other efforts provide sufficient protections to preclude or remove the need to list a species under the ESA.

Timetable:

Action	Date	FR Cite
NPRM	06/13/00	65 FR 37102
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Margaret C. Lorenz, ESA Policy Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: margaret.lorenz@noaa.gov

RIN: 0648–AL91

528. SEA TURTLE CONSERVATION REGULATIONS; SUMMER FLOUNDER FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 223; 50 CFR 222

Legal Deadline: None

Abstract: The National Marine Fisheries Service intends to amend the Turtle Excluder Device (TED) requirements for summer flounder trawlers at 50 CFR 223.206(d)(2)(iii). The rule change would require the use of a TED extension with a hard TED. The extension could not be more than 3.5-inch stretched mesh. The extension could extend not more than 24 inches and not less than 36 inches in front of and behind the TED. New information came to light over the winter and during TED testing in June 1999 that TED installation in larger mesh results in many turtle captures and deaths. The fishery will begin at the beginning of October, and many preventable sea turtle deaths would occur if the rule is not in place prior. Bringing the rule into effect during the course of the fishery would also be disruptive to the fishermen.
The rule is not significant and the cost to the fishermen for compliance will be minimal: less than $20 for materials and about 2 hours to reinstall the TED (many fishermen already reinstall their TEDs on an annual basis).

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/99	64 FR 55860
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kathryn Conant, Habitat Specialist, NMFS, Office of Habitat Conservation, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2325
Fax: 301 713-1043
Email: kathryn.conant@noaa.gov

RIN: 0648–AM89

529. ENDANGERED AND THREATENED SPECIES: LISTING STATUS FOR WHITE ABALONE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 223; 50 CFR 224

Legal Deadline: None

Abstract: NMFR received a petition to list and designate critical habitat for white abalone under the Endangered Species Act. NMFS had already initiated a status review, as this species was on the candidate species list. NMFS has completed the status review and will publish a proposed rule to list the species. NMFS will make a determination on whether to designate critical habitat later.

Timetable:

Action	Date	FR Cite
NPRM	05/05/00	65 FR 26167
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Terri Jordan, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: terri.jordan@noaa.gov

RIN: 0648–AM90

530. REGULATIONS GOVERNING THE APPROACH TO HUMPBACK WHALES IN ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 224.103

Legal Deadline: None

Abstract: This rule would amend 50 CFR 224.103 to prohibit the approach within 200 yards of a humpback whale (Megaptera novaesnyliae) in waters 200 miles off the coast of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	06/26/00	65 FR 39336
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Cathy E. Campbell, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376
Email: cathy.e.campbell@noaa.gov

RIN: 0648–AN29

531. TAKING OF MARINE MAMMALS INCIDENTAL TO SHOCK TESTING THE USS WINSTON CHURCHILL OFF THE U.S. ATLANTIC COAST

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 216.151

Legal Deadline: None

Abstract: A request has been received from the U.S. Navy for a small take of marine mammals incidental to shock testing the USS Winston Churchill in the offshore waters of the Atlantic Ocean or Gulf of Mexico during 2001. Regulations will be proposed that would, if implemented, authorize the taking under the Marine Mammal Protection Act. Regulations can be implemented, and the takings authorized, if a determination is made that the taking will have no more than a negligible impact on marine mammal stocks that are being impacted.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/00	65 FR 11542
NPRM	12/12/00	65 FR 77546
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20912
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AN59

532. SEA TURTLE CONSERVATION REGULATIONS; SHRIMP FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS issues this advance notice of proposed rulemaking (ANPRM) to announce that it is considering publishing regulations that would make technical changes to the requirements for turtle excluder devices (TEDs) to increase their effectiveness. In particular, NMFS is considering increasing the size of TED escape openings to allow larger turtles to escape. The options NMFS is currently considering are: Requiring the leatherback opening with a minimum 32-inch grid in all areas (71-inch opening), or requiring a 35-inch by 16-inch opening with a minimum 30-inch grid in all areas. In addition, NMFS is considering other modifications to the TED regulations, including modifying or decertifying hooped hard TEDs and weedless TEDs, changing the requirements for the types of flotation devices allowed, and extending the requirement to have a short flap and grid angle of no greater than 45 degree on bottom opening TEDs (other than TEDs equipped with the leatherback opening) to all areas in the U.S. Gulf of Mexico and the Southeast U.S. Atlantic. NMFS is also considering modifications to the leatherback contingency plan (50 CFR 223.206(d)(2)(iv)) to provide better protection to leatherback turtles.

Timetable:

Action	Date	FR Cite
ANPRM	04/05/00	65 FR 17852
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathryn Conant, Habitat Specialist, NMFS, Office of Habitat Conservation, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2325
Fax: 301 713-1043
Email: kathryn.conant@noaa.gov

RIN: 0648–AN62

533. LIST OF FISHERIES FOR 2001

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: The list of fisheries, published pursuant to section 118 of the Marine Mammal Protection Act, classifies all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality to marine mammals. Participants in fisheries placed in category I, II or III are subject to different regulatory requirements under 50 CFR 229.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6545
NPRM Comment Period End	03/08/01	
Final Action	05/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Emily E. Hanson, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, NMFS (F/PR2), Marine Mammal Division, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-4060
Email: emily.hanson@noaa.gov

RIN: 0648–AN92

534. TAKING OF THE COOK INLET, ALASKA, STOCK OF BELUGA WHALES BY ALASKA NATIVES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1371

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS is regulating subsistence harvest of Cook Inlet Beluga to ensure that the harvest is sustainable and does not substantially delay the recovery of this marine mammal stock. Specific harvest levels and distribution of the harvest will be based upon Cooperative Agreements with Alaska Native Organizations.

Timetable:

Action	Date	FR Cite
NPRM	10/04/00	65 FR 59164
NPRM Comment Period End	11/27/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Agency Contact: Thomas C. Eagle, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13725, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055
Fax: 301 713-4060
Email: tom.eagle@noaa.gov

RIN: 0648–AO16

535. TAKING AND IMPORTING MARINE MAMMALS; TAKING MARINE MAMMALS INCIDENTAL TO OPERATION OF A LOW FREQUENCY SOUND SOURCE BY THE NORTH PACIFIC ACOUSTIC LABORATORY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1371(a)(5)

CFR Citation: 50 CFR 216.70

Legal Deadline: None

Abstract: The U.S. Navy is expected to submit a request for a small take of marine mammals incidental to operation of a low frequency sound source by the North Pacific Acoustic Laboratory off Hawaii. Regulations can be implemented under the Marine Mammal Protection Act to authorize the taking provided a determination can be made that the taking is small and has no more than a negligible impact on affected species or stocks of marine mammals.

Timetable:

Action	Date	FR Cite
ANPRM	08/24/00	65 FR 51584
NPRM	12/22/00	65 FR 80815
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20912
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AO24

536. • ENDANGERED AND THREATENED SPECIES; THREATENED STATUS FOR ONE EVOLUTIONARILY SIGNIFICANT UNIT OF STEELHEAD IN CALIFORNIA AND OREGON

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701

CFR Citation: 50 CFR 223

Legal Deadline: Final, Judicial, March 31, 2001.

Abstract: NMFS' completed Endangered Species Act (ESA) status reviews for steelhead (Oncorhynchus mykiss) populations in Washington, Oregon, Idaho, and California resulted in proposed listings for several steelhead Evolutionarily Significant Units (ESUs), including a Klamath Mountains Province (KMP) steelhead ESU. Steelhead in this ESU inhabit coastal river basins between the Elk River in Oregon and the Klamath River in California, inclusive. After reviewing additional information, including biological data on the species' status and an assessment of protective efforts, NMFS concluded in 1998 that this ESU did not warrant listing. However, the U.S. District Court for the Northern District of California (Court) recently overturned that decision and remanded the rule to the agency. The District Court concluded that NMFS erred in relying on the expected effects of future conservation measures when making its final listing determination. In light of the Court's order and of the need to

formally solicit any new information regarding the status of KMP steelhead, the agency now re-proposes to list the KMP steelhead ESU as a threatened species under the ESA.

Timetable:

Action	Date	FR Cite
ANPRM	02/12/01	66 FR 9808
ANPRM Comment Period End	03/05/01	
Interim Final Rule	04/00/01	
Interim Final Rule Comment Period End	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Kellie Carter, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AO86

NATIONAL OCEAN SERVICE/OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT

537. OPERATIONS OF MOTORIZED PERSONAL WATERCRAFT IN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: The National Oceanic and Atmospheric Administration's Sanctuaries and Reserves Division is considering prohibiting the operation of motorized personal watercraft in the nearshore areas of the Gulf of the Farallones National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	04/23/99	64 FR 19945
NPRM Comment Period End	07/21/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Daniel J. Basta, Acting Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, Room 9531, N ORM2, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3000

RIN: 0648–AK01

538. FLORIDA KEYS NATIONAL MARINE SANCTUARY; TORTUGAS ECOLOGICAL RESERVE

Priority: Other Significant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922 et seq

Legal Deadline: None

Abstract: The final rule will make effective the proposed rule published on May 18, 2000, that would establish a 151 square nautical mile no-take ecological reserve in the Tortugas region of the Florida Keys to protect nationally significant coral reef resources and to protect an area that serves as a source of biodiversity for the Florida Keys National Marine Sanctuary (FKNMS) as well as for the southwest shelf of Florida. The rule would expand the boundary of the FKNMS by 96 square nautical miles in the remote westernmost portion of the FKNMS to ensure that sensitive coral habitats lying outside the existing boundary of the Sanctuary are protected and would establish the reserve within that 96 square nautical mile area and within a 55 square nautical mile area of the existing Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	05/18/00	65 FR 31634
Draft EIS	05/19/00	65 FR 31898
Final EIS	04/00/01	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Billy Causey, Superintendent, Florida Keys National Marine Sanctuary, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 500368, Marathon, FL 33050
Phone: 305 743-2437

RIN: 0648–AO18

DEPARTMENT OF COMMERCE (DOC)

Long-Term Actions

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

539. GENERAL PROVISIONS FOR DOMESTIC FISHERIES—STANDARD DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014

RIN: 0648–AG46

540. IMPLEMENTATION OF DATA COLLECTION AND REPORTING REQUIREMENTS TO THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AJ75

541. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE HALIBUT SUBSISTENCE FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 300

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AK16

542. FISHING CAPACITY REDUCTION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 253

Timetable:

Action	Date	FR Cite
NPRM	02/11/99	64 FR 6869
Interim Final Rule	05/18/00	65 FR 31430
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael L. Grable
Phone: 301 713-2390
Email: michael.grable@noaa.gov

RIN: 0648–AK76

543. HALIBUT BYCATCH ACCOUNTING FOR THE YELLOWFIN SOLE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AM76

544. RECORDKEEPING AND REPORTING REQUIREMENT REVISIONS TO THE ALASKA GROUNDFISH FISHERIES ALASKA COMMERCIAL OPERATOR'S ANNUAL REPORT (ACOAR)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	12/14/00	65 FR 78131
NPRM Comment Period End	01/16/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN01

545. AMENDMENT 13 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN17

546. AMENDMENT 1 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN19

547. AMENDMENT 14 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN20

548. REGULATORY AMENDMENT TO CLARIFY THE ALASKA GROUNDFISH INDIVIDUAL FISHING QUOTA PROGRAM APPEALS REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN21

549. AMENDMENT 63 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA AND AMENDMENT 63 TO THE FMP FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN24

550. AMENDMENTS TO ALASKA FMPS FOR GROUNDFISH, CRAB, AND SCALLOP TO REDUCE HALIBUT MORTALITY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN26

551. AMENDMENTS 61/61 FOR BSAI AND GOA GROUNDFISH; AMENDMENT 13 FOR COMMERCIAL KING AND TANNER CRAB; AND AMENDMENT 8 FOR ALASKA SCALLOP FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN55

552. FISHERY MANAGEMENT PLAN FOR NORTHEAST SKATE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO10

553. EMERGENCY INTERIM RULE FOR AMERICAN FISHERIES ACT REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 7327
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO14

554. MULTISPECIES COMMUNITY DEVELOPMENT QUOTA PROGRAM BYCATCH ACCOUNTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO26

555. • CONTINUE CLOSURE OF TWO MID-ATLANTIC AREAS TO SCALLOP FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: Interim final rule extends the closure of the Hudson Canyon South and Virginia Beach closed areas on an interim basis until a controlled area access program for these two areas can be implemented.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/01	66 FR 9678
Interim Final Rule Effective	03/02/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AO71

556. • IMPLEMENT MANAGEMENT MEASURES FOR THE PACIFIC COD FISHERIES IN THE GULF OF ALASKA, THE BERING SEA, AND THE ALEUTIAN ISLANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rulemaking would implement management measures for the Pacific cod fisheries in the Gulf of Alaska, the Bering Sea, and the Aleutian Islands that would mitigate the impacts of those fisheries on the western population of Steller sea lions and its designated critical habitat. The western population of Steller sea lions are listed as endangered under the Endangered Species Act. The proposed management measures may include Pacific cod fishery closures within Steller sea lion critical habitat and additional fishing seasons and total allowable catch apportionments that would disperse the fishery in time and area. This action should be considered controversial because of the effects of management measures on current fishing practices.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO73

557. • EMERGENCY RULE TO IMPLEMENT STELLER SEA LION REASONABLE AND PRUDENT ALTERNATIVE UNDER THE NOVEMBER 30 BIOLOGICAL OPINION ON THE ALASKA GROUNDFISH FISHERIES

Priority: Economically Significant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rule implements Steller sea lion protection measures and announces final 2001 specifications and associated management measures for groundfish fisheries of the BSAI management area in the Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 7276
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO82

558. • OBSERVER PROGRAM ELECTRONIC REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 773c

CFR Citation: 50 CFR 300

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Implement observer electronic reporting requirements for American Fisheries Act catcher vessels and correct existing regulatory language to require electronic reporting equipment to be operational.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO90

559. • AMENDMENT 65 TO BSAI GROUNDFISH, AMENDMENT 65 TO GOA GROUNDFISH, AMENDMENT 12 FOR COMMERCIAL KING AND TANNER CRAB OF BSAI, AND AMENDMENT 7 FOR SCALLOP FISHERY OFF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: These FMP amendments would classify selected HAPC biota as a prohibited species. The goal of these FMP amendments is to provide additional protection of essential fish habitat from potential adverse effects due to fishing-related activities.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO98

560. • INTERAGENCY POLICY ON THE PRESCRIPTION OF FISHWAYS UNDER SECTION 18 OF THE FEDERAL POWER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 742; 16 USC 661 et seq; 16 USC 791a et seq; 16 USC et 1531 et seq; 16 USC 811 et seq; ...

CFR Citation: 18 CFR 385.713

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking invites public comment on proposed internal policy for the U.S. Fish and Wildlife Service and National Marine Fisheries Service (the Services) regarding the prescription of fishways pursuant to section 18 of the Federal Power Act for non-Federal hydropower projects licensed by the Federal Energy Regulatory Commission (FERC). The proposed policy is intended to set forth the definition of fishways in accordance with the 1992 National Energy Policy Act and the procedures for the prescription of fishways. The policy does not introduce new procedures but standardizes current practices and existing procedures for providing fishway prescriptions.

Timetable:

Action	Date	FR Cite
Notice	12/22/00	65 FR 80898
Notice Comment Period End	02/20/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathryn Conant, Habitat Specialist, NMFS, Office of Habitat Conservation, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2325
Fax: 301 713-1043
Email: kathryn.conant@noaa.gov

RIN: 0648–AO70

561. FINAL RULE TO AMEND MARINE MAMMAL REGULATIONS TO AUTHORIZE INCIDENTAL TAKINGS OF MARINE MAMMALS BY HARASSMENT AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28379
NPRM Comment Period End	10/16/95	60 FR 35891
Interim Final Rule	04/10/96	61 FR 15884
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Federal

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AG80

562. AMEND REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gene Nitta
Phone: 301 713-2289

RIN: 0648–AH83

563. ENDANGERED AND THREATENED SPECIES: TAKE OF THREATENED SOUTHERN OREGON/NORTHERN CALIFORNIA COAST EVOLUTIONARILY SIGNIFICANT UNIT (ESU) COHO SALMON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 223

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/97	62 FR 38479
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kellie Carter
Phone: 301 713-1401
Email: kellie.f.carter@noaa.gov

RIN: 0648–AJ91

564. PACIFIC OFFSHORE CETACEAN TAKE REDUCTION PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 229

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Lawson
Phone: 301 713-2322
Email: patricia.lawson@noaa.gov

RIN: 0648–AL70

565. RULE FOR GEAR MODIFICATIONS TO THE ATLANTIC LARGE WHALE TAKE REDUCTION PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/00	65 FR 80368
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Lawson
Phone: 301 713-2322
Email: patricia.lawson@noaa.gov

RIN: 0648–AN88

566. DESIGNATE CRITICAL HABITAT; DESIGNATION OF MARINE AREAS AS CRITICAL HABITAT FOR PACIFIC SALMON

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 226

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter
Phone: 301 713-1401
Email: kellie.f.carter@noaa.gov

RIN: 0648–AN89

567. ENDANGERED AND THREATENED SPECIES: PERMIT EXEMPTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 222

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Terri Jordan
Phone: 301 713-1401
Fax: 301 713-0376
Email: terri.jordan@noaa.gov

RIN: 0648–AO37

568. ENDANGERED AND THREATENED SPECIES: PERMITS: SUSPENSION CRITERIA AND PROCEDURES AND REVOCATION CRITERIA AND PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 222

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terri Jordan
Phone: 301 713-1401
Fax: 301 713-0376
Email: terri.jordan@noaa.gov

RIN: 0648–AO59

NATIONAL OCEAN SERVICE/OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT

569. INSTALLING AND MAINTAINING COMMERCIAL SUBMARINE CABLES IN NATIONAL MARINE SANCTUARIES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Timetable:

Action	Date	FR Cite
ANPRM	08/23/00	65 FR 51264
ANPRM Comment Period End	10/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Helen Golde
Phone: 301 713-3145

RIN: 0648–AO36

OFFICE OF THE ADMINISTRATOR

570. REGIONAL MARINE RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Don Scavia
Phone: 301 713-3060

RIN: 0648–AF20

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

571. FISHERY MANAGEMENT PLAN FOR THE ATLANTIC HERRING FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	12/11/00	65 FR 77450
Final Action Effective	12/11/00	
Final Action Effective	01/10/01	
Final Action Effective	03/12/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AI78

572. AMENDMENT 59 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH IN THE GULF OF ALASKA TO CLOSE AN AREA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	11/09/00	65 FR 67305

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AK74

573. RULE TO IMPLEMENT AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AK80

574. OBSERVER FUNDING POLICY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Withdrawn	11/01/00	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AL08

575. REGULATORY AMENDMENT TO ESTABLISH PROGRAM FOR COLLECTION AND USE OF FEES IN COMMUNITY DEVELOPMENT QUOTA PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	03/20/00	65 FR 14919

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AL71

576. PR/FR VESSEL MONITORING SYSTEM FOR ALEUTIAN ISLAND ATKA MACKEREL FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	10/17/00	65 FR 61264

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AM34

577. AMENDMENT 4 - SCALLOP LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	12/14/00	65 FR 78110

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AM42

578. RECREATIONAL MEASURES FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Withdrawn	12/01/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AM46

579. QUOTAS FOR THE ATLANTIC BLUEFISH FISHERY FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined.

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AM47

580. OBSERVATION COVERAGE MULTISPECIES GROUNDFISH AND HALIBUT COMMUNITY DEVELOPMENT QUOTA FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	11/17/00	65 FR 69483

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AM53

581. SIMPLIFICATION OF CAPITAL CONSTRUCTION FUND RULES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 259

Completed:

Reason	Date	FR Cite
Withdrawn	01/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles L. Cooper
Phone: 301 713-2396
Email: charles.cooper@noaa.gov

RIN: 0648–AM95

582. ANTARCTIC MARINE LIVING RESOURCES; VESSEL AND DEALER PERMITS, VESSEL MONITORING SYSTEMS AND CATCH DOCUMENTATION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	05/10/00	65 FR 30014

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean Swanson
Phone: 301 713-2276
Email: dean.swanson@noaa.gov

RIN: 0648–AN42

583. NOTICE OF DETERMINATION OF NONCOMPLIANCE; NOTICE OF INTENT TO IMPLEMENT A MORATORIUM ON FISHING FOR TAUTOG IN RHODE ISLAND STATE WATERS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
Final Action	05/30/00	65 FR 34443

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014

RIN: 0648–AN48

584. ATLANTIC HIGHLY MIGRATORY SPECIES; IMPLEMENTATION OF 1999 ICCAT RECOMMENDATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 635

Completed:

Reason	Date	FR Cite
Final Action	12/12/00	65 FR 77523

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AN52

585. SPECIFICATIONS FOR FISHING YEAR 2001 FOR THE ATLANTIC SURF CLAM, OCEAN QUAHOG, AND MAINE MAHOGANY OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
NPRM	11/08/00	65 FR 66960
Final Action	02/05/01	66 FR 8904
Final Action Effective	02/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AN72

586. 2001 HARVEST GUIDELINES FOR THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Withdrawn	02/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Karnella
Phone: 808 973-2937

RIN: 0648–AN77

587. ANNOUNCEMENT OF THE OPTIMUM YIELD AND HARVEST LIMIT FOR PACIFIC SARDINE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	12/27/00	65 FR 81766
Final Action Effective	01/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Lent
Phone: 562 980-4001

RIN: 0648–AN78

588. PACIFIC COAST GROUNDFISH FISHERY; ANNOUNCEMENT OF THE 2001 GROUNDFISH FISHERY SPECIFICATIONS AND MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action Effective	01/05/01	
Final Action	01/11/01	66 FR 2338

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Donna Darm
Phone: 206 526-6150

RIN: 0648–AN82

589. 2000-2001 GULF GROUP KING MACKEREL CATCH SPECIFICATIONS UNDER THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
NPRM	10/25/00	65 FR 63837
Final Action	03/30/01	66 FR 17368

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph Powers
Phone: 727 570-5301

RIN: 0648–AN85

590. REGULATORY AMENDMENT TO EXTEND THE PACIFIC HALIBUT DONATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	12/14/00	65 FR 78119

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AN98

591. ANNUAL FRAMEWORK ADJUSTMENT FOR THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO08

592. ANNUAL FRAMEWORK ADJUSTMENT FOR THE MONKFISH FISHERY MANAGEMENT PLAN FOR FISHING YEAR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO09

593. EXTEND THE INTERIM OBSERVER PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
NPRM	11/03/00	65 FR 66223
Final Action	12/21/00	65 FR 80381

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO25

594. AMENDMENT 14 TO THE FMP FOR THE KING AND TANNER CRAB FISHERIES - OPILIO REBUILDING PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	01/04/01	66 FR 742

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO27

595. AMENDMENT 15 TO THE KING AND TANNER CRAB FMP - ST. MATTHEW BLUE KING CRAB REBUILDING PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	12/06/00	65 FR 76175

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: James L. Balsiger
Phone: 907 586-7228

RIN: 0648–AO28

596. AMENDMENT 12 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN — OVERFISHED SPECIES REBUILDING PLANS PROCEDURAL FRAMEWORK

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
NPRM	10/06/00	65 FR 59811
Final Action	12/29/00	65 FR 82947
Final Action Effective	01/29/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Donna Darm
Phone: 206 526-6150

RIN: 0648–AO31

597. NOTICE OF DETERMINATION OF NONCOMPLIANCE; NOTICE OF INTENT TO IMPLEMENT A MORATORIUM ON FISHING FOR HORSESHOE CRABS IN VIRGINIA STATE WATERS

Priority: Other Significant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
NPRM	10/16/00	65 FR 61116
Final Action	10/31/00	65 FR 64896

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014

RIN: 0648–AO33

598. NOTICE OF DETERMINATION OF NONCOMPLIANCE; NOTICE OF INTENT TO IMPLEMENT A MORATORIUM ON FISHING FOR AMERICAN SHAD IN SOUTH CAROLINA STATE WATERS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
Final Action	12/12/00	65 FR 77586

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014

RIN: 0648–AO34

599. ESTABLISH CONTROL DATE TO LIMIT USE OF LIMITED ENTRY PERMITS OWNED BY OWNERS OF VESSELS ELIGIBLE FOR BENEFITS UNDER THE AMERICAN FISHERIES ACT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
ANPRM Comment Period End	10/13/00	
Withdrawn	03/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Darm
Phone: 206 526-6150

RIN: 0648–AO45

600. ESTABLISHMENT OF NEW CONTROL DATE FOR PELAGIC FISHERY IN AMERICAN SAMOA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	10/19/00	65 FR 62692
Final Action Effective	11/20/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Karnella
Phone: 808 973-2937

RIN: 0648–AO50

601. MODIFY THE SCUP NORTHERN GEAR RESTRICTED AREA IN THE SUMMER FLOUNDER, SCUP AND BLACK SEA BASS FISHERY MANAGEMENT PLAN (FMP)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
NPRM	11/02/00	65 FR 65818
Final Action	12/27/00	65 FR 81761
Final Action Effective	03/27/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AO56

602. FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC; WESTERN PACIFIC PELAGIC FISHERIES; HAWAII-BASED PELAGIC LONGLINE AREA CLOSURE; EMERGENCY INTERIM RULE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	08/25/00	65 FR 51992
Final Action Effective	08/25/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Karnella
Phone: 808 973-2937

RIN: 0648–AO66

603. • IMPLEMENT AMERICAN FISHERIES ACT (AFA) COOPERATIVE MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 677

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: The action supersedes certain provisions of the AFA, revises formula for crab processing sideboard limits, revises observer coverage requirements, and revises authority to manage AFA sideboards for groundfish.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/01	66 FR 7327

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James L. Balsiger, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AO72

604. • CHANGES TO THE AREA 2A PACIFIC HALIBUT CATCH SHARING PLAN FOR 2001, SPORT FISHERY REGULATIONS FOR 2001, AND ANNUAL MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 773c

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: Changes to Area 2A Pacific halibut catch sharing plan to adjust sport fisheries off Washington and commercial fisheries off Oregon and Washington, and annual management measures.

Timetable:

Action	Date	FR Cite
Final Action Effective	03/15/01	
Final Action	03/21/01	66 FR 15801

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donna Darm, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AO80

605. • ATLANTIC HIGHLY MIGRATORY SPECIES; REGULATORY ADJUSTMENTS FOR BLUE SHARKS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS corrects the final regulations governing the Atlantic HMS fisheries to clarify the annual quota for blue sharks, to correct an incorrect reference to the minimum size limit for sharks, and to correct the position of the East Florida Coast closed area. These corrections and clarifications are necessary to avoid adverse impacts on fishery participants that would result from inconsistent interpretations of the regulations relative to these regulations and/or the inability of NMFS to enforce regulations due to lack of clarity.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/31/01	
Final Action	02/05/01	66 FR 8903

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Email: bruce.morehead@noaa.gov

RIN: 0648–AO95

606. SEA TURTLE CONSERVATION; SHRIMP TRAWLING REQUIREMENTS

Priority: Other Significant

CFR Citation: 50 CFR 222; 50 CFR 223

Completed:

Reason	Date	FR Cite
Final Action	01/09/01	66 FR 1601

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Kathryn Conant
Phone: 301 713-2325
Fax: 301 713-1043
Email: kathryn.conant@noaa.gov

RIN: 0648–AK66

607. ENDANGERED AND THREATENED SPECIES: PROPOSED RANGE EXTENSION FOR SOUTHERN CALIFORNIA STEELHEAD

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 222

Completed:

Reason	Date	FR Cite
Final Action	06/07/00	65 FR 36074

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kellie Carter
Phone: 301 713-1401
Email: kellie.f.carter@noaa.gov

RIN: 0648–AO05

608. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; HARBOR PORPOISE TAKE REDUCTION PLAN REGULATIONS; CHANGES TO LIST OF EXEMPTED WATERS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 229

Completed:

Reason	Date	FR Cite
NPRM	10/27/00	65 FR 64415
Final Action	01/11/01	66 FR 2336

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Emily E. Hanson
Phone: 301 713-2322
Fax: 301 713-4060
Email: emily.hanson@noaa.gov

RIN: 0648–AO30

609. RULE FOR GEAR MODIFICATIONS TO THE ATLANTIC LARGE WHALE TAKE REDUCTION PLAN

Timetable:

Action	Date	FR Cite
Duplicate of 0648-AM88	02/28/01	

RIN: 0648–AO60

610. WHALING PROVISIONS: ABORIGINAL SUBSISTENCE WHALING QUOTAS (BOWHEAD WHALES)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 230

Completed:

Reason	Date	FR Cite
Final Action	05/14/00	65 FR 49509

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Cathy Campbell
Phone: 301 713-2322

RIN: 0648–AO68

611. • WHALING PROVISIONS: ABORIGINAL SUBSISTENCE WHALING QUOTAS (GRAY WHALES)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 916 et seq

CFR Citation: 50 CFR 230

Legal Deadline: None

Abstract: NMFS is announcing the aboriginal subsistence whaling quota for gray whales, and other limitations deriving from regulations adopted at the 1997 annual meeting of the International Whaling Commission.

Timetable:

Action	Date	FR Cite
Final Action	12/01/00	65 FR 75186

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Cathy E. Campbell, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376
Email: cathy.e.campbell@noaa.gov

RIN: 0648–AO77

DOC—NOAA — **Completed Actions**

612. REVISION OF FEDERAL CONSISTENCY REGULATIONS UNDER THE COASTAL ZONE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 930

Completed:

Reason	Date	FR Cite
Withdrawn	02/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Karl Gleaves
Phone: 301 713-2967

RIN: 0648–AD83

DEPARTMENT OF COMMERCE (DOC)
National Telecommunications and Information Administration (NTIA) — **Proposed Rule Stage**

613. MANDATORY REIMBURSEMENT RULES FOR RELOCATION OF FEDERAL SPECTRUM

Priority: Other Significant

Legal Authority: 47 USC sec 921 et seq; PL 105-261; 112 Stat/1920(1998); 47 USC sec 923(g)

CFR Citation: 47 CFR 301

Legal Deadline: None

Abstract: The National Defense Authorization Act requires successful bidders of auctions of Federal spectrum to compensate the Federal incumbent users for the marginal costs associated with the relocation of a Federal station. This mandatory reimbursement applies to the 20MHz of spectrum identified for reallocation under the Balanced Budget Act of 1997, the 1710-1755MHz band identified under the Omnibus Budget Reconciliation Act of 1993, and future allocations. The National Defense Authorization Act requires NTIA to develop reimbursement procedures which are to include a process for resolving differences between the Federal Government and commercial licenses regarding estimates of relocation or modification of costs. This NPRM will set forth those rules.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Milton Brown, Deputy Chief Counsel, Department of Commerce, National Telecommunications and Information Administration, HCHB Room 4713, 14th & Pennsylvania Avenue, NW., Washington, DC 20230
Phone: 202 482-1816
Fax: 202 501-8013
Email: mbrown@ntia.doc.gov

RIN: 0660–AA14

DEPARTMENT OF COMMERCE (DOC)
National Telecommunications and Information Administration (NTIA) — **Long-Term Actions**

614. IMPROVEMENT OF TECHNICAL MANAGEMENT OF INTERNET NAMES AND ADDRESSES

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
NPRM	02/20/98	63 FR 8826
NPRM Comment Period End	03/23/98	
Notice - Policy Statement	06/10/98	63 FR 31741
Notice - Request for Public Comment	08/04/98	63 FR 41547
Notice - Extension of Comment Period to 10/05/98	08/27/98	63 FR 45800
Notice - Public Meeting	02/10/99	64 FR 6633
Request for Comments	08/22/00	65 FR 50964
Comment Period End	10/06/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Karen Rose
Phone: 202 482-3167
Email: krose@ntia.doc.gov

RIN: 0660–AA11

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO) — **Proposed Rule Stage**

615. REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)(D); 35 USC 32

CFR Citation: 37 CFR 1.21; 37 CFR 10.7; 37 CFR 10.11

Legal Deadline: None

Abstract: This rulemaking involves the restructuring of the administration and format of the Registration Examination for Patent Practitioners and the establishment of a continuing education requirement and annual fee for registered practitioners.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/96	61 FR 51072
ANPRM Comment Period End	12/06/96	
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

DOC—PTO — **Proposed Rule Stage**

Government Levels Affected: None

Agency Contact: Harry I. Moatz, Director of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 306-4097

RIN: 0651–AA93

616. TECHNICAL AND NONTECHNICAL REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES, DISCIPLINARY RULES, AND INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)(D); 35 USC 32

CFR Citation: 37 CFR 10

Legal Deadline: None

Abstract: This rulemaking amends the rules of practice before the PTO to include the technical and nontechnical requirements for registration to practice before the PTO in patent cases, as well as new Disciplinary Rules, and new rules regarding Investigations and Disciplinary Proceedings.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry I. Moatz, Director of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 306-4097

RIN: 0651–AA95

617. PATENT AND TRADEMARK OFFICE ACQUISITION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-113

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Patent and Trademark Office is developing a new procurement process consistent with authority conveyed in the Performance Based Organization Legislation, PL 106-113. The Patent and Trademark Office will publish a notice to inform industry and businesses of the availability of new acquisition regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael Anastasio, Acting Director, Office of Procurement, Department of Commerce, Patent and Trademark Office, Crystal Park 1, Suite 810, Office of Procurement, Washington, DC 20231
Phone: 703 305-8419
Fax: 703 305-8294
Email: michael.anastasio@uspto.gov

RIN: 0651–AB11

618. PROCEDURES FOR SERVICE OF PROCESS, OBTAINING EVIDENCE, INDEMNIFYING EMPLOYEES, AND MAKING A CLAIM UNDER THE FEDERAL TORT CLAIMS ACT

Priority: Info./Admin./Other

Legal Authority: 35 USC 2(b)(2); 28 USC 2672; 44 USC 3101

CFR Citation: None

Legal Deadline: None

Abstract: The United States Patent and Trademark Office proposes rules relating to litigation and claims against the Office. Specifically, the rules will provide procedures for service of process, for obtaining Office documents and employee testimony, for indemnifying employees, and for making a claim against the Office under the Federal Tort Claims Act.

Timetable:

Action	Date	FR Cite
NPRM	12/22/00	65 FR 80810
NPRM Comment Period End	01/22/01	
Publication of Comments	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William R. Covey, Associate Counsel for General Law, Department of Commerce, Patent and Trademark Office, Washington, DC 20231
Phone: 703 308-2000
Fax: 703 305-5907
Email: william.covey@uspto.gov

RIN: 0651–AB22

619. RULES OF PRACTICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES IN APPEALS UNDER 35 U.S.C. 134

Priority: Info./Admin./Other

Legal Authority: 35 USC 2(B)(2); 35 USC 6; 35 USC 134

CFR Citation: 37 CFR 1.14; 37 CFR 1.191 to 1.198

Legal Deadline: None

Abstract: The United States Patent and Trademark Office proposes to amend its rules of patent appellate practice to simplify proceedings and to reflect changes in recent legislation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeffrey V. Nase, Administrative Patent Judge, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 305-9797
Fax: 703 308-7953
Email: jeffrey.nase@uspto.gov

RIN: 0651–AB27

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

620. REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 2002

Priority: Routine and Frequent

Legal Authority: 35 USC 41; 15 USC 1115; 35 USC 376; 15 USC 1051; 15 USC 1113; 15 USC 1123; PL 105-358; PL 106-113; 35 USC 2(b)(2)

CFR Citation: 37 CFR 1.16 to 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Legal Deadline: Final, Statutory, October 1, 2001.

Abstract: This rulemaking revises certain patent and trademark fees to reflect fluctuations in the Consumer Price Index (CPI) consistent with PL 105-358, as amended by PL 106-113.

Timetable:

Action	Date	FR Cite
Final Action	08/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Matthew Lee, Systems Analyst, Department of Commerce, Patent and Trademark Office, Washington, DC 20231
Phone: 703 305-8051

RIN: 0651–AB01

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Long-Term Actions

621. COMPLAINTS REGARDING INVENTION PROMOTERS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 4

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/20/00	65 FR 3127
Interim Final Rule Effective	01/28/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Baer
Phone: 703 305-9300
Fax: 703 305-8885
Email: kevin.baer@uspto.gov

RIN: 0651–AB12

622. CORRESPONDENCE FILED IN THE PATENT AND TRADEMARK OFFICE

Priority: Info./Admin./Other

CFR Citation: 37 CFR 1.1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Briskin
Phone: 703 308-2000
Fax: 703 305-5907
Email: michael.briskin@uspto.gov

RIN: 0651–AB17

623. STUDY OF ALTERNATIVE FEE STRUCTURES

Priority: Info./Admin./Other

CFR Citation: None

Timetable:

Action	Date	FR Cite
Notice	10/02/00	65 FR 58746

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barrett J. Riordan
Phone: 703 305-8475
Fax: 703 305-8138
Email: barry.riordan@uspto.gov

RIN: 0651–AB24

624. REQUEST FOR COMMENT ON PRELIMINARY DRAFT CONVENTION ON JURISDICTION AND FOREIGN JUDGMENTS AND CIVIL AND COMMERCIAL MATTERS

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
Request for Comments	10/17/00	65 FR 61306
Comment Period Closed	01/12/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Lucas
Phone: 703 305-9300
Fax: 703 305-8885
Email: jennifer.lucas@uspto.gov

RIN: 0651–AB25

625. NOTIFICATION OF REQUIRED AND OPTIONAL SEARCH CRITERIA FOR COMPUTER-IMPLEMENTED BUSINESS METHOD PATENT APPLICATIONS IN CLASS 705 AND REQUEST FOR COMMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert A. Clarke
Phone: 703 305-9285
Fax: 703 305-6916
Email: robert.clarke@uspto.gov

RIN: 0651–AB26

626. • PROTECTION OF AUDIOVISUAL PERFORMANCES TO BE CONSIDERED BY THE WIPO DIPLOMATIC CONFERENCE

Priority: Info./Admin./Other

Legal Authority: 35 USC 2(b)(11)

CFR Citation: None

Legal Deadline: None

Abstract: The World Intellectual Property Organization (WIPO) convened a Diplomatic Conference on the Protection of Audiovisual Performances, in Geneva, Switzerland from December 7 to 20, 2000. Two basic proposals formed the basis for the negotiations: (1) the Basic Proposal for the Substantive Provisions of an Instrument on the Protection of Audiovisual Performances to be Considered by the Diplomatic Conference (document IAVP/DC/3), which was prepared by the Chairman of the Standing Committee on Copyright and Related Rights (SCCR), and (2) the Basic Proposal for Administrative and Final Provisions of the Instrument (document IAVP/DC/4), which was prepared by the International Bureau of WIPO. The United States Patent and Trademark Office, in cooperation with the U.S. Copyright Office and the U.S. Department of State, sought views of the public on this effort and the consequent potential changes to United States law and practice.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda S. Lourie, Attorney Advisor, Department of Commerce, Patent and Trademark Office, Box 4, Washington, DC 20231
Phone: 703 305-9300
Fax: 703 305-8885
Email: linda.lourie@uspto.gov

RIN: 0651–AB28

627. • STANDARD FOR DECLARING A PATENT INTERFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)(a); 3(a)(2); 135(a); ...

CFR Citation: None

Legal Deadline: None

Abstract: The notice explains the standard for declaring interferences and solicits public comment on that standard.

Timetable:

Action	Date	FR Cite
Notice	12/20/00	65 FR 79809
Notice Extending Comment Period	02/01/01	66 FR 8571
Comment Period End	02/28/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Torczon, Administrative Patent Judge, Department of Commerce, Patent and Trademark Office, Box Interference, Washington, DC 20231
Phone: 703 308-9797
Fax: 703 305-0942
Email: interference.rules@uspto.gov

RIN: 0651–AB29

628. • ESTABLISHMENT OF DATABASE CONTAINING OFFICIAL INSIGNIA OF FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBES

Priority: Info./Admin./Other

Legal Authority: 35 USC 2; PL 105-330, sec 302; ...

CFR Citation: None

Legal Deadline: None

Abstract: The United States Patent and Trademark Office (USPTO) is proposing to create and maintain a database of the official insignia of federally and state recognized Native American tribes. The USPTO seeks comments on its proposed method for creating and maintaining this database.

Timetable:

Action	Date	FR Cite
Notice and Request for Comments	01/09/01	66 FR 1649

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ari Leifman, Attorney, Department of Commerce, Patent and Trademark Office, Box Comment Trademarks, Commissioner for Trademarks, Washington, DC 20231
Phone: 703 308-8900
Fax: 703 872-9285

RIN: 0651–AB30

629. • ELECTRONIC SUBMISSION OF APPLICATION FOR TRADEMARK REGISTRATION AND OTHER DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1123; 35 USC 2; ...

CFR Citation: 37 CFR 1.4; 37 CFR 1.10; 37 CFR 2.21; 37 CFR 2.56; 37 CFR 2.76; 37 CFR 2.88 to 2.89; 37 CFR 2.161; 37 CFR 2.166 to 2.168; ...

Legal Deadline: None

Abstract: The USPTO proposes to amend its rules to make electronic filing of trademark documents mandatory. Subject to certain exceptions for individuals either without access to the Trademark Electronic Application System (TEAS) or without the technical capability to use TEAS, and persons described in 15 USC 1126(b), all documents for which an electronic form is available in TEAS will have to be filed through TEAS rather than through the mail or by hand delivery. In addition, the Office proposes to amend its rule concerning the use of U.S. Postal Service "Express Mail Post Office to Addressee" service, to eliminate the filing of any document by Express Mail for which an electronic form is currently available in TEAS.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary E. Hannon, Staff Attorney, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, Arlington, VA 22202-3513
Phone: 703 308-8900
Fax: 703 872-9280
Email: mary.hannon@uspto.gov

RIN: 0651–AB31

630. • CHANGES IN RULES OF PRACTICE FOR PATENT INTERFERENCES AND RELATED PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2; 35 USC 3; 35 USC 6; 35 USC 10; 35 USC 22; 35 USC 23; 35 USC 25; 35 USC 31; 35 USC 32; 35 USC 41; 35 USC 135; ...

CFR Citation: 37 CFR 1; 37 CFR 41; ...

Legal Deadline: None

Abstract: The United States Patent and Trademark Office will revise its rules of practice in patent interferences to simplify the process and to increase its flexibility and efficiency.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Torczon, Administrative Patent Judge, Department of Commerce, Patent and Trademark Office, Box Interference, Washington, DC 20231
Phone: 703 308-9797
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Email: interference.rules@uspto.gov

RIN: 0651–AB32

631. • CHANGES TO THE TIME PERIOD FOR MAKING ANY NECESSARY DEPOSITS OF BIOLOGICAL MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: In a rulemaking to implement the Patent Business Goals, the United States Patent and Trademark Office (Office) proposed a change to the time period within which a deposit of biological material (if needed) must be made. The Office held this proposed change in abeyance pending consideration of a study by the Comptroller General of the potential risks to the United States biotechnology industry relating to biological deposits as required by the American Inventors Protection Act of 1999. The Office is now, after consideration of this study, adopting a change to the time period within which a deposit of biological material (if needed) must be made and the depository information added to the specification.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr, Senior Patent Attorney, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 305-6916

RIN: 0651–AB33

632. • DEVELOPMENT OF PLAN TO REMOVE PATENT AND TRADEMARK CLASSIFIED PAPER FILES FROM PUBLIC SEARCH FACILITIES

Priority: Info./Admin./Other

Legal Authority: PL 106-113; 35 USC 11(a); ...

CFR Citation: None

Legal Deadline: None

Abstract: Public comment is being sought on issues associated with the development of a plan to remove the patent and trademark classified paper files from the United States Patent and Trademark Office's public search facilities and replace them with electronic records. Issues of particular interest to the agency include, but are not limited to, measures required to ensure the integrity of electronic records, the comparable functionality for searching and retrieving information from electronic records, and the disposition of the paper files.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Martha Crockett Sneed, Manager, Public Search Services Division, Department of Commerce, Patent and Trademark Office, Office of the CIO, Washington, DC 20231
Phone: 703 308-5558
Fax: 703 306-2662
Email: martha.sneed@uspto.gov

RIN: 0651–AB34

633. • REVISION OF PATENT CORPORATION TREATY APPLICATION PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 2(b)(2)

CFR Citation: 37 CFR 1

Legal Deadline: Other, Statutory, March 1, 2001, Patent Cooperation Treaty.

Abstract: The United States Patent and Trademark Office (Office) is amending its rules of practice relating to applications filed under the Patent Cooperative Treaty (PCT) to conform the United States rules of practice to the Regulations under the PCT which become effective March 1, 2001. The result will be more streamlined procedures for filing and prosecuting international applications under the PCT.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles Pearson, Office of PCT Legal Administrator, Department of Commerce, Patent and Trademark Office, Box PCT, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 308-6515
Fax: 703 305-3230

RIN: 0651–AB35

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

634. CHANGES TO IMPLEMENT OPTIONAL INTER PARTES REEXAMINATION PROCEEDINGS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1

Completed:

Reason	Date	FR Cite
Final Rule	12/07/00	65 FR 76755
Final Rule Effective	02/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald A. Dost
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AB04

635. REVISED UTILITY EXAMINATION GUIDELINES

Priority: Economically Significant

CFR Citation: 37 CFR 1.74, 1.75, 1.104; 37 CFR 1.111 to 113

Completed:

Reason	Date	FR Cite
Final Guidelines	01/05/01	66 FR 1092
Guidelines Effective	01/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Mark Nagumo
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Fax: 703 305-9373
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RIN: 0651–AB09

636. REVISED GUIDELINES FOR EXAMINATION OF PATENT APPLICATIONS UNDER THE 35 USC SECTION 112, PARAGRAPH 1 "WRITTEN DESCRIPTION" REQUIREMENT

Priority: Economically Significant

CFR Citation: 37 CFR 1.75, 1.104, 1.111 to 113

Completed:

Reason	Date	FR Cite
Final Guidelines	01/05/01	66 FR 1099
Guidelines Effective	01/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen Walsh
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RIN: 0651–AB10

637. SIMPLIFICATION OF CERTAIN REQUIREMENTS IN PATENT INTERFERENCE PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.601(f), 1.606, 1.609; 37 CFR 1.671, 1.682, 1.683; 37 CFR 1.688

Completed:

Reason	Date	FR Cite
Interim Final Rule Comment Period End	10/20/00	
Final Action	11/24/00	65 FR 70489
Final Action Effective	12/26/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fred E. McKelvey
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RIN: 0651–AB15

638. MADRID PROTOCOL IMPLEMENTATION ACT RULES CHANGE

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn	01/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary E. Hannon
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RIN: 0651–AB16

639. TREATMENT OF MISPLACED APPLICATION AND PATENT FILES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1

Completed:

Reason	Date	FR Cite
Final Rule	11/17/00	65 FR 69446
Final Rule Effective	11/17/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert W. Bahr
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Fax: 703 305-6916

RIN: 0651–AB19

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Proposed Rule Stage

640. AMENDMENT TO RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Routine and Frequent

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: NPRM, Statutory, June 30, 2000, To provide for an exception for support contractors.

Abstract: This would require certain contractors to assign their rights if they make an invention under a Cooperative Research and Development Agreement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, HCHB Room 4613, 14th & Pennsylvania Avenue, NW., Washington, DC 20230
Phone: 202 482-8010
Fax: 202 273-0607
Email: jraubits@doc.gov

RIN: 0692–AA18

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Final Rule Stage

641. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Other Significant

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: None

Abstract: This planned action has been overtaken by events.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/95	60 FR 41811
Interim Final Rule Comment Period End	09/13/95	
Final Action	10/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Jon Paugh, Director, Technology Competitiveness, Department of Commerce, Technology Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2100
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RIN: 0692–AA14

642. ACQUISITION AND PROTECTION OF FOREIGN RIGHTS IN INVENTIONS

Priority: Substantive, Nonsignificant

Legal Authority: EO 10096; 15 USC 3710d

CFR Citation: 37 CFR 101; 37 CFR 501

Legal Deadline: None

Abstract: On August 7, 1996, 37 CFR part 101 was abolished and 37 CFR part 501 expanded to cover foreign rights of inventions made by Federal employees.

We are evaluating the comments received on the interim final rule and will be making minor changes to the regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 40997
Interim Final Rule Effective	08/07/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, HCHB Room 4613, 14th & Pennsylvania Avenue, NW., Washington, DC 20230
Phone: 202 482-8010
Fax: 202 273-0607
Email: jraubits@doc.gov

RIN: 0692–AA15

643. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 209; PL 106-404

CFR Citation: 37 CFR 404.7

Legal Deadline: None

Abstract: This proposed rule implements Pub. L. 106-404, which shortens the comment period for exclusive licenses to government-owned inventions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	
Interim Final Rule Effective	07/00/01	
Interim Final Rule Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, HCHB Room 4613, 14th & Pennsylvania Avenue, NW., Washington, DC 20230
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Email: jraubits@doc.gov

RIN: 0692–AA17

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Completed Actions

644. PROMOTION OF PRIVATE SECTOR INDUSTRIAL TECHNOLOGY PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 1160 subpart A

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Philip J. Greene
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RIN: 0692–AA13

[FR Doc. 01–6920 Filed 05–11–01; 8:45 am]
BILLING CODE 3510–BW–S

Federal Register

Monday,
May 14, 2001

Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

The agenda portion of this document updates the report published on November 30, 2000, and includes regulations expected to be issued and under review over the next 12 months. The next agenda and regulatory plan are scheduled to be published in October 2001. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-604-6269, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, or e-mail: cushingr@dior.whs.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Mr. Dan Cragg, telephone 703-601-4722, or write to Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services, Suite 501, 1111 Jefferson Davis Highway, Arlington, Virginia 22202, or e-mail: dcragg@cd.whs.mil.

For general information on Office of the Secretary agenda items which are procurement-related, contact Ms. Kathleen Fenk, telephone 703-602-0296, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301-3062, or e-mail: fenkk@acq.osd.mil.

For general information on Department of the Army regulations, contact Mr. Gregory D. Showalter, telephone 703-806-3708, or write to the U.S. Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, 6000 6th Street, Stop 5603, Fort Belvoir, Virginia 22060-5603, or e-mail: showalterg@rmpo.belvoir.army.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. James Smyth, telephone 703-695-1370, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108, or e-mail: james.smyth@hqda.army.mil.

For general information on Department of the Navy regulations, contact Lieutenant Commander James L. Roth, telephone 703-604-8218, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or e-mail: roth.james@hq.navy.mil.

For general information on Department of the Air Force regulations, contact Ms. Janet A. Long, telephone 703-588-6189, or write to Department of the Air Force, HQ AF/SCTIR, 1250 Air Force Pentagon, Washington, DC 20330-1250, or e-mail: janet.long@pentagon.af.mil.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

To ease identification and to differentiate among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;
b. Paperwork Reduction Act of 1995;
c. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: February 26, 2001.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
645	Commercial Activities Program Procedures (DoD Instruction 4100.33)	0790-AG44
646	Personnel and General Claims	0790-AG47
647	Eligibility Requirements for Education of Minor Dependents in Overseas Areas (DoD Directive 1342.13)	0790-AG71
648	Eligibility Procedures for the Education of Minor Dependents in Overseas Areas (DoD Instruction 1342.XX)	0790-AG72
649	Implementation of Executive Order 13132 "Federalism"	0790-AG81
650	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	0790-AG83

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
651	Science, Mathematics, and Engineering (SME) Education	0790-AF27
652	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)	0790-AF59
653	Closed, Transferred, and Transferring Ranges Containing Military Munitions	0790-AG46
654	Personnel Security Policies for Granting Access to Classified Information	0790-AG54
655	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity	0790-AG55
656	National Policy on Technical Surveillance Countermeasures	0790-AG56
657	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)	0790-AG60
658	Financial Institutions on DoD Installations	0790-AG73
659	Procedures Governing Banks, Credit Unions, and Other Financial Institutions on DoD Installations (7000.14-R)	0790-AG74
660	Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	0790-AG76
661	Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects	0790-AG79
662	Revitalizing Base Closure Communities and Community Assistance	0790-AG80

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
663	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers) (DoD Instruction 1404.13)	0790-AF71
664	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns	0790-AF72
665	DLA Acquisition Regulation; Fuel Allocation Procedures	0790-AF73
666	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)	0790-AG21
667	Former Spouse Payments From Retired Pay; Amendment (DoD Directive 1340.16 and DoD 7000.14-R, Vol 7, Part B)	0790-AG22
668	University Research Initiative Support Program (URISP)	0790-AG26
669	Restoration Advisory Boards (RABs)	0790-AG31

DOD

Defense Acquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
670	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0750-AA07
671	Demilitarization (DFARS Case 92-D024)	0750-AA09
672	Acquisition of Commercial Items (DFARS Case 95-D712)	0750-AB00
673	DFARS Commercially Available Off-the-Shelf Items (DFARS Case 96-D316)	0750-AB40
674	Veterans Employment Emphasis (DFARS Case 97-D314)	0750-AC20
675	Anticompetitive Teaming (DFARS Case 1999-D028)	0750-AC98
676	Institutions of Higher Education (DFARS Case 1999-D303)	0750-AD05
677	Overseas Use of the Purchase Card in Contingency, Humanitarian, or Peacekeeping Operations (DFARS Case 2000-D019)	0750-AD16
678	Ocean Transportation by United States-Flag Vessels—Simplified Acquistion Threshold (DFARS Case 2000-D014)	0750-AD19
679	Change to Profit Policy (DFARS Case 2000-D018)	0750-AD21
680	Balance of Payments Program (DFARS Case 2000-D020)	0750-AD22
681	Domestic Source Restriction—Ball and Roller Bearings and Vessel Propellers (DFARS Case 2000-D301)	0750-AD33

Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identification Number
682	Contracting for Commercial Construction (DFARS Case 98-D013)	0750-AC44
683	Foreign Military Sales Customer Observation in Contract Preparation and Negotiations (DFARS Case 1999-D005)	0750-AC85
684	Material Management and Accounting System (DFARS Case 2000-D003)	0750-AC96
685	Closeout of Foreign Military Sales (FMS) Contract Line Items (DFARS Case 2000-D002)	0750-AD01
686	Pollution Control and Clean Air and Water (DFARS Case 2000-D004)	0750-AD13
687	DD Form 250, Material Inspection and Receiving Report (DFARS Case 2000-D008)	0750-AD14
688	North American Industry Classification System (NAICS) (DFARS Case 2000-D015)	0750-AD15
689	Profit Incentives To Produce Innovative New Technologies (DFARS Case 2000-D300)	0750-AD17
690	Polyacrylonitrile Carbon Fiber (DFARS Case 2000-D017)	0750-AD20
691	Authority To Indemnify Against Unusually Hazardous or Nuclear Risks (DFARS Case 2000-D025)	0750-AD48
692	Update of Small Business Specialist Functions (DFARS Case 2000-D021)	0750-AD49

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
693	Environmental Analysis of Army Actions	0702-AA34

Department of the Army—Completed Actions

Sequence Number	Title	Regulation Identification Number
694	Report on Use of Employees of Non-Federal Entities To Provide Services to the Department of the Army	0702-AA33

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
695	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA)	0710-AA42

DOD

U.S. Army Corps of Engineers—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
696	Regulatory Programs of the Corps of Engineers	0710-AA30
697	Regulatory Programs of the Corps of Engineers—Wetland Delineator Certification Program	0710-AA38
698	Regulatory Programs of the Corps of Engineers, Endangered Species Act; Scope of Analysis	0710-AA43
699	Flood Control Cost-Sharing Requirements Under the Ability To Pay Provisions	0710-AA44

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
700	Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy	0703-AA51

Department of the Navy—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
701	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48
702	Shipbuilding Capability Preservation Agreements	0703-AA50

Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identification Number
703	Disposition of Property	0703-AA60
704	Midway Islands Code	0703-AA61
705	Rules Applicable to the Public	0703-AA62
706	Rules Limiting Public Access to Particular Installations	0703-AA63
707	Naval Discharge Review Board	0703-AA64
708	Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972	0703-AA65
709	Assistance to and Support of Dependents; Paternity Complaints	0703-AA66
710	Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony	0703-AA67
711	Admiralty Claims	0703-AA68
712	Rules Applicable to the Public	0703-AA69

Department of the Air Force—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
713	Installation Entry Policy, Civil Disturbance Intervention and Disaster Assistance	0701-AA64

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
714	Appointment to the United States Air Force Academy	0701-AA58
715	Wake Island Code	0701-AA65

DOD

Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identification Number
716	Delivery of Personnel to U.S. Civilian Authorities for Trial	0701-AA60
717	Release, Dissemination, and Sale of Visual Information Materials	0701-AA62
718	Visual Information Documentation Program	0701-AA63
719	Personal Financial Responsibility	0701-AA66

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
720	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R)	0720-AA20
721	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Transplants (DoD 6010.8-R)	0720-AA28
722	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the CHAMPUS Dual Compensation/Conflict of Interest Provisions	0720-AA41
723	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Prosthetic Devices	0720-AA49
724	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Double Coverage	0720-AA50
725	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Double Coverage; Third-Party Recoveries	0720-AA52
726	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Establishment of an Appeals Process for TRICARE Claimcheck Denials	0720-AA56
727	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Methodology for Coverage of NIH-Sponsored Clinical Trials	0720-AA57
728	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Payments for Professional Services in Low-Access Locations	0720-AA58
729	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Enrollment	0720-AA59
730	TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Bonus Payments in Medically Underserved Areas	0720-AA60
731	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enhancement of Dental Benefits Under the TRICARE Retiree Dental Program	0720-AA61

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
732	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Family Member Dental Plan	0720-AA53

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

845. COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 32 CFR 164

Legal Deadline: None

Abstract: OMB issued a revised Circular No. A-76 supplemental handbook that contained streamlined cost comparison guidance. This rule updates DoD unique policies and assigns responsibility for commercial activities as contained in OMB Circular No. A-76, Revised Supplemental Handbook "Performance of Commercial Activities." This rule also removes 32 CFR part 169a.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: John Horsfall, Department of Defense, Office of the Secretary
Phone: 703 604-6735

RIN: 0790–AG44

DOD—OS

Proposed Rule Stage

646. PERSONNEL AND GENERAL CLAIMS

Priority: Other Significant

Legal Authority: 5 USC 5584; 10 USC 2575; 10 USC 2771; 10 USC 2774; 24 USC 420; 31 USC 3702; 32 USC 714; 32 USC 716; 37 USC 554

CFR Citation: 32 CFR 153

Legal Deadline: None

Abstract: The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding $1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members to DoD and the authority to waive employee debts to the employee's agency (non-DoD agencies may request an advisory opinion from DoD). The Secretary of Defense further delegated his claims settlement authority to the Defense Office of Hearings and Appeals (DOHA). This proposed rule seeks public comments on the procedures that DOHA proposes to use to implement these authorities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: Pending analysis of public comments and issuance of final regulations, DOHA intends to use the procedures and practices applicable to claims and waiver applications before the effective dates of the transfers of authority, June 30, 1996, and December 18, 1996, respectively, which are published in title 4, Code of Federal Regulations, chapter 1, subchapters C and G. See also 61 FR 50285, September 25, 1996; and 62 FR 5387, February 5, 1997.

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary
Phone: 703 696-8524

RIN: 0790–AG47

647. ELIGIBILITY REQUIREMENTS FOR EDUCATION OF MINOR DEPENDENTS IN OVERSEAS AREAS (DOD DIRECTIVE 1342.13)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 921-932; PL 105-261

CFR Citation: 32 CFR 83

Legal Deadline: None

Abstract: This rule updates eligibility requirements for the education of minor dependents in overseas areas. The updates reflect recent legislation in section 657 of Public Law 105-261 "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999,"October 17, 1998, which authorizes the Secretary of Defense to pay an educational allowance to defray the educational expense of certain overseas, space-required dependents.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gail Terres, Department of Defense, Office of the Secretary
Phone: 703 696-4545

RIN: 0790–AG71

648. ELIGIBILITY PROCEDURES FOR THE EDUCATION OF MINOR DEPENDENTS IN OVERSEAS AREAS (DOD INSTRUCTION 1342.XX)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 921-932; PL 105-261

CFR Citation: 32 CFR 84

Legal Deadline: None

Abstract: This rule implements policy, assigns responsibilities, and outlines the procedures including the recent education allowance legislation that allows sponsors the choice of schools (subject to the Department of State Standardized Regulation (DSSR) rates) in areas where DoD does not operate schools.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gail Terres, Department of Defense, Office of the Secretary
Phone: 703 696-4545

RIN: 0790–AG72

649. IMPLEMENTATION OF EXECUTIVE ORDER 13132 "FEDERALISM"

Priority: Substantive, Nonsignificant

Legal Authority: EO 13132

CFR Citation: 32 CFR 339

Legal Deadline: None

Abstract: This rule assigns responsibilities and prescribes procedures for the implementation of Executive Order 13132 "Federalism" within the Department of Defense. This rule establishes an accountable consultation process with State and local officials in the development of policies having Federalism implications. The Director, Administration and Management, was designated the Federalism official for the Department of Defense by Secretary of Defense memorandum. Accordingly, the Federalism official has established an accountable process for meaningful and timely intergovernmental consultation, will monitor compliance with the Executive order, and will provide certification of compliance and reports to the Office of Management and Budget. Costs attributed to the rulemaking and budgetary effects are negligible. The primary qualitative benefit from this rulemaking lies in establishing a regulatory and policymaking approach that respects the role of State and local governments by ensuring the opportunity for timely and meaningful consultation.

DOD—OS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Robert Cushing, Department of Defense, Office of the Secretary
Phone: 703 604-6269

RIN: 0790–AG81

650. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department of Defense proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department of Defense's title VI, section 504, and Age Discrimination Act regulations. The Department of Defense's proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jerry Anderson, Department of Defense, Office of the Secretary
Phone: 703 695-0105

RIN: 0790–AG83

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Final Rule Stage

651. SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 118

Legal Deadline: None

Abstract: This rule provides support to institutions of higher education through infrastructure assistance to historically black colleges and universities and minority institutions. It also defines minority institutions and establishes procedures for DoD programs and activities in science, mathematics, and engineering (SME) education.

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 65958
NPRM Comment Period End	02/15/94	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Keith Thompson, Department of Defense, Office of the Secretary
Phone: 703 696-0378
Email: thompsonk@acq.osd.mil

RIN: 0790–AF27

652. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1141(a)

CFR Citation: 32 CFR 206

Legal Deadline: Final, Statutory, April 5, 1994.

Abstract: The National Security Education Act provided for the National Security Education Program, the National Security Education Board, and a trust fund in the U.S. Treasury to provide all resources for the program. Under the Act, the Secretary is directed to carry out a program to award undergraduate scholarships, graduate fellowships, and grants to institutions of higher education. This rule is to inform those concerned with institutional grants to be offered under the 1994-1995 pilot grants program of the preliminary guidelines.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/05/94	59 FR 26116
Interim Final Rule	05/19/94	59 FR 26116
Interim Final Rule Comment Period End	07/18/94	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Steve Door, Department of Defense, Office of the Secretary
Phone: 703 696-1991

DOD—OS

Final Rule Stage

Email: nsep@nsep.policy.osd.mil

RIN: 0790–AF59

653. CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS

Priority: Other Significant

Legal Authority: 10 USC 172 et seq; 10 USC 2701 et seq; 42 USC 9601 et seq; EO 12580

CFR Citation: 32 CFR 178

Legal Deadline: None

Abstract: The proposal for this Department of Defense (DoD) rule addresses the unique explosives safety considerations associated with military munitions (including UXO) and the need for environmental protection, and it does so under DERP, 10 U.S.C. 172 et seq., and CERCLA authorities.

Timetable:

Action	Date	FR Cite
NPRM	09/26/97	62 FR 50796
Public Meetings Begin	10/22/97	
Public Meetings End	12/10/97	
NPRM Comment Period End	12/26/97	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Col John Selstrom, Department of Defense, Office of the Secretary, Room 3E787, Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Washington, DC 20301-3400
Phone: 703 697-5372

RIN: 0790–AG46

654. PERSONNEL SECURITY POLICIES FOR GRANTING ACCESS TO CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 147

Legal Deadline: None

Abstract: This rule is published to streamline security practices throughout the Government. Uniform adjudicative guidelines, investigative standards, and guidelines for temporary access are being established. This initiative will simplify security processing and allow the deserving public to obtain a security clearance in a faster, more efficient manner.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/98	63 FR 4572
Interim Final Rule Effective	03/24/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG54

655. NATIONAL POLICY ON RECIPROCITY OF FACILITIES AND GUIDELINES FOR IMPLEMENTATION OF RECIPROCITY

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 148

Legal Deadline: None

Abstract: This rule is published to make physical facilities available for reciprocal use in the storage of classified information. Once a facility has been certified as suitable for classified use by one organization, it may also be used by another for like purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4580
Interim Final Rule	01/30/98	63 FR 4580
Interim Final Rule Comment Period End	03/31/98	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG55

656. NATIONAL POLICY ON TECHNICAL SURVEILLANCE COUNTERMEASURES

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 149

Legal Deadline: None

Abstract: This rule is published to limit the use of technical surveillance countermeasures within the boundaries of the U.S. to cases where there is a reasonable showing of threat.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4582
Interim Final Rule	01/30/98	63 FR 4582
Interim Final Rule Comment Period End	03/31/98	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG56

657. IMPLEMENTATION OF THE WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996 (PUB. L. 104-307)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-307

CFR Citation: 32 CFR 171

Legal Deadline: Final, Statutory, September 30, 1998.

Abstract: The Wildfire Suppression Aircraft Transfer Act of 1996 states that, notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning October 1, 1996, and ending on September 30, 2000, sell certain aircraft and aircraft parts to persons or entities that contract with the Federal Government for the delivery of fire retardant by air to suppress wildfire. The Act states that, as soon as practicable after the date of the enactment of the Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the

Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. This interim final rule prescribes regulations to implement the Wildlife Suppression Aircraft Transfer Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/99	64 FR 29227
Interim Final Rule Effective	06/01/99	
Interim Final Rule Comment Period End	08/02/99	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Michael Stubblebine, Department of Defense, Office of the Secretary
Phone: 703 767-1537

RIN: 0790–AG60

658. FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 230; 32 CFR 231a

Legal Deadline: None

Abstract: This rule proposes to remove 32 CFR part 231a "Procedures Governing Banking Offices on DoD Installations" and revise 32 CFR part 230 "Financial Institutions on DoD Installations." This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services, and the logistics support provided.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43856
NPRM Comment Period End	10/12/99	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Tom Summers, Department of Defense, Office of the Secretary
Phone: 703 602-0299

RIN: 0790–AG73

659. PROCEDURES GOVERNING BANKS, CREDIT UNIONS, AND OTHER FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS (7000.14-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 231

Legal Deadline: None

Abstract: This rule reflects the transition of operational responsibilities for banks and credit unions from the Office of the Under Secretary of Defense (Comptroller) to the Defense Finance and Accounting Service to address changes in financial-related technology and the vehicles through which financial services are delivered (i.e., in-store banking, electronic banking (ATMs)) and incorporates the procedural guidance contained in other DoD documents.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43858
NPRM Comment Period End	10/12/99	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Tom Summers, Department of Defense, Office of the Secretary
Phone: 703 602-0299

RIN: 0790–AG74

660. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 113

CFR Citation: 32 CFR 22; 32 CFR 32

Legal Deadline: None

Abstract: This rulemaking is the Department of Defense portion of a multiple-agency action. The agencies are amending their rules implementing Office of Management and Budget (OMB) Circular A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." The amendments to the rules incorporate updated language in Circular A-110 requiring Federal awarding agencies to ensure that all data produced under awards subject to the Circular are made available to the public through the procedures established under the Freedom of Information Act (FOIA). OMB updated the Circular language in this way in October 1999, in response to a provision in Public Law 105-277. With this rule amendment to 32 CFR parts 22 and 32, the Department of Defense therefore will maintain policies on access to data produced under awards subject to Circular A-110 that are consistent with the policies of other Executive Departments and Agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Mark Herbst, Department of Defense, Office of the Secretary
Phone: 703 696-0372
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RIN: 0790–AG76

661. TRANSACTIONS OTHER THAN CONTRACTS, GRANTS, OR COOPERATIVE AGREEMENTS FOR PROTOTYPE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-65

CFR Citation: 32 CFR 3

Legal Deadline: None

Abstract: This rule requires inclusion of a clause as required by law, providing for Comptroller General access to records in transactions other than contracts, grants, or cooperative agreements for prototype projects that provide for total payments in excess of $5,000,000. This rule is published in the Federal Register for public comment because it directly impacts the public by prescribing conduct that must be followed by a party to, or entity that participates in the performance of, any such transaction.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/05/00	65 FR 35576
Interim Final Rule Effective	07/05/00	
Interim Final Rule Comment Period End	08/04/00	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Teresa Brooks, Department of Defense, Office of the Secretary
Phone: 703 695-4258
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RIN: 0790–AG79

662. REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-160

CFR Citation: 32 CFR 175

Legal Deadline: None

Abstract: On July 20, 1995, the Department of Defense published a final rule (60 FR 37337) implementing title XXIX of the National Defense Authorization Act for FY 1994 (Pub. L. 103-160) and the President's Five-Part Plan "A Program to Revitalize Base Closure Communities," July 2, 1993. This rule will amend the final rule to implement section 2821 of the FY 2000 Defense Authorization Act, which provides for the non-cost conveyance of base closure property for job creation purposes. This new authority is essential to the Department's base reuse program because it improves the conveyance process and enhances our ability to support local communities' economic recovery efforts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	
Interim Final Rule Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Federalism: Undetermined

Sectors Affected: None

Agency Contact: Patrick O'Brien, Department of Defense, Office of the Secretary
Phone: 703 604-5844
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RIN: 0790–AG80

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Long-Term Actions

663. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS) (DOD INSTRUCTION 1404.13)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 254

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/94	59 FR 7213
Interim Final Rule Effective	02/22/94	
Interim Final Rule Comment Period End	04/18/94	
Interim Final Rule Amendment Effective	11/25/94	
Interim Final Rule Amendment	06/08/95	60 FR 30188
Interim Final Rule Amendment Comment Period End	08/07/95	60 FR 30188
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Otto Thomas
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RIN: 0790–AF71

664. DLA ACQUISITION REGULATION; SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5419; 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21954
NPRM Comment Period End	06/27/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF72

665. DLA ACQUISITION REGULATION; FUEL ALLOCATION PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21956
NPRM Comment Period End	06/27/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF73

666. MILITARY ASSISTANCE FOR CIVIL DISTURBANCES (MACDIS) (DOD DIRECTIVE 3025.12)

Priority: Other Significant

CFR Citation: 32 CFR 215

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Agency Contact: G. Warren
Phone: 703 697-5454

RIN: 0790–AG21

667. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT (DOD DIRECTIVE 1340.16 AND DOD 7000.14-R, VOL 7, PART B)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fiti Malufau
Phone: 703 607-5061
Email: malufauf@cleveland.dfas.mil

RIN: 0790–AG22

668. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM (URISP)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 209

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11642
NPRM Comment Period End	05/01/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Evelyn Kent
Phone: 703 696-0368
Email: kente@acq.osd.mil

RIN: 0790–AG26

669. RESTORATION ADVISORY BOARDS (RABS)

Priority: Other Significant

CFR Citation: 32 CFR 202

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40764
NPRM Comment Period End	11/04/96	61 FR 40765
NPRM Extension of Comment Period	11/19/96	61 FR 58803
NPRM Comment Period End	01/20/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Marcia Read
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Email: readmw@acq.osd.mil

RIN: 0790–AG31

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

670. INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case Opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AA07

671. DEMILITARIZATION (DFARS CASE 92-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245; 48 CFR 252.245

Timetable:

Action	Date	FR Cite
Case Opened	07/22/92	
NPRM	03/16/94	59 FR 12223
NPRM Comment Period End	06/30/94	
NPRM	03/23/95	60 FR 15276
NPRM Comment Period End	05/22/95	
NPRM	06/05/97	62 FR 30832
NPRM Comment Period End	08/04/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0750–AA09

672. ACQUISITION OF COMMERCIAL ITEMS (DFARS CASE 95-D712)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 211.70; 48 CFR 212; 48 CFR 227.7102; 48 CFR 252.211; 48 CFR 252.212; 48 CFR 252.227

Timetable:

Action	Date	FR Cite
Case Opened	10/04/95	
Interim Final Rule	11/30/95	60 FR 61585
Interim Final Rule Effective	11/30/95	
Interim Final Rule Comment Period End	01/29/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 0750–AB00

673. DFARS COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS (DFARS CASE 96-D316)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212

Timetable:

Action	Date	FR Cite
Case Opened	08/28/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AB40

674. VETERANS EMPLOYMENT EMPHASIS (DFARS CASE 97-D314)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.104; 48 CFR 212.503; 48 CFR 213.110; 48 CFR 217.207; 48 CFR 222.1304; 48 CFR 252.209

Timetable:

Action	Date	FR Cite
Case Opened	10/17/97	
Interim Final Rule	03/11/98	63 FR 11850
Interim Final Rule Effective	03/11/98	
Interim Final Rule Comment Period End	05/11/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AC20

675. ANTICOMPETITIVE TEAMING (DFARS CASE 1999-D028)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 203.3

Timetable:

Action	Date	FR Cite
Case Opened	10/13/99	
NPRM	11/18/99	64 FR 63002
NPRM Comment Period End	01/18/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AC98

676. INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 1999-D303)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.470; 48 CFR 243; 48 CFR 252.209

Timetable:

Action	Date	FR Cite
Case Opened	10/06/99	
Interim Final Rule	01/13/00	65 FR 2056
Interim Final Rule Comment Period End	03/13/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AD05

677. OVERSEAS USE OF THE PURCHASE CARD IN CONTINGENCY, HUMANITARIAN, OR PEACEKEEPING OPERATIONS (DFARS CASE 2000-D019)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 213.301

Timetable:

Action	Date	FR Cite
Case Opened	06/26/00	
NPRM	09/20/00	65 FR 56858
NPRM Comment Period End	11/20/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AD16

678. OCEAN TRANSPORTATION BY UNITED STATES-FLAG VESSELS—SIMPLIFIED ACQUISTION THRESHOLD (DFARS CASE 2000-D014)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 247.573; 48 CFR 252.247

Timetable:

Action	Date	FR Cite
Case Opened	05/12/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AD19

679. CHANGE TO PROFIT POLICY (DFARS CASE 2000-D018)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 215.404

Timetable:

Action	Date	FR Cite
Case Opened	06/05/00	
NPRM	07/24/00	65 FR 45574
NPRM Comment Period End	09/22/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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Email: kathleen.fenk@osd.mil

RIN: 0750–AD21

680. BALANCE OF PAYMENTS PROGRAM (DFARS CASE 2000-D020)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225; 48 CFR 252.225

Timetable:

Action	Date	FR Cite
Case Opened	08/01/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AD22

681. DOMESTIC SOURCE RESTRICTION—BALL AND ROLLER BEARINGS AND VESSEL PROPELLERS (DFARS CASE 2000-D301)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212.5; 48 CFR 225.70; 48 CFR 252.225

Timetable:

Action	Date	FR Cite
Case Opened	08/16/00	
Interim Final Rule	12/13/00	65 FR 77827
Interim Final Rule Comment Period End	02/12/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AD33

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Completed Actions

682. CONTRACTING FOR COMMERCIAL CONSTRUCTION (DFARS CASE 98-D013)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212; 48 CFR 252.212

Completed:

Reason	Date	FR Cite
Case Closed	09/07/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AC44

683. FOREIGN MILITARY SALES CUSTOMER OBSERVATION IN CONTRACT PREPARATION AND NEGOTIATIONS (DFARS CASE 1999-D005)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7304

Completed:

Reason	Date	FR Cite
Final Action	10/25/00	65 FR 63837
Final Action Effective	10/25/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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Email: kathleen.fenk@osd.mil

RIN: 0750–AC85

684. MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM (DFARS CASE 2000-D003)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.72; 48 CFR 252.242

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 77832
Final Action Effective	12/13/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AC96

685. CLOSEOUT OF FOREIGN MILITARY SALES (FMS) CONTRACT LINE ITEMS (DFARS CASE 2000-D002)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.804

Completed:

Reason	Date	FR Cite
Final Action	09/12/00	65 FR 54985
Final Action Effective	09/12/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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Email: kathleen.fenk@osd.mil

RIN: 0750–AD01

686. POLLUTION CONTROL AND CLEAN AIR AND WATER (DFARS CASE 2000-D004)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 223; 48 CFR 209.405

Completed:

Reason	Date	FR Cite
Final Action	08/31/00	65 FR 52954
Final Action Effective	08/31/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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Email: kathleen.fenk@osd.mil

RIN: 0750–AD13

687. DD FORM 250, MATERIAL INSPECTION AND RECEIVING REPORT (DFARS CASE 2000-D008)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253; 48 CFR app F

Completed:

Reason	Date	FR Cite
Final Action	10/25/00	65 FR 63802
Final Action Effective	10/25/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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Email: kathleen.fenk@osd.mil

RIN: 0750–AD14

688. NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) (DFARS CASE 2000-D015)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 217; 48 CFR 219; 48 CFR 236; 48 CFR app I

Completed:

Reason	Date	FR Cite
Interim Final Rule Effective	10/01/00	
Interim Final Rule Comment Period End	10/16/00	
Final Action	12/13/00	65 FR 77831
Final Action Effective	12/13/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AD15

689. PROFIT INCENTIVES TO PRODUCE INNOVATIVE NEW TECHNOLOGIES (DFARS CASE 2000-D300)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 215

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 77829
Final Action Effective	12/13/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
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RIN: 0750–AD17

690. POLYACRYLONITRILE CARBON FIBER (DFARS CASE 2000-D017)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7103

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 77832
Final Action Effective	12/13/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
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RIN: 0750–AD20

691. • AUTHORITY TO INDEMNIFY AGAINST UNUSUALLY HAZARDOUS OR NUCLEAR RISKS (DFARS CASE 2000-D025)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 250.70; 48 CFR 250.201

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to reflect the authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics to indemnify against unusually hazardous or nuclear risks.

Timetable:

Action	Date	FR Cite
Case Opened	11/01/00	
Final Action	12/13/00	65 FR 77835
Final Action Effective	12/13/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Procurement Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: kathleen.fenk@osd.mil

RIN: 0750–AD48

692. • UPDATE OF SMALL BUSINESS SPECIALIST FUNCTIONS (DFARS CASE 2000-D021)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 219.201

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to update policy pertaining to the functions of small business specialists at the Department of Defense contracting activities. The revisions provide for small business specialist review of all proposed acquisitions exceeding $10,000 in value.

Timetable:

Action	Date	FR Cite
Case Opened	08/21/00	
Final Action	10/25/00	65 FR 63806
Final Action Effective	10/25/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Procurement Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: kathleen.fenk@osd.mil

RIN: 0750–AD49

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Final Rule Stage

693. • ENVIRONMENTAL ANALYSIS OF ARMY ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321

CFR Citation: 32 CFR 651

Legal Deadline: None

Abstract: This rule revises policies and procedures for assessing the effect of Army actions (32 CFR 651). The revision is intended to streamline portions of the Army enviornmental actions process and strives to meet the spirit of the National Performance Review (NPR) and Executive Order 12861 "Elimination of One-Half of Executive Branch Internal Regulations."

Timetable:

Action	Date	FR Cite
NPRM	09/07/00	65 FR 54348
NPRM Comment Period End	11/06/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, MS 5603, U.S. Army Records Mgmt and Declass Agency, Attn: TAPC-PDD-RP, 6000 6th Street, Fort Belvoir, VA 22060-5603
Phone: 703 693-8440
Email: showalterg@rmpo.belvoir.army.mil

RIN: 0702–AA34

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Completed Actions

694. REPORT ON USE OF EMPLOYEES OF NON-FEDERAL ENTITIES TO PROVIDE SERVICES TO THE DEPARTMENT OF THE ARMY

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	12/26/00	65 FR 81357
Final Action Effective	12/26/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory D. Showalter
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Email: showalterg@rmpo.belvoir.army.mil

RIN: 0702–AA33

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

695. ENVIRONMENTAL QUALITY; PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq; 40 CFR 1500.6

CFR Citation: 33 CFR 230

Legal Deadline: None

Abstract: The purpose of this regulatory revision is to clarify and provide additional guidance for Corps NEPA requirements for activities at Federal water resource development projects and lands.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	11/00/01	
Final Action	02/00/02	
Final Action Effective	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Forrester Einarsen, Biologist, Department of Defense, U.S. Army Corps of Engineers, Office of Environmental Policy (CECW-AR-E), 7701 Telegraph Road, Alexandria, VA 22315-3861
Phone: 703 428-7081

RIN: 0710–AA42

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Long-Term Actions

696. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 320 to 330

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Sam Collinson
Phone: 202 761-0199

RIN: 0710–AA30

697. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS—WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328; 33 CFR 333

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Michael D. Smith

DOD—COE

Long-Term Actions

Phone: 202 761-0201

RIN: 0710–AA38

698. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, ENDANGERED SPECIES ACT; SCOPE OF ANALYSIS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 325

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Sam Collinson
Phone: 202 761-0199

RIN: 0710–AA43

699. FLOOD CONTROL COST-SHARING REQUIREMENTS UNDER THE ABILITY TO PAY PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 241

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Harry M. Shoudy
Phone: 202 761-1977

RIN: 0710–AA44

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Final Rule Stage

700. POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 44502

CFR Citation: 32 CFR 775 (Revision)

Legal Deadline: None

Abstract: The Department of the Navy is revising its regulations, which establish the responsibilities and procedures for complying with the National Environmental Policy Act (NEPA). This revision clarifies when certain Department of the Navy actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA documentation requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37069
NPRM Comment Period End	09/07/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Egeland, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Installations and Environment), 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 703 588-6671

RIN: 0703–AA51

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Long-Term Actions

701. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 766

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Beaton
Phone: 703 604-7707
Fax: 703 604-6969

RIN: 0703–AA48

702. SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5231 (New)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66826
Interim Final Rule Effective	12/22/97	
Interim Final Rule Comment Period End	02/20/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarence Belton
Phone: 703 602-2807
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RIN: 0703–AA50

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Completed Actions

703. DISPOSITION OF PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 736

Completed:

Reason	Date	FR Cite
Final Action	11/13/00	65 FR 67628

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Roth
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RIN: 0703–AA60

704. MIDWAY ISLANDS CODE

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 762

Completed:

Reason	Date	FR Cite
Final Action	09/01/00	65 FR 53171

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0703–AA61

705. RULES APPLICABLE TO THE PUBLIC

Priority: Info./Admin./Other

CFR Citation: 32 CFR 765 (Revised)

Completed:

Reason	Date	FR Cite
Final Action	09/01/00	65 FR 53171

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Roth
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Email: roth.james@hq.navy.mil

RIN: 0703–AA62

706. RULES LIMITING PUBLIC ACCESS TO PARTICULAR INSTALLATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 770, subparts A, B, F, G

Completed:

Reason	Date	FR Cite
Final Action	09/05/00	65 FR 53591

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Roth
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RIN: 0703–AA63

707. • NAVAL DISCHARGE REVIEW BOARD

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 1553

CFR Citation: 36 CFR 724

Legal Deadline: None

Abstract: The Department of the Navy is making amendments to it regulations governing the Naval Discharge Review Board.

Timetable:

Action	Date	FR Cite
Final Action	10/19/00	65 FR 62615

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR James L. Roth JAGC, USN, Department of Defense, Department of the Navy, Suite 3000, Head, Regulations/Leg. FOIA/Privacy Act Branch, Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE, Washington, DC 20374-5066
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RIN: 0703–AA64

708. • CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Priority: Routine and Frequent

Legal Authority: 33 USC 1605

CFR Citation: 36 CFR 706

Legal Deadline: None

Abstract: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that certain entries in 32 CFR 706 are no longer applicable or that certain administrative corrections are required. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

Timetable:

Action	Date	FR Cite
Final Action	12/20/00	65 FR 79740

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR James L. Roth JAGC, USN, Department of Defense, Department of the Navy, Suite 3000, Head, Regulations/Leg. FOIA/Privacy Act Branch, Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE, Washington, DC 20374-5066
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RIN: 0703–AA65

709. • ASSISTANCE TO AND SUPPORT OF DEPENDENTS; PATERNITY COMPLAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 5013; 37 USC 101; EO 11157

CFR Citation: 36 CFR 733

Legal Deadline: None

Abstract: The Department of the Navy is amending its regulations regarding assistance to and support of family members and handling of paternity complaints. Significant administrative changes were made to Marine Coprs specific provisions to reflect the language found in the Marine Corps Legal Administration Manual (LEGADMINMAN).

Timetable:

Action	Date	FR Cite
Final Action	10/19/00	65 FR 62616

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

DOD—NAVY

Completed Actions

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RIN: 0703–AA66

710. • GARNISHMENT OF PAY OF NAVAL MILITARY AND CIVILIAN PERSONNEL FOR COLLECTION OF CHILD SUPPORT AND ALIMONY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 659

CFR Citation: 36 CFR 734

Legal Deadline: None

Abstract: The Department of the Navy is updating its regulation on garnishment of pay of naval military and civilian personnel for collection of child support and alimony.

Timetable:

Action	Date	FR Cite
Final Action	10/19/00	65 FR 62618

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR James L. Roth JAGC, USN, Department of Defense, Department of the Navy, Suite 3000, Head, Regulations/Leg. FOIA/Privacy Act Branch, Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE, Washington, DC 20374-5066
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RIN: 0703–AA67

711. • ADMIRALTY CLAIMS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 10 USC 5013; 10 USC 7621; 10 USC 7622; 10 USC 7623

CFR Citation: 36 CFR 752

Legal Deadline: None

Abstract: The Department of the Navy has updated its Admiralty Claims regulations to reflect administrative changes in the name and address of the Division, to correct and update citations to the United States Code, and to remove obsolete references.

Timetable:

Action	Date	FR Cite
Final Action	10/13/00	65 FR 60861

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR James L. Roth JAGC, USN, Department of Defense, Department of the Navy, Suite 3000, Head, Regulations/Leg. FOIA/Privacy Act Branch, Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE, Washington, DC 20374-5066
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RIN: 0703–AA68

712. • RULES APPLICABLE TO THE PUBLIC

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 10 USC 133; 10 USC 5031; 10 USC 6011; 10 USC 7881

CFR Citation: 32 CFR 765

Legal Deadline: None

Abstract: This rule sets forth administrative changes to the rules applicable to the public affecting information on the redelegation of authority to grant written permission to use the United States Marine Corps emblem, name, or initials and changes to mileage allowances on rewards for the return of Navy and Marine Corps absentees.

Timetable:

Action	Date	FR Cite
Final Action	10/19/00	65 FR 62619

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR James L. Roth JAGC, USN, Department of Defense, Department of the Navy, Suite 3000, Head, Regulations/Leg. FOIA/Privacy Act Branch, Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE, Washington, DC 20374-5066
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RIN: 0703–AA69

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Proposed Rule Stage

713. INSTALLATION ENTRY POLICY, CIVIL DISTURBANCE INTERVENTION AND DISASTER ASSISTANCE

Priority: Info./Admin./Other

Legal Authority: 10 USC 332-333, 50 USC 797

CFR Citation: 32 CFR 808 (previously 32 CFR 809a)

Legal Deadline: None

Abstract: This rule prescribes the installation commanders authority for enforcing orders within or near Air Force installations and controlling entry. It also provides for guidance for use of military personnel in controlling civil disturbances and in supporting disaster relief operations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Walter Filipak, SMSgt, Department of Defense, Department of the Air Force, HQ AFSFC/SFO, 1720 Patrick Street, Lackland AFB, TX 78236-5226
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RIN: 0701–AA64

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Final Rule Stage

714. APPOINTMENT TO THE UNITED STATES AIR FORCE ACADEMY

Priority: Info./Admin./Other

Legal Authority: 10 USC 903; 10 USC 8013

CFR Citation: 32 CFR 901

Legal Deadline: None

Abstract: This rule provides instructions on processing nominations and appointments to the United States Air Force Academy.

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63485
NPRM Comment Period End	01/30/98	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Parker, Department of Defense, Department of the Air Force, HQ USAFA RRA, 1040 Air Force Pentagon, Washington, DC 20330-1040
Phone: 703 697-7116

RIN: 0701–AA58

715. • WAKE ISLAND CODE

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Legal Authority: 74 Stat 424, PL 86-6244; EO 11048

CFR Citation: 32 CFR 935 (Revised)

Legal Deadline: None

Abstract: Revises and updates the Code to reflect current and anticipated use of Wake Island. Provides regulations for conduct not otherwise provided by law and provides a judicial system to enforce those requirements. Delegates authority to the Commander of Pacific Air Forces to perform most of the functions of civil administration.

Timetable:

Action	Date	FR Cite
NPRM	10/25/00	65 FR 63826
NPRM Comment Period End	12/26/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This is the information for legal authority as it is generally listed. There is some duplication of information.

Sec. 48, Act of 12 July 1960; 74 Stat. 424, Pub. L. 86-624, E.O. 11048, Sept. 1, 1962, 27 FR 8851; agreement between Dept. of Interior and Department of the Air Force, dated June 19, 1972, 37 FR 12255, and Secretary of the Air Force, Order 111.1, dated April 26, 1999.

Agency Contact: Philip Sheuerman, Associate General Counsel, Department of Defense, Department of the Air Force, Room 4C921, SAF/GCN, 1740 Air Force Pentagon, Washington, DC 20330-1740
Phone: 703 695-4691
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RIN: 0701–AA65

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

716. DELIVERY OF PERSONNEL TO U.S. CIVILIAN AUTHORITIES FOR TRIAL

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 884 (Revision)

Completed:

Reason	Date	FR Cite
Final Rule	10/27/00	65 FR 64348

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Jaster
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Email: thomas.jaster@pentagon.af.mil

RIN: 0701–AA60

717. RELEASE, DISSEMINATION, AND SALE OF VISUAL INFORMATION MATERIALS

Priority: Info./Admin./Other

CFR Citation: 32 CFR 811 (Revision)

Completed:

Reason	Date	FR Cite
Final Rule	10/30/00	65 FR 64619

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ray Dabney
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Email: rdabney@pentagon.af.mil

RIN: 0701–AA63

718. VISUAL INFORMATION DOCUMENTATION PROGRAM

Priority: Info./Admin./Other

CFR Citation: 32 CFR 813 (previously 811a) (Revision)

Completed:

Reason	Date	FR Cite
Final Rule	10/30/00	65 FR 64620

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ray Dabney
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Email: rdabney@pentagon.af.mil

RIN: 0701–AA62

719. • PERSONAL FINANCIAL RESPONSIBILITY

Priority: Info./Admin./Other

Legal Authority: 10 USC 8013; 15 USC 1073; 42 USC 659; 42 USC 665

CFR Citation: 32 CFR 818 (Removed)

Legal Deadline: None

Abstract: Established Air Force policy governing alleged delinquent financial obligations.

Timetable:

Action	Date	FR Cite
Withdrawn	12/27/00	65 FR 81740

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HQ AFPC/DPSFM requested removal from the CFRs. This was last published in the Federal Register on June 30, 1988. Previous publication was published without RIN.

Agency Contact: MSgt Pamela Martin, Department of Defense, Department of the Air Force, Suite 37, HQ AFPC/DPSFM, 550 C Street West, Randolph AFB, TX 78148
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RIN: 0701–AA66

DOD—AF

Completed Actions

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

720. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes a new payment method for ambulatory care (other than ambulatory surgery) provided by hospitals to CHAMPUS beneficiaries, under which payment amounts would be based on the cost of the service rather than on the billed charge, as at present.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA20

721. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRANSPLANTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes coverage for heart-lung, single or double lung, and combined liver-kidney transplantation for those patients who meet specific patient selection criteria; establishes preauthorization requirements for heart, liver, heart-lung, single or double lung, combined liver-kidney transplantation, high dose chemotherapy and stem cell transplantation, and air ambulance (in conjunction with lung or heart-lung transplantation preauthorizations); extends coverage of cardiac rehabilitation to those patients who have had heart valve surgery, heart or heart-lung transplantation; authorizes an exception to the ambulance benefit to allow organ transplantation candidates to be transported to a certified CHAMPUS organ transplant center instead of the closest appropriate facility; authorizes pulmonary rehabilitation for beneficiaries whose conditions are considered appropriate for pulmonary rehabilitation according to guidelines adopted by the Director, OCHAMPUS, or a designee; recognizes certain transplant centers that meet specific criteria as an authorized CHAMPUS institutional provider; and clarifies the CHAMPUS position on consortium programs for organ transplantation to allow individual hospitals which are members of a consortium to use the combined (pooled) experience and survival data of the consortium team to meet CHAMPUS requirements for authorization as a certified CHAMPUS organ transplant center.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14403
NPRM Comment Period End	05/16/95	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Cynthia Speight, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA28

722. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE CHAMPUS DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: Currently, any individual who is a civilian employee of the United States Government cannot be authorized by CHAMPUS as a provider of medical services. We propose to provide an exception to this prohibition to permit these individuals to be authorized CHAMPUS providers if they meet three conditions. First, they must be employed by the Government agency on a part-time basis, that is, less than twenty (20) hours per week. Second, the agency must certify that unique or special circumstances detrimental to the delivery of quality health care exist that can be overcome only by employing part-time, non-Government physicians. Third, the agency and the physician must certify that they understand and have taken appropriate measures to avoid violation of Standards of Conduct, dual compensation, and conflict of interest requirements including protection against referral of patients to the employee's private practice.

Timetable:

Action	Date	FR Cite
NPRM	08/26/97	62 FR 45196
NPRM Comment Period End	10/27/97	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA41

723. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROSTHETIC DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 702 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85), which authorizes purchase of prosthetic devices, as determined by the Secretary of Defense, to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease. The Act changes the existing limited provisions for prosthetic devices, expands coverage to include cost sharing of other prostheses; e.g., noses, ears, and fingers.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/20/99	64 FR 45453
Interim Final Rule	08/20/99	64 FR 45453
Interim Final Rule Comment Period End	10/19/99	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Margaret Brown, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA49

724. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); DOUBLE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule clarifies our double coverage policy for non-institutional claims for beneficiaries with primary health insurance. TRICARE network, non-network but participating, and non-participating providers are all reimbursed differently under current procedures. This has had the unintended effect of discouraging TRICARE network participation since non-network but participating providers receive the most favorable treatment with respect to double coverage calculations. The Department proposes to revise double coverage reimbursement calculations by reimbursing all providers up to 100 percent of the CHAMPUS Maximum Allowable Charge after the primary health insurance has paid or 115 percent for nonparticipating providers.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32451
NPRM Comment Period End	08/16/99	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: LTC Kathleen Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA50

725. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; DOUBLE COVERAGE; THIRD-PARTY RECOVERIES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 711 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, which allows the Secretary of Defense to authorize certain CHAMPUS/TRICARE claims to be paid, even though other health insurance may be primary payer, with authority to collect from the other health insurance (third-party payer) the CHAMPUS/TRICARE costs incurred on behalf of the beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	10/19/99	64 FR 56283
NPRM Comment Period End	12/20/99	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Robert Shepherd, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 676-3705

RIN: 0720–AA52

726. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ESTABLISHMENT OF AN APPEALS PROCESS FOR TRICARE CLAIMCHECK DENIALS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 714 of the National Defense Authorization Act for FY 1999, which requires the establishment of an appeals process for denials by TRICARE Claimcheck (TCC) or any similar software system. This rule enhances the current appeals process by adding an additional level of appeal conducted at the TRICARE Management Activity (TMA) and by codifying the entire process in this part.

Timetable:

Action	Date	FR Cite
NPRM	01/13/00	65 FR 2085
NPRM Comment Period End	03/13/00	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Sectors Affected: None

Agency Contact: Donald Wagner, Department of Defense, Office of Assistant Secretary for Health Affairs

Phone: 303 676-3411

RIN: 0720–AA56

727. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); METHODOLOGY FOR COVERAGE OF NIH-SPONSORED CLINICAL TRIALS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule modifies the general prohibition against CHAMPUS cost-sharing of unproven drugs, devices, and medical treatments or procedures by adding a provision allowing a waiver of the prohibition in connection with clinical trials sponsored by the National Institutes of Health, if it is determined that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments.

Timetable:

Action	Date	FR Cite
NPRM	05/31/00	65 FR 34627
NPRM Comment Period End	07/31/00	
Final Rule	01/31/01	66 FR 8365
Final Rule Withdrawn	02/07/01	66 FR 9199
Final Rule Effective	03/02/01	
Final Action	06/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Sectors Affected: None

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA57

728. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PAYMENTS FOR PROFESSIONAL SERVICES IN LOW-ACCESS LOCATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 716 of the National Defense Authorization Act for Fiscal Year 2000, which allows the Secretary of Defense to authorize higher provider reimbursement than normally allowable, with certain limitations, when necessary to ensure an adequate TRICARE Prime network of qualified providers. This rule also describes additional actions which may be taken under section 731 of the National Defense Authorization Act for Fiscal Year 1996 when TRICARE beneficiaries face very severe limitations on access to needed health care services. In such instances, the Assistant Secretary of Defense for Health Affairs may authorize higher TRICARE payments than would normally be allowable for professional services in a designated location.

Timetable:

Action	Date	FR Cite
NPRM	05/30/00	65 FR 34423
NPRM Comment Period End	07/31/00	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Sectors Affected: None

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA58

729. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PRIME ENROLLMENT

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule provides for automatic enrollment of certain family members of E-4 and below in TRICARE Prime. When affected family members reside in a catchment area of a military medical treatment facility offering TRICARE Prime, the family members will be automatically enrolled in TRICARE Prime and will choose or be assigned a Primary Care Manager located in the military medical treatment facility. Such automatic enrollment may be terminated at any time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/28/00	65 FR 39804
Interim Final Rule Effective	07/28/00	
Interim Final Rule Comment Period End	08/28/00	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: LTC Kathleen Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA59

730. TRICARE; CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); BONUS PAYMENTS IN MEDICALLY UNDERSERVED AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements a bonus payment, in addition to the amount normally paid under the allowable charge methodology, to providers in medically underserved areas. For purposes of this rule, medically underserved areas are the same as those determined by the Secretary of Health and Human Services for the Medicare program. Such bonus payments shall be equal to the bonus payments authorized by Medicare, except as necessary to recognize any unique or distinct characteristics or requirements of the CHAMPUS program and as described in instructions issued by the Director, OCHAMPUS. Due to the urgency for such bonus payments in medically underserved areas to alleviate problems by lower payments, the interim final rulemaking process has been utilized.

DOD—DODOASHA **Final Rule Stage**

This rule promotes a reimbursement enhancement to a limited number of providers designed to increase CHAMPUS beneficiary access to care, which also supports the use of the interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/00	65 FR 41002
Interim Final Rule Effective	08/02/00	
Interim Final Rule Comment Period End	09/01/00	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Stan Regensberg, Department of Defense, Office of Assistant Secretary for Health Affairs, Washington, DC
Phone: 303 676-3742

RIN: 0720–AA60

731. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ENHANCEMENT OF DENTAL BENEFITS UNDER THE TRICARE RETIREE DENTAL PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 704 of the National Defense Authorization Act for Fiscal Year 2000 to allow additional benefits under the retiree dental insurance plan for Uniformed Services retirees and their family members that may be comparable to those under the Dependents Dental Program. The Department of Defense is publishing this rule as an interim final rule in order to comply timely with the desire of Congress to meet the needs of retirees for additional dental coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/00	65 FR 49491
Interim Final Rule Effective	08/14/00	
Interim Final Rule Comment Period End	10/13/00	
Final Action	04/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Linda Winter, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 676-3682

RIN: 0720–AA61

DEPARTMENT OF DEFENSE (DOD) **Completed Actions**

Office of Assistant Secretary for Health Affairs (DODOASHA)

732. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE FAMILY MEMBER DENTAL PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	10/23/00	65 FR 63202
Final Action Effective	02/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Brian Grassi
Phone: 303 676-3496

RIN: 0720–AA53

[FR Doc. 01–5921 Filed 05–11–01; 8:45 am]
BILLING CODE 5001–10–S

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION 1985

Federal Register

Monday,
May 14, 2001

Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations. The agenda is issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Questions or comments related to preparation of this agenda should be directed to Sandy Jablonski, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 6E107, FB-6, 400 Maryland Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, OMB, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda.

The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the Secretary's Principles for Regulating listed in the Department's regulatory plan, the Department of Education is committed to regulating that improves the quality and equality of services to its customers, learners of all ages. ED will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on regulations listed in this agenda that are designated for periodic review under the Regulatory Flexibility Act (5 U.S.C. 610).

We will also review all regulations that are published to ensure that, if appropriate, those regulations support the National Education Goals.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item in the agenda. The Department may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

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http://www.access.gpo.gov/nara/index.html

Dated: March 9, 2001.

Steven Y. Winnick,

Deputy General Counsel.

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
733	Student Rights in Research, Experimental Programs, and Testing	1880-AA66

ED

Departmental Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
734	Protection of Human Subjects (Classified Research)	1880-AA79

Office of the Chief Financial Officer—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
735	Governmentwide Requirement for Drug-Free Workplace (Financial Assistance) and Governmentwide Debarment and Suspension (Nonprocurement)	1890-AA07

Office of the Chief Financial Officer—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
736	Education Department General Administrative Regulations (EDGAR)	1890-AA02

Office of the Chief Financial Officer—Completed Actions

Sequence Number	Title	Regulation Identification Number
737	Education Department General Administrative Regulations (EDGAR)	1890-AA00

Office for Civil Rights—Completed Actions

Sequence Number	Title	Regulation Identification Number
738	Conforming Amendments to the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Disability, Sex, and Age Under the Civil Rights Restoration Act of 1987	1870-AA10

Office of Elementary and Secondary Education—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
739	Reauthorization of the Elementary and Secondary Education Act of 1965 **(Section 610 Review)**	1810-AA91

Office of Student Financial Assistance—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
740	Performance Standards for Retention of Electronic Records in the Student Financial Assistance Programs	1845-AA21

ED

Office of Student Financial Assistance—Completed Actions

Sequence Number	Title	Regulation Identification Number
741	Institutional Eligibility; Student Assistance General Provisions; Federal Work-Study Program; William D. Ford Federal Direct Loan Program; Federal Pell Grant Program (General Provisions)	1845-AA19
742	Student Assistance General Provisions; Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan Program; Federal Pell Grant Program (Cohort Default Rates)	1845-AA17
743	Federal Perkins Loan Program; Federal Family Education Loan (FFEL) Program; and William D. Ford Federal Direct Loan Program (Death and Disability)	1845-AA12
744	Federal Perkins Loan Program	1845-AA15
745	Federal Family Education Loan (FFEL) Program and William D. Ford Federal Direct Loan Program (Teacher Loan Forgiveness)	1845-AA11
746	Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan Program (Guaranty Agencies)	1845-AA16
747	Special Leveraging Educational Assistance Partnership Program	1845-AA18

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
748	Early Intervention Program for Infants and Toddlers with Disabilities	1820-AB53

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identification Number
749	Assistance to States for the Education of Children With Disabilities	1820-AB51
750	The State Vocational Rehabilitation Services Program	1820-AB50
751	The State Vocational Rehabilitation Services Program (Employment Outcomes)	1820-AB52

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**
Departmental Management (EDMAN)

733. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 98

Legal Deadline: None

Abstract: These regulations are needed to implement section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. 1232h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, Room 2W101, 400 Maryland Avenue SW, FB-6, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA66

DEPARTMENT OF EDUCATION (ED) — **Long-Term Actions**
Departmental Management (EDMAN)

734. PROTECTION OF HUMAN SUBJECTS (CLASSIFIED RESEARCH)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 300v-1(b)

CFR Citation: 34 CFR 97

Legal Deadline: None

Abstract: These amendments would revise existing regulations to eliminate certain waiver and expedited review provisions by adopting additional protection pertaining to human subjects in classified research.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Helene Deramond, Department of Education, Room 3652, ROB-3, 400 Maryland Avenue SW, Washington, DC 20202
Phone: 202 260-5353

RIN: 1880–AA79

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**
Office of the Chief Financial Officer (OCFO)

735. • GOVERNMENTWIDE REQUIREMENT FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE) AND GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Other Significant

Legal Authority: EO 12549; EO 12689; 20 USC 1082; 20 USC 1094; 20 USC 1221e-3; 20 USC 3474; sec 2455, PL 103-355, 108 Stat 3243 at 3327; ...

CFR Citation: 34 CFR 84; 34 CFR 85; 34 CFR 668; 34 CFR 682

Legal Deadline: None

Abstract: These regulations are part of a common rule amending the Governmentwide nonprocurement common rule for debarment and suspension and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988. These regulations clarify the relationship between debarment and suspension actions and limitation, suspension, and termination actions under title IV of the HEA. Additionally, these regulations set the dollar threshold on prohibited lower-tier procurement transactions with excluded persons at $25,000. These regulations also relocate the Drug-Free Workplace Act regulations in a separate part from the debarment and suspension regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter Wathen-Dunn, General Attorney, Department of Education, Office of the Chief Financial Officer, Room 6E211, 400 Maryland Avenue SW, FB-6, Washington, DC 20202-2243
Phone: 202 401-6700

RIN: 1890–AA07

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**
Office of the Chief Financial Officer (OCFO)

736. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These regulations are needed to implement features of the Department's streamlined discretionary grants process. These regulations will establish the procedures the Secretary may use for reviewing and selecting applications submitted for new grants under discretionary grant programs. New review and selection procedures will be established and defined including a new policy to give special consideration to novice applicants.

Timetable:

Action	Date	FR Cite
NPRM	04/17/00	65 FR 20698
NPRM Comment Period End	06/30/00	65 FR 37090
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: NPRM published under RIN 1880-AA02.

Agency Contact: Valerie A. Sinkovits, Management Analyst, Department of Education, Office of the Chief Financial Officer, Room 3652, ROB-3, 400 Maryland Avenue SW, Washington, DC 20202-4248
Phone: 202 708-7568
Fax: 202 205-0667
Email: valerie.sinkovits@ed.gov

RIN: 1890–AA02

DEPARTMENT OF EDUCATION (ED)
Office of the Chief Financial Officer (OCFO)

Completed Actions

737. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 77

Completed:

Reason	Date	FR Cite
Withdrawn	02/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tony Cavataio
Phone: 202 708-7802
Fax: 800 877-8339
Email: tony.cavataio@ed.gov

RIN: 1890–AA00

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Completed Actions

738. CONFORMING AMENDMENTS TO THE REGULATIONS GOVERNING NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, DISABILITY, SEX, AND AGE UNDER THE CIVIL RIGHTS RESTORATION ACT OF 1987

Priority: Other Significant

CFR Citation: 34 CFR 100; 34 CFR 104; 34 CFR 106; 34 CFR 110

Completed:

Reason	Date	FR Cite
Final Action	11/13/00	65 FR 68050

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeanette J. Lim
Phone: 202 205-5557

RIN: 1870–AA10

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Long-Term Actions

739. REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 6301 to 6514

CFR Citation: 34 CFR 299

Legal Deadline: None

Abstract: These regulations would implement changes made by the reauthorization of the Elementary and Secondary Education Act of 1965. This action is a notice that ED is reviewing the regulations in 34 CFR chapter II under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). The purpose of this review is to determine if these regulations should be continued without change, or should be amended or rescinded, to minimize any significant economic impact upon a substantial number of small entities. We are requesting comment on the continued need for the regulations; the complexity of the regulations; the extent to which they overlap, duplicate, or conflict with other Federal, State, or local government rules; and the degree to which technology, economic conditions, or other relevant factors have changed since the regulations were promulgated.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William A. Wooten, Office of the Assistant Secretary, Department of Education, Office of Elementary and Secondary Education, Room 3W308, 400 Maryland Avenue SW, Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA91

DEPARTMENT OF EDUCATION (ED)
Office of Student Financial Assistance (OSFA)

Proposed Rule Stage

740. • PERFORMANCE STANDARDS FOR RETENTION OF ELECTRONIC RECORDS IN THE STUDENT FINANCIAL ASSISTANCE PROGRAMS

Priority: Other Significant

Legal Authority: 15 USC 7001(d)

CFR Citation: 34 CFR 50

Legal Deadline: None

Abstract: These regulations are needed to set performance standards regarding the accuracy, integrity, and accessibility of electronic records that would apply to lenders, guaranty agencies, schools, and other parties administering any student financial assistance program authorized under title IV of the Higher Education Act of 1965, as amended (HEA).

Timetable:

Action	Date	FR Cite
ANPRM	03/02/01	66 FR 13034
ANPRM Comment Period End	03/19/01	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gail McLarnon, Department of Education, Office of Student Financial Assistance, Room 8062, 1990 K Street NW, Washington, DC 20006-8540
Phone: 202 219-7048

RIN: 1845–AA21

ED—OSFA

Proposed Rule Stage

DEPARTMENT OF EDUCATION (ED)
Office of Student Financial Assistance (OSFA)

Completed Actions

741. INSTITUTIONAL ELIGIBILITY; STUDENT ASSISTANCE GENERAL PROVISIONS; FEDERAL WORK-STUDY PROGRAM; WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM; FEDERAL PELL GRANT PROGRAM (GENERAL PROVISIONS)

Priority: Other Significant

CFR Citation: 34 CFR 600; 34 CFR 668; 34 CFR 675; 34 CFR 682; 34 CFR 685; ...

Completed:

Reason	Date	FR Cite
Final Action	11/01/00	65 FR 65662

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Washington
Phone: 202 260-9321

RIN: 1845–AA19

742. STUDENT ASSISTANCE GENERAL PROVISIONS; FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM; WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM; FEDERAL PELL GRANT PROGRAM (COHORT DEFAULT RATES)

Priority: Other Significant

CFR Citation: 34 CFR 668; 34 CFR 682; 34 CFR 685; 34 CFR 690

Completed:

Reason	Date	FR Cite
Final Action	11/01/00	65 FR 65632

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Smith
Phone: 202 708-8242

RIN: 1845–AA17

743. FEDERAL PERKINS LOAN PROGRAM; FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM; AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (DEATH AND DISABILITY)

Priority: Other Significant

CFR Citation: 34 CFR 674; 34 CFR 682; 34 CFR 685

Completed:

Reason	Date	FR Cite
Final Action	11/01/00	65 FR 65678

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brian Smith
Phone: 202 708-8242

RIN: 1845–AA12

744. FEDERAL PERKINS LOAN PROGRAM

Priority: Other Significant

CFR Citation: 34 CFR 674

Completed:

Reason	Date	FR Cite
Final Action	11/01/00	65 FR 65612

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vanessa Freeman
Phone: 202 708-8242

RIN: 1845–AA15

745. FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (TEACHER LOAN FORGIVENESS)

Priority: Other Significant

CFR Citation: 34 CFR 682; 34 CFR 685

Completed:

Reason	Date	FR Cite
Final Action	11/01/00	65 FR 65624

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beth Grebeldinger
Phone: 202 708-8242

RIN: 1845–AA11

746. FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM; WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (GUARANTY AGENCIES)

Priority: Other Significant

CFR Citation: 34 CFR 682; 34 CFR 685

Completed:

Reason	Date	FR Cite
Final Action	11/01/00	65 FR 65616

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Harris
Phone: 202 708-8242

RIN: 1845–AA16

747. SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

Priority: Other Significant

CFR Citation: 34 CFR 692

Completed:

Reason	Date	FR Cite
Final Action	11/01/00	65 FR 65606

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jackie Butler
Phone: 202 708-8242

RIN: 1845–AA18

DEPARTMENT OF EDUCATION (ED)

Final Rule Stage

Office of Special Education and Rehabilitative Services (OSERS)

743. EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 20 USC 1431 to 1445

CFR Citation: 34 CFR 303

Legal Deadline: None

Abstract: These regulations provide clarification and guidance regarding the provision of early intervention services in "natural environments," revise the requirements on State financing of early intervention services (including the use of public and private insurance by States), and make other changes to clarify and improve implementation of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/05/00	65 FR 53808
NPRM Period End	12/04/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoLeta Reynolds, Department of Education, Office of Special Education and Rehabilitative Services, Room 3082, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202
Phone: 202 205-5465

RIN: 1820–AB53

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Special Education and Rehabilitative Services (OSERS)

749. ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES

Priority: Other Significant

CFR Citation: 34 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	01/08/01	66 FR 1474
Final Action Effective	02/09/01	
Final Action Effective Delayed until 04/10/2001	02/02/01	66 FR 8770

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: JoLeta Reynolds
Phone: 202 205-5465

RIN: 1820–AB51

750. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 711(C)

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Rehabilitation Act Amendments of 1998, the Reading Excellence Act, the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1998, and the Workforce Investment Act of 1998. This action also results from a review of the existing regulations for this program under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). The purpose of this review was to determine if these regulations should be continued without change, or should be amended or rescinded, to minimize any significant economic impact upon a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	02/28/00	65 FR 10620
NPRM Comment Period End	04/28/00	
Final Action	01/17/01	66 FR 4380
Final Action Effective	02/16/01	
Final Action Effective Delayed until 04/17/2001	02/02/01	66 FR 8770

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, Room 3014, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202-2531
Phone: 202 205-8831

RIN: 1820–AB50

751. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM (EMPLOYMENT OUTCOMES)

Priority: Other Significant

CFR Citation: 34 CFR 361

Completed:

Reason	Date	FR Cite
Final Action	01/22/01	66 FR 7250
Delay of Voluntary Implementation Date until 04/03/2001	02/02/01	66 FR 8770
Final Action Effective	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beverlee Stafford
Phone: 202 205-8831

RIN: 1820–AB52

[FR Doc. 01–6921 Filed 05–11–01; 8:45 am]
BILLING CODE 4000–01–S

Federal Register

Monday,
May 14, 2001

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy has prepared and today is publishing its semiannual regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For further information on the regulatory agenda in general, please contact: Richard L. Farman, Room 6E-078, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8145.

SUPPLEMENTARY INFORMATION: Entries appended to this notice reflect the status of activities as of approximately March 1, 2001. They are divided into categories first by subagencies and then according to their stage of rulemaking action: prerule, proposed rulemaking, final rulemaking, long-term action, or completed action.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

Issued in Washington, DC, on March 23, 2001.

Eric J. Fygi,

Acting General Counsel.

Energy Efficiency and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identification Number
752	Energy Efficiency Standards for Residential Furnaces, Boilers, and Mobile Home Furnaces	1904-AA78
753	Alternative Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets	1904-AA98

Energy Efficiency and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
754	State and Local Incentives Program: Alternative Fuels	1904-AA66

Energy Efficiency and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
755	Test Procedures for Central Air Conditioners and Heat Pumps—Amendments	1904-AA46
756	Energy Efficiency Code for New Federal Residential Low Rise Buildings	1904-AA53
757	Energy Efficiency Standards for Clothes Washers	1904-AA67
758	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps	1904-AA77
759	Test Procedures for Electric Distribution Transformers	1904-AA85
760	Test Procedures for Commercial Water Heaters	1904-AA95
761	Test Procedures for Commercial Warm Air Furnaces, and Efficiency Certification, Compliance, and Enforcement for Commercial Heating, Air Conditioning, and Water Heating Equipment	1904-AA96
762	Test Procedures for Commercial Air Conditioning Equipment	1904-AA97
763	Alternative Fuel Program: Biodiesel	1904-AB00
764	Test Procedures for Commercial Package Boilers	1904-AB02
765	Amendments to the Refrigeration Standards	1904-AB03
766	Test Procedures for Dishwashers—Amendment	1904-AB04
767	Weatherization Assistance Program for Low-Income Persons	1904-AB05
768	Energy Efficiency Standards for Commercial Heating, Air Conditioning, and Water Heating Equipment	1904-AB06

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
769	National Voluntary Residential Energy Efficiency Rating Guidelines	1904-AA74
770	Determination for High Intensity Discharge Lamps	1904-AA86

DOE

Energy Efficiency and Renewable Energy—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
771	Determination for Small Electric Motors	1904-AA87
772	Energy Efficiency Standards for Clothes Dryers and Dishwashers	1904-AA89
773	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment	1904-AA90
774	Energy Efficiency Standards for 1-200 HP Electric Motors	1904-AA91
775	Energy Efficiency Standards for Fluorescent and Incandescent Lamps	1904-AA92

Energy Efficiency and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identification Number
776	Energy Efficiency Standards for Water Heaters	1904-AA76

Defense and Security Affairs—Prerule Stage

Sequence Number	Title	Regulation Identification Number
777	Computer Security; Access to Information on National Nuclear Security Administration Computer Systems	1992-AA27

Defense and Security Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
778	Physical Protection of Security Interests	1992-AA23
779	Procedural Rules for DOE Nuclear Security Activities	1992-AA28
780	Human Reliability Program	1992-AA29
781	Criteria and Procedure for Establishment of the Personnel Security Assurance Program and Determinations of an Individual's Eligibility for Access to a Personnel Security Assurance Program Position	1992-AA30

Defense and Security Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
782	General Criteria and Procedures for Determining Eligibility for Access to Classified Matters or Special Nuclear Material	1992-AA22
783	Security Requirements for Disclosure of Classified and Other Sensitive Information	1992-AA26

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
784	Freedom of Information Act	1901-AA32
785	Privacy Act System of Records Update	1901-AA69
786	Community Transition Activities	1901-AA77
787	Research Misconduct	1901-AA89

DOE

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
788	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository	1901-AA72
789	Economic Development Transfers of Real Property	1901-AA82
790	Nondiscrimination in Federally Assisted Programs or Activities	1901-AA86
791	Reimbursement for Costs of Remedial Action at Active Uranium and Thorium Processing Sites: Technical Amendments	1901-AA88

Departmental and Others—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
792	Radiation Protection of the Public and the Environment	1901-AA38
793	Enforcement of Employee Safety Standards at Nuclear Weapons Facilities	1901-AA44
794	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)	1901-AA57
795	Payments for Special Burdens and In Lieu of Taxes	1901-AA58

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identification Number
796	Nuclear Safety Management	1901-AA34
797	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance	1901-AA87

Office of Procurement and Assistance Management—Prerule Stage

Sequence Number	Title	Regulation Identification Number
798	Financial Assistance Regulation: Administrative Requirements Related to For-Profit Organizations	1991-AB57

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
799	DEAR: Work for Others	1991-AB48
800	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	1991-AB56

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
801	Classified National Security Information—E.O. 12958	1991-AB42
802	DEAR: Recycling	1991-AB47
803	DEAR: Technical Amendments	1991-AB51
804	DEAR: Purchasing by DOE Management and Operating Contractors From Affiliated Sources	1991-AB52
805	Acquisition Regulation: Payment of Fee Relating to Security Issues	1991-AB54
806	DEAR: Patent Rights	1991-AB55
807	Financial Assistance Regulation: Administrative Amendment	1991-AB58

DOE

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
808	DEAR: Cost Principles	1991-AB46
809	DEAR: Part 970, DOE Management and Operating Contracts:Technical Revisions	1991-AB49

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
810	Conduct of Employees	1990-AA19
811	Claims for Damages Against Department of Energy Employees	1990-AA26

Office of General Counsel—Completed Actions

Sequence Number	Title	Regulation Identification Number
812	Contractor Legal Management Requirements; Acquisition Regulations	1990-AA27

DEPARTMENT OF ENERGY (DOE)

Prerule Stage

Energy Efficiency and Renewable Energy (EE)

752. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES, BOILERS, AND MOBILE HOME FURNACES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for furnaces, boilers nad mobile home furnaces.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Screening Workshop	05/00/01	
Supplemental ANPRM	10/00/01	
NPRM	10/00/02	
Final Action	10/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: The Department's regulatory actions related to energy efficiency standards have been categorized as high, medium, or low priority based on significant input from the public. This action is a high priority, and the Department is actively working on it.

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RIN: 1904–AA78

753. ALTERNATIVE FUELED VEHICLE ACQUISITION REQUIREMENTS FOR PRIVATE AND LOCAL GOVERNMENT FLEETS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 13257

CFR Citation: 10 CFR 490

Legal Deadline: NPRM, Statutory, May 1, 1999.
Final, Statutory, April 1, 2000.

Abstract: The Energy Policy Act of 1992 (the Act) requires DOE to initiate a rulemaking to determine whether a private and local fleet program is deemed necessary to meet the fuel displacement goals of the Act. The criteria for making this determination is mandated by the Act. DOE conducted a series of informal workshops, including two for State and local government officials, to discuss regulatory options and other issues related to the alternative fueled vehicle requirements under the Act.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/98	63 FR 19372

DOE—EE — **Prerule Stage**

Action	Date	FR Cite
Notice of Public Workshops	07/20/00	65 FR 44987
Notice of Determination	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

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RIN: 1904–AA98

DEPARTMENT OF ENERGY (DOE) — Proposed Rule Stage
Energy Efficiency and Renewable Energy (EE)

754. STATE AND LOCAL INCENTIVES PROGRAM: ALTERNATIVE FUELS

Priority: Other Significant

Legal Authority: 42 USC 13235

CFR Citation: 10 CFR 409

Legal Deadline: Final, Statutory, April 24, 1993.

Abstract: The Energy Policy Act of 1992 requires DOE to issue regulations establishing the State and Local Incentives Program. Under this Program DOE may grant financial assistance to States for projects in DOE-approved State plans to promote use of alternative fuels and alternative-fueled vehicles. With the publication of an integrated State Energy Program (61 FR 35890), the alternative fuel grant programs may be a part of the State grant special projects, depending on funding availability. The next action will be a cancellation notice of any separate State grant program.

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 15020
NPRM Comment Period End	05/22/95	
Notice Withdrawing NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 1904–AA66

DEPARTMENT OF ENERGY (DOE) — Final Rule Stage
Energy Efficiency and Renewable Energy (EE)

755. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act will reorganize the document in a logical order and update the references. The revisions include an updated nomenclature compatible with the eventual test procedure for combined (domestic hot water and central air conditioners or heat pumps) appliances, additional tables listing test tolerances, a clearer specification for the demand defrost credit, and test methods for ECM (electronically commutated motor) blowers and history-dependent defrosts.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6768
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1904–AA46

756. ENERGY EFFICIENCY CODE FOR NEW FEDERAL RESIDENTIAL LOW RISE BUILDINGS

Priority: Other Significant

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24164

DOE—EE — **Final Rule Stage**

Action	Date	FR Cite
NPRM Comment Period End	07/14/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 1904–AA53

757. ENERGY EFFICIENCY STANDARDS FOR CLOTHES WASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, May 14, 1996.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the current standard for a covered product should be amended.

This is the second review of the standard for clothes washers.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/94	59 FR 56423
Supplemental ANPRM	11/18/98	63 FR 64343
Workshop	12/15/98	
NPRM	10/05/00	65 FR 59549
Final Rule	01/12/01	66 FR 3314
Final Rule Effective	04/13/01	66 FR 8744
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 1904–AA67

758. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for central air conditioners and heat pumps.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Screening Workshop	06/30/98	
Supplemental ANPRM	11/24/99	64 FR 66305
NPRM	10/05/00	65 FR 59589
Final Rule	01/22/01	66 FR 7170
Final Rule Effective	04/23/01	66 FR 8745
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 1904–AA77

759. TEST PROCEDURES FOR ELECTRIC DISTRIBUTION TRANSFORMERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe testing requirements for electric distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	10/22/97	62 FR 54809
NPRM	11/12/98	63 FR 63359
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

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RIN: 1904–AA85

760. TEST PROCEDURES FOR COMMERCIAL WATER HEATERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial water heaters, prescribes test procedures, and requires labeling for such equipment. This

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action would codify the energy conservation standards and test procedures established in the EPCA for commercial water heaters. This action will incorporate by reference energy conservation standards and test procedures, revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE).

Timetable:

Action	Date	FR Cite
NPRM	08/09/00	65 FR 48852
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AA95

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761. TEST PROCEDURES FOR COMMERCIAL WARM AIR FURNACES, AND EFFICIENCY CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR COMMERCIAL HEATING, AIR CONDITIONING, AND WATER HEATING EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial heating equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), and will establish certification and compliance requirements for commercial heating equipment.

Timetable:

Action	Date	FR Cite
NPRM	12/13/99	64 FR 69597
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AA96

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762. TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONING EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial air conditioning equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial air conditioning equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the Air Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ARI/ASHRAE).

Timetable:

Action	Date	FR Cite
NPRM	08/09/00	65 FR 48828
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AA97

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763. ALTERNATIVE FUEL PROGRAM: BIODIESEL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13211(2); 42 USC 13211(14); 42 USC 13252(b)(2)

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, January 1, 1999.

Abstract: This action would implement the biodiesel fuel use credit created by the Energy Conservation Reauthorization Act of 1998. It would provide for the allocation of an alternative fueled vehicle acquisition credit for a specified amount of biodiesel fuel use by those required to purchase alternative fueled vehicles under titles III and V of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/99	64 FR 27169
Final Rule	01/11/01	66 FR 2207
Final Rule Effective	04/13/01	66 FR 8746
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AB00

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764. TEST PROCEDURES FOR COMMERCIAL PACKAGE BOILERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify these provisions. It would also incorporate by reference energy conservation standards and test procedures revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

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Timetable:

Action	Date	FR Cite
NPRM	08/09/00	65 FR 48838
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AB02

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765. AMENDMENTS TO THE REFRIGERATION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action would amend the definition of electric refrigerator used in DOE's energy conservation program to exclude units whose physical configuration makes them unsuitable for general storage of perishable foods and which cannot cool below 39 degrees Fahrenheit.

Timetable:

Action	Date	FR Cite
NPRM	07/13/99	64 FR 37706
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1904–AB03

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766. TEST PROCEDURES FOR DISHWASHERS—AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action would improve the testing specifications for the current dishwasher test porocedure, revise the calculation of estimated annual operating cost, and change the definitions of compact and standard models.

Timetable:

Action	Date	FR Cite
NPRM	09/28/99	64 FR 52248
NPRM Comment Period End	02/14/00	65 FR 2077
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1904–AB04

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767. WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6861; 42 USC 7101

CFR Citation: 10 CFR 440

Legal Deadline: None

Abstract: This would amend the Weatherization Assistance Program for Low-Income Persons to include the three statutory changes made to the program by the Congress. The changes would add clarifying language, delete obsolete provisions, improve the overall operation of the program, and give State and local agencies additional flexibility.

Timetable:

Action	Date	FR Cite
NPRM	01/26/00	65 FR 4331
NPRM Comment Period End	03/27/00	
Interim Final Rule	12/08/00	65 FR 77209
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

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RIN: 1904–AB05

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768. ENERGY EFFICIENCY STANDARDS FOR COMMERCIAL HEATING, AIR CONDITIONING, AND WATER HEATING EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 29, 2003.

Abstract: This action would determine whether to adopt the ASHRAE 90.1-1999 efficiency levels as a uniform national standard, or to set a more stringent standard.

Timetable:

Action	Date	FR Cite
Preliminary Screening Analysis	05/15/00	
Final Rule	01/12/01	66 FR 3336
Final Rule Effective	04/13/01	66 FR 8745
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1904–AB06

769. NATIONAL VOLUNTARY RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8236

CFR Citation: 10 CFR 437

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: DOE is required to establish by rule national voluntary guidelines for home energy rating systems. The guidelines are designed to encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings. The guidelines may be used to enable and encourage the assignment of energy efficiency ratings to residential buildings and the development of criteria for attractive financial instruments for energy efficient homes.

In response to the directives of the Energy Policy Act of 1992, DOE collaborated with hundreds of stakeholders and organizations, including the Home Energy Rating System (HERS) Council, the National Association of State Energy Officials, and HERS providers, many of whom had been meeting regarding HERS since about 1987. Based on input from all the stakeholders, DOE issued for public comment a Notice of Proposed Rulemaking on voluntary guidelines.

Most of the comments that DOE received on the proposed rule were readily resolved. But the issue of "fuel neutrality" was not easily incorporated into the rule. "Fuel neutrality" involved an interpretation of the requirement that the rule not "discriminate among fuel types" for which the EPACT legislation provided no clarification. Yet, in spite of an intensive effort by DOE to work with both the electric and gas industries, a definition regarding fuel neutrality was not resolved and remains hotly disputed.

In the fall of 2001, DOE plans to issue a Report to Congress on the HERS and Energy Efficient Mortgages, as required by Congress. This report will note that despite the fact that DOE has not issued a final rule, home energy raters are now available in 47 States, and the guidelines used by these raters are generally consistent in content to DOE's Notice of Proposed Rulemaking on voluntary HERS guidelines.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37949
NPRM Comment Period End	05/09/96	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1904–AA74

770. DETERMINATION FOR HIGH INTENSITY DISCHARGE LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures and efficiency standards for high intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority and the Department does not plan to work on it this year.

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RIN: 1904–AA86

771. DETERMINATION FOR SMALL ELECTRIC MOTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 431

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures for small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Department's regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority and the Department plans to initiate work on it this year.

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RIN: 1904–AA87

772. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND DISHWASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, May 14, 1996, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

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RIN: 1904–AA89

773. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS AND DIRECT HEATING EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1992, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

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RIN: 1904–AA90

774. ENERGY EFFICIENCY STANDARDS FOR 1-200 HP ELECTRIC MOTORS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 6313

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1999, Determination Notice.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standards and test procedures for commercial and industrial electric motors. EPCA requires the Department to revise the standards periodically to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

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RIN: 1904–AA91

775. ENERGY EFFICIENCY STANDARDS FOR FLUORESCENT AND INCANDESCENT LAMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, November 15, 1998, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for at least the next two fiscal years.

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RIN: 1904–AA92

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Completed Actions

776. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for electric water heaters.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Notice of Availability	01/14/98	63 FR 2186
Workshop	07/23/99	
Reissue NPRM	04/28/00	65 FR 25041
Final Rule	01/17/01	66 FR 4474
Denial of Reconsideration and Completion of Regulatory Review	04/17/01	66 FR 19714
Final Rule Effective	01/20/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Terry Logee, EE-41, Program Manager, Office of Building Research and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1689
Email: terry.logee@ee.doe.gov

RIN: 1904–AA76

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Prerule Stage

777. COMPUTER SECURITY; ACCESS TO INFORMATION ON NATIONAL NUCLEAR SECURITY ADMINISTRATION COMPUTER SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7101 et seq; 42 USC 2011 et seq; 50 USC 2425; 50 USC 2483(c)

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, January 3, 2000.

Abstract: This action would codify rules governing access to information on National Nuclear Security Administration computer systems by DOE employees and the employees of DOE contractors who perform defense nuclear-related activities.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/01	
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Philip Sibert, Office of Defense Nuclear Security, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2541

RIN: 1992–AA27

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Proposed Rule Stage

778. PHYSICAL PROTECTION OF SECURITY INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2011; 42 USC 7101

CFR Citation: 10 CFR 1046 subpart A; 10 CFR 1046 subpart B

Legal Deadline: None

Abstract: 10 CFR part 1046, subparts A and B, establishes DOE contractor requirements in the areas of protective force medical, physical fitness, and firearms qualifications and training. The proposed revisions are to ensure protective force personnel receive quality medical services that are consistent with the Americans with Disabilities Act of 1990. They also will enhance communications between Designated Physicians and personnel responsible for supervising physical fitness training and certification to assure better understanding of the risk of injury to Security Police Officers and Security Officers participating in physical fitness activities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glenn H. Bowser, Department of Energy, Office of Safeguards and Security, 19902 Germantown Road, Germantown, MD 20874
Phone: 301 903-5693

RIN: 1992–AA23

779. PROCEDURAL RULES FOR DOE NUCLEAR SECURITY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2011 et seq; 42 USC 7101 et seq; 42 USC 2282(b)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action would provide for the imposition of civil penalties on contractors for violations relating to the safeguarding or security of classified or sensitive data.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ray Holmer, Department of Energy, Office of Security and Emergency Operations, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7325

RIN: 1992–AA28

780. HUMAN RELIABILITY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 710; 10 CFR 711; 10 CFR 712

Legal Deadline: None

Abstract: This action would establish a Human Reliability Program that would consolidate the Department's Personnel Security Assurance Program (PSAP) and its Personnel Assurance Program (PAP). PSAP is an access authorization program for individuals who apply for or occupy certain positions that are critical to the national security. The PSAP requires an initial and annual supervisory review, medical assessment, management evaluation, and a DOE personnel security review of all applicants or incumbents. The PAP is a nuclear explosives safety program using many of the evaluations of the PSAP to ensure that employees assigned to nuclear explosive duties do not have emotional, mental, or physical conditions that could result in an accidental or unauthorized detonation of nuclear explosives.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Repass, Department of Energy, Office of Safeguard and Security, 19902 Germantown Road, Germantown, MD 20874
Phone: 301 903-4800
Fax: 301 903-6544
Email: linda.repass@hq.doe.gov

RIN: 1992–AA29

781. • CRITERIA AND PROCEDURE FOR ESTABLISHMENT OF THE PERSONNEL SECURITY ASSURANCE PROGRAM AND DETERMINATIONS OF AN INDIVIDUAL'S ELIGIBILITY FOR ACCESS TO A PERSONNEL SECURITY ASSURANCE PROGRAM POSITION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2165; 42 USC 2201; EO 10450; 42 USC 7251, 7254, and 7256

CFR Citation: 10 CFR 710, subpart B

Legal Deadline: None

Abstract: This action would amend the Department's regulations to allow newly hired individuals in security police officer positions who have received an interim Q access authorization through DOE's Accelerated Access Authorization Program to be eligible to hold a Personnel Security Assurance Program (PSAP) position. Currently, DORE's regulations require a Q access authorization based on a full background investigation for all PSAP positions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Repass, Department of Energy, Office of Safeguard and Security, 19902 Germantown Road, Germantown, MD 20874
Phone: 301 903-4800
Fax: 301 903-6544
Email: linda.repass@hq.doe.gov

RIN: 1992–AA30

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Final Rule Stage

782. GENERAL CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTERS OR SPECIAL NUCLEAR MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968; 42 USC 2201

CFR Citation: 10 CFR 710 subpart A

Legal Deadline: None

Abstract: 10 CFR part 710, which stipulates DOE access authorization "due process" procedures, will be revised to comply with section 5.2(a) of EO 12968. This section requires three decision levels in the process of determining whether an individual's access to classified matter will be denied or revoked, with the final decision being made by a three member high level appeals panel. While the DOE decision structure will be revised, the DOE will continue to offer the individual the right to a hearing before a hearing officer in such cases. These revisions are not expected to significantly impact the costs, time intervals, or risks associated with DOE's administrative review process. There are no alternatives to the Department for assuring full compliance with the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/16/99	64 FR 44433
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: A. Barry Dalinsky, Personnel Security Specialist, Office of Safeguards and Security, Department of Energy, Germantown, MD 20874-1290
Phone: 301 903-5010

RIN: 1992–AA22

DOE—DSA — **Final Rule Stage**

783. SECURITY REQUIREMENTS FOR DISCLOSURE OF CLASSIFIED AND OTHER SENSITIVE INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-65, sec 3164

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action would prescribe the security requirements and procedures that a DOE or DOE contractor employee must follow to make a protected disclosure of classified or other sensitive information under the whistleblower protection provisions of section 3164 of the National Defense Authorization Act for Fiscal Year 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/18/01	66 FR 4639
Interim Final Rule Effective	04/23/01	66 FR 8747

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ray Holmer, Department of Energy, Office of Security and Emergency Operations, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7325

RIN: 1992–AA26

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — **Proposed Rule Stage**

784. FREEDOM OF INFORMATION ACT

Priority: Other Significant

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: On October 23, 1991, DOE proposed to amend the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. The proposal updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies clarified DOE's operation of a first-in, first-out policy in responding to FOIA requests, and the role of the Office of Hearings and Appeals was clarified. The proposal also included a statement of DOE policy on contractor records.

On December 12, 1994, DOE adopted the contractor records policy, with certain modifications. DOE expects to take final action on the remainder of the proposal in the near future.

The new regulations will clarify the FOIA process by clearly defining the roles of the FOIA Officer and the Denying Official and comply with the new requirements of the Electronic Freedom of Information Act Amendment of 1996. The new regulations will be written in a more customer-friendly manner in plain English.

Timetable:

Action	Date	FR Cite
Final Rule (Contractor Records)	12/12/94	59 FR 63882
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Abel Lopez, Director, FOIA and Privacy Act Division, Department of Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Email: abel.lopez@hq.doe.gov

RIN: 1901–AA32

785. PRIVACY ACT SYSTEM OF RECORDS UPDATE

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action will amend the Department's Privacy Act Regulations, 10 CFR 1008, to add three additional systems of records to the list of systems of records that are exempt from certain provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Abel Lopez, Director, FOIA and Privacy Act Division, Department of Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Email: abel.lopez@hq.doe.gov

RIN: 1901–AA69

786. COMMUNITY TRANSITION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7274h

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 USC 7274h, provides authority for DOE to provide impact assistance to communities that are adversely affected by work force restructuring. This action would establish the regulations governing the community transition program.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Baney, Office of Worker and Community Transition, Department of Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-3751

RIN: 1901–AA77

787. • RESEARCH MISCONDUCT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 7101 et seq; 50 USC 2401 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action would establish policies and procedures for handling research misconduct allegations.

DOE—ENDEP — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William J. Valdez, Director, Office of Planning and Analysis, Department of Energy, Office of Science, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5823
Fax: 202 586-5823
Email: bill.valdez@science.doe.gov

RIN: 1901–AA89

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — **Final Rule Stage**

788. GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 10132

CFR Citation: 10 CFR 960

Legal Deadline: None

Abstract: This action would amend the guidelines that will be used by the Department in deciding whether to recommend a site for the development of the geologic repository for the disposal of high-level radioactive waste and spent nuclear fuel. The amended guidelines would reflect statutory and policy changes that have occurred since the Nuclear Waste Policy Act was passed in 1982. The amendments would also be based on the experience the Department has gained over the last decade of investigative efforts.

Timetable:

Action	Date	FR Cite
NPRM	12/16/96	61 FR 66158
Supplemental NPRM	11/30/99	64 FR 67054
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Susan Rives, Counsel, Department of Energy, Department of Energy, Yucca Mountain Site Characterization Office, P.O. Box 98608, Las Vegas, NV 89193
Phone: 702 794-5519

RIN: 1901–AA72

789. ECONOMIC DEVELOPMENT TRANSFERS OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 3158

CFR Citation: 10 CFR 770

Legal Deadline: None

Abstract: This action would establish procedures for identifying and disposing of real property by sale or lease at the Department's defense nuclear facilities for the purpose of permitting economic development. It would also establish procedures for reporting actions to Congress, informing those acquiring the property of the availability of indemnification for injury to people or property from releases or threatened releases of hazardous materials, requesting indemnification, and making claims for indemnification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/29/00	65 FR 10685
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew Duran, General Engineer, Office of Field Integration, Department of Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4548
Email: andrew.duran@hq.doe.gov

RIN: 1901–AA82

790. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 1040

Legal Deadline: None

Abstract: This action would amend the definition of "program."

Timetable:

Action	Date	FR Cite
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Wyatt, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2256
Fax: 202 586-0888
Email: sharon.wyatt@hq.doe.gov

RIN: 1901–AA86

791. • REIMBURSEMENT FOR COSTS OF REMEDIAL ACTION AT ACTIVE URANIUM AND THORIUM PROCESSING SITES: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2296a et seq

CFR Citation: 10 CFR 765

Legal Deadline: None

Abstract: This action would adopt several technical and administrative amendments to the procedural regulations governing the reimbursement of remedial action costs at active uranium and thorium processing sites. The original legislation authorizing the program has been amended three times to increase the amounts authorized for reimbursement, extend certain program dates, and make other technical corrections. The amendments to 10 CFR part 765 will reflect the legislative amendments and make other technical corrections that have been identified since the original rule was issued.

Timetable:

Action	Date	FR Cite
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David E. Mathes, Director, Division of Off-Site

DOE—ENDEP — Final Rule Stage

Remediation, Office of Southwestern Area Programs, Department of Energy, Trevion II Building, Washington, DC 20585-0002
Phone: 301 903-7220
RIN: 1901–AA88

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — Long-Term Actions

792. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 834

Legal Deadline: None

Abstract: This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public; requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
Second NPRM	08/31/95	60 FR 45381
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Andrew Wallo III, Director, Air, Water and Radiation Division, Department of Energy, Department of Energy, Office of Environmental Guidance, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4996

RIN: 1901–AA38

793. ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS AT NUCLEAR WEAPONS FACILITIES

Priority: Other Significant

Legal Authority: PL 102-190, sec 3131

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Public Law 102-190, section 3131, directs the Department of Energy to assess civil penalties against contractors at DOE nuclear weapons facilities who fail either to provide training to employees engaged in hazardous substance response and emergency response or fail to certify that such workers have been adequately trained.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/94	59 FR 44139
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry Pettengill, Director, Occupational Health and Safety Policy, Department of Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-4343

RIN: 1901–AA44

794. ANNOTATION OF LAND RECORDS FOR REMEDIATED PROPERTIES IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROJECT (UMTRA)

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-604, sec 104(d); PL 104-259, sec 4(a)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Under section 104(d) of the Uranium Mill Tailings Radiation Control Act of 1978, the Department of Energy (DOE) is required to issue appropriate rules and regulations concerning the annotation of land records of designated inactive uranium mill sites and vicinity properties included for remedial action under the Act. The annotation is intended to ensure that future purchasers of remediated inactive uranium mill sites and vicinity properties will be notified, prior to such purchase, of the condition of the land.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 29732
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: Public Law 104-259, signed into law on October 9, 1996, amended the annotation requirement to provide for States to receive certification from the Secretary for "a program which would achieve the purposes" of the annotation under section 104(d) of the UMTRCA in regards to vicinity properties. Letters have been sent to the affected States regarding the amendment language.

Agency Contact: Loretta Fahy, Environmental Protection Spec. UMTRA Team, Department of Energy, Department of Energy, Cloverleaf Building, 19901 Germantown Road, Germantown, MD 20874-1290
Phone: 301 903-3895

RIN: 1901–AA57

795. PAYMENTS FOR SPECIAL BURDENS AND IN LIEU OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2208 Atomic Energy Act of 1954, sec 168

CFR Citation: 10 CFR 610

Legal Deadline: None

Abstract: This action will revise the Department of Energy's policy on making payments for special burdens and in lieu of taxes to State and local taxing jurisdictions pursuant to the Atomic Energy Act of 1954. Prior to the 1987 issuance of DOE Order 2100.12, the Department and its predecessor agencies approved such payment requests on an ad hoc basis. To ensure all eligible taxing jurisdictions are provided appropriate opportunity to comment, the revised policy is being established through the rulemaking process. The Department anticipates no added costs by issuing the revised policy as a regulation rather than as an internal directive revision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Helen O. Sherman, Director, Office of Financial Policy, Department of Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4860

RIN: 1901–AA58

DOE—ENDEP — Long-Term Actions

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — Completed Actions

796. NUCLEAR SAFETY MANAGEMENT

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 830

Legal Deadline: None

Abstract: This action will add regulations under 10 CFR 830 to establish nuclear safety management requirements for the Department's nuclear facilities. These requirements stem from the Department's obligations to assure adequate protection and to hold contractors who manage and operate these facilities accountable and responsible for safe operations.

Timetable:

Action	Date	FR Cite
NPRM	12/01/91	56 FR 64316
Second NPRM	08/31/95	60 FR 45381
Interim Final Rule	10/10/00	65 FR 60292
Interim Final Rule Comment Period End	11/09/00	
Final Rule	01/10/01	66 FR 1810
Final Rule Effective	04/10/01	66 FR 8746
Final Action	04/17/01	66 FR 19717

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard L. Black, Director, Office of Nuclear Safety and Policy Standards, Department of Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-3465

RIN: 1901–AA34

797. • NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1681 to 1688; 29 USC 794; 42 USC 5891; 42 USC 6101 to 6107; 42 USC 6870; ...

CFR Citation: 10 CFR 1040; 10 CFR 1042

Legal Deadline: None

Abstract: This action adds a new part to the Code of Federal Regulations to replace the existing DOE regulation for the enforcement of Title IX of the Education Amendments of 1972, as amended. Title IX prohibits recipients of Federal financial assistance from discriminating on the basis of sex in education programs and activities. The provision of this rule are the same as a common rule published by the Department of Justice on August 30, 2000.

Timetable:

Action	Date	FR Cite
Final Rule	01/18/01	66 FR 4639
Final Action	04/11/01	66 FR 18721
Final Rule Effective	04/23/01	66 FR 8747

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Wyatt, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2256
Fax: 202 586-0888
Email: sharon.wyatt@hq.doe.gov

RIN: 1901–AA87

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR) — Prerule Stage

798. • FINANCIAL ASSISTANCE REGULATION: ADMINISTRATIVE REQUIREMENTS RELATED TO FOR-PROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7173

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This action would seek comments on whether to initiate a rulemaking that prescribes administrative requirements for financial assistance awards tailored specifically to for-profit organizations.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Trudy Wood, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5625
Email: trudy.wood@pr.doe.gov

RIN: 1991–AB57

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR)

Proposed Rule Stage

799. DEAR: WORK FOR OTHERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would provide policies and procedures governing work for others by DOE contractors and would ensure that authorization is consistent and uniform.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: A. Scott Geary, Program Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-3299

RIN: 1991–AB48

800. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549; EO 12689; PL 103-355, sec 2455

CFR Citation: 10 CFR 1036

Legal Deadline: None

Abstract: This Governmentwide rulemaking proposes changes to clarify and simplify the debarment and suspension process and drug-free workplace requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cynthia Yee, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1140

RIN: 1991–AB56

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR)

Final Rule Stage

801. CLASSIFIED NATIONAL SECURITY INFORMATION—E.O. 12958

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 904; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action implements Executive Order 12958, which prescribes a uniform system for classifying, safeguarding, and declassifying national security information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Email: richard.langston@pr.doe.gov

RIN: 1991–AB42

802. DEAR: RECYCLING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 923; 48 CFR 970.52; 48 CFR 970.23

Legal Deadline: None

Abstract: This action would implement E.O. 13101, Greening the Government Through Recycling, Waste Prevention, and Federal Acquisition. It would increase the procurement of products containing recycled materials and reduce waste generation at DOE facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/30/00	65 FR 71292
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Email: richard.langston@pr.doe.gov

RIN: 1991–AB47

803. DEAR: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 900 to 970

Legal Deadline: None

Abstract: This action would make corrections and technical changes to the Department of Energy Acquisition Regulations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOE—PR

Final Rule Stage

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8189

RIN: 1991–AB51

804. DEAR: PURCHASING BY DOE MANAGEMENT AND OPERATING CONTRACTORS FROM AFFILIATED SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 909; 48 CFR 970

Legal Deadline: None

Abstract: This action would amend provisions that cover organizational conflicts of interest and purchases from affiliated sources to protect the Department in transactions involving a DOE M&O contractor and its affiliates.

Timetable:

Action	Date	FR Cite
NPRM	10/13/99	64 FR 55453
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB52

805. ACQUISITION REGULATION: PAYMENT OF FEE RELATING TO SECURITY ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would make the payment of fees to the Department's major operating contractors conditional on meeting safeguard and security requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/01/01	66 FR 8560
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John Mitchell, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-0416
Email: john.mitchell@pr.doe.gov

RIN: 1991–AB54

806. DEAR: PATENT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 927; 48 CFR 970

Legal Deadline: None

Abstract: This action would update the Department's regulations on patent rights to reflect the current practices employed in its major facility contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/00	65 FR 68932
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB55

807. • FINANCIAL ASSISTANCE REGULATION: ADMINISTRATIVE AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7173

CFR Citation: 10 CFR 600.6

Legal Deadline: None

Abstract: This action would change the approval authority for a determination that a noncompetitive award is in the public interest.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Trudy Wood, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5625
Email: trudy.wood@pr.doe.gov

RIN: 1991–AB58

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR)

Completed Actions

808. DEAR: COST PRINCIPLES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 49 CFR 970

Legal Deadline: None

Abstract: This action would amend various clauses that address cost principles.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 37335
Final Action	12/22/00	65 FR 80994

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Terrence D. Sheppard, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8193

RIN: 1991–AB46

809. DEAR: PART 970, DOE MANAGEMENT AND OPERATING CONTRACTS:TECHNICAL REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 2201

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would revise part 970 of the Department of Energy Acquisition Regulations to eliminate provisions that are unnecessary, obsolete, or duplicated elsewhere in title 48.

Timetable:

Action	Date	FR Cite
NPRM	03/13/00	65 FR 13418
Final Action	12/22/00	65 FR 80994

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John R. Bashista, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8192
Email: john.bashista@hq.doe.gov

RIN: 1991–AB49

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Final Rule Stage

810. CONDUCT OF EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 42 USC 7211 et seq; PL 103-160, sec 3161; EO 12674

CFR Citation: 10 CFR 1010; 5 CFR 2635

Legal Deadline: None

Abstract: The DOE regulation on conduct of employees needs to be revised to reflect the issuance of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and the repeal of conflict-of-interest provisions formerly applicable to DOE employees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35085
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Susan Beard, Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA19

811. CLAIMS FOR DAMAGES AGAINST DEPARTMENT OF ENERGY EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 2672; 42 USC 7101 et seq

CFR Citation: 10 CFR 1014

Legal Deadline: None

Abstract: This action would provide for the indemnification of employees or former employees of the Department of Energy who are personally liable to pay damages for their official acts or omissions as a result of an adverse judgment or settlement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Beard, Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA26

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Completed Actions

812. CONTRACTOR LEGAL MANAGEMENT REQUIREMENTS; ACQUISITION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5814 and 5815; 42 USC 7151, 7251, 7254, and 7256; 50 USC 2401; 42 USC 7101

CFR Citation: 10 CFR 712 (New); 48 CFR 928; 48 CFR 931; 48 CFR 944; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action would establish a new regulation covering all legal costs to be reimbursed by the Department to its facility management contractors.

Timetable:

Action	Date	FR Cite
NPRM	10/25/00	65 FR 63809
Final Rule	01/18/01	66 FR 4616
Final Action	04/17/01	66 FR 19717
Final Rule Effective	04/23/01	66 FR 7702

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laura Fullerton, Attorney-Advisor (GC-61), Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW., Washington, DC 20585
Phone: 202 586-3420
Fax: 202 586-0325
Email: laura.fullerton@hq.doe.gov

RIN: 1990–AA27

[FR Doc. 01–8830 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Regulatory Flexibility Act of 1980 and Executive Order 12866 require the semiannual publication of an agenda outlining all current and projected rulemakings. The purpose of this exercise is to inform the public about regulatory actions under development within the Department, and to provide an opportunity for all concerned with the impact of these regulations to participate in their development at an early stage. The last such agenda was published on November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Ann Stallion, Department of Health and Human Services, Washington, DC 20201, (202) 690-6824, or the contact person for a specific component of the Department as listed below.

SUPPLEMENTARY INFORMATION: The regulatory actions capsulized below do not necessarily reflect the new policy perspectives of the Bush administration and HHS Secretary Thompson. The statutorily dictated timing of the regulatory agenda caused the Department to begin its efforts to put together information required for the agenda well before the new Administration came into place. The following agenda thus simply reflects ongoing efforts by HHS to comply with many longstanding statutory obligations, and/or to effect improvements at the program-implementation level based on the Department's experience in administering existing programs. The timing of the October 2001 agenda will, obviously, provide the Department with an opportunity to set out a regulatory agenda that does reflect the policy directions that Secretary Thompson desires to take.

Public commentary is invited. Comments should be sent to the addresses listed below, depending on the specific agenda entry that is of interest. Comments may be sent to the Office of the Secretary if the responsible component of the Department is not apparent, or if a comment covers subjects crossing agency lines.

Administration on Children and Families: Madeline Mocko, Director, Division of Policy and Legislation, 7th Floor, 370 L' Enfant Promenade SW., Washington, DC 20447; Phone 202-401-9223.

Administration on Aging: Harry Posman, Executive Secretariat, Room 4753, 330 Independence Avenue SW., Washington, DC 20201; Phone 202-260-0669.

Agency for Health Care Policy and Research: Nancy Werbel, 2101 East Jefferson Street, Suite 603, Rockville, Maryland 20852; Phone 301-594-1455.

Centers for Disease Control: Thena Durham, Executive Secretariat, 1600 Clifton Road, Building 16, Atlanta, Georgia 30333; Phone 404-639-7120.

Food and Drug Administration: Ed Dutra, Director, Regulatory Policy and Management Staff, 5600 Fishers Lane, Rockville, Maryland 20857; Phone 301-443-3480.

Health Care Financing Administration: Anthony Mazzarella, Deputy Director, Operation Support Group, 7500 Security Boulevard, C4-26-05, Baltimore, Maryland 21244; Phone 410-786-7501.

Health Resource Services Administration: Dolores R. Etherith, 5600 Fishers Lane, Room 14-A-08, Rockville, Maryland 20857; Phone 301-443-1786.

Indian Health Service: Betty Gould, 12300 Twinbrook Parkway, Suite 450, Rockville, Maryland 20857; Phone 301-443-1116.

National Institutes of Health: Jerry Moore, 9000 Rockville Pike, Building 31, Room 1B25, Bethesda, Maryland 20205; Phone 301-496-4606.

Substance Abuse and Mental Health Services Administration: Joe Faha, 5600 Fishers Lane, Room 12-A-17, Rockville, Maryland 20857; Phone 301-443-4640.

Office of the Secretary: Ann C. Agnew, Executive Secretary to the Department, Room 603H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Dated: March 14, 2001.

Ann C. Agnew,

Executive Secretary to the Department.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
813	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	0991-AB12

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
814	Reproduction and Sale of Official Forms and Publications	0991-AA83
815	Shared Risk Exception to the Safe Harbor Provisions	0991-AA91
816	Civil Money Penalty Safe Harbor To Protect Payment of Medicare and Medigap Premiums for ESRD Beneficiaries	0991-AB04
817	Safe Harbor for Ambulance Restocking	0991-AB05

Office of the Secretary—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
818	Revisions and Technical Corrections to 42 CFR Chapter V	0991-AB09
819	Amending the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, Sex, and Age To Conform to the Civil Rights Restoration Act of 1987	0991-AB10

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
820	Civil Money Penalties for Medicare+Choice Organizations and Medicaid Managed Care Organizations	0991-AB03
821	Safe Harbor for Arrangements Involving Federally Qualified Health Centers	0991-AB06
822	Definition of Terms; Substantially in Excess and Usual Charges and Clarification of the Good Cause Exception	0991-AB13

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
823	Standards for Privacy of Individually Indentifiable Health Information	0991-AB08

Substance Abuse and Mental Health Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
824	Substance Abuse Prevention and Treatment Block Grant Applications Due Date Change from March 31 to October 1 for FY 2001 and Beyond	0930-AA04

Substance Abuse and Mental Health Services Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
825	Final and Delegation of Authority To Implement SAMHSA's Accreditation Based System for Opiod Treatment Program Monitoring	0930-AA06

Centers for Disease Control and Prevention—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
826	Amendments to Quality Assurance and Administrative Provision for Approval of Respiratory Protective Devices	0920-AA04
827	Methods for Estimating Radiation Dose and Guidelines for Assessing Probability of Cancer for Energy Employees Occupational Illness Compensation Program	0920-AA05

Centers for Disease Control and Prevention—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
828	Packaging and Handling of Infectious Substances and Select Agents	0920-AA02
829	Control of Communicable Diseases	0920-AA03

HHS

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
830	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
831	Natural Rubber-Containing Drugs; User Labeling	0910-AB56
832	Implementation of the Import Tolerance Provisions of the Animal Drug Availability Act of 1996	0910-AB71
833	Part 600-Biological Products: General **(Section 610 Review)**	0910-AC06

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
834	Over-the-Counter (OTC) Drug Review	0910-AA01
835	Hearing Aids; Professional and Patient Labeling; Conditions for Sale	0910-AA39
836	Establishment Registration and Product Listing for Drugs and Biologics	0910-AA49
837	Investigational New Drugs: Export Requirements for Unapproved New Drug Products	0910-AA61
838	Safety Reporting and Recordkeeping Requirements for Marketed OTC Drugs	0910-AA86
839	Safety Reporting Requirements for Human Drug and Biological Products	0910-AA97
840	Radioactive Drugs for Basic Research	0910-AB00
841	Administrative Practices and Procedures; Advisory Opinions and Guidelines	0910-AB14
842	Current Good Tissue Practice for Manufacturers of Human Cellular and Tissue-Based Products	0910-AB28
843	Applications for FDA Approval to Market a New Drug; Complete Response Letter; Amendments to Unapproved Applications	0910-AB34
844	Expanded Access to Investigational Therapies	0910-AB37
845	Electronic Submission of Adverse Drug Reaction Reports	0910-AB42
846	Distinguishing Marks for Drug Products Containing Insulin	0910-AB43
847	Pregnancy Labeling	0910-AB44
848	Positron Emission Tomography Drugs; Current Good Manufacturing Practices	0910-AB63
849	Current Good Manufacturing Practice for Medicated Feeds	0910-AB70
850	Fixed-Combination Prescription and Over-the-Counter Drugs for Human Use	0910-AB79
851	Repackaging Approval Requirements	0910-AB81
852	Stability Testing of Drugs	0910-AB82
853	Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Supplements	0910-AB88
854	Submission in Electronic Format of Certain Labeling Information	0910-AB91
855	Fees Relating to Drugs; Waiver and Reduction of Fees	0910-AB92
856	Periodic Testing for Certain Human Drug, Veterinary Drug, and Biological Product Final Specifications	0910-AB93
857	Requirements Pertaining to Sampling Services and Private Laboratories Used in Connection with Imported Food	0910-AB96
858	Medical Devices, Medical Device Establishment Registration and Listing Requirements; Amendment	0910-AB99
859	Availability for Public Disclosure and Submission to FDA for Public Disclosure of Certain Data and Information Related to Gene Therapy or Xenotransplantation	0910-AC00
860	Reporting Information Regarding Potential Fabrication or Falsification of Data	0910-AC02
861	Status Reports for Quantity Marketed Information for Animal Drug Products Used in Food-Producing Animals	0910-AC04
862	Labeling Dietary Supplements for Women Who Are or May Become Pregnant	0910-AC09
863	Overwrap for Inhalation Products Packaged in Low Density Polyethylene (LDPE) Containers	0910-AC10
864	Regulation of Carcinogenic Compounds Used in Food-Producing Animals; Definition of "No Residue"	0910-AC13
865	Control of Salmonella Enteritidis in Shell Eggs During Production and Retail	0910-AC14
866	Aluminum in Large and Small Volume Parenterals Used in Total Parenteral Nutrition	0910-AC18
867	Use of Materials Derived from Ruminant Animals in FDA Regulated Products	0910-AC19
868	Postmarketing Reports of Substandard or Ineffective Bulk Ingredients and Bulk Ingredients from Unapproved Sources	0910-AC20

HHS

Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
869	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)	0910-AA02
870	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals	0910-AA45
871	Bioavailability and Bioequivalence Requirements	0910-AA51
872	Labeling for Human Prescription Drugs; Revised Format	0910-AA94
873	Current Good Manufacturing Practice; Revision of Certain Labeling Controls	0910-AA98
874	Use of Ozone-Depleting Substances	0910-AA99
875	Exports; Notification and Recordkeeping Requirements	0910-AB16
876	Foreign Establishment Registration and Listing	0910-AB21
877	FDA Export Reform and Enhancement Act of 1996; Reporting and Recordkeeping Requirements for Unapproved or Violative Products Imported for Further Processing or Incorporation and Later Export	0910-AB24
878	Blood Initiative	0910-AB26
879	Antibiotic Drug Approval and Exclusivity	0910-AB33
880	Amendment of Regulations Regarding Certain Label Statements on Prescription Drugs	0910-AB39
881	Supplements and Other Changes to Approved New Animal Drug Applications	0910-AB49
882	Revisions to the General Safety Requirements for Biological Products; Direct Final Rule	0910-AB51
883	Discontinuation of a Lifesaving Product	0910-AB60
884	Supplements and Other Changes to an Approved Application	0910-AB61
885	Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims	0910-AB66
886	Presubmission Conferences	0910-AB68
887	Surgeon's and Patient Examination Gloves; Reclassification	0910-AB74
888	CGMPs for Blood and Blood Components: Notification of Consignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting HCV (Lookback)	0910-AB76
889	Antibiotic Resistance Labeling	0910-AB78
890	180-Day Generic Drug Exclusivity for Abbreviated New Drug Applications	0910-AB80
891	Food Additives: Food Contact Substances Notification System	0910-AB94
892	State Certification of Mammography Facilities	0910-AB98
893	Examination of Administrative Record and Other Advisory Committee Records	0910-AC03
894	Efficacy Evidence Needed for Products to be Used Against Toxic Substances When Human Studies Are Unethical	0910-AC05
895	Additional Safeguards for Children in Clinical Investigations of FDA Regulated Products	0910-AC07
896	Implementing Court Decisions, ANDA Approvals, and 180-Day Exclusivity	0910-AC11
897	Revocation of Conditions for Marketing Digoxin Products for Oral Use	0910-AC12

Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
898	Infant Formula: Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports	0910-AA04
899	Food Labeling Review	0910-AA19
900	Medical Foods	0910-AA20
901	Classification of Computer Software Programs That Are Medical Devices	0910-AA41
902	Reinventing FDA Food Regulations	0910-AA58
903	Determination That Informed Consent Is Infeasible or Is Contrary to the Best Interest of Recipients	0910-AA89
904	Direct-to-Consumer Promotion Regulations	0910-AA90
905	Investigational Use New Animal Drug Regulations **(Section 610 Review)**	0910-AB02
906	Suitability Determination for Donors of Human Cellular and Tissue-Based Products	0910-AB27
907	Requirements for Liquid Medicated Feed and Free-Choice Medicated Feed	0910-AB50
908	Bulk Drug Substances for Use in Pharmacy Compounding	0910-AB57
909	Pharmacy and Physician Compounding of Drug Products	0910-AB58
910	Drug Products That Present Demonstrable Difficulties for Compounding Because of Reasons of Safety or Effectiveness	0910-AB59
911	Mandatory HACCP Regulations for Manufacturers of Rendered Products	0910-AB72
912	Citizen Petitions; Actions That Can Be Requested by Petition; Denials, Withdrawals, and Referrals for Other Administrative Action	0910-AB73
913	Substances Prohibited From Use in Animal Food or Feed	0910-AB90

HHS

Food and Drug Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
914	Marking Requirements for and Prohibitions on the Reimportation of Imported Food Products That Have Been Refused Admission into the United States	0910-AB95
915	Addition to the List of Drug Products That Have Been Withdrawn From the Market for Reasons of Safety or Effectiveness	0910-AC01
916	Addition to the List of Drug Products That Have Been Withdrawn or Removed From the Market for Reasons of Safety or Effectiveness	0910-AC08
917	Premarket Notice Concerning Bioengineered Foods	0910-AC15
918	Rescission of Substantially Equivalent Decisions and Rescission Appeal Procedures	0910-AC16
919	Institutional Review Boards: Registration Requirements	0910-AC17
920	Chronic Wasting Disease: Control of Food Products and Cosmetics Derived from Exposed Animal Populations	0910-AC21

Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
921	Biological Products: Reporting of Biological Product Deviations in Manufacturing	0910-AA12
922	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices	0910-AA43
923	Drugs Used for Treatment of Narcotic Addicts	0910-AA52
924	Establishment Registration and Listing of Human Cells, Tissues, and Cellular and Tissue-Based Products	0910-AB05
925	Veterinary Feed Directives	0910-AB09
926	Shell Eggs: Warning, Notice and Safe Handling Labeling Statements and Refrigeration Requirements	0910-AB30
927	Postmarketing Studies for Human Drugs and Licensed Biological Products: Status Reports	0910-AB83
928	Current Good Manufacturing Practice for Blood and Blood Components; Blood Labeling Standards	0910-AB89

Health Resources and Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
929	Designation of Medically Underserved Populations and Health Professional Shortage Areas	0906-AA44
930	National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table	0906-AA55

Health Resources and Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
931	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Medical Malpractice Payments Reporting Requirements	0906-AA41
932	Compliance Alternatives for Provision of Uncompensated Services	0906-AA52
933	Final Rule for the Health Professions, Nursing, Public Health, and Allied Health Training Grant Programs Under 42 CFR Parts 57 and 58	0906-AA53

Health Resources and Services Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
934	Ricky Ray Hemophilia Relief Fund Program	0906-AA56

HHS

Indian Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
935	Tribal Self-Governance Amendments	0917-AA05

Indian Health Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
936	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character	0917-AA02

Indian Health Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
937	Contracts Under the Indian Self-Determination Act	0917-AA04

National Institutes of Health—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
938	National Institutes of Health AIDS Research Loan Repayment Program	0925-AA02
939	Undergraduate Scholarship Program Regarding Professions Needed by the NIH	0925-AA10
940	National Cancer Institute Clinical Cancer Education Program	0925-AA17
941	National Institutes of Health Loan Repayment Program for Research	0925-AA18
942	NIH Center Grants	0925-AA24
943	National Institutes of Health Clinics Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds	0925-AA25
944	NIH Loan Repayment Program for Minority Health Disparties Research	0925-AA26
945	Pediatric Research Loan Repayment Program	0925-AA27
946	NIH Training Grants	0925-AA28

National Institutes of Health—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
947	National Research Service Awards	0925-AA16
948	National Institute of Child Health and Human Development Contraception and Infertiiity Research Loan Repayment Program	0925-AA19
949	Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects	0925-AA20

National Institutes of Health—Completed Actions

Sequence Number	Title	Regulation Identification Number
950	Traineeships	0925-AA11
951	Additional Protections for Pregnant Women and Human Fetuses Involved in Research, and Pertaining to Human In Vitro Fertilization	0925-AA14
952	Federal Policy (Common Rule) for the Protection of Human Subjects	0925-AA21

HHS

Office of Public Health and Science—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
953	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers	0940-AA01
954	Federal Policy (Common Rule) for the Protection of Human Subjects	0940-AA03

Office of Public Health and Science—Completed Actions

Sequence Number	Title	Regulation Identification Number
955	Additional Protections for Pregnant Women and Human Fetuses Involved in Research, and Pertaining to Human In Vitro Fertilization	0940-AA02

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
956	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-P) **(Section 610 Review)**	0938-AG82
957	Recognition of the American Osteopathic Association for Critical Access Hospitals (HCFA-2099-PN)	0938-AK84

Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
958	Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update (HCFA-1163-P)	0938-AK47

Health Care Financing Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
959	"Without Fault" and Beneficiary Waiver of Recovery As It Applies to Medicare Overpayment Liability (HCFA-6007-F)	0938-AD95
960	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)	0938-AF42
961	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)	0938-AG79
962	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)	0938-AG81
963	Liability for Third Parties To Pay for Services (HCFA-2080-P)	0938-AH01
964	Criteria for Approval of Facilities to Perform Covered Heart, Liver, Lung, Pancreas and Intestinal Transplants (HCFA-3835-P)	0938-AH17
965	Hospice Care-Conditions of Participation (HCFA-3844-P)	0938-AH27
966	Requirements for Enrollment of Medicaid Recipients Under Cost Effective Employer-Based Group Health Plans (HCFA-2047-F)	0938-AH48
967	Terms, Definitions, and Addresses: Technical Amendments (HCFA-9877-FC)	0938-AH53
968	Requirements for Establishing and Maintaining Medicare Billing Privileges (HCFA-6002-P)	0938-AH73
969	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers (HCFA-1885-FC)	0938-AH81
970	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (HCFA-3887-P)	0938-AH83
971	National Standard for Identifiers of Health Plans (HCFA-4145-P)	0938-AH87
972	Standard Unique Health Care Provider Identifier (HCFA-0045-F)	0938-AH99
973	Medicaid: Medical Child Support (HCFA-2081-P)	0938-AI21
974	Surety Bond Requirements for Comprehensive Outpatient Rehabilitation Facilities, Rehabilitation Agencies (HCFA-6005-P)	0938-AI48
975	Appeals of Carrier Determination That a Physician or Other Supplier Fails To Meet the Requirements for Medicare Billing Privileges (HCFA-6003-F)	0938-AI49
976	Security Standards (HCFA-0049-F)	0938-AI57

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Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
977	National Standard Employer Identifier (HCFA-0047-F)	0938-AI59
978	Medicare Program; Advance Refunding of Debt and Methodology for Repayment of Loan (HCFA-1777-P)	0938-AI75
979	Medicare Program; Medicare Coverage of and Payment for Bone Mass Measurements (HCFA-3004-F)	0938-AI89
980	Medicare Program; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests (HCFA-3250-F)	0938-AI92
981	Coverage of Religious Non-Medical Health Care Institutions (HCFA-1909-F)	0938-AI93
982	External Quality Review of Medicaid Managed Care Organizations (HCFA-2015-F)	0938-AJ06
983	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-F)	0938-AJ10
984	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-F)	0938-AJ17
985	Hospital Conditions of Participation: Laboratory Services (HCFA-3014-F)	0938-AJ29
986	Medicare Hospice Care Amendments (HCFA-1022-P)	0938-AJ36
987	Emergency Medical Treatment and Labor Act (EMTALA) (HCFA-1063-P)	0938-AJ39
988	Protection for Women Who Elect Reconstruction After a Mastectomy (HCFA-2040-IFC)	0938-AJ44
989	Medicare Program: Prospective Payment System for Inpatient Rehabilitation Hospital Services (HCFA-1069-F)	0938-AJ55
990	DME Surety Bonds (HCFA-6006-P)	0938-AJ64
991	State Health Insurance Assistance Program (SHIP) (HCFA-4005-F)	0938-AJ67
992	HHA Surety Bond (HCFA-6001-P)	0938-AJ81
993	Application of Inherent Reasonableness to All Part B Services Other Than Physician Services (HCFA-1908-F)	0938-AJ97
994	Supplier Standards Related to Training Requirements for Oxygen, Therapeutic Shoes (HCFA-6010-NPRM)	0938-AJ98
995	Non-Federal Governmental Plans Exempt From HIPAA (HCFA-2033-IFC)	0938-AK00
996	End Stage Renal Disease Bad Debt Payment (HCFA-1126-P)	0938-AK02
997	Practice Expense Data Collection (HCFA-1111-IFC)	0938-AK14
998	Payment for Clinical Psychology Training Programs (HCFA-1089-F)	0938-AK15
999	Provisions of the Balanced Budget and Refinement Act of 1999; Hospital Inpatient Payments and Rates and Costs of Graduate Medical Education (HCFA-1131-IFC)	0938-AK20
1000	Conditions of Participation of Intermediate Care Facilities for Persons With Mental Retardation (HCFA-3046-P)	0938-AK23
1001	Clinical Lab Requirements-Revisions to Regulations Implementing CLIA (HCFA-2226-F)	0938-AK24
1002	Prospective Fee Schedule for Ambulance Services (HCFA-1002-F)	0938-AK30
1003	Fire Safety Requirements for RNHCI, ASC, Hospices, PACE, Hospitals, and Long-Term Care Facilities (HCFA-3047-P)	0938-AK35
1004	Medicare Provider and Supplier Hearing Procedures (HCFA-2093-P)	0938-AK39
1005	Hospital Conditions of Participation: Quality Assessment and Performance Improvements (HCFA-3050-F)	0938-AK40
1006	Requirements for the Recredentialing of Medicare+Choice Organizations Providers (HCFA-1160-F)	0938-AK41
1007	Supplementary Medical Insurance Premium Surcharge Agreements (HCFA-4007-P)	0938-AK42
1008	Medical Devices Coverage Decisions Related to Health Care Technology (HCFA-3059-P)	0938-AK43
1009	Medicaid Management Information System Revised Definition of "Mechanized Claims Processing and Information Retrieval System" (HCFA-2123-IFC)	0938-AK44
1010	Medicare Program; Reporting and Repayment of Overpayments (HCFA-6011-P)	0938-AK45
1011	Improvements to the Medicare+Choice Appeals and Grievance Procedures (HCFA-4024-F)	0938-AK48
1012	Civil Money Penalties, Assessments, and Revised Sanction Authorities (HCFA-6145-FC)	0938-AK49
1013	Payment for Upgraded Durable Medical Equipment (HCFA-1084-F)	0938-AK50
1014	Update to the Prospective Payment System for Home Health Agencies for FY 2002 (HCFA-1147-NC)	0938-AK51
1015	Recognition of the American Osteopathic Association for Ambulatory Surgical Center Programs (HCFA-2079-FN)	0938-AK53
1016	Prospective Payment System for Hospital Outpatient Services (HCFA-1159-P)	0938-AK54
1017	Medicare as Secondary Payer-Recovery of Conditional Payments (HCFA-6009-P)	0938-AK55
1018	Five Year Review of Work Relative Value Units Under the Physician Fee Schedule Proposed Notice (HCFA-1170-PN)	0938-AK56
1019	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2002 (HCFA-1169-P)	0938-AK57
1020	Changes to National Coverage Determinations and Local Coverage Determinations (HCFA-4019-FC)	0938-AK58
1021	Revisions to the Prospective Payment System for Hospital Outpatient Services Mandated by BIPA (HCFA-1179-IFC)	0938-AK59
1022	Challenges to National Coverage Determinations and Local Coverage Determinations (HCFA-3063-P)	0938-AK60
1023	Revised Process for Making Medicare Coverage Decisions (HCFA-3062-N)	0938-AK61
1024	Claims Attachment Standard (HCFA-0050-P)	0938-AK62
1025	Standards for Electronic Signatures (HCFA-0051-F)	0938-AK63
1026	Health Insurance Reform: Modifications to Standards for Electronic Transaction (HCFA-0003-IFC)	0938-AK64
1027	Replacement of Reasonable Charge Methodology by Fee Schedule (HCFA-1010-F)	0938-AK66

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Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1028	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships-Phase II (HCFA-1810-FC)	0938-AK67
1029	Increase in the Rate of Reimbursement of Photocopy Expenses for Prospective Payment System Providers (HCFA-3055-P)	0938-AK68
1030	Long Term Care Prospective Payment System for FY 2003 (HCFA-1177-P)	0938-AK69
1031	Modifications to Managed Care Rules Based on Provisions of BIPA and Technical Corrections (HCFA-1180-P)	0938-AK71
1032	Changes to the Hospital Inpatients Prospective Payment System for Fiscal Year 2002 Rates (HCFA-1158-P)	0938-AK73
1033	Changes to Inpatient BIPA for Fiscal Year 2001 (HCFA-1178-IFC)	0938-AK74
1034	Medicare+Choice ESRD Rates (HCFA-1182-PN)	0938-AK75
1035	Revisions to Transaction and Code Set Standards for Electronic Transactions (HCFA-0005-IFC)	0938-AK76
1036	Medicare Inpatient Disproportionate Share Hospital Adjustment Calculation (HCFA-1171-IFC)	0938-AK77
1037	Statement of Intent (HCFA-1185-P)	0938-AK79
1038	Procedures for Public Consultations for Coding and Payment Determinations for New Laboratory Tests (HCFA-1186-N)	0938-AK80
1039	Organ Procurement Organization Condition for Coverage (HCFA-3064-P)	0938-AK81
1040	Qualification Requirements for Directors of Laboratories Performing High Complexity Testing (HCFA-2094-NPRM)	0938-AK83
1041	Protection and Promotion of Resident Rights (HCFA-3065-P)	0938-AK85
1042	Standards for Electronic Transactions-Elimination of NDC Coding Standards (HCFA-0006-P)	0938-AK86
1043	Hospital Reference Laboratory and Medicare Secondary Payer (HCFA-1187-P)	0938-AK87
1044	Portability in the Group Health Insurance Market (HCFA-2048-F)	0938-AK88

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1045	Changes to Peer Review Organization Regulations (HCFA-3135-F)	0938-AD38
1046	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (HCFA-2023-P)	0938-AE12
1047	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (HCFA-2028-F)	0938-AE72
1048	Payment for Nursing and Allied Health Science Education (HCFA-1685-F)	0938-AE79
1049	Coverage of Screening Pap Smears (HCFA-3705-F)	0938-AE98
1050	Referral to Child Support Enforcement Agencies of Medicaid Families (HCFA-2051-F)	0938-AF68
1051	Disclosure of Confidential PRO and ESRD Network Organization Information for Research Purposes (HCFA-3208-P)	0938-AG33
1052	Effect of Change of Ownership on Provider and Supplier Penalties, Sanctions, Underpayments and Overpayments (HCFA-2215-P)	0938-AG59
1053	Optional Coverage of Certain Tuberculosis to TB-Related Services, TB-Infected Individuals (HCFA-2082-P)	0938-AG72
1054	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships-Expanded to Designated Health Services (HCFA-1809-FC)	0938-AG80
1055	Distinct Part Requirements for Nursing Homes and Prohibition on Financial Screening of Applicants for Nursing Home Admission (HCFA-3815-P)	0938-AG84
1056	CLIA Program: Categorization of Waived Tests (HCFA-2225-FC)	0938-AG99
1057	Additional Supplier Standards (HCFA-6004-FC)	0938-AH19
1058	State Plan Amendment (SPA) Reconsideration Process (HCFA-2096-P)	0938-AH24
1059	Medicare Coverage of Services of Speech-Language Pathologists and Audiologists (HCFA-1843-P)	0938-AH37
1060	Medicaid; Estate Recoveries (HCFA-2083-P)	0938-AH63
1061	Individual Market Health Insurance Reform: Portability From Group to Individual Coverage; Federal Rules for Access in the Individual Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)	0938-AH75
1062	Disclosure of Peer Review Organization Information in Response to Beneficiary Complaints (HCFA-3241-P)	0938-AH85
1063	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)	0938-AH89
1064	Medically Needy Determinations Under Welfare Reform (HCFA-2109-IFC)	0938-AH92
1065	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)	0938-AH95
1066	Nondiscrimination in Health Coverage in the Group Market (HCFA-2022-F)	0938-AI08
1067	Medicare Program; Improvements to the Appeals Process for Medicare Beneficiaries Enrolled in HMOs, CMPs, and HCPPs (HCFA-4024-P)	0938-AI11
1068	Medicare Program; Adjustments to Cost Limits for Skilled Nursing Facility Inpatient Routine Service Costs (HCFA-1896-FN)	0938-AI14

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Health Care Financing Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1069	Medicare/Medicaid Program; User Fees for Information, Products, and Services (HCFA-6021-P)	0938-AI46
1070	Prospective Payment System for Hospital Outpatient Services (HCFA-1005-F)	0938-AI56
1071	State Plan Requirements for Durable Medical Equipment Providers (HCFA-2007-P)	0938-AI63
1072	Medicaid Program; Home and Community-Based Services (HCFA-2010-FC)	0938-AI67
1073	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-F)	0938-AI70
1074	Prospective Fee Schedule for Ambulance Services (HCFA-1002-P)	0938-AI72
1075	Revision of Procedures for Requesting Exceptions to Cost Limits for SNFs and Elimination of Reclassifications (HCFA-1883-F)	0938-AI80
1076	Expanded Coverage for Diabetes Outpatient Self-Management Training Services (HCFA-3002-F)	0938-AI96
1077	Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance: Millennium Compliance (HCFA-4002-GNC)	0938-AJ15
1078	Medicare/Medicaid and CLIA Programs: Clinical Laboratory Improvement Amendments of 1988 Exemption of Laboratories in the State of California (HCFA-2245-N)	0938-AJ47
1079	Medicare Program: Criteria for Making National Coverage Decision (HCFA-3432-P)	0938-AJ54
1080	Medicare Program; Sustainable Growth Rate for Fiscal Year 2000 (HCFA-1110-N)	0938-AJ60
1081	Medicare and Medicaid Programs; Programs for All-Inclusive Care for the Elderly (PACE) (HCFA-1903-P)	0938-AJ63
1082	Clinical Social Worker Services (HCFA-1088-F)	0938-AJ71
1083	Medicaid Disproportionate Share Hospital Payments-Institutions for Mental Disease (HCFA-2062-N)	0938-AJ74
1084	The Children's Health Insurance Program: Implementing the Balanced Budget Act of 1997 (HCFA-2006-F)	0938-AJ75
1085	Medicare Program Update of Ambulatory Surgical Center Payment Rates Effective for Services On or After October 1, 1999 (HCFA-1085-N)	0938-AJ86
1086	Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update (HCFA-1112-F)	0938-AJ93
1087	Use of Restraint and Seclusion in Residential Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21 (HCFA-2065-F)	0938-AJ96
1088	Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded	0938-AJ99
1089	Flexibility in Payment Methods for Services of Hospitals, Nursing Facilities, and Intermediate Care Facilities for the Mentally Retarded (HCFA-2004-F)	0938-AK04
1090	Hospital Conditions of Participation; Anesthesia Services (HCFA-3049-F)	0938-AK08
1091	Changes to the Appeals Process for Beneficiaries Receiving Home Health Services in the Fee For Service Program (HCFA-4006-P)	0938-AK10
1092	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2001 (HCFA-1120-F)	0938-AK11
1093	Revisions to Medicaid Upper Payment Limit Requirements for Hospital, Nursing Facility, Intermediate Care Facility Services for the Mentally Retarded and Clinic Services (HCFA-2071-F)	0938-AK12
1094	Hospice Wage Index (HCFA-1135-N)	0938-AK13
1095	HIPAA Program; Bona Fide Wellness Programs (HCFA-2078-F)	0938-AK19
1096	Application of Federal Financial Participation Limits (HCFA-2086-F)	0938-AK22
1097	Prospective Payment System for Hospital Outpatient Services: Exception to the Provider-Based Location Criteria for PPS-Exempt Facilities (HCFA-1143-F)	0938-AK25
1098	Criteria and Standards for Evaluating Intermediary and Carrier Performance During FY 2001 (HCFA-4010-GNC)	0938-AK26
1099	Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for Calendar Year 2001 (HCFA-8007-N)	0938-AK27
1100	Mandatory Transmission of OASIS for Non-Medicare/Medicaid Patients in Home Health Agencies and Continued Delay of Requirements for Patients Receiving Personal Care Services (HCFA-2070-N)	0938-AK28
1101	Removal of the Requirements for the Cardiac Pacemaker Registry (HCFA-3045-F)	0938-AK29
1102	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships-Phase II (HCFA-1810-FC)	0938-AK31
1103	Elimination of Application of Federal Financial Participation Limits (HCFA-2086-P)	0938-AK32
1104	Conforming Regulations Changes and Statutory Revisions for Approval and Oversight of Accreditation Organizations (HCFA-2088-P)	0938-AK36

Administration for Children and Families—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1105	Program Performance Standards for the Operation of Head Start Programs	0970-AB99
1106	Safeguarding Child Support and Expanded FPLS Information	0970-AC01

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Administration for Children and Families—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1107	Developmental Disabilities and Bill of Rights Act	0970-AC07

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1108	Construction and Major Renovation of Head Start and Early Head Start Facilities	0970-AB54
1109	Child Support Enforcement for Indian Tribes	0970-AB73
1110	Child Support Enforcement Program Omnibus Conforming Regulation	0970-AB81
1111	Family Child Care Program Option for Head Start Programs	0970-AB90
1112	Technical Revision of Head Start Regulations To Make Them Conform to Recent Statutory Revisions	0970-AC00
1113	High Performance Bonus Awards Under the TANF Program	0970-AC06
1114	Individual Development Accounts	0970-AC08

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identification Number
1115	Standards for Safe Transportation	0970-AB24
1116	Incentive Payments and Audit Penalties to States and Political Subdivisions	0970-AB85
1117	State Self-Assessments To Determine Compliance With Federal Regulations	0970-AB96
1118	National Medical Support Notice	0970-AB97

Administration on Aging—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1119	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians and Native Hawaiians	0985-AA00
1120	Grants for State and Community Programs on Aging, Family Caregivers, American Indians, and Native Hawaiians (Section 610 Review)	0985-AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

813. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 41 USC 701 et seq, sec 2455; PL 103-355; 31 USC 6101 note; EO 12859

CFR Citation: 45 CFR 76; 45 CFR 82

Legal Deadline: None

Abstract: This proposed common rule is revised to simplify and streamline nonprocurement debarment and suspension requirements, as well as correspond to procurement regulations where possible. The revision will separate the debarment and suspension and Drug-Free Workplace regulations, and will be written in the plain language format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Osterhus, Federal Assistance Policy Specialist, Department of Health and Human Services, Office of the Secretary, Room 517D, Office of Grants and Acquisition Management, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690-6901
Fax: 202 690-5729

HHS—OS

Proposed Rule Stage

Email: diane.osterhus@hhs.gov
RIN: 0991–AB12

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Final Rule Stage

814. REPRODUCTION AND SALE OF OFFICIAL FORMS AND PUBLICATIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 1320b-10

CFR Citation: 45 CFR 101

Legal Deadline: None

Abstract: This interim final rule with comment period will establish procedures for implementation of section 312 of the Social Security Independence Act. It amends existing prohibitions against "misuse of symbols, emblems, or names in reference to Social Security or Medicare." Section 312 also prohibits the "unauthorized reproduction, reprinting, or distribution for fee" of a "form, application, or other publication of the Social Security Administration or of the Department of Health and Human Services." It requires prior written authorization for any such activity in accordance with the Secretary's regulations. The Department plans to distinguish between forms and publications that potentially involve misuse in contrast to benign or desirable reproductions and distributions, and to provide pre-authorization for the latter. The rule will be developed in consultation with the Social Security Administration.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Herrell, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690-5739

RIN: 0991–AA83

815. SHARED RISK EXCEPTION TO THE SAFE HARBOR PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320a-7b; 42 USC 1395hh; PL 104-191, sec 216(b)

CFR Citation: 42 CFR 1001

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This final rule establishes a new statutory exception for risk-sharing arrangements under the Federal health care programs' anti-kickback provisions. The rule sets forth an exception from liability for remuneration between an eligible organization and an individual or entity providing items or services in accordance with a written agreement between these parties. The rule allows remuneration between an organization and an individual or entity if a written agreement places the individual or entity at "substantial financial risk" for the cost or utilization of the items or services that the individual or entity is obligated to provide.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/97	62 FR 28410
ANPRM Comment Period End	06/09/97	
Interim Final Rule	11/19/99	64 FR 63504
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA91

816. CIVIL MONEY PENALTY SAFE HARBOR TO PROTECT PAYMENT OF MEDICARE AND MEDIGAP PREMIUMS FOR ESRD BENEFICIARIES

Priority: Substantive, Nonsignificant

Legal Authority: Social Security Act, sec 1128A(a)(5)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will set forth in the OIG's civil money penalty provisions in 42 CFR part 1003 a new safe harbor for unlawful inducements to beneficiaries to provide protection for independent dialysis facilities that pay, in whole or in part, premiums for Supplementary Medical Insurance (Medicare part B) or Medicare Supplemental Health Insurance policies (Medigap) for financially needy Medicare beneficiaries with end-stage renal disease (ESRD). This safe harbor specifically establishes various standards that, if met, would result in the particular arrangement being protected from civil penalties under section 1128A(a)(5) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	05/02/00	65 FR 25460
NPRM Comment Period End	07/03/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AB04

817. SAFE HARBOR FOR AMBULANCE RESTOCKING

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-93, sec 14(a)

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule will set forth acceptable restocking arrangements between municipal and nonprofit ambulance companies and hospitals.

Timetable:

Action	Date	FR Cite
NPRM	05/22/00	65 FR 32060
NPRM Comment Period End	07/21/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB05

818. REVISIONS AND TECHNICAL CORRECTIONS TO 42 CFR CHAPTER V

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320a-7; 42 USC 1320a-7a; 42 USC 1320a-7b; 42 USC 1320a-7d(b); 42 USC 1395u

CFR Citation: 42 CFR 1001; 42 CFR 1003; 42 CFR 1008

Legal Deadline: None

Abstract: This final rule sets forth several miscellaneous revisions and technical corrections to the OIG regulations codified in 42 CFR chapter V. Among other revisions, this rule makes revisions or clarifications to the term "item or service" contained in part 1003 of this chapter, to the reinstatement procedures relating to exclusions resulting from the default on health education or scholarship obligations set forth in part 1001, and to the statute of limitations for the OIG to impose an exclusion under part 1001.

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63035
NPRM Comment Period End	12/20/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB09

819. AMENDING THE REGULATIONS GOVERNING NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, SEX, AND AGE TO CONFORM TO THE CIVIL RIGHTS RESTORATION ACT OF 1987

Priority: Other Significant

Legal Authority: PL 100-259, Civil Rights Restoration Act of 1987

CFR Citation: 45 CFR 80; 45 CFR 84; 45 CFR 86; 45 CFR 90; 45 CFR 91

Legal Deadline: None

Abstract: The Secretary proposes to amend the Department's regulations implementing title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended, title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975, as amended. The principal proposed conforming change is to amend the regulations to add the definitions of "program or activity" or "program" that correspond to the statutory definitions enacted under the Civil Rights Restoration Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/26/00	65 FR 64194
NPRM Comment Period End	11/27/00	
Final Action	11/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Roinsue Frohboese, Department of Health and Human Services, Office of the Secretary Phone: 202 619-0403

RIN: 0991–AB10

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Long-Term Actions

820. CIVIL MONEY PENALTIES FOR MEDICARE+CHOICE ORGANIZATIONS AND MEDICAID MANAGED CARE ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320a-7a; 42 USC 1395mm; 42 USC 1395w-27; 42 USC 1396b; 42 USC 1396u-2

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would reflect OIG's authority to impose civil money penalties against Medicare+Choice organizations that engage in certain abusive practices, including failure to provide medically necessary care and discriminatory enrollment procedures. This rule would specifically address the Medicare+Choice provisions set forth in Public Law 105-33, the Balanced Budget Act of 1997, and the Medicaid managed care provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector

General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB03

821. SAFE HARBOR FOR ARRANGEMENTS INVOLVING FEDERALLY QUALIFIED HEALTH CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-93, sec 14(a)

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule would set forth a new anti-kickback safe harbor addressing remuneration between Federal Qualified Health Centers and certain service providers where a significant community benefit exists.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB06

822. • DEFINITION OF TERMS; SUBSTANTIALLY IN EXCESS AND USUAL CHARGES AND CLARIFICATION OF THE GOOD CAUSE EXCEPTION

Priority: Substantive, Nonsignificant

Legal Authority: Sec. 1128(b)(A) of the Social Security Act

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This proposed rule would amend the OIG exclusion regulations at 42 CFR 1001.701, addressing excessive claims, by including definitions for the terms "substantially in excess" and "usual charges", and by clarifying the "good cause" exception set forth in this section.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW., Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB13

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Completed Actions

823. STANDARDS FOR PRIVACY OF INDIVIDUALLY INDENTIFIABLE HEALTH INFORMATION

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 45 CFR 160; 45 CFR 164

Completed:

Reason	Date	FR Cite
Final Rule	12/28/00	65 FR 82462
Delay of Effective Date To 04/14/2001	02/26/01	66 FR 12434
Comment Period Extended	03/30/01	66 FR 12738

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Roxanne Gibson Phone: 202 260-5083

RIN: 0991–AB08

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Substance Abuse and Mental Health Services Administration (SAMHSA)

Long-Term Actions

824. SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT APPLICATIONS DUE DATE CHANGE FROM MARCH 31 TO OCTOBER 1 FOR FY 2001 AND BEYOND

Priority: Routine and Frequent

Legal Authority: Not Yet Determined

CFR Citation: 45 CFR 96; 45 CFR 96.122(d); 45 CFR 96.130(e); 45 CFR 96.134(d)

Legal Deadline: None

Abstract: The Substance Abuse and Mental Health Services Administration (SAMHSA) (formerly, the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA)) has permitted applicants for its Substance Abuse Prevention and Treatment (SAPT) Block Grant program to submit an application for a grant as late as March 31 of the fiscal year for which it is applying. Starting with the fiscal year 2001 applications, SAMHSA is proposing a new date for receipt of the applications for SAPT Block Grants of October 1 of the fiscal year for which Block Grant funding is being requested. However, the deadline for two application components required to be submitted by that due date may be extended for a limited period, not to extend beyond December 31 of the same fiscal year when good cause is demonstrated.

Timetable:

Action	Date	FR Cite
NPRM	02/04/00	65 FR 5474
NPRM Comment Period End	03/20/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

HHS—SAMHSA — Long-Term Actions

Agency Contact: Thomas Reynolds, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 13C-20, Parklawn, Rockville, MD 20857
Phone: 301 443-0179

RIN: 0930–AA04

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions
Substance Abuse and Mental Health Services Administration (SAMHSA)

825. FINAL AND DELEGATION OF AUTHORITY TO IMPLEMENT SAMHSA'S ACCREDITATION BASED SYSTEM FOR OPIOD TREATMENT PROGRAM MONITORING

Priority: Other Significant

CFR Citation: 42 CFR 8

Completed:

Reason	Date	FR Cite
Final Rule	01/17/01	66 FR 4075
60-Day Delay of Effective Date To 05/18/2001	03/19/01	66 FR 15347

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Joseph D. Faha
Phone: 301 443-4640

RIN: 0930–AA06

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Centers for Disease Control and Prevention (CDC)

826. • AMENDMENTS TO QUALITY ASSURANCE AND ADMINISTRATIVE PROVISION FOR APPROVAL OF RESPIRATORY PROTECTIVE DEVICES

Priority: Other Significant

Legal Authority: 29 USC 651 et seq; 30 USC 3; 30 USC 5; 30 USC 7; 30 USC 811; 30 USC 842(h); 30 USC 844

CFR Citation: 42 CFR 84

Legal Deadline: None

Abstract: NIOSH plans to propose the Administrative/Quality Assurance sections of 42 CFR part 84, Approval of Respiratory Protective Devices. Areas for potential modification in this module are: 1) upgrade of Quality Assurance requirements; 2) ability to use private sector quality auditors and private sector testing laboratories in the approval program; 3) revised approval label requirements; 4) updated and restructured fee schedule; and 5) fee retention in the Respirator program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Elliott, Acting Director, Office of Compensation Analysis and Support, Department of Health and Human Services, Centers for Disease Control and Prevention, NIOSH, R44, 5555 Ridge Avenue, Cincinnati, OH 45213
Phone: 513 841-4400

RIN: 0920–AA04

827. • METHODS FOR ESTIMATING RADIATION DOSE AND GUIDELINES FOR ASSESSING PROBABILITY OF CANCER FOR ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM

Priority: Other Significant

Legal Authority: PL 106-398, sec 3623

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Pursant to Executive Order 13179, which implements section 3623 of the Energy Employees Occupational Illness Compensation Program Act, Public Law 106-398, NIOSH plans to propose and finalize regulations, to establish:

1) Guidelines to assess the likelihood that an individual with cancer sustained that cancer in the performance of duty at a Department of Energy facility or an atomic weapons employer facility, as defined in that Act; and

2) Methods for arriving at and providing reasonable estimates of the radiation doses received by individuals applying for assistance under this program for whom there are inadequate records of radiation exposure.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Roland Berry Ann, Team Leader, Policy Development, Respirator Branch, Department of Health and Human Services, Centers for Disease Control and Prevention, NIOSH, P04, 1095 Willowdale Road, Morgantown, WV 26505
Phone: 304 285-5907

RIN: 0920–AA05

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Long-Term Actions
Centers for Disease Control and Prevention (CDC)

828. PACKAGING AND HANDLING OF INFECTIOUS SUBSTANCES AND SELECT AGENTS

Priority: Other Significant

Legal Authority: 42 USC 264; 42 USC 271; 42 USC 262 note; 31 USC 9701; 18 USC 3559; 18 USC 3571

CFR Citation: 42 CFR 72.6 (Renumbered); 42 CFR 72.7 (Renumbered); 42 CFR 72.1-5 (Revision)

Legal Deadline: None

Abstract: The purpose of this NPRM is to update regulations governing the packaging, labeling, and shipment of infectious agents. Materials must be packaged in such a way as to prevent damage and leakage during transport in order to protect workers and the public from exposure.

Timetable:

Action	Date	FR Cite
NPRM	10/26/99	64 FR 58022
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Dr. Jonathan Y. Richmond, Director, Office on Health and Safety, Department of Health and Human Services, Centers for Disease Control and Prevention, MS F05, 1600 Clifton Road NE, Atlanta, GA 30333
Phone: 404 639-2453

RIN: 0920–AA02

829. CONTROL OF COMMUNICABLE DISEASES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 264; 42 USC 271

CFR Citation: 42 CFR 70; 42 CFR 71

Legal Deadline: None

Abstract: CDC proposes to modify certain regulatory responsibilities of 42 CFR 70 and 42 CFR 71 that relate to quarantine in order to bring the regulations up to date regarding modern communicable disease concerns.

Timetable:

Action	Date	FR Cite
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Chuck Gollmar, Deputy Director, Department of Health and Human Services, Centers for Disease Control and Prevention, MS D23, 1600 Clifton Road NE., Atlanta, GA 30333
Phone: 404 639-7070
Email: cgollar@cdc.gov

RIN: 0920–AA03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Departmental Management (HHSDM)

830. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay fees to parties prevailing against the Government in certain administrative proceedings. The Act has been amended several times since its 1980 enactment, most recently by the Contract with America Advancement Act of 1996, which increased the amount of the hourly fees payable. The proposed rule revises 45 CFR part 13 (HHS' regulation implementing the Equal Access to Justice Act) to conform with statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Second NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy M. White, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Prerule Stage
Food and Drug Administration (FDA)

831. NATURAL RUBBER-CONTAINING DRUGS; USER LABELING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking requests comments on requirements under consideration for labeling statements on products regulated as drugs (including combination products regulated under drug labeling provisions) that contain natural rubber that contacts humans.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB56

832. IMPLEMENTATION OF THE IMPORT TOLERANCE PROVISIONS OF THE ANIMAL DRUG AVAILABILITY ACT OF 1996

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 556

Legal Deadline: None

Abstract: Section 4 of the Animal Drug Availability Act of 1996 (ADAA) (Pub. L. 104-250) permits the Secretary of HHS to establish tolerances for animal drugs used or intended for use in animals grown in an exporting nation from which an edible portion is imported into the United States. The standards used to establish tolerances are to be similar to the food safety criteria used by the Secretary to establish tolerances for drugs administered to animals grown in the United States. The data used for establishing the tolerances may be from the manufacturer and include data upon which a foreign approval is based or data available to an international organization such as the Codex Alimentarius Commission. This rule would implement the provisions in ADAA.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/01	
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: George A. ("Bert") Mitchell, Associate Director for Policy and Regulations, Office of the Director, Department of Health and Human Services, Food and Drug Administration, HFV-1, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-2957

RIN: 0910–AB71

833. PART 600-BIOLOGICAL PRODUCTS: GENERAL (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 360(i); 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263(a); 42 USC 264; 42 USC 300aa-25

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: 21 CFR parts 600 through 680 describe regulations applicable to biological products. Part 600 describes regulations for general establishment standards, establishment inspections, and the reporting of adverse experiences applicable to manufacturers of licensed biological products. FDA is initiating a review under section 610 of the Regulatory Flexibility Act for the regulations in part 600. The purpose of this review is to determine if any of the regulations in part 600 should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. FDA will consider, and solicit comments on the following: (1) the continued need for a regulation in part 600; (2) the nature of complaints or comments received concerning a regulation in part 600; (3) the complexity of a regulation in part 600; (4) the extent to which a regulation in part 600 overlaps, duplicates, or conflicts with other Federal, State, or government rules; and (5) the degree to which technology, economic conditions or other factors have changed in the area affected by a regulation in part 600.

Timetable:

Action	Date	FR Cite
Begin Review of Current Regulation	04/03/00	
End Review	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210
Fax: 301 594-1944
Email: falter@cber.fda.gov

RIN: 0910–AC06

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Proposed Rule Stage

834. OVER-THE-COUNTER (OTC) DRUG REVIEW

Priority: Routine and Frequent

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a; 21 USC 331; 21 USC 360; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 310; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" was included in revised NPRM for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" was included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" was updated and split into two sections: First Aid Products and Health Care Antiseptic Products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the Agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Timetable:

Acne (Topical) Products
- ANPRM 03/23/82 (47 FR 12430)
- NPRM 01/15/85 (50 FR 2172)
- NPRM (Amendment) 08/07/91 (56 FR 37622)
- Final Action 08/16/91 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
- NPRM 10/21/93 (58 FR 54466)
- Final Action 03/13/95 (60 FR 13590)
- NPRM (Amendment) 05/10/96 (61 FR 21392)
- Final Action (Amendment) 11/18/96 (61 FR 58629)

Anorectal Products
- ANPRM 05/27/80 (45 FR 35576)
- NPRM 08/15/88 (53 FR 30756)
- Final Action 08/03/90 (55 FR 31776)
- Final Action (LYCD) 09/02/93 (58 FR 46746)
- Final Action (Witch Hazel) 06/03/94 (59 FR 28766)

Antacid Drug Products
- ANPRM 04/05/73 (38 FR 8714)
- NPRM 11/12/73 (38 FR 31260)
- Final Action 06/04/74 (39 FR 9862)
- NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66754)
- Final Action (Amendment) (Warning) 08/26/93 (58 FR 45204)
- NPRM (Amendment) (Testing) 09/23/93 (58 FR 49826)
- NPRM (Amendment)(Sodium Bicarb.) 02/02/94 (59 FR 5060)
- Final Action (Technical Amendment) 11/25/94 (59 FR 60555)
- Final Action (Amendment) (Testing) 02/08/96 (61 FR 4822)
- Final Action (Amendment) (Overindulgence) 12/00/01
- Final Action (Amendment)(Sodium B.) 06/00/02

Anthelmintic Products
- ANPRM 09/09/80 (45 FR 59541)
- NPRM 08/24/82 (47 FR 37062)
- Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
- ANPRM 04/01/77 (42 FR 17642)
- NPRM 07/09/82 (47 FR 29986)
- Final Action 12/11/87 (52 FR 47312)
- NPRM (Amendment) 08/18/89 (54 FR 34188)
- Final Action 03/15/90 (55 FR 9721)
- NPRM (Amendment) 05/11/90 (55 FR 19868)
- NPRM (Amendment) 06/08/90 (55 FR 23450)
- Final Action (Amendment) 10/03/90 (55 FR 40379)
- Final Action (Amendment) 12/05/90 (55 FR 50171)
- NPRM (Amendment) (Warning) 02/14/96 (61 FR 5918)
- Final Action (Amendment)(Warning) 11/15/96 (61 FR 58471)

Anticaries Products
- ANPRM 03/28/80 (45 FR 20666)
- NPRM 09/30/85 (50 FR 39854)
- NPRM 06/15/88 (53 FR 22430)
- Final Action 10/06/95 (60 FR 52474)
- Final Action (Technical Amendment) 10/07/96 (61 FR 52285)

Antidiarrheal Products
- ANPRM 03/21/75 (40 FR 12924)
- NPRM 04/30/86 (51 FR 16138)
- NPRM (Amendment)(Trav. Diar.) 12/00/01
- Final Action 12/00/01

Antidotes, Toxic Ingestion Prdts (New Poison Treatment Prdts)
- ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
- ANPRM 03/21/75 (40 FR 12934)
- NPRM 07/13/79 (44 FR 41064)
- Final Action 04/30/87 (52 FR 15886)
- NPRM (Amendment) 08/26/93 (58 FR 45216)
- Final Action 04/11/94 (59 FR 16981)
- NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
- Final Action (Amendment) (Warning) 12/00/01

Antiflatulent Drug Products
- NPRM 11/12/73 (38 FR 31260)
- Final Action 06/04/74 (39 FR 19877)
- NPRM (Amendment) 01/29/88 (53 FR 2716)
- Final Action (Amendment) 03/05/96 (61 FR 8836)

Antifungal (Topical) Products
- ANPRM 03/23/82 (47 FR 12480)
- NPRM 12/12/89 (54 FR 51136)
- NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25240)
- Final Action (Amdt.)(Diaper Rash) 12/18/92 (57 FR 60430)
- Final Action (Partial) 09/02/93 (58 FR 46744)
- Final Action 09/23/93 (58 FR 49890)
- NPRM (Amendment) (Indications) 07/22/99 (64 FR 39452)
- Final Action 08/29/00 (65 FR 52302)
- NPRM (Amendment) Clotrimazole 05/00/01

Antimicrobial Products
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25246)
- Final Action (Diaper Rash) 03/00/04

Antiperspirant Products
- ANPRM 10/10/78 (43 FR 46694)
- NPRM 08/20/82 (47 FR 36492)
- Final Action 04/00/02

Aphrodisiac Products
- ANPRM 10/01/82 (47 FR 43572)
- NPRM 01/15/85 (50 FR 2168)
- Final Action 07/07/89 (54 FR 28780)

Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
- ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
- ANPRM 10/01/82 (47 FR 43566)
- NPRM 02/20/87 (52 FR 5406)
- Final Action 02/27/90 (55 FR 6926)

Boil Ointments
- ANPRM 06/29/82 (47 FR 28306)
- NPRM 01/26/88 (53 FR 2198)
- Final Action 11/15/93 (58 FR 60332)

Camphorated Oil Drug Products
- ANPRM 09/26/80 (45 FR 63869)
- Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
- ANPRM 02/12/80 (45 FR 9286)
- NPRM 08/24/82 (47 FR 37068)
- Final Action 06/10/83 (48 FR 27004)
- NPRM (Amendment) 08/15/88 (53 FR 30786)
- Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
- ANPRM 01/05/82 (47 FR 522)
- NPRM 02/20/87 (52 FR 5412)
- Final Action 08/14/90 (55 FR 33258)

Cough/Cold (Anticholinergic) Products
- ANPRM 09/09/76 (41 FR 38312)
- NPRM 07/09/82 (47 FR 30002)
- Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 12/09/92 (57 FR 58356)
Final Action (Amendment)(Warning) 01/28/94 (59 FR 4216)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Reopen Record (Common Cold) 08/25/00 (65 FR 51780)
Final Action (Amendment)(Warning) 12/00/01
Final Action 12/00/02

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) (Warning) 07/06/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) (Warning) 07/06/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/92 (57 FR 58378)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54232)
Final Action (Amdt.)(Ingredients) 06/03/94 (59 FR 29172)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
NPRM (Amendment)(Flammability) 07/20/98 (63 FR 38762)
Final Action (Amendment)(Flammability) 08/01/00 (65 FR 46864)
Final Action (Amendment)(Warning) 12/00/01

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27662)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54238)
NPRM (Amendment)(MDI) 03/09/95 (60 FR 13014)
NPRM (Amendment)(Ephedrine) 07/27/95 (60 FR 38643)
Final Action (Amendment) (MDI) 05/20/98 (61 FR 25142)
Final Action (Amendment) (Ephedrine) 12/00/01

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
NPRM (Amendment)(DPH Combinations) 02/23/95 (60 FR 10286)
Final Action (Theophylline) 07/27/95 (60 FR 38636)
NPRM (Amendment) (Ephedrine Combo) 12/00/01
Final Action 12/00/01

Cough/Cold (Diphenhydramine) Products
Final Action/Enforcement Policy 04/09/96 (61 FR 15700)

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)
Final Action (Technical Changes) 06/30/92 (57 FR 29176)

Cough/Cold (Expectorant/Ipecac) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 09/14/92 (57 FR 41857)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
NPRM (Amendment) 06/19/92 (57 FR 27658)
Final Action 08/23/94 (59 FR 43386)
Final Action; Partial Stay 03/08/96 (61 FR 9570)
Final Action (Amendment)(Levmetamfetamine) 07/30/98 (63 FR 40647)
NPRM (Phenylpropanolamine) 06/00/01

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 12/04/91 (56 FR 63554)
NPRM (Amendment) 04/05/93 (58 FR 17554)
Final Action 01/28/94 (59 FR 4000)

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 10/21/93 (58 FR 54450)

Eligibility Criteria for Additional Conditions
ANPRM 10/03/96 (61 FR 51625)
NPRM 12/20/99 (64 FR 71062)
Final Action 06/00/01

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75866)
NPRM 11/08/85 (50 FR 46594)
NPRM (Reproposed) 07/15/91 (56 FR 32282)
Final Action 04/24/95 (60 FR 20162)

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25234)
Final Action (Diaper Rash) 12/18/92 (57 FR 60426)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Final Action (Amendment)(Warning) 12/00/01

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 06/30/92 (57 FR 29166)

First Aid Antiseptic
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 07/22/91 (56 FR 33644)
Final Action 12/00/02

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Healthcare Antiseptic Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 06/17/94 (59 FR 31402)
Final Action 12/00/01

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)
Final Action 09/09/93 (58 FR 57608)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 09/09/93 (58 FR 47602)
NPRM 12/00/01

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66762)
NPRM 10/20/93 (58 FR 54224)
NPRM (Amendment)(Sodium Bicarbonate) 02/02/94 (59 FR 5068)
NPRM (Prof. Labeling)(Acute MI) 06/13/96 (61 FR 30002)
NPRM (Amendment)(Alcohol Warning) 11/14/97 (62 FR 61041)
Final Action (Alcohol Warning) 10/23/98 (63 FR 56789)
Final Action (Aspirin Prof. Label) 10/23/98 (63 FR 56802)
NPRM (Amendment)(Ibuprofen) 10/00/01
Final Action 12/00/01
Final Action (Amendment)(Overindulgence) 12/00/01
Final Action (Sodium Bicarbonate) 06/00/02

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19862)

Labeling of Drug Products for OTC Human Use
NPRM (Sodium Labeling) 04/25/91 (56 FR 19222)
NPRM 04/05/93 (58 FR 17553)
Final Action 01/28/94 (59 FR 3996)
NPRM (Do not mix drugs) 08/03/94 (59 FR 39499)
NPRM (Amendment) (Do not mix drugs) 10/04/95 (60 FR 52058)
NPRM (Unless a doctor tells you) 03/04/96 (61 FR 8450)
Final Action (Sodium Labeling) 04/22/96 (61 FR 17798)
NPRM (Calcium/Magnesium/Potassium) 04/22/96 (61 FR 17807)
Withdrawal (Unless a doctor tells you) 02/27/97 (62 FR 9024)
Final Action (Format/Examples) 03/17/99 (64 FR 13254)
Final Action (Technical Amendment) 01/03/00 (65 FR 7)
Final Action (Ca/Mg/K/Na) 07/00/01

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) (Directions/Bulk) 10/01/86 (51 FR 35136)
NPRM (Amendment) (Docusate Salts) 09/02/93 (58 FR 46589)
NPRM (Amendment)(Sodium Phosphates) 03/31/94 (59 FR 15139)
NPRM (Phenolphthalein) 09/02/97 (62 FR 46223)
Final Action (Sodium Phosphates) 05/21/98 (63 FR 27836)
NPRM (Amendment)(Phosphates Label) 05/21/98 (63 FR 27886)
NPRM (Amendment)(Stim. Laxative) 06/19/98 (63 FR 33592)
Final Action; stay (Na Phos. Enema) 12/07/98 (63 FR 67399)
Part. With. (Na Phos. Prof. Lab.) 12/09/98 (63 FR 67817)
Final Action (Phenolphthalein) 01/29/99 (64 FR 4535)
Final Action 01/00/02
Final Action (Stim. Laxative) 12/00/03

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 08/22/94 (59 FR 43234)

Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 06/19/92 (57 FR 27654)

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)
Final Action 12/00/01

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)

NDA Labeling Exclusivity (Merged with other rulemaking)
NPRM 11/09/93 (58 FR 59622)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 09/02/93 (58 FR 46749)

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
NPRM (Amendment) 08/26/93 (58 FR 45217)
Final Action (Amendment) 04/11/94 (59 FR 16982)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Final Action (Amendment)(Warning) 12/00/01

Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)
Final Action (Anti-infective) 12/18/92 (57 FR 60416)
NPRM (Amendment) (Warning) 02/23/98 (63 FR 8888)
Final Action 06/21/00 (65 FR 38426)

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 09/24/91 (56 FR 48302)
Final Action 06/00/02

Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 02/09/94 (59 FR 6084)
NPRM 04/00/01
ANPRM (Plaque/Gingivitis) 12/00/01

Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)

Otic Products (Dry Water-Clogged Ears)
NPRM (Amendment) 08/17/99 (64 FR 44671)
Final Action 08/10/00 (65 FR 48902)

Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)

Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 02/15/95 (60 FR 8916)
Final Action Partial Stay 08/16/95 (60 FR 42435)

Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 12/24/91 (56 FR 66742)
Final Action 12/00/01

Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)

Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)
Final Action 12/14/93 (58 FR 65452)
NPRM (Labeling Amendment) 12/00/01

Phenylpropanolamine Products (Labeling)
NPRM 02/14/96 (61 FR 3912)

Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 12/00/01
NPRM (Amendment) 12/00/01

Quinine for Malaria
NPRM 04/19/95 (60 FR 19650)
Final Action 03/20/98 (63 FR 13526)

Salicylate (Reye Syndrome)
NPRM (Amendment)(Warning) 05/05/93 (58 FR 26886)
ANPRM 10/20/93 (58 FR 54228)
Final Action (Warning) 12/00/01

Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
NPRM (Reproposed) 01/00/03

Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25204)
Final Action (Astringent) 10/21/93 (58 FR 54466)
Final Action (Witch Hazel) 06/03/94 (59 FR 28767)
Final Action (Astringent) 07/00/01
Final Action (Poison Ivy) 07/00/01
Final Action 07/00/01
Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 06/01/93 (58 FR 31236)
Status of Certain Category II and III Ingredients
NPRM 05/16/90 (55 FR 20434)
Final Action 11/07/90 (55 FR 46914)
NPRM 08/25/92 (57 FR 38568)
Final Action 05/10/93 (58 FR 27636)
Final Action 04/22/98 (63 FR 19799)
Final Action 08/24/98 (63 FR 44996)
Final Action 12/00/01
Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/91 (56 FR 66758)
Final Action 12/00/01
Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)
Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)
Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 05/12/93 (58 FR 28194)
NPRM (Amendment) 06/08/94 (59 FR 29706)
NPRM (Amendment)(Avobenzone) 09/16/96 (61 FR 48645)
Final Action (Avobenzone Enf. Pol.) 04/30/97 (62 FR 23350)
Final Action 05/21/99 (64 FR 27666)
ANPRM (and Insect Repellant) 08/00/01
NPRM (UVA/UVB) 09/00/01
Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)
Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 02/17/95 (60 FR 9554)
Final Action 07/00/02
Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 02/03/95 (60 FR 6892)
NPRM (Amendment) 12/00/01
Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
Withdrawal 02/03/95 (60 FR 5226)
NPRM (Douches) 12/00/01
Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 08/14/90 (55 FR 33246)
NPRM (Amendment)(Directions) 01/28/94 (59 FR 4015)
Final Action (Amdt.)(Directions) 11/23/94 (59 FR 60315)
Water Soluble Gums
NPRM 10/30/90 (55 FR 45782)
Final Action 08/26/93 (58 FR 45194)
NPRM 01/00/02
Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 10/30/90 (55 FR 45788)
Final Action 08/08/91 (56 FR 37792)
NPRM (Phenylpropanolamine) 06/00/01

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gerald M. Rachanow, Regulatory Counsel, Division of Over-the-Counter Drug Products, Department of Health and Human Services, Food and Drug Administration, HFD-560, Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2222

RIN: 0910–AA01

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835. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360d; 21 USC 371; 21 USC 360j(e)

CFR Citation: 21 CFR 801.420; 21 CFR 801.421

Legal Deadline: None

Abstract: FDA is considering revising its present regulation governing the labeling and conditions for sale of hearing aids. The present rule requires an examination by a physician before purchase of a hearing aid, but permits an informed adult to waive that requirement. There is some evidence that this waiver provision is being misused.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/93	58 FR 59695
ANPRM Comment Period End	01/10/94	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, HFZ-215, Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 827-2974

RIN: 0910–AA39

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836. ESTABLISHMENT REGISTRATION AND PRODUCT LISTING FOR DRUGS AND BIOLOGICS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 360b; 21 USC 371; 21 USC 374; 42 USC 262

CFR Citation: 21 CFR 207

Legal Deadline: None

Abstract: The proposed rule would revise the regulations under part 207 to clarify the requirements for registration and listing and to consolidate and reorganize the regulations. The proposal would also require the electronic submission of establishment registration and product listing information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA49

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837. INVESTIGATIONAL NEW DRUGS: EXPORT REQUIREMENTS FOR UNAPPROVED NEW DRUG PRODUCTS

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 241; 42 USC 243; 42 USC 262; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 312.110

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on the exportation of unapproved new drug products, including biological products, for investigational use. In general, the proposed rule would provide four different routes for exporting an unapproved new drug product for investigational use. One route would permit exportation, if the drug is the subject of an investigational new drug application (IND) and is being exported for use in the investigation. A second route would permit exportation, without prior Food and Drug Administration (FDA) approval and without an IND, if the product is to be exported for use in a clinical investigation and has received marketing authorization in certain developed countries. The third route would permit exportation, without prior FDA approval and without an IND, if the product is to be exported for use in a clinical investigation in certain specified developed countries. The fourth route would permit exportation without an IND, to any country provided that the exporter sends a written certification to FDA at the time the drug is first exported. Drugs exported under any of the first three routes would, however, be subject to certain statutory requirements, such as not conflicting with the foreign country's laws and not being sold or offered for sale in the United States. Drugs exported under either the second or third routes would be subject to additional statutory requirements, such as being in substantial conformity with the current good manufacturing practices and certain labeling requirements. These provisions would implement recent changes in FDA's export authority resulting from the FDA Export Reform and Enhancement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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Fax: 301 827-4774
Email: pchao@oc.fda.gov

RIN: 0910–AA61

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838. SAFETY REPORTING AND RECORDKEEPING REQUIREMENTS FOR MARKETED OTC DRUGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 374; 21 USC 375; 21 USC 379; 42 USC 216; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 201; 21 CFR 211; 21 CFR 327; 21 CFR 330

Legal Deadline: None

Abstract: The proposed rule would require manufacturers of marketed nonprescription human drug products to report to FDA information they receive about adverse drug reactions, maintain records of adverse drug reactions, and permit access by FDA to adverse drug reaction records.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Audrey Thomas, Regulatory Policy Analyst, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA86

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839. SAFETY REPORTING REQUIREMENTS FOR HUMAN DRUG AND BIOLOGICAL PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 242a; 42 USC 262; 42 USC 263; 42 USC 263a-n; 42 USC 264; 42 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360b-j; 21 USC 361a; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379e; 21 USC 381

CFR Citation: 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600; 21 CFR 320; 21 CFR 601; 21 CFR 606

Legal Deadline: None

Abstract: The proposed rule would amend the expedited and periodic safety reporting regulations for human drugs and biological products to revise certain definitions and reporting formats as recommended by the International Conference on Harmonization and to define new terms; to add to or revise current reporting requirements; to revise certain reporting time frames; and to make other revisions to these regulations to enhance the quality of safety reports received by FDA.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Audrey Thomas, Regulatory Policy Analyst, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

Fax: 301 827-5562

RIN: 0910–AA97

840. RADIOACTIVE DRUGS FOR BASIC RESEARCH

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 361

Legal Deadline: None

Abstract: The proposed rule would update FDA's regulations on the use of radioactive drugs for basic research to reflect technological changes in the field of radiopharmaceuticals. The proposed rule would also clarify and correct certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Fax: 301 827-5562
Email: pendletonb@cder.fda.gov

RIN: 0910–AB00

841. ADMINISTRATIVE PRACTICES AND PROCEDURES; ADVISORY OPINIONS AND GUIDELINES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 42 USC 262; 42 USC 263b; 42 USC 264; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 394; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 201

CFR Citation: 21 CFR 10; 21 CFR 808

Legal Deadline: None

Abstract: This proposed rule would amend FDA regulations in 21 CFR part 10 concerning advisory opinions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB14

842. CURRENT GOOD TISSUE PRACTICE FOR MANUFACTURERS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cellular and tissue-based products, the Food and Drug Administration (FDA) is proposing to require manufacturers of human cells and tissue to follow current good tissue practice (GTP), which includes proper handling, processing, and storage of human cells and tissue, recordkeeping, and the maintenance of a quality program. FDA is also proposing to amend the current good manufacturing practice regulations that apply to medical device products and biological products containing human cells or tissues in order to incorporate the new GTP requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1508
NPRM Comment Period End	05/08/01	
Final Action	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB28

843. APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG; COMPLETE RESPONSE LETTER; AMENDMENTS TO UNAPPROVED APPLICATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 312; 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on marketing approval of new drugs to discontinue the use of approvable and not approvable letters when taking action on a marketing application and instead use complete response letters. The proposed rule would also amend the regulations on extension of the review clock because of amendments to applications.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB34

844. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360bbb

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule would revise the investigational new drug regulations to clarify the conditions under which individual patients may receive investigational drugs for treatment use; to clarify the conditions under which a small group of patients may receive investigational drugs for treatment use under an expanded access protocol; and to clarify the criteria under which sponsors can recover costs for providing investigational drugs to patients for certain treatment uses.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, (HFD-40), Center for Drug Evaluation and Research, 1451 Rockville Pike, Suite 6021, Rockville, MD 20852
Phone: 301 594-6758
Fax: 301 594-5298

RIN: 0910–AB37

845. ELECTRONIC SUBMISSION OF ADVERSE DRUG REACTION REPORTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 251 to 353

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The proposed rule would set forth requirements on the electronic submission of adverse drug reaction reports using international medical terminology, electronic data format, and electronic transmission standards.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/98	63 FR 59746
ANPRM Comment Period End	02/03/99	
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Audrey Thomas, Regulatory Policy Analyst, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB42

846. DISTINGUISHING MARKS FOR DRUG PRODUCTS CONTAINING INSULIN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would set forth a new system of distinctive colors and marks to identify different types of insulin-containing drug products.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB43

847. PREGNANCY LABELING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would revise the regulatory requirements for the pregnancy labeling subsection of the labeling requirements for human drugs and biologics.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and

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Email: beakesv@cder.fda.gov

RIN: 0910–AB44

848. POSITRON EMISSION TOMOGRAPHY DRUGS; CURRENT GOOD MANUFACTURING PRACTICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 121

CFR Citation: 21 CFR 220

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Positron emission tomography (PET) is a medical imaging modality involving the use of a unique type of radiopharmaceutical drug. PET drugs are usually injected intravenously into patients for diagnostic purposes. Most PET drugs are produced using cyclotrons at locations that are in close proximity to the patients to whom the drugs are administered (e.g., in hospitals or academic institutions). Each PET drug is compounded under a physician's prescription and, due to the short half-lives of PET drugs, is administered to the patient within a few minutes or hours.

Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 351(a)(2)(B)), a drug is adulterated if the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice (CGMP) to assure that the drug meets the requirements of the Act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess. FDA's CGMP requirements for drug products are set forth in 21 CFR parts 210 and 211.

On November 21, 1997, the President signed into law the Food and Drug Administration Modernization Act (Modernization Act) (Pub. L. 105-115). Section 121 of the Modernization Act contains several provisions affecting the regulation of PET drugs. Section 121(c)(1)(A) of the Modernization Act directs FDA to establish, within two years after enactment, appropriate approval procedures and CGMP requirements for PET drugs. Section 121(c)(1)(B) requires FDA to consult with patient advocacy groups, professional associations, manufacturers, and other interested persons as the agency develops PET drug CGMP requirements and approval procedures. FDA's proposed rule on PET drug CGMP's will be designed to reflect the unique nature of PET drug products.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Email: pendletonb@cder.fda.gov

RIN: 0910–AB63

849. CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 225

Legal Deadline: None

Abstract: This proposal is in response to a citizen petition request to merge the separate requirements of the current good manufacturing practice (CGMP) regulations, 21 CFR part 225 applicable to licensed and unlicensed feed manufacturing facilities, respectively. The merger would produce a single set of updated, streamlined CGMPs that apply to all medicated feed manufacturers. This consolidation of existing CGMPs would preserve and strengthen food safety, be more appropriate given the changing structure of the medicated feed industry, and enhance uniformity and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: George Graber, Director, Division of Animal Feeds, Department of Health and Human Services, Food and Drug Administration, HFV-220, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6651
Email: ggraber@cvm.fda.gov

RIN: 0910–AB70

850. FIXED-COMBINATION PRESCRIPTION AND OVER-THE-COUNTER DRUGS FOR HUMAN USE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 300.50; 21 CFR 330.10

Legal Deadline: None

Abstract: The proposed rule would amend 21 CFR 300.50 and 21 CFR 330.10(a)(4)(iv), which state the conditions under which two or more drugs (for a prescription drug) or active ingredients (for an over-the-counter drug) may be combined in a single dosage form. The proposed rule would state how this provision will apply to products derived from natural sources, including animal and botanical raw materials.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Email: pendletonb@cder.fda.gov

RIN: 0910–AB79

851. REPACKAGING APPROVAL REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would set forth requirements for FDA prior approval of certain types of repackaging of approved drug products by persons who are not holders of approved applications for the products. The proposed rule would ensure that FDA approves changes to drug product containers and closure systems by both application holders and repackagers.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB81

852. STABILITY TESTING OF DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would specify required stability data that must be submitted with new drug applications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB82

853. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING DIETARY SUPPLEMENTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371; 21 USC 374; 21 USC 381; 21 USC 393; 42 USC 264

CFR Citation: 21 CFR 111

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) announced in an advance notice of proposed rulemaking (ANPRM) of February 6, 1997 (62 FR 5700), its plans to consider developing regulations establishing current good manufacturing practices (CGMP) for dietary supplements and dietary ingredients. The ANPRM was published in order for FDA to solicit comments on whether it should initiate action to establish CGMP regulations and if so, what constitutes CGMP for these products. FDA announced that this effort was in response to the section of the Federal Food, Drug, and Cosmetic Act (the Act) that provides authority to the Secretary of Health and Human Services to promulgate CGMP regulations and to a submission from the dietary supplement industry asking that FDA consider an industry-proposed CGMP framework as a basis for CGMP regulations. The ANPRM also responds to concerns that such regulations are necessary to ensure that consumers are provided with dietary supplement products which have not been adulterated as a result of manufacturing, packing, or holding; which have the identity and provide the quantity of dietary ingredients declared in labeling; and which meet the quality specifications that the supplements are represented to meet.

Timetable:

Action	Date	FR Cite
ANPRM	02/06/97	62 FR 5700
ANPRM Comment Period End	06/06/97	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Karen Strauss, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, (HFS-820), 200 C Street SW, Washington, DC 20204
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RIN: 0910–AB88

854. SUBMISSION IN ELECTRONIC FORMAT OF CERTAIN LABELING INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 350; 21 USC 351; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e; ...

CFR Citation: 21 CFR 314.50; 21 CFR 314.81; 21 CFR 314.94

Legal Deadline: None

Abstract: The Food and Drug Administration is proposing to amend its regulations governing the format in which certain labeling in new drug applications, abbreviated new drug applications, supplements, and annual reports is required to be submitted. The proposal would require that certain labeing content described under sections 201.56 and 201.57 be submitted to FDA in electronic format.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB91

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855. FEES RELATING TO DRUGS; WAIVER AND REDUCTION OF FEES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 379g; 21 USC 379h

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. sections 379g and 379h) require FDA to assess and collect fees related to human drug applications. Section 736(d) of the Act (21 U.S.C. 379h(d)) authorizes the agency to grant a waiver or reduction of such fees in certain circumstances. This proposed rule would establish FDA's criteria for determining whether to grant a waiver or reduction of fees.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB92

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856. PERIODIC TESTING FOR CERTAIN HUMAN DRUG, VETERINARY DRUG, AND BIOLOGICAL PRODUCT FINAL SPECIFICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360(b); 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 211.165; 21 CFR 314; 21 CFR 514; 21 CFR 601; 21 CFR 610

Legal Deadline: None

Abstract: The proposed rule requests comments on when certain finished product laboratory tests to determine satisfactory conformance to final specifications for new human drug, animal drug, animal drugs and biological products may be performed on a periodic basis.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB93

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857. REQUIREMENTS PERTAINING TO SAMPLING SERVICES AND PRIVATE LABORATORIES USED IN CONNECTION WITH IMPORTED FOOD

Priority: Routine and Frequent

Legal Authority: 21 USC 331; 21 USC 333; 21 USC 334; 21 USC 335b; 21 USC 335c; 21 USC 342; 21 USC 343; 21 USC 351; 21 USC 352; 21 USC 361; 21 USC 362; 21 USC 371; 21 USC 372; 21 USC 374; 21 USC 376; 21 USC 381

CFR Citation: 21 CFR 59

Legal Deadline: None

Abstract: The proposed rule would establish requirements for importers and other persons who use sampling services and private laboratories in connection with imported food. For example, the proposal would pertain to persons who use sample collection services and private laboratories and would describe some responsibilities for such persons, sample collection services, and private laboratories. These responsibilities might include recordkeeping requirements to ensure that the correct sample is collected and analyzed, and a notification requirement if a person intends to use a private laboratory in connection with imported food. The proposed rule is intended to help insure the integrity and scientific validity of data and results submitted to FDA.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
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Email: pchao@oc.fda.gov

RIN: 0910–AB96

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858. MEDICAL DEVICES, MEDICAL DEVICE ESTABLISHMENT REGISTRATION AND LISTING REQUIREMENTS; AMENDMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 374

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: FDA is considering revising its present establishment registration and device listing regulations. More particularly, FDA is considering whether to: (1) merge establishment registration and device listing into a single system and single reporting form; (2) encourage the electronic submission of the establishment registration and device listing information; (3) require premarket submission application numbers; (4) amend time frames for providing and updating registration and listing data; and (5) require notification of transfer of ownership for all premarket applications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Bryan H. Benesch, Special Assistant to the Director, Office of Compliance, Department of Health and Human Services, Food and Drug Administration, HFZ-300, Center for Devices and Radiological Health, 2094 Gaither Road, Rockville, MD 20850
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RIN: 0910–AB99

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859. AVAILABILITY FOR PUBLIC DISCLOSURE AND SUBMISSION TO FDA FOR PUBLIC DISCLOSURE OF CERTAIN DATA AND INFORMATION RELATED TO GENE THERAPY OR XENOTRANSPLANTATION

Priority: Other Significant

Legal Authority: 5 USC 552; 21 USC 331(j); 18 USC 1905; 21 USC 355(i); 21 USC 371(a); 42 USC 264

CFR Citation: 21 CFR 20.100; 21 CFR 312.42; 21 CFR 312.130; 21 CFR 601.50; 21 CFR 601.51; 21 CFR 601.52; 21 CFR 601.53

Legal Deadline: None

Abstract: The proposed regulation would require sponsors of human trials involving human gene therapy or xenotransplantation to submit a redacted version for public disclosure of an investigational new drug application (IND), an amendment to an IND, or other related documents. The submission would be redacted to exclude trade secret information and personal information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. FDA would then make the redacted documents available to the general public and the information would be able to be discussed in open session at scientific advisory committee meetings and at other suitable fora.

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4688
NPRM Comment Period End	04/18/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
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Email: falter@cber.fda.gov

RIN: 0910–AC00

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860. REPORTING INFORMATION REGARDING POTENTIAL FABRICATION OR FALSIFICATION OF DATA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 349; 21 USC 352; 21 USC 355i; 21 USC 360b; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j; 21 USC 360k; 21 USC 371; 21 USC 379e; 42 USC 262

CFR Citation: 21 CFR 70.3; 21 CFR 71.1; 21 CFR 170.3; 21 CFR 171.1; 21 CFR 312.3; 21 CFR 312.56; 21 CFR 510.3; 21 CFR 511.1; 21 CFR 812.46

Legal Deadline: None

Abstract: The proposed rule would require sponsors to promptly report any information indicating that any person has or may have falsified data in the course of proposing, designing, performing, recording, supervising, or reviewing research, or in reporting research results.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC02

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861. STATUS REPORTS FOR QUANTITY MARKETED INFORMATION FOR ANIMAL DRUG PRODUCTS USED IN FOOD-PRODUCING ANIMALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 524

Legal Deadline: None

Abstract: After approving a new animal drug application, the Food and Drug Administration (FDA) requires the

sponsor to submit adverse experience and use information on the product. The currently submitted distribution data are insufficient to provide the use information needed by FDA. Because of concern about the effect of the use of antimicrobial drugs in food-producing animals on the development rate and extent of resistance in human pathogens, FDA published a document describing a proposed framework for evaluating and protecting human health. The Framework Document describes the need for more detailed drug distribution information to permit the evaluation of a correlation between changes in resistance and the use of antimicrobial drugs in food-producing animals. The regulatory proposal would require the reporting of the total number of distributed units of each size, strength, or potency (distribution data or quantity marketed data) and provide FDA with the more detailed information needed to assess the correlation between resistance in human pathogens and the use of antimicrobial drugs in food-producing animals.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: William Keller, Division Director, Division of Surveillance, Department of Health and Human Services, Food and Drug Administration, (HFV-210), Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6642

RIN: 0910–AC04

862. LABELING DIETARY SUPPLEMENTS FOR WOMEN WHO ARE OR MAY BECOME PREGNANT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321(n); 21 USC 342(f); 21 USC 343(a)(1); 21 USC 343(r)(6); 21 USC 371(a)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to require manufacturers to label their dietary supplements with a caution statement for women who are or may become pregnant unless there is evidence demonstrating that use in pregnancy is safe. FDA is including in this proposal a list of products that would not require this caution statement, as well as a petition process by which a product may be exempted from bearing the caution statement. FDA is also proposing to regulate manufacturers of dietary supplements that bear a claim about an effect on a condition associated with pregnancy to maintain and permit FDA inspection of certain records. FDA is proposing this rule because of the special safety concerns associated with use of any product during pregnancy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Email: pendletonb@cder.fda.gov

RIN: 0910–AC09

863. OVERWRAP FOR INHALATION PRODUCTS PACKAGED IN LOW DENSITY POLYETHYLENE (LDPE) CONTAINERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375

CFR Citation: 21 CFR 200

Legal Deadline: None

Abstract: The proposed rule would require overwrap on all inhalation products packaged in low density polyethylene (LDPE) containers to prevent ingress of contaminates.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AC10

864. REGULATION OF CARCINOGENIC COMPOUNDS USED IN FOOD-PRODUCING ANIMALS; DEFINITION OF "NO RESIDUE"

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 360b; 21 USC 371

CFR Citation: 21 CFR 500.82; 21 CFR 500.84; 21 CFR 500.88

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its regulations relating to the operational definition of the term "no residue." The definition is used in determining whether any residue of carcinogenic compounds used in food-producing animals would "be found in food produced from those animals under conditions of use reasonably certain to be followed in practice" (21 CFR 500.80(a)). Under the current operational definition of no residue, it is possible for a residue detected by a method approved by FDA to be considered "no residue." FDA is revising its regulations to make them consistent with a 1995 Department of Justice opinion regarding this definition. The proposed changes would revise the definition of "no residue" to mean that no residue is detected with an approved regulatory method. FDA would propose several conditions that sponsors of carcinogenic compounds must satisfy with respect to the sponsors' proposed regulatory methods.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Brynes, Regulatory Scientist, Department of Health and Human Services, Food and Drug Administration, HFV-151, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
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Email: sbrynes@cvm.fda.gov

RIN: 0910–AC13

865. CONTROL OF SALMONELLA ENTERITIDIS IN SHELL EGGS DURING PRODUCTION AND RETAIL

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 371; 21 USC 381; 21 USC 393; 42 USC 264; 42 USC 343; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 116; 21 CFR 118

Legal Deadline: None

Abstract: The President's Council on Food Safety was established in August 1998 to improve the safety of the food supply through science-based regulations and well-coordinated inspection, enforcement, research, and education programs. The Council has identified egg safety as one component of the public health issue of food safety that warrants immediate Federal, interagency action.

In July 1999, FDA and FSIS committed to developing an action plan to address the presence of salmonella enteritidis (SE) in shell eggs and egg products using a farm-to-table approach. FDA and FSIS held a public meeting on August 26, 1999, to obtain stakeholder input on the draft goals, as well as to further develop the objectives and action items for the action plan. The Egg Safety Action Plan was announced by the President on December 11, 1999. The goal of the Action Plan is to reduce egg-related SE illnesses by 50 percent by 2005 and eliminate egg-related SE illnesses by 2010.

The Egg Safety Action Plan consists of eight objectives covering all stages of the farm-to-table continuum as well as support functions. On March 30, 2000 (Columbus, OH), and April 6, 2000 (Sacramento, CA), joint public meetings were held by FDA and FSIS to solicit and discuss information related to the implementation of the objectives in the Egg Safety Action Plan.

In accordance with discussions at the public meetings, FDA intends to publish a proposed rule to require that shell eggs be produced under an SE risk reduction plan that is designed to prevent transovarian SE from contaminating eggs at the farm during production.

Because egg safety is a farm-to-table effort, FDA intends to include in its proposal certain provisions of the 1999 Food Code that are relevant to how eggs are handled, prepared, and served at retail establishments. In addition, the agency intends to propose specific requirements for retail establishments that serve populations most at-risk of egg-related illness (i.e., the elderly, children, and the immunocompromised).

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0910–AC14

866. • ALUMINUM IN LARGE AND SMALL VOLUME PARENTERALS USED IN TOTAL PARENTERAL NUTRITION

Priority: Other Significant

Legal Authority: 21 USC 352; 21 USC 321(n); 21 USC 371(a); 21 CFR 201.51; 21 CFR 201.100; 21 CFR 314.125

CFR Citation: 21 CFR 201.323(c)

Legal Deadline: None

Abstract: The proposed rule would revise 21 CFR 323(c) to permit small volume parenterals and pharmacy bulk packages that contain less than 25 ug/L of aluminum to state "contains less than 25ug/L" rather than the exact amount of aluminum.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AC18

867. • USE OF MATERIALS DERIVED FROM RUMINANT ANIMALS IN FDA REGULATED PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The U.S. Department of Agriculture's Animal and Plant Health Inspection Service maintains, by regulation in 9 CFR 94.18(a), a list of countries: (1) where bovine spongiform encephalopathy (BSE) exists; and (2) that present an undue risk of introducing BSE into the United States. This proposed rule would restrict, in FDA regulated products, the use of

most materials derived from ruminant animals born, raised, or slaughtered in a country listed in 9 CFR 94.18(a). In addition, there would be a waiver provision that could be used under appropriate criteria.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AC19

868. • POSTMARKETING REPORTS OF SUBSTANDARD OR INEFFECTIVE BULK INGREDIENTS AND BULK INGREDIENTS FROM UNAPPROVED SOURCES

Priority: Info./Admin./Other

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The proposed rule would address reporting and other issues relating to the importation or receipt of bulk ingredients that are substandard, ineffective, or come from unapproved sources. The proposal is intended to enhance FDA's ability to help ensure that human drug products have the strength, quality, and purity appropriate for an approved human drug product.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AC20

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Food and Drug Administration (FDA)

869. NEW ANIMAL DRUG APPROVAL PROCESS; IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT (GADPTRA)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 379e; 21 USC 381

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1989, The deadline applies to the GADPTRA sections. There is no deadline relating to the other sections.

Abstract: On December 17, 1991, the Agency published a proposed revision of the existing regulations that is consistent with the current procedural regulations for human drugs, where appropriate. The New Animal Drug Application (NADA) revisions articulate general requirements in regulations containing performance standards and would complement these regulations through detailed guidance on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also was published on that date. The agency intends to repropose the NADA proposed rule to incorporate some recent changes in procedure. The NADA revisions are expected to include regulations to implement the provisions of the Animal Drug Availability Act of 1996, specifically the definition of flexible labeling, and implement parts of the President's National Performance Report "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will maintain the safety and effectiveness of new animal drugs and enable a more streamlined animal drug application review and approval process which will result in less regulatory burden upon industry and FDA. The Agency also proposes to amend its regulations to implement title I of the Generic Animal Drug and Patent Term Restoration Act, which established new standards for marketing approval of generic copies of animal drugs approved after 1962.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
New Animal Drug Approval Process		
NPRM 12/17/91 (56 FR 65544)		
NPRM To Be Determined		
Records and Reports Concerning Experience with Approved New Animal Drugs		
NPRM 12/17/91 (56 FR 65581)		
Final Action 05/00/01		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: For information concerning reporting requirements for marketed animal drugs, contact William C. Keller, Director, Division of Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 301 827-6642.

For further information concerning generic animal drugs, contact Lonnie W. Luther, Chief, Quality Assurance Support Team, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 301 827-0209.

Agency Contact: Claire Lathers, Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, HFV-100, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AA02

870. CURRENT GOOD MANUFACTURING PRACTICE; AMENDMENT OF CERTAIN REQUIREMENTS FOR FINISHED PHARMACEUTICALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351 to 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210.3; 21 CFR 211.113; 21 CFR 211.160; 21 CFR 211.165; 21 CFR 211.166; 21 CFR 211.180; 21 CFR 211.192; 21 CFR 211.220; 21 CFR 211.222; 21 CFR 211.240; 21 CFR 211.22; 21 CFR 211.68; 21 CFR 211.82; 21 CFR 211.84; 21 CFR 211.101; 21 CFR 211.103; 21 CFR 211.110; 21 CFR 211.111; ...

Legal Deadline: None

Abstract: FDA is finalizing revisions to the current good manufacturing practice (CGMP) regulations at 21 CFR parts 210 and 211 regarding finished pharmaceuticals. The new regulations codify certain current agency policies or current industry practices. In addition, among other things, the rule will create or clarify requirements for process and methods validation, appropriate laboratory testing procedures, and protection against contamination. The rule is designed to update the CGMP regulations in response to technological changes and the agency's experience with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/03/96	61 FR 20104
NPRM Comment Period End	09/30/96	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA45

871. BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 320

Legal Deadline: None

Abstract: The final rule revises and clarifies certain sections of parts 314 and 320 and eliminates duplication and inconsistencies.

Timetable:

Action	Date	FR Cite
NPRM	11/19/98	63 FR 64222
NPRM Comment Period End	02/02/99	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA51

872. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed regulation would amend the regulations governing the format and content of professional labeling for human prescription drug and biologic products, 21 CFR 201.56 and 201.57. The proposal would require that professional labeling include a section containing highlights of prescribing information, and a section containing an index to prescribing information; reorder currently required information and make minor changes to its content, and establish minimum graphical requirements for professional labeling. The proposal would also eliminate certain unnecessary statements that are currently required to appear on prescription drug labels and move certain information to professional labeling.

Timetable:

Action	Date	FR Cite
NPRM	12/22/00	65 FR 81082
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Nancy M. Ostrove, Division of Drug Marketing, Advertising, and Communications, Department of Health and Human Services, Food and Drug Administration, (HFD-42), Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2828

RIN: 0910–AA94

873. CURRENT GOOD MANUFACTURING PRACTICE; REVISION OF CERTAIN LABELING CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210; 21 CFR 211

Legal Deadline: None

Abstract: The final rule amends the labeling control provisions in the current good manufacturing practice regulations to make the provisions less burdensome while still reducing the frequency of drug product mislabeling and drug product recalls associated with cut labeling.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40489
NPRM Comment Period End	10/27/97	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AA98

874. USE OF OZONE-DEPLETING SUBSTANCES

Priority: Other Significant

Legal Authority: 15 USC 402; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 361; 21 USC 371; 15 USC 409; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 342; 21 USC 346a; 21 USC 348; 21 USC 351

CFR Citation: 21 CFR 2

Legal Deadline: None

Abstract: FDA is amending the regulation that permits the use of ozone-depleting substances in particular circumstances to set the standard FDA will use to determine when the use of ozone-depleting substances (ODS) is no longer essential under the Clean Air Act (CAA) and set a new standard to determine when a new essential-use designation should be granted after the effective date of the rule. FDA is also amending the regulations to better conform to other statutes and regulations relating to ozone-depleting substances to eliminate potential confusion and conflicts. FDA is eliminating out-of-date transitional provisions and making other nonsubstantive housekeeping changes to its regulations on ozone-depleting substances. The intended effect of the rule is to protect the health and safety of medical product users while complying with the CAA and the Montreal Protocol.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/97	62 FR 10242
ANPRM Comment Period End	05/05/97	
NPRM	09/01/99	64 FR 47719
NPRM Comment Period End	11/30/99	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AA99

875. EXPORTS; NOTIFICATION AND RECORDKEEPING REQUIREMENTS

Priority: Routine and Frequent

Legal Authority: 15 USC 1453 to 1455; 21 USC 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 243; 42 USC 262; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 381

CFR Citation: 21 CFR 1.101

Legal Deadline: None

Abstract: The final rule would establish the notification recordkeeping requirements for persons exporting human drugs, animal drugs, biological products, and devices under the FDA Export Reform and Enhancement Act.

Timetable:

Action	Date	FR Cite
NPRM	04/02/99	64 FR 15944
Extension	06/17/99	64 FR 32442
NPRM Comment Period End	07/16/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AB16

876. FOREIGN ESTABLISHMENT REGISTRATION AND LISTING

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 374; 42 USC 216; 42 USC 262; 21 USC 331; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 360b to 360c; 21 USC 360e; 21 USC 360i to 360j; 21 USC 371

CFR Citation: 21 CFR 207; 21 CFR 607; 21 CFR 807

Legal Deadline: None

Abstract: The final rule would amend the establishment registration and product listing regulations for human drugs, biological products, animal drugs, and devices to require foreign establishments engaged in the manufacture, preparation, propagation, compounding, or processing of such products that are imported or offered for import into the United States to register and to register the name of a United States agent for the foreign establishment.

Timetable:

Action	Date	FR Cite
NPRM	05/14/99	64 FR 26330
NPRM Comment Period Reopen	08/09/99	
NPRM Comment Period End	10/08/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AB21

877. FDA EXPORT REFORM AND ENHANCEMENT ACT OF 1996; REPORTING AND RECORDKEEPING REQUIREMENTS FOR UNAPPROVED OR VIOLATIVE PRODUCTS IMPORTED FOR FURTHER PROCESSING OR INCORPORATION AND LATER EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1453 to 1455; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 1.84

Legal Deadline: None

Abstract: The final rule would establish reporting and recordkeeping requirements to implement sections 801(d)(3) and 801(d)(4) of the Federal Food, Drug, and Cosmetic Act (the Act) as amended by the Food and Drug Administration (FDA) Export Reform and Enhancement Act of 1996. Section 801(d)(3) of the Act provides that, under prescribed conditions, drug and device components, food and color additives, and dietary supplements may be imported if they are to be further processed or incorporated into products that are to be exported from the United States in accordance with sections 801(e) or 802 of the Act or section 351(h) of the Public Health Service (PHS) Act. Section 801(d)(4) of the Act provides that blood, blood components, source plasma, or source leukocytes, or a component, accessory, or part thereof, may not be imported under section 801(d)(3) of the Act unless the importation complies with section 351(a) of the PHS Act or FDA permits the importation under FDA-determined appropriate circumstances and conditions. Additionally, section 801(d)(4) of the Act prohibits the importation of tissue or a component or part of tissue under section 801(d)(3) of the Act unless the importation complies with section 361 of the PHS Act.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 64930
NPRM Comment Period End	02/08/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AB24

878. BLOOD INITIATIVE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264

CFR Citation: 21 CFR 600; 21 CFR 601; 21 CFR 606; 21 CFR 607; 21 CFR 610; 21 CFR 640; 21 CFR 660; 21 CFR 680

Legal Deadline: None

Abstract: In multiple rulemakings, the Food and Drug Administration is amending the biologics regulations by removing, revising, or updating specific regulations applicable to blood, blood components, Source Plasma and blood derivative products to be more consistent with current practices and to remove unnecessary or outdated requirements. This action is based on a comprehensive review of the regulations that has been performed by FDA. It is also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations; the General Accounting Office; the Institute of Medicine, as well as public comments. Some of the subjects intended to be addressed in the rulemakings include: 1) labeling; 2) notification of consignees and end users of product safety information for plasma derivative products; 3) notification of deferred donors; 4) requirements for donor suitability and testing; and 5) infectious agent clearance. These actions are intended to help ensure the continued safety of the Nation's blood supply.

Timetable:

Albumin (Human), Plasma Protein Fraction (Human) and Immune Globulin (Human); Rev. of Reqs.
Direct Final Rule 05/14/99 (64 FR 26282)
NPRM 05/14/99 (64 FR 26344)
DFR: Confirmation in Part and Tech. Amendment 03/14/00 (65 FR 13678)
Final Action 08/28/00 (65 FR 52016)

Current Good Manufacturing Practice for Blood and Blood Components; Blood Labeling Standards
NPRM 12/00/01

Gen. Reqs. for Blood, Blood Compon., and Plasma Derivatives; Notification of Deferred Donors
NPRM 08/19/99 (64 FR 45355)
Final Action 05/00/01

Infectious Agent Clearance
NPRM 05/00/02

Plasma Derivatives and Other Blood-Derived Products; Reqs. for Tracking and Notification
ANPRM 08/19/99 (64 FR 45383)
NPRM 05/00/02

Reqs. for Testing Human Blood Donors for Evid. of Infection Due to Communicable Disease Agents
NPRM 08/19/99 (64 FR 45340)
Final Action 05/00/01

Rev. to the Requirements Applicable to Blood, Blood Components, and Source Plasma
Direct Final Rule 08/19/99 (64 FR 45366)
NPRM 08/19/99 (64 FR 45375)
Final Action 05/00/01

Suitability Reqs. for Whole Blood and Source Plasma Donors
NPRM 12/00/01

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See RIN 0910-AB76. CGMP for Blood and Blood Components; Blood Labeling Standards formerly listed under 0910-AB89

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210
Fax: 301 594-1944

Email: falter@cber.fda.gov

RIN: 0910–AB26

879. ANTIBIOTIC DRUG APPROVAL AND EXCLUSIVITY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 125

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule would implement the incorporation of antibiotics, which were formerly regulated under authority of section 507 of the Federal Food, Drug, and Cosmetic Act, into the new drug regulatory scheme under section 505 of the Act. The regulation will describe which antibiotics are excepted under section 125(d) of the Food and Drug Administration Modernization Act of 1997 from certain provisions in section 505, including the exclusivity provisions under sections 505(c) and 505(j) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	01/24/00	65 FR 3623
NPRM Comment Period End	04/24/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul C. Varki, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037, (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB33

880. AMENDMENT OF REGULATIONS REGARDING CERTAIN LABEL STATEMENTS ON PRESCRIPTION DRUGS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-115, sec 126

CFR Citation: 21 CFR 201; 21 CFR 250; 21 CFR 310; 21 CFR 329; 21 CFR 361; 21 CFR 369; 21 CFR 290

Legal Deadline: None

Abstract: This final rule revises 21 CFR parts 10, 201, 250, 310, 329, 361, 606, and 610 by removing the requirement that prescription drugs be labeled "Caution: Federal law prohibits dispensing without prescription" and substituting a requirement that prescription drugs be labeled "Rx only." The rule also revises 21 CFR parts 201, 329, and 369 by removing the requirement that certain habit-forming drugs bear the statement "Warning—May be habit forming." The rule also revises 21 CFR part 290 to clarify that drugs that are controlled substances under the Federal Controlled Substances Act are prescription drugs.

Timetable:

Action	Date	FR Cite
NPRM	04/21/00	65 FR 21378
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB39

881. SUPPLEMENTS AND OTHER CHANGES TO APPROVED NEW ANIMAL DRUG APPLICATIONS

Priority: Other Significant

Legal Authority: 21 USC 356a

CFR Citation: 21 CFR 514.8

Legal Deadline: None

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 added a new section to the Federal Food, Drug, and Cosmetic Act that sets forth categories for the reporting of manufacturing changes to a drug product (21 U.S.C. 356a). These categories are based on the potential of the change to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of the drug. The rulemaking will establish the procedures for determining what information the agency would require before drugs manufactured subject to these changes may be distributed. The Center for Veterinary Medicine is amending the regulations regarding supplementary new animal drug regulations to incorporate the requirements of section 116.

Timetable:

Action	Date	FR Cite
NPRM	10/01/99	64 FR 53281
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William Marnane, Director, Division of Manufacturing Technologies, Department of Health and Human Services, Food and Drug Administration, HFV-140, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6966

RIN: 0910–AB49

882. REVISIONS TO THE GENERAL SAFETY REQUIREMENTS FOR BIOLOGICAL PRODUCTS; DIRECT FINAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 351

CFR Citation: 21 CFR 610.11(g)

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) issued a direct final rule and companion proposed rule to amend the biologics regulations by adding "cellular therapy products" to the list of products excepted from the general safety test (GST) and by adding an administrative procedure for obtaining an exemption from the GST requirements for other biological products. Because the agency received significant adverse comment on the administrative procedure portion of the direct final rule, FDA withdrew that portion of the rule and confirmed the remaining portion. FDA intends to finalize the companion proposed rule to respond to the significant adverse comment on the administrative procedure portion of the rule. FDA is taking this action because the GST may not be relevant or necessary for all biological products, including cellular therapy products, currently in various stages of development. This action is part of FDA's continuing effort to achieve the objectives of the "Reinventing Government" initiative, and is intended to reduce the burden of unnecessary regulations on biological products without diminishing the protection of the public health.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/20/98	63 FR 19399
Proposed Rule - Companion Document to Direct Final Rule	04/20/98	63 FR 19431
Direct Final Rule Confirmation in Part	08/05/98	63 FR 41718
Direct Final Rule Withdrawn in Part	08/05/98	63 FR 41718
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen M. Ripley, Team Leader, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
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RIN: 0910–AB51

883. DISCONTINUATION OF A LIFESAVING PRODUCT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 356(c)

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 131 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506C to the Food, Drug, and Cosmetic Act (21 U.S.C. 356c). This proposed rule would set forth requirements on issues related to the implementation of section 131, which requires that the sole manufacturer of certain drug products notify the Secretary of the discontinuance of the manufacture of the product at least six months prior to the discontinuance of the drug.

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66665
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB60

884. SUPPLEMENTS AND OTHER CHANGES TO AN APPROVED APPLICATION

Priority: Other Significant

Legal Authority: 21 USC 356a

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506A to the Food, Drug, and Cosmetic Act (21 U.S.C. 356a). Pursuant to section 116, the rulemaking will revise current procedures for approving manufacturing changes and generally classify such changes into four categories. Major manufacturing changes, which are of a type determined by the Secretary to have a substantial potential to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of a drug, require prior approval of a supplemental application. A second category of changes may be made if FDA has not notified the company within 30 days after the submission of a supplement that prior approval is required. A third category of changes may be made upon submission of a supplement to the agency. The rule will also identify another category of changes that may be made without the submission of a supplement but which must be reported in an annual report.

Timetable:

Action	Date	FR Cite
NPRM	06/28/99	64 FR 34608
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB61

885. FOOD LABELING: TRANS FATTY ACIDS IN NUTRITION LABELING, NUTRIENT CONTENT CLAIMS, AND HEALTH CLAIMS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: Section 403(q) of the Federal Food, Drug, and Cosmetic Act, which was added by the Nutrition Labeling and Education Act of 1990, requires that the label or labeling of food products bear nutrition information. Among other things, section 403(q) authorizes the Food and Drug Administration (FDA) to add or delete nutrients that are to be declared on the labels or labeling of food products by regulation if it finds such action necessary to assist consumers in maintaining healthy dietary practices. FDA issued final regulations implementing these provisions in 1993. FDA subsequently received a citizen petition requesting that FDA amend its regulations on food labeling to require that the amount of trans fatty acids be listed in the nutrition label and be limited wherever saturated fat limits are placed on nutrient content claims, health claims, or disqualifying levels and disclosure levels. In response to this petition and based on new evidence, FDA proposed the actions requested in the petition on November 17, 1999 (64 FR 62746). In addition, FDA proposed to define the claim "trans fat free."

Timetable:

Action	Date	FR Cite
NPRM	11/17/99	64 FR 62746

Action	Date	FR Cite
NPRM Comment Period Reopened	12/05/00	65 FR 75887
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Susan Thompson, Chemist, Department of Health and Human Services, Food and Drug Administration, (HFS-832), Center for Food Safety and Applied, Nutrition, 200 C Street SW, Washington, DC 20204
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RIN: 0910–AB66

886. PRESUBMISSION CONFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514

Legal Deadline: None

Abstract: This rule will implement section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act (the Act). This section of the Act states that any person intending to file a new animal drug application or supplemental new animal drug application, or to investigate a new animal drug is entitled to one or more conferences with the agency prior to submission to reach an agreement establishing a submission or investigational requirement. This rule would describe how to request a presubmission conference and describe the procedures for the conduct of presubmission conferences.

Timetable:

Action	Date	FR Cite
NPRM	08/25/00	65 FR 51782
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Gail Schmerfeld, Special Assistant, Department of Health and Human Services, Food and Drug Administration, HFV-100, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AB68

887. SURGEON'S AND PATIENT EXAMINATION GLOVES; RECLASSIFICATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360l; 21 USC 371; 21 USC 374; 21 USC 331; 21 USC 351 to 352; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j

CFR Citation: 21 CFR 801.437; 21 CFR 878.4460; 21 CFR 878.4461; 21 CFR 880.6250; 21 CFR 880.6251; 21 CFR 801.440

Legal Deadline: None

Abstract: FDA is revising its present regulations governing the classification of surgeon's and patient examination gloves. The present rule classifies surgeon's and patient examination gloves as class I devices. FDA is reclassifying surgeon's and patient examination gloves as class II devices subject to special controls. FDA is also requiring additional labeling concerning powder and protein levels for these devices.

Timetable:

Action	Date	FR Cite
NPRM	07/30/99	64 FR 41710
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, HFZ-215, Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, MD 20850
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RIN: 0910–AB74

888. CGMPS FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES AND TRANSFUSION RECIPIENTS RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK OF TRANSMITTING HCV (LOOKBACK)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 21 USC 321; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264; 42 USC 300aa-25; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 606; 21 CFR 610

Legal Deadline: None

Abstract: This rulemaking is one of a number of actions being taken to amend the biologics regulations to remove, revise, or update the regulations applicable to blood, blood components, and blood derivatives. These actions are based on a comprehensive review of the regulations performed by FDA, and are also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations, the General Accounting Office, and the Institute of Medicine, as well as public comments. In this rulemaking, FDA will propose to amend the biologics regulations to require that blood establishments prepare and follow written procedures for appropriate action when it is determined that blood and blood components pose an increased risk for transmitting hepatitis C virus (HCV) infection because they have been collected from a donor who, at a later date, tested repeatedly reactive for evidence of HCV.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69377
NPRM Comment Period End	02/14/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See RIN 0910-AB26.

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
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RIN: 0910–AB76

889. ANTIBIOTIC RESISTANCE LABELING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; ...

CFR Citation: 21 CFR 201.24

Legal Deadline: None

Abstract: The final rule would require the inclusion of statements on antibiotic prescription drug labeling concerning inappropriate antibiotic use and the prevalence of drug resistant microorganisms.

Timetable:

Action	Date	FR Cite
NPRM	09/19/00	65 FR 5611
Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3059 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AB78

890. 180-DAY GENERIC DRUG EXCLUSIVITY FOR ABBREVIATED NEW DRUG APPLICATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314.107

Legal Deadline: None

Abstract: The final rule will amend regulations governing 180-day generic drug exclusivity to clarify existing eligibility requirements and conditions for abbreviated new drug application sponsors, to modify current eligibility requirements, and to impose new eligibility conditions. These revisions are the result of recent court decisions, including Mova Pharmaceutical v. Shalala, 140 F. 3d 1060 (D.C. Cir. 1998), invalidating an eligibility requirement for exclusivity.

Timetable:

Action	Date	FR Cite
NPRM	08/06/99	64 FR 42873
NPRM Comment Period End	10/04/99	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB80

891. FOOD ADDITIVES: FOOD CONTACT SUBSTANCES NOTIFICATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321 et seq

CFR Citation: 21 CFR 25.20; 21 CFR 25.32; 21 CFR 20.100; 21 CFR 58.3; 21 CFR 170.3; 21 CFR 170.100; 21 CFR 170.101; 21 CFR 170.102; 21 CFR 170.103; 21 CFR 170.104; 21 CFR 170.105; 21 CFR 171.1; 21 CFR 171.4; 21 CFR 174.5; 21 CFR 179.25; 21 CFR 170.106; ...

Legal Deadline: None

Abstract: In November 1997, Congress amended the Federal Food, Drug, and Cosmetic Act (FFD&C) to establish a notification process whereby manufacturers and suppliers of components of food contact materials may notify FDA 120 days prior to marketing a new food contact substance. If FDA does not object to the notification within 120 days, the substance may be marketed with the same status as a regulated food additive. FDA is authorized to publish regulations outlining the information required to be submitted in premarket notifications for food-contact substances submitted to the agency. FDA is also authorized to publish regulations that identify when a food additive petition is required in lieu of a premarket notification. FDA is not required to accept a premarket notification in any fiscal year for which an appropriation is not specifically made for this program. FDA expects that the majority of food-contact substances that are currently the subject of food additive petitions will be the subject of premarket notifications. FDA also expects that substances currently reviewed under the agency's threshold of regulation process will be reviewed as premarket notifications under the new process. Unlike food additive regulations, premarket notifications will be specific to the notifier. The proposed use of a similar or identical substance produced by another manufacturer will require a separate premarket notification submission. Also unlike food additive petitions, the existence of the notification and any otherwise releasable data within the notification is not publicly available until the 120-day period has expired. FDA expects to keep a publicly available list of effective premarket notifications to assist manufacturers, distributors, and users of food packaging and other food-contact materials. FDA published a proposed rule on the notification process for food contact substances on July 13, 2000. The comment period on the proposed rule ended on September 26, 2000.

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43269
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0910–AB94

892. STATE CERTIFICATION OF MAMMOGRAPHY FACILITIES

Priority: Other Significant

Legal Authority: 21 USC 360i; 21 USC 360nn; 21 USC 374; 42 USC 263b

CFR Citation: 21 CFR 900.2; 21 CFR 900.20; 21 CFR 900.21; 21 CFR 900.22; 21 CFR 900.23; 21 CFR 900.24; 21 CFR 900.25

Legal Deadline: None

Abstract: FDA is considering regulations to implement section (q) of the Mammography Quality Standards Act of 1992 (the MQSA). This section permits FDA to authorize individual States to certify mammography facilities, to conduct the inspection of the facilities, to implement the MQSA quality standards, and to administer other related functions. FDA retains oversight responsibility for the activities of the States authorized to carry out certification requirements and mammography facilities certified by those States must continue to meet the quality standards established by FDA for mammography facilities nationwide. The rule would include procedures for application, approval, evaluation, and withdrawal of approval of States as Certification Agencies. It also would include standards to be met by States receiving this authority.

Timetable:

Action	Date	FR Cite
NPRM	03/30/00	65 FR 16847
NPRM Comment Period End	06/28/00	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Ruth Fischer, Office of Health and Industry Programs, Department of Health and Human Services, Food and Drug Administration, HFZ-240, Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 594-3332

RIN: 0910–AB98

893. EXAMINATION OF ADMINISTRATIVE RECORD AND OTHER ADVISORY COMMITTEE RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321

CFR Citation: 21 CFR 14.75

Legal Deadline: None

Abstract: FDA is amending its administrative regulations in 21 CFR 14.75(a) to state that written information for consideration by an advisory committee at an advisory committee meeting is available for public disclosure, whenever practicable, before or at the time of the meeting.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1275
Direct Final Rule	01/08/01	66 FR 1257
Direct Final Rule Withdrawn	05/00/01	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0910–AC03

894. EFFICACY EVIDENCE NEEDED FOR PRODUCTS TO BE USED AGAINST TOXIC SUBSTANCES WHEN HUMAN STUDIES ARE UNETHICAL

Priority: Other Significant

Legal Authority: 15 USC 1451 to 1561; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360c to 360f; 21 USC 360h to 360j; 21 USC 371; 21 USC 374; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 263b; 21 USC 321; PL 105-115, sec 122, 111 stat 2322 (21 USC 355 note)

CFR Citation: 21 CFR 601; 21 CFR 314

Legal Deadline: None

Abstract: The agency plans to publish a final rule that would amend its new drug and biological product regulations to identify the information needed to provide substantial evidence of the efficacy of new drug and biological products used to reduce or prevent the toxicity of chemical, biological, or radiological, substances when adequate and well-controlled efficacy studies in humans cannot be conducted ethically. Efficacy studies in humans cannot be conducted ethically if: 1) the studies would involve administering a potentially lethal or permanently disabling toxic substance or organism to healthy human volunteers without a proven treatment; and 2) field trials (assessment of the product after natural accidental, or malicious exposure to the substance) are not feasible. FDA is taking this action because it recognizes the importance of improving medical responses to the use of lethal or permanently disabling chemical, biological, radiological, and nuclear substances in order to protect individuals exposed to these substances.

Timetable:

Action	Date	FR Cite
NPRM	10/05/99	64 FR 53960
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC05

895. ADDITIONAL SAFEGUARDS FOR CHILDREN IN CLINICAL INVESTIGATIONS OF FDA REGULATED PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 343; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 350a; 21 USC 350b; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 360c to 360f; 21 USC 360h to 360j; 21 USC 371; 21 USC 379e; 21 USC 381; 41 USC 216; 41 USC 241; 41 USC 262; 41 USC 263b to 263n

CFR Citation: 21 CFR 50; 21 CFR 56

Legal Deadline: Other, Statutory, April 17, 2001, The Children's Health Act of 2000 requires FDA to adopt existing HHS regulations within 6 months of the date of its enactment on 10/17/2000. Thus FDA is required to adopt HHS Subpart D by 4/17/2001.

Abstract: The interim rule would provide additional protections for children involved as subjects in clinical investigations of FDA-regulated products, as required by the Children's Health Act of 2000.

Timetable:

Action	Date	FR Cite
Interim Rule	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC07

896. IMPLEMENTING COURT DECISIONS, ANDA APPROVALS, AND 180-DAY EXCLUSIVITY

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314.107(e)

Legal Deadline: None

Abstract: The interim rule will amend regulations governing 180-day generic drug exclusivity to redefine the term court decision. The definition of court decision will be changed to the decision of a District Court deciding the relevant patent litigation case. The regulations will then correctly define court decision in accordance with recent court holdings addressing the definition.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/13/00	65 FR 43233
Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC11

897. REVOCATION OF CONDITIONS FOR MARKETING DIGOXIN PRODUCTS FOR ORAL USE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360b-f; 21 USC 360j; 21 USC 361a; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 242a; 42 USC 262; 42 USC 263b-n

CFR Citation: 21 CFR 310.500

Legal Deadline: None

Abstract: The final rule will revoke the regulation (21 CFR 310.500) that established conditions for marketing digoxin products for oral use.

Timetable:

Action	Date	FR Cite
NPRM	11/24/00	65 FR 70538
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary E. Catchings, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, HFD-7, Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AC12

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Long-Term Actions

898. INFANT FORMULA: GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, NOTIFICATION REQUIREMENTS, AND RECORDS AND REPORTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 350a; 21 USC 371

CFR Citation: 21 CFR 106; 21 CFR 107

Legal Deadline: None

Abstract: The agency published a proposed rule on July 9, 1996 that would establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, and records and reports for the production of infant formula. This proposal was issued in response to the 1986 Amendments to the Infant Formula Act of 1980. Two final rules will be published: one, on Quality Factors and the second, on Good Manufacturing Practice, Quality Control Procedures Notification Requirements, and Records and Reports.

Timetable:

Action	Date	FR Cite
Current Good Mfg. Practices; Qual. Control Proc.		
NPRM	07/09/96	61 FR 36154
NPRM Comment Period End	12/06/96	
Final Action	To Be Determined	
Infant Form Cons Comp, Micro Test & Recd Retention Req		
NPRM	01/26/89	54 FR 3783
NPRM Comment Period End	03/27/89	
Final Rule	12/24/91	56 FR 66566

Infant Formula Quality Factors
NPRM 07/09/96 (61 FR 36154)
NPRM Comment Period End 12/06/96
Final Action To Be Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Darla Danford, Supervisory Nutritionist, Department of Health and Human Services, Food and Drug Administration, (HFS-800), Center for Food Safety and Applied Nutrition, 200 C Street SW, Washington, DC 20204
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RIN: 0910–AA04

899. FOOD LABELING REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: None

Abstract: The Nutrition Labeling and Education Act of 1990 (NLEA) requires that most foods bear nutrition labeling. The agency issued final rules implementing most of the provisions contained in the NLEA on January 6, 1993. Subsequently, however, the agency has identified additional areas that should be the subject of rulemaking. FDA issued a proposal on January 6, 1993, to establish requirements for the identification of certain ingredients on food labels. FDA proposed on June 15, 1993, to amend its January 6, 1993, final rules on nutrient content and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. The agency proposed on January 4, 1994, to establish reference daily intakes based on the 9th and 10th editions of the National Research Council's Recommended Dietary Allowances. On March 14, 1994, FDA published a proposal implementing the provisions for exemptions from nutrition labeling for low-volume food products of small businesses that were established by the Nutrition Labeling and Education Act Amendments of 1993. On August 18, 1993, FDA published a proposal concerning the placement of the nutrition facts panel on food labels. Finally, on July 18, 1994, FDA published proposed revised guidelines for the voluntary declaration of nutrition labeling for raw produce and fish. A final rule concerning the placement of the nutrition facts panel was published on April 5, 1995. A final rule establishing reference daily intakes based on the 9th and 10th editions of Recommended Dietary Allowances was published on December 28, 1995.

FDA published a final rule on August 2, 1996, on nutrient content claims and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. FDA published a final rule on August 7, 1996, implementing the exemption for small businesses from the requirements for nutrition labeling and providing instructions on how to file a notice claiming the exemption. FDA published on August 16, 1996, final guidelines on the voluntary declaration of nutrition labeling for raw produce and fish.

Timetable:

Amend Standard of Identity for Grain Products (Folic Acid)
NPRM 10/14/93 (58 FR 53305)
Final Action 03/05/96 (61 FR 8781)
Health Claims and Label Statements
NPRM Folic Acid and Neural Tube Def 10/14/93 (58 FR 53254)
Final Action 03/05/96 (61 FR 8752)
Misleading Containers; Nonfunctional Slack Fill
NPRM 01/06/93 (58 FR 2957)
Final Action 12/06/93 (58 FR 64123)
Nutrient Content Claims and Health Claims; Restaurant Foods
NPRM 06/15/93 (58 FR 33055)
Final Action 08/02/96 (61 FR 40320)
Nutrient Content, Definition of the Term, Healthy
NPRM 01/06/93 (58 FR 2944)
Final Action 05/10/94 (59 FR 24232)
Placement of Nutrition Facts Panel
NPRM 08/18/93 (58 FR 44091)
Final Action 04/05/95 (60 FR 17202)
Final Action Effective 05/05/95
Final Action Correction 06/12/95 (60 FR 30788)
Protein Hydrolysates; Broth in Tuna; and/or Labeling
NPRM (Declaration of Ingredients) 01/06/93 (58 FR 2950)
Final Action (Dec. of Ingredients) To Be Determined
Reference Daily Intakes
NPRM 01/04/94 (59 FR 427)
Final Action 12/28/95 (60 FR 67164)
Small Business Exemption, Nutrition Labeling
NPRM 03/14/94 (59 FR 11872)
Final Action 08/07/96 (61 FR 40963)
Voluntary Guidelines for Nutrition Labeling Produce
NPRM 07/18/94 (59 FR 36379)
Final Action 08/16/96 (61 FR 42742)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Federalism: Yes for Protein Hydrolysates; Broth in Tuna; and/or Labeling

Agency Contact: Christine L. Lewis, Director, Office of Nutritional Products, Labeling and Dietary Supplements, Department of Health and Human Services, Food and Drug Administration, (HFS-800), Center for Food Safety and Applied Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-4561

RIN: 0910–AA19

900. MEDICAL FOODS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 360ee; 21 USC 371; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 350a; 21 USC 351; 21 USC 352; 21 USC 355

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 U.S.C. 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and quality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60661
ANPRM Comment Period End	04/28/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Federalism: Undetermined

Agency Contact: Sue A. Anderson, Department of Health and Human Services, Food and Drug Administration, (HFS-831), Center for Food Safety and Applied, Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-4240

RIN: 0910–AA20

901. CLASSIFICATION OF COMPUTER SOFTWARE PROGRAMS THAT ARE MEDICAL DEVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321(h); 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c to 360l; 21 USC 371 to 374

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: FDA is considering whether to classify stand-alone computer software products that fit the definition of a medical device under the Federal Food, Drug, and Cosmetic Act. Although the Secretary has not made a final decision to initiate such a program, the agency is considering classifying these devices by using a risk-based approach as required under the Medical Device Amendments to the Act. In addition, the agency would use existing exemptions from regulation where appropriate. Under this approach, low risk medical software devices would be subject only to the adulteration and misbranding provisions of the Act. Moderate risk devices would additionally be subject to the registration, listing, good manufacturing practice requirements, and reporting and recordkeeping requirements. High risk devices would be the only products to require premarket submissions. FDA would seek comment on potential criteria related to the intended uses of medical software devices that might be used in determining the level of risk.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Charles S. Furfine, Regulatory Review Scientist/Software Expert, Department of Health and Human Services, Food and Drug Administration, HFZ-143, Center for Devices and Radiological, Health, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2536

RIN: 0910–AA41

902. REINVENTING FDA FOOD REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321 et seq

CFR Citation: 21 CFR 101; 21 CFR 145; 21 CFR 146; 21 CFR 150; 21 CFR 152; 21 CFR 155; 21 CFR 156; 21 CFR 102; 21 CFR 103; 21 CFR 131; 21 CFR 133; 21 CFR 135; 21 CFR 136; 21 CFR 137; 21 CFR 139; ...

Legal Deadline: None

Abstract: In response to President Clinton's memorandum to heads of departments and agencies entitled "Regulatory Reinvention Initiative," FDA has initiated rulemaking to retain, revise, or revoke certain of its regulations for food. FDA published an advance notice of proposed rulemaking (ANPRM) on December 29, 1995, requesting information on the need to retain, revise, or revoke its food standards of identity regulations and its common or usual name regulations. In the same issue of the Federal Register, FDA proposed to improve the coordination of the food additive, GRAS, and color additive approval process with USDA for substances used in meat and poultry products. FDA proposed to revoke several lower fat milk standards on November 9, 1995. On June 12, 1996, FDA published an ANPRM announcing its intention to review: 1) its human food labeling regulations pertaining to the exemption for soft drinks from requirements for the type size and placement of certain information on the information panel, requirements for listing "statements of identity," and requirements for flavor labeling; 2) its infant formula regulations to ensure that they fully reflect the Federal Food, Drug, and Cosmetic Act; 3) its regulations pertaining to the discharge of waste aboard casino ships, passenger ships, and ferries; and 4) its food additive regulations to consolidate certain existing regulations. In the same June 12 issue of the Federal Register, FDA published a second ANPRM seeking public comment on possible ways to streamline various food additive regulations. FDA also proposed on June 12, 1996, to revoke certain food labeling regulations pertaining to labeling of food with number of servings and labeling Kosher and Kosher-style foods and to revoke the agency's voluntary filing of cosmetic product experiences. The latter was published August 12, 1997.

On October 13, 1995, FDA proposed to revoke certain agency regulations that were obsolete or no longer necessary to achieve public health goals. The final rule (pertaining to food regulations only) was published on June 3, 1996. A confirmation of effective date on those regulations, promulgated under the formal rulemaking procedures of section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 USC 371(e)), pertaining to diabetic labeling (21 CFR 105.67) and sodium intake labeling (21 CFR 105.69), was published on August 27, 1996.

In the Federal Register of April 17, 1997 (62 FR 18938), FDA proposed to establish a notification procedure for companies to use to inform FDA of a company's determination that use of a substance in food is generally recognized as safe (GRAS).

Timetable:

Exempt Infant Formula; Plan for Revisions
ANPRM 06/12/96 (61 FR 29701)
Comment Period Ended 10/10/96
NPRM To Be Determined
Food Standards of Identity, Quality, and Fill of Container
ANPRM 12/29/95 (60 FR 67492)
Comment Period Ended 06/28/96
NPRM To Be Determined
Food, Color, and GRAS; Simult. Pet. Rev. by USDA (Meat/Poultry)
NPRM 12/29/95 (60 FR 67490)
Comment Period Ended 03/14/96
Extension of Comment Period 06/03/96
Final Action 08/25/00 (65 FR 51758)
Notification Procedures for GRAS Determinations
NPRM 04/17/97 (62 FR 18938)
NPRM Comment Period Ended 07/16/97
Final Action To Be Determined
Revocation of Certain Food Labeling and Cosmetic Regulations
NPRM 06/12/96 (61 FR 29708)
Comment Period Ended 08/26/96
Final Rule 08/12/97 (62 FR 43071)

Revocation of Lower Fat Milk Standards
NPRM 11/09/95 (60 FR 56541)
Comment Period Ended 01/23/96
Partial Final 11/20/96 (61 FR 58991)
Confirmation of Effective Date 02/24/97 (62 FR 8163)
Revocation of Lower Fat Yogurt Standards
NPRM 11/09/95 (60 FR 56541)
Confirmation of Effective Date To Be Determined
Final Action (Yogurt) To Be Determined
Revocation of Obsolete Regulations
NPRM 10/13/95 (60 FR 53480)
Comment Period Ended 01/11/96
Final Rule 06/03/96 (61 FR 27771)
Confirmation of Effective Date 08/27/96 (61 FR 43963)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Federalism: Yes for Food Standards of Identity, Quality, and Fill of Container

Agency Contact: L. Robert Lake, Director, Office of Regulations and Policy, Department of Health and Human Services, Food and Drug Administration, (HFS-4), Center for Food Safety and Applied, Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-4561

RIN: 0910–AA58

903. DETERMINATION THAT INFORMED CONSENT IS INFEASIBLE OR IS CONTRARY TO THE BEST INTEREST OF RECIPIENTS

Priority: Other Significant

Legal Authority: 21 USC 321; 42 USC 241; 42 USC 262; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 42 USC 216; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 360c; 21 USC 360d; 21 USC 360e; 21 USC 360f; 21 USC 360h; 21 USC 360i; 21 USC 360j; 21 USC 379e; 21 USC 381; 42 USC 263b; 42 USC 263e; 42 USC 263f; 42 USC 263g; 42 USC 263h; 42 USC 263i; 42 USC 263j; 42 USC 263k; 42 USC 263l; 42 USC 263m; 42 USC 263n; 42 USC 263c; 42 USC 263d

CFR Citation: 21 CFR 50; 21 CFR 312

Legal Deadline: None

Abstract: The Food and Drug Administration is planning to publish a final rule that would finalize its 1999 interim final rule (64 FR 54180) that: (1) revoked its December 21, 1990, interim final regulations that permitted the Commissioner to determine that obtaining informed consent from military personnel for the use of investigational products is not feasible in certain military combat situations; and (2) established strengthened criteria and standards for the President to apply in making a determination that informed consent is not feasible or is contrary to the best interest of military personnel engaged in specific military operations. The agency is taking this final action after reviewing comments it received in response to a July 1997 Request for Comment as to whether the agency should revise or revoke the rule and its 1999 interim final regulation soliciting comments on this action, and in light of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 under which the President is authorized to waive the Federal Food, Drug, and Cosmetic Act's informed consent requirements in military operations, if the President finds that obtaining consent is infeasible or contrary to the best interests of recipients and on an additional ground that obtaining consent is contrary to national security interests.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/99	64 FR 54180
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Bonnie M. Lee, Health Issues Analyst, Division of Compliance Policy, Office of Enforcement, Department of Health and Human Services, Food and Drug Administration, HFC-230, Office of Regulatory Affairs, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-0415

RIN: 0910–AA89

904. DIRECT-TO-CONSUMER PROMOTION REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360k; 21 USC 361; 21 USC 362; 21 USC 371; 21 USC 331; 21 USC 334; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360e to 360i

CFR Citation: 21 CFR 200; 21 CFR 800

Legal Deadline: None

Abstract: The Food and Drug Administration will issue proposed regulations for direct-to-consumer promotion of human and animal prescription drugs, biologics, and restricted devices. The regulations will set forth the requirements for what type of information shall be contained in the consumer directed advertisements for these products and how the information shall be presented.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Nancy M. Ostrove, Division of Drug Marketing, Advertising, and Communications, Department of Health and Human Services, Food and Drug Administration, (HFD-42), Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2828

RIN: 0910–AA90

905. INVESTIGATIONAL USE NEW ANIMAL DRUG REGULATIONS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 610; 21 USC 351; 21 USC 353; 21 USC 360b; 21 USC 371; 21 USC 321; 21 USC 352

CFR Citation: 21 CFR 511; 21 CFR 512

Legal Deadline: None

Abstract: FDA is proposing to revise its regulations governing investigational use of new animal drugs by proposing to delete 21 CFR 511 and establish in 21 CFR part 512 revised investigational use of new animal drug regulations. The investigational use new animal drug regulations are expected to include regulations to implement provisions of the Animal Drug Availability Act of 1996, specifically

presubmission conferences, and implement parts of the President's National Performance Report, "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will enable a more streamlined animal drug application review and approval process, and that would result in less regulatory burden upon industry and FDA while maintaining the safety and effectiveness of new animal drugs. In addition, FDA is initiating a review of this rule under section 610 of the Regulatory Flexibility Act. The purpose of the section 610 review is to determine if the rule should be amended to minimize adverse economic impacts on small entities. FDA will consider and solicit comments on the following: 1) the continued need for the rule; 2) the nature of complaints or comments received concerning the rule; 3) the complexity of the rule; 4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State or local government rules; and 5) the degree to which technology, economic conditions or other factors have changed in the area affected by the rule.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
Begin Review	04/03/00	
Proposed Rule	02/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Marty Schoenemann, Department of Health and Human Services, Food and Drug Administration, HFV-126, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0220

RIN: 0910–AB02

906. SUITABILITY DETERMINATION FOR DONORS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 262; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 210.1(c); 21 CFR 210.2(a); 21 CFR 210.2(b); 21 CFR 211.1(b); 21 CFR 820.1(a)(1); 21 CFR 820.1(c); 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cellular and tissue-based products, the Food and Drug Administration is requiring manufacturers of human cellular and tissue-based products to screen and test the donors of cells and tissues used in those products for evidence of or risk factors for relevant communicable disease. As part of this action, the agency is amending the current good manufacturing practice regulations that apply to human cellular and tissue-based products regulated as drugs, medical devices, and/or biological products in order to incorporate the new donor suitability requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/30/99	64 FR 52696
NPRM Comment Period Reopened	04/18/00	65 FR 20774
NPRM Comment Period End	07/17/00	
Final Action	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Astrid L. Szeto, Senior Regulatory Review Officer, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB27

907. REQUIREMENTS FOR LIQUID MEDICATED FEED AND FREE-CHOICE MEDICATED FEED

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-250; 21 USC 360b

CFR Citation: 21 CFR 558.5; 21 CFR 510.455

Legal Deadline: None

Abstract: In response to a citizen petition filed by the American Feed Industry Association, the Food and Drug Administration (FDA) is proposing to amend the requirements for liquid medicated animal feed to clarify what information and data are required to demonstrate chemical and positional stability. The amended regulations would also clarify the provisions for the submission of such data through a master file and the reference to master files by subsequent applicants. Additionally, FDA is proposing to amend the regulations for free-choice medicated feed in order to ensure consistency with the requirements for liquid medicated feed. Finally, FDA is proposing to amend the regulations for free-choice medicated feed and liquid medicated feed so that these provisions comply with the terms of the Animal Drug Availability Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William D. Price, Special Assistant, Department of Health and Human Services, Food and Drug Administration, HFV-200, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6652
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RIN: 0910–AB50

908. BULK DRUG SUBSTANCES FOR USE IN PHARMACY COMPOUNDING

Priority: Other Significant

Legal Authority: PL 105-115, sec 127; 21 USC 351; 21 USC 352; 21 USC 353a; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 U.S.C. 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding. Under section 503A(b)(1)(A), FDA may issue by regulation a list of bulk drug substances that may be used in compounding that are not covered by a United States Pharmacopeia (USP) or National Formulary (NF) monograph and are not components of FDA-approved drugs. Bulk drug substances that do not appear on the list may not be used in compunding under section 127 unless such substances are covered by USP or NF monograph or are components of approved drugs.

Timetable:

Action	Date	FR Cite
NPRM	01/07/99	64 FR 996
NPRM Comment Period End	03/23/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Email: mitchellw@cder.fda.gov

RIN: 0910–AB57

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909. PHARMACY AND PHYSICIAN COMPOUNDING OF DRUG PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353a; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 503A of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 353a) describes the circumstances under which compounded drugs may qualify for exemption from three requirements of the Act: (1) that a drug be manufactured according to current good manufacturing practice; (2) that a drug have adequate directions for use; and (3) that a marketing application be approved by FDA before a new drug product is introduced for sale (i.e., sections 501(a)(2)(B), 502(f)(1), and 505 of the Act (21 U.S.C. 351(a)(2)(B), 352(f)(1), and 355)). To qualify for the exemption, a pharmacist or physician must meet statutory conditions for compounding, including the following: (1) there generally must be a prescription for an identified individual patient before compounding; (2) compounding before receiving a prescription is allowed only under limited circumstances; (3) the quantity of drugs that may be shipped out of state is limited and may vary depending on whether the compounder is located in a state that has entered into a memorandum of understanding (MOU) with FDA; (4) drug products may only be compounded using a bulk drug substance (which is essentially the active ingredient) that is listed in the United States Pharmacopoeia (USP) or National Formulary (NF), or a bulk drug substance that is a component of an FDA-approved drug product, or a bulk drug substance that is listed in the regulation as one that FDA has found to be suitable for compounding; (5) the bulk drug substance must be made in a facility registered with FDA and the bulk drug substance must be accompanied by a certificate of analysis; (6) they cannot compound regularly or in inordinate amounts of any drug products that are essentially copies of commercially available products; (7) drug products may not be compounded if they are listed in a regulation as having been removed from the market or had their FDA-approval withdrawn because they were found to be not safe or not effective; (8) drug products that are listed in the regulations as "demonstrably difficult to compound" may not be compounded. The regulations will amplify and explain the statutory requirements as well as execute tasks Congress assigned FDA in section 503A. This proposed rule will be one of several rulemakings implementing section 503A. Related regulatory initiatives are described below: (1) FDA has issued a final rule listing drug products that may not be compounded because they were found to be not safe or not effective and were removed from the market or had their FDA approval withdrawn; (2) FDA has also issued a proposed rule and is preparing a final rule listing drugs that are not the subject of a USP or NF monograph, and are not components of an FDA-approved drug product but are suitable for compounding; (3) FDA is currently preparing a proposed rule listing those drugs that are demonstrably difficult to compound and are not allowed to be compounded; and (4) FDA has published a Federal Register notice announcing the availability of a draft MOU between FDA and State boards of pharmacy.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Federalism: Undetermined

Additional Information: See RINs 0910-AB57, 0910-AB59

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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RIN: 0910–AB58

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910. DRUG PRODUCTS THAT PRESENT DEMONSTRABLE DIFFICULTIES FOR COMPOUNDING BECAUSE OF REASONS OF SAFETY OR EFFECTIVENESS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 U.S.C. 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding, and exempts compounded drug products, under certain circumstances, from several key provisions of the Food, Drug, and Cosmetic Act. Section 503A(b)(3)(A) directs FDA to issue by regulation a list of drug products that, if compounded, will not qualify for these exemptions because their compounding would be demonstrably difficult in terms of assuring the safety or effectiveness of the compounded product.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB59

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911. MANDATORY HACCP REGULATIONS FOR MANUFACTURERS OF RENDERED PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 589

Legal Deadline: None

Abstract: During the notice and comment rulemaking for 21 CFR part 589, "Listing of Specific Substances Prohibited from Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed," FDA received several comments supporting the application of mandatory Hazard Analysis Critical Control Point (HACCP) regulations for renderers. Some of these comments were from renderers. Because of the need to expedite the rulemaking for 21 CFR part 589, FDA stated that it would take up the HACCP regulations for renderers as a separate initiative. This rulemaking is to address the need expressed in the comments to 21 CFR part 589 by promulgating mandatory HACCP regulations for renderers.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Daniel G. McChesney, Deputy Director, Office of Surveillance and Compliance, Department of Health and Human Services, Food and Drug Administration, HFV-200, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6648

RIN: 0910–AB72

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912. CITIZEN PETITIONS; ACTIONS THAT CAN BE REQUESTED BY PETITION; DENIALS, WITHDRAWALS, AND REFERRALS FOR OTHER ADMINISTRATIVE ACTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 551 to 558; 21 USC 1034; 28 USC 2112; 42 USC 201; 42 USC 262; 42 USC 263b to 263n; 42 USC 264; 5 USC 701 to 706; 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 393; 21 USC 467f; 21 USC 679; 21 USC 821

CFR Citation: 21 CFR 10

Legal Deadline: None

Abstract: The final rule would amend the agency's regulations pertaining to citizen petitions by specifying the types of actions that could be requested through a petition. The final rule would also revise the content requirements for citizen petitions and would allow the agency to take various administrative actions in response to citizen petitions. These changes are intended to improve the citizen petition mechanism by focusing FDA's resources on important public health issues.

Timetable:

Action	Date	FR Cite
NPRM	11/30/99	64 FR 66822
NPRM Comment Period End	02/28/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
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RIN: 0910–AB73

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913. SUBSTANCES PROHIBITED FROM USE IN ANIMAL FOOD OR FEED

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 348; 21 USC 371; 21 USC 343

CFR Citation: 21 CFR 589

Legal Deadline: None

Abstract: After determining that dioxins were present in some clays used as anti-caking agents in animal feeds, the agency is considering proposing a rule that would prohibit the use of these clays unless they meet certain conditions under the Federal Food, Drug, and Cosmetic Act. At this time, it is not clear whether there are other types of mined clay products that contain dioxins or whether the relatively low concentrations found in recent samples of mined clay products would have a significant impact on the public health. Thus, the advance notice of proposed rulemaking will request further information regarding the presence of dioxins in mined clay products used in animal feeds or feed ingredients and the significance of these dioxins to the public health.

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Randall A. Lovell, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, HFV-222, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
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RIN: 0910–AB90

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914. MARKING REQUIREMENTS FOR AND PROHIBITIONS ON THE REIMPORTATION OF IMPORTED FOOD PRODUCTS THAT HAVE BEEN REFUSED ADMISSION INTO THE UNITED STATES

Priority: Routine and Frequent

Legal Authority: 15 USC 1453, 1454, 1455; 21 USC 321, 343, 352, 355, 360b, 362, 371, 374, 381, 382, 393; 42 USC 216, 241, 243, 262, 264

CFR Citation: 21 CFR 1.98

Legal Deadline: None

Abstract: The proposed rule would require food products which are refused entry into the United States for safety reasons to be marked,"United States Refused Entry." The proposed rule is intended to protect the public health against contaminated or unsafe imported food products and to facilitate FDA's examination of imported products.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6502
NPRM Comment Period End	04/09/01	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AB95

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915. ADDITION TO THE LIST OF DRUG PRODUCTS THAT HAVE BEEN WITHDRAWN FROM THE MARKET FOR REASONS OF SAFETY OR EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 353a; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 216.24

Legal Deadline: None

Abstract: The final rule will amend 21 CFR 216.24 by adding two drug products, aminopyrine and astemizole, to the list of drug products that may not be used for pharmacy compounding under the exemptions provided by section 503A of the Federal Food, Drug, and Cosmetic Act because they have had their approval withdrawn or were removed from the market because the drug product or its components have been found to be unsafe or not effective.

Timetable:

Action	Date	FR Cite
NPRM	01/04/00	65 FR 256
NPRM Comment Period End	03/20/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562
Email: mitchellw@cder.fda.gov

RIN: 0910–AC01

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916. ADDITION TO THE LIST OF DRUG PRODUCTS THAT HAVE BEEN WITHDRAWN OR REMOVED FROM THE MARKET FOR REASONS OF SAFETY OR EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 353a

CFR Citation: 21 CFR 216.24

Legal Deadline: None

Abstract: The NPRM proposes to amend 21 CFR 216.24 by adding three drug products, grepafloxacin, troglitazone, and cisapride to the list of drug products that may not be used for pharmacy compounding under the exemptions provided by section 503A of the Federal Food, Drug, and Cosmetic Act because they have had their approval withdrawn or were removed from the market because the drug product or its components have been found to be unsafe or not effective.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
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Email: mitchellw@cder.fda.gov

RIN: 0910–AC08

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917. PREMARKET NOTICE CONCERNING BIOENGINEERED FOODS

Priority: Other Significant

Legal Authority: 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 321; 21 USC 371

CFR Citation: 21 CFR 192; 21 CFR 592

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is requiring the submission to the agency of data and information regarding plant-derived bioengineered foods that would be consumed by humans or animals. FDA is requiring that this submission be made at least 120 days prior to the commercial distribution of such foods. FDA took this action to ensure that it has the appropriate amount of information about bioengineered foods to help to ensure that all market entry decisions by the industry are made consistently and in full compliance with the law. The action will permit the agency to assess on an ongoing basis whether plant-derived

bioengineered foods comply with the standards of the Federal Food, Drug, and Cosmetic Act.

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4706
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Linda Kahl, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, HFS-206, Center for Food Safety and Applied Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 418-3101
Fax: 202 418-3131
Email: lkahl@cfsan.fda.gov

RIN: 0910–AC15

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918. • RESCISSION OF SUBSTANTIALLY EQUIVALENT DECISIONS AND RESCISSION APPEAL PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1451 to 1461; 21 USC 141 to 149; 21 USC 321 to 394; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 28 USC 2112; 42 USC 201 to 262; 42 USC 263b; 42 USC 364; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 16; 21 CFR 807

Legal Deadline: None

Abstract: FDA may rescind a decision issued under the Federal Food, Drug, and Cosmetic Act (the Act) that a device is substantially equivalent to a legally marketed device, and therefore, may be marketed. In addition, under this rule a premarket notification (commonly known as a 510(k)) holder may request administrative review of a proposed rescission action. This rule would standardize the procedures for considering rescissions.

Timetable:

Action	Date	FR Cite
Proposed Rule	01/26/01	66 FR 3526
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, HFZ-215, Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 827-2974

RIN: 0910–AC16

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919. • INSTITUTIONAL REVIEW BOARDS: REGISTRATION REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 21 USC 321; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 306c to 306f; 21 USC 360h to 360j; 21 USC 371; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 263b to 263n; 42 USC 264

CFR Citation: 21 CFR 56.106

Legal Deadline: None

Abstract: The proposed rule would require institutional review boards (IRB) to register with FDA. The registration information would include the names, addresses, phone numbers, facsimile (fax) numbers, and electronic mail (e-mail) addresses of the responsible institutional official (if the IRB is affiliated with an institution) and IRB chair or contact, the range of active protocols (small, medium, or large) involving FDA-regulated products reviewed in the previous calendar year, and a description of the types of FDA-regulated products reviewed. The proposed rule would make it easier for FDA to inspect IRB's and to convey information to IRB's.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-61 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Fax: 301 827-4774
Email: pchao@oc.fda.gov

RIN: 0910–AC17

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920. • CHRONIC WASTING DISEASE: CONTROL OF FOOD PRODUCTS AND COSMETICS DERIVED FROM EXPOSED ANIMAL POPULATIONS

Priority: Other Significant

Legal Authority: 42 USC 264; 21 USC 301 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to prohibit the use for food, including dietary supplements, and cosmetics derived from any part of cervids, such as deer and elk, that have been exposed to chronic wasting disease (CWD). FDA is proposing this regulation because of potential risks to health.

CWD is a type of transmissible spongiform encephalopathy (TSE), a group of fatal, neurodegenerative diseases that include bovine spongiform encephalopathy (BSE) in cattle, scrapie in sheep, and Creutzfeldt-Jakob disease (CJD) in humans. CWD affects cervids in the United States and Canada.

CWD is endemic in cervid populations in certain areas of Colorado, Nebraska, and Wyoming. The disease has been identified in wild and farmed elk and wild deer populations. At least one published scientific article has reported that infectious CWD prion proteins in vitro can convert normal, non-infectious human prion proteins into abnormal, infectious forms. These data suggest that the agent of CWD could be transmitted to humans.

Currently, there are no analytical tests to identify animals in the pre-clinical phase of CWD, or any other TSE. CWD typically exhibits a long incubation period, during which time animals appear normal but are likely to be infectious. Therefore, FDA is proposing to require that food or cosmetic products derived from animals exposed to CWD not enter into commerce until scientific evidence indicates that these products do not represent a threat to public health.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Rebecca Buckner, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, HFS-306, Center for Food Safety and Applied Nutrition, 200 C Street SW., Washington, DC 20204
Phone: 202 205-4081
Fax: 202 205-4422
Email: rebecca.buckner@cfsan.fda.gov

RIN: 0910–AC21

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Completed Actions

921. BIOLOGICAL PRODUCTS: REPORTING OF BIOLOGICAL PRODUCT DEVIATIONS IN MANUFACTURING

Priority: Other Significant

CFR Citation: 21 CFR 600; 21 CFR 606

Completed:

Reason	Date	FR Cite
Final Action	11/07/00	65 FR 66621

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paula S. McKeever
Phone: 301 827-6210

RIN: 0910–AA12

922. FRUIT AND VEGETABLE JUICES: DEVELOPMENT OF HACCP AND LABEL WARNING STATEMENTS FOR JUICES

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 21 CFR 120

Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 6138

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Shellee Anderson
Phone: 202 205-5023
Email: shellee.anderson@cfsan.fda.gov

RIN: 0910–AA43

923. DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 291; 42 CFR 8

Completed:

Reason	Date	FR Cite
Final Action	01/17/01	66 FR 4076

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Elsworth Dory
Phone: 301 827-7264

RIN: 0910–AA52

924. ESTABLISHMENT REGISTRATION AND LISTING OF HUMAN CELLS, TISSUES, AND CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

CFR Citation: 21 CFR 207; 21 CFR 807; 21 CFR 1271

Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 5447

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie Butler
Phone: 301 827-6210

RIN: 0910–AB05

925. VETERINARY FEED DIRECTIVES

Priority: Other Significant

CFR Citation: 21 CFR 510; 21 CFR 514; 21 CFR 558

Completed:

Reason	Date	FR Cite
Final Action	12/08/00	65 FR 76924

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Graber
Phone: 301 827-6651
Email: ggraber@cvm.fda.gov

RIN: 0910–AB09

926. SHELL EGGS: WARNING, NOTICE AND SAFE HANDLING LABELING STATEMENTS AND REFRIGERATION REQUIREMENTS

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 21 CFR 101.17(h); 21 CFR 115.50; 21 CFR 16.5

Completed:

Reason	Date	FR Cite
Final Action	12/05/00	65 FR 76092

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Geraldine A. June
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Email: gaj@cfsan.fda.gov

RIN: 0910–AB30

927. POSTMARKETING STUDIES FOR HUMAN DRUGS AND LICENSED BIOLOGICAL PRODUCTS: STATUS REPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 314.81; 21 CFR 601.37; 21 CFR 601.70

Completed:

Reason	Date	FR Cite
Final Action	10/30/00	65 FR 64607
60-Day Delay of Effective Date	02/21/01	66 FR 10815

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nathaniel Geary
Phone: 301 827-6210

RIN: 0910–AB83

928. CURRENT GOOD MANUFACTURING PRACTICE FOR BLOOD AND BLOOD COMPONENTS; BLOOD LABELING STANDARDS

Priority: Other Significant

CFR Citation: 21 CFR 606.121; 21 CFR 606.122

Completed:

Reason	Date	FR Cite
Withdrawn--See RIN 0910-AB26	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Carayiannis
Phone: 301 827-6210

RIN: 0910–AB89

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Proposed Rule Stage

929. DESIGNATION OF MEDICALLY UNDERSERVED POPULATIONS AND HEALTH PROFESSIONAL SHORTAGE AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 254b; 42 USC 254e

CFR Citation: 42 CFR 5; 42 CFR 51c

Legal Deadline: None

Abstract: This rule would consolidate the process for designating areas of health professional shortage and medical underservice that apply in several department programs, and would improve the criteria for designating medically underserved populations (MUPs) and Primary Care Health Professional Shortage Areas (HPSAs). This NPRM will address issues raised by comments received in a previous NPRM, dated September 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	09/01/98	63 FR 46538
NPRM Comment Period End	01/04/99	
Second NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard C. Lee, Public Health Analyst, Bureau of Primary Health Care, Department of Health and Human Services, Health Resources and Services Administration, 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-4280

RIN: 0906–AA44

930. NATIONAL VACCINE INJURY COMPENSATION PROGRAM: REVISIONS AND ADDITIONS TO THE VACCINE INJURY TABLE

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-170; 42 USC 300aa-14

CFR Citation: 42 CFR 100

Legal Deadline: None

Abstract: This NPRM proposes several changes to the Vaccine Injury Table (Table) (42 CFR 100.3), which will have an effect upon petitions for compensation under the National Childhood Vaccine Injury Compensation Program including the following: 1) amending the Table by adding the injury of intussusception to the Table for vaccines containing live, oral, rhesus-based rotavirus, a category of rotavirus vaccines; 2) removing residual seizure disorder and early onset Hib disease from the Table's Qualifications and Aids to Interpretation; 3) removing hemophilus influenzae type b polysaccharide vaccines from and adding pneumococcal conjugate vaccines to the Table; and 4) changing certain dates of coverage under the Table.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Geoffrey Evans, Medical Director, Divison of Vaccine Injury Compensation, BHPR, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-46, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-4198
Fax: 301 443-8196
Email: gevans@hrsa.gov

RIN: 0906–AA55

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Final Rule Stage

931. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: MEDICAL MALPRACTICE PAYMENTS REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11131

CFR Citation: 45 CFR 60.7

Legal Deadline: None

Abstract: This NPRM proposes to require that, in addition to reporting to the National Practitioner Data Bank medical malpractice payments made where physicians or other health care practitioners are named in medical malpractice actions or claims, judgments or settlements, payments be reported where they are made for the benefit of physicians or other health care practitioners not named in the judgments or settlements but who furnished or failed to furnish the health care services upon which the actions or claims were based. The purpose of this NPRM is to prevent the evasion of the medical malpractice payment reporting requirement of the Data Bank through the agreement of the parties to a lawsuit to use the corporate health care entity to "shield" practitioners. It would also require malpractice payers,

HHS—HRSA

Final Rule Stage

in very limited circumstances, when it is impossible to identify the practitioner who furnished or failed to furnish the health care services upon which the actions or claims were based, to report why the practitioner could not be identified and to provide the name of the corporate health care entity.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71255
NPRM Comment Period End	02/22/99	
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John M. Heyob, Acting Director, Division of Medicine, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-6190

RIN: 0906–AA41

932. COMPLIANCE ALTERNATIVES FOR PROVISION OF UNCOMPENSATED SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 300s(3)

CFR Citation: 42 CFR 124, subpart F

Legal Deadline: None

Abstract: The rules apply to facilities obligated under the Hospital Survey and Construction Act, commonly known as the Hill-Burton Act. The rules will revise a compliance alternative that provides more flexible compliance standards for facilities that principally serve nonpaying patient populations by reducing the amount of time needed to qualify for certification under the alternative and by providing for provisional certification, where a facility is unable to qualify for full certification. The rules will also provide a compliance alternative for facilities with histories of uncompensated services deficits, to enable them to make up the deficits on a timely basis. These revisions will have the effect of making it easier for facilities with an uncompensated services obligation to meet that obligation, while still ensuring the availability of uncompensated services to persons unable to pay.

Timetable:

Action	Date	FR Cite
NPRM	10/19/00	65 FR 68975
NPRM Comment Period End	12/18/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eulas Dortch, Director, Division of Facilities Compliance and Recovery, OSP, Department of Health and Human Services, Health Resources and Services Administration, Room 10C-16, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-8007
Fax: 301 443-0619
Email: edortch@hrsa.gov

RIN: 0906–AA52

933. FINAL RULE FOR THE HEALTH PROFESSIONS, NURSING, PUBLIC HEALTH, AND ALLIED HEALTH TRAINING GRANT PROGRAMS UNDER 42 CFR PARTS 57 AND 58

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-392

CFR Citation: 42 CFR 57; 42 CFR 58

Legal Deadline: None

Abstract: This final rule rescinds and removes various Public Health Service health professions, nursing, public health, and allied health training grant regulations from the CFR at 42 CFR parts 57 and 58. The existing training grant regulations are fundamentally and extensively inconsistent with the new law, Health Professions Education Partnerships Act of 1998 (Pub. L. 105-392), enacted November 13, 1998. There are structural problems in implementing the new statute under the current program regulations. The general focus of this legislation is to reauthorize and consolidate 44 different Federal health professions training programs currently authorized under titles VII and VIII, PHS Act. These 44 programs are consolidated into seven general categories of authorities and offer more flexibility for program implementation. These categories are designed to train health practitioners most inclined to enter practice in rural and other medically underserved areas. Because the statute always take precedence over regulations, and the existing regulations are inconsistent with the new law that takes an interdisciplinary approach (and thus inhibits the achievement of the statute's clustered objectives), we are removing 19 grant regulations from the Code of Federal Regulations. Program specific guidance and information for preparing applications are now provided in the grant application materials (which makes them now self-contained).

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steve Tise, Acting Chief, Planning, Evaluation and Legislation Branch/ORP, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-67 Parklawn Buidling, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2381
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RIN: 0906–AA53

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Completed Actions

934. RICKY RAY HEMOPHILIA RELIEF FUND PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 130

Completed:

Reason	Date	FR Cite
Final Rule	08/02/00	65 FR 47438

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil H. Sampson
Phone: 301 443-5974

RIN: 0906–AA56

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Proposed Rule Stage

935. • TRIBAL SELF-GOVERNANCE AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-260, Sec 517(a)(2); 25 USC 450, Tribal Self-Governance Amendments

CFR Citation: None

Legal Deadline: NPRM, Statutory, August 18, 2001.

Abstract: Section 517(a)(2) requires that proposed regulations be published in the Federal Register no later than one year after the date of enactment

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula K. Williams, Director of Tribal Self-Governance, Department of Health and Human Services, Indian Health Service, Room 54-55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-7821

RIN: 0917–AA05

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Final Rule Stage

936. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT MINIMUM STANDARDS OF CHARACTER

Priority: Info./Admin./Other

Legal Authority: 25 USC 3201 et seq

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Indian Health Service (IHS) is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Protection Act, Public Law 101-630, 25 U.S.C. 3201-3211, that prescribe minimum standards of character for individuals whose duties and responsibilities involve regular contact with, or control over, Indian children.

Timetable:

Action	Date	FR Cite
NPRM	03/25/99	64 FR 14559
NPRM Comment Period End	07/26/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Ramona D. Williams, Child Protection Coordinator, Department of Health and Human Services, Indian Health Service, Suite 605, 12302 Twinbrook Parkway, Rockville, MD 20857
Phone: 301 443-1589

RIN: 0917–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Completed Actions

937. CONTRACTS UNDER THE INDIAN SELF-DETERMINATION ACT

Priority: Info./Admin./Other

CFR Citation: 42 CFR 36.201-237

Completed:

Reason	Date	FR Cite
Final Rule	10/03/00	65 FR 58918

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Betty J. Penn
Phone: 301 443-1116
Email: bpenn@hqe.ihs.gov

RIN: 0917–AA04

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Proposed Rule Stage

938. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 487A of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: RFA: N

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA02

939. UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY THE NIH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-4

CFR Citation: 42 CFR 68b

Legal Deadline: None

Abstract: Section 487D of the Public Health Service Act, as added by the National Institutes of Health Revitalization Act of 1993, creates a program offering scholarships, in an amount not to exceed $20,000 per year of academic study, to individuals from disadvantaged backgrounds who are enrolled as full-time students at accredited institutions pursuing academic programs appropriate for careers in professions needed by the NIH. For each year of scholarship support, the recipient agrees to service (employment) after graduation, at the NIH, for one year. Additionally, the individual agrees to at least 10 consecutive weeks of service (employment) at the NIH during which the individual is attending the educational institution and receiving the NIH scholarship. The proposed new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA10

940. NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 52d

Legal Deadline: None

Abstract: Current regulations relating to the National Cancer Institute (NCI) Clinical Cancer Education Program will be amended to update various aspects of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA17

941. NATIONAL INSTITUTES OF HEALTH LOAN REPAYMENT PROGRAM FOR RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-3

CFR Citation: 42 CFR 68d

Legal Deadline: None

Abstract: Regulations will be issued to govern the awarding of educational loan repayments to qualified health professionals who agree to conduct research as employees of the National Institutes of Health.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA18

942. • NIH CENTER GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-310; PL 106-525; PL 106-505

CFR Citation: 42 CFR 52a

Legal Deadline: None

Abstract: NIH proposes to amend the current center grants regulations to reflect new authorities set forth in sections 409C, 452E, 485F and 445I of the PHS Act. Section 409C concerns centers of excellence regarding research on autism; section 452E concerns centers regarding research on "fragile x;" section 452F concerns centers of excellence for research education and training for individuals who are members of minority health disparity populations, and section 445I concerns centers of excellence in Alzheimer's disease research and treatment.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA24

943. • NATIONAL INSTITUTES OF HEALTH CLINICS RESEARCH LOAN REPAYMENT PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 105-392; PL 106-554

CFR Citation: 42 CFR 68a

Legal Deadline: None

Abstract: NIH proposes to amend the current regulations by revising sections 68a.8(a) to reflect the increase in the maximum annual loan repayment from $20,000 to $35,000, and other sections to reflect expansion of the program to include extramural investigators from disadvantaged backgrounds. This action is necessary because of the enactment of the Health Professions Education Partnership Act of 1998, Public Law 105-392, and enactment of the Consolidated Appropriations Act of 2001, Public Law 106-554. Section 410 of Public Law 105-392 amends section 487E(a) of the PHS Act to increase the maximum annual amount.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA25

944. • NIH LOAN REPAYMENT PROGRAM FOR MINORITY HEALTH DISPARTIES RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-525

CFR Citation: 42 CFR 68f

Legal Deadline: None

Abstract: NIH propses to establish regulations to implement the program authorized under section 485G of the PHS Act. Section 103 of the Minority Health and Health Disparities Research and Education Act of 2000 amends the PHS Act by adding a new section 485G which authorizes the program.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA26

945. • PEDIATRIC RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-310

CFR Citation: 42 CFR 68f

Legal Deadline: None

Abstract: NIH proposes to establish regulations to implement the Pediatric Research Loan Repayment Program authorized under section 487F of the PHS Act. Section 1002 of Public Law 106-310 amends the PHS Act by adding a new section 487F which authorizes the program.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA27

946. • NIH TRAINING GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; PL 106-310

CFR Citation: 42 CFR 63a

Legal Deadline: None

Abstract: NIH proposes to amend the training grants regulations to implement the new authority under section 452G of the PHS Act. This action is necessitated by enactment of the Children's Act of 2000. Section 1002 of this act adds a new section 452G that authorizes the Director of NICHD in consultation with the Administrator of HRSA, to support activities to provide for an increase in the number and size of institutional training grants to institutions supporting pediatric training.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA28

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Final Rule Stage

947. NATIONAL RESEARCH SERVICE AWARDS

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 288

CFR Citation: 42 CFR 66

Legal Deadline: None

Abstract: Current HHS regulations will be amended to reflect provisions of the ADAMHA Reorganization Act and the National Institutes of Health Revitalization Act of 1993. New language concerning the service payback obligation will be set forth, specifically, that a service payback obligation is incurred only during the first 12 months of postdoctoral support and individuals may pay back this service obligation by engaging in an equal period of health-related teaching or, if the individual finished the first 12 months of support, by engaging in a second year of NRSA supported research training.

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35119
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA16

948. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT CONTRACEPTION AND INFERTILITY RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-2

CFR Citation: 42 CFR 68c

Legal Deadline: None

Abstract: Section 487B of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of education loans by conducting research with respect to contraception and/or infertility.

Timetable:

Action	Date	FR Cite
NPRM	12/10/99	64 FR 69213
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA19

949. SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 282(b)(6); 42 USC 284(c)(3); 42 USC 289a; 42 USC 290aa-3

CFR Citation: 42 CFR 52h

Legal Deadline: None

Abstract: NIH staff have been reexamining the peer review process as part of its reinvention initiatives and have found ambiguities, misstatements, and voids in the existing regulations. These regulations, which govern the first level of review, are being amended to reflect current policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/21/00	65 FR 57132
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA20

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Completed Actions

950. TRAINEESHIPS

Priority: Info./Admin./Other

CFR Citation: 42 CFR 63

Completed:

Reason	Date	FR Cite
Final Rule	11/06/00	65 FR 66511

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore
Phone: 301 496-4606
Email: jm40z@nih.gov

RIN: 0925–AA11

951. ADDITIONAL PROTECTIONS FOR PREGNANT WOMEN AND HUMAN FETUSES INVOLVED IN RESEARCH, AND PERTAINING TO HUMAN IN VITRO FERTILIZATION

Timetable:

Action	Date	FR Cite
Transferred to RIN 0940-AA02	03/12/01	

RIN: 0925–AA14

952. FEDERAL POLICY (COMMON RULE) FOR THE PROTECTION OF HUMAN SUBJECTS

Timetable:

Action	Date	FR Cite
Transferred to RIN 0940-AA03	03/12/01	

RIN: 0925–AA21

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Public Health and Science (OPHS)

Final Rule Stage

953. PUBLIC HEALTH SERVICE STANDARDS FOR THE PROTECTION OF RESEARCH MISCONDUCT WHISTLEBLOWERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 94

Legal Deadline: None

Abstract: To implement section 493(e) of the Public Health Service Act (added by section 163 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43), the Department is proposing to add a new part 94 to title 42 of the Code of Federal Regulations. Under this proposed regulation, covered institutions must follow certain requirements for preventing and responding to occurrences of retaliation against whistleblowers. The purpose of this part is to protect: (1) persons who make a good faith allegation that a covered institution or member thereof engaged in, or failed to respond adequately to, an allegation of research misconduct; and (2) persons who cooperate in good faith with an investigation of research misconduct.

Timetable:

Action	Date	FR Cite
NPRM	11/28/00	65 FR 70830
NPRM Comment Period End	01/29/01	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Barbara Bullman, Policy Analyst, Department of Health and Human Services, Office of Public Health and Science, Suite 700, 5515 Security Lane, Rockville, MD 20852
Phone: 301 443-5300
Fax: 301 443-5351

RIN: 0940–AA01

954. FEDERAL POLICY (COMMON RULE) FOR THE PROTECTION OF HUMAN SUBJECTS

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289

CFR Citation: 45 CFR 46

Legal Deadline: None

Abstract: In compliance with the President's Memorandum of March 27, 1997, this interim final rule would amend the Federal Policy (common rule) for the Protection of Human Subjects to add a new section that applies only to classified research involving human subjects. The new section would modify the Federal Policy by: 1) prohibiting any executive branch agency from engaging in classified research involving human subjects unless the agency has adopted the Federal Policy and the interim final rule; 2) eliminating the availability of waiver of informed consent and expedited review for classified research involving human subjects; 3) enhancing the informed consent requirements and allowing for disclosure of classified information if necessary; and 4) changing the composition of the institutional review board (IRB) and establishing a process for individual IRB approvals of classified research.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Clifford Scharke, Department of Health and Human Services, Office of Public Health and Science, Suite 3B01, 6100 Executive Boulevard, Rockville, MD 20852
Phone: 301 435-5647

RIN: 0940–AA03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Public Health and Science (OPHS)

Completed Actions

955. ADDITIONAL PROTECTIONS FOR PREGNANT WOMEN AND HUMAN FETUSES INVOLVED IN RESEARCH, AND PERTAINING TO HUMAN IN VITRO FERTILIZATION

Priority: Other Significant

CFR Citation: 45 CFR 46, subpart B

Completed:

Reason	Date	FR Cite
Final Rule	01/17/01	66 FR 3878
60-Day Delay of Effective Date To 05/18/2001	03/19/01	66 FR 15352

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melody Lin
Phone: 301 435-5647

RIN: 0940–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Proposed Rule Stage

956. END STAGE RENAL DISEASE (ESRD) CONDITIONS FOR COVERAGE (HCFA-3818-P) (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 409; 42 CFR 410; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 489; 42 CFR 494

Legal Deadline: None

Abstract: This proposed rule would revise the current conditions for coverage for end stage renal disease (ESRD) facilities approved to provide ESRD service under Medicare. It would update the conditions to reflect developments in technology and equipment, emphasize the total patient experience and develop performance expectations for the facility that result in quality, comprehensive care for the dialysis patient.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert Miller, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, Office of Clinical Standards and Quality, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6797
Email: rmiller1@hcfa.gov

RIN: 0938–AG82

957. • RECOGNITION OF THE AMERICAN OSTEOPATHIC ASSOCIATION FOR CRITICAL ACCESS HOSPITALS (HCFA-2099-PN)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: Social Security Act, sec 1865(b)

CFR Citation: 42 CFR 488.4

Legal Deadline: Final, Statutory, September 14, 2001.

Abstract: This notice announces the application of the AOA for deeming authority to survey critical access hospitals (CHAs) for Medicare participation in lieu of survey by a State survey agency.

Timetable:

Action	Date	FR Cite
Proposed Notice	04/16/01	66 FR 19509
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Irene Dustin, Health Program Evaluation Officer, Department of Health and Human Services, Health Care Financing Administration, S3-13-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0495
Email: idustin@hacf.gov

RIN: 0938–AK84

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Health Care Financing Administration (HCFA)

958. • PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES-UPDATE (HCFA-1163-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: Social Security Act, sec 1888(e); 42 USC 1395yy(e)

CFR Citation: 42 CFR 411.15; 42 CFR 489.20

Legal Deadline: None

Abstract: This rule sets forth updates to the payment rates used under the prospective payment system (PPS) for skilled nursing facilities (SNFs), for fiscal year 2002.

Timetable:

Action	Date	FR Cite
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: William Ullman, Department of Health and Human Services, Health Care Financing Administration, C4-13-15, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 401 786-5667

RIN: 0938–AK47

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Long-Term Actions

Health Care Financing Administration (HCFA)

959. "WITHOUT FAULT" AND BENEFICIARY WAIVER OF RECOVERY AS IT APPLIES TO MEDICARE OVERPAYMENT LIABILITY (HCFA-6007-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395gg

CFR Citation: 42 CFR 401; 42 CFR 466.86; 42 CFR 466.94; 42 CFR 473.14; 42 CFR 493.1834; 42 CFR 403.310; 42 CFR 405; 42 CFR 410.1; 42 CFR 411.23; 42 CFR 411.28; 42 CFR 413.20; 42 CFR 413.153; 42 CFR 447.31

Legal Deadline: None

Abstract: This rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier, and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this rule would amend the Medicare regulations governing liability for overpayments to eliminate application of certain regulations of the Social Security Administration and to replace them with HCFA regulations more specific to circumstances involving Medicare overpayments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Barbara Wright, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C3-14-00, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4292

RIN: 0938–AD95

960. MEDICAID PAYMENT FOR COVERED OUTPATIENT DRUGS UNDER REBATE AGREEMENTS (HCFA-2046-FC)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a); 42 USC 1396r-8; 42 USC 1396b(a); 42 USC 1302

CFR Citation: 42 CFR 447; 42 CFR 441

Legal Deadline: None

Abstract: This rule will incorporate section 4401 of OBRA '90 to add specific requirements for Medicaid payment for covered outpatient drugs. The requirements concern: denial of Federal financial participation unless rebate agreements and drug use review are in effect; prohibiting some State plan drug access limitations for drugs covered under a rebate agreement; and the content of the rebate agreements. (The drug rebate agreement was previously published in the Federal Register on February 21, 1991 (56 FR 7049)). This rule will reflect statutory revisions mandated by the Veteran's Health Care Act of 1992 and OBRA '93. Revision of the drug rebate dispute resolution process is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48442
NPRM Comment Period End	11/20/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Larry Reed, Chief, Medicaid Noninstitutional Payment Policy Branch, Department of Health and Human Services, Health Care Financing Administration, S2-01-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3325

Peggy Rahn, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3284

RIN: 0938–AF42

961. REVISION OF MEDICARE/MEDICAID HOSPITAL CONDITIONS OF PARTICIPATION (HCFA-3745-F)

Priority: Other Significant

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395(cc); 42 USC 1395hh; 42 USC 13206-8

CFR Citation: 42 CFR 416; 42 CFR 482; 42 CFR 485; 42 CFR 489

Legal Deadline: None

Abstract: This rule will revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in health care practices since the requirements were last revised in 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66726
NPRM Comment Period End	03/20/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Stephanie Dyson, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9226

RIN: 0938–AG79

962. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (HCFA-3819-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bbb

CFR Citation: 42 CFR 484

Legal Deadline: None

Abstract: This rule will revise home health agency conditions of participation to center on the patient, using outcome-oriented measures. Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure- and process-oriented.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11005
NPRM Comment Period End	06/09/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Janice Stevenson, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4882

Rachael Weinstein, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6775

RIN: 0938–AG81

963. LIABILITY FOR THIRD PARTIES TO PAY FOR SERVICES (HCFA-2080-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(25)(A); 42 USC 1396b(o)

CFR Citation: 42 CFR 433

Legal Deadline: None

Abstract: This rule would incorporate provisions of OBRA '93 by amending the regulations governing third party liability. It would add ERISA plans, service benefit plans, and health maintenance organizations to the definition of liable third parties. It would require States to prohibit any health insurer from taking into account, when enrolling or making payments, that an individual is eligible for or receiving Medicaid. It would also require States to enact a law under which the State is deemed to have acquired an individual's right to payment by a third party.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-14-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4466

RIN: 0938–AH01

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964. CRITERIA FOR APPROVAL OF FACILITIES TO PERFORM COVERED HEART, LIVER, LUNG, PANCREAS AND INTESTINAL TRANSPLANTS (HCFA-3835-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: The rule establishes conditions of participation for facilities to perform Medicare-covered transplants.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Marty Abeln, Department of Health and Human Services, Health Care Financing Administration, Center for Health Plans and Providers, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1032

Kathy Linstromberg, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-8279

Eva Fung, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, S3-06-6, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7539

RIN: 0938–AH17

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965. HOSPICE CARE-CONDITIONS OF PARTICIPATION (HCFA-3844-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(dd); 42 USC 1395hh

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This rule would revise the Medicare conditions of participation for hospices to help ensure the provision of quality care through an emphasis on patient-centered outcomes. Areas of change would include, among others, assessment of patient needs, clarification of physician roles, coordination of care for hospice patients residing in nursing homes, clarification of nursing roles, patient rights, and provision of services.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Mary Rossi Coajou, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6051

Rachael Weinstein, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6775

RIN: 0938–AH27

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966. REQUIREMENTS FOR ENROLLMENT OF MEDICAID RECIPIENTS UNDER COST EFFECTIVE EMPLOYER-BASED GROUP HEALTH PLANS (HCFA-2047-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(u)(1); 42 USC 1396d(a); 42 USC 1396a(a)(25); 42 USC 1396a(e); 42 USC 1396e

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This rule amends our regulations to incorporate a statutory action that States may require, as a condition of Medicaid eligibility, enrollment of certain Medicaid eligibles in employer-based group health plans determined cost-effective by States under guidelines approved by HCFA. If this option is elected by the State, it also requires States to pay all premiums, deductibles, coinsurance, and other cost-sharing obligations under these group health plans for services otherwise covered under the approved Medicaid State plans. In addition, this rule provides for Medicaid payment of premiums for certain individuals who are entitled to elect continuation coverage provided for in the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272, under a group health plan provided by an employer with 75 or more employees.

This rule conforms our regulations to sections 4402 and 4713 of the Omnibus Budget Reconciliation Act of 1990 and section 4741 of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31569
NPRM Comment Period End	08/19/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Previously published under RIN 0938-AF64.

Agency Contact: Gwendolyn Talvert, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-15-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5928
Email: gtalvert@hcfa.gov

RIN: 0938–AH48

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967. TERMS, DEFINITIONS, AND ADDRESSES: TECHNICAL AMENDMENTS (HCFA-9877-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)(A); 42 USC 1395hh

CFR Citation: 42 CFR 400 to 440; 42 CFR 442 to 447; 42 CFR 455; 42 CFR 456; 42 CFR 462 to 466; 42 CFR 473 to 476; 42 CFR 482 to 489; 42 CFR 491 to 498

Legal Deadline: None

Abstract: This rule will initiate the rationalization of our system of definitions, correct outdated addresses and formulas, clarify which steps of the appeals process are binding and which are final, remove content that is duplicative or unnecessary, and make other clarifying editorial changes.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Margie Teeters, Department of Health and Human Services, Health Care Financing Administration, Division of Regulation and Issuances
Phone: 410 786-4678

RIN: 0938–AH53

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968. REQUIREMENTS FOR ESTABLISHING AND MAINTAINING MEDICARE BILLING PRIVILEGES (HCFA-6002-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 424

Legal Deadline: None

Abstract: This rule would establish a requirement that all providers and suppliers (other than physicians who have entered into a private contract with a beneficiary) must complete an enrollment form, submit specified information to us, and periodically update and certify the accuracy of the enrollment information in order to receive and maintain billing privileges in the Medicare program. The information must clearly identify the provider or supplier and its place of business, provide documentation that it is qualified to perform the services for which it is billing, and assure that it is not currently excluded from the Medicare program. If we determine the information submitted is incomplete, invalid, or insufficient to meet Medicare requirements, we would reject, deny, inactivate, or revoke billing privileges.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Formerly known as HCFA-1023-P

Agency Contact: Michael Collett, OFM, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6121

RIN: 0938–AH73

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969. UPDATE OF RATESETTING METHODOLOGY, PAYMENT RATES AND THE LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS (HCFA-1885-FC)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 13951(i)(2)(A)

CFR Citation: 42 CFR 416.61(b); 42 CFR 416.65(a)(4); 42 CFR 416.65(c); 42 CFR 416.120(c)(1); 42 CFR 416.125; 42 CFR 416.130; 42 CFR 416.140(a); 42 CFR 416.140(b); 42 CFR 488.1

Legal Deadline: None

Abstract: The final rule will update the criteria for determining which surgical procedures can be appropriately and safely performed in an Ambulatory Surgical Center (ASC); make additions to and deletions from the current list of Medicare covered ASC procedures based on the revised criteria; rebase the ASC payment rates using charge and utilization data collected by a 1994 survey of ASCs; refine the ratesetting methodology that was implemented by a final notice published on February 8, 1990 in the Federal Register; require that ASC payment, coverage and wage index updates be implemented annually on January 1, rather than having these updates occur randomly throughout the year; establish a payment rate for Extracorporeal Shock Wave Lithotripsy; reduce regulatory burden; and make several technical policy changes.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32290
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bob Cereghino, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, C4-03-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4645

RIN: 0938–AH81

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970. REVISIONS TO CONDITIONS FOR COVERAGE FOR AMBULATORY SURGICAL CENTERS (HCFA-3887-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 416

Legal Deadline: None

Abstract: This rule would revise the ambulatory surgical center conditions for coverage to reflect current innovations in healthcare delivery, quality assessment, and performance improvement. The focus would be to improve outcomes of health care and satisfaction for Medicare beneficiaries, while streamlining structural and procedural requirements where possible.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Marcia Newton, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5265

Joan Brooks, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5526

RIN: 0938–AH83

971. NATIONAL STANDARD FOR IDENTIFIERS OF HEALTH PLANS (HCFA-4145-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2(b)(1)

CFR Citation: 45 CFR 162

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule would implement a standard identifier to identify health plans that process and pay certain electronic health care transactions. It would implement one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Faye Broseker, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, S1-07-06, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3342

RIN: 0938–AH87

972. STANDARD UNIQUE HEALTH CARE PROVIDER IDENTIFIER (HCFA-0045-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2(h)(1)

CFR Citation: 42 CFR 160; 42 CFR 162

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule addresses the health care industry's need for a standardized provider identifier. It implements one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. A standard provider identifier will save the health insurance industry significant costs incurred in maintaining multiple identifier systems.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	63 FR 25320
NPRM Comment Period End	07/06/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: None

Agency Contact: Patricia Peyton, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, N3-20-05, 7500 Security Boulevard, Baltimore, MD 21224-1850
Phone: 410 786-1812

RIN: 0938–AH99

973. MEDICAID: MEDICAL CHILD SUPPORT (HCFA-2081-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(60); 42 USC 1396(a)(25), (45) and (60); 42 USC 1396(a)(60); 42 USC 139b(o)(2); 42 USC 1396g-1

CFR Citation: 42 CFR 433; 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.170

Legal Deadline: None

Abstract: This rule would require States to provide assurances satisfactory to the Secretary that the State has in effect laws relating to medical child support. This requirement would implement section 13623 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66), commonly cited as OBRA 1993. The medical child support laws that the States must have in effect are set forth in section 1908 of the Social Security Act (the Act). These laws would impose requirements on insurers, employers, and State Medicaid agencies that would result in greater enrollment opportunities for children, facilitate the filing of claims by custodial parents, and establish new payment disbursement criteria.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Sue Knefley, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0488

RIN: 0938–AI21

974. SURETY BOND REQUIREMENTS FOR COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES, REHABILITATION AGENCIES (HCFA-6005-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395x(cc)(2); 42 USC 1395x(p)

CFR Citation: 42 CFR 405; 42 CFR 413; 42 CFR 489

Legal Deadline: NPRM, Statutory, January 1, 1998.

Abstract: This rule would require comprehensive outpatient rehabilitation facilities and rehabilitation agencies to furnish us with a surety bond on a continuing basis in order to participate in the Medicare program, in accordance with provisions of the Balanced Budget Act of 1997 (105-33).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Ralph Goldberg, Division of Provider and Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@hcfa.gov

RIN: 0938–AI48

975. APPEALS OF CARRIER DETERMINATION THAT A PHYSICIAN OR OTHER SUPPLIER FAILS TO MEET THE REQUIREMENTS FOR MEDICARE BILLING PRIVILEGES (HCFA-6003-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395u(b)(3)(C); 42 USC 1395ff(b)

CFR Citation: 42 CFR 405.874

Legal Deadline: None

Abstract: This rule would establish an administrative appeal process whereby suppliers can request an appeal for a determination that affects their Medicare part B billing number. The purpose of this rule is to update and clarify our policy and extend administrative appeal rights to all current and prospective suppliers who are denied enrollment in the Medicare program or whose Medicare billing privileges are revoked. This rule does not apply to those suppliers covered under the appeals provisions for our regulations at 42 CFR 498.

Timetable:

Action	Date	FR Cite
NPRM	10/25/99	64 FR 57431

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Waldhauser, Division of Provider/Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6140

Yvonne West, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6479

RIN: 0938–AI49

976. SECURITY STANDARDS (HCFA-0049-F)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 104-191; 42 USC 1320d-2(d)

CFR Citation: 45 CFR 162

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule implements some of the requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. It establishes standards for the security of health information used by health plans, health care clearinghouses, and certain health care providers. These entities would use the security standards to develop and maintain the security of all electronic health information.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43242
NPRM Comment Period End	10/13/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Agency Contact: Barbara Clark, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, N2-14-10, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3017

RIN: 0938–AI57

977. NATIONAL STANDARD EMPLOYER IDENTIFIER (HCFA-0047-F)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 104-191; 42 USC 1320d to 1320-d-8

CFR Citation: 45 CFR 162

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule institutes the employer identification number (EIN) as the standard for identifying employers for purposes of administrative simplification, as required by the Health Insurance Portability and Accountability Act of 1996. Use of one standard in the health care industry will reduce the cost of identifying employers in electronic health care transactions.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32784
NPRM Comment Period End	08/17/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Mary Emerson, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, N2-12-22, Baltimore, MD 21244
Phone: 410 786-7065
Email: memerson@hcfa.gov

RIN: 0938–AI59

978. MEDICARE PROGRAM; ADVANCE REFUNDING OF DEBT AND METHODOLOGY FOR REPAYMENT OF LOAN (HCFA-1777-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)

CFR Citation: 42 CFR 413

Legal Deadline: None

Abstract: This rule would amend current regulations to clarify our policies regarding the treatment of interest expense. The rule would require that, when only part of the interest on a loan is allowable, repayment would be made first to that portion of the loan on which expense is allowable. This rule would also clarify how this policy is to be applied in situations in which there are multiple loans, and one or more of the loans are not related to patient care. In addition, we would define the allowable costs associated with advance refunding of debt, and clarify the treatment of revenue and expenses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Ann Pash, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4516
Email: apash@hcfa.gov

RIN: 0938–AI75

979. MEDICARE PROGRAM; MEDICARE COVERAGE OF AND PAYMENT FOR BONE MASS MEASUREMENTS (HCFA-3004-F)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395rr(b)(1); 42 USC 4106

CFR Citation: 42 CFR 410; 42 CFR 414

Legal Deadline: Other, Statutory, July 1, 1998, BBA Section 4106.

Abstract: This rule provides for uniform coverage of, and payment for, bone mass measurements for qualified Medicare beneficiaries for services furnished on or after July 1, 1998. It implements provisions in section 4106(a) of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/98	63 FR 34320
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William Larson, Office of Communications and Operations Support, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4639

RIN: 0938–AI89

980. MEDICARE PROGRAM; COVERAGE AND ADMINISTRATIVE POLICIES FOR CLINICAL DIAGNOSTIC LABORATORY TESTS (HCFA-3250-F)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 105-33, sec 4554(b)(1)

CFR Citation: 42 CFR ch 410

Legal Deadline: Final, Statutory, January 1, 1999, BBA Section 4106.

Abstract: This rule would establish national coverage and administrative policies for clinical diagnostic laboratory services payable under Medicare part B to promote Medicare program integrity and national uniformity, and simplify administrative requirements for clinical diagnostic laboratory services. A Negotiated Rulemaking Committee (the Committee) developed the proposed policies as directed by section 4554(b)(1) of the Balanced Budget Act of 1997 (the BBA).

Timetable:

Action	Date	FR Cite
Notice of Intent To Negotiate	06/03/98	63 FR 30166
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Federalism: Undetermined

Agency Contact: Jacqueline Sheridan, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4635

RIN: 0938–AI92

981. COVERAGE OF RELIGIOUS NON-MEDICAL HEALTH CARE INSTITUTIONS (HCFA-1909-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-5; 42 USC 1395x(e); 42 USC 1395x(y); 42 USC 1395x(ss); 42 USC 1395ff; 42 USC 1395oo; 42 USC 1302

CFR Citation: 42 CFR 403; 42 CFR 440.170; 42 CFR 488.2; 42 CFR 488.6; 42 CFR 489.102; 42 CFR 412.90; 42 CFR 412.98; 42 CFR 431.610; 42 CFR 440.155; 42 CFR 442.12; 42 CFR 456.351; 42 CFR 456.601; 42 CFR 466.1

Legal Deadline: Final, Statutory, July 1, 1998, BBA, Section 4106.

Abstract: This rule implements section 4454 of the Balanced Budget Act of 1997 (BBA 1997), which amended section 1861 of the Social Security Act (the Act) and added a new section 1821 to the Act. Section 4454 of BBA 1997 removed all references to Christian Science and Christian sanatoria from the Act and substituted religious nonmedical health care institutions in their place. This change permits any qualified religious, nonmedical, health care institution to apply for payment for furnishing nonmedical services under Medicare. Section 4454 also authorizes payment for such services as an option benefit under State Medicaid plans. The rule sets forth minimum requirements and conditions of participation to qualify as a religious nonmedical health care institution for purposes of receiving payment for services furnished under Medicare and Medicaid.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/30/99	64 FR 67028
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Jean Marie Moore, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3508

RIN: 0938–AI93

982. EXTERNAL QUALITY REVIEW OF MEDICAID MANAGED CARE ORGANIZATIONS (HCFA-2015-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 438

Legal Deadline: None

Abstract: This rule implements section 1932(c) of the Social Security Act, added by section 4705 of the Balanced Budget Act of 1997. It requires State agencies that contract with managed care organizations to implement quality improvement strategies that address access and other aspects of care and services directly related to the quality of care provided by these managed care organizations and performance through annual external, independent reviews conducted by accrediting organizations that are approved by HCFA.

Timetable:

Action	Date	FR Cite
NPRM	12/01/99	64 FR 67223

Action	Date	FR Cite
NPRM Comment Period End	01/31/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Sharon Gilles, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1177

RIN: 0938–AJ06

983. REPORTING OUTCOME AND ASSESSMENT INFORMATION SET (OASIS) DATA AS PART OF THE CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (HCFA-3006-F)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 1302; 42 USC 1395(hh)

CFR Citation: 42 CFR 484.11; 42 CFR 484.20; 42 CFR 488.68

Legal Deadline: None

Abstract: This rule requires electronic reporting of data from the Outcome and Assessment Information Set (OASIS) as a condition of participation for Home Health Agencies (HHAs). Specifically, this rule provides guidelines for HHAs for the electronic transmission of the OASIS data set as well as responsibilities of the State agency or contractor in collecting and transmitting this information to HCFA. This rule also sets forth provisions concerning the privacy of patient identifiable information generated by the OASIS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/25/99	64 FR 3748
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Federalism: Undetermined

Agency Contact: Janice Stevenson, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4882

RIN: 0938–AJ10

984. RURAL HEALTH CLINICS: AMENDMENTS TO PARTICIPATION REQUIREMENTS AND PAYMENT PROVISIONS, AND ESTABLISHMENT OF A QUALITY ASSESSMENT AND IMPROVEMENT PROGRAM (HCFA-1910-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 491

Legal Deadline: None

Abstract: This rule would amend the requirements for certification and payment for rural health clinics (RHCs), as required by section 4205 of the Balanced Budget Act of 1997 (BBA 1997). It would include new refinements of what constitutes a qualifying rural shortage area in which a Medicare RHC must be located; establish criteria for identifying RHCs essential to delivery of primary care services that can continue to be approved as Medicare RHCs in areas no longer designated as medically underserved; and include recent statutory provisions that provide a temporary waiver of certain nonphysician practitioner staffing requirements. It would impose payment limits on provider based RHCs, and would prohibit the use of RHC space or equipment, and other RHC resources by another Medicare entity. The rule also requires establishment of a quality assessment and performance improvement program.

Timetable:

Action	Date	FR Cite
NPRM	02/28/00	65 FR 10450
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David Worgo, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-15-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5919

RIN: 0938–AJ17

985. HOSPITAL CONDITIONS OF PARTICIPATION: LABORATORY SERVICES (HCFA-3014-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482.27

Legal Deadline: None

Abstract: This rule would require hospitals that transfuse blood and blood products to: 1) prepare and follow written procedures for appropriate action when it is determined that blood and blood products are at increased risk for transmitting hepatitis C virus (HCV); 2) quarantine prior collections from a donor who is at increased risk for transmitting HCV infection; 3) notify transfusion recipients, as appropriate, of the need for HCV testing and counseling; and 4) maintain records for at least 10 years.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69416
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Mary Collins, OCSQ, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3189

RIN: 0938–AJ29

986. MEDICARE HOSPICE CARE AMENDMENTS (HCFA-1022-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-33, sec 4441(a); PL 105-33, sec 4442 to 4446; PL 105-33, sec 4448

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This rule would implement sections 4441(a), 4442 to 4446, and 4448 of the Balanced Budget Act of 1997. Specific changes include updating hospice payment rates, specifying payment according to the site of service, modifying the hospice benefit periods, clarifying the services covered under the benefit, allowing hospices to contract for physician services, allowing waivers of certain staffing requirements for hospice care provided in non-urbanized areas, and extending the period for physician certification of an individual's terminal illness. Additionally, the rule would clarify other current policies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Blackford, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5909
Email: cblackford@hcfa.gov

RIN: 0938–AJ36

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987. EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA) (HCFA-1063-P)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1395cc; 42 USC 1395dd

CFR Citation: 42 CFR 489.24

Legal Deadline: None

Abstract: This rule clarifies the extent of the applicability of the Emergency Medical Treatment and Labor Act (EMTALA).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: George Morey, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4653

RIN: 0938–AJ39

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988. PROTECTION FOR WOMEN WHO ELECT RECONSTRUCTION AFTER A MASTECTOMY (HCFA-2040-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300gg-6; 42 USC 300gg-52

CFR Citation: 45 CFR 146; 45 CFR 148

Legal Deadline: None

Abstract: The final rule would implement the requirements of the Women's Health and Cancer Rights Act of 1998 (WHCRA) (Pub. L. 105-277). The rules will provide protection to patients who are receiving benefits in connection with a mastectomy and who elect breast reconstruction. WHCRA provides coverage for all stages of reconstruction of the breast on which the mastectomy has been performed; surgery and reconstruction of the other breast to produce a symmetrical appearance; and coverage for prostheses and treatment of physical complications of a mastectomy, including lymphedema. Group health plans and health insurance issuers that offer medical and surgical benefits for mastectomies are subject to WHCRA's coverage requirements.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Kathryn McCann, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7623

RIN: 0938–AJ44

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989. MEDICARE PROGRAM: PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT REHABILITATION HOSPITAL SERVICES (HCFA-1069-F)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 105-33, sec 4421; 42 USC 1395ww(j)

CFR Citation: None

Legal Deadline: None

Abstract: This rule would implement the new prospective payment system for rehabilitation facilities, pursuant to section 1886(j) of the Social Security Act, as added by section 4421 of the Balanced Budget Act, and as amended by section 125 of the Balanced Budget Refinement Act of 1999.

Timetable:

Action	Date	FR Cite
Proposed Rule	11/03/00	65 FR 66304
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Laurence Wilson, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4603

RIN: 0938–AJ55

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990. DME SURETY BONDS (HCFA-5006-P)

Priority: Economically Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 105-33, sec 4312(a); 42 USC 1395m(a)(16)

CFR Citation: 42 CFR 424.57

Legal Deadline: NPRM, Statutory, January 1, 1998.

Abstract: This proposed rule would implement the provision of the Balanced Budget Act of 1997 that requires a Medicare supplier of durable medical equipment (DME) to furnish HCFA with a surety bond.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Ralph Goldberg, Division of Provider and Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@hcfa.gov

RIN: 0938–AJ64

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991. STATE HEALTH INSURANCE ASSISTANCE PROGRAM (SHIP) (HCFA-4005-F)

Priority: Info./Admin./Other

Legal Authority: 42 USC 13956-4; 42 USC 1395w-21(d); 42 USC 1395w-27(e)

CFR Citation: 42 CFR 403.502; 42 CFR 403.504; 42 CFR 403.508

Legal Deadline: None

Abstract: This rule modifies several terms and conditions that apply to State Medicare beneficiary counseling and assistance grants and implements several minor technical clarifications affecting programs compliance. This rule also specifies our policies regarding the treatment of other funds associated with the management of this program, including user fee assessments not in effect when prior regulations were issued.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/00	65 FR 34983
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Eric Lang, Health Insurance Specialist, Office of Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, Room 600, EHR, 6325 Security Boulevard, Baltimore, MD 21207
Phone: 410 966-3193

RIN: 0938–AJ67

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992. HHA SURETY BOND (HCFA-6001-P)

Priority: Economically Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 105-33, sec 4312(b); PL 105-33, sec 4724(b); PL 105-33, sec 1861(o)(7); PL 105-33, sec 1861(v)(1); PL 105-33, sec 1891(b); PL 105-33, sec 1903(i)(18); PL 105-33, sec 1128F

CFR Citation: 42 CFR 413; 42 CFR 440; 42 CFR 441; 42 CFR 489

Legal Deadline: NPRM, Statutory, June 15, 2000.

Abstract: This rule would amend our regulations to require an HHA surety bond of $50,000. We would remove the 15 percent provision based on concerns expressed by Congress, the home health industry, surety association representatives, and comments published in a report by the General Accounting Office. This rule would require that HHAs obtain a surety bond by October 1, 2000. Although the bond must be effective January 1, 1998, we are proposing not to hold sureties liable for excessive interim payments attributable to the implementation of the interim payment systems made between October 1, 1997 and September 30, 2000.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: RIN 0938-AJ08 in the October 1998 Unified Agenda provides information about rulemaking actions taken and withdrawn in 1998 concerning surety bond requirements for home health agencies.

Agency Contact: Ralph Goldberg, Division of Provider and Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@hcfa.gov

RIN: 0938–AJ81

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993. APPLICATION OF INHERENT REASONABLENESS TO ALL PART B SERVICES OTHER THAN PHYSICIAN SERVICES (HCFA-1908-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-33, sec 4316

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This rule implements sections 1842(b)(8) and (9) of the Social Security Act, as revised by section 4316 of the Balanced Budget Act of 1997. It sets forth the process for establishing realistic and equitable payment amounts for all Medicare part B items and services (other than physician services) when the existing payment amounts are inherently unreasonable because they are either grossly excessive or grossly deficient. This rule describes the factors HCFA (or its carriers) will consider and the procedures that will be followed in establishing realistic and equitable payment amounts.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William J. Long, Department of Health and Human Services, Health Care Financing Administration, C4-12-18, Center for Health Plans and Providers, 7500 Security Boulevard, Baltimore, MD 21228
Phone: 410 786-5655
Email: wlong@hcfa.gov

RIN: 0938–AJ97

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994. SUPPLIER STANDARDS RELATED TO TRAINING REQUIREMENTS FOR OXYGEN, THERAPEUTIC SHOES (HCFA-6010-NPRM)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 424.57

Legal Deadline: None

Abstract: As required by the BBA, this rule proposes service standards for the suppliers of home oxygen therapy and suppliers of therapeutic shoes.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Waldhauser, Division of Provider/Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6140

Frank Whelan, Health Insurance Sepicalist, Department of Health and Human Services, Health Care Financing Administration, C3-02-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1302

RIN: 0938–AJ98

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995. NON-FEDERAL GOVERNMENTAL PLANS EXEMPT FROM HIPAA (HCFA-2033-IFC)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 45 CFR 146

Legal Deadline: None

Abstract: This rule amends 45 CFR part 146, as promulgated at 62 FR 16894 April 8, 1997 (BPD-890-IFC). This rule makes a correction to 45 CFR 146.150, Guaranteed Availability of Coverage for Employers in the Small Group Market.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dave Holstein, Insurance Standards Team, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1564

RIN: 0938–AK00

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996. END STAGE RENAL DISEASE BAD DEBT PAYMENT (HCFA-1126-P)

Priority: Other Significant

Legal Authority: Section 1861(v)(1)(A); 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 413.178

Legal Deadline: None

Abstract: This rule would remove the cap on end stage renal disease bad debts as stated in 42 CFR 413.178, which limits reimbursement of Medicare bad debts to the end stage renal disease facility's unrecovered costs. With respect to hospital-based providers, this regulation permits clearer distinctions to be made between various types of services, and ensures that these services will be paid for in an appropriate manner.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Katie Walker, Department of Health and Human Services, Health Care Financing Administration, C5-03-03, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7278

RIN: 0938–AK02

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997. PRACTICE EXPENSE DATA COLLECTION (HCFA-1111-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: Sec 212 of BBRA of 1999; 42 USC 1395w-4

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: This interim final rule establishes criteria for physician and non-physician specialty groups for submitting supplemental practice expense survey data for use in determining payments under the physician fee schedule. This interim final rule solicits public comments on the criteria for supplemental surveys.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/03/00	65 FR 25664
Final Rule	11/01/00	65 FR 65376
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth Marsalek, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 301 786-1115

RIN: 0938–AK14

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998. PAYMENT FOR CLINICAL PSYCHOLOGY TRAINING PROGRAMS (HCFA-1089-F)

Priority: Other Significant

Legal Authority: Social Security Act, sec 1861(v); Social Security Act, sec 1886(a)(4); PL 105-33

CFR Citation: 42 CFR 413.85

Legal Deadline: None

Abstract: This final rule revises our policy on Medicare payment for approved nursing and allied health education programs to permit payment for the costs incurred by a provider for the clinical training of students enrolled in a clinical psychology training program or a physician assistant training program. Consistent with the Conference Agreement language in the Conference Report accompanying the Balanced Budget Act of 1997 (Public Law 105-33), these clinical training costs would be paid separately on a reasonable cost basis pursuant to sections 1861(v) and 1886(a)(4) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 3377
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tzvi Hefter, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1304

RIN: 0938–AK15

999. PROVISIONS OF THE BALANCED BUDGET AND REFINEMENT ACT OF 1999; HOSPITAL INPATIENT PAYMENTS AND RATES AND COSTS OF GRADUATE MEDICAL EDUCATION (HCFA-1131-IFC)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1302; 12 USC 1395hh; PL 106-113

CFR Citation: 42 CFR 410.152; 42 CFR 412.90; 42 CFR 412.102; 42 CFR 412.103; 42 CFR 412.105; 42 CFR 412.108; 42 CFR 413.40; 42 CFR 413.70; 42 CFR 413.86; ...

Legal Deadline: None

Abstract: This interim final rule with comment period implements, or regulations to, certain statutory provisions conforms the relating to Medicare payments to hospitals for inpatient services that are contained in the Medicare, Medicaid, and (SCHIP) State Children's Health Insurance Program Balanced Budget Refinement Act of 1999 (Pub. L. 106-113). These provisions relate to reclassification of hospitals from urban to rural status, reclassification of certain hospitals for purposes of payment during Federal fiscal year 2000, critical access hospitals, payments to hospitals excluded under the hospital inpatient prospective payment system, and payments for indirect and direct graduate medical education costs.

Many of the provisions of Public Law 106-113 modify changes to the Social Security Act made by the Balanced Budget Act of 1997 (Pub. L. 105-33). These provisions are already in effect in accordance with Public Law 106-113.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/00	65 FR 47026
Interim Final Rule Effective	08/01/00	
Interim Final Rule Comment Period End	08/31/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Stephen Phillips, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4548

RIN: 0938–AK20

1000. CONDITIONS OF PARTICIPATION OF INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION (HCFA-3046-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1396d

CFR Citation: 42 CFR 400; 42 CFR 435; 42 CFR 440; 42 CFR 441; 42 CFR 483

Legal Deadline: None

Abstract: This rule would revise the Conditions of Participation for Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR). It would set forth new requirements that an ICF/MR must meet to participate in the Medicaid program, as well as adhere to current trends in the field of developmental disabilities. It would also increase our focus on client-directed choices, while maintaining essential client protections that reinforce our mandate to protect the health, safety, and welfare of the clients we serve.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Nancy Archer, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S3-05-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 401 786-0596

RIN: 0938–AK23

1001. CLINICAL LAB REQUIREMENTS-REVISIONS TO REGULATIONS IMPLEMENTING CLIA (HCFA-2226-F)

Priority: Other Significant

Legal Authority: PL 100-578

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: This rule revises regulations applicable to clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100-578. The regulations apply to laboratories that examine human specimens for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings. This rule concludes the phase-in for certain quality control and personnel requirements, and addresses comments received on previously promulgated CLIA rules. In addition, this rule consolidates and reorganizes the requirements for patient test management, quality control and quality assurance in a manner that parallels the path of a specimen through the testing process. While this regulation pertains to complex technical requirements, plain language is used whenever possible, as mandated by the Regulatory Reform Initiative.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Cecelia Hinkel, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration
Phone: 410 786-3347

RIN: 0938–AK24

1002. PROSPECTIVE FEE SCHEDULE FOR AMBULANCE SERVICES (HCFA-1002-F)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 105-33, sec 4531(b)

CFR Citation: 42 CFR 410

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: The Balanced Budget Act (BBA) of 1997 requires that the Secretary establish a fee schedule for ambulance services through negotiated rulemaking. The fee schedule is to be effective beginning with services furnished on or after January 1, 2000.

However, other statutory obligations and the scope of systems changes required to implement the ambulance fee schedule were so numerous as to make it impossible for us to accomplish this concurrent with the critical work that we and our contractors had to perform to assure that our respective systems were compliant with the year 2000 requirements. Therefore, since we were unable to implement the ambulance fee schedule on January 1, 2000, we have delayed implementation of the fee schedule for ambulance services until January 1, 2001. This action is in keeping with our objective to have the ambulance fee schedule become effective as soon as possible after the January 1, 2000 statutory date, given our year 2000 activities and our other statutory obligations to implement various revised payment systems in calendar year 2000. In addition to setting the payment rates, the Secretary is to ensure that the aggregate amount of payment made for ambulance services in 2001 may not exceed the amount of payment that would have been made absent the fee schedule. This is a cap on payment, not a budget neutrality adjustment. Negotiations were conducted by a committee chartered under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2). We used the services of an impartial conveyer to help identify interests that would be significantly affected by the proposed rule (including residents of rural areas) and the names of persons who were willing and qualified to represent those interests. The Negotiated Rulemaking Committee on the Medicare Ambulance Services Fee Schedule consisted of national representatives of interests that were likely to be significantly affected by the fee schedule. To the extent that this proposed rule accurately reflected the Committee Statement as signed on February 14, 2000, each member to the Committee agreed not to comment on those issues on which consensus was reached.

Timetable:

Action	Date	FR Cite
NPRM	09/12/00	65 FR 55076
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Glenn McGuire, Department of Health and Human Services, Health Care Financing Administration, S3-05-27, Office of Clinical Standards and Quality, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-0596

RIN: 0938–AK30

1003. FIRE SAFETY REQUIREMENTS FOR RNHCI, ASC, HOSPICES, PACE, HOSPITALS, AND LONG-TERM CARE FACILITIES (HCFA-3047-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 403; 42 CFR 416; 42 CFR 418; 42 CFR 460; 42 CFR 482; 42 CFR 483

Legal Deadline: None

Abstract: This rule would update current fire safety requirements to generally conform to the 2000 edition of the Life Safety Code, published by the National Fire Protection Association.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tamara Syrek, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration
Phone: 410 786-3529

RIN: 0938–AK35

1004. • MEDICARE PROVIDER AND SUPPLIER HEARING PROCEDURES (HCFA-2093-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 498.40; 42 CFR 498.70; 42 CFR 498.83; 42 CFR 498.88

Legal Deadline: None

Abstract: This rule would revise current hearing regulations applicable to enforcement actions taken by HCFA against Medicare providers and suppliers (and, in some cases, certain Medicaid providers) based on a lack of compliance with Federal certification requirements. Specifically, this rule would revise existing requirements governing the level of specificity that petitioners must include when seeking review of agency actions governed by these hearing regulations. Additionally, this rule would clarify the meaning of "good cause" as that term is used in the hearing regulations to judge whether petitioners may file requests for review after filing deadlines have passed. The rule would also require dismissal of petitions for review when a petitioner has failed to file a sufficiently detailed hearing request within the time allotted by the regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Sandy Haydock, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3822

RIN: 0938–AK39

1005. • HOSPITAL CONDITIONS OF PARTICIPATION: QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENTS (HCFA-3050-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482.21

Legal Deadline: None

Abstract: This rule requires hospitals to develop and maintain a quality assessment and performance improvement (QAPI) program. The QAPI focuses the providers' efforts on the actual care delivered to patients, the performance of the hospital as an organization, and the impact of treatment furnished by the hospital on the health status of its patients. In addition, QAPI entails all activities required for measuring quality of care and maintaining it at acceptable levels. Performance improvement activities aim to improve overall performance assuming that there is no permanent threshold for good performance. Under performance improvement framework, hospitals will continuously study and improve the processes of healthcare and delivery of service.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66725
NPRM Comment Period End	02/17/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Stephanie Dyson, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9226

RIN: 0938–AK40

1006. • REQUIREMENTS FOR THE RECREDENTIALING OF MEDICARE+CHOICE ORGANIZATIONS PROVIDERS (HCFA-1160-F)

Priority: Substantive, Nonsignificant

Legal Authority: Social Security Act, sec 1102; Social Security Act, sec 1871

CFR Citation: 42 CFR 422.204

Legal Deadline: None

Abstract: This rule would change the requirements of recredentialing providers for Medicare+Choice Organizations from at least every 2 years to at least every 3 years.

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 81813
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Siera Gollan, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6664

RIN: 0938–AK41

1007. • SUPPLEMENTARY MEDICAL INSURANCE PREMIUM SURCHARGE AGREEMENTS (HCFA-4007-P)

Priority: Substantive, Nonsignificant

Legal Authority: Social Security Act, sec 1839(e)

CFR Citation: 42 CFR 408.200; 42 CFR 408.201; 42 CFR 408.202; 42 CFR 408.205; 42 CFR 408.207; 42 CFR 408.210; ...

Legal Deadline: None

Abstract: This rule would implement section 1839(e) of the SSA, as amended by section 144 of the SAA Amendments of 1994 and the Balanced Budget Act of 1997 to allow State and local government agencies to pay a lump sum for the Supplementary Medical Insurance (SMI) late enrollment fee due for a designated group of eligible individuals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Marty Abeln, Department of Health and Human Services, Health Care Financing Administration, Center for Health Plans and Providers, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1032

Sandy Clarke, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-7451

RIN: 0938–AK42

1008. • MEDICAL DEVICES COVERAGE DECISIONS RELATED TO HEALTH CARE TECHNOLOGY (HCFA-3059-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395y; 42 USC 1395hh; 42 USC 410; 42 USC 411

CFR Citation: 42 CFR 405.207

Legal Deadline: None

Abstract: This rule exemption would permit coverage for, and payment, of routine patient care costs associated with certain approved clinical trials of delays subject to the investigational devices. This would also include costs due to medical complications associated with participating in approved clinical trials.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marty Abeln, Department of Health and Human Services, Health Care Financing Administration, Center for Health Plans and Providers, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1032

Sharon Hippler, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4633

RIN: 0938–AK43

1009. • MEDICAID MANAGEMENT INFORMATION SYSTEM REVISED DEFINITION OF "MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEM" (HCFA-2123-IFC)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 433.111; 42 CFR 433.112; 42 CFR 433.119

Legal Deadline: None

Abstract: This rule revises the definition of mechanized claims processing and information retrieval systems to include the eligibility determination function. This change allows States to request enhanced FFP at the 90 and 75 percent levels to perform the function by either the Medicaid Management Information Systems or the integrated eligibility determination systems.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Harvey Heyman, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21044
Phone: 410 786-0712

RIN: 0938–AK44

1010. • MEDICARE PROGRAM; REPORTING AND REPAYMENT OF OVERPAYMENTS (HCFA-6011-P)

Priority: Other Significant

Legal Authority: Social Security Act, sec 1102; Social Security Act, sec 1871

CFR Citation: 42 CFR 401.310

Legal Deadline: None

Abstract: This proposed rule would modify a notice of proposed rulemaking published on March 25, 1998. That notice proposed to amend regulations governing liability for overpayments to providers, suppliers, and individuals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Wright, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C3-14-00, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4292

RIN: 0938–AK45

1011. • IMPROVEMENTS TO THE MEDICARE+CHOICE APPEALS AND GRIEVANCE PROCEDURES (HCFA-4024-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: BBA, sec 4001; PL 105-33; Social Security Act, sec 1851 to 1859

CFR Citation: 42 CFR 422; 42 CFR 489

Legal Deadline: NPRM, Judicial, January 19, 2001.

Abstract: This rule sets forth several improvements to the Medicare+Choice (M+C) appeal and grievance procedures. Most notably, this rule will: 1) ensure that M+C enrollees receive written notice, including information about appeal rights, at least 4 days before the proposed termination date of provider services; and 2) establishes a new fast-track independent review process for appealing decisions to terminate services.

This rule also clarifies hospitals' responsibility for issuing discharge notices, amends the Medicare provider agreement regulations with regard to beneficiary notification requirements, and sets forth beneficiary grievance procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/24/01	66 FR 7593
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: The Settlement Agreement in Grijalua v. Shalala contemplates that a final rule will be published by the end of 2002.

Agency Contact: Tony Culotta, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4661

RIN: 0938–AK48

1012. • CIVIL MONEY PENALTIES, ASSESSMENTS, AND REVISED SANCTION AUTHORITIES (HCFA-6145-FC)

Priority: Info./Admin./Other

Legal Authority: PL 105-33, sec 4541(a)(2); PL 105-33, sec 4311(b); PL 105-33, sec 4317; PL 105-33, sec 4031(a)(2); PL 105-33, sec 4531(b)(2); PL 104-191, sec 231(c); ...

CFR Citation: 42 CFR 402.1; 42 CFR 402.105; 42 CFR 402.107; 42 CFR 405.520

Legal Deadline: None

Abstract: This rule with comment period is a technical rule that amends our civil money penalty (CMP) authorities. It adds CMP authorities that were enacted as part of the Balanced Budget Act of 1997 (BBA) and delegated to us. The rule delineates our authority to assess penalties for: failure to bill outpatient therapy services or comprehensive outpatient rehabilitation services (CORS) on an assignment-related basis, failure to bill ambulance services on an assignment-related basis, failure to provide an itemized statement for Medicare items and services to a Medicare beneficiary upon his/her request, and failure of physicians or nonphysician practitioners to provide diagnostic codes for items or services they furnish or failure to provide this information to the entity furnishing the item or service ordered by the practitioner. As a result of the BBA's redesignation of a statutory paragraph, the rule also includes a technical change to an existing delegated authority. Additionally, the rule includes a technical change that corrects the amount of the CMP in section 405.520(c) and also serves as a cross-reference to the requirements in other sections of the regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Cohen, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, C3-04-06, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3349

RIN: 0938–AK49

1013. • PAYMENT FOR UPGRADED DURABLE MEDICAL EQUIPMENT (HCFA-1084-F)

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: This rule amends the Medicare regulations to permit Medicare suppliers to furnish certain upgraded durable medical on an assignment basis. Medicare payment will be made to suppliers as if the DME were without the upgraded features.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William J. Long, Department of Health and Human Services, Health Care Financing Administration, C4-12-18, Center for Health Plans and Providers, 7500 Security Boulevard, Baltimore, MD 21228
Phone: 410 786-5655
Email: wlong@hcfa.gov

RIN: 0938–AK50

1014. • UPDATE TO THE PROSPECTIVE PAYMENT SYSTEM FOR HOME HEALTH AGENCIES FOR FY 2002 (HCFA-1147-NC)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; Social Security Act, sec 1102; Social Security Act, sec 1871

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, October 1, 2001, Rate updates required by BBA of 97.
Rates for instructing Medicare contractors about system changes must be published in the Federal Register by 07/01/01.

Abstract: This notice with comment sets forth an update to the 60-day national home health episode rates and the national per visits amounts used in the calculation of the low utilization payment adjustment (LUPA) under the Medicare prospective payment system for home health agencies. These rates replace the 60-day episode rates and the national per visits amounts used in calculation of the LUPA (published in the July 3, 200 FR (65 FR 41128).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Susan Levy, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-9364

RIN: 0938–AK51

1015. • RECOGNITION OF THE AMERICAN OSTEOPATHIC ASSOCIATION FOR AMBULATORY SURGICAL CENTER PROGRAMS (HCFA-2079-FN)

Priority: Routine and Frequent

Legal Authority: Social Security Act, sec 1865(b)(l); Social Security Act, sec 1832(a)(F)(i)

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, January 12, 2001, Must be published 60 days after receipt of the November 14, 2000 application.

Abstract: In this notice we announce the receipt of an application from the American Osteopathic Association (AOA), for recognition as a national accreditation program for ambulatory surgical centers that wish to participate in the Medicare or Medicaid programs. The Social Security Act requires that the Secretary publish a notice identifying the national accreditation body making the request, describing the nature of the request, and providing a 30-day public comment period.

Timetable:

Action	Date	FR Cite
Proposed Notice	03/14/01	66 FR 14906
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Joan Benny, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7233

RIN: 0938–AK53

1016. • PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES (HCFA-1159-P)

Priority: Other Significant

Legal Authority: 42 USC 1395; BBA '97; BBRA '99; BIPA '00

CFR Citation: 42 CFR 419

Legal Deadline: Final, Statutory, November 1, 2001.

Abstract: This rule would include the payment system recalibration, implementation of relevant provisions of the Benefits Improvement and Protection Act (BIPA) of 2000, and other related policies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/00	65 FR 67798
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Chuck Braver, Department of Health and Human Services, Health Care Financing Administration, Center for Health Plans and Providers, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6719

Janet Wellham, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4510

RIN: 0938–AK54

1017. • MEDICARE AS SECONDARY PAYER-RECOVERY OF CONDITIONAL PAYMENTS (HCFA-6009-P)

Priority: Other Significant

Legal Authority: None

CFR Citation: 42 CFR 411.20; 42 CFR 411.24

Legal Deadline: None

Abstract: This rule clarifies provider and supplier responsibilities in recovery of conditional payments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: William Zavoina, Department of Health and Human Services, Health Care Financing Administration, Bureau of Program Operations, 1445 Meadows East Building, Baltimore, MD 21207
Phone: 410 966-7461

RIN: 0938–AK55

1018. • FIVE YEAR REVIEW OF WORK RELATIVE VALUE UNITS UNDER THE PHYSICIAN FEE SCHEDULE PROPOSED NOTICE (HCFA-1170-PN)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395w-4(c)

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: This notice discusses changes to work relative value units (RVUs) affecting payment for physician services.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Terrence Kay, Center for Health Plans and Providers, Division of Practitioner and Ambulatory C, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, C4-10-26, Baltimore, MD 21244
Phone: 410 786-4497

James Menas, Department of Health and Human Services, Health Care Financing Administration, C4-05-04, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4507

RIN: 0938–AK56

1019. • REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 2002 (HCFA-1169-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 CFR 1395w-4

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, November 1, 2001.

Abstract: This rule with comment period makes several changes affecting Medicare part B payments, and implements several provisions of the BIPA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Diane Milstead, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3355

Terrence Kay, Center for Health Plans and Providers, Division of Practitioner and Ambulatory C, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, C4-10-26, Baltimore, MD 21244
Phone: 410 786-4497

RIN: 0938–AK57

1020. • CHANGES TO NATIONAL COVERAGE DETERMINATIONS AND LOCAL COVERAGE DETERMINATIONS (HCFA-4019-FC)

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This regulation would clarify when and under what circumstances Medicare coverage policy could be challenged.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Bossenmeyer, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C5-16-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9317
Email: jbossenmeyer@hcfa.gov

RIN: 0938–AK58

1021. • REVISIONS TO THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES MANDATED BY BIPA (HCFA-1179-IFC)

Priority: Other Significant

Legal Authority: 42 USC 1395l; BBA 1997; BBRA 1999; BIPA 2000

CFR Citation: 42 CFR 419

Legal Deadline: None

Abstract: This rule implements the requirement of the BIPA to establish criteria for new categories of medical devices for transitional pass-through payment under the outpatient prospective payment system. The criteria would become effective on July 1, 2001.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Janet Wellham, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4510

RIN: 0938–AK59

1022. • CHALLENGES TO NATIONAL COVERAGE DETERMINATIONS AND LOCAL COVERAGE DETERMINATIONS (HCFA-3063-P)

Priority: Other Significant

Legal Authority: Sec 522 of the BIPA 2000

CFR Citation: 42 CFR 405

Legal Deadline: NPRM, Statutory, October 1, 2001.
The effective date for regulation changes is 10/01/01.

Abstract: This rule proposes changes to the appeals process for national and local coverage determinations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: James Bossenmeyer, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C5-16-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9317
Email: jbossenmeyer@hcfa.gov

RIN: 0938–AK60

1023. • REVISED PROCESS FOR MAKING MEDICARE COVERAGE DECISIONS (HCFA-3062-N)

Priority: Other Significant

Legal Authority: Sec 522 of the BIPA 2000

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, October 1, 2001, Revision notice.

Abstract: This notice revises the process for making Medicare coverage decisions.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vadim Lubarsky, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C5-16-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0840

RIN: 0938–AK61

1024. • CLAIMS ATTACHMENT STANDARD (HCFA-0050-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1320d-2(a)(2)(B)

CFR Citation: 45 CFR 162

Legal Deadline: Final, Statutory, August 21, 1998.

Abstract: This rule proposes an electronic standard transmissions for claims attachments. The standard is required by HIPAA. It would be used to transmit clinical data, beyond those data contained in the claims standard, to help establish medical necessity or coverage.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal, Tribal

Federalism: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: James Krall, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Securtiy Blvd., Baltimore, MD 21244
Phone: 410 786-6999

RIN: 0938–AK62

1025. • STANDARDS FOR ELECTRONIC SIGNATURES (HCFA-0051-F)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 104-91; SSA, Sec. 1171 to 1179

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This final rule is being jointly developed by HCFA and the Department of Commerce. The final rule implements administrative simplification initiatives that have a national scope beyond the Medicare and Medicaid programs. This rule establishes standards for electronic signature for health care claims processing.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43242
NPRM Comment Period End	10/13/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Additional Information: Previously reported under 0938-AI57.

Agency Contact: Barbara Clark, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, N2-14-10, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3017

RIN: 0938–AK63

1026. • HEALTH INSURANCE REFORM: MODIFICATIONS TO STANDARDS FOR ELECTRONIC TRANSACTION (HCFA-0003-IFC)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: Social Security Act, sec 1871

CFR Citation: 45 CFR 162

Legal Deadline: None

Abstract: This rule adopts a revised national council for prescription drug programs (NCPDP) standards for batched retail pharmacy transactions under 45 CFR 162.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marilyn Abramovitz, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, N2-14-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5939

RIN: 0938–AK64

1027. • REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULE (HCFA-1010-F)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: Social Security Act, sec 1833; Social Security Act, sec 1842

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: This final rule implements fee schedules for payment of items and services, excluding ambulance services, still subject to the reasonable charge payment methodology. The authority for establishing these fee schedules is provided by the Balanced Budget Act of 1997, which amended the Social Security Act. A fee schedule for ambulance services is mandated by a different statutory provision. The Social Security Act specifies that statewide or other areawide fee schedules may be implemented for the following items and services: medical supplies; home dialysis supplies and equipment; therapeutic shoes; parenteral and

enteral nutrients, equipment, and supplies; electromyogram devices; salivation devices; blood products; and transfusion medicine. This final rule describes changes made to the proposed fee schedule payment methodology for these items and services and provides that the fee schedules are effective for all specified covered items and services furnished on or after January 1, 2002. Fee schedules will not be implemented for electromyogram devices and salivation devices at this time since these items are not covered by Medicare.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Joel Kaiser, Center for Health Plan and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4499

RIN: 0938–AK66

1028. • PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS-PHASE II (HCFA-1810-FC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395nn

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: On January 4, 2001, we issued a final rule with comment period (phase I) to incorporate into regulations paragraphs (a), (b), and (h) of section 1877 of the Social Security Act. This final rule with comment period (phase II) will address comments from the January 9, 1998 proposed rule concerning the remainder of section 1877, including the ownership and investment exceptions and the compensation exceptions. In addition, this final rule will address comments from the January 4, 2001 final rule with comment period.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Joanne Sinsheimer, Technical Assistant, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AK67

1029. • INCREASE IN THE RATE OF REIMBURSEMENT OF PHOTOCOPY EXPENSES FOR PROSPECTIVE PAYMENT SYSTEM PROVIDERS (HCFA-3055-P)

Priority: Economically Significant

Legal Authority: Social Security Act, sec 1102; Social Security Act, sec 1154; Social Security Act, sec 1159; Social Security Act, sec 1866; Social Security Act, sec 1871

CFR Citation: 42 CFR 476.78

Legal Deadline: None

Abstract: This rule would increase the rate of reimbursement for photocopy expenses of Medicare Prospective Payment System (PPS) providers of medical records requested by Utilization and Quality Control Peer Review Organizations. We would increase the rate from 7 cents to 11 cents per page, which includes labor and supply costs, to reflect inflationary adjustments for these two cost components only.

This rule is necessary due to increases in the inflation factor, and increases in salaries and cost of living. We would specify a provision for periodic review and adjustment of the per-page reimbursement cost to account for inflation and changes in technology. The methodology for calculating the per-page reimbursement rate would remain unchanged.

We also propose to expand the scope of the regulation to encompass other providers subject to the Medicare PPS (for example, skilled nursing facilities and home health agencies), as well as hospitals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Valerie Mattison-Brown, Department of Health and Human Services, Health Care Financing Administration, Office of Clinical Standards, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5958

RIN: 0938–AK68

1030. • LONG TERM CARE PROSPECTIVE PAYMENT SYSTEM FOR FY 2003 (HCFA-1177-P)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: BBA, sec 4422(a)(1); BBRA, sec 123; BIPA, sec 307

CFR Citation: 42 CFR 412

Legal Deadline: NPRM, Statutory, November 1, 2001, 60 Days before the final rule.

Abstract: This regulation will implement a prospective payment system for long-term care hospitals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local, Federal

Federalism: Undetermined

Agency Contact: Judith H. Richter, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-2590

RIN: 0938–AK69

1031. • MODIFICATIONS TO MANAGED CARE RULES BASED ON PROVISIONS OF BIPA AND TECHNICAL CORRECTIONS (HCFA-1180-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: BIPA, sec 601 to 608; BIPA, sec 611 to 621; BIPA, sec 623; BIPA, sec 634

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Implements certain technical and minor provisions of sections 601 to 634 of the Medical Payment Provisions of the Medicare, Medicaid and SCHIP Benefit and Improvement Act of 2000.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: A. G. D'Alberto, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1100

RIN: 0938–AK71

1032. • CHANGES TO THE HOSPITAL INPATIENTS PROSPECTIVE PAYMENT SYSTEM FOR FISCAL YEAR 2002 RATES (HCFA-1158-P)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: Social Security Act, sec 1886(d)

CFR Citation: 42 CFR 412; 42 CFR 413; 42 CFR 485; 42 CFR 486

Legal Deadline: Final, Statutory, August 1, 2001.

Abstract: We are revising the Medicare hospital inpatient prospective payment for operating costs to implement changes arising from our continuing experience with the system. In addition, in the Addendum to this final rule, we described changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capita-related costs. These changes apply to discharges occurring on or after October 1, 2001. We also set forth rate-of-increase limits and made changes to our policy for hospitals and hospital units excluded from the prospective payment systems.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen Phillips, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4548

RIN: 0938–AK73

1033. • CHANGES TO INPATIENT BIPA FOR FISCAL YEAR 2001 (HCFA-1178-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 106-554

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, April 1, 2001, Enacted by the BIPA 2000 on December 21, 2000.

Abstract: The BIPA 2000, enacted on December 21, 2000, contained numerous provisions affecting inpatient hospital payment policies. These provisions have varying effective dates. In accordance with the statute, the changes in this regulation are effective either retroactively to October 1, 2000, upon enactment of BIPA 2000 (Dec. 21, 2000), or will be effective on April 1, 2001.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen Phillips, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4548

RIN: 0938–AK74

1034. • MEDICARE+CHOICE ESRD RATES (HCFA-1182-PN)

Priority: Other Significant

Legal Authority: BIPA 2000, sec 605

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This notice announces HCFA's new payment methodology for beneficiaries with ESRD who are enrolled in Medicare+Choice plans.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Anne Hornsby, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1181

RIN: 0938–AK75

1035. • REVISIONS TO TRANSACTION AND CODE SET STANDARDS FOR ELECTRONIC TRANSACTIONS (HCFA-0005-IFC)

Priority: Other Significant

Legal Authority: Social Security Act, sec 1871

CFR Citation: 45 CFR 162

Legal Deadline: None

Abstract: This rule adopts revisions to the standards for electronic health care transactions adopted by the Secretary in regulations published August 2000. These revisions enable covered entities to comply with the standards.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Stanley B. Nachimson, Senior Technical Advisor, Department of Health and Human Services, Health Care Financing Administration, N2-16-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6153

RIN: 0938–AK76

1036. • MEDICARE INPATIENT DISPROPORTIONATE SHARE HOSPITAL ADJUSTMENT CALCULATION (HCFA-1171-IFC)

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 412106

Legal Deadline: None

Abstract: This rule defines "Medicaid patient days" in the Medicare DSH adjustment calculations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen Phillips, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4548

RIN: 0938–AK77

1037. • STATEMENT OF INTENT (HCFA-1185-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: 42 CFR 424

Legal Deadline: NPRM, Statutory, November 1, 2001.

Abstract: This regulation is a review of Medicare statement of intent provisions.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: David Walczak, Center for Health Plans and Providers, Plan and Provider Purchasing Policy Group, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4475

RIN: 0938–AK79

1038. • PROCEDURES FOR PUBLIC CONSULTATIONS FOR CODING AND PAYMENT DETERMINATIONS FOR NEW LABORATORY TESTS (HCFA-1186-N)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395(h)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Benefits Improvement and Protection Act (BIPA) of 2000, section 531 has a statutory deadline of December 20, 2001 to establish procedures for coding and payment determinations for new clinical laboratory tests in a manner consistent with procedures of International Classification of Diseases 9-CM. The procedures will require a minimum of one public meeting per year to allow laboratory and durable medical equipment industries to participate in coding and payment decisions.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local, Federal

Agency Contact: Tzvi Hefter, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1304

RIN: 0938–AK80

1039. • ORGAN PROCUREMENT ORGANIZATION CONDITION FOR COVERAGE (HCFA-3064-P)

Priority: Other Significant

Legal Authority: 42 USC 1320b-8(b)(1)(A)(i); 42 USC 273(b)(2)

CFR Citation: 42 CFR 486.301

Legal Deadline: Final, Statutory, January 1, 2002, Requires promulgation of new conditions.

Abstract: This rule will establish conditions for coverage for organ procurement organizations (OPOs) to be certified by the Secretary to receive payment from Medicare and Medicaid for organ procurement costs and to be designated by the Secretary for a specific geographic service area.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jacqueline Morgan, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4282

RIN: 0938–AK81

1040. • QUALIFICATION REQUIREMENTS FOR DIRECTORS OF LABORATORIES PERFORMING HIGH COMPLEXITY TESTING (HCFA-2094-NPRM)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: USPHSA, sec 353

CFR Citation: 42 CFR 493.1443

Legal Deadline: None

Abstract: This rule revises the qualification requirements by which an individual with a doctoral degree may qualify to serve as a director of a laboratory that performs high complexity testing.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cecelia Hinkel, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration
Phone: 410 786-3347

RIN: 0938–AK83

1041. • PROTECTION AND PROMOTION OF RESIDENT RIGHTS (HCFA-3065-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 290aa, Public Health Service Act

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, October 7, 2001, Rule must be promulgated per part H, sec 593, title V of the Public Health Service Act.

Abstract: This rule will impose regulations to ensure protection and promotion of residents' rights to be free from physical or mental abuse, corporal punishment, and any restraints or involuntary seclusion imposed for purpose of discipline or convenience.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Julie Moyers, Health Insurance Specialist, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S1-09-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6772

RIN: 0938–AK85

1042. • STANDARDS FOR ELECTRONIC TRANSACTIONS-ELIMINATION OF NDC CODING STANDARDS (HCFA-0006-P)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Social Security Act, sec 1171-79

CFR Citation: 42 CFR 162.1002

Legal Deadline: None

Abstract: This regulation will change the standard codes for drugs and biologics. It withdraws the designation of the NDC code set as the standard for institutional and professional providers.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Stanley B. Nachimson, Senior Technical Advisor, Department of Health and Human Services, Health Care Financing Administration, N2-16-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6153

RIN: 0938–AK86

1043. • HOSPITAL REFERENCE LABORATORY AND MEDICARE SECONDARY PAYER (HCFA-1187-P)

Priority: Info./Admin./Other

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation will address current procedures with respect to independent laboratories' administrative requirements in gathering and verifying Medicare Secondary Payer information in reference lab situations involving "nonpatient" claims.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Paul Olenick, Director, Division of Beneficiary and Insurance Issues, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4472

RIN: 0938–AK87

1044. • PORTABILITY IN THE GROUP HEALTH INSURANCE MARKET (HCFA-2048-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300gg

CFR Citation: 42 CFR 144.103; 42 CFR 146.101; 42 CFR 143.111; 42 CFR 146.113; 42 CFR 146.115; 42 CFR 146.117; 42 CFR 146.119; ...

Legal Deadline: None

Abstract: This regulation will specify the limitations on only preexisting conditions exclusion periods imposed by group health insurance issues and non-Federal government plans, and the requirements on such issues and plans to offer special enrollment to certain individuals who lose eligibility for other coverage when a new dependent becomes eligible through marriage, birth or adoption.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16893
Interim Final Rule Comment Period End	07/07/97	
Interim Final Rule Effective	07/07/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Tim Hrynick, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, S3-16-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4478

RIN: 0938–AK88

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

1045. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HCFA-3135-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 400.200; 42 CFR 466.1; 42 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83; 42 CFR 411.15; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 462.1; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: William Roskey
Phone: 410 786-0433

RIN: 0938–AD38

1046. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSES OF INSTITUTIONALIZED INDIVIDUALS (HCFA-2023-P)

Priority: Other Significant

CFR Citation: 42 CFR 435.650 to 674; 42 CFR 435.750 to 754

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Roy Trudel
Phone: 410 786-3417

RIN: 0938–AE12

1047. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (HCFA-2028-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Completed:

Reason	Date	FR Cite
Withdrawn	04/23/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Agency Contact: Cindy Ruff
Phone: 410 786-5916

RIN: 0938–AE72

1048. PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (HCFA-1685-F)

Priority: Other Significant

CFR Citation: 42 CFR 413

Completed:

Reason	Date	FR Cite
Final Rule	01/12/01	66 FR 3358
Final Rule Effective	01/12/01	
60-Day Delay of Effective Date	03/12/01	66 FR 14342

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Hirshorn
Phone: 410 786-3411

RIN: 0938–AE79

1049. COVERAGE OF SCREENING PAP SMEARS (HCFA-3705-F)

Priority: Other Significant

CFR Citation: 42 CFR 410.10; 42 CFR 410.32; 42 CFR 410.56; 42 CFR 411.15

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Eng
Phone: 410 786-4619

Sharon Lappalainen
Phone: 410 786-9262

RIN: 0938–AE98

1050. REFERRAL TO CHILD SUPPORT ENFORCEMENT AGENCIES OF MEDICAID FAMILIES (HCFA-2051-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.151; 42 CFR 433.160

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Robert Nakielny
Phone: 410 786-4466

RIN: 0938–AF68

1051. DISCLOSURE OF CONFIDENTIAL PRO AND ESRD NETWORK ORGANIZATION INFORMATION FOR RESEARCH PURPOSES (HCFA-3208-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405.2115; 42 CFR 476.144

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alfreda Staton
Phone: 410 786-6940

RIN: 0938–AG33

1052. EFFECT OF CHANGE OF OWNERSHIP ON PROVIDER AND SUPPLIER PENALTIES, SANCTIONS, UNDERPAYMENTS AND OVERPAYMENTS (HCFA-2215-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405.1801; 42 CFR 405.1803; 42 CFR 405.1811; 42 CFR 405.1835; 42 CFR 405.1843; 42 CFR 405.1805; 42 CFR 489.2; 42 CFR 489.13; 42 CFR 489.18

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Goldman
Phone: 410 786-6813

RIN: 0938–AG59

1053. OPTIONAL COVERAGE OF CERTAIN TUBERCULOSIS TO TB-RELATED SERVICES, TB-INFECTED INDIVIDUALS (HCFA-2082-P)

Priority: Economically Significant

CFR Citation: 42 CFR 435.219; 42 CFR 435.201; 42 CFR 440.250; 42 CFR

HHS—HCFA

Completed Actions

436.201; 42 CFR 436.219; 42 CFR 440.164

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Ingrid Osborne
Phone: 410 786-4461

RIN: 0938–AG72

1054. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS-EXPANDED TO DESIGNATED HEALTH SERVICES (HCFA-1809-FC)

Priority: Other Significant

CFR Citation: 42 CFR 411.1; 42 CFR 411.350 to 411.361; 42 CFR 424.22; 42 CFR 435.1002; 42 CFR 435.1012; 42 CFR 455.100 to 455.103; 42 CFR 455.108; 42 CFR 455.109

Completed:

Reason	Date	FR Cite
Final Rule	01/04/01	66 FR 856
60-Day Delay of Effective Date To 04/06/2001	02/02/01	66 FR 8771
60-Day Extension of Comment Period	04/04/01	66 FR 17813

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Agency Contact: Joanne Sinsheimer
Phone: 410 786-4620

RIN: 0938–AG80

1055. DISTINCT PART REQUIREMENTS FOR NURSING HOMES AND PROHIBITION ON FINANCIAL SCREENING OF APPLICANTS FOR NURSING HOME ADMISSION (HCFA-3815-P)

Priority: Other Significant

CFR Citation: 42 CFR 409; 42 CFR 483

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Nancy Archer
Phone: 401 786-0596

RIN: 0938–AG84

1056. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HCFA-2225-FC)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 493.2; 42 CFR 493.39; 42 CFR 493.45; 42 CFR 493.47; 42 CFR 493.49; 42 CFR 493.53; 42 CFR 493.1775; 42 CFR 493.7; 42 CFR 493.8; 42 CFR 493.9; 42 CFR 493.15; 42 CFR 493.20; 42 CFR 493.25; 42 CFR 493.35; 42 CFR 493.37

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Judy Yost
Phone: 410 786-3531

RIN: 0938–AG99

1057. ADDITIONAL SUPPLIER STANDARDS (HCFA-6004-FC)

Priority: Other Significant

CFR Citation: 42 CFR 424.57

Completed:

Reason	Date	FR Cite
Final Action	10/11/00	65 FR 60366

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Charles Waldhauser
Phone: 410 786-6140

Ralph Goldberg
Phone: 410 786-4870
Email: rgoldberg@hcfa.gov

RIN: 0938–AH19

1058. STATE PLAN AMENDMENT (SPA) RECONSIDERATION PROCESS (HCFA-2096-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 430.18; 42 CFR 430.60

Completed:

Reason	Date	FR Cite
Withdrawn	04/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Tomlinson
Phone: 410 786-4463

RIN: 0938–AH24

1059. MEDICARE COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS (HCFA-1843-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 484; 42 CFR 485

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	03/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Jacqueline Gordon
Phone: 410 786-4517

RIN: 0938–AH37

1060. MEDICAID; ESTATE RECOVERIES (HCFA-2083-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 433

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Ingrid Osborne
Phone: 410 786-4461

RIN: 0938–AH63

1061. INDIVIDUAL MARKET HEALTH INSURANCE REFORM: PORTABILITY FROM GROUP TO INDIVIDUAL COVERAGE; FEDERAL RULES FOR ACCESS IN THE INDIVIDUAL MARKET; STATE ALTERNATIVE MECHANISMS TO FEDERAL RULES (HCFA-2882-F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 45 CFR 148

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Agency Contact: Gertrude Saunders
Phone: 410 786-5888
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RIN: 0938–AH75

1062. DISCLOSURE OF PEER REVIEW ORGANIZATION INFORMATION IN RESPONSE TO BENEFICIARY COMPLAINTS (HCFA-3241-P)

Priority: Other Significant

CFR Citation: 42 CFR 466.70(a); 42 CFR 476.101; 42 CFR 476.107; 42 CFR 476.132; 42 CFR 476.133(b)(4)

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Alfreda Staton
Phone: 410 786-1910

RIN: 0938–AH85

1063. MEDICAID PROGRAM; AMENDMENT TO THE PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW PROGRAM (HCFA-2107-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405; 42 CFR 431; 42 CFR 433; 42 CFR 441; 42 CFR 483

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Jan Earle
Phone: 410 786-9004

RIN: 0938–AH89

1064. MEDICALLY NEEDY DETERMINATIONS UNDER WELFARE REFORM (HCFA-2109-IFC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 435; 42 CFR 436

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Jackie Wilder
Phone: 410 786-4579
Email: jwilder@hfca.gov

RIN: 0938–AH92

1065. MEDICAID PROGRAM; COVERAGE AND PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER SERVICES (HCFA-2043-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 431; 42 CFR 440; 42 CFR 441; 42 CFR 447

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Tribal

Federalism: Undetermined

Agency Contact: David Worgo
Phone: 410 786-5919

RIN: 0938–AH95

1066. NONDISCRIMINATION IN HEALTH COVERAGE IN THE GROUP MARKET (HCFA-2022-F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 45 CFR 146

Completed:

Reason	Date	FR Cite
Interim Final Rule	01/08/01	66 FR 1378
Interim Final Rule Effective	03/09/01	
60-Day Delay of Effective Date To 05/08/2001	03/09/01	66 FR 14076
Withdrawn-Under review	05/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Dave Holstein
Phone: 410 786-1564

RIN: 0938–AI08

1067. MEDICARE PROGRAM; IMPROVEMENTS TO THE APPEALS PROCESS FOR MEDICARE BENEFICIARIES ENROLLED IN HMOS, CMPS, AND HCPPS (HCFA-4024-P)

Timetable:

Action	Date	FR Cite
Duplicate of RIN 0938-AK48	01/18/01	

RIN: 0938–AI11

1068. MEDICARE PROGRAM; ADJUSTMENTS TO COST LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS (HCFA-1896-FN)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1001

Completed:

Reason	Date	FR Cite
Withdrawn	02/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Strauss
Phone: 410 786-2019
Email: rstrauss@hcfa.gov

RIN: 0938–AI14

1069. MEDICARE/MEDICAID PROGRAM; USER FEES FOR INFORMATION, PRODUCTS, AND SERVICES (HCFA-6021-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 401

Completed:

Reason	Date	FR Cite
Withdrawn	11/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Escobedo
Phone: 410 786-5401

RIN: 0938–AI46

1070. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES (HCFA-1005-F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 409.10; 42 CFR 413; 42 CFR 413.124; 42 CFR 413.130; 42 CFR 489.20; 42 CFR 103.105; 42 CFR 410.2; 42 CFR 410.27; 42 CFR 410.28; 42 CFR 410.30; 42 CFR 411.15; 42 CFR 412.50; 42 CFR 413.118; 42 CFR 413.122; 42 CFR 103.101; 42 CFR 103.102

Completed:

Reason	Date	FR Cite
Final Action	04/07/00	65 FR 18434

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Chuck Braver
Phone: 410 786-6719

RIN: 0938–AI56

1071. STATE PLAN REQUIREMENTS FOR DURABLE MEDICAL EQUIPMENT PROVIDERS (HCFA-2007-P)

Priority: Other Significant

CFR Citation: 42 CFR 441

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: Mary Linda Morgan
Phone: 410 786-2011
Email: mmorgan@hcfa.gov

RIN: 0938–AI63

1072. MEDICAID PROGRAM; HOME AND COMMUNITY-BASED SERVICES (HCFA-2010-FC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 440; 42 CFR 441

Completed:

Reason	Date	FR Cite
Final Action	10/10/00	65 FR 60105

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Bill Coons
Phone: 410 786-5921

RIN: 0938–AI67

1073. MEDICAID MANAGED CARE; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICAID PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (HCFA-2001-F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 438; 42 CFR 430; 42 CFR 431; 42 CFR 434; 42 CFR 435; 42 CFR 438; 42 CFR 440; 42 CFR 447

Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 6227
Final Action Effective	04/19/01	
60-Day Delay of Effective Date To 06/18/2001	02/26/01	66 FR 11546

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Michael Fiore
Phone: 410 786-0623

RIN: 0938–AI70

1074. PROSPECTIVE FEE SCHEDULE FOR AMBULANCE SERVICES (HCFA-1002-P)

Timetable:

Action	Date	FR Cite
Duplicate of RIN 0938-AK30	02/01/01	

RIN: 0938–AI72

1075. REVISION OF PROCEDURES FOR REQUESTING EXCEPTIONS TO COST LIMITS FOR SNFS AND ELIMINATION OF RECLASSIFICATIONS (HCFA-1883-F)

Priority: Other Significant

CFR Citation: 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Final Action	10/10/00	65 FR 60104

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Raitzyk
Phone: 410 786-4599

RIN: 0938–AI80

1076. EXPANDED COVERAGE FOR DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES (HCFA-3002-F)

Priority: Economically Significant

CFR Citation: 42 CFR 410; 42 CFR 414; 42 CFR 424; 42 CFR 476; 42 CFR 498

Completed:

Reason	Date	FR Cite
Final Action	12/29/00	65 FR 83130

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Stojak
Phone: 410 786-6939

RIN: 0938–AI96

1077. MEDICARE PROGRAM; CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARY AND CARRIER PERFORMANCE: MILLENNIUM COMPLIANCE (HCFA-4002-GNC)

Priority: Info./Admin./Other

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Notice	12/11/98	63 FR 68464

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sue Lathroum
Phone: 410 786-7409

RIN: 0938–AJ15

1078. MEDICARE/MEDICAID AND CLIA PROGRAMS: CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 EXEMPTION OF LABORATORIES IN THE STATE OF CALIFORNIA (HCFA-2245-N)

Priority: Other Significant

CFR Citation: 42 CFR 493

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Jim Cometa
Phone: 410 786-6720

RIN: 0938–AJ47

1079. MEDICARE PROGRAM: CRITERIA FOR MAKING NATIONAL COVERAGE DECISION (HCFA-3432-P)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	03/06/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Patricia Brocato-Simons
Phone: 410 786-0261

RIN: 0938–AJ54

1080. MEDICARE PROGRAM; SUSTAINABLE GROWTH RATE FOR FISCAL YEAR 2000 (HCFA-1110-N)

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	04/10/00	65 FR 19000

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc Hartstein
Phone: 410 786-4539

RIN: 0938–AJ60

1081. MEDICARE AND MEDICAID PROGRAMS; PROGRAMS FOR ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE) (HCFA-1903-P)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	03/06/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Janet Samen
Phone: 410 786-9161

RIN: 0938–AJ63

1082. CLINICAL SOCIAL WORKER SERVICES (HCFA-1088-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 410

Completed:

Reason	Date	FR Cite
NPRM	10/19/00	65 FR 62681
Merged With RIN 0938-AK57	02/13/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Paul Kim
Phone: 410 786-7410

RIN: 0938–AJ71

1083. MEDICAID DISPROPORTIONATE SHARE HOSPITAL PAYMENTS-INSTITUTIONS FOR MENTAL DISEASE (HCFA-2062-N)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	05/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Christine Hinds
Phone: 410 786-4578

RIN: 0938–AJ74

1084. THE CHILDREN'S HEALTH INSURANCE PROGRAM: IMPLEMENTING THE BALANCED BUDGET ACT OF 1997 (HCFA-2006-F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 457

Completed:

Reason	Date	FR Cite
Final Action	01/11/01	66 FR 2490

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Cheryl Austein-Casnoff
Phone: 410 786-4196

Cynthia Shirk
Phone: 410 786-6614

RIN: 0938–AJ75

1085. MEDICARE PROGRAM UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES EFFECTIVE FOR SERVICES ON OR AFTER OCTOBER 1, 1999 (HCFA-1085-N)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	02/09/00	65 FR 6380

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Cereghino
Phone: 410 786-4645

RIN: 0938–AJ86

1086. PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES-UPDATE (HCFA-1112-F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 411; 42 CFR 489

Completed:

Reason	Date	FR Cite
Final Action	07/31/00	65 FR 46770

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Burris
Phone: 410 786-6655
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RIN: 0938–AJ93

1087. USE OF RESTRAINT AND SECLUSION IN RESIDENTIAL TREATMENT FACILITIES PROVIDING INPATIENT PSYCHIATRIC SERVICES TO INDIVIDUALS UNDER AGE 21 (HCFA-2065-F)

Priority: Economically Significant

CFR Citation: 42 CFR 441; 42 CFR 483

Completed:

Reason	Date	FR Cite
Final Rule	01/11/01	66 FR 2316
Final Rule Effective	03/12/01	
60-Day Delay of Effective Date To 05/11/2001	03/12/01	66 FR 14343

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kay Mullen
Phone: 410 786-5480

RIN: 0938–AJ96

1088. CONDITIONS OF PARTICIPATION FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

Timetable:

Action	Date	FR Cite
Duplicate of RIN 0938-AK23	02/01/01	

RIN: 0938–AJ99

1089. FLEXIBILITY IN PAYMENT METHODS FOR SERVICES OF HOSPITALS, NURSING FACILITIES, AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (HCFA-2004-F)

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 447.205; 42 CFR 447.250 to 447.257; 42 CFR 447.271; 42 CFR 447.272; 42 CFR 447.280

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Marge Lee
Phone: 410 786-4361

RIN: 0938–AK04

1090. HOSPITAL CONDITIONS OF PARTICIPATION; ANESTHESIA SERVICES (HCFA-3049-F)

Priority: Other Significant

CFR Citation: 42 CFR 416.42; 42 CFR 482.52; 42 CFR 485.639

Completed:

Reason	Date	FR Cite
Final Rule	01/18/01	66 FR 4674
Final Rule Effective	01/18/01	
60-Day Delay of Effective Date	03/19/01	66 FR 15352

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Debbie Hattery
Phone: 410 786-1855

RIN: 0938–AK08

1091. CHANGES TO THE APPEALS PROCESS FOR BENEFICIARIES RECEIVING HOME HEALTH SERVICES IN THE FEE FOR SERVICE PROGRAM (HCFA-4006-P)

Priority: Other Significant

CFR Citation: 42 CFR 405

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosalind Little
Phone: 410 786-6972

RIN: 0938–AK10

1092. REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 2001 (HCFA-1120-F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 414

Completed:

Reason	Date	FR Cite
Final Action	11/02/00	65 FR 65376

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Milstead
Phone: 410 786-3355

RIN: 0938–AK11

1093. REVISIONS TO MEDICAID UPPER PAYMENT LIMIT REQUIREMENTS FOR HOSPITAL, NURSING FACILITY, INTERMEDIATE CARE FACILITY SERVICES FOR THE MENTALLY RETARDED AND CLINIC SERVICES (HCFA-2071-F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 42 CFR 447

Completed:

Reason	Date	FR Cite
NPRM	10/10/00	65 FR 60151
Final Action	01/12/01	66 FR 3148

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Robert Weaver
Phone: 410 786-5914

RIN: 0938–AK12

1094. HOSPICE WAGE INDEX (HCFA-1135-N)

Priority: Routine and Frequent

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	10/06/00	65 FR 60071

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Carol Blackford
Phone: 410 786-5909
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RIN: 0938–AK13

1095. HIPAA PROGRAM; BONA FIDE WELLNESS PROGRAMS (HCFA-2078-F)

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 146

Completed:

Reason	Date	FR Cite
NPRM	01/08/01	66 FR 1420
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Ruth Bradford
Phone: 410 786-2636

RIN: 0938–AK19

1096. APPLICATION OF FEDERAL FINANCIAL PARTICIPATION LIMITS (HCFA-2086-F)

Priority: Other Significant

CFR Citation: 42 CFR 435

Completed:

Reason	Date	FR Cite
NPRM	10/31/00	65 FR 64919
Final Action	01/11/01	66 FR 2316

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Roy Trudel
Phone: 410 786-3417

RIN: 0938–AK22

1097. PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES: EXCEPTION TO THE PROVIDER-BASED LOCATION CRITERIA FOR PPS-EXEMPT FACILITIES (HCFA-1143-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 42 CFR 413

Completed:

Reason	Date	FR Cite
Withdrawn	12/12/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Michael Lefkowitz
Phone: 410 786-5316

RIN: 0938–AK25

1098. CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARY AND CARRIER PERFORMANCE DURING FY 2001 (HCFA-4010-GNC)

Priority: Other Significant

CFR Citation: 42 CFR 421.122

Completed:

Reason	Date	FR Cite
Notice	10/31/00	65 FR 47706

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kristy McCarthy
Phone: 410 786-7139

RIN: 0938–AK26

1099. INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR CALENDAR YEAR 2001 (HCFA-8007-N)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/19/00	65 FR 62725

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clare McFarland
Phone: 410 786-6390

RIN: 0938–AK27

1100. MANDATORY TRANSMISSION OF OASIS FOR NON-MEDICARE/MEDICAID PATIENTS IN HOME HEALTH AGENCIES AND CONTINUED DELAY OF REQUIREMENTS FOR PATIENTS RECEIVING PERSONAL CARE SERVICES (HCFA-2070-N)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	04/27/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Mary Weakland
Phone: 410 786-6835

RIN: 0938–AK28

1101. REMOVAL OF THE REQUIREMENTS FOR THE CARDIAC PACEMAKER REGISTRY (HCFA-3045-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 409; 42 CFR 410; 42 CFR 489; 42 CFR 498

Completed:

Reason	Date	FR Cite
Final Action	10/19/00	65 FR 62645

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Shana Olshan
Phone: 410 786-5246

RIN: 0938–AK29

1102. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS-PHASE II (HCFA-1810-FC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 42 CFR 411

Completed:

Reason	Date	FR Cite
Withdrawn	12/27/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Federalism: Undetermined

Agency Contact: Joanne Sinsheimer
Phone: 410 786-4620

RIN: 0938–AK31

1103. ELIMINATION OF APPLICATION OF FEDERAL FINANCIAL PARTICIPATION LIMITS (HCFA-2086-P)

Timetable:

Action	Date	FR Cite
Duplicate of RIN 0938-AK22	02/13/01	

RIN: 0938–AK32

1104. CONFORMING REGULATIONS CHANGES AND STATUTORY REVISIONS FOR APPROVAL AND OVERSIGHT OF ACCREDITATION ORGANIZATIONS (HCFA-2088-P)

Priority: Other Significant

CFR Citation: 42 CFR 488.1; 42 CFR 488.5; 42 CFR 488.6; 42 CFR 488.8

Completed:

Reason	Date	FR Cite
Withdrawn-Under review	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Joan C. Berry
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Email: jberry@hcfa.gov

RIN: 0938–AK36

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Administration for Children and Families (ACF)

1105. PROGRAM PERFORMANCE STANDARDS FOR THE OPERATION OF HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304

Legal Deadline: None

Abstract: The education component of the Head Start Performance Standards will be revised to ensure the school readiness of children participating in a Head Start program and to assure that Head Start children have certain understandings in the areas of language and numeracy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20447
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AB99

1106. SAFEGUARDING CHILD SUPPORT AND EXPANDED FPLS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 652 to 654; 42 USC 663; 42 USC 653A; 42 USC 654A

CFR Citation: 45 CFR 303.21

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 made far-reaching amendments to title IV-D of the Social Security Act, which governs the child support enforcement program. The Balanced Budget Act of 1997, the Adoption and Safe Families Act of 1997 and the Child Support Performance and Incentive Act of 1998 further amended title IV-D. A significant result of this legislation is an expansion in the scope of information available to State IV-D child support enforcement agencies. The legislation has rendered obsolete or inconsistent several regulations at 45 CFR chapter III, Office of Child Support Enforcement, including the regulations on the Federal Parent Locator Service, the State Parent Locator Services, offset of Federal payments for purposes of collecting child support, and safeguarding of information. This regulation would update various sections in 45 CFR chapter III to reflect the statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Eileen C. Brooks, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 4th Floor East, OCSE, DPP, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-5369
Email: ebrooks@acf.dhhs.gov

RIN: 0970–AC01

1107. • DEVELOPMENTAL DISABILITIES AND BILL OF RIGHTS ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-402

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, October 30, 2001, Not later than one year from enactment of the Developmental Disabilities and Bill of Rights Act of 2000.

Abstract: A notice of proposed rulemaking will be published in the Federal Register by October 30, 2001, to amend current regulations and to implement changes made by the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Elsbeth Wyatt, Program Specialist, Department of Health and Human Services, Administration for Children and Families, ADD HHH-300F, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 690-5841

RIN: 0970–AC07

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Final Rule Stage

1108. CONSTRUCTION AND MAJOR RENOVATION OF HEAD START AND EARLY HEAD START FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This rule establishes procedures to be used by Head Start and Early Head Start agencies in requesting to use Head Start grant funds to construct or perform major renovation on a Head Start or Early Head Start Facility.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 6013
NPRM Comment Period End	04/09/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20447
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AB54

1109. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES

Priority: Other Significant

Legal Authority: 42 USC 655(f)

CFR Citation: 45 CFR 309

Legal Deadline: None

Abstract: This rule specifies how tribes can obtain direct payments from the Department of Health and Human Services for provision of child support enforcement services if they submit a plan meeting the objectives of title IV-D, including establishment of paternity, modification and enforcement of support orders, and location of absent parents.

Timetable:

Action	Date	FR Cite
NPRM	08/21/00	65 FR 50800
NPRM Comment Period End	12/19/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Paige Biava, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9386

RIN: 0970–AB73

1110. CHILD SUPPORT ENFORCEMENT PROGRAM OMNIBUS CONFORMING REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 301 to 305

Legal Deadline: None

Abstract: This rule eliminates child support enforcement program regulations rendered obsolete or inconsistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and its technical amendments, the Balanced Budget Act of 1997, the Adoption and Safe Families Act of 1997, and the Child Support Performance and Incentive Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/99	64 FR 6237
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Eileen C. Brooks, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 4th Floor East, OCSE, DPP, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-5369
Email: ebrooks@acf.dhhs.gov

RIN: 0970–AB81

1111. FAMILY CHILD CARE PROGRAM OPTION FOR HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304; 45 CFR 1306

Legal Deadline: None

Abstract: This rule would allow Head Start programs to choose Family Child Care as a Head Start program option.

Timetable:

Action	Date	FR Cite
NPRM	08/29/00	65 FR 52394
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20447
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AB90

1112. TECHNICAL REVISION OF HEAD START REGULATIONS TO MAKE THEM CONFORM TO RECENT STATUTORY REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1301 to 1303; 45 CFR 1308

Legal Deadline: None

Abstract: This rule will correct several Head Start regulations which define Head Start programs as "nonprofit" agencies. Recent statutory changes now allow "for-profit" agencies to receive Head Start grant funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

HHS—ACF

Final Rule Stage

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20447
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AC00

1113. • HIGH PERFORMANCE BONUS AWARDS UNDER THE TANF PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 401 et seq

CFR Citation: 45 CFR 270

Legal Deadline: None

Abstract: This interim final regulation specifies how we will compute scores and rank States on the affordability and quality components of the child care measure for awarding high performance bonuses to States in FY 2002 and FY 2003 under the Temporary Assistance for Needy Families (TANF) program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Stephanie Fanjul, Deputy Associate Commissioner for Child Care, Department of Health and Human Services, Administration for Children and Families, Room 2046, 330 C Street SW., Washington, DC 20201
Phone: 202 690-6782
Email: sfanjul@acf.dhhs.gov

RIN: 0970–AC06

1114. • INDIVIDUAL DEVELOPMENT ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-285

CFR Citation: 45 CFR 1000

Legal Deadline: None

Abstract: This final rule implements a statutory requirement in the Assets for Independence Act under title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998, requiring the Secretary of HHS to prescribe regulation that grantees must follow in accounting for amounts grantees deposit in reserve funds established under the Assets for Independence Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/25/00	65 FR 10027
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheldon Shalit, Office of Community Services, Department of Health and Human Services, Administration for Children and Families, OCS, 5th Floor West, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-4807

RIN: 0970–AC08

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Completed Actions

1115. STANDARDS FOR SAFE TRANSPORTATION

Priority: Other Significant

CFR Citation: 45 CFR 1310

Completed:

Reason	Date	FR Cite
Final Action	01/18/01	66 FR 5295

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn
Phone: 202 205-8569
Email: dklafehn@acf.dhhs.gov

RIN: 0970–AB24

1116. INCENTIVE PAYMENTS AND AUDIT PENALTIES TO STATES AND POLITICAL SUBDIVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 305; 45 CFR 302.55; 45 CFR 304.12

Completed:

Reason	Date	FR Cite
Final Action	12/27/00	65 FR 82177

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Joyce Pitts
Phone: 202 401-5374
Email: jpitts@acf.dhhs.gov

RIN: 0970–AB85

1117. STATE SELF-ASSESSMENTS TO DETERMINE COMPLIANCE WITH FEDERAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 308

Completed:

Reason	Date	FR Cite
Final Action	12/12/00	65 FR 77742

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jan Rothstein
Phone: 202 401-5073
Email: jrothstein@acf.dhhs.gov

RIN: 0970–AB96

1118. NATIONAL MEDICAL SUPPORT NOTICE

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 303.32

Completed:

Reason	Date	FR Cite
Final Action	12/27/00	65 FR 82154
60-Day Delay of Effective Date To 03/27/2001	01/26/01	66 FR 8073

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Elizabeth Matheson
Phone: 202 401-9386
Email: bmatheson@acf.dhhs.gov

John Seneta
Phone: 202 401-5154

HHS—ACF — Completed Actions

Email: jseneta@acf.dhhs.gov
RIN: 0970–AB97

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Proposed Rule Stage**
Administration on Aging (AOA)

1119. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, INTRASTATE FUNDING FORMULAS; TRAINING, RESEARCH AND DISCRETIONARY PROGRAMS; VULNERABLE ELDER RIGHTS; AND GRANTS TO INDIANS AND NATIVE HAWAIIANS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3001 et seq

CFR Citation: 45 CFR 1321; 45 CFR 1326 to 1328

Legal Deadline: None

Abstract: In response to the recent reauthorization of the Older Americans Act, Public Law 106-501, the Administration on Aging (AoA) proposes to promulgate rules implementing the 2000 amendments by the latter part of 2001.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Federalism: Undetermined

Agency Contact: Edwin Walker, Director, Office of Program Operations and Development, Department of Health and Human Services, Administration on Aging, Room 4733, 330 Independence Avenue SW., Cohen Building, Washington, DC 20201
Phone: 202 619-0011

RIN: 0985–AA00

1120. • GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, FAMILY CAREGIVERS, AMERICAN INDIANS, AND NATIVE HAWAIIANS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-501

CFR Citation: 42 CFR 1321; 42 CFR 1322; 42 CFR 1326; 42 CFR 1328

Legal Deadline: NPRM, Statutory, December 31, 2001.

Abstract: In response to the recent reauthorization of the Older Americans Act (Pub. L. 106-501), the Assistant Secretary shall consult and coordinate with State agencies, area agencies on aging, and recipients of grants under title VI in the development of Federal regulations under this Act. Those provisions of the Act that were not changed may need no further regulations after consultation with affected parties, and the extent of regulation development required for the new family caregivers program will, in major part, depend on the Assistant Secretary's consultation with those parties funded to carry out the new prrogram.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edwin Walker, Director, Office of Program Operations and Development, Department of Health and Human Services, Administration on Aging, Room 4733, 330 Independence Avenue SW., Cohen Building, Washington, DC 20201
Phone: 202 619-0011

RIN: 0985–AA01

[FR Doc. 01–6922 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. FR-4664-N-01]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with section 4(b) of Executive Order 12866, "Regulatory Planning and Review," HUD is publishing its agenda of (1) regulations already issued or expected to be issued, and (2) currently effective rules that are under review. As permitted by law, the agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act. The purpose of publication of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-3055. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Executive Order 12866, "Regulatory Planning and Review," published on October 4, 1993 (58 FR 51735), requires each agency to publish semiannually an agenda of (1) regulations that the agency has issued or expects to issue, and (2) currently effective regulations that are under agency review. The Regulatory Flexibility Act (5 U.S.C. 601-612) requires each agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated that are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12866 and the Regulatory Flexibility Act each permit incorporation of the agenda required with any other prescribed agenda. The agenda set out below combines the information required by Executive Order 12866 and the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive Order or by the Act which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

Section 610(c) of the Regulatory Flexibility Act requires each agency to publish annually a list of the rules that have a significant economic impact on a substantial number of small entities, and that are to be reviewed in accordance with the requirements of section 610 during the succeeding 12 months. Existing regulations that are proposed to be amended by rules under development and published in this agenda are reviewed in accordance with the principles of section 610 of the Regulatory Flexibility Act. The purpose of the review is to determine whether the rule should be continued without change, amended or rescinded. Proposed changes to existing regulations provide the opportunity for the Department to conduct a section 610 review.

The Department also is subject to certain rulemaking requirements set forth in the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight of HUD (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking and Financial Services) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. Section 7(o) provides that if, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with this requirement.

In addition to the authorities described above that affect HUD's rulemaking, this semiannual agenda reflects the regulatory review required by the new administration. On January 20, 2001, White House Chief of Staff Andrew H. Card, Jr. issued a memorandum entitled "Regulatory Review Plan" to all Federal departments and agencies, which sets out certain procedures that ensure that the administration has the opportunity to review any new or pending regulations. Consistent with the direction of the January 20, 2001, memorandum, HUD has refrained from adding new rules to the agenda except for those required by statute and for which there is a statutory deadline and those already reviewed and approved by HUD's new administration.

Consistent with the direction of the January 20, 2001, memorandum, HUD also has withdrawn several rules which were placed on previous agendas and for which there has been no publication activity. Withdrawal of a rule does not necessarily mean that HUD will not proceed with the rulemaking. Withdrawal allows the new HUD Administration to further assess the subject matter and determine whether rulemaking for this subject matter is appropriate. Following this review, the Department may determine that certain rules listed as withdrawn under this agenda are necessary. If that determination is made, the rules will be included in a succeeding semiannual agenda.

Additionally, for several rules which have been published as an advance notice of proposed rulemaking, a proposed or interim rule, and which therefore require further rulemaking, HUD has identified the timing of the next action stage as "undetermined." This description also allows the new HUD Administration the opportunity to assess rules already published and determine the appropriate next stage and timing of the next stage of rulemaking.

HUD has attempted to list in this agenda all regulations and regulatory reviews pending at the time of publication, except for minor and routine or repetitive actions, but some may have been inadvertently omitted, or may have arisen too late to be included

HUD

in the published agenda. There is no legal significance to the omission of an item from the agenda. Also, where dates are provided for the next rulemaking actions, the dates are estimates and are not commitments to act on or by the date shown.

The format of the agenda remains unchanged from previous years. HUD's agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publication or other implementations of final rules, (iv) long-term actions, and (v) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number.

Since the purpose of publication of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about the Department's future regulatory actions, HUD invites all interested members of the public to comment on the rules listed in the agenda.

Dated: February 23, 2001.

George Weidenfeller,

Deputy General Counsel for Housing Finance and Operations.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1121	24 CFR 5 Temporary Assistance to Needy Families (TANF) (FR-4635)	2501-AC77
1122	24 CFR 40 Accessibility Standards for Design, Construction and Alteration of Certain Facilities Financed with Public Funds (FR-4317)	2501-AC47
1123	24 CFR 92 Home Investment Partnerships Program: Grandfamilies; Homebuyer Assets (FR-4599)	2501-AC71
1124	24 CFR 203 Single Family Mortgage Insurance; Treble Damages for Failure to Engage in Loss Mitigation Activities (FR-4553)	2501-AC86

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1125	24 CFR 30 Designation of Concurrent Authority To Initiate Civil Money Penalty Actions for Failing to Disclose Lead-Based Paint Hazards (FR-4647)	2501-AC78
1126	24 CFR 92 HOME Investment Partnerships Program — Amendments (FR-4111)	2501-AC30
1127	24 CFR 200 Screening and Eviction for Drug Abuse and Other Criminal Activity (FR-4495)	2501-AC63
1128	24 CFR 888 Fair Market Rents for the Section 8 Tenant-Based Rental Housing and Homeownership Programs; Higher Fair Market Rents for Certain FMRs Areas (FR-4606)	2501-AC75

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1129	24 CFR 1 Joint Agency Rule To Conform Regulatory Definitions Civil Rights Restoration Act (FR-4587)	2501-AC70
1130	24 CFR 27 Prohibited Purchasers of HUD-Insured and HUD-Owned Multifamily Projects (FR-4583)	2501-AC69
1131	24 CFR 28 Adjustment of HUD's Civil Money Penalties Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (FR-4555)	2501-AC67
1132	24 CFR 30 Amendments to HUD's Civil Money Penalty Regulations (FR-4399)	2501-AC56
1133	24 CFR 55 Floodplain Management and Protection of Wetlands (FR-4142)	2501-AC33
1134	24 CFR 81 The Secretary of HUD's Regulation of Fannie Mae and Freddie Mac; Prohibiting the Purchase of Certain Loans With High Costs and/or Predatory Features (FR-4614)	2501-AC76
1135	24 CFR 84 Administrative Requirements for Grantees To Reflect Single Audit Act Amendments (FR-4255)	2501-AC39
1136	24 CFR 84 Adoption of Revisions to OMB Circular A-110 (FR-4573)	2501-AC68
1137	24 CFR 91 Consolidated Plan Amendments; Needs of Public Housing and Treatment of Troubled PHAs (FR-4518)	2501-AC62

HUD

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
1138	24 CFR 5 Determined Adjusted Income in HUD Programs Serving Persons With Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income (FR-4608)	2501-AC72
1139	24 CFR 07 Equal Employment Opportunity: Updating EEO Regulations (FR-4607)	2501-AC73
1140	24 CFR 15 Revisions to HUD's Freedom of Information Act (FOIA) Regulations (FR-4292)	2501-AC51
1141	24 CFR 17 Procedures for the Collection of Claims by the Government (FR-4318)	2501-AC48
1142	24 CFR 58 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibility (FR-4523)	2501-AC64
1143	24 CFR 81 Secretary of HUD's Regulation of Fannie Mae and Freddie Mac: Non-Mortgage Investments (FR-4297)	2501-AC41
1144	24 CFR 81 Secretary of HUD's Regulation of Fannie Mae and Freddie Mac: Purchase Goals (FR-4494)	2501-AC60
1145	24 CFR 91 Clarifying Amendments to Consolidated Submission for Community Planning and Development Programs (FR-4333)	2501-AC54
1146	24 CFR 125 Adoption of Revised OMB Circular A-133; Administrative Requirements for Grantees To Reflect the Single Audit Act Amendments of 1996; Technical Amendments (FR-4296)	2501-AC43

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1147	Sale of Unoccupied and Substandard HUD-Held Housing to Local Governments and Community Development Organizations (FR-4658)	2502-AH61
1148	24 CFR 203 Single Family Mortgage Insurance; Nonprofit Placement and Removal Procedures (FR-4585)	2502-AH49
1149	24 CFR 203 Single Family Mortgage Insurance; Section 203(k) Consultant Roster Procedures (FR-4592)	2502-AH51
1150	24 CFR 203 Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs (FR-4615)	2502-AH57
1151	24 CFR 206 Insurance for Mortgages To Refinance Existing HECMs (FR-4667)	2502-AH63
1152	24 CFR 291 Disposition of HUD-Owned Single Family Assets in Revitalization Areas (FR-4471)	2502-AH40
1153	24 CFR 3280 Implementation of Manufactured Housing Improvement Act of 2000 (FR-4665)	2502-AH62

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1154	24 CFR 236 Rehabilitation Grants for Certain Multifamily Projects (FR-4465)	2502-AH35
1155	24 CFR 891 Supportive Housing for the Elderly and Persons With Disabilities; Duration of Capital Advance (FR-4466)	2502-AH36
1156	24 CFR 3280 Manufactured Home Construction and Safety Standards (FR-4376)	2502-AH23

Office of Housing—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1157	24 CFR 200 Delegation of Insuring Authority to Direct Endorsement Mortgagees (FR-4169)	2502-AG87
1158	24 CFR 200 Section 236 Rental Assistance — Excess Rental Charges (FR-4603)	2502-AH53
1159	24 CFR 200 Predatory Lending: Appraisal Watch for Appraisers (FR-4620)	2502-AH59
1160	24 CFR 201 Strengthening the Title I Property Improvement and Manufactured Home Loan Insurance Programs and Title I Lender/Title II Mortgagee Approval Requirements (FR-4246)	2502-AG95
1161	24 CFR 202 Credit Watch Initiative—Limitation on Opening New Branches in Lending Area for Lenders in Receipt of Proposed Termination of Origination Approval Agreement (FR-4605)	2502-AH54
1162	24 CFR 202 Termination of Origination Approval Agreement (FR-4625)	2502-AH60
1163	24 CFR 242 Mortgage Insurance for the Refinancing of Existing Debt of Existing Hospitals (FR-4618)	2502-AH58
1164	24 CFR 245 Tenant Participation in State-Financed, HUD-Assisted Housing Developments (FR-4611)	2502-AH55
1165	24 CFR 401 Release of Information to Tenants and Other Parties Pursuant to MAHRA (FR-4531)	2502-AH45
1166	24 CFR 402 Renewal of Expiring Section 8 Project-Based Assistance Contract (FR-4551)	2502-AH47
1167	24 CFR 880 Distributions to Nonprofit Owners of Certain HUD-Assisted Multifamily Rental Projects (FR-4602)	2502-AH52

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Office of Housing—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1168	24 CFR 3280 Manufactured Homes Construction and Safety Standards: Smoke Alarms (FR-4552)	2502-AH48

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identification Number
1169	24 CFR 200 Use of Materials Bulletins (FR-4265)	2502-AH02
1170	24 CFR 200 Update of the Model Energy Code (MEC) (FR-4272)	2502-AH03
1171	24 CFR 200 Use of Materials Bulletins Used in the HUD Building Products Standards and Certification Program (FR-4391)	2502-AH28
1172	24 CFR 200 Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Administrative Process for Assessment of Insured and Assisted Properties (FR-4452)	2502-AH44
1173	24 CFR 202 Mortgagee Approval for Single Family Programs—Procedures for Terminating Origination Approval Agreements and Placement in Credit Watch Status (FR-4492)	2502-AH42
1174	24 CFR 203 Mortgage Insurance Premium Reduction in Central Cities (FR-4284)	2502-AH07
1175	24 CFR 203 Single Family Appraisal Assessment (FR-4395)	2502-AH27
1176	24 CFR 203 Sources of Homebuyer Downpayment (FR-4469)	2502-AH38
1177	24 CFR 203 Single Family Claim Reform and Sale of Property (FR-4470)	2502-AH39
1178	24 CFR 207 Partial Payment of Claims for Health Care Facilities, Hospitals and Group Practice Facilities (FR-4387)	2502-AH25
1179	24 CFR 221 Removal of Section 221(d)(2) Mortgage Insurance Program Regulations (FR-4588)	2502-AH50
1180	24 CFR 270 Use of Federal Surplus Property for Self-Help Housing (FR-4464)	2502-AH34
1181	24 CFR 3280 Federal Manufactured Housing Program; Definition of Manufactured Home (FR-4508)	2502-AH43
1182	24 CFR 3282 Special Procedures Permitting Limited Completion of Manufactured Homes On-Site (FR-4216)	2502-AG92
1183	24 CFR 3500 RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780)	2502-AG40
1184	24 CFR 3500 Amendment to RESPA; Exemption for Employer Payments to Employees Who Make Like-Provider Referrals, and Other Amendments (FR-4173)	2502-AG88
1185	24 CFR 3500 RESPA Statements of Policy Regarding Certain Private Mortgage Insurance Arrangements (FR-4342)	2502-AH19
1186	24 CFR 3500 Real Estate Settlement Procedures Act (RESPA) Statement of Policy 2000-1; Section 8 Prohibition Against Kickbacks and Unearned Fees (FR-4613)	2502-AH56

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1187	24 CFR 583 Supportive Housing Program—Increasing Operating Cost Percentage (FR-4576)	2506-AC05
1188	24 CFR 598 Designation of Renewal Communities and Third Round Empowerment Zones (FR-4663)	2506-AC09

Office of Community Planning and Development—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1189	24 CFR 570 CDBG Program for States; Community Revitalization Strategy Requirements and Miscellaneous Technical Amendments (FR-4081)	2506-AB83
1190	24 CFR 570 Prohibition on Use of CDBG Assistance for Job-Pirating Activities (FR-4556)	2506-AC04
1191	24 CFR 583 Supportive Housing Program (FR-4616)	2506-AC07

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Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identification Number
1192	24 CFR 570 CDBG Slum/Blight National Objective Rule (FR-4487)	2506-AB94
1193	24 CFR 570 CDBG Program Regulations on Pre-Award Cost and New Housing Construction (FR-4559)	2506-AC06
1194	24 CFR 570 Modification of the Community Development Block Grant Definition for Metropolitan City (FR-4624)	2506-AC08
1195	24 CFR 574 HOPWA Rental Assistance Options and Technical Changes (FR-4467)	2506-AC02

Government National Mortgage Association—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1196	24 CFR 320 Ginnie Mae MBS Program: Payments to Security Holders (FR 4629)	2503-AA16

Government National Mortgage Association—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1197	24 CFR 300 Elimination of Physical Certificate for Issued Securities (FR-4533)	2503-AA14
1198	24 CFR 320 Electronic Payment on Ginnie Mae Guaranteed Securities (FR-4617)	2503-AA15

Government National Mortgage Association—Completed Actions

Sequence Number	Title	Regulation Identification Number
1199	24 CFR 300.3 Ginnie Mae—Finance—NAHASDA Implementation (FR-4215)	2503-AA11

Office of Fair Housing and Equal Opportunity—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1200	24 CFR 100 Fair Housing Act Regulation; Conforming Amendment; Update To Reflect Current Edition of American National Standards Institute (ANSI) (FR-4554)	2529-AA88
1201	24 CFR 100 Fair Housing Act Regulations Amendments: Standards Governing Sexual Harassment (FR-4597)	2529-AA89
1202	24 CFR 135 Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)	2529-AA49

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identification Number
1203	24 CFR 115 Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-4392)	2529-AA85

Office of Public and Indian Housing—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1204	24 CFR 1000 HUD Policy for the Administration of HUD Programs on Indian Reservations and Other Indian Areas (FR-4580)	2577-AC06

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Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1205	24 CFR 905 Public Housing Capital Fund Program (FR-4507)	2577-AC16
1206	24 CFR 909 Public Housing Relocation Requirements (FR-4634)	2577-AC23
1207	24 CFR 941 Mixed-Finance Public Housing Development (FR-4499)	2577-AC09
1208	24 CFR 964 Resident Participation in Public, Native American and Assisted Housing (FR-4657)	2577-AC26

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1209	24 CFR 791 Review of Applications for Housing Assistance and Allocations of Housing Assistance Funds (FR-4477)	2577-AC03
1210	24 CFR 906 Public Housing Homeownership Programs (FR-4504)	2577-AC15
1211	24 CFR 972 Required Conversion of Development From Public Housing Stock (FR-4475)	2577-AC01
1212	24 CFR 972 Voluntary Conversion of Developments From Public Housing Stock (FR-4476)	2577-AC02
1213	24 CFR 982 Section 8 Homeownership Program; Pilot Program for Homeownership Assistance for Disabled Families (FR-4661)	2577-AC24
1214	24 CFR 983 Section 8 Project Based (FR-4636)	2577-AC25
1215	24 CFR 990 Operating Fund Allocation Formula (FR-4425)	2577-AB88

Office of Public and Indian Housing—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1216	24 CFR ch IX HOPE VI Program (FR-4530)	2577-AC17
1217	24 CFR 941 Public Housing Development Total Development Cost (TDC) (FR-4489)	2577-AC05
1218	24 CFR 970 Public Housing Demolition and Disposition (FR-4598)	2577-AC20
1219	24 CFR 982 Section 8 Housing Choice Voucher Program; Expansion of Payment Standards Protection (FR-4586)	2577-AC18
1220	24 CFR 985 Revisions to SEMAP Lease-Up Indicator (FR-4604)	2577-AC21
1221	24 CFR 1000 Revision to Construction Cost Limits for Native American Housing (FR-4517)	2577-AC14
1222	24 CFR 1000 NAHASDA Housing Assistance for Native Hawaiians (FR-4668)	2577-AC27
1223	24 CFR 1005 Loan Guarantee for Indian Housing; Direct Guarantee Processing (FR-4241)	2577-AB78

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identification Number
1224	24 CFR 903 Public Housing Agency Plan (FR-4420)	2577-AB89
1225	24 CFR 943 Consortia of Public Housing Agencies and Joint Venture (FR-4474)	2577-AC00
1226	24 CFR 945 Designated Housing Program Amendments (FR-3964)	2577-AB57
1227	24 CFR 964 Resident Opportunities and Supportive Services (FR-4525)	2577-AC07
1228	24 CFR 965 Public Housing Purchasing Preference for Responsible Firearms Companies (FR-4594)	2577-AC19
1229	24 CFR 985 Section 8 Management Assessment Program (SEMAP) New Performance Indicators (FR-4388)	2577-AB83
1230	24 CFR 1003 Community Development Block Grants for Indian Tribes and Alaska Native Villages—Amendments to Funding Application Process (FR-4612)	2577-AC22

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Proposed Rule Stage

1121. • TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) (FR-4635)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 5

Legal Deadline: None

Abstract: This rule would update and clarify HUD's annual income requirements for its public housing and Section 8 assistance programs. Specifically, this rule would clarify that annual income includes payments under the Temporary Assistance for Needy Families (TANF) program, but only to the extent such payments qualify as "assistance" under the TANF program regulations issued by the Department of Health and Human Services and are not otherwise excluded under HUD's regulation. HUD believes that these clarifications will make the annual income requirements easier to understand for both program participants and public housing agencies. These changes would ensure greater conformity between HUD's annual income requirements and the TANF program regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/20/01	66 FR 20368
NPRM Comment Period End	06/19/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo, Senior Housing Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AC77

1122. ACCESSIBILITY STANDARDS FOR DESIGN, CONSTRUCTION AND ALTERATION OF CERTAIN FACILITIES FINANCED WITH PUBLIC FUNDS (FR-4317)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 4153

CFR Citation: 24 CFR 40; 24 CFR 41

Legal Deadline: None

Abstract: The U.S. Architectural and Transportation Barriers Compliance Board (Access Board), of which HUD is a voting member, is revising and updating its accessibility guidelines for buildings and facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act (ABA). The guidelines cover new construction and alterations and serve as the basis for enforceable standards issued by other Federal agencies, including HUD. HUD, as one of the four standard setting agencies, must adopt standards that are equivalent to or stricter than those guidelines issued by the Access Board. Thus, HUD must both update its regulations for the ABA at 24 CFR 40 and 41, but must also update/replace its Uniform Federal Accessibility Standards (UFAS) with standards equivalent to or stricter than the Access Board's guidelines.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Milton Turner, Director, Program Compliance and Disability Rights Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2333

RIN: 2501–AC47

1123. HOME INVESTMENT PARTNERSHIPS PROGRAM: GRANDFAMILIES; HOMEBUYER ASSETS (FR-4599)

Priority: Other Significant

Legal Authority: 42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule amends the regulations for the HOME Investment Partnerships Program to implement Section 904 of the American Homeownership and Economic Opportunity Act and to add a requirement for consideration of a homebuyer's available assets to qualify for HOME assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Virginia Sardone, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC71

1124. SINGLE FAMILY MORTGAGE INSURANCE; TREBLE DAMAGES FOR FAILURE TO ENGAGE IN LOSS MITIGATION ACTIVITIES (FR-4553)

Priority: Other Significant

Legal Authority: 12 USC 1715u; 12 USC 1735f-14; 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 30

Legal Deadline: None

Abstract: This proposed rule would implement section 601(f) of the fiscal year 1999 HUD Appropriations Act (Pub. L. 105-276, approved October 21, 1998). Section 601(f) amends the National Housing Act, which establishes the basic framework for HUD's single family mortgage insurance programs. Specifically, section 601(f) amends section 230 of the National Housing Act (42 U.S.C. 1715u) (entitled "Authority to Assist Mortgagors in Default") to provide that, upon default of an insured single family mortgage, lenders must engage in loss mitigation activities for the purpose of providing an alternative to foreclosure. Further, section 601(f) amends section 536 of the National Housing Act (12 U.S.C. 1735f-14) (entitled "Civil Money Penalties Against Mortgagees, Lenders, and Other Participants in FHA Programs") to provide for the imposition of treble civil money penalties on lenders that fail to engage in loss mitigation activities, as required under amended section 230.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2501–AC66

HUD—HUDSEC

Proposed Rule Stage

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Final Rule Stage

1125. • DESIGNATION OF CONCURRENT AUTHORITY TO INITIATE CIVIL MONEY PENALTY ACTIONS FOR FAILING TO DISCLOSE LEAD-BASED PAINT HAZARDS (FR-4647)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q-1; 12 USC 1703; 12 USC 1723i; 12 USC 1735f-14; 12 USC 1735f-15; 15 USC 1717a; 28 USC 2461 note; 42 USC 3535(d)

CFR Citation: 24 CFR 30

Legal Deadline: None

Abstract: HUD's civil money penalty regulations currently state that the Director of the Office of Healthy Homes and Lead Hazard Control, or his or her designee, may initiate a civil money penalty action against any person who knowingly violates HUD's lead-based paint disclosure requirements. This final rule revises that provision to give concurrent authority to initiate a civil money penalty action against any person who knowingly violates HUD's lead-based paint disclosure regulation to the Director of the Departmental Enforcement Center.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

RIN: 2501–AC78

1126. HOME INVESTMENT PARTNERSHIPS PROGRAM — AMENDMENTS (FR-4111)

Priority: Other Significant

Legal Authority: 42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule makes final a provision published as an interim rule on August 22, 1997, with respect to rents for over-income tenants in HOME-assisted units that "float." This rule also makes other technical clarifications.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65298
NPRM Comment Period End	02/10/97	
Final Rule	08/22/97	62 FR 44838
Final Rule Effective	09/22/97	
Comment Period End	10/21/97	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC30

1127. SCREENING AND EVICTION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY (FR-4495)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437d; 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 247; 24 CFR 5; 24 CFR 880; 24 CFR 882; 24 CFR 884; 24 CFR 891; 24 CFR 960; 24 CFR 966; 24 CFR 982

Legal Deadline: None

Abstract: This rule amends regulations for public housing and Section 8 assisted housing programs, and for other HUD-assisted housing programs. The rule gives public housing agencies and assisted housing owners the tools for adopting and implementing fair, effective and comprehensive policies for denying admission to applicants who engage in illegal drug use or other criminal activity, and for evicting or terminating assistance of persons who engage in such activity. The final rule takes into consideration public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 40262
NPRM Comment Period End	09/21/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Patricia Arnaudo, Senior Housing Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AC63

1128. FAIR MARKET RENTS FOR THE SECTION 8 TENANT-BASED RENTAL HOUSING AND HOMEOWNERSHIP PROGRAMS; HIGHER FAIR MARKET RENTS FOR CERTAIN FMRS AREAS (FR-4606)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437F; 42 USC 3535(d)

CFR Citation: 24 CFR 888; 24 CFR 982; 24 CFR 985

Legal Deadline: None

Abstract: This rule follows the interim final rule that implemented HUD's new fair market rent (FMR) policy. The new FMR policy targets relief to areas where higher FMRs are needed to help families, assisted under HUD's Housing Choice Voucher Program as well as other HUD programs, find and lease decent and affordable housing. With respect to the Housing Choice Voucher Program, the policy provides that where necessary to ensure the effective operation of this program, PHAs will be allowed to set their payment standards based on the 50th percentile rent rather than the published 40th percentile FMR. This aspect of the policy is designed to ensure that

families with housing vouchers have access to at least half of all newly available units in those areas. In addition, the new FMR policy increases FMRs to the 50th percentile in those metropolitan areas where an FMR increase is most needed to promote residential choice, help families move closer to areas of job growth, and deconcentrate poverty. Where it is determined that an FMR increase is needed in a metropolitan area, the increased FMR applies to all the HUD programs that use FMRs in that metropolitan area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/02/00	65 FR 58870
Interim Final Rule Comment Period End	11/16/00	
Interim Final Rule Effective	12/01/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2501–AC75

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Long-Term Actions

1129. JOINT AGENCY RULE TO CONFORM REGULATORY DEFINITIONS CIVIL RIGHTS RESTORATION ACT (FR-4587)

Priority: Other Significant

Legal Authority: 42 USC 2000d-1; 42 USC 2000d-7; 42 USC 3535(d)

CFR Citation: 24 CFR 1; 24 CFR 8; 24 CFR 146

Legal Deadline: None

Abstract: The Federal agencies propose to make amendments to their regulations implementing Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1972 (Section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to Title VI, and it added a definition of "program or activity" to Section 504 and the Age Discrimination Act. The added definitions assured that when the term "program or activity" is used in these regulations it is understood that it applies to the entire institution. The promulgation of this proposed regulation incorporates the CRRA's definition of "program or activity" and "program" into Title VI, Section 504, and Age Discrimination Act regulations of the agencies, and promotes consistent and adequate enforcement of these statutes by the agencies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pamela Walsh, Director, Program Standards Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2288

RIN: 2501–AC70

1130. PROHIBITED PURCHASERS OF HUD-INSURED AND HUD-OWNED MULTIFAMILY PROJECTS (FR-4583)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701z-11; 12 USC 3701 to 3717; 12 USC 3751 to 3768; 12 USC 1715b; 12 USC 1701z-12; 12 USC 1713; 12 USC 1715z-1b; 12 USC 1715z-11a; 42 USC 1452b; 42 USC 3535(d); 42 USC 3535(i)

CFR Citation: 24 CFR 27; 24 CFR 290

Legal Deadline: None

Abstract: This rule will prohibit a defaulting mortgagor or related parties from bidding on or acquiring HUD-insured or HUD-owned multifamily projects. The final rule follows publication of a July 5, 2000 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/05/00	65 FR 41538
NPRM Comment Period End	09/05/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc Harris, Director, Field Asset Management Division, Office of Asset Management, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management
Phone: 202 708-2654

RIN: 2501–AC69

1131. ADJUSTMENT OF HUD'S CIVIL MONEY PENALTIES PURSUANT TO THE FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT OF 1990 (FR-4555)

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461 note; 31 USC 3701 note

CFR Citation: 24 CFR 28; 24 CFR 30; 24 CFR 3282; 24 CFR 3500; 24 CFR 81

Legal Deadline: None

Abstract: This final rule would adjust for inflation the maximum amounts of HUD's civil money penalties, as required by the Federal Civil Money Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note), as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 note). HUD is required to adjust the maximum amounts of its civil money penalties at least once every 4 years. HUD last adjusted these maximum amounts in a final rule that became effective October 24, 1996 (61 FR 50208). Accordingly, HUD must adjust the maximum amounts of its civil money penalties before October 24, 2000.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

RIN: 2501–AC67

1132. AMENDMENTS TO HUD'S CIVIL MONEY PENALTY REGULATIONS (FR-4399)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q-1; 12 USC 1703; 12 USC 1723i; 12 USC 1735-f14; 12 USC 1735f-1; 15 USC 1717a; 28 USC 2461 note; 42 USC 1437-z1; 42 USC 3535(d)

CFR Citation: 24 CFR 30

Legal Deadline: NPRM, Statutory, October 27, 1998.

Abstract: The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998; Pub. L. 105-65, approved October 27, 1997) (the Act) made several amendments to strengthen HUD's enforcement authority. This rule addresses those amendments that require rulemaking for implementation, as follows. The Act expands the list of persons and types of violations subject to a civil money penalty under HUD's multifamily insured housing programs. The Act also amends the United States Housing Act of 1937 (the statutory authority for HUD's public and assisted housing programs) to provide for the imposition of civil money penalties for noncompliance with Section 8 Housing Assistance Payment contracts. In accordance with the Act, HUD is implementing these statutory amendments through issuance of this rule. The rule would incorporate these amendments in HUD's civil money penalty regulations located at 24 CFR part 30.

Timetable:

Action	Date	FR Cite
NPRM	06/26/00	65 FR 39502
NPRM Comment Period End	08/25/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

RIN: 2501–AC56

1133. FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS (FR-4142)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); EO 11990; EO 11988; 42 USC 4001 to 4128; 42 USC 5154a

CFR Citation: 24 CFR 55

Legal Deadline: None

Abstract: This rule adopts procedures to implement Executive Order 11990 "Protection of Wetlands." This rule amends part 55 to implement the procedures for wetlands protection in accordance with Executive Order 11990. The rule makes several other changes including expanding the number of HUD programs that are subject to the four-step decisionmaking process for ensuring compliance with part 55.

Timetable:

Action	Date	FR Cite
NPRM	06/02/98	63 FR 30046
NPRM Comment Period End	08/03/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Walter Prybyla, Deputy Director for Policy Environmental Review Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC33

1134. THE SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC; PROHIBITING THE PURCHASE OF CERTAIN LOANS WITH HIGH COSTS AND/OR PREDATORY FEATURES (FR-4614)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 12 USC 1451 et seq; 12 USC 1716 et seq; 12 USC 4501 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 81

Legal Deadline: None

Abstract: A report issued in June 2000 by HUD and the Department of Treasury entitled "Curbing Predatory Home Mortgage Lending," noted that by providing a source of funding, entities that purchase or securitize loans with high cost and/or predatory features are, knowingly or unknowingly, supporting the activities of predatory loan originators. The report recommended regulatory restrictions that would prohibit the two Government-Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac, from purchasing certain types of loans with high costs and/or predatory features altogether. Through this rulemaking, HUD will establish regulatory restrictions, consistent with the GSEs' voluntary restrictions, that will prohibit the GSEs from purchasing certain loans with high costs and/or predatory features. Specifically, this rule will prohibit the GSEs from purchasing loans that come within the high-cost thresholds of the Home Ownership Equity Protection Act, loans with excessive fees, loans originated with single-premium credit life insurance, and loans with other harmful features. This rule will help to ensure that these GSEs are not supporting the activities of predatory loan originators.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sandra Fostek, GSE, Program Analyst, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2224

RIN: 2501–AC76

1135. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS (FR-4258)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 84; 24 CFR 85

Legal Deadline: None

Abstract: On November 18, 1997, HUD adopted by interim rule revised OMB Circular A-133 which implements the Single Audit Act Amendments of 1996.

The Act sets forth requirements for obtaining consistency and uniformity among Federal agencies for the audit of States, local government, and nonprofit organizations expending Federal awards. This rule makes final the November 19, 1997 interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61616
Interim Final Rule Effective	12/18/97	
Interim Final Rule Comment Period End	01/20/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Peter Bell, Department of Housing and Urban Development, Real Estate Assessment Center
Phone: 202 708-4932

RIN: 2501–AC39

1136. ADOPTION OF REVISIONS TO OMB CIRCULAR A-110 (FR-4573)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 84

Legal Deadline: None

Abstract: This document presents the final revision to the codification, at 24 CFR part 84, of Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." OMB issued a final revision to Circular A-110 on September 30, 1999, as required by Public Law 105-227. It was published in the Federal Register on October 8, 1999. This rule will provide uniform administrative requirements for all grants and cooperative agreements to institutions of higher education, hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/11/00	65 FR 30498
Interim Final Rule Effective	06/12/00	
Interim Final Rule Comment Period End	07/10/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William E. Dobrzykowski, Deputy Chief Financial Officer, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-3310

RIN: 2501–AC68

1137. CONSOLIDATED PLAN AMENDMENTS; NEEDS OF PUBLIC HOUSING AND TREATMENT OF TROUBLED PHAS (FR-4518)

Priority: Other Significant

Legal Authority: 42 USC 12705; 42 USC 3535(d)

CFR Citation: 24 CFR 91

Legal Deadline: None

Abstract: This rule amends the Consolidated Plan regulations to conform to recent statutory requirements contained in the Quality Housing and Work Responsibility Act that a consolidated plan from a State or unit of general local government in which any troubled PHA is located must describe the manner in which it will help address the needs of public housing and that a consolidated plan must include a description of the manner in which the State or unit will provide assistance to remove the PHA's troubled designation. The rule also makes a number of clarifying and conforming amendments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Salvatore Sclafani, Office of Executive Services, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1283

RIN: 2501–AC62

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1138. DETERMINED ADJUSTED INCOME IN HUD PROGRAMS SERVING PERSONS WITH DISABILITIES: REQUIRING MANDATORY DEDUCTIONS FOR CERTAIN EXPENSES; AND DISALLOWANCE FOR EARNED INCOME (FR-4608)

Priority: Other Significant

CFR Citation: 24 CFR 5; 24 CFR 92; 24 CFR 200; 24 CFR 236; 24 CFR 574; 24 CFR 582; 24 CFR 583; 24 CFR 891; 24 CFR 982

Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 6218
Final Action Effective	04/20/01	66 FR 8174

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo
Phone: 202 708-0744

Mary Kolesar
Phone: 202 708-2470

RIN: 2501–AC72

1139. EQUAL EMPLOYMENT OPPORTUNITY: UPDATING EEO REGULATIONS (FR-4607)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 7

Completed:

Reason	Date	FR Cite
NPRM	10/26/00	65 FR 64320
Final Action	04/23/01	66 FR 20564
Final Action Effective	05/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William King
Phone: 202 708-5921

RIN: 2501–AC73

1140. REVISIONS TO HUD'S FREEDOM OF INFORMATION ACT (FOIA) REGULATIONS (FR-4292)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 15

Completed:

Reason	Date	FR Cite
Final Action	01/22/01	66 FR 6964
Final Action Effective	04/23/01	66 FR 8175

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marylea Byrd
Phone: 202 708-3866

RIN: 2501–AC51

1141. PROCEDURES FOR THE COLLECTION OF CLAIMS BY THE GOVERNMENT (FR-4318)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Maureen Harris
Phone: 202 708-1946

RIN: 2501–AC48

1142. ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITY (FR-4523)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 58

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Fostek
Phone: 202 708-2224

RIN: 2501–AC41

1143. SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC: NON-MORTGAGE INVESTMENTS (FR-4297)

Priority: Other Significant

CFR Citation: 24 CFR 81

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Fostek
Phone: 202 708-2224

RIN: 2501–AC60

1144. SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC: PURCHASE GOALS (FR-4494)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 24 CFR 81

Completed:

Reason	Date	FR Cite
Final Action	10/31/00	65 FR 65044
Final Action Effective	01/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Garland Reid
Phone: 202 708-1365

RIN: 2501–AC43

1145. CLARIFYING AMENDMENTS TO CONSOLIDATED SUBMISSION FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS (FR-4333)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 91

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Salvatore Sclafani
Phone: 202 708-1283

RIN: 2501–AC54

1146. ADOPTION OF REVISED OMB CIRCULAR A-133; ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT THE SINGLE AUDIT ACT AMENDMENTS OF 1996; TECHNICAL AMENDMENTS (FR-4296)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 125; 24 CFR 200; 24 CFR 202; 24 CFR 236; 24 CFR 280; 24 CFR 511; 24 CFR 570; 24 CFR 572; 24 CFR 574; 24 CFR 576; 24 CFR 582; 24 CFR 583; 24 CFR 585; 24 CFR 700; 24 CFR 92; ...

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AC39 (FR-4258)	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Garland Reid
Phone: 202 708-1365

RIN: 2501–AC43

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Proposed Rule Stage

1147. • SALE OF UNOCCUPIED AND SUBSTANDARD HUD-HELD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT ORGANIZATIONS (FR-4658)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715z-11a; 42 USC 3535(d)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proposed rule would provide for a program to sell properties that are vacant or substandard to local governments and community development corporations. The properties must be used for community revitalization purposes, and must be held in the HUD inventory for at least 6 months.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beverly Miller, Director, Office of Multifamily Asset Management, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3730

RIN: 2502–AH61

1148. SINGLE FAMILY MORTGAGE INSURANCE; NONPROFIT PLACEMENT AND REMOVAL PROCEDURES (FR-4585)

Priority: Other Significant

Legal Authority: 12 USC 1702 to 1715z-21; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule would establish regulatory placement and removal procedures for HUD's Nonprofit Organization Roster. The Roster lists nonprofit organizations that HUD has determined are qualified to participate in certain specified Federal Housing Administration (FHA) single family activities. These activities may include acting as a mortgagor; purchasing HUD's Real Estate Owned Properties (HUD Homes) at a discount; providing secondary financing; and imposing legal restrictions on conveyance as part of affordable housing programs. Presently, there are no regulatory procedures for placing a nonprofit organization on, nor for removing a poorly performing nonprofit organization from, the Roster. HUD believes that the establishment of these placement and removal procedures will better protect participants in the FHA single family programs and safeguard FHA insurance funds.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH49

1149. SINGLE FAMILY MORTGAGE INSURANCE; SECTION 203(K) CONSULTANT ROSTER PROCEDURES (FR-4592)

Priority: Other Significant

Legal Authority: 12 USC 1702 to 1715z; 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule would establish placement and removal procedures for HUD's list of qualified consultants under the Section 203(k) Rehabilitation Loan Insurance program. The 203(k) Program is HUD's primary program for the rehabilitation and repair of single family properties. A 203(k) lender may select a qualified independent consultant, who is an expert in the field of home inspection and construction, to perform various tasks required for the rehabilitation of the property. Presently, there are no regulatory procedures for placing a consultant on, nor for removing a poorly performing consultant from, the list. HUD believes that the establishment of these placement and removal procedures will better protect 203(k) borrowers and lenders and safeguard Federal Housing Administration (FHA) insurance funds.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH51

1150. PROHIBITION OF PROPERTY FLIPPING IN HUD'S SINGLE FAMILY MORTGAGE INSURANCE PROGRAMS (FR-4615)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule would address property "flipping," the practice whereby a property recently acquired is resold for a considerable profit with an artificially inflated value, often abetted by collusion with the appraiser.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH57

1151. • INSURANCE FOR MORTGAGES TO REFINANCE EXISTING HECMS (FR-4667)

Priority: Other Significant

Legal Authority: 12 USC 1715b; 12 USC 1715z to 1720; 42 USC 3535(d)

CFR Citation: 24 CFR 206

Legal Deadline: Final, Statutory, June 27, 2001, Section 201 of the American Homeownership and Economic Opportunity Act of 2000 requires that HUD issue final regulations within 180 days of enactment.

HUD—OH

Proposed Rule Stage

Abstract: This rule would amend HUD's regulations for the Home Equity Conversion Mortgage (HECM) Program to implement the recent amendments made by section 201(a) of the American Homeownership and Economic Opportunity Act of 2000. The HECM Program enables older homeowners to withdraw some of the equity in their homes in the form of payments for life, a fixed term, or at intervals through a line of credit. Section 201(a) authorizes HUD to offer mortgage insurance for refinancing of existing HECMs, and provides consumer safeguards for such refinancings.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH63

1152. DISPOSITION OF HUD-OWNED SINGLE FAMILY ASSETS IN REVITALIZATION AREAS (FR-4471)

Priority: Other Significant

Legal Authority: 12 USC 1701 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 291

Legal Deadline: NPRM, Statutory, October 21, 2000.

Abstract: This proposed rule would implement section 602 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998). Section 602 directs HUD to carry out a program under which HUD-owned homes and mortgages are made available in a manner that promotes expanded homeownership opportunities in designated revitalization areas. Under section 602, the Secretary will designate revitalization areas, in consultation with affected units of general local government and interested nonprofit organizations. Section 602 provides that the Secretary shall provide a preference in the sale of HUD-owned homes and mortgages to nonprofit organizations or to the unit of general local government having jurisdiction in the revitalization area.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AH40

1153. • IMPLEMENTATION OF MANUFACTURED HOUSING IMPROVEMENT ACT OF 2000 (FR-4665)

Priority: Other Significant

Legal Authority: PL 106-569, title VI; 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3280; 24 CFR 3282

Legal Deadline: None

Abstract: On December 27, 2000, the Manufactured Housing Improvement Act of 2000 was approved. This Act establishes a consensus rulemaking process for HUD's manufactured housing program, and provides for the establishment of installation and dispute resolution programs, among other things. As a result of this new statute, amendments are necessary to HUD's existing Manufactured Housing Program regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6409

RIN: 2502–AH62

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Final Rule Stage

1154. REHABILITATION GRANTS FOR CERTAIN MULTIFAMILY PROJECTS (FR-4465)

Priority: Other Significant

Legal Authority: 12 USC 1715b; 12 USC 1715z-1; 42 USC 3535(d)

CFR Citation: 24 CFR 236

Legal Deadline: None

Abstract: This rule implements a new statutory program of grants to owners of certain multifamily housing projects in need of rehabilitation that cannot be funded from project income. The grants are funded from recaptured or uncommitted funds originally intended for interest reduction payments (IRP) by HUD.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH35

HUD—OH

Final Rule Stage

1155. SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES; DURATION OF CAPITAL ADVANCE (FR-4466)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 891

Legal Deadline: None

Abstract: This interim rule amends the regulations for the Supportive Housing Programs for the Elderly and Persons with Disabilities (also referred to as the Section 202 Program and the Section 811 Program, respectively) to extend the duration of the fund reservation, for project development, from 24 months to 36 months. The extension to 36 months better coincides with the amount of time that is frequently involved to commence construction of supportive housing for the elderly and for persons with disabilities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH36

1156. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (FR-4376)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 5403; 42 USC 5424

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This rule will amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS) to update many of the standards that are incorporated by reference therein. These reference standards, which are developed by voluntary consensus or industry groups, provide necessary technical standards for the FMHCSS. These amendments will keep the FMHCSS current with the industries that use these reference standards by incorporating the latest edition of these standards and new relevant standards.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58570
NPRM Comment Period End	12/29/98	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6409

RIN: 2502–AH23

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Long-Term Actions

1157. DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES (FR-4169)

Priority: Other Significant

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d); PL 104-204

CFR Citation: 24 CFR 200; 24 CFR 202; 24 CFR 203; 24 CFR 206

Legal Deadline: None

Abstract: This rule makes final the interim rule that implemented the Lender Insurance program, which reflects the Secretary's new authority to delegate the issuance of Mortgage Insurance Certificates (MICs) to mortgagees that are approved under the Direct Endorsement program. This rule provides that eligible mortgagees that participate in the Lender Insurance program will be responsible for conducting a pre-endorsement review during the origination of their single family mortgage loans and they will be responsible for endorsing the mortgages for insurance. HUD intends that delegating this insurance authority through the Lender program will be consistent with HUD's efforts to reinvent the Federal Housing Administration (FHA) by creating a more efficient and less burdensome process for providing single family mortgage insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/02/97	62 FR 30222
Interim Final Rule Effective	07/02/97	
Interim Final Rule Comment Period End	08/01/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AG87

1158. SECTION 236 RENTAL ASSISTANCE — EXCESS RENTAL CHARGES (FR-4603)

Priority: Other Significant

Legal Authority: 12 USC 1702 to 1715z-21; 12 USC 1715b; 42 USC 1473a; 42 USC 1437c; 12 USC 1437f; 42 USC 3535(d); 42 USC 12701; 42 USC 13611 to 13619

CFR Citation: 24 CFR 200; 24 CFR 236; 24 CFR 880; 24 CFR 881; 24 CFR 883

Legal Deadline: None

Abstract: Section 236(g) of the National Housing Act, as amended most recently by Section 216 of HUD's FY 2001 Appropriations Act and Section 816 of the American Homeownership and Economic Opportunity Act of 2000, permits owners of multifamily rental projects with Section 236 Interest Reduction Payments (IRP) contracts to retain some or all of their excess rental charges for project use if authorized by HUD, and to retain and use some or all of the excess rental charges for non-project use if certain statutory conditions are met and if authorized by HUD. HUD's regulations on application of excess rental charges are outdated, do not reflect statutory amendments after 1995, and do not permit owners to retain excess rental charges. The rule would update the regulation to reflect statutory changes and HUD's manner of implementing those changes to date.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH53

HUD—OH

Long-Term Actions

1159. • PREDATORY LENDING: APPRAISAL WATCH FOR APPRAISERS (FR-4620)

Priority: Other Significant

Legal Authority: 12 USC 1701 to 1715z-18; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: HUD proposes to establish an "Appraiser Watch" system, similar to the successful Credit Watch system for FHA lenders. The Appraiser Watch system would rate appraisers on the performance of loans linked to their appraisals. Appraisers who are linked with excessive default and claim rates, or who appear to be involved with the predatory practice of property flipping, will be immediately suspended from the FHA Appraiser Roster and targeted for further review. Based on the outcome of this review, the appraiser may be removed from the Appraiser Roster and, if appropriate, subject to other enforcement or legal action. In addition to the amendments implementing the proposed Appraiser Watch system, the proposed rule would make several regulatory changes designed to strengthen the licensing and certification requirements for placement on the FHA Appraiser Roster.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH59

1160. STRENGTHENING THE TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN INSURANCE PROGRAMS AND TITLE I LENDER/TITLE II MORTGAGEE APPROVAL REQUIREMENTS (FR-4246)

Priority: Other Significant

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 201; 24 CFR 202

Legal Deadline: None

Abstract: This rule amends HUD's regulations for the Title I Property Improvement and Manufactured Housing Loan Insurance programs. The rule also increases the net worth requirements applicable to both the Title I and Title II Single Family Mortgage Insurance programs. The changes are designed to enhance program controls and strengthen the financial viability of the programs. This rule follows publication of a March 30, 2000 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/30/00	65 FR 17120
NPRM Comment Period End	05/30/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AG95

1161. CREDIT WATCH INITIATIVE—LIMITATION ON OPENING NEW BRANCHES IN LENDING AREA FOR LENDERS IN RECEIPT OF PROPOSED TERMINATION OF ORIGINATION APPROVAL AGREEMENT (FR-4605)

Priority: Other Significant

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 202

Legal Deadline: None

Abstract: This proposed rule prohibits a mortgagee that has received a notice of proposed termination of its origination approval agreement from establishing a new branch or branches in the lending area covered by the proposed termination. The purpose of this rule is to ensure that mortgagees that are not performing satisfactorily in a specified geographic areas do not circumvent HUD's Credit Watch program by establishing a new branch in that same area. Additionally, this rule amends the default and claim rate determinations to allow HUD to take action first and only (if HUD so desires) against mortgagees with default and claim rates higher than those currently established in the regulation. This change will allow HUD to focus resources, that are limited from time to time, on those mortgagees that have excessively high default and claim rates and not be required to also focus its resources on those mortgagees with rates that barely exceed the thresholds.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip Murray, Director, Office of Lender Activities and Program Compliance, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1515

RIN: 2502–AH54

1162. • TERMINATION OF ORIGINATION APPROVAL AGREEMENT (FR-4625)

Priority: Other Significant

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715(b); 42 USC 3535(d)

CFR Citation: 24 CFR 202

Legal Deadline: None

Abstract: The rule revises HUD's regulations pertaining to the FHA single-family mortgage insurance program to emphasize that underwriting, as well as originating mortgagees, are subject to the provisions of the Credit Watch/Termination initiative. The rule also conforms the definition of mortgage origination date to HUD's existing practice and replaces the six-month tracking period for evaluating mortgagees on credit watch in favor of the quarterly review that is currently conducted of all insured loans.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip Murray, Director, Office of Lender Activities and Program Compliance, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1515

RIN: 2502–AH60

1163. • MORTGAGE INSURANCE FOR THE REFINANCING OF EXISTING DEBT OF EXISTING HOSPITALS (FR-4618)

Priority: Other Significant

Legal Authority: 12 USC 1715b; 12 USC 1715n; 12 USC 1715z-7; 42 USC 3535(d)

CFR Citation: 24 CFR 242

Legal Deadline: None

Abstract: This interim rule implements Section 223(f) of the National Housing Act, which authorizes the Secretary of HUD to insure mortgages executed in connection with refinancing the debt of existing multifamily properties and health care facilities. This interim rule implements this authority with respect to acute care hospitals. The purpose of the Section 223(f) program is to provide hospitals the opportunity to refinance their long-term debt so that the hospitals can reduce their annual debt service and thus improve their financial viability. This in turn will further the congressional policy of assisting urgently needed hospitals that treat and care for persons who are acutely ill or injured and who otherwise require medical care and related services customarily furnished only by hospitals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roger Miller, Acting Director for Office of Insured Health Facilities, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AH58

1164. TENANT PARTICIPATION IN STATE-FINANCED, HUD-ASSISTED HOUSING DEVELOPMENTS (FR-4611)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1a; 12 USC 1715z-1b; 42 USC 3535(d)

CFR Citation: 24 CFR 245

Legal Deadline: None

Abstract: HUD's current regulations protecting the statutory right of tenants in HUD-assisted and insured multifamily housing developments to organize and participate in the operation of the development do not currently cover State-financed housing developments that receive assistance under certain HUD programs. However, the statutory right of tenants to organize includes those State-financed housing developments. This proposed rule extends the protection of tenant organization to include State-financed developments assisted under certain HUD programs.

This rule also makes a minor technical correction to a citation in the existing tenant participation regulation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH55

1165. RELEASE OF INFORMATION TO TENANTS AND OTHER PARTIES PURSUANT TO MAHRA (FR-4531)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1437f note

CFR Citation: 24 CFR 401

Legal Deadline: None

Abstract: The proposed rule is designed to ensure that tenants and other interested parties have access to the information needed for meaningful participation in the development of a Restructuring Plan, while ensuring appropriate protection of legitimate interest of project owners in confidential and proprietary business information.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

RIN: 2502–AH45

1166. RENEWAL OF EXPIRING SECTION 8 PROJECT-BASED ASSISTANCE CONTRACT (FR-4551)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1; 12 USC 1735f-19(b); 42 USC 1437(c)(8); 42 USC 1437f note; 42 USC 3535(d)

CFR Citation: 24 CFR 402

Legal Deadline: None

Abstract: This final rule will replace interim part 402, which was published on September 11, 1998, together with interim part 401 that established the Mark-to-Market program. Subsequently HUD decided to separate the two parts and publish final part 401 separately. Final part 402 will set forth the regulations governing the renewal of expiring Section 8 project-based assistance contracts, whether the projects rents are above or below market, except for renewals made as part of a Mark-to-Market Restructuring Plan under part 401.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH47

1167. DISTRIBUTIONS TO NONPROFIT OWNERS OF CERTAIN HUD-ASSISTED MULTIFAMILY RENTAL PROJECTS (FR-4602)

Priority: Other Significant

Legal Authority: 12 USC 1710 to 1715

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 883

Legal Deadline: None

Abstract: This final rule adds an exception to HUD's current Section 8 regulations that prohibit any distributions to nonprofit owners of projects receiving project-based assistance. HUD may now permit distributions of surplus cash to owners of projects with expiring Section 8 project-based assistance contracts who agree to renew their contracts, if distributions are necessary to ensure continued participation of the owners in the Section 8 program.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH52

1168. MANUFACTURED HOMES CONSTRUCTION AND SAFETY STANDARDS: SMOKE ALARMS (FR-4552)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 5403; 42 USC 5424

CFR Citation: 24 CFR 3280; 24 CFR 3282

Legal Deadline: None

Abstract: This rule will amend the Federal Manufactured Home Construction and Safety Standards to revise the location and placement of smoke alarms. The purpose of these amendments is to improve the effectiveness and performance of smoke alarms in early warning detection of manufactured home fires and to reduce the rate of fire fatalities in new manufactured housing.

Timetable:

Action	Date	FR Cite
NPRM	05/18/00	65 FR 31778
NPRM Comment Period End	07/17/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Cocke, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6409

RIN: 2502–AH48

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Completed Actions

Office of Housing (OH)

1169. USE OF MATERIALS BULLETINS (FR-4265)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke
Phone: 202 708-6409

RIN: 2502–AH02

1170. UPDATE OF THE MODEL ENERGY CODE (MEC) (FR-4272)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Elizabeth Cocke
Phone: 202 708-6409

RIN: 2502–AH03

1171. USE OF MATERIALS BULLETINS USED IN THE HUD BUILDING PRODUCTS STANDARDS AND CERTIFICATION PROGRAM (FR-4391)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke
Phone: 202 708-6409

RIN: 2502–AH28

1172. UNIFORM PHYSICAL CONDITION STANDARDS AND PHYSICAL INSPECTION REQUIREMENTS FOR CERTAIN HUD HOUSING; ADMINISTRATIVE PROCESS FOR ASSESSMENT OF INSURED AND ASSISTED PROPERTIES (FR-4452)

Priority: Other Significant

CFR Citation: 24 CFR 200; 24 CFR 5

Completed:

Reason	Date	FR Cite
Final Action	12/08/00	65 FR 77230
Final Action Effective	01/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Hannon
Phone: 202 708-3944

RIN: 2502–AH44

1173. MORTGAGEE APPROVAL FOR SINGLE FAMILY PROGRAMS—PROCEDURES FOR TERMINATING ORIGINATION APPROVAL AGREEMENTS AND PLACEMENT IN CREDIT WATCH STATUS (FR-4492)

Priority: Other Significant

CFR Citation: 24 CFR 202

Completed:

Reason	Date	FR Cite
Merged With RIN 2502-AH80 (FR-4625)	02/22/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Phillip Murray
Phone: 202 708-1515

RIN: 2502–AH42

1174. MORTGAGE INSURANCE PREMIUM REDUCTION IN CENTRAL CITIES (FR-4284)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Stephen Semelsberger
Phone: 202 708-2121

RIN: 2502–AH07

1175. SINGLE FAMILY APPRAISAL ASSESSMENT (FR-4395)

Priority: Other Significant

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Claudia Yarus
Phone: 202 755-7540

RIN: 2502–AH27

1176. SOURCES OF HOMEBUYER DOWNPAYMENT (FR-4469)

Priority: Other Significant

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Notice	01/12/01	66 FR 2851

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris
Phone: 202 708-2121

RIN: 2502–AH38

1177. SINGLE FAMILY CLAIM REFORM AND SALE OF PROPERTY (FR-4470)

Priority: Other Significant

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey
Phone: 202 708-1672

RIN: 2502–AH39

1178. PARTIAL PAYMENT OF CLAIMS FOR HEALTH CARE FACILITIES, HOSPITALS AND GROUP PRACTICE FACILITIES (FR-4387)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 207; 24 CFR 232; 24 CFR 242; 24 CFR 244

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Roger Miller
Phone: 202 708-0599

RIN: 2502–AH25

1179. REMOVAL OF SECTION 221(D)(2) MORTGAGE INSURANCE PROGRAM REGULATIONS (FR-4588)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 221

Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 5912
Final Action Effective	04/20/01	66 FR 8175

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris
Phone: 202 708-2121

RIN: 2502–AH50

1180. USE OF FEDERAL SURPLUS PROPERTY FOR SELF-HELP HOUSING (FR-4464)

Priority: Other Significant

CFR Citation: 24 CFR 270

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Elizabeth Burdock
Phone: 202 708-1490

RIN: 2502–AH34

1181. FEDERAL MANUFACTURED HOUSING PROGRAM; DEFINITION OF MANUFACTURED HOME (FR-4508)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 3280; 24 CFR 3282

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke
Phone: 202 708-6409

RIN: 2502–AH43

1182. SPECIAL PROCEDURES PERMITTING LIMITED COMPLETION OF MANUFACTURED HOMES ON-SITE (FR-4216)

Priority: Other Significant

CFR Citation: 24 CFR 3282

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Elizabeth Cocke

Phone: 202 708-6409

RIN: 2502–AG92

1183. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

Priority: Economically Significant

CFR Citation: 24 CFR 3500

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke
Phone: 202 708-6409

RIN: 2502–AG40

1184. AMENDMENT TO RESPA; EXEMPTION FOR EMPLOYER PAYMENTS TO EMPLOYEES WHO MAKE LIKE-PROVIDER REFERRALS, AND OTHER AMENDMENTS (FR-4173)

Priority: Other Significant

CFR Citation: 24 CFR 3500

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke
Phone: 202 708-6409

RIN: 2502–AG88

1185. RESPA STATEMENTS OF POLICY REGARDING CERTAIN PRIVATE MORTGAGE INSURANCE ARRANGEMENTS (FR-4342)

Priority: Other Significant

CFR Citation: 24 CFR 3500

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke
Phone: 202 708-6409

RIN: 2502–AH19

1186. REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA) STATEMENT OF POLICY 2000-1; SECTION 8 PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES (FR-4613)

Priority: Other Significant

CFR Citation: 24 CFR 3500

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Cocke
Phone: 202 708-6409

RIN: 2502–AH56

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Community Planning and Development (CPD)

Final Rule Stage

1187. SUPPORTIVE HOUSING PROGRAM—INCREASING OPERATING COST PERCENTAGE (FR-4576)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11389; 42 USC 3535(d)

CFR Citation: 24 CFR 583

Legal Deadline: None

Abstract: This rule amended the Supportive Housing Program regulations by changing the number of years for which the grant can cover 75 percent of operating costs from the first two years to all years of the grant term. This amendment will provide the full statutory flexibility allowed for this activity. Providing greater assurance of a funding source for operating housing under the program will promote more use of the program for housing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/12/00	65 FR 30822
Interim Final Rule Effective	06/12/00	
Interim Final Rule Comment Period End	07/11/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: John Garrity, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AC05

1188. • DESIGNATION OF RENEWAL COMMUNITIES AND THIRD ROUND EMPOWERMENT ZONES (FR-4663)

Priority: Other Significant

Legal Authority: PL 106-554; 26 USC subchapter U; 26 USC subchapter X

CFR Citation: 24 CFR 598; 24 CFR 599

Legal Deadline: Final, Statutory, April 23, 2001, Community Renewal Tax Relief Act of 2000 requires Renewal Communities regulations no later than 4 months after the date of enactment, December 21, 2000.

Abstract: Renewal Communities: This part of the rule will implement section 101 of the Community Renewal and Tax Relief Act of 2000 by setting forth policies and procedures applicable to the designation of Renewal Communities, authorized under Subchapter X of the Internal Revenue Code of 1986.

Empowerment Zones: Third Round - This part of the rule will implement section 111 of the Community Renewal and Tax Relief Act of 2000 by setting forth policies and procedures applicable to the third round of designations of urban Empowerment Zones, authorized under Subchapter U of the Internal Revenue Code 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

HUD—CPD — Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pamela Glekas, Director, Empowerment Zones/Empowerment Communities Initiative, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-6339

RIN: 2506–AC09

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Long-Term Actions
Office of Community Planning and Development (CPD)

1189. CDBG PROGRAM FOR STATES; COMMUNITY REVITALIZATION STRATEGY REQUIREMENTS AND MISCELLANEOUS TECHNICAL AMENDMENTS (FR-4061)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11331 to 11388; 42 USC 12701 to 12711; 42 USC 12741 to 12756; 42 USC 12901 to 12912; 42 USC 3535(d); 42 USC 3601 to 3619; 42 USC 5300 to 5320

CFR Citation: 24 CFR 570; 24 CFR 91

Legal Deadline: None

Abstract: This rule implements the Community Revitalization Strategies concept into the State CDBG program. This concept will provide States additional flexibility in meeting certain requirements regarding the program's national objectives and public benefit. This rule also makes several technical amendments to correct errors from previous rulemaking and to enhance and clarify the regulation. These amendments are consistent with recent changes to the Entitlement CDBG program. This rule will be merged with the "CDBG Program for States: Program Income" rule (FR-4067) when published as a final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/96	61 FR 54914
Interim Final Rule Effective	11/21/96	
Interim Final Rule Comment Period End	02/16/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB83

1190. PROHIBITION ON USE OF CDBG ASSISTANCE FOR JOB-PIRATING ACTIVITIES (FR-4556)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 5301-5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule will implement section 588 of the Quality Housing and Work Responsibility Act of 1998 by revising HUD's regulations for the Community Development Block Grant (CDBG) program. Section 588 prohibits State and local governments from using CDBG funds for "job pirating" activities that are likely to result in significant job loss. Job-pirating, in this context, refers to the use of CDBG funds to lure or attract a business and its jobs from one community to another community.

Timetable:

Action	Date	FR Cite
NPRM	10/24/00	65 FR 63756
NPRM Comment Period End	12/26/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Richard Kennedy, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AC04

1191. SUPPORTIVE HOUSING PROGRAM (FR-4616)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11389; 42 USC 3535(d)

CFR Citation: 24 CFR 583

Legal Deadline: None

Abstract: The Department of Housing and Urban Development is proposing to amend the Supportive Housing Program regulations. The regulations will be updated to clarify existing program requirements and to add new program requirements in accordance with recent statutory requirements. This rule will make the Supportive Housing Program regulations clearer and allow for the full flexibility of the McKinney Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: John Garrity, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AC07

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Completed Actions
Office of Community Planning and Development (CPD)

1192. CDBG SLUM/BLIGHT NATIONAL OBJECTIVE RULE (FR-4487)

Priority: Other Significant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Johnson
Phone: 202 708-1322

RIN: 2506–AB94

1193. CDBG PROGRAM REGULATIONS ON PRE-AWARD COST AND NEW HOUSING CONSTRUCTION (FR-4559)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	11/21/00	65 FR 70214
Final Action Effective	12/21/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sue Miller
Phone: 202 708-1577

RIN: 2506–AC06

1194. • MODIFICATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT DEFINITION FOR METROPOLITAN CITY (FR-4624)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This interim rule expands the definition of the term "metropolitan city" under the Community Development Block Grant (CDBG) program to include any city that would have become a metropolitan city by virtue of having a population of 50,000 or more based on 1999 Census population estimates without regard to whether the city is in a metropolitan area. Due to pending changes to the standards for defining metropolitan areas, the Office of Management and Budget (OMB) suspended designation of new metropolitan areas as of June 1999. Since the CDBG statute requires that a metropolitan city be "within a metropolitan area," the absence of new designations for the past year has resulted in otherwise eligible cities not already located in an established metropolitan area from receiving CDBG entitlement funds. To address this problem, this interim rule permits any city reaching the 50,000 population threshold based on 1999 estimates (notwithstanding OMB's moratorium on designating metropolitan areas) to be designated as a metropolitan city and, thereby, be eligible to receive CDBG entitlement grants.

Timetable:

Action	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sue Miller, Acting Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-1577

RIN: 2506–AC08

1195. HOPWA RENTAL ASSISTANCE OPTIONS AND TECHNICAL CHANGES (FR-4467)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 574

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Vos
Phone: 202 708-1934

RIN: 2506–AC02

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage
Government National Mortgage Association (GNMA)

1196. • GINNIE MAE MBS PROGRAM: PAYMENTS TO SECURITY HOLDERS (FR 4629)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 320

Legal Deadline: None

Abstract: The Government National Mortgage Association (the "Association" or "Ginnie Mae") is proposing regulations that will govern payments on Ginnie Mae I Modified Pass-Through Securities ("Ginnie Mae I MBS") registered in the name of a securities depository intermediary (a "Depository"). The proposed rule would require that payments on Ginnie Mae I MBS due to Depositories be made in immediately available funds and would supersede any current provisions allowing those payments to be made by check. Payments to other security holders may be made by check or other means provided the check is received by the security holder not later than the 15th day of each month. The regulation would also eliminate any requirement that a physical certificate be maintained by a Depository.

Timetable:

Action	Date	FR Cite
NPRM	02/26/01	66 FR 12428
NPRM Comment Period End	03/28/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland, Vice President, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-2884

RIN: 2503–AA16

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Long-Term Actions

1197. ELIMINATION OF PHYSICAL CERTIFICATE FOR ISSUED SECURITIES (FR-4533)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1721(g); 42 USC 3535(d)

CFR Citation: 24 CFR 300

Legal Deadline: None

Abstract: Ginnie Mae is considering eliminating physical certificates for securities that are already issued. This regulation would benefit investors who hold their securities in book entry form and pay to have their physical securities stored.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland, Vice President, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-2884

RIN: 2503–AA14

1198. ELECTRONIC PAYMENT ON GINNIE MAE GUARANTEED SECURITIES (FR-4617)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1721(g)(1); 42 USC 3535(d)

CFR Citation: 24 CFR 320

Legal Deadline: None

Abstract: Ginnie Mae is amending its regulations to require that issuers pay investors holding Ginnie Mae securities in book entry form electronically. Recent legislative and industry advances are moving in the direction of electronic commerce. In order to have its program efficient and competitive, Ginnie Mae believes investor payments on Ginnie Mae guaranteed book entry securities must be made electronically.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland, Vice President, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-2884

RIN: 2503–AA15

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Completed Actions

1199. GINNIE MAE—FINANCE—NAHASDA IMPLEMENTATION (FR-4215)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 300.3; 24 CFR 320; 24 CFR 330; 24 CFR 340

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Clark
Phone: 202 708-4141

RIN: 2503–AA11

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Long-Term Actions

1200. FAIR HOUSING ACT REGULATION; CONFORMING AMENDMENT; UPDATE TO REFLECT CURRENT EDITION OF AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) (FR-4554)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: Subpart D of HUD's Fair Housing Act regulations (24 CFR part 100), which address the accessibility requirements of the Fair Housing Act, has not been updated since its issuance in 1989. These regulations reference compliance with the building standards of the American National Standards Institute (ANSI), but the reference to the ANSI edition of 1986 has long been superseded by two more recent editions. Although parties subject to the Fair Housing Act regulations may continue to refer to the 1986 edition of ANSI, the regulations need to be updated to also offer compliance with the 1992 and 1998 editions as a safe harbor for compliance. This rule will update the regulations to provide that compliance with the appropriate requirements of the 1986, 1992 or 1998 editions of ANSI A117.1 suffices to satisfy the accessibility requirements of the Fair Housing Act.

Timetable:

Action	Date	FR Cite
Notice	03/23/00	65 FR 15740
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Milton Turner, Director, Program Compliance and Disability Rights Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2333

RIN: 2529–AA88

1201. FAIR HOUSING ACT REGULATIONS AMENDMENTS: STANDARDS GOVERNING SEXUAL HARASSMENT (FR-4597)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: This final rule would amend HUD's Fair Housing regulations to clarify the standards the Department will use in sexual harassment cases.

Timetable:

Action	Date	FR Cite
NPRM	11/13/00	65 FR 67666
NPRM Comment Period End	01/12/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Enzel, Deputy Asistant Secretary for Enforcement and Programs, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 619-8046

RIN: 2529–AA89

HUD—FHEO

Long-Term Actions

1202. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY-LOW-INCOME PERSONS (FR-2898)

Priority: Other Significant

Legal Authority: 12 USC 1701u; 42 USC 1450; 42 USC 3301; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: The regulations at 24 CFR 135 were revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the design of the Department's programs that are subject to the section 3 regulations, to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements. The final rule may make further revisions in response to public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/08/93	58 FR 52534
Notice	11/09/93	58 FR 59423
Notice Comment Period End	12/08/93	
Interim Final Rule	06/30/94	59 FR 33886
Interim Final Rule Effective	08/01/94	
Interim Final Rule Comment Period End	08/29/94	
Extension of Effective Period of Interim Rule	05/31/95	60 FR 28325
Extension Effective	06/30/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: John Waller, Program Manager, Office of Economic Development, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-3633

RIN: 2529–AA49

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Completed Actions

1203. CERTIFICATION AND FUNDING OF STATE AND LOCAL FAIR HOUSING ENFORCEMENT AGENCIES (FR-4392)

Priority: Other Significant

CFR Citation: 24 CFR 115

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Lauretta Dixon
Phone: 202 708-1992

RIN: 2529–AA85

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Prerule Stage

1204. HUD POLICY FOR THE ADMINISTRATION OF HUD PROGRAMS ON INDIAN RESERVATIONS AND OTHER INDIAN AREAS (FR-4580)

Priority: Other Significant

Legal Authority: 25 USC 4101 et seq; EO 13084

CFR Citation: 24 CFR 1000

Legal Deadline: None

Abstract: This notice sets forth HUD's policy for ensuring regular and meaningful consultation and collaboration with Indian tribal governments in the administration of HUD programs on Indian reservations and other Indian areas. The notice implements Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, issued on May 14, 1998 (63 FR 27655, May 19, 1998). In formulating policies that significantly or uniquely affect Indian tribal governments, HUD will adhere to the principles of respect for Indian tribal self-government, sovereignty, tribal legal rights, and the responsibilities that arise from the legal relationship that exists between the Federal Government and Indian tribal governments. As provided in the notice, HUD will make all reasonable efforts to take into consideration and apply these principles when policy decisions are made affecting Native American communities.

Timetable:

Action	Date	FR Cite
Notice	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Ed Fagan, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing

HUD—PIH — Prerule Stage

Phone: 202 401-7914
RIN: 2577–AC06

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Proposed Rule Stage

1205. PUBLIC HOUSING CAPITAL FUND PROGRAM (FR-4507)

Priority: Other Significant

Legal Authority: 42 USC 1437g; 42 USC 3535(d)

CFR Citation: 24 CFR 905; 24 CFR 941; 24 CFR 968; 24 CFR 969

Legal Deadline: None

Abstract: This proposed rule will implement the new Capital Fund Program for the capital and management improvement needs of public housing agencies. The rule will complement the final rule for the Public Housing Capital Fund Program formula allocation funding system published on March 16, 2000 (65 FR 14422). This rule will implement the regulatory framework for the Capital Fund Program that will govern the use of the assistance made available through the Capital Fund formula. The new rule at part 905 will replace and remove several other rules that currently govern a PHA's use of HUD assistance including part 941 - Public Housing Development and part 968 - Public Housing Modernization. This proposed rule will continue and expand the streamlining of procedures and requirements initiated under the Comprehensive Grant and Comprehensive Improvement programs at part 968.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AC16

1206. • PUBLIC HOUSING RELOCATION REQUIREMENTS (FR-4634)

Priority: Other Significant

Legal Authority: 42 USC 1437g; 42 USC 1437p; 42 USC 3535(d); 42 USC 4601

CFR Citation: 24 CFR 909

Legal Deadline: None

Abstract: This proposed rule establishes the relocation requirements of HUD's Office of Public and Indian Housing (PIH) that apply to public housing agencies (PHAs) in a single part of chapter IX of title 24. The purpose of this rule is to provide a single reference point for relocation requirements that apply to PHAs, rather than repeating these requirements separately in the various PIH program regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Holmquist, Special Deputy for Policy, Office of Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC23

1207. MIXED-FINANCE PUBLIC HOUSING DEVELOPMENT (FR-4499)

Priority: Other Significant

Legal Authority: 42 USC 1437g; 42 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This proposed rule will implement amendments to the Department's Mixed Finance Program to reflect statutory changes enacted on October 21, 1998. Also, the rule will revise the Mixed Finance Program so that the program conforms to HUD's new Capital Fund regulations; will clarify the specific program requirements and procedures that apply to the Mixed Finance Program; and will establish streamlined submission and HUD review requirements with respect to certain types of mixed finance projects that the Department believes involve minimal risk to the investment of Federal funds in the project.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Sowell, Director, Office of Public Housing Investments, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC09

1208. • RESIDENT PARTICIPATION IN PUBLIC, NATIVE AMERICAN AND ASSISTED HOUSING (FR-4657)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1437c-1; 42 USC 1437r; 42 USC 1437t; 42 USC 1437z-6; 42 USC 3535(d)

CFR Citation: 24 CFR 964

Legal Deadline: None

Abstract: This rule amends resident participation rules for public and section 8 housing to take into account statutory changes in HUD programs. This rule will add the Resident Opportunities and Supportive Services (ROSS) Program requirements. The purpose of the ROSS Program is to provide linkage of services to public housing, Native American and Assisted Housing residents. These services include those related to physical improvements of a public housing development in order to provide space for supportive services of residents' work readiness including education, job training and counseling, and other activities designed to improve the economic self-sufficiency of residents.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeraldene White, Senior Program Manager, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-4214

RIN: 2577–AC26

HUD—PIH — Proposed Rule Stage

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Final Rule Stage

1209. REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS (FR-4477)

Priority: Other Significant

Legal Authority: 42 USC 1439; 42 USC 3535(d)

CFR Citation: 24 CFR 791

Legal Deadline: None

Abstract: This rule would revise the current program regulations to implement the statutory language which eliminates the requirements for comment from local governments in non-housing assistance payment communities on applications for Section 8 funding and eliminates the non-metropolitan funding set-asides imposed by section 213 of the Housing and Community Development Act of 1974.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AC03

1210. PUBLIC HOUSING HOMEOWNERSHIP PROGRAMS (FR-4504)

Priority: Other Significant

Legal Authority: 42 USC 1437z-4; 42 USC 3535(d)

CFR Citation: 24 CFR 906

Legal Deadline: None

Abstract: This rule would set forth the requirements and procedures governing a new statutory homeownership program to be administered by public housing agencies (PHAs). Under this rule, a PHA may make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families as their principal residence. This rule would set forth the requirements and procedures governing a new statutory homeownership program to be administered by public housing agencies (PHAs). Under this rule, a PHA may make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families as their principal residence.

Timetable:

Action	Date	FR Cite
NPRM	09/14/99	64 FR 49932
NPRM Comment Period End	11/15/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Sowell, Director, Office of Public Housing Investments, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC15

1211. REQUIRED CONVERSION OF DEVELOPMENT FROM PUBLIC HOUSING STOCK (FR-4475)

Priority: Other Significant

Legal Authority: 42 USC 1437 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 972

Legal Deadline: None

Abstract: This rule implements a recent revision to the statute that authorizes the public housing and Section 8 housing assistance programs. The revision requires Public Housing Agencies (PHAs) to identify distressed public housing developments that must be converted to tenant-based assistance. If it would be more expensive to modernize and operate a distressed development for its remaining useful life than to provide tenant-based assistance to all residents, or the PHA cannot assure the long-term viability of a distressed development, then it must develop and carry out a five-year plan to remove the development from its public housing inventory, and convert it to tenant-based assistance. This rule takes into consideration public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 40232
NPRM Comment Period End	09/21/99	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC01

1212. VOLUNTARY CONVERSION OF DEVELOPMENTS FROM PUBLIC HOUSING STOCK (FR-4476)

Priority: Other Significant

Legal Authority: 42 USC 1437t; 42 USC 1437z-5; 42 USC 3535(d)

CFR Citation: 24 CFR 972

Legal Deadline: None

Abstract: This rule implements a recent revision to the statute authorizing the public housing and Section 8 housing assistance programs to allow a Public Housing Agency (PHA) to convert any public housing project it owns to tenant-based assistance where the conversion would satisfy statutory objectives. If, after conducting a conversion assessment, the PHA determines that the following conditions are met, it may convert the project: Conversion will not be more expensive than continued operation of the project; conversion will benefit residents and the community; and conversion will not adversely affect the availability of affordable housing in the community. The statute requires every PHA to conduct and submit to HUD a conversion assessment for its projects no later than October 1, 2001. However, HUD has the authority to exclude developments from the assessment requirement, or to streamline the conversion assessment requirements, and this rule does include streamlining for specified categories of developments. This rule takes into consideration public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 40240
NPRM Comment Period End	09/21/99	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC02

1213. • SECTION 8 HOMEOWNERSHIP PROGRAM; PILOT PROGRAM FOR HOMEOWNERSHIP ASSISTANCE FOR DISABLED FAMILIES (FR-4661)

Priority: Other Significant

Legal Authority: PL 106-569; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: Other, Statutory, March 27, 2001, Section 302 of the American Homeownership and Economic Opportunity Act requires HUD to issue a rule not later than 90 days after enactment.

Abstract: This interim rule implements the pilot program authorized by section 302 of the American Homeownership and Economic Opportunity Act of 2000. Under the pilot program, a Public Housing Agency (PHA) that administers Section 8 tenant-based assistance may provide homeownership assistance for a disabled family that purchases a dwelling unit that will be occupied by the family. The interim rule implements the pilot program by amending HUD's regulations for the Section 8 homeownership option.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AC24

1214. • SECTION 8 PROJECT BASED (FR-4636)

Priority: Other Significant

Legal Authority: PL 106-377, sec 232

CFR Citation: 24 CFR 983

Legal Deadline: None

Abstract: This interim rule will implement the new project-based voucher program. It is based on comprehensive new legislation that Congress passed along with HUD's FY 2001 appropriation. Among the new features, more fully discussed in the "significant changes" section below, are: 20 percent cap on project-basing; income mixing requirements; resident choice requirements; and specific requirements regarding the management of the waiting list.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC25

1215. OPERATING FUND ALLOCATION FORMULA (FR-4425)

Priority: Other Significant

Legal Authority: 42 USC 1437g; 42 USC 3535(d)

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: This rule implements a new formula system for allocating funds to public housing agencies for their operation and management of public housing. The new formula system was developed through negotiated rulemaking procedures, as required by section 519 of the Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105-276, approved October 21, 1998, 112 Stat. 2551). That statute amended section 9 of the United States Housing Act of 1937 to require development of a new formula that would change the current method (the Performance Funding System) of determining the payment of operating subsidies to public housing agencies.

Timetable:

Action	Date	FR Cite
Notice	02/03/99	64 FR 5570
Notice Comment Period End	03/05/99	
NPRM	07/10/00	65 FR 42488
NPRM Comment Period End	08/09/00	
Interim Final Rule	03/29/01	66 FR 17276
Interim Final Rule Effective	04/30/01	
Interim Final Rule Comment Period End	05/29/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Sprague, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1872

RIN: 2577–AB88

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Long-Term Actions

1216. HOPE VI PROGRAM (FR-4530)

Priority: Other Significant

Legal Authority: 42 USC 1437v; 42 USC 3535(d)

CFR Citation: 24 CFR ch IX

Legal Deadline: None

Abstract: This rule will establish regulations that will govern funding and eligible activities of HUD's HOPE VI Program. To date HOPE VI has been operated from year to year as a demonstration program in accordance with authorization provided each year in appropriations bills. HOPE VI activities were funded and guided by notices of funding availability issued each fiscal year by HUD. The Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105-276, approved October 21 1998, 112 Stat. 2585; hereafter, "Public Housing Reform Act") makes HOPE VI a permanent program. The regulations to be implemented for the HOPE VI program will include the provisions set out in section 535 of the Public Housing Reform Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Milan Ozdinec, Director, Office of Urban Revitalization, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC17

1217. PUBLIC HOUSING DEVELOPMENT TOTAL DEVELOPMENT COST (TDC) (FR-4489)

Priority: Other Significant

Legal Authority: 42 USC 1437b; 42 USC 1437c; 42 USC 1437g; 43 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule will amend HUD's regulations governing Total Development Cost (TDC) for the development of public housing. The amendments will implement changes made to the statutory TDC requirements. Among other changes, this rule will limit the amount of public housing funds that a public housing agency may use to pay for housing construction costs. The rule will also provide that demolition and environmental hazard remediation costs are included in TDC only to the extent that such costs are associated with the replacement of public housing units on the project site.

Timetable:

Action	Date	FR Cite
NPRM	01/04/01	66 FR 1008
NPRM Comment Period End	03/05/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AC05

1218. PUBLIC HOUSING DEMOLITION AND DISPOSITION (FR-4598)

Priority: Other Significant

Legal Authority: 42 USC 1437p; 42 USC 3535(d)

CFR Citation: 24 CFR 970

Legal Deadline: None

Abstract: This proposed rule will revise HUD's regulations regarding demolition and disposition of public housing projects, in accordance with section 531 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276) (referred to as the Public Housing Reform Act). This rule will establish the general and specific requirements for HUD approval of demolition and disposition applications, relocation of residents, resident participation in the form of consultation and opportunity to purchase, new requirements regarding replacement units and a new authority for a PHA to demolish a small number of their units without a formal application under certain circumstances, referred to as "de minimis" demolition.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AC20

1219. SECTION 8 HOUSING CHOICE VOUCHER PROGRAM; EXPANSION OF PAYMENT STANDARDS PROTECTION (FR-4586)

Priority: Other Significant

Legal Authority: 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: On October 21, 1999, HUD published a final rule implementing the statutory merger of the Section 8 tenant-based and certificate programs into the new Housing Choice Voucher program. This rule amends HUD's regulations governing this new merger program to expand the regulatory payment standard protection against subsidy reduction. The October 21, 1999 final rule limited payment standard protection to the first 24 months of the lease term. This rule provides that a family is not subject to a subsidy reduction until the second regular reexamination of family income and composition following the payment standard reduction. This protection extends for the duration of the lease

term. This rule also corrects a typographical error contained in the October 21, 1999 final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/00	65 FR 42508
Interim Final Rule Effective	06/09/00	
Interim Final Rule Comment Period End	09/08/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AC18

1220. REVISIONS TO SEMAP LEASE-UP INDICATOR (FR-4604)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 985

Legal Deadline: None

Abstract: This interim rule revises the way HUD measures and verifies performance under the lease-up indicator for the Section 8 Management Assessment Program (SEMAP). Specifically, the interim rule revises the lease-up standard to measure the number of units leased against the number of units reserved and under Annual Contributions Contract (ACC), instead of against the number of units budgeted. This revised standard is consistent with recently established HUD policy on voucher renewals and unit allocations as formulated during negotiated rulemaking pursuant to the Public Housing Reform Act of 1998. In addition, this interim rule also revises the SEMAP regulations to provide for automated signature of the required SEMAP certification.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AC21

1221. REVISION TO CONSTRUCTION COST LIMITS FOR NATIVE AMERICAN HOUSING (FR-4517)

Priority: Other Significant

Legal Authority: 25 USC 4101 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 1000

Legal Deadline: None

Abstract: This rule revises the way construction costs are controlled in the Indian Housing Block Grant (IHBG) program administered by IHBG grantees, who are Indian Tribes or their Tribally Designated Housing Entities (TDHEs). It would replace the system of HUD-established Dwelling Construction and Equipment costs with a choice between HUD-established Total Development Costs (TDC) or standards established by the TDHE based on standards in its geographic area. This rule also provides the construction, acquisition, or assistance of non-dwelling buildings is subject either to standards established by the TDHE or documentation of comparability to the size, design and amenities of similar buildings constructed in the geographic area.

When tribes began using Dwelling Construction Equipment Costs in place of TDC in accordance with the program changes implemented after enactment of the Native American Housing Assistance and Self-Determination Act, they discovered that the new limits were inadequate. This rule provides an alternative.

Timetable:

Action	Date	FR Cite
NPRM	04/20/00	65 FR 21288
NPRM Comment Period End	06/19/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Bruce Knott, Director, Office of Grants Evaluation, Department of Housing and Urban Development, Office of Public and Indian Housing, 1999 Broadway, Suite 3390, Denver, CO 90202
Phone: 303 675-1600

RIN: 2577–AC14

1222. • NAHASDA HOUSING ASSISTANCE FOR NATIVE HAWAIIANS (FR-4668)

Priority: Other Significant

Legal Authority: 25 USC 4101 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 1000

Legal Deadline: Final, Statutory, October 1, 2001.
Section 807 of the American Homeownership and Economic Opportunity Act of 2001 requires that HUD issue final regulations by October 1, 2001.

Abstract: The rule implements the provisions contained in title V, subtitle B of the American Homeownership and Economic Opportunity Act of 2000. These provisions add a new title VIII to the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996. Under NAHASDA, HUD provides grants, loan guarantees, and technical assistance to Indian tribes and Alaska Native villages for the development and operation of low-income housing in Indian areas. New title VIII expands the scope of NAHASDA to include housing assistance to Native Hawaiians, and establishes statutory requirements specific to Native Hawaiian NAHASDA assistance.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Johnson, Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-7914

RIN: 2577–AC27

1223. LOAN GUARANTEE FOR INDIAN HOUSING; DIRECT GUARANTEE PROCESSING (FR-4241)

Priority: Other Significant

Legal Authority: 12 USC 1715z-13a

CFR Citation: 24 CFR 1005

Legal Deadline: None

Abstract: This final rule would authorize a processing alternative known as "direct guarantee" under which HUD would not issue guarantee commitments and would not review an application for guarantee until after a loan has closed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/98	63 FR 48988

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Johnson, Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-7914

RIN: 2577–AB78

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Completed Actions

1224. PUBLIC HOUSING AGENCY PLAN (FR-4420)

Priority: Other Significant

CFR Citation: 24 CFR 903

Completed:

Reason	Date	FR Cite
Final Rule	12/22/00	65 FR 81214
Final Action	02/05/01	66 FR 8897
Final Action Effective	03/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon
Phone: 202 708-0713

RIN: 2577–AB89

1225. CONSORTIA OF PUBLIC HOUSING AGENCIES AND JOINT VENTURE (FR-4474)

Priority: Other Significant

CFR Citation: 24 CFR 943

Completed:

Reason	Date	FR Cite
Final Action	11/29/00	65 FR 71204
Final Action Effective	12/29/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Holmquist
Phone: 202 708-0713

RIN: 2577–AC00

1226. DESIGNATED HOUSING PROGRAM AMENDMENTS (FR-3964)

Priority: Other Significant

CFR Citation: 24 CFR 945

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo
Phone: 202 708-0744

RIN: 2577–AB57

1227. RESIDENT OPPORTUNITIES AND SUPPORTIVE SERVICES (FR-4525)

Priority: Other Significant

CFR Citation: 24 CFR 964

Completed:

Reason	Date	FR Cite
Merged With RIN 2577-AC26 (FR-4657)	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paula Blunt
Phone: 202 619-8201

RIN: 2577–AC07

1228. PUBLIC HOUSING PURCHASING PREFERENCE FOR RESPONSIBLE FIREARMS COMPANIES (FR-4594)

Priority: Other Significant

CFR Citation: 24 CFR 965

Completed:

Reason	Date	FR Cite
Withdrawn	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonia Burgos
Phone: 202 708-1197

RIN: 2577–AC19

1229. SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) NEW PERFORMANCE INDICATORS (FR-4388)

Priority: Other Significant

CFR Citation: 24 CFR 985

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Gerald Benoit
Phone: 202 708-0477

RIN: 2577–AB83

1230. COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES—AMENDMENTS TO FUNDING APPLICATION PROCESS (FR-4612)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 1003

Completed:

Reason	Date	FR Cite
NPRM	11/06/00	65 FR 66592
Final Action	01/17/01	66 FR 4578
Final Action Effective	04/16/01	66 FR 8176

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Jacqueline Kruszek
Phone: 202 708-0614

RIN: 2577–AC22

[FR Doc. 01–5191 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between April 2001 and October 2001. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries with regard to these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Regulatory Affairs, Department of the Interior, at the address above or on 202-208-5257 or 202-208-3071.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

Dated: March 14, 2001.

Richard A. Stephan,

Federal Register Liaison Officer.

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1231	Natural Resource Damage Assessments: Type B Procedures	1090-AA29
1232	Records and Testimony; Freedom of Information Act	1090-AA61
1233	Department Hearings and Appeals; Special Rules Applicable to Public Land Hearings and Appeals	1090-AA68
1234	Department Hearings and Appeals; Procedures Applicable in Adjudications Before the Hearings Division	1090-AA73
1235	Department Hearings and Appeals Procedures; Rules Applicable in Indian Affairs Hearings and Appeals	1090-AA78

Assistant Secretary for Policy, Management and Budget—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1236	Limitation of Awards To Permit Applicants Under Section 525(e) of SMCRA	1090-AA74

Assistant Secretary for Policy, Management and Budget—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1237	Revised Statute 2477 Rights-of-Way	1090-AA44
1238	Administrative and Audit Requirements and Cost Principles for Assistance Programs; Buy American Act	1090-AA66
1239	Nondiscrimination in Federally Assisted Programs of the Department of the Interior on the Basis of Race, Color, National Origin, Handicap, or Age	1090-AA77

Office of the Special Trustee—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1240	Appealing Administrative Actions of the Office of the Special Trustee	1035-AA03

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1242	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20	1018-AD01
1243	Revisions to the Federal Aid Administrative Requirements	1018-AE17
1244	Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulations for Gray Wolf	1018-AE45
1245	Eagle Permits; Permits for Falconry Purposes	1018-AE62
1246	U.S. Proposals for CITES Appendix III; American Eel	1018-AF09
1247	Endangered and Threatened Wildlife and Plants; Reclassification and Delisting of the Gray Wolf in Certain Parts of Its Range	1018-AF20
1248	Humane and Healthful Transport of Wild Mammals, Birds, Reptiles and Amphibians to the United States	1018-AF27
1249	Endangered and Threatened Wildlife and Plants; Establishment of a Special Rule for the Canada Lynx	1018-AF40
1250	Importation, Exportation, and Transportation of Wildlife, 50 CFR Part 14	1018-AF46
1251	Endangered and Threatened Wildlife and Plants; Tibetan Antelope	1018-AF49
1252	Administration of the National Coastal Wetlands Conservation Grant Program	1018-AF51
1253	Injurious Wildlife; Addition of the Asian Swamp Eel	1018-AF53
1254	Endangered and Threatened Wildlife and Plants; Bull Trout; Special Rule Revision	1018-AF71
1255	Endangered and Threatened Wildlife and Plants; Establishment of Nonessential Experimental Population Status for Four Fishes: Duskytail Darter, Smoky Madtom, Yellowfin Madtom, Spotfin Chub	1018-AF96
1256	Endangered and Threatened Wildlife and Plants; Designated Ports for Listed Plants	1018-AF99
1257	Endangered and Threatened Wildlife and Plants; Proposed Reclassification of the Straight-Horned Markhor Population of the Torghar Region of Balochistan, Pakistan, From Endangered to Threatened	1018-AG00
1258	Federal Falconry Standards and Falconry Permitting	1018-AG11
1259	Endangered and Threatened Wildlife and Plants; Delisting the Gulf Coast Distinct Population Segment of the Brown Pelican Population in the Southeastern United States	1018-AG40
1260	Endangered and Threatened Wildlife and Plants; Delisting of the Hoover's Wooly-Star	1018-AG41
1261	National Wildlife Refuge System; Mission, Goals, and Purposes	1018-AG46
1262	Migratory Bird Permits; Take of Migratory Birds by Federal Agencies	1018-AG56
1263	2001-2002 Refuge-Specific Hunting and Sport Fishing Regulations	1018-AG58
1264	Clean Vessel Act Guidance Revision	1018-AG59
1265	Wild Bird Conservation Act: Review of Approved List of Captive-Bred Species	1018-AG64
1266	Endangered and Threatened Wildlife and Plants: Mexican Bobcat	1018-AG65
1267	Export of River Otters Taken in Texas	1018-AG66
1268	Endangered and Threatened Wildlife and Plants: 5-Year Review of Foreign Species	1018-AG68
1269	Wild Bird Conservation Act: Review of Regulations To Allow Imports of Exotic Wild Birds for Personal Pets, Scientific Research, Zoological Breeding and Display and Cooperative Breeding Programs	1018-AG69
1270	Injurious Wildlife - Addition of Black Carp	1018-AG70
1271	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Santa Cruz Tarplant	1018-AG73
1272	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Purple Amole	1018-AG75
1273	Endangered and Threatened Wildlife and Plants; Critical Habitat for Three Coastal California Plants	1018-AG88
1274	Endangered and Threatened Wildlife and Plants; Critical Habitat for Kneeland Prairie Pennycress	1018-AG92
1275	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Keck's Checkermallow	1018-AG93
1276	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Baker's Larkspur and the Yellow Larkspur	1018-AG96
1277	Endangered and Threatened Wildlife and Plants; Listing the Yellow-Billed Cuckoo	1018-AG98
1278	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Oahu Elepaio, a Bird, in Hawaii	1018-AG99
1279	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Otay Tarplant	1018-AH00
1280	Endangered and Threatened Wildlife and Plants; Critical Habitat for Four Hawaiian Invertebrates	1018-AH01
1281	Endangered and Threatened Wildlife and Plants; Critical Habitat for 58 Plants in Hawaii	1018-AH02
1282	Endangered and Threatened Wildlife and Plants; Critical Habitat for Plants of the Northwest Islands, Hawaii	1018-AH09
1283	Endangered and Threatened Wildlife and Plants; Determinations of Whether Designation of Critical Habitat is Prudent for 8 Plants and Proposed Designations for 18 Plants From Lanai, Hawaii	1018-AH10
1284	Endangered and Threatened Wildlife and Plants; Listing of the Big Cypress Fox Squirrel	1018-AH29
1285	Endangered and Threatened Wildlife and Plants; Listing of the Miami Blue Butterfly	1018-AH30
1286	Endangered and Threatened Wildlife and Plants; Prudency and Critical Habitat for a Mollusk, the Carolina Heelsplitter	1018-AH31
1287	Endangered and Threatened Wildlife and Plants; Prudency and Critical Habitat for the Rock Gnome Lichen	1018-AH32
1288	Endangered and Threatened Wildlife and Plants; Amendment to the Nonessential Experimental Population for the Red Wolf	1018-AH43
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Sequence Number	Title	Regulation Identification Number
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1292	Endangered and Threatened Wildlife; Removal of the Arctic Russian Population of Spectacled Eider From the List of Endangered and Threatened Wildlife	1018-AH48
1293	Endangered and Threatened Wildlife; Removal of Four Ash Meadow Species From the List of Endangered and Threatened Wildlife and Plants	1018-AH49
1294	Endangered and Threatened Wildlife; Removal of the Guam Broadbill and Marianna Mallard From the List of Endangered and Threatened Wildlife	1018-AH50
1295	Endangered and Threatened Plants; Removal of the Papery Whitlow-Wort From the List of Endangered and Threatened Plants	1018-AH51
1296	Endangered and Threatened Wildlife; Removal of the San Marcos Gambusia, a Fish, From the List of Endangered and Threatened Wildlife	1018-AH52
1297	Endangered and Threatened Plants; Removal of the Johnston's Frankenia From the List of Endangered and Threatened Plants	1018-AH53
1298	Endangered and Threatened Wildlife; Establishment of a Nonessential Experimental Population of the Black-Footed Ferret in Wyoming	1018-AH54
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1300	Endangered and Threatened Wildlife; Reclassification of the Gila Trout From Endangered to Threatened	1018-AH57
1301	Endangered and Threatened Plants; Reclassification of the Wireweed From Endangered to Threatened in Florida	1018-AH58
1302	Endangered and Threatened Plants; Reclassification of the Missouri Bladder-Pod, a Plant, From Endangered to Threatened	1018-AH59
1303	Endangered and Threatened Wildlife and Plants; Changes to the Regulations for Designation of Critical Habitat	1018-AH60
1304	Export of Live Alligators	1018-AH65
1305	Audit Resolution Policy	1018-AH69
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1308	Export of Caviar: Labeling of Sturgeon and Paddlefish (Acipenseriformes) Caviar Containers Intended for International Trade; 50 CFR 23	1018-AH78
1309	Migratory Bird Hunting; Proposed 2001-2002 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals	1018-AH79
1310	Endangered and Threatened Wildlife and Plants; Establishment of Protection Areas for the West Indian Manatee in Florida	1018-AH80
1311	Endangered and Threatened Wildlife and Plants; Special Rule for the Mountain Plover	1018-AH84

United States Fish and Wildlife Service—Final Rule Stage

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1313	Convention on International Trade in Endangered Species (CITES)	1018-AD87
1314	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened	1018-AE04
1315	Injurious Wildlife; Addition of Brush-Tailed Possum	1018-AE34
1316	Endangered and Threatened Wildlife and Plants; Withdrawal of Proposal To List as Endangered or Threatened Cowhead Lake Tui Chub	1018-AE85
1317	Endangered and Threatened Wildlife and Plants; Establishment of Nonessential Experimental Population Status for 16 Freshwater Mussels and 1 Freshwater Snail	1018-AE92
1318	Endangered and Threatened Wildlife and Plants; Delisting of the Bald Eagle Throughout the Lower 48 States	1018-AF21
1319	Endangered and Threatened Wildlife and Plants; Prebles Meadow Jumping Mouse	1018-AF30
1320	Endangered and Threatened Wildlife and Plants; Desert Yellowhead	1018-AF31
1321	Endangered and Threatened Wildlife and Plants; Mountain Plover	1018-AF35
1322	Endangered and Threatened Wildlife and Plants; Special Rule for the Chiricahua Leopard Frog	1018-AF41
1323	Endangered and Threatened Wildlife and Plants; Removal of the Douglas County, Oregon, Population of the Columbia White-Tailed Deer From the List of Endangered and Threatened Species	1018-AF43

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United States Fish and Wildlife Service—Final Rule Stage (Continued)

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1326	Endangered and Threatened Wildlife and Plants; Scaleshell Mussel	1018-AF57
1327	Policy on General Conservation Permits	1018-AF63
1328	Endangered and Threatened Wildlife and Plants; Delisting the Northern Population of the Tidewater Goby	1018-AF67
1329	Endangered and Threatened Wildlife; Golden Sedge	1018-AF68
1330	U.S. Proposals for CITES Appendix III; Certain Turtle Species	1018-AF69
1331	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Hackelia Venusta (Showy Stickseed)	1018-AF75
1332	Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Spalding's Catchfly	1018-AF79
1333	Endangered and Threatened Wildlife and Plants; List Ohlone Tiger Beetle as Endangered	1018-AF89
1334	Endangered and Threatened Wildlife and Plants; Proposal to List the Mississippi Gopher Frog Distinct Population Segment of Dusky Gopher Frog as Endangered	1018-AF90
1335	Endangered and Threatened Wildlife and Plants; Proposed Listing of Two Southwest Milkvetch Plants	1018-AG02
1336	Endangered and Threatened Wildlife and Plants; Proposed Listing of Vermilion Darter as Endangered	1018-AG05
1337	Endangered and Threatened Wildlife and Plants; Reclassification of Scutellaria Montana (Large-Flowered Skullcap) From Endangered to Threatened	1018-AG07
1338	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Piping Plover in Wintering Habitat	1018-AG13
1339	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Piping Plover in Breeding Habitat	1018-AG14
1340	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for 12 Species of Picture-Wing Flies From the Hawaiian Islands	1018-AG23
1341	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Riverside Fairy Shrimp	1018-AG34
1342	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Spruce-Fir Moss Spider	1018-AG38
1343	Regulations for Subsistence Hunting and Fishing on Federal Lands in Alaska for the 2001-2002 Seasons	1018-AG55
1344	Endangered and Threatened Wildlife and Plants; Determinations of Whether Designation of Critical Habitat Is Prudent for 81 Plants and Proposed Designations for 76 Plants From Kauai and Niihau, Hawaii	1018-AG71
1345	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Quino Checkerspot Butterfly	1018-AH03
1346	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Chorizanthe Pungens var. Pungens (Monterey Spineflower)	1018-AH04
1347	Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Wenatchee Mountains Checkermallow, a Plant	1018-AH05
1348	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Kootenai River White Sturgeon	1018-AH06
1349	Endangered and Threatened Wildlife and Plants; Critical Habitat for the San Bernardino Kangaroo Rat	1018-AH07
1350	Endangered and Threatened Wildlife and Plants; Determinations of Whether Designation of Critical Habitat Is Prudent for 20 Plants and Proposed Designations for 32 Plants From Molokai, Hawaii	1018-AH08
1351	Endangered and Threatened Wildlife and Plants; Prudency and Critical Habitat Designation for a Mollusk, the Appalachian Elktoe	1018-AH33
1352	Interagency Policy on the Prescription of Fishways Under Section 18 of the Federal Power Act	1018-AH42
1353	Endangered and Threatened Wildlife; Establishment of a Nonessential Experimental Population of Whooping Cranes	1018-AH46
1354	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Bay Checkerspot Butterfly	1018-AH61
1355	Changes in the List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora	1018-AH63
1356	Addition of the Basking Shark and the Stag Beetle to Appendix III Under CITES	1018-AH66
1357	Endangered and Threatened Wildlife and Plants; Listing the Dolly Varden as a Threatened Species in Washington Due to Similarity of Appearance to Bull Trout	1018-AH68
1358	Endangered and Threatened Wildlife and Plants: Proposed Determinations of Prudency and Proposed Designations of Critical Habitat for Plants From Maui and Kahoolawe, Hawaii	1018-AH70
1359	Import of Polar Bear Trophies From Canada: Change in the Finding for the M'Clintock Channel Population and Revision of Regulations in Section 18.30	1018-AH72
1360	Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on the Threatened Status of the Sacramento Splittail (Pogonichthys Macrolepidotis)	1018-AH73
1361	Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2002 Subsistence Taking of Fish and Shellfish Regulations	1018-AH77
1362	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Polygonum Hickmanii (Scots Valley Polygonum) and Chorizanthe Robusta var. Hartwegii (Scots Valley Spineflower)	1018-AH82

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United States Fish and Wildlife Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1363	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Chorizanthe Robusta var. Robusta (Robust Spineflower)	1018-AH83

United States Fish and Wildlife Service—Long-Term Actions

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1364	General Provisions and General Permit Procedures—50 CFR Part 13	1018-AC57
1365	Critical Habitat Designation for the Lost River and Shortnose Suckers	1018-AC90
1366	Marine Mammal Protection Act; Unintentional Take of Marine Mammals by Harassment Only in Activities Other Than Commercial Fishing	1018-AD18
1367	Marine Mammal Protection Act; Measures To Safely Deter Marine Mammals, Including Threatened and Endangered Marine Mammals	1018-AD19
1368	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub	1018-AD22
1369	Endangered and Threatened Wildlife and Plants; Proposed Establishment of Nonessential Experimental Population of Ten Freshwater Mussels in Holston River System in TN and VA	1018-AE01
1370	Exportation of Marine Mammal Products for Cultural Exchange, 50 CFR Part 18	1018-AE33
1371	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits	1018-AE63
1372	Migratory Bird Permits; Introduction, General Requirements and Exceptions	1018-AE64
1373	Implementation of the 1994 Amendments to the Marine Mammal Protection Act	1018-AE72
1374	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Mariana Fruit Bat	1018-AE83
1375	Consideration of Listing the Green Iguana (Iguana Iguana) as Injurious, Pursuant to the Lacey Act	1018-AF08
1376	Reclassification of Morelet's Crocodile (Crocodylus Moreleti) From Endangered to Threatened	1018-AF10
1377	Taking of Marine Mammals by Level B Harassment; Issuance of General Authorization for Scientific Research and Permits for Photography, Educational, and Commercial Purposes	1018-AF26
1378	Migratory Bird Permits; Specific Permit Provisions; Special Purpose Permits	1018-AF28
1379	Endangered and Threatened Wildlife and Plants; Coastal Cutthroat Trout	1018-AF45
1380	Endangered and Threatened Wildlife and Plants; Asian Bonytongue	1018-AF48
1381	Endangered and Threatened Wildlife and Plants; Guidance for Conducting Section 7 Consultations for the Indiana Bat	1018-AF50
1382	Endangered and Threatened Wildlife and Plants; Endangered Status for Southern California Distinct Vertebrate Population Segment (DPS) of Mountain Yellow-Legged Frog	1018-AF83
1383	Endangered and Threatened Wildlife and Plants; Endangered Status for Cook's Lomatium and Large Flowered Wooly Meadowfoam	1018-AF84
1384	Endangered and Threatened Wildlife and Plants; Endangered Status for San Diego Ambrosia	1018-AF86
1385	Endangered and Threatened Wildlife and Plants; Establishment of Critical Habitat Designation for the Santa Ana Sucker	1018-AF94
1386	Endangered and Threatened Wildlife and Plants; Proposed Listing of Buena Vista Lake Shrew as Endangered	1018-AG04
1387	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Three Plants From the Mariana Islands and Guam	1018-AG09
1388	Endangered and Threatened Wildlife and Plants; Proposed Determination of Endangered Status and Designation of Critical Habitat for the Gila Chub	1018-AG16
1389	Endangered and Threatened Wildlife and Plants; Listing and Designation of Critical Habitat for the Slickspot Peppergrass	1018-AG35
1390	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Hines Emerald Dragonfly	1018-AG37
1391	Migratory Bird Permits; Determination That the State of Connecticut Meets Federal Falconry Standards and Amended List of States Meeting Federal Falconry Standards	1018-AG42
1392	Regulations To Implement the Conservation and Reinvestment Act (CARA)	1018-AG43
1393	Clarification of the Definition of "Lands" for National Wildlife Refuge System Lands in Alaska	1018-AG45
1394	National Wildlife Refuge System; Habitat Management Planning Policy	1018-AG48
1395	Migratory Bird Permits; Advance Notice of Proposed Rulemaking To Develop Additional Permitting Regulations To Govern Take of Migratory Birds	1018-AG57
1396	Administrative Requirements for Federal Aid in Fish and Federal Aid in Wildlife Restoration Act	1018-AG60
1397	Updating the List of Fish Diseases of Concern and Improving Procedures for Preventing Them From Entering the United States	1018-AG61
1398	Endangered and Threatened Wildlife and Plants: Tropical Ladyslipper Orchids	1018-AG62

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1401	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Stephen's Kangaroo Rat	1018-AG74
1402	Endangered and Threatened Wildlife and Plants, Listing the Tahoe Yellowcress	1018-AG76
1403	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Gentner's Fritillary	1018-AG78
1404	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Fender's Blue Butterfly	1018-AG79
1405	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Williamete Daisy	1018-AG80
1406	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Kincaid's Lupine	1018-AG81
1407	Endangered and Threatened Wildlife and Plants; Listing the Northern Wormwood	1018-AG83
1408	Endangered and Threatened Wildlife and Plants; Critical Habitat for the San Diego Ambrosia	1018-AG84
1409	Endangered and Threatened Wildlife and Plants; Listing the Washington Ground Squirrel	1018-AG85
1410	Endangered and Threatened Wildlife and Plants; Listing the Oregon Spotted Frog	1018-AG86
1411	Endangered and Threatened Wildlife and Plants; Listing the Umbtanum Desert Buckwheat	1018-AG87
1412	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Northern Idaho Ground Squirrel	1018-AG89
1413	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Riparian Brush Rabbit	1018-AG90
1414	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Riparian Woodrat	1018-AG91
1415	Endangered and Threatened Wildlife and Plants; Listing the Mardon Skipper (Polites Mardon)	1018-AG95
1416	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Coastal Cutthroat Trout	1018-AG97
1417	Endangered and Threatened Wildlife and Plants; Listing the Northern Sea Otter	1018-AH12
1418	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Desert Milk-Vetch	1018-AH14
1419	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Mountain Plover	1018-AH15
1420	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Kanab Ambersnail	1018-AH16
1421	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Canadian Lynx	1018-AH17
1422	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Colorado Butterfly Plant	1018-AH18
1423	Endangered and Threatened Wildlife and Plants; Listing Hirst's Panic Grass	1018-AH19
1424	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Atlantic Salmon	1018-AH20
1425	Endangered and Threatened Wildlife and Plants; Critical Habitat for Three Species of Beach Mouse in Alabama and Florida	1018-AH21
1426	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Alabama Sturgeon	1018-AH22
1427	Endangered and Threatened Wildlife and Plants; Critical Habitat for 11 Mussels	1018-AH23
1428	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Goldline Darter and the Blue Shiner	1018-AH24
1429	Endangered and Threatened Wildlife and Plants; Listing and Critical Habitat for the Highlands Tiger Beetle	1018-AH25
1430	Endangered and Threatened Wildlife and Plants; Listing of the Florida Semaphore Cactus	1018-AH26
1431	Endangered and Threatened Wildlife and Plants; Listing of the Plant Species Cordia Rupicola	1018-AH27
1432	Endangered and Threatened Wildlife and Plants; Listing of the Plant Species Agave Eggersiana and Solanium Conocarpum	1018-AH28
1433	Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Scaleshell	1018-AH35
1434	Endangered and Threatened Wildlife and Plants; Listing Two Snails in Texas	1018-AH38
1435	Endangered and Threatened Wildlife and Plants; Listing of the Acuna Cactus	1018-AH39
1436	Endangered and Threatened Wildlife and Plants; Listing of the Sacramento Mountain Checkerspot Butterfly	1018-AH40
1437	Endangered and Threatened Wildlife and Plants; Listing the Page Springsnail	1018-AH41
1438	Endangered and Threatened Wildlife; Reclassification of the Marianna Fruit Bat on Guam from Endangered to Threatened	1018-AH55
1439	Migratory Bird Permits; Review of Falconry Education Permits; 50 CFR 21	1018-AH71
1440	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Polygonum Hickmanii (Scotts Valley Polygonum)	1018-AH76
1441	National Wildlife Refuge System; Miscellaneous Receipts	1018-AH81

United States Fish and Wildlife Service—Completed Actions

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1442	Endangered and Threatened Wildlife and Plants	1018-AB97
1443	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle	1018-AC14
1444	Endangered and Threatened Wildlife and Plants: Intercross Progeny Policy and Definitions	1018-AC54
1445	Endangered and Threatened Wildlife and Plants; Special Rule for the Northern Spotted Owl	1018-AD20

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1447	Rescission of Administrative Procedures for Grants in Aid (Marine Mammal Protection Act of 1972)	1018-AD92
1448	Endangered and Threatened Wildlife and Plants; Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana	1018-AE00
1449	Endangered and Threatened Wildlife and Plants; Proposal To List Colorado Butterfly Plant as Endangered or Threatened	1018-AE87
1450	Refuge Compatibility Regulations Pursuant to the National Wildlife Refuge System Improvement Act of 1997	1018-AE98
1451	Endangered and Threatened Wildlife and Plants; Delisting of the Grizzly Bear in the Yellowstone Ecosystem	1018-AF22
1452	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Coastal California Gnatcatcher	1018-AF32
1453	Endangered and Threatened Wildlife and Plants; Nine Bexar County, Texas, Invertebrates	1018-AF33
1454	National Boating Infrastructure Grant Program	1018-AF38
1455	Endangered and Threatened Wildlife and Plants; Final Rule To Remove the Aleutian Canada Goose From the List of Threatened and Endangered Species	1018-AF42
1456	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Tidewater Goby	1018-AF73
1457	Endangered and Threatened Wildlife and Plants; Proposal To List the Distinct Population Segment (DPS) of Anadromous Atlantic Salmon in the Gulf of Maine	1018-AF80
1458	Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2001 Subsistence Fishing and Shellfish Taking in Alaska	1018-AF91
1459	Endangered and Threatened Wildlife and Plants; Proposal To Designate Critical Habitat for the Spectacled Eider	1018-AF92
1460	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for Steller's Eider	1018-AF95
1461	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the San Diego Fairy Shrimp	1018-AF97
1462	Endangered and Threatened Wildlife and Plants; Proposed Special Regulations for the Preble's Meadow Jumping Mouse	1018-AG10
1463	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Arkansas River Shiner	1018-AG12
1464	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Arroyo Toad	1018-AG15
1465	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Peninsular Bighorn Sheep	1018-AG17
1466	Appropriate Refuge Uses	1018-AG18
1467	Wilderness Management	1018-AG19
1468	Wildlife Dependent Recreation Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997	1018-AG20
1469	Priority Wildlife—Dependent Recreation—Fishing	1018-AG21
1470	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for Zapata Bladderpod	1018-AG24
1471	Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Morro Shoulderband Snail	1018-AG27
1472	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Zayante Bandwinged Grasshopper	1018-AG28
1473	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Mexican Spotted Owl	1018-AG29
1474	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Kauai and Niihau Plants	1018-AG30
1475	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Red-Legged Frog	1018-AG32
1476	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Bay Checkerspot Butterfly	1018-AG33
1477	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Maui and Kahoolawe Plants	1018-AG36
1478	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Robust Spineflower	1018-AG39
1479	Endangered and Threatened Wildlife and Plants; General Permitting Regulation Amendments for Safe Harbor Agreements and Candidate Conservation Agreements With Assurances	1018-AG44
1480	National Wildlife Refuge System; Ecological Integrity Policy	1018-AG47
1481	National Wildlife Refuge System; Priority Wildlife Dependent Recreation; General Guidance	1018-AG49
1482	National Wildlife Refuge System; Priority Wildlife Dependent Recreation; Interpretation	1018-AG50
1483	National Wildlife Refuge System; Priority Wildlife Dependent Recreation; Wildlife Observation	1018-AG51
1484	National Wildlife Refuge System; Priority Wildlife Dependent Recreation; Photography	1018-AG52
1485	National Wildlife Refuge System; Priority Wildlife Dependent Recreation; Environmental Education	1018-AG53
1486	Subsistence Management Regulations for Public Lands in Alaska; Subpart C, Designation of an Additional Subsistence Resource Region	1018-AG54
1487	Issuance of Permits on Security Paper	1018-AG72
1488	Endangered and Threatened Wildlife and Plants; Listing the Chum Salmon in Alaska	1018-AH11
1489	Endangered and Threatened Wildlife and Plants; Listing the Bristle-Thighed Curlew	1018-AH13

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United States Fish and Wildlife Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1490	Endangered and Threatened Wildlife and Plants; Listing, With Critical Habitat, of Hall's Bullrush	1018-AH37
1491	Appropriate Refuge Uses	1018-AH62
1492	Migratory Bird Hunting; Approval of Tungsten-Nickel-Iron Shot as Nontoxic for Hunting Waterfowl and Coots	1018-AH64
1493	Temporary Approval of Tin Shot for Hunting Waterfowl and Coots During the 2000-2001 Season	1018-AH67

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1494	Applicability and Resource Protection Revisions	1024-AC38
1495	Non-Federal Oil and Gas Rights	1024-AC53
1496	Vehicles and Traffic Safety; Operating Under the Influence of Alcohol or Drugs	1024-AC69
1497	Solid Waste Sites in Units of the National Park System	1024-AC70
1498	World Heritage Convention	1024-AC74
1499	Release of Information About National Park System Resources	1024-AC75
1500	Procedures for State, Tribal, and Local Government Historic Preservation Programs	1024-AC79
1501	Conservation in National Parks	1024-AC81
1502	Wrangell-St. Elias National Park and Preserve Resident Zone Communities	1024-AC83
1503	Commercial Use Permits	1024-AC85
1504	Special Regulations of the National Park System; Canyonlands National Park Road Closure	1024-AC87

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1505	Rights-of-Way	1024-AC01
1506	Voyageurs National Park: Aircraft Operations	1024-AC23
1507	Appalachian National Scenic Trail—Snowmobiles	1024-AC67
1508	Land and Water Conservation Fund of Assistance to States; Post-Completion Compliance Responsibilities	1024-AC68
1509	Leasing Regulations	1024-AC78
1510	National Capital Region Parks; Photo Radar Speed Enforcement	1024-AC80
1511	Native American Graves Protection and Repatriation Act Regulations; Civil Penalties	1024-AC84
1512	Special Regulations of the National Park System; Religious Ceremonial Collection of Golden Eaglets in Wupatki National Monument	1024-AC86

National Park Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1513	Snowmobile Use in National Park Service Areas	1024-AC82

National Park Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1514	Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway: Snowmobile and Snowplane Routes and Regulations	1024-AC34
1515	Big Cypress National Preserve; Recreational Frogging	1024-AC54
1516	Delaware Water Gap NRA, Bicycle Trail	1024-AC62
1517	Information Collection Activities	1024-AC71

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National Park Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1518	Ceremonial Use of Park Resources by American Indians	1024-AC77

Bureau of Indian Affairs—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1519	Use or Distribution of Indian Judgment Funds	1076-AD94

Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1520	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AD08
1521	Indian School Equalization Program	1076-AD09
1522	Leasing Restricted Lands of Members of the Five Civilized Tribes, Oklahoma, for Mining	1076-AD33
1523	Lead and Zinc Mining Operations and Leases on Quapaw Indian Lands	1076-AD35
1524	Exploration, Mining, and Reclamation of Lands	1076-AD36
1525	Tribal Reorganization Under a Federal Statute	1076-AD46
1526	Petitioning Procedures	1076-AD47
1527	Academic and Dormitory Standards	1076-AD55
1528	Education Contracts Under the Johnson-O'Malley Act	1076-AD58
1529	Loans to Indians From the Revolving Loan Fund	1076-AD59
1530	School Construction Contracts for Public Schools	1076-AD69
1531	Adult Vocational Training	1076-AD72
1532	Employment Assistance for Adult Indians	1076-AD75
1533	Indian Child Protection	1076-AD96
1534	Arrangement With States, Territories, or Other Agencies for Relief of Distress and Social Welfare of Indians	1076-AD98
1535	Indian Reservation Roads Program	1076-AE06
1536	Buy Indian Act Regulations	1076-AE07

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1537	Navajo Partitioned Lands Grazing Regulations	1076-AC81
1538	Preference in Employment	1076-AD05
1539	Indian Tribal Justice Support	1076-AD15
1540	Leasing Osage Reservation Lands for Mining of Minerals Other Than Oil and Gas	1076-AD34
1541	Irrigation Projects and Systems	1076-AD44
1542	Indian Electric Power Utilities	1076-AD45
1543	Appeals From Administrative Actions	1076-AD50
1544	Indian Business Development Program	1076-AD70
1545	Courts of Indian Offenses	1076-AD76
1546	Use of Columbia River Fish Access Sites	1076-AD83
1547	Use of Columbia River In-Lieu Fishing Sites	1076-AD86
1548	Land Acquisitions for Gaming	1076-AD93
1549	Certificates of Degree of Indian Blood	1076-AD97
1550	Encumbrance of Indian Lands—Contract Approvals	1076-AE03
1551	Alaska Resupply Operation	1076-AE04
1552	San Carlos Apache Tribe Trust Fund and Lease Fund	1076-AE10

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Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
1553	Tribal Self-Governance	1076-AD20
1554	Loan Guarantee Program	1076-AD73
1555	Mortgages and Deeds of Trust on Individually Owned Trust Land or Land Subject to a Restriction on Alienation	1076-AD85
1556	Acquisition of Title to Land in Trust	1076-AD90
1557	Financial Assistance and Social Services Program	1076-AD91
1558	Trust Management Reform: Leasing, Permitting, Grazing, Probate and Funds Held in Trust	1076-AE00
1559	Distribution of FY 2001 Indian Reservation Road Funds	1076-AE09
1560	Technical Amendments to Financial Assistance and Social Services Programs	1076-AE11
1561	Distribution of Fourth Quarter FY 2001 Indian Reservation Road Funds	1076-AE12

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1562	Refunds and Recoupment of Overpayments on OCS	1010-AC27
1563	Takes vs. Entitlements Reporting	1010-AC29
1564	Accounting Relief for Marginal Properties	1010-AC30
1565	Prepayment of Royalties	1010-AC31
1566	Exploration or Development and Production Plans	1010-AC47
1567	Incident Reporting	1010-AC57
1568	Royalty Relief Terms	1010-AC58
1569	Records and Files Maintenance	1010-AC64
1570	Amendments to Allowance Determination Rules	1010-AC77

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1571	Valuation of Oil From Indian Leases	1010-AC24
1572	Oil and Gas Drilling Operations	1010-AC43
1573	Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AC48
1574	Forms and Reports	1010-AC63
1575	Decommissioning Activities	1010-AC65
1576	Requirements Governing Surety Bonds for the Outer Continental Shelf	1010-AC68
1577	Amendments to Sale of Federal Royalty Oil (Small Refiner Administrative Fee)	1010-AC70
1578	Deep Water Royalty Relief for Outer Continental Shelf Oil and Gas Leases Issued After 2000	1010-AC71
1579	Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf—Definition of Affected States	1010-AC74

Minerals Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1580	Royalty Payment Liability	1010-AB45
1581	Credit Adjustments	1010-AB73
1582	Chronic Erroneous Reporting	1010-AC34
1583	Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Safety Measures and Procedures for Pipeline Modifications and Repairs	1010-AC75

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Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1584	Update of Documents Incorporated by Reference: API/ISO 10432	1010-AC66
1585	Outer Continental Shelf Oil and Gas Leasing-Bidding Systems	1010-AC69
1586	Amendments to Gas Valuation Regulations for Indian Leases	1010-AC72

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1587	Abandoned Coal Refuse Sites—Title I	1029-AB70
1588	Contemporaneous Reclamation	1029-AB79
1589	Dam Safety Rules	1029-AB92

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1590	Indian Lands	1029-AB83
1591	Electronic Filing of the OSM-1 Form	1029-AB95

Office of Surface Mining Reclamation and Enforcement—Completed Actions

Sequence Number	Title	Regulation Identification Number
1592	Ownership and Control—Redesign	1029-AB94
1593	Temporary Cessation of Mining Operations	1029-AB97

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1594	Leases, Permits, and Easements	1004-AB51
1595	Sales—Federal Land Policy and Management Act	1004-AB77
1596	Desert Land Entries	1004-AC56
1597	Disposal of Reserved Minerals Under the Stock Raising Homestead Act	1004-AC59
1598	Land Withdrawals	1004-AC63
1599	Land Classification	1004-AC78
1600	Carey Act Grants	1004-AC80
1601	Appeals Procedures; Hearings Procedures	1004-AC99
1602	Color of Title and Omitted Lands	1004-AD00
1603	Geothermal Resource Unit Agreement	1004-AD10
1604	Conservation; Helium Leasing	1004-AD35
1605	Grazing Administration—Exclusive of Alaska	1004-AD42

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1606	Cost Recovery; Mineral Filings and Operations	1004-AC64
1607	Rights-of-Way, Principles and Procedures; Rights-of-Way Under the Mineral Leasing Act	1004-AC74

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Bureau of Land Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1608	Indian Allotments	1004-AC77
1609	Oil and Gas Leasing and Operations	1004-AC94
1610	Oil and Gas Leasing; National Petroleum Reserve, Alaska—Unit Agreements	1004-AD13
1611	Use Authorizations (Recreation)	1004-AD25
1612	Mineral Materials Disposal	1004-AD29
1613	Supplementary Rules for Public Demonstrations at Grand Staircase-Escalante National Monument	1004-AD40
1614	Coal Management: Noncompetitive Leases; Management Provisions and Limitations	1004-AD43

Bureau of Land Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1615	Coalbed Methane Development	1004-AC27
1616	Segregation and Opening of Lands	1004-AC84
1617	Paleontological Resources	1004-AD03
1618	Coal Management	1004-AD11
1619	Location Recording, and Maintenance of Mining Claims and Sites	1004-AD31
1620	Mineral Patent Applications; Adverse Claims, Protests, and Conflicts	1004-AD32
1621	Timber Export and Substitution	1004-AD37
1622	Hazardous Materials Compliance	1004-AD38
1623	Rights-of-Way, Principles and Procedures; Rights-of-Way Under the Mineral Leasing Act	1004-AD39

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
1624	Management of Designated Wilderness Area	1004-AB69
1625	Oil and Gas Leasing; Drainage	1004-AC54
1626	Surface Management (Locatable Minerals)	1004-AD22
1627	Financial Assistance; Local Governments	1004-AD23

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1628	Wild and Scenic Rivers	1093-AA08

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Assistant Secretary for Policy, Management and Budget (ASPMB)

1231. NATURAL RESOURCE DAMAGE ASSESSMENTS: TYPE B PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance. CERCLA requires that natural resource damage assessment regulations be promulgated and that the regulations be reviewed, and revised as appropriate, every two years. This rulemaking is the biennial review of the administrative process for conducting assessments as well as the so-called type B procedures for determining injury and damages through scientific and economic studies. This rulemaking will also address the calculation of lost non-use values of natural resources, in compliance with State of Ohio v.

DOI—ASPMB

Proposed Rule Stage

Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989), which ordered the Department to allow for the assessment of all reliably calculated values lost as a result of a natural resource injury.

Timetable:

Action	Date	FR Cite
ANPRM	07/16/96	61 FR 37031
ANPRM Comment Period End	09/16/96	
NPRM	04/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank DeLuise, Assessment Program, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 4449, 1849 C Street N.W., Washington, DC 20240
Phone: 202 208-4143

RIN: 1090–AA29

1232. RECORDS AND TESTIMONY; FREEDOM OF INFORMATION ACT

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 2

Legal Deadline: None

Abstract: 43 CFR part 2, subparts A and B, are being revised in their entirety to reflect the provisions of the new FOIA law Electronic FOIA Amendments of 1996, Pub. L. 104-231, the recommendations of the National Performance Review lab, and to make other changes as necessary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alexandra Mallus, DOI FOIA Officer (OIRM), Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 208-5342

RIN: 1090–AA61

1233. DEPARTMENT HEARINGS AND APPEALS; SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.401(c)(2); 43 CFR 4.403 to 4.408; 43 CFR 4.414; 43 CFR 4.415; 43 CFR 4.422(c)(2); 43 CFR 4.450-5

Legal Deadline: None

Abstract: This document proposes to amend procedural rules governing hearings and appeals in public-lands cases. The amendments are necessary to conform the rules to procedural practices contained in decisions of the Interior Board of Land Appeals. The amended rules would provide parties more complete information and more up-to-date procedures than the existing rules.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
NPRM Comment Period End	09/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Interior Board of Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Phone: 703 235-3750

RIN: 1090–AA68

1234. DEPARTMENT HEARINGS AND APPEALS; PROCEDURES APPLICABLE IN ADJUDICATIONS BEFORE THE HEARINGS DIVISION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374; 30 USC 1201 et seq; 43 USC 1201; 5 USC 571 to 583

CFR Citation: 25 CFR 15; 30 CFR 301; 43 CFR 1850; 43 CFR 4

Legal Deadline: None

Abstract: This proposed rule will amend regulations governing case management and case processing by administrative law judges in the field offices of OHA to increase efficiency.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Charles E. Breece, Deputy Director, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street N.W., Washington, DC 20240
Phone: 703 235-3810

RIN: 1090–AA73

1235. DEPARTMENT HEARINGS AND APPEALS PROCEDURES; RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 331; 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374; 25 USC 9; 5 USC 301

CFR Citation: 43 CFR 4

Legal Deadline: None

Abstract: This proposed rule will revise the procedural rules for the field division of the Office of Hearings and Appeals concerning probate hearings as a result of the Department's reinvention labs. Hearings division regulations must be amended to reflect changes made with Bureau of Indian Affairs probate regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
NPRM Comment Period End	09/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Charles E. Breece, Deputy Director, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street N.W., Washington, DC 20240
Phone: 703 235-3810

RIN: 1090–AA78

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Final Rule Stage

1236. LIMITATION OF AWARDS TO PERMIT APPLICANTS UNDER SECTION 525(E) OF SMCRA

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1256; 30 USC 1260; 30 USC 1261; 30 USC 1264; 30 USC 1268; 30 USC 1271; 30 USC 1275; 30 USC 1293

CFR Citation: 43 CFR 4

Legal Deadline: None

Abstract: This proposed rule would amend regulations governing who may receive an award of costs and expenses under section 525(e) of the Surface Mining Control and Reclamation Act to provise that an applicant may receive an award from the Office of Surface Mining only if OSM denies an application in bad faith and for the purpose of harassing or embarrassing the applicant.

Timetable:

Action	Date	FR Cite
NPRM	07/28/00	65 FR 46389
NPRM Comment Period End	11/13/00	65 FR 60602
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Interior Board of Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Phone: 703 235-3750

RIN: 1090–AA74

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Long-Term Actions

1237. REVISED STATUTE 2477 RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1 to 4; 16 USC 460k-3; 16 USC 668dd; 43 USC 1201; 43 USC 1457; 43 USC 1732(b); 43 USC 1740; 43 USC 1782(c)

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This proposed rule would implement the Secretary of the Interior's June 1, 1993, recommendation to Congress that the Department promulgate regulations addressing rights-of-way pursuant to R.S. 2477 across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service. R.S. 2477—a provision adopted in 1866 that granted a right-of-way for the construction of highways across public land not reserved for public uses—was repealed in 1976 but valid existing rights-of-way were not terminated. This proposed rule is intended to clarify the meaning of the statute and provide a workable administrative process and standards for recognizing valid claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/94	59 FR 39216
NPRM Comment Period End	08/01/95	60 FR 4135
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Assistant Secretary for Policy, Management and Budget
Phone: 202 452-7782
Email: ron_montagna@blm.gov

RIN: 1090–AA44

1238. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS; BUY AMERICAN ACT

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; EO 12549; EO 12674; EO 12689; EO 12731; OMB Circular A-102; OMB Circular A-110; PL 104-256, sec 501; PL 105-62, sec 303; PL 105-62, sec 503; PL 105-83, sec 307

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This final rule is in response to the Department of the Interior and Related Agencies Appropriations Act, 1998, and the Energy and Water Development Appropriations Act, 1998. It implements provisions regarding lobbying restrictions; denial of funds for preventing ROTC access to campuses; and the purchase of American-made equipment and products.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Debra E. Sonderman, Property Management, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6431

RIN: 1090–AA66

1239. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF THE INTERIOR ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, OR AGE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794; 42 USC 2000d-1; 42 USC 6101 et seq

CFR Citation: 43 CFR 17

Legal Deadline: None

Abstract: This proposed joint rule will incorporate the broadened definitions of the terms "program" and "program or activity" as contained in the Civil Rights Restoration Act of 1987 (CRRA). The CRRA broadened the definitions of those terms so that all operations of an entity that receives Federal financial assistance are covered, not just the particular part receiving the Federal assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460

Action	Date	FR Cite
NPRM Comment Period End	01/05/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Melvin C. Fowler, Civil Rights Staff Assistant, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3455

RIN: 1090–AA77
BILLING CODE 4310–RK–S

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Special Trustee (OST)

Proposed Rule Stage

1240. APPEALING ADMINISTRATIVE ACTIONS OF THE OFFICE OF THE SPECIAL TRUSTEE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-412

CFR Citation: 25 CFR 1202

Legal Deadline: None

Abstract: This rule will establish a procedure for appealing decisions of the Office of the Special Trustee and the Office of Trust Funds Management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sarah Yepa, Chief, Division of Quality Assurance, Department of the Interior, Office of the Special Trustee, Suite 1000, 505 Marquette Avenue NW, Suite 1000, Albuquerque, NM 87102
Phone: 505 248-5751
Fax: 505 248-5782

RIN: 1035–AA03
BILLING CODE 4310–RK–S

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1241. LIST OF MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and nomenclature—English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Checklist of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24686
Second NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AB72

1242. REVISION OF MIGRATORY BIRD HUNTING REGULATIONS, 50 CFR PART 20

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742d; 16 USC 742e to 742j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to revise and update regulations governing migratory bird hunting. Changes will be proposed that will clarify and include all the specific prohibitions in part 20 to apply to migratory game hunting during closed and open hunting seasons.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__adams@fws.gov

RIN: 1018–AD01

1243. REVISIONS TO THE FEDERAL AID ADMINISTRATIVE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 777i; 16 USC 669i; 18 USC 701

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise part 80 to clarify the language in the administrative requirements section and simplify some of the procedures to enable the States and the public to better understand the procedures and requirements for obtaining and administering grants under the Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Jack Hicks, Management Analyst, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1851
Email: jack__hicks@fws.gov

RIN: 1018–AE17

1244. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REVISION OF SPECIAL REGULATIONS FOR GRAY WOLF

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: On November 22, 1994, the Service published special rules to establish nonessential experimental populations of gray wolves in Yellowstone National Park and central Idaho. The nonessential experimental population areas include all of Wyoming, most of Idaho, and much of central and southern Montana. This proposed revision is to amend a section of the special regulations so that it clearly applies within the Yellowstone nonessential experimental population area and the central Idaho nonessential experimental population area as described in 7(ii). Ongoing litigation requires the clarification of the Service's need and authority to remove these animals from the area through live capture or lethal means in the interest of attaining gray wolf recovery goals. This proposed change will not affect any of the assumptions and earlier analysis made in the environmental impact statement or other portions of the special rules.

Timetable:

Action	Date	FR Cite
NPRM	12/11/97	62 FR 65237
NPRM Comment Period End	01/12/98	
Second NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AE45

1245. EAGLE PERMITS; PERMITS FOR FALCONRY PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668a

CFR Citation: 50 CFR 22.24

Legal Deadline: None

Abstract: We are proposing changes in the regulations governing the practice of falconry in the United States (See RIN 1018-AG11). This action will then be necessary to change the regulations dealing with eagle falconry (50 CFR 22.24).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AE62

1246. U.S. PROPOSALS FOR CITES APPENDIX III; AMERICAN EEL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: Listing of native U.S. species in appendix III to CITES for more effective monitoring of trade, to ensure that traded specimens are legally acquired in their State(s) of origin, and to obtain the cooperation of other countries that are parties to CITES, in controlling the trade in such specimens.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__lieberman@fws.gov

RIN: 1018–AF09

1247. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION AND DELISTING OF THE GRAY WOLF IN CERTAIN PARTS OF ITS RANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to reclassify certain populations of the gray wolf from endangered to threatened status under the Endangered Species Act, based on the recent recovery achievements, and to delist the wolf in other parts of its range where recovery has been accomplished.

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43449
Notice - Meetings and Hearings	07/26/00	65 FR 45956
Second NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF20

1248. HUMANE AND HEALTHFUL TRANSPORT OF WILD MAMMALS, BIRDS, REPTILES AND AMPHIBIANS TO THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42; 16 USC 3371 to 3378

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The proposed rule contains amendments designed to add numerous transport standards to part 14 for reptiles and amphibians. Standards have already been promulgated for mammals and birds.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AF27

1249. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF A SPECIAL RULE FOR THE CANADA LYNX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: The Fish and Wildlife Service plans to propose a special rule under section 4(d) of the Endangered Species Act to provide an alternative voluntary mechanism for the authorization of incidental take of lynx resulting from otherwise lawful trapping or hunting of wildlife other than lynx. The rule will establish criteria that must be satisfied by State or tribal trapping and hunting programs to minimize the likelihood of the incidental take of lynx by trappers and hunters pursuing bobcat or other species.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF40

1250. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE, 50 CFR PART 14

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704, 712, 1382, 1538(d) to (f), and 1540(f); 16 USC 3371 to 3378, 4223 to 4244, and 4901 to 4916; 18 USC 42; 31 USC 483(a)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: We will review our wildlife exportation and importation regulations pertaining to domesticated species, certain captive-bred and captive-born species.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38143
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin_adams@fws.gov

RIN: 1018–AF46

1251. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; TIBETAN ANTELOPE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will propose endangered status for the Tibetan antelope, or chiru (Pantholops hodgsoni). The antelope is a wild ungulate native to Tibet, Kashmir, and north-central China. It is threatened by illegal trade in its wool, known as shahtoosh, which is exceptionally fine. The wool and shawls made from it are in great demand on the black market, resulting in the slaughter of thousands of these animals annually. The species has experienced dramatic declines in recent years despite efforts by range countries to control poaching, as well as a prohibition on international commercial trade through listing in Appendix I of CITES.

Timetable:

Action	Date	FR Cite
Notice	04/25/00	65 FR 24171
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan_lieberman@fws.gov

RIN: 1018–AF49

1252. ADMINISTRATION OF THE NATIONAL COASTAL WETLANDS CONSERVATION GRANT PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 3951 et seq

CFR Citation: 50 CFR 87

Legal Deadline: None

Abstract: We will establish the requirements of the National Coastal Wetlands Conservation Grant Program, authorized by section 305 of the Coastal Wetlands Planning, Protection and Restoration Act. The program is designed to assist coastal States by providing grants to State agencies to protect and restore their coastal wetland ecosystems. The proposed rule includes the goals of the program, eligibility requirements, ranking criteria, and grant administration procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Department of the Interior, United States Fish and Wildlife Service, Room 840, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1718

RIN: 1018–AF51

1253. INJURIOUS WILDLIFE; ADDITION OF THE ASIAN SWAMP EEL

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: We will review economic and biologic information on the Asian swamp eel (tentatively identified as Monopterus albus) for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kari Jonell Duncan, Fishery Biologist, Division of Environmental Quality, Department of the Interior, United States Fish and Wildlife Service, Room 810B, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2464
Email: kari_duncan@fws.gov

RIN: 1018–AF53

1254. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; BULL TROUT; SPECIAL RULE REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This rule would provide special regulations to authorize incidental take of bull trout in the coterminous U.S. This action would provide for enhanced Federal, State and local management options for this threatened species.

Timetable:

Action	Date	FR Cite
NPRM	11/01/99	64 FR 58934
NPRM Comment Period End	12/16/99	
Second NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF71

1255. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR FOUR FISHES: DUSKYTAIL DARTER, SMOKY MADTOM, YELLOWFIN MADTOM, SPOTFIN CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to designate nonessential experimental population (NEP) status under Section 10(j) of the Endangered Species Act of 1973 (Act), and reintroduce two federally listed endangered fishes—the duskytail darter and smoky madtom—and two Federally listed threatened fishes—the yellowfin madtom and spotfin chub—into the Tellico River between the backwaters of the Tellico Reservoir (approximately Tellico River mile [TRM] 19 and TRM 33, near the Tellico Ranger Station, in Monroe County, Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF96

1256. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATED PORTS FOR LISTED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 24

Legal Deadline: None

Abstract: The U.S. Fish and Wildlife Service proposes to amend the regulations that establish designated ports for the importation, exportation, and reexportation of plants, or their parts and products, listed as endangered or threatened under the Endangered Species Act of 1973, as amended (the Act), or listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The U.S. Department of Agriculture has determined that they have adequate facilities and personnel at these ports to implement the proposed changes. These changes would facilitate trade and the enforcement of the Act and CITES.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AF99

1257. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED RECLASSIFICATION OF THE STRAIGHT-HORNED MARKHOR POPULATION OF THE TORGHAR REGION OF BALOCHISTAN, PAKISTAN, FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to change the classification of the straight-horned markhor population of the Torghar Hills region of Balochistan Province, Pakistan, from endangered to threatened under the Endangered Species Act of 1973. The markhor is a species of wild goat that occurs in small, isolated populations in rugged, arid mountain habitats in Afghanistan, India, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG00

1258. FEDERAL FALCONRY STANDARDS AND FALCONRY PERMITTING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 21.28; 50 CFR 21.29

Legal Deadline: None

Abstract: We will propose changes in the regulations governing the practice of falconry in the United States. We propose substantial reorganization of the current regulations, combining 50 CFR 21.28 and 21.29 and reorganizing the topics in those sections. We will add or change some provisions in the current regulations. The changes will make it easier to understand the requirements for falconry and the procedures for obtaining a falconry permit.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AG11

1259. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING THE GULF COAST DISTINCT POPULATION SEGMENT OF THE BROWN PELICAN POPULATION IN THE SOUTHEASTERN UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the remaining Gulf coast population of the Brown pelican (Texas, Louisiana, Mississippi) from the list of threatened and endangered species.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG40

1260. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING OF THE HOOVER'S WOOLY-STAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to remove the Hoover's Wooly-Star from the list of Endangered and Threatened Plants. This action is based on information that indicates this plant is more widespread and abundant than previously thought, is more resilient and less vulnerable to certain activities, and adequately protected on public lands.

Timetable:

Action	Date	FR Cite
NPRM	03/06/01	66 FR 13474
NPRM Comment Period End	05/07/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG41

1261. NATIONAL WILDLIFE REFUGE SYSTEM; MISSION, GOALS, AND PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668(dd) to 668(ee)

CFR Citation: None

Legal Deadline: None

Abstract: This proposed policy will address the mission, goals and purposes of the National Wildlife Refuge System in the context of the National Wildlife Refuge System Improvement Act of 1997.

Timetable:

Action	Date	FR Cite
Proposed Policy	01/16/01	66 FR 3668
Comment Period Extended	03/15/01	66 FR 15136
Comment Period End	04/19/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth, Deputy Chief, National Wildlife Refuge System, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AG46

1262. MIGRATORY BIRD PERMITS; TAKE OF MIGRATORY BIRDS BY FEDERAL AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712

CFR Citation: 50 CFR 21.15

Legal Deadline: None

Abstract: According to a recent ruling of the United States Court of Appeals for the District of Columbia Circuit, Federal Agencies are subject to the Migratory Bird Treaty Act (MBTA) and must have authorization under the MBTA to take migratory birds. Our current regulations authorize issuance of permits to take migratory birds for activities such as scientific research, education, and depredation control. For many other activities that result in take of migratory birds, no permits have been available. This rule would allow Federal activities to take migratory birds that are not covered by existing permit regulations, provided certain conditions are met, until more specific regulations can be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AG56

1263. 2001-2002 REFUGE-SPECIFIC HUNTING AND SPORT FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460K; 16 USC 664; 16 USC 668(dd) to 668(ee); 16 USC 715(i)

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: We will propose to open additional national wildlife refuges for hunting and/or sport fishing, and to provide refuge-specific regulations for such activities. We will also propose to amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2001-2002 season.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James W. Kurth, Deputy Chief, National Wildlife Refuge System, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AG58

1264. CLEAN VESSEL ACT GUIDANCE REVISION

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-587; PL 105-178

CFR Citation: 50 CFR 85

Legal Deadline: None

Abstract: We are considering revising current guidance to address the needs of inland waterways recreational boaters.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Steve Farrell, Division of Federal Aid, Sportfishing Outreach Coordinator, Department of the Interior, United States Fish and Wildlife Service, MS 140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2420
Email: steve__farrell@fws.gov

RIN: 1018–AG59

1265. WILD BIRD CONSERVATION ACT: REVIEW OF APPROVED LIST OF CAPTIVE-BRED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4901 to 4916

CFR Citation: 50 CFR 15

Legal Deadline: None

Abstract: Under the Wild Bird Conservation Act, a species may be exempt from the prohibitions of the Act if it qualifies for inclusion in an approved list. One way for a species to be included is if the species occurs in trade only as captive-bred specimens. We intend to seek information and consider whether to amend this approved list, which was established in 1994.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG64

1266. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: MEXICAN BOBCAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Other, Statutory, Notice of 90-day finding.
We must determine if petitional action is warranted within 90 days or as soon as possible after receipt of petition.

Abstract: We will consider whether to reclassify from endangered to threatened the Mexican bobcat, in response to a petition.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG65

1267. EXPORT OF RIVER OTTERS TAKEN IN TEXAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: We will consider whether to authorize the export of skins of river otters taken in Texas, and thereby add Texas to the list of States and Indian tribes for which such exports are approved according the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG66

1268. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 5-YEAR REVIEW OF FOREIGN SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory, ESA requirement.

ESA requires review of all listings every 5 years.

Abstract: We will review the current list of foreign species to determine if any should be reclassified or delisted. Psittacine birds are being reviewed separately (see RIN 1018-AG63). Other taxonomic groups may be dealt with separately as the review proceeds.

Timetable:

Action	Date	FR Cite
Notice	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG68

1269. WILD BIRD CONSERVATION ACT: REVIEW OF REGULATIONS TO ALLOW IMPORTS OF EXOTIC WILD BIRDS FOR PERSONAL PETS, SCIENTIFIC RESEARCH, ZOOLOGICAL BREEDING AND DISPLAY AND COOPERATIVE BREEDING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4901 to 4916

CFR Citation: 50 CFR 15

Legal Deadline: None

Abstract: The Wild Bird Conservation Act was passed in 1992 and generally prohibits the import of live exotic birds listed in the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). However, the WBCA provides exemptions that allow imports of such birds for personal pets, scientific research, zoological breeding and display and cooperative breeding programs. These exemptions were put into regulations in 1993. They require rewriting into plain language as well as streamlining of requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG69

1270. INJURIOUS WILDLIFE - ADDITION OF BLACK CARP

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: We will review economic and biological information on the Black carp (Mylopharyngodon piceus) for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kari Jonell Duncan, Fishery Biologist, Division of Environmental Quality, Department of the Interior, United States Fish and Wildlife Service, Room 810B, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2464
Email: kari__duncan@fws.gov

RIN: 1018–AG70

1271. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE SANTA CRUZ TARPLANT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500; 16 USC 1531 to 1544

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Santa Cruz tarplant in California.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG73

1272. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE PURPLE AMOLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Purple amole in California.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG75

1273. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THREE COASTAL CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1544; 16 USC 1361 to 1407; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for three coastal plants in California: LaGracosa thistle; Lompac Yerba Santa; and Gaviota tarplant.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG88

1274. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR KNEELAND PRAIRIE PENNYCRESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Kneeland Prairie Pennycress in California.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG92

1275. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE KECK'S CHECKERMALLOW

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Keck's checkermallow in California.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG93

1276. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE BAKER'S LARKSPUR AND THE YELLOW LARKSPUR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Baker's larkspur and the Yellow larkspur in California.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG96

1277. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE YELLOW-BILLED CUCKOO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will announce a 12 month petition finding and if warranted, we will propose the listing of the Yellow-billed cuckoo as threatened or endangered in all or part of its range, which includes North Dakota, Minnesota and south to Mexico.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG98

1278. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT DESIGNATION FOR THE OAHU ELEPAIO, A BIRD, IN HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 30, 2001, Court order.

Abstract: We propose to designate critical habitat for the Oahu Elepaio, a bird, in Hawaii. This proposed rule is part of a court-ordered action.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH00

1279. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE OTAY TARPLANT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, May 30, 2001, Settlement agreement.

Abstract: We propose to designate critical habitat for the Otay Tarplant in California.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG99

1280. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR FOUR HAWAIIAN INVERTEBRATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, January 1, 2002, Court order to finalize by 01/01/02.

Abstract: We propose to designate critical habitat for four Hawaiian invertebrates: the Newcomb's snail; the Blackburn Sphinx moth; the Kauai cave amphipod; and the Kauai cave wolf spider.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH01

1281. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR 58 PLANTS IN HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, April 30, 2002, 145 plants final by 04/30/02.

Abstract: We propose to determine critical habitat for 58 plants on the island of Hawaii. This action is part of litigation involving 245 Hawaiian plants.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH02

1282. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR PLANTS OF THE NORTHWEST ISLANDS, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2000, 100 Hawaiian plants.
Final, Judicial, November 30, 2001, 100 Hawaiian plants.

Abstract: We propose to determine critical habitat for 8 plants on the Northwest Islands of Hawaii, which is part of litigation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH09

1283. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATIONS OF WHETHER DESIGNATION OF CRITICAL HABITAT IS PRUDENT FOR 8 PLANTS AND PROPOSED DESIGNATIONS FOR 18 PLANTS FROM LANAI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2000, Proposed 100 Hawaiian plants.
Final, Judicial, November 30, 2001, Final 100 Hawaiian plants.

Abstract: We propose to determine critical habitat for 33 plants on Lanai and 2 plants on Maui/Nui Complex, Hawaii, which is part of litigation.

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 82085
NPRM	02/22/01	66 FR 11133
NPRM	04/06/01	66 FR 18223
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH10

1284. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE BIG CYPRESS FOX SQUIRREL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We announce a 12-month finding and, if warranted, a proposed listing of the Big Cypress Fox squirrel with critical habitat determination in Florida.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH29

1285. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE MIAMI BLUE BUTTERFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will emergency list the Miami Blue butterfly in Florida, if warranted.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH30

1286. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PRUDENCY AND CRITICAL HABITAT FOR A MOLLUSK, THE CAROLINA HEELSPLITTER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, July 1, 2001, Settlement agreement.

Abstract: We propose a prudency and critical habitat determination for the mollusk, the Carolina Heelsplitter, in North Carolina and South Carolina.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and

Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH31

1287. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PRUDENCY AND CRITICAL HABITAT FOR THE ROCK GNOME LICHEN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 1, 2001, Settlement agreement.

Abstract: We are proposing a prudency and critical habitat determination for the Rock Gnome lichen in North Carolina and Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	04/05/01	66 FR 18062
NPRM Comment Period End	06/04/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH32

1288. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; AMENDMENT TO THE NONESSENTIAL EXPERIMENTAL POPULATION FOR THE RED WOLF

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to amend the existing nonessential experimental population for the Red wolf, by removing the NEP (nonessential experimental population) status for an introduced population of Red wolves in North Carolina and Tennessee, and by revising the Special Rule for an NEP of Red wolves in North Carolina.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH43

1289. ENDANGERED AND THREATENED WILDLIFE; ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF 2 FISHES IN SHOAL CREEK, ALABAMA AND TENNESSEE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose the establishment of nonessential experimental populations for 2 fishes, the Boulder darter and Spotfin chub in Shoal Creek, Alabama and Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH44

1290. ENDANGERED AND THREATENED WILDLIFE; AMENDMENT TO THE NONESSENTIAL EXPERIMENTAL POPULATION FOR THE MEXICAN WOLF

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to amend the existing nonessential experimental population for the Mexican wolf to allow release of captive wolves into New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH45

1291. ENDANGERED AND THREATENED PLANTS; REMOVAL OF THE TRUCKEE BARBERRY FROM THE LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to remove the Truckee barberry from the list of Endangered and Threatened Plants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH47

1292. ENDANGERED AND THREATENED WILDLIFE; REMOVAL OF THE ARCTIC RUSSIAN POPULATION OF SPECTACLED EIDER FROM THE LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the Arctic Russian population of the Spectacled eider from the List of Endangered and Threatened Wildlife.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH48

1293. ENDANGERED AND THREATENED WILDLIFE; REMOVAL OF FOUR ASH MEADOW SPECIES FROM THE LIST OF ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove four species of Ash Meadow plants and animals from the List of Endangered and Threatened Wildlife and Plants: Ash Meadows Amargusa pupfish; Ash Meadows sunray; Ash Meadows gumplant; Spring Loving centuary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH49

1294. ENDANGERED AND THREATENED WILDLIFE; REMOVAL OF THE GUAM BROADBILL AND MARIANNA MALLARD FROM THE LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the Guam broadbill and the Marianna mallard from the List of Endangered and Threatened Wildlife.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH50

1295. ENDANGERED AND THREATENED PLANTS; REMOVAL OF THE PAPERY WHITLOW-WORT FROM THE LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the Papery whitlow-wort, a plant, from the List of Endangered and Threatened Plants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH51

1296. ENDANGERED AND THREATENED WILDLIFE; REMOVAL OF THE SAN MARCOS GAMBUSIA, A FISH, FROM THE LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to remove the San Marcos gambusia, a fish, from the List of Endangered and Threatened Wildlife.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH52

1297. ENDANGERED AND THREATENED PLANTS; REMOVAL OF THE JOHNSTON'S FRANKENIA FROM THE LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to remove the Johnston's frankenia, a plant which occurs in Texas, from the List of Endangered and Threatened Plants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH53

1298. ENDANGERED AND THREATENED WILDLIFE; ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF THE BLACK-FOOTED FERRET IN WYOMING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to establish an additional (the 8th) nonessential experimental population of the Black-footed ferret in Campbell, Converse, Niobrara and Weston Counties, Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH54

1299. ENDANGERED AND THREATENED PLANTS; REMOVAL OF THE ROBIN'S CINQUEFOIL FROM THE LIST OF ENDANGERED AND THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to remove the plant, Robin's cinquefoil, from the list of endangered and threatened wildlife.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH56

1300. ENDANGERED AND THREATENED WILDLIFE; RECLASSIFICATION OF THE GILA TROUT FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to reclassify from endangered to threatened the Gila trout.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH57

1301. ENDANGERED AND THREATENED PLANTS; RECLASSIFICATION OF THE WIREWEED FROM ENDANGERED TO THREATENED IN FLORIDA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to reclassify the wireweed, a plant which occurs in Florida, from endangered to threatened.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH58

1302. ENDANGERED AND THREATENED PLANTS; RECLASSIFICATION OF THE MISSOURI BLADDER-POD, A PLANT, FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to reclassify the Missouri bladder-pod, a plant, from endangered to threatened.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH59

1303. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CHANGES TO THE REGULATIONS FOR DESIGNATION OF CRITICAL HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing changes to the regulations for designating critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH60

1304. • EXPORT OF LIVE ALLIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: EO 13112

CFR Citation: 50 CFR 13; 50 CFR 17; 50 CFR 23

Legal Deadline: None

Abstract: This policy will prohibit the export of live American alligators because of invasive species concerns in the countries of destination of the animals.

Timetable:

Action	Date	FR Cite
Policy	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AH65

1305. • AUDIT RESOLUTION POLICY

Priority: Substantive, Nonsignificant

Legal Authority: OMB Circular A-133

CFR Citation: 50 CFR 80; 43 CFR 12

Legal Deadline: None

Abstract: We will publish 6 USFWS Manual chapters regarding Federal government auditing standards as they pertain to State grantees.

Timetable:

Action	Date	FR Cite
Policy	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Jack Hicks, Management Analyst, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1851
Email: jack_hicks@fws.gov

RIN: 1018–AH69

1306. • EAGLE PERMITS: NEW DEFINITIONS, PERMITS FOR INCIDENTAL TAKING OF BALD EAGLES NECESSARY TO PROTECT OTHER INTERESTS IN ANY PARTICULAR LOCALITY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668a

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: This rule would allow take of Bald eagles under the Eagle Protection Act incidental to otherwise lawful activities, in the event the species is removed from the U.S. Endangered Species List.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AH74

1307. • CONFERRING DESIGNATED PORT STATUS ON ANCHORAGE, ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668; 16 USC 704; 16 USC 712; 16 USC 1382; 16 USC 1538(d) to 1538(f); 16 USC 1540(f); 16 USC 3371 to 3378; 16 USC 4223 to 4244; 16 USC 4901 to 4916; 18 USC 42; 31 USC 9701; ...

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: This proposed rule will amend 50 CFR part 14 by adding the port of Anchorage, Alaska to the list of designated ports in section 14.12.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin_adams@fws.gov

RIN: 1018–AH75

DOI—FWS

Proposed Rule Stage

1308. • EXPORT OF CAVIAR: LABELING OF STURGEON AND PADDLEFISH (ACIPENSERIFORMES) CAVIAR CONTAINERS INTENDED FOR INTERNATIONAL TRADE; 50 CFR 23

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action will require the labeling of exports of native American caviar to comply with labeling requirements adopted by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), of which the United States is a party country.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AH78

1309. • MIGRATORY BIRD HUNTING; PROPOSED 2001-2002 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN TRIBAL PROPOSALS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: This action establishes annual migratory game bird hunting regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AH79

1310. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF PROTECTION AREAS FOR THE WEST INDIAN MANATEE IN FLORIDA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, April 2, 2001, settlement agreement. Final, Judicial, September 28, 2001, settlement agreement.

Abstract: The proposed rule, required under a litigation agreement, will identify a number of areas throughout peninsular Florida as either manatee sanctuaries, where all waterborne activities are prohibited, or manatee refuges, where certain waterborne activities are restricted.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH80

1311. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE MOUNTAIN PLOVER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; PL 95-616; 16 USC 712(2); PL 106-108

CFR Citation: 50 CFR 17; 50 CFR 21

Legal Deadline: None

Abstract: We plan to issue a proposed Section 4(d) rule to exempt from the prohibitions of Section 9, the take of Mountain plovers during certain routine farming practices for a 5-year period, during which research will be conducted on the effects of these practices on Mountain plover nesting success.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH84

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1312. SEIZURE AND FORFEITURE PROCEDURES, 50 CFR PART 12

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4222 to 4241; 16 USC 4901 to 4916; 18 USC 42

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: The Service proposes to amend regulations in 50 CFR part 12 that establish procedures relating to property seized or subject to administrative forfeiture under various laws enforced by the Service. This revision is intended to provide uniform guidance for the bonded release, appraisement, administrative proceeding petition for remission, and disposal of items subject to forfeiture. Also these revisions are intended to provide for greater consistency of Service seizure and forfeiture procedures with those of the U.S. Customs Service.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58468
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__adams@fws.gov

RIN: 1018–AC89

DOI—FWS

Final Rule Stage

1313. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This will be a revision to an existing rule that will incorporate decisions/interpretations made at the last nine Conferences of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Timetable:

Action	Date	FR Cite
NPRM	05/08/00	65 FR 26663
Correction	06/29/00	65 FR 40167
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko__saito@fws.gov

RIN: 1018–AD87

1314. PROPOSED SPECIAL RULE WITH THE RECLASSIFICATION OF THE VICUNA FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This special rule will be associated with the proposed reclassification of vicuna from endangered to threatened under the Endangered Species Act. The rule will provide for the conservation of the species and will stipulate conditions that must be met to allow for the importation of commercial specimens of the species (i.e., wool and wool products).

Timetable:

Action	Date	FR Cite
NPRM	09/08/99	64 FR 48743
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__lieberman@fws.gov

RIN: 1018–AE04

1315. INJURIOUS WILDLIFE; ADDITION OF BRUSH-TAILED POSSUM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Service proposes to review the economic and biological information on the brush-tailed possum of genus Trichosurus for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
ANPRM	01/24/96	61 FR 1893
ANPRM Comment Period End	03/25/96	
NPRM	11/02/99	64 FR 59149
NPRM Comment Period End	01/03/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kari Jonell Duncan, Fishery Biologist, Division of Environmental Quality, Department of the Interior, United States Fish and Wildlife Service, Room 810B, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2464
Email: kari__duncan@fws.gov

RIN: 1018–AE34

1316. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; WITHDRAWAL OF PROPOSAL TO LIST AS ENDANGERED OR THREATENED COWHEAD LAKE TUI CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We withdraw our proposal to list as endangered or threatened Cowhead Lake tui chub (Gila bicolor vaccaceps). This species is known from Modoc County, California. Threats include diversion of water, reduction of riparian vegetation, and predation from snakes and birds and pesticides.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15152
NPRM Comment Period End	05/29/98	
NPRM Comment Period Reopened	06/17/98	63 FR 33033
NPRM Comment Period Reopened	02/02/00	65 FR 4940
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AE85

DOI—FWS

Final Rule Stage

1317. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR 16 FRESHWATER MUSSELS AND 1 FRESHWATER SNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to establish nonessential experimental population (NEP) status for 16 freshwater mussels and 1 freshwater snail in the free-flowing reach of the Tennessee River below Wilson Dam, Colbert and Lauderdale Counties, Alabama.

Timetable:

Action	Date	FR Cite
NPRM	05/27/99	64 FR 28779
NPRM Comment Period End	07/26/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AE92

1318. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING OF THE BALD EAGLE THROUGHOUT THE LOWER 48 STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Bald eagle was reclassified to threatened status throughout the lower 48 States in 1995. Continued recovery gains and increasing population trends now make it possible to remove the Bald eagle from the endangered species list.

Timetable:

Action	Date	FR Cite
NPRM	07/06/99	64 FR 36454
NPRM Comment Period End	10/06/99	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF21

1319. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PREBLES MEADOW JUMPING MOUSE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: We plan to make a final determination on the proposed special rule under the Endangered Species Act to allow limited incidental take of the Prebles Meadow jumping mouse in Colorado and Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66777
NPRM Comment Period Reopened	01/29/99	64 FR 4607
NPRM Comment Period Reopened	03/06/99	64 FR 12924
NPRM Comment Period Reopened	03/16/99	
NPRM Comment Period Reopened	06/23/00	65 FR 39117
NPRM Comment Period End	07/24/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martin Miller, Deputy Chief, Division of Consultation, HCPs and Recovery, Department of the Interior, United States Fish and Wildlife Service, Room 434, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF30

1320. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESERT YELLOWHEAD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the desert yellowhead, a plant in Wyoming, under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70745
NPRM Comment Period Reopened	09/05/00	65 FR 53691
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF31

1321. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; MOUNTAIN PLOVER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: The Service proposes to list the mountain plover (Charadrius montanus) as a threatened species under the provisions of the Endangered Species Act of 1973.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7587
NPRM Comment Period End	04/19/99	
Second NPRM	04/19/99	64 FR 19108

DOI—FWS

Final Rule Stage

Action	Date	FR Cite
Second NPRM Comment Period End	06/21/99	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF35

1322. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE CHIRICAHUA LEOPARD FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the Chiricahua leopard frog (Arizona and New Mexico) under the Endangered Species Act, with a special rule.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 37343
NPRM Comment Period Reopened	09/27/00	65 FR 58033
NPRM Comment Period End	10/27/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF41

1323. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REMOVAL OF THE DOUGLAS COUNTY, OREGON, POPULATION OF THE COLUMBIA WHITE-TAILED DEER FROM THE LIST OF ENDANGERED AND THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to remove the Douglas County, Oregon, population of the Columbia white-tailed deer from the list of endangered and threatened species.

Timetable:

Action	Date	FR Cite
NPRM	05/11/99	64 FR 25263
NPRM Comment Period Reopened	11/03/99	64 FR 59729
NPRM Comment Period Reopened	12/29/99	64 FR 72992
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF43

1324. IMPORTATION OF CAPTIVE-BRED EXOTIC BIRDS INTO THE UNITED STATES FROM BREEDING FACILITIES IN OTHER COUNTRIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 4901 to 4916

CFR Citation: 50 CFR 15.41; 50 CFR 15.42

Legal Deadline: None

Abstract: We will establish the information requirements and approval criteria for the import of captive-bred wild exotic birds from overseas breeding facilities. This rule applies primarily to species listed in the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which are otherwise prohibited from import by the Wild Bird Conservation Act of 1992. The rule also describes the process for handling petitions to approve qualifying facilities, establishes the duration of approval, provides for the suspension and revocation of approval, and provides for notice of approved facilities in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	03/17/94	59 FR 12784
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Gabel, Chief, Branch of Consultation and Monitoring, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708
Email: roddy_gabel@fws.gov

RIN: 1018–AF44

1325. POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN ENDANGERED SPECIES DECISIONMAKING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service announce a draft policy for the evaluation of conservation efforts in making listing decisions under the Endangered Species Act of 1973, as amended (Act). The policy identifies criteria to be used in determining whether conservation agreements, conservation plans, management plans, or other formalized conservation efforts remove the need to list a species as threatened or endangered under the Act.

Timetable:

Action	Date	FR Cite
NPRM	06/13/00	65 FR 37102
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF55

1326. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SCALESHELL MUSSEL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, August 13, 2000.

Abstract: The Service proposes to list the scaleshell mussel as endangered under the Endangered Species Act. If listed, protective measures of the Endangered Species Act, implemented in 50 CFR 17, would take effect.

Timetable:

Action	Date	FR Cite
NPRM	08/13/99	64 FR 44171
NPRM Comment Period End	09/27/99	
NPRM Comment Period Reopened	11/29/99	64 FR 66600
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF57

1327. POLICY ON GENERAL CONSERVATION PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 1361 et seq; 16 USC 703 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This policy will contain provisions to issue permits to qualified organizations to conduct general conservation activities over a specified period of time instead of issuing multiple permits for each activity.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy	10/28/99	64 FR 58086
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AF63

1328. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING THE NORTHERN POPULATION OF THE TIDEWATER GOBY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to propose to remove the northern population of the Tidewater goby from the List of Threatened and Endangered Species. Currently, all tidewater Goby populations in California are on the List of Endangered and Threatened Species.

Timetable:

Action	Date	FR Cite
NPRM	06/24/99	64 FR 33816
NPRM Comment Period Reopened	02/15/00	65 FR 7483
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF67

1329. ENDANGERED AND THREATENED WILDLIFE; GOLDEN SEDGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This action proposes endangered status for Carex lutea (golden sedge) under the Endangered Species Act. This rare plant is currently known from only eight populations in Pender and Onslow Counties, NC. If listed as endangered or threatened, the protective regulations of 50 CFR 17 would take effect.

Timetable:

Action	Date	FR Cite
NPRM	08/16/99	64 FR 44470
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF68

1330. U.S. PROPOSALS FOR CITES APPENDIX III; CERTAIN TURTLE SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action would add certain native turtle species to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. If adopted, exports of the species would require CITES documentation from the Service to ensure that foreign countries accept the shipments. This action is

necessary to monitor the impact of trade on the species in an effort to maintain healthy populations.

Timetable:

Action	Date	FR Cite
NPRM	01/26/00	65 FR 4217
NPRM Comment Period End	03/13/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AF69

1331. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR THE PLANT HACKELIA VENUSTA (SHOWY STICKSEED)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The U.S. Fish and Wildlife Service (Service) proposes endangered species status pursuant to the Endangered Species Act (Act) of 1973, as amended, for hackelia venusta (Piper) St. John (showy stickseed). The population has declined to the current size of less than 150 individual plants at a single location in Tumwater Canyon, WA. Threats include competition and shading from native trees and shrubs, encroachment onto the site by nonnative, noxious plant species, wildfire and fire suppression, activities associated with fire suppression, and low seedling establishment.

Timetable:

Action	Date	FR Cite
NPRM	02/14/00	65 FR 7339
NPRM Comment Period End	04/14/00	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF75

1332. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED THREATENED STATUS FOR SPALDING'S CATCHFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 1

Legal Deadline: None

Abstract: The Service proposes to list the Spalding's catchfly pursuant to the Endangered Species Act of 1973 (Act). This plant is currently known from a total of 52 populations. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for the plant.

Timetable:

Action	Date	FR Cite
NPRM	12/03/99	64 FR 67814
NPRM Comment Period Reopened	04/24/00	65 FR 21711
NPRM Comment Period Reopened	09/08/00	65 FR 54472
NPRM Comment Period End	09/22/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF79

1333. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST OHLONE TIGER BEETLE AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Ohlone tiger beetle as endangered under the Endangered Species Act of 1973. This species is known from Santa Cruz County, California, and is threatened by habitat fragmentation and destruction due to urban development and habitat degradation due to invasion of nonnative vegetation.

Timetable:

Action	Date	FR Cite
NPRM	02/11/00	65 FR 6952
NPRM Comment Period End	04/11/00	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF89

1334. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE MISSISSIPPI GOPHER FROG DISTINCT POPULATION SEGMENT OF DUSKY GOPHER FROG AS ENDANGERED.

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Mississippi gopher frog distinct population segment of the dusky gopher frog as endangered under the Endangered Species Act of 1973 (Act). Historically, the Mississippi gopher frog occurred in at least nine counties or parishes across the Mobile River delta in Alabama. Today, it is known from only one site in Harrison County, Mississippi. This proposed rule, if made final, would extend the Act's protection to the Mississippi gopher frog distinct population segment.

Timetable:

Action	Date	FR Cite
NPRM	05/23/00	65 FR 33283
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AF90

1335. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED LISTING OF TWO SOUTHWEST MILKVETCH PLANTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This action will determine the appropriate status of the Holmgren milk-vetch and the Shivwits milkvetch plants that occur in Utah and Arizona. If listed as endangered or threatened, the protective provisions of the Endangered Species Act would apply.

Timetable:

Action	Date	FR Cite
NPRM	04/12/00	65 FR 19728
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG02

1336. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED LISTING OF VERMILION DARTER AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service proposes to list the vermilion darter (Etheostoma chermocki) as endangered under the authority of the Endangered Species Act of 1973, as amended. The vermilion darter is found in only 11.6 kilometers (7.2 miles) of the main stem of Turkey Creek, and the lowermost reaches of Dry Creek and Beaver Creek, within the Turkey Creek drainage, a tributary of the Locust Fork of the Black Warrior River, northeast Jefferson County, Alabama. This proposed rule, if made final, will extend the protection of the Act to the vermilion darter.

Timetable:

Action	Date	FR Cite
NPRM	04/18/00	65 FR 20792
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG05

1337. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF SCUTELLARIA MONTANA (LARGE-FLOWERED SKULLCAP) FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, July 12, 2001.

Abstract: The U.S. Fish and Wildlife Service (Service) plans to make a final determination on the reclassification of Scutellaria montana (large-flowered skullcap) from its present endangered status to threatened status under the authority of the Endangered Species Act of 1973, as amended (Act). This proposed reclassification is based on the substantial improvement in the status of this species. Since listing, 22 additional sites have been discovered, and the total known number of individuals has increased from about 6,700 to more than 48,000.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 42973
NPRM Comment Period End	09/11/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG07

1338. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE PIPING PLOVER IN WINTERING HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, April 30, 2001, Court Order.

Abstract: The U.S. Fish and Wildlife Service (Service) proposes to designate 146 areas along the coasts of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas as critical habitat for the wintering population of the piping plover (Charadrius melodus). This includes approximately 2,691 kilometers (1,672 miles) of shoreline along the Gulf and Atlantic coasts and along margins of interior bays, inlets, and lagoons.

Timetable:

Action	Date	FR Cite
NPRM	07/06/00	65 FR 41781
NPRM Comment Period Extended	08/30/00	65 FR 52691
NPRM Comment Period Extended	10/27/00	65 FR 64414
NPRM Comment Period End	11/24/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG13

1339. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE PIPING PLOVER IN BREEDING HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, April 30, 2001, Court Order.

Abstract: We, the U.S. Fish and Wildlife Service, propose to designate 37 units along the Great Lakes shoreline of Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, and New York as critical habitat under the Endangered Species Act of 1973, as amended, for the Great Lakes breeding population of the piping plover (Charadrius melodus). We propose to designate critical habitat on fewer than 305 km (189 mi) in 27 counties within these States. Within these areas, only the specific locations that have or could develop the physical and biological features required by piping plovers (primary constituent elements) would be considered critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	07/06/00	65 FR 41812
NPRM Comment Period End	09/05/00	
NPRM Comment Period Reopened	09/19/00	65 FR 56530
NPRM Correction	09/28/00	65 FR 58258
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG14

1340. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR 12 SPECIES OF PICTURE-WING FLIES FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, July 31, 2001, Court Order.

Abstract: We propose endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 12 species of Hawaiian picture-wing flies—Drosophila aglaia, D. differens, D. hemipeza, D. heteroneura, D. montgomeryi, D. mulli, D. musaphilia, D. neoclavisetae, D. obatai, D. ochrobasis, D. substenoptera, and D. tarphytrichia. These species are found on one or more of the following Hawaiian Islands: Kauai, Oahu, Molokai, Maui, and Hawaii. These 12 species face substantial threats from one or more of the following: habitat degradation, loss of host plants, biological pest control, and predation from alien arthropods.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3964
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG23

1341. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE RIVERSIDE FAIRY SHRIMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, September 1, 2000, Court Order. Final, Judicial, February 1, 2001, Court Order.

Abstract: We propose to designate critical habitat for the Riverside Fairy shrimp in California.

Timetable:

Action	Date	FR Cite
NPRM	09/21/00	65 FR 57136
NPRM Comment Period Reopened	02/28/01	66 FR 12754
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG34

1342. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE SPRUCE-FIR MOSS SPIDER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, October 1, 2000, Settlement Agreement. Final, Judicial, April 1, 2001.

Abstract: We propose to designate critical habitat for the Spruce-fir Moss spider in North Carolina and Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	10/06/00	65 FR 59798
NPRM Comment Period End	12/05/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG38

DOI—FWS

Final Rule Stage

1343. REGULATIONS FOR SUBSISTENCE HUNTING AND FISHING ON FEDERAL LANDS IN ALASKA FOR THE 2001-2002 SEASONS

Priority: Routine and Frequent

Legal Authority: 16 USC 3124

CFR Citation: 50 CFR 100; 36 CFR 242

Legal Deadline: None

Abstract: This proposed rule will establish seasons and harvest limits, and methods and means for subsistence taking of wildlife for subsistence hunting and fishing on Federal lands in Alaska for the 2001-2002 seasons.

Timetable:

Action	Date	FR Cite
NPRM	08/24/00	65 FR 51647
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William Knauer, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503 Phone: 907 786-3888

RIN: 1018–AG55

1344. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATIONS OF WHETHER DESIGNATION OF CRITICAL HABITAT IS PRUDENT FOR 81 PLANTS AND PROPOSED DESIGNATIONS FOR 76 PLANTS FROM KAUAI AND NIIHAU, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500; 16 USC 1531 to 1544

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, November 30, 2001, Court Order.

Abstract: We propose to designate critical habitat for 77 plants from the islands of Kauai and Niihau, Hawaii.

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66807
Correction	11/13/00	65 FR 67796
NPRM Comment Period Reopened	03/07/01	66 FR 13691
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG71

1345. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE QUINO CHECKERSPOT BUTTERFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 1, 2001, Court Order.

Abstract: We propose to determine critical habitat for the Quino Checkerspot butterfly in California.

Timetable:

Action	Date	FR Cite
NPRM	02/07/01	66 FR 9475
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH03

1346. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR CHORIZANTHE PUNGENS VAR. PUNGENS (MONTEREY SPINEFLOWER)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50.CFR 17

Legal Deadline: NPRM, Judicial, January 15, 2001, Settlement agreement.

Abstract: We propose to determine critical habitat for the Monterey spineflower in Southern California.

Timetable:

Action	Date	FR Cite
NPRM	02/15/01	66 FR 10440
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH04

1347. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATION OF CRITICAL HABITAT FOR THE WENATCHEE MOUNTAINS CHECKERMALLOW, A PLANT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, December 1, 2000, Court Order to complete by 12/01/00.

Abstract: We propose to determine critical habitat for the Wenatchee checkermallow in Washington.

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4783
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH05

DOI—FWS

Final Rule Stage

1348. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE KOOTENAI RIVER WHITE STURGEON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, December 1, 2000, Settlement agreement.

Abstract: We propose to determine critical habitat for the Kootenai River White sturgeon in Idaho and Montana.

Timetable:

Action	Date	FR Cite
NPRM	12/21/00	65 FR 80697
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH06

1349. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE SAN BERNARDINO KANGAROO RAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, December 1, 2000, Court Order.

Abstract: We propose to determine critical habitat for the San Bernardino Kangaroo rat in California as the result of litigation.

Timetable:

Action	Date	FR Cite
NPRM	12/08/00	65 FR 77177
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH07

1350. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATIONS OF WHETHER DESIGNATION OF CRITICAL HABITAT IS PRUDENT FOR 20 PLANTS AND PROPOSED DESIGNATIONS FOR 32 PLANTS FROM MOLOKAI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2000, Proposed for 100 Hawaiian plants.
Final, Judicial, November 30, 2001, Final for 100 Hawaiian plants.

Abstract: We propose to determine critical habitat for 50 plants on Molokai, Hawaii, and 2 plants in the Maui/NUI Complex, Hawaii as the result of litigation.

Timetable:

Action	Date	FR Cite
NPRM	12/29/00	65 FR 83157
NPRM Comment Period Extended	02/22/01	66 FR 11132
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH08

1351. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PRUDENCY AND CRITICAL HABITAT DESIGNATION FOR A MOLLUSK, THE APPALACHIAN ELKTOE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 1, 2001, Settlement agreement.

Abstract: We propose to designate critical habitat for the Appalachian elktoe, a mollusk, in North Carolina and Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	02/08/01	66 FR 9540
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH33

1352. INTERAGENCY POLICY ON THE PRESCRIPTION OF FISHWAYS UNDER SECTION 18 OF THE FEDERAL POWER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 791(a) et seq

CFR Citation: None

Legal Deadline: None

Abstract: This will invite public comment on proposed policy guidance for us and the National Marine Fisheries Service regarding the prescription of fishways under section 18 of the Federal Power Act, for non-Federal hydropower projects licensed by the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
Notice	12/22/00	65 FR 80898
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dr. Benjamin Tuggle, Chief, Division of Federal Program Activities, Department of the Interior, United States Fish and Wildlife Service, Room 400, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2161
Fax: 703 358-1869

RIN: 1018–AH42

1353. ENDANGERED AND THREATENED WILDLIFE; ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF WHOOPING CRANES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to propose to establish a new migratory population of Whooping cranes between Wisconsin and Florida as a nonessential experimental population.

Timetable:

Action	Date	FR Cite
NPRM	03/09/01	66 FR 14107
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH46

1354. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE BAY CHECKERSPOT BUTTERFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, September 22, 2000, Settlement Agreement.

Abstract: We propose to designate critical habitat for the Bay Checkerspot butterfly in California.

Timetable:

Action	Date	FR Cite
NPRM	10/16/00	65 FR 61217
NPRM Comment Period End	12/15/00	
NPRM	02/09/01	66 FR 9683
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH61

1355. CHANGES IN THE LIST OF SPECIES IN APPENDICES TO THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: We are adding changes in the list of species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), based upon decisions made at the Eleventh Conference of the Parties to CITES (COP11), in Gigiri, Kenya.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AH63

1356. • ADDITION OF THE BASKING SHARK AND THE STAG BEETLE TO APPENDIX III UNDER CITES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action will amend the regulations in 50 CFR part 23 by adding the Basking shark and the Stag beetle to appendix III under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AH66

1357. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE DOLLY VARDEN AS A THREATENED SPECIES IN WASHINGTON DUE TO SIMILARITY OF APPEARANCE TO BULL TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to list the Dolly Varden (Salvelinus malma) as threatened under the "Similarity of Appearance" provision of the Endangered Species Act in Washington, due to its similarity of appearance to the Bull trout.

Timetable:

Action	Date	FR Cite
NPRM	01/09/01	66 FR 1628
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH68

1358. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED DETERMINATIONS OF PRUDENCY AND PROPOSED DESIGNATIONS OF CRITICAL HABITAT FOR PLANTS FROM MAUI AND KAHOOLAWE, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, November 30, 2000, 100 Hawaii plants. Final, Judicial, November 30, 2001, 100 Hawaii plants.

Abstract: We propose to determine critical habitat for approximately 63 plants from Maui and Kahoolawe, Hawaii.

Timetable:

Action	Date	FR Cite
NPRM	12/18/00	65 FR 79191
NPRM	02/22/01	66 FR 11131
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH70

1359. • IMPORT OF POLAR BEAR TROPHIES FROM CANADA: CHANGE IN THE FINDING FOR THE M'CLINTOCK CHANNEL POPULATION AND REVISION OF REGULATIONS IN SECTION 18.30

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18.30

Legal Deadline: None

Abstract: This emergency interim rule finds that the M'Clintock Channel polar bear population no longer meets the import requirements of the Marine Mammal Protection Act and amends the regulations to reflect that bears sport hunted in this population after the 1999/2000 Canadian hunting season will no longer be eligible for import under the 1997 finding which approved this population for multiple harvest seasons. In addition, the rule updates the regulations to reflect the new territory of Nunavut and notifies the public on the lifting by Canada of the harvest moratorium in the Viscount Melville Sound polar bear population.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/10/01	66 FR 1901
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AH72

1360. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REOPENING OF COMMENT PERIOD ON THE THREATENED STATUS OF THE SACRAMENTO SPLITTAIL (POGONICHTHYS MACROLEPIDOTIS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, September 22, 2000, Settlement Agreement.

Abstract: We were ordered by a court to reanalyze the information concerning the listing decision for the Sacramento splittail. Therefore, we have reopened the comment period for this issue. The previous regulatory action that finalized the listing decision for the Sacramento splittail was assigned RIN 1018-AC26, and was completed with the publication of the final rule designating the Sacramento splittail as a threatened species, effective March 10, 1999 (64 FR 5963). Since RIN 1018-AC26 has been completed, we are considering the reopening of the comment period on this issue to be a new regulatory action, which has been assigned this current RIN.

Timetable:

Action	Date	FR Cite
Comment Period Extended	01/12/01	66 FR 2828
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH73

1361. • SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPART C AND SUBPART D — 2002 SUBSISTENCE TAKING OF FISH AND SHELLFISH REGULATIONS

Priority: Routine and Frequent

Legal Authority: 16 USC 3124

CFR Citation: 50 CFR 100; 36 CFR 242

Legal Deadline: None

Abstract: This proposed rule will revise the regulations for seasons, harvest limits, methods, and means related to taking of fish and shellfish for subsistence uses during the 2002 regulatory year. The rulemaking is necessary because subpart D is subject to an annual review cycle.

Timetable:

Action	Date	FR Cite
NPRM	02/13/01	66 FR 10161
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William Knauer, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503

DOI—FWS — Final Rule Stage

Phone: 907 786-3888

RIN: 1018–AH77

1362. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR POLYGONUM HICKMANII (SCOTS VALLEY POLYGONUM) AND CHORIZANTHE ROBUSTA VAR. HARTWEGII (SCOTS VALLEY SPINEFLOWER)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 1, 2001, Settlement Agreement.
Final, Judicial, October 19, 2001, Settlement Agreement.

Abstract: We propose to designate critical habitat for the Scotts Valley polygonum and the Scotts Valley spineflower.

Timetable:

Action	Date	FR Cite
NPRM	02/15/01	66 FR 10469
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH82

1363. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR CHORIZANTHE ROBUSTA VAR. ROBUSTA (ROBUST SPINEFLOWER)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, February 1, 2001, Settlement Agreement.
Final, Judicial, October 19, 2001, Settlement Agreement.

Abstract: We propose to designate critical habitat for the Robust spineflower in California.

Timetable:

Action	Date	FR Cite
NPRM	02/15/01	66 FR 10419
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH83

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Long-Term Actions

1364. GENERAL PROVISIONS AND GENERAL PERMIT PROCEDURES - 50 CFR PART 13

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 13

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR part 13 which provides uniform permit procedures relating to the application, issuance renewal, suspension, revocation, and general administration of Service permits. The Service's criteria for suspension and revocation of permits and its review procedures will also be revised. Permit fee rates are amended to increase rates for the cost of processing certain permits. This change is necessary in order to recover a larger percentage of the cost of processing the permits. Several new permit fee exemptions will be added.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46087
NPRM Correction	09/27/95	60 FR 49976
NPRM Comment Period Reopened	11/15/95	60 FR 57386
Second NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AC57

1365. CRITICAL HABITAT DESIGNATION FOR THE LOST RIVER AND SHORTNOSE SUCKERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed that will identify critical habitat for the Lost River and Shortnose suckers, two species federally listed as endangered. Both species are endemic to the Upper Klamath River Basin of Oregon and California.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61744
NPRM Comment Period End	01/30/95	60 FR 61744
Second NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AC90

DOI—FWS — Long-Term Actions

1366. MARINE MAMMAL PROTECTION ACT; UNINTENTIONAL TAKE OF MARINE MAMMALS BY HARASSMENT ONLY IN ACTIVITIES OTHER THAN COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act, as amended in April 1994, authorizes the Secretary to allow U.S. citizens to incidentally unintentionally take small numbers of marine mammals by harassment only for periods up to 1 year during specified activities other than commercial fishing. This regulatory action would implement this statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Department of the Interior, United States Fish and Wildlife Service, Room 840, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1718

RIN: 1018–AD18

1367. MARINE MAMMAL PROTECTION ACT; MEASURES TO SAFELY DETER MARINE MAMMALS, INCLUDING THREATENED AND ENDANGERED MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act, as amended, requires the Service to develop a list of guidelines to safely deter marine mammals for which the Service has statutory management responsibility, including threatened and endangered species. Such measures of deterrence are for use in protecting: (1) Fishing gear or catch; (2) private property; (3) personal human safety; or (4) public property. This regulatory action would implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Department of the Interior, United States Fish and Wildlife Service, Room 840, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1718

RIN: 1018–AD19

1368. TAXONOMIC CHANGE FROM SUBSPECIES TO VERTEBRATE POPULATION SEGMENT FOR THE VIRGIN RIVER CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Recent taxonomic work concluded that specific rank is warranted for the Virgin River chub, a federally listed endangered species found in the Virgin River system of Arizona, Nevada, and Utah. Additionally, researchers concluded that the chub in the Muddy River of Nevada is conspecific with the Virgin River chub. Previously this distinctive population of the Virgin River chub, a category 2 candidate for Federal listing, was considered a separate, unnamed subspecies of roundtail chub, and was referred to as the Moapa roundtail chub. Because of this recent taxonomic work, the Service accepts that specific rank is warranted for the Virgin River chub and proposes to change the listing of the Virgin River chub in the Virgin River from a subspecies to a vertebrate population segment in the List of Endangered and Threatened Wildlife. In addition, the Service initiates a status review of the Virgin River chub in the Muddy River to determine whether this vertebrate population warrants listing as a threatened or endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/24/95	60 FR 37866
NPRM Comment Period End	09/22/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AD22

1369. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF TEN FRESHWATER MUSSELS IN HOLSTON RIVER SYSTEM IN TN AND VA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to reintroduce ten mussels (Appalachian monkeyface pearlymussel, cracking pearlymussel, Cumberland monkeyface pearlymussel, dromedary pearlymussel, fanshell orange-foot, pimpleback pearlymussel, ring pink mussel, rough pigtoe, and tan riffleshell) into historic habitat in the next 2 to 3 years. The mussels to be used in the reintroduction will include artificially propagated juveniles and adults taken from the wild, under certain circumstances. Mussel propagation technology currently is being developed using nonendangered surrogate species. The 4(d) rule will exempt unavoidable and unintentional take, such as fishing, boating, trapping, or wading.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of

Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AE01

1370. EXPORTATION OF MARINE MAMMAL PRODUCTS FOR CULTURAL EXCHANGE, 50 CFR PART 18

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This regulatory action concerns a modification to export marine mammal products and to Native exemption provisions in the Marine Mammal Protection Act. The action will be made to allow for cultural exchange of marine mammal products between Natives of Alaska, Greenland, Russia and Canada.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin_adams@fws.gov

RIN: 1018–AE33

1371. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; IMPORT AND EXPORT PERMITS; BANDING OR MARKING PERMITS; AND SCIENTIFIC COLLECTING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the Migratory Bird Permit Regulations providing permits for the taking, possession, transportation, sale, purchase, importation, exportation, and banding or marking of migratory birds. The Service is revising the requirements for scientific collecting, banding or marking permits and import and export permits.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AE63

1372. MIGRATORY BIRD PERMITS; INTRODUCTION, GENERAL REQUIREMENTS AND EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the migratory-bird permit regulations providing permits for the taking, possession, transportation, sale, purchase, and barter of migratory birds. The Service is revising these permit regulations to update them, simplify language, and ensure consistency in text between all parts and sections.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AE64

1373. IMPLEMENTATION OF THE 1994 AMENDMENTS TO THE MARINE MAMMAL PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1374

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: Section 104 of the Marine Mammal Protection Act authorizes the Director of the Service, acting on behalf of the Secretary of the Interior, to issue permits for activities otherwise prohibited by the Act. Regulations will be developed for issuance of permits and the 1994 amendments to the Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AE72

1374. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED MARIANA FRUIT BAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened the Mariana fruit bat (Pteropus mariannus mariannus). This species is known from the Commonwealth of the Northern Mariana Islands, Saipan, Tinian, and Agiguan Islands. Threats include deforestation, overhunting, poaching, and snake predation.

Timetable:

Action	Date	FR Cite
NPRM	03/26/98	63 FR 14641
NPRM Comment Period Reopened	05/29/98	63 FR 29367
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AE83

1375. CONSIDERATION OF LISTING THE GREEN IGUANA (IGUANA IGUANA) AS INJURIOUS, PURSUANT TO THE LACEY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Humane Society of the United States requested that the Service list the green iguana as injurious under the Lacey Act. Iguanas are released into the wild by their owners for various reasons. These iguanas may be carriers of Salmonella bacteria and could negatively impact native populations. A notice requesting information will be published so that data can be gathered as to the injurious nature of the iguanas. This information will be analyzed to determine whether listing is warranted.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kari Jonell Duncan, Fishery Biologist, Division of Environmental Quality, Department of the Interior, United States Fish and Wildlife Service, Room 810B, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2464
Email: kari_duncan@fws.gov

RIN: 1018–AF08

1376. RECLASSIFICATION OF MORELET'S CROCODILE (CROCODYLUS MORELETI) FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This rule reclassifies Morelet's crocodile from endangered to threatened with a special rule to allow for the importation of specimens from captive-breeding operations that have been registered with the CITES Secretariat. Only one such facility in Mexico has been registered. Reclassification will be based on a review of the population status and management, including protected status of the species in range countries.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan_lieberman@fws.gov

RIN: 1018–AF10

1377. TAKING OF MARINE MAMMALS BY LEVEL B HARASSMENT; ISSUANCE OF GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH AND PERMITS FOR PHOTOGRAPHY, EDUCATIONAL, AND COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-238; 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to issue regulations that would allow us to authorize harassment but not injury or death of marine mammals under our jurisdiction, for scientific research and for photography for educational or commercial purposes. This rule would further implement the 1994 Amendments to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Division of Management Authority, Department of the Interior, United States Fish and Wildlife Service, Room 700, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2104
Email: teiko_saito@fws.gov

RIN: 1018–AF26

1378. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; SPECIAL PURPOSE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2); PL 95-616

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the migratory bird permit regulations providing permits for the taking, possession, transportation, sale, purchase, and barter of migratory birds. The Service is revising and updating the requirements for special purpose permits. Due to the large number of permits issued under "special purpose," the Service proposes to create three new sections for specific types of the most frequently issued special purpose permits: Possession, Salvage, and Migratory Game Birds.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AF28

1379. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; COASTAL CUTTHROAT TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Together with the National Marine Fisheries Service, we will

determine whether to list the southeastern Washington/Columbia River population of the Coastal Cutthroat trout under the provisions of the Endangered Species Act. We will also determine whether to remove from the list the Umpqua River population.

Timetable:

Action	Date	FR Cite
NPRM	04/05/99	64 FR 16397
NPRM Comment Period Reopened	04/14/00	65 FR 20123
Final Rule - Umpqua Population	04/26/00	65 FR 24420
NPRM Comment Period Reopened	06/02/00	65 FR 35315
NPRM - Clarification	07/14/00	65 FR 43730
NPRM Comment Period Reopened	09/06/00	65 FR 53974
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF45

1380. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ASIAN BONYTONGUE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will determine whether to reclassify the Asian bonytongue, a freshwater fish popular in the aquarium trade, from endangered to threatened with a special rule to allow the importation of specimens from operations that are registered with the CITES Secretariat. Several facilities have been registered in Indonesia, Malaysia, and Singapore. Our decision on whether to reclassify the species, only some of the populations, or to take no action at all, will be based upon a review of the population status and management, including the protected status of the species in the the range countries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AF48

1381. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; GUIDANCE FOR CONDUCTING SECTION 7 CONSULTATIONS FOR THE INDIANA BAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: None

Legal Deadline: None

Abstract: We will propose guidance to assist our field offices in addressing whether: (1) the Indiana bat is present; (2) a proposed project is likely to affect the species directly; and (3) the project is likely to affect the species' habitat.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martin Miller, Deputy Chief, Division of Consultation, HCPs and Recovery, Department of the Interior, United States Fish and Wildlife Service, Room 434, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF50

1382. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR SOUTHERN CALIFORNIA DISTINCT VERTEBRATE POPULATION SEGMENT (DPS) OF MOUNTAIN YELLOW-LEGGED FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The U.S. Fish and Wildlife Service proposes to list the southern California distinct vertebrate population segment (DPS) of mountain yellow-legged frog as endangered under the Endangered Species Act of 1973 (Act). This proposal, if made final, would extend the Act's protection to this species.

Timetable:

Action	Date	FR Cite
NPRM	12/22/99	64 FR 71714
NPRM Comment Period End	02/22/00	
NPRM Comment Period Reopened	03/20/00	65 FR 14936
NPRM Comment Period Reopened	05/19/00	65 FR 31870
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF83

1383. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR COOK'S LOMATIUM AND LARGE FLOWERED WOOLY MEADOWFOAM

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1531 et seq

CFR Citation: 15 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list two plants, Cook's lomatium and large-flowered wooly meadowfoam, as endangered species under the Endangered Species Act of 1973 (Act). Both of these plants inhabit seasonally wet habitats known as vernal pools in the Agate Desert, an area north of Medford (Jackson County), Oregon. This proposal, if made final, would extend the Act's protection to these plants.

Timetable:

Action	Date	FR Cite
NPRM	05/15/00	65 FR 30941
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF84

1384. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR SAN DIEGO AMBROSIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 10, 1999.

Abstract: The Service proposes to list San Diego ambrosia as endangered under the Endangered Species Act of 1973 (Act). This plant is restricted to San Diego and Riverside Counties, California and Baha California, Mexico from Colonet to Lake Chapala. This proposed rule, if made final, would extend protection under the Act to the San Diego ambrosia.

Timetable:

Action	Date	FR Cite
NPRM	12/29/99	64 FR 72993
NPRM Comment Period End	02/28/00	
NPRM	03/30/00	65 FR 16869
NPRM Comment Period End	05/30/00	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF86

1385. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF CRITICAL HABITAT DESIGNATION FOR THE SANTA ANA SUCKER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to designate critical habitat for the Santa Ana sucker. Remnant populations of the Santa Ana sucker occur in the headwaters of the San Gabriel River system, a lowland stretch of the Santa Ana River, and the lower reach of Big Tujunga Creek (a tributary of the Los Angeles River), in Los Angeles, Orange, Riverside, and San Bernardino counties. An introduced population also occurs in the Santa Clara River drainage system in Ventura and Los Angeles counties. The Santa Clara population is not being listed, due to its introduced status.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AF94

1386. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED LISTING OF BUENA VISTA LAKE SHREW AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, June 1, 2001.

Abstract: The Service proposes to list the Buena Vista Lake shrew (Sorex ornatus relictus) as endangered under the authority of the Endangered Species Act of 1973 without critical habitat. The Buena Vista Lake shrew is found in marshes and sloughs within a site formerly known as the Kern Lake Preserve, Kern County, California. This subspecies may also occur in the Tulare Basin and at Kern National Wildlife Refuge, but its status is unknown. The only known population occurs on privately owned land that currently has no Federal protection.

Timetable:

Action	Date	FR Cite
NPRM	06/01/00	65 FR 35033
NPRM Comment Period Reopened	08/14/00	65 FR 49530
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG04

1387. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR THREE PLANTS FROM THE MARIANA ISLANDS AND GUAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, June 1, 2001.

Abstract: We, the U.S. Fish and Wildlife Service (Service), propose endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for three plants (no common names): Nesogenes rotensis, Osmoxylon mariannense, and Tabernæmontana rotensis. Nesogenes rotensis and O. mariannense are found only on the island of Rota in the U.S. Commonwealth of the Northern Mariana Islands (CNMI). Tabernaemontana rotensis occurs on both Rota and the United States Territory of Guam.

Timetable:

Action	Date	FR Cite
NPRM	06/01/00	65 FR 35025
NPRM Comment Period Reopened	10/30/00	65 FR 64649
NPRM Comment Period End	11/29/00	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and

Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG09

1388. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DETERMINATION OF ENDANGERED STATUS AND DESIGNATION OF CRITICAL HABITAT FOR THE GILA CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, August 18, 2001, Court Order.

Abstract: We are proposing endangered status and the designation of critical habitat for the Gila chub.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG16

1389. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING AND DESIGNATION OF CRITICAL HABITAT FOR THE SLICKSPOT PEPPERGRASS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing of the Slickspot Peppergrass as endangered or threatened, with a designation of critical habitat in Idaho.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG35

1390. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE HINES EMERALD DRAGONFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Hines Emerald Dragonfly in Illinois, Michigan, Missouri and Wisconsin.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG37

1391. MIGRATORY BIRD PERMITS; DETERMINATION THAT THE STATE OF CONNECTICUT MEETS FEDERAL FALCONRY STANDARDS AND AMENDED LIST OF STATES MEETING FEDERAL FALCONRY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712 (2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: We propose to add the State of Connecticut to the list of States whose falconry laws meet or exceed Federal falconry standards. This action will enable residents of the State of Connecticut to apply for a Federal/State falconry permit and to practice falconry in the State.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AG42

1392. REGULATIONS TO IMPLEMENT THE CONSERVATION AND REINVESTMENT ACT (CARA)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: If CARA becomes an act of Congress, these regulations will implement CARA. These regulations would establish a grant program to distribute $350 million/year for 15 years to the States based upon revenue generated from coastal drilling.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jack Hicks, Management Analyst, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1851
Email: jack__hicks@fws.gov

RIN: 1018–AG43

1393. CLARIFICATION OF THE DEFINITION OF "LANDS" FOR NATIONAL WILDLIFE REFUGE SYSTEM LANDS IN ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 410(hh) to 3233; 16 USC 668(dd) to 668(ee); 16 USC 460(k) to 460(k)(4)

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: This proposed rule will provide notice that as a result of the Ninth Circuit Decision in Alaska v. Babbitt, 72 F.3d 698 (9th Cir. 1996), we intend to clarify that the definition of the term "Federal Lands" means lands and waters and interest therein that title to which is in the United States. We propose to revise the definitions contained in 50 CFR 36.1(b) and 36.2 to clarify this point of law.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: George Constantino, National Wildlife Refuge System, Department of the Interior, United States Fish and Wildlife Service, 1011 E Tudor Road, Anchorage, AK 99503
Phone: 907 786-3499

RIN: 1018–AG45

1394. NATIONAL WILDLIFE REFUGE SYSTEM; HABITAT MANAGEMENT PLANNING POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668(dd) to 668(ee)

CFR Citation: None

Legal Deadline: None

Abstract: This proposed policy will address habitat management planning on refuges in the context of the National Wildlife Refuge System Improvement Act of 1997.

Timetable:

Action	Date	FR Cite
Proposed Policy	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth, Deputy Chief, National Wildlife Refuge System, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AG48

1395. MIGRATORY BIRD PERMITS; ADVANCE NOTICE OF PROPOSED RULEMAKING TO DEVELOP ADDITIONAL PERMITTING REGULATIONS TO GOVERN TAKE OF MIGRATORY BIRDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 703 to 712

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: Under the Migratory Bird Treaty Act, it is unlawful to take migratory birds protected by the statute except as permitted by regulations. Our existing permit regulations focus on activities where the take of migratory birds is the purpose of the activity, such as collecting wild birds for purposes of scientific research or education. A vast array of activities outside the scope of our existing permit regulations take or kill migratory birds. We plan to publish in the Federal Register a proposed rule to authorize take by Federal agencies for activities not covered by our existing permit regulations, provided they comply with certain conditions, until we can develop new permit regulations. We are evaluating the need to develop additional permit regulations to address similar activities by the private sector. This notice would request comments from the public on this issue.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AG57

1396. ADMINISTRATIVE REQUIREMENTS FOR FEDERAL AID IN FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: These regulations will implement the Federal Aid Improvement Act of 2000 (Act).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Jack Hicks, Management Analyst, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1851
Email: jack__hicks@fws.gov

RIN: 1018–AG60

1397. UPDATING THE LIST OF FISH DISEASES OF CONCERN AND IMPROVING PROCEDURES FOR PREVENTING THEM FROM ENTERING THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16.13

Legal Deadline: None

Abstract: The existing list of fish diseases in section 16.13 does not accurately reflect the current complete list of diseases of concern, nor does it reflect procedures to exclude them from the United States. Revisions will be made to provide a more pro-active approach to protecting our aquatic resources.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Thomas A. Bell, Fish Biologist, Division of the National Fish Hatchery System, Department of the Interior, United States Fish and Wildlife Service, ARLSQ 820, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1856
Email: thomas_a_bell@fws.gov

RIN: 1018–AG61

1398. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL LADYSLIPPER ORCHIDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will consider adding species from the genus Paphiopedilum (Tropical ladyslipper orchids) from southeast Asia, to the list of Endangered and Threatened Wildlife and Plants due to severe overcollection for the horticulture trade. Several recently discovered species, especially from Vietnam, have been subject to high levels of illegal trade, and some species have been extirpated from their natural ranges.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG62

1399. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 5-YEAR REVIEW OF FOREIGN PSITTACINE BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory, ESA requires review of listings every 5 years.

Abstract: We will review the current list of foreign species of psittacine birds to determine if any should be reclassified or delisted, and we will also consider whether additional species should be included in the list of Endangered and Threatened Wildlife and Plants.

Timetable:

Action	Date	FR Cite
Notice	09/22/00	65 FR 57363
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG63

1400. EXPORT OF BOBCATS TAKEN IN PENNSYLVANIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: We will consider whether to authorize the export of skins of bobcat taken in Pennsylvania, and thereby add Pennsylvania to the list of States and Indian tribes for which exports are approved according to the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Dr. Susan Lieberman, Chief, Division of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

RIN: 1018–AG67

1401. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE STEPHEN'S KANGAROO RAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Stephen's Kangaroo Rat in California.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG74

1402. ENDANGERED AND THREATENED WILDLIFE AND PLANTS, LISTING THE TAHOE YELLOWCRESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose listing the Tahoe yellowcress as threatened or endangered with critical habitat in California and Nevada.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG76

1403. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE GENTNER'S FRITILLARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for Gentner's fritillary in Oregon.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG78

1404. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE FENDER'S BLUE BUTTERFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing to designate critical habitat for Fender's Blue butterfly in Oregon.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG79

1405. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE WILLIAMETE DAISY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Williamete daisy in Oregon.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG80

1406. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE KINCAID'S LUPINE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for Kincaid's lupine in Oregon and Washington.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG81

1407. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE NORTHERN WORMWOOD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing, with critical habitat determination in Oregon and Washington, of the Northern wormwood in 50 CFR 17.12, Endangered and Threatened Plants.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AG83

1408. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE SAN DIEGO AMBROSIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the San Diego ambrosia, a plant, in California.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG84

1409. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE WASHINGTON GROUND SQUIRREL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing of the Washington ground squirrel as endangered or threatened in Oregon and Washington.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG85

1410. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE OREGON SPOTTED FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose the listing of the Oregon spotted frog as endangered or threatened, with critical habitat, in Oregon and Washington.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG86

1411. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE UMBTANUM DESERT BUCKWHEAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to list the Umbtanum Desert buckwheat, in Washington, as threatened in 50 CFR 17.12, Endangered and Threatened Plants.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG87

1412. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE NORTHERN IDAHO GROUND SQUIRREL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Northern Idaho ground squirrel.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG89

1413. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE RIPARIAN BRUSH RABBIT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Riparian brush rabbit in California.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG90

1414. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE RIPARIAN WOODRAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Riparian woodrat in California.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG91

1415. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE MARDON SKIPPER (POLITES MARDON)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing of the Mardon Skipper as threatened or endangered, including a critical habitat determination in California, Oregon and Washington.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG95

1416. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE COASTAL CUTTHROAT TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Coastal cutthroat trout in California, Oregon and Washington.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AG97

1417. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE NORTHERN SEA OTTER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose including the Northern sea otter, along the Alaskan coast, in the list of endangered and threatened species. If prudent, we will also designate critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH12

1418. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT DESIGNATION FOR THE DESERT MILK-VETCH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Desert milk-vetch in Utah.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH14

1419. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE MOUNTAIN PLOVER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Mountain plover where prudent within its range which includes Nebraska, Colorado, Kansas, Montana, New Mexico, North Dakota, Oklahoma, Texas and Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH15

1420. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE KANAB AMBERSNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Kanab ambersnail, in Arizona and Utah, and if prudent, we will designate critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH16

1421. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE CANADIAN LYNX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat, if prudent, for the Canadian lynx, in Colorado, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New York, Oregon, Utah, Vermont, Washington and Wisconsin.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH17

1422. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE COLORADO BUTTERFLY PLANT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Colorado Butterfly plant in Nebraska, Colorado and Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH18

1423. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING HIRST'S PANIC GRASS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing of Hirst's Panic grass as threatened or endangered, and if prudent, the determination and designation of critical habitat in Delaware, Georgia, North Carolina and New Jersey.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH19

1424. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE ATLANTIC SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to designate critical habitat for the Atlantic salmon.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH20

1425. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THREE SPECIES OF BEACH MOUSE IN ALABAMA AND FLORIDA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to revise the critical habitat designations for 3 species of Beach mouse in Alabama and Florida.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH21

1426. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE ALABAMA STURGEON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-25 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Alabama sturgeon in Alabama and Mississippi.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH22

1427. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR 11 MUSSELS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for 11 mussels: Southern acornshell, Ovate clubshell, Southern clubshell, Upland combshell, Triangular kidneyshell, Alabama moccasinshell, Coosa moccasinshell, Orange-nacre musket, Dark pigtoe, Southern pigtoe, Five-lined pocketbook.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH23

1428. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE GOLDLINE DARTER AND THE BLUE SHINER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing a critical habitat determination for the Goldline darter and Blue shiner, 2 freshwater fishes, in Alabama, Georgia and Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203 Phone: 703 358-2171

RIN: 1018–AH24

1429. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING AND CRITICAL HABITAT FOR THE HIGHLANDS TIGER BEETLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing, with a critical habitat determination in Florida, for the Highlands Tiger beetle.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH25

1430. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE FLORIDA SEMAPHORE CACTUS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose including, with critical habitat, the Florida Semaphore cactus on the list of endangered and threatened species.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH26

1431. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE PLANT SPECIES CORDIA RUPICOLA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing, with a critical habitat determination in Puerto Rico, of the plant species Cordia rupicola.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH27

1432. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE PLANT SPECIES AGAVE EGGERSIANA AND SOLANIUM CONOCARPUM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We announce a 12-month finding and, if warranted, propose the listing of 2 plant species, Agave eggersiana and Solanium conocarpum, including critical habitat determination, in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH28

1433. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATION OF CRITICAL HABITAT FOR THE SCALESHELL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to determine critical habitat for the Scaleshell, a mollusk, in Arkansas, Missouri and Oklahoma.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH35

1434. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING TWO SNAILS IN TEXAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose the listing of the Diamond Y springsnail and the Gonzalez springsnail as threatened or endangered, including a determination of critical habitat in Texas.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH38

1435. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE ACUNA CACTUS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing of the Acuna cactus as threatened or endangered, including a critical habitat determination in Arizona.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH39

1436. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF THE SACRAMENTO MOUNTAIN CHECKERSPOT BUTTERFLY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: If warranted, we will propose the listing of the Sacramento Mountain Checkerspot butterfly as threatened or endangered including a critical habitat determination in New Mexico.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH40

1437. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE PAGE SPRINGSNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625 100 Stat. 3500

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We are proposing the listing of the Page springsnail as threatened or endangered, including a critical habitat determination in Arizona.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH41

1438. ENDANGERED AND THREATENED WILDLIFE; RECLASSIFICATION OF THE MARIANNA FRUIT BAT ON GUAM FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We plan to reclassify the Marianna Fruit bat on Guam from endangered to threatened.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener, Endangered Species: Division of Consultation, HCP's, Recovery and State Grants, Department of the Interior, United States Fish and Wildlife Service, Room 420, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH55

1439. • MIGRATORY BIRD PERMITS; REVIEW OF FALCONRY EDUCATION PERMITS; 50 CFR 21

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: We solicited comments to help us determine whether to amend the falconry regulations to allow for falconry schools.

Timetable:

Action	Date	FR Cite
Notice	11/20/00	65 FR 69726
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon__andrew@fws.gov

RIN: 1018–AH71

1440. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR POLYGONUM HICKMANII (SCOTTS VALLEY POLYGONUM)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We propose to list the Scotts Valley polygonum as an endangered species.

Timetable:

Action	Date	FR Cite
NPRM	11/09/00	65 FR 67335
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin, Chief, Office of Conservation and Classification, Department of the Interior, United States Fish and Wildlife Service, Room 452, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2171

RIN: 1018–AH76

1441. • NATIONAL WILDLIFE REFUGE SYSTEM; MISCELLANEOUS RECEIPTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668(dd) to 668(ee)

CFR Citation: None

Legal Deadline: None

Abstract: This action provides specific guidance on the management and oversight of privately owned mineral rights within the National Wildlife Refuge System. The chapter clarifies the rights, responsibilities and options of both the Refuge Manager and the private holder of the reserved/excepted mineral rights.

Timetable:

Action	Date	FR Cite
Proposed Notice	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: James W. Kurth, Deputy Chief, National Wildlife Refuge System, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AH81

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1442. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	02/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AB97

1443. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF THE LOCH LOMOND COYOTE THISTLE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AC14

1444. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: INTERCROSS PROGENY POLICY AND DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AC54

1445. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE NORTHERN SPOTTED OWL

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AD20

1446. FEDERAL AID IN SPORT FISH RESTORATION PROGRAM FOR PARTICIPATION FOR DISTRICT OF COLUMBIA AND INSULAR TERRITORIES AND COMMONWEALTHS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 80

Completed:

Reason	Date	FR Cite
Final Action	04/06/01	66 FR 18210

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jack Hicks
Phone: 703 358-1851
Email: jack_hicks@fws.gov

RIN: 1018–AD83

1447. RESCISSION OF ADMINISTRATIVE PROCEDURES FOR GRANTS IN AID (MARINE MAMMAL PROTECTION ACT OF 1972)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 82

Completed:

Reason	Date	FR Cite
Withdrawn	02/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton
Phone: 703 358-1718

RIN: 1018–AD92

1448. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REINTRODUCTION OF A NONESSENTIAL EXPERIMENTAL POPULATION OF GRIZZLY BEARS IN IDAHO AND MONTANA

Priority: Other Significant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	11/14/00	65 FR 69623

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AE00

1449. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST COLORADO BUTTERFLY PLANT AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/18/00	65 FR 62302

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AE87

1450. REFUGE COMPATIBILITY REGULATIONS PURSUANT TO THE NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 27; 50 CFR 29; 50 CFR 32; 50 CFR 36

Completed:

Reason	Date	FR Cite
Final Action	10/18/00	65 FR 62458

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AE98

1451. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELISTING OF THE GRIZZLY BEAR IN THE YELLOWSTONE ECOSYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AF22

1452. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE COASTAL CALIFORNIA GNATCATCHER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 95

Completed:

Reason	Date	FR Cite
Final Action	10/24/00	65 FR 63679

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF32

1453. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; NINE BEXAR COUNTY, TEXAS, INVERTEBRATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17.11

Completed:

Reason	Date	FR Cite
Final Action	12/26/00	65 FR 81419

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF33

1454. NATIONAL BOATING INFRASTRUCTURE GRANT PROGRAM

Priority: Other Significant

CFR Citation: 50 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	01/18/01	66 FR 5281
Notice	02/08/01	66 FR 9533

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Steve Farrell
Phone: 703 358-2420
Email: steve_farrell@fws.gov

RIN: 1018–AF38

1455. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; FINAL RULE TO REMOVE THE ALEUTIAN CANADA GOOSE FROM THE LIST OF THREATENED AND ENDANGERED SPECIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17.11

Completed:

Reason	Date	FR Cite
Final Action	03/20/01	66 FR 15643

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AF42

1456. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE TIDEWATER GOBY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	11/20/00	65 FR 69693

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF73

1457. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE DISTINCT POPULATION SEGMENT (DPS) OF ANADROMOUS ATLANTIC SALMON IN THE GULF OF MAINE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17; 50 CFR 224

Completed:

Reason	Date	FR Cite
Final Action	11/17/00	65 FR 69459

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF80

1458. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPART C AND SUBPART D—2001 SUBSISTENCE FISHING AND SHELLFISH TAKING IN ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	02/13/01	66 FR 10141

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Knauer
Phone: 907 786-3888

RIN: 1018–AF91

1459. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO DESIGNATE CRITICAL HABITAT FOR THE SPECTACLED EIDER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	02/06/01	66 FR 9146

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF92

1460. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR STELLER'S EIDER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	02/02/01	66 FR 8850

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF95

1461. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE SAN DIEGO FAIRY SHRIMP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/23/00	65 FR 63437

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AF97

1462. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED SPECIAL REGULATIONS FOR THE PREBLE'S MEADOW JUMPING MOUSE

Timetable:

Action	Date	FR Cite
Duplicate of RIN 1018-AF30	02/23/01	

RIN: 1018–AG10

1463. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE ARKANSAS RIVER SHINER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	04/04/01	66 FR 18001

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG12

1464. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE ARROYO TOAD

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	02/07/01	66 FR 9413

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG15

1465. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE PENINSULAR BIGHORN SHEEP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	02/01/01	66 FR 8649

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG17

1466. APPROPRIATE REFUGE USES

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG18

1467. WILDERNESS MANAGEMENT

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG19

1468. WILDLIFE DEPENDENT RECREATION USES POLICY PURSUANT TO THE NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG20

1469. PRIORITY WILDLIFE—DEPENDENT RECREATION—FISHING

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG21

1470. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR ZAPATA BLADDERPOD

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	12/22/00	65 FR 81181

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG24

1471. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DESIGNATION OF CRITICAL HABITAT FOR THE MORRO SHOULDERBAND SNAIL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Notice	11/21/00	65 FR 69896
Final Action	02/07/01	66 FR 9233

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG27

1472. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE ZAYANTE BANDWINGED GRASSHOPPER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Notice	12/06/00	65 FR 76207
Final Action	02/07/01	66 FR 9219

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG28

1473. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE MEXICAN SPOTTED OWL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	02/01/01	66 FR 8530

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG29

1474. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE KAUAI AND NIIHAU PLANTS

Timetable:

Action	Date	FR Cite
Duplicate of RIN 1018-AG71	11/30/00	

RIN: 1018–AG30

1475. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE CALIFORNIA RED-LEGGED FROG

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	03/13/01	66 FR 14625

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AG32

1476. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE BAY CHECKERSPOT BUTTERFLY

Timetable:

Action	Date	FR Cite
Duplicate of RIN 1018-AH61	11/30/00	

RIN: 1018–AG33

1477. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE MAUI AND KAHOOLAWE PLANTS

Timetable:

Action	Date	FR Cite
Duplicate of RIN 1018-AH70	11/30/00	

RIN: 1018–AG36

1478. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATION OF CRITICAL HABITAT FOR THE ROBUST SPINEFLOWER

Timetable:

Action	Date	FR Cite
Duplicate of RIN 1018-AH83	02/23/01	

RIN: 1018–AG39

1479. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; GENERAL PERMITTING REGULATION AMENDMENTS FOR SAFE HARBOR AGREEMENTS AND CANDIDATE CONSERVATION AGREEMENTS WITH ASSURANCES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 13

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Ren Lohoefener
Phone: 703 358-2171

RIN: 1018–AG44

1480. NATIONAL WILDLIFE REFUGE SYSTEM; ECOLOGICAL INTEGRITY POLICY

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	10/17/00	65 FR 61356
Final Action	01/16/01	66 FR 3810
Effective Date Extended to 4/16/01	02/08/01	66 FR 9593

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG47

1481. NATIONAL WILDLIFE REFUGE SYSTEM; PRIORITY WILDLIFE DEPENDENT RECREATION; GENERAL GUIDANCE

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG49

1482. NATIONAL WILDLIFE REFUGE SYSTEM; PRIORITY WILDLIFE DEPENDENT RECREATION; INTERPRETATION

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG50

1483. NATIONAL WILDLIFE REFUGE SYSTEM; PRIORITY WILDLIFE DEPENDENT RECREATION; WILDLIFE OBSERVATION

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG51

1484. NATIONAL WILDLIFE REFUGE SYSTEM; PRIORITY WILDLIFE DEPENDENT RECREATION; PHOTOGRAPHY

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG52

1485. NATIONAL WILDLIFE REFUGE SYSTEM; PRIORITY WILDLIFE DEPENDENT RECREATION; ENVIRONMENTAL EDUCATION

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AG46	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AG53

1486. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA; SUBPART C, DESIGNATION OF AN ADDITIONAL SUBSISTENCE RESOURCE REGION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 100; 36 CFR 242

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William Knauer
Phone: 907 786-3888

RIN: 1018–AG54

1487. ISSUANCE OF PERMITS ON SECURITY PAPER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 23

Completed:

Reason	Date	FR Cite
Withdrawn	02/15/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito
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RIN: 1018–AG72

1488. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE CHUM SALMON IN ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH11

1489. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING THE BRISTLE-THIGHED CURLEW

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH13

1490. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING, WITH CRITICAL HABITAT, OF HALL'S BULLRUSH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Chris Nolin
Phone: 703 358-2171

RIN: 1018–AH37

1491. APPROPRIATE REFUGE USES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 29

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AH62

1492. MIGRATORY BIRD HUNTING; APPROVAL OF TUNGSTEN-NICKEL-IRON SHOT AS NONTOXIC FOR HUNTING WATERFOWL AND COOTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
NPRM	10/30/00	65 FR 64650
Final Rule	01/04/01	66 FR 737

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Jon Andrew
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AH64

1493. • TEMPORARY APPROVAL OF TIN SHOT FOR HUNTING WATERFOWL AND COOTS DURING THE 2000-2001 SEASON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 712; 16 USC 742(a) to 742(j)

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: We have granted temporary approval of tin shot as nontoxic for hunting waterfowl and coots.

Timetable:

Action	Date	FR Cite
NPRM	09/25/00	65 FR 57586
Correction	10/23/00	65 FR 63225
Final Action	12/07/00	65 FR 76885

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Jon Andrew, Chief, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 634, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1714
Email: jon_andrew@fws.gov

RIN: 1018–AH67

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Proposed Rule Stage

1494. APPLICABILITY AND RESOURCE PROTECTION REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 462; 16 USC 9a

CFR Citation: 36 CFR 2

Legal Deadline: None

Abstract: A major revision of 36 CFR part 2 was completed in 1983. This current review is to address clarification of the applicability of these regulations in National Park Service areas, and to update existing resource protection and visitor use regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC38

1495. NON-FEDERAL OIL AND GAS RIGHTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 230a; 16 USC 3101; 16 USC 450kk; 16 USC 459d-3; 16 USC 459h-3; 16 USC 460cc-2(i); 16 USC 460ee; 16 USC 460m; 16 USC 698c; 16 USC 698f; 18 USC 3571; 18 USC 3581; 43 USC 600d

CFR Citation: 36 CFR 9

Legal Deadline: None

Abstract: This rule will update existing regulations that were promulgated in 1978 to make them consistent with existing laws, policies and practices and will improve their clarity and workability. The rule will implement congressional mandates for park resource protection contained in the Big Cypress National Preserve Act of 1988. The rule will strengthen the ability of the NPS to protect the natural, cultural, and historic resources of system units from non-Federal oil and gas and geothermal operations within park boundaries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol McCoy, Mining and Minerals Branch, Department of the Interior, National Park Service, Room 221, 12795 West Alameda Parkway, Lakewood, CA 80225
Phone: 303 969-2096

RIN: 1024–AC53

1496. VEHICLES AND TRAFFIC SAFETY; OPERATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 462k; 16 USC 9a

CFR Citation: 36 CFR 4.23

Legal Deadline: None

Abstract: The National Park Service (NPS) is proposing to amend its regulations concerning motor vehicle operation under the influence of alcohol within units of the NPS. Current NPS regulations prohibit operation with a blood alcohol concentration (BAC) of 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath. On March 3, 1998, President Clinton directed the NPS to promulgate regulations adopting a stricter limit of 0.08 grams BAC within units of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
Fax: 202 208-6756
Email: kym__hall@nps.gov

RIN: 1024–AC69

1497. SOLID WASTE SITES IN UNITS OF THE NATIONAL PARK SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460l-22(c)

CFR Citation: 36 CFR 6.7

Legal Deadline: None

Abstract: The National Park Service (NPS) proposes to amend 36 CFR 6.7 to clarify its applicability to mining-generated solid wastes in units of the NPS. The proposed amendments are not intended to change the substantive scope and goals of 36 CFR 6, which has been in effect since January 25, 1995.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julia Brunner, Ecologist, Department of the Interior, National Park Service
Phone: 303 969-2012

RIN: 1024–AC70

1498. WORLD HERITAGE CONVENTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 470a-1; 16 USC 470a-2

CFR Citation: 36 CFR 73

Legal Deadline: None

Abstract: This rule will revise the existing World Heritage regulations to make necessary changes, such as correcting or eliminating the annual calendar for preparing and submitting U.S. nominations (now outdated), correcting the criteria for selecting sites (also outdated), and providing more explicit procedures for public participation. The underlying treaty (World Heritage Convention) and law (Historic Preservation Act Amendments of 1980) will remain in place unchanged.

DOI—NPS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James Charleton, International Cooperation Specialist, Department of the Interior, National Park Service, MS 2252, Office of International Affairs, 1849 C Street N.W., MS 2252, Washington, DC 20240
Phone: 202 565-1280

RIN: 1024–AC74

1499. RELEASE OF INFORMATION ABOUT NATIONAL PARK SYSTEM RESOURCES

Priority: Info./Admin./Other

Legal Authority: 16 USC 1; 16 USC 5397

CFR Citation: 36 CFR 80

Legal Deadline: None

Abstract: This rule will establish how NPS identifies what types and under what circumstances information may be withheld from FOIA requests under under section 207 of the NPS Omnibus Management Act. That statute allows information about National Park System resources to be withheld under FOIA unless the Secretary determines that release would not create an unreasonable risk of harm, theft, or destruction of the resource, would further the purposes of the NPS unit, and is consistent with other applicable laws.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: K.C. Becker, Attorney-Advisor, Department of the Interior, National Park Service, Office of the Solicitor, 1849 C Street N.W., Washington, DC 20240
Phone: 202 208-7957
Email: kc__becker@doi.gov

RIN: 1024–AC75

1500. PROCEDURES FOR STATE, TRIBAL, AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

Priority: Info./Admin./Other

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 61

Legal Deadline: None

Abstract: The NPS proposes to establish the requirements and procedures by which those Indian tribes that choose to do so can assume State Historic Preservation Officer duties with regard to tribal lands and become eligible for grants-in-aid to carry out those duties.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bryan Mitchell, Division, Department of the Interior, National Park Service, 1849 C Street N.W., NC330, Washington, DC 20240
Phone: 202 343-9558
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Email: bryan__mitchell@nps.gov

RIN: 1024–AC79

1501. CONSERVATION IN NATIONAL PARKS

Priority: Other Significant

Legal Authority: 16 USC 1 to 4

CFR Citation: 36 CFR 1.11

Legal Deadline: None

Abstract: This rule will describe the limitations on discretion that the National Park Service Organic Act and General Authorities Act impose on the National Park Service. The rule is necessary given the often inconsistent interpretations that courts, the NPS, and interested parties have read into the Organic Act. It is also important because it will clarify for NPS managers the standards to which they are held.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: K.C. Becker, Attorney-Advisor, Department of the Interior, National Park Service, Office of the Solicitor, 1849 C Street N.W., Washington, DC 20240
Phone: 202 208-7957
Email: kc__becker@doi.gov

RIN: 1024–AC81

1502. WRANGELL-ST. ELIAS NATIONAL PARK AND PRESERVE RESIDENT ZONE COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 1361; 16 USC 1531; 16 USC 1a-2(h); 16 USC 3; 16 USC 3101 et seq; 16 USC 462(k)

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: The proposed rulemaking will amend special regulations for Wrangell-St. Elias regarding resident zone communities. This amendment will add the communities of Dot Lake, Tetlin Tanacross, and Northway (including Northway, Northway Village and Northway Junction). This will allow residents to engage in subsistence activities in the park without needing an NPS subsistence permit.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hunter Sharp, Chief Ranger, Department of the Interior, National Park Service, P.O. Box 439, Copper Center, AK 99573
Phone: 907 822-5234
Email: hunter__sharp@nps.gov

RIN: 1024–AC83

1503. • COMMERCIAL USE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-391

CFR Citation: 36 CFR 52

Legal Deadline: None

Abstract: Public Law 105-391 became effective on November 13, 1998. The new Act mandates revised procedures for issuing commercial use authorizations. Section 417 of Public Law 105-391 requires that the Secretary promulgate implementing regulations

as soon as practicable after the effective date of the Act. Existing regulations governing commercial use within National Parks are not adequate to administer the provisions of the new statute and must be revised to reflect new requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laurie Shaffer, Chief of Operations, Department of the Interior, National Park Service, P.O. Box 25287, Denver, CO 80225-0287
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Email: laurie__shaffer@nps.gov

RIN: 1024–AC85

1504. • SPECIAL REGULATIONS OF THE NATIONAL PARK SYSTEM; CANYONLANDS NATIONAL PARK ROAD CLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(q); 16 USC 462(k)

CFR Citation: 36 CFR 7.102

Legal Deadline: None

Abstract: In September 2000, the Tenth Circuit lifted the injunction that the U.S.District Court of Utah had placed to prevent vehicle access to a particular road in Canyonlands National Park. At the time of the Tenth Circuit's opinion, the road had been closed for two years. After the injunction was lifted, the NPS closed the road to study further the condition of the road and the benefits derived from discontinued use of the road. This rulemaking allows the road to remain closed while studies and monitoring continue until all litigation is resolved.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: K.C. Becker, Attorney-Advisor, Department of the Interior, National Park Service, Office of the Solicitor, 1849 C Street N.W., Washington, DC 20240
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Email: kc__becker@doi.gov

RIN: 1024–AC87

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Final Rule Stage

1505. RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 3; 16 USC 5; 16 USC 79

CFR Citation: 36 CFR 14

Legal Deadline: None

Abstract: The regulations for rights-of-way found at 36 CFR part subparts A to H were promulgated as interim regulations in 1980. The regulations no longer meet the needs of the Service or of rights-of-way applicants. Final regulations need to be developed through a revision of part 14.

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63488
NPRM Comment Period End	01/30/98	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Young, Park Ranger, Department of the Interior, National Park Service
Phone: 757 898-7846

RIN: 1024–AC01

1506. VOYAGEURS NATIONAL PARK: AIRCRAFT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rulemaking amends the current special regulations for Voyageurs National Park by adding a section designating areas open to aircraft use within the park. This addition is necessary because National Park Service general regulations require such special regulatory designations for areas in parks open to the operation or use of aircraft. The intended effects are to increase safety, protect resources, and provide appropriate enjoyment to park users.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/95	60 FR 39257
NPRM	01/31/96	61 FR 3360
NPRM Comment Period End	09/05/96	61 FR 20775
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jim Hummel, Chief Ranger, Department of the Interior, National Park Service
Phone: 218 283-9821

RIN: 1024–AC23

1507. APPALACHIAN NATIONAL SCENIC TRAIL—SNOWMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460(l); 16 USC 462(k); 16 USC 9a

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: This rule will designate trail crossings of snowmobile trails at three locations along the Appalachian National Scenic Trail. These trail crossings are part of a State-approved network of snowmobile routes that exist on adjacent State lands. These crossings existed prior to the NPS assuming management of the National Scenic Trail. Designating these crossings fulfills assurances made by the NPS at the time of land acquisition that establishment of the permanent linear trail corridor would not sever established snowmobile routes.

Timetable:

Action	Date	FR Cite
NPRM	03/19/98	63 FR 13383
NPRM Comment Period End	05/18/98	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4206
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RIN: 1024–AC67

1508. LAND AND WATER CONSERVATION FUND OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

Priority: Other Significant

Legal Authority: 16 USC 460l-4

CFR Citation: 36 CFR 59

Legal Deadline: None

Abstract: This amendment to 36 CFR 59 modifies Land and Water Conservation Fund (L&WCF) post-completion requirements by: (1) Clarifying the State planning prerequisite for conversion approval; (2) allowing the recipient of an L&WCF grant to use non-recreation land it currently owns, or non-recreation land that is transferred from one public agency to another without payment to satisfy the replacement requirement when land acquired with L&WCF assistance is proposed for conversion to other than public outdoor recreation uses, assuming all other eligibility criteria are met; (3) eliminating the requirement to notify NPS of all instances of obsolescence and facility use changes; and (4) establishing standards for resolving premature conversions to ensure their timely resolution.

Timetable:

Action	Date	FR Cite
NPRM	12/08/98	63 FR 67638
NPRM Comment Period End	02/08/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Wayne Strum, Outdoor Recreation Planner, Department of the Interior, National Park Service, Recreation Programs Division, 1849 C Street N.W., Washington, DC 20240
Phone: 202 565-1129

RIN: 1024–AC68

1509. LEASING REGULATIONS

Priority: Other Significant

Legal Authority: 16 USC 1a-2(k); 16 USC 470h-3

CFR Citation: 36 CFR 18

Legal Deadline: None

Abstract: This proposed rule would amend current NPS regulations concerning the leasing of historic properties within areas of the National Park System to encompass additional types of properties as authorized by law and to change in certain respects the procedural requirements for leasing of properties.

Timetable:

Action	Date	FR Cite
NPRM	12/12/00	65 FR 77538
NPRM Comment Period End	02/12/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurie Shaffer, Chief of Operations, Department of the Interior, National Park Service, P.O. Box 25287, Denver, CO 80225-0287
Phone: 303 987-6911
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Email: laurie__shaffer@nps.gov

RIN: 1024–AC78

1510. NATIONAL CAPITAL REGION PARKS; PHOTO RADAR SPEED ENFORCEMENT

Priority: Info./Admin./Other

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460(9); 16 USC 462(k); 16 USC 9a

CFR Citation: 36 CFR 7.96

Legal Deadline: None

Abstract: This proposed rule establishes the use and procedure for photo radar speed enforcement in the park areas administered by the National Capital Region of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	09/01/00	65 FR 53208
NPRM Comment Period End	10/31/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Audrey Calhoun, Superintendent, G.W. Memorial Pkwy, Department of the Interior, National Park Service, Turkey Run Park, McLean, VA 22101
Phone: 703 289-2500
Email: audrey__calhoun@nps.gov

RIN: 1024–AC80

1511. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS; CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 3001 et seq

CFR Citation: 43 CFR 10

Legal Deadline: None

Abstract: This final rule relates to one section of the regulations that implement the Native American Graves Protection and Repatriation Act of 1990. This section outlines procedures for assessing civil penalties upon museums that fail to comply with applicable provisions of the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/13/97	62 FR 1820
Interim Final Rule Effective	02/12/97	
Interim Final Rule Comment Period End	04/14/97	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Robbins, Assistant Director, Cultural Resources, Department of the Interior, National Park Service, 1849 C Street N.W., NC-340, Washington, DC 20240
Phone: 202 343-3388
Fax: 202 343-5260
Email: john__robbins@nps.gov

RIN: 1024–AC84

DOI—NPS

Final Rule Stage

1512. • SPECIAL REGULATIONS OF THE NATIONAL PARK SYSTEM; RELIGIOUS CEREMONIAL COLLECTION OF GOLDEN EAGLETS IN WUPATKI NATIONAL MONUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 42 USC 2000bb; 42 USC 1996

CFR Citation: 36 CFR 7.101

Legal Deadline: None

Abstract: The NPS has preliminarily determined that under certain circumstances it is appropriate to allow the Hopi Tribe to collect golden eaglets within Wupatki National Monument for religious ceremonial purposes. This rule would authorize this activity upon terms and conditions sufficient to protect park resources against impairment, and consistent with the Bald and Golden Eagle Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6516
NPRM Comment Period End	03/23/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Patricia L. Parker, Chief, American Indian Liaison Office, Department of the Interior, National Park Service, 1849 C Street NW., Room 3410, Washington, DC 20240
Phone: 202 208-5475
Fax: 202 273-0870
Email: pat__parker@nps.gov

RIN: 1024–AC86

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Long-Term Actions

1513. SNOWMOBILE USE IN NATIONAL PARK SERVICE AREAS

Priority: Other Significant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460l-6a(e); 16 USC 469(k)

CFR Citation: 36 CFR 2.18; 36 CFR 7

Legal Deadline: None

Abstract: NPS proposes to revise existing regulations regarding snowmobile use in NPS areas. Criteria currently used to determine whether snowmobile use is appropriate will be removed and replaced with a new set of criteria. Subsequently, park-specific regulations in 36 CFR part 7 may need to be revised to meet the new criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/05/01	66 FR 1069
NPRM Comment Period End	03/06/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kym A. Hall, Regulations Program Manger, Department of the Interior, National Park Service, 1849 C Street NW., Washington, DC 20240
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Email: kym__hall@nps.gov

RIN: 1024–AC82

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Completed Actions

1514. GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY: SNOWMOBILE AND SNOWPLANE ROUTES AND REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 7.22

Completed:

Reason	Date	FR Cite
Final Action	01/22/01	66 FR 7259
Final Action Effective Date Delayed	01/31/01	66 FR 8366
Final Action Effective	04/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall
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RIN: 1024–AC34

1515. BIG CYPRESS NATIONAL PRESERVE; RECREATIONAL FROGGING

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 7.86

Completed:

Reason	Date	FR Cite
Withdrawn Due to Management of Issue Through Other Methods	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Kacer
Phone: 941 695-2000

RIN: 1024–AC54

1516. DELAWARE WATER GAP NRA, BICYCLE TRAIL

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 7.71

Completed:

Reason	Date	FR Cite
Withdrawn - Regulation To Be Part of Larger Project for Area	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doyle Nelson
Phone: 908 841-9533

RIN: 1024–AC62

DOI—NPS

Completed Actions

1517. INFORMATION COLLECTION ACTIVITIES

Priority: Info./Admin./Other

CFR Citation: 36 CFR 15

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Being Taken	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kym A. Hall
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RIN: 1024–AC71

1518. CEREMONIAL USE OF PARK RESOURCES BY AMERICAN INDIANS

Priority: Other Significant

CFR Citation: 36 CFR 2

Completed:

Reason	Date	FR Cite
Incorporated With RIN 1024-AC38	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Patricia L. Parker
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RIN: 1024–AC77

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Prerule Stage

1519. USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1401 et seq

CFR Citation: 25 CFR 87

Legal Deadline: None

Abstract: This rule will update the existing provisions to reflect the changes to the Indian Judgment Funds Distribution Act that were made in 1992 by Public Law 102-572.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daisy West, Tribal Relations Officer, Department of the Interior, Bureau of Indian Affairs, Room 4603, Room 4603 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2475
Fax: 202 501-0679

RIN: 1076–AD94

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1520. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1801 to 1852; 25 USC 640

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: This rule applies to the provision of financial assistance technical assistance, and endowments to tribal colleges and Navajo Community College and will strengthen requirements relating to: (1) criteria for satisfactory programs; (2) counting Indian students; (3) developing planning grants; (4) forward funding; (5) renovation and construction of facilities and (6) preparing construction feasibility reports.

Timetable:

Action	Date	FR Cite
NPRM	04/01/97	62 FR 15446
NPRM Comment Period End	06/02/98	
NPRM	05/00/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-3478

RIN: 1076–AD08

1521. INDIAN SCHOOL EQUALIZATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule will change the definitions of some disabling conditions so that they are consistent with Department of Education definitions of some disabling conditions and adjust the way schools are reimbursed for student transportation services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Whitehorn, Chief, Branch of Planning, Department of the Interior, Bureau of Indian Affairs, MS 3512 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4976

RIN: 1076–AD09

1522. LEASING RESTRICTED LANDS OF MEMBERS OF THE FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 356

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: BIA is revising this rule to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land processing lease payments through the Minerals Management Service, and the approval process for division orders.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Annette Jenkins, Department of the Interior, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, OK 74401
Phone: 918 687-2324

RIN: 1076–AD33

1523. LEAD AND ZINC MINING OPERATIONS AND LEASES ON QUAPAW INDIAN LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 66-359; PL 75-39

CFR Citation: 25 CFR 215

Legal Deadline: None

Abstract: This rule will update the procedures for leasing and discovery testing, processing, developing, and mining lead and zinc on lands under the jurisdiction of BIA's Miami Agency in Ottawa County, Oklahoma. The revisions will assist affected Indians with the efficient development of their lead and zinc deposits without waste, avoidable loss, or damage to their natural resources, the environment, or other resources. The rule will also retitle 25 CFR 215.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 44019
NPRM Comment Period End	10/28/96	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Dalgarn, Supervisory Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Miami Agency, P.O. Box 391, Miami, OK 74355
Phone: 918 542-3396

RIN: 1076–AD35

1524. EXPLORATION, MINING, AND RECLAMATION OF LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 355; 25 USC 396; 25 USC 473; 25 USC 501

CFR Citation: 25 CFR 216

Legal Deadline: None

Abstract: This rule will update part 216 to incorporate changes in regulations as well as the mining industry. It will bring the bureau into conformance with the standards of the Bureau of Land Management and the Office of Surface Mining and will protect the Indian mineral owners by giving them no less protection than what is given to Federal lands. Indian mineral owners will be protected through the regulation of exploration for minerals by adequate measures that avoid, minimize, or correct damage to the environment, land, water, and the public safety.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kim Snyder, Liaison Officer, Department of the Interior, Bureau of Indian Affairs, Suite 300, 12136 West Bayaud Avenue, Lakewood Avenue, CO 80228
Phone: 303 969-5270

RIN: 1076–AD36

1525. TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: This rule contains uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This revision will incorporate changes to comply with Public Law 100-581.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane Bird Bear, Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5097

RIN: 1076–AD46

1526. PETITIONING PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503; 25 USC 9

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: This rule contains procedures for submitting petitions that request the Secretary to call elections to amend tribal constitutions, issue charters, and other actions. The revision will allow the petitioners' spokesman to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane Bird Bear, Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5097

RIN: 1076–AD47

1527. ACADEMIC AND DORMITORY STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 2001 to 2003; 25 USC 9; PL 95-561

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: This rule will eliminate subparts A through G of 25 CFR 36. Of 189 Bureau schools, 179 have adopted State or regional academic standards. BIA will assist the remaining schools to achieve State or regional accreditation. This will render the rules in subparts A through G obsolete.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Whitehorn, Chief, Branch of Planning, Department of the Interior, Bureau of Indian Affairs, MS 3512 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4976

RIN: 1076–AD55

1528. EDUCATION CONTRACTS UNDER THE JOHNSON-O'MALLEY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 455 to 457

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: The rule will include guidelines and responsibilities related to agreements under the provisions of the Indian Self-Determination Act Amendments of 1994. The new provisions will reduce the burden of reporting requirements by the Tribes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs
Phone: 202 208-3478

RIN: 1076–AD58

1529. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1469

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: The rule for the direct loan program is being rewritten in plain language as part of the Department's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660, MS 4660 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4796

RIN: 1076–AD59

1530. SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-4

CFR Citation: 25 CFR 277

Legal Deadline: None

Abstract: This rule is being eliminated because the program it governs has never been funded.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: 25 CFR 27 is being combined with 25 CFR 26.

Agency Contact: Lynn Forcia, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, MS 4640 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 219-5270

RIN: 1076–AD72

1531. ADULT VOCATIONAL TRAINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 309; PL 88-230

CFR Citation: 25 CFR 27

Legal Deadline: None

Abstract: The rule for the guaranteed loan program is being rewritten in plain English as part of the Department's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: 25 CFR 27 is being combined with 25 CFR 26.

Agency Contact: Lynn Forcia, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, MS 4640 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 219-5270

RIN: 1076–AD72

1532. EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 26

Legal Deadline: None

Abstract: The rule for BIA's employment assistance program for adult Indians is being rewritten in plain English as part of the Department's regulatory reform initiative.

DOI—BIA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lynn Forcia, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, MS 4640 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 219-5270

RIN: 1076–AD75

1533. INDIAN CHILD PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 13; 25 USC 2; 25 USC 3201 et seq; 25 USC 9; 42 USC 13031

CFR Citation: 25 CFR 63

Legal Deadline: None

Abstract: The Bureau is revising subpart B to better reflect Agency practices and to provide clearer guidance to tribes and tribal organizations that receive funds under the Indian Self-Determination and Education Assistance Act and the Tribally Controlled Schools Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD96

1534. ARRANGEMENT WITH STATES, TERRITORIES, OR OTHER AGENCIES FOR RELIEF OF DISTRESS AND SOCIAL WELFARE OF INDIANS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2

CFR Citation: 25 CFR 21

Legal Deadline: None

Abstract: This part, which allows BIA to seek arrangements with States or counties or other Federal agencies to provide welfare for Indians residing in a State within the exterior boundaries of Indian reservations under BIA jurisdiction, will be deleted because it has never been used.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, MS 4641, MS 4641 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AD98

1535. INDIAN RESERVATION ROADS PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 23 USC 202; 25 USC 2; 25 USC 9; 5 USC 301

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: This rule establishes a new funding formula and procedures for distributing Department of Transportation funds for Indian reservation roads.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: LeRoy Gishi, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, MS 4058 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4359

RIN: 1076–AE06

1536. BUY INDIAN ACT REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 47, 36 Stat 861; 41 USC 253(c)(5)

CFR Citation: 48 CFR 14, app A

Legal Deadline: None

Abstract: This rule will regulate the implementation of BIA's longstanding policy of contracting with Indian-owned firms on a preferential basis and will regulate the determination of eligibility and availability of Indian firms to perform a specific requirement for products, services, and road construction outside the State of Oklahoma and regulate the authority to deviate from the general policy and will regulate the determination of eligibility throughout contractual performance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Peter S. Markey, Procurement Analyst, Division of Acquisition and Property Management, Department of the Interior, Bureau of Indian Affairs, MS 2626C MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2710
Fax: 202 219-4071
Email: peter__markey@bia.gov

RIN: 1076–AE07

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Final Rule Stage

1537. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153, Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence regulations were not promulgated for lands partitioned to the Navajo Tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo Tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	60 FR 55506
NPRM Comment Period End	09/06/96	61 FR 29327
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, MS 4513, MS 4513 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3598

RIN: 1076–AC81

1538. PREFERENCE IN EMPLOYMENT

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau is amending the preference in employment regulations to clarify that they apply not only within the bureau but within other organizations in the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	07/12/96	61 FR 36671
NPRM Comment Period End	09/10/96	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Duane Bird Bear, Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5097

RIN: 1076–AD05

1539. INDIAN TRIBAL JUSTICE SUPPORT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2; 25 USC 200; 25 USC 3601 et seq; 25 USC 9; PL 103-176

CFR Citation: 25 CFR 92

Legal Deadline: None

Abstract: This rule will establish a base funding formula for the distribution of appropriations under the Indian Tribal Justice Act. BIA will use this formula to determine the funding levels to be awarded to eligible Indian tribes for use in establishing or enhancing traditional or contemporary justice systems.

Timetable:

Action	Date	FR Cite
Tribal Consultation	06/20/95	
NPRM	07/30/96	61 FR 39607
NPRM Comment Period End	09/30/96	
Final Action	09/00/01	
Final Action Effective	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Ralph Gonzales, Housing Program Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4401

RIN: 1076–AD15

1540. LEASING OSAGE RESERVATION LANDS FOR MINING OF MINERALS OTHER THAN OIL AND GAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 59-321

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: This revision eliminates royalties for minerals not found within the Osage Mineral Estate and gives the Osage Tribal Council authority for setting applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods and designates officials responsible for management of non-oil and gas minerals within the Osage Mineral Estate. The revisions will enhance the Department's management of the production of these minerals and eliminate inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/08/96	61 FR 41365
NPRM Comment Period End	10/07/96	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Yates, Department of the Interior, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, OK 74401
Phone: 918 287-1351

RIN: 1076–AD34

1541. IRRIGATION PROJECTS AND SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 171

Legal Deadline: None

Abstract: This rule governs the operation and maintenance of BIA-owned irrigation projects. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35167
NPRM Comment Period End	09/03/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5480

RIN: 1076–AD44

1542. INDIAN ELECTRIC POWER UTILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 175

Legal Deadline: None

Abstract: This rule contains procedures governing the operation of BIA-owned power utilities. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29040
NPRM Comment Period End	08/06/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5480

RIN: 1076–AD45

1543. APPEALS FROM ADMINISTRATIVE ACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 9; 5 USC 301

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: This rule changes the BIA delegations of authority and appeals process. The change will reduce burden on the tribes since there will be less confusion about how to file appeals and the processing of appeals within the Bureau. The revision will also clarify the rule and make it consistent with Bureau policy.

Timetable:

Action	Date	FR Cite
NPRM	06/21/96	61 FR 31875
NPRM Comment Period End	09/19/96	
Final Action	06/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, PO Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD50

1544. INDIAN BUSINESS DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1524

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: The rule for the Indian Business Development Program is being rewritten in plain English as part of the President's regulatory reform initiative. Entities already having received grants must submit business financial statements.

Timetable:

Action	Date	FR Cite
NPRM	01/30/97	62 FR 4497
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660, MS 4660 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4796

RIN: 1076–AD70

1545. COURTS OF INDIAN OFFENSES

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2; 25 USC 200; 25 USC 9

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: This rule will add offenses and clarify the authority of Courts of Indian Offenses.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35158
NPRM Comment Period End	09/04/96	
Final Action	05/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ralph Gonzales, Housing Program Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4401

RIN: 1076–AD76

1546. USE OF COLUMBIA RIVER FISH ACCESS SITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 100-581

CFR Citation: 25 CFR 247

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of fishing access sites on the Columbia River. These sites are required to allow tribes boat access to the river so that they may exercise their treaty fishing rights. The rule defines who may use the sites, permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities located on the sites.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD83

1547. USE OF COLUMBIA RIVER IN-LIEU FISHING SITES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 248

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of in-lieu fishing sites on the Columbia River. These sites are owned by the Federal government and are necessary to allow boat access to the river so that Indian fishers can exercise their treaty fishing rights. The rule defines who may use the sites permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities on the site.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD86

1548. LAND ACQUISITIONS FOR GAMING

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2; 25 USC 2719; 25 USC 9; 5 USC 301

CFR Citation: 25 CFR 292

Legal Deadline: None

Abstract: This rule establishes the procedures that the Secretary will use to review tribal applications for trust acquisition of lands for gaming purposes.

Timetable:

Action	Date	FR Cite
NPRM	09/06/00	65 FR 53949
NPRM Comment Period End	11/06/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: George Skibine, Director, Indian Gaming Management Staff, Department of the Interior, Bureau of Indian Affairs, MS 2070, MS 2070 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 219-4066

RIN: 1076–AD93

1549. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 13; 25 USC 9

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rule will codify procedures for processing certificates of degree of Indian blood.

Timetable:

Action	Date	FR Cite
NPRM	04/18/00	65 FR 20775
NPRM Comment Period Extended to	06/20/00	65 FR 38228
NPRM Comment Period End	07/17/00	
NPRM Comment Period Extended to	08/16/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duane Bird Bear, Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5097

RIN: 1076–AD97

1550. ENCUMBRANCE OF INDIAN LANDS—CONTRACT APPROVALS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 81

CFR Citation: 25 CFR 84

Legal Deadline: Final, Statutory, September 27, 2000, Indian Tribal Economic Development & Contract Encouragement Act of 2000, requires regulations within 180 days from March 2000.

Abstract: This rulemaking describes which types of contracts or agreements encumbering tribal lands are not subject to approval by the Secretary of the Interior under the Indian Tribal Econnomic Development and Contract Encouragement Act of 2000, Pub. L. 106-179. The rulemaking also notes that Secretarial approval is not required (and will not be granted) for any contract or agreement that the Secretary determines is not covered by the Act. Finally, for contracts and agreements that are covered by the Act, the rulemaking sets out mandatory conditions for the Secretary's approval.

Timetable:

Action	Date	FR Cite
NPRM	07/14/00	65 FR 43952
NPRM Comment Period End	10/12/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duncan Brown, Regulatory Analyst, Department of the Interior, Bureau of Indian Affairs, Room 7229 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4582
Fax: 202 219-2100
Email: duncan_l_brown@ios.doi.gov

RIN: 1076–AE03

1551. ALASKA RESUPPLY OPERATION

Priority: Info./Admin./Other

Legal Authority: 25 USC 13; 25 USC 9; 38 Stat. 486; 42 Stat. 208; 5 USC 301; R.S. 463; R.S. 465

CFR Citation: 25 CFR 142

Legal Deadline: None

Abstract: This proposed rule makes technical revisions to reflect terms now in common usage, e.g., "Regional Director" and "Traffic Manager." A new section refers to the application of Indian preference in hiring pursuant to the Indian Reorganization Act of 1934 (25 USC 479).

Timetable:

Action	Date	FR Cite
NPRM	08/03/00	65 FR 47704
NPRM Comment Period End	10/02/00	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: No

DOI—BIA

Final Rule Stage

Government Levels Affected: Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Duncan Brown, Regulatory Analyst, Department of the Interior, Bureau of Indian Affairs, Room 7229 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4582
Fax: 202 219-2100
Email: duncan_l_brown@ios.doi.gov

RIN: 1076–AE04

1552. • SAN CARLOS APACHE TRIBE TRUST FUND AND LEASE FUND

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 106 Stat 4740 et seq

CFR Citation: 25 CFR 183

Legal Deadline: None

Abstract: This rule establishes procedures for requesting and distributing the San Carlos Apache Tribe's Trust funds for development and leases as authorized in the San Carlos Apache Tribe Water Rights Settlement Act, Public Law 102-75.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	
Interim Final Rule Effective	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5480

RIN: 1076–AE10

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1553. TRIBAL SELF-GOVERNANCE

Priority: Other Significant

CFR Citation: 25 CFR 1000

Completed:

Reason	Date	FR Cite
Final Action	12/15/00	65 FR 78688
Final Action Effective	01/16/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Tribal, Federal

Agency Contact: William Sinclair
Phone: 202 219-0240

RIN: 1076–AD20

1554. LOAN GUARANTEE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	01/17/01	66 FR 3861
Final Action Effective Date Delayed	02/05/01	66 FR 8898
Final Action Effective	04/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed
Phone: 202 208-4796

RIN: 1076–AD73

1555. MORTGAGES AND DEEDS OF TRUST ON INDIVIDUALLY OWNED TRUST LAND OR LAND SUBJECT TO A RESTRICTION ON ALIENATION

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 152

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Will Be Taken at This Time	02/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Art Gary
Phone: 202 208-6400
Email: arthur_gary@bia.gov

RIN: 1076–AD85

1556. ACQUISITION OF TITLE TO LAND IN TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 151

Completed:

Reason	Date	FR Cite
Final Action	01/16/01	66 FR 3452
Final Action Effective Date Delayed	02/20/01	66 FR 10815
Final Action Effective	04/16/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Terry Virden
Phone: 202 208-5831

RIN: 1076–AD90

1557. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	10/20/00	65 FR 63144
Final Action Effective	11/20/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry R. Blair
Phone: 202 208-2721

RIN: 1076–AD91

1558. TRUST MANAGEMENT REFORM: LEASING, PERMITTING, GRAZING, PROBATE AND FUNDS HELD IN TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 115; 25 CFR 15; 25 CFR 162; 25 CFR 166

Completed:

Reason	Date	FR Cite
Final Action	01/22/01	66 FR 7068

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Duncan Brown
Phone: 202 208-4582

DOI—BIA

Completed Actions

Fax: 202 219-2100
Email: duncan_l_brown@ios.doi.gov

RIN: 1076–AE00

1559. • DISTRIBUTION OF FY 2001 INDIAN RESERVATION ROAD FUNDS

Priority: Other Significant

Legal Authority: 23 USC 101(a); 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: This temporary rule is issued to distribute 75 percent of fiscal year 2001 Indian Reservation Road Funds to projects on or near Indian reservations. The rule uses the Federal Highway Administration's Price Trends Report for the relative need formula distribution process with appropriate modifications to address non-reporting States.

Timetable:

Action	Date	FR Cite
Final Action	01/09/01	66 FR 1576
Final Action Effective	01/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LeRoy Gishi, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, MS 4058 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4359

RIN: 1076–AE09

1560. • TECHNICAL AMENDMENTS TO FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: This rule contains corrections to the final rule published on October 20, 2000. It amends the existing regulations to incorporate new delivery systems within the Financial Assistance and Social Services Program.

Timetable:

Action	Date	FR Cite
Final Action	03/15/01	66 FR 15029
Final Action Effective	03/15/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, MS 4641, MS 4641 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AE11

1561. • DISTRIBUTION OF FOURTH QUARTER FY 2001 INDIAN RESERVATION ROAD FUNDS

Priority: Other Significant

Legal Authority: 232 USC 101(a); 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: Under the Transportation Equity Act for the 21st Century (TEA-21), the Secretary must issue regulations governing the Indian Reservation Roads (IRR) program and establish a formula distributing IRR funds. Congress required that this action be taken by negotiated rulemaking. Since the Negotiated Rulemaking Committee has not yet proposed a permanent funding formula, the Secretary has no basis for distributing FY 2001 IRR funds. This rule ensures distribution of fourth quarter FY 2001 IRR funds using a relative need formula. The Committee and BIA agreed to use the formula because both the tribes and BIA understand its use and because there is no feasible alternative formula. Over 900 road and bridge construction projects will stop without FY 2001 funding.

Timetable:

Action	Date	FR Cite
Final Action	03/29/01	66 FR 17073
Final Action Effective	03/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LeRoy Gishi, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, MS 4058 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4359

RIN: 1076–AE12

BILLING CODE 4310-02-S

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1562. REFUNDS AND RECOUPMENT OF OVERPAYMENTS ON OCS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1001 et seq; 25 USC 1301 et seq; 25 USC 1331 et seq; 25 USC 1701 et seq; 25 USC 1735; 25 USC 1801 et seq; 25 USC 181 et seq; 25 USC 2101 et seq; 25 USC 351 et seq; 25 USC 3716; 25 USC 3720a; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 9701; 5 USC 301 et seq

CFR Citation: 30 CFR 206; 30 CFR 218; 30 CFR 230

Legal Deadline: None

Abstract: This rule allows MMS to pay interest on Federal onshore and offshore oil and gas royalty overpayments and makes interest charges more equitable between the payor and the recipient. Interest will be paid on overpayments related to royalty, rent and estimates resulting from sales of Federal onshore and offshore oil and gas production.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
NPRM Comment Period End	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
Phone: 303 231-3191
Fax: 303 231-3385
Email: carol.shelby@mms.gov

RIN: 1010–AC27

1563. TAKES VS. ENTITLEMENTS REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 205

Legal Deadline: None

Abstract: This rule addresses reporting and payment requirements for production removed and sold from a Federal lease, unit participating area, or communitization agreement beginning September 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Carol Shelby, Regulatory Specialist, Department of the Interior, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, CO 80225-0165
Phone: 303 231-3191
Fax: 303 231-3385
Email: carol.shelby@mms.gov

RIN: 1010–AC29

1564. ACCOUNTING RELIEF FOR MARGINAL PROPERTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows reporters to seek accounting, reporting, and auditing relief for their marginal properties in accordance with section 117(c) of the Federal Oil and Gas Royalty Management Act of 1982 as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3360
NPRM Comment Period End	03/22/99	
Supplementary NPRM	10/00/01	
Supplementary NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 1010–AC30

1565. PREPAYMENT OF ROYALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows payors to prepay royalty in lieu of monthly royalty payments for their marginal properties with approval from the affected States. It will establish the criteria used by payors, States, and MMS to calculate, report, and monitor royalty prepayments.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 1010–AC31

1566. EXPLORATION OR DEVELOPMENT AND PRODUCTION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 25 CFR 250

Legal Deadline: None

Abstract: MMS requires companies to submit for approval their exploration and development plans for activities on the Outer Continental Shelf. The companies must submit these plans before they can begin any activities, except preliminary activities. This rule would rewrite the requirements into clearer language and organize them into discrete sections by topic, to make them easier to follow.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC47

1567. INCIDENT REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: Recent rapid growth in offshore exploration and production activities in the Gulf of Mexico has led to an increase in accidents and fatalities. Since safety is our top priority, we must upgrade our accident investigation functions. To do this we need accurate and timely information. This rule is the only way to require operators, lessees, and permit holders in the Outer Continental Shelf (OCS) to give us a written report about each OCS accident. It will also establish clearer guidelines for accident reporting thresholds and timing.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
NPRM Comment Period End	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC57

1568. ROYALTY RELIEF TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 396 et seq

CFR Citation: 30 CFR 203

Legal Deadline: None

Abstract: This rule amends the circumstances that discontinue the existing royalty relief for end-of-life leases.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC58

1569. RECORDS AND FILES MAINTENANCE

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 396 et seq; 25 USC 2102 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq; 5 USC 301 et seq

CFR Citation: 30 CFR 212

Legal Deadline: None

Abstract: This rule will amend records and files maintenance regulations to incorporate the longer retention requirements for records related to Federal oil and gas.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC64

1570. • AMENDMENTS TO ALLOWANCE DETERMINATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: Specific allowance provisions in the January 1988 (53 FR 1230, January 15, 1988) valuation regulations provided that allowances that were in effect at the time these regulations became effective would be allowed to continue until the allowances terminate. The Interior Board of Land Appeals (IBLA) ruled in 136 IBLA 203 (August 12, 1996) that the effect of this language was for such allowances to continue indefinitely. MMS proposes to amend the product valuation regulations to specify a termination date for any of these allowances not currently calculated under 30 CFR part 206.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 1010–AC77

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Final Rule Stage

1571. VALUATION OF OIL FROM INDIAN LEASES

Priority: Other Significant

Legal Authority: 25 USC 2101 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 181 et seq; 30 USC 351 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule would modify the regulations that establish royalty value for oil produced from Indian leases and create a new form for collecting value and value differential data. These changes would decrease reliance on oil posted prices and make Indian oil royalty valuation more consistent with the terms of Indian leases.

Statement of Need: Current oil valuation regulations rely primarily on posted prices and prices under arm's-length sales to value oil that is not sold at arm's-length. Over time, posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to place substantial reliance on the higher of crude oil spot prices major portion prices, or gross proceeds, and eliminate any direct reliance on posted prices. This rulemaking would also add more certainty to valuation of oil produced from Indian leases.

Summary of Legal Basis: The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's (1) authority to implement and maintain a royalty management system for oil and gas leases on Indian

lands, and (2) trust responsibility to administer Indian oil and gas resources.

Alternatives: We considered a range of valuation alternatives such as making minor adjustments to the current gross proceeds valuation method, using futures prices, using index-based prices with fixed adjustments for production from specific geographic zones, relying on some type of field pricing other than posted prices, and taking oil in-kind. We chose the higher of the average of the high daily applicable spot prices for the month major portion prices in the field or area, or gross proceeds received by the lessee or its affiliate. We chose spot prices as one of the three value measures because (1) they represent actual trading activity in the market, (2) they mirror New York Mercantile Exchange futures prices, and (3) they permit use of an index price in proximity to the actual production whose value is being measured.

Anticipated Cost and Benefits: We estimate compliance with this rulemaking would cost the oil and gas industry approximately $46,000 annually. Additional costs to industry and MMS would be up-front computer programming and other administrative costs associated with processing the new form. The benefits of this rulemaking would be an estimated $3.6 million increase in annual royalties collected on oil produced from Indian leases. Additional benefits would include simplification and increased certainty of oil pricing, reduced audit efforts, and reduced valuation determinations and associated litigation.

Risks: The risk of not modifying current oil valuation regulations is that Indian recipients may not receive royalties based on the highest price paid or offered for the major portion of oil produced—a common requirement in most Indian leases. These modifications ensure that the Department fulfills its trust responsibilities for administering Indian oil and gas leases under governing mineral leasing laws, treaties, and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	02/12/98	63 FR 7089
NPRM Comment Period Extended	04/09/98	63 FR 17349
NPRM Comment Period End	05/13/98	
Supplementary NPRM	01/05/00	65 FR 403
NPRM Comment Period Extended	02/28/00	65 FR 10436
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Tribal

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RIN: 1010–AC24

1572. OIL AND GAS DRILLING OPERATIONS

Priority: Other Significant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The rule will be written in plain English, substantive changes will be incorporated, and the rule will reflect the results of the blowout preventer study.

Timetable:

Action	Date	FR Cite
NPRM	06/21/00	65 FR 38453
NPRM Comment Period End	10/19/00	65 FR 46126
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC43

1573. PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 280

Legal Deadline: None

Abstract: This rule will expand the provisions governing research by requiring everyone conducting geological and geophysical scientific research without a permit to file a notice with MMS. These revisions respond to changes in technology and practice.

Timetable:

Action	Date	FR Cite
NPRM	12/08/99	64 FR 68649
NPRM Comment Period End	02/07/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC48

1574. FORMS AND REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 396 et seq; 25 USC 2102 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 101 et seq; 30 USC 1701 et seq; 31 USC 3176 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq; 5 USC 301 et seq

CFR Citation: 30 CFR 210

Legal Deadline: None

Abstract: This rule will update the list of Royalty Management Program information collections, the purpose of the collections, and the estimated reporting burden associated with each collection. It will also update MMS mailing addresses.

Timetable:

Action	Date	FR Cite
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC63

1575. DECOMMISSIONING ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a)

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule will amend MMS' regulations governing operations in the Outer Continental Shelf to update decommissioning requirements. The new layout of the rule follows the logical sequence of plugging a well, decommissioning the platform and pipeline, and clearing the waste site. The proposed rule also updates the requirements to reflect changes in technology. We have restructured the requirements to make the regulations easier to read and understand. The proposed technical changes will help ensure that lessees decommission operations safely and effectively.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 41892
NPRM Comment Period End	10/05/00	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC65

1576. REQUIREMENTS GOVERNING SURETY BONDS FOR THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 256

Legal Deadline: None

Abstract: This rule would change requirements governing surety bonds for activities on the Outer Continental Shelf. These changes will codify the terms and conditions under which a surety will be relieved of responsibility when MMS terminates the period and liability of a bond. Codifying these terms and conditions is necessary to clarify the responsibilities of the lessee after the lease expires.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1277
NPRM Comment Period End	03/09/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC68

1577. AMENDMENTS TO SALE OF FEDERAL ROYALTY OIL (SMALL REFINER ADMINISTRATIVE FEE)

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1301 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 31 USC 9701 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq; 5 USC 301 et seq

CFR Citation: 30 CFR 208

Legal Deadline: None

Abstract: This rule would remove the requirement that MMS collect fees from small refiners to recover the administrative cost of the small refiner royalty-in-kind program.

Timetable:

Action	Date	FR Cite
NPRM	09/26/00	65 FR 57771
NPRM Comment Period End	11/27/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC70

1578. DEEP WATER ROYALTY RELIEF FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES ISSUED AFTER 2000

Priority: Other Significant

Legal Authority: 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 203

Legal Deadline: None

Abstract: The rule explains who is eligible for relief, how they apply for relief, and the criteria they must meet to receive relief. The proposed rule makes a new class of leases, those sold after 2000 in the central and western Gulf of Mexico (GOM), eligible to apply for royalty suspensions to supplement any that may have been included in their original lease terms. Also, it updates certain requirements and authorizes royalty relief in special situations.

Statement of Need: Because of the variation of geologic and economic circumstance, standard leasing terms do not encourage development of all potential reserves in the deep water GOM. The Deep Water Royalty Relief Act (DWRRA)(Pub. L. 104-58) authorized the Minerals Management Service (MMS) to promote development of marginal reserves. The existing regulations at 30 CFR 203 give detailed instructions on how deep water leases issued before the DWRRA may apply and qualify for royalty suspension on a case-by-case basis. This proposed rule revises and extends these instructions to certain additional categories of OCS leases, especially those issued after 2000. Revisions to the existing instructions reflect experience with cases over the last 5 years. Also the proposed rule identifies circumstances when MMS may consider special royalty relief outside our established end-of-life and DWRR programs.

Summary of Legal Basis: The OCS Lands Act is the basis for our regulations on suspending or lowering royalties on producing OCS leases. The

DWRRA is the basis for regulations to reduce or eliminate royalty on non-producing leases in the GOM west of 87 degrees, 30 minutes West longitude. It gives the Secretary of the Interior this authority to (1) promote development or increased production on producing and non-producing leases or (2) encourage production of marginal resources on producing and non-producing leases.

Alternatives: The specificity with which the current regulations were written was driven by the DWRRA to facilitate planning by potential applicants. Those regulations do not leave room for anything but a rulemaking fix. Otherwise, those new leases that legitimately need development assistance would be relegated to seeking relief under ad hoc special relief rules. Alternatively an extension of the DWRRA terms to fill a perceived gap may give future deep water lessees royalty-suspension terms that are not sufficiently responsive to current market conditions. Moreover, it is fairer to both applicants and taxpayers to establish clear and coherent rules by which individual leases can obtain the amount of royalty relief actually needed to induce development.

Anticipated Cost and Benefits: This rule extends the benefit of discretionary royalty relief to certain OCS leases after November 2000 that qualify as marginally uneconomic. Lessees who choose to seek this discretionary royalty relief pay user fees that range from $12,000 to $49,000 per application, in addition to their internal costs of assembling the necessary data. Benefits from this rule come from production that otherwise would not occur or be deferred indefinitely. To date, one field qualifying for relief has gone into production and added 15 million barrels of oil equivalent to reserves in the GOM. Another on the verge of starting development would add 400 billion cubic feet of natural gas to reserves that otherwise would not be produced in the GOM.

Risks: The risk of not modifying the discretionary royalty relief rule is that some marginal resources will be bypassed. Alternatively, royalty receipts could fall because overly generous relief will be given to many leases to avoid the loss in production by a few.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69259
Comment Period Extended	12/15/00	65 FR 78431
Final Action	05/00/01	
Final Action Effective	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 1010–AC71

1579. LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF—DEFINITION OF AFFECTED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 6213; 43 USC 1331 et seq

CFR Citation: 30 CFR 256

Legal Deadline: None

Abstract: The proposed rule would eliminate a redundant and burdensome definition of "Affected State" that applies only to subpart B the Oil and Gas Leasing Program. This would mean that the definition of "Affected State" in subpart A would apply to the entire part 256. This rule would eliminate the need for the Federal Government to involve certain unaffected coastal States in the complex, multi-step process of preparing a 5-year program.

Timetable:

Action	Date	FR Cite
NPRM	12/15/00	65 FR 78432
NPRM Comment Period End	02/13/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

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RIN: 1010–AC74

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Long-Term Actions

1580. ROYALTY PAYMENT LIABILITY

Priority: Other Significant

Legal Authority: 25 USC 2101 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 211

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is amending its regulations to clarify payor, lessee, and assignee requirements and responsibilities for Indian mineral leases and Federal solid mineral and geothermal leases.

Timetable:

Action	Date	FR Cite
NPRM	04/13/94	59 FR 17504
NPRM	06/09/95	60 FR 30492
Comment Period Extended	08/30/95	60 FR 45112
Comment Period Extended	10/03/95	60 FR 56033
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1010–AB45

1581. CREDIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2101 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq; 5 USC 301 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This rule will limit adjustments on royalty payments and determine the use of administrative offset for certain collections. This rule was expanded to include post-Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 impacts on credit adjustments and administrative offsets after the initial proposed rule was published, so a new proposed rule will be issued.

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 43588
NPRM Comment Period End	11/01/93	58 FR 50301
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AB73

1582. CHRONIC ERRONEOUS REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2101 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq; 5 USC 301 et seq

CFR Citation: 30 CFR 216; 30 CFR 218

Legal Deadline: None

Abstract: This rule eliminates assessments for late reporting and failure to report and defines the assessment criteria. The new rule will define what is considered a chronic erroneous reporter and applicable assessments. Penalties for failure to report are also addressed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	
NPRM Comment Period End	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 1010–AC34

1583. OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF—SAFETY MEASURES AND PROCEDURES FOR PIPELINE MODIFICATIONS AND REPAIRS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The rule will address problems that arise out of the fact that eventually all pipeline valves leak internally. This is due to abrasion and deposition of operational residues on valve seats. Internal valve leakage poses a potential safety problem to offshore workers at the time pipeline repairs are performed because hydrocarbons and pressure differentials in the lines can pose a significant hazard of fire and explosion. The rule will require that lessees and operators consider and submit in writing the measures they plan to take and the procedures they plan to follow to ensure the safety of company or contract workers and to prevent pollution before beginning a pipeline modification or repair, and it will amend section 250.1006(b)(1) by requiring that a blind flange be installed at the platform end of any pipeline taken out of service to prevent seepage into the line through leaking valves.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
NPRM Comment Period End	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC75

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Completed Actions

1584. UPDATE OF DOCUMENTS INCORPORATED BY REFERENCE: API/ISO 10432

Priority: Routine and Frequent

CFR Citation: 30 CFR 250

Completed:

Reason	Date	FR Cite
Final Action	12/08/00	65 FR 76933

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1010–AC66

1585. OUTER CONTINENTAL SHELF OIL AND GAS LEASING-BIDDING SYSTEMS

Priority: Other Significant

CFR Citation: 30 CFR 218; 30 CFR 256; 30 CFR 260

Completed:

Reason	Date	FR Cite
Final Action	02/23/01	66 FR 11512
Final Action Effective	03/26/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

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RIN: 1010–AC69

1586. AMENDMENTS TO GAS VALUATION REGULATIONS FOR INDIAN LEASES

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 174(l)

Completed:

Reason	Date	FR Cite
Final Action	10/19/00	65 FR 62612

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

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RIN: 1010–AC72

BILLING CODE 4310–MR–S

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1587. ABANDONED COAL REFUSE SITES—TITLE I

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785; 30 CFR 829; 30 CFR 830; 30 CFR 845; 30 CFR 870

Legal Deadline: None

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement section 2503(e) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Inhi Hong, Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenuw NW, MS 120-SIB, Washington, DC 20240
Phone: 202 208-2628

RIN: 1029–AB70

1588. CONTEMPORANEOUS RECLAMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773; 30 CFR 780; 30 CFR 816

Legal Deadline: None

Abstract: This rule will amend our regulations to ensure that coal mine operators reclaim their operations in a contemporaneous manner.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Craynon, Chief, Technology Development Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2866

RIN: 1029–AB79

1589. DAM SAFETY RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule will require the surface coal mining permittee to have an emergency action plan (EAP) when a dam is placed in service. This would bring OSM's regulations on EAPs into compliance with the Federal guidelines for dam safety and the Departmental Manual. It would ensure that EAPs are in place for all Class B and Class C hazard structures that may not necessarily be regulated by the Mine Safety and Health Administration but for which OSM is responsible.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Larry Trainor, Mining Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW, Washington, DC 20240
Phone: 202 208-2617

RIN: 1029–AB92

DOI—OSMRE

Proposed Rule Stage

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1590. INDIAN LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700; 30 CFR 740; 30 CFR 750

Legal Deadline: None

Abstract: This rule will amend regulations to allow OSM to contract to the Navajo and Hopi Tribes certain functions relating to permitting mine plan review, bonding, and other functions authorized by the Indian land provisions of the Surface Mining Control and Reclamation Act. The rule is being proposed to implement a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	02/19/99	64 FR 8464
NPRM Comment Period End	06/21/99	64 FR 18585
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Suzy Hudak, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW, Washington, DC 20240
Phone: 202 208-2713

RIN: 1029–AB83

1591. ELECTRONIC FILING OF THE OSM-1 FORM

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: This rule will provide mine operators the option of electronically filing the information required by the OSM-1 form. The form is used by coal mine operators to report the amount of coal sold, used, or transferred during the calendar quarter; the method of coal removal; the type of coal removal and other required information.

Timetable:

Action	Date	FR Cite
NPRM	02/15/00	65 FR 7706
NPRM Comment Period Extended	01/22/01	66 FR 6011
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sean Spillane, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Building 20K - Room B-2005, Denver, CO 80225
Phone: 303 236-0330

RIN: 1029–AB95

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1592. OWNERSHIP AND CONTROL—REDESIGN

Priority: Other Significant

CFR Citation: 30 CFR 701; 30 CFR 724; 30 CFR 773; 30 CFR 774; 30 CFR 778; 30 CFR 842; 30 CFR 843; 30 CFR 846; 30 CFR 847

Completed:

Reason	Date	FR Cite
Final Action	12/19/00	65 FR 79582

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Earl Bandy
Phone: 303 233-2796

RIN: 1029–AB94

1593. TEMPORARY CESSATION OF MINING OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 816; 30 CFR 817

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Will Be Taken	12/14/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Broderick
Phone: 202 208-2700

RIN: 1029–AB97

BILLING CODE 4310–05–S

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1594. LEASES, PERMITS, AND EASEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of leases, permits and easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	
Second NPRM	02/09/95	60 FR 7878
Second NPRM Comment Period End	04/10/95	
Final Rule for Minimum Impact Land Use Permits Only	06/24/96	61 FR 32351
Final Rule Effective for Minimum Impact Land Use Permits Only	07/24/96	
Third NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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Fax: 202 452-7708
Email: jeff__holdren@blm.gov

RIN: 1004–AB51

1595. SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Room 420, 1849 C Street NW., Washington, DC 20240
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Email: ted__hudson@blm.gov

RIN: 1004–AB77

1596. DESERT LAND ENTRIES

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will transfer much of the regulation on entries of desert land to the BLM Manual if the underlying statute is not repealed as no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1004–AC56

1597. DISPOSAL OF RESERVED MINERALS UNDER THE STOCK RAISING HOMESTEAD ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 299

CFR Citation: 43 CFR 3814

Legal Deadline: Final, Statutory, October 13, 1993.

Abstract: This rule will establish new procedures for mineral exploration and development under the General Mining Law of 1872 on lands where the surface was patented under the Stock Raising Homestead Act of 1916 and the mineral estate remains reserved to the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355
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RIN: 1004–AC59

1598. LAND WITHDRAWALS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1714; 43 USC 1740

CFR Citation: 43 CFR 2310; 43 CFR 2370

Legal Deadline: None

Abstract: This rule will revise the regulations on withdrawals and revocations of withdrawals to streamline operations and clarify the regulations. It will also amend the regulations to expedite the opening of formerly withdrawn lands to the operation of the public land laws.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC63

DOI—BLM

Proposed Rule Stage

1599. LAND CLASSIFICATION

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1411 to 1418; 43 USC 315; 43 USC 869; EO 6910; EO 6964

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: This rule will revise 43 CFR group 2400 and redesignate it as part 1620. Most of these regulations are no longer needed because they contain either statutory reiteration or internal procedures best suited to the BLM Manual. Land classification can be accomplished through the BLM planning process.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC78

1600. CAREY ACT GRANTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 641 et seq

CFR Citation: 43 CFR 2610

Legal Deadline: None

Abstract: This rule will update these regulations as they are inconsistent with present-day management policies. Application of these provisions of the Carey Act is rarely feasible due to limited water and suitable lands.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47725
NPRM Comment Period End	10/10/96	
Supplementary NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC80

1601. APPEALS PROCEDURES; HEARINGS PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 43 USC 1701; 43 USC 1740

CFR Citation: 43 CFR 1840; 43 CFR 1850

Legal Deadline: None

Abstract: BLM proposes to amend its regulations that govern administrative review procedures for protests of proposed decisions, contested appeals of BLM decisions, and hearings on the record. The proposed regulations would provide more consistent procedures for administrative review of BLM decisions, and would clarify when and how BLM decisions go into effect and whether an appeal will stay the effectiveness of a BLM decision.

Timetable:

Action	Date	FR Cite
NPRM	10/17/96	61 FR 54120
NPRM Comment Period End	01/17/97	61 FR 58160
Second NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Ellis, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street N.W., Washington, DC 20240
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Email: cynthia__ellis@blm.gov

RIN: 1004–AC99

1602. COLOR OF TITLE AND OMITTED LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2540

Legal Deadline: None

Abstract: As part of its reinventing government effort, BLM proposes to rewrite the current color of title and omitted lands regulations in plain English. No substantive changes are proposed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Room 420, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AD00

1603. GEOTHERMAL RESOURCE UNIT AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1001 et seq; 43 USC 1740

CFR Citation: 43 CFR 3280

Legal Deadline: None

Abstract: This rule will rewrite unit agreement regulations, reduce and streamline information and permitting requirements, provide BLM maximum flexibility in permitting decisionmaking to accommodate the full range of unitization scenarios, and reorganize the regulations to make specific requirements easier to find and understand.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240
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RIN: 1004–AD10

1604. CONSERVATION; HELIUM LEASING

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq; 50 USC 167

CFR Citation: 43 CFR 16; 43 CFR 3196

Legal Deadline: None

Abstract: This rule will redesignate, amend, and extend the regulations on conservation of helium to facilitate administration and implementation of provisions in the Helium Privatization Act. The rule will move these regulations to 43 CFR subpart 3196 to consolidate helium-related regulations in one area for ease in finding and complying with them.

Timetable:

Action	Date	FR Cite
ANPRM	12/19/00	65 FR 79325
ANPRM Comment Period End	03/26/01	
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Joseph B. Peterson, Chief, Division of Helium Resources, Department of the Interior, Bureau of Land Management, Amarillo Field Office, 801 S. Fillmore, Suite 500, Amarillo, TX 79101
Phone: 806 324-2614

RIN: 1004–AD35

1605. GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 118(d); 43 USC 1701 et seq; 43 USC 1901 et seq; 43 USC 315 et seq; 7 USC 1012

CFR Citation: 43 CFR 4100

Legal Deadline: None

Abstract: This rule will remove provisions for conservation use of grazing privileges. These provisions were determined by the Federal Circuit Court to be not consistent with the statutory authority of the Secretary of the Interior. The rule will also correct errors and omissions, and provide clarification.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth M. Visser, Rangeland Management Specialist, Department of the Interior, Bureau of Land Management, 314 L Street, Washington, DC 20240
Phone: 202 452-7743
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Email: kenneth_visser@blm.gov

RIN: 1004–AD42

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1606. COST RECOVERY; MINERAL FILINGS AND OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1001 et seq; 30 USC 181 et seq; 30 USC 22; 30 USC 351 to 360; 31 USC 9701; 43 USC 1734; 50 USC app 565

CFR Citation: 43 CFR 3100; 43 CFR 3200; 43 CFR 3400; 43 CFR 3500; 43 CFR 3600; 43 CFR 3700; 43 CFR 3800

Legal Deadline: None

Abstract: This rule will amend regulations for user fees for locatable minerals, mineral materials, and leasable minerals (solids and fluids) to adjust current fees or establish new fees in accordance with title V of the Independent Offices Appropriations Act of 1952 (user charges), OMB Circular A-25 "User Charges" and section 304 of the Federal Land Policy and Management Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	12/15/00	65 FR 78440
NPRM Comment Period End	02/13/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
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RIN: 1004–AC64

1607. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES; RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2800; 43 CFR 2880

Legal Deadline: None

Abstract: This rule will move much of the existing regulations to manuals notices to applicants, etc. This action will ease update of cost recovery schedules. Materials will be combined with other rights-of-way guidance.

Timetable:

Action	Date	FR Cite
NPRM	06/15/99	64 FR 32106
NPRM Comment Period End	10/13/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 260, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-7782
Email: ron_montagna@blm.gov

RIN: 1004–AC74

1608. INDIAN ALLOTMENTS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 334; 25 USC 336; 43 USC 1201

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule will convert existing regulations to plain English

and remove those portions that relate to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	10/16/96	61 FR 53887
NPRM Comment Period End	09/13/99	64 FR 38172
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC77

1609. OIL AND GAS LEASING AND OPERATIONS

Priority: Other Significant

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3100 to 3180

Legal Deadline: None

Abstract: This rule will revise BLM's current Federal oil and gas leasing and operations regulations, except those concerning drainage (section 3100.2-2), combined hydrocarbon leasing (part 3140) and oil and gas leasing in the National Petroleum Reserve—Alaska (part 3130). The rule will: (1) Cite industry standards and incorporate them by reference rather than repeat those standards in the rule; (2) incorporate the requirements of the Onshore Oil and Gas Orders and national notices to lessees into the regulations to eliminate overlap with current regulations; (3) use performance standards in certain places instead of prescriptive requirements to allow more flexibility for operators and to protect the environment and Federal royalty interests; (4) increase certain bonding requirements and (5) eliminate redundancies, clarify procedures and regulatory requirements and streamline procedures.

Statement of Need: This rulemaking complies with the requirements of the Government Performance and Results Act, the recommendations of the National Performance Review, and other initiatives. It will be presented in a user-friendly format, presented by process rather than by subject matter.

Summary of Legal Basis: The Mineral Leasing Act gives BLM the authority to issue and administer the terms of oil and gas leases on Federal lands, to conduct inspections of drilling operations and to promulgate and enforce regulations pertaining to oil and gas leasing and operations. BLM is the only Federal agency with authority to issue leases for publicly owned oil and gas resources.

Alternatives: The only alternative to the proposed regulations would be to continue to operate under the existing regulations. These regulations are not performance-based and are at times ambiguous and hard to understand. Further, the important information found in Onshore Operating Orders is published separately from the regulations and at irregular intervals.

Anticipated Cost and Benefits: BLM anticipates the following benefits: (1) More clearly written rules will be better understood by both oil and gas lessees and operators and members of the general public; (2) performance standards, rather than prescriptive requirements, will allow lessees and operators and BLM greater flexibility to deal with unique geological or engineering circumstances within the standards set by the rule; and (3) streamlining and clarifying procedures will result in better customer service and decreased time and money for both BLM and the user public.

Risks: The public may misunderstand one or more performance standards. BLM will publish user guides that explain in detail the standards and will provide examples of how operators might meet specific standards.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66840
NPRM Comment Period End	07/19/99	64 FR 29256
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, MS 401, Regulatory Management Team (WO-630), 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AC94

1610. OIL AND GAS LEASING; NATIONAL PETROLEUM RESERVE, ALASKA—UNIT AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6503; 43 USC 1740

CFR Citation: 43 CFR 3130; 43 CFR 3135

Legal Deadline: None

Abstract: This proposed rule would add a new subpart to BLM's oil and gas regulations implementing new statutory authority allowing operators to form units in the National Petroleum Reserve Alaska (NPRA). The rule would also:

(A) allow for waiver suspension, or reduction of rental or royalty payments for NPRA leases;

(B) allow for suspension of operations and production for NPRA leases;

(C) amend existing regulatory language to set the primary lease term for an NPRA lease at 10 years; and

(D) add a new subpart to the NPRA regulations on subsurface storage agreements.

Timetable:

Action	Date	FR Cite
NPRM	04/26/00	65 FR 24542
NPRM Comment Period End	08/10/00	65 FR 39334
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1004–AD13

1611. USE AUTHORIZATIONS (RECREATION)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460l-6a; 43 USC 1740

CFR Citation: 43 CFR 8370

Legal Deadline: None

Abstract: This rule will revise the regulations on the issuance of special recreation permits for purposes of clarification and updating and will add regulations on the issuance of recreation use permits for the use of fee areas.

Timetable:

Action	Date	FR Cite
NPRM	05/16/00	65 FR 31233
NPRM Comment Period End	07/17/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee Larson, Recreation Specialist, Department of the Interior, Bureau of Land Management
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RIN: 1004–AD25

1612. MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Legal Deadline: None

Abstract: This rule will revise completely the regulations on mineral materials disposal to make them easier to understand. It will add provisions on recordkeeping and audit inspection and production verification, cancellation and suspension, appeals and clarification of the rights of competitive or noncompetitive purchasers against subsequent claims on and users of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	09/14/00	65 FR 55864
NPRM Comment Period End	11/13/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
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RIN: 1004–AD29

1613. SUPPLEMENTARY RULES FOR PUBLIC DEMONSTRATIONS AT GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 CFR 8365.1-6

CFR Citation: 43 CFR 8365

Legal Deadline: None

Abstract: This interim final rule would require a permit for public demonstrations at Grand Staircase-Escalante National Monument and associated facilities, and establish procedures for obtaining such a permit. It would also provide for some locations to be designated as open for demonstrations, and others to be closed to protect sensitive resources and public health and safety.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/00	65 FR 53516
Comment Period End	10/02/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Room 420, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AD40

1614. • COAL MANAGEMENT: NONCOMPETITIVE LEASES; MANAGEMENT PROVISIONS AND LIMITATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740; 30 USC 181 et seq; PL 106-463

CFR Citation: 43 CFR 3430; 43 CFR 3470

Legal Deadline: None

Abstract: This rule will increase the maximum acreage of Federal coal leases that may be leased to one entity in any one State from 46,080 to 75,000 acres to conform with legislation enacted in 2000, and to correct a technical error in the regulations by removing the requirements of a public hearing and publication of a notice of availability of environmental analysis documents for coal lease modifications. It will also raise the nationwide acreage limitation on coal leases that one entity can hold from 100,000 to 150,000 acres.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1004–AD43

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Long-Term Actions

1615. COALBED METHANE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13368

CFR Citation: 43 CFR 3170

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: The rule will implement section 1339 of the Energy Policy Act of 1992. It will prevent conflicts in ownership of coalbed methane from impeding development of that resource by requiring pooling of development and payment of the proceeds into an escrow account until the ownership issue is resolved by a State entity of competent jurisdiction. The rule will also allow States to avoid the Federal regulations by promulgating their own regulations that substantially comply with Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: David R. Stewart, Mineral Resources, Department of the Interior, Bureau of Land Management
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Email: dave_stewart@blm.gov

RIN: 1004–AC27

1616. SEGREGATION AND OPENING OF LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2091

Legal Deadline: None

Abstract: This rule will simplify and modernize the existing regulations on segregation and opening public lands that are involved in various transactions such as sales or exchanges.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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Email: jeff_holdren@blm.gov

RIN: 1004–AC84

1617. PALEONTOLOGICAL RESOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3622; 43 CFR 6600; 43 CFR 8365

Legal Deadline: None

Abstract: This rule will consolidate into one part of the CFR various BLM regulatory provisions relating to paleontological resource management and rewrite them in plain English.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurie Bryant, Paleontological Program Coordinator, Department of the Interior, Bureau of Land Management, Utah State Office
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RIN: 1004–AD03

1618. COAL MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1266; 30 USC 189; 30 USC 359; 43 USC 1733; 43 USC 1740

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will clarify and streamline policy on coal exploration and post-lease operations. It will reorganize and revise portions of the Federal coal management program regulations including exploration licenses, lease suspensions, lease administration diligence, and exploration and mining operations on leased Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Radden-LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
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RIN: 1004–AD11

1619. LOCATION RECORDING, AND MAINTENANCE OF MINING CLAIMS AND SITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 30 USC 22 to 54; 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 3710; 43 CFR 3730; 43 CFR 3810; 43 CFR 3820; 43 CFR 3830; 43 CFR 3840; 43 CFR 3850

Legal Deadline: None

Abstract: This rule will amend the mining claim recordation and annual fee collection procedures to conform to the fiscal year 1999 Interior and Related Agencies Appropriations Act. It will also consolidate duplicative portions of 43 CFR part 3700 et seq. into 43 CFR part 3800 et seq., and remove the duplicative portions of these regulations from title 43. The interim final rule only implements the statutory changes in the FY 99 Appropriations Act.

Timetable:

Action	Date	FR Cite
NPRM	08/27/99	64 FR 47023
Interim Final Rule	08/27/99	64 FR 47018
NPRM Comment Period End	10/26/99	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: The $100 annual maintenance fee and related provisions expired on 9/30/98. The fee and related provisions were extended in the FY 1999 budget legislation. The existing regulations must be amended to conform to the legislation. BLM will take the opportunity to do long-delayed but necessary housekeeping of these parts of title 43 to consolidate duplicative sections.

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355
Email: roger_haskins@blm.gov

RIN: 1004–AD31

DOI—BLM — Long-Term Actions

1620. MINERAL PATENT APPLICATIONS; ADVERSE CLAIMS, PROTESTS, AND CONFLICTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 30 USC 22 to 54; 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 3730; 43 CFR 3740; 43 CFR 3820; 43 CFR 3860; 43 CFR 3870

Legal Deadline: None

Abstract: This rule will revise the filing and administrative procedures for mineral patent applications. It will also revise the procedures for filing adverse claims or protests against mineral patent applications and for mineral-in-character challenges to non-mineral land entries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This rulemaking was ordered by the Secretary of the Interior on November 14, 1997. Much of the language of these regulations has remained unchanged since 1939 and needs modernization.

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355
Email: roger__haskins@blm.gov

RIN: 1004–AD32

1621. TIMBER EXPORT AND SUBSTITUTION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 617; 43 USC 1701 et seq

CFR Citation: 43 CFR 4; 43 CFR 5400; 43 CFR 5420; 43 CFR 5440

Legal Deadline: None

Abstract: This rule will implement the Forest Resources Conservation and Shortage Relief Act of 1990, as amended, by prohibiting, with certain exceptions, the exportation of unprocessed timber from Federal lands west of the 100th Meridian in the contiguous 48 States, and prohibiting direct and indirect substitution of non-Federal for Federal timber. It would allow exceptions for timber surplus to domestic needs, and set up sourcing areas for this timber. The rule will establish civil penalties and administrative remedies for violations of the Act or the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lyndon Werner, Senior Forester, Department of the Interior, Bureau of Land Management
Phone: 503 952-6071

RIN: 1004–AD37

1622. HAZARDOUS MATERIALS COMPLIANCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 1890

Legal Deadline: None

Abstract: This rule will clarify the respective responsibilities of BLM and the holders of various BLM authorizations with regard to releases of hazardous materials and other violations of environmental law caused by the holder or the holder's operator on public lands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia Ellis, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street N.W., Washington, DC 20240
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RIN: 1004–AD38

1623. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES; RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 30 USC 185; 43 USC 1733; 43 USC 1734; 43 USC 1740; 43 USC 1761; 43 USC 1762

CFR Citation: 43 CFR 2800; 43 CFR 2880

Legal Deadline: None

Abstract: This rule will describe how BLM will charge annual rents for fiber optic systems on rights-of-way on Federal and public lands. Fiber optic systems do not fit traditional concepts of rights-of-way and are not easily accommodated by BLM's current rent schedules. BLM is therefore seeking comments on how to charge rents for this emerging technology.

Timetable:

Action	Date	FR Cite
NPRM	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 260, 1849 C Street NW, Washington, DC 20240
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RIN: 1004–AD39

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM) — Completed Actions

1624. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 6300; 43 CFR 6560

Completed:

Reason	Date	FR Cite
Final Action	12/14/00	65 FR 78358
Final Action Effective	01/16/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Allard
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RIN: 1004–AB69

1625. OIL AND GAS LEASING; DRAINAGE

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 3100

Completed:

Reason	Date	FR Cite
Final Action	01/10/01	66 FR 1883
Final Action Effective	02/08/01	66 FR 9527
Date Delayed		
Final Action Effective	04/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donnie Shaw
Phone: 202 452-0382
Email: donnie__shaw@blm.gov

RIN: 1004–AC54

1626. SURFACE MANAGEMENT (LOCATABLE MINERALS)

Priority: Other Significant

CFR Citation: 43 CFR 3809

Completed:

Reason	Date	FR Cite
Final Action	11/21/00	65 FR 69998
Final Action Effective	01/20/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Local

Agency Contact: Robert Anderson
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RIN: 1004–AD22

1627. FINANCIAL ASSISTANCE; LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 1880

Completed:

Reason	Date	FR Cite
Final Action	08/23/00	65 FR 51229
Final Action Effective	09/22/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Howell
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Email: bill__howell@blm.gov

RIN: 1004–AD23

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DEPARTMENT OF THE INTERIOR (DOI)
Office of the Secretary (OS) — Final Rule Stage

1628. WILD AND SCENIC RIVERS

Priority: Other Significant

Legal Authority: 16 USC 1278

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This rule would establish uniform standards and procedures by which the Department of the Interior, through its agencies that administer rivers in the National Wild and Scenic Rivers System (Bureau of Land Management, Fish and Wildlife Service, and National Park Service), will consider Federal licensing of, or assistance to, water resources projects affecting designated Wild and Scenic Rivers or congressionally authorized Study Rivers.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67834
NPRM Comment Period End	02/08/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Haubert, Outdoor Recreation Planner, Department of the Interior, Office of the Secretary, Room 3230, 1849 C Street N.W., Room 3230, Washington, DC 20240
Phone: 202 208-4290
Email: john__haubert@nps.gov

RIN: 1093–AA08

[FR Doc. 01–6923 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. I

21 CFR Ch. II

28 CFR Ch. I

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its April 2001 regulatory agenda pursuant to E.O. 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4258, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514-8059.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) requires that, each year, the Department publish a list of those regulations that have a significant economic impact upon a substantial number of small entities and are to be reviewed under section 610 of the Act during the succeeding 12 months. This edition of the Department's Unified Agenda includes two regulations requiring such a review: "Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements" (RIN 1115-AB73) and "Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities" (RIN 1190-AA44). In accordance with the RFA, comments are specifically invited on these regulations. Those comments should be addressed to the contact person listed in the entries for these items.

Dated: March 26, 2001.

Kevin R. Jones,

Acting Assistant Attorney General, Office of Policy Development.

Bureau of Prisons—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1629	Classification and Program Review	1120-AA93
1630	Release of Information	1120-AA96
1631	Administrative Remedy Program: Applicability to Contract Facilities	1120-AA97
1632	Searching and Detaining or Arresting Persons Other Than Inmates: Denial of Visiting	1120-AB01
1633	Literacy Program: GED Requirements	1120-AB02
1634	Infectious Disease Management	1120-AB03
1635	Drug Abuse Treatment Program: Subpart Revision and Clarification	1120-AB07

Bureau of Prisons—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1636	Volunteer Community Service Projects	1120-AA03
1637	Intensive Confinement Centers	1120-AA11
1638	Incoming Publications	1120-AA15
1639	Infectious Diseases	1120-AA23
1640	Postsecondary Education Programs	1120-AA25
1641	Literacy Program	1120-AA33
1642	Telephone Regulations and Inmate Financial Responsibility	1120-AA39
1643	Telephone Regulations and Inmate Financial Responsibility	1120-AA49
1644	Incoming Publications: Nudity and Sexually Explicit Material or Information	1120-AA59
1645	Good Conduct Time	1120-AA62
1646	Administrative Remedy Program: Excluded Matters	1120-AA72
1647	Visiting Regulations: Prior Relationship	1120-AA77
1648	Smoking/No Smoking Areas	1120-AA79
1649	Over-the-Counter (OTC) Medications	1120-AA81
1650	Administrative Safeguards for Psychiatric Treatment and Medication; Military Prisoners and District of Columbia Code Violators	1120-AA83
1651	Designation of Offenses Subject to Sex Offender Release Notification	1120-AA85
1652	Inmate Commissary Account Deposit Procedures	1120-AA86
1653	Drug Abuse Treatment Programs: Disincentives and Enhanced Incentives	1120-AA88
1654	Searches of Housing Units, Inmates, Inmate Work Areas, and Persons Other Than Inmates: Electronic Devices	1120-AA90
1655	Occupational Educational Programs	1120-AA92
1656	Drug Testing Program	1120-AA95
1657	Correspondence: Inspection of Outgoing General Correspondence	1120-AA98
1658	Release Gratuities, Transportation, and Clothing: Aliens	1120-AA99
1659	Religious Beliefs and Practices: Nomenclature Change	1120-AB04

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Bureau of Prisons—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1660	District of Columbia Educational Good Time Credit	1120-AB05
1661	Suicide Prevention Program	1120-AB06

Bureau of Prisons—Completed Actions

Sequence Number	Title	Regulation Identification Number
1662	Drug Abuse Treatment and Intensive Confinement Center Programs: Early Release Consideration	1120-AA66

Civil Rights Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1663	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities **(Section 610 Review)**	1190-AA44
1664	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA46
1665	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards; Recreation Facilities	1190-AA47
1666	American Competitiveness and Workforce Improvement Act of 1998 Complaint Process	1190-AA48
1667	Nondiscrimination on the Basis of Disability in State or Local Government Facilities; Public Accommodations and Commercial Facilities; Accessibility Standards; Play Areas	1190-AA50
1668	Amendments to Procedures Advising States and Political Subdivisions Specially Covered Under the Voting Rights Act How To Seek Preclearance From the Attorney General of Proposed Voting Changes	1190-AA51
1669	Amendments to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA52

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1670	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	1190-AA49

Civil Rights Division—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1671	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA36

Civil Rights Division—Completed Actions

Sequence Number	Title	Regulation Identification Number
1672	Amendment to Nondiscrimination in Federally Assisted Programs and Activities—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA31
1673	Amendment to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA32

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Drug Enforcement Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1674	Guidelines for Providing Controlled Substances to Ocean Vessels	1117-AA40
1675	Sale by Federal Departments or Agencies of Chemicals Usable To Manufacture a Controlled Substance	1117-AA47
1676	Placement of Gamma-Butyrolactone in List I of the Controlled Substances Act (21 U.S.C. 802)	1117-AA52
1677	Industrial Use of Products and Materials Derived From Cannabis Plants	1117-AA55
1678	Exemption From Import/Export Requirements for Personal Medical Use	1117-AA56
1679	Allowing Central Fill Pharmacies To Fill Prescriptions for Controlled Substances on behalf of Retail Pharmacies	1117-AA58
1680	Electronic Orders for Schedule I and II Controlled Substances	1117-AA60
1681	Electronic Prescriptions for Controlled Substances	1117-AA61

Drug Enforcement Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1682	Definition and Registration of Disposers	1117-AA19
1683	Exemption of Chemical Mixtures	1117-AA31
1684	Registration and Reregistration Application Fees	1117-AA34
1685	Establishment of Freight Forwarding Facilities for DEA Distributing Registrants	1117-AA36
1686	Listed Chemicals; Final Establishment of Thresholds for Iodine and Hydrochloric Gas (Hydrogen Chloride Gas)	1117-AA43
1687	Implementation of the Methamphetamine Control Act; Regulation of Pseudoephedrine, Phenylpropanolamine, and Combination Ephedrine Drug Products; Reports of Certain Transactions to Nonregulated Persons	1117-AA44
1688	Chemical Registration and Reregistration Fees	1117-AA50
1689	Waiver of Advance Notification Requirement To Import Acetone, 2-Butanone (MEK), and Toluene	1117-AA53
1690	Control of Red Phosphorus, White Phosphorus, and Hypophosphorous Acid (and Its Salts) as List I Chemicals	1117-AA57
1691	Placement of Dichloralphenazone Into Schedule IV	1117-AA59

Drug Enforcement Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1692	Facsimile Transmission of Prescriptions for Patients Enrolled in Hospice Programs	1117-AA54

Executive Office for Immigration Review—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1693	Authority of Immigration Judges To Issue Civil Money Penalties	1125-AA18
1694	Suspension of Deportation and Cancellation of Removal	1125-AA25
1695	Authorities Delegated to the Director of the Executive Office for Immigration Review	1125-AA27
1696	Motions To Reopen for Suspension of Deportation and Special Rule Cancellation of Removal Pursuant to Section 1505(c) of the LIFE Act Amendments	1125-AA31

Executive Office for Immigration Review—Completed Actions

Sequence Number	Title	Regulation Identification Number
1697	212(c) Relief for Certain Aliens in Deportation Proceedings On or Before April 24, 1996	1125-AA29

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Federal Bureau of Investigation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1698	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act	1110-AA00
1699	Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)	1110-AA01
1700	Federal Convicted Offender DNA Data Base Program	1110-AA03

Federal Bureau of Investigation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1701	Regulations Under the Pam Lychner Sexual Offender Tracking and Identification Act	1110-AA04

Federal Bureau of Investigation—Completed Actions

Sequence Number	Title	Regulation Identification Number
1702	Operation of the National Instant Criminal Background Check System	1110-AA02

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1703	Corporate Reorganizations (Mergers and Acquisitions) and E, H, L Nonimmigrant Classification	1115-AE55
1704	Expansion of Expedited Removal of Certain Criminal Aliens Held in Federal, State, and Local Jails	1115-AF50
1705	Construction Work and the B Nonimmigrant Visa Classification	1115-AG15

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1706	Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions	1115-AB45
1707	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program	1115-AD82
1708	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses	1115-AD86
1709	Employment Authorization Document Applications and Process	1115-AE06
1710	Inspection of Persons Applying for Admission; International-to-International User Fee	1115-AE37
1711	Definition of the Term "Lawfully Present" for Purposes of Eligibility for Public Benefits	1115-AE51
1712	Petition for Employment Creation Aliens	1115-AE56
1713	Filing Factual Statements About Alien Prostitutes	1115-AE60
1714	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress	1115-AE68
1715	Certification of Certain Health Care Workers	1115-AE73
1716	Regulations Pertaining to Battered Aliens and to Mail Order Bride Businesses, as Mandated by IIRIRA	1115-AE77
1717	En Route Inspections and Reimbursement for Immigration and Naturalization Service Costs	1115-AE98
1718	Special Immigrant Juvenile—Petitions	1115-AF11
1719	Extension of Deadline for Special Immigrant Religious Workers	1115-AF12
1720	Progressive Clearance Stopovers	1115-AF23
1721	Documentary Requirements for Returning Residents	1115-AF26
1722	Availability of Material Under Freedom of Information Act and Privacy Act	1115-AF32
1723	Dismissal of Asylum Application for Unexcused Failure To Appear and Effect on Eligibility for Employment Authorization	1115-AF38
1724	H-1B Nonimmigrant Worker Complaints Regarding U.S. Employer Violations Under the American Competitiveness and Workforce Improvement Act (ACWIA)	1115-AF40
1725	American Competitiveness and Workforce Improvement Act	1115-AF41

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Immigration and Naturalization Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1726	Special Immigrant Status for Certain NATO Civilian Employees	1115-AF44
1727	Contracts With Transportation Lines	1115-AF46
1728	Adjustment of Status Under the 1966 Cuban Adjustment Act	1115-AF48
1729	Adjustment of Fees for Services at Land Border Ports-of-Entry	1115-AF55
1730	Manifest Requirements and Imposition of Fines Under Section 231 of the Act	1115-AF57
1731	Adjustment of Certain Fees of the Immigration Examinations Fee Account	1115-AF61
1732	Entry Requirements for Citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau	1115-AF65
1733	Inadmissibility To Enter the United States for Former U.S. Citizens Who Renounced Citizenship To Avoid Taxation	1115-AF69
1734	Imposition of Fines for Violations of the Immigration and Nationality Act	1115-AF70
1735	Adjustment of Service Fee for Fingerprinting for Immigration and Naturalization Benefits	1115-AF83
1736	Establishment of Fee for Processing Genealogical Research Requests for INS Records	1115-AF88
1737	Intercountry Adoptions	1115-AF96
1738	Academic Honorarium for B Nonimmigrant Aliens	1115-AF97
1739	Time Limit for Appeal From Denial of Relative Visa Petition	1115-AF99
1740	Application Petition Fee Waivers	1115-AG02
1741	Adoption of Siblings, Adopted Alien Children Less Than 18 Years of Age Considered a "Child"	1115-AG04
1742	Procedures for Checking Juvenile Criminal Records and Submitting Fingerprints of That Additional Class of Aliens Ineligible for Family Unity	1115-AG07
1743	Authorizing Part-Time Study for F-1 Commuter Students in Contiguous Territories	1115-AG09
1744	Adjustment of Status Under Section 245(k)	1115-AG10
1745	Adjustment of Fees for Dedicated Commuter Lanes and Secure Electronic Network for Travelers' Rapid Inspection (SENTRI) Programs at Land Border Ports-of-Entry	1115-AG18

Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1746	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**	1115-AB73
1747	Visa Waiver Program	1115-AB93
1748	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s	1115-AC70
1749	90-Day Modified Inspection of Alien Crew Members	1115-AD95
1750	Establishing Criteria for Determining Countries Whose Citizens Are Ineligible for the Transit Without Visa (TWOV) Program	1115-AD96
1751	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Alien Spouses and Children	1115-AE04
1752	Conditions on Nonimmigrant Status; Disclosure of Information	1115-AE17
1753	Agreement Promising Non-Deportation or Other Immigration Benefits	1115-AE50
1754	Affidavit of Support on Behalf of Immigrants	1115-AE58
1755	Suspension of Privilege To Transport Aliens to the United States	1115-AE59
1756	Implementation of Hernandez v. Reno Settlement Agreement; Certain Aliens Eligible for Family Unity Benefits After Sponsoring Family Member's Naturalization	1115-AE72
1757	Establishment of Preinspected Automated Lane (PAL) Program at Immigration and Naturalization Service	1115-AE80
1758	Surrender of Aliens Ordered Removed From the United States	1115-AE82
1759	Early Release for Removal of Criminal Aliens in State Custody for Nonviolent Offenses	1115-AE83
1760	Amendment of the Regulatory Definition of Arriving Alien	1115-AE87
1761	Adjustment of Status, Continued Validity of Nonimmigrant Status and Unexpired Employment Authorization for Applicants Maintaining Nonimmigrant H or L Status	1115-AE96
1762	Verification of Eligibility for Public Benefits	1115-AE99
1763	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service	1115-AF03
1764	Processing, Detention, and Release of Juveniles	1115-AF05
1765	Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries	1115-AF14
1766	Authorizing Suspension of Employment Authorization Requirements on the Basis of Severe Economic Hardship for F-1 Students and Emergent Circumstances	1115-AF15

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Immigration and Naturalization Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1767	Powers of the Attorney General To Authorize State or Local Law Enforcement Officers To Carry Out Immigration Enforcement	1115-AF20
1768	Elimination of Immigration and Naturalization Service-Issued Mexican and Canadian Border Crossing Cards and Consent To Reapply for Admission After Removal	1115-AF24
1769	Filing of Proposals for Designation as a Regional Center Approved To Participate in the Immigrant Investor Pilot Program	1115-AF27
1770	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands	1115-AF28
1771	Delegation of the Adjudication of Certain H-2A Petitions to the Department of Labor	1115-AF29
1772	Regulations Concerning the Convention Against Torture	1115-AF39
1773	Interim Designation of Acceptable Receipts for Employment Eligibility Verification	1115-AF42
1774	Inadmissibility and Deportability on Public Charge Grounds	1115-AF45
1775	Application for Refugee Status; Acceptable Sponsorship Agreement Guaranty of Transportation	1115-AF49
1776	Nonimmigrant Classes: Q-2 Irish Peace Process Cultural and Training Program Visitor	1115-AF51
1777	Clarification of Parole Authority	1115-AF53
1778	Extending the Period of Duration of Status for Certain F and J Nonimmigrant Aliens	1115-AF54
1779	Conditional Residence of Lawful Permanent Residence for Certain Alien Spouses and Sons and Daughters; Battered and Abused Conditional Residents	1115-AF59
1780	Extension of 25-Mile Limit at Select Arizona Ports-of-Entry	1115-AF60
1781	Revoking Grants of Naturalization	1115-AF63
1782	Registration and Fingerprinting of Aliens in the United States: Control of Employment of Aliens	1115-AF71
1783	National Interest Waivers for Second Preference Employment-Based Immigrant Physicians Serving in Medically Underserved Areas or at Department of Veterans' Affairs Facilities	1115-AF75
1784	Petitioning Requirements for the H-1C Nonimmigrant Classification Under Public Law 106-95	1115-AF76
1785	Expansion of Dedicated Commuter Lanes; Clarification of Driver's License Requirement for Applicants to Dedicated Commuter Lanes and Automated Permit Port Programs	1115-AF77
1786	Waiving the Fingerprinting Requirement for Certain Disabled Naturalization Applicants	1115-AF80
1787	Update of List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program	1115-AF81
1788	Implementation of the Numerical Limit on Asylum Grants and Refugee Admissions Based on Resistance to Coercive Population Control Measures	1115-AF84
1789	Adding Actuaries and Plant Pathologists to Appendix 1603.D.1 of the North American Free Trade Agreement	1115-AF85
1790	Power of Attorney General To Terminate Deportation Proceedings and Initiate Renewal Proceedings	1115-AF87
1791	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions of Eligibility	1115-AF91
1792	Asylum and Withholding Definitions	1115-AF92
1793	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or Preference Immigrant; Adjustment of Status to That of a Person Admitted for Permanent Residence	1115-AF94
1794	Removal of Burma From Guam Visa Waiver Program	1115-AF95
1795	Children Born Outside the United States; Applications for Certificate of Citizenship	1115-AF98
1796	Allowing for the Filing of Form I-140 Visa Petition Concurrently With a Form I-485 Application in Certain Circumstances	1115-AG00
1797	Special Immigrant Visa for Fourth Preference Employment-Based Broadcasters	1115-AG01
1798	Establishing Premium Processing Service for Employment-Based Petitions and Applications	1115-AG03
1799	Adjustment of Status for Certain Nationals of Nicaragua, Cuba, and Haiti	1115-AG05
1800	Adjustment to Lawful Resident Status of Certain Class Action Participants Who Entered Before January 1, 1982, Under the Legal Immigration and Family Equity Act (LIFE Act)	1115-AG06
1801	Nonimmigrant Classes; Spouses and Children of Lawful Permanent Residents; V Classification	1115-AG08
1802	American Competitiveness in the Twenty-First Century Act of 2000 and Other Related Bills	1115-AG11
1803	K Nonimmigrant Classification, Legal Immigration Family Equity Act (LIFE)	1115-AG12
1804	Adjustment of Status for Certain Syrian Nationals Granted Asylum in the United States	1115-AG13
1805	Adjustment of Status of Certain Aliens from Vietnam, Cambodia, and Laos in the United States	1115-AG14
1806	Adding Colombia to the List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program	1115-AG16
1807	New Classifications for Victims of Trafficking and Victims of Certain Criminal Activity	1115-AG19
1808	Protection and Assistance for Victims of Trafficking	1115-AG20
1809	Removal and Adjustment Procedures for Victims of Trafficking and Certain Criminal Activities	1115-AG21

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Immigration and Naturalization Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1810	Employer Sanctions Modifications	1115-AE21
1811	Regulations Relating to Temporary Protected Status	1115-AE26
1812	Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings	1115-AE47
1813	F-1 Visa Abusers and Foreign Students	1115-AE63
1814	Employment Verification by Employers That Are Members of a Multi-Employer Association	1115-AE67
1815	Limiting Liability for Certain Technical and Procedural Violations of Paperwork Requirements	1115-AE70
1816	Public Charge Bond Pilot Program	1115-AE78
1817	Authorizing Collection of Fee Levied on F, J, and M Nonimmigrant Classifications Under Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)	1115-AF56
1818	Employment Authorization for Certificate of Citizenship Applicants	1115-AF90

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1819	Petitions for Employment-Based Immigrants	1115-AD55
1820	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions on Eligibility	1115-AD83
1821	Miscellaneous Modifications to Naturalization Regulations	1115-AE07
1822	Petitioning Requirements for the H Nonimmigrant Classification	1115-AE52
1823	Asylum Procedures	1115-AE93
1824	Change in Business Practices: Collection of Interest, Penalties, and Handling Charges for Delinquent Payment of Employer Sanctions Fines	1115-AF17
1825	Temporary Protected Status Amendments to the Requirements for Employment Authorization Fee and Other Technical Amendments	1115-AF37
1826	Regulations Regarding Authority To Grant Asylum to Certain Arriving Aliens	1115-AF64
1827	Duplication and Electronic Generation of Forms	1115-AF66
1828	Detention of Aliens Order Removed	1115-AF82
1829	Concurrent Filing of Form I-140 and Form I-485	1115-AF93

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1830	Revision of 28 CFR Part 15 Pertaining to the Defense of Certain Suits Against Federal Employees To Conform to the Federal Employees Liability Reform and Tort Compensation Act	1105-AA62
1831	Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act	1105-AA65
1832	Waiver for Firearm Prohibition on Nonimmigrant Visa Holders	1105-AA66
1833	Motor Vehicle Salvage Regulations	1105-AA71
1834	Claims Under the Radiation Exposure Compensation Act Amendments of 2000: Technical Amendments; Expansion of Coverage to Uranium Mill Workers and Ore Transporters	1105-AA75

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1835	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law	1105-AA45
1836	Ethical Standards for Attorneys for the Government	1105-AA67
1837	Enhanced Notice and Release Procedures for Owners of Seized Property Pursuant to the CAFRA of 2000; Disposition of Seized Property Too Costly To Maintain; Consolidation of Department Regulations	1105-AA74

DOJ

Legal Activities—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1838	Violent Crime and Drug Emergency Areas	1105-AA29
1839	False Claims Amendments Act of 1986—Civil Investigative Demands	1105-AA42

Legal Activities—Completed Actions

Sequence Number	Title	Regulation Identification Number
1840	Federal Claims Collection Standards (FCCS)	1105-AA31
1841	Access to Documents by Former Employees of the Department	1105-AA76

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1842	Public Safety Officers' Benefits Program	1121-AA56
1843	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	1121-AA57
1844	Nondiscrimination in Federally Assisted Programs or Activities	1121-AA58

Office of Justice Programs—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1845	Grants Program for Indian Tribes	1121-AA41
1846	Bulletproof Vest Partnership Grant Act of 1998	1121-AA48
1847	Environmental Impact Review Procedures for the VOI/TIS Grant Program	1121-AA52

DEPARTMENT OF JUSTICE (DOJ)

Bureau of Prisons (BOP)

Proposed Rule Stage

1629. CLASSIFICATION AND PROGRAM REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 21 USC 848; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 524; 28 CFR 571

Legal Deadline: None

Abstract: This rule revises the Bureau's regulations on classification and program review in order to restate the provisions more plainly and to integrate into the regulations provisions pertinent to the inmate's release preparation needs. This amendment is intended to remove unnecessary regulations and to ensure that classification and program review procedures adequately address the apparent needs of the inmate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534

Phone: 202 514-6655

RIN: 1120–AA93

1630. RELEASE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 31 USC 3711(f)

CFR Citation: 28 CFR 513

Legal Deadline: None

Abstract: This document revises Bureau regulations implementing the Freedom of Information Act and the Privacy Act in order to simplify the

procedures and to eliminate unnecessary regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA96

1631. ADMINISTRATIVE REMEDY PROGRAM: APPLICABILITY TO CONTRACT FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 542

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on the administrative remedy program in order to restate the provisions in plain language and to extend coverage under the program to inmates in contract facilities who have been committed to the custody of the Attorney General or the Director of the Bureau of Prisons.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA97

1632. SEARCHING AND DETAINING OR ARRESTING PERSONS OTHER THAN INMATES: DENIAL OF VISITING

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 751 to 752; 18 USC 1791 to 1793; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4012; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 511

Legal Deadline: None

Abstract: Under the current provisions for searching and detaining or arresting persons other than inmates, the Warden may restrict visiting to controlled situations or to more closely supervised visits when there is any suspicion that the visitor is introducing or attempting to introduce contraband, or when there has been a prior incident of such introduction or attempted introduction, or when there is any concern, based upon sound correctional judgment, about the visitor presenting a risk to the orderly running of the visiting room or area. When a controlled or closely supervised visit is not possible, the Warden may deny visiting privileges. The Bureau is proposing to replace the graduated imposition of sanctions with a more flexible response. A visitor who presents a risk to the orderly running of the visiting room or area could be denied visiting privileges regardless of the feasibility of providing a controlled or closely supervised visit.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AB01

1633. LITERACY PROGRAM: GED REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 28 USC 509 to 510

CFR Citation: 28 CFR 520

Legal Deadline: None

Abstract: This document addresses the relationship between participating in the literacy program and being eligible for good conduct time.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AB02

1634. INFECTIOUS DISEASE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; ...

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document is a proposed rule (split from the interim final rule, RIN 1120-AA23) on the correctional management of tuberculousis, HIV, and heptatitis B. The changes to the regulations address the circumstances under which the Bureau conducts voluntary and involuntary testing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534

Phone: 202 514-6655

RIN: 1120–AB03

1635. • DRUG ABUSE TREATMENT PROGRAM: SUBPART REVISION AND CLARIFICATION

Priority: Info./Admin./Other

Legal Authority: 18 USC 3521 to 3528, 4042, 4046, 4081, 4082, 5006 to 5024, 5039; 28 USC 848, 509, 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; ...

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons proposes to amend its regulations on the drug abuse treatment program. We intend this amendment to streamline and clarify these regulations, eliminating unnecessary text and obsolete language, and removing internal agency procedures that need not be in rules text.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AB07

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Final Rule Stage

1636. VOLUNTEER COMMUNITY SERVICE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1512; 18 USC 5039; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: This document finalizes provisions for Volunteer Community Service Projects. A volunteer community service project is a project designed to provide for the public good, which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA03

1637. INTENSIVE CONFINEMENT CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 524.31 to 524.34

Legal Deadline: None

Abstract: This document finalizes procedures for the operation of a specialized program combining features of a military boot camp with the traditional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/26/96	61 FR 18658
Interim Final Rule Effective	05/28/96	
Interim Final Rule Comment Period End	06/25/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534

Phone: 202 514-6655

RIN: 1120–AA11

1638. INCOMING PUBLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 18 USC 5039; 28 USC 509 to 510; 28 USC 1346(b); 28 USC 2671 to 2680; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024

CFR Citation: 28 CFR 540.71

Legal Deadline: None

Abstract: This document amends Bureau regulations on Incoming Publications to require that inmates in medium security, high security, and administrative institutions may receive softcover publications only from the publisher, book club, or bookstore.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2668
NPRM Comment Period End	03/21/94	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534

Phone: 202 514-6655

RIN: 1120–AA15

1639. INFECTIOUS DISEASES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document finalizes regulations on the correctional management of tuberculosis, HIV, and hepatitis B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/95	60 FR 52278
Interim Final Rule Comment Period End	12/04/95	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA23

1640. POSTSECONDARY EDUCATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on postsecondary education to exclude courses which are offered as part of an occupational education program. Courses which are offered as part of an occupational education program are to be covered by the Bureau's regulations on occupational education. The inmate is consequently responsible for paying postsecondary education tuition costs either through personal funds, community resources, or scholarships available to the inmate. This revision is intended to simplify the organization of the Bureau's regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/17/00	65 FR 44400
NPRM Comment Period End	09/15/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA25

1641. LITERACY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.70 to 544.76

Legal Deadline: None

Abstract: This document implements statutory provisions which make an inmate's vesting of good conduct time contingent upon the inmate's obtaining or making satisfactory progress toward obtaining a General Educational Degree or high school diploma. Additional changes to the regulations on the Bureau's literacy program are made for the sake of clarification or simplification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/97	62 FR 50791
Interim Final Rule Effective	11/03/97	
Interim Final Rule Comment Period End	11/25/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA33

1642. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document postpones the effective date for certain provisions of the final rule on telephone regulations and inmate financial responsibility, which was published on April 4, 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/96	61 FR 90
Interim Final Rule Comment Period End	03/04/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA39

1643. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 5 USC 552a; 18 USC 1791; 18 USC 3013; 18 USC 3571; 18 USC 3572; 18 USC 3621; 18 USC 3622; 18 USC 3624; ...

CFR Citation: 28 CFR 540.105; 28 CFR 545.11

Legal Deadline: None

Abstract: On January 2, 1996, BOP published an NPRM proposing limitations on telephone privileges and commissary privileges for inmates who refuse to participate in the inmate financial responsibility program (BOP 1050). On December 28, 1999, BOP finalized that portion of the NPRM pertaining to limitations on commissary privileges. BOP is continuing to work on addressing issues raised by its proposed limitations on telephone privileges for inmates who are inmate financial responsibility program refusees. BOP will finalize that portion of its January 1996 NPRM in a separate document (BOP 1102).

Timetable:

BOP 1050
NPRM 01/02/96 (61 FR 92)
NPRM Comment Period End 03/04/96
Final Action 12/28/99 (64 FR 72798)
Final Action Effective 01/27/00

BOP 1102
Final Action 06/00/01
Final Action Effective 08/00/01

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA49

1644. INCOMING PUBLICATIONS: NUDITY AND SEXUALLY EXPLICIT MATERIAL OR INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 18 USC 5039; 28 USC 509 to 510; PL 104-208; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024

CFR Citation: 28 CFR 540.70 to 540.72

Legal Deadline: None

Abstract: This rule modifies the Bureau of Prisons rule on Incoming Publications in order to implement the provisions of the Fiscal Year 1997 Omnibus Budget Act (Public Law 104-208) prohibiting use of appropriated funds for distributing or making available to an inmate any commercially published information or material when such information or material is sexually explicit or features nudity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57568
Interim Final Rule Effective	12/01/96	
Interim Final Rule Comment Period End	01/06/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA59

1645. GOOD CONDUCT TIME

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This document notes the statutory requirements for the awarding of good conduct time, including the Bureau's consideration in instances where the inmate does not have a high school diploma or GED and is not making satisfactory progress toward earning a high school diploma or GED.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/97	62 FR 50786
Interim Final Rule Effective	11/03/97	
Interim Final Rule Comment Period End	11/25/97	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA62

1646. ADMINISTRATIVE REMEDY PROGRAM: EXCLUDED MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 542

Legal Deadline: None

Abstract: This document amends Bureau regulations on the Administrative Remedy Program to provide for the processing of certain requests or appeals which previously had been excluded. This amendment is intended to comply with provisions of the Prisoner Litigation Reform Act pertaining to exhaustion of available administrative remedies.

Timetable:

Action	Date	FR Cite
NPRM	06/27/00	65 FR 39767
NPRM Comment Period End	08/28/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA72

1647. VISITING REGULATIONS: PRIOR RELATIONSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 28 USC 509 to 510; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 540.44

Legal Deadline: None

Abstract: This document revises regulations on visiting to require that visiting privileges at all institutions

ordinarily shall be extended to friends and associates only when the relationship had been established prior to confinement. Previously this requirement was applicable only at Medium Security Level, High Security Level, and Administrative Institutions.

Timetable:

Action	Date	FR Cite
NPRM	05/18/99	64 FR 27166
NPRM Comment Period End	07/19/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA77

1648. SMOKING/NO SMOKING AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1512; 18 USC 5039; 28 USC 509 to 510; EO 13058; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024

CFR Citation: 28 CFR 551.160 to 551.163

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on smoking to limit smoking in Bureau facilities to visibly designated outdoor locations, unless an indoor area has been designated as a smoking area to be used exclusively for authorized religious activities.

Timetable:

Action	Date	FR Cite
NPRM	11/25/98	63 FR 65502
NPRM Comment Period End	01/25/99	
Second NPRM	05/06/99	64 FR 24468
Second NPRM Comment Period End	07/06/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA79

1649. OVER-THE-COUNTER (OTC) MEDICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 28 USC 509 to 510; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 549.30 to 549.31

Legal Deadline: None

Abstract: This document establishes procedures governing inmate access to over-the-counter (OTC) medications. Selected OTC medications are currently available to the inmate population through commissary purchase. The Bureau will continue to dispense OTC medications at sick call only if the inmate does not already have the OTC medications and health services staff determine the inmate has an immediate medical need that needs to be addressed before the inmate's regularly scheduled commissary visit or that the inmate is without funds.

Timetable:

Action	Date	FR Cite
NPRM	03/01/99	64 FR 10094
NPRM Comment Period End	04/30/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA81

1650. ADMINISTRATIVE SAFEGUARDS FOR PSYCHIATRIC TREATMENT AND MEDICATION; MILITARY PRISONERS AND DISTRICT OF COLUMBIA CODE VIOLATORS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 876b; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247

CFR Citation: 28 CFR 549.43

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on involuntary psychiatric treatment and medication to conform with statutory authority pertaining to military prisoners and District of Columbia (DC) Code violators.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA83

1651. DESIGNATION OF OFFENSES SUBJECT TO SEX OFFENDER RELEASE NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3565; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510; 18 USC 2568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218

CFR Citation: 28 CFR 571

Legal Deadline: None

Abstract: This document designates various offenses as sexual offenses for purposes of 18 U.S.C. 4042(c). The designations ensure that notifications can be made for military offenders, for District of Columbia Code offenders, and for these and other Federal inmates

with a sex offense in their criminal history.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/16/98	63 FR 69386
Interim Final Rule Comment Period End	02/16/99	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA85

1652. INMATE COMMISSARY ACCOUNT DEPOSIT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 509 to 510; 31 USC 725; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 506; 28 CFR 540.23; 28 CFR 540.51

Legal Deadline: None

Abstract: This document specifies how an inmate may receive funds from family, friends, and other sources. Any funds sent from family or friends will be sent directly to a centralized inmate commissary account for receipt and posting. Funds received from other sources such as tax refunds, dividends from stocks, or State benefits will be forwarded for deposit to the centralized inmate commissary account.

Timetable:

Action	Date	FR Cite
NPRM	04/23/99	64 FR 20126
NPRM Comment Period End	06/22/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA86

1653. DRUG ABUSE TREATMENT PROGRAMS: DISINCENTIVES AND ENHANCED INCENTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081; 18 USC 4082

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document broadens the eligibility criteria for the drug abuse education program. In addition, this document establishes disincentives which may be imposed for the purpose of encouraging inmates to participate in the residential drug treatment program.

Timetable:

Action	Date	FR Cite
NPRM	09/20/00	65 FR 56840
NPRM Comment Period End	11/20/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA88

1654. SEARCHES OF HOUSING UNITS, INMATES, INMATE WORK AREAS, AND PERSONS OTHER THAN INMATES: ELECTRONIC DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 751 to 752; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 18 USC 1791 to 1793; 18 USC 3050; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4012; 18 USC 4042; 18 USC 4081 to 4082

CFR Citation: 28 CFR 511; 28 CFR 552

Legal Deadline: None

Abstract: This document clarifies provisions in the Bureau's regulations which pertain to the use of electronic devices in searches of inmates and persons other than inmates.

Timetable:

Action	Date	FR Cite
NPRM	02/25/99	64 FR 9431
NPRM Comment Period End	04/26/99	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA90

1655. OCCUPATIONAL EDUCATIONAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This rule revises the Bureau's regulations on occupational educational programs to remove obsolete or redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/17/00	65 FR 44401
NPRM Comment Period End	09/15/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA92

1656. DRUG TESTING PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4251 to 4255; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document consolidates into a single drug testing program separately stated regulations on alcohol testing and urine surveillance. The consolidated regulations provide for more flexibility in the use of testing methods.

Timetable:

Action	Date	FR Cite
NPRM	09/21/00	65 FR 57126
NPRM Comment Period End	11/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA95

1657. CORRESPONDENCE: INSPECTION OF OUTGOING GENERAL CORRESPONDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.14

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on correspondence to require that outgoing inmate general correspondence at all institutions may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public. The requirement does not apply to special mail.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40718
NPRM Comment Period End	09/27/99	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA98

1658. RELEASE GRATUITIES, TRANSPORTATION, AND CLOTHING: ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3565; 18 USC 3568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571.21

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on release gratuities, transportation, and clothing to require that aliens being released to immigration authorities for the purpose of release, transfer to a community corrections center, or another processing center, be provided a $10 gratuity. Aliens being released with an order of deportation, exclusion, or removal, or aliens detained or serving 60 days or less in contract facilities would not receive the gratuity.

Timetable:

Action	Date	FR Cite
NPRM	10/04/99	64 FR 53872
NPRM Comment Period End	12/03/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA99

1659. RELIGIOUS BELIEFS AND PRACTICES: NOMENCLATURE CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 42 USC 1996; ...

CFR Citation: 28 CFR 548

Legal Deadline: None

Abstract: This regulation renames the special diet that accommodates inmates' religious dietary practices. The old name was "common fare" and the new name will be "the religious diet menu."

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/01	
Interim Final Rule Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AB04

1660. DISTRICT OF COLUMBIA EDUCATIONAL GOOD TIME CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This rule establishes procedures for awarding educational good time credit consistent with the D.C. Code for D.C. Code offenders in Bureau institutions or Bureau contract facilities, under the National Capital Revitalization and Self-Government Improvement Act of 1997, who committed their offenses before August 5, 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/01	
Interim Final Rule Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AB05

1661. SUICIDE PREVENTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621, 3622, 3624, 4001, 4042, 4081, 4082, 5006 to 5024, 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 552

Legal Deadline: None

Abstract: This document revises Bureau regulations on the suicide prevention program for the sake of clarity and in order to remove Agency management procedures which do not need to be stated in regulations. The revised regulations more clearly delineate for the inmate the procedures used to identify and protect inmates deemed to be at risk for suicide.

Timetable:

Action	Date	FR Cite
NPRM	11/13/00	65 FR 67670
NPRM Comment Period End	01/12/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, Room 739, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AB06

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Completed Actions

1662. DRUG ABUSE TREATMENT AND INTENSIVE CONFINEMENT CENTER PROGRAMS: EARLY RELEASE CONSIDERATION

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 524; 28 CFR 550

Completed:

Reason	Date	FR Cite
Final Action	12/22/00	65 FR 80745
Final Action Effective	12/22/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi
Phone: 202 514-6655

RIN: 1120–AA66

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1663. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: In 1991, the Department of Justice published regulations to implement title III of the Americans with Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board is currently in the process of revising ADAAG, and it published a Notice of Proposed Rulemaking (NPRM) on November 16, 1999. In order to maintain consistency between ADAAG and the ADA Standards, the Civil Rights Division is reviewing its ADA regulations and expects to propose, in one or more stages, to adopt the revisions proposed by the Access Board and to make related revisions to the Department's ADA regulations. In addition to maintaining consistency between ADAAG and the Standards, the purpose of this review and these revisions will be to more closely coordinate with voluntary standards, to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion, to reflect evolving technologies in areas affected by the Standards, and to comply with section 610 of the Regulatory Flexibility Act, which requires agencies once every 10 years to review rules that have a significant economic impact upon a substantial number of small entities.

The rulemaking will also address changes to the ADA Standards previously proposed in RIN 1190-AA26 and RIN 1190-AA38, which have been withdrawn. These changes will include technical specifications for facilities designed for use by children and accessibility standards for State and local government facilities that have previously been published by the

Architectural and Transportation Barriers Compliance Board.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA44

1664. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 12134; PL 101-336

CFR Citation: 28 CFR 35

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rule implementing title II of the Americans with Disabilities Act (ADA). On November 16, 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) issued its first comprehensive review of the ADA Accessibility Guidelines, which form the basis of the Department's ADA Standards for Accessible Design. The ADA (section 204(c)) requires the Department's standards to be consistent with the Access Board's guidelines. Therefore, the Civil Rights Division will publish a Notice of Proposed Rulemaking (NPRM) proposing to adopt the revisions proposed by the Access Board.

In addition to the statutory requirement for the rule, the social and economic realities faced by Americans with disabilities dictate the need for the rule. Individuals with disabilities cannot participate in the social and economic activities of the Nation without being able to access the programs and services of State and local governments. Further, amending the Department's ADA regulations will: Improve the format and usability of the ADA Standards for Accessible Design; harmonize the differences between the ADA standards and national consensus standards and model codes; update the ADA standards to reflect technological developments that meet the needs of persons with disabilities; and coordinate future ADA standards revisions with national standards and model code organizations. As a result, the overarching goal of improving access for persons with disabilities so that they can benefit from the goods, services, and activities provided to the public by covered entities will be met.

Timetable:

Action	Date	FR Cite
NPRM (RIN 1190-AA26)	06/20/94	59 FR 31808
NPRM (RIN 1190-AA26) Comment Period End	08/19/94	
RIN 1190-AA26 Merged Into 1190-AA46	02/15/00	65 FR 22968
Supplemental NPRM	09/00/01	
Supplemental NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: RIN 1190-AA46 is related to another rulemaking of the Civil Rights Division (RIN 1190-AA44), which will address changes to the ADA standards previously proposed in RINs 1190-AA26 and 1190-AA38. These latter two rulemakings have been withdrawn and merged into RINs 1190-AA44 and 1190-AA46. The changes to be made in RIN 1190-AA44 will include technical specifications for facilities designed for use by children and accessibility standards for State and local government facilities that have been previously been published by the Architectural and Transportation Barriers Compliance Board.

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA46

1665. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS; RECREATION FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 12134; 42 USC 12186; PL 101-336

CFR Citation: 28 CFR 35; 28 CFR 36

Legal Deadline: None

Abstract: On July 9, 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) published a Notice of Proposed Rulemaking (NPRM) to amend the ADA Accessibility Guidelines (ADAAG), which form the basis of the Department's ADA Standards for Accessible Design. This NPRM would, for the first time, establish accessibility guidelines for the design of recreation facilities, such as health clubs, golf courses, and amusement parks. The ADA (sections 204(c) and 306(c)) requires the Department's accessibility standards to be consistent with the Access Board's guidelines. Therefore, the Civil Rights Division expects to publish a NPRM proposing to adopt the revisions proposed by the Access Board and proposing related changes to the Department's regulations with respect to the operation of recreation facilities.

Individuals with disabilities cannot participate in the social and economic realms of the Nation without being able to access public entities and public accommodations throughout the country. Promulgating this amendment to the Department's ADA regulations will ensure that the regulations are consistent with the Access Board's ADA Accessibility Guidelines, thereby preventing the confusion that could develop if the Department's regulations were inconsistent with the Access Board guidelines. In addition, amending the Department's ADA regulations will improve the

Department's overarching goal of improving access for persons with disabilities. The proposed rule will ensure that new recreation facilities are readily accessible to and usable by individuals with disabilities. As new recreation facilities are designed and constructed to be accessible, individuals with disabilities will enjoy the benefits of these facilities. Operators of recreation facilities will experience increased usage and patronage by individuals with disabilities. Designers and manufacturers will have a clear and consistent set of standards with which to work. Establishing uniform standards for accessibility has resulted in innovation and new designs that are cost effective and beneficial to everyone.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA47

1666. AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT OF 1998 COMPLAINT PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182(n)(5)

CFR Citation: 28 CFR 44.500

Legal Deadline: None

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA)—enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998—made various changes to the Immigration and Nationality Act (the INA) relating to temporary nonimmigrant professionals. In this rule (RIN 1190-AA48), the Civil Rights Division's Office of Special Counsel for Unfair Immigration-Related Employment Practices (OSC) will implement the ACWIA "failure to select" protections—codified in the INA at section 212(n)(5)—by establishing a process under which U.S. workers may file complaints against employers for denying them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under this process, OSC may receive and review these complaints, and then—if there is reasonable cause to believe the allegations—initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS). The Office of the Chief Administrative Hearing Officer of the Executive Office for Immigration Review will issue a rule implementing the Attorney General's authority to review arbitrators' decisions and, where appropriate, award administrative relief. These rules are being coordinated with the Immigration and Naturalization Service (INS) and the Department of Labor (DOL).

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: By RIN 1115-AF40 (INS No. 1974-99), INS will implement the ACWIA "whistleblower" protection provisions—codified in the INA at section 212(n)(2)(C)(iv) and (v)—prohibiting retaliation against H-1B workers who disclose information which they believe indicates their employer has violated the law or regulations pertaining to labor condition applications for nonimmigrants. That rule will also enable an H-1B worker who files a complaint alleging retaliation to remain in the United States and seek authorization to work in the United States for a temporary period while his or her complaint is under review.

By RIN 1115-AF41 (INS No. 1975-99), INS will implement portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. That rule complements regulations issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

Agency Contact: John D. Trasvina, Special Counsel, Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 27728, Washington, DC 20038-7728
Phone: 202 616-5594
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Larry P. Cote, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
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Fax: 703 305-0443

RIN: 1190–AA48

1667. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE OR LOCAL GOVERNMENT FACILITIES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS; PLAY AREAS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 12134; 42 USC 12186; PL 101-336

CFR Citation: 28 CFR 35; 28 CFR 36

Legal Deadline: None

Abstract: On October 18, 2000, the United States Architectural and Transportation Barriers Compliance Board (Access Board) published a final rule to supplement the ADA Accessibility Guidelines (ADAAG), which form the basis of the Department's ADA Standards for Accessible Design. These guidelines establish for the first time accessibility guidelines for the design of play areas. The ADA (sections 204(c) and 306(c)) requires the Department's accessibility standards to be consistent with the Access Board's guidelines. Therefore, the Civil Rights Division expects to publish a NPRM proposing to adopt the revisions of the Access Board and proposing related changes to the Department's regulations with respect to the operation of play areas.

Persons with disabilities cannot participate in the social and economic realms of the Nation without being able to access public entities and public accommodations throughout the

country. Promulgating this amendment to the Department's ADA regulations will ensure that the regulations are consistent with the Access Board's ADA Accessibility Guidelines, thereby preventing the confusion that could develop if the Department's regulations were inconsistent with the Access Board Guidelines. In addition, amending the Department's ADA regulations will improve the Department's overarching goal of improving access for persons with disabilities. This rule is designed to ensure that new play areas are readily accessible to and usable by persons with disabilities. As new play areas are designed and constructed to be accessible, persons with disabilities will enjoy the benefits of these areas. Operators of play areas will experience increased usage and patronage by persons with disabilities. Designers and manufacturers will have a clear and consistent set of standards with which to work. Establishing uniform standards for accessibility has resulted in innovation and new designs that are cost effective and beneficial to everyone.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA50

1668. • AMENDMENTS TO PROCEDURES ADVISING STATES AND POLITICAL SUBDIVISIONS SPECIALLY COVERED UNDER THE VOTING RIGHTS ACT HOW TO SEEK PRECLEARANCE FROM THE ATTORNEY GENERAL OF PROPOSED VOTING CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 1973a(c); 42 USC 1973c

CFR Citation: 28 CFR 51

Legal Deadline: None

Abstract: Section 5 of the Voting Rights Act of 1965 requires that certain States and their political subdivisions (covered jurisdictions) obtain "preclearance" from the Federal Government of proposed changes in voting practices and procedures prior to their implementation. Preclearance may be obtained either through litigation in the United States District Court for the District of Columbia or administratively from the Attorney General. In 1971 the Department first issued procedures for the administration of section 5 to inform covered jurisdictions concerning the manner in which they could comply with section 5 in the administrative proceeding before the Attorney General. In subsequent years, the Department has amended these procedures to reflect changes in section 5 law, in the Attorney General's internal practices, and to make the procedures clearer and easier to follow. In the 14 years since the last major amendment to the procedures, there have been significant changes in section 5 law and in the practices employed by the Department in processing submissions, which are not reflected in the existing Procedures.

The proposed revisions will: (1) Simplify the submission process for section 5 subjurisdictions; (2) clarify the matters that are subject to section 5 review; (3) provide greater definition to the operation of the 60-day review requirement and the permissible responses of the Attorney General to a section 5 submission; (4) clarify access to section 5 records of persons outside the Department; and (5) make technical corrections to the delegation of authority to make preclearance decisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Joseph D. Rich, Acting Chief, Voting Section, Department of Justice, Civil Rights Division, Room 7254, 1800 G Street NW, Washington, DC 20006
Phone: 202 307-2870

RIN: 1190–AA51

1669. • AMENDMENTS TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000d et seq; 29 USC 706; 29 USC 794; EO 12250

CFR Citation: 28 CFR 42.401 to 42.415; 28 CFR 41.1 to 41.58

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments its coordination regulations concerning agency enforcement of title VI of the Civil Rights Act of 1964, 28 CFR 42.401 to 42.415, and agency enforcement of section 504 of the Rehabilitation Act of 1972, 28 CFR 41.1 to 41.58. In 1998, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The proposed amendments explicitly incorporate the CRRA's definition of "program or activity" and "program" into the Department's title VI and section 504 coordination regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking which will include similar amendments to the regulations of the Department of Defense and the Department of Housing and Urban Development implementing title VI, section 504, and/or the Age Discrimination Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
NPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander, Chief, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66560, Washington, DC 20035-6560
Phone: 202 307-2222
TDD Phone: 202 307-2678
Fax: 202 307-0595
Email: merrily.a.friedlander@usdoj.gov

RIN: 1190–AA52

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1670. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 28 CFR 42.101 to 42.112; 28 CFR 42.501 to 42.540; 28 CFR 42.700 to 42.736

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	11/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander, Chief, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66560, Washington, DC 20035-6560
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RIN: 1190–AA49

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Long-Term Actions

1671. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 35

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58462
NPRM Comment Period End	01/26/96	
NPRM Comment Period Extended to 03/01/1996	02/06/96	61 FR 4389
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA36

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Completed Actions

1672. AMENDMENT TO NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.101 to 42.112

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Merrily A. Friedlander
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RIN: 1190–AA31

1673. AMENDMENT TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.401 to 42.415

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Merrily A. Friedlander
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RIN: 1190–AA32

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Proposed Rule Stage

1674. GUIDELINES FOR PROVIDING CONTROLLED SUBSTANCES TO OCEAN VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: DEA is considering whether to propose amending its regulations regarding the supply of controlled substances to ocean vessels to provide a means of supply more consistent with current industry practices for other materials. The decision on whether to propose amendments will be based on the information and comments submitted in response to this notice of proposed rulemaking and DEA's experience with the existing procedures and practices for supplying controlled substances to ocean vessels.

Timetable:

Action	Date	FR Cite
ANPRM	09/18/96	61 FR 49086
ANPRM Comment Period End	11/18/96	
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-142

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA40

1675. SALE BY FEDERAL DEPARTMENTS OR AGENCIES OF CHEMICALS USABLE TO MANUFACTURE A CONTROLLED SUBSTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 880; 21 USC 958(f); 21 USC 965; 21 USC 890

CFR Citation: 21 CFR 1310; 21 CFR 1316

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to provide that a Federal department or agency may not sell from the stocks of the department or agency any chemical which could be used in the manufacture of a controlled substance unless the Administrator of DEA certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance. The proposed rulemaking provides regulatory guidelines and establishes a procedure for prospective bidder and/or broker to appeal if they are aggrieved by DEA's failure to provide such certification.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: DEA-176

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA47

1676. PLACEMENT OF GAMMA-BUTYROLACTONE IN LIST I OF THE CONTROLLED SUBSTANCES ACT (21 U.S.C. 802)

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: Public Law 106-172, signed into law on February 18, 2000, and known as the "Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 1999" amends section 102(34) of the Controlled Substance Act as amended (CSA) by designating gamma-butyrolactone

DOJ—DEA

Proposed Rule Stage

(GBL), the precursor to gamma-hydroxybutyric acid (GHB), as a List I chemical. Reflecting this change in stature, the Drug Enforcement Administration (DEA) is amending its regulation to reflect the status of GBL as a List I chemical subject to the requirements of the CSA and its regulations. Establishments of a threshold for GBL will be the subject of a separate rulemaking. Therefore, unless and until a threshold is established, any distribution of GBL is a regulated transaction as described by 21 CFR 1300.02(b)(28). All handlers of GBL must comply with the CSA regulatory requirements pertaining to List I chemicals as described in the body of this document.

Timetable:

Placement of Gamma-Butyrolactone in List I of the Controlled Substance Act (21 U.S.C. 802)	
Final Rule 04/24/00 (65 FR 21645)	
Threshold for Gamma-Butyrolactone	
NPRM 10/00/01	
NPRM Comment Period End 12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-199, DEA-203

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA52

1677. INDUSTRIAL USE OF PRODUCTS AND MATERIALS DERIVED FROM CANNABIS PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 811; 21 USC 812; 21 USC 871(b)

CFR Citation: 21 CFR 1308

Legal Deadline: None

Abstract: DEA is planning to publish three rules simultaneously in the Federal Register regarding the status of products manufactured from the cannabis plant. It is anticipated that the three rules will be as follows.

The first rule will be an interpretive rule, which will provide DEA's interpretation of existing law with respect to the listing of tetrahydrocannabinols (THC) in Schedule I of the Controlled Substances Act (CSA) and DEA regulations. (Please see "Additional Information" for further details.)

The second rule will be a proposed rule, which will propose to revise the wording of the DEA regulations to more clearly reflect DEA's interpretation of the law as set forth in the interpretive rule. The proposed rule would make clear that the listing of THC in Schedule I includes both natural and synthetic THC and that any substance containing any amount of THC is a Schedule I controlled substance—even if such substance is made from "hemp."

The third rule will be an interim rule, which will exempt from application of the CSA and DEA regulations certain industrial "hemp" products. DEA would be issuing this rule to allow the continuation of what have historically been considered legitimate industrial uses of "hemp." Under this rule, industrial "hemp" products such as paper, rope, and clothing may continue to be marketed in the United States without being subject to the CSA. At the same time, in order to protect the public health and safety, the interim rule will not allow "hemp" products that result in THC entering the human body. In this manner, it will remain clear that the only lawful way THC may enter the human body is when a person is using a federally approved drug or when the person is the subject of federally approved research.

Timetable:

Clarification of Listing of Tetrahydrocannabinols	
NPRM 10/00/01	
Exemption from Control of Certain Industrial Products and Material Derived From the Cannabis Plant	
Interim Final Rule 10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: While agencies are not required to include information regarding interpretive rules in the Unified Agenda, DEA is providing a description of this interpretive rule for informational purposes. The interpretive rule will provide DEA's interpretation of existing law with respect to the listing of tetrahydrocannabinols (THC) in Schedule I of the Controlled Substances Act (CSA) and DEA regulations. The rule will further provide DEA's interpretation of the current legal status of products containing THC. In recent months, DEA has received numerous inquiries from members of the public about the legal status of products made from "hemp" (portions of the cannabis plant excluded from the CSA definition of marijuana). As stated in this rule, DEA interprets the CSA such that any substance containing any amount of THC is a Schedule I containing any amount of THC is a Schedule I controlled substance—even if such substance is made from "hemp."

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA55

1678. EXEMPTION FROM IMPORT/EXPORT REQUIREMENTS FOR PERSONAL MEDICAL USE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 956

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to restrict to 50 dosage units the total quantity of Schedule II, III, IV, and V controlled substances that may be imported for personal medical use by United States (U.S.) residents entering the U.S. A dosage unit is considered by DEA to be the basic unit used to quantify the amount to be taken in normal usage. The proposed 50 dosage unit limit would not apply to a U.S. resident who has a valid U.S. practitioner's prescription. This proposed rulemaking implements and extends the provisions of the Controlled Substances Trafficking Prohibition Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-192

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA56

1679. • ALLOWING CENTRAL FILL PHARMACIES TO FILL PRESCRIPTIONS FOR CONTROLLED SUBSTANCES ON BEHALF OF RETAIL PHARMACIES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871 (b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1300; 21 CFR 1301; 21 CFR 1304; 21 CFR 1305; 21 CFR 1306; 21 CFR 1307

Legal Deadline: None

Abstract: DEA is amending its regulations to provide for the use of central fill pharmacies, also known as refill pharmacies, fulfillment centers, or call centers. Unlike retail pharmacies which dispense controlled substances directly to the patient, central fill pharmacies provide a service to retail pharmacies by preparing and packaging prescriptions for retail pharmacies to dispense to the patient. Prescription information is transmitted from a retail pharmacy to a central fill pharmacy where the prescription is filled or refilled. The filled prescription is delivered to the retail pharmacy for pickup by the patient. Industry has expressed interest in utilizing central fill pharmacy operations to allow for more efficient delivery of prescriptions to patients.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-208

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA58

1680. • ELECTRONIC ORDERS FOR SCHEDULE I AND II CONTROLLED SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 827; 21 USC 828; 21 USC 871(b); 21 USC 958(e); 21 USC 965

CFR Citation: 21 CFR 1304; 21 CFR 1305

Legal Deadline: None

Abstract: DEA is proposing to revise its regulations to provide the option of ordering Schedule I and II controlled substances electronically in a manner consistent with the requirements of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). The regulations will propose that this electronic system may also be used for controlled substances in Schedules III, IV, and V. These proposed regulations would be in addition to, not a replacement of, the existing rules. These regulations are needed to give manufacturers, distributors, importers, exporters, pharmacies, and hospitals the option to use modern technology for controlled substance transactions. The proposed regulations would reduce paperwork and transaction times for DEA registrants who distribute, purchase, or handle controlled substances. These proposed regulations are consistent with paperwork reduction mandates. These proposed regulations also respond to the requirements of Public Law 106-229 the "Electronic Signatures in Global and National Commerce Act," while maintaining a closed system of distribution of controlled substances and ensuring security and authentication.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/01	66 FR 13274
NPRM	06/00/01	
NPRM Comment Period End	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-214

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA60

1681. • ELECTRONIC PRESCRIPTIONS FOR CONTROLLED SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 829; 21 USC 871(b)

CFR Citation: 21 CFR 1306

Legal Deadline: None

Abstract: DEA is proposing to revise its regulations to permit DEA registered prescribers to electronically write, sign, and transmit prescriptions. These proposed regulations would be an addition to, not a replacement of, the existing rules. These regulations are needed to give pharmacies, hospitals, and practitioners the ability to use modern technology for controlled substance prescriptions, while maintaining the closed system of distribution of controlled substances dispensing. The proposed regulations would reduce paperwork and transaction times for DEA registrants who dispense or prescribe controlled substances. The proposed regulations would also reduce the number of prescription errors caused by illegible handwriting and misheard oral prescriptions. They would allow pharmacies and hospitals to integrate prescription records into other medical records more directly, increasing efficiency, and would reduce the time patients spend waiting to have prescriptions filled. These proposed regulations are consistent with paperwork reduction mandates. These proposed regulations also respond to the requirements of Public Law 106-229 the "Electronic Signatures in Global and National Commerce Act," while ensuring security and authentication.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA61

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Final Rule Stage

1682. DEFINITION AND REGISTRATION OF DISPOSERS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and State Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options which had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, DEA is proposing the establishment of this essential link in the legitimate distribution chain.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43732
NPRM Comment Period End	10/23/95	
Interim Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-108

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA19

1683. EXEMPTION OF CHEMICAL MIXTURES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. Based on extensive consultations with industry, DEA has published proposed regulations intended to establish the least possible burden on industry while remaining consistent with the requirements of the law. Comments received on the proposed regulations are currently being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	09/16/98	63 FR 49506
NPRM Comment Period Extended to 04/16/99	02/12/99	64 FR 7144
NPRM Comment Period End	04/16/99	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-137

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA31

1684. REGISTRATION AND REREGISTRATION APPLICATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In furtherance of the DEA's 1992 final rule regarding the increase of application fees (57 FR 60148), DEA is publishing this explanation of the components of the diversion control program.

Timetable:

Action	Date	FR Cite
Final Rule Republished for Further Comment	12/30/96	61 FR 68624
Comment Period End	03/31/97	
Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-140

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA34

1685. ESTABLISHMENT OF FREIGHT FORWARDING FACILITIES FOR DEA DISTRIBUTING REGISTRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821 to 824; 21 USC 827; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958(d); 21 USC 965

CFR Citation: 21 CFR 1300; 21 CFR 1304; 21 CFR 1301

Legal Deadline: None

Abstract: DEA amended its regulations to define the term Freight Forwarding Facility and to exempt such facilities from the requirement of registration, in response to industry requests for recognition of such facilities. The amendments establish the regulatory guidelines under which registrants may utilize a freight forwarding facility while shipping controlled substances to another registrant.

DEA intended that its use of the term Freight Forwarding Facility would be consistent with industry's use and understanding of that term. However, subsequent to publication of the final rule, DEA learned that the term Freight Forwarding Facility has different meanings to different industry participants and, further, that not all industry participants understand this term in the same way that DEA does. Accordingly, DEA plans an additional rulemaking to clarify the use of this term.

Timetable:

Action	Date	FR Cite
NPRM	12/18/96	61 FR 66637
NPRM Comment Period End	02/28/97	
Final Rule	07/19/00	65 FR 44674
Correction	07/25/00	65 FR 45829
Correction	08/14/00	65 FR 49483
Clarifying Rulemaking	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-143

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA36

1686. LISTED CHEMICALS; FINAL ESTABLISHMENT OF THRESHOLDS FOR IODINE AND HYDROCHLORIC GAS (HYDROGEN CHLORIDE GAS)

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: Effective October 3, 1996, the Comprehensive Methamphetamine Control Act of 1996 (MCA) established that iodine is a List II chemical; however, it was not made subject to import/export regulatory controls. While exports of the listed chemical hydrochloric acid (including anhydrous hydrogen chloride, referred to in the MCA as hydrochloric gas, which is a form of hydrogen chloride) were already regulated pursuant to 21 CFR 1310, the MCA had the practical effect of directing the DEA to place domestic controls on anhydrous hydrogen chloride. Since no domestic thresholds for iodine or anhydrous hydrogen chloride have been established prior to this final rule, all domestic transactions involving such chemicals have been subject to recordkeeping and reporting requirements under the Controlled Substances Act since October 3, 1996.

This rule establishes domestic thresholds for anhydrous hydrogen chloride and iodine. Import and export transactions in anhydrous hydrogen chloride are unaffected by this rule. This rule reinserts the table in 21 CFR 1310.04(f)(2)(iv), listing thresholds for exports, transshipments, and international transactions to designated countries set forth in 21 CFR 1310.08(b) and assigns the DEA chemical code number of 6699 for iodine.

Timetable:

Action	Date	FR Cite
NPRM	09/30/97	62 FR 51072
NPRM Comment Period End	12/01/97	
Final Rule Request Comment	08/02/00	65 FR 47309
Final Rule Effective	08/02/00	
Correction	08/08/00	65 FR 48546
Comment Period End	09/01/00	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-156

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA43

1687. IMPLEMENTATION OF THE METHAMPHETAMINE CONTROL ACT; REGULATION OF PSEUDOEPHEDRINE, PHENYLPROPANOLAMINE, AND COMBINATION EPHEDRINE DRUG PRODUCTS; REPORTS OF CERTAIN TRANSACTIONS TO NONREGULATED PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821 to 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 951; 21 USC 958

CFR Citation: 21 CFR 1300; 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to implement the requirements of the Comprehensive Methamphetamine Control Act of 1996 (MCA) establishing pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products as List I chemicals, and the MCA requirement that reports be submitted for certain distributions to nonregulated persons involving pseudoephedrine, phenylpropanolamine, and ephedrine, including drug products containing those chemicals. The MCA establishes pseudoephedrine, phenylpropanolamine, and combination ephedrine products as regulated List I chemicals and requires that reports of certain distributions to nonregulated persons be reported each month.

To minimize the impact of the new law, DEA is proposing to exempt retail distributors from the registration requirement. This exemption will provide the estimated 750,000 retail distributors with relief from the chemical control requirements of the regulations, including registration. Additionally, the existing exemptions from registration for CSA registrants and for distributors of prescription drug products will help minimize the impact of the requirements on other handlers of the products.

Timetable:

Action	Date	FR Cite
NPRM	10/07/97	62 FR 52294
NPRM Comment Period End	12/08/97	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: DEA-163

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA44

1688. CHEMICAL REGISTRATION AND REREGISTRATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 830; 21 USC 871 (b); 21 USC 875; 21 USC 877; 21 USC 958

CFR Citation: 21 CFR 1309

Legal Deadline: None

Abstract: The Drug Enforcement Administration (DEA) proposes to amend its application fees for registration and reregistration of manufacturers, distributors, importers, and exporters of List I chemicals, as authorized by section 3(a) of the Domestic Chemical Diversion Control Act of 1993 (DCDCA), reducing the fees from $595.00 to $326.00 for initial registration, and the reregistration fees from $477.00 to $171.00. Fees for retail registrants will increase from $255.00 to $326.00 for registration, and from $116.00 to $171.00 for reregistration. Office of Management and Budget Circular A-25 requires a periodic review of user charges for agency programs. This review will bring fees into alignment with current changes in costs or market values.

Timetable:

Action	Date	FR Cite
NPRM	12/01/99	64 FR 67216
NPRM Comment Period End	01/31/00	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-185

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA50

1689. WAIVER OF ADVANCE NOTIFICATION REQUIREMENT TO IMPORT ACETONE, 2-BUTANONE (MEK), AND TOLUENE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 971

CFR Citation: 21 CFR 1313

Legal Deadline: None

Abstract: DEA is proposing the amendment of its regulations to waive the advance notification requirement to import acetone, 2-Butanone (MEK), and toluene. DEA is also proposing the amendment of its regulations to waive the advance notification requirement to export less than 25.0 grams of ephedrine. DEA has determined that the advance notification requirement is not necessary for chemical diversion control. These amendments to the regulations will ease regulatory burdens for both DEA and the regulated industry.

Timetable:

Action	Date	FR Cite
NPRM	10/25/00	65 FR 63822
Correction	11/13/00	65 FR 67796
NPRM Comment Period End	12/26/00	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-197

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA53

1690. CONTROL OF RED PHOSPHORUS, WHITE PHOSPHORUS, AND HYPOPHOSPHOROUS ACID (AND ITS SALTS) AS LIST I CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: Because of their use and importance in the illicit manufacture of methamphetamine, a Schedule II controlled substance, DEA is proposing the addition of red phosphorus, white phosphorus (also known as yellow phosphorus), and hypophosphorous acid (and its salts) as List I chemicals. These phosphorus chemicals have been identified as being important chemicals for the illicit production of methamphetamine. As List I chemicals, handlers of these materials will be subject to Controlled Substances Act (CSA) chemical regulatory controls including registration, recordkeeping, reporting, and import/export requirements. DEA has determined that these controls are necessary to prevent the diversion of these chemicals to clandestine drug laboratories.

DEA has conducted an extensive review of the phosphorus industry, publishing an Advanced Notice of Proposed Rulemaking. DEA's review indicated that there are only two domestic producers of white phosphorus and three producers of red phsophorus, or hypophosphorus acid (and its salts). While producers of white phosphorus will be required to register with DEA and maintain records of each regulated transaction (i.e., all transactions of these chemicals), over 98 percent of the phosphorus produced is converted to a form not impacted by this regulation. The remaining 2 percent of the phosphorus (used domestically) is utilized in its elemental form (i.e., as red phosphorus or white phosphorus) or used to produce all other phosphorus chemicals. Therefore, this regulation will only affect the distribution of less than 2 percent of the of the industry at the end user level.

Timetable:

Action	Date	FR Cite
ANPRM	02/02/00	65 FR 4913
ANPRM Comment Period End	04/03/00	
NPRM	09/25/00	65 FR 57577
NPRM Comment Period End	11/24/00	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-198

DOJ—DEA

Final Rule Stage

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA57

1691. • PLACEMENT OF DICHLORALPHENAZONE INTO SCHEDULE IV

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 811; 21 USC 812; 21 USC 871(b)

CFR Citation: 21 CFR 1308

Legal Deadline: None

Abstract: This rulemaking is issued to expressly list dichloralphenazone (DCP) as a Schedule IV controlled substance under the Controlled Substances Act (CSA). This action is based on DEA's interpretation that dichloralphenazone is a compound containing chloral hydrate, a Schedule IV controlled substance under 21 CFR part 1308; by definition, dichloralphenazone is also a Schedule IV controlled substance. This action will impose the regulatory controls and criminal sanctions of Schedule IV on those perons who handle dichloralphenazone or products containing dichloralphenazone.

Timetable:

Action	Date	FR Cite
NPRM	12/11/00	65 FR 77328
NPRM Comment Period End	02/09/01	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-209

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA59

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Completed Actions

1692. FACSIMILE TRANSMISSION OF PRESCRIPTIONS FOR PATIENTS ENROLLED IN HOSPICE PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1306

Completed:

Reason	Date	FR Cite
Final Rule	01/11/01	66 FR 2214

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Patricia M. Good
Phone: 202 307-7297

RIN: 1117–AA54

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR)

Proposed Rule Stage

1693. AUTHORITY OF IMMIGRATION JUDGES TO ISSUE CIVIL MONEY PENALTIES

Priority: Other Significant

Legal Authority: 5 USC 301; 3 CFR, 1949 to 1953 Comp, p 1002; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg Plan No 2 of 1950, sec 2

CFR Citation: 8 CFR 1; 8 CFR 3

Legal Deadline: None

Abstract: This rule proposes to amend the regulations by implementing the statutory authority given to Immigration Judges to sanction by civil money penalty any action or inaction in contempt of the Judge's proper exercise of authority. This statutory authority is derived from section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208 (IIRIRA), September 30, 1996. This rule sets forth the types of conduct for which civil money penalty sanctions may be imposed, the procedures for imposing these sanctions, the affirmative defenses which may excuse the imposition of a civil money penalty sanction, and the procedures for appealing such sanctions. The rule also adds an additional ground for disciplinary sanctions under 8 CFR section 3.102 for engaging in a pattern and practice of conduct which has been found to be in contempt of the Immigration Judge's proper exercise of authority.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, Deputy Director, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA18

1694. SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251 to 1252; 8 USC 1362; PL 105-100, sec 202

CFR Citation: 8 CFR 240

Legal Deadline: None

Abstract: This rule amends the regulations of the Executive Office for Immigration Review and the Immigration and Naturalization Service by eliminating the conditional grant process at 8 CFR 240.21 and establishing a permanent procedure for processing suspension of deportation and cancellation of removal cases. This rule is necessary to implement the numerical limitation on suspension of

DOJ—EOIR

Proposed Rule Stage

deportation and cancellation of removal and adjustment of status imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/98	63 FR 52134
Interim Final Rule Comment Period End	11/30/98	
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule supersedes rule published October 3, 1997, in the Federal Register at 62 FR 51760 through 51762 (RIN 1125-AA19).

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA25

1695. AUTHORITIES DELEGATED TO THE DIRECTOR OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509-10; 28 USC 1746

CFR Citation: 8 CFR 3; 8 CFR 240; 28 CFR

Legal Deadline: None

Abstract: This rule outlines the authorities and powers (and limitations thereto) delegated by the Attorney General to the Director of the Executive Office for Immigration Review (EOIR), the Chairman of the Board of Immigration Appeals (BIA), and the Chief Immigration Judge. These authorities include such managerial responsibilities as: Issuing operational instructions, setting policies, providing for the training of staff, and ensuring the efficient disposition of cases. One of the limitations on the powers of the Director of EOIR, the Chairman of the BIA, and the Chief Immigration Judge is that they cannot direct the result of a case adjudication assigned to someone else. Further, the Director of EOIR cannot adjudicate cases.

Additionally, this rule makes technical amendments to better describe EOIR's components: The Board of Immigration Appeals (BIA), the Office of the Chief Immigration Judge (OCIJ), and the Office of the Chief Administrative Hearing Officer (OCAHO).

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81434
NPRM Comment Period End	02/26/01	
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA27

1696. • MOTIONS TO REOPEN FOR SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL PURSUANT TO SECTION 1505(C) OF THE LIFE ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103, 1252 note, 1252b, 1324b, 1362; 28 USC 509 to 510; 28 USC 1746; sec 203 of PL 105-100; secs 1506 and 1510 of PL 106-386; sec 1505 of PL 106-554

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: The rule amends the regulations of the Executive Office for Immigration Review (EOIR) by establishing a special procedure for the filing and adjudication of motions to reopen to apply for suspension of deportation and cancellation of removal pursuant to section 1505(c) of the Legal Immigration Family Equity Act Amendments of 2000 (LIFE Act Amendments). Motions to reopen under this rule must be filed on or before October 18, 2001.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA31

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR)

Completed Actions

1697. 212(C) RELIEF FOR CERTAIN ALIENS IN DEPORTATION PROCEEDINGS ON OR BEFORE APRIL 24, 1996

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 3; 8 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	01/22/01	66 FR 6436

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch
Phone: 703 305-0470

RIN: 1125–AA29

DEPARTMENT OF JUSTICE (DOJ)
Federal Bureau of Investigation (FBI)

Proposed Rule Stage

1698. IMPLEMENTATION OF SECTIONS 104 AND 109 OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act; PL 104-208 Omnibus Consolidated Appropriations Act of 1997

CFR Citation: 28 CFR 100

Legal Deadline: Other, Statutory, October 25, 1998, While CALEA required telecommunications carriers to be in compliance with section 103 by October 25, 1998, the FCC has since exercised (continued in Additional Information).

Abstract: As required by section 109 of the Communications Assistance for Law Enforcement Act (CALEA), the FBI promulgated Cost Recovery Regulations allowing telecommunications carriers to recover certain costs associated with implementing CALEA. The final rule was published on March 20, 1997 (62 FR 13307), and became effective on April 21, 1997. In response to public comment received during this rulemaking, the FBI published an ANPRM on November 19, 1996 (61 FR 58799), which solicited input on the definition of the term "significant upgrade or major modification" as used by CALEA. The "significant upgrade or major modification" NPRM was published on April 28, 1998 (63 FR 23231). The FBI is currently preparing a supplemental notice of proposed rulemaking, which will define the terms "replaced" and "significantly upgraded or otherwise undergone major modification."

Additionally, CALEA section 104 requires the Attorney General to publish a Notice of Actual and Maximum Capacity in order to provide telecommunications carriers with the information they will need to meet law enforcement's future simultaneous electronic surveillance requirements. For local exchange, cellular, and broadband PCS, the FBI published an Initial Notice of Capacity on October 16, 1995 (60 FR 53643), and a Second Notice of Capacity on January 14, 1997 (62 FR 1902). The FBI published the Final Notice of Capacity for local exchange, cellular, and broadband PCS on March 12, 1998 (63 FR 12218). Additionally, the FBI published a Notice of Inquiry (NOI) in the Federal Register on December 18, 1998 (63 FR 70160), which solicited information on and suggestions for developing reasonable methodologies for characterizing capacity requirements for telecommunications services and technologies other than local exchange, cellular, and broadband PCS. Comments were due on February 16, 1999. Information gathered in response to the NOI was used in publishing the Further Notice of Inquiry (FNOI) on June 30, 2000 (65 FR 40694). Comments were due August 29, 2000. Information gathered in response to the FNOI will be used in the publication of an Initial Notice of Capacity for developing reasonable capacity methodologies for the paging, mobile satellite, specialized mobile radio, and enhanced specialized mobile radio services.

Timetable:

Action	Date	FR Cite
"Significant upgrade or major modification"		
ANPRM	11/19/96	61 FR 58799
ANPRM Comment Period End	12/19/96	
NPRM	04/28/98	63 FR 23231
NPRM Comment Period End	06/29/98	
Supplemental NPRM Proposing Definitions	07/00/01	
Cost Recovery Rule (Telecom. Carriers)		
NPRM	05/10/96	61 FR 21396
NPRM Comment Period End	07/09/96	
Final Rule	03/20/97	62 FR 13307
Final Rule Effective	04/21/97	
Notice of Actual and Max. Cap.-local exch, cellular, broadb PCS		
Initial Notice	10/16/95	60 FR 53643
Second Notice	01/14/97	62 FR 1902
Final Notice	03/12/98	63 FR 12217
Notice of Actual and Max. Cap.-paging, MSS, SMR, ESMR		
Notice of Inquiry (Cap Methodology)	12/18/98	63 FR 70160
Further Notice of Inquiry (Cap Methodology)	06/30/00	65 FR 40694
Initial Notice of Capacity	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: STATUTORY DEADLINE CONT: its authority under section 107 of CALEA to grant telecommunications carriers extensions of this compliance date. As a result of the FCC's order, carriers must now be in compliance with section 103 by June 30, 2000. If compliance is not reasonably achievable through application of available technology, the carrier may petition the FCC for an extension of up to 2 years. Additionally, as a result of the publication of the Final Notice of Capacity for local exchange, cellular and broadband PCS carriers, these carriers must be in compliance with section 104 by March 12, 2001.

Transferred from RIN 1105-AA39.

Agency Contact: Walter V. Meslar, Unit Chief, Telecommunications Contracts and Audit Unit, Department of Justice, Federal Bureau of Investigation, Suite 300, 14800 Conference Center Drive, Chantilly, VA 20151
Phone: 703 814-4900

Charles Fogle, SSA, CALEA Implementation Section, Department of Justice, Federal Bureau of Investigation, Suite 300, 14800 Conference Center Drive, Chantilly, VA 20151
Phone: 703 814-4836

RIN: 1110–AA00

1699. IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Other Significant

Legal Authority: 49 USC 33109 to 33111

CFR Citation: 28 CFR 89

Legal Deadline: None

Abstract: The Attorney General is required to establish a National Stolen Passenger Motor Vehicle Information System (NSPMVIS) pursuant to the Anti Car Theft Act of 1992 (49 U.S.C. 33109 to 33111). The FBI is coordinating efforts in this matter and, under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts and junk or salvage vehicles. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses. In order to verify the theft status of a part or junk or salvage vehicle, an identification number will have to be obtained from the part or vehicle.

DOJ—FBI

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
NPRM Comment Period End	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: (RIN 1110-AA01 has been transferred from RIN 1105-AA44.)

The Criminal Division will issue a related regulation to implement the National Motor Vehicle Title Information System (NMVTIS). As required by statute, 49 U.S.C. section 30504(a), the regulation will direct junk yard and salvage yard operators and insurance carriers to file monthly reports with the operator of the NMVTIS concerning vehicles in their possession. (See RIN 1105-AA71.)

Agency Contact: Stephen A. Bucar, Domestic Projects Planning Unit, Department of Justice, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625-2751
Fax: 304 625-3875

RIN: 1110–AA01

1700. FEDERAL CONVICTED OFFENDER DNA DATA BASE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-546

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, April 18, 2001.
The determination of qualifying Federal and military offenses is due 120 days after enactment, and the collection of DNA samples is due 180 days after enactment.

Abstract: The Federal Convicted Offender DNA Data Base Program will cover offenders convicted of Federal and military offenses, as well as offenses committed in the District of Columbia. Regulations specifying the Federal qualifying offenses will be prepared by the Department of Justice and the FBI.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Additional Information: Transferred from RIN 1105-AA52.

Agency Contact: Thomas F. Callaghan, Program Manager, Federal Convicted Offender Program, Department of Justice, Federal Bureau of Investigation, Building 12, Room 214, FBI Academy, Quantico, VA 22135
Phone: 703 632-4594
Fax: 703 632-4562

RIN: 1110–AA03

DEPARTMENT OF JUSTICE (DOJ)
Federal Bureau of Investigation (FBI)

Final Rule Stage

1701. REGULATIONS UNDER THE PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 104-236, sec 9

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, October 3, 1999, The Act does not distinguish between NPRM and final regulations.

Abstract: The FBI is issuing regulations to carry out the Pam Lychner Sexual Offender Tracking and Identification Act of 1996. These regulations include guidelines as to the operation and use of the national sex offender registry established by the FBI and the notice to be provided to the FBI in the event a registered sex offender moves interstate. On February 16, 1999, at 64 FR 7562, the FBI published a Notice of Proposed Rulemaking (NPRM) on this subject. Comments submitted on the NPRM are currently being reviewed. It is anticipated that this regulation will be finalized by August 2001.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7562
NPRM Comment Period End	04/19/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: Transferred from RIN 1105-AA56.

Agency Contact: Charles Marciano, Assistant General Counsel, Department of Justice, Federal Bureau of Investigation, J. Edgar Hoover Building, 935 Pennsylvania Avenue NW, Washington, DC 20530
Phone: 202 324-4523

RIN: 1110–AA04

DEPARTMENT OF JUSTICE (DOJ)
Federal Bureau of Investigation (FBI)

Completed Actions

1702. OPERATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Priority: Other Significant

CFR Citation: 28 CFR 16; 28 CFR 20; 28 CFR 25

Completed:

Reason	Date	FR Cite
Delay of Effective Date	03/01/01	66 FR 12854

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Fanny L. Haslebacher
Phone: 304 625-2000

RIN: 1110–AA02

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Prerule Stage

1703. CORPORATE REORGANIZATIONS (MERGERS AND ACQUISITIONS) AND E, H, L NONIMMIGRANT CLASSIFICATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 CFR 2; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282

CFR Citation: 8 CFR 214.1(h)

Legal Deadline: None

Abstract: The Service solicits comments on establishing policy and administrative procedure for simplifying the processing of nonimmigrant temporary workers involved in mergers, acquisitions, consolidations, or other corporate restructurings. Streamlining Service Center procedures in this respect is in the public interest in light of increased numbers of corporate reorganizations anticipated in the future.

Timetable:

Action	Date	FR Cite
ANPRM With Request for Comments	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1797-96

Agency Contact: Irene Hoffman, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 307-3365

RIN: 1115–AE55

1704. EXPANSION OF EXPEDITED REMOVAL OF CERTAIN CRIMINAL ALIENS HELD IN FEDERAL, STATE, AND LOCAL JAILS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; ...

CFR Citation: 8 CFR 212; 8 CFR 235

Legal Deadline: None

Abstract: This notice advises the public that the Immigration and Naturalization Service intends to apply the expedited removal provisions of section 235(b)(1) of the Immigration and Nationality Act on a pilot basis to certain criminal aliens being held in three correctional facilities in the State of Texas. This action will not become effective until the Service evaluates and addresses public comments and informs the public by notice in the Federal Register when the expedited removal provisions will be implemented. This pilot program will last for a period of 180 days, and will be followed with an evaluation of the program. The Service believes that implementing the expedited removal provisions to persons who have been found by a Federal judge to be guilty of illegal entry and are serving short criminal sentences will result in faster removal of those criminal aliens. This will ensure prompt immigration determinations in those cases and consequently will save Service detention space and immigration judge and trial attorney resources.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/99	64 FR 51338
ANPRM Comment Period End	11/22/99	
Second ANPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1998-99

Agency Contact: Robert Evans, Detention and Deportation Officer, Detention and Deportation Division, Department of Justice, Immigration and Naturalization Service, 801 I Street NW, Suite 800, Washington, DC 20536
Phone: 202 353-7218

RIN: 1115–AF50

1705. • CONSTRUCTION WORK AND THE B NONIMMIGRANT VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The INS is soliciting comments from the public on the issue of aliens admitted to the U.S. as B nonimmigrant visitors whose intent is to engage in construction work during the alien's stay. In particular the Service is exploring the feasibility of defining the term construction as it relates to B nonimmigrant visitors. A standard definition of construction may assist both the public and the Service in determining if an alien admitted as a B nonimmigrant visitor may engage in construction during his or her period of authorized stay.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2126-01

Sectors Affected: None

Agency Contact: Craig S. Howie, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AG15

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1706. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 5 USC 552; 8 USC 1158; 8 USC 1159; 8 USC 1160; 8 USC 1182; 8 USC 1183; 8 USC 1184; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1157

CFR Citation: 8 CFR 103; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 232; 8 CFR 235; 8 CFR 240; 8 CFR 241; 8 CFR 245; 8 CFR 245a; 8 CFR 248; 8 CFR 249; 8 CFR 274a; 8 CFR 299; ...

Legal Deadline: None

Abstract: This regulation covers the grounds of inadmissibility applicable to those aliens seeking admission to the United States temporarily or permanently. On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which substantially revised most grounds of inadmissibility under section 212 of the Act and the waivers available to both immigrants and nonimmigrants. The Immigration and Naturalization Service will publish regulations implementing these new grounds of inadmissibility and new/revised waiver provisions. In addition, this rule will incorporate the changes made to the grounds of inadmissibility and waivers provided for in the Immigration Act of 1990 (IMMACT 90), Public Law 101-649; the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA), Public Law 102-232; the National Institutes of Health Revitalization Act of 1993, Public Law 103-43; the Immigration and Nationality Technical Corrections Act of 1991 (INTCA), Public Law 103-416; and the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), Public Law 104-132, among others.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1232 Comment Period End 2/5/90	01/05/90	55 FR 438
NPRM-INS No. 1413	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: INS No. 1413-92

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; 1232, RIN 1115-AB45; and 1648, RIN 1115-AD62.

Agency Contact: Sophia Cox, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AB45

1707. FEES FOR PARTICIPATION IN DEDICATED COMMUTER LANES AT SELECTED PORTS OF ENTRY; COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1182; 8 USC 1183

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: These rules provide for the collection of a fee at the time of application for participation in a Dedicated Commuter Lane (DCL), instead of at the time of approval of the application. The DCL program is a pilot project established at selected land border ports of entry to expedite the transborder movement of eligible, pre-screened, low-risk groups through designated traffic lanes. The first rule clarifies the requirements for the use of the DCL (INS No. 1675). A second rule will set forth the fee required of participants in order to cover the technological costs (INS No. 1794).

INS No. 1820 will propose to remove restrictions currently in place that limit the locations where the INS can establish commuter lanes. In addition, the proposed rule will incorporate other projects designed to enhance border security and effective traffic management at port of entry. Finally, the rule may adjust the fee structure in order to administer these projects.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1675 Eff. 9/29/95; Comment Period End 11/28/95	09/29/95	60 FR 50386
Interim Rule-INS No. 1794	10/11/96	61 FR 53303
Final Rule-INS No.1675-94 Effective 10/16/96	10/16/96	61 FR 53830
NPRM-INS No. 1820-96	09/00/01	
Final Rule-INS No. 1794-96	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1675 and 1794-96

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4214, 425 I Street NW, Washington, DC 20536
Phone: 202 305-9246

RIN: 1115–AD82

1708. NONIMMIGRANT CLASSES; S CLASSIFICATION; LAW ENFORCEMENT INITIATIVES; ALIEN WITNESSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1324a; 8 CFR 2; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299; 8 CFR 103

Legal Deadline: None

Abstract: Two regulatory initiatives dealing with the processing of alien witnesses have been prepared by the INS. INS No. 1683-94 provides the application and approval process for the admission of aliens in S nonimmigrant classification. It provides guidance to the various law enforcement agencies needing alien witnesses and informants to complete critical law enforcement initiatives in the United States. INS No. 1728-95 establishes a fee for the processing of Form I-854, Inter-Agency Alien Witness and Informant Record, for Law Enforcement Agency (LEA) requests for S nonimmigrant classification for

eligible alien witnesses and informants. The fee recovers the costs of the processing of requests for immigration benefits and is needed to comply with specific Federal immigration laws and Federal user fee statute and regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1683 Eff. 8/25/95; Comment Period End 12/4/95	08/25/95	60 FR 44260
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52068
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52248
NPRM-INS No. 1728	09/00/01	
Final Action-INS No. 1683	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1683-94; and INS No. 1728-95.

Agency Contact: Song Park, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AD86

1709. EMPLOYMENT AUTHORIZATION DOCUMENT APPLICATIONS AND PROCESS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: This proposed rule will amend the Immigration and Naturalization Service regulations regarding employment authorization to establish filing and eligibility requirements for Form I-765, Application for Employment Authorization. With few exceptions, only those nonimmigrant aliens who have been issued a Form I-766, Employment Authorization Document (EAD), are authorized to accept employment in the U.S. as evidence of their authorization for temporary employment in the United States. The EAD may be presented to an employer to satisfy the employment eligibility documentation requirements of IRCA.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: The employment authorization document (EAD) applications and process proposed rule (INS No. 1707-95) has been pending for some time due to document reduction issues. The Service published a proposed rule (I-9) on 2/2/98 at 63 FR 5287. The remaining policy issues on the I-765 proposed rule are expected to be resolved during the next few months.

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE06

1710. INSPECTION OF PERSONS APPLYING FOR ADMISSION; INTERNATIONAL-TO-INTERNATIONAL USER FEE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1356

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations to require air carriers to charge and collect a user fee from every International-to-International (ITI) passenger arriving in the United States, except those individuals exempted under section 286(e)(1) of the Immigration and Nationality Act (Act). This action is necessary since the Service is required to inspect all aliens who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1757

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AE37

1711. DEFINITION OF THE TERM "LAWFULLY PRESENT" FOR PURPOSES OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 552; 31 USC 9701; EO 12356; 47 FR 14874 to 15557; 3 CFR 1982 comp; 8 CFR 2; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252B; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: Section 401(a) of the Personal Responsibility and Work Reconciliation Act of 1996 (PRWORA) provides that, with limited exceptions, only qualified aliens, as defined under section 431, may receive certain Federal public benefits. Section 401(b)(2) provides an exception which allows aliens who are "lawfully present in the United States" as determined by the Attorney General to receive social security benefits under title II of the Social Security Act. PRWORA, and other laws, use the term "lawfully present" in other benefit-related contexts as well.

The interim final rule published September 6, 1996, amended the Immigration and Naturalization Service (Service) regulations to define the term "an alien who is lawfully present in the United States" so that the Social Security Administration may determine which aliens are eligible for benefits under title II of the Social Security Act. It is necessary to define "lawfully present" for broader purposes than just the title II benefits. Therefore, rather than issue a final rule pertaining to title VI only, the Service intends to publish a proposed rule covering all other applications of the term as well. The resulting final rule, after notice and comment, will include title II within the rule's broader coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47039
Interim Final Rule Comment Period End	11/05/96	
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: INS No. 1792-96

Agency Contact: John W. Brown, Adjudications Officers, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE51

1712. PETITION FOR EMPLOYMENT CREATION ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1186b; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 204; 8 CFR 216; 8 CFR 235

Legal Deadline: None

Abstract: The Service solicits comments on necessary policy and administrative procedure for resolving current regulatory concerns regarding immigrant investors. (INS No. 1798-98)

The Service will also solicit comments on proposed regulations for regional center participation in the Immigrant Investor Pilot Program for employment creation immigrants who seek to invest in approved regional centers. This rule is obtaining significant pre-clearance comment and is subject to the results of the Agency's review of the Immigrant Investor Pilot Program. (INS No. 1969-98)

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1969-98	10/00/01	
NPRM-INS No. 1798-96	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule will be divided into two separate rulemakings, INS No. 1798-98 pertaining to the petition for employment-creation aliens and the other INS No. 1969-98 pertaining to regional centers. Both rules will have information collections.

Agency Contact: Morrie Berez, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, Washington, DC 20536
Phone: 202 305-7767

RIN: 1115–AE56

1713. FILING FACTUAL STATEMENTS ABOUT ALIEN PROSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2424; PL 104-208

CFR Citation: 28 CFR 94

Legal Deadline: None

Abstract: On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) was enacted. This law not only amended significant portions of title 8 of the United States Code, but also changed the provisions of title 18 United States Code (Crimes and Criminal Procedures). Because section 325 amends 18 U.S.C., the Immigration and Naturalization Service will publish an implementing regulation dealing with the filing of statements by individuals who keep, maintain, control, support, or harbor alien prostitutes.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1810-96	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1810-96

Agency Contact: Elizabeth L. Dolan, Senior Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, Room 1000, 425 I Street NW, Washington, DC 20536
Phone: 202 307-0557

RIN: 1115–AE60

1714. USE OF PAROLE FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT AND REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212

Legal Deadline: NPRM, Statutory, September 11, 1997.

Abstract: Changes to the current regulations are necessitated by section 602 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section has reworded certain parole authority by stipulating parole on a case-by-case basis for urgent humanitarian reasons or significant public benefit.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Rule-INS No. 1817-96	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1840-97

This rule affects the following section of the I&NA—section 212, as amended by sections 602 IIRIRA.

(See also RIN 1115-AF53.)

Agency Contact: Ken Leutbecker, Director, Parole Branch, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, Attn: ULLICO Bldg, Third Floor, 111 Massachusetts Avenue NW, Washington, DC 20001
Phone: 202 305-2670

RIN: 1115–AE68

1715. CERTIFICATION OF CERTAIN HEALTH CARE WORKERS

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5); PL 104-208

CFR Citation: 8 CFR 204; 8 CFR 212; 8 CFR 214.2; 8 CFR 245; 8 CFR 248

Legal Deadline: Other, Statutory, January 19, 2001, Abraham v. Reno (D.D.C.).

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 343 prohibits the entry of any alien who seeks to enter the U.S. for the purpose of performing labor as a health care worker (other than a physician) without a certificate as to the alien's qualifications and English ability from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or an equivalent independent organization approved by the Attorney General.

The Service published an interim rule (INS 1879-97) to address shortages in the occupations of nursing and occupational therapy on October 14, 1998. In addition, the Service issued a second interim rule on April 30, 1999, to grant CGFNS authorization to issue certificates to foreign health care workers in the occupations of occupational therapy and physical therapy. This rule also granted the Foreign Credentialing Commission on Physical Therapy the authority to issue certificates to foreign-trained physical therapists. The second interim rule (INS 1979-99) was published under RIN 1115-AF43 and now is consolidated with this Unified Agenda of Federal Regulations entry. A third interim rule (INS 2082-00) was published on January 16, 2001, to address certification requirements for Speech Language Pathologist, Audiologist, Medical Technologist, and Physican Assistants. Litigation over the implementation of this rule has led to a decision to publish interim rules granting temporary authority to issue certificates.

The Service will be publishing a proposed rule (INS 1824) to fully implement section 343, including requirements relating to the designation of covered health care occupations, the procedures and requirements for certifying organizations, the content of the certificates, and the process for presentation of the certificates. INS No. 2089-00 adds five additional occupation categories for foreign health care workers.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS 1879	10/14/98	63 FR 55007
Interim Final Rule Effective-INS 1879	12/14/98	
Interim Final Rule Comment Period End-INS 1879	02/11/99	
Interim Final Rule-INS 1979-99	04/30/99	64 FR 23174
Interim Final Rule Comment Period End-INS 1979-99	06/29/99	
Interim Final Rule Effective-INS 1979-99	06/29/99	
Interim Final Rule-INS 2089-00	01/16/01	66 FR 3440
Interim Final Rule Comment Period End	03/19/01	
Interim Final Rule Effective-INS 2089-00	03/19/01	
NPRM-INS 1824-98	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2089-000 adds five additional occupation categories for foreign health care workers: Speech-Language Pathologists and Audiologists, Medical Technologists and Technicians, and Physician Assistants

Agency Contact: John Brown, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536 Phone: 202 616-7435

RIN: 1115–AE73

1716. REGULATIONS PERTAINING TO BATTERED ALIENS AND TO MAIL ORDER BRIDE BUSINESSES, AS MANDATED BY IIRIRA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1641(c); PL 104-208

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) included a number of provisions relating to battered aliens and to mail order bride businesses. The INS anticipates rulemaking in the following areas:

INS document No. 1845-97 is necessitated by section 501 of IIRIRA, which provides certain types of public benefits for those aliens who have made a prima facie case for eligibility pursuant to the INS' interim rule on self-petitions by battered aliens, published at 61 FR 13061 (March 26, 1995; INS No. 1705-95). This new rule will define what constitutes a prima facie case.

INS document No. 1838-97, an advance notice of proposed rulemaking, is to solicit public input into the regulation of certain functions of the international matchmaking industry (also referred to as "mail order bride businesses"), as required by section 652 of IIRIRA, was published on 7/16/97 (62 FR 38041).

Timetable:

Action	Date	FR Cite
ANPRM-INS No. 1838-97 Comments Due 09/15/97	07/16/97	62 FR 38041
Interim Final Rule-INS No. 1845-97	11/13/97	62 FR 60769
Interim Final Rule Comment Period End-INS 1845-97	01/12/98	
NPRM-INS No. 1838-97	09/00/01	
Final Rule-INS No. 1845-97	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.1838-97. The Service submitted its report on international matchmaking organizations which can be found on the INS website. The Service is currently preparing the informational brochures which the organizations will be required to provide to women recruits.

Agency Contact: Pearl Chang, Branch Chief, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-3228

RIN: 1115–AE77

1717. EN ROUTE INSPECTIONS AND REIMBURSEMENT FOR IMMIGRATION AND NATURALIZATION SERVICE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356(i)

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to define an en route inspection. The rule will also notify all affected parties that the Service will begin to bill cruise ship, train, and bus lines or other modes of transportation, or their designated shipping agents or representatives, for all expenditures of Government funds which the Service obligates in connection with the performance of en route inspections on board transportation carriers. This action is necessary in order for the Service to more accurately account for the costs associated with providing special immigration inspection services on an en route basis and to ensure their full recoupment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1784-96

Agency Contact: Sam Farmer, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536 Phone: 202 305-8153

RIN: 1115–AE98

1718. SPECIAL IMMIGRANT JUVENILE PETITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Service proposes to amend its regulations to add eligibility and consent requirements for approvals of special immigrant juvenile petitions (Form I-360). The proposed rule would require petitioners for special immigrant juvenile classification to demonstrate that a dependency order relating to the juvenile beneficiary (juvenile) was granted on account of abuse, neglect, or abandonment and establish that a court has determined that the juvenile should not be returned to the home country. The proposed rule would also provide that a dependency order may not serve as a precondition to the approval of the petition unless the Attorney General gives her express consent. These changes are necessary to conform the regulations to the statutory eligibility changes made by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1998 (the Appropriations Act of 1998).

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1948-98

Agency Contact: Michael C. Biggs, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-4754

RIN: 1115–AF11

1719. EXTENSION OF DEADLINE FOR SPECIAL IMMIGRANT RELIGIOUS WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: On June 8, 1995, at 60 FR 29751, INS published a final rule that provided that all persons, other than ministers, immigrating to the U.S. as religious workers must immigrate or adjust status to permanent residence before October 1, 1997. By statute this special immigrant category for religious workers expired on October 1, 2000. Congress has extended the category again for an additional 3 years, until October 1, 2003. This regulation will implement the extension of this category and impose additional qualifying employment experience requirements for those persons affected by this provision of immigration regulations.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1436-94	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1436-94

Agency Contact: Irene Hoffman, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 307-3365

RIN: 1115–AF12

1720. PROGRESSIVE CLEARANCE STOPOVERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231.1; 8 CFR 231.4

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations by establishing passenger and carrier requirements with regard to progressive clearance and stopovers. This includes passenger and carrier obligations and liabilities and the charging and collection of a user fee for each subsequent inspection of stopover passengers. This rule is intended to facilitate travel while continuing to ensure the welfare, safety, and security of the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INS No. 1930-98

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF23

1721. DOCUMENTARY REQUIREMENTS FOR RETURNING RESIDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1203; 8 USC 1225; 8 USC 1257

CFR Citation: 8 CFR 211

Legal Deadline: None

Abstract: This rule proposes to amend INS regulations to specify how an alien admitted for permanent residence, on returning to the United States, may prove that he or she is not to be considered an applicant for admission. This rule is necessary to implement section 101(a)(13)(C) of the Act and to clarify the responsibility for carriers who transport to the United States aliens who claim to be to be returning residents. This rule will ensure that aliens who present themselves as lawful permanent residents are properly documented as such.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1932-98	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1932-98.

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, Suite 425, 1525 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AF26

1722. AVAILABILITY OF MATERIAL UNDER FREEDOM OF INFORMATION ACT AND PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 552; 8 USC 552a; 8 USC 1101; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This revised regulation is necessary to amend the Immigration and Naturalization Service regulations by providing procedures implementing the new provisions of the Electronic Freedom of Information Act (EFOIA) Amendments of 1996. New provisions implementing EFOIA require that we maintain, and provide to the public, a record in either paper or electronic format and maintain an electronic reading room. It further updates the timing of responses to requests by extending the response time from 10 to 20 working days. This regulation reflects current Service procedures for the public to request and obtain access to Service records through the Freedom of Information Act and Privacy Act. It is being updated to include the handling of requests referred from another agency to ensure that requesters are not penalized by waiting in another agency's backlog and reflects the Department of Justice's updated cost for calculating and changing fees. It further contains new provisions that implement the new Federal discretionary release policy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: INS No.1942-98

Agency Contact: Mildred Carter, FOIA/PA Program Specialist, Files and Forms Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-1722

RIN: 1115–AF32

1723. DISMISSAL OF ASYLUM APPLICATION FOR UNEXCUSED FAILURE TO APPEAR AND EFFECT ON ELIGIBILITY FOR EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2; 8 USC 1101; 8 USC 1329a

CFR Citation: 8 CFR 208; 8 CFR 274a

Legal Deadline: None

Abstract: On December 6, 2000, the Service published a final rule to implement the asylum provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This rule proposes to amend the current rule to clarify that dismissal of an asylum application will result in ineligibility for asylum-based employment authorization.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2011-99

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of Justice, Immigration and Naturalization Service, 3rd Floor, 111 Massachusetts Avenue NW, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AF38

1724. H-1B NONIMMIGRANT WORKER COMPLAINTS REGARDING U.S. EMPLOYER VIOLATIONS UNDER THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT (ACWIA)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182; 8 USC 1184; 8 USC 1255; 8 USC 1258; 8 USC 1324

CFR Citation: 8 CFR 214; 8 CFR 248; 8 CFR 274a; 8 CFR 212; 8 CFR 245

Legal Deadline: None

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA), enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, made various changes to the Immigration and Nationality Act (INA) relating to nonimmigrant temporary workers. By this rule (RIN 1115-AF40, INS No. 1974-99), INS will amend certain parts of regulation to implement the ACWIA "whistleblower" provision, codified at INA 212 (n)(C)(iv) and (v), that prohibit retaliation against H-1B workers who disclose information that their U.S. employer has violated the law or regulations pertaining to labor condition applications filed with the DOL. This rule will describe the process established by the INS and DOL jointly to enable an H-1B nonimmigrant who files a complaint alleging intimidation, coercion, threats, blacklisting, or other discrimination to remain temporarily in the United States and seek employment authorization. The DOL will amend its regulations, as necessary, to implement its role in this process.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: By a related rule (RIN 1115-AF41, INS No.2021-99), INS will be implementing those portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. That rule complements regulations to be issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

INS No. 1974-99

Agency Contact: Jacquelyn A. Bednarz, Special Assistant, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, Room 7309, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3242

RIN: 1115–AF40

1725. AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2(h); 8 CFR 103.7

Legal Deadline: None

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA)—enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999—made various changes to the Immigration and Nationality Act (the INA) relating to nonimmigrant skilled workers. This rule (RIN 1115-AF41; INS No. 2021-99) implements those portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. This rule complements regulations to be issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: By a related rule (RIN 1115-AF40; INS 1974-99), INS will implement the ACWIA "whistleblower protection" provisions—codified in the INA at section 212(n)(2)(C)(iv) and (v)—prohibiting retaliation against H-1B workers who disclose information that their employer has violated the law or regulations pertaining to labor condition applications for nonimmigrants. That rule will also enable an H-1B worker who files a complaint alleging retaliation to remain in the United States and seek authorization to work in the United States for a temporary period while his or her complaint is under review.

In 1190-AA48, the Civil Rights Division, in cooperation with DOL, will implement in the Justice Department's regulations the ACWIA "failure to select" protections—codified in the INA at section 212(n)(5)—by establishing a process under which United States workers may file complaints against employers for denying them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under that process, the Attorney General is to receive and review these complaints and then—where there is reasonable cause to believe a complainant's allegations—initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS).

Agency Contact: Irene Hoffman, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 307-3365

RIN: 1115–AF41

1726. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154

CFR Citation: 8 CFR 204; 8 CFR 214; 8 CFR 245; 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by establishing procedures for certain North Atlantic Treaty Organization (NATO) civilian employees and their family members to receive special immigrant status in the U.S. and become lawful permanent residents of this country. This rule also offers nonimmigrant status to any parent or child of a NATO civilian employee who has been granted special immigrant status. This rule is intended to ensure the qualifying NATO employees and their family members are aware of their opportunity to acquire special immigrant status and adjustment of status or otherwise obtain corresponding nonimmigrant status.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1984-99

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF44

1727. CONTRACTS WITH TRANSPORTATION LINES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1228

CFR Citation: 8 CFR 233

Legal Deadline: None

Abstract: This rule proposes to amend INS regulations by providing signature authority for forms I-420, Agreement (Land-Border) Between Transportation Line and the U.S., I-425, Agreement (Pre-Inspection) Between Transportation Line and the U.S. (At Places Outside U.S.), and I-426, Immediate and Continuous Transit Agreement Between a Transport Line & U.S., to the Commissioner or her delegated representative. This change is required by section 308 of IIRIRA which amended section 233 (a) of the I&NA by requiring carriers transporting aliens to the U.S. from all "foreign territory and adjacent islands" to enter into a contract with the U.S. prior to transportation of such aliens. Another change is to remove the signature authority of the Associate Commissioner for Examinations for the aforementioned Agreements because the position was abolished.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.1994-99

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF46

1728. ADJUSTMENT OF STATUS UNDER THE 1966 CUBAN ADJUSTMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255; PL 105-100, sec 202; ...

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This interim rule specifies what effect an alien's arrival in the United States at a place other than an open port-of-entry will have on the alien's ability to obtain permanent residence under section 1 of the Cuban Adjustment Act of 1966, as amended. This rule is necessary to establish uniform rules relating to both the alien's eligibility for this relief and to the proper exercise of the discretion to grant or deny this relief.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1966-99

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF48

1729. ADJUSTMENT OF FEES FOR SERVICES AT LAND BORDER PORTS-OF-ENTRY

Priority: Other Significant

Legal Authority: PL 100-459; 8 USC 1356(m),(n); PL 101-515; PL 82-137; 31 USC 9701

CFR Citation: 8 CFR 239; 8 CFR 287

Legal Deadline: None

Abstract: This rule proposes to adjust the fees charged by the INS for three documents processed at land border ports-of-entry (POEs): (1) Form I-94, (2) Form I-94W, and (3) Form I-68. The I-94 and I-94(W) Arrival/Departure Record grants nonimmigrant visitors entering the U.S. the privilege to stay longer than 72 hours and to travel more than 25 miles from the border point of entry. The I-68, Canadian Border Boat Landing Permit, grants the privilege of making entries on the U.S. side of a body of water without reporting to a U.S. port of entry when traveling by small pleasure craft. Visits shall not exceed 72 hours nor shall travel exceed 25 miles from the border. The fee adjustment is necessary to ensure that full costs are recovered and that sufficient funds are available to service present and future applicants. The fees collected from persons filing those documents are deposited into the Immigration Examinations Fee Account (IFEA).

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2007-99

Agency Contact: Paul Schlesinger, Fee Policy and Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, Room 6240, 425 I Street NW, Washington, DC 20536
Phone: 202 616-2754

RIN: 1115–AF55

1730. MANIFEST REQUIREMENTS AND IMPOSITION OF FINES UNDER SECTION 231 OF THE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: With the passage the of Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Congress required the Immigration and Naturalization Service to improve the accuracy of data collected on nonimmigrants entering the United States and stored in the Nonimmigrant Information System (NIIS). This rule proposes to 1) require carriers to submit Form I-94 (Arrival and Departure Record) for all arriving and departing alien passengers including legal permanent residents of the United States, first-time immigrants, and in-transit passengers. Manifests will also be required for all flights and vessels, even those arriving from and departing to contiguous territory; 2) provide criteria and procedures for imposing fines for failure to submit a properly completed arrival or departure manifest; and 3) define alternative methods for submitting Form I-94 data.

This rule will codify the imposition of fines against carriers for failure to provide correct and accurate passenger manifests, Form I-94. It will also clarify what category of passengers will be required to present Form I-94 on inspection.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2008-99

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, Suite 425, 1525 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AF57

1731. ADJUSTMENT OF CERTAIN FEES OF THE IMMIGRATION EXAMINATIONS FEE ACCOUNT

Priority: Other Significant

Legal Authority: PL 100-459; PL 101-515; PL 82-137; PL 101-576; 8 USC 1356; 31 USC 902; 31 USC 9701

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to adjust the fee schedule of the Immigration Examinations Fee Account (IEFA) for certain immigration adjudication and naturalization applications and petitions. Fees collected from persons filing these applications and petitions are deposited into the IEFA and used to fund the cost of processing immigration adjudication and naturalization applications and petitions and associated support services; the cost of providing similar services to asylum and refugee applicants; and the cost of similar services provided to other immigrants at no charge. Federal agencies are required to review their fees bi-annually. This rule is necessary to ensure that the fees that fund the IEFA generate sufficient revenue to recover the full cost of processing immigration and naturalization applications, petitions, the cost of asylum refugee, and other support costs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2072-00

Sectors Affected: None

Agency Contact: Paul Schlesinger, Fee Policy and Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, Room 6240, 425 I Street NW, Washington, DC 20536
Phone: 202 616-2754

RIN: 1115–AF61

1732. ENTRY REQUIREMENTS FOR CITIZENS OF THE REPUBLIC OF THE MARSHALL ISLANDS, THE FEDERATED STATES OF MICRONESIA, AND PALAU

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1203; 8 USC 1225; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 211; 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by adding documentary requirements for a naturalized citizen of the Marshall Islands, the Federated States of Micronesia, or Palau (Compact Countries) to enter into the United States, lawfully engage in occupations, accept employment, and establish residence as a nonimmigrant in the United States and its territories and possessions. This rule also clarifies the documentary requirements for an adopted child from Compact Countries who is immigrating to the United States. Without clarification of the documentary requirements for an adopted child from the Compact Countries, the Compact Countries may not consent to the adoption of children by U.S. citizens and legal permanent residents.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
NPRM Comment Period End	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2047-00

Agency Contact: Michael C. Biggs, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF65

1733. INADMISSIBILITY TO ENTER THE UNITED STATES FOR FORMER U.S. CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(10); PL 104-208

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by establishing regulatory procedures to be followed by Service personnel and Department of State personnel in determining whether or not an expatriate alien is inadmissible to the United States under section 212(a)(10)(E) of the Immigration and Nationality Act. This ground of inadmissibility relates to former U.S. citizens who renounced U.S. citizenship on or after September 30, 1996, and the Attorney General has determined that such renunciation was done for the purpose of avoiding taxation by the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2039-99

Sectors Affected: None

Agency Contact: Kevin J. Cummings, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF69

1734. IMPOSITION OF FINES FOR VIOLATIONS OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1221; 8 USC 1223; 8 USC 1227; 8 USC 1229

CFR Citation: 8 CFR 280

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service's (Service) regulations to reflect the actual process used to recommend and impose fines for violations of the Immigration and Nationality Act (Act). Since the publication of 8 CFR part 280, the Service had centralized the fines process and made some adjustments to certain procedures. The 8 CFR part 280 will be renumbered sequentially and reordered to group related issues in one section. This part will also be expanded to provide for fines imposed under section 231A(d)(2) and 274D of the Act and will introduce procedures for detaining vessels and posting bonds, as well as giving the Commissioner discretion in requiring bonds.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2041-00

Sectors Affected: None

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, Suite 425, 1525 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AF70

1735. ADJUSTMENT OF SERVICE FEE FOR FINGERPRINTING FOR IMMIGRATION AND NATURALIZATION BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 532; 5 USC 532a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to adjust the Immigration and Naturalization Service's (Service) fee schedule of the Immigration Examinations Fee Account (IEFA) by adjusting the fee for the fingerprinting of applicants who apply for certain immigration and naturalization benefits from $25 to $50. The fees collected from persons fingerprinted in connection with an application or petition for certain immigration and naturalization benefits are deposited into the IEFA. The IEFA funds the full cost for operation of the Application Support Centers (ASCs) where the majority of fingerprinting is accomplished. The Service has determined that the current fee for this service needs to be adjusted. This rule is necessary to ensure that the fee charged fully recovers the cost to the Service of fingerprinting persons applying for certain immigration and naturalization benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2061-00

Agency Contact: Bert Rizzo, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, 10 th Floor, 800 K Street NW, Washington, DC 20536
Phone: 202 307-8996

Ann Palmer, Special Assistant, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 900, 800 K Street NW, Washington, DC 20536
Phone: 202 305-1229

RIN: 1115–AF83

1736. ESTABLISHMENT OF FEE FOR PROCESSING GENEALOGICAL RESEARCH REQUESTS FOR INS RECORDS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1103; 8 USC 1201; 8 USC 1252; 8 USC 1252b

CFR Citation: 8 CFR 103; 8 CFR 299

Legal Deadline: None

Abstract: Under the Freedom of Information Act and Privacy Act the Immigration and Naturalization Service (Service) processes all requests for Service records including historical and genealogical records. This rule proposes to amend the Service's regulations by establishing the Historical Records Services (HRS) Program to process requests for the Service's historical records. The Service will charge a fee to recover the cost of searching, locating, retrieving, copying, reviewing, and mailing these records to the requester. The HRS program is necessary to provide a more timely response to requests for genealogical and historical records.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 2074-00

Sectors Affected: None

Agency Contact: Marian L. Smith, Historian, Office of Files and Forms Management, Department of Justice, Immigration and Naturalization Service, Room 1100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2837
Fax: 202 305-8251

RIN: 1115–AF88

1737. • INTERCOUNTRY ADOPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641; 9 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: NPRM, Statutory, January 6, 2001.

Abstract: The Immigration and Naturalization Service (Service) proposes to amend its regulations regarding the immigration of children of foreign states adopted by United States citizens. The proposed rule would establish a new definition of child to include children adopted from countries which have implemented the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention). The proposed rule would also change evidentiary requirements for the immigration of adopted children to state that a certificate of adoption or custody issued by the Secretary of State of the United States is conclusive evidence of the relationship between an adoptive parent and the adoptive child. These changes are necessary to conform the regulations to the Intercountry Adoption Act of 2000(IAA). (Public Law 106-279)

The proposed rule would also remove section 204.3(e)(10) from the regulations. Section 204.3(e)(10) provides that a home study properly completed in conformance with the regulation in force prior to September 30, 1994, will be considered acceptable if submitted to the Service within 90 days of September 30, 1994. Since 90 days have passed since September 30, 1994, this provision is no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2098-00

Sectors Affected: None

Agency Contact: Michael C. Biggs, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF96

1738. • ACADEMIC HONORARIUM FOR B NONIMMIGRANT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-277; 8 USC 1182; 8 USC 1184

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The Immigration and Naturalization Service is proposing to amend its regulations relating to the acceptance of academic honoraria by nonimmigrant aliens admitted to the United States as a B visa visitor status. This is necessary to implement changes to section 212 of the Immigration and Nationality Act made by the American Competitiveness and Workforce Improvement Act of 1998. The amendment outlines the proposed procedures necessary for a nonimmigrant alien visiting the United States in valid B visa status to accept honoraria in connection with usual academic activities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2100-00

Sectors Affected: None

Agency Contact: Craig S. Howie, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF97

1739. • TIME LIMIT FOR APPEAL FROM DENIAL OF RELATIVE VISA PETITION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: In this rule, the Immigration and Naturalization Service proposes to amend the regulations to provide a 15-day time-limit for an appeal to the Board of Immigration Appeals from the denial of a relative visa petition. Previously, the regulation specified a 15-day limit for such appeal. However, in 1992, that time-limit was inadvertently omitted from an amendment to the regulation, although the form for filing such an Appeal, Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals for Decision of the Director still states that there is a 15-day limit. Nevertheless, the Board of Immigration Appeals has allowed appeals filed at any time after the denial on the ground that the regulations do not specify a time-limit. A time-limit is needed so that appeals my not be filed years after a denial and so that decisions will become final within a reasonable time period.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2105-00

Sectors Affected: None

Agency Contact: Joanna London, Attorney, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF99

1740. • APPLICATION PETITION FEE WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC

1201; 8 USC 1252; 8 USC 1252(b); 8 USC 1252(note); 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 244

Legal Deadline: None

Abstract: This rule proposes to amend the INS regulations concerning the adjudication of requests for fee waivers filed by applicants for Service benefits pursuant to 8 CFR 103.7(c). This applies to a waiver of fees by an immigration judge for benefit applications, petitions, appeals, motions, or requests in any case when an alien substantiates that they cannot pay the fee. When implemented, this rule will facilitate the adjudication of these requests. This rule also proposes to amend 8 CFR 244.20, which is a waiver of fees for Temporary Protected Status (TPS) applicants, for the same reasons as stated in 8 CFR 103.7(c). The rule will also be implemented in conjunction with the new Form I-912, Request for Fee Waiver Form.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2091-00

Sectors Affected: None

Agency Contact: Irene Hoffman, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 307-3365

RIN: 1115–AG02

1741. • ADOPTION OF SIBLINGS, ADOPTED ALIEN CHILDREN LESS THAN 18 YEARS OF AGE CONSIDERED A "CHILD"

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-139; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This proposed rule changes the definition of an adopted "child" or "orphan" from 16 years old to 18 years old in cases where the child's sibling, who is under 16, is petitioned by the same U.S. citizen(s). The change is necessary to conform the regulations to the statutory eligibility changes made by Public Law 106-139. This change allows natural siblings, who might otherwise be separated, to be adopted together into the family of a citizen or lawful permanent resident of the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2110-01

Sectors Affected: None

Agency Contact: Michael C. Biggs, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG04

1742. • PROCEDURES FOR CHECKING JUVENILE CRIMINAL RECORDS AND SUBMITTING FINGERPRINTS OF THAT ADDITIONAL CLASS OF ALIENS INELIGIBLE FOR FAMILY UNITY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 5031

CFR Citation: 8 CFR 236

Legal Deadline: None

Abstract: This rule describes procedures necessary for INS Service Centers, District Offices, and Application Support Centers to follow when checking juvenile criminal records and fingerprints of aliens who committed a specific act of juvenile delinquency that, if committed by an adult, would be classified as a felony "crime of violence against another individual." Section 383 of Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) provides that aliens who committed a specific act of juvenile delinquency, as defined in 18 U.S.C. 5031, are ineligible for benefits under the Family Unity Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 2116-01

Sectors Affected: None

Agency Contact: Rebecca Peters, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2454

RIN: 1115–AG07

1743. • AUTHORIZING PART-TIME STUDY FOR F-1 COMMUTER STUDENTS IN CONTIGUOUS TERRITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule will outline INS's requirements to qualify as a part-time commuter student from contiguous territories. Also, this rule will assist colleges and universities in the southern border regions to recruit students from Mexico. For example, Texas State law allows residents of Mexico to attend border area institutions of higher education and pay in-State tuition rates. In response, many students living close to the U.S. border are commuting from Mexico in order to pursue a part-time course of study at U.S. institutions of higher education and enter the U.S. territory using border crossing cards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2118-01

Sectors Affected: None

Agency Contact: Song Park, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AG09

1744. • ADJUSTMENT OF STATUS UNDER SECTION 245(K)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-119

CFR Citation: 9 CFR 245

Legal Deadline: None

Abstract: This rule proposes amending Service regulations for persons using section 245(k) of the Immigration and Nationality Act to adjust status to that of lawful permanent resident (LPR). Section 245(k) of the Act provides for an alien with an approved employment-based petition to adjust status to LPR despite the fact that the alien has been out of status or work without authorization for a period of more than 180 days. This rule proposes eligibility criteria and adjustment procedures for persons wishing to use this section of the Act to become an LPR without leaving the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS 2120-01

Sectors Affected: None

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2763
Email: michael.valverde@justice.usdoj.gov

RIN: 1115–AG10

1745. • ADJUSTMENT OF FEES FOR DEDICATED COMMUTER LANES AND SECURE ELECTRONIC NETWORK FOR TRAVELERS' RAPID INSPECTION (SENTRI) PROGRAMS AT LAND BORDER PORTS-OF-ENTRY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; ...

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule proposes to adjust the fees for the Land Border Inspection Fee Account (LBIFA) for the Form I-823, Application for Alternative Inspection Services at land border ports-of-entry and related systems cost fees for participants in the Dedicated Commuter Lane (DCL) program. Form I-823 is used by applicants to the Port Passenger Accelerated Service System (PORTPASS) that includes the DCL program and several other land border programs. The Secure Electronic Network for Travelers' Rapid Inspection (SENTRI) Program at certain assigned POEs is part of the overall DCL program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2031-99

Agency Contact: Paul Schlesinger, Fee Policy and Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, Room 6240, 425 I Street NW, Washington, DC 20536
Phone: 202 616-2754

RIN: 1115–AG18

DEPARTMENT OF JUSTICE (DOJ)

Final Rule Stage

Immigration and Naturalization Service (INS)

1746. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS (SECTION 610 REVIEW)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: Final, Statutory, March 31, 1998, An interim rule, published September 30, 1997, makes the minimal changes required by statute. The provisions will remain in effect until completion of this rulemaking.

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Section 412(d) clarifies the applicability of section 274A to the Federal Government. Section 610 of the Regulatory Flexibility Act requires agencies to review rules that have a significant economic impact on a substantial number of small entities every 10 years. The Service is conducting this review in conjunction with IIRIRA implementation. The proposed rulemaking published 2/12/98 implements sections 212(a) and (d) of IIRIRA and proposes other changes to the employment verification process identified through that review. A revised Form I-9 was included with the proposed rulemaking.

The comment period closed on 4/3/98. The Service is analyzing the comments and taking into consideration issues raised by the Alien Registration (MD) (I-551) program. It should be noted that this action supersedes the previously published regulatory plan titled "Reduction in the Number of Documents Accepted for Employment Verification." In order to avoid confusion, this regulatory action is being referenced under the current RIN,

which captures all prior actions related to employment verification.

INS No. 1947-98, Interim Rule published 2/9/99 (64 FR 6187). The "Receipt Rule" permits employees to present their employer certain types of "receipts" in lieu of a document listed on the Form I-9. (Previously under RIN 1115-AE94, which was withdrawn and placed under AB73 due to the relationship of the regulations.)

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1399 Comment Period End 12/23/93	11/23/93	58 FR 61846
NPRM-INS No. 1339S Comment Period End 07/24/95	06/22/95	60 FR 32472
Notice-INS No. 1713 INS No. 1713 Applications Due 01/29/96	11/30/95	60 FR 61630
Appl. Extension Through 3/8/96 Notice Pilot Demonstration Program-INS No. 1713	02/06/96	61 FR 4378
Final Rule-INS No. 1399E	09/04/96	61 FR 46534
Interim Final Rule INS No. 1818	09/30/97	62 FR 51001
NPRM-INS No. 1890-97 Comment Period End 04/03/98	02/02/98	63 FR 5287
Final Rule INS No. 1890-97	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: The deadline for implementing section 412(a) of IIRIRA was extended to March 31, 1998, by Public Law 105-54. This rulemaking has been delayed by the need to coordinate implementation with other provisions of IIRIRA, by several complex policy and regulatory issues that have taken time to resolve, and by the review required by section 610 of the Regulatory Flexibility Act.

INS No. 1890-97; PL 104-208, title 4.

INS Nos. 1399 and 1399S-94, Control of Employment of Aliens, Supplemental Rule; Action for INS No. 1399 and 1399S is canceled as a result of IIRIRA requirements.

INS No. 1399E is an extracted portion of INS No. 1399, published separately to allow for the production of a new, more secure Employment Authorization Document.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Bob Reed, (202) 514-2998.

Interim Rule INS No. 1818 was published on 9/30/97 at 62 FR 51001 to maintain the status quo as much as possible until the Service completes the more comprehensive document reduction initiative designated by INS No. 1890-97.

Agency Contact: Linda Dodd-Major, Director, Business Liaison Branch, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 305-2529
Fax: 202 305-2523
Email: linda.dodd-major@usdoj.gov

RIN: 1115–AB73

1747. VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356; 8 USC 1187; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: On October 30, 2000, Public Law 106-396, made the Visa Waiver Pilot Program (VWPP) a permanent program. This permanent program, Visa Waiver Program (VWP), allows nationals of designated countries to apply for admission to the United States at land border ports, air and sea ports, and to enter the United States for business or pleasure for up to 90 days without first obtaining a nonimmigrant visa.

INS Rule No. 1799 finalizes all those Visa Waiver Program countries that were added through the publication of interim regulations. This rule will also incorporate those statutory changes made to section 217 of the INA by IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1406-91 Comment Period End 5/22/91	05/07/91	56 FR 21101
Final Rule-INS No. 1406-91 Eff. 7/18/91*	07/18/91	56 FR 32952
Interim Final Rule-INS No. 1447 Eff. 10/1/91; Comment Period End 10/15/91	09/13/91	56 FR 46716
Interim Final Rule-1622-93; Eff. 7/29/93; Com. End 8/30/93; (To be merged with 1447R-93)*	07/29/93	58 FR 40581
Public Notice-INS No. 1674 Eff. 10/25/94, Comment Period End 09/30/96	02/21/95	60 FR 9699
Interim Final Rule-INS No. 1685 Eff. 4/1/95; Comment Period End 5/30/95	03/28/95	60 FR 15855
Interim Final Rule-INS No. 1777	07/08/96	61 FR 35598
Interim Final Rule-INS No. 1782-96 With Comments (Australia)	07/29/96	61 FR 39721
Interim Final Rule-INS 1786-96 With Comments (Slovenia)	09/30/97	62 FR 50998
Final Rule-INS No. 1799	12/30/98	63 FR 71726
Interim Final Rule-INS 2002-99 With Comments (Portugal, Singapore, and Uruguay)	08/03/99	64 FR 42006
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 2002-99 Interim Rule Adding Portugal, Singapore, and Uruguay to the List of Countries Authorized to Participate in the VISA Waiver Pilot Program. Published on 8/3/99 at 64 FR 42006.

INS No. 1447-91, 1622-94, 1685-95, 1777-96, and 1782 are to be consolidated into one final rulemaking, which is designated as INS No. 1799.

INS No. 1799 will be jointly published by INS and the Department of State.

Sectors Affected: None

Agency Contact: Marty Newingham, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7992

RIN: 1115–AB93

1748. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This rule clarifies procedures for fiance(e)s who marry after the 90-day period of fiance(e) admission has ended and also clarifies that persons who have had conditional residence terminated are not eligible to adjust status.

Timetable:

Action	Date	FR Cite
NPRM	08/20/96	61 FR 43028
NPRM Comment Period End	10/21/96	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1353-91

Agency Contact: Karen FitzGerald, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

Suzy Nguyen, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AC70

1749. 90-DAY MODIFIED INSPECTION OF ALIEN CREW MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1228; 8 USC 1252; 8 USC 1184; 8 USC 1258; 8 USC 1281; 8 USC 1282; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227

CFR Citation: 8 CFR 235; 8 CFR 252

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (the Service) regulations by establishing a procedure whereby bona fide alien crewmen actively serving on board a maritime ferry or a maritime commercial cruise ship may, at the discretion of the Service, be inspected one time during every 90-day period during which the cruise ship conducts operations between Ports-of-Entry (POEs) in the United States and a foreign country. This rule is necessary in order for the Service to formally codify the long-standing practice of authorizing certain maritime crewmen landing privileges in the United States without further inspection during the intervening time between 90-day full-crew inspections.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43676
NPRM Comment Period End	10/14/97	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1695-95

Agency Contact: Sam Farmer, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 305-8153

RIN: 1115–AD95

1750. ESTABLISHING CRITERIA FOR DETERMINING COUNTRIES WHOSE CITIZENS ARE INELIGIBLE FOR THE TRANSIT WITHOUT VISA (TWOV) PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 CFR 2; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1221; 8 USC 1229

CFR Citation: 8 CFR 212; 8 CFR 234.2

Legal Deadline: None

Abstract: This rule proposes to amend Service regulations by removing the list of those countries that are ineligible to participate in the TWOV program from the regulation. In its place the Service proposes to publish and update the list of countries that are ineligible to participate in the TWOV program by Federal Register notice. This rule also sets forth a non-exhaustive list of factors that may be considered in determining those countries whose citizens or nationals are ineligible countries and provide for a regular review of all countries to determine their eligibility for participation in the TWOV program. The TWOV program allows the Service, acting jointly with the Department of State, to waive the passport and visa requirement for aliens from certain countries who request immediate and continuous transit privileges through the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/05/01	66 FR 1053
NPRM Comment Period End	03/05/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1696-95

Negotiations are under way between the Department of State and the Immigration and Naturalization Service.

Sectors Affected: None

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AD96

1751. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT; SELF-PETITIONING FOR CERTAIN BATTERED OR ABUSED ALIEN SPOUSES AND CHILDREN

Priority: Other Significant

Legal Authority: 8 USC 1101; PL 103-322; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

DOJ—INS

Final Rule Stage

Abstract: The INS intends to finalize the interim rule published on 5/26/1996. This final rule allows battered and abused spouses and children of United States citizens and lawful permanent residents to petition for immigrant classification. The consent of the abuser would not be required. The final rule will define the term abuser to mean one who has battered his or spouse or child to extreme cruelty. The final rule uses the term abused to mean either battered or subjected to extreme cruelty.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/96	61 FR 13061
Interim Final Rule Effective	03/26/96	
Interim Final Rule Comment Period End	05/28/96	
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1705-95

Sectors Affected: None

Agency Contact: Pearl Chang, Branch Chief, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AE04

1752. CONDITIONS ON NONIMMIGRANT STATUS; DISCLOSURE OF INFORMATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule removes the current regulatory language conditioning an alien's nonimmigrant status on his or her providing full and truthful information requested by the INS, regardless of the requested information's materiality. This rule would clarify that the nonimmigrant's stay is conditioned on, among other things, the provision of all information deemed necessary to ensure that the alien has acquired, and is maintaining, lawful nonimmigrant status during the entire period of his or her stay, or is eligible to receive any other benefit under fhe INA.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30188
NPRM Comment Period End	08/13/96	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1732-95

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE17

1753. AGREEMENT PROMISING NON-DEPORTATION OR OTHER IMMIGRATION BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 28 USC 515; 28 USC 516; 28 USC 517; 28 USC 518; 28 USC 519

CFR Citation: 28 CFR 0.197

Legal Deadline: None

Abstract: This final rule requires Federal prosecutors, law enforcement agencies, and other officials to obtain written consent from the Immigration and Naturalization Service when entering into a plea agreement, cooperation agreement, or similar agreement promising an alien favorable treatment by the Service. This rule ensures that favorable treatment under the immigration laws is extended only after a full consideration of its affect on overall immigration enforcement, alleviates confusion over the authority to enforce the immigration laws, and prevents the Service from being bound by agreements undertaken without its knowledge and approval. The rule codifies a long-standing position of the Department of Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/96	61 FR 48405
Interim Final Rule Comment Period End	11/12/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1791-96

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE50

1754. AFFIDAVIT OF SUPPORT ON BEHALF OF IMMIGRANTS

Priority: Other Significant

Legal Authority: 8 USC 1183a; PL 104-208; PL 104-193; 8 CFR 2

CFR Citation: 8 CFR 213a; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the INS regulations by establishing that an individual (the sponsor) who files an affidavit of support under section 213A of the INA on behalf of an intending immigrant incurs an obligation that may be enforced by a civil action. This rule also specifies the requirements that Federal, State, or local agencies or private entities must meet to request reimbursement from the sponsor for provision of means-tested public benefits and provides procedures for imposing the civil penalty provided for under section 213A of the INA, if the sponsor fails to give notice of any change of address. This rule is necessary to ensure that sponsors of aliens meet their obligations under section 213A of the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule - INS No. 1807-96; Comment Period End 02/7/98	10/20/97	62 FR 52346
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

DOJ—INS

Final Rule Stage

Government Levels Affected: None

Additional Information: INS No. 1807-96; PL 104-208, title IV; and PL 104-193, title IV

Agency Contact: Lisa Roney, Policy Analyst, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, Room 6052, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3242

Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE58

1755. SUSPENSION OF PRIVILEGE TO TRANSPORT ALIENS TO THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1252; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227

CFR Citation: 8 CFR 103; 8 CFR 273

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) added a provision to the Immigration and Nationality Act that allows INS to suspend a commercial airline's privilege to transport aliens to the United States if the carrier has a record of bringing in aliens who have fraudulent documents. After consultation with other interested Government agencies, INS is proposing to implement appropriate standards and procedures governing the use of this power to suspend a carrier's privilege to transport aliens to the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/23/98	63 FR 56869
NPRM Comment Period End	12/22/98	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: This rule required coordination with several other Government agencies. INS No. 1809-96.

1756. IMPLEMENTATION OF HERNANDEZ V. RENO SETTLEMENT AGREEMENT; CERTAIN ALIENS ELIGIBLE FOR FAMILY UNITY BENEFITS AFTER SPONSORING FAMILY MEMBER'S NATURALIZATION

Priority: Other Significant

Legal Authority: 8 USC 1225a note; PL 104-208

CFR Citation: 8 CFR 236.23

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish a regulation implementing a new basis of ineligibility for Family Unity benefits for certain juvenile offenders.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1823-96	07/14/00	65 FR 43677
Interim Final Rule Comment Period End	09/12/00	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1823-96; PL 104-208, title III, section 38; and this regulation will affect 8 CFR 242.5 that will be renumbered 8 CFR 236.25.

Agency Contact: Rebecca Peters, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2454

RIN: 1115–AE72

1757. ESTABLISHMENT OF PREINSPECTED AUTOMATED LANE (PAL) PROGRAM AT IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulation by establishing a Preinspected Automated Lane (PAL) Program for the use of eligible persons and vehicles at immigration checkpoints within the United States. This rule will facilitate the passage of people and vehicles through INS checkpoints while safeguarding the integrity of law enforcement objectives at the checkpoints,

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments by 06/17/97	04/18/97	62 FR 19024
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1830-97

Agency Contact: William J. Carter, Chief Patrol Agent, Office of Enforcement, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, Room 4226, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3072

RIN: 1115–AE80

1758. SURRENDER OF ALIENS ORDERED REMOVED FROM THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1245a note

CFR Citation: 8 CFR 240.13; 8 CFR 240.14; 8 CFR 240.15; 8 CFR 240.16

Legal Deadline: None

Abstract: This rule requires aliens subject to a final order of removal to

surrender to the INS. This rule also establishes procedures for surrender and bars persons violating these procedures from obtaining discretionary immigration benefits.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47205
NPRM Comment Period End	11/03/98	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel Brown, Assistant General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7977

RIN: 1115–AE82

1759. EARLY RELEASE FOR REMOVAL OF CRIMINAL ALIENS IN STATE CUSTODY FOR NONVIOLENT OFFENSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1251; 8 USC 1253; 8 USC 1255; 8 USC 1330; 8 CFR 2

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: The final rule will amend the INS regulations relating to the apprehension and removal of aliens under section 241 of the Immigration and Nationality Act (Act). This regulatory action establishes an administrative process whereby criminal aliens in State custody convicted of nonviolent offenses may be removed prior to completion of their sentence of imprisonment. The rule will implement the authority contemplated by Congress to enhance the ability of the United States to remove criminal aliens.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1848-97	07/12/99	64 FR 37461
NPRM Comment Period End	09/10/99	
Final Action-INS No. 1848-97	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: INS No.1848-97

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

Ron Dodson, Supervisory Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, Room 1000, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7310

RIN: 1115–AE83

1760. AMENDMENT OF THE REGULATORY DEFINITION OF ARRIVING ALIEN

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 CFR 2

CFR Citation: 8 CFR 1

Legal Deadline: None

Abstract: This rule amends the INS regulations by changing the regulatory definition of an arriving alien. Under section 235(b)(1)(A)(i) of the Immigration and Nationality Act (Act), which was effective on April 1, 1997, certain arriving aliens are subject to expedited removal procedures. The existing regulatory definition of arriving aliens includes parolees. As a matter of policy, the Department has decided that it is appropriate to exempt from the new expedited removal procedures aliens who were paroled into the United States before April 1997. This rule clarifies that aliens who were paroled before April 1, 1997, will not be subjected to expedited removal. The rule also makes several changes in the wording of 1:1(q) to use language that is clearer and more consistent with the wording of the statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/98	63 FR 19382
Interim Final Rule Comment Period End	06/19/98	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Re: INS No. 1868-97

Agency Contact: Frances De Choudens, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 353-0591

RIN: 1115–AE87

1761. ADJUSTMENT OF STATUS, CONTINUED VALIDITY OF NONIMMIGRANT STATUS AND UNEXPIRED EMPLOYMENT AUTHORIZATION FOR APPLICANTS MAINTAINING NONIMMIGRANT H OR L STATUS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1282; 8 CFR 2; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1255; 8 USC 1281

CFR Citation: 8 CFR 214; 8 CFR 245

Legal Deadline: None

Abstract: Over the last several years, the Service has issued numerous policy statements regarding its position on employment authorization, advance parole, and extension of nonimmigrant status for certain skilled nonimmigrant workers who have filed for adjustment to permanent resident status. This rulemaking intends to: (1) Codify existing Service policy statements by incorporating them into the Service's regulations and (2) eliminate the requirement for service permission for overseas travel for adjustment applicants who are maintaining H-1 or L nonimmigrant status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/99	64 FR 29208
Interim Final Rule Comment Period End	08/02/99	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1881-97

Agency Contact: Frances A. Murphy, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2763
Email: michael.valverde@justice.usdoj.gov

RIN: 1115–AE96

1762. VERIFICATION OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1642

CFR Citation: 8 CFR 104

Legal Deadline: NPRM, Statutory, November 3, 1997.
Final, Statutory, February 22, 1998, Statutory deadline to promulgate regulations for State and local public benefits was previously 11/03/98. Deadline for regulations for Federal public benefits was 02/22/98.

Abstract: This regulatory action requires entities (other than nonprofit charitable organizations) providing Federal public benefits (with certain exceptions) to verify by examining documents and using an INS automated verification system that alien applicants are eligible for the benefits under Federal benefit reform legislation. This rule also sets forth provisions by which State or local governments can verify whether aliens applying for State or local public benefits are eligible for such benefits under Federal laws. In addition, the rule establishes procedures for verifying the U.S. nationality of individuals applying for benefits in a fair and nondiscriminatory manner.

The Interim Verification Guidelines were published as a notice on 11/17/97 at 62 FR 61344. The guidelines set forth procedures that benefit granting agencies can use to verify U.S. citizens, non-citizen nationals, and qualified aliens for eligibility under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) prior to issuance of final regulations. The proposed rule for the Verification of Eligibility for Public Benefits was published on 8/04/98 at 63 FR 41662. The changes made in response to the comments received on the proposed rule were significant enough and dealt with complex and important issues that another opportunity to comment is warranted. The next version of the rule will be issued as an interim rule, rather than a final rule, in order to implement the statutory directive to promulgate verification regulations and start the subsequent 2-year period in which Federal public benefit granting agencies must come into compliance. The interim rule is in the concurrence process and has not yet been published.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1902-98	08/04/98	63 FR 41662
NPRM Comment Period End	10/05/98	
Interim Rule-INS No. 1902-98	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1902-98 should be referenced for any inquiries concerning this rulemaking action.

Agency Contact: John Nahan, Director, SAVE Branch, Files and Forms Management Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Ullico Building, 1st Floor, Washington, DC 20536
Phone: 202 514-2317

RIN: 1115–AE99

1763. FINGERPRINTING APPLICANTS AND PETITIONERS FOR IMMIGRATION BENEFITS; ESTABLISHING A FEE FOR FINGERPRINTING BY THE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 299; 8 CFR 316; 8 CFR 335

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations relating to fingerprinting applicants and petitioners for benefits under the Immigration and Nationality Act by: Canceling the Designated Fingerprinting Service program; requiring applicants and petitioners for benefits to be fingerprinted at either a Service Office, a State or local law enforcement agency, or at a United States consular or military office; establishing a fee for fingerprinting by the Service; and requiring confirmation from the Federal Bureau of Investigation (FBI) that a full criminal background check has been completed before adjudication of a naturalization application is completed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/98	63 FR 12979
Interim Final Rule Effective	03/29/98	
Interim Final Rule Correction	04/09/98	63 FR 17489
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: INS No. 1891-97

Agency Contact: Pamela T. Wallace, Staff Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 980, 801 K Street NW, Washington, DC 20536
Phone: 202 305-1229

RIN: 1115–AF03

1764. PROCESSING, DETENTION, AND RELEASE OF JUVENILES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1362

CFR Citation: 8 CFR 236.3

Legal Deadline: Final, Judicial, July 31, 1998.
The court-approved settlement agreement in Flores v. Reno (C.D. Cal.) required INS to publish regulations in July 1998. However, the changes brought by AEDPA and IIRIRA delayed issuance of regs.

Abstract: The rule amends the Immigration and Naturalization Service regulations by establishing the

procedures for processing alien juveniles from custody and the detention of unreleased juveniles in State-licensed programs and detention facilities. This rule also governs the transportation and transfer of juveniles in Service custody.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1906-98	07/24/98	63 FR 39759
NPRM Comment Period End	09/22/98	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1906-98.

Agency Contact: Arthur Strathern, III, Attorney, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7975

John J. Pogash, Juvenile Coordinator (Headquarters), Department of Justice, Immigration and Naturalization Service, Room 3008, 425 I Street NW, Washington, DC 20536
Phone: 202 514-1970

RIN: 1115–AF05

1765. SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL FOR CERTAIN NATIONALS OF GUATEMALA, EL SALVADOR, AND FORMER SOVIET BLOC COUNTRIES

Priority: Other Significant

Legal Authority: 5 USC 552; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1251; 8 USC 1252 note; 8 USC 1252a; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1186a; 8 USC 1224

CFR Citation: 8 CFR 103; 8 CFR 208; 8 CFR 240; 8 CFR 246; 8 CFR 274a; ...

Legal Deadline: None

Abstract: This rule implements section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), enacted as title II of Pub. L. No. 105-100, 111 Stat. 2160, 2193 (1997) (as amended by Technical Corrections to the Nicaraguan Adjustment and Central American Relief Act (NACARA), Pub. L. 105-139, Stat. 2644 (1997). Section 203 of NACARA provides that certain Guatemalans, Salvadorans, and nationals of former Soviet Bloc countries are eligible to apply for cancellation of removal under the standards for suspension of deportation that existed prior to enactment of Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The rule establishes the authority of INS asylum officers to adjudicate certain applications under section 203 of NACARA, provides application and adjudication procedures, identifies factors and standards relevant to eligibility, and establishes a rebutable presumption of extreme hardship for certain NACARA beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1915-98	11/24/98	63 FR 64895
NPRM Comment Period End-INS No. 1915-98	01/25/99	
Interim Rule-INS No. 1915-98	05/21/99	64 FR 27856
Interim Rule Comment Period End	07/20/99	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1915-98

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Attn: Ullico Building 3rd Floor, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AF14

1766. AUTHORIZING SUSPENSION OF EMPLOYMENT AUTHORIZATION REQUIREMENTS ON THE BASIS OF SEVERE ECONOMIC HARDSHIP FOR F-1 STUDENTS AND EMERGENT CIRCUMSTANCES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule amends INS regulations applying to on-campus employment, off-campus employment authorization, and duration of status for nonimmigrant F-1 students. The rule permits the Commissioner to suspend some or all of the requirements for on-campus or off-campus employment where emergent circumstances exist as provided through notice in the Federal Register. The rule also amends the regulations to provide that an F-1 student who carries less than a full course of study as a result of this special employment authorization will be deemed to be maintaining status for the duration of the authorization, as long as the student carries a minimum course load of 6 credit hours if the student is an undergraduate, or 3 credit hours if the student is in graduate school.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1914-98	06/10/98	63 FR 31871
Interim Final Rule Comment Period End	08/10/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1914-98 (Employment Authorization for Certain F-1 Nonimmigrant Students Whose Means of Financial Support Comes From Indonesia, South Korea, Malaysia, Thailand, or the Philippines)

Agency Contact: Song Park, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF15

1767. POWERS OF THE ATTORNEY GENERAL TO AUTHORIZE STATE OR LOCAL LAW ENFORCEMENT OFFICERS TO CARRY OUT IMMIGRATION ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 8 USC 1101; 8 USC 1103; 8 USC 1201

CFR Citation: 28 CFR 65

Legal Deadline: None

Abstract: In order to provide a more effective and efficient response to a mass migration event, this rule implements provisions in the Immigration and Nationality Act allowing the Attorney General to authorize any State and local law enforcement officer to perform certain functions related to the enforcement of the immigration laws during the period of an actual or imminent mass influx of aliens. This rule would place designated State/local law enforcement officers under the direction of the INS when enforcing immigration law. This rule also allows the Commissioner to enter into advance written agreements with State and local law enforcement officials setting forth the terms and conditions of the functions to be performed during a Federal response to a mass influx of aliens, including reimbursement of expenses and ties such reimbursement to the Immigration Emergency Fund as the primary source of such funding.

Timetable:

Action	Date	FR Cite
NPRM	04/08/99	64 FR 17128
NPRM Comment Period End	06/07/99	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: INS No. 1924

Agency Contact: Ron Dodson, Supervisory Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, Room 1000, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7310

RIN: 1115–AF20

1768. ELIMINATION OF IMMIGRATION AND NATURALIZATION SERVICE-ISSUED MEXICAN AND CANADIAN BORDER CROSSING CARDS AND CONSENT TO REAPPLY FOR ADMISSION AFTER REMOVAL

Priority: Other Significant

Legal Authority: 5 USC 552; 8 USC 1228; 8 USC 1252; 8 USC 1304; 8 USC 1356; 8 USC 1304; 8 USC 1356; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1201; 8 USC 1225; 8 USC 1226; 8 USC 1227

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 235; 8 CFR 247; 8 CFR 264; 8 CFR 286; 8 CFR 299

Legal Deadline: Final, Statutory, October 1, 2001.

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to eliminate the use of Form I-175, Application for Nonresident Alien Canadian Border Crossing Card, and Form I-190, Application for Nonresident Alien Mexican Border Crossing Card. It also terminates the production of Form I-185, Nonresident Alien Canadian Border Crossing Card, and Form I-586, Nonresident Alien Mexican Border Crossing Card. In addition, this rule prohibits the use of Form I-186 (previous version of Mexican Border Crossing Card), Form I-185 and Form I-586 Border Crossing Cards (BCC's) after September 30, 2001, or whatever other date may be enacted for required use of a card containing a machine readable biometric identifier for entry (such as the fingerprint or handprint of the alien). Under the provisions of this rulemaking, an alien seeking entry into the United States by presentation of a BCC must complete a biometric verification upon each entry. This rule also amends the provisions regarding consent to reapply after removal to conform with the requirements of IIRIRA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1931-98

Agency Contact: Michael J. Flemmi, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 305-9247

RIN: 1115–AF24

1769. FILING OF PROPOSALS FOR DESIGNATION AS A REGIONAL CENTER APPROVED TO PARTICIPATE IN THE IMMIGRANT INVESTOR PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This regulation changes the location for the filing and adjudication of proposals to participate in the Immigrant Investor Pilot Program from Headquarters, Adjudication, to the Texas and California Service Centers. This change is necessary to ensure the uniform and effective adjudication of these complex proposals related to economic development, export trade, and job creation. Full regulation development is pending legislative action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1944-98

Agency Contact: Maurice R. Berez, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF27

1770. NONIMMIGRANT VISA EXEMPTION FOR NATIONALS OF THE BRITISH VIRGIN ISLANDS ENTERING THE UNITED STATES THROUGH ST. THOMAS, UNITED STATES VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1252; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization

Service's regulations to allow nonimmigrant visitors for business or pleasure who are nationals of the British Virgin Islands to apply for admission to the United States without a visa at the ports-of-entry of St. Thomas, United States Virgin Islands. Since visas are no longer issued from the British Virgin Islands by the Department of State, all persons needing a nonimmigrant visa have to either travel or mail their applications to Barbados, the nearest visa issuing location. The Service's action will facilitate travel to the United States for nationals of the British Virgin Islands while still ensuring that the proper application provisions of the INA are met.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/18/99	64 FR 7989
Interim Final Rule Comment Period End	04/18/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1956-98

Agency Contact: Marty Newingham, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7992

RIN: 1115–AF28

1771. DELEGATION OF THE ADJUDICATION OF CERTAIN H-2A PETITIONS TO THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1258; 8 USC 1281; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 103; 8 CFR 214; 8 CFR 248; 8 CFR 264

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service's regulations by delegating the adjudication of certain H-2A petitions to the United States Department of Labor (DOL). The Service has made these changes in order to streamline the existing H-2A petitioning process for certain foreign agricultural workers. This rule will make it easier and less burdensome for United States employers to file petitions for foreign agricultural workers.

A related proposed rule, INS No. 2059-00, will require alien workers to sign a petition request for change of status or extension of stay. It also provides that all petition requests including extension of stay and change of status petitions must be filed with the Department of Labor (DOL) and provides that the current Service petition fee will be collected by DOL as part of a combined fee. These changes will further streamline the H-2A petitioning process.

Timetable:

INS No. 1946-98		
NPRM 12/07/98 (63 FR 67431)		
NPRM Comment Period End 02/05/99		
Final Action 07/13/00 (65 FR 43527)		
Final Action-Delay of effective date until 10/01/2001 11/13/00 (65 FR 67616)		
INS No. 2059-00		
NPRM 07/13/00 (65 FR 43535)		
NPRM Comment Period End 08/14/00		
NPRM Comment Period End-Extended Date 08/17/00 (65 FR 50166)		
Final Action 09/00/01		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1946-98

Agency Contact: John W. Brown, Adjudications Officers, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AF29

1772. REGULATIONS CONCERNING THE CONVENTION AGAINST TORTURE

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282

CFR Citation: 8 CFR 3; 8 CFR 208; 8 CFR 235; 8 CFR 238; 8 CFR 240; 8 CFR 241

Legal Deadline: Other, Statutory, February 18, 1999, The Act requires promulgation by 02/18/99.

Abstract: This rule implements Article 3 of the United Nations Convention Against Torture or Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment for persons who may be subject to removal from the United States under the provisions of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/99	64 FR 8478
Interim Final Rule Effective	03/22/99	
Interim Final Rule Corrections	03/22/99	64 FR 13881
Interim Final Rule Comment Period End	04/20/99	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1976-99

Agency Contact: Kelly Ryan, Chief, Refugee and Asylum Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

Charles Adkins-Blanch, General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1115–AF39

1773. INTERIM DESIGNATION OF ACCEPTABLE RECEIPTS FOR EMPLOYMENT ELIGIBILITY VERIFICATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) made several amendments to the employment eligibility verification provisions of the INA. An interim rule implementing some of these amendments was issued on September 30, 1997. This rule included amendments to the "Receipt Rule," which permits employees to present a "Receipt" in lieu of a document listed on the Employment Eligibility Verification form (Form I-9). Circumstances that have become apparent since publication of the September 30, 1997, rule required that rule to be amended by this interim rule. This interim rule was also necessary to facilitate employer and employee compliance with the regulations. The rule revised the amount of time a receipt remains valid where the employee presents a Form I-94 marked with a temporary I-551 stamp and containing a photograph of the bearer. Where the employee presents a Form I-94 marked with a refugee admission stamp, the rule adds Form I-688B to the list of documents that the employee can present at the end of the receipt validity period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/99	64 FR 6187
Interim Final Rule Comment Period End	04/12/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule was published in the Federal Register as RIN 1115-AE94. This RIN has now been changed to 1115-AF42, INS No. 1947-98.

Agency Contact: Marguerite Przbylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF42

1774. INADMISSIBILITY AND DEPORTABILITY ON PUBLIC CHARGE GROUNDS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1183; ...

CFR Citation: 8 CFR 212; 8 CFR 237

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations to establish clear standards governing a determination that an alien is admissible or ineligible to adjust status, or has become deportable, on public charge grounds. This rule is necessary to alleviate growing public confusion over the meaning of the currently undefined term public charge in immigration law and its relationship to the receipt of Federal, State, or local public benefits. By defining public charge, the Service seeks to reduce the negative public health consequences generated by the existing confusion and to provide aliens with better guidance as to the types of public benefits that will and will not be considered in public charge determinations.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 28676
NPRM Comment Period End	07/26/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1989-99

Agency Contact: Kevin J. Cummings, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF45

1775. APPLICATION FOR REFUGEE STATUS; ACCEPTABLE SPONSORSHIP AGREEMENT GUARANTY OF TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1157; 8 USC 1158; ...

CFR Citation: 8 CFR 207

Legal Deadline: None

Abstract: Section 207 of the Immigration and Nationality Act authorizes the Attorney General to admit refugees to the United States under certain conditions, including those provided for by regulation. The Immigration and Naturalization Service regulations require that sponsorship agreements be secured before an applicant is granted admission as a refugee at a U.S. port-of-entry (POE). The determination of whether or not someone is classified as a refugee is described in the Act as a separate decision from whether a refugee may be admitted to the United States in refugee status. This rule amends the Service regulations by removing language that erroneously implies that the Service requires a sponsorship agreement and guaranty of transportation prior to determining whether an applicant is a refugee. This rule is necessary to clarify issues that may appear ambiguous in the existing regulation, and provides more advantageous treatment for the limited number of applicants for refugee status who have their Service interviews before sponsorship agreements have been secured.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/99	64 FR 27660
Interim Final Rule Comment Period End	07/20/99	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1999-99

Sectors Affected: None

Agency Contact: Kathleen Thompson, Staff Officer, Department of Justice, Immigration and Naturalization Service, Office of International Affairs, 425 I Street NW, 3rd Floor, Ullico Bldg., Washington, DC 20536
Phone: 202 305-2662

RIN: 1115–AF49

1776. NONIMMIGRANT CLASSES: Q-2 IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM VISITOR

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186; 8 USC 1187; ...

CFR Citation: 8 CFR 214; 8 CFR 245; 8 CFR 248; 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the regulations to establish a new visa classification, Q-2. Public Law 105-319, also known as the Irish Peace Process

Cultural and Training Program Act of 1998, provides the basis for this regulatory change. The Q-2 visa classification identifies those visitors from Northern Ireland and certain designated counties in the Republic of Ireland to come to the United States temporarily for training employment and to experience coexistence and conflict resolution in a diverse society.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/00	65 FR 14774
Interim Final Rule Effective	03/17/00	
Interim Final Rule Comment Period End	05/16/00	
Revised Interim Final Rule	08/00/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2000-99

Agency Contact: Donna Crump, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF51

1777. CLARIFICATION OF PAROLE AUTHORITY

Priority: Info./Admin./Other

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; ...

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations concerning the authority to grant the parole of aliens from Service custody by specifically identifying the scope of that authority to include the Commissioner, the Deputy Commissioner, the Executive Associate Commissioner for Field Operations, and regional directors. This action is being taken to clarify which individuals are authorized by the Attorney General, acting through the Commissioner, to grant parole from Service custody.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/28/00	65 FR 82254
Interim Final Rule Comment Period End	12/28/00	
Interim Final Rule Delay of Effective Date until 03/30/2001	01/26/01	66 FR 7863
Interim Final Rule Effective	01/29/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2004-99

(See Also 1115-AE68)

Agency Contact: Yvette LaGonterie, Director, Parole Branch, Office of International Affairs, Division Field Operations, Department of Justice, Immigration and Naturalization Service, ULLICO Bldg., Third Floor, 111 Massachuttes Avenue NW, Washington, DC 20001
Phone: 202 305-2670

RIN: 1115–AF53

1778. EXTENDING THE PERIOD OF DURATION OF STATUS FOR CERTAIN F AND J NONIMMIGRANT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186; ...

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This interim rule amends the Immigration and Naturalization Service regulations to provide that the Commissioner may publish a notice to extend the duration of status, under specified conditions, of certain F-1 and J-1 nonimmigrant aliens who may be affected adversely because the numerical limit (cap) on H-1B nonimmigrant aliens has been reached prior to the end of a given fiscal year. This rule is a necessary stop-gap measure because of large number of F-1 and J-1 nonimmigrant aliens seek a change of nonimmigrant status to that of H-1B after completion of their studies or their program. However, many of these aliens will be unable to change their nonimmigrant status for the remainder of a given fiscal year because of the cap on H-1B petitions. This rule will allow such aliens to avoid a lapse in their status because of a circumstance that is not under their control.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/99	64 FR 32146
Interim Final Rule Comment Period End	08/16/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1992-99

Agency Contact: John W. Brown, Adjudications Officers, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

Efren Hernandez, Chief, Business and Trade Branch, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF54

1779. CONDITIONAL RESIDENCE OF LAWFUL PERMANENT RESIDENCE FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS; BATTERED AND ABUSED CONDITIONAL RESIDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1154; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 216

Legal Deadline: None

Abstract: Enacted on November 10, 1986, the Immigration Marriage Fraud Amendments of 1986 (IMFA) made a number of changes to the Act to deter aliens from marrying solely to obtain immigration benefits. IMFA established a conditional resident status for aliens who obtained lawful permanent resident status based upon a marriage of less than 2 years duration. The interim rule published on May 16, 1991, established procedures to allow a conditional resident who married in good faith but whose marriage was terminated by the United States citizen or lawful permanent resident spouse to seek a waiver of the joint filing requirement. The interim rule also was necessary to provide a method by which a battered conditional resident, or a conditional resident parent of an abused conditional resident child, may apply for removal of the conditional basis of resident status without filing a joint petition. The final rule implements certain technical changes made by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and addresses comments received in response to the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/91	56 FR 22635
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Final Action for INS No. 1423-91 that was published on 5/16/1991.

Agency Contact: Pearl Chang, Branch Chief, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AF59

1780. EXTENSION OF 25-MILE LIMIT AT SELECT ARIZONA PORTS-OF-ENTRY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; ...

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations to extend the distance Mexican nationals may travel into the United States without obtaining additional Immigration documentation at selected ports-of-entry (POEs) along the United States and Mexico border. The selected POEs are located in the State of Arizona at Sasabe, Nogales, Mariposa, Douglas, and Naco. Once visitors to Arizona meet the inspection requirements of legal entry to the United States, they will be able to travel within the 75-mile border region of Arizona. This rule is intended to promote border area while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/99	64 FR 68616
Interim Final Rule Comment Period End	02/07/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2026-99

Sectors Affected: None

Agency Contact: Frances De Choudens, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 353-0591

RIN: 1115–AF60

1781. REVOKING GRANTS OF NATURALIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1443

CFR Citation: 8 CFR 340

Legal Deadline: None

Abstract: This rule amends the INS regulations relating to administrative revocation of naturalization by changing the burden of proof the INS must satisfy in order to administratively revoke a grant of naturalization and clarifying the 180-day period for the rendering of the district directors decision. This rule provides that INS will only initiate revocation proceedings based on clear, unequivocal, and convincing evidence with the burden of proof remaining with INS throughout the administrative process and through the issuance of the final decision. This rule clarifies the issues raised by the promulgation of the final rule that was published in 1996 at 61 FR 5550. A final rule requesting comments was published in the Federal Register on October 28, 1996, at 61 FR 55550.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/00	65 FR 17127
Interim Final Rule Comment Period End	05/30/00	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.1858-97

Sectors Affected: None

Agency Contact: Janice B. Podolny, Associate General, Chief Examinations Division, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF63

1782. REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES: CONTROL OF EMPLOYMENT OF ALIENS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1305

CFR Citation: 8 CFR 264; 8 CFR 274a

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations governing applications for renewal of 10-year Permanent Resident Cards upon their expiration. This rule adds documents to the acceptable list of registration requirements and clarifies the requirements for Lawful Permanent Resident (LPRs) to file Form I-90, Application to Replace Alien Registration Card, if they are also applying for naturalization. This rule also provides additional methods to verify employment eligibility for those in the process of renewing their expired or expiring Form I-551, Permanent Resident Card. These changes are necessary to facilitate the 10-year Form I-551 renewal process. This rule also clarifies the fingerprinting requirements for lawful permanent residents who reach the age of 14 years. An interim

is necessary because the I-90 program must be implemented as the 10-year I-551 begin to filed with INS. A proposed rulemaking will not allow the INS to meet its program requirement, and it will be burdensome on the public as it will create a class of aliens who have expired Alien Registration Cards with no means to renew their I-551.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.2042-00

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF71

1783. NATIONAL INTEREST WAIVERS FOR SECOND PREFERENCE EMPLOYMENT-BASED IMMIGRANT PHYSICIANS SERVING IN MEDICALLY UNDERSERVED AREAS OR AT DEPARTMENT OF VETERANS' AFFAIRS FACILITIES

Priority: Other Significant

Legal Authority: PL 106-113; 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: On November 29, 1999, Public Law 106-113 was enacted. Section 117 amended the Immigration and Nationality Act (Act) at section 203 to provide national interest waivers to alien physicians agreeing to practice 5 years in designated medically undeserved areas or at Veterans' Affairs facilities. The Service proposes an amendment to 8 CFR 204 and 245 in order to implement the new statutory provisions. The Service is issuing an interim regulation so that applicants may begin to take advantage of the new provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/00	65 FR 53889
Correction to Interim Final Rule	09/27/00	65 FR 57943
Interim Final Rule Effective	10/06/00	
Correction to Interim Final Rule	10/20/00	65 FR 63118
Interim Final Rule Comment Period End	11/06/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2048-00

Agency Contact: Craig S. Howie, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF75

1784. PETITIONING REQUIREMENTS FOR THE H-1C NONIMMIGRANT CLASSIFICATION UNDER PUBLIC LAW 106-95

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; ...

CFR Citation: 8 CFR 214.2

Legal Deadline: None

Abstract: On November 12, 1999, the Nursing Relief for Disadvantaged Areas Act (NRDAA) was enacted creating a new H-1C nonimmigrant nurse category. This rule amends the Service's regulations in order to implement the NRDAA as it relates to the adjudication petitions for H-1C classification. This rule will facilitate the hiring of alien registered nurses to reduce the shortage of nurses in certain areas of the United States while protecting the rights of U.S. nurses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2050-00

Sectors Affected: None

Agency Contact: John W. Brown, Adjudications Officers, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AF76

1785. EXPANSION OF DEDICATED COMMUTER LANES; CLARIFICATION OF DRIVER'S LICENSE REQUIREMENT FOR APPLICANTS TO DEDICATED COMMUTER LANES AND AUTOMATED PERMIT PORT PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; ...

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This interim rule amends the Immigration and Naturalization Service regulations governing the Dedicated Commuter Lanes (DCL) and Automated Permit Port programs by establishing DCLs along the northern borders of the United States. The rule proposes to clarify that non-driving passengers who do not have a driver's license, for example, children, certain elderly people, and others who are ineligible to drive or otherwise choose not to drive, are not required to have or present a drivers license before their application is approved.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2058-00

Sectors Affected: None

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4214, 425 I Street NW, Washington, DC 20536

Phone: 202 305-9246

RIN: 1115–AF77

1786. WAIVING THE FINGERPRINTING REQUIREMENT FOR CERTAIN DISABLED NATURALIZATION APPLICANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1443; 8 USC 1447; 29 USC 794(a), The Rehabilitation Act of 1973

CFR Citation: 8 CFR 316; 8 CFR 335

Legal Deadline: None

Abstract: Currently all naturalization applicants filing Form N-400, Application for Naturalization, are required to be fingerprinted on Form FD-258 Applicant Card for the purpose of conducting criminal background checks by the Federal Bureau of Investigation (FBI). This rule amends the Immigration and Naturalization Service regulations by providing a fingerprinting waiver for naturalization applicants who, because of a permanent impairment, are unable to provide any fingerprints. It also provides an alternative method for collecting the required background clearances.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2060-00

Sectors Affected: None

Agency Contact: Pamela T. Wallace, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 980, 801 I Street NW, Washington, DC 20536
Phone: 202 514-9475

RIN: 1115–AF80

1787. UPDATE OF LIST OF COUNTRIES WHOSE CITIZENS OR NATIONALS ARE INELIGIBLE FOR TRANSIT WITHOUT VISA (TWOV) PRIVILEGES TO THE UNITED STATES UNDER THE TWOV PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1221; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1229; 8 USC 1252

CFR Citation: 8 CFR 212; 8 CFR 233

Legal Deadline: None

Abstract: This interim rule updates the list of those countries that the Service, acting on behalf of the Attorney General and jointly with the Department of State, has determined to be ineligible for participation in the TWOV program. This rule also removes certain countries from the ineligible listing so that aliens from these countries can have their passport and visa requirements waived. This rule is intended to benefit the traveling public by expanding the number of countries whose citizens or nationals may transit the United States without a visa while preventing an increase in the abuse of the TWOV program by citizens or nationals of countries placed on the ineligible list.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/01	66 FR 1017
Interim Final Rule Delay of Effective Date	02/02/01	66 FR 8743
Interim Final Rule Effective	04/06/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.2020-99

Sectors Affected: None

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF81

1788. IMPLEMENTATION OF THE NUMERICAL LIMIT ON ASYLUM GRANTS AND REFUGEE ADMISSIONS BASED ON RESISTANCE TO COERCIVE POPULATION CONTROL MEASURES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1157; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 208; 8 CFR 274a

Legal Deadline: None

Abstract: Section 601(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) provides that, for any fiscal year, not more than a total of 1,000 refugees may be admitted or granted asylum based solely on resistance to coercive population control measures. This rule authorizes the Immigration and Naturalization Service and the Executive Office for Immigration Review to make conditional grants of asylum in those cases in which an applicant is found to merit asylum solely on the basis of resistance to coercive population control measures and establishes a mechanism for converting no more than 1,000 conditional grants per fiscal year to final asylum grants. The rule also establishes procedures for administering a waiting list in those years that the number of conditional grants exceeds the statutory limit for final grants, reserves a certain number of authorization numbers for purposes of refugee admission, and addresses procedures for administering derivative conditional grants, terminating conditional grants, and other procedures specific to this rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2067-00

Sectors Affected: None

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of

DOJ—INS

Final Rule Stage

Justice, Immigration and Naturalization Service, 3rd Floor, 111 Massachusetts Avenue NW, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AF84

1789. ADDING ACTUARIES AND PLANT PATHOLOGISTS TO APPENDIX 1603.D.1 OF THE NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 2

Legal Deadline: None

Abstract: The rule proposes to amend 8 CFR 214.6 by adding the occupations of actuary and plant pathologists to Appendix 1603.D.1. This rule proposes to modify the licensure requirements for Canadian citizens seeking admission to the U.S. as a TN nonimmigrant category alien. These amendments are being proposed to reflect the agreements made among the three parties to the North American Free Trade Agreement. Also, this rule will facilitate travel to the U.S. and benefit U.S. businesses.

Timetable:

Action	Date	FR Cite
NPRM	12/19/00	65 FR 79320
NPRM Comment Period End	02/20/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2068-00

Sectors Affected: None

Agency Contact: John W. Brown, Adjudications Officers, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AF85

1790. POWER OF ATTORNEY GENERAL TO TERMINATE DEPORTATION PROCEEDINGS AND INITIATE RENEWAL PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208

CFR Citation: 8 CFR 309

Legal Deadline: None

Abstract: This rule proposes to implement section 309(c)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) by affording certain aliens rendered ineligible for relief from deportation by recent changes in the law the opportunity to have their deportation proceedings terminated and removal proceedings initiated in order to apply for relief. Certain permanent resident aliens rendered ineligible for section 212(c) relief by the Antiterrorism and Effective Death Penalty Act (AEDPA) and certain non-permanent resident aliens rendered ineligible for suspension of deportation by the stop time rule in IIRIRA may apply for "repapering" (as it is commonly known) under this rule. This process would not apply to aliens eligible for 212(c) relief pursuant to the procedures described in the Executive Office for Immigration Review (EOIR) rulemaking in response to the "Soriano" case (RIN 1125-AA29).

Timetable:

Action	Date	FR Cite
NPRM	11/30/00	65 FR 71273
NPRM Comment Period End	01/29/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2083-00

Sectors Affected: None

Agency Contact: Kyle D. Latimer, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, Office of the General Counsel, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 616-2604

RIN: 1115–AF87

1791. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS OF ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 205; 8 CFR 245

Legal Deadline: None

Abstract: The Immigration and Naturalization Service is amending its regulations governing eligibility for adjustment of status under section 245(i) of the Immigration and Nationality Act to conform the regulations to existing policy and procedures and to remove language that has been superseded by subsequent legislation. Specifically, this interim rule conforms the regulations to include the changes made by Public Law 105-119 and Public Law 106-544. It also provides for the changes contained in the Legal Immigration Family Equity Act of 2000 (LIFE ACT). As required by the Life Act, this rule changes the sunset date of section 245(i) of the Immigration and Naturalization Act to the new date of April 30, 2001, for filing of qualifying petitions or applications that enable the applicant to apply to adjust status using section 245(i) and clarifies the effect of the new sunset date on eligibility. This means that in order to preserve the ability to apply for adjustment of status under section 245(i), an alien must be the beneficiary of a visa petition for classification under section 204 of the Act or application for labor certification properly filed on or before April 30, 2001, and determined to have approval when filed. This rule also provides guidance on the standard for review of filing for immigrant visa petitions and applications for labor certification on or before April 30, 2001.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/01	66 FR 16383
Interim Final Rule Effective	03/26/01	
Interim Final Rule Comment Period End	05/25/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

DOJ—INS

Final Rule Stage

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2078-00; This rulemaking supersedes RIN 1115-AD83.

Sectors Affected: None

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2763
Email: michael.valverde@justice.usdoj.gov

RIN: 1115–AF91

1792. ASYLUM AND WITHHOLDING DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This rule proposes to amend the Department regulations that govern establishing asylum eligibility. This rule is intended to provide guidance on certain issues that have arisen in the context of asylum adjudications. The amendments focus on portions of the regulations that deal with the definitions of persecution, membership in a particular social group, and State action. This rule codifies long standing concepts of the definition of persecution. It clarifies that gender can be a basis for membership in a particular social group. It also clarifies that a person who has suffered or fears domestic violence may be considered a member of a particular social group. The Department of Justice believes this issue required further examination after the Board of Immigration Appeals decision, Matter of R-A. This rule also clarifies that the factors considered in Ninth Circuit case law regarding membership in a particular social group are non-determinative. Finally, the rule offers further guidance on what is required to show a State's inability or unwillingness to control a persecutor.

Timetable:

Action	Date	FR Cite
NPRM	12/07/00	65 FR 76588
NPRM Comment Period End	01/22/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS 2092-00

Sectors Affected: None

Agency Contact: Dorthea Lay, Attorney, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 305-8414
Fax: 202 514-0455

RIN: 1115–AF92

1793. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR PREFERENCE IMMIGRANT; ADJUSTMENT OF STATUS TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; ...

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: This final rule amends regulations of the Immigration and Naturalization Service (Service) to provide an exception from the general prohibition against approval of immigration benefits based upon a marriage entered into during removal proceedings. The rule creates a good faith exception to the prohibition. This final rule completes the regulatory implementation of the Immigration Act of 1990 (IMMACT 90).

Timetable:

Action	Date	FR Cite
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: See INS No. 1419-91

Agency Contact: Michael C. Biggs, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Rooom 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF94

1794. • REMOVAL OF BURMA FROM GUAM VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; ...

CFR Citation: 8 CFR 212.1(e)(3)

Legal Deadline: None

Abstract: This rule removes from the list of countries authorized to participate in the Guam Visa Waiver Program without significantly restricting legitimate travel to Guam. The action is necessary to protect the U.S. Law Enforcement and National Security interest. This action is being taken because Burma has been designated as a country of Special Humanitarian concerns and because Burma has a visitor visa refusal rate that exceeds 16.9 percent.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/03/01	66 FR 235
Interim Final Rule Comment Period End	03/05/01	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2099-00

Sectors Affected: None

Agency Contact: Marty Newingham, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7992

RIN: 1115–AF95

DOJ—INS

Final Rule Stage

1795. • CHILDREN BORN OUTSIDE THE UNITED STATES; APPLICATIONS FOR CERTIFICATE OF CITIZENSHIP

Priority: Other Significant

Legal Authority: PL 106-395

CFR Citation: 8 CFR 103; 8 CFR 299; 8 CFR 310; 8 CFR 320; 8 CFR 322; 8 CFR 338; 8 CFR 341; 8 CFR 499; ...

Legal Deadline: Final, Statutory, February 27, 2001, Mandated by Law.

Abstract: This rule implements title I of the Child Citizenship Act of 2000 (CCA), Pubic Law 106-395. First, it amends the Immigration and Naturalization Service (Service) regulations by adding a new part which addresses application procedures for foreign-born children residing in the United States pursuant to a lawful admission for permanent residence, who acquire citizenship automatically under section 320 of the Immigration and Nationality Act (Act), as amended. This rule established procedures for these foreign-born children, including adopted children, to obtain certificates of citizenship. Second, this rule also addresses application procedures for foreign-born children residing outside the United States, who can acquire citizenship under section 322 of the Act, as amended, by approval of an application and taking the oath of allegiance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	
Interim Final Rule Effective	05/00/01	
Interim Final Rule Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No 2101-00

Agency Contact: Ramona McGee, Associate General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, Washington, DC 20536
Phone: 202 616-7965

RIN: 1115–AF98

1796. • ALLOWING FOR THE FILING OF FORM I-140 VISA PETITION CONCURRENTLY WITH A FORM I-485 APPLICATION IN CERTAIN CIRCUMSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: Final, Statutory, February 28, 2000.

Abstract: The current regulations provide that an alien worker who wants to apply for permanent residence by filing the appropriate Form I-485, Application To Register Permanent Residence or Adjust Status, cannot do so until he or she obtains approval of the underlying petition, Form I-140, Immigrant Petition for Alien Worker. This procedure has resulted in aliens experiencing unnecessary delays due to the heavy backlog created by increasing numbers of cases received by the Immigration and Naturalization Service. This rule amends the Service's regulations by allowing the Forms I-140 and I-485 to be filed concurrently when a visa is immediately available, thereby improving the efficiency of the system, as well as customer service. This rule will also allow the alien worker to apply for employment authorization (Form I-765, Application for Employment Authorization) and advanced parole authorization (Form I-131, Application for Travel Document) while the Form I-485 is pending.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	
Interim Final Rule Effective	07/00/01	
Interim Final Rule Comment Period End	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2104-00

Sectors Affected: None

Agency Contact: Maurice R. Berez, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AG00

1797. • SPECIAL IMMIGRANT VISA FOR FOURTH PREFERENCE EMPLOYMENT-BASED BROADCASTERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This interim rule amends the Immigration and Naturalization Service regulations by establishing the procedure under which the International Broadcasting Bureau of the United States Broadcasting Board of Governors (BBG), or a BBG grantee organization, may file special fourth preference immigrant petitions for alien broadcasters. This rule explains the requirements the alien broadcaster must meet in order to be the beneficiary of an immigrant visa petition. This regulatory change is necessary in order to assist the BBG in fulfilling its statutory obligation to hire alien broadcasters.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/01	
Interim Final Rule Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2106-00

Sectors Affected: None

Agency Contact: Craig S. Howie, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AG01

DOJ—INS

Final Rule Stage

1798. • ESTABLISHING PREMIUM PROCESSING SERVICE FOR EMPLOYMENT-BASED PETITIONS AND APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103

CFR Citation: 8 CFR 103; 8 CFR 299

Legal Deadline: None

Abstract: This rule changes the Immigration and Naturalization Service regulations to establish premium processing service for certain employment-based petitions and applications. If an individual pays a fee for premium processing service, the INS will process the petition or application in 15 days. Premium Processing Service will give American businesses an option to pay for more rapid processing of petitions and applications to meet their needs for foreign workers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	
Interim Final Rule Effective	05/00/01	
Interim Final Rule Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS NO. 2108-01

Sectors Affected: None

Agency Contact: Tracy Renaud, Adjudications Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, 10th Floor, 800 K Street NW, Washington, DC 20536
Phone: 202 305-8010

RIN: 1115–AG03

1799. • ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF NICARAGUA, CUBA, AND HAITI

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 241; 8 CFR 245

Legal Deadline: None

Abstract: This final rule implements the provisions of the Legal Immigration Family Equity Act (LIFE) and its technical amendments to both the Nicaraguan Adjustment and Central American Relief Act (NACARA), and the Haitian Refugee Immigration Fairness Act of 1998. Specifically, section 1505 of the amendments to LIFE states that section 241(a)(5) of the INA does not apply to adjustment applicants under NACARA/HRIFA and that the grounds of inadmissibility under section 212(a)(9)(A) and (C) of the INA may be waived for NACARA/HRIFA adjustment applicants. Section 241(a)(5) of the Act provides for the reinstatement of a removal order against any alien who illegally re-enters the United States after having been removed or after having departed voluntarily under an order of removal. It also bars any alien whose removal order has been reinstated from receiving any relief under the Act, including any waivers of grounds of inadmissibility necessary for the grant of adjustment of status. Sections 212(a)(9)(A) and 212(a)(9)(C) of the Act are grounds of inadmissibility relating to aliens previously removed and aliens who are unlawfully present in the United States after previous immigration violations, respectively. Section 1505 of the amendments to LIFE also states that an alien who has become eligible for benefits under NACARA/HRIFA as a result of the enactment of LIFE may file a motion to reopen his or her removal proceedings in order to apply for adjustment or to apply for cancellation of removal or suspension of deportation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	
Interim Final Rule Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2113-01

Sectors Affected: None

Agency Contact: Kevin J. Cummings, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG05

1800. • ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN CLASS ACTION PARTICIPANTS WHO ENTERED BEFORE JANUARY 1, 1982, UNDER THE LEGAL IMMIGRATION AND FAMILY EQUITY ACT (LIFE ACT)

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1255a; 8 USC 1225a note

CFR Citation: 8 CFR 245a

Legal Deadline: None

Abstract: This interim rule implements section 1104 of the Legal Immigration Family Equity Act (LIFE Act) and LIFE Act Amendments pertaining to adjustment of status of certain class action participants (specifically, Catholic Social Services v. Meese (CSS), 509 U.S. 43 (1993), League of United Latin American Citizens v. INS (LULAC), 509 U.S. 43 (1993), and Zambrano v. INS, 509 U.S. 918 (1993) class applicants) who entered before January 1, 1982, to that of person admitted for lawful residence. This rule establishes procedures for a 1-year application period to allow CSS, LULAC, and Sambrano class applicant to apply for adjustment of status to that of lawful permanent residence.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/01	
Interim Final Rule Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2115-01

Agency Contact: Suzy Nguyen, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG06

DOJ—INS

Final Rule Stage

1801. • NONIMMIGRANT CLASSES; SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENTS; V CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1102; PL 106-553

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 205; 8 CFR 212; 8 CFR 214; 8 CFR 245; 8 CFR 248; 8 CFR 299

Legal Deadline: None

Abstract: Section 1102 of the LIFE Act of 2000 amends the Immigration and Nationality Act to create a new nonimmigrant classification V for the spouses and children of lawful permanent residents awaiting the availability of an immigrant visa number in the appropriate preference category in accordance with the State Department's monthly Visa Bulletin. Eligible spouses and children of lawful permanent residents residing abroad that obtain the V nonimmigrant visa from the Department of State may work and reside in the United States on the basis of the V classification until they can apply for adjustment of status to that of lawful permanent resident. Certain eligible spouses and children of lawful permanent residents already present in the United States on the basis of the V classification until they can apply to adjust status to that of lawful permanent resident. This rule sets forth eligibility criteria and procedures for obtaining the V visa classification and related employment authorization.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	
Interim Final Rule Effective	06/00/01	
Interim Final Rule Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS NO. 2117-01

Sectors Affected: None

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG08

1802. • AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY ACT OF 2000 AND OTHER RELATED BILLS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 103; 8 CFR 202; 8 CFR 212; 8 CFR 274a

Legal Deadline: None

Abstract: The American Competitiveness in the 21st Century Act, Public Law 106-313, was enacted on October 17, 2000, along with two bills, the Visa Waiver Permanent Program Act, Public Law 106-311, and a bill to increase the fee for certain H-1B petitions. Together, these bills make significant changes to the H-1B classification. Public Law 106-313 increases the numerical H-1B cap to 195,000 for FYs 2000-2002 and the percentage of the fees that INS receives to 4 percent. It exempts certain aliens from the numerical cap, provides for the "portability" of employment authorization, in certain circumstances, 1-year extensions of stay for certain aliens who have permanent residence applications pending. It also authorizes the creation of an Immigration Services and Infrastructure Improvements Account for appropriation of funds to eliminate the immigration benefit application processing backlog. This regulation clarifies several interpretive questions raised by the bills and ensures INS practice is consistent with these laws.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	
Interim Final Rule Effective	05/00/01	
Interim Final Rule Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: John W. Brown, Adjudications Officers, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

Deborah Misir, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 307-6596

RIN: 1115–AG11

1803. • K NONIMMIGRANT CLASSIFICATION, LEGAL IMMIGRATION FAMILY EQUITY ACT (LIFE)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-553

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 245; 8 CFR 248; 8 CFR 274a

Legal Deadline: Final, Statutory, December 21, 2000.

Abstract: Section 1103 of the Legal Immigration Equity Act (LIFE), Public Law 106-553, creates a new nonimmigrant classification under INA 101(a)(15)(K) for the spouses and children of U.S. citizens who have pending immigrant Visa applications. This rule establishes this classification in the INS regulations, including creating filing and adjudication procedures, as well as procedures for adjusting status from this new nonimmigrant classification to that of a law permanent resident.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: LIFE creates another separate nonimmigrant classification V and also amends the INA for other purposes. Each of these will be addressed in a separate rule. [INS No. 2127-01]

Sectors Affected: None

Agency Contact: Michael Hardin, Adjudications Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG12

1804. • ADJUSTMENT OF STATUS FOR CERTAIN SYRIAN NATIONALS GRANTED ASYLUM IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255; sec 202, PL 105-100, 111 Stat 2160, 2193; 8 CFR 2

CFR Citation: None

Legal Deadline: None

Abstract: On October 27, 2000, the President signed into law Public Law 106-378, which provides for the adjustment of status to lawful permanent resident of certain Syrian nationals, without regard to the annual numerical limitation requirement. This interim rule discusses eligibility and sets forth application procedures for persons wishing to adjust status on the basis of Public Law 106-378. The INS is issuing this action as an interim rule because Public Law 106-378 provided for a 1-year application period, which will end on October 26, 2001. This will ensure that applicants are provided with as much time as possible to apply for the benefits under Public Law 106-378.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	
Interim Final Rule Effective	05/00/01	
Interim Final Rule Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG13

1805. • ADJUSTMENT OF STATUS OF CERTAIN ALIENS FROM VIETNAM, CAMBODIA, AND LAOS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On November 6, 2000, the President signed into law Public Law 106-429, the Foreign Operations Appropriations Act of 2001, section 586 of which provides for the adjustment of status for certain aliens from Vietnam, Cambodia, and Laos. To apply for adjustment under this provision, eligible applicants must have been physically present in the United States since October 1, 1997, and inspected and paroled into the United States from Vietnam under the Orderly Departure Program from a refugee camp in East Asia or from a displaced persons camp administered by the United Nations in Thailand. This rule further discusses eligibility, sets forth application procedures, and amends Service regulations to provide for adjustments of status on the basis of section 586 of Public Law 106-429.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/01	
Interim Final Rule Effective	08/00/01	
Interim Final Rule Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2124-01

Sectors Affected: None

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AG14

1806. • ADDING COLOMBIA TO THE LIST OF COUNTRIES WHOSE CITIZENS OR NATIONALS ARE INELIGIBLE FOR TRANSIT WITHOUT VISA (TWOV) PRIVILEGES TO THE UNITED STATES UNDER THE TWOV PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1227

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: The Transit Without Visa program allows certain aliens to transit the United States en route to a specified foreign country without a passport or visa provided they are traveling on a carrier signatory to an agreement with the Immigration and Naturalization Service in accordance with section 233(c) of the Act. This interim rule adds Colombia to the list of those countries that the Service, acting on behalf of the Attorney General and jointly with the Department of State, has determined to be ineligible for participation in the TWOV program

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/01	66 FR 17321
Interim Final Rule Effective	04/02/01	
Interim Final Rule Comment Period End	05/29/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No 2129-01

Sectors Affected: None

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AG16

1807. • NEW CLASSIFICATIONS FOR VICTIMS OF TRAFFICKING AND VICTIMS OF CERTAIN CRIMINAL ACTIVITY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1104; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252; 8 USC 1252a; 22 USC 7101; 22 USC 7105; ...

CFR Citation: 8 CFR 204; 8 CFR 212

Legal Deadline: None

Abstract: This rule sets forth application requirements for two new nonimmigrant visa categories. The "T" classification permits victims and witnesses in trafficking cases, up to 5,000 principals per year, to remain in the United States when assisting law enforcement agencies with investigation and/or prosecution of traffickers. The "U" classification is for non-United States Citizen/Lawful Permanent Resident (USC/LPR) victims of certain violent crimes who cooperate with an investigation and/or prosecution. There is a limit of 10,000 principals per year.

This rule also provides both immigrant and nonimmigrant relief by expanding eligibility for lawful permanent residency to spouses who self-petition by filing an appropriate application within 2 years of divorce from an abusive USC/LPR spouse and adds numerous other changes to the existing regulations at 8 CFR 204.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Agency Contact: Anne M. Veysey, Director, Program Strategy and Development Branch, Department of Justice, Immigration and Naturalization Service, Investigations Division, 425 I Street NW, Washington, DC 20536 Phone: 202 616-7372

RIN: 1115–AG19

1808. • PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1104; 8 USC 1252; 22 USC 7101; 22 USC 7105; ...

CFR Citation: 28 CFR 95

Legal Deadline: Other, Statutory, April 28, 2001, Statutory deadline for promulgation of regulations.

Abstract: This rule will amend 28 CFR and sets forth implementing guidance for section 107(c) of the Victims of Trafficking and Violence Protection Act of 2000. The Attorney General and the Secretary of State are promulgating these regulations for law enforcement, Immigration, and Department of State (DOS) officials regarding the protection of victims of severe forms of trafficking who are in custody, the access of such victims to information about their rights and translation services, and the training of appropriate Department of Justice and DOS personnel in identifying and protecting such victims. The rule also addresses the authority of Federal law enforcement officials to permit the continued presence in the United States of certain victims of severe forms of trafficking who are potential witnesses in order to aid prosecutions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Federalism: Undetermined

Sectors Affected: All

Agency Contact: Anne M. Veysey, Director, Program Strategy and Development Branch, Department of Justice, Immigration and Naturalization Service, Investigations Division, 425 I Street NW, Washington, DC 20536 Phone: 202 616-7372

RIN: 1115–AG20

1809. • REMOVAL AND ADJUSTMENT PROCEDURES FOR VICTIMS OF TRAFFICKING AND CERTAIN CRIMINAL ACTIVITIES

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1104; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252; 8 USC 1252a; 8 USC 1255; 22 USC 7101; 22 USC 7105; ...

CFR Citation: 8 CFR 204; 8 CFR 214; 8 CFR 245

Legal Deadline: None

Abstract: This rule sets forth measures by which certain victims of severe forms of trafficking and victims of certain crimes may apply for adjustment to permanent resident status in accordance with Public Law 106-386, the Victims of Trafficking and Violence Protection Act of 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anne M. Veysey, Director, Program Strategy and Development Branch, Department of Justice, Immigration and Naturalization Service, Investigations Division, 425 I Street NW, Washington, DC 20536 Phone: 202 616-7372

RIN: 1115–AG21

1810. EMPLOYER SANCTIONS MODIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274a

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1738	10/07/96	61 FR 52235
Correction (Interim Final Rule)	10/29/96	61 FR 55840
Interim Final Rule Comment Period End	11/06/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Angelo Sorrento Phone: 202 514-0747

RIN: 1115–AE21

1811. REGULATIONS RELATING TO TEMPORARY PROTECTED STATUS

Priority: Other Significant

CFR Citation: 8 CFR 103; 8 CFR 240; 8 CFR 299

Timetable:

Action	Date	FR Cite
TPS Final Rule (INS No. 1612) Removal of Obsolete Sections Covering TPS for Salvadorans	09/10/96	61 FR 47667
TPS Notice (INS No. 1832-97) Designation of Liberia	04/07/97	62 FR 16608
TPS Notice (INS No. 1853-97) Designation of Rwanda Eff. 06/07/97	06/19/97	62 FR 33442
TPS Notice (INS No. 1862-97) Designation of Bosnia-Hercegovina	08/01/97	62 FR 41420
TPS Notice (INS No. 1863-97) Designation of Somalia	08/01/97	62 FR 41421
TPS Notice (INS No. 1878-97) TPS Designation of Montserrat	08/28/97	62 FR 45685
TPS Notice (INS No. 1775-96) TPS Designation of Burundi	11/04/97	62 FR 59735
TPS Notice (INS No. 1877-97) TPS Designation of Sierra	11/04/97	62 FR 59736
TPS Notice (INS No. 1780-97) TPS Designation of Sudan	11/04/97	62 FR 59737
TPS Notice (INS No. 1910-98) Termination of Designation of Liberia	03/31/98	63 FR 15437
TPS Notice (INS No. 1929-98) TPS Designation of Kosovo	06/09/98	63 FR 31527
TPS Notice (INS No. 1945-98) Extension of Designation of Somalia	09/28/98	63 FR 51602
TPS Notice (INS No. 1953-98) Redesignation of Liberia	09/29/98	63 FR 51958
TPS Notice (INS No. 1957-98) TPS Extension of Designation of Burundi	11/03/98	63 FR 59334
TPS Notice (INS No. 1958-98) TPS Extension of Designation of Sierra Leone	11/03/98	63 FR 59336
TPS Notice (INS No. 1959-98) Extension of Designation of Sudan	11/03/98	63 FR 59337
Final Action	11/16/98	63 FR 63593
TPS Notice (INS No. 1964-98) TPS Designation of Honduras	01/05/99	64 FR 524
TPS Notice (INS No. 1965-98) TPS Designation of Nicaragua	01/05/99	64 FR 526
TPS Notice (INS No. 1960-98) TPS Designation of Guinea-Bissau	03/11/99	64 FR 12181
TPS Notice (INS No. 1986-99) TPS Redesignation of the Province of Kosovo	06/08/99	64 FR 30542
TPS Notice (INS No. 1953-99) Termination of TPS Designation of Liberia	07/30/99	64 FR 41463
TPS Notice (INS No. 2009-99) Extension of the TPS Registration Period for Hondurans and Nicaraguans	08/06/99	64 FR 42991
TPS Notice (INS No. 2006-99) Extension of TPS Designation of Bosnia-Herzegovina	08/11/99	64 FR 43720
TPS Notice (INS No. 2010-99) Extension of TPS Designation of Montserrat	09/02/99	64 FR 48190
TPS Notice (INS No. 2015-99) Extension of TPS Designation of Somalia	09/13/99	64 FR 49511
TPS Notice (INS No. 2022-99) Extension and Redesignation of Burundi Under Temporary Protected Status	11/09/99	64 FR 61123
TPS Notice (INS No. 2024-99) Extension and Redesignation of Sierra Leone Under Temporary Protected S	11/09/99	64 FR 61125
TPS Notice (INS No. 2023-99) Extension and Redesignation of Sudan Under the Temporary Protected Stat	11/09/99	64 FR 61128
TPS Notice (INS No. 2043-00) Extension and Termination of Designation of Guinea-Bissau Under TPS	03/20/00	65 FR 15016
TPS Notice (INS No. 2044-00) Designation of Angola Under TPS	03/29/00	65 FR 16634
TPS Notice (INS No. 2065-00) Extension of Designation Hondurans	05/11/00	65 FR 30438
TPS Notice (INS No. 2064-00) Extension of Nicaragua Designation	05/11/00	65 FR 30440
TPS Notice (INS No. 2066-00) Termination of the Kosovo...	05/23/00	65 FR 33356
TPS Notice (INS No. 2065R-00) Extension of Re-Registration for Hondurans	06/09/00	65 FR 36719
TPS Notice (INS No. 2064R-00) Extension of Re-Registration for Nicaraguans	06/09/00	65 FR 36729
TPS Notice (INS No. 2079-00) Termination of Bosnia-Herzegovina	08/30/00	65 FR 52789

Action	Date	FR Cite
TPS Notice (INS No. 2087-00) Extension of Designation of Montserrat Under Temporary Protected Status	10/02/00	65 FR 58806
TPS Notice (INS No. 2096-00) Extension of Designation of Burundi	11/09/00	65 FR 67404
TPS Notice (INS No. 2095-00) Extension of Designation of Sierra Leone	11/09/00	65 FR 67405
TPS Notice (INS No. 2094-00) Extension of Designation of Sudan	11/09/00	65 FR 67407
Correction TPS Notice (INS No.2090-00) Extension of Designation of Somalia	12/08/00	65 FR 77074
TPS Notice (INS 2125-01) Designation of El Salvador	03/09/01	66 FR 14214
TPS Notice (INS 2114-01) Extension and Redesignation of Angola	04/05/01	66 FR 18111

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Peters
Phone: 202 514-2454

RIN: 1115–AE26

1812. INSPECTION AND EXPEDITED REMOVAL OF ALIENS; DETENTION AND REMOVAL OF ALIENS; CONDUCT OF REMOVAL PROCEEDINGS

Priority: Other Significant

CFR Citation: 8 CFR 1; 8 CFR 213; 8 CFR 214; 8 CFR 216; 8 CFR 217; 8 CFR 221; 8 CFR 223; 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 209; 8 CFR 211; 8 CFR 212; ...

Timetable:

Action	Date	FR Cite
Final Action-INS No. 1669-94)	03/22/96	61 FR 11717
NPRM-INS No. 1788-96 Comment Period End 2/3/97	01/03/97	62 FR 444
Interim Final Rule-INS No. 1788-96 Comment Period End 7/15/97	03/06/97	62 FR 10312
Interim Final Rule Correction (Effective 04/01/97)	04/01/97	62 FR 15362
Interim Final Rule-INS No. 1788-96 Correction	04/09/97	62 FR 17048
Final Rule-INS No. 1920-98	07/22/98	63 FR 39217
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Loveless
Phone: 202 616-7489

Charles Adkins-Blanch
Phone: 703 305-0470

RIN: 1115–AE47

1813. F-1 VISA ABUSERS AND FOREIGN STUDENTS

Priority: Other Significant

CFR Citation: 8 CFR 214.1; 8 CFR 214.2 (f); 8 CFR 214.3; 8 CFR 214.4; 8 CFR 221.1; 8 CFR 235; 8 CFR 236; 8 CFR 248

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mava Deadrick
Phone: 202 353-8177

RIN: 1115–AE63

1814. EMPLOYMENT VERIFICATION BY EMPLOYERS THAT ARE MEMBERS OF A MULTI-EMPLOYER ASSOCIATION

Priority: Other Significant

CFR Citation: 8 CFR 274a

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marguerite Przbylski
Phone: 202 514-2895

RIN: 1115–AE67

1815. LIMITING LIABILITY FOR CERTAIN TECHNICAL AND PROCEDURAL VIOLATIONS OF PAPERWORK REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274a

Timetable:

Action	Date	FR Cite
NPRM	04/07/98	63 FR 16909
NPRM Comment Period End	06/08/98	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marguerite Przbylski
Phone: 202 514-2895

RIN: 1115–AE70

1816. PUBLIC CHARGE BOND PILOT PROGRAM

Priority: Other Significant

CFR Citation: 8 CFR 213

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa Roney
Phone: 202 514-3242

Michael Hardin
Phone: 202 514-4754

RIN: 1115–AE78

1817. AUTHORIZING COLLECTION OF FEE LEVIED ON F, J, AND M NONIMMIGRANT CLASSIFICATIONS UNDER ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT (IIRIRA)

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 103; 8 CFR 214; 8 CFR 299

Timetable:

Action	Date	FR Cite
NPRM	12/21/99	64 FR 71323
NPRM Comment Period End	02/22/00	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Song Park
Phone: 202 353-8177

RIN: 1115–AF56

1818. EMPLOYMENT AUTHORIZATION FOR CERTIFICATE OF CITIZENSHIP APPLICANTS

Priority: Other Significant

CFR Citation: 8 CFR 274a, 8 CFR 341

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice B. Podolny
Phone: 202 514-2895

RIN: 1115–AF90

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

1819. PETITIONS FOR EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 204; 8 CFR 214

Completed:

Reason	Date	FR Cite
Withdrawn per Program Office	01/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Brown
Phone: 202 616-7435

Craig S. Howie
Phone: 202 353-8177

RIN: 1115–AD55

1820. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS ON ELIGIBILITY

Priority: Other Significant

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 217; 8 CFR 245

Completed:

Reason	Date	FR Cite
Merged With RIN 1115-AD83	03/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael Valverde
Phone: 202 514-4754

Frances A. Murphy
Phone: 202 514-4754

RIN: 1115–AD83

1821. MISCELLANEOUS MODIFICATIONS TO NATURALIZATION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 322; 8 CFR 337

Completed:

Reason	Date	FR Cite
Withdrawn	01/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Richard Sheridan
Phone: 202 616-0583

RIN: 1115–AE07

1822. PETITIONING REQUIREMENTS FOR THE H NONIMMIGRANT CLASSIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 214; 8 CFR 274

Completed:

Reason	Date	FR Cite
Merged With RIN 1115-AF41	03/19/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: John Brown
Phone: 202 616-7435

RIN: 1115–AE52

1823. ASYLUM PROCEDURES

Priority: Other Significant

CFR Citation: 8 CFR 208

Completed:

Reason	Date	FR Cite
Final Action	12/06/00	65 FR 76121

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joanna Ruppel
Phone: 202 305-2663

RIN: 1115–AE93

1824. CHANGE IN BUSINESS PRACTICES: COLLECTION OF INTEREST, PENALTIES, AND HANDLING CHARGES FOR DELINQUENT PAYMENT OF EMPLOYER SANCTIONS FINES

Priority: Other Significant

CFR Citation: 8 CFR 274

Completed:

Reason	Date	FR Cite
Withdrawn	03/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brenda Garland
Phone: 202 616-7683

RIN: 1115–AF17

1825. TEMPORARY PROTECTED STATUS AMENDMENTS TO THE REQUIREMENTS FOR EMPLOYMENT AUTHORIZATION FEE AND OTHER TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 244

Completed:

Reason	Date	FR Cite
Final Action	12/28/00	65 FR 82256
Final Action Effective	01/29/01	
Delay of Effective Date until 03/30/2001	01/26/01	66 FR 7863

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Valverde
Phone: 202 514-2763

Email:
michael.valverde@justice.usdoj.gov

RIN: 1115–AF37

1826. REGULATIONS REGARDING AUTHORITY TO GRANT ASYLUM TO CERTAIN ARRIVING ALIENS

Priority: Other Significant

CFR Citation: 8 CFR 203.30

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Joanna Ruppel
Phone: 202 305-2663

RIN: 1115–AF64

1827. DUPLICATION AND ELECTRONIC GENERATION OF FORMS

Priority: Other Significant

CFR Citation: 8 CFR 299

Completed:

Reason	Date	FR Cite
Final Rule	10/17/00	65 FR 61259

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Pamela T. Wallace
Phone: 202 305-1229

Ann Palmer
Phone: 202 305-1229

RIN: 1115–AF66

1828. DETENTION OF ALIENS ORDER REMOVED

Priority: Other Significant

CFR Citation: 8 CFR 212.13; 8 CFR 236.1; 8 CFR 241.4

Completed:

Reason	Date	FR Cite
Final Rule	12/21/00	65 FR 80281

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Joan S. Lieberman
Phone: 202 514-2895

RIN: 1115–AF82

1829. CONCURRENT FILING OF FORM I-140 AND FORM I-485

Timetable:

Action	Date	FR Cite
Duplicate of RIN 1115-AG00	02/09/01	

RIN: 1115–AF93

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

1830. REVISION OF 28 CFR PART 15 PERTAINING TO THE DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES TO CONFORM TO THE FEDERAL EMPLOYEES LIABILITY REFORM AND TORT COMPENSATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2679(b)

CFR Citation: 28 CFR 15

Legal Deadline: None

Abstract: This rule revises 28 CFR part 15, pertaining to the defense of certain suits against Federal employees, to conform the regulations to changes made by the Federal Employee Liability Reform and Tort Compensation Act, Public Law 100-694. Under prior law, the defense of suits against Federal employees for torts committed in the scope of their employment was limited to claims involving the operation of motor vehicles. Public Law 100-694 expanded the coverage of the immunity provisions to include all common law torts committed by Federal employees in the scope of their employment. This rule conforms the Department's regulations to the expanded coverage of the statute.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: CIV 102

Agency Contact: James G. Touhey Jr., Trial Attorney, Torts Branch, Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20004
Phone: 202 616-4292

RIN: 1105–AA62

1831. DESIGNATION OF AGENCIES TO RECEIVE AND INVESTIGATE REPORTS REQUIRED UNDER THE PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13032

CFR Citation: 28 CFR 81

Legal Deadline: NPRM, Statutory, April 28, 1999.

Abstract: On October 30, 1998, Congress passed the Protection of Children from Sexual Predators Act of 1998 (PCSPA). The PCSPA requires providers of an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, to report incidents of child pornography as defined by sections 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, to the appropriate Federal agency. In order to facilitate effective reporting, the PCSPA requires the Attorney General to "designate an agency" to receive and investigate such reports of child pornography. The proposed rule previously published set forth the Attorney General's proposed designations and certain other matters covered by the PCSPA's reporting requirements.

On November 29, 1999, as part of the Consolidated Appropriations Act, 2000, Public Law 106-113, 113 Stat. 1501, Congress amended 42 U.S.C. 13032 to require providers to report such incidents to the Cyber Tipline at the National Center for Missing and Exploited Children, which shall forward that report to a law enforcement agency or agencies designated by the Attorney General. A second proposed rule is being prepared for publication that will reflect the change in the Agency to receive the reports.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 28422
NPRM Comment Period End	07/26/99	
Second NPRM	08/00/01	
Second NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Terry R. Lord, Chief, Child Exploitation and Obscenity Section, Department of Justice, 1331 F Street NW, 6th Floor, Washington, DC 20530
Phone: 202 514-5780

RIN: 1105–AA65

1832. WAIVER FOR FIREARM PROHIBITION ON NONIMMIGRANT VISA HOLDERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-277, sec 121; 18 USC 922

CFR Citation: 28 CFR 25

Legal Deadline: None

Abstract: The Gun Control Act of 1968 established categories of individuals who are prohibited from possessing a firearm. A provision of Public Law 105-277, the Omnibus Appropriations Act of 1999, added non-immigrant visa holders as an additional prohibited category. In the same Act, the Attorney General was authorized to grant a waiver for individuals disqualified by this new prohibited category. The waiver petition will be granted, inter alia, upon an applicant showing proof of 180 days of residency and a statement of character from the applicant's embassy or consulate and upon a determination by the Attorney General that the waiver should be granted in the interests of justice so as not to jeopardize public safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank A.S. Campbell, Deputy Assistant Attorney General, Office of Policy Development, Department of Justice, Room 4248, Main Building, 950 Pennsylvania Avenue NW, Washington, DC 20530
Phone: 202 514-2283

RIN: 1105–AA66

1833. MOTOR VEHICLE SALVAGE REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 30504

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Attorney General is required to issue regulations directing junk yard and salvage yard operators and insurance carriers to file monthly reports with the operator of the National Motor Vehicle Title Information System (NMVTIS) concerning vehicles in their possession. The reports are required by statute, 49 U.S.C. section 30504(a) and (b), to provide the vehicle identification numbers, the date on which the vehicle was obtained, and the name of the individual or entity from whom the vehicle was obtained. Salvage and junk yard operators are also required to provide a statement of whether the automobile was crushed or disposed of for sale or other purposes. Insurance carriers are also required to provide the name of the owner of the automobile at the time the report is filed.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On a related issue, the FBI expects to issue regulations implementing the National Stolen Passenger Motor Vehicle Information System (NSPMVIS). (See RIN 1110-AA01.)

Agency Contact: Deborah Sorkin, Trial Attorney, Department of Justice, Office of Enforcement Operations, Criminal Division, 1301 New York Avenue NW, Washington, DC 20530
Phone: 202 305-4023
Fax: 202 305-0562

RIN: 1105–AA71

1834. CLAIMS UNDER THE RADIATION EXPOSURE COMPENSATION ACT AMENDMENTS OF 2000: TECHNICAL AMENDMENTS; EXPANSION OF COVERAGE TO URANIUM MILL WORKERS AND ORE TRANSPORTERS

Priority: Other Significant

Legal Authority: 42 USC 2210 note, Radiation Exposure Compensation Act; PL 106-245, Radiation Exposure Compensation Act Amendments of 2000; PL 106-553, Consolidated Appropriations Act for Fiscal Year 2001

CFR Citation: 28 CFR 79

Legal Deadline: Final, Statutory, January 6, 2001.

Abstract: The Department is amending existing regulations to implement the Radiation Exposure Compensation Act Amendments of 2000, enacted on July 10, 2000. The Department is issuing two related rulemakings under this RIN to implement the Act. The first of the two related rulemakings is a final rule, technical in nature, providing conforming amendments (CIV 100). These technical amendments expand the list of radiogenic and chronic diseases that are currently compensable, lower the amount of radiation exposure required in certain cases, enlarge the number of uranium mining states eligible for compensation, amend the list of geographical areas to provide additional compensable radiation-affected areas, and revise other eligibility criteria consistent with the amended Act.

The second related rulemaking under this RIN is a proposed rule (CIV 101) expanding compensation to two new claimant categories: Uranium mill

workers and individuals involved in the transport of uranium ore or vanadium-uranium ore. The amendments establish eligibility criteria for the new claimant categories, define evidence that will be considered, and develop other requirements necessary to expand compensation to eligible mill workers and ore-transporters.

On March 22, 1999, the Department published a final rule in the Federal Register, 64 FR 13686, amending its existing regulations to allow the use of pathology reports of tissue biopsies as evidence of disease; include "in situ" lung cancers under the definition of primary cancers of the lung; and to allow claimants whose claims had been denied prior to the implementation of the regulations to file another three times. Both rulemakings (CIV 100 and CIV 101) will make changes to Department regulations in addition to the changes that had been made by the 1999 final rule.

Timetable:

CIV 100 - Technical Amendments
Final Action 09/00/01

CIV 101 - Expansion of Coverage
NPRM 09/00/01
NPRM Comment Period End 11/00/01

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dianne S. Spellberg, Trial Attorney, Department of Justice, Room 3123, 1425 New York Avenue NW, Washington, DC 20005
Phone: 202 616-4129
Fax: 202 616-4313
Email: dianne.spellberg@usdoj.gov

RIN: 1105–AA75

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

1835. FOREIGN AGENTS REGISTRATION ACT; REGULATIONS REVISED AND CLARIFIED TO REFLECT CHANGES IN THE LAW

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 611 et seq Foreign Agents Registration Act of 1938

CFR Citation: 28 CFR 5.5(d)(10); 28 CFR 5.203(a); 28 CFR 5.204(a); 28 CFR 5.205(a); 28 CFR 5.206(b); 28 CFR 5.304(c); 28 CFR 5.306(a); 28 CFR 5.5(d)(11); 28 CFR 5.100(c); 28 CFR 5.100(d); 28 CFR 5.200(b); 28 CFR 5.201(a)(1); 28 CFR 5.201(a)(2); 28 CFR 5.202(b); 28 CFR 5.202(e); ...

Legal Deadline: None

Abstract: As a result of the passage of the Lobbying Disclosure Act of 1995 (LDA) and the Lobbying Disclosure Technical Amendments Act of 1998 (LDTAA), the Foreign Agents Registration Unit of the Criminal Division is issuing new regulations concerning changes in the Foreign Agents Registration Act of 1938 (FARA), as amended, 22 U.S.C. 611, et seq. These regulations replace the term "political propaganda" in the existing regulations with "informational materials" as provided in the LDA and make other changes to the FARA regulations required by the passage of the LDA and the LDTAA. The regulations also make other modifications to the existing regulations to facilitate the administration of FARA.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37065
NPRM Comment Period End	09/07/99	
Final Action	08/00/01	
Final Action Effective	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: CFR CITATIONS CONT: 28 CFR 5.307; 28 CFR 5.400(a) to (c); 28 CFR 5.401; 28 CFR 5.402(a) to (g); 28 CFR 5.500(a)(4); 28 CFR 5.600; 28 CFR 5.601(a); 28 CFR 5.601(b).

Agency Contact: Marshall R. Williams, Chief, Registration Unit, Internal Security Section, Criminal Division, Department of Justice, Room 9300, 1400 New York Avenue NW, Washington, DC 20530
Phone: 202 514-1216

RIN: 1105–AA45

1836. ETHICAL STANDARDS FOR ATTORNEYS FOR THE GOVERNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 530B

CFR Citation: 28 CFR 77

Legal Deadline: Final, Statutory, April 19, 1999.

Abstract: This rule supersedes the Department of Justice regulations relating to Communications with Represented Persons and implements 28 U.S.C. 530B pertaining to ethical standards for attorneys for the Government. Under that provision, an attorney for the Government shall be subject to State laws and rules, and local Federal court rules governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State. This rule fulfills the Attorney General's obligation under section 530B and provides guidance to all Department of Justice employees who are subject to section 530B regarding their obligations and responsibilities under this new provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/19/99	64 FR 19273
Interim Final Rule Comment Period End	06/21/99	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Claudia J. Flynn, Director, Professional Responsibility Advisory Office, Department of Justice, Suite 500, National Theatre Building, 1325 Pennsylvania Avenue NW, Washington, DC 20530
Phone: 202 514-0458
Fax: 202 353-7491

RIN: 1105–AA67

1837. ENHANCED NOTICE AND RELEASE PROCEDURES FOR OWNERS OF SEIZED PROPERTY PURSUANT TO THE CAFRA OF 2000; DISPOSITION OF SEIZED PROPERTY TOO COSTLY TO MAINTAIN; CONSOLIDATION OF DEPARTMENT REGULATIONS

Priority: Other Significant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1324(b); 15 USC 1177; 17 USC 509; 18 USC 981 to 983; 18 USC 1467; 18 USC 1955; 18 USC 1963; 18 USC 2253 to 2254; 18 USC 2513; 19 USC 1606 to 1608; 19 USC 1610; 19 USC 1612(b); 19 USC 1613; 19 USC 1618; 21 USC 822; 21 USC 853; 21 USC 871 to 872; 21 USC 880 to 881; 21 USC 958; 21 USC 965; 22 USC 401; 28 USC 509 to 510; 28 USC 524; PL 100-690, sec 6079

CFR Citation: 8 CFR 274; 21 CFR 1316; 28 CFR 8 (Revision); 28 CFR 9 (Revision)

Legal Deadline: Final, Statutory, August 23, 2000, CAFRA applies to all forfeiture actions commenced on or after 8/23/00.

Abstract: By this rule, the Department does four things.

First, the Department is implementing new forfeiture procedures required by the recently enacted Civil Asset Forfeiture Reform Act of 2000 (CAFRA). CAFRA's procedural changes enhance the ability of property owners to contest the forfeiture of seized property. CAFRA also makes other changes beneficial to property owners. In particular: 1) The requirement to file a bond for costs with a claim is eliminated; 2) the time for filing a claim is extended; and 3) the release of seized property is required under various circumstances. Congress made CAFRA's changes applicable to forfeiture proceedings commenced on or after August 23, 2000.

Second, the Department is adding a provision allowing the pre-forfeiture disposition of seized property when the expense of holding the property is disproportionate to its value. This provision is needed to implement the pre-existing authority of 19 U.S.C. section 1612(b)—one of the customs laws procedural statutes incorporated by reference in forfeiture statutes enforced by the Department. This provision will enable the Department to use the authority of section 1612(b) in appropriate cases to avoid disproportionately high storage and maintenance costs for seized property pending forfeiture.

Third, this rule consolidates previously existing forfeiture regulations of the INS, DEA, and the FBI in order to achieve greater consistency and promote overall fairness in the administrative forfeiture process by avoiding unnecessary differences in component procedures.

Fourth, the rule modifies the regulations at 28 CFR part 9 governing petitions for remission or mitigation of forfeiture to refer to DEA's Forfeiture Counsel and not to DEA's Office of Chief Counsel as the pertinent DEA official in DEA forfeiture cases; to incorporate where applicable CAFRA's statutory criteria for innocent ownership; and to provide discretionary authority for the Ruling Official to waive the payment of forfeiture-related costs and expenses as a condition of remission in cases in which the petitioner is a victim of the underlying offense.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	
Interim Final Rule Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph T. Donnelly, Acting Director, Department of Justice, Immigration and Naturalization Service, Office of Asset Forfeiture, Room 1040, CAB Building, 425 I Street NW, Washington, DC 20536
Phone: 202 305-8303

John Hieronymus, Forfeiture Counsel, Department of Justice, Drug Enforcement Administration, Office of Domestic Operations, Asset Forfeiture Section, Caller Number 91017, Arlington, VA 22202
Phone: 202 307-7636

Stephen J. Jobe, Acting Forfeiture Counsel, Department of Justice, Legal Forfeiture Unit, FBI, Office of the General Counsel, J. Edgar Hoover Building, 935 Pennsylvania Avenue NW, Washington, VA 20535
Phone: 202 324-9700

RIN: 1105–AA74

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Long-Term Actions

1838. VIOLENT CRIME AND DRUG EMERGENCY AREAS

Priority: Other Significant

CFR Citation: 28 CFR 92 (New)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman
Phone: 202 514-8059
Email: robert.hinchman@usdoj.gov

RIN: 1105–AA29

1839. FALSE CLAIMS AMENDMENTS ACT OF 1986—CIVIL INVESTIGATIVE DEMANDS

Priority: Info./Admin./Other

CFR Citation: 28 CFR 28

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael F. Hertz
Phone: 202 514-7179

RIN: 1105–AA42

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Completed Actions

1840. FEDERAL CLAIMS COLLECTION STANDARDS (FCCS)

Priority: Substantive, Nonsignificant

CFR Citation: 4 CFR ch II; 31 CFR 900 to 904

Completed:

Reason	Date	FR Cite
Related Justice, Treasury and GAO Final Rules	11/22/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kathleen A. Haggerty
Phone: 202 514-5343

RIN: 1105–AA31

1841. ACCESS TO DOCUMENTS BY FORMER EMPLOYEES OF THE DEPARTMENT

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 16

Completed:

Reason	Date	FR Cite
Final Action	11/15/00	65 FR 68891
Final Action Effective	11/15/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Evelyn Tang
Phone: 202 514-3452

RIN: 1105–AA76

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

1842. • PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3711 et seq

CFR Citation: 28 CFR 32

Legal Deadline: None

Abstract: The Bureau of Justice Assistance is proposing amendments to 28 CFR part 32, which governs operation of the Public Safety Officers' Benefits Program. These proposed amendments would specify the maximum hourly fee that may be charged by representatives of claimants for financial benefits under the Public Safety Officers' Benefits Program in connection with services rendered by these representatives on behalf of claimants in any application or proceeding before the Bureau of Justice Assistance. These proposed amendments serve also to clarify that married children who are eighteen or younger or over eighteen and a student at the time of the death of a public safety officer parent are not eligible for the PSOB program benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie Neal, Chief, Public Safety Officers' Benefits Office, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531
Phone: 202 307-0635

RIN: 1121–AA56

1843. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, sec 2455; EO 12549

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: First, this proposed common rule on debarment and suspension would limit the mandatory lower tier application of an exclusion to the first procurement level under a nonprocurement covered transaction. Second, this proposed common rule on debarment and suspension would set the dollar threshold on prohibited lower-tier procurement transactions with excluded persons at $25,000. Third, both this proposed rule on debarment and suspension and the proposed rule on drug-free workplace requirements would eliminate the mandate for agencies and participants to obtain written certifications from awardees or persons with whom they propose to enter into covered transactions. Fourth, the proposed rule on drug-free workplace requirements would be separated from this proposed rule on debarment and suspension.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Fallowfield, Attorney-Advisor, Department of Justice, Office of Justice Programs, Office of the General Counsel, 810 7th Street NW, Washington, DC 20531
Phone: 202 305-2534

RIN: 1121–AA57

1844. • NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3783; 42 USC 3789(d)

CFR Citation: 28 CFR 42

Legal Deadline: None

Abstract: The Office of Justice Programs proposes to amend the regulations governing the nondiscrimination provisions in the Safe Streets Act, which apply by reference to the Juvenile Justice Act, and to implement the nondiscrimination provisions of the Victims of Crime Act. Collectively, these statutes prohibit discrimination on the basis of race, color, national origin, religion, sex, and handicap in federally assisted programs. OJP interprets the nondiscrimination provisions of these statutes as being consistent with each other, as well as with title VI of the Civil Rights Act of 1964 (title VI). The proposed regulations also expand and clarify other definitions. Accordingly, OJP is proposing these new regulations to clarify and revise the nondiscrimination requirements connected to Federal funding under these statutes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Daphane Felton-Green, Senior Counsel, Department of Justice, Office of Justice Programs, Office of Civil Rights, 810 7th Street NW, Washington, DC 20531
Phone: 202 616-9865

RIN: 1121–AA58

DOJ—OJP

Proposed Rule Stage

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Long-Term Actions

1845. GRANTS PROGRAM FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 91

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/96	61 FR 49969
Correction	10/18/96	61 FR 54333
Interim Final Rule Comment Period End	10/24/96	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Philip Merkle
Phone: 202 307-2550

RIN: 1121–AA41

1846. BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 33

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/98	63 FR 50759
Interim Final Rule Effective	09/23/98	
Interim Final Rule Comment Period End	11/23/98	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal

Agency Contact: Lluana McCann
Phone: 202 305-1772

RIN: 1121–AA48

1847. ENVIRONMENTAL IMPACT REVIEW PROCEDURES FOR THE VOI/TIS GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 91

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/00	65 FR 48592
Interim Final Rule Effective	08/08/00	
Interim Final Rule Comment Period End	10/10/00	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Philip Merkle
Phone: 202 307-2550

RIN: 1121–AA52

[FR Doc. 01–7879 Filed 05–11–01; 8:45 am]
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5–14–01 Monday
Vol. 66 No. 93 May 14, 2001

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Federal Register

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Pages 25679–26282

The Unified Agenda of Federal Regulatory and Deregulatory Actions

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Federal Register

Monday,
May 14, 2001

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between April 2001 and April 2002 as well as those completed during the past six months.

FOR FURTHER INFORMATION CONTACT: Barbara Bingham, Acting Director for the Office of Regulatory Economics, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 693-5959.

NOTE: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602).

Executive Order 12866 became effective September 30, 1993, and, in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that advance the Department's goals and that are understandable and usable to the employers and employees in all affected workplaces.

The Department is committed to carrying out its responsibilities under the many statutes and Executive order programs it administers. However, in order to allow me and my staff to have sufficient opportunity to review the regulatory plans of the Department, many of the dates for next action are not specified or the nature of next action to be taken is listed as undetermined. The regulatory priorities of the Department will be reflected in the fall semiannual agenda.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved, and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Elaine L. Chao,

Secretary of Labor.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1848	Production or Disclosure of Information or Materials	1290-AA17

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1849	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)	1215-AA14
1850	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
1851	Regulations To Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA96
1852	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03
1853	Implementation of the 1996 Amendments to the Fair Labor Standards Act	1215-AB13
1854	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB24
1855	Stock Options, Stock Appreciation Rights, and Bona Fide Employee Stock Purchase Programs Under the Fair Labor Standards Act	1215-AB31

DOL

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1856	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H)	1215-AA09
1857	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09
1858	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation	1215-AB20
1859	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act	1215-AB32
1860	Obligation of Federal Contractors and Subcontractors, Notice of Employee Rights Concerning Payment of Union Dues or Fees	1215-AB33

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1861	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised)	1215-AB28

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1862	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP)	1215-AA01
1863	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)	1215-AA94
1864	Black Lung Benefits Under the Federal Coal Mine Safety and Health Act of 1969, as Amended	1215-AA99
1865	Assessment and Collection of User Fees	1215-AB06
1866	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act	1215-AB21
1867	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities	1215-AB23
1868	Service Contract Act Exemption for Certain Commercial Service Contracts	1215-AB26
1869	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Veterans of the Vietnam Era (Revised)	1215-AB27
1870	Longshore Act Medical Fee Schedule	1215-AB30

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1871	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
1872	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
1873	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10
1874	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure	1205-AB24

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1875	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
1876	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07

DOL

Employment and Training Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1877	Welfare-to-Work (WTW) Grants	1205-AB15
1878	Indian and Native American Welfare-to-Work Program	1205-AB16
1879	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records	1205-AB18
1880	Labor Certification Process for the Permanent Employment of Aliens in the United States; Refiling of Applications	1205-AB25
1881	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses	1205-AB27
1882	Senior Community Service Employment Program	1205-AB28

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1883	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
1884	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration	1205-AB14

Pension and Welfare Benefits Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1885	Bonding Rules Under the Employee Retirement Income Security Act of 1974 **(Section 610 Review)**	1210-AA82
1886	Requests for Enforcement Pursuant to Section 502(b)(2) **(Section 610 Review)**	1210-AA83
1887	Civil Penalties Under ERISA Section 502(c)(2) **(Section 610 Review)**	1210-AA84
1888	Procedures for the Assessment of Civil Penalties Under ERISA Section 502(c)(2) **(Section 610 Review)**	1210-AA85

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1889	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage	1210-AA60
1890	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status	1210-AA77
1891	Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements	1210-AA80

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1892	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
1893	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996	1210-AA54
1894	Health Care Standards for Mothers and Newborns	1210-AA63
1895	Reporting Requirements for MEWAs Providing Medical Care Benefits	1210-AA64
1896	Elimination of Filing Requirements for Summary Plan Descriptions	1210-AA66
1897	Requirement To Furnish Plan Documents Upon Request by the Secretary of Labor	1210-AA67
1898	Civil Penalty for Failure To Furnish Certain Plan Documents	1210-AA68
1899	Electronic Disclosure of Employee Benefit Plan Information	1210-AA71
1900	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998	1210-AA75
1901	Voluntary Fiduciary Correction Program	1210-AA76

DOL

Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1902	Adequate Consideration	1210-AA15
1903	Civil Penalties Under ERISA Section 502(1)	1210-AA37
1904	Mental Health Benefits Parity	1210-AA62
1905	Individual Benefits Reporting Requirements for Defined Contribution Plans	1210-AA65
1906	Soft Dollar (Interpretive Bulletin)	1210-AA74

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1907	Amendment of Summary Plan Description and Related ERISA Regulations To Implement Statutory Changes in the Health Insurance Portability and Accountability Act of 1996	1210-AA55
1908	Amendments to Employee Benefit Plan Claims Procedures Regulation	1210-AA61
1909	Amendments to Summary Plan Description Regulations	1210-AA69
1910	National Medical Support Notice	1210-AA72

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1911	Electrical Grounding Standards for Metal and Nonmetal Mines	1219-AB01
1912	Escapeways and Refuges	1219-AB23

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1913	Belt Entry Use as Intake Aircourse To Ventilate Working Sections	1219-AA76
1914	Metal/Nonmetal Impoundments	1219-AA83
1915	Independent Laboratory Testing	1219-AA87
1916	Surface Haulage	1219-AA93
1917	Improving and Eliminating Regulations	1219-AA98
1918	Respirable Crystalline Silica Standard	1219-AB12
1919	Safety Standards for Self-Contained Self-Rescue Devices in Coal and Metal/Nonmetal Underground Mines	1219-AB19
1920	Mine Rescue Teams	1219-AB20
1921	Surge and Storage Piles	1219-AB22
1922	Accident Investigation Hearing Procedures	1219-AB26

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1923	Hazard Communication	1219-AA47
1924	Longwall Equipment (Including High-Voltage)	1219-AA75
1925	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92

DOL

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1926	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
1927	Confined Spaces	1219-AA54
1928	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96
1929	Training and Retraining of Miners	1219-AB02
1930	Occupational Exposure to Coal Mine Dust (Lowering Concentration Limit)	1219-AB08
1931	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust	1219-AB14
1932	Determination of Concentration of Respirable Coal Mine Dust	1219-AB18
1933	Verification of Surface Coal Mine Dust Control Plans	1219-AB21
1934	Asbestos Exposure Limit	1219-AB24
1935	Continuous Monitoring of Respirable Coal Mine Dust in Underground Coal Mines	1219-AB27

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1936	Diesel Particulate Matter (Exposure of Underground Coal Miners)	1219-AA74
1937	Diesel Particulate Matter (Exposure of Underground Metal and Nonmetal Miners)	1219-AB11

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1938	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21
1939	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1940	Department of Labor Acquisition Regulation	1291-AA20
1941	Audits of States, Local Governments, and Nonprofit Organizations	1291-AA26
1942	Audit Requirements for Grants, Contracts, and Other Agreements	1291-AA27
1943	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance	1291-AA28
1944	Grants and Agreements	1291-AA30
1945	Effectuation of Title VI of the Civil Rights Act of 1964 and Implementation of Section 504 of the Rehabilitation Act of 1973	1291-AA31
1946	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug Free Workplace (Grants) 29 CFR 98	1291-AA33

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1947	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**	1218-AB60
1948	Process Safety Management of Highly Hazardous Chemicals	1218-AB63
1949	Grain Handling Facilities **(Section 610 Review)**	1218-AB73
1950	Occupational Exposure to Perchloroethylene	1218-AB86

DOL

Occupational Safety and Health Administration—Prerule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1951	Sanitation in the Construction Industry	1218-AB87
1952	Hearing Loss Prevention in Construction Workers	1218-AB89

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1953	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
1954	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces	1218-AB47
1955	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety)	1218-AB51
1956	Permissible Exposure Limits (PELs) for Air Contaminants	1218-AB54
1957	Metalworking Fluids: Protecting Respiratory Health	1218-AB58
1958	Plain Language Revision of the Flammable and Combustible Liquids Standard	1218-AB61
1959	Plain Language Revision of the Mechanical Power-Transmission Apparatus Standard	1218-AB66
1960	Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry	1218-AB67
1961	Occupational Exposure to Crystalline Silica	1218-AB70
1962	Occupational Exposure to Beryllium	1218-AB76
1963	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II)	1218-AB81
1964	Plain Language Revisions to Spray Applications	1218-AB84
1965	Changes to State Plans	1218-AB91

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1966	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
1967	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218-AA84
1968	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention)	1218-AB80
1969	Plain Language Revisions to the Exit Route Standard	1218-AB82
1970	Signs, Signals, and Barricades	1218-AB88

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1971	Longshoring and Marine Terminals (Parts 1917 and 1918) — Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
1972	Scaffolds in Shipyards (Part 1915 — Subpart N)	1218-AA68
1973	Access and Egress in Shipyards (Part 1915, Subpart E) (Shipyards: Emergency Exits and Aisles)	1218-AA70
1974	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
1975	Indoor Air Quality in the Workplace	1218-AB37
1976	Safety and Health Programs (for General Industry and the Maritime Industries)	1218-AB41
1977	Occupational Exposure to Tuberculosis	1218-AB46
1978	General Working Conditions for Shipyard Employment	1218-AB50
1979	Fall Protection in the Construction Industry	1218-AB62
1980	Safety Standards for Scaffolds Used in the Construction Industry—Part II	1218-AB68
1981	Safety and Health Programs for Construction	1218-AB69
1982	Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities: Lockout)	1218-AB71
1983	Employer Payment for Personal Protective Equipment	1218-AB77
1984	Consolidation of Records Maintenance Requirements in OSHA Standards	1218-AB78
1985	Oil and Gas Well Drilling and Servicing	1218-AB83

DOL

Occupational Safety and Health Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1986	Woodworking Machinery	1218-AB92
1987	Ergonomics Programs in Construction (Part 1926): Preventing Work-Related Musculoskeletal Disorders among Construction Workers	1218-AB94
1988	Subpart S—Electrical Standards	1218-AB95
1989	Occupational Health Risks in the Manufacture and Assembly of Semiconductors	1218-AB96
1990	Commercial Diving Operations: Technical Amendment	1218-AB97
1991	Procedures for Handling of Discrimination Complaints Under the Aviation Investment and Reform Act	1218-AB99

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1992	Steel Erection (Part 1926) (Safety Protection for Ironworkers)	1218-AA65
1993	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)	1218-AB24
1994	Ergonomics Programs: Preventing Musculoskeletal Disorders	1218-AB36
1995	Consultation Agreements	1218-AB79
1996	Occupational Exposure to Bloodborne Pathogens; Needlestick and Other Sharps Injuries	1218-AB85
1997	Cotton Dust: Washed Cotton Exemption	1218-AB90
1998	New Jersey State Plan	1218-AB98

Office of the Assistant Secretary for Veterans' Employment & Training—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1999	Annual Report for Federal Contractors	1293-AA07

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Proposed Rule Stage

1848. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552 as amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)

CFR Citation: 29 CFR 70

Legal Deadline: None

Abstract: The regulation will incorporate the provisions of the 1996 FOIA amendments. These include extending DOL processing time from 10 to 20 days for most FOIA requests and requiring that all reading room materials created since November 1, 1996, be made available by electronic means such as the Internet.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-5500
Email: miller-miriam@dol.gov

RIN: 1290–AA17

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

1849. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which modified the exemption's requirement for payment on a "salary basis" for otherwise exempt public sector employees.

Statement of Need: These regulations contain the criteria used to determine if an employee is exempt from the FLSA as an "executive," "administrative," "professional," or "outside sales" employee. The existing salary test levels used in determining which employees qualify as exempt were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in applying the exemption. In addition, numerous comments and petitions have been received from industry groups regarding the duties and responsibilities tests in the regulations, requesting a review of these regulations.

These regulations have been revised to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employees. Because of the limited nature of these revisions, the regulations are still in need of updating and clarification.

Summary of Legal Basis: These regulations are issued under the statutory exemption from minimum wage and overtime pay provided by section 13(a)(1) of the Fair Labor Standards Act, 29 USC 213(a)(1), which requires the Secretary of Labor to issue regulations that define and delimit the terms "any employee employed in a bona fide, executive, administrative, or professional capacity ..., or in the capacity of outside salesman...," for purposes of applying the exemption to employees who meet the specified criteria.

Alternatives: The Department will involve affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in Congress to address certain aspects of these regulations, the Department continues to believe revisions to the regulations are the appropriate response to the concerns raised. Alternatives likely to be considered range from particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Cost and Benefits: Some 32 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are changing the guiding interpretations under this exemption and creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate many concerns. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s that do not readily adapt to contemporary government functions. The Federal Government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696

Action	Date	FR Cite
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Agency Contact: Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA14

1850. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Other Significant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88, Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify the applicability of these exemptions to third-party employers (58 FR 69310). After reviewing the public comments, the Department adopted technical changes to update the regulations, including a revision necessitated by amendments to title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act) 10/22/94, (see 60 FR 46766) and reopened the public comment period on proposed revisions affecting third-party employers (section 552.109). After further review of the history and background to this exemption, a new proposed rule was published for public comment on 1/19/2001 (66 FR 5481).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
Second NPRM	09/08/95	60 FR 46797
Final Rule	09/08/95	60 FR 46766
Third NPRM	01/19/01	66 FR 5481
NPRM Comment Period End	03/20/01	
Third NPRM Comment Period End Extended to 07/23/2001	04/23/01	66 FR 20411
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1215–AA82

1851. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206

Legal Deadline: NPRM, Statutory, May 11, 1995.
Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amended several Acts administered by the Department of Labor: (1) the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of $100,000 or greater; (2) the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance; and (3) the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Rule - Walsh-Healey/CWHSSA Rule	08/05/96	61 FR 40714
Second NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

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RIN: 1215–AA96

1852. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary

requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulatory initiative contemplates simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

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RIN: 1215–AB03

1853. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: PL 104-188, sec 2101 to 2105; 29 USC 201 et seq

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202

Legal Deadline: None

Abstract: The "Small Business Job Protection Act of 1996" (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increase the $4.25 Federal minimum hourly wage by $.90 in two steps over two years (i.e., to $4.75 on October 1, 1996, and to $5.15 on September 1, 1997); (2) provide a $4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at $2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at not less than $27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

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RIN: 1215–AB13

1854. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211; 38 USC 4212; PL 102-16; PL 102-127; PL 102-484; PL 95-520; PL 93-508, amended; PL 94-502; PL 96-466; PL 101-237; PL 97-306; PL 98-223; PL 105-339

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP proposes to amend the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform with the Veterans Employment Opportunities Act (the Act) of 1998 and the Veterans Benefits and Health Care Improvement Act of 2000 (VBHCIA). The Act and VBHCIA of 2000 increase the current threshold for coverage from $10,000 to $25,000. The Act and VBHCIA of 2000 expand the existing definition of Veterans, i.e., special disabled veterans and veterans of the Vietnam Era, to include recently separated veterans and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. Recently separated veterans means any veteran during the one-year period beginning on the date of such veteran's discharge or release from active duty.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1215–AB24

1855. STOCK OPTIONS, STOCK APPRECIATION RIGHTS, AND BONA FIDE EMPLOYEE STOCK PURCHASE PROGRAMS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: 29 USC 207(e)(8); PL 106-202, sec 2(e)

CFR Citation: 29 CFR 546; 29 CFR 778

Legal Deadline: None

Abstract: The Worker Economic Opportunity Act, Public Law 106-202 (May 18, 2000), amended section 7(e) of the Fair Labor Standards Act to clarify how certain employer-provided stock option programs are to be treated for purposes of overtime pay. Certain programs meeting prescribed criteria would not have to be factored into the "regular rate" otherwise required when calculating "time-and-one-half" overtime premium pay for overtime hours of work. The legislation calls for regulations to be promulgated as necessary, which will include amendments to some of the existing regulations on overtime pay.

DOL—ESA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 1215–AB31

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Employment Standards Administration (ESA)

1856. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority: Other Significant

Legal Authority: 29 USC 203(e)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders, and whether changes are needed in some of the applicable hazardous occupation orders. Comment has also been solicited on whether revisions should be considered in the permissible hours and time-of-day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs. Additionally, Congress enacted Public Law 104-174 (August 6, 1996), which amended FLSA section 13(c) and requires changes in the regulations under Hazardous Occupation Order No. 12 regarding power-driven paper balers and compactors, to allow 16- and 17-year-olds to load, but not operate or unload, machines meeting applicable American National Standards Institute (ANSI) safety standards and certain other conditions. Congress also passed the Drive for Teen Employment Act, Public Law 105-334 (October 31, 1998), which prohibits minors under age 17 from driving automobiles and trucks on public roads on the job and sets criteria for 17-year-olds to drive such vehicles on public roads on the job.

Statement of Need: Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being. Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When issuing the regulatory proposals (after review of public comments on the advance notice of proposed rulemaking), the Department's focus will be on assuring healthy, safe and fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Summary of Legal Basis: These regulations are issued under sections 3(1), 11, 12, and 13 of the Fair Labor Standards Act, 29 USC sections 203(1), 211, 212, and 213 which require the Secretary of Labor to issue regulations prescribing permissible time periods and conditions of employment for minors between 14 and 16 years old so as not to interfere with their schooling, health, or well-being, and to designate occupations that may be particularly hazardous or detrimental to the health or well-being of minors under 18 years old.

Alternatives: Regulatory alternatives developed based on recent legislation and the public comments responding to the advance notice of proposed rulemaking included specific proposed additions or modifications to the paper baler, teen driving, explosive materials, and roofing hazardous occupation orders, and proposed changes to the permissible cooking activities that 14- and 15-year-olds may perform in retail establishments.

Anticipated Cost and Benefits: Preliminary estimates of the anticipated costs and benefits of this regulatory action indicated that the rule was not economically significant. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks: The child labor regulations, by ensuring that permissible job opportunities for working youth are safe and healthy and not detrimental to their education as required by the statute, produce positive benefits by reducing health and productivity costs employers may otherwise incur from higher accident and injury rates to young and inexperienced workers. Given the limited nature of the changes in the proposed rule, a detailed assessment of the magnitude of risk was not prepared.

Timetable:

Action	Date	FR Cite
Final Action HOs 2, 10 and 12	11/20/91	56 FR 58626
Final Action Effective	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	11/30/99	64 FR 67130
NPRM Comment Period End	01/31/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1215–AA09

1857. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; PL 102-232

CFR Citation: 20 CFR 655, subparts H & I

Legal Deadline: None

Abstract: This proposed rule is a republication for notice and public comment of various provisions of the Department's final rule implementing provisions of the Immigration and Nationality Act as it relates to the temporary employment in the United States of nonimmigrants admitted under H-1B visas. Regulations, 29 CFR part 507 which duplicate 20 CFR part 655, subparts H and I, have been removed from title 29. (See 61 FR 51013.) In addition, amendments are proposed to implement the American Competitiveness and Workforce Improvement Act of 1998 (Title IV, Public Law 105-277, October 21, 1998; 112 Stat. 2681).

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
NPRM	01/05/99	64 FR 628
NPRM Comment Period End	02/04/99	
Interim Final Rule	12/20/00	65 FR 80110
Interim Final Rule Effective	01/19/01	
Interim Final Rule Comment Period End	04/23/01	66 FR 10865
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 1215–AB09

1858. MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 578); CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 579); ADJUSTMENT OF CIVIL MONEY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 216(e); PL 101-410; PL 104-134

CFR Citation: 29 CFR 578; 29 CFR 579

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: The Debt Collection Improvement Act of 1996 (PL 104-134) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (PL 101-410) to require Federal agencies to adjust certain civil money penalties for inflation. The Department is proposing adjustments in the civil money penalties that may be assessed under section 16(e) of the Fair Labor Standards Act for (1) repeated or willful violations of the minimum wage or overtime provisions; and (2) child labor violations. Any increase in the penalty amounts shall apply only to violations which occur after the effective date of the increase.

Timetable:

Action	Date	FR Cite
NPRM	12/28/98	63 FR 71405
NPRM Comment Period End	01/27/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1215–AB20

1859. • CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-398; EO 13179

CFR Citation: 20 CFR 30

DOL—ESA — Final Rule Stage

Legal Deadline: Other, Statutory, May 31, 2001, Interim Final Rule.
By executive order, regulations for administration of program to be promulgated by 5/31/2001.

Abstract: The Department of Labor is proposing regulations for its administration of the provisions of the Energy Employees Occupational Illness Compensation Program Act. These regulations will address all questions arising under this act which have not been specifically assigned to the Secretary of Health and Human Services, to the Secretary of Energy, or to the Attorney General.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Shelby S. Hallmark, Acting Director, Office of Workers' Compensation Programs, Department of Labor, Employment Standards Administration, Room S3524, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1215–AB32

1860. • OBLIGATION OF FEDERAL CONTRACTORS AND SUBCONTRACTORS, NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Priority: Other Significant

Legal Authority: EO 13201

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation will implement E.O. 13201 which requires government contractors and subcontractors to post notices informing their employees that (1) under federal law they cannot be required to join a union or maintain membership in a union to retain their jobs, and (2) employees who choose not to be union members may object to the use of their compulsory union dues and fees for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in the future payments. The proposed regulation, in accordance with E.O. 13201, will also, require that, where applicable, each government contracting agency include certain provisions of the Order in its government contracts, and that government contractors and subcontractors include these provisions in their nonexempt subcontracts and purchase orders.

Timetable:

Action	Date	FR Cite
Interim Procedural Rule	04/18/01	66 FR 19988
Interim Final Rule	08/00/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 1215–AB33

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Long-Term Actions

1861. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)

Priority: Substantive, Nonsignificant

Legal Authority: EO 11246, as amended; 38 USC 4211; PL 94-502;; PL 97-306; PL 102-484; 38 USC 4212; PL 93-508, amended; PL 96-466; PL 101-237;; EO 11758; PL 98-223; PL 102-16; PL 102-127; PL 95-520; PL 105-339; 29 USC 706;; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-1 (Revision); 41 CFR 60-250 (Revision); 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: The NPRM would remove the obligation to visit an establishment during a compliance check, which is currently required by Section 60-1.20(a)(3) in order to enhance efficiency in resource allocation. OFCCP proposes also to make the same revision in Section 60-250(a)(3) of the regulations implementing the affirmative action provisions of the Vietnam Era Veteran's Readjustment Assistance Act (VEVRAA). Lastly, OFCCP proposes to conform regulations implementing Section 503 to the compliance evaluation procedures contained in the regulations implementing Executive Order 11246, as amended, and the affirmative action provisions of VEVRAA, both of which expressly authorize OFCCP to use additional investigative procedures to determine a contractor's compliance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 1215–AB28

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

1862. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP)

Priority: Other Significant

Legal Authority: EO 11246, as amended

CFR Citation: 41 CFR 60-1; 41 CFR 60-2

Legal Deadline: None

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order (E.O.) 11246 as amended. The part 60-1 final rule, published 8/19/97, revised portions of the regulations implementing E.O. 11246. OFCCP's review of regulatory options continued with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance. OFCCP issued revisions to written affirmative action program (AAP) requirements to reduce burdens on the regulated community and to improve the enforcement of the Executive order.

Statement of Need: Portions of the regulations implementing E.O. 11246 needed to be revised to reflect changes in the law that have occurred over time, and other portions needed to be streamlined and clarified. E.O. 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are necessary in order to allow the DOL to effectively and efficiently enforce the provisions of the Executive order. As a first step in updating its Executive order regulations, the Department published changes to the provisions that govern preaward review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, other revisions have been made that conform E.O. 11246 regulations to the recent changes made in the Department's regulations implementing section 503 of the Rehabilitation Act.

A second phase of revision changed provisions that govern requirements for written affirmative action plans and the provisions concerning evaluation of contractor procedures.

Summary of Legal Basis: No aspect of this action is required by statute or court order.

Alternatives: After careful review, it was decided that the most effective way to improve compliance with the E.O. 11246 provisions and reduce burdens on contractors was to revise these regulations. Administrative actions alone could not produce the desired results.

Anticipated Cost and Benefits: It is anticipated that the net effect of the changes will increase compliance with the nondiscrimination and affirmative action requirements of the Executive Order and reduce compliance costs to Federal contractors. The Department will also be able to utilize its resources more efficiently and more effectively.

Risks: Failure to move forward with OFCCP's regulatory agenda could cause the continuation of outdated methods of evaluating contractor compliance and impede effective enforcement of E.O. 11246.

Timetable:

Action	Date	FR Cite
NPRM Affirmative Action Plans (60-2)	05/04/00	65 FR 26087
NPRM Comment Period End	07/03/00	
Final Rule	11/13/00	65 FR 68021
Final Rule Effective	12/13/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: OFCCP's emphasis has been on regulatory reform, e.g., to revise the E.O. 11246 regulations to reduce paperwork burdens, eliminate unnecessary regulations, and simplify and clarify the regulations while improving the efficiency and effectiveness of the contract compliance program.

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RIN: 1215–AA01

1863. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 40 USC 276a to 276a(7)

CFR Citation: 29 CFR 1; 29 CFR 5

Legal Deadline: None

Abstract: The Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions Congress acted to prevent the Department from expending any funds to implement these revised helper regulations—through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. Given the uncertainty of continuation of such moratoriums, the Department determined that the helper issue needs to be addressed through further rulemaking. A notice inviting public comment on a proposal to continue the suspension of the former helper regulations while the Department conducts additional rulemaking proceedings was published August 2, 1996 (61 FR 40366). A final rule continuing the suspension while further rulemaking is considered was published December 30, 1996 (61 FR 68641). A notice of proposed rulemaking was published April 9, 1999 (64 FR 17442).

Statement of Need: The current helper rules are difficult to administer and enforce and—as evidenced by the prolonged litigation history and subsequent congressional actions—are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and

assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department determined that the helper issue needs to be addressed through further rulemaking.

Summary of Legal Basis: These regulations are issued under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 USC Appendix) and the Copeland Act (40 USC 276c) in order to provide coordinated enforcement of the prevailing wage provisions of the Davis-Bacon Act (40 USC 276a-276a-7) and several additional Federal statutes that require payment of prevailing wages as determined by the Secretary of Labor according to the Davis-Bacon Act to laborers and mechanics working on federally funded or assisted construction contracts (see list of statutes in 29 CFR sec. 5.1).

Alternatives: The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes.

Anticipated Cost and Benefits: The new final rule regarding the helper criteria seeks to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology—thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations included in the NPRM range from $72.8 million to $296 million, depending upon the alternative considered and the data sources used.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM - Continue Suspension	08/02/96	61 FR 40367
Final Action - Continue Suspension	12/30/96	61 FR 68641
NPRM	04/09/99	64 FR 17442
NPRM Comment Period End	06/08/99	
Final Action	11/20/00	65 FR 69674
Final Action Effective	01/19/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1215–AA94

1864. BLACK LUNG BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1969, AS AMENDED

Priority: Other Significant

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a final rule that revises existing rules to facilitate the resolution of claims; streamlines the litigation process by encouraging the early development and submission of evidence; raises the dollar limit for prior approval for medical equipment; and rewrites existing rules to make them more customer-oriented.

There will be no additional administrative costs associated with these changes, but savings can be expected through streamlining.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3338
NPRM Comment Period Extended to 5/23/97	02/24/97	62 FR 8201
NPRM Comment Period End	03/24/97	
NPRM Comment Period End Extended to 8/22/97	05/16/97	62 FR 27000
Second NPRM	10/08/99	64 FR 54966
Second NPRM Comment Period Extended	11/18/99	64 FR 62997
Second NPRM Comment Period End	01/06/00	
Final Action	12/20/00	65 FR 79920
Final Action Effective	01/19/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Coal Mine Workers' Compensation, OWCP, Department of Labor, Employment Standards Administration, Room C3520, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0046
Fax: 202 693-1395

RIN: 1215–AA99

1865. ASSESSMENT AND COLLECTION OF USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-470; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11

CFR Citation: 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102

Legal Deadline: None

Abstract: Title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), authorize the Department to establish and collect user fees to recover the costs of providing certain services that are required by law and without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are being considered include processing applications and issuing farm labor contractor certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.

Timetable:

Action	Date	FR Cite
Withdrawn	02/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB06

1866. LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5) DEFINITION OF "SITE OF THE WORK" UNDER THE DAVIS-BACON ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 276a to 276a-7; 40 USC 276c

CFR Citation: 29 CFR 5

Legal Deadline: None

Abstract: Two appellate court decisions have ruled that the Department of Labor's definition of "site of the work" in section 5.2(l) of the Davis-Bacon Act regulations does not conform to the statutory language of the Davis-Bacon Act, which requires payment of prevailing wages as determined under the Act to all laborers and mechanics "employed directly upon the site of the work." (See e.g., Ball, Ball and Brosamer v. Reich, 24 F.3d 1447, (D.C. Cir. 1994); L.P. Cavett Company v. U.S. Department of Labor, 101 F.3d 1111 (6th Cir. 1996).) The Department is proposing technical clarifications of Davis-Bacon coverage based on the site of the work definition as a result of these court decisions and to address some situations not contemplated when the existing regulations were issued.

Timetable:

Action	Date	FR Cite
NPRM	09/21/00	65 FR 57270
NPRM Comment Period End	10/23/00	
Final Rule	12/20/00	65 FR 80268
Final Rule Effective	01/19/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB21

1867. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: OFCCP proposes to revise the regulations implementing section 503 of the Rehabilitation Act of 1973, as amended, to conform to the recently revised section 60-1.20(a) of the regulations implementing E.O. 11246, as amended. The section authorizes OFCCP to use a range of methods to evaluate a contractor's compliance with the regulations.

In incorporating the recent revisions of 60-1.20, however, this NPRM would remove the obligation to visit an establishment during a compliance check, which is currently required by section 60-1.20(a)(3), in order to enhance efficiency in resource allocation. (OFCCP also proposes to make the same revision in section 60-1.20(a)(3) and in section 60-250.60(a)(3) of the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)).

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
Combined With RIN 1215-AB28	02/02/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
Fax: 202 693-1304
Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215–AB23

1868. SERVICE CONTRACT ACT EXEMPTION FOR CERTAIN COMMERCIAL SERVICE CONTRACTS

Priority: Other Significant

Legal Authority: 41 USC 351; 41 USC 38; 41 USC 39; 5 USC 301

CFR Citation: 29 CFR 4.123(e)

Legal Deadline: None

Abstract: This rule proposes to exempt from prevailing wage, fringe benefit and related labor standards requirements of the McNamara-O'Hara Service Contract Act (SCA) certain types of commercial service contracts meeting prescribed criteria pursuant to Section 4(b) of the SCA. The exemption has been requested by the Office of Federal Procurement Policy (OFPP) following its review of a now withdrawn final rule issued in the Federal Acquisition Regulation (FAR) that previously exempted all subcontracts for commercial services from the SCA based on the Federal Acquisition Streamlining Act.

Timetable:

Action	Date	FR Cite
NPRM	07/26/00	65 FR 45943
Interim Final Rule	07/26/00	65 FR 45943

Action	Date	FR Cite
Interim Final Rule Effective	08/25/00	
Final Rule	01/18/01	66 FR 5328
Final Rule Effective	03/19/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB26

1869. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (REVISED)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211; PL 94-502; PL 97-306; PL 102-484; 38 USC 4212; PL 93-508, amended; PL 96-466; PL 101-237; EO 11758; PL 98-223; PL 102-16; PL 102-127; PL 95-520; PL 105-339

CFR Citation: 41 CFR 60-250 (Revision)

Legal Deadline: None

Abstract: The Office of Federal Contract Compliance Programs proposes to amend the regulations at 60-250.60(a)(3) to remove the obligation to visit an establishment during a compliance check in order to enhance efficiency in resource allocation.

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
Withdrawn - Combined With RIN 1215-AB28	02/02/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1215–AB27

1870. LONGSHORE ACT MEDICAL FEE SCHEDULE

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 907(g); 33 USC 939

CFR Citation: 20 CFR 702.301; 20 CFR 702.406; 20 CFR 702.407; 20 CFR 702.411; 20 CFR 702.413; 20 CFR 702.414; 20 CFR 702.417; 20 CFR 702.435; ...

Legal Deadline: None

Abstract: The Longshore and Harbor Workers' Compensation Act (LHWCA) directs the Secretary of Labor to actively supervise the medical care and treatment given to injured workers and to determine the necessity, character and sufficiency of the care furnished and to regulate the amounts charged by medical providers for providing such medical services and supplies. The proposed rule clarifies this authority, which is delegated to OWCP's district directors, and the procedure for challenging its exercise. The proposed rule also provides that the recent expansion of the OWCP Medical Fee Schedule to cover pharmacy and inpatient hospital care may be used to determine the prevailing community rate for such services under the LHWCA. Finally, the proposed rule clarifies the circumstances under which a doctor may not be selected to perform an impartial medical examination.

Timetable:

Action	Date	FR Cite
Withdrawn	02/02/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Michael Niss, Director, Longshore and Harborworkers' Compensation, OWCP, Department of Labor, Employment Standards Administration, Room C4315, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-0038
Fax: 202 693-1380

RIN: 1215–AB30

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

1871. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Legal Authority: INA 212(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656. DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort involves consultation throughout the process with sponsors, stakeholders, State partners, and outside interest groups to solicit ideas and suggestions for change.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 693-2942
Fax: 202 693-2769
Email: dziegler@doleta.gov

RIN: 1205–AA66

1872. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: During the past few years, several disasters have highlighted the complexity of interpreting the present regulations. In addition, other provisions of the current regulations are perceived to be unduly restrictive and/or result in perceived inequities in some situations. To correct a serious problem with the monetary computation provisions the Department published an interim final rule on May 11, 1995. In addition, an ANPRM was published on December 8, 1994, soliciting comments for other changes. In the meantime the administration's Federal Government reinvention effort was initiated to, among other matters, make communication more understandable to the public. Therefore, this NPRM will completely revise part 625 to utilize a plain language format to correct and simplify complex provisions and add amendments due to law changes affecting the disaster unemployment assistance program.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Robert Gillham, Team Leader, Federal Programs Team, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 693-3207

RIN: 1205–AB02

1873. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Legal Authority: 42 USC 501-504; 42 USC 1302(a); 26 USC 3301-3311; 5 USC 8501-8508; 5 USC 8521-8525; ...

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650; 20 CFR 609.6(f); 20 CFR 614.6(f); 20 CFR 614.7(c)

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment Period End	03/17/97	
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sandra T. King, Chief, Division of Performance Review, Department of Labor, Employment and Training Administration, C4321, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-3042
Email: sking@doleta.gov

RIN: 1205–AB10

1874. LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE UNITED STATES; MODIFICATION OF FEE STRUCTURE

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(a); 8 USC 1184; 8 USC 1188; 29 USC 49 et seq; 8 CFR 103.1(f)(iii)(j); 8 CFR 103.1(f)(iii)(w); 8 CFR 214.2(h)(5); 8 CFR 214.2(h)(11); 8 CFR 214.2(h)(12)

CFR Citation: 8 CFR 655

Legal Deadline: None

Abstract: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) proposes to amend its regulations relating to the temporary employment of nonimmigrant agricultural workers (H-2A workers) in the United States. The proposed amendments would require employers to submit fees for labor certification and the associated H-2A petitions with consolidated application form at the time of filing. The proposal also would modify the fee structure for labor certification. If the application is denied, both fees will be refunded to the employer. It is conceivable in rare instances that the statutory and regulatory standards for issuance of the certification will be met, but those applicable to the petition will not be met. In such occurrence, neither fee will be refunded because the certification fee is an issuance, while the petition fee is a processing fee.

Concurrently with the publication of this proposed rule, the Department published an interim final rule with a request for comments setting forth the procedures and requirements for submission and processing of a consolidated Application for Temporary Agricultural Labor Certification and H-2A Petition (Form ETA 9079).

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43545
NPRM Comment Period End	09/18/00	
Interim Final Rule	11/13/00	65 FR 67628
Reopen NPRM and Interim Final Rule Comment Period	06/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 693-2942
Fax: 202 693-2769
Email: dziegler@doleta.gov

RIN: 1205–AB24

DEPARTMENT OF LABOR (DOL) — **Final Rule Stage**

Employment and Training Administration (ETA)

1875. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C5311, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-3577

RIN: 1205–AB05

1876. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant

Legal Authority: 19 USC 2320; 19 USC 2331

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: Title V of the North American Free Trade Agreement Implementation Act (NAFTA) (PL 103-182) amends chapter 2 of title II of the Trade Act of 1974 by adding a new NAFTA Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of title V are in the form of amendments to chapter 2, title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C5311, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-3577

RIN: 1205–AB07

1877. WELFARE-TO-WORK (WTW) GRANTS

Priority: Other Significant

Legal Authority: 42 USC 603(a)(5)(c)(ix); PL 106-113, Division B, sec 1000(a)(4)

CFR Citation: 20 CFR 645

Legal Deadline: Final, Statutory, November 3, 1997, 90 days from enactment.
Other, Statutory, January 1, 2000, for 1999 amendments.

Abstract: The Employment and Training Administration published interim final regulations on November 18, 1997, implementing the Welfare-to-Work Grants Program. The Personal Responsibility and Work Opportunity Reconciliation Act reformed the Nation's welfare laws, when enacted in August 1996, by creating a new system of block grants to the States for Temporary Assistance for Needy Families (TANF). Moving people from welfare to work is one of the primary goals of Federal welfare policy. Section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF and certain noncustodial parents. The Welfare-to-Work Grants will be provided to the States through the use of a formula, and in a competitive process to local communities. A small amount of total grant funds will be set aside for special purposes: one percent for Indian tribes; and 0.8 percent for evaluation.

Guidance and regulations reflect minimal amplification of the law and provide further information or clarification as needed to make the program operational. Existing regulations and systems are used wherever possible. Reporting requirements will assure program integrity and provide timely information for tracking performance. Leveraging of non-Federal resources at the State and local level is encouraged.

These funds have allowed States and local communities to help move eligible individuals into jobs by: job creation through public or private sector wage subsidies; on-the-job training; short-term vocational educational training and job training; contracts with public or private providers of job readiness, job placement, and post-employment services; job vouchers for similar services; community service or work experience; or job retention and supportive services (if such services are not otherwise available).

Statement of Need: Welfare-to-Work formula and competitive grants provide States and local communities with an array of tools to help them accomplish this goal in ways that make sense and are most effective for their particular population needs. The Employment and Training Administration issued combined Final and Interim Final regulations to finalize the earlier rulemaking and to implement the 1999 Amendments. The passage of the Welfare-to-Work and Child Support Amendments of 1999 necessitated the publication of a new interim final rule to reflect the changes in eligibility and certain other areas.

Summary of Legal Basis: Promulgation of these regulations is authorized by SSA section 403 (a)(1)(5)(C)(ix). Section 801(f) of HR 3424, the Welfare-to-Work and Child Support Amendments of 1999, enacted by section 1000(a)(4) of Division B of the Consolidated Appropriations Act for August 2000 (PL 106-113) authorizes interim final regulations to implement the changes made by those amendments.

Anticipated Cost and Benefits: Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date. Welfare recipients will receive job placement and temporary, transitional employment opportunities leading to lasting employment and self-sufficiency. Employers will have ready access to a large pool of motivated hard-working entry-level workers who will be eligible for job retention and support services to maintain employment. Businesses will be eligible to receive wage and on-the-job training subsidies when they hire the hard-to-employ welfare recipients.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61587
Interim Final Rule	01/11/01	66 FR 2690
Interim Final Rule Comment Period End	03/12/01	
Interim Final Rule Comment Period Extended to 04/11/01	02/12/01	66 FR 9763
Final Rule	01/11/01	66 FR 2689
Final Rule Effective	02/12/01	
Effective Date of Final Rule Delayed Until 04/13/01	02/12/01	66 FR 9763
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Dennis Lieberman, Director, Division of Welfare to Work, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, N4671, FP Building, Washington, DC 20210
Phone: 202 693-3375

RIN: 1205–AB15

DOL—ETA — **Final Rule Stage**

1878. INDIAN AND NATIVE AMERICAN WELFARE-TO-WORK PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 612(a)(3)(c)(iii), The Social Security Act, as amended; PL 106-113, Division B, section 1000(a)(4)

CFR Citation: 20 CFR 646

Legal Deadline: Final, Statutory, November 4, 1997, 90 days from enactment Citation mandates Secretary to prescribe regulations within 90 days of enactment to publish Interim Final rule by 10/31/98.
Other, Statutory, January 1, 2000, For 1999 amendments.

Abstract: These are program regulations needed to implement the Indian and Native American set-aside under the Welfare-to-Work program authorized by section 412(a)(3) of the Social Security Act. New interim final regulations are being issued to implement changes made by the Welfare-to-Work and Child Support Amendments of 1999 and other legislation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/98	63 FR 15985
Interim Final Rule Effective	04/01/98	
Interim Final Rule Comment Period End	06/01/98	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Additional Information: Congress has changed eligibility criteria. A final rule will be published in conjunction with the State programs.

Agency Contact: Gregory Gross, Department of Labor, Employment and Training Administration, Room N4641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-3752
Email: ggross@doleta.gov

RIN: 1205–AB16

1879. FEDERAL-STATE UNEMPLOYMENT COMPENSATION (UC) PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF INFORMATION IN STATE UC RECORDS

Priority: Other Significant

Legal Authority: 42 USC 1302 (a); 42 USC 503; 42 USC 1320b-7; 26 USC ch 23; Secretary's Orders 4-75 and 14-75

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration of the Department of Labor is preparing to issue an interim final rule on confidentiality and disclosure of information in State records collected, created, or maintained for purposes of the Federal-State Unemployment Compensation program. The interim final rule modifies and expands the regulations implementing the Income and Eligibility Verification System (IEVS) to include the statutory requirements in title III of the Social Security Act, the Federal Unemployment Tax Act, and the Wagner-Peyser Act concerning confidentiality and disclosure of information in State UC records.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An NPRM was published 3/23/92 at 57 FR 10063 with comment period ending 5/22/92.

Agency Contact: Gerard Hildebrand, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, C4518, FP Building, Washington, DC 20210
Phone: 202 693-3038
Email: ghildebrand@doleta.gov

RIN: 1205–AB18

DOL—ETA — Final Rule Stage

1880. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; REFILING OF APPLICATIONS

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: This rulemaking would amend the regulations relating to the permanent employment of aliens in the United States. The proposed amendments would permit employers to request that any labor certification application for permanent employment filed prior to a certain date and which has not been sent to the regional certifying officer to be processed as a reduction in recruitment request, provided recruitment has not been conducted pursuant to the permanent labor certification regulations. ETA anticipates that proposed amendment would reduce the backlog of labor certification application for permanent employment in State Employment Security Agencies.

This measure to reduce backlogs would result in a variety of desirable benefits, including a reduction in government resources necessary to process applications for alien employment certification a reduction in processing time for both new application and those applications currently in the queue, and would facilitate the development and implementation of a new, more efficient system for processing labor certification applications for permanent employment in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/00	65 FR 46082
NPRM Comment Period End	08/25/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 693-2942
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RIN: 1205–AB25

1881. ATTESTATIONS BY FACILITIES TEMPORARILY EMPLOYING H-1C NONIMMIGRANT ALIENS AS REGISTERED NURSES

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(H)(i)(c); 8 USC 1182(m); 8 USC 1184; 29 USC 49 et seq; PL 106-95, 113 Stat. 1312

CFR Citation: 20 CFR 655, subparts L and M

Legal Deadline: Final, Statutory, February 11, 2000.
Final or Interim Final regulations required within 90 days of enactment.

Abstract: The Nursing Relief for Disadvantaged Areas Act of 1999 (P.L. 106-95; November 12, 1999) amended the Immigration and Nationality Act to create a new temporary visa program for nonimmigrant aliens to work as registered nurses for up to three years in facilities serving health professional shortage areas, subject to certain conditions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/00	65 FR 51137
Interim Final Rule Comment Period End	09/21/00	
Interim Final Rule Effective	09/21/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Michael Ginley, Director, Office of Enforcement Policy, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room N3510, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0071

RIN: 1205–AB27

1882. • SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 106-501 "Older American Act Amendments of 2000"; 42 USC 3056(b)(2)

CFR Citation: 20 CFR 641

Legal Deadline: None

Abstract: The Employment and Training Administration will implement new regulations to govern the Senior Community Service Employment program under Title V of the Older Americans Act Amendments of 2000. New interim final regulation will be issued June 2001 implementing these amendments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Eric Larisch, Chief, Divison of Older Worker Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Washington, DC 20210
Phone: 202 693-3742
Fax: 202 693-3817
Email: larishe@doleta.gov

RIN: 1205–AB28

DEPARTMENT OF LABOR (DOL) — Long-Term Actions
Employment and Training Administration (ETA)

1883. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under title VI of the Job Training Partnership Act, and title III of the Workforce Investment Act of 1998.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Agency Contact: Gay Gilbert, Chief, Division of Employment Service and ALMIS, Department of Labor, Employment and Training Administration, Room S4231, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-3428
Email: ggilbert@doleta.gov

RIN: 1205–ÁA37

1884. ESTABLISHMENT OF FEES FOR IMMIGRATION PROGRAMS ADMINISTERED BY THE EMPLOYMENT AND TRAINING ADMINISTRATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Assuming Congress provides the required authorization, the regulation would establish a new fee charged to employers for processing of alien labor certification applications. The user fee would be a government receipt and would be applied to Federal and State expenditures for Federal and State program administration in the State Unemployment Insurance and Employment Service account and the Program Operations Account in DOL's Employment and Training Administration (ETA).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Funding of ETA immigration programs has been reduced by 30 percent since FY 1995. The fee proceeds would be used to offset the costs of administering the alien labor certification program at the State and Regional levels. ETA has worked with the States and Regional Offices and reduced the number of queued cases from 92,000 to 73,000 at the State level. The number of cases on the Regional level is 21,000. However, there will be another one time reinstatement of section 245(i) as part of the LIFE legislation and this is expected to increase the queued permanent cases by at least 40,000 applications over the 60,000 permanent applications received in FY 2001. The regular appropriation, plus the user fees, will be necessary to work off the cases in the pipeline and become current.

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 693-2942
Fax: 202 693-2769
Email: dziegler@doleta.gov

RIN: 1205–AB14

DEPARTMENT OF LABOR (DOL) — Prerule Stage
Pension and Welfare Benefits Administration (PWBA)

1885. BONDING RULES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None

Abstract: PWBA is conducting a review of the temporary bonding rules under section 412 of ERISA (29 CFR Part 2580) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA82

1886. REQUESTS FOR ENFORCEMENT PURSUANT TO SECTION 502(B)(2) (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1132(b)(2)

CFR Citation: 29 CFR 2560.502-1

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulation relating to requests for enforcement pursuant to section 502(b)(2) of ERISA (29 CFR 2560.502-1) in accordance with the requirements of section 610 of the Regulatory

DOL—PWBA **Prerule Stage**

Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rule; the extent to which the rules overlap, duplicate or conflict with other federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA83

1887. CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1132(c)(2)

CFR Citation: 29 CFR 2570.60 to 2570.71

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulations on civil penalties under section 502(c)(2) of ERISA (29 CFR 2560.502(c)(2) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA84

1888. PROCEDURES FOR THE ASSESSMENT OF CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1135; 29 USC 1132(c)(2)

CFR Citation: 29 CFR 2570.1 et seq.

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulations relating to the procedures for the assessment of civil penalties under section 502(c)(2) of ERISA (29 CFR 2570.60 et seq.) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA85

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Proposed Rule Stage

1889. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1136

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rulemaking will provide guidance concerning the notification requirements pertaining to continuation coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Section 606 of ERISA requires that group health plans provide employees notification of the continuation coverage provisions of the plan and imposes notification obligations upon plan administrators, employers, employees, and qualified beneficiaries relating to certain qualifying events.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49894
ANPRM Comment Period End	11/24/97	
NPRM	03/00/02	

DOL—PWBA **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA60

1890. PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1027; 52 FR 13139, April 21, 1987; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1167; 29 USC 1194; PL 104-191 sec 101; 29 USC 1181, 101 Stat 1936; Secretary of Labor's Order No. 1-37

CFR Citation: 29 CFR 2590.702

Legal Deadline: None

Abstract: Section 702 of the Employee Retirement Income Security Act of 1974, amended by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes that a group health plan or a health insurance issuer may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any health status-related factor. These provisions are also contained in the Internal Revenue Code under the jurisdiction of the Department of the Treasury, and the Public Health Service Act under the jurisdiction of the Department of Health and Human Services.

On April 8, 1997, the Department, in conjunction with the Departments of the Treasury and Health and Human Services (collectively, the Departments) published interim final regulations implementing the nondiscrimination provisions of HIPAA. These regulations can be found at 26 CFR 54.9802-1 (Treasury), 29 CFR 2590.702 (Labor), and 45 146.121 (HHS). That notice of rulemaking also solicited comments on the nondiscrimination provisions and indicated that the Departments intend to issue further regulations on the nondiscrimination rules. This rulemaking contains additional regulatory interim guidance under HIPAA's nondiscrimination provisions. In addition, the rulemaking contains proposed guidance on bona fide wellness programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Comment Period End	07/07/97	
NPRM: Wellness	01/08/01	66 FR 1421
Second Interim Final Rule	01/08/01	66 FR 1378
NPRM Comment Period End	04/09/01	
Interim Final Rule Comment Period End	04/09/01	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: This item is being split off from RIN 1210-AA54 in order to provide focused guidance on section 702 of ERISA, which prohibits discrimination against participants and beneficiaries by group health plans and health insurance issuers based on health status.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210–AA77

1891. REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None

Abstract: This proposed regulation would provide an exemption from the bonding requirements of Section 412(a) of ERISA for certain broker dealers and investment advisers who handle plan assets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stacey L. DeWalt, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 523-8521

RIN: 1210–AA80

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

1892. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from State regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans established or maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish welfare benefit arrangements which are maintained by

legitimate unions pursuant to bona fide collective bargaining agreements from insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from State insurance regulation. The regulation will also serve to limit the extent to which plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
NPRM Comment Period End	11/16/95	60 FR 39208
Notice Establishing Negotiated Rulemaking Advisory Committee	09/22/98	63 FR 50542
Second NPRM	10/27/00	65 FR 64498
Comment Period End	12/26/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Elizabeth A. Goodman, Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA48

1893. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-91 section 101; 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1172; 29 USC 1177

CFR Citation: 29 CFR 2590

Legal Deadline: Other, Statutory, April 1, 1997, Interim Final Rule.
Per section 734 of ERISA as added by section 101 of HIPAA.

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA by adding a new part 7, designed to improve health care access, portability and renewability. This rulemaking will provide regulatory guidance to implement these provisions.

Statement of Need: HIPAA added a new part 7 to title I of ERISA, containing provisions designed to improve the availability and portability of health insurance coverage. Part 7 includes provisions limiting exclusions for preexisting conditions and providing credit for prior coverage, guaranteeing availability of health coverage for small employers, prohibiting discrimination against employees and dependents based on health status, and guaranteeing renewability of health coverage to employers and individuals.

Summary of Legal Basis: Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made, in conjunction with other concerned agencies with regard to the scope and nature of the final regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Cost and Benefits: Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks: Failure to provide regulatory guidance necessary to carry out these important health care reforms would adversely impact the availability and portability of health insurance coverage for American families.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	
Request for Information	10/25/99	64 FR 57520
Comment Period End	01/25/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel J. Maguire, Director, Office of Health Plan Standards, Department of Labor, Pension and Welfare Benefits Administration, Room N5677, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA54

1894. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1181 (PL 104-204, 110 Stat 2935); 29 USC 1135; 29 USC 1194

CFR Citation: 29 CFR 2590.711

Legal Deadline: None

Abstract: The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) was enacted on September 26, 1996 (PL 104-204). NMHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide protection for mothers and their newborn children with regard to the length of hospital stays following the birth of a child. NMHPA provisions are set forth in title XXVII of the PHSA and part 7 of subtitle B of title I of ERISA. This rulemaking will provide further guidance with regard to the provisions of the NMHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/98	63 FR 57546
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210–AA63

1895. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1135; 29 USC 1021(g)(h) (PL 104-191; 110 Stat 1952); 29 USC 1194

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: These interim final rules govern certain reporting requirements under title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care. In part, the rules implement recent changes made to ERISA by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The rules also set forth elements that MEWAs would be required to file with the Department of Labor for the purpose of determining compliance with the portability nondiscrimination, renewability and other requirements of part 7 of subtitle B of title I of ERISA including the requirements of the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Protection Act of 1996. The rules provide guidance with respect to section 502(c)(5) of ERISA which authorizes the Secretary of Labor to assess a civil penalty of up to $1,000 a day for failure to comply with the new reporting requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/00	65 FR 7152
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210–AA64

1896. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, sec 1503

CFR Citation: 29 CFR 2520.104a-2; 29 CFR 2520.104a-3; 29 CFR 2520.104a-4; 29 CFR 2520.104a-7

Legal Deadline: None

Abstract: This rulemaking will remove from the CFR certain regulations that have been superseded by amendments to title I of ERISA effected by the Taxpayer Relief Act of 1997 (PL 105-34) that eliminate the requirement for plan administrators to file summary plan descriptions (SPDs), summaries of material modifications (SMMs), and updated SPDs with the Department of Labor. Under the amendments plan administrators must continue to furnish participants and beneficiaries with copies of these documents. Separate rulemakings (RIN: 1210-AA67 and 1210-AA68) will implement the Taxpayer Relief Act amendments that require plan administrators to furnish copies of SPDs and any other documents relating to the plan to the Department on request, and authorize the Secretary of Labor to assess a civil penalty for failure to do so.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42792
NPRM Comment Period End	10/04/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lisa M. Fields, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA66

1897. REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, sec 1503

CFR Citation: 29 CFR 2520.104a-8

Legal Deadline: None

Abstract: This rulemaking will implement an amendment to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (PL 105-34) which requires plan administrators to furnish copies of any documents relating to the plan to the Department on request.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lisa M. Fields, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA67

1898. CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-34, sec 1503; 29 USC 1135; 29 USC 1132

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: This rulemaking will implement the enforcement aspects of amendments to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (Public Law 105-34) which, while eliminating the requirement that plan administrators file summary plan descriptions (SPDs), summaries of material modifications (SMMs) and updated SPDs with the Department of Labor, also provided that administrators must furnish copies of any documents relating to the plan, including but not limited to SPDs, to the Department on

request. In particular, this rulemaking will implement the amendments that authorize the Secretary of Labor to assess a civil penalty of up to $100 a day, up to a maximum of $1,000 per request, against a plan administrator who fails to furnish the requested documents on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lisa M. Fields, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA68

1899. ELECTRONIC DISCLOSURE OF EMPLOYEE BENEFIT PLAN INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, Taxpayer Relief Act; Secretary of Labor's Order No. 1-87, April 21,1987

CFR Citation: 29 CFR 2520.104b

Legal Deadline: NPRM, Statutory, December 31, 1998.

Abstract: This rulemaking will improve the ability of sponsors and administrators of all employee benefit plans covered by title I of ERISA to make certain disclosures of plan information to participants and beneficiaries through electronic means. The rule will provide guidance with respect to the conditions under which electronic disclosures will be deemed to satisfy the disclosure requirements under title I of ERISA. The rule also will establish recordkeeping standards for maintaining or storing data in electronic form.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4506
NPRM Comment Period End	03/29/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Eric A. Raps, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA71

1900. RULEMAKING RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1185; PL 105-277; 112 Stat 2681; 29 USC 1135; 29 USC 1194

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Women's Health and Cancer Rights Act of 1998 (WHCRA) was enacted on October 21, 1998 (P.L. 105-277). WHCRA amended the Employee Retirement Income Security Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to provide protection for patients who elect breast reconstruction in connection with a mastectomy. The WHCRA provisions are set forth in Part 7 of Subtitle B of Title I of ERISA and in Title XXVII of the PHS Act. These interim rules will provide guidance with respect to the WHCRA provisions.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/28/99	64 FR 29186
RFI Comment Period End	06/28/99	
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Mila Kofman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210–AA75

1901. VOLUNTARY FIDUCIARY CORRECTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1132; 29 USC 1134

CFR Citation: 29 CFR 2560

Legal Deadline: None

Abstract: Section 409 of ERISA provides that an employee benefit plan fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon him or her by part 4 of title I of ERISA shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits that such fiduciary may have made through use of assets of the plan. The Department has the authority under section 504 of ERISA to conduct investigations to deter and correct violations of title I of ERISA and under section 502(a)(2) and 502(a)(5) to bring civil actions to enforce the provisions thereof. Section 502(l) of ERISA requires the assessment of a civil penalty in an amount equal to 20 percent of the applicable recovery amount with respect to any breach of fiduciary responsibility under (or other violation of) part 4 by a fiduciary.

To encourage and facilitate voluntary correction of certain breaches of fiduciary responsibility, PWBA is adopting a Voluntary Fiduciary Correction Program (VFC Program). Under this VFC Program, plan officials will be relieved of the possibility of investigation and civil action by the Department and imposition of civil penalties, to the extent that plan officials satisfy the conditions for correcting breaches described in the program.

Timetable:

Action	Date	FR Cite
Enforcement Policy	03/15/00	65 FR 14164
Comment Period End	05/15/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth A. Goodman, Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 219-8671

RIN: 1210–AA76

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Long-Term Actions

1902. ADEQUATE CONSIDERATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1002(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/17/88	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, Room N4611, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA15

1903. CIVIL PENALTIES UNDER ERISA SECTION 502(1)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, Room N4638, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8610

RIN: 1210–AA37

1904. MENTAL HEALTH BENEFITS PARITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1182 (PL 104-204; 110 Stat 2944); 29 USC 1194

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (P.L. 104-204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to provide for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. MHPA provisions are set forth in chapter 100 of subtitle K of the Code, title XXVII of the PHSA, and part 7 of subtitle B of title I of ERISA. This rulemaking provides guidance with regard to the provisions of the MHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: LEGAL AUTHORITIES CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Mark Connor, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210–AA62

1905. INDIVIDUAL BENEFITS REPORTING REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520.105-1

Legal Deadline: None

Abstract: ERISA sections 105 and 209 require the furnishing of statements of accrued and vested pension benefits upon request of a participant or

beneficiary, upon a participant's termination of service with an employer, and upon a participant's incurring a one-year break in service. This regulation will provide guidance with respect to the furnishing of individual benefit reports to participants and beneficiaries in defined contribution pension plans.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA65

1906. SOFT DOLLAR (INTERPRETIVE BULLETIN)

Priority: Other Significant

Legal Authority: 29 USC 1103; 29 USC 1104; 29 USC 1106; 29 USC 1108; 29 USC 1135

CFR Citation: 29 CFR 2509.98-2

Legal Deadline: None

Abstract: This Interpretive Bulletin will codify the guidance provided by the Department concerning "soft dollar" and directed commission arrangements, for ease of reference by employee benefit plan fiduciaries, plan service providers, and others.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David J. Lurie, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA74

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Completed Actions

1907. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority: Other Significant

Legal Authority: PL 104-191 sec 101; PL 104-204 sec 603

CFR Citation: 29 CFR 2520.102-3; 29 CFR 2520.104b-1; 29 CFR 2520.104b-3

Legal Deadline: NPRM, Statutory, April 1, 1997, Per sections 707 and 734 of ERISA as added by section 101 of HIPAA.

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended ERISA's summary plan description (SPD) and related reporting and disclosure provisions to require that participants and beneficiaries receive from their group health plans: (i) more timely notice if there is a material reduction in services or benefits under the plan; (ii) more information regarding the financing and administration of the plan; and (iii) specific identification of Department of Labor offices through which they can seek assistance or information about HIPAA. The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) also amended ERISA's SPD and related reporting and disclosure provisions. This rulemaking will amend the Department's SPD and related regulations to implement those statutory changes.

Statement of Need: The existing SPD and related reporting and disclosure provisions need to be revised to reflect the changes made by HIPAA. HIPAA's statutory changes modify the requirements concerning the manner and timing of how certain important plan information is communicated to participants and beneficiaries by plan administrators. Without revised regulatory guidance administrators may not be able to improve the timely disclosure of plan information on both a quantitative and qualitative basis. HIPAA also requires the Secretary to issue regulations within 180 days after its enactment providing alternative mechanisms to delivery by mail through which group health plans may notify participants and beneficiaries of material reductions in covered services or benefits.

Summary of Legal Basis: Promulgation of these regulations is authorized by sections 104(b), 505 and 734 of ERISA.

Alternatives: Regulatory alternatives were considered after determinations were made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Cost and Benefits: There is estimated to be no capital/start-up cost. Total burden cost for operating/maintenance is estimated to average $73,000,000 annually for the years 1997, 1998, and 1999. However, the Department believes that the regulation, which implements requirements under HIPAA, assures that participants have better access to more complete information about their benefit plans.

Risks: The SPD is a critical plan document for participants and beneficiaries. Without access to accurate and timely information participants and beneficiaries will not be able to protect their rights under ERISA. Improved disclosure requirements also should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan administrators. The failure to issue revised disclosure regulations also may result in a failure to achieve HIPAA's objective of improving the disclosure of plan information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16979
Interim Final Rule Comment Period End	05/31/97	
Interim Final Rule Effective	06/01/97	
Second Interim Final Rule	09/09/98	63 FR 48372
Interim Final Rule Effective	11/09/98	
Comment Period End	11/09/98	
Final Action	11/21/00	65 FR 70226
Final Action Effective	01/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eric A. Raps, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA55

1908. AMENDMENTS TO EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES REGULATION

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 1133; 29 USC 1135

CFR Citation: 29 CFR 2560.503-1

Legal Deadline: None

Abstract: The Department has amended the regulation governing the establishment and maintenance of benefit claims procedures by employee benefit plans covered by title I of the Employee Retirement Income Security Act (ERISA). The amendment establishes new standards for the processing of group health and other employee benefit plan claims filed by participants and beneficiaries. In the case of group health plans, as well as certain plans providing disability benefits, the new standards are intended to ensure more timely benefit determinations, improved access to information on which a benefit determination is based, and greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Statement of Need: This regulation is necessary to insure more timely benefit determinations, improve access to information on which a benefit determination is made, and provide greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Summary of Legal Basis: Promulgation of this regulation is authorized by sections 503 and 505 of ERISA.

Alternatives: Regulatory alternatives were developed after determinations were made with regard to the scope and nature of the amendments necessary to update the rules that implement section 503 of ERISA.

Anticipated Cost and Benefits: In publishing the proposed regulations, the Department estimated that the projected benefits of the proposal would outweigh its projected costs. In particular, updating the existing regulation to address recent changes in the delivery and financing of health care services would improve health care quality by averting harmful, inappropriate delays and denials of health benefits thereby yielding substantial social benefits.

Risks: Failure to issue this regulation would have deprived many plan participants and beneficiaries of the benefits of an improved claims review process.

Timetable:

Action	Date	FR Cite
Request for Information--Amendment of Regulations on Plan Claims Procedures	09/08/97	62 FR 47262
Comment Period End	11/07/97	
NPRM	09/09/98	63 FR 48390
NPRM Comment Period End	11/09/98	
Notice of Public Hearing Held on Feb. 17,18 & 19, 1999	01/04/99	64 FR 65
Final Action	11/21/00	65 FR 70246
Final Action Effective	01/20/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Susan M. Halliday, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1210–AA61

1909. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 1024; 29 USC 1135

CFR Citation: 29 CFR 2520.102-3; 29 CFR 2520.102-5

Legal Deadline: None

Abstract: These amendments to the regulations governing the contents of summary plan descriptions (SPD) will ensure that all participants in group health plans are provided, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, understandable information concerning their plan; provider network composition; preauthorization and utilization review procedures; whether, and under what circumstances, coverage is provided for existing and new drugs; and whether, and under what circumstances, coverage is provided for experimental drugs, devices, and procedures. These amendments repeal special rules limiting the information that must be included in summary plan descriptions with respect to certain health maintenance organizations. In addition, the amendments include provisions that update or clarify the application of certain SPD content requirements affecting both pension and welfare benefit plans.

Statement of Need: This regulation is necessary to improve the disclosure of group health plan benefit information, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, as set forth in its November 20, 1997 report. The amendments also update the general SPD content requirements and update other relevant regulatory provisions.

Summary of Legal Basis: Promulgation of this regulation is authorized by sections 101(a), 102(b), and 505 of ERISA.

Alternatives: Regulatory alternatives were developed after determinations were made with regard to the scope and nature of the amendments which are necessary to improve the disclosure of benefit information to participants

DOL—PWBA — **Completed Actions**

and beneficiaries of group health plans under the applicable ERISA regulations.

Anticipated Cost and Benefits: The Department estimates that the regulation's benefits will exceed its costs. The regulation will assure that participants have better access to more complete information on their benefit plans. Better information will lead both participants and plan sponsors to make more economically efficient decisions regarding benefit plans. This enhanced value and efficiency from better information constitute the benefits of the regulation.

Risks: Failure to issue the regulation would have deprived participants, beneficiaries, and plan sponsors of the improvements in health care market efficiency which would be generated by the regulatory amendments specified therein.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48376
NPRM Comment Period End	11/09/98	
Final Action	11/21/00	65 FR 70226
Final Action Effective	01/20/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210 Phone: 202 219-8521

RIN: 1210–AA69

1910. NATIONAL MEDICAL SUPPORT NOTICE

Priority: Other Significant

Legal Authority: PL 105-200, sec 401(b); 29 USC 1135; 29 USC 1169

CFR Citation: 29 CFR 2565

Legal Deadline: Other, Statutory, May 16, 1999, Interim Final Rule. Final, Statutory, November 15, 2000.

Abstract: The purpose of this rulemaking is to provide regulations which establish a model qualified medical child support order for use by State child support agencies to facilitate the extension of health care coverage to children under their jurisdiction. This initiative is mandated by the Child Support Performance and Incentive Act of 1998 (CSPIA), P.L. 105-200.

Timetable:

Action	Date	FR Cite
NPRM	11/15/99	64 FR 62054
NPRM Comment Period End	02/14/00	
Final Action	12/27/00	65 FR 82128
Final Action Effective	01/26/01	
Final Action Effective Date Extended to	03/27/01	66 FR 8076

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 1210–AA72

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA) — **Prerule Stage**

1911. ELECTRICAL GROUNDING STANDARDS FOR METAL AND NONMETAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Electricity is used widely in the mining industry to power mining equipment, to transport material and people, and for other purposes. Our records show that accidents occur from inadequate or improper equipment grounding. We are considering rulemaking to specify the proper equipment grounding.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203 Phone: 703 235-1910 Fax: 703 235-5551 Email: meyer-david@msha.gov

RIN: 1219–AB01

1912. ESCAPEWAYS AND REFUGES

Priority: Other Significant

Legal Authority: 5 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: This standard would revise and clarify an existing standard that requires underground metal and nonmetal mines to have at least two separate exits to the surface. Because of the physical limits in underground mines, fire, massive ground fall, methane ignition, inundation, for example, could result in multiple entrapment deaths. A second escapeway increases the likelihood that miners will not be trapped underground during an emergency if one escape route is cut off.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203 Phone: 703 235-1910 Fax: 703 235-5551 Email: meyer-david@msha.gov

RIN: 1219–AB23

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA) — **Proposed Rule Stage**

1913. BELT ENTRY USE AS INTAKE AIRCOURSE TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. Our current regulations prohibit belt haulage entries from being used to ventilate active working places in mines. This prevents smoke from a belt conveyor fire from being coursed to a miner's workplace.

Improved technology, including sophisticated atmospheric monitoring systems, makes it possible to safely use belt haulage entries to ventilate active working places in mines provided certain conditions are met. In some instances this would result in more efficient and effective ventilation systems. Mine operators, however, must currently apply to MSHA for a modification of the current regulations if they want to use belt haulage entries for ventilation purposes.

The proposed rule would permit the use of this type ventilation in certain circumstances and eliminate the need for the mine operator to apply for a modification.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203 Phone: 703 235-1910 Fax: 703 235-5551 Email: meyer-david@msha.gov

RIN: 1219–AA76

1914. METAL/NONMETAL IMPOUNDMENTS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country.

Some are within flood range of homes and well traveled roads. Impoundment failures could endanger lives and cause property damage. The proposed rule will address proper design, construction, and other safety issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203 Phone: 703 235-1910 Fax: 703 235-5551 Email: meyer-david@msha.gov

RIN: 1219–AA83

1915. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 29; 30 CFR 33; 30 CFR 35; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 22; 30 CFR 23; 30 CFR 26; 30 CFR 27; 30 CFR 28

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. Our current regulations set out approval requirements for MSHA testing and evaluation for approval of certain products used in gassy underground mines. The rule as proposed would allow us to accept testing and evaluation of certain mine equipment by independent laboratories; and approve products which satisfy alternative testing and evaluation requirements if those requirements are equivalent to ours, or could be enhanced to be equivalent. We are considering reproposing the rule to assure that the proposed changes are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period Extended to 2/21/1995	02/13/95	60 FR 8209
Public Hearing Notice	10/10/95	60 FR 52640
Notice to Reschedule Public Hearing to 4/30/1996	02/09/96	61 FR 15743
Comment Period End	05/31/96	
Reproposal	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203 Phone: 703 235-1910 Fax: 703 235-5551 Email: meyer-david@msha.gov

RIN: 1219–AA87

1916. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Approximately thirty percent of the coal and metal/nonmetal fatal surface mining accidents which occurred during the past 4 years involved large haulage vehicles, over-the-road trucks, front-end loaders, and similar equipment. The proposed rule would set safety requirements for restraint systems, lighting, and blind areas for this equipment for both coal and metal and nonmetal surface mines and surface areas of underground coal and metal/nonmetal mines.

Timetable:

Action	Date	FR Cite
ANPRM	07/30/98	63 FR 40800
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203

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RIN: 1219–AA93

1917. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 1 to 199

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. We have reviewed our current regulations and identified provisions that are outdated, redundant, unnecessary or otherwise require change. We will be making these changes through notice and comment rulemaking where necessary. We will also consider new regulations that reflect "best practices" in the mining industry. We view this effort to be evolving and ongoing and will continue to accept recommendations from the public.

Timetable:

Action	Date	FR Cite
NPRM - Phase 5 Miscellaneous Technology Improvements	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AA98

1918. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 70.101 et seq; 30 CFR 90.101 et seq; 30 CFR 71.101 et seq; 30 CFR 72.101 et seq

Legal Deadline: None

Abstract: Our current regulations set limits for respirable coal dust when crystalline silica is present. We are also aware of many conditions that result in worker overexposure to silica. This overexposure will result in the development of silicosis in some workers. Therefore, we are currently evaluating recommendations of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers to determine which one, or combination of recommendations, will most effectivly reduce worker overexposure to silica. We are considering rulemaking to implement relevant recommendations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB12

1919. SAFETY STANDARDS FOR SELF-CONTAINED SELF-RESCUE DEVICES IN COAL AND METAL/NONMETAL UNDERGROUND MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48; 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: Self-contained self-rescuers (SCSR) are closed circuit breathing devices that provide a source of oxygen and greatly increase a miner's chance of surviving a mine emergency involving an irrespirable atmosphere. The mining industry has had recent experiences with SCSRs which did not function properly or were not donned properly, rendering them ineffective. We are considering a rule to address the service life of the devices, the appropriate inspection of SCSRs, and the adequacy of training. In addition, we may propose to apply SCSR standards to metal and nonmetal mines.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/99	64 FR 36632
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: This rulemaking replaces the metal and nonmetal rulemaking RIN 1219-AB06 (Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines). This new rulemaking addresses SCSRs at both coal and metal and nonmetal mines.

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RIN: 1219–AB19

1920. MINE RESCUE TEAMS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 49

Legal Deadline: None

Abstract: We are assessing our current regulations to identify areas where we might increase flexibility and encourage underground mine operators to provide mine rescue and recovery capability at their mines. We hope to increase the number of mine rescue teams available to assist miners in life threatening emergencies.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB20

1921. SURGE AND STORAGE PILES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.209

Legal Deadline: None

Abstract: MSHA has documented a number of fatalities and injuries involving miners operating vehicles and equipment on surface coal surge piles. The current standard only prohibits persons from walking or standing on or around surge or storage piles where a hazard may exist. We are considering rulemaking to expand the existing standard to address vehicles and equipment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB22

1922. ACCIDENT INVESTIGATION HEARING PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 30 USC 957

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The rule is designed to clarify and codify accident investigation hearing procedures. The rule addresses all public hearings convened by the Secretary of Labor for the purpose of investigating any accident or other occurrence relating to the health or safety of miners pursuant to section 103(b) of the Federal Mine Safety and Health Act of 1977.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219–AB26

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Final Rule Stage

1923. HAZARD COMMUNICATION

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 47

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to many chemical hazards, some created during the mining and milling process and some brought onto mine property. The Hazard Communication rule will provide miners with the means to receive necessary information on the hazards of chemicals to which they may be exposed and the actions necessary to protect themselves from such hazards. The interim Final Rule is to be consistent with OSHA's hazard communication standard rule to the extent practical.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/31/92	56 FR 48720
Reopen Record	03/30/99	64 FR 15144
Interim Final Rule	10/03/00	65 FR 59048
Interim Final Rule Comment Period End	11/17/00	
Public Hearing and Extension of Comment Period to 12/19/00	12/11/00	65 FR 77292
Interim Final Rule Effective	10/03/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219–AA47

1924. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations require that high-voltage cables and transformers be kept at least 150 feet from coal extraction areas. These requirements are intended to eliminate an ignition source for methane and coal dust in close proximity to the work area.

Highly productive longwall mining systems are now in widespread use in the mining industry. They use safe high-voltage electrical equipment and associated cables. Mine operators, however, currently must apply to us for a modification from the existing regulations if they want to use this high-voltage equipment.

The final rule would eliminate the need for a modification to use this equipment and would establish safety requirements for the design, construction, installation, use, and

maintenance of high-voltage longwall equipment and associated cables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
Extension of Comment Period to 11/13/1992	10/23/92	57 FR 48350
Reopen Record	10/18/95	60 FR 53891
Extension of Comment Period	11/14/95	60 FR 57203
Comment Period End	12/18/95	
Reopen Record	12/28/99	64 FR 72620
Comment Period End	02/28/00	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA75

1925. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations require conveyor belts used in underground coal mines to be flame-resistant. The rule, as proposed, would set new procedures and requirements for testing and approval of these belts to evaluate their resistance to fire ignition and propagation. The proposal would also require purchase of the improved belts after one year.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
Extension of Comment Period to 3/26/93	02/11/93	58 FR 8028
Reopen Record and Notice of Public Hearing	03/31/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Record Reopened	10/31/95	60 FR 55353
Extension of Comment Period to 2/5/1996	12/20/95	60 FR 65509
Record Reopened	12/28/99	64 FR 72617
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA92

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Long-Term Actions

1926. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: Our current regulations for exposure to hazardous airborne contaminants are over 25 years old. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, and other hazards. Examples of these include lead, cyanide, arsenic benzene, asbestos and other well-documented hazards. We will propose provisions of the air quality rule in phases based on our assessment of priority needs.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
NPRM Phase 2 - Respiratory Protection - Reproposal	To Be	Determined
NPRM Phase 3 - PELs	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219–AA48

1927. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: Storage bins, hoppers, tanks, stock piles, and other confined spaces at mining operations create hazards to miners. These hazards include entrapment by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Additionally, miners are exposed to toxic and physical hazards in these confined spaces. We will explore both regulatory and non-regulatory ways to eliminate or reduce these hazards.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AA54

1928. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. Our current regulations for underground coal mines do not recognize some of the significant differences in mining methods used in underground anthracite mines. Mining methods in anthracite mines include minimal use of mechanized equipment and a slow rate of advance into the coal seam. In addition, anthracite coal is found in pitched, undulating seams.

Mine operators currently must petition us for a modification of the existing regulations for certain mining situations. The proposed rule would address the specific conditions of the anthracite mining industry and eliminate the need for a modification of existing safety requirements.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1219–AA96

1929. TRAINING AND RETRAINING OF MINERS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: Our current regulations require all mine operators to have approved plans for training their miners. We reviewed these requirements as part of our Regulatory Flexibility Review to determine if changes were appropriate. In response to public comments, we are considering increasing the number of hours of annual refresher training for supervisors from 8 hours to 12 hours. The training needs of supervisors are broader in scope than those of miners. We believe that better trained, more knowledgeable supervisors will contribute to their own safety and that of miners under their supervision.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
End Review	10/01/98	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: Training and Retraining of Miners: Supervisor Training (1219-AB16) is combined with this rulemaking.

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RIN: 1219–AB02

1930. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING CONCENTRATION LIMIT)

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline: None

Abstract: In 1996, the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners recommended that we consider lowering the respirable coal mine dust standard. In 1995, the National Institute for Occupational Safety and Health issued a Criteria Document in which they recommended that the respirable coal mine dust concentration limit be cut in half. We are considering rulemaking to lower the respirable coal mine dust concentration limit because miners continue to be at risk of developing dust-induced occupational lung disease.

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1219–AB08

1931. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: Our current regulations require that all underground coal mine operators develop and follow a mine ventilation plan that we approve. However, we do not have a requirement that provides for verification of each plan's effectiveness under typical mining conditions. Consequently, plans may be implemented by mine operators that could be inadequate to control respirable dust. The proposed rule provides for MSHA to verify the effectiveness of mine ventilation plans to control respirable dust under typical mining conditions. For longwall mine operators, we proposed to permit the

limited use of either approved loose-fitting powered, air purifying respirators (PAPRS) or verifiable administrative controls as a supplemental means of compliance with the respirable coal mine dust concentration limit, if we have determined that further reduction in respirable dust levels cannot be achieved using all feasible engineering controls. Furthermore, MSHA proposed to assume responsibility for all compliance sampling for respirable dust in underground coal mines as required under CFR parts 70 and 90.

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in maintaining exposure levels in mines at or below the applicable standard. Our regulations require that all underground coal mine operators develop and follow a mine ventilation plan approved by us. The dust control portion of the mine ventilation plan is the key element of an operator's strategy to control respirable dust in the work environment. Although such plans are required to be designed to control respirable dust, there is no current requirement that provides for verification of each proposed plan's effectiveness under typical mining conditions. Consequently, plans may be implemented that may be inadequate to control respirable dust.

Therefore, we proposed to revoke existing operator respirable dust sampling and to implement new regulations that would require each underground coal mine operator to have a verified ventilation plan. MSHA would verify the effectiveness of the mine ventilation plan for each mechanical mining unit in controlling respirable dust under typical mining conditions.

Summary of Legal Basis: Promulgation of these regulations is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: In developing the proposed rule, we considered alternatives related to typical production levels and the use of appropriate dust control strategies, use of supplemental controls for mining entities other than longwalls, and the level of protection of loose-fitting powered air purifying respirators (PAPRS) in underground coal mines.

Anticipated Cost and Benefits: Benefits sought are eliminating coal workers' pneumoconiosis by reducing over-exposures to respirable coal dust on each and every production shift. Additional benefits include: reduced health care costs, disability and black lung benefit payments. On average there would be a cost savings for most mine operators when MSHA completely takes over compliance and abatement sampling for respirable dust once this rule is promulgated. We developed estimates and made them available for public review.

Risks: Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are potentially disabling and can cause death. We are pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and the reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42122
Notice of Hearings; Close of Record	07/07/00	65 FR 42186
Extension of Comment Period; Close of Record	09/08/00	65 FR 49215
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB18.

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RIN: 1219–AB14

1932. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 72

Legal Deadline: None

Abstract: The National Institute for Occupational Safety and Health and the Mine Safety and Health Administration jointly determined that a single, full-shift measurement ("single, full-shift sample") would accurately represent the atmospheric conditions to which a miner is exposed during a single shift. The proposed rule addresses the U.S. Court of Appeals' concerns raised in National Mining Association v. Secretary of Labor, 153 F3d 1264 (11th Cir. 1998).

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were two decades ago. Despite this progress, there continues to be concern about our current sampling programs' ability to accurately measure and maintain respirable coal mine dusts exposure at or below the applicable standard on each shift. For as long as miners have taken coal from the ground, many have suffered respiratory problems due to their exposures to respirable coal mine dust. These respiratory problems affect the current workforce and range from mild impairment of respiratory function to more severe diseases, such as silicosis and pulmonary massive fibrosis. For some miners, the impairment of their respiratory systems is so severe, they die prematurely. Since there is a clear relationship between miners' cumulative exposure to respirable coal mine dust and the severity of the resulting respiratory conditions it is imperative that each miner's exposure not exceed the applicable standard on each and every shift.

Summary of Legal Basis: Promulgation of these regulations is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: The requirements of this rule ("single, full-shift sample rule") will work in tandem with those of the proposed rule (RIN 1219-AB14) in which MSHA would verify the effectiveness of ventilation plans as well as conduct all compliance sampling in underground coal mines.

Anticipated Cost and Benefits: Benefits sought are eliminating coal workers pneumoconiosis by over-exposures to respirable coal dust on each and every production shift. Additional benefits include: reduced health care costs, disability and black lung benefit payments. There would be a cost savings for mine operators when MSHA completely takes over compliance and abatement sampling for respirable dust once this rule is promulgated. We have developed cost estimates and have made them available for public review.

Risks: Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Occupational exposure to excessive levels of respirable coal mine dust can cause coal workers' pneumoconiosis and silicosis, which are potentially disabling and can cause death. We are pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185
Extension of Comment Period; Close of Record	09/08/00	65 FR 49215
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB14 (Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust).

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RIN: 1219–AB18

1933. VERIFICATION OF SURFACE COAL MINE DUST CONTROL PLANS

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 30 CFR 71

Legal Deadline: None

Abstract: The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Workers made several recommendations that impact surface coal mine workers.

These surface coal mine issues will be addressed by the agency in a separate rulemaking which is currently underway. The scope of that rulemaking will include many issues that are addressed in the proposed underground rule (1219-AB14)Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust. These issues include requirements for dust control plans, verification of dust control plans prior to approval, on shift examination of dust control measures, and the elimination of operator sampling for compliance purposes.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1219–AB21

1934. ASBESTOS EXPOSURE LIMIT

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 71

Legal Deadline: None

Abstract: Overexposure to asbestos causes mesothelioma and other forms of cancers such as cancers of the digestive system. MSHA's asbestos standard is 20 years old. Recent scientific data indicate that the existing permissible exposure limit (PEL) is not protective of miners' health. MSHA is considering rulemaking to lower the asbestos PEL because miners are at risk of developing asbestos-induced occupational lung disease.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AB24

1935. • CONTINUOUS MONITORING OF RESPIRABLE COAL MINE DUST IN UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813(h)

CFR Citation: 30 CFR 70; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: Based on available technology, MSHA's current regulations to control underground coal miners' exposure to respirable coal mine dust employ periodic inspector and operator sampling for overexposures. MSHA recognizes that continuous respirable dust monitors, under development, would allow mine operators and miners to be aware of the actual dust cconditions at all times, thereby enabling immediate action to avert overexposures. The ability to monitor dust exposures continuously during each workshift, predict end-of-work-shift cumulative exposures, and to display the actual end-of-work-shift exposures would be far more effective in controlling exposures to respirable coal mine dust than the current system. Continuous monitors when used effectively could greatly reduce coal miners' occupational lifetime exposures to respirable coal mine dust and the associated risks for developing occupational lung disease. For operators who would use continuous monitoring, we would solicit comments on proposed modifications to the current dust control regulations. Moreover, for operators who would not use continuous monitors, we would

identify how the current periodic dust monitoring sampling program could be improved, to increase protection of miners from occupational exposure to respirable coal mine dust.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1219–AB27

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Completed Actions

1936. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND COAL MINERS)

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 72

Legal Deadline: None

Abstract: Epidemiological studies indicate that diesel exhaust presents potential health risks to workers ranging from headaches and nausea to respiratory disease and cancer. The National Institute for Occupational Safety and Health considers whole diesel exhaust to be a potential occupational carcinogen. The International Agency for Research on Cancer found that diesel engine exhaust is probably carcinogenic to humans.

The final rule for underground coal mines requires that the diesel particulate matter (dpm) emissions from certain pieces of equipment be restricted to prescribed levels, and requires operators to train miners about the hazards of dpm exposure.

Statement of Need: The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. We estimate that approximately 13,000 miners are occupationally exposed to diesel exhaust emissions in underground coal mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual acuity, and decreased forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, we are concerned about the potential health risk to miners.

Summary of Legal Basis: Promulgation of these regulations is authorized by sections 101, 103, and 508 of the Federal Mine Safety and Health Act of 1977.

Alternatives: In the fall of 1995, we held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter. We considered establishing a PEL for diesel particulate in coal mines, but found there was no method suitable for such compliance, as in underground metal and nonmetal mines, due to the inability of the available methods to distinguish between coal dust and dpm.

Anticipated Cost and Benefits: Total compliance costs for underground coal mines that use diesel powered equipment are about $7 million a year.

Benefits of the rule include reductions in lung cancer. MSHA estimates that a minimum of 1.8 lung cancer deaths will be avoided per year. The rule will also reduce the risk of death from cardiovascular, cardiopulmonary, and respiratory causes and reduction in sensory irritation and respiratory symptoms. MSHA does not believe that the available data can support reliable or precise quantitative estimates of these benefits. Nevertheless, the expected reductions in the risk of death from cardiovascular, cardiopulmonary, and respiratory causes appear to be significant, and the expected reductions in sensory irritation and respiratory symptoms appear to be rather large.

Risks: Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. We believe that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	04/09/98	63 FR 17492
Notice Significant Environment Impact	07/14/98	63 FR 37796
Extension of Comment Period; Notice of Hearings; Close of Record	08/05/98	63 FR 41755
Notice of Hearings; Close of Record	10/19/98	63 FR 55811
Extension of Comment Period; Availability of Studies; Close of Record	02/12/99	64 FR 7144
Extension of Comment Period; Close of Record	04/27/99	64 FR 2259
Corrections	07/08/99	64 FR 36826

Action	Date	FR Cite
Availability of Documents; Request for Comments	06/30/00	65 FR 40557
Final Action	01/19/01	66 FR 5526
Final Action Effective	03/20/01	
Delay of Final Action Effective Date to 05/21/01	03/15/01	66 FR 15033

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1219–AA74

1937. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS)

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Epidemiological studies indicate that diesel exhaust presents potential health risks to workers ranging from headaches and nausea to respiratory disease and cancer. The National Institute for Occupational Safety and Health considers whole diesel exhaust to be a potential occupational carcinogen. The International Agency for Research on Cancer found that diesel engine exhaust is probably carcinogenic to humans.

The final rule for underground metal and nonmetal mines establishes a concentration limit for diesel particulate matter and requires the use of engineering and best work practices controls to reduce diesel particulate matter.

Statement of Need: The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. We estimate that about 7,500 miners working in production or development areas are occupationally exposed to diesel exhaust emissions in underground metal and nonmetal mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual activity, and decreased forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust. We are concerned about the potential health risk to miners.

Summary of Legal Basis: Promulgation of these regulations is authorized by sections 101 and 103 of the Federal Mine Safety and Health Act of 1977.

Alternatives: In the fall of 1995, we held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

Anticipated Cost and Benefits: The costs per year to the underground metal and nonmetal industry are about $25.1 million. The cost for an average underground metal and nonmetal mine is expected to be about $128,000 annually.

Benefits of the rule include reductions in lung cancer. MSHA estimates that a minimum of 1.8 lung cancer deaths will be avoided per year. The rule will also reduce the risk of death from cardiovascular, cardiopulmonary, and respiratory causes and reduction in sensory irritation and respiratory symptoms. MSHA does not believe that the available data can support reliable or precise quantitative estimates of these benefits. Nevertheless, the expected reductions in the risk of death from cardiovascular, cardiopulmonary, and respiratory causes appear to be significant, and the expected reductions in sensory irritation and respiratory symptoms appear to be rather large.

Risks: Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. We believe that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	10/29/98	63 FR 58104
Extension of Comment Period; Availability of Studies; Close of Record	02/12/99	64 FR 7144
Notice of Hearings; Close of Record	03/24/99	64 FR 14200
Corrections	07/08/99	64 FR 36826
Availability of Documents; Request for Comments	06/30/00	65 FR 40557
Final Action	01/19/01	66 FR 5706
Final Action Effective	03/20/01	
Delay of Final Action Effective Date to 05/21/01	03/15/01	66 FR 15032

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219–AB11

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Office of the Assistant Secretary for Administration and Management (OASAM)

1938. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq, Age Discrimination Act of 1975

CFR Citation: 45 CFR 90

Legal Deadline: NPRM, Statutory, September 10, 1979, Deadline requires publication of the NPRM within 90 days of publication and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the Act). The Act and the general, Government-wide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the Government-wide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under section 167 of the Job Training Partnership Act of 1982 and the implementing regulations at 29 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71714
NPRM Comment Period End	03/01/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA21

1939. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 2938 Workforce Investment Act

CFR Citation: 29 CFR 37

Legal Deadline: Final, Statutory, August 7, 1999.

Abstract: The Workforce Investment Act of 1998 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 prohibits discrimination on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, and participant status, and against certain noncitizens. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the enactment of the WIA. Such regulations will include standards for determining compliance and procedures for enforcement that are consistent with the Acts referred to in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts processed in a manner that avoids duplication of effort.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/12/99	64 FR 61692
Interim Final Rule Comment Period End	12/13/99	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA29

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Office of the Assistant Secretary for Administration and Management (OASAM)

1940. DEPARTMENT OF LABOR ACQUISITION REGULATION

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to the DOLAR reflect changes in the Federal Acquisition Regulation and organizational changes within DOL.

Timetable:

Action	Date	FR Cite
Internal Review and Drafting	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA20

DOL—OASAM

Long-Term Actions

1941. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7501 Single Audit Act Amendments of 1996; OMB Circular A-110; OMB Circular A-133

CFR Citation: 29 CFR 99

Legal Deadline: None

Abstract: This action adds a new title 29 CFR 99 "Audits of States, Local Governments, and Non-Profit Organizations" as a new regulation which codifies the revised Office of Management and Budget (OMB) Circular A-133 in its entirety. The Single Audit Act Amendments of 1996 (Public Law 104-156, 110 Stat. 136) and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," required agencies to adopt in codified regulations the standards in the revised OMB Circular A-133 by August 29, 1997, so that they will apply to audits of fiscal years beginning after June 30, 1996. The revised OMB Circular A-133 co-located audit requirements for States, local governments, and nonprofit organizations. As a consequence, the OMB rescinded OMB Circular A-128, "Audits of States and Local Governments." On August 29, 1997, the Department of Labor amended its grants common rules at 29 CFR 95 and 29 CFR 97 in accordance with OMB guidance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA26

1942. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7500 et seq; OMB Circular A-133

CFR Citation: 29 CFR 96

Legal Deadline: None

Abstract: This Interim Final Rule revises title 29 of the Code of Federal Regulations (CFR) part 96 "Audit Requirements for Grants, Contracts, and Other Agreements" to consolidate various provisions and ensure consistency, continuity, and ameliorate conflicts with subtitle A of 29 CFR parts 95 and 97.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA27

1943. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 32

Legal Deadline: None

Abstract: Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in federally financed programs and activities. The Department last published a final rule implementing section 504 on October 7, 1980. Since that time, section 504 has been amended several times, generally to update terminology and provide new definitions. The Department is undertaking this rulemaking to update 29 CFR part 32 to incorporate those changes.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA28

1944. GRANTS AND AGREEMENTS

Priority: Other Significant

Legal Authority: PL 105-277

CFR Citation: 29 CFR 95

Legal Deadline: None

Abstract: The Department is joining with other Federal agencies to establish revised regulations for Grants. Congress included a two-sentence provision in OMB's appropriation for fiscal year 1999, contained in Public Law 105-277, directing OMB to revise section 95.36 of Circular A-110 "to require Federal

awarding agencies to ensure that all data produced under an award will be made available to public through the procedures established under the Freedom of Information Act." Circular A-110 applies to grants and cooperative agreements with institutions of higher education, hospitals, and nonprofit institutions, from all Federal agencies. OMB finalized the revision on September 30, 1999 (64 FR 54926). This interim final rule amends the agencies' codification of Circular A-110 so they reflect OMB's recent action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA30

1945. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND IMPLEMENTATION OF SECTION 504 OF THE REHABILITATION ACT OF 1973

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000(d); 29 USC 794

CFR Citation: 29 CFR 31; 29 CFR 32

Legal Deadline: None

Abstract: This proposal would incorporate into 29 CFR parts 31 and 32 the term "program or activity" and the definition of that term as it was defined in the Civil Rights Restoration Act of 1987. Part 31 effectuates title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin in programs or activities that receive financial assistance from the Department of Labor. Part 32 implements section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs or activities that receive financial assistance from the Department of Labor.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291–AA31

1946. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG FREE WORKPLACE (GRANTS) 29 CFR 98

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 40 USC 486(c); 41 USC 701

CFR Citation: 29 CFR 94; 29 CFR 98

Legal Deadline: None

Abstract: OMB established a Committee to update these regulations on debarment of grantees and enforcement of the Drug Free Workplace for grantees.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Regulation will be redrafted and submitted by the interagency committee.

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RIN: 1291–AA33

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Prerule Stage

1947. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review has considered the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 2001.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Publish Report	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB60

1948. PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.119

Legal Deadline: None

Abstract: OSHA is undertaking two regulatory actions concerning the Process Safety Management of Highly Hazardous Chemicals (PSM) standard. One action is to publish, in November 2001, an advance notice of proposed rulemaking to address the need to add reactive chemicals that are not currently covered by PSM to the rule and the need to revise the language of the rule to clarify OSHA's intent to cover flammable liquids stored in atmospheric tanks that are connected to a process. Another action is a proposal to add chemicals to the list of highly hazardous chemicals in the PSM standard that were not originally included in the OSHA standard but were included in the Environmental Protection Agency's (EPA) Risk Management Program (RMP) rule (one part of the RMP rule addresses compliance with the OSHA Process Safety Management rule). OSHA has been asked by representatives of the regulated community to bring its chemical list into closer alignment with the RMP rule.

Timetable:

Action	Date	FR Cite
ANPRM Reactives	11/00/01	
NPRM Process Safety Management	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB63

1949. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

Abstract: OSHA is undertaking a review of its grain handling standard (29 CFR 1910.272) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB73

1950. OCCUPATIONAL EXPOSURE TO PERCHLOROETHYLENE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: OSHA intends to issue an advance notice of proposed rulemaking (ANPRM) to address the hazards associated with occupational exposure to perchloroethylene (also called "tetrachloroethylene") (CAS 127-18-4). OSHA's limits for this substance are 100 ppm as an 8-hour TWA; 200 ppm as a 15-minute ceiling; and 300 ppm as a 5-minute peak not to be exceeded in any 3-hour period (29 CFR 1910.1000). These limits have been in place for nearly 30 years and are widely recognized as being inadequately protective. NIOSH classifies perchloroethylene as an occupational carcinogen. Workers exposed to perchloroethylene may experience sensory irritation, narcosis, liver damage, and cancer. The ANPR will solicit information from interested parties on the risk, current exposure levels, current industry control practices, and feasible means of achieving reductions in existing exposure levels among workers in perchloroethylene-using industries. It will also request information on the health risks posed to workers by alternative processes and solvents, including new detergent formulations.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200

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RIN: 1218–AB86

1951. SANITATION IN THE CONSTRUCTION INDUSTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.51

Legal Deadline: None

Abstract: On October 7, 1998, the Advisory Committee on Construction Safety and Health (ACCSH) recommended that OSHA consider proposed revisions to the construction sanitation standard (29 CFR 1926.51). OSHA believes that the ACCSH recommendation raises important issues regarding the type of sanitation facilities needed for construction workers. OSHA intends to issue an ANPRM to consider revisions to the sanitation standard that would include washing facilities, gender-separate and lockable toilet facilities, and (where other OSHA standards require change rooms), gender-separate and lockable change facilities.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB87

1952. HEARING LOSS PREVENTION IN CONSTRUCTION WORKERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.52

Legal Deadline: None

Abstract: OSHA issued a section 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise exposed workers in general industry in 1983. However, a number of recent studies have shown that a large number of construction workers experience work-related hearing loss. In addition, current industry practice with regard to the use of engineering, administrative and personal protective equipment to reduce exposures to noise is low in this industry. OSHA intends to issue an Advance Notice of Proposed Rulemaking (ANPRM) in November 2001, and to initiate stakeholder meetings to gather information on the extent of noise-induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB89

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

1953. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). This would represent a significant reduction in the current PEL. The current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3, measured as chromium (VI) and reported as chromic anhydride (CrO3). The amount of chromium (VI) in the compound equates to a PEL of 52 ug/m3. This ceiling limit applies to all forms of hexavalent chromium (VI), including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL for chromium (VI) in the construction industry is 100 ug/m3 as a TWA PEL, which also equates to a PEL of 52 ug/m3. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b) rulemaking.

The major illnesses associated with occupational exposure to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The major uses of hexavalent chromium are: as a structural and anti-corrosive element in the production of stainless steel, ferrochromium, iron and steel, and in electroplating, welding and painting. Work on a proposed rule continues.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB45

1954. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment. One million construction workers are exposed to the hazards of confined space entry each year. OSHA intends to issue a proposed rule addressing this construction industry hazard next year.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate ef Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB47

1955. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (SHIPYARDS: FIRE SAFETY)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, subpart P

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. With the assistance of the Agency's Maritime Advisory Committee on Occupational Safety and Health, OSHA formed a Negotiated Rulemaking Committee to develop draft regulatory text addressing fire protection in shipyards. The committee includes members representing employers, employees, and other affected parties. The committee has drafted a regulatory text and is now working with OSHA staff to refine and support it in preparation for publication as a proposed rule.

The operations that would be addressed in this rulemaking relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. A total of 75,000 workers are potentially exposed to these hazards annually. This proposed standard is expected to be published next year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB51

1956. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910.1000; 29 CFR 1915.1000; 29 CFR 1917.1(a)(2)(ii); 29 CFR 1918.1(b)(a); 29 CFR 1926.55

Legal Deadline: None

Abstract: OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. Most of the air contaminant limits were adopted by OSHA in 1971 from recommendations issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much new information has become available that indicates that, in many cases, these early limits are outdated and insufficiently protective of worker health.

OSHA believes that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. OSHA published (61 FR 1947) the name of the 20 substances from which the proposed new PELs for the first update were chosen: carbon

disulfide, carbon monoxide, chloroform, dimethyl sulfate, epichlorohydrin, ethylene dichloride, glutaraldehyde, n-hexane, 2-hexanone, hydrazine, hydrogen sulfide, manganese and compounds, mercury and compounds, nitrogen dioxide, perchloroethylene, sulfur dioxide, toluene, toluene diisocyanate, trimellitic anhydride, and vinyl bromide. The specific hazards associated with the air contaminants preliminarily selected for regulation include cancer, neurotoxicity, respiratory and skin irritation and sensitivity, and cardiovascular disease, etc. For this first stage in the current rulemaking process, OSHA has decided to propose new PELs for four chemicals - carbon disulfide, glutaraldehyde, hydrazine, and trimellitic anhydride - that have different adverse health effects, both carcinogenic and non-carcinogenic, requiring different risk assessment approaches. For these four chemicals, OSHA has modified or developed new quantitative risk assessment approaches for cancer, respiratory sensitization and irritation, cardiovascular disease and neurotoxicity effects. Publication of the proposal will allow OSHA to continue to develop a mechanism for updating and extending its air contaminant limits, that will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB54

1957. METALWORKING FLUIDS: PROTECTING RESPIRATORY HEALTH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)(1); 29 USC 656(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In December 1993, the International Union, United Automobile Aerospace and Agricultural Implement Workers of America, petitioned OSHA to take emergency regulatory action to protect workers from the risks of occupational cancers and respiratory illnesses due to exposure to metalworking fluids. In response to the petition, OSHA established a 15-member Standards Advisory Committee to make recommendations to OSHA regarding the need for a standard, a guideline, or other appropriate response to the dangers of occupational exposures to metalworking fluids. The Committee recommended that OSHA proceed with a rulemaking on metalworking fluids under section 6(b)(5) of the Act. Workers exposed to these fluids are at risk of developing respiratory diseases, including hypersensitivity pneumonitis, occupational asthma, and lung cancer and dermatoses. The committee submitted its report to OSHA in July, 1999. OSHA plans to propose a standard in 2001.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB58

1958. PLAIN LANGUAGE REVISION OF THE FLAMMABLE AND COMBUSTIBLE LIQUIDS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.106

Legal Deadline: None

Abstract: OSHA has identified this standard for revision as part of an initiative on federal regulations discussed in the U.S. Department of Labor report of June 15, 1995 and to respond to the June 1998 executive memo on plain language. OSHA intends to propose a plain language revision of the regulations contained in 29 CFR 1910.106 addressing flammable and combustible liquids storage.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Flammable and Combustible Liquids Plain Language Revision Project, 29 CFR 1910.106, was originally one of four projects listed under RIN 1218-AB55.

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RIN: 1218–AB61

1959. PLAIN LANGUAGE REVISION OF THE MECHANICAL POWER-TRANSMISSION APPARATUS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.219

Legal Deadline: None

Abstract: OSHA has identified this standard in 29 CFR part 1910 for revision as part of an initiative on Federal regulations discussed in the U.S. Department of Labor Report of June 15, 1995 and to respond to the June 1998 Executive Memo on Plain Language. OSHA intends to propose a plain language revision of the rule.

Timetable:

Action	Date	FR Cite
NPRM - Mechanical Power-Transmission Apparatus	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB66

1960. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926.97; 29 CFR 1926.950 to 968

Legal Deadline: None

Abstract: The annual fatality rate for power line workers is over 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 20 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, that will add flexibility to the standard, and that will update and streamline the standard. In addition, OSHA intends to amend the corresponding standard for general industry so that requirements for work performed during maintenance of electric power transmission and distribution installations are the same as those for similar work in construction.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB67

1961. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910; 29 CFR 1926; 29 CFR 1915; 29 CFR 1916; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: Silica exposure remains a serious threat to nearly 2 million U.S. workers, including more than 100,000 workers in high risk jobs such as abrasive blasting, foundry work, stonecutting, rock drilling, quarry work and tunneling. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur in sandblasters and rock drillers and by recent studies that demonstrate a statistically significant increase in lung cancer among silica-exposed workers. In October 1996, the International Agency for Research on Cancer classified crystalline silica as "carcinogenic to humans." Exposure studies indicate that some workers are still exposed to very high levels of silica. Although OSHA currently has a permissible exposure limit for crystalline silica (10 mg/m3 divided by the percent of silica in the dust (respirable + 2)), more than 30 percent of OSHA-collected silica samples from 1982 through 1991 exceeded this limit. Additionally recent studies suggest that the current OSHA standard is insufficient to protect against silicosis. OSHA plans to publish a proposed rule on crystalline silica under section 6(b)(5) of the Act. The standard would protect silica-exposed workers in general industry, construction and maritime.

Statement of Need: The current OSHA permissible exposure limit for silica is 10 mg/m3 divided by the percent of silica in the dust + 2 (respirable) and 30 mg/m3 divided by the percent of silica in the dust + 2 (total dust). In the interval since this limit was promulgated there have been a number of studies of workers that have estimated that close to 50 percent of workers exposed to silica at the current limit for a 45-year working lifetime would develop silicosis, a disabling, progressive and sometimes fatal disease involving scarring of the lung, coughing, and shortness of breath. There are currently about 300 deaths reported per year from silicosis. However, the actual number of cases and the true risk is unknown due to inadequate case identification, which means that the number of deaths is probably underreported. Also, since the promulgation of OSHA's permissible exposure limit, studies have demonstrated a statistically significant, dose-related increase in lung cancer in several occupational groups.

Because of these recent findings, OSHA believes that it will be necessary to conduct a risk assessment to determine whether the current permissible exposure limit is protective of worker health. OSHA also believes that, in addition to the permissible exposure limit, the ancillary provisions, such as engineering controls, provided by a comprehensive standard will be necessary to reduce worker exposure to crystalline silica.

Summary of Legal Basis: The legal basis for the proposed rule is a preliminary determination by the Secretary of Labor that exposure to silica at the Agency's current permissible exposure limits poses a significant risk of material impairment of health and that a standard will substantially reduce that risk.

Alternatives: OSHA has considered or conducted several programs designed to reduce worker exposure to crystalline silica. The OSHA Special Emphasis Program for Silicosis provides inspection targeting to reduce or eliminate workplace exposures to

crystalline silica. The National Campaign to Eliminate Silicosis being conducted by OSHA (in conjunction with the National Institute for Occupational Safety and Health, the Mine Safety and Health Administration, and the American Lung Asssociation) is an ongoing program involving outreach and education and the dissemination of materials on methods to reduce worker exposure to crystalline silica. Other nonregulatory approaches might include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of death or serious physical harm, and the issuance of hazard alerts. Although these approaches may be partially effective in reducing worker exposure to crystalline silica and reducing disease risk, OSHA believes that progress in the prevention of silica-related diseases demands the issuance of a comprehensive silica standard.

Anticipated Cost and Benefits: The scope of the proposed rule is currently under development and thus quantitative estimates of costs and benefits have not been determined at this time.

Risks: OSHA has not yet completed an assessment of the risks of exposure to crystalline silica. Other studies have shown risks ranging from 35 to 47 percent among workers exposed over a working lifetime and have additionally identified silica as a potential occupational carcinogen.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB70

1962. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Beryllium is a lightweight metal that is used for nuclear weapons, for atomic energy, and for metal alloys such as beryllium-copper and beryllium-aluminum. The metal alloys are used in dental appliances, golf clubs, non-sparking tools, wheelchairs, etc. Beryllium is also used in the ceramics industry. OSHA's current permissible exposure limits for beryllium are: an 8-hour TWA of 2 ug/m3; a 5 ug/m3 ceiling concentration not to be exceeded over a 30-minute period; and a 25 ug/m3 maximum peak exposure never to be exceeded.

In 1977, OSHA proposed to reduce the 8-hour TWA exposure to beryllium from 2 ug/m3 to 1 ug/m3 based on evidence that beryllium caused lung cancer in exposed workers. A hearing followed the proposal, but a final standard was never published. Since the previous OSHA hearing, NIOSH has updated its studies on beryllium exposed workers. The study results again demonstrated a significant excess of lung cancer among exposed workers. The International Agency for Research on Cancer (IARC) has concluded that beryllium is a carcinogen in humans (Category I).

In addition to lung cancer, a new OSHA beryllium standard would address chronic beryllium disease (CBD), a fatal disease involving lung fibrosis and other organ toxicity. Based on several recent studies involving workers employed in the beryllium ceramics industry, in beryllium production, and in Department of Energy facilities, there is now evidence that very low level beryllium exposure (less than 0.5 ug/m3) may cause CBD. A new medical surveillance tool is now available that allows for the early detection of workers with CBD prior to any signs of clinical disease or symptoms. Beryllium-sensitized workers convert to CBD at an estimated rate of about 10 percent per year. This "beryllium sensitization" test is being used in clinical studies of current and past exposed workers. Recent study results indicate that between 5 percent and 15 percent of beryllium-exposed workers are sensitized and will eventually develop CBD.

In the past year, OSHA was petitioned to issue an emergency temporary standard (ETS) by the Paper, Allied-Industrial, Chemical and Energy Workers Union (PACE) to protect workers from developing Chronic Beryllium Disease (CBD) and lung cancer as a result of occupational beryllium exposure. The petition was denied, but the Agency has initiated rulemaking under section 6(b)(5) to protect beryllium-exposed workers from contracting these diseases.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB76

1963. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.142; 29 CFR 1910.178; 29 CFR 1910.219; 29 CFR 1910.261; 29 CFR 1910.265; 29 CFR 1910.410; 29 CFR 1910.1001 to 1910.1052; 29 CFR 1926.60; 29 CFR 1926.62; 29 CFR 1926.1101; 29 CFR 1926.1127; 29 CFR 1926.1129; 29 CFR 1917.92

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) is continuing the process of removing or revising provisions in its standards that are out of date, duplicative, unnecessary, or inconsistent. The Agency is proposing these changes to

reduce the burden imposed on the regulated community by these provisions and to further respond to a March 4, 1995 memorandum from the President. In this document, substantive changes are proposed for standards that will revise or eliminate duplicative, inconsistent, or unnecessary regulatory requirements without diminishing employee protections. Phase I of this Standards Improvement process was completed in June 1998 (63 FR 33450).

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB81

1964. PLAIN LANGUAGE REVISIONS TO SPRAY APPLICATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.107; 29 CFR 1910.94(c) and 1910.94(d)

Legal Deadline: None

Abstract: This plain language effort will revise one of OSHA's most complex and out-of-date rules, those for spray finishing using flammable and combustible liquids (29 CFR 1010.107). This standard addresses the hazards associated with the use of spray areas or spray booths to apply flammable or combustible liquids to manufactured equipment and objects. It includes specifications for the design of spray booths and areas, and for the use of these booths and areas and associated equipment. The plain language rule will be titled "Spray Applications." This rule was originally listed under RIN 1218-AB55.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB84

1965. CHANGES TO STATE PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 667

CFR Citation: 29 CFR 1953

Legal Deadline: None

Abstract: Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that States that wish to assume responsibility for developing and enforcing their own occupational safety and health standards relating to any occupational safety or health issue may do so by submitting and obtaining Federal approval of a State plan. A State plan consists of the laws, standards and other regulations, and procedures under which the State operates its occupational safety and health program. From time to time after initial plan approval, States may make changes to their plans as a result of legislative, regulatory or administrative actions. If the State makes a change to its plan which differs from the Federal program, the State must notify OSHA of the change to its plan which differs from the Federal program (referred to as a plan supplement). OSHA then reviews the changes; if they meet the approval criteria OSHA publishes a notice announcing the approval of the change; if the change does not meet the criteria OSHA initiates procedures to reject the change.

OSHA is proposing to amend its regulations regarding State plan changes to streamline the review and approval process and to allow more organizational flexibility in this process. Changes which are identical to components of the Federal program would not require formal review. The proposal also would reorganize 29 CFR part 1953 to eliminate repetitive language. Cross references to part 1953 in the CFR would be changed as necessary to reflect the correct references.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Paula O. White, Director, Federal-State Operations, Department of Labor, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB91

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Final Rule Stage

1966. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b); 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: In January 1998, OSHA published the final respiratory protection standard, except for the reserved provision on assigned protection factors (APFs). APFs are numbers that estimate the degree of performance of the various classes of respirators. OSHA is developing an approach to devising APFs that involves analyzing available data including data from workplace and chamber studies, where such data are available. OSHA will request further public comment on the analyses conducted using this approach. This will assure that OSHA receives and fully considers public input before issuing final APFs. OSHA expects to complete the rulemaking on APFs in 2001.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
NPRM	11/15/94	59 FR 58884
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	04/08/98	
Final Rule - Assigned Protection Factors	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1218–AA05

1967. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 29 USC 651

CFR Citation: 29 CFR 1910.1000; 29 CFR 1910.1031

Legal Deadline: None

Abstract: OSHA published an Advance Notice of Proposed Rulemaking (ANPRM) on April 2, 1987 (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal on March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to these substances. OSHA is working toward promulgation of a final rule in 2001.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AA84

1968. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS AND FALL PREVENTION)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910, subparts D and I

Legal Deadline: None

Abstract: In 1990, OSHA proposed (55 FR 13360) a rule addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. OSHA has analyzed the record and determined that it is appropriate to move forward with a final rule addressing personal fall protection requirements (subpart I of 29 CFR 1910) and re-proposing certain sections of the walking and working surfaces rule.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Final Rule (Subpart I)	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB80

1969. PLAIN LANGUAGE REVISIONS TO THE EXIT ROUTE STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 5 USC 353

CFR Citation: 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline: None

Abstract: This plain language effort will revise one of OSHA's most complex and out-of-date standards, Means of Egress, codified at 29 CFR 190.38. This standard addresses exit routes in general industry workplaces, which are essential to guide employees to safety in an emergency. The plain language rule will be titled "Exit Routes." This rule was originally listed under RIN 1218-AB55.

DOL—OSHA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47712
Public Hearing	04/29/97	62 FR 9402
Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB82

1970. SIGNS, SIGNALS, AND BARRICADES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.200; 29 CFR 1926.201; 29 CFR 1926.202; 29 CFR 1926.203

Legal Deadline: None

Abstract: OSHA's standard on Signs, Signals and Barricades (subpart G-29 CFR 1926.200 through 1926.203) currently incorporates the American National Standards Institute's 1971 industry consensus standard ANSI D6.1-1971. The ANSI organization has withdrawn its 1971 standard and the U.S. Department of Transportation has issued an updated standard entitled: A Manual on Uniform Traffic Control Devices (MUTCD). Because the OSHA standard is out of date, the Agency intends to issue a Direct Final Rule to update subpart G to reflect the requirements of the Department of Transportation's MUTCD.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB88

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Long-Term Actions

1971. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918) — REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLS))

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 941; 29 USC 655

CFR Citation: 29 CFR 1918.11; 29 CFR 1918.85

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, in that rule, the Agency reserved provisions related to vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two empty single intermodal containers, secured together with twist locks, at the same time. Because some commenters to the record questioned the safety of allowing such tandem lifts and the record does not contain adequate information to allow the Agency to address this issue, OSHA is gathering additional information. The Agency will make a decision about whether to proceed with rulemaking or to address this issue through a compliance directive in 2001.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine Terminals	07/25/97	62 FR 40142
Public Meeting on VTLs - 1/27/1998	10/09/97	62 FR 52671
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AA56

1972. SCAFFOLDS IN SHIPYARDS (PART 1915 — SUBPART N)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers are subject to both shipyard and general industry standards, and this project aimed at establishing a vertical standard for shipyard employment by addressing six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). Final rules have been issued on two of these proposals: Personal Protective Equipment and Confined Spaces. The remaining subparts in part 1915 were

categorized as Phase II of the consolidation project (including General Working Conditions and Fire Protection).

This standard will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. It will develop, in part, performance-oriented standards, address current gaps in coverage, and address new technologies. About 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record	04/12/94	59 FR 17290
Comment Period End	06/13/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AA68

1973. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: In the 1980s, OSHA embarked on a project to update and consolidate OSHA standards that applied to the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers are subject to both the shipyard and general industry standards, and this project aimed at establishing a vertical standard for shipyard employment by addressing six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). Final rules have been issued on two of these proposals: Personal Protective Equipment and Confined Spaces. The remaining subparts in part 1915 were categorized as Phase II of the consolidation project (including General Working Conditions and Fire Protection).

This standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. About 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AA70

1974. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 553

CFR Citation: 29 CFR 1910.121

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99-499) established the criteria under which OSHA was to develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), Congress amended section 126(d)(3) of SARA to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776), addressing this issue. OSHA received public comments following the issuance of the proposal. OSHA also reopened the record in June 1992 to allow additional public comment on an effectiveness of training study that the Agency had conducted. OSHA has also developed nonmandatory guidelines to further address minimum training criteria. OSHA has not yet determined what further steps, if any, are necessary in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB27

1975. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: Every day, more than 20 million American workers face an unnecessary health threat because of indoor air pollution in the workplace. Thousands of heart disease deaths, hundreds of lung cancer deaths, and many cases of respiratory disease, Legionnaire's disease, asthma, and other ailments are estimated to be linked to this occupational hazard. EPA estimates that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality related signs and symptoms.

After reviewing and analyzing available information, OSHA published a proposed rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling, and similar activities. The provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. The proposed ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA's jurisdiction. OSHA preliminarily estimated that the proposed standard would prevent a substantial number of air-quality related illnesses per year.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Record Closed	02/09/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 1218–AB37

1976. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY AND THE MARITIME INDUSTRIES)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 651; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Programs, and many proactive employers in all industries recognize the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs dramatically demonstrate the effectiveness of these programs. In 1989, OSHA published nonmandatory guidelines to help employers establish safety and health programs (54 FR 3904). Those guidelines were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA has decided to expand on these guidelines by developing a safety and health programs rule because occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate. For example, an average of about 17 workers were killed each day in 1997. This number does not include an estimated 137 daily deaths associated with job-related chronic illnesses.

Safety and health programs include the following core elements: management leadership; active employee participation; hazard identification and assessment; hazard prevention and control; information and training; and program evaluation. In response to extensive stakeholder involvement, OSHA has, among other things, focused the proposed rule on significant hazards and reduced burdens on small business to the extent consistent with the goals of the OSH Act.

Statement of Need: Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Many States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been dramatic. In addition, all of the companies in OSHA's Voluntary Protection Programs have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between $5 and $9 for every dollar invested in the

program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and prevent job-related safety and health hazards.

Summary of Legal Basis: The legal basis for the proposed rule is a preliminary finding by the Secretary of Labor that unacceptably high injury, illness, and fatality rates can be substantially reduced by getting employers to systematically comply with their existing duty to control hazards under sections 5(a)(1) and 5(a)(2) of the OSH Act. The rule is also reasonably related to achieving the purposes of the Act, and would essentially require employers to conduct periodic inspections of the workplace and to inform employees about the hazards they find.

Alternatives: In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, in 1989, OSHA published a set of voluntary management guidelines designed to help employers set up and maintain safety and health programs. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been adequately effective in reducing job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many States have also recognized the value of these programs and have mandated that some or all employers establish them; this has led to inconsistent coverage from State to State, with many States having no coverage and others imposing stringent program requirements.

Anticipated Cost and Benefits: OSHA preliminarily estimated the overall program costs of the draft proposed rule provided to the SBREFA Panel for this rule for all covered employers to be about $2.3 billion per year. The Agency also preliminarily estimated that 580,000 to 1,300,000 injuries and illnesses and 416 to 918 fatalities would be avoided each year as a result of the rule. OSHA preliminarily anticipates that employers will have direct cost savings associated with this reduction in the number of injuries and illnesses of approximately $7.3 billion to $16.5 billion per year.

Risks: Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. For 1996, the Bureau of Labor Statistics reported that 6.2 million injuries and illnesses occurred within private industry. For 1997, BLS reported that 6,218 workers lost their lives on the job. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: about $54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Because the proposed rule addresses significant job-related hazards, the rule will be effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, which are covered by existing OSHA standards, and emerging hazards, such as lasers and violence in the workplace, where conditions in the workplace would require control under the General Duty Clause of the Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: Undetermined

Additional Information: A separate rule is being developed for the construction industry (29 CFR 1926). OSHA will coordinate the development of the two rules.

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RIN: 1218–AB41

1977. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1035

Legal Deadline: None

Abstract: On August 25, 1993, the Labor Coalition to Fight TB in the Workplace petitioned the Occupational Safety and Health Administration (OSHA) to develop an occupational health standard to protect workers against the transmission of tuberculosis (TB). The Coalition stated that although the Centers for Disease Control and Prevention (CDC) had developed guidelines for controlling the spread of TB, many of the TB outbreak investigations conducted by CDC showed that many employers were not fully implementing the CDC guidelines. After reviewing the available information, OSHA preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers in some work settings and began rulemaking on a proposed standard.

To assist in the development of the proposed standard, OSHA consulted with parties outside the Agency. The preliminary risk assessment was peer-reviewed by four experts with specific knowledge in the areas of TB disease and risk assessment. In addition, OSHA conducted stakeholder meetings with representatives of various groups that might be affected by the proposed standard. The draft proposed standard was also reviewed and commented on by affected small business entities under the Small Business Advocacy Review Panel requirements of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) and by the Office of Management and Budget (OMB) under Executive Order 12866.

On October 17, 1997, OSHA published its proposed standard for occupational exposure to TB (62 FR 54160). The proposed standard would cover workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings where workers are at significant risk of becoming infected with TB while caring for their patients or clients or performing certain procedures. The proposed standard would require employers to protect TB-exposed workers using infection control measures that have been shown to be highly effective in reducing or eliminating work-related TB infections. Such measures include procedures for early identification of individuals with infectious TB, isolation of individuals with infectious TB using appropriate ventilation, use of respiratory protection in certain situations, and skin testing and training of employees.

After the close of the written comment period for the proposed standard on February 17, 1998, informal public hearings were held in Washington, DC (April 7-17), Los Angeles, CA (May 5-7), New York City, NY (May 19-21), and Chicago, IL (June 2-4). At the end of the public hearings a post-hearing comment period was established. The post-hearing comment period closed on October 5, 1998. On June 17, 1999 OSHA reopened the rulemaking record to submit the Agency's report on homeless shelters and certain other documents that became available to the Agency after the close of the post-hearing comment period. During this limited reopening of the rulemaking record, OSHA also requested interested parties to submit comments and data on the Agency's preliminary risk assessment in order to obtain the best, most recent data for providing the most accurate estimates of the occupational risk of tuberculosis.

Statement of Need: TB is a contagious disease caused by the bacterium Mycobacterium tuberculosis. Infection is acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary TB in the infectious stage of the disease cough, sneeze, or speak. In some individuals who inhale the droplet nuclei, TB bacteria establish an infection. In most cases, the bacteria are contained by the individual's immune system. However, in some cases, the bacteria are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. In most cases, this organ is the lung, although other organs may also become infected.

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 cases to 22,255 cases. However, this steady decline did not continue. Instead, from 1985 to 1992, the number of reported cases increased 20.1 percent. TB control efforts were re-initiated in some areas of the country and from 1993 to 1998, the number of cases in the United States again declined. A large portion of the decrease occurred in high incidence areas, such as New York City, where intervention efforts were focused. However, despite the recent decrease in active cases, there were still 18,371 reported TB cases in 1998. Outbreaks of TB continue to occur and multidrug-resistant forms of TB disease continue to spread to new States. In addition, more than 10 to 15 million persons in the United States have latent TB infection and are at risk of developing TB disease sometime in the future. Moreover, the factors that led to the resurgence from 1985 to 1992 (e.g., increases in homelessness, HIV infection, immigration from countries with high rates of infection) still exist.

Providing health care for individuals with TB increases the risk of occupational exposure among healthcare workers. Many of the outbreaks of TB have occurred in health care facilities, resulting in the transmission of TB to both patients and health care workers. CDC found that the factors contributing to these outbreaks included delayed diagnosis of TB, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation of isolation rooms, lapses in TB isolation practices, and lack of adequate respiratory protection. CDC analyzed data from several of the outbreaks and found that the transmission of TB decreased significantly when recommended TB control measures were implemented. Workers outside health care also provide services to patient or client populations that have an increased rate of TB disease. For example, occupational transmission of TB has been documented in correctional facilities, and the standard would cover such workers.

Summary of Legal Basis: The legal basis for the proposed TB standard is a preliminary finding by the Secretary of Labor that workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings are at a significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures.

Alternatives: Prior to a decision to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or to enforce existing regulations.

Anticipated Cost and Benefits: Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of work-related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. OSHA estimates that more than 5 million workers are exposed to TB in the course of their work. The Agency estimates that the proposed provisions will result in annual costs of $245 million. Implementation of the standard is estimated to reduce the number of work-related cases of TB by 70 to 90 percent in the work settings covered, thus preventing approximately 21,400 to 25,800 work-related infections per year, 1,500 to 1,700 active cases of TB resulting from these infections, and approximately 115 to 136 deaths resulting from these active cases.

Risks: From 1985 to 1992, the number of reported cases of TB in the United States increased, reversing a previous 30-year downward trend. While there has been a recent decrease in the reported number of cases of TB in the general population, a large part of this decrease can be attributed to focused

intervention efforts in areas of high incidence of TB. Fourteen states showed an increase or no change in the number of reported cases in 1998, and the factors that contributed to the resurgence continue to exist, along with exposure of certain workers to patient or client populations with an increased rate of TB. In addition, TB outbreaks continue to occur and multidrug-resistant strains of TB continue to spread to new States. Therefore, employees in work settings such as health care or correctional facilities, who have contact with infectious individuals, are at high risk of occupational transmission of TB. OSHA estimates that the average lifetime occupational risk of TB infection ranges from 30 to 386 infections per 1000 workers exposed to TB on the job and that the average lifetime occupational risk of TB disease ranges from 3 to 39 cases of active TB disease per 1000 workers exposed to TB. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may result in serious respiratory illness or death.

Timetable:

Action	Date	FR Cite
SBREFA Panel	09/10/96	
NPRM	10/17/97	62 FR 54160
NPRM Comment Period End	02/17/98	62 FR 65388
Post Hearing Comment End	10/05/98	
Record Reopening	06/17/99	64 FR 32447
Second Reopening Comment Period End	06/28/99	64 FR 34625
Reopening Comment Period End	08/02/99	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: During this rulemaking, OSHA met with small business stakeholders to discuss their concerns, and conducted an initial Regulatory Flexibility Analysis to identify any significant impacts on a substantial number of small entities. In addition, OSHA conducted a special study of homeless shelters and set aside certain hearing dates for persons who wished to testify on homeless shelter issues.

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RIN: 1218–AB46

1978. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, subpart F

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Publication of a proposal addressing general working conditions in shipyards is part of this project. The operations addressed in this rulemaking relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218–AB50

1979. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued an ANPRM to gather information on fall protection issues regarding certain construction processes such as residential home building, precast concrete operations and post frame construction. The issues relate to the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials to construction projects. These issues have arisen since OSHA revised the fall protection standard in August 1994. The comment period on the ANPRM closed January 24, 2000. OSHA is now evaluating comments to determine whether further action is required.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/99	64 FR 38077
ANPRM Comment Period End	01/24/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB62

1980. SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY—PART II

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1926.453; 29 CFR 1926.454

Legal Deadline: None

Abstract: Since the promulgation of a final rule for scaffolds used in construction in August 1996, several issues have arisen under the new standard. The Agency will solicit information on several issues including: (1) providing access to platforms where decking extends past the ends of the scaffold; (2) changing the minimum width for roof brackets to less than 12 inches; (3) changing the requirements for grounding of the scaffold during welding operations; and (4) requiring the use of scaffold grade planks.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB68

1981. SAFETY AND HEALTH PROGRAMS FOR CONSTRUCTION

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: In response to industry requests and in response to the recommendation of OSHA's Advisory Committee on Construction Safety and Health (ACCSH), OSHA has determined that the current safety and health program standards contained in subpart C of the construction standards, 29 CFR 1926, need to be revised to provide construction employers with a more comprehensive set of requirements to assist them in establishing safety and health programs. Safety and health programs have proven to be an effective, systematic method of identifying and correcting existing workplace safety and health hazards, as well as preventing those that might arise in the future.

After its April 1996 meeting, ACCSH began to develop language and concepts to submit to OSHA for consideration as a proposed rule. Over 130 stakeholders representing small, medium and large contractors and host employers and stakeholders (such as petroleum producers; contractor associations; labor unions; other governmental agencies; and nonprofit institutions) have participated in these ACCSH discussions.

Although OSHA is still developing the details of a new proposed safety and health program standard, the proposal will require employers to set up a program for managing workplace safety and health in order to reduce the incidence of occupational deaths, injuries, and illnesses. The standard will not impose duties on employers to control hazards that they are not already required to control. Instead, the standard will provide a basic framework for systematically identifying and controlling workplace hazards already covered by the OSH Act under section 5(a)(1) and current OSHA standards.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Additional Information: A separate standard is being developed for general industry (29 CFR 1910) and the maritime (29 CFR 1915, 1917 and 1918) industries (see entry for RIN 1218-AB41).

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RIN: 1218–AB69

1982. CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES: LOCKOUT)

Priority: Economically Significant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued a general industry rule on September 1, 1989 (54 FR 36644) to address the hazards posed to workers by the failure to control hazardous energy (i.e., the failure to properly lock out or tag out machines and equipment) during repair and servicing activities. OSHA has not yet issued a standard to prevent these accidents during equipment repair and maintenance activities in the construction industry. Four million workers annually may be exposed to this hazard in construction workplaces.

Construction sites often do not have effective lockout/tagout procedures to control hazardous energy because of several factors, all associated with the nature of the construction industry. These factors basically relate to the types of machines and equipment found in construction; the makeup of the industry (i.e., employment is relatively "short term," lasting only as long as the length of the current project); multiple employers having different employer/employee relationships are present at the same site; and "in-the-field" maintenance activity is usually temporary. OSHA intends to issue a proposal to address this hazard in this industry.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218–AB71

1983. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT

Priority: Other Significant

Legal Authority: 29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95

Legal Deadline: None

Abstract: Generally, OSHA standards require that protective equipment

(including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation "PPE" to cover both personal protective equipment and other protective equipment. The Agency has proposed to revise its PPE standards to clarify who is required to pay for required PPE and under what circumstances. According to the proposal, employers would be required to provide all OSHA-required PPE at no cost to employees, with the following exceptions: the employer would not need to pay for safety-toe protective footwear or prescription safety eyewear if all three of the following conditions are met: (1) The employer permits such footwear or eyewear to be worn off the job-site; (2) the footwear or eyewear is not used in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and (3) such footwear or eyewear is not designed for special use on the job. Employers are also not required to pay for the logging boots required by 29 CFR 1910.266(d)(1)(v).

Statement of Need: The regulatory language used in OSHA standards has generally clearly stated that the employer must provide PPE and ensure that employees wear it. However, the regulatory language regarding the employer's obligation to pay for the PPE has varied.

OSHA attempted to clarify its position on the issue of payment for required PPE in a compliance memorandum to its field staff dated October 18, 1994. The memorandum stated that it was the employer's obligation to provide and pay for PPE except in limited situations.

Recently, the Occupational Safety and Health Review Commission declined to accept this interpretation (Secretary of Labor v. Union Tank Car, OSHRC No. 96-0563). The Commission vacated a citation against an employer who failed to pay for OSHA-required PPE, finding that the Secretary had failed to adequately explain the policy outlined in the 1994 memorandum in light of several inconsistent earlier letters of interpretation from OSHA. Therefore, the Agency needs to clarify who is to pay for PPE under what conditions.

Summary of Legal Basis: The legal basis for this proposed rule is the need to clarify OSHA's intent with regard to the payment for protective equipment required by OSHA standards.

Alternatives: OSHA has considered several alternative approaches to resolving this issue, including leaving this as a labor-management issue, issuing compliance directives to identify what PPE the employer must pay for, or requiring the employer to pay for all PPE. OSHA believes that, in this case, revising the standard to clarify who is to pay for the PPE is the most appropriate way to proceed. It is the only approach that will assure significant public participation in the resolution of this issue, and the codification of that resolution.

Anticipated Cost and Benefits: It is estimated that the proposed rule will shift, at most, annualized costs to employers of no more than $62 million across all affected industries. It is also estimated that the proposed rule will prevent over 47,000 injuries and seven fatalities that occur annually as a result of the non-use or misuse of personal protective equipment by employees required to pay for their own PPE.

Risks: Substantive requirements for protective equipment are included in other OSHA standards. This proposed rule is designed solely to clarify OSHA's intent as to what protective equipment must be paid for by the employer. Accordingly, no assessment of risk is required.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	
Informal Public Hearing End	08/13/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 1218–AB77

1984. CONSOLIDATION OF RECORDS MAINTENANCE REQUIREMENTS IN OSHA STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 40 USC 333; 29 USC 655; 33 USC 941; 5 USC 553

CFR Citation: 29 CFR 1910; 29 CFR 1915 to 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA is initiating a rulemaking to simplify and consolidate many of its requirements for employers to maintain records of training, testing, medical surveillance, and other activities conducted to comply with OSHA health and safety standards. These records maintenance requirements appear in many OSHA standards and are codified at 29 CFR 1910 (General Industry), 29 CFR 1915-1918 (Maritime), 29 CFR 1926 (Construction), and 29 CFR 1928 (Agriculture). The final rule, when published, will facilitate compliance with these requirements and reduce the amount of paperwork associated with these records, but will leave employee protections unchanged.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB78

1985. OIL AND GAS WELL DRILLING AND SERVICING

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.270

Legal Deadline: None

Abstract: OSHA intends to propose a standard for the oil and gas well drilling and servicing industry. In 1982, OSHA proposed a standard for the industry. OSHA believed at that time that the OSHA general industry standard did not adequately address the hazards of oil and gas well drilling and servicing and that this lack of protection contributed to a high number of deaths and injuries in the industry. No final action was taken with respect to the proposed standard and, therefore, there is still no specific OSHA standard for the oil and gas well drilling and servicing industry. OSHA intends to repropose in the near future, because changes in technology, conditions in the industry, and workforce demographics necessitate the issuance of a new proposal.

The oil and gas well drilling and servicing industry is involved in extracting underground deposits of oil and gas and in maintaining the equipment used to bring the oil and gas to the surface. In 1997, there were 85 deaths resulting from accidents in the industry, caused by such events as falling from equipment/platforms to another level, being struck or crushed by equipment, and being asphyxiated. OSHA has begun collecting information and data with respect to the industry and will soon hold stakeholder meetings to provide an early opportunity to those who may be impacted by a standard to discuss their ideas on the rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB83

1986. WOODWORKING MACHINERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.213

Legal Deadline: None

Abstract: OSHA's standards for woodworking machinery (29 CFR 1910.213) have not been updated since their adoption in 1971. The corresponding industry consensus standards have been updated several times in the intervening years. OSHA intends to work with affected stakeholders to develop an updated woodworking machinery standard that reflects the technological advances and changes in occupational safety and health practices that have taken place since then. The revised standard will take account of approaches included in the most recent voluntary consensus standard.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB92

1987. ERGONOMICS PROGRAMS IN CONSTRUCTION (PART 1926): PREVENTING WORK-RELATED MUSCULOSKELETAL DISORDERS AMONG CONSTRUCTION WORKERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: Based on evidence that employers in the construction industry report to the Bureau of Labor Statistics, more than 40,000 lost-time musculoskletal disorders (MSDs) occur among their workers every year. Accordingly, OSHA has decided to begin to gather information for future rulemaking to address these disorders. When the number of non-lost worktime MSDs in this workforce is added to the total, the annual number of MSDs experienced by construction workers is likely to exceed 200,000. Approximately one-third of the costs construction employers incur for workers' compensation every year goes to pay for these costly injuries. However, many work-related MSDs are preventable, and many low-cost methods of reducing worker exposure to ergonomic risk factors are now available for the construction industry. OSHA intends to publish an ANPR to gather information on the construction workers most at risk, feasible methods of reducing this risk, and successful ergonomics programs in construction.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB94

1988. SUBPART S—ELECTRICAL STANDARDS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910. subpart S

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) is planning to update the Subpart S-Electrical Standard and will rely heavily on the materials involved in the development of the 2000 Edition of the National Fire Protection Association's (NFPA's) 70 E standard for Electrical Safety Requirements for Employee Workplaces. This revision will provide the first update of Subpart S-Electrical since the standard was originally published in 1981. It will thus allow the latest technological developments to be considered; several of these state-of-the-art safety developments will be addressed by OSHA for the first time. The update of Subpart S-Electrical will also permit the completion of standards covering safety-related maintenance requirements and safety requirements for special equipment.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB95

1989. OCCUPATIONAL HEALTH RISKS IN THE MANUFACTURE AND ASSEMBLY OF SEMICONDUCTORS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The manufacture and assembly of semiconductors requires the use of a variety of complex mixtures of chemicals. For most of these chemicals, adequate data on toxicity are not available, although chemical structure suggests that they may present potential health risks. The types of mixtures used and their components change rapidly in this industry. OSHA is a aware of case reports and epidemiologic studies suggesting excesses of certain cancers and reproductive damage among employees in this industry. Although these effects may be associated with processes and mixtures no longer in common use, the 1995 Priority Planning Process emphasized reproductive hazards as an item of special concern.

Accordingly, OSHA is planning to request information on the chemical content of "photoresist" and other mixtures currently used in semiconductor manufacture and assembly, on employee exposures in this sector, on toxicological information available about the components or mixtures, and about feasible means of reducing vapor-phase exposures in industry "clean rooms."

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB96

1990. COMMERCIAL DIVING OPERATIONS: TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910.423

Legal Deadline: None

Abstract: OSHA's Commercial Diving Operations standard (29 CFR 1910.401 to 1910.441) was published in 1977. In the intervening years, major changes in the technology of diving systems and equipment have occurred. In December 1999, OSHA granted a permanent variance to Dixie Divers, Inc. permitting recreational diving instructors employed by that company to comply with the provisions of the variance rather than with paragraphs (b)(2) and (c)(3)(iii) of 1910.423 and paragraph (b)(1) of 1910.426. Since OSHA granted the variance, other employers of recreational diving instructors have asked OSHA to clarify the applicability of the variance to their operations. OSHA intends to issue a Request for Information to obtain data on the appropriateness of amending the commercial diving operations standard to reflect the alternative specified in the permanent variance granted to Dixie Divers, Inc.

Timetable:

Action	Date	FR Cite
Request for Information	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB97

1991. • PROCEDURES FOR HANDLING OF DISCRIMINATION COMPLAINTS UNDER THE AVIATION INVESTMENT AND REFORM ACT

Priority: Info./Admin./Other

Legal Authority: PL 106-181, Wendell H. ford Aviation Investment and Reform Act, sec 519; 49 USC 42121

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On March 8, 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, commonly known as the Air Act. Section 519 of the Act (49 USC 42121) prohibits air carriers or air carrier contractors or subcontractors from discharging or otherwise discriminating against employees for exercising specified rights under the Act. The Act further provides that the Secretary of Labor investigate employee claims of discrimination and ultimately issue a determination and order after an opportunity for either party to request a hearing on the record. Procedural rules are needed for filing, investigating, litigating, and adjudicating complaints filed pursuant to the Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218–AB99

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Completed Actions

1992. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)

Legal Deadline: None

Abstract: In 1992, OSHA announced that it would develop a proposal for revising steel erection safety requirements using the negotiated rulemaking process. An advisory committee for this rule was formed in 1994. Its work resulted in the publication of a proposed rule on August 13, 1998. A public hearing was held in Washington, DC, on December 1-11, 1998. The post-hearing comment period closed April 12, 1999. OSHA published the final rule on January 18, 2001.

Statement of Need: In light of the significant number of steel erection fatalities and injuries and concerns that the Agency's existing rule fails to adequately address a number of factors affecting safety, OSHA determined that the former rule needed to be revised.

Summary of Legal Basis: The legal basis for the steel erection rule is a finding that workers engaged in steel erection work are at significant risk of serious injury or death as a result of that work.

Anticipated Cost and Benefits: The annualized costs of compliance are $78.4 million dollars. Benefits are expected to include the prevention of about 22 fatalities and 838 lost workday injuries per year.

Risks: OSHA estimates that at least 28 workers die each year while engaged in steel erection. Falls continue to be the leading cause of job-related deaths among construction workers, and steel erection involves a significant degree of exposure to fall hazards.

Timetable:

Action	Date	FR Cite
Notice of Committee Establishment	05/11/94	59 FR 24389
NPRM	08/13/98	63 FR 43451
NPRM Comment Period End	11/17/98	
Public Hearing	12/01/98	
Final Rule	01/18/01	66 FR 5195
Final Rule Effective	09/16/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1218–AA65

1993. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority: Other Significant

Legal Authority: 29 USC 657; 29 USC 673

CFR Citation: 29 CFR 1904; 29 CFR 1952.4

Legal Deadline: None

Abstract: OSHA requires employers to keep records of occupational illnesses and injuries. These records are used by OSHA and the Bureau of Labor Statistics (BLS), among others, to develop data on workplace safety and health by industry and across industries. Over the years concerns about the reliability and utility of these data have been raised by Congress, the National Institute for Occupational Safety and Health (NIOSH), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business and labor, as well as BLS and OSHA. In the late 1980s, OSHA contracted with the Keystone Center to bring together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. In 1995, OSHA held several meetings with stakeholders from business, labor and government to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information.

OSHA published a Notice of Proposed Rulemaking (NPRM) in the February 2, 1996 Federal Register that contained revised recordkeeping requirements and recordkeeping forms. The original 90-day public comment period was extended another 60 days and ended July 2, 1996. During that comment period, the public submitted over 450 written comments to OSHA Docket R-02. In addition, OSHA held two public meetings in Washington, DC (March 26-29 and April 30-May 1) resulting in 1,200 pages of transcripts from nearly 60 presentations. OSHA issued a final rule that incorporates changes based on an analysis of the public comments and testimony on January 19, 2001.

Statement of Need: The occupational injury and illness records maintained by employers are an important component of OSHA's program. The records are used by employers and employees to identify and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

All of these uses of the data are affected by the quality of the records employers maintain. Higher quality data lead to higher quality analyses, which in turn lead to better decisions about occupational safety and health matters. To improve the quality of the records and enhance the use of the information, the final rule provides clear regulatory guidance to employers and simplifies the recordkeeping forms.

Summary of Legal Basis: The legal basis for issuance of this final rule is section 8(c)(1) of the OSH Act, which requires employers to record and report such records as are necessary for the enforcement of the Act and for developing information on the causes and prevention of occupational accidents and illnesses, as required by regulation, and section 24(a) of the Act, which requires OSHA to develop an effective program of occupational safety and health statistics to further the purposes of the Act.

Anticipated Cost and Benefits: The annual costs of the rule are $38.6 million. The potential benefits of the rule are the avoidance of 29,000 to 58,000 injuries and illnesses per year.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030
NPRM Comment Period End	07/02/96	
Final Action	01/19/01	66 FR 5916
Final Action Effective	01/01/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 1218–AB24

1994. ERGONOMICS PROGRAMS: PREVENTING MUSCULOSKELETAL DISORDERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 651; 29 USC 652; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: On November 14, 2000, OSHA published a final rule addressing ergonomic programs in general industry (65 FR 68262). The rule became effective on January 16, 2001. However, under the Congressional Review Act, Congress has passed and the President has signed, Public Law 107-5, a resolution of disapproval of OSHA's final Ergonomics Program standard. Because Public Law 107-5 invalidates the standard, OSHA has removed it from the Code of Federal Regulations. Removal of the final standard was effective April 23, 2001.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment Period End	02/01/93	
SBREFA Panel	03/02/99	
NPRM	11/23/99	64 FR 65768
Final Action	11/14/00	65 FR 68261
Final Action Effective	01/16/01	
Final Rule Withdrawal	04/23/01	
Final Rule Withdrawal Effective	04/23/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bonnie Friedman, Director, Office of Public Affairs, Department of Labor, Office of the Secretary, Room N3649, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
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RIN: 1218–AB36

1995. CONSULTATION AGREEMENTS

Priority: Other Significant

Legal Authority: 29 USC 670

CFR Citation: 29 CFR 1908

Legal Deadline: None

Abstract: OSHA proposed an amendment to 29 CFR 1908, the Agency's regulations governing consultation agreements, to provide for full employee involvement in the consultative process in line with the President's directive to enhance worker participation in the consultation program (The New OSHA: Reinventing Worker Safety and Health, May 1995), and to implement the requirements of the Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1999 (section 21(d) of the OSH Act). A final rule was issued in October 2000.

Timetable:

Action	Date	FR Cite
NPRM	07/02/99	64 FR 35972
Final Rule	10/26/00	65 FR 64281
Final Action Effective	12/26/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paula O. White, Director, Federal-State Operations, Department of Labor, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB79

1996. OCCUPATIONAL EXPOSURE TO BLOODBORNE PATHOGENS; NEEDLESTICK AND OTHER SHARPS INJURIES

Priority: Other Significant

Legal Authority: 29 USC 655(b); 29 USC 657; PL 106-430, Needlestick Safety and Prevention Act

CFR Citation: 29 CFR 1910.1030

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration has revised the Bloodborne Pathogens (BBP) standard in conformance with the requirements of the Needlestick Safety and Prevention Act. This Act directed OSHA to revise the Bloodborne Pathogens standard to include new examples in the definition of engineering controls along with two new definitions; to require that Exposure Control Plans reflect how employers implement new developments in control technology; to require employers to solicit input from employees responsible for direct patient care in the identification, evaluation, and selection of engineering and work practice controls; and to require certain employers to establish and maintain a log of percutaneous injuries from contaminated sharps.

Blood and other potential infectious materials have long been recognized as a potential threat to the health of employees who are exposed to these materials by percutaneous contact (penetration of the skin). Injuries from contaminated needles and other sharps have been associated with an increased risk of disease from more than 20 infectious agents. The primary agents of concern in current occupational settings are the human immunodeficiency virus (HIV), hepatitis B virus, and hepatitis C virus (HCV).

Needlesticks and other percutaneous injuries resulting in exposure to blood or other potentially infectious materials continue to be of concern due to the high frequency of their occurrence and the severity of the health effects associated with exposure. The Centers for Disease Control and Prevention has estimated that healthcare workers in hospital settings sustain 384,325 percutaneous injuries involving contaminated sharps annually. When non-hospital healthcare workers are included, the best estimate of the number of percutaneous injuries involving contaminated sharps is 590,164 per year.

Since publication of the BBP standard, a wide variety of medical devices have been developed to reduce the risk of needlesticks and other sharps injuries. These "safer medical devices" replace sharps with non-needle devices or incorporate safety features designed to reduce the likelihood of injury. Congress was prompted to take action in response to growing concern over bloodborne pathogen exposures from sharps injuries and in response to recent technological developments that increase employee protection. On November 6, 2000, the Needlestick Safety and Prevention Act (PL 106-430) was signed into law. The Act directed OSHA to revise the BBP standard in accordance with specific language included in the Act. On January 18, 2001, OSHA published the final rule (66 FR 5318).

Timetable:

Action	Date	FR Cite
Final Rule	01/18/01	66 FR 5317
Final Rule Effective	04/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB85

1997. COTTON DUST: WASHED COTTON EXEMPTION (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1043(n)

Legal Deadline: None

Abstract: OSHA has completed a Lookback Review of the Cotton Dust Standard pursuant to Section 610 of the Regulatory Flexibility Act and Section 5 of Executive Order 12866. As part of that review OSHA requested public comments (63 FR 32140, June 22, 1998) and held two public meetings. During that review commenters representing the National Institute for Occupational Safety and Health (NIOSH), the Washed Cotton Task Force, and industry and union representatives on the task force recommended that OSHA expand the washed cotton partial exemption that appears in the cotton dust standard.

Raw cotton washed according to certain protocols creates a much lower risk of byssinosis, and the current cotton dust standard at 29 CFR 1910.1043(n) provides a partial exemption from the standard for such washed cotton. The Washed Cotton Task Force, made up of representatives of government, industry and unions, has sponsored research which demonstrates that cotton washed pursuant to an additional process, batch kier washing following a specific protocol, also creates a much lower risk of byssinosis.

One of the purposes of a Lookback Review is to streamline regulation when that is appropriate based on experience or new science. Expanding the washed cotton partial exemption is supported by new science and is supported by the affected community. Accordingly, OSHA has issued a direct final rule to expand the partial exemption from the cotton dust standard to batch kier washed in accordance with the protocol recommended by the Task Force. OSHA received no negative comments during the 60-day comment period. The agency has issued a notice to that effect and the rule was effective on April 6, 2001.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/07/00	65 FR 76598
Confirmation of Direct Final Rule Effective Date	04/06/01	66 FR 18191
Direct Final Rule Effective	04/06/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Will permit cotton textile mills, many of which are small businesses pursuant to the SBA definition, to choose an option which will reduce their costs to comply with OSHA's cotton dust standard.

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RIN: 1218–AB90

DOL—OSHA

Completed Actions

1998. • NEW JERSEY STATE PLAN

Priority: Routine and Frequent

Legal Authority: 29 USC 667

CFR Citation: 29 CFR 1956

Legal Deadline: None

Abstract: The New Jersey Public Employee Only State plan, a State occupational safety and health plan applicable only to public sector employees (employees of the State and its political subdivisions), is approved as a developmental plan under section 18 of the Occupational Safety and Health Act of 1970 and 29 CFR part 1956. Under the approved plan, the New Jersey Department of Labor is designated as the State agency responsible for the development and enforcement of occupational safety and health standards applicable to public employment throughout the State. The Occupational Safety and Health Administration (OSHA) retains full authority for coverage of private sector employees in the Sate of New Jersey.

Timetable:

Action	Date	FR Cite
Final Rule	01/11/01	66 FR 2265
Final Rule Effective	01/11/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Paula O. White, Director, Federal-State Operations, Department of Labor, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218–AB98

DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Veterans' Employment & Training (ASVET)

Long-Term Actions

1999. ANNUAL REPORT FOR FEDERAL CONTRACTORS

Priority: Other Significant

Legal Authority: PL 105-339 Veterans Employment Opportunities Act of 1998

CFR Citation: 41 CFR 61-250

Legal Deadline: None

Abstract: The Veterans' Employment and Training Service is proposing to issue regulations implementing changes in the reporting requirements as stated in Veterans Employment Opportunity Act of 1998. The Act requires all Federal contractors and subcontractors with contracts in the amount of $25,000 or more to report their efforts toward the hiring of qualified veterans. The Act also added an additional category of veterans, "other veteran," to be eligible for employment by Federal contractors. This proposal will assist VETS in meeting the statutory requirement of annually collecting the VETS-100 Report.

Timetable:

Action	Date	FR Cite
NPRM	10/05/00	65 FR 59683
NPRM Comment Period End	12/06/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1293–AA07

[FR Doc. 01–6924 Filed 05–11–01; 8:45 am]
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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION 1985

Federal Register

Monday,
May 14, 2001

Part XIII

Department of State

Semiannual Regulatory Agenda

DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 3637]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of State.

ACTION: Semiannual regulatory agenda.

SUMMARY: Consistent with the Regulatory Flexibility Act of 1980, 5 U.S.C. 602, and OMB guidance to the Department of State pursuant to Executive Order 12866, the April 2001 agenda of the Department of State is set forth below. The purpose of this publication is to provide information to the public on the Department's regulatory activity. Consistent with OMB guidance, this agenda includes new and continuing items from prior agendas.

FOR FURTHER INFORMATION CONTACT: Jamison Selby Borek, Assistant Legal Adviser for Legislation and General Management, Department of State, Room 3422, 2201 C Street NW., Washington, DC 20520-6310, telephone (202) 647-2318.

Dated: April 2, 2001.

Grant Green,

Under Secretary of State for Management.

Department of State—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2000	Revisions of Grants Management Common Rules on Debarment, Suspension, and Drug-Free Workplace Requirements	1400-AB33

Department of State—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2001	Foreign Prohibitions on Longshore Work by U.S. Nationals	1400-AA34
2002	Transit Without Visa (TWOV)	1400-AA48
2003	B-1 Visa Classification	1400-AA54
2004	Addition of Countries Eligible To Participate in the Visa Waiver Program	1400-AA75
2005	Addition of "S" Nonimmigrant Visa Classification	1400-AA91
2006	Authority To Issue Visas: Issuance of O&P Visas in the United States	1400-AA96
2007	Nonimmigrant Visa Fees	1400-AA97
2008	Q2 Visas for Irish Nationals Participating in Work/Training Programs	1400-AB02
2009	Revision to Department of State Acquisition Regulation (DOSAR)	1400-AB06
2010	Cultural Exchange Programs, Reinstatement	1400-AB11
2011	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	1400-AB17
2012	Documentation of Nonimmigrants: Visa Waiver Program	1400-AB21
2013	Documentation of Immigrants: International Broadcasters	1400-AB22
2014	Documentation of Nonimmigrants: Victims of Trafficking in Persons, Victims of Criminal Activities, and Aliens Inadmissible for Trafficking in Persons	1400-AB23
2015	Documentation of Nonimmigrants: Spouses and Children of Lawful Permanent Residents	1400-AB24
2016	Documentation of Nonimmigrants: Spouses and Children of U.S. Citizens	1400-AB25
2017	Documentation of Immigrants: Diversity Immigrants	1400-AB26
2018	Documentation of Immigrants and Nonimmigrants Under the Immigration and Nationality Act, As Amended—Refusals of Individual Visas	1400-AB27
2019	Classification of Nonimmigrants and Immigrants	1400-AB28
2020	Students and Exchange Visitors—Fee Receipts	1400-AB29
2021	International Organization Employees—INTELSAT Employees	1400-AB30
2022	Aliens Ineligible for Visas for Aiding or Abetting Colombian Insurgent and Paramilitary Groups	1400-AB31
2023	Grounds of Inadmissibility	1400-AB32

Department of State—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2024	Establishing of Registry in State Department for Information About Execution of International Wills	1400-AA56
2025	Hague Intercountry Adoption Convention Implementation	1400-AA88
2026	Cultural Exchange Program, Summer Work/Travel—22 CFR 62	1400-AB10

STATE

Department of State—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2027	Cultural Exchange Programs, Annual Reports	1400-AB14
2028	Amendments to the ITAR: Reporting of Shipments, Offset Arrangements, and Enhancements to Congressional Notifications	1400-AB15
2029	Amendment to the ITAR: Offset Arrangements and Enhancements to Congressional Notifications	1400-AB18
2030	Amendments to the ITAR: Reporting of Shipments	1400-AB20

Department of State—Completed Actions

Sequence Number	Title	Regulation Identification Number
2031	Revision of U.S. Munitions List	1400-AA64
2032	Processing Fee: Affidavit of Support	1400-AB07
2033	Amendment to the ITAR: FMS LOA Authorized Defense Services	1400-AB13
2034	Amendment to the ITAR: Canadian Exemption	1400-AB19

DEPARTMENT OF STATE (STATE) — Proposed Rule Stage

2000. • REVISIONS OF GRANTS MANAGEMENT COMMON RULES ON DEBARMENT, SUSPENSION, AND DRUG-FREE WORKPLACE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 22 CFR 137; 22 CFR 139 (New)

Legal Deadline: None

Abstract: To update and bring nonprocurement debarment and suspension procedures in line with the debarment and suspension procedures used for procurement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Gladys G. Gines, Procurement Analyst, Office of the Procurement Executive, Department of State, SA-6, Room 603, Washington, DC 20522-0602
Phone: 703 516-1691
Fax: 703 875-6155
Email: ginesgg@state.gov

RIN: 1400–AB33

DEPARTMENT OF STATE (STATE) — Final Rule Stage

2001. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89 (Revision)

Legal Deadline: Final, Statutory, December 31, 1998, Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile and update annually, through notice-and-comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas, as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Departments of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384
Final Rule	12/00/01	

STATE

Final Rule Stage

Updated List of Countries
NPRM 11/04/92 (57 FR 52600)
NPRM Comment Period End 12/04/92
Final Rule 12/13/93 (58 FR 65118)
Final Rule Effective 12/13/93
NPRM 03/24/94 (59 FR 13904)
NPRM Comment Period End 04/25/94
NPRM 11/24/95 (60 FR 58026)
NPRM Comment Period End 12/26/95
NPRM Comment Period Extended to 01/26/96 (60 FR 65609)
NPRM Comment Period Extended to 02/02/96 (61 FR 2915)
NPRM 06/06/96 (61 FR 29115)
Final Rule 06/13/96 (61 FR 29941)
Interim Final Rule 01/05/01 (66 FR 1033)
NPRM 01/05/01 (66 FR 1064)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue final rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW, Washington, DC 20520-5816
Phone: 202 647-6961

RIN: 1400–AA34

2002. TRANSIT WITHOUT VISA (TWOV)

Priority: Substantive, Nonsignificant

Legal Authority: sec 212(d)(4)(C) of the Immigration & Nationality Act (INA)

CFR Citation: 22 CFR 41.2(i)

Legal Deadline: None

Abstract: Under the provision of section 212(d)(4)(C), the Secretary of State and the Attorney General, acting jointly, have the authority to waive nonimmigrant visa requirements for aliens in continuous and direct transit through the United States. Yugoslavia was removed from the list of countries participating in this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/93	58 FR 43438
Interim Final Rule Effective	09/15/93	
NPRM	01/05/01	66 FR 1064
Interim Final Rule	01/05/01	66 FR 1033
Interim Final Rule Effective	02/05/01	
NPRM Comment Period End	03/06/01	
Interim Final Rule Comment Period End	03/06/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
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RIN: 1400–AA48

2003. B-1 VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Immigration Act of 1990

CFR Citation: 22 CFR 41.31

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: B Visa regulation revisions, which incorporate 9FAM notes and INS OI, reflect changes in interpretation of B Visa classes resulting from enactment of Immigration and Naturalization Act of 1990 and MATINA.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 40024
NPRM Comment Period Extended to 11/23/93	09/23/93	58 FR 49456
NPRM Comment Period End	09/24/93	
NPRM Comment Period Extended to 12/06/93	11/23/93	58 FR 61856
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA54

2004. ADDITION OF COUNTRIES ELIGIBLE TO PARTICIPATE IN THE VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Addition of countries eligible to participate in the Visa Waiver Pilot Program. This submission was formerly titled: Addition of Countries eligible to participate in the visa waiver pilot program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/99	64 FR 42032
Interim Final Rule Comment Period End	10/04/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA75

2005. ADDITION OF "S" NONIMMIGRANT VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.83

Legal Deadline: None

Abstract: Implements section 130003 of Public Law 103-322 by adding a new nonimmigrant visa classification (S) under INA 101(a)(15)(S). This visa classification provides for the admission of certain alien witnesses and informants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/24/96	61 FR 1837
Interim Final Rule Comment Period End	03/25/96	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

STATE

Final Rule Stage

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AA91

2006. AUTHORITY TO ISSUE VISAS: ISSUANCE OF O&P VISAS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.111

Legal Deadline: None

Abstract: Authorizes officers in the visa office of the Department of State to revalidate O&P visas in the United States.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
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Email: odomher@state.gov

RIN: 1400–AA96

2007. NONIMMIGRANT VISA FEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-177, sec 410; 8 USC 1104

CFR Citation: 22 CFR 41.107

Legal Deadline: None

Abstract: This regulation reduces the fee for border crossing cards for aliens under age 15 and removes the fees for U.N. Observer Mission personnel.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/00	65 FR 52306
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
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Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AA97

2008. Q2 VISAS FOR IRISH NATIONALS PARTICIPATING IN WORK/TRAINING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-319; 8 USC 1104

CFR Citation: 22 CFR 41.57

Legal Deadline: None

Abstract: This regulation establishes a work/training program for Irish nationals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/00	65 FR 14764
Interim Final Rule Comment Period End	05/16/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
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Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB02

2009. REVISION TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: This revision to the DOSAR will make minor changes to conform the DOSAR to continuing changes in the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gladys G. Gines, Procurement Analyst, Office of the Procurement Executive, Department of State, SA-6, Room 603, Washington, DC 20522-0602
Phone: 703 516-1691
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Email: ginesgg@state.gov

RIN: 1400–AB06

2010. CULTURAL EXCHANGE PROGRAMS, REINSTATEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(j), 1182, 1184, 1258; 22 USC 1431 to 1442, 1475e, 2451 to 2460; Foreign Affairs Reform and Restructuring Act, PL 105-277, 112 Stat 2681 et seq; Reorgnization Plan No 2 of 1977, 3 CFR, 1977 Comp, p 200; EO 12048 of March 27, 1978, 3 CFR, 1978 Comp, p 168

CFR Citation: 22 CFR 62.45

Legal Deadline: NPRM, Statutory, April 2000.

Abstract: The Department is amending the Exchange Visitor Program regulations regarding reinstatment of J-1 exchange visitors to valid program status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/99	64 FR 44023
Interim Final Rule Comment Period End	09/13/99	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sally J. Lawrence, Chief Exchange Visitor Program, Department of State, Room 734, Washington, DC 20547
Phone: 202 401-9810
Fax: 202 401-9809
Email: slawrence@pd.state.gov

RIN: 1400–AB11

STATE — Final Rule Stage

2011. • NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 ISC 2000d to 2000d-7;; 42 USC 6101 to 6107; EO 12250

CFR Citation: 22 CFR 141 to 143

Legal Deadline: None

Abstract: The Department of State participated with 21 other Federal agencies to amend regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI, section 504, and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	11/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gloria J. Jackson, EEO Manager for Compliance Programs, Department of State, S/EEOCR; Room 4216, 2201 C Street NW, Washington, DC 20520
Phone: 202 647-9897
Fax: 202 647-4969
Email: jacksongj@state.gov

RIN: 1400–AB17

2012. • DOCUMENTATION OF NONIMMIGRANTS: VISA WAIVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.2(1)

Legal Deadline: None

Abstract: Makes permanent the Visa Waiver Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB21

2013. • DOCUMENTATION OF IMMIGRANTS: INTERNATIONAL BROADCASTERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.32(d)(8)

Legal Deadline: None

Abstract: Adds a new category of special immigrants, international broadcasters.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB22

2014. • DOCUMENTATION OF NONIMMIGRANTS: VICTIMS OF TRAFFICKING IN PERSONS, VICTIMS OF CRIMINAL ACTIVITIES, AND ALIENS INADMISSIBLE FOR TRAFFICKING IN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.84; 22 CFR 41.85; 22 CFR 40.27

Legal Deadline: None

Abstract: Creates a new nonimmigrant status for aliens who are victims of trafficking in persons (T) or victims of criminal activities (U) to enter the U.S. as nonimmigrants. Makes aliens who are involved in trafficking of persons inadmissible.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB23

2015. • DOCUMENTATION OF NONIMMIGRANTS: SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.86

Legal Deadline: None

Abstract: Permits spouses and children of lawful permanent residents, who are beneficiaries of immigrant petitions filed or approved 3 or more years prior, to enter the U.S. as (V) nonimmigrants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

STATE — Final Rule Stage

Agency Contact: John Condayan, Acting Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street NW, Washington, DC 20520
Phone: 202 647-3416

H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB24

2016. • DOCUMENTATION OF NONIMMIGRANTS: SPOUSES AND CHILDREN OF U.S. CITIZENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.81

Legal Deadline: None

Abstract: Provides nonimmigrant status for spouses and children of U.S. citizens who are awaiting approval of immigrant visa petitions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
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Email: odomher@state.gov

RIN: 1400–AB25

2017. • DOCUMENTATION OF IMMIGRANTS: DIVERSITY IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.33

Legal Deadline: None

Abstract: Amended to emphasize a diversity visa must be issued in the same fiscal year for which the petition was submitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB27

2018. • DOCUMENTATION OF IMMIGRANTS AND NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED—REFUSALS OF INDIVIDUAL VISAS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.41; 22 CFR 41.121; 22 CFR 41.122; 22 CFR 42.81

Legal Deadline: None

Abstract: Adds to grounds of ineligibility for nonimmigrants. Adds a new restriction on place of application for alien overstays.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB26

2019. • CLASSIFICATION OF NONIMMIGRANTS AND IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.12 and 42.11

Legal Deadline: None

Abstract: Adds new immigrant and nonimmigrant categories.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
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Email: odomher@state.gov

RIN: 1400–AB28

2020. • STUDENTS AND EXCHANGE VISITORS—FEE RECEIPTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.61 and 41.62

Legal Deadline: None

Abstract: Requires F, J, and M nonimmigrants to produce receipts for payment of CIPRIS fees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
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RIN: 1400–AB29

2021. • INTERNATIONAL ORGANIZATION EMPLOYEES—INTELSAT EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.24 and 42.32(d)(5)

Legal Deadline: None

Abstract: Treats employees of INTELSAT as if they were international

organization employees after INTELSAT privitization.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB30

2022. • ALIENS INELIGIBLE FOR VISAS FOR AIDING OR ABETTING COLOMBIAN INSURGENT AND PARAMILITARY GROUPS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 40.212

Legal Deadline: None

Abstract: Makes aliens who have aided or abetted Colombian insurgent and paramilitary groups inadmissible to the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB31

2023. • GROUNDS OF INADMISSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 40.63; 22 CFR 40.92; 22 CFR 40.104

Legal Deadline: None

Abstract: Adds exceptions for aliens inadmissible under INA 212(c)(6)(C)(ii), INA 212(a)(9)(B), and INA 212(a)(10)(D)

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, SA-1, Room L603-C, 2401 E Street NW, Washington, DC 20522-0106
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Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB32

DEPARTMENT OF STATE (STATE)

Long-Term Actions

2024. ESTABLISHING OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Priority: Substantive, Nonsignificant

Legal Authority: International Legal Material, vol XII, no 6, Nov 1973, p 1302

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the 1973 convention on the forms of international wills, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the convention and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent on August 2, 1991. Implementing legislation (the International Wills Act) is required before the United States can take further action to ratify the convention.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: U.S. ratification of the 1973 Convention Providing a Uniform Law on the Form of an International Will and implementing legislation will provide for the designation of Diplomatic and Consular Agents to act in connection with International Wills, and the establishment of a registry for such wills, and other related matters.

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW, Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA56

2025. HAGUE INTERCOUNTRY ADOPTION CONVENTION IMPLEMENTATION

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Regulations will implement the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and its associated legislation. The convention was submitted for Senate advice and consent in 1998, and the proposed implementing legislation was submitted to the full Congress in 1998 and again in 1999. Health and Human Services and the Immigration and Naturalization Service will also write regulations regarding this convention and legislation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW, Washington, DC 20520-5816
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Fax: 202 647-0103

RIN: 1400–AA88

2026. CULTURAL EXCHANGE PROGRAM, SUMMER WORK/TRAVEL—22 CFR 62

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(2)(15)(J), 1182, 1184, 1258; 22 USC 1431 to 1442, 1475e, 2451 to 2460; Foreign Affairs Reform and Restructing Act, PL 105-277, 112 Stat 2681 et seq; Reorganization Plan No 2 of 1977, 3 CFR, 1977 Comp, p 200; EO 12048 of March 27, 1978, 3 CFR, 1978 Comp, p 168

CFR Citation: 22 CFR 62.32

Legal Deadline: None

Abstract: The Department is adopting specific regulations governing participation in summer work/travel programs conducted by Department-designated sponsors pursuant to Public Law 105-277. These regulations supersede program guidelines promulgated by the USIA and published at 61 FR 13760 (March 28, 1996).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Transfered from 3116-AA16.

Agency Contact: Sally J. Lawrence, Chief Exchange Visitor Program, Department of State, Room 734, Washington, DC 20547
Phone: 202 401-9810
Fax: 202 401-9809
Email: slawrence@pd.state.gov

RIN: 1400–AB10

2027. CULTURAL EXCHANGE PROGRAMS, ANNUAL REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(J), 1182, 1184, 1258; 22 USC 1431 to 1442, 1475e, 2451 to 2460; Foreign Affairs Reform and Restructuring Act, PL 105-277, 112 Stat 2681 et seq; Reorganization Plan No 2 of 1977, 3 CFR, 1977 Comp, p 200; EO 12048 of March 27, 1978, 3 CFR, 1978 Comp, p 168

CFR Citation: 22 CFR 62.15

Legal Deadline: None

Abstract: The Department is amending the Exchange Visitor Program regulations regarding annual report requirements.

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sally J. Lawrence, Chief Exchange Visitor Program, Department of State, Room 734, Washington, DC 20547
Phone: 202 401-9810
Fax: 202 401-9809
Email: slawrence@pd.state.gov

RIN: 1400–AB14

2028. AMENDMENTS TO THE ITAR: REPORTING OF SHIPMENTS, OFFSET ARRANGEMENTS, AND ENHANCEMENTS TO CONGRESSIONAL NOTIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778; secs 1243 and 1245 of the Defense Offsets; Disclosure Act of 1999; sec 1302 of the Foreign Relations Authorization Act

CFR Citation: 22 CFR 120; 22 CFR 123; 22 CFR 124

Legal Deadline: NPRM, Statutory, December 2001.

Abstract: New requirement to report to the Office of Defense Trade Controls shipping data within 15 days after the item has been exported. Final rule includes a new requirement that the reporting of any proposed offset agreement connected with a proposed export of any major defense equipment sold under a contract in the amount of $14,000,000 or more or of defense articles or defense services sold under a contract in the amount of $50,000,000 or more. Also, a new requirement was added that 45 days must elapse since receipt by the Congress of an enhancement to a case notified to Congress as required by 22 U.S.C. 2776(c)(1).

Timetable:

Action	Date	FR Cite
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Mary Frances Sweeney, Munitions Control Analyst, Department of State, 13th Floor, 2401 E Street NW, Washington, DC 20037
Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AB15

2029. • AMENDMENT TO THE ITAR: OFFSET ARRANGEMENTS AND ENHANCEMENTS TO CONGRESSIONAL NOTIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778; secs 1243 and 1245 of the Defense Offsets; Disclosure Act of 1999

CFR Citation: 22 CFR 120; 22 CFR 123; 22 CFR 124

Legal Deadline: None

Abstract: New requirement to require reporting and a description of any proposed offset agreement connected with a proposed export of any major defense equipment sold under a contract in the amount of $14,000,000 or more of defense articles or defense services sold under a contract in the amount of $50,000,000 or more. Also, a new requirement was added that 45 days must elapse since receipt by the Congress of an enhancement to a case notified to Congress as required by 22 U.S.C. 2776(c) (1).

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

STATE

Long-Term Actions

Government Levels Affected: None

Agency Contact: Mary Frances Sweeney, Munitions Control Analyst, Department of State, 13th Floor, 2401 E Street NW, Washington, DC 20037
Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AB18

2030. • AMENDMENTS TO THE ITAR: REPORTING OF SHIPMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778; sec 1302 of the Foreign Relations Authorization Act

CFR Citation: 22 CFR 123; 22 CFR 126; 22 CFR 127

Legal Deadline: None

Abstract: New requirement to report to the Office of Defense Trade Controls shipping data within 15 days after the item has been exported.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Mary Frances Sweeney, Munitions Control Analyst, Department of State, 13th Floor, 2401 E Street NW, Washington, DC 20037
Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AB20

DEPARTMENT OF STATE (STATE)

Completed Actions

2031. REVISION OF U.S. MUNITIONS LIST

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 121.1; 22 CFR 121.16

Completed:

Reason	Date	FR Cite
Withdrawn	03/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Frances Sweeney
Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AA64

2032. PROCESSING FEE: AFFIDAVIT OF SUPPORT

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 40.41

Completed:

Reason	Date	FR Cite
Final Action	09/07/00	65 FR 54148
Final Action Effective	10/01/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-3898
Email: odomher@state.gov

RIN: 1400–AB07

2033. AMENDMENT TO THE ITAR: FMS LOA AUTHORIZED DEFENSE SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 126

Completed:

Reason	Date	FR Cite
Final Action	07/21/00	65 FR 45286
Final Action Effective	09/01/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sally J. Lawrence
Phone: 202 401-9810
Fax: 202 401-9809
Email: slawrence@pd.state.gov

Mary Frances Sweeney
Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AB13

2034. • AMENDMENT TO THE ITAR: CANADIAN EXEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 126

Legal Deadline: None

Abstract: New final rule amends the existing Canadian exemption in the International Traffic in Arms Regulations. Government of Canada changed its export control system by establishing a system that identifies and permits registration of persons who will be eligible on the basis of Canadian citizenship or permanent residence and of risk assessment to have access to U.S. Munitions List articles exported from the United States or re-transferred within Canada without a U.S. license. Accordingly, the new final rule reflects the Canadian registration system to permit specific end-users to be eligible to receive defense articles exported under the exemption. Such end-users are Canadian Federal or Provincial government authorities acting in an official capacity and Canadian-registered persons.

Timetable:

Action	Date	FR Cite
Final Action	02/16/01	66 FR 10575
Final Action Effective	05/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Mary Frances Sweeney, Munitions Control Analyst, Department of State, 13th Floor, 2401 E Street NW, Washington, DC 20037
Phone: 202 663-2865
Fax: 202 261-8264

RIN: 1400–AB19

[FR Doc. 01–8833 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I-III

23 CFR Chs. I-III

33 CFR Chs. I and IV

46 CFR Chs. I-III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI

OST Docket 99-5129

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

You should direct all comments and inquiries on the agenda in general to Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

You should direct all comments and inquiries on particular items in the agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in Appendix B.

Individuals who use a telecommunications device for the deaf (TDD) may call (202) 755-7687.

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SUPPLEMENTARY INFORMATION:

Background

Improvement of our regulations is a prime goal of the Department of Transportation (Department or DOT). There should be no more regulations than necessary and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department achieve these goals and in accordance with Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda. It summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the offices initiating the rulemaking and are reviewed by the Department Regulations Council. The Department's last agenda was published in the **Federal Register** on November 30, 2000 (65 FR 74134). The next one is scheduled for publication in the **Federal Register** in October 2001.

The Department has created an Internet site that provides general information about its rulemaking responsibilities and activities. It includes hypertext links to numerous other departmental sites providing helpful information about DOT regulation. The web address for this site is http://regs.dot.gov.

Significant/Priority Rulemakings

The agenda covers all rules and regulations of the Department. We have classified rules as a DOT agency priority in the agenda if they are, essentially, very costly, controversial, or of substantial public interest under our Regulatory Policies and Procedures. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation. If the Office of Management and Budget (OMB) decides a rule is subject to its review under Executive Order 12866, we have classified it as significant in the agenda.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of January 16, 2001.

First, the agenda is divided by initiating offices. Then, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) Its "significance"; (2) a short descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for a decision on whether to take the action; (8) whether the rulemaking will affect small entities and/or levels of government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the action (With minor exceptions, DOT requires an economic analysis for all its rulemakings.); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue; (13) whether the action is subject to the Unfunded Mandates Reform Act; and (14) whether the action is major under the congressional review provisions of the

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Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information."

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the "Timetable" column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which we expect to make a decision on whether to issue it. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in Appendix D.

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a "significant economic impact on a substantial number of small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (Section 610 Review) appears at the end of the title for these reviews. Please see Appendix D for the Department's section 610 review plans.

Federalism

Executive Order 13132 requires us to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we encourage State and local governments to provide us with information about how the Department's rulemakings impact them.

Purpose

The Department is publishing this regulatory agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded.

Issued in Washington, DC, on April 27, 2001.

Norman Y. Mineta,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most if not all such documents, including the Semiannual Agenda, are available through our Internet-accessible docket at http://dms.dot.gov. See Appendix C for more information.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Motor Carrier Safety Administration (FMCSA)

(Name of contact person), Federal Motor Carrier Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

Joel C. Richard, Secretary, Maritime Administration, 400 7th Street SW., Room 7210, Washington, DC 20590, (202) 366-5746.

Bureau of Transportation Statistics (BTS)

(Name of contact person), Bureau of Transportation Statistics, 400 7th Street SW., Room 7210, Washington, DC 20590.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling (202) 267-3484 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

To obtain a copy of a specific regulatory document or to receive future copies of the Department's regulatory agenda write to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG — Steve Venckus, Office of Chief Counsel, USCG Headquarters Building, Room 3406, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267-1534.

FAA - Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3073.

FHWA - Tom Holian, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1383.

FMCSA - Suzanne O'Malley, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1367.

FRA - Colleen Brennan, Office of Chief Counsel, 400 7th Street SW., Mail Stop 10, Washington, DC 20590; telephone: (202) 493-6028.

NHTSA - Steve Wood, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

FTA - Richard Wong, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0108.

RSPA - Edward Bonekemper, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4400.

MARAD — Edmund Sommer, Jr., Office of Chief Counsel, Maritime Administration, 400 7th Street SW., Room 7221, Washington, DC 20590; telephone: (202) 366-5181.

BTS — Clay Moritz, 400 7th Street SW., Room 4125, Washington, DC 20590; telephone: (202) 366-4385.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C- Public Rulemaking Dockets

The public may review or submit comments to the dockets for all of DOT via the Internet at the following address: http://dms.dot.gov. Examples of documents that may be in the dockets are proposed rules, public comments received, supporting analyses, studies, and reports.

The public also may review regulatory dockets at, or deliver comments on proposed rulemakings to, the Dockets Office at 400 7th Street SW., Room PL 401, Washington, DC 20590, 1-800-647-5527. Working Hours: 9:00-5:00.

Appendix D - Review Plans for Section 610 and Other Requirements

Part I - The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our 1979 Regulatory Policies and Procedures require such reviews. We also have responsibilities under E.O. 12866 ("Regulatory Planning and Review") and section 610 of the Regulatory Flexibility Act to conduct such reviews. This will include the use of plain language techniques in new rules and to consider rewriting existing rules when we have the opportunity and resources permit. The Department is currently conducting a number of reviews of existing rules and is engaged in rulemaking actions resulting from these reviews.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that (1) have been published within the last ten years and (2) have a "significant economic impact on a substantial number of small entities" (SEIOSNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. To better comply with section 610, the Department has updated its regulatory review plan published on June 29, 1981, to accomplish a more systematic review of all of its regulations. The Office of the Secretary and each of the Department's Operating Administrations (except for FMCSA) have a 10-year review plan. These reviews are in accordance with section 610 of the Regulatory Flexibility Act.

Other Review Plans

All elements of the Department, except for the FMCSA and Federal Aviation Administration (FAA), have also elected to use this 10-year plan process to comply with the review requirements of the Department's Regulatory Policies and Procedures, and Executive Order 12866. FMCSA and FAA are using different approaches, which are described in Part II to this Appendix.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a Presidentially mandated review. If there is any change to the review plan, we will note the change in the following Unified Agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II - The Review Process

The Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall-to-fall schedule for publication of the Agenda. Thus, Year 1 (1998) began in the fall of 1998 and ends in the fall of 1999; Year 2 (1999) begins in the fall of 1999 and ends in the fall of 2000; and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses can be submitted to the regulatory contacts listed in Appendix B, General Rulemaking Contact Persons.

Section 610 Review

The agency will analyze each of the rules in a given year's group to determine whether any rule has a SEIOSNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability.

Publication of agencies' section 610 analyses list each fall in this Agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each October's Agenda, the agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEIOSNOSE, we will give a short explanation (e.g., "these rules only establish petition processes that have no cost impact" or "these rules do not apply to any small entities"). For parts, subparts or other discrete sections of rules that do have a SEIOSNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

The agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each October's Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

FAA

The Federal Aviation Administration, in addition to reviewing its rules in accordance with the schedule below, has established a process by which the public is asked for its comments on which rules need review the most. Any information that the FAA receives in connection with its annual section 610 analyses would, of course, also be reviewed in the spirit of E.O. 12866. In addition, in response to a recommendation of the White House Commission on Aviation Safety and Security, the FAA has completed a review of all its existing regulations to identify those in need of rewriting as performance-based or plain language regulations. The agency also reviewed ongoing regulatory projects and proposals to identify additional candidates for revision. In all, the agency reviewed 68 parts of the CFR, containing 3,884 sections, appendices, and Special Federal Aviation Regulations. In addition to using plain language in its current and future regulations, the FAA intends to revise those regulations identified in its study when it has the opportunity and resources to do so.

FMCSA

The Federal Motor Carrier Safety Administration has underway a comprehensive, multiyear project to develop modern, uniform safety regulations that are up-to-date, clear, concise, easier to understand, and more performance oriented. The FMCSA has held 11 public outreach meetings, announced in the **Federal Register**, to solicit public involvement in this review; a total of 110 industry and government safety representatives participated in 14 one-day focus group sessions; over 2,000 comments have been received in the public docket so far.

On November 23, 1994, the FMCSA published a final rule removing obsolete and redundant regulations identified through this review. In addition, on June 18, 1998, the FMCSA published another final rule (63 FR 33254) removing and amending additional provisions of the Federal Motor Carrier Safety Regulations identified through zero-base review.

The FMCSA is developing a notice of proposed rulemaking that will propose a complete revision of the Federal Motor Carrier Safety Regulations implementing the results of the FMCSA's zero-base review of those regulations. The NPRM will include a complete reorganization of the safety regulations and a rewrite of those regulations using plain language and a question-and-answer format to enhance the clarity and understandability of those regulations. In addition, the notice will focus the regulations on safety while adopting a performance-based approach to the regulations and reducing the paperwork associated with compliance with the regulations. The FMCSA believes that this effort will produce regulations which are simpler to understand and to comply with, especially for small motor carriers. Because of these long-term, ongoing efforts, FMCSA is not currently reviewing these rules.

Part III- List of Pending Section 610 Reviews

The Agenda identifies the pending DOT Section 610 Reviews by inserting "(Section 610 Review)" after the title for the specific entry. Also, a Governmentwide list of section 610 reviews can be located in an index at the end of the Agenda. For further information on the pending reviews, see the Agenda entries.

DOT

OFFICE OF THE SECRETARY
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 200 through 212	1998	1999
2	14 CFR parts 213 through 232	1999	2000
3	14 CFR parts 234 through 254	2000	2001
4	14 CFR parts 255 through 298 and part 40	2001	2002
5	14 CFR parts 300 through 373	2002	2003
6	14 CFR parts 374 through 398	2003	2004
7	14 CFR part 399 and 49 CFR parts 1 through 11	2004	2005
8	49 CFR parts 17 through 28	2005	2006
9	49 CFR parts 29 through 39 and parts 41 through 89	2006	2007
10	49 CFR parts 91 through 99, 48 CFR parts 1201 through 1253, and new parts and subparts	2007	2008

Year 2 (Fall 1999) List of Rules analyzed and a summary of the results

14 CFR 217-Reporting traffic statistics by foreign air carriers in civilian scheduled, charter, and nonscheduled services

14 CFR 213—Terms, conditions and limitations of foreign air carrier permits

- Section 610: No SEIOSNOSE. This rule does not have a significant economic impact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1996. If additional updates become desirable, changes will be proposed.

14 CFR 214—Terms, conditions, and limitations of foreign air carrier permits authorizing charter transportation only

- Section 610: No SEIOSNOSE. This rule does not have a significant economic impact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1998. If additional updates become desirable, changes will be proposed.

14 CFR 215—Use and change of names of air carriers, foreign air carriers and commuter air carriers

- Section 610: No SEIOSNOSE. This rule applies to a substantial number of small entities but does not have a significant economic impact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1988. If additional updates become desirable, changes will be proposed.

14 CFR 216—Commingling of blind sector traffic by foreign air carriers

- Section 610: No SEIOSNOSE. This rule does not have a significant economic impact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1978. If additional updates become desirable, changes will be proposed.

14 CFR 218—Lease by foreign air carrier or other foreign person of aircraft with crew

- Section 610: No SEIOSNOSE. This rule does not have a significant economic impact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1981. If additional updates become desirable, changes will be proposed.

14 CFR 221—Tariffs

- Section 610: No SEIOSNOSE. This rule does not have a significant economic impact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1999. If additional updates become desirable, changes will be proposed.

14 CFR 222—Intermodal cargo services by foreign air carriers

- Section 610: No SEIOSNOSE. This rule does not have a significant economic impact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1981. If additional updates become desirable, changes will be proposed.

14 CFR 223—Free and reduced—rate transportation

- Section 610: No SEIOSNOSE. This rule does not have a significant economicimpact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1983. If additional updates become desirable, changes will be proposed.

14 CFR 232—Transportation of mail, review of orders of postmaster general

- Section 610: No SEIOSNOSE. This rule applies to a substantial number of small entities but does not have a significant economic impact. Quite to the contrary, the regulation, authorized by 49 U.S.C. 41902(e), allows for those small entities that believe they have been aggrieved by the US Postal Service to seek relief from the Department of Transportation.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: This rule was revised in 1976. If additional updates become desirable, changes will be proposed.

Year 3 (Fall 2000) List of Rules that will be analyzed during the next year

14 CFR part 234 — Airline service quality performance reports
14 CFR part 240 — Inspection of accounts and property
14 CFR part 241 — Uniform system of accounts and reports for large certified air carriers
14 CFR part 243 — Passenger manifest information
14 CFR part 247 — Direct airport—to—airport mileage records

DOT

14 CFR part 248 — Submission of audit reports
14 CFR part 249 — Preservation of air carrier records
14 CFR part 250 — Oversales
14 CFR part 252 — Smoking aboard aircraft
14 CFR part 253 — Notice of terms of contract of carriage
14 CFR part 254 — Domestic baggage liability

UNITED STATES COAST GUARD
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR Parts 1 through 124	1998	1999
2	33 CFR Parts 125 through 199	1999	2000
3	46 CFR Parts 1 through 40	2000	2001
4	46 CFR Parts 41 through 69	2001	2002
5	46 CFR Parts 70 through 89	2002	2003
6	46 CFR Parts 90 through 139	2003	2004
7	46 CFR Parts 140 through 155	2004	2005
8	46 CFR Parts 156 through 165	2005	2006
9	46 CFR Parts 166 through 199	2006	2007
10	New parts and subparts	2007	2008

Year 2 (Fall 1999) List of rules analyzed and a summary of the results

33 CFR part 125 — Identification credentials for persons requiring access to waterfront facilities or vessels

- Section 610: No SEIOSNOSE. These rules have no impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 126 — Handling of Class 1 (explosive) materials or other dangerous cargoes within or contiguous to waterfront facilities
33 CFR part 127 — Waterfront facilities handling liquefied natural gas and liquefied hazardous gas
33 CFR part 128 — Security of passenger terminals
33 CFR part 133 — Oil spill liability trust fund; state access

- Section 610: No SEIOSNOSE. These rules have no impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 135 — Offshore oil pollution compensation fund
33 CFR part 136 — Oil spill liability trust fund; claims procedures; designation source; and advertisement

- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 138 — Financial responsibility for water pollution (vessels)
33 CFR part 140 — General
33 CFR part 141 — Personnel
33 CFR part 142 — Workplace safety and health
33 CFR part 143 — Design and equipment
33 CFR part 144 — Lifesaving appliances
33 CFR part 145 — Fire—fighting equipment
33 CFR part 146 — Operations
33 CFR part 147 — Safety zones

- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 148 — General

- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 149 — Design, construction, and equipment

- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.

DOT

- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 150 — Operations
- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 160 — Ports and waterways safety — general
- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 166 — Shipping safety fairways
- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 167 — Offshore traffic separation schemes
- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 174 — State numbering and casualty reporting systems
- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 175 — Equipment requirements
- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

33 CFR part 177 — Correction of especially hazardous conditions
- Section 610: No SEIOSNOSE. These rules have no significant impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed for minor non-substantive updates on an annual basis. No substantive revisions are necessary.

Year 3 (Fall 2000) List of rules that will be analyzed during the next year

33 CFR part 126 — Handling of Class 1 (explosive) materials or other dangerous cargoes within or contiguous to waterfront facilities
33 CFR part 127 — Waterfront facilities handling liquefied natural gas and liquefied hazardous gas
33 CFR part 128— Security of passenger terminals
33 CFR part 135 — Offshore oil pollution compensation fund
33 CFR part 138 — Financial responsibility for water pollution (vessels)
33 CFR part 140 — General
33 CFR part 141 — Personnel
33 CFR part 142 — Workplace safety and health
33 CFR part 143 — Design and equipment
33 CFR part 144 — Lifesaving appliances
33 CFR part 145 — Firefighting equipment
33 CFR part 146 — Operations
33 CFR part 151 — Vessels carrying oil, noxious liquid substances, garbage, municipal or commercial waste, and ballast water
33 CFR part 153 — Control of pollution by oil or hazardous substances, discharge removal
33 CFR part 154 — Facilities transferring oil or hazardous materials in bulk
33 CFR part 155 — Oil or hazardous material pollution prevention regulations for vessels
33 CFR part 156 — Oil or hazardous material transfer operations
33 CFR part 157 — Rules for the protection of the marine environment relating to tank vessels carrying oil in bulk
33 CFR part 158 — Reception facilities for oil, noxious liquid substances, and garbage
33 CFR part 161 — Vessel traffic management
33 CFR part 162 — Inland waterways navigation regulations
33 CFR part 163 — Towing of barges
33 CFR part 164 — Navigation safety regulations
33 CFR part 165 — Regulated navigation areas and limited access areas

DOT

33 CFR part 168 — Escort requirements for certain tankers
33 CFR part 173 — Vessel numbering and casualty and accident reporting
33 CFR part 179 — Defect notification
33 CFR part 181 — Manufacturer requirements
33 CFR part 183 — Boats and associated equipment
33 CFR part 184 — 186 Reserved
33 CFR part 187 — Vessel identification system
33 CFR parts 188 through 199 — Reserved
46 CFR part 1 — Organization, general course and methods governing marine safety functions
46 CFR part 2 — Vessel inspections
46 CFR part 3 — Designation of oceanographic research vessels
46 CFR part 4 — Marine casualties and investigations
46 CFR part 5 — Marine investigation regulations — personnel action
46 CFR part 6 — Waivers of navigation and vessel inspection laws and regulations
46 CFR part 7 — Boundary lines
46 CFR part 8 — Vessel inspection alternatives
46 CFR part 9 — Extra compensation for overtime services
46 CFR part 10 — Licensing of maritime personnel
46 CFR part 12 — Certification of seamen
46 CFR part 13 — Certification of tankermen
46 CFR part 14 — Shipment and discharge of merchant mariners
46 CFR part 15 — Manning requirements
46 CFR part 16 — Chemical testing
46 CFR part 24 — General provisions
46 CFR part 25 — Requirements
46 CFR part 26 — Operations
46 CFR part 28 — Requirements for commercial fishing industry vessels
46 CFR part 30 — General provisions
46 CFR part 31 — Inspection and certification
46 CFR part 32 — Special equipment, machinery, and hull requirements
46 CFR part 34 — Firefighting equipment
46 CFR part 35 — Operations
46 CFR part 36 — Elevated temperature cargoes
46 CFR part 38 — Liquefied flammable gases
46 CFR part 39 — Vapor control systems

FEDERAL AVIATION ADMINISTRATION
SECTION 610 REVIEW PLAN

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 1 through 21	1998	1999
2	14 CFR parts 23 through 34	1999	2000
3	14 CFR parts 35 through 49	2000	2001
4*	14 CFR parts 61 through 77	2001	2002
5	14 CFR parts 91 through 105	2002	2003
6	14 CFR parts 107 through 133	2003	2004
7	14 CFR parts 135 through 147	2004	2005
8	14 CFR parts 150 through 169	2005	2006
9	14 CFR parts 170 through 198	2006	2007
10	14 CFR parts 400 through 415	2007	2008

* FAA will also review all other rules dealing with alcohol and drugs

Year 1 (Fall 1998) List of Rules reviewed during the past year

14 CFR part 21- Certification procedures for products and parts
- The FAA reviewed this rule to determine if it could be revised or revoked to lessen the impact on small entities. Eleven sections (21.16, 21.21, 21.33, 21.35, 21.95, 21.97, 21.123, 21.125, 21.143, 21.157, and 21.183) were found to have a SEIOSNOSE. The agency found that no changes are warranted because these sections outline the minimum requirements, in terms of type designs, inspections, and tests, etc., necessary to demonstrate the airworthiness of aircraft and aircraft parts.

Year 2 (Fall 1999) List of Rules analyzed and a summary of the results

14 CFR 23—Airworthiness standards: normal, utility, acrobatic, and commuter category airplanes
- Section 610; FAA will conduct a formal 610 review during the following 12 months *
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

DOT

14 CFR 25—Airworthiness standards: transport category airplanes
- No SEIOSNOSE. There are no small business manufacturers of transport category airplanes.
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 27—Airworthiness standards: normal, utility, acrobatic, and commuter category rotorcraft
- Section 610; FAA will conduct a formal 510 review during the following 12 months *
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 29—Airworthiness standards: transport category rotorcraft
- Section 610; FAA will conduct a formal 510 review during the following 12 months *
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 33—Airworthiness standards: aircraft engines
- Section 610; FAA will conduct a formal 510 review during the following 12 months *
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

14 CFR 34—Fuel venting and exhaust emission requirements for turbine engine powered airplanes
- Section 610; FAA will conduct a formal 510 review during the following 12 months *
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.

Year 3 (Fall 2000) List of Rules that will be analyzed during the next year
14 CFR part 35—Airworthiness standards: propellers
14 CFR part 36—Noise standards; aircraft type and airworthiness certification
14 CFR part 39-Airworthiness directives
14 CFR part 43—Maintenance, preventive maintenance; rebuilding and alteration
14 CFR part 45—Identification and registration marking
14 CFR part 47—Aircraft registration
14 CFR part 49—Recording of aircraft titles and security documents

* A description for this action will be included in the April 2001 agenda or published in a separate notice in the **Federal Register**.

FEDERAL HIGHWAY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	None	1998	1999
2	None	1999	2000
3	23 CFR parts 450, 657 and 771	2000	2001
4	23 CFR parts 1-260	2001	2002
5	23 CFR parts 420, 460-480	2002	2003
6	23 CFR part 500	2003	2004
7	23 CFR 600-656, 658-669	2004	2005
8	23 CFR parts 710-924	2005	2006
9	23 CFR parts 1200-1252	2006	2007
10	New parts and subparts	2007	2008

Year 3 (Fall 2000) List of Rules that will be analyzed during the next year
23 CFR part 450-On going review of regulations governing Statewide and Metropolitan Transportation Planning
23 CFR part 657 — On going review of certification of size and weight requirements
23 CFR part 771—On going review of regulations governing Assessment of Environmental Impact and Related procedures (NEPA Implementing Regulations)

Federal-Aid Highway Program

The FHWA has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-aid highway program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter 1 of title 23 of the USC. Section 145 of title 23 expressly provides that chapter 1 provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to requirements that States must meet to receive Federal funds for the construction and other work related to highways.

Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities, with limited exceptions discussed below. The FHWA solicits public comment on this preliminary conclusion.

DOT

In title 23, part 657, "Certification of Size and Weight Enforcement," may have impacts on small governments or small businesses. The FHWA will publish a supplemental ANPRM to consider revisions to part 657. Public comment will be solicited specifically on whether and how part 657 may be revised to reduce burdens on small entities.

FHWA, jointly with the Federal Transit Administration, will be proposing revisions to the regulations currently codified at 23 CFR parts 450 and 771. These regulations will be issued in a new chapter IV of 23 CFR as "intermodal" rules and renumbered respectively as 23 CFR part 1410 (planning assistance and standards) and 23 CFR part 1420 and 1430 (environmental impact and related matters). In the course of developing the notice of proposed rulemaking for each of these regulations, the FHWA and FTA solicited comment on their potential for impact on small entities, including small governments. All comments will be analyzed accordingly and issues pertaining to the potential for impact will be addressed in the final regulations.

Development of these revised regulations represents part of the FHWA's efforts to implement the Transportation Equity Act for the 21st Century (TEA-21), which reauthorizes Federal surface transportation programs. Additional implementation efforts under TEA-21 may offer further opportunities to reduce the burden of existing regulations on small entities, and comment on this possibility is requested.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 501 through 526 and 571.213	1998	1999
2	49 CFR parts 571.131 and 571.220 through 571.222	1999	2000
3	49 CFR parts 591 through 594	2000	2001
4	49 CFR parts 571.101 through 571.110 and 571.135	2001	2002
5	49 CFR parts 529 through 579, except part 571	2002	2003
6	49 CFR parts 571.111 through 571.129 and parts 580 through 590	2003	2004
7	49 CFR part 571.201 through 571.212	2004	2005
8	49 CFR parts 571.214 through 571.219	2005	2006
9	49 CFR parts 571.223 through 571.304, part 500 and new parts and subparts under 49 CFR	2006	2007
10	23 CFR parts 1200's and 1300's and new parts and subparts under 23 CFR	2007	2008

Year 2 (Fall 1999) List of Rules analyzed and a summary of the results
49 CFR part 571.131-School bus pedestrian safety devices
49 CFR part 571.217—Bus emergency exits and window retention and release
49 CFR part 571.220—School bus rollover protection
49 CFR part 571.221—School bus body joint strength
49 CFR part 572.222—School bus passenger seating and crash protection

Year 3 (Fall 2000) List of Rules that will be analyzed during the next year
Part 591 — Implementation of vehicles and equipment subject to Federal safety, bumper and theft prevention standards
Part 592 — Registered importers of vehicles not originally manufactured to conform to the Federal Motor Vehicle Safety Standards
Part 593 — Determinations that a vehicle not originally manufactured to conform to the Federal Motor Vehicle Safety Standards is eligible for importation
Part 594 — Schedule of fees authorized by 49 U.S.C. 30141

NHTSA Request for Comments

On September 13, 2000, NHTSA published in the **Federal Register** a request for comments on whether these rules have a significant economic impact on a substantial number of small entities. NHTSA received and granted a request to extend the comment period to November 13, 2000.

FEDERAL RAILROAD ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 200 through 201	1998	1999
2	49 CFR parts 207, 209, 211, 215, and 256	1999	2000
3	49 CFR parts 210, 212, 214, and 217	2000	2001
4	49 CFR parts 219	2001	2002
5	49 CFR parts 218 and 221	2002	2003
6	49 CFR parts 216 and 228 through 229	2003	2004
7	49 CFR parts 223 and 233	2004	2005
8	49 CFR parts 225, 231, and 234	2005	2006

DOT

FEDERAL RAILROAD ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
9	49 CFR parts 235 through 236, 250, 260, and 266	2006	2007
10	49 CFR parts 213, 220, 230, 232, 239, 240, and 265	2007	2008

Year 2 (Fall 1999) List of Rules analyzed and a summary of the results

49 CFR part 207-Railroad police officers
- Section 610: No SEIOSNOSE. Railroads that qualify as small businesses do not generally employ railroad police officers. Economic impact would be minimal if they do choose to employ police officers.
- Plain Language: This rule is just over one page in length, and is very clearly written.
- General: No additional review is necessary.

49 CFR part 209—Railroad safety enforcement procedures
- Section 610: No SEIOSNOSE. Rule provisions are either procedural, or their economic impact is not significant.
- Plain Language: Text is clear and well-organized, but does contain enough typographical errors to warrant review. FRA plans to revise this rule in the near future, and has established RIN 2130-AB35 for this action.
- General: No additional review is necessary.

49 CFR part 211—Rules of practice
- Section 610: No SEIOSNOSE. These are agency procedural rules. Participation by all parties, including small entities, in these agency proceedings is voluntary.
- Plain Language: FRA's plain language review indicates no need for substantial revision. As resources permit, FRA will make changes as may be necessary. FRA plans to revise this rule in the near future, and has established RIN 2130-AB36 for this action.
- General: Participation in these procedures is voluntary, and the costs are minimal.

49 CFR part 215—Railroad freight car safety standards
- Section 610: There is a SEIOSNOSE. FRA will conduct a formal review to identify whether additional opportunities may exist to further reduce the burden on small railroads without compromising safety.
- Plain Language: FRA's plain language review indicates no need for substantial revision. As resources permit, FRA will make changes as may be necessary.
- General: Part 215 contains provisions (Appendix D) designed to reduce the burden on small railroads to the greatest extent possible without a negative safety impact. However, a SEIOSNOSE still exists.

49 CFR part 256 — Financial assistance for railroad passenger terminals
- This rule administers a program that is currently inactive because funds have not been appropriated for it. Therefore, it has no SEIOSNOSE and no further review is necessary.

Year 3 (Fall 2000) List of Rules that will be analyzed during the next year

49 CFR part 210 — Railroad noise emission compliance regulations
49 CFR part 212 — State safety participation regulations
49 CFR part 214 — Railroad workplace safety
49 CFR part 217 — Railroad operating rules

FEDERAL TRANSIT ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	None	1998	1999
2	None	1999	2000
3	49 CFR part 661	2000	2001
4	49 CFR parts 653 and 654	2001	2002
5	49 CFR part 665	2002	2003

Year 3 (Fall 2000) List of Rules that will be analyzed during the next year

49 CFR part 661 — Buy Americarequirements — Surface Transportation Assistance Act of 1982, as amended

MARITIME ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	46 CFR parts 201 through 207	1998	1999
2	46 CFR parts 221 through 232	1999	2000
3	46 CFR parts 249 through 295	2000	2001

DOT

MARITIME ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
4	46 CFR parts 298	2001	2002
5	46 CFR parts 307 through 310	2002	2003
6	46 CFR parts 315 through 399	2003	2004
7	46 CFR part 340 and 347	2004	2005
8	46 CFR parts 349 through 380	2005	2006
9	46 CFR parts 381 through 387	2006	2007
10	46 CFR parts 390 through 391	2007	2008

Year 2 (Fall 1999) List of Rules analyzed and a summary of the results.

46 CFR part 221-Regulated transactions involving documented vessels and other maritime interests
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- Plain Language: In an upcoming rulemaking, MARAD will rewrite the regulations using plain language techniques.
- General: We will continue our review and schedule this part for revision as appropriate.

46 CFR part 232 — Uniform Financial Reporting Requirements
- Section 610: No SEIOSNOSE. These rules are procedural and have minimal, if any, cost impact.
- Plain Language: As resources permit, MARAD will rewrite the regulations using plain language techniques.
- General: MARAD staff concluded that no changes are necessary.

Year 3 (Fall 2000) List of Rules analyzed and a summary of the results

46 CFR 249 Approval of underwriters for marine hull insurance
- Section 610: No SEIOSNOSE. Some small entities may be effected, but the economic impact on small entities will not be significant.
- Plain Language: As resources permit, MARAD will rewrite the regulations using plain language techniques.
- General: No changes are necessary because the requirements regulate in the most cost-effective manner, the benefits of the regulations justify their costs, and the regulations impose the least burden on society.

46 CFR 251 Application for subsidies and other direct financial aid
46 CFR 252 Operating—differential subsidy for bulk cargo vessels engaged in worldwide services
46 CFR 272 Requirements and procedures for conducting condition surveys and administering maintenance and repair subsidy
- Section 610: No SEIOSNOSE. Some small entities may be effected, but the economic impact on small entities will not be significant. Congress has withdrawn MARAD's authority to issue operational-differential subsidy.
- Plain Language: We will rewrite any remaining regulations using plain language techniques.
- General: We will continue our review of operating-differential subsidy regulations and will probably initiate a rulemaking in September 2001 to eliminate these regulations as the last operating-differential subsidy contracts terminate.

46 CFR 276 Construction—differential subsidy repayment
- Section 610: No SEIOSNOSE. Some small entities may be effected, but the economic impact on small entities will not be significant. Plain Language: We will rewrite any remaining regulations using plain language techniques.
- General: No changes are necessary because the requirements regulate in the most cost-effective manner, the benefits of the regulations justify their costs, and the regulations impose the least burden on society.

46 CFR 277 Domestic and foreign trade; interpretations
46 CFR 280 Limitations on the award and payment of operating—differential subsidy for liner operators
46 CFR 281 Information and procedure required under liner operating—differential subsidy agreements
46 CFR 282 Operating—differential subsidy for liner vessels engaged in essential services in the foreign commerce of the United States
46 CFR 283 Dividend policy for operators receiving operating—differential subsidy
- Section 610: No SEIOSNOSE. Some small entities may be effected, but the economic impact on small entities will not be significant. Congress has withdrawn MARAD's authority to issue operational-differential subsidy.
- Plain Language: We will rewrite any remaining regulations using plain language techniques.
- General: We will continue our review of operating-differential subsidy regulations and will probably initiate a rulemaking in September 2001 to eliminate these regulations as the last operating-differential subsidy contracts terminate.

46 CFR 287 Establishment of construction reserve funds
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- Plain Language: We will rewrite the regulations using plain language techniques.
- General: We will continue our review and schedule this part for revision as appropriate.

46 CFR 295 Maritime Security Program
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- Plain Language: The text is clear and well-organized.

DOT

- General: We will revise the regulations if necessary.

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year
- 46 CFR part 298—Obligation Guarantees

RESEARCH AND SPECIAL PROGRAMS ADMINSTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR sections 171.15, 171.16 (incident reports)	1998	1999
2	49 CFR parts 106 and 107 (hazardous materials safety procedures), 171 (general hazmat requirements), 190 (pipeline safety procedures), and 195 (hazardous liquid pipeline corrosion control)	1999	2000
3	49 CFR parts 174, 177 (rail and highway carriage), 191 (gas pipeline transportation reports), and 192 (gas pipeline corrosion control)	2000	2001
4	49 CFR parts 176 (vessel carriage) and 199 (pipeline employee drug and alcohol testing)	2001	2002
5	49 CFR parts 172, 173, 174, 175, 176, 177, and 178 (radioactive material)	2002	2003
6	49 CFR parts 172, 173, 174, 176, and 178 (explosives), and 193 (liquefied natural gas facilities), and parts 172, 173, 178, and 180 (cylinders)	2003	2004
7	49 CFR 173 (shipper requirements) and 194 (onshore oil pipeline response plans)	2004	2005
8	49 CFR parts 178 (non-bulk packaging) and 195 (hazardous liquid pipeline transportation)	2005	2006
9	49 CFR parts 178 through 180 (bulk packaging) and 198 (State pipeline safety grants)	2006	2007
10	49 CFR parts 172 (communications, emergency response, training and hazmat table) and 175 (air carriage)	2007	2008

Year 2 (Fall 1999) List of Rules analyzed and a summary of the results

49 CFR part 106 — Procedures for adoption of rules
- Section 610: No SEIOSNOSE. These rules are procedural and have minimal, if any, cost impact.
- Plain Language: As resources permit, RSPA will rewrite the regulations using plain language techniques.
- General: We will continue our review and schedule this part for revision as appropriate.

49 CFR part 107 — Hazardous materials program procedures
- Section 610: No SEIOSNOSE. These rules are procedural and may affect some small entities, but the cost impact is not significant.
- Plain Language: As resources permit, RSPA will rewrite the regulations using plain language techniques.
- General: We will continue our review and schedule this part for revision as appropriate.

49 CFR part 171 — General hazmat requirements
- Section 610: No SEIOSNOSE. Most of the provisions of this part serve to reduce the economic impact on the regulated community. Part 171 assures consistency between the HMR and regulations issued by other federal agencies; facilitates international transportation and trade; incorporates industry consensus standards into the HMR; and provides explanatory material and information to help the HMR easier to read and understand.
- Plain Language: Sections 171.1 and 171.2 are being rewritten in plain language under Docket HM-223. Commenters suggested that plain language rewrite of the remainder of this part is not necessary; therefore, no rewrite is currently planned. If sections of this part are amended as part of ongoing rulemakings, those sections will be rewritten in plain language.
- General: As a result of 610/Plain language review of part 171 for year 1, no additional reviews are necessary.

49 CFR part 190—Pipeline safety procedures
- Section 610: No SEIOSNOSE. These rules are procedural and have minimal, if any, cost impact.
- Plain Language: As resources permit, RSPA will rewrite the regulations using plain language techniques.
- General: Reviewed pipeline safety program procedures and proposed changes to clarify and streamline enforcement procedures.

49 CFR part 195—Hazardous liquid pipeline corrosion control
- Section 610: No SEIOSNOSE. The regulations do not impose any additional costs because they are consistent with customary industry practices.
- Plain Language: Plain language techniques will be used in any amended regulations that result from rulemakingfollowing review.
- General: Reviewed corrosion control regulations with state and industry input and proposed changes to improve clarity and effectiveness.

Year 3 (Fall 2000) List of Rules that will be analyzed during the next year

49 CFR part 174 — Carriage by rail
49 CFR part 177 — Carriage by public highway
49 CFR part 191 — Gas pipeline transportation reports
49 CFR part 192 — Gas pipeline corrosion control

DOT

BUREAU OF TRANSPORTATION STATISTICS
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 241, Form 41	1998	1999
2	14 CFR parts 241, Schedule T-100, and part 217	1999	2000
3	14 CFR parts 298, 49 CFR 1420	2000	2001
4	14 CFR parts 241, section 19-7	2001	2002
5	14 CFR parts 291	2002	2003
6	14 CFR parts 234	2003	2004
7	14 CFR part 249	2004	2005
8	14 CFR part 248	2005	2006
9	14 CFR part 250	2006	2007
10	14 CFR part 374a, ICAO	2007	2008

Year 2 (Fall 1999) List of Rules analyzed and a summary of the results

14 CFR part 241, Schedule T-100-U.S. Air Carrier Traffic and Capacity Data by Nonstop Segment and On-Flight Market
- Section 610: No SEIOSNOSE. It has a minor impact.
- Plain Language: This rule is being reviewed as part of an overall aviation data requirements review and modernization program, which will also take into account the plain language initiative.
- General: This rule is being reviewed as part of an overall aviation data requirements review and modernization program.

14 CFR part 217—Reporting Traffic Statistics by Foreign Air Carriers in Civilian Scheduled, Charter, and Non—Scheduled Services
- Section 610: No SEIOSNOSE. The data collection applies to large, foreign carriers.
- Plain Language: This rule is being reviewed as part of an overall aviation data requirements review and modernization program, which will also take into account the plain language initiative.
- General: This rule is being reviewed as part of an overall aviation data requirements review and modernization program.

Year 3 (Fall 2000) List of Rules analyzed and a summary of the results

14 CFR part 298, subpart F — Schedule 298—C, Report of Financial and Operating Statistics for Small Aircraft Operators
- Section 610: potential SEIOSNOSE. This reporting is by small entities; comments will be requested from the affected small entities to assess the economic impact of the proposed changes.
- Plain Language: A proposed rule is being drafted using plain language techniques.
- General: This rule is being reviewed as part of an overall program analysis of aviation data requirements and modernization. During the review process, BTS identified certain data gaps that exist in the current traffic statistics reported by small aircraft operators. BTS has added a notice of proposed rulemaking (RIN 2139-AA08) to its Regulatory Agenda that is intended to address the gaps in the data.

49 CFR part 1420 — Reports of motor carriers
- Section 610: No SEIOSNOSE. This reporting is by Class I and Class II motor carriers that are not small entities.
- Plain Language: Plain language techniques will be used in drafting any necessary rule changes.
- General: We will continue our review and schedule this part for revision as appropriate.

Year 4 (Fall 2001) List of Rules that will be analyzed during the next year

14 CFR part 241, section 19—7—Passenger Origin and Destination Survey

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR parts 401 through 403	1998	1999

Year 2 (Fall 1999) List of Rules analyzed and a summary of the results

None

Year 3 (Fall 2000) List of Rules that will be analyzed during the next year

None

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2035	+Computer Reservations System Regulations Comprehensive Review	2105-AC65
2036	+Aviation Data Requirements Review and Modernization Program	2105-AC71

DOT

Office of the Secretary—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2037	Participation by Disadvantaged Business Enterprises in Department of Transportation Programs: Memorandum of Understanding With Small Business Administration; Uniform Forms and Other Revisions	2105-AC88
2038	Nondiscrimination on the Basis of Disability in Air Travel	2105-AC97

+ DOT-designated significant regulation

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2039	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2040	Air Travelers: Age Discrimination	2105-AA45
2041	Direct Flights	2105-AA73
2042	Diversion of Flights Within a Metropolitan Area	2105-AA78
2043	Simplified Aviation Exemption Procedures	2105-AA82
2044	Baggage Liability Notices in International Air Transportation	2105-AA84
2045	Simplified Airline Counter-Sign Notices	2105-AA88
2046	+Price Advertising	2105-AB50
2047	+Procedures for Transportation Workplace Drug-Testing Programs	2105-AB71
2048	+Transportation for Individuals With Disabilities (Accessibility Guidelines)	2105-AC06
2049	Use of Direct Final Rulemaking	2105-AC11
2050	Overbooking of Flights: Elimination of Airport Notice Signs	2105-AC45
2051	Fees and Charges for Special Services: Reinvention	2105-AC47
2052	Amendments to Modal Alcohol Testing Rules: Pre-Employment Testing	2105-AC50
2053	+Participation by Disadvantaged Business Enterprises in Airport Concessions	2105-AC76
2054	Nondiscrimination in Air Travel; Boarding Where Level-Entry Is Unavailable	2105-AC81
2055	+Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2105-AC83
2056	+Americans With Disabilities Act Accessibility Standards	2105-AC86
2057	Participation by Minority Business Enterprises in Department of Transportation Financial Assistance Programs: Threshold Requirements and Other Technical Revisions	2105-AC89
2058	Participation by Disadvantaged Business Enterprises in Department of Transportation Programs	2105-AC91
2059	Statement of Policy on Alternative Dispute Resolution	2105-AC94
2060	Over the Road Buses: Extension of Due Date for Information Collection	2105-AC98
2061	Maintenance of and Access to Records Pertaining to Individuals	2105-AC99
2062	Extension of Computer Reservation System (CRS) Regulations	2105-AD00

+ DOT-designated significant regulation

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2063	Policy Statement on Airline Preemption	2105-AA46
2064	+Statement of Enforcement Policy on Rebating	2105-AB39
2065	+Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB87
2066	Use of Oxygen by Air Carrier Passengers	2105-AC29
2067	+Domestic Passenger Manifest Information	2105-AC62
2068	Electronic Filing Option in DOT Proceedings	2105-AC79
2069	Nondiscrimination in Federally Assisted Programs	2105-AC96

+ DOT-designated significant regulation

DOT

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
2070	Domestic Baggage Liability	2105-AC07
2071	+Update of Drug and Alcohol Procedural Rules	2105-AC49
2072	+Enforcement Policy: Unfair Exclusionary Conduct in the Air Transportation Industry	2105-AC72
2073	Filing Periods for Responsive Pleadings; Rules of Practice in Aviation Economic Proceedings	2105-AC73
2074	Standard Time Zone Boundary in the State of Nevada: Proposed Relocation	2105-AC82

+ DOT-designated significant regulation

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2075	Electronic Chart Display and Information System (ECDIS) (USCG-2001-8826)	2115-AG09

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2076	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)(USCG-1998-4302)	2115-AE22
2077	+Escort Vessels in Certain U.S. Waters (CGD 91-202a)	2115-AE56
2078	Numbering of Undocumented Barges (CGD 93-091) (USCG-1998-3798)	2115-AF13
2079	Carriage of Bulk Solid Materials Requiring Special Handling (USCG-2000-6932)	2115-AF47
2080	Fire-Suppression Systems and Voyage-Planning for Towing Vessels (USCG 2000-6931)	2115-AF53
2081	Rules of Practice, Procedure, and Evidence for Administrative Proceedings of the Coast Guard (USCG 1998-3472)	2115-AF59
2082	+Salvage and Marine Firefighting Requirement; Vessel Response Plans for Oil (USCG-1998-3417)	2115-AF60
2083	Deepwater Ports (USCG-1998-3884)	2115-AF63
2084	Vessel Documentation (USCG-1998-4784)	2115-AF71
2085	Vapor Control Systems (USCG-1999-5150)	2115-AF78
2086	Marine Shipboard Electrical Cable Standards (USCG-1999-6096)	2115-AF89
2087	Revision of Auxiliary Regulations (USCG-1999-6712)	2115-AF94
2088	Cargo Securing on Vessels Operating in U.S. Waters (USCG-2000-7080)	2115-AF97
2089	Allowing Alternative Source to Incandescent Light in Private Aids to Navigation (USCG-2000-7466)	2115-AF98
2090	Chemical Testing (USCG-2000-7759)	2115-AG00
2091	Wearing of Personal Flotation Devices (PFDs) by Certain Children aboard Recreational Vessels (USCG-2000-8589)	2115-AG04
2092	+Vessel and Facility Response Plans for Oil: 2003 Equipment Caps and Alternative Technology Revisions (USCG-2001-8661)	2115-AG05
2093	Notification of Arrival: Addition of Charterer to Required Information (USCG-2001-8659)	2115-AG06
2094	+Post Casualty Drug and Alcohol Testing (USCG-2001-8773)	2115-AG07
2095	Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade (USCG-2001-8825)	2115-AG08
2096	Tank Level or Pressure Monitoring Devices	2115-AG10
2097	Discharge of Effluents in Certain Alaskan Waters by Cruise Vessel Operations (CGD 17-01-003)	2115-AG12
2098	Navigable Waters of the United States, Territorial Sea, Contiguous Zone; Conforming Definitions to Statutory Changes and Presidential Proclamations (USCG-2001-9044)	2115-AG13
2099	Inspection and Enforcement of Coast Guard Regulations for Fixed Facilities by Minerals Management Service (USCG-2001-9045)	2115-AG14

+ DOT-designated significant regulation

DOT

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2100	Safety/Security Zone Regulations	2115-AA97
2101	Special Anchorage Areas/Anchorage Grounds Regulations	2115-AA98
2102	Vessel Identification System (USCG-1999-6420)	2115-AD35
2103	+Discharge-Removal Equipment for Vessels Carrying Oil (USCG-1998-4858)	2115-AD66
2104	Reporting Marine Casualties (USCG-2000-6927)	2115-AD98
2105	+Escort Vessels for Certain Tankers (CGD 91-202)	2115-AE10
2106	Regatta Regulations	2115-AE46
2107	Drawbridge Regulations	2115-AE47
2108	Regulated Navigation Areas	2115-AE84
2109	+Marine Transportation-Related Facility Response Plans for Hazardous Substances (USCG-1999-5705)	2115-AE87
2110	+Tank Vessel Response Plans for Hazardous Substances (USCG-1998-4354)	2115-AE88
2111	Licensing and Manning for Officers of Towing Vessels (CGD 94-055)(USCG 1999-6224)	2115-AF23
2112	+Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (CGD 95-062)	2115-AF26
2113	Implementation of the National Invasive Species Act of 1996 (CGD 97-068)(USCG-1998-3423)	2115-AF55
2114	Pollution Prevention for Oceangoing Ships and Certain Vessels in Domestic Service (USCG-2000-7641) Previous Docket (CGD 97-072)	2115-AF56
2115	Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (USCG-1999-5040)	2115-AF69
2116	Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels (CGD 97-060)(USCG 1999-6580).	2115-AF70
2117	Vessel Traffic Service Lower Mississippi River (USCG-1998-4399)	2115-AF75
2118	Anchorage Ground; Safety Zone; Speed Limit; Tongass Narrows and Ketchikan, AK (CGD17-99-002)	2115-AF81
2119	Mandatory Ship Reporting System off the Northeast and the Southeast Coasts of the United States (USCG-1999-5525)	2115-AF82
2120	Training and Qualifications for Personnel on Passenger Ships (USCG 1999-5610)	2115-AF83
2121	Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels (USCG-1999-6094)	2115-AF87
2122	Great Lakes Pilotage Rates (USCG-1999-6098)	2115-AF91
2123	Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Passenger, Nautical School, and Sailing School Vessels (USCG-2000-6858)	2115-AF95
2124	Noxious Liquid Substances, Obsolete Hazardous Materials in Bulk, and Current Hazardous Materials in Bulk (USCG-2000-7079)	2115-AF96
2125	Exemption of Public Vessels Equipped With Electronic Charting and Navigation Systems From Paper Chart Requirements (USCG 2000-8300)	2115-AG03
2126	Right to Appeal; Director, Great Lakes Pilotage (USCG-2001-8894)	2115-AG11

+ DOT-designated significant regulation

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2127	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)(USCG-2000-7442)	2115-AD23
2128	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)	2115-AD90
2129	State Access to the Oil Spill Liability Trust Fund (CGD 92-014)	2115-AE19
2130	Propeller Injury Prevention Aboard Rental Boats (CGD 95-041)	2115-AF28
2131	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015) (USCG-1998-4623)	2115-AF38
2132	Outer Continental Shelf Activities (USCG-1998-3868)	2115-AF39
2133	+Emergency Response Plans for Passenger Vessels (USCG-1998-3473)	2115-AF61
2134	Commercial Diving Operations (USCG-1998-3786)	2115-AF64
2135	+Improvements to Maritime Safety in Puget Sound-Area Waters (USCG-1998-4501)	2115-AF68
2136	Barges Carrying Bulk Liquid Hazardous Material (USCG-1999-5117) **(Section 610 Review)**	2115-AF77

+ DOT-designated significant regulation

DOT

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identification Number
2137	Regattas and Marine Parades (CGD 95-054)	2115-AF17
2138	Revision to Federal Blood Alcohol Concentration (BAC) Standard for Recreational Vessel Operators (USCG-1998-4593)	2115-AF72
2139	Citizenship Standards for Vessel Ownership and Financing; American Fisheries Act (USCG-1999-6095)	2115-AF88
2140	Safety Zone; Outer Continental Shelf Platforms in the Gulf of Mexico (CGD08-99-023)	2115-AF93
2141	Inland Waterways Navigation Regulations: Ports and Waterways Safety (CGD 09-00-010)	2115-AG01
2142	Shipping Safety Fairways and Anchorage Areas, Gulf of Mexico (CGD08-00-012)	2115-AG02

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2143	+Improved Water Survival Equipment	2120-AC72
2144	+Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2145	+Corrosion Control Program	2120-AE92
2146	+National Air Tour Safety Standards	2120-AF07
2147	+Overflights of Units of the National Park System	2120-AF46
2148	+Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements	2120-AF63
2149	+False and Misleading Statements Regarding Aircraft Parts	2120-AG08
2150	+Child Restraint Systems	2120-AG43
2151	Revision of Air Carrier Crewmember and Training Regulations	2120-AG57
2152	Training in the Recognition of Hazardous Material	2120-AG75
2153	+Traffic Alert and Collision Avoidance Systems	2120-AG90
2154	Fire Protection of Electrical System Components on Transport Category Airplanes	2120-AG92
2155	+Air Tour Operations in State of Hawaii	2120-AH02
2156	+Fractional Ownership	2120-AH06
2157	+Flight Simulation Device Qualification	2120-AH07
2158	Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activies	2120-AH14
2159	Alcohol and Antidrug Misuse Prevention Program for Personnel Engaged in Specified Aviation Activities	2120-AH15
2160	Airworthiness Directives	2120-AH17
2161	+Certification of Pilots, Aircraft, and Repairmen for the Operation of Light Sport Aircraft	2120-AH19
2162	Powered Lift Operations	2120-AH20
2163	Intermix Exclusion Deletion	2120-AH22
2164	Refusal to Submit to an Authorized Drug Test	2120-AH23
2165	Aircraft Registration Requirements; Clarification of "Court of Competent Jurisdiction"	2120-AH24
2166	Revision to Airspeed Indicating System Requirements for Transport Category Airplanes	2120-AH26
2167	Electrical Installation, Nickel Cadmium Battery Installation, and Nickel Cadmium Battery Storage	2120-AH27
2168	Design and Installation of Electronic Equipment on Transport Category Airplanes	2120-AH28
2169	Electrical Cables	2120-AH29

+ DOT-designated significant regulation

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2170	Objects Affecting Navigable Airspace	2120-AA09
2171	Miscellaneous Amendments	2120-AA50
2172	IFR Altitudes; Miscellaneous Amendments	2120-AA63
2173	Airworthiness Directives	2120-AA64
2174	Standard Instrument Approach Procedures; Miscellaneous Amendments	2120-AA65
2175	Airspace Actions	2120-AA66
2176	+Part 145 Review: Repair Stations	2120-AC38
2177	+Sole Radio Navigation System; Minimum Standards for Certification	2120-AD26
2178	+Revision of Part 108, Aircraft Operator Security	2120-AD45
2179	+Revision of Part 107, Airport Security	2120-AD46

DOT

Federal Aviation Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2180	+Aging Aircraft Safety	2120-AE42
2181	Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System	2120-AE81
2182	Flight Attendant English Language Proficiency	2120-AE98
2183	+Revised Access to Type III Exits	2120-AF01
2184	+Flight Operational Quality Assurance Program	2120-AF04
2185	Los Angeles, CA, Class B Airspace	2120-AF16
2186	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AF79
2187	Revised Precision Approach Landing Systems Policy	2120-AG16
2188	+Fees for FAA Services for Certain Flights	2120-AG17
2189	+Protection of Voluntarily Submitted Information	2120-AG36
2190	+Screening of Checked Baggage on Flights Within the United States	2120-AG51
2191	Parachute Operations	2120-AG52
2192	+Policy Regarding Airport Rates and Charges	2120-AG58
2193	+Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction, and Maintenance and Inspection Requirements	2120-AG62
2194	Revised Landing Gear Shock Absorption Test Requirements	2120-AG72
2195	Financial Responsibility Requirements for Licensed Reentry Activities	2120-AG76
2196	Revision of Braking Systems Airworthiness Standards to Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AG80
2197	+Certification of Screening Companies	2120-AG84
2198	+Revisions to Digital Flight Data Recorder Regulations for B-737 Airplanes and for Part 125 Operators	2120-AG87
2199	+Emergency Medical Equipment	2120-AG89
2200	+Improved Flammability Standards for Thermal/Acoustic Insulation Materials Used in Transport Category Airplanes	2120-AG91
2201	+Certification Procedures for Products and Parts **(Section 610 Review)**	2120-AG93
2202	+Certification of Airports	2120-AG96
2203	Special Flight Rules in the Vicinity of Grand Canyon National Park	2120-AG97
2204	Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes	2120-AH03
2205	Noise Certification Regulations for Helicopters	2120-AH10
2206	Safe Disposition of Life Limited Aircraft Parts	2120-AH11
2207	Reduced Vertical Separation Minimum in the West Atlantic Route System Airspace	2120-AH12
2208	Temporary Flight Restrictions	2120-AH13
2209	Civil Penalty Inflation Adjustment Revisions	2120-AH21
2210	Security Control of Air Traffic	2120-AH25

+ DOT-designated significant regulation

Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2211	+Fuel System Vent Fire Protection	2120-AA49
2212	Airworthiness Standards; Crash-Resistant Fuel Systems	2120-AA57
2213	Low Fuel Quantity Alerting System	2120-AB46
2214	Aircraft Engines: Fuel and Induction Systems	2120-AB76
2215	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
2216	+Drug Enforcement Assistance	2120-AD16
2217	Airplane Engine Cowling Retention	2120-AD34
2218	1-G Stalling Speed as a Basis for Compliance With Part 25 of the Federal Aviation Regulations	2120-AD40
2219	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE41
2220	+Aircraft Ground Deicing and Anti-Icing Program	2120-AE70
2221	Civil Penalty Assessment Procedures	2120-AE84
2222	+Training and Checking in Ground Icing Conditions	2120-AF09
2223	+Revision of Emergency Evacuation Demonstration Procedures To Improve Participant Safety	2120-AF21
2224	Miscellaneous Cabin Safety Changes	2120-AF77
2225	Bird Strike	2120-AF80
2226	+Security Programs of Foreign Air Carriers and Foreign Operators of U.S. Registered Air Carriers Engaged in Common Carriage	2120-AG13

DOT

Federal Aviation Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2227	+Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park	2120-AG34
2228	+Prohibition of the Transportation of Devices Designed as Chemical Generators as Cargo in Aircraft	2120-AG35
2229	Licensing and Safety Requirements for Launch	2120-AG37
2230	+Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes	2120-AG42

+ DOT-designated significant regulation

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2231	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents	2120-AC17
2232	+Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143	2120-AD91
2233	+Airport Noise Compatibility Planning	2120-AE64
2234	+Controlled Rest on the Flight Deck	2120-AF54
2235	Service Difficulty Reports	2120-AF71
2236	Bird Ingestion Standards	2120-AF84
2237	License Requirements for Operation of a Launch Site	2120-AG15
2238	+Air Tour Operations in the State of Hawaii	2120-AG44
2239	Use of Electronic Signatures	2120-AG63
2240	Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulations	2120-AG71
2241	Pilot Certificates Issued or Validated on the Basis of a Bilateral Air Safety Agreement	2120-AG81
2242	High Density Rule	2120-AG85
2243	General Rulemaking Procedures	2120-AG95
2244	Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes	2120-AH00
2245	Advanced Qualification Program	2120-AH01
2246	Revisions to Digital Flight Data Recorder Requirements for Airbus Airplanes	2120-AH08
2247	+Streamlined Enforcement Test and Evaluation Program; Security; Antidrug and Alcohol Misuse Prevention Programs; Unruly Passengers	2120-AH09
2248	Emergency Locator Transmitters	2120-AH16
2249	Civil Penalty Actions in Commercial Space Transportation	2120-AH18

+ DOT-designated significant regulation

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2250	Highway Beautification	2125-AD24
2251	Revisions to Highway Bridge Replacement and Rehabilitation Program	2125-AE75
2252	+National Bridge Inspection Standards	2125-AE86

+ DOT-designated significant regulation

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2253	Certification of Size and Weight Enforcement	2125-AC80
2254	Advanced Construction of Federal Aid Projects	2125-AD59
2255	Work Zone Safety	2125-AE29
2256	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs	2125-AE39
2257	+Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the National Park Service, Including the Park Roads and Parkways Program	2125-AE52
2258	+Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Bureau of Indian Affairs, Including the Indian Reservations Road Program	2125-AE53

DOT

Federal Highway Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2259	+Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Fish and Wildlife Service, Including the Refuge Roads Program	2125-AE54
2260	+Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Forest Service, Including the Forest Highways Program	2125-AE55
2261	Revision of the Manual on Uniform Traffic Control Devices; Traffic Control Devices on Federal-Aid and Other Streets and Highways; Standards	2125-AE78
2262	+Design-Build Contracting	2125-AE79
2263	+Railroad-Highway Crossing Projects	2125-AE81
2264	Right-of-Way	2125-AE82
2265	National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices; Accessible Pedestrian Signals	2125-AE83
2266	Planning and Research Program Administration	2125-AE84
2267	Landscape Development	2125-AE85

+ DOT-designated significant regulation

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2268	Truck Length and Width Exclusive Devices	2125-AC30
2269	Federal-Aid Highway Systems	2125-AD74
2270	Railroad Highway Projects	2125-AD86
2271	Administration of Engineering and Design Related Services Contracts	2125-AE45
2272	Indian Reservation Road Bridge Program	2125-AE57
2273	+Revision of Color Specifications for Signs and Pavement Marking Retroreflective Materials	2125-AE67
2274	Engineering Services	2125-AE73
2275	Federal-Aid Project Agreement	2125-AE77

+ DOT-designated significant regulation

Federal Highway Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2276	+Statewide and Metropolitan Planning	2125-AE62
2277	Standards for Dedicated Short Range Communications (DSRC) Applications for Use by Commercial Vehicles in Intelligent Transportation Systems Projects	2125-AE63
2278	+NEPA and Related Procedures for Transportation Decisionmaking; Protection of Public Parks, Wildlife and Waterfowl Refuges and Historic Sites	2125-AE64
2279	Procedures for Abatement of Highway Traffic Noise and Construction Noise	2125-AE80

+ DOT-designated significant regulation

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2280	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers	2125-AC74
2281	Mitigation of Impacts to Wetlands	2125-AD78
2282	Traffic Control Devices, Markings, Signals, and Systems for Railroad-Highway Grade Crossings	2125-AE11
2283	+Application of the National Transportation Communications for ITS Protocol (NTCIP) Standards in ITS Projects	2125-AE21
2284	+Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle	2125-AE22
2285	Revision of Manual on Uniform Traffic Control Devices; General Provisions and Traffic Control for School Areas	2125-AE25
2286	Revision of the Manual on Uniform Traffic Control Devices; Part II—Signs	2125-AE38

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Federal Highway Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2287	Revision of the Manual on Uniform Traffic Control Devices; Tourist Oriented Directional Signs, Recreation and Cultural Interest Signs, and Traffic Controls for Bicycle Facilities	2125-AE50
2288	Procedures for Abatement of Highway Traffic Noise and Construction Noise	2125-AE51
2289	Revision of the Manual on Uniform Traffic Control Devices; Warning Signs and Traffic Controls for Highway-Light Rail Grade Crossings	2125-AE58
2290	Intelligent Transportation Systems Architecture and Standards	2125-AE65
2291	Revision of the MUTCD; Regulatory Signs, Traffic Control for Low Volume Rural Roads; Traffic Control for Highway-Rail Grade Crossings	2125-AE66
2292	Utilities	2125-AE68
2293	Revision of the Manual on Uniform Traffic Control Devices; General Provisions, Markings, and Signals	2125-AE71
2294	Revision of the MUTCD—Proposed Amendments for Temporary Traffic Control	2125-AE72

+ DOT-designated significant regulation

Federal Motor Carrier Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2295	+Federal Motor Carrier Safety Regulations; Interstate School Bus Safety	2126-AA53
2296	Posting of Employee Protections Information	2126-AA68

+ DOT-designated significant regulation

Federal Motor Carrier Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2297	+Qualification of Drivers; Vision	2126-AA05
2298	+Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	2126-AA08
2299	+Training for Entry-Level Drivers of Commercial Motor Vehicles	2126-AA09
2300	+Commercial Driver Physical Fitness as Part of the CDL Process	2126-AA10
2301	Safety Performance History of New Drivers	2126-AA17
2302	Parts and Accessories Necessary for Safe Operation; Television Receivers and Data Display Units	2126-AA19
2303	+Motor Carrier Replacement Information/Registration System	2126-AA22
2304	+Revision of Regulations and Application Form for Mexican-Domiciled Motor Carriers To Operate in U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border	2126-AA33
2305	+Application by Certain Mexican Motor Carriers To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border	2126-AA34
2306	+Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States	2126-AA35
2307	Out-of-Service Criteria	2126-AA36
2308	Safety Fitness Procedures	2126-AA37
2309	+Federal Motor Carrier Safety Regulations; Zero-Base Revision	2126-AA39
2310	Commercial Driver's License Standards; Requirements and Penalties; Noncommercial Motor Vehicle Violations	2126-AA55
2311	Conforming Amendments to DOT Drug and Alcohol Rule	2126-AA58
2312	+New Entrant Safety Assurance Process	2126-AA59
2313	+Commercial Driver's License Standards; Requirements and Penalties; Commercial Driver's License Program Improvements	2126-AA60
2314	Rules of Practice for Administrative Proceedings	2126-AA63
2315	+Certification of Safety Auditors	2126-AA64

+ DOT-designated significant regulation

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Federal Motor Carrier Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2316	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties	2126-AA15
2317	+Railroad-Highway Grade Crossing Safety	2126-AA18
2318	Development of a North American Standard for Protection Against Shifting and Failing Cargo	2126-AA27
2319	Minimum Levels of Financial Responsibility for Mexican Motor Carriers	2126-AA30
2320	Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures	2126-AA41
2321	Brake Performance Requirements for CMVs Inspected by Performance-Based Brake Testers	2126-AA46
2322	+Federal Motor Carrier Safety Regulations; Safety Requirements for Operators of Small Passenger-Carrying Commercial Motor Vehicles Used in Interstate Commerce	2126-AA52
2323	Motor Carrier Identification Report	2126-AA57
2324	Parts and Accessories Necessary for Safe Operation; General Amendments	2126-AA61
2325	Federal Motor Carrier Safety Regulations; Miscellaneous Technical Amendments	2126-AA62

+ DOT-designated significant regulation

Federal Motor Carrier Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2326	+Commercial Driver's License Standards; Biometric Identifier	2126-AA01
2327	Commercial Learner Permits	2126-AA03
2328	+Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2126-AA07
2329	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches	2126-AA12
2330	+Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations	2126-AA23
2331	Electronic Filing of Surety Bonds, Trust Fund Agreements, Insurance Certificates; Cancellations	2126-AA24
2332	General Jurisdiction Over Freight Forwarder Service	2126-AA25
2333	+English Language Requirement; Qualifications of Drivers	2126-AA31
2334	Transportation of Household Goods; Consumer Protection Regulations	2126-AA32
2335	+General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers	2126-AA38
2336	+Post-Accident Controlled Substances and Alcohol Test Results; Reporting Requirements for the Fatality Analysis Reporting System	2126-AA50

+ DOT-designated significant regulation

Federal Motor Carrier Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2337	+Qualification of Drivers; Diabetes	2126-AA00
2338	+Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers	2126-AA02
2339	Physical Qualification of Drivers; Medical Examination; Certificate	2126-AA06
2340	+Advanced Technology in Commercial Motor Vehicle Operations	2126-AA16
2341	Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders	2126-AA26
2342	+Qualifications of Motor Carriers To Self-Insure Their Operations and Fees To Support the Approval and Compliance Process	2126-AA28
2343	+Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions	2126-AA29
2344	+Federal Motor Carrier Safety Regulations; Requirements for Operators of Small Passenger Carrying Commercial Motor Vehicles	2126-AA44
2345	+Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle	2126-AA51
2346	Sanctions Against Motor Carriers, Brokers, and Freight Forwarders for Failure To Pay Civil Penalties	2126-AA54
2347	Transportation of Household Goods in Interstate or Foreign Commerce; Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings	2126-AA56
2348	Parts and Accessories for Safe Operation; Manufactured Home Tires	2126-AA65
2349	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers	2126-AA67

+ DOT-designated significant regulation

DOT

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2350	Review: Odometer Fraud	2127-AF53
2351	Review: American Automobile Labeling Act	2127-AG18
2352	Review: Heavy Truck Conspicuity	2127-AG19
2353	Motorcycle Mounted Reflex Reflector Height	2127-AG92
2354	Review: Child Safety Seat Registration	2127-AG93
2355	Review: Air Bag On-Off Switches	2127-AH12
2356	Headlamp Glare	2127-AH81
2357	Motorcycle Headlamp System	2127-AH92
2358	Guidelines for States on Enforcement of Light Transmission	2127-AH97
2359	Review: Head Restraints for Light Trucks	2127-AH98
2360	Seat Belt Fit	2127-AI36
2361	Adaptation of Instrumented Lower Legs for Hybrid III Male and Female Adult Dummies	2127-AI39
2362	+Operation of Motor Vehicles by Intoxicated Persons	2127-AI44

+ DOT-designated significant regulation

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2363	Procedures for Considering Environmental Impacts	2127-AB79
2364	Seating Systems Performance	2127-AD08
2365	Radiator Safety Cap	2127-AE59
2366	Convex Cross-View Mirrors	2127-AG41
2367	Hybrid III 95th Percentile Male	2127-AG79
2368	Buy American Requirements	2127-AG99
2369	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency	2127-AH00
2370	Definition of Community Transportation Vehicles	2127-AH23
2371	Metric Conversion—Phase III	2127-AH27
2372	Upgrade Door Retention Performance	2127-AH34
2373	Administrative Rewrite of the Lighting Requirements Other Than Headlamps	2127-AH37
2374	Exemption for Inconsequential Defect or Noncompliance	2127-AH58
2375	Compliance and Enforcement	2127-AH63
2376	Accelerator Control Systems	2127-AH71
2377	+Frontal Offset Protection	2127-AH73
2378	Special Purpose Vehicles	2127-AH75
2379	Brake Hoses	2127-AH79
2380	Low-Speed Vehicle Performance Requirements	2127-AH80
2381	Defect Reporting and Notification	2127-AH89
2382	Improve Motorcycle Helmet Head Protection	2127-AI03
2383	Label Placement on Rear Impact Guards	2127-AI04
2384	Moving Barrier Tire Specification	2127-AI05
2385	Theft Data for Calendar Year 1999	2127-AI06
2386	Insurer Reporting Requirements for October 2001	2127-AI07
2387	Reorganize and Harmonize Controls and Displays	2127-AI09
2388	Confidential Business Information	2127-AI13
2389	"Early Warning" Defect Reporting Requirements	2127-AI25
2390	Defects in Foreign Countries	2127-AI26
2391	Acceleration of Manufacturer Remedy Program	2127-AI27
2392	Reimbursement Prior to Recall	2127-AI28
2393	Disposition of Replaced Tires	2127-AI29
2394	Prohibition of Sale or Lease of Equipment	2127-AI30
2395	Record Retention (Amendment)	2127-AI31
2396	Improve Tire Safety Information	2127-AI32
2397	Tire Pressure Monitoring System	2127-AI33
2398	Improving the Safety of Child Restraints	2127-AI34
2399	Seat Belt Emergency Locking Retractor	2127-AI38
2400	Voluntarily Installed Seat Belt Assembly Anchorages	2127-AI40

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National Highway Traffic Safety Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2401	+Automotive Fuel Economy Manufacturing Incentive for Alternative Fuel Vehicles	2127-AI41
2402	Civil Penalties	2127-AI42
2403	Idle Stop Technology Used in Some Hybrid Electric Vehicles	2127-AI43
2404	Expanding the Auto Parts Marking Requirement	2127-AI46
2405	Parking Brakes for Non-School Bus Vehicles	2127-AI47

+ DOT-designated significant regulation

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2406	Brake Lining	2127-AC66
2407	+Platform Lift Systems	2127-AD50
2408	Upgrade Fuel Integrity Performance Requirements	2127-AF36
2409	Alternative Geometric Visibility Requirements for Lamps	2127-AF75
2410	Power-Operated Windows: Roof Panels	2127-AF83
2411	Automotive Fuel Economy Reports	2127-AG00
2412	Dealer Notification of Defect or Noncompliance Determination	2127-AG27
2413	Power Window Safety Switches	2127-AG36
2414	Seat Belt Positioning Devices	2127-AG49
2415	Glare Reduction From Daytime Running Lamps	2127-AG86
2416	Administrative Rewrite for Headlamp Requirements	2127-AG87
2417	Signal Lamps Used With Light Emitting Diodes	2127-AG88
2418	State Issued Identification Documents	2127-AG91
2419	+Allocation of Fuel Economy Credits	2127-AG97
2420	Placement of Wheelchair Restraints on Buses	2127-AH03
2421	Incorporate the 1996 Revision of the American National Standards Institute (ANSI)	2127-AH08
2422	+Harmonization of Head Restraints	2127-AH09
2423	Truck Air Braking Requirements	2127-AH11
2424	Child Restraints for Older Children	2127-AH14
2425	Motorcycle Braking Requirements	2127-AH15
2426	Heavy Vehicle Antilock Brake System (ABS) Performance Requirement	2127-AH16
2427	+Safety Incentive Grants for Use of Seat Belts-Allocations Based on State Seat Belt Use Rates	2127-AH38
2428	Occupant Protection Incentive Grants	2127-AH40
2429	Ejection Mitigation Using Advanced Glazing	2127-AH50
2430	Upper Interior Impact	2127-AH61
2431	Vehicles With Raised Roofs	2127-AH74
2432	School Bus Body Joint Strength	2127-AH84
2433	Stowable or Fold-Away Child Restraint Anchorages	2127-AH85
2434	Neck Lateral Bending for 50th Percentile Male Side Impact Dummy Hybrid III (SID/HIII)	2127-AH87
2435	Clarify Test Procedures for Brake Fluids	2127-AH96
2436	Child Restraint Anchorage Systems—Part 2	2127-AH99
2437	Hybrid III Type 6-Year-Old Size Test Dummy	2127-AI00
2438	Fifth Percentile Female Test Dummy	2127-AI01
2439	Hybrid III Type 3-Year-Old Size Test Dummy	2127-AI02
2440	High-Theft Lines for Model Year 2002	2127-AI08
2441	+Advanced Air Bags	2127-AI10
2442	Sale or Lease of Defective or Noncompliant Tire	2127-AI23
2443	Safe Harbor Provision	2127-AI24
2444	Hybrid III Type 12-Month-Old Size Test Dummy	2127-AI37
2445	Procedures for Participating In and Receiving Data From the National Driver Registration Problem Driver Pointer System	2127-AI45
2446	Trailer Test Rig	2127-AI48

+ DOT-designated significant regulation

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National Highway Traffic Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2447	+Crashworthiness Ratings	2127-AA03
2448	+Flammability of Interior Materials—School Buses	2127-AA44
2449	Certification Requirements of Multistage Vehicles	2127-AE27
2450	+Review: Side Impact Protection	2127-AF54
2451	Door Latch Exemption for Vehicles Equipped With Wheelchair Lifts and Ramps	2127-AG16
2452	Upgrade Roof Crashworthiness	2127-AG51
2453	Review: Redesigned Air Bags	2127-AH13
2454	Use of Universal Child Seats in Aircraft	2127-AH56
2455	Registered Importers of Vehicles Not Originally Manufactured to Conform with the Federal Motor Vehicle Safety Standards	2127-AH67
2456	Review: Antilock Brake Systems for Heavy Trucks	2127-AI14
2457	Review: Rear Impact Guards for Truck Trailers	2127-AI15

+ DOT-designated significant regulation

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2458	Review: Passenger-Car Back Seat Occupant Protection	2127-AE95
2459	Modified Vehicles To Accommodate a Person's Disability	2127-AG40
2460	Open Container Requirements	2127-AH41
2461	State Highway Safety Data Improvements Incentive Grants	2127-AH43
2462	Minimum Penalties for Repeat Offenders	2127-AH47
2463	Parking Brake Warning System on School Buses	2127-AH57
2464	Requirements for Low-Speed Vehicles (LSV)	2127-AH69
2465	Interior Trunk Release	2127-AH83
2466	Bonfire Test Procedure	2127-AH94
2467	Schedule of Fees Authorized by 49 USC 30141	2127-AI11
2468	Importation of Vehicles and Equipment Subject to Federal Motor Vehicle (FMV) Safety, Bumper and Theft Prevention Standards and of Vehicles Not Originally Manufactured To Conform to FMV Standards	2127-AI12
2469	Listing of Nonconforming Vehicles Eligible for Importation	2127-AI17
2470	Civil Penalties; Registered Importers of Vehicles Not Originally Manufactured To Conform to the Federal Motor Vehicle Safety Standards	2127-AI18
2471	+Light Truck Fuel Economy Standards for Model Year 2003	2127-AI35

+ DOT-designated significant regulation

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2472	Railroad Car Conspicuity	2130-AB41

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2473	+Positive Train Control	2130-AA94
2474	Locomotive Crashworthiness	2130-AB23
2475	Event Recorder Crashworthiness	2130-AB34
2476	Revision to Railroad Safety Enforcement Procedures	2130-AB35
2477	Rules of Practice	2130-AB36
2478	+Application of Random Testing and Other Alcohol and Drug Regulations to Employees of Foreign Railroads	2130-AB39

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Federal Railroad Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2479	+Requirements for Proficiency in the Use of the English Language and for the Use of English Units of Measurements in Communications About Railroad Operations in the United States	2130-AB40
2480	+Minimum Standards for Temperature in the Locomotive Cab	2130-AB46

+ DOT-designated significant regulation

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2481	Local Rail Freight Assistance to States	2130-AA60
2482	+Whistle Bans at Highway-Rail Grade Crossings	2130-AA71
2483	Locomotive Cab Working Conditions	2130-AA89
2484	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	2130-AA97
2485	Revision of Regulations Addressing Discontinuance or Modification of Signal Systems	2130-AB05
2486	Revision of Signal System Reporting Requirements	2130-AB06
2487	Small Railroads; Policy Statement on Enforcement Program	2130-AB15
2488	+Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control and Start-Up Operations	2130-AB24
2489	Bridge Worker Safety Standards	2130-AB25
2490	Roadway Equipment Safety	2130-AB28
2491	Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents	2130-AB30
2492	Determination of Minimum Testing Rate for Random Drug and Alcohol Testing	2130-AB31
2493	+Locational Requirement for Dispatching of United States Rail Operations	2130-AB38

+ DOT-designated significant regulation

Federal Railroad Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2494	+Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA68
2495	Blue Signal and Related Protections	2130-AA90
2496	Use of One-Person Crews in Rail Operations	2130-AB18
2497	Crane Safety Standards	2130-AB27

+ DOT-designated significant regulation

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2498	AMTRAK Waste Disposal	2130-AA84
2499	+Hours of Service Electronic Recordkeeping Project	2130-AB04
2500	Tourist and Historic Working Group Regulatory Review	2130-AB12
2501	+Power Brake Regulations: Freight Power Brake Revisions	2130-AB16
2502	Track Safety Standards Amendment To Address Gauge Restraint Measurement Systems	2130-AB32
2503	Amendments to Order of Particular Applicability Requiring Advanced Civil Speed Enforcement System (ACSES) Massachusetts Bay Transit Authority Temporary Operating Protocols	2130-AB45

+ DOT-designated significant regulation

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Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2504	Clean Fuels Formula Grant Program	2132-AA64
2505	State Safety Oversight; Rail Fixed Guideway Systems	2132-AA69
2506	Prevention of Alcohol Misuse and Drug Use in Transit Operations	2132-AA71

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2507	+Bus Testing	2132-AA30
2508	Charter Services Demonstration Program	2132-AA58
2509	Buy America Requirements; Amendment to Certification Procedures	2132-AA62
2510	School Bus Operations	2132-AA67

+ DOT-designated significant regulation

Federal Transit Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2511	+NEPA and Related Procedures for Transportation Decisionmaking; Protection of Public Works, Wildlife and Waterfowl Refuges and Historic Sites	2132-AA43
2512	+Statewide Metropolitan Planning	2132-AA66
2513	Buy America Requirements; Permanent Waiver for Microcomputers	2132-AA68
2514	+Requirement for Third-Party Contracting with FTA Recipients	2132-AA70

+ DOT-designated significant regulation

Federal Transit Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2515	+Major Capital Investment Projects	2132-AA63

+ DOT-designated significant regulation

Saint Lawrence Seaway Development Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2516	Seaway Regulations and Rules and Tariff of Tolls	2135-AA12

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2517	+Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2518	Hazardous Materials: Revision of Requirements for Carriage by Aircraft	2137-AD18

+ DOT-designated significant regulation

DOT

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2519	Pipeline Safety: Gas Gathering Line Definition	2137-AB15
2520	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2521	Pipeline Safety: Periodic Underwater Inspections	2137-AC54
2522	Hazardous Materials: Retention of Shipping Papers	2137-AC64
2523	+Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage	2137-AC68
2524	Hazardous Materials: Requirements for Cargo Tanks	2137-AC90
2525	Pipeline Safety: Further Regulatory Review; Gas Pipeline Safety Standards	2137-AD01
2526	+Pipeline Safety: Recommendations To Change Hazardous Liquid Pipeline Safety Standards	2137-AD10
2527	Hazardous Materials: Revisions to Standards for Infectious Substances	2137-AD13
2528	Hazardous Materials: Revision of Requirements for Carriage by Rail Car and Motor Vehicle	2137-AD19
2529	Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form	2137-AD21
2530	Pipeline Safety: Pressure Testing Older Pipelines in Terminals	2137-AD26
2531	Hazardous Materials: Hazard Communication Requirements—Petitions for Rulemaking and Miscellaneous Amendments	2137-AD28
2532	Hazardous Materials: Air Carrier Emergency Telephone Number Requirements	2137-AD29
2533	Hazardous Materials: Revised and Clarified Hazardous Materials Exemptions Procedures	2137-AD30
2534	+Hazardous Materials Safety: Transportation of Oxygen Cylinders on Aircraft	2137-AD33
2535	+Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids	2137-AD36
2536	Hazardous Materials: Adoption of latest IAEA and Other Miscellaneous Revisions and Clarifications	2137-AD40
2537	Pipeline Safety: Producer-Operated Outer Continental Shelf Gas and Hazardous Liquid Pipelines That Cross Directly Into State Waters	2137-AD42
2538	Hazardous Materials: Miscellaneous Amendments for Unloading IM Portable Tanks on a Transport Vehicle	2137-AD44
2539	Hazardous Materials: Transportation of Lithium Batteries	2137-AD48
2540	Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators With Less Than 500 Miles of Pipeline)	2137-AD49
2541	Hazardous Materials: Revision of the Requirements for Hazardous Waste Manifests	2137-AD50
2542	Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipeline Operators)	2137-AD54
2543	Pipeline Safety: Drug and Alcohol Testing for Pipeline Facility Employees	2137-AD55
2544	Pipeline Safety: Hazardous Liquid Pipeline Accident Reporting Revisions	2137-AD56
2545	Hazardous Materials: Frangible Discs on Tank Cars	2137-AD57

+ DOT-designated significant regulation

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2546	Quantity Limitations Aboard Aircraft	2137-AA85
2547	+Hazardous Materials: Requirements for Cylinders	2137-AA92
2548	Pipeline Safety: Passage of Internal Inspection Devices	2137-AB71
2549	+Pipeline Safety: Response Plans for Onshore Oil Pipelines	2137-AC30
2550	Filling of Propane Cylinders	2137-AC86
2551	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures	2137-AD20
2552	Pipeline Safety: Enforcement Procedures	2137-AD22
2553	Pipeline Safety: Controlling Corrosion on Hazardous Liquid and Carbon Dioxide Pipelines	2137-AD24
2554	Pipeline Safety: Periodic Updates to Pipeline Safety Requirements (1999)	2137-AD35
2555	Hazardous Materials: Limited Extension of Requirements for Labeling Certain Shipments of Materials Poisonous by Inhalation (PIH)	2137-AD37
2556	Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions	2137-AD41
2557	Revisions; Definition of Administrator	2137-AD43
2558	Hazardous Materials: Minor Editorial Corrections and Clarifications	2137-AD51
2559	Hazardous Materials: Reduction of Registration Fees	2137-AD53
2560	Hazardous Materials: Requirements for Maintenance, Requalification, and Repair of DOT Specification Cylinders	2137-AD58

+ DOT-designated significant regulation

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Research and Special Programs Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2561	+Safeguarding Food From Contamination During Transportation	2137-AC00
2562	Hazardous Materials: Cargo Tank Rollover Requirements	2137-AD34

+ DOT-designated significant regulation

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2563	Pipeline Safety: Underwater Abandoned Pipeline Facilities	2137-AC33
2564	+Pipeline Safety: Areas Unusually Sensitive to Environmental Damage (USAs)	2137-AC34
2565	+Increased Inspection Requirements	2137-AC38
2566	+Emergency Flow Restricting Devices	2137-AC39
2567	Regulated Gas and Hazardous Liquid Gathering Lines	2137-AC53
2568	+Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators With 500 or More Miles of Pipeline)	2137-AD45
2569	Hazardous Materials: Relocation of Registration and Training Requirements	2137-AD46

+ DOT-designated significant regulation

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2570	+Cargo Preference Regulations—Carriage of Agricultural Exports	2133-AB37

+ DOT-designated significant regulation

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2571	Update to Part 205 - Audit Appeals; Policy and Procedure	2133-AB42

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2572	Removal of Part 207 - Statistical Data for Use in Operating-Differential Subsidy Application Hearings	2133-AB43

Bureau of Transportation Statistics—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2573	Modernizing the Passenger Origin-Destination Survey	2139-AA01

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Bureau of Transportation Statistics—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2574	Air Carrier Traffic and Capacity Data By Nonstop Segment and On-Flight Market	2139-AA08

Bureau of Transportation Statistics—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2575	Amendment to the Definitions of Revenue and Nonrevenue Passengers	2139-AA07

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

2035. +COMPUTER RESERVATIONS SYSTEM REGULATIONS COMPREHENSIVE REVIEW

Priority: Other Significant

Legal Authority: 49 USC 41712; 49 USC 40101(a); 49 USC 40113(a); 49 USC 40105

CFR Citation: 14 CFR 255

Legal Deadline: Final, Statutory, December 31, 1997.

Abstract: The Department regulates computer reservations systems owned by airlines or airline affiliates that are used by travel agencies. The current rules are designed to prevent the systems from unreasonably prejudicing the competitive position of other airlines and to ensure that travel agencies can provide accurate and unbiased information to the public. The Department is reexamining its rules to see whether they should be readopted and, if so, whether they should be changed. As part of this action, we will be looking at ways to lessen impacts on small entities.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/97	62 FR 47606
Notice Extending Comment Period	10/30/97	62 FR 58700
Request for Comments	11/07/97	62 FR 60195
ANPRM Comment Period End	11/10/97	
Extended Comment Period End	12/09/97	
Notice Extending Reply Comment Period	01/23/98	63 FR 3491
Extended Comment Period End	02/03/98	
SANPRM	07/24/00	65 FR 45551
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The extensions for the existing rule are under AC75.

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731

RIN: 2105–AC65

2036. +AVIATION DATA REQUIREMENTS REVIEW AND MODERNIZATION PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 41101; 49 USC 41708; 49 USC 41709; 49 USC 41301; 49 USC 41501; 49 USC 41701

CFR Citation: 14 CFR 241; 14 CFR 250; 14 CFR 298; 14 CFR 374a; 14 CFR 234

Legal Deadline: None

Abstract: The Department is undertaking an aviation data requirements review and modernization program. The review is designed to harmonize the Department's aviation data systems with current regulatory and statutory needs; improve the quality of the Department's aviation databases; and eliminate obsolete data reporting and processing systems. The ANPRM was the first step in an outreach program to review aviation data collected by the Department and the measures that should be taken to modernize and improve aviation data reporting and processing systems. The Department solicited public comments from aviation data users on the nature, scope, source, and means for collecting, processing, and distributing airline traffic, fare, and financial data. Specifically, the Department invited comments to determine whether existing aviation data should be amended, supplemented, or replaced; whether selected forms and reports should be retained, modified, or eliminated; whether the Department should require all aviation data to be filed electronically; and how the aviation data system should be reengineered to enhance efficiency and to reduce costs for both the Department and airline industry. The Department has reviewed the comments and reply comments and is in the process of redefining the data elements and restructuring the data reporting requirements to be included in a NPRM. This action is significant due to substantial public and industry interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38128
ANPRM Comment Period End	09/14/98	
Reply Comment Period End	10/13/98	
NPRM	11/00/01	

DOT—OST

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Todd Homan, Industry Economist, Department of Transportation, Office of the Secretary, X-55, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9605

RIN: 2105–AC71

2037. PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION PROGRAMS: MEMORANDUM OF UNDERSTANDING WITH SMALL BUSINESS ADMINISTRATION; UNIFORM FORMS AND OTHER REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178; 112 Stat. 107 and 113; 42 USC 2000d; PL 102-581

CFR Citation: 49 CFR 26

Legal Deadline: None

Abstract: This NPRM proposes implementation procedures for a memorandum of understanding (MOU) between DOT and the Small Business Administration. The MOU establishes reciprocity and streamlines certification procedures for participation in SBA's 8(a) Business Development and Small Disadvantaged Business program, and DOT's DBE program. This document also proposed a uniform certification application form and a uniform reporting form. This document also requests comments for issues relating to personal net worth requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Laura Aguilar, Attorney, Department of Transportation, Office of the Secretary, C-10, Room 10102
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RIN: 2105–AC88

2038. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 41702; 14 USC 41705; 14 USC 41712

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is proposing to amend its rules implementing the Air Carrier Access Act of 1986 concerning requirements for movable aisle armrests. The amendment would clarify the application of the movable armrest requirement to all classes of service in an aircraft. In addition, in response to changed practices in parts of the airline industry, the Department is proposing to require preboarding to be made available for passengers with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
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Email: bob.ashby@ost.dot.gov

RIN: 2105–AC97

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

2039. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions, by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F2d 1118 (1986)) Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA40

2040. AIR TRAVELERS: AGE DISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376

Legal Deadline: None

Abstract: This rulemaking action was initiated by the Civil Aeronautics Board to implement the Age Discrimination Act of 1975. A draft final rule was submitted to HHS, as required by that Act, and was approved. However, in

view of current airline practices with respect to travel by the elderly, and the absence of complaints of discrimination based on age, there no longer appears to be a need for further rulemaking action, and the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule With Changes	07/13/84	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

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RIN: 2105–AA45

2041. DIRECT FLIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA73

2042. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504; PL 96-354; 5 USC 601

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given to passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is withdrawing the NPRM as unnecessary since it appears that carriers no longer have the policies that promoted the CAB's concern.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA78

2043. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA82

2044. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481 to 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed

to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41690; EDR-477.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA84

2045. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. A CAB NPRM proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted, and whether a smoking notice should be included. DOT decided not to act on these "counter signs" separately, but rather to consider whether there should be a comprehensive re-examination of all forms of notice to passengers, including notices on tickets. This NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AA88

2046. +PRICE ADVERTISING

Priority: Other Significant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The Department proposed in 1989 to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
NPRM Extended Comment Period	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
NPRM Comment Period End	09/25/89	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AB50

2047. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Priority: Other Significant

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The NPRM in 1990 concerned the question of to whom reports of negative drug test results may be sent. It will be formally withdrawn when the Department issues an NPRM under RIN 2105-AC49, Update of Drug and Alcohol Procedural Rules. This action is significant because of substantial public and congressional interest, and multimodal impact.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ANALYSIS: Regulatory Evaluation, 07/13/90, 55 FR 28782

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RIN: 2105–AB71

2048. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (ACCESSIBILITY GUIDELINES)

Priority: Other Significant

Legal Authority: 5 USC 552a

DOT—OST

Final Rule Stage

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: This action would amend the rules implementing the Americans with Disabilities Act by adopting the revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board, published June 20, 1994 (59 FR 31676) as interim final rules. The proposed rule would also conform the Department's rule implementing section 504 of the Rehabilitation Act of 1973. Further DOT action is pending ATBCB/Justice Department action. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31818
NPRM Comment Period End	08/19/94	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2105–AC06

2049. USE OF DIRECT FINAL RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1657

CFR Citation: 49 CFR 5.21; 49 CFR 5.35

Legal Deadline: None

Abstract: The Department is considering a new rulemaking procedure to expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be unlikely to result in public comment would be published as "direct final" rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39919
NPRM Comment Period End	10/03/95	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, Room 10424 Nassif Building, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC11

2050. OVERBOOKING OF FLIGHTS: ELIMINATION OF AIRPORT NOTICE SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 401; 49 USC 411; 49 USC 413; 49 USC 417

CFR Citation: 14 CFR 250

Legal Deadline: None

Abstract: This action would eliminate a consumer notice about airline overbooking of flights that is required to appear on signs at airports, city ticket offices, and travel agencies. However, that information would be available to consumers because it must accompany every ticket.

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27818
NPRM Comment Period End	07/18/96	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Other rulemakings: RIN 2105-AA88, Simplified Airline Counter-Sign Notices. RIN 2105-AC36, Ticketless Travel: Passenger Notices, Statement of Compliance Policy published 4/22/97, 62 FR 19473.

Agency Contact: Tim Kelly, Aviation Consumer Protection Division, Office of the General Counsel, Department of Transportation, Office of the Secretary, C-75, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC45

2051. FEES AND CHARGES FOR SPECIAL SERVICES: REINVENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101; 49 USC 46101; 31 USC 9701

CFR Citation: 14 CFR 389

Legal Deadline: None

Abstract: This action would remove or update obsolete provisions and organizational references, and adjust the fee schedule for certain special services related to aviation economic proceedings that the Department makes available to the public. The regulation has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 389.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3229
NPRM Comment Period End	03/22/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Miller, Analyst, Planning and Special Projects Office, Department of Transportation, Office of the Secretary, X-60, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4868

RIN: 2105–AC47

2052. AMENDMENTS TO MODAL ALCOHOL TESTING RULES: PRE-EMPLOYMENT TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 219; 49 CFR 382; 49 CFR 653; 49 CFR 654; 49 CFR 121

Legal Deadline: None

DOT—OST

Final Rule Stage

Abstract: This rule would implement a statutory change required by the National Highway Systems Act of 1995, section 342, to the existing pre-employment alcohol testing provisions. It would make pre-employment testing voluntary for employers.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21149
NPRM Comment Period End	07/08/96	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action involves four operating administrations: FAA, FHWA,.FTA, and FRA. On May 10, 1995 (60 FR 24765), DOT suspended its pre-employment alcohol testing requirements after a court decision vacated the requirements of the FHWA alcohol testing rule.

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RIN: 2105–AC50

2053. +PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN AIRPORT CONCESSIONS

Priority: Other Significant

Legal Authority: PL 102-581; PL 97-248

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This action would implement changes to the Airport and Airway Improvement Act to allow airport sponsors to count new forms of disadvantaged business enterprise (DBE) participation toward the overall goals of a DBE concession plan. These new forms include purchases from DBEs of goods and services used in operating a concession, as well as management contracts and subcontracts with DBEs. This action was initially begun in an NPRM 10/6/93, 58 FR 52050, RIN 2105-AB99. It was then combined in the DBE general update and comments were received in response to an SNPRM of 5/30/95. 62 FR 29548. However, when the general update rule was published 2/2/99, 64 FR 5096, RIN 2105-AB92, the airport concessions issue was once again separated. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
SNPRM (Published under RIN 2105-AB92)	05/30/97	62 FR 29548
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

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RIN: 2105–AC76

2054. NONDISCRIMINATION IN AIR TRAVEL; BOARDING WHERE LEVEL-ENTRY IS UNAVAILABLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41702; 49 USC 41705; 49 USC 41712

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: This action requires air carriers and airports to work jointly to make lifts or other boarding devices available for aircraft, of whatever size, where level-entry loading bridges or existing lifts are not present. This action is intended to facilitate the boarding by individuals with disabilities on aircraft. It amends existing rules that implement the Air Carrier Access Act of 1986 and the Rehabilitation Act of 1973.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46611
NPRM Comment Period End	11/24/99	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2105–AC81

2055. +UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Other Significant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 19

Legal Deadline: None

Abstract: This action implements changes to OMB Circular A-110 that were issued by OMB on October 8, 1999, providing uniform guidance for administering grants to institutions of higher education, hospitals, and other nonprofit organizations. The change provides guidance on making data produced under awards available to the public. The regulation is essentially a word-for-word issuance of the requirements in OMB Cirular A-110. An interim final rule was issued because of the limited ability to change the requirements from those in the Circular.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14406
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2105–AC83

DOT—OST

Final Rule Stage

2056. +AMERICANS WITH DISABILITIES ACT ACCESSIBILITY STANDARDS

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: The Department of Transportation is proposing to amend its rules implementing the Americans with Disabilities Act (ADA) by adopting as its standards revised accessibility guidelines proposed by the Architectural and Transportation Barriers Compliance Board (Access Board). The Access Board published a notice of proposed rulemaking (NPRM) to revise and update the accessibility guidelines for the ADA and the Architectural Barriers Act (ABA) in the November 16, 1999 issue of the Federal Register. This proposed rule would adopt the Access Board's revised and updated ADA guidelines and make a conforming change to the Department's rule implementing the ADA.

Timetable:

Action	Date	FR Cite
NPRM	08/08/00	65 FR 48444
NPRM Comment Period End	09/07/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2105–AC86

2057. PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS: THRESHOLD REQUIREMENTS AND OTHER TECHNICAL REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, TEA-21; PL 102-581

CFR Citation: 49 CFR 26.11 (Revision); 49 CFR 26.21 (Revision); 49 CFR 26.37 (Revision); 49 CFR 26.45 (Revision); 49 CFR 26.55 (Revision)

Legal Deadline: None

Abstract: This interim final rule changes threshold requirements for Federal Transit Administration and Federal Aviation Administration recipients to establish DBE programs and overall goals. Each August 1, recipients must submit DBE goals for the following fiscal year. This change will reduce burdens on entities receiving smaller Federal grants. The DOT is issuing an interim final rule in order to reduce the burden, this fiscal year, for the smallest grant recipients. This document also makes technical changes to 49 CFR part 26.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/00	65 FR 68949
Interim Final Rule Effective	11/15/00	
Interim Final Rule Comment Period End	01/02/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura Aguilar, Attorney, Department of Transportation, Office of the Secretary, C-10, Room 10102
Phone: 202 366-0365
Fax: 202 366-9170
Email: laura.aguilar@ost.dot.gov

RIN: 2105–AC89

2058. PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 324; 42 USC 2000d et seq; 49 USC 1611, 47107, 47113, 47123; EO 12138; 3 CFR 1951 comp., p. 393; Sec. 1101 (b); ...

CFR Citation: 49 CFR 2a, subpart G

Legal Deadline: Final, Statutory, June 30, 1993.

Abstract: In May 1997, the Department issued a supplemental notice of proposed rulemaking (SNPRM) to revise its disadvantaged business enterprise (DBE) regulation. The SNPRM included proposals for revising the airport concessions portion of the DBE program. When the Department, in February 1999, issued a final rule based on the SNPRM, we did not publish a final version of the airport concessions proposal.

This SNPRM seeks comments on an airport concessions subpart to Part 26 that takes into account comments on the May 1997 SNPRM, adapts provisions of the rest of Part 26 to the concessions context, and proposes options for provisions affecting car rental operations at airports. These options are based in part on a recent memorandum of understanding between the American Car Rental Association and the Airport Minority Advisory Council making recommendations to the Department on this aspect of the rulemaking. This SNPRM was inadvertently published under RIN 2105-AB92.

Timetable:

Action	Date	FR Cite
SNPRM	09/08/00	65 FR 54454
SNPRM Comment Period End	10/23/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW,, Washington, DC 20590
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TDD Phone: 202 755-7687
Email: bob.ashby@ost.dot.gov

RIN: 2105–AC91

DOT—OST

Final Rule Stage

2059. STATEMENT OF POLICY ON ALTERNATIVE DISPUTE RESOLUTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 571 to 583; 5 USC 561 to 570

CFR Citation: None

Legal Deadline: None

Abstract: This Statement of Policy on Alternative Dispute Resolution (ADR) is intended to provide information about ADR, introduce new ADR initiatives and promote the use of ADR. DOT will use ADR to advance its mission by preventing, minimizing escalation of, and resolving disputes among employees and with external parties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/00	65 FR 69121
Interim Final Rule Comment Period End	01/16/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Judith S. Kaleta, Senior Counsel for Dispute Resolution, Department of Transportation, Office of the Secretary, Room 10428, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-0992
Fax: 202 366-3388

RIN: 2105–AC94

2060. OVER THE ROAD BUSES: EXTENSION OF DUE DATE FOR INFORMATION COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12101-12213; 49 USC 322

CFR Citation: 49 CFR 37

Legal Deadline: None

Abstract: The Department of Transportation is amending its Americans with Disabilities Act regulations concerning accessibility of over-the-road buses with respect to information collection requirements by postponing the requirement for bus companies to submit information reporting ridership on accessible fixed route service and the acquisition of buses and designating of the Federal Motor carrier Safety Administration as the recipient of the data.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Blane A. Workie, Attorney, Department of Transportation, Office of the Secretary, Room 10424/C-50, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-4723
TDD Phone: 202 755-7687
Email: blane.workie@ost.dot.gov

RIN: 2105–AC98

2061. • MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a; 49 USC 322

CFR Citation: 49 CFR 10

Legal Deadline: None

Abstract: This rule proposes to exempt from certain provisions of the Privacy Act the record system designed to assist in finding Suspected Unapproved Parts used in aviation, and a record system used to manage the flow of data about commercial motor carriers. A notice of proposed rulemaking was inadvertently published in the Federal Register under RIN 2105-AC57 (66 FR 1294).

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1294
NPRM Comment Period End	02/20/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Yvonne Coates, Department of Transportation, Office of the Secretary
Phone: 202 366-6964
Fax: 202 366-7024
Email: yvonne.coates@ost.dot.gov

RIN: 2105–AC99

2062. • EXTENSION OF COMPUTER RESERVATION SYSTEM (CRS) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101; 49 USC 40102; 49 USC 40105; 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 255

Legal Deadline: None

Abstract: This action extends the expiration date of DOT's rules regulating computer reservation systems owned by airlines or airline affiliates that are used by travel agencies from March 31, 2001 to March 31, 2002. The Department is conducting a reexamination of the rules to see whether they should be continued or modified. That action is being taken under RIN 2105-AC65. The extension is necessary so that the current rules will remain in force.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The rules were were previously extended from March 31, 2000 to March 31, 2001 under RIN 2150-AC75.

Sectors Affected: None

Agency Contact: Gwyneth Radloff, Office of Regulation and Enforcement, C-50, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AD00

2063. POLICY STATEMENT ON AIRLINE PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41713

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Civil Aeronautics Board in 1979 issued an interim Policy Statement on preemption. It discusses the policy of the Department with respect to three areas in which State law has been preempted by the Airline Deregulation Act of 1978: regulation of commuter air carriers and air taxis, the rights of airport proprietors, and general State authority as it directly or indirectly affects air transportation competition. The Supreme Court has classified that section 105 of the ADA preempts even indirect State regulation that "has a connection with or reference to" airline rates, routes, or services, but does not preempt State contract law with respect to interpretation and enforcement of agreements voluntarily entered into by air carriers. Other courts continue to issue decisions applying this provision to a multitude of different circumstances. The Department believes that this process of exploring the interpretation of section 105 will continue, and is considering the admissibility of terminating this proceeding.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for Comments on Interim Rule	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: PSDR-56, Docket 34684 The 1995 decision issued by the Supreme Court is American Airlines v. Wolens (S. Ct. No. 93-1286).

Agency Contact: Paul Smith, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9285

RIN: 2105–AA46

2064. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Priority: Other Significant

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
NPRM Comment Period Extended	02/03/89	54 FR 5497
Correction	02/10/89	54 FR 6475
Extended Comment Period End	02/21/89	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Betsy Wolf, Senior Trial Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9349

RIN: 2105–AB39

2065. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 42 USC 12101 et seq; PL 101-336, Americans with Disabilities Act

CFR Citation: 49 CFR 37

Legal Deadline: None

Abstract: The Department's Americans with Disabilities Act (ADA) final rule, published September 6, 1991 (56 FR 45584), reserved portions of the rule concerning passenger vessels. The ADA covers passenger vessels, but issuing accessibility requirements for vessels involves complex issues unlike those affecting land transportation. This action will address these issues and propose feasible requirements to make passenger vessels accessible to, and usable by, individuals with disabilities. DOT is participating in an ongoing advisory committee effort convened by the Access Board to study passenger vessel accessibility issues. September and November 1998 meetings were held. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723
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RIN: 2105–AB87

2066. USE OF OXYGEN BY AIR CARRIER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41705

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is considering the use of regulatory negotiation to seek consensus among air carriers, consumers, airports, equipment manufacturers, oxygen suppliers, and safety regulators concerning the use of oxygen by passengers on air carriers when individuals need special private supplies. The need for action stems from a current situation where all carriers do not allow passengers to bring their own oxygen aboard. Issues involve conformance with RSPA and FAA hazardous materials rules and the question of providing oxygen during long layovers. The Department is considering whether to begin a regulatory negotiation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2105–AC29

2067. +DOMESTIC PASSENGER MANIFEST INFORMATION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 40101; 49 USC 40113 to 40114; 49 USC 41702; 49 USC 41708 to 41709; 49 USC 41711; 49 USC 46301; 49 USC 46310; 49 USC 46316

CFR Citation: 14 CFR 243

Legal Deadline: None

Abstract: This notice requested comments concerning operational and cost issues related to U.S. air carriers collecting information such as full name, date of birth and/or social security number, emergency contact and telephone number from passengers traveling on flights within the United States. This notice was issued on the Department's initiative in response to difficulties with notification in the aftermath of domestic aviation disasters and to comply with a recommendation contained in the initial report of the White House Commission on Aviation Safety and Security (1996) that urged the Department to explore immediately the costs and effects of a comprehensive passenger manifest requirement on the domestic aviation system. DOT will review the implementation of the international passenger manifest requirements (RIN 2105-AB78, 2/18/98, 63 FR 8258) as it determines how to proceed with this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11789
ANPRM Comment Period End	05/12/97	
Comment Period Reopened	05/30/97	62 FR 29313
Comment Period End	06/20/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernestine Allen, Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, X-20, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4368

RIN: 2105–AC62

2068. ELECTRONIC FILING OPTION IN DOT PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 49 USC 322; 49 USC 1655; 49 USC 1657; 45 USC 431

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action amends existing rules, where necessary, to allow electronic filing in all DOT proceedings as an alternative to filing hard copy. The electronic filing option will help us serve the public more quickly and efficiently and will enable the public to participate more easily in DOT proceedings. This rulemaking addresses only the procedures for filing electronically, not technical issues such as media, word-processing formats, and mechanisms for payment of filing fees.

Timetable:

Action	Date	FR Cite
Notice Requesting Comment	05/26/98	63 FR 28545
Comment Period End	07/27/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is a procedural change that presents no substantive issue that we could reasonably expect to produce further meaningful comment. It also will relieve a restriction. Therefore, good cause exists to publish this rule without prior formal notice and comments.

Agency Contact: Charlotte Boeck, Administrative Officer, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20015
Phone: 202 366-4713

RIN: 2105–AC79

2069. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 49 CFR 21; 49 CFR 27

Legal Deadline: None

Abstract: This rule proposes to amend DOT's regulations implementing Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1972 (Section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to Title VI and added a definition of "program or activity" to Section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation incorporates the CRRA's definition of "program or activity" and "program" into Title VI, Section 504, and the Age Discrimination Act regulations. This proposed regulation also promotes consistency and enforceability of these statutes. This is

a joint notice of proposed rulemaking with other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Blane A. Workie, Attorney, Department of Transportation, Office of the Secretary, Room 10424/C-50, 400 7th Street SW., Washington, DC 20590
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Phone: 202 366-4723
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RIN: 2105–AC96

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Completed Actions

2070. DOMESTIC BAGGAGE LIABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101 et seq

CFR Citation: 14 CFR 254.4; 14 CFR 254.5

Legal Deadline: None

Abstract: The Department is proposing to amend its rule governing the amount by which certain U.S. air carriers may limit their liability to passengers for lost, damaged, and delayed baggage. This action is in response to a petition by Public Citizen and Aviation Consumer Action Project to increase the minimum liability limit from $1,250 to $2,500 with a mechanism that would provide periodic updates every two years per passenger.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49867
NPRM Comment Period End	11/29/94	
NPRM Comment Period Extended	11/29/94	59 FR 60926
SNPRM	06/28/99	64 FR 34592
SNPRM Comment Period End	08/27/99	
Final Action	12/17/99	64 FR 70573
Final Action Effective	01/18/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AC07

2071. +UPDATE OF DRUG AND ALCOHOL PROCEDURAL RULES (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The Department is revising its procedural rules for drug and alcohol testing to update and clarify provisions of the rules. As part of this action, a review of the impact of the rules on small entities under 5 USC section 610 was done.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/96	61 FR 18713
ANPRM Comment Period End	07/29/96	
NPRM	12/09/99	64 FR 69076
NPRM Comment Period End	04/07/00	
Final Action	12/19/00	65 FR 79462
Final Action Effective	01/18/01	
Final Action Effective	08/01/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: This change would apply to regulated parties through each of the six DOT operating administrations' rules (FAA, FHWA, FTA, FRA, USCG, and RSPA). (This NPRM will propose to withdraw an NPRM in a related action, RIN 2105-AB71, Procedures for Transportation Workplace Drug-Testing Programs. The NPRM will also incorporate all comments received in a related ANPRM issued under RIN 2105-AC78 6/3/99, 64 FR 29831, Substance Abuse Professional Definition Change.)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723
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RIN: 2105–AC49

2072. +ENFORCEMENT POLICY: UNFAIR EXCLUSIONARY CONDUCT IN THE AIR TRANSPORTATION INDUSTRY

Priority: Other Significant

Legal Authority: 49 USC 41712

CFR Citation: None

Legal Deadline: None

Abstract: This proposed statement was developed in consultation with the Department of Justice and set forth tentative findings and guidelines for use by DOT in evaluating whether major air carriers' competitive responses to new entry warrant enforcement action. This action is significant because it is a major policy initiative of the Department.

The Department of Transportation released 4 documents that draw to a conclusion the proceeding that began in 1998, when it issued its proposed competition policy guidelines. These included a statement by Secretary Slater expressing his view that unfair competitive practices are a problem in the airline industry that should be addressed by the Department, and that developing standards through a case-by-case approach will be a more effective way of proceeding than the guidelines as originally proposed. The Department also published three papers that provide a detailed economic, policy, and legal analysis that supported the Secretary's conclusions. These documents can be found in the docket under Docket No. OST-98-3713.

Timetable:

Action	Date	FR Cite
Request for Comments	04/10/98	63 FR 17919
Comment Period Extended	05/21/98	63 FR 28021
Comment Period End	06/09/98	
Extended Comment Period End	07/24/98	
Reply Comment Period End	09/08/98	
Reply Comment Period Extended	09/14/98	63 FR 49150
Extended Reply Comment Period End	09/25/98	
Final Report/Policy Statement	01/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: The Department co-sponsored with the publishers of Aviation Week and Space Technology, the "Deregulation 20 Summit" on September 23 and 24, 1998 in Washington, DC.

Agency Contact: Randall Bennett, Acting Director, Office of Aviation Analysis, Department of Transportation, Office of the Secretary, X-50, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1053

RIN: 2105–AC72

2073. FILING PERIODS FOR RESPONSIVE PLEADINGS; RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5111; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action stems from an NPRM to revise rules of practice in aviation economic proceedings published 2/3/97, RIN 2105-AC48, (62 FR 5094) and a final rule published on 02/09/2000, RIN 2105-AC48, (65 FR 6446). The Department received a number of comments seeking changes in filing periods for responsive pleadings to various types of applications. Even though the comments were outside the scope of the initial rulemaking, the Department considered addressing these comments under this action. However, after further consideration, the Department has determined not to pursue further changes in the filing periods at this time. This action will be withdrawn.

Timetable:

Action	Date	FR Cite
Withdrawn	02/28/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia L. Thomas, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, X-56, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-9721

RIN: 2105–AC73

2074. STANDARD TIME ZONE BOUNDARY IN THE STATE OF NEVADA: PROPOSED RELOCATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 260 to 267

CFR Citation: 49 CFR 71; 49 CFR 159(a)

Legal Deadline: None

Abstract: This action responds to a request of the City of West Wendover, Nevada. It would relocate the boundary between Pacific and Mountain time in the State of Nevada to move West Wendover, Nevada from the Pacific Time Zone to the Mountain Time Zone. The final rule was inadvertently published under RIN 2105-AC80.

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40331
NPRM Comment Period End	09/24/99	
Final Action	10/21/00	65 FR 56705

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A hearing was held in West Wendover, Nevada on August 11, 1999.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4723

RIN: 2105–AC82

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Prerule Stage

2075. • ELECTRONIC CHART DISPLAY AND INFORMATION SYSTEM (ECDIS) (USCG-2001-8826)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1231; 46 USC 2103; 46 USC 3703; 46 USC 6101; 46 USC 8502

CFR Citation: 33 CFR 164

Legal Deadline: None

Abstract: This rulemaking would allow commercial vessels the option of using an IMO approved Electronic Charting Display and Information System (ECDIS) as a primary means of navigation in U.S. waters in lieu of paper charts. Compliance with this rule would be optional, and vessels choosing not to use an IMO approved ECDIS must continue to navigate using corrected and updated printed charts and publications. This regulation

DOT—USCG — **Prerule Stage**

supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/01	
ANPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dave Beach, Project Manager, G-MWV-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001
Phone: 202 267-1409

RIN: 2115–AG09

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage

U.S. Coast Guard (USCG)

2076. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (CGD 92-026)(USCG-1998-4302)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This rulemaking is intended to revise existing regulations covering waterfront facilities handling dangerous cargoes. The present regulations are outdated and do not reflect improved safety procedures and modern transportation methods, such as the use of containers. Where appropriate, the regulations would incorporate industry standards regarding the handling of hazardous materials at waterfront facilities. This project supports the Vice Commandant's workload reduction initiative, and also supports the Coast Guard's strategic goal of maritime safety by reducing deaths and injuries in the maritime industry.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
Comment Period End	04/13/93	
NPRM	10/29/98	63 FR 57964
NPRM Comment Period End	12/28/98	
NPRM Reopening of Comment Period	01/12/99	64 FR 1770
NPRM Comment Period End	03/01/99	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: An independent study has been completed and incorporated with comments from the public in the preparation of the rulemaking.

Agency Contact: LCDR Charles Srioudom, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 493-1042

RIN: 2115–AE22

2077. +ESCORT VESSELS IN CERTAIN U.S. WATERS (CGD 91-202A)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This regulation would designate those U.S. waters, other than Prince William Sound and Puget Sound, where tankers and other vessels must be escorted by a towing vessel or other appropriate vessel. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This action is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/93	58 FR 25766
Comment Period End	06/28/93	
Request for Comments	12/21/94	59 FR 65741
Comment Period End	02/13/95	
Notice of Status of Rulemaking	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: This rulemaking is a companion to 2115-AE10, which concerns Prince William Sound and Puget Sound.

Agency Contact: CDR Mark Prescott, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AE56

2078. NUMBERING OF UNDOCUMENTED BARGES (CGD 93-091) (USCG-1998-3798)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12301

CFR Citation: 33 CFR 189

Legal Deadline: None

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires all undocumented barges more than 100 gross tons operating on the navigable waters of the United States be numbered. This rulemaking would establish a numbering system for these barges. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help prevent future marine pollution. This rulemaking supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Request for Comments	10/18/94	59 FR 52646
Comment Period End	01/17/95	
ANPRM	07/06/98	63 FR 36384
ANPRM Comment Period End	11/03/98	
NPRM	01/11/01	66 FR 2385
NPRM Comment Period End	04/11/01	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

DOT—USCG — **Proposed Rule Stage**

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Willis, Project Manager, National Vessel Documentation Center, Department of Transportation, U.S. Coast Guard, 792 T. J. Jackson Dr, Falling Waters, WV 25419-9502
Phone: 304 271-2506

RIN: 2115–AF13

2079. CARRIAGE OF BULK SOLID MATERIALS REQUIRING SPECIAL HANDLING (USCG-2000-6932)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 46 USC 3306; 46 USC 3703; 46 USC 5111; 46 USC 6101; 49 USC 1804; EO 11735; EO 12234

CFR Citation: 46 CFR 90; 46 CFR 97; 46 CFR 148

Legal Deadline: None

Abstract: This project will add materials carried with Special Permits issued under Coast Guard regulations and other materials contained in the International Maritime Organization Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal, to the list of materials permitted under the regulations. The special handling procedures associated with these materials are also included in the new rules. The revisions will harmonize U.S. regulations with recommended international practice, and eliminate the need to apply for Special Permits, except for newly classified hazardous materials. This project supports the Coast Guard's strategic goal of marine safety and mobility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: This project was initiated with an ANPRM (28 April 1989), and further developed in an NPRM (12 April 1994). In prioritizing resources, it was terminated on 13 April 1995. This regulatory project can now be reinitiated. Based on comments to the docket (previously CGD 87-069 and CGD 97-037), this is a non-controversial amendment to existing regulations.

Agency Contact: Brian Robinson, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0018

RIN: 2115–AF47

2080. FIRE-SUPPRESSION SYSTEMS AND VOYAGE-PLANNING FOR TOWING VESSELS (USCG 2000-6931)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3719; 46 USC 4102

CFR Citation: 33 CFR 157; 46 CFR 27

Legal Deadline: NPRM, Statutory, October 1, 1997.

Abstract: The Coast Guard proposes requirements for (a) total-flooding or other installed systems for suppressing fires on existing towing vessels and (b) voyage-planning. The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled barges. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This project was developed in cooperation with the Towing Safety Advisory Committee. It supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	10/06/97	62 FR 52057
Comment Period End	01/05/98	
Reopening of Comment Period	02/27/98	63 FR 9980
Notice of Public Meeting	02/27/98	63 FR 9980
Comment Period End	05/11/98	
SNPRM	11/08/00	65 FR 66941
SNPRM Comment Period End	03/08/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking was formerly titled "Towing Vessel Safety (Fire Suppression Systems and Other Measures for Towing Vessels)" (CGD 97-064). It originally proposed requirements for three sets of issues relative to the safety of towing vessel safety issues: Fire-suppression systems and other measures, Control measures for tank barges, and fire-protection measures for towing vessels. The latter two components have developed into separate rulemakings: Emergency Control Measures for Tank Barges (USCG 1998-4443) (RIN 2115-AF65) and Fire Protection Measures for Towing Vessels (USCG 1998-4445) (RIN 2115-AF66).

Agency Contact: Randall Eberly, Project Manager, G-MSE-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1861

RIN: 2115–AF53

2081. RULES OF PRACTICE, PROCEDURE, AND EVIDENCE FOR ADMINISTRATIVE PROCEEDINGS OF THE COAST GUARD (USCG 1998-3472)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7701; 46 USC 7702; 33 USC 1321; 42 USC 9609

CFR Citation: 33 CFR 20; 46 CFR 5

Legal Deadline: None

Abstract: The Coast Guard maintains two separate sets of procedural rules: for administrative adjudication against merchant mariners' licenses, certificates of registry, and documents, and for the adjudication of class II civil penalties. The rules for suspension and revocation, contained in part 5 of title 46 of the Code of Federal Regulations (CFR), date from 1948 and are based on criminal procedure. The rules for class II civil penalties, contained in part 20 of title 33 of the CFR, date from 1994 and are based on the Model Rules of Administrative Procedure and on other modern rules for civil procedure. Neither set implements the authority of the Oil Pollution Act of 1990 (OPA 90), which provides for the temporary suspension of a license, certificate of registry, or document for up to 45 days without a hearing, in certain circumstances, and a hearing within 30 days of any such suspension. This rulemaking would consolidate all procedural rules for administrative adjudication's for class II civil penalties, and allow the Coast Guard to promulgate regulations implementing the OPA 90 authority. This project

supports the strategic goal of the Coast Guard to promote marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/06/98	63 FR 16731
NPRM Comment Period End	05/06/98	
NPRM Comment Period Reopened	05/20/98	63 FR 27700
NPRM Comment Period End	06/19/98	
Interim Final Rule	05/24/99	64 FR 28054
Interim Final Rule Effective	06/23/99	
Interim Final Rule Correction	06/28/99	64 FR 34540
Interim Final Rule Comment Period End	07/23/99	
Interim Final Rule Comment Period Reopened	10/05/99	64 FR 53970
Interim Final Rule Comment Period End	04/03/00	
Second NPRM	05/00/01	
Second NPRM Comment Period End	07/00/01	
Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking revises in part the previous docket of CGD 94-101 (RIN 2115-AD94), which was terminated on December 20, 1995.

Agency Contact: George Jordan, Project Manager, G-CJ, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2940

RIN: 2115–AF59

2082. +SALVAGE AND MARINE FIREFIGHTING REQUIREMENT; VESSEL RESPONSE PLANS FOR OIL (USCG-1998-3417)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: Current vessel response plan regulations require that the owners or operators of vessels carrying groups I through V petroleum oil as a primary cargo identify in their response plans a salvage company with expertise and equipment, and a company with firefighting capability that can be deployed to a port nearest to the vessel's operating area within 24 hours of notification (groups I-IV) or a discovery of a discharge (group V). Numerous requests for clarification revealed widespread misunderstanding and confusion regarding the regulatory language, which will make the implementation of this requirement difficult. Based on comments received after the Vessel Response Plan final rule publication (61 FR 1052; January 12, 1996) and during a Coast Guard hosted workshop, the Coast Guard intends to better define the terms "salvage expertise and equipment" and "vessel firefighting capability" requirements and will reconsider the 24-hour deployment requirement which was scheduled to go into effect on February 18, 1998. Therefore, the Coast Guard suspended the effective dates of the 24-hour deployment requirements as published in the final rule. The Coast Guard will continue with this project to better define the requirements. This rulemaking supports the Coast Guard's strategic goals of maritime safety and protection of the natural resources. This rulemaking is DOT-significant because it concerns a matter of substantial public interest or controversy.

Statement of Need: This rulemaking is intended to reduce the impact of oil spills from vessels.

Summary of Legal Basis: The statutory authority for this rulemaking is 33 U.S.C. 1321.

Alternatives: The Coast Guard hosted a workshop to solicit comments from the public on potential alternatives to the salvage and marine firefighting requirements contained in the vessel response plan rule.

Anticipated Cost and Benefits: Undetermined

Risks: The purpose of this rulemaking is to better define the terms "salvage expertise and equipment" and "vessel firefighting capability" requirements and to reconsider the 24-hour deployment requirement. The objective is to improve response and reduce environmental damage from oil spills.

Timetable:

Action	Date	FR Cite
Final Rule - Partial Suspension	02/18/98	63 FR 7069
Final Rule - Partial Suspension	01/17/01	66 FR 3876
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Partial suspension of regulations created through the Vessel Response Plan final rule, docket no. 91-034, RIN 2115-AD81. The project was originally titled "Salvage and Firefighting Equipment; Vessel Response Plans". The change was made in order to distinguish this project from other similarly titled projects within the Coast Guard.

Agency Contact: LT Douglas Lincoln, Project Manager, G-MOR-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW,, Washington, DC 20593-0001
Phone: 202 267-0448

RIN: 2115–AF60

2083. DEEPWATER PORTS (USCG-1998-3884)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1503

CFR Citation: 33 CFR 148 to 150

Legal Deadline: None

Abstract: The purpose of this rulemaking is to update the Deepwater Port Regulations. Section 502 of the Coast Guard Authorization Act of 1996 necessitates changes to the Deepwater Port current regulations. These regulations were developed in the 1970s when there were no deepwater ports in the United States. The Coast Guard will be revising the regulations to: remove from the regulations, and place in the license conditions, those requirements which belong in the license conditions; and remove from the regulations those things which can be addressed in an operations manual. The Coast Guard will also consider revising the regulations to address technological advancements and operational experience gained over the last 20 years. In accordance with section 610 of the Regulatory Flexibility Act, the Coast Guard is also reviewing these regulations for their impacts on small businesses and the potential to reduce any such impacts. Public comment on small business impacts is specifically requested. This rulemaking will encompass a complete review of the Deepwater Port Regulations. This project supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
ANPRM	08/29/97	62 FR 45774
ANPRM Comment Period End	10/13/97	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ANPRM was published under docket (USCG-1998-4441). This docket number is replaced with (USCG-1998-3884).

Agency Contact: CDR Mark Prescott, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AF63

2084. VESSEL DOCUMENTATION (USCG-1998-4784)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12103(d); 46 USC 31321(a)

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This rulemaking will propose regulations to: (1) combine a Manufacturer's Certificate of Origin (MCO) with the Builder's Certificate (form CG12-1261); (2) require that the Hull Identification Number (HIN) be included on the Application for Documentation of recreational vessels for those vessels required to have an assigned HIN; (3) require the submission of the original state title, or if not a state title, the original State registration and/or official replacements issued by a titling/registering authority when documentation is based on those methods of establishing title and; (4) establish procedures for electronic submission of instruments. These four initiatives offer increased efficiency of the vessel documentation process and increased fraud protection for vessel owners; implement statutory changes from the Coast Guard Authorization Act of 1996, (Pub. L. 104-324); and implement statutory changes from the Coast Guard Authorization of 1998 (Pub. L. 105-383). This rulemaking supports the Coast Guard's strategic goal of maritime mobility.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dennis Nelson, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, 2039 Stonewall Jackson Drive, Falling Waters, WV 25419
Phone: 304 271-2400

RIN: 2115–AF71

2085. VAPOR CONTROL SYSTEMS (USCG-1999-5150)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1225; 33 USC 1231; 33 USC 1321; 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 39; 33 CFR 154.E

Legal Deadline: None

Abstract: This project will revise the facility marine vapor control systems (VCS) safety regulations and the vessel VCS safety regulations. These existing regulations require revision to reflect new Federal and State air emissions control requirements, VCS technology developments, and to evaluate and minimize any significant economic impacts of the rules upon small entities. The revisions will also incorporate Coast Guard policies and guidelines developed to support the existing regulations and a Navigation and Vessel Inspection Circular which provides safety guidelines for the design and operation of a marine VCS at tank barge cleaning facilities. This project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce crewmember deaths and injuries on U.S. commercial vessels, it seeks to reduce the amount of oil and chemicals discharged into the Nation's waterways, and it promotes the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	02/08/00	65 FR 6111
NPRM Comment Period End	05/08/00	
NPRM Comment Period Reopened	06/05/00	65 FR 35600
NPRM Comment Period Extended	06/26/00	65 FR 39334
NPRM Comment Period Reopened	07/27/00	65 FR 46143
NPRM Comment Period End	09/11/00	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Rule	04/00/02	
Final Rule Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sara Ju, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0081

RIN: 2115–AF78

2086. MARINE SHIPBOARD ELECTRICAL CABLE STANDARDS (USCG-1999-6096)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 110; 46 CFR 111

Legal Deadline: None

Abstract: This project will amend the marine shipboard electrical cable regulations by incorporating by reference standards (concerning technical specifications) that reflect the latest industry practices and Coast Guard policy. The new standards have already been examined under Coast Guard regulations and found to be comparable to current standards that are incorporated by reference. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Rule	04/00/02	
Final Rule Effective	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sara Ju, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0081

RIN: 2115–AF78

Agency Contact: Dolores Mercier, Project Manager (G-MSE-3), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0658

RIN: 2115–AF89

2087. REVISION OF AUXILIARY REGULATIONS (USCG-1999-6712)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; 14 USC 892

CFR Citation: 33 CFR 5

Legal Deadline: None

Abstract: This project will revise regulations that govern the operation and administration of the Coast Guard Auxiliary. These regulations need to be changed to comform to the provisions of the Coast Guard Authorization Act of 1996 which amended the relevant statues in Title 14, United States Code. These provisions clarified the organization and status of the Auxiliary, broadened the role of the Auxiliary, and provided additional liability protection for Auxiliary members assigned to Coast Guard duty. This project supports the Coast Guard strategic goals of maritime safety, maritime mobility, maritime security, and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: CDR Robert Thomson, Project Manager, G-OCX, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1012

RIN: 2115–AF94

2088. CARGO SECURING ON VESSELS OPERATING IN U.S. WATERS (USCG-2000-7080)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 33 CFR 97

Legal Deadline: None

Abstract: This rulemaking would amend the cargo stowage and securing rules for U.S. vessels operating in U.S. waters. In addition, it would amend rules to require cargo securing manuals for U.S. or foreign vessels of 500 gross tons or more on international voyages. Its goal is to reduce hazardous material cargo losses from vessels in U.S. waters. It supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	12/01/00	65 FR 75201
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. Gauvin, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1053

RIN: 2115–AF97

2089. ALLOWING ALTERNATIVE SOURCE TO INCANDESCENT LIGHT IN PRIVATE AIDS TO NAVIGATION (USCG-2000-7466)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 83; 14 USC 85; 43 USC 1333

CFR Citation: 33 CFR 66

Legal Deadline: None

Abstract: The Coast Guard is seeking to let the lighting industry and owners of private aids to navigation take advantage of a recent improvement in technology—one that enables the use of lanterns based on light-emitting diodes, which would reduce the consumption of power and simplify the maintenance of the aids. The use of these lanterns should stimulate competition in the industry and allow the marking of the aids in a desirable manner. This rule supports the Coast Guard's strategic goals of maritime safety and maritime mobility.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/04/00	65 FR 59124
Withdrawal of Direct Final Rule	01/02/01	66 FR 8
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Coast Guard withdrew the Direct Final Rule because it received an adverse comment. The Coast Guard will publish an NPRM to solicit additional comments from the public.

Agency Contact: Daniel Andrusiak, Project Manager, G-OPN-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0327

RIN: 2115–AF98

2090. CHEMICAL TESTING (USCG-2000-7759)

Priority: Substantive, Nonsignificant

Legal Authority: 46 U.S.C. 2103; 46 U.S.C. 3306; 46 U.S.C. 7101; 46 U.S.C. 7301; 46 U.S.C. 7701

CFR Citation: 46 CFR Part 16

Legal Deadline: None

Abstract: This regulatory project will conform the Coast Guard's Chemical Testing regulations with the changes to the DOT Procedures for Transportation Workplace Drug Testing Programs. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LT Jennifer Ledbetter, Project Manager (G-MOA-1), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0684

RIN: 2115–AG00

2091. • WEARING OF PERSONAL FLOTATION DEVICES (PFDS) BY CERTAIN CHILDREN ABOARD RECREATIONAL VESSELS (USCG-2000-8589)

Priority: Substantive, Nonsignificant

Legal Authority: 46 U.S.C. 4302

CFR Citation: 33 CFR 175, Subpart B

Legal Deadline: None

Abstract: This rule would require every child under the age of 13 to wear a personal flotation device (PFD)—also called a lifejacket—while aboard a recreational vessel under way and while not below decks or in an enclosed cabin. It would adopt, on waters subject to the jurisdiction of the United States within any State, any requirement established by that State for a child under an age specified by that State. The rule would also set, on waters subject to the jurisdiction of the United States within any State lacking any such requirement, its own, comparable requirements. This project supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carl Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AG04

2092. • +VESSEL AND FACILITY RESPONSE PLANS FOR OIL: 2003 EQUIPMENT CAPS AND ALTERNATIVE TECHNOLOGY REVISIONS (USCG-2001-8661)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 153; 33 CFR 154; 33 CFR 155

Legal Deadline: None

Abstract: This rulemaking will propose changes to the Vessel Response Plans, Marine Transportation Facility Response Plans, and revise the language in the Code of Federal Register concerning methods and procedures for removing oil from coastal waters. This rulemaking supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Rule	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Pond, Project Manager, G-MOR-2, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001
Phone: 202 267-6603

RIN: 2115–AG05

2093. • NOTIFICATION OF ARRIVAL: ADDITION OF CHARTERER TO REQUIRED INFORMATION (USCG-2001-8659)

Priority: Substantive, Nonsignificant

Legal Authority: 33 U.S.C. 1231

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This rulemaking will require an owner, master, operator, or person in charge of a vessel to provide the identification of a vessel's charterer in addition to the already required information when making an advance notice of arrival for vessels bound for ports or places in the United States. This project supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
Request for Comments	08/18/00	65 FR 50481
Comment Period End	10/02/00	
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: CDR Prescott Mark, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AG06

2094. • +POST CASUALTY DRUG AND ALCOHOL TESTING (USCG-2001-8773)

Priority: Other Significant

Legal Authority: PL 105-383, sec 304

CFR Citation: 46 CFR part 4

Legal Deadline: None

Abstract: This project will revise the requirements for chemical testing following a serious marine incident. The revision will establish procedures to ensure that alcohol testing be conducted within 2 hours of a serious marine incident, as required by the Coast Guard Authorization Act of 1998. The rule will also make additional minor procedural changes to the Part. This rule supports the Coast Guard strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions, Businesses

Government Levels Affected: Undetermined

Agency Contact: LT Jennifer Ledbetter, Project Manager (G-MOA-1), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0684

RIN: 2115–AG07

2095. • VESSEL DOCUMENTATION: LEASE FINANCING FOR VESSELS ENGAGED IN THE COASTWISE TRADE (USCG-2001-8825)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12106; 46 USC 12120; 46 USC 12122

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This rulemaking will amend the regulations on the documentation of vessels engaged in the coastwise trade. It is a spin-off of Changes to Vessel Documentation (USCG 1998-4784) RIN 2115-AF71. These proposals address statutory amendments eliminating certain barriers to seeking foreign financing by lease for U.S. flag vessels. These proposals would clarify the information needed to determine the eligibility of a vessel financed in this manner for a coastwise

endorsement. This rulemaking supports the Coast Guard's strategic goal of maritime mobility.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Patricia Williams, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Waters, WV 25419
Phone: 304 271-2506

RIN: 2115–AG08

2096. • TANK LEVEL OR PRESSURE MONITORING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 32; 33 CFR 157

Legal Deadline: Final, Judicial, December 2001.

Abstract: The regulatory project will establish performance standards for tank level or pressure monitoring devices and require tank vessels to install such devices. This project support's the Coast Guard's strategic goals of protecting the natural environment and maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This project is reopend with a new RIN and DMS docket number. The Coast Guard is reopening this project per writ of mandamus by the D.C. Circuit Court directing the Coast Guard to implement provisions of the Oil Pollution Act of 1990. It was previously captioned with docket number 90-071, and RIN 2115-AD69.

Agency Contact: LCDR Glen Mine, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1100

RIN: 2115–AG10

2097. • DISCHARGE OF EFFLUENTS IN CERTAIN ALASKAN WATERS BY CRUISE VESSEL OPERATIONS (CGD 17-01-003)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1322; PL 106-554, sec 203

CFR Citation: 33 CFR 159

Legal Deadline: None

Abstract: The Coast Guard, as directed by Congress, is proposing regulations regarding sewage and graywater discharges from certain cruise vessels transiting applicable waters of Alaska. Operators of cruise vessels carrying 500 or more passengers and transiting applicable waters of Alaska are restricted in where they may discharge effluents and are required to perform testing of sewage and graywater discharges and maintain records of such discharges. The Coast Guard will inspect, monitor, and oversee this process to ensure compliance with applicable water quality laws and regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR Spencer Wood, Project Manager, Department of Transportation, U.S. Coast Guard, Seventeenth Disctict (MOC), PO Box 25517, Juneau, AK 99802-2025
Phone: 907 463-2809

RIN: 2115–AG12

2098. • NAVIGABLE WATERS OF THE UNITED STATES, TERRITORIAL SEA, CONTIGUOUS ZONE; CONFORMING DEFINITIONS TO STATUTORY CHANGES AND PRESIDENTIAL PROCLAMATIONS (USCG-2001-9044)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306 TO 3307; 46 USC 3703; 49 USC 1804; 49 USC 1655; 14 USC 633; 14 USC 80

CFR Citation: 33 CFR 26; 33 CFR 62; 33 CFR 64; 33 CFR 95; 33 CFR 100; 33 CFR 110; 33 CFR 154 TO 156; 33 CFR 160 TO 161; 33 CFR 164 TO 165; 46 CFR 175

Legal Deadline: None

Abstract: This project will make substantive changes to current regulations, but only to the extent required to conform to the Congressionally-mandated changes in the laws administered and enforced by the Coast Guard as listed in Section 301 of the Coast Guard Authorization Act of 1998 (a. Ports and Waterways Safety Act, b. Subtitle II of Title 46). We will re-define the territorial sea", "navigable waters of the United States", "high seas", "contiguous zone", and exclusive economic zone" to clarify the varying definitions of those terms under different laws administered and enforced by the Coast Guard, as well as relevant Presidential Proclamations. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Alex Weller, Project Manager (G-LMI), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0097

RIN: 2115–AG13

2099. • INSPECTION AND ENFORCEMENT OF COAST GUARD REGULATIONS FOR FIXED FACILITIES BY MINERALS MANAGEMENT SERVICE (USCG-2001-9045)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1348

CFR Citation: 33 CFR 140

Legal Deadline: None

Abstract: The Coast Guard proposes to authorize the Mineral Management Service (MMS) to perform inspections, on behalf of the Coast Guard, on fixed facilities engaged in Outer Continental Shelf activities and to enforce Coast Guard regulations applicable to those facilities. MMS already performs inspections on these facilities to determine whether they comply with MMS regulations. By authorizing MMS to also check for compliance with Coast Guard regulations, we avoid duplicating functions, reduce Federal costs, and increase the frequency of inspections. This project supports the Coast Guard's strategic goals of maritime safety and environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: James Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AG14

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Final Rule Stage

2100. SAFETY/SECURITY ZONE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish limited access zones in which the Coast Guard exercises control of all vessels to ensure the safety or security of events, vessels or individuals. They are usually of short duration, ranging from a few hours to a few days. Safety zones are established for events such as fireworks displays, high speed races, or the transit of dangerous cargoes such as explosives or liquefied petroleum gas. Security zones are established for Presidential or Vice Presidential visits, high profile events such as the Olympics, or controversial events such as transport of spent nuclear fuel. Safety and security zones are promulgated by Captains of the Port or District Commanders in response to requests or notifications from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of marine safety, mobility, maritime security, and national defense. Total actions expected 10/01/2000 to 10/01/2001: 250.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Ed Larue, Project Manager, G-MWV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0400

RIN: 2115–AA97

2101. SPECIAL ANCHORAGE AREAS/ANCHORAGE GROUNDS REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: These routine and frequent regulations are established where maritime and commercial interests require them for safety of navigation. Special anchorage areas are areas in which vessels of not more than 65 feet may anchor without displaying the required lights or sound signals. These special anchorage areas are limited geographically, and depending upon the purpose, establish both long- and short-term anchorages. Anchorage grounds are limited geographically, delineate the types and size of vessel which may use the anchorage, and may place time and other restrictions on its use. Special anchorage areas and anchorage grounds are promulgated by District Commanders in response to requests from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goal of marine safety. Total actions expected 10/01/2000 to 10/01/2001: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Ed Larue, Project Manager, G-MWV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0400

RIN: 2115–AA98

2102. VESSEL IDENTIFICATION SYSTEM (USCG-1999-6420)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 12501

CFR Citation: 33 CFR 174; 33 CFR 187

Legal Deadline: None

Abstract: Shipping legislation requires the Secretary of Transportation to establish a Vessel Identification System (VIS). This rulemaking prescribes the manner and form for participating States to make information available for VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines. This rulemaking supports the Coast Guard's strategic goal of maritime mobility.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358

Action	Date	FR Cite
ANPRM Comment Period End	12/14/89	
NPRM	10/05/93	58 FR 51920
Correction	10/15/93	58 FR 53624
NPRM Comment Period End	01/03/94	
NPRM Comment Period Reopened	02/24/94	59 FR 8881
NPRM Comment Period End	03/28/94	
Interim Rule	04/25/95	60 FR 20310
Comment Period End	07/24/95	
NPRM Comment Period Reopened	10/17/95	60 FR 53727
NPRM Comment Period End	12/31/95	
Change in Effective Date	02/23/96	61 FR 6943
NPRM Comment Period Reopened	10/20/97	62 FR 54385
Change in Effective Date	04/21/98	63 FR 19657
IR Change in Effective Date	04/19/99	64 FR 19039
Final Rule Removing Subpart D	10/22/99	64 FR 56965
Supplemental NPRM	02/16/00	65 FR 7926
SNPRM Comment Period End	05/16/00	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The effective date of April 24, 1996, applies to all provisions in this Interim Final Rule other than 33 CFR part 187, subpart D, which was withdrawn October 22, 1999, 64 FR 56965. Subpart D will be proposed in an SNPRM.

ANALYSIS: Regulatory Evaluation, 10/05/93, 58 FR 51920

This rulemaking was previously docketed under CGD 89-050.

Agency Contact: LCDR Nancy Goodridge, Project Manager, G-MRI, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0254

RIN: 2115–AD35

2103. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (USCG-1998-4858)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 155

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The Oil Pollution Act of 1990 directed the President by August 18, 1992, to: require periodic inspection of discharge-removal equipment to ensure that it is available in an emergency, and to require carriage of discharge-removal equipment by vessels operating in the navigable waters of the United States and carrying oil or hazardous substances. This action implemented those provisions. This project supports the Coast Guard's strategic goal of protection of natural resources. This project is considered significant because the expected costs are likely to be controversial and have substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	09/29/92	57 FR 44912
NPRM Comment Period Extended	10/26/92	57 FR 48489
NPRM Comment Period End	10/29/92	
Extension Comment Period End	11/16/92	
Interim Rule	12/22/93	58 FR 67988
Interim Rule Effective	01/21/94	
Correction	01/26/94	59 FR 3749
Comment Period End	02/22/94	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David DuPont, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0971

RIN: 2115–AD66

2104. REPORTING MARINE CASUALTIES (USCG-2000-6927)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 33 USC 1901 et seq

CFR Citation: 33 CFR 151; 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty, "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tank vessels operating in U.S. waters, including the Exclusive Economic Zone. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the consequence of pollution incidents and further supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Request for Comments	12/20/94	59 FR 65522
Comment Period End	02/20/95	
NPRM	11/02/00	65 FR 65808
Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking was formerly docketed under (CGD 91-216).

Agency Contact: LTJG Edward Jackson, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001
Phone: 202 267-6884

RIN: 2115–AD98

2105. +ESCORT VESSELS FOR CERTAIN TANKERS (CGD 91-202)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This rulemaking developed standards which implement section 4116(c) of the Oil Pollution Act of 1990. It addressed the areas of Prince William and Puget Sounds and requires a two-vessel escort for single-hull tankers greater than 5,000 gross tons. On November 1, 1994, the crash stop criteria were suspended because of industry concerns about meeting the criteria. On February 1, 1995, a notice of availability of a two-part study assessing the capability of escort tugs to control disabled tankers in Prince William Sound was published. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This project is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
Comment Period End	09/08/92	
Reopening of Comment Period	03/26/93	58 FR 16391
Notice of Public Hearings	04/29/93	58 FR 25959
Correction	05/19/93	58 FR 29157
NPRM Comment Period End	06/24/93	
Part 1 of Study	01/10/94	59 FR 1411
Final Rule	08/19/94	59 FR 42962
Final Rule - Partial Suspension Crash Stop Criteria	11/01/94	59 FR 54519
Final Rule Effective - Partial Suspension	11/17/94	59 FR 54519
Notice of Availability Part II of Study	02/01/95	60 FR 6345
Notice of Status of Rulemaking	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: The Coast Guard, in cooperation with the Prince William Sound Regional Citizens Advisory Council, PWS Tanker Association, and Alaska Pipeline, conducted a disabled-tanker towing study. The result of the study was incorporated into this rulemaking. Tug escort requirements in areas other than Prince William Sound and Puget Sound are addressed in the project listed under RIN 2115-AE56.

ANALYSIS: Regulatory Evaluation, 08/19/94, 59 FR 42962

Agency Contact: CDR Mark Prescott, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AE10

2106. REGATTA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: These routine and frequent special local regulations ensure the safety of participants and spectators in regattas and marine parades. They specify such things as separate participant and spectator areas, separation schemes for watercraft in the area of the event, and temporary restrictions on waterways to accommodate the event. These rules are short-term, usually applying to a single event not exceeding 8 hours in duration, and usually encompassing only a small portion of a navigable waterway. These rules are promulgated by District Commanders in response to a request from a sponsoring organization. These routine and frequent rulemakings support the Coast Guard's strategic goal of maritime safety and maritime mobility of commercial and recreational vessel traffic. Total actions expected 10/01/2000 to 10/01/2001: 75.

Timetable:

Action	Date	FR Cite
Action Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AE46

2107. DRAWBRIDGE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating schedules, and notice requirements, for drawbridges across navigable waterways. Drawbridge regulations establish the permanent draw operation schedules for bridges and specify what notice mariners must give to request an opening. Short-term deviations from the permanent schedule may be issued for bridge repairs or to test the effectiveness of a proposed new opening schedule. Drawbridge regulations are promulgated by District Commanders usually at the request of the bridge owner or operator, or of local officials or local Coast Guard bridge administration officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of maritime safety and maritime mobility of commercial and recreational vessel traffic. Total actions expected 10/01/2000 to 10/01/2001:100.

Timetable:

Action	Date	FR Cite
Action Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Alesia Steinberger, Project Manager, G-OPT-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6215

RIN: 2115–AE47

2108. REGULATED NAVIGATION AREAS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating requirements for vessels within specified geographic areas to ensure safety on the navigable waters where some special or unusual circumstance exists. Regulated navigation areas are limited areas in which the Coast Guard specifies operational or vessel restrictions such as vessel entry, movement or departure; and vessel size, speed, horsepower, or draft limitations. Regulated navigation areas are promulgated by District Commanders, usually at the request of Coast Guard marine safety or local maritime safety officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of

waterways management, marine safety, and maritime mobility. Total actions expected 10/01/2000 to 10/01/2001: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Ed Larue, Project Manager, G-MWV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0400

RIN: 2115–AE84

2109. +MARINE TRANSPORTATION-RELATED FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (USCG-1999-5705)

Priority: Other Significant

Legal Authority: 33 USC 1321(j); PL 101-380

CFR Citation: 33 CFR 154

Legal Deadline: None

Abstract: This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. A separate rulemaking, under RIN 2115-AE88, was developed in tandem with this rulemaking and addresses hazardous substances response plan requirements for tank vessels. This project supports the Coast Guard's strategic goals of maritime safety and protection of natural resources by reducing the amount of chemicals entering the environment, as well as reducing the consequence of pollution incidents. This action is considered siguificant because of substantial public and industry interest.

Statement of Need: This rulemaking is intended to reduce the impact from hazardous substance spills from marine transportation-related facilities.

Summary of Legal Basis: Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although section 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under 33 U.S.C. 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 82 hazardous substances currently carried in bulk by vessels, and transferred to or from marine transportation-related facilities.

Alternatives: The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some of the spilled substances may not be recoverable from the water and other actions may be necessary. Plans are required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions."

Anticipated Cost and Benefits: The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk of human exposure and enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances. The analysis indicates that this project will not be economically significant. A regulatory assessment addressing costs and benefits of this rule is available in the public docket.

Risks: Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	03/31/00	65 FR 17416
NPRM Comment Period End	06/29/00	
Interim Final Rule	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Public hearings regarding this rulemaking were held in Washington, DC, on July 30, 1996; Houston, TX, on August 5, 1996; and Houston, TX, on February 26 and 27, 1997. Public meetings for the NPRM were held in New Orleans, LA, on May 10 and 11, 2000.

Agency Contact: LT Michael Roldan, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001
Phone: 202 267-0106

RIN: 2115–AE87

2110. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (USCG-1998-4354)

Priority: Other Significant

Legal Authority: 33 USC 1231; 33 USC 1321(j); PL 101-380

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the U.S. that carry bulk hazardous substances. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This project supports the Coast Guard's strategic goals of maritime safety and protection of natural resources by reducing the amount of chemicals entering the environment, as well as reducing the consequences of pollution incidents. This project is considered significant because of substantial public and industry interest.

Statement of Need: This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

Summary of Legal Basis: Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 82 hazardous substances currently carried in bulk by vessels.

Alternatives: The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans are required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo."

Anticipated Cost and Benefits: The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for spill-response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk to human health, enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. A regulatory assessment addressing costs and benefits of this rule is available in the public docket.

Risks: Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances in bulk have developed response plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	03/22/99	64 FR 13734
Notice of Public Hearing	06/15/99	64 FR 31994
NPRM Comment Period Extended	06/15/99	
NPRM Comment Period End	06/21/99	
NPRM Extended Comment Period End	08/30/99	
Interim Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A public hearing on this rulemaking was held in Houston, TX, on August 12 and 13, 1999.

Agency Contact: LT Michael Roldan, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001
Phone: 202 267-0106

RIN: 2115–AE88

2111. LICENSING AND MANNING FOR OFFICERS OF TOWING VESSELS (CGD 94-055)(USCG 1999-6224)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7106; 46 USC 7107; 46 USC 7701

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This rulemaking is necessary as part of an overall initiative by the Coast Guard to improve navigational safety for towing vessels. It will help ensure that the mariner piloting a towing vessel has the proper training and qualifications to handle the tug and tow. It will introduce a third level of license where there have been only two licenses. Each level will require greater experience and proficiency. This will prevent a new operator with minimal experience from commanding the largest flotillas; it will prevent any operator from commanding the large flotillas until he or she has gained, and shown, the necessary competence. This rulemaking also introduces a requirement for demonstration of proficiency as a prerequisite to being issued a license. This will be in addition to the current requirements for sea service, physical examination, testing for drugs, and successful testing for competence. This project the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	06/19/96	61 FR 31332
Correction	07/11/96	61 FR 36608
Correction	08/07/96	61 FR 41208
Notice of Meeting	08/26/96	61 FR 43720

Action	Date	FR Cite
NPRM Comment Period End	10/17/96	
Notice of Intent	12/18/96	61 FR 66642
SNPRM	10/27/97	62 FR 55548
Public Meeting Memphis 02/11/98	01/21/98	63 FR 3070
Public Meeting Houston 02/13/98	01/21/98	63 FR 3070
Public Meeting Boston 02/18/98	01/21/98	63 FR 3070
Public Meeting Seattle 02/24/98	01/21/98	63 FR 3070
SNPRM Comment Period End	02/24/98	
Interim Rule	11/19/99	64 FR 63213
Interim Rule Comment Period End	02/17/00	
Interim Rule Effective	05/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR Luke Harden, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001
Phone: 202 267-1838

RIN: 2115–AF23

2112. +IMPLEMENTATION OF THE 1995 AMENDMENTS TO THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978 (STCW) (CGD 95-062)

Priority: Other Significant

Legal Authority: 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7107

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 15

Legal Deadline: None

Abstract: The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), in 1995. The amendments came into force on February 1, 1997. This project implements them by revising current regulations to ensure that the United States complies with their requirements on: the training of merchant mariners, the documenting of their qualificatfons, and watch-standing and other arrangements aboard seagoing merchant ships of the United States. This project supports the Coast Guard's strategic goal of maritime safety. It also supports the goal of our directorate for Marine Safety and Environmental Protection for reducing deaths and injuries of crewmembers on domestic merchant vessels and eliminating substandard vessels from the navigable waters of the United States. This rulemaking is significant due to the potential impact on industry and the potential effect on international interests.

Timetable:

Action	Date	FR Cite
Notice of Meeting	08/02/95	60 FR 39306
Comment Period End	09/29/95	
Notice of Inquiry	11/13/95	60 FR 56970
Comment Period End	01/12/96	
NPRM	03/26/96	61 FR 13284
Notice of Public Meetings	04/08/96	61 FR 15438
Comment Period End	07/24/96	
Notice of Intent	02/04/97	62 FR 5197
Interim Rule	06/26/97	62 FR 34505
Interim Rule Effective	07/28/97	
Final Rule	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christopher Young, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0216

RIN: 2115–AF26

2113. IMPLEMENTATION OF THE NATIONAL INVASIVE SPECIES ACT OF 1996 (CGD 97-068)(USCG-1998-3423)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4701; 16 USC 4702; 16 USC 4711 to 4714; 16 USC 4721 to 4728; 16 USC 4741; 16 USC 4751

CFR Citation: 33 CFR 151

Legal Deadline: NPRM, Statutory, October 26, 1997.

Abstract: This rulemaking establishes voluntary ballast water exchange guidelines applicable to all vessels entering U.S. waters, and mandatory reporting and sampling procedures to monitor compliance. Ballast water has been identified as a major pathway for the introduction and spread of Aquatic Nuisance Species (ANS). This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the volume of untreated ballast water discharged into United States waters, and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	04/10/98	63 FR 17782
NPRM Comment Period End	06/09/98	
Interim Final Rule	05/17/99	64 FR 26672
Interim Final Rule Effective	07/01/99	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LT M. Pat McKeown, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0500

RIN: 2115–AF55

2114. POLLUTION PREVENTION FOR OCEANGOING SHIPS AND CERTAIN VESSELS IN DOMESTIC SERVICE (USCG-2000-7641) PREVIOUS DOCKET (CGD 97-072)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 3703; 33 USC 1231; 33 USC 1321(j); 33 USC 1903

CFR Citation: 33 CFR 151; 33 CFR 155; 33 CFR 157; 46 CFR 170; 46 CFR 172

Legal Deadline: None

Abstract: This rulemaking concerns pollution prevention and the operational discharge of oil from vessels. It will align existing regulations on oil-water separators, operational discharge, damage and intact stability, and term of validity of International Oil Pollution Prevention Certificates with recent amendments under the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL). It will affect U.S.-flagged tank ships of 150 gross tons or more and other U.S.-flagged ships of 400 gross tons or more. It will eliminate or reduce requirements for shore connections on certain vessels of 100 gross tons or more. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into United States waters from maritime sources by 20 percent, and the Coast Guard's strategic goals of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	08/08/00	65 FR 48548
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: No additional information.

Agency Contact: CDR Mark Prescott, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AF56

2115. SAFETY OF UNINSPECTED PASSENGER VESSELS UNDER THE PASSENGER VESSEL SAFETY ACT OF 1993 (USCG-1999-5040)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2101; 46 USC 2113; 46 USC 3306; 46 USC 4105

CFR Citation: 46 CFR 15; 46 CFR 24 to 28; 46 CFR 70; 46 CFR 169; 46 CFR 175; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 46 CFR 10; 46 CFR 2; 46 CFR 30; 46 CFR 90; 46 CFR 114; 46 CFR 188; 46 CFR 199; ...

Legal Deadline: None

Abstract: This rulemaking implements the Passenger Vessel Safety Act (PVSA) (Pub. L. 103-206) by amending the rules for Uninspected Passenger Vessels (UPVs). Specifically, the Coast Guard is considering amending existing UPV definitions to create a new class of UPV of at least 100 gross tons carrying not more than 12 passengers. The Coast Guard is considering operating, equipment, licensing and special permit application requirements appropriate for the new class of vessel. The Coast Guard is also considering adding definitions of "passenger," "passenger for hire," and "consideration" to bring its rules into conformity with the PVSA. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/99	64 FR 15709
ANPRM Comment Period End	06/30/99	
NPRM	03/02/00	65 FR 11410
Interim Final Rule	04/28/00	65 FR 24878
NPRM Comment Period End	05/31/00	
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: CDR Prescott Mark, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AF69

2116. CERTIFICATION OF NAVIGATION LIGHTS FOR UNINSPECTED COMMERCIAL VESSELS AND RECREATIONAL VESSELS (CGD 97-060)(USCG 1999-6580).

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2071; 33 USC 1602; 33 USC 1607

CFR Citation: 33 CFR 84; 33 CFR 181; 33 CFR 183; 46 CFR 111

Legal Deadline: None

Abstract: This rule would place navigation lights for recreational vessels and uninspected commercial vessels under regulatory control similar to that already in place for inspected commercial vessels. Specifically, it would require certification that installed navigation lights are in compliance with the Navigation Rules' specifications, as evidenced by laboratory testing to a performance standard; this level of control is currently in place for other items of safety equipment. This action is in accordance with recommendations made by the National Boating Safety Advisory Council (NBSAC), the Navigation Safety Advisory Council (NAVSAC),and the National Association of State Boating Law Administrators (NASBLA). This project supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	08/04/00	65 FR 47936
NPRM Comment Period End	10/03/00	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking was formerly titled Certification of Navigation Lights on Recreational Vessels (CGD 97-060).

Agency Contact: Randolph J. Doubt, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Steet SW, Washington, DC 20593-0001
Phone: 202 267-6810

RIN: 2115–AF70

2117. VESSEL TRAFFIC SERVICE LOWER MISSISSIPPI RIVER (USCG-1998-4399)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223(a)

CFR Citation: 33 CFR 161; 33 CFR 164; 33 CFR 165

Legal Deadline: None

Abstract: This project proposes to establish a new Vessel Traffic Service (VTS) area in the Lower Mississippi River region. This Vessel Traffic Service Area (VTSA) will span from 20 miles north of Baton Rouge (mile 255 AHP) out to sea, including the South and Southwest Pass. As part of the VTSA, a VTS Special area will be designated between mile 93.5 and 95 AHP. Unlike traditional VTSs, which are based on radar and video surveillance and rely on voice communications by VHF-FM radio, when fully operational VTS Lower Mississippi will use Automatic Identification System transponder technology to perform the majority of both surveillance and information exchange. This rulemaking supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	04/26/00	65 FR 24616

Action	Date	FR Cite
NPRM Comment Period Reopened	07/25/00	
NPRM Comment Period Reopened	08/18/00	65 FR 50479
NPRM Comment Period End	12/01/00	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This project was originally entitled "Vessel Traffic Service Lower Mississippi/Automatic Identification System Carriage Requirement." The VTS LMR will retain RIN 2115-AF75. The AIS carriage requirement will be developed in a separate rulemaking.

Agency Contact: Jorge Arroyo, Project Manager, G-MWV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0407

RIN: 2115–AF75

2118. ANCHORAGE GROUND; SAFETY ZONE; SPEED LIMIT; TONGASS NARROWS AND KETCHIKAN, AK (CGD17-99-002)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 471; 33 USC 1231; 33 USC 2071

CFR Citation: 33 CFR 162; 33 CFR 165; 33 CFR 110

Legal Deadline: None

Abstract: This rulemaking would grant an exemption from the present 7-knot speed limit in Tongass Narrows, AK, for float plane take-off and landing and vessels 26 feet in length or less. The geographic area for the speed limit would be expanded. A safety zone used for cruise ship anchorages would be redesignated as an anchorage area to reflect actual usage of the area and transiting vessels would be required to move quickly and directly through the anchorage, without rapid course changes, to increase safety. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	03/25/99	64 FR 14414
Comment Period End	05/10/99	
Interim Final Rule	06/02/99	64 FR 29554
Comment Period End	11/30/99	
Interim Final Rule	04/07/00	65 FR 18242
Interim Final Rule Comment Period End	10/31/00	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT P. W. Clark, Project Manager, Department of Transportation, U.S. Coast Guard, 2030 Sealevel Drive, Suite 203, Ketchikan, AK 99901
Phone: 907 225-4496

RIN: 2115–AF81

2119. MANDATORY SHIP REPORTING SYSTEM OFF THE NORTHEAST AND THE SOUTHEAST COASTS OF THE UNITED STATES (USCG-1999-5525)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1230(d)

CFR Citation: 33 CFR 169

Legal Deadline: None

Abstract: This regulatory project establishes two mandatory ship reporting systems in areas off the U.S. Atlantic Coast to protect the endangered Northern Right Whale. These areas are critically important calving and feeding grounds for that species. Although right whales are also found outside of these areas, the two areas are targeted because they have both large numbers of whales and a high volume of ship traffic. Ship collisions are the largest known source of human related mortality of right whales. Communication between shore-based authorities and ships will minimize the risk of collision damage to ships and the whales as well as provide beneficial information to ships. The reporting system requires ships over 300 gross tons to notify the Coast Guard of their intention to enter these areas. In return, the mariners are provided with automated information about the last known locations of any right whales. This project supports the Coast Guard's strategic goal of protecting the natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/99	64 FR 29229
Interim Final Rule	07/01/99	
Comment Period End		
Interim Final Rule	07/01/99	
Effective		
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The International Maritime Organization established a June 30, 1999 implementation for a mandatory reporting system. Less than 300 northern right whales are now known to exist. Designing an effective and simple reporting program in conjunction with other Federal agencies eliminated the availability of time to propose the regulations for comment prior to promulgation. However, the Coast Guard may revise the regulations in response to comments.

Agency Contact: Edward J. LaRue, Jr, Project Manager, G-MWV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0416

RIN: 2115–AF82

2120. TRAINING AND QUALIFICATIONS FOR PERSONNEL ON PASSENGER SHIPS (USCG 1999-5610)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC ch. 71; 46 USC ch. 73

CFR Citation: 46 CFR 12; 46 CFR 15; 46 CFR 10

Legal Deadline: None

Abstract: This project will implement new amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), that impose requirements for training and qualifications of masters, officers, engineers, and "ratings." The following training courses are mandatory for the personnel on passenger ships other than roll-on, roll-off, carrying more than 12 passengers operating on international voyages: (1) Crisis Management and Human Behavior; (2) Crowd Management; (3) Special Safety; (4) Passenger Safety, with special attention given to disabled persons and others needing assistance; and (5) Special Familiarization. This rulemaking supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	06/15/00	65 FR 37507
NPRM Comment Period End	09/13/00	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Gould, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6890

RIN: 2115–AF83

2121. RAISING THE THRESHOLD OF PROPERTY DAMAGE FOR REPORTS OF ACCIDENTS INVOLVING RECREATIONAL VESSELS (USCG-1999-6094)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 46 USC 6102

CFR Citation: 33 CFR 173; 33 CFR 174

Legal Deadline: None

Abstract: This rule would increase the threshold for reporting recreational-boat accidents involving only property damage. Because of inflation since the threshold was last revised, the threshold now requires the reporting of a large number of minor accidents. These numbers distort the statistical base for the program in Recreational Boating Safety and increase the burden of paperwork on the boating public. Raising the threshold to an appropriate level would provide for a consistent statistical base and reduce the administrative burden on the Coast Guard and on States' accident-investigation personnel as well as the burden of paperwork on the boating public. This rule supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	06/20/00	65 FR 38229
NPRM Comment Period End	10/18/00	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bruce Schmidt, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0955

RIN: 2115–AF87

2122. GREAT LAKES PILOTAGE RATES (USCG-1999-6098)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 9303(f)

CFR Citation: 46 CFR 401

Legal Deadline: None

Abstract: The Coast Guard conducts an annual review of the Great Lakes Pilotage rate based on the "Great Lakes Pilotage Rates Methodology" published in the Federal Register on May 9, 1996. Depending on the results of this review, the Coast Guard can make rate adjustments in accordance with the regulations or if the Director of Great Lakes Pilotage determines that pilotage rates are within a reasonable range of their target, make no adjustments to the rates. This rulemaking will reoccur annually after the "Notice of Annual Review" is published in the Federal Register and comments to that review are received. This project supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	04/14/00	65 FR 20110
Supplemental NPRM	09/13/00	65 FR 55206
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Flyntz, Project Manager, G-MW-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 276-6447

RIN: 2115–AF91

2123. ALTERNATE HULL EXAMINATION PROGRAM FOR CERTAIN PASSENGER VESSELS, AND UNDERWATER SURVEYS FOR PASSENGER, NAUTICAL SCHOOL, AND SAILING SCHOOL VESSELS (USCG-2000-6858)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3305; 46 USC 3308

CFR Citation: 46 CFR 71; 46 CFR 115; 46 CFR 167; 46 CFR 169; 46 CFR 176

Legal Deadline: None

Abstract: The regulatory project will establish hull examination alternatives and a drydock extension policy for qualifying passenger vessels that operate exclusively on benign, low-risk environments, and that have limited time under way. In addition, the proposed regulations would provide the option of alternating drydock examinations with underwater surveys for passenger vessels. This project supports the Coast Guard's strategic goal Marine Safety and Environmental Protection Program's goal of mobility by facilitating commerce and eliminate interruptions and impediments to the economical movement of goods and people.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This Project is a split-off of RIN 2115-AF73. The split was a result of comments received under the NPRM that was published under RIN 2115-AF73, 11/15/1999, 64 FR 62018, entitled Frequency of Inspection Alternate Hull Exam Program for Certain Passenger Vessels, and Underwater Surveys for Passenger, Nautical School, and Sailing School Vessels.

Agency Contact: LCDR Donald Darcy, Project Manager G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001
Phone: 202 267-1200

RIN: 2115–AF95

DOT—USCG

Final Rule Stage

2124. NOXIOUS LIQUID SUBSTANCES, OBSOLETE HAZARDOUS MATERIALS IN BULK, AND CURRENT HAZARDOUS MATERIALS IN BULK (USCG-2000-7079)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321, 1903; 46 USC 2103, 3306, 3703

CFR Citation: 33 CFR 151; 46 CFR 30, 150, 151, and 153

Legal Deadline: None

Abstract: The Coast Guard revises rules on carriage of hazardous materials in bulk, treating the rules in three parts:

In part A, the Coast Guard revises its rules on Noxious Liquid Substances (NLSs) to include substances recently authorized for carriage by the Coast Guard or added to the Chemical Codes of the International Maritime Organization (IMO) and by making minor technical and editorial changes based on the actions taken in part C.

In part B, the Coast Guard revises its rules, tables, and lists on carriage of hazardous materials in bulk by deleting from its rules, tables, and lists commodities that are no longer liquid cargoes transportable in bulk, and by canceling the classifications of obsolete commodities not included in those rules, tables, and lists.

In part C, the Coast Guard revises its rules on carriage of hazardous materials in bulk by adding cargoes recently authorized for carriage by the Coast Guard or added to the Chemical Codes of the IMO and by making minor technical and editorial changes.

This three-part revision will update the tables of hazardous materials transportable in bulk and better inform persons shipping any such materials of the materials' compatibility and of special handling requirements. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Curtis Payne, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0016

RIN: 2115–AF96

2125. • EXEMPTION OF PUBLIC VESSELS EQUIPPED WITH ELECTRONIC CHARTING AND NAVIGATION SYSTEMS FROM PAPER CHART REQUIREMENTS (USCG 2000-8300)

Priority: Substantive, Nonsignificant

Legal Authority: 33 U.S.C. 1223; 33 U.S.C. 1231; 46 U.S.C. 2103; 46 U.S.C. 3703

CFR Citation: 33 CFR 146

Legal Deadline: None

Abstract: This rulemaking amends the Coast Guard Navigation Safety Regulations regarding navigational charts and publications for public vessels. It will permit public vessels that are owned and operated by the U.S. government that are not engaged in commercial operations to use an agency approved electronic charting and navigation system as an alternative to paper charts for navigation in U.S. waters. The Coast Guard will also request comments in a similar proposed rulemaking for commercial vessels. This rulemaking supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	
Direct Final Rule; Comment Period Ends	06/00/01	
Direct Final Rule Effective Date	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dave Beach, Project Manager, G-MWV-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001
Phone: 202 267-1409

RIN: 2115–AG03

2126. • RIGHT TO APPEAL; DIRECTOR, GREAT LAKES PILOTAGE (USCG-2001-8894)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7701

CFR Citation: 46 CFR Subpart 1.03

Legal Deadline: None

Abstract: This rulemaking codifies the Coast Guard's existing practice of permitting appeals of decisions or actions taken by the Director, Great Lakes Pilotage Office. Due to an omission in current regulations, the Coast Guard administrative appeal procedures do not apply to these decisions or actions. This rulemaking supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	
Direct Final Rule Effective Date	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Lawler, Project Manager, G-MW-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20590
Phone: 202 267-1241

RIN: 2115–AG11

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Long-Term Actions

2127. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (CGD 89-014)(USCG-2000-7442)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline: Final, Statutory, June 15, 1989.

Abstract: In May 1989, the Coast Guard began a rulemaking to incorporate into regulation certain elements of the Shore Protection Act. The objective is to help prevent trash, medical debris, and other unsightly and potentially harmful materials from being deposited into the coastal waters of the United States as a result of sloppy waste-handling procedures. This project supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Correction	06/05/89	54 FR 24078
Comment Period End	08/24/89	54 FR 22546
Notice	12/13/95	60 FR 64001
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This project was formerly known as "Implementation of the Shore Protection Act of 1988."

ANALYSIS: Regulatory Evaluation, 05/24/89, 54 FR 22546

Agency Contact: ENS William R. Sportsman, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001
Phone: 202 267-0226

RIN: 2115–AD23

2128. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2713; 33 USC 2714

CFR Citation: 33 CFR 136

Legal Deadline: None

Abstract: This rulemaking implements section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. The Interim Rule provides the requirements for the filing of claims for uncompensated removal costs or damages resulting from the discharge of oil, for the designation of the sources of the discharge, and for the advertisement of where claims are to be filed. The Interim Rule also included the processing of natural resource damage (NRD) claims. The NRD claims, however, were not processed until September 25, 1997, when the Department of Justice issued an opinion that the Oil Spill Liability Trust Fund (OSTLF) is available without further appropriation to pay trustee NRD claims under the general claims provisions of the Oil Pollution Act of 1990, 33 U.S.C. 2712(a)(4). Release of the Final Rule will be delayed until additional experience is gained on the adjudication of these NRD claims. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Correction	09/09/92	57 FR 41104
Comment Period End	12/10/92	
NPRM	06/00/02	
Final Rule	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Linda Burdette, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, Suite 1000, 4200 Wilson Boulevard, Arlington, VA 22203-1804
Phone: 202 493-6631

RIN: 2115–AD90

2129. STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-014)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 133

Legal Deadline: NPRM, Statutory, February 18, 1991.

Abstract: Pursuant to the Oil Pollution Act of 1990 (OPA 90), this action specifies how the authority to obligate the pollution trust fund for oil spill response and cleanup efforts and to enter into agreements with the states will be exercised. The Coast Guard is evaluating the performance of the Interim Rule. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources. This rulemaking is considered significant because of substantial state interest.

Timetable:

Action	Date	FR Cite
Interim Rule	11/13/92	57 FR 53968
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: Rulemaking was downgraded from Other Significant to Substantive Nonsignificant in the 11/14/94 Agenda; however, due to administrative error, the document erroneously reflected Other Significant in subsequent Agenda entries.

Agency Contact: Al Thuring, Project Manager, National Pollution Funds Center, Department of Transportation, U.S. Coast Guard, Suite 1000, 4200 Wilson Boulevard, Arlington, VA 22203-1804
Phone: 202 493-6801

RIN: 2115–AE19

2130. PROPELLER INJURY PREVENTION ABOARD RENTAL BOATS (CGD 95-041)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 173; 33 CFR 174; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 33 CFR 187

Legal Deadline: None

Abstract: This rulemaking would examine the number and nature of injuries sustained from vessel propellers and help the Coast Guard determine the need for Federal or State regulation of these vessels, the livery companies leasing these vessels, or the operators of these vessels. Any regulation would be implemented to reduce further injuries and fatalities involving rented boasts. The National Boating Safety Advisory Council (NBSAC) recommended that the Coast Guard consider a number of

alternatives to prevent injuries, including: installing pump jets, propeller cages or a combination of boarding ladder interlocks or shaft alarms, big warning placards, or other warning devices. Future action is dependent upon consideration of reported injuries, comments received in response to past notices, results of the study conducted under a Coast Guard grant, available technology, and continued consultation with the NBSAC. This rulemaking supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
Request for Comments	05/11/95	60 FR 25191
Comment Period End	07/10/95	
Reopening of Comment Period	08/09/95	60 FR 40545
Comment Period End	11/07/95	
ANPRM	03/26/96	61 FR 13123
ANPRM Comment Period End	09/01/96	
Request for Comments	04/28/97	62 FR 22991
Comment Period End	07/28/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF28

2131. LIMITED SERVICE DOMESTIC VOYAGE LOAD LINES FOR RIVER BARGES ON LAKE MICHIGAN (CGD 95-015) (USCG-1998-4623)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 51

CFR Citation: 46 CFR 45

Legal Deadline: None

Abstract: This regulatory project will allow certain unmanned dry cargo river barges operating on Lake Michigan to be exempted from the normal Great Lakes load line requirements provided instead that they obtain a limited domestic service load line for two specific routes (Chicago to Milwaukee, and Chicago to Muskegon). This will allow certain non-hazardous cargoes originating at inland river ports to be transported as far as Milwaukee and Muskegon by river barge, thereby benefiting from the relatively low cost per ton-mile of river barge transportation. Compliance is not mandatory other than for those river barge operators who voluntarily seek this special load line for their barges. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58679
Comment Period End	03/04/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Thomas Jordan, Project Manager, G-MSE-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2988

RIN: 2115–AF38

2132. OUTER CONTINENTAL SHELF ACTIVITIES (USCG-1998-3868)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1333(d)(1); 43 USC 1348(c); 43 USC 1356

CFR Citation: 33 CFR 140 to 147

Legal Deadline: None

Abstract: This project would revise the regulations on Outer Continental Shelf (OCS) activities to: add new requirements for fixed OCS facilities for lifesaving, fire protection, training, hazardous materials used as stores, and accommodation spaces; require foreign vessels engaged in OCS activities to comply with requirements similar to those imposed on U.S. vessels similarly engaged; and allow all mobile inland drilling units (MIDUs) to operate on the OCS out to a defined boundary line if they meet requirements for lifesaving, firefighting, and operations similar to those for fixed OCS facilities. This project would affect the owners and operators of facilities and vessels engaged in offshore activities associated with the exploration for, development of, or production of, the resources of the OCS. The preliminary estimate of costs imposed by these amendments varies according to the unit. The Coast Guard is consulting with the Minerals Management Service, part of the Department of the Interior. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing deaths and injuries and reducing the amount of oil discharged into the marine environment. It also supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
Request for Comments	06/27/95	60 FR 33185
Comment Period End	09/25/95	
NPRM	12/07/99	64 FR 68416
NPRM Correction	02/22/00	65 FR 8671
NPRM Comment Period Extended	03/16/00	65 FR 14226
NPRM Comment Period Extended	06/30/00	65 FR 40559
NPRM Comment Period End	11/30/00	
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Notice of Request for Comments published 27 June 1995, was assigned Coast Guard docket number 95-016. Following the request for comments this docket was terminated. This project continues under docket USCG-1998-3868 and RIN 2115-AF39.

Agency Contact: James Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AF39

2133. +EMERGENCY RESPONSE PLANS FOR PASSENGER VESSELS (USCG-1998-3473)

Priority: Other Significant

Legal Authority: 14 USC 633; 33 USC 1221; 33 USC 1223; 33 USC 1224; 33 USC 1231; 33 USC 1232; 46 USC 3306

CFR Citation: 46 CFR 1; 46 CFR 7 to 10; 46 CFR 199

Legal Deadline: None

Abstract: This rulemaking would require owners or operators of high-capacity passenger vessels in domestic service to develop, maintain, and exercise emergency response plans. The first step is to publish an advance notice of proposed rulemaking to seek comment from owners and operators. Such plans would establish a process that prevents injury and loss of life during collisions, allisions, groundings, fires, and other emergencies. They would address issues such as passenger egress, crew training, and available emergency resources both on a vessel and in a vessel's operating area. This rulemaking supports the Coast Guard's strategic goals of maritime safety and protection of natural resources. It is significant because of important policy of the Department of Transportation and because of public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/98	63 FR 9916
ANPRM Comment Period End	06/28/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: CDR Mark Prescott, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AF61

2134. COMMERCIAL DIVING OPERATIONS (USCG-1998-3786)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1509; 43 USC 1333; 46 USC 3306; 46 USC 3703; 46 USC 6101

CFR Citation: 46 CFR 197; 49 CFR 1.46

Legal Deadline: None

Abstract: This project involves reviewing and updating the commercial diving regulations, which are over 20 years old. A review of the commercial diving regulations is needed to determine what parts should be updated or changed based on the current standards of safety, technology, and industry practices and to evaluate and minimize any significant economic impact of the rules upon small entities. The project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce deaths and injuries on U.S. commercial vessels and the Coast Guard's strategic goal of safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/98	63 FR 34840
ANPRM Comment Period Extended	09/23/98	63 FR 50848
ANPRM Comment Period End	11/09/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: CDR Mark Prescott, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0225

RIN: 2115–AF64

2135. +IMPROVEMENTS TO MARITIME SAFETY IN PUGET SOUND-AREA WATERS (USCG-1998-4501)

Priority: Other Significant

Legal Authority: 33 USC 1223 to 1224

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: This rulemaking would promulgate measures to improve maritime safety in Puget Sound-Area waters including Puget Sound, the Strait of Juan de Fuca, passages around and through the San Juan Islands, and the Olympic Coast National Marine Sanctuary. Based on a determination by the Secretary of Transportation regarding the status of maritime safety in the Puget Sound-area, the Coast Guard has initiated a comprehensive cost-benefit analysis to study the feasibility of implementing new safety measures, including extended tug escort requirements and a dedicated response vessel. Public input will help focus this cost-benefit analysis and develop any future proposed rules, if deemed necessary. This rulemaking supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protection of natural resources. This is a significant action due to substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/24/98	63 FR 64937
ANPRM Comment Period End	05/24/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: CDR T. M. Close, Project Manager, G-MSE-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0177

RIN: 2115–AF68

2136. BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL (USCG-1999-5117) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151

Legal Deadline: None

Abstract: This rulemaking project will update the regulations for barges carrying bulk hazardous material to account for modernization of the industry. The current regulations for barges carrying bulk liquid hazardous materials were originally published in 1970. Over the past three decades, technology has advanced and industry practices have changed. This project will first ask for public comment to identify the rules which need to be updated. Once those rules are identified, the project will propose appropriate revisions to the Code of Federal Regulations. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
ANPRM	09/09/99	64 FR 48976
ANPRM Comment Period End	03/07/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Felleisen, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0085

RIN: 2115–AF77

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Completed Actions

2137. REGATTAS AND MARINE PARADES (CGD 95-054)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: The Coast Guard reviewed its regatta and marine parade permitting regulations and determined that certain revisions are needed to eliminate overly burdensome, unnecessary, and obsolete requirements. Due to concerns relating to the environmental impact of the interim rule, we believe that further study of other approaches is necessary. Therefore, we finalized this rulemaking by withdrawing the interim rule, except for the requirement that an application for permit be submitted at least 135 days (60 days for certain annual events), rather than 30 days, before the event. This rulemaking supports the Coast Guard's strategic goal of maritime safety and maritime mobility of commercial and recreational vessels.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/95	60 FR 67345
ANPRM Comment Period End	02/09/96	
NPRM	04/17/96	61 FR 16732
NPRM Comment Period End	05/17/96	
Interim Rule	06/28/96	61 FR 33027
Comment Period End	08/27/96	
Delay Effective Date to 01/01/98	11/26/96	61 FR 60027
Delay Effective Date to 01/01/99	12/29/97	62 FR 67570
Delay Effective Date to 01/02/00	12/30/98	63 FR 71753
Delay Effective Date Indefinitely	12/16/99	64 FR 70184
Final Rule and Withdrawal of Interim Rule	01/09/01	66 FR 1580
Final Rule Effective	05/11/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: ANALYSIS: Regulatory Evaluation, 06/26/96, 61 FR 33031

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF17

2138. REVISION TO FEDERAL BLOOD ALCOHOL CONCENTRATION (BAC) STANDARD FOR RECREATIONAL VESSEL OPERATORS (USCG-1998-4593)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2302

CFR Citation: 33 CFR 95; 33 CFR 177

Legal Deadline: None

Abstract: This rulemaking revises the Federal Blood Alcohol concentration (BAC) limit from .10 to .08 percent by weight to determine whether operators of recreational vessels are under the influence of alcohol. With respect to recreational vessels on navigable waters within State boundaries, the Coast Guard continues to adopt BAC limits enacted by respective State jurisdictions. This rulemaking revises the rule adopting State BAC limits to account for recent developments in State boating legislation by removing language referencing State statutory schemes that no longer exist. The new rule adds language to reference statutory schemes that have come into existence since the promulgation of the .10 Federal BAC limit for recreational vessels. This rulemaking also inserts the words "under the influence of alcohol, or a dangerous drug in violation of a law of the United States" in place of the word "intoxication" where it appears in the Code of Federal Regulations. That change affects sections involving only operators of recreational vessels. The purpose of that change is to bring those regulations into conformity with the language of United State Code, as amended by the Oil Pollution Act of 1990. This rulemaking supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	03/16/00	65 FR 14223
NPRM Comment Period End	07/14/00	
Final Rule	01/10/01	66 FR 1859
Final Rule Effective	05/11/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This project was formerly entitled, "Revised Blood Alcohol Concentration (BAC) Limit." It has been prioritized from Other Significant to Substantive Nonsignificant because the project no longer addresses commercial vessel operations. Changes affecting commercial vessel operations will be addressed in a separate future rulemaking.

The Final Rule effective date of March 12, 2001 was revised to May 11, 2001 due to the Regulatory Review Plan as promulgated by the President's Chief of Staff memo dated January 20, 2001.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF72

2139. CITIZENSHIP STANDARDS FOR VESSEL OWNERSHIP AND FINANCING; AMERICAN FISHERIES ACT (USCG-1999-6095)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 2110; 46 USC 12102

CFR Citation: 46 CFR 67

Legal Deadline: NPRM, Statutory, April 1, 2000.

Abstract: This rulemaking will increase the percentage of stock required to be owned by U.S. citizens in corporations owning fishing vessels from 51 percent to 75 percent. The rulemaking will also provide that fisheries endorsements will become invalid if a documented fishing vessel is chartered or leased to a person who is not a citizen or to an entity which is ineligible to own a documented fishing vessel. In addition, regulatory restrictions must be developed prohibiting documentation of certain vessels with a fisheries endorsement if they are mortgaged to an entity not entitled to own documented fishing vessels. Finally, the regulations must be amended to reflect the repeal of the "grandfather" provisions of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. This rulemaking supports the Coast Guard's strategic goal of protection natural resources.

Timetable:

Action	Date	FR Cite
NPRM	07/27/00	65 FR 46137
NPRM Correction	10/01/00	65 FR 49529
Final Rule	12/07/00	65 FR 76572
Final Rule Effective	10/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule was previously titled Eligibility of U.S. Flag Vessels Measuring Less than 100 Feet To Obtain Commercial Fisheries Documents

Agency Contact: Thomas Willis, Project Manager, National Vessel Documentation Center, Department of Transportation, U.S. Coast Guard, 792 T. J. Jackson Dr, Falling Waters, WV 25419-9502
Phone: 304 271-2506

RIN: 2115–AF88

2140. SAFETY ZONE; OUTER CONTINENTAL SHELF PLATFORMS IN THE GULF OF MEXICO (CGD08-99-023)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 85; 43 USC 1333; 49 CFR 1.46

CFR Citation: 33 CFR 147

Legal Deadline: None

Abstract: This regulation will establish safety zones around seven petroleum-producing platforms located in the Gulf of Mexico. These platforms are at risk from allision by vessels operating outside the Shipping Safety Fairways in the Gulf. The safety zones would keep these vessels from entering or remaining in the zones around the platforms and would protect the safety of life, property, and the environment. This rulemaking supports the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	11/26/99	64 FR 66434
Final Rule	03/30/00	65 FR 16823

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR Roderick Walker, Program Manager, Department of Transportation, U.S. Coast Guard, Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130
Phone: 504 589-3043

RIN: 2115–AF93

2141. INLAND WATERWAYS NAVIGATION REGULATIONS: PORTS AND WATERWAYS SAFETY (CGD 09-00-010)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231; 50 USC 191

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: The Coast Guard is removing an inland waterway navigation regulation that sets time limit requirements and requires Captain of the Port approval before using the Portage River and Lily Pond Harbor in Michigan as harbors of refuge. The elimination of this rule is necessary because Portage River and Lily Pond Harbor are no longer used as harbors of safe refuge in the Ninth Coast Guard District.

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/05/00	65 FR 53593
Direct Final Rule Effective	12/04/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LT Randy Wagner, Department of Transportation, U.S. Coast Guard, Marine Safety Office Duluth, 600 South Lake Avenue, Duluth, MN 55802
Phone: 218 720-5286

RIN: 2115–AG01

2142. • SHIPPING SAFETY FAIRWAYS AND ANCHORAGE AREAS, GULF OF MEXICO (CGD08-00-012)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None

Abstract: This rulemaking will help to alleviate the need for in-bound deep draft vessels to cross the Sabine Pass Safety Fairway and navigate around a charted shallow area in the Gulf of Mexico south of Sabine Pass. It will allow deep draft vessels to enter and depart Sabine Bank anchorages on a safer, lower risk course. This rulemaking supports the Coast Guard's strategic goal of maritime safety, and mobility.

Timetable:

Action	Date	FR Cite
NPRM	06/21/00	65 FR 38474
Final Rule	12/28/00	65 FR 82276

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking was previously entitled "Anchorage Regulations; Sabine Pass, TX, Gulf of Mexico" RIN AA98. The title and RIN were changed to correctly reflect the CFR part affected.

Agency Contact: Lamont Bazemore, Project Manager, Waterways Management, Department of Transportation, U.S. Coast Guard, Marine Safety Office Port Arthur, Federal Building, 2875 Jimmy Johnson Blvd., Port Arthur, TX 77640-2099
Phone: 409 723-6509

RIN: 2115–AG02

DEPARTMENT OF TRANSPORTATION (DOT) — **Proposed Rule Stage**

Federal Aviation Administration (FAA)

2143. +IMPROVED WATER SURVIVAL EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would add new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This action is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
SNPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AIR-85-265R.

ANALYSIS: Regulatory Evaluation, 06/30/88, 53 FR 24890

Agency Contact: Hal Jensen, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-9574

RIN: 2120–AC72

2144. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.

Abstract: This action would require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats on board all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Reopening of Comment Period	10/30/98	63 FR 58331
NPRM Comment Period End	01/08/99	
SNPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 25611. Project Number: AIR-88-136R.

ANALYSIS: Regulatory Evaluation, 05/17/88, 53 FR 17650

Agency Contact: Hal Jensen, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-9574

RIN: 2120–AC84

2145. +CORROSION CONTROL PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This project would ensure that airplanes used or not used in common carriage in air transportation have a comprehensive corrosion prevention program within their maintenance or inspection programs. In April 1988, a commercial transport airplane experienced an in-flight decompression and separation of approximately 18 feet of the fuselage skin and structure at the top of the airplane. The airplane had been in service for 19 years and had flown almost 90,000 flights. The National Transportation Safety Board concluded that the failure of the airline to detect skin disbonding resulted in corrosion and metal fatigue leading to separation of the airplane's skin structure. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-382R

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE92

DOT—FAA — **Proposed Rule Stage**

2146. +NATIONAL AIR TOUR SAFETY STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: FAA will propose new regulations for air tour and sightseeing operations that are currently allowed to operate under less stringent regulations than those applied to other types of commercial operations. Over the past decade the number of these operations and the number of accidents and incidents associated with these operations have increased. Hot air balloons and gliders would not be included in this amendment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-91-012R. RIN 2120-AF61 which was proposed as a new item for this agenda was a duplicate of this rulemaking and has been terminated. This rulemaking was previously titled "Sightseeing Operations."

ANALYSIS: Regulatory Evaluation, 04/00/01

Agency Contact: Katherine M. Perfetti, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3760

RIN: 2120–AF07

2147. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 93; 14 CFR 121; 15 CFR 135

Legal Deadline: None

Abstract: The FAA and National Park Service (NPS) established a joint working group which is tasked with developing a notice of proposed rulemaking to reduce or prevent adverse effects of aircraft noise over our national park system. At the same time, the working group is charged with affording those persons who wish to visit our national parks from the air the opportunity to do so. The working group met from May to November 1997, and developed a concept paper that was approved by the Aviation Rulemaking Advisory Committee and the NPS Advisory Board in December 1997. A notice of proposed rulemaking has been developed and is now being reviewed by the FAA and NPS. In April 1999, the FAA issued a disposition of comments to the ANPRM. That document summarizes those comments to the ANPRM and provides an update to the public on matters concerning air tours over units of the national park system. In response to Public Law 106-181, April 5, 2000, the FAA and NPRS are developing an NPRM proposing to codify the language of the legislation and to adopt an altitude that would define a commercial air tour. This rulemaking is significant because of substantial public interest.

Statement of Need: The need to reduce or prevent the adverse effects of aircraft noise over the national parks is apparent for the preservation of a valuable national resource. In its Report to Congress, the National Park Service identified 98 parks that potentially have an overflight problem. The FAA recognizes its role both to provide for the safe and efficient use of airspace and to enhance the environment by minimizing the adverse effects of aviation in the national parks.

Summary of Legal Basis: The FAA has broad authority and responsibility to regulate the operation of aircraft and the use of the airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. (49 U.S.C. 40101 et seq.) The FAA also has responsibility to protect persons and property on the ground. The President's Memorandum of April 22, 1996, directed the FAA, working with the National Park Service, to issue a notice of proposed rulemaking for the management of sightseeing aircraft in those National Parks where it is deemed necessary to reduce or prevent the adverse effects of noise from such aircraft. Finally, title VIII of Public Law 106-181, National Parks Air Tour Management Act of 2000 gives the FAA the authority to minimize, mitigate or prevent the adverse effect of aircraft over national parks.

Alternatives: During its working sessions, the working group considered a variety of criteria for defining an air tour, various triggering events for determining which parks are at risk, and various means for the NPS and FAA to work together to develop an air tour management plan.

Anticipated Cost and Benefits: Undetermined.

Risks: This rulemaking addresses the risk of destruction of valuable national resources and the right to enjoy the natural quiet in our national parks. At the same time, taking this risk has to be balanced against any potential safety problems that restrictions on overflights might create. Both the National Park Service and FAA are confident that a solution can be reached whereby all visitors to the park may be accommodated through an agreed upon park airspace management plan.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12740
ANPRM Correction	04/01/94	59 FR 15350
ANPRM Comment Period End	06/15/94	
Comment Period End 07/15/94	06/20/94	59 FR 31883
Notice of Public Meeting	06/06/97	62 FR 31187
Notice of Public Meeting	04/07/98	63 FR 17040
Disposition of Comments	04/09/99	64 FR 17293
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Refer to 1999 Regulatory Plan entry RIN 2120-AF93, Airspace Management: Special Flight Rules in the Vicinity of the Grand Canyon and also RIN 2120-AG11, Special Flight Rules in the Vicinity of

the Rocky Mountain National Park. Project Number: ARM-97-318A

ANALYSIS: Regulatory Evaluation, 12/00/2000

Agency Contact: Howard Nesbitt, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 493-4981

RIN: 2120–AF46

2148. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking would amend the regulations on duty period limitations, flight time limitations, and rest requirements for flight crewmembers engaged in air transportation. The FAA proposes additional changes in response to comments received on the NPRM. The changes are necessary to ensure that the rules will continue to provide the minimum level of safety. This rulemaking responds to public and congressional interest in regulating flight crewmember rest requirements, NTSB Safety Recommendations, petitions for rulemaking, and scientific data. This action is considered significant because of substantial public interest.

Statement of Need: The aviation community requires 24-hour activities to meet operational demands. Growths in long-haul, regional, overnight cargo, and short-haul domestic operations are increasing. Therefore, shift work, night work, irregular work schedules, and time zone changes will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that aviators experience performance-impairing fatigue from sleep loss resulting from current flight and duty practices.

In addition, industry and individuals have told the FAA that the current regulations are confusing and difficult to enforce. Therefore, a second purpose of the rulemaking is to establish consistent and clear duty period limitations and rest requirements for all types of operations.

Summary of Legal Basis: Section 44701, title 49 of the United States Code states that the Administrator shall promote safety of flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety.

Alternatives: One obvious alternative would be to continue with the current rules, however, these regulations are rapidly becoming obsolete. As a second alternative, one commenter asked that the FAA develop a standard and then allow each carrier to design a rest/duty program that would meet that standard while accommodating differences in operations. While this works for certain rules, such as training regulations where the standard is training to proficiency, there is no way to apply this application to individual pilots on a daily basis.

Anticipated Cost and Benefits: Undetermined.

Risks: Although there has been only one identifiable accident due to pilot fatigue, fatigue is increasingly becoming the focus of possible causes following all accidents. Pilot reports of being fatigued to the point of incapacity are not uncommon, and intuitively, it is reasonable, given the sheer volume of air traffic, to expect fatigue to be a factor in future accidents if the regulations are not corrected.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65951
NPRM Comment Period End	03/19/96	
Comment Period End 5/19/96	03/20/96	61 FR 11492
SNPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-443R

ANALYSIS: Regulatory Evaluation, 12/20/95, 60 FR 65951

Agency Contact: Alberta Brown, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8321

Quentin Smith, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8166

RIN: 2120–AF63

2149. +FALSE AND MISLEADING STATEMENTS REGARDING AIRCRAFT PARTS

Priority: Other Significant

Legal Authority: 49 USC 44913

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action proposes additional rules that would prohibit certain false or misleading statements regarding civil aircraft, airframes, aircraft engines, propellers, appliances, component parts, and materials, including standard parts, that are used, or may be used, on civil aircraft. The proposals would also permit increased inspection by the FAA of records regarding the quality of aircraft parts. The additional rules are needed to help prevent persons from representing parts as suitable for use on civil aircraft when in fact they may not be. The proposals are intended to provide assurance that aircraft owners and operators, and persons who maintain aircraft, have truthful information on which to determine whether a part may be used in a given civil aircraft application. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AVR-94-549R.

ANALYSIS: Regulatory Evaluation 08/00/01

Agency Contact: Mardi Ruth Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AG08

2150. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46502

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action sought public comment on issues relating to the use of child restraint systems in aircraft during all phases of flight (i.e., taxi, takeoff, landing, or any other time the seat belt sign is illuminated). Specifically, the agency sought information about existing child restraint systems, the development of new and improved child restraint systems, the ease with which existing or new child restraint systems can be used, and the effectiveness of changing the current child restraint system regulations. The advance notice gathered information in response to a recommendation made by the White House Commission on Aviation Safety and Security. Approximately 130 comments were received on the ANPRM. This information is needed so that the FAA can determine the best way to ensure the safety of children while on board aircraft. After such a determination is made, the FAA may issue a Notice of Proposed Rulemaking with specific regulatory proposals that respond to the Commission's recommendations regarding the use of child restraint systems. This action is considered significant because of safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	02/18/98	63 FR 8324
ANPRM Comment Period End	06/18/98	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-261R

Agency Contact: Cindy Nordlie, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7627

RIN: 2120–AG43

2151. REVISION OF AIR CARRIER CREWMEMBER AND TRAINING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 60; 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise title 14 of the Code of Federal Regulations part 121 subparts N, O, P, and create part 60. The proposed revision and creation will address Advanced Qualification Programs and additional training programs. The rulemaking is needed to enhance crew resource management training, to permit rapid changes to training and checking requirements for emerging technologies, to improve safety, and to respond to numerous recommendations from various sources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-97-335R.

ANALYSIS: Regulatory Evaluation, 04/00/2001

Agency Contact: Jan Demuth, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8922

RIN: 2120–AG57

2152. TRAINING IN THE RECOGNITION OF HAZARDOUS MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 4711; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: The FAA will clarify the requirement for "will not carry" certificate holders in parts 121 and 135 to provide hazardous material recognition training so that such materials are not inadvertently placed onboard aircraft.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-375R.

ANALYSIS: Regulatory Evaluation, 06/00/01

Agency Contact: Cindy Nordlie, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7627

William Wilkening, Office of Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9864

RIN: 2120–AG75

2153. +TRAFFIC ALERT AND COLLISION AVOIDANCE SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 129

Legal Deadline: None

Abstract: This action proposes to require the installation and use of a traffic alert and collision system (TCAS) on certain cargo airplanes. Current regulations do not require TCAS installation on all-cargo airplanes. However, because the air cargo industry has experienced rapid growth and is increasingly sharing air space with other air carriers, the FAA is proposing this action to minimize the possibility of midair collisions involving cargo airplanes. This rulemaking proposes that affected airplanes be equipped with TCAS II, or another approved traffic alert and collision avoidance system, as appropriate, no later than October 31, 2003. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project No. AFS-98-314R

ANALYSIS: Regulatory Evaluation, 04/00/01

Agency Contact: Alberta Brown, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8321

RIN: 2120–AG90

2154. FIRE PROTECTION OF ELECTRICAL SYSTEM COMPONENTS ON TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 40 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action will propose to amend the airworthiness standards for transport category airplanes concerning the protection of electrical system components. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mahinder Wahi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2589

Massoud Sadeghi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2117

RIN: 2120–AG92

2155. +AIR TOUR OPERATIONS IN STATE OF HAWAII

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46502; 49 USC 46504; 49 USC 46504; 49 USC 46506; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47530

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action proposes to extend SFAR 71, which established certain procedural, operational, and equipment requirements for air tour operators in the State of Hawaii. The FAA intends to issue a national air tour safety proposal in the near future, but until this rulemaking becomes final, there is a need to extend SFAR 71 to ensure the continuing safe environment for conducting air tours in Hawaii. During the 9 year period between 1982 and 1991, there were 11 air tour accidents with 24 fatalities in Hawaii. The apparent causes of the accidents ranged from engine power loss to encounters with adverse weather. On September 26, 1994, the FAA published an emergency final rule as SFAR 71. The rule established additional operating procedures, including minimum safe altitudes (and associated increases in visual flight rules weather minimums), minimum equipment requirements, and operational limitations for air tour aircraft in the State of Hawaii. SFAR 71 was subsequently extended until October 26, 2000. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8166

RIN: 2120–AH02

2156. +FRACTIONAL OWNERSHIP

Priority: Other Significant

Legal Authority: 49 USC 106(g0; 49 USC 1155; 49 USC 40103; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46504; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation: 14 CFR 61; 14 CFR 91; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA proposes to update and revise the regulations governing operations by aircraft in fractional ownership programs. Current regulations do not adequately define fractional ownership programs nor clearly allocate responsibility and authority for safety and compliance with the regulations. This proposal will define fractional ownership programs and their participants, allocate responsibility and authority for safety of flight operations for purposes of compliance with the regulations, and ensure that fractional ownership program aircraft operations maintain a high level of safety. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Katherine Hakala Perfetti, Flight Standards Service, Department of Transportation, Federal Aviation Administration
Phone: 202 267-3760

RIN: 2120–AH06

2157. +FLIGHT SIMULATION DEVICE QUALIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 1; 14 CFR 11; 14 CFR 60; 14 CFR 61; 14 CFR 63; 14 CFR 141; 14 CFR 142

Legal Deadline: None

Abstract: The FAA proposes to amend the regulations to establish flight simulation device qualification requirements for all certificate holders in a new part. The basis of these requirements currently exists in different parts of the FAA's regulations and in advisory circulars. The proposed changes would consolidate and update flight simulation device requirements. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edward Cook, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337
Phone: 404 305-6100

RIN: 2120–AH07

2158. • ANTIDRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105; 49 USC 46301

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the FAA's Antidrug and Alcohol Misuse Prevention Programs in accordance with changes the Department of Transportation is making to 49 CFR 40. In addition, the FAA proposes some minor revisions to its Antidrug and Alcohol Misuse Prevention Program so that the requirements conform to 14 CFR 67.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Wood, Acting Manager, Drug Abatement Branch, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 366-6710

RIN: 2120–AH14

2159. • ALCOHOL AND ANTIDRUG MISUSE PREVENTION PROGRAM FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105; 49 USC 46301

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to eliminate the need for approval by FAA of antidrug program and alcohol misuse prevention program plans and delete periodic drug testing requirement, and change the pre-employment testing requirements to require pre-hire rather than preemployment drug testing. The NPRM also proposes to make other minor or terminological changes to the regulations. The FAA believes that changing or eliminating these requirements would not compromise safety and would lessen a burden on the regulated public.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Wood, Acting Manager, Drug Abatement Branch, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 366-6710

RIN: 2120–AH15

2160. • AIRWORTHINESS DIRECTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: The FAA proposes to move several standard provisions currently found in every airworthiness directive into its regulations pertaining to airworthiness directives. The FAA will no longer include these provisions in individual airworthiness directives. This will shorten individual airworthiness directives, making them easier for readers to use. Also, the FAA is proposing this regulation in plain language. The regulation has been reworded and reorganized using plain language techniques.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald P. Byrne, Assistant Chief Counsel, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AH17

2161. • +CERTIFICATION OF PILOTS, AIRCRAFT, AND REPAIRMEN FOR THE OPERATION OF LIGHT SPORT AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40105; USC 44101; 49 USC 44111; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 45102 to 45103; 49 USC 45301 to 45303; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46504; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation: 14 CFR 1; 14 CFR 21; 14 CFR 61; 14 CFR 65; 14 CFR 91

Legal Deadline: None

Abstract: The FAA is proposing to establish the certification and training requirements for pilots and repairmen to operate and maintain light-sport aircraft. The FAA is proposing a new sport pilot certificate and a flight instructor certificate with a sport pilot rating. The FAA also is proposing two new light-sport aircraft airworthiness certificates for existing and newly manufactured light-sport aircraft. In addition, this action proposes a new type of repairman certificate for individuals who would inspect and maintain light-sport aircraft. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Susan Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3735

RIN: 2120–AH19

2162. • POWERED LIFT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40102; 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44106; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation: 14 CFR 1; 14 CFR 43; 14 CFR 61; 14 CFR 91; 14 CFR 119; 14 CFR 133; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: The FAA is proposing to amend its regulations to cover powered-lift aircraft, a new category of aircraft that can perform as an airplane and a helicopter. This action is necessary because, as a new category of aircraft, powered-lift aircraft can't operate under the regulations that govern airplanes or helicopters. The intended effect of this action is to allow the operation of powered-lift aircraft under FAA regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William H. Wallace, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3771

RIN: 2120–AH20

2163. • INTERMIX EXCLUSION DELETION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action would amend the aircraft certification requirements by removing a provision that allows a Stage 3 airplane to operate for 90 days with a Stage 2 engine. As of December 31, 1999, no person may operate an airplane to or from any airport in the contiguous United States unless the airplane complies with Stage 3 noise levels. The intended effect is to prohibit use of Stage 2 engines where the engine and/or nacelle changes would result in the airplane failing to comply with Stage 3 noise requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Laurie Fisher, Policy and Regulatory Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3561

RIN: 2120–AH22

2164. • REFUSAL TO SUBMIT TO AN AUTHORIZED DRUG TEST

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 SUC 45102 to 45103; 49 USC 45301 to 45303

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: This action proposes to amend airman medical standards to add as a medical disqualification the refusal to submit to an authorized drug test. Refusal to submit to a drug test includes adulteration or substitution of a urine sample. The intended effect is to ensure that airmen who may have substance abuse problems are not allowed to gain flight status until they have been examined and found fit by the Federal Air Surgeon.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheri deVries, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8693

RIN: 2120–AH23

2165. • AIRCRAFT REGISTRATION REQUIREMENTS; CLARIFICATION OF "COURT OF COMPETENT JURISDICTION"

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44703 to 44704; 49 USC 44713; 49 USC 45302; 49 USC 46104; 49 USC 46301

CFR Citation: 14 CFR 47

Legal Deadline: None

Abstract: This action proposes to amend language in the aircraft registration regulations governing aircraft last previously registered in a foreign country. This proposal is needed to clarify the term "court of competent jurisdiction." This action is intended to clearly describe what constitutes satisfactory evidence to the Administrator that foreign registration of an aircraft has ended or is invalid.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-00-547R.

Sectors Affected: None

Agency Contact: Julie A. Stanford, Aircraft Regulation Branch, Department of Transportation, Federal Aviation Administration, P.O. Box 25504, Oklahoma City, OK 73125
Phone: 405 954-3131

RIN: 2120–AH24

2166. • REVISION TO AIRSPEED INDICATING SYSTEM REQUIREMENTS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to amend the airworthiness standards for transport category airplanes concerning the airspeed indicating system. This proposal would add airspeed indication requirements for speeds greater than and less than the speed range for which airspeed indication accuracy requirements currently apply, would add a requirement that airspeed indications not cause the pilot undue difficulty between the initiation of rotation and the achievement of a steady climbing condition during takeoff, and would also add a requirement to limit the effects of airspeed lag. Adopting this proposal would eliminate a regulatory difference between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-1320

RIN: 2120–AH26

2167. • ELECTRICAL INSTALLATION, NICKEL CADMIUM BATTERY INSTALLATION, AND NICKEL CADMIUM BATTERY STORAGE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to amend the airworthiness standards for transport category airplanes concerning electrical equipment and nickel cadmium battery installations, and nickel cadmium battery storage. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Massoud Sadeghi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2117

RIN: 2120–AH27

2168. • DESIGN AND INSTALLATION OF ELECTRONIC EQUIPMENT ON TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

DOT—FAA — Proposed Rule Stage

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to amend the airworthiness standards for transport category airplanes concerning the design and installation of electronic equipment. The proposal would require that such equipment be designed and installed so that it does not cause essential loads to become inoperative as a result of electrical power supply transients or transients from other causes. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Massoud Sadeghi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2117

RIN: 2120–AH28

2169. • ELECTRICAL CABLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to amend the airworthiness standards for transport category airplanes concerning electrical cables. This proposal would harmonize part 25 and JAR-25 requirements concerning cable installations and clarify the cable design requirements ensuring that the designer considers the critical conditions, routings, and markings of a proper installation. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Massoud Sadeghi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2117

RIN: 2120–AH29

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Final Rule Stage

2170. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would amend the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This action would also cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/06/60	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	
SNPRM	10/16/95	60 FR 53680
SNPRM Comment Period End	11/30/95	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATO-85-015R.

ANALYSIS: Regulatory Evaluation, 08/03/90, 55 FR 31722

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AA09

2171. MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 5103; 49 USC 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44706; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to amend various sections of the regulations. The proposal was to clarify language, correct improper or obsolete references, and to relax certain existing requirements. Since publication of the NPRM, many other completed, in-process, or planned actions have addressed or will address many of the issues involved. The FAA has determined that all unresolved issues should be included in more recent actions dealing with the specific sections of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. 23781. Project Number: ARM-81-128R.

ANALYSIS: Regulatory Evaluation, 10/03/83, 48 FR 45214

Agency Contact: Linda L. Williams, Office of Rulemaking, ARM-100, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-9685

RIN: 2120–AA50

2172. IFR ALTITUDES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44719; 49 USC 44721; 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40114

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which prescribes altitudes for the operation of aircraft under instrument flight rules (IFR) on Federal airways, jet routes, area navigation low or high routes, or other direct routes for which a minimum en route IFR altitude is designated in 14 CFR part 95. In addition, mountainous areas and changeover points are designated. These regulations are an established body of technical requirements that are issued routinely and frequently to maintain operational efficiency. Total actions expected—300. 10/00/2000 - 10/00/2001.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael L. Henry, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8212

Jennifer Abdul-Wali, Transportation Specialist, Department of Transportation, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590 Phone: 202 366-6322 Email: jennifer.abdul-wali@ost.dot.gov

Don Pate, Mike Monroney Aeronautical Center, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur, Oklahoma City, OK 73125 Phone: 405 954-4161

RIN: 2120–AA63

2173. AIRWORTHINESS DIRECTIVES

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: The FAA issues type certificates for "products," which are aircraft, engines, propellers, and some appliances. The FAA issues a regulation called an "Airworthiness Directive" (AD) to address an unsafe condition in a type certificated product, if that unsafe condition is likely to exist or develop in products of the same type design. Part 39 of title 14 requires each operator of a product affected by an AD to comply with the terms of the AD, in order to operate that product; the AD may mandate operational limitations, maintenance, or alterations for the affected product. The vast majority of routine and frequent Airworthiness Directives are nonsignificant. Total actions expected-650. 10/00/2000 to 10/00/2001.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9580

RIN: 2120–AA64

2174. STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 40103; 49 USC 40106; 49 USC 40113 to 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 44721 to 44722; 49 USC 106(g)

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Standard Instrument Approach Procedures (SIAP) provide for instrument letdown to airports in the United States. They are a nonsignificant body of regulations that are complex and technical in nature and require routine and frequent rulemaking to maintain efficiency. The FAA issues, revises, and cancels SIAPs by adopting amendments that are incorporated into 14 CFR part 97. Contemporaneously with publication in the Federal Register, the SIAPs are made available to the Aeronautical Charting and Cartography Office in the Department of Commerce and other publishers of aeronautical charts where they are published as approach procedure charts or "approach plates." These charts are made available to the members of the aviation community for use by pilots in making instrument approaches. Total actions expected—2,500. 10/00/2000 - 10/00/2001.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael L. Henry, General Aviation and Commercial

DOT—FAA — Final Rule Stage

Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

Don Pate, Mike Monroney Aeronautical Center, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur, Oklahoma City, OK 73125
Phone: 405 954-4161

RIN: 2120–AA65

2175. AIRSPACE ACTIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which designates airspace areas, airways, routes, and reporting points to facilitate safe navigation. These regulations are technical in nature and are issued routinely and frequently to maintain operational efficiency. Total actions expected—400. 10/00/2000 through 10/00/2001.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pat Crawford, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AA66

2176. +PART 145 REVIEW: REPAIR STATIONS

Priority: Other Significant

Legal Authority: 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44713; 49 USC 44717; 49 USC 45102 to 45103; 49 USC 45301 to 45302; 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44703

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: The FAA proposes to update and revise the regulations for repair stations. This action is necessary because many portions of the current repair station regulations do not reflect technical advances in aircraft maintenance practices or aircraft technology. The revisions would reorganize the repair station rules to reduce duplication of regulatory language and eliminate obsolete information. The proposal also would establish new requirements that relate to repair station ratings and classes, manual requirements, recordkeeping, and personnel. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	06/21/99	64 FR 33142
NPRM Comment Period End	10/19/99	
NPRM Comment Period Extended	10/21/99	64 FR 56708
NPRM Comment Period End	12/03/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements, and Repair Station and Repairmen Certification Rules.

ANALYSIS: Regulatory Evaluation, 06/21/99, 64 FR 33142

Agency Contact: Richard Nowak, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7228

RIN: 2120–AC38

2177. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: The FAA is withdrawing a previously published Advance Notice of Proposed Rulemaking (ANPRM) that proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace of the United States. This rulemaking was considered to be significant because of a congressional mandate. However, the provision was repealed in 1994 as part of the recodification of Title 49. The provision was originally enacted as section 310(c) in FAA's 1987 Reauthorization bill, Pub. L. No. 100-123.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-215R. This project was formerly entitled Sole Means Radio Navigation System.

Agency Contact: James Crowling, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-5215

Linda Valencia, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800

Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8222

RIN: 2120–AD26

2178. +REVISION OF PART 108, AIRCRAFT OPERATOR SECURITY

Priority: Other Significant

Legal Authority: 40 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action will amend part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41730
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Notice of Public Meeting	04/21/98	63 FR 19691
NPRM Comment Period Reopened	08/10/99	64 FR 43322
Comment Period End	09/24/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-107R.

ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 41730

Agency Contact: Karl Schrum, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3946

RIN: 2120–AD45

2179. +REVISION OF PART 107, AIRPORT SECURITY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44706; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This action will amend part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41760
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Comment Period End 6/26/98	04/21/98	63 FR 19691
Notice of Public Meeting	04/21/98	63 FR 19691
NPRM Comment Period Reopened	08/10/99	64 FR 43321
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-106R.

ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 41760

Agency Contact: Bob Cammaroto, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8553

RIN: 2120–AD46

2180. +AGING AIRCRAFT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135; 14 CFR 183

Legal Deadline: Other, Statutory, April 24, 1992, Action must be initiated by 04/24/92 per Aging Aircraft Safety Act of 1991.

Abstract: On October 5, 1993, the FAA published an NPRM that proposed to require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. After further review, and taking into consideration public comments to the NPRM, the FAA withdrew that NPRM. On March 19, 1999, the FAA issued a new NPRM that would ensure the continuing airworthiness of the most significant aging airplanes operating in air transportation by mandating aging aircraft records reviews and inspections for certain air carriers and certain aircraft and also by applying modern damage-tolerance analyses and inspection techniques to older airplane structures that were certificated before such techniques were available. The comment period closed on October 18, 1999, This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51944
NPRM Comment Period End	02/02/94	
Comment Period End 3/4/94	02/08/94	59 FR 5741
NPRM	04/02/99	64 FR 16298
NPRM Comment Period End	08/02/99	
NPRM Comment Period Reopened	08/18/99	64 FR 45090
Comment Period End	10/08/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number AFS-92-029R.

ANALYSIS: Regulatory Evaluation, 04/02/99, 64 FR 16298

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation

DOT—FAA

Final Rule Stage

Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE42

2181. AIR TRAFFIC CONTROL RADAR BEACON SYSTEM AND MODE S TRANSPONDER REQUIREMENTS IN THE NATIONAL AIRSPACE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is a relieving action made necessary by the fact that ground sensors are not in place to support the requirement. Further, FAA is studying the need for Mode S transponders in part 135 and certain part 121 operations in light of the fact that transponders may not substantially increase ATC ability to view air traffic.

Timetable:

Action	Date	FR Cite
NPRM	05/23/96	61 FR 26036
NPRM Correction	06/17/96	61 FR 30551
NPRM Comment Period End	07/22/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-297R.

ANALYSIS: Regulatory Evaluation, 05/23/96, 61 FR 26036

Agency Contact: Daniel V. Meier, Jr., Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AE81

2182. FLIGHT ATTENDANT ENGLISH LANGUAGE PROFICIENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA has reviewed the Aviation Rulemaking Advisory Committee recommendation to proceed with this rulemaking. The FAA has determined that it would be most appropriate to address the flight attendant English language issue in the overall context of crew training. Therefore, because the FAA will incorporate the flight attendant English language issue into the proposed revision of part 121 subpart N and O notice of proposed rulemaking, this rulemaking entry will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	04/18/94	59 FR 18456
ANPRM Comment Period End	07/18/94	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-93-745A

Agency Contact: Cindy Nordlie, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7627

RIN: 2120–AE98

2183. +REVISED ACCESS TO TYPE III EXITS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would adjust requirements for access to type III emergency exits in transport category airplanes with 60 or more passenger seats. The adjustments would reflect new data from tests conducted at the FAA's Civil Aeromedical Institute and are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5794
NPRM Comment Period End	05/01/95	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-93-005R.

Agency Contact: Mahinder K. Wahi, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, VA 98055
Phone: 425 227-2142

RIN: 2120–AF01

2184. +FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

DOT—FAA

Final Rule Stage

Abstract: The FAA proposes to codify an FAA policy encouraging the voluntary implementation of Flight Operational Quality Assurance (FOQA) programs for the routine analysis of flight data generated during line operations that reveal situations which require corrective action to prevent safety problems. The rule would also clarify the circumstances under which information obtained from voluntary FOQA programs could be used in enforcement actions against air carriers, commercial operators, or airmen. The rule would require air carriers participating in FOQA program to submit aggregate FOQA data to the FAA for use in monitoring safety trends. Under the proposed rule, the FAA may use aggregate FOQA data as a basis to promulgate safety rulemakings or to address situations calling for remedial enforcement action, e.g., a lack of qualification on the part of an operator or aircraft. This rulemaking is significant because of substantial public interest.

Statement of Need: The primary purpose of a FOQA program is the enhancement of safety. It involves the routine analysis of line operational data to reveal situations that require corrective action and to enable early action before problems occur. Data is collected and aggregated from numerous operations, which is of more value than the assessment of a single situation or event. A secondary benefit of FOQA is a cost savings to the carriers. The collection of aggregated data may point to certain inefficiencies in operations, such as fuel management.

Summary of Legal Basis: The FAA has broad authority and responsibility to regulate the operation of aircraft and the use of the airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. Additionally, on April 5, 2000, the President signed the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century. Section 510 of the Act requires the Administrator to issue a notice of proposed rulemaking proposing "Flight Operations Quality Assurance Rules." The proposed rules in this NPRM respond to section 510 and provide safeguards that will ensure that aviation safety is not compromised.

Alternatives: One alternative is not to propose such a program. This, however, would mean that the FAA would not be able to collect valuable data that could lead to correction or prevention of safety problems. Another alternative is to obtain the data by other than voluntary means, e.g., monitoring of flight data recorders. This alternative is less desirable since it could lead to an atmosphere of mistrust between the carriers and the FAA. One benefit of FOQA is a communicative and share interest in safety.

Anticipated Cost and Benefits: The FAA has determined that the costs associated with this rulemaking would be minimal.

Risks: The costs associated with this rulemaking would be minimal.

Timetable:

Action	Date	FR Cite
Policy Statement	12/07/98	63 FR 67505
NPRM	07/05/00	65 FR 41528
NPRM Comment Period End	10/03/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-154R

Agency Contact: Dan Meier, Flight Standards Service, Regulations Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3789

RIN: 2120–AF04

2185. LOS ANGELES, CA, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to alter the Los Angeles, CA, Class B airspace area. The proposal would have lowered certain ceilings while raising others to provide more visual flight rules altitudes to circumnavigate the Los Angeles Class B airspace and to provide for better containment of arriving turbojets. This action will be handled as a routine airspace action.

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60244
NPRM Comment Period End	01/23/95	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATP-94-035T RIN 2120-AF38 was inadvertently used when this rulemaking was published in the Federal Register on November 22, 1994. The correct RIN is 2120-AF16.

ANALYSIS: Regulatory Evaluation, 11/22/94, 59 FR 60244

Agency Contact: William Nelson, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9295

RIN: 2120–AF16

2186. REVISION OF HYDRAULICS SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements. These proposals were developed in cooperation with the Joint Aviation Authorities of Europe and the US and European aviation industries through the Aviation Rulemaking Advisory Committee (ARAC). These changes are intended to benefit the public interest by standardizing certain requirements,

concepts, and procedures contained in the airworthiness standards without reducing and potentially enhancing the current level of safety.

Timetable:

Action	Date	FR Cite
NPRM	07/03/96	61 FR 35056
Correction	07/29/96	61 FR 39515
Correction	08/12/96	61 FR 41924
NPRM Comment Period End	10/01/96	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-97-374A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 07/03/96, 61 FR 35056

Agency Contact: Mahinder K. Wahi, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, VA 98055
Phone: 425 227-2142

RIN: 2120–AF79

2187. REVISED PRECISION APPROACH LANDING SYSTEMS POLICY

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This statement announces the FAA's proposed policy for acquisition, installation, maintenance, and decommissioning of the instrument landing system (ILS) and the microwave landing system (MLS) during the transition to the global positioning system (GPS). The policy statement of December 1989 announced the transition from the ILS to the MLS for precision approach service in the National Airspace System. Since that time, advancement of GPS-based landing system technology has provided a more economical means of providing approach services.

Timetable:

Action	Date	FR Cite
Policy Statement	12/27/89	54 FR 53231
Policy Statement	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Wedge, Airway Facilities Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7848

RIN: 2120–AG16

2188. +FEES FOR FAA SERVICES FOR CERTAIN FLIGHTS

Priority: Other Significant

Legal Authority: 49 USC 45301 to 45303; 49 USC 46101 to 46102; 49 USC 46104; 49 USC 9701; 49 USC 106 (g); 49 USC 40103; 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44718

CFR Citation: 14 CFR 77; 14 CFR 187

Legal Deadline: None

Abstract: Pursuant to the 1996 FAA Reauthorization Act, the FAA is issuing another interim rule to establish fees and collection procedures for FAA air traffic and related services provided to certain aircraft that transit U.S.-controlled airspace but neither take off from, nor land in, the United States. Previously, the FAA issued an Interim Final Rule that was remanded back to FAA by the United States Court of Appeals for the District of Columbia. That Interim Final Rule was withdrawn by the Final Rule issued on July 24, 1998. The new Interim Final Rule complies with the Court's decision. This action is significant because of substantial public and congressional interest. A Final rule is expected to be issued by early June 2001, responding to public comments on a December 2000 interim final rule and adjusting the fees to reflect revised FY 99 cost data.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13496
Correction	04/29/97	62 FR 23295
Correction	05/05/97	62 FR 24552
Interim Final Rule Effective	05/19/97	
Comment Period End	07/18/97	
Interim Final Rule	10/02/97	62 FR 51736
Interim Final Rule Effective	10/02/97	
Interim Final Rule	07/24/98	63 FR 40000
Interim Final Rule	06/06/00	65 FR 36002
Interim Final Rule Effective	08/01/00	
Comment Period End	10/04/00	
Interim Final Rule; Extension of Comment Period	10/06/00	65 FR 59713
Interim Final Rule; Extension of Comment Period	10/27/00	65 FR 64401
Interim Final Rule Comment Period End	10/27/00	
Interim Final Rule Comment Period End	12/26/00	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: APO-96-172R.

ANALYSIS: Regulatory Evaluation, 03/20/97, 62 FR 13496

Regulatory Evaluation, 06/06/00, 65 FR 36002

Agency Contact: Tim Lawler, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7052

Randy Fiertz, Office of Cost and Performance Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591
Phone: 202 267-7140
Email: randy.fiertz@faa.dot.gov

RIN: 2120–AG17

2189. +PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Administrator has been tasked, under the Federal Aviation Reauthorization Act of 1996, to develop regulations to protect safety and security related information voluntarily disclosed by industry. The FAA is in the process of determining what voluntarily submitted information should be given protection under the statute. The FAA reopened the comment period. This rulemaking is significant because of substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40472
NPRM Comment Period End	09/24/99	
NPRM Comment Period Reopened	10/05/99	64 FR 53958
Comment Period End	11/04/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ARM-97-040R.

ANALYSIS: Regulatory Evaluation, 07/26/99, 64 FR 40472.

Agency Contact: Mardi Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AG36

2190. +SCREENING OF CHECKED BAGGAGE ON FLIGHTS WITHIN THE UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: The FAA is proposing the screening or bag matching of passenger checked baggage on domestic flights by utilizing an FAA-approved Computer Assisted Passenger Screening (CAPS) system. This is in response to a recommendation from the White House Commission on Aviation Safety and Security (The Commission) "Final Report to President Clinton." The Commission recommended that one of the steps that should be taken to improve airline passenger security is the implementation by the FAA of a computerized system for profiling airline passengers flying out of airports located in the United States. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/19/99	64 FR 19220
Correction	05/03/99	64 FR 23554
Correction	05/28/99	64 FR 28945
Comment Period Extended	06/11/99	64 FR 31686
NPRM Comment Period End	06/18/99	
Comment Period End	08/17/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lon M. Siro, Civil Aviation Security Office of Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3414

RIN: 2120–AG51

2191. PARACHUTE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44701 to 44702; 49 USC 44721

CFR Citation: 14 CFR 105

Legal Deadline: None

Abstract: This rulemaking will clarify and update the Federal Aviation Regulations by defining terms applicable to parachute operations and issues concerning coordinating parachute operations with air traffic control, tandem parachute operations, and packing and equipment requirements for foreign parachutists when parachuting in the United States. Also, this action is necessary to reflect recent airspace reclassification and parachuting equipment applications.

Timetable:

Action	Date	FR Cite
NPRM	04/13/99	64 FR 18302
NPRM Comment Period End	07/12/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATA-91-202R.

ANALYSIS: Regulatory Evaluation, 04/13/99, 64 FR 18302.

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AG52

2192. +POLICY REGARDING AIRPORT RATES AND CHARGES

Priority: Other Significant

Legal Authority: 49 USC 47129

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A statement of policy, Policy Regarding Airport Rates and Charges (Policy Statement), which was required by Congress as part of the DOT Authorization Act of 1994, was published in the Federal Register (61 FR 31994) on June 21, 1996. That Policy Statement announced DOT and FAA policy on the fees charged by Federally assisted airports to air carriers and other aeronautical users. This proposed action requests comments on replacement provisions for the portions of the Policy Statement vacated by the United States Court of Appeals for the District of Columbia Circuit. The Court disallowed a portion of the policy that had to do with historic cost valuation of airport property. DOT and FAA are beginning this proceeding in order to carry out their responsibility to establish reasonableness guidelines for airport fees. This policy is significant due to substantial industry interest.

Timetable:

Action	Date	FR Cite
Advance Notice of Proposed Policy	08/12/98	63 FR 43228
Comment Period End	10/13/98	
Comment Period Extended	12/22/98	63 FR 70834
Comment Period End	01/31/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Cite per reference in Abstract paragraph, United States Court of Appeals for the District of Columbia Circuit in Air Transport Association of America v. Department of Transportation, 119 F.3d 38 (D.C. Cir. 1997), as modified on rehearing, Order of Oct. 15, 1997. Previous RIN for the Policy Statement published in the Federal Register is 2120-AF90.

Agency Contact: Barry Molar, Manager, Airport Compliance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3446

RIN: 2120–AG58

2193. +TRANSPORT AIRPLANE FLEET FUEL TANK IGNITION SOURCE REVIEW; FLAMMABILITY REDUCTION, AND MAINTENANCE AND INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action will require type certificate holders of certain turbojet and turbofan-powered transport category airplanes to conduct a design review of fuel tank systems and develop fuel system inspection and maintenance instructions. It will also allow a certificate holder to submit documentation that the type design of the fuel system of a previously certificated airplane precludes existence of ignition sources within the airplane's fuel tanks. This action is significant because of substantial public interest in the prevention of fire and explosion in airplane fuel tanks.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58644
NPRM Comment Period End	01/27/00	
Correction	02/03/00	65 FR 5024
Reopen NPRM Comment Period	02/16/00	65 FR 8006
NPRM Comment Period End	03/27/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-98-158R.

ANALYSIS: Regulatory Evaluation, 05/00/2001

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AG62

2194. REVISED LANDING GEAR SHOCK ABSORPTION TEST REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104; 49 USC 106(g); 49 USC 40103

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the landing gear shock absorption test requirements for transport category airplanes to be consistent with other requirements, to reflect modern technology and to achieve common requirements and language between the Federal aviation requirements and the European joint aviation requirements without reducing the level of safety provided by the regulations and industry practices.

Timetable:

Action	Date	FR Cite
NPRM	06/18/99	64 FR 32978
NPRM Comment Period End	10/18/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-182A.

ANALYSIS: Regulatory Evaluation, 06/18/99, 64 FR 32978

Agency Contact: James Haynes, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Rind Avenue SW., Renton, WA 98055
Phone: 425 227-2131

RIN: 2120–AG72

2195. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED REENTRY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2601

CFR Citation: 14 CFR 450

Legal Deadline: None

Abstract: This rule establishes financial responsibility requirements covering risks associated with the licensed reentry of a reentry vehicle. This action will provide general rules for demonstrating compliance with insurance requirements and implementing statutory-based Government/industry risk-sharing provisions in manner comparable to that currently utilized for commercial launches.

Timetable:

Action	Date	FR Cite
NPRM	10/06/99	64 FR 54447
NPRM Comment Period End	12/06/99	
NPRM Comment Period Reopened	12/13/99	64 FR 69628
Comment Period End	01/21/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AST-99-055R.

This rulemaking has been downgraded to Nonsignificant because the Congressional interest has been adequately addressed by formalizing current practice (Financial Responsibility Requirements for Licensed Launch Activities) that resulted in little or no additional cost to the industry.

ANALYSIS: Regulatory Evaluation, 10/06/99, 64 FR 54447

Agency Contact: Esta Rosenberg, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2120–AG76

2196. REVISION OF BRAKING SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes to harmonize braking systems design and test requirements with standards proposed for the European Joint Aviation Requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/10/99	64 FR 43570
Correction	08/20/99	64 FR 45589
NPRM Comment Period End	11/08/99	
SNPRM	12/18/00	65 FR 79278
SNPRM Comment Period End	02/16/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-302A.

ANALYSIS: Regulatory Evaluation, 08/10/99, 64 FR 43570

Agency Contact: Mahinder K. Wahi, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, VA 98055
Phone: 425 227-2142

RIN: 2120–AG80

2197. +CERTIFICATION OF SCREENING COMPANIES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44707; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44905; 49 USC 44906; 49 USC 44907; 49 USC 44913 to 44914

CFR Citation: 14 CFR 108; 14 CFR 109; 14 CFR 111; 14 CFR 129

Legal Deadline: None

Abstract: This action will require that all companies that perform aviation security screening be certificated by the FAA and meet enhanced requirements. This action is in response to a recommendation by the White House Commission on Aviation Safety and Security and to a Congressional mandate in the Federal Aviation Reauthorization Act of 1996. The action is intended to improve the screening of passengers, accessible property, checked baggage, and cargo, and to provide standards for consistent high performance and increased accountability of screening companies. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/05/00	65 FR 560
NPRM Comment Period End	04/04/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-98-299R.

ANALYSIS: Regulatory Evaluation, 01/05/2000, 65 FR 560

Agency Contact: Scott Cummings, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9468

RIN: 2120–AG84

2198. +REVISIONS TO DIGITAL FLIGHT DATA RECORDER REGULATIONS FOR B-737 AIRPLANES AND FOR PART 125 OPERATORS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 125

Legal Deadline: None

Abstract: The FAA proposes to amend the digital flight data recorder rules for transport category airplanes to add a requirement for all Boeing 737 (B-737) series airplanes to record additional flight data parameters. This amendment is based on safety recommendations issued by the National Transportation Safety Board following the investigation of the 1994 USAir Flight 427 accident. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/18/99	64 FR 63139
NPRM Comment Period End	12/20/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AIR-99-272R.

ANALYSIS: Regulatory Evaluation, 11/18/99, 64 FR 63139

Agency Contact: George Kaseote, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8541

RIN: 2120–AG87

2199. +EMERGENCY MEDICAL EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action responds to the Aviation Medical Assistance Act of 1998 (49 USC 44701) by proposing that large, passenger-carrying air carrier operators carry automatic external defibrillators and augment currently required emergency medical kits. If adopted, additional training for crewmembers on the use of this equipment would be required. The intent of this proposal is to better equip crewmembers, and those qualified to assist them, for responding to in-flight medical events. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/24/00	65 FR 33720
NPRM Comment Period End	09/21/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project No: AAM-98-234R.

ANALYSIS: Regulatory Evaluation, 12/00/01

Agency Contact: Judi Citrenbaum, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9689

RIN: 2120–AG89

2200. +IMPROVED FLAMMABILITY STANDARDS FOR THERMAL/ACOUSTIC INSULATION MATERIALS USED IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to adopt new flammability standards that specifically address flame propagation and entry of an external fire into the airplane (burnthrough) under realistic fire scenarios. The proposed standards are intended to reduce the incidence and severity of cabin fires, particularly those ignited in inaccessible areas where thermal/acoustic insulation materials are typically installed. Also the proposed standards would provide an increased level of safety with respect to post-crash fires by delaying the entry of such a fire into the cabin, thereby providing additional time for evacuation and enhancing survivability. The new standards would apply to new type designs, and newly manufactured airplanes entering parts 91, 121, 125, and 135 service. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/20/00	65 FR 56992
NPRM Comment Period End	01/18/01	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-99-086R.

ANALYSIS: Regulatory Evaluation, 04/00/01

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2136

RIN: 2120–AG91

2201. +CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: The FAA intends to conduct a 610 review (a review under section 610 of the Regulatory Flexibility Act) of this part and RIN 2120-AG93 has been added to the Agenda to reflect this review. The FAA carries out its responsibility to promote safety of flight of civil aircraft in air commerce by prescribing minimum standards governing the design and construction of aircraft, aircraft engines and propellers and appliances as may be required in the interest of safety. The FAA has established procedural requirements in 14 CFR part 21 for the issuance of the following certificates and approvals: (1) type certificates and changes to type certificates; (2) production certificates; (3) airworthiness certificates; (4) export airworthiness certificates and approvals; and (5) approvals of certain materials, parts processes and appliances produced for sale or installation on a type certificated product. Also contained in this part are the rules governing the holders of certificates. In order to be issued a type certificate, the applicant must show that the product complies with the airworthiness standards for the product (aircraft, aircraft engine, or propeller). The airworthiness standards are amended as needed to reflect continually changing technology, correct design deficiencies, and provide safety enhancements.

Timetable:

Action	Date	FR Cite
Review To Be Completed	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Paul Larson, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591
Phone: 202 267-3296

RIN: 2120–AG93

2202. +CERTIFICATION OF AIRPORTS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44706; 49 USC 44709 to 40711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44719; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 46105

CFR Citation: 14 CFR 121; 14 CFR 139

Legal Deadline: None

Abstract: This action proposes to revise the current airport certification regulation and to establish certification requirements for airports serving scheduled air carrier operations in aircraft with 10-30 seats. In addition, changes are proposed to address National Transportation Safety Board recommendations and petitions for exemptions and rulemaking. A section of an air carrier operation regulation also would be amended to conform with proposed changes to airport certification requirements. The FAA believes that these proposed revisions are necessary to ensure safety in air transportation and to provide a comparable level of safety at all certificated airports. This action is significant because of substantial public interest.

Statement of Need: The last major revision to the airport certification regulation occurred in 1987, and since then, industry practices, and technology have changed. To respond to such changes, the FAA is proposing to revise the regulation to clarify and update several requirements. Additionally, with the passage of the 1996 FAA Reauthorization Act, Congress provided the FAA the necessary authority to certificate airports serving scheduled air carrier operations with 10 to 30 seat aircraft, except in the State of Alaska (in addition to existing authority to regulate airports serving air carrier operations using aircraft with more than 30 seats). To achieve a comparable level of safety at all covered airports, FAA now proposes to exercise this authority and amend the regulation to incorporate airports serving smaller air carrier aircraft into the FAA's airport certification program. Also, the 2000 FAA Reauthorization Act (P.L. 106-181) mandates publication of the NPRM within 60 days of the Act's enactment; and publication of the final rule within one year of the close of comment period for airports serving smaller air carrier aircraft.

Summary of Legal Basis: FAA has general and specific authority to regulate airports as set out in 49 USC 106(g) and 44701.

Alternatives: The FAA has considered several alternative approaches to this proposed rulemaking and has attempted to minimize the potential economic impact of the proposal, especially the impact on small entities. In addition, this action fulfills the FAA's responsiblilty to meet deadlines established by Congress to certificate airports serving scheduled air carrier operations with 10-30 seat aircraft, except for the State of Alaska. The FAA considered alternatives based on two issues. Issue 1 was the revision of 14 CFR 139, and Issue 2 was the certification of airports serving scheduled operations of small air carrier aircraft with 10-30 passenger seats. The FAA determined that it was necessary to revise 14 CFR 139 and that the revised part 139 should include the certification of airports serving scheduled air carrier operations with 10-30 passenger seat aircraft.

Anticipated Cost and Benefits: Most of the costs of this proposed rule are associated with the proposed improvements to safety and operational requirements. Most of these costs result from the expansion of ARFF services. The present value of the total cost of the rule over a 10-year period is approximately $46 million, which includes training, additional emergency response protection, wildlife management, and an updated airport certification manual that better reflects current best practices. With the tremendous cost of aviation accidents, the proposed rule provides the potential for enhanced safety for a reasonable cost. The expected benefit of this proposed rule is an enhanced level of safety resulting in reduced fatalities, injuries, and property damage at airports with scheduled air carrier operations, particularly operations in aircraft configured with 10 to 30 passenger seats. The cost of a single accident of a 30-seat scheduled passenger aircraft is greater than the total cost of the proposal. Other benefits of this proposal include provisions for snow and ice control, wildlife management, and training.

Risks: The purpose of this rulemaking is to expand and enhance the safety benefits of the current regulation by providing, to the extent possible, a comparable level of safety at all airports used by air carriers.

Timetable:

Action	Date	FR Cite
NPRM	06/21/00	65 FR 38636
Correction	08/21/00	65 FR 50669
NPRM Comment Period Extended	08/22/00	65 FR 50945
NPRM Comment Period End	09/19/00	
NPRM Comment Period End	11/03/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AAS-97-072R.

ANALYSIS: Regulatory Evaluation, 06/21/00

Agency Contact: Linda Bruce, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8553

RIN: 2120–AG96

2203. SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44704; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46502; 49 USC 46504; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 48528 to 47531

CFR Citation: 14 CFR 91; 14 CFR 93; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action will further postpone the effective date for the flight-free zones, Special Flight Rules

Area, and corridors portions of the December 31, 1996, Grand Canyon final rule until January 31, 2001. The FAA finds that this rule is needed so that it may issue new regulations that will substantially restore natural quiet to the Grand Canyon National Park.

Timetable:

Action	Date	FR Cite
Final Rule Effective	01/31/00	
Final Rule; Request for Comments	02/03/00	65 FR 5396
Comment Period End	03/06/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Reginald C. Matthews, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AG97

2204. NOISE CERTIFICATION STANDARDS FOR SUBSONIC JET AIRPLANES AND SUBSONIC TRANSPORT CATEGORY LARGE AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: This action proposes changes to the noise certification standards for subsonic jet airplanes and subsonic transport category large airplanes. These proposed changes are based on the joint effort of the FAA, the European Joint Aviation Authorities (JAA), and Aviation Rulemaking Advisory Committee (ARAC), to harmonize the U.S. noise certification regulations and the European Joint Aviation Requirements for subsonic jet airplanes and subsonic transport category large airplanes. These proposed changes would provide nearly uniform noise certifications standards for airplanes certificated in the U.S. and in the JAA countries. The harmonization of the noise certification standards would simplify airworthiness approvals for import and export purposes.

Timetable:

Action	Date	FR Cite
NPRM	07/11/00	65 FR 42796
NPRM Comment Period End	10/10/00	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Skalecky, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration
Phone: 202 267-3699

RIN: 2120–AH03

2205. NOISE CERTIFICATION REGULATIONS FOR HELICOPTERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715; PL 96-193; EO 11514

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: This proposal is based on a joint effort by the FAA, the European Joint Aviation Authorities (JAA), and the Aviation Rulemaking Advisory Committee (ARAC) to harmonize the U.S. noise certification regulations and the European Joint Aviation Requirements (JAR) for helicopters. The proposed changes would provide nearly uniform noise certification standards for helicopters certificated in the U.S., the JAA countries, and other countries that have adopted as their national regulation either the U.S. regulations, the JAA regulations, or the International Civil Aviation Organization standards. The harmonization of the noise certification standards would simplify airworthiness approvals for import and export purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/05/00	65 FR 59634
NPRM Comment Period End	01/04/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AEE-94-367A.

Agency Contact: Sandy Liu, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 493-4864

RIN: 2120–AH10

2206. • SAFE DISPOSITION OF LIFE LIMITED AIRCRAFT PARTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 44109; 49 USC 40113 to 40114; 49 USC 44101 to 44105; 49 USC 44107 to 44108; 49 USC 44110 to 44111; 49 USC 44504; 49 USC 44701; 49 USC 44703; 49 USC 44705; 49 USC 45302 to 45303; 49 USC 46104; 49 USC 46304; 49 USC 46306; 49 USC 47122

CFR Citation: 14 CFR 43; 14 CFR 45

Legal Deadline: None

Abstract: This action responds to the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century by proposing that all persons who remove any life-limited aircraft part be required to have a method to prevent the installation of that part that has reached its life limit. Current regulations do not adequately control the disposition of life-limited parts. This action would reduce the risk of life-limited parts from being used beyond their life limits. This proposal would also require that manufacturers of the parts provide marking instructions, when requested.

Timetable:

Action	Date	FR Cite
NPRM	10/02/00	65 FR 58879
NPRM Comment Period End	01/30/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Regulatory Evaluation 05/00/01.

Agency Contact: Al Michaels, Flight Standards Service, Department of Transportation, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7501

RIN: 2120–AH11

2207. • REDUCED VERTICAL SEPARATION MINIMUM IN THE WEST ATLANTIC ROUTE SYSTEM AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46502; 49 USC 46504; 49 USC 46506 to 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action proposes to amend airspace rules where Reduced Vertical Separation Minimum (RVSM) may be applied to include the West Atlantic Route System (WATRS) airspace. RVSM is the reduction of the vertical separation of aircraft from 2,000 feet to 1,000 feet at flight levels (FLs) between FL 290 (29,000 feet) and FL 410 (41,000 feet). RVSM is applied only between aircraft that meet stringent altimeter and autopilot performance requirements. RVSM is currently applied in North Atlantic (NAT) Minimum Navigation Performance Specifications (MNPS) and Pacific airspace.

Timetable:

Action	Date	FR Cite
NPRM	12/18/00	65 FR 79284
NPRM Comment Period End	02/16/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Regulatory Evaluation 012/18/00.

Agency Contact: Dave Maloy, Flight Technologies and Procedures Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW,, Washington, DC 20591
Phone: 860 654-1006

RIN: 2120–AH12

2208. • TEMPORARY FLIGHT RESTRICTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 91; 14 CFR 103

Legal Deadline: None

Abstract: This action proposes to add a new temporary flight restriction regulation to address the management of aircraft operations in the vicinity of aerial demonstrations or major sporting events. In addition, this action proposes to change the title of the regulation used to manage aircraft operations near hazard or disaster areas. The FAA is proposing these actions to enhance the safe and efficient use of airspace and to prevent any unsafe congestion of sightseeing and other aircraft operations in the vicinity of hazard areas, disaster areas, aerial demonstrations or major sporting events.

Timetable:

Action	Date	FR Cite
NPRM	11/16/00	65 FR 69426
NPRM Comment Period End	01/16/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheri Edgett Baron, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9354

RIN: 2120–AH13

2209. • CIVIL PENALTY INFLATION ADJUSTMENT REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122; 49 USC 47306; 49 USC 47531 to 47532

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action adjusts for inflation the amount of each statutory civil penalty subject to the Federal Aviation Administration's jurisdiction. This action is issued as a final rule without prior notice and comment because the changes are administrative and required by statute. Also, the immediate adoption of these changes is in the public interest and is necessary for the agency to properly execute its functions.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sheri Edgett Baron, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9354

Joyce Redos, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7158

RIN: 2120–AH21

2210. • SECURITY CONTROL OF AIR TRAFFIC

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40120; 49 USC 44502; 49 USC 44721

CFR Citation: 14 CFR 99

Legal Deadline: None

Abstract: This action modifies regulations governing security control of air traffic. Specifically, this action revises the boundaries of the contiguous United States and Alaska air defense identification zones and amends flight plan and communications requirements for those pilots planning flight into, within, or

out of any of these zones. This action conforms FAA regulations with Presidential Proclamation No. 5928, supports the Department of Defense in accomplishing its National defense and drug interdiction missions, and assists law enforcement agencies in their efforts to stop the transportation of illegal drugs by aircraft.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATA-95-294R.

Sectors Affected: None

Agency Contact: Sheri Edgett Baron, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9354

RIN: 2120–AH25

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

2211. +FUEL SYSTEM VENT FIRE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44721; 49 USC 44722; 49 USC 44901

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require fuel vent system protection during post-crash ground fires. This proposed rule would apply to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes. This action is considered significant because of substantial public interest and the safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	02/02/95	60 FR 6632
NPRM Comment Period End	06/02/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project Number: ANM-82-050R.

ANALYSIS: Regulatory Evaluation, 02/02/95, 60 FR 6632

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2133

RIN: 2120–AA49

2212. AIRWORTHINESS STANDARDS; CRASH-RESISTANT FUEL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 40 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly titled "Amend Part 23 To Include Requirements for Crash-Resistant Fuel Systems." Project Number: ACE-82-005R.

ANALYSIS: Regulatory Evaluation, 02/28/90, 55 FR 7280

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AA57

2213. LOW FUEL QUANTITY ALERTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flight crew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 25213. Project Number: ANM-83-039R.

ANALYSIS: Regulatory Evaluation, 05/12/87, 52 FR 17890

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2112

RIN: 2120–AB46

2214. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would add a new section 33.35(f) to the Federal Aviation Regulations which would incorporate a requirement for the fuel mixture and throttle controls to automatically move to a position allowing continued safe flight if either control becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-85-002R. Former title: Engine Fuel and Induction Systems.

ANALYSIS: Regulatory Evaluation, 10/20/92, 57 FR 47934

Agency Contact: Locke Easton, Engine and Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803
Phone: 617 273-7088

RIN: 2120–AB76

2215. INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: NPRM, Statutory, February 3, 1989.

Abstract: This preliminary action was initiated to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicited public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-89-005R.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AC87

2216. +DRUG ENFORCEMENT ASSISTANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44702 to 44703; 49 USC 44704; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline: Final, Statutory, September 18, 1989.

Abstract: This action would revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project No. AFS-89-035R.

ANALYSIS: Regulatory Evaluation, 03/12/90, 55 FR 9270

Agency Contact: Sharon Ashford, Registry Modernization Staff, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125-4939
Phone: 405 954-7038

RIN: 2120–AD16

2217. AIRPLANE ENGINE COWLING RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2133

RIN: 2120–AD34

2218. 1-G STALLING SPEED AS A BASIS FOR COMPLIANCE WITH PART 25 OF THE FEDERAL AVIATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. It would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	01/18/96	61 FR 1260
Correction	02/26/96	61 FR 7157
NPRM Comment Period End	05/17/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-86-041R.

ANALYSIS: Regulatory Evaluation, 01/18/96, 61 FR 1260

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-1320

RIN: 2120–AD40

2219. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Following World War II, a substantial number of surplus military airplanes were offered for sale to the public in order to meet an increased demand for civilian-use aircraft not being met by the civil aircraft industry. The current regulation permits both type and airworthiness certification for surplus military aircraft based on the particular aircraft's safety record and condition. As military aircraft have become increasingly complex and sophisticated, that practice is no longer acceptable. This action would remove the regulations for issuing type certificates for these surplus aircraft and eliminate references to obsolete standards. Surplus military aircraft would still be certificated in the normal, utility, acrobatic, commuter, transport, and restricted categories upon compliance with the applicable regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/21/94	59 FR 19114
NPRM Comment Period End	06/20/94	
Comment Period End 06/26/94	07/07/94	59 FR 34779

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Project Number: AIR-91-354R.

ANALYSIS: Regulatory Evaluation, 04/21/94, 59 FR 19114

Agency Contact: Brian Yanez, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-6561

RIN: 2120–AE41

2220. +AIRCRAFT GROUND DEICING AND ANTI-ICING PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action establishes a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The action provides an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32846
NPRM Comment Period End	08/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Interim Final Rule Comment Period End	04/15/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

ANALYSIS: Regulatory Evaluation, 09/29/92, 57 FR 44924

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-9579

RIN: 2120–AE70

2221. CIVIL PENALTY ASSESSMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action would revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed would implement the requirements of the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman.

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 40192
NPRM Comment Period End	10/04/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-93-076R. This rulemaking was considered significant; however, after receiving only two comments on the NPRM issued in 8/94, and the lack of controversy regarding this rule, the FAA does not consider this a significant rulemaking.

ANALYSIS: Regulatory Evaluation, 08/05/94, 59 FR 40192

Agency Contact: Joyce Redos, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7158

RIN: 2120–AE84

2222. +TRAINING AND CHECKING IN GROUND ICING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44710 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This amendment requires parts 125 and 135 certificate holders to provide pilot training or testing in ground deicing/anti-icing procedures and to check the airplane for contamination by frost, ice, or snow during ground icing conditions. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions under parts 125 and 135. This rulemaking is significant because it affects a substantial portion of the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49164
NPRM Comment Period End	10/06/93	
Interim Final Rule	12/30/93	58 FR 69620
Advisory Circular Published	12/30/93	58 FR 69631
Interim Final Rule Effective	01/31/94	58 FR 69620

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-459R

ANALYSIS: Regulatory Evaluation, 12/30/93, 58 FR 69620

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-9579

RIN: 2120–AF09

2223. +REVISION OF EMERGENCY EVACUATION DEMONSTRATION PROCEDURES TO IMPROVE PARTICIPANT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25; 49 CFR 1.47

Legal Deadline: None

Abstract: This action would amend part 25 of the FAR by revising Appendix J, Emergency Evacuation, to allow certain alternative procedures in conducting full-scale emergency evacuation demonstrations for transport category airplanes. This is in response to recommendations from the Aviation Rulemaking Advisory Committee. The changes, which are intended to make full-scale emergency evacuation demonstrations safer for participants and to codify existing practices, would also affect manufacturers and operators of transport category airplanes. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36932
Correction	08/25/95	60 FR 44387
NPRM Comment Period End	10/16/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-94-124A

ANALYSIS: Regulatory Evaluation, 07/18/95, 60 FR 36932

Agency Contact: Franklin Tiangsing, Regulations Branch, ANM-114, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2121

RIN: 2120–AF21

2224. MISCELLANEOUS CABIN SAFETY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 46105; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes relating to flight attendant assist space, flight attendant assist handles, door hold open features, outside viewing means, interior compartment doors and portable oxygen equipment. With one exception, these proposals are not the result of any specific incident or recommendation, but are part of the FAA's continuing effort to upgrade the regulations to improve the overall level of safety in areas where the state-of-the-art and good design practice have indicated that such upgrades are warranted. These proposals would result in both new type design regulations as well as requirements applicable to existing designs implemented via the operating rules.

Timetable:

Action	Date	FR Cite
NPRM	07/24/96	61 FR 38552
NPRM Comment Period End	11/21/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-90-016R.

ANALYSIS: Regulatory Evaluation, 07/24/96, 61 FR 38552

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2136

RIN: 2120–AF77

2225. BIRD STRIKE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to develop or revise requirements for the evaluation of transport category airplane structure for in-flight collision with a bird, including the size of the bird and the location of the impact on the airplane. These changes are intended to harmonize the bird strike requirements of the FAR and the Joint Aviation Requirements.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-93-762A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Bill Perrella, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2116

RIN: 2120–AF80

2226. +SECURITY PROGRAMS OF FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S. REGISTERED AIR CARRIERS ENGAGED IN COMMON CARRIAGE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 129

Legal Deadline: None

Abstract: As an action intended to implement the Antiterrorism and Effective Death Penalty Act of 1996 (PL 104-132, 4/14/96), the FAA is proposing to amend existing airplane operator security rules for foreign air carriers and foreign operators of U.S. registered aircraft. The proposed amendment would require the Administrator to accept a foreign air carrier's program only if the Administrator finds that the security program provides for identical security measures to those provided by U.S. air carriers serving the same airport. The proposed rule will establish the obligation to use identical security measures. The actual measures to be used will be identified through changes to the nonpublic security program of the foreign air carriers. This rule is considered significant due to substantial public interest and concern of foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	11/23/98	63 FR 64764
Notice of Public Meeting	11/23/98	63 FR 64764
Second NPRM	03/22/99	64 FR 13880
NPRM Comment Period End	03/23/99	
Second NPRM Comment Period End	05/24/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-96-363R.

Agency Contact: Moira Lozada, Civil Aviation Security Division, Office of Civil Aviation Security Policy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3373

RIN: 2120–AG13

2227. +NOISE LIMITATIONS FOR AIRCRAFT OPERATIONS IN THE VICINITY OF GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This rulemaking will establish noise limitations for certain aircraft operated in the vicinity of Grand Canyon National Park. This action is one part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100-91 to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park. The supplemental amendment removes two sections from the December 31, 1996, notice of proposed rulemaking (NPRM) that proposed to establish a corridor through the National Canyon area as an incentive route for quiet technology aircraft. The FAA and NPS have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/31/96	61 FR 69334
NPRM Comment Period End	03/31/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: A final rule, which was published on 12/31/96 (61 FR 69302), establishes new operating restrictions at Grand Canyon National Park. See RIN 2120-AF93 published elsewhere in this Agenda.

ANALYSIS: Regulatory Evaluation, 12/31/96, 61 FR 69334

Agency Contact: Howard Nesbitt, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 493-4981

RIN: 2120–AG34

2228. +PROHIBITION OF THE TRANSPORTATION OF DEVICES DESIGNED AS CHEMICAL GENERATORS AS CARGO IN AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44722; 49 USC 46301

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking proposes to ban the transportation of devices designed to chemically generate oxygen in certain aircraft, with limited exceptions. This proposed ban applies to newly manufactured chemical oxygen generators that have never been filled with chemicals. It would also apply to devices designated as chemical oxygen generators that have been discharged (spent) or that are past their expiration dates. The FAA believes that newly manufactured chemical oxygen generators might be manufactured in one location and transported to another location to be filled. This could lead to human factors errors in determining whether the device designed as a chemical oxygen generator is actually empty.

In a final rule effective March 1, 2000, the Research and Special Programs Administration (RSPA) prohibited the transportation on an aircraft of a "spent" chemical oxygen generator, i.e., a generator whose means of ignition and all or a part of its chemical contents have been expended. (See RIN 2137-AC92)

This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/27/98	63 FR 45912
Correction	09/24/98	63 FR 51048
NPRM Comment Period End	10/26/98	
Correction	11/10/98	63 FR 69276

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-065R

ANALYSIS: Regulatory Evaluation, 08/27/98, 63 FR 45912

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8166

RIN: 2120–AG35

2229. LICENSING AND SAFETY REQUIREMENTS FOR LAUNCH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the conduct of a launch from a non-Federal launch site. The law requires anyone who proposes to conduct a launch within the United States, or a U.S. citizen proposing to conduct a launch site outside the United States, to obtain a license from DOT. This action would govern obtaining a license to conduct such a launch. Currently, commercial rocket launches take place from Federal Government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related licensing rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to conduct a launch from a commercial launch site, where DOT, rather than NASA or the military has primary responsibility.

Timetable:

Action	Date	FR Cite
NPRM	10/25/00	65 FR 63922
NPRM Comment Period End	02/22/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AST-97-088R.

ANALYSIS: Regulatory Evaluation, 10/25/00, 65 FR 63922.

Agency Contact: Michael Dook, Licensing and Safety Division, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9305

RIN: 2120–AG37

2230. +REVISED STANDARDS FOR CARGO OR BAGGAGE COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 44715 to 44717; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44711 to 44713

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action upgrades the fire safety standards for cargo or baggage compartments in certain transport category airplanes by eliminating Class D compartments altogether. Compartments that could no longer be designated as Class D would have to meet the standards for Class C or Class E compartments, as applicable. Certain other transport category airplanes that would not have to meet these new standards for type certification would have to meet them for use in air carrier, commuter, on-demand, or commercial service. These improved standards are needed to increase protection from possible in-flight fires. This rulemaking is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/13/97	62 FR 32412
NPRM Comment Period End	09/11/97	
Final Rule Request for Comments	02/17/98	63 FR 8032
Final Rule Effective	03/19/98	
Final Rule Comment Period End	06/17/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-97-009R

ANALYSIS: Regulatory Evaluation, 06/13/97, 62 FR 32412

Regulatory Evaluation, 02/17/98, 63 FR 8032

Agency Contact: Mahinder Wahi, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2589

RIN: 2120–AG42

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Completed Actions

2231. REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44713; 49 USC 45302; 49 USC 46104; 49 USC 46301

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This action would have proposed to update parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of the proposed changes was to articulate, modernize, and simplify the existing regulations rather than alter established procedures.

This action is being withdrawn because the FAA is re-evaluating the need for this initiative. If the FAA determines this action is still warranted and when resources are available to support the effort, it will be identified as a new rulemaking initiative.

Timetable:

Action	Date	FR Cite
Action Terminated	02/09/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-201R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125-4939
Phone: 405 954-7038

RIN: 2120–AC17

2232. +COST OF SERVICES AND TRANSFER OF FEES TO PART 187 FROM PARTS 47, 49, 61, 63, 65, AND 143

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44701; 49 USC 44702; 49 USC 44703 to 44704; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 45102 to 45103; 49 USC 45106; 49 USC 45301

CFR Citation: 14 CFR 47; 14 CFR 49; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 143; 14 CFR 187

Legal Deadline: None

Abstract: This action would have assessed reasonable charges for certain services provided by the FAA. The charges would have been set at a level approximating the cost to the Government to provide these services and would be adjusted periodically as the costs of these services change or as prescribed in the Anti-Drug Abuse Act of 1988. The cost of providing services for aircraft registration and recording and replacement of airmen certificates is not being fully recouped in accordance with the changes reflected in the Consumer Price Index of All Urban Consumers, which was published by the Bureau of Labor Statistics of the Department of Labor, or as set by the Anti-Drug Abuse Act of 1988. This rulemaking would also have consolidated all service fees by placing them in part 187 of the Federal Aviation Regulations. This rulemaking is considered significant because of substantial public interest.

This action is removed from the agenda as the FAA is re-evaluating the need for this initiative. If the agency determines this action is still warranted and when resources are available to support the effort, it will be identified as a new rulemaking initiative.

Timetable:

Action	Date	FR Cite
Action Terminated	02/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Project Number: AFS-90-347R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125-4939
Phone: 405 954-7038

RIN: 2120–AD91

2233. +AIRPORT NOISE COMPATIBILITY PLANNING

Priority: Other Significant

Legal Authority: 49 USC 44715; 49 USC 471-1; 49 USC 47501 to 47504; 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 150

Legal Deadline: None

Abstract: This action would have revised the requirements for developing noise exposure maps and noise compatibility programs and submitting them for FAA approval. The revisions were intended to expedite and simplify the part 150 process. Under the revised process, the mandatory set of noise abatement measures which are presently required to be considered by each airport sponsor would be limited in scope depending on the characteristics of each airport and its surrounding community. The new process would have been supported by appropriate guidance, training, review, standardization, and consultation requirements. This project is considered significant because of substantial public interest.

This action is removed from the agenda as the FAA is re-evaluating the need for this initiative. If the agency determines this action is still warranted and when resources are available to support the effort, it will be identified as a new rulemaking initiative.

Timetable:

Action	Date	FR Cite
Action Terminated	02/09/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: AEE-90-410R.

Agency Contact: Alan V. Trickey, Policy and Regulations Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3496

RIN: 2120–AE64

2234. +CONTROLLED REST ON THE FLIGHT DECK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal would allow part 121 certificate holders who operate aircraft that require three flight crewmembers, two pilots and a flight engineer, to implement a controlled rest on the flight deck program. Under the program, when cockpit workload permits, one flight crewmember at a time would be given the opportunity to sleep for a brief period of time at his or her duty station during the cruise portion of a flight. Before using the controlled rest concept, however, the certificate holder would have to obtain approval for its program from the FAA. This proposal originated as a recommendation from the Aviation Rulemaking Advisory Committee and responds to industry interest in developing a controlled rest program that is approved by the FAA. This rulemaking is considered significant because of substantial public interest. The project titled, Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements (RIN 2120-AF63), addresses issues related to those in this proposal. Therefore, this entry is being removed from the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	02/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-764A

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591

Phone: 202 267-9579

RIN: 2120–AF54

2235. SERVICE DIFFICULTY REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44707; 49 USC 44709 to 44711

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action amends the reporting requirements for air carrier certificate holders and certificated domestic and foreign repair stations concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. The rule clarifies and standardizes the reporting requirements for the type of information submitted to the FAA, allowing the FAA to identify trends that may affect aviation safety. This action was prompted by an internal FAA review of industry concern over the quality of the data being reported by air carriers. The objective of this rule is to update and improve the reporting system to effectively collect and disseminate clear and concise information, particularly with regard to aging aircraft, to the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 41992
NPRM Comment Period End	11/13/95	
SNPRM	04/15/99	64 FR 18766
SNPRM Comment Period End	06/01/99	
Final Rule	09/15/00	65 FR 56192
Final Rule	10/11/00	65 FR 60556
Notice of Meeting	11/30/00	65 FR 71247
Final Action	12/22/00	65 FR 80743
Final Action Effective	01/16/01	65 FR 56192
Final Action Effective	07/16/01	65 FR 80743

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-95-237A. This is a recommendation from the Aviation Rulemaking Advisory Committee.

ANALYSIS: Regulatory Evaluation, 08/14/95, 60 FR 41992.

Regulatory Evaluation, 04/15/99, 64 FR 18766.

Formerly titled: Operational and Structural Difficulty Reports.

Agency Contact: Jose Figueroa, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3797

RIN: 2120–AF71

2236. BIRD INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action amends the type certification standards for aircraft turbine engines that concern bird ingestion. This action updates the current bird ingestion standards to reflect recent analysis defining the actual bird threat encountered by turbine engines. This rulemaking also harmonizes the FAA's type certification standards on this issue with requirements being drafted by the Joint Aviation Authorities (JAA). These changes will establish one set of common requirements, and thereby reduce the regulatory hardship on the aviation industry by eliminating the need for manufacturers to comply with different sets of standards when seeking type certification from the FAA and validation from the JAA.

Timetable:

Action	Date	FR Cite
NPRM	12/11/98	63 FR 68636
NPRM Comment Period End	03/11/99	
Final Action	09/14/00	65 FR 55848
Final Action Effective	12/13/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-97-476A. This is an Aviation Rulemaking Advisory Committee project.

ANALYSIS: Regulatory Evaluation, 12/11/98, 63 FR 68636

Agency Contact: Mark Bouthillier, Engine and Propeller Directorate, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 781 238-7119

RIN: 2120–AF84

2237. LICENSE REQUIREMENTS FOR OPERATION OF A LAUNCH SITE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the operation of a launch site. The law requires anyone who proposes to operate a launch site within the U.S., or a U.S. citizen proposing to operate a launch site outside the U.S., to obtain a license from DOT. This action would govern obtaining a license to operate such a launch site. Currently, commercial rocket launches take place from Federal government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related rulemaking (RIN 2120-AF99). In this action, DOT will implement rules regarding obtaining a license to operate a launch site.

Timetable:

Action	Date	FR Cite
NPRM	06/25/99	64 FR 34316
NPRM Comment Period End	09/23/99	
Final Action	10/19/00	65 FR 62812
Final Action Effective	12/18/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AST-96-341R.

The reason this rulemaking was downgraded to Non-Significant is because the cost of $23,000 to industry does not meet the required threshold and the practices proposed are traditional measures and therefore should be non-controversial with the affected industry.

ANALYSIS: Regulatory Evaluation, 06/25/99, 64 FR 34316

Agency Contact: Randy Repcheck, Licensing and Safety Division, AST-200, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8379

RIN: 2120–AG15

2238. +AIR TOUR OPERATIONS IN THE STATE OF HAWAII

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking disposes of comments received in response to the final rule published on September 26, 1994 (59 FR 49138), for certain procedural, operational, and equipment requirements for air tour operations in the State of Hawaii, codified as Special Federal Aviation Regulation (SFAR 71). It also extends SFAR 71 until the FAA publishes a final rule regulating all air tour operations. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/26/97	
Interim Final Rule	10/30/97	62 FR 58854
NPRM	08/23/00	65 FR 51512
NPRM Comment Period End	09/22/00	
Final Action	09/29/00	65 FR 58610
Final Action Effective	10/26/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-453R

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8166

RIN: 2120–AG44

2239. USE OF ELECTRONIC SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101 to 40103; 49 USC 40105; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44105 to 44106; 49 USC 44111; 49 USC 44701 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44906

CFR Citation: 14 CFR 21; 14 CFR 43; 14 CFR 91; 14 CFR 119

Legal Deadline: None

Abstract: This action proposed to amend the regulations to permit the use of electronic signatures to satisfy maintenance, operational, and type certification record preparation and retention requirements. Although this action will encourage the use of electronic recordkeeping systems, it will not discourage the use of paper documents and records to satisfy regulatory requirements. The proposed rule would have provided cost savings and regulatory relief to owners, manufacturers, operators and repair stations.

This action is being removed because rulemaking is no longer needed to provide for general acceptance of electronic data. The Government Paperwork Elimination Act, Public Law 105-277, U.S.C. 3504, requires Federal agencies to provide for the option of electronic maintenance, submission, or disclosure of information when practicable as a substitute for paper; and the use and acceptance of electronic signatures, when practicable.

Timetable:

Action	Date	FR Cite
Action Terminated	02/09/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-226A.

Agency Contact: Wayne Nutsch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 493-4291

RIN: 2120–AG63

2240. COMMERCIAL SPACE TRANSPORTATION REUSABLE LAUNCH VEHICLE AND REENTRY LICENSING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2601

CFR Citation: 14 CFR 401; 14 CFR 404; 14 CFR 406; 14 CFR 413; 14 CFR 417; 14 CFR 431; 14 CFR 433

Legal Deadline: None

Abstract: This action amends the commercial space transportation licensing regulations by establishing operational requirements for launches of reusable launch vehicles and the authorized conduct of commercial space reentry activities. This rule would respond to advancements in the development of commercial reentry capability and enactment of legislation extending the FAA's licensing authority to reentry activities.

Timetable:

Action	Date	FR Cite
NPRM	04/21/99	64 FR 19626
NPRM Comment Period End	07/20/99	
Final Action	09/19/00	65 FR 56618
Final Action Effective	11/20/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AST-98-174R.

Agency Contact: Stewart W. Jackson, Office of the Associate Administrator for Commercial Space Transportation, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7903

RIN: 2120–AG71

2241. PILOT CERTIFICATES ISSUED OR VALIDATED ON THE BASIS OF A BILATERAL AIR SAFETY AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 4709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This action would allow the FAA to enter into a Bilateral Air Safety Agreement with a foreign country for the conversion and validation of each others' pilot certificates at all pilot certification levels. Currently, the Federal Aviation Regulations only allow a foreign pilot certificate to be converted to an FAA private pilot certificate. This rule will have a positive impact on harmonization efforts underway between the FAA and the Joint Aviation Authorities. This project has been identified as one that is being worked as resources permit. Therefore, it is being removed from the agenda. When a timeframe can be determined, the project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	02/19/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-99-228R.

Agency Contact: Emily White, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3651

RIN: 2120–AG81

2242. HIGH DENSITY RULE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40103; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action concerns interpretation of the FAA's rules relating to High Density Traffic Airports. The FAA is changing its interpretation of the term operator to allow one code share partner to provide extra section back-up using the other partner's arrival or departure reservation (slot). Delta Airlines has asked FAA for an interpretation of the extra sections provisions of the FAA's slot rules to allow them to back up a Delta Shuttle flight operated for them by their code share partner, using the partner's slot. In the past the FAA has interpreted its rules to deny one carrier the use of another carrier's slot. However, in the light of current code sharing practices the FAA believes that it is a reasonable interpretation of the language of the regulation to allow a code share partner to provide extra section back-up using the slot of the partner operating the first slot.

Timetable:

Action	Date	FR Cite
Proposed Interpretation; Request for Comments	07/02/99	64 FR 35963
Comment Period End	07/12/99	
Comment Period Reopened	08/13/99	64 FR 44145
Comment Period End	09/13/99	
Final Action	08/24/00	65 FR 51745
Correction	12/27/00	65 FR 81733
Final Action Effective	12/27/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorelei Peter, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3134

RIN: 2120–AG85

2243. GENERAL RULEMAKING PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44711; 49 USC 46102

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: The FAA has updated its general rulemaking procedures. The final rule is written in plain language and reflects changes in rulemaking procedures and processes. For example, the dockets management system now accepts electronic comments and the public can view rulemaking dockets electronically. These changes will facilitate public involvement in the agency's rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	12/14/99	64 FR 69856
NPRM Comment Period End	01/28/00	
Final Action	08/21/00	65 FR 50850
Final Action Effective	09/20/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-00-053R.

Agency Contact: Donald P. Byrne, Assistant Chief Counsel, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AG95

2244. FIRE PROTECTION REQUIREMENTS FOR POWERPLANT INSTALLATIONS ON TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 106(g); 49 USC 40103; 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44702; 49 USC 45301 to 45303

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This rule amends the airworthiness standards for transport category airplanes by requiring that components within a designated fire zone be fireproofed if, when exposed to or damaged by fire, they could pose a hazard to the airplane. This action is necessary because differences between the current U.S. and European requirements impose unnecessary costs on airplane manufacturers. These actions are intended to achieve common requirements and language between U.S. regulations and the Joint Aviation Requirements (JAR) of Europe, while maintaining at least the level of safety provided by the current regulations and industry practice.

Timetable:

Action	Date	FR Cite
NPRM	06/12/00	65 FR 36978
NPRM Comment Period End	08/11/00	

Action	Date	FR Cite
Final Action	12/19/00	65 FR 79706
Final Action Effective	01/18/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-00-166A.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2133

RIN: 2120–AH00

2245. ADVANCED QUALIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action extends the expiration date of SFAR 58, Advanced Qualification Program. The SFAR expired October 2, 2000. SFAR 58 provides for the approval of an alternate method for qualifying, training and certifying, and otherwise ensuring the competency of crewmembers, aircraft dispatchers, other operations personnel, instructors, and evaluators who are required to be trained or qualified under 14 CFR parts 121 and 135. This extension will allow time for the FAA to complete the rulemaking project that includes incorporating FAR 58 into a permanent rule in the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/16/00	65 FR 37836
NPRM Comment Period End	07/17/00	
Final Action Effective	10/02/00	
Final Action	10/10/00	65 FR 60334

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jan Demuth, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8922

RIN: 2120–AH01

2246. REVISIONS TO DIGITAL FLIGHT DATA RECORDER REQUIREMENTS FOR AIRBUS AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 4019; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 125

Legal Deadline: None

Abstract: This action amends the flight data recorder regulations by adding language to allow certain Airbus airplanes to record certain data parameters using resolution requirements that differ slightly from the current regulation. This amendment is necessary because the Airbus airplanes are unable to record certain flight parameters under the existing criteria without undergoing unintended and expensive retrofit.

Timetable:

Action	Date	FR Cite
Final Rule Effective	08/18/00	
Final Rule; Request for Comments	08/24/00	65 FR 51742
Final Rule Comment Period End	09/25/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8166

RIN: 2120–AH08

2247. +STREAMLINED ENFORCEMENT TEST AND EVALUATION PROGRAM; SECURITY; ANTIDRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS; UNRULY PASSENGERS

Priority: Other Significant

Legal Authority: 18 USC 6002; 28 USC 2461; 49 USC 106(g); 49 USC 5121 to 5142; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122; 49 USC 47306; 49 USC 47531 to 47532

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action proposes to amend the administrative assessment of civil penalties, establish streamlined procedures for assessing penalties in certain cases against unruly passengers, airports and air carriers for certain security violations; and against employers, contractors, and consortia as defined under 14 CFR part 121, for certain antidrug and alcohol misuse prevention programs violations. This action will also propose to delegate authority to program office managers to initiate legal enforcement actions and reduces the number of documents issued in the processing of legal enforcement actions. This action is significant because of substantial public interest. This project has been identified as one that is being worked on as resources permit. Therefore, it is being removed from the agenda. When a timeframe can be determined, the project will be returned to the agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	02/19/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cynthia Dominik, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, Washington, DC 20590 Phone: 202 267-7560

RIN: 2120–AH09

DOT—FAA

Completed Actions

2248. • EMERGENCY LOCATOR TRANSMITTERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105; 49 USC 46301

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This rule complies with congressionally mandated changes to FAA requirements for emergency locator transmitters. The intended effect of this rule change is to facilitate search and rescue efforts by increasing the likelihood of locating turbojet-powered aircraft after accidents.

Timetable:

Action	Date	FR Cite
Final Action	12/22/00	65 FR 81316
Final Action Effective	12/22/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Although the regulation was effective December 22, 2000, compliance with the new ELT requirements in section 91.207 is delayed until January 1, 2004.

Agency Contact: Dean Chamberlain, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7956

RIN: 2120–AH16

2249. • CIVIL PENALTY ACTIONS IN COMMERCIAL SPACE TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 70101 to 70121

CFR Citation: 14 CFR 405; 14 CFR 406

Legal Deadline: None

Abstract: This action amends the rules for assessment and adjudication of civil penalties in commercial space transportation. It provides more detail on the procedures the FAA uses to assess civil penalties and on the respondents' rights to adjudication. These actions also provide more detailed procedures to be used in the adjudication. They are intended to provide more clarity and certainty to the civil penalty process.

Timetable:

Action	Date	FR Cite
Final Rule; Request for Comments	01/10/01	66 FR 2176
Delay of Effective Date	02/08/01	66 FR 9509
Final Rule Comment Period End	02/09/01	
Effective Date	04/10/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mardi Ruth Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AH18

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Prerule Stage

2250. HIGHWAY BEAUTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750

Legal Deadline: None

Abstract: The revision of these subparts will reduce their complexity, recognize the existence of State laws, regulations, and organizations implementing 23 USC 131, and emphasize the position of the State as the initial, primary, and principal focal point regarding the requirement of effective control. Potential costs should be reduced, albeit minimally. The principal benefit will be to give the States greater ability, in the context of the broad requirements of 23 USC 131, to respond to concepts and issues relevant to the States. We have been reviewing these regulations with the intent to focus on changes necessitated by ISTEA and subsequent legislation (NHS Act, etc.) We have initiated research projects to identify key information States need to administer their OAC programs. We will evaluate that study and incorporate the results in our proposed ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FHWA intends to continue to review and analyze all aspects of the HBA under RIN 2125-AD24 to propose changes to reduce the complexity of the highway beautification regulations and to emphasize the role of the State in its implementation. Intended changes which appeared in a prior Agenda under RIN 2125-AD88 related to the Dire Emergency Supplemental Appropriations Act of 1992 have been suspended and consolidated under this rulemaking.

Agency Contact: Robert A. Johnson, Chief, Program Services Division, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2020

RIN: 2125–AD24

2251. REVISIONS TO HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424, sec 161; 23 USC 109(a); 23 USC 144(g); PL 105-178, sec 1101(a)(3); 23 USC 109(h); 23 USC 144; 23 USC 151; 23 USC 315; 23 USC 319; 33 USC 401; 33 USC 409 et seq; 33 USC 511 et seq; PL 97-134, sec 4(b); PL 105-206; ...

CFR Citation: 23 CFR 650; 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

DOT—FHWA

Prerule Stage

Abstract: In the last regulatory agenda, published Nov. 30, 2000, the Federal Highway Administration (FHWA) indicated its intent to revise its regulation on the discretionary bridge program replacement factor. Since that time, the FHWA has considered changes to the entire highway replacement bridge program. Accordingly, the FHWA intends to publish an advanced notice of proposed rulemaking (ANPRM) seeking comment on proposed revisions to the FHWA replacement bridge program, which includes the proposed revisions to the discretionary bridge program rating factor.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raymond McCormick, Director, Office of Bridge Technology, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590 Phone: 202 366-4657

RIN: 2125–AE75

2252. • +NATIONAL BRIDGE INSPECTION STANDARDS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 23 USC 109(a); 23 USC 109(h); 23 USC 144; 23 USC 151; 23 USC 315; 23 USC 319; EO 11988; ...

CFR Citation: 23 CFR 650; 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: In this action, the FHWA would solicit comments on whether its regulation on National Bridge Inspection Standards (NBIS) should be revised and updated. The FHWA would solicit comment on whether there is a need to update the regulations to incorporate current, state of the art bridge inspection practices which public authorities may be using. A public authority means a Federal, State, county, town, or township, Indian Tribe, municipal or other local government or instrumentality with the authority to finance, build, operate, or maintain toll or toll-free facilities. The primary purpose of the NBIS is to identify bridges that need work to ensure the safety of the traveling public. The NBIS regulation was last updated 14 years ago.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Wade F. Casey, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590 Phone: 202 366-9486

RIN: 2125–AE86

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

2253. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 141; 23 USC 315

CFR Citation: 23 CFR 657

Legal Deadline: None

Abstract: The FHWA has resumed consideration of changes in the guidance provided to state agencies for preparing the annual size and weight enforcement certifications. Previous efforts in this area were suspended by the agency in 1994 as a result of a commitment by the Federal Highway Administrator to Congress in June 1994 to conduct a comprehensive study of all aspects of the truck size and weight issue. That study is nearly completed. Accordingly, public comment is again requested on the type of information and data that should be submitted by the states in support of their annual certification of enforcement, and how the FHWA should use the information.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/93	58 FR 65830
ANPRM Comment Period Extended to 05/18/94	03/15/94	59 FR 11956
ANPRM Comment Period End	03/16/94	
Supplemental ANPRM	09/28/00	65 FR 58233
Supplemental ANPRM Comment Period End	12/27/00	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Klimek, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2212

RIN: 2125–AC60

2254. ADVANCED CONSTRUCTION OF FEDERAL AID PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104 to 106; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 116; 23 USC 120(e); 23 USC 121(c); 23 USC 125; 23 USC 134; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to revise the existing regulations that prescribe policies and procedures for advancing the construction of Federal-aid highway projects without obligating Federal funds apportioned or allocated to the States. These regulations should be revised to conform to changes made to title 23, United States Code, by technical amendments in the Transportation Equity Act of the 21st Century (TEA-21), Pub. L. 105-178, and changes made by the National Highway System Designation Act of 1995 (NHS), Pub. L. 104-59.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/95	60 FR 36991
Comment Period End	09/18/95	
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Max Inman, Office of Budget and Finance, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AD59

2255. WORK ZONE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 109; 23 USC 110; 23 USC 115; 23 USC 315; 23 USC 320; PL 102-240, sec 1051; PL 104-59, sec 358

CFR Citation: 23 CFR 636; 23 CFR 1.32; 49 CFR 1.48; 23 CFR 630

Legal Deadline: None

Abstract: The FHWA is proposing to amend its regulations on traffic safety and mobility in highway and street work zones. Section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) required the Secretary of Transportation (Secretary) to develop and implement a highway work zone safety program which would improve work zone safety at highway construction sites. This provision of ISTEA was implemented through non-regulatory action. A notice published in the Federal Register on October 24, 1995 (60 FR 54562) provided an outline of the work zone safety program. The current proposed regulatory action will further enhance the work zone safety program by incorporating the use of new work zone techniques and technologies, updating current policy and regulation, and emphasizing issues affecting the safety and mobility of highway workers and highway users.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlie L. Sears, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1555

RIN: 2125–AE29

2256. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MUTCD; MINIMUM RETROREFLECTIVITY REQUIREMENTS FOR TRAFFIC SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: This notice of proposed amendment is intended to revise the MUTCD to include a standard for a minimum level of retroreflectivity that must be maintained for traffic signs. This minimum level is to ensure that highway users can detect and read the sign during nighttime conditions. Although the MUTCD states that regulatory and warning signs, and some guide signs, need to reflectorize, no level of retroreflectivity is specified. In recognition of this situation, the United States Congress directed the U.S. Department of Transportation, through the 1993 Department of Transportation Appropriations Act, to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Peter Hatzi, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8036

RIN: 2125–AE39

2257. +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE NATIONAL PARK SERVICE, INCLUDING THE PARK ROADS AND PARKWAYS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land management agencies are also given the authority to develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program (FLHP). The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

The FHWA sought public comment on four related ANPRMs that were published on September 1, 1999. The comment period closed on November 1, 1999. Six organizations provided comments on the ANPRM pertaining to the National Park Service (NPS) and the park roads and parkways program. The comments generally supported the development of a separate rule for each agency including one for the NPS. In an NPRM, the FHWA will seek public comment on a proposed rule to implement section 1115(d) of the Transportation Equity Act for the 21st Century (TEA-21), developed by FHWA's Federal Lands Highway program office in consultation with the NPS. The NPRM is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved program.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47749

Action	Date	FR Cite
ANRPM Comment Period End	11/01/99	
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6799

RIN: 2125–AE52

2258. +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE BUREAU OF INDIAN AFFAIRS, INCLUDING THE INDIAN RESERVATIONS ROAD PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 315; PL 105-178; 23 USC 134; 23 USC 135; 23 USC 204

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land management agencies are also given the authority to develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program (FLHP). The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

The FHWA sought public comment on four related ANPRMs that were published on September 1, 1999. The comment period closed on November 1, 1999. Eight organizations provided comments on the ANPRM pertaining to the Bureau of Indian Affairs (BIA) and the Indian reservation roads program. The comments generally supported the development of a separate rule for each agency including one for the BIA. In an NPRM, the FHWA will seek public comment on a proposed rule to implement section 1115(d) of the Transportation Equity Act for the 21st Century (TEA-21), developed by FHWA's Federal Lands Highway program office in consultation with the BIA. The NPRM is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved program.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47746
ANPRM Comment Period End	11/01/99	
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6799

RIN: 2125–AE53

2259. +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE FISH AND WILDLIFE SERVICE, INCLUDING THE REFUGE ROADS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal Land Management agencies are also given the authority to develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program (FLHP). The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

The FHWA sought public comment on four related ANPRMs that were published on September 1, 1999. The comment period closed on November 1, 1999. Six organizations provided comments on the ANPRM pertaining to the Fish and Wildlife Service (FWS) and the refuge roads program. The comments generally supported the development of a separate rule for each agency including one for the FWS. In an NPRM, the FHWA will seek public comment on a proposed rule to implement section 1115(d) of the Transportation Equity Act for the 21st Century (TEA-21), developed by FHWA's Federal Lands Highway program office in consultation with the FWS. The NPRM is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved program.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47741
ANPRM Comment Period End	11/01/99	
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6799

RIN: 2125–AE54

2260. +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE FOREST SERVICE, INCLUDING THE FOREST HIGHWAYS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178; 23 USC 134

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land managment agencies are given the authority to develop safety, bridge pavement, and congestion management systems for roads funded under the Federal lands highways program. The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

The FHWA sought public comment on four related ANPRMs that were published on September 1, 1999. The comment period closed on November 1, 1999. Seven organizations provided comments on the ANPRM pertaining to the Forest Service (FS) and the forest highway program. The comments generally supported the development of a separate rule for each agency including one for the FS. In an NPRM, the FHWA will seek public comment on a proposed rule to implement section 1115(d) of the Transportation Equity Act for the 21st Centiury (TEA-21), developed by FHWA's Federal Lands Highway program office in consultation with the FS. The NPRM is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved program.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47744
ANPRM Comment Period End	11/01/99	
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6799

RIN: 2125–AE55

2261. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; TRAFFIC CONTROL DEVICES ON FEDERAL-AID AND OTHER STREETS AND HIGHWAYS; STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, and is recognized as the national standard for traffic control devices on all public roads. Due to the reorganization of the FHWA and the deletion of 23 CFR 1204.4 by the National Highway Traffic Safety Administration (NHTSA), 23 CFR part 655.603 is outdated. The proposed amendments included herein will bring 23 CFR part 655 up to date.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ernest D.L. Huckaby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE78

2262. +DESIGN-BUILD CONTRACTING

Priority: Other Significant

Legal Authority: sec. 1307(c);PL 105-178; 23 USC 112

CFR Citation: 23 CFR 635

Legal Deadline: Final, Statutory, June 9, 2001.

Abstract: The FHWA proposes to revise its regulations to implement design-build contracting as mandated by Section 1307(c) of the Transportation Equity Act for the 21st Century (TEA-21), enacted on June 9, 1998. TEA-21 requires the Secretary of Transportation to issue regulations to allow design-build contracting for selected projects. The regulations would list the criteria and procedures that will be used by FHWA in approving the use of design-build contracting by State Transportation Agencies (STAs). The regulation would not require the use of design-build contracting but rather would allow it as an optional technique in addition to traditional contracting methods.

The FHWA is soliciting comments on its proposed regulation which would establish prescribed policies and procedures for utilizing the design-build contracting technique for Federal-aid highway projects. This action is significant because of the substantial State and industry interest in the design-build contracting technique.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Gerald Yakowenko, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-1562

Carol Jacoby, Office of Program Administration, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-1561

RIN: 2125–AE79

2263. • +RAILROAD-HIGHWAY CROSSING PROJECTS

Priority: Other Significant

Legal Authority: PL 91-458

CFR Citation: 23 CFR 646

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulations on railroad-highway crossing projects to clarify that installation projects for passive crossing control devices, done solely to meet the minimum crossing signing requirements of Federal law or regulation, do not preempt or displace State laws concerning the adequacy of such devices. This proposal is in response to a recent decision by the Supreme Court that held that FHWA's current regulations have broad preemptive effect.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Rudolph M. Umbs, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2177

RIN: 2125–AE81

2264. • RIGHT-OF-WAY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a)(3)

CFR Citation: 23 CFR 710

Legal Deadline: None

Abstract: The FHWA is proposing to amend section 710.203 of its right-of-way regulations for federally assisted transportation projects to provide a clarification. The proposed amendment would make it clear that federal financial assistance, provided by the FHWA pursuant to title 23, United States Code, may be used in relocation assistance benefits, provided by State and local agencies pursuant to State law, that are in addition to the relocation benefits prescribed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Satorius, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 555 Zang Street, Lakewood, CO 80228
Phone: 303 969-5772

RIN: 2125–AE82

2265. • NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; ACCESSIBLE PEDESTRIAN SIGNALS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 109(d); 23 USC 114(a); 23 USC 217; 23 USC 315; 23 USC 402(a); ...

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA, in response to comment, proposes to amend the 2000 Millennium Edition of the Manual on Uniform Traffic Control Devices (MUTCD) that became effective on January 17, 2001. Section 4E.06 of the MUTCD relates to accessible pedestrian signals. Upon publication of the Millennium Edition, the FHWA was advised that the support and guidance statements relative to evaluation of signalized intersections to accommodate persons with visual disabilities did not adequately address the needs of such persons. Accordingly, the FHWA is soliciting public comment on revisions to these support and guidance statements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ernest D. L. Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE83

2266. • PLANNING AND RESEARCH PROGRAM ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 104(f); 23 USC 103(c); 23 USC 115; 23 USC 120; 23 USC 133(b); 23 USC 134(b); 23 USC 303(g); 23 USC 315; 23 USC 505

CFR Citation: 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA is updating its regulations for administration for planning and research funds provided to State DOTs under the provisions of title 23, United States Code. The revisions are necessary to reflect current legislative and OMB grant administration circulars.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tony Solury, Program Coordinator, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5003

RIN: 2125–AE84

2267. • LANDSCAPE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: EO 13148; EO 13112

CFR Citation: 23 CFR 752

Legal Deadline: None

Abstract: This action, which would change the current regulation at 23 CFR 752.4, Landscape Development, is necessary to clarify and reflect FHWA policy change for the improvement of landscaping best management practices. Specifically, two recent Executive Orders, E.O. 13148 and E.O. 13112, call for the improvement of Federal landscape development programs and practice. E.O. 13148 encourages the use of native plants as much as practicable. E.O. 13112 warns against the planting of known exotic and invasive plants.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Bonnie Harper-Lore, Landscape Architect, Department of Transportation, Federal Highway Administration, Galtier Plaza, Box 75, 175 E. Fifth Street, Suite 500, St. Paul, MN 55101-2904
Phone: 651 291-6104

RIN: 2125–AE85

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

2268. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; 49 USC 31111; 49 USC 31112; 49 USC 31113; 49 USC 31114

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA is issuing a final rule, under 49 USC 31111 through 31113, stating which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions.

The Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97-424, 96 Stat. 2097, gave the Secretary of Transportation the authority to determine what safety and energy conservation devices are necessary for safe and efficient operation of commercial motor vehicles (CMVs), and what could be excluded when measuring vehicle length (section 411(h))(49 U.S.C. 31111(d)), and what could be excluded when measuring width (section 416(b))(49 U.S.C. 31113(b)).

Section 411(h) also provided that no device excluded from length measurement by the Secretary could have, by design or use, the capability to carry cargo.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period End	03/26/90	
ANPRM Comment Period Extended	06/01/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673
NPRM	08/18/00	65 FR 50471
NPRM Comment Period End	11/16/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Tom Klimek, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AC30

2269. FEDERAL-AID HIGHWAY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 103(b); 23 USC 103(c); 23 USC 315

CFR Citation: 23 CFR 470

Legal Deadline: None

Abstract: This regulatory action amends 23 CFR 470 in accordance with legislation enacted in 1991, 1995, and 1998. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) rescinded the Federal-aid Primary and Secondary and Urban Systems; established an interim National Highway System (NHS); and defined Federal-aid highways. The NHS Designation Act of 1995 (NHS Act) authorized the initial National Highway System and also authorized the Secretary to approve modifications. The Transportation Equity Act for the 21st Century (TEA-21) authorized the initial NHS connectors to major intermodal terminals and recodified 23 U.S.C. 103 (Federal-aid systems). The action also consolidates in appendices all nonregulatory guidance material issued previously by the FHWA on Federal-aid highway systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/19/97	62 FR 33351
Interim Final Rule Effective	07/21/97	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The FHWA issued an interim final rule with an opportunity for public comment. This rule amends regulations that the States comply with as part of the Federal-aid highway program. The FHWA has worked closely with the States, and the States have operated under the basic policies covered by this regulation for many years. A number of technical revisions are required as a result of the TEA-21 recodification of 23 U.S.C. 103, including incorporation of the provisions of former 23 U.S.C. 139 (Additions to Interstate System).

Agency Contact: Jill Hochman, Director, Office of Intermodal and Statewide Programs, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0233

RIN: 2125–AD74

2270. RAILROAD HIGHWAY PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; 23 USC 109(e); 23 USC 120(c); 23 USC 130

CFR Citation: 23 CFR 140; 23 CFR 646

Legal Deadline: None

Abstract: The FHWA amends its regulations on railroad highway projects. The amendments now require railroads to submit final billings within one year following completion of work, delete the requirements of a State's certification that work was completed, increase the ceiling for lump sum agreements from $25,000 to $100,000 and incorporate changes brought about by ISTEA. The FHWA believes these changes will conform railroad/highway regulations to more recent laws or regulations, and provide State highway agencies clarification and more flexibility in implementing them.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/97	62 FR 45326
Comment Period End	10/27/97	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Robert Winans, Office of Highway Safety Information, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4656

RIN: 2125–AD86

2271. ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICES CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 112(b); 23 USC 114(a); 23 USC 302; 23 USC 315; 23 USC 402; 41 USC 253; 41 USC 259

DOT—FHWA

Final Rule Stage

CFR Citation: 23 CFR 172; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: This action would amend procurement procedures on administration of engineering and design related services contracts to reflect the changes made by section 307 of Public Law 204-59, National Highway System Designation Act and section 1205 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, June 9, 1998.

Timetable:

Action	Date	FR Cite
NPRM	07/18/00	65 FR 44486
NPRM Comment Period End	09/18/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary E. Moss, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4654

RIN: 2125–AE45

2272. INDIAN RESERVATION ROAD BRIDGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 120 (j) and (k); 23 USC 202; 23 USC 315; PL 105-178, sec 1115; 49 CFR 1.48

CFR Citation: 23 CFR 661

Legal Deadline: None

Abstract: Section 1115 of the Transportation Equity Act for the 21st Century establishes a nationwide priority program for improving deficient Indian reservation road (IRR) bridges and reserves $13 million of IRR funds per year to replace and rehabilitate bridges that are in poor condition. The FHWA, Federal Lands Highway (FLH), and the Bureau of Indian Affairs, Division of Transportation (BIADOT), intend to implement the IRR bridge program (IRRBP) to promptly address the deficient IRR bridges. Toward that end, the FLH and the BIADOT, in consultation with Indian tribal governments, have developed project selection/fund allocation procedures for uniform application of the legislation. The FHWA is announcing the project selection/fund allocation procedures for the IRRBP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/99	64 FR 38565
Interim Final Rule Effective	07/19/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Public comment was solicited in a February 12, 1999, Federal Register notice (64 FR 7229).These comments will be addressed in the final rule.

Agency Contact: Paul Los, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-9480

RIN: 2125–AE57

2273. +REVISION OF COLOR SPECIFICATIONS FOR SIGNS AND PAVEMENT MARKING RETROREFLECTIVE MATERIALS

Priority: Other Significant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA proposes to revise its color specifications for retroreflective sign materials. This revision would include daytime and nighttime specification for both assigned and unassigned colors found in the Manual on Uniform Traffic Control Devices (MUTCD). Color specifications for fluorescent colors and pavement marking material also would be included.

Timetable:

Action	Date	FR Cite
NPRM	12/21/99	64 FR 71354
NPRM Comment Period End	06/23/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE67

2274. ENGINEERING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; PL 105-178; sec. 1212(a); 23 USC 302

CFR Citation: 23 CFR 1; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: In this action, the FHWA proposes to amend its regulation for engineering services by removing a sentence that defined expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in the regulation, as ineligible for Federal participation.

This proposed amendment to the regulation stems from a provision in the Transportation Equity Act for the 21st Century (TEA-21) that changed statutory requirements to allow for eligibility of administrative costs for State transportation departments.

Timetable:

Action	Date	FR Cite
NPRM	07/26/00	65 FR 45941
NPRM Comment Period End	09/25/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Max Inman, Office of Budget and Finance, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AE73

2275. FEDERAL-AID PROJECT AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 106(a); 23 USC 102(b); sec. 1304, PL 105-178; sec.

DOT—FHWA

Final Rule Stage

1305, PL 105-178; 23 USC 106; 23 USC 109; 23 USC 115; 23 USC 315; 23 USC 320; 23 USC 402(a)

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: In this action, the FHWA proposes to combine its regulation on Federal-aid project authorization and its regulation on project agreements. Section 1305 of the Transportation Equity Act for the 21st Century (TEA-21) amended 23 U.S.C. 106(a) and combined authorization of work and execution of the project agreement for a Federal-aid project into a single action. Changes to the agreement provisions are proposed to reflect these adjustments.

Additionally, section 1304 of the TEA-21 amended 23 U.S.C 102(b) to include a provision to allow the granting of time extensions for engineering cost reimbursement. Changes to the procedures would be added to provide this new flexibility.

Timetable:

Action	Date	FR Cite
NPRM	08/31/00	65 FR 52962
NPRM Comment Period End	10/02/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Wasley, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4658

RIN: 2125–AE77

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Long-Term Actions

2276. +STATEWIDE AND METROPOLITAN PLANNING

Priority: Other Significant

Legal Authority: 23 USC 104(f); 23 USC 134; 23 USC 135; 23 USC 217; 23 USC 315; 42 USC 7410 et seq; 49 USC 5305 to 5309

CFR Citation: 23 CFR 450; 49 CFR 613; 49 CFR 1.48(b); 49 CFR 1.51

Legal Deadline: None

Abstract: In this action, the FHWA and the FTA are jointly proposing to revise the regulations governing the development of transportation plans and programs for urbanized (metropolitan) areas and States. These revisions are the product of statutory changes made by the Transportation Equity Act for the 21st Century (TEA-21), which requires a continuous, comprehensive and coordinated process in metropolitan areas and States. The regulation at 23 CFR part 450 would be modified to reflect the impacts of the TEA-21.

Statement of Need: The Transportation Equity Act for the 21st Century (TEA-21) amended 23 U.S.C. 134 and 135, which require a continuing, comprehensive and coordinated transportation planning process in metropolitan areas and States. Revisions have been proposed for existing regulatory language to make it consistent with current statutory requirements.

Summary of Legal Basis: Sections 1203, 1204, and 1308 of the TEA-21(Public Law 105-178), amended 23 U.S.C. 134 and 135. Similar changes were made by sections 3004, 3005, and 3006 of the TEA-21 to 49 U.S.C. 5303-5306 which address the metropolitan planning process in the context of the FTA's responsibilities.

The agencies (FHWA and FTA) have received numerous comments to the docket in response to the NPRM. The comments are currently being analyzed by both agencies to determine what action should follow.

Alternatives: Recent court decisions and statutory changes direct at least some modification of existing regulations (e.g., reduction in planning factors from 16 to 7). If regulatory changes are restricted to only those required to reconcile existing law and regulations, the remaining changes could be accomplished through guidance.

Anticipated Cost and Benefits: The agencies sought comments regarding the potential economic impacts of these proposed rules on small entities and governments. Of specific concern are the additional costs of the incremental changes in regulatory requirements. The agencies believe that these costs have been off-set largely by reduced statutory requirements and the flexibility built into the regulations. The agencies have requested comments on these issues.

Risks: A failure to issue a regulation could generate increased implementation challenges in working with affected agencies, i.e., difficulty in achieving compliance with expected regulatory outcomes.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33958
Extended Comment Period	07/07/00	65 FR 41891
NPRM Comment Period End	09/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Sheldon M. Edner, Team Leader, Department of Transportation, Federal Highway Administration, Room 3232, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-4066
Email: sheldon.edner@fhwa.dot.gov

RIN: 2125–AE62

2277. STANDARDS FOR DEDICATED SHORT RANGE COMMUNICATIONS (DSRC) APPLICATIONS FOR USE BY COMMERCIAL VEHICLES IN INTELLIGENT TRANSPORTATION SYSTEMS PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 307; 23 USC 315; 23 USC 502 note; PL 102-240, sec. 6055(b); PL 105-178, sec. 5206(e)

CFR Citation: 23 CFR 1001; 49 CFR 1.48

DOT—FHWA

Long-Term Actions

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulations to require the use of Dedicated Short Range Communications (DSRC) Standards for ITS commercial vehicle projects using Federal funds. DSRC Systems use microwave communications over very short distances to allow moving vehicles to communicate with fixed roadside locations. In commercial motor vehicle applications, DSRC devices can transfer information regarding vehicle safety, performance, regulatory compliance and credentials from the vehicle to inspection stations.

The use of DSRC standards would promote interoperability among, and enable integration of ITS systems for North American commercial vehicle applications, such as electronic clearance, automated weight stations and border crossings. Interoperability would also encourage institutional integration and cooperation.

Timetable:

Action	Date	FR Cite
NPRM	12/30/99	64 FR 73674
NPRM Comment Period End	02/28/00	
Supplemental NPRM	12/12/00	65 FR 77534
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The docket will remain open until the FHWA publishes another rulemaking document when testing is complete. See the SNPRM published on December 12, 2000 at 65 FR 77534.

Agency Contact: William S. Jones, ITS Joint Program Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2128

RIN: 2125–AE63

2278. +NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING; PROTECTION OF PUBLIC PARKS, WILDLIFE AND WATERFOWL REFUGES AND HISTORIC SITES

Priority: Other Significant

Legal Authority: 42 USC 4321 et seq.; 49 USC 303; 23 USC 109; 23 USC 128; 23 USC 134; 23 USC 138; 23 USC 315; ...

CFR Citation: 23 CFR 530; 23 CFR 540

Legal Deadline: None

Abstract: The Federal Highway Administration and the Federal Transit Administration issued an NPRM proposing to update and revise the National Environmental Policy Act implementing regulation for FHWA and FTA funded or approved projects. The current regulations were issued in 1987 (23 CFR part 771, August 28, 1987) and experience since that time, as well as changes in legislation, most recently by the Transportation Equity Act for the 21st Century (TEA-21), call for an updated approach to implementation of NEPA for FHWA and FTA projects and actions.

The FTA and the FHWA received numerous comments to the docket in response to this NPRM. The agencies are currently reviewing these comments to determine what action should follow.

Statement of Need: The current NEPA regulation was issued in 1987 and experience since that time, as well as changes in legislation, most recently by the Transportation Equity Act for the 21st Century (TEA-21), call for an updated approach to implementation of NEPA for FHWA and FTA projects and actions.

Summary of Legal Basis: By including the environmental streamlining provision in section 1309 of the TEA-21, (Public Law 105-178, 112 Stat. 108 at 232), the Congress intended that transportation planning and environmental considerations be better coordinated and that project delivery schedules be improved through a process that is efficient, comprehensive, and streamlined.

Alternatives: The existing regulation has not been revised since 1987 and has been overtaken by at least two transportation reauthorization bills. It needs to be comprehensively updated to ensure consistency with current statutes and legal precedent. A minimal nonregulatory approach might achieve some desired outcomes, but would be insufficient. Environmental streamlining outcomes will be achieved largely through interagency coordination among Federal resource and permit agencies, but would be more effective if supported by this revision.

Anticipated Cost and Benefits: It is anticipated that the economic impact of this rulemaking will be minimal. Most costs associated with these rules are attributable to the provisions of the TEA-21, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), the Clean Air Act (as amended) and other statutes, including earlier highway acts. The agencies consider this proposal to be a means to simplify, clarify, and reorganize existing regulatory requirements.

Risks: Statutory directives require at least some regulatory changes. Environmental streamlining may be achieved through interagency collaboration, but would be substantially enhanced by the issuance of a final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33960
Comment Period Extended	07/07/00	65 FR 41892
Comment Period End	09/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This action will incorporate the issues contained in RIN 2125-AD32.

Agency Contact: Fred Skaer, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2058

RIN: 2125–AE64

2279. • PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 23 USC 109(h); 23 USC 109(i); 42 USC 4331; 42 USC 4332

CFR Citation: 23 CFR 772; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA is requesting comments on whether its regulations on noise insulation of private residences should be revised to allow Federal participation when a traffic noise impact occurs, i.e., when predicted traffic noise levels substantially exceed the existing noise levels. Currently, Federal participation in the noise insulation of private residences is allowable only in situations where: Severe traffic noise impacts exist or are expected, and normal noise abatement measures are physically infeasible or economically unreasonable. In these instances, the FHWA may approve a State's request for unusual or extraordinary abatement measures on a case-by-case basis.

When considering extraordinary abatement measures, the State must demonstrate that the affected activities experience traffic noise impacts to a far greater degree than other similar activities adjacent to highway facilities.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/00	65 FR 82301
ANPRM Comment Period End	02/26/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Armstrong, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2073

RIN: 2125–AE80

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2280. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Timetable:

Action	Date	FR Cite
Transferred to RIN 2126-AA67	02/12/01	

RIN: 2125–AC74

2281. MITIGATION OF IMPACTS TO WETLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 23 USC 109(h); 23 USC 138; 23 USC 315(i); 23 USC 133(b); EO 11990

CFR Citation: 23 CFR 777; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: This action revises the rule concerning the eligibility for Federal-aid transportation funding of activities to mitigate impacts to wetlands and natural habitats due to highway projects funded pursuant to provisions of title 23, U.S. Code. It updates the FHWA's wetlands regulation to conform with wetland and natural habitat mitigation provisions contained in the Intermodal Surface Transportation Equity Act for the 21st Century (TEA-21), which allow increased flexibility for Federal funding participation under title 23, U.S.Code, in mitigation measures for impacts of federally funded highway projects to wetlands and natural habitats.

Timetable:

Action	Date	FR Cite
NPRM	06/17/96	61 FR 30553
NPRM Comment Period End	08/16/96	
SNPRM	06/18/97	62 FR 33047
SNPRM Comment Period End	08/18/97	
Second SNPRM	04/07/99	64 FR 16870
Second SNPRM Comment Period End	06/07/99	
Final Action	12/29/00	65 FR 82913
Effective Date Delayed to 03/30/2001	01/29/01	66 FR 8089

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Additional authority DOT Order 5660.1A

Agency Contact: Paul Garrett, Water and Ecosystems Team, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 303 969-5772
Email: paul.garrett@fhwa.dot.gov

RIN: 2125–AD78

2282. TRAFFIC CONTROL DEVICES, MARKINGS, SIGNALS, AND SYSTEMS FOR RAILROAD-HIGHWAY GRADE CROSSINGS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This document adds new text for the Manual on Uniform Traffic Control Devices (MUTCD) in part III, markings; in part IV, signals; and in part VIII, traffic-control systems for railroad-highway grade crossings. The purpose of these amendments is to include metric dimensions and values for the design and installation of traffic control devices and to improve the organization and discussion of the contents of the MUTCD.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	01/06/97	62 FR 691
Comment Period End	08/30/97	
Comment Period Extended	10/21/97	62 FR 54598
Final Action	12/18/00	65 FR 78923
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda L. Brown, Office of Highway Safety, Department of Transportation, Federal Highway

Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE11

2283. +APPLICATION OF THE NATIONAL TRANSPORTATION COMMUNICATIONS FOR ITS PROTOCOL (NTCIP) STANDARDS IN ITS PROJECTS

Priority: Other Significant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402; PL 102-240

CFR Citation: 23 CFR 625; 23 CFR 655; 49 CFR 1.48

Legal Deadline: None

Abstract: This action would have proposed to amend FHWA regulations to require application of Intelligent Transportation System (ITS) Standards for ITS projects using Federal-aid highway funds. In the ISTEA of 1991, Congress directed the Department to develop and implement standards and protocols to promote widespread use of ITS.

The FHWA is postponing further action on ITS Standards until such time as the standards are demonstrated to be viable and mature enough that the public sector risk in use of the standard is minimized.

This action is significant because it represents new and changed policy under DOT Order 2100.5.

Timetable:

Action	Date	FR Cite
Withdrawn	01/22/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William S. Jones, ITS Joint Program Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2128

RIN: 2125–AE21

2284. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; DEFINITION OF COMMERCIAL MOTOR VEHICLE

Priority: Other Significant

Legal Authority: 49 USC 31132; 49 USC 31136; 49 USC 31502; PL 104-88, sec 104(f)

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395; 49 CFR 396; 49 CFR 1.48

Legal Deadline: Final, Statutory, June 9, 1999.

Abstract: Section 4008 of the TEA-21 requires the FMCSA (formerly FHWA) to either make the FMCSRs applicable to operators of commercial motor vehicles designed or used to transport more than 8 passengers for compensation, or exempt such entities through a rulemaking proceeding within one year after the enactment of the statute. The FMCSA amended the FMCSRs to adopt the statutory definition of a commercial motor vehicle (CMV) found at 49 U.S.C. 31132.

The FMCSA also amended the FMCSRs to require that motor carriers operating CMVs designed or used to transport between 9 and 15 passengers (including the driver) for compensation file a motor carrier identification report, mark their CMVs with a USDOT identification number, and maintain an accident register.

The agency is imposing these requirements to monitor the operational safety of motor carriers operating small passenger-carrying vehicles for compensation.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/98	63 FR 41766
ANPRM Comment Period End	10/05/98	
Interim Final Rule	09/03/99	64 FR 48510
Final Action	01/11/01	66 FR 2756

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This action has been transferred to FMCSA RIN 2126-AA51. This action was transferred to the Federal Motor Carrier Safety Administration prior to the publication of the final rule.

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research & Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AE22

2285. REVISION OF MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; GENERAL PROVISIONS AND TRAFFIC CONTROL FOR SCHOOL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, revised text for the MUTCD, part 1, General Provisions and part 7, Traffic Control for School Areas, is adopted. The purpose of such revision is to reformat the text for clarity of intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The proposed changes in this action are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device applications.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	12/05/97	62 FR 64324
Comment Period End	09/08/98	
Final Action	12/18/00	65 FR 78923
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE25

2286. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; PART II—SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114 (a); 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 655; 23 CFR 1.32; 23 CFR 1.48

Legal Deadline: None

Abstract: Revision of the MUTCD is being done in phases due to the

voluminous amount of text. This amendment represents the third phase of the rewrite effort and embraces proposed changes for part II — signs. This action is intended to rewrite and reformat the text for clarity of intended meanings; to include metric dimensions and values for the design and installation of traffic control devices; to improve the overall organization and discussion; and to make changes that will enhance the mobility of all road users, promote uniformity, improve traffic safety by reducing the potential for run-off-road incidents, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 31950
Comment Period End	03/11/99	
Final Action	12/18/00	65 FR 78923
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Linda Brown, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE38

2287. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; TOURIST ORIENTED DIRECTIONAL SIGNS, RECREATION AND CULTURAL INTEREST SIGNS, AND TRAFFIC CONTROLS FOR BICYCLE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administrator, and recognized as the national standard for traffic control on all public roads.

This document revises text for the MUTCD in Chapter 2G-Tourist Oriented Directional Signs (TODS), Chapter 2H-Recreation and Cultural Interest Area Signs, and Part 9, Traffic Controls for Bicycle Facilities. The purpose of this rewrite effort is to reformat the text to clarify intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The revisions to the MUTCD are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	06/24/99	64 FR 33802
Comment Period End	03/24/00	
Final Action	12/18/00	65 FR 78923
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Linda Brown, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE50

2288. PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(h); 23 USC 109(i); 49 USC 4331; 49 USC 4332; PL 104-59

CFR Citation: 23 CFR 772

Legal Deadline: None

Abstract: This action was intended to allow the use of the FHWA Traffic Noise Model, which was released on March 30, 1998. It would update the specific references to acceptable traffic noise prediction methodology and vehicle noise emission levels. It would also remove references to specific noise prediction and measurement reports and vehicle noise emission levels that have been or will be superseded.

Work on this rulemaking has been suspended due to the extension of the phase-in period for the FHWA traffic noise model to December 31, 2002.

Timetable:

Action	Date	FR Cite
Withdrawn	01/22/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Armstrong, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2073

RIN: 2125–AE51

2289. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; WARNING SIGNS AND TRAFFIC CONTROLS FOR HIGHWAY-LIGHT RAIL GRADE CROSSINGS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administrator, and recognized as the national standard for traffic control on all public roads. The FHWA announced its intent to rewrite and reformat the MUTCD on January 10, 1992, at 57 FR 1134. This action revises text for the MUTCD in Chapter 2C - Warning Signs and Part 10 - Traffic Controls for Highway-Light Rail Grade Crossings. The purpose of this rewrite effort is to reformat the text for clarity of intended meanings, to include metric dimensions in values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The changes to the MUTCD are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	06/24/99	64 FR 33806
Comment Period End	03/24/00	
Final Action	12/18/00	65 FR 78923
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE58

2290. INTELLIGENT TRANSPORTATION SYSTEMS ARCHITECTURE AND STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 109; 23 USC 315; 23 USC 502 note; 23 USC 508; PL 105-178; sec. 5206(e)

CFR Citation: 23 CFR 655; 23 CFR 940; 49 CFR 350

Legal Deadline: None

Abstract: In this action, the FHWA is implementing section 5206(e) of the Transportation Equity Act for the 21st Century (TEA-21), to develop an Intelligent Transportation Systems (ITS) regional architecture based on the National ITS Architecture. The regional architecture would be consistent with an area's ITS integration strategy and all subsequent ITS projects would be consistent with the regional architecture. All ITS projects would be developed using the system engineering process and would use U.S. DOT adopted standards and interoperability tests.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33994
NPRM Comment Period End	08/23/00	
Final Action	01/08/01	66 FR 1446
Delay of Effective Date to 04/08/01	02/07/01	66 FR 9198

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Originally the effective date on this final rule was 02/07/2001. The effective date was delayed for 60 days due to a memorandum dated January 20, 2001 from the President's Chief of Staff.

Agency Contact: Robert Rupert, Office of Travel Management, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-2194

RIN: 2125–AE65

2291. REVISION OF THE MUTCD; REGULATORY SIGNS, TRAFFIC CONTROL FOR LOW VOLUME RURAL ROADS; TRAFFIC CONTROL FOR HIGHWAY-RAIL GRADE CROSSINGS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This document revises text for MUTCD in Chapter 2B—Regulatory Signs, Part 5—Traffic Control Device for Low Volume Rural Roads,and Part 8—Traffic Control for Highway-Rail Grade Crossings (update information). The purpose of this rewrite effort is to reformat the text for clarity of intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The changes included herein are intended to expedite traffic, promote uniformity,improve safety,and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	12/21/99	64 FR 71358
Comment Period End	06/30/00	
Final Action	12/18/00	65 FR 78923
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE66

2292. UTILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 109; 23 USC 116; 23 USC 123; 23 USC 315; ...

CFR Citation: 23 CFR 1.23; 23 CFR 1.27; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA issued a final rule amending its regulation prescribing policies, procedures and reimbursement provisions for the relocation and adjustment of existing utility facilities, and for the accommodation of new utility facilities and private lines on the right-of-way of Federal-aid and direct Federal highway projects. These amendments will bring the FHWA's utilities regulation into conformance with PL 105-178, the Transportation Equity Act for the 21st Century (TEA-21) and will provide State transportation departments (STDs) clarification and more flexibility in implementing it.

Timetable:

Action	Date	FR Cite
NPRM	02/09/00	65 FR 6344
NPRM Comment Period End	04/10/00	
Final Action	11/22/00	65 FR 70307
Final Action Effective	01/22/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: C. Paul Scott, Office of Program Administration, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4104

RIN: 2125–AE68

2293. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; GENERAL PROVISIONS, MARKINGS, AND SIGNALS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 1.32; 49 CFR 1.48; 23 CFR 655

Legal Deadline: None

Abstract: This action revised text for the MUTCD in Part 1—General Provisions, Part 3—Markings, and Part

DOT—FHWA — **Completed Actions**

4—Signals. The changes included herein are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	12/30/99	64 FR 73162
Final Action	12/18/00	65 FR 78923
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE71

2294. REVISION OF THE MUTCD—PROPOSED AMENDMENTS FOR TEMPORARY TRAFFIC CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This action revises text for the Manual on Uniform Traffic Control Devices in Part 6—Temporary Traffic Control. The changes included herein are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	12/30/99	64 FR 73605
Final Action	12/18/00	65 FR 78923
Final Action Effective	01/17/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlie L. Sears, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1555

RIN: 2125–AE72

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Motor Carrier Safety Administration (FMCSA) — **Prerule Stage**

2295. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; INTERSTATE SCHOOL BUS SAFETY

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-178, sec 4024

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395

Legal Deadline: Other, Statutory, December 9, 1999, PL 105-178, sec 4024 requires initiation of rulemaking by 12/9/99.

Abstract: The FMCSA is considering making the FMCSRs applicable to all interstate school transportation operations by local educational agencies. This action is in response to sec. 4024 of the Transportation Equity Act for the 21st Century (TEA-21) which mandates the FMCSA to make a determination whether to make the FMCSRs applicable to such operations. The FMCSA requests comments, data, and information to assist the agency in making this determination.

This action is considered significant because of the anticipated substantial interest by the public sector and private sector if the FMCSA expands the applicability of the FMCSRs to government operated school buses in interstate commerce.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Philip Hanley, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6811

RIN: 2126–AA53

2296. • POSTING OF EMPLOYEE PROTECTIONS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Federal Motor Carrier Safety Administration is considering requiring employers to display a poster to notify commercial motor vehicle (CMV) operators and other employees of their whistleblower rights under 49 U.S.C. 31105. The poster would also provide information on filing a complaint with the Occupational Safety and Health Administration for investigation.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Nunn, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2797

RIN: 2126–AA68

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Motor Carrier Safety Administration (FMCSA) — **Proposed Rule Stage**

2297. +QUALIFICATION OF DRIVERS; VISION

Priority: Other Significant

Legal Authority: 49 USC 504; 49 USC 31502

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: As part of a review of the medical qualification standards applicable to interstate CMV drivers, the FMCSA requested comments on the need, if any, to amend its driver qualification requirements relating to the vision standard. A temporary waiver program was initiated and was concluded on March 31, 1996, to permit the FHWA to observe and collect data on the driving experience of a group of vision—deficient drivers who meet certain preconditions. Additionally, the FHWA, predecessor agency to the FMCSA, considered further research to develop comprehensive performance-based visual standards for all commercial drivers. Information about the proposed research plan and public hearing on the subject was published in the Federal Register on June 5, 1996, at 61 FR 28547. The FMCSA awarded a contract with a medical center to develop medically-based recommendations for amending the current Federal vision requirements. Recommendations were delivered in October, 1998. These recommendations are being evaluated and considered in deciding what, if any, further proposals should be made concerning the vision standard. Based on the findings of the medical panel, the FMCSA anticipates publishing an NPRM to amend its regulation governing the visual field requirement in the vision standard.

New legislation (Section 4007 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178) enacted effective June 9, 1998, changes the agency's authority to issue waivers and exemptions. The procedures to implement the new authority were published in the Federal Register on December 8, 1998 (63 FR 67600). We are now considering all requests for exemptions from the vision requirements in the Federal Motor Carrier Safety Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	
Notice Request for Comments	06/05/96	61 FR 28547
Interim Final Rule	12/08/98	63 FR 67600
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Under RIN 2125-AD73, the predecessor agency to the FMCSA, adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule) 61 FR 17253 (April 19, 1996) (final rule; technical correction). (See notices published at 57 FR 6793, February 28, 1992; 57 FR 10295, March 25, 1992; 57 FR 22370, June 3, 1992; 59 FR 50887, October 6, 1994; 59 FR 59386, November 17, 1994.

Transferred from RIN 2125-AC62.

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street, NW, Washington, DC 20590
Phone: 202 366-2987

RIN: 2126–AA05

2298. +MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 102-240, sec 4007(b)(2)

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 18, 1993.

Abstract: This action proposes minimum training requirements for operators of multiple trailer combination vehicles and the instructors who train these operators. The training would include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. This action is significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AC92.

Agency Contact: Robert Redmond, State Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ESS, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2126–AA08

2299. +TRAINING FOR ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 102-240, sec 4007

CFR Citation: 49 CFR 383

Legal Deadline: NPRM, Statutory, December 18, 1992.
Final, Statutory, December 18, 1993.

Abstract: This action is in response to section 4007 of the Motor Carrier Act of 1991 (title IV of the Intermodal Surface Transportation Efficiency Act of 1991). The Department has initiated a rulemaking on the need to require training of all entry-level drivers of commercial motor vehicles. The agency has submitted a report to Congress (02/05/96) on the effectiveness of private sector efforts to ensure adequate training of all entry-level drivers. This report included a cost-benefit study of requiring training of entry-level drivers. Public comments have been solicited on the report. This rulemaking action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/93	58 FR 33874
ANPRM Comment Period End	08/20/93	
Report to Congress	02/05/96	
Notice of Availability	04/25/96	61 FR 18355
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The report is available through the National Technical Information Service (Order No. PB96-141536). For further information, please call 703 487-4650.

Transferred from RIN 2125-AD05.

Agency Contact: David Lehrman, Attorney, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2126–AA09

2300. +COMMERCIAL DRIVER PHYSICAL FITNESS AS PART OF THE CDL PROCESS

Priority: Other Significant

Legal Authority: PL 106-159, sec. 215; 49 USC 31305; 49 USC 31502

CFR Citation: 49 CFR 391; 49 CFR 383; 49 CFR 1.73; 49 CFR 391.11; 49 CFR 391.45

Legal Deadline: None

Abstract: The FMCSA is proposing to include the certification of fitness to operate a CMV in the commercial driver's license (CDL) process. Incorporating the commercial driver fitness determination into State-administered CDL procedures could allow elimination of the requirement that CMV drivers carry a separate medical certificate. The CDL would be evidence that the CMV driver is physically fit as well as operationally qualified to operate CMVs safely. This action addresses the driver's physical qualifications as they relate to the CDL process; it does not address whether those standards are correct or should be changed. This action is significant due to anticipated substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/94	59 FR 36338
ANPRM Comment Period End	11/14/94	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions, Businesses

Government Levels Affected: Undetermined

Additional Information: Please note the following notice publications with respect to the advisory committee: 04/29/96 at 61 FR 18713; 07/26/96 at 61 FR 38133; 08/26/96 at 61 FR 43725; 10/07/96 at 61 FR 52401; 11/05/96 at 61 FR 56936; 12/17/96 at 61 FR 66250; and 02/13/97 at 62 FR 6753.

Transferred from RIN 2125-AD20.

Agency Contact: Teresa Doggett, Transportation Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2990

RIN: 2126–AA10

2301. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 508; 49 USC 31133; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; PL 103-311

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 390; 49 CFR 391; 49 CFR 1.73

Legal Deadline: NPRM, Statutory, January 1999, See PL 105-178, sec 4014.

Abstract: This action proposes amending FMCSA regulations to specify minimum safety information that new or prospective employers must seek from former employers during the investigation of a driver's employment record. This action also proposes to increase the time period that carriers must record accident information in the accident register, from one to three years. The Hazardous Materials Reauthorization Act of 1994 initially mandated this revision. The agency is now drafting a supplemental notice of proposed rulemaking in response to Small Business Administration (SBA) comments to the docket and section 4014 of the Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178). The SBA requested more in-depth Paperwork Reduction Act and Regulatory Flexibility Act analyses of the proposal. The TEA-21 provided limited employer protection from liability, strengthened employee due process provisions, and established a new statutory deadline of 1/99.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10548
NPRM Comment Period End	05/13/96	
SNPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD66.

Agency Contact: Valerie Height, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0901

RIN: 2126–AA17

2302. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; TELEVISION RECEIVERS AND DATA DISPLAY UNITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.73

Legal Deadline: None

Abstract: The predecessor agency to the FMCSA proposed to amend the provision of the Federal Motor Carrier Safety Regulations (FMCSRs) concerning television viewers or screens in commercial motor vehicles. The agency was concerned that the current restrictions on the locations of such devices may have the unintended effect of discouraging the use of certain Intelligent Transportation System (ITS) technologies such as collision avoidance and traveler information systems which could improve the safety and efficiency of commercial vehicle operations. In response to comments to the April 3, 1993 notice of proposed rulemaking (61 FR 14733) to rescind the regulation concerning television viewers or screens, the FMCSA is considering an SNPRM to propose retaining an explicit prohibition against television viewers or screens but revising the regulation to ensure that it does not impede the development and use of ITS-related technologies.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14733
NPRM Comment Period End	06/03/96	
SNPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD76.

Agency Contact: Gary R. Woodford, Office of Bus and Truck Standards, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-2978

RIN: 2126–AA19

2303. +MOTOR CARRIER REPLACEMENT INFORMATION/REGISTRATION SYSTEM

Priority: Other Significant

Legal Authority: PL 104-88; 49 USC 13908

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, January 1, 1998.

Abstract: This action is in response to the requirements of section 103 of the Interstate Commerce Commission Termination Act of 1995, which added 49 USC 13908. This section requires the Secretary to initiate a rulemaking proceeding to replace the current DOT identification number system, single State registration system, the registration/licensing system, and the financial responsibility system, with a single, on-line Federal system. This action is considered significant due to substantial public interest. Statutory deadline was not met due to range and depth of issues involved.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/96	61 FR 43816
ANPRM Comment Period End	10/25/96	
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: This action is incorporating the issues contained in RIN 2125-AC28.

Transferred from RIN 2125-AD91.

Agency Contact: Angeli Sebastian, Chief, Driver and Carrier Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001
Fax: 202 366-8842

RIN: 2126–AA22

2304. +REVISION OF REGULATIONS AND APPLICATION FORM FOR MEXICAN-DOMICILED MOTOR CARRIERS TO OPERATE IN U.S. MUNICIPALITIES AND COMMERCIAL ZONES ON THE U.S.-MEXICO BORDER

Priority: Other Significant

Legal Authority: 49 USC 13907

CFR Citation: 49 CFR 368; 49 CFR 1.73

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican motor carriers that operate in the U.S. This class of carriers operates in the U.S.-Mexico border commercial zones which existed prior to NAFTA. This action is intended to increase the information available concerning these Mexican property carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE31.

Agency Contact: Pamela M. Pelcovits, Chief, Regulatory Development, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-4024

RIN: 2126–AA33

2305. +APPLICATION BY CERTAIN MEXICAN MOTOR CARRIERS TO OPERATE BEYOND U.S. MUNICIPALITIES AND COMMERCIAL ZONES ON THE U.S.-MEXICO BORDER

Priority: Other Significant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 et seq; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 1.73

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican carriers that operate in the U.S. This class of carriers has operations that go beyond the established border commercial zones. This proposed unified application form would be used by both Mexican property and passenger carriers who provide services pursuant to provisions of NAFTA. This action is intended to increase the information available concerning these Mexican carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE32.

Agency Contact: Pamela M. Pelcovits, Chief, Regulatory Development, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street, SW., Washington, DC 20590

Phone: 202 366-4024

RIN: 2126–AA34

2306. +SAFETY MONITORING SYSTEM AND COMPLIANCE INITIATIVE FOR MEXICAN MOTOR CARRIERS OPERATING IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 49 USC 113; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 31502

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: This action would implement an accelerated safety fitness screen as part of the Motor Carrier Management Information System (MCMIS). A new screening program is being targeted to collect more information on Mexican carriers. The data will be collected and stored using the existing systems and information gathering structures that are used for domestic carriers. The data collected will be used to oversee operations of both classes of Mexican motor carriers, those operating in the U.S.-Mexico border commercial zones and those operating in the U.S. pursuant to the various entry provisions of NAFTA. This action is significant due to anticipated public interest and safety-related issues.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE33.

Agency Contact: Pamela M. Pelcovits, Chief, Regulatory Development, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-4024

RIN: 2126–AA35

2307. OUT-OF-SERVICE CRITERIA

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31310; 49 USC 31502; PL 104-59

CFR Citation: 49 CFR 395; 49 CFR 396; 49 CFR 1.73

Legal Deadline: None

Abstract: This action seeks public comment on the "North American Uniform Out-of-Service Criteria" (OOS Criteria). During roadside inspections, Federal, State, and local safety inspectors use the OOS Criteria as a guide in determining whether to place commercial motor vehicles (CMVs), or their drivers, "out of service." Such a status means that the CMVs or drivers are so unsafe that corrections must be undertaken before operations can resume. The FHWA is seeking public comment on the future scope and effect of the OOS Criteria, which are not part of the Federal Motor Carrier Safety Regulations (FMCSRs). In addition, the FMCSA is seeking information regarding whether it needs to formalize these guidelines pursuant to a notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38791
ANPRM Comment Period End	09/18/98	
Extension of Comment Period	10/09/98	63 FR 54432
Comment Period End	12/08/98	
Next action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE35.

Agency Contact: Gary Golas, Office of Bus and Truck Standards, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2126–AA36

2308. SAFETY FITNESS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31144

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: The FHWA, the predecessor agency to the FMCSA, published a final rule of RIN 2125-AC71 at 62 FR 60035 on November 6, 1997, which incorporated the safety fitness rating methodology (SFRM) into 49 CFR 385 as appendix B. In that document the FHWA identified its ultimate goal as creating a more performance-based means of determining the fitness of carriers to conduct commercial motor vehicle (CMV) operations in interstate commerce. The ANPRM requested comments on the future of a rating system that could be used both in making safety fitness determinations and meeting the demands of shippers, insurers and other present and potential users interested in evaluating motor carrier performance.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38788
ANPRM Comment Period End	09/18/98	
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE37.

Agency Contact: William C. Hill, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6347

RIN: 2126–AA37

2309. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; ZERO-BASE REVISION

Priority: Other Significant

Legal Authority: 49 USC 113; 49 USC 501; 49 USC 504; 49 USC 13101; 49 USC 13301; 49 USC 13902; 49 USC 31101; 49 USC 31132; 49 USC 31136; 49 USC 31301; 49 USC 31502; PL 104-88

CFR Citation: 49 CFR 325; 49 CFR 393; 49 CFR 398; 49 CFR 399; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA is revising the Federal Motor Carrier Safety Regulations (FMCSRs) and related regulations. In 1992, a "Zero-Base Review" was launched to improve the organization, format and clarity of the FMCSRs and collateral regulations. This proposal represents the most recent phase of a "zero-based" review of motor carrier safety regulations to establish more effective, enforceable requirements. This action is the product of that review. It proposes provisions that could affect public safety and potentially raises novel policy issues concerning federalism.

The FMCSA plans to release the new rulebook in an incremental fashion to allow an ordered approach to analyzing comments. We will ensure that the final product is a unified, consistent and compatible rulebook. The completed rulebook would constitute a major rewrite of the FMCSRs, including significant format and organizational changes, as well as a significant decrease in administration, recordkeeping, and paperwork burdens. This action is significant under the regulatory policies and procedures of the DOT because of substantial public interest concerning motor carrier safety issues.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Previous rulemakings from this comprehensive effort have included removing and redesignating redundant or obsolete safety regulations (RIN 2125-AD55 and RIN 2125-AD28) and more substantive and complex revisions of the FMCSRs (RIN 2125-AD72). This action is also incorporating the issues contained in 2125-AD64.

Transferred from RIN 2125-AE42.

Agency Contact: Valerie Height, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0901

RIN: 2126–AA39

2310. COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES; NONCOMMERCIAL MOTOR VEHICLE VIOLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-159, sec 201(b); PL 106-159, sec 202(h)

CFR Citation: 49 CFR 383; 49 CFR 384

Legal Deadline: Final, Statutory, December 9, 2000, PL 106-159, sec 201(b).

Abstract: The FMCSA proposes regulations specifying that a driver who holds a commercial driver's license (CDL) and is convicted of a drug- or alcohol-related offense or another offense that results in the revocation, cancellation, or suspension of the CDL, while operating a noncommercial motor vehicle, be disqualified from operating a commercial motor vehicle. This action is required by sections 201(b) and 202(h) of the Motor Carrier Safety Improvement Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: David R. Miller, Transportation Specialist, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5011

RIN: 2126–AA55

2311. CONFORMING AMENDMENTS TO DOT DRUG AND ALCOHOL RULE

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 322; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 31502

CFR Citation: 49 CFR 40; 49 CFR 382; 49 CFR 1.73

Legal Deadline: None

Abstract: This action is a conforming amendment resulting from changes to the Procedures for Transportation Workplace Drug and Alcohol Testing Programs regulations under 49 CFR part 40. The Department of Transportation (DOT) expects to finalize revisions to its drug and alcohol testing procedures regulation to make the organization and language of the regulation clearer, to incorporate guidance and interpretations of the rule into its text, and to update the rule to include new provisions responding to changes in technology, the testing industry, and the Department's program. Each DOT modal administration must amend its implementing regulations to reflect these changes. The Federal Motor Carrier Safety Administration proposes to amend 49 CFR part 382, the drug and alcohol testing rules for the motor carrier industry, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenny Rodgers, Office of Enforcement and Compliance, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ECE, 400 Seventh Street NW., Washington, DC 20590
Phone: 202 366-4016

RIN: 2126–AA58

2312. +NEW ENTRANT SAFETY ASSURANCE PROCESS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 106-159, sec 210

CFR Citation: 49 CFR 385

Legal Deadline: NPRM, Statutory, PL 106-159, sec 210.

Abstract: This action will establish minimum requirements for new entrant motor carriers to ensure that they are knowledgeable about applicable Federal motor carrier safety standards. After ensuring that they are knowledgeable, the new entrants will operate for 18 months in which time they must pass a safety review in order to receive permanent operating authority. This rule is significant because of public and congressional interest in rules required by MCSIA.

DOT—FMCSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: William C. Hill, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6347

RIN: 2126–AA59

2313. +COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES; COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENTS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: PL 106-159, sec 103(c); PL 106-159, sec 103(e); PL 106-159, sec 201(c); PL 106-159, sec 202; PL 106-159, sec 203; PL 106-159, sec 208; PL 106-159, sec 214

CFR Citation: 49 CFR 350; 49 CFR 383; 49 CFR 384

Legal Deadline: None

Abstract: This action will amend various provisions of the Commercial Driver's License (CDL) program requirements to implement changes mandated by the Motor Carrier Safety Improvement Act of 1999. Specific issues to be addressed include the following:

(1) Emergency grants to States in non-compliance with CDL requirements;

(2) Withholding MCSAP funds from States in non-compliance with CDL requirements;

(3) Disqualification for driving while suspended; Disqualified and causing a fatality;

(4) Emergency disqualification of drivers posing an imminent hazard;

(5) Expanding the definition of serious traffic violations;

(6) Expanded driver record check;

(7) New notification requirements;

(8) Prohibition on hardship license to drivers who lose base license;

(9) Penalties for violating minimum licensing requirements;

(10) Maintaining a record of all violations;

(11) Masking prohibition;

(12) Decertification of State CDL programs for non-compliance;

(13) Definition of imminent hazard;

(14) School bus endorsement.

This rule is significant because of public and congressional interest in rules required by MCSIA.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Robert Redmond, State Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ESS, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2126–AA60

2314. RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-159, sec 205

CFR Citation: 49 CFR 386

Legal Deadline: None

Abstract: The FMCSA proposes to adopt procedural rules in order to conduct administrative proceedings under sections 205, 206 and 219 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). These sections provide for the suspension and revocation of motor carrier registrations issued under 49 U.S.C. 13902, the issuance of cessation of operation orders, and disqualifications from operation orders issued against Mexican motor carriers. On February 16, 2000, the FMCSA issued a final rule amending the Rules of Practice to include violations of commercial regulations. However, this modification to the administrative rules applied only to civil penalty proceedings. The FMCSA believes that specific procedures should be established to provide guidance to the public and provide adequate notice and information to the respondents in other administrative proceedings. The FMCSA proposes to establish a modified procedure which would resolve most proceedings based upon written submissions. Grounds for requesting an oral hearing would be delineated and an appeal process would be established. The FMCSA will also propose the creation of specific "Administrator Orders" designed to implement the new enforcement provisions of the MCSIA. Effective on 04/16/2001, a final rule implements section 206 of MCSIA by amending the penalty provisions of the rules of practice of the FMCSRs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Lehrman, Attorney, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2126–AA63

2315. +CERTIFICATION OF SAFETY AUDITORS

Priority: Other Significant

Legal Authority: PL 106-159, sec 211

CFR Citation: 49 CFR 385

Legal Deadline: NPRM, Statutory, December 9, 2000.

Abstract: This rule would require that any safety inspection, audit, or review be conducted by a certified investigator. It would give the FMCSA authority to decertify an investigator, including a third-party investigator, for failure to meet the prescribe certification standards. It is required by section 211 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). This rule is significant because of public and congressional interest in rules required by MCSIA.

DOT—FMCSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William C. Hill, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 7th Street, SW, Washington, DC 20590
Phone: 202 366-6347

RIN: 2126–AA64

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Motor Carrier Safety Administration (FMCSA)

Final Rule Stage

2316. RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS; INVESTIGATIONS; DISQUALIFICATIONS AND PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 113; 49 USC 307

CFR Citation: 49 CFR 301; 49 CFR 302; 49 CFR 303; 49 CFR 304; 49 CFR 385; 49 CFR 386

Legal Deadline: None

Abstract: The FMCSA proposes to amend its rules of practice for motor carrier safety, hazardous materials, and other enforcement proceedings, motor carrier safety ratings, driver qualification proceedings and its schedule of penalties for violations of the FMCSRs and the Hazardous Materials Regulations. The FMCSA further proposes to add provisions on investigative authority and procedures and general motor carrier responsibilities. These rules would increase the efficiency of the procedures, enhance due process and the awareness of the public and regulated community, and accommodate recent programmatic changes. The rules would apply to all motor carriers, other business entities and individuals involved in motor carrier safety and hazardous materials administrative actions on the effective date of the final rule. The rules would constitute the major part of the administrative/procedural portion of the agency's zero-base revision of the entire FMCSRs. This action is being incorporated into 2126-AA39, "Federal Motor Carrier Safety Regulations; Zero-Base Revision".

Timetable:

Action	Date	FR Cite
NPRM	04/29/96	61 FR 18866
NPRM Comment Period End	07/29/96	
SNPRM	10/21/96	61 FR 54601
SNPRM Comment Period End	11/20/96	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A final rule published on November 6, 1997, (RIN 2125-AC71), incorporated the proposed provision designated as section 362.107 in the April 29 NPRM. This section with minor changes was incorporated as section 385.17. A final rule regarding adjustments to civil penalties due to inflation was published under a separate rulemaking action (RIN 2105-AC63) on 3/13/98.

Transferred from RIN 2125-AD64.

Agency Contact: Valerie Height, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0901

RIN: 2126–AA15

2317. +RAILROAD-HIGHWAY GRADE CROSSING SAFETY

Priority: Other Significant

Legal Authority: PL 102-240; PL 103-311; 49 USC 5101; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 1.73

Legal Deadline: Final, Statutory, February 26, 1995.

Abstract: This action prohibits operators of commercial motor vehicles from driving onto a railroad grade crossing unless there is sufficient space to drive completely through the crossing without stopping. The intent of this action is to reduce the incidence of collisions between trains and CMVs. This action is required by the Hazardous Materials Transportation Authorization Act of 1994 (PL 103-311; sec. 112). This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/30/98	63 FR 40691
NPRM Comment Period End	11/27/98	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD75.

Agency Contact: David Lehrman, Attorney, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2126–AA18

2318. DEVELOPMENT OF A NORTH AMERICAN STANDARD FOR PROTECTION AGAINST SHIFTING AND FALLING CARGO

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA is proposing amendments to its regulations concerning cargo securement requirements for commercial motor vehicles engaged in interstate commerce. The FMCSA intends to consider adopting new cargo securement guidelines that will be based upon the results of a multi-year comprehensive research program to evaluate current regulations and

industry practices. The FMCSA has requested comments on the process to be used in developing these preliminary cargo securement guidelines. The FMCSA completed work on this research program with the Canadian Council of Motor Transport Administrators (CCMTA), State and Provincial agencies responsible for motor carrier safety activities, the Commercial Vehicle Safety Alliance (CVSA), and U.S. and Canadian industry groups.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/96	61 FR 54142
ANPRM Comment Period End	12/16/96	
Notice of Meeting	04/21/97	62 FR 19252
NPRM	12/18/00	65 FR 79050
NPRM Comment Period End	03/19/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE05.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA27

2319. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MEXICAN MOTOR CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31138; 49 USC 31139

CFR Citation: 49 CFR 387; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA is considering proposing to amend part 387, Minimum Levels of Financial Responsibility for motor carriers transporting passengers to clarify and amend the financial responsibility requirement for Mexican motor carriers who operate commercial motor vehicles in the United States.

Timetable:

Action	Date	FR Cite
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: The FMCSA will issue a final rule to conform to any executive actions affecting Mexican carriers.

Transferred from RIN 2125-AE14.

Agency Contact: Pamela M. Pelcovits, Chief, Regulatory Development, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-4024

RIN: 2126–AA30

2320. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS; RULES AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31315; PL 105-178, sec 4007

CFR Citation: 49 CFR 381

Legal Deadline: Final, Statutory, December 9, 1998.

Abstract: The FMCSA is adopting regulations to implement section 4007 of the Transportation Equity Act for the 21st Century (TEA-21), concerning waivers and exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), and the Administration of pilot programs to evaluate innovative alternatives to the regulations. The regulations establish the procedures persons must follow to request waivers and to apply for exemptions from the FMCSRs, and the procedures the FMCSA will use to process the requests for waivers and applications for exemptions. The regulations also codify statutory requirements concerning the agency's administration of pilot programs. This rulemaking is intended to provide procedures to ensure the timely processing of requests for waivers and applications for exemptions, and public disclosure of the procedures the agency would use in initiating and managing pilot programs. The FHWA, the predecessor agency to the FMCSA has issued an interim final rule, with an opportunity for public comment after publication in order to meet the statutory deadline for issuance of a final rule (180 days after date of enactment of TEA-21).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/98	63 FR 67600
Interim Final Rule Effective	12/08/98	
Interim Final Rule Comment Period End	02/08/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE48.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA41

2321. BRAKE PERFORMANCE REQUIREMENTS FOR CMVS INSPECTED BY PERFORMANCE-BASED BRAKE TESTERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 1041(b); 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA is proposing to amend the Federal Motor Carrier Safety Regulations (FMSCRs) to establish pass/fail criteria for use with performance based brake testers (PBBTs), which measure the braking performance of commercial motor vehicles (CMVs). The specific types of PBBTs addressed in this action are the roller dynamometer, breakaway torque tester, and flat-plate tester. This proposal would allow State and local enforcement officials to issue citations based on PBBT braking force measurements.

Timetable:

Action	Date	FR Cite
NPRM	08/09/00	65 FR 48660
NPRM Comment Period End	10/10/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE69.

Agency Contact: Gary R. Woodford, Office of Bus and Truck Standards, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-2978

RIN: 2126–AA46

2322. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; SAFETY REQUIREMENTS FOR OPERATORS OF SMALL PASSENGER-CARRYING COMMERCIAL MOTOR VEHICLES USED IN INTERSTATE COMMERCE

Priority: Other Significant

Legal Authority: 49 USC 13301; 49 USC 13902; 49 USC 31132; 49 USC 31133; 49 USC 31136; 49 USC 31502; 49 USC 31504; PL 104-88, sec 204

CFR Citation: 49 CFR 1.73; 49 CFR 390

Legal Deadline: Final, Statutory, December 9, 2000, PL 106-159, sec 212.

Abstract: The FMCSA is proposing to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that motor carriers operating commercial motor vehicles (CMVs), designed or used to transport between 9 and 15 passengers (including the driver) in interstate commerce, comply with the FMCSRs when they are directly compensated for such service, and the transportation of any passenger covers a distance greater than 75 air miles (86.3 statute miles or 138.9 kilometers). Motor carriers, drivers, and the vehicles operated by them would be subject to the same safety requirements imposed upon motorcoach operations, with the exception of the commercial driver's license, controlled substances and alcohol testing regulations. The agency is proposing that any requirements implemented be made applicable to these motor carriers 90 days after the effective date of the final rule. This action is is response to section 212 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA).

Timetable:

Action	Date	FR Cite
NPRM	01/11/01	66 FR 2767
NPRM Comment Period End	04/11/01	
Final	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA52

2323. MOTOR CARRIER IDENTIFICATION REPORT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-159, sec 217

CFR Citation: 49 CFR 385

Legal Deadline: Final, Statutory, December 9, 2000, PL 106-159, sec 217.

Abstract: The Federal Motor Carrier Safety Administration is amending the Federal Motor Carrier Safety Regulations (FMCSRs) to revise the requirements for filing the Motor Carrier Identification Report (MCS-150). This action is in response to the Motor Carrier Safety Improvement Act of 1999 (MCSIA). Section 217 of MCSIA requires the FMCSA to require periodic updating, not more frequently than once every 2 years, of the motor carrier identification report filed by each motor carrier conducting operations in interstate or foreign commerce. Motor carriers are presently required to file this report prior to commencing operations. As a result of this action, the FMCSA will also require motor carriers to file an update of the report every 24 months.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/24/00	65 FR 70509
Interim Final Rule Comment Period End	01/23/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah M. Freund, Senior Transportation Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC
Phone: 202 366-4009

RIN: 2126–AA57

2324. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; GENERAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 1041(b); 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 393

Legal Deadline: None

Abstract: The FMCSA is amending part 393 of the Federal Motor Carrier Safety Regulations (FMCSRs), Parts and Accessories Necessary for Safe Operation. The amendments are intended to remove obsolete and redundant regulations; respond to several petitions for rulemaking; provide improved definitions of vehicle types, systems, and components; resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR 571); and codify certain FMCSA regulatory guidance concerning the requirements of part 393. Generally, the amendments do not involve the establishment of new or more stringent requirements but a clarification of existing requirements. This action is consistent with the President's Regulatory Reinvention Initiative and furthers the FMCSA's ongoing Zero-Base Regulatory Review in that it proposes to make many sections more concise, easier to understand and more performance oriented.

Timetable:

Action	Date	FR Cite
NPRM	04/14/97	62 FR 18170
NPRM Comment Period Extended	06/12/97	62 FR 32066

DOT—FMCSA — Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	06/13/97	
Comment Period End	07/28/97	
Public Meeting	02/20/98	63 FR 8606
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AD76.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA61

2325. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; MISCELLANEOUS TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 113

CFR Citation: 49 CFR 301; 49 CFR 325; 49 CFR 356; 49 CFR 360; 49 CFR 365; 49 CFR 366; 49 CFR 367; 49 CFR 368; 49 CFR 370; 49 CFR 371; 49 CFR 372; 49 CFR 374; 49 CFR 375; 49 CFR 376; 49 CFR 377; 49 CFR 379; 49 CFR 381; 49 CFR 382; 49 CFR 383; 49 CFR 384; 49 CFR 387; 49 CFR 388; 49 CFR 389; 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395; 49 CFR 397; 49 CFR 398

Legal Deadline: None

Abstract: This action makes technical amendments throughout 49 CFR chapter III to those rules containing incorrect references to agency and office organizations. Additionally, outdated citations to statutory and regulatory authority are amended. Typographical errors are corrected and extraneous wording is eliminated. These technical amendments are necessary because of the formation of the FMCSA and they will reflect current organizational structure, processes and requirements. The amendments will not make any substantive changes in the wording or organization of the rules affected.

Timetable:

Action	Date	FR Cite
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Nunn, Office of Policy, Plans, and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2797

RIN: 2126–AA62

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Motor Carrier Safety Administration (FMCSA)

Long-Term Actions

2326. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Priority: Other Significant

Legal Authority: PL 100-690, sec 9105

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 31, 1990.

Abstract: The Truck and Bus Regulatory Reform Act of 1988 (1) required the DOT Secretary to issue regulations establishing minimum uniform standards for a biometric identification system for commercial motor vehicle (CMV) operators; and (2) authorized the Secretary to use specific funds to implement a pilot demonstration project using such a system. Alternatives including retinal eye scans and advanced fingerprint technologies were considered. After analyzing public comments to the ANPRM and reviewing demonstration project results, the FHWA, predecessor agency to the FMCSA, determined that current technology had not progressed to the point where an identification system could be established nationwide in a cost-effective manner and still provide the benefits for which a system was intended. The FHWA subsequently published an informational notice summarizing the results of the pilot study and the comments to the ANPRM to demonstrate how the technologies studied fell short of the demands in a commercial licensing environment.

Section 4011(c) of the TEA-21, 49 USC 31308 amended, requires that each commercial driver's license (CDL) issued by the States after January 1, 2001, must include unique identifiers (which may include biometric identifiers); however, as a minimum, unique identifiers in CDLs must contain the name, address, and physical description of the individual issued the CDL; the social security number or other number or information to identify the individual; the class or type of CMV the individual is authorized to operate; the name of the State that issued the license, and the dates the license is valid.

A pilot study to collect over 30,000 sample digital facial images and sets of fingerprints from volunteers — which had been delayed because of software problems — is currently scheduled to get underway in March 2001, with California as the lead State. Estimated date of completion is February 2002. Therefore, no further action will be taken until completion of the pilot study.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	
Information Notice	03/08/91	56 FR 9925
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: Transferred from RIN 2125-AC24.

Agency Contact: Ronald Finn, Transportation Specialist, State Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ESS, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0647

RIN: 2126–AA01

DOT—FMCSA — Long-Term Actions

2327. COMMERCIAL LEARNER PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; PL 99-570; 49 USC 31102

CFR Citation: 49 CFR 384; 49 CFR 383; 49 CFR 386; 49 CFR 395; 49 CFR 1.73

Legal Deadline: None

Abstract: The FHWA, the predecessor agency to the Federal Motor Carrier Safety Administration (FMCSA), reviewed learner permit practices of the states for processing a driver from the initial non-CDL driver to being a fully licensed CDL driver. A number of variations in state learner permit practices were found. The FHWA planned to establish more uniform practices, such as: 1) screening drivers before permitting them to initially drive a CMV without having obtained a full CDL; 2) the length of time a state allows the driver to hold a learner's permit; 3) procedures for drivers to obtain CDL training in a state other than their normal residency; 4) supervision requirements for learner permit drivers; 5) commercial driver license information systems (CDLIS) recordkeeping requirements. However, the next action in this project is now undetermined as the FMCSA evaluates it in connection with several requirements of the Motor Carrier Safety Improvement Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Because other regulatory changes have been made since the NPRM was published in 1990, the FMCSA intends to issue a supplemental NPRM to solicit comments on including additional requirements consistent with changes in the CDL program.

ANALYSIS: Regulatory Evaluation, 08/22/90, 55 FR 34478

Transferred from RIN 2125-AC54.

Agency Contact: Robert Redmond, State Programs Division, Department of Transportation, Federal Motor Carrier Safety Administration, MC-ESS, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2126–AA03

2328. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Priority: Other Significant

Legal Authority: 49 USC 5105; 49 USC 5109

CFR Citation: 49 CFR 390.3; 49 CFR 397; 49 CFR 1.73

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: This rulemaking will implement the statutory requirements of 49 USC 5109 and 49 USC 5105. Section 5109 addresses the establishment of motor carrier safety permit regulations for motor carriers transporting Class A or B explosives, liquefied natural gases, hazardous materials designated as extremely toxic by inhalation, or highway route controlled quantity radioactive materials. Section 5105 requires inspection of vehicles transporting those radioactive materials before each trip. The proposed rule will incorporate those provisions into the safety permit regulations. This action is considered significant because of substantial public and congressional interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/17/93	58 FR 33418
NPRM Comment Period End	08/16/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AC78.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA07

2329. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; SLEEPER BERTHS ON MOTOR COACHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.73

Legal Deadline: None

Abstract: Comments have been sought on the suitability of existing driver sleeper berth regulations for motor coaches and possible amendment to account for design differences between trucks and motor coaches.

Timetable:

Action	Date	FR Cite
ANPRM	01/12/94	59 FR 1706
ANPRM Comment Period End	03/14/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD25.

Agency Contact: Philip Hanley, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6811

RIN: 2126–AA12

2330. +HOURS OF SERVICE OF DRIVERS; DRIVER REST AND SLEEP FOR SAFE OPERATIONS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 31136; 49 USC 31502; PL 84-939; PL 98-554; PL 103-311; PL 104-59; PL 74-255; PL 106-159; PL 104-88; PL 106-159

CFR Citation: 49 CFR 1.73; 49 CFR 395

Legal Deadline: Other, Statutory, March 1, 1996, ANPRM. PL 104-88,sec 408(a).
NPRM, Statutory, November 5, 1997, PL 104-88, sec 408(b).
Final, Statutory, November 5, 1999, PL 104-88, sec 408(b).

Abstract: This action would revise the regulations for commercial motor vehicle driver rest requirements and duty period limitations for safe highway transportation. A broad rulemaking is required by the ICC Termination Act of 1995 (ICCTA). Other congressional actions prior to the ICCTA require modifications to the current rules.

This rulemaking responds to public and congressional interest in regulating commercial motor vehicle driver rest requirements, the NTSB's safety recommendations, petitions for rulemaking, and scientific data. There is substantial public and congressional interest in the regulation of medium- and heavy-duty truck and bus drivers' sleep, off-duty, and working periods of time. The FMCSA has proposed new rules based upon comments and scientific data submitted to the advance notice of proposed rulemaking docket. The proposal includes an initial regulatory flexibility analysis, a cost-benefit analysis, an unfunded mandates analysis, and a paperwork reduction analysis. This action is considered significant because of substantial public and congressional interest.

Statement of Need: The motor carrier industry requires 24-hour activities to meet the operational demands of a healthy U.S. economy. Growth in long-haul, regional, overnight, local, for-hire and private carriage operations is increasing with the unprecedented growth of the U.S. economy. Therefore, night work, shift work, and irregular work schedules continue to be commonplace.

The scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. One of the purposes of this rulemaking is to incorporate as much of the scientific knowledge as possible into the applicable regulations.

Summary of Legal Basis: Section 31136 of title 49, United States Code, authorizes the Secretary of Transportation to prescribe minimum safety standards for commercial motor vehicles under the Motor Carrier Safety Act of 1984 (Pub. L. 98-554, Title II, October 30, 1984). Regulations prescribed under this section must ensure that: (1) commercial motor vehicles are operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicle safely (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators.

Section 31502 of Title 49, United States Code, authorizes the Secretary of Transportation to prescribe maximum hours-of-service and qualifications requirements for operators of motor carriers when needed to promote the safety of operations under the Motor Carrier Act of 1935 (Pub. L. 74-255, August 9, 1935) and the Migrant Farm Workers-Regulation of Interstate Transportation Act (Public Law 84-939, August 3, 1956)

Section 113 of the Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103-311, August 26, 1994) requires the Secretary of Transportation to prescribe regulations amending part 395 to improve the compliance by commercial motor vehicle drivers and motor carriers with HOS requirements' and the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance.

Section 345 of the National Highway System Designation Act of 1995 (Pub. L. 104-59, November 28, 1995) created four specific exemptions from the hours-of-service-of-drivers requirements of part 395. A fifth exemption applied only to commercial driver licensing-related requirements requiring testing of operators for alcohol and controlled substances. The Secretary of Transportation was authorized to conduct rulemaking, except for the water well drilling hours-of-service exemption, to negate or modify the exemptions upon a determination, after a rulemaking proceeding, that the exemption is not in the public interest and would have a significant adverse impact on the safety of commercial motor vehicles.

Section 408 of the ICC Termination Act of 1995 (Pub. L. 104-88, December 29, 1995) requires the Federal Highway Administration (functions transferred to the Federal Motor Carrier Safety Administration under Pub. L. 106-59) to issue a final rule dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle safety (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver-alertness).

Alternatives: The FMCSA proposes replacing the current daily maximum 15-hour on-duty, maximum 10-hour-driving, minimum 8-hour-off-duty periods and weekly 60-hour-in-seven-day sliding week with an alternative set of rules based upon scientific knowledge and submitted comments. The FMCSA is considering different regulations for different types of drivers, operations, or classification of vehicles.

The FMCSA will also consider modifying the information collection burdens that have been placed upon the motor carrier industry, including the following types of recordkeeping methods: (1) Reducing the required items on the record of duty status (log book); (2) adding electronic on-board recording devices to commercial motor vehicles; (3) adding global positioning system on-board recording devices to commercial motor vehicles; (4) eliminating all FMCSA hours-of-service record keeping requirements while relying exclusively on the duplicative hours-of-service record keeping system of records required by the U.S. Department of Labor under the Fair Labor Standards Act of 1938, as amended.

The FMCSA is proposing a revision to the hours-of-service regulations to require motor carriers to provide their drivers with better opportunities to obtain sleep than the current rules, and thereby reduce the risk of drivers operating CMVs while fatigued and reduce the number of crashes involving these drivers. We estimate that 755 fatalities and 19,705 injuries occur each year on the Nation's roads because of drowsy, tired or fatigued CMV drivers.

The proposed rules would make three major changes. First, and most importantly, the new rules would be science-based (related to sleep cycles) and put all drivers in a 24-hour daily cycle. Second, they would reduce the total number of hours behind the wheel in a given 24-hour cycle to no more than 12 hours. Under current rules, a driver can reach the 60-hour on-duty limit in less than 4 days, and the 70-hour limit in less than 5 days. Third, long-haul and regional drivers (who spend one or more off-duty periods away from their normal work reporting locations) would be required, eventually, to use electronic on-board recording devices (EOBRs). These proposed changes would abandon a one-size-fits-all approach to work-rest cycles and adopt different rest periods for different types of operations.

The NPRM is a proposal. The FMCSA has extensively solicited public comments at 8 public hearings. Continuing the public dialogue is critical to a complete understanding of the issues and insuring that FMCSA can make reasoned and appropriate decisions about the next steps in the rulemaking process.

Anticipated Cost and Benefits: The FMCSA has placed a Preliminary Regulatory Evaluation (PRE) in the docket. The PRE evaluates five options, based on identified key parameters. The selected option, which divides the industry into different types of motor carrier operations, is projected to save 115 lives and 2,995 injuries per year with a total net benefit of almost $3.359 billion, assuming that 15 percent of CMV-involved crashes are fatigue-related. Readers are directed to the PRE and the preamble of the NPRM for additional information.

Risks: Fatigue is increasingly becoming the focus of possible causes following many crashes. Driver reports of being fatigued to the point of incapacity are not uncommon, and intuitively, it is reasonable, given the sheer volume of traffic, to expect fatigue to be a factor in future crashes if the regulations are not corrected. Fatigue was identified by the industry, public, and government as the highest priority safety issue at a 1995 Truck and Bus Safety Summit in Kansas City, MO.

The FMCSA has established a goal to reduce by 50 percent over ten years the number of crashes involving any commercial motor vehicle. The FMCSA anticipates its proposal will reduce fatigue-related crashes by at least 15 percent each year to assist in its efforts to meet its overall goal of 50 percent crash reduction.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/96	61 FR 57251
Notice of Meeting	02/11/97	62 FR 6161
ANPRM Comment Period End	03/31/97	
NPRM	05/02/00	65 FR 25540
Notice of Hearing	05/05/00	65 FR 26166
Notice of Hearing	05/22/00	65 FR 32070
Notice of change in hearing structure	05/26/00	65 FR 34132
NPRM; Correction	05/31/00	65 FR 34904
Notice of Hearing	06/12/00	65 FR 36809
Comment Period Extended	06/19/00	65 FR 37956
Comment Period Extended; Roundtable Meetings	08/15/00	65 FR 49780
NPRM Comment Period End	12/15/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Transferred from RIN 2125-AD93.

During the agency's broad section 610 review of the 65-year history of the rule and all its amendments and revisions, the agency identified that RINs 2125-AD52, 2125-AD81, 2126-AA16, and 2126-AA29 also contain pertinent actions that must be incorporated into this action. Therefore, the agency incorporated them and has published a combined proposal addressing the entire topic of hours-of-service of drivers and related recordkeeping issues.

The DOT Docket Management System now identifies this rulemaking as number FMCSA-1997-2350.

More Information on "ALTERNATIVES":

The FMCSA is proposing a revision to the hours-of-service regulations to require motor carriers to provide their drivers with better opportunities to obtain sleep than the current rules, and thereby reduce the risk of drivers operating CMVs while fatigued and reduce the number of crashes involving these drivers. We estimate that 755 fatalities and 19,705 injuries occur each year on the Nation's roads because of drowsy, tired or fatigued CMV drivers.

The proposed rules would make three major changes. First, and most importantly, the new rules would be science-based (related to sleep cycles) and put all drivers in a 24-hour daily cycle. Second, they would reduce the total number of hours behind the wheel in a given 24-hour cycle to no more than 12 hours. Under current rules, a driver can reach the 60-hour on-duty limit in less than 4 days, and the 70-hour limit in less than 5 days. Third, long-haul and regional drivers (who spend one or more off-duty periods away from their normal work reporting locations) would be required, eventually, to use electronic on-board recording devices (EOBRs). These proposed changes would abandon a one-size-fits-all approach to work-rest cycles and adopt different rest periods for different types of operations.

The NPRM is a proposal. The FMCSA has extensively solicited public comments at 8 public hearings and 3 public roundtable discussions. The agency has received more than 51,000 comments in docket no. FMCSA-97-2350. The agency is reviewing these comments to ensure that it can make appropriate decisions about the next steps in the rulemaking process.

Sectors Affected: Multiple

Agency Contact: David R. Miller, Transportation Specialist, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC
Phone: 202 366-5011

RIN: 2126–AA23

2331. ELECTRONIC FILING OF SURETY BONDS, TRUST FUND AGREEMENTS, INSURANCE CERTIFICATES; CANCELLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-88; 49 USC 13906

CFR Citation: 49 CFR 387.323

Legal Deadline: None

Abstract: This action proposes requiring all filings of surety bonds, trust fund agreements, insurance certificates and cancellations of these instruments to be accomplished

electronically. Optional electronic filing has proven economical and efficient for both the FMCSA and for electronic filers. Given this success, cost of processing paper filings can no longer be justified. Mandatory electronic filings should not impose any significant costs or burdens on either the FMCSA or the filers.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AD94.

Agency Contact: Gladys Cole, Chief, Insurance Compliance, Department of Transportation, Federal Motor Carrier Safety Administration, ECI, 400 Virginia Avenue SW., Suite 600, Washington, DC 20024
Phone: 202 358-7039
Fax: 202 358-7100

RIN: 2126–AA24

2332. GENERAL JURISDICTION OVER FREIGHT FORWARDER SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13701; 49 USC 13709; 49 USC 13906; 49 USC 14101; 49 USC 14706

CFR Citation: 49 CFR 373; 49 CFR 1.73

Legal Deadline: None

Abstract: This action gives notice of the FMCSA's general jurisdiction over all segments of the freight forwarding industry (not just household good freight forwarders), in accordance with the ICC Termination Act of 1995, proposes changes to existing regulations to comport with those mandated by Congress, and clarifies the FMCSA's jurisdiction over freight forwarders in other areas.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4096
NPRM Comment Period End	03/31/97	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE00.

Agency Contact: Michael Falk, Office of the Chief Counsel, Department of Transportation, Federal Motor Carrier Safety Administration, MC-CC, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2126–AA25

2333. +ENGLISH LANGUAGE REQUIREMENT; QUALIFICATIONS OF DRIVERS

Priority: Other Significant

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 391; 49 CFR 1.73

Legal Deadline: None

Abstract: The current regulation is little changed from the original rule adopted in 1936. The American Civil Liberties Union (ACLU) has written to the Department asserting that the regulation, as written, is overly broad and subject to arbitrary enforcement, causing potential interference with constitutional guarantees of due process and equal protection. The ACLU requested an opportunity to submit a comprehensive analysis of this issue. The ANPRM was intended to provide the ACLU with such an opportunity and to open this issue for public comment. The FMCSA seeks to modify its current regulation to require drivers to possess the basic functional communication/comprehension ability necessary to ensure safety, consistent with applicable law. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/97	62 FR 45200
ANPRM Comment Period End	10/27/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE19.

Agency Contact: Janet Nunn, Office of Policy, Plans, and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2797

RIN: 2126–AA31

2334. TRANSPORTATION OF HOUSEHOLD GOODS; CONSUMER PROTECTION REGULATIONS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: PL 74-255; 49 USC 13301; 49 USC 14104; PL 104-88; PL 106-59; 49 USC 13101; 49 USC 13501 et seq.; 49 USC 14104; 49 USC 14708; 49 USC 14901 et seq.; 49 USC 14912; 49 USC 13301 et seq.

CFR Citation: 49 CFR 375; 49 CFR 377; 49 CFR 1.73

Legal Deadline: None

Abstract: The FMCSA proposed to amend the regulations governing the transportation of household goods. These regulations protect individual consumers who ship household goods, as defined in 49 USC 13102(10), by commercial motor vehicle. This action is necessary to implement the ICC Termination Act of 1995 (ICCTA),and to update the regulations. The intended effect of this proposal is to make the regulations easier to read and understand, remove an outdated report, address hostage freight problems (situations where non-binding estimates are lower than actual charges and the carrier refuses to deliver freight even after 110 percent of the estimate is paid at the time of delivery), modify a consumer protection publication, consider industry requests to change the rules, and propose conforming and technical amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/15/98	63 FR 27126
NPRM Comment Period End	07/14/98	
NPRM Extension and Reopening of Comment Period	08/12/98	63 FR 43128
NPRM Comment Period End	10/13/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE30.

Agency Contact: David R. Miller, Transportation Specialist, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC
Phone: 202 366-5011

RIN: 2126–AA32

2335. +GENERAL REQUIREMENTS; INSPECTION, REPAIR, AND MAINTENANCE; INTERMODAL CONTAINER CHASSIS AND TRAILERS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 1.73; 49 CFR 390; 49 CFR 396

Legal Deadline: None

Abstract: In response to a petition for rulemaking filed by the American Trucking Association, Inc. (ATA) and the ATA Intermodal Conference (the petitioners), the FHWA, the predecessor agency to the FMCSA, agreed to consider revisions to the requirements in parts 390 and 396 of the Federal Motor Carrier Safety regulations (FMCSRs) that place upon motor carriers the responsibility for maintaining intermodal container chassis and trailers. These regulations provide the requirements for the inspection, repair and maintenance of commercial motor vehicles. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/99	64 FR 7849
ANPRM Comment Period End	04/19/99	
Comment Period End	05/05/99	64 FR 24128
Comment Period Extended	08/30/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Transferred from RIN 2125-AE40.

Agency Contact: Deborah M. Freund, Senior Transportation Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC
Phone: 202 366-4009

RIN: 2126–AA38

2336. +POST-ACCIDENT CONTROLLED SUBSTANCES AND ALCOHOL TEST RESULTS; REPORTING REQUIREMENTS FOR THE FATALITY ANALYSIS REPORTING SYSTEM

Priority: Other Significant

Legal Authority: PL 74-255; PL 98-554; PL 99-570; PL 102-143; PL 106-159; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502

CFR Citation: 49 CFR 1.73; 49 CFR 382

Legal Deadline: None

Abstract: The Federal Motor Carrier Safety Administration (FMCSA)is considering amending its controlled substances and alcohol testing regulations to require employers subject to those requirements to report certain information to State-employed Fatality Analysis Reporting System (FARS) analysts concerning fatal crashes/accidents. Currently, only the FMCSA and State officials with regulatory authority over the employer or any of its drivers may obtain information concerning controlled substances and alcohol testing results and records.

This rulemaking would propose to require employers to provide information to FARS analysts, irrespective of their State authority, working under contract with the National Highway Traffic Safety Administration (NHTSA). The information employers would be required to submit to the analysts would enable the NHTSA, working in conjunction with the FMCSA, to compile and analyze data on the incidence of commercial motor vehicle (CMV) drivers who test positive for controlled substances and/or alcohol use in post-accident tests conducted after fatal crashes.

The data would also be used by the FMCSA to help assess the effectiveness of its controlled substances and alcohol testing regulations. This action is intended to improve the FMCSA's and NHTSA's CMV crash data and assess the need for new initiatives to further reduce the use of controlled substances and alcohol by CMV drivers.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: Local, Federal

Sectors Affected: Multiple

Agency Contact: David R. Miller, Transportation Specialist, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC
Phone: 202 366-5011

RIN: 2126–AA50

DEPARTMENT OF TRANSPORTATION (DOT) Completed Actions

Federal Motor Carrier Safety Administration (FMCSA)

2337. +QUALIFICATION OF DRIVERS; DIABETES

Priority: Other Significant

Legal Authority: 49 USC 31502; 49 USC 31305; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: NPRM, Statutory, PL 105-178, sec 4018.

Abstract: The Federal Motor Carrier Safety Administration (FMCSA) is considering revising the driver qualification requirements to allow certain insulin-using diabetics to operate commercial motor vehicles in interstate commerce. The Federal Highway Administrator (FHWA), predecessor agency to the FMCSA, issued a final disposition accepting waiver applications under certain conditions. The deadline for submitting

applications was April 30, 1994. The waiver program ended March 31, 1996. It was instituted to permit the FMCSA to observe and collect data on the driving experience of a group of insulin-using drivers. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	
ANPRM Comment Period Extended	02/01/88	
NPRM	10/05/90	55 FR 41028
NPRM Comment Period Extended to 01/03/91	11/01/90	55 FR 46080
NPRM Comment Period End	12/04/90	
Notice of Intent to Issue Waivers: Comment Request	10/21/92	57 FR 48011
Final Action To Accept Waivers	07/29/93	58 FR 40690
Withdrawn	12/28/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Under RIN 2125-AD73, the FHWA, the predecessor agency to the FMCSA, adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See, NPRM (61 FR 606, 01/08/96); Final rule (61 FR 13338, 03/26/96); and Final rule; Technical correction (61 FR 17253, 04/19/96). With the closing of the diabetes waiver study (03/31/96), no definitive empirical results were produced. Therefore, the agency initiated a retrospective case-referent study to assess the level of risk associated with the operation of commercial motor vehicles (CMVs) by insulin-using diabetic drivers.

Section 4018 of the Transportation Equity Act for the 21st Century (TEA-21) required the Secretary to determine whether it would be practical and cost effective to have a program that allows insulin-treated diabetic drivers to operate CMVs in interstate commerce.

The FHWA convened a panel of medical experts to review the diabetes regulations and guidelines under 49 CFR Part 391. The panel met in August 1999 and concluded that a process was feasible for permitting some individuals with insulin-treated diabetes to operate CMVs.

On 08/22/2000, we forwarded to Congress a report on the feasibility of permitting individuals with insulin-treated diabetes to operate commercial vehicles in interstate commerce. The report concludes that a safe and practical protocol is feasible and includes a description of the components of a screening/monitoring protocol.

We are evaluating alternatives for implementing the report findings and plan to publish a notice and request comments.

ANALYSIS: Regulatory Evaluation, 10/05/90 (55 FR 41028).

Transferred from RIN 2125-AB91.

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street, NW, Washington, DC 20590
Phone: 202 366-2987

RIN: 2126–AA00

2338. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; PERIODIC REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS

Priority: Other Significant

Legal Authority: 49 USC 31502; 49 USC 31103; 49 USC 31136

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: In this rulemaking, the FHWA, the predecessor agency to the FMCSA, was considering a requirement for all motor carriers subject to the Federal Motor Carrier Safety Regulations (FMCSRs) to periodically update certain carrier information maintained by the agency in a national interstate motor carrier census file. Consideration was being given to the frequency and methods for updating this information.

The ICC Termination Act of 1995, which added 49 U.S.C. 13908, requires the Secretary to initiate a rulemaking to replace the current DOT identification number system, the single State registration system, the registration/licensing system and the financial responsibility system, with a single, on-line Federal system. This new rulemaking (2125-AD91/2126-AA22) will address some ofthe issues contained in this action (2125-AC28).

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	
Merged With RIN 2126-AA57	11/24/00	65 FR 70509

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Please note that this action (2125-AC28) was previously titled "Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking." A new RIN has been assigned for this subject. See 2125-AD49 for further information about motor vehicle marking 1992 Agenda.

ANALYSIS: Regulatory Evaluation

Transferred from RIN 2125-AC28.

Agency Contact: Angeli Sebastian, Chief, Driver and Carrier Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001
Fax: 202 366-8842

RIN: 2126–AA02

2339. PHYSICAL QUALIFICATION OF DRIVERS; MEDICAL EXAMINATION; CERTIFICATE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 31502

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: Substantial changes in medical technology and the technology, operating practices, and economics of the motor carrier industry have affected the physical and mental demands on commercial motor vehicle (CMV) drivers and in turn, have rendered portions of the current medical examination form used to assess drivers' physical qualifications outdated, difficult to use, or irrelevant. This action redesigns the existing

medical examination form and amends the examination procedures to reflect the latest medical and technological advances.

Timetable:

Action	Date	FR Cite
NPRM	08/05/98	63 FR 41769
NPRM Comment Period End	11/03/98	
Final Rule	10/05/00	65 FR 59363
Final Rule Effective	11/06/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: This action was formerly titled "Qualification of Drivers; Medical Examination Form."

Transferred from RIN 2125-AC63.

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street, NW, Washington, DC 20590
Phone: 202 366-2987

RIN: 2126–AA06

2340. +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS

Priority: Other Significant

Legal Authority: 49 USC 31136; 49 USC 31502; PL 74-255; PL 84-939; PL 98-554; ...

CFR Citation: 49 CFR 395; 49 CFR 1.73

Legal Deadline: None

Abstract: Current Federal Motor Carrier Safety Regulations limit the hours of service of commercial motor vehicle (CMV) drivers in order to reduce fatigue-related accidents. These regulations include substantial recordkeeping requirements to monitor drivers' hours of service. The FHWA, the predecessor agency to the FMCSA, conducted a 5 U.S.C. section 610 review of the ways to reduce the recordkeeping burden while maintaining or improving safety. This rulemaking is significant because of the broad industry impacts.

As a result of the section 610 review, the FMCSA has decided to add the rulemaking action to RIN 2126-AA23 and issue an NPRM under that RIN that includes advanced technological recordkeeping systems to improve compliance and safety.

Timetable:

Action	Date	FR Cite
Notice - Request for Information	09/07/95	60 FR 46682
Comment Period End	11/06/95	
Merged With RIN 2126-AA23	05/02/00	65 FR 25540

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Transferred from RIN 2125-AD65.

Sectors Affected: Multiple

Agency Contact: David R. Miller, Transportation Specialist, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC
Phone: 202 366-5011

RIN: 2126–AA16

2341. REGISTRATION OF FOR-HIRE MOTOR CARRIERS, PROPERTY BROKERS, AND FREIGHT FORWARDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 to 13905; 49 USC 14708; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 385

Legal Deadline: None

Abstract: This action governs registration of for-hire motor property and passenger carriers, property brokers, and freight forwarders. This action is required by 49 USC 13901 to 13905, which mandates that a registration system be administered by the Secretary of Transportation to replace the former Interstate Commerce Commission's licensing system for motor carriers, property brokers, and freight forwarders. The registration system prescribed in 49 USC 13901 to 13905 is intended to be a temporary and stand-alone procedure while the FMCSA undertakes to design and implement the revised system through the 49 USC 13908 rulemaking mandated by Congress.

Timetable:

Action	Date	FR Cite
NPRM	02/13/98	63 FR 7362
NPRM Comment Period End	04/14/98	
Withdrawn	04/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: In light of section 210 of the Motor Carrier Safety Improvement Act of 1999, with respect to new motor carrier entrant requirements, we will withdraw this interim proposal and include the concepts in RIN 2126-AA22.

Transferred from RIN 2125-AE01.

Agency Contact: Angeli Sebastian, Chief, Driver and Carrier Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001
Fax: 202 366-8842

RIN: 2126–AA26

2342. +QUALIFICATIONS OF MOTOR CARRIERS TO SELF-INSURE THEIR OPERATIONS AND FEES TO SUPPORT THE APPROVAL AND COMPLIANCE PROCESS

Priority: Other Significant

Legal Authority: 49 USC 31138; 49 USC 31139; 49 USC 13906

CFR Citation: 49 CFR 387; 49 CFR 1.73

Legal Deadline: None

Abstract: This action proposes to amend the regulations governing qualifications for motor carriers that seek authorization to self-insure their transportation operations. The FMCSA is also proposing technical amendments necessitated by the ICC Termination Act of 1995 (Pub. L. 104-88), which transferred the ICC's authority to qualify motor carriers as self-insurers to DOT. The agency requested comments on the need for additional backup collateral or security to protect the public against uncompensated losses. The FMCSA believes that this will be

a significant regulatory action because of substantial congressional and public interest in the insurance requirements for motor carriers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49654
Correction	09/29/97	62 FR 50892
ANPRM Comment Period End	11/24/97	
NPRM	05/05/99	64 FR 24123
NPRM Comment Period End	07/06/99	
Withdrawn	04/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Based on review of the comments submitted in response to the ANPRM, the FMCSA will terminate this proceeding. With respect to the proposal to extend the 30-day automatic self-insurance termination due to loss of a satisfactory safety rating to 45 days, the FMCSA will amend 49 CFR 387.309(a)(3) in a subsequent proceeding. The fee proposals will also be dropped. Any proposed fee adjustments will be made in the next proceeding to update the agency's user fee schedule to reflect the cost of services provided by the agency, under 49 CFR part 360.

Transferred from RIN 2125-AE06.

Agency Contact: Gladys Cole, Chief, Insurance Compliance, Department of Transportation, Federal Motor Carrier Safety Administration, ECI, 400 Virginia Avenue SW., Suite 600, Washington, DC 20024
Phone: 202 358-7039
Fax: 202 358-7100

RIN: 2126–AA28

2343. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; HOURS-OF-SERVICE AND CDL EXEMPTIONS

Priority: Other Significant

Legal Authority: PL 104-59, sec 345

CFR Citation: 49 CFR 382; 49 CFR 395

Legal Deadline: None

Abstract: As a result of the section 610 review under RIN 2126-AA23 conducted by the FHWA, the predecessor agency to the FMCSA, the FMCSA has decided to add this rulemaking action to RIN 2126-AA23 and issue an NPRM under that RIN that includes clarifications of its rule incorporating certain exemptions from the hours-of-service requirements of the Federal Motor Carrier Safety Regulations, created by section 345 of the National Highway System Designation Act of 1995.

The final rule that incorporated the exemptions created by section 345 of the National Highway System Designation Act of 1995 was issued under RIN 2125-AD83, 4/3/96 (61 FR 14677).

This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Merged With RIN 2126-AA23	05/02/00	65 FR 25540

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Transferred from RIN 2125-AE09.

Agency Contact: David R. Miller, Transportation Specialist, Office of Policy, Plans and Regulations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PRR, 400 Seventh Street SW., Washington, DC
Phone: 202 366-5011

RIN: 2126–AA29

2344. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; REQUIREMENTS FOR OPERATORS OF SMALL PASSENGER CARRYING COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 105-178

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FMCSA is proposing to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that motor carriers operating commercial motor vehicles (CMVs) designed or used to transport between 9 and 15 passengers (including the driver) for compensation, file a motor carrier identification report, mark their CMVs with a USDOT identification number and certain other information, and maintain an accident register. This action is in response to the Transportation Equity Act for the 21st Century (TEA-21). In a separate action, the FMCSA is adopting the statutory definition of a CMV found at 49 USC 31132 to be consistent with sec. 4008(a) of TEA-21, but is exempting the operation of these small, passenger-carrying vehicles from all of the FMCSRs, pending the completion of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/03/99	64 FR 48518
NPRM Comment Period End	11/02/99	
Final Rule	01/11/01	66 FR 2756
Delay of Final Rule Effective Date	02/09/01	66 FR 9677
Final Rule Effective	02/12/01	
Final Rule Effective	04/13/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 2125-AE60.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA44

2345. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; DEFINITION OF COMMERCIAL MOTOR VEHICLE

Priority: Other Significant

Legal Authority: 49 USC 31132; 49 USC 31136; 49 USC 31502; PL 104-88, sec 104(f)

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395; 49 CFR 396; 49 CFR 1.73

Legal Deadline: Final, Statutory, June 1999, See sec. 4008 of PL 105-178.

Abstract: The FMCSA is amending the definition of commercial motor vehicle in the Federal Motor Carrier Safety Regulations to make those safety regulations applicable to vehicles designed to transport less than 18 passengers including the driver. This rulemaking is significant because of

substantial public interest concerning the extension of the applicability of the Federal Motor Carrier Safety Regulations to a larger portion of motor carrier operations.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/98	63 FR 41766
ANPRM Comment Period End	10/05/98	
Interim Final Rule	09/03/99	64 FR 48510
Final Rule	01/11/01	66 FR 2756
Delay of Final Rule Effective Date	02/09/01	66 FR 9677
Final Rule Effective	02/12/01	
Final Rule Effective	04/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Section 4008 of the TEA-21 requires the FMCSA to either make the FMCSRs applicable to operators of commercial motor vehicles designed or used to transport more than 8 passengers for compensation, or exempt such entities through a rulemaking proceeding within one year after the enactment of the statute. The FMCSA has proposed to regulate the operation of small passenger-carrying CMVs, and has considered the extent to which the regulations should be made applicable to such CMVs.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA51

2346. SANCTIONS AGAINST MOTOR CARRIERS, BROKERS, AND FREIGHT FORWARDERS FOR FAILURE TO PAY CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-159, sec 206

CFR Citation: 49 CFR 385; 49 CFR 386

Legal Deadline: Final, Statutory, December 9, 2000, See PL 106-159,sec 206.

Abstract: The FMCSA made final Section 206 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) by amending the penalty provisions of the rules of practice of the Federal Motor Carrier Safety Regulations. This action prohibits a motor carrier that does not pay civil penalties assessed by the FMCSA, or that does not arrange and abide by its payment agreements, from operating in interstate commerce. Furthermore, the registration of a broker, freight forwarder, or for-hire motor carrier that fails to pay a civil penalty will be suspended.

The prohibition begins on the 91st day after the payment date specified in the final agency order or on the 91st day after the due date of a missed payment negotiated in a payment plan. A motor carrier that continues to operate is subject to additional penalties, including revocation of its registrations.

However, the prohibition does not apply to anyone who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of the Bankruptcy Code.

Timetable:

Action	Date	FR Cite
NPRM	09/19/00	65 FR 56521
NPRM Comment Period End	10/19/00	
Final Rule	12/15/00	65 FR 78422
Final Rule Effective	04/16/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah M. Freund, Senior Transportation Specialist, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC
Phone: 202 366-4009

RIN: 2126–AA54

2347. TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE; RULES OF PRACTICE FOR MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 49 USC 13301; 49 USC 14104; 49 USC 113

CFR Citation: 49 CFR 375; 49 CFR 386; 49 CFR 1.73; 49 CFR 1.45

Legal Deadline: None

Abstract: This action amends the FMCSA's regulations to comply with sections 208 and 209 of the Motor Carrier Safety Improvement Act of 1999. Section 208 strengthens enforcement by revising the definition of imminent hazard to cover conditions which "substantially increase the likelihood of serious injury or death" if not discontinued immediately.

Section 209 concerning household goods clarifies that property moving from a factory or a store, other than property that the householder has purchased with the intent to use in his or her dwelling, and is transported at the householder's request and the transportation charges are paid to the carrier by the householder, is excluded from the definition of household goods.

The effect of these amendments is to update and conform to statutory changes the definitions for "imminent hazard" and "household goods" in the FMCSA's regulations.

Timetable:

Action	Date	FR Cite
Final Rule; Technical Amendments	10/02/00	65 FR 58663
Final Rule Effective	11/01/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William C. Hill, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSD, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6347

RIN: 2126–AA56

2348. • PARTS AND ACCESSORIES FOR SAFE OPERATION; MANUFACTURED HOME TIRES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.73

Legal Deadline: None

Abstract: This action amends 49 CFR 393.75(g) and delays the termination date of the rule which allows overloading of certain tires. The delay of the termination date will enable motor carriers transporting manufactured homes to continue loading tires up to 18 percent above

the load rating. The delay will remain in effect from November 20, 2000 until December 31, 2001.

On August 7, 2000, the Manufactured Housing Institute (MHI) filed a petition for rulemaking with the FMCSA to initiate a rulemaking to enable the manufactured home industry to continue to exceed the tire manufacturer's load rating by up to 18 percent, indefinitely.

The delay of the 18 percent overloading rule until December 31, 2001, allows the agency to consider data and the MHI's request in a more thorough manner.

Timetable:

Action	Date	FR Cite
Final Rule Effective	11/14/00	
Final Rule	11/21/00	65 FR 70218

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The FMCSA and the Department of Housing and Urban Development (HUD) have received petitions from Multinational Business Services, Inc. (Multinational) requesting that the agencies rescind their November 21, 2000, final rules. The FMCSA will meet with HUD on the petitions and publish a final determination.

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA65

2349. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.73

Legal Deadline: None

Abstract: The FHWA, precedessor agency to the Federal Motor Carrier Safety Administration (FMCSA,) transferred this action to the FMCSA for further action. This action is related to the requirements of the Federal Motor Carrier Safety Regulations for securing intermodal cargo containers to trailers. The FMCSA issued an NPRM (RIN 2126-AA27) which incorporated intermodal cargo container issues. Therefore, we will terminate this proceeding.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/93	58 FR 44485
ANPRM Comment Period End	11/22/93	
Merged With RIN 2126-AA27	01/05/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Chief, Vehicle and Roadside Operations, Department of Transportation, Federal Motor Carrier Safety Administration, MC-PSV, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2126–AA67

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Prerule Stage

2350. REVIEW: ODOMETER FRAUD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This review involves analysis of the incident rates and costs of odometer fraud and an assessment of State and Federal efforts to combat odometer fraud. To complete this review, the agency has requested permission to collect a sample of odometer readings of registered passenger cars that are less than 10 years old from vehicle dealers, distributors, vehicle title files, and State Department of Motor Vehicle agencies. Congress has directed the agency to conduct this review.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/95	
Collection of Information	09/23/96	61 FR 49809
Comment Period End	11/11/96	
Collection of Information	06/06/97	62 FR 31186
Comment Period End	07/07/97	
End Review	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559
Email: ckahane@nhtsa.dot.gov

RIN: 2127–AF53

2351. REVIEW: AMERICAN AUTOMOBILE LABELING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The American Automobile Labeling Act requires new passenger cars and light trucks, beginning October 1, 1994, to bear labels providing information on the extent to which their parts are of domestic origin. The objective of this review is to determine the extent to which new-vehicle buyers know about, understand and use this information, and to estimate the effect of the labels on vehicle production and sales.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/95	
Collection of Information	07/24/97	62 FR 39886
Comment Period End	09/22/97	

Action	Date	FR Cite
Collection of Information	02/18/98	63 FR 8249
Collection of Information	02/26/98	63 FR 9897
Request for Comments	03/06/01	66 FR 13625
End Review	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559
Email: ckahane@nhtsa.dot.gov

RIN: 2127–AG18

2352. REVIEW: HEAVY TRUCK CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is initiating a study to evaluate the safety effects of the conspicuity systems requirement (section 5.7) of Federal Motor Vehicle Safety Standard No. 108. To carry out the study, the agency is having special motor vehicle crash data collected by the Florida Highway Patrol and the Pennsylvania State Police.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/95	
Collection of Information	07/01/96	61 FR 33891
Comment Period End	08/30/96	
End Review	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559
Email: ckahane@nhtsa.dot.gov

RIN: 2127–AG19

2353. MOTORCYCLE MOUNTED REFLEX REFLECTOR HEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering allowing a lower minimum mounting height for side reflex reflectors on motorcycles. The intent is to harmonize United States lighting safety standards with European and Asian reflector position regulations and improve the flow of trade by creating "windows of harmonization" that will allow manufacturers to market "common" vehicles in global markets.

Timetable:

Action	Date	FR Cite
Agency Decision	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG92

2354. REVIEW: CHILD SAFETY SEAT REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213; 49 CFR 588

Legal Deadline: None

Abstract: This evaluation involves analysis of the effectiveness of registering child safety seats to increase response to reports of recalled seats. This regulation was selected for review because of public interest in child passenger safety.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG93

2355. REVIEW: AIR BAG ON-OFF SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 40 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard allows passenger vehicles to be equipped with an on-off switch for the right front passenger air bag if the rear seat cannot accommodate a rear-facing infant seat. The standard also enables vehicle owners to obtain an on-off switch for their passenger and/or driver air bag if they transport people who should not be exposed to an air bag deployment. The agency will determine, by observation of vehicles in use, the percentage of on-off switches that are being correctly used. This regulation was selected for review because of its public interest and potential benefit.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/98	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400

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RIN: 2127–AH12

2356. HEADLAMP GLARE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The current standard sets minimum and maximum intensities for headlamps to ensure that the two most important aspects of head lighting performance are balanced. These often conflicting aspects are (1) to assure the driver of the vehicles sees as much of the roadway possible, while (2) minimizing glare for other drivers using the road. The balance the agency has chosen of these two areas has changed very little since 1970. The agency has been receiving a significant number of public complaints about glare from other vehicles' headlamps. In light of significant technological changes, including improved halogen lamps and high intensity discharge lamps, fleet mix changes (nearly half of all new vehicles sold in 1998 were light trucks, with higher-mounted headlamps), and an increase in the age of the population, the agency wants to reexamine the balance it has chosen between seeing distance and glare to see if it is still appropriate. The agency will ask the public for comments and information to begin exploring this area more fully.

Timetable:

Action	Date	FR Cite
Request for Comments	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
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RIN: 2127–AH81

2357. MOTORCYCLE HEADLAMP SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to modify the motorcycle headlamp system height of upper beam and number of headlamp and light source.

Timetable:

Action	Date	FR Cite
Agency Decision	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard L. Van Iderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280

RIN: 2127–AH92

2358. GUIDELINES FOR STATES ON ENFORCEMENT OF LIGHT TRANSMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 402(a)

CFR Citation: 49 CFR 553.21

Legal Deadline: None

Abstract: The agency is requesting comments to gather information that will help develop uniform guidelines for states to use in the enforcement of the light transmission standards for window glazing on passenger cars and light trucks. This action is a result of the recent congressional change in this section of the law.

Timetable:

Action	Date	FR Cite
Request for Comment	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Heidi L. Coleman, Assistant Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AH97

2359. REVIEW: HEAD RESTRAINTS FOR LIGHT TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: This standard requires pick-up trucks, vans, and sport utility vehicles with gross vehicle weight of 10,000 pounds or less, manufactured after September 1, 1991, to have head restraints or high seatbacks for the driver and right-front passenger. The agency will compare the occupant injury rates in rear-crashes of trucks equipped with head restraints and trucks not equipped with head restraints. The cost of the standard will also be established. This regulation was selected for review of its costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	09/29/99	
End Review	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590

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RIN: 2127–AH98

2360. • SEAT BELT FIT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is reviewing a petition for rulemaking requesting the extension of seat belt length be an option when purchasing a new vehicle and requesting vehicle manufacturers to make seat belt extenders available for all models.

Timetable:

Action	Date	FR Cite
Agency Decision	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI36

2361. • ADAPTATION OF INSTRUMENTED LOWER LEGS FOR HYBRID III MALE AND FEMALE ADULT DUMMIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing the use of crash test dummies with instrumented lower legs to assess the crashworthiness and the potential of lower limb injuries to occupants of passenger cars, vans, light trucks, and sport utility vehicles. The new legs would be retrofits for un-instrumented legs in current Hybrid III male and female adult size dummies. The legs will be used to monitor both the inertial impact and floor pan intrusion effects upon injury potential to the knees, tibia, ankle and feet. The new legs will permit the agency to assess the injury potential to the lower legs in current motor vehicles during crashes and also enable the vehicle manufacturers to design and construct vehicles that will minimize lower limb injuries.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI39

2362. +OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 106-346, sec 351

CFR Citation: 23 CFR 1225

Legal Deadline: None

Abstract: The Transportation Equity Act for the 21st Century (TEA-21) established a grant program under which states could qualify for incentive funds if they enacted and enforced a law that provides that any person with a blood alcohol concentration of .08 percent or greater while operating a motor vehicle in the state is deemed to have committed a per se offense of driving while intoxicated or an equivalent per se offense. The agency published a final rule implementing that incentive grant program. Section 351 of the Department of Transportation (DOT) Appropriations Act for Fiscal Year (FY) 2001 (PL 106-346) contains a new provision requiring the withholding of certain Federal-aid highway funds from a state, beginning in fiscal year 2004, if the state has not enacted and is not enforcing such a law. The agency is proposing to amend the regulation implementing the incentive grant program established in TEA-21 to reflect the new sanctions provisions established in the DOT appropriations set for FY 2001.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Heidi L. Coleman, Assistant Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AI44

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2363. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Wood, Division Chief, Rulemaking Division, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AB79

2364. SEATING SYSTEMS PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the seatback performance requirements of the standard in rear impact crashes.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	
Request for Comments	11/23/92	57 FR 54958
Comment Period End	01/22/93	
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Petitions for rulemaking were granted 07/24/89. See a related rulemaking action involving these petitioners under RIN 2127-AC57. The first part of the research is complete. A computer model and a prototype seat were developed. Information on this research is available in the docket along with a report on crash data analysis. The agency is currently evaluating the research results and conducting vehicle seat testing.

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RIN: 2127–AD08

2365. RADIATOR SAFETY CAP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has requested comments on the feasibility of and necessity for rulemaking to require the installation of thermal locking radiator caps or other devices on motor vehicles with water-cooled engines to prevent scalding injuries. Although the notice referred only to thermal locking radiator caps, comments were solicited on any device or technology designed to prevent such scalding injuries. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	06/10/93	58 FR 32503
Comment Period End	08/09/93	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-4329

RIN: 2127–AE59

2366. CONVEX CROSS-VIEW MIRRORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on the issue of rear mounted cross-view mirrors on light and medium duty trucks for the purpose of eliminating the blind spot directly behind the vehicle. The petitioner requested that these mirrors be mandated to eliminate backing accidents where children could be seriously injured or killed. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	06/17/96	61 FR 30586
Comment Period End	10/15/96	
ANPRM	11/27/00	65 FR 70681
ANPRM Comment Period End	01/26/01	
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG41

DOT—NHTSA

Proposed Rule Stage

2367. HYBRID III 95TH PERCENTILE MALE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is examining the possibility of proposing specifications for a new 95th percentile male Hybrid III size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard No. 208. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection in frontal impacts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG79

2368. BUY AMERICAN REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The agency is proposing to exempt certain purchases by grantees from the requirements of the Department of Transportation's Buy American provisions to streamline and improve the grant process. These proposed exemptions will include small purchases not to exceed the current small purchase threshold.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AG99

2369. POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS AND STATE HIGHWAY SAFETY AGENCY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1250; 23 CFR 1251

Legal Deadline: None

Abstract: The agency is proposing to amend certain provisions concerning the State Highway Safety Programs to streamline them, address statutory changes, and delete obsolete or unnecessary requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AH00

2370. DEFINITION OF COMMUNITY TRANSPORTATION VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 9 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to amend various sections of part 571 to create a new vehicle type, tentatively called community transportation vehicles, that will have to meet the crashworthiness standards applicable to school buses, but will not have to meet some of the crash avoidance standards (i.e., stop arms, flashing lights, etc.). This would allow manufacturers to certify vehicles that will be less expensive and as safe as a school bus for transportation of Head Start students because we have tentatively decided that the school bus crash avoidance features are unnecessary when there is no curb-side pickup.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH23

2371. METRIC CONVERSION—PHASE III

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; PL 100-418, sec 5164

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is amending selected Federal motor vehicle safety standards by converting English measurements in those standards to metric measurements. This rulemaking is the third and final in a series that the agency will undertake to implement the Federal policy that the metric system is the preferred system of weights and measures for U.S. trade and commerce. The conversions are not intended to change the stringency of

the affected Federal motor vehicles safety standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Noble Bowie, Director, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842

RIN: 2127–AH27

2372. UPGRADE DOOR RETENTION PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: Based upon annual average estimates from the 1988 through 1996 Fatal Analysis Reporting System (FARS) and the National Automotive Sampling System (NASS), there is an annual average of 2,515 fatalities and 1,882 serious injuries due to door ejections. Side door ejections are the second leading cause of ejections in all crashes, superseded only by ejections through fixed glazing. One of the activities of agency rollover research focuses on reducing injuries and fatalities resulting from side door ejections. This research has led the agency to identify potential significant solutions to mitigating a substantial number of these fatalities and injuries by improving side door retention performance. Therefore, the agency is proposing to upgrade the door retention requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH34

2373. ADMINISTRATIVE REWRITE OF THE LIGHTING REQUIREMENTS OTHER THAN HEADLAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to rewrite the reflective devices and associated equipment requirements to make the standard more readable and understandable. The standard has grown over the last 30 years by the incorporation of dozens of amendments. The document has become unwieldy to use and the agency decided to rewrite it to seperate it into sections that address each lighting function separately. These sections will state the basic performance necessary for each lighting function and for lamp installation on various vehicle types. The rewrite will continue to reference Society of Automotive Engineers (SAE) and other standards and recommended practices for test procedures if too lengthy to incorporate changes. Moreover, it will codify various agency interpretations of its rules to make the standard more explicit and objective. The administrative rewrite of the headlamp regulations can be found under RIN 2127-AG87.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH37

2374. EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30113

CFR Citation: 49 CFR 556

Legal Deadline: None

Abstract: Present regulation requires a petitioner to submit data "supporting its petition" which advocates excusing it from its notification and remedial obligations. Because the petitioner may have pertinent data relevant to the agency's decision that would not support granting it, the agency is proposing a clarification that all data pertaining to the subject in the possession of the petitioner be part of the petition. The agency also is proposing the petitioner provide a full and accurate analysis of its petition and certify that it is accurate and complete.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH58

2375. COMPLIANCE AND ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is proposing to codify our long-standing general policy that motor vehicles and items of motor vehicle equipment must be cable of satisfying the requirements of each particular standard or regulation with the adjustable components of the vehicle or vehicle equipment adjusted to any position they can occupy while the vehicle is being operated unless the particular standard or regulation specifies otherwise or the manufacturer explicitly warns against placing the equipment or vehicle in that position. The agency is also proposing that where a standard provides manufacturers with more than one compliance option, manufacturers must select which compliance option(s) they are certifying to by the time they certify a vehicle or equipment item.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Wood, Division Chief, Rulemaking Division, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AH63

2376. ACCELERATOR CONTROL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.124

Legal Deadline: None

Abstract: The agency reviewed this standard and published a "Request for Comment" to obtain information on electronic accelerator controls. After reviewing the comments received on this notice, the agency plans to propose a revision of the standard that will make explicit the application of the standard to electronic accelerator controls and the electric vehicles. The proposal will recognize that electronic engine controls vastly increase the ways manufacturers can achieve fail-safe performance in the event of a disconnection or severance of the accelerator control system and will propose a number of alternative compliance tests for fail-safe performance to avoid design restrictions.

Timetable:

Action	Date	FR Cite
Request for Comments	12/04/95	60 FR 62061
Comment Period End	02/02/96	
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
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RIN: 2127–AH71

2377. +FRONTAL OFFSET PROTECTION

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is considering establishing a Federal motor vehicle safety standard for high speed frontal offset crash testing. The frontal offset test is a crash test for automobiles and light trucks in which the subject vehicles are run into a deformable honeycomb barrier. The barrier contacts only 40 percent of the front of the vehicle simulating off-center frontal collision. The agency is considering adding the offset test to the frontal occupant protection standard to measure vehicle structural integrity and reduce the number and severity of lower-body injuries.

Statement of Need: While the Federal motor vehicle safety standards already contain a frontal crash test, injuries and fatalities still occur in various types of frontal crashes. The European Union determined that the best test for frontal occupant protection would be an offset test with belted test dummies. As part of the House of Representatives Conference Report 104-785, to accompany H.R. 3675, the National Highway Traffic Safety Administration was directed on September 16, 1996, to conduct research "...toward establishing a Federal motor vehicle safety standard for frontal offset crash testing." Such a standard would harmonize with the European Union frontal crash standard. Subsequent research results with the 50th percentile male and the 5th percentile female Hybrid III dummies suggest that additional safety benefits would be provided for the neck and the upper and lower tibia under the offset test conditions.

Summary of Legal Basis: Section 30111,Title 49 of the United States Code, states the Secretary shall prescribe motor vehicle safety standards. As part of the House of Representatives Conference Report 104-785, to accompany H.R. 3675, the National Highway Traffic Safety Administration was directed on September 16, 1996, to conduct research "...toward establishing a Federal motor vehicle safety standard for frontal offset crash testing."

Alternatives: Since this program is oriented primarily toward adopting an existing European standard, the agency will focus on existing test procedures. However, the agency is working through the national and international biomechanical engineering community to develop better test devices such as improved dummy legs. Comments will be sought on the best dummy designs in the agency's proposal.

Anticipated Cost and Benefits: A report prepared for the Australian Government estimates that adding an offset test may result in a 15 percent reduction in "Harm." Harm is a calculation of the cost of trauma and is the product of the frequency of injury and cost to the community. Most of these benefits would be seen in reduction in lower body and leg injuries. The agency has not determined the specific benefits of this test procedure.

The agency estimates that for vehicles that cannot currently pass this test, vehicle modifications would cost $14 per vehicle. Based on an estimate that 25 percent of the fleet would need to be modified, the total annual cost to

the consumers would be $60 million dollars.

Risks: Current motor vehicles provide numerous occupant protection systems, such as safety belts and strategically-placed energy absorption materials such as foam padding. However, an estimated 3,300 people per year are killed and 400,000 people per year are injured in frontal offset crashes.

The agency knows of no disadvantages to implementing this requirement.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH73

2378. SPECIAL PURPOSE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.224

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the standard for new trailers and semitrailers with a Gross Vehicle Weight Rating (GVWR) of 4,536 kilograms (10,000 pounds) or more be equipped with a rear impact guard by revising the definition of "special purpose vehicles." These are vehicles with rear mounted liftgates that operate by swinging through the area or reside in any part of the area that is designated for the horizontal member of the rear impact guard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH79

2379. BRAKE HOSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to adopt portions of the brake component Federal safety provisions that are now in the Federal Highway Administration regulations into the agency's brake regulation.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH75

2380. LOW-SPEED VEHICLE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.500

Legal Deadline: None

Abstract: Low-speed vehicles (LSV) have a maximum speed of between 20 and 25 miles per hour (mph). These vehicles are required to have certain equipment some of which does not have any performance requirements. The agency is proposing to set performance criteria for the various safety systems and hardware necessary for use on these vehicles.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard L. Van Iderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280

RIN: 2127–AH80

2381. DEFECT REPORTING AND NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102 to 30103; 49 USC 30112; 49 USC 30115 to 30121; 49 USC 30166 to 30167

CFR Citation: 49 CFR 573; 49 CFR 576; 49 CFR 577

Legal Deadline: None

Abstract: The agency is proposing to amend its current regulations on Defect and Noncompliance Reports and Defect and Noncompliance Notification. The amendments are intended to implement the investigative and recall provisions by increasing the availability of information regarding safety related defects and noncompliance and by improving notification to consumers of recalls of defective and noncomplying motor vehicle equipment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jonathan D. White, Chief, Recall Analysis Division, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-7882

RIN: 2127–AH89

2382. IMPROVE MOTORCYCLE HELMET HEAD PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.218

Legal Deadline: None

Abstract: In 1998, 2,284 motorcyclists were killed and 49,000 injured in traffic crashes on U.S. highways. The agency believes that helmet usage by motorcyclists is the most effective method to reduce deaths and injuries in motorcycle crashes. In order to improve the head protection for motorcyclists, the agency is proposing to upgrade the performance standards and test procedures to incorporate the technological advancements available in the current market and to review the standard for harmonization with other major helmet standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI03

2383. LABEL PLACEMENT ON REAR IMPACT GUARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.223

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency is proposing to allow trailer manufacturers additional flexibility in the placement of the permanent label on the guard to minimize the probability that the label will be exposed to conditions - environmental, operational, or otherwise - that may damage or destroy the guard while maintaining a location that is easily accessible and visible for inspection and enforcement purposes. Other portions of the petitions are denied.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI04

2384. MOVING BARRIER TIRE SPECIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214; 49 CFR 571.301

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing deletion of the currently specified G78-15 tires used in the moving barrier test and replacing them with both P205-75R15 radial and G78-15 bias ply tires. The current tires are not readily available.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: charper@nhtsa.dot.gov

RIN: 2127–AI05

2385. THEFT DATA FOR CALENDAR YEAR 1999

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The agency is publishing a request for comments on the preliminary theft data on passenger motor vehicles that occurred in calendar year 1999 for model year 1999. Publication of these data fulfills the agency's obligation to periodically obtain accurate and timely data and publish the information for review and comment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: rproctor@nhtsa.dot.gov

RIN: 2127–AI06

2386. INSURER REPORTING REQUIREMENTS FOR OCTOBER 2001

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency is proposing to update its lists in Appendices, A, B, and C of passenger motor vehicle

insurers that are required to file reports on their motor vehicle theft loss experience. If these revised appendices are adopted in a final rule, each insurer included in any of these appendices must file a report for the calendar year 1997 not later than October 25, 2001. Further, as long as the insurer remains listed, it must submit reports by each subsequent October 25.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI07

2387. REORGANIZE AND HARMONIZE CONTROLS AND DISPLAYS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 SC 30166

CFR Citation: 49 CFR 571.101

Legal Deadline: None

Abstract: The agency is proposing to reorganize the controls and displays requirements to make them more user-friendly and to harmonize the standard with the Canadian Motor Vehicle Safety Standard No. 101 on the same subject. These proposed changes will list the symbols used in the standard to improve driver recognition of the function of controls and the meaning of telltales.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
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RIN: 2127–AI09

2388. CONFIDENTIAL BUSINESS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30166(M)

CFR Citation: 49 CFR 512

Legal Deadline: None

Abstract: This will propose a revision to the agency's confidential business information regulations to reflect a new provision signed into law under the transportation recall enhancement, accountability and documentation (tread) act, which provides for the disclosure of confidential business information received under the act under limited circumstances. This NPRM will propose also changes to the regulation that will streamline procedures, eliminate duplication, ensure the use of plain language and update its provision, consistent with current case law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Heidi L. Coleman, Assistant Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI13

2389. • "EARLY WARNING" DEFECT REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-414

CFR Citation: 49 CFR 554; 49 CFR 573

Legal Deadline: Final, Statutory, June 30, 2002.
Initiation of rulemaking required not later than March 1, 2001.

Abstract: Tread Act requires NHTSA to publish a rule requiring manufacturers of motor vehicles and motor vehicle equipment to report on possible defects in their products, whether in U.S. or abroad, based on information in the possession of the manufacturer.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/01	66 FR 6532
ANPRM Comment Period End	03/23/01	
NPRM	11/00/01	
NPRM Comment Period End	12/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI25

2390. • DEFECTS IN FOREIGN COUNTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30166(m)

CFR Citation: 49 CFR 573

Legal Deadline: None

Abstract: Rulemaking to implement statutory requirement that a manufacturer of motor vehicle and equipment report to NHTSA when it determines to conduct a safety-related recall on identical or substantially similar products outside the U.S. and when a foreign government determines that a safety-related campaign should be conducted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2127–AI26

2391. • ACCELERATION OF MANUFACTURER REMEDY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30120(c)

CFR Citation: 49 CFR 573.5(c)(9)

Legal Deadline: None

Abstract: Rule to implement Sec. 6(a) of the TREAD Act, PL 106-414 by amending NHTSA's existing regulation on Defect and Noncompliance Reports (49 CFR Part 573) to require manufacturers to accelerate recalls that are not likely to be capable of completion in a reasonable time.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Goode, Trial Attorney, Department of Transportation, National Highway Traffic Safety Administration, 5219, NCC-10, 400 Seventh Street, SW, Washington, DC 20590
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RIN: 2127–AI27

2392. • REIMBURSEMENT PRIOR TO RECALL

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30120(d)

CFR Citation: 49 CFR 573; 49 CFR 577

Legal Deadline: None

Abstract: Rule to implement Section 6(b) of the TREAD Act, PL 106-414 by amending 49 CFR Part 573, Defect and Noncompliance Notification, to add requirements that manufacturers' remedy programs concerning safety-related defects and noncompliance include plans for reimbursing owners or purchasers who incurred the cost of remedy within a "reasonable time" prior to the manufacturer's notification of the defect or noncompliance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI28

2393. • DISPOSITION OF REPLACED TIRES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102-103; 49 USC 30112; 49 USC 30117-121; 49 USC 30166-67; Delegation of authority 49 CFR 1.50

CFR Citation: 49 CFR 573

Legal Deadline: None

Abstract: Rule to implement Section 7 of the TREAD Act, PL 106-414 49 USC 30120(d) by requiring a manufacturer who conducts a campaign to remedy a safety-related defect or noncompliance that involves the replacement of tires to develop a plan regarding the disposition of the tires that are replaced. The plan would address how to prevent, by means reasonably within the manufacturer's control, the disposal of replaced tires in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
NPRM Comment Period End	09/00/01	
Final Action	02/00/02	
Final Action Effective	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Coleman R. Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI29

2394. • PROHIBITION OF SALE OR LEASE OF EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30120(j)

CFR Citation: 49 CFR 573; 49 CFR 577

Legal Deadline: None

Abstract: Rule regarding statutory prohibition on the sale or lease of any item of equipment (including a tire) that is the subject of a decision or notice concerning a safety-related defect or noncompliance with a Federal motor vehicle safety standard (FMVSS) unless: (1) the defect or noncompliance is remedied as required by law before delivery under the sale or lease or (2) notification of the defect or noncompliance is required by law, but enforcement of the order is set aside in a civil action. The legal basis is Sec.8 of the TREAD Act, PL 106-414 signed 11/01/00.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jaclyn Goldstein, Department of Transportation, National Highway Traffic Safety Administration, 5219, NCC-10, 400 Seventh Street, SW, Washington, DC 20590

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RIN: 2127–AI30

2395. • RECORD RETENTION (AMENDMENT)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30112; 49 USC 30115-30121; 49 USC 30166

CFR Citation: 49 CFR Part 576

Legal Deadline: None

Abstract: This will propose to amend 49 CFR Part 576 (Record Retention) to extend its recordkeeping requirements in order to implement newly-enacted requirements under the Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act PL 106-414 signed 11/1/00), codified at 49 USC Sec. 30120.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	
Final Action	05/00/02	
Final Action Effective	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI31

2396. • IMPROVE TIRE SAFETY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.109; 49 CFR 571.117; 49 CFR 571.119; 49 CFR 571.129; 49 CFR 574

Legal Deadline: Other, Statutory, December 1, 2000, Advanced Notice of Proposed Rulemaking.
Final, Statutory, June 1, 2002.

Abstract: The recently-enacted Transportation Recall Enhancement Accountability and Documentation (TREAD) Act requires the Secretary of Transportation to initiate rulemaking to improve the labeling of tires to assist consumers in identifying tires that may be the subject of a safety recall. Pursuant to that Act, this ANPRM states that the agency is considering amendments to its regulations to improve the tire information and its availability and understandability to consumers. To aid in this effect, the agency is seeking responses from the public to questions relating to such matters as Tire Identification Number content, readability and location, loading, plies and cords, tread wear indicator, Uniform Tire Quality Grading System, speed rating, run-flat and extended mobility tires, tire inflation pressure, and dissemination of tire safety information.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/00	65 FR 75222
ANPRM Comment Period End	01/30/01	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI32

2397. • TIRE PRESSURE MONITORING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571; 49 CFR 571.101

Legal Deadline: Final, Statutory, November 30, 2001.

Abstract: The recently-enacted Transportation Recall Enhancement Accountability and Documentation (TREAD) Act requires the Secretary of Transportation to initiate rulemaking to require a warning system in new motor vehicles to indicate to the operator when a tire is significantly under inflated. The agency is proposing to establish a new standard for Tire Pressure Monitoring System (TPMS) on every new vehicle that uses a passenger car tire. A TPMS would detect low pressure in a tire and alert the driver through a "low tire" warning signal.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI33

2398. • IMPROVING THE SAFETY OF CHILD RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: Final, Statutory, November 30, 2002.

Abstract: The recently-enacted Transportation Recall Enhancement Accountability and Documentation (TREAD) Act requires the Secretary of Transportation to initiate rulemaking that will improve the safety of child restraints, including minimizing head injuries from side impact collisions. The agency will consider whether to (1) require more comprehensive tests of child restraints using an array of crash conditions and an updated test seat assembly;(2) use test dummies that represent a greater range of sizes of children and that incorporate current technologies; (3) require improved protection from head injuries in side- and rear-impact crashes; (4) provide consumer information on the physical compatibility of child restraints and vehicle seats on a model-by-model basis; (5) prescribe clearer and simpler labels and instructions on child restraints; (6) consider restraints for children weighing up to 80 pounds; (7) apply scaled injury criteria performance levels, including neck injury; and (8) include a child restraint in each vehicle crash tested under the New Car Assessment Program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI34

2399. • SEAT BELT EMERGENCY LOCKING RETRACTOR

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing clarifications concerning the test procedure for the acceleration pulse shape, onset rate, time duration, and acceleration tolerance for seat belt emergency locking retractor.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI38

2400. • VOLUNTARILY INSTALLED SEAT BELT ASSEMBLY ANCHORAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: In a final rule published June 12, 1998 (63 FR 32143, RIN 2127-AF91), the amendment required anchorages for voluntarily installed shoulder belts must comply with the current standard. This change applied mainly to seat locations where the minimum requirements were lap belts, such as the center rear seat in passenger cars. This change did not apply to seats where no seat belt was required. The agency is proposing to extend the anchorage requirement to seats where the entire seat belt assembly is voluntarily installed. This change will mainly affect passenger seats on large buses and large school buses where the customer decides to order the bus with seat belts.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This action is currently in research.

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RIN: 2127–AI40

2401. • +AUTOMOTIVE FUEL ECONOMY MANUFACTURING INCENTIVE FOR ALTERNATIVE FUEL VEHICLES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 49 USC 32905(f); 49 USC 32906(a)(1)(B)

CFR Citation: 49 CFR 538

Legal Deadline: Final, Statutory, December 31, 2001, Notice to either extend up to four years or discontinue the program after Model Year 2004.

Abstract: The agency must, by December 31, 2001, publish a notice that either extends the incentive program whereby automotive manufacturers earn Corporate Average Fuel Economy credits for the production of dual-fuel vehicles for up to four years beyond Model Year 2004, with a maximum allowable increase in average fuel economy per manufacturer of 0.9 miles per gallon, or explains the rationale for not extending the incentive program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI41

2402. • CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461 note; 31 USC 3701 note

CFR Citation: 49 CFR 578

Legal Deadline: Final, Statutory, March 4, 2001.
Statute requires civil penalty adjustments at least once every 4 years.

Abstract: Increase in civil penalties for violations of certain statutes administered by NHTSA required to be

adjusted at least once every 4 years and last increased effective March 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI42

2403. • IDLE STOP TECHNOLOGY USED IN SOME HYBRID ELECTRIC VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: The agency is proposing to amend the standard to clarify the intent of the standard and allow it to accommodate "idle stop technology" used in some hybrid electric vehicles. This will respond to existing interpretations which promised such an modification.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
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RIN: 2127–AI43

2404. • EXPANDING THE AUTO PARTS MARKING REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33103

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: In accordance with the Anti Car Theft Act of 1992, the Attorney General was required to report on the effectiveness of expanding the parts marking requirements of the theft prevention standard to the remaining motor vehicle lines. On the basis of the available evidence presented, the Attorney General found that the evidence did not support a finding that requiring parts marking would not substantially inhibit chop shop operations and auto theft and therefore, recommended expanding the parts marking requirements to the remaining motor vehicle lines. Based on the results of the report, the agency is required to prepare rulemaking to extend the theft prevention standard to the remaining motor vehicle lines.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AI46

2405. • PARKING BRAKES FOR NON-SCHOOL BUS VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: The agency is proposing to update the standard to require non-school bus vehicles with a gross vehicle weight rating (GVWR) over 10,000 pounds to be equipped with a hydraulic parking brake system.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI47

DEPARTMENT OF TRANSPORTATION (DOT)

Final Rule Stage

National Highway Traffic Safety Administration (NHTSA)

2406. BRAKE LINING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AC66

2407. +PLATFORM LIFT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.141; 49 CFR 571.142

Legal Deadline: None

Abstract: This supplemental notice proposes to establish two new safety standards: an equipment standard specifying requirements for platform lifts; and a vehicle standard for all vehicles equipped with such lifts. This supplemental notice significantly differs from our original proposal in several respects. Most notably, the scope of our proposal has been expanded to platform lifts installed on all motor vehicles. Other significant changes are additional interlock requirements, improved wheelchair retention and platform slip resistance tests, and, in some instances, lesser compliance standards for lifts installed on vehicles typically used solely for private transport. This action is considered significant due to substantial public interest in transportation of individuals with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	
SNPRM	07/27/00	65 FR 46227
Correction	08/04/00	65 FR 47946
SNPRM Comment Period End	10/25/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gayle Dalrymple, Safety Engineer, Vehicle Controls and Adapted Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5559

RIN: 2127–AD50

2408. UPGRADE FUEL INTEGRITY PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: An advance notice of proposed rulemaking in 1995 announced the agency's plan to consider upgrading the standard by making the current crash requirements more stringent and by broadening the standard's focus to include mitigation concepts related to fuel system components and environmental and aging tests related to components. The notice also requested comments on the agency's plan to explore a three-phase approach to upgrading the standard, data, methods, and strategies which may assist in the agency's regulatory decisions in defining specific requirements and test procedures for upgrading the standard. Based on the responses to the notice and available data, the agency is proposing to replace the current rear impact test procedures with a more stringent test procedure. The agency is also proposing to replace the standard's current side impact test requirements with the side impact test requirements of Federal Motor Vehicle Safety Standard No. 214, Side Impact Protection.

Timetable:

Action	Date	FR Cite
Request for Comments	12/14/92	57 FR 59041
Comment Period End	02/12/93	
ANPRM	04/12/95	60 FR 18566
ANPRM Comment Period End	06/12/95	
NPRM	11/13/00	65 FR 67693
NPRM Comment Period End	02/12/01	65 FR 78461
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This action will respond to RIN 2127-AE83. On December 15, 2000, extension of comment period was published in response to petitions.

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RIN: 2127–AF36

2409. ALTERNATIVE GEOMETRIC VISIBILITY REQUIREMENTS FOR LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to harmonize the lighting standard's geometric visibility requirements for signal lamps and rear side marker color with those of the ECE. Harmonization of the standard worldwide, without reducing safety, would allow manufacturers to reduce costs by producing to a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade. The agency is issuing additional/alternative proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54833
NPRM Comment Period End	12/26/95	
SNPRM	12/10/98	63 FR 68233
SNPRM Comment Period End	03/10/99	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On February 27, 1997 (62 FR 8883), the agency terminated rulemaking in which the agency had asked for comments on whether the performance and installation of front and rear fog lamps should be regulated. In response to these comments, the SAE has established a Fog Lamp Task Force to develop an internationally-acceptable fog lamp standard, on which a Federal standard could be based.

ANALYSIS: Regulatory Evaluation, 10/26/95, 60 FR 54833

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RIN: 2127–AF75

2410. POWER-OPERATED WINDOWS: ROOF PANELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the test procedure used to demonstrate compliance by adding an alternative testing specification for a non-contact automatic reversal system, in order to provide a more meaningful and realistic method for evaluating the compliance of such systems which do not rely on contact to sense an obstruction. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	06/04/96	61 FR 28124
Correction	06/14/96	61 FR 30209
NPRM Comment Period End	08/05/96	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AF83

2411. AUTOMOTIVE FUEL ECONOMY REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32907

CFR Citation: 49 CFR 537

Legal Deadline: None

Abstract: The agency is proposing to remove obsolete reporting requirements. These submission requirements include factors such as "breakover angles" for light trucks, which are essentially never used by NHTSA. Revising this part would reduce the costs to the industry of reporting to NHTSA. This action will not inhibit the agency's ability to comply with its statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/13/96	61 FR 22010
NPRM Comment Period End	07/12/96	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG00

2412. DEALER NOTIFICATION OF DEFECT OR NONCOMPLIANCE DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102; 49 USC 30103; 49 USC 30111; 49 USC 30112; 49 USC 30115; 49 USC 30116; 49 USC 30118; 49 USC 30119; 49 USC 30120; 49 USC 30163; 49 USC 30165

CFR Citation: 49 CFR 573; 49 CFR 577

Legal Deadline: None

Abstract: The rule will implement an amendment to 49 USC Chapter 301 which prohibits dealers from selling motor vehicles or motor vehicle equipment that have been determined to contain a safety-related defect or noncompliance with a Federal motor vehicle safety standard until the defect or noncompliance is remedied. It will set forth criteria to govern the timing and content of notifications of defects and noncompliances that manufacturers must send to their dealers.

Timetable:

Action	Date	FR Cite
NPRM	09/27/93	58 FR 50314
NPRM Comment Period End	10/27/93	
SNPRM	05/19/99	64 FR 27227
SNPRM Comment Period End	06/18/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jonathan D. White, Chief, Recall Analysis Division, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-7882

RIN: 2127–AG27

2413. POWER WINDOW SAFETY SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to require each power operated window, interior partition, and roof panel in a motor vehicle to be equipped with a switch designed so that contact by a form representing a small child's knee would not close window, partition, or panel.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58504
NPRM Comment Period End	01/14/97	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG36

2414. SEAT BELT POSITIONING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing a labeling requirement for seat belt positioning devices. This label would consist of a warning regarding the suitability of these devices for a particular height/weight/age of child.

Timetable:

Action	Date	FR Cite
NPRM	08/13/99	64 FR 44164
NPRM Comment Period End	10/12/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG49

2415. GLARE REDUCTION FROM DAYTIME RUNNING LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to amend the lighting standard to reduce glare from daytime running lamps (DRLs). It would do this in three stages. One year after publication of the final rule, DRLs utilizing the upper headlamp beam would not be permitted to exceed 3,000 candela (cd) at any point, thus becoming subject to the maximum candela permitted for DRLs other than headlamps. This same limit would be applied to the upper half of lower beam DRLs two years after publication of the final rule. Finally, four years after publication of the final rule, all DRLs, except lower beam DRLs, would be subject to a flat 1,500 cd limit. Lower beam DRLs would be limited to 1,500 cd at horizontal or above. This action is intended to provide the public with all the conspicuity benefits of DRLs while reducing glare and is based on research that has become available since the final rule establishing DRLs was published in 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42348
NPRM Comment Period End	09/21/98	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG66

2416. ADMINISTRATIVE REWRITE FOR HEADLAMP REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency has proposed to rewrite the sections relating to headlighting. The rewrite is important because of the standard's age and numerous amendments which have made it difficult to read and interpret. The revised standard should reduce burden especially to small manufacturers because of improved clarity. The reorganization of the sections relating to other lamps will be addressed in a separate rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/12/98	63 FR 63258
Comment Period End 4/11/99	02/08/99	64 FR 6021
NPRM Comment Period End	02/10/99	
Final	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG87

2417. SIGNAL LAMPS USED WITH LIGHT EMITTING DIODES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to revise the requirements for signal lamps equipped with 3 or more light emitting diodes (LED). The current requirements have become design restrictive and a service burden for vehicle and signal lamp manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	06/24/98	63 FR 34350
Extension of Comment Period	08/03/98	63 FR 41222
NPRM Comment Period End	10/09/98	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AG88

2418. STATE ISSUED IDENTIFICATION DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 656

CFR Citation: 23 CFR 1331

Legal Deadline: NPRM, Statutory, September 30, 1997.

Abstract: The agency issued a notice of proposed rulemaking to implement the requirements contained in section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that a Federal agency may only accept as proof of identity a driver's license or identification document that conforms to specific requirements, in accordance with regulations issued by the Department of Transportation. The agency received over 2000 comments to this notice. The agency's appropriations act imposed a restriction on the use of FY 99 funds to issue a final rule implementing the proposed requirements. Subsequently the agency's FY 2000 appropriations act repealed section 656(b). The agency will take action to terminate the rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 33220
NPRM Comment Period End	08/03/98	
Comment Period End 10/2/98	08/19/98	63 FR 44415
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800

RIN: 2127–AG91

2419. +ALLOCATION OF FUEL ECONOMY CREDITS

Priority: Other Significant

Legal Authority: 49 USC 32903

CFR Citation: 49 CFR 534

Legal Deadline: None

Abstract: The agency is proposing rulemaking to clarify when and how predecessor and successor automobile manufacturers may use the fuel economy credits of the predecessor or successor. The use of carry forward or carry back credits will be specified for manufacturers that merge. This action is considered significant because it will affect the treatment of the Corporate Average Fuel Economy (CAFE) penalties.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 6523
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Edward Glancy, Senior Attorney Advisor, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AG97

2420. PLACEMENT OF WHEELCHAIR RESTRAINTS ON BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30117; 49 USC 30166; 49 USC 322; 49 USC 30111; 49 USC 30115

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: To prevent blocking of the emergency exits, the agency is proposing to add a new section to the standard to not allow the placement of wheelchair securement anchorages or other devices that protrude into the aisle of an emergency exit in all buses.

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10604
NPRM Comment Period End	05/04/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH03

2421. INCORPORATE THE 1996 REVISION OF THE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to

incorporate the 1996 revision of the American National Standards Institute (ANSI) standard for safety glazing used in motor vehicles and other minor revisions into the agency's current standard for safety glazing used in motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	08/04/99	64 FR 42330
NPRM Comment Period End	10/04/99	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH08

2422. +HARMONIZATION OF HEAD RESTRAINTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: The agency has proposed to upgrade the current head restraint requirements to increase safety. The proposal also, until the upgraded requirements become effective, allows manufacturers to certify their vehicles either to the existing U.S. requirements or to the Economic Commission for Europe (ECE) Regulation No. 25. The upgrade proposed performance requirements intended to assure that the head restraint, if adjusted, will remain locked in specific height positions and calls for the installation of head restraints in rear seats. This action is concerned significant due to the expected high cost to the private sector for the modifications to the standard.

Timetable:

Action	Date	FR Cite
NPRM	01/04/01	66 FR 967
NPRM Comment Period End	03/05/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH09

2423. TRUCK AIR BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the air brake requirements for five of the ten recommended modifications. These areas are to provide consistency between table I., Stopping Sequence, item 4(b) and S5.7.3(b); provide wording for single-unit vehicles to prevent single-unit axle overloading; clarify emergency brake requirements for trucks and buses; address the misconceptions about the wheel lock provisions as they apply to vehicles with tandem axles; and correct two minor typographical errors. The other five recommendations will be denied.

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5259
NPRM Comment Period End	04/05/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH11

2424. CHILD RESTRAINTS FOR OLDER CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on whether the child restraint standard should be amended to facilitate the production of lap belt-installed booster seats and other child restraints for children weighing over 18 kilograms, such as by allowing use of a tether in some of the compliance tests.

Timetable:

Action	Date	FR Cite
Request for Comment	07/07/99	64 FR 36857
Comment Period End	09/07/99	
Agency Decision	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH14

2425. MOTORCYCLE BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.122

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering eliminating the requirements for the minimum hand lever force (5 pounds) and the minimum foot pedal force (10 pounds) for fade and water recovery tests.

Timetable:

Action	Date	FR Cite
NPRM	11/17/99	64 FR 62622
NPRM Comment Period End	01/18/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH15

2426. HEAVY VEHICLE ANTILOCK BRAKE SYSTEM (ABS) PERFORMANCE REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: The agency has proposed performance tests for ABS-equipped single unit trucks and buses. ABS equipment requirements became effective for air-braked single unit trucks, buses, and trailers on March 1, 1998, and for hydraulic-braked trucks and buses becomes effective on March 1, 1999. The agency indicated in prior rulemaking notices that it would consider supplementing these ABS equipment requirements with performance requirements after conducting tests to determine if such testings are practicable and repeatable for trucks and buses.

Timetable:

Action	Date	FR Cite
NPRM	12/21/99	64 FR 71377
NPRM Comment Period End	02/22/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 2127–AH16

2427. +SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS- ALLOCATIONS BASED ON STATE SEAT BELT USE RATES

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 105-178, sec 1403

CFR Citation: 23 CFR 1240

Legal Deadline: None

Abstract: Section 1403 of TEA-21 established a new program of incentive grants (under Section 157 of chapter 1 of Title 23) to encourage States to increase seat belt use rates. This rulemaking action establishes the criteria and procedures to be followed to implement this incentive grant program. A State is eligible for an incentive grant if: (1) The State had a seat belt use rate greater than the national average for the two preceding calendar years, OR (2) The State's seat belt use rate in the previous calendar year was higher than the State's "base seat belt use rate." (The "base seat belt use rate" is defined as the State's highest use rate for any calendar year from 1996 through the calendar year preceding the previous calendar year.) The amount of funding each State is awarded is based on calculations by the Secretary of the annual savings to the Federal Government in medical costs (including savings under the medicare and medicaid programs). According to the statute, on September 1 of each year, beginning in 1998, the Department will determine which States meet the eligibility criteria, and on October 1 of each year, the Department will allocate the incentive grant funds. This rule sets forth the procedures the agency will use to evaluate seat belt use rates and to allocate funds. It was published as an interim final rule with immediate effectiveness because the first evaluations of seat belt use information were required on September 1, 1998, and the first allocations of funds were required on October 1, 1998. In the next action, the agency expects to evaluate and respond to comments, as appropriate.

The statute authorizes a total of $500 million for grants under this section for fiscal years 1999 through 2003. A State may use these grant funds for any project eligible for assistance under Title 23. If there are any unallocated funds available in FY 1999, the excess amounts will be apportioned to the states for expenditure on the Surface Transportation Program (STP). If there are any unallocated funds available in FY 2000 through FY 2003, the Secretary is directed to allocate the funds to selected States to carry out innovative projects that promote increased seat belt use rates. States will be selected based on plans submitted to the Secretary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/98	63 FR 57904
Interim Final Rule Effective	10/29/98	
Comment Period End	01/29/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Wendi Wilson-John, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration
Phone: 202 366-2121

RIN: 2127–AH38

2428. OCCUPANT PROTECTION INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2003

CFR Citation: 23 CFR 1345

Legal Deadline: None

Abstract: TEA-21 established a new program of incentive grants to encourage States to adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. An interim final rule was published to establish criteria and procedures to be followed to implement this incentive grant program. A State may become eligible to receive a grant under this section by demonstrating that it has implemented at least four of the following six criteria: 1) a law requiring safety belt use by all front seat passengers (and beginning in FY2001, in any seat in the vehicle); 2) a primary safety belt law; 3) minimum fines or penalty points for belt and child seat violations; 4) a special traffic enforcement program; 5) a child passenger protection education program; and 6) a child passenger protection law - requiring minors to be properly secured. The statute authorizes a total of $68 million for grants under this section over 5 years beginning in fiscal year 1999. Each State that qualifies for a grant receives up to 25 percent of its FY1997 section 402 apportionment. An interim final rule was published with immediate effectiveness, because its criteria applied to States seeking to receive funds beginning on October 1, 1998. A final rule will be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/01/98	63 FR 52592
Interim Final Rule Effective	11/02/98	
Interim Final Rule Comment Period End	11/30/98	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Joan Tetrault, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH40

2429. EJECTION MITIGATION USING ADVANCED GLAZING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to the Intermodal Surface Transportation Efficiency Act of 1991, the agency is requesting comments on the report titled "Ejection Mitigation Using Advanced Glazing: Status Report II." This report is to inform the public about the agency's research findings to date on advanced glazing materials that may prevent ejection on vehicle occupants through motor vehicle windows during crashes.

Timetable:

Action	Date	FR Cite
Request for Comments	07/19/00	65 FR 44710
Comment Period End	11/16/00	
Agency Decision	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
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Email: charper@nhtsa.dot.gov

RIN: 2127–AH50

2430. UPPER INTERIOR IMPACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: At the request of the manufacturers' organizations, the agency is proposing to amend the upper interior impact requirements (1) to modify the minimum distance between certain targets on vertical surfaces inside a vehicle and (2) add new definitions and test procedures for new-style door frames and vertical seat belt mounting structures.

Timetable:

Action	Date	FR Cite
NPRM	04/05/00	65 FR 17843
NPRM Comment Period End	06/05/00	
NPRM Comment Period Extended	06/07/00	65 FR 36106
NPRM Comment Period End	07/05/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
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RIN: 2127–AH61

2431. VEHICLES WITH RAISED ROOFS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on April 27, 1999 (64 FR 22567, RIN 2127-AF40) that made testing more suitable for vehicles with raised or sloped roof structures, the petitioners requested that the agency modify the portion of the rule that pertains to raised roof vehicles, particularly those vehicles used for transporting disabled persons. The petitioners claim that the test plate position requirement for these vehicles causes the plate's rear edge to contact the raised roof structure in a manner which causes abnormal penetration and failure.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/00	65 FR 4579
Action Effective	01/31/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

DOT—NHTSA — Final Rule Stage

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH74

2432. SCHOOL BUS BODY JOINT STRENGTH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on November 5, 1998 (63 FR 59732 RIN 2127-AC19) which extended the applicability of Standard No. 221, school bus body joint strength, to school buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, narrowed an exclusion of maintenance access panels from the requirements of the standard, and revised testing requirements, the agency is considering amending the definition of bus body and allowing for the testing of surrogate bus body joint. Changing the definition could exclude those joints in the van cutaway chassis and enhance the possibility of allowing van cutaways to be manufactured into school buses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/06/00	65 FR 11751
Interim Final Rule Effective	04/05/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: In response to petitions for reconsideration, this final rule extends the effective date of the November 5, 1998, final rule. Other issues are still under consideration.

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RIN: 2127–AH84

2433. STOWABLE OR FOLD-AWAY CHILD RESTRAINT ANCHORAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.225

Legal Deadline: None

Abstract: This action proposes requests by petitions for reconsideration to permit stowing and fold-away anchors on vehicles. The proposal would set performance and other requirements for such anchors. This pertains to the requirements established in the final rule published March 5, 1999 (64 FR 10785 RIN 2127-AG50).

Timetable:

Action	Date	FR Cite
Agency Decision	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Other issued raised by the petitioners are being addressed in RIN 2127-AH65 - Child Restraint Anchorage Systems - Part 1 and RIN 2127-AH86 - Child Restraint Anchorage Systems - Part 2.

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RIN: 2127–AH85

2434. NECK LATERAL BENDING FOR 50TH PERCENTILE MALE SIDE IMPACT DUMMY HYBRID III (SID/HIII)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has proposed to modify the neck lateral bending response specifications for the Side Impact Hybrid Dummy 50th Percentile Male (SID/HIII).

Timetable:

Action	Date	FR Cite
NPRM	11/29/00	65 FR 71081
NPRM Comment Period End	01/16/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH87

2435. CLARIFY TEST PROCEDURES FOR BRAKE FLUIDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.116

Legal Deadline: None

Abstract: The agency has proposed to revise the corrosion and evaporation test procedures. These revisions were intended to improve the levels of compliance test repeatability and/or reproducibility.

Timetable:

Action	Date	FR Cite
NPRM	01/16/01	66 FR 3527
NPRM Comment Period End	03/19/01	
Final Action	09/00/01	

DOT—NHTSA — Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH96

2436. CHILD RESTRAINT ANCHORAGE SYSTEMS—PART 2

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.225

Legal Deadline: None

Abstract: This action responds to several petitions for reconsideration concerning long-term testing procedures regarding the strength and other issues of universal child restraint anchors. These requirements were established by the final rule on universal child restraint anchorages published on March 5, 1999 (64 FR 10785, RIN 2127-AG50). An earlier action (RIN 2127-AH65) responded to other issues raised by the petitions.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH99

2437. HYBRID III TYPE 6-YEAR-OLD SIZE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published January 13, 2000 (65 FR 2059, RIN 2127-AG76) which established design and performance specifications for a new, more advanced 6-year-old child dummy.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI00

2438. FIFTH PERCENTILE FEMALE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published March 1, 2000 (65 FR 10961, RIN 2127-AG66) which adopted the Hybrid III small female size dummy.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI01

2439. HYBRID III TYPE 3-YEAR-OLD SIZE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published March 22, 2000 (65 FR 15254, RIN 2127-AG77) which established design and performance specifications for a new, more advanced 3-year-old child dummy.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI02

2440. HIGH-THEFT LINES FOR MODEL YEAR 2002

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The agency is listing the likely high-theft vehicle lines that are subject to the parts-marking requirements of the theft prevention

standard and high-theft lines that are exempted from the parts-marking requirements for model year 2002.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI08

2441. +ADVANCED AIR BAGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published May 12, 2000 (65 FR 30679, RIN 2127-AG70) which required future air bags be designed to create less risk of serious air bag-induced injuries that current air bags, particularly for small women and young children; and provided improved frontal crash protection for all occupants, by means that included advanced air bag technology. This action is considered significant because of substantial public interest and controversy.

Timetable:

Action	Date	FR Cite
Announces Technical Workshop	11/14/00	65 FR 68107
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Agency held a technical workshop on December 6, 2000, to give the agency an opportunity to make sure it understands the petitions' issues concerning some of the test procedures for the advanced air bag final rule.

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI10

2442. • SALE OR LEASE OF DEFECTIVE OR NONCOMPLIANT TIRE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30166(n); Delegation of Authority 49 CFR 1.50

CFR Citation: 49 CFR 573

Legal Deadline: Final, Statutory, January 30, 2001, interim final rule.

Abstract: The regulation requires the reporting of knowing and willful sales or leases for use on a motor vehicle of defective tires or tires not in compliance with safety standards. Regulation required by P.L.106-414.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/26/00	65 FR 81409
Interim Final Rule Effective	01/25/01	
Interim Final Rule Comment Period End	02/26/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jennifer T. Timian, Trial Attorney, Department of Transportation, National Highway Traffic Safety Administration, 5219, NCC-10, 400 Seventh Street, SW., Washington, DC 20590
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RIN: 2127–AI23

2443. • SAFE HARBOR PROVISION

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-414 Tread Act; 49 USC 30170(a)(2)(B)

CFR Citation: 49 CFR 578

Legal Deadline: Final, Statutory, January 30, 2001, Interim Final.

Abstract: Rule implements the "reasonable time" and "sufficient correction" as they apply to the safe harbor from criminal penalties, as required by the TREAD Act P.L. 106-414.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/26/00	65 FR 81414
Interim Final Rule Effective	01/25/01	
Interim Final Rule Comment Period End	02/26/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Cohen, Trial Attorney, Department of Transportation, National Highway Traffic Safety Administration, 5219, NCC-10, 400 Seventh Street, SW, Washington, DC 20590
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RIN: 2127–AI24

2444. • HYBRID III TYPE 12-MONTH-OLD SIZE TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of our final rule published March 31, 2000 (65 FR 17180, RIN 2127-AG78) which established design and performance specifications for a new, more advanced 12-month-old child dummy.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI37

2445. PROCEDURES FOR PARTICIPATING IN AND RECEIVING DATA FROM THE NATIONAL DRIVER REGISTRATION PROBLEM DRIVER POINTER SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30301 to 30308; PL 106-159, sec 204

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: The agency is amending the National Driver Register regulations to implement an amendment made by the Motor Carrier Safety Improvement Act of 1999 (PL 106-159). The amendment requires a state, before issuing or renewing a motor vehicle operator's license to an individual, to query both the National Driver Register and the Commercial Driver's License Information System on the individual's driving record.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800

RIN: 2127–AI45

2446. • TRAILER TEST RIG

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering a technical amendment to the standard to delete a figure which is no longer referenced and to correct several typographical errors and omissions.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI48

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Long-Term Actions

2447. +CRASHWORTHINESS RATINGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. The agency requested public comments on the National Academy of Sciences (NAS) study titled "Shopping for Safety - Providing Consumer Automotive Safety Information," (TRB Special Report 248) and how that study should be reflected in the agency's decision on whether, and if so, how, to proceed with a crashworthiness rating for automobiles.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
NPRM Comment Period End	04/22/81	
Request for Comments	05/20/97	62 FR 27648
Comment Period End	08/18/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057

RIN: 2127–AA03

2448. +FLAMMABILITY OF INTERIOR MATERIALS—SCHOOL BUSES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	
Request for Comments	02/26/91	56 FR 7826
Comment Period End	04/29/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AA44

2449. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Legal Deadline: None

Abstract: The agency proposed to amend the certification requirements that apply to incomplete vehicles other than chassis-cabs. Incomplete vehicles are vehicles that include at least a frame and chassis structure, power train, steering system, suspension system, and brake system, but need further manufacturing performed on them to become completed vehicles. The agency proposed to extend the certification requirements currently applying to chassis-cabs to all types of incomplete vehicles. The agency recognizes that manufacturers who build vehicles in more than one stage are faced with somewhat different problems than manufacturers who build vehicles in a single stage, especially when it comes to certifying vehicles to meet Federal Motor Vehicle Safety Standards. The agency held a public meeting to listen to the views of these groups and others with respect to improving the vehicle certification process. The agency has established a negotiated rulemaking advisory committee to develop recommended amendments to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
Announced Public Meeting	11/17/95	60 FR 57694
Notice of Intent	05/20/99	64 FR 27499
Notice of Formation of Advisory Committee	11/26/99	64 FR 66447
Notice of Meetings	02/07/00	65 FR 5847
Notice	04/19/00	65 FR 20936
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The agency has published a list of scheduled meetings.

ANALYSIS: Regulatory Evaluation, 12/03/91, 56 FR 61392

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AE27

2450. +REVIEW; SIDE IMPACT PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: This standard requires passenger cars manufactured after September 1, 1996, to provide occupant protection when impacted in the side by a moving deformable barrier. The agency has compared the actual risk of occupant injury in side impact crashes of cars meeting the standard to the risk in pre-standard cars. The cost of the standard has been estimated. The Technical Report has been published. This regulation was selected for review because of its costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/94	
Technical Report: Phase I	12/08/99	64 FR 68717
Comment Period End	04/06/00	
Summary and Discussion of Public Comments sent to Docket (Phase 1)	08/11/00	
End Review	06/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Phase I evaluation report indicates that the test injury criterion TTI(d) has a statistically significant association with fatality risk in actual side-impact crashes on the highway. In model years 1981-93 cars, make models with low TTI(d) on the Federal motor vehicle safety standard no. 214 test tend to have low fatality risk.

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RIN: 2127–AF54

2451. DOOR LATCH EXEMPTION FOR VEHICLES EQUIPPED WITH WHEELCHAIR LIFTS AND RAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the "Door Locks and Door Retention Components" requirements by exempting vehicles with wheelchair ramps and to establish uniform requirements for vehicles with wheelchair lifts and ramps. These modifications are necessary because of changes in the types of vehicles equipped with wheelchair lifts/ramps and changes in lift/ramp structural designs which have come to pass in recent years. Petition was granted.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On 05/31/96 (61 FR 27325), the agency published a grant notice. The agency believes that the suggested changes made by the petitioner merit additional study and research. The agency is currently conducting research to determine if door latch exemptions are still necessary. Simultaneously, the agency is developing a door latch procedure for sliding doors.

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RIN: 2127–AG16

2452. UPGRADE ROOF CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to upgrade the roof crashworthiness particularly since a larger percentage of American vehicles consist of light duty and utility vehicles, a class of vehicles more prone to rollover accidents. Petition was granted.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG51

2453. REVIEW: REDESIGNED AIR BAGS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard was temporarily amended to make the unbelted test for vehicles with air bags less stringent and, in effect, make it easier for manufacturers to quickly depower their air bags. Redesigned air bags are likely to benefit out-of-position occupants and reduce drivers' arm injuries, but they might be less effective than earlier air bags for some occupants. This regulation was selected for review because of public interest, potential benefits, and possibility of higher risk for some vehicle occupants.

Timetable:

Action	Date	FR Cite
Begin Review	05/01/98	
End Review	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH13

2454. USE OF UNIVERSAL CHILD SEATS IN AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action responds to a concern expressed by the Federal Aviation Administration (FAA) regarding some new universal child seats that may be equipped with rigid connectors or prongs. FAA believes that if a universal child seat equipped with non-folding, non-retracting rigid connectors or prongs were installed on an aircraft seat, the connectors or prongs might damage the aircraft seat cushions and might protrude into the leg space and egress path of the passenger sitting immediately behind the child seat.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See RIN 2127-AG50 for the Uniform Child Restraint Anchorage Systems rule.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH56

2455. REGISTERED IMPORTERS OF VEHICLES NOT ORIGINALLY MANUFACTURED TO CONFORM WITH THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30141; 49 USC 30147

CFR Citation: 49 CFR 592

Legal Deadline: None

Abstract: The agency is proposing to reduce regulatory burdens associated with importation of Canadian vehicles for resale in the United States when those vehicles already comply in all essential respects with the Federal motor vehicle safety standards. This proposal will enhance safety by revising application procedures to ensure a higher caliber of registered importers and clarifying existing obligations.

Timetable:

Action	Date	FR Cite
NPRM	11/20/00	65 FR 69810
NPRM Comment Period End	02/01/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH67

2456. REVIEW: ANTILOCK BRAKE SYSTEMS FOR HEAVY TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: These standards require antilock brake systems (ABS) on truck-tractors manufactured after March 1, 1997, semi-trailers and single-unit trucks equipped with air brakes after March 1, 1998, and single-unit trucks over 10,000 pounds GVWR equipped with hydraulic brakes after March 1, 1999. The agency will study the influence of ABS on crash involvement rates and estimate the cost of ABS. These regulations were selected for review because of their costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/00	
Evaluation Plan Published	08/14/00	65 FR 49633
End Review	12/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI14

2457. REVIEW: REAR IMPACT GUARDS FOR TRUCK TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.223; 49 CFR 571.224

Legal Deadline: None

Abstract: These standards set requirements for the geometry, configuration, strength, and energy absorption capability of rear impact guards on full trailers and semi-trailers over 10,000 pounds GVWR manufactured after January 26, 1998. The agency will study the influence of these guards on injuries in passenger vehicles that rear-impact trailers. The cost of the standards will also be estimated. These regulations were selected for review because of their costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	04/15/00	
Evaluation Plan Published	08/14/00	65 FR 49633
End Review	12/00/04	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI15

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2458. REVIEW: PASSENGER-CAR BACK SEAT OCCUPANT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This notice announces the publication of a Technical Report concerning the back seat lap/shoulder belt requirement. The report's title is the "Effectiveness of Lap/Shoulder Belts in the Back Outboard Seating Positions." The primary objective of this report is to evaluate the effectiveness of lap/shoulder belts for back seat outboard occupants and whether they are more effective than lap belts for these occupants. Other objectives are to determine whether lap belts are effective, whether lap belts are harmful to back seat belt users in specific crash modes, and whether lap/shoulder belts correct the problems found with lap belts. The regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/93	
Technical Report	07/22/99	64 FR 39554
Review Completed: Summary and Discussion of Public Comments Sent to Docket	10/18/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The evaluation report indicates that lap/shoulder belts reduce the fatality risk of back seat occupants by 44 percent relative to an unrestrained occupant and by 15 percent relative to an occupant wearing the lap belt only.

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RIN: 2127–AE95

2459. MODIFIED VEHICLES TO ACCOMMODATE A PERSON'S DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30122(c)

CFR Citation: 49 CFR 595

Legal Deadline: None

Abstract: The agency has taken action to facilitate the modification of motor vehicles so that persons with disabilities can drive or ride in them. The agency has accomplished this by issuing a limited exemption from a statutory provision that prohibits specified types of commercial entities from either removing safety equipment or features installed on motor vehicles pursuant to the Federal motor vehicle safety standards performance. The exemption is limited in that it allows repair businesses to modify only certain types of Federally-required safety equipment and features, under specified circumstances.

Timetable:

Action	Date	FR Cite
NPRM	09/28/98	63 FR 51547
NPRM Comment Period End	12/28/98	
Final Action	02/27/01	66 FR 12637
Final Action Effective	04/30/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gayle Dalrymple, Safety Engineer, Vehicle Controls and Adapted Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5559

RIN: 2127–AG40

2460. OPEN CONTAINER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, 112 Stat 834

CFR Citation: 23 CFR 1230

Legal Deadline: None

Abstract: Section 5 of the TEA-21 Restoration Act established a new program (under section 154 of chapter 1 of title 23) to encourage States to enact Open Container laws. A State which does not have an Open Container law will have certain Federal-aid highway funds transferred to the State's section 402 State and Community Highway Safety grant program. An interim final rule was published to establish the criteria and procedures to be followed to implement this transfer program.

Each State shall have in effect an Open Container law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing an Open Container law, 1-1/2 percent of the Federal-aid highway funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) will be transferred to the State's section 402 apportionment. On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing an Open Container Law, the transferred amount increases to 3 percent. Funds transferred to section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

An interim final rule was published with immediate effectiveness because some state legislatures were not scheduled to meet in 2000, so they were preparing their legislative agendas at the time of publication for their 1999 legislative sessions. The states had a need to know what the criteria were to be as soon as possible so they could enact conforming legislation and avoid the transfer of funds on October 1, 2000. The agency concluded, therefore, that prior notice and opportunity to comment on the rule was both impracticable and contrary to the public interest and found good cause to publish an interim final rule. A final rule has been published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/06/98	63 FR 53580
Interim Final Action Effective	11/05/98	
Interim Final Rule Comment Period End	12/07/98	
Final Action	08/24/00	65 FR 51532

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Glenn Karr, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH41

2461. STATE HIGHWAY SAFETY DATA IMPROVEMENTS INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2005

CFR Citation: 23 CFR 1335

Legal Deadline: None

Abstract: TEA 21 established a new program of incentive grants to encourage States to adopt and implement programs to improve highway safety data. An interim final rule was to establish criteria and procedures to be followed to implement this incentive grant program to encourage States to adopt and implement effective programs to improve the timeliness, accuracy, completeness, uniformity, and accessibility of State data that is needed to identify priorities for national, State, and local highway and traffic and State programs. A State may become eligible to receive a grant under this section by demonstrating that it has met one of the following three options: 1)establish a multi-disciplinary highway safety data and traffic records coordination committee; complete a highway safety data and traffic records assessment or audit within the last five years and initiate development of a multi-year highway safety data and traffic records strategic plan. Upon completion of this option the State may receive $125,000. 2) certify that the State has met the criteria of option 1 and submit a data and traffic record multi-year plan, identifying goals,

performance-based measures, and priorities; and specify how incentive funds will be used. Upon completion of this option the State may receive $250,000. 3) the Secretary may award grants of up to $25,000 for 1 year to any State that does not meet the criteria for option 1. In subsequent years a State must submit or update a data and traffic records multi-year plan, identifying goals, performance-based measures and priorities; and the specifics of how incentive funds will be used. The State must certify that the coordinating committee continues to support the multi-year plan and report annually on the progress made to implement the plan. States meeting these conditions in subsequent years may receive $225,000 or more, based on the population and road mileage in the state. A total of $32,000,000 is authorized for fiscal years 1999 through 2002, and all grant amounts are subject to the availability of funds. An interim final rule was published with immediate effectiveness, because its criteria applied to States seeking to receive funds beginning on October 1, 1998. A final rule has been published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/08/98	63 FR 54044
Interim Final Rule Effective	11/09/98	
Interim Final Rule Comment Period End	12/07/98	
Final Action	08/10/00	65 FR 48905

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: John Oates, Chief, Implementation, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Phone: 202 366-2121

RIN: 2127–AH43

2462. MINIMUM PENALTIES FOR REPEAT OFFENDERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, 112 Stat 834

CFR Citation: 23 CFR 1235

Legal Deadline: None

Abstract: Section 5 of the TEA-21 Restoration Act established a new program (under section 164 of chapter 1 of title 23) to encourage States to enact Repeat Intoxicated Driver laws. A State which does not have a Repeat Intoxicated Driver law will have certain Federal-aid highway funds transferred to the States section 402 State and Community Highway Safety grant program. An interim final rule was published to establish the criteria and procedures to be followed to implement this transfer program.

Each State shall have in effect a Repeat Intoxicated Driver law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated (DWI) or driving under the influence (DUI) after a previous conviction for that offense shall (A) receive a driver's license suspension for not less than 1 year; (B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles; (C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and (D) receive (i) for 2nd offense, not less than 30 days community service or 5 days of imprisonment; and (ii) for 3rd and subsequent offense, not less than 60 days community service or 10 days of imprisonment. On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, 1-1/2 percent of the Federal-aid highway funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) will be transferred to the State's section 402 apportionment. On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, the transferred amount increases to 3 percent. Funds transferred to section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

An interim final rule was published with immediate effectiveness, because some state legislatures are not scheduled to meet in the year 2000, so they were preparing their legislative agendas at the time of publication for their 1999 legislative sessions. The states had a need to know what the criteria would be as soon as possible so they could enact conforming legislation and avoid the transfer of funds on October 1, 2000. The agency concluded, therefore, that prior notice and opportunity to comment on the rule was both impracticable and contrary to the public interest and found good cause to publish an interim final rule. A final rule has been published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/19/98	63 FR 55796
Interim Final Rule Effective	11/18/98	
Interim Final Rule Comment Period End	12/18/98	
Final Action	10/04/00	65 FR 59112

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Glenn Karr, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH47

2463. PARKING BRAKE WARNING SYSTEM ON SCHOOL BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to require school buses be equipped with a parking brake warning system that activates when the school bus engine is turned off, the transmission is in neutral, and the parking brake has not been applied. This request for comments notice seeks to obtain information to help the agency determine the magnitude of the problem and the potential effectiveness of the proposed warning system.

Timetable:

Action	Date	FR Cite
Request for Comments	03/01/99	64 FR 9961
Comment Period End	04/30/99	
Denial of Petition for Rulemaking	04/10/01	66 FR 18581

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH57

2464. REQUIREMENTS FOR LOW-SPEED VEHICLES (LSV)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 565; 49 CFR 571.500

Legal Deadline: None

Abstract: In response to petitions for reconsideration of the final rule published June 17, 1998 (63 FR 33194 RIN 2127-AG58). This amendment also announces that States and local government may issue their own performance specifications for equipment on LSVs, if the current standard does not include any performance requirements for that equipment. Finally, the notice announces the agency's intention to publish, in the near future, a proposal to establish performance requirements for the safety equipment of LSVs.

Timetable:

Action	Date	FR Cite
Final Action	09/01/00	65 FR 53219

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH69

2465. INTERIOR TRUNK RELEASE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.401

Legal Deadline: None

Abstract: The agency has established a new standard that requires all new passenger cars with trunks be equipped with a release latch inside the trunk compartment.

Timetable:

Action	Date	FR Cite
NPRM	12/17/99	64 FR 70672
NPRM Comment Period End	02/15/00	
Final Action	10/20/00	65 FR 63014
Final Action Effective	09/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Congress required the agency to provide a report on the benefits of an interior trunk release no later than December 1999.

Agency Contact: Richard L. Van Iderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280

RIN: 2127–AH83

2466. BONFIRE TEST PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 49 UCS 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 303; 49 CFR 304

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published November 24, 1995 (60 FR 57943, RIN 2127-AF14) which amended the labeling requirements and the bonfire test requirements in standard No. 304, the agency has revised these test requirements. The agency has determined that the 1995 procedures are not technically feasible because the required thermocopule temperatures may not be reached during the test. The new test procedures are based on the Compressed Natural Gas (CNG) industries latest revision of NGV2.

Timetable:

Action	Date	FR Cite
Final Action	10/30/00	65 FR 64624
Final Action Effective	11/29/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AH94

2467. SCHEDULE OF FEES AUTHORIZED BY 49 USC 30141

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30141

CFR Citation: 49 CFR 594

Legal Deadline: Final, Statutory, October 2000, Revised fee must be established before fiscal year begins.

Abstract: Periodic Revision of Registered Importer Fees

Authorized by 49 U.S.C. 30141

Timetable:

Action	Date	FR Cite
Final Action	09/19/00	65 FR 56497

DOT—NHTSA **Completed Actions**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI11

2468. IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL MOTOR VEHICLE (FMV) SAFETY, BUMPER AND THEFT PREVENTION STANDARDS AND OF VEHICLES NOT ORIGINALLY MANUFACTURED TO CONFORM TO FMV STANDARDS

Timetable:

Action	Date	FR Cite
Duplicate of RIN 2127-AI17	02/23/01	

RIN: 2127–AI12

2469. LISTING OF NONCONFORMING VEHICLES ELIGIBLE FOR IMPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30141

CFR Citation: 49 CFR 593

Legal Deadline: None

Abstract: This final action amends the list of vehicles not originally manufactured to conform to all applicable Federal motor vehicle safety standards that the agency has decided to be eligible for importation. This list is published as an appendix to the regulation that establish the procedures through which the agency makes import eligibility decisions. The amendment will add to the list all vehicles that the agency has decided to be eligible for importation since the list was last published on October 1, 1999.

Timetable:

Action	Date	FR Cite
Final Action	09/19/00	65 FR 56489

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Because this rule only furnishes information and imposes no regulatory requirement, the agency has good cause to dispense with a notice of proposed rulemaking to solicit comments on the rule.

Agency Contact: Coleman R. Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AI17

2470. • CIVIL PENALTIES; REGISTERED IMPORTERS OF VEHICLES NOT ORIGINALLY MANUFACTURED TO CONFORM TO THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-414, sec (a)(2),5(aX2); PL 106-414, sec 4(1)

CFR Citation: 49 CFR 578; 49 CFR 592

Legal Deadline: None

Abstract: Final Rule reflecting increases in civil penalties and lengthening of period in which a free remedy must be provided for a safety-related defect or noncompliance authorized by PL 106-414 effective Nov.1, 2000.

Timetable:

Action	Date	FR Cite
Final Action	11/14/00	65 FR 68101

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI18

2471. • +LIGHT TRUCK FUEL ECONOMY STANDARDS FOR MODEL YEAR 2003

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 49 USC 329

CFR Citation: 49 CFR 533

Legal Deadline: None

Abstract: The agency is establishing the fuel economy standards for manufacturers of light truck fleets for model year 2003. At the direction of Congress, the standard is the same as the 20.7 mpg previously established for MY 2002. Therefore, there is no need for a notice of proposed rulemaking. This action is considered significant because of substantial public interest.

Section 322 of the FY 2001 DOT Appropriations Act precludes the agency from expending any funds to prepare, propose, or promulgate any fuel economy standards that differs from those currently in effect. The agency cannot consider any other alternative standards that may result in lower costs, lesser burdens, or more cost-effectivness for state, local or tribal governments or the private sector. The agency has, therefore, not prepared a written assessment of this rule for the purposes of the Unfunded Mandates Act.

Timetable:

Action	Date	FR Cite
Final Rule	04/02/01	66 FR 17513
Final Rule Effective	05/02/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2127–AI35

DEPARTMENT OF TRANSPORTATION (DOT) **Prerule Stage**
Federal Railroad Administration (FRA)

2472. RAILROAD CAR CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20148

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: FRA is considering requiring that retroreflective tape be applied to all railroad cars. FRA has established a docket so that interested parties may submit relevant information, but no immediate regulatory action is anticipated.

Timetable:

Action	Date	FR Cite
Begin Review	01/14/00	
ANPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John A. Winkle, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6067

RIN: 2130–AB41

DEPARTMENT OF TRANSPORTATION (DOT) **Proposed Rule Stage**
Federal Railroad Administration (FRA)

2473. +POSITIVE TRAIN CONTROL

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 234; 49 CFR 236

Legal Deadline: None

Abstract: Consistent with Congressional mandate, FRA has continued its commitment to identifying high risk corridors which may better support PTC investment; supporting PTC technology development, testing and compatibility; and promoting deployment of PTC technology on high risk corridors in the near future. In September, 1997, FRA initiated joint fact finding efforts through the Railroad Safety Advisory Committee (RSAC) Working Group on PTC. The advice and recommendations of RSAC will form the basis for proceeding to an NPRM. The rulemaking will address technical standards for PTC, amending 49 CFR part 236.

Statement of Need: Current FRA regulations do not adequately address the use of signal and train control technology which is processor-based. In fact, application of current regulations to processor-based systems can create absurdly burdensome requirements. Recently, use of this technology has begun to increase on the general system of North American railroads, placing new demands on agency resources to ensure the safety objectives contemplated by the current regulations are achieved. The existence of federal regulations addressing this subject matter would further encourage safe use of the technology, which would reduce the risk of train-to-train collisions, better enforce speed restrictions, and increase the level of protection to roadway workers and their equipment. These improvements will likely result in fewer fatalities, injuries, and economic damage associated with such risks. Given the potential for substantial safety benefits that this program represents, this initiative is extremely important to the agency.

Summary of Legal Basis: FRA is issuing this proposal pursuant to its general rulemaking authority.'49 U.S.C. 20103(a). Currently, railroads may discontinue or materially alter a signal system initially required by the Secretary of Transportation only with approval from the Secretary. 49 U.S.C. 20502. Exercise of both of these powers has been delegated to the FRA Administrator. 49 C.F.R. 1.49.

Alternatives: Currently, FRA accepts waiver applications from railroads that seek relief from FRA safety regulations in order to test new signal and train control equipment. Since FRA must consider the safety ramifications of each application on a case-by-case basis, this procedure can take years.

Prior to this action, FRA has considered:(1) leaving the existing regulatory requirements as is, (2) eliminating all regulation of signal and train control systems, and (3) adopting a specification standard for the design of processor-based signal and train control systems. However, agency inaction would hinder introduction of new, safer technology into railroad signal and train control, elimination of all railroad signal and train control system regulation would be a total abdication of the agency's statutory duties, and a specification standard would inhibit innovative signal and train control system designs.

Anticipated Cost and Benefits: The proposed rule would provide standards for the design of processor-based signal and train control systems, but would not mandate their usage. FRA believes that a railroad would adopt such a system under one or more of the following conditions: (1) the new system is safer; (2) the new system is less expensive; and (3) continued maintenance of the existing system is no longer feasible. The proposed rule would ensure that any replacement system is at least as safe as the current system. Concerning existing processor-based systems, the proposed rule would require railroads to adopt a software management plan, which will ensure proper software configuration, resulting in decreased risk of train accidents due to signal malfunction. FRA has not quantified these benefits because of the difficulties in estimating how many systems are likely to be affected by this rule, what the incremental cost would be, and when the benefits would occur.

Most of the costs of this proposed rule are associated with safety documentation required to demonstrate compliance with the performance standard. As with many performance standards, this rule would require substantial safety documentation from the railroad to demonstrate compliance, both up front and during the life cycle of the system. It appears that the primary cost involved in this proposed rule will be the product risk assessment, a one-time expense presently incurred by product suppliers. For current processor-based systems, railroads face the cost of implementing a software management control plan, which is less expensive than attempting to satisfy current requirements, which did not contemplate the use of processor-based technology.

Overall, it appears that the benefits of the proposed rule outweigh the costs.

Risks: The risk category addressed by the proposed rule is that of accidents which occur due to improper signaling or train control. This may result in train-to-train collisions, derailments due to excessive train speed, and trains penetrating the work limits of roadway workers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: FRA has separated out of this rulemaking its action entitled Radio Communication, which revised its radio rules for more flexibility and to include requirements for the presence of radios and/or some means of wireless communication (RIN 2130-AB19).

Agency Contact: David T. Matsuda, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6046

RIN: 2130–AA94

2474. LOCOMOTIVE CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: Final, Statutory, March 3, 1995, Rule or Report to Congress. Report to Congress issued 9/18/96.

Abstract: The agency has proposed to address the crashworthiness of locomotives pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated locomotive crashworthiness, as well as a variety of locomotive working conditions (See RIN 2130-AA89) and reported its finding to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues. The Locomotive Crew Safety Working Group met on January 23, 1997 to develop task statements that were forwarded to the full RSAC and accepted on June 24, 1997. Originally this project was considered significant, however, RSAC has determined that important incremental changes in current design standards can be made without significant disruption or controversy.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: This rulemaking was originally included in RIN 2130-AA89, Locomotive Cab Working Conditions.

Agency Contact: David T. Matsuda, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6046

RIN: 2130–AB23

2475. EVENT RECORDER CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: FRA will propose improvements in the crashworthiness of event recorders and will propose additional requirements for data capture and recording for event recorders installed in new and rebuilt locomotives. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Thomas A. Phemister, Trail Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6050

RIN: 2130–AB34

2476. REVISION TO RAILROAD SAFETY ENFORCEMENT PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 209

Legal Deadline: None

Abstract: This action will revise and update FRA's enforcement procedures. This action is expected to address the recodification of the railroad safety laws and revise certain administrative hearing procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Kathryn E. Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6063

RIN: 2130–AB35

2477. RULES OF PRACTICE

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 211

Legal Deadline: None

Abstract: This action will revise and update FRA's rulemaking procedures, and the procedures for participation in the rulemaking process, such as petitions for rulemaking, petitions for reconsideration, and petitions for waiver. These procedures will be modified to reflect the recodification of the railroad safety laws,and changes in the application of FRA's regulatory procedures that have developed over time.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Colleen A. Brennan, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6028

RIN: 2130–AB36

2478. +APPLICATION OF RANDOM TESTING AND OTHER ALCOHOL AND DRUG REGULATIONS TO EMPLOYEES OF FOREIGN RAILROADS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20140

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: This action would apply FRA's random testing and other alcohol and drug requirements to employees of a foreign railroad whose primary reporting point is outside the United States, who perform train service or dispatching service in the United States. Such employees are currently exempt from random testing, pre-employment testing, and requirements for employee self-referral and co-worker report policies. This action is considered significant because of substantial inter-departmental concerns.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1120 Vermont Avenue, N.W. STOP-10, Washington, DC 20590
Phone: 202 493-6060
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RIN: 2130–AB39

2479. +REQUIREMENTS FOR PROFICIENCY IN THE USE OF THE ENGLISH LANGUAGE AND FOR THE USE OF ENGLISH UNITS OF MEASUREMENTS IN COMMUNICATIONS ABOUT RAILROAD OPERATIONS IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 220

Legal Deadline: None

Abstract: This proposed rule would require that certain railroad employees be proficient in English, speak in English when required by another railroad worker in connection with railroad operations in the United States, and generally use English units of measurement when communicating about railroad operations that occur in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John A. Winkle, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6067

RIN: 2130–AB40

2480. • +MINIMUM STANDARDS FOR TEMPERATURE IN THE LOCOMOTIVE CAB

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20701-20703

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: FRA proposes to amend current minimum cab temperature requirements and establish maximum cab temperature requirements. Gradual phase-in of the new requirements would be proposed, until 100 percent compliance in occupied locomotive cabs is attained. Small entities would use a cab temperature management plan in lieu of air conditioning.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6064

RIN: 2130–AB46

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Final Rule Stage

2481. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 22101

CFR Citation: 49 CFR 266

Legal Deadline: None

Abstract: This action is to revise the procedures and requirements for the receipt of financial assistance contained in part 266. These changes are required to reflect statutory modifications resulting from the Local Rail Service Reauthorization Act of 1989. The Local Freight Assistance Program has not been reauthorized after FY 1995. However, final regulations are necessary because States continue to submit applications for new projects to be funded from loan funds repaid to States by previous borrowers. FRA is reconsidering the need for these regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648

Action	Date	FR Cite
NPRM Comment Period End	12/31/90	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: While this action was to be terminated in October of 1995, the agency reconsidered and has decided to move forward with a final rule.

ANALYSIS: Regulatory Evaluation, 11/30/90, 55 FR 49648

Agency Contact: JoAnne McGowan, Chief, Freight Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-3290

RIN: 2130–AA60

2482. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Priority: Other Significant

Legal Authority: 49 USC 20153

CFR Citation: 49 CFR 222

Legal Deadline: Final, Statutory, November 2, 1996.

Abstract: This action would govern when and how train whistles at grade crossings must be sounded. FRA has found that failing to use the locomotive horn can significantly increase the number of collisions with motorists using the crossing. This action is considered significant because of substantial public interest. This action is being taken pursuant to statutory mandate. FRA studied the consequences of the proposed action and prepared a draft environmental impact statement (EIS) for the proposed rule.

Statement of Need: This rule is required by the Swift Development Act of 1994 (Act). The Act requires the use of locomotive horns at every public highway-rail grade crossing but gives FRA the authority to make reasonable exceptions. Congress amended this law in 1996 to require that FRA take into account the interest of the communities with pre-existing restrictions on locomotive horns.

Summary of Legal Basis: Issuance of this rule is required by 49 USC 20153.

Alternatives: There was no alternative to initiating this rulemaking, as it is required by statute. However, the rule would provide a list of supplementary measures the FRA has determined to be effective substitutes for the locomotive horn in the prevention of highway-rail grade crossing casualties. The rule would also allow for whistle bans if there are alternative safety measures that compensate for the lack of a locomotive horn.

Anticipated Cost and Benefits: The problems considered by this rule are collisions and their associated casualties and property damage involving vehicles on public highways and the front ends of trains at whistle-ban grade crossings.

The costs of this rulemaking will be incurred predominantly by communities. However, there are also costs to railroads and to the Federal government. At this time, FRA does not know how many businesses would be impacted or the severity of the impact if a community elects to follow the mandate and become subject to whistleblowing at crossings. Nevertheless, the estimated benefits in terms of lives saved and injuries prevented will exceed the costs imposed on society for the proposed rule. Even under the best case scenario (falling collision rates over time) the safety benefits alone, excluding any benefit to railroads, exceed the most costly realistic scenario for community safety enhancements.

Risks: As a result of studies conducted on accident rates at crossings at which locomotive horns are banned, FRA has concluded that such crossings generally result in a higher risk of accident than at crossings at which horns are sounded. FRA has compared the number of collisions occurring within ten different groups of crossings grouped by risk and found that the risk of a collision was 62 percent greater at crossings equipped with automatic gates and flashing lights than at similarly equipped crossings across the nation without bans. FRA analysis also indicated that whistle ban crossings without gates, but equipped with flashing light signals and/or other types of active warning devices, on average, experienced 119 percent more collisions than similarly equipped crossings without whistle bans. Congress requires that FRA issue a regulation requiring the sounding of locomotive horns at all public highway rail grade crossings. However, an exception to the requirement is permissible in circumstances in which there is not a significant risk of loss of life or serious personal injury, use of the locomotive horn is impractical, or supplementary safety measures fully compensate for the absence of the warning provided by the horn. Issuance of the rule would lower the increased collision risk associated with crossings at which no locomotive horns are sounded.

Timetable:

Action	Date	FR Cite
NPRM	01/13/00	65 FR 2230
NPRM Comment Period End	05/26/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: An Omnibus Bill at the end of the 106th Congress prohibited publication of a final rule before July 2001.

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6061

RIN: 2130–AA71

2483. LOCOMOTIVE CAB WORKING CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: Final, Statutory, March 3, 1995, Rule or Report to Congress. Report to Congress issued 9/18/96.

Abstract: The agency has proposed to address crew working conditions on locomotives, pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated a variety of locomotive working conditions, including sanitation, noise and temperature, and reported its findings to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues, and established the Locomotive Crew Safety Working Group. The Working Group prepared recommendations addressing sanitation in locomotive cabs. The Working Group presented RSAC with these recommendations and the full RSAC voted to refer them to FRA as the basis for a Notice of Proposed Rulemaking (NPRM). FRA used these recommendations as the basis for an NPRM, which was published January 2, 2001. This project was originally considered significant because of substantial public interest, however, because the rule was developed through the RSAC process, the expected interest has not materialized.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM (Sanitation)	01/02/01	66 FR 136
NPRM Comment Period End	03/05/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: As originally proposed, this rulemaking addressed both crew working conditions on locomotives and the crashworthiness of locomotives. However, in anticipation of issuing two distinct rulemakings, FRA has separated crashworthiness of locomotives out from the original proposal (RIN 2130-AB23).

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Washington DC 20590 Phone: 202 493-6052

RIN: 2130–AA89

2484. MAINTENANCE, INSPECTION, AND TESTING OF GRADE-CROSSING SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 234

Legal Deadline: None

Abstract: FRA is making technical changes and minor amendments to final regulations which were published on September 30, 1994. These regulations require that railroads take specific and timely actions to protect the travelling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems, and that railroads follow specific standards for maintenance, inspection, and testing of those systems. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/96	61 FR 31802
Comment Period End	07/22/96	
Interim Final Rule Effective	08/19/96	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: The final rule, RIN 2130-AA70, was published 9/30/94 (59 FR 50086), and was effective 1/1/95. In response to a petition for reconsideration, FRA conducted a review, together with rail labor and rail management, to address various implementation issues that had surfaced since the rule was enacted. After meeting with these parties in March 1995, FRA issued an Implementation Manual on April 14, 1995. An interim final rule intended to clarify implementation issues by making minor technical amendments was published on June 20, 1996, effective August 19, 1996. Response to the comments on that interim rule may result in further amendment of the rule.

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6061

RIN: 2130–AA97

2485. REVISION OF REGULATIONS ADDRESSING DISCONTINUANCE OR MODIFICATION OF SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 235

Legal Deadline: None

Abstract: FRA intends to revise part 235 by reducing the list of circumstances for which signal system discontinuance approval is required. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6061

RIN: 2130–AB05

2486. REVISION OF SIGNAL SYSTEM REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 233

Legal Deadline: None

Abstract: FRA is amending its signal system reporting requirements (part 233) to reduce signal system reporting burdens on the rail industry. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB06

2487. SMALL RAILROADS; POLICY STATEMENT ON ENFORCEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 601 et seq; PL 104-121; 49 USC 20101 et seq

CFR Citation: 49 CFR 209

Legal Deadline: Other, Statutory, March 29, 1997, 180 Days to Final Rule.

Abstract: The Small Business Regulatory Enforcement Act (SBREFA) of 1996 requires, among other things, that Federal agencies establish communication and enforcement programs to address the unique concerns and operations of small entities.

Pursuant to SBREFA, FRA published communication and enforcement policies with respect to small entities in an Interim Statement of Agency Policy and undertook an interim definition of "small entity" in this process. Also, FRA invited comment from the public for the purpose of adopting a new definition of "small entity" in the future, and conducted a public meeting with all interested parties to discuss this issue. FRA will issue a Final Statement of Policy.

Timetable:

Action	Date	FR Cite
Interim Policy Statement	08/11/97	62 FR 43024
Interim Policy Statement Effective	10/10/97	
Comment Period End	11/30/97	
Final Policy Statement	08/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local

Additional Information: A public meeting was held on September 28, 1999. (See 64 FR 46468, 8/25/99.)

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6047

RIN: 2130–AB15

2488. +REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, ACQUISITIONS OF CONTROL AND START-UP OPERATIONS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 21301; 28 USC 2461

CFR Citation: 49 CFR 244; 49 CFR 1.49

Legal Deadline: None

Abstract: FRA prepared a proposed rule that would require a railroad to file a Safety Integration Plan with the Federal Railroad Administration (1) whenever a Class I railroad, the National Railroad Passenger Corporation, or a railroad providing commuter service proposes to merge, consolidate or acquire control of one another; (2) whenever an entity proposes to start operations as a railroad; (3) whenever a Class II railroad proposes to consolidate, merge, or acquire control of another Class II railroad with which it would directly interchange freight, or (4) whenever a railroad merger, consolidation or acquisition of control would result in operations that generate revenue in excess of the Class I threshold. The proposed rule prescribed content and subject matter areas that must be addressed in each plan before FRA may approve of such plan. FRA is in the process of preparing a final rule in this area and is working with the Surface Transportation Board to conduct coordinated rulemaking actions covering these transactions within the framework of each agency's jurisdiction.

Statement of Need: This rule is necessary to ensure advance planning of operations to promote rail safety. Given the safety problems encountered in previous transactions and the need for the merging or acquiring railroad to integrate and harmonize information systems, training, operational practices and safety procedures on a massive scale, the need to require detailed plans setting forth the manner in which the parties intend to safely implement integration plans became apparent to FRA.

Summary of Legal Basis: Because this rule concerns rail safety, FRA is vested with statutory authority to issue regulations governing these regulated transactions. See 49 USC 20101 et seq.

Alternatives: The proposed rule authorized a railroad carrying out a regulated transaction to petition for a waiver of compliance. The railroad would have to follow the procedures prescribed in 49 CFR 211 in filing such a petition. FRA may grant the petition if waiver of compliance is consistent with the public interest and railroad safety. FRA does not intend to regulate Class III railroads for the purposes of this rule. Nevertheless, the agency solicited comments from interested parties about this proposal, or whether the rule should cover any Class III railroad seeking to carry out a regulated transaction.

Anticipated Cost and Benefits: In this rulemaking action, FRA addressed the costs and benefits of issuing the proposed rule. See 63 FR 72225, 72235 (December 31, 1998). For Class I railroads, the agency estimated that a SIP would cost between $300,000 and $800,000 to prepare, but will prevent $1.5 million to $12 million in accident costs. For Class II railroads, FRA estimated that a SIP would cost between $50,000 and $200,000 to prepare, but will prevent between $60,000 and $1.2 million in accident costs. The agency added that the safety planning process may save railroads from experiencing substantial service difficulties that correspond to these complex transactions.

Risks: The problems that surfaced after the merger of the Union Pacific and the Southern Pacific indicated that safety could be significantly compromised in implementing a consolidation unless the parties addressed the safety issues specifically, formally and systematically, particularly if the merger was large and complex. To address safety-related problems stemming from a merger, FRA needed a projection into the future of the safety consequences of consolidating the systems. To accomplish this, in response to the proposed acquisition of Conrail by Norfolk Southern and CSX Transportation, FRA suggested, and the STB required, that the merger applicants develop and submit well-defined Safety Integration Plans (SIPs) as part of the merger application process. The proposed rule required, that such Plans be filed by certain railroads in the context of proposed mergers and acquisitions and similar circumstances.

Timetable:

Action	Date	FR Cite
NPRM	12/31/98	63 FR 72225
Public Hearing - Notice	04/21/99	64 FR 19512
Comment Period Extended	04/21/99	64 FR 19512
NPRM Comment Period End	05/04/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A public hearing on this rulemaking was held on May 4, 1999.

Agency Contact: Jon Kaplan, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6042

RIN: 2130–AB24

2489. BRIDGE WORKER SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will amend the Bridge Worker Safety Rules through promulgation of an interim final rule. The interim final rule will likely prohibit the use of safety belts as fall protection, but would continue to require the use of harnesses, which are more commonly used in present industry practice. The interim final rule would also make technical clarifications to the existing standards. This action is supported by the industry and is consistent with new policies of the Occupational Safety and Health Administration. Data shows that safety belts present unnecessary safety risks, and are generally disfavored by companies involved with working at heights.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6064

RIN: 2130–AB25

2490. ROADWAY EQUIPMENT SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: FRA proposes regulations governing operational and design safety of on-track equipment used by railroads for track maintenance. The regulations would cover self-propelled rail-mounted non-highway machines where light weight exceeds 7500 pounds. This rulemaking was requested by the Brotherhood of Maintenance-of-Way Employees (BMWE) as part of the organization's petition requesting revision of the track safety standards. FRA decided to respond to this portion of the BMWE petition in a rulemaking separate from the track safety standards revision.

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 1930
NPRM Comment Period End	03/12/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: This rulemaking is an off-shoot of the rulemaking to revise the track safety standards. FRA has changed the title of the current entry to the Unified Regulatory Agenda, which was originally entitled "Roadway Maintenance Machine Safety" to more accurately reflect what this action is expected to address.

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RIN: 2130–AB28

2491. ANNUAL ADJUSTMENT OF MONETARY THRESHOLD FOR REPORTING RAIL EQUIPMENT ACCIDENTS/INCIDENTS

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This annual determination establishes the monetary threshold for reporting rail equipment accidents/incidents involving railroad property damage. This action ensures and maintains comparability between different years of data by having the threshold keep pace with fluctuations in equipment and labor costs. It is required by statute. The reporting threshold is based on the formula adopted in a final rule 5/18/96, 61 FR 60632. This agenda entry will be updated each year to show the latest annual determination. Cites for determinations already issued are provided below.

Timetable:

Action	Date	FR Cite
Annual Determination	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The 2000 final rule of 11/21/2000, 65 FR 69884 maintained at $6,600 the monetary threshold for accidents/incidents that occur during calendar year 2000. There is no change from calendar years 1998 through 2000. The 1997 final rule of 2/2/97, 62 FR 63675 increased the monetary threshold from $6,500 to $6,600. The 1996 final rule of 11/29/96, 61 FR 60632 increased the monetary threshold from $6,300 to $6,500.

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DOT—FRA — Final Rule Stage

Phone: 202 493-6034

RIN: 2130–AB30

2492. DETERMINATION OF MINIMUM TESTING RATE FOR RANDOM DRUG AND ALCOHOL TESTING

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: Each year FRA announces the minimum random drug and alcohol testing rates for the following year for the railroad industry. This determination is based on a review of rail industry drug and alcohol management information system data, as well as data from compliance reviews of rail industry drug and alcohol testing programs. Procedures were established in a final rule 12/2/94, 59 FR 62218. The minimum random drug testing rate continues to be 25 percent of covered railroad employees for 2000. This agenda entry will be updated each year to show the latest annual determination. Cites for determinations already issued are provided below.

Timetable:

Action	Date	FR Cite
Annual Determination	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: In the notice of determination of December 19, 2000 (65 FR 79318) the minimum random drug and alcohol testing rate for calendar year 2001 remained at 25 percent of covered railroad employees. In the notices of determination of 2/18/98 (63 FR 8143), 12/30/98 (63 FR 71789), and 12/27/99, (64 FR 72289) the minimum rate remained at 25 percent for calendar years 1998, 1999 and 2000.

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RIN: 2130–AB31

2493. +LOCATIONAL REQUIREMENT FOR DISPATCHING OF UNITED STATES RAIL OPERATIONS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 241

Legal Deadline: None

Abstract: This interim final rule will require that all railroad operations in the United States be dispatched in the United States, with certain exceptions. This action is considered significant because of substantial interdepartmental concerns.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John A. Winkle, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
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RIN: 2130–AB38

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Long-Term Actions

2494. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: This action proposes to amend the freight car safety standards to subject all maintenance-of-way vehicles to FRA's safety standards, with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/10/94	59 FR 11238
NPRM Comment Period End	02/27/95	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: The original NPRM comment period ended on 4/11/94 but was twice extended; first, to 11/28/94 (59 FR 49374) and then to 02/27/95 (59 FR 67266). Due to various contentious issues raised during the NPRM comment period, FRA believed it might be advantageous to resolve differences in an open forum. Therefore, on September 30, 1997, FRA formally proposed this rulemaking as a new task (Task 97-8) for the Railroad Safety Advisory Committee (RSAC). After discussion, the RSAC declined to accept the task at that time. The need to complete other, higher priority projects has not permitted further action on this rulemaking.

ANALYSIS: Regulatory Evaluation, 03/10/94, 59 FR 11238

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RIN: 2130–AA68

2495. BLUE SIGNAL AND RELATED PROTECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 218

Legal Deadline: None

Abstract: FRA is in the process of reconsidering amendments to its "Blue Signal" regulations, which prescribe minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment. In a final rule issued in 1993, FRA allowed augmentation of a crew by using a "utility" employee, which would increase a railroad's efficient use of its employees under secure procedures to ensure proper coordination within the work group. Based on petitions to reconsider several aspects of its final rule treating this subject, FRA issued amendments to this rule. One of those amendments dealt not with utility employees, but with lone workers. Based on comments received, the agency suspended that amendment and reopened the comment period to further develop this proposal. As resources permit, FRA will issue a proposed rule addressing this issue and other important blue signal issues.

Timetable:

Action	Date	FR Cite
Final Rule Amendments	03/01/95	60 FR 11047
Comment Period End	05/01/95	
Comment Period Reopened	06/09/95	60 FR 30469
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The final rule on utility employees was published August 16, 1993 (58 FR 43287), RIN 2130-AA77. FRA has changed the title of the current entry to the Unified Regulatory Agenda, which was originally titled "Protection of Utility Employees" to more accurately reflect what this action is expected to address.

Agency Contact: Paul F. Byrnes, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2130–AA90

DOT—FRA — Long-Term Actions

2496. USE OF ONE-PERSON CREWS IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of one-person crews, FRA will consider whether to regulate the use of one-person operations. FRA might require all railroads which propose to use one-person crew operations to enroll in a pilot program and agree to conform to safety conditions set forth by FRA. The purpose of the pilot program would be to determine under what conditions, if any, one-person crew operations can be safely operated.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of one-person crew and remote control operations was held by FRA on December 4 and 5, 1996 (61 FR 58736, November 18, 1996).

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RIN: 2130–AB18

2497. CRANE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will consider whether to adopt regulations governing functional and design safety of on-track railroad cranes used for track maintenance. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 2130–AB27

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2498. AMTRAK WASTE DISPOSAL

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-610

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The National and Community Service Act required the Secretary of Transportation to promulgate such regulations as may be necessary to mitigate the impact of discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive. Amtrak's main fleet now consists of either new equipment or equipment which has been retrofitted to eliminate the problem. Thus, there is no longer a need for these regulations, and FRA intends to withdraw this item.

Timetable:

Action	Date	FR Cite
Withdrawn	02/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

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RIN: 2130–AA84

2499. +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 228

Legal Deadline: None

Abstract: In 1994, the Federal Railroad Administration (FRA) launched a major project to facilitate maintenance of hours-of-service records and submission of "excess service" reports in an electronic, rather than a paper, format. FRA proposed a model waiver to railroads interested in maintaining electronic records for train and engine service employees. These employees comprise the vast majority of those subject to the statutory limitations on hours of service. This project will eventually lead to the formal revision of 49 CFR 228. This is considered significant due to public interest. FRA is no longer using the model waiver, and has been handling those waiver requests it has received on an individual basis. No revision of 49 CFR Part 228 is planned at this time.

Timetable:

Action	Date	FR Cite
Withdrawn	02/07/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

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RIN: 2130–AB04

2500. TOURIST AND HISTORIC WORKING GROUP REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: None

Legal Deadline: None

Abstract: The Tourist and Historic Working Group of the Railroad Safety Advisory Committee was established to review existing and proposed regulations for their appropriate applicability to one segment of FRA's small business customers, the tourist and historic railroads. In addition, the group is examining FRA's policy with respect to exercise of jurisdiction over railroads off the general system of rail transportation. FRA has decided it is more appropriate to reflect the activities of this group in the context of the regulations it reviews, rather than as a separate item.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/96	
End Review	02/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This rulemaking represents a long-term effort to review existing and proposed regulations for their appropriate applicability to tourist and historic railroads. The group was created in April of 1996 and met on June 17 - 18, 1996. Thus far, the group has reviewed the Steam Locomotive standards and FRA's Accident/Incident Reporting standards and provided recommendations regarding their applicability to the tourist and historic railroad industry. (See Notice of Meeting, 61 FR 54698.) The group is anticipated to next review the final rules on Track Safety Standards, Rail Passenger Service: Emergency Preparedness, and Railroad Communications.

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RIN: 2130–AB12

2501. +POWER BRAKE REGULATIONS: FREIGHT POWER BRAKE REVISIONS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Legal Deadline: Final, Statutory, December 31, 1993.

Abstract: Pursuant to the Federal Railroad Safety Enforcement and Review Act of 1992, FRA is revising the power brake rules. After separating proposed revisions regarding freight power brakes from passenger power brakes, FRA tasked the revision of freight power brake standards on April 1-2, 1996 to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). On June 24, 1997, this task was withdrawn from RSAC and FRA proceeded on its own initiative. This rulemaking is considered significant because of its potential economic impact and congressional and public interest.

Statement of Need: This rule is necessary to improve the safety of freight rail operations by better adapting the regulations to the needs of contemporary freight railroad operations and facilitating the use of advanced technologies. The current regulations regarding braking systems used in freight operations were originally industry standards have not been substantially revised since their inception. Thus, there is a need to modernize the existing regulations in order to make them consistent with current freight operations, eliminate or minimize existing loopholes, address new equipment and technologies, clarify existing requirements consistent with agency interpretations, and address other enforcement and operational issues that have arisen over the last few decades.

Summary of Legal Basis: This rulemaking is mandated by 49 USC 20141. See Pub. L. 102-365, sec 7. Furthermore, as this rulemaking concerns rail safety, FRA is vested with statutory authority to issue regulations governing these operations. See 49 USC 20101 et seq.

Alternatives: There was no alternative to initiating this rulemaking, as it is required by Federal statute. Nevertheless, FRA considers what specific safety standards to prescribe, clarify or modify in the context of the rail industry's own safety initiatives and operations. Furthermore, FRA will attempt to minimize the impact of the rule on small entities covered by the rule. FRA will also consider existing industry practices and, where possible, will tie the standards to performance.

Anticipated Cost and Benefits: At the NPRM stage of this rule, FRA estimated that the Net Present Value (NPV) of the total 20-year costs associated with the rule was approximately $98 million; whereas the total 20-year benefits (both safety and economic) were estimated at approximately $106 million. FRA indicated that these benefits and costs were preliminary, as FRA lacked certain data. FRA has not yet determined the costs and benefits of this rule and will fully consider all comments regarding its cost estimates when developing the final rule.

Risks: In the NPRM, FRA identified 172 brake-related incidents that occurred between 1993 and 1997. These incidents resulted in at least 32 injuries and two deaths. FRA did not include every incident where brakes may have been a contributing factor, as such information is not routinely provided by the railroads when reporting incidents to FRA. In calculating the potential safety benefits FRA recognized that many damages or potential damages are not captured. Brake-related incidents similar to those identified by FRA could involve the release of hazardous materials which, if the incident occurred in a densely populated or environmentally sensitive area, could produce truly catastrophic results. Furthermore, the cost of evacuation and medical treatment for members of the public could be substantial, and associated road closures could also produce a significant economic impact to travelers and nearby communities. Similarly, should a brake-related incident involve the release of hazardous materials into a river or stream, the consequences to wildlife in the area could be severe and lasting.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48294
Notice of Public Hearing	10/08/98	63 FR 54104
Extension of Comment Period	01/21/99	64 FR 3273
NPRM Comment Period End	03/01/99	
Public Meeting - Notice	05/04/99	64 FR 23816
Final Action	01/17/01	66 FR 4104
Final Action Effective	05/31/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A portion of the task to revise the power brake rules was previously completed. FRA revised the existing power brake regulations to mandate the use of two-way end-of-train telemetry devices, RIN 2130-AA73, in a final rule published on January 2, 1997 (62 FR 278). Furthermore, rules regarding the inspection and testing of passenger equipment and brake systems were developed with the assistance of a passenger equipment standards working group, and a final rule was issued May 12 1999 (64 FR 25540). (See RIN 2130-AA95.)

The effective date of this action was delayed 60 days in compliance with the memorandum from the Assistant to the President and Chief of Staff (66 FR 7701, January 24, 2001).

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RIN: 2130–AB16

2502. TRACK SAFETY STANDARDS AMENDMENT TO ADDRESS GAUGE RESTRAINT MEASUREMENT SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: A Gage Restraint Measurement System (GRMS) is a non-destructive performance-based technology that objectively measures track gauge restraint capacity of crossties and rail fasteners by applying known lateral and vertical loads to track structure, measuring the gauge deflection under those loads, and then projecting what the gauge would become under severe track loading conditions. From this data, a gauge widening ratio is calculated as a measure of overall track strength. In the NPRM to revise the Track Safety Standards (62 FR 36138, July 3, 1997), FRA acknowledged that the Track Working Group which helped draft the NPRM was unable to agree upon a proposal that would permit railroads to use GRMS to determine compliance with crosstie fastener requirements. FRA requested public comments regarding the use of GRMS as an alternative or additional track inspection method. In the final rule revising the Track Safety Standards (63 FR 33992, June 22, 1998), FRA reported that it had received various comments about the use of GRMS and that an amendment to the Track Safety Standards addressing GRMS would be published later in a separate final rule.

Timetable:

Action	Date	FR Cite
Final Action	01/10/01	66 FR 1894
Final Action Effective	06/10/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This action was originally contemplated as part of the Track Safety Standards (RIN 2130-AA75) which were issued June 22, 1998 (63 FR 33992). The effective date of this action was delayed 60 days in compliance with the memorandum from the Assistant to the President and Chief of Staff (66 FR 7701, January 24, 2001).

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RIN: 2130–AB32

2503. • AMENDMENTS TO ORDER OF PARTICULAR APPLICABILITY REQUIRING ADVANCED CIVIL SPEED ENFORCEMENT SYSTEM (ACSES) MASSACHUSETTS BAY TRANSIT AUTHORITY TEMPORARY OPERATING PROTOCOLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 20501; 49 USC 20503; 49 USC 20504; 49 USC 20505; ...

CFR Citation: None

Legal Deadline: None

Abstract: FRA amended its Order of Particular Applicability, 63 FR 39343, July 22, 1998, as revised in 65 FR 62795, October 29, 2000, which requires that trains operating between New Haven and Boston use a new system called "ASCES". The amendments establish temporary

operating protocols for Massachusetts Bay Transit Authority Service until July 1, 2001.

Timetable:

Action	Date	FR Cite
Final Action	01/09/01	66 FR 1718
Final Action Effective	01/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2130–AB45

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Proposed Rule Stage

2504. CLEAN FUELS FORMULA GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 3008; 49 USC 5308

CFR Citation: 49 CFR 624

Legal Deadline: None

Abstract: Section 3008 of the Transportation Equity Act for the 21st Century establishes the Clean Fuels Formula Grant Program. This grant program will assist transit systems in purchasing or leasing clean fuel vehicles; constructing clean fuel or electrical re-charging facilities; modifying existing garage facilities to accommodate clean fuel vehicles; repowering pre-1993 engines with clean fuel technology which meets the current bus emission standards; and retrofitting or rebuilding pre-1993 engines before their half-life for rebuilding. This provision requires the Secretary to issue an implementing regulation that sets forth eligibility requirements and an apportionment formula for eligible projects. In FY 1999, all funds were apportioned to earmarked projects. This action is considered significant because of considerable congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

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RIN: 2132–AA64

2505. STATE SAFETY OVERSIGHT; RAIL FIXED GUIDEWAY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5330

CFR Citation: 49 CFR 659

Legal Deadline: None

Abstract: On the basis of State Safety Oversight audits that the Federal Transit Administration has been conducting over the past year, the agency will propose several changes to the rule, including requiring states to oversee the safety of rail fixed guideway systems in the planning, design, and construction phases. This regulation was previously reported under RIN 2132-AAA39 and RIN 2132-AA59.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 2132–AA69

2506. PREVENTION OF ALCOHOL MISUSE AND DRUG USE IN TRANSIT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 655

Legal Deadline: None

Abstract: The Federal Transit Administration proposes to combine its current drug (part 653) and alcohol (part 654) testing regulations into a new part 655. FTA will also incorporate various amendments and interpretations since this rule became effective.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: The Department's revised 49 CFR Part 40 which was published on December 19, 2000, will be effective on August 1,2001. FTA anticipates publishing the NPRM by such date.

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RIN: 2132–AA71

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Final Rule Stage

2507. +BUS TESTING

Priority: Other Significant

Legal Authority: 49 USC 5323(c)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established pursuant to 49 USC 5318. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Comment Period Reopened	11/30/89	54 FR 49297
Interim Final Rule - Second	10/09/90	55 FR 41174
Interim Procedures	09/13/91	56 FR 46572
Interim Final Rule - New Vehicle Types	07/28/92	57 FR 33394
Interim Final Rule - Partial Effectiveness Postponed	10/13/92	57 FR 46814
Interim Final Rule - Comment Period Reopened to 01/29/93	01/07/93	58 FR 2989
Interim Final Rule - Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Former section 12(h) of the FT Act, as amended (now 49 USC 5302(a)(9)), defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. The FTA's fourth interim final rule, issued on 11/3/93, established four subcategories of small vehicles to facilitate the phase-in of testing. The final rule will add the two tests mandated by ISTEA, brake performance and emissions, to the seven tests currently performed at the bus testing facility. In addition, the final rule will clarify the partial testing with regard to what constitutes a "major change" on a bus that has been fully tested, but is later produced with a change in configuration or component.

ANALYSIS: Regulatory Evaluation, 07/28/92, 57 FR 33394

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RIN: 2132–AA30

2508. CHARTER SERVICES DEMONSTRATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 3040

CFR Citation: 49 CFR 604

Legal Deadline: Final, Statutory, September 18, 1992.

Abstract: This rulemaking presents the results and conclusions drawn from the charter services demonstration program, previously reported under RIN 2132-AA40, which was mandated by section 3040 of the Intermodal Surface Transportation Efficiency Act. That provision directed FTA to conduct a demonstration program in four states to permit public operators to provide needed charter services to certain civic and community groups. In addition to setting forth program results, this rulemaking sought recommendations regarding improvements to the charter service regulation. However, based on a review of the comments received, the FTA has determined that there is no justification for changing the rule. Consequently, the agency will be withdrawing the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33793
NPRM Comment Period End	08/22/97	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

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RIN: 2132–AA58

2509. BUY AMERICA REQUIREMENTS; AMENDMENT TO CERTIFICATION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 3020(b)

CFR Citation: 49 CFR 661.11; 49 CFR 661.13

Legal Deadline: None

Abstract: This action would amend FTA's Buy America regulation, 49 CFR 661 in accordance with section 3020(b) of the Transportation Equity Act for the 21st Century. Section 3020(b) amended 49 USC 5323(g) to allow a bidder on an FTA-funded contract to correct an incomplete certification or a certification of noncompliance with Buy America resulting from an inadvertent or clerical error.

Timetable:

Action	Date	FR Cite
NPRM	02/18/99	64 FR 8051
NPRM Comment Period End	04/19/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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DOT—FTA

Final Rule Stage

Phone: 202 366-4011
Fax: 202 366-3809

RIN: 2132–AA62

2510. SCHOOL BUS OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5323(f)

CFR Citation: 49 CFR 605

Legal Deadline: None

Abstract: This rulemaking proposed to amend the definition of "tripper" service, which is mass transportation service which is open to the public and which is modified to meet the needs of school students and personnel. The amended definition would have prohibited the use of certain signage and provided that tripper buses stop only at stops that are marked as available to the public.

Based on further analysis of the proposed change and review of the comments received from the NPRM, however, FTA has determined that the proposed amendment did not actually alter the definition of "tripper service" and appeared to create more confusion that clarification. Consequently, FTA intends to withdraw the amendment as no purpose would be served by the proposed change.

Timetable:

Action	Date	FR Cite
NPRM	05/03/99	64 FR 23590
NPRM Comment Period End	07/02/99	
To Be Withdrawn	06/00/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Elizabeth S. Martineau, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809

RIN: 2132–AA67

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Long-Term Actions

2511. +NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING; PROTECTION OF PUBLIC WORKS, WILDLIFE AND WATERFOWL REFUGES AND HISTORIC SITES

Priority: Other Significant

Legal Authority: 23 USC 109, 128, 134, 138 and 315; 42 USC 2000d-2000d-4, 4321 et seq. and 7401 et seq.; 49 USC 303 , 5301(e), 5303, 5309 and 5324(b) and (c); 49 CFR 1.48 and 1.51; 33 CFR 115.60(b); 40 CFR 1500 to 1508

CFR Citation: 23 CFR 771; 23 CFR 1420; 23 CFR 1430; 49 CFR 622; 49 CFR 623

Legal Deadline: None

Abstract: The Federal Transit Administration and the Federal Highway Administration issued an NPRM to propose updating and revising the National Environmental Policy Act implementng regulation for FTA and FHWA funded or approved projects. The current regulations were issued in 1987 (23 CFR part 771, August 28, 1987) and experience since that time as well as changes in legislation, most recently by the Transportation Equity Act for the 21st Century (TEA-21), call for an updated approach to implementation of NEPA for FTA and FHWA projects and actions.

The FTA and the FHWA received numerous comments to the docket in response to this NPRM. The agencies are currently reviewing these comments to determine what action should follow.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33958
Comment Period Extended	07/07/00	65 FR 41892
Comment Period End	09/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The corresponding FHWA RIN is 2125-AE64. This incorporates the issues contained in RIN 2125-AD32.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952
Fax: 202 366-3809

RIN: 2132–AA43

2512. +STATEWIDE METROPOLITAN PLANNING

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 315; 42 USC 7410 et seq.; 49 USC 5303 to 5305; 49 CFR 1.48 and 1.51

CFR Citation: 23 CFR 450; 23 CFR 1410; 49 CFR 613; 49 CFR 621

Legal Deadline: None

Abstract: In this action, FTA and FHWA are jointly proposing to revise the regulations governing the development of transportation plans and programs for urbanized (metropolitan) areas and States. These revisions are the product of statutory changes made by the Transportation Equity Act for the 21st Century (TEA-21), which requires a continuous, comprehensive, and coordinated process in metropolitan areas and States. The regulations at 23 CFR part 450 and 49 CFR part 613 would be modified to reflect the impacts of TEA-21.

The agencies (FTA and FHWA) have received numerous comments to the docket in response to the NPRM. The comments are currently being analyzed by both agencies to determine what action should follow.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33958
Comment Period Extended	07/07/00	65 FR 41891
Comment Period End	09/23/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

DOT—FTA

Long-Term Actions

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: The corresponding FHWA RIN is 2125-AE62.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952
Fax: 202 366-3809

RIN: 2132–AA66

2513. BUY AMERICA REQUIREMENTS; PERMANENT WAIVER FOR MICROCOMPUTERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424

CFR Citation: 49 CFR 661

Legal Deadline: None

Abstract: Section 165(b)(2) of the Surface Transportation Assistance Act of 1982 provides that a waiver of the Buy America requirements may be granted if materials and products being procured are not produced in the United States in sufficient and reasonable quantities and of satisfactory quality. Such a waiver was permanently granted in 1986 for microcomputers, as FTA grantees were experiencing difficulty in purchasing domestically produced microcomputer equipment appropriate to their needs. At that time, FTA reserved the right to reassess the need for a waiver based on the changing market for microcomputers. Since both the international and domestic market for microcomputers has changed since the permanent waiver was issued, FTA is soliciting comments as to whether this waiver should be revoked, modified or retained.

Timetable:

Action	Date	FR Cite
ANPRM	10/08/99	64 FR 54855
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Meghan Ludtke, Attorney Advisor, Department of Transportation, Federal Transit Administration, Room 9316, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011
Fax: 202 366-3809

RIN: 2132–AA68

2514. +REQUIREMENT FOR THIRD-PARTY CONTRACTING WITH FTA RECIPIENTS

Priority: Other Significant

Legal Authority: 49 USC 322(a); 49 USC 5301 et seq; 49 USC 107(c); 49 CFR 18 and 19

CFR Citation: 49 CFR 635

Legal Deadline: None

Abstract: Federal Transit Administration grantees must comply with FTA Circular 4220.1D, "Third-Party Contracting Requirements." FTA proposes to put that circular into regulatory form. FTA is undertaking this action based on the belief that procurement regulations will make the third-party contracting process more equitable and understandable. This action is considered significant because of substantial public and congressional interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Wong, Attorney-Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809

RIN: 2132–AA70

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Completed Actions

2515. +MAJOR CAPITAL INVESTMENT PROJECTS

Priority: Other Significant

Legal Authority: 49 USC 5309; PL 105-178, Sec 3009(e)

CFR Citation: 49 CFR 611

Legal Deadline: NPRM, Statutory, October 7, 1998.
Final, Statutory, December 7, 1998.

Abstract: This rulemaking will establish the criteria by which FTA will evaluate major capital investment mass transportation projects and rate those projects in comparison with one another, based on an analyses of alternatives, justifications for projects, and degrees of local financial commitment. This rulemaking will also codify the procedures applicants for Federal transit capital funding must follow in developing fixed guideway ("New Starts") projects. This action is considered significant because of potential public, congressional, and environmental concerns.

Timetable:

Action	Date	FR Cite
NPRM	04/07/99	64 FR 17061
Notice of Meeting	05/13/99	64 FR 25864
NPRM Comment Period End	07/06/99	
Final Action	12/07/00	65 FR 76864
Delay of Effective Date	02/09/01	66 FR 9677
Effective Date	04/06/01	
Final Action Effective	04/06/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

DOT—FTA — Completed Actions

Additional Information: In accordance with the President's Regulatory Review Plan, the FTA is temporarily "staying" the effectiveness of this final rule. The final rule was to be effective on February 5,2001. The stay will allow the Department an opportunity to further review this rule and the new effective date is April 6, 2001.

Agency Contact: Richard P. Steinmann, Director, Office of Policy Development, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1739

Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2132–AA63

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage
Saint Lawrence Seaway Development Corporation (SLSDC)

2516. • SEAWAY REGULATIONS AND RULES AND TARIFF OF TOLLS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 983(a); 33 USC 984(a)(4); 33 USC 988 as amended; 49 CFR 1.52

CFR Citation: 33 CFR 401; 33 CFR 402

Legal Deadline: None

Abstract: This rule proposes to amend the St. Lawrence Seaway Tariff of Tolls to reflect the fees and charges that will be assessed starting in the 2001 navigation season and other conforming amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/09/01	66 FR 9751
NPRM Comment Period End	03/12/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc C. Owen, Chief Counsel, Department of Transportation, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6823
Fax: 202 366-7147
Email: marc.owen@sls.dot.gov

RIN: 2135–AA12

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage
Research and Special Programs Administration (RSPA)

2517. +MAPS AND RECORDS OF PIPELINE LOCATIONS AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1989.

Abstract: This action proposes to equalize as far as possible the requirements that gas and hazardous liquid pipeline operators keep maps and records to show the location and other characteristics of pipelines. Operators would be required to keep an inventory of pipe and periodically report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
Public Notice	05/07/97	62 FR 25013
Notice and Request for Comments	08/26/97	62 FR 45287
Public Workshops	07/01/98	63 FR 36030
To Be Withdrawn	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2426. In furtherance of this rulemaking, the Department of Transportation's Office of Pipeline Safety (OPS) is working with other Federal and State agencies and pipeline industry to create a voluntary national pipeline mapping system. This system, when complete, will show the location and selected attributes of the major natural gas and hazardous liquid pipelines and liquefied natural gas facilities operating in the United States. OPS will add additional data layers into the system, including layers on population densities, unusually sensitive areas, natural disaster probability and high consequence areas, hydrography, and transportation networks. OPS will use the system to depict pipelines in relation to the public and the environment, and to work with other government agencies and industry during an incident.

A joint government/industry Mapping Quality Action Team (MQAT II) drafted national pipeline mapping standards that are being used to create the digital pipeline layer. These include standards for electronic data submissions, paper map submissions, and metadata (data on the data). The team also drafted standards that are being used by the pipeline mapping repository receiving the pipeline information. The team has pilot tested the draft standards and established relationships with State agencies, industry, and others to exchange data that meets the standards.

The National Pipeline Mapping System (NPMS) is a full-featured geographic information system that allows the Office of Pipeline Safety (OPS), for the first time, to accurately view pipelines in relation to the communities and environments they cross. The pipeline data layers being assembled cover both interstate and intrastate natural gas transmission pipelines and hazardous liquid trunk lines. In conjunction with the pipeline data layers, the NPMS contains layers depicting population, urbanized areas, political boundaries, roads, railroads, hydrography, consequence and hazard areas, and usually sensitive areas. The NPMS will eventually include three accurate base data layers of differing scale derived from USGS hard-copy quads. The base layers not only provide an accurate base on which to view the location of pipelines but also contain important textual information such as places, roads, contours, and hydrography.

OPS has worked with the interstate natural gas transmission and hazardous liquid trade associations to identify a mapping contact for each operator. The operators have been contacted and OPS is assisting them in preparing their data for submission. Many of these operators have data in a digital format, which theoretically is easier and less time-consuming to process than hard-copy maps. OPS is currently working with the intrastate natural gas trade associations to recruit widespread participation in the NPMS by intrastate natural gas transmission pipeline companies.

The NPMS currently consists of a single National Repository and twelve state repositories located in Alabama, California, Connecticut, Kansas, Kentucky, Louisiana, Maine, Minnesota, New Jersey, Oklahoma, Pennsylvania, and Texas. OPS published two more Commerce Business Daily announcements in February 2000 - one for additional state repositories and the other for a regional repository.

OPS is collecting the liquid trunk line and natural gas transmission pipeline data. OPS regulates approximately 157,000 miles of liquid trunk line and 352,000 miles of natural gas transmission pipelines for a total of 509,000 miles.

Operators are submitting data to the NPMS. during the second through fourth quarters of 2000.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AB48

DOT—RSPA — Prerule Stage

2518. HAZARDOUS MATERIALS: REVISION OF REQUIREMENTS FOR CARRIAGE BY AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 48 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: Part 175 is being revised and rewritten in order to simplify and clarify the requirements, further align them with the international requirements (ICAO) and eliminate obsolete requirements.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Docket No. HM-228.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD18

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage
Research and Special Programs Administration (RSPA)

2519. PIPELINE SAFETY: GAS GATHERING LINE DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry.

Timetable:

Action	Date	FR Cite
Request for Comments	03/11/99	64 FR 12147
Electronic Public Meeting	04/13/99	64 FR 12147
Extension of Comment Period	04/30/99	64 FR 23256
Comment Period Ends	07/07/99	64 FR 23256
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4868 (Formerly PS-122).

ANALYSIS: Regulatory Evaluation, 09/25/91, 56 FR 48505

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AB15

2520. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 have been discovered developing cracks during service, and occasionally leaks developed that resulted in loss of contents. The ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest

steps to minimize risks. The NPRM will address the safety issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-176A. Some safety issues originally considered by this action are being addressed in Docket HM-220, RIN 2137-AA92.

ANALYSIS: Regulatory Evaluation

Agency Contact: Charles Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AB51

2521. PIPELINE SAFETY: PERIODIC UNDERWATER INSPECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This action would require operators of natural gas and hazardous liquid pipelines to conduct periodic underwater inspections of offshore pipelines and those in navigable waterways. This action would also define what constitutes an exposed underwater pipeline and what constitutes a hazard to navigation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-3001. This action could include requirements for the reburial of exposed pipelines. Under an OPS contract, Texas A&M University completed a study of the issues related to burial depth and inspection requirments for underwater pipelines.

An NPRM is being drafted that will incorporate the Texas A&M recommendation for a risk-based approach.

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC54

2522. HAZARDOUS MATERIALS: RETENTION OF SHIPPING PAPERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to amend the Hazardous Materials Regulations by requiring shippers and carriers to retain a copy of the hazardous material shipping paper or an electronic image of the shipping paper for a period of one year. One-year retention of shipping papers is a current statutory requirement in 49 U.S.C. 5110(e); this rule will make the public, which relies almost exclusively on the HMR, aware of this requirement.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-207B.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC64

2523. +APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS TO LOADING, UNLOADING, AND STORAGE

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to better define the applicability of the Federal Hazardous Materials Regulations (HMR) in order to clarify the relationship among Federal, State, local, and tribal agencies in the regulation of hazardous materials. Under circumstances specified in Federal statutes, the regulations of other Federal agencies (EPA and OSHA) and non-Federal governments (States, localities, and Indian tribes) must be consistent with or defer to RSPA's regulation of the transportation of hazardous materials in commerce. However, other Federal and non-Federal requirements are generally not limited where hazardous materials are not in transportation. Activities relating to loading, unloading, and storage of hazardous materials have become areas of particular uncertainty and concern to both industry and non-Federal governments. This action is significant because of the substantial public interest in reducing uncertainty and avoiding conflicting regulations.

Statement of Need: In recent years, RSPA has issued interpretations and administrative decisions on a case-by-case basis about whether particular activities are in "transportation" and therefore subject to regulation under the HMR. Because of increasing State and local regulation of hazardous materials, RSPA concluded that an overall rulemaking is appropriate, rather than just case-by-case decisions. RSPA believes that better overall definitions of the applicability of the HMR will reduce uncertainty by the regulated community and other regulatory agencies (both Federal and non-Federal) as to which agency has regulatory authority. Greater certainty in this regard should promote improved compliance with the HMR and also with the requirements of other regulatory agencies.

Summary of Legal Basis: Section 5103 of title 49 U.S.C. specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce applicable to, among others, any person who offers hazardous materials for transportation or who transport hazardous materials in commerce. In addition, section 5125 of title 49 U.S.C. sets forth the circumstances under which differing non-Federal requirements are preempted.

Alternatives: Commenters to the ANPRM and SANPRM suggested alternative ways to describe the applicability of the HMR. One suggestion is to describe the applicability of the HMR in relationship to specific transportation functions. Another is to describe the applicability of the HMR over specific regulated entities, such as those who offer hazardous materials for transportation or those who transport hazardous materials. RSPA is considering each of the alternatives proposed.

Anticipated Cost and Benefits: The potential costs and benefits of this action have not been determined. A preliminary regulatory evaluation will be developed.

Risks: Clarifying the applicability of the HMR should reduce uncertainty as to which regulatory agency's requirements apply to any particular activity involving hazardous materials and improve compliance with the HMR, the requirements of EPA and OSHA, and non-Federal requirements. This should result in improved compliance with the applicable regulatory requirements, and improve hazardous materials transportation safety, reduce risks to the environment from hazardous materials, and promote workplace safety at facilities that manufacture or handle hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/96	61 FR 39522
ANPRM Comment Period End	11/30/96	
SANPRM	04/27/99	64 FR 22718
Extension Comment Period Published for SANPRM	07/26/99	
SANPRM Comment Period End	08/25/99	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: Docket No. HM-223. As a result of comments received to the ANPRM, we have upgraded this rulemaking to significant.

Agency Contact: Susan Gorsky, Senior Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: rules@rspa.dot.gov

RIN: 2137–AC68

2524. HAZARDOUS MATERIALS: REQUIREMENTS FOR CARGO TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes to revise and clarify certain manufacturing, maintenance and use requirements pertaining to cargo tank motor vehicles that may be used for hazardous materials transportation. FMCSA inspections have resulted in a preliminary determination that these regulations need to be amended to make them more practical, understandable, and enforceable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: HM-213

Agency Contact: Michael Johnsen, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC90

2525. PIPELINE SAFETY: FURTHER REGULATORY REVIEW; GAS PIPELINE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This action would change miscellaneous gas pipeline safety standards to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic change. Some of the proposed changes result from RSPA's further review of the standards following its 1995-1996 review under the President's Regulatory Reinvention Initiative. Other changes are based on recommendations by the National Association of Pipeline Safety Representatives (NAPSR) in its November 1992 report on the standards. The proposed changes would reduce costs in the pipeline industry without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-124. The NAPSR report was published November 9, 1993, at 58 FR 59431, as part of the earlier review of the standards.

Early in 1992, RSPA began an extensive review of the federal gas pipeline safety regulations (49 CFR 192) and invited the public to participate (57 FR 4745; February 7, 1992). RSPA published a Notice of Proceed Rulemaking (NPRM), proposing changes to 38 regulations in part 192 (Notice 1: 57 FR 39572; August 31, 1992). In addition, the National Association of Pipeline Safety Representatives (NAPSR) reported on a separate but related review of part 192. Because the NAPSR report concerned a few of the regulations covered by thge NPRM and had similar objectives, we published the report and requested public comment on its various recommended rule changes (Notice 2: 58 FR 59431; November 9, 1992) and later extended the comment period (Notice 3: 58 FR 68382; December 27, 1993). A final rule was published on June 6, 1996.

However, not all the changes suggested by the commenters were incorporated in the final rule. A further review of the regulatins in Part 192, based on the record in this docket, was initiated in late 1996. This review identified proposals from the Gas Piping Technology Committee (GPTC), the ASME B31.8 (gas pipeline safety standards) committee, and NAPSR that have not yet been addressed.

In October 1997, NAPSR and the gas pipeline industry formed the State Industry Regulatory Review Committee (SIRRC), to discuss the regulatory proposals of NAPSR and other issues. On May 3, 1999, the SIRRC provided OPS a report on outcome of the discussion on 329 proposed changes in the gas pipeline safety regulations.

Most of the SIRRC recommendations will be addressed in a subsequent notice in this docket. The welding recommendations are being adopted in the periodic update (Docket No. RSPA-99-6106) which will be published by April 2000. The corrosion control recommendations are being considered in a review of the pipeline corrosion regulations in Docket No. RSPA-97-2762.

Agency Contact: Richard Huriaux, Director, Technology & Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AD01

2526. +PIPELINE SAFETY: RECOMMENDATIONS TO CHANGE HAZARDOUS LIQUID PIPELINE SAFETY STANDARDS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: In 1995, the National Association of Pipeline Safety Representatives (NAPSR) completed its review of the hazardous liquid pipeline safety regulations. NAPSR provided RSPA with 28 recommendations for changes to 49 CFR part 195, the hazardous liquid pipeline regulations. NAPSR's recommendations are aimed at making the regulations more explicit, understandable, and enforceable. This action would address the need to change Part 195 as NAPSR recommended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2717.

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AD10

2527. HAZARDOUS MATERIALS: REVISIONS TO STANDARDS FOR INFECTIOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposed to amend the Hazardous Materials Regulations to provide for the transport of infectious medical waste in bulk packagings, remove the blanket exception for transporting biological products and diagnostic specimens and revise the definition, hazardous communication, and packaging requirements for other infectious substances to make them consistent with international transportation requirements. RSPA held a public meeting on the ANPRM via the internet.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/98	63 FR 46844
ANPRM Comment Period End	12/01/98	
NPRM	01/22/01	66 FR 7942
NPRM Comment Period End	04/23/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-226. DMS Docket No. RSPA- 98-3971.

Agency Contact: Eileen Edmonson, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD13

2528. HAZARDOUS MATERIALS: REVISION OF REQUIREMENTS FOR CARRIAGE BY RAIL CAR AND MOTOR VEHICLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This rulemaking is based on a joint petition for rulemaking submitted by the American Trucking Associations, Inc. and the Association of American Railroads. This rulemaking proposes to revise the Hazardous Materials Regulations (HMR) found in 49 CFR parts 174 and 177. The intended impact of the rulemaking is to streamline the requirements of parts 174 and 177, enhance compliance with the HMR and to develop a positive impact on the land surface transportation of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-227.

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD19

2529. HAZARDOUS MATERIALS: REVISIONS TO THE INCIDENT REPORTING REQUIREMENTS AND THE DETAILED HAZARDOUS MATERIALS INCIDENT REPORT DOT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5105 to 5127

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: This rulemaking reviews the hazardous materials incident reporting regulations in 49 CFR part 171, including the hazardous materials incident report (form 5800.1). The goal of this rulemaking is to simplify, update and review the requirements while enhancing the ability of the Research and Special Programs Administration and the DOT modal administrations to gather information vital to increasing safety of transporting hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/99	64 FR 13943
Comment Period End	06/21/99	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: Docket No. HM-229.

Agency Contact: Diane LaValle, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD21

2530. PIPELINE SAFETY: PRESSURE TESTING OLDER PIPELINES IN TERMINALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195.302

Legal Deadline: None

Abstract: Certain older pipelines in terminals and tank farms must be pressure tested before December 7, 2003. Based on a petition, RSPA is reconsidering this testing requirement in light of the risk and low operating stress of these pipelines. RSPA has stayed enforcement of the testing requirement against pipelines designed not to operate above 20 percent of specified minimum yield strength.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-4316. Notice requesting comment 2/10/98 (63 FR 6677) in Docket No. PS-121. Enforcement Stay (63 FR 63210; November 12, 1998).

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD26

2531. HAZARDOUS MATERIALS: HAZARD COMMUNICATION REQUIREMENTS—PETITIONS FOR RULEMAKING AND MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172

Legal Deadline: None

Abstract: This rulemaking action would amend the Hazardous Materials Regulations (HMR) to continue improving the hazard communication requirements to better identify hazardous materials in transportation, in response to several petitions for rulemaking and RSPA initiatives. The primary areas that would be addressed are shipping papers, marking, labeling, and placarding requirements. In making improvements to the hazardous materials identification system in the HMR, the proposed action is intended to improve safety for transportation workers, emergency responders, and the public. The effect of the proposed regulatory action would be to simplify, clarify, correct, or provide relief from certain regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-206B

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AD28

2532. HAZARDOUS MATERIALS: AIR CARRIER EMERGENCY TELEPHONE NUMBER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 175

Legal Deadline: None

Abstract: The notice solicits comments on the merits of safety recommendations from the National Transportation Safety Board to require that air carriers transporting hazardous materials have the means, 24 hours per day, to quickly retrieve and provide to emergency responders consolidated specific information about the identify and location of all hazardous materials on an aircraft in a timely manner.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/00	65 FR 49777
ANPRM Comment Period End	11/13/00	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-206C

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-8553

DOT—RSPA

Proposed Rule Stage

Email: rules@rspa.dot.gov

RIN: 2137–AD29

2533. HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS EXEMPTIONS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to the hazardous materials exemptions procedures of the hazardous materials procedural regulations and will result in a complete re-write of the exemptions procedures in language that is easier to understand. This action will follow a previous rulemaking which involved re-writing the hazardous materials rulemaking procedures. These actions are being taken to update RSPA's procedural regulations in a new question-and-answer format that will be more user-friendly.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: This is follow-on rulemaking to Docket No. RSPA-98-3974 (RSP-4).

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RIN: 2137–AD30

2534. +HAZARDOUS MATERIALS SAFETY: TRANSPORTATION OF OXYGEN CYLINDERS ON AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 175

Legal Deadline: None

Abstract: RSPA proposes to amend the Hazardous Materials Regulations to require cylinders of oxygen to be placed in an outer container that meets certain thermal and heat protection requirements when transported in cargo compartments on aircraft. These requirements will increase the level of safety associated with transportation of oxidizing gases by air. This rule has no impact on the use of passenger-owned oxygen cylinders. This rule is significant due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HM Docket: HM-224B. A separate rulemaking addressing the use of passenger owned cylinders of oxygen during a flight is under RIN 2105-AC29.

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
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RIN: 2137–AD33

2535. +HAZARDOUS MATERIALS: SAFETY REQUIREMENTS FOR EXTERNAL PRODUCT PIPING ON CARGO TANKS TRANSPORTING FLAMMABLE LIQUIDS

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes requirements to reduce the risks associated with the retention of flammable liquid in unprotected product piping on a cargo tank motor vehicle during transportation (Wetlines). It responds to an NTSB recommendation. It is significant because of industry concerns about its cost implications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM Docket: HM-213B.

Agency Contact: Michael Stevens, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AD36

2536. HAZARDOUS MATERIALS: ADOPTION OF LATEST IAEA AND OTHER MISCELLANEOUS REVISIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to harmonize the requirements for the packaging and transportation of Class 7 (radioactive) materials with the International Atomic Energy Agency (IAEA) regulations for the safe transportation of radioactive material and the UN recommendations.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/99	64 FR 72633
Extension of Comment Period	03/01/00	65 FR 11028
ANPRM Comment Period End	03/29/00	
Comment Period Closed	06/29/00	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-230.

Agency Contact: Charles E. Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD40

DOT—RSPA

Proposed Rule Stage

2537. PIPELINE SAFETY: PRODUCER-OPERATED OUTER CONTINENTAL SHELF GAS AND HAZARDOUS LIQUID PIPELINES THAT CROSS DIRECTLY INTO STATE WATERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This proposed rule would implement a provision of the December 10, 1996 Memorandum of Understanding (MOU) between the Department of the Interior (DOI) and the Department of Transportation (DOT) regarding Outer Continental Shelf (OCS) Pipelines. This rule would address producer-operated pipelines that cross into State waters without first connecting with a transporting operator's facility on the OCS. It is complementary to the Direct Final Rule that addressed OCS oil or gas pipelines located upstream of the points at which operating responsibility for the pipelines transfers from a producing operator to a transporting operator (62 FR 61692, November 19, 1997; and 63 FR 126598, March 16, 1998). The proposed rule also would address the procedures by which producer and transportation pipeline operators would petition for permission to operate under either DOT or DOI regulations governing pipeline design, construction, operation, and maintenance according to the operational circumstances of their respective pipelines.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-99-6132.

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD42

2538. HAZARDOUS MATERIALS: MISCELLANEOUS AMENDMENTS FOR UNLOADING IM PORTABLE TANKS ON A TRANSPORT VEHICLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 177

Legal Deadline: None

Abstract: RSPA is proposing a rule in response to a petition for rulemaking regarding the requirements applicable to the unloading of Intermodal (IM) portable tanks while on a transport vehicle.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-218A.

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD44

2539. HAZARDOUS MATERIALS: TRANSPORTATION OF LITHIUM BATTERIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172 to 175

Legal Deadline: None

Abstract: RSPA is evaluating the current exceptions applicable to lithium batteries and evaluating which exceptions should be eliminated or revised.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM Docket: HM-224C

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
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RIN: 2137–AD48

2540. PIPELINE SAFETY: PIPELINE INTEGRITY MANAGEMENT IN HIGH CONSEQUENCE AREAS (HAZARDOUS LIQUID OPERATORS WITH LESS THAN 500 MILES OF PIPELINE)

Priority: Substantive, Nonsignificant

Legal Authority: 49 U.S.C. 5121; 49 U.S.C. 60102 to 60104; 49 U.S.C. 60117 to 60118; 49 U.S.C. 60124; 49 CFR 1.53

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: The rule will apply to hazardous liquid pipeline operators who own or operate less than 500 miles of pipelines. The rule require integrity assessment of pipeline segments that could affect above high consequence areas, and consideration of additional preventive and mitigative actions to protect these locations from pipeline spills. OPS is proposing that an operator develop and follow an integrity management program that continually assesses and evaluates the integrity of those pipelines that could affect a high consequence area, through internal inspection or pressure testing, and data integration and analysis.

Timetable:

Action	Date	FR Cite
NPRM	03/21/01	66 FR 15821
NPRM Comment Period End	05/21/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-00-7408.

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RIN: 2137–AD49

2541. HAZARDOUS MATERIALS: REVISION OF THE REQUIREMENTS FOR HAZARDOUS WASTE MANIFESTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101-5127

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: The NPRM proposes to update the Hazardous Waste Manifest requirements to accommodate changes the Environmental Protection Agency has proposed, including the use of electronic versions of the Hazardous Waste Manifest and electronic signatures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: HM Docket: HM-206E

Agency Contact: Michael Johnsen, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD50

2542. • PIPELINE SAFETY: PIPELINE INTEGRITY MANAGEMENT IN HIGH CONSEQUENCE AREAS (GAS TRANSMISSION PIPELINE OPERATORS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5121; 49 USC 60102 to 60104; 49 USC 60108, 60117, 60118, 60124; 49 CFR 1.53

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: An October 21, 1999, notice announced a public meeting to consider the need for additional safety and environmental regulations for gas transmission lines, hazardous liquid pipelines, and distribution pipelines in high-density population areas, commercially navigable waterways, and areas unusually sensitive to environmental damage. The public meeting was held on November 18-19, 1999 in Herndon, Virginia. The meeting was to determine the extent to which operators now have integrity management programs, to explore effective ways to promote their development and implementation by all operators, and to discuss mechanisms to confirm the adequacy of such operator-developed programs. Participants in the meeting discussed a practical definition of high consequence areas, as well as the need, if any, for increased inspection, enhanced damage prevention, improved emergency response, and other measures to prevent and mitigate pipeline leaks and ruptures in these areas. Comments from the public were due by January 17, 2000.

A final rule was published to require validation/testing of the integrity of certain hazardous liquid pipelines in high consequence areas (RIN 2137-AD45). A public meeting was held on February 12-14, 2001 to present information on integrity requirements for gas transmission pipelines.

Consideration of a similar gas rule is underway. Rulemakings addressing gas transmission line high consequence areas, direct assessment, and overall integrity management program will be published in 2001.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-00-7666.

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RIN: 2137–AD54

2543. • PIPELINE SAFETY: DRUG AND ALCOHOL TESTING FOR PIPELINE FACILITY EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: We propose to conform the pipeline facility drug and alcohol testing regulations with corresponding DOT regulations (Procedures for Transportation Workplace Drug and Alcohol Testing Programs). We also propose miscellaneous changes to the pipeline facility drug and alcohol testing regulations to make them easier to apply and understand. The proposals are intended to ensure the pipeline facility drug and alcohol testing regulations are clear and consistent with the DOT regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-00-8417

Agency Contact: L.M. Furrow, Manager, Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD55

2544. • PIPELINE SAFETY: HAZARDOUS LIQUID PIPELINE ACCIDENT REPORTING REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; 49 CFR 1.53

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking will amend the pipeline safety regulations to lower the reporting threshold for hazardous liquid pipeline spills from 50 barrels to 5 gallons with an accompanying revision to the hazardous liquid accident report form to improve its usefulness. New reporting for spills for less than 5 barrels down to 5 gallons will require reporting minimal information, whereas any spill in water of 5 gallons or more, any spill of 5 barrels or more, or where otherwise reportable according to existing reporting criteria as outlined in CFR 195.50, will require completion of the entire new proposed accident report.

Timetable:

Action	Date	FR Cite
NPRM	03/21/01	66 FR 15681
NPRM Comment Period End	05/21/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-01-8663.

Agency Contact: Roger Little, Department of Transportation, Research and Special Programs Administration
Phone: 202 366-4569

RIN: 2137–AD56

2545. • HAZARDOUS MATERIALS: FRANGIBLE DISCS ON TANK CARS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: RSPA is proposing to clarify current inspection requirements for frangible discs in pressure relief devices on rail tank cars used to transport hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HM Docket: HM-216A

Agency Contact: Eileen Edmonson, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD57

DEPARTMENT OF TRANSPORTATION (DOT)

Research and Special Programs Administration (RSPA)

Final Rule Stage

2546. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action responded to a petition for rulemaking that proposed to remove the fifty-pound limit on the quantity of hazardous materials that may be stowed in an inaccessible cargo location on passenger-carrying aircraft. Comments to the NPRM indicated that further evaluation is needed. RSPA has decided to withdraw this proposal and consider the petition for rulemaking in its overall revision of 48 CFR part 175, in HM-228, RIN 2317-AD18.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	
To be withdrawn	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This project was formerly entitled: Limitation Aboard Aircraft. Docket HM-192. A related rulemaking is "Prohibition of Oxidizers Aboard Aircraft," HM-224A, RIN 2127-AC92. The proposal will be considered as part of HM-228, RIN 3217-AD18.

ANALYSIS: Regulatory Evaluation, 02/13/85, 50 FR 6013

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RIN: 2137–AA85

2547. +HAZARDOUS MATERIALS: REQUIREMENTS FOR CYLINDERS

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking will amend the Hazardous Materials Regulations (HMR) by updating and consolidating requirements for the manufacture, maintenance, requalification, repair, and use of compressed gas cylinders. In the NPRM, RSPA proposed changes affecting: the manufacture of compressed gas cylinders; addition of certain new DOT specifications and to revise requirements applicable to the maintenance, requalification, and repair of all DOT specification cylinders (including those cylinders that may no longer be manufactured). RSPA also proposed to simplify the requirements for filling cylinders and consolidate and revise requirements applicable to persons who requalify cylinders. This rulemaking, which affects persons who manufacture, requalify, repair, refill and use compressed gas cylinders, is of significant interest to the compressed gas industry. Based on the comments received to the NPRM, RSPA is considering issuing a final rule to address only noncontroversial proposals and to address all other proposals in a separate rulemaking.

Statement of Need: This rulemaking action is the first comprehensive review and revision of the cylinder requirements since the first cylinder specification was adopted in the early 1900's. Since that time, additional cylinder specifications and related requirements for cylinder requalification and use have been added on a piece-meal basis in response to the development of new construction materials, accidents and incidents, shipping experience, and the development of industry consensus standards. RSPA seeks to improve the integrity of cylinders by adopting manufacturing and testing standards based more on performance than detailed design requirements. RSPA has received over 25 petitions for rulemaking and has issued numerous

exemptions relating to requirements for cylinders and for the transportation of hazardous materials in cylinders. The merits of these petitions and the need to convert provisions of exemptions into regulations of general applicability are being considered in this rulemaking action.

Summary of Legal Basis: Section 5103 of Title 49 U.S.C. specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. These regulations apply to persons transporting or causing to transport hazardous materials in commerce, and persons manufacturing, fabricating, marking, maintaining, repairing or testing packagings that are represented, marked, certified, or sold by such persons as qualified for use in transporting hazardous materials in commerce.

Alternatives: The proposed rule is expected to incorporate a variety of alternatives to provide greater flexibility to cylinder manufacturers, refillers and users. There will be proposals to allow harmonizing of the manufacturing practices between the U.S. and other countries, to provide greater flexibility in the filling of cylinders based on performance criteria, and to simplify the regulations by streamlining the commodity sections and by standardizing the new cylinder specifications.

Anticipated Cost and Benefits: A preliminary regulatory evaluation has been developed. The potential costs and benefits of this action have not yet been determined.

Risks: Improving the integrity of cylinders will reduce the risk of leakage in overturns and other accidents. In addition, simplifying the regulations will reduce misunderstandings and the possibility of processing errors that may adversely affect safety.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58460
NPRM Comment Period End	05/28/99	
Extension of Comment Period	05/28/99	64 FR 28065
Comment Period Closed	09/30/99	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders. Docket No. HM-220.

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RIN: 2137–AA92

2548. PIPELINE SAFETY: PASSAGE OF INTERNAL INSPECTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking established minimum Federal pipeline safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. In response to petitions for reconsideration of the final rule, an additional NPRM was issued proposing to limit the rule with respect to new and existing offshore gas transmission lines and the replacement of onshore gas transmission lines in rural areas.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
NPRM Comment Period End	01/19/93	
Final Rule	04/12/94	59 FR 17275
NPRM	09/30/94	59 FR 49896
NPRM Correction	10/19/94	59 FR 52863
Limited Suspension of Enforcement	02/07/95	60 FR 7133
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-126. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, into this rulemaking. The final rule (59 FR 17275; April 12, 1994) amended the gas and hazardous liquid pipeline safety regulations to require that new and certain replacement pipelines be designed and constructed to accomodate the passage of instrumented internal inspection devices ('smart pigs'). This action was in response to a mandate in the Pipeline Safety Reauthorization Act of 1988. The intended effect of these amended regulations was to improve the safety of gas, hazardous liquid, and carbon dioxide pipelines by permitting their inspection by 'smart pigs' using the latest technology for detecting and recording abnormalities in the pipe wall. This rule required new and replacement pipelines to be capable of passing a 'pig' for internal inspection.

In response to two petitions for reconsideration, Notice 2 (59 FR 49896; September 30, 1994) was published to extend the compliance date for existing gas transmission lines and to modify the requirement for modification of line sections based on partial replacement of gas transmission pipelines located offshore and in rural areas. Subsequently, Notice 3 (60 FR 7133; February 7, 1995) was published to suspend enforcement of the final rule requirements for new and existing offshore gas transmission lines and for modifications to line segments based on partial replacement of pipe in existing onshore gas transmission lines. This stay was in response to extensive comments and recommendations from the Technical Pipeline Safety Standards Committee (TPSSC) with regard to Notice 2. Nonetheless, hazardous liquid pipelines, carbon dioxide pipelines, new onshore gas transmission lines, must comply with the final rule of April 1994.

A final rule in response to the petitions, public comments, and recommendations from the advisory committee is being prepared for publication by August 2001.

ANALYSIS: Regulatory Evaluation, 04/12/94, 59 FR 17275

Agency Contact: Richard Huriaux, Manager - Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AB71

2549. +PIPELINE SAFETY: RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 194

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The interim final rule established regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). Pipeline operators filed response plans under this interim final rule, and numerous tabletop exercises and area exercises have been conducted to validate the planning process. The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines. This rule is significant because of substantial public and congressional interest. Because of time that has passed since issuance of Interim Final Rule, an advisory bulletin and an interpretation will be issued to address technical issues. Subsequently, a new NPRM will be issued to update record and support issuance of a final rule later in 2001.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244
Comment Period End	02/19/93	
Notice of Public Meeting	06/15/94	59 FR 30755
Notice of Public Hearing	11/29/96	61 FR 60679
Correction	01/21/97	62 FR 2989
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. PS-130.

ANALYSIS: Regulatory Evaluation, 01/05/93, 58 FR 244

Agency Contact: James Taylor, Response Plans Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860

RIN: 2137–AC30

2550. FILLING OF PROPANE CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: In an ANPRM, RSPA solicited comments on the merits of a petition for rulemaking to require registration and training of persons who fill propane cylinders, certification of filling equipment operators, and proof of financial responsibility. The petition would also allow filling of propane cylinders by volume rather than by weight, which is currently required by the Hazardous mMterial Regulations. A Federal Register notice will terminate rulemaking action in this docket and deny the petition for rulemaking because, based on the comments, there is no safety justification for imposing the costs of a registration, training and financial responsibility program for cylinder fillers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/96	61 FR 43515
ANPRM Comment Period End	11/21/96	
To Be Withdrawn	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-220C.

Agency Contact: Eileen Edmonson, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AC86

2551. HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS SAFETY RULEMAKING AND PROGRAM PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106; 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to 49 CFR parts 106 and 107 of the hazardous materials procedural regulations, and will result in a revision of those parts in language that is easier to understand. This action is being taken in order to update RSPA's hazardous materials procedural regulations and to rewrite the current requirements in a new question and answer format that will be more user-friendly.

Timetable:

Action	Date	FR Cite
NPRM	12/11/98	63 FR 68624
NPRM Comment Period End	02/09/99	
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-3974. (RSP-4)

Agency Contact: Karin Christian, Attorney, Room 8407, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
Email: rules@rspa.dot.gov

RIN: 2137–AD20

2552. PIPELINE SAFETY: ENFORCEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190.209; 49 CFR 190.213

Legal Deadline: None

Abstract: This action will revise RSPA's pipeline safety enforcement procedures to minimize paperwork in uncontested cases where a person pays a proposed civil penalty or agrees to a proposed compliance order. The procedures will be changed to show that both responses are considered offenses in determining any future civil penalty assessments. These changes will streamline the enforcement process.

DOT—RSPA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/12/99	64 FR 43972
Comment Period Ends	10/12/99	
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4284. The changes to part 190 modify agency rules of practice and procedure.

Agency Contact: Linda Daugherty, Enforcement Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4577
Email: daugherll@rspa.dot.gov

RIN: 2137–AD22

2553. PIPELINE SAFETY: CONTROLLING CORROSION ON HAZARDOUS LIQUID AND CARBON DIOXIDE PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: The corrosion-control regulations for hazardous liquid and carbon dioxide pipelines will be revised to reflect the latest safety practices for corrosion protection of steel pipe. Specific criteria for cathodic protection will be adopted.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	04/07/99	64 FR 16885
NPRM	12/08/00	65 FR 76968
NPRM Comment Period End	02/06/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: Docket No. RSPA-97-2762. Notice of public meeting 10/29/97 (62 FR 56141).

Agency Contact: L.M. Furrow, Manager, Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AD24

2554. PIPELINE SAFETY: PERIODIC UPDATES TO PIPELINE SAFETY REQUIREMENTS (1999)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 190; 49 CFR 191; 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This periodic update revises and updates the pipeline safety regulations to provide clarity and remove unnecessary burdens te the regulated pipeline community. Revisions include updated references to voluntary specifications and standards incorporated by reference in the pipeline safety regulations, and various clarifications and grammatical corrections. These updates reflect the most recent editions of each specification and standard incorporated by reference. These updates enable pipeline operators to utilize current technology, materials, and practices, thereby reducing costs and enhancing economic growth.

Timetable:

Action	Date	FR Cite
NPRM	03/22/00	65 FR 15290
NPRM Comment Period End	05/22/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-99-6106

Agency Contact: Richard Huriaux, Manager - Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AD35

2555. HAZARDOUS MATERIALS: LIMITED EXTENSION OF REQUIREMENTS FOR LABELING CERTAIN SHIPMENTS OF MATERIALS POISONOUS BY INHALATION (PIH)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172

Legal Deadline: None

Abstract: In an interim final rule, RSPA provided a limited exception, until October 1, 2001, from the requirements for PIH labels on certain packages intended for transportation in international commerce. The interim final rule was intended to facilitate international commerce and to provide more time for the UN Committee of Experts to consider U.S. proposals for adopting the PIH labels and placards. The final rule responds to two comments received on the interim final rule and addresses further exceptions from PIH labeling and placarding requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/16/99	64 FR 50260
Interim Final Rule Effective	10/01/99	
Interim Final Rule Comment Period End	11/15/99	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-206D

Agency Contact: Helen L. Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AD37

2556. HARMONIZATION WITH THE UNITED NATIONS RECOMMENDATIONS, INTERNATIONAL MARITIME DANGEROUS GOODS CODE, AND INTERNATIONAL CIVIL AVIATION ORGANIZATION'S TECHNICAL INSTRUCTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

DOT—RSPA

Final Rule Stage

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: RSPA proposed to amend the Hazardous Materials Regulations (HMR) to maintain alignment with international standards, promulgated by the United nations, the International Maritime Organization, the International Civil Aviation Organization, and the International Atomic Agency, by incorporating numerous changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air-transport quantity limitations and vessel stowage requirements.

In a final rule published in the Federal Register on February 1, 2001, RSPA adopted some of the standards proposed in the NPRM. In a subsequent final rule, RSPA intends to adopt the other proposed standards.

Timetable:

Action	Date	FR Cite
NPRM	10/23/00	65 FR 63294
NPRM Comment Period End	12/23/00	
Final Rule	02/01/01	66 FR 8644
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-215D. Docket No. RSPA-00-7702.

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD41

2557. REVISIONS; DEFINITION OF ADMINISTRATOR

Priority: Info./Admin./Other

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127, 44701, 60101 et seq; PL 104-121, sec 212 to 213; 49 CFR 1.45 and 1.53

CFR Citation: 49 CFR 171 to 180; 49 CFR 190 to 199

Legal Deadline: None

Abstract: Modifies or adds the definition of "Administrator" for clarification and consistency within the RSPA regulations.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Astrid Lopez-Goldberg, Attorney, Department of Transportation, Research and Special Programs Administration
Phone: 202 366-4400

RIN: 2137–AD43

2558. HAZARDOUS MATERIALS: MINOR EDITORIAL CORRECTIONS AND CLARIFICATIONS

Priority: Routine and Frequent

Legal Authority: 49 U.S.C. 5101-5127

CFR Citation: 49 CFR 106-107; 49 CFR 110; 49 CFR 171-176; 49 CFR 178-180

Legal Deadline: None

Abstract: This final rule corrects inconsistencies in terminology and makes minor editorial corrections to improve the clarity of the Hazardous Materials Regulations (HMR).

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM Docket: HM-189R

Agency Contact: Gigi L. Corbin, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
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RIN: 2137–AD51

2559. • HAZARDOUS MATERIALS: REDUCTION OF REGISTRATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 U.S.C. 5101-5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: RSPA Proposed to reduce the hazmat registration fee for all persons who transport or offer for transportation certain categories and quantities of hazmat, replace the reference to the standard industrial classification (SIC) code with the North American Industry Classification System (NAICS), and clarify the registration fee for not-for-profit organizations. RSPA is delaying final action on these proposals because of their interaction with final action on the FY 2002 Federal budget.

Timetable:

Action	Date	FR Cite
NPRM	12/07/00	65 FR 76890
NPRM Comment Period End	02/02/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-208D.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD53

2560. • HAZARDOUS MATERIALS: REQUIREMENTS FOR MAINTENANCE, REQUALIFICATION, AND REPAIR OF DOT SPECIFICATION CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 171 to 173; 49 CFR 177 to 178; 49 CFR 180

Legal Deadline: None

Abstract: The rulemaking will make changes to the Hazardous Materials Regulations to revise the requirements for maintenance, requalification and repair of all DOT specification cylinders. In addition it will revise the requirements for approval of cylinder requalifiers, independent inspection agencies, and nondomestic chemical analysis and tests, and revise certain requirements in certain cylinder inspections. Certain cylinder

manufacturing proposals will be handled in a separate rulemaking action. The NPRM was under RIN 2127-AA92.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 38460
NPRM Comment Period End	09/30/99	64 FR 28965
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HM Docket: HM-220D

Agency Contact: Charles E. Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2137–AD58

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

2561. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Priority: Other Significant

Legal Authority: 49 USC 5701 to 5714

CFR Citation: 49 CFR 1

Legal Deadline: Final, Statutory, August 1, 1991.

Abstract: The Sanitary Food Transportation Act of 1990 (49 USC 5701 et seq.) requires the Secretary of Transportation, in consultation with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency, to issue regulations concerning the transportation of food, food additives, drugs, devices, and cosmetics in motor and rail vehicles also used to transport nonfood products that could pose an unreasonable danger to human or animal health when so transported. This rulemaking will implement the statutory requirements. This rulemaking is significant because of substantial public and congressional interest. RSPA's next action is undetermined because it has requested personnel resources from Congress necessary to perform these food safety functions.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
04/29/91	03/21/91	56 FR 11982
NPRM	05/21/93	58 FR 29698
Notice of Public Hearing	05/21/93	58 FR 29698
NPRM Comment Period End	10/18/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: ANALYSIS: Regulatory Evaluation, 05/21/93, 58 FR 29698

Agency Contact: Michael Johnsen, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
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RIN: 2137–AC00

2562. HAZARDOUS MATERIALS: CARGO TANK ROLLOVER REQUIREMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: The purpose of this advance notice of proposed rulemaking is to request comments concerning the need, if any, for amending the Hazardous Materials Regulations with regard to standards for cargo tank rollover protection devices on specification DOT 406, 407 and 412 cargo tank motor vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/99	64 FR 62161
ANPRM Comment Period End	05/15/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Additional Information: HM Docket: HM-213A

Agency Contact: Hattie L. Mitchell, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AD34

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

2563. PIPELINE SAFETY: UNDERWATER ABANDONED PIPELINE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: This action will require operators of gas and hazardous liquid pipeline facilities to report certain information about abandoned underwater pipelines, including location, size, date of abandonment, and compliance with applicable laws. The information will be available for use by other Federal agencies and state authorities.

Timetable:

Action	Date	FR Cite
NPRM	08/30/99	64 FR 47157
Final Rule	09/08/00	65 FR 54440

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2094.

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC33

2564. +PIPELINE SAFETY: AREAS UNUSUALLY SENSITIVE TO ENVIRONMENTAL DAMAGE (USAS)

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: In response to a statutory mandate, this action established criteria for identifying areas near hazardous liquid pipelines that are unusually sensitive to environmental damage if a pipeline accident occurs. The criteria were developed in consultation with the Environmental Protection Agency and other agencies.

Timetable:

Action	Date	FR Cite
Supplemental Notice	06/22/94	59 FR 32178
Extended Comment Period End	06/26/95	
NPRM	12/30/99	64 FR 73464
Comments	06/27/00	
Final Rule	12/21/00	65 FR 80530
Delay of Effective Date	02/08/01	66 FR 9532
Effective Date	04/21/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-99-5455, formerly designated as Docket No. PS-140. A series of public workshops were conducted in 1996 and 1997, and 2000. Pilot testing of USA guidance was done in cooperation with the American Petroleum Institute. The effective date of the final rule was delayed until April 21, 2001.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AC34

2565. +INCREASED INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This rulemaking would address the need for additional periodic inspection of gas and hazardous liquid pipelines in high-density, environmentally sensitive, or navigable waterway areas. The regulations would prescribe circumstances under which such inspections must be conducted by internal inspection devices or equivalent means. The issue of increased inspection requirements for operators of 500 or more miles of hazardous liquid pipelines was addressed as part of the Final Rule in Docket No. RSPA-99-6355 (RIN 2137-AD45). A similar rule for operators of less than 500 miles of hazardous liquid pipelines was proposed in Docket No. RSPA-00-7408 (RIN 2137-AD49). Increased inspection requirements for gas transmission pipelines will be addressed in a separate rulemaking (RIN 2137-AD54).

Timetable:

Action	Date	FR Cite
Public Workshop	10/18/95	60 FR 44821
Final Rule (Large HL Pipelines)	12/01/00	65 FR 75378

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-141. Congress has expressed a concern about the risk of pipeline failure caused by undetected structural defects. It directed DOT to prescribe, if necessary, additional standards that require the periodic inspection of certain pipelines in high-density population areas, areas unusually sensitive to environmental damage, and crossings of commercially navigable waterways. The regulations are to prescribe circumstances in which inspections must be conducted with an instrumented internal inspection device. If the device is not required, the regulations must require the use of an inspection method that is at least as effective as using the device in providing for the safety of the pipeline.

OPS is considering the need to establish requirements for increased pipeline inspection, including 'pigging'. On October 19, 1995, a public workshop was held in Washington, DC, to elicit suggestions from the pipeline industry and the public on development of regulations requiring increased inspection of certain gas and hazardous liquid pipelines. Industry participants advocated use of a wide variety of factors to judge the risk of a pipeline and to determine whether pigging is required.

The need for increased inspection requirements in high-consequence areas is being addressed in Docket No. RSPA-99-6355, Enhanced Safety and Environmental Protection for Gas Transmission and Hazardous Liquid Pipelines in High Consequence Areas. An NPRM was issued in March 2000. A final rule requiring increased inspection for hazardous liquid pipelines in high consequence areas is expected in November 2000.

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AC38

2566. +EMERGENCY FLOW RESTRICTING DEVICES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1996.

Abstract: This rulemaking would specify those circumstances under which operators of hazardous liquid pipelines are required to use emergency flow restricting devices (EFRDs) or other procedures, systems, and equipment to detect and locate pipeline ruptures and minimize releases. The issue of EFRDs for operators of 500 or more miles of hazarous liquid pipelines was addressed as part of the Final Rule in Docket No. RSPA-99-6355 (RIN 2137-AD45). A similar rule for operators of less than 500 miles of hazardous liquid pipelines was proposed in docket no. RSPA-00-7408 (RIN 2137-AD49).

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2802
ANPRM Comment Period End	04/19/94	
Final Rule	12/01/00	65 FR 75378

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-133. A public workshop was held on 10/19/95 (60 FR 44822). This action is being coordinated with other rulemakings on onshore oil spill response plans (Docket No. PS-130; RIN 2137-AC30), areas unusually sensitive to environmental damage (Docket No PS-140; RIN 2137-AC34), and pipeline leak detection systems (Docket No. RSPA 97-2362; RIN 2137-AD05). These actions are being pursued in coordination with, and as part of the response to, the EFRD mandate.

First, RSPA has required pipeline operators to develop and carry out onshore oil spill response plans under the Oil Pollution Act of 1990 (Docket No. PS-130; RIN 2137-AC30). The operators have filed response plans under an interim final rule, and numerous tabletop exercises and area exercises have been conducted to validate the planning process. Work is proceeding on a 'one plan' approach that would allow an operator to file only one oil spill response plan with the various interested agencies. A final rule will be directed toward improving operators' accident response capabilities and minimizing accident consequences.

Second, RSPA published a rule to adopt the American Petroleum Institute's (API) pipeline leak detection system technical standard (Standard API 1130, Computational Pipeline Monitoring) to guide industry implementation of computer-based leak detection systems (Docket No. RSPA-97-2362, RIN 2137-AD05). This rule required that operators of hazardous liquid pipelines use API 1130 in conjunction with other information in the design, evaluation, operation, maintenance, and testing of their software-based leak detection systems. This will result in a significant advancement toward the acceptance of leak detection technology on hazardous liquid pipelines. This is a necessary precedent to the possible adoption of regulations on emergency flow restricting devices.

Third, RSPA worked with the Environmental Protection Agency, the U.S. Coast Guard, and others to develop a definition of "areas unusually sensitive to environmental damage from pipeline spills" (Docket No. PS-140; RIN 2137-AC34). This effort will define areas that are candidates for the application of EFRDs.

Finally, EFRDS were considered as part of the direct final rule in Docket No. RSPA-99-6355 RIN 2137-AD45); and the proposed rules in docket no. RSPA-00-7408 (RIN 2137-AD49).

Agency Contact: L. Ulrich, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4556

RIN: 2137–AC39

2567. REGULATED GAS AND HAZARDOUS LIQUID GATHERING LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This action would establish regulations for gas and hazardous liquid gathering lines in rural areas for which there are at present no safety regulations. Terminated because no decision has been made to regulate rural gathering lines.

Timetable:

Action	Date	FR Cite
Withdrawn	02/08/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard Huriaux, Director, Technology & Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AC53

2568. +PIPELINE SAFETY: PIPELINE INTEGRITY MANAGEMENT IN HIGH CONSEQUENCE AREAS (HAZARDOUS LIQUID OPERATORS WITH 500 OR MORE MILES OF PIPELINE)

Priority: Other Significant

Legal Authority: 49 USC 5121; 49 USC 60102 to 60104; 49 USC 60108; 49 USC 60177; 49 USC 60118; 49 USC 60124; 49 CFR 1.53

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: RSPA issued regulations to validate pipe integrity of most hazardous liquid pipelines that could affect high-density population areas, waters where commercial navigation exists, and areas unusually sensitive to environmental damage. In these proposed high consequence areas, These regulations will require for increased inspection/testing, enhanced damage prevention, improved emergency response, and other measure to prevent and mitigate pipeline leaks and ruptures.

Timetable:

Action	Date	FR Cite
NPRM	04/24/00	65 FR 21695
NPRM Comment Period End	06/23/00	
Final Rule	12/01/00	65 FR 75378

Action	Date	FR Cite
Final Action - Delay of Eff Date	02/08/01	66 FR 9532
Effective Date	05/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-99-6355. Effective date delayed until May 29, 2001.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
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Email: mike.israni@rpsa.dot.gov

RIN: 2137–AD45

2569. HAZARDOUS MATERIALS: RELOCATION OF REGISTRATION AND TRAINING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107, subpart G; 49 CFR 171

Legal Deadline: None

Abstract: This action would have proposed to relocate subpart G of part 107 and subpart H of part 172 into part 171 of the HMR. Effective with publication of this regulatory agenda, this action is terminated.

Timetable:

Action	Date	FR Cite
Terminated	04/16/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM Docket: HM-218B.

DMS docket number RSPA-2000-7760.

Agency Contact: Karin V. Christian, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
Email: rules@rspa.dot.gov

RIN: 2137–AD46

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage

Maritime Administration (MARAD)

2570. +CARGO PREFERENCE REGULATIONS—CARRIAGE OF AGRICULTURAL EXPORTS

Priority: Other Significant

Legal Authority: 46 App USC 1101; 1114(b), 1122(d), 1241

CFR Citation: 46 CFR 381; 49 CFR 1.66

Legal Deadline: None

Abstract: This action proposes to clarify the Maritime Administration's cargo preference regulations governing the carriage of agricultural exports. The rulemaking will concern, among other issues, (1) incorporating into Part 381 MARAD's existing rules on priority of service of various U.S.-flag services; (2) clarifying how shipper agencies should comply with the existing provisions of the regulations regarding geographic areas and booking cargo on U.S.-flag vessels before foreign flag vessels; (3) redefining certain terms for clarity to bring them in line with commercial practices; and other related issues. This rule is significant because of public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/28/99	64 FR 4382
ANPRM Comment Period End	03/29/99	
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Harrelson, Director, Office of Cargo Preference, Room 8118, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5515

RIN: 2133–AB37

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage

Maritime Administration (MARAD)

2571. UPDATE TO PART 205 - AUDIT APPEALS; POLICY AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1114, 1155, 1176, 1212

CFR Citation: 46 CFR 205

Legal Deadline: None

Abstract: In this action, MARAD proposes to update regulations in part 205 of 46 CFR, "Audit Appeals; Policy and Procedure". Parties who contract with the Maritime Subsidy Board or MARAD will use these appeal procedures when seeking redress for audit findings. This rulemaking will update, using plain language, our audit procedures to reflect current MARAD practices. The intended effect of this rulemaking is to improve the utility and clarity of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/15/00	65 FR 69279
NPRM Comment Period End	01/16/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lennis G. Fludd, Office of Financial and Rate Approvals, Department of Transportation, Maritime Administration, Room 8117
Phone: 202 366-2324

RIN: 2133–AB42

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Completed Actions

2572. REMOVAL OF PART 207 - STATISTICAL DATA FOR USE IN OPERATING-DIFFERENTIAL SUBSIDY APPLICATION HEARINGS

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1114; 46 USC 1171-1176

CFR Citation: 46 CFR 207

Legal Deadline: None

Abstract: In this rulemaking, MARAD removed part 207 - Statistical Data for Use in Operating-Differential Subsidy Programs. We eliminated this part because Congress withdrew MARAD's authority to grant ODS contracts and statutory changes of the Maritime Security Act of 1996 provided that a hearing process would no longer apply to the operating-differential subsidy program. The statistical data was used in hearings to determine if existing U.S.-flag service was adequate.

Timetable:

Action	Date	FR Cite
Final Action	12/12/00	65 FR 77521

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edmond J. Fitzgerald, Director, Office of Subsidy and Insurance, Room 8117, Department of Transportation, Maritime Administration, MAR-780, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2400
Fax: 202 366-7901

RIN: 2133–AB43

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Prerule Stage

2573. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as change-of-gauge flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/01	
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action is related to and may be affected by RIN 2105-AC71. This action was formally under RIN 2137-AB92 but is now being administered by the Bureau of Transportation Statistics (BTS) under RIN 2139-AA01 since the Office of Aviation Information has been transferred to BTS from RSPA.

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA01

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Proposed Rule Stage

2574. • AIR CARRIER TRAFFIC AND CAPACITY DATA BY NONSTOP SEGMENT AND ON-FLIGHT MARKET

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708

CFR Citation: 14 CFR 217; 14 CFR 241; 14 CFR 291; 14 CFR 298

Legal Deadline: None

Abstract: The Department of Transportation is considering modifying certain parts of the Traffic Reporting System to require operating carriers to report joint-service operations. This proposal would require a report change for small certificated, commuter, and all-cargo air carriers on their air traffic activity. This would also require U.S. carriers to report the detailed market and segment information for all their military, domestic all-cargo, and domestic charter flights.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: M. Clay Moritz Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA08

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Final Rule Stage

2575. AMENDMENT TO THE DEFINITIONS OF REVENUE AND NONREVENUE PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 329

CFR Citation: 14 CFR 217; 14 CFR 241; 14 CFR 298

Legal Deadline: None

Abstract: This action would revise definitions of revenue passenger and nonrevenue passenger. It would specify that a passenger traveling on a ticket or voucher received as compensation for denied boarding or as settlement of a consumer complaint is considered to be a revenue passenger. The revised definitions will harmonize Departmental regulations with those adopted by the International Civil Aviation Organization (ICAO). This will prevent air carriers from being required to keep two sets of traffic enplanement statistics.

Timetable:

Action	Date	FR Cite
NPRM	08/22/00	65 FR 50946
NPRM Comment Period End	10/23/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: M. Clay Moritz Jr., Acting Chief, Regulations Division, Office of Airline Information, Department of Transportation, Bureau of Transportation Statistics, K-25, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA07

[FR Doc. 01–11425 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda and Fiscal Year 2001 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980) and Executive Order (E.O.) 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication by the Department of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific entry in the agenda, contact the "Agency Contact" identified in the agenda item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

Dated: March 15, 2001.

Richard S. Carro,

Senior Counsel for Regulatory and Legislative Affairs.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2576	12 CFR 1501.2 Secretary's Determination of Real Estate Brokerage	1505-AA84

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2577	12 CFR 1510 Resolution Funding Corporation Operations	1505-AA79
2578	Financial Activities of Financial Subsidiaries	1505-AA80
2579	Financial Subsidiaries	1505-AA81
2580	17 CFR 450 Amendments to the Government Securities Act Regulations	1505-AA82

Departmental Offices—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2581	31 CFR ch II Possible Regulation of Access to Accounts at Financial Institutions Through Payment Service Providers	1505-AA74
2582	12 CFR 1501.2 Secretary's Determination of Other Activities Financial in Nature	1505-AA85

Departmental Offices—Completed Actions

Sequence Number	Title	Regulation Identification Number
2583	12 CFR 1501 Comparable Requirement for National Banks Among the Second Fifty Largest Insured National Banks	1505-AA77
2584	12 CFR 1500 Merchant Banking	1505-AA78

Financial Crimes Enforcement Network—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2585	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Broker/Dealers	1506-AA21

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Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2586	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Regarding Reporting of Cross-Border Transportation of Certain Monetary Instruments	1506-AA15
2587	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Casinos	1506-AA22
2588	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Exemptions from the Requirement to Report Transactions in Currency	1506-AA23

Financial Crimes Enforcement Network—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2589	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Delegation of Authority to Assess Civil Money Penalties on Depository Institutions	1506-AA08
2590	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Special Reporting and Recordkeeping Requirements—Money Services Businesses (MSBs)	1506-AA19

Financial Crimes Enforcement Network—Completed Actions

Sequence Number	Title	Regulation Identification Number
2591	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement That Financial Institutions Carry Out Anti-Money-Laundering Programs	1506-AA05

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2592	31 CFR 245 Claims on Account of Treasury Checks	1510-AA51
2593	31 CFR 285.14 Public Dissemination of Identity of Delinquent Debtors	1510-AA72
2594	31 CFR 203 Payment of Federal Taxes and the Treasury Tax and Loan Program	1510-AA79

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2595	31 CFR 205 Rules and Procedures for Efficient Federal-State Funds Transfers	1510-AA38
2596	31 CFR 240 Indorsement and Payment of Checks Drawn on the United States Treasury	1510-AA45
2597	31 CFR 256 Payments Under Judgment and Private Relief Acts	1510-AA52
2598	31 CFR 285.5 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) To Collect Past-Due, Legally Enforceable Nontax Debt	1510-AA65
2599	31 CFR 285.7 Salary Offset	1510-AA70
2600	31 CFR 285.8 Offset of Tax Refund Payment To Collect State Income Tax Obligations	1510-AA78
2601	31 CFR 210 Federal Government Participation in the Automated Clearinghouse	1510-AA81

Financial Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2602	31 CFR 281 Foreign Exchange Operations	1510-AA48

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Financial Management Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2603	31 CFR 285.6 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) To Collect Past-Due Debts Owed to States (Other Than Child Support)	1510-AA66

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
2604	31 CFR 900 to 904 Federal Claims Collection Standards	1510-AA57
2605	31 CFR 285.8 Offset of Tax Refund Payments To Collect State Income Tax Obligations	1510-AA82
2606	31 CFR 203 Payment of Federal Taxes and the Treasury Tax and Loan Program	1510-AA83
2607	31 CFR 210 Federal Government Participation in the Automated Clearinghouse	1510-AA84

Bureau of Alcohol, Tobacco and Firearms—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2608	27 CFR 16 Alcohol Beverage Health Warning Statement	1512-AC12

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2609	27 CFR 252 Exportation of Liquors	1512-AA98
2610	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-AB17
2611	27 CFR 7 Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs)	1512-AB37
2612	27 CFR 4 Prohibition of Alcohol Beverage Containers and Standard of Fill for Distilled Spirits and Wine	1512-AB89
2613	27 CFR 4 Amended Standard of Identity for Sherry	1512-AB96
2614	27 CFR 24 Processes Authorized for the Treatment of Wine, Juice and Distilling Material	1512-AC05
2615	27 CFR 4 Petition to Recognize Counoise and St. Laurent as New Grape Varieties	1512-AC26
2616	27 CFR 251 Recodification of Part 251	1512-AC27
2617	27 CFR 4 Albarino, Black Corinth and Fiano Grape Varieties	1512-AC29
2618	27 CFR Part 55 Identification Markings Placed on Explosive Materials	1512-AC25
2619	27 CFR 55 Commerce in Explosives-Sport Rocket Motors	1512-AC30
2620	27 CFR 55 Commerce in Explosives (Including Explosives in the Fireworks Industry)	1512-AB48
2621	27 CFR 55 Implementation of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997, Relating to the Establishment of a National Repository for Arson and Explosives Information	1512-AB73
2622	27 CFR 178 Implementation of Public Law 105-277, Making Omnibus Consolidated and Emerg. Supplemental Appropriations for FY 1999, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act	1512-AB83
2623	27 CFR 178 Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY99, Relating to Firearms Disabilities for Nonimmigrant Aliens	1512-AB93
2624	27 CFR 70 Delegation of Authority in Part 70	1512-AC19
2625	27 CFR 13 Delegation of Authority in 27 CFR Part 13	1512-AC21
2626	27 CFR 275 Prohibited Marks on Packages of Tobacco Products and Cigarette Papers and Tubes Imported or Brought into the United States	1512-AC14
2627	27 CFR 270 Determination of Tax and Recordkeeping on Large Cigars	1512-AC22
2628	27 CFR 275 Tobacco Products and Cigarette Papers and Tubes Shipped from Puerto Rico to the United States	1512-AC24
2629	27 CFR 270 Elimination of Application to Remove Tobacco Products from Manufacturer's Premises for Experimental Purposes	1512-AC32
2630	27 CFR 270 Elimination of Statistical Classes for Large Cigars	1512-AC33
2631	27 CFR 275 Implementation of Public Law 106-476, Sections 4002 and 4003, Relating to Tobacco Importation Restrictions, Markings, Repackaging and Destruction of Forfeited Tobacco Products	1512-AC35

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Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2632	27 CFR 9 American Viticultural Areas	1512-AA07
2633	27 CFR 5 Labeling of Unaged Grape Brandy	1512-AB46
2634	27 CFR 22.21 Distribution and Use of Tax-Free Alcohol	1512-AB51
2635	27 CFR 19.11 Distilled Spirits Plant Regulatory Initiative Proposal	1512-AB58
2636	27 CFR 18.56 Production of Volatile Fruit Flavored Concentrate	1512-AB59
2637	27 CFR 24.278 Implementation of Wine Credit Provisions of Public Law 104-188	1512-AB65
2638	27 CFR 24.66 Implementation of Public Law 105-34, Section 1416 Relating to Refund of Tax for Domestic Wine Returned to Bond Regardless of Merchantability (Taxpayer Relief Act of 1997)	1512-AB74
2639	27 CFR 24.178 Implementation of Public Law 105-34, Section 1417, Related to the Use of Ameliorating Material in Certain Wines	1512-AB78
2640	27 CFR 4 Health Claims and Other Health Related Statements in the Labeling and Advertising of Alcohol Beverages	1512-AB97
2641	27 CFR 170 Recodification of Part 170 into Part 29	1512-AC34
2642	27 CFR 178 Commerce in Firearms and Ammunition (Omnibus Consolidated Appropriations Act of 1997)	1512-AB64
2643	27 CFR 178 Residency Requirement for Persons Acquiring Firearms	1512-AB66
2644	27 CFR 178 Identification Markings Placed on Firearms	1512-AB84
2645	27 CFR 178 Commerce in Firearms and Ammunition—Annual Inventory	1512-AC08
2646	5 CFR 1320.7(f)(2) Implementation of the Paperwork Reduction Act	1512-AB90
2647	27 CFR 19 Delegation of Authority in 27 CFR Part 19	1512-AC06
2648	27 CFR 53 Delegation of Authority in 27 CFR Part 53	1512-AC18
2649	27 CFR 170 Delegation of Authority in 27 CFR Part 170	1512-AC23
2650	27 CFR 200 Balanced Budget Act of 1997, Public Law 105-33, Restriction on the Importation of Domestic Tobacco Products and Cigarette Papers and Tubes Returned to the United States	1512-AB81
2651	27 CFR 275 Implementation of Public Law 105-33, Section 9302, Requiring the Qualification of Tobacco Product Importers and Miscellaneous Technical Amendments	1512-AC07

Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2652	Sake Regulations	1512-AC09
2653	Flavored Malt Beverages	1512-AC11
2654	27 CFR 4.32(d) Removal of Requirement to Disclose Saccharin in the Labeling of Wine, Distilled Spirits and Malt Beverages	1512-AC17
2655	27 CFR 70 Recodification of Statement of Procedural Rules	1512-AB54
2656	27 CFR 7 Plain Language in Part 7	1512-AC10
2657	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identification Number
2658	27 CFR 20 Distribution of Denatured Alcohol and Rum	1512-AB57
2659	27 CFR 21.3 Formulas for Denatured Alcohol and Rum	1512-AB60
2660	27 CFR 24 Implementation of Public Law 105-34, Sections 1421 and 1422	1512-AB75
2661	27 CFR 4 Alteration of Labels on Containers of Distilled Spirits, Wine and Beer	1512-AB76
2662	27 CFR 4.91 New Grape Varietal (Dornfelder)	1512-AC03
2663	27 CFR 18 Delegation of Authority in 27 CFR Part 18	1512-AB99
2664	27 CFR 47 Delegation of Authority in 27 CFR Part 47	1512-AC04
2665	27 CFR 20 Delegation of Authority in Parts 20, 21 and 22	1512-AC13
2666	27 CFR 4 Technical Amendments to 27 CFR Parts 4, 9, 24, 70 and 275	1512-AC15
2667	27 CFR 30 Delegation of Authority in 27 CFR Part 30	1512-AC16
2668	27 CFR 25 Delegation of Authority in Part 25	1512-AC20

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Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2669	12 CFR 19 Uniform Rules of Practice and Procedure; Regulation Review	1557-AB43
2670	12 CFR 37 Debt Cancellation Contracts and Debt Suspension Agreements	1557-AB75
2671	12 CFR 7.1002 Bank Activities and Operations	1557-AB76
2672	Fair Credit Reporting Regulations	1557-AB78
2673	12 CFR 9 Fiduciary Activities of National Banks	1557-AB79
2674	31 CFR 1 Notice of Exempt Privacy Act Systems of Records	1557-AB83
2675	Recordkeeping Requirements for Bank Exceptions from Securities Broker or Dealer Registration	1557-AB93
2676	12 CFR 25 Prohibition Against Use of Interstate Branches Primarily for Deposit Production	1557-AB95
2677	12 CFR 8 Assessment of Fees; National Banks; District of Columbia	1557-AB96

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2678	12 CFR 3 Capital Rules	1557-AB14
2679	12 CFR 32 Lending Limits	1557-AB82
2680	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AB90
2681	12 CFR 5.34 Operating Subsidiaries of Federal Branches and Agencies	1557-AB92
2682	12 CFR 1 Investment Securities; Bank Activities and Operations; and Leasing	1557-AB94

Comptroller of the Currency—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2683	12 CFR 12 Qualification Requirements for Transactions in Certain Securities	1557-AB54
2684	Rules and Procedures for Claims Against OCC-Appointed Receiverships for Uninsured Financial Institutions	1557-AB59
2685	12 CFR 34 Real Estate Appraisals	1557-AB70
2686	12 CFR 21 Minimum Security Devices and Procedures	1557-AB71

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identification Number
2687	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AB72
2688	12 CFR 14 Consumer Protections for Depository Institution Sales of Insurance	1557-AB81
2689	12 CFR 30, app D Interagency Guidelines Establishing Standards for Safeguarding Customer Information	1557-AB84
2690	12 CFR 35 Disclosure and Reporting of CRA Related Agreements	1557-AB85
2691	12 CFR 19 Rules of Practice and Procedure	1557-AB88
2692	12 CFR 1 Investment Securities; Bank Activities and Operations; Leasing	1557-AB89

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2693	19 CFR 159 Liquidation; Extension; Suspension	1515-AB66
2694	19 CFR 12 Detention, Seizure, and Forfeiture of "Bootleg" Sound Recording and Music Videos of Live Musical Performances	1515-AB74
2695	19 CFR 142 Reconciliation	1515-AB85
2696	19 CFR 111 Remote Location Filing	1515-AC23
2697	19 CFR 177 Administrative Rulings	1515-AC56
2698	19 CFR 4 User and Navigation Fees; Other Reimbursable Charges	1515-AC63

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United States Customs Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2699	19 CFR 123 Simplification of In-Transit Truck Shipments Between Canada and the United States	1515-AC65
2700	19 CFR 142 National Sanctions Due to the Delinquent Payment of Customs Bills	1515-AC68
2701	19 CFR 145 Customs Examination of In-Transit Mail Shipments	1515-AC71
2702	19 CFR 122 Private Aircraft Programs: Establishment of the General Aviation Telephonic Entry (GATE) Program and Revisions to the Overflight Program	1515-AC73
2703	19 CFR 146 Expanded Weekly Entry Procedure for Foreign Trade Zones	1515-AC74
2704	19 CFR 24 Reimbursable Customs Inspectional Services: Increase in Hourly Rate Charge	1515-AC77
2705	19 CFR 24 User Fees	1515-AC81
2706	19 CFR 159 Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers	1515-AC84

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2707	19 CFR 181 North American Free Trade Agreement (NAFTA)—Implementation of Duty-Deferral Program Provisions	1515-AB87
2708	19 CFR 12 Entry of Softwood Lumber Shipments From Canada	1515-AB97
2709	19 CFR 141 Customs Entry Documentation Pursuant to Anticounterfeiting Consumer Protection Act	1515-AC15
2710	19 CFR 134 Country of Origin Marking	1515-AC32
2711	19 CFR 24 Expanded Methods of Payment of Duties, Taxes, Interest and Fees	1515-AC40
2712	19 CFR 113 Importation and Entry Bond Conditions Regarding Other Agency Documentation Requirements	1515-AC44
2713	19 CFR 4 General Order Warehouses	1515-AC57
2714	19 CFR 4 Deferral of Duty on Large Yachts Imported for Sale	1515-AC58
2715	19 CFR 10 Civil Aircraft	1515-AC59
2716	19 CFR 12 Entry of Softwood Lumber Shipments from Canada	1515-AC62
2717	19 CFR 24 Time Limitation for Requesting Refunds of Harbor Maintenance Fee and for Making Other Claims Against Customs	1515-AC64
2718	19 CFR 191 Merchandise Processing Fee Eligible to be Claimed as Unused Merchandise Drawback	1515-AC67
2719	19 CFR 162 Civil Asset Forfeiture	1515-AC69
2720	19 CFR 10 African Growth and Opportunity Act and Generalized System of Preferences	1515-AC72
2721	19 CFR 10 United States-Caribbean Basin Trade Partnership Act and Caribbean Basin Initiative	1515-AC76
2722	19 CFR 10 Duty-Free Treatment for Certain Beverages Made with Caribbean Rum	1515-AC78
2723	19 CFR 102 Rules of Origin for Textile and Apparel Products	1515-AC80
2724	19 CFR 24 Amended Procedure for Obtaining Refunds of Harbor Maintenance Fees Paid on Exports of Merchandise	1515-AC82
2725	19 CFR 132 Licenses for Certain Worsted Wool Fabrics Subject to Tariff-Rate Quota	1515-AC83
2726	19 CFR 10 Amendment to Wool Duty Refund Program	1515-AC85

United States Customs Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2727	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2728	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2729	19 CFR 113 Automated Surety Interface	1515-AB25
2730	19 CFR 12 Textiles and Textile Products Subject to Textile Trade Agreements	1515-AB54
2731	19 CFR 134 Country-of-Origin Marking Requirements for Frozen Produce Packages	1515-AB61
2732	19 CFR 12 Determination of the Country of Origin of Textiles and Textile Products	1515-AC00
2733	19 CFR 123 Designated Land Border Crossing Locations for Certain Conveyances	1515-AC12
2734	19 CFR 103 Public Disclosure of Aircraft Manifests	1515-AC13
2735	19 CFR 102 NAFTA Preference Override	1515-AC25
2736	19 CFR 19 Personal-Use Limitation for Purchases at Duty-Free Stores	1515-AC50

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United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
2737	19 CFR 24 Fees Assessed for Defaulted Payments	1515-AB38
2738	19 CFR 148 Treatment of Merchandise Imported by Foreign Governments or Designated International Organizations	1515-AB92
2739	19 CFR 4 Foreign Repairs to American Vessels	1515-AC30
2740	19 CFR 143 Informal Entry of Low-Value Duty-Free Merchandise	1515-AC38
2741	19 CFR 12 Amended Bond Procedures for Articles Subject to Exclusion Orders Issued by the U.S. International Trade Commission	1515-AC43
2742	19 CFR 12 Assessment of Liquidated Damages Regarding Imported Merchandise That Is Not Admissible Under the Food, Drug and Cosmetic Act	1515-AC45
2743	19 CFR 132 Export Certificates for Lamb Meat Subject to Tariff-Rate Quota	1515-AC54
2744	19 CFR 12 Import Restrictions Imposed on Archaeological Material Originating in Italy and Representing the Pre-Classical, Classical and Imperial Roman Periods	1515-AC66
2745	19 CFR 12 Import Restrictions Imposed on Archaeological Material From the Prehispanic Cultures of the Republic of Nicaragua	1515-AC70
2746	19 CFR 10 Refund of Duties Paid on Imports of Certain Wool Products	1515-AC79

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2747	Foreign Insurance Companies	1545-AL82
2748	Clarification of Treatment of Separate Limitation Losses	1545-AM11
2749	Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
2750	Foreign Insurance Company—Domestic Election	1545-AO25
2751	Information Reporting and Record Maintenance Under Section 6038C	1545-AP10
2752	Integrated Financial Transaction	1545-AR20
2753	Section 6048 Regulations	1545-AR25
2754	Applications of Section 1503(d) to Partnerships and Other Items	1545-AR26
2755	Intercompany Transfer Pricing for Services	1545-AR32
2756	Reporting Requirements for Widely Held Fixed Investment Trusts	1545-AU15
2757	Civil Cause of Action for Certain Unlawful Collection Actions	1545-AU68
2758	Source Rules for Payments Made Pursuant to Certain Swap Arrangements	1545-AU89
2759	Application of Attribution Rules to Foreign Trusts	1545-AU91
2760	Special Rules Applicable to Sales of Debt Instrument Between Record Dates and the End of Accrual Periods	1545-AU95
2761	Agreements for Payment of Tax Liabilities in Installments	1545-AU97
2762	Return of Levied Property in Certain Cases	1545-AV01
2763	Removal of Temporary Regulations That Provide Rules for Substantiating Travel Expense Deductions for Members of Congress	1545-AV55
2764	Foreign Tax Credit Antiabuse Regulation	1545-AV97
2765	Transportation of Persons and Property by Air—Sections 4261 and 4271	1545-AW19
2766	Estate Tax Deduction for Qualified Family-Owned Business Interests (QFOBI)	1545-AW21
2767	Section 988—Contingent Debt Instrument	1545-AW33
2768	Capital Gain Guidance Relating to CRTs	1545-AW35
2769	Merchandise Regulation	1545-AW61
2770	Reporting of Payments to Attorney	1545-AW72
2771	Constructive Sales of Appreciated Financial Positions	1545-AW97
2772	Rules for Sourcing Certain Transportation Income, Space or Ocean Activity Income, and Related Foreign Base Company Shipping Income	1545-AX02
2773	Highway Vehicle—Definition	1545-AX10
2774	Deposit of Excise Taxes—Revision	1545-AX11
2775	Guidance on Cost Recovery in the Entertainment Industry	1545-AX12
2776	Straddles—One Side Larger Than the Other	1545-AX16
2777	Definition of Accounting Method	1545-AX21
2778	Sections 401(k) and 410(m) Cash or Deferred Arrangements	1545-AX26
2779	Definition of "Issued" With Regard to Chief Counsel Advice	1545-AX40
2780	Grouping Rules for Foreign Sales Corporation Transfer Pricing	1545-AX41
2781	401(k) and 401(m) Regulations	1545-AX43

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2782	Notional Principal Contracts and Other Financial Products	1545-AX45
2783	Section 7430 Regulations	1545-AX46
2784	Section 414(q) Regulation	1545-AX48
2785	Address Correction	1545-AX51
2786	Compensation Deferred Under Eligible Section 457(b) Plans (Section 457 Regulations)	1545-AX52
2787	Tax on Insurance Companies Other Than Life Insurance Companies	1545-AX54
2788	Modification to Section 367(a) Stock Transfer Regulations	1545-AX77
2789	Definition of Passive Foreign Investment Company Under Section 1297	1545-AX78
2790	Procurement/Purchasing Card Reporting	1545-AX86
2791	Statute of Limitations on Collection Installment Agreements	1545-AX89
2792	Clarification of Foreign-Based Company Sales Income Rules	1545-AX91
2793	Assumption of Partnership Liabilities	1545-AX93
2794	Determination of Basis of Partners' Interest; Special Rules	1545-AX94
2795	Like-Kind Exchanges Under Section 168	1545-AX95
2796	Definition of Diesel Fuel	1545-AX97
2797	Transfers of Property to Third Parties on Behalf of a Spouse	1545-AX99
2798	Guidance Under Section 894	1545-AY03
2799	Guidance Necessary To Facilitate Electronic Tax Administration	1545-AY04
2800	Revision of Circular No. 230	1545-AY05
2801	Damages Under Section 7433	1545-AY08
2802	Guidance Under Section 894 (Temporary)	1545-AY13
2803	Electing Mark-to-Market for Marketable Stock of a PFIC	1545-AY17
2804	Active Conduct of an Insurance Business Under PFIC Rules	1545-AY20
2805	Guidance on Changes to the Laws for Corporate Estimated Taxes	1545-AY22
2806	Section 1445 Regulation	1545-AY24
2807	Disallowance of Deductions and Credits for Failure To File Timely Return	1545-AY26
2808	Section 1503(d) Regulation	1545-AY27
2809	Withholding Tax on Foreign Partners' Share of Effectively Connected Income	1545-AY28
2810	Taxable Years of CFCs and FPHCs	1545-AY30
2811	Mid-Contract Change in Taxpayer	1545-AY31
2812	Guidance Under Section 6050P Regarding Information Reporting on Cancellation of Indebtedness	1545-AY35
2813	Allocation of Income and Deductions from Intangibles	1545-AY38
2814	Dollar-Value LIFO	1545-AY39
2815	Section 83-1032 Conforming Changes	1545-AY40
2816	Section 367(d) Regulations	1545-AY41
2817	Section 355(e) Guidance	1545-AY42
2818	Guidance Under Section 817A Regarding Modified Guaranteed Contracts	1545-AY48
2819	Application of Section 338 to Insurance Companies	1545-AY49
2820	Electronic Furnishing of Payee Statements	1545-AY50
2821	Previously Taxed Earnings and Profits Under Subpart F	1545-AY54
2822	Liabilities Assumed in Certain Corporate Transactions	1545-AY55
2823	Guidance Necessary to Facilitate Electronic Tax Administration	1545-AY56
2824	Normal Retirement Age for Pension Plans	1545-AY61
2825	Section 706 and Foreign Partners	1545-AY66
2826	Liabilities Assumed in Certain Corporate Transactions	1545-AY74
2827	Normalization	1545-AY75
2828	Qualified S Election for Testamentary Trusts	1545-AY76
2829	Disclosure of Returns and Return Information of Other Agencies	1545-AY77

Internal Revenue Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2830	Income Tax—Taxpayer's Obligation To File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
2831	Income Tax—Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2832	Regulations Under Section 367 To Reflect Section 131 of the Tax Reform Act of 1984 (Pub. L. 98-369)	1545-AK74

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Internal Revenue Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2833	Nonrecognition of Corporate Distributions and Reorganizations Under the Foreign Investment in Real Property Tax Act	1545-AK79
2834	Computation of a Branch's Taxable Income; Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
2835	Earnings and Profits of Controlled Foreign Corporations	1545-AM90
2836	Limitations on Passive Activity Losses and Credits—Self-Charged Items	1545-AN64
2837	Earnings Stripping Payments	1545-AO24
2838	Fringe Benefit Sourcing Under Section 861	1545-AO72
2839	Foreign Grantor Trusts	1545-AO75
2840	Taxation of Global Trading	1545-AP01
2841	Charitable Contributions	1545-AP30
2842	Section 1.163-1(b)(2)	1545-AP33
2843	Definition of "Highly Compensated Employee"	1545-AQ74
2844	Escrow Funds and Other Similar Funds	1545-AR82
2845	Passive Foreign Investment Companies—Special Rules for Foreign Banks and Securities Dealers	1545-AS46
2846	Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans	1545-AT47
2847	Proposed Regulation Under Sections 882 and 884	1545-AT96
2848	Treatment of Obligation-Shifting Transactions	1545-AU19
2849	Electing Small Business Trust	1545-AU76
2850	Withdrawal of Notice of Federal Tax Lien	1545-AV00
2851	Regulations Under Section 1441 Regarding the Electronic Transmission of Withholding Certificates	1545-AV27
2852	EIC Eligibility	1545-AV61
2853	Qualified Zone Academy Bonds	1545-AV75
2854	Interest on Education Loans	1545-AW01
2855	Averaging of Farm Income	1545-AW05
2856	Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities and Commodities	1545-AW06
2857	Stocks and Securities Safe Harbor Exception	1545-AW13
2858	Election To Treat Trust as Estate—Section 645	1545-AW24
2859	Corporate Tax Shelter Registration	1545-AW26
2860	Intercompany Obligations	1545-AW30
2861	Disregarded Entities	1545-AW36
2862	Payment of Taxes by Credit Card and Debit Card	1545-AW37
2863	Middleman Regulation Under Sections 6041 and 6045	1545-AW48
2864	Special Rules Regarding the Simplified Production and Resale Methods with Historic Absorption Ratio Election	1545-AW54
2865	Guidance Under Subpart F Relating to Certain Hybrid Transactions	1545-AW63
2866	Relief From Joint and Several Liability on Joint Return	1545-AW64
2867	Education Credits	1545-AW65
2868	Information Reporting for Payments of Tuition and Interest on Education Loans	1545-AW67
2869	Modifications and Additions to the Unified Partnership Audit Procedures	1545-AW86
2870	Compromises	1545-AW88
2871	Notice and Opportunity for Hearing Before Levy	1545-AW90
2872	Notice and Opportunity for Hearing Upon Filing of Notice of Lien	1545-AW91
2873	Certain Asset Transfers to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs)	1545-AW92
2874	Qualified Offers	1545-AW99
2875	Notice of Contact of Third Parties—Section 7602(c)	1545-AX04
2876	Allocation of Research Credit	1545-AX05
2877	Delay Rental Payments	1545-AX06
2878	Coordination of Sections 755 and 1060	1545-AX18
2879	Dollar-Value LIFO Regulations	1545-AX20
2880	Exclusion of Gain on the Sale or Exchange of Principal Residence	1545-AX28
2881	Changes in Entity Classification: Special Rule for Certain Foreign Eligible Entities	1545-AX39
2882	Agent for the Group Under Section 1.1502-77	1545-AX56
2883	Stock Transfer Rules: Carryover of Earnings and Taxes	1545-AX65
2884	Loans Under Section 72(p)	1545-AX68
2885	Disclosures of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities	1545-AX69
2886	Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AX72
2887	Clarification of Entity Classification Rules Regarding Entities Classified as Corporations	1545-AX75
2888	Requirement to Maintain List of Investors in Potentially Abusive Tax Shelters	1545-AX79
2889	Tax Shelter Disclosure Statements	1545-AX81

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Internal Revenue Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2890	HIPAA Portability	1545-AX84
2891	Disclosure of Return and Return Information to Designee of Taxpayer	1545-AX85
2892	Application of Separate Foreign Tax Credit Limitations	1545-AX88
2893	Definition of Income Under Section 643	1545-AX96
2894	Regulations Governing Practice Before the Internal Revenue Service	1545-AY07
2895	Classification of Certain Employee Benefit Trusts	1545-AY09
2896	Guidance Under Section 6302 Regarding the Federal Tax Deposit System	1545-AY10
2897	Broker's Commissions and Similar Fees	1545-AY15
2898	Check the Box Regulations—Amendment	1545-AY16
2899	"Authorized Placement Agency" Under Section 152	1545-AY18
2900	Disqualified Persons	1545-AY19
2901	Recognition of Gain on Certain Transfers to Foreign Trusts and Estates	1545-AY25
2902	Nondiscrimination Requirements for Certain Defined Contribution Retirement Plans	1545-AY36
2903	Regulations Implementing Section 420(c)(3)(E)	1545-AY43
2904	Special Rules for S Corporations Under Section 301.7701(b)-7	1545-AY44
2905	Guidance Under Subpart F Relating to Partnerships	1545-AY45
2906	6302 De Minimis Threshold	1545-AY47
2907	Disclosure of Return Information to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities	1545-AY52
2908	Time For Filing Form 1139 by a Consolidated Group	1545-AY58
2909	Guidance Under Section 1275(a)(1)(B)(ii)	1545-AY60
2910	Guidance on Reporting of Deposit Interest Paid to Nonresident Aliens	1545-AY62
2911	Excise Taxes on Excess Benefit Transactions	1545-AY65
2912	Tax Treatment of Cafeteria Plans	1545-AY67
2913	Disclosure of Returns and Return Information of Other Agencies (Temporary)	1545-AY78

Internal Revenue Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2914	Income Tax—Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico and Possession Tax Credit	1545-AC10
2915	Golden Parachute Payments	1545-AH49
2916	FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction, and Other Special Rules for FSC	1545-AI16
2917	Information From Passport and Immigration Applicants	1545-AJ93
2918	Income of Foreign Governments and International Organizations	1545-AL93
2919	CBI Investments of Section 936 Funds	1545-AM91
2920	Railroad Unemployment Repayment Tax	1545-AN40
2921	Consolidated Alternative Minimum Tax	1545-AN73
2922	Conforming Taxable Years of CFCs and FPHCs: 1989 Change	1545-AO22
2923	Guidance in Notice 89-37, Which Treats the Receipt of a Corporate Partner's Stock by the Corporate Partner as a Circumvention of General Utilities Repeal	1545-AP52
2924	Use of GAAP Earnings as E&P of Foreign Corporations	1545-AQ55
2925	Interest-Free Adjustments	1545-AQ61
2926	The Treatment of Accelerated Death Benefits Under Sections 101, 7702 and 7702A of the Internal Revenue Code	1545-AQ70
2927	Mark-to-Market Upon Disposition	1545-AS85
2928	Straddles—Miscellaneous Issues	1545-AT46
2929	Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT82
2930	Application of Grantor Trust Rules to Nonexempt Employees' Trust	1545-AU29
2931	Recomputation of Life Insurance Reserves	1545-AU49
2932	FASIT—Start-up/Operational/Transition	1545-AU94
2933	Definition of "Private Activity Bonds"—Allocation and Accounting Regulations	1545-AU98
2934	Required Distributions From Qualified Plans and Individual Retirement Plans	1545-AV82
2935	Allocation of Loss on Disposition of Personal Property	1545-AW09
2936	Conversion to the Euro	1545-AW43
2937	Source of Income for Space and Certain Ocean Activities and for Communications Income	1545-AW50
2938	Transfer of REMIC Residual Interest	1545-AW98

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Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2939	Qualified Zone Academy Bonds Credit Rate	1545-AX03
2940	Change of Annual Accounting Period	1545-AX15
2941	Guaranteed Investment Contracts	1545-AX22
2942	Special Rules for Retroactive Payments Under Section 417(a)(7)(a) for Qualified Retirement Plans	1545-AX34
2943	Definition of Private Activity Bond—Refunding Regulations	1545-AX55
2944	Equity Options with Flexible Terms	1545-AX66
2945	Capitalization of Interest and Carrying Charges Properly Allocable to Straddles	1545-AX92
2946	Automatic Extension for Form 706	1545-AX98
2947	Hedging Transactions Under Section 1221(a)(7) and Section 446	1545-AY02
2948	Investment Type Property (Prepayment)	1545-AY12
2949	Interest Free Adjustments Under Section 6205	1545-AY21
2950	HIPAA General Nondiscrimination	1545-AY32
2951	HIPAA Nondiscrimination/Exception for Church Plans	1545-AY33
2952	HIPAA Nondiscrimination/Bona Fide Wellness Programs	1545-AY34
2953	Notice to Interested Parties	1545-AY68
2954	Required Distributions from Retirement Plans	1545-AY69
2955	Required Distributions from Retirement Plans	1545-AY70
2956	Obligation of States and Political Subdivisions	1545-AY71
2957	Withdrawal of Section 301.6656-1 and Section 301.6856-2	1545-AY79

Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
2958	Treatment of Funded Welfare Benefit Plans	1545-AG14
2959	Credit for Increasing Research Activities	1545-AO51
2960	Accounting for Long-Term Contracts	1545-AQ30
2961	Research Credit II	1545-AV14
2962	Electronic Tip Reporting	1545-AV28
2963	Removal of Temporary Regulations	1545-AV36
2964	Clarification of 4958 Excise Taxes	1545-AV60
2965	Continuity of Interest	1545-AV81
2966	Disclosure of Return Information to the Bureau of the Census	1545-AV84
2967	Relief for Presidentially Declared Disaster	1545-AV92
2968	Merchandise	1545-AW00
2969	HIPAA Nondiscrimination Rules	1545-AW02
2970	Qualified Lessee Construction Allowances for Short-Term Leases	1545-AW16
2971	Definition of Contribution in Aid of Construction Under Section 118(c)	1545-AW17
2972	Capital Gains and Partnership Provisions	1545-AW22
2973	GRAT and Notes	1545-AW25
2974	Section 411(d)(6); Protected Benefits Exceptions	1545-AW27
2975	Section 148—Clarification of the Treatment of Prepayments	1545-AW44
2976	Guidance Under Section 355(d)	1545-AW71
2977	Preparer Due Diligence Requirements for Determining Earned Income Credit Eligibility	1545-AW73
2978	Section 355(e) Guidance	1545-AW79
2979	Timely Mailing Treated as Timely Filing/Electronic Postmark	1545-AW81
2980	Continuation Coverage Requirements Applicable to Group Health Plans	1545-AW94
2981	Qualified Offers	1545-AX00
2982	GST Issues	1545-AX08
2983	Allocation of Partnership Debt	1545-AX09
2984	Definition of Last Known Address	1545-AX13
2985	Qualified Transportation Fringe Benefits	1545-AX33
2986	351(g) Guidance Project	1545-AX38
2987	Partnership Mergers and Divisions	1545-AX42
2988	Section 1374 Timber	1545-AX50
2989	Permitted Election Changes Under Section 125	1545-AX59
2990	Reopenings	1545-AX60

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Internal Revenue Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2991	Prevention of Abuse of Charitable Remainder Trusts	1545-AX62
2992	Stock Transfer Rules: Supplemental Rules	1545-AX63
2993	Definition of Hyperinflationary Currency for Purposes of Section 988	1545-AX67
2994	Tiered Structures—ESBTs and ESOPs	1545-AX71
2995	Applying Section 197 to Partnership Transactions	1545-AX73
2996	Lifetime Charitable Lead Trusts	1545-AX74
2997	Obligation of States and Political Subdivisions	1545-AX87
2998	Electronic Payee Statements	1545-AY00
2999	Qualified Zone Academy Bonds	1545-AY01
3000	Final Regulations on Disclosures to Department of Commerce-Bureau of Census; Section 301.6103(j)(1)-1	1545-AY06
3001	Guidance Under 6302 Regarding the Federal Tax Deposit System (Temporary)	1545-AY11
3002	Tax Treatment of Cafeteria Plans	1545-AY23
3003	Application of Separate Foreign Tax Credit Limitations	1545-AY29
3004	6302 De Minimis Threshold (Temporary)	1545-AY46
3005	Disclosure of Return Information to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities (Temporary)	1545-AY51
3006	Stock Transfer Rules: Transition Rules	1545-AY53
3007	Time For Filing Form 1139 by a Consolidated Group	1545-AY57
3008	Disclosure of Return and Return Information to Designee of Taxpayer	1545-AY59
3009	Liabilities Assumed in Certain Corporate Transactions	1545-AY63
3010	Excise Taxes on Excess Benefit Transactions (Temporary)	1545-AY64
3011	Withdrawal of Obsolete Proposed Regulations	1545-AY72
3012	Purchase Price Allocations in Deemed and Actual Asset Acquisitions	1545-AY73

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3013	12 CFR 567 Capital Rules	1550-AB11
3014	12 CFR 545 Types of Offices	1550-AB18
3015	12 CFR 545 Directors and Officers	1550-AB19
3016	12 CFR 545 Nondeposit Investment Products	1550-AB22
3017	12 CFR 590 Due-On-Sale and Usury Preemption	1550-AB25
3018	12 CFR 584 Holding Company Activities	1550-AB29
3019	Fair Credit Reporting	1550-AB33
3020	12 CFR 560 Lending and Investment	1550-AB37
3021	12 CFR 567 Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes	1550-AB45

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3022	12 CFR 563b Mutual Savings Associations, Mutual Holding Company Reorganizations, and Conversions	1550-AB24
3023	12 CFR 506 Removal of Liquidity Requirement	1550-AB42

Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identification Number
3024	12 CFR 516 Application Processing	1550-AB14
3025	12 CFR 500 Organizational Regulations	1550-AB30
3026	12 CFR 573 Community Reinvestment Act Disclosure	1550-AB32
3027	12 CFR 536 Insurance Customer Protections	1550-AB34

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Office of Thrift Supervision—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3028	12 CFR 568 Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness	1550-AB36
3029	12 CFR Part 552 Amendment to Preapproved Bylaws	1550-AB39
3030	12 CFR 559 Lending and Investment - Miscellaneous Changes	1550-AB40
3031	5 CFR 3101 Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury	1550-AB43
3032	12 CFR 509 Rules of Practice and Procedure for Adjudicatory Proceedings; Civil Money Penalty Inflation Adjustment	1550-AB44

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Proposed Rule Stage

2576. • SECRETARY'S DETERMINATION OF REAL ESTATE BROKERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5136A of the Revised Statutes, 12 USC 24a

CFR Citation: 12 CFR 1501.2

Legal Deadline: None

Abstract: The Department of the Treasury and Federal Reserve Board are jointly seeking comment on whether to determine by rule that real estate brokerage and/or real estate management are financial in nature or incidental to a financial activity, and therefore permissible activities for financial holding companies and financial subsidiaries of national banks under the Gramm-Leach-Bliley Act.

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 307
NPRM Comment Period End	03/02/01	
NPRM Comment Period Extended	05/01/01	66 FR 12440

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1505–AA84

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Final Rule Stage

2577. RESOLUTION FUNDING CORPORATION OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441b; PL 105-216, sec 14(d)

CFR Citation: 12 CFR 1510

Legal Deadline: None

Abstract: This interim final rule revises the regulation governing the operations of the Resolution Funding Corporation (Funding Corporation). The Funding Corporation is a mixed-ownership government corporation which, among other things, pays interest on certain debt obligations that it issued to finance resolution of the savings and loan crisis in the late 1980s. Congress recently transferred oversight of the Funding Corporation to the Secretary of the Treasury and made changes affecting how the Funding Corporation funds interest payments. The revisions in the interim final rule implement these changes and generally streamline the regulation by eliminating provisions that are no longer necessary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/08/00	65 FR 12064
Interim Final Rule Effective	03/08/00	
Interim Final Rule Comment Period End	04/07/00	
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1505–AA79

2578. FINANCIAL ACTIVITIES OF FINANCIAL SUBSIDIARIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24a

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This interim rule was issued by the Department of the Treasury (Treasury) to implement section 121 of the Gramm-Leach-Bliley Act (GLBA), Public Law 106-102, 113 Stat. 1338. Section 121 authorizes Treasury, in coordination with the Board of Governors of the Federal Reserve System (Board), to determine that activities are financial in nature or incidental to activities financial in nature, and therefore permissible activities for financial subsidiaries of national banks. This rule will discuss activities that are financial in nature and set forth the procedures for national banks and other interested parties to follow in order to request that Treasury determine whether an activity is financial in nature or incidental to a financial activity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/00	65 FR 14819
Interim Final Rule Effective	03/14/00	
Interim Final Rule Comment Period End	05/15/00	
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1505–AA80

TREAS—DO

Final Rule Stage

2579. FINANCIAL SUBSIDIARIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24a

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This joint rule will be adopted by the Department of the Treasury and the Board of Governors of the Federal Reserve System to implement section 121 of the Gramm-Leach-Bliley Act. The Rule will establish a portion of an indexing mechanism to adjust the maximum aggregate consolidated assets of all financial subsidiaries of a national bank permitted under the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1505–AA81

2580. AMENDMENTS TO THE GOVERNMENT SECURITIES ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o-5(b)(1)(A); 15 USC 78o-5(b)(4); 15 USC 78o-5(b)(5)(B); 31 USC 3121; 31 USC 9110

CFR Citation: 17 CFR 450

Legal Deadline: None

Abstract: The rule amends the regulations issued under the Government Securities Act of 1986 (GSA). Section 208 of the Gramm-Leach-Bliley Act amended the definition of the term "Government Securities" in the Securities Exchange Act of 1934 to include as applied to a bank, qualified Canadian government obligations. The rule would make a technical amendment to the GSA regulations to conform to this change in definition.

Timetable:

Action	Date	FR Cite
NPRM	02/26/01	66 FR 11548
NPRM Comment Period End	03/28/01	
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lee Grandy, Associate Director, Department of the Treasury, Bureau of the Public Debt, Room 315, 999 E Street NW., Washington, DC 20239-0001
Phone: 202 691-3632
Email: govsecreg@bpd.treas.gov

Deidere Brewer, Government Securities Specialist, Department of the Treasury, Bureau of the Public Debt, Room 315, Government Securities Regulations Staff, 999 E Street NW., Washington, DC 20239-0001
Phone: 202 691-3632

RIN: 1505–AA82

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Long-Term Actions

2581. POSSIBLE REGULATION OF ACCESS TO ACCOUNTS AT FINANCIAL INSTITUTIONS THROUGH PAYMENT SERVICE PROVIDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 31 CFR ch II

Timetable:

Action	Date	FR Cite
ANPRM	01/08/99	64 FR 1149
ANPRM Comment Period End	04/08/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Roger Bezdek
Phone: 202 622-1807

RIN: 1505–AA74

2582. • SECRETARY'S DETERMINATION OF OTHER ACTIVITIES FINANCIAL IN NATURE

Priority: Substantive, Nonsignificant

Legal Authority: 5136A of the Revised Statutes, 12 USC 24a

CFR Citation: 12 CFR 1501.2

Legal Deadline: None

Abstract: The Department of the Treasury and Federal Reserve Board are jointly soliciting comment on interim rules that would implement provisions of the Gramm-Leach-Bliley Act by finding three general types of activities to be financial in nature or incidental to a financial activity, and creating a mechanism by which financial holding companies and national banks may request that either agency define particular activities to fall within one of the three categories.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/01	66 FR 257
Interim Final Rule Effective	01/02/01	

TREAS—DO — **Long-Term Actions**

Action	Date	FR Cite
Interim Final Rule Comment Period End	02/02/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary W. Sutton, Senior Banking Counsel, Office of General Counsel, Department of the Treasury, Room 2014, 1500 Pennsylvania Avenue NW, Washington, DC 20220
Phone: 202 622-1976
Fax: 202 622-1974
Email: gary.sutton@do.treas.gov

RIN: 1505–AA85

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO) — Completed Actions

2583. COMPARABLE REQUIREMENT FOR NATIONAL BANKS AMONG THE SECOND FIFTY LARGEST INSURED NATIONAL BANKS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1501

Completed:

Reason	Date	FR Cite
Final Rule	02/02/01	66 FR 8748
Final Rule Effective	03/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary W. Sutton
Phone: 202 622-1976
Fax: 202 622-1974
Email: gary.sutton@do.treas.gov

RIN: 1505–AA77

2584. MERCHANT BANKING

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1500

Completed:

Reason	Date	FR Cite
Final Rule	01/31/01	66 FR 8465
Final Rule Effective	02/15/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary W. Sutton
Phone: 202 622-1976
Fax: 202 622-1974
Email: gary.sutton@do.treas.gov

RIN: 1505–AA78

BILLING CODE 4810–25–S

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN) — Proposed Rule Stage

2585. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—BROKER/DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by broker/dealers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA21

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN) — Final Rule Stage

2586. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING OF CROSS-BORDER TRANSPORTATION OF CERTAIN MONETARY INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5312(a)(3), Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will require reporting of cross-border transportation of certain negotiable instruments.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3249
NPRM Comment Period End	04/22/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA15

2587. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—CASINOS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

TREAS—FINCEN — **Final Rule Stage**

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by casinos.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27230
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA22

2588. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—EXEMPTIONS FROM THE REQUIREMENT TO REPORT TRANSACTIONS IN CURRENCY

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This document contains an interim rule that further reforms and simplifies the process by which depository institutions may exempt transactions of retail and other businesses from the requirement to report transactions in currency in excess of $10,000. The interim rule is part of a continuing program to reduce unnecessary burdens upon financial institutions complying with the Bank Secrecy Act and increase the cost-effectiveness of the counter-money laundering policies of the Department of the Treasury.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/28/00	65 FR 46356
Interim Final Rule Effective	07/31/00	
Interim Final Rule Comment Period End	09/26/00	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA23

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN) — Long-Term Actions

2589. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DELEGATION OF AUTHORITY TO ASSESS CIVIL MONEY PENALTIES ON DEPOSITORY INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA08

2590. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SPECIAL REPORTING AND RECORDKEEPING REQUIREMENTS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27909
NPRM Comment Period End	09/30/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA19

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN) — Completed Actions

2591. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT THAT FINANCIAL INSTITUTIONS CARRY OUT ANTI-MONEY-LAUNDERING PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Completed:

Reason	Date	FR Cite
Withdrawn	02/23/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590
Fax: 703 905-3735

RIN: 1506–AA05

BILLING CODE 4820–02–S

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Proposed Rule Stage

2592. CLAIMS ON ACCOUNT OF TREASURY CHECKS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3702; 31 USC 3712

CFR Citation: 31 CFR 245

Legal Deadline: None

Abstract: 31 CFR part 245 governs the issuance of replacement checks for checks drawn on the United States Treasury when: 1) the original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable; 2) the original check has been negotiated and paid on a forged or unauthorized indorsement; and 3) the original check has been cancelled pursuant to 31 CFR part 240. The regulation is being revised to update the regulation's definitions to make them consistent with the language of the proposed revisions to the definitions in 31 CFR part 240. Other revisions will govern the use of the Check Forgery Insurance Fund (Fund). The Fund is a revolving fund established to settle payee claims of non-receipt where the original check has been fraudulently negotiated. The Fund ensures that innocent payees, whose Treasury checks have been fraudulently cashed, receive replacement checks in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ella White, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, Room 8D25, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8445

RIN: 1510–AA51

2593. PUBLIC DISSEMINATION OF IDENTITY OF DELINQUENT DEBTORS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3720E

CFR Citation: 31 CFR 285.14

Legal Deadline: None

Abstract: This rule implements the authority provided in the Debt Collection Improvement Act for Federal Agencies to publicly disseminate information regarding the identity of delinquent debtors.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Debt Management Service, Department of the Treasury, Financial Management Service, Room 44AB, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7131

RIN: 1510–AA72

2594. PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 90; 12 USC 265; 12 USC 266; 12 USC 321; 12 USC 323; 12 USC 332; 12 USC 391; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1767; 12 USC 1789(a); 12 USC 2013; 12 USC 2122; 12 USC 3102; 12 USC 6302; 31 USC 3301 to 3304

CFR Citation: 31 CFR 203

Legal Deadline: None

Abstract: This first rule proposes to change the Treasury Tax and Loan (TT&L) interest rate from the Federal funds rate, less 25 basis points, to a rate based on the overnight repurchase agreement rate. The prevailing overnight rate in the repurchase market has closely tracked the Federal funds rate on average during the last two years. Based on these statistics, using the overnight repurchase agreement rate would compensate the Treasury adequately for the use of the TT&L note balances on a basis which is similar to the market interest rate for collateralized lending. The second rule includes general revisions which will provide needed updates to support operational changes to the system used for the collection of corporate withholding taxes and the investment of the Government's excess operating funds; streamline the regulation by converting to the plain language standard; and incorporate other needed updates.

Timetable:

General Revisions	
NPRM	05/00/01
Final Action	12/00/01
Treasury Tax and Loan Rate of Interest	
NPRM	07/30/99 (64 FR 41747)
NPRM Comment Period End	09/28/99

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6657

RIN: 1510–AA79

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Final Rule Stage

2595. RULES AND PROCEDURES FOR EFFICIENT FEDERAL-STATE FUNDS TRANSFERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3335; 31 USC 6501; 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: This regulation governs the transfer of Federal assistance funds to State governments and implements the Cash Management Improvement Act of 1990, as amended. Revisions to the regulation will address concerns raised by both States and Federal agencies about intergovernmental financing. Rules and procedures for funds transfers will be revised to provide more options and greater flexibility.

TREAS—FMS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60796
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Sally Phillips, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 403, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA38

2596. INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 12 USC 391; 31 USC 321; 31 USC 3327; 31 USC 3328; 31 USC 3331; 31 USC 3334; 31 USC 3343; 31 USC 3702; 31 USC 3702 note; 31 USC 3711; 31 USC 3712; 31 USC 3716; 31 USC 3717; 318 US 363 (1943); 332 US 234 (1947)

CFR Citation: 31 CFR 240

Legal Deadline: None

Abstract: Notice of proposed rulemaking II (NPRM II) was a reissuance of NPRM I published on 9/21/95, which proposed to fix the time by which Treasury can decline payment on Treasury checks, provide financial institutions with a date certain for final payments, and provide greater clarity by defining previously undefined terms. NPRM I also proposed that the Department of the Treasury may instruct Federal Reserve Banks to intercept benefit payment checks to deceased payees and to return, unpaid, those checks. In addition to the revisions proposed in NPRM I, NPRM II announced the Department of the Treasury's intent that this regulation supersede Federal common law regarding the risk of loss on checks containing forged disbursing officer signatures, such as counterfeits. The Interim Final Rule will amend this regulation to implement provisions of the Debt Collection Improvement Act of 1996 authorizing the collection of debts owed by presenting banks through Treasury Check Offset. NPRM III is a reissuance of NPRM II and will address, at a minimum, the issues in NPRMs I and II.

Timetable:

Action	Date	FR Cite
NPRM I	09/21/95	60 FR 48940
NPRM Comment Period End	11/06/95	
NPRM II	05/30/97	62 FR 29314
Interim Final Rule	04/00/01	
NPRM III	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lester Smalls, Manager, Reclamation Branch, Department of the Treasury, Financial Management Service, Room 700D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-7770
Email: lester.smalls@fms.treas.gov

RIN: 1510–AA45

2597. PAYMENTS UNDER JUDGMENT AND PRIVATE RELIEF ACTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-53; PL 104-316; 28 USC 2414; 28 USC 2517; 31 USC 1304

CFR Citation: 31 CFR 256

Legal Deadline: None

Abstract: This regulation governs the procedure for securing payment for money judgments against the United States. The proposed revision will update the procedure for making claims. This will benefit claimants and others in understanding the claims process. This regulation currently describes a process that involves the General Accounting Office (GAO) and the Treasury Department. The change would eliminate the GAO from this description to reflect legislative amendments that effect this change. Also, the regulation currently identifies monetary thresholds that no longer exist. The change would reflect the removal of these monetary limitations and the resulting submission requirements. These changes in the regulation would make it consistent with current practices for claimants securing money judgments against the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 552
NPRM Comment Period End	02/07/96	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Wanda Rogers, Director, Financial Accounting and Services Division, Department of the Treasury, Financial Management Service, Room 620D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8380
Email: wanda.rogers@fms.treas.gov

RIN: 1510–AA52

2598. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE, LEGALLY ENFORCEABLE NONTAX DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3716

CFR Citation: 31 CFR 285.5

Legal Deadline: None

Abstract: This rule governs administrative offset of Federal payments by disbursing officials of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Debt Management Service, Department of the Treasury, Financial Management Service, Room 44AB, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7131

RIN: 1510–AA65

2599. SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 31 CFR 285.7

Legal Deadline: None

TREAS—FMS — **Final Rule Stage**

Abstract: This rule governs the centralized computer matching of Federal Employee Records for purposes of salary offset to collect nontax delinquent debt owed the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/98	63 FR 23353
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Debt Management Service, Department of the Treasury, Financial Management Service, Room 44AB, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7131

RIN: 1510–AA70

2600. OFFSET OF TAX REFUND PAYMENT TO COLLECT STATE INCOME TAX OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6402(e)

CFR Citation: 31 CFR 285.8

Legal Deadline: None

Abstract: This rule governs the offset of Federal tax refund payments to collect delinquent State income taxes.

Timetable:

Action	Date	FR Cite
NPRM	12/20/99	64 FR 71233
Interim Final Rule	12/20/99	64 FR 71227
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Agency Contact: Dean Balamaci, Director, Business and Agency Liaison Division, Department of the Treasury, Financial Management Service
Phone: 202 874-6660

RIN: 1510–AA78

2601. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARINGHOUSE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5525; 12 USC 391; 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3321; 31 USC 3332; 31 USC 3335; 31 USC 3720

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: One revision of 31 CFR part 210 will reconcile Government Automated Clearing House (ACH) regulations and private industry rules, as set forth by the National Automated Clearing House Association, by updating the incorporation of certain industry rules into Federal law for the year 2001. The second revision will provide needed updates to support movement of ACH transactions on the Internet for Federal collections, and the use of check truncation and check conversion in Federal collections.

Timetable:

2001 ACH Rules
Interim Final Rule 02/16/01 (66 FR 10578)
Check Conversion and Internet Transactions
NPRM 04/12/01 (66 FR 18888)
Final Action 10/00/01

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6657

RIN: 1510–AA81

DEPARTMENT OF THE TREASURY (TREAS) — Long-Term Actions
Financial Management Service (FMS)

2602. FOREIGN EXCHANGE OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 281

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2750
NPRM Comment Period End	02/28/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Maria Guido
Phone: 202 874-8943
Email: maria.guido@fms.treas.gov

RIN: 1510–AA48

2603. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE DEBTS OWED TO STATES (OTHER THAN CHILD SUPPORT)

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.6

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Gerry Isenberg
Phone: 202 874-7131

RIN: 1510–AA66

DEPARTMENT OF THE TREASURY (TREAS) — Completed Actions
Financial Management Service (FMS)

2604. FEDERAL CLAIMS COLLECTION STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 900 to 904

Completed:

Reason	Date	FR Cite
Final Action	11/22/00	65 FR 70390

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-7131

RIN: 1510–AA57

2605. OFFSET OF TAX REFUND PAYMENTS TO COLLECT STATE INCOME TAX OBLIGATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.8

Completed:

Reason	Date	FR Cite
Merged With RIN 1510-AA78	03/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Agency Contact: Dean Balamaci
Phone: 202 874-6660

RIN: 1510–AA82

2606. PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 203

Completed:

Reason	Date	FR Cite
Merged With RIN 1510-AA79	03/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson
Phone: 202 874-6657

RIN: 1510–AA84

BILLING CODE 4810–35–S

2607. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARINGHOUSE

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 210

Completed:

Reason	Date	FR Cite
Merged With RIN 1510-AA81	03/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson
Phone: 202 874-6657

RIN: 1510–AA83

DEPARTMENT OF THE TREASURY (TREAS) — Prerule Stage
Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2608. ALCOHOL BEVERAGE HEALTH WARNING STATEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205, 215

CFR Citation: 27 CFR 16

Legal Deadline: None

Abstract: ATF is considering amending the regulations concerning the placement, legibility and noticeability of the congressionally mandated health warning statement required to appear on the labels of all containers of alcohol beverages. Based on a petition we have received, we wish to gather information by inviting comments from the public and industry as to whether the existing regulations should be revised.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC12

DEPARTMENT OF THE TREASURY (TREAS) — Proposed Rule Stage
Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2609. EXPORTATION OF LIQUORS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 252

Legal Deadline: None

Abstract: ATF proposes the recodification of 27 CFR part 252 to part 28 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
ANPRM	08/09/96	61 FR 41500

Action	Date	FR Cite
ANPRM Comment Period End	12/10/96	
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

William Foster, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AA98

2610. ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: An October 28, 1992 decision in the U.S. District Court for the District of Colorado held that the Federal Alcohol Administration Act prohibition against the statement of alcoholic content on malt beverage labels is unconstitutional under the First Amendment. ATF issued an interim rule on April 19, 1993, which permits the optional labeling of malt beverages with their alcoholic content. The Supreme Court heard oral arguments in the appeal of this court decision on November 30, 1994. The Supreme Court decided this case on April 19, 1995, in favor of Coors, and unanimously found the FAA Act prohibition against labeling malt beverages with their alcohol content unconstitutional. ATF will issue an NPRM on the subject of malt beverage labeling to request information on tolerances, type size, placement, and whether such an alcoholic content labeling requirement should be mandatory.

Timetable:

Action	Date	FR Cite
NPRM	04/19/93	58 FR 21233
Interim Final Rule	04/19/93	58 FR 21228
NPRM Comment Period End	07/19/93	
NPRM Comment Period Extended	07/19/93	58 FR 38543
NPRM Comment Period Extended End	09/17/93	
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Foster, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB17

2611. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Priority: Other Significant

Legal Authority: 26 USC 5051 to 5056; 26 USC 5401 to 5417; 27 USC 205

CFR Citation: 27 CFR 7; 27 CFR 25

Legal Deadline: None

Abstract: ATF intends to streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay the reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to part 25. A section will be added to part 25 to authorize and regulate the alternating use of brewery premises by different brewers. Regulations authorizing the operation of brew-on-premises facilities will be added to part 25.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Foster, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB37

2612. PROHIBITION OF ALCOHOL BEVERAGE CONTAINERS AND STANDARD OF FILL FOR DISTILLED SPIRITS AND WINE

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: ATF proposes to amend regulations to clarify the standards of fill for distilled spirits and wine. ATF also proposes to amend regulations to prohibit certain alcohol beverage containers that are likely to mislead consumers as to the identity or character of the distilled spirits, wine or malt beverage products or are likely to be confused with other (nonalcohol) food products.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6486
NPRM Comment Period End	04/12/99	
Revised NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Foster, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB89

2613. AMENDED STANDARD OF IDENTITY FOR SHERRY

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF is considering a petition to allow certain types of wine to be labeled as "sherry" rather than "light sherry."

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB96

2614. PROCESSES AUTHORIZED FOR THE TREATMENT OF WINE, JUICE AND DISTILLING MATERIAL.

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5381; 26 USC 5382; 26 USC 5385; 26 USC 5386; 26 USC 5387

CFR Citation: 27 CFR 24

Legal Deadline: None

Abstract: ATF will issue a notice of proposed rulemaking proposing to add the addition of grape skin extract to the list of processes authorized for the treatment of wine, juice and distilling material.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC05

2615. • PETITION TO RECOGNIZE COUNOISE AND ST. LAURENT AS NEW GRAPE VARIETIES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF has received two petitions proposing to add two new names, "Counoise" and "St. Laurent", to the list of prime grape variety names for use in designating American wines.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AC26

2616. • RECODIFICATION OF PART 251

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 81(c); 19 USC 1202; 26 USC 5001; 26 USC 5007; 26 USC 5008; 26 USC 5041; 26 USC 5051; 26 USC 5054; 26 USC 5061; 26 USC 5111; 26 USC 5112; 26 USC 5114; 26 USC 5121; 26 USC 5122; 26 USC 5124; 26 USC 5201; 26 USC 5205; 26 USC 5207; 26 USC 5232; 26 USC 5273; 26 USC 5301; 26 USC 5313; 26 USC 5355; 26 USC 6302; 26 USC 7805; 27 USC 203; 27 USC 205; 27 USC 206; 27 USC 215; ...

CFR Citation: 27 CFR 251

Legal Deadline: None

Abstract: Part 251 will be updated and recodified. It will be reissued as 27 CFR part 27.

Timetable:

Action	Date	FR Cite
NPRM	08/05/96	61 FR 40568
Second NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AC27

2617. • ALBARINO, BLACK CORINTH AND FIANO GRAPE VARIETIES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF has received petitions proposing to add the Albarino, Black Corinth and Fiano grapes to the list of prime grape variety names for use in designating American wines.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AC29

EXPLOSIVES

2618. • IDENTIFICATION MARKINGS PLACED ON EXPLOSIVE MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF is considering amending the regulations to require licensed importers to legibly identify by marking all imported explosive materials. Based on a petition we have received, we wish to gather information by inviting comments from the public and industry whether the regulations should be amended.

Timetable:

Action	Date	FR Cite
ANPRM	11/03/00	65 FR 67669
ANPRM Comment Period End	01/12/01	
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC25

2619. • COMMERCE IN EXPLOSIVES-SPORT ROCKET MOTORS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF is amending the regulations to clarify which explosives are not subject to ATF importation, distribution, and storage requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC30

FIREARMS

2620. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Priority: Other Significant

Legal Authority: 5 USC 552(a); 31 USC 9303 to 9304; 40 USC 304(k); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: Pursuant to section 610 of the Regulatory Flexibility Act, ATF published a notice on January 10, 1997, seeking public comments on whether it should revise its regulations, codified at 27 CFR part 55, governing Commerce in Explosives (Including Explosives in the Fireworks Industry). Based on comments received, ATF plans to initiate a rulemaking to revise these regulations in 2001.

Timetable:

Action	Date	FR Cite
General Notice of Regulatory Review	01/10/97	62 FR 1386
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB48

2621. IMPLEMENTATION OF PUBLIC LAW 104-208, THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997, RELATING TO THE ESTABLISHMENT OF A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 846(b)

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF will issue this temporary rule to implement certain provisions of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997 (the Act), enacted September 30, 1996. The Act amended the Federal explosives laws in 18 U.S.C. chapter 40, to require all Federal agencies to report to ATF any information involving arson or the suspected criminal misuse of explosives. The Act also authorizes ATF to establish a repository for this information. In addition, the law provides that such repository will contain information on incidents voluntarily reported to ATF by State and local authorities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB73

2622. IMPLEMENTATION OF PUBLIC LAW 105-277, MAKING OMNIBUS CONSOLIDATED AND EMERG. SUPPLEMENTAL APPROPRIATIONS FOR FY 1999, RELATING TO THE PERMANENT PROVISIONS OF THE BRADY HANDGUN VIOLENCE PREVENTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: ATF will amend the regulations to implement the provision of Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999, relating to the permanent provisions of the Brady Handgun Violence Prevention Act. The new law allows a licensed pawnbroker to contact the national instant criminal background check system (NICS) prior to taking or receiving a firearm in pawn. If NICS advises the pawnbroker that receipt or possession of the firearm would be in violation of the law, the licensee must advise local law enforcement within 48 hours after receipt of information.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
Interim Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB83

2623. PUBLIC LAW 105-277, MAKING OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FY99, RELATING TO FIREARMS DISABILITIES FOR NONIMMIGRANT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: ATF will issue a temporary rule amending the regulations to implement the provisions of Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999. The regulations implement the law by prohibiting, with certain exceptions, the transfer to and possession of firearms by aliens admitted to the United States under a nonimmigrant visa. Regulations are also prescribed with regard to applicants for dealer's licenses to certify that secure gun storage or safety devices will be available at any place where firearms are sold to nonlicensed individuals, and an amended definition of "antique firearm" to include certain muzzle loading firearms.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB93

PROCEDURAL

2624. DELEGATION OF AUTHORITY IN PART 70

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 70

Legal Deadline: None

Abstract: This final rule places most ATF authorities contained in 27 CFR 70 with the "appropriate ATF officer," and requires that persons file documents required by part 70 with the "appropriate ATF officer," or in accordance with the instructions on the ATF form.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC19

2625. DELEGATION OF AUTHORITY IN 27 CFR PART 13

Priority: Info./Admin./Other

Legal Authority: 27 USC 205(e); 26 USC 5301; 26 USC 7805

CFR Citation: 27 CFR 13

Legal Deadline: None

Abstract: This final rule places all ATF authorities contained in 27 CFR 13 with the "appropriate ATF officer," and requires that persons file documents required by part 13 with the "appropriate ATF officer," or in accordance with the instructions on the ATF form. This final rule removes the definitions to specific officers subordinate to the Director. This rule also adds a new section 13.20 about ATF forms and makes a typographical amendment clarifying section 13.72(b).

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC21

TOBACCO PRODUCTS

2626. PROHIBITED MARKS ON PACKAGES OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES IMPORTED OR BROUGHT INTO THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 5723

CFR Citation: 27 CFR 275

Legal Deadline: None

Abstract: This notice proposes a new rule that will prohibit any mark on packages of tobacco products and cigarette papers and tubes imported or brought into the United States (U.S.) indicating that U.S. tax has not been paid or that the product is not intended for sale or use in the U.S. Because current regulations only prohibit a marking on such packages that state or indicate that U.S. tax has been paid, U.S. tax-exempt and prohibiting sale or use in the U.S. packages of such products are being imported or brought into the U.S. ATF and U.S. Customs Service have encountered problems with these packages when ensuring that Federal excise tax has been paid and enforcing the provisions of section 5761(c) of the Internal Revenue Code of 1986 (title 26 of the United States Code). The proposed regulations will minimize the problems associated with such markings on tobacco products and cigarette papers and tubes imported or brought into the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC14

2627. DETERMINATION OF TAX AND RECORDKEEPING ON LARGE CIGARS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 5701 and 5702

CFR Citation: 27 CFR 270; 27 CFR 275

Legal Deadline: None

Abstract: This notice incorporates the parts of ATF Industry Circular 91-3, dated March 19, 1991, entitled "Large Cigar Taxes On and After January, 1991" that have not been placed in the regulations. ATF Industry Circular 91-3 addressed questions about

determining the amount of tax for a large cigars based on their sale price. In addition, this notice proposes: 1) to give guidance on tax adjustments for large cigars provided at no cost in connection with a sale; and 2) recordkeeping requirements for persons in Puerto Rico, who bring large cigars upon prepayment or deferred payment of tax into the United States from Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC22

2628. TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES SHIPPED FROM PUERTO RICO TO THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 5701; 27 USC 7652

CFR Citation: 27 CFR 275

Legal Deadline: None

Abstract: This temporary rule eliminates ATF onsite supervision of tobacco products and cigarette papers and tubes of Puerto Rican manufacture that are shipped from Puerto Rico to the United States and related ATF forms. Specifically, this temporary rule eliminates the requirements: 1) that persons who ship such articles notify ATF prior to the shipment; and 2) that an ATF officer inspects, certifies that the amount of tax on such articles has been calculated correctly for, and releases, each shipment. Consequently, four ATF forms are eliminated. However, this rule requires that persons who ship such articles maintain records so that the amount of tax is calculated and recorded for ATF audit and examination. Also, this temporary rule revises certain sections to simplify and clarify and corrects a few errors.

Timetable:

Action	Date	FR Cite
NPRM	03/08/01	66 FR 13864
NPRM Comment Period End	05/07/01	
Interim Final Rule	03/08/01	66 FR 13849
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC24

2629. • ELIMINATION OF APPLICATION TO REMOVE TOBACCO PRODUCTS FROM MANUFACTURER'S PREMISES FOR EXPERIMENTAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5704

CFR Citation: 27 CFR 270

Legal Deadline: None

Abstract: This rule eliminates the requirements that manufacturers of tobacco products apply to ATF to remove tobacco products from their factories in bond for experimental purposes and maintain the approved applications for their records.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC32

2630. • ELIMINATION OF STATISTICAL CLASSES FOR LARGE CIGARS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 27 CFR 270

Legal Deadline: None

Abstract: This notice proposes to revise reporting categories in regulations to reflect industry practice.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC33

2631. • IMPLEMENTATION OF PUBLIC LAW 106-476, SECTIONS 4002 AND 4003, RELATING TO TOBACCO IMPORTATION RESTRICTIONS, MARKINGS, REPACKAGING AND DESTRUCTION OF FORFEITED TOBACCO PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5704(d); 26 USC 5754; 26 USC 5761(c); PL 106-476; PL 106-554

CFR Citation: 27 CFR 275; 27 CFR 290; 27 CFR 296

Legal Deadline: None

Abstract: Sections 4002 and 4003 of the Tariff Suspension and Trade Act of 2000, which included the Imported Cigarette Compliance Act of 2000, revised Title 26 U.S.C., the Internal Revenue Code of 1986 (IRC). These revisions: 1) require that tobacco products and cigarette papers and tubes manufactured in the United States and labeled for exportation can only be re-imported by the original manufacturer, or by an export warehouse authorized to do so by the original manufacturer; 2) provide that articles may not be sold or held for sale for domestic consumption in the United States unless they are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label; and 3) require the destruction of tobacco products forfeited under section 5761(c). These new provisions of the law are effective February 7, 2001.

The Consolidated Appropriations Act 2001, also revised the IRC by allowing travelers to bring personal-use quantities of tobacco products into the United States (up to the quantity allowed entry free of tax and duty under the Harmonized Tariff Schedule of the United States). This provision of the law was made retroactive to January 1, 2000.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC35

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2632. AMERICAN VITICULTURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: This rule establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Action	Date	FR Cite
Applegate Valley, OR		
NPRM	05/06/99	64 FR 24308
NPRM Comment Period End	07/06/99	
Final Action	12/14/00	65 FR 78096
Buena Vista Lake, CA (contact Nancy Sutton)		
NPRM	06/00/01	
California Coast, CA (contact Tom Busey)		
NPRM	09/26/00	65 FR 57763
Chiles Valley, CA (contact Thomas Busey)		
NPRM	03/20/98	63 FR 13583
Comment Period End	05/19/98	
Final Action	02/17/99	64 FR 7785
Diamond Mountain, CA (contact Jennifer Berry)		
NPRM	09/29/99	64 FR 52483
NPRM Comment Period End	01/28/00	
Final Action	06/00/01	
Fair Play (contact Lisa Gesser)		
NPRM	07/25/00	65 FR 45739
NPRM Comment Period End	09/23/00	
Final Action Completed by TD	02/26/01	(66 FR 11537)
Final Action Effective	04/27/01	
Long Island (contact Lisa Gesser)		
NPRM	11/06/00	65 FR 66518
Final Action	06/00/01	
Oak Knoll District, CA (contact Joyce Drake)		
NPRM	06/00/01	
Red Mountain, CA (contact Jennifer Berry)		
NPRM	05/19/00	65 FR 31853
Final Action	06/00/01	
River Junction, CA (contact Tim DeVanney)		
NPRM	08/10/00	65 FR 48953
Final Action	06/00/01	
San Francisco Bay, CA (contact David Brokaw)		
NPRM	10/20/97	62 FR 54399
Comment Period End	01/20/98	
Final Rule	01/20/99	64 FR 3015
Final Action	01/20/99	64 FR 3015
Santa Rita Hills, CA (contact Joyce Drake)		
NPRM	09/11/98	63 FR 48658
Comment Period End	12/10/98	
Final Rule	06/00/01	
West Elks (contact Lisa Gesser)		
NPRM	10/16/00	65 FR 61129
Final Action Completed by TD	03/06/01	(66 FR 13429)
Final Action Effective	05/07/01	
Yountville, CA (contact Thomas Busey)		
NPRM	08/26/98	63 FR 45427
Final Rule	03/19/99	64 FR 13511

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: See Supplemental Timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8230

RIN: 1512–AA07

2633. LABELING OF UNAGED GRAPE BRANDY

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5

Legal Deadline: None

Abstract: ATF proposes to amend the regulations to permit the use of the word "unaged" as an alternative to "immature," to describe grape brandy that has not been stored in oak containers.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30015
NPRM Comment Period End	09/11/96	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB46

2634. DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5001; 26 USC 5552; 26 USC 5121; 26 USC 5142; 26 USC 5143; 26 USC 5146; 26 USC 5206; 26 USC 5214; 26 USC 5271 to 5276; 26 USC 5311

CFR Citation: 27 CFR 22.21; 27 CFR 22.25 to 22.27; 27 CFR 22.43; 27 CFR 22.59; 27 CFR 22.60; 27 CFR 22.62; 27 CFR 22.63; 27 CFR 22.68; 27 CFR 22.152

Legal Deadline: None

Abstract: This proposed rule will revise, eliminate, and liberalize certain regulatory requirements relating to tax-free alcohol. ATF believes these proposed revisions will greatly reduce and simplify the qualification process governing the tax-free alcohol permit application process.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30019
NPRM Comment Period End	08/12/96	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB51

2635. DISTILLED SPIRITS PLANT REGULATORY INITIATIVE PROPOSAL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 19.11; 27 CFR 19.1003; 27 CFR 19.1010; 27 CFR 19.49; 27 CFR 19.153; 27 CFR 19.201 to 206; 27 CFR 19.311; 27 CFR 19.454; 27 CFR 19.605; 27 CFR 19.770; 27 CFR 19.1001

Legal Deadline: None

Abstract: ATF proposes changes to the distilled spirits plant regulations to implement the Administration's Reinventing Government effort to reduce the regulatory burden and streamline requirements. ATF believes these proposed changes will benefit distilled spirits plant proprietors and other industry members by enabling them to operate more easily and with less regulatory oversight from the Government. ATF is also requesting comments on the possibility of revising the distilled spirits plant recordkeeping requirements to accomplish the Government's goals through a system that would be based, as much as possible, on proprietors' own recordkeeping methods.

Timetable:

Action	Date	FR Cite
NPRM	11/30/98	63 FR 65720
NPRM Comment Period End	01/29/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Simon, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB58

2636. PRODUCTION OF VOLATILE FRUIT FLAVORED CONCENTRATE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5001; 44 USC 3504(h); 26 USC 5172; 26 USC 5178; 26 USC 5179; 26 USC 5203; 26 USC 5511; 26 USC 5552; 26 USC 6065; 26 USC 7805

CFR Citation: 27 CFR 18.56

Legal Deadline: None

Abstract: This proposed rule would specifically authorize the transfer of volatile fruit-flavor concentrate (VFFC) unfit for beverage use from one VFFC plant to another for further processing. It would also clarify the regulations in order to allow greater flexibility in the production processes of VFFC plants.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30017
NPRM Comment Period End	08/12/96	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB59

2637. IMPLEMENTATION OF WINE CREDIT PROVISIONS OF PUBLIC LAW 104-188

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 26 USC 5041

CFR Citation: 27 CFR 24.278; 27 CFR 24.279

Legal Deadline: None

Abstract: ATF is amending wine regulations to implement a change in the law that allows certain transferees in bond to deduct the tax credit for small wine producers. Changes to bond calculations are also included in this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 29681
Interim Final Rule	06/02/97	62 FR 29663
NPRM Comment Period End	08/01/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB65

2638. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTION 1416 RELATING TO REFUND OF TAX FOR DOMESTIC WINE RETURNED TO BOND REGARDLESS OF MERCHANTABILITY (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5044; 26 USC 5361; 26 USC 5367; 26 USC 5371

CFR Citation: 27 CFR 24.66; 27 CFR 24.295; 27 CFR 24.312

Legal Deadline: None

Abstract: ATF is issuing changes to the wine regulations as a result of the enactment of the Taxpayer Relief Act of 1997 and the Internal Revenue Service Reconstruction and Reform Act of 1998. This amendment informs interested parties of changes by these acts that provide for a refund of the tax for all wine returned to bond, rather than exclusively for unmerchantable or domestic wine returned to bond.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB74

2639. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTION 1417, RELATED TO THE USE OF AMELIORATING MATERIAL IN CERTAIN WINES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-34, sec 1417

CFR Citation: 27 CFR 24.178; 27 CFR 4.21; 27 CFR 4.22

Legal Deadline: None

Abstract: The wine regulations are amended to extend the amelioration and sweetening limitations of wines made from any fruit or berry.

Timetable:

Action	Date	FR Cite
NPRM	09/16/99	64 FR 50265
Interim Final Rule	09/16/99	64 FR 50252
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Berry, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 111 W. Huron Street, Room 219, Buffalo, NY 14202-2301
Phone: 716 551-4048

RIN: 1512–AB78

2640. HEALTH CLAIMS AND OTHER HEALTH RELATED STATEMENTS IN THE LABELING AND ADVERTISING OF ALCOHOL BEVERAGES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: ATF proposes to amend the regulations to prohibit the appearance on labels or in advertisements of any statement that makes a substantive claim regarding health benefits associated with the consumption of alcohol beverages unless such claim is properly qualified. This notice also addresses the use of directional health-related statements and seeks comments on whether the negative consequences of alcohol consumption, or abuse disqualify these products entirely from entitlement to any health-related statements.

Timetable:

Action	Date	FR Cite
NPRM	10/25/99	64 FR 57413
NPRM Comment Period End	02/22/00	
Public Hearing	02/28/00	65 FR 10434
Cancellation/ Rescheduling of Hearing	04/25/00	65 FR 24158
Comment Period Extended	04/25/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB97

2641. • RECODIFICATION OF PART 170 INTO PART 29

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 27 CFR 170

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms is recodifying the regulations pertaining to stills. The purpose of the recodification is to reissue the regulations in part 170 of title 27 of the Code of Federal Regulations (27 CFR part 170) as 27 CFR part 29.

Timetable:

Action	Date	FR Cite
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC34

FIREARMS

2642. COMMERCE IN FIREARMS AND AMMUNITION (OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847; 18 USC 921 to 930

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Omnibus Consolidated Appropriations Act of 1997 contains amendments to the Gun Control Act of 1986 (18 U.S.C. chapter 44). These amendments add to the category of "prohibited persons" anyone convicted of a "misdemeanor crime of domestic violence." The amendments require individuals acquiring handguns from Federal firearms licenses to certify (in accordance with the Brady Law) that they have not been convicted of such a crime. The amendments also provide for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35551
Interim Final Rule	06/30/98	63 FR 35520
NPRM Comment Period End	09/28/98	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB64

2643. RESIDENCY REQUIREMENT FOR PERSONS ACQUIRING FIREARMS

Priority: Other Significant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The temporary rule amends the regulations to provide for a firearms

purchaser's affirmative statement of his or her State of residence on ATF Form 4473 (Firearms Transaction Record) and ATF Form 5300.35 (Statement of Intent to Obtain a Handgun) in acquiring a firearm from a Federal firearms licensee. The temporary rule also amends the regulations to require that aliens purchasing a firearm provide proof of residency through the use of substantiating documentation, such as utility bills or a lease agreement. In addition, the regulations are being amended to require that licensees examine a photo identification document from aliens purchasing firearms. These regulations implement President Clinton's March 5, 1997 announcement of firearms initiatives intended to protect the American public from gun violence.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19446
Interim Final Rule	04/21/97	62 FR 19442
NPRM Comment Period End	07/21/97	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB66

2644. IDENTIFICATION MARKINGS PLACED ON FIREARMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178; 27 CFR 179

Legal Deadline: None

Abstract: ATF proposes to amend the regulations to prescribe minimum height and depth requirements for identification markings placed on firearms by licensed importers and licensed manufacturers. ATF believes that minimum standards are necessary to ensure that firearms are properly identified in accordance with the law. In addition, the proposed standards, if adopted, will facilitate ATF's ability to trace the origin of firearms used in crime.

Timetable:

Action	Date	FR Cite
NPRM	06/23/99	64 FR 33450
NPRM Comment Period End	09/21/99	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB84

2645. COMMERCE IN FIREARMS AND AMMUNITION—ANNUAL INVENTORY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to require federally licensed importers, manufacturers, and dealers of firearms to take at least one physical inventory each year. The proposed regulations also specify the circumstances under which these licensees must conduct a special physical inventory. In addition, these proposed regulations clarify who is responsible for reporting a firearm that is stolen or lost in transit between licensees.

Timetable:

Action	Date	FR Cite
NPRM	08/28/00	65 FR 52054
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC08

PROCEDURAL

2646. IMPLEMENTATION OF THE PAPERWORK REDUCTION ACT

Priority: Info./Admin./Other

Legal Authority: 44 USC 3502

CFR Citation: 5 CFR 1320.7(f)(2)

Legal Deadline: None

Abstract: This final rule adds approved control numbers issued by OMB for collections of information imposed by regulations administered by ATF for parts 4, 5 and 7 of the CFR.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy M. Kern, Writer-Editor, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8076

RIN: 1512–AB90

2647. DELEGATION OF AUTHORITY IN 27 CFR PART 19

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 19

Legal Deadline: None

Abstract: This final rule places most ATF authorities contained in 27 CFR part 19 with the "appropriate ATF officer," and requires that persons file documents with the "appropriate ATF officer." Also, this rule removes definitions of, and references to, specific officers subordinate to the Director.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC06

2648. DELEGATION OF AUTHORITY IN 27 CFR PART 53

Priority: Info./Admin./Other

Legal Authority: 26 USC 4181; 26 USC 4182; 26 USC 4216; 26 USC 4219; 26 USC 4221 to 4223; 26 USC 4225; 26 USC 6001; 26 USC 6011; 26 USC 6020; 26 USC 6021; 26 USC 6061; 26 USC 6071; 26 USC 6081; 26 USC 6091; 26 USC 6101 to 6104; 26 USC 6109; 26 USC 6151; 26 USC 6155; 26 USC 6161; 26 USC 6301 to 6303; 26 USC 6311; 26 USC 6402; 26 USC 6404; 26 USC 6416; 26 USC 7502

CFR Citation: 27 CFR 53

Legal Deadline: None

Abstract: This final rule places all authorities contained in part 53, title 27, Code of Federal Regulations (CFR), with the "appropriate ATF officer," and requires that persons file documents required by 27 CFR part 53 with the "appropriate ATF officer," or in accordance with the instructions on the ATF form. This final rule removes definitions of, and references to, specific officers and the word "region." It also renumbers ATF form 5300.29 to ATF form 5600.28.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC18

2649. DELEGATION OF AUTHORITY IN 27 CFR PART 170

Priority: Info./Admin./Other

Legal Authority: 26 USC 5002; 26 USC 5101; 26 USC 5102; 26 USC 5179; 26 USC 5291; 26 USC 5601; 26 USC 5615; 26 USC 5687; 26 USC 7805

CFR Citation: 27 CFR 170

Legal Deadline: None

Abstract: This final rule places all ATF authorities contained in part 170, title 27, Code of Federal Regulations (CFR), with the "appropriate ATF officer," and requires that persons file documents required by part 170 with the "appropriate ATF officer". Also, this rule removes the definitions of, and references to, specific officers subordinate to the Director.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lisa Marie Gesser, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC23

TOBACCO PRODUCTS

2650. BALANCED BUDGET ACT OF 1997, PUBLIC LAW 105-33, RESTRICTION ON THE IMPORTATION OF DOMESTIC TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES RETURNED TO THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5704(b); 26 USC 5704(d); 26 USC 5754; 26 USC 5702(k); 26 USC 5761(c); PL 105-33

CFR Citation: 27 CFR 200; 27 CFR 270; 27 CFR 275; 27 CFR 290

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: This rule restricts the reimportation of tobacco products, cigarette papers and tubes. These products may only be returned for delivery to a manufacturer of tobacco products or cigarette papers and tubes or to the proprietor of an export warehouse. It requires mandatory export markings on tobacco products, cigarette papers and tubes. Finally, it identifies additional penalties for relanding of tobacco products, cigarette papers and tubes, labeled or shipped for export.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/99	64 FR 71918
Interim Final Rule Comment Period End	02/22/00	
Reopening of Comment Period Ended	04/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB81

2651. IMPLEMENTATION OF PUBLIC LAW 105-33, SECTION 9302, REQUIRING THE QUALIFICATION OF TOBACCO PRODUCT IMPORTERS AND MISCELLANEOUS TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5712; 26 USC 5713

CFR Citation: 27 CFR 275

Legal Deadline: NPRM, Statutory, December 22, 1999.
Final, Statutory, December 22, 1999.

Abstract: These regulations will implement section 9302 provisions of Public Law 105-33, requiring permits for businesses engaged in importing tobacco products. Also, minor technical amendments have been included in this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/22/99	64 FR 71942
Interim Final Rule	12/22/99	64 FR 71947
Interim Final Rule Effective	01/01/00	
Interim Final Rule Comment Period End	02/22/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cliff A. Mullen, Specialist, Department of the Treasury,

TREAS—BATF — **Final Rule Stage**

Bureau of Alcohol, Tobacco and Firearms, 650 Massaschusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
RIN: 1512–AC07

DEPARTMENT OF THE TREASURY (TREAS) — Long-Term Actions
Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2652. SAKE REGULATIONS

Priority: Substantive, Nonsignificant
CFR Citation: Not Yet Determined
Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: None
Agency Contact: William Foster
Phone: 202 927-8210
RIN: 1512–AC09

2653. FLAVORED MALT BEVERAGES

Priority: Substantive, Nonsignificant
CFR Citation: Not Yet Determined
Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: None
Agency Contact: William Foster
Phone: 202 927-8210
RIN: 1512–AC11

2654. REMOVAL OF REQUIREMENT TO DISCLOSE SACCHARIN IN THE LABELING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES

Priority: Info./Admin./Other
CFR Citation: 27 CFR 4.32(d); 27 CFR 5.32(b)(6); 27 CFR 7.22(b)(5)
Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov
RIN: 1512–AC17

PROCEDURAL

2655. RECODIFICATION OF STATEMENT OF PROCEDURAL RULES

Priority: Substantive, Nonsignificant
CFR Citation: 27 CFR 70
Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30013
NPRM Comment Period End	08/12/96	

Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov
RIN: 1512–AB54

2656. PLAIN LANGUAGE IN PART 7

Priority: Substantive, Nonsignificant
CFR Citation: 27 CFR 7
Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: William Foster
Phone: 202 927-8210
RIN: 1512–AC10

TOBACCO PRODUCTS

2657. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Priority: Substantive, Nonsignificant
CFR Citation: 27 CFR 290
Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40889
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	01/08/93	58 FR 3247
ANPRM Comment Period Extended End	03/09/93	

Next Action Undetermined
Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov
RIN: 1512–AB03

DEPARTMENT OF THE TREASURY (TREAS) — Completed Actions
Bureau of Alcohol, Tobacco and Firearms (BATF)

2658. DISTRIBUTION OF DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant
CFR Citation: 27 CFR 20
Completed:

Reason	Date	FR Cite
Final Action	03/02/01	66 FR 13014
Completed by TD		
Final Action Effective	05/01/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
RIN: 1512–AB57

TREAS—BATF — **Completed Actions**

2659. FORMULAS FOR DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant
CFR Citation: 27 CFR 21.3; 27 CFR 21.95 to 21.97; 27 CFR 21.6; 27 CFR 21.11; 27 CFR 21.21; 27 CFR 21.31 to 21.34; 27 CFR 21.56; 27 CFR 21.65; 27 CFR 21.76; 27 CFR 21.91
Completed:

Reason	Date	FR Cite
Final Action	03/01/01	66 FR 12853
Completed by TD		
Final Action Effective	03/01/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
RIN: 1512–AB60

2660. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTIONS 1421 AND 1422

Priority: Substantive, Nonsignificant
CFR Citation: 27 CFR 24; 27 CFR 25; 27 CFR 250; 27 CFR 251
Completed:

Reason	Date	FR Cite
Withdrawn	01/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov
RIN: 1512–AB75

2661. ALTERATION OF LABELS ON CONTAINERS OF DISTILLED SPIRITS, WINE AND BEER

Priority: Substantive, Nonsignificant
CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7
Completed:

Reason	Date	FR Cite
Withdrawn	02/01/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Daniel J. Hiland
Phone: 202 927-8210
RIN: 1512–AB76

2662. NEW GRAPE VARIETAL (DORNFELDER)

Priority: Substantive, Nonsignificant
CFR Citation: 27 CFR 4.91
Completed:

Reason	Date	FR Cite
Final Action	12/14/00	65 FR 78095

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Jennifer Berry
Phone: 716 551-4048
RIN: 1512–AC03

2663. DELEGATION OF AUTHORITY IN 27 CFR PART 18

Priority: Info./Admin./Other
CFR Citation: 27 CFR 18
Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 5469

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Nancy M. Kern
Phone: 202 927-8076
RIN: 1512–AB99

2664. DELEGATION OF AUTHORITY IN 27 CFR PART 47

Priority: Info./Admin./Other
CFR Citation: 27 CFR 47
Completed:

Reason	Date	FR Cite
Withdrawn	01/25/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Nancy M. Kern
Phone: 202 927-8076
RIN: 1512–AC04

2665. DELEGATION OF AUTHORITY IN PARTS 20, 21 AND 22

Priority: Info./Admin./Other
CFR Citation: 27 CFR 20; 27 CFR 21; 27 CFR 22
Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 5472

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Robert P. Ruhf
Phone: 202 927-8210
RIN: 1512–AC13

2666. TECHNICAL AMENDMENTS TO 27 CFR PARTS 4, 9, 24, 70 AND 275

Priority: Info./Admin./Other
CFR Citation: 27 CFR 4; 27 CFR 9; 27 CFR 24; 27 CFR 70; 27 CFR 275
Completed:

Reason	Date	FR Cite
Final Action	11/16/00	65 FR 69252

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Nancy M. Kern
Phone: 202 927-8076
RIN: 1512–AC15

2667. DELEGATION OF AUTHORITY IN 27 CFR PART 30

Priority: Info./Admin./Other
CFR Citation: 27 CFR 30
Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 5480

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Lisa Marie Gesser
Phone: 202 927-8210
RIN: 1512–AC16

2668. DELEGATION OF AUTHORITY IN PART 25

Priority: Info./Admin./Other
CFR Citation: 27 CFR 25
Completed:

Reason	Date	FR Cite
Final Action	01/19/01	66 FR 5477

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Robert P. Ruhf
Phone: 202 927-8210
RIN: 1512–AC20

BILLING CODE 4810–31–S

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Proposed Rule Stage

2669. UNIFORM RULES OF PRACTICE AND PROCEDURE; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 12 USC 1831o; 12 USC 1972; 12 USC 3102; 12 USC 3108; 12 USC 3909; 5 USC 554 to 557; 12 USC 93a; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The OCC is considering what regulatory actions may be necessary to implement section 112(g)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 to develop joint agency procedures for the suspension and debarment of accountants, upon a showing of good cause, from performing certain audit services.

Timetable:

Action	Date	FR Cite
NPRM - Suspension and Debarment of Accountants	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave, Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB43

2670. DEBT CANCELLATION CONTRACTS AND DEBT SUSPENSION AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24(Seventh)

CFR Citation: 12 CFR 37

Legal Deadline: None

Abstract: The OCC plans to issue a notice of proposed rulemaking governing the offering of debt cancellation contracts and debt suspension agreements.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/00	65 FR 4176
ANPRM Comment Period End	03/27/00	
NPRM	04/18/01	66 FR 19901
NPRM Comment Period End	06/18/01	
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB75

2671. BANK ACTIVITIES AND OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq.; 12 USC 93a

CFR Citation: 12 CFR 7.1002; 12 CFR 7.5000 to 7.5010

Legal Deadline: None

Abstract: The notice of proposed rulemaking would make changes or additions to 12 CFR part 7 arising from national bank involvement in new technologies, including amendments relating to finder and electronic banking activities.

Timetable:

Action	Date	FR Cite
ANPRM	02/02/00	65 FR 4895
ANPRM Comment Period End	04/03/00	
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1557–AB76

2672. FAIR CREDIT REPORTING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 15 USC 1681s; PL 106-102, sec 506

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The rule will address the sharing of transactional, experiential, and other consumer information among persons related by common ownership or affiliated by corporate control. Such sharing of this information constitutes an exclusion from the definition of "consumer report" under section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)).

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63120
NPRM Comment Period End	12/04/00	
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Deborah Katz, Senior Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Divison, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB78

2673. FIDUCIARY ACTIVITIES OF NATIONAL BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq.; 12 USC 24 (Seventh); 12 USC 24a; 12 USC 92; 12 USC 92a(b); 12 USC 93a; 15 USC 78q; 15 USC 78q-1; 15 USC 78w

CFR Citation: 12 CFR 5; 12 CFR 9

Legal Deadline: None

Abstract: The OCC has issued a notice of proposed rulemaking (NPRM) and advance notice of proposed rulemaking (ANPRM) that would amend 12 CFR part 9. The NPRM codifies OCC interpretations on national bank multi-state trust operations. The ANPRM solicits comments on the standards of care generally applicable to the exercise of national bank fiduciary powers authorized by 12 U.S.C. 92a and part 9.

TREAS—OCC

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM/NPRM	12/05/00	65 FR 75872
ANPRM/NPRM Comment Period End	02/05/01	
Final Rule	05/00/01	
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Andra Shuster, Counsel, Department of the Treasury, Comptroller of the Currency
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RIN: 1557–AB79

2674. NOTICE OF EXEMPT PRIVACY ACT SYSTEMS OF RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 321; 5 USC 552; 5 USC 552a

CFR Citation: 31 CFR 1

Legal Deadline: None

Abstract: The OCC, with the concurrence of the Department of the Treasury, is issuing a notice of proposed rulemaking to amend the Treasury Regulation that sets forth the systems of records maintained by Treasury Department agencies and bureaus that are exempt from certain provisions of the Privacy Act of 1974. The OCC is amending this regulation to update and expand the list of its systems of records that are exempt from certain provisions of the privacy act and to clarify the bases for these exemptions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harold J. Hansen, Assistant Director, Department of the Treasury, Comptroller of the Currency, Administrative and Internal Law Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB83

2675. • RECORDKEEPING REQUIREMENTS FOR BANK EXCEPTIONS FROM SECURITIES BROKER OR DEALER REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1828(t)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This notice of proposed rulemaking will seek comment on recordkeeping requirements for banks relying on exceptions to the definitions of broker or dealer in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Katz, Senior Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Divison, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB93

2676. • PROHIBITION AGAINST USE OF INTERSTATE BRANCHES PRIMARILY FOR DEPOSIT PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 21, 22, 26, 27, 30, 36; 12 USC 93a, 161, 215, 215a, 481; 12 USC 1814, 1816, 1828(c), 1835a; 12 USC 2901 through 2907; 12 USC 3101 through 3111

CFR Citation: 12 CFR 25

Legal Deadline: None

Abstract: The notice of proposed rulemaking would invite comment on a rule that would amend regulations implementing section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 to effectuate the amendment of section 109 of the Gramm-Leach-Bliley Act of 1999. Section 109 prohibits a bank from establishing or acquiring a branch or branches outside of its home state for the purpose of deposit production. Additionally, section 109 contains guidelines for determining whether a bank is reasonably helping to meet the credit needs of communities served by an out-of-state branch or branches. The proposed rule amends the section 109 deposit production prohibition to include any bank or branch controlled by an out-of-state bank holding company, including a bank consisting only of a main office.

Timetable:

Action	Date	FR Cite
NPRM	04/09/01	66 FR 18411
NPRM Comment Period End	06/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB95

2677. • ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 3102

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: The OCC proposes to amend the assessment formula it uses to assess independent credit card banks. A credit card bank is considered independent for purposes of this proposal if it engages primarily in credit card operations and is not affiliated with a full service national bank. Under the revised rate structure, all credit card banks would continue to be assessed based on balance sheet assets. However, independent credit card banks would pay an additional assessment to reflect the supervision required of these banks' off-balance sheet activities.

TREAS—OCC — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/04/01	66 FR 17821
NPRM Comment Period End	05/04/01	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mitchell Plave, Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB96

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Comptroller of the Currency (OCC)

2676. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1828 note; 12 USC 1828(n); 12 USC 1831n note; 12 USC 1835; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: As part of the OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, the OCC is amending various provisions of the capital rules for national banks. Specifically, these changes include: 1) collateralized transactions; 2) recourse arrangements and direct credit substitutes; 3) claims on securities firms; 4) bifurcated capital for complex and noncomplex banks; 5) residual interests; 6) securities borrowing transactions; and 7) nonfinancial equity investments. The OCC is conducting all of these rulemakings jointly with the other Federal banking agencies.

Timetable:

Bifurcated Capital for Complex and Noncomplex Banks
ANPRM 11/03/00 (65 FR 66193)
ANPRM Comment Period End 02/01/01
NPRM 10/00/01
Claims on Securities Firms
NPRM 12/06/00 (65 FR 76180)
NPRM Comment Period End 01/22/01
Final Rule 10/00/01
Collateralized Transactions
NPRM 08/16/96 (61 FR 42565)
Final Action 10/00/01
Nonfinancial Equity Investments
NPRM 02/14/01 (66 FR 10212)
NPRM Comment Period End 04/16/01
Final Rule 10/00/01
Recourse: Recourse and Direct Credit Substitutes
ANPRM/NPRM 05/25/94 (59 FR 27116)
NPRM 11/05/97 (62 FR 59944)
NPRM 03/08/00 (65 FR 12320)
NPRM Comment Period End 06/07/00
Final Rule 10/00/01
Residual Interests
NPRM 09/27/00 (65 FR 57993)
NPRM Comment Period End 12/26/00
Final Rule 10/00/01
Securities Borrowing Transactions
Interim Final Rule 12/05/00 (65 FR 75856)
Interim Final Rule Comment Period End 01/19/01
Final Rule 10/00/01

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Amrit Sekhon, Risk Specialist, Capital Policy Division, (202) 874-5211, FAX (202) 874-5417, 250 E Street SW, Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB14

2679. LENDING LIMITS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 84

CFR Citation: 12 CFR 32

Legal Deadline: None

Abstract: The OCC is amending its lending limit rules, in response to comments received pursuant to the OCC's community bank advance notice of proposed rulemaking published in the Federal Register on May 12, 1999 (64 FR 25469) and notice of proposed rulemaking published on September 22, 2000.

Timetable:

Action	Date	FR Cite
NPRM	09/22/00	65 FR 57292
NPRM Comment Period End	11/21/00	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

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RIN: 1557–AB82

2680. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 1867; 12 USC 3102; 12 USC 3108; 15 USC 78e; 15 USC 78l; 26 DC Code

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: This rulemaking would revise the OCC's assessments regulation to specify that the OCC may charge a national bank when the OCC conducts a special examination or investigation of a third party that provides services to the bank.

Timetable:

Action	Date	FR Cite
NPRM	12/01/00	65 FR 75196
NPRM Comment Period End	01/02/01	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

TREAS—OCC — **Final Rule Stage**

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RIN: 1557–AB90

2681. • OPERATING SUBSIDIARIES OF FEDERAL BRANCHES AND AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq.; 12 USC 24a; 12 USC 93a

CFR Citation: 12 CFR 5.34

Legal Deadline: None

Abstract: The final rule will enable a Federal branch or agency to establish or maintain an operating subsidiary in generally the same manner that a national bank may establish or control an operating subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	12/05/00	65 FR 75870
NPRM Comment Period End	02/05/01	
Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB92

2682. • INVESTMENT SECURITIES; BANK ACTIVITIES AND OPERATIONS; AND LEASING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1, et seq.; 12 USC 24 (Seventh); 12 USC 24 (Tenth); 12 USC 92; 12 USC 92a; 12 USC 93a; 12 USC 481; 12 USC 484; 12 USC 1818

CFR Citation: 12 CFR 1; 12 CFR 7; 12 CFR 23

Legal Deadline: None

Abstract: The OCC is proposing to amend 12 CFR parts 1, 7, and 23. The proposed revisions to part 1 incorporate the express authority to underwrite municipal bonds granted to national banks by section 151 of the Gramm-Leach-Bliley Act (GLBA). The proposed revisions to part 7: 1) clarify the conditions under which a national bank may participate in a bona fide financial literacy program at a school without the school location being deemed a branch of the bank; 2) revise the OCC's regulation governing bank holidays to conform it with the Comptroller's statutory authority to proclaim mandatory bank closings; 3) clarify the scope of the term "NSF" fees for purposes of 12 U.S.C. 85; 4) clarify the OCC's current regulation governing national banks' non-interest charges and fees; and 5) provide that state law applies to a national bank operating subsidiary only to the extent that it applies to the parent national bank. The proposed revisions to part 23 prescribe a percentage limit on the extent to which a national bank may rely on estimated residual value to recover its costs in personal property leasing arrangements.

Timetable:

Action	Date	FR Cite
NPRM	01/31/01	66 FR 8178
Comment Period End	04/02/01	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 1557–AB94

DEPARTMENT OF THE TREASURY (TREAS) — Long-Term Actions
Comptroller of the Currency (OCC)

2683. QUALIFICATION REQUIREMENTS FOR TRANSACTIONS IN CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1818; 12 USC 1831p-1

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: The regulation will require bank employees to meet certain qualification standards before selling nondeposit investment products in a bank.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68823
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark J. Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB54

2684. RULES AND PROCEDURES FOR CLAIMS AGAINST OCC-APPOINTED RECEIVERSHIPS FOR UNINSURED FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 192; 12 USC 206; 12 USC 3108

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation will establish rules and procedures for processing claims against receivers for uninsured Federal institutions that are chartered by the OCC.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave, Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB59

2685. REAL ESTATE APPRAISALS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3331 et seq

CFR Citation: 12 CFR 34

Legal Deadline: None

Abstract: This rulemaking would amend the OCC's appraisal regulation to exempt transactions involving mortgage-backed securities (MBS) from its principal appraisal requirements. The amendment would allow national banks to invest in commercial mortgage-backed securities (CMBS) without regard to appraisals.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave, Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB70

2686. MINIMUM SECURITY DEVICES AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1882

CFR Citation: 12 CFR 21

Legal Deadline: None

Abstract: The OCC is considering a rulemaking that would amend the OCC's Minimum Security Devices and Procedures regulation to address recent changes made to the definition of the term "branch" in the National Bank Act by the Economic Growth and Paperwork Reduction Act of 1996 (EGRPRA). This amendment would clarify that the regulation applies to automated teller machines (ATMs) and remote service units (RSUs).

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB71

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2687. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 3102; 15 USC 78c; 15 USC 78d; 26 DC Code 102

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: By statute, the OCC assesses banks to meet the OCC's expenses in carrying out its activities. The rulemaking revised 12 CFR part 8 to adjust the OCC's assessment structure to better reflect the full extent of the OCC's regulation, supervision, and examination of institutions that currently do not pay the full costs of OCC supervision because their balance sheets do not fully reflect the nature of their business.

Timetable:

Action	Date	FR Cite
NPRM	03/21/00	65 FR 15111
NPRM Comment Period End	04/20/00	
Final Rule	12/05/00	65 FR 75859
Final Rule Effective	12/31/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB72

2688. CONSUMER PROTECTIONS FOR DEPOSITORY INSTITUTION SALES OF INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq; 12 USC 24(Seventh); 12 USC 92; 12 USC 93a; 12 USC 1818; ...

CFR Citation: 12 CFR 14

Legal Deadline: Final, Statutory, November 12, 2000, PL 106-102, sec 305.

Abstract: The rule implements the provisions in section 305 of the Gramm-Leach-Bliley Act requiring the OCC and other banking agencies to adopt regulations governing the retail sales of insurance products.

Timetable:

Action	Date	FR Cite
NPRM	08/21/00	65 FR 50882
NPRM Comment Period End	10/05/00	
Final Rule	12/04/00	65 FR 75822
Final Rule Effective 04/01/2001	12/04/00	
Delay of Effective Date To 10/01/2001	03/19/01	66 FR 15345

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 1557–AB81

2689. INTERAGENCY GUIDELINES ESTABLISHING STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1831p-1; 15 USC 6801; 15 USC 6805

CFR Citation: 12 CFR 30, app D

Legal Deadline: None

Abstract: The OCC, together with the other Federal banking agencies, issued guidelines establishing standards for safeguarding customer information that implement section 39 of the Federal Deposit Insurance Act and sections 501 and 505(b) of the Gramm-Leach-Bliley Act.

Timetable:

Action	Date	FR Cite
NPRM	06/26/00	65 FR 39472
NPRM Comment Period End	08/25/00	
Final Rule	02/01/01	66 FR 8616
Final Rule Effective	07/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Katz, Senior Counsel, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Divison, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB84

2690. DISCLOSURE AND REPORTING OF CRA RELATED AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831y

CFR Citation: 12 CFR 35

Legal Deadline: None

Abstract: The rule implements section 711 of the Gramm-Leach-Bliley Act, which imposes disclosure and reporting requirements with respect to certain CRA-related agreements between insured depository institutions and their affiliates and nongovernmental persons or entities, such as community organizations.

Timetable:

Action	Date	FR Cite
NPRM	05/19/00	65 FR 31962
NPRM Comment Period End	07/21/00	
Final Rule	01/10/01	66 FR 2052
Final Rule Effective	04/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1557–AB85

2691. RULES OF PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 12 USC 93a; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The OCC is amending its rules of practice and procedure to adjust the maximum amount, as set by statute, of each civil money penalty within its jurisdiction to account for inflation. This action is required under the Federal Civil Penalties Inflation Adjustment Act, as amended by the Debt Collection Improvement Act of 1996. This action will increase the amount of civil monetary penalties that may be imposed by the OCC in an enforcement action in the amounts set forth in the final rule.

Timetable:

Action	Date	FR Cite
Final Rule	12/11/00	65 FR 77250
Final Rule Effective	12/11/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jean Campbell, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
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RIN: 1557–AB88

2692. INVESTMENT SECURITIES; BANK ACTIVITIES AND OPERATIONS; LEASING

Timetable:

Action	Date	FR Cite
Duplicate of RIN 1557-AB94	02/14/01	

RIN: 1557–AB89

BILLING CODE 4810–33–S

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Proposed Rule Stage

2693. LIQUIDATION; EXTENSION; SUSPENSION

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to implement amendments to section 504 of the Tariff Act of 1930, as amended, which pertains to limitations on the liquidation of entries that were contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Amendments would allow the reconciliation of entries to be treated as if they were entry summaries, subject to normal liquidation requirements; authorize the electronic transmittal of notices of extension and suspension of liquidation; extend the time period in which Customs must liquidate a

suspended entry after the suspension is removed; remove the application of the four-year limitation to suspended entries; and provide that Customs must also inform sureties when an entry is suspended or extended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Duty Refund and Determination Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2077

RIN: 1515–AB66

2694. DETENTION, SEIZURE, AND FORFEITURE OF "BOOTLEG" SOUND RECORDING AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 17 USC 602; 17 USC 603; 31 USC 9701; 19 USC 66; 19 USC 1202; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 17 USC 101; 17 USC 601

CFR Citation: 19 CFR 12; 19 CFR 24; 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for the detention, seizure, and forfeiture of unauthorized (bootleg) copies of sound recordings and music videos of live musical performances recorded outside of and imported into the United States, as provided by section 513(a) of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George F. McCray, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2387

RIN: 1515–AB74

2695. RECONCILIATION

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1500; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to allow those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary is required to be submitted, to be provided to Customs at a later date.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Durant, Director, Commercial Rulings Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2244

RIN: 1515–AB85

2696. REMOTE LOCATION FILING

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 111; 19 CFR 113; 19 CFR 141; 19 CFR 143

Legal Deadline: None

Abstract: Amendment to allow entry filers to electronically file entries of merchandise with Customs from locations within the United States other than at the port of arrival of the merchandise or the location of examination of the merchandise.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Millie Gleason, Chief, Summary Management, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0625

RIN: 1515–AC23

2697. ADMINISTRATIVE RULINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1502; 19 USC 1624; 19 USC 1625

CFR Citation: 19 CFR 177

Legal Deadline: None

Abstract: Document revises those provisions of the Customs Regulations that concern the issuance of administrative rulings and related written determinations and decisions on prospective and current transactions arising under the Customs and related laws. Changes include amendments in response to statutory changes made to the administrative ruling process by section 623 of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act, as well as substantive and organizational changes to clarify current administrative practice, and otherwise improve the layout and readability of the present regulatory texts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Elkins, Chief, Textiles Branch, Office of Regulations and Rulings, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2380

RIN: 1515–AC56

2698. USER AND NAVIGATION FEES; OTHER REIMBURSABLE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1505; 19 USC 1624; 31 USC 9701; 46 USC 2110; 46 USC 2111; 46 USC 2112

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 101

Legal Deadline: None

Abstract: Amendment regarding the proper assessment of user and navigation fees, as well as other reimbursement charges for Customs services performed in connection with, among other things, the processing of vehicles, vessels, aircraft and merchandise arriving in the United States. Purpose of the amendment is to conform the regulations with the intent of the Customs user fee statute and to reflect existing operational policy and administrative practice in this area.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Nott, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1364

RIN: 1515–AC63

2699. SIMPLIFICATION OF IN-TRANSIT TRUCK SHIPMENTS BETWEEN CANADA AND THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1436; 19 USC 1448; 19 USC 1553; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Amendment to simplify reporting procedures for the in-transit movement of truck shipments between Canada and the United States. Amendment is designed to reduce traffic congestion along the northern border by reducing the number of reporting stops.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raymond Janiszewski, Supervisory Import Specialist, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0365

Walter Lechowski, Assistant Director, Operations, Department of the Treasury, United States Customs Service, Building 10, East Great Lakes CMC, 4455 Genesee Street, Buffalo, NY 14225
Phone: 716 626-0400

RIN: 1515–AC65

2700. NATIONAL SANCTIONS DUE TO THE DELINQUENT PAYMENT OF CUSTOMS BILLS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 142

Legal Deadline: None

Abstract: Amendment to provide that Customs will issue sanction warnings from a centralized site at the national level to importers that have delinquent Customs bills. The nationally issued sanction warnings will notify an importer that if Customs does not receive full payment of all the importer's delinquent Customs bills within the time specified in the sanction warning, sanctions will be imposed nationally on all of the importer's transactions at all Customs ports.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Reiley, Financial Officer, Financial Management Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1504

RIN: 1515–AC68

2701. CUSTOMS EXAMINATION OF IN-TRANSIT MAIL SHIPMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 145

Legal Deadline: None

Abstract: Amendment to provide that Customs has the authority to examine and search international mail without regard as to whether it is transiting the United States or the U.S. Virgin Islands, or is being delivered within the Customs territory of the United States or the U.S. Virgin Islands.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen E. Vereb, Senior Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1327

RIN: 1515–AC71

2702. PRIVATE AIRCRAFT PROGRAMS: ESTABLISHMENT OF THE GENERAL AVIATION TELEPHONIC ENTRY (GATE) PROGRAM AND REVISIONS TO THE OVERFLIGHT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1448; 19 USC 1459; 19 USC 1590; 19 USC 1594; 19 USC 1623; 19 USC 1624; 19 USC 1644; 19 USC 1644a

CFR Citation: 19 CFR 122; 19 CFR 123

Legal Deadline: None

Abstract: Amendment provides for the GATE Program and revises the Overflight Program. The GATE Program is a voluntary program designed to facilitate Customs processing of certain prequalified frequent travelers on preregistered general aviation aircraft arriving in the United States directly from Canada. The Overflight Program exempts certain private aircraft arriving in the continental United States from the special landing requirements applicable to such aircraft. The revision to the Overflight Program involves modifying the application process and centralizing the processing of requests for overflight privileges.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

TREAS—CUSTOMS — **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Gilbert, Programs Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1391

RIN: 1515–AC73

2703. EXPANDED WEEKLY ENTRY PROCEDURE FOR FOREIGN TRADE ZONES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 81a to 81u; 19 USC 1202; 19 USC 1484i; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 146

Legal Deadline: None

Abstract: Amendment in conformance with the Trade and Development Act of 2000 to expand the weekly entry procedure for foreign trade zones to include merchandise involved in activities other than exclusively assembly-line production operations. Under the expanded weekly procedure, weekly entries covering estimated removals of merchandise from a foreign trade zone for any 7-day period and the associated entry summaries will have to be filed exclusively through the Automated Broker Interface, with duties, fees and taxes being scheduled for payment through the Automated Clearinghouse.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Ingalls, Chief, Entry and Drawback Management, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1082

RIN: 1515–AC74

2704. • REIMBURSABLE CUSTOMS INSPECTIONAL SERVICES: INCREASE IN HOURLY RATE CHARGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 6103; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 261; 19 USC 267; 19 USC 1202; 19 USC 1450; 19 USC 1451; 19 USC 1452; 19 USC 1456; 19 USC 1505; 19 USC 1557; 19 USC 1562; 19 USC 1624; 26 USC 4461; 26 USC 4462; 31 USC 9701; 46 USC 2110; 46 USC 2111; 46 USC 2112

CFR Citation: 19 CFR 24; 19 CFR 101

Legal Deadline: None

Abstract: Amendment to increase the rate of charge for reimbursable Customs inspectional services.

Timetable:

Action	Date	FR Cite
NPRM	02/01/01	66 FR 8554
NPRM Comment Period End	04/02/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Lomax, Accountant, Department of the Treasury, United States Customs Service, Accounting Services Division, Office of Finance, Indianapolis, IN 46278
Phone: 317 298-1200

RIN: 1515–AC77

2705. • USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1505; 19 USC 1624; 26 USC 4461; 26 USC 4462; 31 USC 9701

CFR Citation: 19 CFR 24; 19 CFR 111

Legal Deadline: None

Abstract: Amendment to reflect amendments to 19 U.S.C. 58c, the Customs user fee statute, made by the Miscellaneous Trade and Technical Corrections Act of 1999 (the Act), as well as prior legislative changes to that user fee statute. Amendment sets forth, pursuant to the Act, the new fee structure for passengers arriving in the United States aboard commercial vessels and aircraft, and clarifies how Customs administers certain user fees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Reiley, Financial Officer, Financial Management Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1504

RIN: 1515–AC81

2706. • DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY OFFSET TO AFFECTED DOMESTIC PRODUCERS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624; 19 USC 1675c

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Amendment to implement the Continued Dumping and Subsidy Offset Act of 2000. Amendment prescribes the administrative procedures, including time and manner, under which antidumping and countervailing duties assessed on imported products would be distributed to affected domestic producers as an offset for certain qualifying expenditures.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey J. Laxague, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0505

RIN: 1515–AC84

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS) — **Final Rule Stage**

2707. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)—IMPLEMENTATION OF DUTY-DEFERRAL PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1481; 19 USC 1484; 19 USC 1202; 19 USC 1315; 19 USC 1624; 19 USC 3314

CFR Citation: 19 CFR 181; 19 CFR 113; 19 CFR 141; 19 CFR 144; 19 CFR 10

Legal Deadline: Final, Statutory, January 1, 1996.

Abstract: Document amends regulations to establish procedural and other requirements that apply to the collection, waiver, and reduction of duties under the duty-deferral program provisions of the North American Free Trade Agreement. The document prescribes the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program, either for exportation to another NAFTA country or for entry into a duty-deferral program of another NAFTA country, the procedures that must be followed in filing a claim for a waiver or reduction of duties collected on such merchandise, and the procedures for finalization of duty collections and duty waiver or reduction claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/96	61 FR 2908
Interim Final Rule Effective	01/01/96	
Interim Final Rule Comment Period End	04/01/96	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shawn Filion, Commercial Program Specialist, Department of the Treasury, United States Customs Service, Office of Field Operations, North Star Commercial, P.O. Box 400, Buffalo, NY 14225
Phone: 716 551-3053

RIN: 1515–AB87

2708. ENTRY OF SOFTWOOD LUMBER SHIPMENTS FROM CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2416; 19 USC 2171

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Document sets forth amendments establishing additional entry requirements applicable to shipments of softwood lumber from Canada. Amendment involves the collection of certain additional information for purposes of monitoring and enforcing an agreement between the Governments of the United States and Canada regarding trade in softwood lumber.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/97	62 FR 8620
Interim Final Rule Effective	02/26/97	
Interim Final Rule Comment Period End	04/28/97	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Metzger, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0792

RIN: 1515–AB97

2709. CUSTOMS ENTRY DOCUMENTATION PURSUANT TO ANTICOUNTERFEITING CONSUMER PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141

Legal Deadline: Final, Statutory, January 2, 1997.

Abstract: Document implements section 12 of the Anticounterfeiting Consumer Protection Act of 1996 (ACPA), which was enacted by Congress to protect consumers and American businesses from counterfeit copyrighted and trademarked products. Section 12 of the ACPA concerns the content of entry documentation required by Customs to determine whether the imported merchandise or its packaging bears an infringing trademark. Amendment requires importers to provide on the invoice a listing of all trademarks appearing on imported merchandise and its packaging.

Timetable:

Action	Date	FR Cite
NPRM	09/13/99	64 FR 49423
NPRM Comment Period End	12/13/99	64 FR 62135
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joanne R. Stump, Chief, Intellectual Property Rights, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-3315

RIN: 1515–AC15

2710. COUNTRY OF ORIGIN MARKING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendments clarify the country of origin marking rules set forth in part 134 of the Customs Regulations. Amendments promote the concept of informed compliance by the trade and proper field administration of the statutory requirement.

Timetable:

Action	Date	FR Cite
NPRM	01/26/00	65 FR 4193
NPRM Comment Period End	04/26/00	65 FR 17473
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel, Attorney-Advisor, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2310

Monika Rice Brenner, Attorney-Advisor, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2310

Kristen VerSteeg, Attorney-Advisor, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2310

RIN: 1515–AC32

2711. EXPANDED METHODS OF PAYMENT OF DUTIES, TAXES, INTEREST AND FEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 197; 19 USC 198; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1450; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to expand the number of ways that Customs will accept payment of duties, taxes, fees, interest and other charges. Currently, the regulations allow for credit or charge cards, which have been authorized by the Commissioner of Customs, to be used at designated Customs-serviced locations with a limitation that this method of payment may only be used by noncommercial entities. Amendment allows payment of duties, taxes, fees, interest and other charges by any electronic technology or charge cards (either debit or credit cards) that are authorized by the Commissioner of Customs and by removing the limitation that these methods of payment may only be used by noncommercial entities.

Timetable:

Action	Date	FR Cite
NPRM	03/17/99	64 FR 13141
NPRM Comment Period End	05/17/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Lloyd, Financial Officer, Financial Policy Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0119

RIN: 1515–AC40

2712. IMPORTATION AND ENTRY BOND CONDITIONS REGARDING OTHER AGENCY DOCUMENTATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 113

Legal Deadline: None

Abstract: Amendment with regard to the basic importation and entry bond condition under which, if merchandise is conditionally released to the principal named in the bond, the principal agrees to furnish Customs with any document or evidence as required by law or regulation. Amendment would extend this requirement, and consequently the potential liability for payment of liquidated damages for a breach of the bond condition, to documents and evidence submitted to other Government agencies under laws and regulations of those other agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/06/99	64 FR 42872
NPRM Comment Period End	10/05/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC44

2713. GENERAL ORDER WAREHOUSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1311; 19 USC 1312; 19 USC 1484; 19 USC 1485; 19 USC 1490; 19 USC 1491; 19 USC 1492; 19 USC 1493; 19 USC 1506; 19 USC 1559; 19 USC 1563

CFR Citation: 19 CFR 4; 19 CFR 19; 19 CFR 122; 19 CFR 123; 19 CFR 127

Legal Deadline: None

Abstract: Amendment principally creates a new class of bonded warehouse exclusively for the receipt of general order merchandise and includes procedures for authorizing and operating general order warehouses. Amendment also implements certain amendments to the law made by the Customs modernization portion of the North American Free Trade Agreement Implementation Act concerning the circumstances where the title to unclaimed and abandoned merchandise vests in the Government, in lieu of sale of the merchandise at public auction.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 42893
NPRM Comment Period End	09/11/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raymond Janiszewski, Supervisory Import Specialist, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0365

RIN: 1515–AC57

2714. DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1484b; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 4; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to set forth procedures for the deferral of entry filing and duty collection on certain yachts imported for sales at boat shows in the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/15/00	65 FR 37501

Action	Date	FR Cite
NPRM Comment Period End	08/14/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton, Chief, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2269

Robert E. Watt, Program Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-3654

RIN: 1515–AC58

2715. CIVIL AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 3314

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment concerning the duty-free entry of civil aircraft merchandise to reflect amendments to General Note 6 of the Harmonized Tariff Schedule of the United States made by the Miscellaneous Trade and Technical Corrections Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/29/00	65 FR 40067
NPRM Comment Period End	08/28/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dixie Staple, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1131

RIN: 1515–AC59

2716. ENTRY OF SOFTWOOD LUMBER SHIPMENTS FROM CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1624; 19 USC 2416(a); 19 USC 2171

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to the provision in the Customs Regulations that sets forth entry requirements for shipments of softwood lumber from Canada under the agreement between the Governments of the United States and Canada regarding trade in softwood lumber. Amendment implements an amendment to the softwood lumber agreement involving the addition of two export fee payment status categories covering softwood lumber from the Canadian province of British Columbia.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/00	65 FR 33251
Interim Final Rule Effective	05/23/00	
Interim Final Rule Comment Period End	07/24/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dixie Staple, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1131

RIN: 1515–AC62

2717. • TIME LIMITATION FOR REQUESTING REFUNDS OF HARBOR MAINTENANCE FEE AND FOR MAKING OTHER CLAIMS AGAINST CUSTOMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1505; 19 USC 1624; 26 USC 4461; 26 USC 4462; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to establish a one year time limit within which a refund request must be filed for overpayments of Harbor Maintenance Fees that were paid quarterly and for making other claims against Customs. The time limit would assure an efficient reasonable final resolution of claims against Customs.

Timetable:

Action	Date	FR Cite
NPRM	12/15/00	65 FR 78430
NPRM Comment Period End	02/13/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Thompson, Accountant, Accounts Receivable Branch, Department of the Treasury, United States Customs Service, Office of Finance, Indianapolis, IN 46278
Phone: 317 298-1200

RIN: 1515–AC64

2718. MERCHANDISE PROCESSING FEE ELIGIBLE TO BE CLAIMED AS UNUSED MERCHANDISE DRAWBACK

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1313; 19 USC 1624

CFR Citation: 19 CFR 191

Legal Deadline: None

Abstract: Amendment to indicate that merchandise processing fees are eligible to be claimed as unused merchandise drawback. The change is made to reflect a recent court decision in which merchandise processing fees were found to be assessed under Federal law and imposed by reason of importation and therefore eligible to be claimed as unused merchandise drawback pursuant to 19 U.S.C. 1313(j).

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/01	66 FR 9647
Interim Final Rule Effective	02/09/01	
Interim Final Rule Comment Period End	04/10/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Duty Refund and Determination

Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2077

RIN: 1515–AC67

2719. CIVIL ASSET FORFEITURE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 18 USC 983; 19 USC 66; 19 USC 1592; 19 USC 1593a; 19 USC 1624

CFR Citation: 19 CFR 162; 19 CFR 171

Legal Deadline: None

Abstract: Amendment to implement the provisions of the Civil Asset Forfeiture Reform Act of 2000 (CAFRA), insofar as these provisions are applicable to laws enforced by Customs. The CAFRA creates general rules governing civil forfeiture proceedings. However, CAFRA specifically exempts from certain of its requirements forfeitures that are made under a number of statutes, among those being: the Tariff Act of 1930 or any other provision of law codified in title 19, U.S.C.; the Internal Revenue Code of 1986; the Federal Food, Drug, and Cosmetic Act; and the Trading with the Enemy Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	08/23/00	65 FR 78090
Interim Final Rule	12/14/00	65 FR 78090
Interim Final Rule Comment Period End	02/12/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC69

2720. AFRICAN GROWTH AND OPPORTUNITY ACT AND GENERALIZED SYSTEM OF PREFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2461; 19 USC 3314; 19 USC 3721

CFR Citation: 19 CFR 10; 19 CFR 163

Legal Deadline: Final, Statutory, October 1, 2000, Public Law 106-200.

Abstract: Amendments to implement the trade benefit provisions for sub-Saharan Africa contained in title I of the Trade and Development Act of 2000. The trade benefits under title I, also referred to as the African Growth and Opportunity Act, apply to sub-Saharan African countries designated by the President and involve the extension of duty-free treatment under the Generalized System of Preferences (GSP) to non-import-sensitive, non-textile articles normally excluded from GSP duty-free treatment, and the entry of specific textile and apparel articles free of duty and free of any quantitative limits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/00	65 FR 59668
Interim Final Rule Effective	10/01/00	
Interim Final Rule Comment Period End	12/04/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reese, Senior Attorney, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1361

Leon Hayward, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-9704

RIN: 1515–AC72

2721. • UNITED STATES-CARIBBEAN BASIN TRADE PARTNERSHIP ACT AND CARIBBEAN BASIN INITIATIVE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2701; 19 USC 3314

CFR Citation: 19 CFR 10; 19 CFR 163

Legal Deadline: Final, Statutory, October 1, 2000, Public Law 106-200.

Abstract: Amendments to implement the trade benefit provisions for Caribbean Basin countries contained in title II of the Trade and Development Act of 2000. The trade benefits under title II, also referred to as the United States-Caribbean Basin Trade Partnership Act (the CBTPA), apply to Caribbean Basin countries designated by the President and involve the entry of specific textile and apparel articles free of duty and free of any quantitative restrictions, limitations, or consultation levels and the extension of NAFTA duty treatment standards to non-textile articles that are excluded from duty-free treatment under the Caribbean Basin Initiative program.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/00	
Interim Final Rule	10/05/00	65 FR 59650
Interim Final Rule Comment Period End	12/04/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Walker, Senior Attorney-Advisor, Department of the Treasury, United States Customs Service, Special Classification and Marking Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1116

Leon Hayward, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-9704

Cynthia Reese, Senior Attorney, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300

Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1361

RIN: 1515–AC76

2722. • DUTY-FREE TREATMENT FOR CERTAIN BEVERAGES MADE WITH CARIBBEAN RUM

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 2701; 19 USC 3314

CFR Citation: 19 CFR 10; 19 CFR 163

Legal Deadline: None

Abstract: Amendment to implement a change made by the Trade and Development Act of 2000 to the Caribbean Basin Economic Recovery Act, also known as the Caribbean Basin Initiative (CBI), that enables certain liquers and spirituous beverages to obtain duty-free entry under specified conditions when the beverages are processed in the territory of Canada from rum that is the growth, product or manufacture either of a CBI beneficiary country or of the U.S. Virgin Islands. The regulations set forth the certification and supporting documentation requirements that are necessary to establish compliance with the statutory law, thereby enabling that the rum beverages are properly entitled to duty-free entry under the CBI.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/01	66 FR 9643
Interim Final Rule Effective	02/09/01	
Interim Final Rule Comment Period End	04/10/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Leon Hayward, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-9704

RIN: 1515–AC78

2723. • RULES OF ORIGIN FOR TEXTILE AND APPAREL PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 3314; 19 USC 3592

CFR Citation: 19 CFR 102

Legal Deadline: None

Abstract: Amendment to align the existing country of origin rules for textiles and apparel products with the statutory amendments to section 334 of the Uruguay Round Agreements Act, as set forth in section 405 within title IV of the Trade and Development Act of 2000. The amendment to the Customs Regulations reflects the amendments set forth in section 405 regarding the processing operations necessary to confer country of origin status to certain textile fabrics and made-up articles.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reese, Senior Attorney, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1361

RIN: 1515–AC80

2724. • AMENDED PROCEDURE FOR OBTAINING REFUNDS OF HARBOR MAINTENANCE FEES PAID ON EXPORTS OF MERCHANDISE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1505; 19 USC 1624; 26 USC 4461; 26 USC 4462; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to simplify the procedure for requesting refunds of harbor maintenance fees paid on exports of merchandise.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/28/01	66 FR 16854
Interim Final Rule Effective	03/28/01	
Interim Final Rule Comment Period End	04/27/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Thompson, Accountant, Accounts Receivable Branch, Department of the Treasury, United States Customs Service, Office of Finance, Indianapolis, IN 46278
Phone: 317 298-1200

RIN: 1515–AC82

2725. • LICENSES FOR CERTAIN WORSTED WOOL FABRICS SUBJECT TO TARIFF-RATE QUOTA

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1508; 19 USC 1509; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 132; 19 CFR 163

Legal Deadline: None

Abstract: Amendment to set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce, is in effect for certain worsted wool fabric that is the subject of a tariff-rate quota.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Erin Riley, Trade Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-5395

RIN: 1515–AC83

2726. • AMENDMENT TO WOOL DUTY REFUND PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 3314; PL 106-200

TREAS—CUSTOMS — **Final Rule Stage**

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment regarding the provision regarding the refund of duties paid on imports of wool products pursuant to section 505 of the Trade and Development Act of 2000. Principally, the document rectifies an interpretive error regarding the description of the types of wool products that are eligible to provide the basis for a wool duty refund for claim year 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Ingalls, Chief, Entry and Drawback Management, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1082

RIN: 1515–AC85

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Long-Term Actions

2727. HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Interim Final Rule Effective	03/01/87	
Interim Final Rule Comment Period End	05/29/87	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0310

RIN: 1515–AA57

2728. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607
Interim Final Rule Effective	01/08/92	
Interim Final Rule Comment Period End	03/09/92	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0310

RIN: 1515–AA87

2729. AUTOMATED SURETY INTERFACE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	04/22/93	58 FR 16632
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Hundertmark
Phone: 202 927-0355

RIN: 1515–AB25

2730. TEXTILES AND TEXTILE PRODUCTS SUBJECT TO TEXTILE TRADE AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AB54

2731. COUNTRY-OF-ORIGIN MARKING REQUIREMENTS FOR FROZEN PRODUCE PACKAGES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 134

Timetable:

Action	Date	FR Cite
ANPRM	02/02/95	60 FR 6464
ANPRM Comment Period End	03/20/95	
NPRM	07/23/96	61 FR 38119
NPRM Comment Period End	10/17/97	62 FR 43958
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra L. Bell
Phone: 202 927-2244

RIN: 1515–AB61

2732. DETERMINATION OF THE COUNTRY OF ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AC00

2733. DESIGNATED LAND BORDER CROSSING LOCATIONS FOR CERTAIN CONVEYANCES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 123

Timetable:

Action	Date	FR Cite
NPRM	11/17/97	62 FR 61251
NPRM Comment Period End	01/16/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

TREAS—CUSTOMS — **Long-Term Actions**

Agency Contact: Dennis Dore
Phone: 202 927-3274

RIN: 1515–AC12

2734. PUBLIC DISCLOSURE OF AIRCRAFT MANIFESTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 103

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee H. Kramer
Phone: 202 927-1251

RIN: 1515–AC13

2735. NAFTA PREFERENCE OVERRIDE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 102

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel
Phone: 202 927-2310

RIN: 1515–AC25

2736. PERSONAL-USE LIMITATION FOR PURCHASES AT DUTY-FREE STORES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 19

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Creighton W. Goldsmith
Phone: 808 522-8080
Email: creighton.w.goldsmith@customs.treas.gov

RIN: 1515–AC50

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2737. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Completed:

Reason	Date	FR Cite
Withdrawn	02/09/01	66 FR 9681

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Baker
Phone: 202 927-0620

RIN: 1515–AB38

2738. TREATMENT OF MERCHANDISE IMPORTED BY FOREIGN GOVERNMENTS OR DESIGNATED INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 148

Completed:

Reason	Date	FR Cite
Withdrawn	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Sequeira
Phone: 202 927-1480

RIN: 1515–AB92

2739. FOREIGN REPAIRS TO AMERICAN VESSELS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4; 19 CFR 159

Completed:

Reason	Date	FR Cite
Final Action	03/26/01	66 FR 16392
Final Action Effective	04/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton
Phone: 202 927-2269

RIN: 1515–AC30

2740. INFORMAL ENTRY OF LOW-VALUE DUTY-FREE MERCHANDISE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 143

Completed:

Reason	Date	FR Cite
Withdrawn	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Clark
Phone: 202 927-2317

RIN: 1515–AC38

2741. AMENDED BOND PROCEDURES FOR ARTICLES SUBJECT TO EXCLUSION ORDERS ISSUED BY THE U.S. INTERNATIONAL TRADE COMMISSION

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12; 19 CFR 113

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 77813
Final Action Effective	01/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen E. Vereb
Phone: 202 927-1327

RIN: 1515–AC43

2742. ASSESSMENT OF LIQUIDATED DAMAGES REGARDING IMPORTED MERCHANDISE THAT IS NOT ADMISSIBLE UNDER THE FOOD, DRUG AND COSMETIC ACT

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12; 19 CFR 113; 19 CFR 141

Completed:

Reason	Date	FR Cite
Final Action	03/28/01	66 FR 16850
Final Action Effective	04/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin
Phone: 202 927-1176

RIN: 1515–AC45

2743. EXPORT CERTIFICATES FOR LAMB MEAT SUBJECT TO TARIFF-RATE QUOTA

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 132; 19 CFR 163

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 77816
Final Action Effective	12/13/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Porter
Phone: 202 927-5399

RIN: 1515–AC54

2744. • IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL MATERIAL ORIGINATING IN ITALY AND REPRESENTING THE PRE-CLASSICAL, CLASSICAL AND IMPERIAL ROMAN PERIODS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment reflects the imposition of import restrictions on certain archaeological material originating in Italy and representing the preclassical, classical and imperial Roman periods of its cultural heritage, ranging in date from approximately the 9th century B.C. through approximately the 4th century A.D. These restrictions are being imposed pursuant to an agreement between the United States and Italy that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational,Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Timetable:

Action	Date	FR Cite
Final Action	01/23/01	66 FR 7399
Final Action Effective	01/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alfred Morawski, Chief, Other Government Agencies Branch, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0402

Joseph Howard, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-2336

RIN: 1515–AC66

2745. • IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL MATERIAL FROM THE PREHISPANIC CULTURES OF THE REPUBLIC OF NICARAGUA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to reflect the imposition of import restrictions on certain archaeological material ranging in date from approximately 8000 B.C. through approximately 1500 A.D. and representing prehispanic cultures of the Republic of Nicaragua. These restrictions are being imposed pursuant to an agreement between the United States and Nicaragua that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Timetable:

Action	Date	FR Cite
Final Action	10/26/00	65 FR 64140
Final Action Effective	10/26/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alfred Morawski, Chief, Other Government Agencies Branch, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-0402

Joanne R. Stump, Chief, Intellectual Property Rights, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-3315

RIN: 1515–AC70

2746. • REFUND OF DUTIES PAID ON IMPORTS OF CERTAIN WOOL PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 3314; PL 106-200

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to implement the provisions of section 505 of title V of the Trade and Development Act of 2000. Section 505 permits U.S. manufacturers of certain wool articles to claim a limited refund of duties paid in each of calendar years 2000, 2001, and 2002 on imports of select wool products. The maximum amount eligible to be refunded in each of these successive claim years is limited to an amount not to exceed one third of the amount of duties actualy paid on such wool products imported in calendar year 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/26/00	65 FR 64178
NPRM Comment Period End	11/16/00	
Final Action	12/26/00	65 FR 81344
Final Action Effective	01/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Ingalls, Chief, Entry and Drawback Management, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 927-1082

RIN: 1515–AC79

BILLING CODE 4820–02–S

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Proposed Rule Stage

2747. FOREIGN INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 842; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will prescribe rules for determining investment income effectively connected with the conduct of an insurance business in the United States by a foreign company.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209066-88 (INTL-024-88)

Drafting attorney: Steven D. Jensen (202) 622-3870

Reviewing attorney: Paul S. Epstein (202) 622-3870

Completed in error in the October 1995 Unified Agenda.

CC:INTL

Agency Contact: Steven D. Jensen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AL82

2748. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904(f) by adding paragraph (f)(5) at the end thereof, which requires that foreign source losses with respect to any income category first offset a taxpayer's other foreign source income before such losses offset the taxpayer's U.S. source income. The regulation will provide rules for the allocation of foreign source losses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209044-89 (INTL-338-89)

Drafting attorney: Richard L. Chewning (202) 622-3850

Reviewing attorney: Barbara Felker (202) 622-3850

CC:INTL

Agency Contact: Richard L. Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–AM11

2749. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367(a) will be amended to reflect the changes made to that section by the Technical and Miscellaneous Corrections Act of 1988. Section 367(a)(5) now provides that a transfer of assets to a foreign corporation in an exchange described in section 361 is subject to section 367(a)(1), unless certain ownership requirements and other conditions are met. The regulations will provide guidance regarding the application of this section. The change in the statute was necessitated by the repeal of "General Utilities."

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209006-89 (INTL-089-89)

Drafting attorney: Philip L. Tretiak (202) 622-3860

Reviewing attorney: Charlie Besecky (202) 622-3860

CC:INTL

Agency Contact: Philip L. Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AM97

2750. FOREIGN INSURANCE COMPANY—DOMESTIC ELECTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 953

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide substantive and procedural rules regarding the election under section 953(d) to treat certain controlled foreign corporations engaged in the insurance business as domestic corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208980-89 (INTL-765-89)

Drafting attorney: Valerie A. Mark (202) 622-3840

Reviewing attorney: Phyllis Marcus (202) 622-3840

CC:INTL

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AO25

2751. INFORMATION REPORTING AND RECORD MAINTENANCE UNDER SECTION 6038C

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7801; 26 USC 6038C

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will implement the directives of section 6038C.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208265-90 (INTL-102-90)

Drafting attorney: Ginny Y. Chung (202) 622-3870

Reviewing attorney: Paul S. Epstein (202) 622-3870

Treasury attorney: Patricia Brown (202) 622-1781

CC:INTL

Agency Contact: Ginny Y. Chung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AP10

2752. INTEGRATED FINANCIAL TRANSACTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation addresses whether matched book sale and repurchase transactions conducted by securities dealers qualify as integrated financial transactions under section 1.861-10(c).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209604-93 (INTL-001-93)

Drafting attorney: Ginny Y. Chung (202) 622-3870

Reviewing attorney: Paul S. Epstein (202) 622-3870

Treasury attorney: Patricia Brown (202) 622-1781

CC:INTL

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Phone: 202 622-3870

RIN: 1545–AR20

2753. SECTION 6048 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6048

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document revises regulations relating to certain foreign trusts under section 6048 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209594-92 (INTL-067-92)

Drafting attorney: Karen Rennie Quarrie (202) 622-3880

Reviewing attorney: Elizabeth Karzon (202) 622-3880

Treasury attorney: Michael Kirsch (202) 622-0871

Completed in error in the October 1995 Unified Agenda.

CC:INTL

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RIN: 1545–AR25

2754. APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Determination of when and how section 1503(d), treatment of dual consolidated losses, will apply to partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-209564-92 (INTL-037-92)

Drafting attorney: Kenneth D. Allison (202) 622-3860

Reviewing attorney: Charles Besecky (202) 622-3860

Treasury attorney: Michael Caballero (202) 622-0851

CC:INTL

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Phone: 202 622-3860

RIN: 1545–AR26

2755. INTERCOMPANY TRANSFER PRICING FOR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the transfer pricing of services between related parties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209579-92 (INTL-051-92)

Drafting attorney: J. Peter Luedtke (202) 874-1490

Reviewing attorney: Steven Musher (202) 874-1490

CC:INTL

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RIN: 1545–AR32

2756. REPORTING REQUIREMENTS FOR WIDELY HELD FIXED INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 671; 26 USC 6034A; 26 USC 6049(d)(1); 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: This regulation relates to the reporting requirements for widely held fixed investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	08/13/98	63 FR 43354
Hearing	11/05/98	
NPRM Comment Period End	11/12/98	
Second NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106871-00 (PS-6-96)

Drafting attorney: Faith Colson (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Viva Hammer (202) 622-0809

CC:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AU15

2757. CIVIL CAUSE OF ACTION FOR CERTAIN UNLAWFUL COLLECTION ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations raise the cap on damages under section 7433 from $100,000 to $1,000,000 and provide that if a taxpayer fails to exhaust the administrative remedies available before the Internal Revenue Service, the court may reduce the award of damages. Additionally, the awarding of damages for violations of the automatic stay are now covered by this regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68242
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-251502-96

Drafting attorney: Kevin B. Connelly (202) 622-3630

Reviewing attorney: Robert A. Miller (202) 622-3630

CC:P&A:CB&S

Agency Contact: Kevin B. Connelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3630

RIN: 1545–AU68

2758. SOURCE RULES FOR PAYMENTS MADE PURSUANT TO CERTAIN SWAP ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 863; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the source and character of payments made in certain swap transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-253560-96

Drafting attorney: Milton M. Cahn (202) 622-3870

Reviewing attorney: Paul Epstein (202) 622-3870

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

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Phone: 202 622-3870

RIN: 1545–AU89

2759. APPLICATION OF ATTRIBUTION RULES TO FOREIGN TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide attribution rules for foreign trusts with respect to foreign personal holding companies, foreign passive investment companies and controlled foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-252774-96

Drafting attorney: W. Edward Williams (202) 622-3880

Reviewing attorney: Elizabeth Karzon (202) 622-3880

Treasury attorney: Michael Kirsch (202) 622-0871

CC:INTL

Agency Contact: W. Edward Williams, Senior Technical Reviewer, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224

Phone: 202 622-3880

RIN: 1545–AU91

2760. SPECIAL RULES APPLICABLE TO SALES OF DEBT INSTRUMENT BETWEEN RECORD DATES AND THE END OF ACCRUAL PERIODS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides rules to calculate allocation of interest and amount of sale price, when debt instrument is sold between a record date and a payment date (so that seller receives first distribution of interest and principal following sale).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-242919-96

Drafting attorney: Kenneth Christman (202) 622-3950

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Phone: 202 622-3950

RIN: 1545–AU95

2761. AGREEMENTS FOR PAYMENT OF TAX LIABILITIES IN INSTALLMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations reflect the amendment of IRC section 6159, section 202 of the Taxpayer Bill of Rights 2, which provides that upon request by a taxpayer the Secretary shall provide an independent review of the termination of an installment agreement. The regulations reflect the amendment to section 6159, which guarantees the availability of installment agreements to taxpayers.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68241
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100841-97

Drafting attorney: Kevin B. Connelly (202) 622-3630

Reviewing attorney: Robert Miller (202) 622-3630

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RIN: 1545–AU97

2762. RETURN OF LEVIED PROPERTY IN CERTAIN CASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501(b) of the Taxpayer Bill of Rights 2 amended section 6343 of the Internal Revenue Code to authorize the Secretary to return levied property in four enumerated circumstances. Section 1102(d)(1)(B) of RRA 98 changed "Taxpayer Advocate" to "National Taxpayer Advocate" as a person who determines what is in the best interest of the taxpayer. The regulations set forth the circumstances in which the Secretary may return property and procedures to implement these sections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101520-97

Drafting attorney: Kevin B. Connelly (202) 622-3630

Reviewing attorney: Robert Miller (202) 622-3630

Treasury attorney: Rita Cavanagh (202) 622-1981

CC:P&A:CB&S

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RIN: 1545–AV01

2763. REMOVAL OF TEMPORARY REGULATIONS THAT PROVIDE RULES FOR SUBSTANTIATING TRAVEL EXPENSE DEDUCTIONS FOR MEMBERS OF CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 5

Legal Deadline: None

Abstract: This project will remove temporary income tax regulations section 5e.274-8 (published as TD 7802 in 47 FR 2986). The regulations provide rules for the substantiation of Congress members' travel expenses, and the regulations are currently out of date because the authorizing legislation was subsequently repealed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105513-97

Drafting attorney: Edwin B. Cleverdon (202) 622-4920

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Reviewing attorney: Linda Kroening (202) 622-4800

CC:IT&A

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Phone: 202 622-4920

RIN: 1545–AV55

2764. FOREIGN TAX CREDIT ANTIABUSE REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 901; 26 USC 901(k)(4); 26 USC 904; 26 USC 864(e)(7); 26 USC 7701(l); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will disallow foreign tax credits with respect to foreign taxes generated in certain arrangements from which the reasonably expected economic profits are insubstantial compared to expected foreign tax credits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-103445-98

Drafting attorney: Bethany Ingwalson (202) 622-3850

Reviewing attorney: Barbara Felker (202) 622-3850

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

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Phone: 202 622-3870

RIN: 1545–AV97

2765. TRANSPORTATION OF PERSONS AND PROPERTY BY AIR—SECTIONS 4261 AND 4271

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4261; 26 USC 4271; 26 USC 7805

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Guidance concerning the excise taxes imposed on the amounts paid for the transportation of persons and property by air.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106167-98

Drafting attorney: Patrick S. Kirwan (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

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Phone: 202 622-3130

RIN: 1545–AW19

2766. ESTATE TAX DEDUCTION FOR QUALIFIED FAMILY-OWNED BUSINESS INTERESTS (QFOBI)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2057; 26 USC 7805

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: The proposed regulations will address the estate tax deduction for certain qualified family-owned business interests.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106430-98

Drafting attorney: Leslie H. Finlow (202) 622-7860

Reviewing attorney: Christine Ellison (202) 622-3120

Treasury attorney: Beth Kaufman (202) 622-1766

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Phone: 202 622-7860

RIN: 1545–AW21

2767. SECTION 988—CONTINGENT DEBT INSTRUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 988

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will prescribe the tax treatment of section 988 debt instruments that provide for contingent payments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106486-98

Drafting attorney: Milton M. Cahn (202) 622-3870

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Treasury attorney: Je Young Baik (202) 622-1773

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Phone: 202 622-3870

RIN: 1545–AW33

2768. CAPITAL GAIN GUIDANCE RELATING TO CRTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1(h)(11); 26 USC 664

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides capital gain guidance relating to charitable remainder trusts in light of the changes made to section 1(h) of the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-110896-98

Drafting attorney: Catherine Moore (202) 622-3080

Reviewing attorney: Mary Beth Collins (Carchia) (202) 622-3080

Treasury attorney: Beth Kaufman (202) 622-1766

CC:P&SI

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Phone: 202 622-3080

RIN: 1545–AW35

2769. MERCHANDISE REGULATION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 471; 26 USC 7805; 26 USC 446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation clarifies when the requirement to use inventory accounting applies. It also clarifies the definition of merchandise and provides guidance with respect to when merchandise will be regarded as an income producing factor in a taxpayer's business.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-122333-97

Drafting attorney: Cheryl L. Oseekey (202) 622-4970

Reviewing attorney: Eric Pleet (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

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RIN: 1545–AW61

2770. REPORTING OF PAYMENTS TO ATTORNEY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides information reporting requirements for payments of gross proceeds made in the course of a trade or business to attorneys in connection with legal services.

Timetable:

Action	Date	FR Cite
NPRM	05/21/99	64 FR 27730
Second NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105312-98

Drafting attorney: Laura C. Nash (202) 622-4910

Reviewing attorney: Pamela W. Fuller (202) 622-4910

Treasury attorney: Michael Novey (202) 622-1339

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Agency Contact: Laura C. Nash, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AW72

2771. CONSTRUCTIVE SALES OF APPRECIATED FINANCIAL POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1259

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to principles for determining if a taxpayer has constructively sold an appreciated financial position.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-102191-98

Drafting attorney: Kathleen Sleeth (202) 622-3920

Reviewing attorney: Alvin Kraft (202) 622-3920

Treasury attorney: Michael Novey (202) 622-1339

CC:FI&P

Agency Contact: Kathleen Sleeth, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AW97

2772. RULES FOR SOURCING CERTAIN TRANSPORTATION INCOME, SPACE OR OCEAN ACTIVITY INCOME, AND RELATED FOREIGN BASE COMPANY SHIPPING INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance to shipping and aircraft companies for application of the source rules for certain income under sections 863(c) and 863(d), and for related space or ocean activity income that is also foreign-based company shipping income under section 954(f).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-115557-98

Drafting attorney: Patricia A. Bray (202) 622-3880

Reviewing attorney: Elizabeth Karzon (202) 622-3880

Treasury attorney: Michael Mundaca (202) 622-1752

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RIN: 1545–AX02

2773. HIGHWAY VEHICLE—DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This document provides amendments to regulations relating to definition of highway vehicle.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103829-99

Drafting attorney: Bernard H. Weberman (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

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Phone: 202 622-3130

RIN: 1545–AX10

2774. DEPOSIT OF EXCISE TAXES—REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: This document provides amendments to regulations relating to deposits of excise tax.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/00	65 FR 1076
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Businesses

Government Levels Affected: None

Additional Information: REG-103827-99

Drafting attorney: Susan Athy (202) 622-3130

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Treasury attorney: John Parcell (202) 622-2578

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RIN: 1545–AX11

2775. GUIDANCE ON COST RECOVERY IN THE ENTERTAINMENT INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the application of the income forecast method under section 167(g).

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103823-99

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Treasury attorney: Christopher Ohmes (202) 622-0865

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RIN: 1545–AX12

2776. STRADDLES—ONE SIDE LARGER THAN THE OTHER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1092

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: A "straddle" occurs, for purposes of section 1092 of the Internal Revenue Code, when a taxpayer enters into two separate positions in financial instruments that "offset" each other. Positions offset each other when, taken together, they substantially diminish the taxpayer's risk of loss. A taxpayer in a "straddle" is subject to various limitations on recognition of loss on the positions until both positions are liquidated. These regulations will deal with the situation in which one position is larger than the other (that is, the diminution of the risk of loss for one position is only partial).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107335-99

Drafting attorney: Kenneth Christman (202) 622-3950

Reviewing attorney: Robert Williams (202) 622-3960

Treasury attorney: Michael Novey (202) 622-1339

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RIN: 1545–AX16

2777. DEFINITION OF ACCOUNTING METHOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will clarify the definition of a change in method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105228-99

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Reviewing attorney: Thomas Luxner (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

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RIN: 1545–AX21

2778. SECTIONS 401(K) AND 410(M) CASH OR DEFERRED ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Update and revise regulations on qualified cash or deferred arrangements, "matching" contributions, and employee contributions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-108639-99

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: W. Thomas Reeder (202) 622-1341

CC:TEGE

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RIN: 1545–AX26

2779. DEFINITION OF "ISSUED" WITH REGARD TO CHIEF COUNSEL ADVICE

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, sec 3509

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation defines the term "Issued" with regard to Chief Counsel Advice.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113129-98

Drafting attorney: Deborah Lambert-Dean (202) 622-4570

Reviewing attorney: Donald Squires (202) 622-4570

Treasury attorney: Elizabeth Askey (202) 622-0224

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RIN: 1545–AX40

2780. GROUPING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 925(b); 26 USC 927(d)(2)(B)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides grouping rules for purposes of Foreign Sales Corporation transfer pricing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-110605-99

Drafting attorney: Christopher Bello (202) 874-1490

Reviewing attorney: Elizabeth Beck (202) 874-1490

Treasury attorney: Manal Corwin (202) 622-1317

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Phone: 202 874-1490

RIN: 1545–AX41

2781. 401(K) AND 401(M) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Update and revise regulations for cash or deferred arrangements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-108639-99

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: W. Thomas Reeder (202) 622-1341

CC:TEGE

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Phone: 202 622-6080

RIN: 1545–AX43

2782. NOTIONAL PRINCIPAL CONTRACTS AND OTHER FINANCIAL PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 446; 26 USC 1234A; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules under section 446 for the timing of income and deductions of certain contingent payments under notional principal contracts. The regulations will also provide rules under section 1234A for determining the character of payments under notional principal contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-106395-99

Drafting attorney: Elizabeth Handler (202) 622-3930

Reviewing attorney: William E. Coppersmith (202) 622-3930

Treasury attorney: Michael Novey (202) 622-1339

CC:FI&P

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Phone: 202 622-3930

RIN: 1545–AX45

2783. SECTION 7430 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed amendments to the Treasury Regulations incorporate the 1997 and 1998 amendments to 26 U.S.C. 7430, relating to the awarding of attorney's fees in administrative and court proceedings. The amendments to 26 U.S.C. 7430 were enacted under the Taxpayer Relief Act of 1997 and the IRS Restructuring and Reform Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-111833-99

Drafting attorney: Norma C. Rotunno (202) 622-7900

Reviewing attorneys: Thomas D. Moffitt (202) 622-7900 and Henry S. Schneiderman (202) 622-7820

CC:IT&A

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Phone: 202 622-7900

RIN: 1545–AX46

2784. SECTION 414(Q) REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 414(q)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide the definition of highly compensated employee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-111277-99

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

CC:TEGE

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Phone: 202 622-6080

RIN: 1545–AX48

2785. ADDRESS CORRECTION

Priority: Info./Admin./Other

Legal Authority: 26 USC 25; 26 USC 103

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides that certain elections, revocations of those elections, and information reports, shall no longer be filed at the Philadelphia Service Center, but instead shall be filed at the place or places designated by the Commissioner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104459-99

Drafting attorney: David E. White (202) 622-3980

Reviewing attorney: Timothy Jones (202) 622-3980

CC:TEGE

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Fax: 202 622-4437

RIN: 1545–AX51

2786. COMPENSATION DEFERRED UNDER ELIGIBLE SECTION 457(B) PLANS (SECTION 457 REGULATIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 457

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations relate to deferred compensation plans of State and local governments and tax-exempt entities under section 457 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Federalism: Undetermined

Additional Information: REG-105885-99

Drafting attorney: Cheryl E. Press (202) 622-6060

Reviewing attorney: Robert Patchell (202) 622-6060

CC:TEGE

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Phone: 202 622-6060
Fax: 202 622-4631

RIN: 1545–AX52

2787. TAX ON INSURANCE COMPANIES OTHER THAN LIFE INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will supplement guidance on what is required in order

for a taxpayer to qualify as an insurance company subject to tax under section 831 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-111660-99

Drafting attorney: Robert A. Martin (202) 622-7638

Reviewing attorney: Mark Smith (202) 622-3012

Treasury attorney: Louise Epstein (202) 622-1778

CC:FI&P

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Phone: 202 622-7638

RIN: 1545–AX54

2788. MODIFICATION TO SECTION 367(A) STOCK TRANSFER REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 367(a)

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The section 367(a) stock transfer regulations will be modified to address abuses under check-the-box and through the use of convertible stock.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-116053-99

Drafting attorney: Robert W. Lorence (202) 622-3860

Reviewing attorney: Charles Besecky (202) 622-3860

Treasury attorney: Je Young Baik (202 622-1773

CC:INTL

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Phone: 202 622-3860

RIN: 1545–AX77

2789. DEFINITION OF PASSIVE FOREIGN INVESTMENT COMPANY UNDER SECTION 1297

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805(b); 26 USC 1297

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation defines a passive foreign investment company (PFIC) under section 1297(a) and the terms "passive income" and "passive asset" under section 1297(b). The regulation will also set forth the exceptions to the terms "passive income" and "passive asset," and provide guidance on the applicability of the look-through rule under section 1297(c), in cases involving PFICs that own 25 percent or more of a lower-tier foreign subsidiary. In addition, the regulation will provide guidance under section 1297(e), regarding the overlap rule between a controlled foreign corporation and a PFIC.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100427-00

Drafting Attorney: Margaret A. Fung (202) 622-3840

Reviewing Attorney: Philip Garlett (202) 622-3840

Treasury Attorney: Michael Caballero (202) 622-0851

CC:INTL

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Phone: 202 622-3840

RIN: 1545–AX78

2790. PROCUREMENT/PURCHASING CARD REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6041; 26 USC 3406

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance on the rules, information reporting, penalties, and back-up withholding rules for purchases with procurement/purchasing cards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: REG-105298-97

Drafting attorney: Donna J. Welch (202) 622-4910

CC:P&A:APJP

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RIN: 1545–AX86

2791. STATUTE OF LIMITATIONS ON COLLECTION INSTALLMENT AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6331(k)

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to provide for the prohibition of levy while an installment agreement is pending with the Secretary, while an installment agreement is in effect, and following the rejection or termination of an installment agreement. This levy prohibition is established in section 6331(k) of title 26, as added by the IRS Restructuring and Reform Act of 1998. The goal of the regulations is to clarify when levy is prohibited and the effect of the prohibition on the statute of limitations for collection.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104762-00

Drafting attorney: Frederick W. Schindler (202) 622-3620

Reviewing attorney: Kathryn A. Zuba (202) 622-3620

CC:P&A:CB&S

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RIN: 1545–AX89

2792. CLARIFICATION OF FOREIGN-BASED COMPANY SALES INCOME RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation clarifies when a controlled foreign corporation cannot exclude sales income from foreign-based company sales income under the manufacturing exception by reason of activities of a contract manufacturer. Likewise, the branch rule under IRC section 954(d)(2) does not apply to a contract manufacturer.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-106356-00

Drafting attorney: Valerie A. Mark (202) 622-3840

Reviewing attorney: Phyllis E. Marcus (202) 622-3840

Treasury attorney: Patrick Brown (202) 622-1754

CC:INTL

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Phone: 202 622-3840

RIN: 1545–AX91

2793. ASSUMPTION OF PARTNERSHIP LIABILITIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 752

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation prevents the acceleration or duplication of losses through the assumption of liabilities in transactions involving partnerships.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-106736-00

Drafting attorney: Shannon Cohen (202) 622-3050

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CC:P&SI

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Phone: 202 622-3050

RIN: 1545–AX93

2794. DETERMINATION OF BASIS OF PARTNERS' INTEREST; SPECIAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 705; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will limit the increase to basis under section 705, where a corporation directly or indirectly acquires an interest in a partnership that holds stock in the same corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 315
Public Hearing	05/03/01	66 FR 315
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106702-00

Drafting attorney: Barbara MacMillan (202) 622-3050

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Treasury attorney: James Sowell (202) 622-5721

CC:P&SI

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Phone: 202 622-3050

RIN: 1545–AX94

2795. LIKE-KIND EXCHANGES UNDER SECTION 168

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 148; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations, under section 168, relate to like-kind exchanges.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106590-00

Drafting attorney: Alan H. Cooper (202) 622-3110

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Treasury attorney: Christopher Ohmes (202) 622-1335

CC:P&SI

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Phone: 202 622-3110

RIN: 1545–AX95

2796. DEFINITION OF DIESEL FUEL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will revise the definition of diesel fuel.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106457-00

Drafting attorney: Frank K. Boland (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

Agency Contact: Frank K. Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AX97

2797. TRANSFERS OF PROPERTY TO THIRD PARTIES ON BEHALF OF A SPOUSE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will provide rules for determining when a transfer of property by a spouse to a third party will be considered made on behalf of the other spouse(or former spouse).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107151-00

Drafting attorney: Edward C. Schwartz (202) 622-4960

Reviewing attorney: William A. Jackson (202) 622-4960

CC:IT&A

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Phone: 202 622-4960

RIN: 1545–AX99

2798. GUIDANCE UNDER SECTION 894

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 894; 26 USC 871; 26 USC 881

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance under section 894(c) for imposing tax liability on foreign persons receiving U.S. source income from entities treated as domestic corporations for U.S. tax purposes, and as fiscally transparent entities under the laws of the jurisdiction, whose treaty with the United States is being invoked.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-107101-00

Drafting attorney: Karen A. Rennie-Quarrie (202) 622-3880

Reviewing attorney: Elizabeth U. Karzon (202) 622-3880

Treasury attorney: Patrick Brown (202) 622-1754

CC:INTL

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RIN: 1545–AY03

2799. GUIDANCE NECESSARY TO FACILITATE ELECTRONIC TAX ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6011

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: This regulation will amend regulations to allow electronic filing for all attachments to Form 1040.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107184-00

Drafting attorney: Sara P. Shepherd (202) 622-4910

Reviewing attorney: George J. Blaine (202) 622-4910

CC:P&A:APJP

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Phone: 202 622-4910

RIN: 1545–AY04

2800. REVISION OF CIRCULAR NO. 230

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 330

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: This document amends the regulation governing practice before the IRS, which appears in the Code of Federal Regulations and in pamphlet form as Treasury Department Circular No. 230, Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, and Appraisers Before the IRS. This document also invites individuals and organizations to submit comments on revising Circular No. 230 to address general standards of practice and standards of practice in the case of tax shelters.

Timetable:

Action	Date	FR Cite
ANPRM	05/05/00	65 FR 30375
NPRM	01/12/01	66 FR 30375
Public Hearing	05/02/01	66 FR 3276
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-111835-99

Drafting attorney: Brinton T. Warren (202) 622-4940

Reviewing attorney: Richard Goldstein (202) 622-7880

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RIN: 1545–AY05

2801. DAMAGES UNDER SECTION 7433

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation will implement a number of new provisions of section 7433, including raising the cap on damages for the intentional or reckless disregard of the Internal Revenue Code, or regulations in connection with a collection action, authorizing actions for the negligent disregard of the Code or regulations. It will provide rules with respect to administrative claims for damages caused by violations of the automatic stay and discharge provisions of the Bankruptcy Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107366-00

Drafting attorney: Robert A. Miller (202) 622-3640

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RIN: 1545–AY08

2802. GUIDANCE UNDER SECTION 894 (TEMPORARY)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 894; 26 USC 871; 26 USC 881

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulation provides guidance under section 894(c) for imposing tax liability on foreign persons receiving United States source income from entities treated as domestic corporations for United States tax purposes, and as fiscally transparent entities under the laws of the jurisdiction, whose treaty with the United States is being invoked.

Timetable:

Action	Date	FR Cite
NPRM	02/27/01	66 FR 12445
Hearing	06/26/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-107101-00

Drafting attorney: Karen A. Rennie-Quarrie (202) 622-3880

Reviewing attorney: Elizabeth U. Karzon (202) 622-3880

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RIN: 1545–AY13

2803. ELECTING MARK-TO-MARKET FOR MARKETABLE STOCK OF A PFIC

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1296

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation describes the methods and procedures for electing mark-to-market treatment for marketable stock of a PFIC.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-112306-00

Drafting attorney: Laurie Hatten-Boyd (202) 622-3840

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CC:INTL

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Phone: 202 622-3840

RIN: 1545–AY17

2804. ACTIVE CONDUCT OF AN INSURANCE BUSINESS UNDER PFIC RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805; 26 USC 1298; 26 USC 1297

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will define the term "active conduct of an insurance company" as used in section 1297(b)(2)(B).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-113334-00

Drafting attorney: Mark R. Pollard (202) 622-3840

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Treasury attorney: Michael Caballero (202) 622-0851

CC:INTL

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RIN: 1545–AY20

2805. GUIDANCE ON CHANGES TO THE LAWS FOR CORPORATE ESTIMATED TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6655

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The regulations provide guidance on changes to the law for corporate estimated taxes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-107722-00

Drafting attorney: Robert A. Desilets, Jr. (202) 622-4910

Reviewing attorneys: Pamela W. Fuller (202) 622-4910

Treasury attorneys: Rita Cavanagh (202) 622-1981

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RIN: 1545–AY22

2806. SECTION 1445 REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1445; 26 USC 897

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation requires the use of taxpayer identifying numbers on submissions made by foreign taxpayers to reduce or eliminate tax under sections 897 and 1445.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-106876-00

Drafting attorney: Robert Walter Lorence (202) 622-3860

Reviewing attorney: Charles Besecky (202) 622-3860

Treasury attorney: Michael Caballero (202) 622-0851

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Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AY24

2807. DISALLOWANCE OF DEDUCTIONS AND CREDITS FOR FAILURE TO FILE TIMELY RETURN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 882(c); 26 USC 874

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document amends regulations concerning disallowance of deductions and credits claimed by foreign corporations and nonresident aliens for failure to timely file a U.S. income tax return in accordance with IRC sections 882(c) and 874(a).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-107100-00

Drafting attorney: Leslie R. Rubenstein (202) 622-3880

Reviewing attorney: W. Edward Williams (202) 622-3880

Treasury attorney: Dirk Suringa (202) 622-1779

CC:INTL

Agency Contact: Leslie R. Rubenstein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AY26

2808. SECTION 1503(D) REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will revise provisions in section 1503(d) regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-106879-00

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CC:INTL

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RIN: 1545–AY27

2809. WITHHOLDING TAX ON FOREIGN PARTNERS' SHARE OF EFFECTIVELY CONNECTED INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance for partnership withholding on partner's allocable share of partnership's effectively connected income.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-108524-00

Drafting attorney: Eliana D. Dolgoff (202) 622-3860 and Jeffrey L. Vinnik (202) 622-3840

Reviewing attorney: Phyllis Marcus (202) 622-3840

Treasury attorney: Patrick Brown (202) 622-1754

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RIN: 1545–AY28

2810. TAXABLE YEARS OF CFCS AND FPHCS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 898

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide definitions and rules for determining the required year for CFCs and FPHCs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-108523-00

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: Patrick Brown (202) 622-1754.

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Phone: 202 622-3840

RIN: 1545–AY30

2811. MID-CONTRACT CHANGE IN TAXPAYER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 460

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The regulations will address issues presented by a change in the taxpayer accounting for a long-term contract.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105946-00

Drafting attorney: John M. Aramburu (202) 622-4960

Reviewing attorney: Robert M. Casey (202) 622-4960

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

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Phone: 202 622-4960

RIN: 1545–AY31

2812. GUIDANCE UNDER SECTION 6050P REGARDING INFORMATION REPORTING ON CANCELLATION OF INDEBTEDNESS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 6050

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to information reporting on the cancellation of indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-107524-00

Drafting attorney: Sharon Lee Hall (202) 622-4930

Reviewing attorney: Christopher F. Kane (202) 622-4930

Treasury attorney: Michael Novey (202) 622-1339

CC:IT&A

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Phone: 202 622-4930

RIN: 1545–AY35

2813. ALLOCATION OF INCOME AND DEDUCTIONS FROM INTANGIBLES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 482

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the allocation of income and deductions from intangible property.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-115037-00

Drafting attorney: John M. Breen (202) 874-1490

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Treasury attorney: Rocco Femia (202) 622-1755

CC:INTL

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RIN: 1545–AY38

2814. DOLLAR-VALUE LIFO

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 472; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance under the dollar-value last-in, first-out (LIFO) inventory method for taxpayers that define LIFO items based on components of cost.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-107580-00

Drafting attorney: Jeffery G. Mitchell (202) 622-7804

Reviewing attorney: Eric L. Pleet (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

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Phone: 202 622-7804

RIN: 1545–AY39

2815. SECTION 83-1032 CONFORMING CHANGES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations clarify the mechanics of sections 1.83-6(b) and 1.83-6(d).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113078-00

Drafting attorney: Jean Marie Casey (202) 622-6030

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Treasury attorney: William Bortz (202) 622-1352

CC:TEGE

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RIN: 1545–AY40

2816. SECTION 367(D) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the income tax consequences relating to the transfer of intangibles to foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-106877-00

Drafting attorney: Eliana D. Dolgoff (202) 622-3860

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Treasury attorney: Rocco Femia (202) 622-1755

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RIN: 1545–AY41

2817. SECTION 355(E) GUIDANCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 355

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance on section 355(e) of the Internal Revenue Code. Section 355(e) provides that a distributing corporation will recognize gain on the distribution of stock of a controlled corporation if 50 percent of the stock of the distributing corporation or controlled corporation is acquired pursuant to a plan that includes the distribution.

Timetable:

Action	Date	FR Cite
NPRM	01/02/01	66 FR 66
Hearing	05/15/01	66 FR 66
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107566-00

Drafting attorney: Brendan O'Hara (202) 622-7530

Reviewing attorney: Vicki Hyche (202) 622-7530

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RIN: 1545–AY42

2818. • GUIDANCE UNDER SECTION 817A REGARDING MODIFIED GUARANTEED CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 817A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to issuers of modified guaranteed contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-248110-96

Drafting attorney: Ann H. Logan (202) 622-3970

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Phone: 202 622-3970

RIN: 1545–AY48

2819. • APPLICATION OF SECTION 338 TO INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 148; 26 USC 7805; 26 USC 721; 26 USC 338

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations prescribe the manner in which the various provisions of subchapter L, chapter 1, Subtitle A of the Internal Revenue Code apply to asset acquisitions deemed to occur by reason of a section 338 election as well as to actual acquisitions of insurance company assets subject to section 1060.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-118861-00

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RIN: 1545–AY49

2820. • ELECTRONIC FURNISHING OF PAYEE STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6050

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: This document amends the regulations to allow for the electronic furnishing of Forms W-2, 1098-E and 1098-T.

Timetable:

Action	Date	FR Cite
NPRM	02/14/01	66 FR 10247
NPRM Comment Period End	08/07/01	
Public Hearing	08/28/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: REG-107186-00

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Treasury attorney: Stephanie Robinson (202) 622- 9858

CC:PA:AP JP

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RIN: 1545–AY50

2821. • PREVIOUSLY TAXED EARNINGS AND PROFITS UNDER SUBPART F

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address previously taxed earnings and profits under subpart F.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-121509-00

Drafting attorney: Kelley M. Kogan (202) 622-3840

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RIN: 1545–AY54

2822. • LIABILITIES ASSUMED IN CERTAIN CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 357

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to the assumption of liabilities in certain corporate transactions under section 301 and section 357 of the Internal Revenue Code. The regulations affect corporations and their shareholders.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106791-00

Drafting attorney: Mary Elizabeth Dean (202) 622-7550

Reviewing attorney: Debra Carfisle (202) 622-7550

CC:CORP

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RIN: 1545–AY55

2823. • GUIDANCE NECESSARY TO FACILITATE ELECTRONIC TAX ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6011

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This document amends temporary regulations to allow electronic filing for all forms and attachments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107184-00

Drafting attorney: Sara P. Shepherd (202) 622-4910

Reviewing attorney: George Blaine (202) 622-4910

Treasury attorney: Stephanie Robinson (202) 622-9858

CC:P&A:AP JP

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Phone: 202 622-4910

RIN: 1545–AY56

2824. • NORMAL RETIREMENT AGE FOR PENSION PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: These regulations will provide guidance regarding the determination of normal retirement age in a pension plan, including a money purchase pension plan, target benefit plan and defined benefit plan. Section 411(a)(8) defines the term normal retirement age as the earlier of: 1) the time a participant attains normal retirement age under the plan; or 2) the later of the time a plan participant attains age 65, or the 5th anniversary of the time a plan participant commenced participation in the plan. These regulations also would provide section 411(d)(6) relief for amendments that modify a pension plan's normal retirement age to conform with the proposed regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-125499-00

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: William Bortz (202) 622-1352

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RIN: 1545–AY61

2825. • SECTION 706 AND FOREIGN PARTNERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 706

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the determination under section 706(b) of the taxable year of a partnership with foreign partners.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3920
Public Hearing	06/06/01	66 FR 3920
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104876-00

Drafting attorney: Daniel Carmody (202) 622-3080

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Treasury attorney: Deborah Harrington (202) 622-1788

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RIN: 1545–AY66

2826. • LIABILITIES ASSUMED IN CERTAIN CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 357

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to the assumption of liabilities in certain corporate transactions under section 357 of the Internal Revenue Code. The regulations affect corporations and their shareholders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100818-01

Drafting attorney: Mary Elizabeth Dean (202) 622-7550

Reviewing attorney: Debra Carlisle (202) 622-7550

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RIN: 1545–AY74

2827. • NORMALIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 167; 26 USC 168; 26 USC 46

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Upon sale or deregulation of generation assets, may the EDFIT and the ADITC be "flowed-through" to ratepayers without violating the normalization requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-104385-01

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Treasury attorney: John Parcell (202) 622-2578

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RIN: 1545–AY75

2828. • QUALIFIED S ELECTION FOR TESTAMENTARY TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 148; 26 USC 7805; 26 USC 721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to the qualified subchapter S election for testamentary trusts. A testamentary trust may qualify as a permitted shareholder of an S corporation for a 2-year period beginning on the day the stock is transferred to the trust. This proposed amendment would provide that the beneficiary of a qualifying testamentary trust that also qualifies as a qualified subchapters S trust (QSST) may make a QSST election at any time up to the end of the 16-day-and-2-month period beginning after the 2-year qualifying period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-106431-00

Drafting attorney: Deane M. Burke (202) 622-3070

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RIN: 1545–AY76

2829. • DISCLOSURE OF RETURNS AND RETURN INFORMATION OF OTHER AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation permits the Commissioner to authorize agencies with access to returns and return information under section 6103 of the Code to redisclose such returns and return information, with the Commissioner's approval, to the Congressional Budget Office and other agencies authorized to receive such information in accordance with IRC section 6103.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: REG-105344-01

Drafting attorney: Julie C. Schwartz (202) 622-4570

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Treasury attorney: Elizabeth Askey (202) 622-0224

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RIN: 1545–AY77

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Final Rule Stage

2830. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 905; 26 USC 6689

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209020-86 (INTL-061-86)

Drafting attorney: Anne Devereaux (202) 622-3850 and Irwin Halpern (202) 622-3850

Reviewing attorney: Barbara A. Felker (202) 622-3850

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RIN: 1545–AC09

2831. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 883; 26 USC 872

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code. This regulation will also provide rules with respect to whether a foreign corporation satisfies the ownership requirements of section 883(c) and the activity requirements of section 883(a).

Timetable:

Action	Date	FR Cite
NPRM	02/08/00	65 FR 6065
Public Hearing	06/08/00	65 FR 6065
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-208280-86 (INTL-948-86)

Drafting attorney: Patricia A. Bray (202) 622-3880

Reviewing attorney: Elizabeth Karzon (202) 622-3880

Treasury attorney: Michael Mundaca (202) 622-1752

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RIN: 1545–AJ57

2832. REGULATIONS UNDER SECTION 367 TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (PUB. L. 98-369)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209042-86 (INTL-610-86)

Drafting attorney: Michael H. Frankel (202) 622-3860

Reviewing attorney: Charlie Besecky (202) 622-3860

CC:INTL

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RIN: 1545–AK74

2833. NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Regulations will also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209039-87 (INTL-491-87)

Drafting attorney: Robert W. Lorence (202) 622-3860

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RIN: 1545–AK79

2834. COMPUTATION OF A BRANCH'S TAXABLE INCOME; TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income. Taxation of exchange gain or loss on branch remittances.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208270-86 (INTL-965-86)

Drafting attorney: Steven D. Jensen (202) 622-3870

Reviewing attorneys: Jeffrey Dorfman and Rebecca I. Rosenberg (202) 622-3870

Treasury attorney: Patrick Brown (202) 622-1754

CC:INTL

Agency Contact: Steven D. Jensen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AM12

2835. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will develop procedures for foreign corporations, or U.S. shareholders to make tax elections in computing functional currency earnings and profits under the 1986 Code.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209022-89 (INTL-087-89)

Drafting attorney: Anne Devereaux (202) 622-3850

Reviewing attorney: Barbara A. Felker (202) 622-3850

CC:INTL

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RIN: 1545–AM90

2836. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—SELF-CHARGED ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0469

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the treatment of self-charged items of income and expense in connection with transactions between passthrough entities and owners of interests in those entities.

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209365-89 (PS-39-89)

Drafting attorney: Danielle M. Grimm (202) 622-3070

Reviewing attorney: Donna M. Young (202) 622-3070

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

Agency Contact: Danielle M. Grimm, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AN64

2837. EARNINGS STRIPPING PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses the deductibility of interest under section 163 being limited when paid by a corporation to related persons not subject to U.S. tax.

Timetable:

Action	Date	FR Cite
NPRM	06/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209059-89 (INTL-870-89)

Drafting attorney: Milton M. Cahn (202) 622-3870

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870

CC:INTL

Agency Contact: Milton M. Cahn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AO24

2838. FRINGE BENEFIT SOURCING UNDER SECTION 861

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the circumstances in which an allocation of income of an individual for the performance of services both within and without the United States is appropriately made only on the time basis.

Timetable:

Action	Date	FR Cite
NPRM	01/21/00	65 FR 3402
Public Hearing	07/18/00	65 FR 3402
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208254-90 (INTL-107-90)

Drafting attorney: David F. Bergkuist (202) 622-3850

Reviewing attorney: Anne Devereaux (202) 622-3850

Treasury attorney: Michael Kirsch (202) 622-0871

CC:INTL

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Phone: 202 622-3850

RIN: 1545–AO72

2839. FOREIGN GRANTOR TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 679

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayers concerning the income tax treatment of transfers by U.S. persons to foreign trusts having U.S. beneficiaries. The amendments will conform to changes made by section 1013 of the Tax Reform Act of 1976 and changes made to section 679 by the Small Business Job Protection Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	08/07/00	65 FR 48185
Public Hearing	11/08/00	65 FR 48185
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209038-89 (INTL-243-89)

Drafting attorney: Willard W. Yates (202) 622-3880

Reviewing attorney: M. Grace Fleeman (202) 622-3880

Treasury attorney: Michael Kirsch (202) 622-0871

CC:INTL

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RIN: 1545–AO75

2840. TAXATION OF GLOBAL TRADING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864; 26 USC 482; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to improve the taxation of global trading.

Timetable:

Action	Date	FR Cite
ANPRM	08/28/90	55 FR 35152
NPRM	03/06/98	63 FR 11177
NPRM Comment Period End	06/04/98	
Hearing	07/14/98	63 FR 11177
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208299-90 (INTL-70-90)

Drafting attorney: Ginny Y. Chung (202) 622-3870

Reviewing attorney: Paul S. Epstein (202) 622-3870

Treasury attorney: Patricia Brown (202) 622-1781

CC:INTL

Agency Contact: Ginny Y. Chung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AP01

2841. CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1.861-8(e) will provide new guidance regarding the allocation of charitable deductions to U.S. or foreign source income. A taxpayer will allocate such a deduction solely to U.S. source income, if he designated the contribution for U.S. use and reasonably believed that it would be so used. He will allocate such a deduction solely to foreign source income, if he knows or has reason to know that it would be used solely outside the United States or that it must necessarily be so used. In all other cases, he would ratably apportion such a deduction.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10395
Hearing	08/01/91	56 FR 23823
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208246-90 (INTL-116-90)

Drafting attorney: Carl M. Cooper (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

Treasury attorney: P. Ann Fisher (202) 622-1755

CC:INTL

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Phone: 202 622-3840

RIN: 1545–AP30

2842. SECTION 1.163-1(B)(2)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 165

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will finalize all outstanding proposed regulations under section 1.163-1(b)(2).

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5316
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208245-90 (INTL-115-90)

Drafting attorney: Carl M. Cooper (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

CC:INTL

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AP33

2843. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 414

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations define the term "highly compensated employee" under section 414(q) of the Code. Temporary and proposed regulations, under sections 414(q) and 414(s), were published February 19, 1988 (53 FR 4965). Final regulations, under section 414(s), were published September 19, 1991 (56 FR 47659) under project EE-129-86. The regulations under 414(q) were split off from project EE-129-86. It is anticipated that final regulations under section 414(q) will be published in the future under project REG-209558-92 (EE-32-92).

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
NPRM Comment Period End	04/19/88	
Partially Closed by TD 8548	06/27/94	59 FR 32911
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Federalism: Undetermined

Additional Information: REG-209558-92

Drafting attorney: R. Lisa Mojiri-Azad (202) 622-6080

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: W. Thomas Reeder (202) 622-1341

CC:TEGE

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Phone: 202 622-6080

RIN: 1545–AQ74

2844. ESCROW FUNDS AND OTHER SIMILAR FUNDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 0468B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Further guidance relating to certain escrow funds and other similar funds.

Timetable:

Action	Date	FR Cite
NPRM	02/01/99	64 FR 4801
NPRM Comment Period End	05/03/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209619-93 (IA-17-93)

Drafting attorney: Marilyn E. Brookens (202) 622-4920

Reviewing attorney: Michael Montemuno (202) 622-4920

CC:IT&A

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RIN: 1545–AR82

2845. PASSIVE FOREIGN INVESTMENT COMPANIES—SPECIAL RULES FOR FOREIGN BANKS AND SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1297

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance for qualifying foreign banks for the exception to passive income characterization for purposes of the income and asset tests of the PFIC provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/28/95	60 FR 20922
Hearing	09/11/95	60 FR 39902
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209733-93 (INTL-65-93)

Drafting attorney: Margaret A. Fung (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

Treasury attorney: Michael Caballero (202) 622-0851

CC:INTL

Agency Contact: Margaret A. Fung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AS46

2846. EFFECT OF THE FAMILY AND MEDICAL LEAVE ACT ON THE OPERATION OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation contains additions to the Income Tax regulations, under section 125 of the Internal Revenue Code, relating to cafeteria plans, to answer a number of questions that have been raised about how the requirements under the Family and Medical Leave Act of 1993, Public Law 103-3, affect the operation of cafeteria plans.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66229
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209767-95 (EE-20-95)

Drafting attorney: Christine Keller (202) 622-6080

Reviewing attorney: Harry Beker (202) 622-6080

Treasury attorney: William Bortz (202) 622-1352

CC:TEGE

Agency Contact: Christine Keller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AT47

2847. PROPOSED REGULATION UNDER SECTIONS 882 AND 884

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0882; 26 USC 0884

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance relating to the treatment of financial instruments and loans between partners and partnerships for purposes of sections 882 and 884.

Timetable:

Action	Date	FR Cite
NPRM	03/08/96	61 FR 9377
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209805-95 (INTL-054-95)

Drafting attorney: Ginny Y. Chung (202) 622-3870

Reviewing attorney: Paul S. Epstein (202) 622-3870

CC:INTL

Agency Contact: Ginny Y. Chung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AT96

2848. TREATMENT OF OBLIGATION-SHIFTING TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations recharacterize obligation-shifting transactions. Obligation-shifting transactions are transactions in which the transferee assumes obligations, or acquires property subject to obligations under an existing lease or similar agreement. The transferor or any other party has already received, or retains the right to receive amounts that are allocable to periods after the transfer. The regulations prevent tax avoidance by recharacterizing obligation-shifting transactions in a manner that clearly reflects the parties' income,

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68175
NPRM Comment Period End	04/08/97	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209817-96 (FI-10-96)

Drafting attorney: Thomas M. Preston (202) 622-3940

Reviewing attorney: William E. Coppersmith (202) 622-3930

Treasury attorney: Michael Novey (202) 622-1339

CC:FI&P

Agency Contact: Thomas M. Preston, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3940

RIN: 1545–AU19

2849. ELECTING SMALL BUSINESS TRUST

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 1361; 26 USC 641

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides necessary guidance for defining and treating electing small business trusts, which are now eligible shareholders of S Corporations, as provided by the Small Business Job Protection Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/29/00	65 FR 82963
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-251701-96

Drafting attorney: James A. Quinn (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&SI

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Phone: 202 622-3060

RIN: 1545–AU76

2850. WITHDRAWAL OF NOTICE OF FEDERAL TAX LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501 of the Taxpayer Bill of Rights 2 amends section 6323 of the Internal Revenue Code to authorize the Secretary to withdraw a notice of Federal tax lien in four enumerated circumstances. Section 501 also provides that upon written request by the taxpayer, the Secretary shall make reasonable efforts to notify any credit reporting agencies and any financial institution or creditor identified by the taxpayer of the withdrawal. The regulations set forth the circumstances in which the Secretary may withdraw a notice of lien and procedures for requesting the Secretary to notify creditors of the withdrawal.

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35102
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101519-97

Drafting attorney: Kevin B. Connelly (202) 622-3630

Reviewing attorney: Robert Miller (202) 622-3630

Treasury attorney: Rita Cavanagh (202) 622-1981

CC:P&A:CB&S

Agency Contact: Kevin B. Connelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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RIN: 1545–AV00

2851. REGULATIONS UNDER SECTION 1441 REGARDING THE ELECTRONIC TRANSMISSION OF WITHHOLDING CERTIFICATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6061; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation pertains to the guidance for the electronic transmission of withholding certificates.

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53504
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107872-97

Drafting attorney: Carl M. Cooper (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

CC:INTL

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV27

2852. EIC ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance to taxpayers who have been denied the earned income credit (EIC) and wish to claim the credit in a subsequent year.

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34615
NPRM Comment Period End	09/23/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-116608-97

Drafting attorney: Karin Loverud (202) 622-6060

Reviewing attorney: Paul Feinberg (202) 622-6000

Treasury attorney: Mark Hoffenberg (202) 622-0869

CC:TEGE

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Phone: 202 622-6060

RIN: 1545–AV61

2853. QUALIFIED ZONE ACADEMY BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide issuers and holders of qualified zone academy bonds (section 1397E of the Code) with formulas for determining the credit rate and maximum maturity of the bonds. The regulations will also provide guidance for the treatment of original issue discount, premium and mid-year sales of the bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/07/98	63 FR 701
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Additional Information: REG-119499-97

Drafting attorney: Timothy L. Jones (202) 622-3980

Reviewing attorney: Rebecca L. Harrigal (202) 622-3980

Treasury attorney: Stephen Watson (202) 622-1322

CC:TE/EG:EOEG:TEB

Agency Contact: Timothy L. Jones, Assistant to the Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AV75

2854. INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 221; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance on the deduction of interest on education loans under section 221.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3257
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-116826-97

Drafting attorney: Nicole E. Francis (202) 622-3653

CC:IT&A

Agency Contact: Nicole E. Francis, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3653

RIN: 1545–AW01

2855. AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1301(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An individual may elect to "income average" any amount of farm income by adding 1/3 of such elected farm income to each of the three prior years' taxable income and calculating the increase in tax for the prior years. The taxable income of the current year is reduced by the elected farm income and the increase in tax liability for the prior three years is added to the current year's tax liability.

Timetable:

Action	Date	FR Cite
NPRM	10/08/99	64 FR 54836
Public Hearing	02/15/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121063-97

Drafting attorney: John Moran (202) 622-4940

Reviewing attorney: Judith M. Wall (202) 622-4940

Treasury attorney: Lily Kahng (202) 622-0160

CC:IT&A

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RIN: 1545–AW05

2856. MARK-TO-MARKET ACCOUNTING FOR DEALERS IN COMMODITIES AND TRADERS IN SECURITIES AND COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 475(g); 26 USC 7805(a)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance concerning mark-to-market accounting for securities traders and commodities dealers and traders.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4374
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-104924-98

Drafting attorney: Jo Lynn Ricks (202) 622-3920

Reviewing attorney: Alvin Kraft (202) 622-3920

CC:FI&P

Agency Contact: Jo Lynn Ricks, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AW06

2857. STOCKS AND SECURITIES SAFE HARBOR EXCEPTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulatory action will amend 26 CFR 1 to clarify and update the safe harbor that one is not engaged in a trade or business as a result of trading in stocks and securities. The amendment will provide additional guidance regarding the definitions of stocks and securities.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32164
Hearing	09/09/98	63 FR 32164
NPRM Comment Period End	09/10/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106031-98

Drafting attorney: Milton M. Cahn (202) 622-3870

Reviewing attorney: Paul S. Epstein (202) 622-3870

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

Agency Contact: Milton M. Cahn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AW13

2858. ELECTION TO TREAT TRUST AS ESTATE—SECTION 645

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 645; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance regarding the operation of section 645.

Timetable:

Action	Date	FR Cite
NPRM	12/18/00	65 FR 79015
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-106542-98

Drafting attorney: Faith Colson (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Beth Kaufman (202) 622-1766

CC:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AW24

2859. CORPORATE TAX SHELTER REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6111

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation project provides guidance on the registration requirements for confidential corporate tax shelters under section 6111(d) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	03/02/00	65 FR 11272
Public Hearing	06/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110311-98

Drafting attorneys: Mary Beth Collins (Carchia) (202) 622-3080 and Catherine Moore (202) 622-3080

Reviewing attorney: Donna Young (202) 622-3070

CC:P&SI

Agency Contact: Mary Beth Collins (Carchia), Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3080

Catherine Moore, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AW26

2860. INTERCOMPANY OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides clarification of the tax treatment of certain transfers of intercompany obligations by or to a member of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	12/18/98	63 FR 70354
NPRM Comment Period End	03/22/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105964-98

Drafting attorney: Heather Johnson (202) 622-7750

Reviewing attorney: Michael Wilder (202) 622-7750

CC:CORP

Agency Contact: Heather Johnson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AW30

2861. DISREGARDED ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance under section 368, regarding corporate transactions involving disregarded entities.

Timetable:

Action	Date	FR Cite
NPRM	05/16/00	65 FR 31115
Comment Period End	08/14/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106186-98

Drafting attorney: Reginald Mombrun (202) 622-7750

Reviewing attorney: Mark Jennings (202) 622-7750

CC:CORP

Agency Contact: Reginald Mombrun, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AW36

2862. PAYMENT OF TAXES BY CREDIT CARD AND DEBIT CARD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6311

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to authorize the Secretary of the Treasury to accept payment of taxes by credit cards and debit cards, pursuant to section 6311 of title 26, as amended by the Tax Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/15/98	63 FR 69031
NPRM Comment Period End	03/15/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-111435-98

Drafting attorney: Robert Taylor (202) 622-4940

Reviewing attorney: Michael Gompertz (202) 622-4940

Treasury attorney: John Parcell (202) 622-2578

CC:P&A:APJP

Agency Contact: Robert Taylor, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AW37

2863. MIDDLEMAN REGULATION UNDER SECTIONS 6041 AND 6045

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6041; 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance on the legal obligation to file information returns by: 1) an intermediary or middleman who makes payments on behalf of another person; and 2) an investment advisor.

Timetable:

Action	Date	FR Cite
NPRM	10/17/00	65 FR 61292
Public Hearing	02/07/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-246249-96

Drafting attorney: Nancy L. Rose (202) 622-4910

Reviewing attorney: Pamela W. Fuller (202) 622-4910

Treasury attorney: Michael Novey (202) 622-1339

CC:PA:APJP

Agency Contact: Nancy L. Rose, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AW48

2864. SPECIAL RULES REGARDING THE SIMPLIFIED PRODUCTION AND RESALE METHODS WITH HISTORIC ABSORPTION RATIO ELECTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 263A; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations that are amended under section 263A relate to the simplified production and resale methods with historic absorption ratio election.

Timetable:

Action	Date	FR Cite
NPRM	05/24/99	64 FR 27936
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-113910-98

Drafting attorney: Cheryl L. Oseekey (202) 622-4970

Reviewing attorney: Thomas Luxner (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

Agency Contact: Cheryl L. Oseekey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AW54

2865. GUIDANCE UNDER SUBPART F RELATING TO CERTAIN HYBRID TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on the treatment under subpart F of certain payments involving branches of a CFC that are treated as separate entities for foreign tax purposes or partnerships in which CFCs are partners.

Timetable:

Action	Date	FR Cite
NPRM	07/13/99	64 FR 37677
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113909-98

Drafting attorney: Valerie A. Mark (202) 622-3840

Reviewing attorney: Phyllis Marcus (202) 622-3840

Treasury attorney: Patrick Brown (202) 622-1754

CC:INTL

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AW63

2866. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 6015

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will provide procedures as are necessary to carry out the provisions of section 6015, including: 1) methods for allocation of items other than the methods under section 6015(d)(3); and 2) providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under section 6015(b) or section 6015(c) by the other individual filing the joint return.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3888
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: REG-106446-98

Drafting attorney: Bridget Finkenaur (202) 622-4940

Reviewing attorney: Judith M. Wall (202) 622-4940

Treasury attorney: Lily Kahng (202) 622-0160

CC:P&A:APJP

Agency Contact: Bridget Finkenaur, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AW64

2867. EDUCATION CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 25A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide individual taxpayers with guidance on the Hope Scholarship Credit and the Lifetime Learning Credit.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 794
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106388-98

Drafting attorney: Donna J. Welch (202) 622-4910

Treasury attorney: Susan Brown (202) 622-0999

CC:P&A:APJP

Agency Contact: Donna J. Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910
Fax: 202 622-6232

RIN: 1545–AW65

2868. INFORMATION REPORTING FOR PAYMENTS OF TUITION AND INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6050S

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations relate to the requirements for filing information returns for payments of qualified tuition and related expenses. The regulations relate to the requirements for filing information returns for interest received on qualified education loans. The regulations prescribe magnetic media filing requirements for these information returns.

Timetable:

Action	Date	FR Cite
NPRM	12/20/00	65 FR 79788
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-105316-98

Drafting attorney: Donna J. Welch (202) 622-4910

Reviewing attorney: John McGreevy (202) 622-4910

Treasury attorney: Susan Brown (202) 622-0999

CC:P&A:APJP

Agency Contact: Donna J. Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910
Fax: 202 622-6232

RIN: 1545–AW67

2869. MODIFICATIONS AND ADDITIONS TO THE UNIFIED PARTNERSHIP AUDIT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6230; 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Regulations modifying the Unified Partnership Audit Procedures. These changes are based on statutory changes enacted in 1997 and 1998. As part of this project, all of the Unified Partnership Audit Procedure regulations will be brought final.

Timetable:

Action	Date	FR Cite
NPRM	01/25/99	64 FR 3886
Cancellation of Public Hearing	04/06/99	64 FR 16640
Correction To NPRM	04/19/99	64 FR 19217
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106564-98

Drafting attorney: Horace Howells (202) 622-3050

Reviewing attorney: Dianna Miosi (202) 622-3050

Treasury attorney: James Sowell (202) 622-5721

CC:P&SI

Agency Contact: Horace Howells, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AW86

2870. COMPROMISES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7122

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to provide expanded compromise authority, pursuant to section 7122 of title 26, as amended by the Restructuring and Reform Act of 1998. Prior to the amendment, doubt as to collectibility, doubt as to liability, or both, were the only grounds for consideration of compromise cases. The goal of this regulation is to permit consideration of other factors in compromising tax liability.

Timetable:

Action	Date	FR Cite
NPRM	07/21/99	64 FR 39106
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116991-98

Drafting attorney: Frederick W. Schindler (202) 622-3620

Reviewing attorney: Kathryn A. Zuba (202) 622-3620

Treasury attorney: Rita Cavanagh (202) 622-1981

CC:P&A:CB&S

Agency Contact: Frederick W. Schindler, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3620

RIN: 1545–AW88

2871. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6330

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance concerning the implementation of section 6330 of title 26, as added by section 3401 of the Internal Revenue Service Restructuring and Reform Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3462
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-117620-98

Drafting attorney: Jerome D. Sekula (202) 622-3610

Reviewing attorney: Alan C. Levine (202) 622-3610

Treasury attorney: Rita Cavanagh (202) 622-1981

CC:P&A:CB&S

Agency Contact: Jerome D. Sekula, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3610

RIN: 1545–AW90

2872. NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6320

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance concerning the implementation of section 6320 of title 26, as added by the Internal Revenue Service Restructuring and Reform Act of 1998 section 3401.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3461
Cancellation of Public Hearing	06/11/99	64 FR 31529
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116824-98

Drafting attorney: Jerome D. Sekula (202) 622-3610

Reviewing attorney: Alan C. Levine (202) 622-3610

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:P&A:CB&S

Agency Contact: Jerome D. Sekula, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3610

RIN: 1545–AW91

2873. CERTAIN ASSET TRANSFERS TO REGULATED INVESTMENT COMPANIES (RICS) AND REAL ESTATE INVESTMENT TRUSTS (REITS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 337(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations implement provisions of the Tax Reform Act of 1986, in accordance with Notice 88-19, 1988-1 C.B. 486.

Timetable:

Action	Date	FR Cite
NPRM	02/03/00	65 FR 5805
Comment Period Ends	04/19/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209135-88

Drafting attorney: Lisa A. Fuller (202) 622-7750

Reviewing attorney: Christopher Schoen (202) 622-7750

CC:CORP

Agency Contact: Lisa A. Fuller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AW92

2874. QUALIFIED OFFERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation regarding the qualified offer rule allowing the recovery of reasonable administrative or litigation costs.

Timetable:

Action	Date	FR Cite
NPRM	01/04/01	66 FR 749
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121928-98

Drafting attorney: Thomas D. Moffitt (202) 622-7900

Reviewing attorney: Henry Schneiderman (202) 622-7820

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:IT&A

Agency Contact: Thomas D. Moffitt, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7900

RIN: 1545–AW99

2875. NOTICE OF CONTACT OF THIRD PARTIES—SECTION 7602(C)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation implements and interprets section 7602(c), concerning third-party contacts, so they can understand how the law will affect them. The Restructuring and Reform Act of 1998, section 3417(a), created a new section 7602(c), which requires that the IRS may not contact third parties with request to the determination or collection of the tax liability of a taxpayer without providing reasonable notice to the taxpayer in advance. It also requires the IRS to keep a list of contacts and provide it periodically to the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	01/02/01	66 FR 77
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104906-99

Drafting attorney: Bryan T. Camp (202) 622-3630

Reviewing attorney: Lawrence Schattner (202) 622-3630

CC:P&A:CB&S

Agency Contact: Bryan T. Camp, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224

Phone: 202 622-3630

RIN: 1545–AX04

2876. ALLOCATION OF RESEARCH CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 41

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on the proper method of computing the research credit for a controlled group. In addition, this regulation will provide guidance on the allocation of the research credit among members of the controlled group.

Timetable:

Action	Date	FR Cite
NPRM	01/04/00	65 FR 258
Public Hearing	04/26/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105606-99

Drafting attorney: Lisa Shuman (202) 622-3120

Reviewing attorney: James Gibbons (202) 622-3120

Treasury attorney: Christopher Ohmes (202) 622-1335

CC:P&SI

Agency Contact: Lisa Shuman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AX05

2877. DELAY RENTAL PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify that section 1.612-3(c) applies to delay rental payments to the extent that section 263A does not require the payments to be capitalized.

Timetable:

Action	Date	FR Cite
NPRM	02/08/00	65 FR 6090
Public Hearing	05/26/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-103882-99

Drafting attorney: Brenda M. Stewart (202) 622-3120

Reviewing attorney: J.H. Makurath (202) 622-3120

Treasury attorney: John Parcell (202) 622-2578

CC:P&SI

Agency Contact: Brenda M. Stewart, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AX06

2878. COORDINATION OF SECTIONS 755 AND 1060

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 755; 26 USC 1060

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for determining the fair market value of partnership assets for the purpose of allocating basis adjustments under sections 732(d), 734(b) and 743(b) among partnership assets under section 755, using the residual method of section 1060.

Timetable:

Action	Date	FR Cite
NPRM	04/05/00	65 FR 17829
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107872-99

Drafting attorney: Craig Gerson (202) 622-3050

Reviewing attorney: Matthew Lay (202) 622-3050

CC:P&SI

Agency Contact: Craig Gerson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AX18

2879. DOLLAR-VALUE LIFO REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 472

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the dollar-value LIFO method, including the inventory price index computation (IPIC) method.

Timetable:

Action	Date	FR Cite
NPRM	05/19/00	65 FR 31841
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-107644-98

Drafting attorney: Jeffery G. Mitchell (202) 622-7804

Reviewing attorney: Eric Pleet (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:IT&A

Agency Contact: Jeffery G. Mitchell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7804

RIN: 1545–AX20

2880. EXCLUSION OF GAIN ON THE SALE OR EXCHANGE OF PRINCIPAL RESIDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 121

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules reflect changes made by the Taxpayer Relief Act of 1997 to sections 121 and 1034 of the Code, relating to the exclusion of gain from the sale or exchange of a taxpayer's principal residence.

Timetable:

Action	Date	FR Cite
NPRM	10/10/00	65 FR 60136
Public Hearing	01/23/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105235-99

Drafting attorney: Marilyn E. Brookens (202) 622-4920

Reviewing attorney: George B. Baker (202) 622-4920

Treasury attorney: Lily Kahng (202) 622-0160

CC:IT&A

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RIN: 1545–AX28

2881. CHANGES IN ENTITY CLASSIFICATION: SPECIAL RULE FOR CERTAIN FOREIGN ELIGIBLE ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation provides rules relating to certain conversions of foreign eligible entities under the entity classification rules.

Timetable:

Action	Date	FR Cite
NPRM	11/29/99	64 FR 66591
Public Hearing	01/31/00	
NPRM Comment Period End	02/28/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-110385-99

Drafting attorney: Mark D. Harris (202) 622-3050

Reviewing attorney: Philip Tretiak (202) 622-3860

CC:INTL

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Phone: 202 622-3860

RIN: 1545–AX39

2882. AGENT FOR THE GROUP UNDER SECTION 1.1502-77

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation revises the rules under section 1.1502-77 governing the common parent as agent for the consolidated group and the designation of a new agent when the common parent ceases to exist; revises the rule under section 1.1502-78 for an application for carryback adjustment with respect to a loss a rising in another consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	09/26/00	65 FR 57755
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103805-99

Drafting attorney: George Robert Johnson (202) 622-7930

Drafting attorney: Gerald B. Fleming (202) 622-7770

Reviewing attorney: Steven J. Hankin (202) 622-7930

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:CORP

Agency Contact: George Robert Johnson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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RIN: 1545–AX56

2883. STOCK TRANSFER RULES: CARRYOVER OF EARNINGS AND TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This rule provides guidance with respect to how earnings and profits and foreign income tax accounts carry over under section 381 and are allocated under section 312 in certain transactions described in section 367(b).

Timetable:

Action	Date	FR Cite
NPRM	11/15/00	65 FR 69138
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-116050-99

Drafting attorney: Anne Devereaux (202) 622-3850

Reviewing attorney: Irwin Halpern (202) 622-3850

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

Sectors Affected: None

Agency Contact: Anne Devereaux, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–AX65

2884. LOANS UNDER SECTION 72(P)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loans rules are provided in section 72(p) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	07/31/00	65 FR 46677
Notice of Public Hearing	12/06/00	65 FR 76194
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-116495-99

Drafting attorney: Vernon Carter (202) 622-6070

Reviewing attorney: Alan Tawshunsky (202) 622-6000

Treasury attorney: William Bortz (202) 622-1352

CC:TEGE

Agency Contact: Vernon Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AX68

2885. DISCLOSURES OF RETURN INFORMATION TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE FOR CERTAIN STATISTICAL PURPOSES AND RELATED ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6103(j)(5)

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation will allow the IRS to disclose return information to the Department of Agriculture for purposes of the Census of Agriculture. The disclosure of the specific items of return information identified in the regulation is necessary in order for the Department of Agriculture to accurately identify, locate, and classify, as well as properly process information from, agricultural businesses to be surveyed for the statutorily mandated Census of Agriculture.

Timetable:

Action	Date	FR Cite
NPRM	01/04/00	65 FR 215
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: REG-116704-99

Drafting attorney: Jennifer S. McGinty (202) 622-4580

Reviewing attorney: David Fish (202) 622-4580

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&A:D&PL

Agency Contact: Jennifer S. McGinty, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4580

RIN: 1545–AX69

2886. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for the allocation and apportionment of interest expenses and certain other expenses for purposes of the foreign tax credit and certain other international tax provisions.

Timetable:

Action	Date	FR Cite
NPRM	02/05/90	55 FR 3750
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-117608-99

Drafting attorney: David F. Bergkuist (202) 622-3850

Reviewing attorney: Michael Cornett (202) 622-3800

Treasury attorney: Michael Corwin (202) 622-1317

CC:INTL

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Phone: 202 622-3850

RIN: 1545–AX72

2887. CLARIFICATION OF ENTITY CLASSIFICATION RULES REGARDING ENTITIES CLASSIFIED AS CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation provides a special rule to clarify the per se list of corporate entities.

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 2854
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101739-00

Drafting attorney: Camille B. Evans (202) 622-3860

Reviewing attorney: Philip Tretiak (202) 622-3860

CC:INTL

Agency Contact: Camille B. Evans, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AX75

2888. REQUIREMENT TO MAINTAIN LIST OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6112; 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: These regulations require the maintenance of lists of investors in potentially abusive tax shelters described in section 6112.

Timetable:

Action	Date	FR Cite
NPRM	03/02/00	65 FR 11271
Public Hearing	06/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103736-00

Drafting attorneys: Mary Beth Collins (Carchia) (202) 622-3080 and Catherine Moore (202) 622-3080

Reviewing attorney: Donna Young (202) 622-3000

CC:P&SI

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Phone: 202 622-3080

RIN: 1545–AX79

2889. TAX SHELTER DISCLOSURE STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6011; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations require certain corporate taxpayers to file a statement under section 6011 and maintain certain documents under section 6001.

Timetable:

Action	Date	FR Cite
NPRM	03/02/00	65 FR 11269
Public Hearing	06/20/00	65 FR 11270
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103735-00

Drafting attorneys: Mary Beth Collins (Carchia) (202) 622-3080 and Catherine Moore (202) 622-3080

Reviewing attorney: Donna Young (202) 622-3000

CC:P&SI

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RIN: 1545–AX81

2890. HIPAA PORTABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans regarding the limitations on imposing pre-existing condition exclusions and the special enrollment rules. These regulations also provide guidance regarding plans and benefits that are not subject to these rules.

Timetable:

Action	Date	FR Cite
NPRM	04/08/97	62 FR 16977
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-119828-99

Drafting attorney: Russell Weinheimer (202) 622-6080

Reviewing attorney: Alan Tawshunsky (202) 622-6000

Treasury attorney: Kevin Knopf (202) 622-2329

CC:TEGE

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AX84

2891. DISCLOSURE OF RETURN AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6103(c)

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The purpose of this regulation is to implement the amendment contained in the Taxpayer Bill of Rights II (TBOR II) to Internal Revenue Code section 6103(c). TBOR II eliminated the requirement for a request or consent for disclosure to be in writing. The proposed regulations would permit the Internal Revenue Service to disclose returns and return information to a taxpayer's designee, pursuant to a non-written request for or consent to disclosure. The regulations will also provide rules and guidance for consent in an electronic environment. Additionally, the regulations will provide guidance to Internal Revenue Service personnel to clarify a number of issues that have arisen since the regulation was initially promulgated in the late 1970s.

Timetable:

Action	Date	FR Cite
NPRM	01/11/01	66 FR 2373
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-103320-00

Drafting attorney: Joseph E. Conley (202) 622-4570

Reviewing attorney: David Fish (202) 622-4570

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&A:D&PL

Agency Contact: Joseph E. Conley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4570

RIN: 1545–AX85

2892. APPLICATION OF SEPARATE FOREIGN TAX CREDIT LIMITATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 904; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation clarifies the application of separate foreign tax credit limitations under section 904(d) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 319
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104683-00

Drafting attorney: Bethany Ingwalson (202) 622-3850

Reviewing attorney: Barbara Felker (202) 622-3850

Treasury attorney: Michael Caballero (202) 622-0851

This regulation is related to REG-106409-00 (1545-AY29)

CC:INTL

Agency Contact: Bethany Ingwalson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AX88

2893. DEFINITION OF INCOME UNDER SECTION 643

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 643; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance under section 643 on whether State law definition of trust income is trust income for Federal tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	02/15/01	66 FR 1039
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-106513-00

Drafting attorney: Bradford R. Poston (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Beth Kaufman (202) 622-1766

CC:P&SI

Agency Contact: Bradford R. Poston, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AX96

2894. REGULATIONS GOVERNING PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 330

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: 31 U.S.C. 330 authorizes the Secretary of the Treasury to regulate the practice of representatives before the Department and, after notice and opportunity for a proceeding, to suspend or disbar from practice those representatives who are incompetent, disreputable, or dishonest. The Secretary has published regulations in Circular No. 230 (31 CFR 10) pursuant to this authority, which he amends from time to time.

Timetable:

Action	Date	FR Cite
ANPRM	05/05/00	65 FR 30375
NPRM	01/12/01	66 FR 3726
Public Hearing	05/02/01	66 FR 3277
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-111835-99

Drafting attorney: Brinton T. Warren (202) 622-4940

Reviewing attorney: Richard Goldstein (202) 622-7880

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:P&A:APJP

Agency Contact: Brinton T. Warren, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AY07

2895. CLASSIFICATION OF CERTAIN EMPLOYEE BENEFIT TRUSTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the classification of certain employee benefit trusts under 7701(a)(30) and (31) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60822
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-108553-00

Drafting attorney: James A. Quinn (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Beth Kaufman (202) 622-1766

CC:P&SI

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Phone: 202 622-3060

RIN: 1545–AY09

2896. GUIDANCE UNDER SECTION 6302 REGARDING THE FEDERAL TAX DEPOSIT SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations remove Federal Reserve banks as depositaries for Federal tax deposits.

Timetable:

Action	Date	FR Cite
NPRM	12/28/00	65 FR 81453
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107176-00

Drafting attorney: Brinton T. Warren (202) 622-4940

Reviewing attorney: Judith M. Wall (202) 622-4940

CC:P&A:APJP

Agency Contact: Brinton T. Warren, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AY10

2897. BROKER'S COMMISSIONS AND SIMILAR FEES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance on when broker's fees can be treated as qualified administrative costs for purposes of the arbitrage restrictions under section 148.

Timetable:

Action	Date	FR Cite
NPRM	08/17/99	64 FR 46876
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: REG-105376-00

Drafting attorney: Timothy L. Jones (202) 622-3980

CC:TEGE

Agency Contact: Timothy L. Jones, Assistant to the Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AY15

2898. CHECK THE BOX REGULATIONS—AMENDMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation will provide that, for purposes of section 332, a plan of liquidation is deemed adopted immediately before a deemed liquidation pursuant to an elective change in entity classification.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3959
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-110659-00

Drafting attorney: David Sotos (202) 622-3050

Reviewing attorney: Jeanne Sullivan (202) 622-3050

Treasury attorney: James Sowell (202) 622-5721

CC:P&SI

Agency Contact: David Sotos, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AY16

2899. "AUTHORIZED PLACEMENT AGENCY" UNDER SECTION 152

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 152

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations amend the definition of "authorized placement agency" (for purposes of determining whether a child placed for legal adoption in a taxpayer's home is a dependent of the taxpayer) to include biological parents and other persons authorized by State law to place children for legal adoption.

Timetable:

Action	Date	FR Cite
NPRM	11/30/00	65 FR 71277
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107279-00

Drafting attorney: Elizabeth K. Kaye (202) 622-4910

Reviewing attorney: Pamela W. Fuller (202) 622-4910

CC:P&A:APJP

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RIN: 1545–AY18

2900. DISQUALIFIED PERSONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 1031

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations narrow the definition of the term "disqualified person" so that banks and bank subsidiaries may still serve as qualified intermediaries, even if an investment banker or broker is a member of the same control group.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3924
Public Hearing	06/05/01	66 FR 3925
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-107175-00

Drafting attorney: J. Peter Baumgarten (202) 622-4950

Reviewing attorneys: Kelly Alton (202) 622-4950 and Linda Kroening (202) 622-4800

CC:IT&A

Agency Contact: J. Peter Baumgarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4950

RIN: 1545–AY19

2901. RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 684

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Internal Revenue Code section 684 generally provides that, except as otherwise provided in regulations, gain shall be recognized on the transfer of property by a United States person to a foreign estate or trust, unless, in the case of a trust, a United States person is treated as the owner of such trust under Code section 671. These regulations are intended to implement the statutory authority to provide exceptions to the section 684 general rule of gain recognition.

Timetable:

Action	Date	FR Cite
NPRM	08/07/00	65 FR 48198
Public Hearing	11/08/00	65 FR 48198
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: REG-108522-00

Drafting attorney: Karen Rennie Quarrie (202) 622-3880

Reviewing Attorney: M. Grace Fleeman (202) 622-3880

Treasury attorney: Michael Kirsch (202) 622-0871

CC:INTL

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RIN: 1545–AY25

2902. NONDISCRIMINATION REQUIREMENTS FOR CERTAIN DEFINED CONTRIBUTION RETIREMENT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 401

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will revise the requirements for qualified defined contribution plans that are tested for compliance with the nondiscrimination rules on a benefits basis.

Timetable:

Action	Date	FR Cite
NPRM	10/06/00	65 FR 59774
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114697-00

Drafting attorney: Linda S.F. Marshall (202) 622-6090

Reviewing attorney: Marjorie Hoffman (202) 622-6000

Treasury attorney: Harlan Weller (202) 622-1001

CC:TEGE

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Phone: 202 622-6090

RIN: 1545–AY36

2903. REGULATIONS IMPLEMENTING SECTION 420(C)(3)(E)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 420(c)(3)(E) of the Internal Revenue Code directs the Secretary of the Treasury to prescribe such regulations as may be necessary to prevent an employee, who significantly reduces retiree health coverage during the cost maintenance period, from being treated as satisfying the minimum cost requirement.

Timetable:

Action	Date	FR Cite
NPRM	01/05/01	66 FR 1066
Public Hearing	03/15/01	66 FR 1066
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-116468-00

Drafting attorneys: Vernon Carter (202) 622-6070 and Janet Laufer (202) 622-6060

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Treasury attorney: Harlan Weller (202) 622 1001

CC:TEGE

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RIN: 1545–AY43

2904. SPECIAL RULES FOR S CORPORATIONS UNDER SECTION 301.7701(B)-7

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 301; 26 CFR 601

Legal Deadline: None

Abstract: The regulation will provide rules that will permit a dual resident S Corporation shareholder, who has claimed a treaty benefit, to be treated as a U.S. resident for purposes of section 1361(a)(1) of the Code.

Timetable:

Action	Date	FR Cite
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: REG-209720-94 (INTL-40-94)

Drafting attorney: David A. Juster (202) 622-3850

Reviewing attorney: Barbara Felker (202) 622-3850

The Notice of Proposed Rulemaking was originally published under RIN-1545-AS88.

This regulation project was previously part of REG-208214-90

(INTL-121-90) RIN-1545-AP35.

CC:INTL

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RIN: 1545–AY44

2905. GUIDANCE UNDER SUBPART F RELATING TO PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance for the treatment under subpart F of a controlled foreign corporation partners distributive share of subpart F income.

Timetable:

Action	Date	FR Cite
NPRM	09/20/00	65 FR 56836
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: REG-112502-00

Drafting attorney: Valerie A. Mark (202) 622-3840

Reviewing attorney: Phyllis Marcus (202) 622-3840

Treasury attorney: Patrick Brown (202) 622-1754

CC:INTL

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RIN: 1545–AY45

2906. • 6302 DE MINIMIS THRESHOLD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302; 26 USC 7805

CFR Citation: 31 CFR 6302

Legal Deadline: None

Abstract: This regulation will increase the de minimus deposit rule for quarterly and annual return periods from $1,000 to $2,500.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76194
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-114423-00

Drafting attorney: Brinton T. Warren (202) 622-4940

Reviewing attorney: Judith M. Wall (202) 622-4940

Treasury attorney: Stephanie Robinson (202) 622-9858

CC:PA:AP JP

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RIN: 1545–AY47

2907. • DISCLOSURE OF RETURN INFORMATION TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF COMMERCE FOR CERTAIN STATISTICAL PURPOSES AND RELATED ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations relate to additions to the list of items of information disclosed to the Bureau of the Census for use in the Longitudinal Employer-Household Dynamics (LEHD) project and the Survey of Income and Program Participation (SIPP) project.

Timetable:

Action	Date	FR Cite
NPRM	02/13/01	66 FR 9991
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: REG-121109-00

Drafting attorney: Stuart D. Murray (202) 622-4580

Reviewing attorney: David Fish (202) 622-4580

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:PA:DPL

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Phone: 202 622-4580

RIN: 1545–AY52

2908. • TIME FOR FILING FORM 1139 BY A CONSOLIDATED GROUP

Priority: Info./Admin./Other

Legal Authority: 26 USC 6411; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation addresses the time for filing an application for a tentative carryback adjustment (Form 1139) by a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	01/04/01	66 FR 747
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-119352-00

Drafting attorneys: Christopher M. Bass (202) 622-7770 and Frances Kelly (202) 622-7770

Reviewing attorney: Edward S. Cohen (202) 622-7770

Treasury attorney: Audrey Nacamuli (202) 622-0869

CC:CORP

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Frances Kelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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RIN: 1545–AY58

2909. • GUIDANCE UNDER SECTION 1275(A)(1)(B)(II)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations address what is an insurance company subject to tax under subchapter L for purpose of section 1275(a)(1)(B)(ii).

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 2852
Public Hearing	05/30/01	66 FR 2852
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-125237-00

Drafting attorney: Patrick E. White (202) 622-3920

Reviewing attorney: Mark S. Smith (202) 622-3970

Treasury attorney: Michael S. Novey (202) 622-1339

CC:FI&P

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RIN: 1545–AY60

2910. • GUIDANCE ON REPORTING OF DEPOSIT INTEREST PAID TO NONRESIDENT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance on the reporting requirements for interest on deposits maintained at the U.S. office of certain financial institutions and paid to NRAs. These proposed regulations affect persons making payment of interest with respect to such a deposit.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3925
Hearing	01/17/01	66 FR 3925
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-126100-00

Drafting attorney: Kate Y. Hwa (202) 622-3840

Reviewing Attorney: Philip Garlett (202) 622-3840

Treasury Attorney: Patrick Brown (202) 622-1754

Agency Contact: Kate Y. Hwa, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
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RIN: 1545–AY62

2911. • EXCISE TAXES ON EXCESS BENEFIT TRANSACTIONS

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 4958

CFR Citation: 26 CFR 53; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: Section 4958 of the IRC imposes excise taxes on transactions between certain tax exempt organizations and persons in a position to exercise substantial influence over the affairs of the organization, where the transactions are at greater than fair market value. These regulations will clarify certain definitions rules in section 4958.

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 2173
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: REG-246256-96

Drafting attorney: Phyllis D. Haney (202) 622-4290

Reviewing attorneys: Paul Feinberg (202) 622-6000 and Paul Accettura (202) 622-6070

Treasury attorney: Susan Brown (202) 622-0999

CC:TEGE

Agency Contact: Phyllis D. Haney, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4290

RIN: 1545–AY65

2912. • TAX TREATMENT OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 125

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides information about the tax treatment of cafeteria plans.

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 1923
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: REG-209461-79

Drafting attorney: Christine Keller (202) 622-6080

Reviewing attorney: Harry Beker (202) 622-6080

CC:TEGE

Agency Contact: Christine Keller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AY67

2913. • DISCLOSURE OF RETURNS AND RETURN INFORMATION OF OTHER AGENCIES (TEMPORARY)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This temporary regulation permits the Commissioner to authorize agencies with access to returns and return information under section 6103 of the Code to redisclose such returns and return information, with the Commissioner's approval, to the Congressional Budget Office and other agencies authorized to receive such information in accordance with IRC section 6103.

TREAS—IRS — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Temporary Regulation	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: REG-105344-01

Drafting attorney: Julie C. Schwartz (202) 622-4570

Reviewing attorney: David L. Fish (202) 622-4580

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:P&A:D&PL

Agency Contact: Julie C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4570

RIN: 1545–AY78

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Long-Term Actions

2914. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO AND POSSESSION TAX CREDIT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: W. Edward Williams
Phone: 202 622-3880

RIN: 1545–AC10

2915. GOLDEN PARACHUTE PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Hearing	11/21/89	54 FR 39548
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Misner
Phone: 202 622-6060

RIN: 1545–AH49

2916. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION, AND OTHER SPECIAL RULES FOR FSC

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Douglas Giblen
Phone: 202 874-1490

RIN: 1545–AI16

2917. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61373
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Amanda A. Ehrlich
Phone: 202 622-3880

RIN: 1545–AJ93

2918. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jean Marie Casey
Phone: 202 622-6030

RIN: 1545–AN40

2919. CBI INVESTMENTS OF SECTION 936 FUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	56 FR 21963
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: W. Edward Williams
Phone: 202 622-3880

RIN: 1545–AM91

2920. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 28374
NPRM Comment Period End	07/12/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jean Marie Casey
Phone: 202 622-6030

RIN: 1545–AN40

TREAS—IRS — **Long-Term Actions**

2921. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62251
NPRM Comment Period End	03/01/93	
Hearing	04/06/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Martin Scully
Phone: 202 622-4960

RIN: 1545–AN73

2922. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 290
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl M. Cooper
Phone: 202 622-3840

RIN: 1545–AO22

2923. GUIDANCE IN NOTICE 89-37, WHICH TREATS THE RECEIPT OF A CORPORATE PARTNER'S STOCK BY THE CORPORATE PARTNER AS A CIRCUMVENTION OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59324
NPRM Comment Period End	01/20/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith E. Stanley
Phone: 202 622-7530

RIN: 1545–AP52

2924. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne Devereaux
Phone: 202 622-3850

RIN: 1545–AQ55

2925. INTEREST-FREE ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58423
NPRM Comment Period End	02/08/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AQ61

2926. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTIONS 101, 7702 AND 7702A OF THE INTERNAL REVENUE CODE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	
Hearing	03/19/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ann H. Logan
Phone: 202 622-3970

RIN: 1545–AQ70

2927. MARK-TO-MARKET UPON DISPOSITION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 397
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert B. Williams
Phone: 202 622-3960

RIN: 1545–AS85

2928. STRADDLES—MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21482
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Christman
Phone: 202 622-3950

RIN: 1545–AT46

2929. ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/22/95	60 FR 66532
NPRM Comment Period End	03/21/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet A. Laufer
Phone: 202 622-6060
Fax: 202 622-4084

RIN: 1545–AT82

2930. APPLICATION OF GRANTOR TRUST RULES TO NONEXEMPT EMPLOYEES' TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/27/96	61 FR 50778
NPRM Comment Period End	12/26/96	
Hearing	01/15/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: M. Grace Fleeman
Phone: 202 622-3880

Linda S.F. Marshall
Phone: 202 622-6090

James A. Quinn
Phone: 202 622-3060

RIN: 1545–AU29

2931. RECOMPUTATION OF LIFE INSURANCE RESERVES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 71

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mark S. Smith
Phone: 202 622-3970

RIN: 1545–AU49

2932. FASIT—START-UP/OPERATIONAL/TRANSITION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301; 26 CFR 1

Timetable:

Action	Date	FR Cite
ANPRM	11/04/96	61 FR 56648
ANPRM Comment Period End	12/31/96	
NPRM	02/07/00	65 FR 5807

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Courtney Shepardson
Phone: 202 622-3930

RIN: 1545–AU94

2933. DEFINITION OF "PRIVATE ACTIVITY BONDS"—ALLOCATION AND ACCOUNTING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce M. Serchuk
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU98

2934. REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67780

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Cathy A. Vohs
Phone: 202 622-6090

RIN: 1545–AV82

2935. ALLOCATION OF LOSS ON DISPOSITION OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/11/99	64 FR 1571
Cancellation of Public Hearing	05/14/99	64 FR 26348

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850

RIN: 1545–AW09

2936. CONVERSION TO THE EURO

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/29/98	63 FR 40383
NPRM Comment Period End	10/01/98	
Hearing Cancelled	10/16/98	63 FR 55564

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John W. Rogers
Phone: 202 622-3870

RIN: 1545–AW43

2937. SOURCE OF INCOME FOR SPACE AND CERTAIN OCEAN ACTIVITIES AND FOR COMMUNICATIONS INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3903
Hearing	03/28/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne Shelburne
Phone: 202 874-1490

RIN: 1545–AW50

2938. TRANSFER OF REMIC RESIDUAL INTEREST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/07/00	65 FR 5807

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Courtney Shepardson
Phone: 202 622-3930

RIN: 1545–AW98

2939. QUALIFIED ZONE ACADEMY BONDS CREDIT RATE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/01/99	64 FR 35579

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allan B. Seller
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AX03

2940. CHANGE OF ANNUAL ACCOUNTING PERIOD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Martin Scully
Phone: 202 622-4960

RIN: 1545–AX15

2941. GUARANTEED INVESTMENT CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/27/99	64 FR 46876

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rose M. Weber
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AX22

2942. SPECIAL RULES FOR RETROACTIVE PAYMENTS UNDER SECTION 417(A)(7)(A) FOR QUALIFIED RETIREMENT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3916

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Marjorie Hoffman
Phone: 202 622-6030

Robert M. Walsh
Phone: 202 622-6090

RIN: 1545–AX34

2943. DEFINITION OF PRIVATE ACTIVITY BOND—REFUNDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce M. Serchuk
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AX55

2944. EQUITY OPTIONS WITH FLEXIBLE TERMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4751

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Pamela Lew
Phone: 202 622-3950
Fax: 202 622-5699

RIN: 1545–AX66

2945. CAPITALIZATION OF INTEREST AND CARRYING CHARGES PROPERLY ALLOCABLE TO STRADDLES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4746

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Christman
Phone: 202 622-3950

RIN: 1545–AX92

2946. AUTOMATIC EXTENSION FOR FORM 706

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 20

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63025

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Mary Berman
Phone: 202 622-3090

RIN: 1545–AX98

2947. HEDGING TRANSACTIONS UNDER SECTION 1221(A)(7) AND SECTION 446

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4738

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jo Lynn Ricks
Phone: 202 622-3920

RIN: 1545–AY02

2948. INVESTMENT TYPE PROPERTY (PREPAYMENT)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/25/99	64 FR 46320
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Johanna L. Som de Cerff
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AY12

2949. INTEREST FREE ADJUSTMENTS UNDER SECTION 6205

Priority: Info./Admin./Other

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3956
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Lynne A. Camillo
Phone: 202 622-6040

RIN: 1545–AY21

2950. HIPAA GENERAL NONDISCRIMINATION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1435
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Weinheimer
Phone: 202 622-6080

RIN: 1545–AY32

2951. HIPAA NONDISCRIMINATION/EXCEPTION FOR CHURCH PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/10/01	66 FR 1437
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Weinheimer
Phone: 202 622-6080

RIN: 1545–AY33

2952. HIPAA NONDISCRIMINATION/BONA FIDE WELLNESS PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1421
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Weinheimer
Phone: 202 622-6080

RIN: 1545–AY34

2953. • NOTICE TO INTERESTED PARTIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: These regulations set forth the applicable standards by which a plan sponsor may satisfy the notice to interested parties requirement. Before the Service can issue a determination letter, a plan sponsor must provide evidence that it has notified all persons who qualify as interested parties that an application for an advance determination will be filed regarding the qualification of the sponsor's plan. The proposed regulations affect retirement plan sponsors, interested parties, and certain representatives of interested parties.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3954
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-129608-00

Drafting attorney: Pamela R. Kinard (202) 622-6060

Reviewing attorney: Marjorie Hoffman (202) 622-6060

Treasury attorney: W. Thomas Reeder (202) 622-1341

CC:TEGE

Agency Contact: Pamela R. Kinard, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AY68

2954. • REQUIRED DISTRIBUTIONS FROM RETIREMENT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: This document amends the Income Tax Regulations (26 CFR part 1) and the Pension Excise Taxes Regulations (26 CFR part 54) under sections 401, 403, 408, and 4974 of the Internal Revenue Code of 1986. These amendments are proposed to conform the regulations to sections 1121 and 1852 of the Tax Reform Act of 1986 (TRA of 1986) (100 Stat. 2464 and 2864), sections 521 and 713 of the Tax Reform Act of 1984 (TRA of 1984) (98 Stat. 865 and 955), sections 242 and 243 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (96 Stat. 521), and section 1404 of the Small Business Job Protection Act of 1996 (SBJPA) 110 Stat. 1791. The regulations provide guidance on the minimum distribution requirements under section 401(a)(9) for plans qualified under section 401(a). The rules are incorporated by reference for other retirement plans under section 408(a)(3) and (b)(6) for IRAs, section 403(b)(10) for tax sheltered annuities, and section 457(d) for eligible deferred compensation plans. Comprehensive proposed regulations under section 401(a)(9) were previously published in 1987. In 1997, amendments to those proposed regulations were published addressing the limited issue of trusts as designated beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3928
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-130477-00

Drafting attorney: Cathy A. Vohs (202) 622-6090

Reviewing attorney: Marjorie Hoffman (202) 622-6090

Treasury attorney: W. Thomas Reeder (202) 622-1341

CC:TEGE

Agency Contact: Cathy A. Vohs, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6090

RIN: 1545–AY69

2955. • REQUIRED DISTRIBUTIONS FROM RETIREMENT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) and to the Pension Excise Taxes Regulations (26 CFR part 54) under sections 401, 403, 408, and 4974 of the Internal Revenue Code of 1986. These amendments are proposed to conform the regulations to sections 1121 and 1852 of the Tax Reform Act of 1986 (TRA of 1986) (100 Stat. 2464 and 2864), sections 521 and 713 of the Tax Reform Act of 1984 (TRA of 1984) (98 Stat. 865 and 955), sections 242 and 243 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (96 Stat. 521), and section 1404 of the Small Business Job Protection Act of 1996 (SBJPA) 110 Stat. 1791. The regulations provide guidance on the minimum distribution requirements under section 401(a)(9) for plans qualified under section 401(a). The rules are incorporated by reference for other retirement plans under section 408(a)(3) and (b)(6) for IRAs, section 403(b)(10) for tax sheltered annuities, and section 457(d) for eligible deferred compensation plans. Comprehensive proposed regulations under section 401(a)(9) were previously published in 1987. In 1997, amendments to those proposed regulations were published addressing the limited issue of trusts as designated beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	01/17/01	66 FR 3928
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-130481-00

Drafting attorney: Cathy A. Vohs (202) 622-6090

Reviewing attorney: Marjorie Hoffman (202) 622-6090

Treasury attorney: W. Thomas Reeder (202) 622-1341

CC:TEGE

Agency Contact: Cathy A. Vohs, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6090

RIN: 1545–AY70

2956. • OBLIGATION OF STATES AND POLITICAL SUBDIVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides guidance to State and local governments that issue bonds for output facilities. This document also withdraws the NPRM REG-110965-97, 1545-AV47, published on January 22, 1998 (63 FR 3296).

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4754
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: REG-114998-99

Drafting attorney: Rose M. Weber (202) 622-3980

Reviewing attorney: Bruce M. Serchuk (202) 622-3980

Treasury attorney: Stephen J. Watson (202) 622-1322

CC:TEGE

The Notice of Proposed Rulemaking partially withdraws the NPRM REG-110965-97, 1545-AV47 published on Jan. 22, 1998 (63 FR 3296).

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RIN: 1545–AY71

2957. • WITHDRAWAL OF SECTION 301.6656-1 AND SECTION 301.6656-2

Priority: Info./Admin./Other

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation provides the withdrawal of Treasury regulations relating to the penalty for underpayment of deposits (section 301.6656-1) and the penalty for overstated deposit claims (section 301.6656-2).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-108790-01

Drafting attorney: Robin Marie Tuczak (202) 622-7132

Reviewing attorney: Charles Hall (202) 622-7940

CC:P&A:APJP

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Phone: 202 622-7132

RIN: 1545–AY79

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

2958. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Withdrawn	01/22/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Janet A. Laufer
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Fax: 202 622-4084
RIN: 1545–AG14

2959. CREDIT FOR INCREASING RESEARCH ACTIVITIES

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 602; 26 CFR 1
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8930	01/03/01	66 FR 280

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Leslie H. Finlow
Phone: 202 622-7860

Lisa Shuman
Phone: 202 622-3120
RIN: 1545–AO51

2960. ACCOUNTING FOR LONG-TERM CONTRACTS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1; 26 CFR 301
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8929	01/11/01	66 FR 2219

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Leo F. Nolan
Phone: 202 622-4960
RIN: 1545–AQ30

2961. RESEARCH CREDIT II

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8930	01/03/01	66 FR 280

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Lisa Shuman
Phone: 202 622-3120

Leslie H. Finlow
Phone: 202 622-7860
RIN: 1545–AV14

2962. ELECTRONIC TIP REPORTING

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 31
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8910	12/13/00	65 FR 77818

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Karin Loverud
Phone: 202 622-6060
RIN: 1545–AV28

2963. REMOVAL OF TEMPORARY REGULATIONS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 5c
Completed:

Reason	Date	FR Cite
Closed Without Regulations	01/29/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Beverly A. Baughman
Phone: 202 622-4940
RIN: 1545–AV36

2964. CLARIFICATION OF 4958 EXCISE TAXES

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 53; 26 CFR 301
Completed:

Reason	Date	FR Cite
Withdrawn	01/10/01	

Regulatory Flexibility Analysis Required: Yes
Government Levels Affected: None
Agency Contact: Phyllis D. Haney
Phone: 202 622-4290
RIN: 1545–AV60

2965. CONTINUITY OF INTEREST

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8898	08/31/00	65 FR 52909

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Marie Byrne
Phone: 202 622-7750
RIN: 1545–AV81

2966. DISCLOSURE OF RETURN INFORMATION TO THE BUREAU OF THE CENSUS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 301
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8811	01/25/99	64 FR 3631

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Stuart D. Murray
Phone: 202 622-4580
RIN: 1545–AV84

2967. RELIEF FOR PRESIDENTIALLY DECLARED DISASTER

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8911	12/15/00	65 FR 78409

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Bridget Finkenaur

TREAS—IRS

Completed Actions

Phone: 202 622-4940
RIN: 1545–AV92

2968. MERCHANDISE

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Withdrawn	02/28/01	

Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: None
Agency Contact: Cheryl L. Oseekey
Phone: 202 622-4970
RIN: 1545–AW00

2969. HIPAA NONDISCRIMINATION RULES

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 54
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8931	01/10/01	66 FR 1378
60-Day Delay of Effective Date	03/09/01	66 FR 14076

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Russell Weinheimer
Phone: 202 622-6080
RIN: 1545–AW02

2970. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1; 26 CFR 602
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8901	09/05/00	65 FR 53584

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Paul F. Handleman
Phone: 202 622-3040
Fax: 202 622-4753
RIN: 1545–AW16

2971. DEFINITION OF CONTRIBUTION IN AID OF CONSTRUCTION UNDER SECTION 118(C)

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1; 26 CFR 602
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8936	01/11/01	66 FR 2252

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Paul F. Handleman
Phone: 202 622-3040
Fax: 202 622-4753
RIN: 1545–AW17

2972. CAPITAL GAINS AND PARTNERSHIP PROVISIONS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8902	09/21/00	65 FR 57092

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Jeanne Sullivan
Phone: 202 622-3050
RIN: 1545–AW22

2973. GRAT AND NOTES

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8899	09/05/00	65 FR 53587

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: James F. Hogan
Phone: 202 622-3090
RIN: 1545–AW25

2974. SECTION 411(D)(6); PROTECTED BENEFITS EXCEPTIONS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8900	09/06/00	65 FR 53901

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Linda S.F. Marshall
Phone: 202 622-6090
RIN: 1545–AW27

2975. SECTION 148—CLARIFICATION OF THE TREATMENT OF PREPAYMENTS

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Withdrawn	02/27/01	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Rebecca L. Harrigal
Phone: 202 622-3980
Fax: 202 622-4437
RIN: 1545–AW44

2976. GUIDANCE UNDER SECTION 355(D)

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1
Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8913	12/20/00	65 FR 79719

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Michael Kaibri
Phone: 202 622-7550
RIN: 1545–AW71

2977. PREPARER DUE DILIGENCE REQUIREMENTS FOR DETERMINING EARNED INCOME CREDIT ELIGIBILITY

Priority: Substantive, Nonsignificant
CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8905	10/17/00	65 FR 61268

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrea Tucker
Phone: 202 622-4940

RIN: 1545–AW73

2978. SECTION 355(E) GUIDANCE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn	01/02/01	66 FR 76

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brendan O'Hara
Phone: 202 622-7530

RIN: 1545–AW79

2979. TIMELY MAILING TREATED AS TIMELY FILING/ELECTRONIC POSTMARK

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8932	01/11/01	66 FR 2257

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles A. Hall
Phone: 202 622-4940

RIN: 1545–AW81

2980. CONTINUATION COVERAGE REQUIREMENTS APPLICABLE TO GROUP HEALTH PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 54

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8928	01/10/01	66 FR 1843

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Weinheimer
Phone: 202 622-6080

RIN: 1545–AW94

2981. QUALIFIED OFFERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8922	01/04/01	66 FR 725

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas D. Moffitt
Phone: 202 622-7900

RIN: 1545–AX00

2982. GST ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8912	12/20/00	65 FR 79735

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James F. Hogan
Phone: 202 622-3090

RIN: 1545–AX08

2983. ALLOCATION OF PARTNERSHIP DEBT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8906	10/31/00	65 FR 64888

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel Carmody
Phone: 202 622-3080

RIN: 1545–AX09

2984. DEFINITION OF LAST KNOWN ADDRESS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8939	01/12/01	66 FR 2817

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles A. Hall
Phone: 202 622-4940

RIN: 1545–AX13

2985. QUALIFIED TRANSPORTATION FRINGE BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8933	01/11/01	66 FR 2241

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: John Burnell Richards
Phone: 202 622-6040
Fax: 202 622-4817

RIN: 1545–AX33

2986. 351(G) GUIDANCE PROJECT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8904	10/02/00	65 FR 58650

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard E. Coss
Phone: 202 622-7790

RIN: 1545–AX38

2987. PARTNERSHIP MERGERS AND DIVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8925	01/04/01	66 FR 715

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Beth Collins (Carchia)
Phone: 202 622-3080

RIN: 1545–AX42

2988. SECTION 1374 TIMBER

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Publication	03/15/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cristian Patricio Silva
Phone: 202 622-7750

RIN: 1545–AX50

2989. PERMITTED ELECTION CHANGES UNDER SECTION 125

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8878	03/23/00	65 FR 15548

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Keller
Phone: 202 622-6080

RIN: 1545–AX59

2990. REOPENINGS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8934	01/12/01	66 FR 2811

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Blanchard
Phone: 202 622-3950

RIN: 1545–AX60

2991. PREVENTION OF ABUSE OF CHARITABLE REMAINDER TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8926	01/05/01	66 FR 1034

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine Moore
Phone: 202 622-3080

RIN: 1545–AX62

2992. STOCK TRANSFER RULES: SUPPLEMENTAL RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn	01/11/01	66 FR 2373

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark D. Harris
Phone: 202 622-3860

RIN: 1545–AX63

2993. DEFINITION OF HYPERINFLATIONARY CURRENCY FOR PURPOSES OF SECTION 988

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8914	01/03/01	66 FR 279

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John W. Rogers
Phone: 202 622-3870

RIN: 1545–AX67

2994. TIERED STRUCTURES—ESBTS AND ESOPS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8915	12/29/00	65 FR 82926

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Quinn
Phone: 202 622-3060

RIN: 1545–AX71

2995. APPLYING SECTION 197 TO PARTNERSHIP TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8907	11/20/00	65 FR 69667

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Sotos
Phone: 202 622-3050

RIN: 1545–AX73

2996. LIFETIME CHARITABLE LEAD TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8923	01/05/01	66 FR 1040

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Scott S. Landes
Phone: 202 622-3090

RIN: 1545–AX74

2997. OBLIGATION OF STATES AND POLITICAL SUBDIVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8941	01/18/01	66 FR 4661

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Rose M. Weber
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Fax: 202 622-4437

RIN: 1545–AX87

2998. ELECTRONIC PAYEE STATEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed By TD 8942	02/14/01	66 FR 10191

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura C. Nash
Phone: 202 622-4910

RIN: 1545–AY00

2999. QUALIFIED ZONE ACADEMY BONDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8903	09/26/00	65 FR 57732

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Allan B. Seller
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AY01

3000. FINAL REGULATIONS ON DISCLOSURES TO DEPARTMENT OF COMMERCE-BUREAU OF CENSUS; SECTION 301.6103(J)(1)-1

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8908	11/30/00	65 FR 71256

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stuart D. Murray
Phone: 202 622-4580

RIN: 1545–AY06

3001. GUIDANCE UNDER 6302 REGARDING THE FEDERAL TAX DEPOSIT SYSTEM (TEMPORARY)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8918	12/26/00	65 FR 81356

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brinton T. Warren
Phone: 202 622-4940

RIN: 1545–AY11

3002. TAX TREATMENT OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8921	01/10/01	66 FR 1837

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Keller
Phone: 202 622-6080

RIN: 1545–AY23

3003. APPLICATION OF SEPARATE FOREIGN TAX CREDIT LIMITATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8916	01/03/01	66 FR 268

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca I. Rosenberg
Phone: 202 622-3870

RIN: 1545–AY29

3004. • 6302 DE MINIMIS THRESHOLD (TEMPORARY)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302; 26 USC 7805

CFR Citation: 31 CFR 6302

Legal Deadline: None

Abstract: This temporary regulation will increase the de minimis deposit rule for quarterly and annual return periods from $1,000 to $2,500.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8909	12/06/00	65 FR 76152

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-114423-00

Drafting attorney: Brinton T. Warren (202) 622-8477

Reviewing attorney: Judith M. Wall (202) 622-4940

Treasury attorney: Stephanie Robinson (202) 622-9858

CC:PA:AP JP

Agency Contact: Brinton T. Warren, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AY46

3005. • DISCLOSURE OF RETURN INFORMATION TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF COMMERCE FOR CERTAIN STATISTICAL PURPOSES AND RELATED ACTIVITIES (TEMPORARY)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The temporary regulations relate to additions to the list of items of information disclosed to the Bureau of the Census for use in the Longitudinal Employer-Household Dynamics (LEHD) project and the Survey of Income and Program Participation (SIPP) project.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8943	02/13/01	66 FR 9957

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: REG-121109-00

Drafting attorney: Stuart D. Murray (202) 622-4580

Reviewing attorney: David Fish (202) 622-4580

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:PA:DPL

Agency Contact: Stuart D. Murray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4580

RIN: 1545–AY51

3006. • STOCK TRANSFER RULES: TRANSITION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 CFR 376

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses distributions with respect to, or a disposition of, certain stock that was subject to prior temporary regulations under section 367(b).

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8937	01/11/01	66 FR 2256

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-120805-00

Drafting attorney: Mark D. Harris (202) 622-3050

Reviewing attorney: Irwin Halpern (202) 622-3050

CC:INTL

Agency Contact: Mark D. Harris, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AY53

3007. • TIME FOR FILING FORM 1139 BY A CONSOLIDATED GROUP

Priority: Info./Admin./Other

Legal Authority: 26 USC 6411; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulation addresses the time for filing an application for a tentative carryback adjustment (Form 1139) by a consolidated group.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8919	01/04/01	66 FR 713

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-119352-00

Drafting attorneys: Christopher M. Bass (202) 622-7770 and Frances Kelly (202) 622-7770

Reviewing attorney: Edward S. Cohen (202) 622-7770

Treasury attorney: Audrey Nacamuli (202) 622-0869

CC:CORP

Agency Contact: Christopher M. Bass, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–AY57

3008. • DISCLOSURE OF RETURN AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The temporary regulation implements the amendment contained in the Taxpayer Bill of Rights II (TBOR II) to Internal Revenue Code Section 6103(c). TBOR II eliminated the requirement for a request or consent for disclosure to be in writing. The temporary regulation would permit the Internal Revenue Service to disclose returns and return information to a taxpayers' designee pursuant to a nonwritten request for or consent to disclosure. The regulation would also provide rules and guidance for consents in an electronic environment. Additionally, the regulation will provide guidance to Internal Revenue Service personnel to clarify a number of issues that have arisen since the regulation was initially promulgated in the late 1970s.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8935	01/11/01	66 FR 2261

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103320-00

Drafting attorney: Joseph E. Conley (202) 622-8455

Reviewing attorney: David Fish (202) 622-4570

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:PA:DPL

Agency Contact: Joseph E. Conley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224

Phone: 202 622-4570

RIN: 1545–AY59

3009. • LIABILITIES ASSUMED IN CERTAIN CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 357

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These temporary regulations relate to the assumption of liabilities in certain corporate transactions under section 301 and section 357 of the Internal Revenue Code. The regulations affect corporations and their shareholders.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8924	02/14/01	66 FR 10190

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106791-00

Drafting attorney: Mary Elizabeth Dean (202) 622-7550

Reviewing attorney: Debra Carlisle (202) 622-7550

CC:CORP

Agency Contact: Mary Elizabeth Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7550

RIN: 1545–AY63

3010. • EXCISE TAXES ON EXCESS BENEFIT TRANSACTIONS (TEMPORARY)

Priority: Other Significant

Legal Authority: 26 USC 7805; 26 USC 4958

CFR Citation: 26 CFR 53; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: Section 4958 of the IRC imposes excise taxes on transactions between certain tax exempt organizations and persons in a position to exercise substantial influence over the affairs of the organization, where the transactions are at greater than fair market value. These temporary regulations will clarify certain definitions and rules in section 4958.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8920	01/10/01	66 FR 2144

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-246256-96

Drafting attorney: Phyllis D. Haney (202) 622-4290

Reviewing attorneys: Paul Feinberg (202) 622-6000

Paul Acettura (202) 622-6070

Treasury attorney: Susan Brown (202) 622-0999

CC:TEGE

Agency Contact: Phyllis D. Haney, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4290

RIN: 1545–AY64

3011. • WITHDRAWAL OF OBSOLETE PROPOSED REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: None

Legal Deadline: None

Abstract: Identifying obsolete NPRMs to be withdrawn.

Timetable:

Action	Date	FR Cite
Closed Without Publication	02/28/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-100548-01

Drafting attorney: Charles M. Whedbee (202) 622-7550

CC:CORP

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Phone: 202 622-7550

RIN: 1545–AY72

3012. • PURCHASE PRICE ALLOCATIONS IN DEEMED AND ACTUAL ASSET ACQUISITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 337; 26 USC 338; 26 USC 1502; 26 USC 1060

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations revise the rules governing purchase price allocations in certain asset allocations under section 1060 of the Internal Revenue Code and deemed asset acquisitions under section 338. They also revise other rules under these sections. Thus, a number of existing regulations sections are removed and replaced.

Timetable:

Action	Date	FR Cite
NPRM	08/09/99	64 FR 43462
Final Action Completed by TD 8940	02/13/01	66 FR 9925

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-107069-97

Drafting attorney: Richard C. Starke (202) 622-7790

CC:CORP

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Phone: 202 622-7750

RIN: 1545–AY73

BILLING CODE 4830–01–S

3013. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1835; 12 USC 1848; 12 USC 4808

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: OTS currently has underway a number of regulatory amendments to its capital standards for savings associations. These amendments implement section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA). CDRIA requires the Federal banking agencies to make their capital rules and other rules more uniform.

The agencies have jointly issued a proposed rule that would treat recourse obligations and direct credit substitutes consistently and that would vary the risk-based capital requirement for positions in securitized asset transactions according to relative risk exposure; and a proposed rule that would amend regulatory capital standards concerning the treatment of certain residual interests in asset securitizations and other transfers of financial assets. These rules will be combined at the final rule stage.

In addition, the agencies issued an advance notice of proposed rulemaking developing a simplified capital adequacy framework for small, non-complex institutions and a proposed rule on risk-based capital standards for claims on securities firms.

Timetable:

Action	Date	FR Cite
Claims on Securities Firms		
NPRM	12/06/00	65 FR 76180
NPRM Comment Period End	01/22/01	
Final Rule	10/00/01	
Recourse Arrangements and Direct Credit Substitutes/Residuals in Securitizations		
Recourse ANPRM	05/25/94	59 FR 27116
Recourse NPRM	05/25/94	59 FR 27116
Recourse NPRM	11/05/97	62 FR 59944
Recourse NPRM Correction	11/20/97	62 FR 62234
Recourse NPRM	03/08/00	65 FR 12320
Recourse NPRM Comment Period End	06/07/00	
Residuals NPRM	09/27/00	65 FR 57993
Residuals NPRM Comment Period End	12/26/00	
Recourse/Residuals Final Rule	10/00/01	
Simplified Capital Adequacy Framework for Small, Non-Complex Institutions		
ANPRM	11/03/00	65 FR 66193
ANPRM Comment Period End	02/01/01	
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael D. Solomon, Senior Program Manager for Capital Policy, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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David Riley, Project Manager, Capital Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6669

RIN: 1550–AB11

3014. TYPES OF OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to amend its definitions of home, branch and agency office, and related notice or application requirements. These provisions are under review to ensure that they meet the modern challenges of how institutions conduct their businesses.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Richard Bennett, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-5688

RIN: 1550–AB18

3015. DIRECTORS AND OFFICERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 3806; 42 USC 4106; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to reorganize, revise and streamline its regulations on directors and officers. The rule will address indemnification, board composition requirements, compensation, employment contracts, extensions of credit to outsiders, conflicts of interest, and corporate opportunity.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Robyn Dennis, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-7505

RIN: 1550–AB19

3016. NONDEPOSIT INVESTMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 3806; 42 USC 4106; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC

1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking updating its regulations on the sale of nondeposit investment products.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Robyn Dennis, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-7037

RIN: 1550–AB22

3017. DUE-ON-SALE AND USURY PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1464; 12 USC 1701j-3; 12 USC 1735f-7a

CFR Citation: 12 CFR 590; 12 CFR 591

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to convert into a "plain language" format 12 CFR parts 590 and 591, concerning preemption of state usury and due-on-sale laws.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: William J. Magrini, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-7380

RIN: 1550–AB25

3018. HOLDING COMPANY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468

CFR Citation: 12 CFR 584

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to help it monitor certain significant holding company activities.

Timetable:

Action	Date	FR Cite
NPRM	10/27/00	65 FR 64392
NPRM Comment Period End	02/09/01	
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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Phone: 202 906-6962

RIN: 1550–AB29

3019. FAIR CREDIT REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, May 12, 2000.

Abstract: OTS and the other Federal banking agencies are developing regulations implementing provisions of the Fair Credit Reporting Act. Subject to certain conditions, these regulations permit institutions to share "other information" with affiliates without becoming consumer reporting agencies (affiliate sharing). The proposed regulations specified that institutions must provide notice and an opportunity to opt-out to consumers before sharing "other information" with their affiliates.

The agencies have analyzed the comments received and are now in the process of developing a revised notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63120
NPRM Comment Period End	12/04/00	
NPRM Update	03/27/01	66 FR 16624
Second NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Harrington, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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RIN: 1550–AB33

3020. LENDING AND INVESTMENT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a

CFR Citation: 12 CFR 560

Legal Deadline: None

Abstract: OTS is reviewing its lending regulations, including the rules implementing the Alternative Mortgage Parity Act: 1) to determine whether and how they may be improved to ensure that lending regulations are encouraging the safe and sound, efficient delivery of low cost credit to the public, free from undue regulatory duplication and burden; and 2) to give Federal savings associations greater flexibility in making community-related investments.

Timetable:

Action	Date	FR Cite
ANPRM	04/05/00	65 FR 17811
ANPRM Comment Period End	07/05/00	
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: RIN 1550-AB40, Lending and Investment—Miscellaneous Changes was merged with this RIN.

Agency Contact: William J. Magrini, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Koko Ives, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Sonja White, National Community Affairs Coordinator, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7857

RIN: 1550–AB37

3021. • CAPITAL: QUALIFYING MORTGAGE LOAN, INTEREST RATE RISK COMPONENT, AND MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; ...

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: OTS plans to issue a proposed rule making miscellaneous changes to its capital regulations. The changes would eliminate unnecessary capital burdens and align OTS capital regulations more closely to those of the other banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/15/01	66 FR 15049
NPRM Comment Period End	05/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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Phone: 202 906-6669

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Phone: 202 906-5654

RIN: 1550–AB45

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Final Rule Stage

3022. MUTUAL SAVINGS ASSOCIATIONS, MUTUAL HOLDING COMPANY REORGANIZATIONS, AND CONVERSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 15 USC 78n; 15 USC 78w; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901; 15 USC 78c; 15 USC 78l; 15 USC 78m

CFR Citation: 12 CFR 563b

Legal Deadline: None

Abstract: OTS has issued an interim final rule: 1) amending its regulations governing repurchases of stock of insured savings associations following a conversion; 2) implementing changes regarding dividend waivers for mutual holding companies; and 3) incorporating changes resulting from the Gramm-Leach-Bliley Act.

OTS has also issued a notice of proposed rulemaking that would implement a comprehensive strategy governing mutual institutions, mutual holding company reorganizations, and the mutual to stock conversion process.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 43093
Interim Final Rule	07/12/00	65 FR 43088
NPRM Comment Period End	11/09/00	65 FR 60123
Interim Final Rule Comment Period End	11/09/00	65 FR 60095
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Jo Johnson, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Timothy Leary, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552

Phone: 202 906-7170

RIN: 1550–AB24

3023. • REMOVAL OF LIQUIDITY REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; ...

CFR Citation: 12 CFR 506; 12 CFR 560; 12 CFR 563; 12 CFR 566; 12 CFR 584

Legal Deadline: None

Abstract: OTS plans to issue an interim final rule to remove the regulation that requires savings associations to maintain a balance of liquid assets of at least four percent and make other conforming changes to implement the recent repeal of the statutory liquidity requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/01	66 FR 15015
Interim Final Rule Comment Period End	05/14/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Sally Watts, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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RIN: 1550–AB42

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Completed Actions

3024. APPLICATION PROCESSING

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 516

Completed:

Reason	Date	FR Cite
NPRM	11/02/00	65 FR 66118
Final Rule	03/02/01	66 FR 12993
Final Rule Effective	04/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John P. Harootunian
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Koko Ives
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Lane Langford
Phone: 202 906-7027

RIN: 1550–AB14

3025. ORGANIZATIONAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 500; 12 CFR 506; 12 CFR 510

Completed:

Reason	Date	FR Cite
Withdrawn	01/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teresa Scott
Phone: 202 906-6478

RIN: 1550–AB30

3026. COMMUNITY REINVESTMENT ACT DISCLOSURE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 573

Completed:

Reason	Date	FR Cite
Final Rule	01/10/01	66 FR 2052
Final Rule Effective	04/01/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Richard Bennett
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Karen Osterloh
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RIN: 1550–AB32

3027. INSURANCE CUSTOMER PROTECTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 536

Completed:

Reason	Date	FR Cite
Final Rule	12/04/00	65 FR 75822
Final Rule Effective	10/01/01	66 FR 15345

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Richard Bennett
Phone: 202 906-7409

Robyn Dennis
Phone: 202 906-5751

RIN: 1550–AB34

3028. INTERAGENCY GUIDELINES ESTABLISHING STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION AND RESCISSION OF YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 568; 12 CFR 570; 12 CFR 573

Completed:

Reason	Date	FR Cite
Final Rule	02/01/01	66 FR 8615
Final Rule Effective	07/01/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Cindy Baltierra
Phone: 202 906-6540

Christine Harrington
Phone: 202 906-7957

RIN: 1550–AB36

3029. AMENDMENT TO PREAPPROVED BYLAWS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 552

Completed:

Reason	Date	FR Cite
NPRM	11/02/00	65 FR 66116
Final Rule	03/15/01	66 FR 15017
Final Rule Effective	04/16/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Aaron Kahn
Phone: 202 906-6263

RIN: 1550–AB39

3030. LENDING AND INVESTMENT - MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 559; 12 CFR 560

Completed:

Reason	Date	FR Cite
Merged With RIN 1550-AB37	01/02/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Koko Ives
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William J. Magrini
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RIN: 1550–AB40

3031. • SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF THE TREASURY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7353; 18 USC 212; 18 USC 213; ...

CFR Citation: 5 CFR 3101

Legal Deadline: None

Abstract: The Department of the Treasury, with the concurrence of the Office of Government Ethics, amended the Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury to: 1) revise the circumstances under which certain OTS employees may obtain credit cards from OTS-regulated savings associations or their subsidiaries, notwithstanding the general prohibition against covered employees obtaining loans or extensions of credit from these entities; and 2) eliminate unnecessary provisions regarding retail store credit cards and mortgage assumptions.

Timetable:

Action	Date	FR Cite
Final Rule	02/01/01	66 FR 8505
Final Rule Effective	02/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: M. Lou Guest, Deputy Chief Counsel, General Law Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6866

RIN: 1550–AB43

3032. • RULES OF PRACTICE AND PROCEDURE FOR ADJUDICATORY PROCEEDINGS; CIVIL MONEY PENALTY INFLATION ADJUSTMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 554-557; 12 USC 1462a; 12 USC 1463; 12 USC 1464; ...

CFR Citation: 12 CFR 509; 12 CFR 510

Legal Deadline: None

Abstract: Pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (Act), OTS issued a final rule implementing adjustments to its Civil Money Penalty (CMP) statutes. The Act requires that all Federal agencies with statutory authority to impose civil money penalties evaluate and adjust them every four years. OTS last adjusted its CMP statutes in 1996.

Timetable:

Action	Date	FR Cite
Final Rule	10/17/00	65 FR 61260
Final Rule Effective	10/17/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Published using RIN 1550-AB41.

Agency Contact: Timothy Leary, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7170

RIN: 1550–AB44

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Federal Register

Monday,
May 14, 2001

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Veterans Affairs.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginnfng April 2001. The purpose in publishing the Department's regulatory agenda is to allow all interested persons the opportunity to participate in VA's regulatory planning.

ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Gloria Armstrong at (202) 273-8605.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations that VA will have under development or review.

Thomas O. Gessel,

Director, Office of Regulations Management.

Department of Veterans Affairs—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3033	Medication Prescribing Authority	2900-AK05
3034	Standards for Collection, Compromise, Suspension, or Termination of Collection Effort; Regional Office Committee on Waiver and Compromises	2900-AK10

Department of Veterans Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3035	Medical Care and Treatment for Which VA Will Not Seek Reimbursement	2900-AJ20
3036	Clothing Allowance	2900-AJ21
3037	Priorities for State Home Grants for Construction, Acquisition, or Renovation	2900-AJ43
3038	Policy Regarding Participation in National Practitioner Data Bank	2900-AJ76
3039	Therapeutic Housing	2900-AK01
3040	Reimbursement/Payment for Uninsured Veterans' Non-VA Emergency Medical Care	2900-AK08
3041	Waivers	2900-AK29
3042	Copayments for Extended Care Services	2900-AK32
3043	Enrollment Priority Category Status Changes	2900-AK38
3044	Copayments for Inpatient Hospital Care, Outpatient Medical Care, and Medications	2900-AK50
3045	Loan Guaranty: Multifamily Transitional Housing for Homeless Veterans Program	2900-AK58
3046	Schedule for Rating Disabilities—The Orthopedic System	2900-AE91
3047	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-AF23
3048	Schedule for Rating Disabilities—Digestive System	2900-AF24
3049	Total Disability Evaluations Based on Inability of the Individual To Engage in Substantially Gainful Employment	2900-AH21
3050	Evidence on File at Date of Death	2900-AH42
3051	Ankylosis and Limitation of Motion of Digits of the Hands	2900-AI44
3052	Dependents Education: Eligibility and Entitlement Standards	2900-AJ19
3053	Schedule for Rating Disability: The Spine	2900-AJ60
3054	Education Provisions of the Veterans Programs Enhancement Act of 1998	2900-AJ68
3055	Evidence of Permanent and Total Disability	2900-AJ82
3056	Benefit of the Doubt	2900-AJ93
3057	Permanent Incapacity for Self-Support	2900-AJ95
3058	Presumptive Service Connection for Hepatitis C Infection	2900-AJ96
3059	Minimum Active Duty Requirement	2900-AK02
3060	State Department as Agent of Department of Veterans Affairs	2900-AK03
3061	Commencement of the Period of Payment	2900-AK09
3062	Service Connection and Chronic Disability	2900-AK11
3063	Governmentwide Debarment and Suspension (Nonprocurement) and Requirement for Drug-Free Workplace (Assistance)	2900-AK16
3064	Time Limits, Extensions, and Computation of Time Limits	2900-AK17
3065	Finality of Decisions	2900-AK18

VA

Department of Veterans Affairs—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3066	Delegation of Authority To Issue Decisions on Benefits Claims	2900-AK19
3067	Individuals and Groups Considered To Have Performed Active Military, Naval, or Air Service	2900-AK20
3068	Psychosis	2900-AK21
3069	Change of Law-Effect on Benefits	2900-AK22
3070	Renouncement of Benefits	2900-AK23
3071	Testimony in Support of Benefit Claims	2900-AK24
3072	Written and Oral Information on Statements Affecting Entitlement to Benefits	2900-AK25
3073	Acceptable Evidence of Dependents and Age	2900-AK26
3074	Acceptable Evidence of Void and Annulled Marriages	2900-AK27
3075	Acceptable Evidence of Marriage	2900-AK30
3076	Independent Medical Opinions	2900-AK31
3077	Acceptable Evidence of Divorce	2900-AK34
3078	Acceptable Evidence of Termination of Marital Relationship or Conduct	2900-AK35
3079	Acceptable Evidence of Birth	2900-AK36
3080	Evidence From Foreign Countries	2900-AK37
3081	National Service Life Insurance—Plain English Revision	2900-AK43
3082	Acceptable Evidence of Child's Relationship	2900-AK47
3083	Acceptable Evidence of Death	2900-AK48
3084	Acceptable Evidence of Unexplained Absence for 7 Years	2900-AK49
3085	U.S. Flags for Burials of Certain Members of the Selected Reserve	2900-AK56
3086	Validity of Enlistments	2900-AK59
3087	Computation of Service	2900-AK60
3088	Diseases Specific to Radiation-Exposed Veterans	2900-AK64
3089	Filipino Veterans Benefit Improvements	2900-AK65
3090	Special Monthly Compensation for Women Veterans Who Lose a Breast as a Result of a Service-Connected Disability	2900-AK66
3091	Monetary Allowance Under 38 U.S.C. 1815 for a Child With One or More Covered Birth Defects Who Is a Child of a Woman Vietnam Veteran	2900-AK67
3092	Duty to Assist	2900-AK69
3093	Acceptable Evidence of Change in Status or Number of Dependents	2900-AK70
3094	Loan Guaranty: Pre-Purchase Counseling Requirements	2900-AK76
3095	Additional Disability or Death Due to Hospital Care, Medical or Surgical Treatment, Examination, Training and Rehabilitation Services, or Compensated Work Therapy Program	2900-AK77
3096	Veterans Education: Topping Up Tuition Assistance	2900-AK79
3097	Veterans and Dependents Education: Licensing and Certification	2900-AK80
3098	Veterans Education: Additional Opportunity To Participate in the Montgomery GI Bill and Other Miscellaneous Issues	2900-AK81
3099	Department of Veterans Affairs Acquisition Regulation—Simplified Acquisition Procedures for Health Care Resources	2900-AI71
3100	Universal Product Numbers (UPNs)	2900-AJ45
3101	Construction and Architect-Engineer Contracts	2900-AJ56
3102	Department of Veterans Affairs Acquisition Regulations Plain Language Rewrite	2900-AK78
3103	Rules of Practice; Jursidiction	2900-AJ97
3104	Appeals Regulations: Title for Members of the Board of Veterans Appeals	2900-AK62
3105	Board of Veterans' Appeals: Rules of Practice—Appeal Withdrawal	2900-AK71
3106	Headstone and Marker Inscription Policy	2900-AH45
3107	State Cemetery Grants: Aid to States for Establishment, Expansion, and Improvement of Veterans Cemeteries	2900-AH46
3108	Eligibility for Burial of Dependent Adult Children of Eligible Veterans	2900-AI95
3109	Use of the Secretary's Authority as Provided by 38 U.S.C. 2402(6)	2900-AJ48
3110	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2900-AJ62

Department of Veterans Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3111	Provision of Drugs and Medicines Prescribed by Non-VA Physicians	2900-AJ24

VA

Department of Veterans Affairs—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3112	Advanced Health Care Planning	2900-AJ28
3113	Provision of Drugs and Medicines to Certain Veterans in State Nursing Homes	2900-AJ34
3114	Per Diem for Adult Day Health Care of Veterans in State Homes	2900-AJ74
3115	Reasonable Charges for Medical Care or Services	2900-AK39
3116	Delegation of Authority—Loan Guaranty for Multifamily Transitional Housing for Homeless Veterans	2900-AK51
3117	Provision of Hospital and Outpatient Care to Veterans	2900-AK53
3118	Medical Benefits Package	2900-AK55
3119	Reasonable Charges for Medical Care or Services	2900-AK73
3120	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
3121	Acceptance of Partial Payments; Indemnification of Default	2900-AE60
3122	Schedule for Rating Disabilities—The Skin	2900-AF00
3123	Amendments to Training and Rehabilitation Programs	2900-AG00
3124	Revised Definition of Net Value and Revised Criteria for Pre-Foreclosure Debt Waivers	2900-AG20
3125	Vision	2900-AH43
3126	Intervertebral Disc Syndrome	2900-AI22
3127	Claims Based on Aggravation of Nonservice-Connected Disability	2900-AI42
3128	Veterans Education: Reporting and Recordkeeping Requirements at Flight Schools	2900-AJ23
3129	Exclusions from Income	2900-AJ52
3130	Certification Evidence for Proof of Service	2900-AJ55
3131	Accelerated Benefits Option for Servicemembers' Group Life Insurance and Veterans' Group Life Insurance	2900-AJ80
3132	Loan Guaranty: Advertising and Solicitation Disclosure Requirements	2900-AJ86
3133	Review of Benefit Claims Decisions	2900-AJ99
3134	Post-Traumatic Stress Disorder Claims Based on Personal Assault	2900-AK00
3135	Revised Definition of a Program of Education Under the Montgomery GI Bill—Active Duty and Other Miscellaneous Issues	2900-AK06
3136	Signature by Mark	2900-AK07
3137	Schedule for Rating Disabilities: Disabilities of the Liver	2900-AK12
3138	Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve	2900-AK40
3139	Veterans Education: Increased Allowance for the Educational Test Program	2900-AK41
3140	Increase in Rates Payable Under the Montgomery GI Bill—Active Duty and Survivors' and Dependents' Educational Assistance	2900-AK44
3141	End of the Service Members Occupational Conversion and Training Program	2900-AK45
3142	Veterans Vocational Rehabilitation and Education: Title Change	2900-AK46
3143	Disease Associated with Exposure to Certain Herbicide Agents: Type 2 Diabetes Mellitus	2900-AK63
3144	Veterans Benefits and Health Care Improvement Act of 2000	2900-AK68
3145	Delegation of Authority—Portfolio Loan Servicing Contractor	2900-AK72
3146	Sealed Bidding and Competitive Proposals	2900-AI99
3147	Veterans Affairs Acquisition Regulation: Revisions to VA Acquisition Regulations Parts 801 through 805	2900-AK75
3148	Board of Veterans Appeals—Rules of Practice—Attorney Fee Matters	2900-AI98
3149	Board of Veterans Appeals: Rules of Practice—Subpoenas	2900-AJ58
3150	Delegations of Authority—Appeals Regulations and Rules of Practice	2900-AJ66
3151	Notice of Appeal in Simultaneously Contested Claims	2900-AJ73
3152	Notification of Representatives in Connection With Motions for Revision of Decisions on Grounds of Clear and Unmistakable Error	2900-AJ75
3153	The Board of Veterans Appeal; Rules of Practice—Motion for Review of Decisions on Grounds of Clear and Unmistakable Error: Content of Record; Advancement on the Docket	2900-AJ85
3154	Appeal Regulations, Rules of Practice: Use of Supplemental Statement of the Case	2900-AK33
3155	Rules of Practice: Medical Opinions From the Veterans Health Administration	2900-AK52
3156	Board of Veterans Appeals: Rules of Practice—Time for Filing Substantive Appeal	2900-AK54
3157	Board of Veterans Appeals: Rules of Practice—Effect of Procedural Defects in Motions for Revision of Decisions on Grounds of Clear and Unmistakable Error	2900-AK74
3158	Interment or Memorialization in VA National Cemeteries and Certain State Cemeteries—Federal or State Capital Crime	2900-AJ77
3159	Delegation of Authority—Decisionmaking Regarding Discrimination	2900-AJ63
3160	Nondiscrimination on the Basis of Race, Color, or National Origin; Handicap; and Age in Programs and Activities Receiving Federal Assistance	2900-AK13
3161	Release of Information From Department of Veterans Affairs Records	2900-AH98
3162	Recognition of Organizations and Accreditation of Representatives	2900-AI93

VA

Department of Veterans Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3163	Protection of Human Subjects	2900-AJ08
3164	Schedule for Rating Disabilities: Global Assessment of Functioning Scale in the Evaluation of Mental Disorders	2900-AJ84
3165	Loan Guaranty: Revision to VA Work Rules for Credit Scored Loans	2900-AJ91
3166	Loan Guaranty: Credit Standards Revision	2900-AJ92
3167	Appeals Regulations; Rules of Practice	2900-AE78
3168	Rules of Practice; Hearings	2900-AG07
3169	Rules of Practice: Medical Opinions; Appeal Processing and Submission of Additional Evidence	2900-AG90
3170	Operation of Child Care Centers at VA Facilities	2900-AD48

Department of Veterans Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
3171	Exemption from Pharmacy Copay	2900-AJ12
3172	Provision of Aids to the Blind	2900-AJ22
3173	Aids for the Blind	2900-AJ83
3174	Copayments for Medication	2900-AK28
3175	VA Payment for Non-VA Public or Private Hospital Care and Non-VA Physician Services That Are Associated With Either Outpatient or Inpatient Care	2900-AK57
3176	New Criteria for Approval of Courses for Educational Assistance Programs	2900-AI67
3177	Use of Facilities To Provide Training or Work Experience for Veterans	2900-AJ01
3178	Well Grounded Claims/Duty To Assist	2900-AJ44
3179	Revised Criteria for Monetary Allowance for a Child Born With Spina Bifida Who Is a Child of a Vietnam Veteran	2900-AJ51
3180	Claims Based on Effect of Tobacco Products	2900-AJ59
3181	Miscellaneous Montgomery GI Bill Eligibility and Entitlement Issues	2900-AJ90
3182	Appeals Regulations: Title for Members of the Board of Veterans Appeals-Rescission	2900-AK61
3183	Outer Burial Receptacles	2900-AJ49

DEPARTMENT OF VETERANS AFFAIRS (VA)

Prerule Stage

VETERANS HEALTH ADMINISTRATION

3033. MEDICATION PRESCRIBING AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17; 38 CFR 17.33

Legal Deadline: None

Abstract: The Veterans Health Administration of the Department of Veterans Affairs is considering amending its medical regulations to specify those who are eligible to prescribe medications. The supplementary information portion of the document contains a preliminary list of those under consideration for prescribing medications. To help formulate a proposed rule regarding medication prescribing authority, an advance notice of proposed rulemaking solicits written comments and announces a public hearing.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Audrey Crenshew Drake, Program Director Nursing (118), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8424
Fax: 202 273-9066
Email: audrey.drake@mail.va

RIN: 2900–AK05

OFFICE OF FINANCIAL MANAGEMENT

3034. STANDARDS FOR COLLECTION, COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION EFFORT; REGIONAL OFFICE COMMITTEE ON WAIVER AND COMPROMISES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3700 et seq; 38 USC 501; 38 USC 5302; 38 USC 5314; 38 USC 5315

CFR Citation: 31 CFR 900 to 904; 38 CFR 1.900 to 1.970

Legal Deadline: None

VA — Prerule Stage

Abstract: The Department of Veterans Affairs (VA) proposes to revise its current regulations on debt collection by eliminating some and cross-referencing the remainder to the revised DOJ/Treasury Governmentwide Federal Claims Collection Standards (31 CFR parts 900 to 904). These regulations will also be updated to comply with the Debt Collection Improvement Act of 1996. In addition, VA also proposes to amend regulations pertaining to the administration of our Regional Office Committees on Waivers and Compromises.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter T. Mulhern, Office of Finance (047GC1), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5570
TDD Phone: 202 273 6574

RIN: 2900–AK10

DEPARTMENT OF VETERANS AFFAIRS (VA) — Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3035. MEDICAL CARE AND TREATMENT FOR WHICH VA WILL NOT SEEK REIMBURSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1729

CFR Citation: 38 CFR 17.107

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations to provide that, under specified conditions, VA will not seek reimbursement from health insurance carriers or from veterans in the form of copayments for care or services not adjudicated as service connected.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Howard, Senior Program Analyst (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8198
Fax: 202 273-6485

RIN: 2900–AJ20

3036. CLOTHING ALLOWANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 1162

CFR Citation: 38 CFR 3.810

Legal Deadline: None

Abstract: The regulatory action needs to be amended to contain specific language that submission of torn, worn, damaged clothing is not a specific condition for approving clothing allowances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frederick Downs Jr., Chief, Consultant, Prosthetic and Sensory Aids Strategic Healthcare Group, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8515

RIN: 2900–AJ21

3037. PRIORITIES FOR STATE HOME GRANTS FOR CONSTRUCTION, ACQUISITION, OR RENOVATION

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.216; 38 CFR 17.222

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs regulations concerning State homes. VA provides funds to States for projects for the construction, acquisition, or renovation of State veterans nursing homes and State veterans domiciliaries. This notice of proposed rulemaking requests comments regarding what regulations should be established with respect to the priorities for awarding State home grants for construction, acquisition, or renovation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Frank Salvas, Geriactrics and Extended Care (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8536

RIN: 2900–AJ43

3038. POLICY REGARDING PARTICIPATION IN NATIONAL PRACTITIONER DATA BANK

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1110 to 11152

CFR Citation: 38 CFR 46

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its regulations concerning the reporting of physicians, dentists, and other healthcare practitioners to the National Practitioner Data Bank (NPDB). These regulations concern malpractice payment reporting and clinical privileges actions reporting. These amendments appear to be necessary to make the reporting process more efficient and fair and to ensure that reporting is accomplished in accordance with the statutory framework.

VA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathryn W. Enchelmayer, Office of Quality and Performance (10Q), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8936

RIN: 2900–AJ76

3039. THERAPEUTIC HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1772

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: This rulemaking proposes to establish provisions regarding payment rates and length of stay for veterans residing in housing under VA's Compensation Work Therapy/Transitional Residences program. These provisions are designed to ensure that veterans pay an equitable amount and stay only for the time necessary to meet the intended goals.

Timetable:

Action	Date	FR Cite
NPRM	03/06/01	66 FR 13461
NPRM Comment Period End	05/07/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christine Woods, Program Specialist, Department of Veterans Affairs, Veterans Health Administration, HQ-Psychosocial Rehabilitation Services, Bldg. 148, Rm D133, VA Medical Center, Hampton, VA 23669
Phone: 757 722-9961
Fax: 757 728-3143

RIN: 2900–AK01

3040. REIMBURSEMENT/PAYMENT FOR UNINSURED VETERANS' NON-VA EMERGENCY MEDICAL CARE

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 38 USC 501; 38 USC 1725; PL 106-117

CFR Citation: 38 CFR 17

Legal Deadline: NPRM, Statutory, May 22, 2000, 180 days after effective date of PL 106-117.

Abstract: This document proposes to amend the Department of Veterans Affairs medical regulations by establishing a mechanism for payment or reimbursement for certain non-VA emergency services furnished to veterans for nonservice-connected conditions. This amendment is necessary to implement provisions of "The Veterans Millennium Health Care and Benefits Act."

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Roscoe G. Butler, Chief, Policy and Operations (10C3), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8302
Fax: 202 273-9609
Email: roscoe.butler@mail.va.gov

RIN: 2900–AK08

3041. WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1722A; PL 106-117

CFR Citation: 38 CFR 17.105

Legal Deadline: None

Abstract: The purpose of this document is to provide regulations to formally establish the waiver process for veterans' copayments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Howard, Senior Program Analyst (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8198
Fax: 202 273-6485

RIN: 2900–AK29

3042. COPAYMENTS FOR EXTENDED CARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1710; PL 106-117

CFR Citation: 38 CFR 17.111

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations to establish a mechanism regarding copayments for extended care services.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carolyn S. West, Program Analyst (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8206
Fax: 202 273-6485
Email: carol.west@mail.va.gov

RIN: 2900–AK32

3043. ENROLLMENT PRIORITY CATEGORY STATUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721; PL 106-117

CFR Citation: 38 CFR 17.36

Legal Deadline: None

Abstract: Pursuant to the Veteran's Health Care Eligibility Reform Act of 1996, VA implemented a national enrollment system to manage the delivery of VA hospital and outpatient care. Veterans are eligible to be enrolled based on the Secretary's determination concerning which of the seven priority categories of veterans to enroll. Section 112 of Public Law No. 106-117, the Veteran's Millennium

Health Care and Benefits Act, amended the priority categories to include veterans awarded the Purple Heart in priority category three. Accordingly, we intend to change our medical regulations at 38 CFR 17.36 to reflect this statutory change. We further propose to amend VA's Disenrollment requirements set forth under 38 CFR 17.36(d)(4)(iii) to allow priority category 5 veterans enrolled in this category based on their annual income information to remain enrolled. Currently, under 38 CFR 17.36(d)(4)(iii), a veteran enrolled under paragraphs (d)(2) or (d)(3) will be disenrolled if a VA network or facility director, or the Chief Network Officer, determines that a veteran has been enrolled based on inclusion in priority category 5, the veteran was sent by mail a VA Form 10-1-EZ, and the veteran failed to return the completed form to the address on the return envelop within 60 days from receipt of the form. We propose to continue their enrollment but only after the veteran agrees to co-pay requirements set forth under 38 U.S.C. 1710(f) and 1710(g). We also propose to amend the enrollment application form to reflect these changes and to add to the form instructions, a consent to release information, a statement regarding Paperwork Reduction Act changes are necessary to reflect statutory requirements, and to provide information to the public.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roscoe G. Butler, Chief, Policy and Operations (10C3), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8302
Fax: 202 273-9609
Email: roscoe.butler@mail.va.gov

RIN: 2900–AK38

3044. COPAYMENTS FOR INPATIENT HOSPITAL CARE, OUTPATIENT MEDICAL CARE, AND MEDICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1710; PL 106-117

CFR Citation: 38 CFR 17.108; 38 CFR 17.110

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations to set forth a mechanism for determining copayments for inpatient hospital care, outpatient medical care, and medications. This document is necessary to implement provisions of the Veterans Millennium Health Care and Benefits Act and to set forth our statutory interpretations regarding application of the copayment requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Howard, Senior Program Analyst (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8198
Fax: 202 273-6485

RIN: 2900–AK50

3045. • LOAN GUARANTY: MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3772

CFR Citation: 38 CFR 17.1000 to 17.1020

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its medical regulations to add comprehensive regulations to implement the pilot program for guaranteed loans for multifamily transitional housing projects for homeless veterans.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Theresa Hayes, Program Manager (116E), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8445

RIN: 2900–AK58

VETERANS BENEFITS ADMINISTRATION

3046. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the orthopedic system.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AE91

3047. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the neurological system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AF23

3048. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AF24

3049. TOTAL DISABILITY EVALUATIONS BASED ON INABILITY OF THE INDIVIDUAL TO ENGAGE IN SUBSTANTIALLY GAINFUL EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512(a); 38 USC 1110; 38 USC 1131; 38 USC 1155; 38 USC 1502; 38 USC 1521(a)

CFR Citation: 38 CFR 3.321; 38 CFR 3.340; 38 CFR 3.341; 38 CFR 3.342; 38 CFR 4.16; 38 CFR 4.17; 38 CFR 4.18

Legal Deadline: None

Abstract: This action will amend the regulations in part 3 of title 38, United States Code, and in the Schedule for Rating Disabilities in part 4 to provide clear and objective standards for determining whether a veteran is entitled to a total evaluation based on his or her inability to perform substantially gainful employment due to disability.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Jacobs, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211

RIN: 2900–AH21

3050. EVIDENCE ON FILE AT DATE OF DEATH

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1000

Legal Deadline: None

Abstract: This action will clarify the definition of "medical evidence on file at time of death" (Hayes v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Jacobs, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211

RIN: 2900–AH42

3051. ANKYLOSIS AND LIMITATION OF MOTION OF DIGITS OF THE HANDS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This document revises the evaluation criteria for ankylosis and limitation of motion of the fingers to ensure that veterans diagnosed with these conditions receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AI44

3052. DEPENDENTS EDUCATION: ELIGIBILITY AND ENTITLEMENT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 90-631, sec 2; 38 USC 3541; 38 USC 3562; 38 USC 3681; 38 USC 3686; 38 USC 3687; 38 USC 5304; PL 97-377, sec 156; 38 USC 501(a); 38 USC 3482; 38 USC 3501; 38 USC 3511; 38 USC 3512; 38 USC 3532; 38 USC 3533

CFR Citation: 38 CFR 3.503; 38 CFR 21.3042; 38 CFR 21.3043; 38 CFR 21.3044; 38 CFR 21.3045; 30 CFR 21.3046; 30 CFR 21.3047; 38 CFR 3.667; 38 CFR 3.707; 38 CFR 3.807; 38 CFR 21.3020; 38 CFR 21.3021; 38 CFR 21.3023; 38 CFR 21.3040; 38 CFR 21.3041; ...

Legal Deadline: None

Abstract: This document will amend Department of Veterans Affairs education regulations to provide a new interpretation of when the eligibility period ends for children eligible for Survivors' and Dependents' Educational Assistance. It will implement provisions of the Veterans Benefits and Health Care Improvement Act of 2000 that affect children's eligibility periods and the effective date of awards under Survivors' and Dependents' Educational Assistance. It will also implement recent opinions of the Court of Appeals for Veterans Claims that affect eligibility for Survivors' and Dependents' Educational Assistance. It will also make changes to clarify many of these regulations and other changes to make the regulations easier to use.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ19

3053. SCHEDULE FOR RATING DISABILITY: THE SPINE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This amendment will contain additions, deletions, and revisions of terminology pertaining to spinal disabilities based on a systematic review of the medical criteria used to evaluate disabilities of the spine.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AJ60

3054. EDUCATION PROVISIONS OF THE VETERANS PROGRAMS ENHANCEMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 16136; 38 USC 3034; 38 USC 3241; 38 USC 3485; 38 USC 3537; 38 USC 3677; 38 USC 3684; 38 USC 5101

CFR Citation: 38 CFR 21.4145; 38 CFR 21.4200; 38 CFR 21.4206; 38 CFR 21.4262

Legal Deadline: None

Abstract: This rule will bring VA's educational assistance regulations into agreement with the Veterans Program Enhancement Act of 1998. This will include revising the calculation of the reporting fee paid to educational institutions; making advance payments to work-study students optional rather than mandatory; and revising the approval criteria for on-job training programs offered by the Federal Government or by State or local governments.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ68

3055. EVIDENCE OF PERMANENT AND TOTAL DISABILITY

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.3(a)

Legal Deadline: None

Abstract: This amendment would allow VA to accept the following types of evidence as establishing that a veteran is permanently and totally disabled, without need for medical evidence: (1) Status as a nursing home patient, (2) SSA determination of total disability, and (3) attainment of age 65.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Jacobs, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211

RIN: 2900–AJ82

3056. BENEFIT OF THE DOUBT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5107(b)

CFR Citation: 38 CFR 3.102

Legal Deadline: None

Abstract: This action proposes to amend 38 CFR part 3 by adding a new subpart D—Universal Adjudication Rules. This new subpart would consist of reorganized sections from existing subpart A. The first of these sections to be reorganized is the general concept of "benefit of the doubt." The intended effect of this amendment is to retain the existing provision but rewritten in a reorganized format using plain language principles and recognizing decisions of the U.S. Court of Appeals for Veterans Claims.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ93

3057. PERMANENT INCAPACITY FOR SELF-SUPPORT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 1115; 38 USC 1311; 38 USC 1313; 38 USC 1314; 38 USC 1521; 38 USC 1541; 38 USC 1542; PL 101-508; PL 102-568

CFR Citation: 38 CFR 3.356

Legal Deadline: None

Abstract: This action proposes to amend 38 CFR part 3 to conform it to the Presidential Memorandum of June 1, 1998, Plain Language in Government Writing, by revising provisions on helpless children in section 3.356 and by incorporating rules on helpless children in VA's Adjudication Procedures Manual, M21-I.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ95

3058. PRESUMPTIVE SERVICE CONNECTION FOR HEPATITIS C INFECTION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.318

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs adjudication regulations to establish presumptive service connection for hepatitis C infection in veterans who were exposed to blood during combat who underwent certain treatment procedures during active duty service. The intended effect of this rule is to ensure that veterans who may have been exposed to the hepatitis C virus during active military service, because they underwent hemodialysis, tranfusion of blood or blood products before January 1, 1993, or solid organ transplant before January 1, 1993, will be service-connected for hepatitis C infection.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ96

3059. MINIMUM ACTIVE DUTY REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 5303A

CFR Citation: 38 CFR 3; 38 CFR 3.12a

Legal Deadline: None

Abstract: This document explains the minimum active-duty service requirement (MADSR) for entitlement to VA benefits in "plain language." It incorporates a provision from the adjudication procedures manual, M21-1, not currently addressed in the regulation, to allow for public comment. It also corrects in M21-1, the date of enactment of the law under which the MADSR was authorized. This does not affect entitlement or eligibility to VA benefits previously established under the manual provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK02

3060. STATE DEPARTMENT AS AGENT OF DEPARTMENT OF VETERANS AFFAIRS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 5106

CFR Citation: 38 CFR 3; 38 CFR 3.108

Legal Deadline: None

Abstract: This document reorganizes and rewrites in "plain language" the regulation that identifies the State Department as an agent of the Department of Veterans Affairs for purposes of accepting, developing, and assisting with claims and evidence. It incorporates a provision in the adjudication procedures manual regarding services offered by the Department of State.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK03

3061. COMMENCEMENT OF THE PERIOD OF PAYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 5111

CFR Citation: 38 CFR 3; 38 CFR 3.31

Legal Deadline: None

Abstract: This document explains in "plain language" when benefit payments begin for certain original, reopened, or increased awards. It also clarifies procedures to enhance consistency of application and proposes to remove two requirements from the adjudication procedures manual, M21-1, that are inconsistent with governing authority.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK09

3062. SERVICE CONNECTION AND CHRONIC DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1110; 38 USC 1131

CFR Citation: 38 CFR 3.303

Legal Deadline: None

Abstract: Title 38 Code of Federal Regulations section 3.303 concerns the basic principles of service connection. This includes provisions on chronic disabilities and continuity of symptomatology. Section 3.303 is being revised into Reader Focused Writing. In addition, VA plans to make substantive changes needed to implement the U.S. Court of Appeals for Veterans Claims' holdings in the Savage, McManaway, and Hodges cases.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK11

3063. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND REQUIREMENT FOR DRUG-FREE WORKPLACE (ASSISTANCE)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 44; 38 CFR 48

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is planning to revise its portion of the Governmentwide nonprocurement common rule (NCR) for debarment and suspension found at 38 CFR part 44. The proposed changes include: Drafting the rule in a plain language style and format; reconciling technical differences between the NCR and the Federal Acquisition Regulation; enhancing and clarifying the existing rule; and establishing a separate part at 38 CFR part 48 for the drug-free workplace requirements that are in subpart F of the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 2900–AK16

3064. TIME LIMITS, EXTENSIONS, AND COMPUTATION OF TIME LIMITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5103; 38 USC 7105(c)

CFR Citation: 38 CFR 3.109; 38 CFR 3.110

Legal Deadline: None

Abstract: This provision explains in "plain language" about time limits for providing evidence to VA to complete claims, how those time limits are computed, and under what circumstances extensions to the time limits may be allowed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK17

3065. FINALITY OF DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 502; 38 USC 511; 38 USC 5104; 38 USC 5109A; 38 USC 5112(b)(6)

CFR Citation: 38 CFR 3.104

Legal Deadline: None

Abstract: This amendment informs claimants in "plain language" when a VA decision is final, how a decision by one VA office affects other VA offices, and under what circumstances a VA decision may be changed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK18

3066. DELEGATION OF AUTHORITY TO ISSUE DECISIONS ON BENEFITS CLAIMS

Priority: Info./Admin./Other

Legal Authority: 38 USC 512

CFR Citation: 38 CFR 3.100

Legal Deadline: None

Abstract: This is a plain language restatement of the existing delegations of authority to issue decisions on benefit claims.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK19

3067. INDIVIDUALS AND GROUPS CONSIDERED TO HAVE PERFORMED ACTIVE MILITARY, NAVAL, OR AIR SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101; 38 USC 102; 38 USC 107; 38 USC 501(a); 38 USC 1152; 38 USC 1504, 5303(c); PL 95-202; ...

CFR Citation: 38 CFR 3.7

Legal Deadline: None

Abstract: This amendment reorganizes the current regulation and rewrites it in "plain language." The regulation identifies civilian groups and individuals determined to have performed active service based on their service to U.S. Armed Forces. We propose to add three new groups, under the authority of Public Law No. 95-202, based on the recent decision of the Secretary of the Air Force that the service of these group members constitutes active military service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK20

3068. PSYCHOSIS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.384

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs adjudication regulations to define the term "psychosis." The term is used but not defined in certain statutes that provide presumptive service connection for compensation or health care purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AK21

3069. CHANGE OF LAW-EFFECT ON BENEFITS

Priority: Info./Admin./Other

Legal Authority: 38 USC 186; 38 USC 5112(b)(6); 38 USC 5110(g)

CFR Citation: 38 CFR 3.114

Legal Deadline: None

Abstract: These amendments are plain language restatements of adjudication regulations dealing with the effective dates that must be assigned when entitlement or non-entitlement to benefits is based on a change of law or a change VA rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK22

3070. RENOUNCEMENT OF BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5306

CFR Citation: 38 CFR 3.106

Legal Deadline: None

Abstract: This revision explains in "plain language" who has the right to renounce benefits, how to renounce benefits, and what renouncement means to a claimant. It discusses effective dates for the termination of renounced benefits, as well as the right to reapply for benefits that have been renounced. A substantive change in the effective date of a renouncement is proposed to cover the renouncement of benefits when an award is already in suspense.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK23

3071. TESTIMONY IN SUPPORT OF BENEFIT CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5711(a)(3)

CFR Citation: 38 CFR 3.200

Legal Deadline: None

Abstract: This proposal is a rewrite of the current regulation concerning the requirements for submitting oral and written testimony. We also propose to incorporate two provisions currently found in the adjudication procedure manual. The changes will make the regulation easier to understand and give claimants more information about the requirements for submitting oral and written testimony.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK24

3072. WRITTEN AND ORAL INFORMATION ON STATEMENTS AFFECTING ENTITLEMENT TO BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5104

CFR Citation: 38 CFR 3.103

Legal Deadline: None

Abstract: This rulemaking intends to amend VA's due process regulation to allow reporting requirements to be met and allow benefit modifications to be based on information provided orally or by electronic means (e-mail, facsimile, or other means). This should help both beneficiaries and VA since it would allow benefit modifications to be done more quickly and reduce overpayments. It would also allow those receiving pension or parents' DIC to report promptly the deaths of family members, since this could affect entitlement to benefits.

Timetable:

Action	Date	FR Cite
NPRM	04/20/01	66 FR 20220
NPRM Comment Period End	06/19/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald England, Chief, Policy and Regulations, C & P Service (21), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK25

3073. ACCEPTABLE EVIDENCE OF DEPENDENTS AND AGE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5124

CFR Citation: 38 CFR 3.204

Legal Deadline: None

Abstract: This amendment restates the current regulation in "plain language" and eliminates the requirement that statements acceptable as proof of age or relationship must be written.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK30

3074. ACCEPTABLE EVIDENCE OF VOID AND ANNULLED MARRIAGES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 103

CFR Citation: 38 CFR 3.207

Legal Deadline: None

Abstract: This amendment explains in "plain language" what VA considers acceptable evidence of a void or annulled marriage.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK27

3075. ACCEPTABLE EVIDENCE OF MARRIAGE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 103

CFR Citation: 38 CFR 3.205

Legal Deadline: None

Abstract: This revision explains in "plain language" what evidence is acceptable to VA as proof of marriage.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK30

3076. INDEPENDENT MEDICAL OPINIONS

Priority: Info./Admin./Other

Legal Authority: 38 USC 5109; 38 USC 5701(b)(1); 38 USC 52a(f)(3)

CFR Citation: 38 CFR 3.328

Legal Deadline: None

Abstract: This amendment is a plain language restatement of the existing regulation dealing with independent medical opinions that may be requested to resolve complex or controversial medical issues that may arise in a claim for veterans' benefits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2900–AK31

3077. ACCEPTABLE EVIDENCE OF DIVORCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 5124

CFR Citation: 38 CFR 3.206

Legal Deadline: None

Abstract: This is a plain language restatement of the adjudication regulation setting forth what VA will accept as evidence of a valid divorce.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK34

3078. ACCEPTABLE EVIDENCE OF TERMINATION OF MARITAL RELATIONSHIP OR CONDUCT

Priority: Info./Admin./Other

Legal Authority: 38 USC 101(3); 38 USC 103(d); 38 USC 1311(e)(2)

CFR Citation: 38 CFR 3.215

Legal Deadline: None

Abstract: This is a plain language restatement of the adjudication regulations that sets forth what VA will accept as evidence that a relationship warranting an inference of remarriage has terminated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK35

3079. ACCEPTABLE EVIDENCE OF BIRTH

Priority: Info./Admin./Other

Legal Authority: 38 USC 5124

CFR Citation: 38 CFR 3.209

Legal Deadline: None

Abstract: This is a plain language restatement of the adjudication regulation that describes what evidence is acceptable to prove birth and relationship.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK36

3080. EVIDENCE FROM FOREIGN COUNTRIES

Priority: Info./Admin./Other

Legal Authority: 38 USC 5712

CFR Citation: 38 CFR 3.202

Legal Deadline: None

Abstract: This is a plain language restatement of the adjudication regulation dealing with the authentication requirements for evidence given under oath before an official in a foreign country.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK37

3081. NATIONAL SERVICE LIFE INSURANCE—PLAIN ENGLISH REVISION

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 38 USC 1901 to 1929; 38 USC 1981 to 1988

CFR Citation: 38 CFR 8.0; 38 CFR 8.1

Legal Deadline: None

Abstract: This document proposes to amend 38 CFR 8.0 and 8.1 by revising the text into a different format to promote better communication to policyholders and program administrators. This amendment is written in conjunction with VA's plain English (Reader Focused Writing) initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK43

3082. ACCEPTABLE EVIDENCE OF CHILD'S RELATIONSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101(4)

CFR Citation: 38 CFR 3.210

Legal Deadline: None

Abstract: This revision explains in plain language what is acceptable evidence of a child's relationship to a veteran.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK47

3083. ACCEPTABLE EVIDENCE OF DEATH

Priority: Info./Admin./Other

Legal Authority: 38 USC 5106; 38 USC 5124

CFR Citation: 38 CFR 3.211

Legal Deadline: None

Abstract: This is a plain language restatement of the adjudication regulation that describes what evidence is acceptable to prove death.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK48

3084. ACCEPTABLE EVIDENCE OF UNEXPLAINED ABSENCE FOR 7 YEARS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 108

CFR Citation: 38 CFR 3.212

Legal Deadline: None

Abstract: This revision explains in plain language what evidence is acceptable for a finding of presumptive death. It incorporates a provision from the Adjudication Procedure Manual that explains what evidence of search for a missing person must show.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK49

3085. • U.S. FLAGS FOR BURIALS OF CERTAIN MEMBERS OF THE SELECTED RESERVE

Priority: Other Significant

Legal Authority: 38 USC 2301

CFR Citation: 38 CFR 1.10

Legal Deadline: None

Abstract: This amendment will implement the Strom Thurmond National Defense Authorization Act of 1999, which requires VA to issue burial flags for certain members of the Selected Reserve.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane Fuller, Assistant Director, Compensation and Pension Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7598

RIN: 2900–AK56

3086. • VALIDITY OF ENLISTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101(2)

CFR Citation: 38 CFR 3.14

Legal Deadline: None

Abstract: This revision explains in plain language what the Department of Veterans Affairs considers to be valid service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK59

3087. • COMPUTATION OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 106(c); 38 USC 5303(a)

CFR Citation: 38 CFR 3.15

Legal Deadline: None

Abstract: This revision explains in plain language how the Department of Veterans Affairs computes the length of a period of service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK60

3088. • DISEASES SPECIFIC TO RADIATION-EXPOSED VETERANS

Priority: Other Significant

Legal Authority: 38 USC 1112(c); PL 100-321

CFR Citation: 38 CFR 3.309(d)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning presumptive service connection for certain diseases for veterans who participated in radiation- risk activities during active service or while members of reserve components during active duty for training or inactive duty training. This proposed amendment would add cancers of the bone, brain, colon, lung, and ovary to the list of diseases which may be presumptively service-connected and amend the definition of the term "radiation-risk activity." The intended effect of this amendment is to ensure that veterans who may have been exposed to radiation during military service have the same burden of proof as civilians exposed to ionizing radiation who may be entitled to compensation for these cancers under comparable Federal statutes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney-Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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Email: capbruss@vba.va.gov

RIN: 2900–AK64

3089. • FILIPINO VETERANS BENEFIT IMPROVEMENTS

Priority: Other Significant

Legal Authority: 38 USC 107

CFR Citation: 38 CFR 3.8; 38 CFR 3.10; 38 CFR 3.1600

Legal Deadline: None

Abstract: This document proposes to amend Department of Veterans Affairs (VA) adjudication regulations to reflect changes made by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, which changed the rate of compensation payments to certain Filipino veterans residing in the U.S., and the Veterans Benefits and Health Care Improvement Act of 2000, which changed the amount of the burial benefit paid to the survivors of certain Filipino veterans who were residing in the U.S. at the time of their deaths.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney-Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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Fax: 202 275-1728
Email: capbruss@vba.va.gov

RIN: 2900–AK65

3090. • SPECIAL MONTHLY COMPENSATION FOR WOMEN VETERANS WHO LOSE A BREAST AS A RESULT OF A SERVICE-CONNECTED DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1114(k); 38 USC 1155; PL 102-4

CFR Citation: 38 CFR 3.350; 38 CFR 4.116

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its adjudication regulations to provide for payment of special monthly compensation for a woman veteran who loses one or both breasts as a result of service-connected disability. The intended effect of this amendment is to implement legislation authorizing VA to provide this benefit.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AK66

3091. • MONETARY ALLOWANCE UNDER 38 U.S.C. 1815 FOR A CHILD WITH ONE OR MORE COVERED BIRTH DEFECTS WHO IS A CHILD OF A WOMAN VIETNAM VETERAN

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805(b)(3); 38 USC 1812; 38 USC 1815; 38 USC 5110(n); 38 USC 5312(c)(1)

CFR Citation: 38 CFR 3.27; 38 CFR 3.29; 38 CFR 3.114; 38 CFR 3.216; 38 CFR 3.261

Legal Deadline: None

Abstract: Section 401 of the Veterans Benefits and Health Care Improvement Act of 2000, Public Law 106-419, amended chapter 18 of title 38 United States Code by adding subchapter II authorizing VA to provide certain benefits, including a monthly monetary allowance, to children born with certain birth defects who are the natural children of women veterans who served in the Republic of Vietnam during the Vietnam era. This document amends existing VA adjudication regulations and adds a new section 3.815 to title 38 Code of Federal Regulations to implement this new authority. Section 1823 of title 38 United States Code specifies that receipt of this allowance shall not affect the right of the child, or the right of any individual based on the child's relationship to that individual, to receive any other benefit to which the child, or that individual, may be entitled under any law administered by VA, nor will the allowance be considered income or resources in determining eligibility for, or the amount of, benefits under any Federal or federally assisted program. We propose to amend 38 CFR 3.27, 3.29, 3.31, 3.114, 3.216, 3.261 to 263, 3.272, and 3.275 to reflect this statutory provision as it applies to VA's income-based benefit programs. The statute states that the birth defects identified may not include: A familial disorder, a birth-related injury, or a fetal or

neonatal infirmity with well-established causes. The regulation will provide non-exclusive lists of included and excluded conditions for benefits. It also provides criteria to determine which of four levels of monthly monetary payment will be assigned, based on an assessment of the day-to-day functioning of affected individuals or to the extent of disfigurement of the head, face, or neck due to one or more covered birth defects or associated disabilities.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AK67

3092. • DUTY TO ASSIST

Priority: Other Significant

Legal Authority: 38 USC 5103; 38 USC 5108

CFR Citation: 38 CFR 3.102; 38 CFR 3.156; 38 CFR 3.159; 38 CFR 3.326

Legal Deadline: None

Abstract: The Department of Veterans Affairs (V) is proposing to amend its adjudication regulations to implement the provisions of the Veterans Claims Assistance Act of 2000 (the VCAA), which was signed by the President on November 9, 2000. The intended effect of this regulation is to establish clear guidelines consistent with the intent of Congress regarding the timing and the scope of assistance VA will provide to a claimant who files a substantially complete application for VA benefits.

Timetable:

Action	Date	FR Cite
NPRM	04/04/01	66 FR 17834
NPRM Comment Period End	05/04/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Jacobs, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211

RIN: 2900–AK69

3093. • ACCEPTABLE EVIDENCE OF CHANGE IN STATUS OR NUMBER OF DEPENDENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)(1); 38 USC 1115; 38 USC 1310; 38 USC 1521; 38 USC 5124

CFR Citation: 38 CFR 3.213

Legal Deadline: None

Abstract: This revision explains in plain language what evidence is acceptable to VA for the purpose of increasing benefits by adding dependents or for decreasing or discontinuing benefits due to a reduction in dependents or a change of status.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 2900–AK70

3094. • LOAN GUARANTY: PRE-PURCHASE COUNSELING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 3203; 38 USC 3210; 38 USC 3220

CFR Citation: 38 CFR 36.4332

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to amend its loan guaranty regulations to require that all first-time homebuyers seeking to obtain VA guaranteed home loans complete 3 hours of homeowners' counseling.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7369
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Email: lgyrfinn@vba.va.gov

RIN: 2900–AK76

3095. • ADDITIONAL DISABILITY OR DEATH DUE TO HOSPITAL CARE, MEDICAL OR SURGICAL TREATMENT, EXAMINATION, TRAINING AND REHABILITATION SERVICES, OR COMPENSATED WORK THERAPY PROGRAM

Priority: Other Significant

Legal Authority: 38 USC 1151

CFR Citation: 38 CFR 3.358; 38 CFR 3.800

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations concerning awards of compensation or dependency and indemnity compensation for additional disability or death caused by VA hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy (CWT) program. Under the proposed amendment, benefits will be payable for additional disability or death caused by hospital care, medical or surgical treatment, or examination only if VA fault or "an event not reasonably foreseeable" proximately caused the disability or death. Benefits will also be payable for additional disability or death proximately caused by VA's provision of training and rehabilitation services or CWT program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beth McCoy, Consultant, Regulations Staff, Compensation and Pension (211A), Department of Veterans Affairs, 575 N. Pennsylvania Street, Indianapolis, IN 46204
Phone: 317 226-5209

RIN: 2900–AK77

3096. • VETERANS EDUCATION: TOPPING UP TUITION ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3014; 38 USC 3015

CFR Citation: 38 CFR 21

Legal Deadline: None

Abstract: The Floyd D. Spence National Defense Authorization Action for Fiscal Year 2001 contains a provision that permits a service member to receive Montgomery GI Bill—Active Duty benefits for the difference between the service member's tuition and the portion of the tuition paid under 10 U.S.C. 2007. Appropriate regulations will be added to implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK79

3097. • VETERANS AND DEPENDENTS EDUCATION: LICENSING AND CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 38 3032; 38 USC 3232; 38 USC 3452; 38 USC 3482; 38 USC 3501

CFR Citation: 38 CFR 21

Legal Deadline: None

Abstract: The Veterans Benefits and Health Care Improvement Act provides that veterans and eligible persons may receive educational assistance to cover the cost of the tests needed to obtain an occupational license or certification. This improved benefit is available under the Post-Vietnam Era Veterans Educational Assistance Program, the Montgomery GI Bill-Active Duty, Survivors' and Dependents' Educational Assistance. Regulations are needed to properly implement this program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK80

3098. • VETERANS EDUCATION: ADDITIONAL OPPORTUNITY TO PARTICIPATE IN THE MONTGOMERY GI BILL AND OTHER MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3011 to 3012; 38 USC 3015; 38 USC 3018C; 38 USC 3080; 38 USC 16132

CFR Citation: 38 CFR 21.4138; 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7136; 38 CFR 21.7540

Legal Deadline: None

Abstract: The Veterans Benefits and Health Care Improvement Act of 2000 affects the Montgomery GI Bill-Active Duty and the Montgomery GI Bill-Selected Reserve. These include providing an opportunity for some service members to participate in the Montgomery GI Bill- Active Duty; repeal of the requirement that only the initial period of active duty be considered in determining eligibility for the Montgomery GI Bill-Active Duty; increasing the Montgomery GI Bill-Active Duty for those who contribute additional money; and changing the rules for determining when benefits may be paid during the interval between terms. The regulations governing Montgomery GI Bill will be revised accordingly.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK81

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3099. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SIMPLIFIED ACQUISITION PROCEDURES FOR HEALTH CARE RESOURCES

Priority: Info./Admin./Other

Legal Authority: 38 USC 8153

CFR Citation: 48 CFR 801; 48 CFR 806; 48 CFR 812; 48 CFR 837; 48 CFR 852; 48 CFR 873

Legal Deadline: None

Abstract: VA intends to withdraw the proposed rule concerning simplified acquisition procedures for health care resources published in the Federal Register on November 9, 1998 (63 FR 60256), and to promulgate a new proposed rule concerning simplified acquisition procedures for health care

resources. The new proposed rule document would amend the Department of Veterans Affairs Acquisition Regulation (VAAR) to establish simplified procedures for the competitive acquisition of health care resources, consisting of commercial services or the use of medical equipment or space, pursuant to 38 U.S.C. 8151-8153. Public Law 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, authorized VA to prescribe simplified procedures for the procurement of health care resources. The proposed rule would prescribe those procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60256
NPRM Comment Period End	01/08/99	
Second NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
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Email: donald.kaliher@mail.va.gov

RIN: 2900–AI71

3100. UNIVERSAL PRODUCT NUMBERS (UPNS)

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 811; 48 CFR 852

Legal Deadline: None

Abstract: This rulemaking action would provide new contract clauses whereby Department of Veterans Affairs contracting officers could require contractors to furnish products marked at the case, box, and unit of use levels with Universal Product Numbers (UPNs) for scanning using bar code readers.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ45

3101. CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801; 48 CFR 832; 48 CFR 836; 48 CFR 843; 48 CFR 846; 48 CFR 852

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) to revise and update section numbers and titles, to make minor grammatical corrections and revisions, to delegate authority, and to update parts 836, Construction and Architect-Engineer Contracts, and 852, Solicitation Provisions and Contract Clauses, all to correspond to the Federal Acquisition Regulation (FAR). The rule would clarify how existing VAAR clauses relating to construction contracts are to be used, remove obsolete or duplicative materials, update the VAAR regarding certified cost or pricing data, and provide Agency procedures regarding disclosure of the Government cost estimate on construction contracts. The rule would also remove a "guarantee" clause from the VAAR and provide for VA contracting officers to use the FAR "warranty" clause for construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ56

3102. • DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATIONS PLAIN LANGUAGE REWRITE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 48 USC 486(c)

CFR Citation: 38 CFR 8

Legal Deadline: None

Abstract: This rulemaking action would amend the Department of Veterans Affairs acquisition regulation to update position titles, to remove obsolete or duplicative material, to delegate authority, and to make plain language revisions to the text. In addition, the rule would update material to correspond to the requirements of the Federal Acquisition Regulation (FAR) and would provide agency procedures for compliance with FAR requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK78

BOARD OF VETERANS APPEALS

3103. RULES OF PRACTICE; JURSIDICTION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 511(a); 38 USC 7104; 38 USC 7105; 38 USC 7108

CFR Citation: 38 CFR 20.101; 38 CFR 20.203

Legal Deadline: None

Abstract: The Board of Veterans Appeals is responsible for ensuring that it has jurisdiction over cases before it prior to adjudicating those cases on their merits. The proposed regulatory amendments would make it clear that the Board may raise jurisdictional issues sua sponte, and they provide procedural protections for parties (permit a hearing and submission of argument and evidence) when it does so.

Timetable:

Action	Date	FR Cite
NPRM	04/04/01	66 FR 17840
NPRM Comment Period End	06/04/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AJ97

3104. • APPEALS REGULATIONS: TITLE FOR MEMBERS OF THE BOARD OF VETERANS APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512; 38 USC 7101(a)

CFR Citation: 38 CFR 19.2

Legal Deadline: None

Abstract: The Board of Veterans' Appeals proposes to amend its appeals regulations to provide that a Member of the Board of Veterans' Appeals (Board) may also be known as a "Veteran Law Judge." This duplicates, in proposed rule format, a final rule previously published in the Federal Register on September 14, 2000 (65 FR 55461). Individuals deciding appeals in other parts of the Federal Government are typically known as "judges"; e.g., "administrative law judges" and "administrative judges." Giving Board Members the title of "veteran law judges" would provide a more accurate title than "member" and would enhance confidence in the system through recognition that appeals are being adjudicated by legal professionals.

Timetable:

Action	Date	FR Cite
NPRM	03/06/01	66 FR 13463
NPRM Comment Period End	05/07/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AK62

3105. • BOARD OF VETERANS' APPEALS: RULES OF PRACTICE—APPEAL WITHDRAWAL

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7105(b)(2)

CFR Citation: 38 CFR 20.204

Legal Deadline: None

Abstract: The Board of Veterans' Appeals proposes removing a restriction in its Rules of Practice (Rule of Practice 204; 38 CFR 20.204) that bars an appellant's representative from withdrawing a Notice of Disagreement or a Substantive Appeal that the appellant filed personally without the appellant's written consent. VA believes that the restriction, adopted in the early 1960s, is an outdated and unnecessary intrusion into the relationship between appellants and their representatives, which creates needless delay through unnecessary procedural complexity.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AK71

NATIONAL CEMETERY SYSTEM

3106. HEADSTONE AND MARKER INSCRIPTION POLICY

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 38 USC 2306

CFR Citation: 38 CFR 1.630; 38 CFR 1.632

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR 1.630 to implement Department of Veterans Affairs (VA) regulations on its inscription policy for use on Government-provided headstones or markers. The amendment formalizes implementation of an all-inclusive inscription policy. This policy change provides for the payment at Government expense of text only, space permitting, for optional inscriptions on all Government headstones or markers. The rule is published as a proposed rule in the Federal Register to provide information to the public on specific changes to VA's inscription policy for Government furnished headstones or markers. A 60-day public comment period is provided. The proposed rule will not have a significant economic impact on a substantial number of small entities and only individual VA beneficiaries could be directly affected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

VA — Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5153
TDD Phone: 202 273-6697

RIN: 2900–AH45

3107. STATE CEMETERY GRANTS: AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT OF VETERANS CEMETERIES

Priority: Other Significant

Legal Authority: 38 USC 2408

CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9 (New)

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR part 39 to amend Department of Veterans Affairs (VA) regulations for the State Cemetery Grants Program to implement and update information on program requirements and the application process for participants. The amendment formalizes new standards and provides guidance on how States may obtain funding for grants to expand, establish, or improve State veterans cemeteries. The rule is published as proposed in the Federal Register to provide information to the public on how to apply for Federal funding for State veterans cemeteries. A 60-day public comment period is provided. It is subject to the requirements of the Administrative Procedures Act and E.O. 12866 because the rule is an interpretation of statute. The proposed rule will not have a significant economic impact on a substantial number of small entities; only those States that apply for funding may be direct beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
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TDD Phone: 202 273-6697

RIN: 2900–AH46

3108. ELIGIBILITY FOR BURIAL OF DEPENDENT ADULT CHILDREN OF ELIGIBLE VETERANS

Priority: Other Significant

Legal Authority: 38 USC 2402(5)

CFR Citation: 38 CFR 1.620(c)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend regulations to specify that the eligibility of veterans' adult children for burial in a national cemetery is only for those who have become permanently incapable of self support before attaining the age of 21 years due to a physical or mental disability. Current regulations do not clearly express this requirement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5153
TDD Phone: 202 273-6697

RIN: 2900–AI95

3109. USE OF THE SECRETARY'S AUTHORITY AS PROVIDED BY 38 U.S.C. 2402(6)

Priority: Other Significant

Legal Authority: 38 USC 2402(6)

CFR Citation: 38 CFR 1.620(d)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a proposed rule to define individuals and groups of individuals, who are otherwise not eligible for burial in a VA national cemetery, that would be considered under the Secretary's authority in 38 U.S.C. 2402(6). These new regulations establish a consistent basis for VA to determine those individuals or groups of individuals that VA may consider for eligibility under 38 U.S.C. 2402(6).

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5153
TDD Phone: 202 273-6697

RIN: 2900–AJ48

OFFICE OF POLICY AND PLANNING

3110. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS; GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 75; 38 USC 501; PL 98-502

CFR Citation: 38 CFR 41; 38 CFR 49

Legal Deadline: None

Abstract: This document proposes to amend part 41 of VA's regulations to add new subparts to codify revised OMB Circular A-133. The Circular provides standards for consistency and uniformity among Federal agencies for the audits of States, local governments, and nonprofit organizations expending Federal awards. Further, this amendment proposes to add a new part 49 to VA's regulations to bring VA in step with other Federal agencies who have already adopted OMB Circular A-110 as a common rule. The Circular provides for uniform administrative requirements for Federal agencies with grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

VA — Proposed Rule Stage

Government Levels Affected: State, Local

Agency Contact: David Walton, Office of Policy and Planning (008), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5061

RIN: 2900–AJ62

DEPARTMENT OF VETERANS AFFAIRS (VA) — Final Rule Stage

VETERANS HEALTH ADMINISTRATION

3111. PROVISION OF DRUGS AND MEDICINES PRESCRIBED BY NON-VA PHYSICIANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the "Medical" regulations concerning the criteria for provision of drugs and medicines by non-VA physicians for certain veterans. It is our view that the statutory framework inherently requires that the drugs provided be suitable; i.e., FDA-approved, high quality, and best value. In this regard, we have established a list of suitable drugs and medicines in the VA national formulary. Also, we have established a mechanism for allowing the provision of drugs and medicines not listed in the formulary. These changes are needed to ensure that VA provides only those drugs and medicines intended to be provided under the statutory authority. Also, this document makes nonsubstantive changes for the purpose of avoiding unnecessary duplication.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff Ramirez, Pharmacy Service (119), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8428

RIN: 2900–AJ24

3112. ADVANCED HEALTH CARE PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.32

Legal Deadline: None

Abstract: This document amends the VA medical regulations to codify VA policy regarding advance health care planning. The rule sets forth a mechanism for the use of written advance directives; i.e., a VA living will, a VA durable power of attorney for health care, and a State-authorized advance directive. The rule also sets forth a mechanism for honoring verbal or nonverbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent and the patient is not physically able to sign an advance directive form or the appropriate form is not readily available. This is intended to help ensure that VA acts in compliance with patients' wishes concerning future health care.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58677
NPRM Comment Period End	01/04/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen Fox M.D., Director, National Center for Ethics (10AE), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-6926

RIN: 2900–AJ28

3113. PROVISION OF DRUGS AND MEDICINES TO CERTAIN VETERANS IN STATE NURSING HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs medical regulations concerning the provision of drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance. The regulations are amended to allow prescriptions to be filled by non-VA pharmacies in State homes under contract with VA for filling prescriptions for patients in State homes. This is consistent with VA's special relationship with State homes. It will eliminate duplication in services and will help improve timeliness for filling prescriptions in State homes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/98	63 FR 37779
Interim Final Rule Effective	07/14/98	
Interim Final Rule Comment Period End	09/14/98	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeff Ramirez, Pharmacy Service (119), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8428

RIN: 2900–AJ34

VA — Final Rule Stage

3114. PER DIEM FOR ADULT DAY HEALTH CARE OF VETERANS IN STATE HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743

CFR Citation: 38 CFR 51; 38 CFR 52; 38 CFR 58

Legal Deadline: None

Abstract: This document proposes to establish a new part 52 setting forth a mechanism for paying per diem to State homes providing adult day health care to eligible veterans. The intended effect of the proposed regulations is to ensure that veterans receive high quality care in State homes.

Timetable:

Action	Date	FR Cite
NPRM	06/28/00	65 FR 39835
NPRM Comment Period End	08/28/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: L. Nan Stout, Chief, State Home Per Diem Program (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8538
Email: nan.stout@mail.va.gov

RIN: 2900–AJ74

3115. REASONABLE CHARGES FOR MEDICAL CARE OR SERVICES

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1721; 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs (VA) regulations concerning "reasonable charges" for medical care or services provided or furnished by VA to a veteran: For a non-service-connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health plan contract; for a non-service-connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or for a non-service-connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance. This document also amends the regulations to update data bases and other provisions for the purpose of providing more precise charges.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/00	65 FR 65906
Interim Final Rule Comment Period End	01/02/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Cleaver, VHA Revenue Office.(174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8210
Fax: 202 273-6485

RIN: 2900–AK39

3116. • DELEGATION OF AUTHORITY—LOAN GUARANTY FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS

Priority: Info./Admin./Other

Legal Authority: 38 USC 501(a); 38 USC 512; 38 USC 3772

CFR Citation: 38 CFR 17.1000-1010

Legal Deadline: None

Abstract: The Department of Veterans Affairs will be amending its medical regulations by delegating to the Under Secretary for Health authority to make final agency decisions regarding the pilot program for guaranteed loans for multifamily transitional housing projects for homeless veterans. It will also authorize a limited redelegation of the authority to execute documents.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Theresa Hayes, Program Manager (116E), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8445

RIN: 2900–AK51

3117. • PROVISION OF HOSPITAL AND OUTPATIENT CARE TO VETERANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721; PL 104-262

CFR Citation: 38 CFR 17.36

Legal Deadline: None

Abstract: This document amends VA medical regulations to announce that VA will enroll all seven priority categories of veterans for the period October 1, 2000, through September 30, 2001, unless it is necessary to change this determination by a subsequent rulemaking document.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Walter Besecker, Director, Policy and Forecasting Service (105D), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8934

RIN: 2900–AK53

3118. • MEDICAL BENEFITS PACKAGE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1701(10); 38 USC 1710B(a)(5); PL 106-117

CFR Citation: 38 CFR 17.36; 38 CFR 17.38

Legal Deadline: None

Abstract: This document amends VA's medical regulations to add the following to the medical benefits package: Noninstitutional adult day health care, noninstitutional geriatric evaluation, and noninstitutional respite care. This implements statutory provisions of the Veterans Millennium Health Care and Benefits Act.

VA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Goodwin, Geriatrics and Extended Care (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8540

RIN: 2900–AK55

3119. • REASONABLE CHARGES FOR MEDICAL CARE OR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721; 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: This document amends VA's medical regulations concerning "reasonable charges" for medical care or services provided or furnished by VA to a veteran.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Cleaver, VHA Revenue Office (174), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8210
Fax: 202 273-6485

RIN: 2900–AK73

VETERANS BENEFITS ADMINISTRATION

3120. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3703(c)(1); 38 USC 3720

CFR Citation: 38 CFR 36.4320

Legal Deadline: None

Abstract: Present regulations give loan holders a choice of various forms of title evidence when conveying a property to the Secretary of Veterans Affairs. The regulations will be amended to authorize the Secretary to specify the title documentation necessary for conveyance of properties to the Secretary and establish a date by which such title evidence must be received.

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31847
NPRM Comment Period End	10/05/90	
NPRM Comment Period Extended	10/05/90	55 FR 35325
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard Fyne, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7380

RIN: 2900–AE20

3121. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3703; 38 USC 3732

CFR Citation: 38 CFR 4202; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Legal Deadline: None

Abstract: Public Law 101-237, the Veterans Home Loan Indemnity and Restructuring Act of 1989, amended 38 U.S.C. 3732(a) to require holders of VA-guaranteed loans that are in default to notify VA if they refuse a partial payment of the amount owed when submitted by the veteran borrower. Notification may include a statement as to the circumstances of the default and the reason for the holder's refusal; these regulations will also set out the changed requirements with regard to establishing a veteran's liability to the Government in the event of foreclosure of a VA-guaranteed loan. In the past, veterans were liable if their VA loan foreclosed. Public Law 101-257 liability will only be established in the event of fraud, misrepresentation, or bad faith.

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 9944
NPRM Comment Period End	05/02/94	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7380

RIN: 2900–AE60

3122. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate skin conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 272-7211

RIN: 2900–AF00

3123. AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-568

CFR Citation: 38 CFR 21.40; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; 38 CFR 21.6523; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 extended the termination date for the program of vocational training for certain pensioners through December 31, 1995, and made permanent the programs protecting health care benefits for pensioners who lose their benefits due to income from work or training and the special counseling and employment services program for veterans with total disability ratings because of individual unemployability. In addition, the law authorizes a 10 percent increase in subsistence allowance for participants in the vocational rehabilitation program and extends eligibility for vocational rehabilitation to veterans with service-connected disability of 10 percent under certain conditions. The change also includes revisions to implement regulatory reform.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David James, Counseling Psychologist (281), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7438
TDD Phone: 202 275-5636

RIN: 2900–AG00

3124. REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3720(a); 38 USC 3732(a)

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to amend its loan guaranty regulations to revise the definition of property improvements for purposes of determining the net value of a foreclosed property and to clarify VA's position on pre-foreclosure debt waivers for liable veterans in cases involving transferee defaults. These changes will account for actual property appraisal procedures and will clarify Agency policy on preforeclosure debt waivers. Note: Because the original Notice of Proposed Rulemaking (NPRM) was published on September 22, 1993 (58 FR 49251), VA will republish the NPRM to provide for a new notice and comment period before proceeding with a final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49251
NPRM Comment Period End	10/22/93	
Second NPRM	08/01/00	65 FR 46882
Second NPRM Comment Period End	10/02/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7380

RIN: 2900–AG20

3125. VISION

Priority: Other Significant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75

Legal Deadline: None

Abstract: This action will amend the vision portion of the rating schedule to provide current medical terminology, clarify ambiguous evaluation criteria, and add medical conditions not presently in the rating schedule.

Timetable:

Action	Date	FR Cite
NPRM	05/11/99	64 FR 25246
NPRM Comment Period End	07/12/99	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AH43

3126. INTERVERTEBRAL DISC SYNDROME

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action ensures that veterans diagnosed with intervertebral disc syndrome meet uniform criteria and receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8204
NPRM Comment Period End	04/25/97	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AI22

3127. CLAIMS BASED ON AGGRAVATION OF NONSERVICE-CONNECTED DISABILITY

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.310

Legal Deadline: None

Abstract: This document amends VA regulations concerning secondary service connection for certain disabilities. This amendment is necessary because of a recent decision by the U.S. Court of Veterans Appeals and will establish a new means by which veterans may be compensated for disabilities related to other service-connected conditions.

Timetable:

Action	Date	FR Cite
NPRM	06/04/97	62 FR 30547
NPRM Comment Period End	08/04/97	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Jacobs, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211

RIN: 2900–AI42

3128. VETERANS EDUCATION: REPORTING AND RECORDKEEPING REQUIREMENTS AT FLIGHT SCHOOLS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136; 38 USC 3002; 38 USC 3034; 38 USC 3202; 38 USC 3241; 38 USC 3452; 38 USC 3471; 38 USC 5101

CFR Citation: 38 CFR 21.4235; 38 CFR 21.4263

Legal Deadline: None

Abstract: Veterans are required by statute to apply for any benefit the Department of Veterans Affairs administers. This proposal will describe the information to be included in an application for educational assistance for the pursuit of flight training. VA believes that, in order to comply with various statutory requirements connected with the educational programs VA administers, flight schools with courses approved for VA training will have to keep some records beyond those required by the Federal Aviation Administration. This proposal will state those recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/03/00	65 FR 17477
NPRM Comment Period End	06/02/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AJ23

3129. EXCLUSIONS FROM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10602(c)

CFR Citation: 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.272

Legal Deadline: None

Abstract: To exclude from countable income for VA purposes amounts received under the Victims of Crime Act of 1984.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Jacobs, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211

RIN: 2900–AJ52

3130. CERTIFICATION EVIDENCE FOR PROOF OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 3.203

Legal Deadline: None

Abstract: To allow the claimants' representatives to certify photocopies as proof of service.

Timetable:

Action	Date	FR Cite
NPRM	06/27/00	65 FR 39580
NPRM Comment Period End	08/28/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney-Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211
Fax: 202 275-1728
Email: capbruss@vba.va.gov

RIN: 2900–AJ55

3131. ACCELERATED BENEFITS OPTION FOR SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-368, sec 302

CFR Citation: 38 CFR 9.13

Legal Deadline: None

Abstract: Section 302 of the Veterans Program Enhancement Act of 1998 (Pub. L. 105-368) authorizes the payment of accelerated benefits in the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs, effective February 9, 1999. This rule amends Department of Veterans Affairs (VA) regulations by providing an accelerated benefit option that will permit terminally ill members access to life insurance benefits before they die.

Timetable:

Action	Date	FR Cite
NPRM	07/20/00	65 FR 44999
NPRM Comment Period End	08/18/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Attorney/Insurance Specialist, Insurance Program Administration & Oversight, Department of Veterans Affairs, P.O. Box 13399, Philadelphia, PA 19101
Phone: 215 842-2000
Fax: 215 381-3502
Email: issghosm@vba.va.gov

RIN: 2900–AJ80

3132. LOAN GUARANTY: ADVERTISING AND SOLICITATION DISCLOSURE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4227; 38 CFR 36.4365

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to change its regulations by prohibiting advertisements or solicitations from lenders that falsely state or imply that they were issued by or at the direction of VA or any other entity of the United States. This change would also provide that each written advertisement or solicitation from a private lender concerning VA-guaranteed loans include a statement indicating that the lender is a private lender and that the lender does not have an exclusive right to make loans guaranteed by VA. These provisions appear to be necessary to ensure that lenders do not provide misleading information.

Timetable:

Action	Date	FR Cite
NPRM	12/08/00	65 FR 76957
NPRM Comment Period End	02/06/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7369
Fax: 202 273-3523
Email: lgyrfinn@vba.va.gov

RIN: 2900–AJ86

3133. REVIEW OF BENEFIT CLAIMS DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5109(a); 38 USC 7105(a)

CFR Citation: 38 CFR 3.105; 38 CFR 3.2100; 38 CFR 3.2600

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulations concerning the revision of decisions that are not clearly and unmistakably erroneous. This rulemaking authorizes designated personnel at VA regional offices to review certain adjudicated claims and, if warranted, grant a benefit sought by the claimant.

Timetable:

Action	Date	FR Cite
NPRM	02/18/00	65 FR 8329
NPRM Comment Period End	04/18/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney-Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211
Fax: 202 275-1728
Email: capbruss@vba.va.gov

RIN: 2900–AJ99

3134. POST-TRAUMATIC STRESS DISORDER CLAIMS BASED ON PERSONAL ASSAULT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1154

CFR Citation: 38 CFR 3.304

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulations on the proof of stressor in claims for service connection of post-traumatic stress disorder resulting from personal assault. It provides that alternative evidence other than the veteran's military records may constitute credible supporting evidence of the stressor. It also implements decisions by the U.S. Court of Appeals for Veterans Claims, which state that VA Adjudication Procedure Manual provisions on this issue are the equivalent of regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/16/00	65 FR 61132
NPRM Comment Period End	12/15/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney-Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211
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Email: capbruss@vba.va.gov

RIN: 2900–AK00

3135. REVISED DEFINITION OF A PROGRAM OF EDUCATION UNDER THE MONTGOMERY GI BILL—ACTIVE DUTY AND OTHER MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3002; 38 USC 3011; 38 USC 3031

CFR Citation: 38 CFR 21.7020; 38 CFR 21.7050; 38 CFR 21.7131

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) will amend its educational assistance regulations to reflect statutory changes contained in the Veterans Millennium Health Care and Benefits Act of 1999. These changes set forth a revised definition of a program of education under the Montgomery GI Bill—Active Duty (MGIB) and new eligibility criteria that will allow additional individuals to establish eligibility for educational assistance under the MGIB.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AK06

3136. SIGNATURE BY MARK

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 5101

CFR Citation: 38 CFR 3; 38 CFR 3.113

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulation that explains how a claimant can use a mark or a thumbprint in place of a signature. This amendment is necessary to present the existing regulation in plain language and to remove an obsolete manual provision from VA's Adjudication Procedural Manual, M21-1.

Timetable:

Action	Date	FR Cite
NPRM	07/26/00	65 FR 45952
NPRM Comment Period End	09/25/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Bisset Jr., Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7213

RIN: 2900–AK07

3137. SCHEDULE FOR RATING DISABILITIES: DISABILITIES OF THE LIVER

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs Schedule for Rating Disabilities by revising the portion of the Digestive System that addresses disabilities of the liver.

Timetable:

Action	Date	FR Cite
NPRM	08/07/00	65 FR 48205
NPRM Comment Period End	10/06/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 272-7211

RIN: 2900–AK12

3138. INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131

CFR Citation: 38 CFR 21.7636

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve for fiscal year 2001 will be changed to show a 3.0 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK40

3139. VETERANS EDUCATION: INCREASED ALLOWANCE FOR THE EDUCATIONAL TEST PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2143; 10 USC 2144

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Legal Deadline: None

Abstract: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance test program shall be adjusted annually by the Secretary of Defense based upon the average actual cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that the rates for the 2000-2001 academic year should be increased by 4 percent over the rates payable for the 1999-2000 academic year. The regulations dealing with these rate will be amended accordingly.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK41

3140. INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—ACTIVE DUTY AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015; 38 USC 3032

VA — Final Rule Stage

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: By statute, the monthly rate of basic educational assistance payable under the Montgomery GI Bill—Active Duty must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty for fiscal year 2001 will be changed to show a 3 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK44

3141. END OF THE SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 1143

CFR Citation: 38 CFR 21.4131; 38 CFR 21.4135; 38 CFR 21.4800; 38 CFR 21.4802; 38 CFR 21.4810; ...

Legal Deadline: None

Abstract: Veterans are no longer training under the Service Members Occupational Conversion and Training Program. The program has not been funded. Regulations governing the program are obsolete and will be rescinded.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Additional CFR Citations: 38 CFR 21.4812; 38 CFR 21.4820; 38 CFR 21.4822; 38 CFR 21.4823

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK45

3142. VETERANS VOCATIONAL REHABILITATION AND EDUCATION: TITLE CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 512

CFR Citation: 38 CFR 21.50; 38 CFR 21.53; 38 CFR 21.60; 38 CFR 21.68; 38 CFR 21.4250; ...

Legal Deadline: None

Abstract: VA administers a vocational rehabilitation program that provides eligible veterans, with compensable service-connected disabilities, all service and assistance necessary to enable them to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. Due to an increased emphasis on helping these veterans obtain and maintain suitable employment, VA has decided to change the title of those employees who deal principally with this program. All appropriate rules will be changed to show that these employees deal with vocational rehabilitation and employment.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Additional CFR Citations: 38 CFR 21.74; 38 CFR 21.98; 38 CFR 21.100; 38 CFR 21.155

Agency Contact: William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK46

3143. • DISEASE ASSOCIATED WITH EXPOSURE TO CERTAIN HERBICIDE AGENTS: TYPE 2 DIABETES MELLITUS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 102-4; 38 USC 501(a); 38 USC 1116

CFR Citation: 38 CFR 3.309(e)

Legal Deadline: NPRM, Statutory, January 8, 2001, See Agent Orange Act of 1991.

Abstract: The Department of Veterans Affairs is proposing to amend its adjudication regulations concerning presumptive service connection for certain diseases for which there is no record during service. This proposed amendment is necessary to implement a decision of the Secretary of Veterans Affairs, under the authority granted by the Agent Orange Act of 1991, that there is a positive association between exposure to herbicides used in the Republic of Vietnam during the Vietnam era and the subsequent development of Type 2 diabetes. The intended effect of this proposed amendment is to establish presumptive service connection for that condition based on herbicide exposure.

Timetable:

Action	Date	FR Cite
NPRM	01/11/01	66 FR 2376
NPRM Comment Period End	03/12/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo, Attorney-Advisor, Compensation and Pension (211), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7211
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Email: capbruss@vba.va.gov

RIN: 2900–AK63

VA — Final Rule Stage

3144. • VETERANS BENEFITS AND HEALTH CARE IMPROVEMENT ACT OF 2000

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1114(j); 38 USC 5503(f)

CFR Citation: 38 CFR 3.6; 38 CFR 3.353; 38 CFR 3.557; 38 CFR 3.558; 38 CFR 3.1604

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulations concerning the definition of the term "active military, naval, or air service," the payment limitation based on the value of an incompetent veteran's estate, the plot allowance for certain individuals buried in State veterans' cemeteries, and the limitation on pension for certain recipients of Medicaid-covered nursing home care. This amendment is necessary to implement statutory changes contained in the Veterans Benefits and Health Care Improvement Act of 2000.

Timetable:

Action	Date	FR Cite
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK68

3145. • DELEGATION OF AUTHORITY—PORTFOLIO LOAN SERVICING CONTRACTOR

Priority: Info./Admin./Other

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 36.4342

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its regulations to delegate to certain officers, of the entity performing loan servicing functions under a contract with the Secretary of Veterans Affairs, authority to execute all documents necessary for the servicing and termination of a loan made or acquired by the Secretary.

Timetable:

Action	Date	FR Cite
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK72

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3146. SEALED BIDDING AND COMPETITIVE PROPOSALS

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 806

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its Acquisition Regulations. Section 806.401 is amended to remove material which conflicts with the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/11/98	63 FR 11865
NPRM Comment Period End	05/11/98	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI99

3147. • VETERANS AFFAIRS ACQUISITION REGULATION: REVISIONS TO VA ACQUISITION REGULATIONS PARTS 801 THROUGH 805

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801 to 805; 48 CFR 842; 48 CFR 849; 48 CFR 852

Legal Deadline: None

Abstract: This rulemaking action would amend the Department of Veterans Affairs Acquisition Regulation to update position titles, to make minor grammatical corrections and revisions, to revise and update section numbers and titles and to relocate material to correspond to the Federal Acquisition Regulation, to remove obsolete or duplicative material, to make plain language revisions, and to delegate authority. In addition, the rule would update material regarding various internal VA administrative programs such as the VA's acquisition review, contracting officer's certification, and head of the contracting activity programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AK75

VA

Final Rule Stage

BOARD OF VETERANS APPEALS

3148. BOARD OF VETERANS APPEALS—RULES OF PRACTICE—ATTORNEY FEE MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5902; 38 USC 5904; 38 USC 5905

CFR Citation: 38 CFR 20.3; 38 CFR 20.609; 38 CFR 20.610

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its rules of practice to end the practice of paying attorney fees from past-due benefits, establish safeguards in case of "disinterested third-party" payees who are individuals, and simplify certain notice procedures. These changes are necessary to permit VA to focus on activities more directly benefiting veterans and their families, i.e., deciding claims and coordinating benefit payments to veterans and their families, and to clarify the situations in which third parties may pay a claimants' legal fees.

Timetable:

Action	Date	FR Cite
NPRM	12/09/97	62 FR 64790
NPRM Comment Period End	02/09/98	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AI98

3149. BOARD OF VETERANS APPEALS: RULES OF PRACTICE—SUBPOENAS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5711; 38 USC 5713; 38 USC 7102(a)

CFR Citation: 38 CFR 20.711

Legal Deadline: None

Abstract: VA has the authority to issue subpoenas to compel the attendance of witnesses and/or the production of evidence. This authority has been delegated to Members of the Board through Rule of Practice 711 (38 CFR 20.711), which also sets forth the relevant procedures and generally provides that subpoenas will be issued pursuant to a motion filed with the Board, which is in turn decided by a Board Member or panel of Members.

Timetable:

Action	Date	FR Cite
NPRM	02/15/00	65 FR 7468
NPRM Comment Period End	04/17/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AJ58

3150. DELEGATIONS OF AUTHORITY—APPEALS REGULATIONS AND RULES OF PRACTICE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501(a); 38 USC 512; 38 USC 7101(a); 38 USC 7102; 38 USC 7104

CFR Citation: 38 CFR 19.2; 38 CFR 19.14; 38 CFR 20.102; 38 CFR 20.606(d)

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its Appeals Regulation and Rules of Practice to update the delegations of authority to Members of the Board and to include the definition of "Chief Members" to whom some authority is delegated.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AJ66

3151. NOTICE OF APPEAL IN SIMULTANEOUSLY CONTESTED CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 19.192; 38 CFR 20.502

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its Appeals Regulation and a Rule of Practice concerning simultaneously contested claims to make them more consistent with an authorizing statute and with each other. The statutory provision is currently implemented in two regulations. 38 U.S.C. 7105A(b) provides that when one contesting party files his or her "formal appeal" the "substance" of the formal appeal will be communicated to the other contesting parties who then have 30 days to file an answering brief or argument.

Timetable:

Action	Date	FR Cite
NPRM	10/01/99	64 FR 53302
NPRM Comment Period End	11/30/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AJ73

3152. NOTIFICATION OF REPRESENTATIVES IN CONNECTION WITH MOTIONS FOR REVISION OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7104(d); 38 USC 7111

CFR Citation: 38 CFR 20.1405

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its Rules of Practice at 38 CFR part 20 to add procedures for notifying representatives when parties file motions to challenge final Board decisions on the grounds of "clear and unmistakable error" (CUE). The change is required to help assure that veterans have the benefit of representation in connection with CUE motions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/12/99	64 FR 7090
Interim Final Rule Effective	02/12/99	
Interim Final Rule Comment Period End	03/15/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AJ75

3153. THE BOARD OF VETERANS APPEAL; RULES OF PRACTICE—MOTION FOR REVIEW OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR: CONTENT OF RECORD; ADVANCEMENT ON THE DOCKET

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7104(d); 38 USC 7111

CFR Citation: 38 CFR 20.1403; 38 CFR 20.1405(a); 38 CFR 20.1405(b)

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its Rules of Practice at 38 CFR part 20 to add procedures which would (1) eliminate a provision relating to "constructive notice" as to the record to be reviewed in connection with challenges to Board decisions on the grounds of clear and unmistakable error (CUE) and (2) add a provision to provide for advancing CUE motions on the docket.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AJ85

3154. APPEAL REGULATIONS, RULES OF PRACTICE: USE OF SUPPLEMENTAL STATEMENT OF THE CASE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7105(d)

CFR Citation: 38 CFR 19.31; 38 CFR 20.302(c); 38 CFR 20.501(c)

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its appeals regulations and Rules of Practice to clarify that a "Supplemental Statement of the Case" (SSOC) is to be used only to inform an appellant of material changes in, or additions to, the information included in the Statement of the Case (SOC) or a prior SSOC. The prior rule permitted new issues to be added to the SOC, resulting in confusion for appellants, regional offices, and the Board as to what issues were actually on appeal. Since 1966, the manual provisions governing the regional office have prohibited using an SSOC to reply to new issues. This rule will conform the Board's rules with agency practice.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AK33

3155. • RULES OF PRACTICE: MEDICAL OPINIONS FROM THE VETERANS HEALTH ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5107(a)

CFR Citation: 38 CFR 20.901(a)

Legal Deadline: None

Abstract: The Board of Veterans' Appeals (Board) is amending its appeals regulations to clarify that it may obtain medical opinions from VA's Veterans Health Administration (VHA). The current rule, 38 CFR 20.901(a), makes an obsolete reference to the "Chief Medical Director," a title eliminated in 1992 and replaced by "Under Secretary for Health." The revised rule would clarify that the Board may obtain opinions from VHA, not from the individual who happens to be the Under Secretary for Health.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AK52

3156. • BOARD OF VETERANS APPEALS: RULES OF PRACTICE—TIME FOR FILING SUBSTANTIVE APPEAL

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7105(b)(1) and (d)(3)

CFR Citation: 38 CFR 20.302(b); 38 CFR 30.304

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its appeals regulations relating to the time limit for filing a substantive appeal. It supplements an opinion by VA's General Counsel that, in some cases, when a claimant files additional evidence, the deadline for filing a "substantive appeal" may be extended.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C),

VA

Final Rule Stage

VA — Final Rule Stage

Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AK54

3157. • BOARD OF VETERANS APPEALS: RULES OF PRACTICE—EFFECT OF PROCEDURAL DEFECTS IN MOTIONS FOR REVISION OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7111; PL 105-111

CFR Citation: 38 CFR 20.1404(b); 38 CFR 20.1409(b)

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its Rules of Practice regulations to provide that, when a motion to revise a Board decision on the grounds of clear and unmistakable error fails to provide specific allegations of error, the Board will dismiss the motion without prejudice to refiling. This amendment is made necessary by a decision of the United States Court of Appeals for the Federal Circuit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AK74

NATIONAL CEMETERY SYSTEM

3158. INTERMENT OR MEMORIALIZATION IN VA NATIONAL CEMETERIES AND CERTAIN STATE CEMETERIES—FEDERAL OR STATE CAPITAL CRIME

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 2411; PL 105-116

CFR Citation: 38 CFR 1; 38 CFR 39

Legal Deadline: None

Abstract: Public Law No. 105-116, 111 Stat. 2381 (codified at 38 U.S.C. 2411), provides that, under certain circumstances, the remains of certain persons who committed Federal or State capital crimes may not be interred in a VA national cemetery and the memory of such persons may not be memorialized in a VA national cemetery. These statutory provisions also impose conditions on the receipt by a State of a VA grant to the State for veteran's cemetery regarding such interments or memorializations.

Timetable:

Action	Date	FR Cite
NPRM	07/21/00	65 FR 45332
NPRM Comment Period End	09/19/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Barber, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5153
TDD Phone: 202 273-6697

RIN: 2900–AJ77

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3159. DELEGATION OF AUTHORITY—DECISIONMAKING REGARDING DISCRIMINATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 553

CFR Citation: 38 CFR 2

Legal Deadline: None

Abstract: This document delegates to certain Department of Veterans Affairs officials authority to make final Agency decisions regarding the procedural acceptability of equal employment opportunity discrimination complaints. It also delegates authority to those officials to make final Agency decisions which determine whether a breach of an equal employment opportunity complaint settlement agreement has occurred.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James S. Jones, Deputy Assistant Secretary for Resolution Management (08), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
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RIN: 2900–AJ63

3160. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN; HANDICAP; AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794; 42 USC 2000d-1; 42 USC 6101

CFR Citation: 38 CFR 18

Legal Deadline: None

Abstract: The Department of Justice, pursuant to Executive Order 12250, is requesting that Federal agencies with title VI, section 504, and Age Discrimination Act regulations jointly issue amendments to their regulations to incorporate the Civil Rights Restoration Act of 1987 revisions.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tyrone Eddins, External Affairs Manager, Office of Resolution Management (08), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 501-2801
Fax: 202 501-2885

RIN: 2900–AK13

VA — Final Rule Stage

OFFICE OF THE GENERAL COUNSEL

3161. RELEASE OF INFORMATION FROM DEPARTMENT OF VETERANS AFFAIRS RECORDS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 38 USC 5701

CFR Citation: 38 CFR 1.500 to 1.584

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs regulations governing the confidentiality and release of VA records subject to the Privacy Act, 5 U.S.C. 552a, the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the veterans' records confidentiality statute (section 5701), 38 U.S.C. 5701. The amendments will implement court decisions and executive branch guidance issued since the regulations were originally published. The amendment is part of the Administration's effort to simplify, clarify, and modernize Federal regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/10/98	63 FR 48455
NPRM Comment Period End	11/09/98	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lorraine M. Johnson, Deputy Assistant General Counsel (024A), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-6381

RIN: 2900–AH98

3162. RECOGNITION OF ORGANIZATIONS AND ACCREDITATION OF REPRESENTATIVES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 38 USC 501(a); 38 USC 5901 to 5905

CFR Citation: 38 CFR 14.626 to 14.635

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to revise and clarify existing procedures and requirements regarding certification or recognition of service organizations and their representatives and other individuals, agents, and attorneys representing claimants for benefits administered by VA. The revisions are designed to improve VA's ability to assure high quality representation of claimants.

Timetable:

Action	Date	FR Cite
NPRM	11/04/98	63 FR 59495
NPRM Comment Period End	01/04/99	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Richard J. Hipolit, Deputy Assistant General Counsel (022), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-6329

RIN: 2900–AI93

DEPARTMENT OF VETERANS AFFAIRS (VA) — Long-Term Actions

VETERANS HEALTH ADMINISTRATION

3163. PROTECTION OF HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 16

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Judy Williams
Phone: 202 273-8284

RIN: 2900–AJ08

VETERANS BENEFITS ADMINISTRATION

3164. SCHEDULE FOR RATING DISABILITIES: GLOBAL ASSESSMENT OF FUNCTIONING SCALE IN THE EVALUATION OF MENTAL DISORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4.125

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Caroll McBrine
Phone: 202 272-7211

RIN: 2900–AJ84

3165. LOAN GUARANTY: REVISION TO VA WORK RULES FOR CREDIT SCORED LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4346; 38 CFR 3702(c)(1)

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne
Phone: 202 273-7380

RIN: 2900–AJ91

3166. LOAN GUARANTY: CREDIT STANDARDS REVISION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4337

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran
Phone: 202 273-7369
Fax: 202 273-3523
Email: lgyrfinn@vba.va.gov

RIN: 2900–AJ92

BOARD OF VETERANS APPEALS

3167. APPEALS REGULATIONS; RULES OF PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision); 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); ...

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AE78

3168. RULES OF PRACTICE; HEARINGS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.702; 38 CFR 2.1; 38 CFR 19.75; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.711; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG07

3169. RULES OF PRACTICE: MEDICAL OPINIONS; APPEAL PROCESSING AND SUBMISSION OF ADDITIONAL EVIDENCE

Priority: Other Significant

CFR Citation: 38 CFR 19.36; 38 CFR 20.800; 38 CFR 20.801; 38 CFR 20.802; 38 CFR 20.901; 38 CFR 20.1304

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG90

OFFICE OF THE ASSISTANT SECRETARY FOR ACQUISITION AND FACILITIES

3170. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Renee Bruce
Phone: 410 605-7388

RIN: 2900–AD48

DEPARTMENT OF VETERANS AFFAIRS (VA) Completed Actions

3171. EXEMPTION FROM PHARMACY COPAY

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.96

Completed:

Reason	Date	FR Cite
Withdrawn	02/07/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard E. Rhoades
Phone: 202 273-8205

RIN: 2900–AJ12

3172. PROVISION OF AIDS TO THE BLIND

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.810

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frederick Downs
Phone: 202 273-8515

RIN: 2900–AJ22

3173. AIDS FOR THE BLIND

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17; 37 CFR 17.154

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Don Garner
Phone: 202 273-8481

Rose Mary McMahon
Phone: 202 273-8482

RIN: 2900–AJ83

3174. COPAYMENTS FOR MEDICATION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.110

Completed:

Reason	Date	FR Cite
Withdrawn	12/12/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Howard
Phone: 202 273-8198
Fax: 202 273-6485

RIN: 2900–AK28

3175. • VA PAYMENT FOR NON-VA PUBLIC OR PRIVATE HOSPITAL CARE AND NON-VA PHYSICIAN SERVICES THAT ARE ASSOCIATED WITH EITHER OUTPATIENT OR INPATIENT CARE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 7121

CFR Citation: 38 CFR 17.55; 38 CFR 17.56

Legal Deadline: None

Abstract: This document amends VA's medical regulations concerning VA payment for non-VA public or private hospital care provided to eligible VA beneficiaries.

Timetable:

Action	Date	FR Cite
Final Action	11/07/00	65 FR 66636
Final Action Effective	11/07/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tony Guagliardo, Health Administration Service (10C3), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8307

RIN: 2900–AK57

3176. NEW CRITERIA FOR APPROVAL OF COURSES FOR EDUCATIONAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.4251; 38 CFR 21.4252; 38 CFR 21.4253; 38 CFR 21.7122; 38 CFR 21.7622

Completed:

Reason	Date	FR Cite
Final Action	12/27/00	65 FR 81740
Final Action Effective	12/27/00	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State

Agency Contact: William G. Susling
Phone: 202 273-7187
Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AI67

3177. USE OF FACILITIES TO PROVIDE TRAINING OR WORK EXPERIENCE FOR VETERANS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.299

Completed:

Reason	Date	FR Cite
Withdrawn	02/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Charles A Graffam
Phone: 202 273-7437

RIN: 2900–AJ01

3178. WELL GROUNDED CLAIMS/DUTY TO ASSIST

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.159

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/01	66 FR 11549

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Jacobs
Phone: 202 273-7211

RIN: 2900–AJ44

3179. REVISED CRITERIA FOR MONETARY ALLOWANCE FOR A CHILD BORN WITH SPINA BIFIDA WHO IS A CHILD OF A VIETNAM VETERAN

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.814

Completed:

Reason	Date	FR Cite
Final Action	03/06/01	66 FR 13435
Final Action Effective	04/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Caroll McBrine
Phone: 202 272-7211

RIN: 2900–AJ51

3180. CLAIMS BASED ON EFFECT OF TOBACCO PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.300; 38 CFR 3.310

Completed:

Reason	Date	FR Cite
Final Action	04/06/01	66 FR 18195

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Russo
Phone: 202 273-7211
Fax: 202 275-1728
Email: capbruss@vba.va.gov

RIN: 2900–AJ59

3181. MISCELLANEOUS MONTGOMERY GI BILL ELIGIBILITY AND ENTITLEMENT ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7042; 38 CFR 21.7044; 38 CFR 21.7073

Completed:

Reason	Date	FR Cite
Final Action	11/09/00	65 FR 67265
Final Action Effective	11/09/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Fax: 202 275-2636
Email: edubsusl@vba.va.gov

RIN: 2900–AJ90

VA

Completed Actions

3182. • APPEALS REGULATIONS: TITLE FOR MEMBERS OF THE BOARD OF VETERANS APPEALS-RESCISSION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512; 38 USC 7101(a)

CFR Citation: 38 CFR 19.2

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is rescinding its amendment to its appeals regulations, which provide that a Member of the Board may also be known as a "Veteran Law Judge." Although this amendment was properly published, we have decided to provide the public an opportunity to comment on this change. Concurrent with this rescission is the republication of the former Federal Register document as a notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	03/06/01	66 FR 13437
Final Action Effective	03/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: See related amendment at 65 FR 55461 (September 14, 2000).

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 565-5978

RIN: 2900–AK61

3183. OUTER BURIAL RECEPTACLES

Priority: Other Significant

CFR Citation: 38 CFR 1.629

Completed:

Reason	Date	FR Cite
Final Action	12/08/00	65 FR 76937
Final Action Effective	12/08/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Greenberg Phone: 202 273-5179 TDD Phone: 202 271-6697

RIN: 2900–AJ49

[FR Doc. 01–6925 Filed 05–11–01; 8:45 am]
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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION 1985

Federal Register

Monday,
May 14, 2001

Part XVII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Advisory Council on Historic Preservation.

ACTION: Semiannual regulatory agenda.

SUMMARY: Final action was taken on the following Advisory Council on Historic Preservation rulemaking after the October 2000 Unified Agenda. No further rulemaking activities are envisioned at this point. This update is submitted herein for publication in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Dated: February 28, 2001.
Advisory Council on Historic Preservation.
John M. Fowler,
Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Completed Actions

3184. PROTECTION OF HISTORIC PROPERTIES

Priority: Other Significant

Legal Authority: 16 USC 470s

CFR Citation: 36 CFR 800

Legal Deadline: None

Abstract: The Advisory Council on Historic Preservation engaged in this rulemaking process to address questions and concerns raised by litigation challenging the previous rule. It also gave the public a chance to provide input to determine how the previous rule had operated and to revise it as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	07/11/00	65 FR 42834
NPRM Comment Period End	08/10/00	
Final Action	12/12/00	65 FR 77698
Final Action Effective	01/11/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Agency Contact: Javier Marques, Assistant General Counsel, Advisory Council on Historic Preservation, Room 809, 1100 Pennsylvania Avenue NW., Washington, DC 20004-2501
Phone: 202 606-8503
Fax: 202 606-8672
Email: jmarques@achp.gov

RIN: 3010–AA05

[FR Doc. 01–5922 Filed 05–11–01; 8:45 am]
BILLING CODE 4310-10-S

Federal Register

Monday,
May 14, 2001

Part XVIII

Agency for International Development

Semiannual Regulatory Agenda

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Ch. II

Federal Regulations; USAID Regulatory Agenda Semiannual Summary

AGENCY: U.S. Agency for International Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Agency for International Development (USAID) is publishing this agenda as required by Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), and the Regulatory Flexibility Act. This agenda reports the status of those regulations currently under review and gives USAID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in USAID's regulatory process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Joanne M. Paskar, Chief, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Washington, DC 20523; Telephone (202) 712-1217, E-mail jpaskar@usaid.gov.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. The Regulatory Flexibility Act applies only to regulations for which a notice of proposed rulemaking was issued on or after September 19, 1980. USAID is required to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." The Executive order became effective on September 30, 1993, and it is required that USAID publish a listing of all the regulations it expects to have under active consideration for proposal, or review during the coming one-year period.

Roberto J. Miranda,

Director of Administrative Services.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Proposed Rule Stage

3185. USAID ACQUISITION REGULATION (AIDAR) UPDATE OF APPENDIX D AND APPENDIX J

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR ch 7, app D; 48 CFR ch 7, app J

Legal Deadline: None

Abstract: Revision of appendix D and appendix J of the AIDAR, regarding personal services contracts with U.S. citizens and cooperating country and third country nationals. The appendices will be consolidated, determination of pay and benefits for jobs will be revised, and editorial changes made.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	07/00/01	
Final Action	08/00/01	
Final Action Effective	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Tom M. Henson, Senior Procurement Analyst, Agency for International Development, Room 7.08-106, Policy Division, Office of Procurement, 1300 Pennsylvania Avenue NW., Washington, DC 20523
Phone: 202 712-5448
Fax: 202 216-3136
Email: thenson@usaid.gov

RIN: 0412–AA43

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Final Rule Stage

3186. ADMINISTRATION OF GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations issued by the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3743
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Barbara P. Brocker, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 7.08-092, 1300 Pennsylvania Avenue NW., Washington, DC 20523
Phone: 202 712-0824
Email: bbrocker@usaid.gov

RIN: 0412–AA21

AID — Final Rule Stage

3187. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-2)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 712; 48 CFR 727; 48 CFR 742; 48 CFR 752; 48 CFR ch 7, app I

Legal Deadline: None

Abstract: The USAID Acquisition Regulation will be amended to clarify USAID policy on the use of Government facilities and personnel in commercial products, establish an Agency policy regarding contract clauses to clarify withholding requirements under IQC contracts, revise reporting requirements, and coordinate the Agency's academic publication policy with the FAR's Rights in Data coverage by removing it from appendix I into a new part 727. This new AIDAR part will also provide for contractual coverage of Rights in Data in USAID's contracts performed overseas and awarded to U.S. organizations, provide guidance on Rights in Data coverage for overseas contracts with non-U.S. entities, and provide an alternate paragraph to add to the applicable FAR clause to reserve USAID's right to restrict release of data when release may negatively impact the Government's development or diplomatic relationship with the cooperating countries.

Timetable:

Action	Date	FR Cite
NPRM	11/04/98	63 FR 59501
NPRM Comment Period End	01/04/99	
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: The final rule published in the Federal Register on July 29, 1997, at 62 FR 40462 (FR Doc. 97-18603) mistakenly cited this RIN number. It should have used RIN 0412-AA32.

Agency Contact: Diane M. Howard, Senior Procurement Analyst, Agency for International Development, Room 7.08-082U, M/OP/P, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0206
Fax: 202 216-3395
Email: dhoward@usaid.gov

RIN: 0412–AA30

3188. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 22 CFR 209.1 to 209.13; 22 CFR 217.1 to 217.47; 22 CFR 218.01 to 218.39

Legal Deadline: None

Abstract: The Agency for International Development proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76459
NPRM Comment Period End	01/05/01	
Final Action	11/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jessalyn L. Pendarvis, Director, Office of Equal Opportunity Programs, Agency for International Development, Room 2.09-77, 1300 Pennsylvania Avenue NW., Washington, DC 20523-2901
Phone: 202 712-1110
Fax: 202 216-3370
Email: jpendarvis@usaid.gov

RIN: 0412–AA45

[FR Doc. 01–5923 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XIX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities, which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

James J. Raggio,

General Counsel, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Proposed Rule Stage

3189. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: OUTDOOR DEVELOPED AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Conduct Regulatory Negotiation	04/18/97	62 FR 19084
Establishment of Regulatory Negotiation Committee	06/04/97	62 FR 30546
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA22

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Final Rule Stage

3190. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATION FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee	02/03/93	58 FR 6949
Notice of Appointment of Advisory Committee Members	06/10/93	58 FR 32511
ANPRM	09/21/94	59 FR 48542
ANPRM Comment Period End	12/20/94	
NPRM	07/09/99	64 FR 37326
NPRM Comment Period End	12/08/99	
Availability of Draft Final Guidelines Summary	07/21/00	65 FR 45331
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA16

ATBCB

Final Rule Stage

3191. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990; 29 USC 792, Rehabilitation Act

CFR Citation: 36 CFR 1191; 36 CFR 1190

Legal Deadline: None

Abstract: This regulation will revise and update the accessibility guidelines for the Americans with Disabilities Act (ADA) and the Architectural Barriers Act.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	04/06/94	59 FR 16175
Establishment of Advisory Committee	09/14/94	59 FR 47165
NPRM	11/16/99	64 FR 62248
NPRM Comment Period End	03/15/00	
Notice Extending Comment Period	03/09/00	65 FR 12493
Extension Period End	05/15/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
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Email: raggio@access-board.gov

RIN: 3014–AA20

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Long-Term Actions

3192. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES: PASSENGER VESSELS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other passenger vessels.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	03/30/98	63 FR 15175
Establishment of Advisory Committee	08/12/98	63 FR 43136
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
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RIN: 3014–AA11

3193. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: PUBLIC RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act; 29 USC 792, Rehabilitation Act

CFR Citation: 36 CFR 1190; 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the accessibility guidelines for the Americans with Disabilities Act and the Architectural Barriers Act to include requirements for public rights-of-way.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee	08/12/99	64 FR 43980
Notice of Appointment of Advisory Committee Members	10/20/99	64 FR 56482
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
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TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA26

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Completed Actions

3194. STANDARDS FOR ACCESSIBLE ELECTRONIC AND INFORMATION TECHNOLOGY

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 794d, Rehabilitation Act

CFR Citation: 36 CFR 1194

Legal Deadline: Final, Statutory, February 7, 2000.

Abstract: This regulation will establish standards for accessible electronic and information technology for Federal agencies.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee	08/24/98	63 FR 45041
Establishment of Advisory Committee	09/29/98	63 FR 51891
NPRM	03/31/00	65 FR 17346
NPRM Comment Period End	05/30/00	
Final Action	12/21/00	65 FR 80500

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW., Washington, DC 20004-1111
Phone: 202 272-5451
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: raggio@access-board.gov

RIN: 3014–AA25
[FR Doc. 01–5192 Filed 05–11–01; 8:45 am]
BILLING CODE 8150–01–S

Federal Register

Monday,
May 14, 2001

Part XX

Commission on Civil Rights

Semiannual Regulatory Agenda

COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: Commission on Civil Rights.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the six-month period from April 1, 2001 through October 31, 2001. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact Edward A. Hailes, Jr., General Counsel, U.S. Commission on Civil Rights, Room 620, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8351.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866, "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public, nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required.

Edward A. Hailes, Jr.,

General Counsel.

COMMISSION ON CIVIL RIGHTS (CCR) — Long-Term Actions

3195. COMMISSION ON CIVIL RIGHTS-UPDATE AND REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State Advisory Committees.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward A. Hailes Jr., General Counsel, Commission on Civil Rights, Room 632, 624 9th Street NW., Washington, DC 20425-0001
Phone: 202 376-8351

RIN: 3035–AA02

[FR Doc. 01–6926 Filed 05–11–01; 8:45 am]

BILLING CODE 6335–01–S

Federal Register

Monday,
May 14, 2001

Part XXI

Corporation for National and Community Service

Semiannual Regulatory Agenda

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Chs. XII, XXV

Executive Order 12866 "Regulatory Planning and Review"

AGENCY: Corporation for National and Community Service.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Corporation will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Corporation regulations or this semiannual agenda, contact Frank R. Trinity, Acting General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, (202) 606-5000, ext. 290.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The Corporation for National and Community Service has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated: February 21, 2001.

Wendy Zenker,

Chief Operating Officer.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Prerule Stage

3196. DISCRIMINATION COMPLAINT PROCEDURES FOR SERVICE MEMBERS, PARTICIPANTS, AND OTHER BENEFICIARIES

Priority: Other Significant

Legal Authority: 20 USC 1681 to 1687; 29 USC 794; 42 USC 2000d; 42 USC 5057; 42 USC 6101 et seq; 42 USC 12635

CFR Citation: 45 CFR 2504

Legal Deadline: None

Abstract: This regulation will identify the procedures used for processing complaints of discrimination based on race, color, national origin, sex, age, disability, religion, political affiliation, and other non-merit factors filed with the Corporation by service members, participants, and other beneficiaries under the Corporation's federally assisted or conducted programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Nancy B. Voss, Director, Equal Opportunity, Corporation for National and Community Service, Room 7100, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: nvoss@cns.gov

RIN: 3045–AA24

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Proposed Rule Stage

3197. AMERICORPS AND LEARN & SERVE GRANT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12651c

CFR Citation: 45 CFR 2510; 45 CFR 2513; 45 CFR 2515 to 2524; 45 CFR 2530 to 2533; 45 CFR 2540; 45 CFR 2550

Legal Deadline: None

Abstract: The Corporation for National and Community Service is revising its regulations governing AmeriCorps and Learn & Serve grants under the National and Community Service Act of 1990 to incorporate appropriate existing grant provisions into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Frank Robert Trinity, Associate General Counsel, Corporation for National and Community Service, 8th Floor, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: ftrinity@cns.gov

RIN: 3045–AA23

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Final Rule Stage

3198. IMPLEMENTATION OF THE PRIVACY ACT OF 1974; AMENDMENT

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a; 42 USC 12501 et seq; 42 USC 4950 et seq

CFR Citation: 45 CFR 2508

Legal Deadline: None

Abstract: This action updates several minor changes to the Corporation for National Service's current Privacy Act regulation found at 45 CFR 2508. These amendments are in accordance with the Privacy Act found at 5 U.S.C. 552a.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William L. Hudson Jr., Law Office Manager, General Counsel Office, Corporation for National and Community Service, Room 8200, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
TDD Phone: 202 565-2799
Fax: 202 565-2796
Email: whudson@cns.gov

RIN: 3045–AA25

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Long-Term Actions

3199. CLAIMS COLLECTION

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2506

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/28/99	64 FR 4315
Interim Final Rule Comment Period End	03/29/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: Suzanne K. Dupre
Phone: 202 606-5000
Fax: 202 565-2796
Email: sdupre@cns.gov

RIN: 3045–AA20

3200. NONDISCRIMATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1203; 45 CFR 1232

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy B. Voss
Phone: 202 606-5000
Fax: 202 565-2796
Email: nvoss@cns.gov

RIN: 3045–AA27

3201. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12651(c); sec 2455, PL 103-355, 108 Stat 3327 (31 USC 6101 note); EO 12549 (3 CFR, 1986 Comp, p 189); EO 12684 (3 CFR, 1989 Comp, p 2351), sec 2455; 41 USC 701 et seq; 42 USC 12644

CFR Citation: 45 CFR 2542; 45 CFR 2545

Legal Deadline: None

Abstract: These amendments, when finalized, will amend the Corporation's current regulations on nonprocurement debarment and suspension and will add a new part for the amended regulations on drug-free workplace.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Suzanne K. Dupre, Associate General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: sdupre@cns.gov

RIN: 3045–AA28

3202. • SENIOR COMPANION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 5013; 42 USC 12501 et seq

CFR Citation: 45 CFR 2551

Legal Deadline: None

Abstract: The amendments are needed to clarify the intent of the regulations published on March 24, 1999, to modify language that was too restrictive.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Peter Boyton, Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: pboyton@cns.gov

RIN: 3045–AA29

3203. • FOSTER GRANDPARENT PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 5011; 42 USC 12501 et seq

CFR Citation: 45 CFR 2552

Legal Deadline: None

Abstract: The amendments are needed to clarify the intent of the regulations published on March 24, 1999, to modify language that was too restrictive.

CNCS — Long-Term Actions

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Peter Boyton, Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2743
Email: pboyton@cns.gov

RIN: 3045–AA30

3204. • RETIRED AND SENIOR VOLUNTEER PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 5001; 42 USC 12501 et seq

CFR Citation: 45 CFR 2553

Legal Deadline: None

Abstract: The amendments are needed to clarify the intent of the regulations published on March 24, 1999, to modify language that was too restrictive.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Peter Boyton, Program Officer, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525
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Email: pboyton@cns.gov

RIN: 3045–AA31

[FR Doc. 01–5193 Filed 05–11–01; 8:45 am]
BILLING CODE 6050–$$–S

Federal Register

Monday,
May 14, 2001

Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY (EPA)

40 CFR Ch. I

FRL-6958-4

April 2001 Agenda of Regulatory and Deregulatory Actions

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the Semiannual Agenda of Regulatory and Deregulatory Actions to update the public about:

- Regulations and major policies currently under development,
- Reviews of existing regulations and major policies, and
- Regulations and major policies completed or canceled since the last Agenda.

TO BE PLACED ON THE AGENDA MAILING LIST: Starting with the October 2001 edition we will resume free distribution of the Agenda. If you would like to subscribe, please contact: Janice Ndunguru (1806A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; phone: (202) 564-6572; e-mail: ndunguru.janice@epa.gov.

FOR FURTHER INFORMATION CONTACT: If you have questions or comments about a particular rule, please get in touch with the agency contact listed for that rule. If you have general questions about the Agenda or about EPA's decisionmaking process, please contact: Phil Schwartz (1806A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; phone: (202) 564-6564; e-mail: schwartz.philip@epa.gov. We welcome your suggestions on how we can make the Agenda more useful to you and easier to use.

SUPPLEMENTARY INFORMATION:

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G. What Tools Are Available To Help Quickly Identify Actions That Are of Interest to You?
H. How Can You Access Federal Register Documents via the Internet and via E-mail?
I. What Special Attention Do We Give to the Impacts of Rules on Small Entities?

A. The Transition of Administrations and the Status of EPA's Rulemakings

The regulations listed in this agenda are required by law or are necessary to interpret the law. While this is the first regulatory agenda of the Bush Administration, the timing is such that our efforts won't be fully reflected in the agenda until the October edition.

B. What Principles and Objectives Guide EPA in Developing Regulations?

The quality of the science, economic, and policy analysis that underlie EPA regulations is vital to the credibility of EPA decisions and ultimately our effectiveness in protecting human health and the environment. Additionally, continued testing and adoption of new environmental protection methods must be a central tenet in environmental problem solving. A well managed regulatory process and a strong commitment to innovative solutions will ensure that the significant environmental improvements that we all want to achieve are cost-effective, fair and fully protective.

Much of the success over the last 31 years and seven administrations in cleaning up the Nation's water, air, and land is attributable to the system of Federal and State regulation that has directed and coordinated private investment in pollution control and prevention. While regulation will remain an important tool to implement environmental policy, it is not the only one. Instead, EPA must increasingly act as an innovator, educator, and leader in administering a broad set of new tools — including new methods to design and administer regulations — that engage all segments of our society in responsive behaviors that protect the environment while promoting appropriate economic growth. For example, we have worked with businesses and community leaders to develop more than 40 voluntary partnership programs to help achieve environmental objectives with the greatest possible efficiency. For more information about these programs visit: www.epa.gov/partners.

EPA's regulatory process must ensure that the Nation's environmental protection system produces the best outcomes at an acceptable cost, where cost considerations are appropriate. Appropriate scientific, economic and policy analyses must be planned at early stages in the regulatory development process so that senior Agency decision makers understand the benefits and costs of policy options from which to choose. Additionally, it is important that we continue to apply new methods to protect the environment—by building flexibility into regulations up front, through nonregulatory approaches where effective, by creating strong partnerships with States, and by vigorously using public outreach and involvement.

The basic legal requirements we must follow when we issue a regulation generally are contained in the Administrative Procedure Act, the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, and the Congressional Review Act. You can find information on many of these statutes at http://www.law.cornell.edu/uscode/.

We also must meet a number of requirements contained in Executive orders. Of particular significance for EPA rulemakings are Executive Orders 12866 (Regulatory Planning and Review), 13045 (Children's Health Protection), 13175 (Consultation and Coordination with Indian Tribal Governments), and 13132 (Federalism). You can find information on these and other Executive orders at http://www.nara.gov/fedreg/eo.html.

C. How Does EPA Develop Rules and Policies and How Can You Participate?

You may participate by contacting the expert responsible for developing a particular rule. You may also participate by commenting on proposed rules that we publish in the **Federal Register**. Once we have proposed a rule, we will consider your comments and address them before issuing a final rule. To be most effective, comments should contain information and data that support your position, and you also should explain why we should

EPA

incorporate your suggestion in the final rule. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

The agenda also includes some of our more important guidance documents which reflect EPA's thinking in major policy areas. We invite you to take part in developing these documents.

For a detailed description of our rule and policy development process request a copy of "Initiation of EPA's New Regulatory and Policy Development Process" from Janice Ndunguru at 1200 Pennsylvania Avenue NW., Washington, DC 20460; e-mail: ndunguru.janice@epa.gov; phone: (202) 564-6572.

D. What Actions Are Included in the Agenda?

EPA includes regulations and certain major policy documents in the Agenda. We do not generally include minor amendments or the following categories of actions in the Agenda:

- Under the Clean Air Act: Revisions to State Implementation Plans; Equivalent Methods for Ambient Air Quality Monitoring; Deletions from the New Source Performance Standards source categories list; Delegations of Authority to States; Area Designations for Air Quality Planning Purposes.
- Under the Federal Insecticide, Fungicide, and Rodenticide Act: Actions regarding pesticide tolerances and food additive regulations; decision documents defining and establishing registration standards; decision documents and termination decisions for the Special Review Registration process; and data call-in requests made under section 3(c)(2)(B).
- Under the Resource Conservation and Recovery Act: Authorization of State solid waste management plans; hazardous waste delisting petitions.
- Under the Clean Water Act: State Water Quality Standards; Deletions from the section 307(a) list of toxic pollutants; Suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); Delegations of NPDES authority to States.
- Under the Safe Drinking Water Act: Actions on State underground injection control programs.

There is no legal significance to the omission of an item from the agenda.

E. How Is the Agenda Organized?

We have organized the agenda:

- First, by the law that would authorize a particular regulation;
- Second, by the current stage of development (proposal, final, etc.); and
- Third, by the section number of the statute which requires or authorizes the rule.

The following 14 sections deal with 13 laws that EPA administers and a fourteenth broader section called "General" that includes cross-cutting actions, such as rules authorized by multiple statutes and general acquisition rules:

1. General
2. The Clean Air Act (CAA)
3. The Atomic Energy Act (AEA)
4. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
5. The Federal Food, Drug, and Cosmetic Act (FFDCA)
6. The Toxic Substances Control Act (TSCA)
7. The Emergency Planning and Community Right-to-Know Act (EPCRA)
8. Chemical Safety Information, Site Security and Fuels Regulatory Relief Act
9. The Resource Conservation and Recovery Act (RCRA)
10. The Oil Pollution Act (OPA)
11. The Comprehensive Environmental Response, Compensation, and Liability Act Superfund (CERCLA)
12. The Clean Water Act (CWA)
13. The Safe Drinking Water Act (SDWA)
14. The Shore Protection Act (SPA)

In each of these 14 sections, there are up to 5 headings covering the following stages of rulemaking:

1. Prerulemakings - Prerulemaking actions are intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking (ANPRMs), significant studies or analyses of the possible need for regulatory action, announcement of reviews of existing regulations required under section 610 of the Regulatory Flexibility Act, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.
2. Proposed Rules - This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).
3. Final Rules - This section includes rules that are within a year of final promulgation.
4. Long-Term Actions - This section includes rulemakings for which the next scheduled regulatory action is after March 2002.
5. Completed Actions - This section contains actions that have been promulgated and published in the **Federal Register** since publication of the October 2000 Agenda. It also includes actions that we are no longer considering. If an action appears in the completed section, it will not appear in future Agendas unless we decide to initiate action again, in which case it will appear as a new entry. EPA also announces the results of our Regulatory Flexibility Act section 610 reviews in this section of the Agenda.

F. What Information Is in Agenda Entries?

Agenda entries include the following information, where applicable:

Sequence Number: This indicates where the entry appears in the Agenda.

Title: Titles for new entries (those that haven't appeared in previous Agendas) are preceded by a bullet (•). The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below.

Economically Significant: As defined in Executive Order 12866, a rulemaking action that will have an annual effect on

the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. OMB reviews all economically significant rules under Executive Order 12866.

Other Significant: A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that are an EPA priority and rules that EPA anticipates will be reviewed by the Office of Management and Budget under Executive Order 12866 because they are likely to:

- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients; or
- Raise novel legal or policy issues.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

Informational/Administrative/Other: A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

Also, if we believe that a rule may be "major" as defined in the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA) (5 U.S.C. 801; Public Law 104-121) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, we indicate this under the "Priority" heading with the statement "Major under 5 U.S.C. 801."

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (P.L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that will be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential advantages and disadvantages of the action.

Timetable: The dates (and citations) that documents for this action were published in the **Federal Register** and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of a rule development. The projections in the agenda are our best estimates as of the date we submit the agenda for publication. For some entries, the timetable indicates that the date of the next action is "to be determined."

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the Regulatory Flexibility Act. Generally, such an analysis is required for proposed or final rules that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates whether we expect the rule to have any effect on small entities.

Government Levels Affected: Indicates whether we expect the rule to have any effect on levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Federalism Implications: Indicates whether the action is expected to have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than $100 million in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If we expect to exceed this $100 million threshold, we note it in this section.

Agency Contact: The name, address, phone number, and e-mail address, if available, of a person who is knowledgeable about the regulation.

SAN Number: A code number that EPA uses to identify and track rulemakings.

RIN: The Regulation Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN stand for the EPA office with lead responsibility for developing the action.

G. What Tools Are Available To Help Quickly Identify Rules That Are of Interest to You?

The Regulatory Information Service Center (RISC), the Government Printing Office (GPO), and the EPA have created a number of aids to help you find actions that are of interest to you.

For Rules That Directly Affect a Particular Industry: See Appendix F "Subject Index to the Unified Agenda." If you have access to the Internet, you can use the EPA Regulatory Agenda search engine which is located in the Small Business Regulatory Library section of the EPA Web site at www.epa.gov/regagenda. Click on "Search Regulatory Action Database" and then "Access the Database". This tool can be used to search all Agenda entries by keyword and we invite everyone to use it. The GPO also has a search engine which is located at .

For Rules With Economic Impacts Over $100 Million: EPA is developing 21 rules that are expected to have annualized economic impacts of more than $100 million.

Number	Rules that are expected to have annualized economic impacts over $100 million	RIN
1	National Primary Drinking Water Regulations: Radon	2040-AA94
2	National Primary Drinking Water Regulations: Groundwater Rule	2040-AA97

Number	Rules that are expected to have annualized economic impacts over $100 million	RIN
3	National Primary Drinking Water Regulations: Arsenic and Clarifications to Compliance and New Source Compliance Monitoring	2040-AB75
4	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2	2040-AB79
5	Revisions to NPDES Requirements for Municipal Sanitary Sewer Collection Systems	2040-AD02
6	Effluent Guidelines and Standards for Feedlots Point Source Category, and NPDES Regulation for Concentrated Animal Feeding Operations	2040-AD19
7	National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule	2040-AD37
8	National Primary Drinking Water Regulations: Stage 2 Disinfectants/Disinfection Byproducts Rule	2040-AD38
9	Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
10	Standards for the Management of Coal Combustion Wastes Generated by Commercial Electric Power Producers	2050-AE81
11	Standards for the Management of Coal Combustion Wastes — Non-Power Producers and Minefilling	2050-AE83
12	NESHAP: Plywood and Composite Wood Products	2060-AG52
13	NESHAP: Reciprocating Internal Combustion Engine	2060-AG63
14	NESHAP: Combustion Turbine	2060-AG67
15	NESHAP: Industrial, Commercial and Institutional Boilers and Process Heaters	2060-AG69
16	NESHAP: Automobile and Light-Duty Truck Manufacturing (Surface Coating)	2060-AG99
17	Phase I Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States	2060-AH87
18	Control of Emissions from Nonroad Large Spark Ignition Engines, Recreational Engines (Marine and Land-based), and Highway Motorcycles	2060-AI11
19	Review of the National Ambient Air Quality Standards for Particulate Matter	2060-AI44
20	Interstate Ozone Transport: Rulemaking on Section 126 Petitions from the District of Columbia, Delaware, Maryland, and New Jersey	2060-AI99
21	Rulemakings for the Purpose of Reducing Interstate Ozone Transport	2060-AJ20

For Rules With Impacts on Small Businesses, Small Governments, and Small Organizations:

Go to Appendix B following this Agenda for the lists of the rules that we expect may have a significant impact on a substantial number of small entities. These lists are also available on the Internet. The small businesses list is at http://ciir.cs.umass.edu/ua/April2001/entities/sm—index-2.html. The small governments list is at http://ciir.cs.umass.edu/ua/April2001/entities/sm—index-3.html. And the small organizations list is at http://ciir.cs.umass.edu/ua/April2001/entities/sm—index-4.html.

For Rules That We Expect Will Have Some Impact on Some Small Entities but Less Than a Significant Impact on a Substantial Number of Them:

See Appendix C following this Agenda, "Index to Entries That May Affect Small Entities When a Regulatory Flexibility Analysis Is Not Required." This list is available on the Internet at http://ciir.cs.umass.edu/ua/April2001/entities/smgov-5.html.

For Rules With Impacts on State, Local, or Tribal Governments, or Other Federal Agencies:

See Appendix D following this Agenda, "Index to Entries That May Affect Government Levels." This list is available on the Internet at http://ciir.cs.umass.edu/ua/April2001/entities/smgov-8.html.

H. How Can You Access Federal Register Documents via the Internet and via E-mail?

Like many organizations in the public and private sector, EPA is harnessing the power of the Internet to meet the needs of those we serve. The EPA Web site offers more than 100,000 files online. If you want to get automatic e-mails about areas of particular interest as they appear in the **Federal Register** (FR), we maintain 12 collections including: air; water; wastes and emergency response; pesticides; toxic substances; right-to-know and toxic release inventory; environmental impacts; endangered species; meetings; the Science Advisory Board; daily full-text notices with page numbers; and general information. For more information and to subscribe via our FR Web site, visit: http://www.epa.gov/fedrgstr/subscribe.htm. If you have e-mail without full Internet access, please send an e-mail to envsubset@epa.gov to request instructions for subscribing to the EPA Federal Register listservers.

Several Web sites allow access to the full text of **Federal Register** documents.

- The Government Printing Office site has a number of databases online including the Unified Agenda and the **Federal Register** going back to 1994. This site is the official source for the electronic **Federal Register**. It provides public access via telnet, Internet, and dial-up connection and is located at http://www.access.gpo.gov/su—docs/aces/aaces002.html.
- EPA's site (http://www.epa.gov/fedrgstr/) has environmental rules issued by EPA and other Federal agencies dating back to October 1994 and lets you search by date, page citation or keyword. It includes links to the Regulatory Information Service Center and Government Printing Office sites. We also have a Regulatory Agenda search engine at: http://www.epa/regagenda. To use, first select "Search Regulatory Action Database" and then select "Access the Database".
- The Regulatory Information Service Center of the General Services Administration maintains a site to help users who want to find information about Federal, State, and local regulations at http://www.reginfo.gov/. This site includes links to all agencies'

regulatory agendas and regulatory plans going back to October 1995.

In the "Additional Information" section of many of the entries in this Agenda we include the Internet address for documents that we have already published as part of the rulemaking.

I. What Special Attention Do We Give to the Impacts of Rules on Small Entities?

For each of our rulemakings we consider whether there will be any adverse impact on any small entity. We attempt to fit the regulatory requirements, to the extent feasible, to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation.

For Rules Under Development Expected To Have Some Impact on Small Entities, but Not a Significant Impact on a Substantial Number

In the "Small Entities Affected" section, we indicate whether we expect an action will have an impact on small businesses, governments, or nonprofit organizations, but one which is less than a significant impact on a substantial number. In Appendix C at the end of the Agenda, we list all actions that we believe will not have a significant impact on a substantial number of small entities but which will have some impact on small entities.

Regulatory Flexibility Act Considerations: For Rules That May Have a Significant Impact on a Substantial Number of Small Entities

The Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) requires that we pay particular attention to the impact of regulations on small entities (i.e., small businesses, small governmental jurisdictions, and small nonprofit organizations). The RFA/SBREFA applies to rules we are now developing and requires us to carry out particular procedures under certain circumstances. We have developed a Web site to provide detailed information on EPA's activities related to RFA/SBREFA (www.epa.gov/sbrefa) and some of that information is summarized below:

1. Convene a Small Business Advocacy Review (SBAR) Panel prior to proposing any rule subject to notice-and-comment requirements unless the Agency certifies the rule will not have a significant economic impact on a substantial number of small entities (RFA section 609). SBREFA also established the EPA's Small Business Advocacy Chair who chairs each SBAR Panel. A SBAR Panel has four members: The Chair, the Chief Counsel for Advocacy of the Small Business Administration, the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, and a senior manager from the EPA program office responsible for the subject rule. In the case of rules requiring a SBAR Panel, the Agency's small entity outreach prior to the convening of a Panel culminates in the development of a summary document that contains information on the potential impact of a proposed rule on small entities, and particularly on the issues referenced in RFA section 609. This summary serves as the basis for convening the Panel. The Panel then conducts its review, carries out its own small entity outreach, and prepares a report based on the comments from the small entity representatives and the Panel's deliberations. The Panel's final report is provided to the EPA Administrator and is made a part of the rulemaking record. Rules listed in the second appendix at the end of the Agenda may require Small Business Advocacy Review Panels.

2. At the proposed and final rule stages of rule development, the Agency must prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements (RFA sections 603 and 604), unless the Administrator certifies that the rule will not have a "significant economic impact on a substantial number of small entities" (RFA section 605). A regulatory flexibility analysis must, among other items specified in the RFA, identify the extent to which small entities will be subject to the rule's requirements and describe any significant alternatives to the rule that accomplish the objectives of applicable statutes and which minimize any significant economic impacts on small entities. We have listed in the second index at the end of the Agenda all rules under development that may require a regulatory flexibility analysis.

3. RFA section 610 requires that an agency review within 10 years of promulgation those regulations that have or will have a significant economic impact on a substantial number of small entities. We undertake these reviews to decide whether we should continue the rule unchanged, amend it, or withdraw it. We announce our forthcoming 610 reviews in the "Prerule" section of the Agenda. We encourage small entities to provide comments on the need to change these rules. We will consider all of your comments as we decide whether to continue, amend, or withdraw these rules. We particularly encourage comments by small entities about how rules could be made clearer, more effective, or remove conflicting or overlapping requirements with other Federal or State regulations. In this Agenda we report on the results of the review of the Effluent Guideline for Organic Chemicals, Plastics, and Synthetic Fibers. If you have general questions about our 610 review program or suggestions for other rules we should review under section 610, please contact Phil Schwartz (1806A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; fax: (202) 564-6564, e-mail: schwartz.philip@epa.gov.

The April 2001 EPA Agenda follows.

Dated: April 19, 2001.

Thomas J. Gibson,

Associate Administrator, Office of Policy, Economics, and Innovation.

GENERAL—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3205	SAN No. 4533 New Jersey Gold Track Project XL Rule	2002-AA00

GENERAL—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3206	SAN No. 4056 Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements	2020-AA39
3207	SAN No. 4191 Revision to EPAAR 1552.211-73, Level of Effort	2030-AA54
3208	SAN No. 4319 Revisions to Acquisition Regulation Concerning Conflict of Interest	2030-AA67
3209	SAN No. 3876 Incrementally Funding Fixed Price Contracts	2030-AA50
3210	SAN No. 3817 Implementation of Changes to Governmentwide Debarment and Suspension Common Rule	2030-AA48
3211	SAN No. 3933 Environmental Impact Assessment of Nongovernmental Activities in Antarctica	2020-AA34
3212	SAN No. 4292 Proposed Revision to EPA's Implementing NEPA Regulations	2020-AA42
3213	SAN No. 3240 Public Information and Confidentiality Regulations	2025-AA02
3214	SAN No. 4270 Cross-Media Electronic Reporting (ER) and Recordkeeping Rule	2025-AA07
3215	SAN No. 4463 Persistent, Bioaccumulative, and Toxic (PBT) Pollutants Strategy	2070-AD45
3216	SAN No. 4473 Regulatory Incentives for the National Environmental Achievement Track Program	2090-AA13
3217	SAN No. 4536 Project XL Site-Specific Rulemaking for NASA White Sands Test Facility Electronic Reporting in Las Cruces, New Mexico	2090-AA27

GENERAL—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3218	SAN No. 4187 EPAAR Coverage on Local Hiring and Training	2030-AA62
3219	SAN No. 4226 Incorporating Informal Clauses (EP) Into the EPAAR	2030-AA66
3220	SAN No. 3580 Incorporation of Class Deviations Into EPAAR	2030-AA37
3221	SAN No. 4180 Rewriting of EPA Regulations Implementing the Freedom of Information Act	2025-AA04
3222	SAN No. 4185 Electronic Funds Transfer	2030-AA57
3223	SAN No. 4351 Warrants for On-Scene Coordinators	2030-AA68
3224	SAN No. 4400 Administrative Corrections to EPAAR 1515, Contracting by Negotiation	2030-AA73

GENERAL—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3225	SAN No. 3807 Consolidation of Good Laboratory Practice Standards (GLPS) Regulations Currently Under TSCA and FIFRA Into One Rule	2020-AA26
3226	SAN No. 4021 Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	2020-AA36
3227	SAN No. 3671 Guidelines for Carcinogen Risk Assessment	2080-AA06
3228	SAN No. 4530 EPA Draft Agencywide Public Involvement Policy	2090-AA23

GENERAL—Completed Actions

Sequence Number	Title	Regulation Identification Number
3229	SAN No. 3736 Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation	2030-AA55

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GENERAL—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3230	SAN No. 4128 Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule	2030-AA56
3231	SAN No. 3629 EPA Mentor-Protege Program	2030-AA40
3232	SAN No. 3874 Deletion of EPA Acquisition Regulations for Quality Systems for Environmental Programs	2030-AA51
3233	SAN No. 4483 Joint Rule Amending Federal Nondiscrimination Regulations: Definition for Program or Activity	2020-AA43
3234	SAN No. 4396 Business Ownership Representation	2030-AA69
3235	SAN No. 4397 Contractor Diversity Clause	2030-AA70
3236	SAN No. 4427 Report on PM2.5 Federal Reference Method Field Study	2080-AA09

CLEAN AIR ACT (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3237	SAN No. 3263 Performance Warranty and Inspection/Maintenance Test Procedures	2060-AE20
3238	SAN No. 3262 Inspection/Maintenance Recall Requirements	2060-AE22
3239	SAN No. 3412 Operating Permits: Revisions (Part 70)	2060-AF70
3240	SAN No. 3649 Amendments to Method 24 (Water-Based Coatings)	2060-AF72
3241	SAN No. 3741 Service Information Availability	2060-AG13
3242	SAN No. 3820 NESHAP: Plywood and Composite Wood Products	2060-AG52
3243	SAN No. 3917 Transportation Conformity Rule Amendment: Clarification of Trading Provisions	2060-AH31
3244	SAN No. 3910 Streamlined Evaporative Test Procedures	2060-AH34
3245	SAN No. 4022 NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks	2060-AH55
3246	SAN No. 4045 Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations	2060-AH58
3247	SAN No. 4120 Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import & Export	2060-AH67
3248	SAN No. 4111 NESHAP: Fumed Silica Production	2060-AH72
3249	SAN No. 4104 NESHAP: Hydrochloric Acid Production Industry	2060-AH75
3250	SAN No. 4107 NESHAP: Asphalt/Coal Tar Application on Metal Pipes	2060-AH78
3251	SAN No. 4113 NESHAP: Clay Minerals Processing	2060-AH79
3252	SAN No. 4098 NESHAP: Uranium Hexafluoride Production	2060-AH83
3253	SAN No. 4119 Performance Specification 16 - Specifications and Test Procedures for Predictive Emission Monitoring Systems in Stationary Sources	2060-AH84
3254	SAN No. 4003 Technical Change to Dose Methodology for 40 CFR 191, Subpart A	2060-AH90
3255	SAN No. 4464 Rulemaking on Section 126 Petitions from New York and Connecticut Regarding Sources in Michigan	2060-AJ36
3256	SAN No. 3656 NESHAP: Reciprocating Internal Combustion Engine	2060-AG63
3257	SAN No. 3657 NESHAP: Combustion Turbine	2060-AG67
3258	SAN No. 3343 NESHAP: Iron Foundries and Steel Foundries	2060-AE43
3259	SAN No. 3346 NESHAP: Integrated Iron and Steel	2060-AE48
3260	SAN No. 3326 NESHAP: Reinforced Plastic Composites Production	2060-AE79
3261	SAN No. 3452 National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing and Miscellaneous Coating Manufacturing	2060-AE82
3262	SAN No. 3449 NESHAP: Chlorine Production	2060-AE85
3263	SAN No. 3551 Amendments to General Provisions Subparts A and B for 40 CFR 63	2060-AF31
3264	SAN No. 3825 NESHAP: Miscellaneous Metal Parts and Products (Surface Coating)	2060-AG56
3265	SAN No. 3655 NESHAP: Asphalt Roofing and Processing	2060-AG66
3266	SAN No. 3652 NESHAP: Refractories Manufacturing	2060-AG68
3267	SAN No. 3837 NESHAP: Industrial, Commercial and Institutional Boilers and Process Heaters	2060-AG69
3268	SAN No. 3651 NESHAP: Lime Manufacturing	2060-AG72
3269	SAN No. 3902 NESHAP: Semiconductor Production	2060-AG93
3270	SAN No. 3906 NESHAP: Metal Can (Surface Coating) Industry	2060-AG96
3271	SAN No. 3909 NESHAP: Fabric Printing, Coating and Dyeing	2060-AG98
3272	SAN No. 3907 NESHAP: Automobile and Light-Duty Truck Manufacturing (Surface Coating)	2060-AG99
3273	SAN No. 3924 NESHAP: Primary Magnesium Refining	2060-AH03
3274	SAN No. 2841 NESHAP: Chromium Electroplating Amendment	2060-AH08
3275	SAN No. 3968 NESHAP: Site Remediation	2060-AH12

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CLEAN AIR ACT (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3276	SAN No. 3972 NESHAP: Rocket Engine Test Firing	2060-AH35
3277	SAN No. 3971 NESHAP: Organic Liquids Distribution (Non-Gasoline)	2060-AH41
3278	SAN No. 3824 Metal Furniture (Surface Coating) NESHAP	2060-AG55
3279	SAN No. 3826 Plastic Parts (Surface Coating) NESHAP	2060-AG57
3280	SAN No. 3904 NESHAP: Wood Building Products (Surface Coating)	2060-AH02
3281	SAN No. 3139 Location of Selective Enforcement Audits of Foreign Manufactured Vehicles and Engines; Amendment	2060-AD90
3282	SAN No. 3979 Review of Federal Test Procedures for Emissions From Motor Vehicles; Test Procedure Adjustments to Fuel Economy and Emission Test Results	2060-AH38
3283	SAN No. 3673 Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	2060-AG20
3284	SAN No. 4487 Federal Implementation Plans for Indian Reservations in Idaho, Oregon and Washington	2012-AA01
3285	SAN No. 4511 Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7); Third Party Audit Provisions	2050-AE85
3286	SAN No. 4115 NESHAP: Chromium Electroplating Amendment	2060-AH69
3287	SAN No. 4154 Control of Emissions from Nonroad Large Spark-Ignition Engines, Recreational Engines (Marine and Land-Based), and Highway Motorcycles	2060-AI11
3288	SAN No. 4253 Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Methyl Bromide and Trade Ban With Non-Parties to the Montreal Protocol	2060-AI42
3289	SAN No. 4255 Review of the National Ambient Air Quality Standards for Particulate Matter	2060-AI44
3290	SAN No. 4340 Transportation Conformity Amendments: Response to March 2, 1999, Court Decision	2060-AI56
3291	SAN No. 4309 National VOC Emission Standards for Consumer Products; Proposed Amendments	2060-AI62
3292	SAN No. 4310 NESHAP for the Printing and Publishing Industry; Amendments	2060-AI66
3293	SAN No. 4325 NESHAP: Brick and Structural Clay Products Manufacturing	2060-AI67
3294	SAN No. 4343 NESHAP: Clay Ceramics Manufacturing	2060-AI68
3295	SAN No. 4313 Petitions to Delist Hazardous Air Pollutants (e.g., MEK, EGBE, Methanol, and MIBK) from Section 112(b)(1) of the CAA	2060-AI72
3296	SAN No. 4144 NESHAP: Engine Test Facilities	2060-AI74
3297	SAN No. 4346 NESHAP: Lightweight Aggregate Manufacturing	2060-AI75
3298	SAN No. 4306 Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5	2060-AI96
3299	SAN No. 4348 Inspection Maintenance Program Requirements for Federal Facilities; Amendment to the Final Rule	2060-AI97
3300	SAN No. 4393 Control of Methyl Tertiary Butyl Ether (MTBE)	2060-AJ00
3301	SAN No. 4380 NESHAP: Taconite Iron Ore Processing Industry	2060-AJ02
3302	SAN No. 4413 NESHAP: Aluminum Die Casting and Aluminum Foundries	2060-AJ09
3303	SAN No. 4390 New Source Review (NSR) Improvement: Utility Sector Offramp Program	2060-AJ14
3304	SAN No. 4410 Protection of Stratospheric Ozone Allocation of Essential-Use Allowances for Calendar Year 2001: Laboratory Essential Use Exemptions	2060-AJ15
3305	SAN No. 4433 Rulemaking for Purposes of Reducing Interstate Ozone Transport: Response to March 3, 2000 Decision of the United States Court of Appeals for the District of Columbia Circuit	2060-AJ16
3306	SAN No. 4460 NESHAP for Friction Products Manufacturing	2060-AJ18
3307	SAN No. 4449 NESHAP for Flexible Polyurethane Foam Fabrication Operations	2060-AJ19
3308	SAN No. 4466 Rulemakings for the Purpose of Reducing Interstate Ozone Transport	2060-AJ20
3309	SAN No. 4415 Petitions to Delist Source Categories from the Source Category List, Developed Pursuant to Section 112(c) of the Clean Air Act	2060-AJ23
3310	SAN No. 4421 Revising Regulations on Ambient Air Quality Monitoring	2060-AJ25
3311	SAN No. 4426 Clarification to Existing Part 63 NESHAP Delegations' Provisions-Work Practices	2060-AJ26
3312	SAN No. 4441 Federal Plan for Commercial and Industrial Solid Waste Incineration Units	2060-AJ28
3313	SAN No. 4448 Revisions to Part 97 Federal NOx Budget Trading Program Allowance Allocation Method and Part 75 Output and Emissions Monitoring Provisions	2060-AJ30
3314	SAN No. 4450 Guidelines for Best Available Retrofit Technology (BART)	2060-AJ31
3315	SAN No. 4457 NESHAP: Pesticides Active Ingredients—Amendments	2060-AJ34
3316	SAN No. 4538 Revisions to the Part 97 Federal NOx Budget Trading Program, the Part 75 Emissions Monitoring Provisions, the Part 72 Permits Regulation Provisions, and the Part 78 Appeal Procedures	2060-AJ43
3317	SAN No. 4484 NESHAP: Amino/Phenolic Resins: Amendment	2060-AJ45
3318	SAN No. 4454 Federal Plan for Small Municipal Waste Combustion Units	2060-AJ46
3319	SAN No. 4520 Petition by Colorado To Relax the Reid Vapor Pressure Standard for Gasoline for 2001	2060-AJ55
3320	SAN No. 4535 Protection of Stratospheric Ozone: Process for Exempting Critical and Emergency Uses of Methyl Bromide	2060-AJ63

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CLEAN AIR ACT (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3321	SAN No. 3569 Source-Specific Federal Implementation Plan for Navajo Generating Station; Four Corners Power Plant	2009-AA01
3322	SAN No. 3259 New Source Review (NSR) Improvement	2060-AE11
3323	SAN No. 3380 NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater (FINAL) & Amend. to Appendix C of Part 63 & Appendix J of Part 60	2060-AE94
3324	SAN No. 3549 NESHAP: Petroleum Refineries; Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Units	2060-AF28
3325	SAN No. 2915 Methods for Measurement of Visible Emissions—Addition of Methods 203A, 203B, and 203C to Appendix M of Part 51	2060-AF83
3326	SAN No. 3588 Environmental Radiation Protection Standards for Yucca Mountain, Nevada	2060-AG14
3327	SAN No. 3900 Addition of Method 207 to Appendix M of 40 CFR Part 51 Method for Measuring Isocyanates in Stationary Source Emissions	2060-AG88
3328	SAN No. 3970 NESHAP: Cellulose Production Manufacturing	2060-AH11
3329	SAN No. 3969 NESHAP: Municipal Solid Waste Landfills	2060-AH13
3330	SAN No. 3958 Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)	2060-AH23
3331	SAN No. 3986 Consolidated Emissions Reporting Rule	2060-AH25
3332	SAN No. 4030 Expanded Definitions for Alternative-Fueled Vehicles and Engines Meeting Low-Emission Vehicle Exhaust Emission Standards	2060-AH52
3333	SAN No. 4123 NESHAP: Pulp and Paper Production; Amendments to the Promulgated Rule	2060-AH74
3334	SAN No. 4114 NESHAP: Polyvinyl Chloride and Copolymers Production	2060-AH82
3335	SAN No. 4096 Phase I Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States	2060-AH87
3336	SAN No. 4082 NESHAP: Wet-Formed Fiberglass Mat Production	2060-AH89
3337	SAN No. 4077 Protection of Stratospheric Ozone: Reconsideration on the 610 Nonessential Products Ban	2060-AH99
3338	SAN No. 4254 Revision to the Definition of Volatile Organic Compound (VOC) to Exclude Tertiary Butyl Acetate	2060-AI45
3339	SAN No. 1002 NAAQS: Sulfur Dioxide (Response to Remand)	2060-AA61
3340	SAN No. 3470 Requirements for Preparation, Adoption, and Submittal of State Implementation Plans (Guideline on Air Quality Models)	2060-AF01
3341	SAN No. 3340 NESHAP: Primary Copper Smelting	2060-AE46
3342	SAN No. 3550 NESHAP: Manufacturing of Nutritional Yeast	2060-AF30
3343	SAN No. 3747 NESHAP: Boat Manufacturing	2060-AG27
3344	SAN No. 3749 NESHAP: Tire Manufacturing	2060-AG29
3345	SAN No. 3823 NESHAP: Large Appliance (Surface Coating)	2060-AG54
3346	SAN No. 3905 NESHAP: Metal Coil (Surface Coating) Industry	2060-AG97
3347	SAN No. 3964 NESHAP: Leather Finishing Operations	2060-AH17
3348	SAN No. 3903 NESHAP: Solvent Extraction for Vegetable Oil Production	2060-AH22
3349	SAN No. 3939 NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins-Amendments	2060-AH47
3350	SAN No. 2665 Importation of Nonconforming Vehicles; Amendments to Regulations	2060-AI03
3351	SAN No. 3556 Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608	2060-AF36
3352	SAN No. 3560 Protection of Stratospheric Ozone: Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants	2060-AF37
3353	SAN No. 3525 Protection of Stratospheric Ozone: Update of the Substitutes List Under the Significant New Alternatives Policy (SNAP) Program	2060-AG12
3354	SAN No. 3827 Paper and Other Web Coating NESHAP	2060-AG58
3355	SAN No. 4315 Source-Specific Federal Implementation Plan for Navajo Generating Station; Navajo Nation	2009-AA00
3356	SAN No. 4105 NESHAP: Generic MACT for Carbon Black, Ethylene, Cyanide and Spandex	2060-AH68
3357	SAN No. 4316 NESHAP for Ethylene Oxide Commercial Sterilization Operations-Monitoring Amendments	2060-AI64
3358	SAN No. 4273 Amend Subpart H and I, 40 CFR Part 61, for Emissions of Radionuclides Other Than Radon From DOE Facilities	2060-AI90
3359	SAN No. 4299 Revision to Method 24 for Electrical Insulating Varnishes	2060-AI94
3360	SAN No. 4358 Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment	2060-AI98
3361	SAN No. 4417 Removal of Aluminum Die Casting and Aluminum Foundries From the Secondary Aluminum NESHAP and Applicability Stay for These Industries	2060-AJ11
3362	SAN No. 4458 NESHAP for Pharmaceuticals Production: Direct Final Amendments	2060-AJ17
3363	SAN No. 4428 Protection of Stratospheric Ozone: Phaseout of Chlorobromomethane (Halon 1011) Production and Consumption	2060-AJ27
3364	SAN No. 4442 NESHAP for Source Categories: Phosphoric Acid Manufacturing and Phosphate Fertilizers Production — Amendments	2060-AJ29

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CLEAN AIR ACT (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3365	SAN No. 4478 Standards of Performance for New Stationary Sources: Municipal Solid Waste Landfills: Amendment	2060-AJ41
3366	SAN No. 4479 NESHAP: Gasoline Distribution Facilities — Amendment	2060-AJ42
3367	SAN No. 4491 Section 126 Rule Revision Correcting NOx Allowance Allocations for Certain Units in the Federal NOx Budget Trading Program	2060-AJ47
3368	SAN No. 4492 Revision to Interim Approval Requirements	2060-AJ48
3369	SAN No. 4507 Standards of Performance for New Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors Amendment of Startup, Shutdown, and Malfunction Provisions	2060-AJ52
3370	SAN No. 4524 Portland Cement Manufacturing Industry NESHAP: Amendments to Rule	2060-AJ57
3371	SAN No. 4528 Modification of the Anti-Dumping Baseline Date Cut-Off Limit for Data Used in Development of an Individual Baseline	2060-AJ59
3372	SAN No. 4529 Change in Definition of "major source" for Operating Permits	2060-AJ60
3373	SAN No. 4544 NESHAP: Ferroalloy Production: Ferromanganese and Silicomanganese	2060-AJ64
3374	SAN No. 4517 Project XL Site-Specific Rulemaking for Weyerhaeuser Company Flint River Operations	2090-AA20
3375	SAN No. 4278 Project XL Site-Specific Rulemaking for Andersen Corporation's Facility in Bayport, Minnesota	2090-AA21

CLEAN AIR ACT (CAA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3376	SAN No. 3553 Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations	2060-AF34
3377	SAN No. 3922 Revised Permit Revision Procedures for the Federal Operating Permits Program	2060-AG92
3378	SAN No. 3975 Review of Minor New Sources and Modifications in Indian Country	2060-AH37
3379	SAN No. 4046 Federal Major New Source Review (NSR) Program for Nonattainment Areas	2060-AH53
3380	SAN No. 4070 General Conformity Regulations; Revisions	2060-AH93
3381	SAN No. 4247 Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)	2060-AI47
3382	SAN No. 3638 Revision of EPA's Radiological Emergency Response Plan	2060-AI49
3383	SAN No. 3746 NESHAP: Paint Stripping Operations	2060-AG26
3384	SAN No. 3479 Amendments to Parts 51, 52, 63, 70 and 71 Regarding the Provisions for Determining Potential To Emit	2060-AI01
3385	SAN No. 4162 NESHAP: Oil and Natural Gas Production	2060-AI13
3386	SAN No. 2937 Field Citation Program	2020-AA32
3387	SAN No. 3751 NSPS and Emission Guidelines for Other Solid Waste Incinerators	2060-AG31
3388	SAN No. 3919 Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas	2060-AH01
3389	SAN No. 4245 Consumer and Commercial Products: Flexible Package Printing Materials: Determination on Control Techniques Guidelines in Lieu of Regulation	2060-AI31
3390	SAN No. 4542 Federal Implementation Plan (FIP) for the Billings/Laurel, Montana Sulfur Dioxide (SO2) Area	2008-AA00
3391	SAN No. 4266 Review National Ambient Air Quality Standards for Carbon Monoxide	2060-AI43
3392	SAN No. 4274 Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard Is No Longer Applicable (7 Areas)	2060-AI57
3393	SAN No. 4276 Revision to NOx SIP Call Emission Budgets for Connecticut, Massachusetts and Rhode Island	2060-AI80
3394	SAN No. 4383 Interstate Ozone Transport: Rulemaking on Section 126 Petitions From the District of Columbia, Delaware, Maryland, and New Jersey	2060-AI99
3395	SAN No. 4391 Rescinding Finding That Pre-existing PM10 Standards Are No Longer Applicable in Northern Ada County/Boise, Idaho	2060-AJ05
3396	SAN No. 4471 Project XL Site-Specific Rulemaking for Georgia-Pacific Corporation's Facility in Big Island, Virginia	2090-AA26

CLEAN AIR ACT (CAA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3397	SAN No. 3407 Method 301: Field Validation of Pollution Measurement Methods for Various Media; Revisions	2060-AF00
3398	SAN No. 3743 Amendments for Testing and Monitoring Provisions to Part 60, Part 61, and Part 63	2060-AG21

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CLEAN AIR ACT (CAA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3399	SAN No. 3748 Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry	2060-AG28
3400	SAN No. 4103 NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment Leaks	2060-AH81
3401	SAN No. 4333 Decision on a Petition From the Territory of American Samoa To Be Exempted From the Gasoline Anti-Dumping Regulations	2060-AI60
3402	SAN No. 4504 NESHAP: Off-Site Waste and Recovery Operations; Final Rule—Settle Agreement; and NESHAP for Off-Site Waste and Recovery Operations; Technical Amendment	2060-AJ44
3403	SAN No. 3304 NESHAP: Phosphate Fertilizers Production	2060-AE44
3404	SAN No. 3754 Petroleum Solvent Dry Cleaners Maximum Achievable Control Technology (MACT) Standard	2060-AG34
3405	SAN No. 3829 Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)	2060-AG60
3406	SAN No. 3899 NESHAP: Friction Products Manufacturing	2060-AG87
3407	SAN No. 3962 NESHAP: Manufacture of Carbon Black	2060-AH19
3408	SAN No. 3973 NESHAP: Flexible Polyurethane Foam Fabrication Operations	2060-AH42
3409	SAN No. 4218 NESHAP: Process Heaters	2060-AI35
3410	SAN No. 4455 NESHAP: Amino/Phenolic Resins Amendment	2060-AJ32
3411	SAN No. 3613 NSPS and Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units	2060-AF91
3412	SAN No. 4271 Protection of Stratospheric Ozone: Incorporation of Clean Air Act Amendments for Reduction in Class I, Group VI Controlled Substances	2060-AI41
3413	SAN No. 4385 Amendments to Vehicle Inspection Maintenance Program Requirements Implementing the Onboard Diagnostic Check; Amendment to the Final Rule	2060-AJ03
3414	SAN No. 4110 NESHAP: Alumina Processing	2060-AH70
3415	SAN No. 4240 NESHAP: Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semichemical Pulp Mills	2060-AI34
3416	SAN No. 4251 Control of Emissions of Air Pollution from New Compression-Ignition and Spark-Ignition Recreational Marine Engines	2060-AI36
3417	SAN No. 4243 Standards and Guidelines for Small Municipal Waste Combustion Units	2060-AI51
3418	SAN No. 4284 Revision of Schedule for Standards Under Section 112 of the CAA	2060-AI52
3419	SAN No. 4285 Control of Emissions of Hazardous Pollutants from Motor Vehicles and Motor Vehicle Fuels	2060-AI55
3420	SAN No. 4286 National Emission Standards for Benzene Emissions from Coke Byproduct Recovery Plants (Part 61, Subpart L)	2060-AI65
3421	SAN No. 4355 Heavy-Duty Engine Emission Standards & Diesel Fuel Sulfur Control Requirements	2060-AI69
3422	SAN No. 4353 Amendments to the Aerospace Manufacturing and Rework Facilities NESHAP for the HAP and VOC Content Limits for Primer Operations and Stay of Compliance	2060-AI77
3423	SAN No. 4354 NESHAP: Pharmaceuticals Production; Final Amendments	2060-AI78
3424	SAN No. 4304 National Ambient Air Quality Standard for Ozone - Corrections Notice	2060-AI95
3425	SAN No. 4387 Amendments to State and Federal Operating Permits Programs, Part 70 and Part 71, Compliance Certification Requirements	2060-AJ04
3426	SAN No. 4414 Revision of Standards of Performance for Nitrogen Oxide Emissions from New Fossil-Fuel Fired Steam Generating Units	2060-AJ22
3427	SAN No. 4416 Revision to the Source Category Listing for Section 112(d)(2) Rulemaking Pursuant to Section 112(c)(6) Requirements	2060-AJ24
3428	SAN No. 4456 Stratospheric Ozone Protection: Allocation of Essential Use Allowances for Calendar Year 2001	2060-AJ33
3429	SAN No. 4465 Stay of the 8-Hour Portion of Findings of Significant Contribution and Rulemaking for Purposes of Reducing Interstate Ozone Transport	2060-AJ37
3430	SAN No. 4468 National Air Toxics Program: Integrated Strategy, Report to Congress	2060-AJ38
3431	SAN No. 4471 Project XL Site-Specific Rulemaking for Georgia-Pacific Corporation's Facility in Big Island, Virginia	2060-AJ39
3432	SAN No. 4336 Amendments to NESHAP: Off-Site Waste and Recovery Operations	2060-AJ40
3433	SAN No. 4527 Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances—N-Propylbromide	2060-AJ58

ATOMIC ENERGY ACT (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3434	SAN No. 3602 Protective Action Guidance for Drinking Water	2060-AF39

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ATOMIC ENERGY ACT (AEA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3435	SAN No. 4054 Environmental Radiation Protection Standards for the Disposal of Low-Activity Mixed Radioactive Waste	2060-AH63
3436	SAN No. 4403 Revision of the 40 CFR Part 194 Waste Isolation Pilot Plant Compliance Criteria	2060-AJ07

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3437	SAN No. 2684 Plant Incorporated Protectants (Formerly Plant Pesticides) Rulemakings	2070-AC02
3438	SAN No. 2687 Data Requirements for Pesticide Registration; Toxicology, Exposure and Residue Chemistry	2070-AC12
3439	SAN No. 4170 Pesticides; Procedures for Registration Review Program	2070-AD29
3440	SAN No. 4173 Data Requirements for Antimicrobial Pesticide Registration; Product Chemistry Requirements	2070-AD30
3441	SAN No. 4496 Data Requirement for Pesticide Registration; Environmental Fate and Ecological Effects	2070-AD47

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3442	SAN No. 2659 Pesticide Management and Disposal; Standards for Pesticide Containers and Containment	2070-AB95
3443	SAN No. 3222 Groundwater and Pesticide Management Plan Rule	2070-AC46
3444	SAN No. 3731 WPS; Pesticide Worker Protection Standard; Glove Amendment	2070-AC93
3445	SAN No. 3892 Registration Requirements for Antimicrobial Pesticide Products; and Other Pesticide Regulatory Changes	2070-AD14

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3446	SAN No. 4216 Regulatory Review of Pesticide Emergency Exemption Regulations	2070-AD36
3447	SAN No. 3432 Pesticide Management and Disposal	2020-AA33
3448	SAN No. 4143 Endocrine Disruptor Screening Program	2070-AD26

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3449	SAN No. 3890 Tolerances for Pesticide Emergency Exemptions	2070-AD15
3450	SAN No. 2720 Policy or Procedures for Notification to the Agency of Stored Pesticides With Canceled or Suspended Registration	2020-AA29
3451	SAN No. 4347 Registration of Granular Fertilizer-Pesticide Combination Products	2070-AD40

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3452	SAN No. 2563 Test Rule; ATSDR Substances	2070-AB79
3453	SAN No. 4174 TSCA Section 4 Enforceable Consent Agreement for Certain Oxygenated Fuel Additives	2070-AD28
3454	SAN No. 4395 Test Rule; Multi-Substance Rule for the Testing of Developmental and Reproductive Toxicity	2070-AD44
3455	SAN No. 1923 Follow-Up Rules on Existing Chemicals	2070-AA58

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TOXIC SUBSTANCES CONTROL ACT (TSCA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3456	SAN No. 4512 Significant New Use Rule; Selected Flame Retardant Chemical Substances for use in Residential Upholstered Furniture	2070-AD48
3457	SAN No. 3557 Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling	2070-AC83

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3458	SAN No. 3301 TSCA Inventory Update Rule Amendments	2070-AC61
3459	SAN No. 3493 Test Rule; Generic Entry for ITC Related Testing Decisions	2070-AB94
3460	SAN No. 3487 Test Rule; Hazardous Air Pollutants (HAPs)	2070-AC76
3461	SAN No. 3990 Test Rule; Certain High Production Volume (HPV) Chemicals	2070-AD16
3462	SAN No. 4425 Test Rule; In Vitro Dermal Absorption Rate Testing of Certain Chemicals of Interest to the Occupational Safety and Health Administration	2070-AD42
3463	SAN No. 1976 Follow-Up Rules on Non-5(e) New Chemical Substances	2070-AA59
3464	SAN No. 3495 Significant New Use Rule (SNUR); Chemical-Specific SNURs To Extend Provisions of Section 5(e) Orders	2070-AB27
3465	SAN No. 4475 Significant New Use Rule; Certain Perfluoroalkyl Sulfonyl (Pfos) Containing Chemical Substances	2070-AD43
3466	SAN No. 2150 Polychlorinated Biphenyls (PCBs); Exemptions From the Prohibitions Against Manufacturing, Processing, and Distribution in Commerce	2070-AB20
3467	SAN No. 2779 Acrylamide; Prohibition on Manufacture, Importation, Distribution and Use of Acrylamide for Grouting	2070-AC17
3468	SAN No. 3528 Significant New Use Rule; Refractory Ceramic Fibers	2070-AC37
3469	SAN No. 2178 TSCA Section 8(a) Preliminary Assessment Information Rules	2070-AB08
3470	SAN No. 1139 TSCA Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3471	SAN No. 3559 Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances	2070-AC84
3472	SAN No. 4172 Lead; Notification Requirements for Lead-Based Paint Abatement Activities and Training	2070-AD31
3473	SAN No. 3118 TSCA Section 8(e) Policy; Notice of Clarification	2070-AC80

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3474	SAN No. 4027 Pesticides; Tolerance Processing Fees	2070-AD23
3475	SAN No. 4175 Pesticide Tolerance Reassessment Program	2070-AD24
3476	SAN No. 2865 Voluntary Children's Chemical Evaluation Program (VCCEP)	2070-AC27
3477	SAN No. 3882 Test Rule; Certain Metals	2070-AD10
3478	SAN No. 3252 Lead; Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21
3479	SAN No. 3148 Asbestos Model Accreditation Plan Revisions	2070-AC51
3480	SAN No. 4179 Polychlorinated Biphenyls (PCBs); Use Authorizations	2070-AD27
3481	SAN No. 4376 Lead-Based Paint Activities; Training, Accreditation, and Certification Rule and Model State Plan Rule - Building and Structures	2070-AC64
3482	SAN No. 3508 Lead; Management and Disposal of Lead-Based Paint Debris	2070-AC72
3483	SAN No. 4176 Chemical Right-to-Know Initiative; High Production Volume (HPV) Chemicals	2070-AD25

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3484	SAN No. 3021 Polychlorinated Biphenyls (PCBs); Reclassification of PCB and PCB Contaminated Electrical Equipment Final Rule	2070-AC39

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TOXIC SUBSTANCES CONTROL ACT (TSCA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3485	SAN No. 2249 Asbestos Worker Protection Rule Amendments	2070-AC66
3486	SAN No. 3243 Lead; Identification of Dangerous Levels of Lead Pursuant to TSCA Section 403	2070-AC63
3487	SAN No. 4488 Polychlorinated Biphenyls (PCBs); Return of PCB Waste from U.S. Territories Outside the Customs Territory of the United States	2070-AD46

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3488	SAN No. 4265 TRI; Revisions to the Otherwise Use Activity Exemptions and the Coal Extraction Activities Exemption	2025-AA06
3489	SAN No. 4392 TRI: APA Petition-EPCRA 313 Definition of "Overburden" as it relates to the mining industry.	2025-AA08
3490	SAN No. 3215 Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	2050-AE17
3491	SAN No. 3993 Modification of Threshold Planning Quantity for Isophorone Diisocyanate	2050-AE43

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3492	SAN No. 2425 TRI; Responses to Petitions Received To Add or Delete or Modify Chemical Listings on the Toxic Release Inventory	2025-AA00

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3493	SAN No. 3007 TRI; Chemical Expansion; Finalization of Deferred Chemicals	2025-AA01
3494	SAN No. 4015 TRI; Review of Chemicals on the Original TRI List	2025-AA03
3495	SAN No. 2847 TRI; Pollution Prevention Act Information Requirements	2025-AA09
3496	SAN No. 3994 Response to a Petition Requesting Deletion of Phosmet from the Extremely Hazardous Substances (EHSs) List	2050-AE42

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3497	SAN No. 4259 TRI; Lowering of EPCRA Section 313 Reporting Thresholds for Lead and Lead Compounds	2025-AA05

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3498	SAN No. 3989 Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)	2050-AE41
3499	SAN No. 4028 Standardized Permit for RCRA Hazardous Waste Management Facilities	2050-AE44
3500	SAN No. 3066 Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments	2050-AD80
3501	SAN No. 3545 Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE23

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RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3502	SAN No. 3333 NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors-Phase II Covering Boilers and Certain Industrial Furnaces	2050-AE01
3503	SAN No. 3147 Hazardous Waste Manifest Regulation	2050-AE21
3504	SAN No. 4084 Office of Solid Waste Burden Reduction Project	2050-AE50
3505	SAN No. 4091 Modifications to RCRA Rules Associated With Solvent-Contaminated Shop Towels and Wipes	2050-AE51
3506	SAN No. 4092 Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations	2050-AE52
3507	SAN No. 4093 Reinventing the Land Disposal Restrictions Program	2050-AE53
3508	SAN No. 4230 Revisions to Solid Waste Landfill Criteria—Leachate Recirculation on Alternative Liners	2050-AE67
3509	SAN No. 4411 Proposed Rule: Regulation of Oil Bearing Wastes From Petroleum Refineries Gasified To Produce Synthesis Gas	2050-AE78
3510	SAN No. 4418 NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors	2050-AE79
3511	SAN No. 4470 Standards for the Management of Coal Combustion Wastes Generated by Commercial Electric Power Producers	2050-AE81
3512	SAN No. 4501 Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures	2050-AE84
3513	SAN No. 4525 Amendment to the Definition of Municipal Solid Waste Landfill Unit	2050-AE86
3514	SAN No. 4439 Project XL — Ortho-McNeil Pilot Project Allowing On-Site Treatment of Low-Level Mixed Wastes Without RCRA Permit	2090-AA14
3515	SAN No. 4534 Project XL Site-Specific Rulemaking for Anne Arundel County Millersville Landfill, Severn, Maryland	2090-AA25

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3516	SAN No. 3805 Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste	2050-AE32
3517	SAN No. 3856 Management of Cement Kiln Dust (CKD)	2050-AE34
3518	SAN No. 4017 Storage, Treatment, Transportation, and Disposal of Mixed Waste	2050-AE45
3519	SAN No. 4088 Recycled Used Oil Containing PCBs	2050-AE47
3520	SAN No. 4083 Listing of Hazardous Waste; Inorganic Chemical Wastes; Land Disposal Restrictions for Newly Listed Wastes; CERCLA Hazardous Substances Reportable Quantities	2050-AE49
3521	SAN No. 2647 RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3522	SAN No. 3328 Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes	2050-AE07
3523	SAN No. 4419 Amendments to the Corrective Action Management Unit Rule	2050-AE77
3524	SAN No. 4437 Project XL Site-Specific Rulemaking for the U.S. Filter Recovery Services, Roseville, Minnesota, and Approved Generators and Transporters of USFRS XL Waste	2090-AA15
3525	SAN No. 4498 Project XL Site-Specific Rulemaking for Yolo County Landfill, Davis, Yolo County, California	2090-AA18
3526	SAN No. 4516 Project XL Notice of Proposed Rule for Autoliv Inc. Site-Specific Rulemaking	2090-AA19

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3527	SAN No. 3428 Hazardous Waste Management System: Slag Residues Derived From High Temperature Metals Recovery (HTMR) Treatment of KO61, KO62 and F0006 Wastes	2050-AE15
3528	SAN No. 3668 Hazardous Waste Identification; Recycled Used Oil Management Standards	2050-AE28
3529	SAN No. 3888 Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions	2050-AE39
3530	SAN No. 4090 RCRA Appendix VIII Streamlining	2050-AE55
3531	SAN No. 3189 Final Determination of the Applicability of the Toxicity Characteristic Rule to Petroleum Contaminated Media and Debris from Underground Storage Tanks	2050-AD69
3532	SAN No. 2390 Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
3533	SAN No. 4094 Land Disposal Restrictions; Potential Revisions for Mercury Listed and Characteristic Wastes	2050-AE54

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RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3534	SAN No. 4233 Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088) and Regulatory Classification of K088 Vitrification Units	2050-AE65
3535	SAN No. 4263 Temporary Suspension of Toxicity Characteristic Rule for Specific Lead-Based Paint Debris	2050-AE68
3536	SAN No. 4208 Requirements for Zinc Fertilizer Made From Recycled Hazardous Secondary Materials	2050-AE69
3537	SAN No. 4430 RCRA Controls for Wastewater Treatment Units	2050-AE82
3538	SAN No. 4469 Standards for the Management of Coal Combustion Wastes - Non-Power Producers and Minefilling	2050-AE83

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3539	SAN No. 3151 Listing Determination for Wastewater and Wastewater Treatment Sludges from Chlorinated Aliphatics Productions; Land Disposal Restrictions for Newly Identified Waste	2050-AD85
3540	SAN No. 4360 Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil	2050-AE76
3541	SAN No. 4438 Project XL — IBM VT Pilot Project providing a site-specific exemption of a metallization process from the F006 listing description	2090-AA11
3542	SAN No. 4497 Project XL Site-Specific Rulemaking for Buncombe County Landfill, Alexander, North Carolina	2090-AA22

OIL POLLUTION ACT (OPA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3543	SAN No. 2634 Oil Pollution Prevention Regulation: Revisions	2050-AC62

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3544	SAN No. 3423 Reportable Quantity Adjustments for Carbamates	2050-AE12
3545	SAN No. 3439 National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules	2050-AD75
3546	SAN No. 4177 Revise 40 CFR Part 35 Subpart O: Cooperative Agreements and Superfund State Contracts for Superfund Response Actions	2050-AE62

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3547	SAN No. 2394 Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82
3548	SAN No. 3885 Streamlining the Preauthorization Mixed Funding for Application and Implementation of Claims Against Superfund	2050-AE38
3549	SAN No. 4201 Criteria for the Designation of Hazardous Substances under CERCLA Section 102(a)	2050-AE63

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Completed Actions

Sequence Number	Title	Regulation Identification Number
3550	SAN No. 3806 Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M	2050-AE33

EPA

CLEAN WATER ACT (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3551	SAN No. 4280 Effluent Guidelines and Standards for the Construction and Development Industry	2040-AD42
3552	SAN No. 4407 Effluent Guidelines and Standards for the Meat Products Point Source Category (Revisions)	2040-AD56
3553	SAN No. 4264 Water Quality Standards for Alabama—Phase II	2040-AD35
3554	SAN No. 4344 Water Quality Standards for Indian Country Waters	2040-AD46
3555	SAN No. 4047 Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts	2040-AD08
3556	SAN No. 4214 Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act	2040-AD34
3557	SAN No. 4474 Minimizing Adverse Environmental Impact From Cooling Water Intake Structures at Existing Facilities Under Section 316(b) of the Clean Water Act, Phase 2	2040-AD62
3558	SAN No. 3786 NPDES Streamlining Rule — Round III	2040-AC84
3559	SAN No. 3999 NPDES Requirements for Municipal Sanitary Sewer Collection Systems, Municipal Satellite Collection Systems, and Sanitary Sewer Overflows	2040-AD02
3560	SAN No. 4332 Recognition Awards Under the Clean Water Act	2040-AD44
3561	SAN No. 4446 Ocean Discharges Criteria Revisions	2040-AD60
3562	SAN No. 2804 Clean Water Act Definition of Waters of the United States	2040-AB74
3563	SAN No. 4493 Clean Water State Revolving Fund Regulation Revisions Re: Use as Matching Funds	2040-AD68
3564	SAN No. 4541 Test Procedures for the Analysis of Mercury Under the Clean Water Act (Revisions to Method 1631)	2040-AD72
3565	SAN No. 4514 Proposal to Revise and to Ratify or Withdraw Whole Effluent Toxicity Test Methods	2040-AD73
3566	SAN No. 4526 Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements	2050-AE87

CLEAN WATER ACT (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3567	SAN No. 4192 Effluent Guidelines and Standards for the Bleached Papergrade Kraft Subcategory of the Pulp, Paper, and Paperboard Category; Certification in Lieu of Monitoring for Chloroform	2040-AD23
3568	SAN No. 4168 Effluent Guidelines and Standards for the Coal Mining Point Source Category (Revisions)	2040-AD24
3569	SAN No. 3155 Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One	2040-AC95
3570	SAN No. 4409 Test Procedures: Clean Water Act and Safe Drinking Water Act Methods Update	2040-AD59
3571	SAN No. 3444 Minimizing Adverse Environmental Impact From Cooling Water Intake Structures at New Facilities Under Section 316(b) of the Clean Water Act, Phase 1	2040-AC34
3572	SAN No. 3663 Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution	2040-AC58
3573	SAN No. 3288 Comparison of Dredged Material to Reference Sediment	2040-AC14
3574	SAN No. 3488 Round 2 Standards for the Use or Disposal of Sewage Sludge	2040-AC25
3575	SAN No. 4515 Procedures for Tribes to Obtain Approval for Treatment as a State To Receive Funding for the Beaches Program	2040-AD69
3576	SAN No. 4476 Pretreatment Program Reinvention Pilot Projects Under Project XL	2090-AA16

CLEAN WATER ACT (CWA)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3577	SAN No. 2806 Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2	2040-AB79
3578	SAN No. 3833 Effluent Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category (Revisions)	2040-AC90
3579	SAN No. 4050 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II	2040-AD10
3580	SAN No. 4153 Effluent Guidelines and Standards for Feedlots Point Source Category, and NPDES Regulation for Concentrated Animal Feeding Operations	2040-AD19
3581	SAN No. 4370 Effluent Guidelines and Standards for the Dissolving Kraft and Dissolving Sulfite Subcategories of the Pulp, Paper, and Paperboard Point Source Category (Phase III)	2040-AD49
3582	SAN No. 4406 Effluent Guidelines and Standards for the Aquatic Animal Production Industry	2040-AD55

EPA

CLEAN WATER ACT (CWA)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3583	SAN No. 4406 Effluent Guidelines and Standards for the Industrial Container and Drum Cleaning Point Source Category	2040-AD57
3584	SAN No. 3662 Water Quality Standards Regulation — Revision	2040-AC56
3585	SAN No. 3702 Test Procedures for the Analysis of Trace Metals Under the Clean Water Act	2040-AC75
3586	SAN No. 3714 Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring	2040-AC92
3587	SAN No. 3713 Performance-Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures	2040-AC93
3588	SAN No. 4049 Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act	2040-AD00
3589	SAN No. 4089 Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two	2040-AD12
3590	SAN No. 4377 Test Procedures for the Analysis of Mercury Under the Clean Water Act (Method 245.7)	2040-AD52
3591	SAN No. 4378 Revisions to Method Detection and Quantification for Use Under the Clean Water Act and Safe Drinking Water Act	2040-AD53
3592	SAN No. 4357 Uniform National Discharge Standards for Vessels of the Armed Forces - Phase II	2040-AD39
3593	SAN No. 4543 Minimizing Adverse Environmental Impact from Cooling Water Intake Structures at Existing Facilities Under Section 316(b) of the Clean Water Act, Phase 3	2040-AD70
3594	SAN No. 3234 Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information	2040-AC26
3595	SAN No. 4375 Revision to Clean Water Act Regulatory Definition of "Fill Material"	2040-AD51
3596	SAN No. 4540 Test Procedures: New and Updated Test Procedures for the Analysis of Pollutants Under the Clean Water Act and Safe Drinking Water Act	2040-AD71

CLEAN WATER ACT (CWA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3597	SAN No. 2805 Effluent Guidelines and Standards for the Centralized Waste Treatment Industry	2040-AB78
3598	SAN No. 3767 Reformatting of Effluent Guidelines and Standards in 40 CFR Parts 401 Through 471	2040-AC79
3599	SAN No. 4086 Effluent Guidelines and Standards for Synthetic-Based Drilling Fluids in the Oil and Gas Extraction Point Source Category (Revisions)	2040-AD14
3600	SAN No. 4364 Effluent Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Category	2040-AD45
3601	SAN No. 4195 Water Quality Standards for Alabama—Phase I	2040-AD25
3602	SAN No. 4235 Amend the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zones for Bioaccumulative Chemicals of Concern	2040-AD32
3603	SAN No. 4422 Promulgation of Provisions in the Final Water Quality Guidance for the Great Lakes System for Waters Within the Great Lakes Basin	2040-AD66
3604	SAN No. 4261 Further Revisions to Clean Water Act Definition of Discharge of Dredged Material	2040-AD41
3605	SAN No. 4207 Round I Sewage Sludge Use or Disposal Rule — Phase Two Amendments	2040-AC53
3606	SAN No. 4440 Site-Specific Rule Under XL To Grant Waiver From BMP Regulations Under CWA Cluster Rules	2090-AA12

SAFE DRINKING WATER ACT (SDWA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3607	SAN No. 4212 Use of Screening Methods for Compliance Monitoring of Drinking Water Contaminants	2040-AD31
3608	SAN No. 3238 National Primary Drinking Water Regulations: Aldicarb	2040-AC13
3609	SAN No. 4447 Drinking Water: Regulatory Determinations Regarding Contaminants on the Drinking Water Contaminant Candidate List	2040-AD61
3610	SAN No. 4424 6-Year Review of Existing National Primary Drinking Water Regulations	2040-AD67

EPA

SAFE DRINKING WATER ACT (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3611	SAN No. 4341 National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule	2040-AD37
3612	SAN No. 4342 National Primary Drinking Water Regulations: Stage 2 Disinfectants/Disinfection Byproducts Rule	2040-AD38
3613	SAN No. 4369 Regulated Drinking Water Contaminant Occurrence Reporting	2040-AD48
3614	SAN No. 4404 National Secondary Drinking Water Regulations (NSDWR): Methyl Tertiary Butyl Ether (MTBE) and Technical Corrections to the NSDWR	2040-AD54
3615	SAN No. 4451 Underground Injection Control Class V Phase 2 Revisions	2040-AD63

SAFE DRINKING WATER ACT (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3616	SAN No. 2281 National Primary Drinking Water Regulations: Radon	2040-AA94
3617	SAN No. 2340 National Primary Drinking Water Regulations: Ground Water Rule	2040-AA97
3618	SAN No. 2807 National Primary Drinking Water Regulations: Arsenic and Clarifications to Compliance and New Source Contaminant Monitoring	2040-AB75
3619	SAN No. 3176 National Primary Drinking Water Regulations: Sulfate	2040-AC07
3620	SAN No. 4147 National Primary Drinking Water Regulations: Long Term 1 Enhanced Surface Water Treatment Rule	2040-AD18
3621	SAN No. 4146 National Primary Drinking Water Regulations: Filter Backwash Recycling Rule	2040-AD65
3622	SAN No. 4236 Update of State Underground Injection Control Programs	2040-AD40

SAFE DRINKING WATER ACT (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3623	SAN No. 4373 Unregulated Contaminant Monitoring Rule - List 2	2040-AD58
3624	SAN No. 3563 Reformatting of Drinking Water Regulations	2040-AC41
3625	SAN No. 3992 National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters	2040-AC98
3626	SAN No. 4281 Revision to the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (DBPR) and Primacy Requirements	2040-AD43
3627	SAN No. 4152 Drinking Water State Revolving Fund Regulations	2040-AD20

SHORE PROTECTION ACT (SPA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3628	SAN No. 2820 Shore Protection Act, Section 4103(b) Regulations	2040-AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Prerule Stage

General

3205. • NEW JERSEY GOLD TRACK PROJECT XL RULE

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Gold Track Program is a crucial part of NJDEP's efforts to create a State-run tiered performance-based program. Currently, facilities may join NJDEP's Silver Track Program, which is a lower-level tier that provides recognition for commitments to a certain level of environmental enhancement. Gold Track expands upon these environmental commitments, and offers proportionally greater recognition, as well as actual federal regulatory flexibility to participating facilities. NJDEP is partnering with EPA in the Gold Track effort under the XL program, so as to be able to offer federal regulatory flexibility to Gold Track participants.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: SAN No. 4533

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RIN: 2002–AA00

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

General

3206. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES IN PROCUREMENT UNDER ASSISTANCE AGREEMENTS

Priority: Other Significant

Legal Authority: PL 101-507; PL 102-389; PL 101-549 sec 1001; 42 USC 9605(f); PL 100-590; EO 12432; EO 12138; EO 11625

CFR Citation: 40 CFR 33

Legal Deadline: None

Abstract: The regulation will codify revisions to the Agency's program for the utilization of Small, Minority and Women's Business Enterprises in procurements under assistance agreements (i.e., grants and cooperative agreements awarded by EPA as well as grants and cooperative agreements awarded by other agencies under interagency agreements with EPA). The revisions are necessary to ensure consistency with the Supreme Court's decision in Adarand Constructors, Inc. v. Pena, 115 S.Ct. 2097 (1995), and were identified as part of the Clinton Administration's review of affirmative action programs. They include: (1) placing greater emphasis on requiring assistance agreement recipients to submit documentation supporting proposed fair share procurement objectives for Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) based on the availability of qualified MBEs and WBEs in the relevant geographic market; (2) authorizing or requiring recipients and their prime contractors to take reasonable race/gender-conscious measures (e.g., bidding credits) in the event that race/gender-neutral efforts prove inadequate to meet fair share objectives; and (3) administering statutory MBE/WBE objectives as a national goal, allowing smaller or larger fair share objectives for particular grants or cooperative agreements based on the availability standard.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Action	02/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4056

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RIN: 2020–AA39

3207. REVISION TO EPAAR 1552.211-73, LEVEL OF EFFORT

Priority: Info./Admin./Other

Legal Authority: 5 USC 301, sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1552

Legal Deadline: None

Abstract: This rule will revise EPAAR 1552.211-73, Level of Effort, to define more concisely the services being acquired, and to more accurately reflect the relationship between services provided and fee payments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4191

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RIN: 2030–AA64

3208. REVISIONS TO ACQUISITION REGULATION CONCERNING CONFLICT OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The purpose of this rule is to revise the Agency's conflict of interest (COI) acquisition regulations. The specific revisions involve more stringent requirements for submission of relevant information from Agency contractors and potential contractors regarding their relationships with parent companies, affiliates, subsidiaries, and sister companies. Current Agency regulations do not require the submission of this level of information. Receipt and evaluation of

this information is critical in order for the Agency to decide whether or not COI situations exist and how they are to be handled. This revised rule will also codify several COI clauses that have been developed since the issuance of the previous rule in 1994.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 4319

Sectors Affected: 5416 Management, Scientific and Technical Consulting Services; 54162 Environmental Consulting Services; 5417 Scientific Research and Development Services; 562 Waste Management and Remediation Services; 5413 Architectural, Engineering and Related Services

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RIN: 2030–AA67

3209. INCREMENTALLY FUNDING FIXED PRICE CONTRACTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1532

Legal Deadline: None

Abstract: This proposed rule will add subpart 1532.7, Contract Funding, to the Environmental Protection Agency's Acquisition Regulation (EPAAR). It also will revise part 1552 of the EPAAR to include a clause for incrementally funding fixed price contracts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3876

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RIN: 2030–AA50

3210. IMPLEMENTATION OF CHANGES TO GOVERNMENTWIDE DEBARMENT AND SUSPENSION COMMON RULE

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549; EO 12689 and FASA

CFR Citation: 40 CFR 32

Legal Deadline: None

Abstract: Periodically OMB amends the Government-wide Common Rule for suspension and debarment of contractors and assistance participants who threaten the integrity of Federal programs because of criminal misconduct or poor performance. All agencies must issue changes to their individual codified versions to conform to the Common Rule. Recently, the Interagency Suspension and Debarment Coordinating Committee prepared recommendations for comprehensive changes to the Common Rule to conform to changes made in the Federal Acquisition Regulation (FAR) as a result of the Federal Acquisition Streamlining Act (FASA). In addition, several other proposals to improve or change the rule were recommended by various agencies. In December 1996, OMB declined to implement the changes at that time due to differences with some agencies about some changes unrelated to those occasioned by FASA.

Among other things, FASA replaced the small purchase threshold ($25,000) with the simplified acquisition amount ($100,000). That change unintentionally exposed certain EPA programs to participation by contractors who may have been debarred for serious misconduct already. OMB has agreed to permit agencies to amend the coverage section of their individual agency rules to reduce or eliminate exposure to suspended or debarred persons.

EPA intends to issue a notice of proposed rulemaking to amend 40 CFR 32.110 to reduce EPA exposure to such consequences.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3817

This is an assistance-related statutory requirement. There is no paperwork burden associated with this action.

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RIN: 2030–AA48

3211. ENVIRONMENTAL IMPACT ASSESSMENT OF NONGOVERNMENTAL ACTIVITIES IN ANTARCTICA

Priority: Other Significant

Legal Authority: 16 USC 2401 et seq, as amended; 16 USC 2403(a); PL 104-227

CFR Citation: 40 CFR 8

Legal Deadline: Final, Statutory, October 2, 1998, The Interim Final Rule, effective 7/14/98, through the year 2000-2001 austral summer.

Abstract: The purpose of this action is to develop regulations for: (1) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty and (2) coordination of the review of information regarding environmental impact assessment received by the United States from other parties under the Protocol on Environmental Protection. The Office of Federal Activities (OECA/OFA) will use the decisionmaking process of the National Environmental Policy Act (NEPA) to analyze the environmental setting; the types of nongovernmental activities, including tourism, to be addressed by the regulations; their potential for impact; and the alternatives available under rulemaking for environmental impact assessments for nongovernmental activities. An interim final rule, 40 CFR part 8, promulgated April 30, 1997, and on July 15, 1998 extended through the 2000-2001 austral summer, will be replaced by a final rule. The interim final rule was effective immediately so that the U.S. could ratify the Protocol and implement its obligations under the Protocol as soon as it entered into force. These rules are being developed in coordination with other Federal agencies with specific interests in and expertise with Antarctica including the Department of State, National Science Foundation, National Oceanic and Atmospheric Administration, U.S. Coast Guard, Marine Mammal Commission, Department of Justice, and the Council on Environmental Quality.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/97	62 FR 23538
Extend Effectve Date Interim Rule	04/15/98	63 FR 18352
NPRM	04/00/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Additional Information: SAN No. 3933

Interim Final Rule-
http://www.epa.gov/fedrgstr/EPA-IMPACT/1997/April/Day-30/i11075.htm

Extend Effectve Date-
http://www.epa.gov/fedrgstr/EPA-IMPACT/1998/April/Day-15/i10007.htm

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RIN: 2020–AA34

3212. PROPOSED REVISION TO EPA'S IMPLEMENTING NEPA REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321

CFR Citation: 40 CFR 6

Legal Deadline: None

Abstract: The proposed revision is necessary to clarify and update EPA's National Environmental Policy Act (NEPA) regulation. The revision would clarify Agency responsibilities for Congressionally funded special appropriation projects and EPA-funded grant programs. The revision would clarify public involvement procedures and organization responsibilities. The proposal would revise the list of actions which are categorically excluded from analyses. The revision is also needed to incorporate a number of Executive orders and other cross-cutting requirements into the NEPA process.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4292

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RIN: 2020–AA42

3213. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2005; 15 USC 2601 et seq; 21 USC 346; 33 USC 1251 et seq; 33 USC 1414; 42 USC 11001 et seq; 42 USC 300(f) et seq; 42 USC 4912; 42 USC 6901 et seq; 42 USC 7401 et seq; 42 USC 9601 et seq; 5 USC 552; 7 USC 136 et seq

CFR Citation: 40 CFR 2; 40 CFR 57; 40 CFR 122; 40 CFR 123; 40 CFR 145; 40 CFR 233; 40 CFR 260; 40 CFR 270; 40 CFR 271; 40 CFR 281; 40 CFR 350; 40 CFR 403; 40 CFR 85; 40 CFR 86

Legal Deadline: NPRM, Statutory, August 31, 2000, Proposed rule to eliminate the special treatment of CBI substantiations.

Abstract: EPA regulations at 40 CFR part 2; subpart B, provide procedures for handling and disclosing information claimed as confidential business information (CBI). Although the current regulations have succeeded in protecting CBI, changes in Agency workload, practice, and statutory authority have made it difficult to handle CBI activities as expeditiously as desired. EPA is examining its CBI regulations to determine what changes are needed to make the regulations as efficient and effective as possible. Provision 40 CFR 2.205(c), which automatically protects CBI substantiations claimed as confidential, is being examined individually and as part of the CBI regulations as a whole.

Timetable:

Action	Date	FR Cite
NPRM/CBI Regs Proposal to revise EPA's CBI regulations	11/23/94	59 FR 60446

Action	Date	FR Cite
Final/CBI Substant. Final rule to eliminate special treatment of substantiations	04/00/01	
NPRM/CBI Regs Proposal to revise CBI regs--40 CFR Part 2, Subpart B	To Be Determined	
Final Rule/CBI Regs Final rule revising CBI regs--40 CFR Part 2, Subpart B	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3240

Formerly listed as RIN 2020-AA21.

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RIN: 2025–AA02

3214. CROSS-MEDIA ELECTRONIC REPORTING (ER) AND RECORDKEEPING RULE

Priority: Other Significant

Legal Authority: PL 104-13; PL 105-277

CFR Citation: 40 CFR 3 (New); 40 CFR 9 (Revision)

Legal Deadline: None

Abstract: The Cross-Media Electronic Reporting (ER) and Recordkeeping Rule will provide a uniform legal framework for paperless electronic reporting and recordkeeping, including electronic signature/ certification, across EPA's environmental compliance programs. The rule will both remove current legal requirements for paper that create obstacles to electronic reporting and recordkeeping and provide for mechanisms to assure the legal validity and authenticity of electronic documents and associated electronic signatures, whether transmitted as reports or maintained as records. This rule is important because the legal and electronic signature issues remain the chief obstacle to implementation of paperless electronic reporting, and affect the overall enforceability of environmental programs both federally and under state delegation/authorization. Also, the Government Paperwork Elimination Act of 1998 requirements and the Administrator's Reinventing Environmental Information (REI) Action Plan goal of universal ER availability by 2003 can only be met if this rulemaking has active participation by the AA-ships and moves on a fast track.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 4270

Formerly listed as RIN 2020-AA41.

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RIN: 2025–AA07

3215. • PERSISTENT, BIOACCUMULATIVE, AND TOXIC (PBT) POLLUTANTS STRATEGY

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) has developed National Action Plans under a national strategy to overcome the remaining challenges in addressing priority PBT pollutants. These pollutants pose risks because they are toxic, persist in ecosystems, and accumulate in fish and up the food chain. The PBT challenges remaining stem from the pollutants' ability to travel long distances, to transfer rather easily among air, water, and land, and to linger for generations. EPA is committing, through this strategy, to create an enduring cross-office system that will address the cross-media issues associated with priority PBT pollutants. This strategy fortifies existing EPA commitments related to priority PBTs, such as the 1997 Canada / U.S. Binational Toxics Strategy (BNS), the North American Agreement on Environmental Cooperation, and the recently released Clean Water Action Plan. EPA is forging a new approach to reduce risks from and exposures to priority PBT pollutants through increased coordination among EPA national and regional programs. This approach also requires the significant involvement of stakeholders, including international, state, local, and tribal organizations, the regulated community, environmental groups, and private citizens. EPA is carrying out this strategy through the implementation of National Action Plans for Priority PBT Pollutants. EPA is initially focusing action on 12 BNS Level 1 substances either individually or as categories and two major cross-cutting issues (monitoring and outreach/risk communication). The action plans will use the full range of its tools to prevent and reduce releases of these substances. These tools include international, voluntary, regulatory, programmatic, remedial, compliance monitoring and assistance, enforcement, research, and outreach tools. EPA will integrate and sequence actions within and across action plans, and will seek to leverage these actions on international and industry-sector bases. Beyond these first 12 substances EPA will identify additional PBTs for development of National Action Plans.

Timetable:

Action	Date	FR Cite
Notice Multimedia Strategy for PBTs	11/17/98	63 FR 63926
Notice Draft Action Plan for Mercury	09/16/99	64 FR 50284
Notice Proposed Action Plan for Alkyl-lead	08/25/00	65 FR 51823
Notice Proposed Action Plan for Octachlorostyrene (OCS)	08/25/00	65 FR 51825
Notice Draft Action Plan for Level 1 Pesticides	11/01/00	65 FR 65314
Notice Draft Action Plan for Hexachlorobezene (HCB)	12/08/00	65 FR 77026
Notice Draft Action Plan for Benzo(a)pyrene (B(a)P)	05/00/01	
Notice Final Action Plan for Mercury	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4463

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RIN: 2070–AD45

3216. REGULATORY INCENTIVES FOR THE NATIONAL ENVIRONMENTAL ACHIEVEMENT TRACK PROGRAM

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The National Environmental Achievement Track is designed to recognize facilities that consistently meet their legal requirements and have implemented high-quality environmental management systems, and to encourage them to achieve more by continuously improving their environmental performance and informing and involving the public. Facilities gain entrance to Achievement Track by submitting an application that documents that four specific criteria are met. To promote participation in the program and the environmental and other benefits that will come with it, EPA intends to offer several incentives. Among those incentives are the adjustments in current regulatory requirements that are the subjects of this rulemaking. These include reducing the frequency of reports required under the Maximum Achievable Control Technology (MACT) provisions of the Clean Air Act; streamlined by publically owned treatment works (POTWs) under the Clean Water Act; and opportunity for Achievement Track facilities to consolidate reporting under various environmental statutes into a single report.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Federalism: Undetermined

Additional Information: SAN No. 4473

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RIN: 2090–AA13

3217. • PROJECT XL SITE-SPECIFIC RULEMAKING FOR NASA WHITE SANDS TEST FACILITY ELECTRONIC REPORTING IN LAS CRUCES, NEW MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The purpose of the NASA WSTF Electronic Reporting site specific rule is to enable the NASA White Sands Test Facility to electronically submit compliance reports and permit information to the New Mexico Environmental Department (NMED) in lieu of submitting paper reports. The rule will set forth guidelines to ensure that the information submitted by NASA WSTF to NMED is accurate by outlining procedures for data authentication, use of electronic signature and encryption processes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4536

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RIN: 2090–AA27

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

General

3218. EPAAR COVERAGE ON LOCAL HIRING AND TRAINING

Priority: Other Significant

Legal Authority: 5 USC 301, sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1526; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will amend the EPA Acquisition Regulation (EPAAR) to include part 1526, Other Socioeconomic Programs, and to revise part 1552, Solicitation Provisions and Contract Clauses. The purpose is to provide an incentive for prime contractors to utilize local hiring and provide training to local hires in specific geographical locations where contractual requirements will be performed. This incentive will support economic development in areas where EPA contracts are performed.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67845
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4187

NPRM-
http://www.epa.gov/fedrgstr/EPA-GENERAL/1998/December/Day-09/g32683.htm

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RIN: 2030–AA62

3219. INCORPORATING INFORMAL CLAUSES (EP) INTO THE EPAAR

Priority: Info./Admin./Other

Legal Authority: 5 USC 301, sec 205(c); 63 Stat 390, as amended

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule is being promulgated to amend the EPAAR to incorporate Environmental Protection (EP) clauses into the EPAAR. There are a large number of EP clauses being used by contracting officers. This promulgation will capture those EP clauses that have not been submitted for public comment. Most of the EP clauses are used in contracts on a case-by-case basis. The contractor concurs with use of such clauses.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/02/00	65 FR 58921
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4226

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RIN: 2030–AA66

3220. INCORPORATION OF CLASS DEVIATIONS INTO EPAAR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: The Agency has approved a number of class deviations (e.g., changes to reporting requirements and monthly progress reports) to the EPAAR since its promulgation in April 1994. This proposed rule would incorporate most of the class deviations to the EPAAR.

Timetable:

Action	Date	FR Cite
NPRM	03/16/00	65 FR 14405
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3580

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RIN: 2030–AA37

3221. REWRITING OF EPA REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 40 CFR 2

Legal Deadline: None

Abstract: This document proposes revisions to EPA's regulations under the Freedom of Information Act (FOIA). The FOIA regulations have been streamlined and written in plain English wherever possible. These revisions reflect the principles established by President Clinton and Attorney General Reno in their FOIA Policy Memoranda of October 4, 1993. They also reflect developments in the case law and include updated cost figures for calculating and charging fees. In addition, the proposed revisions include provisions implementing the Electronic Freedom of Information Act Amendments of 1996. These revisions will simplify and expedite responses to FOIA requests.

Timetable:

Action	Date	FR Cite
NPRM Revised Freedom of Information Act Regulations	04/12/00	65 FR 19703
Final Action Revised Freedom of Information Act Regulations	06/00/01	

Regulatory Flexibility Analysis Required: No

EPA—General

Final Rule Stage

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 4180

Formerly listed as RIN 2020-AA40.

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RIN: 2025–AA04

3222. ELECTRONIC FUNDS TRANSFER

Priority: Other Significant

Legal Authority: 5 USC 301, sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1532.11

Legal Deadline: None

Abstract: This rule complies with the revised Federal Acquisition Regulations (FAR) coverage regarding implementation of the Debt Collection Improvement Act. Because the revised FAR offers choices in implementation, each agency must communicate with its vendor community its choices. This rule will let our vendor community know that EPA will require the use of FAR Clause 52.232-34, Payment by Electronic Funds Transfer (Non-CCR), as prescribed in FAR 32.1105(a)(2). Within the Clause, under (c) the payment office shall be inserted as the prescribed designated office. Further inserted shall be that the required EFT information shall be provided no later than 15 days prior to submission of the first request for payment.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4185

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RIN: 2030–AA57

3223. WARRANTS FOR ON-SCENE COORDINATORS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is amending the EPA Acquisition Regulations (EPAAR) to include a clause concerning the issuance of warrants for on-scene coordinators. The intent is to allow program officials with remedial type requirements to receive on-scene coordinator warrants so that they can issue letter contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/01	66 FR 12897
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4351

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RIN: 2030–AA68

3224. ADMINISTRATIVE CORRECTIONS TO EPAAR 1515, CONTRACTING BY NEGOTIATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 301

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Administrative corrections will be made to EPAAR 1515 for clarification purposes.

Timetable:

Action	Date	FR Cite
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4400

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RIN: 2030–AA73

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

General

3225. CONSOLIDATION OF GOOD LABORATORY PRACTICE STANDARDS (GLPS) REGULATIONS CURRENTLY UNDER TSCA AND FIFRA INTO ONE RULE

Priority: Info./Admin./Other

Legal Authority: 15 USC 2601 et seq; 7 USC 136 et seq

CFR Citation: 40 CFR 160; 40 CFR 792

Legal Deadline: None

Abstract: On November 29, 1983, EPA published Good Laboratory Practice Standards (GLPS) regulations intended to help ensure data integrity for studies required to support marketing and research permits under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). These rules were last amended on August 17, 1989. GLPS data integrity measures can be applied to a wide variety of scientific studies. Although the TSCA and FIFRA GLPS contain identical provisions, they were published as separate rules to account for statutory and program differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences of those programs without duplicating the entire GLP standard in two places.

This action is intended to consolidate EPA's GLPS into one rule. Program-specific requirements will be addressed in either separate sections of the consolidated rule, or in separate rules as is determined appropriate. This action is not intended to change the requirements, applicability, or enforceability of GLPS with respect to any statute.

EPA has received comments from stakeholders regarding the understandability of many aspects of the GLPS, and over the years has issued numerous clarifications. EPA believes that some clarifications, if included directly in the rule, would make the rule easier to understand and enhance compliance. Therefore, EPA intends to include such clarifications where appropriate in this rulemaking. Finally, in the interest of maintaining consistency between EPA's and Food and Drug Administration's regulations, EPA will determine any modifications that have occurred to the FDA GLP rule and consider incorporation of such changes into the EPA rule. This action will serve to reduce the total regulatory text in the Code of Federal Regulations by an estimated 10 pages, by consolidating 23 pages of text to approximately 13. In the process it will provide a generic GLP rule that may be used by other programs in the Agency.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3456
NPRM	12/29/99	64 FR 72972
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: SAN No. 3807

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RIN: 2020–AA26

3226. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 28 CFR 42.101 to 42.112; 28 CFR 42.501 to 42.540; 28 CFR 42.700 to 42.736

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its regulations implementing Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1972 (Section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of program or activity and program to Title VI and added a definition of program or activity to Section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of program or activity and program into the Department's Title VI, Section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4021

Agency Contact: Ann Goode, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 1201, Washington, DC 20460
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RIN: 2020–AA36

3227. GUIDELINES FOR CARCINOGEN RISK ASSESSMENT

Priority: Info./Admin./Other

Legal Authority: Not applicable

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Agency will use these guidelines to evaluate suspect carcinogens in line with the policies and procedures established in the statutes administered by the EPA. These guidelines revise and replace EPA Guidelines for Carcinogen Risk Assessment published at 51 FR 33992, September 24, 1986. These guidelines provide EPA staff and decision-makers with the directions and perspectives necessary to develop and use risk assessments. The guidelines also provide the general public with basic information about the Agency's approaches to risk assessment. To develop guidelines the Agency must find a balance between consistency and innovation. Consistent risk assessments provide consistent bases to support regulatory decision-making. On the other hand, innovation is necessary so the Agency will base its decisions on current scientific thinking. In balancing these and other science policies, the Agency relies on input from the general scientific community through established scientific peer review processes. The guidelines incorporate basic principles and science policies based on evaluation of the currently available information. The revisions place increased emphasis on the role of carcinogenic mechanisms in risk assessment and clearer explication of underlying assumptions in risk assessment.

These guidelines will have minimal to no impact on small businesses or State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
Reproposed Guidelines	04/23/96	61 FR 17960
Implementation Policy	06/25/96	61 FR 32799
Final Guidelines	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3671

Agency Contact: William Wood, Environmental Protection Agency, Office of Research and Development, 8103, Washington, DC 20460
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RIN: 2080–AA06

EPA—General

Long-Term Actions

3228. • EPA DRAFT AGENCYWIDE PUBLIC INVOLVEMENT POLICY

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Environmental Protection Agency is revising its 1981 Public Participation Policy. The revised policy is being issued as the Draft 2000 Public Involvement Policy for 120-day public comment. The Draft Policy was updated to reflect changes over the past nineteen years such as additional Agency responsibilities, new regulations, expanded public involvement techniques, and the changed nature of public access due to the Internet. The Policy will provide guidance and direction to EPA officials on reasonable and effective means to involve the public in its regulatory and program decisions.

Timetable:

Action	Date	FR Cite
Draft Policy in FR Draft Public Involvement Policy	12/28/00	65 FR 82335
Final Action Final Public Involvement Policy	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4530

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RIN: 2090–AA23

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

General

3229. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (STATE) GRANT REGULATION

Priority: Other Significant

CFR Citation: 40 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	01/09/01	66 FR 1725
Final Action Effective Date Delayed	02/07/01	66 FR 9602
Final Action Effective	04/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Scott McMoran
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RIN: 2030–AA55

3230. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (TRIBAL) GRANT RULE

Priority: Other Significant

CFR Citation: 40 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	01/16/01	66 FR 3781
Final Action Effective Date Delayed	02/09/01	66 FR 9661
Final Action Effective	04/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal, Federal

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RIN: 2030–AA56

3231. EPA MENTOR-PROTEGE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1544; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Interim Final Rule	10/02/00	65 FR 58921
Merged Into RIN 2030-AA66, SAN 4226	03/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2030–AA40

3232. DELETION OF EPA ACQUISITION REGULATIONS FOR QUALITY SYSTEMS FOR ENVIRONMENTAL PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1546.2

Completed:

Reason	Date	FR Cite
Final Action	12/20/00	65 FR 79781

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2030–AA51

3233. • JOINT RULE AMENDING FEDERAL NONDISCRIMINATION REGULATIONS: DEFINITION FOR PROGRAM OR ACTIVITY

Priority: Other Significant

Legal Authority: 20 USC 1682 et seq

CFR Citation: 28 CFR 54 (New)

Legal Deadline: None

Abstract: On June 17, 1980, the Department of Justice published a proposed regulation to implement the requirements of title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of an individual's sex in federally assisted educational programs. That regulation was never issued in final form. As a result of subsequent statutory amendments, it was necessary to revise the prior proposed title IX regulation and begin a new rulemaking process. The Department's regulation was published as a common rule with other agencies that need title IX regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58567
NPRM Comment Period End	12/28/99	
Final Action	08/30/00	65 FR 52858
Final Action Effective	09/29/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4483

Agency Contact: Mike Mattheisen, Environmental Protection Agency, Office of Enforcement and Compliance Assurance
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RIN: 2020–AA43

3234. BUSINESS OWNERSHIP REPRESENTATION

Priority: Info./Admin./Other

CFR Citation: 48 CFR 1504

Completed:

Reason	Date	FR Cite
Final Action	12/05/00	65 FR 75863

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2030–AA69

3235. CONTRACTOR DIVERSITY CLAUSE

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action	04/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frances Smith
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RIN: 2030–AA70

3236. REPORT ON PM2.5 FEDERAL REFERENCE METHOD FIELD STUDY

Priority: Info./Admin./Other

CFR Citation: None

Completed:

Reason	Date	FR Cite
Report to Congress Submitted to Congress	01/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2080–AA09

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA)

3237. PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3263

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RIN: 2060–AE20

3238. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511(a)(2)(b); 42 USC 7511(a)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3262

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RIN: 2060–AE22

3239. OPERATING PERMITS: REVISIONS (PART 70)

Priority: Other Significant

Legal Authority: 42 USC 7661 et seq

CFR Citation: 40 CFR 51; 40 CFR 52; 40 CFR 70

Legal Deadline: None

Abstract: In response to litigation on the operating permits rule regulations, 40 CFR part 70, to provide more effective implementation of part 70, and to address comments provided in response to notices of proposed rulemaking, parts 70, 51 and 52 are being revised. The changes streamline the procedures for revising stationary-source operating permits issued by State and local permitting authorities under title V of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
Supplemental NPRM Part 71	04/27/95	60 FR 20804
Supplemental NPRM Part 70	08/31/95	60 FR 45530
Direct Final Interim Approval Extension	07/27/98	63 FR 40054
NPRM Interim Approval Extension	07/27/98	63 FR 40053
NPRM	08/00/01	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 3412

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RIN: 2060–AF70

3240. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, June 15, 2001.

Abstract: The determination of volatile organic compounds (VOCs) content of a surface coating by reference Method 24 involves determination of its water content and calculation of its VOC content as the difference of the two measurements (volatile content minus water content). Method 24 is inherently less precise for water-based coatings than it is for solvent-based coatings and the imprecision increases as water content increases. This action will amend Method 24 by adding a direct measurement procedure for measuring VOC content of water-based coatings. This amendment will improve the precision of Method 24 for water-based coatings.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3649

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RIN: 2060–AF72

3241. SERVICE INFORMATION AVAILABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule will require manufacturers of automobiles to provide necessary information needed to make use of emission control diagnostic systems as well as that needed to make emission-related diagnosis and repairs by any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines. This will allow independent service repair garages, individual owners, parts manufacturers, etc., to have access to emission control information to better service automobiles and ensure clean air compliance requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3741

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RIN: 2060–AG13

3242. NESHAP: PLYWOOD AND COMPOSITE WOOD PRODUCTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 7412(d)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (NESHAP) by establishing maximum achievable control technology (MACT) for facilities manufacturing wood panels and engineered wood products. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, the drying of wood and binders. This rule is anticipated to apply to the manufacture of products involving wood and some kind of binder or bonding agent. This project may include, but is not limited to, facilities that manufacture waferboard, hardboard fiber board (MDF), oriented strandboard (OSB), medium density fiberboard, particleboard, strawboard, hardwood and softwood plywood, glue-laminated lumber, laminated veneer lumber, and engineered wood products. The source category may also include lumber drying kilns at sawmills which are located on the same site as a facility that manufactures any of the wood products mentioned above. The project may also include some coatings operations. The name of the source category was formerly Plywood and Particleboard MACT.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3820

Sectors Affected: 32121 Veneer, Plywood, and Engineered Wood Product Manufacturing

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RIN: 2060–AG52

3243. TRANSPORTATION CONFORMITY RULE AMENDMENT: CLARIFICATION OF TRADING PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671 CAA sec 176(c)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The transportation conformity rule, promulgated in November 1993, ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. The Open Market Trading Guidance provides guidance to states for establishing a method to quantify emissions reductions (called discrete emissions reductions or DERs) that can be traded among parties and how such trading should occur. This action will amend the transportation conformity rule to clarify how emissions trading could be reconciled in the conformity process.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, Federal

Additional Information: SAN No. 3917

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RIN: 2060–AH31

3244. STREAMLINED EVAPORATIVE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86 (Revision)

Legal Deadline: None

Abstract: This action will streamline the test procedure used to establish compliance with evaporative emission requirements for light duty vehicles and trucks. The current test procedure requires both two and three day diurnal emission tests, as well as running-loss testing. The revisions will delete the three day requirement and add flexibilities for running-loss compliance. This will enable manufacturers to save significant resources without any decrease in environmental benefits.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3910

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RIN: 2060–AH34

3245. NESHAP: COKE OVENS: PUSHING, QUENCHING, AND BATTERY STACKS

Priority: Other Significant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: There are currently 25 active domestic coke plants, 20 of which are furnace coke plants and 5 of which are foundry coke plants. Coke oven batteries used to produce metallurgical coke at these plants emit hazardous air pollutants (HAPs) such as coke oven emissions and polycyclic organic matter listed in section 112 of the Clean Air Act (CAA). This action will establish a National Emission Standard for Hazardous Air Pollutants (NESHAP) for three specific operations associated with coke ovens, namely pushing, quenching, and battery stacks.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4022

Sectors Affected: 324199 All Other Petroleum and Coal Products Manufacturing; 331111 Iron and Steel Mills

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RIN: 2060–AH55

3246. RULEMAKING TO MODIFY THE LIST OF SOURCE CATEGORIES FROM WHICH FUGITIVE EMISSIONS ARE CONSIDERED IN MAJOR SOURCE DETERMINATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7602 CAA sec 302(j)

CFR Citation: 40 CFR 51; 40 CFR 52; 40 CFR 70; 40 CFR 71

Legal Deadline: None

Abstract: This rulemaking will modify the list of source categories for which fugitive emissions are to be considered in major source determinations under the New Source Review (Prevention of Significant Deterioration and Nonattainment New Source Review) and title V programs. As provided by section 302(j) of the Act, EPA adopted rules on August 7, 1980 that require, for specific source categories, the inclusion of fugitive emissions when determining if a stationary source is a major source. In its 1980 rulemaking, EPA identified one such specific source category as those stationary source categories being regulated, as of August 7, 1980, under section 111 or 112 of the Clean Air Act. Moreover, EPA indicated that at the time of any future rulemaking proposing to regulate additional categories of sources under section 111 or 112, the EPA would conduct a parallel rulemaking under section 302(j) to determine whether fugitive emissions from sources within these source categories needed to be considered in determining whether the sources were major stationary sources. EPA did not conduct these parallel rulemakings as intended and is now conducting a rulemaking pursuant to section 302(j) to address the source categories which became subject to section 111 and 112 standards after August 7, 1980.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 4045

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RIN: 2060–AH58

3247. PROTECTION OF STRATOSPHERIC OZONE: ALLOWANCE SYSTEM FOR CONTROLLING HCFC PRODUCTION, IMPORT & EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 82.5(h); 40 CFR 82.6(h); 40 CFR 82.8; 40 CFR 82.4(n)-(s); 40 CFR 82.4(u)

Legal Deadline: None

Abstract: The Stratospheric Protection Division currently oversees an allowance allocation system for the class I ozone-depleting substances. An allowance allocation system for class II ozone-depleting substances or hydrochloroflurocarbons (HCFCs) had not been established prior to 1998 because consumption figures had hovered around 80% of the cap imposed by the Montreal Protocol in 1992. The HCFC consumption figures for 1999 indicate that the US is within 95% of the cap; the figures for 2000 were in the low 90s. Since the US is in danger of violating this cap if high HCFC consumption rates continue into 2001, the system for allocating allowances must be in place as soon as possible in order to control HCFC consumption for all four quarters of 2002.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/99	64 FR 16373
NPRM	05/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4120

Additional deadline: Montreal Protocol. The Protocol requires compliance with formulary caps of all parties' consumption and production of HCFCs.

The ANPRM is available on the Internet at:

http://www.epa.gov/fedrgstr/EPA-AIR/1999/

April/Day-05/a8258.htm

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RIN: 2060–AH67

3248. NESHAP: FUMED SILICA PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA Section 112; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Fumed silica is produced at four facilities is three states. There is no NSPS for the source category. Based on preliminary results of a screening study, the source category emits chlorine, HCl, and chlorinated organics.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4111

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

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RIN: 2060–AH72

3249. NESHAP: HYDROCHLORIC ACID PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12291; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some hydrochloric acid plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) will be developed for the hydrochloric acid production industry.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4104

Sectors Affected: 325211 Plastics Material and Resin Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 325181 Alkalies and Chlorine Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing

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RIN: 2060–AH75

3250. NESHAP: ASPHALT/COAL TAR APPLICATION ON METAL PIPES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the application of asphalt or coal tar to metal pipes may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the asphalt/coal tar application on metal pipes industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4107

Sectors Affected: 332812 Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers

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RIN: 2060–AH78

3251. NESHAP: CLAY MINERALS PROCESSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the clay products manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the clay products manufacturing industry to promulgate emission standards. EPA plans to propose four separate standards for the clay products manufacturing industry (see 64 FR 63028, 11/18/99). This action will propose and promulgate standards for the clay minerals processing portion of the industry.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4113

Sectors Affected: 327121 Brick and Structural Clay Tile Manufacturing; 327122 Ceramic Wall and Floor Tile Manufacturing; 327123 Other Structural Clay Product Manufacturing; 327124 Clay Refractory Manufacturing; 212324 Kaolin and Ball Clay Mining; 327992 Ground or Treated Mineral and Earth Manufacturing

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RIN: 2060–AH79

3252. NESHAP: URANIUM HEXAFLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project will develop national emissions standards for hazardous air pollutants (NESHAP) by establishing emissions limitations for hazardous air pollutants (HAP) which can be emitted by the two known sources in this category. The emissions limitations are to be based upon the application of the maximum achievable control technology (MACT). The purpose of the NESHAP is to reduce emissions of HAP to protect public health and the environment. The project will begin in 2000. Initially, information on the industry processes and emissions of HAP will be analyzed to identify available emissions control technologies. That work will be followed by the development, proposal and promulgation of NESHAP.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4098

Sectors Affected: 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)

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RIN: 2060–AH83

3253. PERFORMANCE SPECIFICATION 16 - SPECIFICATIONS AND TEST PROCEDURES FOR PREDICTIVE EMISSION MONITORING SYSTEMS IN STATIONARY SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7411 CAA sec 111

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, April 15, 2001.

Abstract: Performance Specification 16 is being proposed to provide performance criteria for predictive emission monitoring systems. Predictive systems represent a new technology that uses process information or parameters to predict pollutant emissions instead of directly measuring them. The Agency is allowing their use in recently-promulgated rules and they are being considered by a number of regulated facilities. The specification lists the requirements for acceptable systems that are met by passing tests that compare the monitoring system with standardized methods and audit gases to determine system accuracy and stability. Performance Specification 16 will primarily apply to facilities whose emissions can be predicted from process parameters such as combustion processes (including gas turbines and internal combustion engines).

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4119

Sectors Affected: 33241 Power Boiler and Heat Exchanger Manufacturing; 333611 Turbine and Turbine Generator Set Unit Manufacturing; 333618 Other Engine Equipment Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing

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RIN: 2060–AH84

3254. TECHNICAL CHANGE TO DOSE METHODOLOGY FOR 40 CFR 191, SUBPART A

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2021 Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Nuclear Waste Policy Act of 1982

CFR Citation: 40 CFR 190(B); 40 CFR 191(A)

Legal Deadline: None

Abstract: The purpose of this action is to make a technical change to the dose methodology used in subpart A of 40 CFR 191, entitled "Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level Waste and Transuranic Waste The current methodology is outdated. The dose methodology used in the rule published on September 19, 1985, was based on the target organ approach recommended by the International Commission on Radiological Protection (ICRP) in Report 12. Since that time science has progressed and a new methodology based on an effective dose equivalent approach is currently being recommended by the ICRP in Report 26. This action would update the 40 CFR 191, subpart A dose limits published in 1985 from the target organ to the state-of-the-art effective dose equivalent system. There would be no change in the level of protection, just the scientific methodology for determining compliance with the levels of protection established in 1985.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4003

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RIN: 2060–AH90

3255. RULEMAKING ON SECTION 126 PETITIONS FROM NEW YORK AND CONNECTICUT REGARDING SOURCES IN MICHIGAN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7426

CFR Citation: 40 CFR 52; 40 CFR 75; 40 CFR 97

Legal Deadline: None

Abstract: The EPA is proposing to revise the section 126 rule in light of the March 3, 2000 Court decision (Michigan v. EPA, No. 98-1497) on the NOx SIP Call. The court vacated, and remanded to EPA for further consideration, the inclusion of Georgia and Missouri in the NOx SIP Call in light of the Ozone Transport Assessment Group conclusions that emissions from coarse grid portions of States did not merit controls. The reasoning of the Court regarding the significance of NOx emissions from sources in Georgia and Missouri calls into question the inclusion of the coarse grid portion of Michigan in the NOx SIP Call. In a separate proposal on the NOx SIP Call, EPA is proposing to withdraw the NOx SIP Call requirements for the Michigan coarse grid area. The section 126 rule is based on many of the same analyses and information used for the NOx SIP call and covers part of Michigan. Thus, in light of the court ruling, EPA is proposing to withdraw its section 126 findings and control requirements under the 1-hour ozone standard with respect to sources located in the small part of the coarse grid portion of Michigan that is currently covered by the section 126 rule. The EPA has not identified any existing section 126 sources that would be affected by the proposal, however this proposal would eliminate findings and control requirements for new sources locating in the coarse grid. This proposal does not create any new requirements, thus there are no associated costs. The proposal does not raise any novel legal or policy issues. It is consistent with the Court ruling on the NOx SIP Call and EPA's new proposed action on the NOx SIP Call.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 4464

Split from RIN 2060-AH88.

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

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RIN: 2060–AJ36

3256. NESHAP: RECIPROCATING INTERNAL COMBUSTION ENGINE

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7412 CAA sec 112; PL 101-549

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The stationary reciprocating internal combustion engine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. The EPA will gather information on HAP emissions from internal combustion engines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions. The EPA will use information that has already been developed, if possible, by gathering information by working with State/local egencies, vendors, manufacturers of internal combustion engines, owners and operators of internal combustion engines, and environmentalists.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: SAN No. 3656

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RIN: 2060–AG63

3257. NESHAP: COMBUSTION TURBINE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 44 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The combustion turbine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. Combustion turbines also emit NOx, SO2, CO, and PM. Combustion turbines are already regulated for NOx and SO2 emissions under section 111 of the CAA. The EPA will gather information on HAP emissions from combustion turbines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions. The EPA information that has already been developed will be used if possible and additional information will be gathered by working with State/local agencies, vendors, manufacturers of combustion turbines, owners and operators of combustion turbines, and environmentalists.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 3657

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RIN: 2060–AG67

3258. NESHAP: IRON FOUNDRIES AND STEEL FOUNDRIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000, See additional information.

Abstract: Iron foundries and steel foundries have been identified by the EPA as potentially significant sources of air emissions of manganese compounds, lead compounds, and other substances that are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act, as amended in November of 1990. As such, these industries may be source categories for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3343

EPA is required to promulgate standards for all of the source categories listed in accordance with section 112(e) by November 15, 2000.

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RIN: 2060–AE43

3259. NESHAP: INTEGRATED IRON AND STEEL

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAP). The EPA has determined that integrated iron and steel mills emit several of the 188 HAP listed (including compounds of chromium, lead, manganese, toluene, and polycyclic organic matter) in quantities sufficient to designate them as major sources. As a consequence, integrated iron and steel facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Rule	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3346

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RIN: 2060–AE48

3260. NESHAP: REINFORCED PLASTIC COMPOSITES PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: Project is to develop a NESHAP for the source category which involves the manufacture of composite products involving thermoset resins and re-enforcements. Some of the specific products in the source category are tubs/showers, auto/truck parts, appliances, furniture, piping, construction materials, sporting goods using such materials, and intermediate compounds such as bulk molding compound and sheet molding compounds. The most common HAP in the resins used is styrene, which is present in polyester and vinylester resins as a monomer. Styrene is listed as a candidate urban area source HAP. So is methylene chloride, which is sometimes used for cleaning, and xylenes, which may appear in some mold release formulas. All HAP, except for methylene chloride, are also VOC's.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3326

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RIN: 2060–AE79

3261. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING AND MISCELLANEOUS COATING MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This regulation will cover organic chemical manufacturing processes not covered by the HON or other MACT standards. The regulation will control process vents (continuous and batch, including mixing operations), equipment leaks, storage tanks, wastewater, solvent recovery, and heat exchange systems.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3452

Sectors Affected: 325 Chemical Manufacturing

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RIN: 2060–AE82

3262. NESHAP: CHLORINE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The chlorine production source category includes facilities engaged in the production of chlorine and sodium hydroxide (caustic) by one of the following electrolytic processes: diaphragm cell, membrane cell, and mercury cell. Hazardous air pollutants emitted include chlorine, hydrogen chloride, and mercury. None of the facilities are major sources on their own. However, several are co-located with major sources (e.g., pulp and paper plants, polymer plants, synthetic organic chemical plants, etc.). Emissions of chlorine and hydrogen chloride are very minor and the Agency is evaluating whether regulation of these HAPs is warranted. Relative to mercury, which is among five pollutants listed for regulation under section 112(c)(6) due to their persistent and bioaccumulative effects, the Agency intends to subject to regulation under section 112(d)(2) all mercury cell facilities regardless of major source status.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3449

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RIN: 2060–AE85

3263. AMENDMENTS TO GENERAL PROVISIONS SUBPARTS A AND B FOR 40 CFR 63

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA sec 112; PL 101-549

CFR Citation: 40 CFR 63.1 to 63.15; 40 CFR 63.50 to 63.56

Legal Deadline: None

Abstract: The General Provisions (subpart A) were promulgated on March 16, 1994 (59 FR 12408). The General Provisions create the technical and administrative framework and establish general procedures and criteria for implementing MACT standards. On May 16, 1994, six litigants filed petitions for EPA to review certain provisions of the General Provisions. Subpart B, the procedures for implementing section 112(j), was promulgated on May 26, 1994. In June, 1994 litigants filed petitions for EPA to review the promulgated procedures. As a result of the litigation, it is anticipated that a number of technical and administrative amendments to subpart A and B will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	03/23/01	66 FR 16317
NPRM Comment Period End	05/22/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3551

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RIN: 2060–AF31

3264. NESHAP: MISCELLANEOUS METAL PARTS AND PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: This regulation will control emissions of hazardous air pollutants (HAPs) from operations that apply surface coatings to metal parts and products. Although this rule would cover a wide variety of coating operations, it would not apply to specific coating operations for which regulations have been developed (e.g., plastic parts coating, can coating, large appliance coating, etc.). This regulation is required under section 112 of the Clean Air Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: SAN No. 3825

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RIN: 2060–AG56

3265. NESHAP: ASPHALT ROOFING AND PROCESSING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The CAA required EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emissions standards for each of the listed categories of HAP emissions sources. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the asphalt roofing and processing industry may be reasonably anticipated to emit one or more of the pollutants listed in section 112(b) of the CAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within ten years of enactment of the CAA Amendments of 1990. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Interim Final	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3655

Sectors Affected: 324122 Asphalt Shingle and Coating Materials Manufacturing

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RIN: 2060–AG66

3266. NESHAP: REFRACTORIES MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the Act and to

establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The refractory products manufacturing source category is included on the initial list of HAP-emitting categories under the name chromium refractories, and the rule is scheduled for promulgation within ten years of enactment of the Clean Air Act Amendments of 1990. Testing conducted and information obtained to date indicate 15 major sources exist in this source category and will be affected by this rulemaking. The EPA has determined that the refractory products manufacturing industry emits HAPs including chromium compounds, ethylene glycol, phenol, methanol, hydrochloric acid, formaldehyde, polycyclic organic matter (POM) and hydrogen fluoride; eight of the 189 HAPs listed in section 112 of the Act. Impacts on small businesses and on State/local/tribal governments are being assessed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3652

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RIN: 2060–AG68

3267. NESHAP: INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS AND PROCESS HEATERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended in 1990, requires EPA to develop emission standards for sources of hazardous air pollutants (HAPs). Industrial boilers, institutional/commercial boilers and process heaters are among the potential source categories to be regulated under section 112 of the CAA. Emissions of HAPs will be addressed by this rulemaking for both new and existing sources. EPA promulgated an NSPS for these source categories in 1987 and 1990. The standards for the NESHAP are to be technology-based and are to require the maximum achievable control technology (MACT) as described in section 112 of the CAA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3837

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RIN: 2060–AG69

3268. NESHAP: LIME MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; 44 USC 350 et seq; 5 USC 605

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some lime manufacturing plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the lime manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3651

Sectors Affected: 32741 Lime Manufacturing

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RIN: 2060–AG72

3269. NESHAP: SEMICONDUCTOR PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 BBBBB

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This rule will establish a MACT (maximum available control technology) for semiconductor production facilities. There are currently 2 major sources that would be affected by the NESHAP. This action will result in little or no additional emission reduction but will establish a Federal MACT level for large facilities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3902

Sectors Affected: 334413 Semiconductor and Related Device Manufacturing

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RIN: 2060–AG93

3270. NESHAP: METAL CAN (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the metal can industry. The Agency will study what pollutants are emitted and evaluate the control techniques, including pollution prevention, that are used to reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3906

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RIN: 2060–AG96

3271. NESHAP: FABRIC PRINTING, COATING AND DYEING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: This action will result in the reduction of hazardous air pollutants (HAP) emitted from fabric printing, coating, and dyeing. The Agency will identify and study the types and sources of HAP emissions from these processes, and evaluate pollution prevention and other control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3909

Sectors Affected: 3133 Textile and Fabric Finishing and Fabric Coating Mills; 3132 Fabric Mills; 3141 Textile Furnishings Mills; 3399 Other Miscellaneous Manufacturing

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RIN: 2060–AG98

3272. NESHAP: AUTOMOBILE AND LIGHT-DUTY TRUCK MANUFACTURING (SURFACE COATING)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action will result in the reduction of hazardous air pollutants (HAPs) emitted from the coatings used by the automobile and light-duty truck manufacturing industry. The Agency will study the HAP emitted by the industry and will evaluate pollution prevention and other control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: SAN No. 3907

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RIN: 2060–AG99

3273. NESHAP: PRIMARY MAGNESIUM REFINING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act (Act), as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b). The EPA has determined that sources that manufacture primary magnesium may reasonably be anticipated to emit several of the 189 HAPs listed (including chlorine and hydrochloric acid) in quantities sufficient to designate them as a major source. As a consequence, primary magnesium refining is among the HAP emitting source categories selected for regulation and is in the group of categories for which final rules are scheduled to be promulgated by November 15, 2000 (58 FR 63941, December 3, 1993).

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3924

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RIN: 2060–AH03

3274. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Final standards under section 112(d) for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR 63, Subpart N) were promulgated on January 25, 1995. Since promulgation, the Agency has determined that a class of chromium electroplating operations were inadvertently excluded from regulation. Specifically, the final standards do not apply to sources engaged in continuous chromium electroplating of steel sheet used to make cans and other containers. It is the Agency's intent to regulate all facilities engaged in chromium electroplating. Therefore, the Agency plans to amend the chromium electroplating rule to extend its applicability to continuous chromium electroplating operations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 2841

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RIN: 2060–AH08

3275. NESHAP: SITE REMEDIATION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq; PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.
Final, Statutory, November 15, 2000.

Abstract: This rule will specify maximum achievable control technology for site remediation. Hazardous air pollutant emissions from spills of organic liquids, the excavation, transportation, and treatment of contaminated soils and groundwater, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 3968

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RIN: 2060–AH12

3276. NESHAP: ROCKET ENGINE TEST FIRING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: As required by section 112(c) of the Clean Air Act, the Environmental Protection Agency has developed a list of categories of sources of hazardous air pollutants (HAP's). The HAP's are listed in section 112(b) of the Clean Air Act. The Rocket Engine Test Firing source category and the Engine Test Facilities source category are included on EPA's list of sources of HAP's. The Rocket Engine Test Firing source category includes facilities engaged in test firing of rocket engines using solid or liquid propellants. The Engine Test Facilities source category includes any facility engaged in the testing of stationary or mobile engines, including turbines and reciprocating engines.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3972

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RIN: 2060–AH35

3277. NESHAP: ORGANIC LIQUIDS DISTRIBUTION (NON-GASOLINE)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants by establishing maximum achievable control technology (MACT) for facilities distributing organic liquids. MACT standards are under development to reduce the release of hazardous air pollutants (HAPs) from all industries to protect the public health and environment. This project should include but is not limited to those activities associated with the storage and distribution of organic liquids other than gasoline at sites that serve as distribution points from which organic liquids may be obtained for further use and processing.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3971

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RIN: 2060–AH41

3278. METAL FURNITURE (SURFACE COATING) NESHAP

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This regulation will apply to surface coating of metal furniture products and parts. This regulation will reduce nationwide emissions of HAPs from surface coating of metal furniture products and parts, which is required under section 112 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3824

Sectors Affected: 337124 Metal Household Furniture Manufacturing; 33636 Motor Vehicle Fabric Accessories and Seat Manufacturing; 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 337127 Institutional Furniture Manufacturing; 332116 Metal Stamping; 332612 Wire Spring Manufacturing; 337215 Showcase, Partition, Shelving, and Locker Manufacturing

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RIN: 2060–AG55

3279. PLASTIC PARTS (SURFACE COATING) NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action would address the hazardous air pollutants (HAP) emissions from the coating of plastic parts. Pollution prevention approaches will be considered.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3826

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RIN: 2060–AG57

3280. NESHAP: WOOD BUILDING PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants (HAP) emitted by the wood building product surface coating industry. The Agency will study the various HAP emitted by the industry and evaluate pollution prevention and control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3904

Sectors Affected: 321911 Wood Window and Door Manufacturing; 321918 Other Millwork (including Flooring); 321999 All Other Miscellaneous Wood Product Manufacturing; 321212 Softwood Veneer and Plywood Manufacturing; 321219 Reconstituted Wood Product Manufacturing

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RIN: 2060–AH02

3281. LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525 CAA sec 206(b)

CFR Citation: 40 CFR 86G (Revision); 40 CFR 86K (Revision)

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to include ports of entry as a location for EPA selection of foreign produced vehicles and engines for SEA emissions testing at laboratories in the U.S. While the regulations do not specify EPA authority to conduct such port selections, the increased flexibility provided by port selections warrants amending the regulations. Presently, EPA must travel overseas to conduct SEA audits of foreign manufactured vehicles and engines, even though most manufacturers now have access to laboratory facilities in the U.S. The benefits include a reduction in Agency cost since fewer overseas trips would be necessary. Also, EPA would be able to conduct more audits of foreign manufactured vehicles and engines.

Separate from the provisions proposed in this NPRM for amendments to allow port selection for SEAs, EPA is also proposing to make two other amendments to 40 CFR part 86. The first would amend current Selective Enforcement Auditing regulations to change the minimum annual limit of Selective Enforcement Audits per manufacturer to two (2) per year. Currently, the minimum annual limit is one audit per manufacturer. Under the proposed amendments EPA would be able to perform a second audit on those manufacturers that might otherwise be limited to one audit.

The second additional proposed amendment to part 86 would delete from subparts A and E references to the Agency representation in certain types of administrative hearings. The two provisions state that the Office of General Counsel will represent the Agency in administrative procedures governing hearings on certification for light-duty vehicles, light-duty trucks, heavy-duty engines and motorcycles. The Agency is proposing to delete these two provisions in order to be consistent with other hearing procedures in part 86.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3139

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RIN: 2060–AD90

3282. REVIEW OF FEDERAL TEST PROCEDURES FOR EMISSIONS FROM MOTOR VEHICLES; TEST PROCEDURE ADJUSTMENTS TO FUEL ECONOMY AND EMISSION TEST RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549

CFR Citation: 40 CFR 600; 40 CFR 86

Legal Deadline: None

Abstract: This action considers potential adjustments to fuel economy and emission test results to compensate for test procedure changes previously adopted; it applies to light-duty vehicles and light-duty trucks. This aspect of the previous rulemaking (SAN 3323, RIN 2060-AE27) was deferred.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3979

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RIN: 2060–AH38

3283. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF SECTION 608 SALES RESTRICTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7671(g) CAA sec 608

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of chlorofluorocarbons, hydrochlorofluorocarbons, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board. This action has no impact on small business and State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3673

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RIN: 2060–AG20

3284. • FEDERAL IMPLEMENTATION PLANS FOR INDIAN RESERVATIONS IN IDAHO, OREGON AND WASHINGTON

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 49.121 to 49.139; 40 CFR 49.9861 to 49.17810

Legal Deadline: None

Abstract: This Federal Implementation Plan (FIP) proposes basic air rules to apply on Indian Reservations in Idaho, Oregon, and Washington. The rules provide some basic air quality protection similar to what the state implementation plans (SIPs) require for Idaho, Oregon, and Washington. These rules are needed to establish a level playing field and create basic federally enforceable rules under the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Tribal, Federal

Additional Information: SAN No. 4487

EPA Region 10 would be responsible for implementing and enforcing these proposed rules. Tribes can choose to assist EPA or take over responsibility for their reservations, and EPA would provide funding to tribes through grants to support their efforts.

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RIN: 2012–AA01

3285. • ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT, SECTION 112(R)(7); THIRD PARTY AUDIT PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412(r); 7601 (a)(1)

CFR Citation: 40 CFR 68

Legal Deadline: None

Abstract: This action establishes requirements, incentives, and procedures for third party audits of Risk Management Plans (RMPs) under 40 CFR part 68 that would reduce the need for, and thus the incidence of, government audits of RMPs submitted by facilities that volunteer for such an audit. In this context, a "third party" is someone not employed by either an RMP-regulated facility or a government agency responsible for implementing the RMP program ("implementing agency").

In the preamble to the final Risk Management Program rule, EPA endorsed the concept of using third parties to assist in rule compliance and oversight (61 FR 31705), provided that any such proposal: not weaken the compliance responsibilities of facility owner/operators; offer cost savings and benefits to the industry, community, and implementing agencies that significantly exceed the cost of implementing the approach; lead to a net increase in process safety, particularly for smaller, less technically sophisticated facilities; and promote cost-effective agency prioritization of oversight resources. However, no specific criteria or requirements were specified in the RMP rule to regulate the activities of facilities, implementing agencies, or third parties with respect to third party assistance.

A facility's participation in the third party audit program proposed by this action would be totally voluntary. For facilities who choose not to participate in the program, this action would have no effect. However if a facility participates, this regulation would establish the requirements and regulatory incentives for their participation. For participating sources, the action would offer the potential for reduced regulatory burden (while maintaining their compliance responsibilities), flexible auditing options, and other benefits, provided the source meets the applicable

requirements described in the rule. This action also would specify the proposed qualification requirements for persons desiring to act as third party auditors.

EPA believes that this action would promote increased safety among facilities covered by the risk.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 4511

Sectors Affected: 49312 Refrigerated Warehousing and Storage Facilities; 22132 Sewage Treatment Facilities; 22131 Water Supply and Irrigation Systems; 31161 Animal Slaughtering and Processing; 49311 General Warehousing and Storage Facilities; 42291 Farm Supplies Wholesalers; 42269 Other Chemical and Allied Products Wholesalers; 49313 Farm Product Warehousing and Storage Facilities; 32512 Industrial Gas Manufacturing; 11511 Support Activities for Crop Production

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RIN: 2050–AE85

3286. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: None

Abstract: Since the promulgation of the chromium electroplating NESHAP we have been informed of several sources that are experiencing difficulty in complying with the concentration limit for new sources even though they have installed and operate composite mesh pad scrubber technology similar or identical to that used as the basis for the MACT emission limit. These sources operate new state-of-the-art plating tanks not encountered during rule development which feature enclosing hoods that completely cover the surface of the plating tank. This covered tank design allows for effective capture and ventilation at substantially lower exhaust air flow rates than otherwise encountered with more conventional exterior hooding. Although these sources exceed the new source standard concentration limit of 0.015 mg/dscm, actual mass rate emissions are more than 50 percent lower than would otherwise be achieved with more conventional hooding and higher ventilation rates. The chromium electroplating standard will be amended to include this alternative type of control system.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4115

Sectors Affected: 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

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RIN: 2060–AH69

3287. CONTROL OF EMISSIONS FROM NONROAD LARGE SPARK-IGNITION ENGINES, RECREATIONAL ENGINES (MARINE AND LAND-BASED), AND HIGHWAY MOTORCYCLES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7401 to 7671(q)

CFR Citation: 40 CFR 94

Legal Deadline: NPRM, Judicial, September 29, 2000.
Final, Judicial, December 31, 2001.

Abstract: Emissions from large spark-ignition engines are currently unregulated. EPA and California Air Resources Board (CARB) are cooperating in an effort to set emission standards for these engines to substantially reduce their contribution to the emission inventory.

Timetable:

Action	Date	FR Cite
Proposed Finding	02/08/99	64 FR 6008
ANPRM Final Finding	12/07/00	65 FR 76790
NPRM	09/00/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4154

Sectors Affected: 42183 Industrial Machinery and Equipment Wholesalers; 333924 Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing; 335312 Motor and Generator Manufacturing

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RIN: 2060–AI11

3288. PROTECTION OF STRATOSPHERIC OZONE: PROCESS FOR EXEMPTING QUARANTINE AND PRESHIPMENT METHYL BROMIDE AND TRADE BAN WITH NON-PARTIES TO THE MONTREAL PROTOCOL

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7671 to 7671(q)

CFR Citation: 40 CFR 82.1 to 82.13

Legal Deadline: None

Abstract: The Montreal Protocol exempts quarantine and preshipment

from the methyl bromide production and import baseline; therefore, a regulation must be promulgated to allow for the exemption in EPA's current allowance system.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4253

OLD TITLE: Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Methyl Bromide Used in the United States and Baseline Adjustments

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RIN: 2060–AI42

3289. REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Priority: Economically Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7408; 42 USC 7409

CFR Citation: 40 CFR 50

Legal Deadline: Final, Statutory, July 1, 2002, Under the Clean Air Act, the next standards review is to be completed July 2002.

Abstract: On July 18, 1997, the EPA published a final rule revising the national ambient air quality standards (NAAQS) for particulate matter (PM) (62 FR 38652). While retaining the PM10 standard levels, new standards were added for fine particles (PM2.5) to provide increased protection against both health and environmental effects of PM. On the same day, a Presidential Memorandum (62 FR 38421, July 16, 1997) was published that, among other things, directed EPA to complete the next review of the PM NAAQS by July 2002. The EPA's plans and schedule for the next periodic review of the PM NAAQS were published on October 23, 1997 (62 FR 55201). As with other NAAQS reviews, a rigorous assessment of relevant scientific information will be presented in a Criteria Document (CD), and the preparation of this document is currently under way by the EPA's National Center for Environmental Assessment. The EPA's Office of Air Quality Planning and Standards will also prepare a Staff Paper (SP) for the Administrator which will evaluate the policy implications of the key studies and scientific information contained in the CD and additional technical analyses and identify critical elements that EPA staff believe should be considered in reviewing the standards. The SP and CD will be reviewed by the Clean Air Scientific Advisory Committee (CASAC) and the public; both will reflect the input received through these reviews. As the PM NAAQS review is completed, the Administrator's proposal to revise or reaffirm the PM NAAQS will be published with a request for public comment. Input received during the public comment period will be reflected in the Administrator's final decision which will be published in July 2002.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4255

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RIN: 2060–AI44

3290. TRANSPORTATION CONFORMITY AMENDMENTS: RESPONSE TO MARCH 2, 1999, COURT DECISION

Priority: Other Significant

Legal Authority: 42 USC 7401-7671q

CFR Citation: 40 CFR 93

Legal Deadline: None

Abstract: The Clean Air Act requires EPA to promulgate rules that establish the criteria and procedures for determining whether highway and transit plans, programs, and projects conform to state air quality plans. "Conformity" means that the transportation actions will not cause or worsen violations of air quality standards or delay timely attainment of the standards. The original conformity rule was finalized on November 24, 1993, and most recently amended on August 15, 1997. On March 2, 1999, the U.S. Court of Appeals overturned certain provisions of the 1997 conformity amendments. This rulemaking will amend the conformity rule in compliance with the court decision. The rulemaking will formalize the May 14, 1999 EPA guidance and the June 18, 1999 DOT guidance that was issued to guide action on this issue until a rulemaking could be issued. Specifically, the rulemaking will clarify the types of projects that can be implemented in the absence of a conforming transportation plan. It will also explain EPA's process for reviewing newly submitted air quality plans and when those submissions can be used for conformity purposes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4340

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RIN: 2060–AI56

3291. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS; PROPOSED AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: Amendments to the consumer products rule are being proposed to clarify and correct the rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4309

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RIN: 2060–AI62

3292. NESHAP FOR THE PRINTING AND PUBLISHING INDUSTRY; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994.

Abstract: The amendments will clarify the rule and ensure it reflects the EPA's intent.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4310

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RIN: 2060–AI66

3293. NESHAP: BRICK AND STRUCTURAL CLAY PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The brick and structural clay products industry primarily includes facilities that manufacture brick, clay, pipe, roof tile, extruded floor and wall tile, and other extruded dimensional clay products from clay, shale, or a combination of the two. The manufacture of brick and structural clay products involves mining, raw material processing (crushing, grinding, and screening), mixing, forming, cutting or shaping, drying, and firing.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4325

Split from RIN 2060-AH79.

Sectors Affected: 327121 Brick and Structural Clay Tile Manufacturing; 327123 Other Structural Clay Product Manufacturing

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RIN: 2060–AI67

3294. NESHAP: CLAY CERAMICS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Ceramics are defined as a class of inorganic, nonmetallic solids that are subject to high temperature in manufacture and/or use. The clay ceramics manufacturing source category includes facilities that manufacture traditional ceramics. Traditional ceramics include ceramic tile, dinnerware, sanitaryware, pottery, and porcelain. The primary raw material used in the manufacture of traditional ceramics is clay. the manufacture of clay ceramics involves raw material processing (crushing, grinding, and screening), mixing, forming, shaping, drying, glazing, and firing.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4343

Split from RIN 2060-AH79

Sectors Affected: 327122 Ceramic Wall and Floor Tile Manufacturing; 327111 Vitreous China Plumbing Fixture and China and Earthenware Fittings and Bathroom Accessories Manufacturing

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RIN: 2060–AI68

3295. PETITIONS TO DELIST HAZARDOUS AIR POLLUTANTS (E.G., MEK, EGBE, METHANOL, AND MIBK) FROM SECTION 112(B)(1) OF THE CAA

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Section 112(b)(3)

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, February 28, 2000.

Abstract: The Agency has received 4 petitions to remove certain pollutants (i.e., methanol, methyl ethyl ketone, ethylene glycol butyl ether, and methyl isobutyl ketone) from the list of hazardous air pollutants (HAPs) under Section 112(b) of the Clean Air Act. The Agency must review the petitions and either grant or deny the petition within 18 months of the date the complete petition was received. If the Agency grants a petition, a notice of proposed rulemaking will be published in the Federal Register, allowing the opportunity for public comment. If the Agency denies a petition, a notice of denial will be published in the Federal Register providing an explanation for such denial. If the Agency grants a petition and ultimately removes the pollutant from the HAP list then sources emitting such pollutants would not be required to meet MACT emissions standards for the pollutant. If on the other hand, the Agency denies the petition, then MACT standards would be issued as currently planned under Section 112(c) and 112(d) of the Clean Air Act for sources emitting such pollutants. Depending on the 4 individual determinations, the Agency will issue separate notices for each.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4313

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RIN: 2060–AI72

3296. NESHAP: ENGINE TEST FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: As required by section 112(c) of the Clean Air Act, the Environmental Protection Agency has developed a list of categories of sources of hazardous air pollutants (HAP's). The HAP's are listed in section 112(b) of the Clean Air Act. The Engine Test Facilities source category are included on EPA's list of sources of HAP's. The Engine Test Facilities source category includes any facility engaged in the testing of stationary or mobile engines, including turbines and reciprocating engines and rocket engines. Aircraft engine testing consists of facilities which perform testing on uninstalled aircraft engines. Non-aerospace engine test facilities consists of facilities which perform testing on uninstalled engines such as automotive engines, stationary turbines, IC engines, and diesel engines.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 4144

Split from RIN 2060-AH35

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RIN: 2060–AI74

3297. NESHAP: LIGHTWEIGHT AGGREGATE MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: EPA is required under Section 112 of the Clean Air Act to develop maximum achievable control technology (MACT) standards for various industrial source categories. The lightweight aggregate manufacturing industry is currently part of the clay products MACT source category. However, EPA is developing a separate MACT standard for lightweight aggregate in anticipation that the current clay products source category will be broken down into 4 separate source categories, including lightweight aggregate. The lightweight aggregate manufacturing source category will be proposed at the time the MACT standard is proposed. Lightweight aggregate kilns that burn hazardous waste are subject to the hazardous waste combustor MACT standard.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4346

Split from RIN 2060-AH79

Sectors Affected: 327992 Ground or Treated Mineral and Earth Manufacturing

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RIN: 2060–AI75

3298. DEVELOPMENT OF REFERENCE METHOD FOR THE DETERMINATION OF SOURCE EMISSIONS OF FILTERABLE FINE PARTICULATE MATTER AS PM2.5

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51 app M

Legal Deadline: Final, Statutory, June 15, 2001.

Abstract: Under this action, EPA is initiating the publication of a reference test method that can be used to quantify that portion of particulate matter emissions that are solid at stack conditions and are equal to or less than 2.5 uM in aerodynamic diameter. This test method is to be used in conjunction with existing and future reference methods which are designed to quantify condensable particulate and particulate precursors. Condensable particulate is that portion of particulate matter emissions that are gaseous at stack conditions but which quickly condense to a solid form when released to the atmosphere. Particulate precursors are gaseous compounds which become solids as a result of chemical reactions in the atmosphere. This test method supports the amended National Ambient Air Quality Standard (NAAQS) for particulate matter which was promulgated on July 18, 1997. The NAAQS was revised by adding new standards for particulate of 2.5 uM aerodynamic diameter. An important foundation element of State efforts to attain the NAAQS will be the development of reliable inventories of baseline particulate and particulate precursor emissions. The emission inventories developed should be based upon credible source tests of individual facilities or emission factors developed from credible source tests. At the present time there is no reference test method available for quantifying the filterable particulate matter of 2.5 uM aerodynamic diameter from emission sources.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4306

Sectors Affected: 21231 Stone Mining and Quarrying; 221112 Fossil Fuel Electric Power Generation; 3212 Veneer, Plywood and Engineered Wood Product Manufacturing; 32411 Petroleum Refineries; 3251 Basic Chemical Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 3311 Iron and Steel Mills and Ferroalloy Manufacturing; 3313 Alumina and Aluminum Production and Processing; 3314 Nonferrous Metal (except Aluminum) Production and Processing; 3315 Foundries

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RIN: 2060–AI96

3299. INSPECTION MAINTENANCE PROGRAM REQUIREMENTS FOR FEDERAL FACILITIES; AMENDMENT TO THE FINAL RULE

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq; 23 USC 101

CFR Citation: 40 CFR 51 (Revision); 40 CFR 93 (New)

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) has had oversight and policy development authority for Inspection and Maintenance (I/M) programs since the passage of the Clean Air Act (CAA) in 1970. The 1977 amendments to the CAA mandated I/M for certain areas with long-term air quality problems and the 1990 amendments set forth standards for implementation of I/M programs. EPA used the statutory requirements of the Act, including I/M requirements for Federal facilities, to promulgate regulations which states would use in the development of their I/M State Implementation Plans (SIPs). Those rule requirements effectively gave States certain authorities over the Federal government. The Department of Justice has now ruled that Federal sovereign immunity was not fully waived under the CAA for those requirements and EPA should amend its rule to remove the requirement that States include those elements in their SIPs. EPA is proposing to: (1) Amend the Federal facilities I/M requirements by removing that section; (2) correct existing I/M SIP approval actions which include these elements; (3) establish new Federal facilities I/M program requirements which Federal facilities in I/M program areas must meet in order to comply with the Act; and (4) designate for each State which section of the Act Federal agencies must comply with based on how that State promulgated its I/M regulations. These changes will have minimal to no impact on the States as no new requirements are being created. The States are under no obligation, legal or otherwise, to modify existing SIPs meeting the previously applicable requirements as a result of this action, nor will emissions reduction credit be affected. However, the changes will clarify for affected Federal facilities what they must do to meet the CAA requirements by establishing new regulations per those requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4348

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RIN: 2060–AI97

3300. CONTROL OF METHYL TERTIARY BUTYL ETHER (MTBE)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: EPA is considering taking action to control the use of Methyl Tertiary Butyl Ether (MTBE), which is an organic compound that is primarily used as a fuel additive in gasoline. MTBE has been used to meet the oxygen requirement established by the Federal Reformulated Gasoline Program (RFG) established by the 1990 amendments to the Clean Air Act (CAA). Over 85 percent of reformulated gasoline contains MTBE. EPA is concerned that the widespread use of MTBE may have resulted in the contamination of groundwater and drinking water supplies, threatening their future use. While current detections levels are generally believed to be below levels that may cause public health concerns, low level MTBE contamination may render water unpotable due to offensive taste and odor. In November of 1998, EPA established a Blue Ribbon Panel to investigate air quality benefits and water quality concerns associated with oxygenates, including MTBE, in gasoline, and to provide independent advice and recommendations on ways to maintain air quality while protecting water quality. In September, 1999, the panel recommended that the use of MTBE be substantially reduced. EPA is now evaluating the Blue Ribbon Panel's recommendations, and has conducted a preliminary review of authorities available to address risks associated with MTBE. EPA intends to issue an Advance Notice of Proposed Rulemaking to inform the public of this preliminary inquiry, and to solicit public comment on possible regulatory action.

Timetable:

Action	Date	FR Cite
ANPRM	03/24/00	65 FR 16094
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: SAN No. 4393

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RIN: 2060–AJ00

3301. NESHAP: TACONITE IRON ORE PROCESSING INDUSTRY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7412 CAA 112

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, May 1, 2001.

Abstract: The taconite iron ore processing source category is comprised of nine facilities operating in the United States. Seven facilities are located in Minnesota and two are located in Michigan. The expected sources of HAP emissions for this source category include: fossil fuel combustion sources, and possibly the handling and transfer of mined ore containing naturally occurring inorganic compounds. Anticipated HAP emissions released from these sources primarily include: formaldehyde, manganese, nickel, arsenic, and chromium. The quantities of HAP released are expected to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4380

There are nine taconite processing facilities in the U.S.; seven are located in Minnesota and two are located in Michigan. The MACT standard for this industry group will be shared between EPA and the State of Minnesota. State regulations currently in place include both air emissions limitations and prohibition of effluent discharge to Great Lakes waters, and both air and water monitoring requirements. Other existing Federal regulations may be affected under RCRA and TSCA.

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RIN: 2060–AJ02

3302. NESHAP: ALUMINUM DIE CASTING AND ALUMINUM FOUNDRIES

Priority: Other Significant

Legal Authority: CAA sec 112

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The completed Secondary Aluminum Production NESHAP included some aluminum die casting facilities and aluminum foundries under its applicability. EPA has based its MACT standard for aluminum die casting and aluminum foundries, as well as its assessment of the economic impacts on small businesses in these industries, on information on representative facility practices provided to EPA by these industries to date. However, affected facilities in these industries have expressed concern that the information and assumptions upon which EPA has relied may be incomplete or may not adequately represent the processes and emissions at such facilities. Therefore, EPA will initiate a formal process to collect further information from the facilities in these industries on the activities in which they engage and the potential of these activities to contribute to HAP emissions. After evaluating this information, EPA will make a new determination concerning MACT requirements for both major

facilities and area sources in these industries. EPA expects to adopt any alternative MACT standard applicable to these industries, and to take final action to remove the aluminum die casting and aluminum foundry industries from the current standard, within two years. Alternatively, if the information collected by EPA shows there is not a need to develop separate MACT requirements for these industries, then these industry sectors will remain under the coverage of the existing secondary aluminum production NESHAP.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/00	65 FR 55489
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4413

Sectors Affected: 331521 Aluminum Die-Castings; 331524 Aluminum Foundries

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RIN: 2060–AJ09

3303. NEW SOURCE REVIEW (NSR) IMPROVEMENT: UTILITY SECTOR OFFRAMP PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 40 CFR 51; 40 CFR 52.21

Legal Deadline: None

Abstract: The New Source Review (NSR) Program is the principal means by which EPA assures that new pollution sources install reasonably effective air pollution controls before they are allowed to begin operation. EPA is currently involved in a comprehensive rulemaking ("NSR Reform", SAN 3259), intended to streamline the NSR program and reduce its administrative burden. This new rulemaking is an outgrowth of that reform effort, and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources. The New Source Review Improvement Utility Sector Offramp Program is a proposed rulemaking that is an outgrowth of this action and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources. The New Source Review Improvement Utility Sector Offramp Program is a proposed rulemaking that is an outgrowth of this action and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources. The New Source Review Improvement Utility Sector Offramp Program is a proposed rulemaking that is an outgrowth of this action and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources. The New Source Review Improvement Utility Sector Offramp Program is a proposed rulemaking that is an outgrowth of this action and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources. The New Source Review Improvement Utility Sector Offramp Program is a proposed rulemaking that is an outgrowth of this action and will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved focusing strictly on new sources.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4390

See also SAN 3259

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RIN: 2060–AJ14

3304. PROTECTION OF STRATOSPHERIC OZONE ALLOCATION OF ESSENTIAL-USE ALLOWANCES FOR CALENDAR YEAR 2001; LABORATORY ESSENTIAL USE EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671-7671(q)

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: This rule will set essential-use allowances for 2000 under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). Essential-use allowances permit a person to obtain controlled ozone-depleting substances, such as chlorofluorocarbons (CFCs), as an exemption to the January 1, 1996 regulatory phaseout of production and import. Essential-use allowances are allocated to a person for exempted production or importation of a specific quantity of a controlled substance solely for the designated essential purpose.

Timetable:

Action	Date	FR Cite
NPRM	11/02/99	64 FR 59141
Direct Final Rule 2001 De Minimis Exemption	03/13/01	66 FR 14759
NPRM 2001 De Minimis Exemption	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4410

Split from RIN 2060-AI73.

Sectors Affected: 325412 Pharmaceutical Preparation Manufacturing; 927 Space Research and Technology

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RIN: 2060–AJ15

3305. RULEMAKING FOR PURPOSES OF REDUCING INTERSTATE OZONE TRANSPORT: RESPONSE TO MARCH 3, 2000 DECISION OF THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Priority: Other Significant

Legal Authority: 42 USC 7410(a)(2)(D); 7410(k)(5)

CFR Citation: 40 CFR 51 (Revision)

Legal Deadline: None

Abstract: On October 27, 1998 (63 FR 57355), EPA issued a rule to reduce smog in the eastern half of the country. The rule required 22 States and the District of Columbia to reduce emissions of nitrogen oxides (NOx), which reacts with other chemicals in the atmosphere to form smog. EPA required these reductions because pollution from each of these States was transported by the wind and significantly contributed to unhealthy air quality in downwind states. In response to litigation from several parties on the NOx SIP call, the United States Court of Appeals for the District of Columbia issued a decision on March 3, 2000 making it clear that EPA and States can and should move forward to implement this regional strategy. The ruling remanded certain relatively minor portions of the original rule back to the EPA. This rulemaking covers the portion of the rule associated with the remanded issues: certain cogeneration units, internal combustion engines, the partial State requirements for Georgia & Missouri and the exclusion of Wisconsin. In this rulemaking, EPA will consider the partial State issue for Alabama & Michigan as well.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4433

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RIN: 2060–AJ16

3306. NESHAP FOR FRICTION PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will propose NESHAP for friction products manufacturing in order to comply with the Clean Air Act of 1990 (CAA). The friction products source category includes any facility that manufactures friction products such as brakes and clutches. The rule is expected to limit HAP emissions, including toluene, hexane, and 1,1,1 trichloroethane) from solvent mixing operations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4460

Sectors Affected: 3369 Other Transportation Equipment Manufacturing; 3363 Motor Vehicle Parts Manufacturing; 3364 Aerospace Product and Parts Manufacturing

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RIN: 2060–AJ18

3307. NESHAP FOR FLEXIBLE POLYURETHANE FOAM FABRICATION OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA) requires development of emission standards for major sources emitting any of the hazardous air pollutants (HAP) listed in section 112(b) of the CAA. Flexible Polyurethane Foam Fabrication Operations was listed as a category of major sources based on previous emission information of methylene chloride HAP. This source category covers emissions from various polyurethane foam bonding operations, including foam gluing and flame lamination. Subsequent information reveals that the use of methylene chloride has substantially reduced due to OSHA regulations. Therefore, no major sources of HAP are anticipated in this source category. This action will explore whether there are any major sources in this source category and develop a MACT standard if it still

proves to be necessary. If no major sources are confirmed, then the action will be to explore possible ways of delisting this source category.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4449

Sectors Affected: 32615 Urethane and Other Foam Product (except Polystyrene) Manufacturing

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RIN: 2060–AJ19

3308. RULEMAKINGS FOR THE PURPOSE OF REDUCING INTERSTATE OZONE TRANSPORT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Clean Air Act (CAA) requires that a state implementation plan (SIP) contain provisions to prevent a States' facilities or sources from contributing significantly to air pollution that is "transported" downwind to other States, exacerbating their inability to meet the national ambient air quality standards for ozone. Through a 2-year effort known as the Ozone Transport Assessment Group (OTAG) , EPA worked in partnership with the 37 easternmost States and the District of Columbia, industry representatives, and environmental groups to address ozone transport. This multi-year collaboration resulted in the most comprehensive analysis of ozone transport ever conducted. The OTAG States voted in favor of a range of strategies to reduce nitrogen oxide emissions from utilities and other major sources. Building on the recommendations of OTAG, EPA issued a rule known as the NOx SIP Call (10/27/98, 63 FR 57355) requiring 22 States and the District of Columbia to submit revisions to their SIPs to address the regional transport of nitrogen oxides (a precursor to ozone formation known as NOx). By reducing emissions of NOx, the actions directed by these plans will decrease the formation and transport of ozone across State boundaries in the eastern half of the US. Per the August 30, 2000 court order, emission reduction measures are required to be in place by May 31, 2004. The court did remand certain minor provisions which EPA is now addressing in a separate rulemaking — see SAN 4433 in today's Regulatory Agenda.) In addition to the SIP Call provisions, Federal Implementation Plans (FIPs) may also be needed to reduce regional transport if any affected State fails to adequately revise its SIP to comply with the NOx SIP call (see SAN 4096 in today's Regulatory Agenda). In addition to the SIP Call remedy, the Clean Air Act also gave States the right to petition EPA to take other Federal action to prevent ozone transport that affects downwind States. Accordingly, under section 126 of the CAA, eight Northeastern States filed petitions requesting EPA to make findings and require decreases in NOx emissions from certain stationary sources in upwind States that may significantly contribute to ozone nonattainment problems in the petitioning State. After analysis, EPA found the petitions from eight States to be meritorious in whole or in part (5/25/99, 64 FR 28250). Subsequently, EPA issued a final rule on the petitions, specifying a NOx emissions trading program as the required Federal remedy (1/18/00, 65 FR 2764). EPA is coordinating all three approaches to regional ozone control — i.e., SIP Call, FIPs, and Section 126 actions — to avoid duplication and maximize effectiveness.

Timetable:

Action	Date	FR Cite
Final Action NOx SIP Call	10/27/98	63 FR 57355
NPRM NOx FIPs (SAN 4096)	10/21/98	63 FR 56393
Final Action Section 126 Findings	05/25/99	64 FR 28250
Final Action Section 126 Approvals and Remedy	01/18/00	65 FR 2674
NPRM Response to NOx SIP Call Court Decision (SAN 4433)	04/00/01	
Final Action Response to NOx SIP Call Court Decision (SAN 4433)	09/00/01	
Final Action NOx FIPs (SAN 4096)	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4466

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RIN: 2060–AJ20

3309. PETITIONS TO DELIST SOURCE CATEGORIES FROM THE SOURCE CATEGORY LIST, DEVELOPED PURSUANT TO SECTION 112(C) OF THE CLEAN AIR ACT

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, April 21, 2000.

Abstract: The EPA has received 1 petition to remove a SC (2-Piece Can Manufacturing) from the SC List developed pursuant to Section 112(c) of the Clean Air Act (CAA). The most current SC List was published on November 18, 1999 (64 FR 63025). Section 112(c)(9), which provides the legislative authority and guidelines for such actions, states that the Administrator may delete a SC from the list under Section 112(c), on petition of any person or on the Administrator's own motion, whenever the Administrator determines that no source in the category emits hazardous air pollutants (HAPs) in quantities which may cause a lifetime risk of cancer greater than 1 in one million to the individual in the population who is most exposed and that emissions from no source in the category exceed a level which is adequate to protect public health with an ample margin of safety and that no adverse environmental effect will result. As of January 31, 2000, 1 petition to delist a SC has been received. It contains information on HAP emissions, exposures, health effects, human risks, and potential ecological concerns as well as the petitioner's explanation why the 2-Piece Can Manufacturing should be removed from the SC List. The EPA will conduct a comprehensive review of the petition received then decide whether to grant or deny the petition. Section 112(c)(9) requires that within 12 months of receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision. We believe that petitions to delist source categories are non-significant actions because they do not meet any of the principles outlined in Section A above.

Timetable:

Action	Date	FR Cite
NPRM - Denial May Instead Be Published	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4415

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RIN: 2060–AJ23

3310. REVISING REGULATIONS ON AMBIENT AIR QUALITY MONITORING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 58 (Revision); 40 CFR 53 (Revision); 40 CFR 50 (Revision)

Legal Deadline: None

Abstract: Air pollution control authorities use air quality data to determine compliance with the National Ambient Air Quality Standards and in subsequent work to develop air pollution mitigation strategies. The data come primarily from ambient air monitoring stations run by State and local agencies, although Federal, tribal, and industrial organizations also run stations. The design of the monitoring networks is regulated under 40 CFR 58. This rule was originally written in 1979 and several revisions have been made in the intervening years. Air pollution control authorities have improved their parts of the network in response to changes in air quality, advances in the understanding of the movements and health effects of air pollutants, and developments in air pollution measurement technology. EPA has also cooperated with air pollution control authorities to improve the networks, but we have not revised the applicable regulations comprehensively. The proposed revisions would remove real or perceived constraints on redeploying air monitoring stations; more accurately reflect the roles of EPA and other control authorities in designing, reviewing, and modifying networks; bring provisions related to quality assurance up to date; and recognize technological changes. The current regulations require states to develop plans to deploy air monitoring networks, but they do not emphasize administering the networks. States generally develop new plans only when new monitoring is needed, such as for a new NAAQS. The regulations should be revised to reflect the roles of EPA and the State and local agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 4421

Sectors Affected: 334519 Other Measuring and Controlling Device Manufacturing; 92411 Air and Water Resource and Solid Waste Management

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RIN: 2060–AJ25

3311. CLARIFICATION TO EXISTING PART 63 NESHAP DELEGATIONS' PROVISIONS-WORK PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: 40 CFR part 63 contains OAR's air-toxics emissions regulations, often referred to as "MACT" rules or "NESHAPS". We are revising some part 63 standards to reflect changes in delegation provisions. We are also revising some sections in the part 63 regulations to clarify what are standards and what are compliance assurance measures. The benefits of the changes will include clarifying what authorities in each standard can be delegated to State and local air pollution control agencies and meshing the standards with revisions previously made to other part 63 regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4426

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RIN: 2060–AJ26

3312. FEDERAL PLAN FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 1990 Amendments to the Clean Air Act sections 111; 1990 Amendments to the Clean Air Act sections 129; 1990 Amendments to the Clean Air Act sections 301(a)(d)

CFR Citation: 40 CFR 62

Legal Deadline: Final, Statutory, December 1, 2002, Section 129 (b)(3) of the CAA.

Abstract: The Clean Air Act Amendments of 1990 directed the Environmental Protection Agency (EPA) to set emission guidelines for existing incinerators combusting commercial or industrial waste under sections 111 and 129. Final emission guidelines for Commercial and Industrial Solid Waste Incineration (CISWI) were published on December 1, 2000 (see 65 FR 75338). In accordance with section 129, any State with affected sources must submit a State plan by December 3, 2001 describing how the State will implement the emission guidelines for existing CISWI. Section 129 requires the Administrator to develop and implement a Federal plan for existing CISWI units located in any State which has not submitted an approvable plan within 2 years of promulgation of the emissions guidelines. In this CISWI Federal plan rulemaking, EPA becomes the implementing authority in those instances where the State or local agency has failed to submit a plan or a plan has not yet been approved. Therefore, consistent with section 129(b)(3) of the Act, EPA is proposing a plan that applies to CISWI in any State, tribe or locale that has not submitted an approvable plan within the time allotted. This action makes no changes to the requirements in the rule, and is intended to fulfill EPA's duty under section 129(b)(3) to promulgate a Federal plan as a gap-filling measure until the State fulfills its statutory obligations. When the State submits an approvable State Plan, the Federal plan will no longer apply to units in that State.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 4441

Sectors Affected: 321 Wood Product Manufacturing; 325 Chemical Manufacturing

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RIN: 2060–AJ28

3313. REVISIONS TO PART 97 FEDERAL NOX BUDGET TRADING PROGRAM ALLOWANCE ALLOCATION METHOD AND PART 75 OUTPUT AND EMISSIONS MONITORING PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7601; 42 USC 7651 et seq; 42 USC 7401; 42 USC 7403; 42 USC 7426

CFR Citation: 40 CFR 75 (Revision); 40 CFR 97 (Revision)

Legal Deadline: None

Abstract: This rulemaking package will propose two types of modifications to the Code of Federal Regulations: revisions to parts 72 and 75 related to the existing Acid Rain Program; and, revisions to part 75 and part 97 that are associated with the implementation of the Federal Nox Budget Trading Program.

The proposed revisions to parts 72 and 75 pertaining to the Acid Rain Program will improve the program's efficiency and effectiveness. These revisions include technical corrections and clarifications to the monitoring procedures that will improve quality of the SO2 and NOx emissions data. Some reporting requirements will be modified to broaden and improve electronic reporting provisions in order to reduce industry burden and facilitate better data management within the Agency.

In support of the Federal NOx Budget Trading Program, EPA will propose revisions to parts 72, 75, and 97. Parts 72 and 75 will be modified to introduce procedural requirements for the monitoring and reporting of output (i.e., electricity, steam, or heated water) for electric generating units. The proposed revisions to part 97 will satisfy a commitment the Agency made in the January 18, 2000 final section 126 rule to use output for updating NOx allowance allocations. Our analysis predicts that updating allocations based on output will reduce air pollution nationwide and will result in more efficient electricity generation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4448

Sectors Affected: 221111 Hydroelectric Power Generation

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RIN: 2060–AJ30

3314. GUIDELINES FOR BEST AVAILABLE RETROFIT TECHNOLOGY (BART)

Priority: Other Significant

Legal Authority: 42 USC 7410; 42 USC 7414; 42 USC 7421; 42 USC 7470 to 7479; 42 USC 7491; 42 USC 7492; 42 USC 7601; 42 USC 7602

CFR Citation: 40 CFR 51.308(e)(1); 40 CFR 51 app Y (New)

Legal Deadline: None

Abstract: To meet the Clean Air Act's requirements, final regional haze regulations were published in the Federal Register on July 1, 1999 (64 FR 35714). These regulations include, in section 51.308(e), a requirement for best available retrofit technology (BART) for certain types of existing stationary sources of air pollutants. In the preamble to regional haze rule, we committed to issuing further guidelines to clarify the BART requirements. The purpose of this rulemaking is to provide those BART guidelines.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4450

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RIN: 2060–AJ31

3315. NESHAP: PESTICIDES ACTIVE INGREDIENTS—AMENDMENTS

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On June 23, 1999, EPA promulgated the NESHAP for Pesticide Active Ingredient Production (Production of Agricultural Chemicals). Subsequently, a petition was filed on this rule, and EPA received the list of issues filed with the court. There are four separate, but related petitions. Major issues include applicability determination for creosote producers, control requirements for "left-over" vents, averaging period, and wastewater applicability cutoffs. This amendment will address these issues.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4457

Split from RIN 2060-AE84.

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RIN: 2060–AJ34

3316. • REVISIONS TO THE PART 97 FEDERAL NOX BUDGET TRADING PROGRAM, THE PART 75 EMISSIONS MONITORING PROVISIONS, THE PART 72 PERMITS REGULATION PROVISIONS, AND THE PART 78 APPEAL PROCEDURES

Priority: Other Significant

Legal Authority: 42 USC 7601; 42 USC 7651 et seq; 42 USC 7401; 42 USC 7403:; 42 USC 7426

CFR Citation: 40 CFR 75 (Revision); 40 CFR 97 (Revision)

Legal Deadline: None

Abstract: The purpose of these proposed revisions is to modify existing procedures for monitoring and reporting NOx and SO2 emissions for sources affected by the Acid Rain Program, the Federal NOx Budget Trading Program, and the October 27, 1998 NOx SIP call. The proposed changes will: streamline part 75 by removing outdated provisions and give electricity generators added flexibility with the monitoring and reporting requirements; tighten the calibration error limit for some units to be more in line with industry's current accepted technical specifications; make technical corrections and changes necessary to correct printing, typographical, and grammatical errors in existing rules; and correct/clarify cross references between the subject Parts to ensure consistency among the rules.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4538

Split from RIN 2060-AJ30.

Sectors Affected: 221111 Hydroelectric Power Generation

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RIN: 2060–AJ43

3317. • NESHAP: AMINO/PHENOLIC RESINS: AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 et seq

CFR Citation: 40 CFR 63 subpart 000

Legal Deadline: None

Abstract: The Amino and Phenolic Wood Adhesives Association (APWAA) has filed a petition for review of the final rule. APWAA has identified two areas of concern in their statement of issue. First of all APWAA claims that EPA was unjustified in going above the floor level of control to include equipment requirements equivalent to the Consolidated Air Rule (CAR) for new and existing sources. APWAA believes EPA should use the floor level of control for both new and existing sources. For existing sources there is no floor, and for new sources the floor level of control is equivalent to the requirements included in 40 CFR Part 60 Subpart VV. The second issue identified by APWAA is the way the requirements for non-reactor batch vents were calculated. The current rule has a 500 lbs per year applicability cutoff for non-reactor batch vents at the facility level. APWAA has stated that the cutoff should be applicable to individual vents instead of the entire

facility. This amendment will address these issues.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4484

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

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RIN: 2060–AJ45

3318. • FEDERAL PLAN FOR SMALL MUNICIPAL WASTE COMBUSTION UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 1990 Amendments to the Clean Air Act; sections 111(d) 129 and 301(a)(d)

CFR Citation: 40 CFR 62 (new)

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 directed the EPA to set emission guidelines for existing municipal waste combustion units (MWCs) under Sections 111 and 129. On 12/19/95, the EPA adopted emission guidelines for MWCs under the authority of Sections 111(d) and 129 of the Clean Air Act. These emission guidelines covered all MWC units located at plants with an aggregate plant combustion capacity larger than 35 tons per day of municipal solid waste. Subsequent litigation cancelled the emission guidelines for small MWC units, but the Court directed EPA to adopt a new rule for small MWC units. This rule was adopted on December 6, 2000. This action is a follow-on activity to this rulemaking. In this proposed MWC Federal Plan for small units, EPA becomes the implementing authority in those instances where the state or local Agency fails to submit a plan or a plan has not yet been approved. This action makes no changes to the rule and is intended to fulfill EPA's duty under Section 129(b)(3) to promulgate a Federal Plan as a gap-filling measure until the state fulfills its statutory obligations. When the state submits an approvable State Plan, the Federal Plan will no longer apply to units in the state.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 4454

About half the small municpal waste combustor owners are local governments.

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RIN: 2060–AJ46

3319. • PETITION BY COLORADO TO RELAX THE REID VAPOR PRESSURE STANDARD FOR GASOLINE FOR 2001

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 80.27

Legal Deadline: None

Abstract: Denver/Boulder is in the process of redesignating to attainment with the ozone NAAQS; however, this process is not expected to be completed by the 2001 summer ozone control season. They are asking that the applicable federal RVP gasoline standard of 7.8 psi (pounds per square inch) be waived in favor of the 9.0 psi RVP for gasoline sold in the area during the 2001 summer ozone control season. This action will address their request.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4520

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RIN: 2060–AJ55

3320. • PROTECTION OF STRATOSPHERIC OZONE: PROCESS FOR EXEMPTING CRITICAL AND EMERGENCY USES OF METHYL BROMIDE

Priority: Substantive, Nonsignificant

Legal Authority: PL 764; 42 USC 7671c

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: With this action, EPA will revise the accelerated phaseout regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer. The amendments will incorporate exemptions permitted under the Montreal Protocol on Substances that Deplete the Ozone Layer and recent changes to the Clean Air Act. Specifically, the amendments will create a process to exempt production and consumption of quantities of methyl bromide for critical and emergency uses from the 2005 phaseout of methyl bromide. Because this is an exemption, the rule will confer a benefit on affected entities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4535

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RIN: 2060–AJ63

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Final Rule Stage

3321. SOURCE-SPECIFIC FEDERAL IMPLEMENTATION PLAN FOR NAVAJO GENERATING STATION; FOUR CORNERS POWER PLANT

Priority: Other Significant

Legal Authority: 42 USC 1740

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Four Corners Plant, respectively. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	09/08/99	64 FR 48731
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: SAN No. 3569

NPRM-
http://www.epa.gov/fedrgstr/EPA-; AIR/1999/September/Day-08 /a23277.htm.; Formerly listed as RIN 2060-AF42,

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1999/September/Day-08/a23277.htm

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RIN: 2009–AA01

3322. NEW SOURCE REVIEW (NSR) IMPROVEMENT

Priority: Other Significant

Legal Authority: CAA as amended, title I

CFR Citation: 40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline: None

Abstract: This action is to revise the CAA new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking will deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action seeks to more clearly define the appropriate roles and requirements of sources, permitting authorities and Federal land managers and EPA in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the NSR regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meets their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. This action also addresses several pending petitions for judicial review and administrative action pertaining to NSR applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24). Finally, this NSR Improvement effort also includes a separate rulemaking (SAN 4390, NSR Improvement: Utility Sector Offramp Program), which will provide industries with the flexibility to focus more on existing pollution sources, with the goal of achieving as good or better environmental results than could be achieved by focusing strictly on new sources.

Timetable:

Action	Date	FR Cite
NPRM	07/23/96	61 FR 38249
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3259

See also SAN 4390

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RIN: 2060–AE11

3323. NSPS: SYNTHETIC ORGANIC CHEMICALS MANUFACTURING INDUSTRY - WASTEWATER (FINAL) & AMEND. TO APPENDIX C OF PART 63 & APPENDIX J OF PART 60

Priority: Other Significant

Legal Authority: CAAA

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This rule will develop a new source performance standard to control air emissions of volatile organic compounds from wastewater treatment operations of the synthetic chemical manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46780
Supp NPRM-1st	10/11/95	60 FR 52889
Supp NPRM-2nd Appendix J to Part 60	12/09/98	63 FR 67988
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3380

Supp NPRM-2nd-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/December/Day-09/a28472a.htm

Sectors Affected: 3251 Basic Chemical Manufacturing

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RIN: 2060–AE94

3324. NESHAP: PETROLEUM REFINERIES; CATALYTIC CRACKING UNITS, CATALYTIC REFORMING UNITS AND SULFUR RECOVERY UNITS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq; PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop national emission standards for hazardous air pollutants (NESHAPs). EPA promulgated NESHAP rules for petroleum refineries on August 18, 1995 (RIN 2060-AD94). This action covers three process vents not covered under RIN 2060-AD94. These are the catalyst regeneration vents from fluid catalytic cracking units (FCCU) and catalytic reformers and the tail gas vents from sulfur recovery plants.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48889
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3549

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/September/Day-11/a23508.htm

Sectors Affected: 32411 Petroleum Refineries

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RIN: 2060–AF28

3325. METHODS FOR MEASUREMENT OF VISIBLE EMISSIONS—ADDITION OF METHODS 203A, 203B, AND 203C TO APPENDIX M OF PART 51

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7410; 42 USC 7470 to 7479; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking adds Test Methods 203A, 203B, and 203C to 40 CFR part 51, appendix M (entitled Example Test Methods for State Implementation Plans). These methods describe procedures for estimating the opacity of visible emissions. States have requested that EPA promulgate these methods so that they can use them in State Implementation Plans in enforcing visible emissions regulations from Stationary Sources.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	58 FR 61639
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2915

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RIN: 2060–AF83

3326. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Priority: Other Significant

Legal Authority: Energy Policy Act sec 801

CFR Citation: 40 CFR 197

Legal Deadline: NPRM, Statutory, August 1, 1996.

Abstract: This rulemaking is in response to section 801 of the Energy Policy Act of 1992 which directs the Administrator to promulgate public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site, developed and operated by the U.S. Department of Energy.

Timetable:

Action	Date	FR Cite
NPRM	08/27/99	64 FR 46976
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3568

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RIN: 2060–AG14

3327. ADDITION OF METHOD 207 TO APPENDIX M OF 40 CFR PART 51 METHOD FOR MEASURING ISOCYANATES IN STATIONARY SOURCE EMISSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 listed certain isocyanate compounds as hazardous air pollutants (HAPs). The Agency does not have any published test methods that would measure air emissions of these isocyanate compounds from stationary sources. This action would add a validated test method to measure isocyanate emissions to appendix M of part 51. Test methods in part 51 can be adopted by any State for use in any regulation that requires the measurement of any of the isocyanate compounds on the HAP list. This action would not impose any new regulatory requirements that do not already exist. It should benefit State governments by providing them with a validated test procedure for measuring the emissions of isocyanate compounds.

Timetable:

Action	Date	FR Cite
NPRM	12/08/97	62 FR 64532
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3900

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RIN: 2060–AG88

3328. NESHAP: CELLULOSE PRODUCTION MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (NESHAPs) by establishing maximum achievable control technology (MACT) for facilities manufacturing cellulose ether, carboxymethyl cellulose ether, methyl cellulose ether, cellulose food casing, cellulosic sponges, producing rayon, and producing cellophane. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, product washing operations, material storage tanks, and film drying.

Timetable:

Action	Date	FR Cite
NPRM	08/28/00	65 FR 52166
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3970

Project combined with SAN 3963

Sectors Affected: 325221 Cellulosic Organic Fiber Manufacturing; 326113 Unsupported Plastics Film and Sheet (except Packaging) Manufacturing

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RIN: 2060–AH11

3329. NESHAP: MUNICIPAL SOLID WASTE LANDFILLS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (HAP) by establishing maximum achievable control technology (MACT) for municipal solid waste landfills.

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66672
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: SAN No. 3969

Sectors Affected: 562212 Solid Waste Landfill

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RIN: 2060–AH13

3330. ADDITION OF OPACITY METHOD TO APPENDIX M OF 40 CFR PART 51 (METHOD 203)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: Final, Statutory, June 15, 2001.

Abstract: This rulemaking proposes to add a method, Method 203, for the measurement of opacity from stationary sources, to appendix M (Example Test Methods for State Implementation Plans) in 40 CFR part 51. This action provides States with an instrumental test method which can be used in determining, on a continuous basis, compliance with stationary source opacity emission limitations.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46114
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3958

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RIN: 2060–AH23

3331. CONSOLIDATED EMISSIONS REPORTING RULE

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 110(a)(2)(F)

CFR Citation: 40 CFR 51.321 to 51.323

Legal Deadline: None

Abstract: Three sections of the Clean Air Act and its amendments require State agencies to report emission estimates to EPA. Some of these sections contain obsolete wording, inconsistent instructions, and duplicate reporting requirements. This rule will consolidate the requirements into one area, eliminate obsolete wording, eliminate duplicate reporting requirements, and provide options for collecting and reporting data. There will be no impact on small businesses. State agencies will report point, area, and mobile source emissions statewide. State agencies will also report fine particulate matter and it's precursors. The rule will provide for flexibility in collecting and reporting data.

Timetable:

Action	Date	FR Cite
NPRM	05/23/00	65 FR 33268
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3986

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RIN: 2060–AH25

3332. EXPANDED DEFINITIONS FOR ALTERNATIVE-FUELED VEHICLES AND ENGINES MEETING LOW-EMISSION VEHICLE EXHAUST EMISSION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and after-market conversion entities. This action will, for vehicles and engines meeting LEV emission standards, broaden the definition of the term dedicated fuel system, broaden the criteria for engine families, and provide an exemption from certification fees. This action is not a deregulatory action. This action will provide another means for small business to remain active entities in supplying alternatively fueled vehicles to the market place. The above three changes are intended to reduce the cost of complying with the requirements of certification, and small business will benefit from these changes. This action will enhance the ability for the regulated industry to provide alternatively fueled vehicles to the consumer in support of the Executive Order 13031.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38767
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4030

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RIN: 2060–AH52

3333. NESHAP: PULP AND PAPER PRODUCTION; AMENDMENTS TO THE PROMULGATED RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.440 to 63.459 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to clarify sections of the promulgated pulp and paper industry maximum achievable control technology (MACT) standards where commenters have indicated that the wording is confusing or changes are needed. This action will also correct any typographical errors noted. This action will contain guidance and amended rule language.

Timetable:

Action	Date	FR Cite
Final Rule Interpretations and technical amendment	09/16/98	63 FR 49455
Direct Final Rule Amendment	12/28/98	63 FR 71385
NPRM Amendment	12/28/98	63 FR 71408
Final Action Interpretations and technical amendment	04/12/99	64 FR 17555
NPRM Proposed rule amendments and notice of public hearing	01/25/00	65 FR 3907
Final Action Final rule amendments	12/22/00	65 FR 80755
Final Action Technical corrections	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4123

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/2000/January/Day-25/a1058.htm

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

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RIN: 2060–AH74

3334. NESHAP: POLYVINYL CHLORIDE AND COPOLYMERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, March 1, 2001.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the administrator of the EPA. The EPA has determined that some plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the polyvinyl chloride industry, to be promulgated by November 15, 2000.

Timetable:

Action	Date	FR Cite
NPRM	12/08/00	65 FR 76958
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4114

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RIN: 2060–AH82

3335. PHASE I FEDERAL IMPLEMENTATION PLANS (FIPS) TO REDUCE THE REGIONAL TRANSPORT OF OZONE IN THE EASTERN UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 52; 40 CFR 97

Legal Deadline: None

Abstract: This action would promulgate Federal Implementation Plans (FIPs) which require nitrogen oxides (NOx) emissions decreases in 19 States and the District of Columbia. The intended effect is to reduce the transport of ozone (smog) pollution and one of its main precursors — NOx — across State boundaries in the eastern half of the United States. On October 27, 1998, EPA published a final rule (the "NOx SIP Call") which allowed States 12 months to develop, adopt, and submit revisions to their State Implementation Plans (SIPs) to address the transport problem. The Administrator is required to promulgate a FIP within 2 years of: (1) finding that a State has failed to make a required submittal or (2) finding that a submittal is not complete or (3) disapproving a SIP submittal. On May 25, 1999, the 12 month NOx SIP Call deadline was indefinitely stayed by the Court of Appeals for the District of Columbia Circuit. On June 22, 2000, the court lifted the stay and gave States 128 days from that date to submit SIPs. Thus, the new SIP submittal date was October 30, 2000. To date, eleven States (Virginia, West Virginia, Alabama, Kentucky, North Carolina, South Carolina, Tennessee, Illinois, Indiana, Michigan, and Ohio) and the District of Columbia have not submitted SIPs that meet all of the aforementioned criteria, as announced in a "findings" rule published on December 26, 2000. EPA is continuing to work with these States to assist them in adopting State plans that meet the requirements of the NOx SIP Call, and is hopeful that States will submit fully approvable plans. (Note: The FIPs discussed here will apply to all elements of the NOx SIP call that were not remanded to EPA by the court on March 3, 2000. The portions of the SIP call that were remanded to EPA will be covered under "Phase 2" SIPs, and if necessary, separate FIP actions will be prepared for those.)

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56393
Findings Rule	12/26/00	65 FR 81366
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: SAN No. 4096

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/October/Day-21/a26431.htm
Findings

Sectors Affected: 325998 All Other Miscellaneous Chemical Product Manufacturing; 325131 Inorganic Dye and Pigment Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325211 Plastics Material and Resin Manufacturing; 32511 Petrochemical Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 32512 Industrial Gas Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 327211 Flat Glass Manufacturing; 327213 Glass Container Manufacturing; 327212 Other Pressed and Blown Glass and Glassware Manufacturing; 32731 Cement Manufacturing; 324199 All Other Petroleum and Coal Products Manufacturing; 331111 Iron and Steel Mills; 331221 Cold-Rolled Steel Shape Manufacturing; 33611 Automobile and Light Duty Motor Vehicle Manufacturing; 333618 Other Engine Equipment Manufacturing; 333415 Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing; 221122 Electric Power Distribution; 221112 Fossil Fuel Electric Power Generation; 221121 Electric Bulk Power Transmission and Control; 48621 Pipeline Transportation of Natural Gas; 221122 Electric Power Distribution; 221112 Fossil Fuel Electric Power Generation; 221121 Electric Bulk Power Transmission and Control; 22133 Steam and Air-Conditioning Supply; 322122 Newsprint Mills; 322121 Paper (except Newsprint) Mills; 32213 Paperboard Mills; 32211 Pulp Mills

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RIN: 2060–AH87

3336. NESHAP: WET-FORMED FIBERGLASS MAT PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, April 1, 2001.

Abstract: The CAA required the EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emissions sources. The wet-formed fiberglass mat production industry is not included in the initial list of categories for standards development but information available to the Administrator suggests that the industry is a major source of HAP emissions and, as such, emission standards shall be developed for this industry. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the wet-formed fiberglass mat production industry may be reasonably expected to emit one of the pollutants listed in section 112(b) of the CAA. The purpose of this action is to pursue a regulatory development program such that emission standards may be promulgated for this industry. Emission standards for this industry were proposed on May 26, 2000.

Timetable:

Action	Date	FR Cite
NPRM	05/26/00	65 FR 34278
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4082

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RIN: 2060–AH89

3337. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION ON THE 610 NONESSENTIAL PRODUCTS BAN

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671 to 7671(q)

CFR Citation: 40 CFR 82(C)

Legal Deadline: None

Abstract: This action would propose to extend the current class I and class II bans on the sale and distribution of nonessential uses of ozone-depleting substances where sufficient substitutes are already readily available. As part of the initial 1993 rulemaking, EPA banned the use of ozone-depleting substances in aerosols, pressurized dispensers, and foams where substitutes were available. Since that rulemaking was issued, the phaseout of production and consumption of class I substances has become effective and the Significant New Alternatives Policy (SNAP) Program under section 612 has been promulgated. The phaseout of newly manufactured class I substances and the identification of new acceptable substitutes for both class I and class II applications provide compelling reasons to reconsider the initial decisions regarding both product-specific exemptions and the decision to limit the ban's effect on major sectors that traditionally used ozone-depleting substances. Most domestic manufacturers have already incorporated the non-ozone-depleting substances in their products. The continued availability and use of ozone-depleting substances in parts and products manufactured abroad, which are sold or incorporated into larger products that are then sold into interstate commerce in the United States, negatively affects the competitiveness of domestic manufacturers who use substitute substances in their production. Therefore, it is appropriate to reconsider the applicability of the class I ban to both specific products and product categories. Amending these requirements would limit the potential use of ozone-depleting substances in applications where substitutes are available and thus, further protect the stratospheric ozone layer.

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 21772
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4077

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RIN: 2060–AH99

3338. REVISION TO THE DEFINITION OF VOLATILE ORGANIC COMPOUND (VOC) TO EXCLUDE TERTIARY BUTYL ACETATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401-7671q

CFR Citation: 40 CFR 51.100(s)

Legal Deadline: None

Abstract: The definition of VOC is proposed to be revised to add tertiary butyl acetate to the list of negligibly reactive compounds. This is a deregulatory action that will remove tertiary butyl acetate from the necessity to be controlled as a VOC in SIPs for attaining the ozone standard. This is not expected to have a significant impact on small businesses or local governments.

Timetable:

Action	Date	FR Cite
NPRM	09/30/99	64 FR 52731
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4254

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RIN: 2060–AI45

3339. NAAQS: SULFUR DIOXIDE (RESPONSE TO REMAND)

Priority: Other Significant

Legal Authority: 42 USC 7409 CAA sec 109

CFR Citation: 40 CFR 50.4; 40 CFR 50.5

Legal Deadline: Final, Judicial, December 31, 2000.

Abstract: On November 15, 1994, the Environmental Protection Agency (EPA) proposed not to revise the existing 24-hour and annual primary standards. The EPA sought public comment on the need to adopt additional regulatory measures to address the health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposure. On March 7, 1995, EPA proposed implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air. On May 22, 1996, EPA published its final decision not to revise the primary sulfur dioxide NAAQS. The notice stated that EPA would shortly propose a new implementation strategy to assist States in addressing short-term peaks of sulfur dioxide. The new implementation strategy - the Intervention Level Program - was proposed on January 2, 1997. In July 1996, the American Lung Association and the Environmental Defense Fund petitioned the U.S. Court of Appeals for the D.C. Circuit for a judicial review of EPA's decision not to establish a new 5-minute NAAQS. On January 30, 1998, the court found that EPA did not adequately explain its decision and remanded the case so EPA could explain its rationale more fully. EPA published a schedule for responding to the remand in the May 5, 1998 Federal Register. Since that notice, EPA has continued to work on the proposed response to the remand by reviewing additional SO2 air quality information. EPA published an informational notice in the Federal Register on January 9, 2001 (66 FR 1665)

Timetable:

Action	Date	FR Cite
NPRM NAAQS Review	11/15/94	59 FR 58958
NPRM NAAQS Implementation (Part 51)	03/07/95	60 FR 12492
Final Rule NAAQS Review	05/22/96	61 FR 25566
NPRM Revised NAAQS Implementation (Part 51)	01/02/97	62 FR 210
Notice Schedule for Response to NAAQS Remand	05/05/98	63 FR 24782
Notice Informational FR Notice	01/09/01	66 FR 1665
Notice	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Additional Information: SAN No. 1002

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RIN: 2060–AA61

3340. REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF STATE IMPLEMENTATION PLANS (GUIDELINE ON AIR QUALITY MODELS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410 CAAA sec 110(a)(2); CAAA sec 165(e); CAAA sec 172(a); CAAA sec 172(c); 42 USC 7601 CAAA sec 301(a)(1); CAAA sec 320

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action proposes revisions to the Guideline on Air Quality Models, published as appendix W to 40 CFR part 51. Such models are used to predict ambient concentrations of pollutants for programs ranging from Prevention of Significant Deterioration (PSD) to State Implementation Plans (SIPs) for controlling air pollution sources. Appendix W to 40 CFR part 51 fulfills a Clean Air Act mandate for EPA to specify models for air management purposes. This proposed rulemaking enhances appendix W with new and/or improved techniques.

Timetable:

Action	Date	FR Cite
NPRM	04/21/00	65 FR 21505
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3470

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RIN: 2060–AF01

3341. NESHAP: PRIMARY COPPER SMELTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The primary copper smelting industry is known to emit a number of the hazardous air pollutants listed in section 112 of the Clean Air Act. The industry is comprised of seven smelters located in four states. All have extensive control systems for oxides of sulfur and HAPs. However, fugitive emissions may cause several smelters to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19582

Action	Date	FR Cite
NPRM	06/26/00	65 FR 39326
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3340

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/April/Day-20/a10142.htm

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RIN: 2060–AE46

3342. NESHAP: MANUFACTURING OF NUTRITIONAL YEAST

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112(d)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act requires major sources of hazardous air pollutants to achieve emission reduction based on the maximum achievable control technology (MACT). This regulatory action will establish this level of control for both new and existing sources in the nutritional yeast manufacturing industry. This industry is currently comprised of 10 sources of 5 different manufacturers located in 8 different states. The only known HAP emission from this source is acetaldehyde. It is produced as a byproduct during the fermentation process. The final rule set maximum emission limits of acetaldehyde, which will be achievable by improved process control to reduce formation of this byproduct.

Timetable:

Action	Date	FR Cite
NPRM	10/10/98	63 FR 55812
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3747

Sectors Affected: 336611 Ship Building and Repairing; 336612 Boat Building

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RIN: 2060–AG27

3343. NESHAP: BOAT MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1, 2001.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the boat manufacturing industry. This rule will affect the manufacture of fiberglass and aluminum boats. The most abundant pollutant emitted by this industry is styrene, which is listed as a hazardous air pollutant in the 1990 Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	07/14/00	65 FR 43841
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3749

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RIN: 2060–AG29

3344. NESHAP: TIRE MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This is a 10-year MACT covering the HAP emissions from the manufacturing of Rubber tires. The emission sources associated with the rubber compound mixing (banbury); extruding; calendaring; building; curing and finishing are covered in this MACT. Forty one facilities have been initially identified. This includes approximately 35 facilities of at least 10 tpy and 26 facilities of at least 25 tpy. Emissions are primarily associated with rubber processing and the use of HAP bearing solvent and cements. Several facilities have eliminated through substitution much of the HAP bearing solvent and cements. However, evaluation of the MACT and separation of the rubber processing emissions from HAP bearing solvents and cement will reduce the number of affected facilities to about 30. In addition, the tire cord coating operations will also be included. Typically these facilities are separate non-colocated operations. The major pollutant associated with tire cord is formaldehyde. There are approximately 12 affected major facilities

Timetable:

Action	Date	FR Cite
NPRM	10/18/00	65 FR 62414
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3345

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RIN: 2060–AG54

3345. NESHAP: LARGE APPLIANCE (SURFACE COATING)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This regulation will apply to surface coating of large appliance products and parts. This regulation will reduce nationwide emissions of HAPs from surface coating of large appliances, a measure required by section 112 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	12/22/00	65 FR 81133
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3823

Sectors Affected: 335222 Household Refrigerator and Home Freezer Manufacturing; 335221 Household Cooking Appliance Manufacturing; 335224 Household Laundry Equipment Manufacturing; 335212 Household Vacuum Cleaner Manufacturing; 333298 All Other Industrial Machinery Manufacturing; 335228 Other Major Household Appliance Manufacturing; 336391 Motor Vehicle Air-Conditioning Manufacturing; 333415 Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing; 333319 Other Commercial and Service Industry Machinery Manufacturing

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RIN: 2060–AG54

3346. NESHAP: METAL COIL (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the metal coil surface coating industry. The Agency will study what pollutants are emitted and evaluate the control techniques, including pollution prevention, that are used to reduce these emissions. The Agency will also determine what, if any, impact the rule would have on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	07/18/00	65 FR 44616
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3905

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RIN: 2060–AG97

3347. NESHAP: LEATHER FINISHING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1, 2001.

Abstract: Title III of the Clean Air Act requires EPA to develop air emission standards for facilities that emit any of the 189 hazardous air pollutants. This action will develop a MACT standard for sources involved in leather finishing operations. Facilities involved in these operations release over 1.7 million pounds of hazardous air pollutants per year. Regulation of these facilities will result in a reduction of the emissions of hazardous air pollutants, several of which are highly toxic.

Timetable:

Action	Date	FR Cite
NPRM	10/02/00	65 FR 58702
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3964

Sectors Affected: 31611 Leather and Hide Tanning and Finishing

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RIN: 2060–AH17

3348. NESHAP: SOLVENT EXTRACTION FOR VEGETABLE OIL PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action develops National Emission Standards for Hazardous Air

Pollutants (NESHAP) for vegetable oil production facilities as authorized under section 112(d) of the Clean Air Act (Act). The action is based on the determination that vegetable oil production plants emit organic hazardous air pollutants (HAPs) listed in section 112(b) of the Act. On July 16, 1992, EPA listed vegetable oil production as a source for which NESHAP are to be promulgated. On December 3, 1993, EPA published a schedule for promulgating NESHAP for vegetable oil production plants by November 15, 2000. NESHAP developed under section 112(d) apply to both new and existing facilities. NESHAP for existing facilities are to be based on the average emission limitation achieved by the best performing 12 percent of existing sources.

Timetable:

Action	Date	FR Cite
NPRM	05/26/00	65 FR 34252
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3903

Sectors Affected: 311222 Soybean Processing; 311223 Other Oilseed Processing; 311225 Fats and Oils Refining and Blending; 311225 Fats and Oils Refining and Blending

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RIN: 2060–AH22

3349. NESHAP: GROUP I POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS-AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.480 to 63.506 (Revision); 40 CFR 63.1310 to 63.1335 (Revision)

Legal Deadline: None

Abstract: During the development of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for elastomers (Group I polymers and resins) and thermoplastics (Group IV polymers and resins) (RINs 2060-AD56 and 2060-AE37), many of the provisions contained in the Hazardous Organic NESHAP (HON) were referenced directly by these polymers and resins regulations due to similarities in processes, emission characteristics, and control technologies. On January 17, 1997, the EPA promulgated changes to the HON to remove ambiguity, to clearly convey EPA intent, and to make the rule easier to understand and implement in response to industry petitions. It is necessary to make parallel changes to the polymers and resins NESHAP; otherwise inconsistencies will exist for NESHAPs regulating similar source categories. An ANPRM was published in the Federal Register on 11/25/96 (61 FR 59849), to explain the nature of changes planned. Subsequently, six litigants have petitioned for review of the elastomers and thermoplastics regulations. Four companies have petitioned EPA to reconsider specific provisions in the thermoplastics regulation. Revisions will be proposed to parallel HON changes and to resolve petitioners' issues. There are no impacts anticipated for small businesses or State/local/tribal governments.

Timetable:

Action	Date	FR Cite
ANPRM Petitions for Jud. Rev-Dow,UCC,Exxon)	11/25/96	61 FR 59849
NPRM Petitions for Judicial Review-Prop. Amend.	03/09/99	64 FR 11559
NPRM Petition for Recons. - Equip. Leaks	06/08/99	64 FR 30453
NPRM Petition for Recons. - Equip. Leaks	06/08/99	64 FR 60456
Direct Final Action Petition for Reconsid.- Equip. Leaks	06/08/99	64 FR 30406
Final Action Petitions for Judicial Rev-Amendments	06/19/00	65 FR 38030
Direct Final Rule Withdrawal - Polymers and Resins	10/26/00	65 FR 64161
Final Rule Amend. Petition for Recons.-Cooling Towers	02/23/01	66 FR 11233
Final Rule Amend. Petition for Jud. Review-Tech. Corr.	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3939

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

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RIN: 2060–AH47

3350. IMPORTATION OF NONCONFORMING VEHICLES; AMENDMENTS TO REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7522 CAA sec 203; 42 USC 7525 CAA sec 206; 42 USC 7541 CAA sec 207; 42 USC 7542 CAA sec 208; 42 USC 7601 CAA sec 301; 42 USC 7522 CAA sec 203; 42 USC 7550 CAA sec 216; 42 USC 7601 CAA sec 301

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will amend the regulations in 40 CFR part 85, subpart P to allow entry into the United States of vehicles which are originally sold in Canada and which are identical to their U.S. counterparts, without obtaining a certificate of conformity from EPA. This action is in response to a petition for review of import rules. The final rule also will address certain other issues in part 85, subpart P and subpart R, including: (1) formalizing a long-standing EPA policy regarding the importation of owned vehicles that are proven to be identical to a vehicle certified for sale in the United States; (2) establishing new emission standards applicable to imported nonconforming vehicles; (3) clarifying the regulatory language that concerns exclusions and exemptions from meeting Federal emission requirements; and (4) providing several minor clarifications to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 13912
Supplemental NPRM	02/12/96	61 FR 5840
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2665

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RIN: 2060–AI03

3351. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq CAA sec 608

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: This rule will amend the recordkeeping aspects of the technician certification program, clarify aspects of a sales restriction, and adopt an updated version of ARI standard 740. The rule will also clarify the distinction between major and non-major repairs and amend several definitions including small appliances. The rule also addresses the transfers of unreclaimed refrigerant between majority-owned and majority-controlled subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	02/29/96	61 FR 7858
NPRM	11/01/96	61 FR 56493
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3556

Additional SANs 3895, 3896. This rule will address a potential adoption of a more flexible method for cleaning refrigerants for refrigerant transferred between appliances with different ownership with a potential adoption of a 3rd party certification program for labs.

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RIN: 2060–AF36

3352. PROTECTION OF STRATOSPHERIC OZONE: REFRIGERANT RECYCLING RULE AMENDMENT TO INCLUDE SUBSTITUTE REFRIGERANTS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq; 42 USC 7671(g) CAA sec 608

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: This action would facilitate fulfillment of the statutory mandate to apply the venting prohibition to substitute refrigerants. The action would provide regulations covering recovery/recycling equipment, recovery/recycling practices, and applicable certifications that would be required to accomplish compliance with the venting prohibition. Requirements would parallel those of the current section 608 regulations, expanding applicability, where appropriate, to substitute refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 32044
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3560

NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/June/Day-11/a15003.htm

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RIN: 2060–AF37

3353. PROTECTION OF STRATOSPHERIC OZONE: UPDATE OF THE SUBSTITUTES LIST UNDER THE SIGNIFICANT NEW ALTERNATIVES POLICY (SNAP) PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671(k) CAA sec 612

CFR Citation: 40 CFR 82; 40 CFR 9

Legal Deadline: None

Abstract: Section 612 of the Clean Air Act requires EPA to identify alternatives to Class I and II ozone depleting substances and to publish lists of acceptable and unacceptable substitutes. Producers of substitutes must notify EPA at least 90 days before alternatives are introduced into interstate commerce. Unlike acceptable alternatives (see Notices), substitutes which are deemed by EPA to be unacceptable or acceptable subject to use restrictions must go through notice and comment rulemaking. Substitute lists are updated intermittently depending on the volume of notifications.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1984
NPRM	05/12/93	58 FR 28094
Final Rule	03/18/94	59 FR 13044
Notice 1	08/26/94	59 FR 44240
NPRM 1	09/26/94	59 FR 49108
Notice 2	01/13/95	60 FR 3318
Final Rule 1	06/13/95	60 FR 31092
Notice 3	07/26/95	60 FR 38729
NPRM 2	10/02/95	60 FR 51383
Notice 4	02/08/96	61 FR 4736
NPRM 3	05/22/96	61 FR 25604
Final Rule 2	05/22/96	61 FR 25585

EPA—Clean Air Act (CAA)

Final Rule Stage

Action	Date	FR Cite
Notice 5	09/05/96	61 FR 47012
Final Rule 3	10/16/96	61 FR 54030
Notice 6	03/10/97	62 FR 10700
NPRM 4	05/21/97	62 FR 27874
Notice 7	06/03/97	62 FR 30275
NPRM 5	02/03/98	63 FR 5491
Notice 8	02/24/98	63 FR 9151
Notice 9	05/22/98	63 FR 28251
Interim Final Rule 7	01/26/99	64 FR 3861
Interim Final Rule 8	01/26/99	64 FR 3865
ANPRM 9	02/18/99	64 FR 8043
NPRM 6	02/18/99	64 FR 8038
Final Rule 5	04/28/99	64 FR 22981
Notice 10	06/08/99	64 FR 30410
Notice 11	12/06/99	64 FR 68039
Notice 12	04/11/00	65 FR 19327
Final Rule 6	04/26/00	65 FR 24387
Notice 13	06/19/00	65 FR 37900
NPRM 10	07/11/00	65 FR 42653
Notice Corrections 14	04/00/01	
Notice 15	04/00/01	
Final Action Rescind Rule	04/00/01	
Final Action Foams No. 1	07/00/01	
Final Action Foams No. 2	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3525

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RIN: 2060–AG12

3354. PAPER AND OTHER WEB COATING NESHAP

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59; 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action would result in the reduction of hazardous air pollutants (HAPs) emitted by the paper and other web coating industries. The Agency will study the various HAP and VOC pollutants emitted by the industry and will evaluate pollution prevention and control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	09/13/00	65 FR 55332
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3827

Sectors Affected: 323111 Commercial Gravure Printing; 323116 Manifold Business Form Printing; 322223 Plastics, Foil, and Coated Paper Bag Manufacturing; 322222 Coated and Laminated Paper Manufacturing; 322221 Coated and Laminated Packaging Paper and Plastics Film Manufacturing; 322211 Corrugated and Solid Fiber Box Manufacturing; 322212 Folding Paperboard Box Manufacturing

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RIN: 2060–AG58

3355. SOURCE-SPECIFIC FEDERAL IMPLEMENTATION PLAN FOR NAVAJO GENERATING STATION; NAVAJO NATION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 49 CFR 123

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Navajo generating station. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76408
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4105

Sectors Affected: 325182 Carbon Black Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing

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RIN: 2060–AH68

3356. NESHAP: GENERIC MACT FOR CARBON BLACK, ETHYLENE, CYANIDE AND SPANDEX

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1, 2001.

Abstract: Several of the source categories that are subject to MACT (maximum achievable control technology) standards contain only a few sources (e.g., less than five). For such categories, EPA plans to develop a generic MACT standard for these source categories. Given the relatively few affected sources caught by the generic standard, the overall cost and environmental effects of this action are expected to be small, nationally.

Timetable:

Action	Date	FR Cite
Notice	01/26/00	65 FR 4244
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4315

Formerly listed as RIN 2060-AI79

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RIN: 2009–AA00

EPA—Clean Air Act (CAA)

Final Rule Stage

3357. NESHAP FOR ETHYLENE OXIDE COMMERCIAL STERILIZATION OPERATIONS-MONITORING AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The proposed amendments will correct technical problems associated with both the emission limits (because of safety issues) and the compliance testing and monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/06/01	66 FR 13464
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4316

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RIN: 2060–AI64

3358. AMEND SUBPART H AND I, 40 CFR PART 61, FOR EMISSIONS OF RADIONUCLIDES OTHER THAN RADON FROM DOE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA 112(g) or (q); PL 95-95

CFR Citation: 40 CFR 61.93(a); 40 CFR 61.93(b)(2)(ii)

Legal Deadline: None

Abstract: Subparts H and I of 40 CFR part 61 establish limits, under the Clean Air Act, for radionuclide emissions (other than radon) from Department of Energy (DOE) and other non-DOE federal facilities. These Subparts require emission sampling, monitoring, and calculations to identify compliance with the standard. The current air sampling methodology required by the standards is embodied in ANSI-N13.1-1969, a consensus guidance document that is incorporated by reference in EPA's standards. That guidance was updated in 1999, and contains new technical recommendations (that differ from the 1969 version) for obtaining representative air samples. In this rule, EPA is updating subparts H and I to incorporate the new sampling guidance, ANSI-N13.1-1999, and require its use for new facilities and for those undergoing significant changes to ventilation systems. Existing facilities will be allowed to continue sampling in accordance with the current requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/09/00	65 FR 29934
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4273

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RIN: 2060–AI90

3359. REVISION TO METHOD 24 FOR ELECTRICAL INSULATING VARNISHES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7601

CFR Citation: 40 CFR 60 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to revise Method 24 to allow the use of American Society for Testing and Materials' Method D6053-96 to measure the volatile organic content of electrical insulating varnishes. Method 24 as currently written is not applicable to these types of coatings. This action will ensure consistency in testing these coatings for determining compliance with current regulations. We do not anticipate any impact on small business or State/local/Tribal governments.

Timetable:

Action	Date	FR Cite
Direct Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4299

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RIN: 2060–AI94

3360. REGULATION OF FUELS AND FUEL ADDITIVES: REFORMULATED GASOLINE ADJUSTMENT

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 80.45

Legal Deadline: None

Abstract: The proposed regulation would allow CO reductions (associated with oxygen in the gasoline above 2.0 wt %) to be used to offset increases in VOC emissions. The change would

allow gasoline that has ethanol as an oxygenate to have a slightly higher Reid Vapor Pressure (RVP), which would alleviate some cost burdens for complying with Phase II of the RFG program. The change would therefore address the concern of the ethanol industry that such gasoline would otherwise be locked out of the market.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 42920
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4358

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RIN: 2060–AI98

3361. REMOVAL OF ALUMINUM DIE CASTING AND ALUMINUM FOUNDRIES FROM THE SECONDARY ALUMINUM NESHAP AND APPLICABILITY STAY FOR THESE INDUSTRIES

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Under the final Secondary Aluminum Production NESHAP, the EPA based its MACT standard for aluminum die casting and aluminum foundries, as well as its assessment of the economic impacts on small businesses in these industries, on information on representative facility practices available to EPA. However, affected facilities in these industries expressed concern that the information and assumptions upon which EPA has relied may be incomplete or may not adequately represent the processes and emissions at such facilities. Accordingly, in this action, EPA will issue a proposed rule to remove the aluminum die casting and aluminum foundry industries from the present secondary aluminum standard and to stay the applicability of the present standard to these industries while EPA reevaluates the MACT requirements applicable to such facilities. The EPA will also initiate a formal process to collect further information from the facilities in these industries on the activities in which they engage and the potential of these activities to contribute to HAP emissions. After evaluating this information, EPA will make a new determination concerning MACT requirements for both major facilities and area sources in these industries. Alternatively, if the information collected by the EPA shows there is not a need to develop separate MACT requirements for these industries, then the proposed applicability stay and removal of these industry sectors from the existing secondary aluminum production NESHAP will not be finalized.

Timetable:

Action	Date	FR Cite
NPRM	09/14/00	65 FR 55491
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4417

Sectors Affected: 331521 Aluminum Die-Castings; 331524 Aluminum Foundries

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RIN: 2060–AJ11

3362. NESHAP FOR PHARMACEUTICALS PRODUCTION: DIRECT FINAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: None

Abstract: This action is to be taken to amend the existing NESHAP for Pharmaceuticals Production, promulgated on September 21, 1998 (63 FR 50280). The amendment will address application of MACT controls during periods of planned routine maintenance. This need for this amendment became known during post-promulgation discussions with the regulated industry.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4458

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RIN: 2060–AJ17

3363. PROTECTION OF STRATOSPHERIC OZONE: PHASEOUT OF CHLOROBROMOMETHANE (HALON 1011) PRODUCTION AND CONSUMPTION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, December 31, 2001, The Montreal Protocol as amended (1999) requires CBM to be phased out beginning 1/1/02. Therefore the U.S. must issue a final rule by 12/31/01.

Abstract: Section 602 of the Clean Air Act (Act) requires the EPA Administrator to list substances which the Administrator finds to cause or contribute to harmful effects on stratospheric ozone, and Sections 604 and 605 require the Administrator to promulgate regulations phasing out the production and limiting the use of such substances. The proposed regulation will list and phase out the production of chlorobromomethane (CBM), an ozone depleting substance (ODS). In late 1999, the Montreal Protocol was amended to add CBM to the list of substances controlled by this international agreement, to which the United States is a signatory. Section 614 of the Act requires that U.S. stratospheric protection regulations be harmonized with (or more stringent than) the provisions of the Montreal Protocol. Entities that will be affected by this regulation include producers of CBM; a segment of the explosion protection industry (manufacturers and distributors of CBM explosion protection systems); and end-users of such systems. Preliminary estimates suggest that domestic production of CBM is limited; some import of CBM occurs. CBM has also been used as a feedstock in the manufacture of a other chemicals; today's action will not affect this use. Because today's action only affects the production, and not the use (i.e., does not affect use of existing inventories or stockpiles of CBM), and since a two-year lead time has been provided since the decision to phase out CBM and the phaseout date, the phaseout of CBM will have limited economic and small business impacts.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4428

Sectors Affected: 115114 Postharvest Crop Activities (except Cotton Ginning); 3112 Grain and Oilseed Milling; 322 Paper Manufacturing; 325 Chemical Manufacturing; 3333 Commercial and Service Industry Machinery Manufacturing

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RIN: 2060–AJ27

3364. NESHAP FOR SOURCE CATEGORIES: PHOSPHORIC ACID MANUFACTURING AND PHOSPHATE FERTILIZERS PRODUCTION — AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549 sec 112

CFR Citation: 40 CFR 63 subparts AA to BB

Legal Deadline: None

Abstract: The rules are being amended to resolve specific issues and questions raised after promulgation. The changes do not change the projections for environmental benefits, compliance costs, burden on industry, or the number of affected facilities. There are no impacts on small businesses, State, local, or tribal governments. These amendments do not raise any cross-media issues.

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4442

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RIN: 2060–AJ29

3365. STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES: MUNICIPAL SOLID WASTE LANDFILLS: AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7429; 42 USC 7601

CFR Citation: 40 CFR 60.751; 40 CFR 60.752(b)(2)(iii)(C); 40 CFR 60.750; 40 CFR 60758; 40 CFR 60.752(b)(2)(iii)(B); 40 CFR 60.752(b)(2)(iii)(D)

Legal Deadline: None

Abstract: This action will revise the existing regulation entitled Standards of Performance for New Stationary Sources: Municipal Solid Waste Landfills, subpart WWW of 40 CFR Part 60, promulgated on March 12, 1996. The revision is being undertaken in response to requests to clarify our intent regarding what constitutes an adequate landfill gas treatment system. This action also clarifies our intent to exempt from control landfill gas that is treated/upgraded to pipeline quality natural gas. Furthermore, it clarifies who is responsible for control of untreated landfill gas that is sold. This action is necessary to clarify our intent regarding the issues discussed above. It will improve implementation and compliance with this regulation. There are no internal issues involved with the proposal and direct final amendment, and we anticipate no significant adverse reaction related to this action from industry, regulators, or environmentalists.

Timetable:

Action	Date	FR Cite
Final Action NSPS: Municipal Solid Waste Landfills	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4478

N/A

Sectors Affected: 562212 Solid Waste Landfill

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RIN: 2060–AJ41

3366. NESHAP: GASOLINE DISTRIBUTION FACILITIES — AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401

CFR Citation: 40 CFR 63.425(e)

Legal Deadline: None

Abstract: This action will add a DOT test method as an alternative for measuring emissions from railcars. This method came to our attention subsequent to promulgation of the original rule.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4479

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RIN: 2060–AJ42

3367. • SECTION 126 RULE REVISION CORRECTING NOX ALLOWANCE ALLOCATIONS FOR CERTAIN UNITS IN THE FEDERAL NOX BUDGET TRADING PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7403; 42 USC 4726; 42 USC 7601

CFR Citation: 40 CFR 95.42(g)(2); 40 CFR 97.43(c)(9)(New); 40 CFR 97.43(a); 40 CFR 97 app A and B

Legal Deadline: NPRM, Judicial, December 12, 2000, Deadline for signing of proposed rule under settlements of litigation.
Final, Judicial, July 15, 2001, Deadline for signing of final rule under settlements of litigation.

Abstract: These rule revisions will correct NOx allowance allocations for certain units in the Federal NOx Budget Trading Program under Section 126 of the Clean Air Act. Most of the corrections are under settlement agreements between EPA and owners of the units. The rule revisions also propose to authorize the Administrator to make similar corrections in the future by order, rather than by rule.

Timetable:

Action	Date	FR Cite
NPRM	12/21/00	65 FR 80398
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4491

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RIN: 2060–AJ47

3368. • REVISION TO INTERIM APPROVAL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR Part 70

Legal Deadline: None

Abstract: This action will remove provisions in section 70.4(i) which allow the Agency to extend the expiration dates of interim approvals of State or local operating permits programs. The Agency does not intend to further extend such approvals. This action is consistent with title V of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	12/20/00	65 FR 79791
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4492

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RIN: 2060–AJ48

3369. • STANDARDS OF PERFORMANCE FOR NEW SOURCES AND EMISSION GUIDELINES FOR EXISTING SOURCES: LARGE MUNICIPAL WASTE COMBUSTORS AMENDMENT OF STARTUP, SHUTDOWN, AND MALFUNCTION PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7429

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This direct final action will amend the provisions limiting startup, shutdown, and malfunction to 3 hours per occurrence to provide more time for shutdown as a result of specific malfunctions (i.e., waterwall tube failure, grate failure, and combustion air fan failure). This is a narrow technical amendment responding to new information that came in after the original rule was promulgated.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4507.

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RIN: 2060–AJ52

3370. • PORTLAND CEMENT MANUFACTURING INDUSTRY NESHAP: AMENDMENTS TO RULE

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 63.1340 to 63.1359

Legal Deadline: None

Abstract: The Portland Cement Manufacturing Industry NESHAP was promulgated June 14, 1999. The rule is codified in 40 CFR 63, Subpart LLL. This rule is being revised to reflect a pending settlement agreement with the American Portland Cement Alliance. The rule changes will be minor, and mostly will help to clarify requirements, provide monitoring alternatives and/or remove minor monitoring requirements.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4524

Sectors Affected: 32731 Cement Manufacturing

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RIN: 2060–AJ57

3371. • MODIFICATION OF THE ANTI-DUMPING BASELINE DATE CUT-OFF LIMIT FOR DATA USED IN DEVELOPMENT OF AN INDIVIDUAL BASELINE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7521(l); 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.91(b)(1)(i); 40 CFR 80.93(a)

Legal Deadline: None

Abstract: The goal of the anti-dumping program is to maintain gasoline quality throughout the country. Without the program, as refiners produce cleaner, reformulated gasoline for certain localities under the Clean Air Act, they could take the chemicals removed and "dump" them into supplies of "ordinary" non-reformulated gasoline as a cost-saving measure. The anti-dumping program prohibits this. This rule amends the existing anti-dumping program to accommodate certain refiners with unusual data problems.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4528

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RIN: 2060–AJ59

3372. • CHANGE IN DEFINITION OF "MAJOR SOURCE" FOR OPERATING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 70.2

Legal Deadline: None

Abstract: This action would remove the requirement for sources to count fugitive emissions (such as equipment leaks) when determining major source status if they are in categories subject to standards under section 111 or 112 promulgated after August 7, 1980. Making this change removes impediments to full approval of permit programs in several States and facilitates compliance with a settlement agreement with environmental groups. This action was proposed in 1994 and reproposed in 1995, after which work was stopped due to other priorities. It is now being re-tiered because so much time has elapsed since proposal.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM	08/31/95	60 FR 45529
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4529

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RIN: 2060–AJ60

3373. • NESHAP: FERROALLOY PRODUCTION: FERROMANGANESE AND SILICOMANGANESE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA 112; 44 USC 350 et seq (PRA); 5 USC 605

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that two plants in the ferroalloy production industry are major sources for one or more hazardous air pollutants. As a consequence, production facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4544

Split from RIN 2060-AF29.

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RIN: 2060–AJ64

3374. • PROJECT XL SITE-SPECIFIC RULEMAKING FOR WEYERHAEUSER COMPANY FLINT RIVER OPERATIONS

Priority: Routine and Frequent

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: EPA is proposing to approve revisions to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) which concern the control of hazardous air pollutant (HAP) emissions from the pulp and paper industry. The proposed revisions would apply only to the Weyerhaueser Company's Flint River Operations in Ogelthorpe, GA. The revisions are proposed as one of EPA's steps to implement the Final Project Agreement for Weyerhaueser Company's XL Project. The intended effect of proposing these revisions is to regulate emissions of HAP's in accordance with the requirements of the Clean Air Act, as amended in 1990 and to facilitate implementation of Project XL at Weyerhaueser. The implementation will result in superior environmental performance and provide Weyerhaueser with greater operational flexibility. The rule will provide for reductions in HAP emissions, measured as methanol.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4517

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RIN: 2090–AA20

3375. • PROJECT XL SITE-SPECIFIC RULEMAKING FOR ANDERSEN CORPORATION'S FACILITY IN BAYPORT, MINNESOTA

Priority: Substantive, Nonsignificant

Legal Authority: 42 U.S.C. 7401-7671q

CFR Citation: 40 CFR Part 52

Legal Deadline: None

Abstract: The proposed rule would implement a project under the Project XL program for the Andersen Corporation facility located in Bayport, Minnesota. The terms of the project are defined in a draft Final Project Agreement (FPA) which is being made available for public review and comment by the Federal Register notice. The proposed site-specific rule, applicable only to the Andersen Bayport facility, would facilitate implementation of the project. Through the notice, EPA solicits comment on the proposed rule, the draft FPA, and the project generally. The proposed site-specific rule is intended to provide regulatory changes under the Clean Air Act (CAA or the Act) to implement Andersen's XL project, which will result in superior environmental performance and, at the same time, provide Andersen with greater operational flexibility. The proposed site-specific rule would change some of the CAA requirements which apply to the Andersen Bayport facility for the Prevention of Significant Deterioration (PSD) program, in particular existing synthetic minor limits that apply to some VOC sources in the Bayport facility. Synthetic minor limits are operational and control limitations which serve to limit the net emissions increase associated with proposed new or modified units or systems to less than the applicable significance level and thereby keep them out of PSD review.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4278

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RIN: 2090–AA21

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Clean Air Act (CAA)

3376. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Priority: Other Significant

Legal Authority: Clean Air Act, title I

CFR Citation: 40 CFR 50; 40 CFR 51; 40 CFR 52; 40 CFR 81

Legal Deadline: None

Abstract: On July 18, 1997, EPA issued new, updated air quality standards for ozone (62 FR 38856) and particulate matter (PM) (62 FR 38652). Pursuant to President Clinton's implementation strategy as outlined in a July 16, 1997 memorandum to EPA Administrator Carol Browner, EPA had been developing guidance and rules for sensibly and cost-effectively meeting the new standards. On November 17, 1998, EPA made available for comment proposed implementation guidance on implementing the revised ozone and PM NAAQS and regional haze program. On May 14, 1999, however, the U.S. Court of Appeals for the D.C. Circuit issued an opinion concerning the revised ozone and particulate matter NAAQS (American Trucking Assoc., Inc. et al. v. USEPA, No. 97-1440 (May 14, 1999)) in which the Court stated, among other things, that the revised 8-hour ozone standard "cannot be enforced." The Court also vacated the revised PM10 NAAQS and remanded the PM2.5 NAAQS. On June 28, 1999, EPA requested a rehearing of the case before the Court, but the request was denied. The Department of Justice then filed a petition in January 2000 seeking U.S. Supreme Court review, and the Court subsequently agreed to review the case. EPA expects a decision from the Supreme Court in early to mid-2001. Until the appeals process is exhausted, EPA does not intend to issue final guidance for implementation of the standards affected by the Appeals Court's decision. Once the Supreme Court renders a decision, EPA will determine what actions may be appropriate. Meanwhile, to assure that areas were not left without an air-quality standard, EPA took action on 7/6/00 to reinstate the previous 1-hr standard in approximately 3000 counties across the U.S. EPA is also developing guidelines for determining Best Available Retrofit Technology (BART) under the Regional Haze Regulations through a formal rulemaking proposal.

Timetable:

Action	Date	FR Cite
ANPRM	12/13/96	61 FR 65764
Notice Proposed Policy	12/13/96	61 FR 65752
NPRM Regional Haze	07/31/97	62 FR 41138
Notice Review Schedule for PM2.5 Standard	10/23/97	62 FR 55201
Final Rule Areas meeting 1-hour ozone standard	06/05/98	63 FR 31013
Final Rule Additional areas meeting 1-hour ozone standard	07/22/98	63 FR 39432
Draft Guidance Implementation - Planning	11/17/98	63 FR 65593
Final Rule Additional Areas Meeting 1-Hour Ozone NAAQS: 96-98 Data	06/09/99	64 FR 30911
Final Rule Regional Haze	07/01/99	64 FR 35713
Final Action Reinstatement of 1-hr standard	07/20/00	65 FR 45182
Final Guidance on Hold Pending Court Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3553

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RIN: 2060–AF34

3377. REVISED PERMIT REVISION PROCEDURES FOR THE FEDERAL OPERATING PERMITS PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7661(a)(d)(3)

CFR Citation: 40 CFR 71.7

Legal Deadline: None

Abstract: The proposed regulatory change would streamline permit revisions procedures for stationary air sources that are subject to the Federal operating permits program.

The Agency does not anticipate any significant impact on small businesses and State/local/tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	08/00/03	
Final Action	08/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3922

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RIN: 2060–AG92

3378. REVIEW OF MINOR NEW SOURCES AND MODIFICATIONS IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7410

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: As required by the Clean Air Act's New Source Review (NSR) provisions, the EPA is proposing Federal regulations governing preconstruction permitting of minor and major stationary sources of air pollution in Indian country. Pursuant to the Tribal Air Rule, eligible Indian Tribes may receive EPA authorization to develop and implement such programs. The Federal NSR permitting programs would be effective throughout Indian country and would be implemented by EPA if eligible Indian Tribes do not elect, or do not receive authorization, to manage such programs. The proposed Federal minor NSR rule would require sources in Indian country, with certain exceptions, to obtain a permit prior to construction if they are: (1) new minor sources, (2) existing minor sources undergoing modification, or (3) existing major sources undergoing minor modification. The proposed rule also would allow new or existing stationary sources to accept enforceable limits on their production capacity or hours of operation in order to be considered minor sources and avoid being subject to other Clean Air Act requirements such as the title V operating permit program. The proposed Federal major NSR rule would require sources in nonattainment areas in Indian country to obtain a permit prior to construction if they are: (1) new major sources, or (2) existing major sources undergoing major modification. These rules would not impose any mandates on Tribal governments to implement NSR permitting programs. Tribal governments may be affected, however, insofar as they own or operate sources that must obtain a permit from the EPA under the final Federal permitting program regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Additional Information: SAN No. 3975

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RIN: 2060–AH37

3379. FEDERAL MAJOR NEW SOURCE REVIEW (NSR) PROGRAM FOR NONATTAINMENT AREAS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 124; 40 CFR 51.165; 40 CFR 52.10; 40 CFR 52.24

Legal Deadline: None

Abstract: The Clean Air Act (Act) (title I, part D) requires that construction permit programs for new or modified major stationary sources of air pollution be established for areas not attaining the NAAQS. This action will add Federal rules at 40 CFR 52.10 for permitting the construction of new or modified major stationary sources in certain nonattainment areas where State, local, or tribal rules in whole or in part are not in place that meet the statutory permitting requirements. These rules will basically incorporate the requirements for State nonattainment NSR permit programs, codified at 40 CFR 51.165(a), with supplemental provisions added to make explicit the permit requirements of section 173 of the Act and certain long-standing policies regarding nonattainment NSR permitting. This action will also change 40 CFR 52.24 to specify that the requirements of 40 CFR 52.10 govern any permits issued in certain nonattainment areas where acceptable nonattainment NSR rules are not in place. Changes to 40 CFR part 124 will specify that the permit processing, public participation, and permit appeal requirements that otherwise apply to Federal PSD permitting will also apply, in most cases, to Federal nonattainment NSR permitting under 40 CFR 52.10.

Timetable:

Action	Date	FR Cite
NPRM	07/00/02	
Final Action	07/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 4046

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RIN: 2060–AH53

3380. GENERAL CONFORMITY REGULATIONS; REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401-7671

CFR Citation: 40 CFR 51.850 to 51.860; 40 CFR 93.150 to 93.160

Legal Deadline: None

Abstract: Section 176(c) of the Clean Air Act prohibits Federal entities from taking actions which do not conform to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). In November 1993, EPA promulgated two sets of regulations to implement section 176(c). First, on November 24, EPA promulgated the Transportation Conformity Regulations to establish the criteria and procedures for determining that transportation plans, programs, and projects which are funded under title 23 U.S.C. or the Federal Transit Act conform with the SIP. Then, on November 30, EPA promulgated regulations, known as the General Conformity Regulations, to ensure that other Federal actions also conformed to the SIPs. Since 1993, EPA has amended the transportation conformity rule three times in response to stakeholders' requests. The EPA is working on a separate revision to address transportation conformity in transitional areas which will be final by December 1998. The EPA has not reviewed or revised the General Conformity Regulations since their 1993 promulgation. Several Federal agencies have identified concerns over the implementation of the General Conformity Regulations, including the requirements for areas designated nonattainment for the newly promulgated NAAQS. In conjunction with an ad hoc work group of representatives from several Federal agencies, EPA will review the implementation of the General Conformity Regulations. The EPA will then propose and promulgate any appropriate revision to those regulations.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Additional Information: SAN No. 4070

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RIN: 2060–AH93

3381. REVISIONS TO AIR POLLUTION EMERGENCY EPISODE REQUIREMENTS (SUBPART H, 40 CFR PART 51)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)(G); 42 USC 7603

CFR Citation: 40 CFR 51 Appendix L; 40 CFR 51.150 to 51.153

Legal Deadline: None

Abstract: 40 CFR part 51.150-51.153 require States to have contingency plans to prevent air pollution levels from reaching the significant harm level (SHL) for CO, O3, SO2, NOx, and PM. Appendix L provides example guidance to the States on appropriate courses of action to take at each episode stage (i.e., alert, warning, and emergency) to ensure the SHL is not reached. These requirements were developed in the 1970's, based on the NAAQS from that era. Since that time, ambient air quality levels have decreased nationwide. Today, many areas/sources that no longer need episode plans must still develop them. This rule would update and simplify the criteria used to determine which areas would require episode plans. Areas with no more than one exceedance of the Alert level over the past 5 years would not need to develop emergency episode plans. Sources with the potential to cause exceedances of the SHL due to a process/control equipment malfunction would need to develop source contingency plans to prevent (and to respond to) such malfunctions. Appendix L would also be revised to reflect the revised program requirements. The result will be a sensible, credible program replacing an outdated program.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4247

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RIN: 2060–AI47

3382. REVISION OF EPA'S RADIOLOGICAL EMERGENCY RESPONSE PLAN

Priority: Substantive, Nonsignificant

Legal Authority: EO 12777; PL 96-295 Sec 304

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) Radiological Emergency Response Plan (RERP) establishes a framework for timely, coordinated EPA action to protect public health and safety and the environment in response to a peacetime radiological incident. The original EPA RERP was approved in 1986. This new revision updates authorities, responsibilities, capabilities, and procedures for implementing effective radiological emergency response actions by EPA Offices. The RERP presents the EPA organizational structure and concept of operations for responding to radiological incidents as a participant in a Federal multi-agency response using the Federal Radiological Emergency Response Plan (FRERP) and the Federal Response Plan (FRP), and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This revision incorporates recent changes to the FRERP and NCP, and many other policy updates. In short, this revision ensures that EPA maintains a comprehensive strategy to provide organized, effective assistance to State and local governments in the event of a radiological emergency.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3638

Was previously listed in the Regulatory Agenda as RIN 2060-AF85.

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RIN: 2060–AI49

3383. NESHAP: PAINT STRIPPING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The EPA has determined that paint stripping operations emit at least one of the HAP's listed in section 112(b) of the Clean Air Act. As a result, the source category was included on the initial list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Act. There are several emission standards for other source categories (for example, aerospace manufacturing and wood furniture manufacturing) that already address emissions from paint stripping operations. We are currently in the process of determining if there are any other major sources of HAP emissions from paint stripping operations that are not already regulated. Furthermore, HAP emissions from paint stripping operations that are area sources will be regulated in the future as part of the urban air toxics strategy.

Timetable:

Action	Date	FR Cite
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3746

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RIN: 2060–AG26

3384. AMENDMENTS TO PARTS 51, 52, 63, 70 AND 71 REGARDING THE PROVISIONS FOR DETERMINING POTENTIAL TO EMIT

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action proposes to amend regulations already established to implement the new Federal air toxics program under section 112, including the General Provisions, the Federal operating permit program under title V, and the major source preconstruction programs under parts C and D of title I.

The proposed rule will address issues related to the determination of a stationary source's potential to emit in response to three court decisions.

This action resulted from splitting of RINs 2060-AC98 and 2060-AC63.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3479

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RIN: 2060–AI01

3385. NESHAP: OIL AND NATURAL GAS PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: On February 2, 1998, we proposed NESHAP for oil and gas production (major sources), oil and gas production (area sources) , and natural gas transmission and storage in one package. On June 17, 1999, we promulgated NESHAP for oil and gas production (major sources) and natural gas transmission and storage. In this action, we will publish a supplemental proposal for the oil and gas production glycol dehydrators (area sources) and subsequently promulgate the proposal.

Timetable:

Action	Date	FR Cite
Supplemental NPRM	06/00/03	
Final Action	06/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4162

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RIN: 2060–AI13

3386. FIELD CITATION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7413(d) CAA sec 113(d)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments give EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedures Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22776
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Additional Information: SAN No. 2937

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RIN: 2020–AA32

3387. NSPS AND EMISSION GUIDELINES FOR OTHER SOLID WASTE INCINERATORS

Priority: Other Significant

Legal Authority: 42 USC 7509 CAA sec 129

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Section 129 of the Clean Air Act of 1990 requires the Agency to promulgate New Source Performance Standards (NSPS) and Emission Guidelines (EG) for solid waste incinerators. Section 129 specifically required the Administrator to publish a schedule for regulating Other Solid Waste Incinerators (OSWI). A notice published on November 9, 2000 announced that the Administrator would promulgate OSWI standards by November 15, 2005. The notice also listed what classes of incinerators might be covered by the OSWI standards. Standards will be set for the following pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead cadmium, mercury, and dioxins and dibenzofurans.

Timetable:

Action	Date	FR Cite
ANPRM	11/09/00	65 FR 66850
NPRM	11/00/04	
Final Action	11/00/05	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3751

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RIN: 2060–AG31

3388. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY: PERMIT APPLICATION REVIEW PROCEDURES FOR NON-FEDERAL CLASS I AREAS

Priority: Other Significant

Legal Authority: 42 USC 7670 to 7479 CAA sec 160-169

CFR Citation: 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: Under the Clean Air Act's prevention of significant deterioration (PSD) program, a State or tribe may redesignate their lands as class I areas to provide enhanced protection for their air quality resources. This rule will clarify the PSD permit review procedures for new and modified major stationary sources near these non-Federal class I areas. EPA seeks to develop clarifying PSD permit application procedures that are effective, efficient, and equitable.

Timetable:

Action	Date	FR Cite
ANPRM	05/16/97	62 FR 27158
NPRM	10/00/02	
Final Action	10/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Additional Information: SAN No. 3919

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RIN: 2060–AH01

3389. CONSUMER AND COMMERCIAL PRODUCTS: FLEXIBLE PACKAGE PRINTING MATERIALS: DETERMINATION ON CONTROL TECHNIQUES GUIDELINES IN LIEU OF REGULATION

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In accordance with Section 183(e) of the Clean Air Act, EPA identified flexible package printing materials as a category of consumer and commercial products prioritized for regulation to reduce VOC emissions in ozone nonattainment areas. Section 183(e)(3)(C) gives EPA the authority to issue Control Techniques Guidelines (CTG) in lieu of regulation if the Administrator determines that CTG are substantially as effective as regulation in reducing VOC emissions in ozone nonattainment areas. This action will put forward EPA's proposed determination under section 183(e)(3)(C).

Timetable:

Action	Date	FR Cite
Final Action - Final Determination/CTG	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4245

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RIN: 2060–AI31

3390. • FEDERAL IMPLEMENTATION PLAN (FIP) FOR THE BILLINGS/LAUREL, MONTANA SULFUR DIOXIDE (SO2) AREA

Priority: Other Significant

Legal Authority: 12 USC 1701 et seq

CFR Citation: 40 CFR 52

Legal Deadline: None

Abstract: The State of Montana submitted a sulfur dioxide (SO2) State Implementation Plan (SIP) for the Billings/Laurel, Montana area. On 7/28/99 we proposed to partially approve, conditionally approve and partially disapprove Montana's SO2 SIP for Billings/Laurel. EPA intends to propose a Federal Implementation Plan (FIP) to cover those parts of the State's plan we disapprove. EPA's FIP will assure that the Billings/Laurel area will attain and maintain the SO2 NAAQS.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4542

Sectors Affected: 32411 Petroleum Refineries

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RIN: 2008–AA00

3391. REVIEW NATIONAL AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Priority: Other Significant

Legal Authority: Clean Air Act Title I

CFR Citation: 40 CFR 50

Legal Deadline: Final, Statutory, May 31, 2001, Clean Air Act requires reviews every five years.

Abstract: Review of the national ambient air quality standards (NAAQS) for carbon monoxide (CO) every 5 years is mandated by the Clean Air Act. This review assesses the available scientific

data about the health and environmental effects of CO and translates the science into terms that can be used in making recommendations about whether or how the standards should be changed. The last review of the CO NAAQS was completed in 1994 with a final decision that revisions were not appropriate at that time.

Timetable:

Action	Date	FR Cite
NPRM	05/00/03	
Final Action	05/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4266

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RIN: 2060–AI43

3392. IDENTIFICATION OF ADDITIONAL OZONE AREAS ATTAINING THE 1-HOUR STANDARD AND TO WHICH THE 1-HOUR STANDARD IS NO LONGER APPLICABLE (7 AREAS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 81 (Revision)

Legal Deadline: None

Abstract: EPA proposes to identify several additional ozone areas where the 1-hour standard is no longer applicable. This proposed action is based upon analysis of quality-assured, ambient air quality monitoring data showing no violations of the 1-hour ozone standard. Determinations for this notice were based upon the most recent data available, i.e., 1996-1998. The EPA has previously taken final action regarding the applicability of the 1-hour standard for other areas on June 5, 1998 and July 22, 1998.

Timetable:

Action	Date	FR Cite
NPRM	06/09/99	64 FR 30937
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4274

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RIN: 2060–AI57

3393. REVISION TO NOX SIP CALL EMISSION BUDGETS FOR CONNECTICUT, MASSACHUSETTS AND RHODE ISLAND

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)(D); 42 USC 7410(k)(5)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: On October 27, 1998, EPA published a final rule (the "OTAG SIP Call") making a finding of significant contribution and assigning statewide NOx emission budgets to 22 States and the District of Columbia for purposes of reducing regional transport of ozone and its precursor, NOx. Subsequent to the promulgation of the SIP call, EPA and the States of Connecticut, Massachusetts and Rhode Island signed a memorandum of understanding that obligated EPA to propose to redistribute the budgets assigned to the three States in a different way. This action would carry out that obligation. This redistribution would not lead to an increase in the overall budget for the three States.

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/15/99	64 FR 49987
Withdrawal of Direct Final Rule	11/01/99	64 FR 58792
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4276

Direct Final Action-http://www.epa.gov/fedrgstr/EPA-AIR/1999/September/Day-15/a23914.htm Withdrawal-http://www.epa.gov/fedrgstr/EPA-AIR/1999/November/Day-01/a28519.htm

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RIN: 2060–AI80

3394. INTERSTATE OZONE TRANSPORT: RULEMAKING ON SECTION 126 PETITIONS FROM THE DISTRICT OF COLUMBIA, DELAWARE, MARYLAND, AND NEW JERSEY

Priority: Economically Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 7426

CFR Citation: 40 CFR 52; 40 CFR 97

Legal Deadline: Final, Statutory, December 14, 1999, The rulemaking includes action on 4 separate petitions. See Additional Information.
There is a different statutory deadline associated with each petition based on the date of receipt by EPA: New Jersey-12/14/99, Maryland-01/01/00, Delaware-02/10/00, District of Columbia-03/07-00.

Abstract: In April through July 1999, 3 Northeastern States (New Jersey, Maryland, and Delaware) and the District of Columbia submitted individual petitions to EPA in accordance with section 126 of the Clean Air Act (CAA). Each petition specifically requests that EPA make a finding that nitrogen oxides (NOx) emissions from certain stationary sources in other States significantly contribute to ozone nonattainment and maintenance problems with respect to the 1-hour and 8-hour ozone standards in the petitioning State. If EPA makes such a finding of significant contribution, EPA is authorized to establish Federal emissions limits for the sources. The petitions rely on the analyses from EPA's NOx SIP call. The sources targeted by the petitions are large electricity generating units and large non-electricity generating units, as defined in EPA's NOx SIP call. The CAA requires EPA to take final action on the petitions within 60 days of receipt, but may extend the deadline for up to 6 additional months to allow for public process. The EPA took rulemaking action on similar petitions from 8 other Northeastern States that were submitted in 1997.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4383

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RIN: 2060–AI99

3395. RESCINDING FINDING THAT PRE-EXISTING PM10 STANDARDS NO LONGER APPLICABLE IN NORTHERN ADA COUNTY/BOISE, IDAHO

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 50.6(d); 40 CFR 52.676; 40 CFR 81.313

Legal Deadline: None

Abstract: The EPA had previously taken action to revoke the PM-10 national ambient air quality standards (NAAQS) for the Boise/Ada County area in anticipation that a revised PM-10 NAAQS would soon be in place. However, the DC Circuit court subsequently vacated the revised PM-10 NAAQS, the effectiveness of which served as the underlying basis for EPA's decision to revoke the pre-existing PM-10 NAAQS. Therefore, in order to protect public health in the Boise/Ada County area, EPA is proposing to reinstate the pre-existing PM-10 NAAQS. Without this action there would be no Federal PM-10 NAAQS applicable to this area. This action is tentatively subject to the terms of a settlement agreement that was signed by all parties in January 2001. A Federal Register notice of the proposed settlement requesting public comment was published January 30, 2001 in accordance with section 113(g) of the Act. Written comments on the proposed settlement agreement must be received by EPA (Mike Prosper) by March 1, 2001. Unless EPA or DOJ determine, following the comment period, that consent is inappropriate the settlement agreement will then be executed by the parties. This action will then be fully subject to the terms of the settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	06/26/00	65 FR 39321
Notice Extension of Comment Period	07/26/00	65 FR 45953
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 4391

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RIN: 2060–AJ05

3396. PROJECT XL SITE-SPECIFIC RULEMAKING FOR GEORGIA-PACIFIC CORPORATION'S FACILITY IN BIG ISLAND, VIRGINIA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: None

Abstract: Under the Project XL program, the EPA is supporting a project for the Georgia-Pacific Corporation facility located in Big Island, Virginia. The EPA is promulgating this rule, applicable only to the Georgia-Pacific Big Island facility, to help implement the project. Under the XL project, Georgia-Pacific will install and operate the first commercial scale black liquor gasification system in the United States. This system will provide superior air emissions reductions and energy benefits compared to use of conventional recovery technology for black liquor in the pulp and paper industry. However, since this will be the first commercial scale demonstration of this technology, there is some risk that the technology will take longer than planned to work properly or may not ever work properly. If either of these scenarios happens, Georgia-Pacific roquires relief from otherwise applicable air emission standards to allow time for the new technology to achieve expected performance or, in the event of failure, to allow time for Georgia-Pacific to build conventional recovery technology that will meet applicable standards. Without this relief, Georgia-Pacific would not undertake commercialization of this promising technology. Therefore, this rule provides relief (in the form of limited duration compliance extensions)from otherwise applicable hazardous air pollutant emission standards, as needed during the conduct of the XL project. The specific standard amended by this rule is:

"Standards for Hazardous Air Pollutants From Chemical Recovery Combustion Sources at Kraft, Soda, Sulfate, and Stand-Alone Semichemical Pulp Mills."

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4471

Formerly RIN 2060-AJ39.

Sectors Affected: 32211 Pulp Mills; 32211 Pulp Mills

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RIN: 2090–AA26

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA)

3397. METHOD 301: FIELD VALIDATION OF POLLUTION MEASUREMENT METHODS FOR VARIOUS MEDIA; REVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60; 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn	04/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

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RIN: 2060–AF00

3398. AMENDMENTS FOR TESTING AND MONITORING PROVISIONS TO PART 60, PART 61, AND PART 63

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	10/17/00	65 FR 61744

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AG21

3399. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Priority: Other Significant

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63; 40 CFR 65

Completed:

Reason	Date	FR Cite
Final Action	12/14/00	65 FR 78267

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Sectors Affected: 3251 Basic Chemical Manufacturing; 32411 Petroleum Refineries

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RIN: 2060–AG28

3400. NESHAP: ORGANIC HAZARDOUS AIR POLLUTANTS FROM THE SYNTHETIC ORGANIC CHEMICAL INDUSTRY (SOCMI) & OTHER PROCESSES SUBJECT TO THE NEGOTIATED REGULATION FOR EQUIPMENT LEAKS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63.100 to 63.152

Completed:

Reason	Date	FR Cite
Final Action	01/22/01	66 FR 6921

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AH81

3401. DECISION ON A PETITION FROM THE TERRITORY OF AMERICAN SAMOA TO BE EXEMPTED FROM THE GASOLINE ANTI-DUMPING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 80.90 to 80.130

Completed:

Reason	Date	FR Cite
NPRM	11/29/00	65 FR 71079
Direct Final Rule	11/29/00	65 FR 71067
Direct Final Rule Effective Date Delayed	01/29/01	66 FR 8089
Direct Final Rule Effective	03/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2060–AI60

3402. • NESHAP: OFF-SITE WASTE AND RECOVERY OPERATIONS; FINAL RULE—SETTLE AGREEMENT; AND NESHAP FOR OFF-SITE WASTE AND RECOVERY OPERATIONS; TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action contains correction errors in the final rule and the July 1999 amendments. The notice includes: (1) correction to the amendatory instructions; (2) amendments to monitoring requirements; and (3) correction of typos and formatting errors.

Timetable:

Action	Date	FR Cite
Final Action	01/08/01	66 FR 1263

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4504

Split from RIN 2060-AH96.

Sectors Affected: 32411 Petroleum Refineries; 325412 Pharmaceutical Preparation Manufacturing; 32731 Cement Manufacturing; 562112 Hazardous Waste Collection

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RIN: 2060–AJ44

3403. NESHAP: PHOSPHATE FERTILIZERS PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/10/99	64 FR 31358

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

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RIN: 2060–AE44

3404. PETROLEUM SOLVENT DRY CLEANERS MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) STANDARD

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Notice	01/30/01	66 FR 8220

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

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RIN: 2060–AG34

3405. REVISIONS TO THE REGULATION FOR APPROVAL OF STATE PROGRAMS AND DELEGATION OF FEDERAL AUTHORITIES 112(L)

Priority: Other Significant

CFR Citation: 40 CFR 63(E)

Completed:

Reason	Date	FR Cite
Final Action	09/14/00	65 FR 55809

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AG60

3406. NESHAP: FRICTION PRODUCTS MANUFACTURING

Timetable:

Action	Date	FR Cite
Duplicate of SAN 4460, RIN 2060-AJ18	02/27/01	

RIN: 2060–AG87

3407. NESHAP: MANUFACTURE OF CARBON BLACK

Timetable:

Action	Date	FR Cite
Duplicate of SAN 4105, RIN 2060-AH62	02/27/01	

RIN: 2060–AH19

3408. NESHAP: FLEXIBLE POLYURETHANE FOAM FABRICATION OPERATIONS

Timetable:

Action	Date	FR Cite
Duplicate of SAN 4449, RIN 2060-AJ19	02/27/01	

RIN: 2060–AH42

3409. NESHAP: PROCESS HEATERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Merged With SAN 3837, RIN 2060-AG69	02/27/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI35

3410. NESHAP: AMINO/PHENOLIC RESINS AMENDMENT

Timetable:

Action	Date	FR Cite
Duplicate of SAN 4484, RIN 2060-AJ45	03/16/01	

RIN: 2060–AJ32

3411. NSPS AND EMISSION GUIDELINES FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

Priority: Other Significant

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	12/01/00	65 FR 75338

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AF91

3412. PROTECTION OF STRATOSPHERIC OZONE: INCORPORATION OF CLEAN AIR ACT AMENDMENTS FOR REDUCTION IN CLASS I, GROUP VI CONTROLLED SUBSTANCES

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 82

Completed:

Reason	Date	FR Cite
Direct Final Rule	11/28/00	65 FR 70795

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI41

3413. AMENDMENTS TO VEHICLE INSPECTION MAINTENANCE PROGRAM REQUIREMENTS IMPLEMENTING THE ONBOARD DIAGNOSTIC CHECK; AMENDMENT TO THE FINAL RULE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51; 40 CFR 85

Completed:

Reason	Date	FR Cite
Final Action Amendments to Vehicle I/M Program Requirements for OBD Checks	04/05/01	66 FR 18155

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ03

3414. NESHAP: ALUMINA PROCESSING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Notice	01/30/01	66 FR 8220

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

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RIN: 2060–AH70

3415. NESHAP: CHEMICAL RECOVERY COMBUSTION SOURCES AT KRAFT, SODA, SULFITE AND STAND-ALONE SEMICHEMICAL PULP MILLS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 63; 40 CFR 430

Completed:

Reason	Date	FR Cite
Final Action	01/12/01	66 FR 3179

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI34

3416. CONTROL OF EMISSIONS OF AIR POLLUTION FROM NEW COMPRESSION-IGNITION AND SPARK-IGNITION RECREATIONAL MARINE ENGINES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 94

Completed:

Reason	Date	FR Cite
Merged With RIN 2060-AI11, SAN 4154	02/15/01	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

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RIN: 2060–AI36

3417. STANDARDS AND GUIDELINES FOR SMALL MUNICIPAL WASTE COMBUSTION UNITS

Priority: Other Significant

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	12/06/00	65 FR 76349

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI51

3418. REVISION OF SCHEDULE FOR STANDARDS UNDER SECTION 112 OF THE CAA

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Notice	01/30/01	66 FR 8220

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI52

3419. CONTROL OF EMISSIONS OF HAZARDOUS POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS

Priority: Other Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 80; 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	03/29/01	66 FR 17229

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI55

3420. NATIONAL EMISSION STANDARDS FOR BENZENE EMISSIONS FROM COKE BYPRODUCT RECOVERY PLANTS (PART 61, SUBPART L)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 61

Completed:

Reason	Date	FR Cite
Notice	01/30/01	66 FR 8220

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AI65

3421. HEAVY-DUTY ENGINE EMISSION STANDARDS & DIESEL FUEL SULFUR CONTROL REQUIREMENTS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 69; 40 CFR 80; 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	01/18/01	66 FR 5002

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

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RIN: 2060–AI69

3422. AMENDMENTS TO THE AEROSPACE MANUFACTURING AND REWORK FACILITIES NESHAP FOR THE HAP AND VOC CONTENT LIMITS FOR PRIMER OPERATIONS AND STAY OF COMPLIANCE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63.745(c)(1)-(2)

Completed:

Reason	Date	FR Cite
Final Action Amendment	12/08/00	65 FR 76941

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Sectors Affected: 336411 Aircraft Manufacturing

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RIN: 2060–AI77

3423. NESHAP: PHARMACEUTICALS PRODUCTION; FINAL AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR part 63

Completed:

Reason	Date	FR Cite
Final Action	08/29/00	65 FR 52588

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 325411 Medicinal and Botanical Manufacturing; 325412 Pharmaceutical Preparation Manufacturing

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RIN: 2060–AI78

3424. NATIONAL AMBIENT AIR QUALITY STANDARD FOR OZONE - CORRECTIONS NOTICE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 50.9 (a)

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans No Further Action	03/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 2060–AI95

3425. AMENDMENTS TO STATE AND FEDERAL OPERATING PERMITS PROGRAMS, PART 70 AND PART 71, COMPLIANCE CERTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 70; 40 CFR 71 (Revisions)

Completed:

Reason	Date	FR Cite
Direct Final Rule	03/01/01	66 FR 12872

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ04

3426. REVISION OF STANDARDS OF PERFORMANCE FOR NITROGEN OXIDE EMISSIONS FROM NEW FOSSIL-FUEL FIRED STEAM GENERATING UNITS

Priority: Other Significant

CFR Citation: 40 CFR 60.40

Completed:

Reason	Date	FR Cite
Direct Final Rule	04/10/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

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RIN: 2060–AJ22

3427. REVISION TO THE SOURCE CATEGORY LISTING FOR SECTION 112(D)(2) RULEMAKING PURSUANT TO SECTION 112(C)(6) REQUIREMENTS

Priority: Routine and Frequent

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	08/03/00	65 FR 47725

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ24

3428. STRATOSPHERIC OZONE PROTECTION: ALLOCATION OF ESSENTIAL USE ALLOWANCES FOR CALENDAR YEAR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82.4

Completed:

Reason	Date	FR Cite
NPRM	10/06/00	65 FR 59783
Final Action	01/08/01	66 FR 1461

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ33

3429. STAY OF THE 8-HOUR PORTION OF FINDINGS OF SIGNIFICANT CONTRIBUTION AND RULEMAKING FOR PURPOSES OF REDUCING INTERSTATE OZONE TRANSPORT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51; 40 CFR 52(a)

Completed:

Reason	Date	FR Cite
Final Action	09/18/00	65 FR 56245

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ37

3430. NATIONAL AIR TOXICS PROGRAM: INTEGRATED STRATEGY, REPORT TO CONGRESS

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice - Report to Congress	10/10/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2060–AJ38

3431. PROJECT XL SITE-SPECIFIC RULEMAKING FOR GEORGIA-PACIFIC CORPORATION'S FACILITY IN BIG ISLAND, VIRGINIA

Timetable:

Action	Date	FR Cite
Transferred to RIN 2090-AA26	03/21/01	

RIN: 2060–AJ39

3432. AMENDMENTS TO NESHAP: OFF-SITE WASTE AND RECOVERY OPERATIONS

Timetable:

Action	Date	FR Cite
Duplicate of SAN 4504, RIN 2060-AJ44	03/15/01	

RIN: 2060–AJ40

3433. • PROTECTION OF STRATOSPHERIC OZONE: LISTING OF SUBSTITUTES FOR OZONE-DEPLETING SUBSTANCES—N-PROPYLBROMIDE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671 to 7671q

CFR Citation: 40 CFR 82 (Revision)

Legal Deadline: None

Abstract: This rule proposes to add n-propylbromide (nPB) to the list of acceptable substitutes for class I and class II ozone depleting substances used as solvents for general metals, precision, and electronics cleaning, as well as in aerosol solvent applications. This would provide another alternative to solvents with higher ozone depletion potential that industry is interested in using. The rule would propose finding nPB not acceptable as a substitute for use in adhesives due to its toxicity and the greater emissions from that application. The rule also would propose specific conditions on the use of nPB as a solvent. These might include limiting the specific applications in which it may be used to those with low emissions and requiring exposure limits consistent with industry practices. This will ensure that nPB is used in a manner that is safe and environmentally protective. OSHA does not currently regulate nPB. EPA would revise our ruling to adopt whatever OSHA requires if OSHA later regulates the use of nPB. If finalized as proposed, this rule would be consistent with most existing industry practices and would impose little or no burden on industry.

Timetable:

Action	Date	FR Cite
ANPRM Prot. of Stratospheric Ozone--Substitutes Listing	02/18/99	64 FR 8043
Withdrawn	04/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4527

The previous ANPRM was under SAN No. 3525.

Sectors Affected: 325199 All Other Basic Organic Chemical Manufacturing; 334413 Semiconductor and Related Device Manufacturing; 334418 Printed Circuit/Electronics Assembly Manufacturing; 337121 Upholstered Household Furniture Manufacturing; 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

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RIN: 2060–AJ58

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Atomic Energy Act (AEA)

3434. PROTECTIVE ACTION GUIDANCE FOR DRINKING WATER

Priority: Other Significant

Legal Authority: 42 USC 2021(h) AEA of 1954 sec 274(h); Reorganization Plan No. 3 of 1970; PL 96-295 sec 304; EO 12241

CFR Citation: 41 CFR 351

Legal Deadline: None

Abstract: This action will result in Federal protective action guidance (PAG) for State and local officials to use in the event of a nuclear accident to protect the general public from the adverse health effects associated with the ingestion of drinking water that is contaminated with radioactive material. The PAG will be incorporated into the Revision of the PAG Manual. The draft guidance will be submitted to the PAG Subcommittee of the Federal Radiological Preparedness Coordinating Committee (FRPCC) for review and comment. Members of the PAG subcommittee include representatives from DOE, DOD, FEMA, NRC, HHS, USDA, DOT, and the Conference of Radiation Control Program Directors (CRCPD). When a consensus among the representatives is reached, the guidance is recommended to the full FRPCC for endorsement. After that endorsement is obtained a notice of the availability of a revised EPA 400-R-92-001, Manual of Protective Action Guides and Protective Actions for Nuclear Incidents will be published in the Federal Register. This action is temporarily delayed until the FDA's revised PAGs for Food can be evaluated.

Timetable:

Action	Date	FR Cite
Notice of Availability	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3602

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RIN: 2060–AF39

3435. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR THE DISPOSAL OF LOW-ACTIVITY MIXED RADIOACTIVE WASTE

Priority: Other Significant

Legal Authority: 42 USC 2021 Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Nuclear Waste Policy Act of 1982

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: This voluntary action will allow low-activity mixed radioactive wastes to be disposed in facilities that meet the design requirements for RCRA-C disposal cells. The wastes intended to be disposed of in these cells are mixed wastes, consisting of a chemically hazardous component and low levels of radioactivity. These wastes are anticipated to arise in the commercial sector from various sources. The rule is intended to increase disposal options for these wastes and offer a streamlined regulatory process which melds hazardous chemical protection and radioactivity protection requirements while protecting public health and safety. The rule does not mandate a disposal method, but rather permits an alternative to existing disposal methods. The U.S. Nuclear Regulatory Commission is anticipated to be the implementing Agency for the application of this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4054

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RIN: 2060–AH63

3436. REVISION OF THE 40 CFR PART 194 WASTE ISOLATION PILOT PLANT COMPLIANCE CRITERIA

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-579; PL 104-201; Waste Isolation Pilot Plant Land Withdrawal Act of 1992; 106 Stat. 4777 as amended by the 1996 LWA Amendments

CFR Citation: 40 CFR 194.8(b)

Legal Deadline: None

Abstract: This rule would change some of the language in Section 194.8(b) of the Waste Isolation Pilot Plant (WIPP) Compliance Criteria without deleting any of the requirements for the Department of Energy's (DOE) compliance. Section 194.8(b) explains the process by which EPA inspects and approves waste characterization processes at DOE transuranic waste sites that send waste to the WIPP. The 194.8(b) process involves a public comment period. Most of the language in Section 194.8(b) will be left intact. The most significant change would eliminate a statement that EPA will follow the 194.8(b) notice-and-comment process each time a previously-approved site seeks to send a different "waste stream" to the WIPP. Other changes would correct certain terminology and clarify the important elements of our inspections. This rule would eliminate the ambiguity of the current language and replace it with: (1) a site can ship waste once EPA has approved it using a notice-and-comment process; (2) EPA will perform follow-up inspections under a separate authority that does not call for public comment; and (3) EPA can disallow shipment if an initial or follow-up inspection reveals significant compliance issues. The main purpose of this revision is to eliminate EPA's obligation to approve DOE sites on a waste stream by waste stream basis. Our understanding of DOE's operations has improved considerably since 194.8(b) went final in May 1998. We now recognize that approving sites by waste stream, using a comment period, is unnecessarily time-consuming for EPA staff, confusing for DOE, and generates almost no public comment. In addition, repetitive inspections at sites are expensive and provide little additional regulatory confidence. This rule will save money and will greatly improve the effectiveness of our interactions with DOE.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4403

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RIN: 2060–AJ07

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3437. PLANT INCORPORATED PROTECTANTS (FORMERLY PLANT PESTICIDES) RULEMAKINGS

Priority: Other Significant

Legal Authority: 21 USC 346(a) et seq; 7 USC 136 et seq

CFR Citation: 40 CFR 152.20; 40 CFR 174

Legal Deadline: None

Abstract: Substances that plants produce to protect themselves against pests are pesticides under FIFRA if humans intend to use them to destroy, prevent, repel or mitigate any pest. The Agency designates these substances, along with the genetic material necessary to produce them, plant-pesticides. This rulemaking will change the name of these pesticides to plant-incorporated protectants and will clarify the relationship between plants and plant-incorporated protectants and exempt conventional breeding and establishes a new part in title 40 of the CFR, part 174, which consolidates regulations specific for plant-pesticides in one part of the CFR. The proposed consolidation is expected to benefit the public by providing greater focus,

enhanced clarity and ease of use. These actions may reduce burden on both the regulated community and EPA.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Supplemental NPRM Request for Comment-on Alternate Name	04/23/99	64 FR 19958
Supplemental NPRM Seeks Additional Comment on Other Exemptions	04/00/01	
Final Action Regulations Under FFDCA (Tolerance Exemptions)	04/00/01	
Final Action Regulations Under FIFRA	04/00/01	
Final Action - Final Decision on Remaining FFDCA Tolerance Exemptions	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 2684

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 111 Crop Production; 54171 Research and Development in the Physical Sciences and Engineering Sciences

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RIN: 2070–AC02

3438. DATA REQUIREMENTS FOR PESTICIDE REGISTRATION; TOXICOLOGY, EXPOSURE AND RESIDUE CHEMISTRY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a) to 136(y)

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update the data requirements specifically necessary for the Agency to evaluate the registrability of pesticide products. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing. EPA intends to accomplish this revision through a series of proposals, covering different data disciplines and product types. This proposal is limited to human health and exposure data requirements.

Timetable:

Action	Date	FR Cite
NPRM - Toxicology, Exposure and Residue Chemistry Portions	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2687

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AC12

3439. PESTICIDES; PROCEDURES FOR REGISTRATION REVIEW PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a)(g); 7 USC 136(w)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Agency is establishing procedures to implement section 3(g) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) which provides for periodic review of pesticide registrations. The goal of these regulations is to review a pesticide's registration every 15 years.

Timetable:

Action	Date	FR Cite
ANPRM Pesticides-Procedural Regulations for Registration Review	04/26/00	65 FR 24586
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4170

Sectors Affected: 32519 Other Basic Organic Chemical Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing

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RIN: 2070–AD29

3440. DATA REQUIREMENTS FOR ANTIMICROBIAL PESTICIDE REGISTRATION; PRODUCT CHEMISTRY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a, 136c, 136w

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update and revise its pesticide data requirements for antimicrobial products. The data requirements specify the data that are required for EPA to evaluate the registrability of a pesticide product. The revisions will clarify all antimicrobial data requirements to reflect current practice. EPA will also update its product chemistry data requirements applicable to all products.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4173

Sectors Affected: 32519 Other Basic Organic Chemical Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing

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RIN: 2070–AD30

3441. • DATA REQUIREMENT FOR PESTICIDE REGISTRATION; ENVIRONMENTAL FATE AND ECOLOGICAL EFFECTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a) to 136(y)

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update the data requirements specifically necessary for the Agency to evaluate the registrability of pesticide products. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing. EPA intends to accomplish this revision through a series of proposals, covering different data disciplines and product types. This proposal covers the data requirements for environmental fate and terrestrial and aquatic non-target organisms (ecological effects).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4496

Split from RIN 2070-AC12.

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD47

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — **Final Rule Stage**

3442. PESTICIDE MANAGEMENT AND DISPOSAL; STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Priority: Other Significant

Legal Authority: 7 USC 136(q) FIFRA sec 19; 7 USC 136(a) FIFRA sec 3; 7 USC 136(w) FIFRA sec 25

CFR Citation: 40 CFR 156; 40 CFR 165

Legal Deadline: None

Abstract: FIFRA sec. 19 gives EPA authority to regulate the management of pesticides and their containers, including storage, transportation and disposal. As proposed, this rule would establish standards for removal of pesticides from containers and for rinsing containers; facilitate the safe use, refill, reuse, and disposal of pesticide containers by establishing standards for container design, labeling and refilling; and establish requirements for containment of stationary bulk containers and for containment of pesticide dispensing areas.

Timetable:

Action	Date	FR Cite
NPRM (Container Design & Residue Removal & Bulk Containment)	02/11/94	59 FR 6712
Supplemental NPRM Extension of Comment Period	12/21/99	64 FR 71368
Supplemental NPRM Extension of Comment Period	02/24/00	65 FR 9234
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2659

Supplemental NPRM-
http://www.epa.gov/fedrgstr/EPA-PEST/1999/October/Day-21/p27397.htm

Sectors Affected: 42291 Farm Supplies Wholesalers; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 11511 Support Activities for Crop Production

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RIN: 2070–AB95

3443. GROUNDWATER AND PESTICIDE MANAGEMENT PLAN RULE

Priority: Other Significant

Legal Authority: 7 USC 136(a) FIFRA sec 3; 7 USC 136(w)

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This regulation would establish Pesticide Management Plans (PMPs) as a new regulatory requirement for certain pesticides. Unless a State or tribal authority has an EPA-approved Plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and modification of plans by States and tribal authorities.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33259
Notice of Availability regarding Metolachlor	02/23/00	65 FR 8925
Supplemental NPRM - Notice of Availability and Extension of Comment Period	03/24/00	65 FR 15885
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3222

Sectors Affected: 9241 Administration of Environmental Quality Programs

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RIN: 2070–AC46

3444. WPS; PESTICIDE WORKER PROTECTION STANDARD; GLOVE AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(w)

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: This final rule would create greater flexibility in requirements of the 1992 Worker Protection Standard related to the use of gloves by workers and applicators.

Timetable:

Action	Date	FR Cite
NPRM Glove Requirement	09/09/97	62 FR 47544
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3731

NPRM-
http://www.epa.gov/fedrgstr/EPA-PEST/1997/September/Day-09/p23833.htm

Sectors Affected: 111 Crop Production; 1114 Greenhouse, Nursery and Floriculture Production; 1131 Timber Tract Operations; 115 Support Activities for Agriculture and Forestry

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RIN: 2070–AC93

3445. REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDE PRODUCTS; AND OTHER PESTICIDE REGULATORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a)(h); 7 USC 136(w)

CFR Citation: 40 CFR 152; 40 CFR 156

Legal Deadline: Final, Statutory, September 15, 2000, The Final Rule is due 240 days after close of comment period.

Abstract: This regulation will specify antimicrobial registration reforms that will reduce to the extent possible the review time for antimicrobial pesticides. The regulation will clarify criteria for completeness of applications, and will specify or refer to a definition of the various classes of antimicrobial pesticide use patterns and the associated data and labeling requirements that would be consistent with the degree and type of risk presented by each class. In addition, the regulation will also include labeling standards for public health antimicrobial products. This regulation will also implement some general provisions of FIFRA pertaining to all pesticides, including labeling requirements. EPA intends to promulgate these last provisions separately from the antimicrobial portion of the proposal.

Timetable:

Action	Date	FR Cite
NPRM Reg. Require. for Anti Pest. Products/Other Pest Reg Changes	09/17/99	64 FR 50671
Notice Extends Comment Period to January 18, 2000	11/16/99	64 FR 62145
Final Action Labeling and other regulatory portions	05/00/01	
Final Action Antimicrobial procedural portion only.	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3892

EPA—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — **Final Rule Stage**

Sectors Affected: 32519 Other Basic Organic Chemical Manufacturing; 32531 Fertilizer Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing; 42269 Other Chemical and Allied Products Wholesalers; 42291 Farm Supplies Wholesalers

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RIN: 2070–AD14

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — **Long-Term Actions**

3446. REGULATORY REVIEW OF PESTICIDE EMERGENCY EXEMPTION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(p)

CFR Citation: 40 CFR 166

Legal Deadline: None

Abstract: EPA will propose revisions to its regulations on emergency exemptions under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act. Emergency exemptions allow temporary use of a pesticide not in accordance with registration requirements when emergency conditions exist. In the 1995 Presidential Reinvention Initiative, EPA identified a number of issues and options for change, which have been refined through informal discussions with States, user groups, and other stakeholders. EPA is considering revisions in four areas: 1) Options for increased authority for States to administer certain aspects of the exemption process, or increased use by EPA of multi-year exemptions, or some combination of these; 2) the use of emergency exemptions to address pesticide resistance; 3) the possibility of granting of exemptions based upon reduced risk considerations; and 4) definitions of emergency situation and significant economic loss, which affect whether an exemption may be granted.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 4216

Sectors Affected: 9241 Administration of Environmental Quality Programs

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RIN: 2070–AD36

3447. PESTICIDE MANAGEMENT AND DISPOSAL

Priority: Other Significant

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and canceled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26856
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3432

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RIN: 2020–AA33

3448. ENDOCRINE DISRUPTOR SCREENING PROGRAM

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA; 21 USC 346(a) FFDCA; 42 USC 300(a)(17) SDWA; 7 USC 136 FIFRA

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, August 3, 1999.

Abstract: This final policy statement will set forth EPA's Endocrine Disruptor Screening Program and the procedures to be followed by regulated entities and the Agency. EPA published a proposed policy statement setting forth the Screening Program on December 28, 1998. In the final policy statement, EPA will describe the screens and tests that it will require as part of the Program. It also will address certain issues related to implementing the Program. The major actions in 2001-2003 will be the standardization and validation of assays in the screening battery and the completion of the priority setting system.

Timetable:

Action	Date	FR Cite
Notice Outline of Screening Program	08/11/98	63 FR 42852

EPA—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — **Long-Term Actions**

Action	Date	FR Cite
Notice Proposed Screening Program & Request for Comment	12/28/98	63 FR 71542
NPRM Proposed Procedural Rule	06/00/02	
Final Action Final Screening Program	06/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4143

In August 2000, the Agency submited the required Status Report to Congress.

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RIN: 2070–AD26

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — **Completed Actions**

3449. TOLERANCES FOR PESTICIDE EMERGENCY EXEMPTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 176

Completed:

Reason	Date	FR Cite
Final Action Time-Limited Tolerances for Pest Exempt.	10/25/00	65 FR 64126

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Sectors Affected: 111 Crop Production; 112 Animal Production; 9241 Administration of Environmental Quality Programs

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RIN: 2070–AD15

3450. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELED OR SUSPENDED REGISTRATION

Priority: Other Significant

CFR Citation: 40 CFR 168

Completed:

Reason	Date	FR Cite
Withdrawn - Agency Plans No Further Work	03/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Federalism: Undetermined

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RIN: 2020–AA29

3451. REGISTRATION OF GRANULAR FERTILIZER-PESTICIDE COMBINATION PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 152.43

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Plans No Further Work	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD40

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Toxic Substances Control Act (TSCA) — **Proposed Rule Stage**

3452. TEST RULE; ATSDR SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 9604(i) CERCLA 104(i); 42 USC 9601 CEERCLA; 15 USC 2611 TSCA 12; 42 USC 7401 112(b)(4) CAA; 42 USC 7412 (b)(4)&(b)(1) CAA; 42 USC 7403 (d) CAA

CFR Citation: 40 CFR 790 to end

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of certain chemicals to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(i).

Under CERCLA, ATSDR is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program.

Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2563

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AB79

3453. TSCA SECTION 4 ENFORCEABLE CONSENT AGREEMENT FOR CERTAIN OXYGENATED FUEL ADDITIVES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611; 15 USC 2625

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA's Office of Air and Radiation (OAR/EPA) in the administration of section 211 of the Clean Air Act (CAA), has requested that OPPT use its TSCA section 4 testing authority to obtain health effects data on a number of Oxygenated Fuel Additives (OFA's). These data are needed by EPA and others to increase understanding of the toxicity of these substances individually and in comparison to each other as well as to other OFA's such as methy t-butyl ether (MTBE).

Timetable:

Action	Date	FR Cite
Notice Solicit Interested Parties	06/00/01	
Notice ECA	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4174

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AD28

3454. • TEST RULE; MULTI-SUBSTANCE RULE FOR THE TESTING OF DEVELOPMENTAL AND REPRODUCTIVE TOXICITY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2607(a); 15 USC 2611; 15 USC 2625

CFR Citation: 40 CFR 799; 40 CFR 704

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4 of the Toxic Substances Control Act (TSCA) that would require manufacturers, defined by statute to include importers, and processors of seven (7) substances to conduct testing for developmental and/or reproductive toxicity. This is a re-proposal of a test rule announced March 4, 1991 (56 FR 9092).

Timetable:

Action	Date	FR Cite
NPRM	03/04/91	56 FR 9092
NPRM Reproposal	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4395

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

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RIN: 2070–AD44

3455. FOLLOW-UP RULES ON EXISTING CHEMICALS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2607 TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721; 40 CFR 707; 40 CFR 710

Legal Deadline: None

Abstract: EPA has established a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support planned or ongoing risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting of appropriate needed information by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Action	Date	FR Cite
NPRM 2,4-Pentanedione SNUR	09/27/89	54 FR 39548
NPRM Chloranil	05/12/93	58 FR 27980
NPRM Benzidine-based Chemical Substances	08/30/95	60 FR 45119
Final Action Benzidine-based Chemical Substances	10/07/96	61 FR 52287
NPRM Amendment to Benzidine-based Chemical Substances SNUR	12/00/01	
Final Action Amendment to Benzidine-based Chemical Substances SNUR	06/00/02	
NPRM 2 ,4-Pentanedione SNUR (Reproposal)	06/00/01	
Final Action Final Chloranil SNUR	12/00/02	
NPRM Certain Chemical Substances No Longer in Production SNUR	10/00/01	
NPRM Heavy Metal-Based Pigments in Aerosol Spray Paints SNUR	12/00/01	
NPRM o-Tolidine & o-Dianisidine-based Dyes (Benzidine Congener Dyes)	12/00/01	
NPRM Methylcyclopentane SNUR	05/00/01	
NPRM p-Aminophenol & Bromochloromethane 8(a) Chemical Specific Rule	05/00/01	
NPRM 2-Ethoxyethanol & 2-Methoxyethanol & 2-Methoxyethanol Acetate	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 1923

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AA58

3456. • SIGNIFICANT NEW USE RULE; SELECTED FLAME RETARDANT CHEMICAL SUBSTANCES FOR USE IN RESIDENTIAL UPHOLSTERED FURNITURE

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA 5

CFR Citation: 40 CFR 704; 40 CFR 721; 40 CFR 707; 40 CFR 710

Legal Deadline: None

Abstract: EPA is proposing a significant new use rule (SNUR) under section 5 of the Toxic Substances Control Act (TSCA) covering certain flame retardant chemicals for use in residential upholstered furniture. The SNUR would require companies wanting to import or manufacture these chemicals for the significant new uses described in the proposed rule to submit a significant new use notice (SNUN) to the Agency at least 90 days prior to beginning those activities.

Timetable:

Action	Date	FR Cite
NPRM Flame Retardant Chemicals	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4512

Split from RIN 2070-AA58.

Sectors Affected: 325 Chemical Manufacturing; 313 Textile Mills; 337121 Upholstered Household Furniture Manufacturing

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RIN: 2070–AD48

3457. LEAD-BASED PAINT ACTIVITIES; TRAINING AND CERTIFICATION FOR RENOVATION AND REMODELING

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2603 TSCA title IV; PL 102-550 sec 402(c)(3)

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, October 28, 1996.

Abstract: Under section 402(c)(2) of the Toxic Substances Control Act (TSCA) Title IV, EPA conducted a study of the extent to which persons engaged in renovation and remodeling activities in target housing are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard. EPA must use the results of this study and consult with interested parties to determine which categories of renovation and remodeling activities require training and certification. EPA must then revise the training and certification regulations originally developed for individuals performing lead-based paint abatement under section 402(c)(a) of TSCA Title IV to apply them to the renovation and remodeling categories. If EPA determines that any category does not require certification, EPA must publish an explanation of the basis for that determination.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Action	02/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3557

Sectors Affected: 54138 Testing Laboratories; 531311 Residential Property Managers; 23321 Single Family Housing Construction; 23322 Multifamily Housing Construction; 23521 Painting and Wall Covering Contractors; 23551 Carpentry Contractors; 23599 All Other Special Trade Contractors; 53111 Lessors of Residential Buildings and Dwellings

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RIN: 2070–AC83

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Final Rule Stage

3458. TSCA INVENTORY UPDATE RULE AMENDMENTS

Priority: Other Significant

Legal Authority: 15 USC 2607(a) TSCA 8(a)

CFR Citation: 40 CFR 710

Legal Deadline: None

Abstract: This action would amend the current Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) to require chemical manufacturers to report to EPA data on exposure-related information and the industrial and consumer end uses of chemicals they produce or import. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and the quantities produced. About 3,000 facilities reported data on about 9,000 unique chemicals during the last reporting cycle under the IUR. Data obtained would be used by EPA and others to: better understand the potential for chemical exposures; screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management and prevention programs, and monitor the programs' progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts. Additionally, EPA will consider other amendments to the IUR. These include removing the inorganic chemicals exemption; providing the information to better assess and manage risks of inorganic chemicals; improving the linkages of IUR data to other data sources to enhance the data's usefulness; and altering the confidential business information (CBI) claim procedures to reduce the frequency of CBI claims, allowing the public greater access to relevant information on toxic chemicals. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to ensure public involvement in the TSCA Inventory Update Rule Amendments Project.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46771
Notice Comment Extension	10/22/99	64 FR 56998
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3301

Sectors Affected: 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing

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RIN: 2070–AC81

3459. TEST RULE; GENERIC ENTRY FOR ITC RELATED TESTING DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is requiring testing via rules, or will obtain testing through enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so for chemicals listed herein. These chemicals have been designated for priority testing consideration by the ITC or recommended for testing consideration (for which the 12-month statutory requirement does not apply). The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other Federal or other EPA offices through EPA review processes.

Timetable:

Action	Date	FR Cite
ANPRM Aryl Phosphates (ITC List 2)	12/29/83	48 FR 57452
NPRM Aryl Phosphates (ITC List 2)	01/17/92	57 FR 2138
NPRM Brominated Flame Retardants	06/25/91	56 FR 29140
Final Action-ECA DiBasic Esters (CPSC)	08/05/99	64 FR 42692
Final Action-ECA 1,1,2-Trichloroethane (TCE)	06/15/00	65 FR 37550
Final Action ITC Chemicals (ITC List 28)	06/00/01	
Final Action-ECA Aryl Phosphates (ITC List 2)	06/00/01	

Action	Date	FR Cite
Final Action-ECA Ethylene Dichloride (EDC)	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3493

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AB94

3460. TEST RULE; HAZARDOUS AIR POLLUTANTS (HAPS)

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 7412 CAA 112; 42 USC 7403 CAA 103; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of technology-based emissions standards to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b), and requirements for an accidental release control program. These data will also be important for the right-to-know program given the large release of these chemicals to the atmosphere. In order to implement these and other programs and requirements under section 112, EPA must identify the health and environment effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33178
Supplemental NPRM	12/24/97	62 FR 67486
Supplemental NPRM	04/21/98	63 FR 19694
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3487

Supplemental NPRM-
http://www.epa.gov/fedrgstr/EPA-TOX/1997/December/Day-24/t33451.htm

Supplemental NPRM-
http://www.epa.gov/fedrgstr/EPA-AIR/1998/April/Day-21/a10494.htm

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AC76

3461. TEST RULE; CERTAIN HIGH PRODUCTION VOLUME (HPV) CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611 to 2612; 15 USC 2625 to 2626

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: This action is related to a challenge to industry on the eve of Earth Day, April 21, 1998, to come forward quickly with needed test data on high production volume (HPV) chemicals. This challenge encompasses approximately 2,800 chemicals which are manufactured (including imported) in the aggregate at more than 1 million pounds on an annual basis. The data needed on these chemicals are: acute toxicity, repeat dose toxicity, developmental and reproductive toxicity; mutagenicity; ecotoxicity and environmental fate. This rule will require testing and recordkeeping requirements for certain chemicals for which industry does not voluntarily agree to provide testing in a timely manner. The action is part of the Chemical Right-to-Know Initiative, which is described in the Regulatory Plan. Industry has volunteered to conduct needed testing on over 2155 of these HPV chemicals. The first rule proposed testing for 37 unsponsored HPV chemicals with substantial worker exposure. The proposed rule was published in the Federal Register on December, 26, 2000.

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81658
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3990

See also the Regulatory Plan entry entitled Chemical Right-to-Know Initiative (RIN 2070-AD25; SAN 4176).

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AD16

3462. TEST RULE; IN VITRO DERMAL ABSORPTION RATE TESTING OF CERTAIN CHEMICALS OF INTEREST TO THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 700 to 799

Legal Deadline: None

Abstract: EPA is requiring manufacturers (which is defined by statute to include importers) and processors of 38 chemical substances of interest to the Occupational Safety and Health Administration (OSHA) to conduct testing for in vitro dermal absorption rate testing. These chemicals, and others, were designated for in vitro dermal absorption rate testing in the 31st, 32nd, and 35th Reports of the TSCA section 4(e) Interagency Testing Committee (ITC) to the EPA. Each of the chemical substances included in this proposed rule is produced in an amount equal to or greater than one million pounds per year. In addition, each of the chemicals in this proposed rule was identified in the National Occupational Exposure Survey (NOES) has having a total potential worker exposure of greater than 1,000 workers. OSHA has indicated that it needs quantitative measures of dermal absorption rate in order to evaluate the potential hazard of these chemicals to workers.

Timetable:

Action	Date	FR Cite
NPRM OSHA Chemicals Dermal Testing (ITC List 31, 32 & 35)	06/09/99	64 FR 31074
Final Action OSHA Chemical Dermal Testing	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4425

Please note that this entry was previously identified under RIN 2070-AB07. TSCA requires EPA to publich the NPRM within one year of ITC designation.

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

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RIN: 2070–AD42

3463. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA regulates the commercial development of new chemicals that have completed premanufacture notice (PMN) review. In a PMN review, the Agency assesses whether or not a chemical's manufacture, import, process, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule (EFUR) which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 3-4 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR, may be regulated individually by notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	06/11/86	51 FR 21199
NPRM 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	12/08/87	52 FR 46496
NPRM Aluminum Cross-linked Sodium Carboxy-methylcellulose	06/11/93	58 FR 32628
Final Action Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	06/00/01	
Final Action 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	06/00/01	
Final Action Aluminum Cross-linked Sodium Carboxy-methylcellulose	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 1976

Sectors Affected: 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing

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RIN: 2070–AA59

3464. SIGNIFICANT NEW USE RULE (SNUR); CHEMICAL-SPECIFIC SNURS TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	05/27/93	58 FR 30744
NPRM Aromatic Amino Ether (P90-1840)	06/06/94	59 FR 29255
NPRM Alkenyl Ether of Alkanetriol Polymer (93-458)	12/19/94	59 FR 65289
NPRM Certain Chemical Substances (91-1299/95-1667 91-1298 91-1297	06/26/97	62 FR 34421
NPRM Certain Chemical Substances	09/09/98	63 FR 48157
Direct Final Rule Significant New Uses of Certain Chemical Substances, Effective 02/26/2001	12/26/00	65 FR 81386
Delay of Effective Date Significant New Uses of Certain Chemical Substances	02/07/01	66 FR 9211
New Effective Date Significant New Uses of Certain Chemical Substances	04/27/01	66 FR 9211
Final Action Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	04/00/01	
Final Action Aromatic Amino Ether (P90-1840)	05/00/01	
Final Action Alkenyl Ether of Alkanetriol Polymer (93-458)	05/00/01	
Final Action Certain Chemical Substances (91-1299/95-1667 91-1298 91-1297	06/00/01	
Final Action Certain Chemical Substances	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3495

Sectors Affected: 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing

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RIN: 2070–AB27

3465. SIGNIFICANT NEW USE RULE; CERTAIN PERFLUOROALKYL SULFONYL (PFOS) CONTAINING CHEMICAL SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604 TSCA 5

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA is proposing a significant new use rule (SNUR) under section 5 of the Toxic Substances Control Act (TSCA) covering certain perfluoroalkyl sulfonyl-containing chemical substances. This SNUR would require companies who wanted to manufacture or import these chemicals for the significant new uses described in the proposed rule to submit a Significant New Use Notice (SNUN) to the Agency at least 90 days prior to beginning those activities.

Timetable:

Action	Date	FR Cite
NPRM	10/18/00	65 FR 62319
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4475

Sectors Affected: 325 Chemical Manufacturing

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RIN: 2070–AD43

3466. POLYCHLORINATED BIPHENYLS (PCBS); EXEMPTIONS FROM THE PROHIBITIONS AGAINST MANUFACTURING, PROCESSING, AND DISTRIBUTION IN COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605 TSCA sec 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions against manufacturing, processing and distribution in commerce of PCBs upon finding that

1) no unreasonable risk to health or the environment will occur, and 2) good faith efforts have been made by the petitioner to develop a substitute for PCB which does not pose an unreasonable risk of injury to health or the environment. In addition, the Interim Procedural Rules were amended to require certain petitioners to reapply for EPA approval to continue PCB activities previously approved by EPA.

Timetable:

Action	Date	FR Cite
NPRM (1) Group I	12/06/94	59 FR 62875
Final Action Group I	02/00/02	
NPRM (2) Group II	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 2150

Sectors Affected: 211 Oil and Gas Extraction; 2211 Electric Power Generation, Transmission and Distribution; 31-33 Manufacturing; 5133 Telecommunications; 6113 Colleges, Universities and Professional Schools; 622 Hospitals; 921 Executive, Legislative, Public Finance and General Government

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RIN: 2070–AB20

3467. ACRYLAMIDE; PROHIBITION ON MANUFACTURE, IMPORTATION, DISTRIBUTION AND USE OF ACRYLAMIDE FOR GROUTING

Priority: Other Significant

Legal Authority: 15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec 8

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout. In February 1996, EPA reopened the record for 30 days to take additional comments, specifically to seek data on the relative durability of acrylamide and NMA grouts. The Agency has reviewed the comments and expects to promulgate the final rule in the Fall of 2001.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Notice Reopening Record for Comments on Durability of NMA	02/26/96	61 FR 7454
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2779

Sectors Affected: 22132 Sewage Treatment Facilities; 42269 Other Chemical and Allied Products Wholesalers; 23491 Water, Sewer, and Pipeline Construction; 23491 Water, Sewer, and Pipeline Construction; 32519 Other Basic Organic Chemical Manufacturing; 32519 Other Basic Organic Chemical Manufacturing

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RIN: 2070–AC17

3468. SIGNIFICANT NEW USE RULE; REFRACTORY CERAMIC FIBERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2605 TSCA 6

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 6 to require reporting by the manufacturers, importers and/or processors of these chemicals. Proposed rules may be published on at least the chemicals listed on the timetable below.

Timetable:

Action	Date	FR Cite
NPRM Refractory Ceramic Fiber	03/21/94	59 FR 13294
Final Action Refractory Ceramic Fiber	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3528

Sectors Affected: 327999 All Other Miscellaneous Nonmetallic Mineral Product Manufacturing

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RIN: 2070–AC37

3469. TSCA SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(a) TSCA sec 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

Timetable:

Action	Date	FR Cite
Final Action 37th ITC List	02/28/96	61 FR 7421
Final Action 38th ITC List	10/29/96	61 FR 55871
Final Action 38th ITC List - Stay	12/11/96	61 FR 65186
Final Action 38th ITC List - Stay/Technical Amendments	01/07/98	63 FR 684
Final Action 38th ITC List - Revocation	01/11/00	65 FR 1548
Final Action 39th ITC List	01/11/00	65 FR 1548
Final Action 41st ITC List	07/05/00	65 FR 41371
Final Action 42nd ITC List	07/24/00	65 FR 45535
Final Action 47th ITC List	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2178

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AB08

3470. TSCA SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(d) TSCA sec 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules require manufacturers, importers and processors to submit unpublished health and safety data on chemicals added to the requirements of the Toxic Substances Control Act section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee.

Timetable:

Action	Date	FR Cite
Final 38th ITC List	10/29/96	61 FR 55871
Final 38th ITC List - Stay	12/11/96	61 FR 65186
Final 38th ITC List - Stay/Technical Amendment	01/07/98	63 FR 684
Final Action 38th ITC List - Revocation	01/11/00	65 FR 1548
Final Action 39th, 41st and 42nd ITC List	06/00/01	
Final Action 47th ITC List	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 1139

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AB11

3471. NOTICE OF TSCA SECTION 4 REIMBURSEMENT PERIOD AND TSCA SECTION 12(B) EXPORT NOTIFICATION PERIOD SUNSET DATES FOR TSCA SECTION 4 SUBSTANCES

Priority: Info./Admin./Other

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 707; 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: EPA is developing a list of substances that are or have been subject to TSCA section 4 testing actions which required testing under rules or Enforceable Consent Orders. EPA will identify sunset, or termination dates that will identify: (1) the end of section 4 reporting requirements (40 CFR 790); (2) the end of the reimbursement period under which persons subject to test rules are subject to an obligation to reimburse test sponsors (40 CFR 791); and (3) the end of the period during which export notification requirements under TSCA section 12(b) are triggered.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 3559

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AC84

3472. LEAD; NOTIFICATION REQUIREMENTS FOR LEAD-BASED PAINT ABATEMENT ACTIVITIES AND TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2682 TSCA 402; 15 USC 2687 TSCA 407; PL 102-550

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: EPA is issuing this rule under the authority of Section 407 of the Toxic Substances Control Act (TSCA) to establish notification procedures for lead abatement professionals (certified under 40 CFR 745.226) conducting lead-based paint activities, and training programs (accredited under 40 CFR 225) providing lead-based paint activities courses. Specifically, this rule seeks to establish procedures to notify the Agency prior to commencement of lead-based paint abatement activities as required by 40 CFR 745.227(e)(4). In addition, this rule seeks to establish provisions which would require training programs accredited under 40 CFR 745.225 to notify the Agency under the following conditions: 1) prior to providing lead-based paint activities, training , and 2) following completion of lead-based paint activities courses. These notification requirements are necessary to provide EPA compliance monitoring and enforcement personnel with information necessary to track compliance activity and to prioritize inspections. This rule supports 40 CFR part 745, subpart L to ensure that lead abatement professionals who inspect, assess and remove lead-based paint, dust or soil are well qualified, trained, and certified to conduct these activities.

Timetable:

Action	Date	FR Cite
NPRM	01/22/01	66 FR 7207
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4172

Sectors Affected: 611519 Other Technical and Trade Schools

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RIN: 2070–AD31

3473. TSCA SECTION 8(E) POLICY; NOTICE OF CLARIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2607(e) TSCA sec 8(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The TSCA section 8(e) Notice of Clarification and Solicitation of Public Comment would amend certain aspects of the 1978 TSCA section 8(e) Statement of Interpretation and Enforcement Policy (1978 Policy Statement). The 1978 Policy Statement describes the types of information that EPA considers reportable under section 8(e), the substantial risk reporting provision of TSCA, and describes the procedures for reporting such information to EPA. This clarification effort derives from a review of the existing section 8(e) guidance done in the context of questions raised by companies considering participating in the section 8(e) Compliance Audit Program (CAP). As a result of this review, EPA determined that parts of the 1978 Policy Statement concerning the reportability of information on widespread and previously unsuspected distribution in environmental media and emergency incidents of environmental contamination needed some refinement. The subject Federal Register action solicited comment on refined reporting guidance concerning widespread and previously unsuspected distribution in environmental media and provides additional circumstances where information is not reportable because it is considered known to the Administrator. Finally, the notice solicited comments on changes to the section 8(e) reporting deadline and reaffirmed the standards for claims of confidentiality for information contained in a notice of substantial risk under section 8(e).

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37735
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3118

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AC80

3474. PESTICIDES; TOLERANCE PROCESSING FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346(a)

CFR Citation: 40 CFR 180.33

Legal Deadline: None

Abstract: In 1996, the Food Quality Protection Act amended the Federal Food, Drug, and Cosmetic Act to require EPA to charge tolerance fees that, in the aggregate, will cover all costs associated with processing tolerance actions, including filing a tolerance petition, and establishing, modifying, leaving in effect, or revoking a tolerance or tolerance exemption. Since 1983 (the last time a cost analysis was conducted), factors such as expanded data requirements, changes in risk assessment methods, improvements in data base management and tracking systems, and the increasing complexity of scientific review of petitions have resulted in costs substantially exceeding the fees currently charged. This rule will adjust the fee structure and fee amounts for tolerance actions.

Timetable:

Action	Date	FR Cite
NPRM Pesticides-Tolerance Processing Fees	06/09/99	64 FR 31039
Supplemental NPRM Processing Fees for Inert Ingredients	07/24/00	65 FR 45569
Supplemental NPRM Reopening of Comment Period	08/31/00	65 FR 52979
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4027

NPRM-
http://www.epa.gov/fedrgstr/EPA-PEST/1999/June/Day-09/p14477.htm

Supplemental NPRM-
http://www.epa.gov/fedrgstr/EPA-PEST/2000/July/Day-24/p18646.htm

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD23

3475. PESTICIDE TOLERANCE REASSESSMENT PROGRAM

Priority: Other Significant

Legal Authority: 21 USC 346(a)(q)

CFR Citation: 40 CFR 180

Legal Deadline: Other, Statutory, August 3, 2002, See additional information.

Abstract: EPA will reassess pesticide tolerances and exemptions for raw and processed foods established prior to August 3, 1996, to determine whether they meet the reasonable certainty of no harm standard of the Federal Food, Drug and Cosmetic Act (FFDCA). FFDCA sec. 408(q), as amended by the Food Quality Protection Act (FQPA). FQPA requires that EPA conduct this reassessment on a phased 10-year schedule. Based on its reassessment, EPA will take a series of regulatory actions to modify or revoke tolerances. Since such actions are issued on a chemical-by-chemical basis, this regulatory plan entry does not list the individual actions that are likely to occur under this program. For status information about the individual chemicals, go to http://www.epa.gov/pesticides.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4175

LEGAL DEADLINE CONT: EPA is required to complete reassessments on a phased schedule of: 33 percent by August 3; 1999; 66 percent by August 3; 2002; and 100 percent by August 3; 2006. The Agency will continue to access pesticide tolerances throughout year.

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

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RIN: 2070–AD24

3476. VOLUNTARY CHILDREN'S CHEMICAL EVALUATION PROGRAM (VCCEP)

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12; 15 USC 2625 TSCA 26

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA has held public meetings to involve stakeholders in the design and development of a voluntary program to evaluate commercial chemicals to which children may have a high likelihood of exposure. The purpose of the voluntary program is to obtain toxicity and exposure data needed to assess the risk of childhood exposure to commercial chemicals. EPA launched a pilot of this program on December 26,2000. Manufacturers of 23 chemicals have been asked to voluntarily sponsor their chemicals in the pilot. If an adequate voluntary children's chemical evaluation program fails to emerge from the stakeholder involvement process, EPA may proceed with development of a test rule under section 4 of the Toxic Substances Control Act (TSCA).

Timetable:

Action	Date	FR Cite
Notice Initiation of Stakeholder Process- Notice of Public Meetings	08/26/99	64 FR 46673
Notice Cancellation of Public Meeting	01/13/00	65 FR 2163

Action	Date	FR Cite
Notice Stakeholder Involvement Process - Notice of Public Meeting	03/29/00	65 FR 16590
Notice Voluntary Children's Chemical Evaluation Program - Pilot	12/26/00	65 FR 81700
Notice	08/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2865

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AC27

3477. TEST RULE; CERTAIN METALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12; 15 USC 2625 TSCA 26; 42 USC 9604(i) CERCLA 104(i)

CFR Citation: 40 CFR 790 to end

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of certain metals to fill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(I). Under CERCLA, ATSDR is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program. Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment. The metals are also hazardous air pollutants (HAPs) under the Clean Air Act (CAA) section 112. Data from this action would also be used to implement several provisions of section 112 of the CAA, including determining risks remaining after the application of technology based on standards under section 112(d) of the CAA, estimating the risks associated with accidental releases, and determining whether or not substances should be removed from the CAA section (b)(1) list of HAPs (delisting).

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3882

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

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RIN: 2070–AD10

3478. LEAD; REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2605 TSCA 6

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: This action initiates a regulatory investigation under the Toxic Substances Control Act (TSCA) section 6 to determine if uses of lead (Pb) present an unreasonable risk to human health and the environment. The investigation will involve examination of the potential sources of human or other exposure to lead throughout the life cycle. Based on information gathered EPA may propose TSCA section 6(a) rules to control existing or new uses of Pb which pose an unreasonable risk to human health or the environment, and to explore the desirability and feasibility of discouraging overall consumption of Pb in general.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
NPRM Proposed Ban of Fishing Sinkers	03/09/94	59 FR 11122
Final Action - Fishing Sinkers	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3252

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RIN: 2070–AC21

3479. ASBESTOS MODEL ACCREDITATION PLAN REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2646 TSCA sec 206

CFR Citation: 40 CFR 763

Legal Deadline: Final, Statutory, November 28, 1992.

Abstract: The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) amended TSCA to require that EPA revise its asbestos model accreditation plan (MAP) to extend training and accreditation requirements to include persons performing certain asbestos-related work in public or commercial buildings, to increase the minimum number of training hours required for accreditation purposes and to effect other changes necessary to implement the amendments. The upcoming notice of proposed rulemaking (NPRM) will improve harmony of the existing interim final MAP with the Occupational Safety and Health Administration's regulations to the extent consistent with applicable EPA statutes, and provide clarifications.

Timetable:

Action	Date	FR Cite
Model Plan	05/13/92	57 FR 20438
Interim Final	02/03/94	59 FR 5236
Final Action	05/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 3148

Sectors Affected: 611519 Other Technical and Trade Schools

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RIN: 2070–AC51

3480. POLYCHLORINATED BIPHENYLS (PCBS); USE AUTHORIZATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 2605(e) TSCA sec 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: The notice of proposed rulemaking that was published on December 6, 1994, covered the manufacture (including import), processing, distribution in commerce, export use, disposal, and marking of PCBs. On June 29, 1998, EPA issued a final rule involving the disposal related provisions. Other provisions, e.g., certain use authorizations and import provisions, were to be addressed in separate actions. This rulemaking addresses a use authorization for certain non-liquid PCB applications, which although currently in use have never been authorized under the PCB regulations at 40 CFR part 761.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	12/06/94	59 FR 62788
Final Action 1 PCB Disposal Provisions	06/29/98	63 FR 35384
NPRM Notice of Data Availability, Reopening of Comment Period	12/10/99	64 FR 69358
NPRM Extension of Comment Period	04/06/00	65 FR 18018
Final Action 2 Use Authorizations	01/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4179

Sectors Affected: 2211 Electric Power Generation, Transmission and Distribution; 211 Oil and Gas Extraction; 31-33 Manufacturing; 5133 Telecommunications; 622 Hospitals; 6113 Colleges, Universities and Professional Schools; 921 Executive, Legislative, Public Finance and General Government

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RIN: 2070–AD27

3481. LEAD-BASED PAINT ACTIVITIES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE - BUILDING AND STRUCTURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2603 TSCA Title IV; PL 102-550 sec 402; PL 102-550 sec 404

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-Based Paint Hazard Reduction Act of 1992 mandates EPA promulgate regulations governing lead-based paint (LBP) activities to ensure that individuals engaged in such activities are properly trained, that LBP training programs are accredited, and that contractors engaged in such activities are certified. In addition, EPA must promulgate a Model State program which may be adopted by any State which seeks to administer and enforce a State Program. EPA promulgated regulations for training and certification of training programs for LBP activities and child occupied facilities in 1996 (see 40 CFR 745). Regulations for LBP activities in public and commercial buildings and bridges and other structures are still under development.

Timetable:

Action	Date	FR Cite
NPRM (Buildings & Structures)	06/00/02	
Final Action (Buildings & Structures)	12/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4376

Sectors Affected: 23411 Highway and Street Construction; 611519 Other Technical and Trade Schools

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RIN: 2070–AC64

3482. LEAD; MANAGEMENT AND DISPOSAL OF LEAD-BASED PAINT DEBRIS

Priority: Other Significant

Legal Authority: 15 USC 2601 to 2671; 42 USC 6901 to 6992

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances and the Office of Solid Waste have initiated a joint rulemaking to address the disposal of these architectural components. This rulemaking would develop disposal standards for these components under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations applicable to lead-based paint debris which will be subject to the new TSCA standards.

Timetable:

Action	Date	FR Cite
NPRM TSCA Proposal	12/18/98	63 FR 70189
Comment Extension Extension of Comment Period	02/12/99	64 FR 7158
Comment Extension Extension of Comment Period	02/12/99	64 FR 7159
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3508

See also RCRA companion rule: Temporary Suspension of Toxicity Characteristic Rule for Specified Lead-Based Paint Debris (SAN 14263; RIN 2050-AE68).,

NPRM-
http://www.epa.gov/fedrgstr/EPA-TRI/1998/December/Day-18/tri33326.htm

Sectors Affected: 233 Building, Developing and General Contracting; 23321 Single Family Housing Construction; 23332 Commercial and Institutional Building Construction; 23521 Painting and Wall Covering Contractors; 23542 Drywall, Plastering, Acoustical and Insulation Contractors; 23511 Plumbing, Heating and Air-Conditioning Contractors; 23594 Wrecking and Demolition Contractors; 23592 Glass and Glazing Contractors; 54138 Testing Laboratories; 562111 Solid Waste Collection

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RIN: 2070–AC72

3483. CHEMICAL RIGHT-TO-KNOW INITIATIVE; HIGH PRODUCTION VOLUME (HPV) CHEMICALS

Priority: Other Significant

Legal Authority: 15 USC 4 TSCA; 15 USC 8 TSCA; 42 USC 313 TRI; 7 USC 136 FIFRA

CFR Citation: 40 CFR 700 et seq

Legal Deadline: None

Abstract: The Chemical RTK Initiative was established in 1998 in response to the finding that most commercial chemicals have very little, if any, publicly available toxicity information on which to make sound judgments about potential risks. There are three key components to this initiative, each of which is being implemented by EPA. These are: collecting and making public screening level toxicity data for 2,800 widely used commercial chemicals; additional health effects testing for chemicals to which children are substantially exposed; and the listing and lowering of thresholds for persistent, bioaccumulative, toxic chemicals reported to the Toxic Release Inventory (TRI). This Initiative will involve several separate activities, with any regulatory related actions included as separate entries in the Regulatory Agenda.

Timetable:

Action	Date	FR Cite
Notice Data Collection and Development on HPV Chemicals	12/26/00	65 FR 81686
Initiative Completed HPV Data to be received by 06/2005.	06/00/05	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 4176

See also items identified under the following RINs 2070-AD09; 2070-AD38; RIN 2070-AD16; RIN 2070-AC27.

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

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RIN: 2070–AD25

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)
Completed Actions

3484. POLYCHLORINATED BIPHENYLS (PCBS); RECLASSIFICATION OF PCB AND PCB CONTAMINATED ELECTRICAL EQUIPMENT FINAL RULE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 761

Completed:

Reason	Date	FR Cite
Final Action	04/02/01	66 FR 17601

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Sectors Affected: 211 Oil and Gas Extraction; 2211 Electric Power Generation, Transmission and Distribution; 31-33 Manufacturing; 5133 Telecommunications; 6113 Colleges, Universities and Professional Schools; 622 Hospitals; 921 Executive, Legislative, Public Finance and General Government

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RIN: 2070–AC39

3485. ASBESTOS WORKER PROTECTION RULE AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 763

Completed:

Reason	Date	FR Cite
Final Action	11/15/00	65 FR 69210

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Sectors Affected: 92111 Executive Offices; 92311 Administration of Education Programs; 92312 Administration of Public Health Programs; 92411 Air and Water Resource and Solid Waste Management

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RIN: 2070–AC66

3486. LEAD; IDENTIFICATION OF DANGEROUS LEVELS OF LEAD PURSUANT TO TSCA SECTION 403

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 745

Completed:

Reason	Date	FR Cite
Final Action Identification of Dangerous Levels of Lead	01/05/01	66 FR 1205

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 2332 Residential Building Construction; 235 Special Trade Contractors; 2352 Painting and Wall Covering Contractors; 23551 Carpentry Contractors; 23599 All Other Special Trade Contractors; 53111 Lessors of Residential Buildings and Dwellings; 531311 Residential Property Managers; 54135 Building Inspection Services; 61171 Educational Support Services; 54138 Testing Laboratories; 54161 Management Consulting Services; 61151 Technical and Trade Schools; 92511 Administration of Housing Programs

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RIN: 2070–AC63

3487. • POLYCHLORINATED BIPHENYLS (PCBS); RETURN OF PCB WASTE FROM U.S. TERRITORIES OUTSIDE THE CUSTOMS TERRITORY OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605 et seq

CFR Citation: 40 CFR sec 761.99(c)

Legal Deadline: None

Abstract: This proposed interpretive rule would allow the movement of PCB waste for disposal among any States of the United States, as defined in TSCA sections 3(13) and 3(14), regardless of whether the waste enters or leaves the customs territory of the United States, provided that the PCBs in the waste were present in the United States on January 1, 1979, when the ban on manufacturing took effect, and has remained within the United States since that date. This would allow PCB waste that was present in the territories and possessions at the time TSCA's ban on manufacturing took effect, and that remained within the territories and possessions since that date, to be stored and disposed of in any facility in the United States that meets the requirements of 40 CFR part 761, subpart D. It would also allow PCBs that were present in the territories and possessions at the time TSCA's bans took effect, but were not designated as waste until after that date, to be stored and disposed of in any subpart D facility in the United States, as long as the PCBs and PCB waste had remained in the United States. Finally, it would allow PCBs or PCB wastes that were transferred from an area in the United States that is outside the territories and possessions, but that was moved to a territory or possession after January 1, 1979, and that has never left the United States, to be stored and

EPA—Toxic Substances Control Act (TSCA) — Completed Actions

disposed of in any subpart D facility in the United States. EPA would not consider movement of any of these wastes to the customs territory of the United States to be an import subject to the ban on manufacturing under TSCA section 6(e).

Timetable:

Action	Date	FR Cite
NPRM	11/01/00	65 FR 65654
Final Action	03/30/01	66 FR 17467

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4488

Sectors Affected: 211111 Crude Petroleum and Natural Gas Extraction; 311 Food Manufacturing; 324 Petroleum and Coal Products Manufacturing; 324 Petroleum and Coal Products Manufacturing; 331 Primary Metal Manufacturing; 5622 Waste Treatment and Disposal; 56292 Materials Recovery Facilities; 92 Public Administration

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RIN: 2070–AD46

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Emergency Planning and Community Right-to-Know Act (EPCRA)

3488. TRI; REVISIONS TO THE OTHERWISE USE ACTIVITY EXEMPTIONS AND THE COAL EXTRACTION ACTIVITIES EXEMPTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11001 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The Toxics Release Inventory (TRI) requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 pounds of a listed chemical. In determining amounts of listed chemicals that are manufactured, processed or otherwise used, facilities may be entitled to consider specific exemptions from reporting. EPA is presently reviewing a group of these exemptions. The categories of exemptions presently being reconsidered by EPA are the structural component exemption, the routine janitorial and facility grounds maintenance exemption, the personal use exemption, and the motor vehicle maintenance exemption. Also known as the otherwise use exemptions because they are limited to otherwise use activities, these exemptions are expressly provided for at 40 CFR 372.38(c). EPA is also considering changes to the coal mining extraction activities exemption provided for at 40 CFR 372.38(g).

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4265

Formerly listed as RIN 2070-AD39.

By Statute and Regulation, this rule will affect SIC codes 20-39, 10 (except SIC codes 1011, 1081, 1094), 12 (except SIC code 1241), 4911, 4931, 4939, 4953, 5169, 5171, and 7389.

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RIN: 2025–AA06

3489. TRI: APA PETITION-EPCRA 313 DEFINITION OF "OVERBURDEN" AS IT RELATES TO THE MINING INDUSTRY.

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11001 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The regulatory definition for EPCRA section 313 defines "overburden" to mean any unconsolidated material that overlies a deposit of useful material or ores. It does not include any portion of ore or waste rock. "Overburden" generally lacks any recoverable materials and contains only trace amounts of EPCRA section 313 chemicals. Under section 313, all activities related to "overburden" are exempt from threshold determinations and release and other waste management calculations because "overburden" contains TRI chemicals in negligible amounts and reporting is unlikely to provide the public with valuable information. On December 22, 1998, the National Mining Association (NMA) petitioned EPA, pursuant to the Administrative Procedures Act (APA) to change the current EPCRA 313 definition of "overburden" to include both consolidated material and unconsolidated material. By making such a change, consolidated material that overlies an ore deposit would be eligible for the "overburden" exemption (i.e., "overburden" generally lacks any recoverable minerals and contains only trace amounts of EPCRA section 313 chemicals). NMA asserts that EPA's definition of "overburden" is inconsistent with that of industry. NMA considers "overburden" to be all material, both consolidated and unconsolidated, that overlies an ore deposit of useful material and must be removed to allow access to ore deposit.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Rule	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4392

Formerly listed as RIN 2070-AD41.

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RIN: 2025–AA08

EPA—Emergency Planning and Community Right-to-Know Act (EPCRA) — Proposed Rule Stage

3490. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT: AMENDMENTS AND STREAMLINING RULE

Priority: Other Significant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048; 42 USC 11021; 42 USC 11022

CFR Citation: 40 CFR 355; 40 CFR 370

Legal Deadline: None

Abstract: This rule will address the remaining issues from the proposed rule of June 8, 1998. (Reporting thresholds for gasoline and diesel fuel at retail gas stations were included in a separate final rule; 64 FR 7031, February 11, 1999.) This rule will include: reporting thresholds for rock salt, sand, gravel and other chemicals that pose minimal risk; plain language rewrite; and may consider reporting thresholds for facilities with some similarities to gas stations (motor pools, marinas, etc.) and guidance on approaches to State flexibility.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31268
Supplemental NPRM	08/00/01	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3215

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RIN: 2050–AE17

3491. MODIFICATION OF THRESHOLD PLANNING QUANTITY FOR ISOPHORONE DIISOCYANATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: On October 12, 1994 (59 FR 51816), EPA proposed to modify the listing of several chemicals on the extremely hazardous substances (EHS) list under the Emergency Planning and Community Right-to-Know Act. One petitioner requested the removal of isophorone diisocyanate (IPDI). EPA rejected the petitioner's request. However, in the review of the petition, EPA noticed that there was an error in the setting of the threshold planning quantity (TPQ) for IPDI, and proposed to correct the error in the October 12, 1994 notice of proposed rulemaking. The other modifications to the EHS list were made final on May 7, 1996; however, the TPQ for IPDI was not included in that final rule. This rule will finalize the TPQ for IPDI.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3993

Sectors Affected: 325 Chemical Manufacturing

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RIN: 2050–AE43

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

Final Rule Stage

3492. TRI; RESPONSES TO PETITIONS RECEIVED TO ADD OR DELETE OR MODIFY CHEMICAL LISTINGS ON THE TOXIC RELEASE INVENTORY

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 11013 EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: These actions grant or deny petitions received to add or delete or modify chemicals on the list of toxic chemicals under section 313 of the Emergency Planning and Community Right to Know Act (EPCRA) that are subject to reporting under the Toxic Chemical Release Reporting Rule. The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
Notice DBNPA (Request to Delete)	10/27/95	60 FR 54949
NPRM Chromite Ore from Transvaal Reg. of S.A.	02/23/99	64 FR 8775
NPRM Diisononyl phthalate (DINP) (Request to Add)	09/05/00	65 FR 53681
Response Alloys--Chromium & Nickel & Copper Alloys (Req. to Modify)	04/00/01	
Final Action Chromite Ore from Transvaal Reg. of S.A.	04/00/01	
Response Chromium, Antimony, Titanite Petition	06/00/01	
Final Response DBNPA (Request to Delete)	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2425

Formerly listed as RIN 2070-AC00.

Statutory deadline: Within 180 days of receipt the Agency must either initiate rulemaking or explain why not in the Federal Register. Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2025–AA00

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

Long-Term Actions

3493. TRI; CHEMICAL EXPANSION; FINALIZATION OF DEFERRED CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013 EPCRA 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: On November 30, 1994, EPA added 286 chemicals and chemical categories to the EPCRA section 313 list, including 39 chemicals as part of two delineated categories. Each chemical and chemical category was found to meet the statutory criteria described in EPCRA section 313(d)(2)(A)-(C). At this time, EPA deferred final action on 40 chemicals and one chemical category until a later date. These were deferred because the comments received on them raised difficult technical or policy issues which required additional time to address. EPA chose not to delay final action on the 286 chemicals and chemical categories because of the additional time needed to address the issues surrounding the smaller group of 40 chemicals and one chemical category; rather, EPA believed it to be in the spirit of community right-to-know to proceed with the final rulemaking of the additional chemicals and chemical categories.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Supplemental NPRM Deferred Chemicals	12/00/02	
Final Action Deferred Chemicals	12/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3007

Formerly listed as RIN 2070-AC47.

Includes SIC codes: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Sectors Affected: 42269 Other Chemical and Allied Products Wholesalers

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EPA—Emergency Planning and Community Right-to-Know Act (EPCRA)

Long-Term Actions

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RIN: 2025–AA01

3494. TRI; REVIEW OF CHEMICALS ON THE ORIGINAL TRI LIST

Priority: Other Significant

Legal Authority: 42 USC 1101 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: When TRI was established by Congress in 1986, the statutory language placed 309 chemicals and 20 categories of chemicals on the TRI list; that is referred to as the original TRI list. The chemicals on the original list were taken from two existing lists of toxic substances: the Maryland Chemical Inventory Report List of Toxic or Hazardous Substances, and the New Jersey Environmental Hazardous Substances list. This action constitutes the first systematic review of toxicology and environmental data for all the chemicals on the original TRI list to determine whether data for those chemicals conform with the statutory criteria for listing of chemicals on TRI. Chemicals for which data do not meet the statutory criteria will be delisted.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	
Final Action	09/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4015

Formerly listed as RIN 2070-AD18.

AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and Solvent Recovery Services (SIC code 7389).

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RIN: 2025–AA03

3495. TRI; POLLUTION PREVENTION ACT INFORMATION REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013 Pollution Prevention Act

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: Section 6607(b) of the Pollution Prevention Act of 1990 (PPA) (Pub. L. 101-508) requires the addition of several data elements to the Toxic Chemical Release Inventory (TRI) reporting requirements as promulgated under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Pub. L. 99-499). Section 313 of EPCRA requires owners or operators of certain facilities that manufacture, process, or otherwise use listed toxic chemicals to annually report their releases of these chemicals to each environmental medium. The PPA mandates that section 313 covered facilities also report on source reduction and recycling activities relating to the toxic chemicals beginning with the 1991 reporting year. Since 1991 covered facilities have been providing this information to EPA in section 8, Source Reduction and Recycling Activities, of EPA Form R. On September 25, 1991 (56 FR 48475), EPA proposed regulations which would provide definitions and instructions for reporting the PPA data elements on the EPA Form R. In this action, EPA will amend certain aspects of the September 25, 1991, proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Supplemental NPRM	To Be Determined	
Response Combustion for Energy Recovery (Request to Modify)	To Be Determined	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2847

Formerly listed as RIN 2070-AC24.

Affected Sectors Include: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2025–AA09

3496. RESPONSE TO A PETITION REQUESTING DELETION OF PHOSMET FROM THE EXTREMELY HAZARDOUS SUBSTANCES (EHSS) LIST

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: EPA has received a petition to remove Phosmet from the extremely

hazardous substance (EHS) list under the Emergency Planning and Community Right-to-Know Act (EPCRA). This rulemaking will address the petitioner's claims.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3994

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RIN: 2050–AE42

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

Completed Actions

3497. TRI; LOWERING OF EPCRA SECTION 313 REPORTING THRESHOLDS FOR LEAD AND LEAD COMPOUNDS

Priority: Other Significant

CFR Citation: 40 CFR 372

Completed:

Reason	Date	FR Cite
Final Action	01/17/01	66 FR 4500
Final Action Effective Date Delayed	02/16/01	66 FR 10585
Final Action Effective	04/17/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

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RIN: 2025–AA05

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Proposed Rule Stage

3498. REMOVAL OF REQUIREMENT TO USE SW-846 METHODS (TEST METHODS FOR EVALUATING SOLID WASTE: PHYSICAL/CHEMICAL METHODS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921-6927; 42 USC 6930; 42 USC 6934-6939; 42 USC 6974; 42 USC 9601; 42 USC 9614(c)

CFR Citation: 40 CFR 258; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 279

Legal Deadline: None

Abstract: EPA has been actively working to break down the barriers that the environmental monitoring community faces when trying to use new monitoring techniques. As a first step, EPA has accelerated its review process for new methods by eliminating several unnecessary internal review steps, and by streamlining the internal approval process for each new method. However, there are currently 32 citations in title 40 of the Code of Federal Regulations (CFR) where the use of SW-846 methods is required. As a second step for speeding up the approval process, EPA plans to remove the requirements to use SW-846 methods for other than method defined parameters (i.e., where the method defines the regulations, such as the Toxicity Characteristic Leaching Procedure) from 40 CFR. This will likely lead to an even more streamlined approval process since SW-846 will then be able to be handled strictly as guidance and not need the regulatory process for approval. This additional streamlining will permit new, more cost-effective methods to attain public and regulatory authority acceptance in much less time, allowing required monitoring to be done more cheaply, faster and, in some cases, more accurately.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3989

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RIN: 2050–AE41

3499. STANDARDIZED PERMIT FOR RCRA HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6924; 42 USC 6925; 42 USC 6927; 42 USC 6939; 42 USC 6974

CFR Citation: 40 CFR 124; 40 CFR 267; 40 CFR 270

Legal Deadline: None

Abstract: EPA is considering creating a new type of general permit, called a standardized permit, for facilities that generate waste and routinely manage the waste on-site in tanks, containers, and containment buildings. Under the standardized permit, facility owners and operators would certify compliance with generic design and operating

conditions set on a national basis. The permitting agency would review the certifications submitted by the facility owners and operators. The permitting agency would also be able to impose additional site-specific terms and conditions for corrective action or other purposes, as called for by RCRA. Ensuring compliance with the standardized permit's terms and conditions would occur during inspection of the facility after the permit has been issued. The standardized permit should streamline the permit process by allowing facilities to obtain and modify permits more easily while maintaining the protectiveness currently existing in the individual RCRA permit process. This proposal also raises issues for public comment on how all facilities receiving RCRA permits can satisfy RCRA corrective action requirements under appropriate alternative state cleanup programs and on financial assurance issues.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4028

Sectors Affected: 332813 Electroplating, Plating, Polishing, Anodizing and Coloring; 32411 Petroleum Refineries; 3251 Basic Chemical Manufacturing; 3252 Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing; 325211 Plastics Material and Resin Manufacturing; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing

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RIN: 2050–AE44

3500. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF AZO, ANTHRAQUINONE, AND TRIARYLMETHANE DYES AND PIGMENTS

Priority: Other Significant

Legal Authority: 42 USC 6921 RCRA sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: None

Abstract: This action addresses the potential human health and environmental risks posed by wastes from the manufacture of dyes and pigments, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any potentially unacceptable risks. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and there may be some small business impacts. EPA proposed listing decisions for most wastes in 1994 (Dyes-I), and deferred decisions on several others. Two deferred waste streams (filter aids and triarylmethane sludges) are subject to separate deadlines for proposed and final action (Dyes II rulemaking). The Dyes II NPRM was published on July 23, 1999. The rules proposed in 1994 and 1999 were incomplete because they did not contain information claimed to be confidential by industry. Therefore, a NODA for each proposal will be necessary, when EPA is able to release an adequate record. The deadlines are based on recent settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 D.D.C.

As part of the listing of dyes and pigments effort, EPA will also develop land disposal restrictions for these dyes and pigments.

Timetable:

Action	Date	FR Cite
NPRM Dyes I	12/22/94	59 FR 66072
NPRM Dyes II (deferred wastes)	07/23/99	64 FR 40192
NPRM Dyes I Land Disposal Restrictions	10/00/01	
NoDA Dyes I Notice of Data Availability. See judicial deadlines.	To Be	Determined
NoDA Dyes II Notice of Data Availability. See judicial deadlines.	To Be	Determined
Final Action Dyes I. See judicial deadline.	To Be	Determined
Final Action Dyes II (deferred wastes). See judicial deadline.	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3066

Judicial deadlines: Dyes II (deferred wastes) NPRM: met deadline of 6/30/1999. Dyes I & II NODAs due by 67 days after the injunction is lifted from Magruder case. NPRM for LDRs due 3 months after NODAs are signed Dyes I and II final rules due 13 months after NODAs are signed.

Sectors Affected: 325132 Organic Dye and Pigment Manufacturing

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RIN: 2050–AD80

3501. REVISIONS TO THE COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6912(a) RCRA sec 6002(e)

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 and E.O. 13101 require EPA to prepare guidelines in the Federal Register which designate items that are or can be made with recovered materials and to issue recommendations for government procurement of these items. Once designated, procuring agencies are required to purchase these items with the highest percentage of recovered materials practicable. Government procurement of EPA-designated items containing recovered materials fosters markets for recovered materials and, thereby, closes the recycling loop. To date, EPA has designated 54 items under three Comprehensive Procurement Guidelines (CPG1, CPG2 and CPG3). EPA has also issued a Recovered Materials Advisory Notice (RMAN) with each CPG which provides recommendations on buying the designated items. The E.O. requires EPA to update the CPG every two years. The new actions would (1) propose to designate new items in CPG4 and (2) issue final item designations in CPG4.

Timetable:

Action	Date	FR Cite
Notice -- Paper Products Recovered Materials Advisory Notice	06/08/98	63 FR 31214
Notice -- Recovered Materials Advisory Notice I Update	06/08/98	63 FR 31217
NPRM (CPG3 and RMAN 3)	08/26/98	63 FR 45558
Notice Notice of Availability of Final Document	01/19/00	65 FR 3082
Final Action (CPG3 and RMAN 3)	01/19/00	65 FR 3069
NPRM (CPG4 and RMAN 4)	05/00/01	
Final Action (CPG4 and RMAN 4)	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3545

NPRM-
http://www.epa.gov/fedrgstr/EPA-WASTE/1998/August/Day-26/f22793.htm

Sectors Affected: 92111 Executive Offices; 92119 All Other General Government

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RIN: 2050–AE23

3502. NESHAPS: STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR HAZARDOUS WASTE COMBUSTORS-PHASE II COVERING BOILERS AND CERTAIN INDUSTRIAL FURNACES

Priority: Other Significant

Legal Authority: 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 7412 CAA sec 112; 42 USC 7414 CAA sec 114

CFR Citation: 40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline: NPRM, Judicial, January 31, 2002, Settlement agreement for boilers and other industrial furnaces.

Abstract: Under the Clean Air Act (CAA), EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of smelting furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. EPA is concerned that its current RCRA standards for HWCs may not be adequately protective given that the standards do not take into account indirect pathways of exposure and that there have been advances both in risk assessment and control technologies since promulgation of the current standards. The Agency is in the process of developing a proposal to address boilers and possibly other industrial furnaces, which combust hazardous wastes.

Timetable:

Action	Date	FR Cite
NPRM Cement Kilns & Lightweight Aggregate Kilns & Incinerators	04/19/96	61 FR 17358
Final Action MACT Fasttrack	06/19/98	63 FR 33782
Final Action Cement Kilns & LWAKs & Incinerators (Final-Phase I)	09/30/99	64 FR 52828
NPRM Boilers & Other Industrial Furnaces (Phase II)	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3333

For information on the Phase I portion of this effort, see SAN 4418, RIN 2050-AE79.

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RIN: 2050–AE01

3503. HAZARDOUS WASTE MANIFEST REGULATION

Priority: Other Significant

Legal Authority: 42 USC 6922 RCRA sec 3002; 42 USC 6923 RCRA sec 3003; 42 USC 6924 RCRA sec 3004; 42 USC 6926 RCRA sec 3006; PL 105-277, Title 17 Government Paper Elimination Act

CFR Citation: 40 CFR 260; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 271

Legal Deadline: None

Abstract: The Uniform Hazardous Waste Manifest (Form 8700-22) is a multi-copy form used to identify the quantity, composition, origin, routing, and destination of hazardous waste during its transportation. The manifest system's reliance on paper results in significant paperwork and cost burden to waste handlers and States who choose to collect manifest information. The Agency intends to pursue an optional approach to redesign the manifest system so that it utilizes automated technologies to increase access to manifest related information, and to facilitate the manifest process, including the form's preparation, transmission, and recordkeeping, thereby lessening the total burden on waste handlers and States that choose to collect manifests. In addition, the Agency intends to standardize further the manifest form itself, by eliminating several optional data fields.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3147

Sectors Affected: 2111 Oil and Gas Extraction; 2122 Metal Ore Mining; 2211 Electric Power Generation, Transmission and Distribution; 3221 Pulp, Paper, and Paperboard Mills; 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 482 Rail Transportation; 483 Water Transportation; 484 Truck Transportation; 5621 Waste Collection; 5622 Waste Treatment and Disposal

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RIN: 2050–AE21

3504. OFFICE OF SOLID WASTE BURDEN REDUCTION PROJECT

Priority: Other Significant

Legal Authority: 42 USC 6907; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6935; 42 USC 6937 to 6939; 42 USC 6944; 42 USC 6949(a); 42 USC 6974; PL 104-13

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 268; 40 CFR 270

Legal Deadline: None

Abstract: EPA plans to reduce the burden imposed by the RCRA reporting and recordkeeping requirements to help meet the Federal government-wide goal established by the Paperwork Reduction Act (PRA). The information collection burden for the regulations EPA implements under RCRA in 1995 (the PRA baseline) was 12,600,000 hours. To meet EPA's PRA 2001 goal (a 40% reduction), EPA needs to eliminate five million hours to reach a figure of 7.5 million hours.

In June 1999, EPA published a Notice of Data Availability (NODA) in the Federal Register (64 FR 32859) to seek comment on a number of burden reduction ideas. After reviewing the comments received on the NODA, EPA is drafting a proposed rulemaking to implement many of these ideas. The proposals are designed to eliminate duplicative and non-essential paperwork.

The main ideas being considered for the proposed rulemaking are: (1) eliminating or modifying one-third of the 334 RCRA-required notices and reports that are sent by the regulated community to states and EPA; (2) eliminating the RCRA emergency response training requirements that overlap with the Occupational Safety and Health Administration requirements; (3) eliminating the need for facilities to record personnel descriptions; (4) decreasing the owner/operator self-inspection frequency of hazardous waste tanks to weekly; (5) providing states and EPA with the opportunity to lengthen owner/operator self-inspection frequencies on a case-by-case basis for containers, containment buildings, and tanks; (6) eliminating the Land Disposal Restrictions generator waste determinations, recycler notifications and certifications, hazardous debris notifications and characteristic waste determinations, and streamlining the characteristic waste notification procedures; and (7) modifying the groundwater monitoring requirements for hazardous waste facilities.

Timetable:

Action	Date	FR Cite
Notice of Data Availability	06/18/99	64 FR 32859
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4084

Applicable SIC codes: Chemicals and Allied Products (28), Primary Metal Industries (33), Fabricated Metals (34), Industrial Machinery and Equipment (35), Electrical Equipment (36), Transportation Equipment (37), Other Manufacturing, Transportation and Utilities (40-49), Wholesale Trade (50-51), Services (70-89) and Other SIC Groups

Sectors Affected: 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 334 Computer and Electronic Product Manufacturing; 562 Waste Management and Remediation Services; 324 Petroleum and Coal Products Manufacturing

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RIN: 2050–AE50

3505. MODIFICATIONS TO RCRA RULES ASSOCIATED WITH SOLVENT-CONTAMINATED SHOP TOWELS AND WIPES

Priority: Other Significant

Legal Authority: 42 USC 6921

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action would modify RCRA rules that impact the management of solvent-contaminated shop towels and wipes. Solvent-contaminated shop towels and wipes are used throughout industry for equipment cleaning and other related facility operations. The spent shop towels and wipes can be hazardous wastes when the solvent used is either a characteristic or listed solvent. An examination of industry use and management practices reveals that many facilities may use only small amounts of solvent on their disposable wipes, and use small numbers of wipes daily — suggesting that these materials may sometimes pose little or no risk to human health and the environment if disposed in municipal landfills. Similarly, situations exist where both disposable wipes and reusable shop towels are not being managed according to prescribed Federal and States' rules and policies. Problems with this issue have persisted since the late 1980s.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4091

Sectors Affected: 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 336 Transportation Equipment Manufacturing; 337 Furniture and Related Product Manufacturing; 441 Motor Vehicle and Parts Dealers; 811 Repair and Maintenance; 812 Personal and Laundry Services

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RIN: 2050–AE51

3506. GLASS-TO-GLASS RECYCLING OF CATHODE RAY TUBES (CRTS): CHANGES TO HAZARDOUS WASTE REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6924; 42 USC 6925

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action will ultimately revise the existing Federal hazardous waste regulations to remove unnecessary regulatory barriers to glass-to-glass recycling of Cathode Ray Tubes (CRTs). A CRT is the main component of a television or computer monitor. A CRT is made largely of specialized glasses, some of which contain lead to protect the user from X-rays inside the CRT. Due to the lead, when they are disposed of or reclaimed, some CRTs are hazardous wastes under the Federal Resource Conservation and Recovery Act (RCRA) regulations. Glass-to-glass recycling involves the return of used CRT glass to manufacturing of new CRTs. This action is planned in response to a June 9, 1998 recommendation on CRT recycling from the Common Sense Initiative (CSI) Council to the Environmental Protection Agency (EPA). CSI is a consensus-based process for developing cleaner, cheaper, smarter environmental improvements that includes representatives of: industry; environmental groups; community groups; environmental justice groups; labor; and, Federal, State, local, and tribal governments. The recommendation involves minimizing RCRA requirements for glass-to-glass recycling while retaining appropriate controls to ensure protection of human health and the environment. The goal of the recommendation is to facilitate an increase in glass-to-glass recycling, thereby minimizing disposal of lead, increasing resource recovery, and enhancing protection of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4092

Sectors Affected: 334411 Electron Tube Manufacturing

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RIN: 2050–AE52

3507. REINVENTING THE LAND DISPOSAL RESTRICTIONS PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Land Disposal Restrictions (LDR) program was established to minimize threats posed by the land disposal of untreated hazardous wastes. The program has been in place for a number of years and now regulates all but the most recently listed hazardous wastes. The Agency is now examining the LDR program to ensure the program is cost-effective and flexible while also protecting human health and the environment. In an Advance Notice of Proposed Rulemaking (ANPRM), we described our initial thinking on potential changes to the LDR program and asked for public comments and data. We intend to publish a proposed rule based on the comments we received in response to the ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	06/19/00	65 FR 37932
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4093

Sectors Affected: 2122 Metal Ore Mining; 32411 Petroleum Refineries; 325 Chemical Manufacturing; 331 Primary Metal Manufacturing

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RIN: 2050–AE53

3508. REVISIONS TO SOLID WASTE LANDFILL CRITERIA—LEACHATE RECIRCULATION ON ALTERNATIVE LINERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6944; 42 USC 6949a

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: On April 6, 2000, EPA requested comment and information on two issues related to the Criteria for Municipal Solid Waste Landfills (65 FR 18014). First, we requested data and information on the performance of alternative liner designs compared to the performance of composite liners when leachate is recirculated. Second, we requested data and information on the design and performance of bioreactor landfills.

EPA is reviewing all responses to this request for information, as well as additional information in our own data base, and is considering issuing a Notice of Proposed Rulemaking revising the Criteria for Municipal Solid Waste Landfills (40 CFR Part 258) to allow alternative liner designs for leachate recirculation and encourage bioreactor landfills.

Timetable:

Action	Date	FR Cite
Notice	04/06/00	65 FR 18014
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Additional Information: SAN No. 4230

Sectors Affected: 562 Waste Management and Remediation Services

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RIN: 2050–AE67

3509. PROPOSED RULE: REGULATION OF OIL BEARING WASTES FROM PETROLEUM REFINERIES GASIFIED TO PRODUCE SYNTHESIS GAS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6924; 42 USC 6925; 42 USC 6926; 42 USC 6927; 42 USC 6930; 42 USC 6934; 42 USC 6935; 42 USC 6937; 42 USC 6938; 42 USC 6939; ...

CFR Citation: 40 CFR 260; 40 CFR 261

Legal Deadline: None

Abstract: We are proposing to broaden existing RCRA exclusions from the definition of solid waste for oil bearing residuals from petroleum refineries recycled in gasification devices to produce synthesis gas.

Timetable:

Action	Date	FR Cite
NPRM	11/20/95	60 FR 57747
Interim Notice of Data Availability	04/08/97	62 FR 16747
Notice of Data Availability and Request for Comment	07/15/98	63 FR 38139
Final Action	08/06/98	63 FR 42110
Final Action Technical Amendments	10/09/98	63 FR 54356
NPRM	11/00/01	
Final Action	11/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4411

This is an extension of a previous notice that contained RIN 2050-AD88.

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RIN: 2050–AE78

3510. NESHAPS: STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR HAZARDOUS WASTE COMBUSTORS

Priority: Other Significant

Legal Authority: 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 7412 CAA sec 112; 42 USC 7414 CAA sec 114

CFR Citation: 40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline: None

Abstract: Under the Clean Air Act (CAA), EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of recovery furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. Consequently, the Agency established in the HWC Maximum Achievable Control Technology (MACT) rule new emissions standards for cement kilns, lightweight aggregate kilns, and incinerators under CAA authority on September 30, 1999 (64 FR 52828). Following promulgation, issues were raised by the regulated community through informal comments and through litigation. In response, this proposed rule will propose changes to and clarify certain provisions of the final Phase I rule.

Timetable:

Action	Date	FR Cite
NPRM Cement Kilns & Lightweight Aggregate Kilns & Incinerators	04/19/96	61 FR 17358
Final Action MACT Fasttrack	06/19/98	63 FR 33782
Final Action Cement Kilns & LWAKs & Incinerators (Final-Phase I)	09/30/99	64 FR 52828
NPRM Phase I Clarifications and Proposed Changes	05/00/01	
Final Action Phase 1 Clarifications and Changes Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4418

Split from RIN 2050-AE01. The Agency will develop a Technical Implementation Guidance on Phase I.

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RIN: 2050–AE79

3511. STANDARDS FOR THE MANAGEMENT OF COAL COMBUSTION WASTES GENERATED BY COMMERCIAL ELECTRIC POWER PRODUCERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6907(a)(3); 42 USC 6944(a)

CFR Citation: 40 CFR 257

Legal Deadline: None

Abstract: This action is for the development of proposed RCRA subtitle D regulations for the management of coal combustion wastes in landfills and surface impoundments that are generated by producers of electric power, including electric utilities and independent power producers.

On April 25, 2000 EPA issued a regulatory determination for fossil fuel combustion wastes (65 FR 32214, May 22, 2000). The purpose of the determination was to decide whether certain wastes from the combustion of fossil fuels (including coal, oil and natural gas) should remain exempt from subtitle C (management as hazardous waste) of the Resource Conservation and Recovery Act (RCRA) for the coal, oil and natural gas combustion wastes that were addressed. The Agency's decision was to retain the exemption from hazardous waste management for all of the fossil fuel combustion wastes. However, the Agency also determined and announced that waste management regulations under RCRA subtitle D (management as non-hazardous wastes) are appropriate for certain coal combustion wastes that are disposed in landfills and surface impoundments. We also announced that we would consult with the Department of the Interior on appropriate measures under the Surface Mining Control and Reclamation Act (SMCRA) or RCRA or some combination of both to address the disposal of coal combustion wastes when used for minefill in surface and underground mines.

The utility industry has made significant improvements in its waste management practices over recent years, and most state regulatory programs are similarly improving. Nevertheless, public comments and other analyses have convinced the Agency that coal combustion wastes could pose risks to human health and the environment if they are not properly managed. There is sufficient evidence that adequate controls may not be in place. For example, while most states can now require newer waste management units to include liners and groundwater monitoring, 62 percent of existing utility surface impoundments do not have groundwater monitoring. In the Agency's view, this justifies the development of national regulations. We note, however, that some waste management units may not warrant liners and/or groundwater monitoring, depending on site-specific characteristics. The Agency is initiating this action to develop and issue appropriate waste management regulations under Subtitle D of RCRA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 4470

Any Federal, State, local or tribal governments that own coal-burning commercial electric power generating facilities will be subject to this rule.

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

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RIN: 2050–AE81

3512. • REVISION OF WASTEWATER TREATMENT EXEMPTIONS FOR HAZARDOUS WASTE MIXTURES

Priority: Other Significant

Legal Authority: 42 USC 6912(a); 6921; 6922; 6924; 6926

CFR Citation: 40 CFR 261.3(a)(2)(iv)(A)-(E)(Revision)

Legal Deadline: None

Abstract: EPA is looking into proposing to add up to four solvents (benzene, 2-ethoxyethanol, 1,1,2-trichloroethane, and 2-nitropropane) to the hazardous waste exemptions for mixtures of spent solvents in wastewater treatment plants ("headworks rule") at 40 CFR 261.3(a)(2)(iv)(A)-(B). Spent solvents are solvents that have been used and are no longer fit for use without being regenerated, reclaimed, or otherwise processed. In addition, EPA is considering proposing: (1) changes to implementation of rule from using mass balance only, to choice of using direct monitoring; (2) adding certain leachates to allowed categories of wastestreams; and (3) revising other provisions of rule, such as de minimis quantities and the definition of point of application of exemption.

Timetable:

Action	Date	FR Cite
NPRM - Revisions for Wastewater Treatment Exemptions	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Additional Information: SAN No. 4501

Sectors Affected: 31-33 Manufacturing; 562 Waste Management and Remediation Services

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RIN: 2050–AE84

3513. • AMENDMENT TO THE DEFINITION OF MUNICIPAL SOLID WASTE LANDFILL UNIT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907(a)(3); 42 USC 6912(a); 42 USC 6944; 42 USC 6949a

CFR Citation: 40 CFR 257; 40 CFR 258

Legal Deadline: None

Abstract: EPA is revising the definition of municipal solid waste landfill (MSWLF) unit and adding the definition of residential lead-based paint waste, both in 40 CFR part 257 and within the Municipal Solid Waste Landfill Criteria in 40 CFR part 258. We are making these changes in order to allow construction and demolition (C&D) landfills and other nonmunicipal nonhazardous waste disposal units to receive residential lead-based paint (LBP) waste without having to comply with the Municipal Solid Waste Landfill Criteria in 40 CFR Part 258. EPA believes that disposal of residential LBP waste in C&D landfills and other nonhazardous nonmunicipal waste disposal units is protective of public health and the environment while being less costly than disposal in MSWLFs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Direct Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Additional Information: SAN No. 4525

Sectors Affected: 235 Special Trade Contractors; 23599 All Other Special Trade Contractors; 562212 Solid Waste Landfill

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RIN: 2050–AE86

3514. PROJECT XL — ORTHO-MCNEIL PILOT PROJECT ALLOWING ON-SITE TREATMENT OF LOW-LEVEL MIXED WASTES WITHOUT RCRA PERMIT

Priority: Info./Admin./Other

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924(y); 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This site-specific rulemaking would allow Ortho-McNeil Pharmaceutical to treat small volumes of low-level mixed wastes on-site using a bench-scale catalytic oxidizing treatment unit. This treatment effectively destroys the organic component of the wastestream, yielding a residual that is only a low-level radioactive waste.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4439

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RIN: 2090–AA14

3515. • PROJECT XL SITE-SPECIFIC RULEMAKING FOR ANNE ARUNDEL COUNTY MILLERSVILLE LANDFILL, SEVERN, MARYLAND

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6945; 42 USC 6949

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: Anne Arundel County proposes to demonstrate that a bioreactor with an alternative liner system is as effective, or superior to a bioreactor with the standard composite liner currently allowed by regulations. The main goal of this project is to deliver superior environmental performance (SEP) by capturing the additional airspace gained by accelerated decomposition of the waste. This benefits the County and its citizens by prolonging the life of the landfill and thereby postponing the siting of new solid waste management facilities, with their attendant social impacts, environmental impacts, and economic costs. Environmental benefits of this project include: (1) Reduced need for construction of new landfills and corresponding reduction (or elimination) of the land, air, and water impacts associated with landfill construction; (2) Decreased concentration of most leachate constituents as cycling of leachate removes or reduces contaminants; (3) Reduction in the amount of leachate requiring pretreatment; (4) Reduction in the amount of leachate that the facility discharges to the local wastewater treatment plant, and subsequent discharge of effluent to the Patuxent River; and (5) Reduction in post-closure care, maintenance and risk (bioreactor landfills minimize long-term environmental risk and liability due to the controlled settlement of the solid waste during landfill operation, low potential for leachate migration into the subsurface environment, and the recovery of landfill gas during operation).

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4534

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RIN: 2090–AA25

ENVIRONMENTAL PROTECTION AGENCY (EPA) — **Final Rule Stage**

Resource Conservation and Recovery Act (RCRA)

3516. PAINT MANUFACTURING WASTES LISTING: HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Priority: Other Significant

Legal Authority: 33 USC 1321; 33 USC 1361; 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6926; 42 USC 6938; 42 USC 9602; 42 USC 9603; 42 USC 9604

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302; 40 CFR 264; 40 CFR 265

Legal Deadline: NPRM, Judicial, January 28, 2001, Administrator signed proposal on 1/25/2001.
Final, Judicial, March 30, 2002.

Abstract: This action addresses the potential risks posed by wastes from the production of paints, and determines whether these wastes should be listed as hazardous under RCRA to control any potentially unacceptable risks. Any new wastes listed as hazardous will also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected. Specific wastes to be addressed are water/caustic cleaning wastes, solvent cleaning wastes, emission control dusts/sludges, wastewater treatment sludges, and off-spec product.

Timetable:

Action	Date	FR Cite
NPRM	02/13/01	66 FR 10060
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3805

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RIN: 2050–AE32

3517. MANAGEMENT OF CEMENT KILN DUST (CKD)

Priority: Other Significant

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6921(a) RCRA sec 3001(a)

CFR Citation: 40 CFR 259; 40 CFR 261; 40 CFR 264; 40 CFR 256

Legal Deadline: None

Abstract: Cement kiln dust (CKD) is a high volume material byproduct of the cement manufacturing process. While it contains potentially hazardous constituents such as lead, cadmium and chromium, it has been exempted since November 1980 from hazardous waste regulation under RCRA subtitle C by the Bevill Amendment. This amendment modified section 3001 of RCRA to exempt certain special wastes until further studies could be completed and any applicable regulations were promulgated. In December 1993, EPA submitted a Report to Congress with its findings on the nature and management practices associated with CKD. This was followed in January 1995 by an EPA regulatory determination published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted. In the regulatory determination EPA committed to develop regulations that would be tailored to protect human health and the environment while limiting burden on the regulated community. These tailored regulations would be developed under RCRA subtitle C and, if necessary, the Clean Air Act. As part of its regulatory development effort, EPA has initiated further studies and has held informal discussions with stakeholders. A proposed rule was issued (64 FR 45632, 8/20/99) which included a comprehensive set of standards for the management of CKD. EPA is currently developing the final preamble and rule, which will address comments received on the proposal.

Timetable:

Action	Date	FR Cite
NPRM	08/20/99	64 FR 45631
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3856

NPRM-
http://www.epa.gov/fedrgstr/EPA-WASTE/1999/August/Day-20/f20546.htm

Sectors Affected: 32731 Cement Manufacturing

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RIN: 2050–AE34

3518. STORAGE, TREATMENT, TRANSPORTATION, AND DISPOSAL OF MIXED WASTE

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924; 42 USC 6926; 42 USC 6925; 42 USC 6927; 42 USC 6934; 42 USC 6937

CFR Citation: 40 CFR 261.4; 40 CFR 262.34; 40 CFR 266

Legal Deadline: NPRM, Judicial, October 31, 1999.
Final, Judicial, April 30, 2001.

Abstract: The focus of the rule is to provide flexibility under RCRA Subtitle C to generators of eligible mixed waste. The Agency proposed a conditional exemption from the definition of hazardous waste applicable to: low-level mixed waste (LLMW) for storage; and LLMW or Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) for transportation and disposal. Upon finalization, the rule is expected to reduce dual regulation for generators in the management and disposal of their wastes. This flexibility should enable generators of LLMW who are licensed by the Nuclear Regulatory Commission (NRC) to claim an exemption for storing and treating these wastes in tanks or containers (using solidification, neutralization, or other stabilization processes) without a RCRA permit. This rule may also provide flexibility for the manifesting, transportation and disposal of eligible mixed waste. Waste meeting the conditions may be exempted from certain RCRA Subtitle C hazardous waste requirements and managed as low-level radioactive waste in accordance with NRC regulations.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/99	64 FR 10063
NPRM	11/19/99	64 FR 63463
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4017

SIC Codes: Nuclear Electric Power Generation (4911); Federal Facilities (9431) and (9511); Mixed Waste Treatment, Storage and Disposal Facilities (4953); Commercial Low Level Radioactive Waste Disposal Facilities (4953); Universities (8221); Medical Facilities (8071); Pharmaceutical Companies (2834); Research Laboratories (8731, 8734)

Sectors Affected: 221113 Nuclear Electric Power Generation; 3254 Pharmaceutical and Medicine Manufacturing; 562 Waste Management and Remediation Services; 562219 Other Nonhazardous Waste Treatment and Disposal; 61131 Colleges, Universities and Professional Schools; 6215 Medical and Diagnostic Laboratories; 622 Hospitals; 92 Public Administration; 8112 Electronic and Precision Equipment Repair and Maintenance

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RIN: 2050–AE45

EPA—Resource Conservation and Recovery Act (RCRA) — **Final Rule Stage**

3519. RECYCLED USED OIL CONTAINING PCBS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6974; 42 USC 9601; 42 USC 9614(c)

CFR Citation: 40 CFR 261; 40 CFR 279

Legal Deadline: None

Abstract: The direct final rule, published May 6, 1998, eliminates errors and clarifies ambiguities in the used oil management standards. Specifically, the rule clarifies (1) when used oil contaminated with polychlorinated biphenyls (PCBs) is regulated under the used oil management standards and when it is not, (2) that the requirements applicable to releases of used oil apply in States that are not authorized for the RCRA base program, (3) that mixtures of conditionally exempt small quantity generator (CESQG) wastes and used oil are subject to the used oil management standards irrespective of how that mixture is to be recycled, and (4) that the initial marketer of used oil that meets the used oil fuel specification need only keep a record of a shipment of used oil to the facility to which the initial marketer delivers the used oil. This rule also amends three incorrect references to the pre-1992 used oil specifications in the provisions which address hazardous waste fuel produced from, or oil reclaimed from, oil bearing hazardous wastes from petroleum refining operations.

EPA received relevant adverse comments on three of the amendments included in the May 6, 1998 direct final rule: the amendments to 40 CFR 261.5(j) (mixtures of conditionally exempt small quantity generator waste and used oil), 40 CFR 279.10(i) (applicability of the used oil management standards to used oil contaminated with polychlorinated biphenyls (PCBs)), and 40 CFR 279.74(b) (recordkeeping requirements for marketers of used oil that meets the used oil fuel specification). On July 14, 1998, the Agency removed these three amendments and reinstated the regulatory text that existed prior to the May 6, 1998 direct final rule. EPA will promulgate a final rule addressing the comments received and finalizing the three amendments, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	05/06/98	63 FR 25006
Direct Final Rule	05/06/98	63 FR 24963
Removal of 3 Amendments	07/14/98	63 FR 37780
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4088

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RIN: 2050–AE47

3520. LISTING OF HAZARDOUS WASTE; INORGANIC CHEMICAL WASTES; LAND DISPOSAL RESTRICTIONS FOR NEWLY LISTED WASTES; CERCLA HAZARDOUS SUBSTANCES REPORTABLE QUANTITIES

Priority: Other Significant

Legal Authority: 42 USC 6901 to 6992(k)

CFR Citation: 40 CFR 261; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, August 30, 2000.
Final, Judicial, October 31, 2001.

Abstract: EPA, under an Environmental Defense Fund settlement agreement, proposed to amend the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) to reduce hazards to human health and the environment for three wastes from the manufacturing of inorganic chemicals. EPA also proposed to add manganese to 40 CFR 261, Appendix VII and VIII; the 40 CFR 268 UTS table; and the F039 landfill leachate listing. Under the settlement agreement, EPA had to review the wastes from 14 inorganic chemical manufacturing sectors including: sodium dichromate production wastes, wastes from the dry process for manufacturing phosphoric acid,

phosphorus trichloride production wastes, phosphorus pentasulfide production wastes, wastes from the production of sodium phosphate from wet process phosphoric acid, sodium chlorate production wastes, antimony oxide production wastes, cadmium pigments production wastes, barium carbonate production wastes, potassium dichromate production wastes, phenyl mercuric acetate production wastes, boric acid production wastes, inorganic hydrogen cyanide production wastes, and titanium dioxide production wastes (except for chloride process waste solids). EPA published a proposal on September 14, 2000. The rule was proposed under the authority of section 3001(e)(2) of RCRA which directs EPA to make hazardous waste listing determinations for inorganic chemical manufacturing wastes. The FR notice proposes to list as hazardous three specific wastes under 40 CFR Part 261: 1) baghouse filters from the production of antimony oxide; 2) slag from the production of antimony oxide that is disposed of or speculatively accumulated; and 3) nonwastewaters from the production of titanium dioxide by the chloride-ilmenite process. The remaining wastes evaluated in the rule were proposed to not be listed as hazardous wastes. EPA will evaluate public comments on the proposal and develop the final rule. This action will include final Land Disposal Restrictions for the final listed wastes. Where possible, newly listed wastes will be given CERCLA Hazardous Substance Designation and Reportable Quantities assigned.

Timetable:

Action	Date	FR Cite
NPRM	09/14/00	65 FR 55684
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4083

Sectors Affected: 32518 Other Basic Inorganic Chemical Manufacturing; 325131 Inorganic Dye and Pigment Manufacturing; 325312 Phosphatic Fertilizer Manufacturing; 31611 Leather and Hide Tanning and Finishing; 313 Textile Mills; 325611 Soap and Other Detergent Manufacturing

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RIN: 2050–AE49

3521. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Priority: Other Significant

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 6926 RCRA sec 3006

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Legal Deadline: None

Abstract: The revised financial responsibility test is intended to improve the current test in predicting which firms will enter bankruptcy and not be able to cover their financial obligations for liability and closure costs of hazardous waste treatment, storage and disposal facilities. A bankrupt firm may be unable to afford the proper closure of a facility which would require the government to incur response costs at the facility. The rule would also qualify owners and operators of RCRA Treatment, Storage, and Disposal Facilities which must currently use more expensive ways, such as surety bonds or letters of credit, of demonstrating financial assurance, to use the less expensive corporate financial responsibility test for more of their obligations. The combined savings from screening out riskier firms and making the test more available to viable firms would be approximately $19 million annually in public and private costs. These regulatory amendments would have no effect on local or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
NPRM	10/12/94	59 FR 51523
Notice of Data Availability	09/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2647

Sectors Affected: 323110 Commercial Lithographic Printing; 323114 Quick Printing; 325131 Inorganic Dye and Pigment Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325998 All Other Miscellaneous Chemical Product Manufacturing; 331311 Alumina Refining; 325211 Plastics Material and Resin Manufacturing; 32551 Paint and Coating Manufacturing; 32511 Petrochemical Manufacturing; 32512 Industrial Gas Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325193 Ethyl Alcohol Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 325998 All Other Miscellaneous Chemical Product Manufacturing; 311942 Spice and Extract Manufacturing; 32411 Petroleum Refineries; 332813 Electroplating, Plating, Polishing, Anodizing and Coloring; 33271 Machine Shops; 33299 All Other Fabricated Metal Product Manufacturing; 333319 Other Commercial and Service Industry Machinery Manufacturing; 333999 All Other General Purpose Machinery Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing; 334 Computer and Electronic Product Manufacturing; 336 Transportation Equipment Manufacturing; 48422 Specialized Freight (except Used Goods) Trucking, Local; 56211 Waste Collection; 22111 Electric Power Generation; 221112 Fossil Fuel Electric Power Generation; 22132 Sewage Treatment Facilities; 56292 Materials Recovery Facilities; 42271 Petroleum Bulk Stations and Terminals; 45431 Fuel Dealers; 4411 Automobile Dealers; 4471 Gasoline Stations; 811111 General Automotive Repair

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RIN: 2050–AC71

3522. HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

Priority: Other Significant

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6921 RCRA sec 3001; 42 USC 6922 RCRA sec 3002; 42 USC 6922 RCRA sec 3004; 42 USC 6926 RCRA sec 3006

CFR Citation: 40 CFR 261

Legal Deadline: Final, Judicial, April 30, 2001.
Other, Judicial, October 31, 1999, Reproposal.

Abstract: This action would amend regulations governing solid wastes that are designated as hazardous, because they have been mixed with or derived-from listed hazardous wastes. The Agency proposed to retain the mixture and derived-from rules promulgated under the Resource Conservation and Recovery Act (RCRA). These rules are currently in effect on an emergency basis. The Agency also proposed two revisions to the mixture and derived-from rules. The first was an exemption for wastes and their residuals listed solely for the ignitability, corrosively, and/or reactivity characteristics. The second, which EPA proposed in a separate notice, was a conditional exemption from the mixture and derived from rules for mixed wastes (that is, wastes that are both hazardous and radioactive).

Because this action is deregulatory, it is not expected to have adverse impacts on small business. This action will be implemented by EPA and authorized States.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	12/21/95	60 FR 66344
NPRM Reproposal	11/19/99	64 FR 63381
Notice of Data Availability	07/18/00	65 FR 44491
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3328

Sectors Affected: 325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing

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RIN: 2050–AE07

3523. AMENDMENTS TO THE CORRECTIVE ACTION MANAGEMENT UNIT RULE

Priority: Other Significant

Legal Authority: 42 USC 6901 et.seq.

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 271

Legal Deadline: NPRM, Judicial, August 7, 2000, Settlement agreement calls for proposal to be signed by 08/07/2000.
Final, Judicial, October 8, 2001, Settlement agreement calls for final to be signed by 10/8/2001.

Abstract: EPA has proposed amendments to the existing RCRA Corrective Action Management Unit (CAMU Regulation (at 40 CFR 264.552). CAMUs are used for managing remediation wastes onsite during the course of implementing corrective action or cleanup at a facility. CAMUs can promote cleanups by allowing a broader range of cleanup activities than are allowed under the other hazardous waste management regulations. Upon finalization, the amendments will add more detail to the treatment and technical standards for management of cleanup wastes in CAMUs.

Timetable:

Action	Date	FR Cite
NPRM	08/22/00	65 FR 51079
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4419

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RIN: 2050–AE77

3524. PROJECT XL SITE-SPECIFIC RULEMAKING FOR THE U.S. FILTER RECOVERY SERVICES, ROSEVILLE, MINNESOTA, AND APPROVED GENERATORS AND TRANSPORTERS OF USFRS XL WASTE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6912; 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6926; 42 USC 6930; 42 USC 6937; 42 USC 6938; 42 USC 6974

CFR Citation: 40 CFR 260 to 265; 40 CFR 268; 40 CFR 270; 40 CFR 273; 40 CFR 279

Legal Deadline: None

Abstract: EPA is proposing this rule to implement a project under the Project XL program that would provide regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended for the US Filter Recovery Services (USFRS) facility located at 2430 Rose Place, Roseville, Minnesota, 55113 and approved Minnesota generators and transporters of wastes from the use of USFRS's waste water treatment ion exchange resins. The principal objective of this USFRS XL Project is to pilot a flexible, performance-based system for managing waste waters from electroplaters, metal finishers and similar industries who by virtue of their using USFRS water treatment ion exchange resins generate electroplating sludges which are regulated hazardous wastes. To achieve this, today's proposed rule would provide regulatory flexibility to allow approved generators and transporters of USFRS's water treatment ion exchange resin wastes to replace existing requirements for hazardous waste generators and transporters with a comprehensive program designed and implemented by USFRS to properly store and transport the USFRS water treatment ion

exchange resins. The overall terms of this XL project are contained in the draft Final Project Agreement (FPA).

Timetable:

Action	Date	FR Cite
NPRM	08/17/00	65 FR 50283
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: SAN No. 4437

Sectors Affected: 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

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RIN: 2090–AA15

3525. • PROJECT XL SITE-SPECIFIC RULEMAKING FOR YOLO COUNTY LANDFILL, DAVIS, YOLO COUNTY, CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6945; 42 USC 6949)

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: Yolo County proposed a project under EPA's Project XL to use certain bioreactor techniques at its municipal solid waste landfill (MSWLF), specifically the recirculation of leachate and the addition of bulk or non-containerized liquid wastes into the landfill to accelerate the biodegradation of landfill waste and decrease the time it takes for the waste to stabilize in the landfill. The principal objective of this bioreactor XL project is to evaluate waste decomposition rates when leachate is supplemented with other liquid additions. In order to carry out this project, Yolo County would need relief from certain requirements in EPA regulations which set forth operating criteria for MSWLFs and preclude the addition of bulk or non-containerized liquid wastes. This proposal to allow addition of liquid wastes will apply only to Phase One in Module D. The Yolo County bioreactor project is one of several bioreactor XL projects currently being considered by EPA. Proponents of bioreactor technology note that operation of MSWLFs as bioreactors provide a number of environmental benefits, including: (1) increasing the rate of waste decomposition, which in turn would extend the operating life of the landfill and lessen the need for additional landfill space or other disposal options; (2) decreasing, or even eliminating, the quantity, and increasing the quality, of leachate requiring treatment and offsite disposal, leading to decreased risks and costs associated with leachate management, treatment and disposal; (3) reduced post-closure care costs and risks, due to the accelerated, controlled settlement of the solid waste during landfill operation; (4) lower long term potential for leachate migration into the subsurface environment; and (5) opportunity for recovery of methane gas for energy production.

Timetable:

Action	Date	FR Cite
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4498

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RIN: 2090–AA18

3526. • PROJECT XL NOTICE OF PROPOSED RULE FOR AUTOLIV INC. SITE-SPECIFIC RULEMAKING

Priority: Info./Admin./Other

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924(y); 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: By publishing this document in the Federal Register, The Environmental Protection Agency (EPA) solicits comment on the proposed rule which has been drafted to implement the Autoliv XL project that is expected to produce superior environmental performance. EPA is proposing to implement this project under the Project XL program in order to provide site-specific regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), for the Autoliv ASP Inc.(Autoliv) facility in Promontory, Utah. The principal objective of this XL Project is to explore the benefits of a more streamlined and flexible RCRA regulation of pyrotechnic hazardous wastes from the automobile airbag industry that are treated in industrial furnaces. The terms of the project are defined in the Final Project Agreement (FPA) which was made available for public review and comments through a Federal Register notice on August 14, 2000 (Volume 65, Number 157 [FRL-6846-7]) and signed on September 20, 2000 by Autoliv, Box Elder County, the state of Utah, and EPA. The facility will continue to comply with certain general RCRA conditions on facility operations, as described in this site-specific rule for the Autoliv Facility and any applicable state of Utah regulations. EPA anticipates that this project will provide information on how to develop alternative approaches to handling pyrotechnic waste. This information would be useful to EPA in learning more about alternative treatment approaches for airbag manufacturing wastestreams. This proposed rule will not in any way impact the provisions or applicability of any other existing or future regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/13/01	66 FR 9992
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4516

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RIN: 2090–AA19

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Resource Conservation and Recovery Act (RCRA)

Long-Term Actions

3527. HAZARDOUS WASTE MANAGEMENT SYSTEM: SLAG RESIDUES DERIVED FROM HIGH TEMPERATURE METALS RECOVERY (HTMR) TREATMENT OF KO61, KO62 AND F0006 WASTES

Priority: Other Significant

Legal Authority: 42 USC 6905 RCRA sec 2002; 42 USC 6921; 42 USC 6922; 42 USC 6924; 42 USC 6934; 42 USC 6938; 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6922 RCRA sec 3002; 42 USC 6924 RCRA sec 3004

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: None

Abstract: EPA assessed the potential risks to human health and the environment from the use of slag residues (slags) resulting from high temperature metals recovery (HTMR) treatment of specified hazardous wastes (i.e., electric arc furnace dust, steel finishing pickle liquor, and electroplating sludges). This assessment was used as a basis for the proposed rule to reclassify these slags as nonhazardous when they meet certain exclusion levels and are managed and used in a certain manner. EPA needs to reevaluate the proposed rule due to significant issues raised by public commenters. There is currently no deadline for final action on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67256
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Federalism: Undetermined

Additional Information: SAN No. 3428

Sectors Affected: 56292 Materials Recovery Facilities

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RIN: 2050–AE15

3528. HAZARDOUS WASTE IDENTIFICATION; RECYCLED USED OIL MANAGEMENT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6974; 42 USC 9601; 42 USC 9614(c)

CFR Citation: 40 CFR 279

Legal Deadline: None

Abstract: EPA is reviewing whether the provision of the used oil management standards which governs mixtures of recycled used oil and characteristic hazardous waste, 40 CFR 279.10(b)(2) (the used oil mixture rule), is consistent with the United States Court of Appeals for the District of Columbia Circuit's decision in Chemical Waste Management, Inc. v. EPA. The decision, which concerned a challenge to portions of EPA's land disposal restrictions, held that EPA could not authorize certain wastes exhibiting the hazardous characteristics of ignitability, reactivity, or corrosivity to be diluted to eliminate the characteristic and then be land-disposed unless the hazardous constituents in the waste were adequately treated to minimize threats to human health and the environment.

The used oil mixture rule provides that a mixture of hazardous waste and used oil destined for recycling, if the mixture is hazardous solely because it exhibits a hazardous waste characteristic, is regulated under the used oil management standards. Under the used oil mixture rule, such a decharacterized mixture, therefore, is not subject to the hazardous waste regulations, including those relating to land disposal restrictions. Further analysis is necessary to determine whether mixtures of used oil destined for recycling and characteristic hazardous wastes differ significantly from other mixtures containing characteristic wastes in terms of potential threat to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Federalism: Undetermined

Additional Information: SAN No. 3668

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RIN: 2050–AE28

3529. MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT; CODIFICATION OF WASTE MANAGEMENT PROVISIONS

Priority: Other Significant

Legal Authority: 42 USC 14303

CFR Citation: 40 CFR 271; 40 CFR 273

Legal Deadline: None

Abstract: The purpose of this rule is to codify into the Code of Federal Regulations certain provisions of the Mercury-Containing and Rechargeable Battery Management Act that impact the May 11, 1995 Universal Waste Rule (40 CFR part 273). The Act was signed by the President on May 13, 1996 and became immediately effective

nationwide on the date of signature. Specifically, one provision of the law requires the collection, storage, and transportation of the following types of batteries be managed according to standards established in the Universal Waste Rule: used rechargeable batteries, lead-acid batteries not covered by 40 CFR part 266 or the equivalent requirements of an approved state program, rechargeable alkaline batteries, certain mercury-containing batteries banned from domestic sale, and used consumer products containing rechargeable batteries that are not easily removable. The law prohibits State imposed requirements that are not identical to those found in the Federal Universal Waste Rule, but allows States to adopt and enforce identical standards and to implement and enforce collection, storage, and transport requirements identical to those included in the universal waste rule if the standards are approved by the EPA Administrator.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Direct Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Additional Information: SAN No. 3888

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RIN: 2050–AE39

3530. RCRA APPENDIX VIII STREAMLINING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action will propose to modify the list of chemicals found in Appendix VIII of 40 CFR part 261 by: (1) rearranging the Appendix into groups of chemicals according to their frequency of expected occurrence in wastes; (2) clarifying ambiguous entries currently on the Appendix such as those marked not otherwise specified; and (3) deleting those chemicals for which the risk from potential exposure is considered to be minimal.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Additional Information: SAN No. 4090

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RIN: 2050–AE55

3531. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO PETROLEUM CONTAMINATED MEDIA AND DEBRIS FROM UNDERGROUND STORAGE TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6921 RCRA sec 3001

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: In the final hazardous waste Toxicity Characteristic (TC) rule published in June 1990, EPA decided to temporarily defer application of the TC rule to petroleum-contaminated media and debris, such as soils and groundwater, that result from underground storage tank (UST) corrective actions. This rule is part of the Agency's commitment to make a final determination regarding the UST temporary deferral. The temporary deferral was, in part, based on the Agency's concern that without such a deferral, UST cleanup procedures would be adversely affected, resulting in delays in remedial action and increases in remediation costs. Since this action is deregulatory, there are no adverse effects on small businesses, or on State, local, or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3189

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RIN: 2050–AD69

3532. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 6924 RCRA sec 3004(u); 42 USC 6924 RCRA sec 3004(v)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: Past and present waste management practices at Resource Conservation and Recovery Act (RCRA) treatment, storage or disposal facilities have resulted in releases of hazardous constituents from some waste management units. These releases may cause contamination of soils, groundwater, surface water, and air. This regulation provides a framework for investigating and remediating releases at RCRA facilities as necessary to protect human health and the environment.

The Agency has issued the corrective action regulations in several phases. A proposal for corrective action at RCRA facilities was published in July 1990. In February 1993, regulations concerning Corrective Action Management Units (CAMU) and Temporary Units were issued. An advance notice of proposed rulemaking (ANPRM) was published on May 1, 1996, which provided further guidance on implementation of the corrective action program and requested comment on the future direction of the program,

including resolution of the 1990 proposal. In October 1999, the Agency announced its decision to withdraw most provisions of the July 1990 proposal.

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Rule (Phase I)	02/16/93	58 FR 8658
ANPRM	05/01/96	61 FR 19432
Notice Published - Partial Withdrawal of Proposed Rulemaking	10/07/99	64 FR 54604
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 2390

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RIN: 2050–AB80

3533. LAND DISPOSAL RESTRICTIONS; POTENTIAL REVISIONS FOR MERCURY LISTED AND CHARACTERISTIC WASTES

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: In May 1999, EPA published an Advance Notice of Proposed Rulemaking that described the issues the Agency has with the current Land Disposal Restrictions (LDR) treatment standards for mercury bearing hazardous wastes. Based on the comments received on this ANPRM as well as other information the Agency has collected, we are now preparing a proposed rule to revise some of the LDR standards for mercury wastes looking at the treatment of elemental mercury waste. We anticipate proposing a second phase of changes to the mercury treatment standards when we have finished researching the performance of stabilization technologies. This second phase of changes will most likely discuss possible treatment alternatives for mercury waste that contains greater than or equal to 260 mg/kg total mercury. The current regulations require retorting of this waste or incineration if the waste also contains organics.

Timetable:

Action	Date	FR Cite
ANPRM	05/28/99	64 FR 28949
NPRM	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Federalism: Undetermined

Additional Information: SAN No. 4094

Sectors Affected: 325181 Alkalies and Chlorine Manufacturing; 3353 Electrical Equipment Manufacturing; 3254 Pharmaceutical and Medicine Manufacturing; 32551 Paint and Coating Manufacturing

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RIN: 2050–AE54

3534. LAND DISPOSAL RESTRICTIONS; TREATMENT STANDARDS FOR SPENT POTLINERS FROM PRIMARY ALUMINUM REDUCTION (K088) AND REGULATORY CLASSIFICATION OF K088 VITRIFICATION UNITS

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268; 40 CFR 271

Legal Deadline: None

Abstract: On July 20, 2000, EPA proposed revised treatment standards for K088 wastes. Specifically, the Agency proposed to lower the cyanide treatment standard and reinstate a treatment standard for fluoride nonwastewaters based on a deionized water leach test. Comments to the proposed rule were significant and suggest that there are significant treatment issues yet to be resolved for K088 waste. The Agency needs to further assess the treatment universe for K088 and is considered extending the possible date of a final rule or to investigate other strategies both regulatory and non-regulatory to facilitate recycling of spent aluminum potliners.

Timetable:

Action	Date	FR Cite
NPRM	07/12/00	65 FR 42937
Final Action	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4233

Sectors Affected: 3334 Ventilation, Heating, Air-Conditioning and Commercial Refrigeration Equipment Manufacturing

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RIN: 2050–AE65

3535. TEMPORARY SUSPENSION OF TOXICITY CHARACTERISTIC RULE FOR SPECIFIC LEAD-BASED PAINT DEBRIS

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements that exhibits the characteristics of toxicity

is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume of such debris (e.g., doors, windows and demolition debris) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and the Office of Solid Waste have proposed a joint rulemaking to address the disposal of this debris. (See also RIN 2070-AC72.) The final rule being prepared by OPPTS would develop disposal and management standards for this debris under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal and management standards for LBP debris and identify recycling and incineration activities that would be controlled or prohibited. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations applicable to LBP debris, which will be subject to the new TSCA standards.

Timetable:

Action	Date	FR Cite
NPRM RCRA Temporary Suspension	12/18/98	63 FR 70233
Final Action RCRA Temporary Suspension	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4263

Sectors Affected: 48423 Specialized Freight (except Used Goods) Trucking, Long-Distance; 48412 General Freight Trucking, Long-Distance; 54138 Testing Laboratories; 23551 Carpentry Contractors; 23321 Single Family Housing Construction; 23332 Commercial and Institutional Building Construction; 23542 Drywall, Plastering, Acoustical and Insulation Contractors; 23561 Roofing, Siding and Sheet Metal Contractors; 23592 Glass and Glazing Contractors; 56291 Remediation Services; 23599 All Other Special Trade Contractors; 23511 Plumbing, Heating and Air-Conditioning Contractors; 23531 Electrical Contractors; 23552 Floor Laying and Other Floor Contractors; 23311 Land Subdivision and Land Development; 562111 Solid Waste Collection; 562112 Hazardous Waste Collection; 562119 Other Waste Collection; 48411 General Freight Trucking, Local; 48421 Used Household and Office Goods Moving; 48422 Specialized Freight (except Used Goods) Trucking, Local; 23594 Wrecking and Demolition Contractors; 56221 Waste Treatment and Disposal; 23322 Multifamily Housing Construction; 23521 Painting and Wall Covering Contractors; 56292 Materials Recovery Facilities

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RIN: 2050–AE68

3536. REQUIREMENTS FOR ZINC FERTILIZER MADE FROM RECYCLED HAZARDOUS SECONDARY MATERIALS

Priority: Other Significant

Legal Authority: 42 USC 1006 et seq

CFR Citation: 40 CFR 261; 40 CFR 266; 40 CFR 268; 40 CFR 271

Legal Deadline: NPRM, Judicial, November 15, 2000, Consent agreement; met deadline.
Final, Judicial, April 15, 2002, Consent agreement.

Abstract: This rulemaking is intended to revise the current RCRA regulations that apply to recycling of hazardous wastes in the manufacture of zinc fertilizers. Specifically, it is intended to establish a more consistent application of these recycling requirements to zinc fertilizer products, to establish a set of standards for contaminants in RCRA-regulated zinc fertilizers that are more appropriate to fertilizers and are protective of human health and the environment, and to specify more appropriate, protective conditions for management of zinc-bearing hazardous secondary materials prior to recycling. These regulatory revisions are expected to directly affect companies that manufacture zinc fertilizers from hazardous secondary materials, and is likely to benefit such manufacturers that are small businesses by removing certain regulatory disincentives to legitimate recycling activities.

Timetable:

Action	Date	FR Cite
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4208

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32531 Fertilizer Manufacturing; 331111 Iron and Steel Mills; 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum); 331492 Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum); 562112 Hazardous Waste Collection

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RIN: 2050–AE69

3537. RCRA CONTROLS FOR WASTEWATER TREATMENT UNITS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 6922; 42 USC 6924; 42 USC 6925; 42 USC 6926; 42 USC 6974

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: EPA is evaluating health risks posed by wastewater treatment units and is considering control requirements and/or emission standards for those units that are currently exempt from such requirements. Any standards eventually imposed by this action would be intended to mitigate human health risks, particularly direct inhalation risks, posed by these units. The wastewater treatment units of concern are tanks in which hazardous wastes are treated and subsequently released to surface waters or sewage treatment facilities regulated under the Clean Water Act (CWA). Although wastewater discharges from these tanks are regulated under the CWA, the tanks themselves are not and are also "temporarily exempt" from hazardous waste regulations under the RCRA. Wastewater treatment units have been exempt from RCRA regulations for many years, although the Agency has stated its concerns about these units and its intention to reconsider, at some point, the temporary exemption.

Recent studies undertaken by EPA have identified air emissions from waste management units as an area that is not well addressed by RCRA hazardous waste regulations. In particular, study findings show wastewater treatment units to be the waste management unit of most concern for direct inhalation risks. Not only can these units pose the greatest inhalation risks when compared to other waste management units, but these units are specifically exempted from all existing RCRA air emission controls. Air emission controls imposed by the Clean Air Act (CAA) address air emissions from some wastewater treatment units, but these requirements depend on industry sector, quantity of emissions, and technologies available. This action constitutes the Agency's evaluation of the long-standing temporary wastewater treatment unit exemption and an attempt to reduce unacceptable inhalation risks, where CAA and RCRA regulations are absent, from the treatment of hazardous wastes in wastewater treatment units.

Timetable:

Action	Date	FR Cite
NPRM	12/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4430

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RIN: 2050–AE82

3538. STANDARDS FOR THE MANAGEMENT OF COAL COMBUSTION WASTES - NON-POWER PRODUCERS AND MINEFILLING

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 6907(a)(3); 42 USC 6944

CFR Citation: 40 CFR 257

Legal Deadline: None

Abstract: EPA is developing proposed regulations for the management of coal combustion wastes that are generated by non-electric utility coal burners and managed in landfills and surface impoundments, and for the practice of minefilling of coal combustion wastes. On April 25, 2000 EPA issued a regulatory determination for fossil fuel combustion wastes (65 FR 32214, May 22, 2000) to announce its decision that certain wastes from the combustion of fossil fuels (including coal, oil and natural gas) should remain exempt from Subtitle C (management as hazardous waste) of RCRA. This regulatory determination also announced that regulations under RCRA Subtitle D (management as non-hazardous wastes) are appropriate for management of certain coal combustion wastes that are disposed in landfills and surface impoundments. In addition, EPA stated its plan to consult with the U.S. Department of the Interior on appropriate measures under the Surface Mining Control and Reclamation Act (SMCRA) or RCRA or some combination of both, to address the disposal of coal combustion wastes when used for minefilling in surface or underground mines. Although the utility industry has made significant improvements in waste management practices over recent years, and most state regulatory programs are similarly improving, public comments and other analyses have convinced the Agency that coal combustion wastes could pose risks to human health and the environment, if they are not properly managed. There is sufficient evidence that adequate controls may not be in place. For example, while most states can now require newer waste management units to include liners and groundwater monitoring, less than about 50% of existing non-utility landfills are lined (these statistics exclude municipal solid waste landfills which are not the subject of this action). EPA acknowledges that some waste management units may not warrant liners and/or groundwater monitoring, depending on site-specific characteristics. The Agency also decided that the practice of minefilling coal combustion wastes could present a danger to human health and the environment under certain circumstances. Since there are few states that currently operate comprehensive programs that specifically address the unique circumstances of minefilling, the Agency believes national regulations under RCRA Subtitle D and/or SMCRA may be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	03/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 4469

Any Federal, state, local or tribal governments that own/operate coal-burning facilities (excluding facilities that primarily generate electric power for sale) or coal mines that accept coal combustion wastes may be subject to this rule.

Sectors Affected: 311 Food Manufacturing; 313 Textile Mills; 337 Furniture and Related Product Manufacturing; 2121 Coal Mining; 322 Paper Manufacturing; 325 Chemical Manufacturing; 331 Primary Metal Manufacturing; 336 Transportation Equipment Manufacturing; 62 Health Care and Social Assistance; 22112 Electric Power Transmission, Control and Distribution

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EPA—Resource Conservation and Recovery Act (RCRA) — **Long-Term Actions**

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ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions
Resource Conservation and Recovery Act (RCRA)

3539. LISTING DETERMINATION FOR WASTEWATER AND WASTEWATER TREATMENT SLUDGES FROM CHLORINATED ALIPHATICS PRODUCTIONS; LAND DISPOSAL RESTRICTIONS FOR NEWLY IDENTIFIED WASTE

Priority: Other Significant

CFR Citation: 40 CFR 261; 40 CFR 268; 40 CFR 271; 40 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	11/08/00	65 FR 67068

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Sectors Affected: 32511 Petrochemical Manufacturing; 32521 Resin and Synthetic Rubber Manufacturing

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RIN: 2050–AD85

3540. DEFERRAL OF PHASE IV STANDARDS FOR PCBS AS A CONSTITUENT SUBJECT TO TREATMENT IN SOIL

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 268

Completed:

Reason	Date	FR Cite
Final Action	12/26/00	65 FR 81373

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

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RIN: 2050–AE76

3541. PROJECT XL — IBM VT PILOT PROJECT PROVIDING A SITE-SPECIFIC EXEMPTION OF A METALLIZATION PROCESS FROM THE F006 LISTING DESCRIPTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Final Action	09/12/00	65 FR 54955

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2090–AA11

3542. • PROJECT XL SITE-SPECIFIC RULEMAKING FOR BUNCOMBE COUNTY LANDFILL, ALEXANDER, NORTH CAROLINA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6945; 42 USC 6949).

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: Buncombe County proposed a project under EPA's Project XL to use certain bioreactor techniques at its municipal solid waste landfill (MSWLF), specifically, the recirculation of landfill leachate, with the possible addition of water, to accelerate the biodegradation of landfill waste and to decrease the time it takes for the waste to reach stabilization in the landfill. A component of this project will include landfill gas recovery. The principal objective of this XL project is to evaluate the rate of waste decomposition when leachate is added to the landfill and monitor the rate of gas generation. To implement this project, Buncombe County will need relief from certain regulatory requirements in EPA regulations which set forth the construction and operating criteria for MSWLFs. Proponents of bioreactor technology note that operation of MSWLFs as bioreactors provide a number of environmental benefits including: (1) increasing the rate of waste decomposition which in turn extends the operating life of the landfill and lessens the need for additional landfill space or other disposal options; (2) decreasing or even eliminating the quantity leachate requiring treatment and offsite disposal while improving the quality, leading to reduced post closure care costs and fewer risks; (4) lower long term potential for leachate migration into the subsurface environment; and (5) opportunity for recovery of methane gas for energy production.

Timetable:

Action	Date	FR Cite
Final Action	04/17/01	66 FR 19403

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4497

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RIN: 2090–AA22

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage
Oil Pollution Act (OPA)

3543. OIL POLLUTION PREVENTION REGULATION: REVISIONS

Priority: Other Significant

Legal Authority: 33 USC 1321 CWA sec 311(j)(1)(C)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major inland oil spill with substantial environmental impacts (i.e., Ashland Oil in Floreffe, PA, in January 1988), an interagency task force recommended steps to improve EPA's oil spill prevention program (40 CFR part 112). This program requires oil storage facilities to prevent and contain discharges that could reach waters of the United States. On October 22, 1991, the Agency proposed revisions to implement some of the task force recommendations and on February 17, 1993, the Agency proposed further clarifications and technical changes to the spill prevention regulations. On December 2, 1997, EPA supplemented the 1991 and 1993 proposed revisions with a proposal to reduce burdens associated with the oil spill prevention program by reducing the recordkeeping provisions or exempting some facilities from some recordkeeping requirements. This rule will take final action on the 1991, 1993, and 1997 proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
NPRM	02/17/93	58 FR 8824
Supplemental NPRM	12/02/97	62 FR 63812
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2634

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RIN: 2050–AC62

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage
Comprehensive Environmental Response, Compensation and Liability Act

3544. REPORTABLE QUANTITY ADJUSTMENTS FOR CARBAMATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11004; 42 USC 9602(a)

CFR Citation: 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: EPA has listed carbamate waste streams as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). RCRA listed wastes, by statute, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and are assigned a one pound statutory reportable quantity (RQ) unless EPA adjusts them. These substances also become subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) with a one pound threshold. EPA, in this action, will propose RQ adjustments for the carbamates. Most RQ adjustments are expected to be greater than one pound. Raising the RQs for these substances would decrease the burden on 1) the regulated community for complying with the reporting requirements under CERCLA and EPCRA; 2) Federal, State, and local authorities for program implementation; and 3) Federal, State, or local authorities, if they release hazardous substances at the RQ level or greater.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3423

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RIN: 2050–AE12

3545. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED AND FINAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9605 Superfund (CERCLA) sec 105

CFR Citation: 40 CFR 300.425

Legal Deadline: None

Abstract: This action will revise the sites included on the National Priorities List (NPL) of uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM 24	03/06/98	63 FR 11340
Final Action 20	03/06/98	63 FR 11332
NPRM 25	07/28/98	63 FR 40247
Final Action 21	07/28/98	63 FR 40182
Final Action (Tex-Tin Corp)	09/18/98	63 FR 49855
NPRM 26	09/29/98	63 FR 51882
Final Action 22	09/29/98	63 FR 51848
NPRM 27	01/19/99	64 FR 2950
Final Action 23	01/19/99	64 FR 2942
NPRM (Midnight Mine)	02/16/99	64 FR 7564
NPRM 28	04/23/99	64 FR 19968
NPRM (Almeda)	05/10/99	64 FR 24990
Final Action 24	05/10/99	64 FR 24949
NPRM 29	07/22/99	64 FR 39886
Final Action 25	07/22/99	64 FR 39878
NPRM 30	10/22/99	64 FR 56992
Final Action	10/22/99	64 FR 56966
NPRM 31	02/04/00	65 FR 5468
Final Action 26	02/04/00	65 FR 5435
NPRM 32	05/11/00	65 FR 30489
Final Action 28	05/11/00	65 FR 30482
NPRM 33	07/27/00	65 FR 46131
Final Action 29	07/27/00	65 FR 46096

EPA—Comprehensive Environmental Response, Compensation and Liability Act Proposed Rule Stage

Action	Date	FR Cite
NPRM Alabama/Malone	08/24/00	65 FR 51567
NPRM 34	12/01/00	65 FR 75215
Final Action 30	12/01/00	65 FR 75179
NPRM 35	01/11/01	66 FR 2380
NPRM Site No. Undetermined	04/00/01	
NPRM Site No. Undetermined	04/00/01	
Final Action Site No. Undetermined	04/00/01	
Final Action Site No. Undetermined	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3439

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RIN: 2050–AD75

3546. REVISE 40 CFR PART 35 SUBPART O: COOPERATIVE AGREEMENTS AND SUPERFUND STATE CONTRACTS FOR SUPERFUND RESPONSE ACTIONS

Priority: Other Significant

Legal Authority: 42 USC 9601 to 9675

CFR Citation: 40 CFR 35 subpart O

Legal Deadline: None

Abstract: 40 CFR part 35 subpart O is the Superfund Administrative Regulation that governs awarding of Superfund cooperative agreements (CAs) to States, Indian tribes, and territories of the United States. Subpart O covers State-lead, site-specific cooperative agreements for non-time-critical removal, preremedial, remedial, and enforcement actions, and site-specific management assistance for federal-lead projects. Also covered by subpart O are non-site-specific Core Program and Voluntary Cleanup Program State infrastructure development, as well as Brownfields pilots, and Brownfields assessments. The requirements for Superfund State contracts, financial administration, property, procurement, reporting, recordkeeping, and closeout are provided in subpart O.

Subpart O was promulgated 6/5/1990, and became effective on 7/5/1990. Many changes in the Superfund program have occurred over the past almost ten years and these need to be reflected in subpart O. The six categories of CAs presently used in subpart O need greater flexibility to accommodate the new types of CAs that have developed. For example, the number of Block Funding Reform pilots, begun in 1997, to consolidate several of the cooperative agreements offered in subpart O, has grown to about 16 for fiscal year 2000, and have generated at least 60 approved deviation requests from subpart O and 40 CFR part 31. These pilot projects offer considerable administrative relief to States, tribes, and EPA by reducing reporting requirements, broadening scope changes without amendment, increasing the ability to move monies within and among CAs, and relaxing application requirements regarding site-specific identification of cooperative agreement funds to certain activities, while maintaining site-specific drawdown requirements needed for cost recovery and Superfund accounting. Subpart O also needs to be conformed with part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements).

EPA expects to institutionalize the combining of CA types, create more flexible reporting requirements, permit greater scope changes without amendment, provide more flexible money movement within and among CAs, and other policy advances in State/tribal/EPA interaction.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4177

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RIN: 2050–AE62

ENVIRONMENTAL PROTECTION AGENCY (EPA) Long-Term Actions

Comprehensive Environmental Response, Compensation and Liability Act

3547. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1361; 42 USC 9602; 42 USC 11004

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: This action would clarify the definition of federally permitted release under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Federally permitted releases of hazardous substances are exempt from CERCLA reporting and liability, and from reporting under section 304 of the Emergency Planning and Community Right-to-Know Act.

EPA—Comprehensive Environmental Response, Compensation and Liability Act Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2394

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RIN: 2050–AB82

3548. STREAMLINING THE PREAUTHORIZATION MIXED FUNDING FOR APPLICATION AND IMPLEMENTATION OF CLAIMS AGAINST SUPERFUND

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9601

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: Current regulations at 40 CFR part 307 provide for the preauthorization of claims against the Superfund in instances where the Agency makes a determination that mixed funding is appropriate. This process has been labeled by many stakeholders as overly burdensome. The Agency has reviewed the current process in order to identify areas in which burdens may be lessened and requirements may be streamlined. As a result, the Agency is considering a proposal to amend the current regulation to: streamline the application process by eliminating duplicative information requirements; minimize the requirements related to management, oversight, and reporting of the cleanup, by removing the requirement to be guided by the Federal Acquisition Requirements, and replacing the requirement of maximum free and open competition with a bright-line standard; allow claimants to provide independent certification of claims and supporting documentation; streamline the actual payment process by taking advantage of the electronic funds transfer process; ensure that cost recovery concerns are addressed by requiring claimants, within a settlement document, to reimburse the Fund for costs not recovered (only in the event cost recovery is initiated), due to claimants' failure to provide adequate documentary support or upon a determination that response costs expended (and claimed) were not reasonable or not incurred consistent with the National Contingency Plan and ensure proper accounting by requiring offsets for funds owed to the Agency by claimants.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3885

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RIN: 2050–AE38

3549. CRITERIA FOR THE DESIGNATION OF HAZARDOUS SUBSTANCES UNDER CERCLA SECTION 102(A)

Priority: Other Significant

Legal Authority: 42 USC 9602

CFR Citation: 40 CFR 302.4

Legal Deadline: None

Abstract: This action will address the development of evaluation criteria for the designation of substances as hazardous under CERCLA. It is necessary to develop evaluation criteria because the Agency has the authority under CERCLA 102(a) to designate substances as hazardous; however, the Agency does not have criteria to do so. To date the only substances designated as CERCLA hazardous substances are as a result of their appearance on other Acts' lists defined under CERCLA 101(14). Using CERCLA designation criteria the Agency may establish CERCLA hazardous substances independently from other Acts, in the interest of public health and the environment.

The purpose of this action is to have well thought-out criteria for designating hazardous substances that may be applied to individual substances for evaluation and decision as to whether or not the substance should be appropriately designated a CERCLA 102(a) hazardous substance. The Agency already has the authority to designate substances as hazardous; in this action, criteria will be developed to implement that authority.

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4201

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RIN: 2050–AE63

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Comprehensive Environmental Response, Compensation and Liability Act

3550. GRANTS FOR TECHNICAL ASSISTANCE RULE REFORM—40 CFR PART 35 SUBPART M

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	10/02/00	65 FR 58850

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

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RIN: 2050–AE33

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Clean Water Act (CWA)

3551. EFFLUENT GUIDELINES AND STANDARDS FOR THE CONSTRUCTION AND DEVELOPMENT INDUSTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1317 CWA 307; 33 USC 1318 CWA 308; 33 USC 1342 CWA 402; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 450

Legal Deadline: NPRM, Judicial, March 31, 2002.
Final, Judicial, March 31, 2004.

Abstract: The effluent guidelines will apply to construction activities associated with new development, as well as to those associated with re-development activities. The regulations will address storm water runoff from construction sites during the active phase of construction, as well as post-construction runoff. Construction activity is a major source of sediment and other pollutants discharged to the nation's waters. Industries potentially affected by this rulemaking include land developers, home builders, builders of commercial and industrial property, and other private and public sector construction site owners and operators. EPA will develop design criteria for erosion and sediment controls and storm water best management practices (BMPs). These requirements will be implemented in NPDES storm water permits issued to construction site owners and operators.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	
Final Action	03/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 4280

Sectors Affected: 23 Construction

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RIN: 2040–AD42

3552. EFFLUENT GUIDELINES AND STANDARDS FOR THE MEAT PRODUCTS POINT SOURCE CATEGORY (REVISIONS)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311; 33 USC 1314; 33 USC 1316; 33 USC 1317; 33 USC 1318; 33 USC 1361

CFR Citation: 40 CFR 432 (Revision)

Legal Deadline: NPRM, Judicial, December 31, 2001.
Final, Judicial, December 31, 2003.

Abstract: The Agency is revising effluent limitations guidelines and standards for the Meat Products Point Source Category. The current regulations, at 40 CFR 432, are more than 20 years old and are limited to a few conventional pollutants. Recent concerns about nutrient discharges from these facilities might be resolved by additional effluent limitations. In particular, the current regulations do not address ammonia nitrogen for red meat slaughterhouses/packinghouses (Subparts A-D). Nutrients are a significant remaining water quality problem for impaired streams.

Revisions to the current regulations will also include effluent limitations for poultry processing, which is not currently covered by any effluent guideline.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4407

Sectors Affected: 311611 Animal (except Poultry) Slaughtering; 311612 Meat Processed from Carcasses; 311613 Rendering and Meat By-product Processing; 311615 Poultry Processing

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RIN: 2040–AD56

3553. WATER QUALITY STANDARDS FOR ALABAMA—PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313 CWA 303

EPA—Clean Water Act (CWA)

Proposed Rule Stage

CFR Citation: 40 CFR 131

Legal Deadline: Final, Statutory, 90 days after NPRM.

Abstract: Under the CWA, States have primary authority in developing water quality standards for waters within their jurisdiction. EPA maintains oversight authority in that States must submit their water quality standards to EPA for review and approval or disapproval. If a State's water quality standards are not consistent with the requirements of the CWA and its supporting regulations, and are subsequently disapproved by EPA, the State must revise the disapproved water quality standards. If the State does not revise the disapproved water quality standards, the CWA authorizes the EPA Administrator to promulgate Federal water quality standards to supersede those disapproved provisions in the water quality standards. EPA is developing a proposed rule to determine the appropriate use designations for five waterbodies in Alabama that EPA disapproved in 1986 and 1991.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4264

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RIN: 2040–AD35

3554. WATER QUALITY STANDARDS FOR INDIAN COUNTRY WATERS

Priority: Other Significant

Legal Authority: 33 USC 1251 et seq

CFR Citation: 40 CFR 131; 40 CFR 121.17 (Revision); 40 CFR 122.4 (Amended); 40 CFR 123.1 (Amended); 40 CFR 131.4 (Amended); 40 CFR 131.40 (New); 40 CFR 230.10 (Amended); 40 CFR 233.1 (Amended); 40 CFR 233.51 (Amended)

Legal Deadline: Final, Statutory, 90 days after NPRM.

Abstract: EPA is proposing a national rule containing core federal water quality standards (WQS) to support tailored, site-specific decisions for certain waters in Indian country that do not have EPA-approved Tribal standards. EPA is contemplating this rule as a first step towards ensuring that the core Clean Water Act (CWA) framework for protecting water quality is in place for all such waters. The core federal water quality standards would establish: use designations consistent with CWA section 101(a) goals, cultural and traditional, and other uses; narrative water quality criteria for protecting the designated uses; numeric criteria for priority toxic pollutants for further protecting the designated uses; and an antidegradation policy designed to protect water quality. Such standards would provide a basis for EPA (in consultation with a Tribe) to affect pollution discharges occurring upstream from Tribal waters; provide a legally enforceable basis for including water quality based limitations or conditions in permits or certifications for discharges within Indian country; and provide the basis for establishing Total Maximum Daily Loads (TMDLs) for Indian country waters. A federal promulgation would not prevent Tribes from developing their own standards.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4344

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RIN: 2040–AD46

3555. TEST PROCEDURES FOR THE ANALYSIS OF CRYPTOSPORIDIUM AND GIARDIA UNDER THE SAFE DRINKING WATER AND CLEAN WATER ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361 CWA 501(a); 42 USC 300(f) SDWA 1412; 42 USC 300(g)(1) SDWA 1413; 42 USC 300(g)(2) SDWA 1414; 42 USC 300(g)(3) SDWA 1415; 42 USC 300(g)(4) SDWA 1416; 42 USC 300(g)(5) SDWA 1445; 42 USC 300(j)(4) SDWA 1450; 42 USC 300(j)(9)

CFR Citation: 40 CFR 136; 40 CFR 141

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 and the analytical methods under 40 CFR part 141 to approve EPA Method 1622 for the detection of Cryptosporidium and Giardia in ambient waters and finished drinking water by filtration of a 10-L sample in laboratory, separation of target organisms from other debris using immunomagnetic separation, and detection of the organisms using immunofluorescence assay and differential interference contrast microscopy and confirmation examination of the organisms using vital dye stains.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4047

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RIN: 2040–AD08

3556. TEST PROCEDURES FOR THE ANALYSIS OF E. COLI AND ENTEROCOCCI UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136.3

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve microbiological methods for monitoring ambient water. Ambient water contamination is determined by the presence of bacterial indicators. In 1986, EPA issued a revision to its bacteriological ambient water quality criteria recommendations to include new indicator bacteria, E. coli and enterococci. To support the ambient water quality criteria for bacteria, EPA is planning to promulgate several analytical methods for monitoring E. coli and enterococci in ambient water. This proposed regulation would approve test procedures to be available for use by testing laboratories.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4214

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RIN: 2040–AD34

3557. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT EXISTING FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 2

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 9, 122, 123, 124 and 125

Legal Deadline: NPRM, Judicial, February 28, 2002.
Final, Judicial, August 28, 2003.

Abstract: This rulemaking affects, at a minimum, existing electricity generating facilities that employ cooling water intake structures and whose intake flow levels exceed a minimum threshold to be determined by EPA during the rulemaking. Section 316(b) of the Clean Water Act provides that any standard established pursuant to sections 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. A primary purpose of the rulemaking is to minimize the impingement and entrainment of fish and other aquatic organisms by cooling water intake structures. Impingement refers to trapping fish and other aquatic life against cooling water intake screens. Entrainment occurs when aquatic organisms, eggs, and larvae are drawn into the cooling system, through the heat exchanger, and then pumped back out, often with significant injury or mortality to the entrained organisms.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	08/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4474

Split from RIN 2040-AC34.

Sectors Affected: 21 Mining; 22111 Electric Power Generation; 22133 Steam and Air-Conditioning Supply; 311 Food Manufacturing; 3122 Tobacco Manufacturing; 313 Textile Mills; 321 Wood Product Manufacturing; 322 Paper Manufacturing; 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing; 61131 Colleges, Universities and Professional Schools

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RIN: 2040–AD62

3558. NPDES STREAMLINING RULE — ROUND III

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1312 CWA sec 302; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA plans to issue several rulemaking packages to revise NPDES requirements in parts 122, 123, and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures. Revisions under consideration in this rule include adding additional permit modifications that can be considered minor modifications at 122.63, and changes to requirements concerning EPA's review of State permits. Other revisions may be considered as work on this rule progresses. This rulemaking is expected to affect entities which implement the NPDES program or are regulated by it. This includes small businesses and State, tribal and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	
Final Action	02/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3786

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RIN: 2040–AC84

3559. NPDES REQUIREMENTS FOR MUNICIPAL SANITARY SEWER COLLECTION SYSTEMS, MUNICIPAL SATELLITE COLLECTION SYSTEMS, AND SANITARY SEWER OVERFLOWS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501(a)

CFR Citation: 40 CFR 122.38; 40 CFR 122.41; 40 CFR 122.42

Legal Deadline: None

Abstract: EPA is developing a notice of proposed rulemaking that would propose a broad-based reevaluation framework for sanitary sewer collection systems under the NPDES program. The Agency is proposing standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems. The standard requirements address reporting, public notification, and recordkeeping requirements for sanitary sewer overflows (SSOs), capacity assurance, management, operation and maintenance requirements for municipal sanitary sewer collection systems; and a prohibition on SSOs.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	02/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 3999

Note: This rule was formerly known as "Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges."

Sectors Affected: 22132 Sewage Treatment Facilities

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RIN: 2040–AD02

3560. RECOGNITION AWARDS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: CWA 501(e); 33 USC 1361 (a) and (e)

CFR Citation: 40 CFR 105 (New)

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is establishing a framework for the annual Clean Water Act (CWA) Recognition Awards known as the National Wastewater Management Excellence Awards Program. Section 501(e) of the CWA authorized the Administrator, on behalf of the U.S. Government, to recognize outstanding technological achievements or innovative processes, methods or devices in waste treatment and pollution abatement programs. The rule would establish regulations under which the recognition may be applied for and granted. The existing awards program recognizes innovative and outstanding achievements, processes, methods or devices in: Operations and Maintenance (O&M) of Publicly Owned Treatment Works (POTW); Biosolids Management (Biosolids); POTW Pretreatment Programs; Municipal and Industrial Storm Water (SW) Management; and Combined Sewer Overflows (CSO) Controls. These wastewater management programs can generally be characterized as waste treatment and/or pollution abatement programs. EPA may later establish, discontinue, combine or rename categories by guidance published in the Federal Register. Though the Agency has conducted an awards program for many years, the rulemaking action clearly acknowledges the basis for the program. EPA is formalizing the CWA Recognition Awards program using a direct final rulemaking because the agency does not expect adverse comments. Unless the Agency receives comments requiring a response during the public comment period associated with an identical companion proposed rule published elsewhere in the Federal Register on the same day, the formalized program would become effective without further notice.

Timetable:

Action	Date	FR Cite
NPRM Companion of Direct Final Rule	07/00/01	
Direct Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4332

Note: This rule was formerly known as National Wastewater Management Excellence Awards Program.

Sectors Affected: 2213 Water, Sewage and Other Systems; 5622 Waste Treatment and Disposal

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RIN: 2040–AD44

3561. OCEAN DISCHARGES CRITERIA REVISIONS

Priority: Other Significant

Legal Authority: 33 USC 1343 et seq

CFR Citation: 40 CFR 125.121(a); 40 CFR 125.121(e); 40 CFR 125.122; 40 CFR 125.123; 40 CFR 125.124

Legal Deadline: None

Abstract: EPA is proposing to modify the existing regulations implementing the ocean protection provisions of section 403 of the Clean Water Act. A key element of the proposed rule would provide for establishment of baseline water quality standards for ocean waters beyond three miles offshore. These waters, designated "Healthy Ocean Waters," would be protected by both a narrative statement of desired quality and pollutant-specific numeric criteria. The proposed rule also would strengthen the requirements for a permit to discharge to any ocean waters, and would establish a number of Special Ocean Sites (SOSs), which are areas within ocean waters that are of outstanding value, where new and significantly expanded discharges would be prohibited. The proposed rule will enhance the protection of the ocean environment and meet the goals of President Clinton's Executive Order on Marine Protected Areas (E.O. 13158).

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4446

Sectors Affected: 21111 Oil and Gas Extraction; 22132 Sewage Treatment Facilities; 221111 Hydroelectric Power Generation; 221112 Fossil Fuel Electric Power Generation; 42271 Petroleum Bulk Stations and Terminals; 325412 Pharmaceutical Preparation Manufacturing; 311711 Seafood Canning

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RIN: 2040–AD60

3562. CLEAN WATER ACT DEFINITION OF WATERS OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1361 CWA sec 501; 33 USC 1362 CWA sec 502

CFR Citation: 33 CFR 328.3(a); 40 CFR 110.1; 40 CFR 112.2; 40 CFR 116.3; 40 CFR 117.1; 40 CFR 122.2; 40 CFR 230.3(s); 40 CFR 232.2; 40 CFR 257.3-1(d); 40 CFR Part 300, Appendix E; 40 CFR 401.11(l)

Legal Deadline: None

Abstract: This action involves joint rulemaking by EPA and the Department of the Army to amend the regulatory definition of waters of the United States. The proposal would clarify the jurisdictional status under the Clean Water Act (CWA) of so-called "isolated" intrastate waters and wetlands. The existing regulations contain language asserting jurisdiction over isolated intrastate waters, but that regulatory provision has been the subject of a January 9, 2001, U.S. Supreme Court opinion. Revision of the regulatory language is necessary to address the Court's decision, improve regulatory clarity, and provide more specificity regarding CWA jurisdiction.. The rulemaking would clarify CWA jurisdiction for entities (e.g., industrial, commercial, governmental) that discharge pollutants, including dredged or fill material, to isolated intrastate surface waters or wetlands. Significant impacts on small entities or state/local/tribal governments are not anticipated, as the proposed regulatory revisions would be consistent with the Supreme Court ruling.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2804

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RIN: 2040–AB74

3563. • CLEAN WATER STATE REVOLVING FUND REGULATION REVISIONS RE: USE AS MATCHING FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1383(h)

CFR Citation: 40 CFR 35.3125(b)(1)

Legal Deadline: None

Abstract: This regulation will revise the Clean Water State Revolving Fund (SRF) Regulations to allow the use of the SRF as a match for infrastructure grants. In 1990, EPA issued regulations implementing the Clean Water State Revolving Fund (CW SRF) program, established as Title VI of the Clean Water Act (CWA) in 1987. Section 603(h) of the CWA prohibits use of the CW SRF loan as matching funds with respect to the non-Federal share of the cost of a treatment works project for which a municipality or agency is receiving assistance from the Administrator under any other authority. In issuing its regulations, EPA interpreted this prohibition broadly, applying the restriction to all treatment works construction. At that time, EPA believed the replacement of the construction grants program

authorized by Title II of the CWA by the CW SRF would result in a significant decrease in the use of Federal grant funds for construction of treatment works. However, from FY 1995 onward, Congress has authorized and appropriated funds for infrastructure construction grants in various Appropriations Acts. At this time, there are over 700 projects totaling over $3.3 billion dollars. In several cases, EPA has been asked to allow CW SRF funds to be used as a match for these grants; our regulation at 40 CFR 35.3125(b)(1) prohibits such action. However, upon reconsideration, EPA has decided its initial reading in 1990 was too broad, and the intent of Congress was only to prohibit use of CW SRF loans as match for Title II construction grants. This action will revise the regulations to allow a State, in its operation of its CW SRF, to provide a loan to non-Title II infrastructure construction grant projects as a non-federal match. The prohibition on the use of CW SRF as a match for a Title II construction grant will continue.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Direct Final Rule With Companion Proposal	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4493

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RIN: 2040–AD68

3564. • TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT (REVISIONS TO METHOD 1631)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); 76 Stat 816; PL 92-500; 91 Stat 1567; PL 95-217; 100 Sat 7; PL 100-4

CFR Citation: 40 CFR 136.3

Legal Deadline: NPRM, Judicial, September 30, 2001, Settlement agreement.
Final, Judicial, September 30, 2002, Settlement agreement.

Abstract: This proposal would amend Method 1631 to add new requirements for clean techniques and quality control (QC) beyond those specified in EPA Method 1631 for the determination of mercury at water quality criteria levels. EPA Method 1631 was promulgated at 40 CFR 136 in June 1999. Later that year, the Alliance of Automobile Manufacturers, the Chemical Manufacturers Association, and the Utility Water Act Group ("Petitioners") filed a petition for judicial review of the final rule. One of the issues in the petition related to the clean sampling techniques and QC requirements in the Method. As part of a Settlement Agreement in October 2000, EPA agreed to sign a Federal Register notice proposing additional clean techniques and QC requirements for Method 1631 by September 30, 2001, and to sign a final rule by September 30, 2002. EPA also plans to publish a correction notice on Method 1631 prior to proposal of the new clean techniques and QC requirements to clarify the use of field bland subtraction.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4541

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RIN: 2040–AD72

3565. • PROPOSAL TO REVISE AND TO RATIFY OR WITHDRAW WHOLE EFFLUENT TOXICITY TEST METHODS

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-217; 33 USC 1251 et seq

CFR Citation: 40 CFR 136.3

Legal Deadline: NPRM, Judicial, September 24, 2001, Settlement agreement.
Final, Judicial, September 24, 2002, Settlement agreement.

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 by revising several whole effluent toxicity (WET) test methods and by ratifying or withdrawing WET test methods listed in Table IA for use under the Clean Water Act. These methods were promulgated on October 16, 1995 (60 FR 53529). The proposed regulation is needed to satisfy the terms of two settlement agreements (entered into by EPA and Edison Electric Institute, et al., and Western Coalition of Arid States on July 24, 1998; and entered into by EPA and Lone Star Steel in January, 1997). This proposal will amend the 1995 rule by revising three WET method manuals, and by ratifying or withdrawing each of the WET test methods challenged in the settlement agreements from these three manuals. Specific revisions include: the requirement of blocking by parentage in Method 1002, the requirement for demonstration of valid concentration-response relationships, the inclusion of specific procedures to control pH drift, and the inclusion of procedures to reduce pathogenic interferences in Method 1000.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Action	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

EPA—Clean Water Act (CWA)

Proposed Rule Stage

Federalism: Undetermined

Additional Information: SAN No. 4514

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RIN: 2040–AD73

3566. • REVISIONS TO THE NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN; SUBPART J PRODUCT SCHEDULE LISTING REQUIREMENTS

Priority: Other Significant

Legal Authority: CWA section 311(d)(2); 33 USC 1321(d)(2)

CFR Citation: 40 CFR 300

Legal Deadline: None

Abstract: This action will propose revisions to subpart J of the National Contingency Plan (NCP) (40 CFR part 300.900). Section 311(d)(2)(G) of the Clean Water Act requires that EPA prepare a schedule of dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the NCP. Under subpart J, respondents wishing to add a product to the Product Schedule must submit technical product data specified in 40 CFR 300.915 to EPA. This rulemaking will propose revisions to subpart J to clarify and change protocols for effectiveness and toxicity testing. It will clarify EPA authority to remove products from the Product Schedule. These changes will help ensure protection of the environment when these products are used to clean up and mitigate oil spills onto land and water.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 4526

Sectors Affected: 54 Professional, Scientific and Technical Services; 3259 Other Chemical Product Manufacturing; 325 Chemical Manufacturing; 3251 Basic Chemical Manufacturing

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RIN: 2050–AE87

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Clean Water Act (CWA)

3567. EFFLUENT GUIDELINES AND STANDARDS FOR THE BLEACHED PAPERGRADE KRAFT SUBCATEGORY OF THE PULP, PAPER, AND PAPERBOARD CATEGORY; CERTIFICATION IN LIEU OF MONITORING FOR CHLOROFORM

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1342 CWA sec 402; 33 USC 1318 CWA sec 308; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: This action is a follow-on to the already-promulgated Pulp and Paper Cluster Rules covering the Bleached Papergrade Kraft Subcategory (Subpart B). EPA is considering allowing Subpart B mills to certify process changes (specifically, elimination of elemental chlorine and hypochlorite) and operating conditions in lieu of minimum monitoring to demonstrate compliance with the effluent limitations for chloroform.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18796
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4192

NPRM-
http://www.epa.gov/fedrgstr/EPA-WATER/1998/April/Day-15/w9615.htm

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

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RIN: 2040–AD23

3568. EFFLUENT GUIDELINES AND STANDARDS FOR THE COAL MINING POINT SOURCE CATEGORY (REVISIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 434

Legal Deadline: NPRM, Judicial, March 31, 2000.
Final, Judicial, December 31, 2001.

Abstract: Coal mining discharges are covered by existing effluent guidelines at 40 CFR part 434. This new regulatory action will revise the existing regulations to address two new subcategories: Coal Remining and Western Alkaline Coal Mining. The existing regulations do not cover remining operations, which, when appropriately planned and regulated, will improve effluent quality from abandoned mine lands while reclaiming them and prevent disturbance of unexploited lands. Advances in treatment technologies and Best Management Practices pertinent to coal mines in the arid West show promise of being more protective of water quality.

Timetable:

Action	Date	FR Cite
NPRM	04/11/00	65 FR 19440
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4168

Sectors Affected: 21211 Coal Mining

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RIN: 2040–AD24

EPA—Clean Water Act (CWA)

Final Rule Stage

3569. TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE ONE

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This regulation would approve test procedures to be used in measuring this group of compounds under the NPDES Program unless the Regional Administrator approves an alternative procedure. EPA plans to segment the rulemaking into two phases to accommodate different amounts of data for the long list of compounds.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3155

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RIN: 2040–AC95

3570. TEST PROCEDURES: CLEAN WATER ACT AND SAFE DRINKING WATER ACT METHODS UPDATE

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); PL 92-500 76 Stat. 816; PL 95-217 91 Stat. 1567; PL 100-4 100 Stat. 7; 42 USC 300 g-1; 42 USC 300f(1)(A); 42 USC 300f(1)(D); 42 USC 300j-4; 42 USC 300j-9(a)

CFR Citation: 40 CFR 136; 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR part 136, National Primary Drinking Water Regulations under 40 CFR part 141, and National Secondary Drinking Water Regulations under 40 CFR part 143 to approve updated versions of analytical test procedures (methods) from voluntary consensus standards bodies and other organizations. These methods are used to comply with monitoring requirements in the wastewater and drinking water programs, as authorized under the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA). This regulation would approve updated versions of methods for determination of chemical, radiological, and microbiological pollutants in wastewater and drinking water. The updates are to methods from voluntary consensus standards bodies (the American Society for Testing and Materials and Standard Methods) and from the U.S. Geological Survey and the Department of Energy. Previously approved versions of the methods being updated remain approved. Because the changes should be noncontroversial, the amendments are being done through a direct final rule. A companion proposed rule will be published in case there are substantive adverse comments.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/16/01	66 FR 3466
Notice of Withdrawal	05/00/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4409

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RIN: 2040–AD59

3571. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT NEW FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 1

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 9, 122, 123, 124 and 125

Legal Deadline: NPRM, Judicial, July 20, 2000.
Final, Judicial, November 9, 2001.

Abstract: This rulemaking affects new facilities that use cooling water intake structures. Section 316(b) of the Clean Water Act provides that any standard established pursuant to sections 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. A

primary purpose of this action is to minimize the impingement and entrainment of fish and other aquatic organisms by cooling water intake structures. Impingement refers to trapping fish and other aquatic life against cooling water intake screens. Entrainment occurs when aquatic organisms, eggs and larvae are drawn into the cooling system through the heat exchanger, and then pumped back out, often with significant injury or mortality to the entrained organisms.

Timetable:

Action	Date	FR Cite
NPRM	08/10/00	65 FR 49059
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3444

Sectors Affected: 21 Mining; 22111 Electric Power Generation; 22133 Steam and Air-Conditioning Supply; 311 Food Manufacturing; 3122 Tobacco Manufacturing; 313 Textile Mills; 321 Wood Product Manufacturing; 322 Paper Manufacturing; 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing; 61131 Colleges, Universities and Professional Schools

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RIN: 2040–AC34

3572. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Priority: Other Significant

Legal Authority: 33 USC 1314 CWA sec 304; 33 USC 1317 CWA sec 307; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 403

Legal Deadline: None

Abstract: The final rule will be promulgated as a program streamlining activity. The rule will revise certain provisions in the General Pretreatment Regulations (40 CFR part 403) that address restrictions on and oversight of industrial discharges into Publicly Owned Treatment Works (POTWs). The final rule will include exclusions or variable requirements for smaller facilities that contribute insignificant amounts of pollutants, clarify requirements for implementing Pretreatment Standards, and provide more flexible reporting, inspection and sampling requirements. The revisions should provide greater flexibility, reduce burden, and achieve improved environmental results at less cost for regulatory authorities and the regulated community.

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39564
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3663

NPRM-
http://www.epa.gov/fedrgstr/EPA-WATER/1999/July/Day-22/w17773.htm

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RIN: 2040–AC58

3573. COMPARISON OF DREDGED MATERIAL TO REFERENCE SEDIMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344 CWA sec 404

CFR Citation: 40 CFR 230

Legal Deadline: None

Abstract: This action would revise the testing provisions of the Clean Water Act section 404(b)(1) Guidelines to provide for comparisons between dredged material proposed for discharge and reference sediment. Reference sediment would be defined as sediment that reflects conditions at the disposal site had no dredged material disposal ever occurred there. Because the disposal site itself is currently used as the point of comparison, this action would make a technical improvement in assessing cumulative impacts and help make dredged material testing under section 404 more consistent with that conducted for ocean disposal, which currently employs a reference sediment approach. This action is not expected to have a significant impact on state, local, or tribal governments or small business, as the action will be limited to Corps projects and permit applications for which dredged material testing is necessary, and because the effect of the action will be limited to changing the location of an otherwise collected sample.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 419
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3288

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RIN: 2040–AC14

3574. ROUND 2 STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE

Priority: Other Significant

Legal Authority: 33 USC 1345 CWA sec 405; 33 USC 1361(a) CWA sec 501(a)

CFR Citation: 40 CFR 503 (Revisions)

Legal Deadline: NPRM, Judicial, December 15, 1999.
Final, Judicial, December 15, 2001.

Abstract: Section 405 of the Clean Water Act (CWA) requires EPA to promulgate regulations providing guidelines for the use and disposal of sewage sludge. The rules, among other things, are to identify uses for sewage sludge, including disposal, and concentrations of pollutants which interfere with such use or disposal. The statute establishes a schedule for EPA to identify and regulate toxic pollutants in sewage sludge in two rounds: first with respect to those toxic pollutants for which information is available and subsequently, with respect to those toxic pollutants in sewage sludge not regulated in the first round which may adversely affect public health and the environment. The regulations must specify management practices, including numeric limits, for each such pollutant, for each use or disposal practice. EPA published the first round of sewage sludge regulations, pursuant to a court ordered schedule, in February 1993 (58 FR 9247) and proposed round two regulations in December 1999. EPA's round two proposal identified dioxins, dibenzofurans and coplanar polychlorinated biphenyls as the additional toxic pollutants in sewage sludge to be regulated for sewage sludge that is to be applied to the land. The consent decree requires EPA to take final action on proposed round two regulations by December 15, 2001.

Timetable:

Action	Date	FR Cite
NPRM	12/23/99	64 FR 72045
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3488

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RIN: 2040–AC25

3575. • PROCEDURES FOR TRIBES TO OBTAIN APPROVAL FOR TREATMENT AS A STATE TO RECEIVE FUNDING FOR THE BEACHES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 33 UCS 1375(a) et seq

CFR Citation: 40 CFR 35; 40 CFR 130

Legal Deadline: None

Abstract: This interim final rule will establish procedures under the Clean Water Act for EPA to treat Indian Tribes in substantially the same manner in which it treats states for purposes of obtaining financial assistance.

As part of the Beaches Environmental Assessment and Coastal Health Act of 2000, EPA is authorized to award grants to develop and implement monitoring and notification programs for coastal or Great lakes recreational waters. This rule will describe the requirements for Indian tribes to become eligible for grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Additional Information: SAN No. 4515

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RIN: 2040–AD69

3576. PRETREATMENT PROGRAM REINVENTION PILOT PROJECTS UNDER PROJECT XL

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: EPA is proposing changes to the National Pretreatment Program regulations to allow Publicly Owned Treatment Works (POTWs) that have completed the Project eXcellence and Leadership (Project XL) selection process, including Final Project Agreement (FPA) development, to modify their approved local Pretreatment Programs. These POTWs would be allowed to modify their programs following the procedures in 40 CFR 403.18, and implement the new local programs as described in their FPAs.

Timetable:

Action	Date	FR Cite
NPRM Pretreatment Program Reinvention Projects Under Project XL	10/06/00	65 FR 59791
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 4476

Sectors Affected: 22132 Sewage Treatment Facilities

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RIN: 2090–AA16

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Clean Water Act (CWA)

3577. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASES 1 AND 2

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1317 CWA sec 308; 33 USC 1317 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 438

Legal Deadline: NPRM, Judicial, October 31, 2000.
Final, Judicial, December 31, 2002.

Abstract: EPA is developing effluent limitations guidelines for facilities that generate wastewater while processing metal parts; metal products; and machinery, including manufacture, assembly, rebuilding, repair, and maintenance. A proposed rule in 1995 covered seven industrial groups: aircraft, aerospace, hardware, ordnance, stationary industrial equipment, mobile industrial equipment, and electronic equipment. EPA has consolidated this rulemaking with a second phase, and coverage will include additional industrial groups such as: bus and truck, household equipment, instruments, motor vehicles, office machines, precious metals and jewelry, railroads, job shops, printed circuit boards, and ships and boats. The deadlines and timetable apply to the consolidated Phase 1 and 2 rulemaking.

Timetable:

Action	Date	FR Cite
NPRM (Phase 1)	05/30/95	60 FR 28210
NPRM (Consolidated Phase 1 and 2)	01/03/01	66 FR 424
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2806

For more information on Metal Products and Machinery on the Internet, please visit:

http://www.epa.gov/ost/guide/mpm/index.html

Sectors Affected: 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing; 337 Furniture and Related Product Manufacturing; 339 Miscellaneous Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing

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RIN: 2040–AB79

3578. EFFLUENT GUIDELINES AND STANDARDS FOR THE IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY (REVISIONS)

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1362 CWA sec 501

CFR Citation: 40 CFR 420

Legal Deadline: NPRM, Judicial, October 31, 2000.
Final, Judicial, April 30, 2002.

Abstract: EPA is proposing to revise the effluent limitations guidelines and standards for the Iron and Steel Manufacturing Point Source Category to reflect significant industry changes related to consolidation and modernization within the U.S. steelmaking industry as well as advances in manufacturing technologies, in-process pollution prevention, water conservation practices, and end-of-pipe wastewater treatment.

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 81963
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3833

Sectors Affected: 331111 Iron and Steel Mills; 3312 Steel Product Manufacturing from Purchased Steel; 3328 Coating, Engraving, Heat Treating and Allied Activities; 324199 All Other Petroleum and Coal Products Manufacturing

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RIN: 2040–AC90

3579. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY, PHASE II

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1317 CWA 307; 33 USC 1318 CWA 308; 33 USC 1318 CWA 402; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: EPA will consider revising the technology-based effluent limitations guidelines and standards for 8 of the 12 subcategories for this industrial category: Unbleached Kraft; Semi-Chemical; Mechanical Pulp; Non-Wood Chemical Pulp; Secondary Fiber Deink; Secondary Fiber Non-Deink; Fine and Lightweight Papers from Purchased Pulp; and Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp. EPA proposed guidelines and standards for these subcategories as part of the Pulp and Paper Rules (also known as the Cluster Rules) in December 1993. The Agency intends to develop these revised effluent limitations in close coordination with the Office of Air Quality Planning and Standards.

EPA—Clean Water Act (CWA)

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Additional Information: SAN No. 4050

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

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RIN: 2040–AD10

3580. EFFLUENT GUIDELINES AND STANDARDS FOR FEEDLOTS POINT SOURCE CATEGORY, AND NPDES REGULATION FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 412; 40 CFR 122.23

Legal Deadline: NPRM, Judicial, December 15, 2000.
Final, Judicial, December 15, 2002.

Abstract: Feedlot operations are covered by existing effluent guidelines at 40 CFR 412 and concentrated animal feeding operations (CAFOs) are covered by permitting regulations at 40 CFR 122.23. This action will revise the existing effluent guidelines to address swine, poultry, beef, and dairy cattle operations and the NPDES regulation for concentrated animal feeding operations. The existing regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except for certain storm related discharges, have not been sufficient to resolve water quality impairment from feedlot operations. Feedlot operations are substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and problem algae blooms.

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 2959
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4153

Sectors Affected: 11221 Hog and Pig Farming; 11232 Broilers and Other Meat Type Chicken Production; 11231 Chicken Egg Production; 112112 Cattle Feedlots; 11212 Dairy Cattle and Milk Production; 11241 Sheep Farming; 11233 Turkey Production; 11292 Horse and Other Equine Production; 11239 Other Poultry Production

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RIN: 2040–AD19

3581. EFFLUENT GUIDELINES AND STANDARDS FOR THE DISSOLVING KRAFT AND DISSOLVING SULFITE SUBCATEGORIES OF THE PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY (PHASE III)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311; 33 USC 1314; 33 USC 1316; 33 USC 1317; 33 USC 1318; 33 USC 1342; 33 USC 1361

CFR Citation: 40 CFR 430.10 to 430.18; 40 CFR 430.40 to 430.48

Legal Deadline: None

Abstract: On December 17, 1993, EPA proposed revised effluent limitations, guidelines and standards and best management practices regulations for the Dissolving Kraft and Dissolving Sulfite Subcategories of the Pulp, Paper, and Paperboard Point Source Category (40 CFR Part 430). This action, which OW refers to as Phase III of the Cluster Rules, will respond to comments and reflect new data. There are five domestic mills in these two subcategories. The final rule is anticipated to set limits for adsorbable organic halides (AOX), chemical oxygen demand (COD), chloroform, dioxin, furan, and 12 specific chlorinated phenolics.

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4370

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

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RIN: 2040–AD49

3582. EFFLUENT GUIDELINES AND STANDARDS FOR THE AQUATIC ANIMAL PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: CWA Section 301; CWA Section 304; CWA Section 306; CWA Section 307; CWA Section 308; CWA Section 318; CWA Section 402; CWA Section 501

CFR Citation: 40 CFR 451

Legal Deadline: NPRM, Judicial, June 30, 2002.
Final, Judicial, June 30, 2004.

Abstract: EPA is focusing new efforts to help reduce nutrient loadings from commercial agricultural and industrial operations nationwide. Currently, there are no federal technology-based standards for aquatic animal production

facilities, which are part of the aquaculture industry. This action is a new effort to develop pollutant controls in the form of nationally applicable discharge standards for commercial and public aquaculture operations.

In assessments of surface water quality, States most frequently cite station, nutrients, and pathogens as the major cause of water quality impairment. With the growth of the aquaculture industry, and inconsistent state regulatory oversight, EPA will examine available technologies for the control of pollutants, primarily nutrients. This action was formerly titled "Aquaculture."

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	06/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4406

Sectors Affected: 112511 Finfish Farming and Fish Hatcheries; 112512 Shellfish Farming

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RIN: 2040–AD55

3583. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL CONTAINER AND DRUM CLEANING POINT SOURCE CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1311 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Industrial facilities that clean out 55 gallon drums and other industrial sized containers are not currently subject to nationally applicable wastewater treatment standards. Many types of toxic and hazardous materials, including pesticides, solvents, and petrochemical products are transported in bulk via drums and containers. Most of these containers have a residue, or heel, present in the containers before they are cleaned. The accumulation of residue from large numbers of drums and containers may result in the discharge of pollutants to the nations waterways.

This regulation will cover those facilities that clean out drums and industrial sized containers as a business, and will generally not cover industrial facilities that clean out their own drums and containers used on site.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4408

Sectors Affected: 562998 All Other Miscellaneous Waste Management Services

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RIN: 2040–AD57

3584. WATER QUALITY STANDARDS REGULATION — REVISION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1313 CWA sec 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Water quality standards set by States and Indian tribes establish the water quality goals for surface waters of the U.S. and the means by which attainment of these goals will be measured and assured. They are the foundation for protecting water quality and related public health and welfare and the ecological health of the nation's waters. The Federal water quality standards regulation at 40 CFR Part 131 governs the development, review and revision of water quality standards under section 303(c) of the Clean Water Act by States and Indian Tribes, and the review and approval of water quality standards by EPA. Based upon the Federal, State, Tribal and local experience gained in the program over the last 20 years, EPA's proposed revisions to 40 CFR 131 are intended to strengthen the water quality standards regulation thus enhancing water quality management on a watershed basis, and focusing Federal, State and Tribal resources on the areas of greatest concern. Program areas identified for revision include mixing zone policies and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/98	63 FR 36741
NPRM	07/00/02	
Final Action	07/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3662

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RIN: 2040–AC56

3585. TEST PROCEDURES FOR THE ANALYSIS OF TRACE METALS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new EPA methods for the determination of trace metals at EPA's water quality criteria levels. These methods are necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not ensure that a particular water body would meet the State's designated water quality standard. Because the methods currently approved under 40 CFR part 136 were designed to support primarily technology-based permitting needs, and because these technology-based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 3702

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RIN: 2040–AC75

3586. INCREASED METHOD FLEXIBILITY FOR TEST PROCEDURES APPROVED FOR CLEAN WATER ACT COMPLIANCE MONITORING

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304 (h); 33 USC 1361(a) CWA 501 (a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would highlight the flexibility already contained in the 600 and 1600 series of EPA Methods that are currently approved for Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. These methods typically contain a statement that, in recognition of advances that are occurring in analytical technology, and to allow the analyst to overcome sample matrix interferences, the analyst is permitted certain options to improve separations or lower the costs of measurements. These options include alternate extraction, concentration, cleanup procedures, and changes in columns and detectors. The methods further require the analyst to demonstrate that the method modifications will not adversely affect the quality of data by generating quality control results that meet the specifications contained in the method. Despite this stated flexibility, the Agency has found that many NPDES and pretreatment permitting authorities are not aware of this flexibility when issuing or enforcing NPDES and pretreatment permits. Therefore, this regulatory action will highlight the existing method flexibility and clarify EPA's position regarding its application. This action will also extend this flexibility to other methods currently approved under 40 CFR part 136. The purpose of extending this flexibility to other methods is to (1) increase consistency between methods, (2) provide for increased recognition of advances in analytical technology, and (3) reduce costs associated with analytical measurements.

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3714

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RIN: 2040–AC92

3587. PERFORMANCE-BASED MEASUREMENT SYSTEM (PBMS) PROCEDURES AND GUIDANCE FOR CLEAN WATER ACT TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would establish the use of performance-based measurement procedures and guidance for use in Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. The new procedures would include guidance concerning the format, content, quality assurance/quality control, and data validation requirements for use of test methods. This regulatory action would also describe increased program guidance in the form of a clearinghouse, technical bulletins, and/or guidance documents geared towards clarifying technical and policy issues associated with the use of test methods approved for use in the program.

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 14975
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3713

NPRM-
http://www.epa.gov/fedrgstr/EPA-

WATER/1997/March/Day-28/w7221.htm

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RIN: 2040–AC93

3588. TEST PROCEDURES FOR THE ANALYSIS OF CO-PLANAR AND MONO-ORTHO-SUBSTITUTED POLYCHLORINATED BIPHENYLS (PCBS) UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq CWA 304(h); 33 USC 1314(h) CWA 501(a); 33 USC 1361(a)

CFR Citation: 40 CFR 136; 40 CFR 503

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR parts 136 and 503 to approve EPA Method 1668 for the congener-specific determination of co-planar and mono-ortho-substituted polychlorinated biphenyls (PCBs) in effluent ambient water and sludge. This method is necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not ensure that a particular water body would meet the State's designated water quality standard. At present there is no EPA analytical method for determination of these PCBs at the levels of concern. Therefore, approval of a new EPA test procedure is necessary.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4049

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RIN: 2040–AD09

3589. TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE TWO

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This regulation would approve test procedures to be used in measuring this group of compounds under the NPDES unless the Regional Administrator approves an alternative procedure. This rulemaking would constitute the second of two segments of rulemaking initially proposed as one action.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4089

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RIN: 2040–AD12

3590. TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT (METHOD 245.7)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); PL 92-500 76 Stat. 816; PL 95-217 91 Stat. 1567; PL 100-4 100 Stat. 7

CFR Citation: 40 CFR 136.3(IB)

Legal Deadline: None

Abstract: This regulatory action would propose to amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR part 136 to approve a new analytical test procedure (method) for the determination of mercury in the wastewater program as authorized under the Clean Water Act (CWA). This new test procedure is capable of measuring mercury at low parts-per-trillion (ppt; ng/L) concentrations and would be an alternative to the recently promulgated Method 1631, which also determines mercury at low ppt concentrations.

Method 245.7 uses similar technology to Method 1631 (cold vapor atomic fluorescence spectrometry), but it does not require the use of a gold trap. Laboratories claim that Method 245.7 is a less burdensome and more cost-effective method than Method 1631.

Timetable:

Action	Date	FR Cite
NPRM	06/00/02	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4377

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RIN: 2040–AD52

3591. REVISIONS TO METHOD DETECTION AND QUANTIFICATION FOR USE UNDER THE CLEAN WATER ACT AND SAFE DRINKING WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); 42 USC 300f

CFR Citation: 40 CFR 136(b)

Legal Deadline: None

Abstract: This regulatory action would propose to amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR part 136 to approve revisions to the detection and quantification procedures currently used by EPA for those analytes regulated in the wastewater program as authorized under the Clean Water Act (CWA) and in the drinking water program under the Safe Drinking Water Act (SDWA). The current method detection limit (MDL) procedure is set forth at 40 CFR part 136, appendix B. EPA's Office of Water has not promulgated a generic procedure for quantification but it uses the minimum level of quantitation (ML) in its wastewater program and the practical quantitation level (PQL) in its drinking water program. The ML is defined in analytical methods and is generally set at 3.18 times the MDL. The PQL is generally set at five to ten times the MDL. The Office of Water has been working to revise and refine these concepts in response to the need to regulate pollutants at low levels (often levels that are lower than measurement capabilities will allow) and to address other potential approaches to detection and quantification, including concepts being introduced by outside organizations such as voluntary consensus standards bodies (VCSBs). The rulemaking would also address criticisms to the current MDL and quantification approaches which have been raised by outside organizations. Additionally, EPA will consider whether other approaches from VCSBs are acceptable for EPA's regulatory needs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/03	
Final Action	09/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4378

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RIN: 2040–AD53

3592. UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES - PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1322; 33 USC 1361

CFR Citation: 40 CFR 1700

Legal Deadline: Final, Statutory, May 10, 2001.

Abstract: This action is phase II of implementing regulations on Uniform National Discharge Standards for Vessels of the Armed Forces. In 1996 the Clean Water Act was amended to create section 312(n), "Uniform National Discharge Standards for Vessels of the Armed Forces." Section 312(n) directs EPA and DOD to work together to provide Armed Forces vessels with a nationally uniform set of discharge standards, which preempt State discharge standards for these vessels. The purpose of the statute is to allow DOD to plan, design and build environmentally sound vessels, to encourage innovative pollution control technology, and to improve operational flexibility. EPA and DOD jointly promulgated Phase I of these regulations, 40 CFR part 1700, on May 10, 1999 (64 FR 25126). The Phase I rulemaking concluded that 25 discharges from Armed Forces vessels would require control devices. Some of these discharges have the potential to introduce oil or other organics into receiving waters (such as bilge water); some have the potential to introduce copper or other metals (such as fire main); and some have the potential to introduce nonindigenous invasive aquatic species (such as ballast water). Phase II will establish performance standards for control devices for these 25 discharges. Once DOD implements rules for achieving the standards set in phase II, covered discharges from Armed Forces vessels will be required to meet these standards, and will not be subject to discharge standards established by States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/03	
Final Action	04/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Additional Information: SAN No. 4357

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RIN: 2040–AD39

3593. • MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT EXISTING FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 3

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 9, 122, 123, 124 and 125

Legal Deadline: NPRM, Judicial, June 15, 2003.
Final, Judicial, December 15, 2004.

Abstract: This rulemaking affects, at a minimum, existing facilities that use cooling water intake structures, and whose intake flow levels exceed a

minimum threshold EPA will determine during this rulemaking. The affected facilities include 1) electricity generating facilities not covered by Phase 2 regulations; 2) pulp and paper manufacturing facilities; 3) chemicals and allied products manufacturing facilities; 4) petroleum and coal products manufacturing facilities; and 5) primary metals manufacturing facilities. Section 316(b) of the Clean Water Act provides that any standard established pursuant to sections 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. A primary purpose of this action is to minimize the impingement and entrainment of fish and other aquatic organisms by cooling water intake structures. Impingement refers to trapping fish and other aquatic life against cooling water intake structures. Entrainment occurs when aquatic organisms, eggs and larvae are drawn into the cooling system, through the heat exchanger, and then pumped back out with significant injury or mortality to the entrained organisms.

Timetable:

Action	Date	FR Cite
NPRM	08/00/03	
Final Action	12/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4543

Split from RIN 2040-AC34.

Sectors Affected: 21 Mining; 22111 Electric Power Generation; 22133 Steam and Air-Conditioning Supply; 311 Food Manufacturing; 3122 Tobacco Manufacturing; 313 Textile Mills; 321 Wood Product Manufacturing; 322 Paper Manufacturing; 324 Petroleum and Coal Products Manufacturing; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing; 61131 Colleges, Universities and Professional Schools

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RIN: 2040–AD70

3594. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1342 CWA 402; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 122.21(e)

Legal Deadline: None

Abstract: All existing manufacturing, commercial, mining, and silvicultural operations requiring a National Pollutant Discharge Elimination System (NPDES) permit must submit an application in order to obtain a permit. The existing industrial application form has not been revised since 1984 and needs to be updated to reflect statutory and related regulatory changes in the NPDES and water quality standards program. The purpose of this action would be to revise and consolidate existing application forms and requirements for industries, and to streamline the permit application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency will seek to allow the use of existing data to the extent possible and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to provide these data, many other permittees are already required to submit the data. The Agency is reviewing ways to minimize the need for information from small dischargers, including tribal facilities. EPA will also seek to minimize and reduce the burden on States through improvements to the application forms.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 3234

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RIN: 2040–AC26

3595. REVISION TO CLEAN WATER ACT REGULATORY DEFINITION OF "FILL MATERIAL"

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344

CFR Citation: 33 CFR 323.2(e); 40 CFR 232.2

Legal Deadline: None

Abstract: Section 404 of the Clean Water Act requires a permit from the US Army Corps of Engineers (Corps) for discharges of dredged or fill material to waters of the United States. The Environmental Protection Agency (EPA) and Corps' regulations implementing section 404 currently contain differing definitions of the term "fill material." In particular, the Corps regulations define fill material as being used "for the primary purpose of" replacing an aquatic area with dry land or changing the bottom elevation of a waterbody. In contrast, EPA's definition of fill material looks to whether the effect is to replace waters of the United States with dry land or change the bottom elevation of waterbodies, and does not contain a "primary purpose" test as found in the Corps regulations. In order to clarify what constitutes "fill material" for purposes of section 404 and provide improved regulatory certainty, the Corps and EPA are conducting notice and comment rulemaking to achieve greater consistency between the two agencies' definitions of "fill material."

Timetable:

Action	Date	FR Cite
NPRM	04/20/00	65 FR 21292
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4375

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RIN: 2040–AD51

3596. • TEST PROCEDURES: NEW AND UPDATED TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT AND SAFE DRINKING WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); 76 Stat 816; PL 92-500; 91 Stat 1567; PL 95-217; 100 Stat 7; PL 100-4

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR parts 136 and 141 to approve new and updated EPA methods for wastewater, ambient water quality, and drinking water, including new and updated versions of methods from voluntary consensus standards bodies and other organizations. These methods are used to comply with monitoring requirements in the wastewater, ambient water quality and/or drinking water programs, as authorized under the Clean Water Act (CWA) and Safe Drinking Water Act. This regulation would propose new methods for metals such as Method 1638 (which utilizes ICP/MS), new methods for chemical pollutants (e.g., Method 245.7), and updated methods for chemical and biological pollutants (e.g., Methods 625 and 1625), including methods from voluntary consensus standards bodies (VCSBs), and from other external organizations. The new and updated methods include methods from organizations such as the American Society for Testing and Materials (ASTM), Standard Methods, Association of Official Analytical Methods-International, and U.S. Geological Survey.

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Action	05/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4540

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RIN: 2040–AD71

ENVIRONMENTAL PROTECTION AGENCY (EPA) Completed Actions

Clean Water Act (CWA)

3597. EFFLUENT GUIDELINES AND STANDARDS FOR THE CENTRALIZED WASTE TREATMENT INDUSTRY

Priority: Other Significant

CFR Citation: 40 CFR 437

Completed:

Reason	Date	FR Cite
Final Action	12/22/00	65 FR 81241

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Federal

Sectors Affected: 562219 Other Nonhazardous Waste Treatment and Disposal

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RIN: 2040–AB78

3598. REFORMATTING OF EFFLUENT GUIDELINES AND STANDARDS IN 40 CFR PARTS 401 THROUGH 471

Priority: Info./Admin./Other

CFR Citation: 40 CFR 405 to 471 (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn	04/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 2040–AC79

3599. EFFLUENT GUIDELINES AND STANDARDS FOR SYNTHETIC-BASED DRILLING FLUIDS IN THE OIL AND GAS EXTRACTION POINT SOURCE CATEGORY (REVISIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 435

Completed:

Reason	Date	FR Cite
Final Action	01/22/01	66 FR 6849

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Sectors Affected: 21111 Oil and Gas Extraction

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RIN: 2040–AD14

3600. EFFLUENT GUIDELINES AND STANDARDS FOR THE ORGANIC CHEMICALS, PLASTICS AND SYNTHETIC FIBERS CATEGORY (COMPLETION OF A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 610

CFR Citation: 40 CFR 414

Legal Deadline: None

Abstract: In November 1987, EPA established effluent limitations guidelines and standards for the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) industrial category (52 FR 42522, November 5, 1987), under the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act. In 1993, EPA issued amendments to the final rule (58 FR 36872, July 9, 1993) to respond to the U.S. Fifth Circuit Court of Appeals' remand decisions on the OCPSF regulation. The 1993 amendments resulted in little change to the number or extent of small business impacts. The 1987 final rule incorporated special provisions (i.e., less stringent regulations) to minimize the economic impact for a subset of small plants, and the 1993 amendments maintained those provisions. EPA conducted a regulatory flexibility analysis for the final rule and concluded (for the 1987 rulemaking and again for the 1993 amendments) that the effluent limitations are economically achievable for the industry as a whole, although some small businesses would experience a significant economic impact. The analysis estimated impacts in terms of plant and product line closures and profit and sales impacts. As reported in the 1993 amendments, EPA projected the following small business impacts: for direct dischargers, EPA projected significant impacts for 77 percent of the small plants; for indirect dischargers, EPA projected significant impacts for 63 percent of the small plants.

In the November 22, 1999 Regulatory Agenda, we indicated that we would perform a review of this rule in accordance with section 610 of the Regulatory Flexibility Act. We are now announcing completion of that review and our decisions based on that review. We have concluded that this rule should remain in effect with no modification. Our analysis confirmed that effluent limitations for the OCPSF industry are a necessary component of the comprehensive program to restore and maintain the quality of our Nation's waters. In particular, the OCPSF rule contributes significantly to pollutant reductions, accounting for reductions of more than 100 million pounds per year. The Agency's Toxic Release Inventory indicates that releases from OCPSF facilities to surface waters and to POTWs remain an environmental concern, and that the effluent limitations should remain in place. Our analysis yielded no reasons to amend or rescind the rule due to need, complexity, or overlap with other rules. This conclusion is based on the lack of adverse comments, or any expressed need for a rule change from the major stakeholders, including the permitting authorities and the regulated community. Our analysis also included a review of the industry's technology changes and economic conditions. We did not identify innovations or other process changes that would significantly

Timetable:

Action	Date	FR Cite
Final Action	11/05/87	52 FR 42522
Begin Review	11/22/99	64 FR 65140
End Review - Decision To Leave Rule Unchanged at This Time	02/15/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4364

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RIN: 2040–AD45

3601. WATER QUALITY STANDARDS FOR ALABAMA—PHASE I

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 131

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Required	04/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

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RIN: 2040–AD25

3602. AMEND THE FINAL WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM TO PROHIBIT MIXING ZONES FOR BIOACCUMULATIVE CHEMICALS OF CONCERN

Priority: Other Significant

CFR Citation: 40 CFR 132

Completed:

Reason	Date	FR Cite
Final Action	11/13/00	65 FR 67638

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2040–AD32

3603. PROMULGATION OF PROVISIONS IN THE FINAL WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM FOR WATERS WITHIN THE GREAT LAKES BASIN

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 132

Completed:

Reason	Date	FR Cite
Final Action - New York	10/06/00	65 FR 59732
Final Action - Wisconsin	11/06/00	65 FR 66502
No Further Action Will Be Taken	04/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

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RIN: 2040–AD66

3604. FURTHER REVISIONS TO CLEAN WATER ACT DEFINITION OF DISCHARGE OF DREDGED MATERIAL

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 323.2(d); 40 CFR 232.2

Completed:

Reason	Date	FR Cite
Final Action	01/17/01	66 FR 4549

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

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RIN: 2040–AD41

3605. ROUND I SEWAGE SLUDGE USE OR DISPOSAL RULE — PHASE TWO AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 503 (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Planned	04/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2040–AC53

3606. SITE-SPECIFIC RULE UNDER XL TO GRANT WAIVER FROM BMP REGULATIONS UNDER CWA CLUSTER RULES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 430

Completed:

Reason	Date	FR Cite
Final Action	07/27/00	65 FR 46104

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

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RIN: 2090–AA12

ENVIRONMENTAL PROTECTION AGENCY (EPA) Prerule Stage

Safe Drinking Water Act (SDWA)

3607. USE OF SCREENING METHODS FOR COMPLIANCE MONITORING OF DRINKING WATER CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f SDWA 1401; 42 USC 300(g)(1) SDWA 1412; 42 USC 300(j)(4) SDWA 1445

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: The 1996 Safe Drinking Water Act (SDWA) Amendments require EPA to review new analytical methods that may be used for regulated contaminants screening or analysis, including screening methods. After this review, EPA may approve such methods that are deemed more accurate or cost-effective than established reference methods for use in compliance monitoring or the monitoring of unregulated contaminants. In this advanced notice of proposed rulemaking, EPA announces its intention to integrate the use of screening methods in the overall scheme of drinking water compliance monitoring. Efforts will be made to keep the proposal consistent with the Office of Water plan for Performance Based Methods (PBMS). EPA will identify regulated contaminates, types of monitoring and specific areas within each monitoring framework which are amenable to the use of screening methods. A logical application of screening procedures would be in a tiered monitoring mode where Tier 1 (screening phase) would identify the principal problem areas while Tier 2 would use sampling and analysis to more carefully identify and quantify specific contaminants. EPA would identify specific screening methods which are available for use based on their performance characteristics, tolerance to sample interferences, validation for drinking water analysis and correlation of results with traditional instrumental methods. The use of screening methods is expected to make drinking water compliance monitoring cheaper and faster, and provide flexibility to the Public Water Systems in the choice of analytical methods. Laboratory acceptance limits and other method performance requirements that were specified under previous rules will not be changed in

this rule making. The final action would only add new analytical methods and/or analytical approaches and would not withdraw or modify previously approved methods.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/01	
NPRM	07/00/02	
Final Action	07/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4212

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD31

3608. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ALDICARB

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300f et seq; SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA promulgated MCLs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone in the Phase II rulemaking in 1991 at levels of 0.003, 0.004, and 0.002 ug/l, respectively. In response to an administrative petition from the manufacturer Rhone-Poulenc, the Agency issued an administrative stay of the effective date. EPA will reexamine risk assessment and occurrence data on aldicarb and make a determination of what further action is appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	08/00/01	
NPRM	08/00/03	
Final Rule	08/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 3238

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AC13

3609. DRINKING WATER: REGULATORY DETERMINATIONS REGARDING CONTAMINANTS ON THE DRINKING WATER CONTAMINANT CANDIDATE LIST

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f et seq; SDWA 1412(b)(1)(B)

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, August 6, 2001, Final Regulatory Determination.

Abstract: The 1996 amendments to the Safe Drinking Water Act (SDWA) requires EPA to publish a list of non-regulated contaminants every five years, which may warrant regulation due to their health effects and their potential for occurrence in public water systems (PWSs). The first list, called the Contaminant Candidate List (CCL), was published in the Federal Register on March 2, 1998 (63 FR 10274). When establishing the 1998 CCL, EPA divided the contaminants among three main categories: 1) contaminants which are priorities for additional research; 2) contaminants which need additional occurrence data; and 3) contaminants which are priorities for consideration for rulemaking. These contaminants are collectively referred to as the Regulatory Determination Priority contaminants.

In addition to publishing the drinking water CCL, the SDWA also requires the Agency to select five or more contaminants from the CCL and determine, by August 2001, whether to regulate these contaminants with a National Primary Drinking Water Regulation (NPDWR). The Regulatory Determination Priority category is the list of contaminants from which the Agency will determine whether or not regulations are necessary. There are currently 12 contaminants on the 1998 CCL that have been characterized as having sufficient scientific information to make regulatory determinations by August 2001: Acanthamoeba; Aldrin; Boron; 1,3-dichloropropene; Dieldrin; Hexachlorobutadiene; Manganese; Metolachlor; Metribuzin; Napthalene; Sodium; and Sulfate.

In order make a decision whether or not to develop a NPDWR for a contaminant, the SDWA requires three statutory tests be met: 1) the contaminant may have an adverse effect on the health of persons; 2) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and 3) in the sole judgment of the Administrator, regulation of the contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

Using these three statutory tests to make regulatory decisions, there are three possible outcomes: 1) regulate the contaminant with a NPDWR; 2) develop guidance (e.g. Health or Consumer Advisory); or 3) determine no regulatory action is necessary.

Once a regulatory decision is made, the contaminant is removed from the CCL.

Timetable:

Action	Date	FR Cite
Notice	04/00/01	
Notice of Final Regulatory Determinations	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4447

SDWA requires a final determination of whether or not NPDWR(s) are necessary for no less than 5 contaminants on the CCL.

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD61

3610. 6-YEAR REVIEW OF EXISTING NATIONAL PRIMARY DRINKING WATER REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f et seq

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Other, Statutory, August 6, 2002, Complete review for contaminants with NPDWRs promulgated prior to August 1996.

Abstract: The Safe Drinking Water Act (SDWA) requires EPA to review and revise, if appropriate, all National Primary Drinking Water Regulations (NPDWRs) no less frequently than once every six years. According to SDWA, any revisions of drinking water regulations must maintain, or increase, the level of public health protection provided; however, EPA may identify regulatory changes that will streamline or reduce existing requirements without lessening the level of public health protection. As a part of this action, EPA will do two things: (1) develop an overall protocol for conducting each six year review; and (2) review the chemical contaminants (with the exception of arsenic which is being revised and atrazine and copper which are being reviewed on accelerated schedules). No new requirements will be imposed by this action. The purpose of the review is to determine whether new data, technology, or other factors exist that justify revisions to existing NPDWRs. The outcome of each review will be a Federal Register notice making available the results of the Agency's review and a rulemaking schedule for the regulations the Agency intends to revise. EPA may decide that any of the following need to be revised: maximum contaminant level goals, maximum contaminant levels, analytical methods, monitoring, treatment, recordkeeping and reporting requirements. EPA plans extensive stakeholder outreach and consultation in the development of the protocol and throughout the review process.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/01	
Notice of Final Decision	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4424

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD67

ENVIRONMENTAL PROTECTION AGENCY (EPA) Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3611. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 40 USC 300g-1(b); SDWA 1412(b); 42 USC 300f; 42 USC 300g-1; 42 USC 300g-2; 42 USC 300g-3; 42 USC 300g-4; 42 USC 300g-5; 42 USC 300g-6; 42 USC 300j-4; 42 USC 300j-9; 42 USC 300j-11

CFR Citation: 40 CFR 141 to 142; 40 CFR 9

Legal Deadline: None

Abstract: The Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) will control risk from microbial pathogens in drinking water. It is being developed simultaneously with the Stage 2 Disinfectants and Disinfection Byproducts Rule (DBPR) which will address risk caused by the use of disinfectants in drinking water. This rule could affect all public water systems that use surface water as a source. Promulgating the LT2ESWTR and the Stage 2 DBPR as a paired rulemaking is necessary to ensure that adequate protection from microbial risk is maintained while EPA manages risk from disinfection byproducts. EPA is required to promulgate the Stage 2 DBPR by May, 2002, under the 1996 Safe Drinking Water Act amendments. In developing the LT2ESWTR, EPA will analyze a significant body of new survey data on microbial pathogens in source and finished waters, as well as data on parameters which could serve as indicators of microbial risk. This survey data, which was collected under the Information Collection Rule (ICR), Supplemental Surveys to the ICR, and additional research projects, will provide a substantially more comprehensive and complete picture of the occurrence of waterborne pathogens than was available previously. EPA will also use significant new data on the efficiency of treatment processes for the removal and inactivation of microorganisms, as well as new information on the pathogenicity of certain pathogens, to determine effective regulatory requirements for controlling microbial risk. On March

30, 1999 EPA established a committee of stakeholders under the Federal Advisory Committee Act (FACA) to assist in the development of these rules. The FACA committee made recommendations on rule options to EPA in September 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 4341

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD37

3612. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE 2 DISINFECTANTS/DISINFECTION BYPRODUCTS RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 40 USC 300g-1(b); SDWA 1412(b); 42 USC 300f; 42 USC 300g-2; 42 USC 300g-3; 42 USC 300g-4; 42 USC 300g-5; 42 USC 300g-6; 42 USC 300j-4; 42 USC 300j-9; 42 USC 300j-11

CFR Citation: 40 CFR 141 to 142; 40 CFR 9

Legal Deadline: Final, Statutory, May 31, 2002.

Abstract: The 1996 Safe Drinking Water Act Amendments require EPA to promulgate a Stage 2 Disinfectants/Disinfection Byproducts Rule (Stage 2 DBPR) by May, 2002. EPA plans to propose this rule in 2001. The Regulation, along with a Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) that will be promulgated simultaneously, is intended to expand existing public health protections and address concerns about risk trade-offs between pathogens and disinfection byproducts. This rule could affect all public water systems that add a disinfectant to the drinking water during any part of the treatment process although the impacts may be limited to community water systems (CWSs) and non-transient non-community water systems (NTNCWSs). Promulgating the LT2ESWTR and the Stage 2 DBPR as a paired rulemaking is necessary to ensure that adequate protection from microbial risk is maintained while EPA manages risk from disinfection byproducts. In developing the Stage 2 DBPR, EPA will analyze a significant body of new survey data on source water quality parameters, treatment data and disinfection byproduct occurrence. This survey data, which was collected under the Information Collection Rule (ICR), Supplemental Surveys to the ICR, and additional research projects, will provide a substantially more comprehensive and complete picture of the occurrence of DBPs and microbiological pathogens than was available previously. EPA will also use new information on the health effects of exposure to DBPs to determine effective regulatory requirements for controlling risk. On March 30, 1999 EPA reconvened a committee of stakeholders under the Federal Advisory Committee Act (FACA) to assist in the development of these rules. The FACA made recommendations on rule options to EPA in September, 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 4342

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD38

3613. REGULATED DRINKING WATER CONTAMINANT OCCURRENCE REPORTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300f; 42 USC 300g-1 to 42 USC 300g-6; 42 USC 300j-4; 42 USC 300j-9; 42 USC 300j-11

CFR Citation: 40 CFR 142.15

Legal Deadline: None

Abstract: The Office of Water will revise the National Primary Drinking Water Regulations to require public water systems and States to report regulated drinking water contaminant occurrence level data to EPA. At present, States only report violation data for the purpose of compliance tracking, as concentrations that exceed the Maximum Contaminant Level. The data will be compared to health effects levels and used to compare occurrence frequency with monitoring requirements. The results of these analyses may be used to modify existing regulations during the statutorily required 6-year regulatory review cycle.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: Undetermined

Additional Information: SAN No. 4369

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD48

3614. NATIONAL SECONDARY DRINKING WATER REGULATIONS (NSDWR): METHYL TERTIARY BUTYL ETHER (MTBE) AND TECHNICAL CORRECTIONS TO THE NSDWR

Priority: Other Significant

Legal Authority: 42 USC 300f et seq

CFR Citation: 40 CFR 143 (Revision)

Legal Deadline: None

Abstract: Methyl Tertiary Butyl Ether (MTBE) is a fuel additive used primarily to increase the oxygen content in gasoline. It has been used in increasing quantity in the 1990s to meet the requirements of the Federal Reformulated Gasoline (RFG) and Oxyfuels programs required by the Clean Air Act Amendments of 1990. Although the use of MTBE in gasoline has helped to reduce harmful air emissions, it is being detected in ground water and surface water throughout the country. In some instances the affected waters are drinking water sources. At relatively low levels, MTBE's taste and odor can make drinking water supplies unacceptable to consumers. In this action, EPA is proposing a secondary standard for MTBE, which will provide control levels for taste and odor acceptability and to protect the public welfare.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4404

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD54

3615. UNDERGROUND INJECTION CONTROL CLASS V PHASE 2 REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300(h); Safe Drinking Water Act 1421 to 1425

CFR Citation: 40 CFR 144 to 147

Legal Deadline: NPRM, Judicial, April 30, 2001.
Final, Judicial, May 31, 2002.

Abstract: The Safe Drinking Water Act (SDWA) requires EPA to protect current and future underground sources of drinking water (USDWs) from the endangerment posed by Class V underground injection control (UIC) wells. Class V UIC wells are typically shallow waste disposal systems that are diverse in purpose, design, geographic distribution, the nature of the fluids injected, and endangerment potential. In accordance with the judicial deadlines in a consent agreement, EPA finalized specific regulations addressing two types of high risk UIC Class V injection wells (motor vehicle waste disposal wells and large-capacity cesspools) in December 1999. That regulatory action is informally referred to as the UIC Class V Phase 1 Rule. Also, in accordance with the consent agreement, EPA must evaluate all other Class V well types and determine if additional specific requirements are necessary to protect USDWs and if so, finalize the appropriate requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Additional Information: SAN No. 4451

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RIN: 2040–AD63

ENVIRONMENTAL PROTECTION AGENCY (EPA) Final Rule Stage

Safe Drinking Water Act (SDWA)

3616. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 300f et seq; SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: NPRM, Statutory, August 6, 1999.
Final, Statutory, November 2, 2000.
Other, Statutory, February 6, 1999, Publish radon health risk reduction and cost analysis.

Abstract: EPA proposed new regulations for radon in drinking water which will provide states flexibility in how to manage the health risks from radon, in both drinking water and in indoor air. States would be able to focus their efforts on the highest radon risks to the public - in indoor air - while reducing the highest risks from radon in drinking water. Breathing indoor radon in homes is the primary public health risk from radon, contributing to about 15,000-22,000 lung cancer deaths each year in the

United States, according to a landmark report this year by the National Academy of Sciences. That makes radon in indoor air the second leading cause of lung cancer in the United States. Based on a second NAS report, EPA estimates that radon in drinking water causes about 168 cancer deaths per year, of which about 89 percent are lung cancer from breathing radon released from water. The remaining 11 percent of the risk is for stomach cancer from drinking radon-containing water.

The proposal is based on the unique framework outlined in the 1996 Safe Drinking Water Act (SDWA). The proposed new regulation will provide two options to states and water systems for reducing public health risks from radon. Under the first option, states can choose to develop enhanced state programs to address the health risks from indoor radon while water systems reduce radon levels in drinking water to at or below the higher, alternative maximum contaminant level MCL proposed at 4,000 pCi/L (picoCuries per liter, a standard unit of radiation) , ensuring protection from the highest risks from radon in drinking water. EPA is encouraging the states to adopt this approach as the most cost-effective way to achieve the greatest radon risk reduction. If a state does not elect this option, the second option would require water systems in that state to either reduce radon in drinking water levels to the MCL of 300 pCi/L, or to develop a local indoor radon program and reduce levels in drinking water to 4000 pCi/L. Those systems initially at the MCL or lower will not need to treat their water for radon.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Notice	02/26/99	64 FR 9560
NPRM	11/02/99	64 FR 59245
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 2281

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AA94

3617. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUND WATER RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 300f; SDWA 1412

CFR Citation: 40 CFR 141 400 to 406; 40 CFR 142 14 to 16 (revision)

Legal Deadline: Final, Statutory, May 31, 2002.

Abstract: EPA has proposed a targeted risk-based regulatory strategy for all ground water systems. The proposed requirements provide a meaningful opportunity to reduce public health risk associated with the consumption of waterborne pathogens from fecal contamination for a substantial number of people served by ground water sources. The proposed strategy addresses risks through a multiple-barrier approach that relies on five major components: periodic sanitary surveys of ground water systems requiring the evaluation of eight elements and the identification of significant deficiencies; hydrogeologic assessments to identify wells sensitive to fecal contamination; source water monitoring for systems drawing from sensitive wells without treatment or with other indications of risk; a requirement for correction of significant deficiencies and fecal contamination through the following actions: eliminate the source of contamination, correct the significant deficiency, provide an alternative source water, or provide a treatment which achieves at least 99.99 percent (4-log) inactivation or removal of viruses, and compliance monitoring to insure disinfection treatment is reliably operated where it is used.

Timetable:

Action	Date	FR Cite
NPRM	05/10/00	65 FR 30194
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 2340

Statutory deadline for final: After August 6,1999 but before the Administrator promulgates a stage II rulemaking for disinfection and disinfection byproducts (currently scheduled for May 2002).

NPRM-
http://www.epa.gov/safewater/gwr.html

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AA97

3618. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC AND CLARIFICATIONS TO COMPLIANCE AND NEW SOURCE CONTAMINANT MONITORING

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 300f SDWA 1412

CFR Citation: 40 CFR 141 (Revision); 40 CFR 142 (Revision)

Legal Deadline: NPRM, Statutory, January 1, 2000.
Final, Statutory, June 22, 2001.

Abstract: On January 22, 2001, EPA published a final Arsenic Rule (66 FR 6975). On March 23, 2001, EPA published a notice extending the effective date of the final Arsenic Rule from March 23, 2001, to May 22, 2001 (66 FR 16134), in accordance with a January 20, 2001, memorandum from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," (published in the Federal Register on January 24, 2001). The 60-day delay in effective date was necessary to give Agency officials the opportunity for further review and consider the new rule. On April 23, 2001, EPA published a proposal to further extend the effective date of the final Arsenic Rule from May 22, 2001, to February 22, 2002 (66 FR 20579). As its next step in the process of reviewing the final Arsenic Rule, EPA will prepare a proposal for comment on a range of arsenic maximum contaminant level options from 3 ppb to 20 ppb.

Timetable:

Action	Date	FR Cite
Plan Arsenic Research Topics for Funding	12/24/96	61 FR 67800
NPRM	06/22/00	65 FR 38888
Extension of Effective Date	01/22/01	66 FR 6975
Final Action	03/23/01	66 FR 16134
Further Extension of Effective Date	04/23/01	66 FR 20579
Effective Date	02/22/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Federalism: This action may have federalism implications as defined in EO 13132.

Additional Information: SAN No. 2807

Final Action-
www.epa.gov/safewater/ars/arsenic-finalrule.html

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AB75

3619. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Priority: Other Significant

Legal Authority: 42 USC 300(f) SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Other, Statutory, August 6, 2001, Decision whether to regulate.

Abstract: Sulfate is on the list of 83 contaminants required to be regulated under the Safe Drinking Water Act (SDWA) of 1986. The contaminant was deferred from the Phase V regulation in order to allow the EPA time to focus on implementation issues arising from the proposal concerning the risk of sulfate in drinking water to specific subpopulations. Sulfate can cause diarrhea in infants and in adults not acclimated to high sulfate-containing water, such as travelers. Persons who are acclimated to high sulfate-containing water suffer no adverse effects from its consumption. Sulfate occurs naturally in soil and is also found in surface water as a result of acid rain. Sulfate is also used as a reagent in steel and copper industries and in the manufacture of copper sulfate, a fungicide/algicide. An estimated 2,000 systems—serving a population of 200,000 residents, 1 million travelers, and 30,000 infants—are likely to be affected by this regulation. Most of the affected systems serve populations of less than 3,000 and are transient systems not in service year-round. EPA proposed but never finalized several options for compliance which would be an alternative to central treatment and less costly. The 1996 amendments to the SDWA call for a definitive study to resolve remaining health risk questions. Thereafter, EPA is to make a determination whether or not to regulate sulfate. EPA and the Centers for Disease Control have conducted the health risk study for sulfate. The results of the study will serve as the basis for the Agency's determination on whether to regulate sulfate.

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65578
Notice Sulfate Study	02/11/99	64 FR 7028
Notice - Decision To Regulate or Not	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3176

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AC07

3620. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LONG TERM 1 ENHANCED SURFACE WATER TREATMENT RULE

Priority: Other Significant

Legal Authority: SDWA 1412(b)(2)(C)

CFR Citation: 40 CFR 9 (Revision); 40 CFR 141; 40 CFR 142 (Revision)

Legal Deadline: Final, Statutory, November 30, 2000.

Abstract: The purposes of the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) are to improve control of microbial pathogens, specifically the protozoan Cryptosporidium, in drinking water; and address risk trade-offs with disinfection by-products. The LT1ESWTR builds upon the framework established for systems serving a population of 10,000 or more in the Interim Enhanced Surface Water Treatment Rule (IESWTR). The LT1ESWTR applies to public water systems that use surface water or ground water under the direct influence of surface water and serve fewer than 10,000 persons and includes the following provisions: (1) 2-log removal of Cryptosporidium; (2) compliance

with specific combined filter fluent turbidity requirements; (3) continuous turbidity monitoring for individual filters with follow-up activities based on monitoring results; (4) development of a disinfection profile unless applicability monitoring at a particular plant demonstrated TTHM and HAA5 levels less than 0.064 mg/L and 0.048 mg/L respectively; (5) development of a Giardia inactivation disinfection benchmark and consultation with the State before making a significant change in disinfection practices; (6) mandatory covers for all newly constructed finished water reservoirs; and (7) unfiltered system compliance with updated watershed control requirements that add Cryptosporidium as a pathogen of concern.

Timetable:

Action	Date	FR Cite
NPRM	04/10/00	65 FR 19095
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4147

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD18

3621. NATIONAL PRIMARY DRINKING WATER REGULATIONS: FILTER BACKWASH RECYCLING RULE

Priority: Other Significant

Legal Authority: 42 USC 300g1(b)(14); SDWA 1412(b)(14)

CFR Citation: 40 CFR 141.76; 40 CFR 142.16

Legal Deadline: Final, Statutory, August 6, 2000.

Abstract: In 1990, EPA's Science Advisory Board (SAB), an independent panel of experts established by Congress, cited drinking water contamination as one of the most important environmental risks and indicated that disease-causing microbial contaminants (i.e., bacteria, protozoa, and viruses) are probably the greatest remaining health risk management challenge for drinking water suppliers. The 1996 Amendments to the Safe Drinking Water Act reaffirmed this conclusion by requiring EPA to promulgate a number of regulations to address public health concerns associated with drinking water. One such requirement (Section 1412(b)(14) was that EPA promulgates regulations to, "govern" the recycle of filter backwash within the treatment process of public utilities.

In developing the Filter Backwash Recycling Rule (FBRR), EPA analyzed a variety of issues. The FBRR contains three major components: 1) recycle streams must be returned to a location such that all processes of a system's conventional or direct filtration are employed; 2) direct filtration systems which recycle must report practices to the State; and 3) conventional filtration systems which recycle must report practices to the State.

The FBRR was proposed along with the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) in a single NPRM and was published in the Federal Register on April 10, 2000. Each will be finalized in separate rulemakings.

Timetable:

Action	Date	FR Cite
NPRM	04/10/00	65 FR 19045
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4146

Sectors Affected: 22131 Water Supply and Irrigation Systems

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RIN: 2040–AD65

3622. UPDATE OF STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Priority: Info./Admin./Other

Legal Authority: 42 USC 300h-1 SDWA Section 1422; 42 USC 300h-4 SDWA Section 1425

CFR Citation: 40 CFR 147 (Revision)

Legal Deadline: None

Abstract: EPA provides a place in part 147 of its UIC regulations where all the State UIC programs are summarized. Included in this summarization are all the authorities and regulations used by the States to implement the UIC program, as well as all other documents that are relevant to the program. The primary reason for this is to provide one place where all the UIC programs nationwide are presented. A second reason, more importantly, is to allow EPA to incorporate by reference into the Code of Federal Regulations the State program authorities. Current citations to State regulations in 40 CFR part 147 are out of date for many States. This update is necessary to ensure that the CFR accurately reflects current approved State UIC programs and that elements of those programs are federally enforceable if necessary. EPA Regional Offices will be submitting State revision packages as they are completed. Part 147 will then be updated in several stages. This is the first stage. This effort should have no impact on the regulated community because we will merely be incorporating by reference elements of already effective State programs.

Timetable:

Action	Date	FR Cite
Direct Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4236

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Fax: 202 260-0732
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Bruce Kobelski, Environmental Protection Agency, Water, 4606, Washington, DC 20460
Phone: 202 260-7275
Fax: 260 202-4656

RIN: 2040–AD40

ENVIRONMENTAL PROTECTION AGENCY (EPA) Completed Actions

Safe Drinking Water Act (SDWA)

3623. UNREGULATED CONTAMINANT MONITORING RULE - LIST 2

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141.40

Completed:

Reason	Date	FR Cite
Final Action	01/11/01	66 FR 2273

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 22131 Water Supply and Irrigation Systems

Agency Contact: Charles Job
Phone: 202 260-7084
Email: job.charles@epa.gov

Rachel Sakata
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Fax: 202 260-3762

RIN: 2040–AD58

3624. REFORMATTING OF DRINKING WATER REGULATIONS

Priority: Info./Admin./Other

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Planned	04/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 22131 Water Supply and Irrigation Systems

Agency Contact: James Taft
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Email: taft.james@epa.gov

RIN: 2040–AC41

3625. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADIUM, URANIUM, ALPHA, BETA AND PHOTON EMITTERS

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	12/07/00	65 FR 76708

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 22131 Water Supply and Irrigation Systems

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William Labiosa
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Fax: 202 260-3762
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RIN: 2040–AC98

3626. REVISION TO THE INTERIM ENHANCED SURFACE WATER TREATMENT RULE (IESWTR) AND THE STAGE 1 DISINFECTANTS AND DISINFECTION BYPRODUCTS RULE (DBPR) AND PRIMACY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	01/16/01	66 FR 3769

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 22131 Water Supply and Irrigation Systems

Agency Contact: Jennifer Melch
Phone: 202 260-7035
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Email: melch.jennifer@epa.gov

RIN: 2040–AD43

3627. DRINKING WATER STATE REVOLVING FUND REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	01/12/01	66 FR 2823

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Sectors Affected: 22131 Water Supply and Irrigation Systems

Agency Contact: Kimberley Roy
Phone: 202 260-2794
Fax: 202 401-2345
Email: roy.kimberley@epa.gov

RIN: 2040–AD20

ENVIRONMENTAL PROTECTION AGENCY (EPA) **Final Rule Stage**

Shore Protection Act (SPA)

3628. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2601 Shore Protection Act of 1988; PL 100-688 4103(b)

CFR Citation: 40 CFR 237

Legal Deadline: None

Abstract: This rule will implement the Shore Protection Act (SPA) and is designed to prevent the deposit of municipal and commercial waste into U.S. Coastal Waters. This rule establishes minimum waste handling practices for vessels and waste handling facilities involved in the transport of municipal or commercial wastes in the coastal waters of the United States. The rule may require certain vessels and waste handling facilities to develop an operation and maintenance manual that identifies procedures to prevent, report, and clean up deposits of waste into coastal waters. Local governments and businesses involved with the vessel transportation and shore side handling of these wastes would be affected by this rule. Currently no tribes are known to be involved in waste handling of this type; therefore none would be affected by this rule. In regards to small businesses, EPA has provided guidance on development of operation and maintenance manuals and encourages the use and documentation of existing industry practices that meet or exceed the EPA proposed minimum waste handling standards. All indications are that this regulation as proposed would have a minimal economic impact. This regulation will result in reduction of municipal and commercial wastes deposited in coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44798
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 2820

Agency Contact: Steven Giordano, Environmental Protection Agency, Water, 4504F, Washington, DC 20460
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RIN: 2040–AB85

[FR Doc. 01–10449 Filed 05–11–01; 8:45 am]
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Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Carol R. Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4689.

SUPPLEMENTARY INFORMATION: The Commission has identified five regulations for inclusion in this regulatory agenda. One of these items is completed, one is withdrawn, and three are currently under development or review by Commission staff.

Signed in Washington, DC, this 22nd day of February 2001.

For the Commission.

Ida L. Castro,
Chairwoman.

Equal Employment Opportunity Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3629	Federal Sector Equal Employment Opportunity	3046-AA57

Equal Employment Opportunity Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3630	Procedures—The Age Discrimination in Employment Act	3046-AA54
3631	Conforming Treatment of Federal Sector Administrative Judge Decisions	3046-AA71

Equal Employment Opportunity Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
3632	Disparate Impact Under the Age Discrimination in Employment Act (ADEA)	3046-AA64
3633	Waivers of Rights and Claims: Tender Back of Consideration	3046-AA68

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Final Rule Stage

3629. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority: Other Significant

Legal Authority: PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC.2000e-16; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: The Commission proposes to change its Federal sector equal employment opportunity regulations to implement the Rehabilitation Act Amendments of 1992. The 1992 amendments provide that the standards used to determine if title I of the Americans with Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under section 501 of the Rehabilitation Act.

Statement of Need: The Commission promulgated its latest regulation under section 501 of the Rehabilitation Act in April 1992, several months before Congress enacted the 1992 Rehabilitation Act Amendments. The Commission is thus proposing to amend its section 501 regulation, found at 29 CFR 1614.203, to implement the Rehabilitation Act Amendments.

Summary of Legal Basis: Pursuant to sections 501 and 505 of the Rehabilitation Act, the Commission is authorized to issue such regulations as it deems necessary to carry out its responsibilities under the Act. The proposed regulatory revisions are not required by statute or court order.

Alternatives: The Commission has reviewed comments and has considered suggested alternatives in developing this regulatory proposal. The Commission will consider all alternatives offered by public commenters.

Anticipated Cost and Benefits: The proposed regulatory changes will enhance enforcement of the statutory requirements. Federal agencies and individuals will have a clearer understanding of their respective obligations and rights under the Rehabilitation Act. It is not anticipated that this proposal will result in increased costs.

Risks: The proposed regulatory changes will lessen the risk of noncompliance with statutory requirements by identifying and providing detailed guidance on the appropriate legal standards governing Federal sector claims of nonaffirmative action employment discrimination under section 501 of the Rehabilitation Act. This proposal does not address risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/01/00	65 FR 11019
NPRM Comment Period End	05/01/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Carol Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, Room 6037, 1801 L Street NW, Washington, DC 20507
Phone: 202 663-4689
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA57

EEOC — Final Rule Stage

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Long-Term Actions

3630. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW, Washington, DC 20507
Phone: 202 663-4669
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA54

3631. CONFORMING TREATMENT OF FEDERAL SECTOR ADMINISTRATIVE JUDGE DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 206(d), 633(a), 791 and 794a; 46 USC 2000e-16

CFR Citation: 29 CFR 1614.204

Legal Deadline: None

Abstract: We propose to conform the treatment of decisions by administrative judges on class complaints to the treatment of decisions by administrative judges on individual complaints; i.e., instead of issuing recommended decisions on reports of findings and recommendations, administrative judges will issue decisions that agencies can either fully implement or appeal.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW, Washington, DC 20507
Phone: 202 663-4669
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA71

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Completed Actions

3632. DISPARATE IMPACT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 1625.7 (Revision); 29 CFR 1625.23 (New)

Completed:

Reason	Date	FR Cite
Withdrawn	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph N. Cleary
Phone: 202 663-4647
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA64

3633. WAIVERS OF RIGHTS AND CLAIMS: TENDER BACK OF CONSIDERATION

Priority: Other Significant

CFR Citation: 29 CFR 1625

Completed:

Reason	Date	FR Cite
Final Action	12/11/00	65 FR 77438

EEOC

Completed Actions

Regulatory Flexibility Analysis Required: No
Government Levels Affected: State, Local, Federal

Agency Contact: Carol Miaskoff
Phone: 202 663-4689
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA68

[FR Doc. 01–5194 Filed 05–11–01; 8:45 am]
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Monday,
May 14, 2001

Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Emergency Management Agency (FEMA) publishes its semiannual regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda lists regulations that will be under development or review during the period April 1, 2001 to October 31, 2001.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information on FEMA's regulatory agenda, contact Michael S. Herman, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-4097, (Fax) (202) 646-4536 or e-mail: michael.herman@fema.gov.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" directs each executive agency to publish only such regulations as are required by law, are necessary to interpret the law, or are necessary by compelling public need. We and other Federal departments and agencies publish an agenda of regulations semiannually in order to give you adequate notice of agency rulemaking activities. We also publish a regulatory agenda of rules likely to be significant regulatory actions when that is appropriate.

To fulfill the requirements of Executive Order 12866, this agenda describes current and projected regulatory actions and rules that will be under review or development during the period April 1, 2001 to October 31, 2001. This agenda also contains information of regulations on which we completed action since the last FEMA semiannual agenda was published on November 30, 2000 at 65 FR 74641 to 74648.

We invite your comments on the agenda, including comments by State and local governments. Please submit any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (Fax) (202) 646-4536 or e-mail: rules@fema.gov. Please refer to the title of the rule that you are inquiring about, or commenting on and to the rule's Regulation Identifier Number (RIN) found at the end of each agenda entry.

The agenda is not limited to significant regulatory actions and it contains information about FEMA regulations to be developed, reviewed, or published in the next 12 months, except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: March 19, 2001.

Michael D. Brown,

General Counsel.

Federal Emergency Management Agency—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3634	Assistance to Firefighters (FIRE) Grant Program	3067-AD21

Federal Emergency Management Agency—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3635	Flood Mitigation Assistance Program	3067-AC45
3636	Criminal and Civil Penalties Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act	3067-AC61
3637	Disaster Assistance; Hazard Mitigation Grant Program	3067-AC69
3638	Production or Disclosure of Information	3067-AC75
3639	Taxpayer Identification Numbers	3067-AC76
3640	Debt Collection	3067-AC77
3641	Debt Collection	3067-AC84
3642	Fee for Services To Support FEMA's Offsite Radiological Emergency Preparedness Program	3067-AC87
3643	National Urban Search and Rescue Response System	3067-AC93
3644	Administration of Grants: Audits of States, Local Governments, and Nonprofit Organizations	3067-AC98
3645	National Flood Insurance Program; Insurance Coverage and Rates	3067-AD02
3646	Organizational Units, Functions and Delegations of Authority	3067-AD03
3647	Supplemental Property Acquisition and Elevation Assistance	3067-AD06
3648	Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	3067-AD07
3649	Disaster Assistance; Debris Removal	3067-AD08
3650	National Flood Insurance Program; Letter of Map Revision Based on Fill Requests	3067-AD13

FEMA

Federal Emergency Management Agency—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3651	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	3067-AD14
3652	Governmentwide Debarment and Suspension (Nonprocurement)	3067-AD15
3653	National Flood Insurance Program (NFIP); Inspection of Insured Structures by Communities	3067-AD16
3654	National Flood Insurance Program (NFIP); Pilot Project-Public Entity Insurers	3067-AD17
3655	Changes to General Provisions and Communities Eligible for the Sale of Insurance That Include Future Conditions Flood Insurance Hazard Map Information on Flood Maps	3067-AD18
3656	National Flood Insurance Program (NFIP); Clarification of Map Amendment Determinations	3067-AD19
3657	Disaster Assistance; Public Assistance Program and Community Disaster Loan Program Statutory Changes	3067-AD20
3658	Hazard Mitigation Planning	3067-AD22
3659	National Flood Insurance Administration; Assistance to Private Sector Property Insurers	3067-AD23

Federal Emergency Management Agency—Completed Actions

Sequence Number	Title	Regulation Identification Number
3660	Disaster Assistance; Insurance Requirements for the Public Assistance Program	3067-AC90
3661	National Flood Insurance Program; Insurance Coverage and Rates	3067-AD00
3662	Disaster Assistance: Cerro Grande Fire Assistance	3067-AD12

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Final Rule Stage

3634. • ASSISTANCE TO FIREFIGHTERS (FIRE) GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2201 et seq

CFR Citation: 44 CFR 152

Legal Deadline: None

Abstract: This interim final rule will provide guidance on a new program to make grants directly to fire departments of a State for the purpose of enhancing their ability to protect the health and safety of the public, as well as that of the fire fighting personnel facing fire and fire-related hazards. The grants will be awarded on a competitive basis, based on demonstrated financial need for and maximum benefit to be derived from the grant funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/21/01	66 FR 15968
Interim Final Rule Effective	03/21/01	
Interim Final Rule Comment Period End	05/21/01	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Brian Cowan, Office of Strategic Initiatives, Federal Emergency Management Agency, Room 304, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2821
Email: brian.cowan@fema.gov

RIN: 3067–AD21

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Long-Term Actions

3635. FLOOD MITIGATION ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4104c; 42 USC 4104d

CFR Citation: 44 CFR 78

Legal Deadline: None

Abstract: This interim final rule implements sections 553 and 554 of the National Flood Insurance Reform Act of 1994 to provide grants under the National Flood Mitigation Fund to States and communities for planning assistance and for mitigation projects that reduce the risk of flood damages to structures covered under contracts for flood insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13346
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Gil Jamieson, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4090

RIN: 3067–AC45

3636. CRIMINAL AND CIVIL PENALTIES UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5157(d); PL 101-410; 28 USC 2461; PL 104-134, sec 31001(s)

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would increase the maximum civil penalty under the Robert T. Stafford Disaster Relief and Emergency Assistance Act from $5,000 to $5,500.

Timetable:

Action	Date	FR Cite
NPRM	02/10/97	62 FR 5957
NPRM Comment Period End	04/11/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Maresco, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4287
Email: robin.maresco@fema.gov

RIN: 3067–AC61

3637. DISASTER ASSISTANCE; HAZARD MITIGATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would revise the categories of projects eligible for funding under the Hazard Mitigation Grant Program. It emphasizes nonstructural flood mitigation measures to reduce the number of floodprone structures and clarifies that major structural flood control projects will not be considered for funding under the grant program.

Timetable:

Action	Date	FR Cite
NPRM	05/01/98	63 FR 24143
NPRM Comment Period End	07/01/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3619
Fax: 202 646-3104
Email: robert.shea@fema.gov

RIN: 3067–AC69

3638. PRODUCTION OR DISCLOSURE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231

CFR Citation: 44 CFR 5

Legal Deadline: None

Abstract: This rule would give the public access to Government information and records maintained in an electronic format: 1) provide for expedited processing of certain requests; 2) establish an "electronic reading room;" 3) require edited material to be estimated or indicated in an agency's delay in processing requests; and 4) require FEMA to make an agency reference guide available on the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	08/28/98	63 FR 45982
NPRM Comment Period End	10/27/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eileen Leshan, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4115
Email: eileen.leshan@fema.gov

RIN: 3067–AC75

3639. TAXPAYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7701(c)

CFR Citation: 44 CFR 6

Legal Deadline: None

Abstract: This rule would implement the Debt Collection Improvement Act requirement that any person doing business with a Federal agency must provide the agency with the person's taxpayer identification number.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Maresco, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4287
Email: robin.maresco@fema.gov

RIN: 3067–AG76

3640. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: Under this rule, FEMA will refer delinquent debts owed to this Agency to the Department of the Treasury for collection under the Governmentwide Treasury Offset Program and for tax-refund offsets at the same time. FEMA amends its regulations to allow administrative offset against delinquent debtor States and units of general local government. FEMA also amends its regulations to change the method for calculating interest, penalty and administrative charges assessed on delinquent debts and to make States and units of general local government subject to such changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/98	63 FR 1063
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Robin Maresco, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472

Phone: 202 646-4287
Email: robin.maresco@fema.gov

RIN: 3067–AC77

3641. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: This rule would implement policies used by FEMA to collect debts under the Debt Collection Act of 1982, including measures to collect and to compromise or terminate collection action.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robin Maresco, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
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Email: robin.maresco@fema.gov

RIN: 3067–AC84

3642. FEE FOR SERVICES TO SUPPORT FEMA'S OFFSITE RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-65

CFR Citation: 44 CFR 354

Legal Deadline: None

Abstract: This rule revises 44 CFR part 354 to establish the policies and administrative basis for FEMA to assess fees on NRC licensees to recover the full amount of the funds obligated by FEMA to provide services for offsite radiological emergency planning and preparedness beginning in FY 1999.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/15/98	63 FR 69001
Interim Final Rule Effective	12/15/98	
Interim Final Rule Comment Period End	02/16/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vanessa E. Quinn, PTE Directorate, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
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Email: vanessa.quinn@fema.gov

RIN: 3067–AC87

3643. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 208

Legal Deadline: None

Abstract: This rule would prescribe policies and procedures pertaining to FEMA's National Urban Search and Rescue Response System.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Mark Russo, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4097
Email: mark.russo@fema.gov

RIN: 3067–AC93

3644. ADMINISTRATION OF GRANTS: AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7501

CFR Citation: 44 CFR 14

Legal Deadline: None

Abstract: This rule implements the Single Audit Act of 1984, as amended, on an agencywide basis within FEMA. It requires recipients of financial assistance from FEMA to comply with OMB Circular A-133, which sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and nonprofit organizations expending Federal awards.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard L. Skinner, Deputy Inspector General, Federal Emergency Management Agency, Washington, DC 20472
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RIN: 3067–AC98

3645. NATIONAL FLOOD INSURANCE PROGRAM; INSURANCE COVERAGE AND RATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule would apply full-risk premium rates under the NFIP to structures that have suffered multiple flood losses and whose owners decline an offer of funding to eliminate or reduce future flood damage.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42632
NPRM Comment Period End	09/07/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Howard Leikin, Deputy Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-2784
Email: howard.leikin@fema.gov

RIN: 3067–AD02

3646. ORGANIZATIONAL UNITS, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Priority: Info./Admin./Other

Legal Authority: Reorg. Plan No. 3 of 1978

CFR Citation: 44 CFR 2

Legal Deadline: None

Abstract: This rule revises 44 CFR part 2 to reflect changes in FEMA's organizational structure, functions of a new directorate and a new office, and delegations of authority.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael B. Hirsch, Associate General Counsel, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4099

RIN: 3067–AD03

3647. SUPPLEMENTAL PROPERTY ACQUISITION AND ELEVATION ASSISTANCE

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 106-113, app E

CFR Citation: 44 CFR 209

Legal Deadline: None

Abstract: FEMA announces the immediate availability of $215 million in grants provided under the Consolidated Appropriations Act for FY 2000, for the acquisition and relocation of properties affected by Hurricane Floyd or surrounding events for hazard mitigation purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/00	65 FR 7269
Interim Final Rule Effective	02/11/00	
Interim Final Rule Comment Period End	04/11/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3619
Fax: 202 646-3104
Email: robert.shea@fema.gov

RIN: 3067–AD06

3648. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: PL 105-277

CFR Citation: 44 CFR 13

Legal Deadline: None

Abstract: This interim final rule presents an interim final revision to the agencies' codification of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." It provides uniform administrative requirements for all grants and cooperative agreements to institutions of higher education, hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles P. McNulty, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2976
Email: charles.mcnulty@fema.gov

RIN: 3067–AD07

3649. DISASTER ASSISTANCE; DEBRIS REMOVAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: We propose to provide financial help for the removal of debris and wreckage from publicly and privately owned lands and waters when communities convert property acquired through a FEMA program for hazard mitigation purposes to uses compatible with open space, recreational, or wetlands management practices.

Timetable:

Action	Date	FR Cite
NPRM	05/16/00	65 FR 31129
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Melissa M. Howard Ph.D., Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4240
Email: melissa.howard@fema.gov

RIN: 3067–AD08

3650. NATIONAL FLOOD INSURANCE PROGRAM; LETTER OF MAP REVISION BASED ON FILL REQUESTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 65

Legal Deadline: None

Abstract: This rule would amend FEMA procedures for issuing Letters of Map Revision Based on Fill (LOMR-F), to determine whether we can issue a LOMR-F to remove unimproved land or land with structures from the Special Flood Hazard Area by raising ground elevations using engineered earthen fill.

Timetable:

Action	Date	FR Cite
NPRM	10/10/00	65 FR 60159
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3461
Email: matt.miller@fema.gov

RIN: 3067–AD13

3651. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 44 CFR 7; 44 CFR 16

Legal Deadline: None

Abstract: This rule would amend FEMA's regulations implementing title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1972, and the Age Discrimination Act of 1975. Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. Publication of this rule would explicitly incorporate the Civil Rights Restoration Act definitions of "program or activity" and "program."

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pauline C. Campbell, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
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Email: pauline.campbell@fema.gov

RIN: 3067–AD14

3652. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355; 31 USC 6101 note

CFR Citation: 44 CFR 17; 44 CFR 20

Legal Deadline: None

Abstract: This common rule would make changes to the existing governmentwide nonprocurement common rule for debarment and suspension, and the governmentwide rule implementing the Drug-Free Workplace Act of 1988.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles P. McNulty, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2976
Email: charles.mcnulty@fema.gov

RIN: 3067–AD15

3653. • NATIONAL FLOOD INSURANCE PROGRAM (NFIP); INSPECTION OF INSURED STRUCTURES BY COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 59; 44 CFR 61

Legal Deadline: None

Abstract: This rule would amend FEMA regulations to clarify that areas of Monroe County, Florida that incorporate on or after January 1, 1999 and become eligible for the sale of flood insurance must participate in the inspection procedure to help the communities of Monroe County and the Village of Islamorda verify that structures comply with the community's floodplain management ordinance, and to ensure that property owners pay flood insurance premiums to the NFIP commensurate with their flood risk.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Don Beaton, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
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RIN: 3067–AD16

3654. • NATIONAL FLOOD INSURANCE PROGRAM (NFIP); PILOT PROJECT-PUBLIC ENTITY INSURERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 4001

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This rule would launch a 3-year pilot project that would permit intergovernmental risk-sharing pools sponsored by State municipal leagues to sell flood insurance to public entities under the National Flood Insurance Program's Write Your Own effort. We would limit the participants in this pilot effort to three such insurers that would be able to provide flood insurance only to pubic entities for their buildings.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edward T. Pasterick, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
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Email: edward.pasterick@fema.gov

RIN: 3067–AD17

3655. • CHANGES TO GENERAL PROVISIONS AND COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE THAT INCLUDE FUTURE CONDITIONS FLOOD INSURANCE HAZARD MAP INFORMATION ON FLOOD MAPS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 59; 44 CFR 64

Legal Deadline: None

Abstract: This rule revises the National Flood Insurance Program regulations to: 1) include the definitions for future conditions hydrology and for the flood plains that may be shown on Flood Insurance Rate Maps (FIRMS) for informational purposes at the request of the community to reflect future conditions hydrology; and 2) establish the zone symbol to be used to identify future conditions flood hazard areas on FIRMs.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3461
Email: matt.miller@fema.gov

RIN: 3067–AD18

3656. • NATIONAL FLOOD INSURANCE PROGRAM (NFIP); CLARIFICATION OF MAP AMENDMENT DETERMINATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 70

Legal Deadline: None

Abstract: This rule amends FEMA's procedures for issuing Letters of Map Amendment (also know as LOMAs) to clarify that when a property is outside a designated Special Flood Hazard Area (SFHA) as shown on the NFIP Map we will issue a LOMA but will not modify the Flood Hazard Boundary or Flood Insurance Rate Map (FIRM).

Timetable:

Action	Date	FR Cite
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3461
Email: matt.miller@fema.gov

RIN: 3067–AD19

3657. • DISASTER ASSISTANCE; PUBLIC ASSISTANCE PROGRAM AND COMMUNITY DISASTER LOAN PROGRAM STATUTORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule amends FEMA's regulations for the Public Assistance Program and the Community Disaster Loan Program to reflect statutory changes to these programs. Specifically the rule: 1) changes the Federal contribution for Large in Lieu Contributions also known as "alternate projects;" 2) adds irrigation districts to the list of eligible private nonprofit (PNP) facilities; 3) institutes a loan requirement for certain non-critical PNP facilities; and 4) limits Community Disaster Loans to $5 million and requires that loan applicants not be in arrears on any previous loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret Earman, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
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Email: margie.earman@fema.gov

RIN: 3067–AD20

3658. • HAZARD MITIGATION PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This regulation would implement the new hazard mitigation planning requirements of section 322 of the Stafford Act as it was amended by the Disaster Mitigation Act of 2000

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3619
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RIN: 3067–AD22

3659. • NATIONAL FLOOD INSURANCE ADMINISTRATION; ASSISTANCE TO PRIVATE SECTOR PROPERTY INSURERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001

CFR Citation: 42 CFR 62

Legal Deadline: None

Abstract: Based on recent cost information, we propose to adjust the expense allowance under the Financial Assistance/Subsidy Arrangement between the Federal Insurance Administration and the private sector insurers that sell flood insurance.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Edward L. Connor, Federal Insurance Administration, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3443
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Email: edward.connor@fema.gov

RIN: 3067–AD23

3660. DISASTER ASSISTANCE; INSURANCE REQUIREMENTS FOR THE PUBLIC ASSISTANCE PROGRAM

Priority: Other Significant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Withdrawn	01/08/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Curtis Carleton
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RIN: 3067–AC90

3661. NATIONAL FLOOD INSURANCE PROGRAM; INSURANCE COVERAGE AND RATES

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 61

Completed:

Reason	Date	FR Cite
Final Action	10/12/00	65 FR 60758

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico
Phone: 202 646-3422

RIN: 3067–AD00

3662. DISASTER ASSISTANCE: CERRO GRANDE FIRE ASSISTANCE

Priority: Other Significant

CFR Citation: 44 CFR 295

Completed:

Reason	Date	FR Cite
Interim Final Rule Comment Period End	10/27/00	
Final Rule	03/21/01	66 FR 15948
Final Rule Effective	03/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Nathan Bergerbest
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RIN: 3067–AD12

[FR Doc. 01–7881 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Semiannual Regulatory Agenda

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Federal Mediation and Conciliation Service's (FMCS) regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that FMCS expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of FMCS' current and future regulatory activities.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Jane A. Lorber, General Counsel, Office of the General Counsel, Federal Mediation and Conciliation Service, at (202) 606-5444. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, has a similar agenda requirement (5 U.S.C. 602). Under the law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Dated: February 22, 2001.

Karen D. Kline,

Deputy General Counsel, FMCS.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Final Rule Stage

3663. PUBLIC INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 et seq

CFR Citation: 29 CFR 1401 (Revision)

Legal Deadline: None

Abstract: The proposed revision to FMCS' Public Information regulations is intended to incorporate the recent amendments to the Freedom of Information Act into FMCS' portion of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/03/99	64 FR 59697
NPRM Comment Period End	01/03/00	
Final Action	08/00/01	
Final Action Effective	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jane A. Lorber, General Counsel, Federal Mediation and Conciliation Service, Room 603, 2100 K Street NW, Washington, DC 20427-0001
Phone: 202 606-5444
Fax: 202 606-5345
Email: jlorber@fmcs.gov

RIN: 3076–AA06

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Long-Term Actions

3664. ARBITRATIONS UNDER THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

Priority: Other Significant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jane A. Lorber
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RIN: 3076–AA07

[FR Doc. 01–5924 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XXVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 101, 102, 105, 300, 301, 302, 303, and 304

48 CFR Ch. 5

April 2001 Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since October 2000. This agenda was developed under the guidelines in an Office of Management and Budget memorandum, dated January 16, 2001. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Acquisition Policy Division, (202) 501-2647.

Dated: March 16, 2001.

John G. Sindelar,

Deputy Associate Administrator, Office of Governmentwide Policy.

General Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3665	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3090-AE32
3666	FTR Amendment (Unassigned); Acceptance of Payment From a Non-Federal Source for Travel Expenses	3090-AE19
3667	Telecommunications Management	3090-AG03
3668	Sale of Personal Property	3090-AH10
3669	Disposition of Seized and Forfeited, Voluntarily Abandoned, and Unclaimed Personal Property	3090-AH11
3670	Federal Mail Management	3090-AH13
3671	Disposition of Personal Property With Special Handling Requirements	3090-AH21
3672	Personal Property Management	3090-AH31

General Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3673	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	3090-AH33
3674	Records Management, Standard and Optional Forms Management, and Interagency Reports Management	3090-AG02
3675	Federal Advisory Committee Management	3090-AG49
3676	Annual Real Property Inventories	3090-AG55
3677	FTR Amendment (Unassigned); Relocation Allowances	3090-AG93
3678	FTR Interim Rule 7—Income Tax Reimbursement Allowance (ITRA)	3090-AG99
3679	GSAR; Revision to Clause 552.270.4, Historic Preference	3090-AH01
3680	GSAR; Tax Adjustment	3090-AH03
3681	Clarification of HUBZone	3090-AH17
3682	Donation of Surplus Personal Property	3090-AH20
3683	Replacement of Personal Property Pursuant to the Exchange/Sale Authority	3090-AH23
3684	GSAR; Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes	3090-AH25
3685	GSAR; Guidance on Electronic Funds Transfer	3090-AH30
3686	Pricing Policy for Occupancy in GSA Space	3090-AG33

General Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3687	GSA Privacy Act	3090-AH05

GSA

General Services Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
3688	Payments to GSA for Supplies and Services Furnished Government Agencies	3090-AH32
3689	Nondiscrimination on the Basis of Sex in Education for Individuals Receiving or Benefiting from Federal Financial Assistance	3090-AG58
3690	Real Property Policies	3090-AF95
3691	GSAR; Contractor's Report of Sales and Industrial Funding Fee	3090-AH26
3692	Sale, Abandonment, or Destruction of Personal Property	3090-AH29
3693	FTR Amendment 95; Privately Owned Vehicle Mileage Reimbursement	3090-AH36

GENERAL SERVICES ADMINISTRATION (GSA) — Proposed Rule Stage

OFFICE OF CIVIL RIGHTS

3665. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8.3; 41 CFR 102-7

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-8.3 in plain language and moves it into the Federal Management Regulation at 102-7. The revised regulation updates coverage for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Director, Office of Civil Rights, General Services Administration, Washington, DC 20405
Phone: 202 501-3852

RIN: 3090–AE32

OFFICE OF GOVERNMENTWIDE POLICY

3666. FTR AMENDMENT (UNASSIGNED); ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment finalizes the interim rule governing the acceptance of payment for travel, subsistence, and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53283
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Fax: 202 501-0349
Email: bill.rivers@gsa.gov

RIN: 3090–AE19

3667. TELECOMMUNICATIONS MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 1424(b)

CFR Citation: 41 CFR 101-35; 41 CFR 102-172

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-35 to update GSA's telecommunications management policy and moves it into the Federal Management Regulation at 102-172. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41003
Interim Final Rule Effective	08/08/96	
Interim Final Rule Comment Period End	10/07/96	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Cademartori, Configuration Manager, Federal Telecommunications Service, General Services Administration, 7980 Boeing Court, Third Floor, Vienna, VA 22182-3988
Phone: 703 760-7545

Email: james.cademartori@gsa.gov

RIN: 3090–AG03

3668. SALE OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-45; 41 CFR 102-38

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-45 to streamline sales requirements and moves it into the Federal Management Regulation at 41 CFR 102-38. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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Email: peter.zuidema@gsa.gov

RIN: 3090–AH10

3669. DISPOSITION OF SEIZED AND FORFEITED, VOLUNTARILY ABANDONED, AND UNCLAIMED PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 484(m)

CFR Citation: 41 CFR 101-48; 41 CFR 102-41

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-48 and moves it into the Federal Management Regulation at 102-41. The regulation is being rewritten in a plain language, question and answer format to make the regulation easier to use and understand.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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RIN: 3090–AH11

3670. FEDERAL MAIL MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 44 USC 2904; PL 94-575, sec 2

CFR Citation: 41 CFR 101-9; 41 CFR 102-192

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-9 and moves it into the Federal Management Regulation at 102-192. The regulation, rewritten in plain language, requires agencies to submit data annually to GSA on their volumes of mail and to prepare and submit annual cost control plans to GSA. These data and reports will be used to help agencies develop performance measures. Also, in accordance with E.O. 12977, this rule extends the requirement to maintain agency-level mail security plans to the facility level.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Henry Maury, General Services Administration, Office of Transportation and Personal Property (MT), Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7928
Email: henry.maury@gsa.gov

RIN: 3090–AH13

3671. DISPOSITION OF PERSONAL PROPERTY WITH SPECIAL HANDLING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42; 41 CFR 102-40

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-42 and moves it into the Federal Management Regulation at 102-40. The regulation revises use, handling, and disposal requirements for special categories of personal property. The rule is being rewritten in plain language in a question and answer format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3846
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RIN: 3090–AH21

3672. PERSONAL PROPERTY MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 481; 40 USC 483 to 487

CFR Citation: 41 CFR 102-35

Legal Deadline: None

Abstract: This rulemaking provides a general outline of the policies governing the management of Federal personal property and summarizes the processes provided for in FMR parts 102-36 through 102-42.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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RIN: 3090–AH31

OFFICE OF CIVIL RIGHTS

3673. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 41 CFR 101-6; 41 CFR 101-8

Legal Deadline: None

Abstract: This rulemaking proposes to amend the FPMR to implement title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. GSA's proposed rulemaking was published as part of a joint notice of proposed rulemaking involving up to 24 agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	11/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Director, Office of Civil Rights, General Services Administration, Washington, DC 20405
Phone: 202 501-3852

RIN: 3090–AH33

OFFICE OF GOVERNMENTWIDE POLICY

3674. RECORDS MANAGEMENT, STANDARD AND OPTIONAL FORMS MANAGEMENT, AND INTERAGENCY REPORTS MANAGEMENT

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11; 41 CFR 102-193; 41 CFR 102-194; 41 CFR 102-195

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-11 and moves it into the Federal Management Regulation at 102-193, 102-194, and 102-195. The revised regulation updates coverage concerning records management, standard and optional forms management, and interagency reports management. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41000
Interim Final Rule Effective	08/08/96	
Interim Final Rule Comment Period End	10/07/96	
NPRM	08/09/00	65 FR 48655
NPRM Comment Period End	10/10/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: R. Stewart Randall, Program Analyst, Strategic IT Issues Division (MKB), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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Email: stewart.randall@gsa.gov

RIN: 3090–AG02

3675. FEDERAL ADVISORY COMMITTEE MANAGEMENT

Priority: Other Significant

Legal Authority: 5 USC app; EO 12024

CFR Citation: 41 CFR 101-6; 41 CFR 102-3

Legal Deadline: None

Abstract: This rulemaking revises FPMR subpart 101-6.10 and moves it into the Federal Management Regulation (FMR) at 102-3. The revised regulation, which implements GSA's responsibilities under the Federal Advisory Committee Act, has not been revised since 1989 and has become outdated as a result of significant decisions issued by the Supreme Court and other Federal Courts. In addition, the revised regulation is expected to provide more comprehensive and effective guidance for agency personnel in their attempts to involve the public in Federal decisionmaking consistent with the principles contained in the Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/97	62 FR 31550
ANPRM Comment Period End	07/10/97	
NPRM	01/14/00	65 FR 2504
NPRM Comment Period End	03/14/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Charles F. Howton, Deputy Director, Committee Management Secretariat (MC), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
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Email: charles.howton@gsa.gov

RIN: 3090–AG49

3676. ANNUAL REAL PROPERTY INVENTORIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-3; 41 CFR 102-84

Legal Deadline: None

Abstract: This rulemaking revises FPMR part 101-3 and moves it into the Federal Management Regulation at 102-84. The revised regulation is being rewritten in a plain language, question and answer format and will enable Federal agencies to more effectively manage their inventory of real property assets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-1737

RIN: 3090–AG55

3677. FTR AMENDMENT (UNASSIGNED); RELOCATION ALLOWANCES

Priority: Other Significant

Legal Authority: 5 USC 5738; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp., p. 586

CFR Citation: 41 CFR 302

Legal Deadline: None

Abstract: This final rule revises chapter 302 of the FTR in the plain language style of regulation writing. This style of writing is a continuation of GSA's effort to make the FTR easier to understand and use.

Timetable:

Action	Date	FR Cite
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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RIN: 3090–AG93

3678. FTR INTERIM RULE 7—INCOME TAX REIMBURSEMENT ALLOWANCE (ITRA)

Priority: Other Significant

Legal Authority: 5 USC 5707

CFR Citation: 41 CFR 301-11

Legal Deadline: None

Abstract: This rulemaking amended the FTR to add authority to implement sections of the Travel and Transportation Reform Act of 1998, which authorize Federal agencies to reimburse Federal, State, and local income taxes incurred as a result of long-term official travel. It also allows for the reimbursement of penalty and interest payments due to incorrect withholdings by the employee's agency for tax years 1993 and 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	01/01/93	
Interim Final Rule	06/18/99	64 FR 32812
Interim Final Rule Comment Period End	08/17/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
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RIN: 3090–AG99

3679. GSAR; REVISION TO CLAUSE 552.270.4, HISTORIC PREFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking updates GSAR clause 552.270-4, Historic Preference, that is used in the acquisition of leasehold interests. E.O. 13006 requires that Federal agencies give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. As a result of the requirements of the E.O., 552.270-4 will be revised to establish the order of precedence.

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35122
NPRM Comment Period End	08/30/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVRS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7312
Fax: 202 501-4067
Email: michael.hopkins@gsa.gov

RIN: 3090–AH01

3680. GSAR; TAX ADJUSTMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking establishes a provision at GSAR 552.270-74, Tax Adjustment. The provision outlines the methodology for calculating real estate taxes for use in solicitations for offers for acquisition of leasehold interests in real property.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33799
NPRM Comment Period End	07/24/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 3090–AH03

3681. CLARIFICATION OF HUBZONE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 519; 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking will clarify how the HUBZone program applies to acquiring leasehold interests in real property.

Timetable:

Action	Date	FR Cite
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVRS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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RIN: 3090–AH17

3682. DONATION OF SURPLUS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44; 41 CFR 102-37

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-44 in plain language and moves it into the Federal Management Regulation at 102-37.

Timetable:

Action	Date	FR Cite
NPRM	04/13/00	65 FR 20014
NPRM Comment Period End	06/12/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3846
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RIN: 3090–AH20

3683. REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-46; 41 CFR 102-39

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-46 and moves it into the Federal Management Regulation at 102-39.

Timetable:

Action	Date	FR Cite
NPRM	09/26/00	65 FR 57795
NPRM Comment Period End	11/27/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema, Acting Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3846
Fax: 202 501-6742
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RIN: 3090–AH23

3684. GSAR; IDENTIFICATION OF ENERGY-EFFICIENT OFFICE EQUIPMENT AND SUPPLIES CONTAINING RECOVERED MATERIALS OR OTHER ENVIRONMENTAL ATTRIBUTES

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking would amend the GSAR for consistency with the proposed FAR revision of energy conservation regulations and President Clinton's issuance of E.O. 13123 on efficient energy management.

Timetable:

Action	Date	FR Cite
NPRM	07/18/00	65 FR 44508
NPRM Comment Period End	09/18/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVRS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7312
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Email: michael.hopkins@gsa.gov

RIN: 3090–AH25

3685. GSAR; GUIDANCE ON ELECTRONIC FUNDS TRANSFER

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 532; 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking establishes procedures for implementing the Debt Collection Improvement Act of 1996 in accordance with Department of Treasury rules at 31 CFR part 208 and OMB Prompt Payment Act rules at 5 CFR 1315. To comply with these rules, GSA must collect specific vendor information. 5 CFR 1315.9(b) requires a proper invoice to include the Taxpayer Identification Number (TIN) and banking information for electronic funds transfer, unless agency procedures provide otherwise. GSA will require the TIN on each invoice but will enter banking information on the GSA Form 300 in lieu of requiring it on the invoice.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no

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statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael E. Hopkins, Regulatory Secretariat (MVRS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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RIN: 3090–AH30

PUBLIC BUILDINGS SERVICE

3686. PRICING POLICY FOR OCCUPANCY IN GSA SPACE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-21; 41 CFR 102-85

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-21 and moves it into the Federal Management Regulation at 102-85. This rulemaking changes the methods by which GSA-controlled space is identified and measured, eliminates the specific physical description of the components of standard level alterations, and substitutes budget guidance for alterations, providing customer agencies flexibility in designing space to meet their mission needs. The rule is being rewritten in a plain language, question and answer format to make it easier to understand and use.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Paul Lynch, Acting Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Washington, DC 20405
Phone: 202 501-0638
Email: paul.lynch@gsa.gov

RIN: 3090–AG33

GENERAL SERVICES ADMINISTRATION (GSA) — Long-Term Actions

OFFICE OF THE CHIEF PEOPLE OFFICER

3687. GSA PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105

Legal Deadline: None

Abstract: This rulemaking updates GSA's privacy policy and procedures and provides current organizational citations, privacy-related responsibilities, and the names and addresses of persons to contact concerning the GSA Privacy Act Program and systems of records.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jinaita Kanarchuk, General Services Administration, Information Management Division (CAI), Office of the Chief People Officer, Washington, DC 20405
Phone: 202 501-1452
Email: jinaita.kanarchuk@gsa.gov

RIN: 3090–AH05

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3688. PAYMENTS TO GSA FOR SUPPLIES AND SERVICES FURNISHED GOVERNMENT AGENCIES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-2

Completed:

Reason	Date	FR Cite
Final Action	10/27/00	65 FR 64372

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Dennis F. Schroff
Phone: 202 501-0978

RIN: 3090–AH32

3689. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION FOR INDIVIDUALS RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

CFR Citation: 41 CFR 101-6; 41 CFR 102-4

Completed:

Reason	Date	FR Cite
Withdrawn	02/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James M. Taylor
Phone: 202 501-3852

RIN: 3090–AG58

3690. REAL PROPERTY POLICIES

Priority: Other Significant

CFR Citation: 41 CFR 101-16; 41 CFR 102-71

Completed:

Reason	Date	FR Cite
Final Action	01/18/01	66 FR 5358

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld
Phone: 202 501-1737

RIN: 3090–AF95

GSA — Completed Actions

3691. GSAR; CONTRACTOR'S REPORT OF SALES AND INDUSTRIAL FUNDING FEE

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 552

Completed:

Reason	Date	FR Cite
Withdrawn	10/27/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael E. Hopkins
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RIN: 3090–AH26

3692. SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-45

Completed:

Reason	Date	FR Cite
Final Action	10/24/00	65 FR 63549

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Peter Zuidema
Phone: 202 501-3846
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RIN: 3090–AH29

3693. • FTR AMENDMENT 95; PRIVATELY OWNED VEHICLE MILEAGE REIMBURSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5707; 40 USC 486(c); 49 USC 40118

CFR Citation: 41 CFR 301-10

Legal Deadline: None

Abstract: This final rule increases the mileage reimbursement rate for use of a privately owned vehicle (POV) on official travel to reflect current costs of operation as determined in cost studies conducted by the General Services Administration (GSA).

Timetable:

Action	Date	FR Cite
Final Action	01/22/01	66 FR 6481

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
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RIN: 3090–AH36

[FR Doc. 01–7882 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XXVII

Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution

Semiannual Regulatory Agenda

MORRIS K. UDALL FOUNDATION-U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION (MKU-USIECR)

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

United States Institute for Environmental Conflict Resolution

36 CFR Part 1600

Semiannual Regulatory Agenda

AGENCY: Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (including the United States Institute for Environmental Conflict Resolution).

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for development during the next 12 months. It is issued pursuant to Executive Order 12866 and the Regulatory Flexibility Act.

FOR FURTHER INFORMATION CONTACT: Ellen K. Wheeler, General Counsel, Morris K. Udall Foundation, 110 S. Church Avenue, Suite 3350, Tucson, AZ 85701; Telephone (520) 670-5299; Fax (520) 670-5530.

SUPPLEMENTARY INFORMATION: With this publication, the Foundation satisfies the requirement of Executive Order 12866 that it publish an agenda of rules that it expects to issue. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) also requires publication of an agenda identifying rules that will have significant economic effect on a substantial number of small entities; the Foundation certifies that these proposed rules will not have a significant impact on small entities

Dated: February 28, 2001.

Ellen K. Wheeler,

General Counsel.

MORRIS K. UDALL FOUNDATION-U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION (MKU-USIECR) — Final Rule Stage

3694. PRIVACY ACT IMPLEMENTATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 5 USC 552a; 20 USC 5601 et seq

CFR Citation: 36 CFR 1600

Legal Deadline: None

Abstract: This regulation implements the Privacy Act of 1974, 5 U.S.C. 552a, by establishing procedures by which individuals may determine if a system of records maintained by the Morris K. Udall Foundation, including the U.S. Institute for Environmental Conflict Resolution, contains records pertaining to them, and procedures for access to such records to review, amend, or correct them.

Timetable:

Action	Date	FR Cite
NPRM	09/26/00	65 FR 57773
NPRM Comment Period End	10/26/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen K. Wheeler, General Counsel, Deputy Executive Director, Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution, Suite 3350, 110 South Church Avenue, Tucson, AZ 85701
Phone: 520 670-5299
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RIN: 3320–AA00

3695. FREEDOM OF INFORMATION ACT IMPLEMENTATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 20 USC 5601 et seq

CFR Citation: 36 CFR 1600

Legal Deadline: None

Abstract: This regulation implements the Freedom of Information Act, 5 U.S.C. 552, and prescribes rules governing the availability to the public of documents and records of the Morris K. Udall Foundation, including the U.S. Institute for Environmental Conflict Resolution.

Timetable:

Action	Date	FR Cite
NPRM	09/26/00	65 FR 57773
NPRM Comment Period End	10/26/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3320–AA02

MORRIS K. UDALL FOUNDATION-U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION (MKU-USIECR) — Long-Term Actions

3696. CONFIDENTIALITY IN DISPUTE RESOLUTION PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 5 USC 571 et seq; 20 USC 5601 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule implements section 574 of title 5, United States Code, and provides that communications prepared for a dispute resolution proceeding in which the U.S. Institute for Environmental Conflict Resolution is involved as a third-party neutral will be confidential, except in certain specified circumstances.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen K. Wheeler, General Counsel, Deputy Executive Director, Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution, Suite 3350, 110 South Church Avenue, Tucson, AZ 85701
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Email: wheeler@udall.gov

RIN: 3320–AA01

[FR Doc. 01–5925 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XXVIII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, Management Assessment Division (Code JM), Office of Management Systems, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Nanette Jennings, (202) 358-0819.

SUPPLEMENTARY INFORMATION: OMB guidelines dated January 19, 2001, "April 2001 Unified Agenda of Federal Regulatory and Deregulatory Actions" require a regulatory agenda of those regulations under development and review to be published in the **Federal Register** each April and October.

Dated: February 22, 2001.

John D. Werner,

Director, Management Assessment Division.

National Aeronautics and Space Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3697	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	2700-AC43
3698	Cooperative Agreements With Commercial Firms	2700-AC44

National Aeronautics and Space Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3699	Cross-Waiver of Liability	2700-AB51
3700	Meritorious Claims Arising From the Conduct of NASA Functions Under 42 U.S.C. 2473(c)(13)	2700-AC35
3701	NASA Standards of Conduct	2700-AC37
3702	Use of Small Self-Contained Payload	2700-AC39
3703	Code of Conduct for International Space Station Crew	2700-AC40

National Aeronautics and Space Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3704	Tracking and Data Relay Satellite System; Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3705	Miscellaneous Administrative Changes to the NASA Federal Acquisition Regulation Supplement (NFS)	2700-AC33
3706	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	2700-AC41

National Aeronautics and Space Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
3707	Grant and Cooperative Agreement Handbook	2700-AC34

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3697. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, sec 108-3327

CFR Citation: 14 CFR 1265

Legal Deadline: None

Abstract: NASA is participating in a proposed common rule that proposes substantive changes and amendments to the Governmentwide nonprocurement common rule for debarment and suspension and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988. The purpose of these proposed changes are as follows:

1. Resolve unnecessary technical differences between the procurement and nonprocurement debarment rules;

2. Make improvements to the existing common rule consistent with the purpose of the suspension and debarment system;

3. Revise the current approach to the style and format to use plain language; and

4. Move the drug-free workplace requirements currently in subpart F of the Debarment and Suspension Nonprocurement Common Rule to a new section.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Diane S. Thompson, National Aeronautics and Space Administration, NASA Headquarters (Code HC), 300 E Street SW, Washington, DC 20546
Phone: 202 358-0514
Fax: 202 358-3220
Email: dthompso@hq.nasa.gov

RIN: 2700–AC43

3698. • COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 6301-6308

CFR Citation: 14 CFR 1274

Legal Deadline: None

Abstract: NASA's Grant and Cooperative Agreement Handbook will be revised to clarify and provide additional guidance on the award and administration of cooperative agreements with commercial firms. This includes incorporating appropriate guidance on risk-centered approaches to acquisitions under cooperative agreements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Eugene Johnson, Procurement Analyst, National Aeronautics and Space Administration, NASA Headquarters (Code HC), 300 E Street SW, Washington, DC 20546
Phone: 202 358-4703
Fax: 202 358-3220
Email: ejohnson@hq.nasa.gov

RIN: 2700–AC44

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

3699. CROSS-WAIVER OF LIABILITY

Priority: Info./Admin./Other

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1266

Legal Deadline: None

Abstract: This provides technical amendments to implement the cross-waiver of liability provision of the intergovernmental agreement of the International Space Station and to refine and clarify contractual cross-waivers in NASA agreements involving launch services.

Timetable:

Action	Date	FR Cite
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Mirmina, Attorney Advisor, National Aeronautics and Space Administration, NASA Headquarters (Code GS), 300 E Street SW, Washington, DC 20546
Phone: 202 358-0729
Fax: 202 358-4355
Email: smirmina@mail.hq.nasa.gov

RIN: 2700–AB51

3700. MERITORIOUS CLAIMS ARISING FROM THE CONDUCT OF NASA FUNCTIONS UNDER 42 U.S.C. 2473(C)(13)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2473; 31 USC 3104

CFR Citation: 14 CFR 1267

Legal Deadline: None

Abstract: This rule would establish NASA policies and procedures for meritorious claims, other than Federal Tort Claims Act claims or claims otherwise covered under 14 CFR part 1261, arising from the conduct of NASA functions and pursuant to 203(c)(13) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(c)(13)).

Timetable:

Action	Date	FR Cite
NPRM	12/21/99	64 FR 71339
NPRM Comment Period End	02/22/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bernard J. Roan, Senior Attorney, National Aeronautics and Space Administration, Office of

Associate General Counsel (Contracts), 300 E Street SW, Washington, DC 20546
Phone: 202 358-2072

RIN: 2700–AC35

3701. NASA STANDARDS OF CONDUCT

Priority: Info./Admin./Other

Legal Authority: 5 USC appendix (Ethics in Government Act of 1978, as amended); 5 USC 7301; 18 USC 208; 42 USC 2473(c)(1); 15 CFR 2640

CFR Citation: 14 CFR 1207.102; 5 CFR 6901

Legal Deadline: None

Abstract: Changes in references that are obsolete because of superseding Office of Government Ethics regulations and internal Agency reorganization.

Deletion of section to conform with superseding regulation (5 CFR 2640); revision of remainder to reflect organization changes.

This action is not required by action or court order. The changes are being made to rescind or amend NASA regulations that have already been published, pursuant to 42 U.S.C. 2473(c)(1).

Because the Agency is conforming with Office of Government Ethics regulations (5 CFR 2640), there are no alternatives to revision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Richard Andrew Falcon, Senior Attorney, National Aeronautics and Space Administration, Office of the General Counsel (Code GG), 300 E Street SW, Washington, DC 20546
Phone: 202 358-2028
Fax: 202 358-4355
Email: afalcon@hq.nasa.gov

RIN: 2700–AC37

3702. USE OF SMALL SELF-CONTAINED PAYLOAD

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 2473(c)(1), sec 203(c)(1); 42 USC 2465a and 2465d, sec 112 and 204, PL 101-661; 42 USC 14701 et seq, PL 101-611

CFR Citation: 14 CFR 1214.9

Legal Deadline: None

Abstract: This revised rule replaces 14 CFR part 1214.9 "Use of Small Self-Contained Payloads" and incorporates language from 14 CFR part 1214.10 "Special Policy on Use of Small Self-Contained Payloads (SSCP's) by Domestic Educational Institutions" and therefore deleting 14 CFR part 1214.10.

This revision ensures that NASA will continue to offer domestic educational institutions lower prices, relative to other users, for standard launch services and provides the domestic educational institutions a high priority ranking opportunity in the flight scheduling process of manifesting GAS payloads.

The domestic educational institutions are still required to meet certain criteria and agree to certain provisions established by NASA. However, NASA is changing the pricing structure for a defined group of Class I, domestic educational institutions based on the payload user classification, payload weight, and volume and depending on services required.

Also, with this revision, NASA established four classes of SSCP payloads, changed the definitions for Class II and Class III payloads, and created a separate classification,

Class IV, for international payload customers. NASA has redefined the flight rotation process to incorporate the new classification. In redefining the flight rotation process, NASA provides the domestic educational institutions a higher priority ranking opportunity in the flight scheduling process of manifesting GAS payloads.

The option for transfer of ownership has been deleted from the policy. The requirements, such as payment schedules and detailed terms of postponement and cancellation, have been deleted from the CFR and will be addressed in the Launch Services Agreement, the binding contract between NASA and the customer.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lynda J. Cywanowicz, Chief of Staff, Space Flight Operations, National Aeronautics and Space Administration, NASA Headquarters (Code M-7), Office of Space Flight, 300 E Street SW, Washington, DC 20546
Phone: 202 358-1673
Email: lcynanow@mail.hq.nasa.gov

RIN: 2700–AC39

3703. CODE OF CONDUCT FOR INTERNATIONAL SPACE STATION CREW

Priority: Other Significant

Legal Authority: 42 USC 2455, 2473, 2475; 18 USC 799

CFR Citation: 14 CFR 1214, subpart 1214.4

Legal Deadline: None

Abstract: NASA is amending the title of 14 CFR and adding subpart 1214.4 to implement certain provisions of the International Space Station Intergovernmental Agreement regarding crew members' observance of a Code of Conduct.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/00	
Interim Final Rule	12/21/00	65 FR 80302
Final Rule	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: E. Jason Steptoe, Associate General Counsel, National Aeronautics and Space Administration, Office of General Counsel (Code GS), 300 E Street SW, Washington, DC 20546
Phone: 202 358-2432

RIN: 2700–AC40

3704. TRACKING AND DATA RELAY SATELLITE SYSTEM; USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Priority: Info./Admin./Other

CFR Citation: 14 CFR 1215

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	09/28/93	58 FR 50515
Final Action for CY 1995 Rate Change	10/31/94	59 FR 54385
Final Action for CY 1997 Rate Change	05/15/95	60 FR 25843
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph LaCurto
Phone: 202 358-2764

RIN: 2700–AA29

3705. MISCELLANEOUS ADMINISTRATIVE CHANGES TO THE NASA FEDERAL ACQUISITION REGULATION SUPPLEMENT (NFS)

Priority: Info./Admin./Other

CFR Citation: 48 CFR 1801 to 1872

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Celeste M. Dalton
Phone: 202 358-1645
Email: cdalton@hq.nasa.gov

RIN: 2700–AC33

3706. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 1250; 14 CFR 1251; 14 CFR 1252

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: George E. Reese
Phone: 202 358-2167
Fax: 202 358-3336
Email: greese@hq.nasa.gov

RIN: 2700–AC41

3707. GRANT AND COOPERATIVE AGREEMENT HANDBOOK

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 1260; 14 CFR 1274

Completed:

Reason	Date	FR Cite
Final Action	10/19/00	65 FR 62900
Final Action Effective	10/19/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane S. Thompson
Phone: 202 358-0514
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Email: dthompso@hq.nasa.gov

RIN: 2700–AC34

[FR Doc. 01–5195 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XXIX

National Archives and Records Administration

Semiannual Regulatory Agenda

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Archives and Records Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since October 2000. This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated January 16, 2000. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to participate in the rulemaking process. Some of the regulations listed in the agenda are considered significant under Executive Order 12866, "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Nancy Allard, Regulatory Contact, Policy and Communications Staff, (301) 713-7360, ext. 226.

Dated: February 22, 2001.

John W. Carlin,

Archivist of the United States.

National Archives and Records Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3708	Records Management; Electronic Text Documents	3095-AB05

National Archives and Records Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3709	National Historical Publications and Records Commission Grant Regulations	3095-AA93
3710	Privacy Act	3095-AA99
3711	Research Room Procedures: Replacement of Researcher Card	3095-AB01
3712	Records Disposition	3095-AB02
3713	Expanding Transfer Options for Electronic Records	3095-AB03
3714	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	3095-AB04

National Archives and Records Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3715	Debt Collection	3095-AA77
3716	Presidential Library Facilities	3095-AA82
3717	Implementation of OMB Circular A-110, Section 36	3095-AA96

National Archives and Records Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3718	Creation and Maintenance of Federal Records	3095-AA61
3719	Limitations on Testimony by NARA Employees	3095-AA75

National Archives and Records Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
3720	NARA Freedom of Information Act Regulations	3095-AA72

NARA

National Archives and Records Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3721	Collection of Debts Owed to the United States by NARA Employees	3095-AA76
3722	Storage Standards for Archival Records	3095-AA90

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Prerule Stage

3708. • RECORDS MANAGEMENT; ELECTRONIC TEXT DOCUMENTS

Priority: Other Significant

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1234

Legal Deadline: None

Abstract: NARA will seek Federal agency and public comment concerning the management, scheduling and preservation of text documents created in electronic form.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/01	
ANPRM Comment Period End	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AB05

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

3709. NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION GRANT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2504

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: NARA intends to rewrite the regulations into plain language and to make other updates and clarifications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Federalism: Undetermined

Agency Contact: Nancy Copp, Management and Program Analyst, National Archives and Records Administration, Room 111, NHPRC, 700 Pennsylvania Avenue NW., Washington, DC 20408-0001
Phone: 202 501-5603
Fax: 202 501-5601
Email: nancy.copp@arch1.nara.gov

RIN: 3095–AA93

3710. PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 5 USC 552a

CFR Citation: 36 CFR 1202

Legal Deadline: None

Abstract: NARA is revising its Privacy Act regulations to put them in plain language. No substantive changes will be made.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA99

3711. RESEARCH ROOM PROCEDURES: REPLACEMENT OF RESEARCHER CARD

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2101 to 2118

CFR Citation: 36 CFR 1254.6

Legal Deadline: None

Abstract: NARA proposes to charge researchers a fee for replacing a lost researcher identification card after they have received their initial card and one free replacement card. This regulation will affect a very small percentage of NARA researchers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

NARA — Proposed Rule Stage

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AB01

3712. RECORDS DISPOSITION

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC ch 5; 44 USC ch 21; 44 USC ch 29; 44 USC ch 33

CFR Citation: 36 CFR 1228.32; 36 CFR 1228.42; 36 CFR 1228.50; 36 CFR 1228.106; 36 CFR 1232.20; 36 CFR 1232.32; 36 CFR 1234.22(a)(4); 36 CFR 1234.24(b)(1)(VI); 36 CFR 1234.24(c); 36 CFR 1234.30(a)(4); 36 CFR 1234.34(b); ...

Legal Deadline: None

Abstract: This rule will update the procedures for Federal agencies' submission of printed or published records schedules to NARA; modify the applicability of new General Records Schedule items to records previously scheduled by individual agencies, and make corrections to cross-references.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	06/00/01	
Final Action	07/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AB02

3713. EXPANDING TRANSFER OPTIONS FOR ELECTRONIC RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1228.270

Legal Deadline: None

Abstract: For agencies transferring electronic records to the National Archives of the United States, this rule would add certain magnetic tape cartridges with a storage capacity of up to 40GB to the list of acceptable transfer media. In addition, media-less transfer using File Transfer Protocol and the Internet will be added as an acceptable transfer mechanism.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	
Final Action	11/00/01	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AB03

3714. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Other Significant

Legal Authority: 44 USC 2104(a); EO 12549; EO 12698; 31 USC 6101 note

CFR Citation: 36 CFR 1209; 36 CFR 1211

Legal Deadline: None

Abstract: This rule will modify the Governmentwide nonprocurement common rule for debarment and suspension and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AB04

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Final Rule Stage

3715. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for implementing the Debt Collection Improvement Act of 1996. It provides for the collection, compromise, or termination of debts owed to the United States and NARA by adopting the Federal Claims Collection Standards promulgated by the Department of the Treasury and Department of Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	
Interim Final Rule Effective	05/00/01	
Interim Final Rule Comment Period End	06/00/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

NARA — Final Rule Stage

Additional Information: Merged with 3095-AA76, Collection of Debts Owed to the United States by NARA Employees

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, Room 3110, NGC, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA77

3716. PRESIDENTIAL LIBRARY FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2112

CFR Citation: 36 CFR 1281

Legal Deadline: None

Abstract: NARA is issuing regulations relating to the acceptance of a Presidential library facility by the Archivist of the United States from a non-Federal group or institution. The regulations will address requirements in the Presidential Libraries Act of 1986 for architectural and design standards, certifications, and reporting to Congress.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45203
NPRM Comment Period End	10/26/98	
Final Action	11/00/01	
Final Action Effective	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA82

3717. IMPLEMENTATION OF OMB CIRCULAR A-110, SECTION 36

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 36 CFR 1210

Legal Deadline: None

Abstract: This rule will incorporate the provisions of OMB Circular A-110, section 36, regarding the availability of data produced under an award through the Freedom of Information Act (FOIA) into our NHPRC grants administration regulation at 36 CFR part 1210.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14406
Interim Final Rule Comment Period End	05/15/00	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Federalism: Undetermined

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA96

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Long-Term Actions

3718. CREATION AND MAINTENANCE OF FEDERAL RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3301; 44 USC 3314

CFR Citation: 36 CFR 1222

Legal Deadline: None

Abstract: This regulation adds a requirement for agencies to protect against the removal of Federal records by issuing written procedures for removal of nonrecord and personal materials.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA61

3719. LIMITATIONS ON TESTIMONY BY NARA EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 44 USC 2104; 44 USC 2108 to 2109; 44 USC 2112; 44 USC 2201 to 2207

CFR Citation: 36 CFR 1201; 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures with respect to testimony by NARA staff and/or production of information and records in legal proceedings not involving the United States or NARA as a named party.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, Room 3110, NGC, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA75

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

3720. NARA FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 1250; 36 CFR 1254

Completed:

Reason	Date	FR Cite
Final Action	03/23/01	66 FR 16374
Final Action Effective	04/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA72

3721. COLLECTION OF DEBTS OWED TO THE UNITED STATES BY NARA EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 1201

Completed:

Reason	Date	FR Cite
Merged With RIN 3095-AA77	02/22/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel
Phone: 301 713-6025
Fax: 301 713-6040
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA76

3722. STORAGE STANDARDS FOR ARCHIVAL RECORDS

Priority: Other Significant

CFR Citation: 36 CFR 1290

Completed:

Reason	Date	FR Cite
Withdrawn	04/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Nancy Allard
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA90

[FR Doc. 01–5196 Filed 05–11–01; 8:45 am]
BILLING CODE 7515–01–S

Federal Register

Monday,
May 14, 2001

Part XXX

National Foundation on the Arts and the Humanities

Institute of Museum and Library Services
Semiannual Regulatory Agenda

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

45 CFR Part 1180

Regulatory Agenda

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Planning and Review Act, the Institute of Museum and Library Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506, E-mail: nweiss@imls.gov, or call (202) 606-5414.

Nancy E. Weiss,

General Counsel.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS) — Proposed Rule Stage

3723. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR AND NATIONAL ORIGIN IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000d to 2000d-7

CFR Citation: 45 CFR 1110.1 to 1110.13

Legal Deadline: None

Abstract: The Institute of Museum and Library Services proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI). This statute prohibits discrimination on the basis of race, color and national origin in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Institute's title VI regulations. The Institute's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-5414
TDD Phone: 202 606-8636
Fax: 202 606-1077
Email: nweiss@imls.gov

RIN: 3137–AA13

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS) — Final Rule Stage

3724. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1681 to 1683; 20 USC 1685 to 1686

CFR Citation: 45 CFR 1182

Legal Deadline: None

Abstract: Regulations will implement title IX of the Education Act Amendments of 1972, which ensure equality on the basis of sex in education programs and activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58567
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Additional Information: Previously reported as completed in the October 2000 edition.

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-5414
TDD Phone: 202 606-8636
Fax: 202 606-1077
Email: nweiss@imls.gov

RIN: 3137–AA10

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS) — Long-Term Actions

3725. NATIONAL LEADERSHIP DEMONSTRATION GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 262, Museum and Library Services Act

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: Regulations will be published to provide guidelines on IMLS National Demonstration Leadership Grants to enhance quality of library services nationwide and to provide coordination between museums and libraries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-5414
TDD Phone: 202 606-8636
Fax: 202 606-1077
Email: nweiss@imls.gov

RIN: 3137–AA08

3726. IMPLEMENTATION OF THE ELECTRONIC FREEDOM OF INFORMATION ACT AMENDMENTS OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 45 CFR 1100.5

Legal Deadline: None

Abstract: Regulations will implement the Electronic Freedom of Information Act Amendments of 1996, which facilitate public requests for information.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, Suite 802, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-5414
TDD Phone: 202 606-8636
Fax: 202 606-1077
Email: nweiss@imls.gov

RIN: 3137–AA12

[FR Doc. 01–6927 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XXXI

National Foundation on the Arts and the Humanities

National Endowment for the Arts
Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Regulatory Agenda

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605) and Executive Order 12866, the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Karen Elias, Deputy General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

Karen Elias,

Deputy General Counsel.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Long-Term Actions

3727. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1140

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
Fax: 202 682-5572
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA10

3728. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

CFR Citation: 45 CFR 1155

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
Fax: 202 682-5572
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA15

3729. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR ch XI

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Karen Elias
Phone: 202 682-5418
Fax: 202 682-5572
Email: eliask@arts.endow.gov

RIN: 3135–AA17

3730. • GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 959(a)(1); 41 USC 701 et seq

CFR Citation: 45 CFR 1154

Legal Deadline: None

Abstract: These regulations cover suspension and debarment under nonprocurement programs. Regulations are being rewritten in plain language.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Karen Elias, Deputy General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 682-5418
Fax: 202 682-5572
Email: eliask@arts.endow.gov

RIN: 3135–AA18

3731. • GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 959(a)(1); 41 USC 701 et seq

CFR Citation: 45 CFR 1155

Legal Deadline: None

Abstract: These regulations cover drug-free workplace rules. Regulations are being written in plain language.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Karen Elias, Deputy General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 682-5418
Fax: 202 682-5572
Email: eliask@arts.endow.gov

RIN: 3135–AA19

[FR Doc. 01–5926 Filed 05–11–01; 8:45 am]
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Federal Register

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Part XXXII

National Foundation on the Arts and the Humanities

National Endowment for the Humanities
Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the National Endowment for the Humanities is required to publish in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Assistant General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

John W. Roberts,

Deputy Chairman, National Endowment for the Humanities.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Long-Term Actions

3732. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1173

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA11

3733. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1171

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58568
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Virginia R. Canter
Phone: 202 606-8322
Fax: 202 606-8600
Email: gcanter@neh.gov

RIN: 3136–AA14

3734. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1115

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA18

3735. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 8501

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA21

3736. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA22

3737. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1170

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA24

[FR Doc. 01–5197 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XXXIII

National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Science Foundation is publishing its April 2001 regulatory agenda pursuant to Executive Order 12866, "Regulatory Planning and Review" (3 CFR 1993 Comp., p. 638); the Regulatory Flexibility Act (5 U.S.C. 601-612); and the Office of Management and Budget Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions (January 16, 2001).

FOR FURTHER INFORMATION CONTACT: For further information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to Teresa Hamm-Wooten, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292-8060.

Dated: March 20, 2001.

Lawrence Rudolph,

General Counsel.

NATIONAL SCIENCE FOUNDATION (NSF) — Final Rule Stage

3738. ENFORCEMENT AND HEARING PROCEDURES; TOURISM GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-227, Antarctic Science, Tourism and Conserv. Act of 1996

CFR Citation: 45 CFR 673

Legal Deadline: Final, Statutory, October 2, 1998.

Abstract: This regulation implements Antarctic Science, Tourism and Conservation Act of 1996 requirements for U.S. tour operators organizing expeditions to Antarctica on non-U.S. flag vessels.

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30438
NPRM Comment Period End	08/03/98	
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt, Assistant General Counsel, National Science Foundation, Room 1265, Office of the General Counsel, 4201 Wilson Boulevard, Arlington, VA 22230
Phone: 703 292-8060
Fax: 703 292-9041
Email: aeisenst@nsf.gov

RIN: 3145–AA36

3739. • NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1681 to 1683; 20 USC 1685 to 1688

CFR Citation: 45 CFR 618

Legal Deadline: None

Abstract: The National Science Foundation proposes to make amendments to its regulations implementing Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1972 (Section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to Title VI and added a definition of "program or activity" to Section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definitions of "program or activity" and "program" into the Department's Title VI, Section 504, and Age Discrimination Act regulations. The Foundation's proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	11/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Bijan Gilanshah, Assistant General Counsel, National Science Foundation, Room 1265, 4201 Wilson Boulevard, Arlington, VA 22230
Phone: 703 292-8060
Fax: 703 292-9041
Email: bgilansh@nsf.gov

RIN: 3145–AA38

[FR Doc. 01–8831 Filed 05–11–01; 8:45 am]

BILLING CODE 7555–01–S

Federal Register

Monday,
May 14, 2001

Part XXXIV

Office of Federal Housing Enterprise Oversight

Semiannual Regulatory Agenda

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO)

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

12 CFR Ch. XVII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of Federal Housing Enterprise Oversight.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552, (202) 414-3800.

Dated: March 1, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Proposed Rule Stage

3740. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

Priority: Info./Admin./Other

Legal Authority: 29 USC 794

CFR Citation: 12 CFR 1706

Legal Deadline: None

Abstract: The proposed regulation will implement section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of disability in programs or activities conducted by OFHEO.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Isabella W. Sammons, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3790

RIN: 2550–AA11

3741. • PROMPT SUPERVISORY RESPONSE AND CORRECTIVE ACTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1452(b)(2); 12 USC 1456(c); 12 USC 1718(c)(2); 12 USC 1723a(k); 12 USC 1413(a),(b); 12 USC 4514; 12 USC 4611-4619; 12 USC 4622-4623; 12 USC 4631; 12 USC 4635

CFR Citation: 12 CFR 1777

Legal Deadline: None

Abstract: The proposed regulation will implement 12 U.S.C. 4611-4619 and 4622-4623, requiring classification of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) according to their capital ratios, with mandatory action to be taken if classified as less than 'Adequately Capitalized.' Certain other actions may also be required under the proposed regulation whenever specific developments occur that are likely to adversely affect the Enterprises.

Timetable:

Action	Date	FR Cite
NPRM	04/10/01	66 FR 18702
NPRM Comment Period End	07/09/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jamey Basham, Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-8906
TDD Phone: 800 877-8339

RIN: 2550–AA12

3742. • MINIMUM CAPITAL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4612

CFR Citation: 12 CFR 1750

Legal Deadline: None

Abstract: OFHEO is proposing an amendment that will update the minimum capital regulation to accommodate changes in Generally Accepted Accounting Principles, clarify reporting requirements, address critical capital requirements, and make supervisory monitoring of capital more transparent.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dorothy J. Acosta, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3748

RIN: 2550–AA18

3743. • CORPORATE GOVERNANCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4513; 12 USC 4631; 12 USC 4632

CFR Citation: 12 CFR 1710

Legal Deadline: None

Abstract: The proposed regulation will set forth minimum requirements for the safe and sound corporate governance policies and procedures of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) concerning the roles and responsibilities for the Enterprises' boards and senior management, delegation, the roles of outside directors, committee structure or composition, and indemnification.

Timetable:

Action	Date	FR Cite
NPRM	04/10/01	66 FR 18709

OFHEO — Proposed Rule Stage

Action	Date	FR Cite
NPRM Withdrawn	04/20/01	66 FR 20217
NPRM Reissue	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3788
Email: apollard@ofheo.gov

RIN: 2550–AA20

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Final Rule Stage

3744. RISK-BASED CAPITAL

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 12 USC 4513; 12 USC 4514; 12 USC 4611-4612; 12 USC 4614; 12 USC 4618

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: OFHEO is statutorily required to issue a risk-based capital regulation for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises). The final regulation will specify the risk-based capital stress test that will determipe the amount of capital each Enterprise is required to hold to maintain positive capital throughout a 10-year period of economic stress. The results of the risk-based capital stress test will be used to determine each Enterprise's risk-based capital requirements and, along with the minimum capital requirement, to determine each Enterprise's capital classification for purposes of possible supervisory action.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/95	60 FR 7468
ANPRM Comment Period End	05/09/95	
NPRM	06/11/96	61 FR 29592
NPRM Comment Period Extended	08/19/96	61 FR 42824
Second NPRM	04/13/99	64 FR 18083
Second NPRM Comment Period Extended	06/14/99	64 FR 31756
Availability of Supplemental Information	06/18/99	64 FR 32828
Second NPRM Comment Period Extended	10/19/99	64 FR 56274
Solicitation of Reply Comments	03/13/00	65 FR 13251
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy J. Acosta, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3748

RIN: 2550–AA02

3745. • EXECUTIVE COMPENSATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1452(h)(2); 12 USC 1723a(d)(3)(B); 12 USC 4501(6); 12 USC 4502(3),(7); 12 USC 4513-4514; 12 USC 4517-4518(a); 12 USC 4631-4632; 12 USC 4636; 12 USC 4641; ...

CFR Citation: 12 CFR 1770

Legal Deadline: None

Abstract: This regulation will clarify the procedures OFHEO uses in overseeing compensation provided by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) to their executive officers. It would largely formalize processes currently used by OFHEO in performing its executive compensation oversight responsibilities by requiring the timely submission of relevant information by the Enterprises.

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 81771
NPRM Comment Period End	03/27/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christine C. Dion, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3838

RIN: 2550–AA13

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Completed Actions

3746. • REORGANIZATION OF THE OFHEO REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 4513

CFR Citation: 12 CFR XVII

Legal Deadline: None

Abstract: OFHEO published a final regulation that reorganized and renumbered its regulations to accommodate the expanded framework for proposed and anticipated regulations.

Timetable:

Action	Date	FR Cite
Final Rule	12/26/00	65 FR 81326
Final Rule Effective	12/26/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David W. Roderer, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552

Phone: 202 414-6924

RIN: 2550–AA14

3747. • ASSESSMENTS

Priority: Info./Admin./Other

Legal Authority: 12 USC 4516

CFR Citation: 12 CFR 1701

Legal Deadline: None

Abstract: OFHEO intends to issue a final regulation setting forth its policy and procedures with respect to the annual assessment of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 81768
NPRM Comment Period End	01/26/01	
Final Action	04/05/01	66 FR 18037
Final Action Effective	05/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Isabella W. Sammons, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3790

RIN: 2550–AA15

3748. • RULES OF PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4501; 12 USC 4513; 12 USC 4517; 12 USC 4521; 12 USC 4631-4641

CFR Citation: 12 CFR 1780.1

Legal Deadline: None

Abstract: OFHEO published a proposed regulation to clarify its rule and procedures for administrative and enforcement actions. It provides an overview of the scope of actions OFHEO may take and the types of remedies OFHEO may impose.

Timetable:

Action	Date	FR Cite
NPRM	12/27/00	65 FR 81775
NPRM Comment Period End	02/26/01	
Final Rule	04/05/01	66 FR 18040
Final Action Effective	05/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jamey Basham, Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-8906
TDD Phone: 800 877-8339

RIN: 2550–AA16

3749. • RULES OF PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461 note

CFR Citation: 12 CFR 1780.80; 12 CFR 1780.81

Legal Deadline: Final, Statutory, Action required at least once every 4 years.

Abstract: This final rule adjusts civil money penalty maximum amounts to account for inflation since promulgation of enforcement rules by OFHEO. The Debt Collection Improvement Act of 1996 requires such periodic adjustments.

Timetable:

Action	Date	FR Cite
Final Rule	01/04/01	66 FR 709
Final Rule Effective	01/04/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jamey Basham, Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
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RIN: 2550–AA17

[FR Doc. 01–5927 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XXXV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, April 2001

AGENCY: Office of Government Ethics.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from April 1, 2001 through March 31, 2002. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12866, Regulatory Planning and Review, and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this April 2001 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related. Furthermore, the Office of Government Ethics' rulemakings are not included in the Regulatory Plan that is published each fall.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; Telephone: (202) 208-8000, ext. 1110; TDD: (202) 208-8025; Fax: (202) 208-8037.

Approved: February 16, 2001.

Amy L. Comstock,

Director, Office of Government Ethics.

Office of Government Ethics—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3750	Office of Government Ethics Gift Acceptance Authority and Organizational Update	3209-AA21
3751	Privacy Act Rules of the Office of Government Ethics	3209-AA18
3752	Office of Government Ethics Procedures on Requests for Testimony by OGE Employees and Documentary Production Relating to Official Information and Records	3209-AA23
3753	Interpretation of 18 U.S.C. 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12

Office of Government Ethics—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3754	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3755	Executive Agency Ethics Training Programs	3209-AA07
3756	Interpretation, Exemptions, and Waiver Guidance Concerning 18 U.S.C. 208 (Acts Affecting a Personal Financial Interest)	3209-AA09
3757	Post-Employment Conflict of Interest Restrictions	3209-AA14

Office of Government Ethics—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3758	Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture	3209-AA00
3759	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3760	Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees	3209-AA13

OFFICE OF GOVERNMENT ETHICS (OGE) — Proposed Rule Stage

3750. OFFICE OF GOVERNMENT ETHICS GIFT ACCEPTANCE AUTHORITY AND ORGANIZATIONAL UPDATE

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978

CFR Citation: 5 CFR 2600

Legal Deadline: None

Abstract: This regulation will implement the agency gift acceptance authority of the Office of Government Ethics as set forth in the 1996 OGE Authorization Act. In addition, various provisions of OGE's part 2600 organization and functions regulation will be updated to reflect changes in OGE's organizational structure. This regulation will be written in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
NPRM Comment Period End	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA21

3751. PRIVACY ACT RULES OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app, Ethics in Government Act of 1978

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
NPRM Comment Period End	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Elaine Newton, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA18

3752. OFFICE OF GOVERNMENT ETHICS PROCEDURES ON REQUESTS FOR TESTIMONY BY OGE EMPLOYEES AND DOCUMENTARY PRODUCTION RELATING TO OFFICIAL INFORMATION AND RECORDS

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978

CFR Citation: 5 CFR 2608 (New)

Legal Deadline: None

Abstract: This proposed rule would set forth proposed OGE procedures for responding to subpoenas and other requests and demands for testimony by OGE employees and documentary production relating to official OGE information and records (Touhy regulations).

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
NPRM Comment Period End	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Karen Kimball, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA23

3753. INTERPRETATION OF 18 U.S.C. 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731; 18 USC 209

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S. Code, prohibiting the private supplementation of the Government salary of executive branch officers and employees. This regulation is being written in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Arielle H. Grill, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA12

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

3754. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of E.O. 12674 on Principles of Ethical Conduct, as modified by E.O. 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this ethical conduct standards regulation generally superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period was in effect until November 1, 1996, or until individual concerned agencies issued supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
Minor Correction to One Citation	10/03/95	60 FR 51667
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	12/27/95	60 FR 66857
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	08/07/96	61 FR 40950
Final Rule on Widely Attended Gatherings	08/20/96	61 FR 42965
Correction to Final Rule on Widely Attended Gatherings	09/16/96	61 FR 48733
Interim Rule on Gifts From Political Organizations	09/27/96	61 FR 50689
Final Rule on Gifts From Political Organizations	03/17/97	62 FR 12531
Updating Amendments to Part 2635	09/17/97	62 FR 48746
Proposed Amendments Re: Gifts (Subpart B)	08/04/98	63 FR 41476
Further Minor Proposed Amendments to Part 2635 / Seeking Employment and Outside Activities	08/26/98	63 FR 45415
Amendments to Subpart B Gifts From Outside Sources	12/18/98	63 FR 69992
Technical Corrections to Part 2635	01/14/99	64 FR 2421
Final Amendments to Part 2635 / Seeking Employment and Outside Activities	03/17/99	64 FR 13063
Interim Rule on Travel Expenses for Certain Unofficial Teaching, Speaking and Writing	09/05/00	65 FR 53650
Correction	09/12/00	65 FR 55076
Final Technical Amendment to Nonsponsor Widely Attended Gathering Gift Dollar Ceiling	11/20/00	65 FR 69655
Final Rule on Travel Expenses for Certain Unofficial Teaching, Speaking and Writing	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA04

3755. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under section 301(b) and (c) of E.O. 12674, as modified by E.O. 12731. The Office of Government Ethics is rewriting the entire training regulation in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612
Interim Amendments to Liberalize Certain Training Requirements	03/16/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	
Interim Amendments to Refine Certain Training Requirements	03/12/97	62 FR 11307
Correction to Interim Training Reg. Amendments	03/19/97	62 FR 13213
Correction to Interim Training Reg. Amendments	03/27/97	62 FR 14737
Interim Amendments to Refine Certain Training Requirements Comment Period End	04/11/97	62 FR 11307
Most Interim Amendments to Refine Certain Training Requirements Effective	06/10/97	62 FR 13213
Interim Amendment to Rewrite Regulation in "Plain Language" and Restructure Its Provisions	02/14/00	65 FR 7275
Final Amendment to Rewrite Regulation in "Plain Language" and Restructure Its Provisions	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA07

3756. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 U.S.C. 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 18 USC 208; EO 12674; EO 12731; 5 USC app, Ethics in Government Act of 1978

CFR Citation: 5 CFR 2640

Legal Deadline: None

Abstract: This regulation interprets section 208(a) of title 18, United States Code, which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver or exemption under 18 U.S.C. 208(b)). It also lists and describes interests considered too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 U.S.C. 208(b)(2). Such interests are exempt from the restrictions of 18 U.S.C. 208(a), generally requiring disqualification. The regulation also provides guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 U.S.C. 208(a), pursuant to 18 U.S.C. 208(b)(1). In addition, guidance is provided concerning the issuance of waivers to special Government employee advisory committee members, pursuant to 18 U.S.C. 208(b)(3). A separate interim final rule, published in 1995 exempting certain financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits from the general prohibition in section 208(a), was incorporated in the overall final rule. A set of additional exemptions is now under consideration.

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security and Veterans' Benefits Exemptions Interim Final Rule	08/28/95	60 FR 44706
Overall NPRM	09/11/95	60 FR 47208
Overall NPRM Comment Period End	11/13/95	
Overall Final Rule	12/18/96	61 FR 66830
Correction	01/09/97	62 FR 1361
Overall Final Rule Effective	01/17/97	
Correction	04/29/97	62 FR 23127
Interim Census Exemption Amendment	03/29/00	65 FR 16511
Final Census Exemption Amendment	08/04/00	65 FR 47830
Proposed Additional Exemption Amendments	09/06/00	65 FR 53942
Proposed Amendments Comment Period End	12/05/00	
Final Additional Exemption Amendments	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA09

3757. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Government Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-employment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule for One-Year Restriction of Section 207(c)	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-Employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755

OGE

Final Rule Stage

Action	Date	FR Cite
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Exempted Senior Employee and Agency Separate Component Designation Update	05/16/97	62 FR 26915
Correction: Post-Employment Reg. Update	06/11/97	62 FR 31865
Agency Separate Component Designation Update	02/05/99	64 FR 5709
Agency Separate Component Designation Update Final Rule	06/00/01	
Overall NPRM	12/00/01	
Overall NPRM Comment Period End	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA14

OFFICE OF GOVERNMENT ETHICS (OGE)

Long-Term Actions

3758. EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 26 USC 1043; 28 USC 2461 note; PL 101-410; PL 104-134, sec 31001

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees. This regulation also has a subpart dealing with certificates of divestiture.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Proposed Amendments-Certificates of No New Interests for Confidential Filers	01/15/97	62 FR 2048
Final Amendment-Certificates of No New Interests for Confidential Filers	06/24/97	62 FR 33972
Updating Amendment to Part 2634	09/17/97	62 FR 48746
Clarifying Amendment to Section 2634.906	03/31/98	63 FR 15273
Minor Amdt. to Part 2634 (Transfer of Inactive in Lieu of Honoraria Charitable Paymts. Reporting)	08/12/98	63 FR 43067
Paperwork Revisions to Appendixes A, B, and C	11/02/98	63 FR 58619
Technical Amendments to Part 2634	12/18/98	63 FR 69991
Technical Corrections to Part 2634	01/14/99	64 FR 2421
Proposed Gifts Reporting Waiver Amendments	05/13/99	64 FR 25849
Inflation Adjustments to Civil Monetary Penalties as Reflected in Part 2634	08/30/99	64 FR 47095
Final Gifts Reporting Waiver Amendments	09/14/99	64 FR 49639
Technical Amendments to Categories of Value Reporting and Gifts/Reimbursements Thresholds	11/20/00	65 FR 69655
Proposed Certificates of Divestiture Revisions (Subpart J)	07/00/02	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 3209–AA00

3759. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

OGE

Long-Term Actions

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with sections 201(a) and 301(a) of E.O. 12674, as modified by E.O. 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests, designation of subunits and prior approval for outside employment, which are needed for certain agencies to round out the executive branchwide ethical standards for their employees.

Timetable:

Action	Date	FR Cite
FTC Employees (5 CFR Ch. XLVII) Interim Final Rule	05/27/93	58 FR 30695
OPIC Employees (5 CFR Ch. XXXIII) Interim Final Rule	06/17/93	58 FR 33319
Treasury Employees (5 CFR Ch. XXI) NPRM	08/03/93	58 FR 41193
ICC Employees (5 CFR Ch. XL) Final Rule	08/06/93	58 FR 41989
PRC Employees (5 CFR Ch. XLVI) Final Rule	08/12/93	58 FR 42839
DoD Employees (5 CFR Ch. XXVI) Interim Final Rule	09/10/93	58 FR 47619
CFTC Employees (5 CFR Ch. XLI) Final Rule	10/12/93	58 FR 52637
IAF Employees (5 CFR Ch. LXIII) Final Rule	01/27/94	59 FR 3771
5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/94	59 FR 4779
NRC Employees (5 CFR Ch. XLVIII) Final Rule	04/13/94	59 FR 17457
FDIC Employees (5 CFR Ch. XXII) NPRM	07/12/94	59 FR 35480
NASA Employees (5 CFR Ch. LIX)	09/28/94	59 FR 49335
FRTIB Employees (5 CFR Ch. LXXIV)	10/06/94	59 FR 50816
Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/95	60 FR 6390
OMB Employees (5 CFR Ch. LXXVII) Final Rule	03/07/95	60 FR 12396
USPS Employees (5 CFR Ch. LX)	03/27/95	60 FR 15700
Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17625
FDIC Employees (5 CFR Ch. XXII)	04/25/95	60 FR 20171
Treasury Employees (5 CFR Ch. XXI) Final Rule	05/05/95	60 FR 22249
FCSIC Employees (5 CFR Ch. XXX)	06/12/95	60 FR 30773
FCA Employees (5 CFR Ch. XXXI)	06/12/95	60 FR 30778
HUD Employees (5 CFR Ch. LXV)	06/30/95	60 FR 34420
OPIC Employees (5 CFR Ch. XXXIII) Final Rule	07/21/95	60 FR 37555
USPS Employees (5 CFR Ch. LX) Final Rule	09/11/95	60 FR 47240
FCA Employees (5 CFR Ch. XXXI) Final Rule	09/13/95	60 FR 47453
OGE Concurrence in FCA Employees (5 CFR Ch. XXXI) Final Rule	12/06/95	60 FR 62319
BGFRS Employees (5 CFR Ch. LVIII)	12/19/95	60 FR 65249
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	12/27/95	60 FR 66857
FCSIC Employees (5 CFR Ch. XXX) Final Rule	02/06/96	61 FR 4349
EEOC Employees (5 CFR Ch. LXII)	02/26/96	61 FR 7065
TVA Employees (15 CFR Ch. LXIX)	05/06/96	61 FR 20117
DOE Employees (5 CFR Ch. XXIII)	07/05/96	61 FR 35085
FDIC Employees (5 CFR Ch. XXII) Amendment	07/09/96	61 FR 35915
HUD Employees (5 CFR Ch. LXV)	07/09/96	61 FR 36246
OPM Employees (5 CFR Ch. XXXV)	07/16/96	61 FR 36993
HHS Employees (5 CFR Ch. XLV)	07/30/96	61 FR 39756
FMSHRC Employees (5 CFR Ch. LXXIV)	07/31/96	61 FR 39869
DOT Employees (5 CFR Ch. L)	07/31/96	61 FR 39901
EPA Employees (5 CFR Ch. LIV)	08/02/96	61 FR 40500
NARA Employees (5 CFR Ch. LXVI)	08/05/96	61 FR 40505
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	08/07/96	61 FR 40950
FERC Employees (5 CFR Ch. XXIV)	08/23/96	61 FR 43411
BGFRS Employees (5 CFR Ch. LVIII) Final Rule	10/16/96	61 FR 53827
FCC Employees (5 CFR Ch. XXIX)	10/31/96	61 FR 56109
GSA Employees (5 CFR Ch. LVII)	11/01/96	61 FR 56399
DOL Employees (5 CFR Ch. XLII)	11/06/96	61 FR 57281
DOJ Employees (5 CFR Ch. XXVIII)	11/25/96	61 FR 59811
NSF Employees (5 CFR Ch. XLIII)	11/25/96	61 FR 59815
CPSC Employees (5 CFR Ch. LXXI)	12/13/96	61 FR 65457
FDIC Employees (5 CFR Ch. XXII) Amendment	01/27/97	62 FR 3771
NLRB Employees (5 CFR Ch. LXI)	02/12/97	62 FR 6445
DOJ Employees (5 CFR Ch. XXVIII) Final Rule	05/02/97	62 FR 23941
DOJ Employees (5 CFR Ch. XXVIII) Final Rule Correction	06/11/97	62 FR 31865
OPM Employees (5 CFR Ch. XXXV) Interim Rule Correction	06/17/97	62 FR 32859
EEOC Employees (5 CFR Ch. LXII) Final Rule	07/08/97	62 FR 36447
OPM Employees (5 CFR Ch. XXXV) Final Rule	08/11/97	62 FR 42897
DOI Employees (5 CFR Ch. XXV)	10/16/97	62 FR 53713
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/15/98	63 FR 18501
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/24/98	63 FR 20447
DOI Employees (5 CFR Ch. XXV) Final Rule	06/24/98	63 FR 34258
FTC Employees (5 CFR Ch. XLVII) Final Rule Amendments	08/12/98	63 FR 43069
DOL Employees (5 CFR Ch. XLII) Final Rule	12/30/99	64 FR 73852

Action	Date	FR Cite
USDA Employees (5 CFR Ch. LXXIII) Interim Final Rule	03/24/00	65 FR 15825
USDA Employees (5 CFR Ch. LXXII) Interim Final Rule Correction	04/20/00	65 FR 21239
USDA Employees (5 CFR Ch. LXXIII) Final Rule	10/02/00	65 FR 58635
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA15

3760. LIMITATIONS ON OUTSIDE EARNED INCOME, EMPLOYMENT AND AFFILIATIONS FOR CERTAIN NONCAREER EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app, Ethics in Government Act of 1978; EO 12674; EO 12731; 28 USC 2461 note; PL 101-410; PL 104-134, sec 31001

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: The regulation had, in pertinent part, implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees and hence determined to be eviscerated as to all other Federal employees by the Office of Legal Counsel of the Justice Department). In addition, the regulation continues to implement the limitation on outside employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. The regulation has now been amended in light of the above-noted litigation and other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Additional Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Further Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Removal of Subpart B of Part 2636	08/12/98	63 FR 43067
Technical Corrections to Part 2636	01/14/99	64 FR 2421
Inflation Adjustment to Civil Monetary Penalty As Reflected in Part 2636	08/30/99	64 FR 47095
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA13

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Federal Register

Monday,
May 14, 2001

Part XXXVI

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 01

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order 12866 (October 4, 1993, 58 FR 51735). OMB Policy guidelines are issued under authority derived from several sources including: subtitles I, II, and V of title 31, United States Code; Executive Order 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, and instructions of a continuing nature to executive branch agencies. As such, most OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Stephen A. Weigler, (202) 395-3060 at the above address.

Dated: March 12, 2001.

Stephen A. Weigler,

Deputy Assistant Director for Administration.

Office of Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3761	Revision of OMB Circular A-127 To Implement the Federal Financial Management Improvement Act (FFMIA) and To Reflect Updated Financial Management Policies	0348-AB46
3762	Guidance on Agency Responsibilities on Data Quality	0348-AB52
3763	Federal Participation in the Development and Use of Volunteer Consensus Standards and in Conformity Assessment Activities (OMB Circular A-119)	0348-AB53
3764	Accounting for the Cost of Post-Retirement Benefit Plans (Health Care)	0348-AB54
3765	Policies on Management of Federal Information Resources (OMB Circular A-130)	0348-AB55

Office of Management and Budget—Completed Actions

Sequence Number	Title	Regulation Identification Number
3766	Subcontracting Plans	0348-AB31
3767	Policies on Management of Federal Information Resources (OMB Circular A-130)	0348-AB36

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Proposed Rule Stage

3761. REVISION OF OMB CIRCULAR A-127 TO IMPLEMENT THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA) AND TO REFLECT UPDATED FINANCIAL MANAGEMENT POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, Chief Financial Officer's Act of 1990; PL 104-208, Federal Financial Management Improvement Act of 1996; 31 USC 3111

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Federal Financial Management Improvement Act (FFMIA) of 1996 requires that financial management systems at each Federal agency covered by the CFOs Act, substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The revisions are to incorporate this and other policy updates since the 1993 issuance of the last revision to A-127.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/00/01	
Final Revision	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Jean Holcombe, Office of Federal Financial Management, Office of Management and Budget, Room 6025, NEOB, 725 17th Street NW, Washington, DC 20503
Phone: 202 395-5048
Email: jholcombe@omb.eop.gov

RIN: 0348–AB46

3762. • GUIDANCE ON AGENCY RESPONSIBILITIES ON DATA QUALITY

Priority: Substantive, Nonsignificant

Legal Authority: HR 4577, Treasury/General Government Appropriations Act of 2001

CFR Citation: None

Legal Deadline: Final, Statutory, September 30, 2001.

Abstract: OMB's appropriation language for FY 2001 requires OMB to issue policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, utility and integrity of information (including statistical information) disseminated by the Federal government in fulfillment of the Paperwork Reduction Act.

Timetable:

Action	Date	FR Cite
Proposed Action	05/00/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Brooke J. Dickson, Policy Analyst, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, DC 20503
Phone: 202 395-3191
Email: brooke-dickson@omb.eop.gov

RIN: 0348–AB52

3763. • FEDERAL PARTICIPATION IN THE DEVELOPMENT AND USE OF VOLUNTEER CONSENSUS STANDARDS AND IN CONFORMITY ASSESSMENT ACTIVITIES (OMB CIRCULAR A-119)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111; PL 104-113

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards," contains reporting requirements regarding agency use of government-unique standards and voluntary consensus standards along with agency participation in voluntary consensus standards bodies. The Circular instructs agencies to use voluntary consensus standards in lieu of government-unique standards in their procurement and regulatory activities, except where inconsistent with law or otherwise impractical. Language in A-119 calls on OMB to review the Circular for effectiveness 3 years from the date of issuance (February 1998).

Timetable:

Action	Date	FR Cite
Proposed Revision	08/00/01	
Final Revision	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kamela White, Policy Analyst, Office of Management and Budget
Phone: 202 395-3630
Fax: 202 395-5167
Email: kgwhite@omb.eop.gov

RIN: 0348–AB53

3764. • ACCOUNTING FOR THE COST OF POST-RETIREMENT BENEFIT PLANS (HEALTH CARE)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The cost accounting standards board is proposing a new standard that provides criteria for measuring the costs of post-retirement benefit plans, assigning the measured costs to cost accounting periods, and allocating the assigned costs to segments of an organization.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/00	65 FR 59504
ANPRM Comment Period End	12/19/00	
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board, Office of Management and Budget, Room 9013, NEOB, 725 17th Street NW., Washington, DC 20503
Phone: 202 395-4550
Fax: 202 395-5105

RIN: 0348–AB54

3765. • POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (OMB CIRCULAR A-130)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OMB Circular A-130 establishes policy for the management of Federal information resources, and includes procedural and analytic guidelines for implementing aspects of these policies as appendices. OMB is reviewing the Circular for consistency with the Government Information Security Reform Act, and revising sections on Information Policy and Privacy.

Timetable:

Action	Date	FR Cite
Proposed Revision	07/00/01	
Final Revision	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tony Frater, Policy Analyst, Office of Management and Budget, Room 10236, NEOB, 725 17th Street NW., Washington, DC 20503
Phone: 202 395-3785

OMB — Proposed Rule Stage

Fax: 202 395-5167
Email: afrater@omb.eop.gov
RIN: 0348–AB55

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Completed Actions

3766. SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637(d); PL 103-355, sec 1091; 41 USC 405

CFR Citation: 48 CFR 19.7

Legal Deadline: None

Abstract: OFPP proposes to issue a Final Policy Letter that covers subcontracting plans. This Policy Letter supersedes and cancels OFPP Policy Letter 80-1, 80-2, Supplement No. 1 to 80-2, and 80-4.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	09/26/95	60 FR 49644
Second Proposed Policy Letter	04/02/99	64 FR 16001
Withdrawn	03/16/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael Gerich, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-6811
Fax: 202 395-5105

RIN: 0348–AB31

3767. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (OMB CIRCULAR A-130)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular A-130, Management of Federal Information Resources, establishes policies for the management of Federal information resources and provides certain procedures and analytical guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Information Technology Management Reform Act (ITMRA) of 1996, Public Law 104-106. This proposed revision is consistent with the National Performance Reviews reinventing government efforts.

Timetable:

Action	Date	FR Cite
Proposed Revision	04/13/00	65 FR 19933
Final Revision	12/12/00	65 FR 77677

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tony Frater, Policy Analyst, Office of Management and Budget, Room 10236, NEOB, 725 17th Street NW., Washington, DC 20503
Phone: 202 395-3785
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Email: afrater@omb.eop.gov

RIN: 0348–AB36

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Monday,
May 14, 2001

Part XXXVII

Office of Personnel Management

Semiannual Regulatory Agenda

OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Personnel Management (OPM) regulations are scheduled for development or review from April 1, 2001 through March 31, 2002. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. The timetable for next actions is subject to the provisions of the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," as published in the **Federal Register** on January 24, 2001.

FOR FURTHER INFORMATION CONTACT: Jacquline D. Carter, (202) 606-1973.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

Office of Personnel Management—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3768	Availability of Official Information	3206-AG92

Office of Personnel Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3769	Excepted Service-Schedule A Authority for Nontemporary Part-Time or Intermittent Positions	3206-AJ06
3770	Employment in the Excepted Service	3206-AH83
3771	Career and Career-Conditional Appointment Under Special Authorities	3206-AG90
3772	Noncompetitive Appointments of Corporation for National and Community Service Employees	3206-AH48
3773	Noncompetitive Appointment of Former Peace Corps and Vista Volunteers	3206-AI18
3774	Probation on Initial Appointment to a Competitive Position	3206-AI47
3775	Merit Promotion and Internal Placement	3206-AI20
3776	Clarification of Hiring Authorities	3206-AI46
3777	Amendment to Selective Service Registration Requirements	3206-AI52
3778	Other Than Full-Time Employment (Part-Time, Seasonal, Intermittent)	3206-AI22
3779	Order of Release From Competitive Level	3206-AI96
3780	Re-Employment Rights	3206-AI19
3781	Training	3206-AJ19
3782	Classification Appeals of General Schedule Employees	3206-AH38
3783	Superior Qualifications Appointments	3206-AI00
3784	Job Grading Reviews and Appeals of Federal Wage System Employees	3206-AI14
3785	Pay Administration Under the Fair Labor Standards Act (FLSA)	3206-AI15
3786	Reemployment of Military and Civilian Retirees To Meet Exceptional Employment Needs	3206-AI32
3787	Cost-of-Living Allowances (Nonforeign Areas); Revised COLA Regulations Pursuant to Settlement of Litigation	3206-AJ27
3788	Miscellaneous Leave Regulations	3206-AI44
3789	Retirement; Credit for Military Service	3206-AG58
3790	Retirement; Service Credit	3206-AH37
3791	Retirement; Debt Collection	3206-AE72
3792	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG28
3793	Retirement; FERS Elections of Coverage	3206-AG96
3794	Federal Employees' Health Benefits Program: Waiver of Five Year Requirement for Continuing FEHB Coverage Into Retirement	3206-AI62
3795	Debarments and Suspensions of Health Care Providers From the Federal Employees' Health Benefits Program	3206-AD76
3796	Federal Employees' Group Life Insurance Federal Acquisition Regulation	3206-AI65
3797	Federal Employees' Health Benefits Acquisition Regulation	3206-AJ25
3798	Federal Employees' Health Benefits Acquisition Regulation: Large Provider Agreements, Subcontracts, and Miscellaneous Changes	3206-AJ20
3799	Implementation of the Cost Accounting Standards in the Federal Employees' Health Benefits Program	3206-AJ10

OPM

Office of Personnel Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3800	Excepted Service Promotion and Internal Placement	3206-AI51
3801	Excepted Service; Career and Career-Conditional Employment	3206-AJ28
3802	Time-in-Grade Restrictions	3206-AG06
3803	Promotion and Internal Placement; Accelerated Qualifications	3206-AG19
3804	Interagency Placement Program	3206-AI24
3805	Reasonable Accommodation Language for Vacancy Announcements	3206-AJ11
3806	Placement Assistance and Reduction in Force	3206-AJ18
3807	Reduction in Force Retreat Rights	3206-AJ14
3808	Official Duty Station Determinations for Pay Purposes	3206-AH84
3809	Locality-Based Comparability Payments	3206-AI81
3810	Holidays and Premium Pay	3206-AH85
3811	Grade and Pay Retention	3206-AI88
3812	Repayment of Student Loans	3206-AJ33
3813	Firefighter Pay	3206-AI50
3814	Pretax Allotments for Health Insurance Premiums	3206-AJ16
3815	Repeal of Dual Compensation Reduction for Military Retirees	3206-AI92
3816	Recruitment and Relocation Bonuses and Retention Allowances	3206-AJ08
3817	Voluntary Separation Incentive Repayment Waivers	3206-AG20
3818	Cost-of-Living Allowances (Nonforeign Areas); Guam and the Commonwealth of the Northern Mariana Islands	3206-AJ15
3819	Cost-of-Living Allowances (Nonforeign Areas); Interim COLA Rate Increases Pursuant to Settlement of Litigation	3206-AJ26
3820	Retirement Coverage for the District of Columbia Financial Control Board Employees	3206-AG78
3821	Retirement; Coverage-Nonappropriated Fund Instrumentalities	3206-AH57
3822	Coverage for Certain Employees of the District of Columbia	3206-AI02
3823	Retirement, Health, and Life Insurance Coverage for Certain Employees of the District of Columbia Under the District of Columbia Courts and Justice Technical Corrections Act of 1998	3206-AI55
3824	Retirement; Law Enforcement Officers and Firefighters	3206-AI41
3825	Retirement; State Income Tax Withholding Instrumentalities	3206-AH62
3826	Correction of Retirement Coverage Errors Under the Federal Erroneous Retirement Coverage Correction Act	3206-AJ38
3827	Retirement; General Administration	3206-AI83
3828	Retirement; FERS Basic Annuity	3206-AE73
3829	Federal Employees' Group Life Insurance Program: Miscellaneous Changes and Clarifications and Plain Language Rewrite	3206-AG63
3830	Federal Employees' Group Life Insurance Program: Life Insurance Improvements	3206-AI64
3831	Federal Employees' Health Benefits Program: Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay	3206-AG66
3832	Federal Employees' Health Benefits Program: Effective Dates	3206-AI37
3833	Implementation of Premium Conversion for Executive Branch Federal Employees Participating in the Federal Employees' Health Benefits (FEHB) Program	3206-AJ17

Office of Personnel Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3834	Federal Employment Priority Consideration for the District of Columbia Employees	3206-AI28
3835	Reemployment Priority List	3206-AI34
3836	Performance Management Reform Initiatives	3206-AF57
3837	Personnel Security and Related Programs	3206-AC21
3838	Investigations	3206-AB92

Office of Personnel Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
3839	Personnel Records	3206-AH24
3840	Intergovernmental Personnel Act (IPA) Mobility Program	3206-AJ29

Office of Personnel Management—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3841	Locality Pay Areas for 2001	3206-AJ07
3842	Prevailing Rate Systems; Miscellaneous Changes to Certain Federal Wage System Wage Areas	3206-AJ21
3843	Prevailing Rate Systems; Abolishment of the Philadelphia, Pennsylvania (PA), Special Wage Schedule for Printing Positions	3206-AJ22
3844	Prevailing Rate Systems; Redefinition of the Los Angeles, California (CA), Appropriated Fund Wage Area	3206-AJ23
3845	Abolishment of the St. Louis, Missouri (MO), Appropriated Fund, Printing and Lithographic Special Schedule	3206-AJ24
3846	Repayment of Student Loans	3206-AJ12
3847	Severance Pay: Miscellaneous	3206-AH12
3848	Suitability	3206-AC19
3849	Federal Employees' Health and Counseling Programs	3206-AI07
3850	Appointment, Pay, and Removal of Administrative Law Judges	3206-AI08

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Prerule Stage

3768. AVAILABILITY OF OFFICIAL INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552, Freedom of Information Act

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to subparts A, B, C, D, E, F and G of 5 CFR 294, Availability of Official Information. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addresses, use plain language and clarify that any written request that meets the specified marking and content requirements will be recognized as an official FOIA request. These changes are designed to benefit the public by providing updated information on where to direct FOIA requests, and improve the wording of the regulation to fully and accurately meet the provisions of the FOIA. There will be no significant change to the existing operational procedures in place at OPM.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Beth Smith-Toomey, Office of the Chief Information Officer, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-7900
Phone: 202 606-8358
Fax: 202 606-3251
Email: mbtoomey@opm.gov

RIN: 3206–AG92

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Proposed Rule Stage

3769. EXCEPTED SERVICE-SCHEDULE A AUTHORITY FOR NONTEMPORARY PART-TIME OR INTERMITTENT POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3307

CFR Citation: 5 CFR 213

Legal Deadline: None

Abstract: The Office of Personnel Management proposes to revoke the Schedule A excepted Service appointing authority for nontemporary part-time or intermittent positions for which total annual compensation does not exceed 40 percent of GS-3, step 1, because the conditions justifying the original exception no longer exist.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AJ06

3770. EMPLOYMENT IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 8151; EO 10577

CFR Citation: 5 CFR 302

Legal Deadline: None

Abstract: The revised regulations will make it easier for agencies to understand how to run the excepted service employment system, and thus create better and more efficient employment procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
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RIN: 3206–AH83

3771. CAREER AND CAREER-CONDITIONAL APPOINTMENT UNDER SPECIAL AUTHORITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 22 USC 2506; 22 USC 3651; 22 USC 3652; 5 USC 3301; 5 USC 3302; 5 USC 3304(d); 5 USC 8151; EO 11219; EO 10577; EO 12034; EO 12721

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Revises a group of special appointment authorities to clarify requirements and to eliminate obsolete provisions. Also adds authorities for specific noncompetitive appointments authorities by law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AG90

3772. NONCOMPETITIVE APPOINTMENTS OF CORPORATION FOR NATIONAL AND COMMUNITY SERVICE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12651f

CFR Citation: 5 CFR 315; 5 CFR 316

Legal Deadline: None

Abstract: Permits permanent and indefinite employees of the Corporation for National and Community Service to receive noncompetitive appointments in the competitive service. Implements the National and Community Service Trust Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AH48

3773. NONCOMPETITIVE APPOINTMENT OF FORMER PEACE CORPS AND VISTA VOLUNTEERS

Priority: Substantive, Nonsignificant

Legal Authority: EO 11103; 42 USC 5055

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Updates authority that grants former Peace Corps and Vista volunteers an eligibility for noncompetitive appointment to the Federal Competitive Service. Eliminates reference to the abolished ACTION agency.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI18

3774. PROBATION ON INITIAL APPOINTMENT TO A COMPETITIVE POSITION

Priority: Other Significant

Legal Authority: 5 USC 3321

CFR Citation: 5 CFR 315, subpart H

Legal Deadline: None

Abstract: This regulation will permit agencies to use a competitive service probationary period of up to 3 years, when the work of the position cannot be properly evaluated in only 1 year. It will also establish one year as the minimum probationary period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh M. Neville, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
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RIN: 3206–AI47

3775. MERIT PROMOTION AND INTERNAL PLACEMENT

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 316; 5 CFR 335

Legal Deadline: None

Abstract: In an effort to streamline selection procedures and provide agencies with greater flexibility, the Office of Personnel Management (OPM) is proposing to revise the regulations covering merit promotion and internal placement. These regulations will provide a framework within which agencies may develop merit-based programs for internal selections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830

Fax: 202 606-0023

RIN: 3206–AI20

3776. CLARIFICATION OF HIRING AUTHORITIES

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330; 5 CFR 332; 5 CFR 333; 5 CFR 337

Legal Deadline: None

Abstract: In an effort to consolidate and streamline existing hiring authorities and to clarify existing competitive examining authorities, the Office of Personnel Management is proposing to revise the regulations covering the operation and administration of these authorities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh M. Neville, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
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RIN: 3206–AI46

3777. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Delegates to agencies' determination whether a Federal job applicant's failure to register with the Selective Service was knowing and willful. This change is authorized by an amendment to 5 U.S.C. 3328.

Timetable:

Action	Date	FR Cite
NPRM	03/29/99	64 FR 14842
NPRM Comment Period End	04/28/99	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI52

3778. OTHER THAN FULL-TIME EMPLOYMENT (PART-TIME, SEASONAL, INTERMITTENT)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301

CFR Citation: 5 CFR 340; 5 CFR 110

Legal Deadline: None

Abstract: Grants agencies and employees more flexibility by clarifying agency authority to schedule part-time employees on a pay period, rather than weekly, basis; defines job sharing; modifies seasonal employment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Tyrrell, Employment Service, Staffing Policy Division, Office of Personnel Management, 9th Floor, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI22

3779. ORDER OF RELEASE FROM COMPETITIVE LEVEL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3502; 5 USC 3503

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing retention regulations covering the order in which agencies release competing employees from their competitive levels in a reduction in force.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI96

3780. RE-EMPLOYMENT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3582; 5 USC 3301; PL 103-296

CFR Citation: 5 CFR 352

Legal Deadline: None

Abstract: Updates provisions to conform to law allowing employees assigned to international organizations under certain conditions to maintain FERS and FICA retirement coverage; current regulations only mention CSRS retirement.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Mahoney, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI19

3781. TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4118

CFR Citation: 5 CFR 410

Legal Deadline: None

Abstract: Since the December 1996 publication of the final rules on training, subsections 5 CFR 410.309 (continued service agreements) and 5 CFR 410.404 (expenses of training and meetings) have caused confusion in agencies, the agencies have asked for clearer regulations. 5 CFR 410.309, as written, omits allowance for agency heads to delegate authority to define requirements for continued service. It also omits circumstances when the requirement for continued service can be waived, which has caused confusion for agencies in developing their continued service agreements. Amending 5 CFR 410.309 returns to regulation, language removed in 1996 that has had the unintended effect of limiting agency head authority in the area of continued service agreements for training. With increasing interest in academic education and service agreements, agencies have expressed concern about their legal authority with regard to theses agreements.

As written, 5 CFR 410.404 does not sufficiently clarify distinctions between training and meetings. 5 U.S.C. 4109 provides agencies authority to pay the expenses of training. 5 U.S.C. 4110 provides them authority to pay the expenses of meetings. However, 5 CFR 410.404 blurs the distinctions between these two; amending it would make clear the distinctions, and clarify conditions under which a meeting may be considered training.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LaVeen Ponds, Office of Workforce Relations, Office of Personnel Management, Office of Human Resource Development, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1394
Email: lmponds@opm.gov

RIN: 3206–AJ19

3782. CLASSIFICATION APPEALS OF GENERAL SCHEDULE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 511, subpart A; 5 CFR 511, subpart F; 5 CFR 511, subpart G

Legal Deadline: None

Abstract: The position classification appeals regulations require updating to reflect current organizational nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa Drummond, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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Fax: 202 606-2663
Email: madrummo@opm.gov

RIN: 3206–AH38

3783. SUPERIOR QUALIFICATIONS APPOINTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5333

CFR Citation: 5 CFR 531

Legal Deadline: None

Abstract: Revises regulations concerning the appointment of superior candidates above the minimum rate of pay for General Schedule positions. Clarifies and modifies what agencies should consider when making these superior qualifications appointments.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390

RIN: 3206–AI00

3784. JOB GRADING REVIEWS AND APPEALS OF FEDERAL WAGE SYSTEM EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5346

CFR Citation: 5 CFR 532, subpart G

Legal Deadline: None

Abstract: The job grading reviews and appeals regulations require updating to reflect current organizational nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Melissa Drummond, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI14

3785. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT (FLSA)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 204(f)

CFR Citation: 5 CFR 551, subpart A; 5 CFR 551, subpart B; 5 CFR 551, subpart C

Legal Deadline: None

Abstract: The FLSA regulations require revision to correct minor inconsistencies in terminology and phrasing, one incomplete citation, and one incorrect reference.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
NPRM Comment Period End	10/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Melissa Drummond, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415

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RIN: 3206–AI15

3786. REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8344; 5 USC 8468

CFR Citation: 5 CFR 553

Legal Deadline: None

Abstract: Establishes new criteria for granting exceptions for key positions in temporary organizations established by law or Executive order. This rule will also expand and clarify the criteria used in exercising this authority.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI32

3787. COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS); REVISED COLA REGULATIONS PURSUANT TO SETTLEMENT OF LITIGATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: As a result of a court-approved settlement of Caraballo, et al. v. United States, No. 1997-0027 (D.V.I.), the Office of Personnel Management will publish revised regulations, pursuant to the terms of the settlement, to implement the changes in the methodology used to compute nonforeign area cost-of-living allowances.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chenty Carpenter, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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Fax: 202 606-4264
Email: cola@opm.gov

RIN: 3206–AJ27

3788. MISCELLANEOUS LEAVE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing miscellaneous changes to the leave, regulations in 5 CFR part 630. The proposed changes will include clarifying provisions on the Federal leave sharing program, home leave and transfer of leave from/to the U.S. Postal Service; updating regulations to comply with new legislation requiring a lump-sum payment for annual leave for employees transferring from a Department of Defense base that is closing to another position; clarifying leave entitlements for employees who are under 90-day appointments or assigned part-time and intermittent work schedules; and other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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Email: payleave@opm.gov

RIN: 3206–AI44

3789. RETIREMENT; CREDIT FOR MILITARY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 38 USC 4331

CFR Citation: 5 CFR 8347(a); 5 CFR 8461(g); 5 CFR 842.306; 5 CFR 842.307

Legal Deadline: None

Abstract: These regulations implement changes in the treatment of certain military service under CSRS and FERS required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher H. Ziebarth, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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Email: combox@opm.gov

RIN: 3206–AG58

3790. RETIREMENT; SERVICE CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, subpart C

Legal Deadline: None

Abstract: These regulations would provide that no retirement credit could be granted for periods of service for which retirement deductions were refunded and not repaid even when the refund was paid based on an erroneous separation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AH37

3791. RETIREMENT; DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835(e)

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating and updating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835, which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45753
NPRM	08/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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Email: combox@opm.gov

RIN: 3206–AE72

3792. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: These regulations would establish standards for determining which supplemental or correcting court orders are not "modifications" and the procedures applicable to such orders. They also provide for the continuation of the former spouse's survivor coverage and the reduction in the retiree's annuity until the State court decides the extent of the former spouse's rights to retirement benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG28

3793. RETIREMENT; FERS ELECTIONS OF COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); PL 99-335, sec 301(d)(3)

CFR Citation: 5 CFR 846

Legal Deadline: None

Abstract: These regulations implement title III of the Federal Employees Retirement System (FERS) Act of 1986, as amended, dealing with the election of FERS coverage by employees under the Civil Service Retirement System and certain other employees. The regulations contain regulatory and interpretative rules concerning employees' eligibility to elect FERS coverage, procedures for electing FERS coverage, and basic benefits based on the service for employees who elect FERS coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Interim Final Rule	09/13/93	58 FR 47821
Interim Final Rule	06/18/98	63 FR 33231
NPRM	05/00/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG96

3794. FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM: WAIVER OF FIVE YEAR REQUIREMENT FOR CONTINUING FEHB COVERAGE INTO RETIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This proposed regulation would broaden OPM's authority to waive the participation requirements for continuing health benefits coverage into retirement when it is to the advantage of the Government to do so.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Terry L. Schleicher, Benefits Specialist, Office of Personnel Management, Retirement and Insurance Group, Office of Retirement and Insurance Policy, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: tlschlei@opm.gov

RIN: 3206–AI62

3795. DEBARMENTS AND SUSPENSIONS OF HEALTH CARE PROVIDERS FROM THE FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890, subpart J

Legal Deadline: None

Abstract: These regulations will implement section 2 of Public Law 105-266, which amends 5 U.S.C. section 8902a authorizing OPM to debar health care providers who have committed certain types of legal offenses or program-related violations from participation in the Federal Employees' Health Benefits Program (FEHBP), and to levy monetary penalties and

assessments against individuals who have improperly obtained payments of FEHBP funds. This legislation removes unnecessary administrative constraints on the agency, provides more flexible and less time consuming procedures, and will improve OPM's administration of sanctions against unfit health care providers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: J. David Cope, Debarring Official, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AD76

3796. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE FEDERAL ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716; 40 USC 486(C)

CFR Citation: 48 CFR 1.301

Legal Deadline: None

Abstract: This proposed regulation would revise the existing Federal Employees' Group Life Insurance Federal Acquisition Regulation (LIFAR) by updating and revising policy regulation with respect to the acquisition and administration of life insurance contract(s) for Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
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RIN: 3206–AD76

3797. FEDERAL EMPLOYEES' HEALTH BENEFITS ACQUISITION REGULATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913; 40 USC 486(C); 48 CFR 1.301

CFR Citation: 5 CFR 1601; 5 CFR 1652

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing a new policy stipulating that the effective date of regulatory changes is the date specified in published regulations. The new clause also provides that if the carrier does not want to continue participation in the Federal Employees' Health Benefits (FEHB) Program because of a regulatory change, the Contracting Officer will waive the 60-day written notice requirement for nonrenewal of contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Ann Mercer, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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Email: mamercer@opm.gov

RIN: 3206–AI65

3798. FEDERAL EMPLOYEES' HEALTH BENEFITS ACQUISITION REGULATION: LARGE PROVIDER AGREEMENTS, SUBCONTRACTS, AND MISCELLANEOUS CHANGES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913; 40 USC 486(c); 48 CFR 1.301

CFR Citation: 48 CFR 1602; 48 CFR 1604; 48 CFR 1615

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing a proposed regulation to amend the Federal Employees' Health Benefits Acquisition Regulation (FEHBAR). OPM is proposing a new policy that establishes notification and information requirements, including audit, for Federal Employees' Health Benefits (FEHB) experience rated carriers' large provider agreements. These requirements apply if carriers' provider agreements are expected to exceed 10 percent of the carrier's total FEHB benefits costs for the prior contract year. The proposed regulation also revises the threshold for advance approval of carrier subcontracts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Ann Mercer, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: mamercer@opm.gov

RIN: 3206–AJ20

3799. IMPLEMENTATION OF THE COST ACCOUNTING STANDARDS IN THE FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913; 40 USC 486(c); 48 CFR 1.301

CFR Citation: 48 CFR 1630; 48 CFR 1631; 48 CFR 1652

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing a regulation that would inform experience-rated carriers in the Federal Employees' Health Benefits Program how it intends to implement the Cost Accounting Standards at chapter 1, part 30, and 48 U.S.C. chapter 99.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E Street NW, Washington, DC 20415
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Email: mamercer@opm.gov

RIN: 3206–AJ10

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

3800. EXCEPTED SERVICE PROMOTION AND INTERNAL PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; PL 105-339

CFR Citation: 5 CFR 213; 5 CFR 335

Legal Deadline: None

Abstract: The Office of Personnel Management will issue final regulations implementing the provisions of the Veterans Employment Opportunities Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/03/98	63 FR 66705
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI51

3801. EXCEPTED SERVICE; CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Priority: Other Significant

Legal Authority: EO 13162

CFR Citation: 5 CFR 213; 5 CFR 315

Legal Deadline: None

Abstract: These regulations implement Executive Order 13162, which establishes the Federal Career Intern Program. This program will be used to attract exceptional men and women to the Federal workforce who have diverse professional experiences, academic training, or competencies and prepare them for careers in analyzing and implementing public programs.

This regulation supports the Administration's effort to recruit the highest caliber people to the Federal Government, develop their professional abilities, and retain them in Federal departments and agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/14/00	65 FR 78077
Interim Final Rule Effective	12/14/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AJ28

3802. TIME-IN-GRADE RESTRICTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Eliminates requirement that employees serve one year in-grade to be eligible for promotion above the GS-5 level. This is separate from the qualifications requirement for one year's experience at the next lowest grade or equivalent for promotion.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	01/10/95	60 FR 2546
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AG06

3803. PROMOTION AND INTERNAL PLACEMENT; ACCELERATED QUALIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3329

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Legal Deadline: None

Abstract: OPM will issue final regulations on Accelerated Qualifications only to authorize agencies to establish intensive training programs for acquiring qualifications at an accelerated rate.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6324
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AG19

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3804. INTERAGENCY PLACEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3310; 5 USC 3315

CFR Citation: 5 CFR 330; 5 CFR 351; 5 CFR 332

Legal Deadline: None

Abstract: Implemented Interagency Placement Program, which superseded the Displaced Employee Program and Interagency Placement Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/94	59 FR 32871
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI24

3805. REASONABLE ACCOMMODATION LANGUAGE FOR VACANCY ANNOUNCEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304(f); 5 USC 3327; ...

CFR Citation: 5 CFR 302; 5 CFR 317; 5 CFR 330; 5 CFR 333; 5 CFR 335

Legal Deadline: None

Abstract: The Office of Personnel Management is publishing interim regulations requiring a reasonable accommodation statement in agency vacancy announcements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elnora Wright, Employment Service, Service Delivery Operations and Systems, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-1248

RIN: 3206–AJ11

3806. PLACEMENT ASSISTANCE AND REDUCTION IN FORCE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3502

CFR Citation: 5 CFR 330; 5 CFR 351

Legal Deadline: None

Abstract: Interim regulations that delete references to the repealed Job Training Partnership Act and replace it with references to the new Workforce Investment Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/00	65 FR 64133
Interim Final Rule Effective	11/27/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pam Galemore, Employment Service, Office of Personnel Management, Workforce Restructuring Policy Division, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AJ18

3807. REDUCTION IN FORCE RETREAT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3502; 5 USC 3503

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: Interim regulations that clarify a released employee's right to retreat to another position in a reduction in force.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/20/00	65 FR 62991
Interim Final Rule Effective	10/20/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ14

3808. OFFICIAL DUTY STATION DETERMINATIONS FOR PAY PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5305; 5 USC 5304; 5 USC 5941; EO 10000; PL 101-509, sec 404

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 591

Legal Deadline: None

Abstract: These regulations clarify the location-based pay entitlements of Federal employees who are detailed or temporarily assigned to work at a new location. In particular, the regulations provide that for employees receiving limited relocation allowances under 5 U.S.C. 5737 during temporary assignments, the new location is the official duty station for pay purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/97	62 FR 25423
Interim Final Rule Comment Period End	07/08/97	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH84

3809. LOCALITY-BASED COMPARABILITY PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304

CFR Citation: 5 CFR 531, subpart F

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing proposed regulations to clarify and redefine the limitations on locality rates of pay for

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categories of non-General Schedule employees approved by the President's Pay Agent to receive locality pay. This proposed change was prompted by a recent Executive order that delegated the President's authority to determine such limitations to the President's Pay Agent. The proposed regulations will ensure that all employees receiving locality pay are treated consistently.

Timetable:

Action	Date	FR Cite
NPRM	03/24/00	65 FR 15875
NPRM Comment Period End	05/23/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AI81

3810. HOLIDAYS AND PREMIUM PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5548; 5 USC 6133; 29 USC 204(f)

CFR Citation: 5 CFR 532; 5 CFR 550; 5 CFR 551; 5 CFR 610

Legal Deadline: None

Abstract: The regulations implement changes in law that provide: (1) authority for compensatory time off for prevailing rate (wage) employees in lieu of overtime pay; and (2) agency flexibility in determining the "in lieu of" holiday for employees on compressed work schedules when the actual holiday for the employee is on a nonworkday. A current regulation is also corrected to comply with a provision of law authorizing use of alternative work schedules for civilian nonappropriated fund employees of the armed services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/97	62 FR 28305
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3206–AH86

3811. GRADE AND PAY RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5361; 5 USC 5366

CFR Citation: 5 CFR 536

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing proposed regulations giving agencies discretionary authority to grant pay retention to certain employees moving to positions under pay systems other than the General Schedule or the Federal Wage System. This new flexibility would allow agencies to prevent eligible employees from suffering a reduction in pay that would otherwise result from a management action.

Timetable:

Action	Date	FR Cite
NPRM	05/25/00	65 FR 33785
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI88

3812. • REPAYMENT OF STUDENT LOANS

Priority: Other Significant

Legal Authority: 5 USC 5379; PL 106-398

CFR Citation: 5 CFR 537

Legal Deadline: None

Abstract: These regulations amend part 537 of Title 5, Code of Federal Regulations, entitled Repayment of Student Loans, Published in the "Federal Register" on January 11, 2001 (66FR 2790). These provisions give agencies greater recruiting and retention flexibility by; removing the restriction of this incentive to professional, technical, or administrative personnel; removing the limitation of this incentive to employees covered under General Schedule pay rates; and broadening the types of loans which qualify under this part under the Higher Education Act of 1965 and the Public Health Service Act; requiring agencies to report annually to OPM on their use of this incentive.

In addition, these provisions require OPM to report annually to Congress on agencies' use of this incentive. These regulations reflect the amendments to 5 U.S.C. 5379 (the authorizing statute for Repayment of Student Loans) contained in Public Law 106-398, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Timetable:

Action	Date	FR Cite
NPRM	03/16/01	66 FR 15202
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mike Mahoney, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0830
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RIN: 3206–AJ33

3813. FIREFIGHTER PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545b

CFR Citation: 5 CFR 410; 5 CFR 550; 5 CFR 551; 5 CFR 591; 5 CFR 630; 5 CFR 870

Legal Deadline: None

Abstract: These regulation implement a 1998 law that changed the pay computation rules for GS-081 firefighters with regular tours of duty averaging at lease 53 hours per week. Section 628 of the Treasury and General Government Appropriations Act of 1999, as incorporated in section 101(h) of Public Law 105-272, October 21, 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/23/98	63 FR 64589
Interim Final Rule Comment Period End	01/22/99	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI50

3814. PRETAX ALLOTMENTS FOR HEALTH INSURANCE PREMIUMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5527

CFR Citation: 5 CFR 550, subpart C

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations to enable employees to pay Federal Employees' Health Benefits (FEHB) premiums through an allotment from the employee's pay to the employing agency. Use of this allotment mechanism allows FEHB premiums to be paid with pre-tax dollars, as provided under section 125 of the Internal Revenue Code. These allotment regulations are connected to a separate interim rule amending the FEHB regulations to establish the premium conversion program effective October 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/00	65 FR 44643
Interim Final Rule Effective	09/18/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bryce Baker, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858

RIN: 3206–AJ16

3815. REPEAL OF DUAL COMPENSATION REDUCTION FOR MILITARY RETIREES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8344; 5 USC 8468

CFR Citation: 5 CFR 553

Legal Deadline: None

Abstract: The Office of Personnel Management is publishing final regulations to implement the repeal of reduction in military retired or retainer pay required of some military retirees in civilian positions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/12/00	65 FR 19643
Interim Final Rule Effective	04/12/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI92

3816. RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES

Priority: Other Significant

Legal Authority: 5 USC 5753; 5 USC 5754

CFR Citation: 5 CFR 575

Legal Deadline: None

Abstract: These proposed regulations would provide agencies with greater flexibility in the use of recruitment and relocation bonuses and retention allowances. This proposal would amend the regulations to allow agencies to pay recruitment, relocation, and retention payments to Federal Wage System employees. The proposed regulations would also provide agencies with the flexibility to pay retention allowances to employees who are likely to leave their position for other Federal employment under a different pay system under certain limited conditions.

Timetable:

Action	Date	FR Cite
NPRM	01/19/01	66 FR 5491
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AJ08

3817. VOLUNTARY SEPARATION INCENTIVE REPAYMENT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-226

CFR Citation: 5 CFR 576

Legal Deadline: None

Abstract: Public Law 103-226 authorized OPM to waive repayment of a voluntary separation incentive payment under certain circumstances if a former employee, who accepted the incentive payment, is reemployed by an executive agency of the United States within five years of separation. Later Public Laws, written for specific agencies, usually contain a waiver of repayment provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/94	59 FR 55808
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Gray, Employee Service, Office of Personnel Management, Workforce Restructuring Policy Division, 1900 E Street NW., Wasington, DC 20415
Phone: 202 606-0960

RIN: 3206–AG20

3818. COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS); GUAM AND THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: The Office of Personnel Management is publishing regulations to increase the cost-of-living allowance (COLA) rate paid to certain Federal employees in Guam and the Commonwealth of the Northern Mariana Islands (CNMI). The regulations increase the Guam/CNMI Local Retail COLA rate from 22.5 percent to 25 percent. The increase is a result of living-cost surveys conducted in October and November 1998 using current methodologies for calculating COLA rates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/17/00	65 FR 44101
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chenty Carpenter, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ15

3819. COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS); INTERIM COLA RATE INCREASES PURSUANT TO SETTLEMENT OF LITIGATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: As a result of the court-approved settlement of Carballo, et al. v. United States, No. 1997-0027 (D.V.I.), the Office of Personnel Management will publish regulations to increase on an interim basis the cost-of-living allowance (COLA) rate paid to certain Federal employees in Hawaii County, HI; Kauai County, HI; Maui County, HI; Puerto Rico; and the U.S. Virgin Islands. The increase will be effective the day of the first pay period beginning on or after October 1, 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/00	65 FR 58901
Interim Final Rule Effective	10/01/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chenty Carpenter, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ26

3820. RETIREMENT COVERAGE FOR THE DISTRICT OF COLUMBIA FINANCIAL CONTROL BOARD EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-8

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the District of Columbia Financial Responsibility and Management Assistance Act of 1995. They establish standards by which some former Federal employees may carry civil service retirement coverage to employment with the District of Columbia Financial Control Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/96	61 FR 58457
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance, Office of Personnel Management, Retirement Policy Center, 1900 E Street NW, Washington, DC 20415-0001
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RIN: 3206–AG78

3821. RETIREMENT; COVERAGE-NONAPPROPRIATED FUND INSTRUMENTALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 841; 5 CFR 842; 5 CFR 843; 5 CFR 844; 5 CFR 847

Legal Deadline: Final, Statutory, August 9, 1996.

Abstract: These regulations implement the provisions of Public Law 104-106, which allows certain employees, who have been employed by non-appropriated fund instrumentalities under the jurisdiction of the armed forces, to obtain retirement credit under limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/09/96	61 FR 41714
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service,

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RIN: 3206–AH57

3822. COVERAGE FOR CERTAIN EMPLOYEES OF THE DISTRICT OF COLUMBIA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8361(g); PL 105-33, sec 11202(f), 11232(e), 11246(b); PL 106-522, sec 145

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These regulations implement provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997, which requires that nonjudicial employees of the District of Columbia Courts, and under certain conditions, the District of Columbia Corrections Trustee and the District of Columbia Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee and their respective employees be considered Federal employees for purposes of Federal retirement, health, and life insurance coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/97	62 FR 50995
Interim Final Rule Comment Period End	12/01/97	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Girouard, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI02

3823. RETIREMENT, HEALTH, AND LIFE INSURANCE COVERAGE FOR CERTAIN EMPLOYEES OF THE DISTRICT OF COLUMBIA UNDER THE DISTRICT OF COLUMBIA COURTS AND JUSTICE TECHNICAL CORRECTIONS ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-274

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These interim regulations implement the District of Columbia Courts and Justice Technical Corrections Act of 1998. The effect of these regulations is to extend Federal retirement, health insurance, and life insurance coverage to employees of the Public Defender Service of the District of Columbia under section 7 of the Act, and to exclude certain former employees of the District of Columbia, who are hired by the Department of Justice or by the Court Services and Offender Supervision Agency, from Federal retirement coverage if they elect, under section 3 of the Act, to continue their coverage under a retirement system for employees of the District of Columbia.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/99	64 FR 15286
Interim Final Rule Comment Period End	06/29/99	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Girouard, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI55

3824. RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461; PL 106-554; PL 106-553

CFR Citation: 5 CFR 831, subpart I; 5 CFR 842, subpart H

Legal Deadline: None

Abstract: These interim regulations will amend the CSRS Law Enforcement Officer and Firefighter regulations and the FERS Law Enforcement Officer, Firefighter, and Air Traffic Controller regulations governing agency and OPM law enforcement officer and firefighter retirement coverage and service credit determinations. These interim regulations will add Supreme Court Police and Certain Police Officers employed by the Metropolitan Washington Airport Authority to the Definition of law enforcement officer. These interim regulations will also clarify that the authority of an agency head to deny law enforcement officer and firefighter retirement coverage may be delegated to any level within the agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance, Office of Personnel Management, Retirement Policy Center, 1900 E Street NW, Washington, DC 20415-0001
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RIN: 3206–AI41

3825. RETIREMENT; STATE INCOME TAX WITHHOLDING INSTRUMENTALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8345; 5 USC 8347; 5 USC 8461; 5 USC 8469

CFR Citation: 5 CFR 831, subpart S; 5 CFR 841, subpart J

Legal Deadline: None

Abstract: These regulations modify existing regulations to reflect changes designed to expand and streamline the process of withholding State income tax from CSRS and FERS annuities.

Timetable:

Action	Date	FR Cite
NPRM	06/23/99	64 FR 33429
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH62

3826. • CORRECTION OF RETIREMENT COVERAGE ERRORS UNDER THE FEDERAL ERRONEOUS RETIREMENT COVERAGE CORRECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-265

CFR Citation: 5 CFR 839

Legal Deadline: None

Abstract: The Office of Personnel Management is amending its regulations to include new rules for correcting certain retirement coverage errors. We are amending the regulations to implement the provisions of the Federal Erroneous Retirement Coverage Corrections Act (the FERCCA), title II of Public Law 106-265. The regulations will allow agencies to correct affected coverage errors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AJ38

3827. RETIREMENT; GENERAL ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 841

Legal Deadline: None

Abstract: These regulations would allow an agency to retain the individual retirement record when an employee transfers within the same agency even though the employee would be serviced by another intra-agency payroll.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/00	65 FR 21119
Interim Final Rule Effective	04/20/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
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RIN: 3206–AI83

3828. RETIREMENT; FERS BASIC ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842, subparts B to G

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuity (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4598
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Center, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AE73

3829. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: MISCELLANEOUS CHANGES AND CLARIFICATIONS AND PLAIN LANGUAGE REWRITE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations include changes to FEGLI regulations that clarify procedures for signing and witnessing designations of beneficiary, accepting designations of beneficiary by facsimile, accepting DNA evidence to establish paternity, etc. We are also rewriting part 870 under the plain language initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/27/00	65 FR 64530
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: kjleibac@opm.gov

RIN: 3206–AG63

3830. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: LIFE INSURANCE IMPROVEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-311

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations implement Public Law 105-311, which makes numerous changes to the FEGLI Program, including covering foster children under Option C, increasing the amount of Option C coverage available, allowing for the election of unreduced Options B and C at retirement, allowing

for direct payment of premiums when pay is insufficient for premium withholdings, and providing for a demonstration project for the portability of Option B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/99	64 FR 72459
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: kjleibac@opm.gov

RIN: 3206–AI64

3831. FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM: PAYMENT OF PREMIUMS FOR PERIODS OF LEAVE WITHOUT PAY OR INSUFFICIENT PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations that establish a requirement that Federal agencies counsel employees entering nonpay status, or whose pay is insufficient to cover their FEHB premium payments, of the options of continuing or terminating their FEHB coverage, and if continuing, of paying premiums directly on a current basis or incurring a debt to be withheld from future salary. These regulations are intended to ensure employees are fully aware of these alternatives.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/96	61 FR 37807
Second Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Ann Mercer, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: mamercer@opm.gov

RIN: 3206–AG66

3832. FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM: EFFECTIVE DATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This proposed regulation would adopt January 1 as the effective date for all open season enrollment changes and new enrollment in the Federal Employees' Health Benefits Program.

Timetable:

Action	Date	FR Cite
NPRM	08/31/98	63 FR 46180
NPRM Comment Period End	09/30/98	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jay D. Fritz, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: jdfritz@opm.gov

RIN: 3206–AI37

3833. IMPLEMENTATION OF PREMIUM CONVERSION FOR EXECUTIVE BRANCH FEDERAL EMPLOYEES PARTICIPATING IN THE FEDERAL EMPLOYEES' HEALTH BENEFITS (FEHB) PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 26 USC 125

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: At the President's direction, the Office of Personnel Management (OPM) issued regulations under the Federal Employees' Health Benefits (FEHB) Program to enable employees of all Executive Branch agencies to pay their share of FEHB premiums with pre-tax dollars in accordance with section 125 of the Internal Revenue Code. OPM simultaneously amended salary allotment regulations at 5 CFR 550, because employees participating in premium conversion must allot a portion of salary to their employing agency that agencies then use to pay the employee share of FEHB premiums. The regulations establish the basic rules under which premium conversion will operate beginning in October 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/00	65 FR 44644
Interim Final Rule Effective	09/18/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Abby L. Block, Chief, Insurance Policy Division, Retirement and Insurance Group, Office of Personnel Management, Office of Insurance Programs, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0191

RIN: 3206–AJ17

3834. FEDERAL EMPLOYMENT PRIORITY CONSIDERATION FOR THE DISTRICT OF COLUMBIA EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: Requires agencies to accord priority consideration to displaced District of Columbia, Department of Corrections employees separated as a result of the closure of the Lorton Correctional complex.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41387
Interim Final Rule	01/22/01	66 FR 6427
Interim Final Rule Effective	01/22/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI28

3835. REEMPLOYMENT PRIORITY LIST

Priority: Other Significant

Legal Authority: 5 USC 1315; 5 USC 8151

CFR Citation: 5 CFR 330, subpart B

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing regulations covering the operation and administration of the Reemployment Priority List (RPL). The RPL provides competitive service employees, separated by reduction in force, with the first opportunity for reemployment in their former agency over candidates who do not work for the agency. The RPL also provides the same priority to former employees who were separated or downgraded because of a compensable injury or disability and have fully recovered more than one year after compensation began. These proposed regulations would update RPL procedures in order to assist agencies in providing displaced employees with maximum reemployment opportunities.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI34

3836. PERFORMANCE MANAGEMENT REFORM INITIATIVES

Priority: Other Significant

Legal Authority: 5 USC 43; 5 USC 45

CFR Citation: 5 CFR 430; 5 CFR 451

Legal Deadline: None

Abstract: Regulatory changes to comply with a legislative initiative focused on aligning employee performance with organizational goals and maintaining individual accountability.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Colchao, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Performance Compensation and Systems Design, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2720
Email: bwcolcha@opm.gov

RIN: 3206–AF57

3837. PERSONNEL SECURITY AND RELATED PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-4000
Phone: 202 606-1042

RIN: 3206–AC21

3838. INVESTIGATIONS

Priority: Other Significant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Begin Review	10/01/93	
Interim Final Rule	09/16/94	59 FR 47527
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-4000
Phone: 202 606-1042

RIN: 3206–AB92

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

3839. PERSONNEL RECORDS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 293

Completed:

Reason	Date	FR Cite
Withdrawn	02/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Brick
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Email: lmbrick@opm.gov

RIN: 3206–AH24

3840. INTERGOVERNMENTAL PERSONNEL ACT (IPA) MOBILITY PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 334

Completed:

Reason	Date	FR Cite
Withdrawn	02/09/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anthony Ryan
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Email: ajryan@opm.gov

RIN: 3206–AJ29

3841. LOCALITY PAY AREAS FOR 2001

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 531

Completed:

Reason	Date	FR Cite
Final Action	12/01/00	65 FR 75153
Final Action Effective	01/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Shields
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RIN: 3206–AJ07

3842. PREVAILING RATE SYSTEMS; MISCELLANEOUS CHANGES TO CERTAIN FEDERAL WAGE SYSTEM WAGE AREAS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	10/27/00	65 FR 64337
Final Action Effective	11/27/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chenty I. Carpenter
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RIN: 3206–AJ21

3843. PREVAILING RATE SYSTEMS; ABOLISHMENT OF THE PHILADELPHIA, PENNSYLVANIA (PA), SPECIAL WAGE SCHEDULE FOR PRINTING POSITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	12/19/00	65 FR 79306
Final Action Effective	01/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chenty I. Carpenter
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Fax: 202 606-4264
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RIN: 3206–AJ22

3844. PREVAILING RATE SYSTEMS; REDEFINITION OF THE LOS ANGELES, CALIFORNIA (CA), APPROPRIATED FUND WAGE AREA

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	12/19/00	65 FR 79305
Final Action Effective	01/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chenty I. Carpenter
Phone: 202 606-2848
Fax: 202 606-4264
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RIN: 3206–AJ23

3845. ABOLISHMENT OF THE ST. LOUIS, MISSOURI (MO), APPROPRIATED FUND, PRINTING AND LITHOGRAPHIC SPECIAL SCHEDULE

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Interim Final Rule Effective	10/16/00	
Final Action	12/19/00	65 FR 79305
Final Action Effective	01/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chenty I. Carpenter
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Fax: 202 606-4264
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RIN: 3206–AJ24

3846. REPAYMENT OF STUDENT LOANS

Priority: Other Significant

CFR Citation: 5 CFR 537

Completed:

Reason	Date	FR Cite
Final Action	01/11/01	66 FR 2790
Final Action Effective	04/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Mahoney
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AJ12

3847. SEVERANCE PAY: MISCELLANEOUS

Priority: Other Significant

CFR Citation: 5 CFR 550, subpart G

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: D. Bryce Baker
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH12

3848. SUITABILITY

Priority: Other Significant

CFR Citation: 5 CFR 731

Completed:

Reason	Date	FR Cite
Final Action	12/26/00	65 FR 82239
Final Action Effective	03/30/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris
Phone: 202 606-1042

RIN: 3206–AC19

3849. FEDERAL EMPLOYEES' HEALTH AND COUNSELING PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 792

Completed:

Reason	Date	FR Cite
Withdrawn	02/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank T. Cavanaugh
Phone: 202 606-1166
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RIN: 3206–AI07

3850. APPOINTMENT, PAY, AND REMOVAL OF ADMINISTRATIVE LAW JUDGES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 930

Completed:

Reason	Date	FR Cite
Withdrawn	10/26/00	65 FR 64168

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raymond A. Limon
Phone: 202 606-0810

RIN: 3206–AI08

[FR Doc. 01–5199 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XXXVIII

Office of Special Counsel

Semiannual Regulatory Agenda

OFFICE OF SPECIAL COUNSEL (OSC)

OFFICE OF SPECIAL COUNSEL

5 CFR Ch. VIII

Semiannual Regulatory Agenda

AGENCY: U.S. Office of Special Counsel.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Office of Special Counsel is publishing its April 2001 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review," issued on September 30, 1993 (58 FR 51735; October 4, 1993), the Regulatory Flexibility Act (5 U.S.C. 601-612), and Executive Order 13132 "Federalism," issued on August 4, 1999 (64 FR 43255; August 10, 1999). The agenda lists all regulations scheduled for review or development from April 1, 2001, through March 31, 2002.

FOR FURTHER INFORMATION CONTACT: Marlene A. Cleaveland, Paralegal Specialist, (202) 653-8971.

Dated: February 23, 2001.

Elaine Kaplan,

Special Counsel.

OFFICE OF SPECIAL COUNSEL (OSC) — Proposed Rule Stage

3851. PUBLIC INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 1820 (Revision)

Legal Deadline: Final, Statutory, October 2, 1997.

Abstract: OSC will revise its regulation governing the disclosure of information under the Freedom of Information Act (FOIA) to incorporate changes required by the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA).

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marlene A. Cleaveland, Paralegal Specialist, Office of Special Counsel, Suite 201, 1730 M Street NW., Washington, DC 20036-4505
Phone: 202 653-8971
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Email: mcleaveland@osc.gov

RIN: 3255–AA01

3852. INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1212

CFR Citation: 5 CFR 1810 (Revision)

Legal Deadline: None

Abstract: OSC will revise its description of complaint examination and investigation policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marlene A. Cleaveland, Paralegal Specialist, Office of Special Counsel, Suite 201, 1730 M Street NW., Washington, DC 20036-4505
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RIN: 3255–AA02

OFFICE OF SPECIAL COUNSEL (OSC) — Completed Actions

3853. FILING OF COMPLAINTS AND DISCLOSURES (REVISION)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1212(e)

CFR Citation: 5 CFR 1800 (Revision); 5 CFR 1800.1 (Revision); 5 CFR 1800.2 (Revision)

Legal Deadline: None

Abstract: OSC revised its regulations for filing complaints of prohibited personnel practices or other prohibited activity and filing disclosures of information to include additional information on jurisdiction and require mandatory use of an OSC form for most complaints.

Timetable:

Action	Date	FR Cite
Final Action	10/31/00	65 FR 64881

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathryn Stackhouse, Attorney, Office of Special Counsel, Suite 201, 1730 M Street NW., Washington, DC 20036-4505
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TDD Phone: 800 877-8339
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RIN: 3255–AA03

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Federal Register

Monday,
May 14, 2001

Part XXXIX

Peace Corps

Semiannual Regulatory Agenda

PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Regulatory Agenda

AGENCY: Peace Corps.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 6-month period from April 1, 2001, through September 31, 2001. The purpose of publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Ruth L. Ramsey, Acting General Counsel, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692-2150.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601-612, executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: February 21, 2001.

Michael Kole,

Director, Office of Administrative Services, Peace Corps

PEACE CORPS (PEACE) — Proposed Rule Stage

3854. SUPPLEMENTAL STANDARDS OF CONDUCT FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: EO 12674; 5 CFR 2635.105

CFR Citation: 22 CFR 307; 5 CFR 67 (New)

Legal Deadline: None

Abstract: The Peace Corps is removing part 307 from the Code of Federal Regulations. Part 307 provides the standards of conduct applicable to Peace Corps employees. Peace Corps employees are already subject to the Governmentwide regulations on employee standards of conduct, and the Peace Corps is considering the appropriate action to take in regard to its supplemental standards of conduct.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ruth L. Ramsey, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA09

3855. RESPONSIBILITIES AND ETHICAL STANDARDS FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 5 USC app Ethics in Government Act of 1978; EO 12674; 5 CFR 2635.105; 5 CFR 2635.403; 5 CFR 2635.803

CFR Citation: 22 CFR 307

Legal Deadline: None

Abstract: The Peace Corps is removing part 307 from the Code of Federal Regulations. Part 307 provides the standards of conduct applicable to Peace Corps employees. Peace Corps employees are already subject to the Governmentwide regulations on employee standards of conduct, and the Peace Corps is considering the appropriate action to take in regard to its own supplemental standards of conduct.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ruth L. Ramsey, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA12

3856. INSPECTION AND COPYING OF RECORDS: RULES FOR COMPLIANCE WITH FREEDOM OF INFORMATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 22 USC 2503(b); EO 12137

CFR Citation: 22 CFR 303

Legal Deadline: None

Abstract: The Peace Corps is revising its Freedom of Information Act (FOIA) regulation to implement the 1996 revisions to FOIA and to include Office of Inspector General provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Ruth L. Ramsey, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA14

PEACE — Proposed Rule Stage

3857. IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a; 22 USC 2503(b); EO 12137

CFR Citation: 22 CFR 308

Legal Deadline: None

Abstract: The Peace Corps is revising its Privacy Act regulation to be consistent with revisions to its systems of records and to delete unnecessary and outdated provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Ruth L. Ramsey, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA15

3858. ORGANIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 22 USC 2503(b); EO 12137

CFR Citation: 22 CFR 302

Legal Deadline: None

Abstract: The Peace Corps is removing this rule from the Code of Federal Regulations because it is outdated and unnecessary. Information on Peace Corps' organization is routinely updated and published in the Federal Register's "United States Government Manual."

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Ruth L. Ramsey, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
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RIN: 0420–AA16

PEACE CORPS (PEACE) — Long-Term Actions

3859. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 312

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ruth L. Ramsey, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA03

3860. ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE RE: PROCEDURES—APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 75 Stat 612, secs 4(b), 5(a), and 22; 22 USC 2504; EO 12137, May 16, 1979; International Security & Development Coop. Act of 1981, sec 601; 95 Stat 1519 and 1540

CFR Citation: 22 CFR 305

Legal Deadline: None

Abstract: The Peace Corps is reviewing its Eligibility and Standards for Peace Corps Service, specifically with regard to establishing and publishing an appeals procedure for administrative and medical deselection. 42 U.S.C. 5057(c)(1), as amended, no longer provides authority for the listed agenda item. Therefore, 42 U.S.C. 5057, as above, shall be deleted from future printings of the Unified Agenda.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: RFA: N

Agency Contact: Ruth L. Ramsey, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA10

3861. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 22 USC 2503; 5 USC 553 and 554

CFR Citation: 22 CFR 306; 45 CFR 1225

Legal Deadline: None

Abstract: The Peace Corps is promulgating its own regulations regarding the Volunteer Discrimination Complaint Procedure to replace the current cross-reference to ACTION's

PEACE **Long-Term Actions**

regulations applicable to Peace Corps volunteers, which appear in 45 CFR part 1225.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: RFA: N

Agency Contact: Ruth L. Ramsey, Acting General Counsel, Peace Corps, Suite 8200, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001

Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA11

[FR Doc. 01–5200 Filed 05–11–01; 8:45 am]
BILLING CODE 6051–01–S

Federal Register

Monday,
May 14, 2001

Part XL

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to (202) 326-4024.) For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

Pension Benefit Guaranty Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3862	Filing Rules	1212-AA89
3863	Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets	1212-AA55

Pension Benefit Guaranty Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3864	Assessment Of and Relief From Penalties	1212-AA95
3865	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35

Pension Benefit Guaranty Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3866	Payment of Premiums	1212-AA58
3867	Calculation and Payment of Unfunded Nonguaranteed Benefits	1212-AA54
3868	Miscellaneous Statutory Amendments	1212-AA79
3869	Treatment of Substantial Cessation of Operations	1212-AA84
3870	Premium Self-Audit	1212-AA93
3871	Cash Balance Plans With Variable Indices	1212-AA96

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3862. FILING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR 4000

Legal Deadline: None

Abstract: The PBGC's rules governing the date of filing vary, depending on the regulation involved and the method of filing used (e.g., mail postmarked by the United States Postal Service, metered mail, commercial delivery service, facsimile). The PBGC intends to clarify and simplify its filing rules and to provide greater flexibility in methods of filing (including by electronic means).

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	
NPRM Comment Period End	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA89

3863. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341; 29 USC 1301(a); 29 USC 1344; 29 USC 1362

CFR Citation: 29 CFR 4044, subpart B

Legal Deadline: None

Abstract: The Pension Benefit Guaranty Corporation is considering amending its benefit valuation and asset allocation regulations by adopting more current mortality tables and otherwise simplifying and improving its valuation assumptions and methods.

Timetable:

Action	Date	FR Cite
ANPRM	03/19/97	62 FR 12962
ANPRM Comment Period End	05/19/97	
NPRM	03/00/02	
NPRM Comment Period End	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA55

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Final Rule Stage

3864. ASSESSMENT OF AND RELIEF FROM PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461 note; 29 USC 1302(b)(3); 29 USC 1303(a); 29 USC 1306; 29 USC 1307; 29 USC 1371

CFR Citation: 29 CFR 4003; 29 CFR 4007; 29 CFR 4071

Legal Deadline: None

Abstract: The PBGC has issued a number of policy statements about penalties over the last few years. For the convenience of the public, the PBGC proposes to replace those policy statements with an updated and expanded set of penalty policies codified in its regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/12/01	66 FR 2856
NPRM Comment Period End	03/13/01	
Final Action	01/00/02	
Final Action Effective	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA95

3865. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3): 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 4022

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will fill gaps in the rules and otherwise clarify matters that had been handled on a case-by-case basis in the past.

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81456
NPRM Comment Period End	02/26/01	
Final Action	12/00/01	
Final Action Effective	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4024
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA35

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Long-Term Actions

3866. PAYMENT OF PREMIUMS

Priority: Other Significant

CFR Citation: 29 CFR 4006; 29 CFR 4007

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action Extending Premium Due Dates	12/14/98	63 FR 68684
Final Action Extending Premium Due Dates Effective	02/12/99	
Final Action Amending Participant Definition and Making Other Simplifying Changes	12/01/00	65 FR 75160
Final Action Amending Participant Definition and Making Other Simplifying Changes Effective	01/01/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA58

3867. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority: Other Significant

CFR Citation: 29 CFR 4022 subpart C

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter H. Gould
Phone: 202 326-4020
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA54

3868. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 4000 et seq

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA79

3869. TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 4062

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Beller
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA84

3870. PREMIUM SELF-AUDIT

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 4007

Timetable:

Action	Date	FR Cite
Request for Comments	To Be	Determined
Comment Period End	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Deborah C. Murphy
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA93

3871. CASH BALANCE PLANS WITH VARIABLE INDICES

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
Request for Comments	06/06/00	65 FR 41610
Comment Period End	09/22/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA96

[FR Doc. 01–7884 Filed 05–11–01; 8:45 am]
BILLING CODE 7708–01–S

Federal Register

Monday,
May 14, 2001

Part XLI

Presidio Trust

Semiannual Regulatory Agenda

PRESIDIO TRUST (PRESIDIO)

PRESIDIO TRUST

36 CFR Ch. X

Semiannual Agenda of Regulations Pursuant to Executive Order 12866

AGENCY: The Presidio Trust.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Presidio Trust (Trust) is a wholly owned Government corporation created by Congress pursuant to title I of the Omnibus Parks and Public Lands Act of 1996, Public Law 104-333, 110 Stat. 4097. The Trust is charged with managing a portion of the former U.S. Army base known as The Presidio of San Francisco, located in San Francisco, California.

This regulatory agenda describes the regulations that the Trust will be proposing, developing, and reviewing between April 1, 2001, and September 30, 2001. This information is published in order to notify the public of the Trust's regulatory activities so that interested persons may participate in the Trust's rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information about the Trust's regulatory agenda or rulemaking process, contact Karen A. Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052; telephone: 415-561-5300.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies must publish a semiannual regulatory agenda in the **Federal Register** in April and October of each year.

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. section 601 *et seq.*, that the regulations under consideration will not have a significant economic effect on a substantial number of small entities nor will they impose compliance costs or reporting burdens on the public. Accordingly, no regulatory flexibility analysis is required under 5 U.S.C. 602.

Dated: March 26, 2001.

Karen A. Cook,

General Counsel.

PRESIDIO TRUST (PRESIDIO)

Proposed Rule Stage

3872. MANAGEMENT OF THE PRESIDIO

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106; 5 USC 552; 5 USC 552a; 28 USC 2672

CFR Citation: 36 CFR 1001 to 1009

Legal Deadline: None

Abstract: This proposed rule, published in the Federal Register on September 18, 1998, at 63 FR 50024, revises and expands upon the interim final rule adopted when the Presidio was transferred from the National Park Service to the Presidio Trust (Trust). The interim final rule was published on June 30, 1998, and can be found at 63 FR 35694. These proposed rules cover general provisions (part 1001); public use and recreational activities and protection of natural, cultural, and archeological resources (part 1002); vehicle and traffic safety (part 1003); and commercial operations (part 1004) and have been revised to be consistent with existing regulations, conform with laws in neighboring jurisdictions, and simplify the language and organization of the regulations. The remaining proposed regulations address rights-of-way (part 1005); Presidio Trust symbols (part 1006); requests under the Freedom of Information and Privacy Acts (parts 1007 and 1008); and administrative claims under the Federal Tort Claims Act (part 1009).

By notice published on January 19, 1999, in the Federal Register at 64 FR 2870, the Trust held in abeyance until further notice a portion of the proposed rules: 36 CFR 1001, 1002, 1003, 1004, and 1006. Any future action on these rules will be noticed in the Federal Register and subject to additional public comment. In the interim, the Trust's final interim regulations at 36 CFR 1001, 1002, 1004, and 1005 remain in effect. The public comment period for proposed rule 36 CFR 1005 closed on January 8, 1999. Public comment on the remaining proposed rules, 36 CFR 1007, 1008, and 1009, closed on November 17, 1998, and the Trust issued final regulations on December 30, 1998, effective January 29, 1999. These regulations can be found at 63 FR 71771.

Timetable:

FOIA
- NPRM 05/00/01
- NPRM Comment Period End 07/00/01
- Final Action 09/00/01

FOIA; Privacy Act; Federal Tort Claims Act
- NPRM 09/18/98 (63 FR 50024)
- NPRM Comment Period End 11/17/98 (63 FR 50024)
- Final Action 12/30/98 (63 FR 71771)
- Final Action Effective 01/29/99 (63 FR 71771)

General; Resource Protection; Traffic Safety; Comm. Operations
- NPRM 09/18/98 (63 FR 50024)
- NPRM Comment Period End 11/17/98 (63 FR 50024)
- Comment Period Extended to 01/08/99 (63 FR 64023)
- Partial Abeyance of Proposed Rule 01/19/99 (64 FR 2870)
- Further Action To Be Determined

Rights-of-Way
- NPRM 09/18/98 (63 FR 50024)
- NPRM Comment Period End 11/17/98 (63 FR 50024)
- Comment Period Extended to 01/08/99 (63 FR 64023)
- Final Action To Be Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, P.O. Box 29052, 34 Graham Street, San Francisco, CA 94129-0052
Phone: 415 561-5300
Email: kcook@presidiotrust.gov

RIN: 3212–AA01

PRESIDIO TRUST (PRESIDIO)

Long-Term Actions

3873. INTERIM MANAGEMENT OF THE PRESIDIO

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106

CFR Citation: 36 CFR 1001; 36 CFR 1002; 36 CFR 1004; 36 CFR 1005

Legal Deadline: None

Abstract: This interim final rule governs the use and management of the area administered by the Presidio Trust, and is designed to ensure continuity during the transfer of the management of the Presidio from the National Park Service (NPS) to the Presidio Trust. The rule is derived from the NPS's regulations for managing conduct at the Presidio during the four years when the Presidio was under the NPS's jurisdiction. These regulations cover public use and recreational activities; the protection of natural, cultural, and archeological resources; vehicle and traffic safety; and commercial and private operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/98	63 FR 35694
Interim Final Rule Comment Period End	08/31/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, P.O. Box 29052, 34 Graham Street, San Francisco, CA 94129-0052
Phone: 415 561-5300
Email: kcook@presidiotrust.gov

RIN: 3212–AA00

PRESIDIO TRUST (PRESIDIO)

Completed Actions

3874. MANAGEMENT OF THE PRESIDIO: ENVIRONMENTAL QUALITY

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106; 42 USC 4321 et seq; 40 CFR 1507.3

CFR Citation: 36 CFR 1010

Legal Deadline: None

Abstract: This proposed rule contains regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), as amended, pursuant to the Council on Environmental Quality's regulations at 40 CFR 1500 to 1509. Areas covered by these regulations include requirements for Environmental Assessments (EA) and Environmental Impact Statements (EIS), actions typically requiring EAs or EISs, and the preparation of EAs and EISs. These regulations also address public involvement in the Trust's environmental review process and the manner in which environmental issues will be considered by the Trust in its decisionmaking processes.

Timetable:

Action	Date	FR Cite
Interim Policy Statement	09/14/98	63 FR 49142
NPRM	07/23/99	64 FR 39951
Comment Period Extended to 10/05/99	09/23/99	64 FR 51488
Final Action	09/15/00	65 FR 55896
Final Action Effective	10/16/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, P.O. Box 29052, 34 Graham Street, San Francisco, CA 94129-0052
Phone: 415 561-5300
Email: kcook@presidiotrust.gov

RIN: 3212–AA02

[FR Doc. 01–8832 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XLII

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, (312) 751-4945, FAX (312) 751-7102, TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION: No Regulatory Plan entries were included for this edition of the Railroad Retirement Board's semiannual regulatory agenda. Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda.

By Authority of the Board.

Dated: February 22, 2001.

Beatrice Ezerski,

Secretary to the Board.

Railroad Retirement Board—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3875	Requests for Reconsideration and Appeals Within the Board	3220-AB03
3876	General Administration	3220-AB35
3877	Application for Annuity or Lump Sum	3220-AB46
3878	Assessment or Waiver of Interest, Penalties, and Administrative Costs With Respect to Collection of Certain Debts	3220-AB48

Railroad Retirement Board—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3879	Application for Annuity or Lump Sum	3220-AB45
3880	Freedom of Information Act Requests	3220-AB47
3881	Use of the Seal of the Railroad Retirement Board	3220-AB49

Railroad Retirement Board—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3882	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
3883	Voluntary Quit	3220-AA75
3884	Determining Disability	3220-AA99
3885	Creditable Railroad Compensation	3220-AB23

Railroad Retirement Board—Completed Actions

Sequence Number	Title	Regulation Identification Number
3886	Finality of Decisions Regarding Unemployment and Sickness Insurance Benefits	3220-AB25
3887	Sickness Benefits	3220-AB44

RAILROAD RETIREMENT BOARD (RRB) — Proposed Rule Stage

3875. REQUESTS FOR RECONSIDERATION AND APPEALS WITHIN THE BOARD

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5); 45 USC 231g; 45 USC 355

CFR Citation: 20 CFR 260; 20 CFR 320

Legal Deadline: None

Abstract: The RRB is amending its regulations to provide for its field offices to make timeliness determinations on requests for reconsideration of decisions of the RRB's various adjudicating units.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB03

3876. GENERAL ADMINISTRATION

Priority: Info./Admin./Other

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 200

Legal Deadline: None

Abstract: The Board proposes to amend its regulations, which describe its organization and general course of operations to reflect recent reorganizations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
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TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB35

3877. APPLICATION FOR ANNUITY OR LUMP SUM

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231d; 45 USC 231f

CFR Citation: 20 CFR 217.9; 20 CFR 217.30

Legal Deadline: None

Abstract: The Railroad Retirement Board amends sections 217.9 and 217.30 of its regulations to accept a spouse annuity application, when filed simultaneously with the railroad employee's application for a disability annuity, to be filed more than three months in advance of the earliest annuity beginning date.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB46

3878. ASSESSMENT OR WAIVER OF INTEREST, PENALTIES, AND ADMINISTRATIVE COSTS WITH RESPECT TO COLLECTION OF CERTAIN DEBTS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362; 31 USC 3717

CFR Citation: 20 CFR 200.7

Legal Deadline: None

Abstract: The Railroad Retirement Board amends its regulations to permit waiver of interest, penalties, and administrative costs in cases where a debt is being recovered by setoff from current annuities if the debt was not caused by fraud. This amendment will conform the regulation to current agency practice.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB48

RAILROAD RETIREMENT BOARD (RRB) — Final Rule Stage

3879. APPLICATION FOR ANNUITY OR LUMP SUM

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231d; 45 USC 231f

CFR Citation: 20 CFR 217.8

Legal Deadline: None

Abstract: The Railroad Retirement Board amends its regulations to accept an application filed for a divorced spouse benefit as an application for a spouse benefit if the parties remarry within six months of the date of divorce.

Timetable:

Action	Date	FR Cite
NPRM	05/11/00	65 FR 30366
NPRM Comment Period End	07/10/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

RRB — Final Rule Stage

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB45

3880. FREEDOM OF INFORMATION ACT REQUESTS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362; 5 USC 552

CFR Citation: 20 CFR 200.4

Legal Deadline: None

Abstract: The Railroad Retirement Board amends 20 CFR 200.4 to direct all Freedom of Information Act requests to the Board's General Counsel, and to extend the time within which responses may be made from 10 to 20 working days as provided by the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB47

3881. USE OF THE SEAL OF THE RAILROAD RETIREMENT BOARD

Priority: Info./Admin./Other

Legal Authority: 45 USC 231f; 18 USC 701

CFR Citation: 20 CFR 369

Legal Deadline: None

Abstract: The Railroad Retirement Board adds 20 CFR 369 to its regulations. This section explains the procedures that must be followed to obtain written authorization for limited use of the Railroad Retirement Board's seal.

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 314
NPRM Comment Period End	03/05/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB49

RAILROAD RETIREMENT BOARD (RRB) — Long-Term Actions

3882. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board amends 20 CFR part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42482
NPRM Comment Period End	09/25/95	60 FR 43999
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA61

3883. VOLUNTARY QUIT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA75

3884. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114

Legal Deadline: None

Abstract: Section 114 of part 220 is being amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47122

RRB — Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	11/13/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA99

3885. CREDITABLE RAILROAD COMPENSATION

Priority: Other Significant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 211.3

Legal Deadline: None

Abstract: The RRB amends its regulations regarding the creditability of pay for time lost to prohibit the crediting of pay for time lost beyond the date of a judgment or settlement, or in the absence of a judgment or settlement, beyond the date of payment. The Labor Member of the RRB dissents from this proposal and recommends allowing the crediting of pay for time lost in these circumstances when the accompanying railroad retirement taxes are paid on the compensation.

Timetable:

Action	Date	FR Cite
NPRM	12/04/97	62 FR 61488
NPRM Comment Period End	02/02/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB23

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

3886. FINALITY OF DECISIONS REGARDING UNEMPLOYMENT AND SICKNESS INSURANCE BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 349

Completed:

Reason	Date	FR Cite
Final Action	11/06/00	65 FR 66499
Final Action Effective	11/06/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB25

3887. SICKNESS BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 335.3

Completed:

Reason	Date	FR Cite
Final Action	11/06/00	65 FR 66498
Final Action Effective	11/06/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marguerite P. Dadabo
Phone: 312 751-4945
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB44

[FR Doc. 01–5929 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XLIII

Selective Service System

Semiannual Regulatory Agenda

SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 App. U.S.C. 451 et seq.). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Rudy G. Sanchez, Jr., Office of the General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425; Telephone (703) 605-4012.

SUPPLEMENTARY INFORMATION: The agenda is published in accordance with the requirements of Executive Order 12866. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: February 16, 2001.

Gil Coronado,

Director of Selective Service System.

SELECTIVE SERVICE SYSTEM (SSS) — Long-Term Actions

3888. SELECTIVE SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 451 et seq, Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rudy G. Sanchez Jr., Paralegal Specialist, Selective Service System, 5th Floor, Office of General Counsel, 1515 Wilson Boulevard, Arlington, VA 22209-2425
Phone: 703 605-4012
Fax: 703 605-4030
Email: rsanchez@sss.gov

RIN: 3240–AA01

[FR Doc. 01–5201 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XLIV

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Regulatory Agenda

AGENCY: Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The entries below represent the Small Business Administration's (SBA) 44th semiannual regulatory agenda (agenda). SBA drafted the agenda to meet both the criteria and the spirit of the regulatory review process. SBA publishes this agenda pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, SBA encourages the public to contact the individual agency official referenced in each entry. For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin S. Conrey, Attorney Advisor, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 619-0638.

SUPPLEMENTARY INFORMATION: SBA's regulatory agenda is designed to increase public knowledge of SBA's anticipated regulatory activities. Publication may encourage increased public participation in the regulatory review and development process.

SBA's agenda is divided into three parts. Part I, Proposed Rules, includes those rules which are likely to be proposed during the next 12 months. Part II, Final Rules, includes proposed rules, which will probably be finalized during the agenda period. Part III, Completed Actions, includes regulations completed or withdrawn and any reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Further, regulatory actions not listed in the agenda are not precluded. SBA regulations are developed in a manner that promotes economic growth without imposing unnecessary regulatory burdens on the public.

Dated: February 23, 2001.

John Whitmore,

Acting Administrator.

Small Business Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3889	Surety Bond Guarantee	3245-AE13
3890	504 Program Changes	3245-AE41

Small Business Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3891	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
3892	Record Disclosure and Privacy Regulations	3245-AE03
3893	Small Business Development Center (SBDC) Program Revisions	3245-AE05
3894	PLP Lenders' Responsibilities for Servicing and Liquidating Loans	3245-AE09
3895	Servicing of Guaranteed Loans	3245-AE10
3896	Small Business Lending Company Regulations	3245-AE14
3897	Small Business Size Standards; Electric Services	3245-AE18
3898	8(a) Business Development/Program Improvement and Technical Amendments	3245-AE38
3899	New Markets Venture Capital Program	3245-AE40
3900	SDB Certification and Eligibility—Program Improvement and Technical Amendments	3245-AE47
3901	Size Standards: Inflation Adjustment	3245-AE56
3902	Size Standards: Subcontracting Size Standards	3245-AE57

Small Business Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3903	Amendment to SBA's Regulations Regarding Administrative Offset	3245-AD90
3904	Small Business Size Standards; Net Income Computation for the Small Business Investment and Certified Development Companies and Agriculture Size Standard	3245-AE29
3905	Size Standards for Compliance With Programs of Other Agencies	3245-AE42
3906	Pre-Disaster Mitigation Loan Program Amendments	3245-AE44
3907	Military Reservist Economic Injury Disaster Loan Program	3245-AE45
3908	Administrative Wage Garnishment	3245-AE50

SBA

Small Business Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3909	Microloan Program—Changes Required by the 1997 Reauthorization Act	3245-AE51
3910	PRIME Act Grants	3245-AE52

Small Business Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3911	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs or Activities Receiving Federal Financial Assistance	3245-AE59

Small Business Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
3912	Small Business Size Standards; Health Care Industries	3245-AE06
3913	Business Loan Programs—Multi-Lender Securitizations	3245-AE26
3914	Small Business Size Standards; Arrangement of Transportation of Freight and Cargo	3245-AE27
3915	HUBZone Program Technical Amendments	3245-AE28
3916	Small Business Size Standards; Mapping Services	3245-AE30
3917	8(a) Business Development/Application of Benchmarks	3245-AE37
3918	Small Business Investment Companies—Management-Ownership Diversity	3245-AE48
3919	Small Business Investment Companies—Cost of Money	3245-AE49
3920	8(a) Business Development/Small Disadvantaged Business Status Determinations; Rules of Procedure Governing Cases Before the Office of Hearings and Appeals	3245-AE60

SMALL BUSINESS ADMINISTRATION (SBA) — Prerule Stage

3889. SURETY BOND GUARANTEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app 3; 15 USC 687b; 15 USC 694b; PL 105-135; 15 USC 687c; 15 USC 694a

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: SBA is considering revising program regulations to include policy and procedural modifications. Planned regulatory changes would pertain to both the prior approval and the preferred surety bond programs.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Moffitt, AA/Office of Surety Guarantees, Small Business Administration, 409 Third Street SW, Washington, DC 20416 Phone: 202 205-6540

RIN: 3245–AE13

3890. 504 PROGRAM CHANGES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 695

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: The Office of Financial Assistance proposes to publish an Advanced Notice of Proposed Rulemaking to solicit opinions regarding our intention to propose a regulation to consider 504 program changes including a better definition of "local economic development," and the organizational and program requirements Certified Development Companies (CDCs) must satisfy in order to be in compliance with this concept, and whether CDCs should be allowed to establish entities to participate as 7(a) lenders. As part of the regulation, for-profit CDCs' organizational requirements will be dealt with specifically to ensure that they are in compliance with the congressional intent for the program.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Gail Hepler, Chief, 504 Branch, Small Business

SBA — **Prerule Stage**

Administration, Room 804, 1441 L Street NW, Washington, DC 20416
Phone: 202 653-6570
RIN: 3245–AE41

SMALL BUSINESS ADMINISTRATION (SBA) — **Proposed Rule Stage**

3891. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR 5400

Legal Deadline: None

Abstract: This rule is part of SBA's regulatory streamlining effort. The SBA and the Office of Government Ethics (OGE) are jointly issuing this rule, which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. The rule will be published at 5 CFR XLIV and will supplement the Standards of Ethical Conduct for Employees of the executive branch issued by the OGE (57 FR 35006; August 7, 1992). The rule is necessary to supplement the standards issued by OGE because it addresses ethical issues that are unique to SBA.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW, 7th Floor, Washington, DC 20416
Phone: 202 205-6642

RIN: 3245–AC96

3892. RECORD DISCLOSURE AND PRIVACY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231; 5 USC 552; 5 USC 552a

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: This proposed regulation will amend 13 CFR 102, subpart A, governing disclosure of information, to implement statutory changes. Additionally, amendments to subpart B "The Privacy Act" (PA) would add new routine disclosures, correct the term "system of records," require identification of requesters, clarify when lack of social security number can cause benefit denial, and provide for one free copy of an official personnel file.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lisa Babcock, Chief, Freedom of Information Act Office, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 401-8200

RIN: 3245–AE03

3893. SMALL BUSINESS DEVELOPMENT CENTER (SBDC) PROGRAM REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 648

CFR Citation: 13 CFR 130

Legal Deadline: None

Abstract: SBA is revising its SBDC regulations to reflect statutory and other changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Johnnie L. Albertson, AA/SBDCs, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6766

RIN: 3245–AE05

3894. PLP LENDERS' RESPONSIBILITIES FOR SERVICING AND LIQUIDATING LOANS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.453

Legal Deadline: None

Abstract: SBA is amending 13 CFR to provide Preferred Lender's Program (PLP) lenders guidance on submitting liquidation plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE09

3895. SERVICING OF GUARANTEED LOANS

Priority: Other Significant

Legal Authority: 15 USC 634(b); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.512

Legal Deadline: None

Abstract: SBA is amending 13 CFR 120.512 to generally require a lender, after SBA honors its guarantee, to service and liquidate the loan and continue to hold the loan instruments unless SBA indicates otherwise. SBA is also amending this regulation for other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Yes

SBA — **Proposed Rule Stage**

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE10

3896. SMALL BUSINESS LENDING COMPANY REGULATIONS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This rulemaking would amend 13 CFR 120 to provide clarity to and strengthen the rules regarding Small Business Lending Company (SBLC) monitoring and oversight for safety and soundness; compliance, and related areas.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janet A. Tasker, Associate Administrator for Lender Oversight, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-3049
Email: janet.tasker@sba.gov

RIN: 3245–AE14

3897. SMALL BUSINESS SIZE STANDARDS; ELECTRIC SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121.201

Legal Deadline: None

Abstract: This rule will revise the size standard for Electrical Services (Standard Industrial Classification 4911). The current size standard is 4 million megawatt hours. In response to the emerging deregulation of the electric utilities industry, the SBA is reviewing its 4 million megawatt hours size standard for NAICS codes 221111-221122. It is also reviewing related size standards provisions that may affect the requirements placed on small businesses competing to sell electricity to the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE18

3898. 8(A) BUSINESS DEVELOPMENT/PROGRAM IMPROVEMENT AND TECHNICAL AMENDMENTS

Priority: Other Significant

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule will make technical corrections and clarifying amendments to the 8(a) regulations published on June 30, 1998. The amendments will clarify, and in some cases modify, certain requirements and procedures. For example, the rules governing the mentor/protege program will be clarified. Part 124 will also be amended to include certain new policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Delorice Price Ford, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-7340

RIN: 3245–AE38

3899. NEW MARKETS VENTURE CAPITAL PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 106-554

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: The New Markets Venture Capital (NMVC) program will help spur economic development in some of America's under-invested communities through a public-private partnership encouraging venture capital investing and intensive technical assistance to small businesses in low- and moderate-income areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/01	66 FR 7218
Final Rule–Delay of Effective Date	02/20/01	66 FR 10811
Interim Final Rule Effective	02/21/01	
Interim Final Rule Comment Period End	03/23/01	
NPRM-Proposed Withdrawal of Interim Final Rule	04/23/01	66 FR 20531
Final Rule-Delay of Effective Date of Interim Final Rule	04/23/01	66 FR 20530
NPRM Comment Period End	05/04/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Austin J. Belton, Director, Office of New Markets Venture Capital, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-7027

RIN: 3245–AE40

3900. SDB CERTIFICATION AND ELIGIBILITY—PROGRAM IMPROVEMENT AND TECHNICAL AMENDMENTS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661; PL 100-656, sec 1207; PL 101-37; PL 101-574; 42 USC 9815

SBA — Proposed Rule Stage

CFR Citation: 13 CFR 124; 13 CFR 134

Legal Deadline: None

Abstract: Program improvements and technical amendments to clarify regulations governing the SDB program. The proposed changes clarify requirements, enhance customer service, and correct omissions. For example: A procedure for recertifying eligible firms is established; circumstances under which SBA may reevaluate determinations made by Private Certifiers is broadened; provisions are made to prevent loss of SDB certification by a subcontractor following award of a contract; and stipulations are made requiring contracting officers to forward protests to SBA for determination of merit.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mario Trevino, (A)AA/SDBCE, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 619-1631
Fax: 202 205-7259

RIN: 3245–AE47

3901. SIZE STANDARDS: INFLATION ADJUSTMENT

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This proposed rule will adjust SBA's receipt-based size standards for inflation since the last time they were adjusted in 1994.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE57

3902. SIZE STANDARDS: SUBCONTRACTING SIZE STANDARDS

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule proposes to revise the size standards applicable to subcontractors to Federal prime contractors.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE56

SMALL BUSINESS ADMINISTRATION (SBA) — Final Rule Stage

3903. AMENDMENT TO SBA'S REGULATIONS REGARDING ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

Legal Authority: 31 USC 3711; 31 USC 3720A; 5 USC 5514; 31 USC 3716; 15 USC 634(b)(6)

CFR Citation: 13 CFR 140

Legal Deadline: None

Abstract: SBA intends to amend its regulations to include references to administrative offset and other remedies that the Treasury Department may use on behalf of SBA to collect debt pursuant to the Debt Collection Improvement Act of 1996. Publication of this regulatory change is required to comply with Treasury directive.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3454
NPRM Comment Period End	02/22/99	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Arnold Rosenthal, Assistant Administrator for Borrowers and Lender Servicing, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD90

3904. SMALL BUSINESS SIZE STANDARDS; NET INCOME COMPUTATION FOR THE SMALL BUSINESS INVESTMENT AND CERTIFIED DEVELOPMENT COMPANIES AND AGRICULTURE SIZE STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-9

CFR Citation: 13 CFR 121.301(c)(1)

Legal Deadline: None

Abstract: This rule will incorporate two statutory changes. First, it will revise the method of computing net income to determine the eligibility of non-taxpaying small businesses for the Small Business Investment Company and Certified Development Company Programs. Second, it will adopt a size standard of $750,000 for agriculture industries.

SBA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE29

3905. SIZE STANDARDS FOR COMPLIANCE WITH PROGRAMS OF OTHER AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135, sec 601 et seq, 111 Stat. 2592; 15 USC 632(a); 15 USC 644(c); PL 102-486, 106 Stat. 2776, 3133; 15 USC 634(b)(6); 15 USC 637(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This revision requires an agency to consult in writing with SBA before proposing small business size standards for use in its program. It removes the requirement that the agency have the SBA Administrator's approval for the contemplated size standards prior to the proposed rule. Rather, the agency must seek the SBA Administrator's approval only before it adopts size standards in a final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/26/00	65 FR 4176
NPRM Comment Period End	03/27/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Jordan, Program Analyst, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6093
Fax: 202 205-6390

RIN: 3245–AE42

3906. PRE-DISASTER MITIGATION LOAN PROGRAM AMENDMENTS

Priority: Other Significant

Legal Authority: PL 106-24

CFR Citation: 13 CFR 123.400 et seq

Legal Deadline: None

Abstract: Necessary amendments to Pre-Disaster Mitigation Loan Program to permit implementation of the program. Amendments will clarify and add to existing regulations in areas of eligibility and process.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 37307
NPRM Comment Period End	07/14/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James E. Rivera, Deputy Associate Administrator for Disaster Assistance, Small Business Administration, Suite 6050, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6734
Fax: 202 205-7728
Email: james.rivera@sba.gov

RIN: 3245–AE44

3907. MILITARY RESERVIST ECONOMIC INJURY DISASTER LOAN PROGRAM

Priority: Other Significant

Legal Authority: PL 106-50

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: Regulation to implement new Military Reservist Economic Injury Loan Program mandated by Public Law 106-50. This program will assist small businesses suffering economic injury as a result of the call up to active military duty of an essential employee of the small business during a period of military conflict. The proposed regulation will cover eligibility and process.

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43261
NPRM Comment Period End	08/14/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James E. Rivera, Deputy Associate Administrator for Disaster Assistance, Small Business Administration, Suite 6050, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6734
Fax: 202 205-7728
Email: james.rivera@sba.gov

RIN: 3245–AE45

3908. ADMINISTRATIVE WAGE GARNISHMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 15 USC 632; 15 USC 634(b)(6); 15 USC 637(a); 31 USC 3711; 31 USC 3720; 31 USC 3716

CFR Citation: 13 CFR 134; 13 CFR 140

Legal Deadline: None

Abstract: SBA is issuing a rule adopting administrative wage garnishment regulations to implement the Debt Collection Improvement Act of 1996. The rule would allow SBA to garnish the wages of a person indebted to the United States for any non-tax debt without first obtaining a judgment. The debtor generally would be entitled to a hearing before a Judge assigned to SBA's Office of Hearings and Appeals.

Timetable:

Action	Date	FR Cite
NPRM	06/27/00	65 FR 39567
NPRM Comment Period End	08/28/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Arnold Rosenthal, Assistant Administrator for Borrowers and Lender Servicing, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AE50

3909. MICROLOAN PROGRAM—CHANGES REQUIRED BY THE 1997 REAUTHORIZATION ACT

Priority: Other Significant

Legal Authority: 15 USC 636(m)(202); PL 105-135

SBA — Final Rule Stage

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: SBA proposes to implement changes in the microloan program required by the Small Business Reauthorization Act of 1997. This rule (1) terminates the designation of the microloan program as a "demonstration," (2) allows a nonprofit child care business to qualify for the microloan program, (3) authorizes a microloan intermediary to use up to 25 percent of grant funds for technical assistance to prospective microloan borrowers, and (4) establishes procedures for SBA to revoke or suspend a microloan intermediary or microloan non-lending technical assistance provider and gives the OHA authority to hear such appeals.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43636
NPRM Comment Period End	09/10/99	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE51

3910. PRIME ACT GRANTS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); PL 106-102

CFR Citation: 13 CFR 119

Legal Deadline: None

Abstract: The regulations add a new part 119 to set up the Program for Investment in Microentrepreneurs Act ("PRIME" or "the Act"). The regulations set forth the Act's grant requirements for qualified Microenterprise Development Organizations ("MDOs") to: (1) Train and provide technical assistance to disadvantaged microentrepreneurs; (2) build MDOs' capacity to give disadvantaged microentrepreneurs such training and technical assistance; (3) research and develop best practices for training and technical assistance; and (4) perform such other activities as the Administrator or designee determines are consistent with the Act. SBA will award a minimum of 75 percent of available funds to MDOs to use for training and technical assistance to disadvantaged microentrepreneurs. At a minimum, another 15 percent will be used to build MDOs' capacity to give more training and technical assistance. SBA will use the remaining funds to make grants for research and development on best practices or other purposes to improve MDOs' services to PRIME's ultimate beneficiaries-disadvantaged microentrepreneurs.

Timetable:

Action	Date	FR Cite
NPRM	10/10/00	65 FR 60256
NPRM Comment Period End	11/09/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE52

SMALL BUSINESS ADMINISTRATION (SBA) — Long-Term Actions

3911. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 13 CFR 112; 13 CFR 113; 13 CFR 117

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972, (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/06/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Mary Ann E Fresco, Deputy Assistant Administrator, EEO, Small Business Administration, 409 Third Street, Washington, DC 20416
Phone: 202 205-7148

RIN: 3245–AE59

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

3912. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE INDUSTRIES

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This regulation changes SBA's size standards for the health care industries.

Timetable:

Action	Date	FR Cite
NPRM	05/04/99	64 FR 23798
NPRM Comment Period End	07/06/99	
Final Action	11/17/00	65 FR 69432

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE06

3913. BUSINESS LOAN PROGRAMS—MULTI-LENDER SECURITIZATIONS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 634(a)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This regulation will allow multiple lenders to pool and securitize the unguaranteed portion of 7(a) loans ("multi-lender securitizations").

Timetable:

Action	Date	FR Cite
Withdrawn	02/09/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James W. Hammersley, Director for Secondary Market Sales, Small Business Administration, 8th Floor, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE26

3914. SMALL BUSINESS SIZE STANDARDS; ARRANGEMENT OF TRANSPORTATION OF FREIGHT AND CARGO

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule modifies the way average annual receipts are calculated for firms in the Arrangement of Transportation of Freight and Cargo industry (SIC code 4731).

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40314
NPRM Comment Period End	09/24/99	
Final Action	08/09/00	65 FR 48601

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE27

3915. HUBZONE PROGRAM TECHNICAL AMENDMENTS

Priority: Other Significant

Legal Authority: PL 105-135, sec 601; 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 126

Legal Deadline: None

Abstract: This rule focuses on four specific areas: (1) Adds the Departments of State, Commerce, and Justice to the Program for fiscal year 2000, (2) revises the definition of principal office, (3) allows non-manufacturers that do not supply the product of a HUBZone manufacturer to participate in the Program and receive contracting opportunities at or below $25,000, and (4) removes the current affiliation restriction.

Timetable:

Action	Date	FR Cite
NPRM	10/03/00	65 FR 58963
NPRM Comment Period End	11/02/00	
Final Action	01/18/01	66 FR 4643

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael P. McHale, Associate Administrator for HUBZone Empowerment Contracting Program, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6731

RIN: 3245–AE28

3916. SMALL BUSINESS SIZE STANDARDS; MAPPING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121.201

Legal Deadline: None

Abstract: This established a size standard for Mapping Services, a component of Standard Industrial Classification 8713, Surveying and Mapping Services. The previous size standard was $4 million. The size standard for surveying services would not be affected by this action.

Timetable:

Action	Date	FR Cite
Withdrawn	02/09/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business

Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE30

3917. 8(A) BUSINESS DEVELOPMENT/APPLICATION OF BENCHMARKS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: The rule provides guidance to Federal agencies on applying benchmarking principles to the 8(a) Business Development Program to further comply with the Supreme Court's decision in Adarand Constructors, Inc., v. Pena, 515 U.S. 200, 115 S. Ct. 2097 (1995).

Timetable:

Action	Date	FR Cite
Withdrawn	02/16/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Delorice Price Ford, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-7340

RIN: 3245–AE37

3918. SMALL BUSINESS INVESTMENT COMPANIES—MANAGEMENT-OWNERSHIP DIVERSITY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 681 et seq.; 15 USC 687m; 15 USC 683; 15 USC 687(c); 15 USC 687b; 15 USC 687d

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule strengthens management-ownership diversity requirements in 13 CFR 107.150 by limiting any one investor or group of related investors to a maximum 70 percent ownership interest in an SBIC.

Timetable:

Action	Date	FR Cite
NPRM	06/20/00	65 FR 38223
NPRM Comment Period End	07/20/00	
Final Action	11/29/00	65 FR 71053

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry Haskins, Acting Associate Administrator for Investment, Small Business Administration, 409 Third Street SW, Suite 6300, Washington, DC 20416
Phone: 202 205-6694

RIN: 3245–AE48

3919. SMALL BUSINESS INVESTMENT COMPANIES—COST OF MONEY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 681 et seq; PL 106-9; 15 USC 683; 15 USC 687b; 15 USC 687c; 15 USC 687d; 15 USC 687g; 15 USC 687m

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule implements Public Law 106-9. This rule permits SBICs to receive performance-based royalties from small businesses, and similar contingent payments, without regard to the cost of money limits in 13 CFR 107.855.

Timetable:

Action	Date	FR Cite
NPRM	06/20/00	65 FR 38223
NPRM Comment Period End	07/20/00	
Final Action	11/17/00	65 FR 69431

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Harry Haskins, Acting Associate Administrator for Investment, Small Business Administration, 409 Third Street SW, Suite 6300, Washington, DC 20416
Phone: 202 205-6694

RIN: 3245–AE49

3920. 8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS; RULES OF PROCEDURE GOVERNING CASES BEFORE THE OFFICE OF HEARINGS AND APPEALS

Priority: Info./Admin./Other

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661; PL 100-656, sec 1207; PL 101-37; PL 101-574; 42 USC 9815

CFR Citation: 13 CFR 124; 13 CFR 134

Legal Deadline: None

Abstract: Due to a reorganization within the Office of General Counsel at the Small Business Administration (SBA), a new Office of Procurement Law was created to handle all procurement-related legal issues at SBA. Among other things, this new office will represent the Agency in all administrative litigation involving size and SIC code appeals, eligibility appeals relating to the 8(a) Business Development and Small Disadvantaged Business programs, suspension of firms in the 8(a) Business Development Program, and appeals of denials of requests for waivers of contract performance requirements in the 8(a) Business Development Program.

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/25/00	65 FR 57541

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John W. Klein, Associate General Counsel for Procurement Law, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 619-1772
Fax: 202 205-6873

RIN: 3245–AE60

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Federal Register

Monday,
May 14, 2001

Part XLV

Social Security Administration

Semiannual Regulatory Agenda

SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner

20 CFR Ch. III

Semiannual Unified Regulatory Agenda

AGENCY: Social Security Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: Executive Order 12866, entitled Regulatory Planning and Review, issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published November 30, 2000.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Georgia E. Myers, Regulations Officer, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235-6401; Telephone (410) 965-3632 or TTY (410) 966-5609.

SUPPLEMENTARY INFORMATION: The Social Security Administration (SSA) has responsibility for the retirement, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the Supplemental Security Income (SSI) program under title XVI of the Act. We are not a regulatory agency. Our regulations generally do not impose burdens on the private sector or on State, local or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency towards the public and beneficiaries' rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: (1) legislative implementation; (2) program improvements to provide better service to SSA customers; and (3) improvements or clarifications to provide effective stewardship of SSA programs.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decisionmakers. Supporting regulations are often required. In some instances, Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries and their legal counsels.

Included in our Agenda are items that will amend our regulations to provide more choices for people with disabilities who seek Return-to-Work services so that they may become self-sufficient. These regulations are required by provisions of "The Ticket to Work and Work Incentives Improvement Act of 1999," (Pub. L. 106-170), which was signed by the President on December 17, 1999. Among the provisions requiring regulations are provisions that will establish the Ticket to Work and Self-Sufficiency program in SSA, suspend continuing disability reviews based on work activity, and expedite reinstatement of disability benefits terminated due to work activity.

An area in which we are working hard to deliver high quality service is our disability determination process. Several of our agenda items support improvements to disability program administration. We have tested a prototype involving a combination of modifications to the disability determination process. The prototype incorporates multiple modifications to the disability determinations procedures employed by State Disability Determination Services, which have been shown to be effective. The regulation will incorporate a series of changes that improve the initial disability determination process by: providing greater decisional authority to the disability examiner and more effective use of the expertise of the medical consultant; ensuring appropriate development and explanation of key issues; increasing opportunities for claimant interaction with the decisionmaker before a determination is made; and simplifying the appeals process by eliminating the reconsideration step. This Agenda includes a regulation to allow phased-in implementation of these features.

The Agenda also contains updates to many of the medical listings to reflect advances in medical knowledge, treatment and methods of evaluation.

SSA is committed to enhancing the service that we provide to our customers by reducing the time it takes them to receive a hearing and a decision. We believe that the Hearings Process Improvement (HPI) Initiative will enhance the timeliness of decisions and improve customer service by effectively utilizing the staffing resources that are dedicated to this goal. The HPI Initiative is part of SSA's overall plan for managing the disability process. One important HPI initiative listed in the Agenda, Prehearing and Posthearing Conference, is expected to improve the hearings process by standardizing and increasing the efficiency of our procedures for holding prehearing and posthearing conferences. Another important HPI initiative listed in the Agenda, Expansion of the Use of Video Teleconference Technology in Hearings before Administrative Law Judges (ALJs) of the Social Security Administration, is expected to improve customer service by providing faster access to a hearing before an ALJ. It removes the need for the claimant (and representative, if any) and the ALJ to be physically present at the same location.

Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. A proposed regulation will make improvements to the representative payment procedures needed to assure program integrity. This regulation reflects certain provisions of Public Law 101-508, 103-296, 104-121, and 105-33.

We have also included in this agenda, two regulations that provide SSA with additional tools to strengthen the integrity of the Social Security and SSI programs. One is a proposed regulation that implements a provision of the Foster Care Independence Act of 1999 authorizing SSA to obtain information from financial institutions in order to determine initial or continuing eligibility for SSI benefits. In addition to the other SSI initiatives already discussed, is a rule, Collection of SSI (Title XVI) Overpayment Debts from Title II Benefits, which will implement one of the debt collection tools authorized by legislation.

We continue to work diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. The remaining of our Unified Agenda items reflect such improvements and clarifications.

The April 2001 regulatory agenda for the Social Security Administration follows.

Dated: March 1, 2001.

Georgia E. Myers,

SSA Regulations Officer.

SSA

Social Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3921	OASDI and SSI for the Aged, Blind, and Disabled; Fees for Representation of Parties Under Title II and Title XVI of the Social Security Act (296P)	0960-AD23
3922	Revised Medical Criteria for Evaluating Hematologic Disorders and Malignant Neoplastic Diseases (399P)	0960-AD67
3923	Modification of Private Printing and Prescribed Applications and Other Forms (530P)	0960-AE15
3924	Supplemental Security Income; Plans for Achieving Self-Support (506P)	0960-AE17
3925	Federal Salary Offset (Withholding a Portion of a Federal Employee's Salary To Collect a Delinquent Debt Owed to the Social Security Administration) (721P)	0960-AE89
3926	Private Collection Agencies (Using Private Collection Agencies to Help SSA Collect Delinquent Title II and Title XVI Debts Owed by Former Beneficiaries) (722P)	0960-AE90
3927	Charging Interest (Charging Interest on Delinquent Debts) (723P)	0960-AE91
3928	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)	0960-AE92
3929	Work Activity Standard as a Basis for Review of an Individual's Disabled Status (Ticket to Work and Work Incentives Improvement Act of 1999) (725P)	0960-AE93
3930	Expedited Reinstatement of Disability Benefits (Ticket to Work and Work Incentives Improvement Act) (790P)	0960-AF21
3931	Social Security Coverage of Employment for Residents of the Northern Mariana Islands, American Samoa, and Guam (792P)	0960-AF23
3932	$30 Private Insurance (794P)	0960-AF25
3933	Digestive System Listing (800P)	0960-AF28
3934	Skin Medical Listing (801P)	0960-AF29
3935	Multiple Body Systems Listings (803P)	0960-AF32
3936	Immune System Listings (804P)	0960-AF33
3937	Special Senses (805P)	0960-AF34
3938	Neurological Listings (806P)	0960-AF35
3939	Burden of Proof at Step 5 of Sequential Evaluation (808P)	0960-AF37
3940	Wage Reports and Pension Information (809P)	0960-AF38
3941	Extension of Disability Insurance Program Demonstration Project Authority (Ticket to Work and Work Incentives Improvement Act) (789P)	0960-AF41
3942	Access to Information Held by Financial Institutions (815P)	0960-AF43
3943	Revised Medical Criteria for Determination of Disability, Cardiovascular System and Related Criteria (826P)	0960-AF48
3944	Representative Payment Under Title II and XVI of the Social Security Act (827P)	0960-AF49

Social Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3945	Musculoskeletal System and Related Criteria (143F)	0960-AB01
3946	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
3947	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (599F)	0960-AE42
3948	OASDI and SSI; Expansion of the Use of Video Teleconference Technology in Hearings Before Administrative Law Judges of the Social Security Administration (737F)	0960-AE97
3949	Revised Medical Criteria for Determination of Disability, Appendix 1 to Subpart P—Listing of Impairments (740F)	0960-AE99
3950	Ticket to Work and Self-Sufficiency Program (Ticket to Work and Work Incentives Improvement Act of 1999) (767F)	0960-AF11
3951	Title XVI, Cross-Program Recovery (746F)	0960-AF13
3952	Cost of Living Increases in Primary Insurance Amounts (759F)	0960-AF14
3953	Administrative Review Process; Prehearing and Posthearing Conferences (778F)	0960-AF17
3954	Medical Equivalence for Adults and Children (787I)	0960-AF19
3955	Administrative Procedures for Imposing Penalties for False or Misleading Statements (784F)	0960-AF20

SSA

Social Security Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3956	SSI Trusts and Transfers of Resources (791I)	0960-AF22
3957	Credit Bureau Reporting and Administrative Offset for SSI Overpayments (795F)	0960-AF31
3958	Implementing the Redesigned Disability Process (816F)	0960-AF44
3959	Revisions to the Medical-Vocational Guidelines (823I)	0960-AF47

Social Security Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3960	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
3961	Revised Medical Criteria for Determination of Disability, Endocrine System (436P)	0960-AD78
3962	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
3963	Definition of "Largest Benefit Amount" for Simultaneous Entitlement to Child's Benefits (481P)	0960-AD95
3964	Repeal of Facility of Payment Provision (508P)	0960-AE02
3965	Administrative Review Process; Administrative Res Judicata and Related Rules (526P)	0960-AE11
3966	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
3967	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations (547F)	0960-AE25
3968	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27
3969	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
3970	Restrictions on Lobbying in Connection with the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
3971	Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts (512F)	0960-AE40
3972	Supplemental Standards for Ethical Conduct for Employees of the Social Security Administration (601P)	0960-AE48
3973	Deeming of Income From an Ineligible Spouse to an Eligible Individual and an Eligible Child (606P)	0960-AE50
3974	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)	0960-AE59
3975	Effectuation of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 in Programs Receiving Financial Assistance by SSA (617F)	0960-AE63
3976	Coverage of Employees of State and Local Governments; Office of Management and Budget (OMB) Control Number (280F)	0960-AE69
3977	Enforcement of Nondiscrimination in Social Security Programs or Activities (661P)	0960-AE78
3978	Technical Changes to Title XVI (664F)	0960-AE79
3979	Privacy and Disclosure of Official Records and Information (711P)	0960-AE88
3980	Assignment of Social Security Administration Numbers (SSN) for Nonwork Purposes (751P)	0960-AF05
3981	Change in Retirement Age (775F)	0960-AF16
3982	Federal Old-Age, Survivors and Disability Insurance; Supplemental Security Income; Determining Disability and Blindness; Revisions to the Growth Impairment Listings (758P)	0960-AF18
3983	Effects of Being Considered a Child (793P)	0960-AF24
3984	Genito-Urinary Medical Listing (802P)	0960-AF30
3985	Filing Claims Under the Federal Tort Claims Act and the Military Personnel and Civilian Employees Claims Act (785P)	0960-AF39
3986	Exclusion of Representatives and Health Care Providers Convicted of Violations from Participation in Social Security Disability Programs (820F)	0960-AF46

Social Security Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
3987	Testimony By Employees and the Production of Records in Legal Proceedings (732F)	0960-AE95

SSA

Social Security Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3988	OASDI, and SSI for the Aged, Blind and Disabled; Substantial Gainful Activity Amounts; "Services" for Trial Work Period Purposes—Monthly Amounts; Student-Earned Income Exclusion (777F)	0960-AF12

SOCIAL SECURITY ADMINISTRATION (SSA) — Proposed Rule Stage

3921. OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF PARTIES UNDER TITLE II AND TITLE XVI OF THE SOCIAL SECURITY ACT (296P)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-508, sec 5106; PL 103-296, sec 321(f)3 to (f)5; PL 106-170, sec 406

CFR Citation: 20 CFR 404.1703; 20 CFR 416.1525; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517

Legal Deadline: None

Abstract: We propose to amend the regulations to provide rules about authorization, direct payment, and administrative review of fees for representation based on fee agreements between claimants and their representatives; revise our rules about authorization, direct payment and administrative review of fees for representation based on fee petitions; and provide rules about assessment on attorneys who receive direct payment of authorized fees from withheld title II past-due benefits. The proposed rules reflect provisions of section 406 of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170; sections 321(f)(3) to (f)(5) of the Social Security Independence and Program Improvements Act of 1994, Public Law 103-296; and section 5106 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5995

RIN: 0960–AD23

3922. REVISED MEDICAL CRITERIA FOR EVALUATING HEMATOLOGIC DISORDERS AND MALIGNANT NEOPLASTIC DISEASES (399P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to subpart P of part 404 of our regulations (404.1501 through 404.1599) describe those impairments that are considered severe enough to prevent a person from doing any gainful activity, or for a child claiming SSI payments under title XVI, that causes marked and severe functional limitations. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income Program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michelle Hungerman, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-2289

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AD67

3923. MODIFICATION OF PRIVATE PRINTING AND PRESCRIBED APPLICATIONS AND OTHER FORMS (530P)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-296, sec 312

CFR Citation: 20 CFR 422.527

Legal Deadline: None

Abstract: This regulation will implement section 312 of Public Law 103-296, which expands prohibitions on the use of certain letters and symbols and also the reproduction for a fee of forms and publications of SSA and HHS.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE15

3924. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506P)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR 416.1224; 20 CFR 416.1225; 20 CFR 416.1226

Legal Deadline: None

Abstract: These proposed regulations will revise our rules on plans to achieve self-support (PASS) to take into account the time period an individual will need for completion of his or her PASS and other factors determined to be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5995

RIN: 0960–AE17

3925. FEDERAL SALARY OFFSET (WITHHOLDING A PORTION OF A FEDERAL EMPLOYEE'S SALARY TO COLLECT A DELINQUENT DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (721P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 42 USC 1383; 5 USC 5514

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to collect from Federal salaries qualifying, delinquent title II and title XVI debts owed by former beneficiaries who are currently Federal employees. The debt collection will be accomplished by the partial reduction of the employee's disposable salary.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-0392

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE89

3926. PRIVATE COLLECTION AGENCIES (USING PRIVATE COLLECTION AGENCIES TO HELP SSA COLLECT DELINQUENT TITLE II AND TITLE XVI DEBTS OWED BY FORMER BENEFICIARIES) (722P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 42 USC 1383(b); 31 USC 3718

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to refer delinquent title II and title XVI debts owed by former beneficiaries to private collection agencies for further debt collection efforts.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-0392

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE90

3927. CHARGING INTEREST (CHARGING INTEREST ON DELINQUENT DEBTS) (723P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 42 USC 1383(b); 31 USC 3717

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: Under this initiative, the Social Security Administration (SSA) will charge interest and penalties on qualifying, delinquent title II debts and title XVI owed by former beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE91

3928. ADMINISTRATIVE WAGE GARNISHMENT (TO REPAY A DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (724P)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 902; 42 USC 1383; 31 USC 3720D

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to collect qualifying, delinquent titles II and XVI debts owed by former beneficiaries who are now employed (as other than Federal employees). Administrative wage garnishment allows SSA to order an employer to deduct a percentage of the disposable pay earned by the worker/debtor, and to send that amount to SSA as payment toward satisfying the delinquent debt. Administrative wage garnishment does not require a court judgment to impose the withholding order.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-0392

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AE92

3929. WORK ACTIVITY STANDARD AS A BASIS FOR REVIEW OF AN INDIVIDUAL'S DISABLED STATUS (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999) (725P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 421

CFR Citation: 20 CFR 404.1590

Legal Deadline: NPRM, Statutory, January 1, 2002, Section 111 of Public Law 106-170, effective January 1, 2002.

Abstract: One of SSA's most important initiatives is to assure that Social Security (SSDI) and Supplemental Security Income (SSI) beneficiaries with disabilities who want to work have the opportunity to do so. Individuals with disabilities face multiple barriers in attempting to return to work. Section 111 of Public Law 106-170 provides a new statutory work incentive by eliminating the scheduling of continuing disability medical reviews solely because of an SSDI beneficiary's work activity, once the beneficiary has been entitled to SSDI benefits for 24 months. (Such beneficiaries will continue to be subject to regularly scheduled continuing disability reviews, work investigations, and benefit termination due to earnings from work activity at the level of substantial gainful activity.)

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Geoffrey Funk, Social Insurance Specialist, Social Security Administration, Office of Employment Support Programs, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE93

3930. EXPEDITED REINSTATEMENT OF DISABILITY BENEFITS (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT) (790P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 423

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, January 1, 2001, Section 112 of Public Law 106-170, effective January 1, 2001.

Abstract: One of SSA's most important initiatives is to assure that Social Security (SSDI) and Supplemental Security Income (SSI) beneficiaries with disabilities who want to work have the opportunity to do so. Individuals with disabilities face multiple barriers in attempting to return to work. Section 112 of Public Law 106-170 provides a new statutory work incentive by providing for expedited reinstatement of SSDI and SSI benefits terminated due to work activity, when the former beneficiary requests reinstatement within 60 months because his or her disability prevents work activity. Section 112 also provides for payment of provisional benefits up to six months until SSA makes a determination on the requester's entitlement to reinstated benefits.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Geoffrey Funk, Social Insurance Specialist, Social Security Administration, Office of Employment Support Programs, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 965-1769

RIN: 0960–AF21

3931. SOCIAL SECURITY COVERAGE OF EMPLOYMENT FOR RESIDENTS OF THE NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, AND GUAM (792P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 404.1004(8); 20 CFR 404.1004(9); 20 CFR 404.1022(a); 20 CFR 404.1022(c)

Legal Deadline: None

Abstract: These proposed rules will amend our regulations to include the Commonwealth of the Northern Mariana Islands in the definition of United States under title II. These revisions will also include coverage of employment for workers in the Commonwealth of the Northern Mariana Islands as well as workers in American Samoa or Guam.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 965-9812

RIN: 0960–AF23

3932. $30 PRIVATE INSURANCE (794P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1382(e)

CFR Citation: 20 CFR 416.201; 20 CFR 416.211; 20 CFR 416.212; 20 CFR 416.414; 20 CFR 416.1149; 20 CFR 416.1165; 20 CFR 416.1167; 20 CFR 416.1202

Legal Deadline: None

Abstract: These proposed rules make technical and conforming updates to title XVI based on section 5522(c) of the Balanced Budget Act of 1997 (Pub. L. 105-33). Section 5522(c) eliminated obsolete terminology in section 1611(e)(1) of the SSACT that specified particular kinds of medical facilities where the $30 reduced benefit rate could apply. Section 5522(c) also amended section 1611(e)(1)(G) of the SSACT to extend applicability of temporary institutionalization benefits to children who enter private medical treatment facilities and who otherwise would be subject to a reduced benefit because of private insurance coverage.

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Karen E. Kerwath, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9835

Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5995

RIN: 0960–AF25

3933. DIGESTIVE SYSTEM LISTING (800P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We are proposing to revise the criteria in the Listing of Impairments (the Listings) that we use to evaluate claims involving digestive impairments. We apply these criteria at step three of our sequential evaluation processes to adults and children who claim Social Security or Supplemental Security Income (SSI) benefits based on disability under title II and title XVI of the Social Security Act (the Act). The proposed revisions reflect advances in medical knowledge, treatment, and methods of evaluating digestive impairments. We also propose to remove listings that are redundant and serve only to refer to other listings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cheryl Worbel, Policy Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9108

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF28

3934. SKIN MEDICAL LISTING (801P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We are proposing to revise the criteria in the Listing of Impairments (the Listings) for the Skin Medical Listing.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Cheryl Worbel, Policy Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9108

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF29

3935. MULTIPLE BODY SYSTEMS LISTINGS (803P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) for evaluating Multiple Body Systems.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Victoria Dorf, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9245

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF32

3936. IMMUNE SYSTEM LISTINGS (804P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) for evaluating the Immune System.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Victoria Dorf, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AF33

3937. SPECIAL SENSES (805P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) for Special Senses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-9822

RIN: 0960–AF34

3938. NEUROLOGICAL LISTINGS (806P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) for Neurological Listings.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF35

3939. BURDEN OF PROOF AT STEP 5 OF SEQUENTIAL EVALUATION (808P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proposed rule will take a look at step 5 of Sequential Evaluation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF37

3940. WAGE REPORTS AND PENSION INFORMATION (809P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 405; 42 USC 432; 42 USC 902(a)(5)

CFR Citation: 20 CFR 422.114

Legal Deadline: None

Abstract: The Social Security Administration (SSA) proposes to amend its rules on processing reports of wages submitted annually by employers. We propose to amend this rule to reflect the threshold now in use for accepting wage reports with unidentified or incorrectly identified wage items. The rule is intended to ensure that wages are reported to SSA with accurate information so that earnings can be properly credited to the employee's Social Security record.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF38

3941. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT) (789P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 434

CFR Citation: 20 CFR 404.1599

Legal Deadline: None

Abstract: One of SSA's most important initiatives is to assure that Social Security (SSDI) and Supplemental Security Income (SSI) beneficiaries with disabilities who want to work have the opportunity to do so. Section 301 of Public Law 106-170 extends to the Commissioner of Social Security the authority to develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of treating the work activity of individuals entitled to disability insurance benefits.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Geoffrey Funk, Social Insurance Specialist, Social Security Administration, Office of Employment Support Programs, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 965-1769

RIN: 0960–AF41

3942. ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS (815P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1383(e); PL 106-169, sec 213

CFR Citation: 20 CFR 416.200; 20 CFR 416.206 to 416.208; 20 CFR 416.217

Legal Deadline: None

Abstract: We propose to implement a new law that will enhance our access to bank account information of Supplemental Security Income (SSI) applicants or recipients and other individuals whose income and resources we treat as belonging to the applicant or recipient.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Kathy Branch, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 965-1769

RIN: 0960–AF43

3943. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, CARDIOVASCULAR SYSTEM AND RELATED CRITERIA (826P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Listings 4.00 and 104.00 of appendix 1 to the disability regulation at 20 CFR 404.1501 through 404.1599 describe those cardiovascular impairments that are considered severe enough to prevent a person from doing any gainful activity or, for a child claiming SSI payments under title XVI, that causes marked and severe functional limitations. Comprehensive revisions to these listings are being made to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Bonnie Davis, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 966-5121

RIN: 0960–AF48

3944. REPRESENTATIVE PAYMENT UNDER TITLE II AND XVI OF THE SOCIAL SECURITY ACT (827P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 401(j); 42 USC 902(a)(5); 42 USC 405 note; 42 USC 421 note; 42 USC 1383(a)(2); 42 USC 1383(d)(1); 42 USC 404(f); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 405(k); 42 USC 421; 42 USC 425

CFR Citation: 20 CFR 404.902; 20 CFR 404.2011; 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 404.2025; 20 CFR 404.2030; 20 CFR 404.2041; 20 CFR 404.2050; 20 CFR 416.611; 20 CFR 416.622; 20 CFR 416.624; 20 CFR 416.625; 20 CFR 416.630

Legal Deadline: None

Abstract: Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity. These regulations are required to further our program integrity efforts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

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RIN: 0960–AF49

SOCIAL SECURITY ADMINISTRATION (SSA) Final Rule Stage

3945. MUSCULOSKELETAL SYSTEM AND RELATED CRITERIA (143F)

Priority: Other Significant

Legal Authority: 42 USC 902(a)(5); 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Listings 1.00 and 101.00 of appendix 1 to subpart P of part 404 of our regulations describe those musculoskeletal impairments that are considered severe enough to prevent a person from doing any gainful activity or, for a child claiming SSI payments under title XVI, that causes marked and severe functional limitations. Comprehensive revisions to these listings are being made to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Timetable:

Action	Date	FR Cite
NPRM	12/21/93	58 FR 67574
NPRM Comment Period End	02/22/94	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AB01

3946. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; REPLACING SOCIAL SECURITY NUMBER CARDS (543F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: These final rules will support our pilot test for replacing Social Security number cards when we receive a request by telephone. We tested replacing the card based on information furnished by telephone, without requiring additional documentation. SSA is now evaluating the results of that test.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/95	60 FR 32444
Interim Final Rule Comment Period End	08/21/95	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AE18

3947. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; REVISION TO MEDICAL-VOCATIONAL GUIDELINES (599F)

Priority: Other Significant

Legal Authority: 42 USC 423; 42 USC 405(a); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 2

Legal Deadline: None

Abstract: This rule will make clarifications to the Social Security Medical-Vocational guidelines used to evaluate disability in individuals under age 50, who have severe impairments that do not meet or equal the criteria of any listed impairment, but have a residual functional capacity for no more than the full range of sedentary work. The guidelines are contained in appendix 2 of subpart P of 20 CFR 404.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49636
NPRM Comment Period End	11/24/97	
Final Action	04/00/01	

SSA — Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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RIN: 0960–AE42

3948. OASDI AND SSI; EXPANSION OF THE USE OF VIDEO TELECONFERENCE TECHNOLOGY IN HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES OF THE SOCIAL SECURITY ADMINISTRATION (737F)

Priority: Other Significant

Legal Authority: 42 USC 205(a); 42 USC 205(b); 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.929; 20 CFR 404.936(b); 20 CFR 404.936(c); 20 CFR 404.936(d)(8)(New); 20 CFR 404.938; 20 CFR 416.1429; 20 CFR 416.1436(b); 20 CFR 416.1436(c); 20 CFR 416.1436(d)(8)(New); 20 CFR 416.1438

Legal Deadline: None

Abstract: We are amending our regulations to permit us to conduct hearings before an administrative law judge (ALJ) by video teleconference (VTC). We also will add new sections to the regulations that will state the conditions for an ALJ to find good cause to change the time and place of a hearing if we schedule a VTC hearing, and the individual tells us he/she does not want a VTC hearing.

Timetable:

Action	Date	FR Cite
NPRM	01/05/01	66 FR 1059
Comment Period End	03/06/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AE97

3949. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, APPENDIX 1 TO SUBPART P—LISTING OF IMPAIRMENTS (740F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404 subpart P, app 1

Legal Deadline: None

Abstract: These regulations will make a certain number of discrete revisions to the Listing of Impairments, appendix 1 to subpart P, of part 404 of our regulations. We are making these changes in order to reflect advances in medical practices, to clarify certain listing criteria, to remove a few rarely-used listings, and to add new listings to address current medical practices such as organ transplantation. Also we will remove some technical references, which have become obsolete, and reword some listings to update medical terminology. We use these listings to adjudicate claims for disability under titles II and XVI of the Social Security Act when we evaluate claims of individuals at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	02/11/00	65 FR 6929
NPRM Comment Period End	04/11/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 0960–AE99

3950. TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999) (767F)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 902(a)(5); 42 USC 1320b-19; PL 106-170, sec 101

CFR Citation: 20 CFR 404.316; 20 CFR 404.337; 20 CFR 404.352; 20 CFR 404.401; 20 CFR 404.902; 20 CFR 404.1586; 20 CFR 404.1590; 20 CFR 404.1596; 20 CFR 404.1597; 20 CFR 404.2101; 20 CFR 416.101; 20 CFR 416.213; 20 CFR 416.708; 20 CFR 416.990; 20 CFR 416.1321; 20 CFR 416.1328; 20 CFR 416.1331; 20 CFR 416.1338; 20 CFR 416.1402; 20 CFR 416.1701 to 416.1715; 20 CFR 416.2040; 20 CFR 416.2201

Legal Deadline: Final, Statutory, December 17, 2000, One year after the date of enactment of Public Law 106-170.
Sec. 1148(l) of the Social Security Act (42 USC 1320b-19(1), as added by sec. 101(a) of PL 106-170, requires SSA to prescribe regulations to carry out the Ticket to Work and Self-Sufficiency Program.

Abstract: These regulations will implement the Ticket to Work and Self-Sufficiency Program under section 1148 of the Act, as added by section 101(a) of Public Law 106-170. They also will carry out provisions of sections 101(d) and (e) of Public Law 106-170 relating to the implementation of that program and section 101(b) providing conforming amendments to the Act. One of SSA's most important initiatives is to assure that Social Security (SSDI) and Supplemental Security Income (SSI) beneficiaries with disabilities who want to work have the opportunity to do so. Individuals with disabilities face multiple barriers in attempting to return to work. The Ticket to Work and Self-Sufficiency Program, under section 1148 of the Act, removes such barriers by providing beneficiaries with disabilities with the opportunity to obtain rehabilitation, employment and support services from an approved vocational rehabilitation provider of their choice.

Timetable:

Action	Date	FR Cite
NPRM	12/28/00	65 FR 82843

SSA — Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	02/26/01	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

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RIN: 0960–AF11

3951. TITLE XVI, CROSS-PROGRAM RECOVERY (746F)

Priority: Other Significant

Legal Authority: 42 USC 1320b-17

CFR Citation: 20 CFR 404.401; 20 CFR 416.558; 20 CFR 416.570; 20 CFR 416.572

Legal Deadline: None

Abstract: These final regulations deal with the recovery of overpayments under the Supplemental Security Income (SSI) Program. They will permit SSA to recover SSI overpayments by adjusting the amount of Social Security benefits payable to the individual under title II of the Act. This collection practice will be limited to individuals who are not currently eligible to receive an SSI cash benefit. Also, the amount of the title XVI overpayment recoverable in a month would be limited to 10 percent of the amount payable under title II, unless the overpaid person (or his or her spouse) willfully misrepresented or concealed material information about the overpayment. In that case, the entire title II benefit amount would be adjusted to recover the overpayment.

Timetable:

Action	Date	FR Cite
NPRM	10/03/00	65 FR 58970
Comment Period End	12/04/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF13

3952. COST OF LIVING INCREASES IN PRIMARY INSURANCE AMOUNTS (759F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402(a); 42 USC 405(a); 42 USC 415; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.273 to 404.275

Legal Deadline: None

Abstract: This final rule revises our rules dealing with automatic cost-of-living increases to primary insurance amounts under title II of the Social Security Act. The revisions eliminate the restriction that we could only grant cost-of-living increases based on rises in the Consumer Price Index (CPI) or the Average Wage Index (AWI) if either the CPI or AWI increased by 3 percent or more during the prescribed measuring period. The 3 percent restriction was removed by legislation enacted in 1986.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF14

3953. ADMINISTRATIVE REVIEW PROCESS; PREHEARING AND POSTHEARING CONFERENCES (778F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.961; 20 CFR 416.1461

Legal Deadline: None

Abstract: These final rules will amend our regulations that authorize an administrative law judge (ALJ) to hold a prehearing or posthearing conference to specify that certain attorney advisors in our Office of Hearings and Appeals (OHA) may hold formal prehearing or posthearing conferences when requested by an ALJ. We will also amend these regulations to include procedures to govern the informal developmental conferences that we may hold with claimants or their representatives.

Timetable:

Action	Date	FR Cite
NPRM	06/22/00	65 FR 38796
NPRM Comment Period End	08/21/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF17

3954. MEDICAL EQUIVALENCE FOR ADULTS AND CHILDREN (787I)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1526; 20 CFR 404.1529; 20 CFR 416.926; 20 CFR 416.929

Legal Deadline: None

Abstract: These interim final rules will clarify that a determination of medical equivalence will consider the severity of the individual's impairment, based on all relevant evidence in the case record. These rules will clarify our medical equivalence policy in light of the decision in Hickman v. Apfel, 187 F.3d 683 (7th Cir. 1999).

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF19

3955. ADMINISTRATIVE PROCEDURES FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS (784F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 422(b); 42 USC 423(e); 42 USC 424a; 42 USC 425; 42 USC 902(a)(5); 42 USC 1382 to 1382d; 42 USC 1382h; 42 USC 1320a-8a; 42 USC 1383

CFR Citation: 20 CFR 404.475; 20 CFR 416.1339

Legal Deadline: Final, Statutory, June 14, 2000.

Abstract: These final rules implement section 207 of Public Law 106-169, which provides that SSA may impose a penalty on any person who knowingly makes, or causes to be made, a false or misleading statement or representation of a material fact for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/00	65 FR 42283
Interim Final Rule Comment Period End	09/08/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AF20

3956. SSI TRUSTS AND TRANSFERS OF RESOURCES (791I)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1382a(a); 42 USC 1382b(c)(f); 42 USC 1382b(e); PL 106-169, sec 205; PL 106-169, sec 206

CFR Citation: 20 CFR 416

Legal Deadline: None

Abstract: These interim final rules amend our regulations to reflect sections 205 and 206 of Public Law 106-169, the Foster Care Independence Act of 1999. Section 205 generally provides for counting certain trusts as resources in the SSI program. Section 206 generally provides for a period of ineligibility for SSI benefits as a result of transferring resources for less than fair market value.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 0960–AF22

3957. CREDIT BUREAU REPORTING AND ADMINISTRATIVE OFFSET FOR SSI OVERPAYMENTS (795F)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 37; Sec 1631(b) of the Social Security Act

CFR Citation: 20 CFR 416.590; 20 CFR 416.1403; 20 CFR 422.301; 20 CFR 422.305

Legal Deadline: None

Abstract: We propose to modify our regulations dealing with the recovery of SSI overpayments to reflect statutory authority for SSA to selectively refer information about SSI overpayments to consumer reporting agencies and to recover SSI overpayments through administrative offset by the Department of Treasury against other Federal payments to which the overpaid individual may be entitled. These collection practices would be limited to overpayments made to a person after he or she attained age 18 and would be used after the individual ceases to be an SSI beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	10/23/00	65 FR 63221
NPRM Comment Period End	12/22/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF31

3958. IMPLEMENTING THE REDESIGNED DISABILITY PROCESS (816F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 301

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: We plan to implement elements of the redesigned disability claims process that have been tested and found to further redesign goals. Specifically, we will revise the disability determination process by: (1) eliminating the reconsideration step of the appeals process; (2) enhancing the roles of the disability examiner and medical/psychological consultant to streamline the process and make more effective use of the doctor's knowledge and expertise; and (3) increasing claimant contact and explanation of the requirements for disability. We will implement the redesigned process in phases; the existing process will remain in effect for States that have not yet adopted the redesigned process.

Timetable:

Action	Date	FR Cite
NPRM	01/19/01	66 FR 5494
NPRM Comment Period End	03/20/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: RIN 0960-AE73 was merged into this regulation on August 14, 2000.

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RIN: 0960–AF44

3959. REVISIONS TO THE MEDICAL-VOCATIONAL GUIDELINES (823I)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 404, subpart P, app 2

Legal Deadline: None

Abstract: This rule will make several clarifications to our medical-vocational guidelines. First, for individuals whose previous semiskilled or skilled work does not allow him or her to transfer skills to other semiskilled or skilled work within his or her residual functional capacity (RFC), we will treat the past work experience as if it were unskilled. It will also clarify that where an individual is limited to medium work, is closely approaching retirement and is illiterate in English or unable to communicate in English, we will find him or her disabled if he or she has no past work experience, or unskilled, semiskilled, or skilled past work experience, with no transferable skills to other semiskilled or skilled work within his or her RFC.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 0960–AF47

SOCIAL SECURITY ADMINISTRATION (SSA) — Long-Term Actions

3960. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER, AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Legal Deadline: None

Abstract: We propose to amend our regulations to permit the election of benefits based on age by widows, widowers and surviving divorced spouses (hereinafter, collectively widows) who are at least age 60 and who are already entitled to widow's benefits based on disability. This proposal would allow the widow to choose which of the two types of widow's benefits is more advantageous.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AD56

3961. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, ENDOCRINE SYSTEM (436P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of our regulations (404.1501 through 404.1599) describe those impairments that are considered severe enough to prevent a person from doing any gainful activity, or in the case of a child claiming SSA payments under title XVI, that cause marked and severe functional limitations. We are

proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income Program incorporates and uses the same medical criteria as the Old-Age, Survivors and Disability Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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RIN: 0960–AD78

3962. COMPUTATION OF SSI BENEFITS FOR THE FIRST THREE MONTHS OF PAYMENT (476P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 416.320

Legal Deadline: None

Abstract: SSI eligibility and payment are calculated by taking into account income received by the applicant/recipient. Two calculations must be made for each month. The first is the eligibility computation and is based on the current (payment) month's income. The second is the payment computation, which, under retrospective monthly accounting, is based (usually) on the income of a prior month called the budget month. Generally the budget month is 2 months prior to the payment month. The transitional computation for the first 3 months of SSI payment is an exception to the general rule described above. While the eligibility computation continues to apply to the current month's income, the budget month on which each of the first 3 months' payments is based is the first month of eligibility or reeligibility. This policy was intended to facilitate the transition into the 2 month retrospective accounting cycle and to avoid penalizing the recipient for income received prior to initial SSI eligibility. However, the policy also has the effect of counting income which is only received in one month more than one time. In Jones v. Shalala, the Ninth Circuit Court of Appeals ruled that SSA's transitional computation for the first 3 months of eligibility is not permissible because it will result in the triple counting of nonrecurring income received only in the first month of eligibility. The proposed policy addresses the triple counting of nonrecurring income.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 0960–AD93

3963. DEFINITION OF "LARGEST BENEFIT AMOUNT" FOR SIMULTANEOUS ENTITLEMENT TO CHILD'S BENEFITS (481P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 422(b); 42 USC 423; 42 USC 424a; 42 USC 428(a) to 428(e); 42 USC 902(a)(5); 42 USC 403; 42 USC 403(a); 42 USC 403(b); 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 416

CFR Citation: 20 CFR 404.304; 20 CFR 404.353b; 20 CFR 404.407d

Legal Deadline: None

Abstract: Section 202(k)(2)(A) of the Act (42 U.S.C. 402(k)(2)(A)) contains the statutory requirements for determining the earnings record on which SSA will pay a person, who is simultaneously entitled to child's insurance benefits on the earnings records of more than one worker. Generally, the child's benefits will be paid on the earnings record that yields the highest primary insurance amount (PIA). However, under certain circumstances, the child's benefits will be paid on the earnings record that yields a lower PIA if that record produces the "largest benefit" to which the child could be entitled under section 202(d) without the application of the reduction under the "family maximum" provisions. In implementing section 202(k)(2)(A), SSA has determined the "largest benefit" under section 202(k)(2)(A) by comparing the original benefit amount (i.e., 50 percent of the PIA of a living worker and 75 percent of the PIA of a deceased worker) calculated on the dependent and/or survivor claim of the child on the earnings record of each worker without applying any reductions or deductions. The United States District Court for the Northern District of Alabama in Agee v. Sullivan rejected this interpretation and held that SSA must compare the amounts payable to the child under each earnings record after considering all applicable deductions and reductions other than the reduction under the family maximum provisions. Legal support for both interpretations can be found in the statutory language and legislative history of section 202(k)(2)(A) of the Act. We have found current regulations implementing section 202(k)(2)(A) to be ambiguous. We propose to amend these regulations to reflect the longstanding SSA interpretation, rather than the interpretation adopted by the District Court in the Agee decision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-2468

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Phone: 410 966-5995

RIN: 0960–AD95

3964. REPEAL OF FACILITY OF PAYMENT PROVISION (508P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.402(b); 20 CFR 404.458

Legal Deadline: None

Abstract: This regulation will reflect section 309 of Public Law 103-296 that repeals the facility of payment provision under which Social Security benefits, subject to the family maximum, would not be redistributed in certain cases, and provides that the reduction for the family maximum will be made prior to a temporary suspension for work when the nonworking auxiliary resides in a separate household from the working auxiliary.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5995

RIN: 0960–AE02

3965. ADMINISTRATIVE REVIEW PROCESS; ADMINISTRATIVE RES JUDICATA AND RELATED RULES (526P)

Priority: Other Significant

Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 902(a)(5); 42 USC 1383(c); 42 USC 1383(d)

CFR Citation: 20 CFR 404.903a (New); 20 CFR 416.1467; 20 CFR 404.903b (New); 20 CFR 404.950; 20 CFR 404.957; 20 CFR 404.967; 20 CFR 416.1403a (New); 20 CFR 416.1403b (New); 20 CFR 416.1450; 20 CFR 416.1457

Legal Deadline: None

Abstract: These proposed changes will amend our regulations governing the administrative review process for the Social Security and Supplemental Security Income (SSI) programs to update our procedures and to reflect and implement sections 205(b)(3)(A) and 1631(c)(1)(B)(i) of the Act, as added by section 5107 of Public Law 101-508. Section 5107 specifies certain cases in which our policy on administrative res judicata may not be applied to deny a claimant's subsequent application for benefits under the Social Security or SSI Program. In general, section 5107 provides that an individual's failure to timely request review of an adverse determination (initial or reconsidered) under the Social Security or SSI Program may not be used by us as a basis for a denial of the claimant's subsequent application for benefits under the same program, if the failure to request review was due to certain circumstances specified in the statute.

We are also proposing to amend our regulations to expand and clarify our policy on administrative res judicata and on collateral estoppel.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stan Axel, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7927

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE11

3966. OASDI; NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES, PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY (531P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402(x); 42 USC 405; 42 USC 902

CFR Citation: 20 CFR 404.468

Legal Deadline: None

Abstract: The regulation will implement section 4 of Public Law 103-387 and section 402(b) and (d) of Public Law 106-170, which modify and expand the prisoner nonpayment provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5995

RIN: 0960–AE16

3967. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT ORGANIZATIONS, AND COMMERCIAL ORGANIZATIONS (547F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 7505; 41 USC 403(11)

CFR Citation: 20 CFR 435.000

Legal Deadline: None

Abstract: This final rule will create a new part in the Code of Federal Regulations. The new part will provide standards in the administration of grants and agreements with institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations.

The Social Security Independence and Program Improvements Act of 1994, enacted August 15, 1994, established SSA as an independent agency separate from the Department of Health and Human Services (HHS), effective March 31, 1995. To implement its own set of grants regulations, SSA proposes to codify almost verbatim the text of the Office of Management and Budget (OMB) Circular Number A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." These regulations will establish SSA grants regulations, separate from the HHS regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/27/00	65 FR 24767
NPRM Comment Period End	06/26/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE25

3968. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) (554F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(11); 41 USC 701 et seq

CFR Citation: 20 CFR 436.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 76 into a new SSA regulation at 20 CFR part 436 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE27

3969. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS (555F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(ii)

CFR Citation: 20 CFR 437.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 92 into a new SSA regulation at 20 CFR part 437 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE28

3970. RESTRICTIONS ON LOBBYING IN CONNECTION WITH THE AWARD OF GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS (556F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 20 CFR 438.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 93 into a new SSA regulation at 20 CFR part 438 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE29

3971. ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS (512F)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Section 321(g) of Public Law 103-296 designated 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and the earnings test exempt amounts. The provision is effective for the contribution and benefit base and for the earnings test exempt amount for taxable years ending after 1994. Section 102 of Public Law 104-121, however, established a schedule of earnings test exempt amounts for persons at or above the normal retirement age for 1996 through 2002. Thereafter, the provision calculates the increase in this exempt amount in the same manner as provided by Public Law 103-296, but designates 2002 as the base year.

This final rule reflects changes required by Public Law 106-182. The legislation eliminated the earnings test for persons above the normal retirement age.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5995

RIN: 0960–AE40

3972. SUPPLEMENTAL STANDARDS FOR ETHICAL CONDUCT FOR EMPLOYEES OF THE SOCIAL SECURITY ADMINISTRATION (601P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC APP (Ethics in Government Act of 1978); 5 USC 7301; 5 USC 7353

CFR Citation: 5 CFR ch LXXXI (New)

Legal Deadline: None

Abstract: The Social Security Administration (SSA), with the concurrence of the Office of Government Ethics (OGE), proposes to issue regulations for officers and employees of SSA that supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch, which became effective February 3, 1993. The proposed rule specifies procedural and substantive requirements that are necessary to address ethical issues unique to SSA. There were no alternatives considered for these proposed rules. Any costs or savings will be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stuart M. Besser, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3194

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Phone: 410 966-5995

RIN: 0960–AE48

3973. DEEMING OF INCOME FROM AN INELIGIBLE SPOUSE TO AN ELIGIBLE INDIVIDUAL AND AN ELIGIBLE CHILD (606P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382c(f); 42 USC 1383; 42 USC 1382b; 42 USC 1382j

CFR Citation: 20 CFR 416.1160 (c)(3)(iii); 20 CFR 416.1165 (g)(1); 20 CFR 416.1166

Legal Deadline: None

Abstract: This rule would revise the method used under the SSI program to determine income for a child who lives with both parents where one parent is ineligible for SSI because of income deemed from an ineligible spouse. Instead of deeming any excess income from the ineligible spouse to the child, referred to as "pass-through deeming," we would deem income to the child using the method we use where neither parent files for SSI. Under current rules, "pass-through" deeming has had the unintended effect of deeming more income than would have been deemed if the regular rules for deeming from ineligible parents who do not file for SSI are used.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE50

3974. DEDICATED ACCOUNTS AND INSTALLMENT PAYMENTS FOR CERTAIN PAST DUE SSI BENEFITS (622F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381; 42 USC 1381a; 42 USC 1382(c); 42 USC 1382(e); 42 USC 1383(a) to 1383(d); 42 USC 1383(g)

CFR Citation: 20 CFR 416.545; 20 CFR 416.546; 20 CFR 416.640

Legal Deadline: Final, Statutory, November 22, 1996.

Abstract: These regulations reflect amendments to the Social Security Act made by sections 213 and 221 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 213 requires the establishment of accounts in financial institutions for the payment of past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement exceeding 6 months' benefits to representative payees on behalf of children under age 18. These accounts will be dedicated for certain purposes by restrictions on the use of such past-due benefits.

Section 221 requires past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement which equals or exceeds 12 months' benefits to be paid in installments, with certain exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/96	61 FR 67203
Interim Final Rule Comment Period End	02/18/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE59

3975. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, THE REHABILITATION ACT OF 1973, AND THE AGE DISCRIMINATION ACT OF 1975 IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE BY SSA (617F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 5 USC 301; 20 USC 1405; 21 USC 1174; 29 USC 794; 42 USC 290dd-2; 42 USC 2000d-1; 42 USC 6101

CFR Citation: 20 CFR 431

Legal Deadline: None

Abstract: Prior to March 31, 1995, SSA was an operating component of HHS and the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) based on section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). The SSIPIA established SSA as an independent agency in the Executive Branch of the Federal Government effective March 31, 1995, and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). Under section 106(b) of SSIPIA, HHS regulations in effect immediately prior to March 31, 1995, which relate to functions now vested in the Commissioner by reason of SSA's independence, continue to apply to SSA until such time as they are modified, suspended, terminated or repealed by the Commissioner. SSA is promulgating regulations at 20 CFR part 431, which are based in large measure upon the HHS regulations at 45 CFR parts 80, 81, 84, 85, 90, and 91. These SSA regulations reflect changes necessary to adapt the HHS regulations to SSA procedures. Upon SSA's rules becoming final regulations, the HHS regulations will cease to have application to SSA in accordance with section 106(b) of SSIPIA.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE63

3976. COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS; OFFICE OF MANAGEMENT AND BUDGET (OMB) CONTROL NUMBER (280F)

Priority: Info./Admin./Other

Legal Authority: 42 USC 405; 42 USC 410; 42 USC 418; 42 USC 902(a)(5); 42 USC 418 note

CFR Citation: 20 CFR 404.1215; 20 CFR 404.1242; 20 CFR 404.1243; 20 CFR 404.1247; 20 CFR 404.1249; 20 CFR 404.1251; 20 CFR 404.1265; 20 CFR 404.1203; 20 CFR 404.1204; 20 CFR 404.1214; 20 CFR 404.1216; 20 CFR 404.1220; 20 CFR 404.1225; 20 CFR 404.1237; 20 CFR 404.1239; ...

Legal Deadline: None

Abstract: SSA regulations providing Social Security coverage for the services of employees of State and local governments and interstate instrumentalities were published in the Federal Register on August 29, 1988 (53 FR 32972). Those regulations included sections, which contained information collection and recordkeeping requirements, that were not effective until they were approved by OMB. This document notifies the public that the information collection and recordkeeping requirements were approved by OMB and provides the OMB control number. This document also adds an OMB approval number to section 404.1215.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE69

3977. ENFORCEMENT OF NONDISCRIMINATION IN SOCIAL SECURITY PROGRAMS OR ACTIVITIES (661P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 902(a)(5); 42 USC 1302; PL 103-296

CFR Citation: 20 CFR 431.100; 20 CFR 431.215; 20 CFR 431.220; 20 CFR 431.225; 20 CFR 431.230; 20 CFR 431.235; 20 CFR 431.240; 20 CFR 431.105; 20 CFR 431.110; 20 CFR 431.115; 20 CFR 431.120; 20 CFR 431.125; 20 CFR 431.130; 20 CFR 431.135; 20 CFR 431.140; 20 CFR 431.145; 20 CFR 431.150; 20 CFR 431.160; 20 CFR 431.200; 20 CFR 431.205; 20 CFR 431.210

Legal Deadline: None

Abstract: These proposed regulations are intended to ensure that individuals are not subjected to discrimination on the basis of disability, race, color, national origin, sex, age, or religion in any program or activity conducted by SSA.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE78

3978. TECHNICAL CHANGES TO TITLE XVI (664F)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805(d)

CFR Citation: 20 CFR 416.1236; 20 CFR 416, subpart K, app

Legal Deadline: None

Abstract: We are amending the SSI regulations by making technical changes to our rules on income and resources. These technical changes update lists of exclusions from income and resources under the SSI program that are based on statutes other than the Social Security Act and make additional technical changes.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Eric Ice, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-3233

RIN: 0960–AE79

3979. PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION (711P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 42 USC 1306(a); 42 USC 902(a)(5)

CFR Citation: 20 CFR 401.30; 20 CFR 401.45; 20 CFR 401.55; 20 CFR 401.150; 20 CFR 401.180

Legal Deadline: None

Abstract: We propose to revise our privacy and disclosure rules to describe the role and function of the Privacy Officer; describe safeguards against inappropriate disclosure of personal information by electronic means (e.g., through the Internet); revise our special procedures on access to medical records; permit disclosures to certain government agencies for various administrative purposes related to income-maintenance and health-maintenance programs; permit disclosures of Social Security number information to Government agencies under specific circumstances; and clarify our rules on disclosure under legal process from courts.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Tom Price, Social Insurance Specialist, Social Security Administration, Office of Disclosure Policy, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-6011

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE88

3980. ASSIGNMENT OF SOCIAL SECURITY ADMINISTRATION NUMBERS (SSN) FOR NONWORK PURPOSES (751P)

Priority: Other Significant

Legal Authority: 42 USC 405; 42 USC 432; 42 USC 902(a)(5); 42 USC 1320b-1; 42 USC 1320b-13

CFR Citation: 20 CFR 422.104

Legal Deadline: None

Abstract: SSA published an advanced notice of proposed rulemaking regarding when we will assign an SSN to an alien who is legally in the United States (U.S.) but not under authority of law permitting him or her to work in the U.S. We are considering a proposal to assign an SSN to an alien who is legally in the U.S. but does not have authorization to work only if there is a Federal statute or regulation that requires the alien to furnish an SSN to receive a federally-funded benefit or service. Under such a proposal, we would no longer assign an SSN to an alien if the alien's sole reason for applying for the SSN is to satisfy a State or local statute or regulation that requires an individual to furnish an SSN in order to receive a benefit or service. The intent of such a proposed change would be to reduce the possibility of fraud through misuse of SSNs. We are still evaluating the public comments received.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/99	64 FR 55217
ANPRM Comment Period End	12/13/99	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Nancy Grace, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7911

Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-9822

RIN: 0960–AF05

3981. CHANGE IN RETIREMENT AGE (775F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 415; 42 USC 416; 42 USC 422(b); 42 USC 423; 42 USC 424a; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.201; 20 CFR 404.277; 20 CFR 404.304; 20 CFR 404.310; 20 CFR 404.311; 20 CFR 404.312; 20 CFR 404.313; 20 CFR 404.317; 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337; 20 CFR 404.338; 20 CFR 404.352; 20 CFR 404.409; 20 CFR 404.410; 20 CFR 404.411; 20 CFR 404.412; 20 CFR 404.413; 20 CFR 404.421; 20 CFR 404.621; 20 CFR 404.623; 20 CFR 404.762

Legal Deadline: None

Abstract: These final rules amend our regulations to reflect section 201 of Public Law 98-21, the Social Security amendments of 1983. Section 201 increases the retirement age for unreduced old-age, wife or husband and widow or widower benefits from age 65 to 67.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AF16

3982. FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE; SUPPLEMENTAL SECURITY INCOME; DETERMINING DISABILITY AND BLINDNESS; REVISIONS TO THE GROWTH IMPAIRMENT LISTINGS (758P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 404.1505; 20 CFR 404.1520; 20 CFR 404.1525; 20 CFR 404.1526; 20 CFR 416.905; 20 CFR 416.906; 20 CFR 416.920; 20 CFR 416.924; 20 CFR 416.925; 20 CFR 416.926; 20 CFR 416.926a

Legal Deadline: None

Abstract: This document ask experts on growth impairments in children, and other interested members of the public, for comments on whether and how we should revise the growth impairment listings in our "Listing of Impairments," in appendix 1 to subpart P of 20 CFR part 404 (the listings). The growth impairment listings contain the medical criteria we use to evaluate disability claims for children with linear growth impairments at the third step of our sequential evaluation of disability for children.

Timetable:

Action	Date	FR Cite
Notice of Intent	06/14/00	65 FR 37321
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Regina Connell, Social Insurance Specialist, Social Security Administration, Office of Disability, 3-A-9 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1891

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Phone: 410 965-1769

RIN: 0960–AF18

3983. EFFECTS OF BEING CONSIDERED A CHILD (793P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1382c(f)(1)

CFR Citation: 20 CFR 416.1851

Legal Deadline: None

Abstract: These proposed rules will restore nationwide uniformity on deeming of income and resources from a stepparent to an SSI eligible child. This action is being taken as a result of the decision in Florez on behalf of Wallace v. Callahan 156F.3d 438 (2d. Cir. 1998). A stepparent's income and resources will not be deemed to a child when the natural parent does not live in the same household as the stepparent and the child.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
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Phone: 410 965-9835

RIN: 0960–AF24

3984. GENITO-URINARY MEDICAL LISTING (802P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404, subpart P, app 1

Legal Deadline: None

Abstract: We propose to revise the criteria in the Listing of Impairments (the Listings) that we use to evaluate genito-urinary impairments. We apply these criteria at step three of our sequential evaluation processes for adults and children who claim Social Security or Supplemental Security Income benefits based on disability under title II and title XVI of the Social Security Act. The revisions reflect advances in medical knowledge, treatment, and methods of evaluating digestgenito-urinary impairments.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AF30

3985. FILING CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES CLAIMS ACT (785P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3721

CFR Citation: 20 CFR 429.101 to 429.110; 20 CFR 429.201 to 429.211

Legal Deadline: None

Abstract: We propose to establish a new subpart B in part 429 that would prescribe the procedures SSA follows when claims are filed by employees against SSA for personal property damage or loss incident to their service with SSA. We also propose to make corrections and clarifications to our current procedures and practices on claims against the government for damage to or loss of property or personal injury or death that is caused by the negligent or wrongful act or omission of an SSA employee.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jonathan R. Cantor, General Attorney, Social Security Administration, General Law Division, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3166

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AF39

3986. EXCLUSION OF REPRESENTATIVES AND HEALTH CARE PROVIDERS CONVICTED OF VIOLATIONS FROM PARTICIPATION IN SOCIAL SECURITY DISABILITY PROGRAMS (820F)

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-169

CFR Citation: 20 CFR 498.105; 20 CFR 498.108; 20 CFR 498.110; 20 CFR 498.129; 20 CFR 498.201; 20 CFR 498.202; 20 CFR 498.215

Legal Deadline: None

Abstract: This final rule would bar representatives and health care providers from participating in the Social Security disability programs if they are determined to have committed fraud. The bar would be 5 years, 10 years, and permanent exclusion for the first, second, and third offenses respectively.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Judy Ringle, Social Insurance Specialist, Social Security Administration, Office of the Inspector General, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-6906

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AF46

SOCIAL SECURITY ADMINISTRATION (SSA) Completed Actions

3987. TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS (732F)

Priority: Info./Admin./Other

CFR Citation: 20 CFR 403

Completed:

Reason	Date	FR Cite
Final Action	01/12/01	66 FR 2805
Final Action Effective	02/12/01	66 FR 9763
Date Postponed		
Final Action Effective	04/13/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Brad Howard
Phone: 410 966-1817

Suzanne DiMarino
Phone: 410 965-1769

RIN: 0960–AE95

3988. OASDI, AND SSI FOR THE AGED, BLIND AND DISABLED; SUBSTANTIAL GAINFUL ACTIVITY AMOUNTS; "SERVICES" FOR TRIAL WORK PERIOD PURPOSES—MONTHLY AMOUNTS; STUDENT-EARNED INCOME EXCLUSION (777F)

Priority: Other Significant

CFR Citation: 20 CFR 404.1574; 20 CFR 404.1592; 20 CFR 416.974; 20 CFR 1112

Completed:

Reason	Date	FR Cite
Final Action	12/29/00	65 FR 82905
Final Action Effective	01/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine
Phone: 410 966-5121

Ray Marzoli
Phone: 410 965-9826

RIN: 0960–AF12

[FR Doc. 01–5931 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part XLVI

Tennessee Valley Authority

Semiannual Regulatory Agenda

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Semiannual regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates few regulations. TVA has previously submitted a proposed regulation which would revise the requirements applicable to the construction and maintenance of obstructions in the Tennessee River system and codify policies related to management of shoreline land under the jurisdiction of TVA and, together with other Federal agencies, proposed regulations implementing title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1972, and the Age Discrimination Act of 1975 related to the definitions of "program or activity" and "program." TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order 12866.

FOR FURTHER INFORMATION CONTACT: For further information, please contact the persons listed.

Maureen H. Dunn,

General Counsel.

Tennessee Valley Authority—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3989	Approval of Construction and Regulation of Structures in the Tennessee River System and Shoreline Management	3316-AA19
3990	Nondiscrimination in Federally Assisted Programs of TVA— Effectuation of Title VI of the Civil Rights Act of 1964	3316-AA20

TENNESSEE VALLEY AUTHORITY (TVA) — Long-Term Actions

3989. APPROVAL OF CONSTRUCTION AND REGULATION OF STRUCTURES IN THE TENNESSEE RIVER SYSTEM AND SHORELINE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 831 to 831dd

CFR Citation: 18 CFR 1304 (Revision)

Legal Deadline: None

Abstract: This action revises the requirements applicable to construction and maintenance of obstructions in the Tennessee River System to better describe the types of facilities that would be considered for approval. It also would codify policies related to management of certain shoreline lands under the jurisdiction, custody, and control of TVA.

Timetable:

Action	Date	FR Cite
NPRM	09/20/00	65 FR 56821
NPRM Comment Period End	11/20/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert L. Curtis, Specialist-Land Policy, Resource Stewardship, Tennessee Valley Authority, P.O. Box 1589, 17 Ridgeway Road, Norris, TN 37828
Phone: 865 632-1552

RIN: 3316–AA19

3990. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF TVA— EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250

CFR Citation: 18 CFR 1302; 18 CFR 1307; 18 CFR 1309

Legal Deadline: None

Abstract: The Department of Justice proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicity incorporates the CRRA's definition of "program or activity" and "program" into the Department's title VI, section 504, and Age Discrimination Act regulations. The Department's proposed regulation will be published as part of a joint Notice of Proposed Rulemaking involving up to 24 Federal agencies, including TVA.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Franklin E. Alford, Manager, Supplier and Diverse Business Relations, Tennessee Valley Authority, 1101 Market Street, WR3J, Chattanooga, TN 37402
Phone: 423 751-7203

RIN: 3316–AA20

[FR Doc. 01–5202 Filed 05–11–01; 8:45 am]

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Federal Register

Monday,
May 14, 2001

Part XLVII

Department of Defense General Services Administration National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Federal Acquisition Regulation (FAR) Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte, FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR website at http://www.arnet.gov/FAR.

Dated: March 9, 2001.

Al Matera,

Acting Director, Federal Acquisition Policy Division.

DOD/GSA/NASA (FAR)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3991	FAR Case 2001-014, Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings—Revocation	9000-AJ10

DOD/GSA/NASA (FAR)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3992	FAR Case 95-013, Government Property	9000-AH60
3993	FAR Case 99-010, Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings	9000-AI40

DOD/GSA/NASA (FAR)—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3994	FAR Case 89-093, Implementation of the Anti-Lobbying Statute	9000-AD76
3995	FAR Case 91-078, Small Business Subcontracting Reporting	9000-AG04
3996	FAR Case 94-753, Travel Costs	9000-AG27
3997	FAR Case 97-032, Relocation Costs	9000-AH96
3998	FAR Case 97-304, Electronic Commerce in Federal Procurement	9000-AI10
3999	FAR Case 98-614, Veterans' Employment	9000-AI46
4000	FAR Case 97-613, Application of the Davis-Bacon Act to Construction Contracts With Options To Extend the Term of the Contract	9000-AI47
4001	FAR Case 98-024, Procurement Integrity Rewrite	9000-AI61
4002	FAR Case 99-022, Discussion Requirements	9000-AI68
4003	FAR Case 99-025, Cost Accounting Standards Administration	9000-AI70
4004	FAR Case 99-011, Energy Efficiency of Supplies and Services	9000-AI71
4005	FAR Case 2000-604, North American Industry Classification System (NAICS)	9000-AI75
4006	FAR Case 2000-402, Definitions for "Contract Action" and "Contracting Action"	9000-AI76

FAR

DOD/GSA/NASA (FAR)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4007	FAR Case 2000-404, Definitions for Classified Acquisitions	9000-AI81
4008	FAR Case 99-017, JWOD Subcontract Preference Under Service Contracts	9000-AI82
4009	FAR Case 2000-403, Definitions for Sealed Bid and Negotiated Procurements	9000-AI84
4010	FAR Case 99-026, Final Contract Voucher Submission	9000-AI86
4011	FAR Case 2000-303, Acquisition of Commercial Items	9000-AI88
4012	FAR Case 99-023, Prompt Payment and the Recovery of Overpayment	9000-AI89
4013	FAR Case 99-616, Balance of Payments Program	9000-AI90
4014	FAR Case 2000-401, Definitions of "Applied Research" and "Development"	9000-AI91
4015	FAR Case 2000-007, Financing Policies	9000-AI92
4016	FAR Case 2000-302,Veterans Entrepreneurship and Small Business Development Act of 1999	9000-AI93
4017	FAR Case 2000-304, Electronic Signatures	9000-AI94
4018	FAR Case 99-612, Application of Labor Clauses	9000-AI95
4019	FAR Case 99-024, Preference for U.S.-Flag Vessels	9000-AI97
4020	FAR Case 2000-014, Signing and Retention of High-Technology Workers	9000-AJ00
4021	FAR Case 99-614, Federal Supply Schedule Order Disputes and Incidental Items	9000-AJ01
4022	FAR Case 2000-013, Contract Types for Commercial Item Acquisitions	9000-AJ03
4023	FAR Case 2000-008, Acquisition of Helium	9000-AJ09

DOD/GSA/NASA (FAR)—Completed Actions

Sequence Number	Title	Regulation Identification Number
4024	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act	9000-AH25
4025	FAR Case 96-023, Clause Flowdown-Commercial Items	9000-AH69
4026	FAR Case 98-304, Commercial Items-Nongovernmental Purposes	9000-AI41
4027	FAR Case 99-608, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor	9000-AI51
4028	FAR Case 99-607, Electronic and Information Technology Accessibility	9000-AI69
4029	FAR Case 99-303, Task Order and Delivery Order Contracts	9000-AI72
4030	FAR Case 99-016, Advance Payments for Non-Commercial Items	9000-AI74
4031	FAR Case 2000-301, Applicability, Thresholds and Waiver of Cost Accounting Standards Coverage	9000-AI79
4032	FAR Case 98-020, Hazardous Material Safety Data	9000-AI87
4033	FAR Case 99-021, Part 12 and Assignment of Claims	9000-AJ05
4034	FAR Case 1999-403, Definitions	9000-AJ08

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

3991. • FAR CASE 2001-014, CONTRACTOR RESPONSIBILITY, LABOR RELATIONS COSTS, AND COSTS RELATING TO LEGAL AND OTHER PROCEEDINGS—REVOCATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 14; 48 CFR 15; 48 CFR 31; 48 CFR 52

Legal Deadline: None

Abstract: The Federal Acquisition Regulations Council (FAR Council) published in the Federal Register at 65 FR 80255, December 20, 2000, a final rule addressing contractor responsibility and costs incurred in legal and other proceedings. The FAR Council is reconsidering its position and requests public comments on this proposed rule revoking the December 20, 2000, final rule. In an interim FAR rule (under FAR Case 1999-010, Contractor Responsibility, Labor Relations Cost, and Costs Relating to Legal and Other Proceedings, that is being published today) the FAR Council is staying the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/03/01	66 FR 17758
NPRM Comment Period End	06/04/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

FAR — Proposed Rule Stage

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AJ10

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

3992. FAR CASE 95-013, GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: The rule amends the Federal Acquisition Regulation (FAR) to simplify procedures, reduce recordkeeping, and eliminate requirements related to the management and disposition of Government property in the possession of contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 30186
NPRM Comment Period End	08/15/97	
NPRM	01/10/00	65 FR 1438
NPRM Comment Period End	03/10/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
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Email: laurie.duarte@gsa.gov

RIN: 9000–AH60

3993. FAR CASE 99-010, CONTRACTOR RESPONSIBILITY, LABOR RELATIONS COSTS, AND COSTS RELATING TO LEGAL AND OTHER PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9.104-1; 48 CFR 14.404-2; 48 CFR 15.503; 48 CFR 31.205-21; 48 CFR 31.205-47; 48 CFR 52.209-5; 48 CFR 52.212-3

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify coverage and give examples of suitable contractor responsibility considerations. The rule also makes unallowable the costs of attempting to influence employee decisions regarding unionization. In addition, the rule makes unallowable those legal expenses related to defense of judicial or administrative proceedings brought by the Federal Government when a contractor is found to have violated a law or regulation, or the proceeding is settled by consent or compromise, except to the extent specifically provided as part of the settlement agreement. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37360
NPRM Comment Period End	11/08/99	
NPRM	05/30/00	65 FR 40830
NPRM Comment Period End	08/29/00	
Final Rule	12/20/00	65 FR 80256
Final Rule Effective	01/19/01	
Interim Final Rule (Stay of Final Rule)	04/03/01	66 FR 17754
Interim Final Rule Effective	04/03/01	
Interim Final Rule Comment Period End	06/04/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AI40

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

3994. FAR CASE 89-093, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-121, sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 319 of Public Law 101-121, which added a new section 1352 to title 31 U.S.C. entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AD76

3995. FAR CASE 91-078, SMALL BUSINESS SUBCONTRACTING REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 53.219

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend FAR 53.219 to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49037
NPRM Comment Period End	11/25/94	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
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RIN: 9000–AG04

3996. FAR CASE 94-753, TRAVEL COSTS

Priority: Other Significant

Legal Authority: PL 103-355

CFR Citation: 48 CFR 31.205-46

Legal Deadline: Final, Statutory, October 1, 1995, The Federal Acquisition Streamlining Act eliminated the statutory requirement to the travel cost principle concerning the Federal Travel Regulations. No regulatory implementation was required.

Abstract: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 U.S.C. 22 by section 2191 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64542
NPRM Comment Period End	02/13/95	
NPRM	05/20/99	64 FR 27654
NPRM Comment Period End	07/19/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AG27

3997. FAR CASE 97-032, RELOCATION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove

the ceilings imposed on certain types of relocation costs; to permit reimbursement of relocation costs on an appropriate lump-sum basis; and to make allowable payments for spouse employment assistance and payments for increase employee income and social security taxes incident to allowable reimbursed relocation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and this is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/25/99	64 FR 28330
NPRM Comment Period End	07/26/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AH96

3998. FAR CASE 97-304, ELECTRONIC COMMERCE IN FEDERAL PROCUREMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 850

CFR Citation: 48 CFR 2; 48 CFR 4; 48 CFR 5; 48 CFR 12; 48 CFR 13; 48 CFR 14; 48 CFR 19; 48 CFR 22; 48 CFR 34; 48 CFR 35; 48 CFR 36

Legal Deadline: Final, Statutory, May 16, 1998.

Abstract: This rule amends the Federal Acquisition Regulation to implement section 850 of the National Defense Act for FY 1998 (Pub. L. 105-85) to eliminate the preference for electronic commerce within Federal Acquisition Computer Network. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/98	63 FR 58590
Interim Final Rule Effective	10/30/98	
Interim Final Rule Comment Period End	12/29/98	
NPRM	08/21/00	65 FR 50872
NPRM Comment Period End	10/20/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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Email: laurie.duarte@gsa.gov

RIN: 9000–AI10

3999. FAR CASE 98-614, VETERANS' EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 13; 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement sections 7 and 8 of the Veterans Employment Opportunities Act of 1998 (Pub. L. 105-339). Section 7 expands and improves veterans' employment emphasis under Federal contracts. Section 8 amends the veterans' employment reporting requirements. This rule also implements the Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP) final rule amending 41 CFR part 60-250, Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Veterans of the Vietnam Era, which clarifies DOL implementation of the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/03/99	64 FR 67992
NPRM Comment Period End	02/01/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI46

4000. FAR CASE 97-613, APPLICATION OF THE DAVIS-BACON ACT TO CONSTRUCTION CONTRACTS WITH OPTIONS TO EXTEND THE TERM OF THE CONTRACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1; 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement the requirement of Department of Labor (DOL) All Agency Memorandum No. 157 (AAM 157), as clarified in the Federal Register on November 20, 1998. The rule requires incorporation of the current Davis-Bacon Act wage determination at the exercise of each option period in construction contracts. This regulatory action was not subject to Office of Management and Budget review under

Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/03/99	64 FR 67986
NPRM Comment Period End	02/01/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI47

4001. FAR CASE 98-024, PROCUREMENT INTEGRITY REWRITE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 3; 48 CFR 4; 48 CFR 9; 48 CFR 15; 48 CFR 52; ...

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to rewrite in plain language and clarify guidance regarding procurement integrity in A-76 procurements. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C 804.

Timetable:

Action	Date	FR Cite
NPRM	03/29/00	65 FR 16758
NPRM Comment Period End	05/30/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI68

4002. FAR CASE 99-022, DISCUSSION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify the scope of discussions in competitive negotiated acquisitions. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	04/03/00	65 FR 17582
NPRM Comment Period End	06/02/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI61

4003. FAR CASE 99-025, COST ACCOUNTING STANDARDS ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to delineate the process for determining and resolving the cost impact on contracts and subcontracts when a contractor makes a compliant change to a cost accounting practice or follows a noncompliant practice. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	04/18/00	65 FR 20854
NPRM Comment Period End	06/19/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI70

4004. FAR CASE 99-011, ENERGY EFFICIENCY OF SUPPLIES AND SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 11; 48 CFR 15; 48 CFR 23; 48 CFR 42

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.)

13123 of June 3, 1999, Greening the Government through Efficient Energy Management. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/10/00	65 FR 30310
NPRM Comment Period End	07/10/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI71

4005. FAR CASE 2000-604, NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5; 48 CFR 19; 48 CFR 23; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to convert size standards and other programs in the FAR based on the Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/00	65 FR 46055
Interim Final Rule Comment Period End	09/25/00	
Interim Final Rule Effective	10/01/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI75

4006. FAR CASE 2000-402, DEFINITIONS FOR "CONTRACT ACTION" AND "CONTRACTING ACTION"

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1; 48 CFR 5; 48 CFR 8; 48 CFR 17; 48 CFR 19; 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide for consistent use of the term "contract action." This case is one of a series of cases that implement the White House memorandum, Plain Language in Government Writing, dated June 1, 1999. This regulatory action was not subject to review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/31/00	65 FR 34894
NPRM Comment Period End	07/31/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI76

4007. FAR CASE 2000-404, DEFINITIONS FOR CLASSIFIED ACQUISITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 4; 48 CFR 14; 48 CFR 32

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide consistent definitions for classified acquisitions. This case is one of a series of cases in response to the White House memorandum, Plain Language in Government Writing, dated June 1, 1999. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866 and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/28/00	65 FR 46558
NPRM Comment Period End	09/26/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI81

4008. FAR CASE 99-017, JWOD SUBCONTRACT PREFERENCE UNDER SERVICE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 44; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement changes relating to preferences for award of subcontracts under service contracts to nonprofit workshops designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (Javits-Wagner-O'Day (JWOD) (41 U.S.C. 48)). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866 and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/03/00	65 FR 41266
NPRM Comment Period End	09/01/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI82

4009. FAR CASE 2000-403, DEFINITIONS FOR SEALED BID AND NEGOTIATED PROCUREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 3; 48 CFR 14; 48 CFR 15; 48 CFR 28; 48 CFR 35; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide consistent definitions for sealed bids and negotiated procurements. This case is one of a series of cases in response to the White House memorandum, Plain Language in Government Writing, dated June 1, 1999. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/11/00	65 FR 42852
NPRM Comment Period End	09/11/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI84

4010. FAR CASE 99-026, FINAL CONTRACT VOUCHER SUBMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to explicitly state the right of the contracting officer to unilaterally determine the final contract payment amount when the contractor does not submit the final invoice or voucher within the time specified in the contract. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/27/00	65 FR 46332
NPRM Comment Period End	09/25/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI86

4011. FAR CASE 2000-303, ACQUISITION OF COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 12; 48 CFR 46; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation to implement two statutory changes relevant to the definition of "Commercial Items": (1) Section 803(a)(2)(D) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 to revise the definition of "commercial item" to provide specific guidance on the meaning and appropriate application of the term "purposes other than Government purposes" at 41 U.S.C. 403(12)(A) and (2) section 805 of the National Defense Authorization Act for Fiscal Year 2000 to clarify the definition of "commercial item" with respect to associated services. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/28/00	65 FR 52284
NPRM Comment Period End	10/27/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI88

4012. FAR CASE 99-023, PROMPT PAYMENT AND THE RECOVERY OF OVERPAYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486 (c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to reflect changes made to the Office of Management and Budget prompt payment regulations; simplify and clarify the prompt payment coverage currently in the FAR; require the contractor to notify the contracting officer if the contractor becomes aware of an overpayment; and write all new and revised text using plain language in accordance with the White House memorandum, Plain Language in Government Writing, dated June 1, 1998. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/28/00	65 FR 52243
NPRM Comment Period End	10/27/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI89

4013. FAR CASE 99-616, BALANCE OF PAYMENTS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 13; 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove subpart 25.3, Balance of Payments Program. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/11/00	65 FR 54936
NPRM Comment Period End	11/13/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI90

4014. FAR CASE 2000-401, DEFINITIONS OF "APPLIED RESEARCH" AND "DEVELOPMENT"

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 31; 48 CFR 35

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to move the definitions of "Applied Research" and "Development" from separate areas of the FAR into the same FAR section pertaining to definitions. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/11/00	65 FR 54940
NPRM Comment Period End	11/13/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI91

4015. FAR CASE 2000-007, FINANCING POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to permit the use of performance-based payments type of financing on fixed-price contracts prior to definitization and to establish a standard time period of 30 days that contractors have to pay their vendors after the contractors have billed the Government for incurred vendor costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	09/18/00	65 FR 56454
NPRM Comment Period End	11/17/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI92

4016. FAR CASE 2000-302,VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c); PL 106-50

CFR Citation: 48 CFR 2; 48 CFR 4; 48 CFR 5; 48 CFR 7; 48 CFR 19; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement portions of the Veterans Entrepeneurship and Small Business Development Act of 1999 (Pub. L. 106-50). The Act established new assistance programs for veterans and service-disabled veterans who own and operate small businesses. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/11/00	65 FR 60542
Interim Final Rule Effective	10/11/00	
Interim Final Rule Comment Period End	12/11/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AI93

4017. • FAR CASE 2000-304, ELECTRONIC SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 4

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify and encourage the use of electronic signatures in Federal procurement. This regulatory action was not subject to review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	11/01/00	65 FR 65698
NPRM Comment Period End	01/02/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI94

4018. • FAR CASE 99-612, APPLICATION OF LABOR CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) by amending the clause, Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items), to include the Prohibition of Segregated Facilities clause and to clarify the application of labor clauses below the simplified acquisition threshold and to amend the Equal Opportunity clause to incorporate the exception for work performed outside the United States. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	10/26/00	65 FR 64298
NPRM Comment Period End	12/26/00	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AI95

4019. • FAR CASE 99-024, PREFERENCE FOR U.S.-FLAG VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 2; 48 CFR 12; 48 CFR 32; 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) regarding the applicability of statutory requirements for use of U.S.-flag vessels in the transportation of supplies by sea. The FAR presently waives these requirements for subcontracts for the acquisition of commercial items. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	11/07/00	65 FR 66920
NPRM Comment Period End	01/08/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AI97

4020. • FAR CASE 2000-014, SIGNING AND RETENTION OF HIGH-TECHNOLOGY WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to explicitly make allowable signing and retention bonuses that defense contractors often must offer in order to recruit and retain workers that have critical technical skills. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	12/28/00	65 FR 82876
NPRM Comment Period End	02/26/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AJ00

4021. • FAR CASE 99-614, FEDERAL SUPPLY SCHEDULE ORDER DISPUTES AND INCIDENTAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 51

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to add policies on disputes and incidental items under Federal Supply Schedule contracts and to remove the requirement to notify the General Services Administration when a schedule contractor refuses to honor an order placed by a Government contractor. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/29/00	65 FR 79702
NPRM Comment Period End	02/20/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AJ01

4022. • FAR CASE 2000-013, CONTRACT TYPES FOR COMMERCIAL ITEM ACQUISITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 16

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide clarification on what contract types are authorized for commercial item acquisitions. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	12/29/00	65 FR 83292
NPRM Comment Period End	02/27/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ03

4023. • FAR CASE 2000-008, ACQUISITION OF HELIUM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation to implement the Helium Privatization Act of 1996 (Pub. L. 104-273) and associated changes to the U.S. Department of the Interior's regulations regarding its helium program. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/11/01	66 FR 2752
NPRM Comment Period End	03/12/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
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RIN: 9000–AJ09

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

4024. FAR CASE 96-308, IMPLEMENTATION OF COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM ACQUISITION PROVISIONS OF THE FEDERAL ACQUISITION REFORM ACT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 2.101; 48 CFR 52.212-4; 48 CFR 52.212-00; 48 CFR 3.104-10(c); 48 CFR 3.503; 48 CFR 12.301; 48 CFR 12.7; 48 CFR 15.106-1; 48 CFR 19.508; 48 CFR 25.605; 48 CFR 27.409

Completed:

Reason	Date	FR Cite
Withdrawn	09/14/00	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

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RIN: 9000–AH25

4025. FAR CASE 96-023, CLAUSE FLOWDOWN-COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 52.244-6

Completed:

Reason	Date	FR Cite
Final Action	01/10/01	66 FR 2140
Final Action Effective	05/11/01	66 FR 14260

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 9000–AH69

4026. FAR CASE 98-304, COMMERCIAL ITEMS-NONGOVERNMENTAL PURPOSES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 2; 48 CFR 52

Completed:

Reason	Date	FR Cite
Withdrawn	07/31/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
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RIN: 9000–AI41

4027. FAR CASE 99-608, PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 22; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	01/18/01	66 FR 5346
Final Action Effective	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
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RIN: 9000–AI51

4028. FAR CASE 99-607, ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 48 CFR 2; 48 CFR 7; 48 CFR 10; 48 CFR 11; 48 CFR 12; 48 CFR 39

Completed:

Reason	Date	FR Cite
NPRM	01/22/01	66 FR 7166

Reason	Date	FR Cite
Final Action	04/25/01	66 FR 20894
Final Action Effective	06/25/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 9000–AI69

4029. FAR CASE 98-303, TASK ORDER AND DELIVERY ORDER CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 2; 48 CFR 16

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 9000–AI72

4030. FAR CASE 99-016, ADVANCE PAYMENTS FOR NON-COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 32; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	01/10/01	66 FR 2137
Final Action Effective	05/11/01	66 FR 14260

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 9000–AI74

4031. FAR CASE 2000-301, APPLICABILITY, THRESHOLDS AND WAIVER OF COST ACCOUNTING STANDARDS COVERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 30; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	01/10/01	66 FR 2136
Final Action Effective	03/12/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
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RIN: 9000–AI79

4032. FAR CASE 98-020, HAZARDOUS MATERIAL SAFETY DATA

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 23; 48 CFR 52

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
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RIN: 9000–AI87

4033. • FAR CASE 99-021, PART 12 AND ASSIGNMENT OF CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to add, in the contract clause addressing terms and conditions for commercial items, the prohibition for a contractor to assign its rights to receive payment in accordance with the Assignment of Claims Act (31 U.S.C. 3727) when a third party makes payment under the contract (e.g., use of the Governmentwide commercial purchase card). This prohibition is currently in the contract clause addressing terms and conditions required to implement statutes or Executive orders for commercial items. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	01/10/01	66 FR 2139
Final Action Effective	05/11/01	66 FR 14260

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AJ05

4034. • FAR CASE 1999-403, DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1; 48 CFR 2; 48 CFR 3; 48 CFR 4; 48 CFR 5; 48 CFR 6; 48 CFR 7; 48 CFR 8; 48 CFR 9; 48 CFR 11; 48 CFR 13; 48 CFR 14; 48 CFR 15; ...

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify the applicability of definitions used in the FAR, eliminate redundant or conflicting definitions, and make definitions easier to find. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	01/10/01	66 FR 2117
Final Action Effective	05/11/01	66 FR 14260

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AJ08

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Monday,
May 14, 2001

Part XLVIII

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Webster Black, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5130, bblack@cftc.gov.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda that shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in paragraph (1). 5 U.S.C. 602(a).

The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda." Pursuant to the request of Andrew H. Card, Jr., Assistant to the President and Chief of Staff, in his January 20, 2001 memorandum, the Commission has decided that it will issue no final or proposed rules not mandated by Congress until an agency head appointed by the President after noon on January 20, 2001 reviews and approves the regulatory action, or until further guidance is received from the Administration.

The Commission's April 2001 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on February 28, 2001 by the Commission.

Jean A. Webb,

Secretary of the Commission.

Commodity Futures Trading Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4035	Denomination of Customer Funds and Location of Depositories	3038-AB31
4036	New Regulatory Framework for Trading Facilities, Intermediaries, and Clearing Organizations	3038-AB63
4037	Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers	3038-AB64
4038	Rules Relating to Intermediaries of Commodity Interest Transactions	3038-AB65
4039	A New Regulatory Framework for Clearing Organizations	3038-AB66
4040	Opting Out of Segregation by Eligible Contract Participants in Connection with Derivatives Transaction Execution Facility Transactions	3038-AB67
4041	CFTC Conformance with Title V Privacy Provisions of the Gramm-Leach-Bliley Act for Federal Functional Regulators	3038-AB68
4042	Regulation of Hybrid Instruments	3038-AB69
4043	Use of Broker-Dealers, Depository Institutions, and Farm Crediting System Institutions as Intermediaries on Derivatives Transaction Execution Facilities	3038-AB70
4044	Margin Requirements for Security Futures Products	3038-AB71
4045	Exemption From Compliance With the Listing Standards for Security Futures Products	3038-AB72
4046	Authority To Modify Security Futures Product Listing Standards	3038-AB73
4047	Compliance Date for Security Futures Products To Be Cleared by a Clearing Agency That Has Linked and Coordinated Clearing With Other Clearing Agencies	3038-AB74

[1] The Commission published its definition of small entity to be used in connection with rulemaking proceedings on April 30, 1982 (47 FR 18618). Pursuant to that definition, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. See 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, the listing of a rule in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations. In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory which lists rules that the Commission is considering or will consider in the near future.

CFTC

Commodity Futures Trading Commission—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4048	Offering and Selling Security Futures Products Traded on Foreign Boards of Trade to United States Persons	3038-AB75
4049	Avoidance of Duplicative or Conflicting Regulations Applicable to Dual Registrants	3038-AB76
4050	Determination of Market Capitalization and the Dollar Value of Average Daily Trading Volume for Narrow-Based and Broad-Based Security Indices	3038-AB77
4051	Requirements for Foreign Stock Index Contracts To Qualify as Non-Narrow-Based Indices	3038-AB78
4052	Special Procedures To Encourage and Facilitate Bona Fide Hedging by Agricultural Producers	3038-AB79
4053	Procedures for Exempting Brokers or Dealers From the Commodity Exchange Act	3038-AB81
4054	Procedures for Exempting Boards of Trade and Designated Contract Markets From the Commodity Exchange Act	3038-AB82
4055	Prohibition Against Dual Trading	3038-AB83

Commodity Futures Trading Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4056	Performance Disclosures for Commodity Trading Advisors and Commodity Pool Operators	3038-AB39
4057	Registration Exemptions Pertaining to the Offer and Sale of Foreign Futures and Foreign Options Contracts to Customers Located in the United States	3038-AB45
4058	Segregated Account; Daily Computation and Record	3038-AB52

Commodity Futures Trading Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4059	Public Reporting by Operators of Certain Large Commodity Pools—Regulations 4.7, 4.12, and 4.27	3038-AB40
4060	Trade Options on Enumerated Agricultural Commodities	3038-AB61

Commodity Futures Trading Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4061	Market Rule Review Procedures	3038-AB44
4062	Revision of Commission's Procedure for the Review of Contract Market Rules	3038-AB50
4063	Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers	3038-AB54
4064	New Regulatory Framework for Multilateral Transaction Execution Facilities, Intermediaries, and Clearing Organizations	3038-AB55
4065	Rules Relating to Intermediaries of Commodity Interest Transactions	3038-AB56
4066	New Regulatory Framework for Clearing Organizations	3038-AB57
4067	Exemption for Bilateral Transactions	3038-AB58

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

4035. DENOMINATION OF CUSTOMER FUNDS AND LOCATION OF DEPOSITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 2a; 7 USC 4; 7 USC 4a; 7 USC 6; 7 USC 6a to 6h; 7 USC 6l

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is proposing rules requesting public comment on how to address the risks relating to holding segregated funds offshore or in foreign currencies.

Timetable:

Action	Date	FR Cite
Concept Release	12/30/97	62 FR 67841
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB31

4036. • NEW REGULATORY FRAMEWORK FOR TRADING FACILITIES, INTERMEDIARIES, AND CLEARING ORGANIZATIONS

Priority: Other Significant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 2a; 7 USC 4; 7 USC 4a; 7 USC 5; 7 USC 6; 7 USC 6a-6p; 7 USC 7; 7 USC 7a-b; 7 USC 8; 7 USC 9; 7 USC 12; 7 USC 12a; 7 USC 12c; 7 USC 13a; 7 USC 13a-1; 7 USC 16; 7 USC 16a; 7 USC 19; 7 USC 21; 7 USC 23; 7 USC 24; as amended by PL 106-554, 114 Stat. 2763

CFR Citation: 17 CFR 1; 17 CFR 5; 17 CFR 15; 17 CFR 20; 17 CFR 36; 17 CFR 37; 17 CFR 38; 17 CFR 40; 17 CFR 41; 17 CFR 100; 17 CFR 170; 17 CFR 180; ...

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission intends to propose rules to implement the new provisions of the Commodity Futures Modernization Act of 2000 relating to trading facilities. The proposed rules will implement the new statutory framework establishing three new market categories, including exempt markets, and two categories of markets subject to Commission regulatory oversight—designated contract markets and registered derivatives transaction execution facilities.

Timetable:

Action	Date	FR Cite
NPRM	03/09/01	66 FR 14262
NPRM Comment Period End	04/09/01	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB63

4037. • MINIMUM FINANCIAL REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6f

CFR Citation: 17 CFR 1.17

Legal Deadline: None

Abstract: The Commission is requesting public comment on proposed amendments to Rule 1.17 that would adopt a risk-based capital requirement for futures commission merchants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas J. Smith, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1121 21st Street NW., Washington, DC 20581
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RIN: 3038–AB64

4038. • RULES RELATING TO INTERMEDIARIES OF COMMODITY INTEREST TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6(c); 7 USC 6b; 7 USC 6d; 7 USC 6f; 7 USC 6m; 7 USC 6n; 7 USC 12a; 7 USC 23; as amended by PL 106-554, 114 Stat. 2763

CFR Citation: 17 CFR 1.3; 17 CFR 1.10; 17 CFR 1.17; 17 CFR 1.33; 17 CFR 1.46; 17 CFR 1.52; 17 CFR 1.55; 17 CFR 3.1; 17 CFR 3.10; 17 CFR 3.21; 17 CFR 3.31; 17 CFR 3.32; 17 CFR 3.34; 17 CFR 3, app A; 17 CFR 3, app B; 17 CFR 4.10; 17 CFR 4.24; 17 CFR 4.32; 17 CFR 4.34; 17 CFR 140.91; 17 CFR 155.2; 17 CFR 155.3; 17 CFR 155.4; 17 CFR 155.5; 17 CFR 155.6; 17 CFR 166.5

Legal Deadline: None

Abstract: The Commission will revise its rules relating to intermediation of commodity interest transactions. The new rules and rule amendments will affect the definition of the term "principal," updating of registration applications, certified financial reports, ethics training, disclosure, account opening procedures, trading standards, reporting requirements, and offsetting positions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB65

4039. • A NEW REGULATORY FRAMEWORK FOR CLEARING ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6(c); 7 USC 7a; 7 USC 12a(5); as amended by PL 106-554, 114 Stat. 2763

CFR Citation: 17 CFR 39

Legal Deadline: None

Abstract: The Commission will promulgate a new regulatory framework to apply to clearing organizations as part of an initiative that will establish new rules for multilateral transaction execution facilities and market intermediaries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
NPRM Comment Period End	05/00/01	
Final Action	06/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB66

4040. • OPTING OUT OF SEGREGATION BY ELIGIBLE CONTRACT PARTICIPANTS IN CONNECTION WITH DERIVATIVES TRANSACTION EXECUTION FACILITY TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7a(f), as amended by PL 106-554, 114 Stat 2763

CFR Citation: 17 CFR 1.3(k); 17 CFR 1.37; 17 CFR 1.68; 17 CFR 190.01(bb)

Legal Deadline: Final, Statutory, June 19, 2001, 180 days after enactment of Commodity Futures Modernization Act of 2000.

Abstract: The Commission is proposing rules to permit a registered derivatives transaction execution facility (DTF) to authorize a FCM to allow a customer that is an eligible contract participant to instruct the FCM not to segregate the customer's funds related to DTF transactions from the FCM's own funds. The rules would also address procedures for "opting out" of segregation, including disclosure and bankruptcy treatment.

Timetable:

Action	Date	FR Cite
NPRM	03/13/01	66 FR 14507
NPRM Comment Period End	04/12/01	
Final Action	04/00/01	
Final Action Effective	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB67

4041. • CFTC CONFORMANCE WITH TITLE V PRIVACY PROVISIONS OF THE GRAMM-LEACH-BLILEY ACT FOR FEDERAL FUNCTIONAL REGULATORS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, June 21, 2001, Prescribe regulations prior to 06/21/2001.

Abstract: Prior to June 21, 2001, the Commission is required to prescribe regulations to ensure conformance with Title V privacy provisions of the Gramm-Leach-Bliley Act for federal functional regulators.

Timetable:

Action	Date	FR Cite
NPRM	03/19/01	66 FR 15549
NPRM Comment Period End	04/18/01	
Final Action	04/00/01	
Final Action Effective	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB68

4042. • REGULATION OF HYBRID INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required, after consulting with and obtaining the concurrence of the Board of Governors of the Federal Reserve System, to prescribe regulations to govern hybrid instruments if it determines that it is in the public interest and consistent with the Commodity Exchange Act, and the product is not predominantly a banking product under the test enumerated in Title IV of the Commodity Futures Modernization Act of 2000.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB69

CFTC

Proposed Rule Stage

4043. • USE OF BROKER-DEALERS, DEPOSITORY INSTITUTIONS, AND FARM CREDITING SYSTEM INSTITUTIONS AS INTERMEDIARIES ON DERIVATIVES TRANSACTION EXECUTION FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required to coordinate with the Securities and Exchange Commission, the Secretary of the Treasury and Federal banking regulators (including the Farm Credit Administration) in adopting rules and taking any other appropriate action to implement the provisions of the Commodity Futures Modernization Act of 2000 relating to the use of broker-dealers, depository institutions, and farm credit system institutions as intermediaries on derivatives transaction execution facilities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB70

4044. • MARGIN REQUIREMENTS FOR SECURITY FUTURES PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Board of Governors of the Federal Reserve System may delegate its authority and have the Commission and the Securities and Exchange Commission, within a reasonable period of time after delegation, jointly prescribe regulations to establish margin requirements, including the establishment of levels of margin, for security futures products.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB71

4045. • EXEMPTION FROM COMPLIANCE WITH THE LISTING STANDARDS FOR SECURITY FUTURES PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission may jointly issue an order that exempts any person from compliance with the listing standards requirements for a security futures product to be cleared by a clearing agency that has in place provisions for linked and coordinated clearing with other clearing agencies that clear security futures products.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth L.R. Fox, Acting Deputy General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581
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RIN: 3038–AB72

4046. • AUTHORITY TO MODIFY SECURITY FUTURES PRODUCT LISTING STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission may adopt rules to jointly modify security futures product listing standards requiring that any security underlying the security future, including each component security of a narrow-based security index, be registered pursuant to Section 12 of the Securities Exchange Act of 1934, and that the security futures be based upon common stock and such other equity securities as both agencies jointly determine appropriate.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB73

4047. • COMPLIANCE DATE FOR SECURITY FUTURES PRODUCTS TO BE CLEARED BY A CLEARING AGENCY THAT HAS LINKED AND COORDINATED CLEARING WITH OTHER CLEARING AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission are required to jointly publish in the Federal Register a notice of the compliance date for requiring security futures products to be cleared by a clearing agency that has in place

CFTC

Proposed Rule Stage

provisions for linked and coordinated clearing with other clearing agencies that clear security futures products to be purchased on one market and offset on another market that trades such product within 165 days of the compliance date.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB74

4048. • OFFERING AND SELLING SECURITY FUTURES PRODUCTS TRADED ON FOREIGN BOARDS OF TRADE TO UNITED STATES PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission are required to jointly issue rules, regulations, or orders as are necessary and appropriate to permit the offer and sale of security futures products traded on or subject to the rules of a foreign board of trade to United States persons.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB75

4049. • AVOIDANCE OF DUPLICATIVE OR CONFLICTING REGULATIONS APPLICABLE TO DUAL REGISTRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission, in consultation with the Securities and Exchange Commission, is required to issue rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to dual registrants involving security futures products.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB76

4050. • DETERMINATION OF MARKET CAPITALIZATION AND THE DOLLAR VALUE OF AVERAGE DAILY TRADING VOLUME FOR NARROW-BASED AND BROAD-BASED SECURITY INDICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission and the Securities and Exchange Commission are required to jointly prescribe rules and regulations that specify the methods to be used to determine market capitalization and the dollar value of average daily trading volume for narrow-based and broad-based security indices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB77

4051. • REQUIREMENTS FOR FOREIGN STOCK INDEX CONTRACTS TO QUALIFY AS NON-NARROW-BASED INDICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, December 21, 2001, Prior to 12/21/2001.
Within one year after the date of enactment of the Commodity Futures Modernization Act of 2000.

Abstract: Prior to December 21, 2001, the Commission and the Securities and Exchange Commission are required to jointly adopt rules and regulations that set forth the requirements for foreign stock index contracts to qualify as non-narrow-based indices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB78

4052. • SPECIAL PROCEDURES TO ENCOURAGE AND FACILITATE BONA FIDE HEDGING BY AGRICULTURAL PRODUCERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required to consider issuing rules or orders which prescribe procedures for contract markets to provide orderly delivery and increased ease for domestic agricultural producers to hedge price risk.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB79

4053. • PROCEDURES FOR EXEMPTING BROKERS OR DEALERS FROM THE COMMODITY EXCHANGE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required, by rule or regulation, to determine the procedures under which it may exempt any broker or dealer from any provision of the Commodity Exchange Act or its rules or regulations to the extent such exemption is necessary for the public interest and is consistent with the protection of investors for security futures trading.

Timetable:

Action	Date	FR Cite
NPRM	04/19/01	66 FR 20118
NPRM Comment Period End	05/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB81

4054. • PROCEDURES FOR EXEMPTING BOARDS OF TRADE AND DESIGNATED CONTRACT MARKETS FROM THE COMMODITY EXCHANGE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required, by rule or regulation, to determine the procedures under which it may exempt any board of trade registered as a national security exchange, or which is a national securities association or an alternative trading system, that is a designated contract market, from any provision of the Commodity Exchange Act, its rules or regulations, to the extent such exemption is necessary for the public interest and is consistent with the protection of investors for security futures trading. In addition, except as provided by the requirements of such rule or regulation, the Commission may conditionally or unconditionally exempt any designated contract market in security futures products from any provision of the Commodity Exchange Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB82

4055. • PROHIBITION AGAINST DUAL TRADING

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is required to issue regulations to prohibit dual trading in security futures products on contract markets and derivatives transaction execution facilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB83

4056. PERFORMANCE DISCLOSURES FOR COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6n; 7 USC 6o; 7 USC 12a

CFR Citation: 17 CFR 4.25; 17 CFR 4.35

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing amendments to the requirements concerning the presentation of rate of return data by commodity trading advisors and commodity pool operators. The Commission's proposed rules address computational and disclosure matters relating to participating in commodity trading advisor programs on a partially-funded basis.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/98	63 FR 33297
ANPRM Comment Period End	09/16/98	
NPRM	08/02/99	64 FR 41843
NPRM Comment Period End	10/01/99	
Final Action	05/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB39

4057. REGISTRATION EXEMPTIONS PERTAINING TO THE OFFER AND SALE OF FOREIGN FUTURES AND FOREIGN OPTIONS CONTRACTS TO CUSTOMERS LOCATED IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2(a)(1)(A); 7 USC 6(b); 7 USC 6c

CFR Citation: 17 CFR 30.1; 17 CFR 30.4; 17 CFR 30.10

Legal Deadline: None

Abstract: The Commission proposes to codify some of the interpretations and positions that its staff has taken regarding registration requirements under Part 30 of the Commission's rules, which governs, generally, the solicitation and sale of foreign futures and foreign options contracts to customers located in the United States. The Commission proposes to modify Rule 30.4(a) by clarifying that foreign futures and options brokers, including those with U.S. bank branches, are not required to register as futures commission merchants (FCMs) pursuant to Rule 30.4, or seek Rule 30.10 relief, if they fall generally into the following categories: (1) those that carry customer omnibus accounts for U.S. FCMs; (2) those that carry U.S. affiliate accounts that are proprietary to the foreign futures and options broker; and (3) those that carry U.S. accounts that are proprietary to a U.S. FCM. In addition, proposed Rule 30.10(a) will specify representations that must be made by a foreign futures and options broker that has U.S. bank branches in order to obtain a Rule 30.10 comparability exemption or to come within the registration exception of Rule 30.4.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46613
NPRM Comment Period End	10/25/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB45

4058. SEGREGATED ACCOUNT; DAILY COMPUTATION AND RECORD

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d

CFR Citation: 17 CFR 1.32

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing to amend Rule 1.32 to provide that a futures commission merchant (FCM), when computing its segregation requirement, may offset deficits in customer accounts with readily marketable securities deposited by such customers to margin their futures and option positions.

Timetable:

Action	Date	FR Cite
NPRM	10/31/00	65 FR 64904
NPRM Comment Period End	11/30/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038–AB52

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Long-Term Actions

4059. PUBLIC REPORTING BY OPERATORS OF CERTAIN LARGE COMMODITY POOLS—REGULATIONS 4.7, 4.12, AND 4.27

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 4.7; 17 CFR 4.12; 17 CFR 4.27 (Proposed)

Timetable:

Action	Date	FR Cite
NPRM	04/17/00	65 FR 20395
NPRM Comment Period End	06/16/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB40

4060. • TRADE OPTIONS ON ENUMERATED AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 32.13 .

Legal Deadline: None

Abstract: The Commission is proposing a technical revision to its agricultural trade option rule to clarify the requirements for an exemption therefrom.

Timetable:

Action	Date	FR Cite
NPRM	12/13/00	65 FR 77838
NPRM Comment Period End	12/28/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB61

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Completed Actions

4061. MARKET RULE REVIEW PROCEDURES

Priority: Other Significant

CFR Citation: 17 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn	12/28/00	65 FR 82272

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 3038–AB44

4062. REVISION OF COMMISSION'S PROCEDURE FOR THE REVIEW OF CONTRACT MARKET RULES

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.41(z)

Completed:

Reason	Date	FR Cite
Withdrawn	12/13/00	65 FR 77961

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB50

4063. MINIMUM FINANCIAL REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.17

Completed:

Reason	Date	FR Cite
Final Action	11/07/00	65 FR 66618
Final Action Effective	12/07/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB54

4064. NEW REGULATORY FRAMEWORK FOR MULTILATERAL TRANSACTION EXECUTION FACILITIES, INTERMEDIARIES, AND CLEARING ORGANIZATIONS

Priority: Other Significant

CFR Citation: 17 CFR 1.37; 17 CFR 1.41; 17 CFR 5; 17 CFR 15; 17 CFR 20; 17 CFR 36 to 38

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 77982
Withdrawn	12/28/00	65 FR 82272

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB55

CFTC

Completed Actions

4065. RULES RELATING TO INTERMEDIARIES OF COMMODITY INTEREST TRANSACTIONS

Priority: Other Significant

CFR Citation: 17 CFR 1.3; 17 CFR 1.10; 17 CFR 1.17; 17 CFR 1.20; 17 CFR 1.25 to 1.29; 17 CFR 1.33; 17 CFR 1.46; 17 CFR 1.52; 17 CFR 1.55; 17 CFR 3.1; 17 CFR 3.10; 17 CFR 3.32; 17 CFR 3.34; 17 CFR 4.10; 17 CFR 4.24; 17 CFR 4.34; 17 CFR 140.91; 17 CFR 3 app B; 17 CFR 155.6; 17 CFR 166.5

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 77993
Partial Withdrawal	12/28/00	65 FR 82272
Final Action Effective	12/28/00	65 FR 82270

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB56

4066. NEW REGULATORY FRAMEWORK FOR CLEARING ORGANIZATIONS

Priority: Other Significant

CFR Citation: 17 CFR 39

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 78020
Withdrawn	12/28/00	65 FR 82272

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB57

4067. EXEMPTION FOR BILATERAL TRANSACTIONS

Priority: Other Significant

CFR Citation: 17 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	12/13/00	65 FR 78030
Withdrawn	12/28/00	65 FR 82272

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038–AB58

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Federal Register

Monday,
May 14, 2001

Part XLIX

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by June 30, 2001

ADDRESSES: Comments on the regulatory flexibility agenda should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0800, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments should be captioned "Regulatory Flexibility Agenda." Comments may also be filed by telefacsimile to (301) 504-0127, or by e-mail to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Stephen Lemberg, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0980, ext. 2218. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated that is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule, and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda is also required to contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification, or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish twice each year a regulatory agenda of regulations under development or review during the next year, and states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda published below lists the regulatory activities expected to be under development or review during the next 12 months. This agenda also includes regulatory activities that have been completed by the Commission prior to publication. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity, and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Dated: February 22, 2001.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Consumer Product Safety Commission—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4068	Baby Walkers	3041-AB40
4069	Petition HP 99-1 for a Ban of Polyvinyl Chloride in Toys and Other Products Intended for Children 5 Years of Age and Under	3041-AB79
4070	Petition FP 99-1 Requesting Labeling Rule for Polyurethane Foam in Upholstered Furniture	3041-AB81
4071	Petition HP 00-3 Requesting a Ban of Candle Wicks Containing Lead and Candles With Such Wicks	3041-AB87
4072	Petition HP 00-2 Requesting a Rule Declaring Natural Rubber Latex a Strong Sensitizer	3041-AB88
4073	Petitions FP 00-1, FP 00-2, FP 00-3, and FP 00-4 Requesting Requirements for Flammability of Mattresses	3041-AB89
4074	Petition CP 00-1 Requesting Performance Requirements for Non-Wood Baseball Bats	3041-AB90
4075	Portable Bed Rails	3041-AB91
4076	Petition HP 00-4 Requesting a Rule Banning Baby Bath Seats	3041-AB93
4077	Petition HP 01-1 Requesting Development of Performance Standard for Bicycle Handlebars	3041-AB94
4078	Petition HP 01-02 Requesting Exemption for Model Rocket Propellant Devices Used With Ground Vehicles	3041-AB95

CPSC

Consumer Product Safety Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4079	Flammability Standard for Upholstered Furniture	3041-AB35
4080	Amendment of Safety Regulations for Cribs	3041-AB67
4081	Requirement for Special Packaging of Oral Prescription Drugs That Are Granted Over-The-Counter Status by the Food and Drug Administration	3041-AB92

Consumer Product Safety Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4082	Requirements for Child-Resistant Packaging of Household Products Containing Petroleum Distillates or Other Hydrocarbons	3041-AB57

Consumer Product Safety Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4083	Petition HP 93-1 Requesting Development of a Rule To Ban Certain Backyard Playsets	3041-AB47
4084	Amendment of the Standard for the Flammability of Clothing Textiles	3041-AB68

Consumer Product Safety Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4085	Dive Sticks	3041-AB82
4086	Petition CP 99-2 Requesting Safety Standard for Bleachers and Grandstands	3041-AB84
4087	Amendment of the Safety Standard for Automatic Residential Garage Door Operators	3041-AB86

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

4068. BABY WALKERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261, Federal Hazardous Substances Act; 15 USC 1262, Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 2, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in the issuance of mandatory design or performance requirements for baby walkers. A baby walker is a device that supports a child so that the child can use his or her feet to move about before or while learning to walk. Typically, a baby walker consists of a fabric seat that has leg openings and is mounted to a rigid plastic deck. The deck is attached to a base that is mounted on wheels to allow mobility. In 1994, an estimated 25,500 children younger than 15 months of age were treated in hospital emergency rooms for injuries associated with baby walkers. The majority of these injuries resulted from falls down stairs. Among the options under consideration by the Commission are mandatory performance or design requirements to reduce risks of injury associated with baby walkers, particularly those resulting to children from falls down stairs. In response to the Commission's work in this area, the industry published revisions to the voluntary standard for baby walkers in 1997 to address the hazard of falling down stairs. The American Society for Testing and Materials (ASTM) standard contains performance requirements to address risks of injury to children from falls down stairs associated with baby walkers. In 1999, baby walker injuries had dropped to 8,800. The staff is currently assessing the extent of industry conformance with that voluntary standard, designated "Standard Consumer Safety Specification for Infant Walkers," SF 977-97, published by ASTM. The staff will send that information to the Commission together with options for

Commission action, including withdrawal of the ANPRM or further regulatory proceedings.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39309
ANPRM Comment Period End	10/03/94	
Staff Provided Technical Recommendations to Revise Voluntary Standard	12/16/94	
Revised Voluntary Standard Approved	10/01/96	
Voluntary Certification Program Began	06/30/97	
Staff Completed Monitoring Conformance to Revised Voluntary Standard	05/31/00	
Staff Completed Special Study of Injury Data	09/29/00	
Staff Sends Briefing Package to Commission	09/00/01	
Commission Decision	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Barbara J. Jacobson, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207
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Email: bjacobson@cpsc.gov

RIN: 3041–AB40

4069. PETITION HP 99-1 FOR A BAN OF POLYVINYL CHLORIDE IN TOYS AND OTHER PRODUCTS INTENDED FOR CHILDREN 5 YEARS OF AGE AND UNDER

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261 to 1278, Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: The National Environmental Trust and 11 other organizations petitioned the Commission to ban polyvinyl chloride (PVC) in toys and other articles intended for the use of children 5 years and under, based upon concerns they have about the potential for health risks from phthalates (especially diisononyl phthalate (DINP)), lead, and cadmium that can be in PVC. A Federal Register notice was issued on December 22, 1998, requesting comment on the petition. Comments were received.

The Commission has established a Chronic Hazard Advisory Panel (CHAP) of independent scientists to study issues related to the chronic toxicity and risk, including the risk of cancer, associated with exposure to DINP in children's PVC products. The Commission has begun an extensive exposure study to obtain a broader range of data from which to better define the amount of time children mouth products that could contain phthalates. Following completion of this work, the staff will send a briefing package to the Commission recommending that the Commission grant, deny, or defer the petition.

Timetable:

Action	Date	FR Cite
Notice Advising of Receipt of Petition	12/22/98	63 FR 70756
Initiated Formation of CHAP	02/16/99	
Comment Period End	02/22/99	
Awarded Contract for Child Observation Study	09/30/99	
First Meeting of CHAP	05/10/00	
Second Meeting of CHAP	06/20/00	
Third Meeting of CHAP	09/12/00	
CHAP Sends Report to Commission	05/00/01	
Staff Sends Briefing Package to Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Marilyn L. Wind Ph.D., Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207
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RIN: 3041–AB79

4070. PETITION FP 99-1 REQUESTING LABELING RULE FOR POLYURETHANE FOAM IN UPHOLSTERED FURNITURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1191, Flammable Fabrics Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the National Association of State Fire Marshals (NASFM) requests that the Commission require labels under the Flammable Fabrics Act warning that polyurethane foam in upholstered furniture poses a fire hazard. NASFM asserts that polyurethane foam in upholstered furniture poses an unreasonable risk of fire because once ignited it burns rapidly and emits toxic gases. NASFM asks the Commission to require that upholstered furniture manufacturers and retailers provide flammability warnings to the public. On April 6, 1999, the Commission published a Federal Register notice to solicit public comments on the petition.

The Commission has another ongoing rulemaking proceeding related to the risk of fire associated with upholstered furniture (RIN 3041-AB40) that may bear on the disposition of this petition. In 1994, CPSC published an ANPRM announcing the agency's intent to consider a possible rule or other alternatives to address the risk of upholstered furniture fires ignited by small open-flame sources, e.g., lighters, matches and candles. Such a rule could affect fabrics or other furniture components, including filling materials such as polyurethane foam. The Commission staff is evaluating the technical issues raised in the polyurethane foam petition as part of the larger regulatory development effort. The Commission's consideration of the petition will, therefore, be incorporated into the decision on how to proceed on the small open-flame matter.

Timetable:

Action	Date	FR Cite
Notice	04/06/99	64 FR 16711
Comment Period End	06/07/99	

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	06/00/01	
Commission Decision	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dale R. Ray, Project Manager, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207
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RIN: 3041–AB81

4071. PETITION HP 00-3 REQUESTING A BAN OF CANDLE WICKS CONTAINING LEAD AND CANDLES WITH SUCH WICKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Separate petitions were received from Public Citizen and jointly from the National Apartment Association and the National Multi-Housing Council to ban candle wicks that contain lead and to ban candles with such wicks. The petitioners claimed that burning candles with such wicks produces hazardous combustion products containing lead. On April 2, 2000, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested parties. The comment period closed June 12, 2000. Over 140 comments were received. The staff sent a briefing package to the Commission on December 15, 2001, recommending that the Commission publish an advance notice of proposed rulemaking (ANPR) to ban metal-corted wicks containing more than 0.06% lead by weight. The staff briefed the Commission on January 30, 2001. On February 13, 2001 the Commission granted the petitions and voted to issue an ANPR.

Timetable:

Action	Date	FR Cite
Petition Docketed	03/17/00	
Notice	04/12/00	65 FR 19742
Comment Period End	06/12/00	
Commission Voted to Issue ANPR	02/13/01	
ANPRM	02/20/01	66 FR 10863
ANPRM Comment Period End	04/23/01	
Staff Sends Briefing Package to Commission	07/00/01	
Commission Decision	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Kristina Hatlelid, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207
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RIN: 3041–AB87

4072. PETITION HP 00-2 REQUESTING A RULE DECLARING NATURAL RUBBER LATEX A STRONG SENSITIZER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from Debi Adkins, Editor, Latex Allergy News, requests that the Commission issue a rule declaring that natural rubber latex (NRL) and products containing NRL are strong sensitizers under the Federal Hazardous Substances Act (FHSA) and requiring labeling. NRL is in such consumer products as gloves, adhesives, shoes, balloons, pacifiers, and carpet backing, as well as many medical products. The petitioner states that a portion of the population has developed an allergy to latex that can be debilitating, even causing death. On March 21, 2000, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. On May 24, 2000, at the request of several persons, the Commission published a notice extending the original due date for comments of May 22, 2000 for 30 days to June 21, 2000. Eighty-four comments were received. The staff is preparing a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Petition Docketed	03/02/00	
Notice	03/21/00	65 FR 15133
Comment Period End	05/22/00	
Comment Period Extended	05/24/00	65 FR 33525
Comment Period End	06/21/00	
Staff Sends Briefing Package to Commission	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Suzanne Barone Ph.D., Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207
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RIN: 3041–AB88

4073. PETITIONS FP 00-1, FP 00-2, FP 00-3, AND FP 00-4 REQUESTING REQUIREMENTS FOR FLAMMABILITY OF MATTRESSES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1191, Flammable Fabrics Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission has received correspondence from Whitney A. Davis, Director of the Children's Coalition for Fire-Safe Mattresses, requesting that the Commission take various actions concerning mattress flammability. The Commission has docketed as petitions his requests for rules requiring: (1) an open-flame standard similar to the full-scale test set forth in California Technical Bulletin 129; (2) an open flame standard similar to the component test set forth in British Standard 5852; (3) a warning label for flammable mattresses; and (4) a permanent mattress identification tag attached to the inner spring of the

mattress. The petitioner focuses primarily on the role polyurethane foam plays in mattress fires. He notes that the Commission's existing mattress flammability standard only addresses cigarette ignition; yet childplay with open-flame sources causes nearly two-thirds of mattress fires. He argues that with polyurethane foam mattresses, fires have become increasingly more deadly than with cotton-batting mattresses due to increased smoke generation, heat production and flame spread. With regard to labels, he notes that polyurethane foam manufacturers provide warnings to mattress manufacturers, but these warnings are not passed on to the consumer. With regard to an identification tag, the petitioner argues that such a tag would help to identify mattresses involved in fires because often only the inner spring unit remains after a mattress fire. The Commission has docketed these petitions under provisions of the Flammable Fabrics Act. The staff will prepare a briefing package for the Commission to consider.

Timetable:

Action	Date	FR Cite
Petitions Docketed	05/22/00	
Notice	06/12/00	65 FR 36890
Comment Period End	08/11/00	
Staff Sends Briefing Package to Commission	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB89

4074. PETITION CP 00-1 REQUESTING PERFORMANCE REQUIREMENTS FOR NON-WOOD BASEBALL BATS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e), Administrative Prodcedure Act; 15 USC 2051, Consumer Product Safety Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission has received correspondence from J.W. MacKay, Jr. requesting that the Commission issue a rule requiring that all non-wood baseball bats perform like wood bats. He states that such bats have a faster bat swing speed, a larger "sweet spot," and lower balance point than wood bats. These high performance bats, he asserts, allow the ball to achieve a faster exit velocity so that the pitcher does not have time to react if a ball is batted at him. The petitioner asserts that non-wood bats (primarily made of aluminum and composite materials) have become increasingly dangerous. For these reasons, the petitioner argues, such non-wood bats present an unreasonable risk of injury. The Commission docketed his request as a petition under the Consumer Product Safety Act and published a notice in the Federal Register on June 15, 2000 to solicit comments on the petition from interested persons. The staff will prepare a briefing package for the Commission to consider.

Timetable:

Action	Date	FR Cite
Petition Docketed	05/24/00	
Notice	06/15/00	65 FR 37525
Comment Period End	08/14/00	
Staff Sends Briefing Package to Commission	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Erlinda M. Edwards, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
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RIN: 3041–AB90

4075. PORTABLE BED RAILS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is considering whether certain portable bed rails present an unreasonable risk of injury that should be regulated. A portable bed rail is a device intended to be installed on an adult bed to prevent a child from falling out of the bed. Such bed rails may be constructed in a manner that children can become entrapped between the portable bed rail and the bed. This entrapment can result in serious injury or death.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	06/28/00	
Commission Decision	09/21/00	
ANPRM	10/03/00	65 FR 58968
ANPRM Comment Period End	12/04/00	
Staff Sends Briefing Package to Commission	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB91

4076. PETITION HP 00-4 REQUESTING A RULE BANNING BABY BATH SEATS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the Consumer Federation of America and other consumer groups, docketed on August 4, 2000, requests that the Commission ban baby bath seats and bath rings. These are consumer products used to hold an infant in a bathtub while the child is being bathed. The petitioners assert that bath seats pose an unreasonable risk of injury, primarily because they create a false sense of security that the child is safe in the bathtub. They assert that 66 incidents of drowning and 37 reports of near drowning involving baby bath seats have been identified. On August 22, 2000, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons.

Timetable:

Action	Date	FR Cite
Petition Docketed	08/04/00	
Notice	08/22/00	65 FR 50968
Comment Period End	10/23/00	
Staff Sends Briefing Package to Commission	03/30/01	
Commission Decision	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Jacqueline Elder, Project Manager, Consumer Product Safety Commission, Office of Hazard Identification and Reduction, Washington, DC 20207
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RIN: 3041–AB93

4077. • PETITION HP 01-1 REQUESTING DEVELOPMENT OF PERFORMANCE STANDARD FOR BICYCLE HANDLEBARS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from Flaura Kopkin Winston, MD. Ph.D., Director, The Interdisciplinary Pediatric Injury Control Research Center, Children's Hospital of Philadelphia, requests that the Commission develop a performance standard for bicycle handlebars regarding energy dissipation and distribution during impact. The request was docketed as a petition on January 23, 2001. A notice requesting comment on the petition was published in the Federal Register on February 14, 2001. The initial comment period closed on April 16, 2001. The comment period has been extended to May 16, 2001.

Timetable:

Action	Date	FR Cite
Petition Docketed	01/23/01	
Notice	02/14/01	66 FR 10273
Comment Period End	04/16/01	
Notice	04/16/01	66 FR 19429
Comment Period End	05/16/01	
Staff Sends Briefing Package to Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Barbara J. Jacobson, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207
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RIN: 3041–AB94

4078. • PETITION HP 01-02 REQUESTING EXEMPTION FOR MODEL ROCKET PROPELLANT DEVICES USED WITH GROUND VEHICLES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from Centuri Corporation requests that the Commission issue a rule exempting certain model rocket propellant devices to be used for model rocket ground vehicles. The petitioner requests that the Commission extend the existing exemption for motors used for flying model rockets to motors used for certain model rocket cars that travel on a tethered line along the ground. The request was docketed as a petition on February 14, 2001. A notice requesting comment on the petition was published in the Federal Register on March 8, 2001. The comment period closes on May 7, 2001.

Timetable:

Action	Date	FR Cite
Petition Docketed	02/14/01	
Notice	03/08/01	66 FR 13914
Comment Period End	05/07/01	
Staff Sends Briefing Package to Commission	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB95

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) Proposed Rule Stage

4079. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1193, Flammable Fabrics Act

CFR Citation: 16 CFR 1640

Legal Deadline: None

Abstract: On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources such as matches, lighters, or candles. This ANPRM was issued after the Commission granted part of a petition requesting development of a mandatory

flammability standard to address risks of injury from ignition of upholstered furniture by: (1) small open-flame sources; (2) large open-flame sources; and (3) cigarettes. The Commission voted to deny that part of the petition requesting development of a mandatory standard to address hazards associated with ignition of upholstered furniture by large open-flame sources. The Commission also voted to defer a decision on that part of the petition requesting development of a standard to address cigarette ignition, and directed the staff to report to the Commission on the effectiveness of, and the extent of industry compliance with, a voluntary program to reduce risks of ignition of upholstered furniture by cigarettes. The Commission staff developed a draft standard to address ignition of upholstered furniture by small open-flame sources.

On March 2, 1998, the Commission voted to defer action on small open-flame sources and gather additional information on the potential toxicity of flame-retardant chemicals that might be used to meet a standard. A public hearing on this subject was held May 5-6, 1998. The staff is analyzing data from the hearing and completing other technical studies. In CPSC's 1999 appropriations legislation, Congress directed the Commission to contract with the National Academy of Sciences (NAS) for an independent study of potential health hazards associated with the use of flame retardant chemicals that might be used in upholstered furniture fabrics to meet a CPSC standard. The draft NAS report was completed and forwarded to Congress in April 2000; the final NAS report was published in July 2000. The report concluded that of 16 flame-retardant chemicals reviewed, 8 could be used in upholstered furniture fabrics without presenting health hazards to consumers. Additional exposure studies were recommended for the remaining eight chemicals. The report indicates that a number of suitable flame-retardant treatments are available; these include treatments already in use in various textile products, including upholstered furniture sold in the United Kingdom to meet existing U.K. flammability regulations.

CPSC is also considering possible impacts of flame-retardant chemical use on worker safety and the environment. At the CPSC staff's request, the National Institute of Occupational Safety and Health is assessing potential worker exposure to and risks from certain flame-retardant chemicals that may be used by textile and furniture producers to comply with an upholstered furniture flammability standard. The CPSC staff is also working with the Environmental Protection Agency to consider possible controls on flame-retardant compounds used in residential upholstered furniture fabrics under that agency's Toxic Substances Control Act Authority. Upon completion of its chemical risk assessment and other technical activities, the CPSC staff will present alternatives for future action by the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	
Staff Briefing of Commission on NPRM	12/18/97	
Commission Voted To Defer Action Pending Results of Toxicity Hearing	03/02/98	
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame Retardant Chemicals	03/17/98	63 FR 13017
NAS Study Completed (Required by Congress)	07/10/00	
Staff Sends Briefing Package to Commission	06/00/01	
Commission Decision	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dale R. Ray, Project Manager, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207
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RIN: 3041–AB35

4080. AMENDMENT OF SAFETY REGULATIONS FOR CRIBS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553, Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: 16 CFR 1508; 16 CFR 1509

Legal Deadline: None

Abstract: On December 16, 1996, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in amendment of the safety regulations for full-size and non-full-size cribs, 16 CFR parts 1508 and 1509. Among the regulatory alternatives under consideration is amendment of the regulations to add tests to assure that slats will not disengage from the side panels of cribs. The Commission began this proceeding after considering information about incidents in which crib slats disengaged from the side panels of cribs, creating a risk that children may become entrapped between the remaining slats or fall out of the crib. At the urging of CPSC staff, in April 1999, the voluntary standard for cribs designated, "Specification for Full Size Baby Cribs (ASTM F1169-99)," and published by the American Society for Testing and Materials (ASTM) was revised to include performance requirements for crib slats. The Commission will consider written comments received in response to the ANPRM, and assess conformance with the voluntary standard before deciding whether to continue the proceeding by publication of a notice of proposed rulemaking (NPRM), or terminate further proceedings in reliance on the voluntary standard.

Timetable:

Action	Date	FR Cite
Staff Recommended Revisions to Voluntary Standard	09/30/96	
ANPRM	12/16/96	61 FR 65996
ANPRM Comment Period End	02/14/97	
Revisions to Voluntary Standard Approved	04/10/99	
Voluntary Certification Program Begins	03/01/00	
Staff Begins Monitoring Conformance to Revised Voluntary Standard	04/00/01	
Staff Completes Monitoring Conformance	To Be Determined	
Staff Sends Briefing Package to Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB67

4081. REQUIREMENT FOR SPECIAL PACKAGING OF ORAL PRESCRIPTION DRUGS THAT ARE GRANTED OVER-THE-COUNTER STATUS BY THE FOOD AND DRUG ADMINISTRATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1471, Poison Prevention Packaging Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On June 23, 2000, the Commission directed the CPSC staff to draft a notice of proposed rulemaking to require that the child-resistant packaging requirements for oral prescription drugs continue when the active chemicals are granted over-the-counter (OTC) status by the Food and Drug Administration (FDA). The current regulations under the Poison Prevention Packaging Act (PPPA) require child-resistant packaging of most oral prescription drugs. However, when the FDA allows an oral prescription drug to be sold OTC, child-resistant packaging of that drug is no longer required. When the Commission finds that a particular switched OTC drug requires child-resistant packaging because it may cause serious injury or serious illness, it must issue an individual rule, which may not take effect for several years after the switch.

On August 30, 2000, the Commission issued a proposed rule that would automatically require drugs that have been switched after the effective date of the rule to be in child-resistant packaging. Under the proposed rule, drugs switched by FDA from prescription to OTC before the effective date of the rule would not automatically have to be in child-resistant packaging. This proposed rule provides that those companies that believe their drug product does not need to be in child-resistant packaging can provide information to the Commission, as they do currently under the PPPA oral prescription drug rule, to demonstrate either: (1) that the drug product will not injure children if it is marketed in non-child-resistant packaging, or (2) that child-resistant packaging is not technically feasible, practicable, or appropriate for the oral drug when marketed as an OTC product. If the Commission agrees, it will by rule exempt the drug product from the PPPA requirements. The Federal Register notice also proposes to revoke 16 CFR 1702.16(b) to allow petitions for exemptions from child-resistant packaging requirements to be submitted and considered by the Commission before the new drug applications (NDA) are approved by the FDA. This would decrease the potential financial and regulatory burdens to the drug company associated with a post-marketing package change.

The notice issued by the Commission includes proposed findings that child-resistant packaging for these products is technically feasible, practicable, and appropriate, as well as necessary to protect children from serious personal injury and illness resulting from handling, using, or ingesting the drug products. It is anticipated that this proposed rule would not create a financial burden on small companies.

Timetable:

Action	Date	FR Cite
Staff Briefing of Commission on Whether to Issue an NPRM	06/07/00	
Commission Decision to Prepare a Draft NPRM	06/23/00	
NPRM	08/30/00	65 FR 52678
NPRM Comment Period End	11/13/00	
Staff Sends Briefing Package to Commission	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3041–AB92

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Final Rule Stage

4082. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING PETROLEUM DISTILLATES OR OTHER HYDROCARBONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1471, Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)

Legal Deadline: None

Abstract: Some household products containing 10 percent or more by weight of petroleum distillates are subject to requirements for child-resistant packaging by regulations issued under the Poison Prevention Packaging Act and codified at 16 CFR 1700.14(a). These products include liquid furniture polish (section 1700.14(a)(2)), lighter fluid (section 1700.14(a)(7)), and prepackaged solvents for paint (section 1700.14(a)(15)). However, many other household products containing petroleum distillates or other hydrocarbons are not required to be in child-resistant packaging. On February 26, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to initiate a proceeding that may result in mandatory requirements for child-resistant packaging of household products containing petroleum distillates or other hydrocarbons. Following consideration of the comments, the Commission

proposed requirements for child-resistant packaging of additional household products containing petroleum distillates or other hydrocarbons. The notice of proposed rulemaking (NPRM) was published on January 3, 2000, and the comment period ended March 20, 2000. Seven comments were received. The Commission also requested that additional information about cosmetics that contain mineral oil be obtained. The staff purchased additional information on mineral oil-based cosmetic poisonings from the American Association of Poison Control Centers. The public comment period on the staff analysis of this data closes on May 11, 2001.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/97	62 FR 8659
Extension of ANPRM Comment Period	04/28/97	62 FR 22897
ANPRM Comment Period End	05/12/97	62 FR 8659
Comment Period End	07/11/97	62 FR 22897
Reopening of ANPRM Comment Period	07/21/97	62 FR 38948
Comment Period End	09/01/97	
NPRM	01/03/00	65 FR 93
NPRM Comment Period End	03/20/00	
Staff Purchased Additional Poisoning Data on Cosmetics	04/04/00	
Notice	04/11/01	66 FR 18738
Comment Period End	05/11/01	
Staff Sends Briefing Package to Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB57

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Long-Term Actions

4083. PETITION HP 93-1 REQUESTING DEVELOPMENT OF A RULE TO BAN CERTAIN BACKYARD PLAYSETS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the New York City Department of Consumer Affairs requests the Commission to develop a rule to ban certain backyard playsets. The petition asserts that backyard playsets present unreasonable risks of injury to children if they do not meet the requirements of a voluntary standard for home playground equipment published by the American Society for Testing and Materials (ASTM); are not accompanied with adequate information about ground surfacing; or lack specific features described in the petition. On May 21, 1996, the Commission denied those parts of the petition requesting issuance of a rule to ban any backyard playset that does not conform to all requirements of the ASTM voluntary standard; that has an accessible height that exceeds six feet above protective surfacing; that does not have adequate fall zones under climbing structures; or that does not provide adequate space between any item of swinging equipment and any other item of swinging or stationary equipment. The Commission deferred a decision on those parts of the petition requesting a rule to ban backyard playsets that are not accompanied with instructions to use and maintain specified ground surfacing; that do not have handrails on all platforms that are 30 inches or higher above protective surfacing; that have swing seats made of wood, metal, plastic, or other hard material capable of inflicting serious injury to the head; that have free-swinging ropes; and that are unanchored playsets with swings. The staff will transmit additional information to the Commission concerning revisions of the voluntary standard, conformance to the voluntary standard, and injury data. The Commission will then decide whether to grant, deny, or continue to defer the remaining requests in the petition.

Timetable:

Action	Date	FR Cite
Partial Denial of Petition	05/21/96	
Revisions to Voluntary Standard Completed	07/10/98	
Staff Began Monitoring Conformance to Voluntary Standard	08/10/99	
Staff Completed Monitoring Conformance	08/31/00	
Staff Completed Injury Study	02/28/01	
Staff Sends Additional Information to Commission	To Be Determined	
Commission Decision	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB47

4084. AMENDMENT OF THE STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191, Flammable Fabrics Act

CFR Citation: 16 CFR 1610

Legal Deadline: None

Abstract: The Standard for the Flammability of Clothing Textiles prohibits the manufacture, importation, or sale of clothing, and fabrics and related materials intended for use in clothing, which are dangerously

flammable because of rapid and intense burning. The standard prescribes the apparatus, procedure, and criteria to be used for testing to determine compliance with that standard. The standard was made mandatory by the Flammable Fabrics Act of 1953 (Pub. L. 83-88, 67 Stat. 111; June 30, 1953). Some of the equipment and procedures specified by the standard, particularly those for laundering and cleaning of test specimens, have become obsolete, unavailable, or unrepresentative of current practices. The staff is preparing a briefing package describing modifications of the standard that may be needed to assure that the test in the standard is conducted with equipment and procedures representative of conditions to which garments currently are exposed. After consideration of the briefing package, the Commission will decide whether to begin a proceeding for amendment of the standard.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	To Be Determined	
Commission Decision	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3041–AB68

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Completed Actions

4085. DIVE STICKS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1261, Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On July 19, 2000, the Commission published a notice of proposed rulemaking (NPRM) that may result in a ban of dive sticks with certain characteristics that cause them to be hazardous. Dive sticks are one of several types of devices used for underwater activities, such as retrieval games and swimming instruction. They are typically made of rigid plastic, and are or can be weighted so that when dropped into water they sink and stand upright on the bottom. The proposed rule would ban dive sticks that: (1) are rigid, (2) submerge to the bottom of a pool of water, and (3) stand upright in the water. Many dive sticks have a cylindrically shaped profile, while some have novel shapes like sharks or other sea creatures. Such dive sticks are constructed in such a manner that children can become impaled on them when they jump into shallow water where the dive sticks are oriented in an upright position. This impalement has resulted in serious injuries. Dive sticks that do not have these characteristics, as well as dive rings and dive discs, would be exempt from this rule.

The Commission considered written comments received in response to the NPRM and voted on February 26, 2001 to issue a final rule.

Timetable:

Action	Date	FR Cite
ANPRM	07/16/99	64 FR 38387
ANPRM Comment Period End	09/14/99	
NPRM	07/19/00	65 FR 44703
NPRM Comment Period End	10/02/00	
Staff Sends Briefing Package to Commission	02/16/01	
Commission Decision	02/26/01	
Final Rule	03/07/01	66 FR 13646
Final Rule Effective	04/06/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3041–AB82

4086. PETITION CP 99-2 REQUESTING SAFETY STANDARD FOR BLEACHERS AND GRANDSTANDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e), Administrative Procedure Act; 15 USC 2051, Consumer Product Safety Act

CFR Citation: None

Legal Deadline: None

Abstract: A petition from U.S. Representatives Bill Luther and Jim Ramstad requested that the Commission develop a national safety standard for bleachers and grandstands. The petitioners requested that the standard include minimum spacing requirements for gaps between bleacher guardrails and between seats and footboards, side and back safety features, and guidelines for retrofitting older facilities. The request was docketed as a petition on August 10, 1999, and a notice soliciting comments on the petition was published in the Federal Register on August 26, 1999. CPSC staff sent a briefing package to the Commission for consideration on October 16, 2000. On October 26, 2000, the Commission voted to deny the petition and to issue guidelines for retrofitting bleachers.

Timetable:

Action	Date	FR Cite
Petition Docketed	08/10/99	
Notice	08/26/99	64 FR 46657
Comment Period End	10/25/99	
Staff Sent Briefing Package to Commission	10/16/00	
Commission Denied Petition and Voted to Issue Guidelines	10/26/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3041–AB84

4067. AMENDMENT OF THE SAFETY STANDARD FOR AUTOMATIC RESIDENTIAL GARAGE DOOR OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-608, Consumer Product Safety Improvement Act of 1990

CFR Citation: 16 CFR 1211

Legal Deadline: None

Abstract: The CPSC's safety standard for automatic residential garage door operators protects against entrapment. Death or serious injury can result from entrapment. The entrapment protection requirements come from the UL 325 safety standard for garage door operators. Under the Consumer Product Safety Improvements Act, when UL makes subsequent changes to the entrapment protection provisions of UL 325, UL must notify the Consumer Product Safety Commission of proposed revisions and CPSC must incorporate them into the CPSC rule unless the CPSC notifies UL within 30 days that the CPSC has determined that the revision does not carry out the purposes of the Improvement Act. UL has made changes to its standard to reflect advances in garage door operator technology. The Commission determined that the entrapment related revisions do carry out the purposes of Public Law 101-68. The purpose of this regulatory action is to update the product safety rule to include these new requirements made by UL.

On May 15, 2000, the Commission forwarded a draft proposed rule that would amend the garage door operator rule. The proposed rule was published on June 14, 2000. After reviewing comments received on the proposal, the staff provided a briefing package to the Commission on October 31, 2000 for its consideration. On November 11, 2000, the Commission voted to issue a final rule.

Timetable:

Action	Date	FR Cite
Staff Sends NPRM Briefing Package to Commission	05/15/00	
Commission Decision	05/26/00	
NPRM	06/14/00	65 FR 37318
NPRM Comment Period End	08/28/00	
Final Rule	11/27/00	65 FR 70656
Final Rule Effective	12/27/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3041–AB86

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May 14, 2001

Part L

Farm Credit Administration

Semiannual Regulatory Agenda

FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency, in compliance with Executive Order 12866, sets forth the following agenda of regulations, which it will have under development and review during the period of April 2001 through October 2001.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. FCA regulations, which apply to Farm Credit banks and associations, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The FCA, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of Executive Order 12866.

Dated: February 23, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

Farm Credit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4088	Loan Policies and Operations (Comprehensive Borrower Rights)	3052-AB69
4089	Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations and Funding Operations (OFIs—Lending)	3052-AB96
4090	Loan Policies and Operations (Loans to Designated Parties)	3052-AB98
4091	Electronic Commerce	3052-AC02

Farm Credit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4092	Federal Agricultural Mortgage Corporation Risk-Based Capital Regulation	3052-AB56
4093	Organization (Reorganization Authorities for System Institutions)	3052-AB86
4094	Eligibility and Scope of Financing	3052-AB90
4095	Organization; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Stock Issuance)	3052-AB91
4096	Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Loan Purchases and Sales)	3052-AB93
4097	Disclosure to Shareholders (Annual Report)	3052-AB94
4098	Organization (Stockholder Vote on Like-Lending Authority)	3052-AC00
4099	Organization; General Provisions; Disclosure to Shareholders	3052-AC03

Farm Credit Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4100	Organization and Functions (FCA Organization)	3052-AB82
4101	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Mission-Related Investments)	3052-AB92

FARM CREDIT ADMINISTRATION (FCA) — Proposed Rule Stage

4088. LOAN POLICIES AND OPERATIONS (COMPREHENSIVE BORROWER RIGHTS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2011; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: This rulemaking would clarify the borrower rights regulations and remove unnecessary burdens.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB69

4089. LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS AND FUNDING OPERATIONS (OFIS—LENDING)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097; 12 USC 2121; 12 USC 2122; 12 USC 2124; 12 USC 2128; 12 USC 2129; 12 USC 2131; 12 USC 2132; 12 USC 2141; 12 USC 2146; 12 USC 2149; 12 USC 2154; 12 USC 2154a; 12 USC 2160; 12 USC 2183; 12 USC 2184; 12 USC 2199; ...

CFR Citation: 12 CFR 614; 12 CFR 615

Legal Deadline: None

Abstract: The regulation would remove impediments for System funding of OFIs and change the current risk-weighting requirements for OFI direct loans.

Timetable:

Action	Date	FR Cite
ANPRM	04/20/00	65 FR 21151
ANPRM Comment Period End	06/19/00	
Comment Period Extended	06/26/00	65 FR 39319
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB96

4090. LOAN POLICIES AND OPERATIONS (LOANS TO DESIGNATED PARTIES)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: This regulation would provide Farm Credit System institutions greater flexibility concerning the approval of insider loans.

Timetable:

Action	Date	FR Cite
NPRM	03/17/00	65 FR 14491
NPRM Comment Period End	04/17/00	
Second NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3052–AB98

4091. ELECTRONIC COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation would amend existing and consider adopting new regulations so that electronic commerce in the System is not hindered. The project will review consumer protection, corporate restructuring, and disclosures to shareholders regulations to address such areas as the "Electronic Signatures Act" and the Government Paperwork Elimination Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/02	

Regulatory Flexibility Analysis Required: No

FCA — Proposed Rule Stage

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3052–AC02

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

4092. FEDERAL AGRICULTURAL MORTGAGE CORPORATION RISK-BASED CAPITAL REGULATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2279bb-1; 12 USC 2279aa-11(a)(1)(B)(ii)

CFR Citation: 12 CFR 650

Legal Deadline: None

Abstract: This regulation will establish risk-based capital requirements for the Federal Agricultural Mortgage Corporation (also known as Farmer Mac). The law says these regulatory requirements will be used to determine the amount of capital needed to survive a 10-year period of both unfavorable credit and interest rate conditions. The law includes additional details on the level of unfavorable conditions to be included in the requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/12/99	64 FR 61740
Correction	01/11/00	65 FR 1676
NPRM Comment Period Extended	02/24/00	65 FR 9223
NPRM Comment Period End	06/12/00	
Final Rule	04/12/01	66 FR 19048
Final Rule Effective	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB56

4093. ORGANIZATION (REORGANIZATION AUTHORITIES FOR SYSTEM INSTITUTIONS)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa5(e); 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: This rulemaking would establish regulations under which a bank or large association within the System can terminate its charter as provided Act.

Timetable:

Action	Date	FR Cite
NPRM	11/05/99	64 FR 60370
NPRM Comment Period End	02/03/00	
Supplemental NPRM	02/03/00	65 FR 5286
Comment Period End	03/06/00	
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB86

4094. ELIGIBILITY AND SCOPE OF FINANCING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2206a; 12 USC 2211; 12 USC 2212; 12 USC 2213; 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 613

Legal Deadline: None

Abstract: This rule would implement the Court of Appeals' ruling that changed the eligibility and scope of financing regulations for farm-related service businesses and rural homeowners.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

FCA — Final Rule Stage

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB90

4095. ORGANIZATION; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (STOCK ISSUANCE)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2021; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2091; 12 USC 2093; 12 USC 2121; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2142; 12 USC 2146; 12 USC 2154; 12 USC 2154a; 12 USC 2160; 12 USC 2183; 12 USC 2202b; 12 USC 2203; 12 USC 2208; 12 USC 2209; 12 USC 2211; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2278b; 12 USC 2278b-6; 12 USC 2279a to 2279f-1; 12 USC 2279aa; 12 USC 2279aa-3; 12 USC 2279aa-4; 12 USC 2279aa-5(e); 12 USC 2279aa-6; 12 USC 2279aa-7; 12 USC 2279aa-8; 12 USC 2279aa-10; 12 USC 2279aa-12; 12 USC 2011

CFR Citation: 12 CFR 611; 12 CFR 615

Legal Deadline: None

Abstract: This regulation would permit Farm Credit System institutions, including service corporations, to issue additional amounts of certain classes of stock and allow service corporations to issue non-voting stock to non-System institutions.

Timetable:

Action	Date	FR Cite
NPRM	12/23/99	64 FR 72041
NPRM Comment Period End	01/24/00	
Final Rule	03/28/01	66 FR 16841
Final Rule Effective	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB91

4096. LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (LOAN PURCHASES AND SALES)

Priority: Other Significant

Legal Authority: 12 USC 2279a-2; 12 USC 2279b; 12 USC 2279c-1; 12 USC 2279f; 12 USC 2279f-1; 12 USC 2279aa; 12 USC 2279aa-5; 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128; 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097; 12 USC 2121; 12 USC 2122; 12 USC 2124; 12 USC 2128; 12 USC 2129; 12 USC 2131; 12 USC 2141; 12 USC 2149; 12 USC 2183; 12 USC 2184; 12 USC 2199; 12 USC 2201; 12 USC 2202; 12 USC 2202a; 12 USC 2202c; 12 USC 2202d; 12 USC 2202e; 12 USC 2206; 12 USC 2206a; 12 USC 2207; 12 USC 2211; 12 USC 2212; 12 USC 2213; 12 USC 2214; 12 USC 2219a; 12 USC 2219b; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a; ...

CFR Citation: 12 CFR 614; 12 CFR 615

Legal Deadline: None

Abstract: This regulation would remove regulatory restrictions on the System's ability to purchase interests in eligible loans and make other technical changes.

Timetable:

Action	Date	FR Cite
Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB93

4097. DISCLOSURE TO SHAREHOLDERS (ANNUAL REPORT)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2252; 12 USC 2254; 12 USC 2279a-11

CFR Citation: 12 CFR 620

Legal Deadline: None

Abstract: The regulation would eliminate the requirement that FCBs distribute their financial reports to the stockholders of their associations.

Timetable:

Action	Date	FR Cite
NPRM	03/17/00	65 FR 14494
NPRM Comment Period End	04/17/00	
Final Rule	03/12/01	66 FR 14299
Final Rule Effective	04/27/01	66 FR 21064

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AB94

4098. ORGANIZATION (STOCKHOLDER VOTE ON LIKE-LENDING AUTHORITY)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; ...

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: This regulation would implement territorial consent requirements of the Act if an institution requests a competitive charter in Alabama, Louisiana, Mississippi, and New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	05/09/00	65 FR 26776
NPRM Comment Period End	06/08/00	
Reproposed Rule	09/29/00	65 FR 58486
Reproposed Rule Comment Period End	10/30/00	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AC00

4099. • ORGANIZATION; GENERAL PROVISIONS; DISCLOSURE TO SHAREHOLDERS

Priority: Other Significant

Legal Authority: 12 USC 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2128, 2183, 2243, 2244, 2252; ...

CFR Citation: 12 CFR 611; 12 CFR 618; 12 CFR 620

Legal Deadline: None

Abstract: This rulemaking would provide procedures for associations that request national charters.

Timetable:

Action	Date	FR Cite
NPRM	02/16/01	66 FR 10639
NPRM Comment Period End	03/19/01	
NPRM Comment Period Extended	03/21/01	66 FR 15814
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

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RIN: 3052–AC03

FARM CREDIT ADMINISTRATION (FCA) — Long-Term Actions

4100. ORGANIZATION AND FUNCTIONS (FCA ORGANIZATION)

Priority: Info./Admin./Other

CFR Citation: 12 CFR 600

Timetable:

Action	Date	FR Cite
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3052–AB82

4101. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (MISSION-RELATED INVESTMENTS)

Priority: Other Significant

CFR Citation: 12 CFR 615

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurie A. Rea
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RIN: 3052–AB92

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May 14, 2001

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Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions — April 2001

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, in April and October, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. *See* 5 U.S.C. 602. The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Helen G. Hillegass, Attorney Advisor, Office of Communications Business Opportunities, or Maura McGowan, Telecommunications Specialist, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, (202) 418-0990.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in its rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number— assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (*e.g.*, Docket No. 96-1 or Docket No. 99-1). The abbreviation for the responsible bureau usually precedes the docket number, as in "MM Docket No. 96-222," which indicates that the responsible bureau is the Mass Media Bureau. A docket number consisting of only five digits (*e.g.*, Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) — issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM) — issued by the Commission when it is proposing a specific change to Commission rules and regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

Further Notice of Proposed Rulemaking (FNPRM)—issued by the Commission when additional comment in the proceeding is sought.

Memorandum Opinion and Order (MO&O)— issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or address a petition for reconsideration of a decision.

Rulemaking (RM) Number — assigned to a proceeding after the appropriate bureau or office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report and Order (R&O) — issued by the Commission to state a new or amended rule or state that the Commission rules and regulations will not be revised.

Magalie Roman Salas,

Secretary, Federal Communications Commission.

CABLE SERVICES BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4102	Cable Television Rate Regulation	3060-AF41
4103	Cable Television Rate Regulation: Cost of Service	3060-AF48
4104	Customer Service Standards	3060-AF69
4105	Cable Home Wiring	3060-AG02
4106	Closed Captioning	3060-AG26
4107	Cable Act Reform	3060-AG27
4108	Competitive Availability of Navigation Devices	3060-AG28
4109	Pole Attachment Provisions	3060-AG71
4110	Digital Must Carry	3060-AG91
4111	Horizontal Ownership Limits	3060-AH09
4112	Application of Network Nonduplication, Syndicated Exclusivity, and Sports Blackout Rules to Satellite Retransmission - SHVIA	3060-AH35
4113	Retransmission Consent Issues - SHVIA	3060-AH36
4114	Satellite Broadcasting Signal Carriage Requirements	3060-AH45

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COMMON CARRIER BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4115	Administration of the North American Numbering Plan	3060-AF50
4116	Use of N11 Codes and Other Abbreviated Dialing Arrangements	3060-AF51
4117	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060-AF85
4118	Toll-Free Service Access Codes	3060-AG11
4119	Implementation of Section 273 of the Telecommunications Act of 1996	3060-AG36
4120	Implementation of Non-Accounting Safeguards, Sec. 271 & 272 of Communications Act of 1996 & Regulatory Treatment of LEC Provisions of Interexchange Svcs. Orig. in LEC Local Exch. Area	3060-AG37
4121	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996	3060-AG42
4122	Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	3060-AG43
4123	Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, As Amended	3060-AG45
4124	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996	3060-AG46
4125	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996; LEC Tariff Streamlining Provisions	3060-AG47
4126	Access Charge Reform	3060-AG49
4127	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	3060-AG50
4128	Implementation of Section 255 and Section 251(a)(2) of the Telecommunications Act of 1996; Access to Telecommunications Services Equipment and Customer Premise Equipment for Persons With Disabilities	3060-AG58
4129	Enhanced 911 Services for Wireline	3060-AG60
4130	Administration of the North American Numbering Plan, Carrier Identification Codes	3060-AG61
4131	Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services	3060-AG72
4132	Detariffing of Competitive Local Exchange Carriers' Interstate Exchange Access Services	3060-AG73
4133	In the Matter of the Telecommunications Relay Services, the Americans With Disabilities Act of 1990, and the Telecommunications Act of 1996	3060-AG75
4134	In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities	3060-AG76
4135	1998 Biennial Regulatory Review - Review of Accounting and Cost Allocation Requirements	3060-AG98
4136	1998 Biennial Regulatory Review — Review of ARMIS Reporting Requirements	3060-AG99
4137	Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, Operator Services, and Directory Assistance	3060-AH00
4138	Access Charge Reform for Rate-of-Return Local Exchange Carriers	3060-AH01
4139	Deployment of Wireline Services Offering Advanced Telecommunications Capability	3060-AH03
4140	Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers	3060-AH16
4141	1998 Biennial Regulatory Review - Review of Depreciation Requirements for Incumbent Local Exchange Carriers	3060-AH20
4142	Comprehensive Review of Accounting Requirements and ARMIS Reporting Requirements, Phase 1	3060-AH43
4143	Local Telephone Networks That LECs Must Make Available to Competitors	3060-AH44
4144	2000 Biennial Regulatory Review — Telecommunications Service Quality Reporting Requirements	3060-AH72
4145	1998 Biennial Regulatory Review — Review of Customer Premises Equipment and Enhanced Services Unbundling Rules in the Interexchange, Exchange Access and Local Exchange Markets	3060-AH73
4146	Access Charge Reform and Universal Service Reform	3060-AH74
4147	2000 Biennial Regulatory Review — Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers; Phase 2 and Phase 3	3060-AH76
4148	Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers; Phase 1	3060-AH77

COMMON CARRIER BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4149	Telemessaging, Electronic Publishing, and Alarm Monitoring Services	3060-AG44
4150	Regulatory Treatment of LEC Provision of Interexchange Service Originating in the LEC's Local Exchange Area	3060-AG48
4151	In the Matter of Inside Wire	3060-AG63
4152	Toll Fraud	3060-AG77

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CONSUMER INFORMATION BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4153	Internet Telephony Report	3060-AH56

ENFORCEMENT BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4154	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System	3060-AF21
4155	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers	3060-AG65

OFFICE OF ENGINEERING AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4156	Software Defined Radio Authorization	3060-AH64

OFFICE OF ENGINEERING AND TECHNOLOGY—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4157	Wind Profiler Radar Systems	3060-AF45
4158	Millimeter Wave Spectrum Allocation	3060-AF61
4159	MSS Spectrum Allocation	3060-AF75
4160	Unlicensed National Information Infrastructure at 5 GHz	3060-AG19
4161	Allocation of 455-456 MHz and 459-460 MHz	3060-AG89
4162	Dedicated Short Range Communications of Intelligent Transportation Services	3060-AG94
4163	Regulations for RF Lighting Devices	3060-AG95
4164	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU	3060-AG96
4165	Uniden Scanners/Cellular Radio Signals	3060-AG97
4166	Industry Coordination Committee System for Broadcast Digital Television Service	3060-AH13
4167	3650-3700 Government Transfer Band	3060-AH14
4168	Radionavigation Service at 31.8-32.2 GHz	3060-AH15
4169	Certification of Equipment in the 24.05-24.25 GHz Band at Field Strengths Up to 2500 mV/m	3060-AH16
4170	Fixed Satellite Service and Terrestrial System in the Ku-Band	3060-AH17
4171	Closed Captioning for DTV Receivers	3060-AH24
4172	Spread Spectrum Devices	3060-AH25
4173	50-71 GHz Realignment	3060-AH26
4174	Wireless Medical Telemetry Service	3060-AH27
4175	Establishment of an Improved Model for Predicting the Broadcast Television Field Strength Received at Individual Locations	3060-AH37
4176	Conducted Emission Limits	3060-AH46
4177	Revision of the Rules Regarding Ultra-Wideband Transmission	3060-AH47
4178	New Advanced Wireless Services	3060-AH65
4179	Reallocation of 27 MHz Spectrum	3060-AH66

OFFICE OF GENERAL COUNSEL—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4180	Amendment of the Ex Parte Rules in Joint Board Proceedings	3060-AH02

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OFFICE OF GENERAL COUNSEL—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4181	Amendment of Section 1.1204 of the Commission's Ex Parte Rules	3060-AH58

INTERNATIONAL BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4182	Streamlining Earth Station Licensing Rules; IB Docket No. 00-248	3060-AH60

INTERNATIONAL BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4183	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures; IB Docket No. 95-117	3060-AD70
4184	Satellite Communications — NGSO Mobile Satellite Service; CC Docket No. 92-166	3060-AF42
4185	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band; IB Docket No. 96-132	3060-AF89
4186	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB Docket No. 95-59	3060-AF92
4187	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band; IB Docket No. 95-91; GEN Docket No. 90-357	3060-AF93
4188	Redesignation of the 27.5-29.5 GHz Frequency Band; CC Docket No. 92-297	3060-AF94
4189	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States; IB Docket No. 96-111; CC Docket No. 93-23	3060-AG31
4190	Streamlining Regulations Related to International Common Carriers; IB Docket No. 98-118	3060-AG84
4191	Redesignation 17.7-19.7 GHz Band, Blanket Licensing Sat Earth Stations 17.7-20.2 GHz & 27.5-30 GHz & Allocation 17.3-17.8 & 24.75-25.25 GHz Band for Broadcast Satellite Service Use; IB Doc No. 98-172	3060-AH21
4192	Allocate & Designate: Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz Bands). Allocate: Fixed & Mobile 40.5-42.5 GHz; Wireless 46.9-47 GHz; Gov Oper 37-38 & 40-40.5 GHz; IB Doc No. 97-95	3060-AH23
4193	Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band; IB Docket No. 99-81	3060-AH28
4194	Policies for the Direct Broadcast Satellite Service; IB Docket No. 98-21	3060-AH29
4195	1998 Biennial Regulatory Review—Review of Accounts Settlement in Maritime Mobile &Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as Accounting Authority; IB Docket No.98-96	3060-AH30
4196	Amendment to Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems; IB Docket No. 95-41	3060-AH48
4197	Global Mobile Personal Communications by Satellite; IB Docket No. 99-67	3060-AH49
4198	Consideration of Applications Under the Cable Landing License Act; IB Docket No. 00-106	3060-AH50
4199	Direct Broadcast Public Interest Obligations; MM Docket No. 93-25	3060-AH59
4200	2000 Biennial Regulatory Review — Policy and Rules Concerning the International, Interexchange Marketplace; IB Docket No. 00-202	3060-AH61
4201	2000 Biennial Review — Amendment of Parts 43 and 63 of the Commission's Rules; IB Docket No. 00-231	3060-AH62
4202	Licensing and Coordination of Earth Stations in the Fixed-Satellite Services; IB Docket No. 00-203	3060-AH63

MASS MEDIA BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4203	Transfer of Control of Non-Stock Entities (MM Docket No. 89-77)	3060-AE31
4204	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)	3060-AF80
4205	Rules Governing Broadcast Television Advertising (MM Docket No. 95-90)	3060-AF81
4206	Minor Modifications of Broadcast Licenses Without Prior Construction Permit	3060-AG30
4207	Newspaper/Broadcast Cross-Ownership	3060-AG53
4208	Review of Technical Rules in Parts 73 and 74	3060-AG81

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MASS MEDIA BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4209	Establishment of a Class A Television Service (MM Docket Nos. 00-10, 99-292)	3060-AH39
4210	Digital Audio Broadcasting Systems (MM Docket No. 99-325)	3060-AH40
4211	Dual Network Rule (MM Docket No. 00-108)	3060-AH51
4212	Experimental Broadcast Station Multiple Ownership Rule (MM Docket No. 00-105)	3060-AH52
4213	Ancillary or Supplemental Use of DTV Capacity by Non-Commercial Licensees (MM Docket No. 98-203)	3060-AH53
4214	Periodic Review of Rules and Policies Affecting the Conversion to DTV (MM Docket No. 00-39)	3060-AH54
4215	Children's TV, Obligations of Digital TV Broadcasters (MM Docket No. 00-167)	3060-AH68
4216	Extension of Filing Requirements for Children's TV Programming Report (MM Docket No. 00-44)	3060-AH69
4217	Radio Market Definitions (MM Docket No. 00-244)	3060-AH70
4218	Enhanced and Standardized Disclosure (MM Docket No. 00-168)	3060-AH71

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4219	Local Television Ownership Rule (MM Docket No. 91-221)	3060-AF79
4220	Attribution of Broadcast Interests (MM Docket Nos. 94-150, 92-51, 87-154)	3060-AF82
4221	National Television Ownership Rules (MM Docket Nos. 96-222, 91-221, 87-8)	3060-AG54
4222	1998 Biennial Review of Broadcast Ownership (MM Docket No. 98-35)	3060-AG79
4223	Review of Broadcast and Cable EEO Rules and Policies	3060-AH10
4224	Low Power FM Radio	3060-AH11

OFFICE OF MANAGING DIRECTOR—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4225	Assessment and Collection of Regulatory Fees for FY 2001	3060-AH67

WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4226	Amendment of the Commission's Rules Concerning Maritime Communications	3060-AF14
4227	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service	3060-AF26
4228	Refarming	3060-AF35
4229	Future Development of 800 MHz SMR; Competitive Bidding Wide Area	3060-AF47
4230	Resale and Roaming Obligations Pertaining to Commercial Mobile Radio Services	3060-AF58
4231	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules	3060-AF99
4232	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; 218-219 MHz Competitive Bidding Rules	3060-AG00
4233	39 GHz Channel Plan	3060-AG16
4234	Implementation of 309(j) of the Communications Act, Amendment of Parts 20 and 24 of the Commission's Rules - Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap	3060-AG21
4235	Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems	3060-AG34
4236	In the Matter of the Communications Assistance for Law Enforcement Act	3060-AG74
4237	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements	3060-AG85
4238	Multiple Access Systems	3060-AG86
4239	Amendment of Part I of the Commission's Rules — Competitive Bidding Procedures	3060-AG87
4240	Amendment of Part 90 of the Rules To Adopt Regulations for Automatic Vehicle Monitoring Systems	3060-AH12
4241	Calling Party Pays Service Offering in the Commercial Mobile Radio Services	3060-AH31

FCC

WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4242	Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules	3060-AH32
4243	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended	3060-AH33
4244	1998 Biennial Regulatory Review Spectrum Aggregation Limits for Wireless Telecommunications Carriers	3060-AH34
4245	Amendment to Parts 1, 2, 87 and 101 of the Rules to License Fixed Services at 24 GHz	3060-AH41
4246	Part 101 — Terrestrial Microwave Fixed Radio Services	3060-AH42
4247	Amendment of Parts 13 and 80 Governing Maritime Communications	3060-AH55
4248	Amendment of the Rules Regarding Installment Payment Financing for Personal Communications Services Licensees	3060-AH57
4249	Transfer of the 3650 through 3700 MHz Band and the 4.9 GHz Band from Federal Government Use	3060-AH75

WIRELESS TELECOMMUNICATIONS BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4250	Amendment to Part 27 of the Rules To Revise Rules for Services in the 2.3 GHz Band and To Include Licensing of Services in the 47 GHz Band	3060-AG93

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Long-Term Actions

Cable Services Bureau

4102. CABLE TELEVISION RATE REGULATION

Priority: Other Significant

Legal Authority: 47 USC 154; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has adopted rate regulations to implement Section 623 of the 1992 Cable Act to ensure that cable subscribers nationwide enjoy the rates that would be charged by cable systems operating in a competitive environment. Reconsideration was requested. The 14th Order on Reconsideration addresses petitions on issues governing regulated services by cable systems.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
7th Order on Recon	01/25/95	60 FR 4863
9th Order on Recon	02/27/95	60 FR 10512
8th Order on Recon	03/17/95	60 FR 14373
6th R&O and 11th Order on Recon	07/12/95	60 FR 35854
13th Order on Recon	10/05/95	60 FR 52106
12th Order on Recon	10/26/95	60 FR 54815
10th Order on Recon	04/08/96	61 FR 15388
Order on Recon of the 1st R&O and Further NPRM	04/15/96	61 FR 16447
MO&O	02/12/97	62 FR 6491
Report on Cable Industry Prices	02/24/97	62 FR 8245
R&O and FNPRM	05/21/93	58 FR 29736
R&O	03/31/97	62 FR 15118
14th Order on Recon	10/15/97	62 FR 53572
MO&O and FNPRM	08/18/93	58 FR 43816
3rd R&O	11/30/93	58 FR 63087
Order on Recon, 4th R&O, and 5th NPRM	04/15/94	59 FR 17943
3rd Order on Recon	04/15/94	59 FR 17961
5th Order on Recon and FNPRM	10/13/94	59 FR 51869
4th Order on Recon	10/21/94	59 FR 53113
6th Order on Recon, 5th R&O, and 7th NPRM	12/06/94	59 FR 62614

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AF41

4103. CABLE TELEVISION RATE REGULATION: COST OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has established rules pursuant to which cable operators may set rates for regulated cable service in accordance with traditional cost-of-service principles, as modified to take account of unique characteristics of the cable industry. These rules are the subject of pending petitions for reconsideration. In addition, the Commission is considering comments received in response to a Further Notice of Proposed Rulemaking concerning the rate of return that should be applied in cost-of-service cases.

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
2nd NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087

Action	Date	FR Cite
2nd R&O/1st Order on Recon/FNPRM	03/08/96	61 FR 9361
Correction in FR	03/22/96	61 FR 11749

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AF48

4104. CUSTOMER SERVICE STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i) to 154(j); 47 USC 303; 47 USC 552

CFR Citation: 47 CFR 76

Legal Deadline: NPRM, Statutory, April 3, 1993.

Abstract: The Commission has adopted customer service standards for cable operators nationwide to implement the provisions of the Cable Act of 1992. Such standards shall include, at a minimum, cable systems office hours, telephone availability, installations, outages, service calls, and communication between the cable operator and subscriber, including billing and refunds.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61038
R&O	04/19/93	58 FR 21107

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AF69

4105. CABLE HOME WIRING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 544(i)

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: On October 6, 1997, the FCC adopted a Report and Order and Second Notice of Proposed Rulemaking (FCC 97-7360) that amends its cable inside wiring rules to enhance competition in the video distribution marketplace. The Second FNPRM seeks comment on, among other things, whether there are circumstances where the FCC should adopt restrictions on exclusive contracts in order to further promote competition in the MDU marketplace. A Petition for Review was filed in the U.S. Circuit Court of Appeals for the 8th Circuit on November 24, 1997. The FCC has received petitions for reconsideration and has requested the 8th Circuit to hold the pending court case in abeyance until the Commission takes action on the pending petitions. The Court granted the Commission's request.

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970
NPRM	02/01/96	61 FR 3657
1st Order on Recon & FNPRM	02/16/96	61 FR 6210
FNRPM	09/03/97	62 FR 46453
R&O and 2d FNPRM	11/14/97	62 FR 60165

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG02

4106. CLOSED CAPTIONING

Priority: Other Significant

Legal Authority: 47 USC 613

CFR Citation: 47 CFR 79.1; 47 CFR 79.2

Legal Deadline: None

Abstract: The FCC adopted regulations to ensure that video programming is accessible to persons with hearing disabilities through closed captioning. The rules were adopted in August 1997 and modified in response to petitions for reconsideration in September 1998. In April 2000, the FCC adopted rules to ensure the accessibility of televised emergency information to persons with hearing disabilities through closed captioning or another method of visual presentation.

Timetable:

Action	Date	FR Cite
NOI	12/15/95	60 FR 65052
Order	01/29/96	61 FR 2781
Order	03/12/96	61 FR 9963
Report	08/14/96	61 FR 42249
NPRM	02/03/97	62 FR 4959
Order	03/24/97	62 FR 13853
R&O	09/16/97	62 FR 48487
FNRPM	01/21/98	63 FR 3070
Order	10/20/98	63 FR 55959
Order	06/23/99	64 FR 33424
2nd R&O	05/09/00	65 FR 26757

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Additional Bureau: Consumer Information

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RIN: 3060–AG26

4107. CABLE ACT REFORM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 522; 47 USC 543; 47 USC 544; 47 USC 548; 47 USC 552

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: This proceeding implements the cable reform section of the Telecommunications Act of 1996. It addresses several issues, including the cable rate complaint process, effective competition and subscriber notifications.

Timetable:

Action	Date	FR Cite
Order & NPRM	04/30/96	61 FR 19013
Report & Order	07/02/99	64 FR 35948
Correction	08/06/99	64 FR 42855

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

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RIN: 3060–AG27

4108. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 549

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has adopted rules to address the mandate expressed in section 629 of the Communications Act to ensure the commercial availability of "navigation devices," the equipment used to access video programming and other services from multichannel video programming systems. Petitions for reconsideration were resolved in a recent order. The Commission also issued a Further Notice of Proposed Rulemaking and Declaratory Ruling. The Further Notice sought comment as to the effectiveness of the Commission's rules for achieving the commercial availability of navigation devices. Accompanying the Further Notice was a Declaratory Ruling which found that technology licenses requiring copy protection measures to be located within a navigation host device are consistent with the Commission's navigation devices rules.

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10011
R&O	07/15/98	63 FR 38089
Order on Reconsideration	06/02/99	64 FR 29599
FNPRM & Declaratory Ruling	09/28/00	65 FR 58255

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG28

4109. POLE ATTACHMENT PROVISIONS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 224; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 1.1401 to 1.1418

Legal Deadline: Final, Statutory, February 8, 1998.

Abstract: In this proceeding, the Commission established rules relating to pole attachments. The Telecommunications Act of 1996 required that within two years the Commission prescribe regulations governing the charges for pole attachments. These regulations were to be used by cable operators and telecommunications carriers to provide telecommunications services when the utility and attaching entity parties fail to resolve a dispute over such charges. The Report and Order released in 1998, prescribed regulations to govern these charges.

Petitions for reconsideration of the 1998 Report and Order are pending in which the parties seek to modify the rules for access and charges for pole attachments. The 11th Circuit Court of Appeals released a decision in April of 2000 which challenged the Commission's authority over some aspects of the pole attachment rules. The Commission has filed a Petition for Rehearing. The case is now pending before the United States Supreme Court.

Separately, in April 2000, the Commission released a Report and Order addressing issues related to the formula used to calculate just and reasonable rates that utilities charge for pole attachments.

Timetable:

Action	Date	FR Cite
NPRM	08/18/97	62 FR 43963
R&O	03/12/98	63 FR 12013
R&O	05/17/00	65 FR 31270
Erratum	05/31/00	65 FR 34820

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 3060–AG71

4110. DIGITAL MUST CARRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 534

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Section 614(b)(4)(B) of the Communications Act requires that, at the time the Commission prescribes standards for advanced television, it should "initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of those broadcast signals of local commercial television stations which have been changed to conform with such modified standards." In August of 1998, the FCC issued a Notice of Proposed Rulemaking seeking comments on the requirements of that section. In June 2000, based on responses to the Notice of Proposed Rulemaking, the Commission clarified that DTV-only television stations, in the context of auctioning analog channels

59-69, will ultimately have must carry rights. In January of 2001, the Commission issued a First Report and Order and Further Notice of Proposed Rulemaking resolving a number of technical and legal issues, including clarification that digital-only TV stations are entitled to mandatory carriage.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42330
MO&O and FNPRM	07/12/00	65 FR 42879
First R&O and FNPRM	01/23/01	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG91

4111. HORIZONTAL OWNERSHIP LIMITS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 533

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: Section 613 of the Communications Act requires the Commission to "prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest." On October 8, 1999, the Commission issued a Third Report and Order, FCC 99-289, in this matter. The Commission revised the horizontal ownership rules as follows: (1) all multichannel video subscribers will be counted when calculating the 30 percent ownership limit; (2) actual subscriber numbers, rather than potential subscriber numbers, will be used for calculating an owner's share; and (3) the minority exception which allowed a 35 percent ownership limit for minority-owned entities under certain circumstances was eliminated. The Order provided that the new rules would go into effect when the horizontal ownership statute was upheld by the U.S. Court of Appeal, which occurred on May 19, 2000. The Commission subsequently lifted its self-imposed stay of the horizontal ownership rules. Petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
Second MO&O on Recon and FNPRM	07/14/98	63 FR 37790
Third R&O	12/01/99	64 FR 67198
O on Recon	03/08/00	65 FR 12135
MO&O	06/08/00	65 FR 36382
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH09

4112. APPLICATION OF NETWORK NONDUPLICATION, SYNDICATED EXCLUSIVITY, AND SPORTS BLACKOUT RULES TO SATELLITE RETRANSMISSION - SHVIA

Priority: Other Significant

Legal Authority: 47 USC 339

CFR Citation: 47 CFR 73; 47 CFR 76

Legal Deadline: None

Abstract: The FCC proposed rules on its implementation of certain aspects of the Satellite Home Viewer Improvement Act of 1999. In October of 2000, the FCC issued an order adopting rules that apply the current cable rules for network non-duplication, syndicated program exclusivity and sports blackout to satellite carriers.

Timetable:

Action	Date	FR Cite
NPRM	02/02/00	65 FR 4927
Report and Order	11/14/00	65 FR 68082
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH35

4113. RETRANSMISSION CONSENT ISSUES - SHVIA

Priority: Other Significant

Legal Authority: 47 USC 325

CFR Citation: 47 CFR 76.64(m); 47 CFR 76.65

Legal Deadline: None

Abstract: The Commission sought public comment on its implementation of certain aspects of the Satellite Home Viewer Improvement Act of 1999 (SHVIA). Among other things, the new legislation requires broadcasters, until the year 2006, to negotiate in good faith with satellite carriers and other multichannel video programming distributors (MVPDs) with respect to their transmission of the broadcasters' signals, and prohibits broadcasters from entering into exclusive retransmission agreements.

The First Report and Order (Order) determined that the statute does not intend to subject retransmission consent negotiation to detailed substantive oversight by the Commission. Instead, the Order concludes that Congress intended that the Commission follow established precedent, particularly in the field of labor law, in implementing the good faith retransmission consent negotiation requirement. Consistent with this conclusion, the Order adopts a two-part test for good faith. The first part of the test consists of a brief, objective list of negotiation standards. The second part of the good faith test is based on a totality of the circumstances standard. Under this standard, an MVPD may present facts to the Commission which, even though they do not allege a violation of the specific standards enumerated above, given the totality of the circumstances constitute a failure to negotiate in good faith. The Commission's rules regarding the good faith negotiation requirement sunset on January 1, 2006. An MVPD believing itself to be aggrieved may file a complaint with the Commission.

Timetable:

Action	Date	FR Cite
NPRM	12/29/99	64 FR 72985
1st R&O	03/23/00	65 FR 23805
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH36

4114. SATELLITE BROADCASTING SIGNAL CARRIAGE REQUIREMENTS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 338; 47 USC 534; 47 USC 535

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, November 29, 2000.

Abstract: The Satellite Home Viewer Improvement Act of 1999 (SHVIA) requires satellite carriers, by January 1, 2002, to carry upon request all local broadcast stations' signals. These signals must be carried in all local markets in which the satellite carriers carry at least one broadcast station signal, assuming this signal is licensed pursuant to section 122 of the Copyright Act. The SHVIA requires the Commission to issue rules implementing the Act's mandatory carriage requirements within one year of the SHVIA's enactment. On November 29, 2000 the Commission adopted a Report and Order that places satellite carriers on equal footing with cable operators with respect to the availability of programming. The applicable statutory provisions are found in section 1008 of the SHVIA and codified at section 338 of the Communications Act.

Timetable:

Action	Date	FR Cite
NPRM	06/30/00	65 FR 40564
NPRM Comment Period End	08/04/00	
Report and Order	01/23/01	66 FR 7410
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH45

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Long-Term Actions

Common Carrier Bureau

4115. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 3 to 4; 47 USC 151; 47 USC 152 to 155; 47 USC 154(i); 47 USC 201 to 205; 47 USC 207 to 209; 47 USC 218; 47 USC 225 to 227; 47 USC 251 to 252; 47 USC 271; 47 USC 332; 47 USC 403

CFR Citation: 47 CFR 52.1 to 52.99; 47 CFR 151; 47 CFR 154; 47 CFR 201 to 205; 47 CFR 403

Legal Deadline: None .

Abstract: The Report and Order lays the foundation for the fair and effective administration of numbering in the United States. The Report and Order establishes a model for administration of numbering resources in a competitive environment. In this model, the FCC will set broad policy objectives, be the final arbiter of domestic numbering disputes and work closely with other member countries of the North American Numbering Plan (NANP), the States, industry and consumers to ensure fair and effective number administration. The Report and Order creates the North American Number Council (NANC) under the Federal Advisory Committee Act. In the Third Report and Order, released on October 9, 1997, the Commission affirmed the NANC's selection of Lockheed Martin IMS as the new NANP administrator. The NANP administrator is a nongovernmental entity that is not aligned with any particular telecommunications industry segment, and upon selection and following a transition period, assumed Bellcore's current NANP administrator functions and the central office code administration functions currently handled by the dominant local exchange carrier in each area code. The rules were expanded to accommodate the requirements of the Telecommunications Act of 1996. See FCC 96-337, released August 8, 1996.

Timetable:

Action	Date	FR Cite
NOI	11/10/92	57 FR 53462
NPRM	05/10/94	59 FR 24103
R&O	07/28/95	60 FR 58737
2d R&O	09/06/96	61 FR 47284
3rd R&O	10/23/97	62 FR 55179
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AF50

4116. USE OF N11 CODES AND OTHER ABBREVIATED DIALING ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In 1992, the FCC released a Notice of Proposed Rulemaking in CC Docket 92-105 proposing that local exchange carriers (LECs) be required to make N11 codes available for access to information service providers. In this proposal, LECs could establish any reasonable assignment criteria for such allocation, including "first come, first served." The FCC's General Counsel released a letter indicating it found no regulatory or legal obstacles to assignment of N11 codes for information services. On February 19, 1997, the FCC released a First Report and Order and Further Notice of Proposed Rulemaking in that Docket (FCC 97-51) which allows incumbent LECs, in addition to the States and Bell Communications Research (Bellcore), to continue to perform the N11 code administration functions that they performed at the time of enactment of the 1996 Act amendments to the 1934 Act, until further FCC action. The FCC concluded that: (1) 311 should be assigned as a national number for access to non-emergency police calls; (2) 711 should be assigned as a national number for access to telecommunications relay services (TRS); (3) all providers of telephone exchange service must be able to have their customers call 611 and 811 to reach their repair and business service offices; and (4) a LEC may not itself offer enhanced services using a 411 code or any other N11 code, unless that LEC offers access to the code on a reasonable nondiscriminatory basis to competing enhanced service providers in the local service area for which it is using the code to facilitate distribution of their enhanced services. In the FNPRM, the FCC asked for comment on: (1) the technical feasibility of implementing 711 for TRS access; (2) the possibility of developing an N11 gateway offering access to multiple TRS providers; (3) whether with such access, TRS calls would still be answered within mandatory minimum answer times; (4) whether such a gateway would be consistent with section 255; (5) whether other important disability services could be accessed thereby; (6) the possibility of providing both voice and text TRS services through the same abbreviated TRS code; (7) the proprietary nature of N11 codes; and (8) an FCC proposal to transfer administration of N11 codes at the local level from incumbent LECs to the North American Numbering Plan (NANP) administrator. Petitions for reconsideration or clarification on the order have been filed. Comments and replies were filed on March 31 and April 30, 1997, respectively. On June 16, 1999, the Commission released a Public Notice announcing that it will hold a public forum on September 8, 1999, on 711 access to TRS. The goal of the forum was to identify steps that must be taken to implement 711 access to TRS as well as obstacles to implementation and how those obstacles can be resolved.

On August 9, 2000, the Commission released a Second Report and Order (FCC 00-257) that addresses issues related to the deployment of 711 for access to TRS. The Commission required a nationwide rollout of 711 access to TRS and established an implementation framework. On July 31, 2000, the Commission released a Third Report and Order (FCC 00-256) that granted the petition of the United Way of America, and others, for nationwide assignment of the 211 abbreviated dialing code for access to community information and referral services. The Commission also granted the petition of the U.S. Department of Transportation for nationwide assignment of the 511 abbreviated dialing code for access to travel and traffic information. The Commission further addressed issues raised in petitions for reconsideration of the N11 First Report and Order and resolved outstanding issues from the N11 Further Notice of Proposed Rulemaking.

On August 29, 2000, the Commission released a Fourth Report and Order and Third Notice of Proposed Rulemaking in this docket and a Notice of Proposed Rulemaking in WT Docket 00-110 (FCC 00-327) to implement the Wireless Communications and Public Safety Act of 1999. The Commission designated 911 as the universal emergency number and sought comment on appropriate transition periods and how the Commission should facilitate States' efforts to deploy comprehensive emergency communications systems.

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22681
First R&O	02/26/97	62 FR 8633
FNPRM	02/26/97	62 FR 8671
Second R&O	09/11/00	65 FR 54799
Fourth R&O and Third NPRM	09/19/00	65 FR 56751
Third R&O	02/09/01	66 FR 9674

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Additional Bureau: Consumer Information

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RIN: 3060–AF51

4117. IMPLEMENTATION OF THE UNIVERSAL SERVICE PORTIONS OF THE 1996 TELECOMMUNICATIONS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 et seq

CFR Citation: 47 CFR 54

Legal Deadline: NPRM, Statutory, March 8, 1996.
Other, Statutory, November 8, 1996, Recommended decision.
Final, Statutory, May 8, 1997, Federal-State Joint Board R&O released May 8, 1997.

Abstract: As required by the Telecommunications Act of 1996, the Commission sought comment on proposals for reforming universal service. On November 8, 1996, the Federal-State Joint Board on Universal Service issued a recommended decision on changes to the universal service support mechanisms. In addition, on January 10, 1997, the Commission issued an NPRM and NOI on changes to the Board of Directors of the National Exchange Carrier Association (NECA), regarding the administration of universal service. On May 8, 1997, the Commission, at the direction of Congress, released its order implementing the universal service portions of the 1996 Act. On December 30, 1997, the Commission issued the 4th Order on Reconsideration which made changes and clarifications to the May 8 Order. On June 22, 1998, the Commission issued the 5th Order on Reconsideration which revised the collection levels for the schools and libraries support mechanism through June 30, 1999, and revised the collection levels for the rural health care support mechanism through December 31, 1998. The 5th Order on Reconsideration also revised the priority with which schools and libraries and rural health care providers will receive support. On October 28, 1998, the Commission issued the 5th Report and Order, in which it adopted the model platform for its forward-looking economic cost methodology, which will be used to determine support for non-rural carriers beginning July 1, 1999. On November 21, 1998, the Commission issued the 8th Order on Reconsideration in which it consolidated the administration of universal service into a single entity known as the Universal Service Administrative Company or USAC. On November 25, 1998, the Federal-State Joint Board on Universal Service issued its Second Recommended Decision in which the Joint Board made certain recommendations to the Commission regarding the high cost support mechanism.

On May 28, 1999, the Commission issued the 13th Order on Reconsideration in which it adopted the principles of a Federal high-cost support mechanism that conformed to the Second Recommended decision and in which it sought further comment on specific elements of the support methodology. In the 13th Order on Reconsideration, the Commission also decided to implement the new high-cost support mechanism on January 1, 2000 instead of July 1, 1999, as previously planned. On May 28, 1999, the Commission also issued a Further Notice of Proposed Rulemaking in which it sought comment on proposed input values to be used in the forward-looking model to determine non-rural LECs' cost of providing supported services in high cost areas. On August 5, 1999, the Commission adopted a Further Notice of Proposed Rulemaking in which it sought comment to ascertain the availability of, and to understand the possible impediments to, deployment and subscribership in unserved and underserved areas of the Nation, including tribal lands and other insular areas.

On November 1, 1999, the Commission issued the Fourteenth Order on Reconsideration, in which it eliminated the requirement that only carriers that have been certified as eligible telecommunications carriers may receive credit against their universal service contributions for providing telecommunications services to rural health care providers at the lower urban rates. On November 1, 1999, the Commission also issued the Fifteenth Order on Reconsideration, in which it authorized support for any commercially available telecommunications service regardless of the bandwidth, and simplified the method for determining how much support a rural health care provider can receive. On November 2, 1999, the Commission issued the Ninth Report and Order and Eighteenth Order on Reconsideration in which it adopted a new forward-looking high-cost support mechanism that will enable States to ensure the reasonable comparability of non-rural carriers' intrastate rates. On November 2, 1999, the Commission also issued the Tenth Report and Order in which it completed the selection of a cost model to estimate forward-looking cost by adopting input values for the previously adopted cost model.

On June 30, 2000, the Commission issued the Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, in response to the Further Notice of Proposed Rulemaking it adopted on August 5, 1999. In the Twelfth Report and Order, the Commission adopted measures to promote telecommunications subscribership and infrastructure deployment within American Indian and Alaska Native tribal communities.

On October 12, 2000, the Commission released a Further Notice of Proposed Rulemaking and Order to seek comment on proposals to modify the Commission's rules relating to contributions to the Federal universal service support mechanisms. On January 12, 2001, the Commission released a Further Notice of Proposed Rulemaking seeking comment on the Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board) regarding a plan for reforming the universal service support mechanism for rural carriers. The Joint Board sent to the Commission the Rural Task Force Recommendation as a good foundation for implementing rural high-cost reform. The Rural Task Force recommends the use of a modified version of the current high-cost loop support mechanism based on carriers' embedded costs.

Timetable:

Action	Date	FR Cite
Recommended Decision Federal-State Joint Board, Universal Service	11/08/96	61 FR 63778
1st R&O	05/08/97	62 FR 32862
2nd R&O	05/08/97	62 FR 32862
Order on Recon	07/10/97	62 FR 40742
R&O and 2nd Order on Recon	07/18/97	62 FR 41294
2nd R&O, and FNPRM	08/15/97	62 FR 47404
3rd R&O	10/14/97	62 FR 56118
2nd Order on Recon	11/26/97	62 FR 65036
4th Order on Recon	12/30/97	62 FR 2093
5th Order on Recon	06/22/98	63 FR 43088
5th R&O	10/28/98	63 FR 63993
8th Order on Recon	11/21/98	
2nd Recommended Decision	11/25/98	63 FR 67837
13th Order on Recon	06/09/99	64 FR 30917
FNPRM	06/14/99	64 FR 31780
FNPRM	09/30/99	64 FR 52738
14th Order on Recon	11/16/99	64 FR 62120
15th Order on Recon	11/30/99	64 FR 66778
10th R&O	12/01/99	64 FR 67372
9th R&O and 18th Order on Recon	12/01/99	64 FR 67416
19th Order on Recon	12/30/99	64 FR 73427
20th Order on Recon	05/08/00	65 FR 26513
Public Notice	07/18/00	65 FR 44507
12th R&O, MO&O and FNPRM	08/04/00	65 FR 47883
FNPRM and Order	11/09/00	65 FR 67322
FNPRM	01/26/01	66 FR 7867

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

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RIN: 3060–AF85

4118. TOLL-FREE SERVICE ACCESS CODES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 et seq; 47 USC 251(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proceeding assures that toll-free numbers are allocated on an efficient, fair, and orderly basis.

Timetable:

Action	Date	FR Cite
NPRM	10/05/95	60 FR 57157
Second R&O	04/25/97	62 FR 20126
Third R&O	10/09/97	62 FR 55179
Fourth R&O and MO&O	03/30/98	63 FR 16440
Fifth R&O	07/05/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG11

4119. IMPLEMENTATION OF SECTION 273 OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 153; 47 USC 154; 47 USC 157; 47 USC 201 to 209; 47 USC 218; 47 USC 251; 47 USC 273; 47 USC 403

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rulemaking implements provisions of the Telecommunications Act of 1996 relating to the manufacturing of telecommunications equipment and customer premises equipment by the Bell Operating Companies and their affiliates.

Timetable:

Action	Date	FR Cite
NPRM	01/24/97	62 FR 3638

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG36

4120. IMPLEMENTATION OF NON-ACCOUNTING SAFEGUARDS, SEC. 271 & 272 OF COMMUNICATIONS ACT OF 1996 & REGULATORY TREATMENT OF LEC PROVISIONS OF INTEREXCHANGE SVCS. ORIG. IN LEC LOCAL EXCH. AREA

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 271; 47 USC 272; 47 USC 303(r)

CFR Citation: 47 CFR 1.720; 47 CFR 1.721; 47 CFR 1.735; 47 CFR 61.41; 47 CFR 61.58; 47 CFR 63.71; 47 CFR 64.702

Legal Deadline: None

Abstract: On December 24, 1996, the Commission adopted the Non-Accounting Safeguards Order in its proceeding implementing the non-accounting safeguards provision of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. These provisions prescribe the manner in which the Bell Operating Companies (BOCs) may enter certain markets, including the provisions of in-region interLATA services. On October 1, 1999, the Commission denied several petitions for reconsideration of its initial Order and, on its own motion, clarified certain language in the Order relating to so-called "teaming arrangements." Certain BOCs subsequently appealed specific aspects of the Order to the U.S. Circuit Court for the District of Columbia. On October 27, 2000, the Court granted the Commission's motion for a voluntary remand, and remanded the matter to the Commission. On November 8, 2000, the Commission sought further comment on the specific issues raised by the appeal.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39392
First R&O	01/21/97	62 FR 2927
FNPRM	01/21/97	62 FR 2991
Second Order on Recon	07/07/97	62 FR 36216
Order	04/06/98	63 FR 16696
Second R&O	04/24/98	63 FR 20326
Erratum	05/25/98	63 FR 34603
Third O on Recon	10/01/99	64 FR 61527
Public Notice	11/08/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG37

4121. POLICIES AND RULES GOVERNING INTERSTATE PAY-PER-CALL AND OTHER INFORMATION SERVICES PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 228

CFR Citation: 47 CFR 64.1501; 47 CFR 64.1504; 47 CFR 64.1510

Legal Deadline: None

Abstract: The Commission has received comments on proposed rules designed to implement the 1996 Telecommunications Act with respect to information services to prevent abusive and deceptive practices by entities that might try to circumvent the statutory requirements. The proposed rules address generally the use of dialing sequences other than the 900 service access code to provide information services.

Timetable:

Action	Date	FR Cite
NPRM	06/20/96	61 FR 31481
NPRM Comment Period End	09/16/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG42

4122. TELECOMMUNICATIONS CARRIERS' USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION AND OTHER CUSTOMER INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 222; 47 USC 275; 47 USC 303(r)

CFR Citation: 47 CFR 64.2001; 47 CFR 64.2003; 47 CFR 64.2005; 47 CFR 64.2007; 47 CFR 64.2009

Legal Deadline: None

Abstract: The Commission adopted rules implementing the new statutory framework governing carrier use and disclosure of customer proprietary network information (CPNI) created by section 222 of the Communications Act of 1934, as amended. CPNI includes, among other things, to whom, where, and when a customer places a call, as well as the types of service offerings to which the customer subscribes and the extent to which the service is used.

Timetable:

Action	Date	FR Cite
NPRM	05/28/96	61 FR 26483
Public Notice	02/25/97	62 FR 8414
2d R&O and FNPRM	04/24/98	63 FR 20364
Order on Reconsideration	10/01/99	64 FR 53242
Final Rule, Announcement of Effective Date	01/26/01	66 FR 7865

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG43

4123. POLICY AND RULES CONCERNING THE INTERSTATE, INTEREXCHANGE MARKETPLACE; IMPLEMENTATION OF SECTION 254(G) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 214(e); 47 USC 215; 47 USC 218; 47 USC 220

CFR Citation: 47 CFR 61; 47 CFR 64.702(e)

Legal Deadline: None

Abstract: On March 25, 1996, the Commission released an NPRM seeking comment on its proposal that nondominant interexchange carriers should no longer file tariffs. On October 29, 1996, the Commission adopted the Second Report and Order in which it determined that the statutory forbearance criteria in section 10 of the Communications Act were met for complete detariffing of the interstate, domestic, interexchange services offered by nondominant interexchange carriers. The Commission determined that such carriers would no longer be allowed to file tariffs pursuant to section 203 of the Communications Act for such services, with limited exceptions. The Commission maintained the tariffing requirement for the international portion of bundled domestic and international service offerings. It further required nondominant interexchange carriers to: (1) file an annual certification stating that they are in compliance with the requirements of section 254(g); (2) maintain supporting documentation on the rates, terms, and conditions of their interstate, domestic, interexchange services that they could submit to the Commission within ten business days upon request; and (3) make publicly available information concerning current rates, terms, and conditions for all of their interstate, domestic interexchange services. Several parties appealed, requesting a stay of the Second Report and Order pending review by the D.C. Circuit. On February 13, 1997, the D.C. Circuit granted certain motions, including a motion for a stay of the Commission's detariffing order. The result was that nondominant interexchange carriers were required to file tariffs for their interstate, domestic, interexchange service. On August 20, 1997, the Commission released an Order on Reconsideration in which it modified the Second Report and Order by: (1) adopting permissive detariffing for interstate, domestic, interexchange direct-dial services to which end users obtain access by dialing an access code; (2) adopting permissive detariffing for the first 45 days of service to new customers that contact the local exchange carrier to choose their primary interexchange carrier; and (3) eliminating the requirement that nondominant interexchange carriers make publicly available information concerning current rates and terms for most interstate, domestic interexchange services.

In the Second Order on Reconsideration, the Commission considered again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms and conditions for all their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created "filed-rate" doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

On April 28, 2000, the Court of Appeals upheld the Commission's orders requiring detariffing of domestic, interexchange services and lifted the stay on May 1, 2000. The Common Carrier Bureau issued a Public Notice on May 9, 2000 requesting comment on the nine-month transition plan set out in the Second Report and Order. The Bureau requested comment on (1) whether permissive detariffing should be permitted during all or part of the nine-month transition period for bundled domestic and international service offerings; (2) how quickly the IXCs can come into full compliance with the Web posting requirement; and

(3) whether any other modifications should be made to the transition plan. Comments were filed on May 31, 2000, and reply comments were filed on June 9, 2000.

By Public Notice dated November 6, 2000, the Common Carrier Bureau extended the transition period until April 30, 2001, for mass market consumer services only. On November 17, 2000, the Common Carrier Bureau issued an Order that addressed the comments filed in response to the May 9, 2000 Public Notice. Specifically, the bureau addressed issues relating to the transition period, public disclosure, and certification requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14717
R&O	06/16/96	61 FR 42558
2nd R&O	11/22/96	61 FR 59340
Order on Reconsideration	11/04/97	62 FR 59583
Second Order on Reconsideration	04/22/99	64 FR 19722
Public Notice	05/09/00	
Public Notice	11/06/00	
Order	11/17/00	
Public Notice	02/05/01	
Public Notice	02/21/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG45

4124. IMPLEMENTATION OF THE SUBSCRIBER SELECTION CHANGES PROVISION OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 201; 47 USC 258

CFR Citation: 47 CFR 64.1100; 47 CFR 64.1150; 47 CFR 64.1160; 47 CFR 64.1170; 47 CFR 64.1180; 47 CFR 64.1190

Legal Deadline: None

Abstract: In December 1998, the Commission established new rules and policies implementing section 258 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, which makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telecommunications exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." The rules provide, among other things, that any telecommunications carrier that violates such verification procedures and that collects charges for telephone exchange service or telephone toll service from a subscriber, shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by the subscriber after such violation. In the FNPRM, we sought comment on several proposals to further strengthen our slamming rules, including a proposal to require unauthorized carriers to remit to authorized carriers certain amounts in addition to the amount paid by slammed subscribers, as well as proposals for preventing the confusion and slamming that results from resellers using the same carrier identification codes as their facilities-based carriers. In April 2000, the Commission modified the slamming liability rules by giving victims of slamming adequate redress, ensuring that carriers that slam do not profit from their fraud, and allowing states to act as the primary administrator of slamming complaints.

In July 2000, the Commission took further action to improve the existing carrier change process for both consumers and carriers, protect the right of consumers to exercise choice among carriers, and ensure that consumers' choices are honored. In December 2000, the Commission adopted a Biennial Review FNPRM seeking comment on proposals to amend the slamming rules to lighten administrative burdens associated with selling or transferring customer bases by eliminating the need to obtain a waiver, while continuing to protect consumers. In February 2001, the Commission adopted an order modifying and clarifying certain aspects of the reporting and registration requirements it had adopted in July 2000.

Timetable:

Action	Date	FR Cite
MO&O on Recon and FNPRM	08/14/97	62 FR 43493
FNPRM Comment Period End	09/30/97	
Second Report & Order and Second FNPRM	02/16/99	64 FR 7745
First O on Recon	04/13/00	65 FR 47678
Third Report & Order	08/15/00	
Second O on Recon	08/15/00	
Third FNPRM	01/18/01	
Order	02/22/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG46

4125. IMPLEMENTATION OF SECTION 402(B)(1)(A) OF THE TELECOMMUNICATIONS ACT OF 1996; LEC TARIFF STREAMLINING PROVISIONS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154

CFR Citation: 47 CFR 1.773(a); 47 CFR 61.58

Legal Deadline: Final, Statutory, February 8, 1997, the Act of 1996 provides that streamlining provisions apply to any charge, classification, regulation, or practice filed on or after one year after date of enactment of the Act (i.e., 2/8/97).

Abstract: In this Report and Order, the FCC adopted rules to implement the specific streamlining requirements of the Telecommunications Act of 1996. Petitions for reconsideration were filed.

Timetable:

Action	Date	FR Cite
NPRM	09/24/96	61 FR 49987
NPRM Comment Period End	10/24/96	
R&O	02/07/97	62 FR 5757

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG47

4126. ACCESS CHARGE REFORM

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 403; 47 USC 553

CFR Citation: 47 CFR 61.41 to 61.49; 47 CFR 69

Legal Deadline: None

Abstract: On December 24, 1996, the Commission initiated a rulemaking to revise its access charge rules to make them compatible with a competitive market envisioned by the Telecommunications Act of 1996. On May 7, 1997, the Commission adopted revised access charge rate structure rules and adjusted the price cap productivity factor. The Commission also adopted a market-based approach to reducing overall access charge levels and moving such levels toward forward-looking economic costs. The Commission adopted a Further Notice of Proposed Rulemaking seeking comment on proposals to allow presubscribed interexchange carrier charges on special access lines and to adjust the allocation of General Support Facilities costs recovered through interstate access charges.

On July 10, 1997, on its own motion, and on October 9, 1997, in response to reconsideration petitions, the Commission revised or clarified certain parts of the rules adopted in the May 1997 Access Charge Reform Order. On November 26, 1997, the Commission adopted rules requiring price cap carriers to adjust the allocation of General Support Facilities costs and to reduce their price cap indices to ensure that regulated access rates do not recover those costs which are related to nonregulated services. Reconsideration petitions filed in response to the Access Charge Reform Order, if not yet addressed, will be addressed in future reconsideration orders. On May 27, 1999, the Commission initiated a further rulemaking, seeking comment on how to adjust interstate access charges in conjunction with the removal from access charges of implicit universal service support for non-rural local exchange carriers. On August 5, 1999, the Commission adopted rules implementing the market-based approach to access charge reform, pursuant to which incumbent price cap local exchange carriers receive progressively greater pricing flexibility as competition develops. The Commission also initiated a Further Notice of Proposed Rulemaking, seeking comment on additional pricing flexibility, proposed changes to the rate structure for local switching and tandem-switched transport, and the need to constrain access charges imposed by competitive local exchange carriers. Reconsideration petitions filed in response to the November 1997 General Support Facilities Order will be addressed in a future reconsideration order. On May 31, 2000, the Commission adopted an industry proposal establishing a 5-year plan for price cap local exchange carriers and resolving many outstanding issues concerning interstate access charges and interstate universal service. On June 16, 2000, the Commission issued a Public Notice inviting parties to update and refresh the record regarding the mandatory detariffing of competitive local exchange carriers' interstate access services.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4670
FNPRM	06/06/97	62 FR 31040
R&O	06/11/97	62 FR 31868
Second Report & Order	06/11/97	62 FR 31939
Order on Reconsideration	07/29/97	62 FR 40460
Second Order on Reconsideration	10/29/97	62 FR 56121
Third Report & Order	12/15/97	62 FR 65619
Public Notice	10/09/98	63 FR 54430
Third Order on Reconsideration	10/15/98	63 FR 55334
Fourth Report & Order and FNPRM	06/09/99	64 FR 30949
Fifth Report & Order and FNPRM	09/22/99	64 FR 51258
NPRM	10/04/99	64 FR 53648
Sixth Report & Order	06/21/00	65 FR 38684
Public Notice	06/26/00	65 FR 39335

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG49

4127. IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 to 155; 47 USC 157; 47 USC 201 to 205; 47 USC 207 to 209; 47 USC 218

CFR Citation: 47 CFR 51; 47 CFR 52

Legal Deadline: Final, Statutory, August 8, 1996.

Abstract: The Second Report and Order and Memorandum Opinion and Order implemented the dialing parity, nondiscriminatory access, network disclosure, and number administration provisions of the Telecommunications Act of 1996. The Order also denied the Petition for Expedited Declaratory Ruling on the area code relief plan for Dallas and Houston filed with the FCC by the Texas Public Utilities Commission on May 9, 1996. Finally, this Order addressed petitions for clarification or reconsideration in the matters of proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech and the Administration of the North American Numbering Plan. On July 19, 1999, the Commission released an order denying the petition for reconsideration of the Local Competition Second Report and Order and Memorandum Opinion and Order filed by Beehive Telephone Company, Inc., Local Competition Second Report and Order, First Order on Reconsideration, CC Docket No. 96-98, FCC 99-170, 1999 WL 507245 (1999). On August 17, 1999, Beehive filed a Notice of Appeal of this order with the U.S. Court of Appeals for the D.C. Circuit. On May 18, 2000, the Court affirmed the Commission's decision without a published opinion. On June 30, 2000, Beehive filed a Petition for Rehearing with the Court. That petition was denied on July 18, 2000.

On September 9, 1999, the Commission released the Second Order on Reconsideration of the Local Competition Second Report and Order,

FCC 99-227, resolving petitions for reconsideration of rules adopted in the Local Competition Second Report and Order to implement the requirement of Section 251(b)(3), 47 U.S.C. Section 251(b)(3), that LECS provide non-discriminatory access to directory assistance, directory listing and operator services. On October 21, 1999, the Commission released the Third Order on Reconsideration of the Local Competition Second Report and Order, FCC 99-243, resolving the petitions for reconsideration regarding numbering administration under section 251(e)(1) of the Act, 47 U.S.C. section 251(e)(1). Other petitions for reconsideration or clarification of the Local Competition Second Report and Order and Memorandum Opinion and Order regarding dialing parity under section 251(b)(3) of the Act, 47 U.S.C. section 251(b)(3), and network disclosure under section 251(c)(1) of the Act, 47 U.S.C. section 251(c)(1), are currently pending before the Commission.

Timetable:

Action	Date	FR Cite
NPRM	04/25/96	61 FR 18311
NPRM Comment Period End	06/03/96	
Order	09/06/96	61 FR 47284
Second Order on Recon	09/27/99	64 FR 51910
Third Order on Recon	11/18/99	64 FR 62983
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

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RIN: 3060–AG50

4128. IMPLEMENTATION OF SECTION 255 AND SECTION 251(A)(2) OF THE TELECOMMUNICATIONS ACT OF 1996; ACCESS TO TELECOMMUNICATIONS SERVICES EQUIPMENT AND CUSTOMER PREMISE EQUIPMENT FOR PERSONS WITH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 255

CFR Citation: 47 CFR 6; 47 CFR 7

Legal Deadline: None

Abstract: This proceeding is initiated to implement the provisions of sections 251(a)(2) and 255 of the Communications Act and related sections of the Telecommunications Act of 1996 regarding the accessibility of telecommunications equipment and services to persons with disabilities.

Timetable:

Action	Date	FR Cite
NOI	09/26/96	61 FR 50465
NPRM	05/22/98	63 FR 28456
NPRM Comment Period End	08/14/98	
First Report & Order	11/19/99	64 FR 63277
Public Notice	07/13/00	65 FR 43372
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: Additional Bureau: Consumer Information

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RIN: 3060–AG58

4129. ENHANCED 911 SERVICES FOR WIRELINE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201; 47 USC 222; 47 USC 251

CFR Citation: 47 CFR 64.706; 47 CFR 64.708; 47 CFR 68.2; 47 CFR 68.3; 47 CFR 68.3(a); 47 CFR 68.228; 47 CFR 68.308; 47 CFR 68.310

Legal Deadline: None

Abstract: The rules generally will assist State governments in drafting legislation that will ensure that multi-line telephone systems are compatible with the enhanced 911 network.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 3060–AG60

4130. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN, CARRIER IDENTIFICATION CODES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)

CFR Citation: None

Legal Deadline: None

Abstract: In 1994, the FCC released a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 92-237 addressing various issues relating to NANP administration, including carrier identification codes (CICs). On April 30, 1996, the FCC issued a Public Notice to refresh the record in this Docket. On April 11, 1997, the FCC released a Second Report and Order affirming its tentative conclusion in the NPRM of the industry's plan to convert 3-digit Feature Group D (FGD) Carrier Identification Codes (CICs) to 4-digit. On October 9, 1997, the FCC released the CICs' Further Notice of Proposed Rulemaking seeking comments on the definition of "entity" used to determine who may receive a CIC, and on CIC conservation issues. On October 22, 1997, the Commission released CIC's Order on Reconsideration, Order on Application For Review, and Second FNPRM. The Order on Application For Review denied VarTec Telecom Inc.'s Application for Review of the Common Carrier Bureau's (CCB's) decision to deny VarTec's Motion for Stay of the CIC's Second Report and Order. The Second Further Notice of Proposed Rulemaking tentatively concludes that eventually all Local Exchange Carriers (LEC) end offices should be required to provide equal access. In December 1997 and January 1998, the CCB's Network Service Division released five Orders addressing petitions for waiver filed by small LECs, requesting extension of the January 1, 1998 deadline for conversion of switches to 4-digit. On January 28, 1998, the Network Services Division released an Order addressing a petition filed by a LEC seeking a waiver of 5-digit CIC dialing during the permissive dialing period. The last waiver of the permissive dialing period, where users could use either 5 or 7 digit carrier access code dialing, ended successfully on December 31, 1999. Several petitions were received in the first half of calendar year 2000 that may require the issuance of a Public Notice to refresh the record of the FNPRM.

Timetable:

Action	Date	FR Cite
Second R&O	04/18/97	62 FR 19056
FNPRM	10/22/97	62 FR 54817
Order on Recon	10/28/97	62 FR 55762
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG61

4131. COMPUTER III FURTHER REMAND PROCEEDINGS: BELL OPERATING COMPANY PROVISION OF ENHANCED SERVICES

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 160; 47 USC 161; 47 USC 202 to 205; 47 USC 251; 47 USC 271; 47 USC 272; 47 USC 274 to 276

CFR Citation: 47 CFR 51; 47 CFR 53; 47 CFR 64

Legal Deadline: None

Abstract: On January 30, 1998, the FCC released a Further Notice of Proposed Rulemaking (FNRPM) proposing to streamline the safeguards under which the Bell Operating Companies (BOCs) provide information (or enhanced) services, such as voice mail and electronic messaging. The FCC sought comment on tentative conclusions relating to nonstructural safeguards, Comparably Efficient Interconnection (CEI) plans, and network information disclosure rules, among other things. Finally, the FNPRM sought to build a record on which to respond to a partial remand of certain orders by the Court of Appeals for the Ninth Circuit. On February 25, 1999, the Commission adopted a Report and Order which streamlined the Commission's CEI and network information disclosure rules. Although the BOCs must continue to comply with their CEI obligations, they are no longer required to obtain pre-approval of their CEI plans and amendments from the Commission before initiating or altering an intra-LATA information service. Instead, the Commission requires the BOCs to post their CEI plans on their publicly accessible Internet sites, and to notify the Common Carrier Bureau upon such posting. The Commission removed the network information disclosure rules set forth in the Computer II and Computer III proceedings, with the narrow exception of the Computer II rules that require carriers to disclose changes that could affect how customer premises equipment (CPE) is attached to the network.

Timetable:

Action	Date	FR Cite
FNPRM	02/26/98	63 FR 9749
R&O	03/24/99	64 FR 14141
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3060–AG72

4132. DETARIFFING OF COMPETITIVE LOCAL EXCHANGE CARRIERS' INTERSTATE EXCHANGE ACCESS SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 to 154; 47 USC 160

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission proposes to establish mandatory detariffing for interstate exchange access services provided by competitive local exchange carriers (CLECs) or some form of regulation of CLECs' access rates pursuant to a Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking issued by the Commission on June 19, 1997, and August 27, 1999, respectively.

Timetable:

Action	Date	FR Cite
NPRM	07/17/97	62 FR 38244
FNPRM	09/22/99	64 FR 51280
Public Notice	06/26/00	65 FR 39335
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AG73

4133. IN THE MATTER OF THE TELECOMMUNICATIONS RELAY SERVICES, THE AMERICANS WITH DISABILITIES ACT OF 1990, AND THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225

CFR Citation: 47 CFR 64.604

Legal Deadline: None

Abstract: This item will address the requirement that telecommunications relay services be capable of handling any type of call normally provided by common carriers, including coin-sent paid calls. On August 23, 2000, the Bureau suspended the enforcement of the coin sent-paid requirement for an additional nine months, until May 26, 2001.

Timetable:

Action	Date	FR Cite
NPRM	12/04/90	55 FR 50037
R&O and Request for Comments	08/01/91	56 FR 36729
O on Recon, Second R&O and FNPRM	03/03/93	58 FR 12175
MO&O	11/28/95	60 FR 58626
Order	08/23/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: Additional Bureau: Consumer Information

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RIN: 3060–AG75

4134. IN THE MATTER OF TELECOMMUNICATIONS RELAY SERVICES AND SPEECH-TO-SPEECH SERVICES FOR INDIVIDUALS WITH HEARING AND SPEECH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225; 47 USC 255; 47 USC 610

CFR Citation: 47 CFR 64.601; 47 CFR 64.603; 47 CFR 64.604; 47 CFR 64.605

Legal Deadline: None

Abstract: In the Report and Order, released on March 6, 2000, the FCC adopted additional rules to increase the availability and usefulness of the telecommunications system for Americans with hearing and speech disabilities. Specifically, the FCC required that speech to speech and Spanish language relay services be provided. The FCC also encouraged the provision of video relay interpreting service by making it eligible for reimbursement from the telecommunications relay service (TRS) fund. In addition, the FCC revised its minimum standards in accordance with the statutory mandate that TRS must be "functionally equivalent" to voice telecommunications service to the extent possible. Among other things, these rules will improve the speed at which calls are answered and conversations relayed.

In the Further Notice of Proposed Rulemaking (FNPRM), the FCC asked for comment on how to further improve TRS. Specifically, the FNPRM asked what changes are necessary to increase public awareness of TRS among all callers, not just those with disabilities, including how a national awareness education campaign can be established; and whether other technologies, services, and features should be made available to TRS users.

In the Order on Reconsideration released on June 5, 2000, the FCC, on its own motion, amended the effective date by which parties must comply with most of the amended rules adopted in the Report and Order. The Order on Reconsideration also established a fixed date for the annual submission of complaint log summaries by States and TRS providers to the FCC by July 1 of each year. The FCC also more rigorously conformed the text of the rules concerning the submission of contact information and the treatment of emergency calls to the precise language in the Report and Order. Moreover, the FCC clarified the requirement regarding the transfer of customer profile information between outgoing and incoming TRS providers, and clarified the review process and possible disposition of informal complaints under our amended TRS rules. In addition, the Order on Reconsideration changed the nomenclature in our rules from "video relay interpreting" to "video relay services." Finally, the Order on Reconsideration corrected various typographical errors.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 32798
NPRM Comment Period End	09/14/98	
O on Recon	06/21/00	65 FR 38432
Report and Order	06/21/00	65 FR 38432
FNPRM	06/21/00	65 FR 38490

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: Additional Bureau: Consumer Information

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RIN: 3060–AG76

4135. 1998 BIENNIAL REGULATORY REVIEW - REVIEW OF ACCOUNTING AND COST ALLOCATION REQUIREMENTS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 161; 47 USC 220

CFR Citation: 47 CFR 32.11; 47 CFR 32.16; 47 CFR 32.2000(b); 47 CFR 32.2114; 47 CFR 32.2115; 47 CFR 32.2116; 47 CFR 32.5280; 47 CFR 32.6114; 47 CFR 32.6115; 47 CFR 32.6116; 47 CFR 64.903; 47 CFR 64.904

Legal Deadline: None

Abstract: This Report and Order modifies the FCC's cost allocation and accounting rules as part of the biennial regulatory review process. Specifically, it (1) raises the threshold significantly for Class A accountings, thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts; (2) establishes less burdensome cost allocation manual (CAM) procedures for the mid-sized incumbent local exchange carriers (LECs) and reduces the frequency with which independent audits of the cost allocations are required; and (3) makes several changes to the uniform system of accounts to reduce accounting requirements and to eliminate or consolidate accounts.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 45208
NPRM Comment Period End	09/04/98	
Report & Order	06/30/99	64 FR 50002

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AG98

4136. 1998 BIENNIAL REGULATORY REVIEW — REVIEW OF ARMIS REPORTING REQUIREMENTS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 219; 47 USC 220; 47 USC 403

CFR Citation: 47 CFR 43.21

Legal Deadline: None

Abstract: This Report and Order reduces reporting requirement for incumbent local exchange carriers with annual operating revenues in excess of the annual indexed revenue threshold. These modifications are designed to minimize the reporting burden on carriers, improve the quality and use of the reported financial and operating data, and reduce the costs of collection, verification, and distribution of the data.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 44220
NPRM Comment Period End	09/04/98	
Report & Order	06/30/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AG99

4137. PERFORMANCE MEASUREMENTS AND REPORTING REQUIREMENTS FOR OPERATIONS SUPPORT SYSTEMS, INTERCONNECTION, OPERATOR SERVICES, AND DIRECTORY ASSISTANCE

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 251; 47 USC 303

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On April 17, 1998, the FCC released an NPRM seeking comment on a set of model performance measurements and reporting requirements for OSS, interconnection, and access to operator services and to directory assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 27021

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AH00

4138. ACCESS CHARGE REFORM FOR RATE-OF-RETURN LOCAL EXCHANGE CARRIERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553; 47 USC 151; 47 USC 152; 47 USC 153; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 251; 47 USC 254(g); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 36.111; 47 CFR 36.372; 47 CFR 61.1; 47 CFR 69.2; 47 CFR 69.4; 47 CFR 69.110; 47 CFR 69.112; 47 CFR 69.120; 47 CFR 69.125; 47 CFR 69.153(c); 47 CFR 69.307(c)

Legal Deadline: None

Abstract: In order to make the access charge rules compatible with a competitive marketplace as envisioned by the Telecommunications Act of 1996, the FCC on May 26, 1998, initiated a rulemaking to revise interstate access charge rules applicable to incumbent local exchange carriers subject to rate-of-return regulation. The NPRM proposes to permit rate-of-return LECs to adjust their subscriber line charge ceilings on non-primary residential and multi-line business lines to the level necessary to recover their average per-line interstate-allocated common line costs, subject to an inflation-adjusted $9.00 ceiling. The NPRM also proposes to permit rate-of-return LECs to recover common line revenues through a presubscribed interexchange carrier charge. The NPRM also proposes that per-minute residual carrier common line and residual transport interconnection charges will be eliminated as the presubscribed interexchange carrier charge ceilings increase. The NPRM seeks comment on proposals to allow presubscribed interexchange carrier charges on special access lines and to adjust the allocation of General Support Facilities costs recovered through interstate access charges to ensure that regulated access rates do not recover costs related to nonregulated services. The NPRM proposes that rate-of-return local exchange carriers recover marketing costs allocated to the interstate jurisdiction from end users on a per-line basis. In addition, to establish a new switched access rate element to accommodate a new service offering, the streamlined petition provisions of section 69.4(g) are proposed.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38774

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

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RIN: 3060–AH01

4139. DEPLOYMENT OF WIRELINE SERVICES OFFERING ADVANCED TELECOMMUNICATIONS CAPABILITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 153; 47 USC 154; 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 251; 47 USC 252; 47 USC 253; 47 USC 254; 47 USC 256; 47 USC 271; 47 USC 303(r)

CFR Citation: 47 CFR 51.5; 47 CFR 51.230; 47 CFR 51.231; 47 CFR 51.232; 47 CFR 51.233; 47 CFR 51.319; 47 CFR 51.321; 47 CFR 51.323; 47 CFR 51.605; 47 CFR 51.607

Legal Deadline: None

Abstract: On March 31, 1999, the Commission released a First Report and Order and Further Notice of Proposed Rulemaking (NPRM), in CC Docket No. 98-147, adopting several measures to enable competitive providers of advanced services such as high-speed Internet access, to deploy new technologies on a faster, more cost-effective basis to consumers. This order is intended to create marketplace conditions conducive to the nationwide deployment of advanced telecommunications services consistent with the goals of section 706. Because the Commission concluded that the record does not sufficiently address long-term spectrum compatibility issues, the Commission adopted a companion Further NPRM that seeks comment on issues related to developing long-term standards and practices for spectrum compatibility and management. In the Further NPRM, the Commission also tentatively concludes that it is technically feasible for two different carriers sharing a single line to provide traditional voice service and advanced services. The Further Notice seeks comment on the operational, pricing, legal and policy ramifications of mandating such line sharing at the Federal level.

On November 9, 1999, the Commission released a Second Report and Order in CC Docket No. 98-147, which addressed whether the discounted resale obligation of section 251(c)(4) applies to incumbent Local Exchange Carrier (LEC) provision of advanced services without regard to their classification as telephone exchange or exchange access. The Commission determined that analysis of section 251(c)(4) requires a fact-specific evaluation of the features and characteristics of a particular transaction, and concluded that advanced services sold at retail by incumbent LECs to residential and business end-users are subject to the Section 251(c)(4) discounted resale obligation, without regard to their classification as telephone exchange service or exchange access service. The Commission, however, reached a different result as to advanced services sold to Internet Service Providers for inclusion in a high-speed Internet service offering, concluding that these advanced services are inherently different from advanced services made available directly to business and residential end-users, and as such, are not subject to the discounted resale obligations of section 251(c)(4).

On December 9, 1999, the Commission released a Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (Third R&O). In the Third R&O, the Commission adopted measures to promote the availability of competitive broadband Digital Subscriber Line (DSL) services, especially to residential and small business customers. The Third R&O amends the Commission's unbundling rules to require incumbent LECs to provide unbundled access to a new network element, the high frequency portion of the local loop. This will enable competitive LECs to compete with incumbent LECs to provide access to consumers' DSL services through telephone lines that the competitive LECs can share with incumbent LECs. In addition, the Third R&O adopts spectrum management policies and rules to facilitate the competitive deployment of advanced services. These rules will significantly benefit the rapid and efficient deployment of DSL technologies.

On December 23, 1999, the Commission released an Order on Remand in CC Docket Nos. 98-147, 98-11, 98-26, 98-32, 98-78, and 98-91, in which the Commission determined that US West may not avoid the obligations placed on incumbent LECs under section 251(c) of the Act in connection with the provision of advanced services. The Commission found that when xDSL-based advanced services both originate and terminate "within a telephone exchange," and provide subscribers with the capability of communicating with other subscribers in that same exchange, they are properly classified as "telephone exchange service." The Commission found that xDSL-based advanced services constitute "exchange/access" when exchange boundaries for the purposes of originating or terminating telephone toll services.

On January 19, 2001, the Commission issued an Order on Reconsideration and a Further Notice of Proposed Rulemaking in which the Commission reinforced its line sharing rules to promote availability of unbundled access to the high frequency portion of the loop. It also addressed issues in a variety of petitions for clarification and/or reconsideration filed in response to the original Line Sharing Order.

Timetable:

Action	Date	FR Cite
NPRM	08/24/98	63 FR 45140
Order	08/24/98	63 FR 45133
R&O and Further NPRM	04/30/99	64 FR 23229
Third R&O	01/10/00	65 FR 1331
Second R&O	02/11/00	65 FR 6912
Order on Remand	02/16/00	65 FR 7744
Reconsideration Order and Further NPRM	02/06/01	66 FR 9035
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH03

4140. PRESCRIBING THE AUTHORIZED RATE OF RETURN FOR INTERSTATE SERVICES OF LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201(b); 47 USC 202 to 205; 47 USC 218 to 220; 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 65.301

Legal Deadline: None

Abstract: This Notice initiates a proceeding to represcribe the authorized rate of return for interstate access services provided by ILECs. It marks the first prescription proceeding since we revised the rules governing procedures and methodologies for prescribing and enforcing the rate of return for ILECs not subject to price cap regulation, and the first prescription proceeding since the Commission adopted its price cap rules for local exchange carriers. In this Notice, we seek comment on the methods by which we could calculate the ILECs' cost of capital. In the Notice, we propose corrections to errors in the codified formulas for the cost of debt and cost of preferred stock and seek comment on whether this proceeding warrants a change in the low-end formula adjustment for local exchange carriers subject to price caps.

Timetable:

Action	Date	FR Cite
NPRM	10/05/98	63 FR 55988
NPRM Comment Period End	04/08/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AH18

4141. 1998 BIENNIAL REGULATORY REVIEW - REVIEW OF DEPRECIATION REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220(h); 47 USC 403

CFR Citation: 47 CFR 32.2000; 47 CFR 43.43

Legal Deadline: None

Abstract: In the Report and Order we streamline further our depreciation prescription process by permitting summary filings and eliminating the prescription of depreciation rates for incumbent local exchange carriers, provided that the carrier uses depreciation factors that are within the ranges adopted by the Commission; expanding the prescribed range for the digital switching plant account; and eliminating theoretical reserve studies for mid-sized carriers. We also set forth conditions pursuant to which a waiver from the Commission's depreciation prescription process may be appropriate. In the Memorandum Opinion and Order, we deny United States Telephone Association's petition for forbearance of our depreciation prescription process. We find that the petition did not meet the three-prong forbearance test under section 10 of the Act (47 U.S.C. section 160).

In the Second Report and Order, we declined to adopt a proposal to relieve carriers of our depreciation requirements where carriers elect an above-the-line accounting treatment of the regulatory-to-financial book differential.

Timetable:

Action	Date	FR Cite
NPRM	10/14/98	63 FR 56900
NPRM Comment Period End	12/08/98	
FNPRM	04/03/00	65 FR 19725
R&O and MO&O	04/10/00	65 FR 18926
Second Report and Order	02/09/01	66 FR 9681
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AH20

4142. COMPREHENSIVE REVIEW OF ACCOUNTING REQUIREMENTS AND ARMIS REPORTING REQUIREMENTS, PHASE 1

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 220

CFR Citation: 47 CFR 32.13; 47 CFR 32.25; 47 CFR 32.27; 47 CFR 32.903; 47 CFR 32.904; 47 CFR 32.2002; 47 CFR 32.2003; 47 CFR 32.5999

Legal Deadline: None

Abstract: This Report and Order streamlines the FCC's accounting and reporting requirements by (1) eliminating the USOA expense matrix; (2) reducing audit burdens on incumbent local exchange carriers; (3) adopting a de minimis exception to the affiliate transactions rules; (4) eliminating other accounting requirements; and (5) streamlining reporting requirements in the ARMIS 43-02 USOA Report.

Timetable:

Action	Date	FR Cite
NPRM	07/14/99	64 FR 44877
NPRM Comment Period End	09/09/99	
Report and Order	03/28/00	65 FR 16328
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AH43

4143. LOCAL TELEPHONE NETWORKS THAT LECS MUST MAKE AVAILABLE TO COMPETITORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 251

CFR Citation: 47 CFR 51 (Revision)

Legal Deadline: None

Abstract: This revises the rules applicable to incumbent local exchange carriers (LECs) to permit competitive carriers to access portions of the incumbent LECs' networks on an unbundled basis. Unbundling allows competitors to lease portions of the incumbent LECs' network to provide telecommunications services. These rule changes are intended to remove uncertainty regarding the incumbent LECs' unbundling obligations under the Telecommunications Act of 1996 and are expected to accelerate the development of local exchange competition.

Timetable:

Action	Date	FR Cite
Second Further NPRM	04/26/99	64 FR 20238
Fourth Further NPRM	01/14/00	65 FR 2367
Second Errata Third R&O and Fourth Further NPRM	01/18/00	65 FR 2542
Supp Order	01/18/00	65 FR 2542
Errata Third R&O and Fourth Further NPRM	01/18/00	65 FR 2542
Third R&O	01/18/00	65 FR 2542
Correction	04/11/00	65 FR 19334
Supplemental Order Clarification	06/20/00	65 FR 38214
Public Notice	02/01/01	66 FR 8555

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

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RIN: 3060–AH44

4144. • 2000 BIENNIAL REGULATORY REVIEW — TELECOMMUNICATIONS SERVICE QUALITY REPORTING REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 201(b); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 32; 47 CFR 32.11; 47 CFR 32.1220(h); 47 CFR 32.2311(f); 47 CFR 32.2003(b); 47 CFR 32.5280(c); 47 CFR 32.27(c); 47 CFR 64.903(a)

Legal Deadline: None

Abstract: This NPRM proposes to eliminate our current service quality reports (ARMIS Report 43-05 and 43-06) and replace them with a more consumer-oriented report. The NPRM proposes to reduce the reporting categories from more than 30 to 6, and addresses the needs of carriers, consumers, state public utility commissions, and other interested parties.

Timetable:

Action	Date	FR Cite
NPRM	12/04/00	65 FR 75657

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH72

4145. • 1998 BIENNIAL REGULATORY REVIEW — REVIEW OF CUSTOMER PREMISES EQUIPMENT AND ENHANCED SERVICES UNBUNDLING RULES IN THE INTEREXCHANGE, EXCHANGE ACCESS AND LOCAL EXCHANGE MARKETS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 160; 47 USC 161; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220

CFR Citation: 47 CFR 64.702(e)

Legal Deadline: None

Abstract: This Further Notice of Proposed Rulemaking examines the need for certain restrictions on a common carrier's ability to bundle customer premises equipment enhanced services and regulated telecommunications services.

Timetable:

Action	Date	FR Cite
NPRM	10/09/98	63 FR 56892

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH73

4146. • ACCESS CHARGE REFORM AND UNIVERSAL SERVICE REFORM

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 254; 47 USC 403

CFR Citation: 47 CFR 36; 47 CFR 54; 47 CFR 61; 47 CFR 64

Legal Deadline: None

Abstract: On January 25, 2001, the Commission published a Notice of Proposed Rulemaking seeking comment on a proposal filed by a Multi-Association Group (MAG). The MAG plan sets forth an interstate access reform and universal service support proposal for incumbent local exchange carriers subject to rate-of-return regulation (rate-of-return or non-price cap carriers). The MAG plan proposes to reform the interstate access charge structure for non-price cap carriers, to establish explicit interstate access universal service support for non-price cap carriers that will be sustainable in an increasingly competitive marketplace, and to require interexchange carriers to offer their services that are available in other areas in the non-price cap carriers' service areas. It is designed to be implemented over a five-year period beginning on July 1, 2001. The MAG asks that the Commission adopt the plan without modification as an integrated package.

Timetable:

Action	Date	FR Cite
NPRM	01/25/01	66 FR 7725

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: William Scher, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AH74

4147. • 2000 BIENNIAL REGULATORY REVIEW — COMPREHENSIVE REVIEW OF THE ACCOUNTING REQUIREMENTS AND ARMIS REPORTING REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS; PHASE 2 AND PHASE 3

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 161; 47 USC 201(b); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 32.1 et seq

Legal Deadline: None

Abstract: This NPRM seeks comment on various measures to streamline existing accounting and ARMIS reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/13/00	65 FR 67675
NPRM Comment Period End	03/14/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Peterson, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AH76

4148. • COMPREHENSIVE REVIEW OF THE ACCOUNTING REQUIREMENTS AND ARMIS REPORTING REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS; PHASE 1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218 to 220

CFR Citation: 47 CFR 32.13; 47 CFR 32.25; 47 CFR 32.27; 47 CFR 32.2002; 47 CFR 32.2003; 47 CFR 32.5999; 47 CFR 64.903; 47 CFR 64.904

Legal Deadline: None

Abstract: This Report and Order eliminates the expense matrix filing requirement in Section 32.5999(f) of the Commission's rules, 47 CFR Section 32.5999(f), and eliminates or streamlines several other accounting requirements. In addition, this Report and Order eliminates several tables and reporting items from our ARMIS report 43-02.

Timetable:

Action	Date	FR Cite
NPRM	08/18/99	64 FR 44877
Report and Order	10/02/00	65 FR 58861

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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Phone: 202 418-1575

RIN: 3060–AH77

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Common Carrier Bureau

Completed Actions

4149. TELEMESSAGING, ELECTRONIC PUBLISHING, AND ALARM MONITORING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 260; 47 USC 274; 47 USC 275; 47 USC 303(r)

CFR Citation: 47 CFR 1; 47 CFR 64

Legal Deadline: None

Abstract: On February 7, 1997, the Commission released an Order that implements the telemessaging and electronic publishing provisions of the Telecommunications Act of 1996 (1996 Act), sections 260 and 274, respectively. Section 260 delineates the conditions under which incumbent local exchange carriers (LECs) may offer telemessaging services. Section 274 permits Bell Operating Companies (BOCs) to provide electronic publishing services only through a "separated affiliate" or an "electronic publishing joint venture" that meets certain separation, nondiscrimination, and joint marketing requirements. On March 25, 1997, the Commission released a Second Report and Order implementing the alarm monitoring service provisions set forth in section 275 of the 1996 Act. Among other things, the Order concludes that Ameritech is the only BOC that qualifies for grandfathering treatment under section 275(a)(2) of the 1996 Act, and also finds that incumbent LECs, including BOCs, that provide basic telecommunications services or information services that are used by third parties to provide alarm monitoring services are not engaged in the provision of alarm monitoring service. The Order also finds that the Computer III/ONA requirements continue to govern the provision of alarm monitoring services and telemessaging. The Order also concludes that section 260(a) of the 1996 Act imposes nondiscrimination requirements on incumbent LEC provision of telemessaging services that are in addition to those found in sections 201 and 202.

In 1999, the Commission adopted an Order on Reconsideration, which addressed a petition for reconsideration/clarification of the March 1997 Second Report and Order. In the Order on Reconsideration, the Commission affirmed its previous finding that the availability of sales agency or other marketing arrangements on a nondiscriminatory basis is relevant to whether a BOC is engaged in the provision of alarm monitoring services.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39385
1st R&O	02/20/97	62 FR 7690
FNPRM	02/20/97	62 FR 7744
2nd R&O	04/04/97	62 FR 16093
Order on Reconsideration	02/03/00	65 FR 5267

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG44

4150. REGULATORY TREATMENT OF LEC PROVISION OF INTEREXCHANGE SERVICE ORIGINATING IN THE LEC'S LOCAL EXCHANGE AREA

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 271; 47 USC 272; 47 USC 303(r)

CFR Citation: 47 CFR 61.3(o); 47 CFR 61.3(t)

Legal Deadline: None

Abstract: On April 18, 1997, the Commission released a Second Report and Order in CC Docket No. 96-149 and a Third Report and Order in CC Docket No. 96-61 (Classification Order), in which the Commission revised its regulatory treatment of BOCs' and independent LECs' provision of domestic, interstate, long distance services and international services. The Classification Order revises the Commission's approach to defining product and geographic markets so as to be more in accord with the 1992 Department of Justice/Federal Trade Commission Horizontal Merger Guidelines; classifies the BOCs' long distance affiliates as "non-dominant" in the provision of long distance services that originate in the areas in which a BOC provides local telephone services; and also classifies independent LECs as non-dominant in the provision of in-region long distance services, but requires independent LECs to provide their in-region long distance services through separate affiliates that satisfy certain separation requirements. Finally, the Classification Order classifies the BOCs and independent LECs as non-dominant in the provision of interstate, domestic, and long distance services that originate outside of the areas in which they provide local telephone services, and it eliminates the requirement that the BOCs and independent LECs provide those out-of-region services through separate affiliates. On June 27, 1997, the Commission released an Order on Reconsideration, which made minor modifications to the Classification Order, including changing the effective date of the Classification Order to 70 days after its publication in the Federal Register. On March 24, 1998, the FCC released an Order staying the provision for the April 18, 1998 deadline by which independent LECs that provide in-region, interstate, interexchange services on an integrated basis must comply with the FCC's requirement that they provide these services through a separate affiliate. To ensure that separate LECs do not incur compliance costs while the possibility of changes to the requirement still exists, the Order stays the portion of the rule that provides the deadline for compliance until 60 days after the release of an FCC reconsideration order addressing this issue. The Second Order on Reconsideration amended the Commission's rules to allow independent LECs that provide in-region, long distance services solely on a resale basis to do so through a separate corporate division rather than a separate legal entity.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39379
Order on Recon	07/03/97	62 FR 35974
2nd R&O	07/03/97	62 FR 35974
Order	04/06/98	63 FR 16696
2nd Order on Reconsideration & MO&O	08/16/99	64 FR 44423

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG48

4151. IN THE MATTER OF INSIDE WIRE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 155

CFR Citation: 47 CFR 68.3; 47 CFR 68.213(c)

Legal Deadline: None

Abstract: This action addressed a proposal for enhanced wire quality standards for simple inside telephone wiring. The action also addressed whether the demarcation point rule should apply to complex wiring and whether the demarcation point may be located away from a building.

The issues on the definition of the demarcation point have been included in the Wireless Telecommunications Bureau's Docket No. 99-217 (Competitive Networks). A Notice of Proposed Rulemaking addressing these issues was released in July 1999. Comments were due on August 13, 1999, and reply comments were due on September 3, 1999.

The issues with regard to inside wiring were addressed in a Report and Order released January 10, 2000. The Report and Order, released in CC Docket No. 88-57, amended part 68 to establish minimum quality requirements for inside wire.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	62 FR 36476
NPRM Comment Period End	08/01/97	
Third Report and Order	01/26/00	65 FR 4137

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3060–AG63

4152. TOLL FRAUD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 258; 47 USC 403

CFR Citation: 47 CFR 64.1900

Legal Deadline: None

Abstract: The NPRM proposed to address issues related to the prevention of toll fraud. Due to the fact that instances of toll fraud have declined dramatically since the inception of the NPRM, the Commission is considering termination of the proceeding.

Timetable:

Action	Date	FR Cite
NPRM	12/02/93	58 FR 65163
Withdrawn	04/01/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG77

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Long-Term Actions

Consumer Information Bureau

4153. INTERNET TELEPHONY REPORT

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 208; 47 USC 255

CFR Citation: 47 CFR 6

Legal Deadline: None

Abstract: This item analyzes the extent to which the telecommunications industry is providing access to Internet telephony, and the extent to which regulatory action is necessary to achieve such access.

Timetable:

Action	Date	FR Cite
NPRM	05/22/98	63 FR 28456
R&O and NOI	11/19/99	64 FR 63235
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

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RIN: 3060–AH56

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Long-Term Actions

Enforcement Bureau

4154. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY ALERT SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 544; 47 USC 606

CFR Citation: 47 CFR 11; 47 CFR 73; 47 CFR 76

Legal Deadline: None

Abstract: The Commission adopted new rules to replace the old Emergency Broadcast System (EBS) with a new Emergency Alert System (EAS), in order to alert the public in the event of a national emergency. The Report and Order requires broadcast stations and cable TV systems to participate in the EAS and streamlines operational procedures for system participants. The new rules prescribe how existing communications services such as broadcasting, cable, and other public service providers will function under the technical standards and operational procedures of the new system. It also removed the old part of the Commission's rules concerning EBS in its entirety and incorporated the new EAS rules in a new part of the Code of Federal Regulations.

The Commission issued a Further Notice of Proposed Rulemaking (NPRM) seeking comments regarding whether the Multipoint Distribution Service (MDS), Satellite Master Antenna TV (SMATV) system, and Video Dial Tone should also be required to participate in EAS. It also sought comments on several cable issues such as whether a defined class of small cable systems should be exempted from participation in EAS, and how the Commission should define small cable systems. The Commission subsequently adopted a Second Report and Order to (1) modify EAS as it applied to cable systems; (2) address whether other video providers should be required to participate in the system; and (3) adopt rules to address issues of concern to persons with hearing disabilities.

In response to concerns that voluntary EAS activations could interrupt the transmission of emergency programming by local broadcast stations, the Commission issued a Second Further NPRM requesting comment on whether it should adopt rules to prohibit cable systems from transmitting EAS alerts for state or local emergencies during the broadcast of emergency programming by a broadcast station. In the Third Report and Order, the Commission amended its rules to permit cable systems and broadcast systems to enter into voluntary agreements regarding the transmission of local emergency information. The Commission, however, declined to adopt rules requiring cable systems to prevent the interruption of local broadcast station emergency programming. In April 2000, the Commission issued an order in which it deleted obsolete rules or rules that were no longer needed.

At this time, the Commission is considering requests for rule changes filed by the National Weather Service and the Society of Broadcast Engineers.

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
R&O	12/28/94	59 FR 67090
FNPRM	12/28/94	59 FR 67104
MO&O	11/06/95	60 FR 55996
Second FNPRM	03/04/98	63 FR 15806
Second R&O	09/24/98	63 FR 29660
Third R&O	02/08/99	64 FR 5950
Order	04/24/00	65 FR 21657
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

FCC—Enforcement Bureau

Long-Term Actions

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RIN: 3060–AF21

4155. AMENDMENT OF RULES GOVERNING PROCEDURES TO BE FOLLOWED WHEN FORMAL COMPLAINTS ARE FILED AGAINST COMMON CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 208; 47 USC 260; 47 USC 271; 47 USC 274; 47 USC 275

CFR Citation: 47 CFR 0.291; 47 CFR 1.47; 47 CFR 1.720 to 1.736

Legal Deadline: None

Abstract: In this proceeding the FCC revised the procedural rules governing the filing of formal complaints with the FCC. The objectives of the Order focused on promoting settlement efforts, enhancing the contents of pleadings, and streamlining complaint procedures generally. The rule amendments require parties to (1) engage in pre-filing activities, including settlement discussions and information exchange; (2) eliminate delays in service of formal complaints on carriers; (3) improve the format and content of pleadings; (4) eliminate pleading opportunities that are not useful or necessary; and (5) streamline the discovery process. See Report and Order dated November 25, 1997. Petitions for clarification and reconsideration are pending. In this proceeding, the FCC also adopted procedures to govern the "Accelerated Docket," in which complaints are resolved on an expedited basis, using tools such as pre-filing settlement conferences supervised by the Commission, as well as minitrials.

Timetable:

Action	Date	FR Cite
NPRM	12/26/96	61 FR 67978
Report & Order	01/07/98	63 FR 990
Second Report & Order	08/04/98	63 FR 41433

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

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RIN: 3060–AG65

FEDERAL COMMUNICATIONS COMMISSION (FCC)
Office of Engineering and Technology

Proposed Rule Stage

4156. • SOFTWARE DEFINED RADIO AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 155; 47 USC 225; 47 USC 303(r); 47 USC 309

CFR Citation: 47 CFR 1; 47 CFR 2

Legal Deadline: None

Abstract: The NPRM proposes to streamline the equipment authorization procedures for software defined radios. We propose to define software defined radios as a new class of equipment with equipment authorization rules that reflect the additional flexibility incorporated into such radios. The frequency and technology agility of software defined radios could increase the use of presently underutilized frequency bands.

Timetable:

Action	Date	FR Cite
NPRM	01/03/01	66 FR 341
NPRM Comment Period End	05/08/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 00-47

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RIN: 3060–AH64

FEDERAL COMMUNICATIONS COMMISSION (FCC)
Office of Engineering and Technology

Long-Term Actions

4157. WIND PROFILER RADAR SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Amendment of section 2.106 of the Commission's Rules to allocate spectrum for Wind Profiler Systems. Allocation of this spectrum for wind profilers will facilitate the automated collection of weather information, including data on severe storms that threaten life or property that is not obtainable in any other manner.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 19644

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

FCC—Office of Engineering and Technology

Long-Term Actions

Additional Information: ET Docket No. 93-59

Agency Contact: Tom Derenge, Chief, Spectrum Policy Branch, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street, SW., Washington, DC 20554
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RIN: 3060–AF45

4158. MILLIMETER WAVE SPECTRUM ALLOCATION

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 4; 47 USC 154; 47 USC 154(i); 47 USC 302; 47 USC 303; 47 USC 303(r); 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 21

Legal Deadline: None

Abstract: The millimeter wave spectrum allocation proceeding began in October 1994 with the adoption of the first Notice of Proposed Rulemaking (NPRM). The purpose of the proceeding was to open the radio frequency spectrum above 40 GHz for commercial development. Millimeter wave technology is expected to support many short-range applications that require very high bandwidth, such as educational and medical applications, wireless access to libraries or other information databases, and automotive vehicle radar systems for collision avoidance. The Commission has allocated this spectrum for licensed services and unlicensed uses. The Third Report and Order adopted rules that will encourage the commercial development and use of millimeter wave frequencies above 40 GHz, and adopted rules to establish a spectrum etiquette for unlicensed operation in the 59-64 GHz band.

A Public Notice was issued to solicit comments from interested parties regarding harmonizing U.S. and European spectrum allocations above 40 GHz.

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 61304
Public Notice	06/23/95	60 FR 35166
2nd NPRM	03/29/96	61 FR 14041
1st R&O	04/02/96	61 FR 14500
Comment Period End	05/28/96	
Reply Comments	06/27/96	
2nd R&O	08/02/97	62 FR 43116
MO&O	08/27/97	62 FR 45330
4th NPRM	08/27/97	62 FR 45380
Public Notice on Recon	10/02/97	62 FR 51661
3rd R&O	08/07/98	63 FR 42276
3rd MO&O	06/21/00	65 FR 38431

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 94-124; Additional Bureaus: Wireless Telecommunications and International.

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RIN: 3060–AF61

4159. MSS SPECTRUM ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 304

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The Second Report and Order finalized the reallocation of the 1990-2025 MHz band from Broadcast Auxiliary Service, including the Cable Television Relay Service and the Local Television Transmission Service, licensees to the new Mobile-Satellite Service (MSS), and established rules for the relocation of incumbent licensees from the 1990-2110 MHz band as well as incumbent Fixed Service (FS) microwave licensees from the 2165-2200 MHz bands, in cases where sharing between MSS and FS is not possible. The Second Memorandum Opinion and Order confirmed the Commission's decision to require new MSS licensees to bear the cost of relocating incumbent licensees in these bands.

Timetable:

Action	Date	FR Cite
NPRM	01/31/95	60 FR 11644
Order	03/08/95	60 FR 13687
1st R&O	04/22/97	62 FR 19509
R&O and FNPRM	04/22/97	62 FR 19538
MO&O	12/17/98	63 FR 69606
2nd R&O and 2nd MO&O	08/07/00	65 FR 48174

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 95-18

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RIN: 3060–AF75

4160. UNLICENSED NATIONAL INFORMATION INFRASTRUCTURE AT 5 GHZ

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The MO&O amends the rules to permit fixed, point to point unlicensed National Information Infrastructure (U-NII) devices in the 5.725-5.285 GHz band to operate with one-watt maximum transmitter output power and directional antennas of up to 23 db:gain. It clarifies the rules regarding unwanted emissions and specifies these limits in terms of absolute radiated power levels. These actions will add to the flexibility and capability of U-NII operations without causing an increase in harmful interference to incumbent operations sharing the same spectrum.

Timetable:

Action	Date	FR Cite
NPRM	05/06/96	61 FR 24749

Action	Date	FR Cite
R&O	01/31/97	62 FR 4649
Public Notice	03/17/97	62 FR 12641
MO&O	07/31/98	63 FR 40831

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM-8468 and RM-8653; ET Docket No. 96-102

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RIN: 3060–AG19

4161. ALLOCATION OF 455-456 MHZ AND 459-460 MHZ

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: The FCC proposes to amend its rules to allocate the 455-456 MHz and 459-460 MHz bands to the Mobile Satellite Services (Earth-to-Space) (MSS Uplinks) on a primary basis for non-voice, non-geostationary satellite services (NVNG MSS).

Timetable:

Action	Date	FR Cite
NPRM	10/31/97	62 FR 58932
Comment Period End	11/30/97	
Reply Comment Period End	12/15/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: ET Docket No. 97-214

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RIN: 3060–AG89

4162. DEDICATED SHORT RANGE COMMUNICATIONS OF INTELLIGENT TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 90

Legal Deadline: None

Abstract: The FCC proposes to allocate 75 megahertz of spectrum for use by Dedicated Short Range Communications (DSRC) of Intelligent Transportation Systems (ITS). DSRC systems are being designed that require a short range, wireless link to transfer information between vehicles and roadside systems. ITS services are expected to improve traveler safety, decrease traffic congestion, and facilitate reduction of air pollution and conservation of fossil fuels. This action furthers the goal of the U.S. Congress, the Department of Transportation, and the ITS industry to improve the efficiency of the Nation's transportation infrastructure and facilitate the growth of the ITS industry.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35558
NPRM Comment Period End	09/14/98	
Reply Comment Period End	10/31/98	
R&O	11/26/99	64 FR 66405

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ET Docket No. 98-95

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RIN: 3060–AG94

4163. REGULATIONS FOR RF LIGHTING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 18

Legal Deadline: None

Abstract: The FCC proposed to update the regulations for RF lighting devices. This action was taken in response to new developments in RF lighting technology. Recent developments and advances in microwave RF lighting technology offer potential economic and environmental benefits for consumers and industry. The current FCC rules do not easily accommodate these advancements, and thus hinder the further development and implementation of these promising new products.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/98	63 FR 20362
First Report & Order	07/12/99	64 FR 37417

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: ET Docket No. 98-42

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RIN: 3060–AG95

4164. EQUIPMENT AUTHORIZATION STREAMLINE II/MUTUAL RECOGNITION AGREEMENTS AND THE GMPCS MOU

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 25; 47 CFR 68

Legal Deadline: None

Abstract: The Commission proposes to amend the rules to provide the option of private sector approval of equipment that currently requires an approval by the Commission. It also proposes rule changes to implement a mutual recognition agreement (MRA) for product approvals with the European Community (EC) and to allow for similar agreements with other foreign trade parties. These actions are intended to eliminate the need for manufacturers to wait for approval from the FCC before marketing equipment in the United States, thereby reducing the time needed to bring a product to market.

Timetable:

Action	Date	FR Cite
NPRM	06/10/98	63 FR 31685
R&O	02/02/99	64 FR 4984

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: GEN Docket No. 98-68

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RIN: 3060–AG96

4165. UNIDEN SCANNERS/CELLULAR RADIO SIGNALS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The FCC proposes to amend the rules to further prevent scanning receivers from receiving radio telephone calls.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/98	63 FR 31684
Report & Order	04/27/99	64 FR 22559

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-76

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RIN: 3060–AG97

4166. INDUSTRY COORDINATION COMMITTEE SYSTEM FOR BROADCAST DIGITAL TELEVISION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 336

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: We seek comment on the establishment of an industry coordination committee to assist the Commission in the implementation of digital television (DTV) service. This committee system would evaluate proposed changes to the DTV Table of Allotments and perform other related functions.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6296
NPRM Comment Period End	03/29/99	
Reply Comment Period End	04/28/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 99-34

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RIN: 3060–AH13

4167. 3650-3700 GOVERNMENT TRANSFER BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 157(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The First Report and Order allocated 50 MHz of spectrum on the 3650-3700 MHz band to the fixed and mobile (base stations) terrestrial services on a primary basis. It also ensures the continuity of fixed satellite service (FSS) operations and permits new FSS operations to help alleviate congestion in the adjacent 3700-4200 MHz FSS band.

The Second Notice of Proposed Rule Making proposes to establish licensing and service rules for the assignment of fixed and mobile services licenses in the 3650-3700 MHz band. It also seeks comments on whether technical requirements or other reasons justify licensing the 3650-3700 MHz and the 4940-4990 MHz band at the same time.

Timetable:

Action	Date	FR Cite
NPRM	01/14/99	64 FR 2462
NPRM Comment Period End	03/01/99-	
1st R&O	11/17/00	65 FR 69454
2nd NPRM	11/17/00	65 FR 69612

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-237

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RIN: 3060–AH14

4168. RADIONAVIGATION SERVICE AT 31.8-32.2 GHZ

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 87

Legal Deadline: None

Abstract: The Commission amended parts 2 and 87 of the Commission's rules in order to delete the unused non-Government radionavigation service allocation at 31.8-32.3 GHz and to also

remove this frequency segment from the list of available frequencies set forth in the rules for the Aviation Services. This action will obviate concerns for interference to the reception of deep space radio communications in the band 31.8-32.3 GHz from co-channel, non-Federal Government radionavigation transmissions that could otherwise occur in the future.

Timetable:

Action	Date	FR Cite
NPRM	11/30/98	63 FR 65726
NPRM Comment Period End	01/04/99	
R&O	10/10/00	65 FR 60108
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-197

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RIN: 3060–AH15

4169. CERTIFICATION OF EQUIPMENT IN THE 24.05-24.25 GHZ BAND AT FIELD STRENGTHS UP TO 2500 MV/M

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposes to amend part 15 of its rules to allow the operation of fixed point-to-point transmitters in the 24.05-24.25 GHz band at field strength of up to 2500 mV/m.

Timetable:

Action	Date	FR Cite
NPRM	09/21/98	63 FR 50185
NPRM Comment Period End	01/04/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-156

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RIN: 3060–AH16

4170. FIXED SATELLITE SERVICE AND TERRESTRIAL SYSTEM IN THE KU-BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: The Report and Order in this proceeding permits non-geostationary satellite orbit (NGSO) fixed-satellite service (FSS) providers to operate in certain segments of the Ku-band, and it adopted rules and policies to govern such operations. NGSO FSS can provide a variety of new services to the public, such as high speed Internet access, plus other types of high speed data, video and telephony services. NGSO FSS can bring advanced services to rural areas. We also conclude that a new terrestrial fixed Multichannel Video Distribution and Data Service can share the 12.2-12.7 GHz band with satellite operations without causing harmful interference.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 1786
Order	02/16/99	64 FR 7577
Public Notice	12/15/99	64 FR 70028
R&O	12/08/00	
FNPRM	01/23/01	66 FR 7607
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-206

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RIN: 3060–AH17

4171. CLOSED CAPTIONING FOR DTV RECEIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303(u); 47 USC 330(b)

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission amended Part 15 of the rules to adopt technical standards for the display of closed captions on digital television (DTV) receivers. We also require the inclusion of closed captioning decoder circuitry in DTV receivers. The requirements will help ensure access to digital programming for people with disabilities. This action is taken to fulfill the Commission's obligations contained in the Television Decoder Circuitry Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	08/02/99	64 FR 41897
NPRM Comment Period End	11/15/99	
R&O	09/29/00	65 FR 58467
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: ET Docket No. 99-254

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RIN: 3060–AH24

4172. SPREAD SPECTRUM DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission amended part 15 of the rules regarding the operation of non-licensed spread spectrum systems. The Commission revised the rules for frequency hopping systems operating in the 2.4 GHz band (2400-2483.5 MHz) to allow for hopping channels up to 5 MHz wide. This action was taken to facilitate the continued development of spread spectrum technology, particularly for high data rate wireless applications, such as wireless computer local area networks and wireless cable modems.

Timetable:

Action	Date	FR Cite
NPRM	07/20/99	64 FR 38877
NPRM Comment Period End	11/02/99	
R&O	09/25/00	65 FR 57557
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: ET Docket No. 99-231

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RIN: 3060–AH25

4173. 50-71 GHZ REALIGNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 2.106

Legal Deadline: None

Abstract: The Report and Order in this proceeding realigned allocations in the 50.2-50.4 GHz and 51.4-71 GHz frequency bands. The realignment of allocations will meet current demands for spectrum in this frequency range and is consistent with the international allocation changes the United States sought and obtained at the 1997 World Radiocommunication Conference.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43643
NPRM Comment Period End	09/22/99	
R&O	01/23/01	66 FR 7402
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ET Docket No. 99-261

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RIN: 3060–AH26

4174. WIRELESS MEDICAL TELEMETRY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 90; 47 CFR 95

Legal Deadline: None

Abstract: The Commission amended parts 2 and 95 of the rules to allocate spectrum and to establish rules for a Wireless Medical Telemetry Service. This action will allow potentially life critical medical telemetry equipment, which currently operates on a secondary basis, unprotected from interference, to operate on a blanket licensed, interference protected basis.

Timetable:

Action	Date	FR Cite
NPRM	08/02/99	64 FR 41891
NPRM Comment Period End	10/18/99	
R&O	07/17/00	65 FR 43995
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: ET Docket No. 99-255

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RIN: 3060–AH27

4175. ESTABLISHMENT OF AN IMPROVED MODEL FOR PREDICTING THE BROADCAST TELEVISION FIELD STRENGTH RECEIVED AT INDIVIDUAL LOCATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 334; 47 USC 336

CFR Citation: 47 CFR 73

Legal Deadline: Final, Statutory, May 29, 2000.

Abstract: The Commission adopted a prediction model for determining presumptively the ability of individual locations to receive over the air television stations. This model will be a useful means for establishing the eligibility of individual households to receive the signals of television broadcast network stations through satellite carriers. The Commission is complying with the new statutory requirements set forth in the Satellite Home Viewer Improvement Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	02/02/00	65 FR 4923
NPRM Comment Period End	03/07/00	
R&O	06/09/00	65 FR 36639
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ET Docket No. 00-11

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RIN: 3060–AH37

4176. CONDUCTED EMISSION LIMITS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307; 47 USC 544A

CFR Citation: 47 CFR 15; 47 CFR 18

Legal Deadline: None

Abstract: The Commission proposes to revise the limits on the amount of radio

frequency energy that is permitted to be conducted onto the AC power lines. The purpose of these limits is to protect radio services operating below 30 MHz from interference. The devices regulated are personal computers, TV and FM receivers, RF lighting devices, microwave ovens, induction cooking ranges, and ultrasonic equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/16/99	64 FR 62159
NPRM Comment Period End	02/29/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 98-80

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RIN: 3060–AH46

4177. REVISION OF THE RULES REGARDING ULTRA-WIDEBAND TRANSMISSION

Priority: Economically Significant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307; 47 USC 544A

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposed regulations that would permit the operation of ultra-wideband radio systems on an unlicensed basis under the Commission's rules.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 37332
NPRM Comment Period End	10/12/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 98-153

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RIN: 3060–AH47

4178. • NEW ADVANCED WIRELESS SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 157(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: This proceeding explores the possible uses of frequency bands below 3 GHz to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks.

Timetable:

Action	Date	FR Cite
NPRM	01/23/01	66 FR 7438
NPRM Comment Period End	03/09/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 00-258

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RIN: 3060–AH65

4179. • REALLOCATION OF 27 MHZ SPECTRUM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303(a); 47 USC 336

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The NPRM proposes to reallocate a total of 27 MHz of spectrum, transferred from Federal Government use, for non-Government services pursuant to the Omnibus Budget Act of 1977. The transfer of these bands to non-Government use should enable the development of new technologies and services, provide additional spectrum relief for congested private land mobile frequencies, and fulfill our obligation as mandated by Congress to assign this spectrum for non-Government use.

Timetable:

Action	Date	FR Cite
NPRM	01/23/01	66 FR 7443
NPRM Comment Period End	03/26/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: ET Docket No. 00-221

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RIN: 3060–AH66

4180. AMENDMENT OF THE EX PARTE RULES IN JOINT BOARD PROCEEDINGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 1.1206

Legal Deadline: None

Abstract: The FCC proposes to amend its ex parte rules to facilitate communications by the States in Joint Board proceedings and proceedings before the FCC involving a recommendation from a Joint Board.

Timetable:

Action	Date	FR Cite
NPRM	07/15/98	63 FR 38142
NPRM Comment Period End	08/31/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AH02

4181. • AMENDMENT OF SECTION 1.1204 OF THE COMMISSION'S EX PARTE RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 309

CFR Citation: 47 CFR 1.1204

Legal Deadline: None

Abstract: The Commission proposes to amend its regulations specifying presentations that are treated as exempt under the ex parte rules. Under the current rule, presentations to or from the Department of Justice and the Federal Trade Commission regarding telecommunications competition matters are treated as exempt. The item would expand the scope of the exemption to include the Competition Directorate of the European Commission and other international and foreign bodies with analogous functions. The item would clarify that the term "telecommunications competition matters" in the existing rules was intended to be construed broadly and was not limited to common carriers.

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81474
NPRM Comment Period End	02/09/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3060–AH58

4182. • STREAMLINING EARTH STATION LICENSING RULES; IB DOCKET NO. 00-248

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 701 to 744

CFR Citation: 47 CFR 23; 47 CFR 25

Legal Deadline: None

Abstract: The Commission has found several cases in which modifying or eliminating rules could facilitate licensing of earth stations, thereby expediting the provision of useful satellite services to the public, without unreasonably increasing the risk of harmful interference to existing earth station or space station operators, or terrestrial wireless operators in shared frequency bands. Specifically, this NPRM considers the following rule revisions: (1) codifying streamlined procedures for case-by-case examination of earth stations using "non-routine" antennas, non-routine power levels, or both; (2) relaxing some current requirements, such as increasing power and power density limits, and allowing some temporary fixed earth stations to begin operation sooner than is now permitted; (3) streamlining the very small aperture terminal (VSAT) rules, and revising the Commission's power level rules to provide for various types of VSAT multiple access methods; (4) adopting a simplified license application form for "routine" earth stations; and (5) other miscellaneous rule revisions. The Commission also invites comment on extending these proposed rules to the Ka-band.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1283
NPRM Comment Period End	04/23/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AH60

FEDERAL COMMUNICATIONS COMMISSION (FCC)

International Bureau — **Long-Term Actions**

4183. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES; IB DOCKET NO. 95-117

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 4; 47 USC 154; 47 USC 303; 47 USC 554; 47 USC 701 to 744

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: On February 10, 1997, the FCC adopted rules and policies that streamlined the application and licensing requirements of Part 25 of its rules, which deals with communication satellites and earth stations. The streamlined rules waived the construction permit requirement for satellite space stations; changed the license term for temporary fixed earth stations; and adjusted or changed the rules concerning minor modifications and basic requirements for satellite service applications. The streamlined rules also resulted in the creation of a new application form, FCC Form 312. Form 312 eliminated from the International Bureau's use the FCC Form 493, FCC Form 430, FCC Form 702, and FCC Form 704. Petitions for Reconsideration were filed in this matter. In March 1997 the Commission released a Public Notice concerning these petitions, which are presently pending before the International Bureau.

Timetable:

Action	Date	FR Cite
NPRM	09/09/95	60 FR 46252
R&O, Recon Pending	02/10/97	62 FR 5924
Public Notice/Petitions for Recon	03/26/97	62 FR 14430

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 3060–AD70

4184. SATELLITE COMMUNICATIONS — NGSO MOBILE SATELLITE SERVICE; CC DOCKET NO. 92-166

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 301; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25; 47 CFR 93

Legal Deadline: None

Abstract: The Commission adopted rules in 1994 for a voice-and-data mobile satellite service (MSS) in the 1610-1626.5 MHz and 2483.5-2500 MHz frequency bands. Licenses have been issued for five systems. The Commission issued a decision in a 1996 ruling on Petitions for Reconsideration of the Report and Order making some changes in the rules. Several petitions for further reconsideration are still pending.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11746
NPRM Comment Period End	06/04/94	
R&O	10/21/94	59 FR 53294
Begin Review	12/01/94	
First Recon Order	03/12/96	61 FR 9944

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: CC Docket No. 92-166

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RIN: 3060–AF42

4185. ESTABLISHING RULES AND POLICIES FOR THE USE OF SPECTRUM FOR MOBILE SATELLITE SERVICE IN THE L-BAND; IB DOCKET NO. 96-132

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 316; 47 USC 403

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on the proposed policies. The proposed policies are designed to ensure that sufficient spectrum is available to operate a viable and independent U.S.-licensed mobile satellite service system in the L-band. The proposed policies, to the extent possible, also seek to make any additional spectrum coordinated internationally available for mobile satellite service systems. The proposed policies impose no additional burdens. In order to be effective, these rules must apply to all licenses and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
NPRM	06/18/96	61 FR 40772
NPRM Comment Period End	09/23/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AF89

4186. PREEMPTION OF LOCAL ZONING REGULATION OF SATELLITE EARTH STATIONS; IB DOCKET NO. 95-59

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 165(j); 47 USC 303(r)

CFR Citation: 47 CFR 1.4000; 47 CFR 25.104

FCC—International Bureau

Long-Term Actions

Legal Deadline: None

Abstract: The Commission adopted rules in March and August of 1996 to preempt regulations that restricted the installation and use of certain over-the-air reception devices. Staff work on the reconsideration of the March 1996 Report and Order is assigned to the International Bureau; work on the September 1996 Report and Order is assigned to the Cable Services Bureau.

Timetable:

Action	Date	FR Cite
NPRM	05/15/95	60 FR 28077
NPRM Comment Period End	08/15/95	
FNPRM	03/15/96	61 FR 10710
R&O	03/18/96	61 FR 10896
R&O	09/04/96	61 FR 46559

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

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RIN: 3060–AF92

4187. ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310-2360 MHZ FREQUENCY BAND; IB DOCKET NO. 95-91; GEN DOCKET NO. 90-357

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 151(i); 47 USC 154(j); 47 USC 157; 47 USC 309(j)

CFR Citation: 47 CFR 25.144

Legal Deadline: None

Abstract: The Commission is proposing rules to govern satellite digital establishment and regulation of new digital audio radio services. Previously, the Office of Engineering and Technology allocated the spectrum on which the activities herein of the International Bureau are based. Since the spectrum allocation is completed, the Office of Engineering and Technology has no further role. See 62 FR 11083 and 62 FR 24073.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 35166
R&O	03/11/97	62 FR 11083
FNPRM	04/18/97	62 FR 19095

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AF93

4188. REDESIGNATION OF THE 27.5-29.5 GHZ FREQUENCY BAND; CC DOCKET NO. 92-297

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 301; 47 USC 302

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 21; 47 CFR 25

Legal Deadline: None

Abstract: The Commission adopted a band plan which designates band segments in the 27.5-30.0 GHz frequency band for several types of wireless systems. This decision clears the way for licensing local multipoint distribution service (LMDS) providers, fixed satellite service (FSS) systems, and feeder links for certain mobile satellite service systems. The commercialization of this spectrum enables consumers to receive emerging domestic and global technology via multiple service providers. In October 1997, the Commission adopted a Third Report and Order which promulgated licensing qualification requirements and service rules for FSS systems in the Ka-band.

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 43740
NPRM Comment Period End	09/07/95	
R&O	08/28/96	61 FR 44177
3rd R&O	11/18/97	62 FR 61488

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: CC Docket No. 92-297

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RIN: 3060–AF94

4189. AMENDMENT OF POLICY TO ALLOW NON-U.S. LICENSED SPACE STATIONS TO PROVIDE SERVICE IN THE UNITED STATES; IB DOCKET NO. 96-111; CC DOCKET NO. 93-23

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 303; 47 USC 308

CFR Citation: 47 CFR 25.113; 47 CFR 25.115; 47 CFR 25.130; 47 CFR 25.131; 47 CFR 25.137

Legal Deadline: None

Abstract: The FCC adopted a Report and Order establishing a public interest framework for evaluating requests by non-U.S. satellites to serve the U.S. market. The Order implements the World Trade Organization (WTO)

Agreement under which the U.S. committed to allow foreign suppliers to provide basic telecommunications services, including satellite services in the U.S. The FCC adopted a presumption in favor of entry for non-U.S. satellites licensed in WTO member countries providing WTO-covered services. The FCC adopted an effective competitive opportunities (ECO-SAT) test for non-U.S. satellites licensed in non-WTO countries providing WTO-covered services, as well as for any commercial non-U.S. satellite providing services for which the U.S. did not make market commitments in the WTO Agreement. The FCC also established entry requirements for intergovernmental satellite organizations and their affiliates. In addition, the FCC adopted other public interest standards regarding spectrum availability and eligibility and operating requirements, as well as establishing access and filing procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/14/96	61 FR 32398
NPRM Comment Period End	08/16/96	
FNPRM	07/29/97	62 FR 40494
R&O	12/04/97	62 FR 64167
Public Notice	01/05/98	63 FR 227
Public Notice on Petitions for Recon	01/30/98	63 FR 4640
First Order on Recon	11/15/99	64 FR 61791
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AG31

4190. STREAMLINING REGULATIONS RELATED TO INTERNATIONAL COMMON CARRIERS; IB DOCKET NO. 98-118

Priority: Other Significant

Legal Authority: 47 USC 34 to 39; 47 USC 151; 47 USC 154(j); 47 USC 203(r); 47 USC 214; 47 USC 307; 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 1; 47 CFR 43; 47 CFR 63; 47 CFR 64

Legal Deadline: None

Abstract: The Commission received Petitions for Reconsideration of its rules applicable to international common carriers. The Commission has eliminated the requirement for prior approval of pro forma assignments and transfers of control. The Commission reduced the waiting period for granting new streamlined applications from 35 to 14 days. It also expanded the class of applications eligible for streamlined processing. The Commission will review the petitions and determine whether it should revise its rules.

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39793
NPRM Comment Period End	08/24/98	
Report and Order	04/10/99	64 FR 19057
Notice of Petitions for Reconsideration	06/03/99	64 FR 31222
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 3060–AG84

4191. REDESIGNATION 17.7-19.7 GHZ BAND, BLANKET LICENSING SAT EARTH STATIONS 17.7-20.2 GHZ & 27.5-30 GHZ & ALLOCATION 17.3-17.8 & 24.75-25.25 GHZ BAND FOR BROADCAST SATELLITE SERVICE USE; IB DOC NO. 98-172

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 301; 47 USC 303

CFR Citation: 47 CFR 25.115; 47 CFR 25.138; 47 CFR 25.208

Legal Deadline: None

Abstract: This item addresses how the 17.7-19.7 GHz band is to be shared among various services, including the Fixed Satellite Service, the Fixed Services, and the Broadcast Satellite Service. The item also addresses the blanket licensing of Fixed Satellite Service Earth Stations in the Ka-band. Finally, it addresses a new allocation for the Broadcast Satellite Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/98	63 FR 54100
NPRM Comment Period	12/07/98	63 FR 62258
Report and Order	09/07/00	65 FR 54155
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

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RIN: 3060–AH21

4192. ALLOCATE & DESIGNATE: SPEC FOR FIXED-SAT SRV (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHZ BANDS). ALLOCATE: FIXED & MOBILE 40.5-42.5 GHZ; WIRELESS 46.9-47 GHZ; GOV OPER 37-38 & 40-40.5 GHZ; IB DOC NO. 97-95

Priority: Economically Significant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303(e); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r); 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2.106; 47 CFR 25.202; 47 CFR 25.208

Legal Deadline: None

Abstract: This item adopts a plan for non-government operations in the 36.0 - 51.4 GHz portion of the V-band, establishing priorities for different services in different parts of this band.

Timetable:

Action	Date	FR Cite
NPRM	04/04/97	62 FR 16129
Final Action	01/15/99	64 FR 2585
Correction	02/08/99	64 FR 6138
Correction	02/10/99	64 FR 6565
FNPRM	03/22/99	64 FR 13796

Action	Date	FR Cite
Order on Reconsideration	12/01/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal

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RIN: 3060–AH23

4193. ESTABLISHMENT OF POLICIES AND SERVICE RULES FOR THE MOBILE SATELLITE SERVICE IN THE 2 GHZ BAND; IB DOCKET NO. 99-81

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 310; 47 USC 319

CFR Citation: 47 CFR 25.114; 47 CFR 25.115; 47 CFR 25.121; 47 CFR 25.133; 47 CFR 25.136; 47 CFR 25.137; 47 CFR 25.143; 47 CFR 25.201; 47 CFR 25.202; 47 CFR 25.203; 47 CFR 25.279

Legal Deadline: None

Abstract: The Commission amended the regulations covering the 1.6/2.4 GHz Mobile Satellite Service (MSS) to incorporate the rules for the 2 GHz MSS. The actions establish the band arrangement and service rules and policies for the 2 GHz MSS. The effect of amending the 1.6/2.4 GHz MSS rules to include 2 GHz MSS is to simplify and harmonize the rules for the types of satellite services.

Timetable:

Action	Date	FR Cite
NPRM	04/07/99	64 FR 16880
NPRM Comment Period End	07/26/99	
Report and Order	10/04/00	65 FR 59140
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AH28

4194. POLICIES FOR THE DIRECT BROADCAST SATELLITE SERVICE; IB DOCKET NO. 98-21

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: This proceeding streamlines and simplifies the Commission's rules governing direct broadcast satellite (DBS) service. It also harmonizes the rules for DBS with those of other satellite services.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 11202
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH29

4195. 1998 BIENNIAL REGULATORY REVIEW—REVIEW OF ACCOUNTS SETTLEMENT IN MARITIME MOBILE &MARITIME MOBILE-SATELLITE RADIO SERVICES AND WITHDRAWAL OF THE COMMISSION AS ACCOUNTING AUTHORITY; IB DOCKET NO.98-96

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 154 (j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303(r)

CFR Citation: 47 CFR 3.10(e)

Legal Deadline: None

Abstract: The FCC has decided to withdraw from acting as an accounting authority for the settlement of accounts in the maritime mobile and maritime mobile-satellite (ship-to-shore) radio services, and to rely solely upon the various privately owned accounting authorities the FCC has authorized. In that connection the FCC amended section 3.10(e) of its rules to specify that private accounting authorities must serve the public non-discriminatorily. (action 7-13-99) The Commission is gathering comment to develop a plan to ensure a smooth transition to private accounting authorities.

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39800
Report & Order	07/28/99	64 FR 40774
Further NPRM	07/28/99	64 FR 40808
Comment Period Extended	09/03/99	64 FR 48337
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AH30

4196. AMENDMENT TO REGULATORY POLICIES GOVERNING DOMESTIC FIXED SATELLITES AND SEPARATE INTERNATIONAL SATELLITE SYSTEMS; IB DOCKET NO. 95-41

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 721(c)

CFR Citation: 47 CFR 25.110; 47 CFR 25.113; 47 CFR 25.114; 47 CFR 25.115; 47 CFR 25.117; 47 CFR 25.130; 47 CFR 25.131; 47 CFR 25.140; 47 CFR 25.202; 47 CFR 25.210; 47 CFR 25.211; 47 CFR 25.276

Legal Deadline: None

Abstract: The Commission adopted rules in January, 1996 eliminating regulatory distinctions between U.S. domestic satellite systems and U.S. International separate satellite systems.

Petitions for partial reconsideration are being addressed by the International Bureau.

Timetable:

Action	Date	FR Cite
NPRM	05/10/95	60 FR 24817
R&O	03/12/96	61 FR 9946
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH48

4197. GLOBAL MOBILE PERSONAL COMMUNICATIONS BY SATELLITE; IB DOCKET NO. 99-67

Priority: Economically Significant

Legal Authority: 47 USC 4(i); 47 USC 7(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r); 47 USC 307; 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 25.200; 47 CFR 25.213; 47 CFR 25.215; 47 CFR 216; 47 CFR 2.1204

Legal Deadline: None

Abstract: The FCC has proposed to adopt rules to facilitate transnational use of mobile terminals used for 2-way voice communication via satellite systems with global or international coverage. In the same NPRM the FCC proposed to adopt limits on out-of-band emissions from some global mobile personal communications by satellite terminals in order to protect reception of aeronautical satellite radionavigation signals in the 1559-1610 MHz band. The FCC also asked for comment on the advisability of adopting rules requiring providers of mobile telecommunication service via satellite to provide 911 emergency-calling features.

Timetable:

Action	Date	FR Cite
NPRM	04/06/99	64 FR 16687
NPRM Comment Period End	05/18/99	
Public Notice	01/17/01	66 FR 3960
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH49

4198. CONSIDERATION OF APPLICATIONS UNDER THE CABLE LANDING LICENSE ACT; IB DOCKET NO. 00-106

Priority: Substantive, Nonsignificant

Legal Authority: 3 USC 301; 47 USC 34 to 39; 47 USC 151; 47 USC 154(i); 47 USC 154(s); 47 USC 201 to 255; 47 USC 303(r)

CFR Citation: 47 CFR 1.767

Legal Deadline: None

Abstract: This item proposes to establish streamlined rules for the processing of applications for submarine cable landing licenses. The FCC proposes three streamlining options: (1) a demonstration that the route on which the proposed cable would operate is or will become competitive; (2) a demonstration of sufficient independence of control of the proposed cable from control of existing capacity on the route; or (3) the existence of certain pro-competitive arrangements.

Timetable:

Action	Date	FR Cite
NPRM	07/06/00	65 FR 41613
NPRM Comment Period End	09/20/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH50

4199. • DIRECT BROADCAST PUBLIC INTEREST OBLIGATIONS; MM DOCKET NO. 93-25

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 335

CFR Citation: 47 CFR 25; 47 CFR 100

Legal Deadline: None

Abstract: The Commission adopted rules in 1998 that implement Section 25 of the Cable Television Consumer Protection and Competition Act of 1992, as codified at Section 335 of the Communications Act of 1934. Section 335 directs the Commission to impose certain public interest obligations on direct broadcast satellite providers. Several petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 12917
Report and Order	02/08/99	64 FR 52399
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH59

4200. • 2000 BIENNIAL REGULATORY REVIEW — POLICY AND RULES CONCERNING THE INTERNATIONAL, INTEREXCHANGE MARKETPLACE; IB DOCKET NO. 00-202

Priority: Economically Significant

Legal Authority: 47 USC 151 to 154; 47 USC 160; 47 USC 161; 47 USC 201 to 205; 47 USC 211; 47 USC 218; 47 USC 220; 47 USC 226; 47 USC 303(g); 47 USC 303(r); 47 USC 332

CFR Citation: 47 CFR 20; 47 CFR 42; 47 CFR 61; 47 CFR 63; 47 CFR 64

Legal Deadline: None

Abstract: The Commission initiated a proceeding to determine whether to detariff interexchange services. The Commission proposes to reduce further, as part of its Biennial Regulatory Review under Section 11 of the Communications Act, the regulatory burdens imposed on non-dominant carriers' provision of international interexchange services.

Timetable:

Action	Date	FR Cite
NPRM	11/03/00	65 FR 66215
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH61

4201. • 2000 BIENNIAL REVIEW — AMENDMENT OF PARTS 43 AND 63 OF THE COMMISSION'S RULES; IB DOCKET NO. 00-231

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 214; 47 USC 218; 47 USC 219; 47 USC 220; 47 USC 403

CFR Citation: 47 CFR 43.81; 47 CFR 63.10; 47 CFR 63.18; 47 CFR 63.19; 47 CFR 63.20; 47 CFR 63.22; 47 CFR 63.24

Legal Deadline: None

Abstract: This proceeding was initiated to propose further streamlining measures for international telecommunications services. The NPRM proposes amending the procedures for filing pro forma assignments and transfers of control of Section 214 international authorizations, eliminating the benchmark settlement rate condition, and modifying the rules requiring dominant international carriers to seek prior approval to discontinue service. The NPRM will clarify rules and eliminate others no longer needed.

Timetable:

Action	Date	FR Cite
NPRM	12/20/00	65 FR 79795
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH62

4202. • LICENSING AND COORDINATION OF EARTH STATIONS IN THE FIXED-SATELLITE SERVICES; IB DOCKET NO. 00-203

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 701 to 744; 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 25; 47 CFR 101

Legal Deadline: None

Abstract: The Report and Order and/or Memorandum Opinion and Order will address the proposals for fixed-satellite service (FSS) partial-band licensing, loading standards for FSS earth stations, and coordination criteria between FSS earth stations and terrestrial fixed stations. The item will additionally address proposals for the blanket licensing of very small aperture antennas at C-band, as well as the routine licensing of 3.7 meter antennas for FSS earth stations at C-band. Finally, the item will consider an industry proposal for either "blanket licensing" or other expedited licensing procedures for FSS earth stations in the portion of the Ka-band that is shared with the terrestrial fixed service.

Timetable:

Action	Date	FR Cite
NPRM	11/24/00	65 FR 70541
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH63

FEDERAL COMMUNICATIONS COMMISSION (FCC) Long-Term Actions

Mass Media Bureau

4203. TRANSFER OF CONTROL OF NON-STOCK ENTITIES (MM DOCKET NO. 89-77)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider proposals concerning the treatment of corporations and other organizational structures that are not traditional commercial corporations.

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 3060–AE31

4204. FILING OF TELEVISION NETWORK AFFILIATION CONTRACTS (MM DOCKET NO. 95-40)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 73.3613(a)

Legal Deadline: None

Abstract: This proceeding considers changes to the requirement that stations file their network affiliation agreements with the Commission.

Timetable:

Action	Date	FR Cite
NPRM	04/19/95	60 FR 19564

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3060–AF80

4205. RULES GOVERNING BROADCAST TELEVISION ADVERTISING (MM DOCKET NO. 95-90)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 301; 47 USC 303(r); 47 USC 313; 47 USC 314

CFR Citation: 47 CFR 73.658(h); 47 CFR 73.658(i)

Legal Deadline: None

Abstract: This proceeding considers changes to two rules regulating broadcast television advertising. The first advertising rule prohibits a broadcast television network from influencing or controlling the rates its affiliates set for the sale of their non-network advertising time. The second advertising rule prohibits a broadcast television network from representing any of its affiliates in the sale of non-network advertising time.

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34959

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AF81

4206. MINOR MODIFICATIONS OF BROADCAST LICENSES WITHOUT PRIOR CONSTRUCTION PERMIT

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 155(c)(1); 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: This proceeding will implement the Commission's new authority to eliminate the present requirement for a construction permit for a broadcast station in certain instances where the changed facilities would not have an adverse impact on other broadcast facilities. In these instances, licensees or permittees will be able to initiate the change without prior authority and file a license application to cover the change afterwards.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15439
R&O	09/30/97	62 FR 51052

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG30

4207. NEWSPAPER/BROADCAST CROSS-OWNERSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On October 1, 1996, the Commission released a Notice of Inquiry seeking comment on the possible revision of its standards for waiver of the newspaper/broadcast cross-ownership rule (section 73.3555(d)) with respect to newspaper/radio combinations. The Notice solicits comment on whether the Commission should adopt objective criteria for evaluating such waiver requests and, if so, what those criteria should be.

Timetable:

Action	Date	FR Cite
NOI	10/15/96	61 FR 53694

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG53

4208. REVIEW OF TECHNICAL RULES IN PARTS 73 AND 74

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 307; 47 USC 319

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: The Second Report and Order in this radio technical streamlining proceeding continues the Commission's efforts to make the broadcast application process simpler, faster, and more efficient. In the Second Report and Order, the Commission amended the separation requirements for short-spaced FM stations, section 73.215(e), to afford second- and third-adjacent channel stations minimum relief of six

kilometers from the full spacing requirements of section 73.207. The order also expands the types of facility changes covered by expedited one-step licensing procedures and provides additional technical flexibility to FM stations licensed to Puerto Rico and the U.S. Virgin Islands. The order also relaxes noncommercial educational FM second adjacent channel standard and establishes a noncommercial educational FM community coverage standard. Finally, the item creates a new commercial FM class, class C-zero, and a mechanism to reclassify class C stations that do not meet the new class minimum antenna height where there is a competing demand for spectrum.

Timetable:

Action	Date	FR Cite
NPRM	06/22/98	63 FR 33892
Report & Order	04/21/99	64 FR 19498
Second Report & Order	12/20/00	65 FR 79773

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3060–AG81

4209. ESTABLISHMENT OF A CLASS A TELEVISION SERVICE (MM DOCKET NOS. 00-10, 99-292)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 307; 47 USC 336(f)

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: NPRM, Statutory, 120 days from enactment of CBPA.

Abstract: On March 28, 2000, the Commission adopted a Report and Order in this proceeding. This Report and Order implemented the Community Broadcasters Protection Act of 1999, which directed the Commission to establish a Class A television service to provide a measure of primary status to certain low-power television stations. This Report and Order addresses a wide range of issues related to the implementation of the statute, including the protected service area of Class A stations, Class A interference protection requirements vis-a-vis other TV stations, eligibility criteria for Class A status, common ownership restrictions applicable to Class A stations, the treatment of modification applications filed by Class A licensees, and general operating requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/20/00	65 FR 3188
R&O	05/10/00	65 FR 29985

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH39

4210. DIGITAL AUDIO BROADCASTING SYSTEMS (MM DOCKET NO. 99-325)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The rulemaking proceeding was initiated to obtain comments concerning the Commission's proposals to foster the development and implementation of terrestrial digital audio broadcasting (DAB). In the NPRM, the Commission (1) reaffirms its commitment to providing radio broadcasters with the opportunity to take advantage of DAB technology; (2) identifies Commission public policy objectives for the introduction of DAB service; (3) proposes criteria for the evaluation of DAB models and systems; (4) evaluates IBOC and new-spectrum DAB models; (5) inquires as to the need for a mandatory DAB transmission standard; and (6) considers certain DAB system testing, evaluation and standard selection issues.

Timetable:

Action	Date	FR Cite
NPRM	11/09/99	64 FR 61054

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH40

4211. DUAL NETWORK RULE (MM DOCKET NO. 00-108)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152(a); 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 73.658(g)

Legal Deadline: None

Abstract: On June 8, 2000, the Commission adopted a Notice of Proposed Rulemaking (MM Docket No. 00-108; FCC 00-213) proposing to amend its "dual network" rule (Section 73.658(g)). Until 1996, the rule prohibited any television station from affiliating with a network that maintained more than a single network. In the Telecommunications Act of 1996, Congress directed the Commission to revise that rule to prohibit only the common ownership of more than one of the major four major networks (NBC, CBS, ABC, and Fox) or the ownership of one of the major networks and one of the emerging two networks (WB and UPN). The dual network notice proposes to eliminate only that portion of the rule that currently prohibits common ownership of one of the major networks and the WB or UPN networks. It cited the current economics of the network broadcasting industry as justifying this proposed modification.

Timetable:

Action	Date	FR Cite
NPRM	07/05/00	65 FR 41393

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH51

4212. EXPERIMENTAL BROADCAST STATION MULTIPLE OWNERSHIP RULE (MM DOCKET NO. 00-105)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152(a); 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 74.134

Legal Deadline: None

Abstract: On June 20, 2000, the Commission released a Notice of Proposed Rule Making (FCC 00-203) in the above proceeding. The Commission's existing experimental broadcast station multiple ownership rule (74.134) currently prohibits any entity from controlling more than one experimental license absent a showing of need. The 1998 Biennial Review Report, issued in MM Docket 98-35, tentatively concluded that this rule may no longer be necessary and that other rules applicable to experimental broadcast station licensees may be sufficient to assure that experimental stations do not obtain the exclusive use of a frequency or the ability to control multiple frequencies. The Report also tentatively concluded that other rules may be sufficient to assure that experimental station licensees do not operate on a commercial basis while functioning under the guise of experimental use.

Timetable:

Action	Date	FR Cite
NPRM	07/05/00	65 FR 41401
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH52

4213. ANCILLARY OR SUPPLEMENTAL USE OF DTV CAPACITY BY NON-COMMERCIAL LICENSEES (MM DOCKET NO. 98-203)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 4(i); 47 USC 4(j); 47 USC 303(r); 47 USC 307; 47 USC 309; 47 USC 336

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On November 23, 1998, the Commission issued a Notice of Proposed Rulemaking (NPRM) in MM Docket No. 98-203 in response to a Petition for Reconsideration of the Fifth Report and Order in the digital television (DTV) proceeding that was filed by the Association of America's Public Television Stations and the Public Broadcasting Service. The NPRM seeks comment on whether, and under what conditions, noncommercial educational (NCE) television licensees should be permitted to offer ancillary or supplementary services, including subscription television, on a remunerative basis. In particular, the NPRM seeks comment on whether and how the Commission should amend section 73.621 of the Commission's rules, which requires NCE stations to provide a noncommercial service that "primarily" serves the educational needs of the community. The NPRM also seeks comment on how the advertising ban set forth in section 399B of the Communications Act implicates the provision of remunerative services by public DTV stations. The NPRM tentatively concludes that, while section 399B continues to apply to all video broadcast programming streams provided by public DTV stations, it does not apply to any subscription services they provide on their DTV channels, since such services do not constitute "broadcasting." In addition, the NPRM seeks comment on the extent to which section 399B applies to other, non-subscription ancillary or supplementary services carried by an NCE station. Finally, the NPRM seeks comment on whether NCE licensees should be exempt from DTV fees under section 366 of the Communications Act when they offer ancillary or supplementary services as a source of funding for their mission related activities.

Timetable:

Action	Date	FR Cite
NPRM	12/14/98	63 FR 68722
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH53

4214. PERIODIC REVIEW OF RULES AND POLICIES AFFECTING THE CONVERSION TO DTV (MM DOCKET NO. 00-39)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 4(i); 47 USC 4(j); 47 USC 303(r); 47 USC 307; 47 USC 309; 47 USC 336

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On January 18, 2001, the Commission adopted a Report and Order and Further Notice of Proposed Rule Making (FCC 01-24), in which it took a number of actions concerning the transition to digital television. In the Report and Order it imposed a channel election requirement, requiring commercial television stations with two in-core channels (i.e., channels 2-51) to elect their post-transition digital channel by December 31, 2003. This will allow the Commission to more quickly identify channels available to accommodate Digital Television (DTV) licensees with out-of-core transition channels and new entrants. (Questions concerning the priority as to channel assignment - e.g., should stations that must move to a new channel have the highest priority and get the first selection of channels that are returned - and processing issues, as well as the question of whether any channels should be placed off-limits for use by DTV licensees were left to future rulemaking proceedings.)

Additionally, while full replication by DTV licensees of the National Television Systems Committee (NTSC) service area remains an important Commission objective, the Commission did not impose a full replication DTV requirement. Instead, it determined that, after December 31, 2004, whatever portion of a commercial broadcaster's NTSC Grade B contour is not replicated with its digital television signal will simply cease to be protected in the DTV Table of Allotments. This was intended to provide broadcasters with the incentive to continue service to most of their current viewers without the need for a Commission rule. The Commission did, however, impose an enhanced service obligation that will require licensees to encompass their communities of license with a stronger signal than that with which they had, or will have, to commence DTV operations. The Commission also discussed and resolved DTV application cut-off procedures, how it will resolve any mutual exclusivities that arise, and a host of technical issues. Importantly, the Commission determined that at this time there is no persuasive information to indicate that there is any deficiency in the 8-Vestigial Side Band (8-VSB) modulation system of the DTV transmission standard that would cause it to revisit its decision to deny Sinclair Broadcasting Group, Inc.'s, petition and add Coded Orthogonal Frequency Division Multiplex to the current 8-VSB DTV standard, or to grant Univision Communications Inc.'s Petition for Expedited Rule Making to that same effect. The Commission also declined to adopt technical performance standards for DTV receivers.

Timetable:

Action	Date	FR Cite
NPRM	03/23/00	65 FR 15600
Report & Order	02/13/01	66 FR 9973
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 3060–AH54

4215. • CHILDREN'S TV, OBLIGATIONS OF DIGITAL TV BROADCASTERS (MM DOCKET NO. 00-167)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 336(d)

CFR Citation: 47 CFR 73.670; 47 CFR 73.671; 47 CFR 73.673

Legal Deadline: None

Abstract: This item seeks comment on a range of issues related to application of our existing children's programming rules to digital broadcasting. The NPRM focuses primarily on two areas: the obligation of commercial television broadcast licensees to provide educational and informational programming for children and the requirement that television broadcast licensees limit the amount of advertising in children's programs.

In addition, this document seeks comment on how to address the issue of the airing in programs viewed by children promotions that may be inappropriate for children to watch. Although this document seeks comment largely on challenges unique to the digital area, it also discusses several issues that apply equally to analog and digital broadcasting.

Timetable:

Action	Date	FR Cite
NPRM	11/08/00	65 FR 66951
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH68

4216. • EXTENSION OF FILING REQUIREMENTS FOR CHILDREN'S TV PROGRAMMING REPORT (MM DOCKET NO. 00-44)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303; 47 USC 308

CFR Citation: 47 CFR 73.3526

Legal Deadline: None

Abstract: This document seeks comment on the tentative conclusion that broadcasters who maintain Internet websites should be required to post their completed quarterly Children's Television Programming Reports (FCC Form 398) on these sites. The FCC 398 is required to be filed by commercial television broadcast stations each quarter. This form is used to provide information on the efforts of commercial television stations to provide children's educational and informational programs aired to meet its obligation under the Children's Television Act of 1990. Although the Children's Television Programming Reports are available in a central location on the FCC's website, members of the public may look first to their local broadcast station for information about programming at the station, making station website posting useful.

Timetable:

Action	Date	FR Cite
NPRM	11/09/00	65 FR 67331
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH69

4217. • RADIO MARKET DEFINITIONS (MM DOCKET NO. 00-244)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 202(h); 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: As a result of finding in its Biennial Review Report (65 FR 43333; July 13, 2000) that the Commission's methods for defining radio markets and counting both the number of stations in a radio market and counting the number of stations an entity owns in such a market may be having results that frustrate the structure of the Telecommunications Act of 1996, the Commission issued a Notice of Proposed Rule Making in MM Docket No. 00-244. That Notice, which was

adopted December 6, 2000, sought comment on alternative methods for defining radio markets, including using Arbitron or other commercially defined market definitions in place of the Commission's current "contour overlap" method. It also sought comment on alternative methods for determining the number of stations in a radio market and for counting the number of stations a party owns in that market.

Timetable:

Action	Date	FR Cite
NPRM	12/28/00	65 FR 82305
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH70

4218. • ENHANCED AND STANDARDIZED DISCLOSURE (MM DOCKET NO. 00-168)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 336

CFR Citation: 47 CFR 73.3526

Legal Deadline: None

Abstract: This item concerns rules and policies on how commercial television broadcast station licensees provide public interest information to the public. This document proposes amendments to the public inspection file rules that would standardize the format used for providing public interest information to the public and make information contained in public inspection files available on the Internet. The intended effect of this action is to propose rules that would make information regarding how television broadcast stations meet their fundamental public interest obligation to serve the needs and interests of their communities of license easier to understand or more accessible to the public.

Timetable:

Action	Date	FR Cite
NPRM	11/19/00	65 FR 62683
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH71

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Completed Actions

Mass Media Bureau

4219. LOCAL TELEVISION OWNERSHIP RULE (MM DOCKET NO. 91-221)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303; PL 104-104, 202(c)(2); PL 104-104, 202(d)

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: On January 19, 2001, the Commission released a Memorandum Opinion and Second Order on Reconsideration (Second Reconsideration Order). This order generally affirmed the revisions the Commission made in 1999 to its local TV multiple ownership rule, or TV duopoly rule, and radio/TV cross-ownership rule. It also generally affirmed the grandfathering policies the Commission had adopted at the same time for certain local marketing agreements and certain waivers of the previous radio/TV cross-ownership rule.

In the Second Reconsideration Order, however, the Commission made one change to the TV duopoly rule, and a parallel change to the radio/TV cross-ownership rule. Pursuant to the TV duopoly rule adopted in 1999, one party may own two TV stations in the same TV market, defined by the Designated Market Areas (DMAs) of Nielsen Media Research, if two conditions are satisfied. First, at least one of the stations must not be among the four highest-ranked stations in the DMA, as determined by their all-day audience share. Second, at least eight independently owned and operating stations would remain in the DMA after the proposed combination. The Second Reconsideration Order amended the TV duopoly rule to permit parties to count toward the eight-station minimum only those stations the Grade B contours of which overlap with at least one of the stations in the proposed combination.

Pursuant to the radio/TV cross-ownership rule adopted in 1999, one party may own one TV station (or two, if permitted by the TV duopoly rule) and one radio station in the same geographic area. One party may own one (or two) TV station(s) and more than one radio station in the same geographic area if a certain number of independent media "voices" would remain after the proposed combination.

The Second Reconsideration Order amended the radio/TV cross-ownership rule to permit parties to count toward the number of media "voices" necessary, only those TV stations the Grade B contours of which overlap with at least one of the TV stations in the proposed combination.

Timetable:

Action	Date	FR Cite
NOI	07/11/91	56 FR 40847
NPRM	06/24/92	57 FR 28163
FNPRM	02/02/95	60 FR 6490
Report & Order	03/27/95	60 FR 15688
Second FNPRM	12/19/96	61 FR 66978
Report & Order	09/17/99	64 FR 50651
Memorandum Opinion and Second Order on Reconsideration	02/06/01	66 FR 9039

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AF79

4220. ATTRIBUTION OF BROADCAST INTERESTS (MM DOCKET NOS. 94-150, 92-51, 87-154)

Priority: Other Significant

Legal Authority: 47 USC 154(i); 47 USC 303

CFR Citation: 47 CFR 21.912; 47 CFR 73.3526; 47 CFR 73.3555; 47 CFR 73.3613; 47 CFR 74.931; 47 CFR 76.501

Legal Deadline: None

Abstract: The Memorandum Opinion and Order on Reconsideration concerns rules and policies for attributing cognizable interests in applying the broadcast multiple ownership rules, the broadcast-cable cross-ownership rule, and the cable-Multipoint Distribution Service cross-ownership rule. Specifically, the Order declines to limit or expand the scope of the equity debt plus rule, but clarifies several issues that pertain to the application of the rule. The Order eliminates the single majority shareholder exemption for purposes of the broadcast attribution rules, while grandfathering existing minority interests held pursuant to that exemption. The Order also declines to deem all local marketing agreements (LMAs) entered into after August 6, 1999, to be unlawful, and declines to require all existing LMAs, not just attributable LMAs, to be filed with the Commission. Finally, the Order reaffirms the decision to eliminate the cross-interest policy. The Memorandum Opinion and Order on Reconsideration amends rules in 47 CFR parts 21, 73, and 76. The Order was adopted on December 14, 2000, and released January 19, 2001.

Timetable:

Action	Date	FR Cite
NPRM	02/02/95	60 FR 6483
FNPRM	12/20/96	61 FR 67275
Report & Order	08/05/99	
Memorandum Opinion & Order on Reconsideration	02/13/01	66 FR 9962

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AF82

4221. NATIONAL TELEVISION OWNERSHIP RULES (MM DOCKET NOS. 96-222, 91-221, 87-8)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: In the January 13, 2001, Memorandum Opinion and Order on Reconsideration in MM Docket Nos. 96-222, 91-222, and 87-8, In the Matter of Broadcast Television National Ownership Rules; Review of the Commission's Regulations Governing Television Broadcasting; Television Satellite Stations Review of Policy and Rules, the Commission denies the petition for reconsideration filed by the Office of Communication, Inc. of United Church of Christ et al., which requests that the Commission attribute between 50 and 100 percent of the Designated Market Area households to an entity's second station in a market, whether it is a duopoly, a local marketing agreement or an intramarket TV satellite station. The Commission reaffirms its decision to count a market only once when calculating an entity's national ownership reach, even if that entity has an attributable interest in more than one television station in that market.

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66987
Report & Order	09/17/99	64 FR 50647
Memorandum Opinion & Order on Reconsideration	01/30/01	66 FR 8176

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AG54

4222. 1998 BIENNIAL REVIEW OF BROADCAST OWNERSHIP (MM DOCKET NO. 98-35)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-104, sec 202(h)

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On May 26, 2000, the Commission adopted a Report in MM Docket No. 98-35. This Report reviews our broadcast ownership rules as required by Section 202(h) of the Telecommunications Act of 1996. With this Report, the Commission proposed to retain but modify three rules: (1) the dual network rule to allow common ownership of an established TV network (ABC, CBS, FOX, NBC) and an emerging network (WBTN or UPN); (2) the definition of local radio markets and the methods of calculating the number of stations in a market and the number of radio stations a party owns in a particular market; and (3) the newspaper/broadcast cross-ownership rule so that it is tailored to cover those situations where it is necessary to protect the public interest. The Commission also proposes to eliminate its restriction on multiple ownership of experimental broadcast stations. The Commission has issued Notices of Proposed Rulemaking (NPRM) to seek public comment with regard to the dual network and experimental broadcast station multiple ownership rules and will issue NPRMs with regard to the other rules.

In addition, the Commission voted to retain the local radio ownership limits; the 35 percent national television household ownership cap; and the cable system/television station cross-ownership rules. The Commission also indicated that it will examine the 50 percent UHF discount near the completion of the transition to DTV.

Timetable:

Action	Date	FR Cite
NOI	03/31/98	63 FR 15353
Report	07/13/00	65 FR 43333

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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FCC—Mass Media Bureau — **Completed Actions**

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RIN: 3060–AG79

4223. REVIEW OF BROADCAST AND CABLE EEO RULES AND POLICIES

Priority: Other Significant

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 334; 47 USC 336; 47 USC 634

CFR Citation: 47 CFR 73; 47 CFR 76

Legal Deadline: None

Abstract: On November 22, 2000, the FCC released its Memorandum Opinion and Order (Order) in the Matter of MM Docket Nos. 98-204 and 96-16 (FCC 00-338). The Order clarifies the Commission's broadcast and cable equal employment opportunities (EEO) rules and policies. Specifically, the Order clarifies the filing schedule for the initial statement of compliance (FCC Form 397) and the extent to which broadcasters may engage in joint and supplemental recruitment measures. In addition, the Order clarifies that broadcasters have good faith discretion in defining what constitutes an applicant and their market/community under the EEO rules. The Order also amends the EEO rules to reflect that data on the gender, race and ethnic status of a broadcaster's or cable entity's workforce will be not be used for assessing an entity's compliance with the rules. Among other things, the Order also addresses how the Commission will monitor religious broadcasters' compliance with the EEO rules.

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66104
R&O	02/15/00	65 FR 7448
MO&O	12/08/00	65 FR 76948

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

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RIN: 3060–AH10

4224. LOW POWER FM RADIO

Priority: Other Significant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: In its Memorandum Opinion and Order on Reconsideration, the FCC affirmed most of the Report and Order creating a new low power FM radio service (LPFM). It affirmed the LP100 and LP10 classes created in the Report and Order and the 3rd adjacent channel protection for most stations. The FCC did change certain aspects of the rules created by the Report and Order, however: it created a procedure to resolve complaints from listeners of full power radio stations claiming unexpected interference from LPFM stations. The complaint procedures are intended to ensure that if any unexpected, significant 3rd adjacent channel interference problems are caused by the operation of a particular LPFM station, they can be resolved expeditiously. The FCC also preserved existing protection for those stations providing radio reading services for blind or low vision listeners. The FCC made other minor changes to ownership rules involving public safety and transportation organizations and schools.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7577
R&O	02/15/00	65 FR 7615
MO&O on Reconsideration	11/09/00	65 FR 67289

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3060–AH11

FEDERAL COMMUNICATIONS COMMISSION (FCC) — **Proposed Rule Stage**

Office of Managing Director

4225. • ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 2001

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 USC 159, requires the FCC to recover the costs of its activities by assessing and collecting annual regulatory fees from the beneficiaries of these activities. The FCC will issue a NPRM to address how it intends to implement the fee requirements for FY 2001, and at a later date a Report and Order implementing the FY 2001 Regulatory Fee Schedule.

Timetable:

Action	Date	FR Cite
NPRM	04/16/01	66 FR 19681
NPRM Comment Period End	04/27/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 3060–AH67

FEDERAL COMMUNICATIONS COMMISSION (FCC) — **Long-Term Actions**

Wireless Telecommunications Bureau

4226. AMENDMENT OF THE COMMISSION'S RULES CONCERNING MARITIME COMMUNICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 80

Legal Deadline: None

Abstract: Amendment of the Maritime Radio Service Rules to encourage growth and improve the regulatory structure in VHF maritime communications.

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
First R&O	04/26/95	60 FR 34198
FNPRM	04/26/95	60 FR 35507
Second FNPRM	06/17/97	62 FR 37533
Second R&O	06/17/97	62 FR 40281
Third R&O and MO&O	07/06/98	63 FR 40059
MO&O	04/26/99	64 FR 26885
Third NPRM	12/08/00	65 FR 76966
Fourth R&O	12/13/00	65 FR 77821
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PR Docket No. 92-257.

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RIN: 3060–AF14

4227. RULEMAKING TO AMEND PART 1 AND PART 21 TO REDESIGNATE THE 27.5-29.5 GHZ BAND AND TO ESTABLISH RULES AND POLICIES FOR LOCAL MULTI-POINT DISTRIBUTION SERVICE

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 553

CFR Citation: 47 CFR 21; 47 CFR 25; 47 CFR 101

Legal Deadline: None

Abstract: The goal of this proceeding, a Third Order on Reconsideration, is to pave the way for the auctioning and licensing of the Local Multipoint Distribution Service (LMDS), a fixed broadband point-to-point wireless service that has significant potential in offering a broad range of one-way and two-way voice-video and data service capabilities, and a substantial amount of capacity that is larger than is currently available in wireless services. This Order was adopted and released on February 11, 1998. The Fourth Report and Order adopted partitioning and disaggregation rules for LMDS.

Timetable:

Action	Date	FR Cite
NPRM	01/28/93	58 FR 6400
NPRM Comment Period End	04/15/93	
Third NPRM	08/23/95	60 FR 43740
First R&O & Fourth NPRM	07/29/96	61 FR 39425
Fifth NPRM	04/07/97	62 FR 16514
Second R&O	04/29/97	62 FR 23148
Order on Recon	05/23/97	62 FR 28373
Second Order on Recon	09/17/97	62 FR 48787
Third Order on Recon	02/25/98	63 FR 9443
Fourth R&O	05/13/98	63 FR 26502
Sixth NPRM	12/21/99	64 FR 71373
Third R&O and MO&O on Recon	07/06/00	65 FR 41603
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: WTB Docket No. 92-297.

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RIN: 3060–AF26

4228. REFARMING

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Replacement of part 90 by part 88 to revise private land mobile services and modify policies governing these services.

Timetable:

Action	Date	FR Cite
NPRM	11/16/92	57 FR 54034
R&O	07/19/95	60 FR 37152
MO&O	01/15/97	62 FR 2027
Second R&O	04/17/97	62 FR 18834
NPRM	11/27/98	63 FR 65568
Second MO&O	07/06/99	64 FR 36256
Third MO&O	09/16/99	64 FR 50257
Fourth MO&O	09/17/99	64 FR 50466
Fifth MO&O	02/05/01	66 FR 8899
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: PR Docket No. 92-235

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RIN: 3060–AF35

4229. FUTURE DEVELOPMENT OF 800 MHZ SMR; COMPETITIVE BIDDING WIDE AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 153; 47 USC 154(i); 47 USC 303; 47 USC 309(j); 47 USC 332

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This proceeding adopts service rules and competitive bidding rules for 800 MHz SMR spectrum. It also proposes licensing rules and auction procedures for lower 80 SMR and general category channels.

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 33062
FNPRM	10/20/94	59 FR 6011
Eighth R&O	02/16/96	61 FR 6138
First R&O	02/16/96	61 FR 6212
Second FNPRM	02/16/96	61 FR 6212
Second R&O	06/23/97	62 FR 41190

Action	Date	FR Cite
MO&O	06/23/97	62 FR 41225
MO&O on Recon	10/08/99	64 FR 71042
Second MO&O on Recon	07/14/00	65 FR 43716

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: PR Docket No. 93-144; GEN Docket No. 93-252; PP Docket No. 93-253

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RIN: 3060–AF47

4230. RESALE AND ROAMING OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: PL 103-66, sec 6002, Omnibus Budget Reconciliation Act of 1993

CFR Citation: 47 CFR 20; 47 CFR 22

Legal Deadline: None

Abstract: On an interim basis, the First Report and Order extends to broadband PCS and covered SMR providers the cellular rule that prohibits restricting resale of communications services. The new rules sunset five years after the last group of initial licensees for currently allocated broadband PCS spectrum is awarded. The rules also eliminate all exceptions to the rule that allowed cellular licensees to restrict resale by competing with fully operational cellular licensees in the same geographic market. The Commission successfully adopted a Second Report and Order and Third Notice of Proposed Rulemaking in this proceeding. The Second Report and Order extends the Commission's cellular rules on manual roaming by any individual whose handset is capable of accessing the network of a cellular, broadband PCS, or covered SMR provider. The Third NPRM, among other things, sought comment on whether the Commission should adopt rules requiring cellular, broadband PCS, and covered SMR providers to provide automatic roaming in their coverage areas, and whether both automatic and manual roaming requirements should sunset five years after the initial grant of PCS licenses. The Third MO&O generally affirmed the Commission's earlier decision to extend the cellular resale rule to include certain PCS and SMR providers and to sunset the rule until November 24, 2002. However, it modified the prior decision by removing customer premise equipment (CPE) and CPE in bundled packages from the scope of the resale rule, by revising the scope of the resale rule to exclude all C, D, E, and F block PCS licensees that do not own and control and are not controlled by cellular or A or B block licensees, and by exempting from the rule all SMR and other CMRS providers that do not utilize in-network switching facilities.

Timetable:

Action	Date	FR Cite
NPRM	07/13/94	59 FR 35664
NOI	07/13/94	59 FR 35664
NPRM Comment Period End	09/29/94	
NPRM	04/04/95	60 FR 20949
NPRM Comment Period End	07/14/95	
First R&O	07/12/96	61 FR 38399
Second R&O and Third NPRM	08/15/96	61 FR 44026
MO&O and O on Recon	11/09/99	64 FR 61022

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

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RIN: 3060–AF58

4231. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; NARROWBAND PCS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: Report and Order and FNPRM to modify the competitive bidding rules for participation by designated entities in narrowband PCS.

Timetable:

Action	Date	FR Cite
3rd MO&O	08/16/94	59 FR 44058
R&O	04/23/97	62 FR 27507
FNPRM	04/23/97	62 FR 27569
2nd R&O	06/06/00	65 FR 35843
2nd FNPRM	06/06/00	65 FR 35875

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: GEN Docket No. 90-314; ET Docket No. 92-100; PP Docket No. 93-253

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RIN: 3060–AF99

4232. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; 218-219 MHZ COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 95

Legal Deadline: None

Abstract: Tenth Report and Order modifies the competitive bidding rules for the upcoming auction of 218-219 MHz: (1) eliminates bidding credits available to women- and minority-owned 218-219 MHz applicants; (2) extends two levels of bidding credits to small businesses based on a two-tiered small business definition; (3) clarifies the attribution rules for affiliates of 218-219 MHz applicants; and (4) increases the amount of the upfront payments required to participate in the 218-219 MHz auction.

Timetable:

Action	Date	FR Cite
R&O	04/25/94	59 FR 24947
FNPRM	08/06/96	61 FR 49103
R&O	11/15/96	61 FR 60198
FNPRM	09/30/98	63 FR 52215
MO&O	11/09/98	63 FR 54073
R&O and MO&O	11/03/99	64 FR 59656

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 98-169

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RIN: 3060–AG00

4233. 39 GHZ CHANNEL PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 524

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 101

Legal Deadline: None

Abstract: This proceeding amends the FCC's rules to facilitate more effective use of the 39 GHz band.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2465
NPRM Comment Period End	02/12/96	
Order	02/22/96	61 FR 6809
Reply Comments	02/27/96	
Order	05/01/96	61 FR 19236
2d NPRM	01/21/98	63 FR 3075
R&O	02/06/98	63 FR 6079
MO&O	08/23/99	64 FR 45891

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 95-183, RM-8553; PP Docket No. 93-253

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RIN: 3060–AG16

4234. IMPLEMENTATION OF 309(J) OF THE COMMUNICATIONS ACT, AMENDMENT OF PARTS 20 AND 24 OF THE COMMISSION'S RULES - BROADBAND PCS COMPETITIVE BIDDING AND THE COMMERCIAL MOBILE RADIO SERVICE SPECTRUM CAP

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303(r); 47 USC 309(j); 47 USC 332

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: NPRM to modify the competitive bidding rules for the Broadband PCS F Block. Report and Order, adopted 6/21/96, modified the PCS/cellular rule and the cellular spectrum cap.

Timetable:

Action	Date	FR Cite
O on Recon of 5th MO&O and D, E, & F R&O	11/15/00	65 FR 68927

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PP Docket No. 93-253

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RIN: 3060–AG21

4235. REVISION OF THE RULES TO ENSURE COMPATIBILITY WITH ENHANCED 911 EMERGENCY CALLING SYSTEMS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 134(i); 47 USC 151; 47 USC 201; 47 USC 208; 47 USC 215; 47 USC 303; 47 USC 309

CFR Citation: 47 CFR 20

Legal Deadline: None

Abstract: The goal of this proceeding is to afford the public a reliable, responsive E911 service in the best possible interest of public health and safety. The Third Report and Order revised the Commission's rules to permit the use of handset-based solutions or hybrid solutions that require changes to both handsets and wireless networks, in providing caller location information as part of E911 services.

Timetable:

Action	Date	FR Cite
R&O	07/26/96	61 FR 40348
FNPRM	07/26/96	61 FR 40374
MO&O	01/16/98	63 FR 2631
Second Report & Order	06/28/99	64 FR 34564
Third R&O	11/04/99	64 FR 60126
Second MO&O	12/29/99	64 FR 72951
Fourth Report & Order, Third NPRM, and NPRM	09/19/00	65 FR 56752
Fourth MO&O	10/02/00	65 FR 58657

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: CC Docket No. 94-102; CC Docket No. 96-115; CC Docket No. 92-105; WT Docket No. 00-110

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RIN: 3060–AG34

4236. IN THE MATTER OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 229; 47 USC 1001 to 1008

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: All of the decisions in this proceeding thus far are aimed at implementation of provisions of the Communications Assistance for Law Enforcement Act.

Timetable:

Action	Date	FR Cite
NPRM	10/10/97	62 FR 63302
Order	01/13/98	63 FR 1943
FNPRM	11/16/98	63 FR 63639
Report & Order	01/29/99	64 FR 51462
Order	03/29/99	64 FR 14834
Second Report & Order	09/23/99	64 FR 51462
Third Report & Order	09/24/99	64 FR 51710
O on Recon	09/28/99	64 FR 52244
Policy Statement	10/12/99	64 FR 55164

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: CC Docket No. 97-213

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RIN: 3060–AG74

4237. DEVELOPMENT OF OPERATIONAL, TECHNICAL, AND SPECTRUM REQUIREMENTS FOR PUBLIC SAFETY COMMUNICATIONS REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 303; 47 USC 337(a); 47 USC 403

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This item takes steps toward developing a flexible regulatory framework to meet vital current and future public safety communications needs.

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 60199
Second NPRM	11/07/97	62 FR 60199
First R&O	06/06/98	63 FR 58645
Third NPRM	06/06/98	63 FR 58685
MO&O	04/26/99	64 FR 60123
Second R&O	06/08/00	65 FR 48393
Fourth NPRM	08/25/00	65 FR 51788
Second MO&O	09/05/00	65 FR 53641
Third R&O	11/07/00	65 FR 66644
Third MO&O	11/07/00	65 FR 66644
Fourth R&O	01/11/01	
Fifth NPRM	01/11/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: WT Docket No. 96-86

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RIN: 3060–AG85

4238. MULTIPLE ACCESS SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 101

Legal Deadline: None

Abstract: This proceeding amended the FCC's rules regarding multiple address systems (MAS) in the microwave service. It streamlined regulations and established a framework for MAS spectrum that provides opportunities for continued development of competitive service offerings by allowing a variety of services.

Timetable:

Action	Date	FR Cite
NPRM	01/19/97	62 FR 11407
Order	09/17/98	63 FR 53350
FNPRM	05/18/99	64 FR 38617
R&O	04/03/00	65 FR 17445

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 97-81

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RIN: 3060–AG86

4239. AMENDMENT OF PART I OF THE COMMISSION'S RULES — COMPETITIVE BIDDING PROCEDURES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 202; 47 USC 303; 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 21; 47 CFR 24; 47 CFR 27; 47 CFR 90; 47 CFR 95

Legal Deadline: None

Abstract: This proceeding proposes to amend and modify the competitive bidding rules for all auctionable services. It was released on December 31, 1997, and published in the Federal Register on January 15, 1998.

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13570
NPRM Comment Period End	04/16/97	
2nd FNPRM	01/07/98	63 FR 770
3rd R&O	01/15/98	63 FR 2315
5th R&O, O on Recon	08/29/00	65 FR 52323
4th FNPRM	08/29/00	65 FR 52401

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 97-82

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RIN: 3060–AG87

4240. AMENDMENT OF PART 90 OF THE RULES TO ADOPT REGULATIONS FOR AUTOMATIC VEHICLE MONITORING SYSTEMS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 251; 47 USC 252; 47 USC 303; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 90

Legal Deadline: None

Abstract: This Second Report and Order adopts rules and procedures governing competitive bidding for multilateration Location and Monitoring Service (LMS) frequencies.

Timetable:

Action	Date	FR Cite
NPRM	10/06/97	62 FR 52078
NPRM Comment Period End	11/20/97	
Second R&O	07/30/98	63 FR 40659

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The FNPRM sought comment on the LMS auction following the general competitive bidding procedures of Part 1, Subpart Q; the establishment of a small business definition for LMS; whether small business provisions are sufficient to promote participation by businesses owned by minorities, women or rural telephone companies; partitioning and disaggregation.

PR Docket No. 93-61

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RIN: 3060–AH12

4241. CALLING PARTY PAYS SERVICE OFFERING IN THE COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 157; 47 USC 201; 47 USC 202; 47 USC 303(r); 47 USC 332

CFR Citation: 47 CFR 20

Legal Deadline: None

Abstract: The NPRM proposes a uniform nationwide system to notify consumers that they are placing a call to a wireless phone subscriber who has elected to have the caller pay for the airtime and other charges associated with the call. The notification would include the per minute charges that will apply, as well as the name of the wireless carrier that terminates the call.

Timetable:

Action	Date	FR Cite
NPRM	07/16/99	64 FR 38313
NPRM Comment Period End	10/18/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 97-207

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RIN: 3060–AH31

4242. SERVICE RULES FOR THE 746-764 AND 776-794 MHZ BANDS, AND REVISIONS TO PART 27 OF THE COMMISSION'S RULES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 1; 47 USC 4(i); 47 USC 7; 47 USC 10; 47 USC 201; 47 USC 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 307; 47 USC 308; 47 USC 309(j); 47 USC 309(k); 47 USC 310; 47 USC 311; 47 USC 315; 47 USC 317; 47 USC 324; 47 USC 331; 47 USC 332; 47 USC 336

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Report and Order in this proceeding adopts service rules for licensing and auction of commercial services in spectrum in the 700 MHz band to be vacated by UHF television licensees.

Timetable:

Action	Date	FR Cite
NPRM	07/07/99	64 FR 36686
R&O	01/20/00	65 FR 3139
Second R&O	04/04/00	65 FR 17594
MO&O and FNPRM	07/12/00	65 FR 42879
Second MO&O	02/06/01	66 FR 9035

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: WT Docket No. 99-168; CS Docket No. 98-120; MM Docket No. 00-39

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RIN: 3060–AH32

4243. IMPLEMENTATION OF SECTIONS 309(J) AND 337 OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 22; 47 CFR 24; 47 CFR 26; 47 CFR 27; 47 CFR 73; 47 CFR 74; 47 CFR 80; 47 CFR 87

Legal Deadline: None

Abstract: This NPRM commences a proceeding to implement 309(j) and 337 of the Communications Act, as amended by the Balanced Budget Act of 1997, which was signed into law on 8/5/97. This notice seeks comment on changes to the Commission's rules and policies to implement the revised auction authority.

Timetable:

Action	Date	FR Cite
NPRM	05/03/99	64 FR 23571
R&O	01/02/01	66 FR 33

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: WT Docket No. 99-87

Agency Contact: Gary D. Michaels, Branch Chief, Auctions and Industry Analysis Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-7583
Fax: 202 418-0890
Email: gmichael@fcc.gov

RIN: 3060–AH33

4244. 1998 BIENNIAL REGULATORY REVIEW SPECTRUM AGGREGATION LIMITS FOR WIRELESS TELECOMMUNICATIONS CARRIERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 161; 47 USC 332

CFR Citation: 20 CFR 20; 22 CFR 942

Legal Deadline: None

Abstract: The Commission is re-evaluating whether it should retain, modify, or repeal the spectrum aggregation limits and the cellular cross-interest rule in light of changes occurring in the wireless telecommunications market.

Timetable:

Action	Date	FR Cite
NPRM	12/10/98	63 FR 70727
R&O	10/07/99	64 FR 54564
MO&O on Recon	11/08/00	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: WT Docket No. 98-205

Agency Contact: Paul Murray, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-7240
Fax: 202 418-7447
Email: pmurray@fcc.gov

RIN: 3060–AH34

4245. AMENDMENT TO PARTS 1, 2, 87 AND 101 OF THE RULES TO LICENSE FIXED SERVICES AT 24 GHZ

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 101

Legal Deadline: None

Abstract: This NPRM proposes licensing and service rules to govern the 24 GHz band generally.

Timetable:

Action	Date	FR Cite
NPRM	12/20/99	64 FR 71088
R&O	08/05/00	65 FR 59350

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: WT Docket No. 99-327

Agency Contact: Nese Guendelsbarger, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-0634
Fax: 202 418-0890

Shellie Blakeney, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-0680
Email: sblakene@fcc.gov

RIN: 3060–AH41

4246. PART 101 — TERRESTRIAL MICROWAVE FIXED RADIO SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 101

Legal Deadline: None

Abstract: Proceeding to streamline the Commission's rules, expedite processing of authorizations for terrestrial microwave fixed radio services and clarify rules concerning the terrestrial microwave fixed radio services.

Timetable:

Action	Date	FR Cite
NPRM	01/11/95	60 FR 2722
R&O	05/28/96	61 FR 26670
Order	03/05/98	63 FR 10778
Final Action Correction	03/24/98	63 FR 14039
NPRM	06/20/00	65 FR 38333
MO&O	06/20/00	65 FR 38324

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: WT Docket No. 94-148 (closed); WT Docket No. 00-19

Agency Contact: Michael Pollak, Electronics Engineer, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-0680
Email: mpollak@fcc.gov

RIN: 3060–AH42

4247. AMENDMENT OF PARTS 13 AND 80 GOVERNING MARITIME COMMUNICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 13; 47 CFR 80

Legal Deadline: None

Abstract: This matter concerns the amendment of the rules governing maritime communications in order to consolidate, revise and streamline the regulations as well as address new international requirements and improve the operational ability of all users of marine radios.

Timetable:

Action	Date	FR Cite
NPRM	03/24/00	65 FR 21694

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: WT Docket No. 00-48

Agency Contact: Keith Fickner, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-0680
Email: kfickner@fcc.gov

RIN: 3060–AH55

4248. AMENDMENT OF THE RULES REGARDING INSTALLMENT PAYMENT FINANCING FOR PERSONAL COMMUNICATIONS SERVICES LICENSEES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 301 to 303; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 24

Legal Deadline: None

Abstract: This proceeding proposes resumption of installment payments for broadband Personal Communications Services (PCS), e.g. for C and F Block, with payment deadline to be reinstated as of March 31, 1998. The proposal contemplates, inter alia, changes to the FCC's C Block rules to govern re-auction of surrendered spectrum in the C Block. The proposal was released on October 16, 1997, and published in the Federal Register.

Timetable:

Action	Date	FR Cite
2nd R&O	10/24/97	62 FR 55348
FNPRM	10/24/97	62 FR 55375
O on Recon of 2nd R&O	04/08/98	63 FR 17111
4th R&O	09/23/98	63 FR 50791
2nd O on Recon of 2nd R&O	05/18/99	64 FR 26887
Recon of 4th R&O	03/16/00	65 FR 14213
FNPRM	06/13/00	65 FR 37092
6th R&O and O on Recon	09/05/00	65 FR 53620
O on Recon	02/12/01	66 FR 9773

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The Order on Reconsideration published in the Federal Register in April 1998 addresses 37 petitions, 17 oppositions, 16 replies to opposition, and 38 ex parte filings.

Additional RIN 3060-AG88.

WT Docket No. 97-82

Agency Contact: Audrey Bashkin, Staff Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-7535
Fax: 202 418-0890
Email: abashkin@fcc.gov

RIN: 3060–AH57

4249. • TRANSFER OF THE 3650 THROUGH 3700 MHZ BAND AND THE 4.9 GHZ BAND FROM FEDERAL GOVERNMENT USE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 157; 47 USC 303; 47 USC 307; 47 USC 332

CFR Citation: 47 CFR 2.106; 47 CFR 25.202; 47 CFR 27.1; 47 CFR 27.4; 47 CFR 27.5; 47 CFR 27.14; 47 CFR 27.50; 47 CFR 27.53; 47 CFR 27.55; 47 CFR 27.57; 47 CFR 27.58; 47 CFR 27.61; ...

Legal Deadline: None

Abstract: This proceeding is intended to establish licensing and service rules for frequencies in the 3650 to 3700 MHz band, transferred from government use.

Timetable:

Action	Date	FR Cite
NPRM	03/16/00	65 FR 14230
First R&O and Second NPRM	11/17/00	65 FR 69612

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: WT Docket No. 00-32; ET Docket No. 98-237

Agency Contact: Rodney P. Conway, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-2904
Fax: 202 418-1944
Email: rconway@fcc.gov

Eli Johnson, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-1310

RIN: 3060–AH75

FEDERAL COMMUNICATIONS COMMISSION (FCC) — **Completed Actions**

Wireless Telecommunications Bureau

4250. AMENDMENT TO PART 27 OF THE RULES TO REVISE RULES FOR SERVICES IN THE 2.3 GHZ BAND AND TO INCLUDE LICENSING OF SERVICES IN THE 47 GHZ BAND

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 309; 47 USC 310; 47 USC 368

CFR Citation: 47 CFR 27

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes service, licensing, and competitive bidding rules for the 47.2-48.2 GHz band. The FCC proposes to amend the part 27 rules to include rules for the 47.2-48.2 band and to codify and conform certain rules for the 2.3 GHz band to provide for consistent regulation of part 27 services. The proceeding was terminated without action on December 8, 2000.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 44822
NPRM Comment Period End	10/13/98	
Order	12/08/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: WT Docket No. 98-136

Agency Contact: Eli Johnson, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554
Phone: 202 418-1310

RIN: 3060–AG93

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Federal Register

Monday,
May 14, 2001

Part LII

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the April 2001 Unified Agenda of Regulatory and Deregulatory Actions. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

A number of the actions identified in this agenda have been developed to implement provision of the Gramm-Leach-Bliley Act, or to implement other recent statutory mandates. Many of the FDIC's regulatory actions are coordinated with other Federal regulators of financial institutions, primarily the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRS), and the Office of Thrift Supervision (OTS). In some cases, the FDIC also coordinates with the National Credit Union Administration (NCUA).

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Federal Deposit Insurance Corporation—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4251	12 CFR 327 Assessments — Assessment Base	3064-AB46

Federal Deposit Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4252	12 CFR 307 Notification of Assumption of Deposits and Change of Insured Status	3064-AB88
4253	12 CFR 360 Receivership Rules	3064-AB92
4254	12 CFR 366 Contractor Conflict of Interest	3064-AC29
4255	12 CFR 334 Fair Credit Reporting Act Regulations	3064-AC35
4256	12 CFR 369 Prohibition Against Use of Interstate Branches Primarily For Deposit Production	3064-AC36
4257	12 CFR 313 Procedures for the Collection of Corporate Debt by Administrative Offset	3064-AC40
4258	Brokers and Dealers	3064-AC42
4259	12 CFR 330 Deposit Insurance Coverage	3064-AC43
4260	12 CFR 325 Simplified Capital Framework for Noncomplex Financial Institutions	3064-AC44

Federal Deposit Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4261	12 CFR 325 Capital Maintenance — Recourse Arrangements and Direct Credit Substitutes	3064-AB31
4262	12 CFR 325 Capital Maintenance — Collateralized Transactions	3064-AB78
4263	12 CFR 342 Qualification Requirements for the Recommendation or Sale of Certain Securities	3064-AB85
4264	12 CFR 325 Risk-Based Capital Standards: Claims on Securities Firms	3064-AC17
4265	12 CFR 325 Capital; Leverage and Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Residual Interests in Asset Securitizations or Other Transfers of Financial Assets	3064-AC34
4266	12 CFR 325 Risk-Based Capital Guidelines: Market Risk Measure; Securities Borrowing Transactions	3064-AC46
4267	12 CFR 325 Capital; Leverage and Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Nonfinancial Equity Investments	3064-AC47

FDIC

Federal Deposit Insurance Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4268	12 CFR 308 Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA64
4269	12 CFR 328 Advertisement of Membership	3064-AB99

Federal Deposit Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identification Number
4270	12 CFR 308 Program Fraud Civil Remedies	3064-AB41
4271	12 CFR 362 Activities of Insured State Banks and Insured Savings Associations	3064-AC20
4272	12 CFR 346 Disclosure and Reporting of CRA-Related Agreements	3064-AC33
4273	12 CFR 343 Consumer Protection in Sales of Insurance	3064-AC37
4274	12 CFR 308 Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Recission of Year 2000 Standards for Safety and Soundness	3064-AC39
4275	12 CFR 308 Rules of Practice and Procedure	3064-AC45
4276	12 CFR 337 Rescission of Deposit Broker Notification, Recordkeeping and Reporting Requirements	3064-AC48

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Prerule Stage

4251. ASSESSMENTS — ASSESSMENT BASE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441; 12 USC 1817 to 1819

CFR Citation: 12 CFR 327

Legal Deadline: None

Abstract: In 1994, the FDIC sought comment on a proposal to revise the assessment base used by insured institutions to determine the premium paid for deposit insurance. That initiative did not lead to a proposed rule. Instead, the FDIC plans to revisit the issue with a new ANPRM on alternative options for the deposit component of the assessment base and on options regarding the float deduction and use of average daily deposit balances.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/94	59 FR 50710
ANPRM Comment Period End	02/02/95	
Second ANPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steve Wagoner, Senior Assessment Specialist, Division of Finance, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 416-7152

RIN: 3064–AB46

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

4252. NOTIFICATION OF ASSUMPTION OF DEPOSITS AND CHANGE OF INSURED STATUS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 307

Legal Deadline: None

Abstract: This rulemaking clarifies reporting and disclosure requirements already applicable to insured depository institutions. Due to comments received, a second NPRM on this subject will be issued rather than finalizing the rule proposed in May 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26431
NPRM Comment Period End	07/14/97	
Second NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rodney D. Ray, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3556

RIN: 3064–AB88

4253. RECEIVERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 to 1821

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking establishes uniform rules governing the payment and priority of postinsolvency interest payments from all receiverships administered by the FDIC and makes other technical and clarifying changes to part 360.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mitchell Glassman, Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6525

RIN: 3064–AB92

4254. CONTRACTOR CONFLICT OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; 12 USC 1822(f)(3); 12 USC 1822(f)(4)

CFR Citation: 12 CFR 366

Legal Deadline: None

Abstract: This rulemaking clarifies that part 366 does not pertain to FDIC contractors who intend to purchase assets from the FDIC. Conflicts of interest regarding contractors who intend to purchase assets from the FDIC will be covered by an FDIC circular regarding the sale of assets to restricted contractors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard M. Handy, Assistant Executive Secretary (Ethics), Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7271

RIN: 3064–AC29

4255. FAIR CREDIT REPORTING ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1681s; 12 USC 1819(a)(Tenth)

CFR Citation: 12 CFR 334

Legal Deadline: None

Abstract: Section 506 of the Gramm-Leach-Bliley Act requires bank regulators and FTC to publish FCRA regulations to implement the Fair Credit Reporting Act. Due to comments received from a joint notice of proposed rulemaking, dated October 20, 2000, it is anticipated that the joint agencies will issue a new proposed rulemaking for public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/20/00	65 FR 63120
NPRM Comment Period End	12/04/00	
Second NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deanna Caldwell, Senior Policy Analyst, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 942-3366

RIN: 3064–AC35

4256. PROHIBITION AGAINST USE OF INTERSTATE BRANCHES PRIMARILY FOR DEPOSIT PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819(Tenth); 12 USC 1835a

CFR Citation: 12 CFR 369

Legal Deadline: None

Abstract: The rulemaking implements section 106 of the Gramm-Leach-Bliley Act, which amends the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 to provide that any branch of a bank controlled by an out-of-state bank holding company is considered to be an interstate branch for purposes of Riegle-Neal.

Timetable:

Action	Date	FR Cite
NPRM	04/09/01	66 FR 18411
NPRM Comment Period End	06/08/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc J. Goldstrom, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8807

RIN: 3064–AC36

4257. PROCEDURES FOR THE COLLECTION OF CORPORATE DEBT BY ADMINISTRATIVE OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819(a); 5 USC 5514; 31 USC 3711; 31 USC 3716

CFR Citation: 12 CFR 313

Legal Deadline: None

Abstract: This rulemaking establishes procedures for the collection of debts owed the FDIC. The rulemaking also implements the Debt Collection Improvement Act of 1996, which requires agencies to promulgate regulations on this subject. The regulation sets forth the procedures the FDIC would follow in collecting debts through salary offset, administrative offset, and tax refund offset.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Manuel Palau, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8829

RIN: 3064–AC40

4258. BROKERS AND DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78a

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, May 12, 2001.

Abstract: This rulemaking implements section 204 of the Gramm-Leach-Bliley Act (GLBA), which requires the Federal banking agencies to establish recordkeeping requirements for banks relying on any of the broker-dealer exemptions listed in sections 201 and 202 of GLBA.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3618

RIN: 3064–AC42

4259. DEPOSIT INSURANCE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813(l)

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: This rulemaking establishes a uniform and streamlined appeals process for deposit insurance claims.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard Osterman, Assistant General Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 736-0617

RIN: 3064–AC43

4260. SIMPLIFIED CAPITAL FRAMEWORK FOR NONCOMPLEX FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a)

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This notice, sponsored jointly by the OCC, the FRS, the FDIC and OTS, advises the public that the Agencies are considering developing a regulatory capital framework tailored to the size, structure, complexity, and risk profile of domestic, noncomplex financial institutions. The Agencies are seeking comment on possible regulatory capital frameworks that may ease burden on these financial institutions, such as a simplified risk-based or a modified leverage ratio framework.

Timetable:

Action	Date	FR Cite
ANPRM	11/03/00	65 FR 66193
ANPRM Comment Period End	02/01/01	
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3618

RIN: 3064–AC44

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

4261. CAPITAL MAINTENANCE — RECOURSE ARRANGEMENTS AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1816; 12 USC 1818(a); 12 USC 1819(Tenth); 12 USC 1828(d); 12 USC 1831o; 12 USC 3907; 12 USC 3909; 12 USC 1815(b); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1835; 12 USC 4808; 12 USC 1828(c); PL 102-233; 105 Stat 1761; 105 Stat 1789; 105 Stat 1790; 105 Stat 2236

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the FDIC, and the OTS. The rulemaking revises risk-based capital standards by addressing the regulatory capital treatment of recourse obligations and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk. The revision treats recourse obligations and direct credit substitutes more consistently than under the agencies' current risk-based capital standards. In addition, the revision allows the agencies to use credit ratings and certain alternative approaches to match the risk-based capital requirement more closely to a banking organization's relative risk of loss in asset securitizations. The rulemaking also requires the sponsor of a revolving credit securitization that involves an early amortization feature to hold capital against the amount of assets under management, i.e., the off balance sheet securitized receivables. The rulemaking is intended to result in more consistent treatment of recourse obligations and similar transactions among the agencies, more consistent risk-based capital treatment for certain types of transactions involving similar risk, and capital requirements that more closely reflect a banking organization's relative exposure to credit risk.

Timetable:

Action	Date	FR Cite
Credit Ratings		
ANPRM	05/25/94	(59 FR 27116)
Recourse/Direct Credit Substitutes		
NPRM	05/25/94	(59 FR 27116)
Second NPRM	03/08/00	(65 FR 12320)
Second NPRM Comment Period End	05/07/00	
Final Action	10/00/01	
Synthesis of Credit Ratings/Recourse/Direct Credit Substitutes		
NPRM	11/05/97	(62 FR 59944)
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8906

RIN: 3064–AB31

4262. CAPITAL MAINTENANCE — COLLATERALIZED TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; PL 102-233; PL 102-242; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12

USC 1831; 12 USC 3907; 12 USC 3909; 12 USC 4808

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rule was developed in consultation with the OCC, the FRS, and the OTS (Agencies). It amends FDIC's risk-based capital standards to make the standards uniform with the Agencies' treatments for transactions supported by collateral. The effect of the proposal is to allow banks to hold less capital for certain transactions collateralized by cash or qualifying securities.

Timetable:

Action	Date	FR Cite
NPRM	08/16/96	61 FR 42565
NPRM Comment Period End	10/15/96	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AB78

4263. QUALIFICATION REQUIREMENTS FOR THE RECOMMENDATION OR SALE OF CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1831

CFR Citation: 12 CFR 342

Legal Deadline: Final, Statutory, May 12, 2001, recordkeeping requirement.

Abstract: This proposal, sponsored jointly by the OCC, the FRS, and the FDIC, would establish qualifications for banks that sell certain securities to their customers without having to register as a broker under the Securities Exchange Act. FDIC staff are contemplating a recommendation to rescind this proposal and replace it with a second NPRM to exempt banks from registering with the NASD/SEC as securities brokers or dealers in the event that they qualify under any of the exemption criteria in Gramm-Leach-Bliley Act sections 201 or 202 (see NPRM described at 3064-AC42).

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68824
NPRM Comment Period End	02/28/97	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3618

RIN: 3064–AB85

4264. RISK-BASED CAPITAL STANDARDS: CLAIMS ON SECURITIES FIRMS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835; 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c)

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the FDIC and OTS (the Agencies), and amends their respective risk-based capital standards for banks, bank holding companies, and savings associations with regard to the risk-weighting of claims on, and claims guaranteed by, qualifying securities firms. The rule reduces the risk weight applied to claims on, and claims guaranteed by, qualifying securities firms incorporated in countries that are members of the Organization for Economic Cooperation and Development (OECD) from 100 percent to 20 percent under the Agencies' risk-based capital rules.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76180
NPRM Comment Period End	01/22/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC17

4265. CAPITAL; LEVERAGE AND RISK-BASED CAPITAL GUIDELINES; CAPITAL ADEQUACY GUIDELINES; CAPITAL MAINTENANCE: RESIDUAL INTERESTS IN ASSET SECURITIZATIONS OR OTHER TRANSFERS OF FINANCIAL ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819(Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; 105 Stat 1761; 105 Stat 1789

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This interagency rulemaking amends capital rules to provide that the value of certain retained interests in securitizations not supported by a readily available market quote would be deducted from Tier 1 capital for regulatory capital purposes.

Timetable:

Action	Date	FR Cite
NPRM	09/27/00	65 FR 57993
NPRM Comment Period End	12/26/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3618

RIN: 3064–AC34

4266. • RISK-BASED CAPITAL GUIDELINES: MARKET RISK MEASURE; SECURITIES BORROWING TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC

1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819(Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; PL 102-233; 105 Stat 1761; 105 Stat 1789; 105 Stat 1790; PL 102-242; 105 Stat 2236; 105 Stat 2355; 105 Stat 2386

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking sponsored jointly by the OCC, the FRS and the FDIC, amends their market risk rules to revise the capital treatment for cash collateral that is posted in connection with certain securities borrowing transactions. The effect of the rule is to more appropriately align the capital requirements for these transactions with the risk involved and to provide a capital treatment for U.S. banking organizations that is more in line with the capital treatment applied to their domestic and foreign competitors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/05/00	65 FR 75856
Interim Final Rule Effective	01/04/01	
Interim Final Rule Comment Period End	01/19/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC46

4267. • CAPITAL; LEVERAGE AND RISK-BASED CAPITAL GUIDELINES; CAPITAL ADEQUACY GUIDELINES; CAPITAL MAINTENANCE; NONFINANCIAL EQUITY INVESTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819(Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; 105 Stat 1761; 105 Stat 1789; PL 102-242; 105 Stat 2236

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking, sponsored jointly by the OCC, the FRS and the FDIC, amends respective risk-based and leverage capital standards for banks and bank holding companies with respect to the capital treatment of nonfinancial equity investments. The rule would deduct from Tier 1 capital certain percentages of the adjusted carrying value of all nonfinancial equity investments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/01	66 FR 10212
NPRM Comment Period End	04/16/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC47

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Long-Term Actions

4268. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 308

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doris L. Marsh
Phone: 202 898-8905

RIN: 3064–AA64

4269. ADVERTISEMENT OF MEMBERSHIP

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 328

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 6142
NPRM Comment Period End	04/14/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc J. Goldstrom
Phone: 202 898-8807

RIN: 3064–AB99

4270. PROGRAM FRAUD CIVIL REMEDIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 554 to 557; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1828; 12 USC 1829; 12 USC 1829b; 12 USC 1831o; 12 USC 1832(c); 12 USC 1884(b); 12 USC 1972; 12 USC 3102; 12 USC 3108(a); 12 USC 3349; 12 USC 3909; 12 USC 4717; 15 USC 78(h); 15 USC 78(i); 31 USC 330; 42 USC 4012a; PL 104-134

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: This regulatory action implements the Program Fraud Civil Remedies Act (PFCRA). The rule establishes administrative procedures to impose statutorily authorized civil penalties against any person who makes, submits, or presents a false, fictitious, or fraudulent statement or claim under $150,000 for property, services, or money to the FDIC in connection with FDIC contracting operations and in connection with the FDIC Asset Purchaser Certification Program.

Timetable:

Action	Date	FR Cite
NPRM	08/29/00	65 FR 52352
NPRM Comment Period End	10/30/00	
Final Rule	02/07/01	66 FR 9187
Final Action Effective	03/09/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Rego, Counsel, Corporate Affairs Section, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7048

RIN: 3064–AB41

4271. ACTIVITIES OF INSURED STATE BANKS AND INSURED SAVINGS ASSOCIATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1823; 12 USC 1828; 12 USC 1828a; 12 USC 1831a; 12 USC 1831e; 12 USC 1831p-1; 12 USC 1831w; 12 USC 1835a; 12 USC 3104; 12 USC 3105; 12 USC 3108; 12 USC 3207; 12 USC 1601 to 1607; 12 USC 375a(4); 12 USC 375b; 12 USC 1818(a); 12 USC 1819; 12 USC 1820(d)(10); 12 USC 1821(f); 12 USC 1828(j)(2); 12 USC 1831f; 12 USC 1831f-1; 12 USC 1819(a)(Tenth); 12 USC 1828(m)

CFR Citation: 12 CFR 362; 12 CFR 303; 12 CFR 337

Legal Deadline: Final, Statutory, March 11, 2000.

Abstract: This rulemaking amends the FDIC's regulations governing activities and investments of insured state banks to require that notices be filed before insured state nonmember banks conduct activities through a subsidiary if those activities must be conducted in a financial subsidiary of a national bank. This subpart allows the FDIC to impose standards and prudential safeguards when insured state nonmember banks engage in activities that a national bank must conduct in a financial subsidiary. It also requires insured state nonmember banks to meet the mandatory CRA compliance requirement before engaging in these activities under this subpart. In addition, this subpart contains the required prudential separations between certain securities affiliates and insured state nonmember banks. The rulemaking also removes and reserves the provisions addressing, "Securities Activities of Subsidiaries of Insured State Banks: Bank Transactions with Affiliated Securities Companies." The effect of these amendments will be to require banks to notify the FDIC prior to conducting securities or other activities through subsidiaries that are not permissible for national banks directly. The rulemaking also adds certain technical amendments to correct missing citations or incorrect cross-references and similar matters.

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66339
NPRM Comment Period End	02/01/99	
Interim Final Rule Effective	03/11/00	
Interim Final Rule	03/23/00	65 FR 15526
Interim Final Rule Comment Period End	05/22/00	
Final Action	01/05/01	66 FR 1018
Final Action Effective	01/05/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Final Rule and Confirmation of Interim Final Rule with Changes was reported in the Federal Register on January 5, 2001 under RIN 3064-AC38.

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759

RIN: 3064–AC20

4272. DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831y

CFR Citation: 12 CFR 346

Legal Deadline: None

Abstract: This rulemaking implements the requirements of section 711 of the Gramm-Leach-Bliley Act. Section 711 requires an insured depository institution to disclose any agreement with nongovernmental entities in connection with the CRA, if the agreement involves a grant of more than $10,000 or a loan of more than $50,000 to the community group annually. In addition, annual reports must be made by the depository institutions and the nongovernmental entities to the appropriate Federal banking agency of the institutions containing information about the payments, loans, and fees paid under the agreement, and how the nongovernmental entity used the funds.

Timetable:

Action	Date	FR Cite
NPRM	05/19/00	65 FR 31962
NPRM Comment Period End	07/21/00	
Final Action	01/10/01	66 FR 2052
Final Action Effective	04/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deanna Caldwell, Senior Policy Analyst, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 942-3366

RIN: 3064–AC33

4273. CONSUMER PROTECTION IN SALES OF INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 (Seventh and Tenth); 12 USC 1831x

CFR Citation: 12 CFR 343

Legal Deadline: Final, Statutory, November 12, 2000.

Abstract: The rulemaking, sponsored jointly by the OCC, the FRS, the FDIC and OTS, implements section 305 of the Gramm-Leach-Bliley Act of 1999, which requires regulations governing retail sales practices, solicitations, advertising, or offers of any insurance product by a depository institution or any person that is engaged in such activities at an office of the institution or on behalf of the institution. In addition, the rulemaking establishes a consumer grievance process.

Timetable:

Action	Date	FR Cite
NPRM	08/21/00	65 FR 50882
NPRM Comment Period End	10/05/00	
Final Rule	12/04/00	65 FR 75822
Final Rule Effective Date Extended	03/19/01	66 FR 15345
Final Rule Effective	10/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3618

RIN: 3064–AC37

4274. INTERAGENCY GUIDELINES ESTABLISHING STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION AND RECISSION OF YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818(Tenth); 12 USC 1831p-1; 15 USC 6801(b); 15 USC 6805(b)(1); 5 USC 504; 5 USC 554 to 557; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1815(e); 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1828; 12 USC 1829; 12 USC 1829b; 12 USC 1831o; 12 USC 1832(c); 12 USC 1884(b)

CFR Citation: 12 CFR 308; 12 CFR 364

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the FDIC and the OTS and implements sections 501 and 505(b) of the Gramm-Leach Bliley Act. Section 501 of the Gramm-Leach-Bliley Act requires agencies to establish appropriate standards for the financial institutions subject to their respective jurisdictions relating to administrative, technical, and physical safeguards for customer records and information.

Timetable:

Action	Date	FR Cite
NPRM	06/26/00	65 FR 39472
NPRM Comment Period End	08/25/00	
Final Action	02/01/01	66 FR 8616
Final Action Effective	07/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert A. Patrick, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3757

RIN: 3064–AC39

4275. • RULES OF PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 554-557; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1815(e); 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1828; 12 USC 1829; 12 USC 1829b; 12 USC 1831i; 12 USC 1831o; 12 USC 1831p-1; 12 USC 1832(c); 12 USC 1884(b); 12 USC 1972; 12 USC 3102; 12 USC 3108(a); 31 USC 330; 31 USC 5321; 42 USC 4012a; PL 104-134; 110 Stat 1321-358

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 requires all Federal agencies with statutory authority to impose civil money penalties (CMPs) to evaluate and adjust those CMPs every four years. This rulemaking implements FDIC's required adjustments to its CMP statutes.

Timetable:

Action	Date	FR Cite
Final Action	10/31/00	65 FR 64884
Final Action Effective	10/31/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John T. Mahshie, Counsel, Compliance and Enforcement Section, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3503

RIN: 3064–AC45

4276. • RESCISSION OF DEPOSIT BROKER NOTIFICATION, RECORDKEEPING AND REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 375a(4); 12 USC 375b; 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1820(d)(10); 12 USC 1821f; 12 USC 1828(j)(2); 12 USC 1831; 12 USC 1831f-1

CFR Citation: 12 CFR 337

Legal Deadline: None

Abstract: As part of the Financial Regulatory Relief and Economic Efficiency Act of 2000, Congress repealed section 29A of the FDIC Act. Section 29A imposed certain requirements on deposit brokers and authorized the FDIC to issue implementing regulations. The FDIC rescinds the regulations issued to implement the now-repealed section 29A of the FDIC Act. As a result of Congress' repeal of section 29A and the FDIC's rescission of the implementing regulations, deposit brokers are no longer required to notify the FDIC that they are acting as deposit brokers. Also, deposit brokers are no longer required to maintain records as to the amounts and maturities of deposits placed by the broker at each insured depository institution.

Timetable:

Action	Date	FR Cite
Final Action	04/03/01	66 FR 17621
Final Action Effective	04/03/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

FDIC — Completed Actions

Government Levels Affected: None
Agency Contact: Joseph A. DiNuzzo, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7349
RIN: 3064–AC48
[FR Doc. 01–5205 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part LIII

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the Office of Management and Budget (OMB), the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 13 rulemakings listed, 5 are current or projected rulemakings, and 8 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

David P. Boergers,

Secretary.

Federal Energy Regulatory Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4277	Treatment of Responses to FERC Form No. 580 Interrogatories	1902-AB57
4278	Revised Filing Requirements Under Part 33 of the Commission's Regulations	1902-AB73
4279	Electronic Filing	1902-AB89
4280	Revision of Annual Charges Assessed to Public Utilities	1902-AB92
4281	Electronic Filing of FERC Form Nos. 423, 714 and 715	1902-AB93

Federal Energy Regulatory Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4282	Revision of FERC Form No. 6: Annual Report of Oil Pipeline Companies	1902-AB87
4283	Records Retention Project	1902-AB88
4284	Well Category Determinations	1902-AB98
4285	Regulations Governing Off-the-Record Communications	1902-AB99
4286	Collaborative Procedures for Energy Facility Applications	1902-AC00
4287	Open Access Same-Time Information System and Standards of Conduct	1902-AC04
4288	Open Access Same-Time Information System (OASIS) and Standards of Conduct	1902-AC05
4289	Five-Year Review of Oil Pipeline Pricing Index	1902-AC06

4277. TREATMENT OF RESPONSES TO FERC FORM NO. 580 INTERROGATORIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 to 305; 5 USC 551 to 557; 15 USC 79; 16 USC 791a to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141; 18 CFR 388

Legal Deadline: None

Abstract: The Commission proposes to: codify an existing requirement for certain public utilities to file responses to FERC Form No. 580 interrogatories; provide for the filing of both hard copy and electronic copy; and provide that responses will not qualify for claims of privilege. (Docket No. RM94-5-000.)

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63312
NPRM Comment Period End	03/04/94	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Cohen, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-2046

RIN: 1902–AB57

4278. REVISED FILING REQUIREMENTS UNDER PART 33 OF THE COMMISSION'S REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 33

Legal Deadline: None

Abstract: The Commission amended 18 CFR part 33 to update the filing requirements for applications under part 33, including applications for public utility mergers. (Docket No. RM98-4-000.)

Timetable:

Action	Date	FR Cite
NPRM	04/24/98	63 FR 20340
NPRM Comment Period End	08/24/98	
Final Rule	11/28/00	65 FR 70984
Final Rule Effective	01/29/01	
Order on Rehearing	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Julia A. Lake, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-2019

RIN: 1902–AB73

4279. ELECTRONIC FILING

Priority: Other Significant

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 USC app 1 to 85 (1988)

CFR Citation: 18 CFR 385

Legal Deadline: None

Abstract: The Commission has issued a rulemaking to begin implementing electronic filing of documents via the Internet, in lieu of paper filings. At this time, only limited categories of documents are being accepted, but these categories will be expanded gradually over time, in some cases by further rulemakings. Ultimately, paper filings by regulated entities will be eliminated, with limited exceptions. (Docket No. PL98-1-001.)

Timetable:

Action	Date	FR Cite
Pilot Project	09/21/99	64 FR 51116
Final Rule	09/21/00	65 FR 57088
Final Rule Effective	11/01/00	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Wilbur Miller, Staff Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-0953
Email: wilbur.miller@ferc.fed.us

RIN: 1902–AB89

4280. REVISION OF ANNUAL CHARGES ASSESSED TO PUBLIC UTILITIES

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 42 USC 7101 to 7352; 49 USC 60502; 49 app USC 1 to 85 (1988)

CFR Citation: 18 CFR 382.102; 18 CFR 382.201

Legal Deadline: None

Abstract: The Commission amended its regulations to establish a new methodology for assessment of annual charges to public utilities, based on volumes of electricity transmitted by the public utilities. (Docket No. RM00-7-000.)

Timetable:

Action	Date	FR Cite
NPRM	02/03/00	65 FR 5289
NPRM Comment Period End	04/03/00	
Final Rule	11/02/00	65 FR 65757
Final Rule Effective	01/01/01	
Order on Rehearing	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Herman Dalgetty, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 219-2918

RIN: 1902–AB92

4281. ELECTRONIC FILING OF FERC FORM NOS. 423, 714 AND 715

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79; 16 USC 791a to 828c; 16 USC 2601 to 2545; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141.51; 18 CFR 141.61; 18 CFR 141.300; 18 CFR 385.2011

Legal Deadline: None

Abstract: The Commission proposes to amend its regulations to provide for the conversion from paper to electronic filing of FERC Forms Nos. 423 (Monthly Report of Cost and Quality of Fuels for Electric Plants), 714 (Annual Electric Control and Planning Area Report) and 715 (Annual Transmission Planning and Evaluation Report). (Docket No. RM00-1-000.)

Timetable:

Action	Date	FR Cite
NPRM	11/04/99	64 FR 60140
NPRM Comment Period End	12/06/99	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia Morris, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-6990

RIN: 1902–AB93

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

Completed Actions

4282. REVISION OF FERC FORM NO. 6: ANNUAL REPORT OF OIL PIPELINE COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 357

Completed:

Reason	Date	FR Cite
Final Rule	12/26/00	65 FR 81335
Final Rule Effective	01/25/01	
Order Denying Rehearing	02/16/01	66 FR 10573

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Christine Lauermann
Phone: 202 208-0087

RIN: 1902–AB87

4283. RECORDS RETENTION PROJECT

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 125; 18 CFR 225; 18 CFR 356

Completed:

Reason	Date	FR Cite
Order Denying Rehearing	11/16/00	65 FR 69251

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Christine Lauermann
Phone: 202 208-0087

RIN: 1902–AB88

4284. WELL CATEGORY DETERMINATIONS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 18 CFR 381; 18 CFR 375; 18 CFR 270

Completed:

Reason	Date	FR Cite
Order Denying Rehearing	12/13/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacob Silverman
Phone: 202 208-2078

RIN: 1902–AB98

4285. REGULATIONS GOVERNING OFF-THE-RECORD COMMUNICATIONS

Priority: Other Significant

CFR Citation: 18 CFR 385

Completed:

Reason	Date	FR Cite
Order on Rehearing and Clarification	11/30/00	65 FR 71247

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Samuel Soopper
Phone: 202 208-0154

RIN: 1902–AB99

4286. COLLABORATIVE PROCEDURES FOR ENERGY FACILITY APPLICATIONS

Priority: Other Significant

CFR Citation: 18 CFR 4; 18 CFR 153; 18 CFR 157; 18 CFR 375

Completed:

Reason	Date	FR Cite
Order on Rehearing	11/02/00	65 FR 65752

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Richard Hoffmann
Phone: 202 208-0066

RIN: 1902–AC00

4287. OPEN ACCESS SAME-TIME INFORMATION SYSTEM AND STANDARDS OF CONDUCT

Priority: Info./Admin./Other

CFR Citation: 18 CFR 37

Completed:

Reason	Date	FR Cite
Order Adopting Revised "Business Practices Standards for OASIS Transactions"	11/01/00	65 FR 65262

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marvin Rosenberg
Phone: 202 208-1283

RIN: 1902–AC04

4288. OPEN ACCESS SAME-TIME INFORMATION SYSTEM (OASIS) AND STANDARDS OF CONDUCT

Priority: Info./Admin./Other

CFR Citation: 18 CFR 37

Completed:

Reason	Date	FR Cite
Final Action	08/10/00	65 FR 48990

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marvin Rosenberg
Phone: 202 208-1283

RIN: 1902–AC05

4289. FIVE-YEAR REVIEW OF OIL PIPELINE PRICING INDEX

Priority: Info./Admin./Other

CFR Citation: 18 CFR 342

Completed:

Reason	Date	FR Cite
Order Concluding Initial Five-Year Review of the Oil Pipeline Pricing Index	12/20/00	65 FR 79711

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harris S. Wood
Phone: 202 208-0224

RIN: 1902–AC06

[FR Doc. 01–5933 Filed 05–11–01; 8:45 am]
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Monday,
May 14, 2001

Part LIV

Federal Housing Finance Board

Semiannual Regulatory Agenda

FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Federal Housing Finance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulatory and Deregulatory Actions, as required by section 4 of Executive Order 12866. These items reflect the status of the regulatory agenda of the Finance Board as of April 15, 2001. The Finance Board is an independent agency in the executive branch of the Government that is charged by statute with supervising and regulating the Nation's Federal Home Loan Bank (Bank) System and the Financing Corporation (FICO). The Bank System comprises 12 regional Federal Home Loan Banks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related community lending activities. The Bank System also includes the Office of Finance, which issues Bank System consolidated obligations. FICO is a corporate entity separate from the Bank System that oversees outstanding debt issued to assist in resolving the savings and loan crisis of the 1980s. The Finance Board has an ongoing need to adopt various regulations dealing with the agency's internal administration and with Bank System and FICO issues.

ADDRESSES: Secretary to the Board, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Senior Attorney-Advisor, Office of General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2932; e-mail: raudenbushe@fhfb.gov.

By the Federal Housing Finance Board.

James L. Bothwell,

Managing Director.

Federal Housing Finance Board—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4290	Capital Requirements for Federal Home Loan Banks	3069-AB06
4291	Multiple Bank Membership	3069-AB09

Federal Housing Finance Board—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4292	Amendment of Community Investment Cash Advance Regulation	3069-AA99
4293	Affordable Housing Program Amendments	3069-AB04
4294	Federal Home Loan Bank Securities Offerings	3069-AB08
4295	Unsecured Credit Limits	3069-AB11

Federal Housing Finance Board—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4296	Rules of Practice and Procedures	3069-AB03
4297	Maintenance of Effort - Minimum Number of Annual Bank Board of Directors Meetings	3069-AB05
4298	Amendments to Privacy Act Regulation	3069-AB07
4299	Definition of "Non-Mortgage Assets"	3069-AB10
4300	Technical Corrections Related to Regulatory Reorganization	3069-AB12

Federal Housing Finance Board—Completed Actions

Sequence Number	Title	Regulation Identification Number
4301	Minimum Capital Requirements for the Federal Home Loan Banks	3069-AB01

FEDERAL HOUSING FINANCE BOARD (FHFB) — Prerule Stage

4290. • CAPITAL REQUIREMENTS FOR FEDERAL HOME LOAN BANKS

Priority: Other Significant

Legal Authority: 12 USC 1426; 12 USC 1422b(a); 12 USC 1422a(a)(3); 12 USC 1440; 12 USC 1443; 12 USC 1446

CFR Citation: 12 CFR 915; 12 CFR 917; 12 CFR 925; 12 CFR 930; 12 CFR 931; 12 CFR 932; 12 CFR 933; 12 CFR 956; 12 CFR 966

Legal Deadline: None

Abstract: On December 20, 2000, the Finance Board adopted regulations implementing a new capital structure for the Banks as required by the Federal Home Loan Bank System Modernization Act of 1999. To help assure smooth implementation of the new capital structure, the Finance Board intends to issue an Advanced Notice of Proposed Rulemaking (ANPR) to seek information as to whether recent actions by other regulatory bodies, changes in the economy, or issues not previously identified by the Banks may require additions or amendments to the capital regulations. The Finance Board will only take further action if the information collected through the ANPR indicates a need for such action.

Timetable:

Action	Date	FR Cite
ANPRM	03/09/01	66 FR 14093
ANPRM Comment Period End	04/09/01	
NPRM	06/00/01	
NPRM Comment Period End	07/00/01	
Final Action	08/00/01	
Final Action Effective	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas E. Joseph, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2512
Fax: 202 408-2580
Email: josepht@fhfb.gov

RIN: 3069–AB06

4291. • MULTIPLE BANK MEMBERSHIP

Priority: Other Significant

Legal Authority: 12 USC 1422b(a); 12 USC 1424

CFR Citation: 12 CFR 925

Legal Deadline: None

Abstract: The Finance Board intends to publish an Advanced Notice of Proposed Rulemaking (ANPR) to solicit comments on whether a financial institution doing business in more than one Bank district may hold simultaneous memberships in two or more Banks.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/01	
ANPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AB09

FEDERAL HOUSING FINANCE BOARD (FHFB) — Proposed Rule Stage

4292. AMENDMENT OF COMMUNITY INVESTMENT CASH ADVANCE REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1430

CFR Citation: 12 CFR 952

Legal Deadline: None

Abstract: The Finance Board intends to adopt a proposed rule amending the Community Investment Cash Advance (CICA) regulation to make certain technical revisions clarifying CICA program requirements and improving the operation of CICA programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AA99

4293. • AFFORDABLE HOUSING PROGRAM AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1430(j)

CFR Citation: 12 CFR 951

Legal Deadline: None

Abstract: The Finance Board intends to adopt a proposed rule amending the Affordable Housing Program (AHP) regulation to make certain changes to improve the operation and effectiveness of the AHP.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AB04

FHFB — Proposed Rule Stage

4294. • FEDERAL HOME LOAN BANK SECURITIES OFFERINGS

Priority: Other Significant

Legal Authority: 12 USC 1422a(a)(3)(A); 12 USC 1422b(a)(1)

CFR Citation: 12 CFR 990

Legal Deadline: None

Abstract: The Finance Board intends to issue a proposed rule to amend its regulations to set forth the process and manner by which a Bank may offer capital stock in a general solicitation to its members. The rule will establish filing, content and distribution requirements for such general solicitations, and will require disclosure to be consistent with corresponding requirements contained in the Securities and Exchange Commission's' Regulations S-K (specific narrative requirements) and S-X (accounting and financial statement requirements).

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric E. Berg, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589
Fax: 202 408-2580
Email: berge@fhfb.gov

RIN: 3069–AB08

4295. • UNSECURED CREDIT LIMITS

Priority: Other Significant

Legal Authority: 12 USC 1422b(a), 12 USC 1422(a)(3); 12 USC 1426; 12 USC 1440

CFR Citation: 12 CFR 932.9

Legal Deadline: None

Abstract: The proposed rule would allow the Banks to extend greater amounts of unsecured credit to government sponsored entities than allowed under the current rule. The proposal also requests comments on whether limits on extension of overnight Federal funds should be removed.

Timetable:

Action	Date	FR Cite
NPRM	03/07/01	66 FR 13688
NPRM Comment Period End	04/23/01	
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas E. Joseph, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2512
Fax: 202 408-2580
Email: josepht@fhfb.gov

RIN: 3069–AB11

FEDERAL HOUSING FINANCE BOARD (FHFB) — Final Rule Stage

4296. • RULES OF PRACTICE AND PROCEDURES

Priority: Other Significant

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1422b(a)(5); 12 USC 4631(c); 12 USC 4631(f); 12 USC 1818(b)6 to 7; 12 USC 1422b(a)(2)

CFR Citation: 12 CFR 907; 12 CFR 908

Legal Deadline: None

Abstract: The Finance Board published proposed Rules of Practice and Procedure to implement enforcement powers conferred on the agency by the Federal Home Loan Bank System Modernization Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/18/00	65 FR 78994
NPRM Comment Period End	01/17/01	
Final Action	06/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlotte A. Reid, Special Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2510
Fax: 202 408-2580
Email: reidc@fhfb.gov

RIN: 3069–AB03

4297. • MAINTENANCE OF EFFORT - MINIMUM NUMBER OF ANNUAL BANK BOARD OF DIRECTORS MEETINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b(a); 12 USC 1427

CFR Citation: 12 CFR 918

Legal Deadline: None

Abstract: The Finance Board intends to adopt an interim final rule that would amend its regulation on meetings of Bank boards of directors to reduce the required minimum number of in-person board of directors meetings that a Bank must hold annually to six meetings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	
Interim Final Rule Effective	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AB05

4298. • AMENDMENTS TO PRIVACY ACT REGULATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 12 CFR 913

Legal Deadline: None

FHFB — Final Rule Stage

Abstract: The Finance Board intends to issue an interim final rule to revise its Privacy Act regulation to reflect an agency reorganization. Responsibility for administering the Finance Board's Privacy Act program has been transferred from the Executive Secretariat to the Office of General Counsel (OGC) and an OGC staff member has replaced the Secretary to the Board of Directors as the Finance Board's Privacy Act Official.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/01	
Interim Final Rule Effective	07/00/01	
Interim Final Rule Comment Period End	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580
Email: kayej@fhfb.gov

RIN: 3069–AB07

4299. • DEFINITION OF "NON-MORTGAGE ASSETS"

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b(a); 12 USC 1426(a)

CFR Citation: 12 CFR 966.3

Legal Deadline: None

Abstract: The Finance Board intends to publish an interim final rule to redefine "non-mortgage assets" for purposes of calculating the appropriate assets-to-capital leverage limit that applies to each Bank, pending the Bank's compliance with the new capital regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/01	
Interim Final Rule Comment Period End	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Senior Attorney-Adviser, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580
Email: raudenbushe@fhfb.gov

RIN: 3069–AB10

4300. • TECHNICAL CORRECTIONS RELATED TO REGULATORY REORGANIZATION

Priority: Info./Admin./Other

Legal Authority: 12 USC 1422b(a)

CFR Citation: 12 CFR ch IX

Legal Deadline: None

Abstract: In 2000, the Finance Board issued a final rule to reorganize and renumber its regulations. Because of the complexity of this rulemaking, several technical mistakes were made and several needed changes were overlooked. The Finance Board intends to issue an interim final rule to make any necessary technical corrections arising from the reorganization.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/01	
Interim Final Rule Comment Period End	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Senior Attorney-Adviser, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580
Email: raudenbushe@fhfb.gov

RIN: 3069–AB12

FEDERAL HOUSING FINANCE BOARD (FHFB) — Completed Actions

4301. MINIMUM CAPITAL REQUIREMENTS FOR THE FEDERAL HOME LOAN BANKS

Priority: Other Significant

Legal Authority: 12 USC 1426; 12 USC 1422b(a)

CFR Citation: 12 CFR 917; 12 CFR 925; 12 CFR 930; 12 CFR 931; 12 CFR 932; 12 CFR 933; 12 CFR 956; 12 CFR 960

Legal Deadline: Final, Statutory, May 12, 2001.

Abstract: The Finance Board amended its regulations to implement a new capital structure for the Banks, as required by the Federal Home Loan Bank System Modernization Act of 1999. The final rule establishes risk-based and leverage capital requirements for the Banks. It also addresses the different classes of stock that a Bank may issue, the rights and preferences that may be associated with each class of stock, and the capital plans that each Bank must submit for Finance Board approval.

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43408
NPRM Comment Period End	11/20/00	65 FR 57748
Final Action	01/30/01	66 FR 8262
Final Action Effective	03/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas E. Joseph, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2512
Fax: 202 408-2580
Email: josepht@fhfb.gov

RIN: 3069–AB01

[FR Doc. 01–7885 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part LV

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to section 4(b) of E.O. 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from April 1, 2001, to March 31, 2002, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings that are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

Bryant L. VanBrakle,
Secretary.

Federal Maritime Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4302	The Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984 (Docket No. 99-13)	3072-AC11

Federal Maritime Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4303	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4304	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)	3072-AB80
4305	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)	3072-AB97
4306	Public Access Charges to Carrier Automated Tariffs and Tariff Systems Under the Ocean Shipping Reform Act of 1998 (Docket No. 00-07)	3072-AC14

Federal Maritime Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4307	Petition of the Port of Houston Authority for the Institution of a Rulemaking Proceeding (Petition No. P1-00)	3072-AC16

FEDERAL MARITIME COMMISSION (FMC) — Proposed Rule Stage

4302. THE CONTENT OF OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 99-13)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC app 1701 et seq; PL 105-258

CFR Citation: 46 CFR 535

Legal Deadline: None

Abstract: The FMC is issuing this inquiry to solicit comments concerning the appropriate content of agreements filed with the Commission pursuant to the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998. The comments received will assist the Commission in preparing a proposal to update or refine the existing content standards.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	08/03/99	64 FR 42057

FMC — Proposed Rule Stage

Action	Date	FR Cite
Inquiry Comment Period End	10/04/99	
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Trade Analysis, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-4372
Email: austins@fmc.gov

RIN: 3072–AC11

FEDERAL MARITIME COMMISSION (FMC) — Long-Term Actions

4303. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 520.11

Timetable:

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	59 FR 5974
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66880
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Fax: 202 523-5738
Email: thomas_p@fmc.gov

RIN: 3072–AB75

4304. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NO. 94-06; FURTHER NOTICE OF PROPOSED RULEMAKING)

Priority: Other Significant

CFR Citation: 46 CFR 540.5; 46 CFR 540.9

Timetable:

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	
Comment Period Extended to	06/10/94	59 FR 23182
Comment Period Extended to	06/24/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Further NPRM (Docket No. 94-06)	06/26/96	61 FR 33059
Discontinuance of Proceeding for Docket No. 94-21	07/03/96	61 FR 39940
Further NPRM Comment Period End	08/26/96	61 FR 33059
Comment Period Extended to	09/25/96	61 FR 43209
Comment Period Extended to	10/15/96	61 FR 50265
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra L. Kusumoto
Phone: 202 523-5787
Email: sandrak@fmc.gov

RIN: 3072–AB80

4305. PORT RESTRICTIONS AND REQUIREMENTS IN THE UNITED STATES/JAPAN TRADE (DOCKET NO. 96-20)

Priority: Other Significant

CFR Citation: 46 CFR 551

Timetable:

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58160
Comment Period Extended to 01/20/97	12/27/96	61 FR 68200
NPRM Comment Period End	01/13/97	
Final Rule - Report Due 08/26/1999 and Every 180 Days Thereafter	03/04/97	62 FR 9696
Final Rule Effective	04/14/97	
Status Reports and Comments Due 08/05/97	04/16/97	62 FR 18433
Amendment to Final Rule	04/16/97	62 FR 18532
Final Rule Effectiveness Extended to 09/04/97	04/16/97	62 FR 18533
Status Reports and Comments Due 07/01/97	04/16/97	62 FR 18533
Amendment to Final Rule - Denial of Petition	10/20/97	62 FR 54396
Final Rule Effectiveness Suspended 11/13/97	11/19/97	62 FR 61648
Final Rule Removed	06/07/99	64 FR 30245
Final Rule Removed Effective	06/07/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Fax: 202 523-5738
Email: thomas_p@fmc.gov

RIN: 3072–AB97

4306. PUBLIC ACCESS CHARGES TO CARRIER AUTOMATED TARIFFS AND TARIFF SYSTEMS UNDER THE OCEAN SHIPPING REFORM ACT OF 1998 (DOCKET NO. 00-07)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 520

Timetable:

Action	Date	FR Cite
ANPRM	05/16/00	65 FR 31130
ANPRM Comment Period End	06/15/00	
Circular Letter Issued	10/06/00	
Final Action	To Be Determined	

FMC — **Long-Term Actions**

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None

Agency Contact: Austin L. Schmitt
Phone: 202 523-5796
Fax: 202 523-4372
Email: austins@fmc.gov

RIN: 3072–AC14

FEDERAL MARITIME COMMISSION (FMC) — **Completed Actions**

4307. PETITION OF THE PORT OF HOUSTON AUTHORITY FOR THE INSTITUTION OF A RULEMAKING PROCEEDING (PETITION NO. P1-00)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 1709(d)(1); 46 USC app 1716

CFR Citation: 46 CFR 525.2

Legal Deadline: None

Abstract: Petitioner Port of Houston Authority requests the FMC to institute a rulemaking proceeding for the purpose of promulgating a rule addressing the lawfulness of unilateral provisions which provide for the collection of attorneys' fees in contracts or tariffs of marine terminal operators under the provisions of the Shipping Act of 1984, as amended. Specifically, Petitioner seeks a rule which confirms that it is not illegal under the Shipping Act for marine terminal operators to contract with their customers, by tariff or otherwise, to permit the collection of attorneys' fees and litigation costs in the event the marine terminal operator is required to sue in court to collect fees for services that have been rendered.

Timetable:

Action	Date	FR Cite
Notice of Filing of Petition	01/13/00	65 FR 2177
Comment Period End	02/07/00	
Final Action-Petition Denied	11/27/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738
Email: thomas_p@fmc.gov

RIN: 3072–AC16

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Monday,
May 14, 2001

Part LVI

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period April 1 through October 1, 2001. The next agenda will be published in October 2001.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to Jennifer J. Johnson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its April 2001 agenda as part of the April 2001 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,
Associate Secretary of the Board.

Federal Reserve System—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4308	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System	7100-AC73
4309	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation Y — Bank Holding Companies and Change in Bank Control	7100-AC78
4310	Regulation H: — Membership of State Banking Institutions in the Federal Reserve System; and Regulation Y: — Bank Holding Companies and Change in Bank Control (Docket Number: R-1084)	7100-AC80
4311	Regulation: T — Credit by Brokers and Dealers; Regulation: U — Credit by Banks; and Regulation: X — Borrowers of Securities Credit (Docket Number: R-0995)	7100-AC45
4312	Regulation: Y — Bank Holding Companies and Change in Bank Control	7100-AC66
4313	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between Insured Depository Institutions and Their Affiliates	7100-AC63

Federal Reserve System—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4314	Regulation: B — Equal Credit Opportunity (Docket Number: R-1008) **(Section 610 Review)**	7100-AC54
4315	Regulation: B — Equal Credit Opportunity; and Regulation: Z — Truth in Lending (Docket Numbers: R-1040 and R-1043)	7100-AC46
4316	Regulation: C — Home Mortgage Disclosure (Docket Number: R-1001)	7100-AC51
4317	Regulation: D — Reserve Requirements of Depository Institutions (Docket Number: R-0956)	7100-AC11
4318	Regulation: E — Electronic Fund Transfers (Docket Numbers: R-0919 and R-1041)	7100-AC06
4319	Regulation: E — Electronic Funds Transfer (Docket Number: R-1077)	7100-AC67
4320	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-1064)	7100-AC69
4321	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1055)	7100-AB77
4322	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-0930)	7100-AC13
4323	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1087)	7100-AC75

FRS

Federal Reserve System—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4324	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1085)	7100-AC76
4325	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1080)	7100-AC77
4326	Regulation: K — International Banking Operations (Docket Number: R-0994)	7100-AC47
4327	Regulation: M — Consumer Leasing (Docket Number: R-1042)	7100-AC53
4328	Regulation: V — Fair Credit Reporting (Docket Number: R-1082)	7100-AC68
4329	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Numbers: R-1060)	7100-AC71
4330	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Numbers: R-1065 and R-1097)	7100-AC65
4331	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1091)	7100-AC79
4332	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1094)	7100-AC81
4333	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1092)	7100-AC82
4334	Regulation: Z — Truth in Lending (Docket Number: R-1090)	7100-AC83
4335	Regulation: DD — Truth in Savings (Docket Number: R-1044)	7100-AC34

Federal Reserve System—Completed Actions

Sequence Number	Title	Regulation Identification Number
4336	Regulation: G — Disclosure and Reporting of CRA-Related Agreements (Docket Number: R-1069)	7100-AC64
4337	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-1079)	7100-AC62
4338	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Numbers: R-1057 and R-1062)	7100-AC70
4339	Regulation: Z — Truth in Lending (Docket Number: R-1070)	7100-AC74
4340	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and Its Subsidiaries (Docket Number: R-0977)	7100-AC42
4341	Applicability of Section 23A to the Purchase of Securities from Certain Affiliates and to Loans and Extensions of Credit Made by a Member Bank to a Third Party (Docket Nos: R-1015 & R-1016)	7100-AC52
4342	Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness (Docket Number: R-1073)	7100-AC72
4343	Section 303 Regulatory Review	7100-AC09

FEDERAL RESERVE SYSTEM (FRS) — Proposed Rule Stage

4308. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1828(t)

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: Section 204 of the Gramm-Leach-Bliley Act added a new subsection (t) to section 18 of the Federal Deposit Insurance Act requiring the Board, in consultation with the Securities and Exchange Commission, to establish recordkeeping requirements for state member banks and branches and agencies of foreign banks that rely on the exceptions from the definition of broker or dealer provided in section 3(a)(4) or (5) of the Securities Exchange Act of 1934.

The Board anticipates issuing for public comment a rule that would implement these recordkeeping requirements. It is not anticipated that the proposal would have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board will consider requesting comments by	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kieran Fallon, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-5270

RIN: 7100–AC73

4309. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 24a; 12 USC 36; 12 USC 92a; 12 USC 93a; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: The Board will consider issuing for public comment proposed amendments to Regulations H and Y that will take into account the implications of the Gramm-Leach-Bliley Act ("GLB Act") for the ability of state member banks to control operations subsidiaries. The proposed amendments will also include a series of technical changes to Regulation Y necessitated by the GLB Act, as well as a general reorganization of Regulation Y. The proposal should not have a substantive economic impact on small entities, as its substantive portions are expected to liberalize the Board's present rules.

Timetable:

Action	Date	FR Cite
Board will request comment by	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew S. Baer, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2246

RIN: 7100–AC78

4310. • REGULATION H: — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION Y: — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL(DOCKET NUMBER: R-1084)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In October 2000, the Board approved issuing for public comment an advance notice of proposed rulemaking on the possible development of a simplified capital framework for non-complex banking organizations (65 FR 66193, November 3, 2000). The options outlined in the proposal include a simplified risk-based framework, a leverage ratio-only approach, or a modified leverage ratio approach. Such a framework could relieve the regulatory burden associated with the existing capital rules for many non-complex domestic banking institutions. The main objective of this proposal is to obtain preliminary views from the industry and the public regarding such a framework. Following review of the public comments, the Board will decide whether to move forward with a more detailed proposal.

Timetable:

Action	Date	FR Cite
Board requested comment	11/03/00	65 FR 66193
Further Board action by	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David Adkins, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5259

RIN: 7100–AC80

4311. REGULATION: T — CREDIT BY BROKERS AND DEALERS; REGULATION: U — CREDIT BY BANKS; AND REGULATION: X — BORROWERS OF SECURITIES CREDIT (DOCKET NUMBER: R-0995)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78G, Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220; 12 CFR 221; 12 CFR 224

Legal Deadline: None

Abstract: As part of the regular review of its regulations and in accordance with requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, and section 610(c) of the Regulatory Flexibility Act of 1994, the Board is conducting a review of its margin regulations. In order to complete this review, the Board approved issuing for public comment an advance notice of proposed rulemaking in December 1997 (63 FR 2840, January 16, 1998). The advance notice highlights issues raised by commenters in response to previous requests for comment that had not been addressed by the Board in the course of its periodic review. It also provides an opportunity to further harmonize the treatment of bank and nonbank lenders under the revised Regulation U adopted by the Board at the same time as the advance notice. The advance notice also invites comment on all areas of the regulations.

Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	01/16/98	63 FR 2840
Further Board action by	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Scott J. Holz, Counsel, Federal Reserve System, Legal Division, Washington, DC 20429
Phone: 202 452-2966

RIN: 7100–AC45

4312. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1844(b)

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: Title I of the Gramm-Leach-Bliley Act ("GLB Act") makes a number of miscellaneous amendments to sections 3, 4, and 5 of the Bank Holding Company Act of 1956 ("BHC Act") and adds a new section 10A to the BHC Act. These amendments, among other things, prohibit the Board from determining that new activities are closely related to banking under section 4(c)(8) of the BHC Act; streamline the Board's reporting, examination, and other supervisory authority over bank holding companies and their subsidiaries; reduce the restrictions applicable to companies that control "nonbank banks" that are exempt from the nonbanking restrictions of the BHC Act under section 4(f) of that Act; and repeal the savings bank life insurance provisions currently set forth in section 3(g) of the BHC Act.

The Board will consider issuing for public comment amendments to Regulation Y to implement the provisions of the GLB Act affecting the BHC Act that are not addressed in proposed rules described elsewhere in the Board's agenda. It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board will consider requesting comments by	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kieran Fallon, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-5270

RIN: 7100–AC66

4313. APPLICABILITY OF SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT TO TRANSACTIONS BETWEEN INSURED DEPOSITORY INSTITUTIONS AND THEIR AFFILIATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 371c; 12 USC 371c-1

CFR Citation: 12 CFR 223

Legal Deadline: None

Abstract: In response to passage of the Gramm-Leach-Bliley Act, the Board will consider issuing for public comment a new regulation to implement sections 23A and 23B of the Federal Reserve Act. Sections 23A and 23B regulate transactions between insured depository institutions and their affiliates. The regulation will codify existing interpretations and may implement several pending proposals. (See RIN: 7100-AC42 and RIN: 7100-AC52). The proposed regulation will also request comment on the treatment of derivatives and intra-day credit exposures between insured depository institutions and their affiliates. It is not expected that any new proposal will have a significant economic impact on a substantial number of small entities that are subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board will consider proposals by	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela G. Nardolilli, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20429
Phone: 202 452-3289

RIN: 7100–AC63

FEDERAL RESERVE SYSTEM (FRS) — Final Rule Stage

4314. REGULATION: B — EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-1008) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: In March 1998, pursuant to requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, section 610(c) of the Regulatory Flexibility Act of 1994, and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board approved issuing for public comment an advance notice of proposed rulemaking for Regulation B (63 FR 12326, March 12, 1998) which implements the Equal Credit Opportunity Act (ECOA). The ECOA makes it unlawful for creditors to discriminate against an applicant in any aspect of a credit transaction on the basis of race, color, religion, national origin, gender, marital status, age, and other specified bases.

In June 1999, following review of the public comments on the advance notice, the Board approved for public comment a proposed rule amending Regulation B (64 FR 44582, August 16, 1999). Major revisions in the proposal include removing the general prohibition against obtaining information about applicant characteristics such as national origin or gender, although such information still generally may not be considered in extending credit; adding a disclosure requirement for creditors that voluntarily collect data on applicant characteristics; requiring creditors to retain certain records for preapproved credit solicitations; and extending the record retention period for most business credit applications.

Based on the regulatory flexibility analysis, it is not expected that the proposal will have a significant impact on small entities. Although there would be a new disclosure requirement for creditors that voluntarily request information about applicant characteristics, a model form is proposed to ease compliance. Also, there is a new requirement to retain certain records for preapproved credit solicitations. For business reasons, many institutions already retain some of the preapproved credit solicitation information being sought. In addition, compliance burdens should be minimized by the fact that creditors may use a variety of methods, such as electronic storage, to retain records. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment on advance notice	03/12/98	63 FR 12326
Board requested comment on proposed rule	08/16/99	64 FR 44582
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Natalie E. Taylor, Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC54

4315. REGULATION: B — EQUAL CREDIT OPPORTUNITY; AND REGULATION: Z — TRUTH IN LENDING (DOCKET NUMBERS: R-1040 AND R-1043)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601 et seq; 12 USC 4301 et seq

CFR Citation: 12 CFR 202; 12 CFR 213; 12 CFR 226; 12 CFR 230

Legal Deadline: None

Abstract: In March 1998, the Board issued for public comment proposals to amend its consumer regulations, B (Equal Credit Opportunity) and Z (Truth in Lending), to permit electronic communications to substitute generally for oral or written disclosures documentation and notices required under the individual regulations (63 FR 14548, March 25, 1998). Comment was also requested on similar amendments to Regulations M (Consumer Leasing) and DD (Truth in Savings) described in separate entries in the Agenda (see Docket Numbers: R-1042 and R-1044). At the same time, similar amendments to Regulation E, proposed as part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, were adopted as an interim rule (see Docket Number: R-1002; RIN: 7100-AC06). The Board identified the use of electronic communication between consumers and financial institutions as an area that offered an opportunity to reduce regulatory compliance burden without adversely affecting consumer protections.

In August 1999, based on comments received in response to the March proposals, the Board approved publishing for comment additional proposals on electronic communications to provide more detailed guidance on using electronic communications to deliver disclosures to consumers and others (64 FR 46988, September 14, 1999).

On June 30, 2000, the President signed into law The Electronic Signatures in Global and National Commerce Act (E-Signature Act), which became effective October 1, 2000. The E-Signature Act generally provides that records and signatures may not be denied legal effect solely because they are in electronic form. Under the Act, disclosures that must be provided to consumers in writing may be provided electronically if the consumer affirmatively consents after being provided specified information. Although no agency is required to issue regulations to implement the E-Signature Act, the Board may use its existing rulewriting authority under the financial services laws to interpret how the E-Signature Act affects the requirements imposed by those laws.

The E-Signature Act adopted into law some elements of the Board's regulatory proposal governing electronic disclosures. Some provisions in the Board's proposal, however, are modified or preempted by the Act, while other provisions, which are designed to ensure effective delivery of electronic disclosures, were not addressed by the E-Signature Act but are consistent with that Act and could be issued as final rules. The Board is expected to consider what further action is appropriate in light of the E-Signature Act.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14548
Board approved publishing additional proposal on electronic communications	09/14/99	64 FR 46988
Further Board action by	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Natalie E. Taylor, Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC46

4316. REGULATION: C — HOME MORTGAGE DISCLOSURE (DOCKET NUMBER: R-1001)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2801

CFR Citation: 12 CFR 203

Legal Deadline: None

Abstract: In March 1998, the Board approved issuing for public comment an advance notice of proposed rulemaking for Regulation C, which implements the Home Mortgage Disclosure Act (HMDA) (63 FR 12329, March 12, 1998). Regulation C requires most mortgage lenders located in metropolitan areas to report annually to Federal agencies and disclose to the public information about their home purchase and home improvement lending activity. The advance notice sought to identify ways in which the Board could revise Regulation C to address technological and other developments; better balance consumer protections and industry burden; and delete obsolete provisions. The Board solicited comment on several specific issues, while also soliciting comment generally on potential revisions to the regulation.

Based on the comments and the Board's own analysis, the Board issued for public comment proposed amendments to Regulation C (65 FR 78656, December 15, 2000). These amendments would simplify the definition of a "refinancing," require lenders to report requests for preapprovals, simplify the definition of a reportable home improvement loan, require lenders to report home equity lines of credit, and make other changes to Regulation C.

It is not anticipated that the proposed rule would have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment on ANPR	03/12/98	63 FR 12329
Board requested comment on proposed rule	12/15/00	65 FR 78656
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Mann, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC51

4317. REGULATION: D — RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0956)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 611; 12 USC 3105; 12 USC 248(a); 12 USC 248(c); 12 USC 371a; 12 USC 461; 12 USC 601

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In December 1996, the Board issued for public comment a proposed rule that would revise and clarify the definition of "savings deposit" consistent with comments received in connection with the Board's June 1996 proposal to simplify Regulation D. The proposal would also make conforming changes to the definition of "transaction account" (61 FR 96054, December 31, 1996). No substantive change in the regulation is intended. It is not expected that the proposal will have a significant adverse impact upon a substantial number of small entities. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/96	61 FR 69054
Further Board action by	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Heatherun Allison, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3565

RIN: 7100–AC11

4318. REGULATION: E — ELECTRONIC FUND TRANSFERS (DOCKET NUMBERS: R-0919 AND R-1041)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In May 1996, the Board issued for public comment proposed amendments to Regulation E imposing modified requirements on stored-value products in systems that track individual transactions, cards, or consumers and providing an exemption for cards on which a maximum value of $100 can be stored (Docket Number: R-0919; 61 FR 19696, May 2, 1996).

The Board also proposed, and subsequently adopted in September 1998, an extension of the error resolution time limits for new accounts. The proposal also included permitting electronic communications to substitute generally for oral or written disclosures, documentation, and notices required under Regulation E.

The proposals were part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 610(c) of the Regulatory Flexibility Act of 1994. It is not expected that the proposals would have a significant economic impact on small institutions.

In March 1998, following review of the public comments, the Board issued an interim rule, with request for comments, to permit electronic communications to substitute for disclosures, documentation, and notices under Regulation E (Docket Number: R-1002; 63 FR 14528, March 25, 1998).

In August 1999, based on public comments received, the Board approved publishing an additional proposal for comment on the electronic communications rule to provide more detailed guidance on the use of electronic communications to deliver disclosures to consumers (Docket Number: R-1041; 64 FR 49699, September 14, 1999). The interim rule remains in effect until Board consideration of a final rule.

On June 30, 2000, the President signed into law The Electronic Signatures in Global and National Commerce Act (E-Signature Act), which became effective October 1, 2000. The E-Signature Act generally provides that records and signatures may not be denied legal effect solely because they are in electronic form. Under the Act, disclosures that must be provided to consumers in writing may be provided electronically if the consumer affirmatively consents after being provided specified information. Although no agency is required to issue regulations to implement the E-Signature Act, the Board may use its existing rulewriting authority under the financial services laws to interpret how the E-Signature Act affects the requirements imposed by those laws.

The E-Signature Act adopted into law some elements of the Board's regulatory proposal governing electronic disclosures. Some provisions in the Board's proposal, however, are modified or preempted by the Act, while other provisions, which are designed to ensure effective delivery of electronic disclosures, were not addressed by the E-Signature Act but are consistent with that Act and could be issued as final rules. The Board is expected to consider what further action is appropriate in light of the E-Signature Act.

Timetable:

Action	Date	FR Cite
Board requested comment	05/02/96	61 FR 19696
Board adopted interim rule on electronic communications	03/25/98	63 FR 14528
Board adopted final rule on new accounts	09/29/98	63 FR 52115
Board approved publishing additional proposal on electronic communications	09/14/99	64 FR 49699
Further Board action by	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John C. Wood, Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC06

4319. REGULATION: E — ELECTRONIC FUNDS TRANSFER (DOCKET NUMBER: R-1077)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In November 1999, the Congress amended the Electronic Funds Transfer Act as a part of the Gramm-Leach-Bliley Act ("GLB Act"). The purpose of the amendments is to require disclosure of automatic transfer machine (ATM) fees imposed by ATM operators on consumers who hold accounts at other financial institutions.

In July 2000, the Board issued for public comment proposed amendments to Regulation E to implement the statutory provisions of the GLB Act (65 FR 44481, July 18, 2000). Following review of the public comments, the Board is expected to take further action. The proposals are not expected to have a significant economic impact on small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	07/18/00	65 FR 44481
Further Board action by	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John C. Wood, Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC67

4320. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-1064)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 335; 12 USC 1835a

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In March 2000, the Board approved an interim rule with request for public comment amending Regulation H to implement section 121 of the Gramm-Leach-Bliley Act for state member banks (65 FR 14810, March 20, 2000). Section 121 in part authorizes state member banks to control, or hold an interest in, financial subsidiaries so as to conduct certain activities that are financial in nature or incidental to a financial activity. Following review of the public comments, the Board is expected to take action on a final rule. The Board will also consider amending section 208.7 of Regulation H (deposit production offices) to conform its definitional provisions to section 106 of the Gramm-Leach-Bliley Act in conjunction with parallel activities by the other banking agencies. In addition, the Board will consider issuing a proposed rule in place of an existing Miscellaneous Interpretation (12 CFR 250.141) relating to member bank purchases of stock in operations subsidiaries to update its provisions and conform to section 121.

It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	03/20/00	65 FR 14810
Further Board action by	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. O'Rourke, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3288

RIN: 7100–AC69

4321. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1055)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i; ...

CFR Citation: 12 CFR 208 app A; 12 CFR 225 app A

Legal Deadline: None

Abstract: In November 1997, the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision ("the agencies") issued for public comment proposals to use credit ratings from nationally recognized statistical rating organizations to determine the capital treatment for recourse obligations, direct credit substitutes, and senior asset-backed securities (62 FR 59944, November 5, 1997). In February 2000, based on the public comments, the Board and the other agencies approved issuing for further comment a proposal to clarify and revise the regulatory capital treatment of securitized transactions (65 FR 12320, March 8, 2000). The proposal would treat recourse obligations and direct credit substitutes more consistently than the agencies' current risk-based capital standards.

Small entities would be affected by the proposals only to the extent that they engage in extending recourse arrangements and direct credit substitutes or purchasing asset-backed securities. It is not expected that the proposals will have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	11/05/97	62 FR 59944
Board approved requesting additional comment	03/08/00	65 FR 12320
Further Board action by	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Senior Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2982

RIN: 7100–AB77

4322. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0930)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i; 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208 app A

Legal Deadline: None

Abstract: In August 1996, the Board issued for public comment a proposal to revise the risk-based capital treatment for certain collateralized transactions (61 FR 42565, August 16, 1996). Under the Board's existing risk-based capital treatment, the portion of a transaction that is supported by qualifying collateral (that is, cash or OECD government securities) is risk-weighted at 20 percent. Transactions that are fully supported by collateral with a positive margin may be eligible for a zero percent risk weight. Generally, the proposal would permit a portion of a transaction that is fully supported with a positive margin of collateral to be eligible for a zero percent risk weight. The portion that is to be continuously collateralized must be specified by the parties.

This proposal was developed on an interagency basis and, if adopted, would eliminate one of the substantive differences among the agencies with regard to the risk-based capital treatment for collateralized transactions. It would implement part of the Riegle Community Development and Regulatory Improvement Act of 1994, which requires the agencies to make uniform regulations and guidelines implementing common supervisory policies. The effect of the proposal would be to allow institutions to hold less capital for certain collateralized transactions. It is not expected to have a significant economic impact on a substantial number of small entities.

Following review of the public comments and development of an interagency final rule, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	08/16/96	61 FR 42565
Further Board action by	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Connolly, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AC13

4323. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1087)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92a; 12 USC 93a; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1818(o); 12 USC 1831i; 12 USC 1831p-1; 12 USC 1843(c)(8); ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In December 2000, the Board approved issuing for public comment proposed amendments to Regulations H and Y that would effectively reduce the capital requirement for certain securities borrowing transactions (65 FR 75856, December 5, 2000). The proposed amendments would recognize the historically low risk of these transactions and bring the capital requirements for U.S. banking organizations into better alignment with the capital requirements of other U.S. and non-U.S. regulators of financial institutions. The proposed amendments would have little or no effect on small banking organizations subject to the Board's regulation, as securities borrowing activities are concentrated in a relatively small number of very large banking organizations. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/05/00	65 FR 75856
Further Board action by	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Adkins, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5259

RIN: 7100–AC75

4324. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1085)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92a; 12 USC 93a; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1818(o); 12 USC 1831i; 12 USC 1831p-1; 12 USC 1843(c)(8); ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In December 2000, the Board approved requesting public comment on proposed amendments to the Board's regulatory capital guidelines for banks and bank holding companies that would apply a 20 percent risk weight to claims on, and claims guaranteed by, qualifying securities firms (65 FR 76180, December 6, 2000). The proposed rule is consistent with an amendment to the Basel Accord adopted by the Basel Committee on Banking Supervision in April 1998. It would reduce the risk weight from 100 percent to 20 percent applied to claims on, and claims guaranteed by, certain securities firms incorporated in countries that are members of the Organization for Economic Cooperation and Development, subject to certain prudential requirements. It is not anticipated that the proposal will have a significant economic impact on a substantial number of small institutions. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested public comment	12/06/00	65 FR 76180
Further Board action by	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Connolly, Supervisory Financial Analyst, Federal

Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AC76

4325. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1080)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92a; 12 USC 93a; 12 USC 248(a); 12 USC 248(c); 15 USC 78b; 15 USC 781(b); 15 USC 781(g); 15 USC 781(i); 31 USC 5318; 42 USC 4012a; 42 USC 4104a; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In September 2000, the Board approved issuing for public comment proposed amendments to Regulations H and Y to amend the Tier 1 leverage and risk-based capital guidelines for residual interests for all state member banks and bank holding companies (65 FR 57993, September 27, 2000). The proposal would better align the capital requirements with the risks associated with such assets. It is not expected that the amendments would have a significant economic impact on a substantial number of small institutions. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	09/27/00	65 FR 57993
Further Board action by	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Arleen Lustig, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2987

RIN: 7100–AC77

4326. REGULATION: K — INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0994)

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 12 USC 221 et seq; 12 USC 248(i); 12 USC 248(k); 12 USC 1818; 12 USC 1835a; 12 USC 1841 et seq; 12 USC 3101 et seq; 12 USC 3109 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In December 1997, consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the International Banking Act of 1978, and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board reviewed and proposed for public comment a number of changes to Regulation K, which governs international banking operations (62 FR 68424, December 31, 1997). Subpart A of Regulation K governs the foreign investments and activities of all member banks. The proposed amendments include streamlined foreign branching procedures for U.S. banking organizations, authorization of expanded activities in foreign branches of U.S. banks, and expansion of the authority of U.S. banking organizations to engage in equity dealing and underwriting and to make venture capital investments outside the United States. Subpart B of Regulation K governs the U.S. activities of foreign banking organizations. The proposed amendments include revisions aimed at streamlining the applications procedures applicable to foreign banks seeking to expand operations in the United States, changes to provisions regarding the qualification of certain foreign banking organizations for exemption from the nonbanking prohibitions of section 4 of the Bank Holding Company Act, and implementation of provisions of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 that affect foreign banks. In addition, a number of technical and clarifying amendments to subparts A and B, as well as to subpart C which governs export trading companies, and certain amendments to the Board's Rules Regarding Delegation of Authority have been proposed. Aspects of the proposed rule may have to be reconsidered in light of the enactment of the Gramm-Leach-Bliley Act.

The proposed amendments are not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/97	62 FR 68424
Further Board action by	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen M. O'Day, Associate General Counsel, Federal Reserve System, Legal Division, Washington, DC 20429
Phone: 202 452-3786

RIN: 7100–AC47

4327. REGULATION: M — CONSUMER LEASING (DOCKET NUMBER: R-1042)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1667

CFR Citation: 12 CFR 213

Legal Deadline: None

Abstract: In March 1998, the Board approved issuing for public comment a proposal to amend Regulation M that would allow lessors to deliver by electronic communication the disclosures required by the Consumer Leasing Act and the Board's regulation, if the consumer agrees to such delivery (63 FR 14538, March 25, 1998). In addition, the proposal contained several technical amendments that were subsequently adopted in September 1998. In August 1999, based on public comments received in response to the March proposal, the Board approved publishing an additional proposal for comment to provide more detailed guidance on the use of electronic communications to deliver disclosures to consumers (64 FR 49713, September 14, 1999).

It is not anticipated that the rule will have any significant impact on small entities.

On June 30, 2000, the President signed into law The Electronic Signatures in Global and National Commerce Act (E-Signature Act), which became effective

October 1, 2000. The E-Signature Act generally provides that records and signatures may not be denied legal effect solely because they are in electronic form. Under the Act, disclosures that must be provided to consumers in writing may be provided electronically if the consumer affirmatively consents after being provided specified information. Although no agency is required to issue regulations to implement the E-Signature Act, the Board may use its existing rulewriting authority under the financial services laws to interpret how the E-Signature Act affects the requirements imposed by those laws.

The E-Signature Act adopted into law some elements of the Board's regulatory proposal governing electronic disclosures. Some provisions in the Board's proposal, however, are modified or preempted by the Act, while other provisions, which are designed to ensure effective delivery of electronic disclosures, were not addressed by the E-Signature Act but are consistent with that Act and could be issued as final rules. The Board is expected to consider what further action is appropriate in light of the E-Signature Act.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14538
Board adopted technical amendments	09/29/98	63 FR 52107
Board approved publishing additional proposal on electronic communications	09/14/99	64 FR 49713
Further Board action by	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC53

4328. REGULATION: V — FAIR CREDIT REPORTING (DOCKET NUMBER: R-1082)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1681 et seq

CFR Citation: 12 CFR 222

Legal Deadline: None

Abstract: In 1996, the Congress amended the Fair Credit Reporting Act (FCRA) as part of the Consumer Credit Reporting Reform Act. The amendments prohibited the federal regulatory agencies from issuing implementing regulations. In November 1999, the Congress once again amended the FCRA as part of the Gramm-Leach-Bliley Act. The amendments lifted the prohibition and directed the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision to issue implementing regulations jointly.

In October 2000, the agencies issued an initial set of proposed regulations for public comment (65 FR 63120, October 20, 2000). The proposal is not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	10/20/00	65 FR 63120
Further Board action by	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Stein, Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC68

4329. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBERS: R-1060)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1972

CFR Citation: 12 CFR 225.7

Legal Deadline: None

Abstract: In February 2000, the Board approved issuing for public comment a proposed exception to the anti-tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970 and the Board's Regulation Y (65 FR 6924, February 11, 2000). The proposed amendment would establish a "safe harbor" permitting a bank to offer a credit card that can be used to make purchases from a retailer affiliated with the bank. It is expected that the proposed rule would benefit the public by providing consumers with alternative sources of consumer credit, and is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	02/11/00	65 FR 6924
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew S. Baer, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2246

RIN: 7100–AC71

4330. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBERS: R-1065 AND R-1097)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1844(b); 12 USC 1843(k)(4)(H); 12 USC 1843(k)(7)

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: Section 103 of the Gramm-Leach-Bliley Act ("GLB Act") authorizes bank holding companies that qualify as financial holding companies to engage in merchant banking activities as described and subject to the conditions set forth in section 4(k)(4)(H) of the Bank Holding Company Act ("BHC Act"), as amended. In March 2000, the Board and the Secretary of the Treasury jointly adopted, on an interim basis, and requested public comment on a rule implementing the merchant banking provisions of the GLB Act (65 FR 16460, March 28, 2000). In January 2001, following review of the public comments, the Board and the Secretary of the Treasury jointly adopted a final rule governing the merchant banking activities of financial holding

companies (66 FR 8465, January 31, 2001). The final rule modifies the provisions defining when a financial holding company routinely manages or operates a portfolio company held under the merchant banking authority, modifies the investment thresholds contained in the interim rule, and streamlines the rule's recordkeeping and reporting requirements.

In March 2000, the Board also issued for public comment proposed amendments to its capital guidelines for bank holding companies (Docket Number: R-1067) to address the appropriate regulatory capital treatment for merchant banking investments and investments in nonfinancial companies made under section 4(c)(6) or 4(c)(7) of the BHC Act, section 211.5(b)(1)(iii) of the Board's Regulation K, section 302(b) of the Small Business Investment Act of 1958, or section 24 of the Federal Deposit Insurance Act. Following review of the comments on the proposal, and after consulting with the Treasury Department and the other federal banking agencies, the Board, jointly with the OCC and FDIC, in February 2001, requested public comment on a revised capital proposal (66 FR 10212, February 14, 2001). The revised proposal would apply a series of marginal capital charges on covered equity investments that increase with the level of a banking organization's overall exposure to equity investments relative to the organization's Tier 1 capital. The proposal would apply to merchant banking investments held by financial holding companies as well as investments in nonfinancial companies by banks and bank holding companies under other authorities.

The Board requested public comment on the potential impact of the capital proposal on small entities and will carefully consider the economic impact of any further actions on small entities subject to the Board's regulation. The Board is expected to take action on the revised capital proposal following review of the public comments.

Timetable:

Action	Date	FR Cite
Board requested comment on interim and proposed rules	03/28/00	65 FR 16460
Board adopted interim rule in final	01/31/01	66 FR 8465
Board requested comment on new capital proposal	02/14/01	66 FR 10212
Further Board action by	08/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kieran Fallon, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-5270

RIN: 7100–AC65

4331. • REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1091)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1843

CFR Citation: 12 CFR 225.86

Legal Deadline: None

Abstract: In January 2001, the Board approved requesting public comment on a proposed rule amending Regulation Y that would define real estate brokerage and real estate management activities as financial in nature or incidental to a financial activity and therefore permissible for financial holding companies under the Board's Regulation Y (66 FR 307, January 3, 2001). The proposal would facilitate the creation of diversified financial companies that can offer "one-stop shopping" to consumers contemplating the purchase or management of real estate. The proposal is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	01/03/01	66 FR 307
Further Board action by	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark E. Van Der Weide, Counsel, Federal Reserve System, Legal Division, Washington, DC 20551
Phone: 202 452-2263

RIN: 7100–AC79

4332. • REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1094)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1843

CFR Citation: 12 CFR 225.86(e)

Legal Deadline: None

Abstract: In December 2000, the Board, jointly with the Department of the Treasury, issued interim rules with request for public comment that implement section 4(k)(5) of the Bank Holding Company Act and section 5136A(b)(3) of the Revised Statutes, which were added by the Gramm-Leach-Bliley Act (66 FR 257, January 3, 2001). The interim rules find three general types of activities to be financial in nature or incidental to a financial activity, and create a mechanism by which financial holding companies, financial subsidiaries of national banks, or others may request that the Board or the Secretary of the Treasury, respectively, define particular activities within one of the three categories. Such activities would therefore be permissible for financial holding companies and financial subsidiaries of national banks. The rules are not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board will take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	01/03/01	66 FR 257
Further Board action by	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew S. Baer, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2246

RIN: 7100–AC81

4333. • REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-1092)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1843(k)

CFR Citation: 12 CFR 225.28; 12 CFR 225.89

Legal Deadline: None

Abstract: In December 2000, the Board issued for public comment a proposed rule that would allow all bank holding companies to conduct a greater amount of nonfinancial data processing than previously authorized (65 FR 80384, December 21, 2000). The proposed rule also would allow financial holding companies, as a complementary activity, to own companies engaged in certain data processing-related activities, such as data storage and Internet and portal hosting. The Board anticipates that the proposal would allow bank holding companies to provide a wider range of financial products and services to customers and would not have a significant economic impact on a substantial number of small entities. Following review of the public comments on the proposal, the Board anticipates taking further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/21/00	65 FR 80384
Further Board action by	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Adrianne G. Threatt, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3554

RIN: 7100–AC82

4334. • REGULATION: Z — TRUTH IN LENDING (DOCKET NUMBER: R-1090)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601 et seq

CFR Citation: 12 CFR 226

Legal Deadline: None

Abstract: In December 2000, the Board approved issuing for public comment proposed amendments to the provisions of Regulation Z that implement the Home Ownership and Equity Protection Act (HOEPA) (65 FR 81438, December 26, 2000). HOEPA was enacted in response to evidence of abusive lending practices in the home-equity lending market. The amendments would (1) broaden the scope of mortgage loans subject to HOEPA; (2) prohibit certain acts and practices in connection with home-secured loans, including rules to restrict creditors from engaging in repeated refinancings of their own HOEPA loans over a short period of time; (3) strengthen HOEPA's prohibition against extending credit without regard to consumers' repayment ability; and (4) enhance disclosures for HOEPA-covered loans that consumers receive before closing. The proposed rule is expected to benefit the public by furthering HOEPA's protections against abusive lending practices. It is not expected to have a significant economic impact on a substantial number of small business entities. Following review of the public comments, the Board is expected to take further action.

Timetable:

Action	Date	FR Cite
Board requested comment	12/26/00	65 FR 81438
Further Board action by	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC83

4335. REGULATION: DD — TRUTH IN SAVINGS (DOCKET NUMBER: R-1044)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: In March 1998, the Board issued for public comment a proposal to amend Regulation DD that would allow depository institutions to deliver by electronic communication disclosures required by the regulation, if the consumer agrees to such delivery (63 FR 14533, March 25, 1998). In addition, the proposal contained provisions that implemented amendments to the Truth in Savings Act as a part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The statutory changes were subsequently adopted in September 1998. It is not expected that there will be a significant economic impact on small institutions.

In August 1999, based on public comments received on the electronic communications proposal, the Board approved publishing an additional proposal for comment to provide more detailed guidance on the use of electronic communications to deliver disclosures to consumers (64 FR 49740, September 14, 1999). The Board also approved publishing an interim rule permitting the electronic delivery of Regulation DD disclosures on periodic statements (Docket Number: R-1003).

On June 30, 2000, the President signed into law The Electronic Signatures in Global and National Commerce Act (E-Signature Act), which became effective October 1, 2000. The E-Signature Act generally provides that records and signatures may not be denied legal effect solely because they are in electronic form. Under the Act, disclosures that must be provided to consumers in writing may be provided electronically if the consumer affirmatively consents after being provided specified information. Although no agency is required to issue regulations to implement the E-Signature Act, the Board may use its existing rulewriting authority under the financial services laws to interpret how the E-Signature Act affects the requirements imposed by those laws.

The E-Signature Act adopted into law some elements of the Board's regulatory proposal governing electronic disclosures. Some provisions in the Board's proposal, however, are modified or preempted by the Act, while other provisions, which are designed to ensure effective delivery of electronic disclosures, were not addressed by the E-Signature Act but are consistent with that Act and could be issued as final rules. The Board is expected to consider what further action is appropriate in light of the E-Signature Act.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14533
Board adopted statutory changes	09/29/98	63 FR 52106
Board approved publishing additional proposal on electronic communications	09/14/99	64 FR 49740

FRS — Final Rule Stage

Action	Date	FR Cite
Further Board action by	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC34

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

4336. REGULATION: G — DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS (DOCKET NUMBER: R-1069)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831y

CFR Citation: 12 CFR 228

Legal Deadline: None

Abstract: In May 2000, the Board, jointly with the other federal banking agencies, issued for public comment a proposed Regulation G which would implement the Community Reinvestment Act of 1977 ("CRA") sunshine requirements of Section 711 of the Gramm-Leach-Bliley Act (65 FR 31962, May 19, 2000). Section 711 requires insured depository institutions (and their affiliates) and nongovernmental entities or persons that enter into agreements that relate to the CRA and that meet other criteria to (i) make the agreements available to the public and the appropriate federal banking agency and (ii) file annual reports concerning the agreements with the appropriate federal banking agency.

In December 2000, following review of the public comments, the Board adopted a final rule clarifying the types of agreements that are, and are not, subject to the disclosure and reporting requirements of section 711 and the rule (66 FR 2052, January 10, 2001). The final rule also includes a number of provisions designed to reduce the burden imposed on the parties to covered agreements, including entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	05/19/00	65 FR 31962
Board adopted proposal	01/10/01	66 FR 2052

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kieran Fallon, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-5270

RIN: 7100–AC64

4337. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-1079)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831x

CFR Citation: 12 CFR 208

Legal Deadline: Final, Statutory, November 12, 2000.

Abstract: In August 2000, the Board approved issuing for public comment proposals to implement section 305 of the Gramm-Leach-Bliley Act which requires the federal banking agencies to adopt customer protection regulations that apply to the retail sales practices, solicitations, advertising, or offers of any insurance product by any depository institution or any person engaged in such activities at an office of a depository institution or on behalf of the institution (65 FR 50881, August 21, 2000). The regulation addresses: tying and coercive sales practices, disclosures and advertising, separation of routine deposit taking from insurance product activity, licensing and qualifications, nondiscrimination against victims of domestic violence, and consumer grievance procedures. Section 305 provides that the federal banking agencies may in certain circumstances determine that state laws are preempted by the agencies' regulations.

In November 2000, following review of the public comments, the Board adopted a final rule that modified the proposed regulation by clarifying and limiting the scope of insurance sales that are subject to the regulation, by providing some adjustments in the way the required disclosures and the consumer acknowledgement may be made where sales take place by mail and telephone, and by providing for a delayed effective date (65 FR 75822, December 4, 2000). Based on available data the Board was unable to determine whether the proposals will have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	08/21/00	65 FR 50881
Board adopted proposal	12/04/00	65 FR 75822

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Richard M. Ashton, Associate General Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3750

RIN: 7100–AC62

4338. REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBERS: R-1057 AND R-1062)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1843

CFR Citation: 12 CFR 225

Legal Deadline: Final, Statutory, March 11, 2000.

Abstract: In December 2000, following review of the public comments the Board approved a final rule amending Regulation Y to implement various financial holding company ("FCH") provisions of the Gramm-Leach-Bliley Act ("GLB Act") (66 FR 400 January 3, 2001). The rule sets forth the capital, managerial, and Community Reinvestment Act criteria that a bank holding company or foreign bank must meet and the procedures it must follow in order to qualify as an FHC, and enumerates the consequences if an FHC subsequently ceases to meet any applicable requirement. The rule also lists the activities that are permissible for an FHC to conduct either directly or through a non-depository institution subsidiary. Finally, the rule sets forth procedures for requesting the Board to authorize FHCs to engage in additional activities that the Board determines are financial in nature or incidental or complementary to a financial activity. The Board expects the rule to affect existing bank holding companies and foreign banks that seek to engage in activities that were newly authorized by the GLB Act, as well as other companies that seek to become bank holding companies. The Board does not expect the regulation to have a significant economic impact on a substantial number of small institutions subject to the Board's regulation.

This rule replaces, without substantial amendment, the interim FHC rules adopted previously by the Board (65 FR 3786, January 25, 2000; 65 FR 14433, March 17, 2000; and 65 FR 15053, March 21, 2000).

Timetable:

Action	Date	FR Cite
Board approved an interim rule	01/25/00	65 FR 3785
Board amended interim rule	03/21/00	65 FR 15053
Board adopted rule replacing interim rules	01/03/01	66 FR 400

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas M. Corsi, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AC70

4339. REGULATION: Z — TRUTH IN LENDING (DOCKET NUMBER: R-1070)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601

CFR Citation: 12 CFR 226

Legal Deadline: None

Abstract: In May 2000, the Board approved issuing for public comment proposed amendments to Regulation Z, which implements the Truth in Lending Act, to revise the disclosure requirements for credit and charge card solicitations and applications (65 FR 33499, May 24, 2000). The annual percentage rate (APR) and other cost information must be provided in direct mail and other applications and solicitations to open card accounts. The amendments are intended to enhance consumers' ability to notice and understand cost information that generally must be provided in the form of a table. The APR disclosed for purchase transactions would be subject to a type size requirement, and the requirement that disclosures be "clear and conspicuous" would be more strictly construed. Additional guidance would be given on the requirement that the table be prominently located and on the level of detail about cost information required or permitted in the table. The proposed amendments are not expected to have any significant impact on small entities beyond the initial revisions. Following review of the public comments, the Board adopted the proposal in substantially the form proposed (65 FR 58903, October 3, 2000).

Timetable:

Action	Date	FR Cite
Board requested comment	05/24/00	65 FR 33499
Board adopted proposal	10/03/00	65 FR 58903

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Deborah J. Stipick, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC74

4340. APPLICABILITY OF SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT TO TRANSACTIONS BETWEEN A MEMBER BANK AND ITS SUBSIDIARIES (DOCKET NUMBER: R-0977)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c(b)(1)(E)

CFR Citation: 12 CFR 250.243

Legal Deadline: None

Abstract: Sections 23A and 23B of the Federal Reserve Act restrict the ability of a member bank to fund an affiliate through direct investment, loans, or other transactions. In July 1997, the Board issued for public comment a proposal to apply sections 23A and 23B to transactions between a member bank and any subsidiary that engages in activities that are impermissible for the bank itself and that Congress has not previously exempted from coverage by section 23A (62 FR 37744, July 15, 1997). The proposed treatment is largely consistent with the existing treatment of these subsidiaries by the other banking agencies, which have applied sections 23A and 23B in some form to transactions between a bank and such subsidiaries. The issuance of the proposals will avoid the application of sections 23A and 23B on an ad hoc basis by different agencies, which could result in confusion and consistencies.

The proposal is not expected to have a significant economic impact on a substantial number of small businesses. In response to provisions of the Gramm-Leach-Bliley Act, staff is expected to include the proposal in a new regulation (see RIN: 7100-AC63).

Timetable:

Action	Date	FR Cite
Board requested comment	07/15/97	62 FR 37744
Proposal to be considered in context of a new regulation	02/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pamela G. Nardolilli, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20429
Phone: 202 452-3289

RIN: 7100–AC42

4341. APPLICABILITY OF SECTION 23A TO THE PURCHASE OF SECURITIES FROM CERTAIN AFFILIATES AND TO LOANS AND EXTENSIONS OF CREDIT MADE BY A MEMBER BANK TO A THIRD PARTY (DOCKET NOS: R-1015 & R-1016)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c

CFR Citation: 12 CFR 250

Legal Deadline: None

FRS — Completed Actions

Abstract: In June 1998, the Board issued for public comment two proposed rules to exempt certain transactions from the restrictions of section 23A of the Federal Reserve Act (63 FR 32766, June 16, 1998). Section 23A restricts the ability of a member bank to fund its affiliates through direct investment, loans, or certain other transactions (covered transactions). These proposals are in response to concerns raised by organizations when the Board earlier proposed removal of certain firewalls between insured depository institutions and their section 20 securities affiliates. Several petitioners stated then that, although the removal of the firewalls was welcomed, section 23A continued to limit certain transactions with their section 20 subsidiaries that do not raise significant safety and soundness issues and impede the efficient operation of the insured depository institutions.

In Docket Number: R-1015, the Board is proposing to expand the kind of assets that may be eligible for the (d)(6) exemption to include securities that, although not so widely traded as to warrant publication of their activity in publications of general circulation, are actively traded and whose price can be obtained from independent reliable sources, if the securities are purchased from a registered broker-dealer.

In Docket Number: R-1016, the Board is proposing to grant two exemptions from section 23A for certain loans and extension of credit made by an insured depository institution to customers that use the proceeds to purchase certain securities from or through the depository institution's registered broker-dealer affiliate. The first exemption would apply when the affiliate is acting solely as a broker or riskless principal in the securities transaction. The second exemption would apply when the extension of credit is made pursuant to a pre-existing line of credit that was not established for the purposes of buying securities from or through an affiliate.

In response to provisions of the Gramm-Leach-Bliley Act, staff is expected to include the proposals in a new regulation (see RIN: 7100-AC63). It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	06/16/98	63 FR 32766
Proposals to be considered in context of a new regulation	02/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela Nardolilli, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20429
Phone: 202 452-3289

RIN: 7100–AC52

4342. INTERAGENCY GUIDELINES ESTABLISHING STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION AND RESCISSION OF YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS (DOCKET NUMBER: R-1073)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 6801; 15 USC 6805

CFR Citation: 12 CFR 208.3(d); 12 CFR 208 app D-2; 12 CFR 211.9; 12 CFR 211.24(j); 12 CFR 225.1(c)(16); 12 CFR 225.4(g); 12 CFR 225 app F; 12 CFR 263.302(a)

Legal Deadline: None

Abstract: In June 2000, the Board, collectively with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, requested public comment on proposed guidelines for safeguarding customer information (65 FR 39471, June 26, 2000). The guidelines would implement sections 501 and 505(b) of the Gramm-Leach-Bliley Act and apply to financial institutions under primary supervision of the Board or the other agencies. The guidelines would require financial institutions to establish appropriate standards relating to administrative, technical, and physical safeguards designed to achieve the statutory goals of (1) insuring the security and confidentiality of customer records and information; (2) protecting against any anticipated threats or hazards to the security or integrity of such records; and (3) protecting against unauthorized access to or use of such records or information that could result in substantial harm or inconvenience to any customer. The Board and the other agencies also proposed to rescind their guidelines on Year 2000 safety and soundness, as the events for which those guidelines were issued have passed.

The Board's guidelines apply to financial institutions supervised by the Board, regardless of size. The Board specifically requested comment about the potential impact on community banks. The Board received comments from several small community banks and their trade associations describing the burdens that the guidelines would impose on their institutions and stressing the need for flexibility in the guidelines so that smaller institutions could implement security programs that are commensurate with their complexity and risk profile.

In January 2001, in light of the concerns raised by the commenters, the Board and other agencies revised the final guidelines to clarify the flexibility for each institution to implement an information security program that suits its particular size and complexity and the nature and scope of its activities (66 FR 8616, February 1, 2001). The agencies also rescinded the Year 2000 safety and soundness guidelines, as proposed.

Timetable:

Action	Date	FR Cite
Board requested comment	06/26/00	65 FR 39471
Board adopted proposal	02/01/01	66 FR 8616

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Heidi Richards, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2598

RIN: 7100–AC72

4343. SECTION 303 REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)(1); 5 USC 610

CFR Citation: 12 CFR ch II

Legal Deadline: Other, Statutory, September 23, 1996, Progress Report due to Congress.

Abstract: In response to the requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, as modified by section 402 of the Credit Union Membership Access Act of 1998, the Board is reviewing its regulations for purposes of streamlining, improving efficiency, reducing unnecessary costs, and removing inconsistencies and outmoded/duplicative requirements. The Board is also working jointly with the other banking agencies to make uniform regulations and guidelines implementing common statutory and supervisory policies. A regulatory review timetable was published in the Federal Register in October 1995 (60 FR 53546 October 16, 1995). Progress reports were sent to the Congress in September 1996 and August 1999. It is expected that the Board will seek public comment during the course of the reviews of the remaining regulations listed below. Review of Regulations Z and DD is expected during the next six months, and review of regulations H and Y, Appendices, is expected in 2002. However, the reviews will be carried in future Agendas as separate entries when they are proposed for public comment. This entry, Section 303 Regulatory Review (7100-AC09), will no longer appear as a separate entry in the Agenda. Reviews already proposed for public comment appear elsewhere in the Agenda.

Items below indicated with an asterisk will also be reviewed by the Board in accordance with the periodic review requirements of section 610 of the Regulatory Flexibility Act:

Regulations H and Y, Appendices, Capital Adequacy Guidelines

*Regulation Z, Truth in Lending

*Regulation DD, Truth in Savings

Timetable:

Action	Date	FR Cite
The Section 303 Regulatory Review will no longer appear as a separate entry	02/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 7100–AC09

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Monday,
May 14, 2001

Part LVII

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, title II of Pub. L. 104-121, 110 Stat. 847. The Commission's agenda observes guidelines and procedures issued January 16, 2001, by the Office of Management and Budget in accordance with the provisions of Executive Order No. 12866 "Regulatory Planning and Review" of September 30, 1993 (58 FR 51735; October 4, 1993).

The Commission has also taken the option of identifying rulemakings that are likely to have some impact on small entities but are not subject to the requirements of the Regulatory Flexibility Act. The current rulemakings so identified are: (1) the Smokeless Tobacco Rules, 16 CFR part 307; (2) the 900-Number Rule, 16 CFR part 308; (3) the Telemarketing Sales Rule, 16 CFR part 310; (4) the Privacy of Consumer Information Rule-Security, 16 CFR part 313; (5) the Franchise and Business Opportunities Rule, 16 CFR part 436; (6) the Funeral Rule, 16 CFR part 453; (7) the Trade Regulation Rule on Ophthalmic Practice Rules, 16 CFR part 456; and (8) the Rule on Labeling and Advertising of Home Insulation, 16 CFR part 460.

In addition, the agency has evaluated its current rulemakings as contemplated by Executive Order 13132 "Federalism" of August 4, 1999, 64 FR 43255 (Aug. 10, 1999). The Commission believes that none of the rules in this agenda have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government" within the meaning of E.O. 13132. The Commission continues to work closely with the States and other governmental units in its rulemaking process, which explicitly considers the effect of the agency's rules on these governmental entities.

The agency also is conducting reviews of the 900-Number Rule as provided in that Rule and of the Telemarketing Sales Rule as required by the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 USC 6101-6108. The other reviews listed in the following agenda are part of the Commission's plan to review and seek information about all of its regulations and guides, including their costs and benefits, and regulatory and economic impact every ten years. These reviews incorporate and expand upon the review required by the Regulatory Flexibility Act.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff, based upon information now available. Each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for, or the substance of, a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda. In most instances, the dates of future events are listed by month, not by a specific day. The acquisition of new information, changes of circumstances, or changes in the law may alter this information.

FOR FURTHER INFORMATION CONTACT: For information about specific regulatory actions listed in the agenda, contact the contact person listed for each particular proceeding. Comments or inquiries of a general nature about the agenda should be directed to Steve Vieux, Attorney, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, telephone: (202) 326-2306; e-mail: svieux@ftc.gov , or Sandra M. Vidas, Attorney, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, telephone: (202) 326-2456; e-mail: svidas@ftc.gov .

By direction of the Commission.

Donald S. Clark,

Secretary.

Federal Trade Commission—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4344	Regulatory Review	3084-AA47
4345	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4346	Trade Regulation Rule on Funeral Industry Practices	3084-AA82
4347	Telemarketing Sales Rule	3084-AA86
4348	Privacy of Consumer Information—Security	3084-AA87

Federal Trade Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4349	Premerger Notification Rules and Report Form	3084-AA23
4350	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
4351	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
4352	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA78
4353	Trade Regulation Rule on Ophthalmic Practice Rules	3084-AA80

FTC

Federal Trade Commission—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4354	Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products ...	3084-AA81

Federal Trade Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4355	Amended Federal Deposit Insurance Corporation Improvement Act	3084-AA44

FEDERAL TRADE COMMISSION (FTC)

Prerule Stage

4344. REGULATORY REVIEW

Priority: Other Significant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 1 et seq

Legal Deadline: None

Abstract: The Commission is continuing its review of current rules and guides to identify any that should be modified or rescinded. In January of each year, the Commission announces the rules and guides to be reviewed in that year. For example, on January 19, 2000, the Commission published a notice in the Federal Register listing the rules and guides to be reviewed during 2000 and the staff contact person for information about each review. 65 FR 2912. The Commission is currently devoting significant resources to both rulemakings required by statute and completing rule and guide reviews previously announced. See 65 FR 73531. Accordingly, the Commission will not issue a separate notice for 2001. The Commission will continue to consider ways to streamline and improve the review program. Early next year, the Commission will announce the rules and guides it will review in 2002. No determination about whether to modify or rescind a rule, regulation, guide or interpretation or any other procedural option should be inferred from the Commission's decision to publish a request for comments. In certain instances, the reviews may also address other specific matters or issues, such as proposed amendments.

Timetable:

Action	Date	FR Cite
Notice of Rules and Guides to Review in 2000	01/19/00	65 FR 2912
Notice of Rules and Guides to Review in 2002	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil Blickman, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580
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RIN: 3084–AA47

4345. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Health Education Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The Act directs the Commission to issue implementing regulations governing the format and display of the warnings. On November 4, 1986, the Commission issued its regulations setting out the provisions for the size, color, typeface, and rotation of the statutory warnings. In FY2000, the Commission undertook a periodic review of the regulations. The purpose of the review was to determine whether the regulations continue to effectively meet the goals of the Act and to seek information concerning the regulation or economic impact of the Rule in order to decide whether it should be amended. Staff plans to forward its recommendations to the Commission shortly.

Timetable:

Action	Date	FR Cite
Recommendation to the Commission Regarding ANPRM (Regulatory Review)	01/27/00	
ANPRM (Regulatory Review)	03/07/00	65 FR 11944
Comment Period End (Regulatory Review)	04/24/00	
Comment Period Extended (Regulatory Review)	05/08/00	65 FR 26534
Extended Comment Period End (Regulatory Review)	07/21/00	
Reopening and Extension of Comment Period	10/13/00	65 FR 60899
Extended Comment Period End	10/16/00	
Recommendation to Commission (Regulatory Review)	08/00/01	
Commission Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosemary Rosso, Attorney, Federal Trade Commission, Division of Advertising Practices, Bureau of Consumer Protection, Washington, DC 20580
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RIN: 3084–AA48

4346. TRADE REGULATION RULE ON FUNERAL INDUSTRY PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The Funeral Industry Practices Rule, which became effective in 1984, requires sellers of funeral goods and services to give price lists to consumers who visit a funeral home, and to disclose price and other information to callers who request it over the telephone. The Rule enables consumers to select and purchase only the goods and services they want, and requires funeral providers to seek authority before performing some services such as embalming. The Rule also requires funeral providers to make disclosures regarding any required purchases and prohibits misrepresentations regarding requirements and other aspects of funeral goods and services. In its 1994 review of the Rule, the Commission determined to retain the Rule and amended it to prohibit funeral providers from charging a "casket handling fee" in addition to any non-declinable basic-services fee and deleted certain affirmative telephone disclosure requirements. The Commission responded to requests to address emerging issues in the funeral industry by beginning a review of the Rule in 1998. The Commission previously had scheduled a review of the Rule in 1999, under its ten-year schedule for reviewing all Commission rules and guides. The Commission published a notice soliciting public comment in May 1999. In response to requests of industry members and consumer groups, the Commission extended the comment period. Commission staff conducted a public workshop conference on November 18, 1999, to discuss and explore openly issues raised in written comments. Staff is evaluating the comments and preparing a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
Recommendation to Commission Regarding Initial Notice for Comment	04/17/99	
Initial Notice for Public Comment	05/05/99	64 FR 24249
Close of Comment Period (Extended)	08/11/99	64 FR 35965
Public Workshop	11/18/99	64 FR 56717
Recommendation to Commission	09/00/01	
Commission Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Myra Howard, Attorney, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580
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RIN: 3084–AA82

4347. TELEMARKETING SALES RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 6101 to 6108

CFR Citation: 16 CFR 310

Legal Deadline: Other, Statutory, December 31, 2000, Rule Review and Report to Congress.

Abstract: In 1995, the Commission issued the Telemarketing Sales Rule (TSR), 16 CFR part 310, under the Telemarketing and Consumer Fraud and Abuse Prevention Act 15 USC 6101-6108. The TSR requires telemarketers to disclose information; prohibits misrepresentations; limits the times telemarketers may call consumers; prohibits calls to a consumer who has asked not to be called again; and sets payment restrictions for the sale of certain goods and services.

As required by the Act, the Commission is reviewing the TSR to evaluate the Rule's operation and report to Congress. The Commission has issued a request for public comment on the rule, its overall costs, benefits and its regulatory and economic impact since its adoption in 1995. The Commission also held a public forum on January 11, 2000, addressing the operation of the Rule's "do-not-call" provision. Another public forum to discuss other provisions of the Rule was held on July 27-28, 2000. Public forums provide the Commission staff and interested parties an opportunity to discuss these issues and any other topics that emerge from the public comments.

Staff plans to complete its review and forward its recommendations to the Commission later this year.

Timetable:

Action	Date	FR Cite
Recommendation to Commission re: "Do-Not-Call" Provision	11/24/99	64 FR 66124
Public Forum	01/11/00	
Recommendation to Commission re: Rule Review	02/07/00	
Request for Comments	02/28/00	65 FR 10428
End Comment Period	04/27/00	
Extension of Comment Period	05/05/00	65 FR 26161
End Extended Comment Period	05/30/00	
Public Forum	07/27/00	
Public Forum	07/28/00	
Recommendation to Commission	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA86

4348. PRIVACY OF CONSUMER INFORMATION—SECURITY

Priority: Other Significant

Legal Authority: PL 106-102, sec 501(b)

CFR Citation: 16 CFR 313

Legal Deadline: None

Abstract: On November 12, 1999, the Gramm-Leach-Bliley Act (G-L-B) was enacted. The Act repealed the key provision of the Glass-Steagall Act, that among other things, required the separation of banking, insurance, and securities institutions. Subtitle A (Disclosure of Nonpublic Person Information) of Title V (Privacy) limits the ability of the newly-authorized financial institutions to disclose nonpublic personal information about consumers to nonaffiliated third parties, and requires them to disclose to consumers their privacy policies and practices respecting information shared with both affiliates and nonaffiliated third parties. The Commission issued the statuorily mandated Rule on the Privacy of Consumer Financial Information (Privacy Rule), 16 CFR part 313, on May 12, 2000. The Privacy Rule is effective November 13, 2000, and full compliance is required on or before July 1, 2001.

In addition to the Privacy Rule, Section 501 of Subtitle A requires the agencies to establish appropriate standards for financial institutions to safeguard nonpublic personal information. In particular, section 501(b) of the Act requires the Commission to "establish appropriate standards for the financial institutions [subject to its jurisdiction] relating to administrative, technical, and physical safeguards." Section 501(b) sets out the objectives of these standards: (1) to insure the security and confidentiality of customer records and information; (2) to protect against any anticipated threats or hazards to the security or integrity of such records; and (3) to protect against unauthorized access to or use of such records of information which could result in substantial harm or inconvenience to any customer.

Timetable:

Action	Date	FR Cite
Request for Comments	09/07/00	65 FR 54186
Extension of Comment Period	10/06/00	65 FR 59766
Comment Period End	10/10/00	
Extended Comment Period End	10/24/00	
Recommendation to the Commission	04/00/01	
Commission Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA87

FEDERAL TRADE COMMISSION (FTC) Proposed Rule Stage

4349. PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. The Commission proposed modifications to the Premerger Notification and Report Form on June 14, 1994. 59 FR 30545.

The Commission has issued interim rules based on comments received in response to this Notice, as well as on some changes in HSR reporting requirements necessitated by the recent amendments to Section 7(A) of the Clayton Act. The President signed the statutory amendments into law on December 21, 2000. Both the statutory amendments and the interim rules became effective on February 1, 2001. The Commission also published a Notice of Proposed Rulemaking (NPRM) updating examples in several rules and revising others. The comment period for the interim rules and the NPRM ended on March 19, 2001. In addition, form changes requiring the use of the North American Industrial Classification System (NAICS) to replace the Standard Industrial Classification (SIC) codes in completing item 5 on the HSR form, will be made in a NPRM to be issued this spring. Staff anticipates those changes to be effective on June 30, 2001. Staff expects to propose additional changes by the summer.

Timetable:

Action	Date	FR Cite
NPRM (Rule Changes)	02/01/01	66 FR 8722
Interim Rule I (Statutory Changes)	02/01/01	66 FR 8679
Interim Rule II (Rules of Practice)	02/01/01	66 FR 8720
Comment Period End (Interim and Proposed Rules)	03/19/01	
NPRM (Change from SIC to NAICS)	04/00/01	
NPRM (HSR Form Changes)	06/00/01	
Effective Date (Change from SIC to NAICS)	06/00/01	
NPRM (Additional Rule Changes)	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian Bruno, Assistant Director, Federal Trade Commission, Premerger Notification Office, Washington, DC 20580
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RIN: 3084–AA23

4350. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (R-Value Rule) became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. Specifically, the Rule requires manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-Value). The Rule also establishes uniform standards for testing, information disclosure, and substantiation of product performance claims. As part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for this Rule, possible conflicts between the Rule and state, local and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The Commission is considering the comments received in two parts. In part I, the Commission reviewed comments that addressed the current benefits, burdens, and need for the Rule, and determined to retain the Rule. The Commission also adopted non-substantive amendments that: (1) allow the optional use of the additional R-value test procedure; and (2) require use in the future of revised, current versions of other test procedures cited in the Rule. In part II, the Commission is considering the comments recommending that the Commission adopt substantive revisions to the Rule. In response to the comments received, the Commission issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking comment on whether it should initiate a rulemaking proceeding to amend the Rule. In the ANPRM, the Commission proposed amendments to recognize technological advances in R-value testing and specimen preparation procedures, and to clarify and streamline the Rule's requirements. The Comment period on the ANPRM ended on November 15, 1999. Based on the ANPRM record, the Commission will determine whether to initiate a rulemaking proceeding.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492
Commission Action/Part I	03/28/96	61 FR 13659
Commission Action/ANPRM	09/01/99	64 FR 48023
Comment Period End	11/15/99	
Recommendation to Commission	08/00/01	
Commission Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA60

4351. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre-sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the past three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. On February 28, 1997, the Commission published an Advance Notice of Proposed Rulemaking (ANPRM) contemplating amendments that would address any new technologies and market practices and at the same time, reduce any unnecessary regulatory burden. Specifically, the Commission requested comments on whether to revise the Rule to more closely align Federal and State disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet. Six public workshops were held in five cities during 1997 to promote discussions about the issues; allow the public to make statements on the record; and assist Commission staff in drafting a proposed amended Rule. The Commission extended the comment period to December 31, 1997. On October 22, 1999, the Commission published a Notice of Proposed Rulemaking (NPRM) with a text of the revised Rule. Comments were accepted until December 21, 1999, and rebuttal comments were accepted until January 31, 2000. Commission staff is now analyzing the comments and will prepare a staff report.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/97	62 FR 9115
Comment Period End	12/31/97	62 FR 28822
Recommendation to Commission	03/26/99	
NPRM	10/22/99	64 FR 57293
NPRM Comment Period End	12/21/99	
NPRM Rebuttal Comment Period End	01/31/00	
Staff Report	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 3084–AA63

4352. TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 5701 et seq; 15 USC 5714(1)

CFR Citation: 16 CFR 308

Legal Deadline: None

Abstract: Congress enacted the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA) to curtail certain unfair and deceptive practices perpetrated by some pay-per-call businesses, and to encourage the growth of the legitimate pay-per-call industry. TDDRA mandated that the FTC promulgate a rule to curb these practices; the 900-Number Rule became effective on November 1, 1993. TDDRA granted the Commission limited jurisdiction over common carriers for purposes of the 900-Number Rule. The Rule requires that advertisements for 900-numbers contain certain disclosures; that anyone who calls a 900-number service be given the opportunity to hang up at the conclusion of the preamble without incurring any charge for the call; and establishes procedures for resolving billing disputes for 900-number calls and other telephone-billed purchases. The Rule itself required the Commission to initiate a review of the Rule prior to November 1997. As part of this review, the Commission published a notice in the Federal Register on March 12, 1997, requesting comments on, among other things, the economic impact of and the continuing need for the 900-Number Rule, and the effect on the Rule of any technological or industry changes. The Commission also sought comments, pursuant to authority granted under the Telecommunications Act of 1996, on whether to expand the Rule to govern other similar audio information and entertainment services. Staff held a workshop on June 19-20, 1997, during which members of the industry discussed issues raised in the comments, including billing and collection issues and possible ways to expand the definition of "pay-per-call services." Many commenters reported that the 900-Number Rule has been successful in reducing the abuses that led to the passage of TDDRA. Despite the success of the Rule in correcting the abuses in the 900-number industry, complaints about other types of audiotext services (accessed via dialing patterns other than 900 numbers) are being reported. The majority of complaints now involve 800 numbers, international numbers, or other dialing patterns that do not use the 900-number prefix. Many consumer and law enforcement agencies also have been receiving complaints from consumers who have discovered unexplained charges (in some cases, recurring charges) on their telephone bills for services that were never authorized, ordered, received, or used, a practice known as "cramming." On October 30, 1998, the Commission published an NPRM that would expand the definition of "pay-per-call" services beyond 900 numbers and that would implement measures to combat telephone bill cramming. The proposed revisions would (1) require the express authorization of the person to be billed for the purchase of any "telephone-billed purchases" that cannot be blocked by 900-number blocking; (2) prohibit vendors from billing consumers for monthly or other recurring charges for pay-per-call services unless the vendor had entered into a "presubscription agreement" with the person to be billed and had sent the consumer a written copy of the agreement; and (3) give consumers legal recourse to dispute unauthorized charges crammed on phone bills and have those charges removed. The comment period was extended to March 10, 1999, and the workshop-conference was held on May 20-21, 1999. At the workshop, participants discussed issues raised by the comments, such as the meaning of "express authorization" and the requirements for a presubscription agreement. Staff plans to forward a recommendation to the Commission later this year.

Timetable:

Action	Date	FR Cite
Request for Comments	03/12/97	62 FR 11749
Comment Period End	05/12/97	
Public Workshop	06/19/97	
Public Workshop	06/20/97	
Recommendation to Commission	09/08/98	
NPRM	10/30/98	63 FR 58523
Comment Period Extended	01/04/99	64 FR 61
Comment Period End	01/08/99	
Public Workshop-Conference	02/25/99	
Extended Comment Period End	03/10/99	
Public Workshop-Conference Date Rescheduled	05/20/99	
Recommendation to Commission	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA78

4353. TRADE REGULATION RULE ON OPHTHALMIC PRACTICE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 456

Legal Deadline: None

Abstract: The Trade Regulation Rule on Ophthalmic Practice Rules, also known as the Prescription Release Rule, provides that an optometrist or ophthalmologist must give the patient, at no extra cost, a copy of the eyeglass prescription immediately after the examination is completed. The Rule also prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist, and from placing on the prescription, or delivering to the patient, certain disclaimers or waivers of liability. The Rule does not require an optometrist or ophthalmologist to release a contact lens prescription to

a patient after an eye exam. As part of its systematic review of all Commission rules and guides, the Commission has requested comments on the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and State, local, or other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. Staff is preparing a memorandum to the Commission summarizing the comments received and making recommendations as to whether the Commission should revise, repeal, or retain the rule.

Timetable:

Action	Date	FR Cite
Request for Comments	04/03/97	62 FR 15865
Notice of Comment Period Extension	05/29/97	62 FR 29088
Comment Period End	06/02/97	
Comment Period End	09/02/97	
Recommendation to Commission	05/00/01	
Commission Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA80

4354. TRADE REGULATION RULE CONCERNING POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 432

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products ("Amplifier Rule" or "Rule") was promulgated in 1974 to assist consumers in purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various performance characteristics of the equipment. The Amplifier Rule establishes uniform test standards and disclosures so that consumers can make more meaningful comparisons of performance attributes. The Rule makes it an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes to fail to disclose certain performance information in connection with direct or indirect representations of power output, power band, frequency or distortion characteristics. The Rule also sets out standard test conditions for performing the measurements that support the required performance disclosures. Further, the Rule prohibits representations of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids.

To determine whether changes in technology that occurred since the Rule was issued necessitated any Rule revisions, the Commission requested comments on the Rule. Among other things, the Commission asked about the economic impact of, and the continuing need for, this Rule; and any possible conflict between the Rule and State, local and other Federal laws. Based upon the regulatory review, the Commission determined that the Rule applies to self-powered speakers for use with home computers and home sound systems but that the Rule should not be extended to automobile sound systems. The Commission also determined to issue an ANPRM seeking comment on whether it should amend the Rule. Based on the ANPRM record, the Commission issued a NPRM to seek public comment on whether the Commission should amend the Rule to reduce the preconditioning power output requirement from one-third of rated power to a lower figure; exempt sellers who make power output claims in media advertising from the requirement to disclose total rated harmonic distortion and the associated power bandwidth and impedance ratings; and clarify the manner in which the Rule's testing procedures apply to self-powered subwoofer-satellite combination speaker systems. Based on the NPRM record, the Commission amended the Rule as proposed in the NPRM. At the same time, the Commission issued a Supplemental Notice of Proposed Rulemaking (SNPRM) to seek public comment on proposed testing procedures for "home theater" receivers with five or more channels. The comment period for SNPRM ends on February 23, 2001.

Timetable:

Action	Date	FR Cite
Request for Comments	04/07/97	62 FR 16500
Comment Period End	06/06/97	
ANPRM	07/09/98	63 FR 37236
Final Rule (Nonsubstantive Technical Changes)	07/09/98	63 FR 37234
Comment Period End	09/08/98	
NPRM	07/19/99	64 FR 38610
Comment Period End	10/15/99	64 FR 51087
SNPRM	12/22/00	65 FR 80798
Commission Action	12/22/00	65 FR 81232
Comment Period End	02/23/01	
Reopen Comment Period	03/01/01	66 FR 12915
Comment Period End	03/23/01	
Recommendation to Commission	06/00/01	
Commmission Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3084–AA81

4355. AMENDED FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 3084–AA44

[FR Doc. 01–5208 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part LVIII

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Regulatory Agenda

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of January 31, 2001, to be included in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

DATES: This information is current as of January 31, 2001.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing, at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA, and participate in that process more effectively. Entries for the Agenda appear in one of five possible categories: prerule stage; proposed rule stage; final rule stage; long-term actions; or completed actions.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2, "Developing and Reviewing Government Regulations," 54 FR 35231, (September 18, 1987), which sets out NCUA's policy and procedures for developing and reviewing its regulations. NCUA's policy is to ensure that its regulations impose only minimum required burdens on credit unions, consumers, and the public; are appropriate for the size of the financial institutions it regulates; are issued only after full public participation; and are clear and understandable. Further, NCUA undertakes to review all regulations every three years to clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.

Executive Order 12866, signed by President Clinton on September 30, 1993, requires independent executive agencies such as NCUA to publish a regulatory agenda.

Approved by the NCUA Board on February 15, 2001.

Becky Baker,
Secretary of the Board.

National Credit Union Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4356	Credit Practices	3133-AC43

National Credit Union Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4357	Corporate Credit Unions	3133-AC28
4358	Requirements for Insurance	3133-AC33
4359	Credit Practices	3133-AC34
4360	Regulatory Flexibility and Exemption Program	3133-AC38
4361	Records Preservation Program	3133-AC41
4362	Credit Union Service Organizations (CUSOs)	3133-AC45
4363	Requirements for Insurance	3133-AC46
4364	Investment and Deposit Activities	3133-AC49
4365	Eligible Obligations — Conflict of Interest Provision	3133-AC51
4366	Definitions and Technical Amendments	3133-AC53
4367	Reimbursement, Insurance, and Indemnification of Officials and Employees	3133-AC54

National Credit Union Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4368	Federal Credit Union Incidental Powers Activities	3133-AC07
4369	Prepayment Fees to Federal Home Loan Bank	3133-AC44
4370	Community Development Revolving Loan Program for Credit Unions	3133-AC47
4371	Proposed Interpretive Ruling and Policy Statement (IRPS-00-2) Central Liquidity Facility Advance Policy	3133-AC48
4372	OMB Control Numbers	3133-AC52
4373	Requirements for Insurance (Subpart B)	3133-AC55

NCUA

National Credit Union Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
4374	Federal Credit Union Chartering, Field of Membership Modifications and Conversions	3133-AC27
4375	Exemptions (Privacy Act)	3133-AC42
4376	Guidelines for Safeguarding Member Information	3133-AC50

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Prerule Stage

4356. CREDIT PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 57a; 15 USC 1681b

CFR Citation: 12 CFR 706

Legal Deadline: None

Abstract: Along with the bank regulatory agencies, NCUA intends to issue a very broad advance notice of proposed rulemaking seeking comment on aspects of the Fair Credit Reporting Act that require clarification through regulations.

Timetable:

Action	Date	FR Cite
End Review	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chrisanthy J. Loizos, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
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RIN: 3133–AC43

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Proposed Rule Stage

4357. CORPORATE CREDIT UNIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1762; 12 USC 1766(a); 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None

Abstract: NCUA requests public comment on revisions to the rule governing corporate credit unions. As part of its regulatory review process, NCUA has identified provisions for further clarification or revision. Comments on these issues will assist NCUA in its regulatory review process.

Timetable:

Action	Date	FR Cite
ANPRM	07/28/99	64 FR 40787
ANPRM Comment Period End	11/26/99	
ANPRM	11/22/00	65 FR 70319
ANPRM Comment Period End	02/20/01	
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
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RIN: 3133–AC28

4358. REQUIREMENTS FOR INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1756 to 1757; 12 USC 1757A; 12 USC 1766; 12 USC 1785; 12 USC 1781

CFR Citation: 12 CFR 741

Legal Deadline: None

Abstract: NCUA is soliciting public comment on whether NCUA should adopt a regulation that would restrict the insurance coverage for State-chartered credit unions that open branches outside the United States.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/00	65 FR 55464
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 3133–AC33

4359. CREDIT PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 57a; 15 USC 1681b

CFR Citation: 12 CFR 706

Legal Deadline: None

Abstract: NCUA will promulgate a regulation under the Fair Credit Reporting Act that addresses the sharing of opt out information between Federal credit unions and their affiliates.

Timetable:

Action	Date	FR Cite
NPRM	10/26/00	65 FR 64168
NPRM Comment Period End	12/26/00	
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3133–AC34

4360. REGULATORY FLEXIBILITY AND EXEMPTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757; 12 USC 1756; 12 USC 1766

CFR Citation: 12 CFR 742

Legal Deadline: None

Abstract: NCUA solicited public comment on whether NCUA should adopt a regulation that would permit well-capitalized credit unions to be exempt from certain NCUA regulations, in whole or in part. A proposed rule is scheduled for March 2001.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/00	65 FR 15275
ANPRM Comment Period End	05/22/00	
NPRM	03/15/01	66 FR 15055
NPRM Comment Period End	05/14/01	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3133–AC38

4361. RECORDS PRESERVATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1766

CFR Citation: 12 CFR 749

Legal Deadline: None

Abstract: Review and update provisions regarding record retention requirements and electronic storage.

Timetable:

Action	Date	FR Cite
NPRM	02/23/01	66 FR 11239
NPRM Comment Period End	04/24/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3133–AC41

4362. • CREDIT UNION SERVICE ORGANIZATIONS (CUSOS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1756; 12 USC 1757(5)(D) and (7)(I); 12 USC 1766; 12 USC 1782; 12 USC 1784; ...

CFR Citation: 12 CFR 712

Legal Deadline: None

Abstract: The proposed rule clarifies that the list of permissible activities in the CUSO rule is intended to establish broad categories of permissible activities and that the listings under these categories are illustrative not exhaustive. The proposal also adds a federally chartered corporation to the list of permissible structures for a CUSO.

Timetable:

Action	Date	FR Cite
NPRM	02/22/01	66 FR 11125
NPRM Comment Period End	04/23/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC45

4363. • REQUIREMENTS FOR INSURANCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1781 to 1790

CFR Citation: 12 CFR 741

Legal Deadline: None

Abstract: Currently, only credit unions with over $50,000,000 in assets file quarterly call reports. NCUA is considering moving to a risk-based, flexible schedule examination program. This proposal will request comment on whether, as a condition of implementation of that program, all credit unions should file quarterly call reports.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
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RIN: 3133–AC46

4364. • INVESTMENT AND DEPOSIT ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757(7); 12 USC 1757(8); 12 USC 1757(15)

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: The proposed rule intends to update and clarify NCUA's investment and deposit activities rules.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
NPRM Comment Period End	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC49

4365. • ELIGIBLE OBLIGATIONS — CONFLICT OF INTEREST PROVISION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755-1657; 12 USC 1759; 12 USC 1761a

CFR Citation: 12 CFR 701.23

Legal Deadline: None

Abstract: Section 701.23 sets forth the requirements for purchasing, selling, and pledging eligible obligations (loans) by Federal credit unions. NCUA plans to propose a conflict of interest provision for this section, similar to section 701.21(c)(8)(i) of the lending rule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

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RIN: 3133–AC51

4366. • DEFINITIONS AND TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752; 12 USC 1757(6); 12 USC 1766

CFR Citation: 12 CFR 700

Legal Deadline: None

Abstract: NCUA plans to add new definitions and remove obsolete references and definitions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3133–AC53

4367. • REIMBURSEMENT, INSURANCE, AND INDEMNIFICATION OF OFFICIALS AND EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 12 CFR 701.33

Legal Deadline: None

Abstract: Revise regulation to clarify, streamline and update to include recent interpretations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
NPRM Comment Period End	08/00/01	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3133–AC54

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) Final Rule Stage

4368. FEDERAL CREDIT UNION INCIDENTAL POWERS ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757(16); 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 721

Legal Deadline: None

Abstract: The regulation proposes to revise this part to categorize activities deemed to be within the incidental powers of a Federal credit union.

Timetable:

Action	Date	FR Cite
ANPRM	11/26/99	64 FR 66413
NPRM	11/24/00	65 FR 70526
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6562
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RIN: 3133–AC07

4369. • PREPAYMENT FEES TO FEDERAL HOME LOAN BANK

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1787

CFR Citation: 12 CFR 709

Legal Deadline: None

Abstract: NCUA is adopting a rule clarifying that as conservator or liquidating agent of a federally-insured credit union, the NCUA Board will honor a claim for prepayment fees by a Federal Home Loan Bank under certain circumstances.

NCUA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End	04/24/01	
Interim Final Rule	04/00/01	
Final Action	06/00/01	
Final Action Effective	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Chrisanthy J. Loizos, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
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RIN: 3133–AC44

4370. • COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1772C-1; 42 USC 9822

CFR Citation: 12 CFR 705

Legal Deadline: None

Abstract: The NCUA is revising its regulations pertaining to the Community Development Revolving Loan Program for Credit Unions (CDRLP) to make more flexible the manner in which NCUA may deliver technical assistance to participating credit unions. This revision reflects the board authority granted to NCUA by the Federal Credit Union Act (Act) in this context.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/21/00	65 FR 80298
Interim Final Rule Effective	12/21/00	
Interim Final Rule Comment Period End	02/20/01	
Final Action	04/00/01	
Final Action Effective	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
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RIN: 3133–AC47

4371. • PROPOSED INTERPRETIVE RULING AND POLICY STATEMENT (IRPS-00-2) CENTRAL LIQUIDITY FACILITY ADVANCE POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1795 to 1795F

CFR Citation: 12 CFR 725

Legal Deadline: None

Abstract: The policy statement is intended to clarify the role of the Central Liquidity Facility (CLF) and the circumstances when the CLF will approve a regulaor or agent member's request for a CLF advance.

Timetable:

Action	Date	FR Cite
NPRM	10/25/00	65 FR 63892
NPRM Comment Period End	01/23/01	
Final Action	04/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
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RIN: 3133–AC48

4372. • OMB CONTROL NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1766(a); 5 USC 3507(f)

CFR Citation: 12 CFR 795

Legal Deadline: None

Abstract: NCUA plans to update the display table that lists the current OMB control numbers and the 12 CFR part or section where each number is described or identified.

Timetable:

Action	Date	FR Cite
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Regina M. Metz, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
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RIN: 3133–AC52

4373. • REQUIREMENTS FOR INSURANCE (SUBPART B)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757, 1766 and 1781-1790; 31 USC 3717

CFR Citation: 12 CFR 741

Legal Deadline: None

Abstract: Revise part 741 to include a cross-reference to part 702, Prompt Corrective Action.

Timetable:

Action	Date	FR Cite
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
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RIN: 3133–AC55

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Completed Actions

4374. FEDERAL CREDIT UNION CHARTERING, FIELD OF MEMBERSHIP MODIFICATIONS AND CONVERSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761b-c; 12 USC 1766 to 1767; ...

CFR Citation: 12 CFR 701.1

Legal Deadline: None

Abstract: The regulation sets forth all the requirements for chartering and field of membership. The rule requires community Federal credit unions to have a plan that sets forth the credit unions' efforts to serve low-income members. The final amendments also clarify existing policy and broaden chartering policies.

Timetable:

Action	Date	FR Cite
NPRM	06/06/00	65 FR 37065
Final Rule	10/27/00	65 FR 64512

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6562
Email: mmckenna@ncua.gov

RIN: 3133–AC27

4375. EXEMPTIONS (PRIVACY ACT)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757

CFR Citation: 12 CFR 792.66

Legal Deadline: None

Abstract: Revised Privacy Act regulation to update offices and responsibilities and to reflect changes in the law.

Timetable:

Action	Date	FR Cite
Final Rule	10/25/00	65 FR 63789

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dianne M. Salva, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
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RIN: 3133–AC42

4376. • GUIDELINES FOR SAFEGUARDING MEMBER INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1766(a); 12 USC 1786(q); 15 USC 6801 and 6805(b); 31 USC 5311

CFR Citation: 12 CFR 748

Legal Deadline: None

Abstract: The NCUA Board modified its security program requirements to include security of member information. Further the NCUA Board issued "Guidelines for Safeguarding Member Information" to implement certain provisions of the Gramm-Leach Bliley Act of 1999.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 27302
NPRM Comment Period End	08/14/00	
Final Action	01/30/01	66 FR 8152
Final Action Effective	07/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Regina M. Metz, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
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RIN: 3133–AC50

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Monday,
May 14, 2001

Part LIX

National Indian Gaming Commission

Semiannual Regulatory Agenda

NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission today is publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide notice of rulemaking actions in which the public may wish to participate. In the near future, the Commission intends to issue Notices of Proposed Rulemaking, Advance Notices of Proposed Rulemaking, or Final Rules for the following: rules concerning technical amendments to the Minimum Internal Control Standards; rules concerning practice before the Commission; rules establishing a process for the assessment, notification, and collection of debts owed the NIGC; rules revising tribal background investigation submission requirements and timing; rules concerning the classification, review, and approval of games and devices used in tribal gaming; rules concerning environment, public health and safety; rules concerning hearings and appeals procedures; rules concerning enforcement; rules concerning definitions; rules revising the scope and review of management contracts; rules concerning net gaming revenue; rules concerning administrative fees; rules revising Freedom of Information Act procedures; rules concerning gaming facility licensing standards; and rules implementing the National Environmental Policy Act (NEPA). The Commission invites questions and public comment on individual agenda items.

FOR FURTHER INFORMATION CONTACT: Cynthia Omberg, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 605, executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no Regulatory Impact Analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that most of the regulations under consideration will not have a significant economic impact on a substantial number of small entities. For these regulations, no Regulatory Flexibility Analysis is required. The Commission has not yet determined whether the long-term actions concerning implementation of the National Environmental Policy Act or gaming facility licensing require a Regulatory Flexibility Analysis. The proposed rules are not covered under section 202 of the Unfunded Mandates Reform Act (Pub. L. 104-4), as they are not Federal mandates that may result in an expenditure of $100 million or more in any one year by State, local, or tribal governments, in the aggregate, or the private sector. Further, these proposed rules are not considered major under 5 U.S.C. 801 enacted by Public Law 104-121, and, therefore, are not subject to section 801's 60-day deferral requirement.

Montie R. Deer,

Chairman, National Indian Gaming Commission.

National Indian Gaming Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4377	Practice Before the Commission	3141-AA07
4378	Tribal Background Investigation Submission Requirements and Timing	3141-AA15
4379	Technical Amendments to the Minimum Internal Control Standards	3141-AA24
4380	Debt Collection	3141-AA25

National Indian Gaming Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4381	Game Classification	3141-AA12
4382	Environment and Public Health and Safety	3141-AA17

National Indian Gaming Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4383	Hearings and Appeals Procedure	3141-AA08
4384	Enforcement	3141-AA09
4385	Definitions	3141-AA10

NIGC

National Indian Gaming Commission—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4386	Management Contracts	3141-AA13
4387	Net Gaming Revenue	3141-AA14
4388	Administrative Fees	3141-AA16
4389	Freedom of Information Act Procedures (Amendments)	3141-AA21
4390	Gaming Facility Licensing Standards	3141-AA23
4391	National Environmental Policy Act (NEPA) Implementing Regulations	3141-AA26

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Proposed Rule Stage

4377. PRACTICE BEFORE THE COMMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706(b)(10)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule will establish guidelines and procedures for attorneys and non-attorneys who represent tribes or private companies before the Commission.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: William F. Grant, Senior Attorney, National Indian Gaming Commission, Suite 9100, 1441 L Street NW., Washington, DC 20005
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Email: william_grant@nigc.doi.gov

RIN: 3141–AA07

4378. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING

Priority: Other Significant

Legal Authority: 25 USC 2706(b)(3)

CFR Citation: 25 CFR 556; 25 CFR 558

Legal Deadline: None

Abstract: This rule revises timing and submission requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman, Deputy General Counsel, National Indian Gaming Commission, Suite 9100, 1441 L Street NW., Washington, DC 20005
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RIN: 3141–AA15

4379. TECHNICAL AMENDMENTS TO THE MINIMUM INTERNAL CONTROL STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2702; 25 USC 2706(b)(10)

CFR Citation: 25 CFR 542

Legal Deadline: None

Abstract: The National Indian Gaming Commission anticipates that there will be a need to make technical changes to the minimum internal control standards in response to changes in technology and the gaming industry. Because these standards are established by Federal regulation, it is necessary to make the changes to the current standards, which should result in better internal control standards with minimal anticipated costs.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/00	65 FR 70673
ANPRM Comment Period End	03/30/01	66 FR 12916
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman, Deputy General Counsel, National Indian Gaming Commission, Suite 9100, 1441 L Street NW., Washington, DC 20005
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RIN: 3141–AA24

4380. DEBT COLLECTION

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 31 USC 3716; 25 USC 2713(a)(1)

CFR Citation: 25 CFR 580

Legal Deadline: None

Abstract: This regulation will establish a process for the assessment, notification, and collection of debts owed the National Indian Gaming Commission.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Cynthia S. Omberg, Attorney, National Indian Gaming Commission, Suite 9100, 1441 L Street, NW, Washington, DC 20005
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RIN: 3141–AA25

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Final Rule Stage

4381. GAME CLASSIFICATION

Priority: Other Significant

Legal Authority: 25 USC 2702; 25 USC 2703; 25 USC 2705; 25 USC 2706; 25 USC 2710; 25 USC 2713

CFR Citation: 25 CFR Part 504

Legal Deadline: None

Abstract: This rule will establish processes for the classification, review, and approval of games and devices used in tribal gaming.

Timetable:

Action	Date	FR Cite
NPRM	11/10/99	64 FR 61234
NPRM Comment Period End	02/24/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Penny J. Coleman, Deputy General Counsel, National Indian Gaming Commission, Suite 9100, 1441 L Street NW., Washington, DC 20005
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Fax: 202 632-7066
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RIN: 3141–AA12

4382. ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 25 USC 2710(b)(2)(E)

CFR Citation: 25 CFR 573

Legal Deadline: None

Abstract: It is necessary for the National Indian Gaming Commission to promulgate regulations which ensure that tribal gaming facilities are constructed and maintained in a manner that protects the environment and the public health and safety.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/99	64 FR 22588
ANPRM Comment Period End	06/28/99	
NPRM	07/24/00	65 FR 45558
NPRM Comment Period End	01/19/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

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RIN: 3141–AA17

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Long-Term Actions

4383. HEARINGS AND APPEALS PROCEDURE

Priority: Other Significant

CFR Citation: 25 CFR 522 to 524; 25 CFR 533; 25 CFR 535; 25 CFR 539; 25 CFR 573; 25 CFR 575; 25 CFR 577

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Richard B. Schiff
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RIN: 3141–AA08

4384. ENFORCEMENT

Priority: Other Significant

CFR Citation: 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA09

4385. DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 502

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

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RIN: 3141–AA10

4386. MANAGEMENT CONTRACTS

Priority: Other Significant

CFR Citation: 25 CFR 531; 25 CFR 533; 25 CFR 536

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA14

NIGC — Long-Term Actions

4388. ADMINISTRATIVE FEES

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 514

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA16

4389. FREEDOM OF INFORMATION ACT PROCEDURES (AMENDMENTS)

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 517.3; 25 CFR 517.6; 25 CFR 517.8

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory Smith
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RIN: 3141–AA21

4390. GAMING FACILITY LICENSING STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 522.4(b)(6); 25 CFR 522.6(b)

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
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RIN: 3141–AA23

4391. • NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) IMPLEMENTING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4332

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation will establish rules for compliance with the National Environmental Policy Act (NEPA).

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Danna R. Jackson, Attorney, National Indian Gaming Commission, Suite 9100, 1441 L St., NW, Washington, DC 20005
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RIN: 3141–AA26

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Part LX

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354, "The Regulatory Flexibility Act," and Executive Order 12866, "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on November 30, 2000 (65 FR 74970).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1F21, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-7163 (e-mail: mtl@nrc.gov). Persons outside the Washington, DC, metropolitan area may call, toll-free: 1-800-368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action that has occurred on rules since publication of the last NRC semiannual agenda on November 30, 2000 (65 FR 74970). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through February 23, 2001. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the agenda.

The NRC agenda lists all open rulemaking actions, one of which is considered to be priority or major as defined in section 3(f) of Executive Order 12866.

Three rules affect small entities, one of which may potentially have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Rockville, Maryland, this 23rd day of February 2001.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services Office of Administration.

Nuclear Regulatory Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4392	Lessons Learned From Design Certification	3150-AG24
4393	Protection Against Discrete Radioactive Particles (DRPs) - A Unified Skin Dose Limit	3150-AG25
4394	Storage of Greater Than Class C Waste	3150-AG33
4395	Performance-Based, Risk-Informed Fire Protection	3150-AG48
4396	Changes to Adjudicatory Process	3150-AG49
4397	Decommissioning Trust Provisions	3150-AG52
4398	Release of Part of a Reactor Facility or Site for Unrestricted Use Before Receiving Approval of the License Termination Plan	3150-AG56
4399	Codes and Standards	3150-AG61
4400	Reduction in the Scope of Random Fitness-for-Duty Testing Requirements for Nuclear Power Reactor Licensees	3150-AG62
4401	Re-evaluation of Power Reactor Physical Protection Regulations and Position on a Definition of Radiological Sabotage	3150-AG63
4402	Transfers of Source Material From Licensees to Exempt Persons	3150-AG64
4403	Material Control and Accounting	3150-AG69
4404	Compatibility with IAEA Transportation Safety Standards	3150-AG71
4405	Revision of Fee Schedules; Fee Recovery, FY 2001	3150-AG73

NRC

Nuclear Regulatory Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4406	Fitness for Duty Programs	3150-AF12
4407	Submission of Documents Electronically; Minor Corrections	3150-AF61
4408	Medical Uses of Byproduct Material	3150-AF74
4409	Disposal of High-Level Radioactive Waste in a Proposed Geologic Repository at Yucca Mountain, Nevada	3150-AG04
4410	120-Month ISI/IST Update Requirement	3150-AG39
4411	Use of Simulators in Operator Licensing and Conforming Changes	3150-AG40
4412	Licensing Proceedings for the Receipt of High-Level Radioactive Waste at a Geologic Repository: Licensing Support Network, Design Standards for Participating Websites	3150-AG44

Nuclear Regulatory Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4413	Update Fuel Performance Considerations and Other Fuel Cycle Issues	3150-AA31
4414	Availability of Official Records	3150-AC07
4415	Disposal by Release Into Sanitary Sewerage	3150-AE90
4416	Geological and Seismological Characteristics of Spent Fuel Storage Systems	3150-AG16
4417	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste	3150-AG41
4418	Risk-Informing Special Treatment Requirements	3150-AG42
4419	Integrated Rulemaking for Decommissioning Nuclear Power Reactors	3150-AG47
4420	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	3150-AG65

Nuclear Regulatory Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
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4437	List of Approved Spent Fuel Storage Casks: VSC-24 Storage Casks, Amendment 3	3150-AG70
4438	List of Approved Spent Fuel Storage Casks: FuelSolutions Revision	3150-AG72

4392. LESSONS LEARNED FROM DESIGN CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 52

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations by revising the regulatory infrastructure to prepare for future applicants and involve changes to licensing procedures and will require combined license applicants and holders to crate, maintain, update, and use a PRA for the life of the facility. The final rule subsumes the rulemaking, "Standardized Plant Designs, Early Review of Sites Suitability Issues; Clarifying Amendments" (RIN AE25), that would remove redundant appendices M, N, O, and Q from part 50. These appendices are being removed because they became obsolete when part 52 was created. The part 52 rulemaking plan (SECY-98-282) was approved by the Commission on January 14, 1999.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG24

4393. PROTECTION AGAINST DISCRETE RADIOACTIVE PARTICLES (DRPS) - A UNIFIED SKIN DOSE LIMIT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish a unified skin dose limit that would apply to all skin dose situations including "hot particle" exposures. Based on discussions with industry and technical experts who have served on the NCRP/DRP committee, the NRC staff is recommending an approach to establishing a dose limit for dose to the skin from DRP that includes creating a unified skin dose limit. This limit would be applicable to all skin dose geometries and any source. This approach would require an advisory from the National Council on Radiation Protection and Measurements (NCRP) that would permit the NRC staff to use the NCRP recommended limit of "50 rem averaged over the highest exposed 10 square centimeters" for all exposures to the skin.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG25

4394. STORAGE OF GREATER THAN CLASS C WASTE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to include storage of Greater than Class C (GTCC) waste, that is, waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55(a)(2)(iv). It is anticipated that the decommissioning activities at nuclear power plants will generate relatively small volumes of GTCC waste. However, because there are currently no disposal options for GTCC waste, utilities must store these wastes under their part 50 licenses pending development of a disposal facility. The Department of Energy has the responsibility for developing a national strategy for disposal of GTCC waste. Based on current plans, this disposal capability will not likely be available for many years. This rulemaking will allow independent spent fuel storage installations to store GTCC waste similar to storage of spent fuel and facilitate the likely eventual transfer to a permanent geologic repository. This rulemaking will also respond to a petition for rulemaking submitted by the Portland General Electric Company (PRM-72-2).

Timetable:

Action	Date	FR Cite
NPRM	06/16/00	65 FR 37712
NPRM Comment Period End	08/30/00	
Final Rule	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3150–AG33

4395. PERFORMANCE-BASED, RISK-INFORMED FIRE PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would address the Commission's direction provided in the staff requirements memorandum dated April 1, 1999, to develop a performance-based, risk-informed alternative to the NRC's existing reactor fire protection requirements through the adoption of an industry consensus standard; NFPA 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants."

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
Final Action	11/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG48

4396. CHANGES TO ADJUDICATORY PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations concerning its rules of practice to make the agency's hearing process more efficient and effective. The proposed amendments would fashion hearing procedures that are tailored to the different types of licensing and regulatory activities the NRC conducts and would better focus and use the limited resources available to involved parties.

Timetable:

Action	Date	FR Cite
NPRM	04/16/01	66 FR 19610
NPRM Comment Period End	07/16/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG49

4397. DECOMMISSIONING TRUST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to ensure that decommissioning trust agreements are in a form acceptable to the NRC to increase assurance that decommissioning funds will be available for their intended purpose, especially in light of economic deregulation and restructuring of the electric utility industry. Based on past experience with the NRC approval of the transfer of the operating licenses of the Three Mile Island Unit 1 and Pilgrim Nuclear Power Stations, the staff believes that this rulemaking would expedite similar transfers in the future. The staff also intends to develop guidance, by revising Regulatory Guide 1.159, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," that will specify more fully the provisions of the decommissioning trust agreements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG52

4398. RELEASE OF PART OF A REACTOR FACILITY OR SITE FOR UNRESTRICTED USE BEFORE RECEIVING APPROVAL OF THE LICENSE TERMINATION PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 20; 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by adding a new section that would identify the criteria and regulatory framework that a licensee would use to request NRC approval for a partial site release. The rulemaking would provide additional assurance that residual radioactivity would meet the radiological criteria for license termination, even if parts of the site were released before a licensee submits its license termination plans. The rulemaking would clarify that the radiological criteria for unrestricted use apply to a partial site release. The rulemaking would not provide for a partial site release under restricted conditions. Also, the rulemaking would provide for a Subpart 2 hearing if a license amendment involving a partial site release is challenged.

The rulemaking would fill a gap identified during the NRC's consideration of a technical specification amendment request for the Oyster Creek Nuclear Generating Station to remove a restriction on the sale or lease of property within the exclusion area. During the Oyster Creek review, the NRC staff concluded that it is possible for a reactor licensee to sell land that would reduce the size of its site before the license termination criteria would specifically apply to the release of the property. If the sale does not involve the transfer of licensed material, it would not require NRC approval under current regulations. Currently, the NRC must consider changes to the site boundary of a reactor site on a case-by-case basis to ensure adequate protection of the public and the environment. Because several reactor licensees have expressed interest in selling parts of the sites before they receive approval of their license termination plans, the NRC staff believes the issues should be resolved generically by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG56

4399. CODES AND STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate by reference the following: (1) the 1997 Addenda, 1998 Edition, 1999 Addenda, and 2000 Addenda of Division 1 rules of Section III, "Rules for Construction of Nuclear Power Plant Components," of the American Society

of Mechanical Engineers Boiler and Pressure Vessel Code (ASME B.PV Code); (2) the 1997 Addenda, 1998 Edition, 1999 Addenda, and 2000 Addenda of Division 1 rules of Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," of the ASME B&PV Code; and (3) the 1997 Addenda, 1998 Edition, 1999 Addenda, and 2000 Addenda of the ASME Code for Operation and Maintenance of Nuclear Power Plants.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG61

4400. REDUCTION IN THE SCOPE OF RANDOM FITNESS-FOR-DUTY TESTING REQUIREMENTS FOR NUCLEAR POWER REACTOR LICENSEES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require random drug and alcohol testing of only those persons with unescorted access to vital areas, and eliminate random testing of employees who must physically report to the Technical Support Center or Emergency Operations Facility during an emergency. However, personnel with unescorted access to the protected area would continue to be covered by 10 CFR 26.24(a)(1) for pre-access fitness-for-duty testing and by 10 CFR 26.24(a)(3) for "for-cause" fitness-for-duty testing. The proposed amendment is expected to decrease burden by reducing the total numbers of tests conducted and the number of files maintained.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG62

4401. RE-EVALUATION OF POWER REACTOR PHYSICAL PROTECTION REGULATIONS AND POSITION ON A DEFINITION OF RADIOLOGICAL SABOTAGE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require power reactor licensees to conduct drills and exercises to evaluate their protective strategy against a simulated design basis threat (DBT) of radiological sabotage. The proposed rulemaking would also include supporting guidance documents and be more performance based.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	
Final Rule	11/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3150–AG63

4402. TRANSFERS OF SOURCE MATERIAL FROM LICENSEES TO EXEMPT PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 40

Legal Deadline: None

Abstract: The proposed rule would require Commission approval for transfers of unimportant quantities of source material (less than 0.05 percent by weight) to persons exempt from licensing requirements. The objective of this proposed action is to ensure that transfers of materials containing low concentrations of source material are adequate to protect public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG64

4403. • MATERIAL CONTROL AND ACCOUNTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 51; 10 CFR 61; 10 CFR 70; 10 CFR 72; 10 CFR 73; 10 CFR 74; 10 CFR 75; 10 CFR 76; 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would amend the reporting requirements for submitting material balance reports and inventory composition reports to provide more flexibility and to reduce the reporting frequency for most licensees. The proposed amendments would also revise the categorical exclusion for approving safeguards plans, relocate the remaining material control and accounting requirements in parts 70 through 74, make the material control and accounting requirements

for Category II facilities more risk-informed, and make other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG69

4404. • COMPATIBILITY WITH IAEA TRANSPORTATION SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 71

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on packaging and transporting radioactive material to make them compatible with the International Atomic Energy Agency (IAEA) standards and to codify other applicable requirements. These changes would be compatible with ST-1, the latest revision of the IAEA transportation standards. This rulemaking would also address the unintended economic impact of NRC's emergency final rule entitled, "Fissile Material Shipments and Exemptions" (February 10, 1997; 62 FR 5907), and a petition for rulemaking submitted by International Energy Consultants, Inc. (PRM-71-12)(February 19, 1998; 63 FR 8362).

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG71

4405. • REVISION OF FEE SCHEDULES; FEE RECOVERY, FY 2001

Priority: Economically Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: None

Abstract: The proposed rule would amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The rulemaking is necessary to recover the NRC's total budget authority for Fiscal Year (FY) 2001, less the amount appropriate for the Nuclear Waste Fund and the General Fund. The Omnibus Budget Reconciliation Act (OBRA) of 1990, as amended, requires that the NRC accomplish 100 percent recovery through the assessment of fees. However, in order to address fairness and equity concerns related to charging NRC licensees for agency expenses that do not provide a benefit to the licensee, the FY 2001 Energy and Water Development Appropriations Act requires that only 98 percent of the NRC's new budget authority (i.e., NRC's total budget authority, less the amount appropriated for the Nuclear Waste Fund and the General Fund) be collected from fees in FY 2001 — decreasing by 2 percent per year to 90 percent by FY 2005. The dollar amount to be recovered for FY 2001 is approximately $453.3 million. OBRA requires that the fees for FY 2001 must be collected by September 30, 2001.

Timetable:

Action	Date	FR Cite
NPRM	03/28/01	66 FR 16982
NPRM Comment Period End	04/27/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

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RIN: 3150–AG73

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

4406. FITNESS FOR DUTY PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to ensure compatibility with the Department of Health and Human Services guidelines, reduce unnecessary regulatory burden in some areas, clarify the Commission's original intent of the rule, and improve overall program effectiveness and efficiency. These revised requirements will reduce the industry-wide annual cost for all licensees to comply with Part 26 by approximately 27 million (or about $293 million over twenty years). The rulemaking will address the Regulatory Review Group items on audit frequency and annual submittal of data. The rulemaking will also address the petition for rulemaking submitted by the Virginia Electric and Power Company (VEPCO) (PRM-26-1).

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21105
NPRM Comment Period End	08/07/96	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF12

4407. SUBMISSION OF DOCUMENTS ELECTRONICALLY; MINOR CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 61; 10 CFR 62; 10 CFR 70; 10 CFR 71; 10 CFR 72; 10 CFR 73; 10 CFR 32; 10 CFR 34; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 52; 10 CFR 55; 10 CFR 60; 10 CFR 4; 10 CFR 9; 10 CFR 21; 10 CFR 20; 10 CFR 15; 10 CFR 19; 10 CFR 25; 10 CFR 30; 10 CFR 26; 10 CFR 31; 10 CFR 74; 10 CFR 75; 10 CFR 76; 10 CFR 81; 10 CFR 95; 10 CFR 110; 10 CFR 140; 10 CFR 150

Legal Deadline: None

Abstract: The direct final rule will permit voluntary electronic submission of documents and provide procedures for submitting documents electronically. In addition, the Agency-wide Documents Access and Management System (ADAMS) is now operational. Amending the regulations to permit electronic submission will facilitate the electronic capture of externally generated documents into ADAMS. The rulemaking will address and improve the document control and records management issues which are of concern to the NRC, its applicants, licensees, and members of the public by improving the process of communication, dissemination, and storage of records. In addition, the rulemaking will incorporate minor corrections to the current regulations regarding the submission of documents to the NRC, e.g., organizational, name, and phone number changes. This rulemaking is consistent with existing legislative and regulatory initiatives, such as the Paperwork Reduction Act of 1995, Office of Management and Budget Circular A-130 (Revised February 8, 1996), and the Government Paperwork Reduction Elimination Act of 1998, to reduce the information collection burden on the public and to make information more readily accessible to the public.

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

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RIN: 3150–AF61

4408. MEDICAL USES OF BYPRODUCT MATERIAL

Priority: Other Significant

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to reflect a more risk-based approach to the regulation of the medical uses of byproduct material. Performance-oriented requirements will allow licensees the flexibility to develop procedures appropriate to their uses of byproduct material. The revision would address training and experience requirements for authorized users, RSOs, authorized nuclear pharmacists, and authorized medical physicists. This rulemaking includes development of associated guidance. This rule also addresses a petition for rulemaking submitted by the University of Cincinnati (PRM-20-24).

Timetable:

Action	Date	FR Cite
ANPRM	08/06/97	62 FR 42219
ANPRM Comment Period End	03/01/98	
NPRM	08/13/98	63 FR 43516
NPRM Comment Period End	12/16/98	63 FR 64829
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AF74

4409. DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN A PROPOSED GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 063

Legal Deadline: Other, Statutory, Energy Policy Act of 1992.

Abstract: The final rule will establish regulations as directed by statute (Energy Policy Act of 1992) for the disposal of high-level waste at Yucca Mountain. The final rule will provide more specific criteria applicable to Yucca Mountain and would state that the more generic requirements in the existing part 60 do not apply and cannot be the subject of litigation in any NRC licensing proceeding for Yucca Mountain. The rule will also address a petition for rulemaking submitted by the States of Nevada and Minnesota (PRM-60-2/2A).

Timetable:

Action	Date	FR Cite
NPRM	02/22/99	64 FR 8640
NPRM Comment Period End	06/30/99	64 FR 24092
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG04

4410. 120-MONTH ISI/IST UPDATE REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: This rule would amend the Commission's regulations to require nuclear power plant licensees to update their inservice inspection and inservice testing programs every 120 months to comply with the version of the ASME code incorporated by reference into the regulations and in effect 12 months preceding the start of a new 120-month interval. The Commission disapproved this proposed rulemaking in a Staff Requirements Memorandum dated April 13, 2000, therefore, this rulemaking will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	04/27/99	64 FR 22580
NPRM Comment Period End	06/24/99	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG39

4411. USE OF SIMULATORS IN OPERATOR LICENSING AND CONFORMING CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 55

Legal Deadline: None

Abstract: The final rule will amend the Commission's regulations to promote more effective plant operating experience for initial license applicants through improved on-the-job training by allowing use of the simulation facility in lieu of the actual plant to satisfy the license eligibility requirement for performance of control manipulations that affect reactivity or power level. The rulemaking will also facilitate the adaptation of existing simulator support and requalification training programs to the 1998 revision of the national standard (ANSI/ANS-3.5) to eliminate recurring outdated, duplicate, and inefficient simulator performance testing and reporting requirements. This rulemaking will bring the NRC's current regulations up-to-date with evolutionary changes in simulation technology, training, and examination programs. This rulemaking will directly reduce unnecessary regulatory burden by eliminating the current requirement for submittal of certification and performance test reports on a quadrennial basis.

Timetable:

Action	Date	FR Cite
NPRM	07/03/00	65 FR 41021
NPRM Comment Period End	09/18/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3150–AG40

4412. LICENSING PROCEEDINGS FOR THE RECEIPT OF HIGH-LEVEL RADIOACTIVE WASTE AT A GEOLOGIC REPOSITORY: LICENSING SUPPORT NETWORK, DESIGN STANDARDS FOR PARTICIPATING WEBSITES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Legal Deadline: None

Abstract: The final rule will amend the Commission's Rules of Practice applicable to the use of the Licensing Support Network (LSN) for the licensing proceeding on the disposal of high-level waste at a geologic repository. The final amendments will establish the basic data structure and transfer standards (design standards) that LSN participant Web sites must use to make documentary material available. The final amendments will also clarify the authority of the LSN Administrator to establish guidance for LSN participants on how best to meet the design standards and to review participant designs for compliance with the standards. Finally, the amendments will clarify the timing of participant compliance certifications.

Timetable:

Action	Date	FR Cite
NPRM	08/22/00	65 FR 50937
NPRM Comment Period End	10/06/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 3150–AG44

4413. UPDATE FUEL PERFORMANCE CONSIDERATIONS AND OTHER FUEL CYCLE ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 51

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Second NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald P. Cleary
Phone: 301 415-3903
Email: dpc@nrc.gov

RIN: 3150–AA31

4414. AVAILABILITY OF OFFICIAL RECORDS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61013
NPRM Comment Period End	03/08/93	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine M. Holzle
Phone: 301 415-1560
Email: cmh@nrc.gov

RIN: 3150–AC07

4415. DISPOSAL BY RELEASE INTO SANITARY SEWERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	02/25/94	59 FR 9146
ANPRM Comment Period End	05/26/94	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lydia Chang
Phone: 301 415-6319
Email: tfy@nrc.gov

RIN: 3150–AE90

4416. GEOLOGICAL AND SEISMOLOGICAL CHARACTERISTICS OF SPENT FUEL STORAGE SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 072

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Keith McDaniel
Phone: 301 415-5252
Email: kkm@nrc.gov

RIN: 3150–AG16

4417. ADVANCE NOTIFICATION TO NATIVE AMERICAN TRIBES OF TRANSPORTATION OF CERTAIN TYPES OF NUCLEAR WASTE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 71; 10 CFR 73

Timetable:

Action	Date	FR Cite
ANPRM	12/21/99	64 FR 71331
ANPRM Comment Period End	07/05/00	65 FR 18010
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roger W. Broseus
Phone: 301 415-7608
Email: rwb@nrc.gov

RIN: 3150–AG41

4418. RISK-INFORMING SPECIAL TREATMENT REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 21; 10 CFR 50; 10 CFF 52; 10 CFR 54; 10 CFR 100

Timetable:

Action	Date	FR Cite
ANPRM	03/03/00	65 FR 11488
ANPRM Comment Period End	05/17/00	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim Reed
Phone: 301 415-1462
Email: tar@nrc.gov

RIN: 3150–AG42

4419. INTEGRATED RULEMAKING FOR DECOMMISSIONING NUCLEAR POWER REACTORS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Huffman
Phone: 301 415-1141
Email: wch@nrc.gov

RIN: 3150–AG47

4420. • NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 4

Legal Deadline: None

Abstract: The proposed rule would incorporate the Civil Rights Restoration Act's definitions of "program or activity" and "program" into Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1972, and the Age Discrimination Act of 1975, and would promote consistent and adequate enforcement of these studies.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marva C. Gary, Nuclear Regulatory Commission, Office of Small Business and Civil Rights, Washington, DC 20555-0001
Phone: 301 415-7382
Email: mcg@nrc.gov

RIN: 3150–AG65

4421. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Legal Deadline: None

Abstract: The final rule revises the criteria for an extraordinary nuclear occurrence (ENO) to eliminate the problems encountered in the Three Mile Island ENO determination. The Commission has determined that this rulemaking is unnecessary, and withdraws this proposed rule. This notice of withdrawal also addresses a petition for rulemaking submitted by the Public Citizen Litigation Group and the Critical Mass Energy Project (PRM-140-1).

Timetable:

Action	Date	FR Cite
Withdrawn	10/23/00	65 FR 63221

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry S. Tovmassian, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3092
Email: hst@nrc.gov

RIN: 3150–AB01

4422. DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 70

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to provide a risk-informed performance-based regulation for certain licensees authorized to possess a critical mass of special nuclear material. Concurrent with this amendment, companion support guidance documents are being developed for issuance. The rule requires affected licensees to conduct an integrated safety analysis to identify potential accidents at the facility and the items relied on for safety. This rulemaking also addresses a petition for rulemaking submitted by the Nuclear Energy Institute (PRM-70-7). This rulemaking, with the exception of section 70.76, is effective October 18, 2000. Section 70.76 will become effective after the issuance of staff guidance for the implementation of that provision. Once this guidance has been developed, the NRC will publish a Federal Register notice specifying the effective date of section 70.76.

Timetable:

Action	Date	FR Cite
Final Rule	09/18/00	65 FR 56211
Final Rule Effective	10/18/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew Persinko, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6522
Email: axp1@nrc.gov

RIN: 3150–AF22

4423. REPORTING REQUIREMENTS FOR NUCLEAR POWER REACTORS AND INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS AT POWER REACTOR SITES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50; 10 CFR 72

Legal Deadline: None

Abstract: The final rule changes the event reporting requirements for nuclear power reactors contained in sections 50.72 and 50.73 to better align the reporting requirements with the NRC's need for information to carry out its safety mission; reduce the reporting burden consistent with the NRC's needs, clarify the reporting requirements, and maintain consistency with NRC actions to improve integrated plant assessments.

Timetable:

Action	Date	FR Cite
Final Rule	10/25/00	65 FR 63769
Final Rule Effective	01/23/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis P. Allison, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1178
Email: dpa@nrc.gov

RIN: 3150–AF98

4424. REQUIREMENTS FOR CERTAIN GENERALLY LICENSED INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 31; 10 CFR 32

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations for certain industrial devices containing byproduct material to include more specific provisions for a registration and accounting program, including associated fees, and modification of the quarterly transfer reporting requirements for manufacturers and initial distributors of these industrial devices. The rule also modifies the reporting, recordkeeping, and labeling requirements for specific licensees who distribute these generally licensed devices they possess, and to ensure that general licensees are aware of and understand the requirements for the possession of devices containing byproduct material.

Timetable:

Action	Date	FR Cite
Final Rule	12/18/00	65 FR 79162
Final Rule Effective	02/16/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6264
Email: crm@nrc.gov

RIN: 3150–AG03

4425. USE OF POTASSIUM IODIDE (KI) BY THE GENERAL PUBLIC AFTER A SEVERE ACCIDENT AT A NUCLEAR POWER PLANT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to require that consideration be given to include the use of potassium iodide (KI) in conjunction with sheltering and evacuation as a protective measure for the general public. The rulemaking addresses two petitions for rulemaking submitted by Peter Crane (PRM-50-63 and PRM-50-63A).

Timetable:

Action	Date	FR Cite
Final Rule	01/19/01	66 FR 5427
Final Rule Effective	04/19/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3224
Email: mtj1@nrc.gov

RIN: 3150–AG11

4426. NEW DOSIMETRY TECHNOLOGY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 2073; 42 USC 2111

CFR Citation: 10 CFR 020; 10 CFR 034; 10 CFR 036; 10 CFR 039

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to allow licensees to use any type of personnel dosimeter that requires processing to determine the radiation dose, provided that the processor of the dosimeter is accredited to process this type of dosimeter under the National Voluntary Laboratory Accreditation Program, operated by the National Institute of Standards and Technology.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/24/00	65 FR 63750
Direct Final Rule Effective	01/08/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Betty Ann Torres, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-0191
Email: bat@nrc.gov

RIN: 3150–AG21

4427. LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE NAC - UMS CASK

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to add the NAC-UMS cask system to the List of Approved Spent Fuel Storage Casks. This rulemaking allows the holders of power reactor operating licenses to store spent fuel in the NAC-UMS cask system under a general license.

Timetable:

Action	Date	FR Cite
Final Rule	10/19/00	65 FR 62581
Final Rule Effective	11/20/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6234
Email: spt@nrc.gov

RIN: 3150–AG32

4428. QUALITY ASSURANCE PROGRAM CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations to allow licensees to make unilateral changes to their QA programs. The NRC is terminating its plans to develop a voluntary option alternative to its regulations to allow licensees to make unilateral changes to the QA program description. This action is being taken because the petitioner, the Nuclear Energy Institute, has withdrawn the remaining issues raised in its petition for rulemaking submitted on June 8, 1995 (PRM-50-62).

Timetable:

Action	Date	FR Cite
Withdrawn	12/06/00	65 FR 76178

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert L. Peltis Jr., Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation
Phone: 301 415-3214
Email: rlp4@nrc.gov

RIN: 3150–AG45

4429. RELOCATION OF NRC'S PUBLIC DOCUMENT ROOM; MINOR CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 1; 10 CFR 2; 10 CFR 7; 10 CFR 19; 10 CFR 20; 10 CFR 21; 10 CFR 30; 10 CFR 35; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 53; 10 CFR 55; 10 CFR 60; 10 CFR 61; 10 CFR 70; ...

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to reflect the relocation of the NRC's Public Document Room from Washington, DC, to the NRC Headquarters offices in Rockville, Maryland.

Timetable:

Action	Date	FR Cite
Final Rule	09/11/00	65 FR 54865
Final Rule Effective	09/26/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas E. Smith, Nuclear Regulatory Commission, Office of the Chief Information Officer, Washington, DC 20555-0001
Phone: 301 415-7204
Email: tes@nrc.gov

RIN: 3150–AG46

4430. EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 110

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations pertaining to the export and import of nuclear equipment and materials. This rulemaking is necessary to reflect the nuclear non-proliferation policies of the Executive Branch and U.S. Government obligations under nuclear agreements for cooperation, and to update the export controls of the United States in respect to the multilateral export control recommendations of the Nuclear Nonproliferation Treaty Exporters Committee (Zangger Committee) and the Nuclear Suppliers Group, of which the United States is a member. Also, this final rule makes certain editorial revisions, and corrects typographical errors.

Timetable:

Action	Date	FR Cite
Final Rule	11/22/00	65 FR 70287
Final Rule Effective	12/22/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne Schuyler-Hayes, Nuclear Regulatory Commission, Office of International Programs, Washington, DC 20555-0001
Phone: 301 415-2333
Email: ssh@nrc.gov

RIN: 3150–AG51

4431. LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE FUEL SOLUTIONS CASK

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to add the Fuel Solutions cask system to the list of approved spent fuel storage casks so that holders of operating power reactor licenses can use this cask under a general license.

Timetable:

Action	Date	FR Cite
Final Rule	01/16/01	66 FR 3444
Final Rule Effective	02/15/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6234
Email: spt@nrc.gov

RIN: 3150–AG54

4432. LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE NAC-UMS CASK

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to revise Certificate of Compliance (COC) No. 1015 for the NAC International (NAC) NAC-UMS Universal Storage System (NAC-UMS). This revision permits two changes to the NAC-UMS cask design. First, the maximum spent fuel burnup limit is increased from 45,000 to 50,000 MWD/MTU [megawatt days per metric ton of uranium]. Second, the storage of damaged spent fuel is permitted in a damaged fuel container. The rule allows the holders of power reactor operating licenses to store spent fuel in the NAC-UMS cask system under a general license.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/07/00	65 FR 76895
Direct Final Rule Effective	02/20/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith McDaniel, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-5252
Email: kkm@nrc.gov

RIN: 3150–AG57

4433. TERMINATION OF SECTION 274I AGREEMENT BETWEEN THE STATE OF LOUISIANA AND THE NRC

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 150

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by removing the specific reference to the inspection agreement, referred to as the 274i Agreement, with the State of Louisiana. The 274i Agreement allowed the State of Louisiana to perform inspections or other functions in offshore waters adjacent to Louisiana on behalf of the NRC. This action is necessary due to a letter from the Governor of Louisiana requesting termination of the Agreement. In it, he noted difficulties arranging transportation and lack of both financial and personnel resources that made it burdensome to conduct offshore activities for the NRC. The State of Louisiana and the NRC have concluded that the 274i Agreement is no longer needed and is terminating the 274i Agreement.

Timetable:

Action	Date	FR Cite
Final Rule	01/19/01	66 FR 5441
Final Rule Effective	01/19/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie P. Bush-Goddard, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6257
Email: spb@nrc.gov

RIN: 3150–AG60

4434. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: TN-32 REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The direct final rule amends the Commission's regulations to revise the Transnuclear, Inc.,TN-32 cask system listing in the List of Approved

Spent Fuel Storage Casks to include Amendment No. 1 to the Certificate of Compliance. This amendment allows holders of power reactor operating licenses to store an additional type of spent fuel, B.W/FCF 17x17 Mark BW fuel assembly, in TN-32 cask under the revised conditions. This amendment also allows analysis of verification of allowable seismic loads.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/05/00	65 FR 75853
Direct Final Rule Effective	02/20/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roger W. Broseus, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-7608
Email: rwb@nrc.gov

RIN: 3150–AG66

4435. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: HI-STAR 100 CASK SYSTEM, AMENDMENT 2

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The direct final rule amends the Commission's regulations to revise the Certificate of Compliance No. 1008 for the HI-STAR 100 cask system. This change modifies the specifications for the cask pad and foundation. The changes will give individual cask users more flexibility in designing the site-specific cask pads.

Timetable:

Action	Date	FR Cite
Final Action	03/13/01	66 FR 14483
Final Action Effective	05/29/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6234
Email: spt@nrc.gov

RIN: 3150–AG67

4436. • NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 5

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to include a list of the types of Federal financial assistance activities administered by the NRC under Title IX of the Education Amendments of 1972, as amended (Title IX). Title IX prohibits recipients of Federal financial assistance from discriminating on the basis of sex in education programs or activities. Subpart F of the Title IX common rule (August 30, 2000; 65 FR 52858) requires each Federal agency that awards Federal financial assistance to publish in the Federal Register a list of Federal financial assistance administered by that Agency.

Timetable:

Action	Date	FR Cite
Final Rule	01/04/01	66 FR 708
Final Rule Effective	02/05/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marva C. Gary, Nuclear Regulatory Commission, Office of Small Business and Civil Rights, Washington, DC 20555-0001
Phone: 301 415-7382
Email: mcg@nrc.gov

RIN: 3150–AG68

4437. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: VSC-24 STORAGE CASKS, AMENDMENT 3

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The direct final rule amends the Commission's regulations to revise the Certificate of Compliance No. 1007 for the VSC-24 cask system. This change modifies the fuel specifications for Combustion Engineering 16 x 16 spent fuel stored in the VSC-24 cask system.

Timetable:

Action	Date	FR Cite
Final Action	03/06/01	66 FR 13407
Final Action Effective	05/21/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6234
Email: spt@nrc.gov

RIN: 3150–AG70

4438. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: FUELSOLUTIONS REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The direct final rule amends the Commission's regulations to revise the Certificate of Compliance No. 1026 for the FuelSolutions cask system. This change, Amendment No. 1, modifies the present cask system design to allow the Big Rock Point nuclear reactor facility to store mixed-oxide fuel assemblies, partial fuel assemblies, and damaged fuel assemblies (in a can) under a general license.

Timetable:

Action	Date	FR Cite
Final Action	02/27/01	66 FR 12435
Final Action Effective	05/14/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gordon Gundersen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555-0001
Phone: 301 415-6195

Email: geg1@nrc.gov

RIN: 3150–AG72

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May 14, 2001

Part LXI

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-7968, 34-44154, 35-27373, 39-2389, IC-24926, IA-1936, File No. S7-09-01]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions, pursuant to the Regulatory Flexibility Act. Information in the agenda was accurate on March 30, 2001, the date on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries. The Commission provides notice under section 610 of the Regulatory Flexibility Act, which requires a review of certain rules and public notice of the intent to perform those reviews, at the end of the calendar year in a separate **Federal Register** publication.

DATES: Public comments are due by June 29, 2001.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549-0609. All submissions should refer to File No. S7-09-01 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address. Interested persons may also submit comments electronically at the following e-mail address: rule-comments@sec.gov. We will post electronically submitted comment letters on the Commission's website www.sec.gov.

FOR FURTHER INFORMATION CONTACT: David R. Fredrickson or Constancio B. Cater, Office of the General Counsel, 202-942-0890.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164) (September 19, 1980) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter that is included in the agenda (5 U.S.C. 602(d)). The agenda includes new entries, entries carried over from previous publications, and rulemaking actions that have been completed (or withdrawn) since publication of the last agenda.

The RFA also requires agencies to review rules that have a significant economic impact on a substantial number of small entities within 10 years and to provide public notice of the intent to perform those reviews (5 U.S.C. 610(a)). The Commission provides that notice annually by separate publication in the **Federal Register** at the end of the calendar year. In addition, the notice of rules that the Commission is reviewing in 2001 is published on the Commission's website www.sec.gov/smbus.

The following abbreviations for the acts administered by the Commission are used in the agenda:

"Securities Act" - Securities Act of 1933

"Exchange Act" - Securities Exchange Act of 1934

"PUHCA" - Public Utility Holding Company Act of 1935

"Investment Company Act" - Investment Company Act of 1940

"Investment Advisers Act" - Investment Advisers Act of 1940

The Commission's regulatory flexibility agenda is set forth below. The Commission invites public comment on the agenda and on the individual agenda entries.

Dated: April 5, 2001.
By the Commission.
Jonathan G. Katz,
Secretary.

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4439	Industry Guide 3-Statistical Disclosure by Bank Holding Companies	3235-AI10
4440	Asset-Backed Securities Disclosure	3235-AF74
4441	Streamlining Rule 144	3235-AH13
4442	Disclosure of Equity Compensation Plan Information	3235-AI01
4443	Revision of Multijurisdictional Disclosure System	3235-AH99
4444	Mandated EDGAR Filing for Foreign Issuers	3235-AI08
4445	Updating the Regulation A Offering Circular	3235-AH87
4446	Financial Reporting and Blank Check Companies	3235-AH88
4447	Lock-Up Agreements	3235-AI09
4448	Securities Act Communications Reform	3235-AI11

SEC

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4449	Addressing Abuses of Form S-8 by Companies Using Consultants To Raise Capital	3235-AG94
4450	Revisions to Rules Governing Options Disclosure Document	3235-AH31

DIVISION OF CORPORATION FINANCE—Completed Actions

Sequence Number	Title	Regulation Identification Number
4451	Integration of Abandoned Offerings	3235-AG83
4452	Delivery of Proxy Statements and Information Statements to Households	3235-AH66

DIVISION OF INVESTMENT MANAGEMENT—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4453	Books and Records To Be Maintained by Investment Advisers	3235-AH24
4454	Custody or Possession of Funds or Securities of Clients	3235-AH26
4455	Principal Transactions With Investment Advisory Clients	3235-AH34
4456	Exemption for Investment Advisors Operating Through the Internet	3235-AI15
4457	Certain Thrift Institutions Deemed Not To Be Investment Advisers	3235-AI16
4458	Shareholder Report and Financial Statement Revisions	3235-AG64
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4462	Mergers of Certain Affiliated Investment Companies	3235-AH81
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4467	PUHCA: Exemption for Certain Acquisitions of Foreign Utility Companies; Subsidiaries Authorized To Perform Services or Construction or To Sell Goods	3235-AF78
4468	Electronic Recordkeeping By Public Utility Holding Companies	3235-AI12

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4469	Political Contributions by Certain Investment Advisers	3235-AH72
4470	Certain Broker-Dealers Not Deemed To Be Investment Advisers	3235-AH78
4471	Amendments to Form ADV	3235-AI17
4472	Treatment of Repurchase Agreements and Refunded Securities as an Acquisition of the Underlying Securities	3235-AH56
4473	Exemption for the Acquisition of Securities During the Existence of an Underwriting or Selling Syndicate	3235-AH57
4474	Insurance Products: New Form N-6 for Registration of Separate Accounts Offering Variable Life Insurance Contracts	3235-AG37

DIVISION OF INVESTMENT MANAGEMENT—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4475	Electronic Recordkeeping Rules	3235-AI14
4476	Exemption for Subsidiaries Organized To Finance Operations of Domestic or Foreign Companies; Certain Prima Facie Investment Companies	3235-AE95

SEC

DIVISION OF INVESTMENT MANAGEMENT—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4477	Exemption From Section 101(c)(1) of the Electronic Signatures in Global and National Commerce Act for Registered Investment Companies	3235-AH93
4478	Insurance Products: Equity Index Insurance Products Concept Release	3235-AH23

DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identification Number
4479	Role of Independent Directors of Investment Companies	3235-AH75
4480	Electronic Filing by Investment Advisers; Amendments to Form ADV; Technical Amendments	3235-AI04
4481	Investment Company Names	3235-AH11
4482	Mutual Fund Fee Disclosure	3235-AI00
4483	Mutual Fund After-Tax Returns	3235-AH77
4484	Status of Subsidiary Companies Formed To Hold Interests in Foreign Utility Companies	3235-AF79

DIVISION OF MARKET REGULATION—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4485	Amendments to the Penny Stock Rules in Light of the Electronic Signatures in Global and National Commerce Act	3235-AI02
4486	Amendments to Rule 15b9-1—Exemption for Certain Exchange Members	3235-AI03

DIVISION OF MARKET REGULATION—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4487	Net Capital Rule: Customer Protection Rule	3235-AH05
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4490	Untimely Announcement of Record Dates	3235-AH38
4491	Proposed Rule Changes of "Self-Regulatory Organizations"	3235-AI06
4492	Methods of Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow Based Security Index	3235-AI13
4493	Purchases of Certain Equity Securities by the Issuers and Others	3235-AH37
4494	Exemption From Exchange Act Section 11(d)(1) for Securities of Foreign Issuers Sold on an Installment Basis	3235-AH58
4495	Net Capital Rule Concept Release	3235-AH29
4496	Concept Release: Short Sales	3235-AH84

DIVISION OF MARKET REGULATION—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4497	Net Capital Requirements for Brokers or Dealers	3235-AD79
4498	Market Risk Haircuts for Instruments Subject to Interest Rate Risk	3235-AG18
4499	Amendments to Rules 17a-3 and 17a-4 Under the Securities Exchange Act of 1934	3235-AH04
4500	Proposed Amendments to Transfer Agent Rules	3235-AG24
4501	Electronic Submission of Securities Transaction Information by Exchange Members, Brokers, and Dealers	3235-AH69
4502	Exemption of the Securities of the Republic of Portugal Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities	3235-AH76
4503	Tender and Reorganization Agents	3235-AH53

SEC

DIVISION OF MARKET REGULATION—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4504	Net Capital Requirements for Brokers or Dealers—Definition of the Term Nationally Recognized Statistical Rating Organization	3235-AH28
4505	Publication or Submission of Quotations Without Specified Information	3235-AH40
4506	Destruction of Cancelled Securities Certificates	3235-AH54
4507	Recordkeeping Requirements for Transfer Agents	3235-AH74

DIVISION OF MARKET REGULATION—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4508	Large Trader Reporting System	3235-AE42
4509	Definition of Terms in Sections 3(a)(4) and 3(a)(5) of the Securities and Exchange Act of 1934	3235-AI19

DIVISION OF MARKET REGULATION—Completed Actions

Sequence Number	Title	Regulation Identification Number
4510	Amendment to Rule 11Ac1-1	3235-AH00
4511	Amendments to National Market System Plan	3235-AH92
4512	Disclosure of Order Routing and Execution Practices	3235-AH95
4513	The Firm Quote and Trade-Through Disclosure Rules for Options	3235-AH96
4514	Amendments to Rule 9b-1 Under the Securities Exchange Act of 1934 ("Exchange Act") Relating to the Options Disclosure Document	3235-AH30

OFFICES AND OTHER PROGRAMS—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4515	International Accounting Standards	3235-AH65
4516	Management Reports on Internal Controls	3235-AH97
4517	Proposal to Amendment Disclosure Requirements Related to Derivative Financial Instruments and Derivative Commodity Instruments	3235-AH98

OFFICES AND OTHER PROGRAMS—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4518	Supplemental Financial Information	3235-AH86

OFFICES AND OTHER PROGRAMS—Completed Actions

Sequence Number	Title	Regulation Identification Number
4519	Auditor Independence	3235-AH91
4520	Adjustments to Civil Monetary Penalties	3235-AI07

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Corporation Finance

Proposed Rule Stage

4439. • INDUSTRY GUIDE 3-STATISTICAL DISCLOSURE BY BANK HOLDING COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 77a et seq; 5 USC 78a et seq

CFR Citation: 17 CFR 229; 17 CFR 231; 17 CFR 241

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Securities Act Industry Guide 3 and Exchange Act Industry Guide 3, Statistical Disclosure by Banking Holding Companies, to update it and apply it more broadly to registrants engaging in lending, investing, or deposit-taking activities, rather than just to banks and bank holding companies. The revisions also would likely take into account changes in financial reporting rules and the increasingly diverse lending and investing activities that expose registrants to credit risk.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Carol Stacey, Securities and Exchange Commission, Division of Corporation Finance
Phone: 202 942-2960

RIN: 3235–AI10

4440. ASSET-BACKED SECURITIES DISCLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 78o; 15 USC 78w; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission amendments to revise rules and forms, which would specify disclosure requirements for asset-backed securities transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Bianchine, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AF74

4441. STREAMLINING RULE 144

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.144

Legal Deadline: None

Abstract: The Commission proposed revisions to Rule 144, Rule 145, and Form 144 to make the rules and form easier to understand and apply. The Division is considering recommending that the Commission repropose amendments that would, among other things, add a bright line test to the Rule 144 definition of affiliate, increase the Form 144 filing thresholds, and codify certain interpretive positions.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9246
NPRM Comment Period End	04/29/97	
Second NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Raymond A. Be, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AH13

4442. DISCLOSURE OF EQUITY COMPENSATION PLAN INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 240.14a-101; 17 CFR 229.202; 17 CFR 228.202

Legal Deadline: None

Abstract: The Commission has proposed amendments to Regulations S-K and S-B, Regulations 14A and 14C, and Forms 10K and 10KSB that will require annual disclosure of the total number of securities authorized for issuance under a registrant's employee stock plans, whether or not approved by shareholders, and certain related information.

Timetable:

Action	Date	FR Cite
NPRM	02/01/01	66 FR 8732
NPRM Comment Period End	04/02/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Raymond A. Be, Office of Rulemaking, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AI01

4443. REVISION OF MULTIJURISDICTIONAL DISCLOSURE SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 78aaa et seq

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose revisions to the Multijurisidictional Disclosure System for Canadian registrants that would integrate them into the Commission's foreign issuer disclosure system in a manner more consistent with all other foreign registrants. The proposals would limit the scope of the MJDS, including the number of companies eligible to use the system and the circumstances under which they may use it, while preserving MJDS filer's ability to make offerings in the United States using Canadian offering documents and without review by Commission staff.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Mary Cascio, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549
Phone: 202 942-2990
Fax: 202 942-9624

RIN: 3235–AH99

4444. • MANDATED EDGAR FILING FOR FOREIGN ISSUERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 232

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments that would require foreign issuers to file electronically on EDGAR their Securities Act and Exchange Act registration statements and their Exchange Act reports and other documents. Thus far, foreign issuers have only voluntarily filed their securities documents on EDGAR. By extending mandated EDGAR filing rules to foreign issuers, we hope to achieve the same efficiencies in information dissemination sought when we adopted the mandated EDGAR filing regime for domestic issuers in 1993.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Elliot Staffin, Securities and Exchange Commission, Division of Corporation Finance
Phone: 202 942-2990

RIN: 3235–AI08

4445. UPDATING THE REGULATION A OFFERING CIRCULAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 239.0

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to the Model A offering circular in the Regulation A offering statement to conform it to a State registration statement format.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH87

4446. FINANCIAL REPORTING AND BLANK CHECK COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq

CFR Citation: 17 CFR 249.308

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Form 8-K that would remove the grace period for filing financial statements in a blank check company merger.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH88

4447. • LOCK-UP AGREEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230; 17 CFR 240

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose a new rule under the Securities Act to clarify how to register securities that acquiring companies issue to certain target security holders who enter into lock-up agreements in connection with acquisition transactions. We also would propose corresponding exemptions from certain Exchange Act rules to allow for the execution of lock-up agreements without violation of the applicable rules.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Pamela Carmody, Securities and Exchange Commission, Division of Corporation Finance
Phone: 202 942-2920

RIN: 3235–AI09

4448. • SECURITIES ACT COMMUNICATIONS REFORM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 77a et seq

CFR Citation: Not Yet Determined

SEC—Division of Corporation Finance

Proposed Rule Stage

SEC—Division of Corporation Finance — **Proposed Rule Stage**

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose modifications to the Securities Act restrictions on communications by issuers and underwriters around the time of a registered offering. The Division is focusing on the section 5 restrictions on pre-filing offers and free writing and the Securities Act rules that permit limited types of communication during those periods. In addition, the Division is examining the requirements for delivery of final prospectuses.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Anita Klien, Securities and Exchange Commission, Division of Corporation Finance
Phone: 202 942-2980

RIN: 3235–AI11

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Corporation Finance — **Final Rule Stage**

4449. ADDRESSING ABUSES OF FORM S-8 BY COMPANIES USING CONSULTANTS TO RAISE CAPITAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 78w; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o

CFR Citation: 17 CFR 239.16b; 17 CFR 228.402; 17 CFR 229.402; 17 CFR 230.101; 17 CFR 230.405; 17 CFR 239.13

Legal Deadline: None

Abstract: The Commission proposed additional amendments to Form S-8 requirements to further deter the misuse of that form. The proposals would add a timeliness requirement for filings under the Exchange Act in order to use the form. In addition, a company formed by merger of a non-public company into an Exchange Act reporting company with only nominal assets at the time of merger would have to wait until it had filed an Exchange Act annual report containing audited financial statements reflecting the merger before it could use Form S-8. The Commission also extended the comment period on the proposal in Release No. 33-7506 to require disclosure in Part II of Form S-8 of the names of consultants who will receive securities, the number of securities to be issued to each of them, and the specific services that each will provide.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9648
NPRM Comment Period End	04/27/98	
Final Rule	03/08/99	64 FR 11103
Second NPRM	03/08/99	64 FR 11118
Final Rule Effective	04/07/99	
Second NPRM Comment Period End	05/07/99	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AG94

4450. REVISIONS TO RULES GOVERNING OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.135b

Legal Deadline: None

Abstract: The Commission proposed amendments to provide that an options disclosure document prepared in accordance with Rule 9b-1 under the Exchange Act is not a prospectus and accordingly will not be subject to civil liability under section 12(a)(2) of the Securities Act.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136
NPRM Comment Period End	07/31/98	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raymond A. Be, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AH31

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Corporation Finance — **Completed Actions**

4451. INTEGRATION OF ABANDONED OFFERINGS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Commission adopted new Rule 155 under the Securities Act to provide safe harbors for a registered offering following an abandoned private offering, or a private offering following an abandoned registered offering, without integrating the registered and private offerings in either case. This new rule is intended to enhance an issuer's ability to switch with a private offering to registered offering, or vice versa, in response to changing market conditions. To facilitate reliance on the public-to-private safe harbor, the Commission amended Securities Act Rule 477 to provide automatic effectiveness for any application to withdraw an entire registration statement before it becomes effective unless the Commission objects within 15 days after the issuer files that application. The Commission also amended Rules 429 and 457 to move provisions addressing the offset of filing fees to Rule 457. We also amended Rule 457 to permit filing fees to be offset from withdrawn registration statements and to provide other technical changes to calculation of filing fees. These amendments, along with new Rule 155, are intended to reduce the financial risk of a registered offering that is withdrawn.

Timetable:

Action	Date	FR Cite
Notice With Request for Comments	07/31/96	61 FR 40044
Notice Comment Period End	09/30/96	
NPRM	12/04/98	63 FR 67174
NPRM Comment Period Extended	03/30/99	64 FR 15143
NPRM Comment Period End	04/05/99	
NPRM Comment Period Extended	06/30/99	
Final Action	02/05/01	66 FR 8887
Final Action Effective	03/07/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anne Krauskopf, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AG83

4452. DELIVERY OF PROXY STATEMENTS AND INFORMATION STATEMENTS TO HOUSEHOLDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240.14a-3; 17 CFR 240.14c-3

Legal Deadline: None

Abstract: The Commission adopted revisions to the proxy rules to permit companies, brokers, banks, and similar intermediaries to deliver a single copy of proxy or information statements to more than one investor if they share the same address.

Timetable:

Action	Date	FR Cite
NPRM	11/16/99	64 FR 62548
NPRM Comment Period End	01/18/00	
Final Action	11/02/00	65 FR 65736
Final Action Effective	12/04/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth M. Murphy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AH66

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Investment Management — **Proposed Rule Stage**

4453. BOOKS AND RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending that the Commission update the books and records requirements for investment advisers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Don L. Evans, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AH24

4454. CUSTODY OR POSSESSION OF FUNDS OR SECURITIES OF CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 275.206(4)-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending a proposal to the Commission to revise the custody rule under the Investment Advisers Act of 1940.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jennifer Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AH26

4455. PRINCIPAL TRANSACTIONS WITH INVESTMENT ADVISORY CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6a

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending that the Commission revise the conditions under which

investment advisers may enter into principal transactions with their clients.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Karen Goldstein, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AH34

4456. • EXEMPTION FOR INVESTMENT ADVISORS OPERATING THROUGH THE INTERNET

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3a(c)

CFR Citation: 17 CFR 275.203A-2

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending a proposal to the Commission to permit certain investment advisers operating through the internet to register with the Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Jennifer Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AI15

4457. • CERTAIN THRIFT INSTITUTIONS DEEMED NOT TO BE INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-2(a)(11)(F)

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending a proposal to the Commission to except from the definition of investment adviser thrift institutions providing investment advice to certain clients.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer L. Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AI16

4458. SHAREHOLDER REPORT AND FINANCIAL STATEMENT REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77j; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 270.30d-1

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose revisions to improve investment company shareholder reports, including enhancing disclosure of fee information and revising the portfolio holdings disclosure requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter Hong, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG64

4459. PROPOSED AMENDMENTS IN INVESTMENT COMPANY ADVERTISING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 80a-8; 15 USC 80a-22; 15 USC 80a-24(g); 15 USC 80a-29; 15 USC 80a-37; 15 USC 77g

CFR Citation: 17 CFR 230.482; 17 CFR 230.134

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose to amend Rule 482, to permit advertisements that are not subject to restrictions limiting the content to information "the substance of which" is in a fund's prospectus. The Division is also considering whether to recommend that the Commission propose to amend Rule 134 to rescind provisions of Rule 134 that apply only to investment companies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kimberly Browning, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AH19

4460. DEPOSITS OF SECURITIES IN SECURITIES DEPOSITORIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-4

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to Rule 17f-4, which governs the use of securities depositories for custody of the assets of management investment companies. The amendments would, among other things, update and simplify the rule's compliance requirements to reflect changes in commercial law, expand the types of entities that may be used as securities depositories, and permit investment company officers to authorize depository arrangements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jaea F. Hahn, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG71

4461. AFFILIATE TRANSACTION RULE AMENDMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-10(f)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending to the Commission amendments to rules to expand the circumstances in which funds may engage in transactions with affiliates and to allow certain types of funds or their investment advisers to enter into subadvisory agreements for investment management services without obtaining shareholder approval.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam B. Glazer, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH80

4462. MERGERS OF CERTAIN AFFILIATED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(a); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17a-8

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending to the Commission that it amend Rule 17a-8 under the Investment Company Act, which exempts from the prohibitions of section 17(a) mergers and other combinations of certain affiliated investment companies. The amendments would expand the rule to make it available in a broader range of circumstances and would alter the conditions required for reliance on the rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hester M. Peirce, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH81

4463. • ELECTRONIC RECORDKEEPING BY INVESTMENT COMPANIES AND INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-30, 80a-37(a), 80b-4, 80b-6(4)

CFR Citation: 17 CFR 270.31a2; 17 CFR 275.204-2

Legal Deadline: Other, Statutory, March 1, 2001, Under the Electronic Signatures in Global and National Commerce Act of 2000, an agency can announce, propose or initiate rulemaking with respect to its recordkeeping provisions by March 1, 2001.

Abstract: The Commission announced on March 1, 2001, that the staff of the Division of Investment Management is considering proposals to its recordkeeping rules for investment companies and investment advisers. Subsequently, the Commission has proposed that Rule 31a-2 under the Investment Company Act of 1940 and Rule 204-2 under the Investment Advisers Act of 1940 be amended to permit registered investment companies and registered investment advisers to maintain and preserve required records on electronic media regardless of whether they were originally created or received by the investment company or adviser in an electronic format. The Commission is proposing these rule amendments in response to the enactment of the Electronic Signatures in Global and National Commerce Act of 2000, which encourages Federal agencies to accommodate electronic recordkeeping.

Timetable:

Action	Date	FR Cite
NPRM	03/19/01	66 FR 15369
NPRM Comment Period End	04/19/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Clark Middlebrooks, Attorney, Office of Regulatory Policy, Securities and Exchange Commission, Stop 0506, 450 5th Street NW, Washington, DC 20549
Phone: 202 942-0690

RIN: 3235–AI05

4464. AMENDMENTS TO FORM N-SAR, SEMIANNUAL REPORT OF REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 249.330; 17 CFR 274.101

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission

amend Form N-SAR, the semiannual report for registered investment companies, to update the items of the form.

Timetable:

Action	Date	FR Cite
NPRM	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn A. Miller, Office of Financial Analysis, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0510

RIN: 3235–AF93

4465. AMENDMENTS TO THE CASH SOLICITATION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6; 15 USC 80-11(a)

CFR Citation: 17 CFR 275.206(4)-3

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend revisions to the cash solicitation rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jennifer L. Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AH33

4466. • RULEMAKING FOR EDGAR SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 78ll; 15 USC 77sss; 15 USC 79c; 15 USC 79e; 15 USC 79f; 15 USC 79g; 15 USC 79j; 15 USC 79l; 15 USC 79m; 15 USC 79n; 15 USC 79q; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-30; 15 USC 80a-37

CFR Citation: 17 CFR 232.101 to 601

Legal Deadline: None

Abstract: In connection with the ongoing modernization of the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system, the staff is considering recommending that the Commission propose amendments to existing rules and forms to make technical and clarifying corrections and to expand the categories of mandatory electronic filings to include investment company exemptive applications and certain other investment company filings.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Shaswat K. Das, Senior Counsel, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0650

RIN: 3235–AI18

4467. PUHCA: EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN UTILITY COMPANIES; SUBSIDIARIES AUTHORIZED TO PERFORM SERVICES OR CONSTRUCTION OR TO SELL GOODS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79e; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79z-5a; 15 USC 79z-5b; 15 USC 79; 15 USC 79j; 15 USC 79l; 15 USC 79m; 15 USC 79n; 15 USC 79o

CFR Citation: 17 CFR 250.55 (New); 17 CFR 250.87 (Revision); 17 CFR 259.5s (Revision); 17 CFR 259.207 (Revision)

Legal Deadline: None

Abstract: Proposed rule 55 is intended to provide a safe harbor for those acquisitions of one or more foreign utility companies by a registered holding company that meet specified criteria. Proposed rule 56, previously considered in RIN 3235-AF79, clarifies that a subsidiary of a registered holding company that is engaged exclusively in the business of owning an interest in one or more foreign utility companies will be deemed a foreign utility company. The proposed amendment to rule 87 would require registered holding companies to obtain Commission approval of intrasystem agreements involving foreign utility companies and exempt wholesale generators.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Second NPRM	02/07/01	66 FR 9247
Second NPRM Comment Period End	04/09/01	
Next Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Related to RIN 3235-AF79

Agency Contact: Alberto Zapata, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0545

RIN: 3235–AF78

4468. • ELECTRONIC RECORDKEEPING BY PUBLIC UTILITY HOLDING COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79o; 15 USC 79t

CFR Citation: 17 CFR 257.1

Legal Deadline: Other, Statutory, March 1, 2001, Under the Electronic Signatures in Global and National Commerce Act of 2000, an agency can announce, propose, or initiate rulemaking with respect to its recordkeeping provisions by March 1, 2001.

Abstract: The Commission announced on March 1, 2001, that the staff of the Division of Investment Management is considering proposals to the Commission to revise and update the recordkeeping requirements for Public Utility Holding Companies to include the usage of electronic media. Subsequently, the Commission has proposed rule amendments that would expand the approved recordkeeping methods to allow the use of modern information technology.

Timetable:

Action	Date	FR Cite
NPRM	03/23/01	66 FR 16158
NPRM Comment Period End	04/23/01	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Victoria J. Adraktas, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0545

RIN: 3235–AI12

SECURITIES AND EXCHANGE COMMISSION (SEC) — Final Rule Stage

Division of Investment Management

4469. POLITICAL CONTRIBUTIONS BY CERTAIN INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 206(4); 15 USC 211(a); 15 USC 204

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The Commission has proposed new Rule 206(4)-5, which would prohibit an investment adviser from providing advisory services for compensation to a Government client for 2 years after the adviser or any of its partners, executive officers, or solicitors makes a contribution to certain elected officials or candidates.

The Commission also has proposed rule amendments that would require a registered adviser that has Government clients to maintain certain records of the political contributions made by the adviser or any of its partners, executive officers, or solicitors.

Timetable:

Action	Date	FR Cite
NPRM	08/10/99	64 FR 43556
NPRM Comment Period End	11/01/99	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marilyn Barker, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AH72

4470. CERTAIN BROKER-DEALERS NOT DEEMED TO BE INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-2(a)(11)(F)

CFR Citation: 17 CFR 275.202(a)(11)-1

Legal Deadline: None

Abstract: The Commission has proposed new Rule 202(a)(11)-1, which would exempt from the definition of investment adviser those broker-dealers offering nondiscretionary, full-service brokerage programs so long as the investment advice provided is solely incidental to the brokerage services and other conditions are satisfied.

Timetable:

Action	Date	FR Cite
NPRM	11/10/99	64 FR 61226
NPRM Comment Period End	01/14/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: Jennifer L. Sawin, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AH78

4471. • AMENDMENTS TO FORM ADV

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4, 80b-6(4), 80bll(a), 80b-3(c)(1); 15 USC 77s(a); 15 USC 78(a), 78bbb(e)(2); 15 USC 77sss(a); 15 USC 78(s)-37(a)

CFR Citation: 17 CFR 275.204-2; 17 CFR 275.204-3; 17 CFR 275.206(4)-4; 17 CFR 279.1

Legal Deadline: None

Abstract: Last year, the Commission proposed amendments to Form ADV and related rules to create an electronic filing system for investment advisers and to improve the quality of information that advisers must provide to clients and prospective clients. The proposed amendments to Form ADV and the final amendments to Part 1 of Form ADV were published under RIN 3235-AD21. The Commission deferred adoption of the final amendments to Part 2 of Form ADV, however. Final action on amendments to Part 2 of the Form ADV (and related rules), if approved by the Commission, will be published under the new RIN.

Timetable:

Action	Date	FR Cite
NPRM	04/05/00	65 FR 20524
NPRM Comment Period End	06/13/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Marticha L. Cary, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, Room 5013, 450 5th Street NW, Washington, DC 20549

SEC—Division of Investment Management — **Final Rule Stage**

Phone: 202 942-0716
Email: carym@sec.gov

RIN: 3235–AI17

4472. TREATMENT OF REPURCHASE AGREEMENTS AND REFUNDED SECURITIES AS AN ACQUISITION OF THE UNDERLYING SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.2a-7; 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The Commission proposed a new Rule 5b-3 that would permit investment companies to "look through" specific repurchase agreements to the securities that collateralize them for the purposes of section 5(b)(1) and 12(d)(3) of the Investment Company Act and to "look through" specific pre-refunded bonds to escrowed securities for the purposes of section 5(b)(1) of the Act. The Commission also proposed conforming amendments to Rule 2a-7 and Rule 12d3-1.

Timetable:

Action	Date	FR Cite
NPRM	09/29/99	64 FR 52476
NPRM Comment Period End	11/23/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hugh P. Lutz, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH56

4473. EXEMPTION FOR THE ACQUISITION OF SECURITIES DURING THE EXISTENCE OF AN UNDERWRITING OR SELLING SYNDICATE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-30(a); 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 10f-3 under the Investment Company Act (i) to permit investment companies to purchase Government securities during the existence of an underwriting or selling syndicate in which an affiliate is participating and (ii) for purposes of calculating the rule's percentage limit to require aggregation of the purchase made by an investment company in reliance on the rule with purchases by any other investment company advised by the investment company's investment adviser and any other account over which the adviser exercises control.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76189
NPRM Comment Period End	02/15/01	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hester M. Peirce, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH57

4474. INSURANCE PRODUCTS: NEW FORM N-6 FOR REGISTRATION OF SEPARATE ACCOUNTS OFFERING VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission proposed a new Form N-6 to be used for separate accounts offering variable life insurance contracts to register under both the Investment Company Act and the Securities Act. Currently, most insurance company separate accounts are organized as unit investment trusts (UITs) and register their interests on Form S-6. Form S-6 was developed for UITs generally, and not specifically for insurance company separate accounts that offer interests in variable life insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/23/98	63 FR 13988
NPRM Comment Period End	07/01/98	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: William J. Kotapish, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0670

RIN: 3235–AG37

SECURITIES AND EXCHANGE COMMISSION (SEC) — **Long-Term Actions**
Division of Investment Management

4475. • ELECTRONIC RECORDKEEPING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a; 15 USC 80b; 15 USC 79; 15 USC 78a

CFR Citation: 17 CFR 270.31a-2; 17 CFR 275.204-2; 17 CFR 257.1; 17 CFR 240.17a-4; 17 CFR 240.17a-3; 17 CFR 240.17Aa-7

Legal Deadline: Other, Statutory, March 1, 2001, Under the Electronic Signatures in Global and National Commerce Act of 2000, an agency can announce, propose, or initiate rulemaking with respect to its recordkeeping provisions by March 1, 2001.

Abstract: Under the Federal securities laws, regulated entities, including registered broker-dealers, transfer agents, investment companies, and investment advisers, and public utility holding companies, must keep certain records of their activities. The Commission currently allows these entities to keep certain records electronically, subject to standards designed to protect investors' interests, the financial stability of regulated entities, and generally to further the purposes of the Federal securities laws. The Electronic Signatures in Global and National Commerce Act of 2000 ("ESign") is intended to remove unnecessary impediments to the use of electronic records in commerce, while preserving the ability of agencies like the Commission to reconcile ESign's policy with the statutes they administer. The Commission will act shortly to provide interpretive guidance and, where appropriate, propose or adopt rules consistent with ESign.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/01	
Next Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: This action has been jointly prepared by the staffs from the Divisions of Investment Management, and Market Regulation and Corporation Finance

Agency Contact: Martha Bronaugh Peterson, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

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Phone: 202 942-2900

RIN: 3235–AI14

4476. EXEMPTION FOR SUBSIDIARIES ORGANIZED TO FINANCE OPERATIONS OF DOMESTIC OR FOREIGN COMPANIES; CERTAIN PRIMA FACIE INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a); 15 USC 77s; 15 USC 78w

CFR Citation: 17 CFR 270.3a-5; 17 CFR 270.3a-1; 17 CFR 230.489; 17 CFR 239.43

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to expand Rule 3a-5 to permit, among other things, finance subsidiaries of U.S. banks and insurance companies to rely on the rule. The staff also is considering whether to recommend that the Commission propose amendments to Rule 3a-1 to eliminate a requirement that has prevented certain holding companies of foreign banks and foreign insurance companies from relying on that rule.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jaea F. Hahn, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AE95

4477. EXEMPTION FROM SECTION 101(C)(1) OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT FOR REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77s(a)

CFR Citation: 17 CFR 230.160; 17 CFR 231; 17 CFR 271

Legal Deadline: Other, Statutory, July 28, 2000, section 104(d)(2) of the Electronic Signatures Act in Global and National Commerce Act (PL 106-229).

Abstract: The Commission adopted interim final rule 160 under the Securities Act of 1933 to exempt from the consumer consent requirements of the Electronic Signatures in Global and National Commerce Act prospectuses of registered investment companies that are used for the sole purpose of permitting supplemental sales literature to be provided to prospective investors. Parts 231 and 271 of title 17 were amended by adding Release Nos. 33-7877 and IC-24582 to the list of interpretative releases.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/00	65 FR 47281
Interim Final Rule Comment Period End	09/01/00	
Interim Final Rule Effective	10/01/00	
Next Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Cellupica, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AH93

4478. INSURANCE PRODUCTS: EQUITY INDEX INSURANCE PRODUCTS CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.151

SEC—Division of Investment Management — **Long-Term Actions**

Legal Deadline: None

Abstract: The Commission issued a release requesting public comment on the structure of equity index insurance products, the manner in which they are marketed, and any other matters the Commission should consider in addressing Federal securities law issues raised by equity index insurance products.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/97	62 FR 45359
ANPRM Comment Period End	01/05/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William J. Kotapish, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0670

RIN: 3235–AH23

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Investment Management — Completed Actions

4479. ROLE OF INDEPENDENT DIRECTORS OF INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-8; 15 USC 80a-24(a); 15 USC 80a-20(a); 15 USC 80a-29(e); 15 USC 80a-30; 15 USC 80a-37; 15 USC 78n; 15 USC 78w(a)(1); 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); ...

CFR Citation: 17 CFR 270.2a19-1; 17 CFR 270.2a19-3; 17 CFR 270.10f-3; 17 CFR 270.12b-1; 17 CFR 270.15a-4; 17 CFR 270.17a-7; 17 CFR 270.17d-1; 17 CFR 270.17e-1; 17 CFR 270.17g-1; 17 CFR 270.18f-3; 17 CFR 270.23c-3; 17 CFR 270.30d-1; 17 CFR 270.31a-2; 17 CFR 274.11A; 17 CFR 274.11a-1; 17 CFR 274.11b; 17 CFR 240.14a-101; 17 CFR 270.17a-8; ...

Legal Deadline: None

Abstract: The Commission adopted new rules and form amendments under the Investment Company Act to enhance the independence and effectiveness of investment company ("fund") boards of directors and to better enable shareholders to assess the independence of directors. The form amendments require funds to disclose in their proxy statements, annual reports, and registration statements more information regarding fund directors, including, among other things, directors' potential conflicts of interest.

Timetable:

Action	Date	FR Cite
NPRM	11/03/99	64 FR 59826
NPRM Comment Period End	01/28/00	
Final Action	01/02/01	66 FR 3734
Final Action Effective	02/15/01	
Final Action Effective (Rescission of 270.2a19-1)	05/12/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jaea F. Hahn, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH75

4480. • ELECTRONIC FILING BY INVESTMENT ADVISERS; AMENDMENTS TO FORM ADV; TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-3(c)(1), 80b-11(a), 80b-4; 15 USC 77s(a); 15 USC 78w(a) and 78bb(e)(2); 15 USC 77sss(a); 15 USC 78a-37(a)

CFR Citation: 17 CFR 275.203-1, 203-3, 204-1; 17 CFR 279.1, 279.2, 279.3, 279.4

Legal Deadline: None

Abstract: The Commission made technical revisions to forms and rules under the Investment Advisers Act of 1940, correcting amendments adopted in September 2000.

Timetable:

Action	Date	FR Cite
Final Action	12/21/00	65 FR 81737
Final Action Effective	01/01/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer B. McHugh, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AI04

4481. INVESTMENT COMPANY NAMES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-290, sec 208

CFR Citation: 17 CFR 270.35d-1 (New)

Legal Deadline: None

Abstract: The Commission adopted a rule that requires a registered investment company with a name that suggests certain investments to invest at least 80 percent of its assets in the types of investments suggested by its name.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 10955
NPRM Comment Period End	06/09/97	
Final Action	02/01/01	66 FR 8509
Final Action Effective	03/31/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Cellupica, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AH11

4482. MUTUAL FUND FEE DISCLOSURE

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

SEC—Division of Investment Management — **Completed Actions**

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Agenda because it will be considered in connection with RIN 3235-AG64

Timetable:

Action	Date	FR Cite
Merged With RIN 3235-AG64	04/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Peter Hong, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AI00

4483. MUTUAL FUND AFTER-TAX RETURNS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77e, 77f, 77g, 77j, 77s(a); 15 USC 80a-8, 80a-24(a), 80a-29, 80a-37; 15 USC 77e, 77j(b), and 77s(a)

CFR Citation: 17 CFR 239.15A and 274.11A (Form N-1A); 17 CFR 230.482; 17 CFR 270.34b-1

Legal Deadline: None

Abstract: The Commission adopted form and rule amendments that require mutual funds to disclose after-tax returns based on standardized formulas comparable to the formulas currently used to calculate before-tax annual total returns. The amendments also require funds to include standardized after tax returns in advertisements and other sales materials that either include after-tax returns or that represent or imply that the fund is managed to limit or control the effect of taxes on performance.

Timetable:

Action	Date	FR Cite
NPRM	03/22/00	65 FR 15500
NPRM Comment Period End	06/30/00	
Final Action	02/05/01	66 FR 9002
Final Action Effective	04/16/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Peter Hong, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AH77

4484. STATUS OF SUBSIDIARY COMPANIES FORMED TO HOLD INTERESTS IN FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79f(b); 15 USC 79t; 15 USC 79z-5a; 15 USC 79z-5b

CFR Citation: 17 CFR 250.56 (New)

Legal Deadline: None

Abstract: The Division is withdrawing this proposed rule which would have clarified that a subsidiary of a registered holding company that is engaged exclusively in the business of owning an interest in one or more foreign utility companies will be deemed to be a foreign utility company. This proposal will be considered in connection with RIN 3235-AF78.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Withdrawn	04/01/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This RIN is being withdrawn because the project is merged with 3235-AF78

Agency Contact: Alberto Zapata, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0545

RIN: 3235–AF79

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Market Regulation — Prerule Stage

4485. AMENDMENTS TO THE PENNY STOCK RULES IN LIGHT OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c(h); 15 USC 78o(g)

CFR Citation: 17 CFR 240.15g-2(c); 17 CFR 240.15g-9(e)

Legal Deadline: None

Abstract: Interim rules 15g-2(c) and 15(g)-9(e) under the Exchange Act will provide that if a broker-dealer accepts a customer's electronic signature instead of a manual signature, the broker-dealer must wait at least 2 business days after receiving the electronically signed document to effect a penny stock transaction for its customer. In addition, a broker-dealer accepting an electronically transmitted penny stock agreement must wait at least 2 business days after receiving the agreement to execute a penny stock transaction for a customer.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AI02

SEC—Division of Market Regulation — Prerule Stage

4486. AMENDMENTS TO RULE 15B9-1—EXEMPTION FOR CERTAIN EXCHANGE MEMBERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(a); 15 USC 78o(b); 15 USC 78o-4(a)(2); 15 USC 78o-5(a)(2); 15 USC 78w(a)

CFR Citation: 15 CFR 240.15b9-1(b)

Legal Deadline: None

Abstract: The Commission is proposing to amend Rule 15b9-1 under the Exchange Act, which provides broker-dealers with a conditional exemption from National Securities Association membership. The amendment would clarify that this exemption is not available for broker-dealers that are routinely engaged in a public securities business such as broker-dealers effecting transactions for day traders.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AI03

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Market Regulation — Proposed Rule Stage

4487. NET CAPITAL RULE: CUSTOMER PROTECTION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78h; 15 USC 78g

CFR Citation: 12 CFR 220; 17 CFR 240.3a12-11; 17 CFR 240.15c2-5; 17 CFR 240.15c3-1; 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Rules 3a12-11, 15c2-5, 15c3-1, and 15c3-3 under the Exchange Act reflecting changes to section 8 of the Act and to Regulation T under the Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

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RIN: 3235–AH05

4488. RISK ASSESSMENT RECORDKEEPING AND REPORTING REQUIREMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a(h)

CFR Citation: 17 CFR 240.17h-1T; 17 CFR 240.17h-2T

Legal Deadline: None

Abstract: The Risk Assessment Recordkeeping and Reporting Requirements, which became effective September 30, 1992, following notice and comment, were adopted as temporary rules pursuant to the Market Reform Act of 1990. These rules contain recordkeeping and reporting requirements with regard to material associated persons of broker-dealers. The Commission plans to propose final rules replacing the temporary rules during 2001.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH06

4489. EXEMPTION OF CERTAIN FOREIGN BROKERS AND DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78q; 15 USC 78u

CFR Citation: 17 CFR 240.15a-6

Legal Deadline: None

Abstract: Exchange Act Rule 15a-6, which was adopted to exempt conditionally foreign broker-dealers from registration in response to the internationalization of the securities markets, is premised in large part on the willingness of U.S. broker-dealers to take responsibility for resulting trades. The Commission is considering revising the rule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH17

SEC—Division of Market Regulation — Proposed Rule Stage

4490. UNTIMELY ANNOUNCEMENT OF RECORD DATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78j; 15 USC 78w

CFR Citation: 17 CFR 240.10b-17

Legal Deadline: None

Abstract: Pursuant to a petition of the NASD, the staff is considering recommending that the Commission consider amending Exchange Act Rule 10b-17 to clarify that it applies to distributions made to holders of direct participation program interests.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Nancy Oremland, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH38

4491. • PROPOSED RULE CHANGES OF "SELF-REGULATORY ORGANIZATIONS"

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c;; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s;; 15 USC 77z-2; 15 USC 77z-3; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78a; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78j-1; 15 USC 78d; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78u-5; 15 USC 78w; 15 USC 78x; 15 USC 78dd; 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 240.19b-6; 17 CFR 249.818; 17 CFR 249.820

Legal Deadline: None

Abstract: The Securities and Exchange Commission is proposing to adopt Rule 19b-6 to streamline the self-regulatory organization rule filing process. Proposed Rule 19b-6 would (1) require the Commission to publish proposed self-regulatory organization rules within a set time period after the proposed rules are filed with the Commission and (2) permit a greater number of self-regulatory organization rules to become effective upon filing.

Timetable:

Action	Date	FR Cite
NPRM	02/05/01	66 FR 8912
NPRM Comment Period End	04/06/01	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jack Drogin, Assistant Director, Securities and Exchange Commission, Division of Market Regulation
Phone: 202 942-0163

RIN: 3235–AI06

4492. • METHODS OF DETERMINING MARKET CAPITALIZATION AND DOLLAR VALUE OF AVERAGE DAILY TRADING VOLUME; APPLICATION OF THE DEFINITION OF NARROW BASED SECURITY INDEX

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c

CFR Citation: 17 CFR 240.3a55-1; 17 CFR 240.3a55-2

Legal Deadline: None

Abstract: Proposed Rule 3a55-1 will provide methods of calculating market capitalization and dollar value of average daily trading volume for purposes of determining whether a securities index is narrow-based pursuant to the definition in the Commodity Futures Modernization Act of 2000. Proposed Rule 3a55-2 will exempt from the definition of a narrow-based index certain securities indexes that have traded on futures markets for less than 30 days.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AI13

4493. PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUERS AND OTHERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.10b-18

Legal Deadline: None

Abstract: The Commission is considering proposing to simplify and update Rule 10b-18's provisions in light of market development since the Rule's adoption. Rule 10b-18 provides a safe harbor from liability under the anti-manipulation provisions of sections 9(a)(2) and 10(b) of the Exchange Act, and Rule 10b-5 thereunder, for issuer purchases of its common stock made in compliance with Rule 10b-18's manner, timing, price, and volume conditions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3235–AH37

SEC—Division of Market Regulation — **Proposed Rule Stage**

4494. EXEMPTION FROM EXCHANGE ACT SECTION 11(D)(1) FOR SECURITIES OF FOREIGN ISSUERS SOLD ON AN INSTALLMENT BASIS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq; 15 USC 78c; 15 USC 78k; 15 USC 78w; 15 USC 78jj

CFR Citation: 17 CFR 240.11d1-3

Legal Deadline: None

Abstract: The Commission is considering proposing a rule that would set forth a uniform set of conditions that, if met, would provide an automatic exemption from section 11(d)(1) of the Securities Exchange Act for international offerings of foreign issuers done on an installment basis if: (1) This sale is part of a foreign government offering or (2) the sale meets certain minimum market volume criteria and the foreign issuer meets a minimum market capitalization or (3) the shares offered in the United States are exempt from registration and will be sold only to qualified institutional buyers or institutional accredited investors.

Timetable:

Action	Date	FR Cite
NPRM	02/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Albrecht, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH58

4495. NET CAPITAL RULE CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission published a concept release soliciting comments on how the net capital rule may incorporate statistical models to calculate net capital requirements. This concept release also solicited comments and ideas on how the net capital rule could be further modified.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/97	62 FR 68011
ANPRM Comment Period End	03/30/98	
Extension of Comment Period to	05/04/98	63 FR 11173
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH29

4496. CONCEPT RELEASE: SHORT SALES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78j(a); 15 USC 78w

CFR Citation: 17 CFR 240.10a-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 10a-1, the short sale rule, the Commission published a concept release soliciting public comment on, among other things: Lifting the limits on short sales of exchange listed securities under advancing market conditions; providing an exception for actively traded securities; focusing short sale restrictions on certain market events and trading strategies; removing short sale restrictions on hedging transactions; revising short sale regulation in response to certain market developments; revising the definition of "short sale"; extending short sale regulation to non-exchange listed securities; and eliminating short sale regulation altogether.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/99	64 FR 57996
ANPRM Comment Period End	12/28/99	
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gregory J. Dumark, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH84

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Market Regulation — **Final Rule Stage**

4497. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 15c3-1, the net capital rule, that could raise the minimum net capital requirement for certain introducing broker-dealers, for other classes of broker-dealers that never receive customer securities, and for broker-dealers that make markets in securities. Under the proposal, haircuts on Government securities, investment grade corporate securities, certain mortgage-backed securities, interest rate swaps, and other interest rate-related derivative instruments would be determined by treating these instruments as part of a single portfolio.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/93	58 FR 27486
ANPRM Comment Period End	12/12/93	
NPRM	12/30/97	62 FR 67996
NPRM Comment Period End	03/30/98	
Extension of Comment Period to	05/04/98	63 FR 11173
Interim Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AD79

4498. MARKET RISK HAIRCUTS FOR INSTRUMENTS SUBJECT TO INTEREST RATE RISK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission proposed for comment an amendment to the net capital rule revising the percentage deductions from net worth, or haircuts, applicable to interest rate products when calculating net capital.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57027
Interim Final Rule	12/02/92	57 FR 56973
NPRM Comment Period End	02/05/93	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

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RIN: 3235–AG18

4499. AMENDMENTS TO RULES 17A-3 AND 17A-4 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; ...

CFR Citation: 17 CFR 240 (Revision)

Legal Deadline: None

Abstract: The Commission reproposed for comment amendments to the broker-dealer books and records rules which are designed to clarify and expand recordkeeping requirements with respect to purchase and sale documents, customer records, associated person records, customer complaints, and certain other matters.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55593
NPRM Comment Period End	03/31/97	
Second NPRM	10/09/98	63 FR 54404
Second NPRM Comment Period End	11/09/98	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: This action may have federalism implications as defined in EO 13132.

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RIN: 3235–AH04

4500. PROPOSED AMENDMENTS TO TRANSFER AGENT RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 240.17Ad-2(a); 17 CFR 240.17Ad-2(c); 17 CFR 240.17Ad-2(e)(1); 17 CFR 240.17Ad-2(e)(2); 17 CFR 240.17Ad-10; 17 CFR 240.17Ad-12

Legal Deadline: None

Abstract: The Commission has proposed amendments to certain transfer agent rules regarding turnaround time, recordkeeping, and safekeeping of funds. The proposed amendments to the transfer agent rules are designed to minimize disruptions, particularly in the National Clearance and Settlement System for securities,

that may be caused by poor turnaround performance, substandard or inaccurate recordkeeping practices, and inadequate safekeeping procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/08/94	59 FR 63662
NPRM Comment Period End	02/06/95	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AG24

4501. ELECTRONIC SUBMISSION OF SECURITIES TRANSACTION INFORMATION BY EXCHANGE MEMBERS, BROKERS, AND DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a; 15 USC 78q; 15 USC 78c; 15 USC 78j; 15 USC 78w; 15 USC 78mm

CFR Citation: 17 CFR 240.17a-25

Legal Deadline: None

Abstract: The Securities and Exchange Commission proposed Rule 17a-25, which would require registered broker-dealers to submit securities transaction information in an electronic format when requested by the Commission staff for enforcement and other regulatory purposes. The proposed rule would improve the Commission's capacity to use electronic submissions of transaction information to analyze transactions by entities that trade through multiple accounts maintained at multiple broker-dealers.

Timetable:

Action	Date	FR Cite
NPRM	05/08/00	65 FR 26534
NPRM Comment Period End	08/07/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 3235–AH69

4502. EXEMPTION OF THE SECURITIES OF THE REPUBLIC OF PORTUGAL UNDER THE SECURITIES EXCHANGE ACT OF 1934 FOR PURPOSES OF TRADING FUTURES CONTRACTS ON THOSE SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77z-2; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78j-1; 15 USC 78k; 15 USC 78k-1; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78u-5; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 78mm; 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11; 15 USC 78a et seq; 15 USC 18c(a)(12); 15 USC 78w(a)

CFR Citation: 17 CFR 240.3a12-8

Legal Deadline: None

Abstract: The Commission proposed for comment an amendment to Rule 3a12-8 that would designate debt obligations issued by the Republic of Portugal as "exempted securities" for the purpose of marketing and trading futures contracts on those securities in the United States. This amendment is intended to permit futures trading on the sovereign debt of Portugal.

Timetable:

Action	Date	FR Cite
NPRM	07/29/99	64 FR 41056
NPRM Comment Period End	08/30/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Statutory basis for Rule 3a12-8 in particular: 15 USC 78a et seq. particularly sections 3(a)(12) and 23(a), 15 USC 78c(a)(12) and 78w(a).

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RIN: 3235–AH76

4503. TENDER AND REORGANIZATION AGENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78k-1(a)(1)(B); 15 USC 78n(d)(4); 15 USC 78o(c)(3); 15 USC 78o(c)(6); 15 USC 78q-1(a); 15 USC 78q-1(d)(1); 15 USC 78w(a)

CFR Citation: 17 CFR 240.17Ad-14

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 17Ad-14 under the Securities Exchange Act of 1934. The amendments require the establishment of book-entry accounts in connection with reorganization events and would provide securities depositories with three business days after the expiration of a tender offer, exchange offer, or reorganization event in which to deliver physical securities certificates to the agents.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47209
NPRM Comment Period End	11/03/98	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3235–AH53

4504. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS—DEFINITION OF THE TERM NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78o; 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission issued a release proposing amendments to the net capital rule that would define the term Nationally Recognized Statistical Rating Organization (NRSRO) for purposes of the net capital rule and set forth the process for applying for NRSRO designation.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 68018
NPRM Comment Period End	03/02/98	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This proposal was based in part on comments received in response to a concept release (RIN 3235-AG41; 59 FR 46314), which is now combined in this rulemaking.

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RIN: 3235–AH28

4505. PUBLICATION OR SUBMISSION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(q); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: As part of its efforts to respond to fraud and manipulation in the microcap securities market, the Division submitted for Commission consideration final amendments to Rule 15c2-11. These amendments would limit the Rule's piggyback provision and increase public availability of issuer information. The amendments would modestly expand the information review requirements for non-reporting issuers and the documentation required for significant relationships between the broker-dealer and the issuer of the security to be quoted. Finally the amendments would exclude from the rule securities of larger, more liquid issuers.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9661
NPRM Comment Period End	04/27/98	
Second NPRM	03/08/99	64 FR 11124
Second NPRM Comment Period End	04/07/99	
Second NPRM Comment Period Extended to	05/08/99	64 FR 18393
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thomas D. Eidt, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH40

4506. DESTRUCTION OF CANCELLED SECURITIES CERTIFICATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-19

Legal Deadline: None

Abstract: The Commission proposed Rule 17Ad-19 to establish regulations for the destruction of cancelled securities certificates and to require each transfer agent to establish written procedures for the storage and destruction of cancelled securities certificates.

Timetable:

Action	Date	FR Cite
NPRM	10/02/00	65 FR 59766
NPRM Comment Period End	12/05/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thomas C. Etter Jr., Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH54

4507. RECORDKEEPING REQUIREMENTS FOR TRANSFER AGENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1(a)(2); 15 USC 78q-1(d)

CFR Citation: 17 CFR 240.17Ad-7(f)

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 17Ad-7 under the Securities Exchange Act of 1934 to allow registered transfer agents to use microfiche and to use electronic storage media to preserve the records that they are required to retain.

Timetable:

Action	Date	FR Cite
NPRM	06/02/99	64 FR 29608
NPRM Comment Period End	07/02/99	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Karasik, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH74

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Market Regulation

Long-Term Actions

4508. LARGE TRADER REPORTING SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c to 77d; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37; 15 USC 77s; 15 USC 77ttt; 15 USC 78c to 78d; 15 USC 78i to 78j; 15 USC 78l to 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has published for comment reproposed Exchange Act Rule 13h-1, which would require large traders to disclose accounts to the Commission and would require broker-dealers to maintain and report large trader transaction records to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7917
NPRM Comment Period End	04/18/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Alton Harvey, Division of Market Regulation, Office of Market Supervision, Securities and Exchange Commission
Phone: 202 942-4167
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RIN: 3235–AE42

4509. • DEFINITION OF TERMS IN SECTIONS 3(A)(4) AND 3(A)(5) OF THE SECURITIES AND EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 106-102

CFR Citation: 17 CFR 240.3a4-2; 17 CFR 240.3a4-3; 17 CFR 240.3a-51; 17 CFR 240.3b-17; 17 CFR 240.3b-18

Legal Deadline: Other, Statutory, May 12, 2001, Title II of the Gramm-Leach-Bliley Act requires banks to shift certain securities activities to registered broker-dealers by May 12, 2001.

Abstract: The Commission is considering issuing guidance to the meaning of terms added to the Securities Exchange Act of 1934 by the Gramm-Leach-Bliley Act of 1999.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lourdes Gonzalez, Assistant Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AI19

SECURITIES AND EXCHANGE COMMISSION (SEC)
Division of Market Regulation

Completed Actions

4510. AMENDMENT TO RULE 11AC1-1

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78k; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78k; 15 USC 78k-1; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; ...

CFR Citation: 17 CFR 240.11Ac1-1(a)(25)

Legal Deadline: None

Abstract: The Commission has amended Rule 11Ac1-1 under the Exchange Act to require both exchange and over-the-counter market makers to provide continuous two-sided quotations when they account for more than 1 percent of the aggregate trading volume of a security included on the Nasdaq Stock Market.

Timetable:

Action	Date	FR Cite
NPRM	08/29/96	61 FR 48333
Final Action	09/12/96	61 FR 48290
NPRM Comment Period End	11/12/96	
Final Action Effective	01/10/97	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Polise, Office of Market Structure, Division of Market Regulation, Securities and Exchange Commission
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Email: polisej@sec.gov

RIN: 3235–AH00

4511. AMENDMENTS TO NATIONAL MARKET SYSTEM PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78k-1(a)(3)(B)

CFR Citation: 17 CFR 240.11Aa3-2

Legal Deadline: None

Abstract: The Commission adopted amendments to the options price reporting authority plan for reporting of consolidated options last sale reports and quotation information.

Timetable:

Action	Date	FR Cite
NPRM	05/10/00	65 FR 30148
NPRM Comment Period End	06/09/00	
Final Action	11/27/00	65 FR 75563
Final Action Effective	02/01/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Roeser, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH92

SEC—Division of Market Regulation

Completed Actions

4512. DISCLOSURE OF ORDER ROUTING AND EXECUTION PRACTICES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 78k-1(c)(1)(B) & (E)

CFR Citation: 17 CFR 240.11Ac1-5; 17 CFR 240.11Ac1-6

Legal Deadline: None

Abstract: The Commission adopted two rules to improve public disclosure of order routing and execution practices. Under Rule 11Ac1-5 of the Securities Exchange Act of 1934 ("Exchange Act") market centers that trade national market system securities are required to make electronic reports relating to execution quality publicly available. Under Rule 11Ac1-6 of the Exchange Act, broker-dealers that route orders in equity securities and options on behalf of customers are required to make publicly available quarterly reports that describe their order routing practices.

Timetable:

Action	Date	FR Cite
NPRM	07/28/00	65 FR 47918
NPRM Comment Period End	09/18/00	
Final Action	11/17/00	65 FR 75439
Final Action Effective	02/01/01	
NPRM	07/28/00	65 FR 48406
NPRM Comment Period End	09/22/00	
Final Action	12/01/00	65 FR 75414
Final Action Effective (Rule IIAcl-5)	04/02/01	
Final Action Effective (Rule IIAcl-6)	07/02/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Susie Cho, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH95

4513. THE FIRM QUOTE AND TRADE-THROUGH DISCLOSURE RULES FOR OPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78c(b), 78e, 78f, 78k-1, 78o, 78q(a) & (b), 78r, and 78w

CFR Citation: 17 CFR 240.11Ac1-1; 17 CFR 240.11Ac1-7

Legal Deadline: None

Abstract: The Commission adopted amendments to Rule 11Ac1-1 under the Securities Exchange Act of 1934 ("Exchange Act") that require options exchanges and options market makers to publish firm quotes. In addition, the Commission adopted Rule 11Ac1-7, which requires a broker-dealer to disclose on its customer's confirmation statement when the customer's order was executed at a price inferior to a better published quote and what that better quote was, unless the transaction was effected on a market that is a participant in an intermarket options linkage plan approved by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136
NPRM Comment Period End	07/31/98	
Final Action	10/26/00	65 FR 64137

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3235–AH96

4514. AMENDMENTS TO RULE 9B-1 UNDER THE SECURITIES EXCHANGE ACT OF 1934 ("EXCHANGE ACT") RELATING TO THE OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78i; 15 USC 78w

CFR Citation: 17 CFR 240.9b-1

Legal Deadline: None

Abstract: The Commission adopted amendments to Exchange Act Rule 9b-1, which requires that an Options Disclosure Document (ODD) be sent to a customer opening an options account. The amendments make certain technical changes and codify practice as it has evolved over time. In paragraph (a)(3) of the Rule, the definition of "Options Disclosure Document" has been amended to explicitly state that amendments and supplements to the ODD are included as part of the ODD. Paragraphs (b)(2)(i), (b)(2)(ii), (c)(2), and (c)(3) have been amended to better reflect the type of information appropriately included in the ODD. Paragraphs (c)(4) and (c)(7) have been similarly amended. Paragraphs (d)(1)and (d)(2) have been amended to reflect a revised definition of "definitive options disclosure document." Finally, Paragraphs (d)(2) has been amended to make it consistent with technical changes to paragraphs (b)(2)(i) and (b)(2)(ii).

SECURITIES AND EXCHANGE COMMISSION (SEC)
Offices and Other Programs

Proposed Rule Stage

4515. INTERNATIONAL ACCOUNTING STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 210; 17 CFR 249.220f

Legal Deadline: None

Abstract: The Commission is reviewing comments received in response to a concept release on whether the Commission should recognize accounting standards promulgated by the International Accounting Standards Committee for purposes of cross-border offerings and listings by foreign companies. The staff is considering drafting appropriate rule proposals and recommendations to the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	02/23/00	65 FR 8896
ANPRM Comment Period End	05/23/00	
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Susan Koski-Grafer, Securities and Exchange Commission
Phone: 202 942-4400

RIN: 3235–AH65

4516. MANAGEMENT REPORTS ON INTERNAL CONTROLS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 79a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 210; 17 CFR 229

Legal Deadline: None

Abstract: The Office of the Chief Accountant is considering recommending that the Commission publish a release proposing that certain documents filed with the Commission contain a statement of management's responsibilities for the preparation of financial statements in accordance with generally accepted accounting principles and for a system of internal controls for the registrants financial reporting processes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John W. Albert, Associate Chief Accountant, Securities and Exchange Commission
Phone: 202 942-4400
Fax: 202 942-9656

RIN: 3235–AH97

4517. PROPOSAL TO AMENDMENT DISCLOSURE REQUIREMENTS RELATED TO DERIVATIVE FINANCIAL INSTRUMENTS AND DERIVATIVE COMMODITY INSTRUMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 79a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 210; 17 CFR 228; 17 CFR 229

Legal Deadline: None

Abstract: The Office of the Chief Accountant is considering recommending that the Commission publish a release: (1) Proposing amendments that would conform the Commission's disclosure requirements with Financial Accounting Standards No.133 and (2) soliciting additional comments on the utility, costs, and benefits of its disclosure requirements related to derivative financial instruments and derivative commodity instruments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jenifer Minke-Girard, Assistant Chief Accountant, Securities and Exchange Commission
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RIN: 3235–AH98

SECURITIES AND EXCHANGE COMMISSION (SEC)
Offices and Other Programs

Final Rule Stage

4518. SUPPLEMENTAL FINANCIAL INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 79a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 210; 17 CFR 229

Legal Deadline: None

Abstract: The Commission has proposed amendments to reposition within its regulation the requirement for certain registrants to disclose changes in their valuation and loss accrual accounts and to clarify the type of information to be disclosed. The Commission also is proposing amendments to its rules to require disclosure of information concerning tangible and intangible assets and related accumulated depreciation, depletion, and amortization.

Timetable:

Action	Date	FR Cite
NPRM	01/31/00	65 FR 4585
NPRM Comment Period End	04/17/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

SEC—Offices and Other Programs

Final Rule Stage

Agency Contact: John W. Albert, Associate Chief Accountant, Securities and Exchange Commission
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Fax: 202 942-9656

RIN: 3235–AH86

SECURITIES AND EXCHANGE COMMISSION (SEC)
Offices and Other Programs

Completed Actions

4519. AUDITOR INDEPENDENCE

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 79a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 210

Legal Deadline: None

Abstract: The Commission adopted amendments to its auditor independence regulations. The rule relates to, among other things, investments, family relationships, and services provided by an auditor to a Commission registrant that would impair the auditor's independence with respect to that registrant.

Timetable:

Action	Date	FR Cite
NPRM	06/30/00	65 FR 43148
NPRM Comment Period End	09/25/00	
Final Action	11/21/00	65 FR 76008

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: John M. Morrissey, Office of the Chief Accountant, Securities and Exchange Commission
Phone: 202 942-4400
Fax: 202 942-9656

RIN: 3235–AH91

4520. • ADJUSTMENTS TO CIVIL MONETARY PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461

CFR Citation: 17 CFR 201.1001; 17 CFR 201.1002; 17 CFR 201, subpart E

Legal Deadline: Final, Statutory, November 9, 2000, The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires the Commission to adjust the penalties for inflation every 4 years.

Abstract: On January 17, 2001, the Commission adopted a final rule adjusting the maximum amounts of the civil monetary penalties for the Securities Act of 1933, Securities Exchange Act of 1934, Investment Adviser Act of 1940, and the Investment Company Act of 1940. This rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires the Commission, at least once every 4 years, to adopt a regulation adjusting for inflation the maximum amount of civil monetary penalties provided for in statutes administered by the Commission. The purpose of the inflationary adjustment is that of maintaining the level of deterrence effectuated by the civil monetary penalties and not allowing such deterrent effect to be diminished by inflation.

Timetable:

Action	Date	FR Cite
Final Action	01/17/01	66 FR 8761
Final Action Effective	02/02/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Scot E. Draeger, Office of General Counsel, Securities and Exchange Commission
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RIN: 3235–AI07

[FR Doc. 01–9496 Filed 05–11–01; 8:45 am]
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Federal Register

Monday,
May 14, 2001

Part LXII

Surface Transportation Board

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 536 (Sub-No. 10)]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) current and projected rulemakings; and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule, including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda, which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules that will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its April 2001 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Unified Agenda is coordinated by the Office of Management and Budget (OMB), pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: February 16, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

Surface Transportation Board—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4521	Major Rail Consolidation Procedures, STB Ex Parte No. 582 (Sub-No. 1)	2140-AA56

Surface Transportation Board—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4522	Safe Implementation of Board-Approved Transactions, STB Ex Parte No. 574	2140-AA50
4523	Modification of the Carload Waybill Sample Reporting Procedures, STB Ex Parte No. 385 (Sub-No. 5)	2140-AA57
4524	Consolidated Railroad Reporting, STB Ex Parte No. 634	2140-AA58

SURFACE TRANSPORTATION BOARD (STB) — Proposed Rule Stage

4521. MAJOR RAIL CONSOLIDATION PROCEDURES, STB EX PARTE NO. 582 (SUB-NO. 1)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 49 USC 721; 49 USC 11323; 49 USC 11324; 49 USC 11325

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Surface Transportation Board seeks public comment on, and detailed proposals for, modifications to its regulations governing proposals for major rail consolidations.

Timetable:

Action	Date	FR Cite
ANPRM	03/31/00	65 FR 18021
ANPRM Comment Period End	06/05/00	
NPRM	10/03/00	65 FR 58974
NPRM Comment Period End	01/11/01	
Final Rule	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Julia Farr, Chief Counsel, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
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RIN: 2140–AA56

SURFACE TRANSPORTATION BOARD (STB) — Long-Term Actions

4522. SAFE IMPLEMENTATION OF BOARD-APPROVED TRANSACTIONS, STB EX PARTE NO. 574

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 49 USC 721; 49 USC 10901; 49 USC 10902; 49 USC 11323; 49 USC 11324; 49 USC 11325; 42 USC 4332

CFR Citation: 49 CFR 244; 49 CFR 1106

Legal Deadline: None

Abstract: The Surface Transportation Board and the Federal Railroad Administration (FRA) have proposed complementary regulations establishing procedures for the development and implementation of safety integration plans (SIPs) by railroads proposing to engage in certain merger, consolidation, or acquisition of control transactions with another railroad. Under the proposed rules, railroads seeking to consummate a Board-covered transaction would be required to file a written document with the FRA and the Board explaining how each step in implementing a contemplated transaction would be performed safely.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/97	62 FR 64193
ANPRM Comment Period End	02/19/98	
NPRM	12/31/98	63 FR 72225
NPRM Comment Period End	03/01/99	
Internal Review of Comments	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Evelyn Kitay, Attorney, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
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RIN: 2140–AA50

4523. • MODIFICATION OF THE CARLOAD WAYBILL SAMPLE REPORTING PROCEDURES, STB EX PARTE NO. 385 (SUB-NO. 5)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 49 USC 721; 49 USC 10707; 49 USC 11144; 49 USC 11145

CFR Citation: 49 CFR 1244

Legal Deadline: None

Abstract: The Surface Transportation Board solicits comments on modifying the Waybill Sample reporting regulations to require all railroads to identify international rail traffic moving from or through the United States and to report such traffic in the Waybill Sample as if the traffic had terminated at the United States border. The intent of this proposal is to ensure that the Waybill Sample reflects a representative sample of all railroad traffic moving on the United States rail system.

Timetable:

Action	Date	FR Cite
NPRM	09/08/00	65 FR 54471
NPRM Comment Period End	10/12/00	
Internal Review of Comments	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Jeff Warren, Transportation Industry Analyst, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423
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RIN: 2140–AA57

4524. • CONSOLIDATED RAILROAD REPORTING, STB EX PARTE NO. 634

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 49 USC 721(b); 49 USC 10704(a)(3)

CFR Citation: 49 CFR 1201; 49 CFR 1241 to 1248

Legal Deadline: None

Abstract: The Surface Transportation Board proposes, consistent with Financial Accounting Standards Board Statement No. 94, to require consolidated reporting by commonly controlled U.S. railroads and their U.S. railroad-related affiliates.

Timetable:

Action	Date	FR Cite
NPRM	09/25/00	65 FR 57650
NPRM Comment Period End	10/25/00	
Internal Review of Comments	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

STB **Long-Term Actions**

Agency Contact: Paul A. Aguiar, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001

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RIN: 2140–AA58

[FR Doc. 01–5211 Filed 05–11–01; 8:45 am]
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A. INDEX TO ENTRIES THAT AGENCIES HAVE DESIGNATED FOR SECTION 610 REVIEW

Section 610(a) of the Regulatory Flexibility Act (5 U.S.C. 601) requires each agency to have a plan for the periodic review of its rules that have significant economic impact on a substantial number of small entities. Each agency must publish annually in the **Federal Register** a list of the rules that it plans to review in the next year. Some agencies use the Unified Agenda to fulfill this requirement. Those agencies indicate such entries by appending "(Section 610 Review)" to the titles. Some agencies have also indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews.

The following index lists the regulatory actions for which agencies included this designation. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in part II of this issue.

Seq. No.	Title
	USDA
87	Plant Pest Regulations; Update of Current Provisions **(Section 610 Review)**
92	Bees, Beekeeping Byproducts, and Beekeeping Equipment **(Section 610 Review)**
93	Exportation of Livestock **(Section 610 Review)**
94	Veterinary Diagnostic User Fees—5-Year Plan for Fees **(Section 610 Review)**
95	Nursery Stock Regulations **(Section 610 Review)**
96	Animal Welfare—Standards for Marine Mammals **(Section 610 Review)**
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The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for the Unified Agenda.

The following index lists the regulatory actions in this publication for which agencies believe that the Act may require a Regulatory Flexibility Analysis because the rule is likely to have such effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in part II of this issue.

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4316	Regulation: C — Home Mortgage Disclosure (Docket Number: R-1001)
4330	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Numbers: R-1065 and R-1097)
4333	Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-1092)
4334	Regulation: Z — Truth in Lending (Docket Number: R-1090)
4336	Regulation: G — Disclosure and Reporting of CRA-Related Agreements (Docket Number: R-1069)
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4339	Regulation: Z — Truth in Lending (Docket Number: R-1070)
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1063	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)
1065	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
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3611	National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule
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4191	Redesignation 17.7-19.7 GHz Band, Blanket Licensing Sat Earth Stations 17.7-20.2 GHz & 27.5-30 GHz & Allocation 17.3-17.8 & 24.75-25.25 GHz Band for Broadcast Satellite Service Use; IB Doc No. 98-172
4223	Review of Broadcast and Cable EEO Rules and Policies
4227	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4229	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4235	Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4237	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
4243	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended
4245	Amendment to Parts 1, 2, 87 and 101 of the Rules to License Fixed Services at 24 GHz
4249	Transfer of the 3650 through 3700 MHz Band and the 4.9 GHz Band from Federal Government Use
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494	Amendment 14 to the Pacific Coast Salmon Plan
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657	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
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953	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
958	Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update (HCFA-1163-P)
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999	Provisions of the Balanced Budget and Refinement Act of 1999; Hospital Inpatient Payments and Rates and Costs of Graduate Medical Education (HCFA-1131-IFC)
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1027	Replacement of Reasonable Charge Methodology by Fee Schedule (HCFA-1010-F)
1042	Standards for Electronic Transactions-Elimination of NDC Coding Standards (HCFA-0006-P)
1074	Prospective Fee Schedule for Ambulance Services (HCFA-1002-P)
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1835	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law

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1892	Definition of Collective Bargaining Agreement (ERISA Section 3(40))
1899	Electronic Disclosure of Employee Benefit Plan Information
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2911	Excise Taxes on Excess Benefit Transactions
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3026	Community Reinvestment Act Disclosure
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3457	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling
3538	Standards for the Management of Coal Combustion Wastes - Non-Power Producers and Minefilling
3611	National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule
3617	National Primary Drinking Water Regulations: Ground Water Rule
3618	National Primary Drinking Water Regulations: Arsenic and Clarifications to Compliance and New Source Contaminant Monitoring
3625	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
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3724	Implementation of Title IX of the Education Act Amendments of 1972
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3728	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972
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3766	Subcontracting Plans
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3994	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
3995	FAR Case 91-078, Small Business Subcontracting Reporting
4024	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act
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4128	Implementation of Section 255 and Section 251(a)(2) of the Telecommunications Act of 1996; Access to Telecommunications Services Equipment and Customer Premise Equipment for Persons With Disabilities
4129	Enhanced 911 Services for Wireline
4154	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4155	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4163	Regulations for RF Lighting Devices
4171	Closed Captioning for DTV Receivers
4172	Spread Spectrum Devices
4174	Wireless Medical Telemetry Service
4186	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB Docket No. 95-59
4191	Redesignation 17.7-19.7 GHz Band, Blanket Licensing Sat Earth Stations 17.7-20.2 GHz & 27.5-30 GHz & Allocation 17.3-17.8 & 24.75-25.25 GHz Band for Broadcast Satellite Service Use; IB Doc No. 98-172
4192	Allocate & Designate: Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz Bands). Allocate: Fixed & Mobile 40.5-42.5 GHz; Wireless 46.9-47 GHz; Gov Oper 37-38 & 40-40.5 GHz; IB Doc No. 97-95
4203	Transfer of Control of Non-Stock Entities (MM Docket No. 89-77)
4223	Review of Broadcast and Cable EEO Rules and Policies
4225	Assessment and Collection of Regulatory Fees for FY 2001
4235	Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4245	Amendment to Parts 1, 2, 87 and 101 of the Rules to License Fixed Services at 24 GHz
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C. INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES WHEN A REGULATORY FLEXIBILITY ANALYSIS IS NOT REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Some agencies have chosen to identify additional regulatory actions that may have some impact on small entities even though a Regulatory Flexibility Analysis may not be required.

The following index lists the regulatory actions in this publication for which agencies have chosen to indicate that some impact on small entities is likely even though a Regulatory Flexibility Analysis may not be required. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in part II of this issue.

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4	Hass Avocado Promotion, Research, and Information Order
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10	Olive Oil Promotion, Research, and Information Order
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103	Citrus Canker; Payments for Commercial Citrus Tree Replacement and Lost Production Income
109	Requiring Treatment of Solid Wood Packing Material From China
155	Livestock Purchase or Sale: Prohibit Non-Reporting of Price
156	Fees for Official Inspection and Official Weighing Services
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177	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
230	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration
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275	Rural and Rural Area Under the Rural Community Advancement Program
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381	Implementation of the Wassenaar Arrangement List of Dual-Use Items Revisions: Microprocessors
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412	Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)
420	Framework Regulatory Amendment for the Atlantic Highly Migratory Species (HMS) Fisheries
425	Atlantic Highly Migratory Species Fisheries; Management of the Atlantic Blue Marlin and White Marlin Recreational Fisheries
428	Amendment 7 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico
429	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan
436	Regulatory Amendment To Prevent or Mitigate the Take of Sea Turtles in the Western Pacific Pelagic Fisheries
437	Amendment 9 to the Fishery Management Plan Amendment for the Pelagic Fisheries of the Western Pacific Region
440	Regulatory Amendment Modifying the Gulf of Mexico BRD Protocol Under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)
441	Regulatory Amendment Modifying the South Atlantic BRD Testing and Certification Protocol
444	Amendment 3 to the Fishery Management Plan for the Golden Crab Fishery Off the Southern Atlantic States (FMP)
445	Regulating Bycatch in the Purse Seine Fishery and Establishing a Vessel Register in the Eastern Pacific Ocean
449	Amendment 14 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan
453	Amendment 9 to the Coastal Pelagic Species Fishery Management Plan
459	Revision to the Restriction on Frequency of Limited Entry Permit Transfers and Other Permit Updates in the Pacific Coast Groundfish Fishery
466	Amendment 13 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region

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497	Prohibit Use of Set Net Gear to Harvest Groundfish in Certain Portions of the Exclusive Economic Zone Waters Seaward of California
499	Atlantic Highly Migratory Species; Spotter Aircraft
507	Regulatory Amendment to Modify the Management Program for the Western Pacific Pelagic Fisheries to Mitigate the Take of Seabirds
509	2001 Quotas for Purse Seine Fisheries in the Eastern Pacific
510	2001-2002 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
513	Pacific Coast Groundfish Fishery; Announcement of the 2002 Groundfish Fishery Specifications and Management Measures
514	Emergency Interim Rule To Establish Harvesting Restrictions for the Dolphin and Wahoo Fishery in the Atlantic EEZ
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575	Regulatory Amendment To Establish Program for Collection and Use of Fees in Community Development Quota Program
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589	2000-2001 Gulf Group King Mackerel Catch Specifications Under the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic
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603	Implement American Fisheries Act (AFA) Cooperative Measures
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674	Veterans Employment Emphasis (DFARS Case 97-D314)
678	Ocean Transportation by United States-Flag Vessels—Simplified Acquistion Threshold (DFARS Case 2000-D014)
681	Domestic Source Restriction—Ball and Roller Bearings and Vessel Propellers (DFARS Case 2000-D301)
682	Contracting for Commercial Construction (DFARS Case 98-D013)

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905	Investigational Use New Animal Drug Regulations **(Section 610 Review)**
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927	Postmarketing Studies for Human Drugs and Licensed Biological Products: Status Reports
956	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-P) **(Section 610 Review)**
957	Recognition of the American Osteopathic Association for Critical Access Hospitals (HCFA-2099-PN)
960	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)
962	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)
964	Criteria for Approval of Facilities to Perform Covered Heart, Liver, Lung, Pancreas and Intestinal Transplants (HCFA-3835-P)
965	Hospice Care-Conditions of Participation (HCFA-3844-P)
975	Appeals of Carrier Determination That a Physician or Other Supplier Fails To Meet the Requirements for Medicare Billing Privileges (HCFA-6003-F)
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981	Coverage of Religious Non-Medical Health Care Institutions (HCFA-1909-F)
982	External Quality Review of Medicaid Managed Care Organizations (HCFA-2015-F)
983	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-F)
984	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-F)
985	Hospital Conditions of Participation: Laboratory Services (HCFA-3014-F)

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995	Non-Federal Governmental Plans Exempt From HIPAA (HCFA-2033-IFC)
1001	Clinical Lab Requirements-Revisions to Regulations Implementing CLIA (HCFA-2226-F)
1003	Fire Safety Requirements for RNHCI, ASC, Hospices, PACE, Hospitals, and Long-Term Care Facilities (HCFA-3047-P)
1014	Update to the Prospective Payment System for Home Health Agencies for FY 2002 (HCFA-1147-NC)
1017	Medicare as Secondary Payer-Recovery of Conditional Payments (HCFA-6009-P)
1019	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2002 (HCFA-1169-P)
1021	Revisions to the Prospective Payment System for Hospital Outpatient Services Mandated by BIPA (HCFA-1179-IFC)
1024	Claims Attachment Standard (HCFA-0050-P)
1034	Medicare+Choice ESRD Rates (HCFA-1182-PN)
1035	Revisions to Transaction and Code Set Standards for Electronic Transactions (HCFA-0005-IFC)
1036	Medicare Inpatient Disproportionate Share Hospital Adjustment Calculation (HCFA-1171-IFC)
1039	Organ Procurement Organization Condition for Coverage (HCFA-3064-P)
1041	Protection and Promotion of Resident Rights (HCFA-3065-P)
1043	Hospital Reference Laboratory and Medicare Secondary Payer (HCFA-1187-P)
1052	Effect of Change of Ownership on Provider and Supplier Penalties, Sanctions, Underpayments and Overpayments (HCFA-2215-P)
1055	Distinct Part Requirements for Nursing Homes and Prohibition on Financial Screening of Applicants for Nursing Home Admission (HCFA-3815-P)
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Executive Order 12866 entitled "Regulatory Planning and Review" (October 4, 1993; 58 FR 51735) and the Unfunded Mandates Reform Act of 1995 (P.L. 104-4) direct agencies to assess the effects of Federal regulations on State, local, and tribal governments. In keeping with these efforts, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions have an effect on various levels of government. See also Index E for entries that may have "federalism implications" as defined in Executive Order 13132 entitled "Federalism" (August 4, 1999, 64 FR 43255).

The following index lists the regulatory actions in this publication that agencies believe may have effects on State, local, tribal, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in part II of this issue.

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E. INDEX TO ENTRIES THAT MAY HAVE FEDERALISM IMPLICATIONS

Executive Order 13132 entitled "Federalism" (August 4, 1999, 64 FR 43255) directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have "federalism implications." This term refers to actions "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." As part of this effort, agencies, other than independent regulatory agencies include in their submissions for the Unified Agenda information on whether their regulatory actions have federalism implications

The following index lists the regulatory actions in this publication that agencies believe may have federalism implications. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in part II of this issue.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. LS–98–005]

Amendment to the Beef Promotion and Research Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will amend the Beef Promotion and Research Rules and Regulations (Rules and Regulations) issued under the Beef Promotion and Research Act of 1985 (Act), to clarify requirements for documenting cattle sales transactions for which no assessments are due. This amendment specifically requires the timely filing of Statement of Certification of Non-Producer Status forms to obtain exemption from assessment. Based upon comments received, this final rule reflects changes made to the amendments as proposed.

EFFECTIVE DATE: July 16, 2001.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program; Agricultural Marketing Service, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251. Telephone number 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988; the Regulatory Flexibility Act; and the Paperwork Reduction Act

This final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. Section 11 of the Act (7 U.S.C. 2910) provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this final rule on small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened. The Agricultural Marketing Service (AMS) has determined that this final rule will not have a significant economic impact on a substantial number of small business entities.

In the January 26, 2001, issue of "Cattle," the Department of Agriculture's (Department) National Agricultural Statistics Service estimates that in 2000 there were 1.1 million cattle operations in the United States. The majority of these operations subject to the Beef Promotion and Research Order (Order), 7 U.S.C. 1260.101 *et seq.*, are considered small businesses under the criteria established by the Small Business Administration.

This final rule imposes no new burden on the industry as it merely clarifies the timing for filing of the Statement of Certification of Non-Producer Status forms when no assessment is due on cattle sales transactions. The regulations provide for certification of non-producer status for certain transactions. This action specifies the time of filing of the Statement of Certification of Non-Producer Status forms in order to obtain an exemption from paying assessments.

In compliance with the Office of Management and Budget (OMB) regulations [5 CFR Part 1320] which implements the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*], the information collection requirements contained in this final rule have been previously approved by OMB and were assigned OMB control number 0581–0093.

Background

The Act authorizes the establishment of a national beef promotion and research program. The Order and the Rules and Regulations govern the administration of the program. The program is administered by the Cattlemen's Beef Promotion and Research Board (Board) that is composed of 110 cattle producers and importers. The program is funded by a $1-per-head assessment on producer marketings of cattle in the United States, cattle imported into the United States, and an equivalent amount on imported beef and beef products. In 45 States, Qualified State Beef Councils (QSBC) collect the assessments remitted under the program. QSBCs retain up to half of the assessments they collect for State-directed programs and remit the remainder to the Board. The Board receives all producer assessments in five States with relatively small cattle numbers that do not have QSBCs and all assessments on imported cattle, beef, and beef products.

The domestic assessment, due each time cattle are sold by a producer, is collected by the buyer or "collecting person" for remittance to the Board or QSBC. The term "producer" is defined in the Order as follows: "Producer means any person who owns or acquires ownership of cattle; provided, however, that a person shall not be considered a producer within the meaning of this subpart if (a) the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee; or (b) the person (1) acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third party, (2) resold such cattle no later than 10 days from the date on which the person acquired ownership, and (3) certified, as required by regulations prescribed by the Board and approved by the Secretary, that the requirements of this provision have been satisfied." 7 CFR 1260.116.

When a person who is not a producer, under the above definition, sells cattle within 10 days of the date the person purchased the cattle, the collecting person is not required to collect the $1 assessment from that person (seller), if the seller provides the collecting person with a Statement of Certification of Non-Producer Status on a form approved by the Board and the Secretary. Although,

the majority of non-producers provide collecting persons with a Statement of Certification of Non-Producer Status "at the time of sale," the Rules and Regulations do not specify when the Statement of Certification of Non-Producer Status form is due. Board audits of collecting persons' accounting records have revealed transactions in which neither the $1 assessment, nor the Statement of Certification of Non-Producer Status required in lieu of the assessment, was obtained from the seller of the cattle by the collecting person for the transaction.

For the purpose of making it clear that the Statement of Certification of Non-Producer Status form must be filed with the collecting person in a timely manner, it was proposed that § 1260.314(b) of the Rules and Regulations be amended to read as follows: "(b) Each person seeking non-producer status pursuant to § 1260.116 of this part shall provide to the collecting person on a form approved by the Board and the Secretary a Statement of Certification of Non-Producer Status at the time the collecting person makes payment to the seller of cattle, in lieu of the assessment that would otherwise be due. If the collecting person is a brand inspector, as provided for in § 1260.311, the seller of cattle must provide to the brand inspector a Statement of Certification of Non-Producer Status at the time the physical brand inspection is completed in lieu of the assessment that would otherwise be due."

On August 28, 1998, AMS published in the **Federal Register** (63 FR 45971) for public comment a proposed rule providing for the above amendment to § 1260.314(b) of the Rules and Regulations.

The Department received two comments concerning the proposed rule. A summary of the comments and the Department's responses are set forth below.

The first commenter urged the Department to withdraw the proposed revisions to the timely filing of Statements of Certification of Non-Producer Status forms. The commenter asserted that the proposed rule lacks merit because the Department and the Board have failed to demonstrate any real need for the revisions to the filing of Statements of Certification of Non-Producer Status.

The Department does not agree with the commenter's assertion. The revisions to the Rules and Regulations are necessary to clarify that documentation of non-producer status is required in conjunction with the transactions. Board audits have revealed that some collecting persons believe the current language permits documentation to be developed months or years after the transactions occurred. The revisions in this final rule are needed to clarify the Rules and Regulations and to ensure compliance with them.

The commenter also asserted that the revisions to the timely filing of Statements of Certification on Non-Producer Status forms could result in confusion and enforcement problems for the marketing sector. The Department believes that the revisions to § 1260.314 in this final rule will not result in any confusion and enforcement problems for the marketing sector. In fact, as discussed further below, the revisions clarify when the Statement of Certification of Non-Producer Status is to be filed.

The commenter stated that groups representing "collecting persons" were not consulted prior to development and publication of the proposed rule.

The proposed rule was promulgated in accordance with the provisions of the Administrative Procedure Act, and all members of the public were given a 60-day period to submit comments.

The commenter further stated that the Board "needs to address the real problems and issues of the beef checkoff." The commenter did not give any further explanation for what was meant by this statement.

Finally, the commenter objected to the proposed requirement that the Statement of Certification of Non-Producer Status be filed at the time payment is made to the seller. The commenter stated that in many transactions the seller is not physically present when payment is made by auction markets, dealers, order buyers, feedlots, and packers. The commenter suggested that the final rule take into account current marketing practices, including mailing delays that would prevent filing of the Statement of Certification of Non-Producer Status until several days after payment is made.

The Department believes that the commenter's suggestion has merit. Accordingly, § 1260.314 is revised in this final rule to specify that if the seller is not physically present during a cattle sales transaction in which the seller claims non-producer status, such seller shall deliver to the collecting person an original Statement of Certification of Non-Producer Status within 10 business days of the date the collecting person makes payment to the seller of the cattle.

The second commenter supported the proposed revisions to the Rules and Regulations, and suggested adding language to § 1260.314 to reflect procedures used in several brand inspected States that do not require Statement of Certification of Non-Producer Status forms from those reselling cattle within 10 days of purchase.

The Department agrees with the commenter's suggestion. Several brand inspected States require a brand inspection certificate which shows that the assessment has been deducted less than 10 days prior to resale. Since brand inspection certificates provide documentation acceptable to the Board and the Department that the assessment has been paid less than 10 days prior to resale, it serves as proof of non-producer status under § 1260.314. Consequently, a non-producer status form is not required in these transactions. Section 1260.314 has been revised accordingly in this final rule.

List of Subjects in 7 CFR Part 1260

Advertising, Agricultural research, Imports, Marketing agreements, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble 7 CFR part 1260 is amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation of part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 *et seq.*

2. Section 1260.314 is amended by redesignating paragraph (c) as paragraph (e), revising paragraph (b), and adding two new paragraphs (c) and (d) to read as follows:

§ 1260.314 Certification of non-producer status for certain transactions.

* * * * *

(b) Each person seeking non-producer status pursuant to § 1260.116 shall provide the collecting person, on a form approved by the Board and the Secretary, with a Statement of Certification of Non-Producer Status at the time the collecting person makes payment to the seller of cattle, in lieu of the assessment that would otherwise be due, except as provided for in paragraphs (c) and (d) of this section.

(c) When the seller of cattle is not physically present during a sales transaction in which the seller claims non-producer status, such seller shall deliver to the collecting person an original Statement of Certification of Non-Producer Status within 10 business days of the date the collecting person makes payment to the seller of the cattle.

(d) If the collecting person is a brand inspector, as provided for in § 1260.311, the seller of cattle claiming non-producer status shall provide to the brand inspector at the time the physical brand inspection is completed, in lieu of the assessment that would otherwise be due, either: a Statement of Certification of Non-Producer Status or a valid brand inspection certificate which shows collection of the assessment by a brand inspector in a transaction which took place not more than 10 days prior to the sale of the cattle.

* * * * *

Dated: May 9, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12141 Filed 5–14–01; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611 and 615

RIN 3052–AB91

Organization; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Stock Issuances; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under parts 611 and 615 on March 28, 2001 (66 FR 16841). In this final rule, we amended our regulations to allow Farm Credit System (System) service corporations to sell stock to non-System entities, provide adequate disclosures to investors in service corporations, and allow System institutions to issue unlimited amounts of certain classes of equities. The purpose of our amendments is to provide System institutions additional opportunities to fulfill their borrowers' needs through service corporations and more efficient issuance of equities related to earnings distributions and transfers of capital. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 14, 2001.

EFFECTIVE DATE: The regulation amending 12 CFR parts 611 and 615 published on March 28, 2001 (66 FR 16841) is effective May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498; or Howard Rubin, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: May 9, 2001.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 01–12152 Filed 5–14–01; 8:45 am]

BILLING CODE 5705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–122–AD; Amendment 39–12227; AD 2001–10–02]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135 and –145 series airplanes. This action requires applying torque to certain tubing fittings of the fire extinguishing systems of various areas of the airplane, and applying torque paint to the fittings. This action is necessary to ensure that certain tubing fittings of the fire extinguishing systems are properly torqued. Improperly torqued tubing fittings of the fire extinguishing systems of the baggage compartment, auxiliary power units (APU), and engines, if not corrected, could become loose and cause the fire extinguisher to inadvertently discharge. Inadvertent discharge of a fire extinguisher could result in reduced fire protection or the inability to extinguish a fire in the baggage compartment, APU, or engine. This action is intended to address the identified unsafe condition.

DATES: Effective May 30, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 30, 2001.

Comments for inclusion in the Rules Docket must be received on or before June 14, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–122–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via the Internet must contain "Docket No. 2001–NM–122–AD" in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda Haynes, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6091; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–135 and –145 series airplanes. The DAC advises that it has received reports of looseness of some tubing fittings of the fire extinguishing systems of the engines located in the pylon inner area. In one event during maintenance, the fire extinguisher discharged into the pylon area. Investigation revealed the possibility that those fittings had been undertorqued during production of the airplanes. This possibility also exists for all other fittings at the fire extinguishing systems.

Improperly torqued tubing fittings of the fire extinguishing systems of the

baggage compartment, auxiliary power units (APU), and engines, if not corrected, could become loose and cause the fire extinguisher to inadvertently discharge. Inadvertent discharge of a fire extinguisher could result in reduced fire protection or the inability to extinguish a fire in the baggage compartment, APU, or engine. This AD requires accomplishment of the actions specified in the service bulletin described previously.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145–26–0008, dated December 19, 2000, which describes procedures for applying torque to certain tubing fittings of the fire extinguishing systems in the following areas, as applicable:

1. Inner side of the left-and right-hand pylons of the engines.
2. Tail cone compartment, rear electronic compartment, and baggage compartment.
3. Between the pylon walls and the left- and right-hand engines.
4. APU in the tail cone compartment.

The service bulletin also describes procedures for applying torque paint to the fittings. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 2001–02–01, dated February 21, 2001, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to ensure that certain tubing fittings of the fire extinguishing systems are properly torqued. Improperly torqued tubing fittings of the fire extinguishing systems of the baggage compartment, APUs, and engines, if not corrected, could become loose and cause the fire extinguisher to inadvertently discharge. Inadvertent discharge of a fire extinguisher could result in reduced fire protection or the inability to extinguish a fire in the baggage compartment, APU, or engine. This AD requires accomplishment of the actions specified in the service bulletin described previously.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–122–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–10–02 Empresa Brasileira de Aeronautica, S.A. (EMBRAER): Amendment 39–12227. Docket 2001–NM–122–AD.

Applicability: Model EMB–135 and –145 series airplanes, as listed in EMBRAER Service Bulletin 145–26–0008, dated December 19, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that certain tubing fittings of the fire extinguishing systems are properly torqued, accomplish the following:

Torque and Paint

(a) Within 100 flight hours after the effective date of this AD, apply torque to the tubing fittings of the fire extinguishing system of the engines in the inner side of the left- and right-hand pylons, and apply torque paint to the fittings, per EMBRAER Service Bulletin 145–26–0008, dated December 19, 2000.

(b) Within 400 flight hours after the effective date of this AD, do the actions specified in paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD, as applicable, per EMBRAER Service Bulletin 145–26–0008, dated December 19, 2000.

(1) For all airplanes: Apply torque to the remaining tubing fittings (i.e., those fittings not indicated in paragraph (a) of this AD) of the engine fire extinguishing system in the tail cone compartment, rear electronic compartment, and baggage compartment, and to the tubing fittings between the pylon walls and the left- and right-hand engines.

(2) For all airplanes: Apply torque to the tubing fittings of the fire extinguishing system of the auxiliary power unit.

(3) For airplanes configured with a Class "C" baggage compartment: Apply torque to all tubing fittings of the fire extinguishing system of the baggage compartment.

(4) For all airplanes: Apply torque painting to the tubing fittings.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with EMBRAER Service Bulletin 145–26–0008, dated December 19, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 2001–02–01, dated February 21, 2001.

Effective Date

(f) This amendment becomes effective on May 30, 2001.

Issued in Renton, Washington, on May 7, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11900 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–49–AD; Amendment 39–12228; AD 2000–03–03 R1]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to General Electric Company CF34 series turbofan engines, that currently requires revisions to the Engine Maintenance Program specified in the manufacturer's Instructions for Continued Airworthiness (ICA) for General Electric Company (GE) CF34 series turbofan engines. Those revisions require enhanced inspection of selected critical life-limited parts at each piece-part exposure. The existing AD also requires that an air carrier's approved continuous airworthiness maintenance program incorporate these inspection procedures. This amendment removes inspection requirements for parts removed from engines mounted on-wing. This amendment is prompted by the high removal rate and subsequent piece-part exposure of fan disks due to certain maintenance procedures. This additional exposure has resulted in fan disk focused inspection rates that exceed the intent of the focused inspection initiative. The actions specified by this AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective June 19, 2001.

ADDRESSES: The information referenced in this AD may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kevin Donovan, Aerospace Engineer Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7743, fax (238) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 2000–03–03, Amendment 39–11560 (65 FR 5759), which is applicable to General Electric Company CF34 series turbofan engines, was published in the **Federal Register** on August 18, 2000 (65 FR 50468). The action removed inspection requirements for parts removed from engines mounted on-wing.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Change to Aircraft Model Designation

One comment asks that the Applicability Section be changed to reflect the Department of Transportation (DOT) aircraft model designation rather than the Bombardier aircraft model designation.

The FAA agrees. The model designation has been changed to reflect the DOT designation.

Remove ASB Reference

A comment requests that the FAA remove the reference to Alert Service Bulletin (ASB) 72–A0103 contained in subparagraph (A) of the change to the instructions for continue airworthiness (ICA's).

The FAA agrees. The language of the ASB has subsequently been incorporated into the manual cited, SEI–756, chapter 72–00–00. Therefore, reference to the ASB in the required change to the ICA's is not needed.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Regulatory Impact

This rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11560 (65 FR 5759, February 7, 2000), and by adding a new airworthiness directive (AD), Amendment 39–12228 to read as follows:

2000–03–03 R1 General Electric Company: Amendment 39–12228. Docket 99–NE–49–AD. Revises AD 2000–03–03, Amendment 39–11560.

Applicability: General Electric Company (GE) CF34–3A1 and –3B1 series turbofan engines, installed on but not limited to Bombardier Canadair CL 600–2B19(RJ) aircraft.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

Inspections

(a) Within the next 30 days after the effective date of this AD, revise the CF34 Engine Maintenance Program, Chapter 5–21–00, of the GE CF34 Series Turbofan Engine Manual, SEI–756. For air carrier operations, revise the approved continuous airworthiness maintenance program, by adding the following:

."9. *CF34–3A1 and CF34–3B1 Engine Maintenance Program—Mandatory Inspection Requirements.*

(A) This procedure is used to identify specific piece-parts that require mandatory inspections that must be accomplished at each piece-part exposure using the applicable Chapters referenced in Table 804 for the inspection requirements. The inspection requirements listed in Table 804 are not required for any piece-part exposure resulting when the engine remains on-wing while performing maintenance practice, special procedure Number 41 listed in SEI–756, chapter 72–00–00.

(B) Piece-part exposure is defined as follows: Note: Fan disk piece-part includes the fan disk with the 56 fan pin bushings installed.

(1) For engines that utilize the "On Condition" maintenance requirements: The part is considered completely disassembled to the piece-part level when done in accordance with the disassembly instructions in the GEAE authorized overhaul Engine Manual, and the part has accumulated more than 100 cycles-in-service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

(2) For engines that utilize the "Hard Time" maintenance requirements: The part is considered completely disassembled when done in accordance with the disassembly instructions used in the "Minor Maintenance" or "Overhaul" instructions in the GEAE engine authorized Engine Manual, and the part has accumulated more than 100 cycles-in-service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

C. Refer to Table 804 below for the mandatory inspection requirements.

TABLE 804.—MANDATORY INSPECTION REQUIREMENTS

Part nomenclature	Manual/chapter section/subject	Mandatory Inspection
Fan Disk (all)	72–21–00, INSPECTION	All areas (FPI);[1] Bores (ECI).[2]
Stage 1 high pressure turbine (HPT) Rotor Disk (all).	72–46–00, INSPECTION	All areas (FPI);[1] Bores (ECI);[2] Boltholes (ECI);[2] Air Holes (ECI).[2]
Stage 2 HPT Rotor Disk (all)	72–46–00, INSPECTION	All Areas (FPI);[1] Bores (ECI).[2]
(a) Boltless Rim Configuration		Boltholes (FPI);[1] Air Holes (FPI).[1]
(b) Bolted Rim Configuration		Boltholes (ECI);[2] Air Holes (ECI).[2]
HPT Rotor Outer Torque Coupling (all).	72–46–00, INSPECTION	All areas (FPI);[1] Bore (ECI)[2]

[1] FPI = Fluorescent Penetrant Inspection Method.
[2] ECI = Eddy Current Inspection."

(b) Except as provided in paragraph (c) of this AD, and notwithstanding the provisions of section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the CF34 Engine Maintenance Program, Chapter 5–21–00, of the General Electric Company, CF34 Series Turbofan Engine Manual, SEI–756.

Alternative Method of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector (PMI), who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the ECO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Continuous Airworthiness Maintenance Program

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the record keeping requirement of § 121.369(c) of the Federal Aviation Regulations [14 CFR 121.369(c)] must maintain records of the mandatory inspections that result from revising the CF34 Engine Maintenance Program and the air carrier's continuous airworthiness program. Alternately, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369(c) of the Federal Aviation Regulations [14 CFR 121.369(c)]; however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under § 121.380(a)(2)(vi) of the Federal Aviation Regulations [14 CFR 121.380(a)(2)(vi)]. All other operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Note 3: The requirements of this AD have been met when the engine manual changes are made and air carriers have modified their continuous airworthiness maintenance plans to reflect the Engine Maintenance Program requirements specified in the GE CF34 Series Turbofan Engine Manual.

This amendment becomes effective on May 30, 2001.

Issued in Burlington, Massachusetts, on May 7, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12005 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–453 ; RE: Notice No. 905]

RIN 1512–AA07

Long Island Viticultural Area (2000R–219P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final Rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area to be known as "Long Island," located in Nassau and Suffolk counties, New York. This action is the result of a petition filed by Richard Olsen-Harbich on behalf of Raphael Winery, the Petrocelli Family, and Karen Meredith of Broadfields Vineyards.

The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allow wineries to designate the specific areas where the grapes used to make the wine were grown. This enables consumers to better identify the wines they may purchase.

EFFECTIVE DATE: July 16, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–9347).

SUPPLEMENTARY INFORMATION:

1. Background on Viticultural Areas

What Is ATF's Authority To Establish a Viticultural Area?

ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) on August 23, 1978. This decision revised the regulations in 27 CFR part 4, Labeling and Advertising of Wine, to allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692), which added a new part 9 to 27 CFR, American Viticultural Areas, for providing the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

ATF does not wish to give the impression by approving the Long Island viticultural area that it is approving or endorsing the quality of wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving this area, ATF will allow wine producers to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from Long Island.

What Is the Definition of an American Viticultural Area?

27 CFR 4.25a(e)(1), defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Viticultural features such as soil, climate, elevation, topography, etc., distinguish it from surrounding areas.

What Is Required To Establish a Viticultural Area?

Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

- Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;
- Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;
- A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and
- A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

2. Long Island Petition

ATF received a petition from Richard Olsen-Harbich on behalf of Raphael Winery, the Petrocelli Family, and Karen Meredith of Broadfields Vineyards, proposing to establish a viticultural area in Nassau and Suffolk counties, New York, to be known as "Long Island." This viticultural area

encompasses the two existing appellations, "The Hamptons, Long Island" and "North Fork of Long Island," as described in 27 CFR 9.101 and 9.113, as well as the remaining areas of Nassau and Suffolk counties, New York. The Long Island viticultural area does not include Kings County (Brooklyn) or Queens County, New York.

The Long Island viticultural area encompasses approximately 1,170 square miles or 749,146 acres. Over 2,500 acres of vineyards are currently planted in the viticultural area and the area presently boasts thirty-eight vineyard and/or winery businesses.

Notice of Proposed Rulemaking

In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 905, in the **Federal Register** on November 6, 2000, (65 FR 66518), proposing the establishment of the Long Island viticultural area. The notice requested comments from interested persons by January 5, 2001.

Comments on Notice of Proposed Rulemaking

Seven comments were received as a result of Notice No. 905, including a comment from United States Senator Charles E. Schumer, and a comment from several Members of the Assembly from the State of New York. All of the comments fully supported the establishment of the Long Island viticultural area. Senator Schumer emphasizes his support by stating "no other region in the Eastern United States has the quality of soil, length of growing season, moderate winter temperatures, and necessary amount of natural precipitation as Long Island."

What Name Evidence Has Been Provided?

The petitioner offered the following as evidence that the name "Long Island" refers to the area. The name "Long Island" has been in continuous use from 1616 to the present to represent the island on which the viticultural area is located. However, the *Long Island Travel Guide* (1997) states that the name "Long Island" is commonly known to mean Nassau and Suffolk counties exclusively. Also, the 1999 *Long Island Almanac* (33rd ed.) covers Nassau and Suffolk counties only.

The *Bell Atlantic White Pages* lists approximately 1,150 business telephone listings in Suffolk and Nassau counties using the term "Long Island." By comparison, the *White Pages* in Brooklyn and Queens reflect almost no usage of the term "Long Island" to describe businesses located there. In addition, the petitioner submitted, as evidence, several maps, newspaper, and magazine articles which refer to the area as "Long Island."

What Boundary Evidence Has Been Provided?

The petitioner has submitted, as boundary evidence, the following maps on which the name "Long Island" prominently appears:

1. U.S.G.S. Map (New York, N.Y.; N.J.; Conn. 1960 (revised 1979));
2. U.S.G.S. Map (Hartford, Conn.; N.Y.; N.J.; Mass. 1962 (revised 1975)); and
3. U.S.G.S. Map (Providence, R.I.; Mass.; Conn.; N.Y. 1947 (revised 1969)).

The Long Island viticultural area is located on the eastern part of Long Island, New York. The area is surrounded by the Queens County line on the west, Long Island Sound to the north, the Atlantic Ocean to the south and Block Island Sound and Fishers Island Sound to the east.

Long Island, New York, has four counties: Kings (commonly known as Brooklyn), Queens, Nassau, and Suffolk. The petitioner contends that the appropriate western boundary for the viticultural area is the Queens County line because Kings and Queens counties are not suitable for viticultural purposes. Commercial farms no longer exist in Kings or Queens counties; these counties are densely populated urban areas. In addition, the name "Long Island" is used in common parlance to refer to the Nassau and Suffolk counties exclusively.

What Evidence Relating to Geographical Features Has Been Provided?

- Soil:

The record demonstrates that the soils of the Long Island viticultural area are glacial in origin. In general, the soils of the viticultural area contain a greater percentage of sand and gravel and a lower percentage of silt, loam and clay than in the soil associations and series found in bordering areas. Soils in the Long Island viticultural area lack any real percentage of natural limestone when compared to surrounding regions. The soils of the viticultural area are more acidic and make an agricultural liming program indispensable to any vineyard operation. Because of this factor, the soils of the viticultural area are also slightly lower in natural fertility and water-holding capacity than neighboring areas. According to the petitioner, this difference in soil types leads to a very unique and distinct "terroir" for the Long Island viticultural area—sandy loams will warm up faster, drain better, and allow deeper root penetration than soils in bordering areas, which contain greater amounts of silt, clay and rock.

The soils of the Long Island viticultural area are fairly uniform in that they are predominately glacial till and glacial outwash in nature, are very low in organic matter, and contain few, if any, large mineral deposits or exposed rock formations. Many of the soil series including the Wallington, Sudbury, Scio, Montauk, Plymouth and Riverhead Soil Series are common throughout the entire viticultural area.

One of the most distinctive features of the Long Island viticultural area is the vast quantity of sandy loam soil deposited during the Pleistocene Epoch of the Quarternary Period. This soil was deposited during the last four major glacial stages of this Epoch. From oldest to youngest they are: Nebraskan, Kansan, Illoian, and Wisconsin. Because of this, the area between the surface soil and bedrock areas is several hundred feet.

By contrast, the nearest surface bedrock begins near the Queens County line. Some areas of Queens show exposed bedrock formations while the bedrock layer in the Long Island viticultural area can be as much as 500 feet below the surface. For this reason, the soils found in Queens County are much shallower than the typical soils found in the viticultural area and are not suitable for growing grapes. In addition, Queens County, which is considered part of New York City, is completely urbanized and contains essentially no agricultural land. Most of the soil series now identified in Queens are known as *anthropgenic* soils. These soils are described as having properties that are dominantly derived from human activities. Out of the 30 soil types found in the region of Queens County, only three are also found in the Long Island viticultural area.

- Topography and Terrain:

Evidence submitted by the petitioner shows that the Long Island viticultural area is unique from its bordering regions in that it lacks any real undulations, rock outcrops or muckland areas. By contrast, the Highland Basin, located immediately to the west-northwest of the Long Island viticultural area and encompassing the areas of northern New Jersey, the Hudson Highlands region of southern New York (including Manhattan, Westchester, the Bronx, and parts of Brooklyn and Staten Island), and upland parts of Connecticut, is a rugged, hilly-to-mountainous terrain. Similarly, the Newark and Atlantic Basins, located directly to the northeast and southwest of the viticultural area, contain characteristic sedimentary sandstones and mudrocks that usually bear a red or brownish appearance from an abundance of iron oxide minerals (hematite and limonite). None of these geologic formations exist in the Long Island viticultural area.

- Climate:

There is evidence in the record showing that the moderating influence of the Long Island viticultural area's surrounding water is evident in the temperature data. In terms of average temperatures, the viticultural area shows the highest average annual winter temperature compared to the surrounding areas. The Long Island viticultural area's average low temperature over thirty years is 43.5 degrees Fahrenheit (43.5°F), 2.5°F warmer than the area of Westchester County and downstate New York, and 2.2°F warmer annually than the average from New Jersey. The Long Island viticultural area is also over 4°F warmer on average than Connecticut.

The Long Island viticultural area also has the least extreme winter low temperatures than its surrounding areas with the lowest average being −5.67°F. New Jersey was 1.63°F colder at −7.3°F. Westchester/Downstate New York and Connecticut were seen to have winter low temperatures considerably colder than the Long Island viticultural area. Connecticut can experience temperatures as low as −13.5°F which is 7.83°F colder than the Long Island viticultural area. Westchester/Downstate New York proved to be the coldest with low temperatures reaching −15.3°F in some years which is 9.63°F colder than the Long Island viticultural area.

Based on the standard University of California at Davis (UCD) temperature summation definition of climatic regions or zones, the Long Island viticultural area would appear to fall into high Region II (less than 3,000 degree days). Connecticut on the average is a borderline Region II with some years having Region I (less than 2,500 degree days) conditions. New Jersey is solidly classified as a Region III (less than 3,500 degree days), with some locations approaching Region IV (less than 4000 degree days) status in warmer years. The Long Island viticultural area historically has an average of 166 more degree-days than Westchester/Downstate NY and as much as 324 more degree-days than Connecticut.

On average, the Long Island viticultural area experiences 204 frost-free days during the growing season. This is 31 days longer than New Jersey, 37 days longer than Westchester/Downstate NY and as much as 50 days longer than the Connecticut average. The Long Island viticultural area can therefore have as much as four to seven weeks more growing season than any of the surrounding land masses.

On an average annual basis, the Long Island viticultural area has the lowest levels of precipitation of all the surrounding areas with 42 inches annually. The annual difference is 3.4 inches less than Westchester/Downstate NY, 3.8 inches less than New Jersey and 4.1 inches less than Connecticut. The reason for this difference is attributed to the moderating influence of Long Island Sound waters.

3. Regulatory Analyses and Notices

Is This a Significant Regulatory Action as Defined by Executive Order 12866?

It has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this final rule is not subject to the analysis required by this Executive Order.

How Does the Regulatory Flexibility Act Apply to This Proposed Rule?

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Does the Paperwork Reduction Act Apply to This Proposed Rule?

The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

4. Drafting Information

The principal author of this document is Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.170 to read as follows:

§ 9.170 Long Island

(a) Name. The name of the viticultural area described in this section is "Long Island."

(b) Approved Maps. The appropriate maps for determining the boundary of the Long Island viticultural area are three United States Geological Survey (U.S.G.S.) topographic maps (Scale: 1:250,000). They are titled:

(1) "New York, N.Y.; N.J.; Conn.," 1960 (revised 1979);

(2) "Hartford, Conn.; N.Y.; N.J.; Mass.," 1962 (revised 1975); and

(3) "Providence, R.I.; Mass.; Conn.; N.Y.," 1947 (revised 1969).

(c) Boundaries. The Long Island viticultural area includes approximately 1,170 square miles or 749,146 acres and is made up of the counties of Nassau and Suffolk, New York, including all off shore islands in those counties.

Bradley A. Buckles,
Director.

Approved: April 19, 2001.

Timothy E. Skud,
Acting Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 01–12161 Filed 5–14–01; 8:45 am]
BILLING CODE 4810–31–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends

the regulations to adopt interest assumptions for plans with valuation dates in June 2001. Interest assumptions are also published on the PBGC's web site (http://www.pbgc.gov).

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

Accordingly, this amendment (1) adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during June 2001, (2) adds to Appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during June 2001, and (3) adds to Appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during June 2001.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 6.60 percent for the first 20 years following the valuation date and 6.25 percent thereafter. These interest assumptions represent an increase (from those in effect for May 2001) of 0.20 percent for the first 20 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 5.00 percent for the period during which a benefit is in pay status, 4.25 percent during the seven-year period directly preceding the benefit's placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. These interest assumptions represent an increase (from those in effect for May 2001) of 0.25 percent for the period during which a benefit is in pay status and the seven-year period directly preceding the benefit's placement in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during June 2001, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 92, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
92	6–1–01	7–1–01	5.00	4.25	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 92, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
92	6–1–01	7–1–01	5.00	4.25	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
June 2001	.0660	1–20	.0625	>20	N/A	N/A

Issued in Washington, DC, on this 8th day of May 2001.

Joseph H. Grant,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–12198 Filed 5–14–01; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 989

Environmental Impact Analysis Process (EIAP); Correction

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule; correction.

SUMMARY: The Department of the Air Force published in the **Federal Register** of March 28, 2001, a document concerning correcting amendments. This document corrects the inadvertent change to correcting amendment 17.

DATES: Effective on May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Bush (HQ USAF/ILEB), 1260 Air Force Pentagon, Washington, DC 20330–1260, (703) 604–0553.

SUPPLEMENTARY INFORMATION: In FR Doc. 01–7671 published on March 28, 2001 (66 FR 16868) make the following correction. On page 16868, correcting amendment 17, § 989.18, paragraph (a), third to last sentence correct "AF/ILEV" to read "USAF/ILEV."

Dated: May 10, 2001.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12200 Filed 5–14–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08–01–005]

RIN 2115–AE47

Drawbridge Operation Regulation; Illinois Waterway, Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the McDonough Street Bridge, mile 287.3; Jefferson Street Bridge, mile 287.9; Cass Street Bridge, mile 288.1; Jackson Street Bridge, mile 288.4 and the Ruby Street Bridge, mile 288.7, Illinois Waterway. The drawbridges, with the exception of the Jefferson Street Bridge, will be allowed to remain closed to navigation from 7:30 a.m. to 9 a.m. and 4 p.m. to 5:30 p.m., Monday through Saturday. The Jefferson Street Bridge will remain in the open-to-navigation position. This temporary rule is issued to facilitate land traffic management while emergency repairs are made to the Jefferson Street Bridge.

DATES: This rule is effective from 7:30 a.m., March 30, 2001 until 7:30 a.m. on July 2, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice will be available for inspection and copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, Telephone (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published and good cause exists for making this rule effective in less than 30 days from publication. The change has been implemented to address the emergency situation resulting in extensive damage to the Jefferson Street Bridge caused by a vessel allision. Thus, following normal rule making procedures would be impractical. Delaying implementation of

the regulation will not adversely impact navigation; however, it would result in unnecessary prolonged traffic management problems within the City of Joliet, Illinois.

Background and Purpose

On February 21, 2001 the Jefferson Street Bridge, mile 287.9, Illinois Waterway in Joliet, Illinois was struck and seriously damaged by a vessel. The allision requires the Jefferson Street Bridge to remain in the open-to-navigation position until repairs are completed. It is estimated that it will take four months to complete the repairs. The Jefferson Street Bridge is one of five bascule leaf drawbridges within Joliet that carry vehicular traffic across the Illinois Waterway. The current regulations permit the bridges to remain closed to navigation during commuter hours of 7:30 a.m. to 8:30 a.m. and 4:15 p.m. to 5:15 p.m., Monday through Saturday. Damage to the Jefferson Street Bridge prevents its use by highway traffic and has increased traffic levels on the other bridges and travel time between bridges. The temporary rule was requested by the Illinois Department of Transportation in order to accommodate the additional vehicular traffic that has been diverted to the four remaining operable bridges.

Discussion of Temporary Rule

The five Joliet area drawbridges have a minimum vertical clearance of 16.5 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the draws of all Illinois Waterway bridges within Joliet open on signal for passage of river traffic, except that they need not open from 7:30 a.m. to 8:30 a.m. and from 4:15 p.m. to 5:15 p.m., Monday through Saturday. This temporary drawbridge operation amendment has been coordinated with the commercial waterway operators who do not object. Extending the morning drawbridge closure period by 30 minutes and the afternoon closure period by 30 minutes during the week, now until July 2, 2001, will not adversely impact navigation. It will, however, significantly facilitate traffic management in the City of Joliet.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory polices and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be minimal. A full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The temporary rule only impacts vessel traffic for one hour a day Monday through Saturday during the spring and early summer months. Although this timeframe coincides with part of the navigation season, commercial interests can accommodate this restriction in their schedules. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity, and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, telephone (314) 539–3900, extension 378.

Small businesses may send comments on the action of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Promulgation of changes to drawbridge regulations has been found not to have significant effect on the human environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

Bridges.

For the reason discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. Sec. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective 7:30 a.m. on February 26, 2001 through 7:30 a.m. on July 2, 2001, paragraph (c) of § 117.393 is suspended and a new paragraph (e) is added to read as follows:

§ 117.393 Illinois Waterway.

* * * * *

(e) The draws of the McDonough Street Bridge, mile 287.3; Cass Street Bridge, mile 288.1; Jackson Street Bridge, mile 288.4 and the Ruby Street Bridge, mile 288.7; all of Joliet, shall open on signal, except that they need not open from 7:30 a.m. to 9 a.m. and from 4 p.m. to 5:30 p.m. Monday through Saturday. The Jefferson Street Bridge shall remain in the open-to-navigation position during the period February 26, 2001 to July 2, 2001 for repairs.

Dated: March 30, 2001.

J.C. Van Sice,

Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.

[FR Doc. 01–12115 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 136, 141 and 143

[FRL–6974–7]

RIN–2040–AD59

Withdrawal of Direct Final Rule; Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; National Primary Drinking Water Regulations and National Secondary Drinking Water Regulations; Methods Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because EPA received adverse comments, we are withdrawing the direct final rule entitled "Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; National Primary Drinking Water Regulations and National Secondary Drinking Water Regulations; Methods Update; Direct Final Rule." We published the direct final rule (66 FR 3466) with a companion proposed rule (66 FR 3526) on January 16, 2001. We stated in the direct final rule that if we received adverse comment by March 19, 2001, we would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received adverse comments on the direct final rule. We will address those comments in a subsequent action based on the parallel proposal. The proposed rule stated that we would not institute a second comment period on this action.

DATES: As of May 15, 2001, EPA withdraws the direct final rule published at 66 FR 3466 on January 16, 2001.

FOR FURTHER INFORMATION CONTACT: Maria Gomez-Taylor, Ph.D., Engineering and Analysis Division (4303), USEPA Office of Science and Technology, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460 (phone: 202–260–1639; e-mail: Gomez-Taylor.Maria@epa.gov).

SUPPLEMENTARY INFORMATION: EPA published a direct final rule on January 16, 2001, to approve the use of updated versions of test procedures (*i.e.*, analytical methods) for the determination of chemical, radiological, and microbiological pollutants and contaminants in wastewater and drinking water. These updated versions of analytical methods have been published by one or more of the following organizations: American Society for Testing Materials, United States Geological Survey, United States Department of Energy, American Public Health Association, American Water Works Association, and Water Environment Federation. Previously approved versions of the methods would remain approved. The rule also corrected method citations and minor typographical errors in EPA's regulations for test procedures. EPA published a companion proposed rule (66 FR 3526) on the same date as the direct final rule.

The companion proposed rule invited comment on the substance of the direct final rule and stated that if adverse comments were received by March 19, 2001, the direct final rule would not become effective and a document would be published in the **Federal Register** to withdraw the direct final rule before the May 16, 2001, effective date. The EPA subsequently received adverse comments on the final rule. EPA plans to address those comments in a subsequent action. Today's action withdraws the direct final rule; the updated versions of the test procedures are not approved under 40 CFR parts 136, 141, or 143.

List of Subjects

40 CFR Part 136

Environmental protection, Analytical methods, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 141

Environmental protection, Chemicals, Incorporation by reference, Indian-lands, Intergovernmental relations, Radiation Protection, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 143

Environmental protection, Chemicals, Incorporation by reference, Indian-lands, Water supply.

Dated: May 7, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–12045 Filed 5–14–01; 8:45 am]

BILLING CODE 5560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 87

[WT Docket No. 00–77; FCC 01–122]

Accommodation of Advanced Digital Communications in the 117.975–137 MHz Frequency Band and Implementation of Flight Information Services in the 136–137 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to (1) permit the Federal Aviation Administration (FAA) to use five additional channels in the 136–136.475 MHz frequency band; (2) authorize the implementation of Flight Information Services-Broadcast (FIS–B) in the 136–137 MHz band; (3) accommodate digital communications systems throughout the 117.975–137 MHz aeronautical radio spectrum; and (4) clarify that five channels previously reserved for special purpose aeronautical enroute operations in the Gulf of Mexico Region—136.775 MHz, 136.800 MHz, 136.825 MHz, 136.850 MHz and 136.875 MHz—are no longer so reserved, and thus may be licensed for general purpose aeronautical enroute operations without geographical limitation. The Commission has adopted these amendments in response to petitions for rulemaking filed by the Small Aircraft Manufacturers Association and the FAA, respectively, requesting that the Commission amend its rules to permit the implementation of FIS–B and other digital communications systems, and in response to comments on those petitions by Aeronautical Radio, Inc. and other organizations representing the aviation industry. These rule amendments will enhance the safety of aviation by alleviating spectrum congestion in the aeronautical radio frequency bands and by paving the way for the introduction of FIS–B and other new digital communications services.

EFFECTIVE DATE: Effective June 14, 2001.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, Wireless Telecommunications Bureau at (202) 418–0680.

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Commission's *Report and Order (R&O)*, FCC 01–122, adopted on April 5, 2001, and released on April 13, 2001. The full text of this *R&O* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, S.W., Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037.

Summary of Report and Order

2. Based on the record in this proceeding, we conclude that the 136–137 MHz frequency band should remain allocated for non-Government use on a primary basis, but that the FAA should have access to the five channels in that frequency band that have been held in reserve, 136.100 MHz, 136.200 MHz, 136.275 MHz, 136.375 MHz, and 136.475 MHz. Maintaining the existing allocation will protect the private sector's current use of the 136–137 MHz frequencies for aircraft operational control communications without having a negative impact on the FAA's existing rights to use the lower channels on a shared basis for air traffic control purposes. In addition, the existing allocation of the band remains consistent with the Final Acts of the 1979 and 1987 World Administrative Radio Conferences. We also believe that the public interest will be served by extending the FAA's existing shared access to 136–137 MHz spectrum to include the specified additional five frequencies. This action will permit the deployment of Flight Information Services-Broadcast (FIS–B) to go forward as contemplated by the FAA and the civil aviation industry.

3. We also conclude that we should accommodate digital communications in the 117.975–137 MHz band and allow the use of both VHF Digital Link Mode 2 and VHF Digital Link Mode 3 technology throughout the band without limitation. This action will help to alleviate congestion in the VHF aeronautical spectrum and will permit the introduction of FIS–B and other advanced services that will enhance the safety of flight. We also believe that placing no restrictions on the types of digital technologies that may operate in the 117.975–137 MHz band will promote flexibility and efficiency during the transition to digital aviation communications systems. It will allow the FAA to move ahead with its plans to deploy a VHF Digital Link Mode 3 system in the near future, while at the same time addressing aviation industry concerns that the significant investment in VHF Digital Link Mode 2 technology not be stranded.

4. We further conclude that FIS–B should be authorized in the 136–137 MHz band. The desire to accommodate FIS–B in the 136–137 MHz band was a primary impetus for this rulemaking proceeding, and all parties agree that deployment of FIS–B will serve the public interest. This action paves the way for the implementation of a new digital data service that will enhance flight safety in the frequency band identified by both the FAA and the industry as most suitable for that service. We designate as FIS–B frequencies the four frequencies identified by the FAA and the civil aviation industry in their pleadings and, consistent with the definition of FIS–B as a ground-to-air service, we will prohibit the use of the FIS–B frequencies for transmissions from aircraft. Prohibiting aircraft transmission will ensure that FIS–B is used for its intended purpose, will promote spectrum efficiency, and will minimize the time for needed for aircraft reception of an entire FIS–B data transmission.

5. Finally, we clarify that the reservation of six channels—136.750 MHz, 136.775 MHz, 136.800 MHz, 136.825 MHz, 136.850 MHz and 136.875 MHz—for special purpose aeronautical enroute services (helicopter flight following systems) in the Gulf of Mexico Region has expired, and we make five of the channels, all but 136.750 MHz, available for general purpose aeronautical enroute service both inside and outside the Gulf of Mexico Region. The reservation of these channels for helicopter flight following systems in the Gulf of Mexico Region expired on January 1, 1994. Of the six channels, only 136.750 MHz was licensed for a helicopter flight following system prior to the January 1, 1994, expiration date. Accordingly, the frequency 136.750 MHz should remain designated for special purpose enroute services in the Gulf of Mexico Region. Removing the restriction on the five other channels is consistent with previous FCC determinations and will provide needed additional spectrum resources for general purpose aeronautical enroute service.

Final Regulatory Flexibility Analysis (FRFA)

6. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking (NPRM)*, 65 FR 41032, July 3, 2000, prepared in this proceeding. The Commission sought written public comment on the proposals in the *NPRM*, including comments on the IRFA. This present FRFA conforms to the RFA.

A. Need for, and Objectives of, the *Report and Order*

7. Our objective in this proceeding is to address increasing spectrum congestion within the 117.975–136 MHz band stemming from increasing air traffic control communications requirements that cause frequency assignments in this band to grow about four percent annually. To alleviate this congestion in spectrum used for aviation communications vital to the safety of flight, while providing the Federal Aviation Administration (FAA) with the latitude it needs to meet its statutory role in administering the civil aviation communications spectrum, there needs to be a transition to new digital communications technology. The *Report and Order* and the rules adopted therein accommodate this need by revising technical requirements so as to permit the introduction of new digital aviation communication systems in the 117.975–136 MHz band generally, and the introduction specifically of a new digital data service known as Flight Information Service-Broadcast (FIS–B) on four channels in the 136–137 MHz portion of the band. The adopted rules further alleviate problems of spectrum scarcity in the 136–137 MHz band by giving the FAA shared access to five additional frequencies between 136.000 MHz and 136.475 MHz and by clarifying the availability for general purpose aeronautical enroute service communications of five frequencies between 136.750 MHz and 136.875 MHz, inclusive.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

8. No comments were filed in direct response to the IRFA.

III. Description and Estimate of the Number of Small Entities to Which the Adopted Rules Will Apply

9. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions, or entities. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA, and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

10. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. The definition of "small governmental jurisdiction" is one with a population of fewer than 50,000. There are 85,006 governmental jurisdictions in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and, of those, 37,556, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that 96 percent, or about 81,600, are small entities that may be affected by our rules. Nationwide, there are 4.44 million small business firms, according to SBA reporting data.

11. The rules adopted in this *Report and Order* will affect small businesses that use, manufacture, design, import, or sell transceivers or other radio equipment intended to operate in the frequency band 117.975–137 MHz for the provision of aviation communications. There are no Commission-imposed requirements, however, for any entity to use these products. The adopted rules will benefit small entities that use such equipment, moreover, because they will enhance the safety and efficiency of aircraft navigation. At this time, the Commission does not have access to data that would permit a meaningful estimate of the number of small entities potentially affected by the adopted rules. Therefore, we will use the SBA definition of manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, manufacturers of transceivers and radio equipment must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities. The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are exclusive manufacturers of transceivers and radio equipment or how many are independently owned and operated.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

12. No new reporting, recordkeeping, or other compliance requirements would be imposed on applicants or licensees as a result of the actions taken in this rulemaking proceeding.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

13. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The rules adopted in the *Report and Order* do not impose any new reporting or compliance requirements, but only permit additional uses of existing Aviation Radio Service frequencies and the establishment of a new service. The rules adopted will accommodate the deployment of new digital transceivers designed to operate in the VHF aeronautical frequency bands, but the Commission has not specified design standards for such equipment; the *Report and Order* affects only the technical, performance standards for the use of the frequencies at issue. These rules reflect, moreover, a consensus among the FAA and the civil aviation industry regarding the best means of implementing FIS–B and other advanced digital aviation communications services. No parties commenting on the *NPRM* recommended any significant alternatives to the rules adopted.

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Adopted Rules

14. None.

Report to Congress: The Commission will send a copy of this *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will end a copy of this *Report and Order*, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clauses

15. Authority for issuance of this *Report and Order* is contained in sections 1, 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 302, 303(f) and (r), 337.

16. Pursuant to sections 1, 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 302, 303(f) and (r), 337, that parts 2 and 87 of the Commission's Rules, 47 CFR parts 2 and 87, ARE AMENDED as set forth in appendix B, effective thirty days after publication of this *Report and Order* in the **Federal Register**.

17. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 2

Radio; Telecommunications.

47 CFR Part 87

Air transportation; Radio.

Federal Communications Commission.

William F. Caton,

Deputy, Secretary.

Final Rules

For reasons discussed in the preamble, Title 47 of the Code of Federal Regulations, parts 2 and 87 are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.106 is amended by revising footnote US244 to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

United States (US) Footnotes

* * * * *

US244 The band 136.000–137.000 MHz is allocated to the non-Federal Government aeronautical mobile (R) service on a primary basis, and is subject to pertinent international treaties and agreements. The frequencies 136.000, 136.025, 136.050, 136.075, 136.100, 136.125, 136.150, 136.175, 136.200, 136.225, 136.250, 136.275, 136.300, 136.325, 136.350, 136.375, 136.400, 136.425, 136.450, and 136.475 MHz are available on a shared basis to the Federal Aviation Administration for air traffic control purposes, such as automatic weather observation stations (AWOS), automatic terminal information services (ATIS), flight information services-broadcast (FIS–B), and airport control tower communications. Existing operational meteorological satellites in the band 136–137 MHz may continue to operate on a not-to-interfere basis to aeronautical mobile (R) stations, until January 1, 2002. No new assignments will be made to stations in the meteorological-satellite service.

* * * * *

PART 87—AVIATION SERVICES

3. The authority citation for Part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303, and 307(e), unless otherwise noted.

4. In § 87.131, amend the table by revising the entries for Aeronautical enroute and aeronautical fixed, Airport control tower, and Aircraft (Communication) to read as follows:

§ 87.131 Power and emissions.

* * * * *

Class of station	Frequency band/frequency	Authorized emission(s)[9]	Maximum power[1]
Aeronautical enroute and aeronautical fixed	HF	R3E, H3E, J3E, J7B, H2B	6 kw.
	HF	A1A, F1B, J2A, J2B	1.5 kw.
	VHF	A3E, A9W, G1D	200 watts.[2]
Airport control tower	VHF	A3E, G1D, G7D	50 watts.
	Below 400 kHz	A3E	15 watts.
	Aeronautical Frequencies		
Aircraft (Communication)	UHF	F2D, F9D, F7D	25 watts.
	VHF	A3E, A9W, G1D, G7D	55 watts.
	HF	R3E, H3E, J3E, J7B, H2B, J7D, J9W	400 watts.
	HF	A1A, F1B, J2A, J2B	100 watts.

[1] The power is measured at the transmitter output terminals and the type of power is determined according to the emission designator as follows:
(i) Mean power (pY) for amplitude modulated emissions and transmitting both sidebands using unmodulated full carrier.
(ii) Peak envelope power (pX) for all emission designators other than those referred to in paragraph (i) of this note.
[2] Power and antenna height are restricted to the minimum necessary to achieve the required service.

[9] Excludes automatic link establishment.

5. In § 87.133, amend the table in paragraph (a) by revising the heading for (5) Band—100–137 MHz to read (5) Band—108–137 MHz, and by revising the entries below that heading for Aeronautical stations and Aircraft and other mobile stations in the Aviation Services and by adding notes 12 and 13 to the table to read as follows:

§ 87.133 Frequency stability.

(a) * * * * *

Frequency band (lower limit exclusive, upper limit inclusive), and categories of stations	Tolerance[1]	Tolerance[2]
(5) Band—108 to 137 MHz:		
Aeronautical stations	[4] 50	[12] 20
Aircraft and other mobile stations in the Aviation Services	[5] 50	[13] 30

[1] This tolerance is the maximum permitted until January 1, 1990, for transmitters installed before January 2, 1985, and used at the same installation. Tolerance is indicated in parts in 10^6 unless shown in Hertz (Hz).
[2] This tolerance is the maximum permitted after January 1, 1985, for new and replacement transmitters and to all transmitters after January 1, 1990. Tolerance is indicated in partS in 10^6 unless shown in Hertz (Hz).
[4] The tolerance for transmitters approved between January 1, 1966, and January 1, 1974, is 30 parts in 10^6. The tolerance for transmitters approved after January 1, 1974, and stations using offset carrier techniques is 20 parts in 10^6.
[5] The tolerance for transmitters approved after January 1, 1974, is 30 parts in 10^6.
[12] For emissions G1D and G7D, the tolerance is 2 parts per 10^6.
[13] For emissions G1D and G7D, the tolerance is 5 parts per 10^6.

6. In § 87.137, amend the table in paragraph (a) by adding an additional entry for G1D immediately below the existing entries for G1D to read as follows:

§ 87.137 Types of emission.

(a) * * *

Class of emission	Emission designator	Authorized bandwidth (kilohertz) Below 50 MHz	Above 50 MHz	Frequency deviation
G1D	14K0G1D		25	

7. Amend § 87.139 by adding new paragraph (k) to read as follows:

§ 87.139 Emission limitations.

* * * * *

(k) For VHF aeronautical stations and aircraft stations operating with G1D or G7D emissions:

(1) The amount of power measured across either first adjacent 25 kHz channel shall not exceed 0 dBm.

(2) The amount of power measured across either second adjacent channel share less than −25 dBm and the power measured in any other adjacent 25 kHz channels shall monotonically decrease at a rate of at least 5 dB per octave to a maximum value of −52 dBm.

(3) The amount of power measured over a 16 kHz channel bandwidth centered on the first adjacent 25 kHz channel shall not exceed −20 dBm.

8. In § 87.173, amend the table in paragraph (b) by revising the entries from 136.00–136.075 MHz through 136.975 MHz to read as follows:

§ 87.173 Frequencies.

* * * * *

(b) Frequency table:

Frequency or frequency band	Subpart	Class of station	Remarks
136.000–136.400 MHz	O, S	MA, FAC, FAW	Air traffic control operations; 25 kHz channel spacing.
136.425 MHz	O, S	MA, FAC, FAW	Air traffic control operations.
136.450 MHz	O, S	MA, FAC, FAW	Air traffic control operations.
136.475 MHz	O, S	MA, FAC, FAW	Air traffic control operations.
136.500–136.875 MHz	I	MA, FAE	Domestic VHF; 25 kHz channel spacing.
136.900 MHz	I	MA, FAE	International and domestic VHF.
136.925 MHz	I	MA, FAE	International and domestic VHF.

Frequency or frequency band	Subpart	Class of station	Remarks
136.950 MHz	I	MA, FAE	International and domestic VHF.
136.975 MHz	I	MA, FAE	International and domestic VHF.

9. Amend § 87.187 by adding new paragraph (dd) to read as follows:

§ 87.187 Frequencies.

* * * * *

(dd) The frequencies 136.425, 136.450, 136.475, and 136.500 MHz are designated for flight information services-broadcast (FIS–B) and may not be used by aircraft for transmission.

10. In § 87.263, amend by revising paragraphs (a)(1) and (a)(5) to read as follows:

§ 87.263 Frequencies.

(a) *Domestic VHF service.* (1) Frequencies in the 128.8125–132.125 MHz and 136.4875–137.00 MHz bands are available to serve domestic routes, except that the frequency 136.750 MHz is available only to aeronautical enroute stations located at least 288 kilometers (180 miles) from the Gulf of Mexico shoreline (outside the Gulf of Mexico region). The frequencies 136.900 MHz, 136.925 MHz, 136.950 MHz and 136.975 MHz are available to serve domestic and international routes. Frequency assignments are based on 25 kHz spacing. Use of these frequencies must be compatible with existing operations and must be in accordance with pertinent international treaties and agreements.

* * * * *

(5) The frequency 136.750 MHz is available in the Gulf of Mexico Region to serve domestic routes over the Gulf of Mexico and adjacent coastal areas. Assignment of this frequency in the Gulf of Mexico Region shall be to licensees first licensed on this frequency in the Gulf of Mexico Region prior to January 1, 1994, their successors and assigns, and is not subject to the conditions in § 87.261(c) and paragraph (a)(2) of this section. For the purpose of this paragraph, the Gulf of Mexico Region is defined as an area bounded on the east, north, and west by a line 288 km (180 miles) from the Gulf of Mexico shore line. Inland stations must be located within forty-eight kilometers (30 miles) of the Gulf of Mexico shore line.

* * * * *

[FR Doc. 01–12162 Filed 5–14–01; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket Nos. 96–98, 99–68; FCC 01–131]

Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic

AGENCY: Federal Communications Commission.

ACTION: Final rule; order on remand and report and order.

SUMMARY: In this final rule, the Commission reconsiders the proper treatment of telecommunications traffic delivered to Internet service providers (ISPs) for purposes of inter-carrier compensation. The Commission reaffirms its previous conclusion that traffic delivered to an ISP is predominantly interstate access traffic, in particular, information access, subject to section 201 of the Communications Act of 1934, as amended (the Act), and the Commission establishes an appropriate cost recovery mechanism for the exchange of such traffic.

DATES: The amendments to 47 CFR part 51 are effective June 14, 2001. However the portion of the Order specified in the ordering clauses takes effect upon May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Tamara Preiss, Deputy Chief, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1520.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Remand and Report and Order in CC Docket Nos. 96–98, 99–68, adopted April 18, 2001, and released on April 27, 2001. The full text of this document is available for public inspection Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. in the FCC Reference Information Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, DC 20554. The complete text of the order may be purchased from the Commission's duplicating contractor, ITS, Inc., at 1231 20th Street N.W., Washington, DC 20036 (202–857–3800).

Synopsis of Order on Remand and Report and Order

1. After a remand by the U.S. Court of Appeals for the D.C. Circuit in *Bell Atlantic Telephone Cos.* v. *FCC,* 206 F.3d 1 (D.C. Cir. 2000), in this final rule the Commission reconsiders the rationales underlying its regulatory treatment of telecommunications traffic delivered to ISPs to determine whether ISP-bound traffic is subject to statutory reciprocal compensation requirements. A more comprehensive review of the statute reveals that Congress intended to exempt certain enumerated categories of service from the universe of "telecommunications" subject to the reciprocal compensation requirements of section 251(b)(5), 47 U.S.C. 251(b)(5). The statute does not mandate reciprocal compensation for "exchange access, information access, and exchange services for such access" when the service is provided by local exchange carriers (LECs) to interexchange carriers (IXCs) or information service providers. The Commission finds that Congress specifically exempted the services enumerated under section 251(g), 47 U.S.C. 251(g), from the newly-imposed reciprocal compensation requirement in order to ensure that section 251(b)(5) is not interpreted to override either existing or future regulations prescribed by the Commission. Because the Commission interprets paragraph (g) as a carve-out provision, the focus of the inquiry is on the universe of traffic that falls within paragraph (g) and *not* the universe of traffic that falls within paragraph (b)(5).

2. The Commission specifically finds that ISP-bound traffic falls within at least one of the three enumerated categories in section 251(g). Regardless of whether this traffic falls under the category of "exchange access," an issue pending before the U.S. Court of Appeals for the D.C. Circuit in a separate proceeding, the Commission concludes that this traffic, at a minimum, falls under the rubric of "information access," a legacy term imported into section 251(g) of the 1996 Act from the *Modified Final Judgment (MFJ),* but not expressly defined in the Communications Act. *See United States* v. *AT&T,* 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983). The ISP-bound traffic at issue here falls within that category because it is access traffic destined for an information service provider. Because the legacy term "information access" in section 251(g) encompasses ISP-bound traffic, this traffic is excepted from the scope of the "telecommunications" subject to reciprocal compensation under section 251(b)(5). For these reasons, the Commission finds that Congress, through section 251(g), expressly limited the reach of section 251(b)(5) to exclude ISP-bound traffic.

3. For services that qualify under section 251(g), compensation is based on rules, regulations, and policies that preceded the Telecommunications Act of 1996 (1996 Act), and not on section 251(b)(5) which was minted by the 1996 Act. At least until the Commission by regulation should determine otherwise, Congress preserved the pre-1996 Act regulatory treatment of all the interstate access services enumerated under section 251(g). Although section 251(g) does not itself compel this outcome with respect to *intrastate* access regimes (because it expressly preserves only *the Commission's* traditional policies and authority over *interstate* access services), it nevertheless highlights an ambiguity in the scope of "telecommunications" subject to section 251(b)(5)—demonstrating that the term must be construed in light of other provisions in the statute. In this regard, the Commission again concludes that it is reasonable to interpret section 251(b)(5) to exclude traffic subject to parallel intrastate access regulations, because it would be incongruous to conclude that Congress was concerned about the effects of potential disruption to the interstate access charge system, but had no such concerns about the effects on analogous intrastate mechanisms.

4. Accordingly, the Commission affirms, although for different reasons, the conclusion in *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, Declaratory Ruling* in CC Docket No. 96–98 and *Notice of Proposed Rulemaking (NPRM)* in CC Docket No. 99–68, 14 FCC Rcd 3689 (1999), *64 FR 14239 (March 24,1999) (Declaratory Ruling),* that ISP-bound traffic is not subject to the reciprocal compensation obligations of section 251(b)(5).

5. Having found that ISP-bound traffic is excluded from section 251(b)(5) by section 251(g), the Commission finds that it has authority pursuant to section 201 to establish rules governing intercarrier compensation for such traffic. Under section 201, the Commission has long exercised its *jurisdictional* authority to regulate the interstate access services that local exchange carriers (LECs) provide to connect callers with IXCs or information service providers in order to originate or terminate calls that travel across state lines. Access services to ISPs for Internet-bound traffic are no exception. The Commission has held, and the Eighth Circuit has recently concurred, that traffic bound for information service providers (including Internet access traffic) often has an interstate component. Indeed, that court observed that the interstate and intrastate components cannot be reliably separated. Thus, ISP traffic is properly classified as interstate. Hence, it falls under the Commission's section 201 jurisdiction.

6. The Commission further concludes that section 251(i) provides additional support for the finding that Congress has granted the Commission the authority on a going-forward basis to establish a compensation regime for ISP-bound traffic.

7. Because the Commission determines that intercarrier compensation for ISP-bound traffic is within the jurisdiction of this Commission under section 201, it is incumbent upon the Commission to establish an appropriate cost recovery mechanism for delivery of this traffic. Based upon the record before it, the Commission believes that the most efficient recovery mechanism for ISP-bound traffic is likely to be bill and keep, whereby each carrier recovers costs from its own end-users.

8. As the Commission recognizes in the accompanying *Notice of Proposed Rulemaking, Developing a Unified Intercarrier Compensation Regime,* CC Docket Nos. 01–92, 98–98, *Notice of Proposed Rulemaking,* FCC 01–132 (April 27, 2001), compensation regimes that require carrier-to-carrier payments are likely to distort the development of competitive markets by divorcing cost recovery from the ultimate consumer of services. In the *NPRM,* the Commission suggests that, given the opportunity, carriers always will prefer to recover their costs from other carriers rather than their own end-users in order to gain competitive advantage. Thus, carriers have every incentive to compete, not on the basis of quality and efficiency, but on the basis of their ability to shift costs to other carriers, a troubling distortion that prevents market forces from distributing limited investment resources to their most efficient uses.

9. The Commission believes that this situation is particularly acute in the case of carriers delivering traffic to ISPs because these customers generate extremely high volumes of traffic that are entirely one-directional. Indeed, the weight of the evidence in the current record indicates that precisely the types of market distortions identified above are taking place with respect to ISP traffic. For example, comments in the record indicate that competitive local exchange carriers (CLECs), on average, terminate eighteen times more traffic than they originate, resulting in annual CLEC reciprocal compensation billings of approximately two billion dollars, ninety percent of which is for ISP-bound traffic. Moreover, the traffic imbalances for some competitive carriers are in fact much greater, with several carriers terminating more than forty times more traffic than they originate. There is nothing inherently wrong with carriers having substantial traffic imbalances arising from a business decision to target specific types of customers. In this case, however, the Commission believes that such decisions are driven by regulatory opportunities that disconnect costs from end-user market decisions. Thus, under the current carrier-to-carrier recovery mechanism, it is conceivable that a terminating carrier could serve an ISP free of charge and recover all of its costs from originating carriers. This result distorts competition by subsidizing one type of service at the expense of others.

10. Based upon the current record in this proceeding, however, bill and keep appears to be the preferable cost recovery mechanism for ISP-bound traffic because it eliminates a substantial opportunity for regulatory arbitrage. The Commission does not fully adopt a bill and keep regime in this Order, however, because there are specific questions regarding bill and keep that require further inquiry, and the Commission believes that a more complete record on these issues is desirable before requiring carriers to recover most of their costs from end-users. Because these questions are equally relevant to its evaluation of a bill and keep approach for other types of traffic, the Commission will consider them in the context of the *NPRM.* Moreover, the Commission believes that there are significant advantages to a global evaluation of the intercarrier compensation mechanisms applicable to different types of traffic to ensure a more systematic, symmetrical treatment of these issues.

11. Because the record in this proceeding indicates a need for immediate action with respect to ISP-bound traffic, however, in this final rule

the Commission implements an interim recovery scheme that: (i) moves aggressively to eliminate arbitrage opportunities presented by the existing recovery mechanism for ISP-bound by lowering payments and capping growth; and (ii) initiates a 36-month transition towards a complete bill and keep recovery mechanism while retaining the ability to adopt an alternative mechanism based upon a more extensive evaluation in the *NPRM* proceeding. Specifically, the Commission adopts a gradually declining cap on the amount that carriers may recover from other carriers for delivering ISP-bound traffic. The Commission also caps the amount of traffic for which any such compensation is owed, in order to eliminate incentives to pursue new arbitrage opportunities. In sum, the Commission's goal in this Order is decreased reliance by carriers upon carrier-to-carrier payments and an increased reliance upon recovery of costs from end-users. In this regard, the Commission emphasizes that the rate caps the Commission imposes are not intended to reflect the costs incurred by each carrier that delivers ISP traffic. Some carriers' costs may be higher; some are probably lower. Rather, the Commission concludes, based upon all of the evidence in this record, that these rates are appropriate limits on the amounts recovered from other carriers and provide a reasonable transition from rates that have (at least until recently) typically been much higher. Carriers whose costs exceed these rates are (and will continue to be) able to collect additional amounts from their ISP customers. As noted, and explained in more detail in the Order, the Commission believes that such end-user recovery likely is the most efficient mechanism.

12. Beginning on the effective date of the final rule, and continuing for six months, intercarrier compensation for ISP-bound traffic will be capped at a rate of $.0015/minute-of-use (mou). Starting in the seventh month, and continuing for eighteen months, the rate will be capped at $.0010/mou. Starting in the twenty-fifth month, and continuing through the thirty-sixth month or until further Commission action (whichever is later), the rate will be capped at $.0007/mou. In addition to the rate caps, the Commission imposes a cap on total ISP-bound minutes for which a LEC may receive this compensation. For the year 2001, a LEC may receive compensation, pursuant to a particular interconnection agreement, for ISP-bound minutes up to a ceiling equal to, on an annualized basis, the number of ISP-bound minutes for which that LEC was entitled to compensation under that agreement during the first quarter of 2001, plus a ten percent growth factor. For 2002, a LEC may receive compensation, pursuant to a particular interconnection agreement, for ISP-bound minutes up to a ceiling equal to the minutes for which it was entitled to compensation under that agreement in 2001, plus another ten percent growth factor. In 2003, a LEC may receive compensation, pursuant to a particular interconnection agreement, for ISP-bound minutes up to a ceiling equal to the 2002 ceiling applicable to that agreement. This interim regime affects only the intercarrier *compensation* (i.e., the rates) applicable to the delivery of ISP-bound traffic. It does not alter carriers' other obligations under the Commission's part 51 rules, 47 CFR part 51, or existing interconnection agreements, such as obligations to transport traffic to points of interconnection. These caps are consistent with projections of the growth of dial-up Internet access for the first two years of the transition and are necessary to ensure that such growth does not undermine the goal of limiting intercarrier compensation and beginning a transition toward bill and keep. Nothing in the final rule prevents any carrier from serving or indeed expanding service to ISPs, so long as they recover the costs of additional minutes from their ISP customers.

13. Because the transitional rates are *caps* on intercarrier compensation, they have no effect to the extent that states have ordered LECs to exchange ISP-bound traffic either at rates below the caps or on a bill and keep basis (or otherwise have not required payment of compensation for this traffic). The rate caps are designed to provide a transition toward bill and keep, and no transition is necessary for carriers already exchanging traffic at rates below the caps. Thus, if a state has ordered all LECs to exchange ISP-bound traffic on a bill and keep basis, or if a state has ordered bill and keep for ISP-bound traffic in a particular arbitration, those LECs subject to the state order would continue to exchange ISP-bound traffic on a bill and keep basis.

14. In order to limit disputes and costly measures to identify ISP-bound traffic, the Commission adopts a rebuttable presumption that traffic exchanged between LECs that exceeds a 3:1 ratio of terminating to originating traffic is ISP-bound traffic subject to the compensation mechanism set forth in the final rule. This ratio is consistent with those adopted by state commissions to identify ISP or other convergent traffic that is subject to lower intercarrier compensation rates. Carriers that seek to rebut this presumption, by showing that traffic above the ratio is not ISP-bound traffic or, conversely, that traffic below the ratio is ISP-bound traffic, may seek appropriate relief from their state commissions pursuant to section 252 of the Act.

15. It would be unwise as a policy matter, and patently unfair, to allow incumbent LECs to benefit from reduced intercarrier compensation rates for ISP-bound traffic, with respect to which they are net payors, while permitting them to exchange traffic at state reciprocal compensation rates, which are much higher than the caps the Commission adopts here, when the traffic imbalance is reversed. Because the Commission is concerned about the superior bargaining power of incumbent LECs, the Commission will not allow them to "pick and choose" intercarrier compensation regimes, depending on the nature of the traffic exchanged with another carrier. The rate caps for ISP-bound traffic that the Commission adopts here apply, therefore, only if an incumbent LEC offers to exchange all traffic subject to section 251(b)(5) at the same rate. Thus, if the applicable rate cap is $.0010/mou, the ILEC must offer to exchange section 251(b)(5) traffic at that same rate. Similarly, if an ILEC wishes to continue to exchange ISP-bound traffic on a bill and keep basis in a state that has ordered bill and keep, it must offer to exchange all section 251(b)(5) traffic on a bill and keep basis. If, however, a state has ordered bill and keep for ISP-bound traffic only with respect to a particular interconnection agreement, as opposed to state-wide, the Commission does not require the incumbent LEC to offer to exchange all section 251(b)(5) traffic on a bill and keep basis. This limitation is necessary so that an incumbent is not required to deliver all section 251(b)(5) in a state on a bill and keep basis even though it continues to pay compensation for most ISP-bound traffic in that state. For those incumbent LECs that choose not to offer to exchange section 251(b)(5) traffic subject to the same rate caps the Commission adopts for ISP-bound traffic, the Commission orders them to exchange ISP-bound traffic at the state-approved or state-arbitrated reciprocal compensation rates reflected in their contracts. This "mirroring" rule ensures that incumbent LECs will pay the same rates for ISP-bound traffic that they receive for section 251(b)(5) traffic.

16. Finally, a different rule applies in the case where carriers are not exchanging traffic pursuant to interconnection agreements prior to the adoption date of this Order (April 18, 2001), where, for example, a new carrier enters the market or an existing carrier expands into a market it previously had not served. In such a case, as of the effective date of the final rule, carriers must exchange ISP-bound traffic on a bill-and-keep basis during this interim period.

17. The interim compensation regime the Commission establishes here applies as carriers re-negotiate expired or expiring interconnection agreements. It does not alter existing contractual obligations, except to the extent that parties are entitled to invoke contractual change-of-law provisions. This Order does not preempt any state commission decision regarding compensation for ISP-bound traffic for the period prior to the effective date. Because the Commission now exercises its authority under section 201 to determine the appropriate intercarrier compensation for ISP-bound traffic, however, state commissions will no longer have authority to address this issue. For this same reason, as of the date this Order is published in the **Federal Register**, carriers may no longer invoke section 252(i) to opt into an existing interconnection agreement with regard to the rates paid for the exchange of ISP-bound traffic. Section 252(i) applies only to agreements arbitrated or approved by state commissions pursuant to section 252; it has no application in the context of an intercarrier compensation regime set by this Commission pursuant to section 201. The Commission finds there is good cause under 5 U.S.C. 553(d)(3), however, to prohibit carriers from invoking section 252(i) with respect to rates paid for the exchange of ISP-bound traffic upon publication of this Order in the **Federal Register**, in order to prevent carriers from exercising opt in rights during the thirty days after **Federal Register** publication. To permit a carrier to opt into a reciprocal compensation rate higher than the caps the Commission has adopted during that window would seriously undermine the Commission's effort to curtail regulatory arbitrage and to begin a transition from dependence on intercarrier compensation and toward greater reliance on end-user recovery. In any event, the Commission's rule implementing section 252(i) requires incumbent LECs to make available "[i]ndividual interconnection, service, or network element arrangements" to requesting telecommunications carriers only "for a reasonable period of time." 47 CFR 51.809(c). The Commission concludes that any "reasonable period of time" for making available rates applicable to the exchange of ISP-bound traffic expires upon the Commission's adoption in this Order of an intercarrier compensation mechanism for ISP-bound traffic.

18. In summary, the interim regime the Commission adopts in this final rule "provides relative certainly in the marketplace" pending further Commission action, thereby allowing carriers to develop business plans, attract capital, and make intelligent investments. The interim regime should reduce carriers' reliance on carrier-to-carrier payments as they recover more of their costs from end-users, while avoiding a "flash cut" to bill and keep which might upset legitimate business expectations. The Commission believes that the analysis supplied in the Order amply responds to the court mandate that the Commission explains how its conclusions regarding ISP-bound traffic fit within the governing statute.

Paperwork Reduction Act

19. This order contains no new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA).

Final Regulatory Flexibility Analysis

20. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Declaratory Ruling and NPRM*. *Declaratory Ruling*, 14 FCC Rcd at 3710–13. The Commission sought and received written comments on the IRFA. The Final Regulatory Flexibility Analysis (FRFA) in this Order on Remand and Report and Order conforms to the RFA, as amended. *See* 5 U.S.C. 604. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, was amended by the "Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), which was enacted as Title II of the Contract With America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996) (CWAAA).

21. To the extent that any statement contained in this FRFA is perceived as creating ambiguity with respect to the Commission's rules, or statements made in preceding sections of this Order on Remand and Report and Order, the rules and statements set forth in those preceding sections shall be controlling.

Need for, and Objectives of, This Order on Remand and Report and Order

22. In the *Declaratory Ruling*, the Commission found that it did not have an adequate record upon which to adopt a rule regarding intercarrier compensation for ISP-bound traffic, but the Commission indicated that adoption of a rule would serve the public interest. *Declaratory Ruling and NPRM*, 14 FCC Rcd at 3707. The Commission sought comment on two alternative proposals, and stated that the Commission might issue new rules or alter existing rules in light of the comments received. *Declaratory Ruling and NPRM*, 14 FCC Rcd at 3711. Prior to the release of a decision on such intercarrier compensation, the U.S. Court of Appeals for the District of Columbia Circuit vacated certain provisions of the *Declaratory Ruling* and remanded the matter to the Commission. *See Bell Atlantic*, 206 F.3d 1.

23. This Order on Remand and Report and Order addresses the concerns of various parties to this proceeding and responds to the court's remand. The Commission exercises jurisdiction over ISP-bound traffic pursuant to section 201, and establishes a three-year interim intercarrier compensation mechanism for the exchange of ISP-bound traffic that applies if incumbent LECs offer to exchange section 251(b)(5) traffic at the same rates. During this interim period, intercarrier compensation for ISP-bound traffic is subject to a rate cap that declines over the three-year period, from $.0015/mou to $.0007/mou. The Commission also imposes a cap on the total ISP-bound minutes for which a LEC may receive this compensation under a particular interconnection agreement equal to, on an annualized basis, the number of ISP-bound minutes for which that LEC was entitled to receive compensation during the first quarter of 2001, increased by ten percent in each of the first two years of the transition. If an incumbent LEC does not offer to exchange all section 251(b)(5) traffic subject to the rate caps set forth herein, the exchange of ISP-bound traffic will be governed by the reciprocal compensation rates approved or arbitrated by state commissions.

Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

24. The Office of Advocacy, U.S. Small Business Administration (Office of Advocacy) submitted two filings in response to the IRFA. Office of Advocacy, U.S. Small Business Administration *ex parte*, May 27, 1999; Office of Advocacy, U.S. Small Business Administration *ex parte*, June 14, 1999. In these filings, the Office of Advocacy raises significant issues regarding the Commission's description, in the IRFA, of small entities to which the Commission's rules will apply, and the

discussion of significant alternatives considered and rejected. Specifically, the Office of Advocacy argues that the Commission has failed accurately to identify all small entities affected by the rulemaking by refusing to characterize small incumbent local exchange carriers (LECs), and failing to identify small ISPs, as small entities. Office of Advocacy, U.S. Small Business Administration *ex parte*, May 27, 1999, at 1–3; Office of Advocacy, U.S. Small Business Administration *ex parte*, June 14, 1999, at 2–3. The Commission notes that, in the IRFA, the Commission stated that the Commission excluded small incumbent LECs from the definitions of "small entity" and "small business concern" because such companies are either dominant in their field of operations or are not independently owned and operated. *Declaratory Ruling* and NPRM, 14 FCC Rcd at 3711. The Commission also stated, however, that the Commission would nonetheless, out of an abundance of caution, include small incumbent LECs in the IRFA, and did so. *Declaratory Ruling and NPRM*, 14 FCC Rcd at 3711. Small incumbent LECs and other relevant small entities are included in the Commission's present analysis as described.

25. The Office of Advocacy also states that Internet service providers (ISPs) are directly affected by the Commission's actions, and therefore should be included in its regulatory flexibility analysis. The Commission finds, however, that rates charged to ISPs are only indirectly affected by its actions. The Commission has, nonetheless, briefly discussed the effect on ISPs in the primary text of this Order.

26. Last, the Office of Advocacy also argues that the Commission has failed adequately to address significant alternatives that accomplish its stated objective and minimize any significant economic impact on small entities. Office of Advocacy, U.S. Small Business Administration *ex parte*, June 14, 1999, at 3. The Commission notes that, in the IRFA, it described the nature and effect of its proposed actions, and encouraged small entities to comment (including giving comment on possible alternatives). The Commission also specifically sought comment on the two alternative proposals for implementing intercarrier compensation—one that resolved intercarrier compensation pursuant to the negotiation and arbitration process set forth in section 252, and another that would have had the Commission adopt a set of federal rules to govern such intercarrier compensation. *Declaratory Ruling [IRFA]*, 14 FCC Rcd at 3711 (para. 39); *see also Declaratory Ruling*, 14 FCC Rcd at 3707–08 (paras. 30–31). The Commission believes, therefore, that small entities had a sufficient opportunity to comment on alternative proposals.

27. NTCA also filed comments, not directly in response to the IRFA, urging the Commission to fulfill its obligation to consider small telephone companies. NTCA NPRM Comments at vi, 15. Some commenters also raised the issue of small entity concerns over increasing Internet traffic and the use of Extended Area Service (EAS) arrangements. *See, e.g.*, ICORE NPRM Comments at 1–7; IURC NPRM Comments at 7; Richmond Telephone Company NPRM Comments at 1–8. The Commission is especially sensitive to the needs of rural and small LECs that handle ISP-bound traffic, but the Commission finds that the costs that LECs incur in *originating* this traffic extends beyond the scope of the present proceeding and should not dictate the appropriate approach to compensation for *delivery* of ISP-bound traffic.

Description and Estimate of the Number of Small Entities to Which Rules Will Apply

28. The rules the Commission is adopting apply to local exchange carriers. To estimate the number of small entities that would be affected by this economic impact, the Commission first considers the statutory definition of "small entity" under the RFA. The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. 632). Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. 632. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. 13 CFR 121.201.

29. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its Carrier Locator report, derived from filings made in connection with the Telecommunications Relay Service (TRS). FCC, Carrier Locator: Interstate Service Providers, Figure 1 (Jan. 2000) (Carrier Locator). According to data in the most recent report, there are 4,144 interstate carriers. Carrier Locator at Fig. 1. These carriers include, *inter alia*, incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

30. The Commission has included small incumbent local exchange carriers (LECs) in this present regulatory flexibility analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." 5 U.S.C. 601(3). The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. Office of Advocacy, U.S. Small Business Administration *ex parte*, May 27, 1999, at 1–3; Office of Advocacy, U.S. Small Business Administration *ex parte*, June 14, 1999, at 2–3. The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket, 96–98, *First Report and Order*, 11 FCC Rcd 15499, 16144–45 (1996). The Commission has therefore included small incumbent LECs in this regulatory flexibility analysis, although the Commission emphasizes that this regulatory flexibility analysis action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

31. Total Number of Telephone Companies Affected. The United States Bureau of the Census (the Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. United States Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1–123 (1995) (1992 Census). This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." 15 U.S.C. 632(a)(1). For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rule changes adopted in this proceeding.

32. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. 1992 Census at Firm Size 1–123. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4813. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, the Commission is unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rule changes adopted in this proceeding.

33. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, and Resellers.* Neither the Commission nor the SBA has developed a definition particular to small LECs, interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), or resellers. The closest applicable definition for these carrier-types under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. 13 CFR 121.201, SIC Code 4813. According to the Commission's most recent TRS data, there are 1,348 incumbent LECs and 212 CAPs and competitive LECs. Carrier Locator at Fig. 1. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 1,348 incumbent LECs and fewer than 212 CAPs and competitive LECs that may be affected by the decisions and rule changes adopted in this proceeding.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

34. The rule the Commission is adopting imposes direct compliance requirements on interconnected incumbent and competitive LECs, including small LECs. In order to comply with this rule, these entities will be required to exchange their ISP-bound traffic subject to the rules the Commission is adopting.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

35. In the *Declaratory Ruling and NPRM* the Commission proposed various approaches to intercarrier compensation for ISP-bound traffic. *Declaratory Ruling*, 14 FCC Rcd at 3707–10. During the course of this proceeding the Commission has considered and rejected several alternatives. None of the significant alternatives considered would appear to succeed as much as the Commission's present rule in balancing its desire to minimize any significant economic impact on relevant small entities with its desire to deal with the undesirable incentives created under the current reciprocal compensation regime that governs the exchange of ISP-bound traffic in most instances. The Commission also finds that for small ILECs and CLECs the administrative burdens and transaction costs of intercarrier compensation will be minimized to the extent that LECs begin a transition toward recovery of costs from end-users, rather than other carriers.

36. Although a longer transition period was considered by the Commission, it was rejected because a three-year period was considered sufficient to accomplish the Commission's policy objectives with respect to all LECs. Differing compliance requirements for small LECs or exemption from all or part of this rule is inconsistent with the Commission's policy goal of addressing the market distortions attributable to the prevailing intercarrier compensation mechanism for ISP-bound traffic and beginning a smooth transition to bill-and-keep.

37. *Report to Congress:* The Commission will send a copy of this Order on Remand and Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act of 1996. 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this Order on Remand and Report and Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See also* 5 U.S.C. 604(b). A copy of this Order on Remand and Report and Order and FRFA (or summaries thereof) will be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clauses

Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i) and (j), 201–209, 251, 252, 332, and 403 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 251, 252, 332, and 403, and section 553 of Title 5, United States Code, 5 U.S.C. 553, that this Order on Remand and Report and Order and revisions to part 51 of the Commission's rules, 47 CFR part 51, ARE ADOPTED. This Order on Remand and Report and Order and the rule revisions adopted herein will be effective 30 days after publication in the **Federal Register** except that, for good cause shown, as set forth in paragraph 82 of this Order and as described in paragraph 17 of this **Federal Register**

document, the provision of this Order prohibiting carriers from invoking section 252(i) of the Act to opt into an existing interconnection agreement as it applies to rates paid for the exchange of ISP-bound traffic will be effective immediately upon publication of this Order in the **Federal Register**.

It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this Order on Remand and Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 51

Communications, common carriers, Interconnection, Telecommunications, Internet service providers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 51 as follows:

PART 51—INTERCONNECTION

1. The authority citation for part 51 continues to read:

Authority: Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. §§ 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, unless otherwise noted.

2. The heading in part 51, subpart H, is revised to read as follows:

Subpart H—Reciprocal Compensation for Transport and Termination of Telecommunications Traffic

3. Section 51.701(b) is revised to read as follows:

§ 51.701 Scope of transport and termination pricing rules.

* * * * *

(b) *Telecommunications traffic.* For purposes of this subpart, telecommunications traffic means:

(1) Telecommunications traffic exchanged between a LEC and a telecommunications carrier other than a CMRS provider, except for telecommunications traffic that is interstate or intrastate exchange access, information access, or exchange services for such access (*see* FCC 01–131, paragraphs 34, 36, 39, 42–43); or

(2) Telecommunications traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter.

* * * * *

4. Sections 51.701(a), 51.701(c) through (e), 51.703, 51.705, 51.707, 51.709, 51.711, 51.713, 51.715, and 51.717 are amended by removing the term "local telecommunications traffic" and adding in its place "telecommunications traffic" each place it appears.

[FR Doc. 01–12165 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–1082; MM Docket No. 97–86; RM–9025 & RM–9084]

Radio Broadcasting Services; Camdenton and Laurie, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Camdenton Community Broadcasters proposed the allotment of Channel 265A at Camdenton, Missouri, as the community's first local commercial FM service. *See* 62 FR 10010, March 5, 1997. In response to a counterproposal filed by Bott Communications, Inc., we shall allot Channel 265C3 at Laurie, Missouri, as a first local service, at coordinates 38–08–30 and 92–50–37. There is a site restriction 6 kilometers south of the community. No allotment will be made at Camdenton, Missouri. A filing window for Channel 265C3 at Laurie will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

DATES: Effective June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97–86, adopted April 18, 2001, and released April 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCASTING SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Laurie, Channel 265C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12091 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1081; MM Docket No. 00–6; RM–9791; RM–9890]

Radio Broadcasting Services; McCook, Alliance, Imperial, NE, Limon, Parker, Aspen, Avon, Westcliffe, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of McCook Radio Group, LLC, allots Channel 271C1 to McCook, NE, as the community's fifth local FM service. At the request of The Meadowlark Group, Inc., the Commission substitutes Channel 276C for Channel 276C1 at Limon, CO, reallots Channel 276C to Parker, CO, and modifies the license of Station KAVD accordingly. To accommodate the allotment of Channel 276C to Parker, the Commission also substitutes: (1) Channel 276C3 for Channel 249C3 at Aspen, CO, and modifies the license of Station KSPN; (2) Channel 249C2 for Channel 276C2 at Avon, CO, and modifies the license of Station KZYR; (3) Channel 227A for vacant and unapplied for Channel 276A at Westcliffe, CO; (4) Channel 275CO for Channel 275C at Imperial, NE, and modifies the construction permit of Imperial Media Association. *See* 65 FR 4798, February 1, 2000. A filing window for Channel 271C1 at McCook, NE, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

DATES: Effective June 12, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: Channel 271C1 can be allotted to McCook, Nebraska, in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.6 kilometers (12.2 miles) west, at coordinates 40–12–00 NL; 100–51–25 WL, to avoid a short-spacing to Station KKQY, Channel 270C1, Hill City, Kansas, and the pending application of Station KRNY, Channel 272C1, Kearney, Nebraska. Channel 275C0 can be allotted to Imperial, Nebraska, at the site specified in Imperial Media's construction permit (BPH–19970924ML), at coordinates 40–45–31 NL; 101–52–32 WL. Channel 276C can be allotted to Parker with a site restriction of 63.4 kilometers (39.4 miles) east to accommodate Meadowlark's desired transmitter site, at coordinates 39–26–08 NL; 104–02–05 WL. Channel 249C2 can be allotted to Avon, Colorado, with a site restriction of 5.3 kilometers (3.3 miles) east, at coordinates 39–37–52 NL; 106–27–42 WL. Channel 276C3 can be allotted to Aspen, Colorado, at Station KSPN–FM's licensed transmitter site, at coordinates 39–13–33 NL; 106–50–00 WL. Channel 227A can be allotted to Westcliffe, Colorado, at the same coordinates as presently allotted Channel 276A, which are 38–04–28 NL; 105–32–13 WL.

This is a synopsis of the Commission's Report and Order, MM Docket No. 00–6, adopted April 25, 2001, and released April 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 249C3 and adding Channel 276C3 at Aspen, removing Channel 276C2 and adding Channel 249C2 at Avon, removing Channel 276C1 at Limon, removing Channel 276A and adding Channel 227A at Westcliffe and by adding Parker, Channel 276C.

3. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Channel 275C0 and removing Channel 275C at Imperial, adding Channel 271C1 at McCook.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12090 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1080; MM Docket No. 00–165; RM–9941]

Radio Broadcasting Services; Royston and Arcade, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a proposal filed on behalf of Southern Broadcasting of Athens, Inc., the Commission reallots Channel 279C3 from Royston to Arcade, Georgia, as that community's first local aural transmission service, and modifies the license for Station WPUP(FM) accordingly. *See* 65 FR 56858, September 20, 2000. Coordinates used for Channel 279C3 at Arcade are 34–15–09 NL; 83–28–28 WL.

DATES: Effective June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–165, adopted April 18, 2001, and released April 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Arcade, Channel 279C3, and by removing Royston, Channel 279C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12088 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1094; MM Docket No. 00–194, RM–9972; MM Docket No. 00–196, RM–9974; MM Docket No. 00–197, RM–9975]

Radio Broadcasting Services; Paradise, MI; Lynchburg, TN; and Rincon, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants two proposals that allot new FM channels to Paradise, Michigan and Lynchburg, Tennessee. It also denies a petition for rule making to allot a new FM channel to Rincon, Texas. Filing windows for Channel 234A at Paradise, Michigan, and Channel 296A at Lynchburg, Tennessee will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent order.

DATES: Effective June 11, 2001.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 00–194; MM Docket No. 00–196; and MM Docket No. 00–197, adopted April 18, 2001, and released April 27, 2001. The

full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

The Commission, at the request of David C. Schaburg, allots Channel 234A at Paradise, Michigan, as the community's first local aural transmission service. *See* 65 FR 64924 (October 31, 2000). Channel 234A can be allotted at Paradise in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 234A at Paradise are 46–37–42 North Latitude and 85–02–18 West Longitude.

The Commission, at the request of Mash Media, allots Channel 296A at Lynchburg, Tennessee, as the community's first local aural transmission service. *See* 65 FR 64924 (October 31, 2000). Channel 296A can be allotted to Lynchburg in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 296A at Lynchburg are 35–16–54 North Latitude and 86–22–24 West Longitude.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. §§ 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Paradise, Channel 234A.

3. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by adding Lynchburg, Channel 296A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12087 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1102, MM Docket No. 00–216; RM–9995, 10066]

Radio Broadcasting Services; McKinleyville, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition filed by Four Rivers Broadcasting, Inc., requesting the allotment of Channel 236C3 at McKinleyville, California, as the community's first local aural transmission service. See 65 FR 67691 (November 13, 2000). It also allots chanel *277C3 at McKinleyville in response to a counterproposal filed by Christian Country Network. Inc, requesting the allotment of a channel at McKinleyville and reservation for noncommercial use. Channel 236C3 can be allotted at McKinleyville, California consistent with the minimum distance separation requirements of Section 73.207(b) and the principal community coverage requirements of Section 73.315(a) of the Commission's Rules without a site restriction at coordinates 40–56–42 NL and 124–05–54 WL. Channel *277C3 can be allotted at McKinleyville, California consistent with the minimum distance separation requirements of Section 73.207(b) and the principal community coverage requirements of Section 73.315(a) of the Commission's Rules at a site 18.1 kilometers (11.2 miles) north at coordinates 41–06–11 NL and 124–09–00 WL.

DATES: Effective June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–216 adopted April 18, 2001, and released April 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

PART 73—[AMENDED]

2. Section 73.202(b) the FM Table of Allotments under California is amended by adding McKinleyville, Channels 236C3 and *277C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12086 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and atmospheric Administration

50 CFR Part 679

[Docket No. 010111009–1009–01; I.D. 122600A]

RIN 0648–AO72

Fisheries of the Exclusive Economic Zone Off Alaska; Emergency Interim Rule to Revise Certain Provisions of the American Fisheries Act; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects the emergency interim rule that revised certain provisions of the American Fisheries Act for implementation for the 2001 fishing year, which was published January 22, 2001.

DATES: Effective January 18, 2001, through July 17, 2001.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION:

Background

An emergency interim rule was published in the **Federal Register** on January 22, 2001 (66 FR 7327), to revise certain provisions of the American Fisheries Act for implementation for the 2001 fishing year.

Correction

In the emergency interim rule, § 679.7(k) was inadvertently omitted. Correct this omission at page 7330, third column, by adding instruction 2a to read as follows:

2a. Section 679.7(k) is added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(k) *Prohibitions specific to the AFA* (applicable through July 17, 2001). It is unlawful for any person to do any of the following:

(1) *Catcher/processors*—(i) *Permit requirement.* Use a catcher/processor to engage in directed fishing for non-CDQ BSAI pollock without a valid AFA catcher/processor permit on board the vessel.

(ii) *Fishing in the GOA.* Use an unrestricted AFA catcher/processor to fish for any species of fish in the GOA.

(iii) *Processing BSAI crab.* Use an unrestricted AFA catcher/processor to process any species of crab harvested in the BSAI.

(iv) *Processing GOA groundfish.* Use an unrestricted AFA catcher/processor to process any groundfish harvested in Statistical Area 630 of the GOA.

(v) *Directed fishing after a sideboard closure.* Use an unrestricted AFA catcher/processor to engage in directed fishing for a groundfish species or species group in the BSAI after the Regional Administrator has issued an AFA catcher/processor sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv) or § 679.21(e)(3)(v).

(vi) *Catch weighing*—(A) *Unrestricted AFA catcher/processors.* Use an unrestricted AFA catcher processor to process any groundfish that was not weighed on a NMFS-certified scale.

(B) *Restricted AFA catcher processors.* Use a restricted AFA catcher processor to process any pollock harvested in the BSAI directed pollock fishery that was not weighed on a NMFS-certified scale.

(2) *Motherships*—(i) *Permit requirement.* Use a mothership to process pollock harvested by an AFA catcher vessel with an inshore or mothership sector endorsement in a non-CDQ directed fishery for pollock in the BSAI without a valid AFA permit on board the vessel.

(ii) *Cooperative processing endorsement.* Use an AFA mothership to process groundfish harvested by a fishery cooperative formed under § 679.60 unless the AFA mothership permit contains a valid cooperative pollock processing endorsement.

(iii) *Catch weighing requirement.* Use an AFA mothership to process groundfish harvested in the BSAI or GOA that was not weighed on a NMFS-certified scale.

(3) *Shoreside processors and stationary floating processors*—(i) *Permit requirement.* Use a shoreside processor or stationary floating processor to process groundfish harvested in a non-CDQ directed fishery for pollock in the BSAI without a valid AFA inshore processor permit at the facility or vessel.

(ii) *Cooperative processing endorsement.* Use a shoreside processor or stationary floating processor required to have an AFA inshore processor permit to process groundfish harvested by a fishery cooperative formed under § 679.61 unless the AFA inshore processor permit contains a valid cooperative pollock processing endorsement.

(iii) *Restricted AFA inshore processors.* Use an AFA inshore processor with a restricted AFA inshore processor permit to process more than 2,000 mt round weight of non-CDQ pollock harvested in the BSAI directed pollock fishery in any one year.

(iv) *Single geographic location requirement.* Use an AFA inshore processor to process pollock harvested in the BSAI directed pollock fishery at a location other than the single geographic location defined as follows:

(A) *Shoreside processors.* The physical location at which the land-based shoreside processor first processed BSAI pollock harvested in the BSAI directed pollock fishery during a fishing year;

(B) *Stationary floating processors.* A location within Alaska State waters that is within 5 nm of the position in which the stationary floating processor first processed BSAI pollock harvested in the BSAI directed pollock fishery during a fishing year.

(v) *Catch weighing requirement.* Use an AFA inshore processor to process groundfish harvested in the BSAI or GOA that was not weighed on a scale certified by the State of Alaska.

(4) *Catcher vessels.* (i) Use a catcher vessel to engage in directed fishing for non-CDQ BSAI pollock for delivery to any AFA processing sector (catcher/processor, mothership, or inshore) unless the vessel has a valid AFA catcher vessel permit on board that contains an endorsement for the sector of the BSAI pollock fishery in which the vessel is participating.

(ii) Use an AFA catcher vessel to retain any BSAI crab species unless the catcher vessel's AFA permit contains a crab sideboard endorsement for that crab species.

(iii) Use an AFA catcher vessel to engage in directed fishing for a groundfish species or species group in the BSAI or GOA after the Regional Administrator has issued an AFA catcher vessel sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv), § 679.21(d)(8) or § 679.21(e)(3)(iv), if the vessel's AFA permit does not contain a sideboard exemption for that groundfish species or species group.

(5) *AFA inshore fishery cooperatives*—(i) *Quota overages.* Use an AFA catcher vessel listed on an AFA inshore cooperative fishing permit to harvest non-CDQ pollock in excess of the cooperative's annual allocation of pollock specified under § 679.61.

(ii) *Liability.* An inshore pollock cooperative is prohibited from exceeding its annual allocation of BSAI pollock TAC. The owners and operators of all vessels listed on the cooperative fishing permit are responsible for ensuring that all cooperative members comply with all applicable regulations contained in part 679. The owners and operators will be held jointly and severally liable for overages of an annual cooperative allocation, and for any other violation of these regulations committed by a member vessel of a cooperative.

(6) *Crab processing limits.* It is unlawful for an AFA entity that processes pollock harvested in the BSAI directed pollock fishery by an AFA inshore or AFA mothership catcher vessel cooperative to use an AFA crab facility to process crab in excess of the crab processing sideboard cap established for that AFA inshore or mothership entity under § 679.64. The owners and operators of the individual entities comprising the AFA inshore or mothership entity will be held jointly and severably liable for any overages of the AFA inshore or mothership entity's crab processing sideboard cap.

Dated: May 9, 2001.

William T. Hogarth,

Deputy Asst. Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12217 Filed 5–14–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 94
Tuesday, May 15, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV01–920–1 PR]

Kiwifruit Grown in California; Removal of Certain Inspection and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on the removal of certain inspection and pack requirements prescribed under the California kiwifruit marketing order (order). The order regulates the handling of kiwifruit grown in California and is administered locally by the Kiwifruit Administrative Committee (Committee). This rule would remove the requirement that fruit must be reinspected if it has not been shipped by specified dates, and would also remove the minimum net weight requirements for kiwifruit tray packs. These changes are expected to reduce handler packing costs, increase grower returns, and enable handlers to compete more effectively in the marketplace.

DATES: Comments must be received by June 14, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938. Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on the removal of certain inspection and pack requirements prescribed under the order. The order regulates the handling of kiwifruit grown in California and is administered locally by the Kiwifruit Administrative Committee (Committee). This rule would remove the requirement that fruit must be reinspected if it has not been shipped by specified dates, and would also remove the minimum net weight requirements for kiwifruit tray packs. These changes are expected to reduce handler packing costs, increase grower returns, and enable handlers to compete more effectively in the marketplace.

Removal of Reinspection Requirement

Section 920.55 of the order requires that prior to handling any variety of California kiwifruit, such kiwifruit shall be inspected by the Federal or Federal-State Inspection Service (inspection service) and certified as meeting the applicable grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53.

Section 920.55(b) provides authority for the establishment, through the order's rules and regulations, of a period prior to shipment during which inspections must be performed.

Prior to its suspension for 1998–1999 season, § 920.155 of the order's rules and regulations specified that the certification of grade, size, quality, and maturity of kiwifruit pursuant to § 920.52 or § 920.53 during each fiscal year was valid until December 31 of such year or 21 days from the date of inspection, whichever is later. Any inspected kiwifruit shipped after the certification period lapsed was required to be reinspected and recertified before shipment.

Section 920.155 was suspended for the 1998–1999 season by a final rule published August 4, 1998 (63 FR 41390). The Committee recommended this suspension to lessen the expenses upon the many kiwifruit growers who had either lost money or merely recovered their production costs in recent years. It concluded that the cost of reinspecting kiwifruit was too high to justify requiring it in view of the limited benefit reinspection provided. The Committee also believed it was no longer necessary to have fruit reinspected to provide consumers with a high quality product because storage and handling operations had improved in the industry.

During the 1998–1999 season, handlers voluntarily checked stored fruit prior to shipment to ensure that the condition of the fruit had not deteriorated. Suspension of the reinspection requirement enabled handlers to ship quality kiwifruit during the 1998–1999 season without the necessity for reinspection and recertification and the costs associated with such requirements. However, because the harvest started later than normal and more fruit was in-line inspected and shipped directly to buyers, less fruit was repacked and available for evaluation than anticipated.

Therefore, at its February 25, 1999, meeting, the Committee unanimously recommended suspending § 920.155 of the order for one more season. Section 920.155 was suspended for the 1999–2000 season by a final rule published on July 29, 1999 (64 FR 41010).

During the 1999–2000 season a severe frost reduced the crop size from the estimated 9 million tray equivalents to 6 million tray equivalents. A tray equivalent is equal to approximately 7 pounds of fruit. This significant crop reduction and the excellent quality of the fruit resulted in limited quantities of fruit remaining in cold storage for repacking and evaluation. The Committee wanted to fully evaluate the suspension of the reinspection requirement during a normal season. Therefore the Committee, at its February 24, 2000, meeting, unanimously recommended suspending § 920.155 for another season, the 2000–2001 season. Section 920.155 was suspended for the 2000–2001 season by a final rule published on June 14, 2000 (65 FR 37265).

The 2000–2001 season was normal and enabled the industry to conclude that the suspensions have indeed helped handlers reduce packing costs and to compete more effectively in the marketplace. Therefore, at its February 28, 2001, meeting the Committee recommended removing this inspection requirement for the 2001–2002 and future seasons. As previously experienced, this change is expected to result in reduced handler packing costs, increased growers returns, and enable handlers to compete more effectively in the marketplace.

Removal of Minimum Net Weight Requirements for Trays

Under the terms of the order, fresh market shipments of kiwifruit grown in California are required to be inspected and meet grade, size, maturity, pack, and container requirements. Section 920.52 authorizes the establishment of minimum size, pack, and container requirements.

Section 920.302(a)(4) of the order's rules and regulations outlines pack requirements for fresh shipments of California kiwifruit.

Section 920.302(a)(4)(iii) specifies minimum net weight requirements for fruit of various sizes packed in containers with cell compartments, cardboard fillers, or molded trays.

Prior to the 1989–1990 season, there were no minimum tray weight requirements, although 73.5 percent of the crop was packed in trays. During the 1989–1990 season, minimum tray weights were mandated, as there were many new packers involved in the kiwifruit packing process and stricter regulations were viewed as necessary to provide uniform container weights for each size. However, since that season the proportion of the crop packed in trays has steadily declined.

During the 1997–1998 season, only 15.5 percent of the crop was tray packed and less than 1 percent of this fruit was rejected for failure to meet minimum tray weights. As a consequence, the Committee believed that minimum tray weight requirements might no longer be necessary to maintain uniformity in the marketplace.

Prior to the 1998–1999 season handlers were required to meet the minimum net weight requirements as shown in the following chart:

Count designation of fruit	Minimum net weight of fruit (pounds)
34 or larger	7.5
35 to 37	7.25
38 to 40	6.875
41 to 43	6.75
44 and smaller	6.5

The Committee met on July 8, 1998, and unanimously recommended suspension of the minimum net weight requirements for kiwifruit packed in cell compartments, cardboard fillers, or molded trays for the 1998–1999 season. Section 920.302(a)(4)(iii) was suspended for the 1998–1999 season by an interim final rule which was published September 3, 1998 (63 FR 14861) and finalized July 29, 1999 (64 FR 41019).

Even though the fruit was shorter, more full-bodied, and heavier during the 1998–1999 season, handlers were able to reduce packing costs and to compete more effectively in the market. The industry continued to pack well-filled trays without having to spend the extra time weighing them. There was no reduction in the uniform appearance of fruit packed into trays. The consensus of the industry was that the absence of tray weights had no impact during the 1998–1999 season due to the exceptionally heavy weight of the fruit.

The Committee, at its February 25, 1999, meeting unanimously recommended suspending the minimum net weight requirements for the 1999–2000 season to evaluate the suspended requirements during a season when the fruit shape and density were normal. This suspension was implemented by a final rule published on July 29, 1999 (64 FR 41010).

As previously mentioned, the 1999–2000 crop was approximately three million tray-equivalents shorter than estimated due to a severe frost during the spring of 1999. This shortage of fruit resulted in limited quantities of fruit available for evaluation. Because of the uncharacteristic fruit in the 1998–1999 season and the short crop in the 1999–2000 season, the Committee recommended suspending the minimum net weight requirement for another year of evaluation. Therefore, at its February 24, 2000, meeting, the Committee once again unanimously recommended continuing the suspension of § 920.302(a)(4)(iii) for another season, the 2000–2001 season. The suspension was implemented through July 31, 2001, by a final rule issued June 14, 2000 (65 FR 37265). The 2000–2001 season was normal and enabled the industry to conclude that the suspensions have helped handlers reduce packing costs and to compete more effectively in the marketplace. Therefore, at its February 28, 2001, meeting, the Committee recommended removing this pack requirement for the 2001–2002 and future seasons. As previously experienced, this change is expected to result in reduced handler packing costs, increased growers returns, and enable handlers to compete more effectively in the marketplace, as previously experienced.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of

business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 handlers of California kiwifruit subject to regulation under the marketing order and approximately 350 producers in the production area. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. All of the handlers have annual receipts of less than $5,000,000, excluding receipts from other sources. Three hundred forty-five producers have annual sales of less than $500,000, excluding receipts from any other sources. Therefore, a majority of the kiwifruit handlers and producers may be classified as small entities.

This rule would remove § 920.155 which requires that fruit be reinspected if it has not been shipped by specified dates, and would remove paragraph (a)(4)(iii) of § 920.302 which specifies minimum net weight requirements for kiwifruit tray packs. These changes are expected to reduce handler-packing costs, increase grower returns, and enable handlers to compete more effectively in the marketplace. Authority for this action is provided in §§ 920.52 and 920.55 of the order.

Removal of Reinspection Requirement

Removing the requirement that kiwifruit must be reinspected if has not been shipped by a certain date would have a minimal impact on the quality of fruit shipped. Prior to its suspension for 1998–1999 season, § 920.155 of the order's rules and regulations specified that the certification of grade, size, quality, and maturity of kiwifruit pursuant to § 920.52 or § 920.53 during each fiscal year was valid until December 31 of such year or 21 days from the date of inspection, whichever is later. Any inspected kiwifruit shipped after the certification period lapsed was required to be reinspected and recertified before shipment.

Section 920.155 was suspended for the 1998–1999 season by a final rule published August 4, 1998 (63 FR 41390). The Committee recommended this suspension to lessen the expenses upon the many kiwifruit growers who had either lost money or merely recovered their production costs in recent years. It concluded that the cost of reinspecting kiwifruit was too high to justify requiring it in view of the limited benefit reinspection provided. Total average costs for reinspection was estimated to be $50,000 a year. The Committee also believed it was no longer necessary to have fruit reinspected to provide consumers with a high quality product because storage and handling operations had improved in the industry.

During the 1998–1999 season, handlers voluntarily checked stored fruit prior to shipment to ensure that the condition of the fruit had not deteriorated. Quality control efforts in place within the industry combined with improved storage due to research and technological advances has ensured that quality fruit reaches the market.

Suspension of the reinspection requirement enabled handlers to ship quality kiwifruit during the 1998–1999 season without the necessity for reinspection and recertification and the costs associated with such requirements. However, because the harvest started later than normal and more fruit was in-line inspected and shipped directly to buyers, less fruit was repacked and available for evaluation than anticipated.

Therefore, at its February 25, 1999, meeting, the Committee unanimously recommended suspending § 920.155 of the order for one more season. Section 920.155 was suspended for the 1999–2000 season by a final rule published on July 29, 1999 (64 FR 41010).

During the 1999–2000 season a severe frost reduced the crop size from the estimated 9 million tray equivalents to 6 million tray equivalents. A tray equivalent is equal to approximately 7 pounds of fruit. This significant crop reduction and the excellent quality of the fruit resulted in less fruit remaining in cold storage for repacking and evaluation.

The Committee believed that the industry realized benefits from the suspension of the reinspection requirement, and recommended evaluating the results of the suspended reinspection requirements during a normal season. Thus the Committee, at its February 24, 2000, meeting, unanimously recommended suspending § 920.155 for the 2000–2001 season. This suspension was implemented by a final rule published on June 14, 2000 (65 FR 37265). The 2000–2001 season was normal and enabled the industry to conclude that the suspensions have helped handlers reduce packing costs and to compete more effectively in the marketplace. The kiwifruit industry estimated that removal of the reinspection requirement has resulted in cost savings to the industry of approximately $50,000 a year.

Therefore, the Committee, at its February 28, 2001, meeting, unanimously recommended removing § 920.155 for the 2001–2002 and future seasons.

Removal of Minimum Net Weight Requirements for Trays

Removing the minimum tray weight requirements for kiwifruit packed in cell compartments, cardboard fillers, or molded trays would have a minimal impact on the appearance of tray packs. Under the terms of the order, fresh market shipments of kiwifruit grown in California are required to be inspected and meet grade, size, maturity, pack, and container requirements.

Prior to the 1989–1990 season, there were no minimum tray weight requirements although 73.5 percent of the crop was packed in trays. During the 1989–1990 season, minimum tray weights were mandated, as there were many new packers involved in the kiwifruit packing process and stricter regulations were viewed as necessary to provide uniform container weights for each size. However, since that season, the proportion of the crop packed in trays has steadily declined.

During the 1997–1998 season, only 15.5 percent of the crop was tray packed and less than 1 percent of this fruit was rejected for failure to meet minimum tray weights. As a consequence, the Committee believed that minimum tray weight requirements might no longer be necessary to maintain uniformity in the marketplace.

Prior to the 1998–1999 season handlers were required to meet the minimum net weight requirements as shown in the following chart:

Count designation of fruit	Minimum net weight of fruit (pounds)
34 or larger	7.5
35 to 37	7.25
38 to 40	6.875
41 to 43	6.75
44 and smaller	6.5

Therefore, at its meeting on July 8, 1998, the Committee unanimously recommended suspension of the minimum net weight requirements for kiwifruit packed in cell compartments, cardboard fillers, or molded trays for the 1998–1999 season. Section 920.302(a)(4)(iii) was suspended for the 1998–1999 season by an interim final rule published September 3, 1998 (63 FR 14861).

Even though the fruit was shorter, more full-bodied, and heavier during the 1998–1999 season, handlers were able to reduce packing costs and to compete more effectively in the marketplace. The industry continued to pack well-filled trays without having to spend the extra time weighing them. There was no reduction in the uniform appearance of fruit packed into trays. The consensus of the industry that season was that the absence of tray weights had no negative impact during the 1998–1999 season due to the exceptionally heavy weight of the fruit.

The Committee, at its February 25, 1999, meeting, unanimously recommended suspending the minimum net weight requirements for the 1999–2000 season to evaluate the suspended requirements during a season when the fruit shape and density were normal. This suspension was implemented by a final rule published on July 29, 1999 (64 FR 41010).

As previously mentioned, the 1999–2000 crop was approximately three million tray-equivalents shorter than estimated due to a severe frost during the spring of 1999. This shortage of fruit resulted in limited quantities of fruit available for evaluation. Because of the uncharacteristic fruit in the 1998–1999 season and the short crop in the 1999–2000 season, the Committee voted to suspend the minimum net weight requirement for another year of evaluation. Therefore, at its February 24, 2000, meeting, the Committee once again unanimously recommended continuing the suspension of § 920.302(a)(4)(iii) for another season, the 2000–2001 season. This suspension was implemented by a final rule issued June 14, 2000 (65 FR 37265) and is in effect until July 31, 2001.

The 2000–2001 season was normal and enabled the Committee to conclude that the suspensions have helped handlers reduce packing costs and to compete more effectively in the marketplace. The Committee and the Federal-State Inspection Service also have concluded that removing the minimum tray weight requirements would not result in a reduction in inspection costs as the inspection process is essentially the same. The Committee, at its February 28, 2001, meeting, unanimously recommended removing paragraph (a)(4)(iii) of § 920.302 for the 2001–2002 and all future seasons. The Committee also noted that the minimum size requirement should be maintained on all kiwifruit regardless of pack style.

These changes address the marketing and shipping needs of the kiwifruit industry and are in the interests of handlers, growers, buyers, and consumers. The impact of these changes is expected to be beneficial to all handlers and growers regardless of size.

The Committee discussed alternatives to this change, including continuing the temporary suspensions for another year. The industry believes that it has had adequate time to evaluate these changes. The suspensions helped handlers reduce packing costs and compete more effectively in the marketplace without an adverse affect on quality or appearance of the fruit. Therefore, the Committee recommended removal of §§ 920.155 and 920.302(a)(4)(iii) for the 2001–2002 and future seasons.

This proposed rule would relax inspection and pack requirements under the kiwifruit marketing order. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

In addition, the Committee's meeting was widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the February 28, 2001, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The majority of the industry are small entities. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule would need to be in place by August 1, 2001, as the current suspensions expire on July 31, 2001, and handlers need to make operational decisions in time for the 2001–2002 season. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 920 is proposed to be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 920.155 [Removed]

2. In part 920, § 920.155 is removed in its entirety.

§ 920.302 [Amended]

3. In § 920.302, paragraph (a)(4)(iii) is removed and paragraphs (a)(4)(iv), (v), and (vi) are redesignated as paragraphs (a)(4) (iii), (iv), and (v), respectively.

Dated: May 9, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12140 Filed 5–14–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV01–930–4 PR]

Tart Cherries Grown in the States of Michigan, et al.; Temporary Suspension of a Provision Regarding a Continuance Referendum Under the Tart Cherry Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule requests comments on the temporary suspension of an order provision which requires a continuance referendum to be conducted on the marketing order for tart cherries during March 2002. The proposed suspension would enable the U.S. Department of Agriculture (USDA or Department) to postpone conducting the continuance referendum until the completion of amendatory order proceedings. The Cherry Industry Administrative Board (Board) recommended a delay in holding the continuance referendum to allow the industry to evaluate the results of any approved amendments. A continuance

referendum in March of 2003 is planned.

DATES: Comments must be received by July 16, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. Fax: (202) 720–5698 or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at the following website: http://www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, F&V, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, Maryland, 20737, telephone: (301) 734–5243; Fax: (301) 734–5275; or Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 720–2491; Fax: (202) 720–5698.

Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 930 (7 CFR part 930) (order) regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Washington, and Wisconsin. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This action would temporarily suspend the provision in § 930.83(d) of the order which specifies when a continuance referendum should be conducted to determine if producers and processors favor continuance of the tart cherry marketing order. This action was unanimously recommended by the Committee at its January 25, 2001, meeting.

Section 930.83(d) of the order currently provides that the Secretary shall conduct a referendum within the month of March every six years after the order became effective to ascertain whether continuance of the order is favored by tart cherry producers and processors. The order became effective in September 1996. A continuance referendum is, therefore, scheduled to be conducted in March 2002.

Section 930.83(b) authorizes the Secretary to terminate or suspend the operation of any or all provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

In 1998, the Board recommended several proposed amendments to the tart cherry marketing order to improve the administration of the order and more accurately reflect how the program is operated. It also requested that public hearings be held on the proposed amendments. The amendatory process can be lengthy depending on the complexity of the amendments and the level of support for the amendments.

Under the applicable rules of practice (7 CFR part 900), the amendment process consists of several steps. The first step is the public hearing at which evidence (pro and con) is presented on the recommended amendments. After the public hearings are completed, a Recommended Decision, based on the evidence presented, is issued by the Department, with a request for written comments. Next, the Department considers the evidence of record including any exceptions to the Recommended Decision and then issues a Secretary's Decision and, if warranted, a Referendum Order. A Referendum Order would be issued if the Secretary determines that the amendments to the order would tend to effectuate the declared policy of the Act.

Initially, the Board intended to proceed with all of its proposed amendments in a single amendatory proceeding. However, after discussion with the Department, the Board agreed to split its proposed amendments to the order into two proceedings. The less complex amendments were handled first followed by the more complex amendments. An amendment referendum for the first series of amendments was held in January 2001. The formal rulemaking process for the second series of amendments, has begun, and is expected to be completed in the spring of 2002.

The Board recommended that the provision requiring the March 2002 continuance referendum be temporarily suspended to allow the Department to complete the amendatory proceedings. The temporary suspension would allow the Department to postpone the next continuance referendum for the tart cherry marketing order until March 2003.

Delaying the continuance referendum would allow for the completion of the amendatory proceedings and an evaluation by the industry an any approved amendments at least a year before producers and processors are asked to vote on continuing the order. A later continuance referendum should be a better indicator of the support for the order.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this initial regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) would allow AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opt for such certification, but rather perform regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic impacts.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of tart cherries who are subject to regulation under the order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of tart cherries may be classified as small entities.

This proposed rule would temporarily suspend the provision in § 930.83(d) of the order which specifies the month in which a continuance referendum should be conducted to determine if producers and processors favor the continuance of the tart cherry marketing order. Pursuant to this, the next continuance referendum is scheduled for March 2002. Section 930.83(b) authorizes the Secretary to terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

One alternative to this action would be to continue the status quo. However, without a postponement of the continuance referendum, the Department would have to conduct two referenda closely together, one for the second series of amendments and one for a continuance referendum. This could be confusing to growers and processors. Further, growers and processors would not have had time to determine how any amendments that are adopted could affect order operations and evaluate the results. A temporary delay in holding the continuance referendum until March 2003 would allow the amendments to be evaluated by growers and processors. Thus, the vote on continuance would be a more reliable determiner of industry support for the order.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by this order have been previously approved by OMB and assigned OMB Number 0581–0177. This action imposes no additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The Board's meeting was publicized and all Board members and alternate Board members, representing both large and small entities, were invited to attend the meeting and participate in Board deliberations. The Board itself is composed of 18 members, of which 17 members are growers and handlers and one represents the public. Also, the Board has a number of appointed committees to review certain issues and make recommendations.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 929

Tart cherries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 930 is proposed to be amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR Part 930 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 930.83 [Amended]

2. In paragraph (d), the sentence "The Secretary shall conduct a referendum within the month of March of every sixth year after the effective date of this part to ascertain whether continuation of this part is favored by the growers and processors." is suspended effective March 1 through March 31, 2002.

Dated: May 9, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12139 Filed 5–14–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–383–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes. This proposal would require modifications of route segregation between the low voltage wire bundles of the fuel quantity indicating system and the high voltage wire bundles of the ground power control unit. This action is necessary to prevent injection of 115 volt alternating current (VAC) into 28 volt direct current (VDC) wire bundles, which could result in high voltage conditions within the fuel tank and the potential for damage to equipment, electrical arcing, and fuel vapor ignition on the ground. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 14, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–383–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232.

Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–383–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–383–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–383–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A319, A320, and A321 series airplanes. The DGAC advises that, in response to industry concerns, a review of the routing of wires that terminate/enter the fuel tank was performed on production aircraft. The review identified an unsafe condition in a 700-millimeter span of wiring at the back of shelf 92VU in the forward avionics compartment. Along that 700-millimeter span there is no permanent segregation between the electrical wire bundle connected to the fuel quantity indicating system (FQIS) and the bundle connected to the ground power control unit (GPCU). In the event that both bundles had wires damaged down to the core, and an electrical path, such as fluid or metallic contamination, occurred between the two wire bundles, conditions would exist that could result in the injection of 115 volts, alternating current (VAC), from the GPCU wires into the 28 volts, direct current (VDC), FQIS wires down to the fuel tanks. Such a high voltage injection into low voltage wiring could result in the potential for damage to equipment, electrical arcing, and fuel vapor ignition on the ground. This result could not occur in flight because the GPCU is powered only on the ground.

Explanation of Relevant Service Information

Airbus has issued Revision 02 of Service Bulletin A320–92–1007, dated August 4, 2000, which describes procedures for installing an additional protective conduit for each wiring route and a dual branch tubular ramp to ensure physical separation of the wiring routes. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2000–407–150(B), dated September 20, 2000, in order to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 291 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 24 to 42 work hours per airplane to accomplish the proposed modifications, depending on the wiring configuration of the airplane, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,300 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $797,340 and $1,111,620 or between $2,740 and $3,820 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 2000–NM–383–AD.

Applicability: Model A319, A320, and A321 series airplanes, certificated in any category, except those on which Airbus Industrie Modification 28289 has been installed.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent injection of 115 volt alternating current (VAC) into 28 volt direct current (VDC) wire bundles, which could result in high voltage conditions within the fuel tank and the potential for damage to equipment, electrical arcing, and fuel vapor ignition on the ground, accomplish the following:

Modification

(a) Within 4 years after the effective date of this AD, install additional protective conduits and new supports to ensure physical route segregation between the low voltage wire bundles of the fuel quantity indicating system (FQIS) and the high voltage wire bundles of the ground power control unit (GPCU), in accordance with Airbus Service Bulletin A320–92–1007, Revision 02, dated August 4, 2000.

Note 2: Modifications accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–92–1007, dated January 12, 2000, or Airbus Service Bulletin A320–92–1007, Revision 01, dated June 29, 2000, are considered acceptable for compliance with the applicable actions specified in this amendment.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send them to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in French airworthiness directive 2000–407–150(B), dated September 20, 2000.

Issued in Renton, Washington, on May 9, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12177 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–47–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model 717 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model 717 series airplanes. This proposal would require repetitive inspections of the rod ends of the spoiler hold-down actuators for breakage along the intersection of the thread runout and the outer spherical surface of the lug; and replacement of any broken rod end of the spoiler hold-down actuators with a new rod end. This proposal also would require replacement of the rod ends of the spoiler hold-down actuators with new rod ends, and reidentification of the spoiler hold-down actuators, which would constitute terminating action for the repetitive inspections. This action is necessary to prevent failure of the rod ends of the spoiler hold-down actuators due to fatigue, which could result in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–47–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–47–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5238; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–47–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–47–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of failures of the attach lug rod end on the spoiler hold-down actuators on McDonnell Douglas Model 717 series airplanes. These failures initiated along a region at the intersection of the thread runout and the outer spherical surface of the lug. Investigation revealed that such failures were caused by fatigue rupture with multiple failure origins. Failure of the rod ends of the spoiler hold-down actuators due to fatigue, if not corrected, could result in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 717–27A0010, dated August 15, 2000. This service bulletin describes procedures for repetitive general visual inspections of the rod ends of the hold-down actuators of the inboard and outboard spoilers for breakage along the intersection of the thread runout and the outer spherical surface of the lug; and replacement of any broken rod end of the spoiler hold-down actuators with a new rod end.

The FAA also has reviewed and approved Boeing Service Bulletin 717–27–0013, dated January 30, 2001, and Revision 01, dated February 28, 2001. The service bulletin describes procedures for replacement of the rod ends of the spoiler hold-down actuators with new rod ends, and reidentification of the spoiler hold-down actuators, which would eliminate the need for the repetitive inspections described above. The effectivity listing of Revision 01 of the service bulletin was revised from the original version of the service bulletin to include additional airplanes that are subject to the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Differences Between Service Bulletin and the Proposed AD

Operators should note that, although the effectivity listing of Boeing Service Bulletin 717–27A0010 affects airplanes having manufacturer's fuselage numbers 5002 through 5082 inclusive, this proposed AD does not affect McDonnell Douglas Model 717 series airplanes, manufacturer's fuselage numbers 5002, 5003, 5037 and subsequent. Those airplanes had improved rod ends installed during production that address the identified unsafe condition of this proposed AD. Therefore, those airplanes are not subject to the requirements of this proposed AD.

Cost Impact

There are approximately 33 Model 717 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 23 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $1,380, or $60 per airplane, per inspection cycle.

It would take approximately 14 work hours per airplane to accomplish the proposed replacement and reidentification, at an average labor rate of $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of replacement parts. As a result, the cost of those parts is not attributable to this proposed AD. Based on these figures, the cost impact of the replacement and reidentification proposed by this AD on U.S. operators is estimated to be $19,320, or $840 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–47–AD.

Applicability: Model 717 series airplanes, manufacturer's fuselage numbers 5004 through 5036 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the rod ends of the spoiler hold-down actuators due to fatigue, which could result in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement, accomplish the following:

General Visual Inspection

(a) Within 450 flight hours after the effective date of this AD, do a general visual inspection of the rod ends of the spoiler hold-down actuators of the inboard and outboard spoilers for breakage along the intersection of the thread runout and the outer spherical surface of the lug, per Boeing Alert Service Bulletin 717–27A0010, dated August 15, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Condition 1 (No Breakage Present)

(1) If no breakage is present, repeat the general visual inspection every 450 flight hours.

Condition 2 (Breakage Present)

(2) If any breakage is present, before further flight, replace the broken rod end of the spoiler hold-down actuator with a new rod end, per Boeing Alert Service Bulletin 717–27A0010, dated August 15, 2000; or Boeing Service Bulletin 717–27–0013, dated January 30, 2001, or Revision 01, dated February 28, 2001. As of the effective date of this AD, the replacement shall be done per Boeing Service Bulletin 717–27–0013, Revision 01, dated February 28, 2001. For rod ends that have been replaced per Boeing Alert Service Bulletin 717–27A0010, dated August 15, 2000, repeat the general visual inspection thereafter every 450 flight hours. Accomplishment of this replacement per Boeing Service Bulletin 717–27–0013 constitutes terminating action for the requirements of this AD for that rod end.

Terminating Action

(b) Within 15 months or 3,600 flight hours after the effective date of this AD, whichever occurs first, replace the rod ends of the spoiler hold-down actuators with new rod ends, and reidentify the spoiler hold-down actuators, per Boeing Service Bulletin 717–27–0013, dated January 30, 2001, or Revision 01, dated February 28, 2001. Accomplishment of this replacement and reidentification constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 9, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12176 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–405–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 757 series airplanes. This proposal would require an inspection to determine the serial numbers of geared rotary actuators (GRA) for the leading edge slats, and replacement of certain actuators with new or reworked actuators. This action is necessary to prevent a fractured spring washer in a GRA, which could lead to a disconnect in the GRA, and result in a slat skew condition and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–405–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–405–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2983; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–405–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–405–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that certain geared rotary actuators (GRA) for the leading edge slats on certain Boeing Model 757 series airplanes have been assembled with discrepant spring washers. The discrepant spring washers were not adequately processed during the phase of manufacture in which cadmium plating is applied. A fractured spring washer could lead to a disconnect between the input shaft or input plate and the output plate or splined gearshaft, which could result in a skew condition for the leading edge slat if one of the two actuators on each slat continues to drive the slat. The serial numbers of all affected GRAs are known.

Certain airplanes have had an enhanced slat skew or loss detection system installed either during production or according to Boeing Service Bulletin 757–27–0126, dated May 11, 2000. For these airplanes, a slat skew condition is not an airworthiness concern.

However, for airplanes without an enhanced slat skew or loss detection system, a slat skew condition, if not detected by the flight crew, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletins 757–27A0133 (for Model 757–200, 757–200CB, and 757–200PF series airplanes) and 757–27A0134 (for Model 757–300 series airplanes), both dated October 11, 2000. Those service bulletins describe procedures for a one-time inspection to determine the serial numbers of GRAs for the leading edge slats. If GRAs with certain serial numbers are installed, the service bulletin describes procedures for replacing affected GRAs with new or reworked parts. Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition.

The Boeing service bulletins refer to Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 and 5006398/755300–27–21, both dated January 24, 2000, as sources for the identification of affected part numbers and serial numbers, as well as instructions for reworking affected GRAs.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the applicable Boeing service bulletin described previously.

Explanation of Applicability

While only certain Boeing Model 757 series airplanes had the GRAs with the discrepant spring washers installed in production, it is possible that the affected GRAs have been installed as spares on other Boeing Model 757 series airplanes. Therefore, the FAA finds that the unsafe condition addressed by this proposed AD may occur on any Boeing Model 757 series airplane manufactured on or prior to the effective date of this AD. However, paragraph (d) of this AD prohibits installation of the affected parts after the effective date of this AD; thus, airplanes with a date of manufacture after the effective date of this AD would not be subject to this proposed AD.

Cost Impact

There are approximately 950 airplanes of the affected design in the worldwide fleet. The FAA estimates that 606 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $727,200, or $1,200 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator be required to accomplish the replacement of all GRAs on an airplane, it would take approximately 30 work hours per airplane (1.5 work hours per actuator), at an average labor rate of $60 per work hour. Required parts may be provided by the parts manufacturer at no cost to the operator. Based on these figures, the cost impact of the proposed replacement is estimated to be up to $1,800 per airplane.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2000–NM–405–AD.

Applicability: Model 757 series airplanes with a date of manufacture that is on or before the effective date of this AD, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a fractured spring washer in a geared rotary actuator (GRA) for the leading edge slats, which could lead to a disconnect in the GRA, and result in a slat skew condition and consequent reduced controllability of the airplane, accomplish the following:

Inspection To Determine Serial Numbers

(a) At the applicable compliance time specified in paragraph (a)(1) or (a)(2) of this AD, inspect the 20 geared rotary actuators (GRA) for the leading edge slats to determine the part number series and serial number for each GRA, according to Boeing Alert Service Bulletin 757–27A0133 (for Model 757–200, 757–200CB, and 757–200PF series airplanes), or 757–27A0134 (for Model 757–300 series airplanes), both dated October 11, 2000; as applicable.

(1) For Boeing 757–200 series airplanes with line numbers (L/N) 1 through 803, on which an enhanced slat skew or loss detection system has NOT been installed according to Boeing Service Bulletin 757–27–0126, dated May 11, 2000, or Boeing Production Revision Record 54755: Do the inspection within 18 months after the effective date of this AD.

(2) For airplanes other than those identified in paragraph (a)(1) of this AD: Do the inspection within 36 months after the effective date of this AD.

If No Subject GRA Is Installed—No Further Action

(b) If no GRA has a part number series and serial number listed under Section 1.A. of Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21, both dated January 24, 2000: No further action is required by this AD.

If Any Subject GRAs Are Installed—Corrective Actions

(c) For any GRA with a part number series and serial number listed under Section 1.A. of Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21, both dated January 24, 2000: At the applicable compliance time specified in paragraph (c)(1) or (c)(2) of this AD, replace the subject GRA with a new or reworked GRA, according to Boeing Alert Service Bulletin 757–27A0133 (for Model 757–200, 757–200CB, and 757–200PF series airplanes), or 757–27A0134 (for Model 757–300 series airplanes), both dated October 11, 2000; as applicable.

(1) For Boeing 757–200 series airplanes with line numbers (L/N) 1 through 803, on which an enhanced slat skew or loss detection system has NOT been installed according to Boeing Service Bulletin 757–27–0126, dated May 11, 2000, or Boeing Production Revision Record 54755: Replace any subject GRA within 18 months after the effective date of this AD.

(2) For airplanes other than those identified in paragraph (c)(1) of this AD: Replace any subject GRA within 36 months after the effective date of this AD.

Spares

(d) After the effective date of this AD, no one may install a GRA that has a part number series and serial number listed under Section 1.A. of Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21, both dated January 24, 2000, on any airplane.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 9, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12174 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 010416096–1095–01]

RIN 0648–AP22

Revisions to Anchoring Prohibitions in the Flower Garden Banks National Marine Sanctuary

AGENCY: Marine Sanctuaries Division (MSD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Proposed rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) proposes to amend the regulations governing the anchoring and mooring of vessels in the Flower Garden Banks National Marine Sanctuary (FGBNMS or Sanctuary). NOAA is proposing this change to conform the regulations to anchoring prohibitions adopted by the International Maritime Organization (IMO), at its December 6, 2000 meeting. NOAA is proposing to prohibit all anchoring and mooring in the Sanctuary with the exception that vessels 100 feet (30.48 meters) and under in length would be permitted to moor at sanctuary mooring buoys. The intent of this rule is to prevent further injuries to corals in the Sanctuary from anchoring impacts.

DATES: The agency must receive comments by June 14, 2001.

ADDRESSES: Comments concerning the proposed regulatory changes should be sent to G.P. Schmahl, Manager, Flower Garden Banks National Marine Sanctuary, 216 W. 26th Street, Suite 104, Bryan, Texas, 77803.

FOR FURTHER INFORMATION CONTACT: G.P. Schmahl (979) 779–2705, or Lisa Symons (301) 713–3141, ext. 108.

SUPPLEMENTARY INFORMATION:

I. Background

The Sanctuary consists of three separate areas of ocean waters over and surrounding the East and West Flower Garden Banks and Stetson Bank, and the submerged lands thereunder including the Banks, in the northwestern Gulf of Mexico. The area designated at the East Bank is located approximately 120 nautical miles (nmi) south-southwest of Cameron, Louisiana, and encompasses 19.20 nmi2. The area designated at the West Bank is located approximately 110 nmi southeast of Galveston, Texas, and encompasses 22.50 nmi2. The area designated at Stetson Bank is located approximately 70 nmi southeast of Galveston, Texas, and encompasses 0.64 nmi2. The three areas encompass a total of 42.34 nmi2 (145.09 square kilometers). The area is unique among the world's coral reefs. The area contains the northernmost coral reefs on the North American continental shelf and supports the most highly developed offshore hard-bank communities in the region. It is also home to organisms unknown on the world's other continental shelves. These organisms are generally associated with a hypersaline, anoxic brine seep having a chemosynthetic energy base analogous to that found at deep-sea hydrothermal vents. The reefs in Flower Garden Banks crest at approximately 15 meters below the water surface and extend downward to 46 meters depth, where the hermatypic corals are replaced by reefal communities dominated by coralline algae and sponges. This deeper "algal terrace" covers most surfaces down to a depth of 90 meters. The area has at least 20 species of hermatypic (reef building) corals, 80 species of algae, 196 known macro-invertebrate species, and more than 200 fish species. The reef-building corals and coralline algae construct and maintain the substratum and, through a multituide of relationships, largely control the structure of benthic communities occupying the banks. As a primary building-block for the entire ecosystem of the banks, the coral and algae are by far the most important organisms in the Flower Garden Banks ecosystem.

Observations by Sanctuary staff, researchers and members of the diving public indicate that anchoring of large commercial ships, particularly internationally flagged vessels, has caused considerable damage to the corals and other resources of the Sanctuary despite existing domestic regulations prohibiting anchorage of vessels greater than 100 feet (30.48 meters). There is clear evidence of anchoring damage to Flower Garden Banks from large ships. Scars or tracks of pulverized coral have been documented by studies conducted by submersibles and divers. The largest scar from anchoring found to date extends for approximately 1.7 kilometers and resembles a continuous, "roadcut-like" gouge into the bank. Another crater-like scar measures approximately 50 meters in diameter. Chain scars from the swinging of ships on their anchor chains are evident on many corals. There are hundreds of coral colonies abraded, fractured or toppled, apparently by the dragging of anchors or anchor cables and chains. Loose coral pieces act as agents of further injury to the living coral, particularly during heavy seas and storms as the pieces are repeatedly driven into and around the living coral. Coral such as that in Flower Garden Banks takes thousands of years to build. The regeneration of the reef from anchor damage may never occur. Even if optimal conditions for regeneration occur, it would still take hundreds and perhaps thousands of years for the reef to return to its pre-damage condition. Implementation of the proposed regulation and the restrictions on anchoring adopted by the IMO will prevent further injury to the coral and reef community.

Safety considerations also support establishment of this measure. The area is transited by commercial ships, many of which are en route to and from the U.S. ports in Texas and Louisiana. The safety of a ship can depend on the ability of its anchor to hold. The character of the bottom is of prime importance in determining whether an anchor will hold. Coral provides an unstable anchoring bottom. The scars and damage to the coral in this area are evidence that when deployed in coral anchors tend to drag along the bottom rather than hold in the coral. Additionally, there are a number of platforms and pipelines in this area it is very important from a safety perspective for ships to anchor only in areas where the bottom will provide good holding ground.

In July of 2000, the United States delegation to the IMO submitted a proposal to ban anchoring in FGBNMSs for vessels greater than 100 feet (30.48 meters). IMO, out of concern for impacts to corals, modified the proposal to prohibit all anchoring. Vessels 100 feet (30.48 meters) and under would be allowed to moor using Sanctuary mooring buoys. The new international measure would ensure that no-anchoring zones are marked on all charts internationally. This proposed rule would conform the Sanctuary regulations to the IMO action.

Recreational and commercial vessels 100 feet (30.48 meters) and under in length use existing mooring buoys. There are currently 12 buoys on East and West Flower Garden Banks and 3 buoys on Stetson Banks. These will be supplemented by additional buoys if necessary.

The public has been involved in addressing the anchor damage issue and has sought greater protections within the Sanctuary. Prior to submission of the United States delegation's proposal to IMO, all relevant federal agencies were consulted and their comments were addressed. Public comment on this proposed rule is being solicited and will be considered prior to publication of any final rule.

II. Miscellaneous Rulemaking Requirements

National Marine Sanctuaries Act

Section 301(b) of the National Marine Sanctuaries Act, 16 U.S.C. 1434, provides authority for comprehensive and coordinated conservation and management of these areas in coordination with other resource management authorities.

National Environmental Policy Act

NOAA has concluded that this regulatory action would not have a significant effect, individually or cumulatively, on the human environment. Further, the action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with Section 6.05b.2 of NOAA Administrative Order 216–6. Specifically, this action is not likely to result in significant impacts as defined in 40 CFR 1508.27.

Executive Order 12866: Regulatory Impact

This action has been determined to be not significant for the purpose of Executive Order 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule will not have a significant economic impact on a substantial number of small entities. Vessels 100 meters and under in length, which are those most likely to belong to small entities, would be allowed to moor using Sanctuary mooring buoys. The majority of users in this area are divers either on their own vessels or vessels operated by dive charter organizations in the area. The dive charter operations use the existing Sanctuary moorings and sine their vessels are less than 100 feet in length, they are not likely to be affected by this rule. Most of the vessels subject to this rule are foreign flagged vessels that are owned or chartered by large corporations. There is no reason to expect that this regulation will have a measurable impact on the small business community. Accordingly, an initial regulatory flexibility analysis was not prepared.

Paperwork Reduction Act

This rule does not contain any collection of information requirements subject to the Paperwork Reduction Act.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: May 9, 2001.

Capt. Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons stated above, 50 CFR part 922 is proposed to be amended as follows:

PART 922—[AMENDED]

1. The authority citation for Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart L—Flower Garden Banks National Marine Sanctuary

2. Section 922.122 is amended by revising paragraphs (a)(2)(i) and (ii) to read as follows:

§ 922.122 Prohibited or otherwise regulated activities.

(a) * * *

(2) * * *

(i) Anchoring any vessel within the Sanctuary.

(ii) Mooring any vessel within the Sanctuary, except that vessels 100 feet (30.48 meters) or less in registered length may moor on a Sanctuary mooring buoy.

* * * * *

[FR Doc. 01–12220 Filed 5–14–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105801–00]

RIN 1545–AX92

Capitalization of Interest and Carrying Charges Properly Allocated to Straddles; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations that clarify the application of the straddle rules to a variety of financial instruments.

DATES: The public hearing originally scheduled for May 22, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Treena Garrett of the Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Thursday, January 18, 2001, (66 FR 4746), announced that a public hearing was scheduled for Tuesday, May 22, 2001, at 10 a.m., in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under sections 1092 and 263(g) of the Internal Revenue Code. The public comment period for these proposed regulations expired on May 1, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, May 8, 2001, no one has requested to speak. Therefore, the public hearing scheduled for Tuesday, May 22, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 01–12222 Filed 5–14–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 53 and 301

[REG–246256–96]

RIN 1545–AY65

Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements; Taxes on Excess Benefit Transactions; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document contains a notice of public hearing on proposed regulations relating to charitable organizations to meet certain qualification requirements and taxes on excess benefit transactions.

DATES: The public hearing is being held on July 31, 2001, at 10 a.m. The IRS must receive outlines of topics to be discussed at the hearing by July 10, 2001.

ADDRESSES: The public hearing is being held in the auditorium, room 7218, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building.

Mail outlines to: Regulations Unit CC (REG–246256–96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 5 p.m. to: Regulations Unit CC (REG–246256–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Submit electronic outlines of oral comments directly to the IRS Internet site at *http://www.irs.gov/tax_regs/regslist.html*.

FOR FURTHER INFORMATION CONTACT: Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Guy R. Traynor of the Regulations Unit, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed regulations (REG–246256–96) that was published in the **Federal Register** on Wednesday, January 10, 2001 (66 FR 2173).

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by July 10, 2001.

A period of 10 minutes is allotted to each person for presenting oral comments.

After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–12221 Filed 5–14–01; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–121928–98]

RIN 1545–AW99

Awards of Attorney's Fees and Other Costs Based Upon Qualified Offers; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed rulemaking issuing temporary regulations relating to the circumstances in which a party, by reason of having made a qualified offer, will be entitled to an award of court costs and certain fees in a civil tax proceedings brought in a court of the United States (including the Tax Court).

DATES: The public hearing originally scheduled for May 23, 2001 at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Treena Garrett of the Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Thursday, January 4, 2001, (66 FR 749), announced that a public hearing was scheduled for Wednesday, May 23, 2001, at 10 a.m., in Room 4718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed rulemaking under section 7430 of the Internal Revenue. The public comment period for these proposed regulations expired on Wednesday, April 4, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, May 9, 2001, no one has requested to speak. Therefore, the public hearing scheduled for Wednesday, May 23, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 01–12223 Filed 5–14–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 140, 141, 142, 143, 144, 145 and 146

[USCG 2001–9173]

RIN 2115–AF75

Floating Production, Storage, and Offloading Units in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Reopening of comment period.

SUMMARY: The Coast Guard is reopening the period for public comment on Floating Production, Storage, and Offloading Units in the Gulf of Mexico. Letters received to the docket requested more time to collect data and to develop comments.

DATES: Comments must be received on or before July 16, 2001.

ADDRESSES: You may submit your written comments and related material by any one of the following methods:

(1) By mail to the Docket Management Facility, [USCG–2001–9173], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management Facility at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this notice. Comments and documents, as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this notice on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: For information on the reopening of the comment period contact Lieutenant Commander Russell Proctor, Vessel Compliance Division (G–MOC–2), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington DC 20590, telephone 202–267–0499. For questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief of Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in the request for comments period by submitting written data, views, or arguments.

To do so, please include your name and address, identify this docket [USCG 2001–9173], the specific issue for comment, and give the reason for each comment. You may submit your written comments and material by mail, hand, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please do not submit the same comment or material by more than one means. Do not submit comments that have already been made part of the docket. If you submit them by mail or hand, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they were received, enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the comment period. All comments may be viewed at *http://dms.got.gov*.

Background

On March 27, 2001, the Coast Guard published a Notice of meeting; request for comments in the **Federal Register** (66 FR 16643). We requested comments on Floating Production, Storage, and Offloading Units in the Gulf of Mexico. A meeting was held on May 3, 2001, in Houston, Texas.

Purpose

Comments to the docket requested more time to collect data and to develop comments. Based on these requests and on the small number of comments received so far, the Coast Guard is reopening the comment period.

Dated: May 4, 2001.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 01–12114 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–1079; MM Docket No. 01–25; RM–10055]

Radio Broadcasting Services; Northome, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses a petition for rulemaking filed by PharrNorth Radio requesting the allotment of Channel 291A at Northome, Minnesota. *See* 66 FR 10266, February 14, 2001. PharrNorth withdrew its interest in an allotment at Northome, Minnesota, in accordance with Section 1.420(j) of the Commission's Rules. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–25, adopted April 18, 2001, and released April 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12089 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1083; MM Docket No. 01–101; RM–10097]

Radio Broadcasting Services; St. Augustine and Neptune Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Clear Channel Broadcasting Licenses, Inc., licensee of Station WFKS(FM), Channel 250C2, St. Augustine, Florida, requesting the reallotment of Channel 250C2 from St. Augustine to Neptune Beach, Florida, and modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Coordinates used for requested Channel 250C2 at Neptune Beach, Florida, are 36–16–53 and 81–34–15.

Petitioner's reallotment proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 250C2 at Neptune Beach, Florida, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before June 18, 2001, and reply comments on or before July 3, 2001.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: F. William LeBeau; Hogan and Hartson, L.L.P.; 555 13th Street, NW.; Washington, DC 20004–1109.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of

Proposed Rule Making, MM Docket No. 01–101 adopted April 18, 2001, and released April 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1231 20th Street, NW., Washington, DC 20036.

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Neptune Beach, Channel 250C2, and removing Channel 250C2 at St. Augustine.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12164 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1093; MM Docket No. 01–102, RM–10100, MM Docket No. 01–103, RM–10102; MM Docket No. 01–104, RM–10103; MM Docket No. 01–105, RM–10104; MM Docket No. 01–106, RM–10105]

Radio Broadcasting Services; Plainville, GA; Rosholt, WI; Auburn, AL; Shiner, TX; and Pacific City, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes five new allotments to Plainville, Georgia; Rosholt, Wisconsin; Auburn, Alabama; Shiner, Texas; and Pacific City, Oregon. The Commission requests comments on a petition filed by Plainville Communications proposing the allotment of Channel 285A at Plainville, Georgia as the community's first local aural transmission service. Channel 285A can be allotted to Plainvllle in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.5 kilometers (4.0 miles) northwest to avoid a short-spacing to the licensed site of Station WFSH–FM, Channel 284C1, Athens, Georgia. The coordinates for Channel 285A at Plainville are 34–25–58 North Latitude and 85–05–48 West Longitude. The Commission requests comments on a petition filed by Craig Norlin proposing the allotment of Channel 263A at Rosholt, Wisconsin, as the community's first local aural transmission service. Channel 263A can be allotted to Rosholt in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.6 kilometers (5.3 miles) northwest to avoid a short-spacing to the licensed sites of Station WIZD(FM), Channel 260C3, Rudolph, Wisconsin, and Station WNYC–FM, Channel 262, Neenah-Menasha, Wisconsin. The coordinates for Channel 263A at Rosholt are 44–40–12 North Latitude and 89–23–45 West Longitude. *See* Supplementary Information, *infra*.

DATES: Comments must be filed on or before June 18, 2001, and reply comments on or before July 3, 2001.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau (202) 418–2180.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Jerry D. Braswell, Plainville Communications, P.O. Drawer 90, Hawkinsville, Georgia 31036–0090 (Petitioner); Harry F. Cole, Esq., Bechtel & Coe, Chartered, 1901 L Street, NW., Suite 250, Washington, DC 20036 (Counsel for Craig Norlin); Lee G. Petro, Esq., Gardner, Carton & Douglas, 1301 K Street, NW., Suite 900, East Tower, Washington, DC 20005–3317 (Counsel for Auburn Network, Inc.); David P. Garland, President, Stargazer Broadcasting, Inc., P.O. Box 519, Woodville, Texas 75979 (Petitioner); and John L. Zolkoske, 915 N. Douglas Ave., Stayton, Oregon 97383 (Petitioner).

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–102; MM Docket No. 01–103; and MM Docket No. 01–104, MM Docket No. 01–105 and MM Docket No. 01–106, adopted April 18, 2001, and released April 27, 2001. The full text of this Commission decision is available for spection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

The Commission requests comments on a petition filed by Auburn Network, Inc., proposing the allotment of Channel 263A at Auburn, Alabama, as the community's second local FM transmission service. Channel 263A can be allotted to Auburn in compliance with the Commission's minimum distance separation requirements site restriction of 3.2 kilometers (2.0 miles) south to avoid a short-spacing to the licensed site of Station WLXY(FM), Channel 263C1, Northport, Alabama. The coordinates for Channel 263A at Auburn are 32–34–54 North Latitude and 85–29–17 West Longitude.

The Commission requests comments on a petition filed by Stargazer Broadcasting, Inc., proposing the allotment of Channel 232A at Shiner, Texas, as the community's first local aural transmission service. Channel 232A can be allotted to Shiner in compliance with the Commission's minimum distance separation requirements site restriction of 5.1 kilometers (3.2 miles) west to avoid a short-spacing to the licensed site of Station KAJI(FM), Channel 231C3, Point Comfort, Texas. The coordinates for Channel 232A at Shiner are 29–25–59 North Latitude and 97–13–20 West Longitude. Since Shiner is located within 320 kilometers (199 miles) of the U.S-Mexican border, concurrence of the Mexican government has been requested.

The Commission requests comments on a petition filed by John L. Zolkoske proposing the allotment of Channel 282A at Pacific City, Oregon as the community's first local aural transmission service. Channel 282A can be allotted to Pacific City in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 282A at Pacific City are 45–12–09 North Latitude and 123–57–42 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303. 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Channel 263A at Auburn.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Plainville, Channel 285A.

4. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Pacific City, Channel 282A.

5. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Shiner, Channel 232A.

6. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Rosholt, Channel 236A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12163 Filed 5–14–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH05

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period for the Proposal To Designate Critical Habitat for the Wenatchee Mountains Checker-Mallow, and Notice of Availability of the Draft Economic Analysis for Proposed Critical Habitat for the Wenatchee Mountains Checker-Mallow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period for the proposed designation of critical habitat for the Wenatchee Mountains checker-mallow (*Sidalcea oregana* var. *calva*), and the availability of the draft economic analysis for the plant's proposed designation of critical habitat. We are reopening the comment period for the proposal to designate critical habitat for this species to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period and will be fully considered in the final rule.

DATES: We will accept public comments until June 14, 2001.

ADDRESSES: Written comments and information should be submitted to Manager, Western Washington Office, U.S. Fish and Wildlife Service, 510 Desmond Drive SE., Suite 102, Lacey, Washington 98503–1263. For the electronic mail address, and further instructions on commenting, refer to Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: For general information, contact Ted Thomas or James Michaels, at the above address (telephone 360/753–9440; facsimile 360/753–9518).

SUPPLEMENTARY INFORMATION:

Background

The Wenatchee Mountains checker-mallow (*Sidalcea oregana* var. *calva*) is an herbaceous perennial known from wetlands of the Wenatchee Mountains in central Washington. The plant ranges in height from 20 to 150 centimeters (8 to 60 inches), with pink flower clusters with one to many stalked flowers arranged singly along a common stem. The species occurs at six locations, all are known from Chelan County, Washington.

Pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*); *Sidalcea oregana* var. *calva* was listed as an endangered species on December 22, 1999 (64 FR 71680). Habitat fragmentation and destruction from alterations of hydrology, rural residential development, conversion of native wetlands to orchards and other agricultural uses, competition form nonnative plants, seed and plant collection, and fire suppression and the activities associated with fire suppression threaten *Sidalcea oregana* var. *calva*.

In April 2000, as a result of a suit from the Southwest Center for Biological Diversity and the Center for Biological Diversity, we reached a settlement agreement on when to publish a proposed and final critical habitat designation for *Sidalcea oregana* var. *calva*. We agreed to publish a proposed critical habitat designation for this species on or before December 31, 2000, and a final critical habitat designation on or before August 31, 2001.

On January 16, 2001, we published a proposed rule in the **Federal Register** (66 FR 4783) to designate critical habitat for *Sidalcea oregana* var. *calva*. The original comment period closed on March 19, 2001. We intend to reopen the comment period for an additional 30 days to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis.

We have proposed to designate critical habitat in one critical habitat unit totaling approximately 2,486 hectares (6,137 acres) in Chelan County, Washington. The area encompasses a majority of the Camas Creek and Pendleton Creek watersheds.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out,

funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for *Sidalcea oregana* var. *calva*, we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available on the Internet and from the mailing addresses in the Public Comments Solicited section below.

Public Comments Solicited

We will accept written comments and information during this re-opened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Manager, Western Washington Office, U.S. Fish and Wildlife Service, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503–1263.

(2) You may send comments by electronic mail (e-mail) to: fw1wwo_checkermallow@r1.fws.gov. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include "Attn: RIN 1018–AH05" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Western Washington Office at telephone number 360/753–9440.

(3) You may hand-deliver comments to our Western Washington Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the draft economic analysis are available on the Internet at "www.r1.fws.gov" or by writing to the Manager at the address under (1) above.

Author

The primary author of this notice is Ted Thomas (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: March 14, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 01–12173 Filed 5–14–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 990927266–0240–02; I.D. 072699A]

RIN 0648–AM62

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of extension of comment deadline.

SUMMARY: Under the Marine Mammal Protection Act, on March 19, 2001, NMFS published a proposed rule (66 FR 15375) to authorize the taking of marine mammals incidental to the world-wide deployment of the U.S. Navy's SURTASS LFA sonar. Please refer to this document for additional information on this proposed action. By this document, NMFS announces an extension of the comment deadline.

DATES: Comments must be postmarked no later than May 31, 2001. Comments will not be accepted if submitted via e-mail or the Internet.

ADDRESSES: Comments should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS (301) 713–2055, ext 128.

A copy of the Navy's application is available and may be obtained by writing to this address or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**).

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Under section 101(a)(5)(A) of the Marine Mammal Protection Act, on March 19, 2001, NMFS published a proposed rule (66 FR 15375) to authorize the taking of marine mammals incidental to the world-wide deployment of the U.S. Navy's SURTASS LFA sonar. Please refer to this document for additional information on this proposed action.

On April 16, 2001 (66 FR 19413), NMFS announced an extension of the comment period until May 18, 2001, and the dates and locations for public hearings on this matter. By this document, the comment period for this proposed action is hereby extended until May 31, 2001.

Dated: May 9, 2001.

Wanda Cain,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12082 Filed 5–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 050901A]

Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent; scoping process; request for comments.

SUMMARY: NMFS announces its intent to prepare a supplemental environmental impact statement (SEIS) to modify certain fishery management measures governing the Federally managed groundfish fisheries that are conducted in the Bering Sea and Aleutian Islands Area (BSAI) and the Gulf of Alaska (GOA) to protect the endangered Steller sea lion population.

The scoping process is occurring in parallel with meetings of the North Pacific Fishery Management Council (Council) and the Council's Reasonable and Prudent Alternative Committee. In addition to collecting scoping information at these meetings, NMFS is accepting written comments on the issues, alternatives, and impacts that should be considered in this analysis.

DATES: Written comments will be accepted through June 22, 2001. See **SUPPLEMENTARY INFORMATION** for meeting times and special accommodations.

ADDRESSES: Written comments and requests to be included on a mailing list of persons interested in the SEIS should be sent to Lori Gravel, Records Management Office, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or fax to (907) 586–7557. See **SUPPLEMENTARY INFORMATION** for meeting locations and special accommodations.

FOR FURTHER INFORMATION CONTACT: Tamra Faris, NMFS, P.O. Box 21668, Juneau, AK 99802, phone number (907) 586–7645, or tamra.faris@noaa.gov.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the United States has exclusive fishery management authority over all fishery resources found within the U.S. exclusive economic zone (EEZ). The management of these fishery resources is vested in the Secretary of Commerce and in regional Fishery Management Councils. The North Pacific Fishery Management Council (Council) has the responsibility to prepare fishery management plans for those marine resources off Alaska, which it finds require conservation and management.

Management of the Federal groundfish fishery located off Alaska in the EEZ is carried out under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). These FMPs, their amendments, and implementing regulations (found at 50 CFR part 679) are developed in accordance with the requirements of the Magnuson-Stevens Act. When implementing these FMPs, their amendments, and regulations, FMPs must also comply with other applicable Federal laws and executive orders, notably the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act, Executive Order 12866, and the Regulatory Flexibility Act.

In accordance with section 7 of the ESA, NMFS issued on November 30, 2000, a comprehensive Biological Opinion on both groundfish FMPs. The Biological Opinion determined that the BSAI and GOA walleye pollock, Pacific cod, and Atka mackerel fisheries as prosecuted under the FMPs and implementing regulations jeopardized a listed species, the western population of Steller sea lions, and that the FMPs adversely modified designated critical habitat of Steller sea lions due to competition for prey and modification of their prey field. The Biological Opinion included a Reasonable and Prudent Alternative (RPA) designed to mitigate the adverse effects of the FMPs and regulations. The November 30, 2000, RPA contains various protective measures such as total allowable catch reductions, critical habitat harvest limits, closure areas and an experimental monitoring program.

On December 21, 2000, Public Law 106–554 (Pub. L. 106–554) was signed by the President. Among other things, this law established a one-year phase in for implementing the November 30, 2000, RPA as well as provisions affecting its implementation in 2001. For 2002, Pub. L. 105–554 at section 209 (c)(2) states that the November 30, 2000, RPA will become fully effective on January 1, 2002, as revised if necessary and appropriate based on independent scientific review and other new information. As a result of this provision, the Council is developing alternatives to the November 30, 2000, RPA. NMFS has determined that changes to the FMPs and their implementing regulations to protect Steller sea lions may be controversial and could result in significant impacts on the human environment. Therefore, NMFS has decided that the decision making process should be informed through preparation of an SEIS.

Scoping Process

NMFS is seeking information from the public through the scoping process on the range of alternatives to be analyzed as well as environmental and economic issues to consider in the analysis. The scoping process for this SEIS consists of written comments received by NMFS in response to this Notice of Intent as well as public comments received at the Council and Council committee meetings described below. NMFS plans to issue a draft SEIS in August 2001 and a final SEIS in November 2001.

Alternatives

The alternatives currently under consideration for analysis in the SEIS include:

1. *Alternative A.* No Action. Regulatory measures implemented by emergency rule, and designed to protect Steller sea lions, would expire. Although this is not currently a viable alternative, as it is non-compliant with the ESA and P.L. 106-554, it is being analyzed because it is the no action alternative and will be useful for comparative purposes.

2. *Alternative B.* Implement the suite of Steller sea lion protection measures that were in place for the year 2000 pollock and Atka mackerel fisheries, and implement measures for the Pacific cod fishery that include seasonal apportionments and harvest limits within critical habitat.

3. *Alternative C.* Implement the measures detailed in Alternative B, and prohibit all trawling for groundfish within critical habitat (as was the case under the Court ordered injunction on the groundfish fisheries that began in August 2000).

4. *Alternative D.* Implement the November 30, 2000, RPA in its entirety.

5. *Alternative E.* Implement the RPA currently being developed by the Council and its Committees.

Public Meetings

Public comments on the scope of the analysis, the alternatives under consideration, and issues to be analyzed may be made at the following meetings and will be considered in preparation of the SEIS. The Council will be meeting in Kodiak, Alaska, on June 6 through11, 2001, at the Westmark Hotel, 236 West Rezanof Drive, Kodiak, AK. Steller sea lion fishery management measures will be discussed by the Council, the Council's Advisory Panel, and the Council's Scientific and Statistical Committee under item C–1 of the agenda. The Council's Steller Sea Lion RPA Committee will be meeting in Seattle, WA, on May 21 through 24, 2001, at the NMFS Alaska Fishery Science Center, Building 4 Room 2039, 7600 Sand Point Way NE, Seattle, WA.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen (907) 271–2809 at least 5 days before the meeting dates.

Dated: May 9, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12218 Filed 5–14–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 94
Tuesday, May 15, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AFRICAN DEVELOPMENT FOUNDATION

Sunshine Act Board of Directors Meeting

TIME: 9 a.m. to 1 p.m.
PLACE: ADF Headquarters.
DATE: Friday, May 18, 2001.
STATUS: Closed.

Agenda

9 a.m.—Executive Session (Closed)
1 p.m.—Adjournment

If you have any questions or comments, please direct them to Doris Mason Martin, General Counsel, who can be reached at (202) 673–3916.

Nathaniel Fields,
President.
[FR Doc. 01–12387 Filed 5–11–01; 3:37 pm]
BILLING CODE 6116–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.
Title: U.S. Census—Age Search.
Form Number(s): BC–600, BC–649(L), BC–658(L).
Agency Approval Number: 0607–0117.
Type of Request: Extension of a currently approved collection.
Burden: 1,775 hours.
Number of Respondents: 6,650.
Avg Hours Per Response: 9.5 minutes.
Needs and Uses: The Census Bureau maintains the 1910–1990 Federal censuses for searching purposes. Census 2000 records may be available for searching purposes at some point during the upcoming clearance period. Pursuant to Title 15 CFR Part 80, the Census Bureau will provide upon request and payment of established fees, transcripts of personal data from historical population census records. Information relating to age, place of birth, and citizenship is provided to individuals for their use in qualifying for social security, old age benefits, retirement, and passports, and for use in court litigation, insurance settlements, etc. The census records are confidential by an Act of Congress. The Census Bureau is prohibited by federal laws from disclosing any information contained in the records except upon written request from the person to whom the information pertains or to a legal representative. The age and citizenship searching service provided by the Census Bureau is a self-supporting operation. Expenses incurred in providing census transcripts are covered by the fees paid by individuals requesting a search of the census records.

This request is for extension of the public use forms currently used in searching census records. The Age Search forms gather information necessary for the Census Bureau to make a search of its historical population census records in order to provide the requested transcript.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

Legal Authority: Title 13 U.S.C., Section 8.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202)482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 10, 2001.
Madeleine Clayton,
Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.
[FR Doc. 01–12166 Filed 5–14–01; 8:45 am]
BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Oil Country Tubular Goods From Mexico: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
ACTION: Notice of Rescission of Antidumping Duty Administrative Review.

SUMMARY: On October 2, 2000, the Department of Commerce (the Department) published in the **Federal Register** (65 FR 58733) a notice announcing the initiation of an administrative review of the antidumping duty order on oil country tubular goods (OCTG) from Mexico. The review period is August 1, 1999 to July 31, 2000. This review has now been rescinded because one party requesting the review withdrew its request, and the remaining exporter named in the request for review made no entries of subject merchandise for consumption in the United States during the period of review.

EFFECTIVE DATE: May 15, 2001.
FOR FURTHER INFORMATION CONTACT: Phyllis Hall or Nancy Decker, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–1398 or (202) 482–0196 respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (2000).

Scope of Review

Imports covered by this review are oil country tubular goods, hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.21.30.00, 7304.21.60.30, 7304.21.60.45, 7304.21.60.60, 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

The Department has determined that couplings, and coupling stock, are not within the scope of the antidumping order on OCTG from Mexico. See Letter to Interested Parties; Final Affirmative Scope Decision, August 27, 1998.

Background

On August 31, 2000, petitioner on behalf of U.S. Steel Group, a unit of USX Corporation, requested an administrative review of Tubos de Acero de Mexico S.A. (TAMSA), a Mexican producer and exporter of OCTG, with respect to the antidumping order published in the **Federal Register** on August 11, 1995 (60 FR 41055). Additionally, respondent Hylsa, S.A. de C.V. (Hylsa) requested that the Department conduct an administrative review of Hylsa. We initiated the review for both companies on October 2, 2000 (65 FR 58733). On October 19, 2000, Hylsa withdrew its request and requested that the Department terminate the review with respect to Hylsa. On October 26, 2000, we received comments from TAMSA. On December 22, 2000, we received comments from petitioners. These comments are discussed below.

SUPPLEMENTARY INFORMATION: On October 26, 2000 TAMSA claimed that "it did not export, directly or indirectly, enter for consumption, or sell, export or ship for entry for consumption in the United States subject merchandise during the period of review." Petitioner subsequently claimed on December 22, 2000, that publicly available import data from the Department's IM–145 database showed that 2,914 metric tons of seamless OCTG from Mexico entered the United States during the period of review. Petitioner asserted that TAMSA was the only producer of seamless OCTG in Mexico. In addition, petitioner claimed that subject merchandise produced by TAMSA was shipped from a third country and entered into the United States during the period of review. Petitioner requested that the Department investigate these transactions to determine whether this merchandise is subject to review.

In response to a telephone query on March 6, 2001, TAMSA indicated that it made no U.S. sales or consumption entries during the POR. TAMSA claimed all of its shipments to the United States were TIB entries, and were destined for re-export. TAMSA also indicated that it had no knowledge of its customers having entered covered merchandise into the United States for consumption. See Memorandum to File dated March 17, 2001.

During March 2001, the U.S. Customs Service (Customs) officially confirmed that the entries shipped by TAMSA to the United States were TIB entries. Customs also confirmed that none of these entries entered the customs territory of the United States during the POR for consumption. With respect to the third country shipment referenced by the petitioner, Customs officially confirmed on April 5, 2001 that the merchandise had been entered under the proper country of export (the third country) and that the merchandise was declared as being of Mexican origin and was entered subject to duty. Because this merchandise was exported to the United States by a party not affiliated with TAMSA and not subject to this review, and because there is no evidence that TAMSA had knowledge of the shipment or was involved with it in any way, we have determined that there are no shipments for purposes of this review. On April 18, 2001, the Department forwarded a no-shipment inquiry to the Customs for circulation to all Customs ports. Customs did not indicate to the Department that there was any record of consumption entries during the POR of OCTG exported by TAMSA.

Because there were no entries for consumption during the POR for OCTG for which TAMSA was the appropriate respondent, and because Hylsa withdrew its request for review, we are rescinding this review in accordance with the Department's practice. The cash deposit rate for these firms will continue to be the rate established in the most recently completed segment of this proceeding.

This notice is issued and published in accordance with section 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: May 2, 2001.
Joseph A. Spetrini,
Deputy Assistant Secretary, AD/CVD Enforcement Group III.
[FR Doc. 01–12213 Filed 5–14–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–805, A–201–829]

Initiation of Antidumping Duty Investigations: Spring Table Grapes From Chile and Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
ACTION: Initiation of Antidumping Duty Investigations.

EFFECTIVE DATE: May 15, 2001.
FOR FURTHER INFORMATION CONTACT: Donna Kinsella (for Chile) or Irina Itkin (for Mexico) at (202) 482–0194 and (202) 482–0656, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995,

the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR part 351 (April 2000).

The Petitions

On March 30, 2001, the Department received petitions filed in proper form by The Desert Grape Growers League of California and its members (collectively "the League"). The Department received information supplementing the petitions throughout the initiation period.

In accordance with section 732(b) of the Act, the petitioners allege that imports of spring table grapes from Chile and Mexico are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

On April 12 and 13, 2001, we received submissions from the Asociacion Agricola Local de Productores de Uva de Mesa, A.C. (AALPUM) and the Asociacion de Exportadores de Chile (ASOEX), associations of exporters of the subject merchandise in Mexico and Chile, respectively, which challenged the basis for the petitioners' claim of industry support. On April 19, 2001, the petitioners filed a response. On April 24, 2001, AALPUM and ASOEX submitted additional comments on the issue of industry support, and the petitioners responded to these comments on April 30, 2001. Moreover, in April and May 2001, the Department received a number of letters from producers of table grapes in California opposing the petitions. In addition, we received several letters from California table grape producers supporting the petitions. The Department has taken these submissions into consideration in making the initiation determination.

Pursuant to section 732(c)(1)(B) the Department extended the deadline for initiation to no later than May 9, 2001.

The Department finds that the petitioners filed these petitions on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (E) of the Act and they have demonstrated sufficient industry support with respect to each of the antidumping investigations that they are requesting the Department to initiate (*see* the "Determination of Industry Support for the Petitions" section, below).

Scope of Investigations

The scope of these investigations includes imports of any variety of vitis vinifera species table grapes from Chile or Mexico, entered during the period April 1 through June 30, inclusive, regardless of grade, size, maturity, horticulture method (*i.e.*, organic or not) or the size of the container in which packed. The scope specifically covers all varieties of seedless or seeded grapes including, but not limited to, Thompson, Red Flame, Red Globe, Perlettes, Superior seedless, Sugrone, Ribier, Black seedless, Red seedless, Blanca Italia, Moscatel Rosada, Crimson seedless, Lavallee, Emperor, Queen Rose, Calmeria, Christmas Rose, Down seedless, Beauty seedless, Almeria, Supreme seedless, Superior Seedless M., Late Royal, Muscat seedless, Royal seedless, Early Ribier, Cardinal, Moscatel Dorada, Black Giant, Kaiji, Lady Rose, Black Diamond, Piruviano, Early Thompson, King Ruby seedless, White seedless, Queen seedless, Autumn seedless, Royal, Pink seedless, Green Globe, Autumn Black, Black Beauty, and Royal Giant. The scope specifically covers all table grapes entered within the April 1 through June 30 window of each year, whether or not subject to the Federal Marketing Order set forth in 7 CFR, part 925. For further discussion, see the May 9, 2001, memorandum from the case team to Richard Moreland and Joseph Spetrini entitled "Temporal Limitations on the Class or Kind Described in the Antidumping Duty Petitions on Spring Table Grapes from Mexico and Chile."

The scope excludes by-product grapes and other grapes for use as other than table grapes, including those grapes used for raisins, crushing, juice, wine, canning, processed foods and other by-product and not direct consumption purposes.

The spring table grapes subject to these investigations are classifiable under subheading 0806.10.40 of the Harmonized Tariff Schedule of the United States (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petitions, we discussed the scope with the petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. We note that the scope in the petitions included all spring table grapes harvested through June 30 of each year. However, the U.S. Customs Service has informed us that including a harvesting limitation would lead to problems in its administering these cases. *See* the April 11, 2001, memorandum from Chief, Special Products Branch at the United States Customs Service to David Goldberger entitled "Proposed Scope Language, Spring Table Grapes from Chile and Mexico." We agree that including grapes harvested through June 30 will raise major questions for imports after June 30. As a consequence, we have not included spring table grapes harvested during the period April 1 though June 30 but entered after that period in the scope of the merchandise under investigation. We have discussed this scope modification with the petitioners.

As discussed in the preamble to the Department's regulations (*see Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27295, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Class or Kind

In addition to describing the physical product at issue, the antidumping duty petitions on spring table grapes from Mexico and Chile limit the class or kind to table grapes entered in the spring. Parties have argued that the Department does not have the authority to accept a class or kind limited to imports during certain periods, or, in the alternative, that the temporal limitations in this case are not appropriate. However, in the view of the Department the statute does not preclude a limitation on subject merchandise according to the time of year during which that merchandise was produced or entered. Section 771(25) of the Act only defines the term subject merchandise in pertinent part as the "class or kind of merchandise that is within the scope of an investigation. * * *" However, neither the term "class or kind" nor the term "scope" is defined in the statute.

It is well established that the Department has the ultimate authority under the statute to define the class or kind of merchandise subject to its proceedings.[1] Thus, the Department has the authority both to limit and to expand the class or kind alleged in the petition.[2] This authority notwithstanding, it has generally been the policy of the Department to accept the class or kind of merchandise alleged in the petition absent some overarching reason to modify that class or kind.[3] This policy stems from the fact that the domestic industry is in the best position to identify the imports that they compete against and believe to be unfairly traded.[4]

Moreover, a petitioning industry often must draw a bright line between the imports it wants covered and those it does not. To the extent it can establish that the covered imports are dumped and the cause of material injury, it is entitled to relief under the statute, notwithstanding the fact that it may have excluded from the scope other products which may or may not also be the subject of injurious dumping. It is appropriate not to make imports the subject of unnecessary antidumping proceedings. It is also appropriate that the Department not force the petitioner to seek duties on products against its will.

In the present case, the petitioners have drawn a legitimate line between those products they believe to be appropriately covered, and those they do not. First, the existence of a separate HTS number for the April 1–June 30 period (*i.e.* HTS 0806.10.40) supports a finding that such a period appropriately can form a class or kind of merchandise. The Department has often stated that its determination as to the appropriate coverage of an investigation is not determined by HTS categories. However, the fact that the period of April through June falls under a separate HTS category reflects the fact that imports during this season are recognized by industry and other U.S. government agencies as distinct from other imports. In both cases the petitioners have rationally identified those imports which directly compete with their product, and excluded from the investigation those imports which they are not concerned about. Imports from Chile and Mexico during the April 1 through July 30 period compete with spring grape production in the United States, which begins in May and continues through July.

For all of these reasons we have determined that these cases can proceed on the basis of a class or kind defined in part by the April 1 through June 30 period.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall either poll the industry or rely on other information in order to determine if there is support for the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[5]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product described in the petitions is spring table grapes sold for fresh use, regardless of variety. Based upon our review of the petitioners' claims, we concur that there is a single domestic like product: spring-table grapes sold for fresh consumption. For further discussion, see the May 9, 2001, from the case team to Richard Moreland and Joseph Spetrini memorandum entitled "Domestic Like Product and Industry Support."

Concerning industry support, for both countries covered by the petitions, the petitioners claimed that they represent the majority of the spring table grapes industry, defined as growers of U.S. table grapes in the period April through June. We find that the spring table grapes industry consists of those producers who harvest grapes predominantly during this period (*i.e.*, those producers in the Coachella Valley of California and western Arizona).

[1] *See Mitsubishi Elec. Corp.* v. *United States*, 898 F.2d 1577, 1582 (Fed. Cir. 1990); and *Diversified Products Corp.* v. *United States*, 572 F.Supp. 883, 887 (1983). *See also Smith-Corona Group* v. *United States*, 713 F.2d 1568, 1582 (Fed. Cir. 1983), cert. denied, 465 U.S. 1022 (1984).

[2] *See Mitsubishi Elec. Corp.* v. *United States*, 700 F.Supp. 538, 555 (1988), aff'd, 898 F.2d 1577 (Fed. Cir. 1990); and *Torrington Co.* v. *United States*, 745 F.Supp. 718, 721 n4 (CIT 1990).

[3] In many cases the Department has used the so-called "Diversified Products" criteria in analyzing class or kind issues. See 19 CFR § 351.225(k)(2). However, these criteria are not used to expand the class or kind defined in the petition, but rather to determine whether a particular product is within the class or kind as defined or, more rarely, to determine whether the scope as alleged actually covers several classes or kinds. See, e.g. *Partial Recission of Initiation of Antidumping Investigations and Dismissal of Petitions; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Romania, Singapore, and Thailand*, 53 FR 39327 (October 6, 1988) (Department split one class or kind in to five classes or kinds); and *Cyanuric Acid and Its Chlorinated Derivatives from Japan Used in the Swimming Pool Trade; Final Determination of Sales at Less Than Fair Value*, 49 FR 7424 (1984) (Department split one class or kind into three classes or kinds). In other words, absent some overarching reason to the contrary, the fact that application of the "Diversified Products" criteria reveals that a particular product which is excluded from the scope could be considered within the same class or kind will not normally result in including that product in the coverage of the investigation for reasons discussed above: to the extent the petitioners are not interested in seeking trade relief against a particular product, the Department should not require them to do so. There does not appear to be any such reason to depart from this approach in this case.

[4] *See Torrington*, 745 F.Supp. at 721. ("The petitioner's description of class or kind is awarded some deference inasmuch as the petitioner often will call Commerce's attention to an otherwise overlooked potential dumping problem.").

[5] *See Algoma Steel Corp. Ltd.*, v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

Consequently, we find that the petitioners established industry support by demonstrating that they account for over 25 percent of total production of the domestic like product (*see Antidumping Investigations Initiation Checklist*, dated May 9, 2001 (*Initiation Checklist*), thereby meeting the first requirement under section 732(c)(4)(A) of the Act.

We note that in 2000 a small amount of production by the Coachella Valley and western Arizona producers actually occurred in July. However, even if we include all U.S. production data for July in our determination of industry support, we would find that the petitioners established industry support by demonstrating that they account for over 25 percent of total production of the domestic like product (*see* the May 9, 2001, memorandum from the team to Richard W. Moreland and Joseph Spetrini entitled "Industry Support Calculations in the Antidumping Duty Petitions on Spring Table Grapes from Chile and Mexico" (the Industry Support Memo). In making this determination, we observe that by including July the petitioners would represent less than 50 percent of the domestic production of the like product in the April through July period. For this reason, we have additionally examined industry support as required by section 732(c)(4)(D) of the Act considering the positions of each company with production in the April through July period which expressed an opinion on the petitions. We find that, based on this additional information, there is still sufficient support for the petition. Specifically, we find that the companies supporting the petitions represent over 50 percent of the production of companies that have expressed support or opposition to the petitions. Furthermore, because we have determined that several additional companies have taken neutral positions with respect to the petitions, we find that any additional potential opposition could not possibly represent over 50 percent of the industry. *See* the Industry Support Memo. Accordingly, we determine that these petitions are filed on behalf of the domestic industry within the meaning of section 732(c)(4)(A) of the Act.

Constructed Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. The sources of data for the deductions and adjustments relating to U.S. price, home market price, third country price, and constructed value (CV) are also discussed in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate.

Chile

Constructed Export Price

The petitioners identified ten of the largest export trading companies which account for sixty percent by volume of spring table grape exports to the United States during the year 2000. The ten exporters are: David del Curto S.A., Dole Chile S.A., Exportadora Rio Blanco Ltda., Exportadora Agua Santa S.A., Exportadora Chiquita-Enza Chile Ltda., Del Monte Fresh Produce S.A., (formerly United Trading Company), Servicios de Exportaciones Fruiticolas Ltda., Sociedad Agro Comercial Verfrut Ltda., Exportadora Aconcagua Ltda., Exportadora Unifruitti Traders Ltda. The petitioners used information obtained through foreign market research to demonstrate that the prices negotiated by the U.S. importers/distributors of spring table grapes to their customers in the U.S. market on behalf of Chilean exporters are the prices that should be used to determine dumping margins for grapes exported from Chile. To the best of the petitioners' knowledge, the exporter is the first party in the chain of distribution that has knowledge of the ultimate destination of the merchandise. In this case, the exporters sell the grapes in the United States through affiliated or unaffiliated importers/distributors. Accordingly, it is appropriate to use constructed export price (CEP) based on the prices of the sales by the U.S. importers/distributors in the United States. However, the petitioners were unable to obtain these prices. For purposes of the petition, petitioners obtained through foreign market research the corresponding FOB Chile prices (*i.e.*, the resulting price after the deduction of all relevant expenses from the prices of sales in the United States). These prices are based on data compiled by ODEPA, an official government agency of Chile. The average FOB Chile prices obtained through foreign market research are consistent with the average FOB values in the official U.S. import statistics. (*See* Exhibit B–13 of the petition.)

Normal Value

With respect to normal value (NV), information reasonably available to the petitioners indicates the existence of a particular market situation which renders price comparisons between home market and U.S. prices inappropriate. The factors cited by the petitioners as evidence of a particular market situation in Chile with respect to spring table grapes are the same factors present in *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile*, 63 FR 31411 (June 9, 1998): (1) The Chilean table grape industry is export-oriented; (2) the home market is incidental to the Chilean industry; (3) the home market is comprised almost exclusively of grapes graded as other than export quality; (4) the home market sales are made at drastically reduced prices compared to the export quality merchandise; and (5) domestically-sold spring table grapes had perfunctory marketing and distribution. As a result, the petitioners obtained information through foreign market research for nine Chilean exporters with respect to sales to third country markets. The petitioners obtained information demonstrating that the Netherlands, Hong Kong/People's Republic of China, and Mexico are by far the principal third country export markets for Chilean spring table grapes. The petitioners relied on exporter-specific data to determine the largest third country market by exporter and then based NV for that exporter on its sales to that market.

In the course of this investigation, the Department will examine further the issue of particular market situation and the proper comparison market to be examined in this investigation.

Based upon the comparison of CEP to NV, the estimated dumping margins range from 23.00 to 99.39 percent.

Mexico

Constructed Export Price

According to the petitioners, U.S. sales of the subject merchandise should be considered CEP sales, as the first sales to unaffiliated customers in the United States are made by brokers/commissionaires in the United States on behalf of the Mexican producers.

The petitioners based CEP on U.S. export price data from two Mexican growers' associations. According to the petitioners, these prices are packed, FOB shipping prices in Nogales, Arizona. To calculate CEP, the petitioners deducted a distributor's commission (*i.e.*, distributor mark-up), cold storage and palletization costs, and movement expenses (*i.e.*, foreign inland freight, U.S. border crossing fees, USDA inspection fees, and U.S. inland freight) from the price quotes. The information for all of these adjustments except foreign inland freight, palletization and cold storage expenses were based on the actual documentation of U.S. sales transactions. The other information was obtained from the petitioners' foreign market research. The petitioners also made an adjustment for credit expenses based on the payment terms claimed to be typical for the industry and the average lending-rate in the United States during the second quarter of 2000, as published in *International Financial Statistics*.

Normal Value

The petitioners based NV on CV because they claimed that all of the prices that they obtained in the home market were made below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act. As a consequence, they alleged that there are reasonable grounds to believe or suspect that sales of the subject merchandise in the home market were made at below-cost prices and they requested that the Department conduct a country-wide sales-below-cost investigation.

Pursuant to section 773(b)(3) of the Act, COP consists of cost of manufacture (COM), selling, general, and administrative (SG&A) expenses, and packing expenses. The petitioners calculated COM, SG&A expenses, and packing expenses for three varieties of grapes based on costs contained in foreign market research studies for grapes produced in Mexico. We adjusted the petitioners' calculations of the COPs by excluding the amounts for selling expenses, because these expenses were deducted, in part, from the home market sales prices.

With respect to home market price, the petitioners obtained Mexican home market daily wholesale prices through the Mexican National Market Information System. The petitioners made a deduction from home market price for foreign inland freight obtained from foreign market research. Additionally, the petitioners deducted distributor markups using the percentage applied to CEP sales as they were unable to obtain comparable Mexican price information.

The petitioners claimed that their foreign market research showed that there are no other fees, such as inspection or cold storage expenses, incurred on home market sales. However, based on the description of the harvesting and distribution system, we find it unlikely that grapes in the home market underwent no cold storage at all. For purposes of the initiation, we included an adjustment for cold storage expenses to the net home market price based on the same information applied to CEP.

Based upon a comparison of the prices of the foreign like products in the home market to the calculated COPs of those products, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV on CV. The petitioners calculated CVs for three varieties of grapes using the same COM, SG&A and packing expense figures used to compute the home market costs. The petitioners, using a conservative approach, did not include an amount for profit in their calculation of CV as provided by section 773(e)(2) of the Act. We adjusted the petitioners' calculations of CV by excluding the amounts of selling expenses the petitioners included in SG&A expenses.

The petitioners claimed that their foreign market research showed that there are generally no credit expenses incurred on home market sales. However, our review of the petition documentation indicates that home market credit expense may be incurred on some sales. Therefore, for purposes of the initiation, we included an adjustment to CV for Mexican credit expenses using the payment terms data applied to the CEP sales and the Mexican interest rate published in *International Financial Statistics*.

Based upon the comparison of CEP to CV, the revised calculated estimated dumping margins range from 0 to114.77 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of spring table grapes from Chile and Mexico are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise. The petitioners contend that the industry's injured condition is evident in the declining trends in net operating income, net sales volume and value, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence, and meet the statutory requirements for initiation (*see Initiation Checklist*).

Initiation of Antidumping Investigations

Based upon our examination of the petitions on spring table grapes, we have found that they meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of spring table grapes from Chile and Mexico are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of the governments of Chile and Mexico. We will attempt to provide a copy of the public version of each petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine, no later than June 4, 2001, whether there is a reasonable indication that imports of spring table grapes from Chile and Mexico are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigations being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: May 9, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12212 Filed 5–14–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 010412091–1091–01; I.D. 040501D]

RIN 0648–ZB05

Financial Assistance for Research and Development Projects in Chesapeake Bay to Strengthen, Develop and/or Improve the Stock Conditions of the Chesapeake Bay Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of funds.

SUMMARY: A total of up to $1,315,000 in Fiscal Year (FY) 2001 funds is available through the NOAA/NMFS Chesapeake Bay Office to assist institutions of higher education, hospitals, other nonprofits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments in carrying out research and development projects that address various aspects of Chesapeake Bay fisheries (commercial and recreational), including coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; and, multiple species interactions through cooperative agreements. About $425,000 of the base amount is available to initiate new projects in FY 2001, as described in this announcement. It is the intent of the NOAA Chesapeake Bay Office to continue with several existing relationships and to make awards through this program for projects pending acceptable scientific review. These projects include multispecies monitoring program designs, and hard clam and oyster stock assessments. NMFS issues this document to set forth how to apply for financial assistance and how NMFS will determine which applications will be selected for funding.

DATES: Applications for funding under this program must be received by 5 p.m. eastern daylight savings time on June 14, 2001. Applications received after that time will not be considered for funding. No applications will be accepted by facsimile machine submission.

ADDRESSES: Send completed applications to: Derek Orner, National Marine Fisheries Service, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403.

FOR FURTHER INFORMATION CONTACT: Derek Orner, 410/267–5660; or e-mail: *derek.orner@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Authority. The Fish and Wildlife Act of 1956, as amended, at 16 U.S.C. 753 (a), authorizes the Secretary of Commerce (Secretary), for the purpose of developing adequate, coordinated, cooperative research and training programs for fish and wildlife resources, to continue to enter into cooperative agreements with colleges and universities, with game and fish departments of the several states, and with non-profit organizations relating to cooperative research units. The Departments of Commerce (DOC), Justice, State, the Judiciary, and Related Agencies Appropriations Act of 2001 makes funds available to the Secretary.

B. Catalog of Federal Assistance (CFDA). The research to be funded is in support of the Chesapeake Bay Studies (CFDA 11.457), under the Chesapeake Bay Stock Assessment Committee (CBSAC).

C. Program Description. CBSAC was established in 1985 to plan and review Baywide resource assessments, coordinate relevant actions of state and federal agencies, report on fisheries status and trends, and determine, fund and review research projects. The program implements a Baywide plan for the assessment of commercially, recreationally, and selected ecologically important species in the Chesapeake Bay. In 1988, CBSAC developed a Baywide Stock Assessment Plan, in response to provisions in the Chesapeake Bay Agreement of 1987. The Plan identified that key obstacles to assessing Bay stocks was the lack of consistent, Baywide, fishery-dependent and fishery-independent data. Research projects funded since 1988 have focused on developing and improving fishery-independent surveys and catch statistics for key Bay species, such as striped bass, oysters, blue crabs and alosids. Stock assessment research is essential, given the recent declines in harvest and apparent stock condition for many of the important species of the Chesapeake Bay.

D. Funding Availability. This document describes how interested persons can apply for funding under the Chesapeake Bay Studies Program, and how funding decisions will be made.

Funding for projects depends on an allocation of funds by Congress for the NOAA Chesapeake Bay Office in Fiscal Year (FY) 2001. This solicitation announces that funding of up to $1,375,000 may be available through the Chesapeake Bay Studies Program. This announcement does not guarantee that sufficient funds will be available to make awards for all selected applications submitted under this program.

II. Funding Priorities

A. In developing a research proposal, applicants should address one or more of the following funding priorities:

(1) *Stock Assessment Research*—Consideration for funding will be given to applications that address the following stock assessment research and management priorities for the Chesapeake Bay. These priorities are not listed in any particular order:

(a) Assessments of the abundance, productivity, distribution, and exploitation patterns of important Chesapeake Bay finfish and shellfish resources. Proposals may include research on life history characteristics, stock-recruitment relationships, and schedules of vital rates. Descriptions of stock structure, demographics and spatial distribution would also be appropriate. It is anticipated that proposals will combine analyses of existing fishery-dependent and fishery-independent data. Proposals focusing on soft clams are particularly encouraged.

(b) Blue Crab Recreational Survey—Projects should:

i. Review the work previously conducted on the development of methods for conducting a Baywide recreational survey;

ii. Implement on a Baywide scale based on earlier work;

iii. Provide reliable estimates of recreational catch, fishing effort, catch rates, size composition, and sex ratios for all components of the blue crab recreational fisheries.

(c) Blue Cab Stock Assessment Analyses—Projects should:

i. Provide analyses which may corroborate the results of the length-based estimates of fishing mortality rates (current estimates based on 120 mm or greater carapace width) and investigations into the relative exploitation rates on peeler size blue crabs.

ii. Provide analyses of the trends in relative exploitation rates on blue crab, according to major gear types used in the commercial fishery.

iii. Develop methods for estimation of Baywide commercial fishing effort and conduct a pilot study to test the methods.

iv. Design and develop an integrated Baywide blue crab mark and recapture study that will provide information on growth, natural mortality, fishing mortality, size selectivity, catchability, reporting rates and the distribution of harvest among the fisheries. Results should be informative with respect to the reproductive frequency of female crabs, and longevity. Recognizing the scope of this project, subcomponents that will help in contributing to the development of a Baywide framework for this project will be accepted. Projects proposing tagging of adult female crabs utilizing external tags, and projects proposing tagging of both male and female crabs including the development and use of internally anchored tags which persist through the molting process are both encouraged.

(d) Design of a method/survey to estimate the Baywide abundance of oysters in Chesapeake Bay. The purpose of this survey will be to track progress towards achieving the Chesapeake Bay Program goal of increasing the oyster population ten-fold by the year 2010. The investigators should take into consideration existing state surveys and other work that already fulfill various data needs.

(e) Improvement or implementation of the collection of fishery-dependent data within Chesapeake Bay. Projects can involve either the commercial and/or recreational components of the fishery. Projects should focus on collecting biological data (size, sex, age, diet), and catch and effort data from Baywide harvests of significant finfish and shellfish fisheries to provide accurate, statistically representative information on the spatial and temporal characteristics of the harvest. Proposals may involve designs for port-sampling of landings, or on-board analysis of the catch, analysis of intercepts and telephone surveys. Proposals that document information on by-catch would be relevant.

The proposals should recognize current efforts to collect biological data from Bay fisheries and attempt to define the optimal, regional (Maryland, Potomac River Fisheries Commission, and Virginia jurisdictions) sampling program. Proposals focusing on the blue crab commercial fishery are particularly encouraged.

(2) *Multispecies Management or Research*—The Chesapeake Bay is a complex and dynamic ecosystem that supports many fisheries that are economically important both regionally and nationally. To date, these resources have been managed on a single species basis. While the single species approach has served us well, the existence of both biological and technical (by-catch) interactions in most Chesapeake Bay fisheries points to the need to move toward a wider, multispecies perspective. This viewpoint was wholeheartedly endorsed at a workshop of regional, national and international scientists held to address the potential utility of multispecies approaches to fisheries management in the Chesapeake Bay (STAC Publication 98-002, *www.chesapeake.org*). The ultimate objective of this research and monitoring is to lead to the development of an ecosystem plan for Chesapeake Bay fisheries, within which the rational exploitation of individual species can be determined.

Consideration for funding will be given to applications that address the following multispecies management and research priorities for the Chesapeake Bay. It should be realized that certain priorities may require a larger funding commitment, although the priorities are not listed in any implied order:

(a) Fishery-independent Surveys. Plan, develop and initiate coordinated Baywide surveys to regularly estimate species abundances, trends and biological characteristics (e.g., age/size structure, recruitments, growth and mortality rates, food habitats) for economically and ecologically important key species. Proposals within this task may:

i. Review and assess existing fishery independent sampling programs conducted by regional agencies to evaluate their potential applicability to the Chesapeake Bay. This may include evaluation of the use of fixed and random sampling protocols, with or without stratification, and the sampling characteristics of different gear types.

ii. Develop and initiate a Baywide, coordinated, fishery-independent survey that may include multiple gear, such as benthic and midwater trawling, and hydroacoustics to characterize the status and trends in the abundance, distribution and characteristics of key Chesapeake Bay finfish and shellfish.

(b) Retrospective Analyses. Document and quantify multispecies interactions among economically and ecologically important finfish and shellfish within the Chesapeake Bay. The proposed work should lead to the identification of the 'strong' interactions within the Chesapeake Bay fisheries system. Work may involve analysis of commercial and recreational catch and effort data, the analysis of the patterns of diets and energy flows within the fisheries system, or multivariate analyses of abundance relationships within the fisheries system and their relationship to environmental and habitat characteristics.

(c) Multispecies Assessment / Ecosystem Modeling. Apply and assess alternative multispecies fisheries models to the Chesapeake Bay fisheries systems. The submitted proposal should detail the development of a multispecies or ecosystem model focusing on core Chesapeake Bay species. Examples of possible approaches include, but are not limited to: multispecies biomass dynamic, multispecies yield per recruit, Multi species virtual population analysis, multispecies bioenergetics, spatial-physical predator-prey, trophic production and ecosystem simulation models. Model approaches should seek to predict constraints and patterns in the fisheries production of the Chesapeake Bay system.

III. How To Apply

A. *Eligible applicants.* Eligible applicants are institutions of higher education, hospitals, other nonprofits, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

B. Duration and Terms of Funding. Under this solicitation, NMFS will fund Chesapeake Bay Stock Assessment Research Projects as 12-month cooperative agreements. The cooperative agreement has been determined to be the appropriate funding instrument because of the substantial involvement of NMFS in:

1. Developing program research priorities;

2. Evaluating the performance of the program for effectiveness in meeting regional goals for Chesapeake Bay stock assessments;

3. Monitoring the progress of each funded project;

4. Holding periodic workshops with investigators; and

5. Working with recipients to prepare annual reports summarizing current accomplishments of the Chesapeake Bay Stock Assessment Committee.

Project dates should be scheduled to begin no later than 1 October 2001. Cooperative agreements are approved on an annual basis but may be considered eligible for continuation beyond the first project and budget period subject to the approved scope of work, satisfactory progress, and availability of funds at the total discretion of NMFS. However, there are no assurances for such continuation. Publication of this notice does not obligate NMFS to award any specific cooperative agreement or to

obligate any part of the entire amount of funds available.

C. *Cost-sharing Requirements.* Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations.

D. *Format.* 1. Applications for project funding must be complete and must follow the format described. Applicants must identify the specific research priority or priorities to which they are responding. For applications containing more than one project, each project component must be identified individually using the format specified in this section. If an application is not in response to a priority, it should so state. Applicants should not assume prior knowledge on the part of NMFS as to the relative merits of the project described in the application.

Applications must not be bound and must be one-sided. All incomplete applications will be returned to the applicant. Applicants are required to submit 1 signed original and 2 copies of the proposal.

2. Applications must be submitted in the following format:

(a) *Cover sheet:* An applicant must use Office of Management and Budget (OMB) Standard Form 424 (revised 4/92) as the cover sheet for each project. Applicants may obtain copies of these forms from the NOAA Grants Management Division, the NOAA Chesapeake Bay Office (see **ADDRESSES**) or from the NOAA Grants website, *http://www.rdc.noaa.gov/grants.*

(b) *Project summary:* Each proposal must contain a summary of not more than one page that provides the following:

(1) Project title.
(2) Project status (new).
(3) Project duration (beginning and ending dates).
(4) Name, address, and telephone number of applicant.
(5) Principal Investigator(s) (PI).
(6) Project objectives.
(7) Summary of work to be performed.
(8) Total Federal funds requested.
(9) Cost-sharing to be provided from non-Federal sources, if any. Specify whether contributions are project-related cash or in-kind.
(10) Total project cost.

(c) *Project description— (including results from prior support*): Each project must be completely and accurately described. The main body of the proposal should be a clear statement of the work to be undertaken and should include: objectives for the period of the proposed work and the expected significance; relation to longer-term goals of the PI's project; and relation to other work planned, anticipated, or underway under Federal Assistance. The project description must not exceed 15 pages in length. Visual materials, including charts, graphs, maps, photographs and other pictorial presentations are not included in the 15-page limitation. If an application is awarded, NMFS will make all portions of the project description available to the public for review; therefore, NMFS cannot guarantee the confidentiality of any information submitted as part of any project, nor will NMFS accept for consideration any project requesting confidentiality of any part of the project.

Each project must be described as follows:

(1) *Identification of problem(s):* Describe the specific problem to be addressed (see section II).

(2) *Project objectives:* The project description must identify the following three project objectives: 1. Identify the specific priority listed earlier in the solicitation to which the proposed projects respond, if any; 2. Identify the problem/opportunity you intend to address and describe its significance to the fishing community; and 3. State what you expect the project to accomplish.

If you are applying to continue a project previously funded under the Chesapeake Bay Studies Program, describe in detail your progress to date and explain why you need additional funding.

Objectives should be:

(a) Simple and easily understandable.
(b) As specific and quantitative as possible.
(c) Clear with respect to the "what and when" and should avoid the "how and why."
(d) Attainable within the time, money, and human resources available.
(e) Use action verbs that are accomplishment oriented.

(3) *Results from Prior Chesapeake Bay Studies Support:* If any PI or co-PI identified on the project has received Chesapeake Bay Studies (CBSAC) support in the past 5 years, information on the prior award(s) is required. The following information must be provided:

(a) The NOAA award number, amount and period of support;
(b) The title of the project;
(c) Summary of the results of the completed work, including, for a research project, any contribution to the development of human resources in science/biology;
(d) Publications resulting from the award;
(e) Brief description of available data, samples, physical collections and other related research products not described elsewhere; and
(f) If the proposal is for renewed support, a description of the relation of the completed work to the proposed work.

(4) *Need for Government Financial Assistance:* Demonstrate the need for assistance. Any appropriate database to substantiate or reinforce the need for the project should be included. Explain why other funding sources cannot fund all the proposed work. List all other sources of funding that are or have been sought for the project.

(5) *Benefits or Results Expected:* Identify and document the results or benefits to be derived from the proposed activities.

(6) *Project Statement of Work:* The Statement of Work is the scientific or technical action plan of activities that are to be accomplished during each budget period of the project. This description must include the specific methodologies, by project job activity, proposed for accomplishing the proposal's objective(s).

Investigators submitting proposals in response to this announcement are strongly encouraged to develop inter-institutional, inter-disciplinary research teams in the form of single, integrated proposals or as individual proposals that are clearly linked together. Such collaborative efforts will be factored into the final funding decision.

Proposals should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multi-disciplinary. Coordinated efforts involving multiple eligible applicants or persons are encouraged.

Each Statement of Work must include the following information:

(a) The applicant's name.
(b) The inclusive dates of the budget period covered under the Statement of Work.
(c) The title of the proposal.
(d) The scientific or technical objectives and procedures that are to be accomplished during the budget period. A detailed set of objectives and procedures to answer who, what, how, when, and where. The procedures must be of sufficient detail to enable competent workers to be able to follow them and to complete scheduled activities.
(e) Location of the work.
(f) A list of all project personnel and their responsibilities.
(g) A milestone table that summarizes the procedures (from item III.D.2.c(5)(d)) that are to be attained in each project month covered by the Statement of Work. Table format should follow sequential month rather than calendar month (i.e. Project period Month 1, Month 2... versus October, November ...)

(7) *Federal, State and Local Government Activities:* List any programs (Federal, state, or local government or activities, including Sea Grant, state Coastal Zone Management Programs, NOAA Oyster Disease Research Program, the state/Federal Chesapeake Bay Program, etc.) this project would affect and describe the relationship between the project and those plans or activities.

(8) *Project Management*: Describe how the project will be organized and managed. Include resumes of principal investigators. List all persons directly employed by the applicant who will be involved with the project. If a consultant and/or subcontractor is selected prior to application submission, include the name and qualifications of the consultant and/or subcontractor and the process used for selection.

(9) *Monitoring of Project Performance*: Identify who will participate in monitoring the project.

(10) *Project Impacts*: Describe how these products or services will be made available to the fisheries and management communities.

(11) *Evaluation of Project:* The applicant is required to provide an evaluation of project accomplishments at the end of each budget period and in the final report. The application must describe the methodology or procedures to be followed to determine technical feasibility, or to quantify the results of the project in promoting increased production, product quality and safety, management effectiveness, or other measurable factors.

(12) *Total Project Costs:* Total project costs is the amount of funds required to accomplish what is proposed in the Statement of Work, and includes contributions and donations. All costs must be shown in a detailed budget. A standard budget form (SF-424A) is available from the offices listed and on the internet (see **ADDRESSES**). NMFS will not consider fees or profits as allowable costs for grantees. Additional cost detail may be required prior to a final analysis of overall cost allowability, allocability, and reasonableness. The date, period covered, and findings for the most recent financial audit performed, as well as the name of the audit firm, the contact person, and phone number and address, must be also provided.

d. *Supporting Documentation:* Applicants should provide any additional documents necessary to establish the assertions made in their proposals and to assist the reviewers in understanding how the project would address the identified problem or issue. The total volume of such additional documentation must not exceed 20 pages.

IV. Review Process and Criteria

A. *Initial Evaluation of Applications.* Applications will be reviewed by NOAA to assure that they meet all requirements of this announcement, including eligibility and relevance to the Chesapeake Bay Stock Assessment Research Program. Proposals that do not support the technical and management priorities of the Chesapeake Bay, as defined in section II.A., will not be considered for funding.

B. *Consultation with Experts in the Field of Stock Assessment Research.* For applications meeting the requirements of this solicitation, NMFS will conduct a technical evaluation (via mail) of each project. This review normally will involve experts from both NOAA and non-NOAA organizations. All comments submitted to NMFS will be taken into consideration in the technical evaluation of projects. Reviewers will be asked to score and comment based on the following four criteria (total of 100 possible points):

1. Problem description and conceptual approach for resolution, especially the applicant's comprehension of the problem(s), familiarity with related work that is completed or ongoing, and proposed method of resolving the problem(s) (30 points).

2. Soundness of project design/technical approach, especially whether the applicant provided sufficient information to technically evaluate the project (35 points).

3. Project management and experience and qualifications of personnel(15 points).

4. Justification and allocation of the proposed budget(20 points).

C. *Review Panel.* NMFS will convene a review panel consisting of at least three regionally recognized experts in the scientific and management aspects of stock assessment research.

Each individual panel member will:

1. Provide independent review based on the same criteria and scoring as the technical review.

2. Provide a numerical score and suggestions for modifications (i.e., budget, personnel, technical approach, etc.).

The review panel will collectively:

1. Discuss all review comments, incorporating the evaluation provided by the technical reviewers.

2. Numerically rank the submitted applications in recommended funding order.

D. *Funding Decision.* After applications have been evaluated and ranked numerically for funding by the review panel, the Chief of the NOAA/NMFS Chesapeake Bay Office, in consultation with the Assistant Administrator (AA) for Fisheries, NOAA, will determine which project or projects will be recommended for funding based upon the technical evaluations and panel review comments, and determine the amount of funds available for the program. The review panel's numerical ranking will be the primary consideration for deciding which of the proposals will be selected for funding. In making the final selections, NOAA/NMFS may consider costs, geographical distribution, inter-jurisdictional and inter-institutional collaboration and duplication with other federally funded projects. Accordingly, numerical ranking is not the sole factor in deciding which proposals will be selected for funding. The Chief of the NOAA/NMFS Chesapeake Bay Office will prepare a written justification for any recommendations for funding that fall outside the ranking order, or for any cost adjustments. The exact amount of funds awarded to each project will be determined in preaward negotiations between the applicant, the Grants Office, and the NOAA/NMFS Chesapeake Bay Office staff. Potential grantees should not initiate projects in expectation of Federal funding until an award document signed by an authorized NOAA official has been received.

V. Administrative Requirements

A. Obligations of the applicant

1. Periodic Workshops—Investigators will be expected to attend one or two workshops with other Stock Assessment Research Program researchers to encourage interdisciplinary dialogue and collaboration.

2. Primary Applicant Certifications—All primary applicants must submit a completed Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

a. *Nonprocurement Debarment and Suspension*—Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension," and the related section of the certification form prescribed earlier applies;

b. *Drug-free Workplace*—Grantees (as defined at 15 CFR part 26.605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)," and the related section of the certification form prescribed above applies;

c. *Anti-lobbying*—Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions, and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000.

d. *Anti-lobbying Disclosure*—Any applicant who has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

3. *Lower Tier Certifications*—Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF-LLL, "Disclosure of Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

B. Other requirements. 1. Federal Policies and Procedures—Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

The Department of Commerce National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

2. Indirect Cost Rates—The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal Government. The total dollar amount of the indirect costs proposed in the application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award. However, the Federal share of the indirect costs may not exceed 25 percent of the total proposed direct costs. Applicants with indirect costs above 25 percent may use the amount above the 25 percent level as cost sharing. If the applicant does not have a current negotiated rate and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of receiving an award.

3. Past Performance—Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. In addition, any recipient and/or researcher who is past due for submitting acceptable progress reports on any previous project funded under this program may be ineligible to be considered for new awards until the delinquent reports are received, reviewed and deemed acceptable by NMFS.

4. Financial Management Certifications/preaward Accounting Survey—Successful applicants, at the discretion of the NOAA Grants Officer, may be required to have their financial management systems certified by an independent public accountant as being in compliance with Federal standards specified in the applicable Office of Management and Budget (OMB) Circulars prior to execution of the award. Any first-time applicant for Federal grant funds may be subject to a preaward accounting survey by the DOC specified in the applicable OMB Circulars/Code of Federal Regulations prior to execution of the award.

5. *Delinquent Federal Debts*—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(a) The delinquent account is paid in full;

(b) A negotiated repayment schedule is established and at least one payment is received; or

(c) Other arrangements satisfactory to DOC are made.

6. *Name Checks*—Potential recipients may be required to submit an "Identification-Application for Funding Assistance" (Form CD-346), which is used to ascertain background information on key individuals associated with the potential recipient. All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management honesty or financial integrity. Applicants will also be subject to credit check reviews.

7. *False Statements*—A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

8. *Preaward Activities*—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover preaward costs.

9. *Purchase of American-made Equipment and Products*—Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Pub. L. 103-317, sections 607(a) and (b).

10. *Other*—If an application is selected for funding, DOC has no obligation to provide any additional funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Cooperative agreements awarded pursuant to pertinent statutes shall be in accordance with the Fisheries Research Plan (comprehensive program of fisheries research) in effect on the date of the award.

Classification

This action has been determined to be "not significant" for purposes of Executive Order 12866.

Pursuant to 5 U.S.C. 553(a)(2), prior notice and and opportunity for public comment are not required under the Administrative Procedure Act for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, and SF–LLL have been approved by OMB under their respective control numbers 0348–0043, 0348–0044, and 0348–0046. Notwithstanding any other provision of law, no person is required to respond to nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection-of-information displays a currently valid OMB control number.

Dated: May 9, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries

[FR Doc. 01–12219 Filed 5–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050701D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Oversight Committee in May, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Wednesday, May 30, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–7000.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492. Requests for special accommodations should be addressed to the New England Fishery Management Council (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: The committee will review the Skate Plan Development Team Report. The agenda will include finalization of draft Skate Fishery Management Plan alternatives for public hearings for Council approval at the June 13-14, 2001 Council meeting; alternatives may include specifications for a skate permit and catch reporting system, prohibitions on the possession of certain skate species, management measures for the bait and/or wing fishery, possession limits, modification of regulations pertaining to the current southern New England skate exemption areas, gear restrictions, and/or any other appropriate measures. The committee will also discuss a control date for skate fishing.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 10, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12216 Filed 5–14–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Short Supply Request Under the United States–Caribbean Basin Trade Partnership Act (CBTPA)

May 11, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for a determination that microfilament fabric of continuous polyester and nylon filaments with average size of 0.02 to 0.8 decitex cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUMMARY: On May 8, 2001 the Chairman of CITA received a petition on behalf of The Freudenberg Nonwovens Group alleging that microfilament fabric of continuous polyester and nylon filaments with average size of 0.02 to 0.8 decitex, classified in subheading 5603.11.0090, 5603.12.0090, 5603.13.0090 or 5603.14.9090 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requests that the President proclaim that apparel articles of such fabrics be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether microfilament fabric of continuous polyester and nylon filaments with average size of 0.02 to 0.8 decitex can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by May 30, 2001 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND: The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a CBTPA beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President has proclaimed such treatment. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On May 8, 2001 the Chairman of CITA received a petition on behalf of The Freudenberg Nonwovens Group alleging that microfilament fabric of continuous polyester and nylon filaments with average size of 0.02 to 0.8 decitex, classified in HTSUS subheading 5603.11.0090, 5603.12.0090, 5603.13.0090 or 5603.14.9090, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim quota- and duty-free treatment under the CBTPA for apparel articles that are cut and sewn or otherwise assembled in one or more CBTPA beneficiary countries from such fabrics.

CITA is soliciting public comments regarding this request, particularly with respect to whether such fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether fabrics that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the fabric for purposes of the intended use. Comments must be received no later than May 30, 2001. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

If a comment alleges that such fabrics can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the fabric stating that it produces the fabric that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, NW., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–12282 Filed 5–11–01; 11:47 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: May 22, 2001, 9:30 a.m.–12:30 p.m.

PLACE: Hilton Jackson, 1001 East County Line Road, Jackson, Mississippi.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Committees of the Board of Directors will report on their activities. In addition, the Board will engage in discussions with representatives of the following: Mississippi Commission for Volunteer Service; Association of Retired and Senior Volunteer Program Directors; National Association of Foster Grandparent Program Directors; National Association of Senior Companion Project Directors; Service-Learning Lighthouse Partnership; Teach for America; and the Mid-South Promise Partnership.

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person.

CONTACT PERSON FOR FURTHER INFORMATION: Rhonda Taylor, Deputy Director of Public Liaison, Corporation for National Service, 8th Floor, Room 8619, 1201 New York Avenue NW., Washington, DC 20525. Phone (202) 606–5000 ext. 282. Fax (202) 565–2794. TDD: (202) 565–2799.

Dated: May 10, 2001.

Frank R. Trinity,

Acting General Counsel, Corporation for National and Community Service.

[FR Doc. 01–12327 Filed 5–11–01; 12:51 pm]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Forms, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Supplement Part 204, Administrative Matters, and related Clauses at 252.204; DD Forms 2051 and 2051–1; OMB Number 0704–0225.

Type of Request: Extension.

Number of Respondents: 22,602.

Responses per Respondent: 1.

Annual Responses: 22,602.

Average Burden per Response: 36 minutes (0.61 hours).

Annual Burden Hours: 13,758.

Needs and Uses: The Department of Defense uses this information to control unclassified contract data that is sensitive and inappropriate for release to the public; and to facilitate data exchange among automated systems for contract award, contract administration, and contract payments by assigning a unique code to each DoD contractor. DFARS 204.404–70(a) prescribes use of the clause at DFARS 252.204–7000, Disclosure of Information, in contracts that require the contractor to access or generate unclassified information that may be sensitive and inappropriate for release to the public. The clause requires the contractor to obtain approval of the contracting officer before release of any unclassified contract-related information outside the contractor's organization, unless the information is already in the public domain. DFARS 204.603(1) prescribes use of the provision at DFARS 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, in solicitations when CAGE codes for potential offerors are not available to the contracting officer. The provision requires an offeror to enter its CAGE code on its offer. If an offeror does not have a CAGE code, the offeror may request one from the contracting officer.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. David M. Pritzker.

Written comments and recommendations on the proposed information collection should be sent to Mr. Pritzker at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 8, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–12117 Filed 5–14–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: June 4–5, 2001.

Time of Meeting: 0830–1545, June 4, 2001; 0830–1545 June 5, 2001

Place: Presidential Towers, Arlington, VA, 9th Floor conference room.

Agenda: The Army Science Board's (ASB) panel will conduct an Ad Hoc Study on "Adapting Future Wireless Communication" to examine future commercial wireless capabilities and recommend which capabilities may have applicability for the Objective Force. The meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please contact Mr. Jeff Ozimek, Army Science Board Staff Assistant, 732–532–5496 or Ms. Lisa Calabrese, Army Science Board Staff Assistant Assistant, 732–427–4646.

Wayne Joyner,

Executive Assistant, Army Science Board.

[FR Doc. 01–12201 Filed 5–14–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: May 23, 2001.

Time of Meeting: 0830–1545, May 23, 2001.

Place: Battle Lab, Ft. Gordon GA

Agenda: The Army Science Board's (ASB) panel will conduct an Ad Hoc Study on "Adapting Future Wireless Communication" to examine potential future commercial wireless capabilities and recommend which capabilities may have applicability for the Objective Force. The meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please contact Mr. Jeff Ozimek, Army Science Board Staff Assistant, 732–532–5496 or Ms. Lisa Calabrese, Army Science Board Staff Assistant, 732–427–4646.

Wayne Joyner,

Executive Assistant, Army Science Board.

[FR Doc. 01–12202 Filed 5–14–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 14, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 9, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Applications for Title VI International Education Programs.

Frequency: Annually or tri-annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 528.

Burden Hours: 38,625.

Abstract: Seven Title VI International Education Applications. These include: Business and International Education; Group Projects Abroad; International Research and Studies; Undergraduate International Studies and Foreign Language; National Resource Centers and Foreign Language Area Studies Fellowships; American Overseas Research Centers; and Language Resource Centers.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. You may also call Ms. Reese at (202) 708–9902 or fax your request to her attention at 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12156 Filed 5–14–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Notice of Members

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to list the members of the National Advisory Committee on Institutional Quality and Integrity (National Advisory Committee) and to give the public the opportunity to nominate candidates for the positions to be vacated by those members whose terms will expire on September 30, 2001. This notice is required under section 114(c) of the Higher Education Act (HEA), as amended.

What Is the Role of the National Advisory Committee?

The National Advisory Committee is established under section 114 of the HEA, as amended, and is composed of 15 members appointed by the Secretary of Education from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and type of institutions of higher education.

The National Advisory Committee meets at least twice a year and provides recommendations to the Secretary of Education pertaining to:

- The establishment and enforcement of criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.

As the Committee deems necessary or on request, the Committee also advises the Secretary about:

- The eligibility and certification process for institutions of higher education under Title IV, HEA.
- The development of standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies in order to establish the interim eligibility of those institutions to participate in Federally funded programs.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary may prescribe.

What Are the Terms of Office for Committee Members?

The term of office of each member is 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed is appointed for the remainder of the term. A member may be appointed, at the Secretary's discretion, to serve more than one term.

Who Are the Current Members of the Committee?

The current members of the National Advisory Committee are:

Members With Terms Expiring 09/30/01

- Mrs. Wilhelmina R. Delco (Committee Chairperson), Retired Member of Texas House of Representatives
- Dr. Alfredo G. de los Santos, Jr., Research Professor, Hispanic Research Center, Arizona State University
- Dr. Kenneth B. Orr, President Emeritus, Presbyterian College, South Carolina
- Dr. Robert L. Potts, President, University of North Alabama
- Dr. Richard F. Rosser, President of the Presidents' Group, Wisconsin

Members With Terms Expiring 9/30/02

- Mr. Gordon M. Ambach (Committee Vice Chairperson), Executive Director, Council of Chief State School Officers, Washington, DC
- Dr. Norman Francis, President, Xavier University of Louisiana
- Dr. George A. Pruitt, President, Thomas A. Edison State College, New Jersey
- Dr. Norma S. Rees, President, California State University, Hayward
- Honorable Thomas P. Salmon, Chair of the Board, Green Mountain Power Corporation, Vermont

Members With Terms Expiring 9/30/03

- Dr. Estela R. Lopez, Provost and Vice President for Academic Affairs, Northeastern Illinois University
- Eleanor P. Vreeland, Chairman, Barland Education Consultants, Florida
- Dr. John A. Yena, President, Johnson & Wales University, Rhode Island

How Do I Nominate an Individual for Appointment as a Committee Member?

If you would like to nominate an individual for appointment to the Committee, send the following information to the Committee's Executive Director:

- A cover letter that provides your reason(s) for nominating the individual; and
- Contact information for the nominee (name, title, business address, and business phone and fax numbers) and a copy of the nominee's resume.

The information must be sent by June 29, 2001 to the following address: Bonnie LeBold, Executive Director, National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, 1990 K St. NW—Rm. 7007, Washington, DC 20006–7592.

How Can I Get Additional Information?

If you have any specific questions about the nomination process or general questions about the National Advisory Committee, please contact Ms. Bonnie LeBold, the Committee's Executive Director, by phone at (202) 219–7009, by fax at (202) 219–7008, or by e-mail at *Bonnie.LeBold@ed.gov* between 9 a.m. and 5 p.m., Monday through Friday.

Authority: 20 U.S.C. 1011c.

Dated: May 9, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning, and Innovation, Office of Postsecondary Education.

[FR Doc. 01–12169 Filed 5–14–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE: Wednesday, May 30, 2001; 6 p.m.–9 p.m.

ADDRESSES: Walatowa Visitors' Center, 7413 New Mexico State Highway 4, Jemez Pueblo, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ann DuBois, Northern New Mexico Citizens' Advisory Board, 1640 Old Pecos Trail, Suite H, Santa Fe, NM 87505. Phone (505) 989–1662; fax (505) 989–1752 or e-mail: *adubois@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Opening Activities—6–6:30 p.m.
2. Public Comments—6:30–7 p.m.
3. Reports
4. Committee Reports:
   - Monitoring and Surveillance
   - Waste Management
   - Environmental Restoration
   - Community Outreach
   - Bylaws
   - Budget
5. Other Board business will be conducted as necessary

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ann DuBois at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the beginning of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1640 Old Pecos Trail, Suite H, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Ann DuBois at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http:www.nnmcab.org.*

Issued at Washington, DC on May 9, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–12186 Filed 5–14–01; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket Nos. FE C&E 01–59, C&E 01–60, C&E 01–61, C&E 01–62, C&E 01–63, and C&E 01–64]

Certification Notice—199; Notice of Filings of Coal Capability of Goldendale Energy, Inc., Channel Energy Center, L.P., Morgan Energy Center, LLC, Decatur Energy Center, LLC, Delta Energy Center, LLC, and Calpine Construction Finance Company, L.P.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Goldendale Energy, Inc., Channel Energy Center, L.P., Morgan Energy Center LLC, Decatur Energy Center, LLC, Delta Energy LLC, Calpine Construction Finance Company, L.P., and Ontario Power Generation, Inc. submitted coal capability self-certifications pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G–039, FE–27, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owners/operators of the proposed new baseload powerplants have filed a self-certification in accordance with section 201(d).

Owner: Goldendale Energy, Inc. (C&E 01–59).
Operator: Goldendale Energy, Inc.
Location: Klickitat County, WA.
Plant Configuration: Combined-cycle.
Capacity: 244 MW.
Fuel: Natural gas.
Purchasing Entities: Various public and private utilities in the open market.
In-Service Date: July, 2002.

Owner: Channel Energy Center, L.P. (C&E 01–60).
Operator: Calpine Central, L.P.
Location: Houston, TX.
Plant Configuration: Combined-cycle.
Capacity: 537 MW.
Fuel: Natural gas.
Purchasing Entities: The region of the Electric Reliability Council of Texas.
In-Service Date: June, 2001.

Owner: Morgan Energy Center, LLC (C&E 01–61).
Operator: Calpine Central, L.P.
Location: Morgan County, AL.
Plant Configuration: Combined-cycle.
Capacity: 700 MW.
Fuel: Natural gas.
Purchasing Entities: 160 MW to Amoco Energy Trading Corp; 540 MW to Tennessee Valley Authority wholesale power market.
In-Service Date: Initial operation June 1, 2002; Full commercial operation January 1, 2003.

Owner: Decatur Energy Center, LLC (C&E 01–62).
Operator: Calpine Central, L.P.
Location: Morgan County, AL.
Plant Configuration: Combined-cycle.
Capacity: 700 MW.
Fuel: Natural gas.
Purchasing Entities: 140 to Solutia, Inc; 560 MW to Tennessee Valley Authority wholesale power market.
In-Service Date: June 1, 2002.

Owner: Delta Energy Center, LLC (C&E 01–63).
Operator: Delta Energy Center, LLC.
Location: Contra Costa County, CA.
Plant Configuration: Combined-cycle.
Capacity: 880 MW.
Fuel: Natural gas.
Purchasing Entities: Calpine Energy Services, L.P.
In-Service Date: April 2002.

Owner: Calpine Construction Finance Company, L.P. (CE 01–64).
Operator: Calpine Eastern Corporation.
Location: Tallapoosa County, AL.
Plant Configuration: Combined-cycle.

Capacity: 800 MW.
Fuel: Natural gas.
Purchasing Entities: Wholesale power market.
In-Service Date: April 2003.

Issued in Washington, DC, May 9, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–12187 Filed 5–14–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Biomass Research and Development Technical Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000. The Federal Advisory Committee Act (Public Law No. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee.

DATES: June 11, 2001.

TIME: 9 a.m.–5 p.m.

ADDRESSES: Wyndham Hotel, 1400 M Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Douglas E. Kaempf, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585; (202) 586–7766.

SUPPLEMENTARY INFORMATION: Purpose of Meeting: To provide advice and guidance that promotes research and development leading to the production of biobased industrial products.

Tentative Agenda: Agenda will include discussions on the following:

- Subcommittee Recommendations to the Full Committee.
- Full Committee Recommendations on Technical Research and Development Priorities.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Douglas E. Kaempf at 202–586–7766 or *Bioenergy@ee.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW, Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on May 9, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–12185 Filed 5–14–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Federal Energy Management Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Federal Energy Management Advisory Committee (FEMAC). The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that these meetings be announced in the **Federal Register** to allow for public participation. Executive Order 13123, "Greening the Government through Efficient Energy Management," authorized the FEMAC to provide public and private sector input to the Secretary of Energy on achieving new energy efficiency goals for Federal facilities. The U.S. Department of Energy's Office of Federal Energy Management Programs (FEMP) coordinates FEMAC activities.

DATES: Monday, June 4, 2001; 1:30 to 2:30 p.m. and 6 to 7:30 p.m.

ADDRESSES: Hyatt Regency Crown Center, 2345 McGee Street, Kansas City, Missouri 64108.

FOR FURTHER INFORMATION CONTACT: Steven Huff, Designated Federal Officer for the FEMAC, Office of Federal Energy Management Programs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–3507; *Steven.Huff@ee.doe.gov; http://www.eren.doe.gov/femp/aboutfemp/femac.html.*

SUPPLEMENTARY INFORMATION:

Purpose of meeting: This FEMAC meeting is an open forum for communicating with FEMAC members and Federal Energy Management Program officials. FEMAC committee members are Beth Shearer, FEMAC Chair, U.S. Department of Energy; Stuart Berjansky, Philips Lighting Company; Jared Blum, Polyisocyanurate Insulation Manufacturers Association; Kenneth Calvin, Mississippi Department of Economic and Community Development; Robert Collins, Tampa Electric Company/Peoples Gas Company; Richard Earl, PB Facilities, Inc; Shelley Fidler, Van Ness Feldman; Erbin Keith, Sempra Energy Solutions, LLC; Vivian Loftness, Carnegie Mellon University; Mary Palomino, Salt River Project; and Cynthia Vallina, Office of Management & Budget.

Tentative Agenda: Agenda will include an open discussion on the following topics:

Monday, June 4, 2001

- Federal energy management budget
- Energy-savings performance contracts
- Utility energy-efficiency service contracts
- Procurement of ENERGY STAR (Registered Trademark) and other energy efficient products
- Building design
- Process energy use
- Applications of efficient and renewable energy technologies (including clean energy technologies) at Federal facilities
- Other energy management issues and topics

FEMAC members also want to discuss in this discussion setting four critical issues:

- Improving the use of project financing (Energy Saving Performance Contacts and Utility Energy Service Contracts)
- Employing sustainable design in Federal facilities
- Examining budget issues and discussing priorities
- Incorporating the use of new and emerging technologies

Public Participation: For these discussion sessions, FEMAC invites members of the public to help identify possible solutions in achieving the goals of reducing energy use and increasing energy efficiency in Federal facilities.

No advance registration is required for the meeting. Those wishing to address the committee will be heard based on a "first-come, first-served" sign-up list for each session. With the limited time available, the committee also encourages written recommendations, suggestions, position papers, etc., combined with a short oral summary statement.

Documents may be submitted either before or following the meeting. The Chair of the Committee will make every effort to hear the views of all interested parties. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on May 4, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–12184 Filed 5–14–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–260–000]

Columbia Gas Transmission Corporation; Notice of Application

May 9, 2001.

Take notice that on May 2, 2001, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP01–260–000, an application, pursuant to Sections 7 (b) and (c) of the Natural Gas Act and Part 157 of the Commission's Regulations for abandonment authorization and a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, compression and appurtenant facilities in Delaware and Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to construct and operate the facilities in order to accommodate deliveries to a power plant being constructed by FPL Energy Marcus Hook L.P. (FPL) on the Delaware-Pennsylvania border. Specifically, Columbia proposes to construct 1.3 miles of 20-inch lateral pipeline in New Castle County, Delaware, and Delaware County, Pennsylvania. Columbia also proposes to construct and operate a 6,000 horsepower (hp) compressor unit at the existing Eagle Compressor Station in Chester County, Pennsylvania, a 6,000 hp compressor unit at the existing Downingtown Compressor Station in Chester County, Pennsylvania, and a new measuring and regulating (M&R) station on the power plant property in Delaware County, Pennsylvania. In addition, Columbia proposes to abandon 2 1,250 hp compressor units at the Downingtown Compressor Station. It is stated that Columbia is abandoning these units because of their age and condition and will no longer need these units when the new units are installed. In related construction under the automatic provisions of its blanket certificate authorization, Columbia proposes to install a new tap and valve at an existing M&R station at the intersection of Columbia's facilities with those of Transcontinental Gas Pipe Line Corporation in Chester County, Pennsylvania, and to replace existing regulators at an interconnection with the facilities of Texas Eastern Transmission Corporation, also in Chester County. Columbia proposes to provide firm transportation service for FPL, delivering 125,000 Dekatherms (dth) of natural gas per day to FPL's plant. Columbia estimates the total cost of the proposed facilities at $22.3 million.

Any questions regarding this application should be directed to M.D. Mamone, Certificates, at (304) 357–3164, Columbia Gas Transmission Company, P.O. Box 1273, Charleston, West Virginia 25325–1273.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 30, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the Commission's website at—*http://www.ferc.fed.us/efi/doorbell.htm.*

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important to file comments or to intervene as early in the process as possible.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a

final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12149 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1965–000]

Commonwealth Edison Company; Notice of Filing

May 9, 2001.

Take notice that on May 3, 2001, Commonwealth Edison Company (ComEd), filed a request, consistent with last year's authorization (*Notice of Interim Procedures to Support Industry Reliability Efforts*, 91 FERC ¶61,189 (2000)), to purchase power using a streamlined regulatory process from entities with small amounts of electric wholesale sales. ComEd requests authorization for the use of the streamlined regulatory procedures for the period from June 1, 2001 to September 30, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 22, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12183 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1329–000]

Idaho Power Company and IDACORP Energy Solutions, LP; Notice of Issuance of Order

May 9, 2001.

Idaho Power Company and IDACORP Energy Solutions, LP (hereafter, "the Applicants") filed with the Commission rate schedules in the above-captioned proceedings, respectively, under which the Applicants will engage in wholesale electric power and energy transactions at market-based rates, and for certain waivers and authorizations. In particular, certain of the Applicants may also have requested in their respective applications that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by the Applicants. On April 27, 2000, the Commission issued an order that accepted the rate schedules for sales of capacity and energy at market-based rates (Order), in the above-docketed proceeding.

The Commission's April 27, 2000 Order granted the Applicants request for blanket approval under Part 34, subject to the conditions found in Appendix A in Ordering Paragraphs (2), (3), and (5):

(2) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by the Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(3) Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, if the Applicants have requested such authorization, the Applicants are hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(5) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of the Applicants' issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 29, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12147 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1381–000]

Caledonia Generating, L.L.C.; Notice of Issuance of Order

May 9, 2001.

Caledonia Generating, L.L.C. (Caledonia) submitted for filing a rate schedule under which Caledonia will engage in wholesale electric power and energy transactions at market-based rates. Caledonia also requested waiver of various Commission regulations. In particular, Caledonia requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Caledonia.

On April 27, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject of the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Caledonia should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Caledonia is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Caledonia's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 29, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12148 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1394–000, *et al.*]

Enron Energy Services, Inc., *et al.*; Notice of Issuance of Order

May 9, 2001.

Enron Energy Services, Inc., *et al.* (Enron Energy) submitted for filing a rate schedule under which Enron Energy will engage in wholesale electric power and energy transactions at market-based rates. Enron Energy also requested waiver of various Commission regulations. In particular, Enron Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Enron Energy.

On April 27, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Enron Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Enron Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Enron Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 29, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202-208-2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.200(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12146 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–95–000–000, *et al*]

Merchant Energy Group of the Americas, Inc., *et al.* Electric Rate and Corporate Regulation Filings 2001.

Take notice that the following filings have been made with the Commission:

1. Merchant Energy Group of the Americas, Inc.

[Docket No. EC01–95–000]

Take notice that on May 2, 2001, Merchant Energy Group of the Americas, Inc. (MEGA) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to Section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby MEGA will assign the right, title, obligation, and interest in and to certain wholesale power sales contracts to Morgan Stanley Capital Group, Inc. (Morgan Stanley) through an Assignment Agreement. MEGA requests confidential treatment of Exhibit I, pursuant to 18 CFR 388.112 of the Commission's regulations, for the written instruments associated with the proposed disposition.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. San Manuel Power Co. LLC

[Docket No. EG01–204–000]

Take notice that on May 4, 2001, San Manuel Power Co. LLC (Applicant), with its principal office at 7400 N. Oracle Rd., Suite 131, Tucson, Arizona, 85704, filed with the Federal Energy Regulatory Commission (the Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant is a limited liability company that will operate a 37-MW generating plant near San Manuel, Arizona.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. E. F. Oxnard, Inc.

[Docket No. EG01–205–000]

Take notice that on May 7, 2001, E. F. Oxnard, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission), an

application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant owns and operates an approximately 48 megawatt topping cycle qualifying cogeneration facility. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Southern Company Services, Inc.

[Docket No. ER01–1698–001]

Take notice that on May 2, 2001, Southern Company Services, Inc. as agent for Savannah Electric and Power Company (Savannah Electric), tendered for filing a reformatted Exhibit C to the unexecuted Interconnection Agreement between Savannah Electric and Effingham County Power, LLC (Effingham) (the Agreement), as a service agreement under Southern Operating Companies Open Access Transmission Tariff (FERC Electric Tariff, Fourth Revised Volume No. 5) and is designated as service agreement number 375. In addition, on April 30, 2001, Savannah Electric filed a Service Agreement designation sheet. These are a correction and omission to the filing tendered on April 2, 2001, respectively, and nothing in the Agreement or Exhibit C have been changed.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

[Docket No. ER01–1902–001]

Take notice that on May 2, 2001, Southern Company Services, Inc. as agent for Georgia Power Company (Georgia Power), tendered for filing an executed Interconnection Agreement between Georgia Power and Augusta Energy LLC (Augusta Energy) (the Agreement), as a service agreement under Southern Operating Companies Open Access Transmission Tariff (FERC Electric Tariff, Fourth Revised Volume No. 5), and a correctly formatted Exhibit C. The executed Agreement and correctly formatted Exhibit C are corrections to the filing tendered on April 27, 2001, and nothing in the Agreement or Exhibit C have been changed.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER01–1961–000]

Take notice that on May 4, 2001, Florida Power & Light Company (FPL) tendered for filing an executed Service Agreement for service pursuant to FPL's Cost Based Rates Tariff for Kissimmee Utility Authority. FPL requests that the Service Agreement be made effective on April 13, 2001.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Minnesota Power, Inc.

[Docket No. ER01–1962–000]

Take notice that on May 4, 2001, Minnesota Power, Inc. and Superior Water, Light and Power tendered for filing signed Service Agreements for Non-Firm and Short-Term Point-to-Point Transmission Service with El Paso Merchant Energy, L.P. under its Transmission Service Agreement to satisfy its filing requirements under this tariff.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Virginia Electric and Power Company

[Docket No. ER01–1963–000]

Take notice that on May 4, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing Notices of Termination of Service Agreements with Citizens Power Sales for Firm and Non-Firm Point-To-Point Transmission Service designated respectively as First Revised Service Agreement Nos. 119 and 169 under FERC Electric Tariff, Second Revised Volume No. 5. Dominion Virginia Power also respectfully requests an effective date of the termination of the Service Agreement of July 3, 2001, which is sixty (60) days from the date of filing of the Letter of Termination.

Copies of the filing were served upon Edison Mission Marketing & Trading, Inc. (merged entity replacing Citizens Power Sales), the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Elwood Energy LLC

[Docket No. ER01–1975–000]

Take notice that on May 4, 2001, Elwood Energy LLC tendered for filing a second amended and restated service agreement for sales of energy and capacity to Exelon Generating Company, LLC.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Central Power and Light Company and West Texas Utilities Company

[Docket No. ER01–1973–000]

Take notice that on May 4, 2001, Central Power and Light Company (CPL) tendered for filing an interconnection agreement (Agreement) between CPL and the City of Brownsville, Texas (Brownsville). CPL states that the Agreement will supersede two bilateral CPL-Brownsville interconnection agreements currently on file with the Commission. CPL also filed Notices of Cancellation of those agreements. Additionally, CPL and West Texas Utilities Company (WTU) filed to cancel two transmission service agreements with Brownsville which have also been superseded.

CPL seeks an effective date of April 4, 2001 for the Agreement. CPL and WTU seek an effective date of April 4, 2001 for their respective Notices of Cancellation. Accordingly CPL and WTU request waiver of the Commission's notice requirements. Copies of the filing have been served on Brownsville and on the Public Utility Commission of Texas.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER01–1974–000]

Take notice that on May 4, 2001, the California Independent System Operator Corporation (ISO) tendered for filing for informational purposes a Termination and Release Agreement (Termination Agreement) between the ISO and Alliance Power Inc. (Alliance). Alliance is a non-jurisdictional generating facility that had entered into Summer Reliability Agreements (SRAs) with the ISO to provide new generation to the ISO for reliability purposes during summer periods. The Termination Agreement terminates those SRAs and releases the ISO and Alliance from all rights and obligations related to the SRAs. The Termination Agreement was executed on April 13, 2001, and will become effective simultaneously with the execution and delivery of a new Power Purchase Agreement between the California Department of Water Resources and Alliance.

The ISO states that this filing has been served upon the California Public Utilities Commission, the California Energy Commission, and the California Electricity Oversight Board.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Gray County Wind Energy, LLC

[Docket No. ER01–1972–000]

Take notice that on May 4, 2001, Gray County Wind Energy, LLC (Gray County), tendered for filing an application for authorization to sell capacity, energy and ancillary services at market-based rates pursuant to Section 205 of the Federal Power Act.

Gray County also requests that the Commission accept for filing two long-term power purchase agreements for the sale of power from Gray County to UtiliCorp United Inc. as service agreements under Gray County's proposed market-based rate tariff.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12182 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1558–000]

NEO California Power LLC; Notice of Issuance of Order

May 9, 2001.

NEO California Power LLC (NEO) submitted for filing a rate schedule under which NEO will engage in wholesale electric power and energy transactions at market-based rates. NEO also requested waiver of various Commission regulations. In particular, NEO requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by NEO.

On April 27, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by NEO should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, NEO is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of NEO's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 29, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at—*http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12145 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES01–32–000, *et al.*]

North West Rural Electric Cooperative, *et al.*; Electric Rate and Corporate Regulation Filings

May 8, 2001.

Take notice that the following filings have been made with the Commission:

1. North West Rural Electric Cooperative

[Docket No. ES01–32–000]

Take notice that on April 30, 2001, North West Rural Electric Cooperative (North West) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to make long-term borrowings in an amount not to exceed $13,500,000 under a revolving line of credit agreement with the National Rural Utilities Cooperative Finance Corporation.

North West also requests a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Allegheny Energy Service Corporation on behalf on Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny)

[Docket No. ER01–1223–001]

Take notice that on May 3, 2001, Allegheny Energy Service Corporation on behalf on Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) tendered for filing Revisions to its Open Access Transmission Tariff in compliance with the Commission's Order of April 12, 2001 at Docket No. ER01–1223–000, 95 FERC 61,045.

Copies of the filing have been provided to jurisdictional customers the

Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Cinergy Capital & Trading, Inc.

[Docket No. ER01–1337–002]

Take notice that on May 3, 2001, Cinergy Capital & Trading, Inc. tendered for filing a compliance filing to its notice of change in status to reflect its pending acquisition of Brownsville Power I, L.L.C. and Caledonia Power I, L.L.C., and amendments to its market-based rate tariff and code of conduct.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER01–1820–001]

Take notice that on May 3, 2001, Cinergy Services, Inc. (Cinergy Services), on behalf of The Cincinnati Gas & Electric Co. (CG&E) and PSI Energy, Inc. (PSI) (together, the Operating Companies) tendered for filing an errata filing to its April 18, 2001 short-form market-based rate tariff (Proposed MR Tariff) filing. The proposed market based rate tariff does not replace Cinergy Services's existing market-based rate tariff, FERC Electric Tariff, Original Volume No. 7. Cinergy Services requests waiver of the Commission's notice of filing requirements to allow the proposed tariff to become effective on April 19, 2001, the day after filing.

Cinergy Services has served this filing upon the Indiana Utility Regulatory Commission, the Kentucky Public Service Commission, and the Public Utilities Commission of Ohio.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Corporation

[Docket No. ER01–1950–000]

Take notice that on May 3, 2001, New York State Electric & Gas Corporation (NYSEG) tendered for filing a fully executed service agreement (Service Agreement) between NYSEG and UGI Utilities, Inc. (UGI) pursuant to Section 35.13 of the Commission's Regulations, 18 C.F.R. § 35.13 (1998). Under the Service Agreement, NYSEG may provide capacity and/or energy to UGI in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 3.

NYSEG has requested that the Commission accept the fully executed Service Agreement and that the Service Agreement become effective as of May 4, 2001. NYSEG has served a copy of this filing upon the New York State Public Service Commission and UGI.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER01–1951–000]

Take notice that on May 3, 2001, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing its 2001 annual rate redetermination update (Update) in accordance with the Open Access Transmission Tariff filed in compliance with FERC Order No. 888 in Docket No. OA96–158–000.

Entergy Services states that the Update redetermines the formula rate in accordance with the annual rate redetermination provisions of Appendix 1 to Attachment H and Appendix A to Schedule 7.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny)

[Docket No. ER01–1952–000]

Take notice that on May 3, 2001, Allegheny Energy Service Corporation on behalf on Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) tendered for filing Second Revised Sheet No. 115 to its Open Access Transmission Tariff to offer Next Hour Market Service. Third Revised Sheet Nos. 193 through 214 and Second Revised Sheet Nos. 215 through 223 to include the latest Transmission Loading Relief Procedures adopted by the North American Electric Reliability Council, and Fourth Revised Sheet No. 173, Third Revised Sheet No. 175B and Original Sheet No. 190D to update the list of Customers detailed within Attachments E and I.

Copies of the filing have been provided to jurisdictional customers and to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER01–1954–000]

Take notice that on May 3, 2001, the California Independent System Operator Corporation, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and POSDEF Power Company, L.P. for acceptance by the Commission.

The ISO states that this filing has been served on POSDEF Power Company, L.P. and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective April 25, 2001.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Corporation Operator

[Docket No. ER01–1955–000]

Take notice that on May 3, 2001, the California Independent System Operator Corporation, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and POSDEF Power Company, L.P. for acceptance by the Commission.

The ISO states that this filing has been served on POSDEF Power Company, L.P. and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective April 25, 2001.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER01–1956–000]

Take notice that on May 3, 2001, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and POSDEF Power Company, L.P. for acceptance by the Commission.

The ISO states that this filing has been served on POSDEF Power Company, L.P. and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective April 25, 2001.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator

[Docket No. ER01–1957–000]

Take notice that on May 3, 2001, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and Tucson Electric Power Company for acceptance by the Commission.

The ISO states that this filing has been served on Tucson Electric Power Company and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of April 16, 2001.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Great Bay Power Corporation

[Docket No. ER01–1960–000]

Take notice that on May 3, 2001, Great Bay Power Corporation (Great Bay) tendered for filing a service agreement between Burlington Electric Department and Great Bay for service under Great Bay's revised Market-Based Rate Power Sales Tariff Volume No. 2 (Tariff). This Tariff was accepted for filing by the Commission on May 31, 2000, in Docket No. ER00–2211–000. The service agreement is proposed to be effective April 1, 2001.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Gauley River Power Partners, L.P.

[Docket No. ER01–1964–000]

Take notice that on May 3, 2001, Gauley River Power Partners, L.P. (GRPP) tendered for filing for acceptance of GRPP Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Commonwealth Edison Company

[Docket No. ER01–1965–000]

Take notice that on May 3, 2001, Commonwealth Edison Company (ComEd), tendered for filing a request, consistent with last year's authorization (Notice of Interim Procedures to Support Industry Reliability Efforts, 91 FERC ¶61,189 (2000)), to purchase power using a streamlined regulatory process from entities with small amounts of electric energy to sell that become public utilities under the Federal Power Act when they make electric wholesale sales.

ComEd requests authorization for the use of the streamlined regulatory procedures for the period from June 1, 2001 to September 30, 2001.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Cleco Evangeline LLC

[Docket No. ER01–1971–000]

Take notice that on May 1, 2001, Cleco Evangeline LLC (Cleco Evangeline), tendered for filing proposed changes in its Rate Schedule FERC No. 1. The proposed changes would allow Gleco Evangeline to make wholesale sales under FERC Rate Schedules No.1 to any affiliate that is not a franchised utility. The rate schedule designations have been amended to comply with the Federal Energy Regulatory Commission's (Commission) Order 614.

The request to amend Cleco Evangeline's Rate Schedule FERC No. 1 is made pursuant to Commission's precedent established in DTE Edison America, Inc., 84 FERC ¶61,197 (1998), PG&E Corporation and Valero Energy Corporation, 80 FERC ¶61,041 (1997), and USGen Power Services, L.P., 73 FERC ¶61, 302 (1995), whereby, power marketers were permitted to make sales under their market based rates tariff to any affiliate that is not a franchised utility.

Comment date: May 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12144 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 18–063]

Idaho Power Company; Notice of Availability of Environmental Assessment

May 9, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Energy Projects has reviewed Idaho Power Company's application for license amendment to waive for 1 year the aesthetic flow requirements at the Twin Falls Hydroelectric Project, located on the Snake River in Twin Falls and Jerome Counties, Idaho, and has prepared an Environmental Assessment (EA). The project includes about 93 acres of federal land administered by the Bureau of Land Management.

The EA contains the staff's analysis of the potential environmental impacts of the proposed amendment and concludes that approval of the proposed amendment with staff's modifications would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA is attached to a Commission order issued on May 8, 2001 for the above application. Copies of the EA are available for review at the Commission's Public Reference Room, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. the EA may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance).

For further information, contact John Smith at (202) 219–2460.

David P. Boergers,

Secretary.

[FR Doc. 01–12150 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2899–099 Idaho]

Idaho Power Company; Notice of Availability of Environmental Assessment

May 9, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Energy Projects has reviewed Idaho Power Company's application for license amendment to waive for 1 year the target flow requirements at the Milner Hydroelectric project, located on the Snake River in Twin Falls and Cassia Counties, Idaho, and has prepared an environmental assessment (EA). The project includes about 109 acres of federal land administered by the Bureau of Land Management.

The EA contains the staff's analysis of the potential environmental impacts of the proposed amendment and concludes that the approval of the proposed amendment with staff's modifications would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA is attached to a Commission order issued on May 8, 2001, for the above application. Copies of the EA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371. Copies of the EA can also be obtained through the Commission's homepage at *http://www.ferc.fed.us.*

For further information, contact Kenneth Hogan at (202) 208–0434.

David P. Boergers,

Secretary.

[FR Doc. 01–12151 Filed 5–14–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6972–9]

Proposed Settlement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree which was lodged with the United States District Court for the Northern District of California by the United States Environmental Protection Agency ("EPA") on April 16, 2001 to address a lawsuit filed by Our Children's Earth Foundation. This lawsuit, which was filed pursuant to section 304(a) of the Act, 42 U.S.C. 7604(a), addresses EPA's alleged failure to publish a comprehensive document for each State in EPA Region 9, setting forth all requirements of each such State's applicable State Implementation Plan under section 110(h) of the Act, 42 U.S.C. 7410(h). *Our Children's Earth Foundation* v. *EPA*, Civil No. C–01–1475 EDL (N.D. Cal.).

DATES: Written comments on the proposed consent decree must be received by June 14, 2001.

ADDRESSES: Written comments should be sent to Jeff Wehling, Office of Regional Counsel, U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the proposed consent decree are available from Janet Taber, (415) 744–1341.

SUPPLEMENTARY INFORMATION: The Clean Air Act requires EPA to assemble and publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan for such State. See section 110(h), 42 U.S.C. 7410(h). Such an applicable plan is referred to as a State implementation plan or "SIP." Under the proposed consent decree, EPA shall make available to the general public on the Region 9 website (*i.e.*, make "web accessible") certain information concerning the SIPs. This information shall include a log of current EPA-approved SIP rules for each local air quality management district or air pollution control district within Region 9 (referred to as "District") showing approval dates and **Federal Register** citations and a copy of the rules themselves. In addition, EPA shall make web accessible summaries of the SIP commitments made by each District in local plans developed under part D of Title I of the Act, as amended in 1990. These plan summaries shall identify each control measure approved by EPA for adoption and implementation by the District, the emissions reductions to which the District has committed, the schedule of adoption and implementation dates to which the District has committed, and any rule number for the SIP rule adopted by the District relating to the control measure. The proposed consent decree provides for a series of deadlines for making these SIP requirements web accessible with the last such deadline occurring on March 31, 2002.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed consent decree from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent decree will then be executed by the parties.

Dated: April 24, 2001.

Anna L. Wolgast,

Acting General Counsel.

[FR Doc. 01–12208 Filed 5–14–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1367–DR]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–1367–DR), dated May 2, 2001, and related determinations.

EFFECTIVE DATE: May 2, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 2, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Iowa, resulting from severe storms, tornadoes, and flooding beginning on April 8, 2001, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal (Category A) and emergency protective measures (Category B) under Public Assistance, and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael Bolch of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Iowa to have been affected adversely by this declared major disaster:

Allamakee, Buchanan, Clayton, Clinton, Des Moines, Dubuque, Jackson, Lee, Louisa, Muscatine, Ringgold, Scott, and Wapello Counties for Individual Assistance.

Clayton, Jackson, Lee, Louisa, Ringgold, and Scott Counties for debris removal and emergency protective measures (Categories A and B) under the Public Assistance Program.

All counties within the State of Iowa are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 01–12159 Filed 5–14–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1366–DR]

Kansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kansas (FEMA–1366–DR), dated April 27, 2001, and related determinations.

EFFECTIVE DATE: May 1, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 1, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 01–12158 Filed 5–14–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

In notice document 00–32911, beginning on page 81864, in the issue of Wednesday, December 27, 2000, the Federal Reserve discussed revisions to its structure reporting requirements for both domestic and foreign banking organizations. This notice listed the implementation date for the new event-generated structure reports, the Report of Changes in Organizational Structure and the Report of Changes in FBO Organizational Structure (FR Y–10 and FR Y–10F; OMB No. 7100–0297), as June 1, 2001. The Federal Reserve has postponed the implementation date for these new forms to September 1, 2001, to allow institutions more time to prepare their systems for these reporting changes. For all event-generated structure reports filed prior to September 1, 2001, institutions should continue using the Changes in Investments and Activities of Top-Tier Financial Holding Companies, Bank Holding Companies, and State Member Banks (FR Y–6A; OMB No. 7100–0124) and the Foreign Banking Organization Structure Report on U.S. Banking and Nonbanking Activities (FR Y–7A; OMB No. 7100–0125). For reports that represent transactions occurring prior to September 1 and that are filed after September 1, institutions may use either the current or the new forms. For reports representing transactions that occur after September 1, institutions must use the new FR Y–10 and FR Y–10F reporting forms.

The Federal Reserve has also postponed the discontinuance of the Changes in Foreign Investments Made Pursuant to Regulation K (FR 2064; OMB No. 7100–0109) until September 1, 2001. The implementation date for revisions to the Annual Report of Bank Holding Companies (FR Y–6; OMB No. 7100–0124) and the Annual Report of Foreign Banking Organizations (FR Y–7; OMB No. 7100–0125) remains December 31, 2001.

In addition, the Federal Reserve will offer a new Internet-based tool to facilitate filing the FR Y–10 and FR Y–10F. This Internet-based tool will be available on September 1 for the FR Y–10 and in early 2002 for the FR Y–10F. Institutions will receive detailed information about this new online tool from their Reserve Banks closer to the implementation date.

The Federal Reserve will post the new FR Y–10 and FR Y–10F forms on the Board's public web site during the week of May 14, 2001, at *http://www.federalreserve.gov/* under the section for Reporting Forms and then under Information collections under review. The FR Y–6 and FR Y–7 forms will be posted on this site later this year.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Mary M. West—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

Board of Governors of the Federal Reserve System, May 9, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–12168 Filed 5–14–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 8, 2001.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Chester Valley Bancorp, Inc., Downingtown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of First Financial Savings Assocoation, Downingtown, Pennsylvania.

2. Franklin Financial Services Corporation, Chambersburg, Pennsylvania; to acquire 15.8 percent of the voting shares of American Home Bank, National Association, Lancaster, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303–2713:

1. Hancock Holding Company, Gulfport, Mississippi; to merge with Lamar Capital Corporation, Purvis, Mississippi, and thereby indirectly acquire voting shares of Lamar Bank, Purvis, Mississippi.

Board of Governors of the Federal Reserve System, May 9, 2001.

Jennifer J. Johnson

Secretary of the Board.

[FR Doc. 01–12167 Filed 5–14–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Monday, May 21, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 11, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–12316 Filed 5–11–01; 12:27 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security.

Time and Date: 9 a.m. to 5 p.m., May 31, 2001; 9 a.m. to 2 p.m., June 1, 2001.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: At this hearing, the subcommittee will hear testimony regarding the process and outcomes for assessing requests for changes to the transaction standards designated under HIPAA, as well as assess industry progress in identifying a consensus standard for electronic signatures.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from J. Michael Fitzmaurice, Ph.D., Senior Science Advisor for Information Technology, Agency for Health Care Research and Quality, 2101 East Jefferson Street, #600, Rockville, MD 20852, phone: (301) 594–3938; or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: *http://www.ncvhs.hhs.gov/* where an agenda for the meeting will be posted when available.

Dated: May 7, 2001.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 01–12211 Filed 5–14–01; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Reports and Guidance Documents; Availability, etc.: Ethical and Policy Issues in International Research; Clinical Trials in Developing Countries

SUMMARY: Notice of Publication of the Executive Summary of the report, "Ethical and Policy Issues in International Research: Clinical Trials in Developing Countries", by the National Bioethics Advisory Commission (NBAC)

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The functions of NBAC are as follows:

(a) Provide advice and make recommendations to the National Science and Technology Council and to other appropriate government entities regarding the following matters:

(1) The appropriateness of departmental, agency or other governmental programs, policies, assignments, missions, guidelines, and regulations as they relate to bioethical issues arising from research on human biology and behavior; and

(2) applications, including the clinical applications, of that research.

(b) Identify broad principles to govern the ethical conduct of research, citing specific projects only as illustrations for such principles.

(c) Shall not be responsible for the review and approval of specific projects.

(d) In addition to responding to requests for advice and recommendations from the National Science and Technology Council, NBAC also may accept suggestions of issues for consideration from both the Congress and the public. NBAC may also identify other bioethical issues for the purpose of providing advice and recommendations, subject to the approval of the National Science and Technology Council. The members of NBAC are as follows:

Harold T. Shapiro, Ph.D., Chair
Patricia Backlar
Arturo Brito, M.D.
Alexander Morgan Capron, LL.B.
Eric J. Cassell, M.D., M.A.C.P.
R. Alta Charo, J.D.
James F. Childress, Ph.D.
David R. Cox, M.D., Ph.D.
Rhetaugh G. Dumas, Ph.D., R.N.
Laurie M. Flynn
Carol W. Greider, Ph.D.
Steven H. Holtzman
Bernard Lo, M.D.
Lawrence H. Miike, M.D., J.D.
Thomas H. Murray, Ph.D.
William C. Oldaker, LL.B.
Diane Scott-Jones, Ph.D.

Ethical and Policy Issues in International Research: Clinical Trials in Developing Countries; Executive Summary

Introduction

In recent years, the increasingly global nature of health research, and in particular the conduct of clinical trials involving human participants (1), has highlighted a number of ethical issues, especially in those situations in which researchers or research sponsors from one country wish to conduct research in another country. The studies in question might simply be one way of helping the host country address a public health problem, or they might reflect a research sponsor's assessment that the foreign location is a more convenient, efficient, or less troublesome site for conducting a particular clinical trial. They might also represent a joint effort to address an important health concern faced by both parties.

As the pace and scope of international collaborative biomedical research have increased during the past decade, long-standing questions about the ethics of designing, conducting, and following up on international clinical trials have reemerged. Some of these issues have begun to take center stage because of the concern that research conducted by scientists from more prosperous countries in poorer nations that are more heavily burdened by disease may, at times, be seen as imposing ethically inappropriate burdens on the host country and on those who participate in the research trials. The potential for such exploitation is cause for a concerted effort to ensure that protections are in place for all persons who participate in international clinical trials.

As with other National Bioethics Advisory Commission (NBAC) reports, several issues and activities prompted the Commission's decision to address this topic. First, several members of the public suggested that NBAC's mandate to examine the protection of the rights and welfare of human participants in research extends to international research conducted or sponsored by U.S. interests. In this respect, one particular dimension of research conducted internationally has attracted a great deal of attention, namely whether the existing rules and regulations that normally govern the conduct of U.S. investigators or others subject to U.S. regulations remain appropriate in the context of international research, or whether they unnecessarily complicate or frustrate otherwise worthy and ethically sound research projects.

A second circumstance—the changing landscape of international research—also is relevant. Increasingly, scientists from developing countries are becoming more involved as collaborators in research, as many of the countries from which these investigators come have developed their capacity for technical contributions to research projects and for appropriate ethical review of research protocols. Although the source of funding for such collaborative research is likely to continue to be the wealthier, developed countries, collaborators from developing countries are seeking—justifiably—to become fuller and more equal partners in the research enterprise. Finally, the current landscape of international research also reflects the growing importance of clinical trials conducted by pharmaceutical, biotechnology, and medical device companies. Some observers believe that market forces have pressured private companies to become more efficient in the conduct of research, which may—absent vigilance—compromise the protection of research participants. Although the extent, relevance, and force of these pressures are widely debated, it is clear that such pressures can exist regardless of the funding source.

Scope of This Report

This report discusses the ethical issues that arise when research that is subject to U.S. regulation is sponsored or conducted in developing countries, where local technical skills and other key resources are in relatively scarce supply. Within this context, the Commission's attention was focused on the conduct of clinical trials involving competent adults, in particular those trials—such as Phase III drug studies—that can lead to the development of effective new treatments. Complex and important ethical concerns are likely to be more pressing in clinical trials than in many other types of research investigations; thus, the focus of this report has been limited accordingly. Although much of the discussion in this report is relevant to other types of research, the particular characteristics of research endeavors other than clinical trials probably merit their own ethical assessment.

This report centers on the principal ethical requirements surrounding the conduct of clinical trials conducted by U.S. interests abroad, and in particular the need for such trials to be directly relevant to the health needs of the host country. Other major topics addressed include ethical issues surrounding the choice of research designs, especially in situations where a placebo control is proposed when an established effective treatment is known to exist; issues arising in the informed consent process in cultures whose norms of behavior differ from those in the United States; what benefits should be provided to research participants and by whom after their participation in a trial has ended; and what benefits, if any, should be made available to others in the host community or country. Finally, it makes recommendations about the need for developed countries to assist developing countries in building the capacity to become fuller partners in international research. Until this goal can be met, however, recommendations are made regarding how the United States should

proceed in settings in which systems for protecting human participants equivalent to those of the United States have not yet been established.

Essential Requirements for the Ethical Conduct of Clinical Trials

Many of the ethical concerns regarding the treatment of human participants in international research are similar to those raised in conjunction with research conducted in the United States (2). They include, among others, choosing the appropriate research question and design; ensuring prior scientific and ethical review of the proposed protocol; selecting participants equitably; obtaining voluntary informed consent; and providing appropriate treatment to participants during and after the trial. These concerns are consistent with principles endorsed in many international research ethics documents.

NBAC believes that two types of ethical requirements—substantive and procedural—must be carefully considered and distinguished when human research is conducted, regardless of the location. The principles embodied in the "Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research" serve as a foundation for the substantive ethical requirements incorporated into the system of protection of human participants in the United States. The "Belmont Report" sets forth three basic ethical principles, which provide an analytical framework for understanding many of the ethical issues arising from research involving human participants: respect for persons, beneficence, and justice. NBAC believes that in order to be ethically sound, research conducted with human beings must, at a minimum, be consistent with the ethical principles underlying the "Belmont Report". In addition, ethically sound research must satisfy a number of important procedural requirements, including prior ethical review by a body that is competent to assess compliance with these substantive ethical principles. U.S. research regulations also set forth more specific rules to guide ethics review committees (3) (and researchers) in their work. NBAC believes that when conducting clinical trials abroad, U.S. researchers and sponsors should comply with these substantive ethical requirements for the protection of human research participants.

Recommendation 1.1 lists protections that should be provided for individuals participating in U.S. government-sponsored clinical trials, whether conducted domestically or abroad (4). Although existing U.S. law and regulations impose limits on the extent to which non-federally funded research is subject to oversight, the Commission believes that these requirements should extend to all clinical trials, regardless of who sponsors or conducts them.

Recommendation 1.1

The U.S. government should not sponsor or conduct clinical trials that do not, at a minimum, provide the following ethical protections:

(a) prior review of research by an ethics review committee(s);

(b) minimization of risk to research participants;

(c) risks of harm that are reasonable in relation to potential benefits;

(d) adequate care of and compensation to participants for injuries directly sustained during research;

(e) individual informed consent from all competent adult participants in research;

(f) equal regard for all participants; and

(g) equitable distribution of the burdens and benefits of research.

Recommendation 1.2

The Food and Drug Administration should not accept data obtained from clinical trials that do not provide the substantive ethical protections outlined in Recommendation 1.1.

Responsiveness of the Research to the Health Needs of the Population

Sponsoring or conducting research in developing countries often poses special challenges arising from the combined effects of distinctive histories, cultures, politics, judicial systems, and economic situations. In addition, in countries in which extreme poverty afflicts so many, primary health care services generally are inadequate, and a majority of the population is unable to gain access to the most basic and essential health products and services. As a result of these difficult conditions, the people in these countries are often more vulnerable in situations (such as clinical trials) in which the promise of better health seems to be within reach.

Whether the research sponsor is the U.S. government or a private sector organization, some justification is needed for conducting research abroad other than a less stringent or troublesome set of regulatory or ethical requirements. Moreover, when the United States (or any developed country) proposes to sponsor or conduct research in another country when the same research could not be conducted ethically in the sponsoring country, the ethical concerns are more profound, and the research accordingly requires a more rigorous justification.

To meet the ethical principle of beneficence, the risks involved in any research with human beings must be reasonable in relation to the potential benefits. Plainly, the central focus of any assessment of risk is the potential harm to research participants themselves (in terms of probability and magnitude), although risks to others also are relevant. The potential benefits that are weighed against such risks may include those that will flow to the fund of human knowledge as well as to those now and in the future whose lives may be improved because of the research. In addition, some of the benefits must also accrue to the group from which the research participants are selected. NBAC understands the principle of justice to require that a population, especially a vulnerable one, should not be the focus of research unless some of the potential benefits of the research will accrue to that group after the trial. Thus, in the context of international research—and particularly when the population of a developing country has been sought as a source of research participants—U.S. and international research ethics require not merely that research risks are reasonable in relation to potential benefits, but also that they respond to the health needs of the population being studied. This is because, according to the principles of beneficence and justice, only research that is responsive to these needs can offer relevant benefits to the population.

Recommendation 1.3

Clinical trials conducted in developing countries should be limited to those studies that are responsive to the health needs of the host country.

Choosing a Research Design and the Relevance of Routine Care

Making a determination about the appropriate design for a clinical trial depends on various contextual considerations, so that what might be an ethically acceptable design in one situation could be problematic in another. For example, it might be unethical to conduct a clinical trial for a health condition in a country in which that condition is unlikely to be found. In comparison, the same trial might be quite appropriately conducted where the trial results could be important to the local population. A more challenging question is whether a research design that could not be ethically implemented in the sponsoring country can be ethically justified in a host country when the health problem being addressed is common to both nations.

In this report, NBAC is especially interested in exploring the following question: Can a research design that could not be ethically implemented in the sponsoring, developed country be ethically justified in the country in which the research is conducted? In all cases, there is an ethical requirement to choose a design that minimizes the risk of harm to human participants in clinical trials and that does not exploit them. Because the choice of a study design for any particular trial will depend on these and other factors, it would be inappropriate—indeed wrong—to prescribe any particular study design as ethical for all research situations. Nevertheless, under certain, specified conditions, one or another design can be held to be ethically preferable.

Recommendation 2.1

Researchers should provide ethics review committees with a thorough justification of the research design to be used, including the procedures to be used to minimize risks to participants.

Providing Established Effective Treatment as the Control

From the perspective of the protection of human participants in research, one of the most critical issues in clinical trial design concerns the use and treatment of control groups, which often are an essential component in methodologies used to guard against bias. Although placebos are a frequently used control for clinical trials, it is increasingly commonplace to compare an experimental intervention to an existing established effective treatment. These types of studies are called active-control (or positive control) studies, which are often extremely useful in cases in which it would not be ethical to give participants a placebo because doing so would pose undue risk to their health or well-being.

Within the context of active treatment concurrent controls, it is useful to consider whether, and if so under what circumstances, researchers and sponsors have an obligation to provide an established effective treatment to the control group even if it is not available in the host country. This report adopts the phrase an established effective treatment to refer to a treatment that is established (it has achieved widespread acceptance by the global medical profession) and effective (it is as successful as any in treating the disease or condition). It does not mean that the treatment is currently available in that country.

Investigators must carefully explain and ethics review committees must cautiously scrutinize the justification for the selection of the research design, including the level of care provided to the control group. If in a proposed clinical trial the control group will receive less care than would be available under ideal circumstances, the burden on the investigator to justify the design should be heavier. Furthermore, representatives of the host country, including scientists, public officials, and persons with the condition under study, should have a strong voice in determining whether a proposed trial is appropriate.

Recommendation 2.2

Researchers and sponsors should design clinical trials that provide members of any control group with an established effective treatment, whether or not such treatment is available in the host country. Any study that would not provide the control group with an established effective treatment should include a justification for using an alternative design. Ethics review committees must assess the justification provided, including the risks to participants, and the overall ethical acceptability of the research design.

Community Involvement in Research Design and Implementation

Over the past three decades, researchers increasingly have deliberately involved communities in the design of research. In addition, research participants, health advocates, and other members of the communities from which participants are recruited have requested, and in some cases demanded, involvement in the design of clinical trials. By consulting with the community, researchers often gain insight about whether the research question is relevant and responsive to health needs of the community involved.

In addition, community consultation can improve the informed consent process and resolve problems that arise in this process because of the use of difficult or unfamiliar concepts. Such discussions can provide insight into whether the balance of benefits and harms in the study is considered acceptable and whether the interventions and follow-up procedures are satisfactory. Community consultation is particularly important when the researcher does not share the culture or customs of the population from which research participants will be recruited.

Recommendation 2.3

Researchers and sponsors should involve representatives of the community of potential participants throughout the design and implementation of research projects. Researchers should describe in their proposed protocol how this will be done, and ethics review committees should review the appropriateness of this process. When community representatives will not be involved, the protocol presented to the ethics committee should justify why such involvement was not possible or relevant.

Fair and Respectful Treatment of Participants

The requirement to obtain voluntary informed consent from human participants before they are enrolled in research is a fundamental tenet of research ethics. It was the first requirement proclaimed in the Nuremberg Code in 1947, and it has appeared in all subsequent published national and international codes, regulations, and guidelines pertaining to research ethics, including those in many developing countries.

Nevertheless, discussion is ongoing about the value and importance of particular procedural approaches to informed consent in other countries. Problems involving the interpretation and application of the requirement to obtain voluntary informed consent—and its underlying ethical principles—arise for researchers, ethics review committees, and others. In some countries, the methods used in U.S.-based studies for identifying appropriate groups for study, enrolling individuals from those groups in a protocol, and obtaining informed voluntary consent might not succeed because of different cultural or social norms. Meeting the challenge of developing alternative methodologies requires careful attention to the ethical issues involved in recruiting research participants and obtaining their consent, which is necessary in order to ensure justice in the conduct of research and to avoid the risk of exploitation.

Recommendation 3.1

Research should not deviate from the substantive ethical standard of voluntary informed consent. Researchers should not propose, sponsors should not support, and ethics review committees should not approve research that deviates from this substantive ethical standard.

Disclosure Requirements

The basic disclosure requirements for satisfying the informed consent provisions in U.S. research regulations focus on the information needed by a potential participant in order to decide whether or not to participate in a study. Requirements for disclosure of information in the research setting usually exceed those for disclosure in clinical contexts. Indeed, the extent of disclosure of medical information to patients in clinical settings differs among cultures and can influence judgments about the amount and kind of information that should be disclosed in research settings. In the United States, the requirements for disclosure of information to potential participants in research are specific and detailed (45 CFR 46.116). The Commission has found some evidence that disclosures relating to diagnosis and risk, research design, and possible post-trial benefits are not always clearly presented in clinical trials conducted in developing countries, even though the current U.S. regulations include such requirements. For example, one disclosure requirement in the U.S. regulations focuses on potential benefits: "a description of any benefits to the subject or to others which may reasonably be expected from the research" (45 CFR 46.116(a)(1)). Traditionally, such a disclosure has been required to ensure that potential participants understand whether there is any possibility that the intervention itself might benefit them while they are enrolled in the study. There is, however, no specific mention of any possible post-trial benefits in current U.S. regulations. The Commission believes that, because this information is relevant to participants' decisions to participate in the trial, prospective participants should be informed of the potential benefits, if any, that they might receive after the trial is over.

Recommendation 3.2

Researchers should develop culturally appropriate ways to disclose information that is necessary for adherence to the substantive ethical standard of informed consent, with particular attention to disclosures relating to diagnosis and risk, research design, and possible post-trial benefits. Researchers should describe in their protocols and justify to the ethics review committee(s) the procedures they plan to use for disclosing such information to participants.

Recommendation 3.3

Ethics review committees should require that researchers include in the informed consent process and consent documents information about what benefits, if any, will be available to research participants when their participation in the study in question has ended.

Ensuring Comprehension

In some cultures, the belief system of potential research participants does not explain health and disease using the concepts and terms of modern medical science and technology. However, despite this potential barrier to adequate understanding, if they are willing to devote the time and effort to do so, researchers often are often able to devise creative measures to overcome this barrier. Despite the acknowledged difficulties of administering tests of understanding, NBAC supports the idea of incorporating these tests into research protocols.

Recommendation 3.4

Researchers should develop procedures to ensure that potential participants do, in fact, understand the information provided in the consent process and should describe those procedures in their research protocols.

Recommendation 3.5

Researchers should consult with community representatives to develop innovative and effective means to communicate all necessary information in a manner that is understandable to potential participants. When community representatives will not be involved, the protocol presented to the ethics review committee should justify why such involvement is not possible or relevant.

Recognizing the Role of Others in the Consent Process

In some cultures, investigators must obtain permission from a community leader or village council before approaching potential research participants. Yet, it is important to distinguish between obtaining permission to enter a community for the purpose of conducting research and for obtaining individual informed consent. In their reports, NBAC consultants all noted that the role of community leaders or elders is an integral part of the process of recruiting research participants. Although these reports typically use the terminology of consent to refer to the community's permission or a leader's authorization for the researchers to approach individuals, NBAC will use this term to refer to the permission or authorization given by the individual being recruited as a research participant.

The need to obtain permission from a community leader before approaching individuals does not need to compromise the ethical standard requiring the individual's voluntary informed consent to participate in research. Gaining permission from a community leader is no different, in many circumstances, from the common requirement in this country of obtaining permission from a school principal before involving pupils in research or from a nursing home director before approaching individual residents. An ethical problem arises only when the community leader exerts pressure on the community in a way that compromises the voluntariness of individual consent. In NBAC's view, if the political system in a country or the local situation makes it impossible for individuals' consent to be voluntary and that fact is known in advance, then, because U.S. researchers cannot adhere to the substantive ethical standard of informed consent, it would be inappropriate for them to choose such settings.

Recommendation 3.6

Where culture or custom requires that permission of a community representative be granted before researchers may approach potential research participants, researchers should be sensitive to such local requirements. However, in no case may permission from a community representative or council replace the requirement of a competent individual's voluntary informed consent.

Recommendation 3.7

Researchers should strive to ensure that individuals agree to participate in research without coercion or undue inducements from community leaders or representatives.

Family Members

It is customary although not required in some societies for other members of a potential research participant's family to be involved in the informed consent process. For example, in cultures in which men are expected to speak for their unmarried adult daughters and husbands are expected to speak for their wives, a woman may not be permitted to consent on her own behalf to participate in research. In most instances, the need to involve the family is not intended as a substitute for individual consent, but rather as an additional step in the process. In many cases, family members may be approached before an individual is asked directly to participate in a research project. However, seeking permission from family members without engaging the potential research participants at all clearly departs from the ethical standard of informed consent. On the other hand, potential participants might also choose to involve others, such as family members, in the consent process. Indeed, involving family or community members in the informed consent process need not diminish, and might even enhance, the individual's ability to make his or her own choices and to give informed consent (or refusal).

It is often possible to obtain individual informed consent, which may require and indeed benefit from the involvement of family or community members, while at the same time preserving cultural norms. Such involvement ranges from providing written information sheets for potential participants to take home and discuss with family members to holding community meetings during which information is presented about the research and community consensus is obtained. When the potential participant wishes to involve family members in the consent discussion, the researcher should take appropriate steps to accommodate this desire.

Recommendation 3.8

When a potential research participant wishes to involve family members in the consent process, the researcher should take appropriate steps to accommodate this wish. In no case, however, may a family member's permission replace the requirement of a competent individual's voluntary informed consent.

Consent by Women

A strict requirement that a husband must first grant permission before researchers may enroll his wife in research treats the woman as subordinate to her husband and as less than fully autonomous. In reality, it may be impossible to conduct some research on common, serious health problems that affect only women without involving the husband in the consent procedures. In such cases, a likely consequence would be a lack of knowledge on which to base health care decisions for women in that country. The prospect of denying such a substantial benefit to all women in a particular culture or country calls for a narrow exception to the requirement that researchers use the same procedures in the consent process for women as for men, one that would allow for obtaining the permission of a man in addition to the woman's own consent.

Recommendation 3.9

Researchers should use the same procedures in the informed consent process for women and men. However, ethics review committees may accept a consent process in which a woman's individual consent to participate in research is supplemented by permission from a man if all of the following conditions are met:

(a) it would be impossible to conduct the research without obtaining such supplemental permission; and

(b) failure to conduct this research could deny its potential benefits to women in the host country; and

(c) measures to respect the woman's autonomy to consent to research are undertaken to the greatest extent possible.

In no case may a competent adult woman be enrolled in research solely upon the consent of another person; her individual consent is always required.

Minimizing the Therapeutic Misconception

One barrier to understanding the relevant, important aspects of any proposed research is what has been called the therapeutic misconception. This term refers to the belief that the purpose of a clinical trial is to benefit the individual patient rather than to gather data for the purpose of contributing to scientific knowledge. The therapeutic misconception has been documented in a wide range of developing and developed countries.

It is important to distinguish the confusion that arises from the therapeutic misconception from a related consideration. In the research setting, participants often receive beneficial clinical care. In some developing countries, the type and level of clinical care provided to research participants may not be available to those individuals outside the research context. It is not a misconception to believe that participants probably will receive good clinical care during research. But it is a misconception to believe that the purpose of clinical trials is to administer treatment rather than to conduct research. Researchers should make clear to research participants, in the initial consent process and throughout the study, which activities are elements of research and which are elements of clinical care.

Recommendation 3.10

Researchers working in developing countries should indicate in their research protocols how they would minimize the likelihood that potential participants will believe mistakenly that the purpose of the research is solely to administer treatment rather than to contribute to scientific knowledge (see also Recommendation 3.2).

Addressing Procedural Requirements in the Consent Process

A number of issues may arise during the process of obtaining informed consent that require careful scrutiny before determining whether voluntary informed consent can be obtained. These include, for example, determining when it is necessary to obtain written consent and when oral consent should be permitted; when, if ever, it is appropriate to withhold important and relevant information from potential participants; the need in some cultures to obtain a community leader's or a family member's permission before seeking an individual's consent; and standards of disclosure for research participants in cultures in which people lack basic information about modern science or reject scientific explanations of disease in favor of traditional nonscientific beliefs.

In light of the cultural variation that might arise in international clinical trials, the Commission was especially interested in problems that may arise from expecting researchers in developing countries to adhere strictly to the substantive and procedural imperatives of the U.S. requirements for informed consent. NBAC was particularly interested in exploring ways of dealing with the situation that arises when cultural differences between the United States and other countries make it difficult or impossible to adhere strictly to the U.S. regulations that stipulate particular procedures for obtaining informed consent from individual participants. In general, it is important to distinguish procedural difficulties from those that reflect substantive differences in ethical standards. Clearly, more research is needed in this area.

Recommendation 3.11

U.S. research regulations should be amended to permit ethics review committees to waive the requirements for written and signed consent documents in accordance with local cultural norms. Ethics review committees should grant such waivers only if the research protocol specifies how the researchers and others could verify that research participants have given their voluntary informed consent.

Recommendation 3.12

The National Institutes of Health, the Centers for Disease Control and Prevention, and other U.S. departments and agencies should support research that addresses specifically the informed consent process in various cultural settings. In addition, those U.S. departments and agencies that conduct international research should sponsor workshops and conferences during which international researchers can share their knowledge of the informed consent process.

Access to Post-Trial Benefits

Discussions of the ethics of research with human beings usually center on issues regarding research design and approval and how individuals' rights and welfare are protected when they are enrolled in research protocols. The same has been true of the U.S. regulations, which only tangentially address what happens after a research project has ended by requiring that research participants must be informed in advance about what compensation, if any, will be provided if they are injured during the course of the research. Other questions about what should happen after a trial is completed are left unaddressed by U.S. guidelines.

Thus, central questions in the context of international research include the following: What benefits (in the form of a proven, effective medical intervention) should be provided to research participants, and by whom, after their participation in a trial has ended, and what, if anything, should be made available to others in the host community or country? Although these questions are relevant in terms of the ethical assessment of research—regardless of where the research is conducted—they are being posed with special force, especially regarding serious diseases that affect large numbers of people in developing countries. Therefore, the question of what benefits, if any, research sponsors should make available to participants or others in the host country at the conclusion of a clinical trial is particularly significant for those who live in developing countries in which neither the government nor the vast majority of the citizenry can afford the intervention resulting from the research. Of course, this is especially germane when a drug is proven to be effective in a clinical trial.

An ethically relevant feature that distinguishes most developing from developed countries is the lack of access to adequate health care by a large majority of the population. Many developed countries have long provided universal access to primary health care through a national health service or government-based insurance system. However, in the developing world, especially in the poorest countries in Africa and Asia, substantially fewer health care services are available (if any), and where they are available, access is severely limited. Access to health care is an important issue in research ethics, because an ethically appropriate clinical trial design requires an assessment of the level and nature of care or treatment available outside the research context, as well as any possible future health benefits that might arise from the research.

Recognizing that it is sometimes difficult to distinguish research from treatment when routine health care is inadequate or nonexistent, it cannot be denied that it may be difficult for participants, whose health status may be altered by their participation in a clinical trial, to distinguish between participating in research and receiving clinical care. Consequently, if all interventions by the research team cease at the end of a trial, participants may experience a loss and feel that the researchers in their clinical role have abandoned them. This sense of loss can take several forms, the starkest of which arises when participants are left worse off at the conclusion of the trial than they were before the clinical trial began. Being worse off does not mean that they were harmed by the research. It can simply mean that their medical condition has deteriorated because they were in what turned out to be the less advantageous arm of the protocol. Such an outcome—particularly when participants are worse off than they would have been had they received standard treatment or if they had been in the other arm of the trial—underlines the extent to which any research project can depart from the Hippocratic goal of "first, do no harm," despite the best intentions and efforts of all concerned. When such a result occurs, efforts to restore participants at least to their pretrial status could be regarded as attempts to reverse a result that would otherwise be at odds with the ethical principles of nonmaleficence and beneficence.

Ironically, people who have benefited from an experimental intervention may also experience a loss if the intervention is discontinued when the project ends. It might be said that this is a risk the participant accepted by enrolling in the trial. But participants who are ill when they enter the research protocol may not be able to appreciate fully how they will feel when they face a deterioration in their medical condition (once the trial is completed) after having first experienced an improvement, even if the net result is a return to the status quo ante. One of the ways to mediate or reduce the burden of such an existential loss (the experience of loss as perceived by the research participant) and to sustain an appropriate level of trust between potential participants and the research enterprise is to continue to provide to research participants an intervention that has been shown to be efficacious in the clinical trial if they still need it once the trial is over.

Recommendation 4.1

Researchers and sponsors in clinical trials should make reasonable, good faith efforts before the initiation of a trial to secure, at its conclusion, continued access for all participants to needed experimental interventions that have been proven effective for the participants. Although the details of the arrangements will depend on a number of factors (including but not limited to the results of a trial), research protocols should typically describe the duration, extent, and financing of such continued access. When no arrangements have been negotiated, the researcher should justify to the ethics review committee why this is the case.

Providing Benefits to Others

Once it is recognized that research projects should sometimes arrange to provide post-trial benefits to participants, a question arises about the justice of differentiating between former trial participants and others in the host community who need similar medical treatments. Is the distinction between former research participants and those who were not merely arbitrary? Applying a competing concept of justice, typically referred to as the principle of fairness—treat like cases alike, and treat different cases differently—to this situation requires a consideration of whether family members (or others) who suffer from the same illness as the participants should be treated as "like cases" with respect to receiving an effective treatment. Similarly, are the claims to treatment of people who were eligible for and willing to participate in a clinical trial but who for any number of reasons were not selected comparable to the claims of those who were selected? Or are such cases not sufficiently similar because participants undertook the risks and experienced the inconveniences of the research?

In NBAC's view, the relevant distinction between research participants and these other groups of individuals is that research participants are exposed to the risks and inconveniences of the study. Moreover, a special relationship exists between participants and researchers that does not exist for others. These are the ethical considerations that support the argument to provide effective interventions to research participants after a trial is completed.

On what basis then can one justify an ethical obligation to make otherwise unaffordable (or undeliverable) effective interventions available to members of the broader community or host country? Given that global inequities in wealth and resources are so vast, expecting governmental or industrial research sponsors to seek to redress this particular global inequity is unfair and unrealistic, especially when no such requirement exists in other spheres of international relationships. Typically, it is not the primary purpose of clinical trials to seek to redress these inequities.

Recommendation 4.2

Research proposals submitted to ethics review committees should include an explanation of how new interventions that are proven to be effective from the research will become available to some or all of the host country population beyond the research participants themselves. Where applicable, the investigator should describe any pre-research negotiations among sponsors, host country officials, and other appropriate parties aimed at making such interventions available. In cases in which investigators do not believe that successful interventions will become available to the host country population, they should explain to the relevant ethics review committee(s) why the research is nonetheless responsive to the health needs of the country and presents a reasonable risk/benefit ratio.

These concerns prompt the question of whether research sponsors should consider implementing arrangements, such as prior agreements (arrangements made before a clinical trial begins that address the post-trial availability of effective interventions to the host community and/or country after the study has been completed), that would allow some of the fruits of research to be available in the host country when the research is over. Such arrangements would be responsive to the health needs of the host country. The parties to these agreements usually include some combination of producers, sponsors, and potential users of research products. Although only a limited number of prior agreements, either formal (legally binding) or informal, are in place in international collaborative research today, it is useful to consider what role such agreements should play in the future.

Recommendation 4.3

Wherever possible, preceding the start of research, agreements should be negotiated by the relevant parties to make the effective intervention or other research benefits available to the host country after the study is completed.

Mechanisms to Ensure the Protection of Research Participants in International Clinical Trials

The two principal approaches used to ensure the protection of human participants in international clinical trials are (1) relying on assurance processes and reviews by U.S. Institutional Review Boards (IRBs) to supplement and enhance local measures or determining that a host country or host country institution has a system of protections in place that is at least equivalent to that of the United States and (2) helping host countries build the capacity to independently conduct clinical trials and to conduct their own scientific and ethical review. In addition, a regulatory provision permits the substitution of foreign procedures that afford protections to research participants that are "at least equivalent" to those provided in the Common Rule. Clarification of the scope and limits of these mechanisms and their use would increase public confidence that a valid system of protections is in place for participants in clinical trials conducted abroad.

Negotiating Assurances of Compliance

U.S. researchers or sponsors and their collaborators often encounter difficulties with some of the procedural and administrative aspects of the U.S. research regulations or their implementation and at times perceive U.S. regulations as unnecessarily rigid. Among the many concerns NBAC heard were those relating to the process of negotiating assurances. An assurance is a document that commits an institution to conduct research ethically and in accordance with U.S. federal regulations. An approved assurance is a prerequisite to federally conducted or sponsored research.

In December 2000, the U.S. Office of Human Research Protections (OHRP) launched a new Federalwide Assurance (FWA) and IRB registration process. The process for filing institutional assurances with OHRP for protecting human research participants has been simplified by replacing Single, Multiple, and Cooperative Project Assurances with the FWA, one for domestic research and one for international research. Each legally separate institution must obtain its own FWA, and assurances approved under this process would cover all of the institution's federally supported human research. The proposed system eliminates the assurance documents now in place and replaces them with either a Federalwide Domestic Assurance or a Federalwide International Assurance, covering all federally supported human research.

NBAC was encouraged that OHRP is taking these steps to revise and simplify the current assurance process. It is not clear at this writing, however, whether the new FWA process will eliminate the problems and inconsistencies that exist among agencies such as the Department of Health and Human Services (DHHS), the Agency for International Development, and the Food and Drug Administration (FDA), or the difficulties expressed by researchers who are familiar with the previous assurance system. Moreover, it should be noted that the assurance process itself does not provide a failsafe system of protections. Because weaknesses in this system have been noted in failures at U.S. research institutions, care should be taken not to rely too heavily on this single mechanism to achieve protections abroad, especially when it is not clear that OHRP will provide a visible presence in the host country (through, for example, site visits). However, it will be important to evaluate the success of these new initiatives.

Recommendation 5.1

After a suitable period of time, an independent body should comprehensively evaluate the new assurance process being implemented by the Office for Human Research Protections.

Ethics Review

It is now widely accepted that research involving human participants should be conducted only after an appropriate ethics review has occurred. When research is sponsored or conducted in accordance with U.S. research regulations (and within the boundaries of these regulations), an appropriately constituted and designated IRB is empowered to make these assessments. However, spokespersons from developing countries have maintained that those who live in the countries in which the research is to be conducted are in the best position to decide what is appropriate, rather than those who may be unfamiliar with local health needs

and culture. It is argued that committees that are familiar with the researchers, institutions, potential participants, and other factors associated with a study are likely to provide a more careful and fully informed review than a committee or other group that is geographically displaced or distant and that only local committees can exercise the kind of balanced and reasoned judgment required to review research protocols. The concept of local review has been a cornerstone of the U.S. system for protecting human participants. Whether this standard can or should be applied to research sponsored or conducted abroad was a focus of Commission deliberations.

NBAC found that the requirement for local review is occasionally tested and sometimes weakened when research is conducted in developing countries. In some cases, review by a local committee raises the potential for conflict of interest—or at least a heightened interest in approving research—when it means that valuable research funds would flow to a local institution. Although several developing countries have instituted national research ethics guidelines, and in some countries, ethics review is becoming more established, many difficulties and challenges to local review remain, including lack of experience with and expertise in ethics review principles and processes; conflict of interest among committee members; lack of resources for maintaining the committees; the length of time it can take to obtain approvals; and problems involved with interpreting and complying with U.S. regulations.

In NBAC's view, efforts to enhance collaboration in research must take into account the capacity of ethics review committees in developing countries to review research and the need for U.S. researchers and sponsors to ensure that their research projects, at the very least, are conducted according to the same ethical standards and requirements applied to research conducted in the United States. This has led NBAC to conclude that when clinical trials involve U.S. and foreign interests, these protocols must still be reviewed and approved by a U.S. IRB and by an ethics review committee in the host country, unless the host country or host country institution has in place a system of equivalent substantive ethical protections.

Ideally, equivalent (although not necessarily identical) systems for providing protections to research participants in developing countries would exist at both the national and institutional levels. In countries in which a system equivalent to the U.S. system exists at the national level, some institutions may be incapable of conducting research in accordance with that system. However, it is difficult to conceive of institutional systems being declared equivalent in the absence of an equivalent national system, although it may be possible in a few extremely rare cases. When multiple sponsors are participating in research, possibly all from developed countries, determining which ethics review committees (and how many) are required poses additional complexities. Because there may be legitimate reasons to question the capacity of host countries to support and conduct prior ethics review, NBAC believes that with respect to research sponsored and conducted by the United States, it will be necessary for an ethics review committee from the host country and a U.S. IRB to conduct a review. The FDA's regulatory provisions for accepting foreign studies not conducted under an investigational new drug application or an investigational device exemption do not address whether the foreign nation's system must meet U.S. ethical standards.

Recommendation 5.2

The U.S. government should not sponsor or conduct clinical trials in developing countries unless such trials have received prior approval by an ethics review committee in the host country and by a U.S. Institutional Review Board.

However, if the human participants protection system of the host country or a particular host country institution has been determined by the U.S. government to achieve all the substantive ethical protections outlined in Recommendation 1.1, then review by a host country ethics review committee alone is sufficient.

Recommendation 5.3

The Food and Drug Administration should not accept data from clinical trials conducted in developing countries unless those trials have been approved by a host country ethics review committee and a U.S. Institutional Review Board. However, if the human participants protection system of the host country or a particular host country institution has been determined by the U.S. government to achieve all the substantive ethical protections outlined in Recommendation 1.1, then review by a host country ethics review committee alone is sufficient.

Lack of Resources as a Barrier to Ethics Review

Ethics review committees in developing countries may have difficulty complying with U.S. regulations because they lack the funds necessary to carry out their responsibilities. In previous reports, NBAC has recognized that there are costs to providing protection to human participants in research, and researchers and institutions should not be put in the position of having to choose between conducting research and protecting participants. Therefore, an additional means of enhancing international collaborative research is to make the necessary resources available for conducting ethics reviews.

Recommendation 5.4

Federal agencies and others that sponsor international research in developing countries should provide financial support for the administrative and operational costs of host country compliance with requirements for oversight of research involving human participants.

Equivalent Protections

Although many countries have promulgated extensive regulations or have officially adopted international ethical guidelines invoking high standards for research involving human participants, the former Office for Protection from Research Risks (OPRR) never determined that any guidelines or rules from other countries—even countries such as Australia and Canada, where research ethics requirements closely parallel (and to some extent exceed) those of the United States'afford protections equal to those provided by U.S. regulations. If these variations cannot be mediated by joint efforts, difficulties may arise in international research that will prevent important and ethically sound research from going forward.

In June 2000, OHRP became the agency responsible for making determinations of equivalent protections for DHHS. However, to date, OHRP has not provided criteria for determining what constitutes equivalent protections or made any such determinations about other countries' guidelines. In lieu of having developed a process for making equivalent protections determinations, in the past OPRR relied on its usual process for negotiating assurances with foreign institutions to ensure the adequate protection of human participants.

Because the number of U.S.-sponsored studies undertaken in collaboration with other countries is increasing (including many studies that have different procedural requirements), there is a need to enhance the efficiency of those efforts through increased harmonization and understanding, without compromising the protection of research participants. A way must be found to adhere to widely accepted substantive ethical principles while at the same time avoiding the undue imposition of regulatory procedures that are peculiar to the United States.

Recommendation 5.5

The U.S. government should identify procedural criteria and a process for determining whether the human participants protection system of a host country or a particular host country institution has achieved all the substantive ethical protections outlined in Recommendation 1.1.

Building Host Country Capacity To Review and Conduct Clinical Trials

A unique feature of international collaborative research is the degree to which economically more prosperous countries can enhance and encourage further collaboration by leaving the host community or country better off as a result. The kinds of benefits that could be realized as a result of the collaboration would depend on local health conditions, the state of economic development, and the scientific capabilities of the particular host country. The provision of post-trial benefits to participants or others in the form of effective interventions is one option. The appropriateness of providing a benefit other than the intervention will depend on the nature of the benefit and on the economic and technological state of development of the host country. In most cases, offering assistance to help build local research capacity is another viable option. These two options are not, of course, mutually exclusive. But no matter what form the benefit takes, the ultimate goal of providing it is to improve the welfare of those in the host country.

Approaches to capacity building are related to, but not fully dependent on, the clarification and improvement of current U.S. procedures for ensuring the protection of research participants in international clinical trials. Progress can and should occur simultaneously in both realms. Capacity building to conduct research could include activities undertaken by investigators or sponsors during a clinical trial to enhance the ability of host country researchers to conduct research (e.g., training and education) or to provide research infrastructure (e.g., equipment) so that future studies might proceed. Building capacity to conduct scientific and ethics review of studies, on the other hand, is primarily a matter of providing training and helping to establish systems designed to review proposed protocols and sustain mutually beneficial partnerships with other more experienced review bodies, including U.S. IRBs.

To enhance research collaborations between developing and developed nations, it is important to increase the capacity of resource-poor countries to become even more meaningful partners in international collaborative research. Making the necessary resources available for improving the technical capacity to conduct and sponsor research, as well as the ability to carry out prior ethics review, is one way to move forward in this effort.

Recommendation 5.6

Where applicable, U.S. sponsors and researchers should develop and implement strategies that assist in building local capacity for designing, reviewing, and conducting clinical trials in developing countries. Projects should specify plans for including or identifying funds or other resources necessary for building such capacity.

Recommendation 5.7

Where applicable, U.S. sponsors and researchers should assist in building the capacity of ethics review committees in developing countries to conduct scientific and ethical review of international collaborative research.

Conclusions

The ethical standards that NBAC is recommending for conducting research in other countries are minimum standards. Host countries might find it worthwhile to adopt human research participant protections that go beyond the protections that are currently provided under the U.S. system if these higher standards further promote the rights, dignity, and safety of research participants as well as the credibility of research results.

Ethical behaviors and commitments are not barriers to the research enterprise. Indeed, ethical behavior is not only an essential ingredient in sustaining public support for research, it is an integral part of the process of planning, designing, implementing, and monitoring research involving human beings. Just as good science requires appropriate research design, consideration of statistical factors, and a plan for data analysis, it must also be based on sound ethical principles. Only then can research succeed in being efficient and cost-effective, while at the same time embodying appropriate protections for the rights and welfare of human participants. Researchers and sponsors should strive to conduct research in the United States and abroad in a way that furthers these aspirations, even though, regrettably, financial, logistical, and public policy obstacles often stand in the way of immediately achieving this goal.

Although the recommendations in this report focus principally on clinical trials conducted by U.S. researchers or sponsors in developing countries, it will be important to consider their application to other areas of research. However, even though many ethical issues that arise in clinical trials also arise in other types of research, the relevance, scope, and implications of NBAC's recommendations in other types of studies may be very different. Similarly, many of the issues and recommendations discussed in this report may equally apply to research conducted in the United States.

The relationships and, ultimately, the level of trust established among individuals, institutions, communities, and countries are determined by complex and often contradictory social, cultural, political, economic, and historical factors. It is essential, therefore, that sponsors, the countries from which they come, and researchers work together to enhance these collaborations by creating an atmosphere that is based on trust and respect. Finally, because attention will continue to focus on the ethical and policy issues that arise in international research in general and regarding clinical trials in particular, this report provides another opportunity for ongoing public dialogue about how to provide appropriate protection to all research participants.

Notes

1. In past reports, the Commission has used the term human subject to describe an individual enrolled in research. This term is widely used and is found in the Federal Policy for the Protection of Human Subjects (45 CFR 46). For many, however, the term subject carries a negative image, implying a diminished position of those enrolled in research in relation to the researcher. NBAC recognizes that merely changing terminology cannot achieve the desired goal of true participation by individuals who volunteer for research, and NBAC does not imply that a truly participatory role is always the case. Nevertheless, for purposes of simplicity and from a desire to encourage a more equal role for research volunteers, in this report the term participants is adopted to describe those who are enrolled in research.

2. An upcoming NBAC report on the oversight of research conducted with human

participants in the United States will address the implications of the findings and conclusions of this report in the context of domestic research.

3. In the United States, committees that review the ethics of human research protocols are referred to in regulation and practice as Institutional Review Boards (IRBs). In other countries, different names might be used, such as research ethics committees or ethics review committees. In this report, references and recommendations that are specific to the United States will refer to these committees as IRBs. References and recommendations that refer to such committees generally regardless of their geographic location will call them ethics review committees.

4. Although these protections are generally meant to apply to all research involving more than minimal risk, there are exceptions in certain guidelines for informed consent to be waived in research involving minimal risk.

FOR FURTHER INFORMATION ABOUT THE REPORT CONTACT: Eric M. Meslin, Ph.D., Executive Director, National Bioethics Advisory Commission, or to obtain copies of the report contact the NBAC office at 6705 Rockledge Drive, Suite 700, Bethesda, Maryland 20892–7979, telephone number (301) 402–4242, fax number (301) 480–6900. Copies may also be obtained through the NBAC website: www.bioethics.gov.

Dated: May 9, 2001.

Eric M. Meslin,

Executive Director, National Bioethics Advisory Commission.

[FR Doc. 01–12142 Filed 5–14–01; 8:45 am]

BILLING CODE 4167–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00E–1413]

Determination of Regulatory Review Period for Purposes of Patent Extension; Xenical

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Xenical and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Xenical (orlistat). Xenical is a lipase inhibitor indicated for obesity management that acts by inhibiting the absorption of dietary fats. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Xenical (U.S. Patent No. 4,598,089) from HLR Technology Corporation, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated August 7, 2000, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Xenical represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Xenical is 3,969 days. Of this time, 3,091 days occurred during the testing phase of the regulatory review period, while 878 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: June 12, 1988. The applicant claims June 24, 1988, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 12, 1988, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: November 27, 1996. The applicant claims November 26, 1996, as the date the new drug application (NDA) for Xenical (NDA 20–766) was initially submitted. However, FDA records indicate that NDA 20–766 was submitted on November 27, 1996.

3. *The date the application was approved*: April 23, 1999. FDA has verified the applicant's claim that NDA 20–766 was approved on April 23, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,824 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by July 16, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 15, 2001. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 7, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–12093 Filed 5–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0192]

Draft Guidance for Industry on Forms for Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Forms for Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution." The draft guidance is intended to assist establishments that are required to register ("registrants") and submit listing information for drugs and biological products in obtaining and submitting the necessary forms to meet registration and listing requirements; this draft guidance will also assist those private label distributors that are not required to register, but elect to submit designated information directly to FDA. FDA proposes to make available through the Internet, rather than through conventional mail, the following registration and listing forms: Form FDA 2656 (Registration of Drug Establishment), Form FDA 2656e (Annual Update of Drug Establishment), Form FDA 2657 (Drug Product Listing), and Form FDA 2658 (Registered Establishments' Report of Private Label Distributors).

DATES: Submit written comments on this draft guidance document by July 16, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of this draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

For human drugs: Kathy Smith, Center for Drug Evaluation and Research (HFD–90), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1086.

For biological drugs: Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0373, yetter@cber.fda.gov.

For veterinary drugs: Lowell Fried, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0165, lfried@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under part 207 (21 CFR part 207), as authorized and required by section 510 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360) and sections 351 and 361 of the Public Health Service Act (PHS Act) (42 U.S.C. 262 amd 264), establishments (e.g. manufacturers, repackers, and relabelers) engaged in the manufacture, preparation, propagation, compounding, or processing of human drugs, veterinary drugs, and biological products, with certain exceptions, are required to register and submit listing information.

Under part 207, these "registrants" use Form FDA 2656 to submit establishment registration information and to submit annual re-registration information (FDA had also used Form FDA 2656e for annual re-registration, but this form will no longer be necessary); private label distributors use Form FDA 2656 to obtain a labeler code; registrants and, in some cases, private label distributors use Form FDA 2657 to submit listing information for drugs and biological products and to update listing information; and registrants use Form FDA 2658 to submit listing information for private label distributors (FDA has also used the compliance verification report for updating listing information). Registrants will use new Form FDA 3356 to submit establishment and listing information for those human cells, tissues, and cellular and tissue-based products regulated as drugs and/or biological products under the act and section 351 of the PHS Act beginning January 21, 2003.

If a registrant or private label distributor prefers to receive any of these forms through conventional mail, they may direct such requests to the designated agency contacts. Under the draft guidance, information previously submitted on Form FDA 2656e would be submitted on Form FDA 2656. Distribution of these forms through the Internet will reduce administrative costs to the agency. The draft guidance also contains registration information applicable to human cells, tissue, and cellular and tissue-based product establishments.

The draft guidance explains that, unless specifically requested otherwise, FDA is discontinuing the conventional mailing of these forms to registrants and private label distributors. These forms are available on the Internet. Registrants, and if appropriate, private label distributors must continue to submit completed forms to FDA in accordance with the registration and listing requirements in part 207. The draft guidance explains where to obtain the forms on the Internet, how to make changes to information, and where to submit completed forms.

Internet availability of these forms (instead of availability by conventional mail) is part of an agency initiative to use modern technology to facilitate the submission of establishment registration and listing information. FDA is developing software to make possible the electronic submission of the requisite registration and listing information for drugs and biological products. The agency plans to propose rulemaking that would revise the requirements for registration and listing and would require registrants to submit this information electronically.

This Level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). This draft guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written or electronic comments regarding the draft guidance. Written comments should be submitted to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Comments may also be submitted electronically on the Internet at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select the relevant "docket number" and follow the directions. Copies of this draft guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm.

Dated: May 7, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12179 Filed 5–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2406]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Final Guidance for Industry entitled "Good Clinical Practice" (VICH GL9); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (No. 85) entitled "Good Clinical Practice" (VICH GL9). This guidance document has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). The final VICH guidance is intended to provide a unified standard for designing, conducting, monitoring, recording, and reporting studies used in registration applications for approval of veterinary products submitted to the European Union, Japan, and the United States.

DATES: Submit written comments at any time. This guidance will be implemented July 1, 2001.

ADDRESSES: Submit written requests for a single copy of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the final guidance document.

Submit written comments at any time on the final guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852,—e-mail: *fdadockets@oc.fda.gov*.

FOR FURTHER INFORMATION CONTACT: Herman M. Schoenemann (HFV–120), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0220, e-mail: *3hschoene@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory recommendations. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical recommendations for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce the differences in technical recommendations for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use for several years to develop harmonized technical recommendations for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical recommendations for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission; the European Medicines Evaluation Agency; the European Federation of Animal Health; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Guidance on Good Clinical Practice

In the **Federal Register** of August 3, 1999 (64 FR 42135), FDA published the notice of availability of the draft guidance entitled "Good Clinical Practices" (VICH GL9), giving interested persons until September 2, 1999 to submit comments. After considering the comments received, FDA made principally editorial changes. The final guidance was submitted to the VICH Steering Committee. At a meeting held on June 14 through 16, 2000, the VICH Steering Committee endorsed the final guidance for industry, VICH GL9.

The guidance is intended to be an international ethical and scientific quality standard for designing, conducting, monitoring, recording, auditing, analyzing, and reporting clinical studies evaluating veterinary products. This final guidance document is intended to be consistent with the laws of the European Union, Japan, and the United States.

VICH GL9 is a revision of and will replace CVM guidance No. 58 entitled "Good Target Animal Studies Practices: Investigators and Monitors." In addition, there are some minor conflicts between this guidance and recent CVM guidance No. 56 entitled "Protocol Development Guideline for Clinical Effectiveness and Target Animal Safety Trials," and No. 104 entitled "Guidance for Industry: Content and Format of Effectiveness and Target Animal Safety Technical Sections and Final Study Reports for Submission to the Division of Therapeutic Drugs for Non-Food Animals." Until the center revises these guidances, sponsors should follow the recommendations in VICH GL9 when differences among the guidances occur.

This Level 1 final guidance is being issued consistent with FDA's good guidance practices (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document represents FDA's current thinking on design and conduct of all clinical studies of veterinary products in the target species. It does not create or confer any rights for or on any person, and does not operate to bind FDA or the public. An alternative method may be used as long as it satisfies the requirements of applicable statutes and regulations.

Information collected is covered under OMB control number 0910–0032.

III. Electronic Access

Copies of the final guidance documents entitled "Good Clinical Practice" (VICH GL9) may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm. Comments may also be submitted electronically on the Internet at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select "99D–2406 Good Clinical Practice" and follow the directions.

IV. Comments

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this final guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend this guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this final guidance document at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of this final guidance document and received comments are available in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12092 Filed 5–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–235]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

—Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Data Use Agreement and Information Collection Requirements, model language, and Supporting Regulations in 45 CFR, part 5b;

Form No.: HCFA–R–235 (OMB# 0938–0734);

Use: This agreement is used as a binding agreement stating conditions under which HCFA will disclose and user will maintain HCFA data that are protected by the Privacy Act.:

Frequency: On occasion;

Affected Public: Not-for-profit institutions;

Number of Respondents: 1,500;

Total Annual Responses: 1,500;

Total Annual Hours: 750.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, HCFA–R–235, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 24, 2001.

John P. Burke, III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–12203 Filed 5–14–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Special Projects of National Significance; Targeted HIV Outreach and Intervention Model Development; Evaluation and Program Support Center

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Correction.

In the **Federal Register** of April 13, 2001, appearing on page 19180, second column, line 21 is an incorrect website to locate the guidance. The correct HRSA web site for the guidance should read, *www.hab.hrsa.gov/grants.html*.

Dated: May 9, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–12180 Filed 5–14–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2001.

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: June 20–22, 2001; 8 am–5 pm.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting is open to the public on Wednesday, June 20, 2001, from 9 a.m.–10 a.m., and closed for the remainder of the meeting.

Purpose: To review research grant applications in the program areas of maternal and child health, administered by the Maternal and Child Health Bureau, Health Resources and Services Administration.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Research, Training and Education, who will report on program issues, congressional activities, and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on Wednesday, June 20, 2001, from 10 a.m. to the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., and the Determination by the Associate Administrator for Management and Program Support, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write or contact Gontran Lamberty, Dr. P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Dated: May 9, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–12181 Filed 5–14–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Enhancing Access and Measuring the Effectiveness of HIV/AIDS Information Methods

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Library of Medicine (NLM), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 5, 2000, in Volume 65, No. 88, page 26220 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Library of Medicine may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Enhancing Access and Measuring the Effectiveness of HIV/AIDS Information Methods. Type of Information Collection Request: New. Need and Use of Information Collection: This study will assess the effectiveness of three information sources within the African American Community in disseminating HIV prevention information. HIV infection and the dissemination of prevention information is a major public health task in North Florida. Three types of African American communities from Gadsden, Leon, and Duval counties are selected as the sites of this study. This will include communities with rural, mixed rural/urban, and urban areas represented for assessing possible differences in health information channel preferences. This study will add to the body of knowledge concerning HIV information dissemination to African American communities in two ways: first, by assessing whether there are differences in the preferred health information channels of those living in rural, mixed, and urban areas; and secondly, by assessing three information dissemination channels for communicating HIV issues to African American communities. The three information channels of concern in this study are community newsletters, entertainment education, and church ministries. In the first year of the project, a brief survey will be conducted before and after distribution of the community newsletter to assess how the community obtains information about the prevention of HIV infection and transmission, their preferred sources of health information, and the effectiveness of the newsletter. The initial data collected will be used to establish a baseline for the project against which the subsequent project data can be evaluated.

Frequency of Response: On occasion. Affected Public: Individuals or households. Type of Respondents: Residents living in Duval, Gadsden and Leon counties, Florida. The annual reporting burden is as follows: Estimated Number of Respondents: 360; Estimated Number of Responses per Respondent: 1; Average Burden Hours Per Response: .334 and Estimated Total Annual Burden Hours Requested: 120. The annualized cost to respondents is estimated at: $844.80. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed collection of information contact: Cynthia B. Love, National Library of Medicine, Building 38A, Room 3N–311C, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll free number (301) 496–5306. You may also e-mail your request to: *cindy_love@nlm.nih.gov.*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before June 14, 2001.

Dated: May 7, 2001.

Donald C. Poppke,

Associate Director for Administrative Management, National Library of Medicine.

[FR Doc. 01–12123 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Glycoprotein Hormone Superagonists

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Application Serial No. 09/185,408 filed May 6, 1996 entitled "Glycoprotein Hormone Superagonists", to N.V. Organon, having a place of business in The Netherlands. The field of use may be limited to the treatment of human infertility. The United States of America is the assignee of the patent rights in this invention. This announcement replaces two previous notices to grant an exclusive license to this technology—64 FR 38685, July 19, 1999 and 65 FR 5878–5879, February 7, 2000.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before July 16, 2001 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Marlene Shinn, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 285; Facsimile: (301) 402–0220; e-mail: MS482M@NIH.GOV.

SUPPLEMENTARY INFORMATION: This invention relates generally to modified glycoprotein hormones and specifically to modifications to a human glycoprotein, which create superagonist activity. Glycoprotein hormones comprise a family of hormones, which are structurally related heterodimers consisting of a species common α sub-unit and a distinct β sub-unit that confers the biological activity for each hormone.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 7, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–12124 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: "Optical Fiber Probe and Methods for Measuring Optical Properties"

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in: U.S. Patent Application No. 09/428,832 "Optical Fiber Probe and Methods for Measuring Optical Properties" filed October 28, 1999, taking priority from U.S. Provisional Application No. 60/105,945 filed October 28, 1998, to AzurTec, Inc. with a place of business in Newtown, Pennsylvania. The United States of America is an assignee to the patent rights of these inventions.

The contemplated exclusive license may be limited to the use of metachromatic dye staining in the diagnosis and treatment of cervical, oral pharyngeal, bladder and gastrointestinal cancer.

DATES: Only written comments and/or applications for a license that are received by the NIH Office of Technology Transfer on or before July 16, 2001 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Dale D. Berkley, Ph.D., J.D. Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 223; Facsimile: (301) 402–0220; E-mail: *berkleyd@od.nih.gov.* A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: The invention is a probe for the characterization of optical scattering and absorption properties of a sample illuminated by an illumination fiber situated next to at least two collection fibers. The collection fibers are spaced at various distances from the illumination fiber, and fluorescence spectra are typically measured using the invention. Linear and concentric arrangements of the collecting fibers are employed in the invention to obtain an intensity distribution of diffusely reflected light, which distribution can be used to distinguish samples of different tissues for medical purposes.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 7, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–12125 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Discovery of Proteins That Are Aberrantly Expressed in Laser Capture Microdissected Human Solid Tumors

Emmanuel Petricoin (FDA), Lance Liotta (NCI), Michael Emmert-Buck (NCI), Yingming Zhao (EM)

DHHS Reference No. E–083–01/0 filed 01 February 2001

Licensing Contact: Matthew Kiser; 301/496–7735 ext. 224; e-mail: kiserm@od.nih.gov

The post-genomic era has created a need for a direct method to monitor the levels of expressed proteins in developing, diseased or genetically altered tissues. Direct monitoring of tissue has proven difficult because of the heterologous, three-dimensional structure. Prior methods for extracting and analyzing biomolecules from tissue subpopulations were complicated, labor intensive, and did not utilize protein stabilizers. There has been no way to directly compare, without the danger of cross-contamination, the spectrum of proteins contained in normal cells with the proteins in tumor cells in a single tissue. Many of the hypotheses regarding altered protein levels in tumor cells have been based on work on cell lines and their viability in culture media. The amount and type of protein expressed by cells in the native tissue environment can be quite different than that of cultured cells. Thus, the need exists for a direct means of measuring protein levels to obtain results reflecting *in vivo* conditions. This technology supplies the means to obtain *in vivo* expression levels.

The present invention describes devices and methods for performing protein analysis on laser capture microdissected cells, which facilitate proteomic analysis on cells of different populations. The protein content can be determined by any of the standard analytical techniques: immunoassays, 1D and 2D electrophoresis, Western blotting, LCQ–MS, MALDI/TOF, and SELDI. Specific applications include, but are not limited to, analysis of normal versus malignant cells, differential expression determination of cellular proteins at various disease states (e.g. normal, pre-malignant, tumor), and comparison of expression levels of different types of cancers (e.g. esophageal, prostate, breast, ovarian, lung, and colon cancer).

A second embodiment of this technology provides specific examples of tumor or tumor-stage linked protein "fingerprints" and specific proteins identified from these "fingerprints" as being aberrantly expressed in specific diseased cell types. Furthermore, methods of using these "fingerprints", sub-sets thereof, and individual proteins in the diagnosis, prognosis, treatment, treatment selection, and drug development for disease are provided.

Production and Use of Anti-Dorsalizing Morphogenetic Protein

M. Moos Jr., M. Krinks, S. Wang (FDA)

Serial No. 08/335,583 filed 08 Nov 1994, now US Patent 5,693,779 issued 02 Dec 1997

Licensing Contact: Susan S. Rucker; 301/496–7056 ext. 245; e-mail: ruckers@od.nih.gov

This patent relates to the identification, isolation and cloning of the cDNA which encodes a protein, Anti-Dorsalizing Morphogenetic Protein-1 (ADMP–1). ADMP–1 is related to the bone morphogenetic proteins and is a member of the TGF beta superfamily. ADMP–1 is involved in the down-regulation of multiple factors related to tissue proliferation and may be useful in inhibiting inappropriate tissue proliferation such as that associated with psoriasis or melanoma.

This work has been published, in part, at Moos, M, et al. "Anti-dorsalizing morphogenetic protein is a novel TGF-beta homolog expressed in the Spemann organizer" Development 121(12):4293–301 (Dec 1995).

Dated: May 7, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–12126 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the National Advisory Council for Complementary and Alternative Medicine (NACCAM).

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Alternative Medicine.

Date: May 31, 2001.

Open: 8 a.m. to 2:45 p.m.

Agenda: The agenda includes the Opening Remarks by Director, NCCAM, reports on NCCAM Intramural Program, NCCAM Health Disparities Plan, IRB Discussion, CAPCAM/ Best Case Series Update, Public Comments, and other business of the Council.

Closed: 2:45 p.m. to adjournment.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Natcher Conference Center, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Richard Nahin, Ph.D., Executive Secretary, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, MD 20892, 301/496–7801.

The public comments session is scheduled on from 11:15–11:45 a.m. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Richard Nahin, National Center for Complementary and Alternative Medicine, HIH, 6707 Democracy Boulevard, Suite 106, Bethesda, Maryland, 20892, 301–496–7801, Fax: 301–480–3621. Letters of intent to present comments, along with a brief description of the organization represented, should be received no later than 5 p.m. on May 25, 2001. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In addition, written comments may be submitted to Dr. Nahin at the address listed above up to ten calendar days (June 10, 2001) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by Dr. Richard Nahin, Executive Secretary, NACCAM, National Institutes of Health, 6707 Democracy Boulevard, Suite 106, Bethesda, Maryland 20892, (301) 496–7801, Fax 301–480–3621.

Dated: May 4. 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 01–12119 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of RFA TW–01–002, International Training & Research in Environmental & Occupational Health.

Date: June 13–15, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hawthorne Suites, 300 Meredith Drive, Durham, NC 27713.

Contact Person: Brenda K Weis, Ph.D, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review Meeting for RFA 001–002—Toxicogenomics.

Date: June 19–22, 2001.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Governors Inn, I–40 and Davis Dr., Exit 280, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, Ph.D, Scientific Review Administrator, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: May 4, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12118 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: June 19, 2001.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW., Washington, DC 20007.

Contact Person: John R. Lymangrover, PhD, Scientific Review Administrator, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25N, Bethesda, MD 20892, 301–594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 3, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12121 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Training Grant and Career Development Review Committee.

Date: June 7–8, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street NW, Washington, DC 20004.

Contact Person: Raul A. Saavedra, Ph.D, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group Neurological Sciences and Disorders A.

Date: June 14–15, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Radisson Barcelo Hotel, 2121 P Street, NW, Washington, DC 20037.
Contact Person: Richard D. Crosland, Ph.D, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group Neurological Sciences and Disorders C.
Date: June 18–19, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications
Place: Hilton Washington, 1919 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Alan Willard, Ph.D, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group Neurological Sciences and Disorders B.
Date: June 21–22, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC 20008.
Contact Person: Lillian M. Pubols, Ph.D, Chief, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223. *lp28e@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 3, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12122 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panels.
Date: May 7, 2001.
Time: 3:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Jeanne N. Ketley, Ph.D, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, (301) 435–1789.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 4, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12120 Filed 5–14–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Mental Health Services; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Mental Health Services (CMHS) National Advisory Council in May 2001.

A portion of the meeting will be open and will include a roll call, general announcements, and discussion about consumer affairs, new program initiatives for the current fiscal year, the recently released Surgeon General's Report on youth violence, and grant findings from the ACCESS program, which dealt with issues related to mental health and homelessness. Public comments are welcome. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with disabilities please notify the contact listed below.

The meeting will also include the review, discussion, and evaluation of grant applications. Therefore a portion of the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c) (4) and (6) and 5 U.S.C. App. 2. &10 (d).

A summary of the meeting and a roster of Council members may be obtained from Ms. Patricia Gratton, Committee Management Officer, CMS, Room 11C–27, Parklawn Building, Rockville, Maryland 20857, telephone (301) 443–7987.

Committee Name: CMHS National Advisory Council.
Meeting Date: Thursday, May 24, 2001.
Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland.
Closed: May 24, 2001, 9 a.m.–10 a.m.
Open: May 24, 2001, 10:15 a.m.–5:30 p.m.
Contact: Eileen S. Pensinger, M.Ed., Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 17C–27, Rockville, Maryland 20857, Telephone: (301) 443–4823 and FAX (301) 443–4865.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 9, 2001.

Toian Vaughn,

Executive Secretary/Committee Management Officer Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–12096 Filed 5–14–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings small group sessions of five Substance Abuse and Mental Health Services Administration (SAMHSA) advisory committees (SAMHSA National Advisory Council, Center for Mental Health Services National Advisory Council, Center for Substance Abuse Prevention National Advisory Council, Center for Substance Abuse Treatment National Advisory Council, and the Advisory Committee for Women's Services) in May 2001.

The organizing theme of the Year 2001 Joint Council Meeting is "Taking the Pulse." The sessions on May 22 will be open and will include the Faith-based Initiative, co-occurring disorders and trauma, collaboration with NIAAA, NIDA, NIMH, HRSA and HCFA, reauthorization, integration across the lifespan and reducing health disparities. In addition, there will be presentations by the Directors of the National Institutes of Health, NIAAA, NIDA, and NIMH. On May 23, there will be follow-up reports from the May 22 sessions, an Agency report, a discussion on SAMHSA's budget issues, and presentations by SAMHSA's Directors of CSAP, CSAT, and CMHS.

Attendance by the public will be limited to space available. Public comments are welcome, and interested persons may present information or views, orally or in writing, on issues pending before the committees. Those desiring to make formal presentations should contact Toian Vaughn, Executive Secretary, Office of Extramural Programs, SAMHSA, 5600 Fishers Lane, Room 12C–06, Rockville, Maryland 20857, prior to May 18, 2001, and submit a brief statement of: the general nature of the information or arguments they wish to present, the names, addresses, and telephone numbers of proposed participants, identification of organizational affiliation, and an indication of the approximate time required to make their comments. Time for presentations may be limited by the number of requests. Photocopies, up to five pages of material, may be distributed at the meeting through the SAMHSA National Advisory Council Executive Secretary, if provided by May 18.

A summary of the meeting and/or a roster of committee members may be obtained from Toian Vaughn, Executive Secretary, SAMHSA National Advisory Council, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone (301) 443–4266, e-mail: tvaughn@samhsa.gov.

Substantive program information and information pertaining to special accommodations for persons with disabilities may be obtained from the contact whose name and telephone number is listed below.

Committee Names: Substance Abuse and Mental Health Services Administration, National Advisory Council, Center for Mental Health Services National Advisory Council, Center for Substance Abuse Prevention National Advisory Council, Center for Substance Abuse Treatment National Advisory Council, Advisory Committee for Women's Services.
Meeting Date(s): Tuesday, May 22, 2001, Wednesday, May 23, 2001.
Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.
Open: May 22, 2001, 9 a.m.–6:30 p.m., May 23, 2001, 9:30 a.m.–6 p.m.
Contact: Toian Vaughn, M.S.W., Executive Secretary, SAMHSA National Advisory Council, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857, Telephone (301) 443–4266.

In addition, the Center for Mental Health Services (CMHS) National Advisory Council will hold its individual meeting. A portion of the meeting will be open and will include a roll call, general announcements, and a discussion about consumer affairs, new program initiatives for the current fiscal year, the recently released Surgeon General's Report on youth violence, and grant findings from the ACCESS program, which dealt with issues related to mental health and homelessness. Public comments are welcome. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

The meeting will include the review, discussion, and evaluation of individual grant applications. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(4), and (6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting and a roster of Council members may be obtained from: Ms. Patricia Gratton, Committee Management Officer, CMHS National Advisory Council, 5600 Fishers Lane, Room 11 C–26, Rockville, Maryland 20857, telephone: (301) 443–7987.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Mental Health Services National Advisory Council.
Meeting Date: Thursday, May 24, 2001.
Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.
Closed: May 24, 2001, 9 a.m.–10 a.m.
Open: May 24, 2001, 10:15 a.m.–5:30 p.m.
Contact: Eileen S. Pensinger, Executive Secretary, Telephone: (301) 443–4823 and FAX: (301) 443–4865.

In addition, the Center for Substance Abuse Prevention (CSAP) National Advisory Council will hold its individual meeting. A portion of the meeting will be open and will include an update on CSAP's budget, recommendations by Council on the Center's programs, and discussions of the Faith-based Initiative, the Data Coordinating Center, administrative matters and announcements. Public comments are welcome. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

The meeting will include the review, discussion, and evaluation of individual grant applications. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(4), and (6) and 5 U.S.C. App. 2, § 10(d).

A summary of this meeting and roster of committee members may be obtained from Yuth Nimit, Ph.D., Executive Secretary, Rockwall II building, Suite 901, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8455.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Prevention, National Advisory Council.
Meeting Date: Thursday, May 24, 2001.
Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.
Closed: May 24, 2001, 8:30 a.m.–11:30 a.m.
Open: May 24, 2001, 1 p.m.–4:30 p.m.
Contact: Yuth Nimit, Ph.D., 5515 Security Lane, Rockwall II Building, Suite 901, Rockville, Maryland 20852, Telephone: (301) 443–8455.

In addition, the Center for Substance Abuse Treatment (CSAT) National Advisory Council will hold its individual meeting. A portion of the meeting will be open and include discussion of the Center's policy issues and current administrative, legislative, and program developments. Status reports on OPIOID Accreditation, and CSAT's Initiative for Homeless Substance Abusers will be presented. Other presentations include: The Faith Initiative; 42 CFR Part 2 and Child Protective Services; Parity Coalition; and Recovery Month. Council members will give updates on SAMHSA's Subcommittees, and discuss, ldquo;Substance Abuse and the Consumer". Public comments are welcome. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with

disabilities, please notify the Contact listed below.

The meeting will also include the review, discussion, and evaluation of grant applications. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting and roster of council members may be obtained from: Ms. Cynthia Graham, CSAT, National Advisory Council, Rockwall II Building, Suite 618, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment, National Advisory Council.

Meeting Date: Thursday, May 24, 2001.

Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland.

Closed: May 24, 2001, 8:30 a.m.–9 a.m.

Open: May 24, 2001, 9 a.m.–4:30 p.m.

Contact: Cynthia Graham, M.S., Public Health Analyst, Telephone: (301) 443–8923 and FAX: (301) 480–6077.

In addition, the Advisory Committee for Women's Services will hold its individual meeting. The meeting will include a discussion of policy and program issues relating to women's substance abuse and mental health service needs, cultural competency, and new 2002 funding opportunities addressing women. It will also include planning discussions for SAMHSA's Third National Conference on Women. Public comments are welcome. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with disabilities, please notify the Contact listed below.

A summary of the meeting and/or a roster of committee members may be obtained from: Nancy P. Brady, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, SAMHSA, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date: Thursday, May 24, 2001.

Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Open: May 24, 2001, 9:30 a.m.–3:30 p.m.

Contact: Nancy P. Brady, Room 13–99, Parklawn Building, Telephone: (301) 443–5184.

In addition, the Substance Abuse and Mental Health Services Administration will hold its individual meeting. The meeting will be open and will include discussions related to SAMHSA's activities in the area of data, HIV/AIDS, and performance partnerships; follow up to the February 8–9, 2000 SAMHSA National Advisory Council Meeting; and a discussion on the SAMHSA Council and its seven workgroups.

Attendance by the public will be limited to space available. Public comments are welcome. If anyone needs special accommodations for persons with disabilities, please notify the Contact listed below.

Substantive program information, a summary of the meeting, and a roster of Council members may be obtained from the contact whose name and telephone number is listed below.

Committee Name: SAMHSA National Advisory Council.

Meeting Date: Thursday, May 24, 2001.

Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

Closed: May 24, 2001, 8:30 a.m.–9 a.m.

Open: May 24, 2001, 9:30 a.m.–5 p.m.

Contact: Toian Vaughn, Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 17–89, Rockville, MD 20857, Telephone: (301) 443–7016; FAX: (301) 443–1587 and e-mail: TVaughn@samhsa.gov.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 9, 2001.

Toian Vaughn,

Executive Secretary/Committee Management Officer, SAMHSA.

[FR Doc. 01–12094 Filed 5–14–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of a Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council in May 2001.

The SAMHSA National Advisory Council meeting will be open and will include discussions related to SAMHSA's activities in the area of data, HIV/AIDS, and performance partnerships; follow up to the February 8–9, 2000 SAMHSA National Advisory Council Meeting; and a discussion on the SAMHSA Council and its seven workgroups.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

Substantive program information, a summary of the meeting, and a roster of Council members may be obtained from the contact whose name and telephone number is listed below.

Committee Name: SAMHSA National Advisory Council.

Date/Time: Thursday, May 24, 2001, 9:30 a.m. to 5 p.m. (Open).

Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

Contact: Toian Vaughn, Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 17–89, Rockville, MD 20857, Telephone: (301) 443–7016; FAX: (301) 443–1587 and e-mail: *TVaughn@samhsa.gov.*

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 9, 2001.

Toian Vaughn,

Committee Management Officer, SAMHSA.

[FR Doc. 01–12095 Filed 5–14–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Prevention (CSAP) National Advisory Council in May 2001.

The agenda of the open portion of the meeting will include an update on CSAP's budget, recommendations by Council on the Center's programs, and discussions of the Faith-based Initiative, the Data Coordinating Center, administrative matters and announcements. Public comments are welcome. If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

The agenda will include the review, discussion, and evaluation of individual grant applications. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and 5 U.S.C. App.2, 10(d).

A summary of this meeting and roster of committee members may be obtained from Yuth Nimit, Ph.D., Executive Secretary, Rockwall II building, Suite 901, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8455.

Substantive program information may be obtained from the contact person listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Meeting Date: Thursday, May 24, 2001.

Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

Closed: May 24, 2001, 8:30 a.m. to 11:30 a.m.

Open: May 24, 2001, 1 p.m. to 4:30 p.m.

Contact: Yuth Nimit, Ph.D., 5515 Security Lane, Rockwall II Building, Suite 901, Rockville, Maryland 20852, Telephone: (301) 443–8455.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 9, 2001.

Toian Vaughn,

Executive Secretary/Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–12098 Filed 5–14–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in May 2001.

A portion of the meeting will be open and include discussion of the Center's policy issues and current administrative, legislative, and program developments. Status reports on OPIOID Accreditation, and CSAT's Initiative for Homeless Substance Abusers will be presented. Other presentations include: The Faith Initiative; 42 CFR part 2 and Child Protective Services; Parity Coalition; and Recovery Month. Council members will give updates on SAMHSA's Subcommittees, and discuss, "Substance Abuse and the Consumer." Public comments are welcome. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations and for persons with disabilities, please notify the contact listed below.

The meeting will also include the review, discussion, and evaluation of grant applications. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and 5 U.S.C. App. 2, 10(d).

A summary of the meeting and roster of council members may be obtained from: Ms. Cynthia Graham, CSAT, National Advisory Council, Rockwall II Building, Suite 618, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment National Advisory Council.

Meeting Date: Thursday, May 24, 2001.

Place: Gaithersburg Marriott Washingtonian Center (at Rio), 9751 Washingtonian Boulevard, Gaithersburg, Maryland.

Closed: May 24, 2001—8:30 a.m.—9 a.m.

Open: May 24, 2001—9 a.m.—4:30 p.m.

Contact: Cynthia Graham, M.S., Public Health Analyst, Telephone: (301) 443–8923 and FAX: (301) 480–6077.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 9, 2001.

Toian Vaughn,

Executive Secretary/Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–12097 Filed 5–14–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Office for Women's Services; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Advisory Committee for Women's Services of the Substance Abuse and Mental Health Services Administration (SAMHSA) in May 2001.

The meeting of the Advisory Committee for Women's Services will include a discussion of policy and program issues relating to women's substance abuse and mental health service needs; cultural competency, new 2002 funding opportunities addressing women and planning discussions for SAMHSA's Third National Conference on Women, consideration of the January 26, 2001 meeting minutes; and other policy issues. Public comments are welcome. If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

A summary of the meeting and/or a roster of committee members may be obtained from: Nancy P. Brady, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, SAMHSA, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date: Thursday, May 24, 2001.

Meeting Time: 9:30 a.m.—3:30 p.m.

Place: Gaithersburg Marriott Washingtonian Center (at Rio) 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Open: May 24, 2001.

Contact: Nancy P. Brady, 5600 Fishers Lane, Parklawn Building, Room 13–99, Telephone: (301) 443–5184.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 9, 2001.

Toian Vaughn,

Executive Secretary/Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–12099 Filed 5–14–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit

to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–039100

Applicant: Nebraska Public Power District, Columbus, Nebraska.

The applicant requests a permit to conduct surveys for interior least terns (*Sterna antillarum*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Permit No. TE–039267

Applicant: Ronald L. Hartman, Rocky Mountain Herbarium, Laramie, Wyoming.

The applicant requests a permit to take Osterhout milkvetch (*Astragalus osterhoutii*), North Park phacelia (*Phacelia formosula*), and Penland alpine fen mustard (*Eutrema penlandii*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

Permit No. TE–040242

Applicant: Harold Tyus, University of Colorado, Boulder, Colorado.

The applicant requests a permit to take Colorado pikeminnows (*Ptychocheilus lucius*), humpback chubs (*Gila cypha*), bonytail chubs (*Gila elegans*), and razorback suckers (*Xyrauchen texanus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

Permit No. TE–040241

Applicant: Roger L. Boyd, Baker University, Baldwin City, Kansas.

The applicant requests a permit to take interior least terns (*Sterna antillarum*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Written data or comments in regard to the applications should be sent to the address provided below. Documents and other information submitted in conjunction with this application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice—U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486 (Attn: ARD-Ecological Services); phone (303) 236–7400 or fax (303) 236–0027.

Dated: April 12, 2001.

John A. Blankenship,

Regional Director, Denver, Colorado.

[FR Doc. 01–12004 Filed 5–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of Receipt of Applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.).

Permit No. TE–040341

Applicant: William Charles Larsen, Round Rock, Texas

Applicant requests a permit for recovery purposes to conduct surveys for the Texas blind salamander (*Typhlomolge rathbuni*), Peck's Cave amphipod (*Stybobromus*) (=*Stygonectes*) *pecki*), and following karst cave invertebrate species: Tooth Cave spider (*Neoleptoneta myopica*), Bee Creek Cave harvestman (*Texella reddelli*), Bone Cave harvestman (*Texella reyesi*), Tooth Cave ground beetle (*Rhadine persephone*), Kretschmarr Cave mold beetle (*Texamaurops reddelli*), Coffin Cave mold beetle (*Batrisodes texanus*), Tooth Cave pseudoscorpion (*Tartarocreagris texana*), Helotes mold beetle (*Batrisodes venyivi*), Robber Baron Cave harvestman (*Texella cokendolpheri*), Robber Baron Cave spider (*Cicurina baronia*), Madla's cave spider (*Cicurina madla*), vesper cave spider (*Cincurina vespera*), Government Canyon cave spider (*Neoleptoneta microps*), as well as another cave spider (*Cicurina venii*) and two cave beetles (*Rhadine exilis* and *Rhadine infernalis*) that do not have common names. These activities will be conducted within Texas.

Permit No. TE–040342

Applicant: North Wind Environmental, Inc., Idaho Falls, Idaho

Applicant requests a permit to conduct presence/absence surveys for the black-footed ferret (*Mustela nigripes*), southwestern willow flycatcher (*Empidonax traillii extimus*), Colorado pikeminnow (*Ptychocheilus lucius*), and razorback sucker (*Xyrauchen texanus*) within Chaco Culture National Historic Park, New Mexico.

Permit No. TE–040345

Applicant: U.S. Bureau of Reclamation, Yuma Area Office, Yuma Arizona

Applicant requests a permit to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) and Yuma clapper rail (*Rallus longirostris yumanensis*) in Arizona.

Permit No. TE–014168

Applicant: Peter Sprouse, Austin, Texas

Applicant requests a permit to conduct presence/absence surveys for the following karst cave invertebrates: Helotes mold beetle (*Batrisodes venyivi*), Robber Baron Cave harvestman (*Texella cokendolpheri*), Robber Baron Cave spider (*Cicurina baronia*), Madla's cave spider (*Cicurina madla*), vesper cave spider (*Cincurina vespera*), Government Canyon cave spider (*Neoleptoneta microps*), as well as another cave spider (*Cicurina venii*) and two cave beetles (*Rhadine exilis* and *Rhadine infernalis*) that do not have common names. These activities will be conducted within Texas.

Permit No. TE–820022

Applicant: PBS&J, Austin, Texas

Applicant requests a permit to conduct presence/absence surveys for interior least tern (*Sterna antillarum athalassos*), Barton Springs salamander (*Eurycea sosorum*), Helotes mold beetle (*Batrisodes venyivi*), Robber Baron Cave harvestman (*Texella cokendolpheri*), Robber Baron Cave spider (*Cicurina baronia*), Madla's cave spider (*Cicurina madla*), vesper cave spider (*Cincurind vespera*), Government Canyon cave spider (*Neoleptoneta microps*), Bracken Bat Cave meshweaver (*Cicurina venii*) and two cave beetles (*Rhadine exilis* and *Rhadine infernalis*) that do not have common names. All activities will take place in Texas.

DATES: Written comments on these permit applications must be received on or before June 14, 2001.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Bryan Arroyo,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–12172 Filed 5–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Reopening of Comment Period: Draft Policy on National Wildlife Refuge System: Mission, Goals, and Purposes (Notice); Draft Appropriate Refuge Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997 (Notice); Draft Wildlife-Dependent Recreational Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997 (Notice); and Draft Wilderness Stewardship Policy Pursuant to the Wilderness Act of 1964 (Notice)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; further reopening of comment period.

SUMMARY: We are reopening the comment period on the **Federal Register** notice dated January 16, 2001, that invites the public to comment on the following draft policies: National Wildlife Refuge System: Mission, Goals, and Purposes; Appropriate Refuge Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997; Wildlife-Dependent Recreational Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997; and Wilderness Stewardship Policy Pursuant to the Wilderness Act of 1964.

DATES: Submit comments by or before June 14, 2001. Note that you must resubmit comments sent to us between April 19, 2001 and before May 15, 2001.

ADDRESSES: Submit comments in the following ways: in writing to Acting Chief, Division of Conservation Planning and Policy, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 670, Arlington, Virginia 22203; by FAX to (703) 358–2248; or by e:mail to one of the following addresses:

Mission_And _Goals_ Policy_Comments@fws.gov;

Appropriate_Uses_Policy_ Comments@fws.gov;

Wildlife_ Dependent_Recreational _Uses_Policy_Comments@fws.gov; or

Wilderness_Policy_Comments@fws.gov.

FOR FURTHER INFORMATION CONTACT: Barry Stieglitz, Acting Chief, Division of Conservation Planning and Policy, National Wildlife Refuge System (703) 358–1744.

SUPPLEMENTARY INFORMATION: In a **Federal Register** notice dated January 16, 2001 (66 FR 3668) we published draft policies for: National Wildlife Refuge System: Mission, Goals, and Purposes; Appropriate Refuge Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997; Wildlife-Dependent Recreational Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997; and Wilderness Stewardship Policy Pursuant to the Wilderness Act of 1964. These policies, affecting management and use of the National Wildlife Refuge System, represent the culmination of our initial policy development in response to the landmark National Wildlife Refuge System Improvement Act of 1997.

In a subsequent **Federal Register** notice dated March 15, 2001 (66 FR 15136) we extended the comment period until April 19, 2001 to ensure that the public had an adequate opportunity to review and comment on our draft policy.

To allow for continued discussion with the States on these policies, we are reopening the comment period for an additional 30 days.

Dated: April 30, 2001.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 01–12215 Filed 5–14–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–070–7122ES–839G; NMNM 104467]

Notice of Realty Action—Recreation and Public Purpose (R&PP) Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described public land in San Juan County, New Mexico has been examined and found suitable for classification for lease/conveyance to Farmington Municipal School under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*). Farmington School proposes to use the land for an elementary, a middle school, and a satellite transportation yard.

T. 29 N., R. 12 W.,
Sec. 2, lot 7;
Sec. 10, lot 1;
Sec. 11, lot 4.
Containing 116.14 acres, more or less.

Comment Dates: On or before June 29, 2001. Interested parties may submit comments regarding the proposed classification/conveyance of the lands to the Bureau of Land Management at the following address. Any adverse comments will be reviewed by the Field Manager, Bureau of Land Management (BLM), 1235 La Plata Highway, Suite A, Farmington, NM 87401, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action becomes the final determination of the Department of the Interior and 60 days from date of publication.

FOR FURTHER INFORMATION CONTACT: Information related to this action, including the environmental assessment, is available for review at the Bureau of Land Management, Farmington Field Office, at the above address.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. The segregative effect will terminate upon issuance of the patent to Farmington Municipal School, or two (2) years from the date of this publication, whichever occurs first.

The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Reservation to the United States of a right-of-way for ditches and canals in accordance with 43 U.S.C. 945.

2. Reservation to the United States of all minerals.

3. All valid existing rights, e.g. rights-of-way and leases of record.

4. Provisions that if the patentee or its successor attempts to transfer title to or control over the land to another or the land is devoted to a use other than that for which the land was conveyed, without the consent of the Secretary of the Interior or his delegate, or prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors, including without limitation, lessees, sublessees and permittees, to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities whereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United States.

The lands are not needed for Federal purposes. Lease/conveyance is consistent with current BLM land use planning and would be in the public interest.

Dated: April 30, 2001.

Joel E. Farrell,

Assistant Field Manager for Resources.

[FR Doc. 01–12154 Filed 5–14–01; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1610–00]

Intent To Prepare a Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS) for McGregor Range in Otero County, New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Prepare a Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS) for McGregor Range, New Mexico and Notice of Scoping Meetings.

SUMMARY: Pursuant to Section 102 (2)(C) of the National Environmental Policy Act (NEPA) of 1969, Council on Environmental Quality (CEQ) regulations (40 CFR 1500–1508), and the Federal Land Policy and Management Act (FLPMA) of 1976, the BLM, Las Cruces Field Office will direct preparation of an RMPA/EIS by URS Corporation, a qualified consultant. The RMPA/EIS will address BLM's management of the withdrawn public land within McGregor Range in Otero County, New Mexico. The RMPA/EIS shall identify areas for limited, restricted, or exclusive uses; levels of resource production; allowable resource uses; resource condition objectives; program constraints; and general management direction.

The BLM will conduct two public scoping meetings to solicit input from the public. The dates, times, and locations for these meetings are as follows:

Date	Location
Wednesday June 20, 2001, 6:30 p.m. to 8:30 p.m.	Otero County Courthouse, Commission Chambers, Room 253, 1000 New York Ave., Alamogordo, New Mexico.
Thursday, June 21, 2001, 6:30 p.m. to 8:30 p.m.	BLM—Las Cruces Field Office, 1800 Marquess Las Cruces, New Mexico.

DATES: Written comments will be accepted through July 5, 2001.

ADDRESSES: Comments should be sent to: Tom Phillips, BLM, Las Cruces Field Office, 1800 Marquess, Las Cruces, NM 88005.

FOR FURTHER INFORMATION CONTACT: Tom Phillips, Team Leader, at (505) 525–4377 or Amy Lueders, Field Manager at (505) 525–4300.

SUPPLEMENTARY INFORMATION: In 1999 Congress passed the Military Lands Withdrawal Act (PL 106–65) which withdrew large tracts of public land for military purposes. PL 106–65 included the withdrawal of approximately 608,000 acres on McGregor Range in Southern New Mexico. The legislation directed the Secretary of the Interior to manage the natural resources on McGregor Range under FLPMA and to develop a management plan within two years of the law's enactment. The planning area will include withdrawn public land on McGregor Range in Otero County, encompassing approximately 608,000 acres administered by BLM. The BLM, will work in concert with the U.S. Army, Ft. Bliss, which will participate as a cooperating agency for the development of the RMPA/EIS.

It is anticipated that the RMPA/EIS process will require 18 months to complete and will include public and agency scoping, coordination and consultation with Federal, State, tribal, and local agencies, public review and public hearings on the published draft RMPA/draft EIS, a published proposed RMPA/final EIS, published Record of Decision, and Plan Amendment. Publication of the Record of Decision is anticipated in November, 2002.

The BLM Interdisciplinary team that will be developing this RMPA/EIS will include specialists with expertise in: soils, geology, vegetation, wildlife, livestock grazing, recreation, cultural/paleontology, and fire ecology.

BLM public information and scoping will include notification to the public and Federal, state, tribal, and local agencies of the proposed action; identification by the public of the range of issues and concerns to be considered in the EIS; development of planning criteria; and the solicitation of assistance from the public to identify reasonable alternatives. In addition, the public will have the opportunity to ask questions regarding the proposed project at scheduled public scoping meetings (see SUMMARY section of this notice).

Written comments should address: (1) Issues to be considered, (2) if the planning criteria are adequate for the issues, (3) feasible and reasonable alternatives to examine, and (4) relevant information having a bearing on the RMPA/EIS. BLM will maintain a mailing list of parties and persons interested in being kept informed about the progress of the RMPA/EIS. Documents relevant to this planning effort will be available for public review at the BLM Las Cruces Field Office located at 1800 Marquess, Las Cruces, New Mexico.

A range of reasonable alternatives, including an alternative considering no action as required by NEPA, will be developed and analyzed in the EIS. Through scoping, the public will assist in developing alternatives. The results of scoping will be sent to all those on the mailing list for this project in a newsletter or scoping report. Following an in-depth analysis of the impacts associated with the alternatives analyzed, one alternative will be selected as the agency-preferred alternative. The agency-preferred alternative will be identified in a draft RMPA/draft EIS scheduled to be released in the fall of 2001. Once the draft is released additional public review will be announced through the media and a **Federal Register** notice.

Anticipated Issues and Concerns

The anticipated Issues/Concerns include the following:

1. *Soil and Water:* Stream Channel Conditions; Water Quality; Water Quantity/Supply.

2. *Vegegation:* Management of Grassland Habitat; Noxious/Invasive Weeds.

3. *Visual Resources:* VRM classifications.

4. *Special Status Species:* Aplomado Falcon, Mountain Plover, and Black-tailed Prairie Dog.

5. *Fire Management:* Fire Control; Prescribed Fire.

6. *Livestock Grazing.*

7. *Recreation:* Public Access; Off Highway Vehicle management.

8. *Minerals:* Fluid Minerals; Solid Minerals.

9. Unexploded Ordinance (UXO)/Hazardous Materials.

Preliminary planning criteria for guiding the development of the RMPA/EIS include the following:

1. BLM resource management actions shall be compatible and consistent with military use in accordance with the Withdrawal Act, and must comply with all applicable laws, executive orders and regulations.

2. Clarify BLM and Fort Bliss management responsibilities on McGregor Range.

3. In each action, the resource outputs must be reasonable and achievable with available technology and budget constraints.

4. All BLM resource management actions on these withdrawn lands must be compatible with the principles of multiple-use and sustained yield.

5. Provide for public access to and across McGregor Range.

6. Provide for mineral development.

7. Identify water use needs and any impacts on existing water resources.

8. Identify the Sub-basins for McGregor Range and use it as the organization framework for the water resources discussion.

9. Maintain or improve vegetation conditions.

10. Identify any infestations of noxious/invasive weeds and provide for management alternatives to deal with existing and potential problems.

11. Provide for the harvesting of vegetation products.

12. Provide for the protection and management of the sensitive, State-listed, and Federally-listed plant and animal species.

13. Provide for livestock grazing.

14. Provide for the protection and management of wildlife habitat.

15. Identify any impacts of predator management.

16. Provide for hunting in concert with biological cycles.

17. Provide for recreational uses.

18. Establish off-highway vehicle designations.

19. Maintain or enhance visual quality.

20. Provide for the management of cultural and paleontological resources.

21. Continue to provide for the management of the Culp Canyon Wilderness Study Area under Interim Management Policy procedures pending Congressional determination.

In addition to the scoping taking place now, public participation will include consultation with affected users, and other agencies, meeting with interested groups and individuals, media notices, **Federal Register** notices, public meetings, and distribution of the draft RMPA/draft EIS and the proposed RMPA/final EIS.

Dated: May 2, 2001.

M. J. Chávez,

State Director.

[FR Doc. 01–12155 Filed 5–14–01; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1910–00; NMNM35829]

Legal Description for McGregor Range Withdrawal; New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: This notice provides official publication of the legal description for the McGregor Range Withdrawal in New Mexico, as required by Section 3012(a)(1) of the Military Lands Withdrawal Act of 1999 (Public Law 106–65), enacted October 5, 1999. This withdrawal covers the same public land as was withdrawn previously under Public Law 99–606, which was enacted on November 6, 1986.

FOR FURTHER INFORMATION CONTACT: Tom Phillips, Team Leader, at (505) 525–4377 or Amy Lueders, Field Manager at (505) 525–4311, BLM Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico 88005.

SUPPLEMENTARY INFORMATION: The public land withdrawn under Public Law 106–65 encompasses approximately 608,385 acres in Otero County, New Mexico. This land is accurately described under a previous **Federal Register** dated Wednesday, May 20, 1987 (Vol. 52, No. 97, pages 18960 through 18963) and **Federal Register** Correction Notices dated Friday, June 12, 1987 (Vol. 52, No. 113, page 22577) and Monday, July 13, 1987 (Vol. 52, No. 133, pages 26188 through 26189).

Dated: April 23, 2001.

Amy L. Lueders,

Field Manager, Las Cruces.

[FR Doc. 01–12153 Filed 5–14–01; 8:45 am]

BILLING CODE 4310–VC–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1315]

Missing and Exploited Children's Program Proposed Program Plan for Fiscal Year (FY) 2001

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of proposed program plan for Missing and Exploited Children's Program for FY 2001.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing its Missing and Exploited Children's Program Proposed Program Plan for FY 2001 and soliciting public comment on the overall plan and priorities. After analyzing the public comments on this Proposed Program Plan, OJJDP will issue its final FY 2001 Missing and Exploited Children's Program Plan.

DATES: Comments must be received on or before July 16, 2001.

ADDRESSES: Comments should be mailed to John J. Wilson, Acting Administrator, Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Ronald C. Laney, Director, Child Protection Division, 202–616–3637. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Missing and Exploited Children's Program is administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Pursuant to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, section 406(a)(2), 42 U.S.C. 5776, the Administrator of OJJDP is publishing for public comment a Proposed Program Plan for activities authorized by Title IV of the JJDP Act, the Missing Children's Assistance Act, 42 U.S.C. 5771 *et seq.*, that OJJDP proposes to initiate or continue funding in FY 2001. Taking into consideration comments received on this Proposed Program Plan, the Administrator will develop and publish a Final Program Plan describing the program activities OJJDP intends to fund during FY 2001 using Title IV funds.

Other than solicitations for programs specified by Congress, notices of solicitations for competitive grant applications described in the Final Program Plan will be published in the **Federal Register** at a later date. No

proposals, concept papers, or other types of applications should be submitted in response to this proposed plan.

Background

For the purposes of Title IV, the term "missing children" refers to children who have been abducted by either a family or nonfamily member and includes children who have been abducted within the United States and those who have been abducted from the United States and taken to or illegally retained in a foreign country. The term "child exploitation" refers to any criminal activity that focuses on children as sexual objects and includes sexual abuse, child pornography, and prostitution.

Introduction to the Fiscal Year 2001 Proposed Program Plan

In 1984, Congress enacted the Missing Children's Assistance Act, which established the Missing and Exploited Children's Program (MECP) within OJJDP. Under the Act, OJJDP is responsible for coordinating Federal missing and exploited children activities, providing a national resource center and clearinghouse, and supporting research, training, technical assistance, and demonstration programs to enhance the overall response to missing children and their families.

In FY 2000, OJJDP's Missing and Exploited Children's Program made significant advances in the course of meeting its responsibilities to provide services to children, parents, educators, prosecutors, law enforcement, and other professionals and interested persons working on child safety issues. Some of the notable accomplishments are summarized below.

MECP's Team Hope Program developed and published an informational brochure and doubled its cadre of specially trained parents who help guide families searching for their children. In FY 2000, the program provided advice, mentoring, and information about existing resources to more than 800 families.

OJJDP chairs the Federal Agency Task Force on Missing and Exploited Children as part of its coordination responsibilities. In FY 2000, the task force continued to focus on enhancing and coordinating the Federal response to international child abductions. The task force is developing a parent-to-parent guide, which provides important information to families seeking the return of children abducted to or illegally retained in foreign countries, and a publication to guide law enforcement officers in investigating international parental abductions. Both publications are expected to be available in spring 2001.

In FY 2000, OJJDP's Internet Crimes Against Children Task Force (ICAC Task Force) added 20 new regional task forces and is now providing forensic, investigative, and prevention services in 31 States. Under this program, State and local law enforcement agencies develop multijurisdictional and multiagency responses to online victimization of children. Since this program was developed in 1998, task force agencies have arrested more than 250 offenders, identified hundreds of investigative targets, seized more than 500 computers, provided training to more than 3,800 prosecutors and law enforcement officers, and reached thousands of children, parents, and educators with information about safe online practices for children and teenagers.

In FY 2000, the National Center for Missing and Exploited Children's (NCMEC's) CyberTipline reached the 20,000-report mark and played an increasingly important role in ensuring that reports of suspicious online activity from children, parents, and private citizens were received by the appropriate law enforcement agencies. In partnership with OJJDP, NCMEC hosted a national investigative planning session and provided two week-long policy orientation seminars for the new ICAC Task Forces. NCMEC also expanded its Protecting Children Online training program with a course tailored to the specific needs of State and local prosecutors and provided training for more than 700 law enforcement managers and investigators regarding online crimes against children.

In FY 2000, through a cooperative agreement with Fox Valley Technical College (FVTC), OJJDP provided training or technical assistance to more than 4,500 prosecutors and law enforcement, social services, and health and family services professionals. FVTC integrates current research, state-of-the-art practice and knowledge, and new technologies into courses designed to increase skills and abilities, enhance service coordination and delivery, and improve the investigation and handling of missing and exploited children cases. FVTC also provided specialized technical assistance to State and local practitioners and juvenile justice agencies relating to Internet crimes against children, information sharing, response planning, child protection legislation, and multidisciplinary team development. In FY 2000, FVTC also completed development of a new child fatality investigative course to improve the way child deaths are investigated.

Finally, the Deputy Attorney General participated in the annual Missing Children's Day Ceremony to commemorate America's missing children and to recognize extraordinary efforts by law enforcement officers working to reunite children and their families. The NCMEC Law Enforcement Officer of the Year Award was presented to Captain David Bailey from the Lancaster, Ohio, Police Department.

Fiscal Year 2001 Programs

In FY 2001, OJJDP proposes to continue its concentration on programs that are national in scope and that promote awareness of and enhance the Nation's response to missing and exploited children and their families. While funds are not available for new program initiatives in FY 2001, OJJDP is interested in obtaining input from the field on program and service needs that will assist in its planning for both FY 2001 and future programming.

Continuation Programs

FY 2001 Title IV continuation programs are summarized below. Available funds, implementation sites, and other descriptive information are subject to change based on the plan review process, grantee performance, application quality, fund availability, and other factors. No additional applications will be solicited for any of these programs in FY 2001.

National Resource Center and Clearinghouse

In FY 2001, Congress provided funding to continue and expand the programs, services, and activities of the National Center for Missing and Exploited Children, a national resource center and clearinghouse dedicated to missing and exploited children and their families. As provided in Title IV, the functions of the Center include the following activities:

- Provide a toll-free hotline (1–800–843–5678) where citizens can report investigative leads and parents and other interested individuals can receive information about missing children.
- Provide technical assistance to parents, law enforcement, and other agencies working on missing and exploited children issues.
- Promote information sharing and provide technical assistance by networking with regional nonprofit organizations, State missing children clearinghouses, and law enforcement agencies.
- Develop publications that contain practical, timely information.

- Provide information regarding programs offering free or low-cost transportation services that assist in reuniting children with their families.

In FY 2000, NCMEC's toll-free hotline received approximately 103,000 calls ranging from citizens reporting information about missing children to requests from parents and law enforcement for information and publications. NCMEC also assisted in the recovery of hundreds of children, disseminated millions of missing children photographs, and sponsored a national training workshop for State missing children clearinghouses and relevant nonprofit organizations. NCMEC also assists the State Department in carrying out its Hague Convention responsibilities by processing incoming applications for children abducted to the United States and broadening its efforts to recover American children abducted to foreign countries. Both law enforcement and parents may contact NCMEC for assistance in locating missing children who may have been trafficked. NCMEC also provides general advice and information to parents who need help getting started in the search for a missing child, which may include children trafficked into the sex industry.

In FY 2000, NCMEC continued to perform the national resource center and clearinghouse functions and broadened the Protecting Children Online training program with a new course for prosecutors. NCMEC and the University of New Hampshire also released a research report pertaining to the frequency and prevalence of young people receiving unwanted sexual solicitations or being unwillingly exposed to pornography via the Internet.

Funding will be provided to NCMEC in FY 2001 to continue the functions of the national resource center and clearinghouse and operation of the Jimmy Ryce Law Enforcement Training Center which provides training to improve investigative responses to missing children cases.

Internet Crimes Against Children Regional Task Force Program

In FY 2000, 20 new awards were made to jurisdictions competing to participate in the ICAC Task Force program. The following agencies received regional ICAC Task Force awards: Massachusetts Department of Public Safety; Michigan State Police; Seattle, Washington, Police Department; Utah Office of the Attorney General; Nebraska State Patrol; Connecticut State Police; Maryland State Police; Clark County, Nevada (Las Vegas Metropolitan Police Department); Delaware County, Pennsylvania, Office of Prosecuting Attorney; Knoxville, Tennessee, Police Department; Alabama Department of Public Safety; Cuyahoga County, Ohio Office of Prosecuting Attorney; Hawaii Office of the Attorney General; North Carolina Division of Criminal Investigation; Oklahoma State Bureau of Investigation; Phoenix, Arizona, Police Department; Saint Paul, Minnesota, Police Department; San Diego, California, Police Department; Sedgewick County, Kansas, Sheriff's Department; and the Wyoming Division of Criminal Investigation.

Other FY 2000 ICAC Task Force program activities included partnering with SEARCH Group, Inc., of Sacramento, CA, to develop and deliver a hands-on investigative course and a national 3-day training workshop focusing on emerging technology and its relevance to criminal activities and ICAC investigative efforts. Also in FY 2000, OJJDP introduced the Investigative Satellite Initiative (ISI), which broadens the impact of the ICAC Task Force program by building the forensic and investigative capacities of State and local law enforcement agencies. Under the ISI program, agencies lacking the resources to commit to full-time regional task forces may still acquire OJJDP funds to train and equip local officers to respond to child pornography and cyber-enticement cases.

In FY 2001, OJJDP will continue to fund the 30 regional ICAC Task Forces and plans to make up to 35 new ISI awards.

Missing and Exploited Children Training and Technical Assistance Program

In FY 1998, Fox Valley Technical College (FVTC) was competitively awarded a cooperative agreement to provide training and technical assistance to law enforcement, prosecutors, and health and family services professionals. The purpose of this program is to ensure the provision of up-to-date, practical training and technical assistance to professionals working on missing and exploited children issues. Training focuses on investigative techniques, interview strategies, comprehensive response planning, media relations, case management, and other topics related to missing and exploited children cases.

Under the Missing and Exploited Children Training and Technical Assistance Program, FVTC offers five courses: Child Abuse and Exploitation Investigative Techniques, Child Abuse and Exploitation Team Investigation Process, Child Sexual Exploitation Investigations, Missing and Exploited Children, and Responding to Missing and Abducted Children. FVTC also provides technical assistance and support to the Federal Agency Task Force on Missing and Exploited Children and its related subcommittees; develops documents and publications relating to missing and exploited children; convenes special focus groups or meetings to facilitate communication and problem solving among youth service workers and professionals at the Federal, State, and local levels; and performs special projects as directed by OJJDP. These projects include designing response protocols for missing and exploited children cases, assisting communities to formulate policies and procedures, and reviewing child protection legislation. In FY 2001, FVTC will continue to provide training and technical assistance services related to missing and exploited children issues. No additional applications will be solicited in FY 2001.

Alzheimer's Disease and Related Disorders Association's Safe Return Program

Since FY 1992, OJJDP has awarded funds to the Safe Return Program of the Alzheimer's Disease and Related Disorders Association of Chicago, IL. This program facilitates the identification and safe return of memory-impaired individuals who are at risk of wandering from their homes. In FY 2000, the Safe Return Program increased its registration database to more than 53,000 individuals and assisted in the return of 980 wanderers.

In FY 2001, the program will continue the national registry program and the 24-hour toll-free hotline. In addition, the Safe Return Program will expand training and technical assistance efforts focusing on law enforcement and emergency personnel.

National Crime Information Center (NCIC)

OJJDP proposes to continue to transfer funds to the Department of Justice's Justice Management Division through a reimbursable agreement to continue NCMEC's online access to the Federal Bureau of Investigation's National Crime Information Center's (NCIC's) Wanted and Missing Persons files. The ability to verify NCIC entries, communicate with law enforcement through the Interstate Law Enforcement Telecommunication System, and be notified of life-threatening cases through the NCIC flagging system is crucial to NCMEC's mission of providing advice and technical assistance to law enforcement.

National Incidence Studies of Missing, Abducted, and Thrownaway Children (NISMART 2)

Under the Missing Children's Assistance Act, OJJDP is required to conduct periodic studies of the scope of the problem of missing children in the United States. The first national study was completed in 1988, with results published in 1990. In FY 1995, OJJDP funded NISMART 2, the second national study of missing, abducted, runaway, and thrownaway children in the United States. Temple University received funding in FY 1995 to conduct this study, which builds on the strengths and addresses some of the weaknesses of the initial NISMART study. Temple contracted with the University of New Hampshire Survey Research Laboratory and Westat, Inc., to carry out specific components of the study. The NISMART 2 study is (1) revising and enhancing NISMART 1 definitions, (2) surveying approximately 23,000 households by telephone to determine how many children are missing on an annual basis, (3) surveying law enforcement agencies to determine the annual frequency of child abductions, (4) surveying approximately 10,000 youth by telephone to understand what happens during missing children episodes, (5) interviewing directors of residential facilities and institutions to determine how many residents run away, and (6) analyzing data on thrownaway children from a related survey of community professionals. The findings from this study will provide updated estimates on the number of missing children each year in the United States. Preliminary findings will be available in late 2001, and a final report will be completed in FY 2002. An OJJDP Bulletin documenting the scope of the research, definition revisions, and methodology changes was published in FY 2000.

OJJDP support for NISMART 2 will continue in FY 2001. No additional applications will be solicited in FY 2001.

Parent Resource Support Network (Team Hope)

In FY 1997, OJJDP competitively awarded a cooperative agreement to Public Administration Services (PAS) to develop and maintain a parent support network, known as Team Hope. The goal of this project is to stimulate development of a network of screened and trained parent volunteers to provide assistance and advice to other parents searching for their children.

In FY 2001, PAS will train additional parent volunteers, continue to provide mentoring services to families searching for their missing children, and expand services to parents searching for children abducted to or illegally retained in foreign countries. No additional funding will be provided in FY 2001.

Jimmy Ryce Law Enforcement Training Center Program

In FY 1997, OJJDP, in partnership with NCMEC and the FBI, and under a grant to Fox Valley Technical College, developed and implemented the Jimmy Ryce Law Enforcement Training Center (JRLETC) program. JRLETC offers two law enforcement training tracks that are designed to improve the national investigative response to missing children cases.

JRLETC's Chief Executive Officer (CEO) seminars approach missing children cases from a management perspective and offer information about coordination and communication issues, resource assessment, legal concerns, and policy development for police chiefs and sheriffs. The Responding to Missing and Abducted Children (REMAC) course offers modules focusing on investigative techniques for all aspects of missing children cases. In FY 2000, 424 police chiefs and sheriffs and 409 investigators participated in at least one of the JRLETC programs.

Congress appropriated additional funds in FY 2001 to continue operation of the Jimmy Ryce Law Enforcement Training Center. OJJDP, NCMEC, the FBI, and FVTC will continue to provide training and technical assistance through the JRLETC and the onsite technical assistance program to respond to the numerous requests for assistance from JRLETC graduates.

Under the JRLETC appropriation, OJJDP will award continuation funding to FVTC to support regional REMAC courses, with additional funds supporting NCMEC's CEO seminars and onsite technical assistance program.

Association of Missing and Exploited Children's Organizations

OJJDP provides funds to the Association of Missing and Exploited Children's Organizations (AMECO) to improve—at the State and local levels—the quality, availability, and coordination of services provided to missing and exploited children and their families and to improve the capacity and capabilities of missing children nonprofit organizations. Although many AMECO member agencies serve parents and children who are the victims of domestic abduction, few are trained or equipped to provide specialized services to those involved in international abductions. Until recently, little attention has been given to the need to coordinate with local service providers and expand their services for children and their families.

In FY 2001, OJJDP proposes to provide additional funds to AMECO to hire full-time staff to support the expansion of services for parental abduction cases, provide parent-to-parent mentoring, support bi-annual meetings, and develop and disseminate written protocols, policies, procedures, and standards for nonprofit organizations for both domestic and international parental abduction cases.

No additional applications will be solicited in FY 2001.

National Center on Child Fatality Review

In FY 1997, OJJDP awarded a grant to the National Center on Child Fatality Review (NCCFR) in Los Angeles, CA, to develop State and local uniform reporting definitions and generic child fatality review team protocols for consideration by communities working on enhancing the investigation of child deaths.

NCCFR developed a model for integrating data among the Criminal Justice, Vital Statistics, and Social Services Child Abuse Indices. NCCFR also selected a National Advisory Board, which is composed of representatives from across the country and from relevant disciplines.

In FY 2001, OJJDP will provide continued support to NCCFR to continue its information dissemination and technical assistance activities related to child fatality investigations. No additional applications will be solicited in FY 2001.

Investigative Case Management for Missing Children Homicides

In FY 1993, OJJDP awarded a competitive grant to the Washington State Attorney General's Office (WAGO) to analyze the solvability factors of missing children homicide investigations. During the course of that research, WAGO collected and analyzed the specific characteristics of more than 550 missing child homicide cases. These characteristics were recorded in WAGO's child homicide database.

In FY 2000, WAGO identified additional cases to be included in the database and began the interview data collection process. In FY 2001, OJJDP proposes to continue to provide funding support to WAGO to ensure the vitality and investigative relevance of its child homicide database. This funding will support continued data collection, database maintenance, and case consultation activities. The database information is available to Federal, State, and local law enforcement agencies to help them identify cases with similar characteristics. Law enforcement database inquiries can be made by calling WAGO at 800–345–2793.

No additional funding will be provided in FY 2001.

FBI Child Abduction and Serial Killer Unit

In FY 1997, OJJDP entered into an interagency agreement with the FBI's Child Abduction and Serial Killer Unit (CASKU) to expand research to broaden law enforcement's understanding of homicidal pedophiles' selection and luring of their victims, their planning activities, and their efforts to escape prosecution. This information is being used by the FBI and OJJDP in training and technical assistance programs. FY 2000 activities included refining the interview protocol, identifying incarcerated offenders who met requirements of the research criteria, conducting field tests of the interview protocol, and starting the interviews.

In FY 2001, CASKU will enhance data collection efforts and continue data analysis.

National Child Victimization Conference Support

In FY 2001, OJJDP will provide funding support to national conferences focusing on child abduction, exploitation, and victimization issues. These conferences frequently include workshops on child prostitution. This funding support will include conferences sponsored by the National Children's Advocacy Center, Dallas Police Department and Children's Advocacy Center, the American Professional Society on the Abuse of Children, and the San Diego Child Maltreatment Conference.

Dated: May 9, 2001.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–12116 Filed 5–14–01; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIME: May 23, 2001: 12 Noon–12:30 p.m.—Closed Session. May 24, 2001: 1 p.m.–2:15 p.m.—Closed Session. May 24, 2001: 2:15 p.m.–5 p.m.—Open Session.

PLACE: The National Science Foundation, Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230, www.nsf.gov/nsb.

STATUS: Part of this meeting will be closed to the public. Part of this meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Wednesday, May 23, 2001

Closed Session (12 Noon–12:30 p.m.)

—Closed Session Minutes, March, 2001
—Election, NSB Executive Committee

Thursday, May 24, 2001

Closed Session (1 p.m.–2:15 p.m.)

—Awards and Agreements
—NSF Budget

Open Session (2:15 p.m.–5 p.m.)

—Presentations: Honorary Awards Recipients
—Open Session Minutes, March, 2001
—Closed Session Items for August, 2001
—Chairman's Report
—Director's Report
—NSB Annual Business
—Committee Reports
—Other Business

Marta Cehelsky,

Executive Director.

[FR Doc. 01–12386 Filed 5–11–01; 3:39 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to the Facility Operating License (FOL) Nos. DPR–70 and DPR–75 issued to PSEG Nuclear LLC (the licensee) for operation of Salem Nuclear Generating Station (Salem), Unit Nos. 1 and 2. The facility is located at the licensee's site on the southern end of Artificial Island in Lower Alloways Creek Township, Salem County, New Jersey. Salem, New Jersey is located approximately 7.5 miles northeast of the site.

Environmental Assessment

Identification of the Proposed Action

The proposed license amendment would revise the FOL and Technical Specifications (TS) of Salem, Unit Nos. 1 and 2, to allow the licensee to increase the licensed core power level of each unit from 3,411 megawatts thermal (MWt) to 3,459 MWt, which represents a 1.4 percent increase in the allowable thermal power. Salem Unit No. 1 was granted conditional authorization for power production by its FOL issued on August 13, 1976. The conditions provided a sequential approach to full power with NRC approval at various stages. Full power operation of Unit No. 1 at 3,338 MWt core power was authorized by letter dated April 6, 1977. Amendment No. 71 to the original FOL was issued on February 6, 1986, which authorized a power uprate for Unit No. 1 to 3,411 MWt. Salem Unit No. 2 was authorized for power production at 3,411 MWt with issuance of the FOL on May 20, 1981. In addition to the power uprate, the proposed license amendment would allow the licensee to remove Attachment 1 from the Unit No. 1 FOL, and to make editorial changes to the TS Bases.

The proposed action is in accordance with the licensee's application for license amendment dated November 10, 2000, as supplemented by letters dated December 5, 2000, March 28 and April 2, 2001, and April 20, 2001 (LRN–01–0099, LRN–01–0115, and LRN–01–0123).

The Need for the Proposed Action

The proposed action will allow an increase in power generation at Salem, Unit Nos. 1 and 2 to provide additional electrical power for distribution to the grid. In certain circumstances power uprate has been recognized as a safe and cost-effective method to increase generating capacity.

The proposed action also will allow the removal of Attachment 1 from the Salem Unit No. 1 FOL and editorial changes to the TS Bases. Attachment 1 to the Salem Unit No. 1 FOL identifies incomplete preoperational tests, startup tests and other items which were required to be completed before proceeding to certain specified Operational Modes during the initial full power startup of Salem Unit No. 1. The NRC authorized full power operation of Salem Unit No. 1 by letter dated April 6, 1977; therefore, the requirements identified in the attachment are no longer applicable. Editorial changes will provide corrections to references and typographical errors.

Environmental Impacts of the Proposed Action

The environmental impact associated with operation of Salem, Unit Nos. 1

and 2, has been previously evaluated by the U.S. Atomic Energy Commission in the "Final Environmental Statement Related to Operation of Salem Nuclear Generating Station, Units 1 and 2," dated April 1973. In this evaluation, the staff considered the potential doses due to postulated accidents for the site, at the site boundary, and to the population within 50 miles of the site. With regard to the consequences of postulated accidents, the licensee has reevaluated the current licensing basis analyses in its application for license amendment and determined the doses estimated in existing evaluations to remain bounding for the proposed 1.4% power uprate. No increase in the probability of these accidents is expected to occur. The removal of Attachment 1 from the Salem Unit No. 1 FOL and editorial changes to the TS Bases will not impact the probability or consequences of any postulated accidents.

With regard to normal releases, the current licensing basis analyses estimates the dose received inside and outside containment during normal operation based on 3,558 MWt core power. Therefore, the proposed 1.4% power uprate to 3,459 MWt core power is bounded by the current analyses and the offsite doses from normal effluent releases remain significantly below the bounding limits of Title 10 of the Code of Federal Regulations (10 CFR), Part 50, Appendix I. Normal annual average gaseous releases remain limited to a small fraction of 10 CFR Part 20 limits for identified mixtures. In addition, the solid and liquid waste production may increase slightly; however, the waste production assumed in the analyses for normal operations at 3,558 MWt core power will bound the waste production expected for the power uprate. Solid and liquid waste processing systems are expected to operate within their design requirements. The removal of Attachment 1 from the Salem Unit No. 1 FOL and editorial changes to the TS Bases will not cause an increase in the on site and off site radiation exposure or in the amount of waste produced and released during normal operations.

The staff has completed its evaluation of the proposed action and concludes that the proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. With regard to thermal discharges to the Delaware River estuary, Appendix B to FOL Nos. DPR–70 and DPR–75, "Environmental Protection Plan," states that "[e]nvironmental concerns identified in the FES–OL [Final Environmental Statement—Operating License Stage (dated April 1973)] which relate to water quality matters are regulated by way of the licensee's NJPDES [New Jersey Pollution Discharge Elimination System] permit." The current NJPDES Permit imposes limits on Circulating Water System (CWS) flow to a 30-day average of 3,024 million gallons per day. In addition, the NJPDES limits the temperature of the discharged water to 115 °F between June 1 and September 30, and 110 °F for the remainder of the year. Also, the maximum permissible differential temperature of the water discharged from Salem, Unit Nos. 1 and 2, is 27.5 °F. The licensee stated that normal discharge water differential temperature is approximately 15 °F, and that the increase in temperature of the water discharged to the Delaware River resulting from the power uprate to 3,459 MWt core power will be approximately 0.3 °F. Existing administrative controls will ensure the conduct of adequate monitoring such that appropriate actions can be taken to preclude exceeding the limits imposed by the NJPDES.

The removal of Attachment 1 from the Salem Unit No. 1 FOL and editorial changes to the TS Bases will not impact thermal discharges to the Delaware River. No additional requirements or other changes are required as a result of the power uprate and the associated FOL and TS changes.

No other nonradiological impacts are associated with the proposed action.

Based upon the above, the staff concludes that the proposed action does not significantly affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Salem Nuclear Generating Station.

Agencies and Persons Consulted

In accordance with its stated policy, on May 1, 2001, the staff consulted with the New Jersey State official, Mr. R. Pinney of the New Jersey Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated November 10, 2000, as supplemented by letters dated December 5, 2000, March 28 and April 2, 2001, and three letters dated April 20, 2001 (LRN–01–0099, LRN–01–0115, and LRN–01–0123). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 8th day of May 2001.

For the Nuclear Regulatory Commission.

Robert J. Fretz,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–12191 Filed 5–14–01; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (*http://www.pbgc.gov*).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in May 2001. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in June 2001.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the "applicable percentage" (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the "premium payment year"). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in May 2001 is 4.80 percent (*i.e.*, 85 percent of the 5.65 percent yield figure for April 2001).

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between June 2000 and May 2001.

For premium payment years beginning in:	The assumed interest rate is:
June 2000	5.23
July 2000	5.04
August 2000	4.97
September 2000	4.86
October 2000	4.96
November 2000	4.93
December 2000	4.91
January 2001	4.67
February 2001	4.71
March 2001	4.63
April 2001	4.54
May 2001	4.80

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in June 2001 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 8th day of May 2001.

Joseph H. Grant,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–12199 Filed 5–14–01; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44271; File No. SR–Amex–2001–20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Implementation of "Interim Linkages"

May 7, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 21, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On April 27, 2001, the Exchange filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to adopt Amex Rule 940 providing for the implementation of "interim linkages" with the other option exchanges.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to implement certain aspects of an intermarket options linkage on an "interim" basis.[5] This interim linkage would utilize existing systems to facilitate the sending and receiving of order flow between Amex specialists

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Claire P. McGrath, Vice President and Special Counsel, Derivative Securities, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated April 26, 2001 ("Amendment No. 1"). In Amendment No. 1, the Exchange requested that the proposed rule change be considered a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act, which renders the proposal effective upon receipt of this filing by the Commission, and requested that the Commission accelerate the operative date of the proposal. In addition, the Exchange amended proposed Amex Rule 940(a)(6), which defines "eligible order," to include a reference to subparagraph (d) of the proposed rule.

[4] On January 30, 2001, the Commission approved similar proposals submitted by the Chicago Board Options Exchange, Inc. ("CBOE") and the International Securities Exchange LLC ("ISE"). *See* Securities Exchange Act Release No. 43904 (January 30, 2001), 66 FR 9112 (February 6, 2001). On February 20, 2001, the Commission issued a notice of filing and immediate effectiveness of a similar proposal submitted by the Pacific Exchange, Inc. ("PCX"). *See* Securities Exchange Act Release No. 43986 (February 20, 2001), 66 FR 12578 (February 27, 2001).

[5] Under the proposal, the interim linkage would be for a pilot period expiring on January 31, 2002.

and their counterparts on the other option exchanges as an interim step towards development of a "permanent" linkage.

The Commission has approved a linkage plan that now includes all five option exchanges.[6] The option exchanges continue to work towards implementation of this linkage. However, because the implementation may take a significant amount of time, the option exchanges have discussed implementing an "interim" linkage. Such a linkage would use the existing market infrastructure to route orders between market makers on the participating exchanges in a more efficient manner.

The key component of the interim linkage would for the participating exchanges to open their automated customer execution system, on a limited basis, to market maker orders. Specifically, market makers would be able to designate certain orders as "customer" orders, and thus would receive automatic execution of those orders on participating exchanges.

This proposed rule would authorize the Amex to implement bilateral or multilateral interim arrangements with the other exchanges to provide for equal access between market makers on our respective exchanges. The Exchange currently anticipates that the initial arrangements would allow Amex specialists and their equivalents on the other exchanges, when holding customer orders, to effectively send those orders to the other market for execution when the other market has a better quote. Such orders would be limited in size to the lesser of the size of the two markets' automatic execution size for customer orders. The interim linkage may be expanded to include limited access principal orders (*i.e.*, when the market maker is not holding a customer order), for orders of no more than 10 contracts. This access for principal orders will allow market makers to attempt to "clear" another market displaying a superior quote.

All interim linkage orders must be "immediate or cancel" (*i.e.*, they cannot be placed on an exchange's limit order book), and a market maker may send a linkage order only when the other (receiving) market is displaying the national best bid or offer and the sending market is displaying an inferior price. This will allow a market maker to access the better price for its customer. Any exchange participating in the interim linkage will implement heightened surveillance procedures to help ensure that their market makers send only properly-qualified orders through the linkage.

Specialist participation in the interim linkage will be voluntary. Only when a specialist and its equivalent on another exchange believe that this form of mutual access would be advantageous will the exchanges employ the interim linkage procedures. The Amex believes that the interim linkage will benefit investors and will provide useful experience that will help the exchanges in implementing the full linkage.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5)[8] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the Exchange as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6).

The Exchange has requested that the Commission accelerate the operative date of the proposal. The Commission finds that it is appropriate to accelerate the operative date of the proposal and designate the proposal to become operative today.[11]

The Commission finds good cause for accelerating the operative date of the proposed rule change. The Commission notes that it has approved similar proposals filed by the ISE and the CBOE.[12] Acceleration of the operative date should enable investors effecting transactions on the Amex to obtain better prices displayed on other exchanges and thus, is consistent with Section 6(b)(5) of the Act.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to SR–AMEX–2001–20 and should be submitted by June 5, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12133 Filed 5–14–01; 8:45 am]

BILLING CODE 8010–01–M

[6] *See* Securities Exchange Act Release Nos. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000); 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); and 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] *See* note 4, *supra*.

[13] 15 U.S.C. 78f(b)(5).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44258; File No. SR–CBOE–2001–20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Prohibition Against Members Functioning as Market Makers

May 4, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 12, 2001, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to adopt a new Rule 6.8C, *Prohibition Against Members Functioning as Market-Makers*, which restricts the entry of certain option limit orders. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

The Exchange proposes to adopt new Rule 6.8C, *Prohibition Against Members Functioning as Market-Makers*, which will restrict the entry of certain option limit orders into the Exchange's electronic Order Routing System ("ORS"). The proposed new rule provides that member firms, acting as either principal or agent, may neither enter nor permit the entry of orders into ORS if the orders are limit orders for the account or accounts of the same beneficial owners and limit orders are entered in such a manner that the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such securities on a regular or continuous basis. In determining whether a beneficial owner effectively is operating as a market-maker, the Exchange will consider, among other things, the simultaneous or near simultaneous entry of limit orders to buy and sell the same security; the multiple acquisition and liquidation of positions in the security during the same day; and the entry of multiple limit orders at different prices in the same security.

The Exchange states that its business model depends upon Designated Primary Market-Makers ("DPMs") and market makers for competition and liquidity. To encourage participation by these market makers, the Exchange needs to limit the ability of members that are not DPMs or market makers to compete on preferential terms within its automated systems. In addition, because customers' orders are provided with certain benefits such as automatic execution, priority of bids and offers and firm quote guarantees, and customers should not be allowed to act as market makers. The proposed rule will prevent non-DPM/market maker members and their customers from reaping the benefits of market making activities without any of the concomitant obligations, such as providing continuous quotations during all market conditions. The proposed rule is designed to prevent certain members and customers from obtaining an unfair advantage by acting as unregistered DPMs and market makers by virtue of their customer status. Permitting members (other than DPMs or market makers) or customers to enter multiple limit orders to such an extent that they are effectively acting as market makers in an option, while not requiring them to fulfill the obligations imposed upon registered market makers, would give such members and customers an inordinate advantage over other market participants.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[4] in general and furthers the objectives of Section 6(b)(5)[5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7] Because the foregoing rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b(f)(6).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 C.F.R. 240.19b–4(f)(6).

not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter times as the Commission may designate if consistent with the protection of investors and the public interest; and the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6).

The Exchange has requested that the Commission accelerate the operative date of the proposal. In addition, the Exchange provide the Commission with notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, more than five business days prior to the date of the filing of the proposed rule change.

The Commission finds that it is appropriate to accelerate the operative date of the proposal and designate the proposal to become effective today.[8] The Commission has approved similar proposals filed by the other options exchange.[9] Approval of this proposal on an accelerated basis will enable the Exchange to compete on an equal basis with these other exchanges and thus is consistent with Section 6(b)(8) of the Act.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR–CBOE–2001–20 and should be submitted by June 5, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12135 Filed 5–14–01; 8:45 am]

BILLING CODE 8010–01–M

[8] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competititon, and capital formation. 15 U.S.C. 78c(f).

[9] *See* Securities Exchange Act Release No. 43938 (February 7, 2001), 66 FR 10539 (February 15, 2001) (approving SR–Amex–01–03); and Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (approving application of ISE for registration as a national securities exchange).

[10] 15 U.S.C. 78f(b)(8).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44281; File No. SR–NASD–00–69]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change to Establish a New Registration Category: Limited Representative—Private Securities Offerings (Series 82)

May 8, 2001.

I. Introduction

On November 28, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b–4 thereunder,[2] a proposed rule change seeking to amend rule 1032 of the NASD to establish a new registration category, Limited Representative—Private Securities Offerings (Series 82). The proposed rule change was developed to implement Section 203 of the Gramm-Leach-Bliley Act of 1999 ("GLBA"), which becomes effective on May 12, 2001.[3] NASD Regulation also proposed clerical changes to rule 1032, essentially replacing the word "described" for the word "prescribed." NASD Regulation filed Amendment No. 1 to the proposed rule change on February 28, 2001.[4] Amendment No. 1 repalces the proposed rule change in its entirety. On March 14, 2001, NASD Regulation filed Amendment No. 2 to the proposed rule change.[5] Notice of the proposed rule change appeared in the **Federal Register** on March 28, 2001.[6] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

NASD Regulation is proposing to amend Rule 1032 of the NASD to implement Section 203 of GLBA. Section 203 adds subsection (j) to Section 15A of the Act, which requires that the NASD, as a registered securities association, create a limited registration category for any associated person of a member whose investment banking and securities business is limited solely to effecting sales of private securities offerings. Section 203 also states that any bank employee who during the six-month period prior to the enactment of GLBA (*i.e.*, from May 12, 1999 to November 12, 1999) engaged in effecting such sales shall not be required to pass a qualification examination in order to be deemed qualified in the limited registration category. Section 203 becomes effective on May 12, 2001.

GLBA also establishes functional regulation, meaning that each industry segment of a multi-industry organization will be regulated by the agency charged by law with the regulation of that industry. In connection with functional regulation, GLBA eliminates the long-standing general exclusion for banks from the definitions of "broker" and "dealer" under the Act and instead provides exclusions for certain bank activities. With respect to private placement activity, GLBA permits private placements to be effected in a bank (that is not a broker or dealer) where (a) the bank is not affiliated with a broker or dealer that is engaged in dealing, market

[1] 15 U.S.C. 78s(b)(1).

[2] 15 CFR 240.19b–4

[3] Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106–102, 113 Stat. 1338 (1999).

[4] *See* letter from Jeffrey S. Holik, Vice President and Acting General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated February 28, 2001 ("Amendment No. 1"). Amendment No. 1 was filed to address SEC staff comments and to make certain clarifications.

[5] *See* letter from Gary L. Goldsholle, Associate General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division, Commission, dated March 14, 2001 ("Amendment No. 2"). Amendment No. 2 was filed to address SEC staff comments and to make further clarifications.

[6] *See* Release No. 34–44091 (March 21, 2001), 66 FR 16964 (March 28, 2001).

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making, or underwriting, other than with respect to exempted securities and (h), if the bank is not affiliated with any broker or dealer, the aggregate dollar amount of any private placement offering (excluding government or municipal securities) does not exceed 25% of the bank's capital. A bank that meets these conditions will be eligible to engage in private placement activities without having to register its personnel with the NASD. Notwithstanding this exclusion, many banks will be required to effect private securities offerings in a registered broker/dealer. For banks that are not excluded from the definition of "broker," employees that effect sales of private securities offerings will be required to become associated persons of a registered broker/dealer, and as such, will be subject to NASD qualification examination and other requirements.

As part of the effort to facilitate a smooth transition of private placement activities from banks to broker/dealers, GLBA creates a new limited registration category for persons engaging solely in sales of private securities offerings. As noted above, while certain banks will still be permitted to engage in private securities offerings, many others will be required to effect these sales in a registered broker/dealer with appropriately registered personnel.

The proposed rule change effectuates the provisions of Section 203 by establishing a new registration category for persons engaged solely in sales of private securities offerings through a registered broker/dealer. Applicants seeking to register with the NASD under this limited registration category must meet the eligibility criteria for associated persons of a member in the NASD By-Laws and pass the necessary qualification examination. However, consistent with GLBA, the proposed rule change provides that any person who engaged in sales of private securities offerings as an employee of a bank during the period from May 12, 1999 to November 12, 1999, is not required to complete the qualification examination. An applicant seeking exemption from the qualification examination pursuant to this provision will be required to provide such evidence as NASD Regulation determines to be appropriate, demonstrating that he or she was engaged in effecting sales of private securities offerings at the bank during the period from May 12, 1999 to November 12, 1999.

The new limited registration category permits a person to effect sales of private securities offerings. However, the new limited registration category does not permit a person to effect sales of municipal or government securities or equity interests in or the debt of direct participation programs ("DPP securities"). Although sales of municipal securities and DPP securities may involve private securities offerings, NASD Regulation does not believe that the limited registration category should allow persons to sell such securities. Persons who effect sales of municipal securities, including bank employees, currently are required to be qualified in accordance with the rules of the Municipal Securities Rulemaking Board ("MSRB"). MSRB rules, among other things, require that persons pass a specific qualification examination. NASD Regulation does not believe that the new limited registration category was intended to create a subcategory of persons that are eligible to engage in certain offerings of municipal securities without meeting the specific qualification requirements of the MSRB.

Based upon conversations with SEC staff, NASD Regulation has included language in the proposed rule change to exclude from the scope of the limited registration category the ability to effect sales of private placements of government securities. With respect to government securities, NASD Regulation already offers a limited registration category for persons involved in the solicitation, purchase or sale of government securities.[7] Moreover, although neither NASD Regulation nor the SEC staff currently is aware of any private offerings of government securities, the SEC believes that it is important to exclude government securities from the limited registration category, similar to the exclusion for municipal securities given the manner in which these products are addressed in the GLBA.

The new limited registration category also does not qualify a person to engage in offerings of DPP securities. In general, DPP securities are specialized programs that provide for flow-through tax consequences. Any person who wishes to effect sales of DPP securities is required as a general securities representative or under a limited registration category for DPP securities.[8] Based upon conversations with banking industry representatives, NASD Regulation does not believe that unregistered bank employees generally effect sales of DPP securities. In view of the highly specialized nature of DPP securities, the existence of a limited registration category for such securities, and the general lack of experience in such securities by unregistered bank personnel, NASD Regulation does not believe that the new limited registration category should qualify an associated person to sell DPP securities. Moreover, by eliminating DPP securities from the scope of the new limited registration category, the qualification examination will not be burdened with questions on these highly specialized products. However, with respect to current bank employees who may be eligible to register under the new limited registration category without taking the qualification examination pursuant to paragraph (h)(2) of the proposed rule change, NASD Regulation staff has exemptive authority under NASD Rule 1070 and under such authority will consider on a case-by-case basis whether a bank employee with experience in DPP securities registering with a broker/dealer should be authorized to effect sales of DPP securities without having to complete the general securities representatives or specific DPP securities limited qualification examination.

The new limited registration category permits persons only to effect sales of private placement securities as part of a primary offering. As such, persons registered in this category will not be permitted to effect resales of or secondary market transactions in private placement securities. Any person wishing to effect resales of or secondary market transactions in private placement securities will be required to register as a General Securities Representative, or, where appropriate, as a Limited Representative—Corporate Securities.

NASD Regulation staff has developed a qualification examination and has filed the study outline and specifications with the Commission under separate cover.[9]

NASD Regulation also is making several clerical changes to Rule 1032, replacing the word "described" for the word "prescribed." This change more accurately reflects the intended meaning of the affected paragraphs.

III Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, with the requirements of Sections 15A(b)(6), 15A(g)(3), and 15A(j) of the Act.[10] Section 15A(b)(6)

[7] *See* NASD Rule 1032(g).

[8] *See* NASD Rule 1032(c).

[9] *See* Release No. 34–44228 (April 27, 2001), 66 FR 22624 (May 4, 2001).

[10] 15 U.S.C. 78o–3(b)(6), 78o–3(g)(3), and 78o–3(j) (the latter as enacted in 1999 through Section 203

Continued

requires, in relevant part, that the rules of a registered securities association be designated to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. Section 15A(g)(3) provides that a registered securities association may deny membership to, or condition the membership of, a registered broker or dealer if such broker or dealer does not meet the requisite levels of knowledge and competence. Section 15A(j) (as enacted) [11] provides that a registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to Section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, within the six month period preceding the date of the enactment of the GLBA, engaged in effecting such sales.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with Sections 15A(b)(6), 15A(g)(3), and 15A(j) in particular.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change, SR–NASD–00–69, be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

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of GLBA and effective on May 12, 2001. *See* note, 3, *supra.*)

[11] *See* note 10, *supra.*

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44280; File No. SR–NASD–2001–06]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 3 and No. 4 by the National Association of Securities Dealers, Inc. Amending the NASD By-Laws

May 8, 2001.

I. Introduction

On January 18, 2001, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change amending the NASD By-Laws.[3] On February 5, 2001, the NASD submitted Amendment No. 1 to the proposed rule change.[4] On February 26, 2001, the NASD submitted Amendment No. 2 to the proposed rule change.[5] The proposed rule change was published for comment in the **Federal Register** on March 6, 2001.[6] On April 20, 2001, the NASD submitted Amendment No. 3 to the proposed rule change.[7] On May 7, the NASD submitted Amendment No. 4 to the proposed rule change.[8]

The Commission received no comments on the proposal.[9] This order approves the proposed rule change, as amended. In addition, the Commission is publishing this notice to solicit comments on Amendments No. 3 and No. 4 and is simultaneously approving Amendments No. 3 and No. 4 on an accelerated basis.

II. Description of the Proposal

In its proposed rule change, NASD proposed amendments to its By-Laws to address several corporate governance issues, including the treatment of staff Governors as "neutral" for purposes of Industry/Non-Industry balancing on the NASD's Board of Governors (the "Board"); the role of the national Nominating Committee ("NNC") in contested elections; the petition process by which individuals and slates can be included in the election process; the Industry classifications that must be represented on the Board; and other clarifying amendments, including the addition of certain definitions and changes to conform certain provisions of the NASD By-Laws to Delaware law and the deletion of terms that are no longer applicable. Additionally, the amendments reflect the new NASD corporate structure, including the creation of NASD Dispute Resolution, Inc., a wholly owned subsidiary of the NASD.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that NASD's proposal, as published in the Federal Register for notice and public comment, contained an erroneous filing date. The correct date on which NASD filed File No. SR–NASD–2001–06 with the Commission, as noted above, was January 18, 2001.

[4] Letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated February 2, 2001 ("Amendment No. 1"). In Amendment No. 1 the NASD provided the final ballot summary of the membership vote regarding the proposed amendments to the NASD By-Laws, indicating that the NASD membership approved the proposed amendments.

[5] Letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated February 23, 2001 ("Amendment No. 2"). In Amendment No. 2 the NASD amended proposed Article VII, Section 10(a)(ii) of the By-Laws to state "(ii) in the case of petitions in support of more than one person, petitions in support of the nominations of such persons duly executed by ten percent of the members."

[6] Securities Exchange Act Release No. 44004 (February 26, 2001), 66 FR 13601 (March 6, 2001).

[7] Letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated April 19, 2001 ("Amendment No. 3"). In Amendment No. 3 the NASD amended proposed Article VII, Section 11(b) of the By-Laws to clarify its proposed rules regarding National Nominating Committee ("NNC") participation in contested Board elections by stating that the NNC may support its nominees by sending up to two mailings on their behalf "in lieu of mailings sent by its candidates under Article VII, Section 12."

[8] Letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated May 7, 2001 ("Amendment No. 4"). In Amendment No. 4, the NASD amended the following sections of its By-laws to remove proposed deletions to the term "Nasdaq" contained in its original filing: Article IV, Section 1(a)(1); Article V, Section 2(a)(1); Article VI, Section 1; Article VII, Section 1(c); Article XIII, Section 1(b); and Article XV, Section 4(b). In addition, NASD withdrew its proposed modification to Article VII, Section 3(a) in its entirety.

[9] The Commission was forwarded one item of email correspondence relating to the substance of this proposal. *See* email from Robert Glauber, CEO and President, NASD to Arthur Levitt, Chairman, Commission, on December 26, 2000, incorporating email from Alan Davidson, President, Independent Broker-Dealer Association, dated December 21, 2000, responding to the NASD's correspondence to its members about the proposed changes to its By-Laws referenced in this proposal. The commenter opposed the NASD's proposed rule change, as originally proposed, specifically the portion of the proposal allowing limited NNC participation in contested elections. The commenter argued that the purpose of the NNC is to nominate, not to use its official capacity to support candidates for the NASD Board. The commenter argued that the NASD Board was effectively manipulating the election process by allowing an appointed (as opposed to an elected) committee to campaign in favor of certain candidates.

The proposed rule change further implements the Restructuring Plan approved by NASD members on April 14, 2000.[10] The restructuring broadens the ownership in Nasdaq through a two-phase private placement of common stock and warrants to NASD members, Nasdaq issuers, and certain others. Prior to the private placement, the NASD owned 100 percent of Nasdaq. Now, after the closing of the second phase of the private placement, Nasdaq has numerous shareholders, but the NASD retains voting control over Nasdaq.[11] Regardless of the restructuring, the NASD and Nasdaq continue to be subject to the provisions and requirements of the NASD's August 8, 1996 settlement order with the Commission ("1996 Order").[12]

Summary of Amendments

First, the NASD has proposed to reclassify the NASD Chief Executive Officer ("CEO") and President of National Association of Securities Dealers Regulation, Inc. ("NASDR") Governor positions as "neutral" Governors for Industry classification and compositional purposes. That is, under the proposal, the NASD CEO and the President of NASDR are neither Industry nor Non-Industry Governors. According to the NASD, the reclassification of these Governor positions as "neutral" is consistent with the neutrality classification other self-regulatory organizations assign to their Board staff members and allows the two Industry seats the staff occupy to now be available to Industry candidates elected by the NASD membership. In addition, the NASD believes that the reclassification of two staff Governor positions as "neutral" allows for a smaller, more efficient Board without compromising either the fair representation of NASD members or an appropriate balance of Industry and Non-Industry members.

Second, the proposed By-Law amendments allows limited National Nominating Committee participation in contested elections. Under the current By-Laws, the NASD, NASD staff, the NNC and other corporate committees are prohibited from taking a position in contested elections. As a result of this prohibition, in contested elections the NNC has been unable to explain the reasons a NNC nominated candidate is worthy of support and has been unable to respond to statements made by other candidates or parties about the NNC nominees. The NASD believes that the NNC's current inability to support its candidates in contested elections is a deterrent to qualified individuals accepting nominations. To remedy this, the NASD has proposed allowing the NNC to provide limited support to NNC nominated candidates. Specifically, the NASD proposal will allow the NNC to distribute two mailing to NASD voting members in support of its candidates.[13] The revised By-Laws also allow the NNC to respond in-kind to vote solicitations and additional mailings by other candidates. In this way, the NASD will allow the NNC to support its candidates but not allow the NNC to unilaterally wage an electoral campaign on behalf of those candidates.

Next, the NASD has elected to revise the NASD By-Laws with regard to inclusion on the ballot by petition. Under the current ballot by petition process, the By-Laws provide that a candidate—including slates of candidates—needs to obtain a petition signed by only three percent of the NASD membership. By presenting a slate of candidates to the NASD membership, one of the candidates on the slate can in effect "coattail" on the endorsement obtained by the other members of the slate. This result both frustrates the purpose of the petition-making process (to gauge the support of an individual NASD candidate) and treats individual candidates seeking nomination through petitions the same as a slate of candidates. Under NASD's proposed amendments, the NASD specifically recognizes the validity of slate petitions, but requires that the slate be endorsed by ten percent of NASD's voting members; individual candidates may continue to be nominated by obtaining a petition of three percent of the NASD membership. The NASD believes that NASD's adoption of separate thresholds for petition candidates and slate petitions is reasonable given the size and diversity of NASD's membership.

Fourth, to more accurately represent the full range of relevant Industry constituents, the NASD has proposed to add three Industry segments to the Board: a national retail firm, a regional retail or independent financial planning member firm, and a clearing firm. These segments are in addition to required representation by an investment company, an insurance affiliate, and a small firm. The Board will periodically adopt resolutions establishing the criteria for national and regional firm representatives in accordance with changes in the Industry structure and demographics.

Finally, to conform the NASD By-Laws to the new NASD corporate structure and the change in the NASD-Nasdaq relationship, the NASD has determined to make three categories of additional changes to the By-Laws. Frst, the NASD has proposed amendments reflecting the new corporate relationship between NASD and Nasdaq. For example, NASD's proposed changes to Article VII, Section 9 of its By-Laws reflect that the NASD Regulation and Nasdaq Boards no longer will propose candidates to the NASD Board for appointment to the NNC. Second, the NASD has proposed adding references to the newly formed NASD Dispute Resolution subsidiary and deleting references to Nasdaq where they are no longer applicable.[14] For example, in Article IV, Section 1 (which governs applications for membership), NASD has proposed to require that new members sign an agreement to comply with the By-Laws of "NASD Dispute Resolution," among other laws, rules and By-Laws subject to the provision. Third, the NASD has suggested changes to conform the By-Laws to Delaware

[10] On June 26, 2000, the Commission approved a number of related changes to the Nasdaq By-Laws necessary to implement the restructuring and the recapitalization of Nasdaq. *See* Securities Exchange Act Release No. 42983 (June 26, 2000), 65 FR 41116 (July 3, 2000).

[11] Concurrent with the ongoing restructuring of Nasdaq, Nasdaq submitted an application to the Commission to register as a national securities exchange ("Form 1") under Section 6 of the Act. Prior to its registration as a national securities exchange, however, Nasdaq will continue to operate under the Plan of Allocation and Delegation of Functions by the NASD to its Subsidiaries (the "Delegation Plan"), as approved by the Commission. *See* Securities Exchange Act Release No. 37107 (April 11, 1996), 61 FR 16948 (April 16, 1996).

[12] *See* Order Instituting Public Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 37538 (August 8, 1996).

[13] The Commission notes that Article VII, Section 12 of the current NASD By-Laws permits *candidates* themselves to distribute two such mailings using certain NASD administrative support services and indicating their NNC backing, if applicable. Under the NASD proposed amendment to Article VII, Section 11, NASD proposes to allow the *NNC* to initiate similar mailings on their candidates' behalf "in lieu of mailings sent by its candidates pursuant to Article VII, Section 12." Although the provision authorizing candidates' mailings, Section 12, remains, these two types of mailings are mutually exclusive (*i.e.*, each candidate—or, alternatively, the NNC on the candidate's behalf—may initiate a maximum of two mailings.) *See* Amendment No. 3, *supra* note. 7.

[14] The Commission notes that the NASD has proposed deletions of the term "Nasdaq" from several provisions of its By-Laws, including the definitions of "Industry Director," "Non-Industry Director," "Non-Industry Governor," and "Public Director" contained in Article I of the NASD By-Laws; for the purposes of this filing, however, the NASD has withdrawn its deletion of "Nasdaq" in certain other sections of its By-Laws (proposed in its original filing), as enumerated in Amendment No. 4. *See* note 8, *supra.*

law. For example, in Article VIII, Section 6, the NASD has proposed an amendment stating that a resolution for removal of officers of the NASD need not be in writing, consistent with Delaware law.

III. Commission's Findings and Order Granting Approval of the Proposed Rule Change

The Commission has reviewed the NASD's proposed rule change and finds, for the reasons set forth below, that the proposal is consistent with the requirements of section 15A of the Act [15] and the rules and regulations thereunder applicable to a national securities association.[16] Specifically, the Commission believes the proposal is consistent with sections 15A(b)(4) and (b)(6) of the Act.[17] Section 15A(b)(4) provides that the rules of an association must assure a fair representation of its members in the selection of its directors and administration of its affairs and provides that one or more directors shall be representative of issuers and investors and not be associated with a member of the association, broker or dealer.[18] Section 15A(b)(6) requires, among other things, that the rules of an association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[19]

NASD's Proposed Reclassification of Two NASD Board Members as "Neutral" and Reduced Board Size

The NASD has proposed an amendment to its By-Laws to reclassify the NASD CEO and President of NASDR Governor positions as "neutral" governors; that is, neither Industry nor Non-Industry Governors. Section 15A(b)(4) of the Act [20] requires fair representation of an association's members in the selection of its directors and administration of its affairs, and provides that one or more directors shall be representative of issuers and investors and not be associated with a member of the association, broker or dealer. The fair representation requirement of section 15A(b)(4) helps to ensure that no particular constituency is subject to the unfair, unfettered actions of another constituency, and helps to ensure that the NASD is administered in a way that is equitable to NASD members.

The Commission finds that the proposed reclassification of the NASD CEO and NASDR Governor as "neutral" for Industry classification and compositional purposes is consistent with section 15A(b)(4) and with the 1996 Order. In particular, the Commission notes that the remainder of the NASD Board will continue to maintain a majority of Non-Industry/Public representation.[21] Moreover, as staff representatives of the NASD, the NASD CEO and NASDR Governor should represent the interest of the entire NASD organization, which includes Industry, Non-Industry, and Public representatives.

According to the NASD, reclassifying the NASD CEO and NASDR Governor also allows the NASD to reduce the size of the NASD board, and thus operate more efficiently, while continuing to satisfy the fair representation requirements of section 15A(b)(4) of the Act and the 1996 Order. The NASD has represented that by virtue of the corporate restructuring necessitated by the NASD's 1998 acquisition of the American Stock Exchange LLC, the NASD moved to an overlapping board structure whereby the members of the Nasdaq and NASDR Boards become members of the NASD Board, resulting in an increase in the number of "Industry" Governors (by virtue of their status as staff) on the NASD Board. Therefore, according to the NASD, it was forced to increase the number of "Non-Industry" seats as well in order to ensure fair representation of all constituencies; this ultimately resulted in a large, inefficient Board structure. The Commission believes that the NASD's proposed reclassification of two of its Governors as "neutral" is reasonable and may permit the NASD to reduce the size and increase the efficiency of the Board consistent with the requirements of the Act.

Nominating Committee Participation in Contested Elections

The NASD has proposed an amendment to its By-Laws lifting its current restriction on NNC participation in contested elections and allowing the NNC to provide limited support to NNC nominated candidates. Specifically, the NASD proposal would allow the NNC to distribute two mailings to NASD voting members in support of its candidates and to respond to contesting candidates' communications.

The Commission finds that the proposed amendment permitting the NNC to participate in contested elections under the limited terms proposed by the NASD is consistent with section 15A(b)(4) of the Act.[22] The NASD has represented that high-profile, public service-oriented candidates—exactly the sort of candidates that the NASD and its membership likely would support—are dissuaded from running for the NASD Board because they cannot receive any backing from the NNC. The Commission therefore believes that the NNC plays a critical role in the operation of the NASD by helping to ensure that qualified people serve on the NASD Board.

The Commission finds that it is reasonable to allow the NNC to have some limited involvement in providing assistance to candidates that the NNC has deemed to be appropriately qualified for the NASD board. This proposed change is consistent with section 15A(b)(4)'s fair representation requirement, in that it allows for sufficient involvement of the NNC is contested elections to lead to an informed dialogue among members about candidates for election to the NASD Board without unduly privileging NNC-supported candidates. The Commission notes that the NASD has carefully delineated the permissible actions that can be taken by the NNC. The nominees endorsed by the NNC currently are allowed to make use of administrative support by the NASD under Article VII, Section 12, a practice that will continue under the NASD's proposed amendments. The Commission notes that the NASD has preserved dissident candidates' ability, pursuant to that section, to distribute two such mailings using certain NASD administrative support services and indicating their NNC backing, if applicable. The only substantive change is evident in NASD's proposed addition of Article VII, Section 11(b), which allows the NNC to send directly to eligible NASD members two mailings in support of its candidates "in lieu of" mailings sent by the candidates themselves [23] and to "respond in-kind" to opposing candidates' mailings. The proposal does not allow the NASD Board to wage an all-out offensive on behalf of its candidates, as claimed by the commenter.[24] Therefore, the Commission finds that this proposed amendment permitting the NNC to participate in contested election under the measured terms proposed by the NASD is consistent with section 15A(b)(4) because, as proposed, it ensures fair representation by fostering dialogue among the NASD membership about candidates eligible for election to the NASD Board without giving unfair advantage to NNC-supported candidates.

Access to Ballot by Petition

The Commission further finds that changes to the petition process for individual nominees and a slate of nominees also is consistent with section 15A(b)(4)'s fair access requirement. Currently, the By-Laws provide that a candidate—including slates of candidates—needs to obtain a petition signed by only three percent of the NASD membership. By presenting a slate of candidates to the NASD membership, one of the candidates on the slate can in effect "coattail" on the endorsement obtained by the other members of the slate. This result both frustrates the purpose of the petition-making process (to gauge the support of an individual NASD candidate) and treats individual candidates seeking nomination through petitions the same as a slate of candidates. Therefore, the NASD's amendments, while continuing to recognize the validity of slate petitions, requires that the slate be endorsed by ten percent of the NASD's voting members. The NASD will retain the three percent standard for individuals. This modification is a reasonable attempt by the NASD to promote the fairness of its nomination process by limiting the ability of individual candidates to be nominated via a slate and without independent support, consistent with section 15A(b)(4) of the Act.

Industry Segment Representation

The NASD is proposing to amend Article VII, Section 4 of the NASD By-Laws to require representation by three additional Industry segments: a national retail firm, a regional retail or independent financial planning member firm, and a clearing firm, and to allow the Board, by resolution, to specify the criteria for representatives of national retail and regional retail or independent financial planning firms.

The Commission finds that this proposed change is consistent with sections 15A(b)(4) of the Act.[25] The Commission believes that this proposed amendment ensures that the NASD Board reflects the current constituencies of the securities markets and allows for representation by various categories of market participants within the NASD's membership ranks. Consequently, the Commission believes that NASD's proposal promotes fair representation, consistent with section 15A(b)(4).

Other changes

To conform the NASD By-Laws to the new NASD corporate structure and the change in the NASD-Nasdaq relationship, the NASD has determined to make three categories of additional changes to the By-Laws: (1) amendments reflecting the new corporate relationship between NASD and Nasdaq (*e.g.*, NASD's proposed changes to Article VII, Section 9 of its By-Laws reflect that the NASD Regulation and Nasdaq Boards no longer will propose candidates to the NASD Board for appointment to the NNC); (2) references to the newly formed NASD Dispute Resolution subsidiary and deleted references to Nasdaq where no longer applicable (*e.g.*, in Article IV, Section 1, NASD's proposal to add a reference to "NASD Dispute Resolution" in the membership agreement that must be signed by new NASD members);[26] (3) amendments to conform the NASD By-Laws to Delaware law (*e.g.*, in Article VIII, Section 6, NASD's proposed amendment stating that a resolution for removal of officers of the NASD must be in writing, consistent with Delaware law). The Commission finds that these proposed changes are consistent with section 15A(b)(6) of the Act [27] in that they accurately reflect the NASD's new corporate structure and conform to applicable law.

The Commission finds good cause for approving proposed Amendments No. 3 and No. 4 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that Amendments No. 3 and No. 4 clarifies the proposed rule change. Because these amendments do not significantly alter the original proposal, which was subject to a full notice and comment period, the Commission finds that granting accelerated approval to Amendments No. 3 and No. 4 is consistent with section 19(b)(2) of the Act.[28]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendments No. 3 and No. 4, including whether the proposed amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–06 and should be submitted by June 5, 2001.

V. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–NASD–2001–06), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12189 Filed 5–14–01; 8:45 am]

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[15] 15 U.S.C. 78o–3.

[16] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78o-3(b)(4), and (b)(6).

[18] 15 U.S.C. 78o–3(b)(4).

[19] 15 U.S.C. 78o–3(b)(6)

[20] 15 U.S.C. 78o-3(b)(4).

[21] The Commission notes that currently two other SROs, the New York Stock Exchange and the American Stock Exchange, operate pursuant to a similar "neutral" classification with regard to certain executives on their respective boards.

[22] 15 U.S.C. 78o–3(b)(4).

[23] *See* note 13, *supra.*

[24] *See* note 9, *supra.*

[25] 15 U.S.C. 78o–3(b)(4).

[26] *See* note 14, *supra.*

[27] 15 U.S.C. 78o–3(b)(6).

[28] 15 U.S.C. 78f(b)(2).

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44276; File No. SR–NSCC–2001–04]

Self-Regulatory Organizations; The National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change to Modify and Consolidate Clearing Fund Rules

May 8, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 24, 2001, the National Securities

Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on April 30, 2001, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NSCC seeks to modify and consolidate its clearing fund rules. As more fully described below, NSCC proposes to apply its current clearing fund requirements for settling members on surveillance (Addendum O) to all members and, for ease of reference, incorporate these requirements as well as the clearing fund requirements found in Addendum B into NSCC's Procedure XV.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under current Addendum O,[3] NSCC collects additional clearing fund deposits from settling members on surveillance pursuant to a risk-based margining ("RBM") methodology that includes, but is not limited to, calculations based on portfolio volatility and, where applicable, market maker domination. This rule filing would extend these RBM requirements to all NSCC members in lieu of Procedure XV's current allocation [Section A.I.(a)(i)(a)] and liquidation [Section A.I.(a)(i)(c)] clearing fund requirements.[4]

Since the Commission's approval of Addendum O in 1996, NSCC has studied the impact of RBM on member firms. NSCC found that utilization of RBM more accurately reflects NSCC's exposure than the current allocation and liquidation formulae because it enables NSCC to more precisely identify the risks posed by a member's unsettled portfolio and, as a result, more quickly adjust and collect additional clearing fund requirements. NSCC management therefore recommended, and the Membership and Risk Management Committee concurred, that RBM methodologies should be applied to all NSCC members, not just those on surveillance.

This rule change will modify Procedure XV as follows:

- With respect to clearing fund requirements for CNS transactions, Procedure XV's allocation [current Section A.I.(a)(i)(a)] and liquidation [current Section A.I.(a)(i)(c)] formulae will be replaced with RBM methodology, specifically volatility [new Section I.(A)(1)(a)] and market maker domination [new Section I.(A)(1)(c)] calculations, currently found in Addendum O. The volatility formula will continue to permit the NSCC to utilize any generally accepted portfolio volatility model to calculate volatility.
- In addition, the rule will continue to provide that NSCC may exclude from volatility calculations net unsettled positions in classes of securities whose volatility is (1) less amenable to statistical analysis, such as OTC Bulletin Board or Pink Sheet issues or issues trading below a designated dollar threshold (*e.g.*, five dollars), or (2) amenable to generally accepted statistical analysis only in a complex manner, such as municipal or corporate bonds. The amount of clearing fund required with respect to these net unsettled positions will be determined by multiplying the absolute value of the net unsettled positions by a percentage designated by NSCC. This percentage will not be less than 10% with respect to the positions covered by item (1) above and will not be less than 2% with respect to the positions covered by item (2) above.
- The clearing fund requirements for all when-issued and when-distributed transactions will be consolidated with the calculations for regular way transactions.
- The third prong of the CNS formula, the calculation of the difference between the contract price and the current market price of compared pending positions, will remain the same [current Sections I.(A)(i)(b) and I.(A)(2)(b)]; however, these calculations will be undertaken on a daily basis.
- All clearing fund and other deposit requirements will be required to be made by members within one hour of demand. However, to the extent a member is meeting its obligation with: (1) a deposit of cash, the cash deposit must be made by Federal Funds wire transfer and must be received no later than fifteen minutes prior to the close of the Federal Funds wire and (2) a delivery of eligible securities, the delivery of eligible securities must be received within the deadlines established by a qualified securities depository.[5] The proposed rule further provides that, at the discretion of NSCC, these cash deposits may be included as part of the member's daily settlement obligation.
- Addendum B, among other things currently specifies thresholds pursuant to which NSCC will require additional clearing fund contributions. Procedure XV [new Section II.(C)] will now provide that additional clearing fund deposits shall not be requested where the amount of the deficiency for a: (1) Member on Class A or B Surveillance is equal to or less than $5,000 and such amount is less than 5% of such member's actual deposit; (2) member on Advisory Surveillance is equal to or less than $20,000 and such amount is less than 5% of such member's actual deposit; or (3) member not on any surveillance is equal to or less than $50,000 and such amount is less than 10% of the member's actual deposit.
- Other changes to Procedure XV result from relabeling and/or moving the placement of NSCC's clearing fund requirements without altering their substantive nature.

As described below, NSCC intends, subject to Commission approval, to begin implementing the proposed clearing fund changes on June 15, 2001, and to conclude by December 31, 2002.

Subject to Commission approval, members currently subject to Addendum O will be subject to these clearing fund changes on June 15, 2001. Applicants approved for NSCC membership from and after April 24, 2001, the date of this filing, will also be immediately subject to these rule changes on June 15, 2001. Members who have a position which will subject them to a deposit requirement based on the market domination calculations will also be subject to these rule changes on June 15, 2001. NSCC will place every remaining member into deciles and will apply the revised clearing fund methodologies pursuant to a step-by-step, decile-by-decile plan based upon the volatility classification of each such member's unsettled portfolio. Accordingly, members with the most volatile portfolios will be subject to these rule changes first, on or shortly after June 15, 2001, provided, however, that to the extent any such member has significant CNS obligations resulting from options exercises and assignments or is a municipal securities brokers' broker, it will be subject to these rule changes in conjunction with or[6] after all other members but in no event later than December 31, 2002.[7]

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[8] and the rules and regulations thereunder applicable to NSCC because it will permit NSCC to assure the safeguarding of funds and securities for which it is responsible by allowing NSCC to more appropriately collect collateral to cover members' exposures.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–2001–04 and should be submitted by June 5, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12136 Filed 5–14–01; 8:45 am]

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[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] Addedum O was temporarily approved by the Commission in 1996 and approval has been extended consecutively on a temporary basis. Securities Exchange Act Release Nos. 37202 (May 10, 1996), 61 FR 24993 [File No. SR–NSCC–93–17]; 38622 (May 19, 1997), 62 FR 27285 [File No. SR–NSCC–97–04]; 40034 (May 27, 1998), 63 FR 30277 [File No. SR–NSCC–98–03]; 41478 (June 4, 1999), 64 FR 31664 [File No. SR–NSCC–99–06]; 42864 (May 30, 2000), 65 FR 36204 [File No. SR–NSCC–99–09] (Commission approval date corrected in *Federal Register*, 65 FR 42065); and 44277 (May 8, 2001) [File No. NSCC–2001–05] (notice of filing and order granting accelerated approval of Addendum O through December 31, 2002).

[4] Procedure XV contains NSCC's clearing fund formulas.

[5] Under NSCC rules the only qualified securities depository is DTC.

[6] The April 27, 2001 amendment to the rule filing added the language "in conjunction with or" to the filing.

[7] NSCC will keep effective all rules affected by this filing until all members are subject to the revised rules.

[8] 15 U.S.C. 78q–1.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44277; File No. SR–NSCC–2001–05]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Related to Additional Procedures for Class A Surveillance of Certain Settling Members and to the Collection of Clearing Fund and Other Collateral Deposits from These Settling Members

May 8, 2001.

Pursuant to Section 10(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 24, 2001, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change through December 31, 2002.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change extends the temporary approval of additional procedures that govern the placement of NSCC members of Class A surveillance and the clearing fund deposit and other collateral requirements for such members until NSCC's proposed rule change, SR–NSCC–2001–04, is phased in.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements

[1] 15 U.S.C. 78s(b)(1).

[2] In NSCC–2001–04, which is subject to Commission approval, NSCC proposes to apply its current clearing fund requirements for settling members on surveillance (Addendum O) to all NSCC members and to incorporate those requirements as well as all the clearing fund formulae and requirements currently found in Addendum B into NSCC's Procedure XV. The phase in of the new procedures under SR–NSCC–2001–04 will begin June 15, 2001, and will end no later than December 31, 2002. *See* Securities Exchange Act Release No. 44276 (May 8, 2001) [File No. NSCC–2001–04] (notice of filing of proposed rule change to modify and consolidate clearing fund rules).

may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC seeks to extend the temporary approval of Addendum O, which governs the application of Class A surveillance procedures and the additional collateralization requirements for settling members that engage in certain over-the-counter ("OTC") market making activities. Addendum O is designed to decrease the risks associated with OTC market makers by use of Class A surveillance and special collateralization procedures. The Commission originally granted temporary approval on May 10, 1996, and has subsequently extended its approval through May 31, 2001.[4]

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[5] and the rules and regulations thereunder because the surveillance and additional collateralization procedures will facilitate the safeguarding of securities and funds which are in its custody or control or for which it is responsible and in general will protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

[3] The Commission has modified the text of the summaries prepared by NSCC.

[4] For a complete discussion of NSCC's Class A surveillance procedures and collateralization requirements refer to Securities Exchange Act Release Nos. 37202 (May 10, 1996), 61 FR 24993 [File No. SR–NSCC–95–17]; 38622 (May 19, 1997), 62 FR 27285 [File No. SR–NSCC–97–04]; 40034 (May 27, 1998), 63 FR 30277 [File No. SR–NSCC–98–03]; 41478 (June 4, 1999), 64 FR 31664 [File No. SR–NSCC–99–08]; and 42864 (May 30, 2000), 65 FR 36204 [File No. SR–NSCC–99–09] (Commission approval date corrected in **Federal Register**, 65 FR 42065).

[5] 15 U.S.C. 78q–1.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency and generally to protect investors and the public interest.[6] As the Commission previously stated, it finds that NSCC's proposed rule change is consistent with these obligations under the Act because it should help NSCC protect itself, its members, and investors from members that pose an increased risk because of their involvement in OTC market making.[7]

Under the proposal, NSCC will continue to have the authority with respect to members which participate in OTC market making activities or clear for correspondents that engage in such activity to (1) place such members on Class A surveillance, (2) requires such members to post additional collateral with NSCC, and (3) calculate an alternative clearing fund requirement for such members when additional risk factors are present. Collectively, the higher level of surveillance, the additional level of collateralization, and the alternative clearing fund requirements should help ameliorate NSCC's exposure, which in turn should assist NSCC in fulfilling its obligations under the Act to safeguard securities and funds for which it has control or is responsible and to protect investors and the public interest.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause because accelerated approval will allow NSCC to continue to utilize its Class A surveillance procedures, the interim collateralization policy, and the alternative clearing fund formula without interruption when the previous temporary approval expires on June 1, 2001, and until NSCC's proposed rule change, SR–NSCC–2001–04, is completely phased in.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the File No. SR–NSCC–2001–05 and should be submitted by June 5, 2001.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–NSCC–2001–05) be and hereby is approved through December 31, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12138 Filed 5–14–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Supra* note 4.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44272; File No. SR–NYSE–2001–07]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. To Provide for an Allocation Policy for Exchange-Traded Funds Trading on an Unlisted Trading Privileges Basis

May 7, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 25, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On May 7, 2001, the NYSE field Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and, for the reasons discussed below, the Commission is granting accelerated approval to the proposed rule change, as amended, on a pilot basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE proposes to amend its Allocation Policy and Procedures ("Policy")[4] to provide for the allocation of exchange-traded funds ("ETFs") listed and traded on the Exchange pursuant to unlisted trading privileges ("UTP").

Below is the text of the proposed rule change. Proposed new language is *italicized*.

* * * * *

Policy for Allocation of Exchange-Traded Funds Admitted to Trading on the Exchange on an Unlisted Trading Privileges Basis

Exchange-traded funds ("ETFs") (as defined in paragraph 703.16 of the Listed Company Manual) admitted to trading on the Exchange on an unlisted trading privileges basis shall be allocated pursuant to this Policy rather than the Exchange's policy for allocating securities to be listed on the Exchange.

ETFs shall be allocated by a special committee consisting of the Chairman of the Allocation Committee, the three most senior Floor broker members of the Allocation Committee, and four members of the Exchange's senior management as designated by the Chairman of the Exchange. This committee shall solicit allocation applications from interested specialist units, and shall review the same performance and disciplinary material with respect to specialist unit applicants as would be reviewed by the Allocation Committee in allocating listed stocks. The committee shall reach its decisions by majority vote with any tie votes being decided by the Chairman of the Exchange. Specialist unit applicants shall not appear before the committee.

Special Criteria

In their allocation applications, specialist units must demonstrate:

(a) an understanding of the trading characteristics of ETFs;

(b) expertise in the trading of derivatively-priced instruments;

(c) ability and willingness to engage in hedging activity as appropriate;

(d) knowledge of other markets in which the ETF to be allocated trades;

(e) willingness to provide financial and other support to Exchange marketing and educational initiatives with respect to the ETF to be allocated.

Allocation Freeze Policy

The Allocation Freeze Policy as stated in the Allocation Policy for listed stocks shall apply.

Prohibition on Functioning as Specialist in ETF and Specialist in any Component Security of the ETF

No specialist member organization may apply to be allocated an ETF if it is registered as specialist in any security which is a component of the ETF. A specialist member organization which is registered as specialist in a component stock of an ETF may establish a separate member organization which may apply to be the specialist in an ETF. The approved persons of such ETF specialist member organization must obtain an exemption from specified specialist rules pursuant to Rule 98.

If, subsequent to an ETF being allocated to a specialist member organization, a security in which the specialist member organization is registered as specialist becomes component security of such ETF, the specialist organization must (i) withdraw its registration as specialist in the security which is a component of the ETF; (ii) withdraw its registration as specialist in the ETF; or (iii) establish a separate specialist member organization, which will be registered as specialist in the ETF and whose approved persons have received an exemption from specified specialist rules pursuant to Rule 98.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of its overall business strategy, the Exchange believes that it is appropriate to trade ETFs on the NYSE Floor. In December 2000, the Exchange began trading an ETF on the S&S Global 100 (symbol IOO).[5] The Exchange intends to trade additional ETFs listed by other ETF sponsors.

The Exchange believes it would be appropriate to trade on the NYSE, on a UTP basis, certain other ETFs currently listed and trading on other markets. These ETFs may include the NASDAQ 100 Trust (symbol QQQ), Standard and Poor's Depository Receipts (symbol SPY) and the DOW Industrials DIAMONDS (symbol DIA).

It should be noted that UTP ETFs will trade at a post separate from ay other type of security trading on the Exchange.

Allocation Policy for ETFs Trading Pursuant to UTP. The intent of the Exchange's current Policy is: (1) to ensure that the allocation process is based on fairness and consistency and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between specialist unit and security; and (4) to contribute to the strength of the specialist system.

The Allocation Committee has sole responsibility for the allocation of securities to specialist units under this Policy pursuant to authority delegated by the Board of Directors, and is overseen by the Quality of Markets Committee of the Board. The Allocation Committee renders decisions based on the allocation criteria specified in this Policy.

The Exchange believes that it would be appropriate to modify the conventional allocation process to provide that ETFs traded on a UTP basis be allocated by a special committee, consisting of the Chairman of the Allocation Committee, the three most senior floor broker members of the

[3] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Sapna Patel, Attorney, Division of Market Regulation, Commission, dated May 4, 2001 ("Amendment No. 1"). In Amendment No. 1, the NYSE made a minor technical change to the proposed rule text clarifying that an approved person of a separate specialist organization must have received an exemption from specified specialists rules pursuant to NYSE Rule 98.

[4] NYSE's current Policy was amended in Securities Exchange Act Release No. 42746 (May 2, 2000), 65 FR 30171 (May 10, 2001) (File No. SR–NYSE–99–34). *See* Exhibit A to File No. SR–NYSE–99–34 for a copy of NYSE's Policy.

[5] *See* Securities Exchange Act Release No. 43658 (December 1, 2000), 65 FR 77408 (December 11, 2000) (notice of filing and order granting accelerated approval to File No. SR–NYSE–00–53).

Allocation Committee, and four members of the Exchange's senior management as designated by the Chairman of the Exchange. This will permit Exchange management, acting with key members of the Allocation Committee, to oversee directly the introduction of the UTP concept to the NYSE.

Allocation applications would be solicited by the Exchange and this special committee would review the same performance and disciplinary material as is reviewed by the Allocation Committee.[6] In addition, specialist unit applicants would be required to demonstrate:

(a) An understanding of the trading characteristics of ETFs;
(b) Expertise in the trading of derivatively-priced instruments;
(c) Ability and willingness to engage in hedging activity as appropriate;
(d) Knowledge of other markets in which the ETF which is to be allocated trades;
(e) Willingness to provide financial and other support to relevant Exchange publicity and educational initiatives.

The special committee would review specialist unit applications and reach its allocation decision by majority vote. Any tie vote would be decided by the Chairman of the Exchange. Specialist units would not appear before the special committee.

Restriction on a Specialist Member Organization Acting as a Specialist in the ETF and in a Component Security of the ETF. Under the proposed rule change, specialist member organization cannot be both the specialist in the ETF and the specialist in any security that is a component of the ETF. This restriction is necessary to avoid the possibility of "wash sales" in a situation where the specialist in the ETF needs to hedge by buying or selling component stocks of the ETF, and could inadvertently be trading with a proprietary bid or offer made by a specialist in the same member organization who is making a market in the component security. A specialist member organization registered in a component security of the ETF may use a separate affiliated member organization to function as the ETF specialist, and thereby avoid the "wash sale" issue. The affiliated member organization that acts as the ETF specialist would be required to establish information barriers between itself and the specialist member organization, pursuant to NYSE Rule 98.[7]

[6] *See* Section IV, Allocation Criteria, of the Policy. *See supra* note 4.

[7] With respect to ETFs, NYSE has proposed to amend its Rule 98 information barriers to eliminate the requirement that approved persons of specialist member organizations be capitalized separately from the specialist member organization. However, a specialist member organization that is registered only in ETFs will remain subject to the minimum capital requirements as specified in Exchange Rules. In addition, NYSE has proposed to amend NYSE Rules 36, 105(1), 111, 13, 104.21, as well as the NYSE's Market-On-Close/Limit-At-The-Close and Pre-Opening Price Indications Policies to accommodate the trading of ETFs on a UTP basis. *See* File No. SR–NYSE–2–001–08, filed by the NYSE with the Commission on April 25, 2001.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5) of the Act[9] in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

More specifically, the Exchange believes that trading ETFs on a UTP basis will provide investors with increased flexibility in satisfying their investment needs because they will be able to purchase and sell a security that replicates the performance of a broad portfolio of stocks at negotiated prices throughout the business day.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–07 and should be submitted by June 5, 2001.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[10] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 6(b)(5)[11] of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

Specialists play a crucial role in providing stability, liquidity, and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities.[12] To ensure that specialists fulfill these obligations, it is important that the Exchange develop and maintain stock allocation procedures and policies that provide specialists with an initiative to strive for optimal performance. The Exchange now proposes to amend its Policy to account for the allocation of ETFs listed and traded on the Exchange on a UTP basis.

The Commission notes that the Exchange proposes to establish a special committee to allocate ETFs listed and traded on a UTP basis. The special committee will consist of the Chairman of the Allocation Committee, the three most senior floor broker members of the Allocation Committee, and four members of the Exchange's senior management as designated by the Chairman of the Exchange. The Exchange believes that this will permit its management, acting with key members of the Allocation Committee, to oversee directly the introduction of the UTP concept to the NYSE. The Commission believes that it is appropriate to establish a new allocation committee for ETFs because of the unique characteristics of ETFs, which should be considered in the allocation process.

[10] 15 U.S.C. 78f(b). In approving this proposal on an accelerated basis, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* 17 CFR 240.11b–1; NYSE Rule 104.

The Exchange proposes that member organizations applying to trade ETFs on a UTP basis be able to demonstrate certain abilities in addition to the current performance and disciplinary requirements of the allocation application. For example, the applicant must have: (a) an understanding of the trading characteristics of ETFs; (b) expertise in the trading of derivatively-priced instruments; (c) the ability and willingness to engage in hedging activity as appropriate; (d) the knowledge of other markets in which the ETF which is to be allocated trades; and (e) the willingness to provide financial and other support to relevant Exchange publicity and educational initiatives. The Commission finds that these criteria are suitable for the Committee to rely on when allocating an ETF to a particular specialist unit.

In addition, the Exchange proposes to prohibit a specialist in any component security of the ETF to function as a specialist in the ETF in order to avoid "wash sales." The Exchange, however, proposes to allow specialists in a component security of an ETF to use a separate member organization to function as an ETF specialist so long as NYSE Rule 98 information barriers are established and approved by the Exchange. The Commission believes that NYSE Rule 98 information barriers should prevent the flow of any privileged and/or nonpublic information between the related entities and should reduce the potential for any concerns regarding "wash sales" in this context.

Because the proposed rule change, as amended, institutes a new process for allocating ETFs to NYSE specialist units and because the Commission is adopting the proposal on an accelerated basis, the Commission believes that the proposal should be approved on a pilot basis, for a one-year period ending on May 7, 2002, to ensure that the process is effective and fair. The Commission expects the NYSE to report to the Commission about its experience with the new allocation process in any future proposal it files to extend the amendment to the Policy or approve it on a permanent basis.

The Commission, pursuant to Section 19(b)(2) of the Act,[13] finds good cause for approving the proposed rule change and Amendment No. 1 thereto, on a one-year pilot basis through May 7, 2002, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that granting accelerated approval to this proposal will allow the NYSE to immediately implement a process for allocating ETFs to be traded on the Exchange on a UTP basis to specialist units. It is necessary to allocate the ETFs to specialist units as soon as possible so that the specialists so appointed will have ample time to prepare for NYSE's upcoming listing and trading of ETFs on a UTP basis. Amendment No. 1 simply makes minor technical corrections to the proposed rule text and clarifies that approved persons of a specialist must be granted an exemption from specified specialist rules pursuant to NYSE Rule 98.

V. Conclusion

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NYSE–2001–07), as amended, is hereby approved on an accelerated basis through May 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01–12137 Filed 5–14–01; 8:45 am]
BILLING CODE 8010–01–M

[13] 15 U.S.C. 78s(b)(2).

[14] *Id.*

[15] 17 CFR 200.30–2(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44285; File No. SR–Phlx–2001–02]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Codifying Formal Procedures for Members To Submit Proposals To List Option Classes on the Exchange

May 9, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 11, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The Phlx filed amendment Nos. 1[3] and 2[4] to the proposed rule change on February 21, 2001 and May 2, 2001, respectively. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rule 1009 to codify and implement procedures to be carried out when an Exchange member, member organization, or other person requests that the Exchange list options not currently traded on the Exchange. The proposed rule change is set forth below. New text is in italics.

* * * * *

Criteria for Underlying Securities

Rule 1009. (a)–(c) No change.

Commentary

.01 No change
.02 *(a) Members, member organizations or any person proposing to list any option not currently listed on the Exchange shall submit a form of request (a "Request to List an Option"), available from the Exchange's Business and Operations Planning Department (BOP), to BOP staff.*

(b) As soon as practicable, but not later than three (3) business days following receipt of the Request to List an Option, BOP staff shall review the proposed option's eligibility for listing, using the objective listing criteria set forth in Commentary .01 of this Rule. If BOP staff determines that the proposed option does not meet the objective

[3] *See* letter from Richard Rudolph, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated February 20, 2001 ("Amendment No. 1"). Among other things, Amendment No. 1 clarifies that the Exchange: (i) may consider bona fide business interests in determining whether to list an option; (ii) must send letters to members setting forth in reasonable detail the basis on which a decision not to list a proposed option was made; and (iii) must forward its written response within 3 business days of its determination to deny a proposed listing.

[4] *See* letter from Richard Rudolph, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission, dated May 1, 2001 ("Amendment No. 2"). Amendment No. 2 revises Section (c)(ii) of proposed Commentary .02 to Phlx Rule 1009 to clarify that the Exchange must notify the member in writing if the Exchange determines not to list, or to place conditions or limitations upon, a proposed listing. Amendment No. 2 also amends Section (e) of proposed Commentary .02 to clarify that the Exchange will maintain a record of any bona fide business interests supporting a decision not to list, or to place conditions or limitations upon, a proposed listing.

listing criteria set forth in Commentary .01 of this Rule, BOP staff shall prepare a responsive form (a "Notification Memorandum") stating the reason(s) why the proposed option is not eligible for listing. BOP staff shall forward the Notification Memorandum to the member or member organization that submitted the Request to List an Option within three (3) business days of its determination that the proposed option does not meet objective listing criteria. BOP staff shall maintain all Requests to List an Option and Notification Memoranda in a central file for a period of not less than five (5) years.

(c) If BOP staff determines that the proposed option meets the objective listing criteria set forth in Commentary .01 of this Rule, BOP staff shall present the initial Request to List an Option and the subsequent review to the Chairman of the Board of Governors or his designee, who shall, within ten (10) business days of receipt of the Request to List an Option, instruct BOP staff to:

(i) solicit options specialists to submit applications for specialist privileges in the option; or

(ii) within three (3) business days, prepare and forward a letter to the member or member organization that submitted the Request to List an Option, setting forth in reasonable detail the basis on which the decision not to list, or to place limitations or conditions upon, the proposed option was made.

(d) In considering underlying securities, the Exchange shall ordinarily rely on information made publicly available by the issuer and/or the markets in which the security is traded.

(e) In determining whether to list an option that otherwise meets objective listing criteria, the Chairman of the Board of Governors or his designee may consider such factors as the Exchange's current and projected computer capacity, and the current and projected demands for that capacity, including telecommunications and Option Price Reporting Authority ("OPRA") inbound and outbound message capacity or message volume restrictions placed on the Exchange by OPRA; the projected likely number of series and open interest in the option; the projected likely volatility of the option; the projected likely liquidity of the option; name recognition of the option or underlying security; the projected volume of trading in the option that is likely to occur on the Exchange; the projected share of total trading in the option that is likely to occur at the Exchange; whether any intellectual property right or license thereof exists with respect to the option; whether the proposal is consistent with Exchange rules and/or the Securities Exchange Act of 1934 and the rules, regulations, and orders thereunder; whether unusual or unfavorable market conditions exist with respect to the option; and whether it is in the bona fide business interest of the Exchange to list the option. If, in denying a request or approving a request subject to conditions or limitations, the Exchange relies upon a factor of other bona fide business interests, the Exchange shall, in addition to providing the member with a written response specifying that the Exchange has relied upon other bona fide business interests, maintain a record of the bona fide business interests supporting its decision.

.03–.05 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish a procedure to be followed when an Exchange member requests the Exchange to list options not currently traded on the Exchange.[5] The proposed changes to Commentary .02 to Exchange Rule 1009 address member requests to list options and would apply to members and member organizations. In a separate filing, the Exchange also proposes to include these procedures in the Exchange's Codes of Conduct[6] so that these procedures would be applicable to, and violations thereof enforceable against, Exchange officers, directors, governors, employees, committee members, or agents.

The proposed rule change would require members, member organizations or any person proposing to list any option not currently listed on the Exchange to submit a form of request ("Request to List an Option"), available from the Exchange's Business and Operations Planning Department ("BOP"), to BOP staff. The purpose of this provision is to provide a uniform process, format, and record of requests for the listing of options not currently listed on the Exchange.

As soon as practicable, but not later than three business days following receipt of the Request to List an Option, BOP staff would be required to review the proposed option's eligibility for listing, using the objective listing criteria for underlying securities set forth in Commentary .01 of Phlx Rule 1009 for equity options, and the objective criteria set forth in Exchange Rule 1009A for underlying securities for index options.

The three-day period within which the BOP staff must review the Request to List an Option is intended to provide a reasonably prompt timeframe within which to determine if the securities underlying the proposed option meet the Exchange's objective listing criteria. If the BOP staff determines that the securities underlying the proposed option do not meet the objective listing criteria set forth in Commentary .01, they would be required to prepare a responsive form (a "Notification Memorandum") stating the reason(s) why the requested option is not eligible for listing. BOP staff would be required to forward the Notification Memorandum to the member or member organization that submitted the Request to List an Option within three days of the determination that the requested option does not meet the objective listing criteria. This provision is intended to provide a prompt response to the requesting member or member organization of the requested option's ineligibility for listing based on the Phlx's listing standards. The Exchange would be required to maintain all Requests to List an Option and Notification Memoranda in a central file for at least five years.[7]

A determination by the BOP staff that the securities underlying a proposed option meet objective listing criteria would not require the Exchange to list the option. The proposed rule contemplates a variety of legitimate business reasons why the Exchange would choose not to list certain proposed options. If BOP staff determines that the proposed option meets the Exchange's objective listing criteria set forth in Commentary .01 of Phlx Rule 1009, BOP staff would be required to present the proposal to the Chairman of the Board of Governors or his designee[8] within ten business days of the determination. The Chairman or his designee would be required to instruct BOP staff either to: (i) Solicit options specialists to submit applications for specialist privileges in the option; or (ii) within three business days, prepare and forward a letter to the member that submitted the listing proposal, setting forth in reasonable detail the basis on which the decision not to list, or to place limitations or conditions upon, the proposed option was made. These letters would be maintained in a central file for a period of not less than five years. If the Exchange decides to list the requested option, it would forward a Notification Memorandum advising the requesting member that they will be notified when applications for trading privileges in the requested option are solicited.

In determining whether to list an option that otherwise meets objective listing criteria, the Chairman of the Board of Governors or his designee would consider: (i) The Exchange's current and projected computer capacity or message volume restrictions placed on the Exchange by the Option Price Reporting Authority ("OPRA"), and the current and projected demands for that capacity, including telecommunications and OPRA inbound and outbound message capacity; (ii) the projected likely number of series and open interest in the option; (iii) the projected likely volatility of the option; (iv) the projected likely liquidity of the option; (v) name recognition of the option or underlying security; (vi) the projected volume of trading in the option that is likely to occur on the Exchange; (vii) the projected share of total trading in the option that is likely to occur on the Exchange; (viii) whether any intellectual property right or license thereof exists or would be required with respect to the option; (ix) whether the proposal is consistent with Exchange rules and/or the Act and the rules, regulations, and orders thereunder; (x) whether unusual or unfavorable market conditions exist with respect to the option; and (xi) whether it is in the *bona fide* business interest of the Exchange to list the option. If, in denying a request or approving a request subject to conditions or limitations, the Exchange relies upon a factor of other bona fide business interests, the Exchange would be required, in addition to providing the member with a written response specifying that the Exchange has relied upon other bona fide business interests, to maintain a record of the bona fide business interests supporting its decision. According to the Phlx, the proposed provisions codify the list of legitimate business concerns normally reviewed when the Exchange makes a decision about whether to list an option that otherwise meets its listing criteria.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(5)[10] in particular in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and protect investors and the public interest by providing a uniform process for members to submit, and the Exchange to review, listing proposals.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change, as amended, will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Phlx did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the File No. SR–Phlx–2001–02 and should be submitted by June 5, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12132 Filed 5–14–01; 8:45 am]

BILLING CODE 8010–01–M

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[5] As part of a settlement of an enforcement action by the Commission, four of the five options exchanges, including the Phlx, are required to adopt rules to codify listing procedures to be carried out when a member or member organization requests the exchange to list options not currently trading on the exchange. *See* Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000).

[6] *See* Securities Exchange Act Release No. 44057 (March 9, 2001), 66 FR 15312 (March 16, 2001) (SR–Phlx–01–03).

[7] *See* Securities Exchange Act Rule 17a–1(b). The Exchange would be required to maintain these records for the first two years in an easily accessible location.

[8] Such designee may be a member of the Exchange's Board of Governors or a member of the Exchange's Senior Staff.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3661]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee will conduct an open meeting at 9:30 a.m. on Wednesday June 13, 2001, in room 6103, U. S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of the meeting is to prepare for the 47th session of the Subcommittee on Safety of Navigation (NAV) of the International Maritime Organization (IMO) which is scheduled for July 2–6, 2001, at the IMO Headquarters in London.

Items of principal interest on the agenda are:

—Routing of ships, ship reporting and related matters

—Integrated bridge systems (IBS) operational aspects
—Guidelines relating to the International Convention for the Safety of Life at Sea (SOLAS) chapter V
—Training and certification of maritime pilots and revision of resolution A.485(XII)
—Navigational aids and related matters
—International Telecommunication Union (ITU) matters, including Radiocommunication ITU-R Study Group 8
—Effective voyage planning for large passenger vessels

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Edward J. LaRue, Jr., U.S. Coast Guard (G–MWV–2, Room 1407, 2100 Second Street SW, Washington, DC 20593–0001 or by calling: (202) 267–0416.

Dated: May 7, 2001.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, U.S. Department of State.

[FR Doc. 01–12210 Filed 5–14–01; 8:45 am]

BILLING CODE 4710–07–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1530).

TIME AND DATE: 9 a.m. (CDT), May 17, 2001.

PLACE: Whispering Woods Hotel and Conference Center Amphitheater, 11200 East Goodman Road, Olive Branch, Mississippi.

STATUS: Open.

Agenda

Approval of minutes of meeting held on April 18, 2001.

New Business

C—Energy

C1. Supplement to Contract No. 98NNX–224696 with Pinkerton Government Services, Inc., for security services.

C2. Supplement to contract with Haefely Trench for coupling capacitor voltage transformers, gas transformers, and line traps for Transmission/Power Supply.

C3. Supplement to Contract No. 99PPW–235218–002 with Alstom Power, Inc., Environmental Systems Division to design, manufacture, and deliver selective catalytic reduction process equipment for any TVA Fossil Plant.

C4. Supplement to Contract No. 99PPW–235218–001 with Cormetech, Inc., to design, manufacture, and deliver selective catalytic reduction catalyst for any TVA Fossil Plant.

E—Real Property Transactions

E1. Grant of a permanent easement for a sewerline to the Town of Centerville, Tennessee, affecting approximately 0.19 acre and a temporary construction easement affecting approximately 0.10 acre of the Centerville Line Crew Headquarters property in Hickman County, Tennessee, Tract No. XCVCH–1S.

E2. Sale of a noncommercial, nonexclusive permanent easement to Edward and Karen Wendling for construction, operation, and maintenance of recreational water-use facilities, affecting 0.1 acre of Tellico Reservoir shoreline in Loudon County, Tennessee, Tract No. XTELR–221RE.

E3. Grant of a permanent easement for a highway improvement project, without charge, except for payment of TVA's administrative costs, to the State of Tennessee, affecting approximately 0.08 acre of TVA land on Chickamauga Reservoir in Meigs County, Tennessee, Tract No. XTCR–198H.

E4. Grant of a permanent easement for a highway improvement project affecting approximately 2.56 acres of TVA land on Fontana Reservoir in Swain County, North Carolina, Tract No. XTFR–13H.

F—Other

F1. Approval to file condemnation cases to acquire easements and rights-of-way in Catoosa and Whitfield Counties, Georgia, for the West Ringgold-Center Point Transmission Line.

Information Items

1. Renegotiation of Contract No. P00P07–261998 with Cumberland River Energies, Inc., for coal supply to Bull Run Fossil Plant implementing agreement reached under a reopener of the contract.

2. Approval of David L. Babson & Company, Inc., and David J. Greene & Company, L.L.C., as new investment managers for the TVA Retirement System and approval of the Investment Managements Agreement between the Retirement System and the new investment managers.

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000.

Dated: May 10, 2001.

Charles L. Young,

Assistant General Counsel and Assistant Secretary.

[FR Doc. 01–12359 Filed 5–11–01; 1:59 pm]

BILLING CODE 8120–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Services (ISAC–13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Meeting.

SUMMARY: The Industry Sector Advisory Committee on Services (ISAC–13) will hold a meeting on May 22, 2001, from 9 a.m. to 12 noon. The meeting will be opened to the public from 9 a.m. to 9:45 a.m. and closed to the public from 9:45 a.m. to 12 noon.

DATES: The meeting is scheduled for May 22, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC, Conference Room 6057.

FOR FURTHER INFORMATION CONTACT: Karen Holderman (202) 482–0345, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (principal contact), or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the meeting the following topics will be addressed:

- Requirements for Environmental Review of the WTO General Agreement on Trade in Services (GATS) Negotiations.
- Preparations for the WTO Ministerial Meetings in Qatar, November 2001.
- Proposed Changes in the Bureau of Economic Analysis Survey on International Services Transactions.
- Capacity Building to Improve Services Trade Statistics.

Heather K. Wingate,

Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–12143 Filed 5–14–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending April 27, 2001

The following Agreements were filed with the Department of Transportation under provisions of 29 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–9514.
Date Filed: April 23, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC12 NMS–AFR 0106 dated 26 March 2001 (Mail Vote 120), Mid Atlantic-Africa Resolutions r1–r10, PTC12 NMS–AFR 0112 dated 20 April 2001 adopting Mail Vote 120, Description of Agreement (Not applicable to/from USA, US Territories), PTC12 NMS–AFR 0108 dated 30 March 2001, South Atlantic-Africa Resolutions r–11–r24, PTC12 NMS–AFR 0113 dated 20 April 2001 Technical Correction, Minutes—PTC12 NMS–AFR 0107 dated 30 March 2001 filed with Docket OST–01–9499, Tables—PTC12 NMS–AFR Fares 0059 dated 6 April 2001, PTC12 NMS–AFR Fares 0062 dated 20 April 2001, Intended effective date: 1 May 2001.

Docket Number: OST–2001–9568.
Date Filed: April 26, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC AFR 0106 dated 24 April 2001, Mail Vote 123—Resolution 010z R1–R5, TC2 Within Africa Special Passenger Amending Resolution from Zimbabwe to Zambia, Intended effective date: 15 May 2001.

Docket Number: OST–2001–9573.
Date Filed: April 27, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC3 0495 dated 24 April 2001, Mail Vote 124—Resolution 010a, TC3 Special Passenger Amending Resolution between China and Korea R1–R4, Intended effective date: 11 June 2001.

Docket Number: OST–2001–9575.
Date Filed: April 27, 2001.
Parties: Members of the International Air Transport Association.
Subject: Application of International Air Transport Association pursuant to 49 U.S.C. Section 40109, requesting an exemption from the requirement of condition #2 of CAB Order 68–7–55, that all Traffic Conference Resolutions and Recommended Practices be submitted for approval and antitrust immunity so that those Resolutions and Recommended Practices adopted by the IATA Passenger Services Conference and enumerated in the Appendix to this document may be put into effect without the Department's prior review.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–12113 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for the Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending April 27, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2001–9558.
Date Filed: April 25, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 16, 2001.
Description: Application of DaimlerChrysler Aviation GmbH pursuant to 49 U.S.C. Section 41302, Subpart B and Part 211, requesting issuance of a foreign air carrier permit, authorizing it to provide charter foreign air transportation of persons, property and mail; (1) between points in the Federal Republic of Germany and the United States; and, (2) between points in the United States and points in third countries as authorized by and in accordance with the provisions of Part 212, and the Air Transport Agreement between the Governments of the United States and the Federal Republic of Germany.

Docket Number: OST–2001–9566.
Date Filed: April 26, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 17, 2001.
Description: Application of Cherokee Air, Ltd. pursuant to 49 U.S.C. Section 41301 and Subpart Q, requesting renewal of its foreign air carrier permit authority, authorizing it to engage in more than 10 on-demand charter flights each month from Marsh Harbour, Abaco, Commonwealth of the Bahamas, to the United States.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–12112 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Revisions to Advisory Circular—Flight Test Guide for Certification of Transport Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed advisory circular revision and request for comments.

SUMMARY: The Federal Aviation Administration requests comments regarding a proposed revision to Advisory Circular (AC) 25–7A, "Flight Test Guide for Certification of Transport Category Airplanes." The proposed revision provides revised guidance concerning proposed rulemaking published elsewhere in this issue of the **Federal Register** concerning the airspeed indicating system. This notice provides interested persons an opportunity to comment on the proposed revision to the AC concurrently with the proposed rulemaking.

DATES: Comments must be received on or before July 16, 2001.

ADDRESSES: Send all comments on the proposed AC revision to the Federal Aviation Administration, Attention: Don Stimson, Airplane & Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Ave SW., Renton, WA 98055–4056. Comments may be examined at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Siegrist, Program Management Branch, ANM–114, at the above address, telephone (425) 227–2126, or facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed revision to the AC by submitting written data, views, or

arguments. You must identify the title of the AC and submit comments in duplicate to the address specified above. The Transport Airplane Directorate will consider all comments received on or before the closing date for comments before issuing a revision to the AC.

Discussion

By a notice of proposed rulemaking published in this same issue of the **Federal Register**, the Federal Aviation Administration (FAA) proposes to amend the airworthiness standards for transport category airplanes concerning the airspeed indicating system. The proposed amendment would update the current standards by adding airspeed indication requirements for speeds greater than and less than the speed range for which airspeed indication accuracy requirements currently apply, would add a requirement that airspeed indications not cause the pilot undue difficulty between the initiation of rotation and the achievement of a steady climbing condition during takeoff, and would also add a requirement to limit the effects of airspeed lag. The proposed amendment would harmonize these standards with those being proposed for the European Joint Aviation Requirements (JAR–25).

To address the additional rulemaking requirements proposed for part 25, the FAA also proposes to revise Advisory Circular (AC) 25–7A to describe acceptable means of showing compliance with the proposed rule. This revision only addresses guidance material associated with the airspeed indicating system, and should not be confused with other proposed revisions of AC 25–7A for which the FAA is currently seeking comment. Issuance of a revised AC is contingent on adoption of the proposed revisions to part 25.

Proposed Revisions to AC 25–7A

1. Replace existing paragraph 177a(1)(v) with new paragraphs a(1)(v) and (vi) to read as follows:

(v) An acceptable means of compliance when demonstrating a perceptible speed change between 1.3 V_S to stall warning speed is for the rate of change of IAS with CAS to be not less than 0.75.

(vi) An acceptable means of compliance when demonstrating a perceptible speed change between V_{MO} to $V_{MO}+\frac{2}{3}(V_{DF}-V_{MO})$ is for the rate of change of IAS with CAS to be not less than 0.50.

2. Redesignate existing paragraph 177a(1)(v), Airspeed Lag, as paragraph 177a(1)(vii).

Issued in Renton, Washington, on May 2, 2001.

Lirio L. Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12104 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice.

SUMMARY: This notice announces the first meeting of the FAA Aircraft Repair and Maintenance Advisory Committee. The purpose of the meeting is to establish the Committee's specific goals and objective pursuant to its congressional mandates and determine the tasking and final product of the committee.

DATES: The meeting will be held June 12, 2001, 8 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Ave., SW., Bessie Coleman Conference Center, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ellen Bowie, Federal Aviation Administration (AFS–340), 800 Independence Avenue, SW., Washington, DC 20591; phone (202) 267–9952; fax (202) 267–5115; e-mail: *Ellen.Bowie@faa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the FAA Aircraft Repair and Maintenance Advisory Committee to be held on June 12, at the Federal Aviation Administration, 800 Independence Avenue, SW., Bessie Coleman Conference Center, Washington, DC 20591. The agenda will include:

- Welcome and Introductions—Angela Elgee, Executive Director.
- Remarks by Secretary Norman Mineta.
- Selection of Committee Chairman and Assistant Committee Chairman.
- Review of Committee's Congressional Mandate.
- Discussion on Committee Goals and Objectives Relative to the Congressional Mandate.
- Identification of Maintenance and Repair Station Issues Relative to Congressional Mandate.
- Identification of Future Committee Tasks.
- Discussion on Working Groups and Assignment of Tasks to Working Groups.
- Scheduled Statements or Presentations by Member of the Public.
- Discussion on Future Meeting Dates.
- Closing Remarks and Adjournment.

Attendance is open to the public but will be limited to the availability of meeting room space. Please contact Ms. Ellen Bowie at the number listed above if you plan to attend the meeting or to present a verbal statement.

Requests to present a verbal statement must include a written summary of remarks. Please focus your remarks on the tasks, specific activities, projects or goals of the Advisory Committee, and benefits to the aviation public. Speakers will be limited to 5 minute presentations. Send written requests to Ellen Bowie, AFS–340, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591.

Individuals making verbal presentations at the meeting should bring 25 copies to give to the Committee's Executive Director. Copies may be provided to the audience at the discretion of the submitter.

Dated: Issued in Washington, DC on May 8, 2001.

Angela B. Elgee,

Executive Director.

[FR Doc. 01–12111 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 01–03–C–00–LWS To Impose and Use, the Revenue from a Passenger Facility Charge (PFC) at Lewiston-Nez Perce County Regional Airport, Submitted by the City of Lewiston and Nez Perce County, Lewiston-Nez Perce County Regional Airport, Lewiston, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Lewiston-Nez Perce County Regional Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 14, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robin Turner, Airport Manager, at the following address: City of Lewiston and Nez Perce County, 406 Burrell Avenue, Lewiston, ID 83501.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Lewiston-Nez Perce County Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, (425) 227–2654, Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250, Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 01–03–C–00–LWS to impose and use PFC revenue at Lewiston-Nez Perce County Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 4, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Lewiston and Nez Perce County, Lewiston-Nez Perce County Regional Airport, Lewiston, Idaho was substantially complete within the requirements of § 158.25. The FAA will approve or disapprove the application, in whole or in part, no later than August 7, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: October 1, 2001.

Proposed charge expiration date: July 1, 2011.

Total requested for use approval: $1,171,746.

Brief description of proposed project: Security Perimeter Fencing; Reconstruct Portion of Taxiways A, B and H; Airport Signing; Acquisition of Aircraft Rescue and Fire Fighting Truck & Equipment; Master Plan Update; Reconstruct Taxiway B (Phase II) and Construct Taxiway M; Acquire Passenger Lift Device; Reconstruct Taxiway B (Phase III) and Rehabilitate Terminal Ramp; Construct Midfield Taxiway and Rehabilitate Runway 11/29; Install Security Gates; Precision Approach Path Indicator Installation on Runways 11/29 and 8/26; Construct Safety Area for Runway 8 Approach and part 77 Obstruction Removal.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Non scheduled air taxi/commercial operators utilizing aircraft having seating capacity of less than 20 passengers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lewiston-Nez Perce County Regional Airport.

Issued in Renton, Washington on May 4, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–12107 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at San Francisco International Airport, San Francisco, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at San Francisco International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 14, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John L. Martin, Airport Director, San Francisco International Airport, at the following address: P.O. Box 8097, San Francisco, CA. Air carriers and foreign air carriers may submit copies of written comments previously provided to the San Francisco Airport Commission under § 158.23.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at San Francisco International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). On April 27, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the San Francisco Airport Commission was substantially complete within the requirements of § 158.25. The FAA will approve or disapprove the application, in whole or in part, no later than July 28, 2001.

The following is a brief overview of the use application:

No.: 01–01–C–00–SFO

Level of proposed PFC: $4.50.

Charge effective date: October 1, 2001.

Proposed charge expiration date: June 1, 2003.

Total estimated PFC revenue: $112,738,745.

Brief description of the proposed project: Project Development Costs Associated with the Reconfiguration of Runways.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Nonscheduled/On-Demand Air Carriers filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd.,

Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the San Francisco Airport Commission.

Issued in Hawthorne, California, on April 26, 2001.

Ellsworth L. Chan,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 01–12109 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Amend an Approved Application To Impose and Use a Passenger Facility Charge (PFC) at San Jose International Airport, San Jose, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on a request to amend an approved PFC application.

SUMMARY: The FAA proposes to rule and invites public comment on the request to amend the approved application to impose and use a PFC at San Jose International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 14, 2001.

ADDRESSES: Comments on this request may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ralph G. Tonseth, Director of Aviation, city of San Jose, Airport Department, at the following address: 1732 N. First Street, San Jose, CA 95112. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of San Jose under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to amend the application to impose and use the revenue from a PFC at San Jose International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 1, 2001, the FAA received a request to amend the application to impose and use a PFC submitted by the city of San Jose within the requirements of § 158.37(b). The FAA will approve or disapprove the amendment no later than June 29, 2001.

The following is a brief overview of the request:

Application number 00–09–C–00–SJC

Proposed amendment: Increase in the PFC collection level from $3.00 to $4.50 for all the projects in the application.

Any person may inspect the request in person at the FAA office listed above and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261.

Issued in Hawthorne, California, on April 26, 2001.

Ellsworth L. Chan,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 01–12108 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Amend an Approved Application To Impose and Use a Passenger Facility Charge (PFC) at San Jose International Airport, San Jose, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on a request to amend an approved PFC application.

SUMMARY: The FAA proposes to rule and invites public comment on the request to amend the approved application to impose and use a PFC at San Jose International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 14, 2001.

ADDRESSES: Comments on this request may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ralph G. Tonseth, Director of Aviation, city of San Jose, Airport Department, at the following address: 1732 N. First Street, San Jose, CA 95112. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of San Jose under § 158.23.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to amend the application to impose and use the revenue from a PFC at San Jose International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 1, 2001, the FAA received a request to amend the application to impose and use a PFC submitted by the city of San Jose within the requirements of § 158.37(b). The FAA will approve or disapprove the amendment no later than June 29, 2001.

The following is a brief overview of the request:

Application number: 99–08–C–00–SJC.

Proposed Amendment: Increase in the total estimated PFC revenue, for the construction of an interim federal inspection services project, from $23,598,000 to $36,880,000.

Estimated charge expiration date: Altered from November 1, 2002, to October 1, 2006.

Any person may inspect the request in person at the FAA office listed above and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261.

Issued in Hawthorne, California, on April 26, 2001.

Ellsworth L. Chan,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 01–12110 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on Sunday, June 3, 2001. The meeting begins at 1:30 p.m. The letter designations that follow each item mean the following: (I) is an information item; (A) is an action item; (D) is a discussion item. The General Session includes the following items: (1) Housekeeping items—introductions, antitrust, previous minutes, etc.; (2) Federal Report (I/D); (3) President's Report (I/D); (4) 10-Year Program Plan & Research Agenda Update (I/D); (5) Break; (6) 511 Update (I/D); (7) Driver Focus Update (I/D); (8) Expedited Standards Update (I/D); (9) Closing Housekeeping—next meeting dates/locations, adjourn.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of ITS AMERICA will meet on Sunday, June 3, 2001 from 1:30 p.m.–4 p.m.

ADDRESSES: Fontainebleau Hilton Resort, 4441 Collins Avenue, Miami Beach, Florida 33140. Phone: (305) 538–2000.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS AMERICA by telephone at (202) 484–2904 or by FAX at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, DC 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: May 10, 2001.

Jeffrey Paniati,

Program Manager, ITS Joint Program Office.

[FR Doc. 01–12171 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket NHTSA–99–5087]

Safety Performance Standards Program Meeting

AGENCY: National Highway Traffic Safety Administration (DOT).

ACTION: Notice of NHTSA rulemaking status meeting.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's vehicle regulatory program.

DATES: The Agency's regular public meeting relating to its vehicle regulatory program will be held on Thursday, July 26, 2001, beginning at 9:45 a.m. and ending at approximately 12 p.m. at the BWI Airport Marriott Hotel in Baltimore, Maryland. Questions relating to the vehicle regulatory program must be submitted in writing with a diskette (Microsoft Word) by Monday, July 2, 2001, to the address shown below or by e-mail. If sufficient time is available, questions received after July 2, may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by July 2, 2001, and the issues to be discussed, will be posted on NHTSA's web site www.nhtsa.dot.gov) by Monday, July 23, 2001, and also will be available at the meeting. The agency will hold a second public meeting on July 26, devoted exclusively to a presentation of research and development programs. This meeting will begin at 1:30 p.m. and end at approximately 5 p.m. This meeting is described more fully in a separate announcement. The next NHTSA Public Meeting will take place on Thursday, November 15, 2001, at the Best Western Gateway International Hotel, Romulus, Michigan.

ADDRESSES: Questions for the July 26, NHTSA Rulemaking Status Meeting, relating to the agency's vehicle regulatory program, should be submitted to Delia Lopez, NPS–01, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street, SW., Washington, DC 20590, Fax Number 202–366–4329, e-mail dlopez@nhtsa.dot.gov. The meeting will be held at the BWI Airport Marriott Hotel, 1743 West Nursery Road, Baltimore, MD 21240. The telephone number for the BWI Airport Marriott Hotel is 410–859–8300.

FOR FURTHER INFORMATION CONTACT: Delia Lopez, (202) 366–1810.

SUPPLEMENTARY INFORMATION: NHTSA holds regular public meetings to answer questions from the public and the regulated industries regarding the agency's vehicle regulatory program. Questions on aspects of the agency's research and development activities that relate directly to ongoing regulatory actions should be submitted, as in the past, to the agency's Safety Performance Standards Office. Transcripts of these meetings will be available for public inspection in the DOT Docket in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page, (length has varied from 80 to 150 pages) upon request to DOT Docket, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The DOT Docket is open to the public from 10 a.m. to 5 p.m. The transcript may also be accessed electronically at *http://dms.dot.gov*, at docket NHTSA–99–5087. Questions to be answered at the public meeting should be organized by categories to help us process the questions into an agenda form more efficiently.

Sample Format

I. Rulemaking
  A. Crash avoidance
  B. Crashworthiness
  C. Other Rulemakings
II. Consumer Information
III. Miscellaneous

NHTSA will provide auxiliary aids to participants as necessary. Any person desiring assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), readers, taped texts, brailled materials, or large print materials and/or a magnifying device), please contact Delia Lopez on (202) 366–1810, by COB Monday, July 23, 2001.

Issued: May 8, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–12170 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of a Petition for a Defect Investigation and for Rulemaking, DP00–005

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect investigation and for rulemaking.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency investigate an alleged safety-related defect in certain Ford pickup trucks and to begin a rulemaking proceeding. The petition is hereinafter identified as DP00–005.

FOR FURTHER INFORMATION CONTACT: For defects issues, Peter C. Ong, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–0583. For rulemaking issues, Michael Huntley, Office of Safety Performance Standards, Telephone: (202) 366–0029.

SUPPLEMENTARY INFORMATION: Dr. Carl E. Nash (petitioner) submitted a petition to NHTSA by letter dated September 1, 2000, requesting, among other things, that a safety-related defect investigation be initiated with respect to the interaction of a vehicle seat belt in the model year (MY) 1997 Ford Ranger pickup truck and certain child safety seats (CSS). Specifically, the petitioner alleges that the 2-point, manually-adjusting lap belt design located in the center seating position of the MY 1997 Ford Ranger is defective because it does not securely hold certain forward-facing CSSs, such as the 1997 Cosco Touriva. Since both the MY 1996 and 1997 Ford Rangers have the same lap belt design in the center seating position, they will be the subject vehicles in this phase of the analysis. Additionally, the petitioner requests that a rulemaking be considered to prohibit this type of lap belt assembly from being used in any passenger vehicles in the future.

A review of the agency's data files, including information reported to the DOT Auto Safety Hotline, does not indicate any complaints about the lap belt for the center seat on the subject vehicles, including when that belt is used with a CSS. Also, a review of the data for complaints about the Cosco Touriva CSSs showed no complaints referring to CSS attachment or installation problems when used in the subject vehicles, or in any other vehicles.

The subject vehicles have a 3-point combination lap and shoulder belt assembly and an air bags at the driver and outboard passenger seating positions, and a manually-adjusting lap belt assembly at the center seating position. The outboard passenger seat belt assembly has a dual locking mode belt retractor to help maintain belt tension for both the occupants and a CSS. The lap belt assembly for the center seating position has a built-in friction locking bar inside the latch plate assembly to keep the belt tight, but no retractor.

Instructions are given in the subject vehicles' owner's guides,[1] describing how to install a CSS in a seating position with a combination lap and shoulder belt, which is the outboard seating position. According to those instructions, the seat belt assembly is to be engaged in the automatic locking mode to ensure that the seat belt remains tight when used to restrain a CSS. The instructions also recommend the use of a top tether strap with forward-facing CSSs. The guide also states that when using a rear-facing infant CSS, the passenger air bag must be turned off. No instructions are given for the installation of a CSS in the center seating position, although there is no specific direction not to do so.

ODI personnel easily installed and secured a Cosco Touriva CSS in the outboard passenger seating position of a subject vehicle following the instructions provided in the vehicle's owner's guide. It was difficult to install the Touriva CSS in the center seating position because the base of the CSS was wider than the distance between the seat belt latch plate assembly exit point and the buckle assembly exit point in the bench seat. ODI also observed that when the latch plate end was inserted into the buckle, the buckle portion of the lap belt assembly protruded 5–6 inches out from the seat and was about the same height as the height of the slot in the CSS for the seat belt to pass through.

ODI personnel then checked the CSS for tightness as prescribed in the Touriva instruction manual:[2] "Tilt and push the child restraint forward and to both sides." The CSS moved and loosened from the lap belt when it was tilted in the side to side direction. It appeared that the belt webbing could form a 90° angle to the latch plate assembly and prevent the engagement of the friction locking bar in the belt assembly of the vehicle. This inability of the Touriva CSS to remain tightly secured on the center seat was evident.

ODI personnel also installed another forward-facing CSS, the Gerry One-Click Model 691, in a subject vehicle. Again, ODI personnel easily installed and secured the One-Click CSS in the outboard passenger seating position. Due to its narrower base, it was also easier to install and secure in the center seating position than the Cosco Touriva CSS. In the final check for proper fit/tightness, the One-Click was "rocked from side to side" as instructed in the One-Click instruction manual,[3] and it remained tight and secured to the center seat.

It was noted that even if the Cosco Touriva CSS could have been securely attached at the center seating position, its left side intruded into the driver's seating area, and therefore could interfere with the driver's ability to operate the vehicle. In addition, the driver would not be able to readily operate the floor-mounted shift lever because it would be blocked by the left-front corner of the CSS (approximately 60% of the subject vehicles were sold with a floor-mounted shift lever).

Proper interaction and fit between a vehicle and a CSS are very important. NHTSA's child passenger safety brochures advise parents and caregivers that "Not all child seats can be installed in all vehicles and all seating positions. With numerous models of child seats, almost 300 models of passenger vehicles, and the wide range of belt systems available today, correctly installing a child seat can be challenging." These brochures also caution owners that "Vehicle seats and seat belts are built for the comfort of adults, not to secure a child car seat correctly. Some child car seats cannot be used safely in certain seating positions."[4] It is, therefore, imperative that consumers check their vehicle owner's manual and child restraint

[1] E.g., MY 1997 Ford Ranger Owner's Guide, First Printing, Pages 101–145 and MY 1996 Ford Ranger Owner's Guide, First Printing, Pages 9–40.

[2] Cosco Touriva One-Guard models 02–014/02–015, Instruction Manual for a MY 1997 CSS, Page 7, Sections "Do You Have a Manual Belt?"

[3] Evenflo/Gerry One-Click Model 691 CSS Owner's Manual, Page 11, Section "Manually Adjusted Belt and Locking Latch Plates."

[4] NHTSA Publications DOT HS 809 011, "Buying a Safer Car for Child Passengers 2000," and DOT HS 808 302, "Are You Using It Right?"

instruction manual to determine where to properly place and how to properly secure child safety seats.

NHTSA has published numerous other brochures on how to safely transport children. They describe other important vehicle-to-CSS interface issues and factors that need to be considered by parents and caregivers. The brochures are available on our NHTSA website[5] or can be obtained by contacting the NHTSA Hotline.[6]

NHTSA agrees that the design of the lap belt assembly for the center seating position in the subject vehicles may make it difficult for CSSs similar to the Cosco Touriva to be installed securely and that children riding in an inadequately-secured CSS might not be properly protected in the event of a crash. However, these CSSs can be installed securely in the outboard passenger seating position as described in the vehicle owner's manual. (We note that the subject vehicles, when equipped with the optional passenger air bag, are equipped with switches that allow the driver to temporarily disable the passenger air bag when a child is present to assure that a deploying air bag will not injure the child.) In addition, there have been no consumer complaints regarding this alleged problem in the subject vehicles. For these reasons, NHTSA has no basis on which to conclude that this condition constitutes a safety-related defect. It is unlikely that NHTSA would issue an order concerning the notification and remedy of a safety-related defect at the conclusion of an investigation into this matter.

With respect to the petitioner's request that a rulemaking be commenced to consider prohibiting this type of lap belt assembly from being used in any passenger motor vehicles in the future due to its inability to securely hold certain models/sizes of CSSs, NHTSA has recently amended Federal Motor Vehicle Safety Standard (FMVSS) No. 213 and adopted a new FMVSS No. 225 to establish new anchorage and mounting requirements for vehicles and CSSs. FMVSS No. 225 was adopted in March 1999 and, when fully effective, will require passenger cars, SUVs, light-duty trucks, buses, and vans to be equipped with easy-to-use anchorage systems consisting of an upper tether anchorage and two lower anchorages designed to be used exclusively for securing CSSs. By requiring an independent child restraint anchorage system, this standard will significantly improve the compatibility of vehicle seats and CSSs. As of September 1, 2000, 80% of new vehicles were required to be equipped with the user-friendly upper tether anchorages and by September 1, 2001, 80% of new vehicles will also be equipped with the lower restraint anchorages. All passenger cars manufactured after September 1, 2002, will be equipped with both the upper tether and lower restraint anchorages. All CSSs manufactured after September 1, 2002 will be required to have hardware to attach to these standardized anchorages, and will also be required to be attachable to the vehicle via the vehicle's seat belt system, as is currently done, since the pre-existing fleet will not have the new anchorages. We note, however, that FMVSS No. 225 only requires the new, standardized anchorages at certain seating positions, which vary depending on the type of vehicle, so it is crucial that consumers consult their vehicle owner's manual and their child restraint instruction manual to determine where and how to properly install their CSS. In view of these recent amendments, the compatibility problems noted by the petitioner will not occur in future vehicles, so there is no need for further regulatory action.

For the foregoing reasons, and in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition for a defect investigation and for rulemaking is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: May 8, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–12193 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–59–P

[5] NHTSA Website at http://www.nhtsa.dot.gov/people/injury/childps/.

[6] NHTSA Hotline at 1–888-DASH–2-DOT (1–888–327–4236).

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Advisory Council on Transportation Statistics

AGENCY: Bureau of Transportation Statistics, Transportation.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act (Public law 72–363; 5 U.S.C. App.2) notice is hereby given of a meeting of the Bureau of Transportation Statistics (BTS) Advisory Council on Transportation Statistics (ACTS) to be held Friday, June 1, 2001, 10 a.m. to 4 p.m. The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, in conference room 3200–3202 of the Nassif Building.

The Advisory Council, called for under Section 6007 of Public law 102–240, Intermodal Surface Transportation Efficiency Act of 1991, December 18, 1991, and chartered on June 19, 1995, was created to advise the Director of BTS on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information.

The agenda for this meeting will include, Director's programs update, indicators, outreach, performance measures, confidentiality, identification of substantive issues, review of plans and schedule, other items of interest, discussion and agreement of date(s) for subsequent meetings, and comments from the floor.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Lillian "Pidge" Chapman, Council Liaison, on (202) 366–1270 prior to May 25, 2001. Attendance is open to the interested public but limited to space available. With the approval of the Chair, members of the public may present oral statements at the meeting. Noncommittee members wishing to present oral statements, obtain information, or who plan to access the building to attend the meeting should also contact Ms. Chapman.

Members of the public may present a written statement to the Council at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Chapman (202) 366–1270 at least seven days prior to the meeting.

Issued in Washington, DC, on May 8, 2001.

Ashish Sen,

Director.

[FR Doc. 01–12194 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Electronic Filing User Access Enrollment Form.

DATES: Written comments should be received on or before July 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Stewart, Revenue Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8220.

SUPPLEMENTARY INFORMATION:

Title: Electronic Filing User Access Enrollment Form.

OMB Number: 1512–0561.

Form Number: ATF F 5013.1.

Abstract: The purpose of ATF F 5013.1 is to authenticate end users in a pilot program to electronically file excise taxes. The information is used by the Government to verify the identity of the end users prior to issuing them passwords.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 25.

Estimated Time Per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 7 hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Dated: May 8, 2001.

William T. Earle,

Assistant Director (Management), CFO.

[FR Doc. 01–12160 Filed 5–14–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–39]

Customs Broker License Cancellations

AGENCY: U.S. Customs Service, Department of the Treasury.

I, as Assistant Commissioner, Office of Field Operations, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and the Customs Regulations (19 CFR 111), hereby cancel the following customs brokers' licenses based on the authority as annotated:

Name	Port	License No.	Authority
S. Stern Custom Brokers, Inc.	New York	04203	19 CFR 111.51(a)
Lawrence J. Cullen & Assoc., Inc.	New York	12700	19 CFR 111.51(a)

Dated: May 8, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–12204 Filed 5–14–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–40]

Customs Broker License Revocation

AGENCY: U.S. Customs Service, Department of the Treasury.

I, as Assistant Commissioner, Office of Field Operations, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and the Customs Regulations (19 CFR 111), hereby revoke the following customs broker's license based on the authority as annotated:

Name	Port	License No.	Authority
Escort Forwarding Inc	New York	14739	19 CFR 111.45(a)

Dated: May 8, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–12205 Filed 5–14–01; 8:45 am]

BILLING CODE 4820–02–P

Federal Register

Tuesday,
May 15, 2001

Part II

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Texas; Ozone; Beaumont/Port Arthur Ozone Nonattainment Area; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6976–1]

Approval and Promulgation of Implementation Plans; Texas; Ozone; Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving the Texas 1-hour ozone attainment demonstration State Implementation Plan (SIP) for the Beaumont/Port Arthur (BPA) moderate ozone nonattainment area. The attainment demonstration SIP is addressed in the State of Texas submittals dated November 12, 1999 and April 25, 2000. In approving the attainment demonstration, EPA is: Extending the ozone attainment date for the BPA ozone nonattainment area to November 15, 2007 while retaining the area's current classification as a moderate ozone nonattainment area; approving the State's enforceable commitment to perform a mid-course review and submit a SIP revision to the EPA by May 1, 2004; finding that the BPA area meets the Reasonably Available Control Technology (RACT) requirements for major sources of volatile organic compounds (VOC) emissions; and approving the motor vehicle emissions budgets (MVEB). A notice of proposed rule making was published on this action on December 27, 2000 (65 FR 81786). EPA received comments on that proposal. EPA has also received comments on two related proposed actions: the "Extension of Attainment Dates for Downwind Transport Areas," 64 FR 12221 (March 25, 1999); and, the proposed rulemaking published on April 16, 1999 (64 FR 18864), which addressed the Clean Air Act reclassification or eligibility for extension of attainment date for the BPA area. In this action, EPA responds to the comments to all three of these documents. For details on the SIP submittals and the EPA analysis of the submittals, refer to the December 27, 2000 proposed rule.

DATES: This final rule is effective on June 14, 2001.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733; and, the Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Steven Pratt, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733. Telephone Number (214) 665–2140, e-Mail Address: pratt.steven@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" means EPA. This supplementary information section is organized as follows:

I What Texas SIP revisions are the topic of this action?
II What previous actions have been taken regarding BPA attainment demonstrations and attainment dates?
III What Motor Vehicle Emissions Budgets are we approving?
IV What are the requirements for full approval of the attainment demonstration?
V How did Texas fulfill these requirements for full approval?
VI What SIP elements did EPA need to take final action on before approval of the attainment demonstration could be granted?
VII Implementation of Reasonably Available Control Measures.
VIII What comments were received on this proposed approval, and the two related actions, and how has the EPA responded to those?
IX EPA Action
X Administrative Requirements

I. What Texas SIP Revisions Are the Topic of This Action?

The Texas Natural Resource Conservation Commission (TNRCC) made two submittals to us, which concern the ozone attainment demonstration, and an extension of the attainment date for the BPA ozone nonattainment area:

(a) A November 12, 1999, submission from the Governor of Texas, which included the following:

A. Regulations and associated documentation for the control of VOC emissions from batch process operations and industrial wastewater treatment processes, intended to fulfill the remaining VOC RACT requirements of section 182(b)(2) of the Act for the BPA moderate nonattainment area;

B. A regulation and associated documentation for the control of NO_X emissions from lean burn engines, intended to meet the remaining NO_X RACT requirements of section 182(b)(2) of the Act for the BPA moderate nonattainment area;

C. Photochemical Modeling demonstration and its accompanying control strategy to bring the BPA area into attainment of the one-hour ozone standard as expeditiously as practicable, but no later than 2007;

D. 2007 motor vehicle emissions budgets for transportation conformity;

E. Emissions growth estimates and an emissions inventory; and,

F. An enforceable commitment to submit additional rules to us in accordance with its modeled control strategy. (This was accomplished with the April 25, 2000, submittal—see below)

(b) An April 25, 2000, submission from the Governor of Texas, which included the following:

A. Beyond RACT NO_X emissions specifications in the BPA area for electric utility boilers, industrial, commercial or institutional boilers, and certain process heaters, relied upon for attainment in the BPA area;

B. Additional regional rules and orders relied upon for demonstrating attainment in the BPA area;

C. A Revised Photochemical Modeling demonstration and emissions growth estimates; and,

D. An enforceable commitment to perform a mid-course review with submittal to the EPA by May 1, 2004.

The TNRCC held a public hearing on the November submittal on August 9, 1999. This submittal was formally adopted by the TNRCC on October 27, 1999. The TNRCC held ten public hearings on the April submittal; a public hearing was held in the BPA area on January 31, 2000. The TNRCC formally adopted the April 25, 2000, submittal on April 19, 2000.

II. What Previous Actions Have Been Taken Regarding BPA Attainment Demonstrations and Attainment Dates?

On April 16, 1999, EPA proposed in the **Federal Register** to reclassify the BPA area to a serious ozone nonattainment area, and alternatively, proposed to extend the BPA area's attainment date if the State submitted a timely SIP meeting the criteria of the 1998 Transport Policy (64 **Federal Register** 18864).

The BPA Attainment Demonstration SIP revision was adopted by the State on October 27, 1999 and submitted to EPA under a cover letter from the Governor dated November 12, 1999. This submittal was termed by the State as "Phase I" of their NO_X rulemaking activities. The State submitted a revision to their SIP dated April 25, 2000, as "Phase II" NO_X rules and controls needed for attainment. We proposed approval of these SIP revisions in a notice of proposed rulemaking (NPR) published on December 27, 2000 (65 FR 81786). EPA received comments on that proposal. EPA has also received comments on two related proposed actions: The "Extension of Attainment Dates for Downwind Transport Areas" 64 FR 12221 (March 25, 1999); and, the proposed rulemaking published on April 16, 1999 (64 FR 18864) which addressed the Clean Air Act potential reclassification or eligibility for extension of attainment date for the BPA area. In this action, EPA responds to the comments to all three of these documents.

III. What Motor Vehicle Emissions Budgets Are We Approving?

Texas has submitted motor vehicle emissions budgets for the 2007 attainment year for the BPA ozone nonattainment area. The emission budgets are shown in Table 1.

TABLE 1.—BPA 2007 ATTAINMENT MOTOR VEHICLE EMISSIONS BUDGETS

Pollutant	2007 tons/day
VOC	17.22
NO_X	29.94

We are approving these MVEBs in this action. These MVEBs are approvable as they are consistent with the control measures in the SIP, and the SIP as a whole demonstrates attainment.

IV. What Are the Requirements for Full Approval of the Attainment Demonstration?

In the April 16, 1999, notice we proposed to find pursuant to section 181(b)(2) of the Clean Air Act that the BPA area had failed to attain the ozone one-hour NAAQS by the date prescribed under the Act for moderate ozone nonattainment areas (i.e., November 15, 1996). Finalizing that finding, would result in the BPA area being reclassified from moderate nonattainment to serious nonattainment.

Alternatively, we proposed to extend the attainment date, providing that Texas met the criteria of our July 16, 1998 transport policy, "Guidance on Extension of Attainment Dates for Downwind Transport Areas." If Texas submitted a SIP by November 15, 1999, that met the July 1998 transport policy, we stated we would issue a supplemental proposal in a **Federal Register** notice to extend the BPA area's attainment date as appropriate.

The demonstration SIP must meet applicable criteria as detailed in the Act. The specific requirements of the Act for moderate ozone nonattainment areas are found in part D, section 182(b). Section 172 in part D provides the general requirements for nonattainment plans. Refer to the December 27, 2000, supplemental proposed rule for further details of the SIP requirements.

V. How Did Texas Fulfill These Requirements for Full Approval?

Texas fulfilled the requirements for full approval as follows.

Texas adopted the BPA Attainment Demonstration SIP revision on October 27, 1999 and submitted it to the EPA under a cover letter from the Governor dated November 12, 1999. This submittal was termed by the State as "Phase I" of their NO_X rulemaking activities needed for attainment. The State submitted a revision to their SIP dated April 25, 2000, as "Phase II" NO_X rules and controls needed for attainment.

The State addressed the aspect of transport in accordance with our July 16, 1998 transport policy, "Guidance on Extension of Attainment Dates for Downwind Transport Areas." Texas has demonstrated that during some BPA exceedances, ozone levels are affected by emissions from the Houston/Galveston (HG) area, and that the HG area emissions affect BPA's ability to meet attainment of the 1-hour ozone standard.

Because of the uncertainty in long term projections, EPA believes a viable attainment demonstration that relies on weight of evidence (as Texas does) should contain provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which refinements to emission control measures are needed. The Texas Natural Resource Conservation Commission (TNRCC) submitted an enforceable commitment in the April 2000 SIP submittal to perform a mid-course review (including evaluation of all modeling, inventory data, and other tools and assumptions used to develop this attainment demonstration). The TNRCC committed that it will submit a mid-course review SIP revision, with recommended mid-course corrective actions, to the EPA by May 1, 2004.

On March 7, 1995, as part of our action approving VOC requirements, we found that TNRCC had implemented RACT on all major sources in the BPA area except those that were to be covered by post-enactment Control Technique Guidelines (CTG's). 44 FR 12438 (March 7, 1995). Since that time, many expected CTGs were issued as Alternative Control Technique documents (ACTs). Of the expected CTGs and ACT's, BPA has major sources in the following categories: Batch processing; reactors and distillation; industrial wastewater; and Volatile Organic Liquid Storage. EPA has approved measures as meeting RACT for the reactors and distillation and the Volatile Organic Liquid Storage categories for the BPA area. 64 FR 3841 (January 26, 1999), and 61 FR 55894 (October 30, 1996), respectively. EPA has found that the State is imposing RACT on the batch processing and industrial wastewater categories in the BPA area (65 FR 79745, December 20, 2000). While CTGs and ACTs were issued for other categories such as wood furniture coating or aerospace coating, there are no major sources in those categories in the BPA area. TNRCC submitted, and EPA approved, negative declarations on these categories (61 FR 55894, October 30, 1996). There are also no other non-CTG/ACT major VOC sources in the BPA area that are not already covered by a state rule approved by the EPA as meeting RACT. Therefore, it is EPA's position that RACT is being implemented on all major VOC sources in BPA.

Finally, Texas has submitted motor vehicle emissions budgets for the 2007 attainment year for the BPA ozone nonattainment area.

VI. What SIP Elements Did EPA Need To Take Final Action on Before Approval of the Attainment Demonstration Could Be Granted?

In the NPR for the Texas attainment demonstration SIP published on December 27, 2000, we stated that we could not finalize the proposed actions unless and until we approved eight Texas rules covering NO_X and VOC emissions control measures relied upon by the modeled attainment demonstration for the BPA nonattainment area. These actions have been approved as detailed below.

1. The NO_X rules for Electric Generating Facilities in East and Central Texas (30 TAC sections 117.131, 117.133, 117.134, 117.135, 117.138, 117.141, 117.143, 117.145, 117.147, 117.149, 117.512), were approved by the EPA on March 16, 2001 (66 FR 15195);

2. The State-wide NO_X rules for Water Heaters, Small Boilers, and Process Heaters (30 TAC sections 117.460, 117.461, 117.463, 117.465, 117.467, 117.469), were approved by the EPA on October 26, 2000 (65 FR 64148);

3. The revised emission specifications in the BPA area for Electric Utility Boilers, Industrial, Commercial or Institutional Boilers and certain Process Heaters (30 TAC sections 117.104, 117.106, 117.108, 117.116, 117.206 as they relate to the BPA area, and the repeal of sections 117.109 and 117.601 as they relate to the BPA area), were

approved by the EPA on October 26, 2000 (65 FR 64148);

4. The administrative revisions to the existing Texas NO_X SIP (30 TAC sections 117.101–117.121, 117.201–117.223, 117.510, 117.520, and 117.570), were approved by the EPA on October 26, 2000 (65 FR 64148);

5. The two Agreed Orders entered into by TNRCC and Alcoa, Inc. and TNRCC and Texas Eastman, were approved by the EPA on October 26, 2000 (65 FR 64148);

6. Lower RVP Program in East and Central Texas (30 TAC sections 114.1, 114.301, 114.302, and 114.304–114.309), was approved by the EPA on April 26, 2001 (66 FR 20927);

7. Stage I vapor recovery Program in East and Central Texas (30 TAC sections 115.222–114.229), was approved by the EPA on December 20, 2000 (65 FR 79745); and,

8. VOC rules as RACT for batch processing (30 TAC sections 115.160–115.169) and wastewater (30 TAC sections 115.140–115.149), were approved by the EPA on December 20, 2000 (65 FR 79745).

VII. Implementation of Reasonably Available Control Measures

Section 172(c)(1) of the Act requires SIPs to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable and for attainment of the standard. Details of these requirements and applicable guidelines are provided in the December 2000, NPR. As discussed in the NPR, EPA reviewed the SIP submittal for the BPA area and found that it did not include sufficient discussion concerning the rejection of certain available measures as RACM for the specific BPA area. EPA reviewed potential available measures, as documented in the RACM analysis section of the technical support document (TSD) for the December 2000, NPR. EPA concludes that this additional set of evaluated measures is not reasonably available for the specific BPA area, because (a) some would require an intensive and costly effort for numerous small area sources, (b) due to the small percentage of mobile source emissions in the over-all inventory, some are not cost-beneficial, and (c) since the BPA area relies in part on reductions from the upwind HG area which are substantial, and the reductions projected to be achieved by the evaluated additional set of measures are relatively small, they would not produce emission reductions sufficient to advance the attainment date in the BPA area and, therefore, should not be considered RACM.

Although EPA encourages areas to implement available measures as potentially cost-effective methods to achieve emissions reductions in the short term, EPA does not believe that section 172(c)(1) requires implementation of potential measures that either require costly implementation efforts or produce relatively small emissions reductions that will not be sufficient to allow the BPA area to achieve attainment in advance of full implementation of all other required measures.

VIII. What Comments Were Received on This Proposed Approval, and the Two Related Actions, and How Has the EPA Responded to Those?

EPA received comments from the public on the Notice of Proposed Rulemaking (NPR) published on December 27, 2000 (65 FR 81786) for the proposed approval of BPA area's ozone attainment demonstration and attainment date extension. Comments were received from: Jefferson-Orange-Hardin Regional Transportation Study Transportation Planning Committee; City of Nederland; PDGlycol; Chevron Phillips Chemical Company; City of Orange; Jefferson County Drainage District No. 6; TNRCC; Beaumont Chamber of Commerce; City of Vidor; City of Port Neches; City of Port Arthur; Hardin County Commissioners Court; Port Arthur International Public Port; City of Beaumont; South East Texas Regional Planning Commission; City of Lumberton; Commissioners Court of Jefferson County; Orange County Commissioners Court; Southeast Texas Environmental Managers; Entergy; South Hampton Refining Co.; City of West Orange; Firestone Polymers; City of Pinehurst; Port of Beaumont Navigation District; Lone Star Chapter Sierra Club; and, three individuals.

EPA also received comments from the public on the proposed rulemaking published on April 16, 1999 (64 FR 18864) which addressed the Clean Air Act potential reclassification or eligibility for extension of attainment date for the BPA area. In that notice, we proposed two alternative options. One option was to find that the BPA area had failed to attain the ozone one-hour NAAQS by the date prescribed under the Act for moderate ozone nonattainment areas, or November 15, 1996. Finalizing that finding would have resulted in the BPA area being reclassified from moderate nonattainment to serious nonattainment. Alternatively, we proposed to extend the attainment date, providing that Texas met the criteria of our July 16, 1998 transport policy, "Guidance on Extension of Attainment Dates for Downwind Transport Areas."

Finally, a number of the comments received in Docket A–98–47 on EPA's notice regarding "Extension of Attainment Dates for Downwind Transport Areas" 64 FR 12221 (March 25, 1999), are relevant to this rulemaking. EPA incorporates its responses to those comments, set forth in 66 FR 586 (January 3, 2001), insofar as herein relevant. EPA sets forth responses to some of the general comments in Section A. Adverse comments as they apply specifically to the BPA area are addressed in Section C.

The following discussion summarizes and responds to all three sets of comments.

A. Comments Received in Response to March 1999 Notice

Comment 1: EPA does not have the legal authority to extend the attainment deadline for serious areas until hoped-for NO_X reductions occur from upwind states in response to the NO_X SIP call and/or section 126 actions. Such an extension is not authorized by any provision of the statute. It is not within EPA's discretion to extend the attainment dates for downwind areas classified as moderate or serious. The Act does not authorize EPA to extend attainment deadlines except in certain instances. Congress provided express attainment deadlines in the Clean Air Act, and EPA is without authority to create exemptions from them. Section 181 provides the only exception to the general rule that areas must meet their attainment dates, and is the exclusive remedy. Section 181(a)(5) allows a one-year extension if the state has complied with all requirements and commitments in the applicable SIP and had no more than one exceedance in the attainment year. In section 181(a)(5), Congress provided other authority for extending attainment dates, but not to address effects of transport. See section 181(a)(5). Section 181(b)(2)(A) requires reclassification for failure to attain by the attainment date. Section 182 requires submissions of attainment plans by the applicable attainment date. EPA's policy violates these express provisions. The statutory deadlines for attainment, the requirement that SIPs adopt measures adequate to provide for attainment by the statutory deadlines, the statutory limitation on EPA's authority to extend attainment dates under section 181(b), and the procedures to be followed in the event an area fails to attain by the deadline are unequivocal and unambiguous, and compliance is required under step one

of Chevron. (The Supreme Court in Chevron detailed the process that a reviewing court must go through in determining whether an agency's construction of a statute is proper. The first step is the question whether Congress' intent is clear. If Congress has directly spoken to the precise question at issue, the agency must give effect to the unambiguously expressed intent of Congress. *Chevron U.S.A.* v. *Natural Resources Defense Council*, 467 U.S. 837 (1984).) The extension policy is inconsistent with sections 182(b)(1)(A), 182(c)(2)(A) and 172(c)(1), which require each nonattainment area to provide for attainment and submit SIPs providing for attainment by the applicable deadline. There is no exemption from these mandates for downwind areas that can attain through local reductions, but find it difficult to do so. The EPA policy is also inconsistent with the Phoenix reclassification action, which stated that EPA had no flexibility to provide for attainment date extensions in that circumstance. In section 181(i) Congress refused to give EPA authority to extend attainment dates in light of reclassification. Although this comment specifically refers to attainment date extensions for serious areas, the EPA addresses it here in the context of granting extensions to moderate areas, such as the BPA area.

Response 1: The absence of an express provision in the Clean Air Act for an attainment date extension based on transport does not deprive EPA of the authority to interpret the Act to permit such an extension. Nor do the specific attainment date extension provisions in the statute preclude EPA's interpreting the statute to allow for an extension to account for upwind transport that has interfered with downwind attainment. This interpretation is necessary to prevent the thwarting of Congressional intent not to unfairly burden downwind areas. In various parts of the statute, Congress expressed an intent to accomplish this through provisions prohibiting transport, but these provisions failed to achieve the Congressional goal in time to allow the downwind areas to meet their originally prescribed attainment dates.

The provisions of section 182 governing reclassification also do not prohibit EPA from interpreting the Act to provide for an attainment date extension based on transport. EPA's policy of extending attainment dates for ozone nonattainment areas affected by transport of ozone and ozone precursors represents a reasonable effort to avoid the frustration of Congressional intent to which a literal application of the reclassification provisions would lead. Where a "literal reading of the statute would actually frustrate the congressional intent supporting it, [a court may uphold] an interpretation of the statute more true to Congress's purpose." *EDF* v. *EPA*, 82 F.3d 451, 468 (D.C. Cir. 1996).

In 1990, Congress established a classification scheme for ozone nonattainment areas that provided for those areas to be classified on the basis of the severity of their ozone problems and for areas with more serious problems to be given more time to attain, but also required to implement more control measures. As part of these provisions, Congress enacted the reclassification provisions under which ozone nonattainment areas that failed to attain the ozone standard as of their attainment dates were to be reclassified to a higher classification, thereby receiving an extension of their attainment date, but also being subjected to additional control requirements. See section 181(b)(2). (Phoenix was reclassified with no demonstration of transport.)

On their face, the reclassification provisions do not provide for any exemption from the reclassification process for areas affected by ozone transport from other upwind areas. However, EPA believes that, in light of developments since the enactment of the 1990 Clean Air Act Amendments, a literal application of those provisions to such areas would frustrate broader congressional intent. In this context it is important to recognize that, apart from the ozone reclassification provisions, the Act contains provisions—section 110(a)(2)(D) and 110(a)(2)(A)—that obligates states to prohibit pollution—including ozone and its precursors—from sources within the state that contribute significantly to nonattainment and maintenance problems in downwind areas (whether within that state or outside it). (Section 110(a)(2)(A) does not expressly deal with transport but imposes a general obligation on a state to do what is needed to meet its CAA obligations, which include bringing nonattainment areas within the state into attainment and, if upwind areas within the state contribute significantly to nonattainment, dealing with emissions from those areas.) Congress was cognizant of the need to control such emissions, and of the inequities between upwind and downwind sources that could result if upwind areas did not impose emission controls on their sources that contribute to downwind air quality problems. Congress thus sought to establish a regime that would eliminate such inequities.

Such controls were not imposed in the timeframes anticipated by Congress. As explained in EPA's transport policy, it in fact took many years for EPA and the States to gain a sufficient understanding of the interstate and intrastate ozone transport problem to determine the appropriate division of control responsibilities between the upwind and downwind areas under the Clean Air Act. It was only through the work of the Ozone Transport Assessment Group (OTAG), which consisted of members from states (including the State of Texas), industry and environmental groups, and EPA's subsequent NO_X SIP call, promulgated in October, 1998, that a better scientific understanding of ozone transport resulted and how to divide the responsibilities among and within the states was established. These developments occurred after the attainment date of November 1996 for the BPA area. Nor did Congress intend that an upwind area within a state, but with a later attainment date, such as HG, should accelerate the timetable provided for its own attainment as an indirect means of controlling transported pollution in a downwind area like BPA.

As EPA stated in its explanation of the legal basis for its attainment date extension policy, the graduated control scheme in sections 181 and 182 of the Act expressed Congressional intent that areas have varying attainment dates, based on the severity of their air quality problem. While all areas must attain "as expeditiously as practicable", the more polluted areas are given later deadlines because they must accomplish greater reductions. Thus many upwind areas have later attainment dates than the downwind areas that they are affecting. With respect to the BPA area, the upwind area affecting it, the HG area, has an attainment date eleven years later than the BPA area's original attainment date. EPA has interpreted section 110(a)(2)(A) of the Act as incorporating for areas within the same state the requirement, analogous to section 110(a)(2)(D)(i)(I) for areas in different states, that an upwind area, consistent with the provisions of the Act, be prohibited from contributing significantly to nonattainment in a downwind area.

EPA explained in its policy that these provisions "demonstrate Congressional intent that upwind areas be responsible for preventing interference with timely downwind attainment." They must be reconciled, however, with express Congressional intent that more polluted

areas be allotted additional time to attain. Since Congress failed to specify how to fill this gap, EPA's policy interprets the Act to harmonize the attainment demonstration and attainment date requirements for downwind areas affected by transport both with the graduated attainment date scheme and the schedule for achieving reductions in emissions from upwind areas. Not to do so would result either in penalizing downwind areas for upwind areas' pollution or shortening the time for emissions reductions and attainment in the upwind areas—timeframes that Congress had expressly determined should be lengthier.

To apply the reclassification provisions of section 181(b) without taking into account the timing of the identification and implementation of the emission reductions needed to eliminate the significant contribution of upwind areas to the downwind areas would result in the downwind areas' sources being required to implement potentially costly control measures to offset the effects of upwind area pollution—pollution that will be eliminated by emissions reductions in the upwind areas with later attainment dates. Imposing on downwind areas the burden of controlling for pollution attributable to upwind sources would compound the inequities that Congress was seeking to avoid, thereby frustrating Congressional intent.

Section 181(b)(2) provides that EPA should determine whether an area attained the standard "within six months following the applicable attainment date (including any extension thereof)." This reference to extensions in section 181(b)(2) is not limited to extensions granted under section 181(a)(5). Nor does section 181(a)(5) state that Congress intended it to be the only source for an extension.

Moreover, section 181(a)(5) addresses only one specific type of an extension. The fact that Congress provided an extension based on air quality that is near attainment at the time of its deadline does not imply that Congress precluded the Administrator from conferring extensions based on other considerations—such as the case when air quality is affected by downwind transport. The principle underlying section 181(a)(5)—that areas should not be reclassified if they have done enough to control local air pollution but are still not able to attain—also applies in the case of downwind transport. Section 181(a)(5) shows that Congress was not unalterably opposed to extensions of attainment dates without requiring an area to be subjected to reclassification and the increased control burdens that go with reclassifications. Indeed, section 181(a)(5) indicates that Congress wanted to extend attainment dates without adding control obligations when an area had done what was apparently sufficient to bring it into attainment.

The United States Court of Appeals for the District of Columbia Circuit has previously held that EPA may extend SIP submission deadlines even without explicit statutory authorization. In *Natural Resources Defense Council, Inc. v. EPA*, 22 F.3d 1125, 1135–36 (D.C. Cir. 1994), the Court upheld EPA's extension of a statutory deadline for submission of NO_X rules and a NO_X exemption request under section 182(f). Although the Court did not use the theory advanced by EPA, the court did find that the Agency had authority under the CAA to extend the deadline. EPA had found that additional time would be needed for States to conduct photochemical grid modeling in order to document the effects of NO_X reductions on an area. EPA had found that "the time needed to establish and implement a modeling protocol and to interpret the model results will, in a variety of cases, extend beyond the November 15, 1992 deadline for submission of NO_X rules." EPA thus extended the submission deadline, provided the states could show that modeling was not available or did not consider effects of NO_X reductions and that the states submit progress reports on the modeling. The D.C. Circuit upheld EPA's extension of the deadline and of EPA's time to review the submissions and make an exemption determination. The Court found that "because only a single NO_X RACT submission is required under the statute, it is logical to infer that Congress intended data supporting exemptions to be included in that submittal and that the EPA have the full 14–18 months to review them and to make an exemption determination." Even in the absence of explicit statutory authority, the Court held that "had Congress foreseen the exemption timing problem, a matter outside the EPA's control, it would have elected to accord the EPA the full statutory review time." 22 F.3d at 1136. The court ruled that "under the circumstances here the NO_X RACT deadlines were properly extended to further the Clean Air Act's purposes." Id. at 1137.

Here, similarly, EPA's and the states' inability, until recently, to adequately document the impacts of upwind areas on the attainment status of downwind areas, and to assess and allocate responsibilities among the areas, caused a delay in meeting the attainment deadlines. EPA believes that, had Congress foreseen this timing problem, it would have elected to accord the states and EPA more time to meet the attainment deadlines without imposing reclassification requirements on downwind areas. As in the case of the delayed photochemical grid modeling needed for the NO_X submissions at issue in *NRDC v. EPA*, EPA has shown that the ability to document and analyze ozone transport was delayed. And as with the criteria imposed on areas seeking NO_X submission extensions in NRDC, EPA has required analogous showings by the states, limiting the extensions to those areas that document a transport problem and that submit attainment demonstrations and adopt local measures to address the pollution that is within local control.

And lastly, Texas has benefitted from the OTAG/NO_X SIP call experience. From this modeling we (EPA and Texas) gained a better understanding of the role NO_X emissions play in the formation and transport of ozone. Earlier we had thought local VOC was the major contributing factor, but through the OTAG regional modeling and other analyses being conducted during that time period we learned that NO_X emissions play a major role in ozone formation and that ozone transport distances are much longer than envisioned. As a result TNRCC improved, through its regional modeling to develop boundary conditions, the manner in which transported NO_X is treated. Also, during this time period they benefitted from improvements in our emissions inventories and updates to the carbon bond IV chemistry in the model (e.g., improvement in the isoprene chemistry). These improvements were necessary for us to understand the ozone problem in BPA.

Though not a product of the OTAG or NO_X SIP call modeling, TNRCC did use this time to better understand the land/sea breeze phenomenon which has added a level of complexity to the HG and BPA analysis not seen any where else in the country (with the exception of some lake breeze effects in the Lake Michigan area). Emissions in the HG and BPA areas are emitted into the local atmosphere where ozone formation begins, later emissions and ozone formed are transported out over the warm air over the Gulf of Mexico where the warmer temperatures further activate the chemistry to form more ozone which is then transported back inland over both areas. So far, current meteorological models have not been able to accurately simulate this process. However, our understanding of what is happening has improved to the degree that we at least know better how to

interpret the photochemical model results.

As for Section 182(i), it has no bearing on the authority of the Administrator with respect to the attainment date extensions at issue here. Section 182(i) applies to the authority of the Administrator after an area has been reclassified, and relates to the setting of an attainment date for the reclassified area. It does not apply to an area that is not being reclassified, but rather is being granted an extension of its attainment date that effectively defers the applicability of the reclassification provisions. Here, EPA is authorizing an attainment date extension to relieve an area from reclassification requirements, and thus 182(i) does not apply. The section explicitly applies to an area that has already been reclassified, and indicates nothing about the authority of the Administrator to extend an area's attainment date prior to a determination that the area must be reclassified. Nor does section 182(i) indicate Congressional intent to deny EPA authority to interpret the Act consistently with provisions designed to prevent downwind areas from being forced to compensate for upwind pollution.

Comment 2: The Act does not authorize EPA to extend the time for implementation of adopted local control measures. EPA's approach allows downwind areas to defer implementation of local measures until the extended attainment deadline, thereby precluding any determination that the local measures have achieved the degree of emission reduction necessary to provide for attainment when the upwind sources are controlled. EPA unlawfully proposes to allow attainment date extensions for downwind areas to implement local control measures. Under sections 182(b)(1), 182(c)(2)(A), and 172(c)(1), downwind areas must provide for attainment of the NAAQS, and EPA unlawfully seeks to lessen these statutory obligations.

Response 2: As explained in Response 1, above, EPA's attainment date extension policy aims to effectuate, not frustrate the intent of Congress, by providing for an equitable allocation of responsibilities between upwind and downwind areas. Under EPA's interpretation, when an upwind area interferes with a downwind area's ability timely to attain the standard, the downwind area retains the obligation to adopt all applicable local measures, and to implement them as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved. Moreover, EPA requires that the area submit an approvable attainment demonstration containing any necessary, adopted local measures and showing that, assuming the appropriate upwind emission reductions, the area will attain the 1-hour standard no later than the upwind area's attainment date. Thus both the upwind and downwind areas are held accountable for their respective shares of the emissions reductions required to achieve attainment in the area. EPA views this coordination of the responsibilities of the upwind and downwind areas not as a lessening of the statutory obligations, but as a reconciliation of them with the reality of air transport as we have come to understand it, and with the intent of Congress that areas make expeditious progress towards attainment without sacrificing basic principles of fairness. The attainment date extension policy thus will still lead to attainment as expeditiously as practicable, taking into account the upwind contribution. Indeed, given the impact of the upwind area's contributions and the need for the upwind area emissions reductions, requiring local contributions earlier would not accelerate attainment, considering that EPA is requiring the downwind areas to implement local controls as expeditiously as practicable. Moreover, the difficulty until recently of assessing relative contributions and responsibilities of upwind and downwind areas lends support to extending attainment deadlines in these circumstances, even without express statutory permission. See *NRDC v. EPA*, discussed supra, in Response to Comment 1.

Comment 3: Reclassification alone has no immediate or mandated regulatory consequence. A SIP revision can consist of a showing that attainment will result from implementation of emission reductions already required pursuant to the SIP call. EPA's Extension Policy is inconsistent with Clean Air Act sections 179(c) and (d). This provision does not require additional local control measures beyond those previously approved and implemented by the State if adequate control measures have been adopted for upwind areas and are in the process of being implemented.

Response 3: Reclassification does impose regulatory consequences. Section 182(i) requires that "each state containing an ozone nonattainment area reclassified under section 181(b)(2) shall meet the requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified." Thus the area must meet the more stringent requirements of a higher classification, including new source review offsets and changes in cutoffs for permitting. The provisions of section 181(b) apply to reclassification of ozone areas. Sections 179(c) and (d) do not apply to ozone areas that are classified as marginal, moderate, or serious, which are subject to the requirements of section 181, if EPA determines that they failed to attain the ozone standard as of the applicable attainment date pursuant to that section.

Comment 4: Sections 176A and 184 of the CAA do not support EPA's extension policy. Congress left no room in the statute for attainment date extensions for downwind areas, considering instead the additional recommended OTC control measures for upwind areas to be sufficient. Sections 110(a)(2)(D)(i)(1) and 110(a)(2)(A) do not authorize the EPA policy. Section 110(a)(2)(D) imposes a burden only on upwind states and does not relieve downwind states of their obligation to attain by the pre-set attainment dates. EPA lacks the authority to rewrite the extension authority Congress wrote into sections 181(a)(4) and (b)(3). Congress was well aware of the transport problem and addressed it in explicit provisions, including section 110(a)(2)(D), section 110(a)(2)(A), section 184, section 176A, section 126, section 182(h), and section 181(a)(4). Thus Congress knew how to address pollutant transport and how to draft an attainment date extension addressed to it when it wished to do so. It also provided for voluntary reclassification under section 181(b)(3) to be available for downwind areas if affected by transport. Congress dealt with transport explicitly in sections 181(a)(4), 182(h) and 182(j)(2). Congress knew how to exempt transport-affected areas from control requirements if it wanted to, as it did for rural transport areas under section 182(h). Congress limited relief for areas subject to transport to exemption from sanctions, but did not extend this to section 110(c) FIPs. H.R. 101–490, at 248. This shows Congress' intent to apply all of the CAA enforcement tools except for sanctions under section 179. Congress considered the effects of transport, but not in the reclassification context. Congress did provide for attainment date extensions, but not in this context.

Response 4: Having crafted provisions in the 1990 Amendments that it believed would be adequate to address the problem of downwind nonattainment, Congress did not expressly provide for an attainment date extension based on transport. But the absence of such a provision does not prevent EPA from inferring that Congress would have intended to provide such relief should the express

provisions fail to function as envisioned. In fact, the manner in which Congress did address the issue of transport shows that EPA's interpretation is consistent with Congress's approach in other sections of the Act. EPA's interpretation resolves the problem that arose when the express statutory tools failed to function as Congress had envisioned. It also, as EPA pointed out in its guidance, 61 FR 14441 (March 25, 1999), provides a means to reconcile the attainment demonstrations and attainment date requirements for downwind areas with the graduated attainment date scheme and schedule for achieving reductions in the upwind areas. Although Congress intended that upwind areas be responsible for preventing interference with downwind areas' attainment dates, it also expressly allotted more time for certain upwind areas to reduce their emissions so as to attain the standard.

EPA disagrees with commenters that Congress intended section 110(a)(2)(D) and the other transport provisions to exclude the possibility of further relief for downwind areas. These sections express Congressional intent that downwind areas not be saddled with responsibility for pollution beyond their control. Their premise was that there would be a means of redress against upwind areas prior to the downwind area's attainment date—a means that also would not be at odds with Congress's decision to provide longer attainment periods for upwind areas confronting onerous pollution problems. But, as EPA pointed out in its guidance, there was in fact no practicable way to carry out the Congressional scheme until a much more comprehensive understanding of the complex facts of ozone transport could be achieved.

Although Congress in the 1990 Amendments and in prior versions of the Clean Air Act attempted to deal with the issue of transport, the reality of the problem proved far more complicated and intractable than expected. As explained in EPA's guidance, 64 FR 14441 (March 25, 1999), and in the January 3, 2001, rulemaking granting extensions to serious areas (66 FR 586), it took many years for EPA and the states to study, analyze, and attempt to resolve the allocation of responsibility for transported ozone pollution. A detailed description of the history of efforts to address ozone transport through the 1990's may be found in the preambles to these NO_X SIP Call and Section 126 rulemakings. 63 FR 57360–63, 64 FR 28253–54.

The BPA and HG areas are not subject to the NO_X SIP call. But the analysis of transport developed for the NO_X SIP Call aided EPA and Texas in understanding the transport problem in the BPA area. See Section C, Response 2. The BPA SIP was submitted in November 1999 and supplemented in April 2000. The HG SIP was submitted in December 2000, the date for submission for all severe areas.

Thus, although Congress in the Clean Air Act had formulated a prohibition on transport interfering with downwind attainment, it remained largely theoretical until EPA and the states could understand how to identify, quantify, and analyze the transport of emissions, and develop regulatory means to coordinate the respective responsibilities of a multitude of upwind and downwind areas. Although Congress endowed EPA and the states with legal tools to protect downwind areas from interference with attainment, it did not give them the ability to use the tools in the time frame anticipated by Congress. By the time EPA and the states gained an understanding of regional transport sufficient to allow enforcement of the provisions of the Act, it was too late to help some downwind areas meet their attainment dates, including moderate areas such as the BPA area.

As set forth in Response 1 above, Congress intended, through enactment of the provisions addressing transport cited by commenters, to prevent downwind areas from being held accountable for pollution over which they exercise no control. Because of the complexity of the transport problem, EPA and the states could not deploy these statutory provisions in time to achieve attainment by their original attainment dates. But this does not mean that Congress would have intended EPA to construe the very provisions designed to protect downwind areas as precluding EPA from interpreting the statute to provide the relief that those provisions failed to furnish. Notwithstanding the absence of an express provision for an attainment date extension based on transport, EPA believes that, taking into account the Act read as a whole, Congressional intent supports EPA's interpretation of an attainment date extension in the circumstances presented here.

Commenters argue that the fact that Congress formulated various provisions addressing certain specific types of issues concerning transported pollution, but did not provide for an explicit attainment date extension based on transport, should be taken as proof that Congress meant to preclude such relief. But each of the provisions cited by commenters was designed to address a different problem from the one EPA addresses here, and none undermines EPA's interpretation that Congress intended to provide relief in the situations currently confronted by downwind areas. As shown in EPA's previous responses, Congress expressed its intent in the transport sections to protect downwind areas from the burdens of transported pollution, but the mechanisms it provided could not be invoked in time.

For example, section 181(a)(4) concerns the potential for adjustment of the original classification of an area if its design value is within a certain margin. It allows the Administrator to consider a number of factors, including among them transport. This provision in no way casts doubt on the Congressional intent not to penalize downwind areas through mandatory reclassification should they later fail to attain the standard due to transport. Section 182(h) provides a mechanism for original classifications of rural transport areas as marginal areas, the lowest level of ozone nonattainment areas. Far from indicating that Congress did not intend relief for areas that are victims of transport, this provision reflects Congressional concern with not burdening areas with responsibility for transport not of their making. It sheds no light on whether Congress would have intended EPA to reclassify areas suffering from transported pollution if they were subsequently unable to meet their attainment dates.

Nor, as commenters suggest, would so-called "voluntary" reclassification under section 181(b)(3) furnish an adequate remedy for the situation confronting areas that fail to attain due to interference from transport. An area that felt constrained to seek "voluntary" reclassification would still be forced to subject itself to more stringent requirements to control local pollution in lieu of imposing on upwind areas the responsibility for the transport they caused. Further, the imposition of the more stringent local controls would still not bring the downwind area into attainment. It could not reach attainment unless and until the upwind area reachs attainment and stops affecting the downwind area's ability to attain.

Comment 5: The states had power to timely submit SIPs controlling local pollution to the full extent that it was in the state's power to require, and combine it with a request to EPA to invoke EPA's authority to control upwind pollution, and in this way the state could have attained by the applicable deadline. EPA's 1994 overwhelming transport policy required transport modeling to be documented

the same time as the attainment demonstration due in 1994. There is no justification for allowing states to request attainment date extensions based on transport of which they were aware many years ago. An opening is created for upwind states to argue that the NO_X SIP call effectively accelerates their attainment dates. The OTC was to recommend measures to bring about attainment by the deadlines "in this subpart."

Response 5: As pointed out in EPA's Response 4, above, an awareness that transport was occurring is not equivalent to an ability to identify, analyze, and control the emissions that cause it. This ability, which grew out of years of study and joint effort, did not coalesce until 1998. Thus, downwind states and areas were faced with the prospect of having to shoulder responsibility for pollution not of their making—a responsibility that Congress did not intend to impose on them, even as they were aware of an ongoing effort, involving EPA and thirty-seven states (including Texas), to allocate responsibilities for transport through the OTAG process. As EPA stated in its guidance on the attainment date extension, the state of knowledge about and the ability to document and model transport has advanced considerably since the issuance of EPA's overwhelming transport guidance. The commenters seek to ignore the climate of uncertainty in which states and EPA were operating with respect to controlling transported pollution.

But even with the allocation of responsibilities now available, EPA believes that Congress did not intend to accelerate the obligations of upwind areas so that downwind areas can meet earlier attainment dates. This would undermine the objective, firmly embodied in the graduated attainment framework of the Clean Air Act, to allow upwind areas with more severe pollution longer attainment deadlines. Upwind areas with later attainment dates still find it difficult to reduce emissions solely to control for transport without accelerating the time frames intended by Congress. It is unrealistic to expect upwind areas to be able to segregate out the reduction of emissions for purposes of transport from the reduction of emissions for purposes of achieving attainment in the upwind area.

The fact, as a commenter points out, that Congress envisioned that the OTC-recommended measures would bring about attainment by the dates "in this subpart" reflects Congress" over optimistic view that transport would be understood and controlled in time to allow upwind areas to be held accountable for their contributions to downwind nonattainment. The comment underscores that Congress expected upwind reductions to take place by the time the downwind area was supposed to attain—this confirms that Congress expected that upwind pollution would be controlled prior to downwind attainment deadlines, and that only local pollution would remain as the downwind area's responsibility. But, as we previously stated, the time line for analyzing and assessing transport, and the resulting ability to set boundary conditions for modeling attainment demonstrations, did not keep pace with Congress' expectations. EPA is extending attainment deadlines in order to allow upwind areas to assume responsibility for the pollution they generate and that is transported across State boundaries or to downwind areas within a state, and to fulfill the Congressional intent that downwind areas not be saddled with this burden.

Comment 6: EPA's decision directly conflicts with *NRDC* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994), where the Court held that EPA could not extend a clear statutory submission deadline.

Response 6: To the contrary, EPA believes that *NRDC* v. *EPA* supports EPA's authority to issue the attainment date extensions at issue here. In that case the U.S. Court of Appeals for the D.C. Circuit upheld EPA's extension of SIP submittal deadlines even though such extensions were not expressly permitted by the Clean Air Act. See the discussion in Response to Comment 1, above. The Court relied in part on the need for additional time to undertake photochemical modeling to document the impact of NO_X reductions on individual areas, an effort that took more time than Congress anticipated. Here, the effort to document, model, and analyze regional ozone transport issues and assess responsibility for relative contributions is, if anything, more complex than the NO_X exemption showings for which the Court upheld deadline extensions in NRDC versus EPA. The Court's reasoning in *NRDC* v. *EPA* should be fully applicable to the policy at stake here.

Comment 7: A commenter concedes that "EPA's delay in establishing the mandatory emission reduction targets for upwind States might justify the delay in adoption of adequate section 110(a)(2)(D) measures by the upwind states," but concludes that the delay "cannot justify delaying the obligation of downwind States to implement all the local measures necessary for attainment by the statutory deadline." One commenter, while acknowledging that it "does not take issue with EPA's objective of accommodating the delayed control contributions from upwind areas," contests EPA's claim of authority to extend attainment dates. This commenter suggests that the appropriate remedy is for EPA to authorize states to take credit for mandated emission reductions when preparing attainment demonstrations and determining the degree of local controls needed to attain.

Response 7: While the commenter recognizes that there was a delay in understanding and regulating transported pollution that "might justify the delay" in upwind states adopting section 110(a)(2)(D) measures, and agrees with EPA's objective in taking this delay into account, the commenter's proposed solution fails to address the problem it acknowledges. The commenter suggests allowing areas to take credit when they prepare their attainment demonstrations—but this solution addresses only the planning requirement, and does not assist the areas in solving the problem of failing to meet their attainment deadline. It is to address this issue, and to effectuate Congressional intent to avoid penalizing downwind areas in these circumstances, that EPA has formulated the attainment date extension. The delay in ascertaining the amount and achieving the reality of upwind reductions—a delay conceded by commenters—resulted in uncertainty in a downwind area's ability not only to plan for attainment, but to realize it.

This comment also highlights the difficulties that EPA's attainment date extension policy was designed to address: Namely that the states and EPA were (1) not able to assess relative contributions until it was too late to implement the controls to bring about attainment; and (2) upwind areas with longer attainment dates should not be required to accelerate their reductions in time to help bring about attainment as scheduled in affected downwind areas with earlier attainment dates. As the policy explains, the determination of relative upwind and downwind contributions, how downwind areas should model their attainment demonstrations to show the upwind areas' impact, and the allocation of responsibility for determining controls did not occur in time for a number of areas to meet their attainment deadlines.

Comment 8: EPA's approach allows emission reductions from motor vehicles to be deferred beyond the deadlines currently required by the Act. The policy allows deferral of conformity budgets beyond the statutory attainment year. It is also inconsistent with statutory requirements for reasonable

further progress in section 182(c)(2)(B), for implementation of all reasonably available control measures as expeditiously as practicable in section 172(c)(1), and for requiring that transportation plans and TIPs "will not delay timely attainment of any standard or * * * other milestones in any area in section 176(c)(1)."

Response 8: EPA disagrees with the commenter that the policy allows deferral of reasonably available control measures beyond dates contemplated in the Act. The statute requires SIPs to provide for attainment as expeditiously as practicable and for reasonable further progress as necessary to provide for attainment. The RACM measures the commenter is apparently referring to are not specific measures that the statute requires to be implemented by a fixed date. Rather, they are whatever RACM measures, including motor vehicle measures, necessary to provide for attainment and RFP by the applicable attainment date. Thus, whatever attainment date is applicable, an attainment date extension, etc., defines the outside date by which RACM measures, including motor vehicle measures, necessary to provide for timely attainment must be implemented. A determination must then be made whether any additional measures could advance that date, but the analysis is keyed to the established attainment date. The commenter also complains about delays in establishing budgets for conformity purposes, and requirements that transportation activities not delay timely attainment. Again, these issues are not relevant to establishing an appropriate attainment date. Motor vehicle emission budgets for conformity purposes are those budgets that are established for the attainment year. The Act does not require that these budgets be set for any specific year, but rather contemplates that they will be established for the attainment year. Where EPA has properly determined that an attainment date extension should be granted, conformity budgets are required for the extended attainment year; they are no longer required for the superseded attainment year. The requirement that transportation activities not delay timely attainment is a duty imposed on transportation planning agencies to insure that their activities will not interfere with attainment of the standard by the applicable attainment date. This duty is irrelevant to establishing the appropriate attainment date in the first instance. Once an applicable attainment date is established, transportation planners must insure that their activities will not delay attainment by that date.

Comment 9: A commenter argues that under the terms of section 188(e), an extension of the PM attainment date may not be granted unless the State demonstrates that the area's SIP contains "the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any Sate, and can feasibly be implemented in the area." Moreover, section 188(e) provides for consideration of transboundary emissions from "foreign countries," not from U.S. sources. EPA's proposed ozone nonattainment extension policy includes neither of these limitations.

Response 9: The provision cited by commenters applies the PM–10 standard, and is not applicable to attainment dates for ozone. Moreover, the regulatory regimes applicable to ozone and PM–10 are quite different, as are the types of transport issues that arise with respect to these two different pollutants. The issues EPA and the states confront with respect to long-range regional transport of ozone do not apply to PM–10. Beyond that, section 188(e) embodies a standard of "impracticability" as a basis for seeking an extension for a PM–10 attainment deadline. With respect to the ozone attainment deadlines at issue here, EPA is not granting extensions solely on the grounds of impracticability of attaining the standard, but rather, that Congress intended both upwind and downwind areas to have an opportunity to bear the responsibility for their respective contributions to an area's attainment problems.

Comment 10: EPA's effort to "manufacture a conflict" between the statutory deadlines and transport provisions fails, since these provisions must be read together so that the upwind area's "obligation to control pollution affecting the downwind area—be it interstate or intrastate—falls due no later than the downwind area's attainment date." EPA's argument that areas with longer attainment dates be given additional time ignores the statutory requirement that areas attain as expeditiously as practicable, even if that results in attainment before section 181(a)(1)'s outer deadlines. The section 181 attainment deadlines are "outside limits." A commenter argues that Section 181(a) does not prevent upwind areas from abating pollution in downwind areas in time to meet the downwind area's attainment date. EPA's policy cannot be defended as necessary to reconcile 181(a) with the Act's anti-transport provisions. Upwind areas should be able to control pollution contributing to downwind area's nonattainment even before reaching their own later-prescribed attainment dates.

A commenter disputes EPA's interpretation of the language in section 110(a)(2)(D)(1) that SIP provisions prohibiting emissions which cause transport be "consistent with the provisions of this subchapter." EPA should interpret the provisions to respect the attainment schedules of sections 181 and 182, and address transport separately. No reference is made to any legislative history that would legitimize EPA's reading. An upwind area's obligation to control transported pollution does not depend on its own timetable for attainment. EPA's policy excuses upwind area's responsibility from their obligations under sections 110, 176A and 184, exempting them via granting extensions to downwind areas. The policy defers downwind action until the upwind area attains.

EPA improperly assumes that it would not be practicable for upwind sources to reduce emissions contributing to downwind nonattainment prior to the time such reductions would be required to attain in the upwind area. The presumption should be precisely the opposite: unless the upwind state can show that such reductions are impracticable, EPA should assume such reductions can be made at times to eliminate the upwind state's contribution to nonattainment downwind by the downwind area's attainment date. EPA's rule eliminates the Act's requirement that attainment be accomplished as expeditiously as possible. Section 184 indicates Congressional intent that upwind areas make reductions if necessary to permit downwind areas to attain by their statutory deadlines.

Response 10: EPA disagrees with the commenter's contention that it has "manufactured a conflict." Rather, EPA believes that it recognizes and resolves the real tension between the statutory deadlines and the transport provisions. EPA explained this tension in its guidance on the attainment date extension policy. See also EPA's response to Comment 4. Congress did not intend that areas with more severe pollution problems such as the HG area, and accordingly longer attainment dates, be forced to accelerate reductions on a timetable that otherwise would not be required to meet their obligation to attain "as expeditiously as practicable." Commenters want EPA to read the requirement for upwind areas, not as mandating attainment "as expeditiously as practicable"—but as requiring

deadlines that are not practicable, solely for the purpose of obtaining downwind reductions.

In dealing with ozone, a regional pollutant, an upwind nonattainment area cannot make reductions for transport purposes without affecting its schedule for making reductions for attainment purposes. Compelling the upwind area to make drastically faster reductions is akin to asking it to go on a crash diet. But the interplay of the statutory provisions on attainment deadlines and transport reduction indicates that Congress intended upwind areas to reduce transport, but not to the extent of requiring shorter schedules for upwind attainment. Separating out reductions for purposes of attainment and those for the purposes of transport is more difficult than commenters depict, and EPA believes that Congress did not intend a regimen of drastic reductions without regard to the upwind area's attainment schedule. In reality, an upwind area that remains in nonattainment may well be shown to continue to transport pollution to an affected downwind area.

Congress provided statutory tools to address the issue of transport, and believed that they would be used to reach an accommodation among upwind and downwind areas—but as EPA and some commenters have recognized, this accommodation took longer than anticipated. Congress did not, however, intend that upwind areas be forced to apply drastic measures in order to allow the downwind areas to meet their shorter attainment periods.

Although the attainment deadlines can be viewed as "outside limits," they in fact represent the dates at which statutory consequences must be considered. As long as no earlier date is deemed to be "as expeditiously as practicable," there is no evidence that Congress considered an earlier date to be acceptable for these areas, in disregard of "practicability." Even if earlier deadlines would be beneficial to downwind areas, Congress did not indicate that this criterion should override the criterion of "practicability" for the upwind area.

In administering the Clean Air Act and the NO_X SIP call, EPA has interpreted section 110(a)(2)(d)'s significant contribution test as requiring reductions as expeditiously as practicable without requiring upwind areas to impose draconian measures. The United States Court of Appeals for the District of Columbia Circuit recently upheld EPA's use of a cost component in applying that section's significant contribution test. *Michigan* v. *EPA*, 213 F.3d 663, 674–679 (D.C. Cir. 2000). EPA decided that the states that were "significant contributors" under section 110(a)(2)(D) need only reduce their emissions by the amount achievable with "highly cost-effective controls." 63 Fed. Reg. at 57403. "Thus, once a state had been nominally marked a "significant contributor," it could satisfy the statute, i.e., reduce its contribution to a point where it would not be "significant" within the meaning of section 110(a)(2)(D)(i)(I) by cutting back the amount that could be eliminated with 'highly cost-effective controls.'" 213 F.3d at 675.

In applying section 110(a)(2)(D), the D.C. Circuit concluded that EPA can consider not only air quality impacts, but also costs of control. Thus EPA has been upheld in interpreting the Act in a way that limits the upwind area's responsibility to control pollution so as to mitigate its responsibility under section 110(a)(2)(D). The upwind area should not have to impose draconian controls. As the court in *Michigan* v. *EPA*, concluded, "there is nothing in the text, structure, or history of section 110(a)(2)(D) that bars EPA from considering cost in its application." 213 F.3d 679. The Court's discussion makes clear that EPA, in interpreting the responsibilities of upwind states under section 110(a)(2)(D), may consider differences in cutback costs in determining what constitutes a significant contribution, and that EPA's inquiry is based on balancing a number of considerations to balance health effects and cost-effectiveness.

EPA's policy does not excuse the upwind areas from fulfilling their obligations under section 110 and part D. Upwind areas will be held to section 110, part D and RACM requirements. EPA has determined the out-of-state upwind areas' section 110 obligations through the SIP call. The SIP call requires reductions by the date EPA determined was as soon as practicable to eliminate significant contributions to downwind areas.[1] This is coupled with the upwind area's obligation to attain as expeditiously as practicable. The upwind area in this instance, the HG area, must reduce emissions as soon as practicable to eliminate its significant contribution to the BPA area. The HG area must also attain as expeditiously as practicable. It is appropriate to hold downwind areas to the upwind area's attainment date as an outside limit until EPA acts on the upwind area's attainment demonstration. The modeling evidence we have now shows that the upwind area needs to come into attainment for the downwind BPA area to attain the standard.

The BPA area is implementing local measures by 2005. The schedule is based on time necessary for the engineering and installation of control equipment on point sources during their regular maintenance and down times. This period must be as soon as possible, but such that BPA does not incur an economic hardship. This timing is appropriate and expeditious. Further, EPA recalculated the estimate of the future design values based solely on modeled days when winds are not coming from the HG area. The results indicate that the local measures in BPA are adequate to show attainment on days when transport is not an issue. This confirms that BPA has done all that they can to address the local portion of their nonattainment problem.

Comment 11: The section 182(j)(2) "but for" standard applies to intrastate transport. An area must demonstrate that it would have accomplished attainment but for the failure of other areas to implement sufficient controls. The policy is vague, and fails to establish clear standards for a showing of transport. The "affected by transport" standard is unclear.

Response 11: EPA is not constrained by the section 182(j)(2) standard. This section is limited in application to single nonattainment areas that are located in more than one state, and does not address transport coming into an area from another, separate area.

The Texas modeling for the BPA and HG modeling domain showed that there were significant impacts from the upwind area on the downwind area, no matter whether one used as a standard the "but for," "significant contribution" or "affected by transport" formulation. EPA's review of the number of days when there is an exceedance in BPA for the 1990–94 data shows 41 exceedances in the BPA area, of which 16 days are when winds are from the HG area. This is more than 3 exceedances per year (three being the maximum number of exceedances allowed to still be in attainment) for BPA which are influenced by transport from HG. Given the two areas are less than 24 hours transport from each other, and the life time of ozone and its precursors, it is reasonable to believe ozone observations and emissions emitted in HG will arrive in BPA within 24 hours. This argument alone closely links the two areas. Modeling which eliminated the HG emissions and resulted in 10–30 ppb change in ozone levels in BPA, as documented in the TSD, shows HG is

[1] Because the D.C. Circuit stayed the obligation of States to submit plans by 13 months, the court also extended by 13 months the date by which sources must implement the necessary controls.

having a major impact on BPA's ability to attain the 1-hour ozone standard.

Congress intended that an upwind area that significantly contributes to a downwind area's nonattainment problem should bear responsibility for that pollution. The Texas modeling shows that significant contribution is made by the upwind area to the downwind area seeking the attainment date extension. EPA still believes that Congress would not have intended to impose the burden on downwind areas for an upwind area's contribution.

Comment 12: Transport is already incorporated into each area's section 181 design value and thus is assumed in setting the projected attainment date. Congress understood transport resulted in elevated design values, but did not authorize classifications to take into account transport, and provided for reclassification by operation of law based on air quality. In section 181(a)(1), Congress directed that ozone nonattainment areas be placed within certain classifications based solely on their design values, regardless of transport. Congress understood that many areas were classified as moderate or severe at least in part because of ozone transport, but did not grant EPA discretion to take such transport into account when establishing initial classifications under the Act. Why does EPA believe so strongly that its approach is consistent with Congressional intent, given Congress's refusal to consider transport in establishing the initial classifications and in light of sections 181(b)(2) and 182(i)?

Response 12: Section 181(a)(4) is for a discrete and limited purpose. The fact that this provision governing the initial classification process expressly takes transport into account in a specific way does not mean that EPA is precluded from taking transport into account when providing for an attainment date extension based on transport, prior to invoking the reclassification provisions. See EPA's Response to Comment 1. By providing for an extension of the attainment date, EPA is effectuating Congressional intent that the transport relief provisions have a chance to take effect before EPA has an obligation to determine whether the area has attained for purposes of triggering the reclassification provisions.

Comment 13: EPA has previously concluded that reclassification is not a means of penalizing an area, but a means of providing additional reductions that will benefit public health. EPA rejected the notion that bump-up is a penalty when it reclassified the Phoenix, Arizona area from moderate to serious. There, EPA said:

"The classification structure of the Act is a clear statement of Congress's belief that the later attainment deadlines afforded higher-classified and reclassified areas require compensating increases in the stringency of controls. The reclassification provisions of the Clean Air Act are a reasonable mechanism to assure continued progress toward attainment of the health-based ambient air quality standards when areas miss their attainment deadlines and are not punitive."

Final Rule, 62 FR 60001, 60003 (Nov. 6, 1997). Why has EPA changed its mind about the functions of reclassification?

Response 13: EPA has not changed its mind about the function of the reclassification provision where the issue of transport is not presented. In the context of Phoenix, a reclassification not involving transport, EPA made the response cited by commenter, and noted that the reclassification provision was not intended to be punitive. This view is consistent with the position that EPA takes here, where the circumstances are quite different from the non-transport reclassification context. In the absence of transport, an area that fails to attain by its attainment date, may still fairly be held accountable for controlling local pollution, and be granted a longer attainment deadline in return for more stringent controls. Under these circumstances, applying the reclassification provisions is not punitive. But in the circumstances EPA and Texas confront here, the local area is not responsible for pollution that interferes with its ability to meet the standard. In such a case, to trigger reclassification would impose on the area the responsibility and costs for pollution beyond its control, and would indeed be punitive. To avoid such a result, and to effectuate Congressional intent, EPA has interpreted the Act to authorize an attainment date extension.

Comment 14: Congress directly considered and rejected EPA's interpretation of its attainment date extension authority during the Clean Air Act Amendments of 1990. During debate, Senator Kasten expressed concern about the proposed legislation's provisions concerning the "issue of downwind ozone nonattainment." He noted that pollution from Chicago affected southeastern Wisconsin, but described "the difficulty this poses is that the Nation's most polluted urban areas are given a much more generous timetable for meeting air-quality standards. Chicago will have 5 more years to meet air-quality standards than these Wisconsin counties will have." Senator Kasten then noted that because of Chicago's longer attainment date, it was likely that the Wisconsin counties "will be found in violation of the Clean Air Act because of actions taking place outside of their jurisdiction in an upwind State." The commenter claims that Senator Kasten introduced an amendment which provided, among other things, for an attainment date extension for the downwind area until the upwind nonattainment area achieved emission reductions. S. Comm. On Envt. And Pub. Works, A Legislative History of the Clean Air Act Amendments of 1990, pp. 4954–55 (1993). The commenter claims that "the amendment, was, of course, rejected." Thus the commenter argues that Congress, although it addressed ozone transport in sections 176A and 184, declined to alter the requirements of section 181, even though it was aware of the problem that EPA seeks to solve with its attainment date extension policy.

Response 14: There is no evidence that the amendment discussed by Senator Kasten was ever debated, considered, or voted upon. Commenter cites no support for the proposition that it was considered and rejected. Thus no inferences can be drawn from the fact that the amendment was not embodied in the statute. Moreover, even if the amendment had been considered and rejected, it differed from and went so far beyond the attainment date extension EPA is applying here as to not be probative of Congressional intent with respect to EPA's current interpretation of the Act. Among other things, it would have provided for a new and separate Ozone Transport Region, and would have provided for different obligations and consequences for downwind areas than what is contained in EPA's current interpretation of the attainment date extension policy. Legislative History at 4954–56.

Comment 15: The EPA attainment date extension policy is an illegal expansion of its 1994 overwhelming transport policy.

Response 15: The policy is not an illegal expansion of the overwhelming transport policy, but an appropriate interpretation of the provisions of the Act in order to fulfill Congressional intent. EPA's current articulation of the attainment date extension policy reflects the considerable advances in understanding and allocating responsibility for transport that have occurred since the formulation of the overwhelming transport policy. These advances have resulted from the work on ozone transport included in, among other efforts, the OTAG, SIP Call, and area modeling programs. EPA thus regards the attainment date extension policy as superseding the overwhelming transport policy. See EPA's earlier responses.

Comment 16: Downwind areas should be required to implement, not just adopt, all required measures before becoming eligible for an extension. Modeling is imprecise and an area might be able to attain if they implement all required measures, which should already have been implemented prior to the original attainment date. A state could have timely submitted all the provisions for control of local pollution as required by sections 182(b)(1)(A)(i), 182(c)(2), and 172(c)(1) providing for the full extent of local reductions that it was in the state's power to require.

Response 16: In granting an attainment date extension for an area, EPA has determined that upwind reductions are necessary to help the area reach attainment. Thus, requiring all local reductions to be implemented prior to the time that upwind reductions are achieved would not accelerate attainment. Nonetheless, EPA has required that local reductions be implemented as expeditiously as practicable. See EPA's Guidance 61 FR 14441 (March 25, 1999). In this case, BPA has adopted and will be implementing local regulations controlling pollution from local sources, but which will not be able to bring about attainment due to pollution caused by transport due to the transport from the HG area preventing the BPA area attaining.

Comment 17: EPA's allegation that additional local measures "will become superfluous once upwind areas reduce their contribution to the pollution problem," 64 FR 14444, is mistaken. First, the measures will produce public health benefits during the period prior to implementation of upwind reductions, and second the Act independently requires all areas to "implement all reasonably available control measures as expeditiously as practicable," 172(c)(1), regardless of what reductions are expected from upwind areas. EPA should not allow downwind areas to postpone implementing local measures until upwind reductions are achieved. This extension is unlawful, and, because unexplained, arbitrary and capricious.

Response 17: EPA disagrees with the commenter's characterization of EPA's actions. EPA is in fact requiring downwind areas to implement the local control measures required under the classification as expeditiously as practicable, but no later than the time the upwind reductions are achieved. See EPA's Guidance, supra. To obtain an extension the area must have provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved. See also response to Comment 16, above. No measures are being postponed as a result of the area's being granted a later attainment deadline. The BPA area has not delayed or postponed the effectiveness of measures because its attainment date is being extended. Texas is enforcing its attainment measures as expeditiously as practicable. The BPA area is implementing local measures by 2005. The schedule is based on time necessary for the engineering and installation of control equipment on point sources during their regular maintenance and down times. This period must be as soon as possible, but such that BPA incurs disproportionate economic hardship. This timing is appropriate and expeditious. Further, EPA recalculated the estimate of the future design values based solely on modeled days when winds are not coming from HG. The results indicate that the local measures in BPA are adequate to show attainment on days when transport is not an issue. This confirms that BPA has done all that it can to address the local portion of its nonattainment problem. Thus EPA's interpretation is not unexplained, arbitrary, nor capricious. As EPA has explained, it seeks to reconcile and coordinate the responsibilities of the HG and BPA areas to work together to achieve attainment. However, as discussed elsewhere, EPA has applied the section 172(c)(1) RACM requirement to these areas.

Comment 18: EPA is excusing downwind areas from the requirement that nonattainment SIPs must provide for attainment of the NAAQS as provided in sections 182(b)(1)(A)(i), 182(c)(2)(A), 172(c)(1), and is also excusing them from the requirement that they implement all reasonably available control measures as expeditiously as practicable, regardless of the reductions required for attainment. EPA's attempt to lessen these obligations is unlawful and, because unexplained, arbitrary and capricious.

Response 18: EPA is not excusing downwind areas from the requirement that they submit SIPs providing for attainment. Nor is EPA excusing downwind areas from the RACM requirement. EPA's interpretation does not exclude what is necessary for attainment; rather, a reasonably available measure is required as RACM if it is needed for attainment or will advance the attainment date. EPA is enforcing this requirement, but allowing the downwind areas to take into account the control contribution of upwind areas that Congress envisioned, and that the commenters themselves acknowledge is embodied in Clean Air Act provisions, in determining the applicable attainment date. EPA is also requiring that the areas implement reasonable control measures as expeditiously as practicable. See EPA's Responses to other comments.

Comment 19: EPA's policy cannot be defended as a reconciliation of section 181(a) with the Act's anti-transport provisions. Under a proper interpretation of the Act, (1) an upwind area's SIP would ensure that the upwind area's pollution contributing to NAAQS violations in the downwind area would be controlled, no later than the downwind area's attainment date, (2) the upwind area would attain locally as expeditiously as practicable but no later than the date prescribed by section 181(a)(1) for the upwind area, and (3) the downwind area would attain locally "as expeditiously as practicable but not later than" the applicable date prescribed in section 181(a)(1). This reading gives effect to all of the relevant statutory provisions.

Response 19: The commenter concedes that under a proper interpretation of the Act, the upwind area's SIP would ensure that the upwind area's pollution contributing to violations in the downwind area would be controlled, prior to the downwind area's attainment date. But in the circumstances actually confronting EPA and Texas, as EPA has explained in prior responses, it was not possible without accelerating the HG area attainment date, to control upwind transport prior to BPA's original attainment date. Thus, in order to allow the upwind area its alloted time to attain, and to avoid imposing on the downwind area a burden Congress did not intend, EPA proposed interpreting the Act to adjust BPA's attainment deadlines. By adjusting the attainment date to allow the upwind and downwind areas to carry out the statutory allocation of responsibility that is acknowledged by the commenter, EPA indeed is reconciling the Act and rendering a proper interpretation.

Comment 20: No extension should be granted unless the area is as small as possible. The basis for transport should not be OTAG modeling, since better data is available.

Response 20: The boundary for the BPA nonattainment area was established and codified in 40 CFR part 81 (see 56 FR 56694, November 6, 1991; and, 61 FR 14496, April 2, 1996). The modeling done by OTAG and by EPA in the SIP call and the local modeling done in connection with the BPA attainment demonstration represent the best available modeling.

Comment 21: EPA purports to apply its policy to moderate and serious areas, but moderate areas should already have been bumped up to serious, because their attainment date was November 15, 1996, and the Act requires EPA to reclassify an area within six months of its attainment date under section 181(b)(2)(A). Thus, moderate areas should not be at issue, because such areas should be in serious status, and therefore the relevant bump-up should be from serious to severe.

Response 21: As EPA has noted, its attainment date extension policy and an adequate understanding of ozone transport were not developed until after the attainment date for moderate areas had passed. See Response to Comment 1. Nevertheless, EPA believes that to deny eligibility for the attainment date extension to moderate areas affected by transport because the policy and science were not available earlier, would work an injustice. Moreover, EPA believes that applying the policy to these areas is consistent with Congressional intent and with the Congressional approach of applying other types of attainment date extensions after an area has been unable to reach attainment. See, for example, section 181(a)(5).

Under section 181(a)(5), EPA may determine that an area has qualified for an extension after it has failed to attain in its attainment year. Section 181(a)(5) provides that EPA may grant an extension of one year ("the Extension Year") if, in relevant part, "no more than 1 exceedance of the [ozone standard] has occurred in the area in the year preceding the Extension Year." This procedure presumes that the area did not attain in its attainment year, and requires a review of data to determine the number of exceedances in the original attainment year prior to the granting of the extension. Thus, Congress knew and approved of a system for granting extensions after an area had already failed to attain according to its original schedule. EPA's granting of an extension to the BPA area after its original date for attainment has lapsed is therefore consistent with Congressional intent and the statutory scheme that Congress established in the Act.

In the case of the BPA area, EPA did not act to reclassify this area to serious after its attainment date had passed, nor does EPA believe that it would be appropriate to do so retroactively. Nor does EPA believe that it is consistent with the statutory scheme or Congressional intent to deem the BPA area, in the absence of a notice-and-comment rulemaking on reclassification, to have somehow constructively been bumped up to serious. Moreover, if EPA were to deny the BPA area the attainment date extension and reclassify the area, reclassifying the area to severe would create an injustice. The area would then be required to impose severe area requirements without ever having been afforded an opportunity to attain the standard by employing serious area requirements. Such an approach would in effect impose a retroactive reclassification to serious, coupled with a second reclassification to severe. The U.S. District Court for Washington, DC, in *Sierra Club* v. *Whitman* 98–2733 (CCK) (January 29, 2001 Order), declined to impose a retroactive reclassification in part because it would create this kind of injustice.

Comment 22: EPA's reliance on section 110(a)(2)(D)(i)(I) and section 110(a)(2)(A) for the proposition that EPA is statutorily authorized to extend attainment dates expressly set under sections 181 and 182 of the Act is erroneous. Section 110(a)(2)(A) states that each SIP shall "include enforceable emission limitations and other control measures * * * for compliance, as may be necessary to meet the applicable requirements of this chapter." The provision in no way gives EPA the ability to extend the attainment dates expressly provided for under sections 181 and 182. In fact, EPA's statement that the EPA interprets section 110(a)(2)(A) to incorporate the same requirement as section 110(a)(2)(D)(i)(I) that upwind States are prohibited from interfering with the air quality of downwind states that somehow downwind states can magically ignore their attainment dates under section 110(a)(2)(A), a provision that does not even expressly deal with transport.

Response 22: The commenter mistakes the role of EPA's interpretation of section 110(a)(2)(A) in supporting EPA's attainment date extension policy. EPA simply reads section 110(a)(2)(A) as creating, in the intrastate context, a responsibility on the part of a state to control upwind pollution originating in its borders that affects another in-state nonattainment area. This responsibility is analogous to the responsibility the state has under section 110(a)(2)(D) to a nonattainment area located in another state that is affected by pollution from within the upwind state's borders. But, as EPA pointed out in its attainment date extension policy, EPA believes that this responsibility must be harmonized and read consistently with the graduated attainment date scheme that allows upwind areas with later attainment dates additional time to obtain emissions reductions. In the circumstance of an upwind area with a later attainment date, EPA believes that the upwind area should not be forced to accelerate attainment solely for the purpose of discharging its obligations to the downwind area under either section 110(a)(2)(A) or 110(a)(2)(D). EPA believes that Congress intended to authorize attainment date extensions in the downwind area when necessary to reconcile the need for upwind reductions with the timetable for attainment in the upwind area, whether that attainment area be within or outside the State.

B. Comments Received in Response to April 16, 1999, Notice

Comment 1: Among the comments received, twenty comment letters were received voicing strong statements of support for EPA not to reclassify the BPA nonattainment area from moderate to severe. No adverse comments were received. These commenters asserted that reclassification would put the economic viability of the BPA area in jeopardy. The commenters believed that the BPA area was affected by transport of ozone and ozone precursor chemicals from the HG area.

Response 1: EPA has reviewed the TNRCC SIP submittals and it is our technical opinion that Texas has demonstrated that during some BPA exceedances, ozone levels are affected by emissions from the HG area, and that the HG area emissions prevent BPA from attaining the 1-hour ozone standard prior to the time HG implements all measures necessary for HG to attain the 1-hour standard.

EPA recalculated the estimate of the future design values based solely on modeled days when winds are not coming from HG. The results indicate that the local measures in BPA are adequate to show attainment on days when transport is not an issue. This confirms that BPA has done all that they can to address the local portion of their nonattainment problem.

EPA's review of the number of days when there is an exceedance in BPA for the 1990–94 data shows 41 exceedances in the BPA area, of which 16 days are when winds are from the HG area. This is more than 3 exceedances per year

(three being the maximum number of exceedances allowed to still be in attainment) for BPA which are influenced by transport from HG. Given the two areas are less than 24 hours transport from each other, and the life time of ozone and its precursors, it is reasonable to believe ozone observations and emissions emitted in HG will arrive in BPA within 24 hours. This argument alone closely links the two areas. Modeling which eliminated the HG emissions and resulted in 10–30 ppb change in ozone levels in BPA, as documented in the TSD, shows HG is having a major impact on BPA's ability to attain the 1-hour ozone standard. BPA has adopted and will be implementing local regulations that modeling demonstrates would eliminate exceedances on those days when transport is not involved, but which will not be able to bring about attainment because transport would continue to cause a sufficient number of exceedances such that violation of the standard would continue. Transport from the HG area will prevent the BPA area from attaining. See our responses in Section (A), comments 1, 5, 10, 11, 16 and 17, regarding EPA's standard for determining the contribution of transport to the BPA area. Furthermore, EPA's Transport Policy supercedes EPA's earlier Overwhelming Transport Policy. See the response in Section (A), comments 15 and 16.

C. Comments Received in Response to December 27, 2000, Notice

Twenty-seven documents were received in response to the December 2000 notice. Twenty-six documents supported the proposed rule. These are summarized and addressed as comment 1. One document contained comments adverse to the proposed rule. The comments in that document are listed and responded to individually as comments 2 through 21.

Comment 1: Twenty-six documents were received in support of various aspects of the December 27, 2000, proposal to extend the ozone attainment date for the BPA ozone nonattainment area to November 15, 2007, while retaining the area's current classification as a moderate ozone nonattainment area. The commenters supported the EPA technical opinion that Texas has demonstrated that during a significant portion of BPA exceedances, ozone levels are affected by emissions from the HG area, and that the HG area emissions affect BPA's ability to attain the 1-hour ozone standard. Many stated their belief that the technical basis and legal rationale are sound.

Response 1: The EPA is in general agreement with the commenters who support the proposed actions in our December 27, 2000, NPR. A number of the commenters appropriately stated opinions such as: "By proposing to extend BPA's ozone attainment date, EPA has rightfully exercised its July 16, 1998 policy regarding attainment date extensions for downwind transport areas. The technical basis and legal rationale for extending a downwind transport area's attainment date were clearly articulated in EPA's July 1998 policy memorandum and in its response to comments regarding similar proposals to extend the attainment dates of the Western Massachusetts, Washington, DC, and Connecticut nonattainment areas." The previous responses to comments detail our interpretation of the transport policy, our rationale for granting attainment date extensions for nonattainment areas located downwind of nonattainment areas that have attainment dates later than the downwind areas, and the relation of these interpretations to the CAA.

Comment 2: BPA has failed to attain. EPA has a statutory duty to determine that BPA has failed to meet the November 15, 1996 attainment deadline for moderate ozone areas. EPA has been in violation of the Act since that date, and is subject to a lawsuit requesting a court to order the agency to act on the finding of non-attainment. [T]he ambient air quality data demonstrate clearly that the BPA area did not meet the ozone standard and that air quality is continuously and steadily deteriorating from 1996 to today. BPA has continued to experience ozone exceedances each year since 1996 through 2000, which indicates the need for the area to adopt a stringent SIP. BPA should have been notified of their failure to attain no later than May 15, 1997. Contingency measures should have been implemented immediately, and the area reclassified from moderate to serious.

Response 2: EPA believes it is fulfilling its duties under the Clean Air Act by applying the attainment date extension to the BPA area, or in the alternative, proposing to reclassify the area.

In the proposed rulemaking published on April 16, 1999 (64 FR 18864), we proposed, as one alternative, to find, pursuant to section 181(b)(2) of the Clean Air Act, that the BPA area had failed to attain the ozone one-hour NAAQS by the date prescribed under the Act for moderate ozone nonattainment areas, or November 15, 1996. If we were to finalize such a finding, we would then have published a notice that the BPA area is reclassified from moderate nonattainment to serious nonattainment.

Alternatively, we proposed to extend the area's attainment date, providing that Texas meet the criteria of our July 16, 1998 transport policy, "Guidance on Extension of Attainment Dates for Downwind Transport Areas." We stated that if Texas submitted a SIP that met the July 1998 transport policy, we would issue in a **Federal Register** notice a supplemental proposal to extend the BPA area's attainment date as appropriate. Further, if Texas did not submit a SIP that met the July 1998 transport policy, or failed to submit a SIP, we would finalize the proposed finding of failure to attain, and the BPA area would be reclassified as a serious ozone nonattainment area.

The July 16, 1998, policy memorandum entitled "Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas," outlines the criteria by which the attainment date for an area may be extended. Following this guidance, and in consideration of the evolution of our understanding of ozone formation and transportation, EPA proposed the actions in the April 19, 1999, and the December 27, 2000, **Federal Registers.** The issues of the legality of the transport guidance and the guidance's relation to the CAA have been discussed in the responses to the March 25, 1999, notice, and are incorporated herein insofar as relevant. See Section VIII (A).

Overall, the BPA air quality has not steadily deteriorated over time, as stated by the commenters. TNRCC analyzed the historic air quality in the BPA ozone nonattainment area for the period of 1975 to 1999. While there is the expected sawtooth spread of data (due primarily to meteorologic time specific fluctuations) the analyses demonstrate that the area's ozone design value exhibits a general decrease since 1975 (this can be seen on Figure 6.3–2 of the April 25, 2000 BPA SIP submission). This downward trend is almost as great for the period 1991–1999 as for the earlier period. It is EPA's technical opinion that this long-term downward trend is likely to continue. In addition, the air quality will keep improving due to substantial reductions in precursor emissions in both HG and BPA, due to both state and federal emission control requirements. This includes the impacts of the implementation of the NO_X RACT and beyond-RACT NO_X rules for the BPA area.

The BPA area is implementing local measures by 2005. The schedule is based on time necessary for the

engineering and installation of control equipment on point sources during their regular maintenance and down times. This period must be as soon as possible, but such that BPA does not incur an economic hardship. This timing is appropriate and expeditious. Further, EPA recalculated the estimate of the future design values based solely on modeled days when winds are not coming from HG. The results indicate that the local measures in BPA are adequate to show attainment on days when transport is not an issue. This confirms that BPA has done all that they can to address the local portion of their nonattainment problem.

EPA's review of the number of days when there is an exceedance in BPA for the 1990–94 data shows 41 exceedances in the BPA area, of which 16 days are when winds are from the HG area. This is more than 3 exceedances per year (three being the maximum number of exceedances allowed to still be in attainment) for BPA which are influenced by transport from HG. Given the two areas are less than 24 hours transport from each other, and the life time of ozone and its precursors, it is reasonable to believe ozone observations and emissions emitted in HG will arrive in BPA within 24 hours. This argument alone closely links the two areas. Modeling which eliminated the HG emissions and resulted in 10–30 ppb change in ozone levels in BPA, as documented in the TSD, shows HG is having a major impact on BPA's ability to attain the 1-hour ozone standard.

Texas has benefitted from the OTAG/NO_X SIP call experience. From this modeling we gained a better understanding of the role NO_X emissions play in the formation and transport of ozone. Earlier we had thought local VOC was the major contributing factor, but through the regional modeling and other analyses being conducted during that time period we learned that NO_X is a significant contributor and has much longer transport distance than earlier envisioned. As a result TNRCC improved, through regional modeling to develop boundary conditions, the manner in which transported NO_X is treated. Also, during this time period they benefitted from improvements in our emissions inventories and updates to the carbon bond IV chemistry in the model (e.g., improvement in the isoprene chemistry). These improvements were necessary for us to understand the ozone problem in the BPA area.

Texas' conclusions regarding transport from the HG area were not a product of the OTAG or NO_X SIP call modeling. However, TNRCC did use the time during which OTAG met to better understand the land/sea breeze phenomenon which has added a level of complexity to the HG and BPA analysis not seen anywhere else in the country. Emissions and ozone in the HG and BPA areas are emitted into the local atmosphere where ozone formation begins, transported out over the warm air over the Gulf of Mexico where the warmer temperatures further activate the chemistry to form more ozone which is then transported back inland over both areas. So far, our meteorological models have not been able to accurately simulate this process. However, our understanding of what is happening has improved to the degree that we at least know better how to interpret the photochemical model results.

It is EPA's technical opinion that based on the weight-of-evidence and the modeling, the State's control strategy should provide for attainment by November 15, 2007.

Comment 3: EPA cannot invent rationales for the state. EPA concedes that the state has failed to adequately justify rejection of identified measures as RACM. Rather than disapproving the SIPs on that basis, however, EPA proceeds to provide its own rationales for why the states might have decided to reject these measures as RACM. EPA has no authority to proceed in this manner. The Act and EPA guidance require the states to perform the required RACM analysis, and to justify their rejection of any available control measures. EPA's role is limited to reviewing what the states have submitted, and approving or disapproving it. 42 U.S.C. 7410(k)(3); *Riverside Cement Co.* v. *Thomas*, 843 F.2d 1246 (9th Cir. 1988). EPA "may either accept or reject what the state proposes; but EPA may not take a portion of what the state proposes and amend the proposal ad libitum." Id. The approach EPA is proposing is nowhere authorized by the Act. It also conflicts with the Act's requirement that SIP revisions be subjected to public notice and hearing at the state level before submission to EPA. 42 U.S.C. 7410(a)(1). If states are going to reject control measures, their decision to do so and the rationale therefor must be subject to notice and hearing at the state and local level. Indeed, EPA's own guidance emphasizes the importance of local determinations of the feasibility of specific measures as RACM. 57 FR at 13560.

Response 3: The State adopted all the measures, including the additional more stringent point source rules, it believed necessary for meeting the RACM requirement under section 172(c)(1). During the State's public comment periods on the overall SIP and its supporting rules, commenters raised the RACM requirement for the point source rules only. Commenters believed that there was no need for the more stringent point source rules. The State addressed the comment and explained why the beyond-RACT point source rules were necessary for attainment and were RACM for the BPA area. The EPA by reviewing a particular small sub-set of non-adopted control measures is not amending the SIP; EPA analyzed the non-adoption of this particular small sub-set of control measures and is approving the SIP with a conclusion that it was acceptable for the State to not adopt any further additional measures to meet the RACM requirement of the Clean Air Act.

The commenter cites *Riverside Cement* for the proposition that EPA cannot perform an analysis of whether the State's plan complies with the CAA's RACM requirement. The EPA believes that the holding of that case is inapplicable to these facts. In Riverside Cement, EPA approved a control requirement establishing an emission limit into the SIP and disregarded a contemporaneously-submitted contingency that would allow the State to modify the emission limit. Thus, the court concluded that EPA "amended" the State proposal by approving into the SIP something different than what the State had intended. 843 F.2d at 1248.

In the present circumstances, EPA did not attempt to modify a substantive control requirement of the submitted plan. Rather, EPA performed an additional analysis of a small sub-group of measures to determine if the plan, as submitted, fulfilled the substantive RACM requirement of the Act. The statute places primary responsibility on the States to submit plans that meet the Act's requirements. However, nothing in the Act precludes EPA from performing those analyses, and the Act clearly provides that EPA must determine whether the State's submission meets the Act's requirements. Under that authority, EPA believes that it is appropriate, though not mandated, that EPA perform independent analyses to determine whether a submission meets the requirements of the Act. The EPA has not attempted to modify the State's submission by either adding or deleting a substantive element of the submitted plan. By virtue of the supplemental RACM analysis, EPA has concluded that the State's submission contains control measures sufficient to meet the RACM requirement. EPA also believes the State's hearings sufficiently addressed

the fact that the State had not included additional control measures as RACM. This is further supported by the fact that no adverse comments were received raising the need for additional RACM.

Comment 4: Inappropriate grounds for rejecting RACM.

Comment 4(a): EPA's grounds for rejecting measures as RACM are inappropriate. EPA employed the following three grounds for rejecting measures as RACM: (a) The measures are likely to "require an intensive and costly effort for numerous small area sources"; (b) "due to the small percentage of mobile source emissions in the over-all inventory, some are not cost-beneficial," and (c) "since the BPA [Beaumont/Port Arthur] area relies in part on reductions from the upwind HG [Houston/Galveston] area which are substantial, and the reductions projected to be achieved by the evaluated additional set of measures are relatively small, they would not produce emission reductions sufficient to advance the attainment date in the BPA [Beaumont/Port Arthur] area and, therefore, should not be considered RACM." None of these grounds are legally or rationally sufficient bases for rejecting control measures.

Response 4(a): The EPA's approach toward the RACM requirement is grounded in the language of the Clean Air Act. Section 172(c)(1) states that a SIP for a nonattainment area must meet the following requirement, "In general. Such plan provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards." [Emphasis added.] The EPA interprets this language as tying the RACM requirement to the requirement for attainment of the national primary ambient air quality standard. The Act provides that the attainment date shall be "as expeditiously as practicable but no later than * * *" the deadlines specified in the Act. EPA believes that the use of the same terminology in conjunction with the RACM requirement serves the purpose of specifying RACM as the way of expediting attainment of the NAAQS in advance of the deadline specified in the Act. As stated in the "General Preamble" (57 FR 13498 at 13560, April 16, 1992), "The EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in the area as components of the area's attainment demonstration." [Emphasis added.] In other words, because of the construction of the RACM language in the CAA, EPA does not view the RACM requirement as separate from the attainment demonstration requirement. Therefore, EPA believes that the Act supports its interpretation that measures may be determined to not be RACM if they do not advance the attainment date. In addition, EPA believes that it would not be reasonable to require implementation of measures that would not in fact advance attainment. See 57 FR 13560.

The term "reasonably available control measure" is not actually defined in the definitions in the Act. Therefore, the EPA interpretation that potential measures may be determined not to be RACM if they require an intensive and costly effort for numerous small area sources is based on the common sense meaning of the phrase, "reasonably available." A measure that is reasonably available is one that is technologically and economically feasible and that can be readily implemented. Ready implementation also includes consideration of whether emissions from small sources are relatively small and whether the administrative burden, to the States and regulated entities, of controlling such sources was likely to be considerable. As stated in the General Preamble, EPA believes that States can reject potential measures based on local conditions including cost. 57 FR 13561.

Also, the development of rules for a large number of very different source categories of small sources for which little control information may exist will likely take much longer than development of rules for source categories for which control information exists or that comprise a smaller number of larger sources. The longer the time frame for development of rules by the State would decrease the possibility that the emission reductions from the rules in the nonattainment area would advance the attainment date earlier than would be achieved from the larger amount of reductions expected from the upwind controls of the HG area with a later statutory attainment date.

Similar to the above analysis, the EPA interpretation that potential mobile source measures may not be RACM if they represent a small percentage of mobile source emissions in the over-all inventory, is again based on the fact that these measures could not advance the attainment date. For instance, as detailed in the Technical Support Document (TSD) for this proposed action, when compared to emission reductions necessary for attainment, the emission reductions from transportation control measures (TCMs) that could potentially be implemented are only a small percentage (3.3% for NO_X) of emission reductions needed. From this analysis, EPA concludes that implementation of these TCMs would not produce emission reductions sufficient to advance the attainment date.

Comment 4(b): EPA's approach also illegally assumes that the attainment dates for these areas can be extended beyond November 15, 1999 via the Agency's downwind transport policy. Once an attainment deadline has passed, EPA must require SIPs to include all available control measures to provide for attainment as soon as possible. *Delaney* v. *EPA*, 898 F.2d 687 (9th Cir. 1990).

Response 4(b): As noted above, EPA concluded that RACM is linked in the language of the Clean Air Act to the attainment date. We elsewhere respond to comments that object to EPA's approval of attainment date extensions and do not restate those responses here. See Section VIII(A). Once an attainment date is set for an area, an analysis can then be made to determine whether any additional measures that may potentially be RACM would advance that attainment date. EPA is setting November 15, 2007 as the attainment date for the BPA area. We do not consider measures as RACM for the BPA area if they do not advance that attainment date. We are requiring the State to demonstrate that all local measures that are RACM are implemented as expeditiously as practicable, however.

Comment 5: Failure to quantify reductions needed to attain sooner. Even if advancement of the attainment date were a relevant test for RACMs, EPA has failed to rationally justify its claim that additional RACMs would not meet that test. To begin with, neither the Agency nor the state have quantified in a manner consistent with EPA rules and guidance the emission reductions that would be needed to attain the standard prior to achievement of emission reductions required under the NO_X SIP call.

Response 5: Elsewhere in this response to comments on the proposed approval of the 1-hour ozone SIP, EPA addresses the issue of the attainment date extension. See Section VIII(A). In that section, EPA justified the position that areas affected by transport may need additional time to attain, and in some cases may need an extension out

to either the date the NO_X SIP call will be implemented (where applicable) or the attainment date of an upwind area if it cannot attain without the reductions from the upwind area. Please note that while the commenter makes reference to the NO_X SIP call, Texas is actually not included in the NO_X SIP call. However, it should also be noted that even though they were not included, Texas still showed that transport from areas outside of the BPA area, but within the State including attainment areas, contribute to exceedances in the BPA area. Therefore, Texas included control measures for regional emissions reductions (including in attainment areas) as part of the BPA attainment demonstration SIP, in a manner similar to those undertaken by the states included in the NO_X SIP call.

For the case where the upwind area, e.g., the HG area, precludes the downwind area (e.g., BPA) from reaching attainment, it would be futile to perform analyses of whether additional emission reductions in the BPA nonattainment area itself (whether RACM or beyond RACM) would advance the attainment date when it is already demonstrated through the BPA/HG specific modeling that the BPA area cannot attain sooner than the upwind HG nonattainment area, with any combination of local measures. In addition, with regard to the local attainment modeling for the BPA area's self-generated exceedances, all local measures needed for expeditious attainment, are already or will soon be implemented. EPA considers the implementation of the local control measures (i.e., the measures within the BPA area itself) to be as expeditious as practicable. Issues concerned with timing of implementation of additional measures are also discussed above. As noted previously, EPA cannot technically distinguish which particular emissions reductions in the HG area would contribute to attainment in the BPA area.

Comment 6: Inadequate RACM analysis. EPA's RACM analysis is grossly inadequate in several key respects.

Comment 6(a): The Agency fails to provide the technical basis and calculations by which it developed its emission reduction estimates for various RACMs.

Response 6(a): EPA's RACM analysis (Appendix C to the TSD for the December 27, 2000 notice) did provide the technical basis and calculations for its emission reduction estimates for controls possible for the source categories in the emission inventory. The technical basis for the analyses and the assumptions used in the calculation of estimated emission reductions for TCMs were derived from a review of the literature on the implementation and effectiveness of TCM's.[23] The TCMs evaluated depend on the level of implementation. Implementation variables, representing levels of implementation effort, are implicit in the range of effectiveness for each category of TCM. EPA does not believe it is necessary, or even possible, to evaluate every explicit variation of TCM's in order to adequately determine if it is reasonably available. EPA believes that using the midpoint level of effectiveness represents a level of implementation effort that is not so high as to be economically infeasible, nor so low as to be ineffective.

Comment 6(b): EPA's analysis looks at only a small universe of potential measures as RACM, and does not evaluate all of the measures identified in public comment and other sources. Among the controls ignored by the EPA analysis are: (a) Expansion and increased stringency of I/M; (b) diesel I/M; (c) expanded remote sensing programs; (d) CARB diesel fuel standards; (e) clean fuel vehicle programs; (f) lawn equipment replacement programs, adoption of SCAQMD controls for VOC and NO_X sources; (g) adoption of the SCAQMD rule requiring conversion of many diesel fleets to alternative fuel or clean diesel/hybrid technologies; (h) elimination of solvent decreasing; (i) limits on pesticide application during the ozone season; (j) source reduction for discharges to sewage plants; improved rule-effectiveness measures; (k) enhanced Stage II vapor recovery enforcement; (l) NO_X RACT to 25 tons per year; and (m) statewide NO_X limits. See, e.g., letter of July 6, 1999 to Gregg Cooke, EPA Region 6, the November 15, 2000 comments by David Baron to EPA Region 3, and his prior comments to EPA Region 3 on the Washington, DC SIP. It is arbitrary and irrational for EPA to assume that these measures can and will be implemented in complete isolation from one another.

Response 6(b): EPA's RACM analysis was intended to address all potential categories of stationary and mobile sources that could provide additional emission reductions that might be considered RACM. The commenter mentions a long list of measures they believe were ignored by the EPA in its analysis. However, the EPA did consider a wide range of measures, including appropriate measures from the commenters' listing, and the measures mentioned by the commenters were either not considered to be technically or economically feasible in the BPA area's situation or would not advance attainment. Examples include:

- Expansion and increased stringency of I/M—In 40 CFR section 51.350(a)(4) requires only urbanized areas with population of more than 200,000 to implement an I/M program, unless that area is in the ozone transport Region. In the final rulemaking on this, EPA said, "the 200,000 population cut-off for basic programs is authorized by the Act because sections 182(a)(2)(B)(i) and 182(b)(4) require implementation only of an I/M program no less stringent than that required under pre-1990 EPA I/M guidance. EPA's pre-1990 I/M guidance required implementation of basic I/M programs only in urbanized areas of 200,000 population. It is true that some moderate areas would not be required to implement I/M programs if their population were under 200,000, despite the fact that section 182(b)(4) requires a basic I/M program in all moderate areas. However, the basic program that is required is a program that applies only to areas of 200,000 or more population." 60 FR 48032, 48033 (September 18, 1995). To now require I/M under the guise of a RACM analysis would contradict the flexibility intended by promulgation of the regulation and thwart the intent of Congress. Implementation of an I/M program would not advance the attainment.
- Diesel I/M—Due to the state of instrumentation and certification, this type of program is not presently technically and economically feasible for the BPA area and as such is not RACM.
- Expanded remote sensing programs—Remote sensing would not provide sufficient emission reductions to justify the cost of the implementation, nor would it advance attainment, for the BPA area.
- CARB diesel fuel standards—Texas has passed a low emission diesel program similar to the California diesel program and has submitted that program along with a request for a waiver of federal preemption under 211(c)(4)(C) of the CAA. The Texas program goes beyond the California program in that it also controls cetane, in addition to sulfur and aromatic hydrocarbons. If approved by EPA, it would apply in the BPA area. It should be noted that the Texas Legislature is considering a measure that would void this regulation. On April 23, 2001, the Texas House of Representatives Environmental Regulation Committee reported favorable on Texas House Bill 2649. Currently, section 2 of this Bill amends section 382.037(g) of the Texas Health and Safety Code. If passed by both houses of the Texas Legislature and signed by the Governor, this measure will preclude TNRCC from adopting any fuel control measure. While any loss in emissions reductions from this measure would have to be offset by Texas, lack of legislative authority would be valid rationale for not including fuel controls as reasonably available. In addition, currently, EPA is in the process of performing a comprehensive review and analysis of data to quantify the emission reduction effects of low emission diesel fuels. The outcome of this evaluation could result in a need to reconsider the emission reduction estimate used by the State in their low emission diesel rule. We expect the evaluation process to be completed by May of 2001. If the results of EPA's evaluation indicates that Texas has overestimated the emission reductions attributable to their low emission diesel rule, this measure may no longer be considered reasonably available (depending on the cost associated with low emission reductions). We would work with the State to address any shortfall in emission reductions that may be realized because of results from the evaluation. However, due to transport from HG this control measure would not advance the attainment date in the BPA area, and the modeling demonstrates that it is not needed to address the local contribution.
- Clean Fuel Vehicle programs—Texas currently has a Clean Fleet Program substitute plan that exceeds the emissions reductions requirements of the Federal Clean Fuel Fleet program. EPA recently approved this program and it is in effect in the BPA area (66 FR 9203, dated February 7, 2001).
- Lawn equipment replacement—Combining the economic impact on individuals with a small reduction in emissions with the difficulty in enforcement results in a finding that this measure would not be RACM.

The responses for the other items listed by the commenters are similar. As with the diesel and clean fuel vehicle programs listed by the commenters, the State has gone beyond requirements in several programs. EPA recognizes that many control measures, particularly TCMs, are more effective if done in conjunction with others. EPA maintains that it has considered appropriate measures for RACM for the BPA area. EPA also maintains that it would be impossible to analyze a seeming infinite set of measures for possible benefits. The EPA's analysis did look at all appropriate measures in various applicable categories and concluded that as a whole these categories and/or measures would not advance attainment or would otherwise not be reasonably available, for the BPA nonattainment area.

Comment 7: Stationary sources: The analysis of potential emission reductions from additional stationary source RACMs is flawed in several key respects.

Comment 7(a): EPA arbitrarily excluded from consideration a base percentage of the stationary source categories at smaller facilities. EPA asserts that this exclusion was based on the assumption that the contribution from these categories "would be considered too small and too numerous to regulate individually." This is an arbitrary basis.

Response 7(a): EPA does not consider this exclusion (the bottom 20%) to be based on an arbitrary assumption, since it was designed to eliminate from consideration controls on a number of source categories that were not expected to yield many emission reductions. The EPA believed that controls on categories with very low emission reduction potential would not constitute RACM. The fact that the top 80 percent of the categories considered for additional controls yielded minimal (maximum 2.5 tpd) emissions reductions, validates EPA's decision not to analyze separately the bottom 20 percent of the categories, which would cumulatively have achieved fewer emission reductions. Therefore, EPA concludes that control measures applied to the bottom 20 percent of the categories are not RACM. In the case of NO_X controls for stationary sources in BPA, Texas is controlling emissions beyond levels that EPA has previously approved as RACT (defined by EPA as the lowest achievable emission rate considering technical and economic feasibility and therefore considered RACM for major sources) for utility and industrial boilers and process heaters.

Comment 7(b): Second, EPA did not consider potential additional controls on electric generating units and point source combustion sources. EPA offers no explanation for this exclusion. If the Agency is assuming that these sources are already controlled to RACT levels, that assumption is not supported by the record.

Response 7(b): EPA does believe the record supports that RACT was in place on electric generating units and point sources. The EPA proposed conditional approval of BPA NO_X RACT on October 28, 1999 (64 FR 58011), and published final conditional approval on March 3, 2000 (65 FR 11468). A direct final notice converting the conditional approval to a full approval was published September 1, 2000 (65 FR 53172). This process included two public comment periods in which no adverse comments were received.

Undoubtedly there are additional controls that could be placed on electric generating units and point source combustion sources. However, EPA believes that: (1) the implementation of the RACT requirements in the BPA nonattainment area; (2) Texas' regional measures providing for additional 50% NO_X reductions at electrical generating facilities in Central and Eastern Texas (which will affect the nonattainment area in general), and; (3) the beyond-RACT emission specifications for Electric Utility Boilers and industrial boilers and certain process heaters in the BPA area; provide a level of control that represents all reasonably available controls for these types of sources in the BPA area in question.

The EPA believes that generally, the level of NO_X emissions control required under Texas' local and regional measures (similar to the NO_X SIP call requirements in other parts of the U.S.), including controls for electric generating units (above), industrial, commercial, and institutional boilers, water heaters, small boilers and certain process heaters, is greater than the level of control presumed to be RACT by EPA under the NO_X RACT requirement. EPA acknowledges that additional controls with higher costs are available and may be cost-effective for areas other than the BPA area. Also, the control costs may not reflect other concerns for the BPA area, regarding reasonableness of control. If control levels greater than those provided by the RACT and the beyond-RACT stationary control measures already or about to be implemented were to be adopted for the BPA area, the EPA believes they would not advance the attainment date for the BPA area, particularly since this area relies heavily on NO_X controls from upwind (HG area) sources, and further local reductions within this BPA area are not needed to address local contribution. Therefore, EPA has determined that such additional controls on electric generating units and point source combustion sources do not constitute RACM.

Comment 7(c): EPA assumes that only a 44% (32–58% range) level of control is achievable for the uncontrolled emissions for industrial boilers and process heaters at 19 large stationary

[23] Transportation Control Measures: State Implementation Plan Guidance, US EPA 1992; Transportation Control Measure Information Documents, US EPA 1992; Costs and Effectiveness of Transportation Control Measures: A Review and Analysis of the Literature, National Association of Regional Councils 1994.

sources (4 refineries reduce their NO_X by 58% and 15 chemical plants reduce NO_X by 32%). This completely unsupported claim is hard to fathom.

Response 7(c): The EPA established guidance to States in complying with the Clean Air Act's requirements for NO_X RACT in the NO_X Supplement to the General Preamble (57 FR 55620, November 25, 1992). That guidance addressed RACT for major stationary sources of NO_X. Under section 182(b)(2) of the Act, moderate and higher ozone nonattainment area SIPs (and also SIPs for all areas in the Ozone Transport Region) were already required to contain provisions for applying a reasonably available level of control for NO_X for major stationary sources. As discussed in the previous response to comment, EPA approved RACT levels for the BPA area.

For NO_X emission control for other sources, when EPA published the NO_X SIP call (63 FR 57402, October 27, 1998), EPA evaluated other levels of NO_X control for categories of stationary sources that were not included in the highly cost-effective controls assumed for establishing the level of control reflected in the Statewide NO_X emission budgets in that rule. The EPA determined that for area sources, additional NO_X controls that were technologically feasible and highly cost-effective could not be identified. The EPA determined that for small point sources, their collective emissions were relatively small and the administrative burden, to the States and regulated entities, of controlling such sources of NO_X was likely to be considerable. Nonetheless, for the purpose of the RACM analysis, EPA did assume a level of control for sources of NO_X with potential for control. In light of the lower level of confidence in information concerning NO_X controls on these sources, and the conclusion concerning cost effectiveness, however, EPA believed it had to take a more conservative approach.

The additional local BPA area control measures the State implemented results in a 44 percent level of control for the BPA area. The EPA believes this level is reasonable in light of the analysis performed for the General Preamble, the SIP call, and the BPA RACT approvals. In addition, this level is consistent with EPA guidance issued on March 16, 1994 which states that NO_X RACT is generally expected to achieve a 30–50% reduction. EPA further believes the 44 percent level of control is sufficient to bring the BPA area into attainment by the attainment extension date of November 15, 2007. This 44 percent reduction is the amount achieved by aggressive combustion modifications, and was termed "Tier I" level of controls by the State. The TNRCC also considered a "Tier II" level of controls that would have required extensive add-on controls such as Selective Catalytic Reduction (SCR). The modeling showed Tier II controls were not necessary for BPA to reach attainment for 1-hr ozone NAAQS. In addition, the HG area will be implementing major reductions in emissions to support attainment. Those "regional" reductions are needed for the BPA area to attain the NAAQS for ozone. Therefore, further controls in the BPA area will not advance the attainment date and are not necessary.

Comment 8: Transportation Control Measures as RACM: EPA gives virtually no consideration to the emission reduction benefits of transportation programs, projects and services contained in adopted regional transportation plans (RTPs), or that are clearly available for adoption as part of RTPs adopted for a nonattainment area. In addition, it is arbitrary and capricious for EPA not to require as RACM economic incentive measures that are generally available to reduce motor vehicle emissions in every nonattainment area.

Response 8: EPA's RACM analysis performed for the December 27, 2000, notice (Included in the TSD for the proposed rule) does consider transportation programs, projects and services that are generally adopted, or available for inclusion in a nonattainment area's regional transportation plan (RTP) and Transportation Improvement Program (TIP). The RACM analysis includes seven broad categories covering twenty-seven subcategories of Transportation Control Measures (TCMs) that represent a range of programs, projects and services that can be included in RTPs and TIPs. The inclusion of a TCM in an RTP or TIP does not necessarily mean that it meets EPA's criteria for RACM and must be included in the SIP. EPA has concluded that implementation of these TCMs would not advance the attainment date for the BPA area, and therefore are not considered RACM for purposes of the attainment SIPs for that area.

Some of these TCMs, such as parking cashout, transit subsidies, and parking pricing, are explicitly economic incentive programs. Furthermore, these categories of TCMs, as well as most of the others, could be infinitely differentiated according to criteria, such as the method of implementation, level of promotional effort or market penetration, stringency of enforcement, etc. The application of economic incentives to increase the effectiveness of a TCM is one such criterion. These implementation variables, representing levels of implementation effort, are implicit in the range of effectiveness for each category of TCM. EPA does not believe it is necessary, or even possible, to evaluate every explicit variation of TCMs in order to adequately determine if it is reasonably available. EPA believes that using the midpoint level of effectiveness represents a level of implementation effort that is not so high as to be economically infeasible, nor so low as to be ineffective.

Also, there are many important reasons why a state, regional, or local planning agency might implement TCMs in an integrated traffic management plan beyond whatever air quality benefits the TCMs might generate, including preserving open space, water shed protection, avoiding sprawl, mitigating congestion, and "smart growth" planning generally. So the fact that TCMs are being implemented in certain ozone nonattainment areas does not necessarily lead one to the conclusion that those TCMs represent mandatory RACM measures when they are analyzed primarily for the purpose of determining whether they would advance the ozone attainment date.

Due to the smaller number of mobile sources and vehicle miles traveled (VMT) in the BPA area, mobile source NO_X emissions amount to less that 20% of the total NO_X emissions for the BPA area. As such, small changes resulting from implementation of additional TCMs have a negligible effect on ozone reduction and will not contribute to acceleration of the attainment date for the BPA nonattainment area.

Comment 9: BPA area analysis: Having refused to consider a wide range of potential measures as RACM for this area, and understating the potential benefits of others, EPA asserts that available measures would not advance the attainment date in BPA because: (a) The area relies heavily on control of transported emissions and ozone; and (b) The modeling indicates that NO_X reductions are generally more beneficial in reducing ozone levels, suggesting that the area may be NO_X limited. The first point is truly irrelevant to the RACM inquiry, for all the reasons set forth above. Even if the issue is whether additional measures could advance the attainment date, that inquiry is not informed by whether the area might attain by November 15, 2007, but by whether it could attain sooner than November 15, 2007. As to the second point, the modeling does not show that NO_X reductions are inherently more beneficial. They merely show that under some circumstances—generally involving very substantial NO_X reductions (e.g., 60% cuts or larger)—NO_X reductions might provide greater benefits per ton. The same model shows that NO_X reductions can sometimes actually lead to increased ozone levels in some cells. Even if the ozone problem in the BPA area is NO_X limited, that hardly justifies eschewing additional measures as RACM—at most it would suggest focusing more heavily on additional measures for NO_X sources as RACM.

Response 9: The sensitivity analyses that were performed by the State of Texas with the photochemical grid model for the BPA area showed that, even with small NO_X emission reductions, the ozone benefits achieved are substantially greater than the minor ozone benefits achieved from similar VOC emission reductions. Also, the results of the attainment demonstration modeling conducted by the State specifically indicate that NO_X control is particularly effective in reducing ozone levels in the BPA area. Therefore, EPA stands by its technical position that the levels of VOC reductions in the BPA area that could be achieved by additional stationary and mobile source control measures that are potentially RACM would not improve ozone levels to the point that would result in advancing the attainment date. Furthermore, EPA's analysis demonstrated that the source categories that were available for mobile NO_X controls were considered too few (even with the area's ability to benefit from NO_X controls) to advance the attainment date.

Also, EPA's analysis of levels of NO_X reductions in the BPA area that could be achieved by additional stationary source controls that are potentially RACM would have to come from a large number of small sources where EPA does not have much guidance for control, and therefore would be costly to develop. Further, implementation of these potential measures for both VOC and NO_X would not advance the attainment date due to the substantial reductions needed in the HG area. Therefore, EPA concluded that additional controls on the source categories evaluated for both VOC and NO_X should not be considered RACM.

The HG nonattainment area is classified severe-17 with an attainment date of November 15, 2007, whereas the BPA nonattainment area is classified as a moderate area. EPA is approving an attainment date extension for the BPA area precisely because the modeling shows that additional controls coming from outside the BPA area itself are needed for the BPA area to come into attainment. Other reasons why EPA does not consider additional measures to be RACM for the BPA area are discussed elsewhere in these responses to comments. Also, refer to previous responses to comments concerning the BPA attainment date and advancing an attainment date due to transport.

Comment 10: EPA's 1998 Transport Policy: Commenters believe that the so-called "July 1998 transport policy" is legally and technically flawed and must not be relied upon to allow further delay in responding to the Act's requirements. Assuming arguendo that the "transport policy" is valid, commenters believe that the evidence, information and data available to EPA surrounding the BPA area indicate that transport plays no part in at least a portion of the ozone exceedances observed in the BPA area and thus the transport policy cannot apply, even if transport is a factor in other episodes. Even EPA and the state concede that applying an analysis of back trajectories of air parcels coming into the BPA area from the HG area fails to demonstrate transport effects from HG as the sole cause of higher ozone concentrations in the BPA area. Commenters request the development of an environmental justice analysis and the incorporation of specific measures and accommodations to address the needs of particular communities that are disproportionally affected by exposure to unhealthful air quality.

Response 10: EPA has responded extensively to issues pertaining to the legality and technical applicability of the July 1998 Transport Policy in its March 1999 responses, above.

EPA disagrees with the assertion that even if the July 1998 Transport Policy is valid it does not apply, since transport does not appear to be a significant factor in some of the area's ozone exceedances. The evidence shows that absent adequate controls on transported pollution from the HG area, the BPA area will not attain the standard. The policy requires the BPA area to put in place local control measures to address local contributions to the area's nonattainment problem. However, these measures alone will not bring the BPA area into attainment due to the transport of ozone and ozone precursor compounds from the HG area. Thus, the EPA has determined that the July 1998 Transport Policy is appropriately applied in this case.

In approving the State's request for an attainment date extension for BPA, EPA did not base the decision solely on the State's back trajectory analyses. The State demonstrated the impact of ozone and ozone precursor transport from the upwind HG area counties upon the BPA area through photochemical grid modeling (i.e., CAMx).

EPA recalculated the estimate of the future design values based solely on modeled days when winds are not coming from HG. The results indicate that the local measures in BPA are adequate to show attainment on days when transport is not an issue. This confirms that BPA has done all that they can to address the local portion of their nonattainment problem. EPA's review of the number of days when there is an exceedance in BPA for the 1990–94 data shows 41 exceedances in the BPA area, of which 16 days are when winds are from the HG area. This is more than 3 exceedances per year (three being the maximum number of exceedances allowed to still be in attainment) for BPA which are influenced by transport from HG. Given the two areas are less than 24 hours transport from each other, and the life time of ozone and its precursors, it is reasonable to believe ozone observations and emissions emitted in HG will arrive in BPA within 24 hours. This argument alone closely links the two areas. In addition, five of the 41 exceedances occurred at the same BPA Monitor (BMTC). During four of these exceedances, ozone quality in the HG area on the day before, or the day of, these exceedances ranged from 107 to 140 ppb. These high levels of HG ozone, on days when the winds were from the direction of HG, further link HG area ozone and emissions with BPA exceedances. Modeling which eliminated the HG emissions and resulted in 10–30 ppb change in ozone levels in BPA, as documented in the TSD, shows HG is having a major impact on BPA's ability to attain the 1-hour ozone standard. BPA has adopted and will be implementing local regulations controlling pollution from local sources, but which will not be able to bring about attainment due to pollution caused by transport. Transport from the HG area will prevent the BPA area from attaining.

This is consistent with the criteria in EPA's July 17, 1998 policy memo entitled "Extension of Attainment Dates for Downwind Transport Areas", and demonstrates through modeling that transport from an upwind area with a later attainment date affects the downwind area's ability to attain the standard by its attainment date. The State has demonstrated through modeling that Beaumont-Port Arthur was affected by transport from HG emissions to a degree that affects BPA's ability to attain. In addition to photochemical modeling, the State

conducted an analysis of back trajectories to further illustrate the impact of the HG area emissions on the BPA ozone nonattainment area.

The subject of an environmental justice analysis is addressed later in response to a specific comment (see comment 18).

Comment 11: EPA has a duty to reclassify BPA immediately: The administrative record in this matter includes extensive correspondence between EPA and the state of Texas over BPA. This correspondence reflects the air quality status of BPA during the years 1997 and 1998, and includes express direction from EPA to Texas to submit a demonstration of overwhelming transport no later than May 15, 1998. Several years later, no new or substantive evidence from Texas describing the nature or extent of any transport is presented. EPA lacks the authority to ignore non-compliance and interminable foot-dragging. EPA is bound by the express requirements and structure of the Act and must reclassify BPA immediately.

Response 11: EPA has responded to issues pertaining to the interpretation of the reclassification requirements of the Clean Air Act and application of those requirements in light of developments since the enactment of the 1990 Clean Air Act in its March 1999 responses, above. See Section VIII(A), specifically the response to comment 1. The EPA is not relying on the overwhelming transport policy; that policy guidance is superseded by the 1998 transport policy. See Section VIII(A) comments 15 and 16. The 1998 transport policy reflects the latest science and modeling information, as well as EPA's application of its interpretation of the CAA. The information added by the State in the 1999 and 2000 SIP submissions adds to the record, and more clearly depicts the influence of transport on the ability of BPA to attain the NAAQS for 1-hr ozone levels. Refer to preceding responses and comment number 17 in Section VIII(A). EPA is not ignoring the issue, but has gained a new and improved understanding leading to a more equitable resolution that better executes the will of Congress as embodied in the CAA.

Comment 12: Further delays are inappropriate: EPA proposes to grant Texas time for months and years of further inaction by the proposed rule. Reclassification should occur immediately upon the conclusion of this rulemaking, i.e., by early February 2001. An emergency, partial SIP submittal should be required immediately which commits to implementing all available control strategies for stop-gap emissions reductions, including the incorporation of whatever improved NO_X rules, contingency measures, RACT fix-up and other available control strategies for adoption into a federally enforceable interim SIP. A complete SIP (with attainment demonstration, revised inventories, further enhanced control strategies, etc.) should be developed and submitted no later than 6 months after the final rule is published.

Response 12: EPA responds extensively to the issues of attainment date extension, reclassification requirements, implementation of RACM and other control measures, and the appropriateness of the SIP components submitted by the State of Texas, the subjects of this comment, throughout these responses to comments.

Comment 13: Reclassification to severe is justified: BPA's design value is not significantly decreasing, according to monitoring stations. It is experiencing degrading air quality rather than steady improvement. Reclassification to serious is inadequate to reverse this trend, and as EPA notes, BPA cannot realistically be expected to meet the 11/15/99 SIP submittal deadline, much less demonstrate attainment, even though these are the requirements of the Act. Current data demonstrates that the serious classification is not appropriate: BPA should be reclassified to severe.

Response 13: The BPA design value is decreasing. The 1-hr ozone design value for the three-year period of 1995 through 1997 is 157 ppm, while the design value for the three-year period of 1998 through 2000 is 145 ppm. In addition, overall the design value has been steadily decreasing since 1975. This is demonstrated in the State's Design Value Trend analysis, and is discussed previously in Section VIII(C) response to comment 2.

EPA disagrees with the assessment that BPA should be reclassified to severe. In our April 16, 1999, proposed rule (64 FR 18864) we proposed to find, pursuant to section 181(b)(2) of the Clean Air Act, that the BPA area has failed to attain the ozone 1-hour NAAQS by the date prescribed under the Act for moderate ozone nonattainment areas, or November 15, 1996. Alternatively, in that proposed rule, we proposed to extend the attainment date, providing that Texas meets the criteria of our July 16, 1998, transport policy, "Guidance on Extension of Attainment Dates for Downwind Transport Areas." We stated that if Texas submits a SIP that meets the July 1998 transport policy, we would issue a supplemental proposal in a **Federal Register** notice to extend the BPA area's attainment date as appropriate. If Texas did not submit a SIP that met the July 1998 transport policy, or failed to submit a timely SIP, we would have finalized the proposed finding of failure to attain, and the BPA area would be reclassified as a serious ozone nonattainment area.

The State met the requisite criteria and has demonstrated that the BPA area is influenced by transport from the HG area to the extent that BPA can not attain until the HG area attains. Therefore, we are approving the BPA ozone attainment demonstration and, following the criteria of the July 1998 transport policy guidance, are extending the date required for BPA attainment compliance to the appropriate date equal to the attainment date of the upwind source influencing the BPA (downwind) nonattainment. Our previous responses fully address the validity and application of the July 1998 transport policy guidance, and our interpretation of the Clean Air Act and application of those requirements in light of developments since the enactment of the 1990 Clean Air Act. In light of this, it is not appropriate to reclassify the BPA nonattainment area as either serious or severe. Refer to Section VIII(A) comment 13, and Section VIII(C) comments 1 and 2. In any event, if the area were to be reclassified, the statute would call for reclassification to "serious", not severe. Refer to Section VIII(A), response to comment 21.

Comment 14: Reliance on the July 1998 transport policy is inappropriate: EPA's July 1998 transport policy is neither legally valid nor applicable to BPA. It should be ignored and instead, the Act applied as written.

Response 14: EPA has replied extensively on the validity of the July 1998 transport policy and its applicability to the BPA ozone nonattainment area in previous responses to comments, above, especially Section VIII(A), response to comment 2. Responses in Section VIII(C) (e.g., comment 9, and comment 16 to follow) discuss specifics particular to the BPA area.

Comment 15: If Houston's air pollution is actually being transported to BPA, EPA must make a SIP call to improve the HG SIP: The Act is clear that states are required to develop plans which include sufficient control strategies to mitigate and compensate for the effects of transported air pollutants. § 110(a)(2)(D), 110(k)(5). As noted above, the 7/98 transport policy is backwards: Congress clearly expected that upwind areas would be required to control emissions to the degree that these emissions would not affect

downwind areas. The state must adopt whatever controls are necessary for HG to reduce its pollution in a timely fashion and help Beaumont into attainment.

Response 15: EPA has replied extensively on the validity of the July 1998 transport policy and its applicability to the BPA ozone nonattainment area in previous responses to comments, above, especially the responses to the March 1999 Notice—Section VIII(A). In addition, as discussed previously, it is difficult to ascertain which emission reductions an upwind area might require earlier in order to bring a downwind area into attainment prior to attainment by the upwind area. Moreover, requiring control strategies in the HG area that accelerates that area's attainment date conflicts with Congressional intent to allow the HG area a later attainment date, and based on consideration of what is "practicable."

In response to the commenter's concern that the EPA must make a SIP call to improve the HG SIP, the EPA does not agree. We are currently operating under the Natural Resources Defense Council consent decree (*Natural Resources Defense Council* v. *Browner*, Civ No. 99–2976, November 30, 1999) for HG SIP actions. This consent decree essentially is functioning as a SIP call. The State of Texas submitted an attainment demonstration SIP for the HG area, with rules or other enforceable control measures, by December 31, 2000. This attainment demonstration SIP revision is currently under EPA review. Thus, until EPA has ruled on the sufficiency of that SIP submission, a SIP call would be premature. Per the decree, if EPA has not fully approved an attainment demonstration SIP for HG, EPA must by October 15, 2001, propose a Federal Implementation Plan (FIP). Should a FIP be proposed, the EPA must promulgate the FIP by June 14, 2002 to be in compliance with the consent decree. Previous responses found above, including the responses to the March 1999 Notice—Section VIII(A), discuss why the EPA does not believe the Act requires the HG area to shorten its attainment schedule by adopting and implementing rules on a faster schedule in order to bring the BPA area into attainment sooner. Also, reference the TSD to the December 27, 2000, proposed rule for details of the modeling evidence for transport and BPA nonattainment.

Comment 16: The "Extension" of the attainment date is not warranted by fact or permissible under law: EPA's legal basis for simply adjusting the attainment date under these circumstances is non-existent. Even if there were statutory authority to grant extensions, there is nothing in the notice to suggest that the area has to reduce transport to attain.

Response 16: EPA has replied extensively on the validity of the July 1998 transport policy, the granting of an extension to the attainment date for a downwind nonattainment area, and its applicability to the BPA ozone nonattainment area in previous responses to comments, above, including the responses to the March 1999 Notice—Section VIII(A).

Also, the State has submitted an approvable modeling demonstration with supporting documentation that the BPA area is affected by transport of ozone and ozone precursor compounds from an upwind source, namely the HG area. The submitted documentation successfully demonstrates that this transport from the HG area affects the BPA area's ability to attain earlier than the date that the HG area attains. There is strong evidence to support the position that the BPA nonattainment area is impacted by transport from the HG area. EPA's review of the number of days when there is an exceedance in BPA for the 1990–94 data shows 41 exceedances in the BPA area, of which 16 days are when winds are from the HG area. This is more than 3 exceedances per year (three being the maximum number of exceedances allowed to still be in attainment) for BPA which are influenced by transport from HG. Given the two areas are less than 24 hours transport from each other, and the life time of ozone and its precursors, it is reasonable to believe ozone observations and emissions emitted in HG will arrive in BPA within 24 hours. This argument alone closely links the two areas. Modeling which eliminated the HG emissions and resulted in 10–30 ppb change in ozone levels in BPA, as documented in the TSD, shows HG is having a major impact on BPA's ability to attain the 1-hour ozone standard. Local attainment modeling for the BPA and HG nonattainment areas shows that the BPA nonattainment area will need controls not only local to the BPA nonattainment area but from upwind sources (the HG area) to demonstrate attainment of the ozone NAAQS. Local modeling for 2007 relies substantively on the HG area reductions (upwind and within the modeling domain) as well as controls being implemented in the BPA nonattainment area. EPA recalculated the estimate of the future design values based solely on modeled days when winds are not coming from HG. The results indicate that the local measures to be implemented in BPA are adequate to show attainment on days when transport is not an issue. This confirms that BPA has done all that they can to address the local portion of their nonattainment problem. It has been clearly demonstrated that, until the HG nonattainment area implements local controls and comes into attainment, high ozone and precursor emissions from the HG nonattainment area will continue to contribute to exceedances and thwart attainment in the BPA nonattainment area. Reference the TSD to the December 27, 2000, proposed rule for details of the modeling evidence for transport and BPA nonattainment.

Comment 17: Weight-of-evidence Approach is so Poorly Described and Developed as to constitute a non-technical Analysis for Approving an Extension to 2007: The state's weight-of-evidence determinations are technically flawed and poorly presented in the proposed rulemaking (65 FR 81797 by relying on too many uncertainties, estimates and non-scientific methods, which make this approach entirely unacceptable and illegal. EPA needs to do a comprehensive scientific analysis of the information and not a non-scientific one in making these critical public health evaluations and decisions.

Response 17: Under section 182(b), (c)(2), and (d) of the CAA, moderate ozone nonattainment areas were required to submit by November 15, 1993, and serious and severe ozone nonattainment areas were required to submit by November 15, 1994, demonstrations of how they would attain the 1-hour standard. Section 182(c)(2)(A) provides that "[t]his attainment demonstration must be based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective." Moderate areas were therefore not required to submit an attainment demonstration SIP based upon photochemical modeling. As described in more detail below, the EPA guidance provides options for states to supplement their photochemical modeling results, with additional evidence designed to account for uncertainties in the photochemical modeling, to demonstrate attainment. This approach is consistent with the requirement of section 182(c)(2)(A) that the attainment demonstration "be based on photochemical grid modeling," because the modeling results constitute the principal component of EPA's analysis, with supplemental information designed to account for uncertainties in

the model. This interpretation and application of the photochemical modeling requirement of section 182(c)(2)(A) finds further justification in the broad deference Congress granted EPA to develop appropriate methods for determining attainment, as indicated in the last phrase of section 182(c)(2)(A).

The flexibility granted to EPA under section 182(c)(2)(A) is reflected in the regulations EPA promulgated for modeled attainment demonstrations. These regulations provide, "The adequacy of a control strategy shall be demonstrated by means of applicable air quality models, data bases, and other requirements specified in [40 CFR part 51 Appendix W] (Guideline on Air Quality Models)."[4] 40 CFR 51.112(a)(1). However, the regulations further provide, "Where an air quality model specified in appendix W * * * is inappropriate, the model may be modified or another model substituted [with approval by EPA, and after] notice and opportunity for public comment * * *." Appendix W, in turn, provides that, "The Urban Airshed Model (UAM) is recommended for photochemical or reactive pollutant modeling applications involving entire urban areas," but further refers to EPA's modeling guidance for data requirements and procedures for operating the model. 40 CFR 51 App. W section 6.2.1.a. The modeling guidance discusses the data requirements and operating procedures, as well as interpretation of model results as they relate to the attainment demonstration. This provision references guidance published in 1991, but EPA envisioned the guidance would change as we gained experience with model applications, which is why the guidance is referenced, but does not appear, in Appendix W. With updates in 1996 and 1999, the evolution of EPA's guidance has led us to use both the photochemical grid model, and additional analytical methods approved by EPA.

The modeled attainment test compares model predicted 1-hour daily maximum ozone concentrations in all grid cells for the attainment year to the level of the NAAQS. The results may be interpreted through either of two modeled attainment or exceedance tests: A deterministic test or a statistical test. Under the deterministic test, a predicted concentration above 0.124 parts per million (ppm) ozone indicates that the area is expected to exceed the standard in the attainment year and a prediction at or below 0.124 ppm indicates that the area is expected to not exceed the standard. Under the statistical test, attainment is demonstrated when all predicted (i.e., modeled) 1-hour ozone concentrations inside the modeling domain are at, or below, an acceptable upper limit above the NAAQS permitted under certain conditions (depending on the severity of the episode modeled).[5]

In 1996, EPA issued guidance[6] to update the 1991 guidance referenced in 40 CFR 50 App. W, to make the modeled attainment test more closely reflect the form of the NAAQS (i.e., the statistical test described above), to consider the area's ozone design value and the meteorological conditions accompanying observed exceedances, and to allow consideration of other evidence to address uncertainties in the modeling databases and application. When the modeling does not conclusively demonstrate attainment, EPA has concluded that additional analyses may be presented to help determine whether the area will attain the standard. As with other predictive tools, there are inherent uncertainties associated with air quality modeling and its results. The inherent imprecision of the model means that it may be inappropriate to view the specific numerical result of the model as the only determinant of whether the SIP controls are likely to lead to attainment. The EPA's guidance recognizes these limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely to be achieved.

The process by which this is done is called a weight of evidence (WOE) determination. Under a WOE determination, the state can rely on, and EPA will consider in addition to the results of the modeled attainment test, other factors such as other modeled output (e.g., changes in the predicted frequency and pervasiveness of 1-hour ozone NAAQS exceedances, and predicted change in the ozone design value); actual observed air quality trends (i.e. analyses of monitored air quality data); estimated emissions trends; and the responsiveness of the model predictions to further controls.

In 1999, EPA issued additional guidance[7] that makes further use of model results for base case and future emission estimates to predict a future design value. This guidance describes the use of an additional component of the WOE determination, which requires, under certain circumstances, additional emission reductions that are or will be approved into the SIP, but that were not included in the modeling analysis, that will further reduce the modeled design value. An area is considered to monitor attainment if each monitor site has air quality observed ozone design values (4th highest daily maximum ozone using the three most recent consecutive years of data) at or below the level of the standard. Therefore, it is appropriate for EPA, when making a determination that a control strategy will provide for attainment, to determine whether or not the model predicted future design value is expected to be at or below the level of the standard. Since the form of the 1-hour NAAQS allows exceedances, it did not seem appropriate for EPA to require the test for attainment to be "no exceedances" in the future model predictions. The method outlined in EPA's 1999 guidance uses the highest measured design value from all sites in the nonattainment area for each of three years.[8] The three year "design value" represents the air quality observed during the time period used to predict ozone for the base emissions. This is appropriate because the model is predicting the change in ozone from the base period to the future attainment date. The three yearly design values (highest across the area) are averaged to account for annual fluctuations in meteorology. The result is an estimate of an area's base year design value. The base year design value is multiplied by a ratio of the peak model predicted ozone concentrations in the attainment year (i.e., average of daily maximum concentrations from all days modeled) to the peak model predicted ozone concentrations in the base year (i.e., average of daily maximum concentrations from all days modeled). The result is an attainment year design value based on the relative change in peak model predicted ozone concentrations from the base year to the attainment year. Modeling results also show that emission control strategies

[4] The August 12, 1996 version of "Appendix W to Part 51—Guideline on Air Quality Models" was the rule in effect for these attainment demonstrations. EPA is proposing updates to this rule which will not be in effect until the new rule is promulgated.

[5] Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS. EPA–454/B–95–007, June 1996.

[6] Ibid.

[7] "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. November 1999. Web site: http://www.epa.gov/ttn/scram.

[8] EPA relies on this averaging only for purposes of determining one component, *i.e.*—the amount of additional emission reductions not modeled—of the WOE determination. The WOE determination, in turn, is intended to be a qualitative assessment of whether additional factors (including the additional emissions reductions not modeled), taken as a whole, indicate that the area is more likely than not to attain.

designed to reduce areas of peak ozone concentrations generally result in similar ozone reductions in all core areas of the modeling domain, thereby providing some assurance of attainment at all monitors.

In the event that the attainment year design value is above the standard, the 1999 guidance identifies a method for identifying additional emission reductions, not modeled, which at a minimum provide an estimated attainment year design value at the level of the standard. This step uses a locally derived factor which assumes a relationship between ozone and the precursors. The Act and the regulations do not mandate nor does EPA guidance suggest that States must model all control measures being implemented. Moreover, a component of this technique—the estimation of future design value—should be considered a model-predicted estimate. Therefore, results from this technique are an extension of "photochemical grid" modeling and are consistent with Section 182(c)(2)(A).

The State provided an array of weight-of-evidence analysis to support the probability of attainment of the NAAQS in November, 2007. These analyses were in accordance with the guidelines and procedures discussed above. Analyses included future design value calculations, design value trends, spatial and temporal modeling metrics, and several other measures not included in the attainment demonstration CAMX modeling. Specifically, the future design value calculations indicated a calculated future design value of 115.4 parts per billion (ppb), below the NAAQS value of 124 ppb. The design values trend analysis demonstrates a general decrease in design values from 1975 through 1999. The spatial and temporal modeling shows an overall 87 percent improvement in ozone exceedance days for the 2007 post-control case as compared to the 1993 base case. In addition, other items in the WOE analysis provided for additional emissions reductions on top of those included in the CAMX modeling.

In addition to the summary discussion provided in the proposed rulemaking notice (65 FR 81797), the weight-of-evidence approach is discussed in more detail in the TSD to the December 27, 2000, notice and the supporting documentation submitted by the State. Also, it must be understood that the WOE analysis is used for additional analyses based on a composite of the information, not on a single element. The State analyzed, and the EPA considered, these analyses in the aggregate in assessing whether the State has provided sufficient evidence that corroborates further the attainment demonstration. It is the EPA's technical opinion the State's analyses of air quality and emission trends do provide additional support for the State's attainment demonstration. Progress in air quality improvement through recent periods is demonstrated and future progress in air quality improvement is shown. In addition, these analyses lend support to a regional NO_X reduction as a reasonable approach to achieving attainment of the ozone standard. Based on the weight-of-evidence and the modeling, the control strategy should provide for attainment by November 15, 2007.

Comment 18: In addition to the fundamental attainment issues, commenters believe that the emissions reductions strategy contained in the applicable SIP for the BPA area must consider and accommodate disproportionate effects on minority and disadvantaged communities, i.e., environmental justice issues.

Response 18: Commenters' assertion that minority and low-income populations in Jefferson, Hardin and Orange counties are exposed to higher levels of ozone that other residents of the BPA area is not supported by the available data. In addition, the air quality for the entire BPA area will reflect levels below the ozone NAAQS once attainment is realized. Moreover, an evaluation of the available air quality data for the BPA for the years 1998–2000 indicates that fewer exceedances occurred in areas with minority and low-income populations than did for areas with relatively high non-minority and non-low-income populations. EPA therefore finds that this rulemaking is consistent with Executive Order 12898 and does not impose any disproportionately high and adverse human health or environmental effects on minority and low-income populations.

Commenters also contend that the provisions of 40 CFR 7.35(a)(3) proscribe EPA's administration of the air quality program in a discriminatory manner. EPA regulations at 40 CFR Part 7 implement Title VI of the Civil Rights Act of 1964, as amended, and prohibit recipients of EPA assistance from discriminating on the basis of race, color or national origin, among other things. Title VI and the Part 7 regulations apply to the programs and activities of recipients of EPA assistance, but not to actions taken by federal agencies. Therefore, the requirements of 40 CFR Part 7 do not apply to the action EPA is taking today.[9] More importantly, as noted above, EPA concludes that this action does not impose any disproportionately high and adverse human health or environmental effects on minority and low-income populations.

Finally, commenters make a number of factual allegations about the demographics and health of poor and minority populations in the BPA nonattainment area and across the country. However, commenters did not provide EPA with any concrete references or resources to support these allegations. Therefore, EPA is not responding to these unsupported factual allegations.

Comment 19: BPA needs Reasonable Further Progress: Reasonable further progress is not being provided for in the BPA area due to the state's failure to require the CAA minimum 3%-per-year rate-of-progress reductions, even though the statute clearly requires these basic reductions. This failure violates the rate-of-progress requirements in the statute. EPA needs to enforce this requirement of the Act.

Response 19: Since the BPA ozone nonattainment area is classified as a moderate nonattainment area, the State was required to submit as a revision to the SIP a 15% Rate-of-Progress (ROP) plan for the BPA area. CAA Section 182(b)(1). This 15% plan meets the reasonable further progress requirements for a moderate ozone nonattainment area. The 15% plan was submitted and subsequently approved by the EPA. 63 FR 06659, February 10, 1998. The reasonable further progress requirement cited by the commenter (3%-per-year ROP reductions) does not apply to a moderate ozone nonattainment area. The 3%-per-year ROP measure is an additional reasonable further progress requirement for serious and above ozone nonattainment areas, which becomes effective for those areas after the 15% requirement is submitted. CAA Section 182(c)(2)(B). Since, with this rulemaking the EPA is approving the Attainment Demonstration SIP revision, extending the attainment date, and is not reclassifying the BPA ozone nonattainment from its present classification of moderate to serious or

[9] EPA notes that commenters reference a Title VI administrative complaint regarding the Exxon-Mobil Beaumont refinery-chemical plant complex. The complaint, which is dated April 13, 2000, involves a permitting action by the Texas Natural Resources Conservation Commission. EPA's Office of Civil Rights is responsible for the Agency's administration of Title VI and is still processing this complaint. As a result, the complaint is not germane to the SIP action taken today by EPA pursuant Clean Air Act section 110.

above, the additional 3%-per-year ROP component of the reasonable further progress requirements of the CAA does not apply in the case of the BPA area.

On the other hand, the HG December 2000 SIP revision submission includes the required Post-1999 ROP Plans for the HG area through 2007. Because of the impact of the HG area upon the BPA area's air quality, through transport of ozone and ozone pre-curser compounds, the fact that the HG area's plan includes the 3% ROP requirements will ensure that the air quality in BPA improves at a steady pace.

Comment 20: Contingency Measures needed if State fails to show Progress: The lack of contingency measures is unacceptable and illegal. The extension for the BPA area requires that the area do nothing if the state fails to show progress, therefore EPA needs to require the state to adopt a set of contingency measures.

Response 20: First, the EPA believes the contingency measure requirements of Section 172(c)(9) are an independent requirement from the attainment demonstration requirements under Section 172(c)(1) and the rate-of-progress (ROP) requirements under Sections 172(c)(2) and 182(b)(1)(A). The contingency measure requirements are to address the event that an area fails to meet a ROP milestone or fails to attain the ozone NAAQS by the attainment date established in the SIP. The contingency measure requirements have no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS or the required ROP reductions toward attainment. The attainment or ROP SIP provides a demonstration that attainment or ROP requirements ought to be fulfilled, but the contingency measure SIP requirements concern what is to happen only if attainment or ROP is not actually achieved. Therefore, the EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is generally necessary before EPA may approve an attainment or ROP SIP, or that contingencies submitted previously, and still in effect, need be restated in the attainment demonstration SIP. However, where EPA is granting an attainment date extension, as in BPA, EPA's policy requires that areas meet all of the requirements applicable to the areas' classification. Further, as discussed below, the BPA area has met its ROP contingency measures requirements.

The State of Texas has previously submitted contingency measures applicable to the BPA nonattainment area. These measures were submitted with the 15% ROP SIP revision and approved by EPA. 63 FR 6659, February 10, 1998. The State meets the requirements of the CAA for a moderate area's ROP contingency measure submittals. These contingency measures include the triggering of the lower major source threshold for the application of RACT controls for certain source categories. These contingency measures were submitted previously, approved by EPA, and remain in effect. Therefore, the BPA area meets the ROP requirements applicable to its classification.

Comment 21: HG area may not attain by 2007 due to series of industry-business lawsuits filed January, 2001 opposing the HG SIP: Ability of the BPA area to attain by November 15, 2007 is now threatened by lawsuits in HG to oppose the major stationary source NO_x reductions required for the HG area's 2007 attainment. Delays will impact attainment for the BPA area since the state is relying heavily on reductions in the HG area for improving air quality.

Response 21: The commenter is correct in stating there are currently pending lawsuits challenging several rules included in the HG area SIP. They also correctly point out that delays in effective dates of these rules could impact attainment for the BPA area. The lawsuits are pending and final resolutions have not been made. As such, the provisions of the regulations have not been invalidated. For the purpose of this SIP revision approval, the HG area measures necessary for HG to attain the ozone NAAQS levels, preparatory for the BPA area's attainment of the Ozone NAAQS, stand.

Under the consent decree, if EPA has not fully approved an attainment SIP for the HG area, then EPA must, by June 14, 2002, promulgate a FIP.

IX. EPA Action

EPA is taking the following actions on the State submittals of November 12, 1999, and April 25, 2000:

1. EPA is approving the ground-level one-hour ozone attainment demonstration SIP for the BPA, Texas ozone nonattainment area.

2. EPA is approving the State's request to extend the ozone attainment date for the BPA ozone nonattainment area to November 15, 2007 while retaining the area's current classification as a moderate ozone nonattainment area.

3. EPA is approving the on-road motor vehicle emissions budgets.

4. EPA finds that the BPA area meets all remaining outstanding VOC RACT requirements for major sources.

The EPA also approves the State's enforceable commitment to conduct a mid-course review (including evaluation of all modeling, inventory data, and other tools and assumptions used to develop this attainment demonstration) and to submit a mid-course review SIP revision, with recommended mid-course corrective actions, to the EPA by May 1, 2004. If the subsequent analyses conducted by the State as part of the mid-course review indicate additional reductions are needed for BPA to attain the ozone standard, EPA will require the State to implement additional controls as soon as possible until attainment is demonstrated through an approvable attainment demonstration.

X. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective June 14, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen Oxides, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 30, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

2. In § 52.2270, four entries in the "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP" table in paragraph (e) are added, after the last listing in the table, to read:

§ 52.2270 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
*	*	*	*	*
Attainment Demonstration for the 1-hour Ozone NAAQS.	Beaumont/Port Arthur, TX	04/19/00	5/15/01	66 FR 26939
Ozone Attainment Date Extension to 11/15/07	Beaumont/Port Arthur, TX	04/19/00	5/15/01	66 FR 26939
Commitment by Texas to perform a mid-course review and submit a SIP revision by 05/01/04.	Beaumont/Port Arthur, TX	04/19/00	5/15/01	66 FR 26939
Finding that BPA area meets VOC RACT requirements as of 5/15/01.	Beaumont/Port Arthur, TX	04/19/00	5/15/01	66 FR 26939

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[FR Doc. 01–11564 Filed 5–14–01; 8:45 am]

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Federal Register

Tuesday,
May 15, 2001

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25
Electrical Cables; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2001–9633; Notice No. 01–03]

RIN 2120–AH29

Electrical Cables

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes concerning electrical cables. This proposal would harmonize part 25 and JAR–25 requirements concerning cable installations and clarify the cable design requirements ensuring that the designer considers the critical conditions, routings, and markings of a proper installation. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

DATES: Send your comments on or before July 16, 2001.

ADDRESSES: Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. You must identify the docket number FAA–2001–9633 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2001–9633." We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: *http://dms.dot.gov.*

You may review the public docket containing comments to this proposed regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Also, you may review the public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone 425–227–2315 facsimile 425–227–1320, e-mail steve.slotte@faa.gov.

SUPPLEMENTARY INFORMATION:

How Do I Submit Comments to This NPRM?

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

We will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

How Can I Obtain a Copy of This NPRM?

You may download an electronic copy of this document using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339); the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202–512–1661); or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: 800–322–2722 or 202–267–5948).

Internet users may access recently published rulemaking documents at the FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or the *GPO's* web page at *http://www.access.gpo.gov/nara.*

You may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591; or by calling 202–267–9680. Communications must identify the docket number of this NPRM.

Any person interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular 11–2A, "Notice of Proposed Rulemaking Distribution System," which describes the application procedure.

Background

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR) part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is "Harmonization" and How Did It Start?

Although part 25 and JAR–25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial additional costs to manufacturers and operators. These additional costs, however, frequently do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to "harmonize" their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the wording of part 25 and JAR–25. Both the FAA and the JAA consider "harmonization" of the two sets of standards a high priority.

What Is ARAC and What Role Does It Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language "recommended" by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR–25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry (including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)) proposed an accelerated process to reach harmonization.

What Is the "Fast Track Harmonization Program"?

In light of a general agreement among the affected industries and authorities to expedite the harmonization program, the FAA and JAA in March 1999 agreed upon a method to achieve these goals. This method, which the FAA has titled "The Fast Track Harmonization Program," is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all of the standards needing harmonization into three categories:

Category 1: Envelope—For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be "enveloped" into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or near complete—For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize—For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be "enveloped" (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first NPRM published under this program, Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes (65 FR 36978, June 12, 2000).

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC suggested a number of editorial changes, which have been incorporated into this NPRM.

Discussion of the Proposal

How Does This Proposed Regulation Relate to "Fast Track"?

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. In this notice, the FAA proposes to amend § 25.1353, concerning electrical cables.

What Is the Underlying Safety Issue Addressed by the Current Standards?

This requirement gives design requirements relating to the proper installation of aircraft electrical equipment, controls, wiring, cables, and storage batteries. The operation of any one unit or system of units must not affect the operations of any other electrical unit or system essential to the safe operation of the airplane.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1353 addresses the proper installation of

electrical equipment, controls, wiring, cables, and storage batteries to prevent any hazardous effect on the airplane structure or essential systems.

There is no current text for 14 CFR 25.1353(d).

The current text of JAR–25.1353 contains an additional requirement in paragraph (d), which states:

JAR 25.1353 Electrical equipment and installations

* * * (d) Electrical cables and cable installations must be designed and installed as follows:

(1) The electrical cables used must be compatible with the circuit protection devices required by JAR 25.1357, such that a fire or smoke hazard cannot be created under temporary or continuous fault conditions.

(2) Means of permanent identification must be provided for electrical cables, connectors and terminals.

(3) Electrical cables must be installed such that the risk of mechanical damage and/or damage caused by fluids, vapors, or sources of heat, is minimized.

What Are the Differences in the Standards and What Do Those Differences Result In?

Section 25.1353(a), (b), (c) of part 25 does not address the aircraft installation design requirements of electrical cables. JAR 25.1353(d), however, provides very explicit aircraft installation design requirements for electrical cables.

What, if Any, Are the Differences in the Means of Compliance?

Part 25 does not have a specific requirement for installation design requirements for electrical cables. However, installation designs approved under part 25 typically meet the JAR requirement. The JAR states specific requirements for cable installations that must be met. Installation designers, through experience, have adopted the practice of permanent identification, protection, and installation routing to minimize the risk of damage to electrical cables.

What Is the Proposed Action?

The proposed action is to revise part 25 by adopting the text of JAR–25.1353(d) in its entirety. The proposed revision would specify a design action to be taken, and remove the possibility that a designer may not consider a critical installation design condition. It is in line with current best design practices.

How Does This Proposed Standard Address the Underlying Safety Issue?

The new § 25.1353(d) would clarify the cable design requirements, in the same manner as the current JAR, by ensuring that the designer considers the critical conditions, routings, and markings of a proper installation.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed standard is more stringent in that it adds a requirement that is not currently in § 25.1353. However, current industry practice is to comply with both standards.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed standard would maintain the same level of safety since current industry practice is to comply with both standards.

What Other Options Have Been Considered and Why Were They Not Selected?

The FAA has not considered another option. The FAA considers the adoption of JAR 25.1353(d) in its entirety the most appropriate way to maintain the level of safety.

Who Would Be Affected by the Proposed Change?

The proposed standard is in line with current design practices and the effect of the change is considered to be minimal for aircraft operators, modification centers, service centers, and manufacturers.

Is Existing FAA Advisory Material Adequate?

There is no advisory material for either part 25 or the JAR. The FAA considers developing new advisory material to be unnecessary.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. §§ 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that this proposal has benefits, but no substantial costs, and that it is not "a significant regulatory action" as defined in Executive Order 12866, nor "significant" as defined in DOT's Regulatory Policies and Procedures. Further, this proposed rule would not have a significant economic impact on a substantial number of small entities, would reduce barriers to international trade, and would not impose an Unfunded Mandate on state, local, or tribal governments, or on the private sector.

The DOT Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposed rule does not warrant a full evaluation, a statement to that effect and the basis for it is included in the proposed regulation. Accordingly, the FAA has determined that the expected impact of this proposed rule is so minimal that the proposed rule does not warrant a full evaluation. The FAA provides the basis for this minimal impact determination below.

Currently, airplane manufacturers must satisfy both part 25 and the European JAR–25 standards to certificate transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create, to the maximum possible extent, a single set of certification requirements accepted in both the United States and Europe. As explained in detail previously, these efforts are referred to as "harmonization."

This proposal would harmonize § 25.1353 to the JAR by adopting JAR 25.1353(d) in its entirety. The JAR requirement states specific requirements for cable installations. This section clarifies the cable design requirements ensuring that the designer considers the critical conditions, routings, and markings of proper installations.

Industry practice is to use the JAR requirements for installation, and therefore, the addition of this language to part 25 will not add a burden to the manufacturers. Aircraft manufacturers currently use several approved standards or specifications to ensure that design and installation of electrical cables are in compliance with the JAR standards.

Standards used by the manufacturing industry, for example, are based on MIL–W–5088L or SAE ARP 5088 and FAA guidance material which includes AC 25–16 and AC 43.13–1B. These standards provide guidance for the design process from wire specification through the installation of wiring and wiring devices used in airplanes. (Wiring within that specification is defined as wires, cables, groups, harnesses and bundles, and their terminations, associated hardware, and support installed on aircraft.)

It is standard industry practice for aircraft and wiring manufacturers to test electrical cables before installation and the aircraft manufacturer also tests the electrical cables upon installation. Manufacturers are also using the JAR and § 25.1357 as a means of ensuring that the electrical cables and wiring used are compatible with the circuit protection devices required by that regulation to prevent a fire or smoke hazard created under temporary or continuous fault conditions.

The FAA has concluded that, for the reasons previously discussed in the preamble, the adoption of these JAR requirements into 14 CFR part 25 is the most efficient way to harmonize these sections. Additionally, adopting this proposal would neither reduce nor increase the requirements beyond those that exist in the current FAA published regulations.

Thus, the FAA expects that there would be no additional costs to part 25 manufacturers, and the level of safety would be maintained. The FAA requests comments to the contrary, identifying additional testing, time, procedures, paperwork and cost estimates.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980, 50 U.S.C. 601–612, as amended, establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the sale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA considers that this proposed rule would not have a significant impact on a substantial number of small entities for two reasons:

First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule would require that new transport category aircraft manufacturers meet just the "more stringent" European certification requirement, rather than both the United States and European standards. Airplane manufacturers already meet or expect to meet this standard as well as the existing 14 CFR part 25 requirement.

Second, all U.S. transport-aircraft category manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for aircraft manufacturers. The current U.S. part 25 airplane manufacturers include: Boeing, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation.

Given that this proposed rule is minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule would not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of the proposed rule and has determined that it supports the Administration's free trade policy because this rule would use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C. 1532–1538, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year; therefore, the requirements of the Act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has determined there are no requirements for information

collection associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA, therefore, specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the issue of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communication that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

2. Amend § 25.1353 by adding paragraph (d) to read as follows:

§ 25.1353 Electrical equipment and installations.

* * * * *

(d) Electrical cables and cable installations must be designed and installed as follows:

(1) The electrical cables used must be compatible with the circuit protection devices required by § 25.1357 such that a fire or smoke hazard cannot be created under temporary or continuous fault conditions.

(2) Means of permanent identification must be provided for electrical cables, connectors and terminals.

(3) Electrical cables must be installed such that the risk of mechanical damage and/or damage caused by fluids, vapors, or sources of heat, is minimized.

Issued in Renton, Washington, on May 3, 2001.

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12105 Filed 5–14–01; 8:45 am]

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Federal Register

Tuesday,
May 15, 2001

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Airspeed Indicating System Requirements for Transport Category Airplanes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2001–9636; Notice No. 01–05]

RIN 2120–AH26

Airspeed Indicating System Requirements for Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes concerning the airspeed indicating system. This proposal would add airspeed indication requirements for speeds greater than and less than the speed range for which airspeed indication accuracy requirements currently apply, would add a requirement that airspeed indications not cause the pilot undue difficulty between the initiation of rotation and the achievement of a steady climbing condition during takeoff, and would also add a requirement to limit the effects of airspeed lag. Adopting this proposal would eliminate a regulatory difference between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

DATES: Send your comments on or before July 16, 2001.

ADDRESSES: Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. You must identify the docket number, FAA–2001–9636, at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2001–9636." We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: *http://dms.dot.gov.*

You may review the public docket containing comments on this proposed regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. Also, you may review the public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Don Stimson, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone 425–227–1129; facsimile 425–227–1320, e-mail *don.stimson@faa.gov.*

SUPPLEMENTARY INFORMATION:

How Do I Submit Comments to This NPRM?

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

We will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

How Can I Obtain a Copy of This NPRM?

You may download an electronic copy of this document using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339); the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202–512–1661); or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: 800–322–2722 or 202–267–5948).

Internet users may access recently published rulemaking documents at the FAA's web page at or the GPO's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or the *GPO's* web page at *http://www.access.gpo.gov/nara.*

You may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591; or by calling 202–267–9680. Communications must identify the docket number of this NPRM.

Any person interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular 11–2A, "Notice of Proposed Rulemaking Distribution System," which describes the application procedure.

Background

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR), part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is "Harmonization" and How Did It Start?

Although part 25 and JAR–25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial additional costs to manufacturers and operators. These additional costs, however, frequently do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to "harmonize" their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the wording of part 25 and JAR–25. Both the FAA and the JAA consider "harmonization" of the two sets of standards a high priority.

What Is the ARAC and What Role Does It Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991) to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language "recommended" by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR–25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry [including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)] proposed an accelerated process to reach harmonization.

What Is the "Fast Track Harmonization Program"?

In light of a general agreement among the affected industries and authorities to expedite the harmonization program, the FAA and JAA, in March 1999, agreed upon a method to achieve these goals. This method, which the FAA has titled "The Fast Track Harmonization Program," is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all of the standards needing harmonization into three categories:

Category 1: Envelope

For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be "enveloped" into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or Near Complete

For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize

For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be "enveloped" (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first NPRM published under this program, Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes (65 FR 36978, June 12, 2000).

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC suggested a few editorial changes, which have been incorporated into this NPRM.

Discussion of the Proposal

How Does This Proposed Regulation Relate to "Fast Track"?

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. In this notice, the FAA proposes to amend the airspeed indicating system requirements of § 25.1323.

What Is the Underlying Safety Issue Addressed by the Current Standards?

The underlying safety issue is to prevent hazardously misleading airspeed information from being presented to the flightcrew. To this end, § 25.1323 specifies the accuracy and calibration requirements and the speed ranges over which each airspeed system must be calibrated. In addition, each airspeed system must be designed and installed so as to minimize the possibility of malfunction by the entry of foreign material, by icing, or due to a collision with a bird.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1323(c) is:

(c) The airspeed error of the installation, excluding the airspeed indicator instrument calibration error, may not exceed three percent or five knots, whichever is greater, throughout the speed range, from—

(1) V_{MO} to 1.3 V_{S1} with flaps retracted; and

(2) 1.3 V_{S0} to V_{FE} with flaps in the landing position.

The text of JAR–25.1323(c), Chg. 14, Orange Paper 96/1, is:

(c)(*1*)The airspeed error of the installation, excluding the airspeed indicator instrument calibration error, may not exceed three percent or five knots, whichever is greater, throughout the speed range, from—

(*i*) V_{MO} to 1.3 V_{S1} with wing-flaps retracted; and

(*ii*) 1.3 V_{S0} to V_{FE} with wing-flaps in the landing position.

(2) From 1.3 V_S to stall warning speed the IAS must change perceptibly with CAS and in the same sense, and at speeds below stall warning speed the IAS must not change in an incorrect sense. (See ACJ 25.1323(c)(2).)

(3) From V_{MO} to $V_{MO}+⅔$ ($V_{DF}-V_{MO}$) the IAS must change perceptibly with CAS and in the same sense, and at higher speeds up to V_{DF} the IAS must not change in an incorrect sense. (See ACJ 25.1323(c)(3).)

(4) There must be no indication of airspeed which would cause undue difficulty to the pilot during the take-off between the initiation of rotation and the achievement of a steady climbing condition.

Note: This proposal harmonizes § 25.1323(c) with JAR–25.1323(c) at JAR Chg. 14. The FAA expects to achieve harmonization at Chg. 15, effective October 2000, through separate rulemaking that is currently underway.

What are the Differences in the Standards?

JAR paragraphs 25.1323(c)(2), (3), and (4) contain requirements for speeds greater than and less than the speed range for which accuracy requirements apply. Part 25 does not have these additional requirements.

At speeds up to ⅔ ($V_{DF}-V_{MO}$) and less than the stall warning speed, JAR paragraphs 25.1323(c)(2) and (3) require the indicated speed to change perceptibly and in the same sense as the calibrated airspeed. At speeds up to V_{DF}, the indicated airspeed must not change in an incorrect sense. In other words, the indicated airspeed should not go down when the actual airspeed is going up.

JAR paragraph 25.1323(c)(4) states that between the initiation of rotation and the achievement of a steady climbing condition during takeoff, there must not be an airspeed indication that would cause the pilot undue difficulty. An example of such an indication would be a significant pause or change in the rate of change in airspeed. Such effects could result from changes in the airflow pattern around the airplane due to the diminishing effect of the ground on the airflow pattern as the airplane climbs away.

The JAR standard is more stringent than part 25. An airspeed indicating system that complies with JAR 25.1323(c) ensures compliance with § 25.1323(c), but a system that complies with § 25.1323(c) may not comply with JAR 25.1323(c). Therefore, a system designed to comply with § 25.1323(c) may need to be modified to comply with JAR 25.1323(c).

What, If Any, Are the Differences in the Means of Compliance and How Have the Standards Been Applied?

In general, where the standards are the same, the FAA and JAA accept the same means of compliance. For the additional requirements contained in JAR–25, the JAA has published advisory material providing an acceptable means of compliance. For showing compliance with JAR 25.1323(c)(2), the rate of change of IAS with CAS should be not less than 0.75 from 1.3 V_S to the stall warning speed. For showing compliance with JAR 25.1323(c)(3), the rate of change of IAS with CAS should be not less than 0.5 from $V_{MO}+⅔$ ($V_{DF}-V_{MO}$). The JAA does not have specific advisory material associated with JAR 25.1323(c)(4).

What Is the Proposed Action and How Does it Address the Underlying Safety Issue?

The FAA proposes to revise § 25.1323 to add the additional airspeed system indication requirements of JAR 25.1323(c)(2), (3), and (4).

In addition, a new requirement is proposed concerning airspeed lag. With the advent of electronic instruments in the cockpit, the pneumatic signals from the pitot and static sources are processed and digitized in the Air Data Computer (ADC) and then filtered and transported to the cockpit display. Data processing and filtering cause a time lag in displaying the airspeed on the cockpit display. This can be an important consideration in the airspeed indicating system calibration during ground acceleration. As stated in § 25.1323(b), the calibration for an accelerated takeoff ground run must determine the "system error," which is the relation between indicated and calibrated airspeeds. The system error is the sum of the pneumatic lag in the pressure lines, airspeed lag due to time lags in processing the data, and static source, position error.

The FAA considers adding these requirements to part 25 necessary to harmonize the actual wording of part 25 with the JAR on the issue of stall warning speeds, and to clarify the intent of the part 25 regulation. This addition would align the U.S. regulations with their European counterparts, and the wording of both airworthiness standards would be parallel in this respect. Furthermore, the addition of the airspeed lag requirement would codify what is current FAA policy. The JAA intends to add the airspeed lag requirement to JAR–25.

Adoption of this proposal is intended to benefit the public interest by standardizing the requirements, concepts, and procedures contained in the U.S. and European airworthiness standards without reducing, but potentially enhancing, the current level of safety.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard continues to address the underlying safety issue in the same manner as the current standard. The additional JAR standards have been added for the purpose of harmonization.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed standard increases the level of safety relative to 14 CFR part 25 by incorporating the additional JAR requirements. The additional requirement regarding airspeed lag codifies current FAA policy.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

Since industry practice is to comply with both the FAR and the JAR, the proposed amendment would neither add any new or different objective to the current regulations, nor change the way that any current certification practice is applied. Instead, the intent of the new paragraphs is to clarify and codify the way that the FAA and JAA have traditionally applied the related rules.

What Other Options Have Been Considered and Why Were They Not Selected?

Various options regarding the split between rule and advisory material were discussed to achieve the safety objective while ensuring flexibility in the means of compliance.

The FAA considered incorporating the JAR acceptable means of compliance material for the proposed speed requirements in the rule; however, it was decided that this would be too prescriptive and that it would preclude the use of other means of compliance that could also be found acceptable.

Another consideration was to include quantitative limits on the allowable level of airspeed bias and takeoff/accelerate-stop distance errors in the proposed airspeed lag requirement. ARAC concluded, and the FAA agrees, that the "one size fits all" approach does not work well here. A speed bias that varies may be significant for one airplane and not for another. A similar argument applies to the takeoff and accelerate-stop distance errors. Also, other mitigating factors may be more difficult to consider if prescriptive, quantitative values are included in the standard.

Finally, the ARAC working group considered retaining the airspeed lag policy as policy only and not including it as a regulatory standard. The working group determined that this means of compliance did not have a specific regulatory standard against which it was applied. The FAA agrees with the working group's determination that a regulatory standard is necessary to assure that future certifications continue to consider airspeed lag issues.

Adopting this proposal would eliminate an identified Significant Regulatory Difference (SRD) between the wording of part 25 and JAR–25, without affecting currently accepted industry design practices. The FAA expects more consistent interpretations of the rules and improved relations between regulatory authorities by eliminating this SRD.

Is Existing FAA Advisory Material Adequate?

To address the additional JAR requirements proposed for § 25.1323, the FAA plans to issue a revision to Advisory Circular (AC) 25–7A, "Flight Test Guide for Certification of Transport Category Airplanes." The proposed revision would add the means of compliance currently accepted by the JAA as an acceptable means of showing compliance with the proposed revision to § 25.1323 discussed in this NPRM. AC 25–7A already contains adequate advisory material concerning the airspeed lag issue. Public comments concerning the proposed revision are invited by separate notice in this issue of the **Federal Register**.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that this proposal has benefits, but no costs, and that it is not "a significant regulatory action" as defined in the Executive Order 12866 nor "significant" as defined in DOT's Regulatory Policies and Procedures. Further, this proposed rule would not have a significant economic impact on a substantial number of small entities, would reduce barriers to international trade, and would not impose an Unfunded Mandate on state, local, or tribal governments, or on the private sector.

Because there are no apparent costs associated with this proposed rule, it does not warrant the preparation of a full economic evaluation for placement in the docket. The basis of this statement and for the above determinations is summarized in the following paragraphs. The FAA requests comments with supporting documentation in regard to the conclusions contained in this section.

Currently, airplane manufacturers must satisfy both part 25 and the European JAR–25 standards to certificate transport category airplanes in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane, often with no increase in safety. In the interest of fostering international trade, lowering the cost of airplane development, and making the certification process more efficient, the FAA, JAA, and airplane manufacturers have been working to create, to the maximum possible extent, a single set of certification requirements accepted in both the United States and Europe. As explained in detail previously, these efforts are referred to as "harmonization."

This proposal rule would revise the airspeed indicating requirements of § 25.1323 to add airspeed indication requirements for speeds greater than and less than the speed range for which airspeed indication accuracy requirements currently apply, would require that airspeed indications not cause the pilot undue difficulty between the initiation of rotation and the achievement of a steady climbing condition during takeoff, and would also codify current FAA policy concerning airspeed lag. The FAA has concluded that, for the reasons previously discussed in the preamble, the adoption of these JAR requirements into 14 CFR part 25 is the most efficient way to harmonize these sections and, in so doing, the existing level of safety will be preserved.

The FAA estimates that there are no costs associated with this proposal. A review of current manufacturers of transport category airplanes certificated under part 25 has revealed that all such future airplanes are expected to be certificated under both 14 CFR part 25 and JAR–25. Since future certificated transport category airplanes are

expected to meet the existing JAR requirement and this proposed rule simply adopts the same JAR requirement, manufacturers would incur no additional cost resulting from this proposal.

In fact, manufacturers are expected to receive cost-savings by a reduction in the FAA/JAA certification requirements for new airplanes. The FAA, however, has not attempted to quantify the cost savings that may accrue due to this specific proposal, beyond noting that, while they may be minimal, they contribute to a large potential harmonization savings.

The agency concludes that, since there is consensus among potentially affected airplane manufacturers that savings would result, further analysis is not required.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980, 50 U.S.C. 601–612, as amended, establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA considers that this proposed rule would not have a significant impact on a substantial number of small entities for two reasons:

First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule would require that new transport category airplane manufacturers meet just the "more stringent" European certification requirement, rather than both the United States and European standards. Airplane manufacturers already meet or expect to meet this standard as well as the existing 14 CFR part 25 requirement.

Second, all U.S. transport-airplane category manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for airplane manufacturers. The current U.S. part 25 airplane manufacturers include: Boeing, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation.

Given that this proposed rule is minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule would not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries, and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of the proposed rule and has determined that it supports the Administration's free trade policy because this rule would use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C. 1532–1538, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year; therefore, the requirements of the Act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the use of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, and 44704.

2. Amend § 25.1323 by redesignating paragraphs (d) through (f) as paragraphs (h) through (j) and revising them, and adding new paragraphs (d) through (g) to read as follows:

§ 25.1323 Airspeed indicating system.

* * * * *

(d) From 1.3 V_S to the speed at which stall warning begins, the IAS must change perceptibly with CAS and in the same sense, and at speeds below stall warning speed the IAS must not change in an incorrect sense.

(e) From V_{MO} to $V_{MO}+3/5$ ($V_{DF} - V_{MO}$), the IAS must change perceptibly with CAS and in the same sense, and at higher speeds up to V_{DF} the IAS must not change in an incorrect sense.

(f) There must be no indication of airspeed that would cause undue difficulty to the pilot during the takeoff between the initiation of rotation and the achievement of a steady climbing condition.

(g) The effects of airspeed indicating system lag may not introduce significant takeoff indicated airspeed bias, or significant errors in takeoff or accelerate-stop distances.

(h) Each system must be arranged, so far as practicable, to prevent malfunction or serious error due to the entry of moisture, dirt, or other substances.

(i) Each system must have a heated pitot tube or an equivalent means of preventing malfunction due to icing.

(j) Where duplicate airspeed indicators are required, their respective pitot tubes must be far enough apart to avoid damage to both tubes in a collision with a bird.

Issued in Renton, Washington, on May 2, 2001.

Lirio L. Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12103 Filed 5–14–01; 8:45 am]

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Federal Register

Tuesday,
May 15, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Design and Installation of Electronic Equipment on Transport Category Airplanes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2001–9638; Notice No. 01–07]

RIN 2120–AH25

Design and Installation of Electronic Equipment on Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes concerning the design and installation of electronic equipment. The proposal would require that such equipment be designed and installed so that it does not cause essential loads to become inoperative as a result of electrical power supply transients or transients from other causes. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

DATES: Send your comments on or before July 16, 2001.

ADDRESSES: Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. You must identify the docket number FAA–2001–9638 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2001–9638." We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: *http://dms.dot.gov*.

You may review the public docket containing comments to this proposed regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. Also, you may review the public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone 425–227–2315; facsimile 425–227–1320, e-mail steve.slotte@faa.gov.

SUPPLEMENTARY INFORMATION:

How Do I Submit Comments to This NPRM?

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

We will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

How Can I Obtain a Copy of This NPRM?

You may download an electronic copy of this document using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339); the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202–512–1661); or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: 800–322–2722 or 202–267–5948).

Internet users may access recently published rulemaking documents at the FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or the *GPO's* web page at *http://www.access.gpo.gov/nara*.

You may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591; or by calling 202–267–9680. Communications must identify the docket number of this NPRM.

Any person interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular 11–2A, "Notice of Proposed Rulemaking Distribution System," which describes the application procedure.

Background

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR) part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What is "Harmonization" and How Did it Start?

Although part 25 and JAR–25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial additional costs to manufacturers and operators. These additional costs, however, frequently do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to "harmonize" their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the wording of part 25 and JAR–25. Both the FAA and the JAA consider "harmonization" of the two sets of standards a high priority.

What Is ARAC and What Role Does it Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language "recommended" by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR–25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry [including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)] proposed an accelerated process to reach harmonization.

What Is the "Fast Track Harmonization Program"?

In light of a general agreement among the affected industries and authorities to expedite the harmonization program, the FAA and JAA in March 1999 agreed upon a method to achieve these goals. This method, which the FAA has titled "The Fast Track Harmonization Program," is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all of the standards needing harmonization into three categories:

Category 1: Envelope

For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be "enveloped" into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or Near Complete

For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize

For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be "enveloped" (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first NPRM published under this program, Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes (65 FR 36978, June 12, 2000).

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC suggested a number of editorial changes, which have been incorporated into this NPRM.

Discussion of the Proposal

How Does This Proposed Regulation Relate to "Fast Track"

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. In this notice, the FAA proposes to amend §25.1431, Electronic equipment, concerning the design and installation of electronic equipment on transport category airplanes.

What Is the Underlying Safety Issue Addressed by the Current Standards?

The current standards address the critical environmental conditions that must be considered in the design and installation of radio and electronic equipment. The requirements are meant to ensure that electrical power is available to essential equipment without interruption, and that the malfunction of one unit or system of units will not adversely affect the operation of the other unit(s).

What are the Current 14 CFR and JAR Standards?

• The current text of 14 CFR 25.1431 is:

(a) In showing compliance with Sec. 25.1309 (a) and (b) with respect to radio and electronic equipment and their installations, critical environmental conditions must be considered.

(b) Radio and electronic equipment must be supplied with power under the requirements of Sec. 25.1355(c).

(c) Radio and electronic equipment, controls, and wiring must be installed so that operation of any one unit or system of units will not adversely affect the simultaneous operation of any other radio or electronic unit, or system of units, required by this chapter.

• The current text of JAR–25.1431 is:

(a) In showing compliance with JAR 25.1309 (a) and (b) with respect to radio and electronic equipment and their installations, critical environmental conditions must be considered.

(b) Radio and electronic equipment must be supplied with power under the requirements of JAR 25.1355 (c).

(c) Radio and electronic equipment, controls and wiring must be installed so that operation of any one unit or system of units will not adversely affect the simultaneous operation of any other radio or electronic unit, or system of units, required by this JAR–25.

(d) Electronic equipment must be designed and installed such that it does not cause essential loads to become inoperative as a result of electrical power supply transients or transients from other causes.

What Are the Differences in the Standards?

JAR–25.1431 contains paragraph (d) that requires verification that any electronic equipment will not cause essential loads to become inoperative as a result of electrical power supply transients or transients from other causes.

Part 25 does not contain this specific requirement in § 25.1431. However, those requirements are already implicit in other current sections of part 25, specifically:

• *Section 25.1309(e) (Equipment, systems, and installations),* which states that each installation whose functioning is required and that requires a power supply is considered an "essential load" on the power supply. It requires that the power sources and the system must be able to continue to supply power loads under probable critical operating combinations and for probable durations;

• *Section 25.1351(b) (Electrical systems and equipment—General),* which requires, among other things, that electrical generating systems must be designed so that no failure or malfunction of any power source can create a hazard or impair the ability of remaining sources to supply essential loads; and

• *Section 25.1353(a) (Electrical equipment and installations),* which requires that electrical equipment, controls, and wiring must be installed so that operation of any one unit or system of units will not adversely affect the simultaneous operation of any other electrical unit or system essential to the safe operation.

What, If Any, Are the Differences in the Means of Compliance?

Manufacturers in the U.S. who apply for type certification of their products by the JAA must ensure that there are provisions in the type design to address the requirements contained in JAR–25.1431(d). By complying with the other sections of part 25 listed above, those manufacturers are, in effect, also complying with the requirements of JAR–25.1431(d).

What Is the Proposed Action?

The FAA proposes to revise § 25.1431 to add a new paragraph (d) that would be parallel to JAR–25.1431(d).

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard continues to address the underlying safety issue by requiring that electrical power be available for electrical equipment on transport category airplanes. As stated previously, the requirements of the proposed standard are already included in other sections of part 25.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The addition of proposed § 25.1431(d) would have little effect on the current regulations. As stated above, its requirements are essentially already in effect because they are currently implicit in other sections of part 25. However, the FAA considers that the addition of the new paragraph would be beneficial in three ways:

1. The proposed standard would provide one location in the regulations that explicitly addresses requirements related to electrical power supply transients by stating that any electronic equipment installed on the aircraft shall not cause essential loads to become inoperative due to electrical power supply transients or transients from other causes.

2. The proposed standard may serve to clarify the objective of the other related regulations in part 25, described above.

3. With the addition of the proposed new paragraph, part 25 would be harmonized with JAR–25.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed action is in line with current industry practices. Manufacturers of U.S. products are already meeting the proposed requirement by complying with other current standards in part 25.

What Other Options Have Been Considered and Why Were They Not Selected?

The only other option considered was to retain the current text of § 25.1431 and not adopt the JAR text. However, the FAA decided against this for two reasons:

First, adopting § 25.1431(d) would have no significant additional impact on the cost of type certification, since it is consistent with standard design practices currently used to meet other part 25 regulations relevant to electrical installations. In other words, the requirements of proposed § 25.1431(d) essentially are met already when an applicant properly demonstrates compliance with § 25.1309(e), § 25.1351(b), and § 25.1353(a). Adopting the proposal would neither reduce nor increase the requirements beyond those that exist in the currently published regulations.

Second, adopting the proposal would eliminate an identified Significant Regulatory Difference (SRD) between the wording of part 25 and JAR–25, without affecting currently accepted industry design practices. The benefits of eliminating an SRD such as this are that more consistent interpretations of the rules can be expected, and the relations between regulatory authorities may be improved.

Who Would Be Affected by the Proposed Change?

The proposed change could affect manufacturers and operators of transport category airplanes. However, since the proposed change does not result in any practical changes in requirements or practice, there would not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA does not consider that additional advisory material is necessary.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation.)

In conducting these analyses, the FAA has determined that this proposed rulemaking has benefits, but no costs, and that it is not "a significant regulatory action" under section 3(f) of Executive Order 12866. This proposed rulemaking would not have a significant economic impact on a substantial number of small entities, reduces barriers to international trade, and imposes no unfunded mandates on State, local, or tribal governments, or the private sector.

Because there are no apparent costs associated with this proposal, it does not warrant the preparation of a full economic evaluation for placement in the docket. The basis of this statement and for the above determinations is summarized in this section of the preamble. The FAA requests comments with supporting documentation in regard to the conclusions contained in this section.

Presently, airplane manufacturers must satisfy both part 25 of Title 14, Code of Federal Regulations (14 CFR) and the European joint aviation requirements (JAR) certification standards to market transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create to the maximum possible extent a single set of certification requirements accepted in both the United States and Europe. These efforts are referred to as harmonization.

This proposed rulemaking would add a new § 25.1431(d) to part 25, to incorporate the "more stringent" requirement of paragraph 25.1431(d) of the JAR. The FAA has concluded for the reasons previously discussed in the preamble that the adoption of these JAR requirements into part 25 is the most efficient way to harmonize these section(s) and in so doing, the existing level of safety will be preserved.

The FAA estimates that there are no costs associated with this proposal. A review of current manufacturers of transport category aircraft certificated under part 25 has revealed that all such future aircraft are expected to be certificated under part 25 of both 14 CFR and the JAR. Since future certificated transport category aircraft are expected to meet the existing section 25.1431(d) of the JAR requirement and this proposed rulemaking adopts the same JAR requirement, manufacturers would incur no additional cost resulting from this proposal. Furthermore, this proposed rulemaking is in line with current industry practices as stated in the Radio Technology Commission for Aeronautics (RTCA) DO–160D, Environmental Conditions and Test Procedures. The DO–160D sets forth the standard procedures and environmental test criteria for testing airborne equipment for the entire spectrum of aircraft from light general aviation aircraft and helicopters through the "Jumbo Jets" and SST categories of aircraft. Examples of tests covered include vibration, power input, radio frequency susceptibility, lightning and electrostatic discharge. This standard is an internationally recognized standard of testing. Thus, the FAA expects any additional cost imposed by this proposal to be minimal. In fact, manufacturers are expected to receive cost-savings by a reduction in the FAA/JAA certification requirements for new aircraft. The FAA, however, has not attempted to quantify the cost savings that may accrue due to this specific proposed rulemaking, beyond noting that while they may be minimal, they contribute to a large potential harmonization savings. The agency concludes that because there is consensus among potentially impacted airplane manufacturers that savings will result, further analysis is not required.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA), of 1980 as amended, establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the sale of the business, organizations, and governmental jurisdictions subject to regulation. To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this proposed rule would not have a significant economic impact on a substantial number of small entities for two reasons. First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule requires that new transport category aircraft manufacturers meet just the "more stringent" European certification requirement, rather than both the United States and European standards. Airplane manufacturers already meet or expect to meet this standard as well as the existing part 25 of 14 CFR requirement. Secondly, all United States transport-aircraft category

manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for aircraft manufacturers. United States part 25 airplane manufacturers include: The Boeing Company, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation. Given that this proposed rule is only minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this proposed rule and determined that it supports the Administration's free trade policy because this proposed rule would use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year; therefore the requirements of the act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the issue of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Electronic equipment, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

2. Amend section 25.1431 by adding a new paragraph (d) to read as follows:

§ 25.1431 Electronic equipment

* * * * *

(d) Electronic equipment must be designed and installed such that it does not cause essential loads to become inoperative as a result of electrical power supply transients or transients from other causes.

Issued in Renton, Washington, on May 3, 2001.

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 01–12102 Filed 5–14–01; 8:45 am]

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Federal Register

Tuesday,
May 15, 2001

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 25
Fire Protection of Electrical System Components on Transport Category Airplanes; Proposed Rule
Proposed Advisory Circular 25.869–1X, Electrical System Fire and Smoke Protection; Notice

DEPARTMENT OE TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2001–9637; Notice No. 01–06]

RIN 2120–AG92

Fire Protection of Electrical System Components on Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes concerning the protection of electrical system components. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

DATES: Send your comments on or before July 16, 2001.

ADDRESSES: Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. You must identify the docket number, FAA–2001–9637, at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2001–9637." We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: *http://dms.dot.gov.*

You may review the public docket containing comments to this proposed regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Also, you may review the public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Massoud Sadeghi, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone 425–227–2117; facsimile 425–227–1320, e-mail massoud.sadeghi@faa.gov.

SUPPLEMENTARY INFORMATION:

How Do I Submit Comments to This NPRM?

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

We will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

How Can I Obtain a Copy of This NPRM?

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's web page at http://www.faa.gov/avr/armhome.htm or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR) part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is "Harmonization" and How Did It Start?

Although part 25 and JAR–25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial added costs to manufacturers and operators. These additional costs, however, often do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to "harmonize" their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the words of part 25 and JAR–25. Both the FAA and the JAA consider "harmonization" of the two sets of standards a high priority.

What Is ARAC and What Role Does It Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language "recommended" by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR–25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry [including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)] proposed an accelerated process to reach harmonization.

What Is the "Fast Track Harmonization Program"?

In light of a general agreement among the affected industries and authorities to expedite the harmonization program, the FAA and JAA in March 1999 agreed upon a method to achieve these goals. This method, which the FAA has titled "The Fast Track Harmonization Program," is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all of the standards needing harmonization into three categories:

Category 1: Envelope

For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be "enveloped" into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or Near Complete

For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize

For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be "enveloped" (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first NPRM published under this program, Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes (65 FR 36978, June 12, 2000).

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC did not choose to review the draft NPRM prior to its publication.

Discussion of the Proposal

How Does This Proposed Regulation Relate to "Fast Track"?

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. In this NPRM, the FAA proposes to amend § 25.869, concerning fire protection of electrical systems on transport category airplanes. This project has been identified as a Category 1 project under the Fast Track program.

What Is the Underlying Safety Issue Addressed by the Current Standards?

Section 25.869(a) of 14 CFR, and the parallel European standard JAR–25.869(a), address the design standards for protecting the components of electrical systems from fire. The standards provide specific standards that must be met, depending on the location of the components and the type of power cables.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.869(a) (amendment 25–72, 55 FR 29784, July 20, 1990) is:

(a) Electrical system components:

(1) Components of the electrical system must meet the applicable fire and smoke protection requirements of §§ 25.831(c) and 25.863.

(2) Electrical cables, terminals, and equipment in designated fire zones, that are used during emergency procedures, must be at least fire resistant.

(3) Main power cables (including generator cables) in the fuselage must be designed to allow a reasonable degree of deformation and stretching without failure and must be—

(i) Isolated from flammable fluid lines; or

(ii) Shrouded by means of electrically insulated, flexible conduit, or equivalent, which is in addition to the normal cable insulation.

(4) Insulation on electrical wire and electrical cable installed in any area of the fuselage must be self-extinguishing when tested in accordance with the applicable portions of part I, appendix F of this part.

The current text of JAR–25.869(a) (Change 14, Orange Paper 96/1) is:

(a) Electrical system components:

(1) Components of the electrical system must meet the applicable fire and smoke protection requirements of JAR 25.831(c) and JAR 25.863. (See ACJ 25.869 (a)(1).)

(2) Electrical cables, terminals, and equipment in designated fire zones, that are used during emergency procedures, must be at least fire resistant.

(3) Main power cables (including generator cables) in the fuselage must be designed to allow a reasonable degree of deformation and stretching without failure and must be—

(i) Isolated from flammable fluid lines; or

(ii) Shrouded by means of electrically insulated, flexible conduit, or equivalent, which is in addition to the normal cable insulation.

(4) Insulation on electrical wire and electrical cable installed in any area of the aeroplane must be self-extinguishing when tested in accordance with the applicable portions of Part I, Appendix F.

What Are the Differences in the Standards and What Do Those Differences Result In?

The current text of § 25.869(a)(4) states that insulation on electrical wire and cables installed in any part of the *fuselage* must be self-extinguishing. The parallel JAR–25.869(a)(4) states that insulation on electrical wire and cables installed in any part of the *airplane* must be self-extinguishing. Thus, the JAR is considered the more stringent of the standards because it requires that the self-extinguishment standard be applied to electrical systems installed throughout the airplane (including engines), not just in the fuselage.

The technical need and accepted industry practice is that all wiring installed in the airframe and engines (i.e., not just the wiring in the fuselage), is self-extinguishing.

What, if Any, Are the Differences in the Means of Compliance?

To meet the JAR standards, and ensure that their airplanes are certificated to operate in Europe, U.S. manufacturers have designed the means for protecting electrical system components in accordance with the JAR requirements. Doing so, meets and surpasses the level of safety currently required by § 25.869(a) of 14 CFR.

As for the means of compliance, the JAA has issued specific advisory material related to a means of complying with 25.869(a)(1). This material is found in Advisory Circular Joint (ACJ) 25.869, "Electrical System Fire and Smoke Protection (Interpretative Material and Acceptable Means of Compliance) [See JAR 25.869]." The document provides the following guidance:

These requirements, and those of JAR 25.863 applicable to electrical equipment, may be satisfied by the following:

1. Electrical components in regions immediately behind firewalls and in engine pod attachment structures should be of such materials and at such a distance from the firewall that they will not suffer damage that could hazard the aeroplane if the surface of the firewall adjacent to the fire is heated to 1100 °C for 15 minutes.

2. Electrical equipment should be so constructed and/or installed that in the event of failure, no hazardous quantities of toxic or noxious (e.g. smoke) products will be distributed in the crew or passenger compartments.

3. Electrical equipment, which may come into contact with flammable vapours should be so designed and installed as to minimise the risk of the vapours exploding under both normal and fault conditions. This can be satisfied by meeting the Explosion Proofness Standards of draft ISO document TC20/SC5/N.43, dated 1974.

The FAA has no advisory material related to the current standards.

What Is the Proposed Action?

The FAA proposes to revise § 25.869(a) to adopt the more stringent language in the parallel JAR 25.869(a). This proposed requirement is in line with current industry practices and in concert with the FAA's objectives for the Fast Track Harmonization Program.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed action would continue to address the safety issue by ensuring the fire protection of electrical system components on transport category airplanes.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed design requirements of revised § 25.869(a) would be expanded to apply not only to electrical system components in the fuselage, but throughout the airplane (including its engines as well). In effect, the proposed standard would maintain the current level of safety because U.S. manufacturers are already complying with it.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The effect of the proposed standard on industry practices would be minimal. In current practice, U.S. manufacturers are required to comply with the more stringent JAR requirements if they plan to sell their airplanes overseas. Because the proposed standard is currently being followed, the same level of safety will be maintained.

What Other Options Have Been Considered and Why Were They Not Selected?

One option considered was for the JAA to adopt unilaterally the standards of 14 CFR part 25. However, because § 25.869(a) is "less stringent" than the JAR, this could potentially mean adopting a lower level of safety. Additionally, it would not meet the objectives of the Fast Track Harmonization Program to harmonize the requirements of part 25 and the parallel requirements of JAR–25, while maintaining at least the same level of safety as in the current regulations.

Who Would Be Affected by the Proposed Change?

The proposed revised standard would affect U.S. manufacturers of transport category airplanes and, possibly, manufacturers of electrical systems installed on those airplanes. However, the FAA anticipates that the impact to the affected entities would be minimal because, in most cases, manufacturers are already complying with the more stringent standards as a means of obtaining joint (FAA and JAA) certification of their airplanes.

Is Existing FAA Advisory Material Adequate?

There is no current FAA advisory material related to the proposed standard. However, the FAA has developed a proposed Advisory Circular (AC) 25.869–1X, "Electric System Fire and Smoke Protection." It contains guidance on this subject, and includes, with some modification, the material currently in the JAA's ACJ 25.869, referred to previously. The availability of the proposed AC is announced elsewhere in this **Federal Register**.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more annually (adjusted for inflation).

The FAA has determined that this proposal has no substantial costs, and that it is not "a significant regulatory action" as defined in Executive Order 12866, nor "significant" as defined in DOT's Regulatory Policies and Procedures. Further, this proposed rule would not have a significant economic impact on a substantial number of small entities, would reduce barriers to international trade, and would not impose an Unfunded Mandate on state, local, or tribal governments, or on the private sector.

The DOT Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposed rule does not warrant a full evaluation, a statement to that effect and the basis for it is included in the proposed regulation. Accordingly, the FAA has determined that the expected impact of this proposed rule is so minimal that the proposed rule does not warrant a full evaluation. We provide the basis for this determination as follows:

Currently, airplane manufacturers must satisfy both part 25 and the European JAR–25 standards to certificate transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create, to the maximum possible extent, a single set of certification requirements accepted in both the United States and Europe. As explained in detail previously, these efforts are referred to as "harmonization."

In this NPRM, the FAA proposes to amend its regulations concerning airworthiness standards for transport category airplanes, as regards fire protection of airplane systems.

U.S. manufacturers of transport category airplanes already comply to a large extent with the requirements of JAR 25.869(a) because it is substantially identical to § 25.869(a). Of the two minor differences between the rules, one is that the JAA rule specifically applies to the *airplane*, while the FAA rule specifically applies to the *fuselage*. Because it is the ongoing common practice of U.S. manufacturers to use the same wiring that is specified in terms of materials and installation by both § 25.869(a) and JAR 25.869(a) throughout the entire airplane, and not only in the fuselage, the first difference would have no economic impact on U.S. manufacturers.

The second minor difference is that advisory material (ACJ 25.869), which is specifically referenced in JAR 25.869(a), has no FAA counterpart. This harmonization action would include the adoption, with modification, of this JAA advisory material into the body of FAA advisory material. In their report, the ARAC Working Group set forth the text of the proposed advisory material. Toward this evaluation, the group provided the information that this new advice would be so sufficiently in line with current industry practices that, in following it, U.S. manufacturers would encounter no practical change in the procedures by which they already comply with the requirements of § 25.869(a).

Finally, because this proposed new material is advisory and not regulatory, no cost or benefit resulting from it could be considered the economic impact of a proposed regulation.

The FAA expects that this proposed rule would result in benefits in the form of cost savings received by affected manufacturers because they would be able to effect compliance with both FAA and JAA requirements in a simpler and more direct fashion.

Compliance with one of these harmonized rules, FAA or JAA, would mean compliance with the other. The FAA has not attempted to quantify the benefits from cost savings that may accrue because of this proposed rule beyond noting that, while any such savings are expected to be minimal, they are part of a potentially large savings from the harmonization program. The FAA also expects that the existing level of safety will be maintained.

Because the effect of this proposed regulatory change would be to codify ongoing common manufacturing practice, no consequent substantive change—either in practice or in the cost of compliance—would result. Thus, the FAA expects that any additional cost associated with compliance with this proposal would be negligible.

The FAA concludes that, because there is agreement among potentially affected airplane manufacturers that the economic impact of this proposal would be at most minimal, further analysis is not required. The FAA requests that those who believe this action would result in a cost increase provide to the Docket their basis for such a belief.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980, 50 U.S.C. 601–612, as amended, establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA considers that this proposed rule would not have a significant impact on a substantial number of small entities for two reasons:

First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule would require that new transport category aircraft manufacturers meet just one certification requirement, rather than different standards for the United States and Europe. Airplane manufacturers already meet or expect to meet this standard as well as the existing 14 CFR part 25 requirement.

Second, all U.S. transport-aircraft category manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for aircraft manufacturers. The current U.S. part 25 airplane manufacturers include: Boeing, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation.

Given that this proposed rule is minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule would not have a significant impact on a substantial number of small entities.

Initial International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of the proposed rule and has determined that it supports the Administration's free trade policy because this rule would use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C. 1532–1538, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year; therefore, the requirements of the Act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. We have determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this NPRM would not have federalism implications.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. We have determined that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the issue of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, and 44704.

2. Amend section 25.869 by revising paragraph (a)(4) to read as follows:

§ 25.869 Fire protection: systems.

(a) * * *

(4) Insulation on electrical wire and electrical cable installed in any area of the airplane must be self-extinguishing when tested in accordance with the applicable portions of part I, appendix F of this part.

* * * * *

Issued in Renton, Washington, on May 3, 2001.

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12100 Filed 5–14–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 25.869–1X, Electrical System Fire and Smoke Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed Advisory Circular (AC) 25.869–1X and request for comments.

SUMMARY: This notice announces and requests comment on a proposed advisory circular (AC). The AC provides methods acceptable to the Administrator for showing compliance with revised standards for fire protection of electrical system components, which the FAA is proposing in a separate notice elsewhere in this **Federal Register**. This notice is necessary to give all interested people an opportunity to present their views on the proposed AC.

DATES: Send your comments on or before July 16, 2001.

ADDRESSES: Send your comments on the proposed AC to: Federal Aviation Administration, Attn: Massoud Sadeghi, FAA, Transport Airplane Directorate, Aircraft Certification Service, Airplane and Flight Crew Interface Branch, ANM–111, 1601 Lind Avenue SW., Renton, Washington 98055–4056. You may inspected all comments received at that address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jill DeMarco, Program Management Branch, ANM–114, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1313; fax (425) 227–1320; e-mail jill.demarco@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites anyone interested in the proposed AC to comment on it by sending written data, views, or arguments as they may desire. Identify the AC by title and send your comments in duplicate to the address mentioned previously. The Transport Airplane Directorate will consider all communications received by the closing date for comments before issuing the final AC.

Availability of Proposed AC

You can find and download the proposed AC from the Internet at http://www.faa.gov/avr/air/airhome.htm, at the link titled "Advisory Circulars" under the "Available Information" drop-down menu. You can get a paper copy of the proposed AC by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT**.

Discussion

In a separate notice published elsewhere in this **Federal Register**, the FAA is proposing to amend the airworthiness standards for transport category airplanes concerning the protection of electrical system components. The proposal would revise Title 14, Code of Federal Regulations (CFR), 25.869(a) to adopt what are considered the "more stringent" requirements that currently exist in the parallel European Joint Airworthiness Requirements (JAR) 25.869(a). We initiated the proposal under the "Fast Track Harmonization Program" (64 FR 66522, November 26, 1999). Adopting the proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

We have prepared proposed AC 25.869–1X, "Electrical System Fire and Smoke Protection," to provide guidance on one means of showing compliance with the revised requirements of § 25.896(a). Final issuance of proposed AC 25.869–1X is contingent on the final adoption of the proposed changes to § 25.869(a).

Issued in Renton, Washington, on May 3, 2001.

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12101 Filed 5–14–01; 8:45 am]

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Federal Register

Tuesday,
May 15, 2001

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Special Conditions: Boeing Model 777–200 Series Airplanes; Overhead Crew Rest Compartment; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM175; Special Conditions No. 25–01–01–SC]

Special Conditions: Boeing Model 777–200 Series Airplanes; Overhead Crew Rest Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amended special conditions.

SUMMARY: These amended special conditions are issued to The Boeing Company for Model 777–200 series airplanes, modified by Flight Structures, Inc. This airplane has a novel or unusual design feature associated with the installation of a crew rest compartment. Special Conditions No. 25–169–SC were issued on December 1, 2000, addressing this installation. On January 16, 2001, Flight Structures, Inc., applied for an amendment to these special conditions to allow the assistance of personnel in the main passenger cabin to assist in the evacuation of an incapacitated person from the overhead crew rest compartment to the main passenger cabin. The assistance by persons in the main passenger cabin would reduce the potential for injury to the incapacitated person(s) being lowered from the overhead crew rest area to the main passenger cabin. Since the applicable airworthiness regulations, including those contained in Special Conditions No. 25–169–SC, do not contain adequate or appropriate safety standards for this design feature, these special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: May 2, 2001.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Transport Standards Staff, ANM–115, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2194; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 1999, Flight Structures Inc., 4407 172 Street NE, Arlington, Washington, 98223, applied for a supplemental type certificate to install an overhead crew rest compartment in Boeing Model 777–200 series airplanes. The Boeing Model 777–200 is a large twin-jet engine transport airplane with four pairs of Type A exits, a passenger capacity of 440, and a range of 5000 miles. The overhead crew rest compartment is a single compartment located at the door three vicinity above the main passenger compartment with eight private bunks and two seats. A stairwell entering from the door three aisle is the main entry. Two escape hatches are located on either side of the entryway door. It is to be certified for a maximum of ten occupants. Due to the novel or unusual features associated with the installation of a crew rest compartment, Special Conditions No. 25–169–SC were issued on December 1, 2000, to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate. Flight Structures, Inc., now proposes to amend Special Conditions No. 25–169–SC to allow for assistance by persons on the main passenger cabin in the evacuation of an incapacitated person from the overhead crew rest.

Novel or Unusual Design Features

While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each compartment design has unique features by virtue of its design, location, and use on the airplane. Previously, crew rest compartments have been evaluated that are installed within the main passenger compartment area of the Boeing Model 777–200 and Model 777–300 series airplanes; other crew rest compartments have been installed below the passenger cabin area, within the cargo compartment. Similar overhead crew rest compartments have also been installed on the Boeing Model 747 airplane. The interfaces of the modification are evaluated within the interior and assessed in accordance with the certification basis of the airplane. The provisions of compliance with part 25 address cabin systems and interiors as they relate to typical passenger compartments. Part 25 does not provide the requirements for crew rest compartments within the overhead area of the passenger compartment for the Boeing Model 777–200 series airplanes.

This is a compartment that has never been used for this purpose in any previous Boeing Model 777–200 series airplanes. Due to the novel or unusual features associated with the installation of this crew rest compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificate.

Discussion

The current Special Condition No. 3 states the following: "There must be a means for the evacuation of an incapacitated person (representative of a ninety-fifth percentile male) from the crew rest compartment to the passenger cabin floor. The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant) may provide assistance in the evacuation." The applicant contends that assistance from persons on the main passenger cabin would reduce the possibility of injury to the incapacitated person being lowered from the overhead crew rest area into the main passenger cabin. The persons assisting could be either crewmembers or passengers seated in the area of the evacuation route.

The FAA has considered the applicant's position and agrees. These amended special conditions allow persons in the main passenger cabin to assist a flight crewmember during the evacuation of the incapacitated person, possibly reducing injury. It was the intent of the original Special Condition No. 3 to limit the number of persons in the actual crew rest area to one person when assisting in the evacuation of an incapacitated person from the overhead crew rest area.

The revised safety standard is contained in amended Special Condition No. 3. Although Special Conditions Nos. 1, 2, and 4 though 17 are standards adopted in Special Conditions No. 25–169–SC, they are repeated in these amended special conditions in order to place the revised standard in proper perspective.

Type Certification Basis

Under the provisions of § 21.101, Flight Structures, Inc., must show that the Boeing Model 777–200 series airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. T00001SE for the Boeing Model 777–200 series airplanes include 14 CFR part 25, as amended by Amendments 25—1 through 25–82. The U.S. type certification basis for the Boeing Model 777–200 series airplanes is established in accordance with 14 CFR §§ 21.29 and 21.17 and the type certification application date. The type certification basis is listed in Type Certificate Data Sheet No. T00001SE.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–200 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, Boeing Model 777–200 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Discussion of Comments

No comments were received, and the amended special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 777–200 series airplanes. Should Flight Structures, Inc., apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Boeing Model 777–200 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) adopts the following amended Special Condition No. 3 as part of the type certification basis for Boeing Model 777–200 series airplanes, as modified by Flight Structures, Inc., with overhead crew rest compartments. (Existing Special Conditions (Nos. 1, 2, and 4–17 are repeated below for clarity.)

1. Occupancy of the overhead crew rest compartment is limited to a maximum of ten occupants. There must be an approved seat or berth able to withstand the maximum flight loads when occupied for each occupant permitted in the crew rest compartment.

(a) There must be appropriate placards, inside and outside to indicate:

(1) The maximum number of occupants allowed,

(2) That occupancy is restricted to crewmembers that are trained in the evacuation procedures for the overhead crew rest compartment,

(3) That occupancy is permitted during taxi, take-off and landing, and

(4) That smoking is prohibited in the crew rest compartment.

(b) There must be at least one ashtray on the inside and outside of any entrance to the crew rest compartment.

(c) There must be a means to prevent passengers from entering the compartment in the event of an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the crew rest compartment and passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

(e) For all doors installed, there must be a means to preclude anyone from being trapped inside the compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes that could be used by each occupant of the crew rest compartment to rapidly evacuate to the main cabin. In addition—

(a) The routes must be located with sufficient separation within the compartment, and between the evacuation routes, to minimize the possibility of an event rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing below or against the escape route. One of two evacuation routes may not be located where, during times in which occupancy is allowed, normal movement by passengers occurs (i.e., main aisle, cross aisle, or galley complex) that would impede egress of the crew rest compartment. If there is low headroom at or near the evacuation route, provisions must be made to prevent or to protect occupants from head injury. The use of evacuation routes must not be dependent on any powered device. If the evacuation procedure involves the evacuee stepping on seats, the seats must not be damaged to the extent that they would not be acceptable for occupancy during an emergency landing.

(c) Emergency evacuation procedures must be established and transmitted to the operators for incorporation into their training programs and appropriate operational manuals.

(d) There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a ninety-fifth percentile male) from the crew rest compartment to the passenger cabin floor. The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant within the crew rest area) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. These additional assistants must be standing on the floor while providing assistance. Procedures for the evacuation of an incapacitated person from the crew rest compartment must be established.

4. The following signs and placards must be provided in the crew rest compartment:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i).

(b) An appropriate placard defining the location and the operating instructions for each evacuation route.

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions.

(d) The exit handles and evacuation path operating instruction placards must be illuminated to at least 160 microlamberts under emergency lighting conditions.

5. There must be a means in the event of failure of the airplane's main power system, or of the normal crew rest compartment lighting system, for

emergency illumination to be automatically provided for the crew rest compartment.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the crew rest compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

6. There must be means for two-way voice communications between the crewmembers on the flight deck and the occupants of the crew rest compartment. There must also be two-way communications between the occupants of the crew rest compartment and each flight attendant station required to have a public address system microphone per § 25.1423(g) in the passenger cabin.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each pair of required floor level emergency exits to alert occupants of the crew rest compartment of an emergency situation. Use of a public address or crew interphone system would be acceptable, providing an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight, after the shutdown or failure of all engines and auxiliary power units, or the disconnection or failure of all power sources dependent on their continued operation, for a period of at least ten minutes.

8. There must be a means, readily detectable by seated occupants of the crew rest compartment, that indicates when seat belts should be fastened. Seat belt type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position. In the event there are no seats, at least one sign must be provided to cover anticipated turbulence.

9. The following equipment must be provided:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) One protective breathing equipment device approved to Technical Standard Order (TSO)–C116 or equivalent, suitable for fire fighting; and

(c) One flashlight.

10. A smoke detection system (or systems) must be provided that monitors each area within the crew rest compartment, including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication to the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The crew rest compartment must be designed such that fires within the compartment can be controlled without a crewmember having to enter the compartment, or the design of the access provisions must allow crewmembers equipped for firefighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the crew rest compartment from entering any other compartment occupied by crewmembers or passengers. The means must include the time periods during the evacuation of the crew rest compartment and, if applicable, when accessing the crew rest compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers must dissipate within 5 minutes after closing the access to the crew rest compartment. Flight tests must be conducted to show compliance with this requirement.

13. There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the crew rest compartment. The system must provide:

(a) An aural and visual warning to the occupants of the crew rest compartment to don oxygen masks in the event of decompression; and

(b) A decompression warning that activates before the cabin pressure altitude exceeds 15,000 feet. The warning must sound continuously until a reset pushbutton in the crew rest compartment is depressed.

14. The following requirements apply to a crew rest compartment that is divided into several sections by the installation of curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the crew rest compartment that accompanies automatic presentation of supplemental oxygen masks. Two supplemental oxygen masks are required in each section whether or not seats or berths are installed in each section. There must also be a means by which the oxygen masks can be manually deployed from the flight deck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the overhead crew rest compartment into small sections. The placard must require that the curtain(s) remain open when the private section it creates is unoccupied. The vestibule section adjacent to the stairway is not considered a private area and, therefore, does not require a placard.

(c) For each crew rest section created by the installation of a curtain, the following requirements of these special conditions must be met with the curtain open or closed:

(1) No smoking placard (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Emergency alarm system (Special Condition No. 7),

(4) Seat belt fasten signal (Special Condition No. 8), and

(5) The smoke or fire detection system (Special Conditions No.'s 10, 11, and 12).

(d) Overhead crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the crew rest compartment, and must meet the requirements of § 25.812(b)(1)(i).

(e) For sections within an overhead crew rest compartment that are created by the installation of a rigid partition with a door physically separating the sections, the following requirements of these special conditions must be met with the door open or closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of § 25.812(b)(1)(i) that direct occupants to the primary stairway exit.

(f) For each smaller section within the main crew rest compartment created by the installation of a partition with a door, the following requirements of these special conditions must be met with the door open or closed:

(1) No smoking placards (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Two-way voice communication (Special Condition No. 6),

(4) Emergency alarm system (Special Condition No. 7),

(5) Seat belt fasten signal (Special Condition No. 8),

(6) Emergency fire fighting and protective equipment (Special Condition No. 9), and

(7) Smoke or fire detection system (Special Conditions No.'s 10, 11, and 12).

15. The requirements of two-way voice communication with the flight deck and provisions for emergency firefighting and protective equipment are not applicable to lavatories or other small areas that are not intended to be occupied for extended periods of time.

16. Where a waste disposal receptacle is fitted, it must be equipped with an automatic fire extinguisher that meets the performance requirements of § 25.854(b).

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of § 25.853(a), as amended by Amendment 25–83. Mattresses must comply with the flammability requirements of § 25.853(c), as amended by Amendment 25–83.

Issued in Renton, Washington on May 2, 2001.

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12106 Filed 5–14–01; 8:45 am]

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Federal Register

Tuesday,
May 15, 2001

Part VIII

Securities and Exchange Commission

17 CFR Part 202 et al.
Registration of National Securities Exchanges Pursuant to Section 6(g) of the Securities Exchange Act of 1934 and Proposed Rule Changes of National Securities Exchanges and Limited Purpose National Securities Associations; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 202, 240 and 249

[Release No. 34–44279; File No. S7–10–01]

RIN 3235–AI20

Registration of National Securities Exchanges Pursuant to Section 6(g) of the Securities Exchange Act of 1934 and Proposed Rule Changes of National Securities Exchanges and Limited Purpose National Securities Associations

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing new Rule 6a–4 under the Securities Exchange Act of 1934 ("Exchange Act") and new registration Form 1–N prescribing the requirements for designated contract markets and derivative transaction execution facilities to register as national securities exchanges pursuant to Section 6(g)(1) of the Exchange Act to trade security futures. The Commission also is proposing conforming amendments to Rules 6a–2 and 6a–3 under the Exchange Act and Rule 202.3 of the Commission's procedural rules. In addition, the Commission is proposing new Rule 19b–7, new Form 19b–7, and amendments to Rule 19b–4 and Form 19b–4 to accommodate proposed rule changes submitted by security futures product exchanges registered pursuant to Section 6(g) of the Exchange Act and limited purpose national securities associations registered pursuant to Section 15A(k) of the Exchange Act. These proposed rules and forms and amendments to existing rules and forms are necessary to implement the Commodity Futures Modernization Act of 2000 ("CFMA") and will establish the registration and rule filing procedures for those entities that are interested in registering with the Commission for the purpose of trading security futures.

DATES: Comments must be received by June 14, 2001.

ADDRESSES: All comments concerning the rule proposals should be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. S7–10–01; this file number should be included on the subject line if e-mail is used. Comment letters will be available for inspection and copying in the public reference room at the same address. Electronically submitted comment letters will be posted on the Commission's Internet web site (*http://www.sec.gov.*). Personal identifying information, such as names or e-mail addresses, will not be edited from electronic submissions. Submit only information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Deborah Flynn, Senior Special Counsel, at (202) 942–0075; Heather Traeger, Special Counsel, at (202) 942–0763; Kelly Riley, Special Counsel, at (202) 942–0752; Michael Gaw, Attorney, at (202) 942–0158; and Cyndi Nguyen, Attorney, at (202) 942–4163, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Commission today is requesting public comment on proposed amendments to Rules 6a–2, 6a–3, and 19b–4,[1] and Form 19b–4 of the Exchange Act[2] as well as Rule 202.3 of the Commission's procedural rules,[3] regarding the requirements for designated contract markets and derivative transaction execution facilities to register as national securities exchanges and to accommodate proposed rule changes submitted by security futures product exchanges and limited purpose national securities associations under Sections 6(g) and 15A(k) of the Exchange Act, respectively.[4] The Commission also is requesting public comment on proposed new Rules 6a–4 and 19b–7[5] and new Forms 1–N and 19b–7 under the Exchange Act.

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I. Introduction

The Commodity Futures Modernization Act of 2000 ("CFMA") authorizes the trading of futures on individual stocks and narrow-based stock indexes, including puts, calls, straddles, options, or privileges thereon (collectively, "security futures products").[6] The CFMA makes security futures "securities" under the Exchange Act,[7] the Securities Act of 1933,[8] the Investment Company Act of 1940,[9] and the Investment Advisers Act of 1940,[10] and contracts of sale for future delivery of a single security or a narrow based security index or options thereon under the Commodity Exchange Act ("CEA").[11] Accordingly, the regulatory framework established by the CFMA for the markets and intermediaries trading security futures products provides the Commission and the Commodity Futures Trading Commission ("CFTC") with joint jurisdiction.

Because security futures products are securities under the Exchange Act, any organization, association, or group of persons that constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of security futures products must register with the Commission as a national securities exchange.[12] New subsection 6(g) of the Exchange Act[13] provides an expedited process for an exchange that lists or trades security futures products to become registered with the Commission as a national securities exchange ("Security Futures Product Exchange") if that exchange (i) is a board of trade that has been designated as a contract market or is registered as a derivative transaction execution facility; and (ii) does not act as a market place for transactions in securities other than security futures products.[14]

In addition, the CFMA amended the Exchange Act to require Security Futures Product Exchanges and limited purpose national securities associations registered pursuant to Section 15A(k) of the Exchange Act ("Limited Purpose National Securities Associations")[15] to file with the Commission proposed rule changes relating only to specific types of rules, and to provide an expedited filing process for most of these rules.[16]

II. Discussion of Proposed Rulemaking

A. Notice Registration as an Exchange to Trade Security Futures Products, Amendments to Such Notice, and Other Supplemental Material

Section 6(g)(2)(A) of the Exchange Act provides that an exchange required to register with the Commission only because it lists or trades security futures products may register by filing a written notice with the Commission in such form as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.[17] Such rule may require that the filing contain the rules of the exchange and other information and documents concerning the exchange, comparable to the information and documents the Commission requires for national securities exchanges registered under Section 6(a) of the Exchange Act.[18] Consistent with this provision, the Commission is proposing new Form 1–N to be filed by exchanges to register with the Commission under Section 6(g) of the Exchange Act.[19] Proposed Form 1–N requests limited information from the exchange, including how it will operate, its rules and procedures, criteria for membership, information on subsidiaries or affiliates, and the security futures products it intends to trade. Proposed Form 1–N is not an application and the Commission would not "approve" an exchange before it begins to trade security futures products. Instead, proposed Form 1–N would be a notice to the Commission that the exchange would be trading security futures products and would provide information necessary for the Commission to exercise its regulatory responsibilities.

Pursuant to Section 6(g)(2)(B) of the Exchange Act, such "notice registration" will be effective contemporaneously with the submission of proposed Form 1–N, unless the registration would be subject to suspension or revocation by the CFTC.[20] A Security Futures Product Exchange would be required to file an amendment to proposed Form 1–N to correct any previously filed information that has been discovered to be incorrect, and to provide any new information or correct any information rendered inaccurate.

The Commission also is proposing new Rule 6a–4[21] to set forth the information that must be submitted by an entity to register as a Security Futures Product Exchange and the ongoing filing requirements for Security Futures Product Exchanges, and to revise Exchange Act Rules 6a–2 and 6a–3[22] to exclude Security Futures Product Exchanges from the requirements of those rules.

1. Filing of Notice of Registration

Proposed Rule 6a–4 would require an exchange registering pursuant to Section 6(g) of the Exchange Act[23] to file proposed Form 1–N with the Commission. Proposed Rule 6a–4 would provide that an exchange may register as a national securities exchange solely for purposes of trading security futures products by filing Form 1–N if the exchange is a board of trade[24] that: (i) Has been designated a contract market by the CFTC or is registered as a derivative transaction execution facility under Section 5a of the CEA,[25] and (ii) such designation or registration is not suspended by the CFTC;[26] and (iii) such exchange does not serve as a market place for transactions in securities other than security futures products or futures on exempted securities or groups or indexes of securities, or options thereon.

Proposed Form 1–N is similar to Form 1, the application used to register as a national securities exchange or to apply for an exemption from exchange registration based on limited volume pursuant to Section 6(a) of the Exchange Act.[27] Because, however, exchanges registering with the Commission pursuant to Section 6(g) of the Exchange Act[28] are also subject to the CFTC application and reporting requirements, the Commission is proposing to limit the information required to be filed on Form 1–N,[29] compared to the information currently required to be filed on the Form 1. Specifically, proposed Form 1–N consists of an execution page and nine exhibits, which relate generally to the organization of the exchange, its membership requirements, the manner in which

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[1] 17 CFR 240.6a–2, 240.6a–3, and 240.19b–4.

[2] 17 CFR 249.819.

[3] 17 CFR 202.3.

[4] 15 U.S.C. 78f(g) adn 78o–3(k).

[5] Proposed 17 CFR 240.6a–4 and 17 CFR 240.19b–7.

[6] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[7] Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10).

[8] Section 2(a)(1) of the Securities Act of 1933, 15 U.S.C. 77b(a)(1).

[9] Section 2(a)(36) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(36).

[10] Section 202(a)(18) of the Investment Advisors Act of 1940, 15 U.S.C. 80b–2(a)(18).

[11] Section 1a(31) of the CEA, 7 U.S.C. 1a(31).

[12] *See* Section 5 of the Exchange Act, 15 U.S.C. 78e. *See also* Section 3(a)(1) of the Exchange Act for the definition of "exchange." 15 U.S.C. 78c(a)(1).

[13] 15 U.S.C. 78f(g).

[14] Section 6(g)(1) of the Exchange Act, 15 U.S.C. 78f(g)(1).

[15] 15 U.S.C. 78o–o3(k). Pursuant to this section, a futures association registered under Section 17 of the CEA shall be registered as a national securities association for the limited purpose of regulating the activities of its members with respect to security futures products.

[16] Sections 6(g)(4)(B) and 15A(k)(3) of the Exchange Act, 15 U.S.C. 78f(g)(4)(B) and 15 U.S.C. 78o–3(k)(3).

[17] 15 U.S.C. 78f(g)(2)(A).

[18] 15 U.S.C. 78f(a).

[19] 15 U.S.C. 78f(g).

[20] 15 U.S.C. 78f(g)(2)(B). Pursuant to its authority under the CEA, the CFTC may suspend or revoke registration of boards of trade. 7 U.S.C. 7b.

[21] Proposed Exchanged Act Rule 6a–4.

[22] 17 CFR 240.6a–2 and 240.6a–3.

[23] 15 U.S.C. 78f(g).

[24] The term "broad of trade" has the same meaning as that term is defined in the CEA. 7 U.S.C. 1a(2).

[25] 7 U.S.C. 7(a).

[26] Section 6(g)(1)(A) of the Exchange Act, 15 U.S.C. 78f(g)(1)(A).

[27] 15 U.S.C. 78f(a).

[28] 15 U.S.C. 78f(g).

[29] *See* Proposed Form 1–N.

business is conducted on the exchange, and the security futures products traded or proposed to be traded. In those instances where the exchange has filed information with the CFTC, copies of documents filed with the CFTC could be filed with the Commission, instead of preparing a new document solely for purposes of filing with the Commission.[30]

Proposed Exhibit A to the proposed Form 1–N would require submission of the constitution, articles of incorporation or association with all subsequent amendments, and by-laws or corresponding rules of the Security Futures Product Exchange. Proposed Exhibit B to the proposed Form 1–N would require filings of written rulings, settled practices [31] and interpretations of the governing board or other committee of the exchange with respect to the rules, by-laws, constitution, or trading practices that are not included in Exhibit A. To ease preparation burdens, the Commission is proposing that Exhibits A and B be current as of the latest practicable date within 1 month of the date the proposed Form 1–N is filed. Because, pursuant to the regulatory framework set forth in the CFMA, the Commission does not approve the registration of exchanges filing proposed Form 1–N, or grant exemptions from registration, the Commission will not be required to make specific determinations as to whether such exchanges' systems, rules, and policies are consistent with the Exchange Act. Moreover, proposed Form 1–N would be filed with the Commission as a supplement to the continued oversight of the exchange by the CFTC. Accordingly, the Commission preliminarily believes that it would be reasonable for documents provided by exchanges filing proposed Form 1–N to be up-to-date within 1 month of the date of filing.

Proposed Exhibit C to the proposed Form 1–N would require information similar to that proposed to be included in Exhibits A and B but for affiliates, subsidiaries, and any entity with whom the exchange has a contractual or other agreement relating to the operation of an electronic trading system to be used to effect transactions in security futures products.[32] The exhibit would require basic information regarding any subsidiary, affiliate, or other related entity involved in the trading of security futures products. The Commission preliminarily does not believe it is necessary for exchanges to file the contract or agreement itself as part of Exhibit C. Instead, the Commission is seeking to identify the general characteristics of the entities and their operational relationship with the Security Futures Product Exchange, such as networking, software, or other agreements associated with the execution, reporting, clearance, or settlement of transactions in security futures products.[33] For the same reasons discussed above, the Commission is proposing that Exhibit C be current as of the latest practicable date within 1 month of the date the proposed Form 1–N is filed.

Proposed Exhibit D would require a description of the manner of operation of the Security Futures Product Exchange's systems involving the trading of security futures products, including: The procedures governing entry and display of quotations; the procedures governing execution, reporting, clearance and settlement of transactions in connection with the system; proposed fees; the procedures for ensuring compliance; the hours of operation; the date of intended commencement of operations; and a copy of the users' manuals.[34]

Proposed Exhibit E would require that the Security Futures Product Exchange provide general information regarding officers, governors, or persons performing similar functions.[35] Proposed Exhibit F would require similar background information for persons with direct ownership and control for non-member owned Security Futures Product Exchanges.[36] Proposed Exhibit H would require similar background information for members, participants, subscribers or other users of the system.[37] To the extent not covered by an exchange's rules submitted in Exhibit A, proposed Exhibit G would require a description of the criteria for membership in the exchange, as well as a description of the conditions under which members may be subject to, and the procedures involved in, suspension or termination of a member. The information required in these exhibits would provide the Commission with the names and roles of the participants using the exchange's system, which the Commission preliminary believes is necessary for reviewing the operation and function of the system.

Finally, a Security Futures Product Exchange would be required in proposed Exhibit I to provide a schedule of the security futures products it lists or proposes to list.

The Commission solicits comment on the proposed notice requirements in proposed Form 1–N, including the proposed exhibits. Specifically, the Commission seeks comment on whether the proposed requirements would be unreasonably burdensome for Security Futures Product Exchanges. Are all of the exhibits necessary? Is there other information that should be required to be provided or that could replace the information proposed to be submitted in the rule? For example, with respect to the timeframe as to when information must be current, is one month appropriate? Commenters are invited to address the possibility that intervening events may make information that is one month old outdated.

[30] See Proposed Form 1–N, instruction 9, and, for amendments, proposed Exchange Act Rule 6a–4(b)(6).

[31] For purposes of proposed Exhibit B to proposed Form 1–N, the Commission considers settled practices to be the policies of an exchange that are not otherwise covered in its written rulings.

[32] Specifically, proposed Exhibit C would require for all such entities: name and address of organization; form of organization; name of state and statute citation under which organized; date of incorporation in present form; brief description of nature and extent of affiliation; brief description of business or functions; a copy of the constitution, articles of incorporation or association including all amendments, and existing by-laws or corresponding rules or instruments; the name and title of the present offices, governors, or persons performing similar functions; and an indication of whether such business or organization ceased to be associated with the Security Futures Product Exchange during the previous year and the reasons for such termination.

[33] Proposed Exchange Act Rule 61–4(b)(5)(i); *see also* note 44 and accompanying text.

[34] The Commission would expect a narrative description of how trading is done on the exchange. The Commission does not expect exchanges to submit technical specifications for their automated systems.

[35] For persons listed in proposed Exhibit E, the exchange would be required to provide the name, title, dates of commencement and termination of term of office or position, and type of business in which each is primarily engaged.

[36] Proposed Exhibit F would require a Security Futures Product Exchange that is a corporation to list each shareholder that directly owns 5% or more of a class of a voting security. If the exchange is a partnership, it would be required to list all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed 5% or more of, the partnership's capital. For these persons, the exchange would be required to list the full legal name, title or status, date title or status was acquired, approximate ownership interest, and whether the person has control (as defined in the instruction to proposed Form 1–N. The Commission is proposing that Exhibit F be current as of the latest practicable date within 1 month of the date the proposed Form 1–N is filed.

[37] For persons listed in proposed Exhibit H, the exchange would be required to provide the name, and if such user is an individual, the name of the entity with which such individual is associated and the relationship of such individual to the entity, a brief description of the type of activities primarily engaged in by the individual, and the individual's class of membership, participation, or other access. The Commission is proposing that Exhibit H be current as of the latest practicable date within 1 month of the date the proposed Form 1–N is filed.

2. Filing of Periodic Amendments

Once registered, proposed Rule 6a–4 would require a Security Futures Product Exchange to file with the Commission an amendment that contains written notice of actions that create new or render inaccurate information filed on the execution page or as part of proposed Exhibits C, E, F or H of its proposed Form 1–N.[38] Any amendment would be required to be filed within 10 days after such action is taken.[39] In addition, each exchange would be required to file as an amendment, on or before June 30, 2002 and by June 30 every year thereafter, proposed Exhibits F, H, and I, which would be required to be up-to-date as of the latest date practicable within three months of the date the amendment was filed.[40] Proposed Rule 6a–4 also would require an exchange to file, as an amendment to its Form 1–N, on or before June 30, 2004 and by June 30 every three years thereafter, complete Exhibits A, B, C, and E, which would be required to be up-to-date as of the latest date practicable within three months of the date the amendment was filed.[41] The proposed requirements for periodic amendments to the proposed Form 1–N parallel the existing requirements for periodic amendments to the Form 1. The Commission preliminarily believes that it would be inappropriate to require Security Futures Product Exchanges to provide additional information on a more frequent basis than is required currently of registered national securities exchanges.

As a mechanism to reduce the filing burdens on Security Futures Product Exchanges, the Commission is proposing to allow such exchanges to comply with certain filing requirements by maintaining the information on an Internet web page and providing the location of such web site to the Commission.[42] A Security Futures Product Exchange also would be permitted to refer to materials published by, or in cooperation with, the exchange that contain the required information or to make the information available upon request at its office, instead of filing that information in paper.[43]

The Commission is proposing to reduce the reporting burden further by providing that an exchange may be exempted from filing the required amendments for any affiliate or subsidiary listed in proposed Exhibit C of the exchange's notice registration that either is listed in Exhibit C of the form for registration or notice registration of one or more other national securities exchanges, or was an inactive subsidiary throughout the subsidiary's latest fiscal year.[44]

Finally, pursuant to Section 6(g)(2)(A) of the Exchange Act,[45] the Commission is proposing that if a Security Futures Product Exchange has filed documents with the CFTC, to the extent that such documents contain information satisfying the Commission's informational requirements, copies of such documents may be filed with the Commission in lieu of the required written notice.[46]

The Commission seeks comment on the proposed requirements relating to the filing of periodic amendments to the proposed Form 1–N. Specifically, commenters are invited to comment on the requirement that an amendment be filed within 10 days after any action is taken by the Security Futures Product Exchange that creates new information or renders inaccurate certain information filed as part of the Form 1–N. Should a different timeframe be established for the filing of periodic amendments? If so, should it be shorter or longer than the proposed 10 days? Should inaccuracies relating to information previously filed be material before additional disclosure is required?

Is it appropriate to require annual updates of the information required in Exhibits F, H, and I? Should additional exhibits be required to be updated on an annual basis, as well? Commenters should also address the propriety of the requirement that Exhibits A, B, C, and E be updated every three years. Is information up to three months old sufficiently current for purposes of the periodic reporting requirements? Should information be provided more often or less frequently?

Commenters are also invited to comment on the propriety of permitting a Security Futures Product Exchange to comply with certain filing requirements by providing to the Commission the location where such information is located on a web site, or making the information available upon request at its office.

3. Filing of Supplemental Material

Paragraph (c) of proposed Rule 6a–4 would require Security Futures Product Exchanges to furnish to the Commission copies of any materials related to the trading of security futures products (including notices, circulars, bulletins, lists, and publications) issued or made available to members of, or participants in, or subscribers to, the exchange.[47] The exchange would be required to file such information within 10 days after issuing or making such material available to members of, or participants in, or subscribers to, the exchange.[48] The Commission also is proposing that exchanges be permitted to make the information available on an Internet web site and provide the Commission with the location of the web site.[49]

Proposed paragraph (c) of proposed Rule 6a–4 also would require that an exchange file transaction reports within 15 days after the end of each calendar month containing, for each security futures product traded on such exchange, the number of contracts traded, and the type of security underlying such contracts. In addition, if the futures contract were for a single security, the exchange would be required to report the total number of shares underlying the contracts traded.[50] The proposed requirements for the filing of supplemental material parallel the existing requirements applicable to registered national securities exchanges that filed a Form 1 with the Commission. The Commission preliminarily believes that it would be inappropriate to require Security Futures Product Exchanges to provide this information on a more frequent basis that is required currently of registered national securities exchanges.

The Commission solicits comment on whether the type of information proposed to be required or the proposed frequency of filing should be modified in any way. For example, would it be more appropriate to change the monthly filing requirement for transaction reports to a quarterly filing requirement? The Commission also seeks comment on the proposed requirement that information relating to the trading of

[38] Proposed Exchange Act Rule 6a–4(b)(1).

[39] *Id.*

[40] Proposed Exchange Act Rule 6a–4(b)(2).

[41] Proposed Exchange Act Rule 6a–4(b)(3). In addition, proposed Rule 6a–4 would require a Security Futures Product Exchange promptly to file an amendment correcting any inaccuracy discovered on the filed proposed Form 1–N.

[42] Proposed Exchange Act Rule 6a–4(b)(4)(iii).

[43] Proposed Exchange Act Rule 6a–4(b)(4)(i) and (ii).

[44] Proposed Exchange Act Rule 6a–4(b)(5). The exemption would be granted only if at least one national securities exchange is required to file the amendment required by proposed Exchange Act Rule 6a–4(b) for an affiliate or subsidiary. While "inactive subsidiary" is not defined for purposes of this provision, the Commission expects to consider a subsidiary to be inactive only if it has little or no income and liabilities and, thus, does not have the potential to have an impact on the financial condition of the Security Futures Product Exchange. The Commission has established procedures for an entity to apply for an exemption from its rules. 17 CFR 240.0–12.

[45] 15 U.S.C. 78f(g)(2)(A).

[46] Proposed Exchange Act Rule 6a–4(b)(6).

[47] Proposed Exchange Act Rule 6a–4(c)(1)(i).

[48] *Id.*

[49] Proposed Exchange Act Rule 6a–4(c)(1)(ii).

[50] Proposed Exchange Act Rule 6a–4(c)(2).

security futures products be filed within 10 days after it is made available to members of, participants in, or subscribers to, the exchange. Comment is sought on the propriety of the proposed requirement that exchanges file certain transaction information within 15 days after the end of each calendar month. Specifically, is it appropriate for the Commission to request this type of information? Is 15 days after the end of each calendar month sufficient time to compile the requested information? Commenters are also invited to comment on the propriety of allowing exchanges to make the information available on an Internet web site.

4. Proposed Amendments to Exchange Act Rules 6a–2 and 6a–3

Rules 6a–2 and 6a–3 under the Exchange Act [51] set forth the ongoing filing requirements for registered or exempted exchanges that file applications with the Commission to become national securities exchanges pursuant to Rule 6a–1.[52] Because the Commission is proposing a new rule, Rule 6a–4, that incorporates the relevant provisions of Rules 6a–2 and 6a–3 that relate to ongoing filing obligations, the Commission is proposing to amend Rules 6a–2 and 6a–3 to exempt Security Futures Product Exchanges from the requirements of these rules.

5. Processing of Proposed Form 1–N for Notice Registration

The Commission proposes to amend paragraph (b) of Rule 202.3 of the Commission's procedural rules, "Processing of Filings," to accommodate the proposed Form 1–N.[53] Specifically, the Commission proposes to add paragraph (b)(3), which would provide that notice forms for registration as a national securities exchange filed with the Commission pursuant to Section 6(g)(1) of the Exchange Act [54] are routed to the Division of Market Regulation, which would examine these applications to determine whether all necessary information has been supplied and whether all required documents have been furnished in proper form. Defective applications may be returned with a request for correction or held until corrected before being accepted as a filing.

[51] 17 CFR 240.6a–2 and 240.6a–3.

[52] 17 CFR 240.6a–1.

[53] 17 CFR 202.3.

[54] 15 U.S.C. 78f(g)(1).

B. Proposed Procedures for Filing Proposed Rule Changes by Security Futures Product Exchanges and Limited Purpose National Securities Associations

If a self-regulatory organization ("SRO") [55] decides to amend, add, or delete any provision of its rules ("proposed rule change"), it must submit to the Commission, pursuant to Section 19(b) of the Exchange Act,[56] the proposed rule change for notice, comment, and Commission approval, prior to implementation, unless it is otherwise permitted to become effective pursuant to that Section. The purpose of this requirement is to help ensure that, through Commission review and the public comment process, SROs carry out the purposes of the Exchange Act.[57]

The CFMA amended the Exchange Act to exempt Security Futures Product Exchanges [58] and Limited Purpose National Securities Associations [59] from the requirement to submit proposed rule changes to the Commission pursuant to Section 19(b) of the Exchange Act, except in enumerated circumstances. Specifically, Sections 6(g)(4)(B) [60] and 15A(k)(3) [61] of the Exchange Act require Security Futures Product Exchanges and Limited Purpose National Securities Associations to submit, pursuant to Section 19(b)(7) of the Exchange Act, proposed rule changes that relate to higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who effect transactions in security futures products, or rules effectuating such SRO's obligation to enforce the securities laws.[62] In addition, Security Futures Product Exchanges and Limited Purpose National Securities Associations are required to submit, pursuant to Section 19(b)(1) of the Exchange Act,[63] proposed rule changes that relate to margin levels, except for those that result in higher margin levels, and proposed rule changes that have been abrogated by the Commission pursuant to Section 19(b)(7)(C) of the Exchange Act.[64]

1. Proposed Rule 19b–7 and Form 19b–7

Pursuant to Section 19(b) of the Exchange Act,[65] the Commission has the authority to adopt rules regarding the filing of proposed rule changes by the SROs. Section 19(b)(7) of the Exchange Act,[66] which addresses Security Future Product Exchanges' and Limited Purpose National Security Associations' rule filings, requires that a proposed rule change filed pursuant to this section contain a concise general statement of the basis and purpose of the proposed change. Upon such filing, the Commission is required to promptly publish notice of such proposed rule change and provide interested persons with the opportunity to submit comments. Pursuant to Section 19(b)(7) of the Exchange Act,[67] any proposed rule change filed with the Commission must be concurrently submitted to the CFTC and may take effect: (i) when a written certification has been filed with the CFTC under Section 5c(c) of the CEA;[68] (ii) when the CFTC determines that review of the proposed rule change is not necessary; or (iii) when the CFTC approves the proposed rule change.[69]

Because the Commission is required to publish each proposed rule change filed pursuant to Section 19(b)(7) of the Exchange Act,[70] the Commission must develop rules to ensure that each notice of filing complies not only with the requirements of that section, but also, with the requirements of the **Federal Register**. Thus, in its efforts to ensure that such proposed rule changes conform to these requirements, the

[55] Section 3(a)(26) of the Exchange Act defines a "self-regulatory organization" as any national securities exchange, registered securities association, registered clearing agency, and for the purposes of Section 19(b) and other limited purposes, the Municipal Securities Rulemaking Board ("MSRB"). 15 U.S.C. 78c(a)(26). Security Futures Product Exchanges and Limited Purpose National Securities Associations would fall within this definition.

[56] 15 U.S.C. 78s(b).

[57] The process of Commission review and public comment helps ensure, for example, that SROs refrain from using their regulatory powers in an unfair or anticompetitive manner to the detriment of investors.

[58] Section 6(g)(4)(B) of the Exchange Act, 15 U.S.C. 78f(g)(4)(B).

[59] Section 15A(k)(3) of the Exchange Act, 15 U.S.C. 78o–3(k)(3).

[60] 15 U.S.C. 78f(g)(4)(B).

[61] 15 U.S.C. 78o-3(k)(3).

[62] 15 U.S.C. 78s(b)(7). The Commission is also proposing a technical amendment to paragraph (a) of Rule 19b–4 and Part A of Form 19b–4 to exclude from the requirement that SROs file proposed rule changes on Form 19b–4 those proposed rule changes submitted pursuant to Section 19(b)(7)(a) of the Exchange Act. *See* proposed Exchange Act Rule 19b–4 and proposed Form 19b–4.

[63] 15 U.S.C. 78s(b)(1).

[64] 15 U.S.C. 78s(b)(7)(C).

[65] 15 U.S.C. 78s(b).

[66] 15 U.S.C. 78s(b)(7).

[67] Id.

[68] Section 5c(c) of the CEA, 7 U.S.C. 7a–2(c). Pursuant to Section 5c(c) of the CEA, a registered entity may elect to approve and implement any new rule or rule amendment by providing the CFTC a written certification that the new rule or rule amendment complies with the CEA.

[69] 15 U.S.C. 78s(b)(7)(B).

[70] 15 U.S.C. 78s(b)(7).

Commission is proposing Rule 19b–7 and Form 19b–7.

Proposed Rule 19b–7 would require proposed rule changes filed pursuant to Section 19(b)(7)(A) of the Exchange Act [71] to be made on Form 19b–7. Further, proposed Rule 19b–7 would state that a proposed rule change would not be deemed filed with the Commission unless a completed Form 19b–7 is submitted, and it is accompanied by a clear and accurate statement of the basis and purpose of the proposed rule change, including any impact on competition or efficiency, and a summary of any written comments received by the SRO pertaining to the proposed rule change. As required by the statute, the proposed rule would require the Commission to promptly publish such proposed rule changes.[72]

Finally, because the statute provides that the Commission will not approve proposed rule changes submitted pursuant to proposed Rule 19b–7,[73] the proposed rule states that the effectiveness of a proposed rule change does not create an inference of whether the proposed rule change is in the public interest, including whether it has an impact on competition. The Commission would not be taking final action on the proposal unless, as discussed below, it abrogates the proposed rule change pursuant to Section 19(b)(7)(C) of the Exchange Act,[74] and subsequently issues an order approving or disapproving the proposal pursuant to Section 19(b)(7)(D) of the Exchange Act.[75] Therefore, the Commission will not necessarily make a final determination on whether a proposed rule change filed pursuant to proposed Rule 19b–7 is in the public interest, including whether it has an impact on competition.

On proposed Form 19b–7, Security Futures Product Exchanges and Limited Purpose National Securities Associations would have to provide information sufficient to permit interested persons to submit meaningful comment on the proposal and to permit the Commission to consider whether the proposal should be abrogated because it unduly burdens competition or efficiency, conflicts with securities laws, or is inconsistent with the public interest or the protection of investors.[76] Proposed Form 19b–7 would require a Security Futures Product Exchange or Limited Purpose National Securities Association to submit: (1) A complete description of the terms of its proposal; (2) a description of the impact of the proposed rule change on various market participants; and (3) a description of how the filing relates to existing rules of the exchange or association. Proposed Form 19b–7 also would require a senior member of the management of the Security Futures Product Exchange or Limited Purpose National Securities Association to certify that the filing contains an accurate statement of authority and the statutory basis for the proposal and, among other things, that the proposal does not conflict with the federal securities laws.

Proposed Form 19b–7 is modeled after proposed Form 19b–6.[77] The Commission preliminarily believes that it is appropriate to use proposed Form 19b–6 as a model for proposed Form 19b–7 because it reflects the review and evaluation recently conducted by Commission staff regarding the Section 19(b) rule filing process, currently applicable to SROs. Accordingly, the Commission is proposing that proposed Form 19b–7 closely resemble the proposed Form 19b–6.

2. Proposed Rule Changes Related to Security Futures Products Required To Be Filed by Security Futures Product Exchanges and Limited Purpose National Securities Associations Pursuant to Section 19(b)(1) of the Exchange Act

As discussed above, the Exchange Act exempts Security Futures Product Exchanges and Limited Purpose National Securities Associations from the filing requirements of Section 19(b) of the Exchange Act.[78] Instead, Security Futures Product Exchanges and Limited Purpose National Securities Associations are required to file only proposed rule changes relating to specifically enumerated matters, which are listed in Section 19(b)(7)(A) of the Exchange Act.[79] In addition, pursuant to Sections 6(g)(4)(B)(ii) and 15A(k)(3)(B) of the Exchange Act,[80] Security Futures Product Exchanges and Limited Purpose National Securities Associations, respectively, are required to file with the Commission, pursuant to Section 19(b)(1) of the Exchange Act [81] for notice, comment, and Commission approval or disapproval, pursuant to Section 19(b)(2) of the Exchange Act,[82] proposed rule changes that relate to margin, except for changes that result in higher margin levels.[83]

To implement the requirements of Sections 6(g)(4)(B)(ii) and 15A(k)(3)(B) of the Exchange Act,[84] the Commission is proposing to require Security Futures Product Exchanges and Limited Purpose National Securities Associations to file proposed rule changes related to margin (except for changes that result in higher margin levels) under Rule 19b–4 [85] for approval under Section 19(b)(2) of the Exchange Act.[86] Rule 19b–4 is the rule under which all other SROs currently file proposed rule changes pursuant to Section 19(b)(1) of the Exchange Act.[87] This rule requires that filings with respect to proposed rule changes by an SRO be made on Form 19b–4.[88]

Section 19(b)(7)(C) of the Exchange Act [89] provides the Commission, after consultation with the CFTC, with the authority to summarily abrogate a proposed rule change filed pursuant to Section 19(b)(7) of the Exchange Act [90] if it appears to the Commission that such rule change unduly burdens

[71] 15 U.S.C. 78s(b)(7)(A).

[72] *Id.*

[73] Section 19(b)(7) of the Exchange Act, 15 U.S.C. 78s(b)(7).

[74] 15 U.S.C. 78s(b)(7)(C).

[75] 15 U.S.C. 78s(b)(7)(D).

[76] *See* Section 19(b)(7)(C) of the Exchange Act, 15 U.S.C. 78s(b)(7)(C).

[77] The Commission recently published a proposal to replace Rule 19b–4 and Form 19b–4 with proposed Rule 19b–6 and proposed Form 19b–6. *See* Securities Exchange Act Release No. 43860 (January 19, 2001), 66 FR 8912 (February 5, 2001).

[78] 15 U.S.C. 78s(b).

[79] 15 U.S.C. 78s(b)(7)(A).

[80] 15 U.S.C. 78f(g)(4)(B)(ii) and 15 U.S.C. 78o–3(k)(3)(B).

[81] 15 U.S.C. 78s(b)(1). Section 19(b)(1) of the Exchange Act requires each SRO to file with the Commission its proposed rule changes accompanied by a concise general statement of the basis for, and purpose of the proposed rule change. Once an SRO files a proposed rule change, the Commission must publish notice of it and provide opportunity for public comment. The proposed rule change may not take effect unless the Commission approves it or it is otherwise permitted to become effective under Section 19(b)(3) of the Exchange Act.

[82] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Exchange Act sets forth the standards and time periods for the Commission either to approve a proposed rule change or to institute and conclude a proceeding to determine whether a proposed rule change should be disapproved.

[83] As discussed above, pursuant to Sections 6(g)(4)(B)(i) and 15A(k)(3)(B) of the Exchange Act, proposed rule changes that relate to higher margin levels must be filed by Security Futures Product Exchanges and Limited Purpose National Associations with the Commission pursuant to Section 19(b)(7) of the Exchange Act.

[84] 15 U.S.C. 78f(g)(4)(B)(ii) and 15 U.S.C. 78o–3(k)(3)(B).

[85] 17 CFR 240.19b–4.

[86] 15 U.S.C. 78s(b)(2).

[87] 15 U.S.C. 78s(b)(1).

[88] *See* note 77, *supra*. Security Futures Product Exchanges and Limited Purpose National Associations would be required to submit their proposed rule changes that relate to margin, except those that result in higher margin levels, to the Commission on Form 19b–4 or such other form that the Commission may designate as effective as of the time of the filing.

[89] 15 U.S.C. 78s(b)(7)(C).

[90] 15 U.S.C. 78s(b)(7). Pursuant to this section, Commission action to abrogate a rule change will not affect the validity or force of the rule change during the period it was in effect.

competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of investors.[91] In the event that this occurs, Security Futures Product Exchanges and Limited Purpose National Securities Associations would be required, pursuant to Sections 6(g)(4)(B)(iii)[92] and 15A(k)(3)(C)[93] of the Exchange Act, respectively, to refile the proposed rule change pursuant to the requirements of Section 19(b)(1) of the Exchange Act.[94] The Commission is proposing that Security Futures Product Exchanges and Limited Purpose National Securities Associations use Form 19b–4 to file the abrogated proposed rule change. The Commission is proposing amendments to Form 19b–4 to accommodate proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act.[95]

Section 19(b)(7)(D) of the Exchange Act[96] sets forth standards for review and approval of proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act[97] and refiled pursuant to Section 19(b)(1) of the Exchange Act.[98] Specifically, the Commission must, within 35 days of the date of publication of notice of the filing of the proposed rule change, or within such longer period as the Commission may designate up to 90 days after such date if the Commission finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the SRO consents, either by order approve the proposed rule change or, after consultation with the CFTC, institute disapproval proceedings.[99] The Commission is proposing to amend Form 19b–4 to add language to this effect.[100]

Section 19(b)(7)(D)(ii) of the Exchange Act[101] states that the Commission must approve a proposed rule change that has been abrogated and refiled under Section 19(b)(1) of the Exchange Act[102] if the Commission finds that it does not unduly burden competition or efficiency, does not conflict with the securities laws, and is not inconsistent with the public interest or the protection of investors. The Commission is proposing that Security Futures Product Exchanges and Limited Purpose National Securities Associations affirmatively set forth in Form 19b–4 that an abrogated proposed rule change that is being refiled satisfies these requirements.[103]

The Commission seeks comment on the proposed procedures for filing proposed rule changes pursuant to proposed Rule 19b–7 and Form 19b–7, and proposed amendments to Rule 19b–4 and Form 19b–4.

Commenters should specifically address the requirements of the proposed rules and associated forms, describing in detail any recommendations for modifying the proposed approach in such a way as to be consistent with the statutory requirements. For example, is the proposed certification requirement of the proposed Form 19b–7 appropriate? Is there a more appropriate procedure for the filing of proposed rule changes relating to margin (other than higher margin) and the refiling of proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act that would not require the use of Form 19b–4?

Finally, if the Commission were to adopt the proposed Rule 19b–6 and Form 19b–6, amendments similar to those proposed for Rule 19b–4 and Form 19b–4 would need to be made to accommodate proposed rule changes relating to margin, other than higher margin, and proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act. The Commission seeks comment on how proposed Rule 19b–6 or Form 19b–6 would need to be modified to clarify the limited circumstances in which the proposed Rule 19b–6 and Form 19b–6 would be used by Security Futures Product Exchanges and Limited Purpose National Securities Associations.

III. Paperwork Reduction Act

Certain provisions of the proposed rules and forms contain "collection of information requirements" within the meaning of the Paperwork Reduction Act of 1995.[104] Accordingly, the Commission submitted the collection of information requirements contained in the rules and forms to the Office of Management and Budget ("OMB") in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11. The Commission is proposing to adopt two new collections of information titled "Rule 6a–4 and Form 1–N" and "Rule 19b–7 and Form 19b–7." The Commission is also proposing to revise a collection of information titled "Rule 19b–4 and Form 19b–4," OMB Control No. 3235–0045. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

A. Proposed Rule 6a–4 and Form 1–N

1. Summary of Collection of Information

Proposed Rule 6a–4 would set out procedures for certain futures markets that wish to trade security futures products to file notices with the Commission on new Form 1–N to become Security Futures Product Exchanges. Proposed Form 1–N calls for information regarding: how the exchange operates, its criteria for membership, its subsidiaries and affiliates, its rules and procedures, and the security futures products it intends to trade.

2. Proposed Use of Information

The information obtained under proposed Rule 6a–4 and proposed Form 1–N would provide the Commission and the public with basic information about exchanges that would trade security futures products but would not otherwise be required to register with the Commission. This information would assist the Commission to ascertain that such exchanges' activities do not unduly burden competition or efficiency, conflict with the securities laws, or are not inconsistent with the public interest and the protection of investors and, thus, assist the Commission's efforts to protect investors and the public interest.

3. Respondents

The Commission expects that 7 respondents could seek to become Security Futures Product Exchanges by filing notice on proposed Form 1–N.

[91] The Commission notes that it currently exercises similar authority pursuant to Section 19(b)(3)(C) of the Exchange Act, 15 U.S.C. 78s(b)(3)(C), with respect to proposed rule changes filed by the existing SROs that are immediately effective upon filing pursuant to Section 19(b)(3)(A) of the Exchange Act, 15 U.S.C. 78s(b)(3)(A).

[92] 15 U.S.C. 78f(g)(4)(B)(iii).

[93] 15 U.S.C. 78o–3(k)(3)(C).

[94] 15 U.S.C. 78s(b)(1).

[95] *See supra* note 77. If the Commission were to determine to adopt the proposed Rule 19b–6 and Form 19b–6, amendments similar to those proposed here for Rule 19b–4 and Form 19b–4 would be required to accommodate proposed rule changes related to margin (other than higher margin) and proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act.

[96] 15 U.S.C. 78s(b)(7)(D).

[97] 15 U.S.C. 78s(b)(7)(C).

[98] 15 U.S.C. 78s(b)(1).

[99] The Commission notes that this is similar to the system currently in place for SRO filings, except for the CFTC's role and the approval standard to be applied by the Commission.

[100] *See* Part E of proposed Form 19b–4. *See also supra* note 77.

[101] 15 U.S.C. 78s(b)(7)(D)(ii).

[102] 15 U.S.C. 78s(b)(1).

[103] *See Information to be Included in the Completed Form*, Item 3 of proposed Form 19b–4.

[104] 5 U.S.C. 603(a).

4. Total Annual Reporting and Recordkeeping Burden

a. One-Time Costs

Proposed Rule 6a–4 would require each entity wishing to become a Security Futures Product Exchange to file proposed Form 1–N. The Commission estimates that each Form 1–N submission would take approximately 31 hours to file at a cost of approximately $3,000 (representing approximately 20 hours of legal work at $128/hour,[105] 11 hours of clerical work at $31/hour,[106] and $100 for miscellaneous clerical expenses). As the Commission believes that 7 entities would file to become Security Futures Product Exchanges, the Commission estimates that the total burden for filing initial Form 1–Ns for all respondents would be 217 hours (7 respondents × 31 hours/respondent), for a total cost of $21,000 (7 responses × $3,000/response).

b. Annual Costs

After an entity becomes a Security Futures Product Exchange by properly filing the initial Form 1–N, the exchange would be subject to ongoing responsibilities to file: (1) amendments to the Form 1–N in the event of material changes to the information provided in the initial Form 1–N; (2) periodic updates of certain information provided in the original Form 1–N; (3) certain supplemental information, such as information that is provided to the exchange's members; and (4) a monthly report summarizing the exchange's trading of security futures products.

The Commission estimates each Security Futures Product Exchange would have to file one amendment or periodic update per year, resulting in a burden of approximately 15 hours and $1,438 (representing approximately 9 hours of legal work at $128/hour, 6 hours of clerical work at $31/hour, and $100 of miscellaneous clerical expenses). The Commission estimates that the total annual burden for all respondents to provide the required amendments and updates would be 105 hours (15 hours/respondent per year × 7 respondents), for a total cost of $10,066 ($1,438/response × 7 responses/year).

The Commission estimates that each Security Futures Product Exchange would file supplemental information 13 times per year and would make 12 monthly reports. The Commission believes that, to meet these requirements, each respondent would be required only to copy and send documents likely to be prepared for their own internal uses. Accordingly, the Commission estimates that each of these 25 filings would impose a burden of approximately $21 (0.5 hours of clerical work at $31/hour and $5 for miscellaneous clerical expenses). The total annual burden for the collection of the supplemental information and monthly reports would be 87.5 hours (25 filings/respondent × 7 respondents × 0.5 hours/response), for a total cost of $3,675 (25 filings/respondent per year × 7 respondents × $21/response).

Therefore, the Commission concludes that the total annual burden for all Security Futures Product Exchanges (not including the one-time cost of filing the initial Form 1–N) would be 192.5 hours (105 + 87.5), for a total cost of $13,741 ($10,066 + $3,675).

5. Record Retention Period

As set forth in Rule 17a–1 under the Exchange Act,[107] a national securities exchange is required to retain records of the collection of information for at least five years, the first two years in an easily accessible place. However, Security Futures Product Exchanges must retain only those records relating to persons, accounts, agreements, contracts, and transactions involving security futures products.[108]

6. Collection of Information Is Mandatory

This collection of information is mandatory.

7. Responses to Collection of Information Would Not Be Kept Confidential

The collection of information pursuant to proposed Rule 6a–4 and proposed Form 1–N would not be kept confidential.

B. Proposed Rule 19b–7 and Proposed Form 19b–7

1. Summary of Collection of Information

Proposed Rule 19b–7 would require a Security Futures Product Exchange or Limited Purpose National Securities Association that proposes to add to, change, or delete any of its existing rules relating to certain subjects[109] to submit such proposed rule change to the Commission on Form 19b–7. Proposed Form 19b–7 calls for a description of: the terms of the proposed rule change, the proposed rule change's impact on various market segments, and the relationship between the proposed rule change and the existing rules of the Security Futures Product Exchange or Limited Purpose National Securities Association. Proposed Form 19b–7 also calls for an accurate statement of the authority and statutory basis for, and purpose of, the proposed rule change, the proposal's impact on competition, and a summary of any written comments on the proposed rule change received by the Security Futures Product Exchange or Limited Purpose National Securities Association.

2. Proposed Use of Information

The Commission would use the information obtained under proposed Rule 19b–7 to review proposed rule changes of Security Futures Product Exchanges and Limited Purpose National Securities Associations and to provide notice of these proposals to the public. The Commission would rely on the information provided in proposed Form 19b–7, as well as public comment regarding such proposals, in taking any action with respect to proposed rule changes. This information would assist the Commission to ascertain that the activities of Security Futures Product Exchanges and Limited Purpose National Securities Associations do not unduly burden competition or efficiency, conflict with the securities laws, or are not inconsistent with the public interest and the protection of investors and, thus, assist the Commission's efforts to protect investors and the public interest.

3. Respondents

As noted above, the Commission expects that 7 respondents could become Security Futures Product Exchanges by filing notice of registration on proposed Form 1–N. Upon doing so, these exchanges would become subject to the requirement to file proposed Form 19b–7 whenever they propose to add, delete, or amend certain rules relating to security futures products. In addition, the Commission anticipates that there would be one Limited Purpose National Securities Association (the National Futures Association) that also would be required to file certain rule changes relating to

[105] SIA Management and Professional Earnings, Table 107 (Attorney, New York), plus a 35 percent differential for bonus, overhead, and other expenses. The Commission believes that New York salaries are an appropriate basis for its estimates, as nearly all of the attorneys who would contribute to the filing of Form 1–Ns would be based in New York or cities with comparable legal markets. The same estimate for the cost of legal work has been used throughout this section.

[106] SIA Management and Professional Earnings, Table 012 (Secretary) plus a 35 percent differential for bonus, overhead, and other expenses. The same estimate for the cost of clerical work has been used throughout this section.

[107] 17 CFR 240.17a–1.

[108] *See* 15 U.S.C. 78q(b)(4)(B).

[109] *See* 15 U.S.C. 78f(g)(4)(B)(i) and 78o–3(k)(3)(A).

security futures products on proposed Form 19b–7. Therefore, the Commission estimates that there would be 8 respondents.

4. Total Annual Reporting and Recordkeeping Burden

The Commission estimates that respondents would average 15 proposed rule changes per year that would have to be filed on proposed Form 19b–7. The Commission notes that, although it receives approximately 20 to 100 proposed rule changes on Form 19b–4 per year from each of the existing SROs, these Form 19b–4 filings cover a wide range of subject areas, including trading, membership, dispute resolution, exchange governance, and fees. By contrast, Security Futures Product Exchanges and Limited Purpose National Securities Associations would be required to file on proposed Form 19b–7 only certain types of proposed rule changes regarding security futures products. Given the limited types of rule changes that the proposed Form 19b–7 filings would cover, the Commission believes that 15 filings per respondent per year is a reasonable estimate.

The Commission estimates that an average Form 19b–7 would require approximately 16.5 hours to complete at a cost of approximately $1,824 (representing 12.5 hours of legal work at $128/hour, four hours of clerical work at $31/hour, and $100 for miscellaneous clerical expenses). These figures represent approximately one-half of the burdens that the Commission recently estimated would be required for submissions on proposed Form 19b–6.[110] Although proposed Forms 19b–6 and 19b–7 are quite similar, the Commission believes that one-half is an appropriate reduction in the estimated burden for proposed Form 19b–7, as proposed rule changes submitted on Form 19b–7 generally would become effective on filing and would not require any action by the Commission or any additional supporting information from the SRO. By contrast, many of the rule changes filed on proposed Form 19b–6 would require specific Commission approval and, thus, would require supporting information and perhaps even formal amendments from the SRO before they could be approved. Thus, the Commission expects that the burden of filing a proposed rule change on proposed Form 19b–7 generally would be substantially less than the burden of filing a proposed rule change on proposed Form 19b–6.

The Commission estimates that the total annual burden for all respondents to file proposed Form 19b–7 would be 1,980 hours (representing 15 filings/year per respondent × 8 respondents × 16.5 hours/filing), for a total cost of $218,880 ($1,824/filing × 15 filings/year per respondent × 8 respondents).

5. Record Retention Period

As set forth in Rule 17a–1 under the Exchange Act,[111] a national securities exchange or a national securities association is required to retain records of the collection of information for at least five years, the first two years in an easily accessible place. However, Security Futures Product Exchanges and Limited Purpose National Securities Associations must retain only those records relating to persons, accounts, agreements, contracts, and transactions involving security futures products.[112]

6. Collection of Information Is Mandatory

The collection of information requirements imposed by proposed Rule 19b–7 under the Exchange Act and proposed Form 19b–7 would be mandatory.

7. Responses to Collection of Information Would Not Be Kept Confidential

The collection of information pursuant to proposed Rule 19b–7 and proposed Form 19b–7 would be made publicly available.

C. Proposed Amendments to Rule 19b–4 and Form 19b–4

1. Summary of Collection of Information

Section 19 of the Exchange Act[113] establishes a procedure by which SROs must file proposals to add, delete, or amend their rules. Rule 19b–4 implements this procedure and requires SROs to file proposed rule changes on Form 19b–4. Certain proposals submitted on Form 19b-4 must be approved by the Commission before they may take effect.

Although the primary means by which Security Futures Product Exchanges and Limited Purpose National Securities Associations would notify the Commission of proposed rule changes would be by filing a Form 19b–7, there are two circumstances in which such entities would be required to file a Form 19b–4: (1) a proposed rule change that relates to margin, except for a change that results in higher margin levels; or (2) a proposed rule change that has been abrogated by the Commission because it appears that the proposal unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of investors. A proposed rule change that was filed on proposed Form 19b–7 but is abrogated by the Commission must be refiled on Form 19b–4.

2. Proposed Use of Information

The Commission uses the information obtained under Rule 19b-4 to review proposed rule changes by SROs and to provide notice of these proposals to the public. The Commission relies on the information provided in the Form 19b–4, as well as public comment regarding such proposals, in taking any action with respect to proposed rule changes. This information would assist the Commission to ascertain that the activities of Security Futures Product Exchanges and Limited Purpose National Securities Associations do not unduly burden competition or efficiency, conflict with the securities laws, or are not inconsistent with the public interest and the protection of investors and, thus, assist the Commission's efforts to protect investors and the public interest.

3. Respondents

Security Futures Product Exchanges and Limited Purpose National Securities Associations would be required to comply with Rule 19b–4 and use Form 19b–4 in the two circumstances described above. The Commission believes that 7 entities would likely seek to become Security Futures Product Exchanges, and that there would be one Limited Purpose National Securities Association, the National Futures Association. In addition, all other SROs are currently required to comply with Rule 19b–4 and use Form 19b–4.

4. Total Annual Reporting and Recordkeeping Burden

The Commission estimates that the proposed amendments to Rule 19b–4 would result in an additional 8 filings per year on Form 19b–4. The Commission estimates these new respondents would devote, on average, approximately 35 hours to the filing of each Form 19b–4, at a cost of $3,660 per filing (representing 25 hours of legal work at $128/hour, 10 hours of clerical work at $31/hour and $150 for miscellaneous clerical expenses). The Commission estimates that the total annual burden for all respondents resulting from the proposed amendments to the Form 19b–4 would be 280 hours (8 filings × 35 hours/filing), for a total cost of $29,280 (8 filings × $3,660/filing).[114]

5. Record Retention Period

As set forth in Rule 17a–1 under the Exchange Act,[115] SROs are required to retain records of the collection of information for at least five years, the first two years in an easily accessible place. However, Security Futures Product Exchanges and Limited Purpose National Securities Associations would be required to retain only those records relating to persons, accounts, agreements, contracts, and transactions involving security futures products.[116]

6. Collection of Information is Mandatory

The collection of information requirements imposed by existing Rule 19b–4 and Form 19b–4 under the Exchange Act are mandatory.

7. Responses to Collection of Information Would Not Be Kept Confidential

The collection of information required pursuant to proposed Rule 19b–7 and proposed Form 19b–7 would be made publicly available.

D. Proposed Amendments to Rules 6a–2 and 6a–3

These amendments are technical in nature and are intended only to clarify that Security Futures Product Exchanges are not subject to the collection of information requirements imposed by these rules. The amendments would neither add new respondents nor increase the burden on existing respondents.

E. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

(2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements proposed above should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (2) Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, with reference to File No. S7–10–01. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The Commission has submitted the proposed collections of information to OMB for approval. Requests for the materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–10–01, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street, NW, Washington, DC 20549.

IV. Costs and Benefits of the Proposed Rulemaking

The Commission is proposing new Rule 6a–4 under the Exchange Act[117] and new registration Form 1–N prescribing the requirements for designated contract markets and derivative transaction execution facilities to register as national securities exchanges pursuant to Section 6(g)(1) of the Exchange Act[118] to list and trade futures on individual stocks and narrow-based stock indexes, including puts, calls, straddles, options, or privileges thereon. The Commission also is proposing conforming amendments to Rules 6a–2 and 6a–3 under the Exchange Act[119] and Rule 202.3 of the Commission's procedural rules.[120] In addition, the Commission is proposing new Rule 19b–7,[121] new Form 19b–7, and amendments to Rule 19b–4[122] and Form 19b–4 to accommodate certain proposed rule changes submitted by Security Futures Product Exchanges and limited purpose national securities associations registered pursuant to Section 15A(k) of the Exchange Act.[123]

The proposed rules, forms, and conforming amendments are in response to the mandate of the CFMA,[124] which, among other things, requires the Commission to prescribe, by rule, the process for notice registration to be used by Security Futures Product Exchanges. Pursuant to the CFMA, the Commission has proposed Rule 6a–4 to prescribe information and documents to be submitted by Security Futures Product Exchanges that is comparable to the requirements applicable to national securities exchanges registered pursuant to Section 6(a) of the Exchange Act.[125] In addition, the CFMA directs the Commission to establish, by rule, the procedures for filing proposed rule changes by Security Futures Product Exchanges and Limited Purpose National Securities Associations that relate to certain matters, including higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who effect transactions in security futures products, or rules effectuating such Security Futures Product Exchanges' and Limited Purpose National Securities' obligations to enforce the securities laws. The CFMA also amended the Exchange Act to require that proposed rule changes relating to margin, except for changes that result in higher margin levels, and proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act[126] be filed under Section 19(b)(1) of the Exchange Act.[127]

The Commission is considering the costs and benefits of the proposed rules, forms, and conforming amendments and encourages commenters to identify, discuss, analyze, and supply relevant data regarding any additional costs or benefits.

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[110] *See supra* note 77.

[111] 17 CFR 240.17a–1.

[112] *See* 15 U.S.C. 78q(b)(4)(B).

[113] 15 U.S.C. 78s.

[114] However, these estimates do not include burdens associated with filings that propose wholesale additions or amendments to an SRO's rules. Such filings could result, for example, from the development of a new trading system. Past experience has demonstrated that about 1 percent of Form 19b–4 filings are of this sort. Because these filings typically represents so few of the total number of Form 19b–4 filings, and he scope of these filings may vary greatly from one filing to the next, the Commission has omitted them from the computation of the average cost associated with the respondent's reporting burden.

[115] 17 CFR 240.17a–1.

[116] *See* U.S.C. 78q(b)(4)(B).

[117] Proposed Exchange Act Rule 6a–4.

[118] 15 U.S.C. 78f(g)(1).

[119] 17 CFR 240.6a–2 and 240.6a—3.

[120] 17 CFR 202.3.

[121] Proposed Rule 19b–7.

[122] 17 CFR 240.19b–4.

[123] 15 U.S.C. 78o–3(k).

[124] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763

[125] 15 U.S.C. 78f(a).

[126] 15 U.S.C. 78s(b)(7)(C).

[127] 15 U.S.C. 78s(b)(1).

A. Costs and Benefits of Proposed Rule 6a–4, New Registration Form 1–N, and Conforming Amendments to Rules 6a–2 and 6a–3 under the Exchange Act and Rule 202.3 of the Commission's Procedural Rules

The Commission is proposing new Rule 6a–4 [128] to set forth the information that must be submitted by an entity to register as a national securities exchange and the ongoing filing requirements for Security Futures Product Exchanges, and to revise Exchange Act Rules 6a–2 and 6a–3 [129] to exclude Security Futures Product Exchanges from the requirements of those rules.

Proposed Rule 6a–4 would require an exchange registering pursuant to Section 6(g) of the Exchange Act [130] to file proposed Form 1–N [131] with the Commission. Once registered, proposed Rule 6a–4 would require a Security Futures Product Exchange to file with the Commission written notice of actions that create new information or render inaccurate information filed on the execution page or as part of proposed Exhibits C, E, F or H of its proposed Form 1–N within 10 days after such action is taken,[132] to file as an amendment, on or before June 30, 2002 and by June 30 every year thereafter, proposed Exhibits F, H, and I, which would be required to be up-to-date as of the latest date practicable within three months of the date the amendment was filed,[133] and to file, as an amendment to its Form 1–N, on or before June 30, 2004 and by June 30 every three years thereafter, complete Exhibits A, B, C, and E, which would be required to be up-to-date as of the latest date practicable within three months of the date the amendment was filed.[134] The conforming amendments to Rules 6a–2 and 6a–3 exclude respondents from the requirements of these rules, and, therefore, the Commission preliminarily believes that there would be no costs imposed on, nor benefits accruing to, the respondents arising from the proposed conforming amendments. Finally, Rule 202.3 of the Commission's procedural rules provides that notice forms for registration as a national securities exchange filed with the Commission are routed to the Division of Market Regulation, and, therefore, the Commission preliminarily believes that there would be no costs imposed on, nor benefits accruing to, the respondents arising from the proposed conforming amendment.

1. Benefits

The proposed rules provide for an expedited filing process for a market to become registered with the Commission as a Security Futures Product Exchange since Form 1–N is not an application that requires an approval from the Commission. Because an exchange registering with the Commission pursuant to Section 6(g) of the Exchange Act [135] is also subject to the CFTC application and reporting requirements, the Form 1–N only requests limited basic information. Therefore, the Commission expects that the amount of time required to complete the Form 1–N to be one-third less than the amount of time currently required to complete the Form 1. Furthermore, pursuant to Section 6(g)(2)(A) of the Exchange Act,[136] in those instances where the exchange has filed information with the CFTC, to the extent that such documents contain information satisfying the Commission's informational requirements, copies of such documents could be filed with the Commission in lieu of completing those portions of the Form, therefore reducing an exchange's burden of compiling information.[137] Pursuant to Section 6(g)(2)(B) of the Exchange Act,[138] such notice registration will be effective contemporaneously with the submission of proposed Form 1–N, unless the registration would be subject to suspension or revocation by the CFTC. The information provided by exchanges filing proposed Form 1–Ns would be required to be up-to-date as of 1 month of the date of filing, which should provide the exchanges with additional flexibility in the preparation of the required documents.

As a mechanism to further reduce the filing burdens on Security Futures Product Exchanges, the Commission is proposing to allow such exchanges to comply with the requirements for filing amendments and supplemental materials by maintaining the information on an Internet web page and providing the location of such web site to the Commission.[139] Instead of filing amendments in paper form, a Security Futures Product Exchange also would be permitted to refer to materials published by, or in cooperation with, the exchange that contains the required information or to make the information available upon request at its office.[140] Permitting respondents to use the Internet as a means of compliance should ease burdens by reducing expenses associated with clerical time, postage, and copying and increase the speed, accuracy, and availability of information beneficial to investors and financial markets.

Furthermore, the Commission is proposing to exempt a Security Futures Product Exchange from filing the required amendments for any affiliate or subsidiary listed in proposed Exhibit C of the exchange's notice registration that either is listed in Exhibit C to the form for registration or notice registration of one or more other national securities exchanges, or was an inactive subsidiary throughout the subsidiary's latest fiscal year.[141] Proposed amendments to Rules 6a–2 and 6a–3 [142] also would exempt Security Futures Product Exchanges from the ongoing filing requirements for registered or exempted exchanges, which file applications with the Commission pursuant to Rule 6a–1.[143] This would further reduce the filing burdens placed on the Security Futures Product Exchanges.

The Commission's proposal also should enhance the Commission's ability to oversee the exchanges trading security futures products, which is critical to the continued integrity of our markets. The Commission believes that its oversight, in conjunction with that of the CFTC, over trading activities in security futures products should benefit the public and the markets generally by helping to prevent fraud and manipulation.

2. Costs

The proposed rules, forms, and conforming amendments would require the respondents to comply with the initial notice and amendment requirements, which would require some effort to gather this information to file with the Commission. Most of this information, however, already exists and is currently provided to the CFTC, and the exchanges may provide copies of existing documents provided to the CFTC to the Commission in lieu of completing the Form to the extent that such documents contain information satisfying the Commission's informational requirements.[144] Therefore, the Commission preliminarily believes that the costs incurred by the proposed rules and forms have been minimized.

As discussed above, the Commission estimates that the average paperwork cost per initial registration would be $3,000 for each respondent.[145]

The proposed amendments to Rules 6a–2 and 6a–3 [146] would exclude Security Futures Product Exchanges from the ongoing collection of information required by these rules. However, Rule 6a–4 would impose ongoing requirements on respondents. Proposed Rule 6a–4 would require respondents to provide periodic amendments to their initial registration. First, respondents would be required to file amendments due to material changes or new information filed on the execution page or as part of Exhibits C, E, F, or H of its proposed Form 1–N.[147] Second, respondents would be required to file amendments to, on or before June 30, 2002 and by June 30 every year thereafter, proposed Exhibits F, H, and I.[148] Third, proposed Rule 6a–4 also would require an exchange to file, as an amendment to its proposed Form 1–N, on or before June 30, 2004 and by June 30 every year thereafter, complete Exhibits A, B, C, and E.[149] As discussed above, the Commission estimates that the average paperwork cost for each amendment and periodic update would be $1,438.[150]

Much of the required information would not change frequently, and the option of posting information on an Internet web site should encourage more frequent updating of current information and reduce the cost of filing the amendments on paper.

Finally, paragraph (c) of proposed Rule 6a–4 would require Security Futures Product Exchanges to furnish to the Commission copies of all materials related to the trading of security futures products (including notices, circulars, bulletins, lists, and publications) issued or made available to members of, participants in or subscribers to, the exchange.[151] Exchanges would be permitted to make the information available on an Internet web site and provide the Commission with the location of the web site. Paragraph (c) of proposed Rule 6a–4 also would require Security Futures Product Exchanges to file transaction reports within fifteen days after the end of each calendar month containing, for each security futures product traded on such exchange, the number of contracts traded, and the type of security underlying such contract. In addition, if the futures contract were for a single security, the exchange would be required to report the total number of shares underlying the contracts traded.[152] As discussed above, the Commission estimates that each respondent would incur an average paperwork cost of $21 for each filing.[153]

B. Costs and Benefits of Proposed Rule 19b–7 and Form 19b–7 and Conforming Amendments to Rule 19b–4 and Form 19b–4

Proposed Rule 19b–7 would require the Commission to promptly publish Security Futures Product Exchanges' and Limited Purpose National Securities Associations' proposed rule changes that were filed pursuant to Section 19(b)(7) of the Exchange Act [154] on proposed Form 19b–7.

Pursuant to Sections 6(g)(4)(B)(ii) and 15A(k)(3)(B) of the Exchange Act,[155] the Commission is proposing to amend Rule 19b–4 to require Security Futures Product Exchanges and Limited Purpose National Securities Associations to file proposed rule changes related to margin (except for changes that result in higher margin levels) under Rule 19b–4 and to submit such margin changes on Form 19b–4. In addition, these amendments to Rule 19b–4 and Form 19b–4 should accommodate proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act [156] and refiled under Section 19(b)(1) of the Exchange Act.[157]

1. Benefits

Pursuant to the statutory mandate, the Commission would not be approving proposed rule changes submitted pursuant to proposed Rule 19b–7. Instead, a proposed rule change filed on proposed Form 19b–7 would become effective upon: (i) an exchange's filing of a written certification with the CFTC under Section 5c(c) of the CEA; [158] (ii) a determination by the CFTC that review of the proposed rule change is not necessary; or (iii) approval of the proposed rule change by the CFTC.

The new rule and form and amendments to existing rule and form are designed to provide information sufficient to permit interested persons to submit meaningful comment on the proposal and permit the Commission to consider whether the proposal should be abrogated because it unduly burdens competition or efficiency, conflicts with securities laws, or is inconsistent with the public interest or the protection of investors. These proposals should enable the Commission to carry out its statutorily-mandated oversight functions, including ensuring that SROs carry out their regulatory functions. This process protects the integrity of the markets, investors, and the public interest.

Proposed rule changes filed with the Commission would be required to be filed concurrently with the CFTC. However, although respondents must file with two agencies, there would, in effect, be only one effort in the collection and compilation of information.

2. Costs

The Commission believes that the costs associated with filing rule changes are predominately the paperwork costs. As discussed above, the Commission estimates that the average paperwork cost per proposed rule change submitted on Form 19b–7 would be $1,824.00.[159] The Commission estimates each respondent would file 15 proposed rule changes per year and incur an annual average burden of 247.5 hours for a total annual average cost of $27,360.00. In addition, the Commission estimates that the average paperwork cost per respondent to file proposed rule changes that relate to margin, except for changes that result in higher margin levels, or that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act [160] and refiled under Section 19(b)(1) of the Exchange Act,[161] would be $3,660.00.[162] In addition, the Commission estimates that the time associated with refiling an abrogated

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[128] Proposed Exchange Act Rule 6a–4.
[129] 17 CFR 240.6a–2 and 240.6a–3.
[130] 15 U.S.C. 78f(g).
[131] Proposed Form 1–N, 17 CFR 249.10.
[132] Proposed Exchange Act Rule 6a–4(b)(1).
[133] Proposed Exchange Act Rule 6a–4(b)(2).
[134] Proposed Exchange Act Rule 6a–4(b)(3).
[135] 15 U.S.C. 78f(g).
[136] 15 U.S.C. 78f(g)(2)(A).
[137] Proposed Exchange Act Rule 6a–4(b)(6).
[138] 15 U.S.C. 78f(g)(2)(B).
[139] Proposed Exchange Act Rule 6a–4(b)(4)(iii) and (c)(i)(ii).
[140] Proposed Exchange Act Rule 6a–4(b)(4)(i) and (ii).
[141] Proposed Exchange Act Rule 6a–4(b)(5).
[142] 17 CFR 240.6a–2 and 240.6a–3.
[143] 17 CFR 240.6a–1.
[144] Proposed Exchange Act Rule 6a–4(b)(6).
[145] *See* Paperwork Reduction Act discussion at notes 105–108 and accompanying text.
[146] 17 CFR 240.6a–2 and 240.6a–3.
[147] Proposed Exchange Act Rule 6a–4(b)(1).
[148] Proposed Exchange Act Rule 6a–4(b)(2).
[149] Proposed Exchange Act Rule 6a–4(b)(3).
[150] *See* Paperwork Reduction Act discussion at notes 105–108 and accompanying text.
[151] Proposed Exchange Act Rule 6a–4(c)(1)(i).
[152] Proposed Exchange Act Rule 6a–4(c)(2).
[153] *See* Paperwork Reduction Act discussion.
[154] Specifically, Sections 6(g)(4)(B) and 15A(k)(3) of the Exchange Act, 15 U.S.C. 78f(g)(4)(B) and 15 U.S.C. 78o–3(k)(3)(B), require Security Futures Product Exchanges and Limited Purpose National Securities Associations to submit, pursuant to Section 19(b)(7) of the Exchange Act, 15 U.S.C. 78s(b)(7), proposed rule changes that relate to higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who effect transactions in security futures products, or rules effectuating such SRO's obligation to enforce the securities laws.
[155] 15 U.S.C. 78f(g)(4)(B)(ii) and 15 U.S.C. 78o–3(k)(3)(B).
[156] 15 U.S.C. 78s(b)(7)(C).
[157] 15 U.S.C. 78s(b)(1).
[158] 7 U.S.C. 7a–2(c)
[159] *See* Paperwork Reduction Act, Section III.B.
[160] 15 U.S.C. 78s(b)(7)(C).
[161] 15 U.S.C. 78s(b)(1).
[162] *See supra* note.

19b–7 filing would delay the filing process by 30 days.

C. Request for Comment

The Commission requests data to quantify the costs and the value of the benefits above. The Commission seeks estimates of these costs and benefits, as well as any costs and benefits not already defined, which may result from the adoption of these proposed rules, forms, and conforming amendments.

The Commission requests comment on the estimated number of respondents that would be filing proposed Forms 1–N and 19b–7 and the costs and benefits associated with complying with proposed Rules 6a–4 and 19b–7. The Commission specifically requests comments on the recordkeeping costs and data maintenance associated with the proposals and whether these costs would be significant.

The Commission requests comment on the costs and benefits associated with the Commission's proposed amendments to Rules 6a–2, 6a–3, and 19b–4.

The Commission also requests comment on the costs and benefits of filing Form 19b–4 for respondents' proposed rule changes related to margin, except for changes that result in higher margin levels, and proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Exchange Act [163] and refiled under Section 19(b)(1) of the Exchange Act,[164] including the accuracy of the Commission's estimates for the additional time necessary to refile an abrogated filing on Form 19b–4.

The Commission generally requests comment on the competitive or anticompetitive effects of the rules on any market participants if the proposals are adopted as proposed. The Commission also requests comment on what impact the proposals, if adopted, would have on efficiency and capital formation. Commenters should provide analysis and empirical data to support their views on the costs and benefits associated with the proposal.

V. Consideration of the Burden on Competition, and Promotion of Efficiency, Competition and Capital Formation

Section 3(f) of the Exchange Act [165] requires the Commission, whenever it is engaged in rulemaking, and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Exchange Act [166] requires the Commission, when promulgating rules under the Exchange Act, to consider the impact any such rules would have on competition. Section 23(a)(2) of the Exchange Act further provides that the Commission may not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Commission has considered the proposed rules in light of the standards set forth in Sections 3(f) [167] and 23(a)(2) [168] of the Exchange Act. As noted above, the CFMA amended the Exchange Act and the CEA to allow trading of security futures products and to provide for joint regulation of the markets for such products by the Commission and the CFTC. Accordingly, the Commission preliminarily does not believe that the information required by the proposed rules and associated forms will create a competitive imbalance between the securities markets and the futures markets. These filings of proposed rule changes are specifically contemplated by the Exchange Act, as amended by the CFMA, and are designed to enable the Commission to discharge its regulatory responsibilities under the Exchange Act. The Commission does not anticipate that the requirement that these filings of proposed rule changes be made on the proposed forms pursuant to the proposed rules would place any unreasonable burden on competition. The Commission solicits comments on the impact of the proposed rules on competition, including competition between Security Futures Product Exchanges and Limited Purpose National Securities Associations, on the one hand, and all other SROs, on the other.

Although there are certain legal and clerical costs involved in responding to the collections of information set forth in the proposed rules, the Commission preliminarily believes that these burdens are relatively small. Commenters are invited to submit comments on the effect of the proposed rules on efficiency and capital formation.

VI. Regulatory Flexibility Act Certification

Section 3(a) of the Regulatory Flexibility Act [169] requires the Commission to undertake an initial regulatory flexibility analysis of the proposed rules on small entities unless the Chairman certifies that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities.[170] Proposed Rule 6a–4 and proposed Form 1–N would apply to Security Futures Product Exchanges that list and trade security futures products. Proposed Rule 19b–7 and proposed Form 19b–7 would be used by these national securities exchanges and Limited Purpose National Securities Associations that propose rule changes that relate to certain matters.[171] The Commission believes there could be seven Security Futures Product Exchanges and one Limited Purpose National Securities Association that would be subject to the proposed rules, none of which are small entities. The Acting Chairman has certified that the proposed rules, forms, and conforming amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. A copy of the certification is attached as Appendix A.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission also is requesting information regarding the potential impact of the proposed rule on the economy on an annual basis. Commentators should provide empirical data to support their views.

VII. Statutory Authority

The Commission is proposing the rules pursuant to its authority under Exchange Act Sections 3(b), 5, 6, 11, 11A, 17(a) and (b), 19, and 23(a).

List of Subjects

17 CFR Part 202

Administrative practice and procedure, Securities.

[163] 15 U.S.C. 78s(b)(7)(C).
[164] 15 U.S.C. 78s(b)(1).
[165] 15 U.S.C. 78c(f).
[166] 15 U.S.C. 78w(a)(2).
[167] 15 U.S.C. 78c(f).
[168] 15 U.S.C. 78w(a)(2).
[169] 5 U.S.C. 603(a).
[170] 5 U.S.C. 605(b).
[171] These matters are higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who affect transactions in security futures products, or rules effectuating the obligation of Security Futures Product Exchanges and Limited Purpose National Securities Associations to enforce the securities laws. *See* 15 U.S.C. 78s(b)(7)(A).

17 CFR Part 240

Brokers-dealers, Fraud, Issuers, Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

Text of the Proposed Rules

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 202—INFORMAL AND OTHER PROCEDURES

1. The authority citation for part 202 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 77t, 78d–1, 78u, 78w, 78*ll*(d), 79r, 79t, 77sss, 77uuu, 80a–37, 80a–41, 80b–9, and 80b–11, unless otherwise noted.

* * * * *

2. The authority citation following § 202.3 is removed.

3. Section 202.3 is amended by adding paragraph (b)(3) to read as follows:

§ 202.3 Processing of filings.

* * * * *

(b)(1) * * *

(3) Notice forms for registration as national securities exchanges pursuant to section 6(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(1)) filed with the Commission are routed to the Division of Market Regulation, which examines these applications to determine whether all necessary information has been supplied and whether all other required documents have been furnished in proper form. Defective applications may be returned with a request for correction or held until corrected before being accepted as a filing.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

4. The general authority citation for part 240 is revised to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

5. The authority citations following §§ 240.6a–2 and 240.6a–3 are removed.

6. Section 240.6a–2 is amended by revising paragraph (e) and adding paragraph (f) to read as follows:

§ 240.6a–2 Amendments to application.

* * * * *

(e) The Commission may exempt a national securities exchange, or an exchange exempted from such registration based on limited volume, from filing the amendment required by this section for any affiliate or subsidiary listed in Exhibit C of the exchange's application for registration, as amended, that either:

(1) Is listed in Exhibit C of the application for registration or notice of registration, as amended, of one or more other national securities exchanges; or

(2) Was an inactive subsidiary throughout the subsidiary's latest fiscal year. Any such exemption may be granted upon terms and conditions the Commission deems necessary or appropriate in the public interest or for the protection of investors, provided however, that at least one national securities exchange shall be required to file the amendments required by this section for an affiliate or subsidiary described in paragraph (e)(1) of this section.

(f) A national securities exchange registered pursuant to Section 6(g)(1) of the Act (15 U.S.C. 78f(g)(1)) shall be exempt from the requirements of this section.

7. Section 240.6a–3 is amended by adding paragraph (c) to read as follows:

§ 240.6a–3 Supplemental material to be filed by exchanges.

* * * * *

(c) A national securities exchange registered pursuant to section 6(g)(1) of the Act (15 U.S.C. 78f(g)(1)) shall be exempt from the requirements of this section.

8. Section 240.6a–4 is added to read as follow:

§ 240.6a–4 Notice of registration under section 6(g) of the Act, amendment to such notice, and supplemental materials to be filed by exchanges registered under Section 6(g) of the Act.

(a) *Notice of registration.* (1) An exchange may register as a national securities exchange solely for the purposes of trading security futures products by filing Form 1–N (§ 249.10 of this chapter) ("notice of registration"), in accordance with the instructions contained therein, if:

(i) The exchange is a board of trade, as that term in defined in the Commodity Exchange Act (7 U.S.C. 1a(2)), that:

(A) Has been designated a contract market by the Commodity Futures Trading Commission and such designation is not suspended by order of the Commodity Futures Trading Commission; or

(B) Is registered as a derivative transaction execution facility under section 5a of the Commodity Exchange Act (7 U.S.C. 7a) and such registration is not suspended by the Commodity Futures Trading Commission; and

(ii) Such exchange does not serve as a market place for transactions in securities other than:

(A) Security futures products; or

(B) Futures on exempted securities or on groups or indexes of securities or options thereon that have been authorized under section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2a).

(2) Promptly after the discovery that any information filed on Form 1–N (§ 249.10 of this chapter) was inaccurate when filed, the exchange shall file with the Commission an amendment correcting such inaccuracy.

(b) *Amendment to notice of registration.* (1) A national securities exchange registered pursuant to section 6(g)(1) of the Act (15 U.S.C. 78f(g)(1)) ("Security Futures Product Exchange") shall file an amendment to Form 1–N (§ 249.10 of this chapter), which shall set forth the nature and effective date of the action taken and shall provide any new information and correct any information rendered inaccurate, on Form 1–N (§ 249.10 of this chapter), within 10 days after any action is taken that renders inaccurate, or that causes to be incomplete, any of the following:

(i) Information filed on the Execution Page of Form 1–N (§ 249.10 of this chapter), or amendment thereto; or

(ii) Information filed as part of Exhibits C, E, F, or H to Form 1–N (§ 249.10 of this chapter), or any amendments thereto.

(2) On or before June 30, 2002 and by June 30 every year thereafter, a Security Futures Product Exchange shall file, as an amendment to Form 1–N (§ 249.10 of this chapter), Exhibits F, H, and I, which shall be up to date as of the latest date practicable within three months of the date the amendment is filed.

(3) On or before June 30, 2004, and by June 30 every three years thereafter, a Security Futures Product Exchange shall file, as an amendment to Form 1–N (§ 249.10 of this chapter), complete Exhibits A, B, C, and E. The information filed under this paragraph (b)(3) shall be current as of the latest practicable date, but shall, at a minimum, be up to date within three months as of the date the amendment is filed.

(4)(i) If a Security Futures Product Exchange, on an annual or more frequent basis, publishes, or cooperates in the publication of, any of the information required to be filed by paragraphs (b)(2) and (b)(3) of this

section, in lieu of filing such information, a Security Futures Product Exchange may:

(A) Identify the publication in which such information is available, the name, address, and telephone number of the person from whom such publication may be obtained, and the price of such publication; and

(B) Certify to the accuracy of such information as of its publication date.

(ii) If a Security Futures Product Exchange keeps the information required under paragraphs (b)(2) and (b)(3) of this section up to date and makes it available to the Commission and the public upon request, in lieu of filing such information, a Security Futures Product Exchange may certify that the information is kept up to date and is available to the Commission and the public upon request.

(iii) If the information required to be filed under paragraphs (b)(2) and (b)(3) of this section is available continuously on an Internet web site controlled by a Security Futures Product Exchange, in lieu of filing such information with the Commission, such Security Futures Product Exchange may:

(A) Indicate the location of the Internet web site where such information may be found; and

(B) Certify that the information available at such location is accurate as of its date.

(5) The Commission may exempt a Security Futures Product Exchange from filing the amendment required by this section for any affiliate or subsidiary listed in Exhibit C to Form 1–N (§ 249.10 of this chapter), as amended, that either:

(i) Is listed in Exhibit C to Form 1 (§ 249.1 of this chapter) or to Form 1–N (§ 249.10 of this chapter), as amended, of one or more other national securities exchanges; or

(ii) Was an inactive subsidiary throughout the subsidiary's latest fiscal year. Any such exemption may be granted upon terms and conditions the Commission deems necessary or appropriate in the public interest or for the protection of investors, provided however, that at least one national securities exchange shall be required to file the amendments required by this section for an affiliate or subsidiary described in paragraph (b)(5)(i) of this section.

(6) If such Security Futures Product Exchange has filed documents with the Commodity Futures Trading Commission, to the extent that such documents contain information satisfying the Commission's informational requirements, copies of such documents may be filed with the Commission in lieu of the required written notice.

(c) *Supplemental material to be filed by Security Futures Product Exchanges.* (1)(i) A national securities exchange registered pursuant to section 6(g)(1) of the Act (15 U.S.C. 78f(g)(1)) shall file with the Commission any material related to the trading of security futures products (including notices, circulars, bulletins, lists, and periodicals) issued or made generally available to members of, or participants or subscribers to, the exchange. Such material shall be filed with the Commission within ten days after issuing or making such material available to members, participants or subscribers.

(ii) If the information required to be filed under paragraph (c)(1)(i) of this section is available continuously on an Internet web site controlled by an exchange, in lieu of filing such information with the Commission, such exchange may:

(A) Indicate the location of the Internet web site where such information may be found; and

(B) Certify that the information available at such location is accurate as of its date.

(2) Within fifteen days after the end of each calendar month, a national securities exchange registered pursuant to section 6(g)(1) of the Act (15 U.S.C. 78f(g)(1)) shall file a report concerning the security futures products traded on such exchange during the calendar month. Such report shall set forth:

(i) The number of contracts of sale for future delivery of a single security and the number of shares and type of security underlying such contracts; and

(ii) The number of contracts of sale for future delivery of a narrow-based security index and the type of index underlying such contracts.

9. Section 240.19b–4 is amended by revising paragraph (a) to read as follows:

§ 240.19b–4 Filing with respect to proposed rule changes by self-regulatory organizations.

(a) Filings with respect to proposed rule changes by a self-regulatory organization, except filings with respect to proposed rule changes by self-regulatory organizations submitted pursuant to section 19(b)(7)(A) of the Act (15 U.S.C. 78s(b)(7)(A)), shall be made on Form 19b–4 (17 CFR 249.819).

* * * * *

10. Section 240.19b–7 is added to read as follows:

§ 240.19b–7 Filings with respect to proposed rule changes submitted pursuant to section 19(b)(7) of the Act.

(a) Filings with respect to proposed rule changes required to be submitted pursuant to section 19(b)(7)(A) of the Act (15 U.S.C. 78s(b)(7)(A)), shall be made on Form 19b–7 (17 CFR 249.822). The Commission will promptly publish a notice of filing of such proposed rule change.

(b) A proposed rule change will not be deemed filed on the date it is received by the Commission unless:

(1) A completed Form 19b–7 (17 CFR 249.822) is submitted; and

(2) In order to elicit meaningful comment, it is accompanied by:

(i) A clear and accurate statement of the basis and purpose of such rule change, including the impact on competition or efficiency, if any; and

(ii) A summary of any written comments (including e-mail) received by the self-regulatory organization on the proposed rule change.

(c) The effectiveness of a proposed rule change pursuant to section 19(b)(7) of the Act (15 U.S.C. 78s(b)(7)) does not create an inference of whether such proposed rule change is in the public interest, including whether it has an impact on competition.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

11. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

12. Section 249.10 and Form 1–N are added to read as follows:

Note: Form 1–N is attached as Appendix B to this document. Form 1–N will not appear in the Code of Federal Regulations.

§ 249.10 Form 1–N for notice registration as a national securities exchange.

This form shall be used for notice, and amendments to the notice, to permit an exchange to register as a national securities exchange solely for the purposes of trading security futures products pursuant to section 6(g) of the Act (15 U.S.C. 78f(g)).

13. Section 249.819 is revised to read as follows:

§ 249.819 Form 19b–4, for filings with respect to proposed rule changes by all self-regulatory organizations, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934.

This form shall be used by all self-regulatory organizations, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)), to file proposed rule changes with the Commission pursuant to section 19(b)(1) of that Act (15 U.S.C. 78s(b)(1)) and Rule 19b–4 (17 CFR 240.19b–4) thereunder.

14. Form 19b–4 (referenced in § 249.819) is amended by:

a. In General Instruction A, "Use of the Form," revise the first sentence;

b. In General Instruction C, "Documents Comprising the Completed Form," revise the last sentence;

c. In General Instruction E, "Completion of Action by the Self-Regulatory Organization on the Proposed Rule Change," revise the last two sentences;

d. In General Instruction F, "Signature and Filing of Completed Form," revise the first sentence;

e. In Information to Be Included in the Completed Form, item 3 "Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change," revise the second and third sentences of the introductory text and paragraph (b);

f. In Information to Be Included in the Completed Form revise item 6, "Extension of Time Period for Commission Action;"

g. In Information to Be Included in the Completed Form, item 7, "Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)," revise the title and paragraph (d); and

h. In Exhibit 1, Information to Be Included in the Completed Notice, add two undesignated paragraphs to the end of Item III, "Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action."

The revisions and additions read as follows:

Note: Form 19b–4 and these amendments do not appear in the Code of Federal Regulations.

Form 19b–4

* * * * *

General Instructions

A. Use of the Form

This form shall be used for filings of proposed rule changes by all self-regulatory organizations pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act") except filings with respect to proposed rule changes by self-regulatory organizations submitted pursuant to Section 19(b)(7)(A) of the Act.* * *

* * * * *

C. Documents Comprising the Completed Form

* * * Each filing shall be marked on the facing sheet with the initials of the self-regulatory organization, the four-digit year, and the number of the filing for the year.

* * * * *

E. Completion of Action by the Self-Regulatory Organization on the Proposed Rule Change

* * * Nevertheless, proposed rule changes (other than proposed rule changes that are to take, or to be put into, effect pursuant to Section 19(b)(3) of the Act) may be initially filed before the completion of all such action if the self-regulatory organization consents, under Item 6 of this form, to an extension of the period of time specified in Section 19(b)(2) or Section 19(b)(7)(D) of the Act until at least thirty-five days after the self-regulatory organization has filed an appropriate amendment setting forth the taking of all such action. If a proposed rule change to be filed for review under Section 19(b)(2) or Section 19(b)(7)(D) of the Act is in preliminary form, the self-regulatory organization may elect to file initially Exhibit 1 setting forth a description of the subjects and issues expected to be involved.

F. Signature and Filing of the Completed Form

Nine copies of Form 19b–4, nine copies of Exhibit 1, four copies of Exhibits 2 and 3, and two copies of Exhibit 4 shall be filed with, in the case of filings by securities exchanges, the Assistant Director for Derivatives and Exchange Oversight; in the case of filings by securities associations or the Municipal Securities Rulemaking Board, the Assistant Director for NMS and OTC; and in the case of filings by clearing agencies, the Assistant Director for Securities Processing, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001; in the case of filings by securities exchanges registered pursuant to Section 6(g)(1) of the Act and national securities associations registered pursuant to Section 15A(k) of the Act, the Assistant Director for Security Futures Products, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1003.* * *

* * * * *

Information To Be Included in the Completed Form

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

* * * With respect to proposed rule changes filed pursuant to Section 19(b)(1) of the Act, except for proposed rule changes that have been abrogated pursuant to Section 19(b)(7)(C) of the Act, the statement should be sufficiently detailed and specific to support a finding under Section 19(b)(2) of the Act that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the self-regulatory organization. With respect to proposed rule changes filed pursuant to Section 19(b)(1) of the Act that have been abrogated pursuant to Section 19(b)(7)(C) of the Act, the statement should be sufficiently detailed and specific to support a finding under Section 19(b)(7)(D) of the Act that the proposed rule change does not unduly burden competition or efficiency, does not conflict with the securities laws, and is not inconsistent with the public interest or the protection of investors.* * *

* * * * *

(b) With respect to proposed rule changes filed pursuant to both Sections 19(b)(1) and 19(b)(2) of the Act, explain why the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the self-regulatory organization. A mere assertion that the proposed rule change is consistent with those requirements is not sufficient. With respect to proposed rule changes filed pursuant Section 19(b)(1) of the Act that have been abrogated pursuant to Section 19(b)(7)(C) of the Act, explain why the proposed rule change does not unduly burden competition or efficiency, does not conflict with the securities laws, and is not inconsistent with the public interest and the protection of investors, in accordance with Section 19(b)(7)(D) of the Act. A mere assertion that the proposed rule change satisfies these requirements is not sufficient. In the case of a registered clearing agency, also explain how the proposed rule change will be implemented consistently with the safeguarding of securities and funds in its custody or control or for which it is responsible. Certain limitations that the Act imposes on self-regulatory organizations are summarized in the notes that follow.

* * * * *

6. Extension of Time for Commission Action

State whether the self-regulatory organization consents to an extension of the time period specified in Section 19(b)(2) or Section 19(b)(7)(D) of the Act and the duration of the extension, if any, to which the self-regulatory organization consents.

Note: The self-regulatory organization may elect to consent to an extension of the time period specified in Section 19(b)(2) or Section 19(b)(7)(D) of the Act until it shall file an amendment which specifically states that the time period specified in Section 19(b)(2) or Section 19(b)(7)(D) of the Act shall begin to run on the date of filing such amendment.

* * * * *

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

* * * * *

(d) If accelerated effectiveness pursuant to Section 19(b)(2) or Section 19(b)(7)(D) of the Act is requested, provide a statement explaining why there is good cause for the Commission to accelerate effectiveness.

* * * * *

Exhibit 1

* * * * *

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

* * * * *

(If the proposed rule change is to be considered by the Commission pursuant to Section 19(b)(7)(D) of the Act, the following paragraph should be used.)

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) After consultation with the Commodity Futures Trading Commission, institute proceedings to determine whether the proposed rule change should be disapproved.

* * * * *

15. Section 249.822 and Form 19b–7 are added to read as follows:

Note: Form 19b–7 is attached as Appendix C to this document. Form 19b–7 will not appear in the Code of Federal Regulations.

§ 249.822 Form 19b–7, for filings with respect to proposed rule changes by all self-regulatory organizations, pursuant to section 19(b)(7)(A) of the Securities Exchange Act of 1934.

This form shall be used by all self-regulatory organizations, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)), to file proposed rule changes with the Commission pursuant to section 19(b)(7)(A) of that Act (15 U.S.C. 78s(b)(7)(A)) and Rule 19b–4 (17 CFR 240.19b–4) thereunder.

By the Commission.

Dated: May 8, 2001.

Margaret H. McFarland,

Deputy Secretary.

Appendix A

Note: Appendix A to the preamble will not appear in the Code of Federal Regulations.

Regulatory Flexibility Act Certification

I, Laura S. Unger, Acting Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. § 605(b) that proposed Rule 6a–4 and Form 1–N, conforming amendments to Rules 6a–2 and 6a–3 under the Securities Exchange Act of 1934 ("Exchange Act"), and Rule 202.3 of the Securities and Exchange Commission's procedural rules, which would provide for the notice registration of designated contract markets and derivative transaction execution facilities as national securities exchanges ("Security Futures Product Exchanges") to list and trade futures on individual stocks and narrow-based stock indexes, would not have a significant economic impact on a substantial number of small entities. Proposed Rule 19b–7, Form 19b–7, and conforming amendments to Rule 19b–4 and Form 19b–4 under the Exchange Act, which propose procedures for the filing of proposed rule changes, likely would apply to seven Security Futures Product Exchanges and one limited purpose national securities association registered pursuant to Section 15A(k) of the Exchange Act, none of which is a small entity for the purpose of the Regulatory Flexibility Act. Accordingly, the proposed rules, forms, and conforming amendments, if adopted, would not have a significant impact on a substantial number of small entities.

Dated: May 8, 2001.

Laura S. Unger,

Acting Chairman.

BILLING CODE 8010–01–P

Appendix B

Note: Appendix B to the preamble will not appear in the Code of Federal Regulations.

Form 1-N

OMB APPROVAL
OMB Number:
Expires:
Estimated Average burden hours per form:

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM AND AMENDMENTS FOR NOTICE OF REGISTRATION AS A NATIONAL SECURITIES EXCHANGE FOR THE SOLE PURPOSE OF TRADING SECURITY FUTURES PRODUCTS PURSUANT TO SECTION 6(g) OF THE EXCHANGE ACT

FORM 1-N INSTRUCTIONS

A. GENERAL INSTRUCTIONS

1. Form 1-N is the form for notice of registration as a national securities exchange for the sole purpose of trading security futures products ("Security Futures Product Exchange") pursuant to Section 6(g) of the Securities Exchange Act of 1934 ("Exchange Act").

2. **UPDATING** - A Security Futures Product Exchange must file amendments to Form 1-N in accordance with Exchange Act Rule 6a-4.

3. **CONTACT EMPLOYEE** - The individual listed on the Execution Page (Page 1) of Form 1-N as the contact employee must be authorized to receive all contact information, communications, and mailings and is responsible for disseminating such information within the Security Futures Product Exchange's organization.

4. **FORMAT**
- Attach an Execution Page (Page 1) with original manual signatures.
- Please type all information.
- Use only the current version of Form 1-N or a reproduction.

5. If the information called for by any Exhibit is available in printed form, the printed material may be filed provided it does not exceed 8 1/2 X 11 inches in size.

6. If any Exhibit required is inapplicable, a statement to that effect shall be furnished in lieu of such Exhibit.

7. An exchange that is filing Form 1-N may not satisfy the requirements to provide certain information by means of an Internet web page. All materials must be filed with the Commission in paper.

8. **WHERE TO FILE AND NUMBER OF COPIES** - Submit one original and two copies of Form 1-N to: Securities and Exchange Commission, Division of Market Regulation, Office of Market Supervision, 450 Fifth Street, N.W., Washington, D.C. 20549-1005.

9. **PAPERWORK REDUCTION ACT DISCLOSURE**
- Form 1-N requires an exchange registering as a national securities exchange, for the sole purpose of trading security futures, pursuant to Section 6(g) of the Exchange Act to provide the Securities and Exchange Commission ("SEC" or "Commission") with certain information regarding its operation. If documents containing information satisfying the Commission's information requirements have been filed with the Commodity Futures Trading Commission, copies of such documents may be filed with the Commission. Security Futures Product Exchanges are also required to update certain information filed on Form 1-N on a periodic basis.
- An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. Sections 3(a)(1), 5, 6(a), and 23(a) of the Exchange Act authorize the Commission to collect information on this Form 1-N. *See* 15 U.S.C. §§78c(a)(1), 78e, 78f(a) and 78w(a).
- Form 1-N is designed to enable the Commission to determine whether a Security Futures Product Exchange is in compliance with the Exchange Act.
- It is estimated that an exchange will spend approximately 31 hours completing the initial application on Form 1-N pursuant to Rule 6a-4. It also is estimated that each Security Futures Product Exchange will spend approximately 15 hours to prepare each amendment to Form 1-N pursuant to Rule 6a-4.
- Any member of the public may direct to the Commission any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden.
- It is mandatory that an exchange seeking to operate as a national securities exchange for the sole purpose of trading security futures products file a Form 1-N with the Commission. It is also mandatory that Security Futures Product Exchanges file amendments to Form 1-N under Rule 6a-4.
- No assurance of confidentiality is given by the Commission with respect to the responses made in Form 1-N. The public has access to the information contained in Form 1-N.
- This collection of information has been reviewed by the Office of Management and Budget in accordance with the clearance requirements of 44 U.S.C. §3507. The applicable Privacy Act system of records is SEC-2 and the routine uses of the records are set forth at 40 FR 39255 (August 27, 1975) and 41 FR 5318 (February 5, 1976).

Form 1-N Page 1 Execution Page	U.S. SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 FORM AND AMENDMENTS FOR NOTICE OF REGISTRATION AS A NATIONAL SECURITIES EXCHANGE FOR THE SOLE PURPOSE OF TRADING SECURITY FUTURES PRODUCTS PURSUANT TO SECTION 6(g) OF THE EXCHANGE ACT	Date filed (MM/DD/YY):

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records or otherwise to comply with the provisions of law applying to the conduct of a national securities exchange would violate the federal securities laws and may result in disciplinary, administrative or criminal action.

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS

✱ APPLICATION ✱ AMENDMENT

1. State the name of the exchange: _____

2. Provide the Security Futures Product Exchange's primary street address (Do not use a P.O. Box):
_____
_____

3. Provide the exchange's mailing address (if different):
_____
_____

4. Provide the business telephone and facsimile number:
_____
(Telephone) (Facsimile)

5. Provide the name, title and telephone number of a contact employee:
_____
(Name) (Title) (Telephone Number)

6. Provide the name and address of counsel for the exchange:
_____
_____

7. Provide the date that the exchange's fiscal year ends: _____

8. Indicate legal status of the exchange: ☐ Corporation ☐ Sole Proprietorship ☐ Partnership ☐ Limited Liability Company ☐ Other (specify): _____

If other than a sole proprietor, indicate the date and place where the exchange obtained its legal status (e.g. state where incorporated, place where partnership agreement was filed or where the Security Futures Product Exchange entity was formed):
(a) Date (MM/DD/YY): _____ (b) State/Country of formation: _____
(c) Statute under which the exchange was organized: _____

EXECUTION:

The exchange consents that service of any civil action brought by or notice of any proceeding before the Securities and Exchange Commission in connection with the exchange's activities may be given by registered or certified mail or confirmed telegram to the exchange's contact employee at the main address, or mailing address if different, given in Items 2 and 3. The undersigned, being first duly sworn, deposes and says that he/she has executed this form on behalf of, and with the authority of, said exchange. The undersigned and the exchange represent that the information and statements contained herein, including exhibits, schedules, or other documents attached hereto, and other information filed herewith, all of which are made a part hereof, are current, true and complete.

Date: _____ (MM/DD/YY) _____ (Name of Exchange)

By: _____ (Signature) _____ (Printed Name and Title)

Subscribed and sworn before me this _____ day of _____ (Month), _____ (Year) by _____ (Notary Public)

My Commission expires _____ County of _____ State of _____

This page must always be completed in full with original, manual signature and notarization.
Affix notary stamp or seal where applicable.

DO NOT WRITE BELOW THIS LINE - FOR OFFICIAL USE ONLY

Form 1-N Page 2	U.S. SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 FORM AND AMENDMENTS FOR NOTICE OF REGISTRATION AS A NATIONAL SECURITIES EXCHANGE FOR THE SOLE PURPOSE OF TRADING SECURITY FUTURES PRODUCTS PURSUANT TO SECTION 6(g) OF THE EXCHANGE ACT	OFFICIAL USE	OFFICIAL USE ONLY

EXHIBITS

File all Exhibits with: a form for notice of registration as a national securities exchange for the sole purpose of trading security futures products pursuant to Section 6(g) of the Exchange Act and Rule 6a-4, or amendments to such forms pursuant to Rule 6a-4. For each exhibit, include the name of the filing exchange, the date upon which the exhibit was filed and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished in lieu of such Exhibit.

Exhibit A — As of the latest date practicable within one (1) month of the date Form 1-N is filed, a copy of the constitution, articles of incorporation or association with all subsequent amendments, and of existing by-laws or corresponding rules or instruments, whatever the name, of the filing exchange.

Exhibit B — As of the latest date practicable within one (1) month of the date Form 1-N is filed, a copy of all written rulings, settled practices having the effect of rules, and interpretations of the Governing Board or other committee of the exchange in respect of any provisions of the constitution, by-laws, rules, or trading practices of the filing exchange which are not included in Exhibit A.

Exhibit C — As of the latest date practicable within one (1) month of the date Form 1-N is filed, for each subsidiary or affiliate of the filing exchange that will be involved in the trading of security futures products, and for any entity with whom the exchange has a contractual or other agreement relating to the operation of an electronic trading system to be used to effect transactions in security futures products on the exchange ("System"), provide the following information:

1. Name and address of organization.
2. Form of organization (e.g., association, corporation, partnership, etc.).
3. Name of state and statute citation under which organized. Date of incorporation in present form.
4. Brief description of nature and extent of affiliation.
5. Brief description of business or functions. Description should include responsibilities with respect to operation of the System and/or execution, reporting, clearance (including the controls that will be implemented to ensure the safety of held funds or securities), or settlement of transactions in connection with operation of the System.
6. A copy of the constitution.
7. A copy of the articles of incorporation or association including all amendments.
8. A copy of existing by-laws or corresponding rules or instruments.
9. The name and title of the present officers, governors, or persons performing similar functions.
10. An indication of whether such business or organization ceased to be associated with the Security Futures Product Exchange during the previous year, and a brief statement of the reasons for termination of the association.

Exhibit D — Describe the manner of operation of the System involving trading of security futures products. This description should include the following:

1. The means of access to the System.
2. Procedures governing entry and display of quotations and orders in the System.
3. Procedures governing the execution, reporting, clearance and settlement of transactions in connection with the System.
4. Proposed fees.
5. Procedures for ensuring compliance with System usage guidelines.

Form 1-N Page 3	U.S. SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 FORM AND AMENDMENTS FOR NOTICE OF REGISTRATION AS A NATIONAL SECURITIES EXCHANGE FOR THE SOLE PURPOSE OF TRADING SECURITY FUTURES PRODUCTS PURSUANT TO SECTION 6(g) OF THE EXCHANGE ACT	OFFICIAL USE	OFFICIAL USE ONLY

6. The hours of operation of the System, and the date on which the exchange intends to commence operation of the System.
7. Attach a copy of the users' manual.

Exhibit E — A list of the officers, governors, or persons performing similar functions, who presently hold or have held their offices or positions during the previous year, indicating the following for each:

1. Name.
2. Title.
3. Dates of commencement and termination of term of office or position.
4. Type of business in which each is primarily engaged.

Exhibit F — This Exhibit is applicable only to filing exchanges that have one or more owners, shareholders, or partners that are not also members of the exchange and should be current as of the latest date practicable within 1 month of the date Form 1-N is filed. If the exchange is a corporation, please provide a list of each shareholder that directly owns 5% or more of a class of a voting security of the Security Futures Product Exchange. If the exchange is a partnership, please provide a list of all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of the partnership's capital. For each of the persons listed in the Exhibit F, please provide the following:

1. Full legal name.
2. Title or Status.
3. Date title or status was acquired.
4. Approximate ownership interest.
5. Whether the person has control, a term that is defined in the instructions to this Form.

Exhibit G — To the extent not covered in an exchange's rules submitted under Exhibit A, describe the Security Futures Product Exchange's criteria for membership. Describe conditions under which members may be subject to suspension or termination with regard to access to the Security Futures Product Exchange. Describe any procedures that will be involved in the suspension or termination of a member.

Exhibit H — As of the latest date practicable within 1 month of the date Form 1-N is filed, provide an alphabetical list of all members, participants, subscribers or other users, including the following information:

1. Name.
2. If member, participant, subscriber or other user is an individual, the name of the entity with which such individual is associated and the relationship of such individual to the entity (e.g. partner, officer, director, employee, etc.).
3. Brief description of the type of activities primarily engaged in by the member, participant, subscriber, or other user. A person shall be "primarily engaged" in an activity or function for purposes of this item when that activity or function is the one in which that person is engaged for the majority of their time. When more than one type of person at an entity engages in activities or functions, identify each type and state the number of members, participants, subscribers, or other users in each.
4. The class of membership, participation, subscription or other access.

Exhibit I — Provide a schedule of the security futures products proposed to be listed by the filing exchange, or for amendments to the Form 1-N the security futures products listed by the exchange, indicating for each the name of the issuer and a description of the security.

Appendix C

Note: Appendix C to the preamble will not appear in the Code of Federal Regulations.

OMB Approval
OMB Number:
Expires:
Estimated average burden
hours

FORM 19b-7

File No. SR.....

Amendment No.....

(If Applicable)*

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 19b-7

Proposed Rule Change by

.....

(Exact Name of Self-Regulatory Organization)*

Pursuant to Rule 19b-7 under the Securities Exchange Act of 1934

*(Do not include parenthetical material in completed form)

BILLING CODE 8010-01-C

General Instructions

When Should This Form Be Used?

This form must be used for filings of proposed rule changes by all self-regulatory organizations ("SROs") that are required to submit proposed rule changes pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"). National securities exchanges registered pursuant to Section 6(g), and national securities associations registered pursuant to Section 15A(k) of the Act, are SROs for purposes of this form.

Terms

Unless the context clearly indicates otherwise, terms used in this form have the meaning ascribed to them in the Act, as amended, and Rule 19b–7 thereunder.

Format Requirements

The Notice section of this Form 19b–7 must comply with the guidelines for publication in the **Federal Register** as well as any requirements for electronic filing as published by the Securities and Exchange Commission ("SEC" or "Commission") (if applicable). The Office of the Federal Register ("OFR") [http://www.nara.gov/fedreg] offers guidance on **Federal Register** publication requirements in the **Federal Register** *Document Drafting Handbook*, October 1998 Revision. For example, all references to the federal securities laws and the Commodity Exchange Act must include the corresponding cite to the United States Code in a footnote. All references to SEC and Commodity Futures Trading Commission ("CFTC") rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases and CFTC decisions, orders or letters must include the release number, release date, **Federal Register** cite, **Federal Register** date, and corresponding file number (*e.g.*, SR–[SRO]–xxxx–xx). Failure to provide this information will result in the proposed rule change being deemed not properly filed. In addition, the OFR's *Drafting Legal Documents* is a general style guide to clear and concise legal writing.

When Is a Proposed Rule Change Considered Filed?

To be considered filed, an SRO must include with its proposed rule change: a completed Form 19b–7 that includes the cover sheet, Notice, any written Certification submitted to the CFTC pursuant to Section 5c(c) of the Commodity Exchange Act ("CFTC Certification"), and applicable Exhibits. The proposed rule change will be considered filed on the date that the Commission receives it if the filing complies with all requirements of this form and the requirements of Rule 19b–7. Any filing that does not comply with all of the requirements of this form will not be considered filed with the Commission and will be returned to the SRO.

The SRO must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal. This information also is necessary for the Commission to determine whether abrogation of the proposal is appropriate because it unduly burdens competition or efficiency, conflicts with the securities laws or is inconsistent with the public interest and the protection of investors. It is the responsibility of the SRO to prepare Items I and II of the Notice.

What Other Information Must an SRO Include When Filing a Proposed Rule Change?

Exhibit 1

(a) Copies of all notices issued by the SRO soliciting comment on the proposed rule change.

(b) Copies of all written comments on the proposed rule change received by the SRO, even if the SRO did not solicit comments. All comments should be presented in alphabetical order, together with an alphabetical listing of the commenters.

(c) Any transcript of comments on the proposed rule change made at any public meeting or, if a transcript is not available, a summary of comments on the proposed rule change made at any meeting.

(d) Any correspondence or other communications reduced to writing (including comment letters and e-mails) concerning the proposed rule change prepared or received by the SRO. All correspondence or other communications should be presented in alphabetical order together with an alphabetical listing of the authors.

(e) If after the proposed rule change is filed but before the Commission takes final action on it, the SRO prepares or receives any correspondence or other communications reduced to writing (including comment letters and e-mails) concerning the proposed rule change, copies of the communications must be filed as previously instructed in paragraph (b) above.

Exhibit 2

Copies of any form, report, or questionnaire that the SRO proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

What To Do if There Is an Amendment to the Proposed Rule Change?

If information on the Form 19b–7, the CFTC Certification, the Notice, or any applicable Exhibit is or becomes inaccurate or incomplete before the proposed rule change becomes effective, the SRO must file correcting amendments. Nine copies of amendments, including one manually signed copy, must be provided. SROs may file amendments electronically in accordance with Commission instructions.

If an amendment alters the text of the proposed rule change as it appeared prior to the amendment, the amendment must mark the text, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of this requirement is to permit the staff to immediately identify any changes made to the previous version of the rule text.

Where and How To File

Nine copies of Form 19b–7 and all applicable exhibits must be filed with the Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549–1003. The chief executive officer, general counsel, or other officer or director of the SRO that exercises similar authority must manually sign at least one copy of the completed Form 19b–7. The form also may be filed electronically with the Commission in compliance with such guidelines as may be published by the Commission from time to time. Please note that any information filed by the SRO requesting confidential treatment must be filed on paper with the Commission.

BILLING CODE 8010-01-P

FORM 19b-7 CERTIFICATION

The chief executive officer, general counsel, or other officer or director of the SRO that exercises similar authority must review the Form 19b-7 (including the Notice and all required exhibits (See General Instructions)), complete the following certification, and sign the certification statement set forth below. The filing will not be considered filed with the Commission if the relevant items are not complete. This certification incorporates all statements made in the Notice.

Contact Information: Provide the name(s), telephone number(s) and e-mail address(es) of the person(s) on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change:

Name(s): _____

Telephone number(s): _____

E-mail address(es): _____

I, [name, title, self-regulatory organization] certify that (please check all applicable items below):

☐ The filing provides an accurate statement of the authority and statutory basis for the proposed rule change.

☐ The filing does not unduly burden competition or efficiency, conflict with securities laws, and is not inconsistent with the public interest and protection of investors.

☐ The Board of Directors or other governing authority of the self-regulatory organization required under its constitution, articles of incorporation, bylaws, rules, or corresponding instruments has approved the proposed rule change.

☐ The Notice provides a clear and accurate statement of the proposed rule change's impact on competition, including whether the proposed rule change would unduly burden competition.

☐ The proposed rule change is not inconsistent with the existing rules of the self-regulatory organization, and the Notice describes how the proposed rule change relates to these rules.

☐ If applicable, the Notice contains an accurate summary of all comments received (solicited or unsolicited).

☐ The Notice contains the text of the proposed rule change in the appropriate format required by the Commission.

☐ The Notice identifies prior Commission and CFTC orders or releases impacting the proposed rule change.

I understand that all statements made in the Notice are incorporated by reference into this Certification as representations of [name of self-regulatory organization] to the Commission. In addition, I have reviewed this Form 19b-7 Certification, the Notice, and any other applicable exhibits, and certify that they are accurate, complete, do not unduly burden competition or efficiency, conflict with the securities laws, are not inconsistent with the public interest and the protection of investors, and are consistent with other rules of [name of the self-regulatory organization].

.....

(Signature of chief executive officer, general counsel, other officer or director)[1]

---

[1] Print name and title.

BILLING CODE 8010-01-C

Form 19b–7 Notice

Securities and Exchange Commission (Release No. 34–_____; File No. SR–_____)

Self-Regulatory Organization; [Notice of Filing and Immediate Effectiveness of a] Proposed Rule Change by [Name of Self-Regulatory Organization] Relating to [Brief Description of Proposed Rule Change]

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–7 under the Act,[3] notice is hereby given that on [date[4]], the [name of self-regulatory organization] filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. [Self-regulatory organization] has filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC").

Section 19(b)(7)(B) provides that a proposed rule change may take effect upon the occurrence of one of three events. The self-regulatory organization should include the following sentence, if applicable.

Pursuant to section 19(b)(7)(B) of the Act,[5] the [self-regulatory organization] filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act on [date].

I. Self-Regulatory Organization's Description of the Proposed Rule Change

(Supply a brief statement of the terms of substance of the proposed rule change. If the proposed rule change is relatively brief, a separate statement need not be prepared, and the text of the proposed rule change may be inserted in lieu of the statement of the terms of substance. If the proposed rule change amends an existing rule, indicate the changes in the rule by brackets for words to be deleted and underscoring for words to be added.)

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

[Self-regulatory organization] has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. These statements are set forth in Sections A, B, and C below. Section D below sets forth the text of the proposed rule change.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Provide a statement of the purpose of the proposed rule. The statement must:

- *Describe the text of the proposed rule change in a sufficiently detailed and specific manner as to permit interested persons to submit comments;*
- *Describe the reasons for adopting the proposed rule change, any problems the proposed rule change is intended to address, the manner in which the proposed rule change will resolve those problems, the manner in which the proposed rule change will affect various market participants, and any significant problems known to the self-regulatory organization that persons affected are likely to have in complying with the proposed rule change;*
- *Describe how the proposed rule change relates to existing rules of the self-regulatory organization;*
- *Describe how the proposed rule change relates to any applicable provisions of the federal securities laws and the rules and regulations thereunder;*
- *Identify rules of the self-regulatory organization and provisions of the federal securities laws that the self-regulatory organization reasonably expects the proposed rule change to affect and describe the anticipated effect of the proposed rule change on each applicable provision of the federal securities laws and applicable rules of the self-regulatory organization; and*
- *Set forth the file numbers and the Commission Release number, the* **Federal Register** *citation, and other identifying information for prior filings relating to the affected rule and disclose any prior CFTC order or release impacting the proposed rule change.*

2. Statutory Basis

- Provide a statement of the proposed rule change's basis under the Act and the rules and regulations under the Act applicable to the self-regulatory organization.

B. Self-Regulatory Organization's Statement on Burden on Competition

The information required by this section must be sufficiently detailed and specific to support the premise that the proposed rule change does not unduly burden competition. In responding to this section, the self-regulatory organization must:

- *State whether the proposed rule change will impose or relieve any burden on, or promote, competition;*
- *Specify the particular categories of persons and kinds of businesses that will be burdened and the ways in which the proposed rule change will affect them;*
- *Set forth and respond in detail to written comments addressing significant impacts or burdens on competition; and*
- *Explain why any burden on competition is not undue; or, if the self-regulatory organization does not believe that the burden on competition is significant, explain why.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

State whether or not comments were solicited or received. Summarize all comments received (solicited or unsolicited) and respond in detail to any significant issues raised about the proposed rule change.

If an issue is summarized and responded to in detail elsewhere in this notice, that response need not be duplicated if an appropriate cross-reference is made to the place where the response can be found.

D. Text of the Proposed Rule Change

Insert text of the proposed rule change, with deletions in brackets and additions underlined. If the self-regulatory organization is amending only part of the text of a lengthy rule, it may file only those portions of the text being amended if the filing is clearly understandable on its face.

[2] 15 U.S.C. 78s(b)(7).

[3] 17 CFR 240.19b–7.

[4] To be completed by the Commission. This date will be the date on which the Commission receives the proposed rule change filing if the filing complies with all requirements of this form. *See* General Instructions.

[5] 15 U.S.C. 78s(b)(7)(B).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The self-regulatory organization shall include the following, if applicable:

The proposed rule change has become effective on [insert date of filing of written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act].

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exhange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov*. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of these filings will also be available for inspection and copying at the principal office of the [name of self-regulatory organization]. Electronically submitted comments will be posted on the Commission's Internet website (http://www.sec.gov). All submissions should refer to File No. [insert file number] and should be submitted by [insert date 21 days from date of publication in the **Federal Register**[6].

This Notice was prepared by the [insert name of self-regulatory organization.] The Commission has not reviewed the substance of the proposed rule change prior to publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

[Insert name of Secretary],

Secretary.

[FR Doc. 01–12131 Filed 5–14–01; 8:45 am]

BILLING CODE 8010–01–P

[6] To be completed by the **Federal Register**.

[7] 17 CFR 200.30–3(a)(12).

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Federal Register

Tuesday,
May 15, 2001

Part IX

Environmental Protection Agency

40 CFR Part 70
Revision to Interim Approval Requirements; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–6960–6]

Revision to Interim Approval Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends EPA's regulations governing the interim approval of State and local operating permits programs. This action removes the provisions that allow the Agency to extend expiration dates of interim approvals beyond 2 years from the date the interim approval is originally granted.

DATES: The regulatory amendments announced herein take effect on June 14, 2001.

ADDRESSES: Supporting material used in developing the proposal and final regulatory revisions is contained in Docket Number A–93–50. This docket is available for public inspection and copying between 8:30 a.m. and 5:30 p.m., Monday through Friday. The address of the Air Docket is: Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The Docket is located in Room M–1500 of Waterside Mall (ground floor). The telephone number for the EPA Air Docket is (202) 260–7548. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Roger Powell, Mail Drop 12, United States Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (telephone 919–541–5331, e-mail: powell.roger@epa.gov).

SUPPLEMENTARY INFORMATION:

I. Background

If an operating permits program administered by a State or local permitting authority under title V of the Clean Air Act (Act) does not fully meet, but does "substantially [meet]," the requirements of part 70, EPA may grant that program "interim approval" (see section 70.4(d)(1)). Permits issued under an interim approval are fully effective and expire at the end of their fixed term, unless renewed under a part 70 program (see section 70.4(d)(2)). To obtain full approval, a permitting authority must submit to EPA program revisions correcting all deficiencies that caused the operating permits program to receive interim instead of full approval as identified by EPA in the notice granting interim approval. Such submittal must be made no later than 6 months prior to the expiration of the interim approval (see section 70.4(f)(2)). Originally, 99 State and local permitting programs were granted interim approval. For 15 of the original interim approved programs, permitting authorities have corrected the deficiencies identified in their interim approvals, and we have granted all of these programs full approval (see part 70, Appendix A).

On August 29, 1994 (59 FR 44460), and August 31, 1995 (60 FR 45530), we proposed revisions to our part 70 operating permits program regulations. Primarily, the proposals addressed changes to the system for revising permits, but a number of other proposed changes were also included. The preamble to the August 31, 1995, proposal noted the concern of many permitting authorities over having to revise their operating permits programs twice; once to correct interim approval deficiencies, and again to address the revisions to part 70. In the August 1995 preamble, we proposed that States with interim approval "* * * should be allowed to delay the submittal of any program revisions to address program deficiencies previously listed in their notice of interim approval until the deadline to submit other changes required by the proposed revisions to part 70" (60 FR 45552).

II. Extension of Interim Approval Expiration Dates

On October 31, 1996 (61 FR 56368), we amended section 70.4(d)(2) to permit the Administrator to grant extensions to interim approval expiration dates to allow permitting authorities the opportunity to combine their program revisions correcting interim approval deficiencies with their program revisions that will conform to the part 70 revisions. In this rulemaking, we granted a 10-month extension to all interim approved programs for which the interim approval was granted prior to the date of issuance of a memorandum announcing our position on this issue (memorandum from Lydia N. Wegman to Regional Division Directors, "Extension of Interim Approvals of Operating Permits Programs," June 13, 1996).

We then extended the interim approval expiration dates for State and local permitting programs three more times, the last time being May 22, 2000 (65 FR 32035).

The Sierra Club and New York Public Interest Research Group (NYPIRG) challenged our May 22, 2000, final action in the Court of Appeals for the District of Columbia Circuit [*Sierra Club et al.* v. *EPA* (D.C. Cir. No. 00–1262)]. As a result of that litigation, we entered into a settlement agreement with the litigants that holds that case in abeyance, pending implementation of the settlement agreement.

III. Regulatory Revision

One of the terms of the settlement agreement is that we will remove from § 70.4(d)(2) the language added on October 31, 1996, that allows granting extensions to interim approval expiration dates. On December 20, 2000, we proposed to remove that language and restore § 70.4 to the original language that was in that section when part 70 was promulgated. This rulemaking makes that proposed revision final. This revision to § 70.4 is consistent with our intent not to extend further interim approvals of operating permits programs. This action has no effect on the current expiration date of December 1, 2001, for programs that received an extension of their interim approvals in the May 22, 2000, action.

IV. Public Comments

Only one comment letter was received on the proposal to amend § 70.4. That commenter was the litigant with which we entered into the settlement agreement. The commenter supported this action.

V. Administrative Requirements

A. Docket

The docket for this regulatory action is A–93–50. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this rulemaking. The principal purposes of the docket are: (1) to allow interested parties a means to identify and locate documents so that the parties can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials). The docket is available for public inspection at EPA's Air Docket which is listed under the **ADDRESSES** section of this notice.

B. Executive Order (Executive Order) 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether each regulatory action is "significant," and therefore subject to the Office of Management and Budget (OMB) review and the requirements of the Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

1. Have an annual effect on the economy of $100 million or more, adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligation of recipients thereof.
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

This action is not a "significant" regulatory action pursuant to Executive Order 12866 because it does not substantially change the existing part 70 requirements for States or sources—requirements which have already undergone OMB review. As such, this action is exempted from OMB review.

C. Regulatory Flexibility Act Compliance

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities. In developing the original part 70 regulations, the Agency determined that the regulations would not have a significant economic impact on a substantial number of small entities. Similarly, the same conclusion was reached in an initial regulatory flexibility analysis performed in support of the proposed part 70 revisions (a subset of which constitutes the action in this rulemaking). This action does not substantially alter the part 70 regulations as they pertain to small entities and accordingly will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in part 70 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0243. The Information Collection Request (ICR) prepared for part 70 is not affected by the action in this rulemaking notice because the part 70 ICR determined burden on a nationwide basis, assuming all part 70 sources were included without regard to the approval status of individual programs. The action in this rulemaking notice does not alter the assumptions of the approved part 70 ICR used in determining the burden estimate. Furthermore, this action does not impose any additional requirements which would add to the information collection requirements for sources or permitting authorities.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the action in this rulemaking does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector, in any one year. Although the part 70 regulations governing State operating permit programs impose significant Federal mandates, this action does not amend the part 70 regulations in a way that significantly alters the expenditures resulting from these mandates. Therefore, the Agency concludes that it is not required by section 202 of the UMRA of 1995 to provide a written statement to accompany this regulatory action.

F. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

G. Applicability of Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1977), applies to any rule that EPA determines (1) is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

H. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Order to include regulations that have "substantial direct effects on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This rule change will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Order do not apply to this rule.

I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This final rule is related only to interim approvals of State or local operating permits programs, not Tribal operating permits programs. Thus, Executive Order 13175 does not apply to this rule.

J. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA, Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by one or more voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 9, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—STATE OPERATING PERMIT PROGRAMS

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Section 70.4 is amended by revising paragraph (d)(2) to read as follows:

§ 70.4 State program submittals and transition.

* * * * *

(d) * * *

(2) Interim approval shall expire on a date set by the Administrator (but not later than 2 years after such approval), and may not be renewed. Sources shall become subject to the program according to the schedule approved in the State program. Permits granted under an interim approval shall expire at the end of their fixed term, unless renewed under a part 70 program.

* * * * *

[FR Doc. 01–12207 Filed 5–14–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Tuesday,
May 15, 2001

Part X

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 2 and 37

Federal Acquisition Regulation; Correction to FAR Case 1999–403, Definitions; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2 and 37

[FAC 97—22 Correction]

Federal Acquisition Regulation; Correction to FAR Case 1999—403, Definitions

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Corrections.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing corrections to the definition of "Performance—based contracting."

EFFECTIVE DATE: May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte at (202) 501–4755, General Services Administration, FAR Secretariat, Washington, DC 20405.

Corrections

In the document appearing in the **Federal Register** at 66 FR 2116, January 10, 2001:

1. On page 2124, in the bottom of the third column, revise the definition "Performance—based contracting" to read as follows:

2.101 [Corrected]

* * * * *

Performance-based contracting means structuring all aspects of an acquisition around the purpose of the work to be performed with the contract requirements set forth, in clear, specific, and objective terms with measurable outcomes as opposed to either the manner by which the work is to be performed or broad and imprecise statements of work.

* * * * *

37.101 [Corrected]

2. On page 2133, in instruction number 93., remove the words "'Performance-based contracting' and".

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–12214 Filed 5–14–01; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 15, 2001

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- Definitions
  - Correction; published 5-15-01

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  - Correction; published 5-15-01

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- Definitions
  - Correction; published 5-15-01

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- Cessna; published 4-10-01
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  - West Coast salmon; comments due by 5-23-01; published 5-8-01

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- Nebraska; comments due by 5-21-01; published 4-20-01

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LIST OF PUBLIC LAWS

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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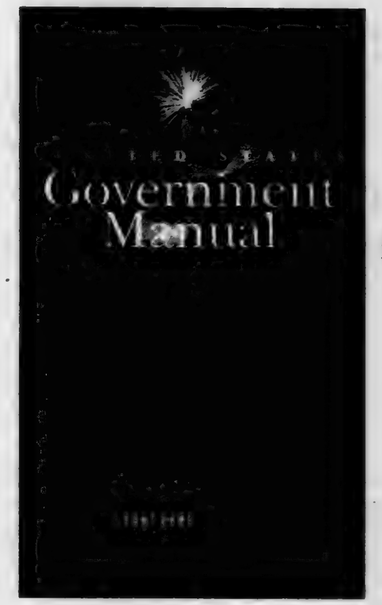

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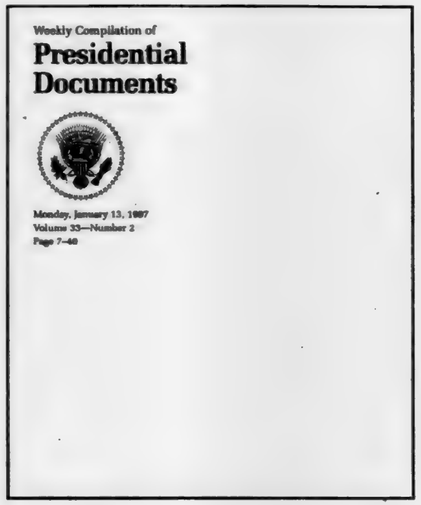

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Rules and Regulations

Federal Register
Vol. 66, No. 95
Wednesday, May 16, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 1942

RIN 0570–AA32

Rural Business Enterprise Grants and Television Demonstration Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Rural Business-Cooperative Service (RBS) is amending the Rural Business Enterprise Grant (RBEG) Program regulation by revising the definition of small and emerging private business enterprise. The current definition burdens the grantee by placing too many eligibility restrictions on the businesses to be assisted by the grantee. This amendment will ensure the grantee can assist small businesses in rural areas without eligibility restrictions for the use of technological innovations or commercialization of new products or processes.

DATES: Effective May 16, 2001. Comments must be received on or before July 16, 2001.

Applicability Date: The small business definition change will be retroactive starting August 11, 1988.

ADDRESSES: Written comments may be submitted, in duplicate, to the Regulations and Paperwork Management Branch, Attention Cheryl Thompson, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742. Comments may be submitted via the Internet by addressing them to *comments@rus.usda.gov* and must contain the word "small" in the subject. All written comments will be available for public inspection during normal working hours at 300 E Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Amy Cavanaugh, Rural Development Specialist, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave. SW., Washington, DC 20250, Telephone (202) 690–2516. The TTD number is (800) 877–8339 or (202) 708–9300.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be non-significant and has not been reviewed by the Office of Management and Budget.

Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.769, Rural Development Grants.

Paperwork Reduction Act

There are no reporting and recordkeeping requirements associated with this interim rule.

Intergovernmental Review

The RBEG Program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. RBS will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940–J, "Intergovernmental Review of Rural Development Programs and Activities," and in 7 CFR part 3015, subpart V.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Civil Justice Reform

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) retroactive effect will be given to this rule starting August 11, 1988; and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." RBS has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to state, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Background

This regulatory package is an Agency initiative to make the RBEG Program more effective at stimulating economic development by reducing certain eligibility requirements for small and emerging private business enterprise (small business) located in rural areas.

There has been much confusion on the definition of small business since it was first published in the **Federal Register**, August 11, 1988. At that time, the RBEG Program was called the Industrial Development Grant Program. The name of the program was changed in 1992 and still contained the small business definition. The RBEG Program has been administered by two separate agencies since inception of the program. The Farmers Home Administration (FmHA) originally administered the RBEG Program. In 1996, it was transferred to RBS. FmHA misinterpreted the definition of small business in its regulations as only needing to meet the first two parts of the definition in order to be eligible for assistance and funded grants based on this misinterpretation. RBS has recently determined the FmHA interpretation is not consistent with the actual regulatory language. Therefore, the Agency wants to correct the definition language and make it retroactive starting August 11, 1988, so the reversed definition will be applicable to existing grants. Retroactive application of the definition will validate existing grants, which might not otherwise have been eligible under a strict application of the regulatory criteria defining a small business. This will ultimately streamline the regulation and reduce the burden to the applicant in meeting the restricted definition.

Discussion of Interim Final Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, it would be contrary to the public interest to wait for public comment before implementing the revision to the small business definition. There is an immediate need to provide funds to the public to help alleviate the lack of money available for economic development in rural areas and to alleviate confusion caused by past misinterpretation and misapplication of regulatory requirements. Using the FmHA interpretation of the small business definition will allow more small businesses to stimulate the economy and provide jobs. Comments will be accepted for 60 days after publication of this interim final rule and will be considered in the development of the final rule.

List of Subjects in 7 CFR Part 1942

Business and industry, Grant programs—Housing and community development, Industrial park, Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 is revised to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1932, 7 U.S.C. 1989, and 16 U.S.C. 1005.

Subpart G—Rural Business Enterprise Grants and Television Demonstration Grants

2. Section 1942.304 is amended by revising the definition of *small and emerging private business enterprise* to read as follows:

§ 1942.304 Definitions.

* * * * *

Small and emerging private business enterprise. Any private business which will employ 50 or fewer new employees and has less than $1 million in projected gross revenues.

* * * * *

Dated: May 9, 2001.

Dawn R. Riley,

Acting Deputy Under Secretary.

[FR Doc. 01–12249 Filed 5–15–01; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–72–AD; Amendment 39–12230; AD 2001–10–04]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. AT–400, AT–500, and AT–800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 2000–14–51, which requires inspection of the wing lower spar cap for cracks on Air Tractor, Inc. (Air Tractor) Models AT–501, AT–502, and AT–502A airplanes, and modification or replacement of any cracked wing lower spar cap. This AD lowers the safe life for the wing lower spar cap on Air Tractor AT–400, AT–500, and AT–800 series airplanes. This AD is the result of numerous reports of cracks in the 3/8-inch bolthole of the wing lower spar cap on the affected airplanes. The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

DATES: This AD becomes effective on June 8, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of June 8, 2001.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before July 13, 2001.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–72–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374. You may look at this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–72–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Several reports of cracked wing lower spar caps on Air Tractor AT–400, AT–500, and AT–800 series airplanes have caused the manufacturer (Air Tractor) to recalculate the fatigue life of the wing lower spar cap on these airplanes. One report was an accident where the wing separated from the airplane during flight. The cracks are originating in the outboard 3/8-inch bolthole of the wing lower spar cap.

Air Tractor fatigue tested 24 wings and all had cracks in the area of the 3/8-inch bolthole. Follow-on field inspections revealed more cracks in this area.

What Are the Consequences if the Condition Is Not Corrected?

This condition could result in fatigue cracks in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

Is There Service Information That Applies to This Subject?

Air Tractor has issued the following:

—Snow Engineering Company Service Letter #197, Revised March 26, 2001, which applies to certain Models AT–501, AT–502, and AT–502A airplanes;

—Snow Engineering Company Service Letter #202, Revised March 26, 2001, which applies to certain Models AT–400, AT–401, AT–401B, AT–402, AT–402A, and AT–402B airplanes;

—Snow Engineering Company Service Letter #203, Revised March 26, 2001, which applies to certain Models AT–802 and AT–802A airplanes; and

—Snow Engineering Company Service Letter #205, Revised March 26, 2001, which applies to certain Models AT–501, AT–502, AT–502B, and AT–503A airplanes.

These service letters include procedures for inspecting and replacing/modifying the wing lower spar cap on the affected airplanes.

The FAA's Determination and an Explanation of the Provisions of This AD

What Has FAA Decided?

The FAA has reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Air Tractor AT–400, AT–500, and AT–800 series airplanes of the same type design;

—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Does This AD Require?

This AD lowers the safe life for the wing lower spar cap on Air Tractor AT–400, AT–500, and AT–800 series airplanes. This AD also allows for inspection, using eddy current methods, of the wing lower spar cap for airplanes that are at or over the lower safe life and parts are not available. Operation of the airplane is not allowed if cracks are found and inspections must be terminated when parts become available or after performing three repetitive inspections.

This AD supersedes AD 2000–14–51, Amendment 39–11837 (65 FR 46567, July 31, 2000), which currently requires inspection of the wing lower spar cap for cracks on Air Tractor Models AT–501, AT–502, and AT–502A airplanes, and modification or replacement of any cracked wing lower spar cap.

Will I Have the Opportunity to Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in possible separation of the wing from the airplane during flight, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, we invite your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There any Specific Portions of the AD I Should Pay Attention To?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

We are reviewing the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

How Can I Be Sure FAA Receives my Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2000–CE–72–AD." We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing AD 2000–14–51, Amendment 39–11837 (65 FR 46567, July 31, 2000), and by adding a new airworthiness directive (AD) to read as follows:

2001–10–04 Air Tractor, Inc.: Amendment 39–12230; Docket No. 2000–CE–72–AD; Supersedes AD 2000–14–51, Amendment 39–11837.

(a) *What airplanes are affected by this AD?* The following presents the airplanes (certificated in any category) that are affected by this AD, along with the new safe life limit (presented in hours time-in-service (TIS)) of the wing lower spar cap for all airplane models and serial numbers:

Model	Serial numbers	Safe life
AT–400	All serial numbers beginning with 0416	13,300 hours TIS.
AT–401	0662 through 0951	10,757 hours TIS.
AT–401B ..	0952 through 1014 and 1016 though 1020	6,948 hours TIS.
AT–401B ..	1015 and 1021 through 1124	7,777 hours TIS.
AT–402	0694 through 0951	7,440 hours TIS.
AT–402A ..	0738 through 0951	7,440 hours TIS.
AT–402A ..	0952 through 1020	4,589 hours TIS.
AT–402B ..	0966 through 1020	4,589 hours TIS.
AT–402A ..	1021 through 1124	5,268 hours TIS.
AT–402B ..	1021 through 1124	5,268 hours TIS.
AT–501	0002 through 0061	4,531 hours TIS.
AT–501	All serial numbers beginning with 0062	7,693 hours TIS.
AT–502	0003 through 0236	4,000 hours TIS.
AT–502A ..	0158 through 0618	3,000 hours TIS.
AT–502B ..	0187 through 0618	4,000 hours TIS.
AT–503A ..	All serial numbers beginning with 0067	4,000 hours TIS.
AT–802	0001 through 0059	4,132 hours TIS.
AT–802A ..	0003 through 0059	4,969 hours TIS.
AT–802	0060 through 0091	4,188 hours TIS.
AT–802	0092 through 0101 except those equipped with the factory-supplied part number 80540 computerized fire gate.	8,163 hours TIS.
AT–802A ..	0060 through 0091 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,531 hours TIS.
AT–802A ..	0092 through 0101 except those equipped with the factory-supplied part number 80540 computerized fire gate.	8,648 hours TIS.

Note 1: Piston powered aircraft that have been converted to turbine power should use the limits for corresponding serial number turbine-powered aircraft.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Action	Compliance time	Procedures
(1) Modify the applicable aircraft records as follows to show the reduced safe life for the wing lower spar cap (that is specified in the table in paragraph (a) of this AD): (i) For the affected Models AT–802 and AT–802A airplanes: update the Owners Manual, Section 6—Airworthiness Limitations, Life Limited Parts. (ii) For all affected airplanes other than the Models AT–802 and AT–802A airplanes: incorporate the following into the Aircraft Logbook "In accordance with AD **–**–**, the wing lower spar cap is life limited to _____ (insert the applicable safe life number from the chart in paragraph (a) of this AD). (iii) If, as of the time of the logbook entry requirements of paragraph (d)(1) of this AD, your airplane is over or within 10 hours of the safe life limit, an additional 10 hours TIS is allowed to accomplish the replacement/modification.	Accomplish the logbook entry within the next 10 hours TIS after June 8, 2001, (the effective date of this AD). An additional 10 hours TIS to accomplish the modification/replacement is allowed if you are already over the safe life limit.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the aircraft records as specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regualtions (14 CFR 43.9). Accomplish the actual replacements/modifications in accordance with Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable.
(2) If you have ordered parts from the factory when it is time to replace the wing lower spar cap (as required per the logbook safe life reduction in paragraph (d)(1) of this AD), but the parts are not available, inspect, using eddy current methods, the wing lower spar cap. These inspections are allowed until one of the following occurs, at which time the replacement/modification (required when the lower spar cap has reached its safe life) must be accomplished: (i) Crack(s) is/are found;	Prior to further flight after ordering the parts and therafter at intervals not to exceed 400 hours TIS until one of the criteria in paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this AD is met.	In accordance with the procedures in Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable.

Action	Compliance time	Procedures
(ii) Parts become available from the manufacturer; or (iii) Not more than three inspections or 1,200 hours TIS go by: the first inspection would have to be accomplished upon accumulating the safe life; the second inspection would have to be accomplished within 400 hours TIS after accumulating the safe life; the third inspection would have to be accomplished 400 hours TIS after the second inspection; and the replacement/modification would have to be accomplished within 400 hours TIS after the third inspection (maximum elapsed time would be 1,200 hours TIS).		

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector. The inspector may add comments before sending it to the Manager, Fort Worth ACO.

(3) Alternative methods of compliance approved for AD 2000–14–51 are not considered approved for this AD.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Rob Romero, Aerospace Engineer, FAA, Fort Worth ACO, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided that the following is adhered to:

(1) Only operate in day visual flight rules (VFR) only.

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

(h) *Are any service bulletins incorporated into this AD by reference?* Replacement actions required by this AD must be done in accordance with Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies of this document from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374. You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on June 8, 2001.

Issued in Kansas City, Missouri, on May 7, 2001.

Melvin D. Taylor,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11968 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–42–AD; Amendment 39–12229; AD 2001–10–03]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF34–1A, –3A, –3A1, –3A2, –3B, and –3B1 turbofan engines. This action requires a one-time inspection, and if necessary replacement of certain fan disks for electrical arc-out indications, and assigns a reduction in the life limit of certain fan disks. This amendment is prompted by a report of a crack that was found during a visual inspection as part of routine engine maintenance. The actions specified in this AD are intended to prevent rupture of the fan disk due to cracks that initiate at an electrical arc-out, which could result in an uncontained failure of the engine.

DATES: Effective May 31, 2001. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 31, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–42–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from GE Aircraft Engines, 1000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7148; fax 781–238–7199.

SUPPLEMENTARY INFORMATION: The FAA has received a report of a crack at one of the fan blade installation pin holes in a GE CF34–3A1 engine fan disk. The crack was found during a visual inspection that was being conducted as part of routine engine maintenance. Crack initiation sites, consisting of small zones of melted and resolidified metal,

have been discovered on fan disk surfaces. Three additional burned zones were observed adjacent to the crack site, but crack propagation at those sites did not occur because they were at lower stress locations. Metallurgical examination determined that these defects were a result of inadvertent contact by electrical probes used during an electrochemical etching procedure during manufacture. The defect is being referred to as electrical arc-out. These crack initiation sites may have occurred at fan disk surface locations accessible during part marking. Stress and life analyses conducted by the manufacturer show that if these sites occur at high-stress locations on disks, then crack propagation and rupture may occur before the part reaches its published low-cycle fatigue removal life. Also, some disks have manufacturing records that indicate blending, possibly of arc-outs, was performed at initial manufacture. This is referred to as a blended callout. Because arc-outs that may have occurred on these disks may have been blended away, these disks can not be reliably inspected for arc-out using the visual methods developed for other disks. Therefore, these disks must be removed from service. This condition, if not corrected, could result in rupture of the fan disk due to cracks that initiate at an electrical arc-out, which could result in an uncontained failure of the engine.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Aircraft Engines (GEAE) Alert Service Bulletin (ASB) CF34–BJ 72–A0088, Revision 1, dated October 30, 2000; and ASB CF34–AL 72–A0103, dated August 4, 2000. These ASB's provide procedures for inspections of certain disks for electrical arc-out indications, and if necessary, replacement of the disk with a serviceable disk.

Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other CF34–1A, –3A, –3A1, –3A2, –3B, and –3B1 turbofan engines of the same type design, this AD is being issued to prevent rupture of the fan disk due to cracks that initiate at an electrical arc-out. This AD requires an inspection of fan disks P/N's 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06 for electrical arc-out indications and, if necessary, replacement of the fan disk with a serviceable disk. This AD also requires replacement of certain fan disks with blended callouts that are listed by P/N and SN in this AD before achieving a new reduced life limit. The inspection and replacement must be done in accordance with the alert service bulletins described previously.

Differences Between the Manufacturer's Service Information and This AD

Although fan disk P/N 5922T01G02 is not specified by ASB CF34–BJ 72–A0088, Revision 1, dated October 30, 2000, fan disk P/N 5922T01G02 is subject to the requirements specified in this AD.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NE–42–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order No. 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–10–03 General Electric Company: Amendment 39–12229. Docket 2000–NE–42–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company (GE) CF34–1A, –3A, –3A1, –3A2, –3B, and –3B1 turbofan engines with fan disk part numbers (P/N's) 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06 installed. These engines are installed on but not limited to Bombardier, Inc. Canadair airplane models CL–600–2A12, -2B16, and -2B19.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent rupture of the fan disk due to cracks that initiate at an electrical arc-out, which could result in an uncontained failure of the engine, do the following:

Removal of Certain Fan Disks from Service

(a) On disk P/N's 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06, that are listed by P/N and serial number (SN) in the following Table 1 of this AD and that have less than 8,000 cycles-since-new (CSN) on the effective date of this AD, replace fan disk P/N's before accumulating 8,000 CSN:

TABLE 1. FAN DISKS THAT REQUIRE REMOVAL BASED ON BLENDED CALLOUTS

Disk part number	Disk serial number
6078T57G04	GEE09287
6078T00G01	GAT3860G
6078T57G02	GAT1924L
5922T01G04	GAT9599G
6078T57G04	GEE05831
6078T57G04	GEE06612
6078T57G04	GEE06618
6078T57G04	GEE06974
6078T57G04	GEE06980
6078T57G05	GEE143FY
6078T57G05	GEE1453G
6078T57G05	GEE14452
6078T57G05	GEE145NA
6078T57G04	GEE08086
6078T57G04	GEE09287
6078T57G04	GEE09337
6078T57G05	GEE12720
6078T57G05	GEE14214
6078T57G05	GEE142YT
6078T57G05	GEE146GT

(b) For disks with SN's listed in Table 1 of this AD that have 8,000 CSN or greater on the effective date of this AD, replace the disk within 30 days after the effective date of this AD.

Inspection of All Other Fan Disks

(c) Inspect all other fan disks, P/N's 5921T18G01, 5921T18G09, 5921T18G10, 5921T54G01, 5922T01G02, 5922T01G04, 5922T01G05, 6020T62G04, 6020T62G05, 6078T00G01, 6078T57G01, 6078T57G02, 6078T57G03, 6078T57G04, 6078T57G05, and 6078T57G06 in accordance with paragraphs 3.A.(1) through 3.E.(2) of the Accomplishment Instructions of Alert Service Bulletin (ASB) CF34–BJ 72–A0088, Revision 1, dated October 30, 2000 or paragraphs 3.A.(1) through 3.A.(2)(f) of the Accomplishment Instructions of ASB CF34–AL 72–A0103, dated August 4, 2000. Use the compliance times specified in the following Table 2:

TABLE 2. FAN DISK INSPECTION COMPLIANCE TIMES

Fan disk operating CSN	Inspect by
(1) Fewer than 8,000 CSN on the effective date of this AD	Before accumulating 8,000 CSN or by the next hot section inspection after the effective date of this AD, whichever occurs earlier.
(2) 8,000 CSN or greater on the effective date of this AD	Within 120 days after the effective date of this AD.

Definitions

(d) For the purposes of this AD, the following definitions apply:

(1) A serviceable fan disk is defined as a fan disk that has been inspected as specified in paragraph (c) of this AD and is not listed in Table 1 of this AD.

(2) Cycles-since-new for fan disk P/N's 5922T01G04 or 5922T01G05 is defined as total cycles accrued since new as P/N 6078T57G02 or 6078T57G03, added to total cycles accrued after modification from P/N 6078T57G02 or 6078T57G03.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Documents That Have Been Incorporated by Reference

(g) The actions specified in this AD must be done in accordance with the following GE alert service bulletins:

Document No.	Pages	Revision	Date
ASB CF34–BJ 72–A0088 Total pages: 15	All	1	October 30, 2000.
ASB CF34–AL 72–A0103 Total pages: 78	All	Original	August 4, 2000.

These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from GE Aircraft Engines, 1000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the

Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date of This AD

(h) This amendment becomes effective on May 31, 2001.

Issued in Burlington, Massachusetts, on May 7, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12006 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 92F–0396]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Alpha-Acetolactate Decarboxylase Enzyme Preparation

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of alpha-acetolactate decarboxylase (α-ALDC) enzyme preparation derived from *Bacillus subtilis*, modified by recombinant deoxyribonucleic acid (DNA) techniques to contain the gene coding for α-ALDC from *B. brevis*, for use as a processing aid to produce alcoholic malt beverages and distilled liquors. This action is in response to a petition filed by Novozymes North America, Inc. (formerly Novo Nordisk Bioindustrials, Inc.).

DATES: This rule is effective May 16, 2001. Submit written objections and requests for a hearing by June 15, 2001. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication in § 173.115(b)(3), effective as of May 16, 2001.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Rudaina H. Alrefai, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3034.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 30, 1992 (57 FR 56585), FDA announced that a food additive petition (FAP 2A4345) had been filed by Novo Nordisk Bioindustrials, Inc., later renamed Novozymes North America, Inc., 77 Perry Chapel Church Rd., P.O. Box 576, Franklinton, NC 27525. The petition proposed that the food additive regulations be amended to provide for the safe use of α-acetolactate decarboxylase (ALDC) derived from *B. subtilis* modified by recombinant DNA techniques to contain the gene coding for ALDC from *B. brevis* for use as a processing aid in the brewing and alcohol industries.

When FDA filed the petition in the **Federal Register** of November 30, 1992 (57 FR 56585), it contained an environmental assessment (EA). The notice of filing stated " * * * if the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation * * *." In the **Federal Register** of July 29, 1997 (62 FR 40570), FDA published a final rule on its National Environmental Policy Act policies and procedures, which became effective on August 28, 1997. In a letter dated January 4, 2001, the petitioner submitted a claim of categorical exclusion under 21 CFR 25.32(k). The agency has reviewed the claim of categorical exclusion and has concluded that it is warranted.

I. Evaluation of Safety of the Petitioned Use of the Additive

A. Introduction

The use of α-ALDC enzyme preparation from *B. subtilis* is to prevent the formation of diacetyl that causes unpleasant taste in beer and other alcoholic beverages. The enzyme α-ALDC is to be distinguished from the α-ALDC enzyme preparation, which contains α-ALDC as the principal active component in addition to other components derived from the production organism and fermentation media. This document will refer to the former as "α-ALDC" and the latter as "α-ALDC enzyme preparation." Diacetyl is normally formed from α-acetolactate during fermentation. Alpha-ALDC, which is the active component of the petitioned enzyme preparation, catalyzes the conversion of α-acetolactate directly to acetoin, thereby reducing the time needed for spontaneous degradation of diacetyl to acetoin.

B. Host Organism

The host organism, *B. subtilis*, for production of α-ALDC is widely distributed in nature and is commonly present in foods eaten by both humans and animals. It also has a history of safe use as a source of enzymes in food enzyme manufacturing industry prior to 1958. Thus, *B. subtilis* is considered to be a nonpathogenic microorganism.

C. Donor Organism

B. brevis is the microorganism used as the source of the genetic material for the α-ALDC enzyme that is the subject of FAP 2A4345. FDA reviewed the safety of the DNA that encodes the enzyme α-ALDC from *B. brevis* and the enzyme it produces (discussed below), because only that DNA is transferred to the host strain from the donor organism.

D. Production Organism

The petitioner provided information demonstrating that the plasmid carrying the gene for α-ALDC is stably integrated into the chromosome of *B. subtilis* production strain. The petitioner conducted a study to evaluate the pathogenicity of three *B. subtilis* strains. In this study, mice received an intraperitoneal injection with the *B. subtilis* host strain, *B. subtilis* production strain, and a *B. subtilis* strain capable of producing α-ALDC but not used as a source of the petitioned enzyme preparation. FDA reviewed this study as well as the scientific literature concerning potential pathogenicity of *B. subtilis* and did not identify any microbiological concern (Refs. 1, 2, and 3).

E. Enzyme Preparation

The α-ALDC enzyme preparation is manufactured by a submerged pure culture fermentation of a genetically engineered strain of *B. subtilis* carrying the *B. brevis* gene that encodes α-ALDC. The enzyme is secreted to the fermentation broth and processed by removing the cellular debris, followed by concentration and formulation. For certain applications, the α-ALDC enzyme preparation is stabilized by crosslinking with glutaraldehyde (referred to as d-ALDC).

The petitioner submitted several toxicological studies that address the safety of the petitioned α-ALDC and d-ALDC enzyme preparations. These include: A teratogenicity study in rats and genotoxicity studies, including tests for mutagenic activity in *Salmonella typhimurium* and mammalian cells, as well as tests for chromosome-damaging activity in human lymphocytes. FDA has reviewed these studies and concludes that the petitioned α-ALDC enzyme preparation does not raise any toxicity concerns at the expected level of consumption or have any mutagenic potential (Refs. 4 and 5).

F. Source of Impurities

Enzyme preparations used in food are usually not chemically pure, but contain cellular and processing material. The nature and amounts of these impurities in the finished enzyme preparation depend on the organism from which the enzyme preparation is produced (the production organism), the fermentation materials and methods used to grow the production organism, and the materials and methods used to generate the finished enzyme preparation. Thus, the question is whether the production organism or the manufacturing methods used to grow the production organism or to generate the finished enzyme preparation from recombinant *B. subtilis* will introduce impurities that raise concerns about the safety of the enzyme preparation.

One issue raised by the use of recombinant DNA techniques is the potential transfer of DNA encoding for extraneous proteins along with the gene of interest (i.e., α-ALDC), thereby contaminating the enzyme preparation. As a matter of current good manufacturing practice, manufacturers using recombinant DNA technology must ensure that they have not inadvertently cloned extraneous protein-encoding DNA along with the α-ALDC gene that may lead to contamination of the α-ALDC enzyme preparation. Such assurance can come from reviewing the details of the cloning steps, which include the origin and sequence of the DNA fragments used in the cloning, and full characterization of the final genetic constructs via techniques such as DNA sequencing. The petition contains information demonstrating that the petitioner evaluated the cloning process to ensure that the final cloning product, i.e., the DNA with the α-ALDC gene, used in the development of the recombinant *B. subtilis* was accurately constructed. The petitioner submitted evidence to demonstrate that it cloned a full-length copy of the α-ALDC gene from *B. brevis* into *B. subtilis*. The petitioner also described the multistep process for constructing the *B. subtilis* production strain. These steps involve the use of several plasmids (intermediate plasmids) that confer resistance to chloramphenicol and kanamycin, both of which are clinically useful antibiotics. Through various techniques, these plasmids are eliminated during the construction of the gene encoding α-ALDC. The petitioner tested the final enzyme preparation for the presence of the production strain or other microbial activity and for antibacterial activity and reported none present. Therefore, the agency concludes that the production strain is effectively removed by the enzyme purification procedure. Furthermore, the α-ALDC enzyme preparation conforms to the general and additional requirements for enzyme preparations in the *Food Chemicals Codex* (Ref. 6) and does not contain the production organism or antimicrobial activity.

FDA concludes that, when the α-ALDC enzyme preparation is manufactured in conformity with § 173.115, there is no basis for concern regarding the possibility that the α-ALDC enzyme preparation will be contaminated by the products of extraneous genetic material inserted along with the α-ALDC gene in *B. subtilis* (Ref. 1). Furthermore, FDA concludes, having considered the evidence concerning the production organism and the processing steps to derive the α-ALDC enzyme preparation, that: (1) *B. subtilis* containing α-ALDC gene from *B. brevis* is safe for use as a source of food-grade α-ALDC enzyme preparation, (2) impurities resulting from the use of *B. subtilis* containing α-ALDC gene from *B. brevis* in the production of α-ALDC enzyme preparation will not affect the safety of the α-ALDC enzyme preparation, and (3) processing aids and their impurities that are used to make the commercial α-ALDC enzyme preparation and that may remain in food processed with this enzyme preparation present no safety concerns (Refs. 5 and 7).

II. Conclusion

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of α-ALDC enzyme preparation from *B. subtilis* containing the α-ALDC gene from *B. brevis* is safe, (2) the additive will achieve its intended technical effect, and (3) the regulations in § 173.115 should be amended as set forth below in this document.

III. Inspection of Documents

In accordance with § 171.1 (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has determined under 21 CFR 25.32(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an EA nor an environmental impact statement is required.

V. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by June 15, 2001. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from W. Koch, FDA, to L. Kahl, FDA, September 23, 1993.

2. Memorandum from J. Madden, FDA, to the Biotechnology Policy Branch, FDA, August 29, 1995.

3. Memorandum from J. Madden, FDA, to the Biotechnology Policy Branch, FDA, October 20, 1995.
4. Memorandum from R. D. Benz, FDA, to K. C. Raffaele, FDA, July 20, 1995.
5. Memorandum from the Division of Health Effects Evaluation, FDA, to R. H. Alrefai, FDA, May 4, 1999.
6. *Food Chemicals Codex*, 1996, 4th ed., National Academy Press, Washington, DC, pp. 133–134.
7. Memorandum from the Division of Health Effects Evaluation, FDA, to R. H. Alrefai, FDA, August 20, 1999.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.115 is added to subpart B to read as follows:

§ 173.115 Alpha-acetolactate decarboxylase (α-ALDC) enzyme preparation derived from a recombinant Bacillus subtilis.

The food additive alpha-acetolactate decarboxylase (α-ALDC) enzyme preparation, may be safely used in accordance with the following conditions:

(a) The food additive is the enzyme preparation derived from a modified *Bacillus subtilis* strain that contains the gene coding for α-ALDC from *Bacillus brevis*.

(b)(1) The manufacturer produces the additive from a pure culture fermentation of a strain of *Bacillus subtilis* that is nonpathogenic and nontoxigenic in man or other animals.

(2) The manufacturer may stabilize the enzyme preparation with glutaraldehyde or with other suitable approved food additives or generally recognized as safe substances.

(3) The enzyme preparation must meet the general and additional requirements for enzyme preparations in the *Food Chemicals Codex*, 4th ed., 1996, pp. 133–134, which is incorporated by reference. The Director of the Office of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20055, or may be examined at the Center for Food Safety and Applied Nutrition, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) The additive is used in an amount not in excess of the minimum required to produce its intended effect as a processing aid in the production of alcoholic malt beverages and distilled liquors.

Dated: May 4, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12225 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Narasin, Nicarbazin, and Bambermycins

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Elanco Animal Health. The NADA provides for use of approved narasin/nicarbazin and bambermycins Type A medicated articles to make three-way combination Type C medicated feeds used for prevention of coccidiosis, increased rate of weight gain, and improved feed efficiency in broiler chickens.

DATES: This rule is effective May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed NADA 140-942 that provides for use of Maxiban® (36 grams per pound (g/lb) each of narasin and nicarbazin) and Flavomycin® (2, 4, or 10 g/lb of bambermycins activity) Type A medicated articles to make three-way combination Type C medicated feeds for use in broiler chickens. The combination Type C medicated feeds contain 27 to 45 g/ton narasin and 27 to 45 g/ton nicarbazin (in a fixed 1:1 ratio) and 1 to 2 g/ton bambermycins, and are used for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, and *E. mivati*, and for increased rate of weight gain and improved feed efficiency. The NADA is approved as of March 8, 2001, and the regulations are amended in 21 CFR 558.95 and 558.363 to reflect the approval. The basis of approval is discussed in the freedom of information summary

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.95 [Amended]

2. Section 558.95 *Bambermycins* is amended in paragraph (d)(5)(iv) by adding "nicarbazin or" following "with", and in paragraph (d)(5)(v) by removing "Nicarbazine" and adding in its place "Nicarbazin".

3. Section 558.363 is amended by adding paragraph (d)(1)(xii) to read as follows:

§ 558.363 Narasin.

* * * * *

(d) * * *

(1) * * *

(xii) *Amount per ton.* Narasin, 27 to 45 grams; nicarbazin, 27 to 45 grams; and bambermycins, 1 to 2 grams.

(A) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*, and for increased rate of weight gain and improved feed efficiency.

(B) *Limitations.* Feed continuously as the sole ration. Do not allow adult turkeys, horses, or other equines access to formulations containing narasin. Ingestion of narasin by these animals has been fatal. Do not feed to laying hens. Withdraw 5 days before slaughter. Narasin and nicarbazin as provided by 000986, bambermycins by 012799 in § 510.600(c) of this chapter.

* * * * *

Dated: April 23, 2001.

Linda Tollefson,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 01–12229 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 864 and 876

[Docket No. 01P–0087]

Gastroenterology-Urology Devices; Classification of Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying tissue culture media for human ex vivo tissue and cell culture processing applications into class II (special controls). The special control that will apply to this device is a guidance document entitled "Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers." The agency is taking this action in response to a petition submitted under the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Medical Device Amendments of 1976, the Safe Medical Devices Act of 1990, and the Food and Drug Administration Modernization Act of 1997. The agency is classifying these devices into class II (special controls) in order to provide a reasonable assurance of the safety and effectiveness of the devices.

DATES: This rule is effective May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Carolyn Y. Neuland, Center for Devices and Radiological Health (HFZ–473), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1220.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976, generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the FDA regulations.

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification.

In accordance with section 513(f)(1) of the act, FDA issued an order on December 5, 2000, classifying the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications in class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device that was subsequently reclassified into class I or class II.

On December 19, 2000, FDA filed a petition submitted by Life Technologies, Inc., requesting classification of the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications into class II under section 513(f)(2) of the act. After review of the information submitted in the petition, FDA determined that the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications can be classified in class II with the establishment of special controls. The solutions are indicated for use in human ex vivo tissue and cell culture processing applications. FDA believes that class II special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device for this intended use.

In addition to the general controls of the act, the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications is subject to a special control guidance document entitled "Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers."

Section 510(m) of the act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of this type of device for this intended use and, therefore, the device is not exempt from the premarket notification requirements. FDA review of bench data and labeling will ensure that minimum levels of performance for both safety and effectiveness are addressed before marketing clearance. Thus, persons who intend to market this device for this intended use must submit to FDA a premarket notification submission containing information on the device before marketing the device.

On February 16, 2001, FDA issued an order to the petitioner classifying the Dulbecco's Modified Eagle medium for human ex vivo tissue and cell culture processing applications, and substantially equivalent devices of this generic type, into class II under the generic name, tissue culture media for

human ex vivo tissue and cell culture processing applications. FDA identifies this generic type of device as tissue culture media for human ex vivo tissue and cell culture processing applications consisting of cell and tissue culture media and components that are composed of chemically defined components (e.g., amino acids, vitamins, inorganic salts) that are essential for the ex vivo development, survival, and maintenance of tissues and cells of human origin. The solutions are indicated for use in human ex vivo tissue and cell culture processing applications. This order also identified as a special control applicable to this device a guidance document entitled "Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers."

FDA is codifying this device by adding § 876.5885. FDA is also amending 21 CFR 864.2220 *Synthetic cell and tissue culture media and components*, to clarify that the device described in that section does not include tissue culture media for human ex vivo tissue and cell culture processing applications.

II. Electronic Access

In order to receive the document entitled, "Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers" via your fax machine, call the CDRH Facts-on-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number 1325. Then follow the remaining voice prompts to complete your request. Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the document entitled "Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Tissue and Cell Culture Processing Applications; Final Guidance for Industry and FDA Reviewers," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at www.fda.gov/cdrh.

III. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the final rule is not a significant regulatory action as defined by the Executive order and so it is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. FDA knows of only one manufacturer of this type of device. Classification of these devices in class II will relieve this manufacturer of the device of the cost of complying with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e) and may permit small potential competitors to enter the market place by lowering their costs. The agency, therefore, certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for the final rule, because the final rule is not expected to result in any 1-year expenditure that would exceed$100 million.

V. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, or on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects

21 CFR Part 864

Biologics, Blood, Laboratories, Medical devices, Packaging and containers.

21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 864 and 876 are amended as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

1. The authority citation for 21 CFR part 864 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 864.2220 is amended by revising paragraph (a) to read as follows:

§ 864.2220 Synthetic cell and tissue culture media and components

(a) *Identification.* Synthetic cell and tissue culture media and components are substances that are composed entirely of defined components (e.g., amino acids, vitamins, inorganic salts) that are essential for the survival and development of cell lines of humans and other animals. This does not include tissue culture media for human ex vivo tissue and cell culture processing applications as described in § 876.5885 of this chapter.

* * * * *

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

1. The authority citation for 21 CFR part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

2. Section 876.5885 is added to subpart F to read as follows:

§ 876.5885 Tissue culture media for human ex vivo tissue and cell culture processing applications.

(a) *Identification.* Tissue culture media for human ex vivo tissue and cell culture processing applications consist of cell and tissue culture media and components that are composed of chemically defined components (e.g., amino acids, vitamins, inorganic salts) that are essential for the ex vivo development, survival, and maintenance of tissues and cells of human origin. The solutions are indicated for use in human ex vivo tissue and cell culture processing applications.

(b) *Classification.* Class II (special controls): FDA guidance document, "Class II Special Controls Guidance Document: Tissue Culture Media for Human Ex Vivo Processing Applications; Final Guidance for Industry and FDA Reviewers."

Dated: May 7, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–12227 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–002]

RIN 2115–AE47

Drawbridge Operating Regulation; Inner Harbor Navigation Canal, New Orleans, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation governing the operation of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), the SR 39 (Judge Seeber/ Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7 East of Harvey Lock), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5 East of Harvey Lock), across the Inner Harbor Navigation Canal in New Orleans, Orleans Parish, Louisiana. This rule allows for the uninterrupted flow of commuter traffic while still providing for the reasonable needs of navigation.

DATES: This rule is effective June 15, 2001.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will be available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 22, 2001, a notice of proposed rulemaking (NPRM) entitled Drawbridge Operating Regulation; Inner Harbor Navigation Canal, New Orleans, Louisiana, was published in the **Federal Register** (66 FR 11129). Sixteen letters of comment were received on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

To meet the needs of commuters who cross these three bridges in the morning and afternoon en route to and from work in the Lower Ninth Ward area of New Orleans and in St. Bernard Parish, the Coast Guard proposed to codify the historic accommodation with marine interests that allows the bridges to remain closed-to-navigation and open to vehicular traffic during the morning and afternoon rush hours.

During the past several years, although no regulation has ever been established, all parties have accepted the spirit of the "closure" during morning and afternoon rush hours and the bridges have not opened during these time periods. The Coast Guard proposes to codify the accepted historic practices of these three bridges. Another factor we considered is the relocation of the Industrial Canal Lock previously discussed in detail in the Notice of Proposed Rulemaking.

The rule would establish the same operation schedules for all three draws to facilitate the flow of vehicular traffic during rush hours while still meeting the reasonable needs of navigation.

Discussion of Comments and Changes

Sixteen letters were received containing signatures in support of or commenting on the NPRM published in the **Federal Register** and reprinted in a local Coast Guard Public Notice CGD08–05–01 mailed on March 8, 2001. Thirteen respondents, one being the Louisiana Department of Transportation and Development, wrote in support of the proposal with no changes requested. One response was received containing forty-nine signatures in support of the proposal. Two respondents wrote letters in support of the project but requested that a modification be made to the proposed hours of closure. These respondents were individual commuters who wanted the hours of the closure to begin earlier in the morning to accommodate their work hours. However, the Port of New Orleans and the Louisiana Department of Transportation and Development provided traffic counts with the proposal and the traffic counts indicated that the proposed hours of closure correspond to the peak traffic crossing the bridges for the majority of the commuters. Therefore, no changes to the proposal were made based upon these responses. No changes have been incorporated into the Final Rule.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this proposed temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This rule maintains the existing historically accepted curfews with a minor change allowing the bridge to remain closed-to-navigation an additional 30 minutes.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this rule would have a significant economic impact on a

substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under the 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule would not have implications for federalism under that Order. No comments were received with regards to federalism during NPRM comment period.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate. No comments were received with regards to unfunded mandates during NPRM comment period.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. No comments were received with regards to the taking of private property during NPRM comment period.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. No comments were received with regards to the taking of private property during NPRM comment period.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. Bridge Administration Program actions that can be categorically excluded include promulgation of operating regulations or procedures for drawbridges. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.458, paragraphs (a) and (b) are redesignated paragraphs (b) and (c) and a new paragraph (a) is added to read as follows:

§ 117.458 Inner Harbor Navigation Canal, New Orleans.

(a) The draws of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7 East of Harvey Lock), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5 East of Harvey Lock), shall open on signal; except that, from 6:45 a.m. to 8:30 a.m. and from 4:45 p.m. to 6:45 p.m., Monday through Friday, except federal holidays, the draws need not open for the passage of vessels. The draws shall open at any time for a vessel in distress.

* * * * *

Dated: May 2, 2001.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District

[FR Doc. 01–12238 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–15–U

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1228, 1232, 1234, and 1236

RIN 3095–AB02

Records Disposition; Technical Amendments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is correcting and updating internal references and form names covered in the records management regulations. This final rule will affect Federal agencies.

EFFECTIVE DATE: June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Allard or Lynn Dubose at telephone number 301–713–7360 or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION: Several amendments were made to Part 1228 in 1999, however, some internal references to Part 1228 in other Parts in Subchapter B and forms were not updated at that time. This final rule contains technical amendments such as designations for NARA organizational components, addresses, form titles, and cross-references.

This final rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this final rule will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies. This final rule has no federalism or tribalism implications.

List of Subjects

36 CFR Parts 1220

Archives and records.

36 CFR Part 1228

Archives and records, Federal buildings and facilities, Incorporation by reference.

36 CFR Part 1232

Archives and records.

36 CFR Part 1234

Archives and records, Computer technology.

36 CFR Part 1236

Archives and records, Civil defense.

For the reasons set forth in the preamble, NARA amends Parts 1220, 1228, 1232, 1234 and 1236 of 36 CFR Chapter XII, as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. The authority citation for part 1220 continues to read as follows:

Authority: 44 U.S.C. 2104(a) and chs. 29 and 33.

2. In § 1220.14, revise the definition of *National Archives of the United States* to read as follows:

§ 1220.14 General definitions.

* * * * *

National Archives of the United States means those records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government and that have been transferred to the legal custody of the Archivist of the United States on a Standard Form 258 (Agreement to Transfer Records to the National Archives of the United States).

* * * * *

§ 1220.52 [Amended]

3. In paragraph (c) of § 1220.52 remove the term "41 CFR subpart 201–45.6" and add in its place the term "GSA regulations in Title 41 of the CFR".

PART 1228—DISPOSITION OF FEDERAL RECORDS

4. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. chs. 21, 29, and 33.

5. In part 1228 remove the phrase "NSN 7610–01–055–8704" wherever it occurs and add in its place "(http://www.nara.gov/records/pubs/)".

§ 1228.28 [Amended]

6. In § 1228.28, correct paragraph (b)(8)(i) by revising the reference to "§ 1228.188" to read "§ 1228.270"

§ 1228.44 [Amended]

7. In the list of schedules in § 1228.44, revise entries 19 and 22 to read: "19. RESERVED." and "22. Inspector General Records (WITHDRAWN).", respectively.

§ 1228.92 [Amended]

8. In paragraph (e) of § 1228.92 remove the term "41 CFR part 201–45" and add in its place the term "GSA regulations in Title 41 of the CFR".

§ 1228.104 [Amended]

9. In paragraph (b) of § 1228.104 remove the term "41 CFR part 201–45" and add in its place the term "GSA regulations in Title 41 of the CFR".

§ 1228.106 [Amended]

10. In § 1228.106 revise the reference to "36 CFR 1222.20(d)" to read "36 CFR 1222.36".

11. Amend § 1228.160 by revising paragraph (f) to read as follows:

§ 1228.160 How does an agency transfer records to a NARA records center?

* * * * *

(f) For further guidance on transfer of records to a NARA records center, consult the NARA Records Center Program web site (*http://www.nara.gov*), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR), individual NARA regional facilities, or the Washington National Records Center (NWMW).

§ 1228.266 [Amended]

12. In § 1228.266(e)(1) remove the phrase "Nontextual Archives Division or its appropriate audiovisual branch," and add in its place the phrase "appropriate Special Media Archives Services Division unit,".

13. Amend § 1228.270 by revising paragraph (c)(2)(i) to read as follows:

§ 1228.270 Electronic records.

* * * * * *

(c) * * *

(2) * * *

(i) CD–ROMs used for this purpose must conform to ANSI/NISO/ISO 9660–1990, American National Standard for Volume and File Structure of CD–ROM for Information Exchange. The standard is available from the National Information Standards Organization (NISO), Press Fulfillment, P.O. Box 451, Annapolis Junction, MD 20701, or the American National Standards Institute, 11 West 42nd Street, 13th floor, New York NY 10036. It is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

* * * * *

14. Amend § 1228.272 by revising paragraph (b)(2) to read as follows:

§ 1228.272 Transfer of records to the National Archives of the United States

* * * * *

(b) * * *

(2) *Future transfers of series in agency space.* Sixty days before the scheduled date of transfer to the National Archives of the United States, the transferring agency must submit an SF 258 to the Office of Records Services—Washington, DC (NWMD), 8601 Adelphi Road, College Park, MD 20740–6001, or to the appropriate Regional Records Services facility if so provided on the SF 115. NARA will determine whether specified restrictions are acceptable and whether adequate space and equipment are available.

* * * * *

15. Revise § 1228.282 to read as follows:

§ 1228.282 Disposal clearances.

No records of a Federal agency still in existence will be disposed of by NARA except with the written concurrence of the agency concerned or as authorized on Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

PART 1232—AUDIOVISUAL RECORDS MANAGEMENT

16. The authority citation for part 1232 continues to read as follows:

Authority: 44 U.S.C. 2904 and 3101, and OMB Circular A–130.

§ 1232.20 [Amended]

17. In paragraphs (a) and (e) of § 1232.20 revise the reference to "§ 1228.184" to read "§ 1228.266".

§ 1232.32 [Amended]

18. In § 1232.32 revise the reference to "§ 1228.184" to read § 1228.266".

PART 1234—ELECTRONIC RECORDS MANAGEMENT

19. The authority citation for part 1234 continues to read as follows:

Authority: 44 U.S.C. 2904, 3101, 3102, and 3105.

20. In part 1234, whenever it occurs, revise the reference to "§ 1228.188" to read "§ 1228.270".

§ 1234.10 [Amended]

21. In paragraph (a) of § 1234.10 remove the phrase Aand the General Services Administration Regulations Branch (KMPR), Washington, DC 20405," and add in its place "and the General Services Administration, Office of Government Policy (MKB), Washington, DC 20405,".

PART 1236—MANAGEMENT OF VITAL RECORDS

22. The authority citation for part 1236 continues to read as follows:

Authority: 44 U.S.C. 2104(a), 2904(a), 3101, E.O. 12958, 53 FR 47491, 3 CFR 1988 Comp., p. 585.

23. Amend § 1236.26 by revising paragraphs (a) and (c)(2) to read as follows:

§ 1236.26 Protection of vital records.

* * * * *

(a) *Duplication.* Computer backup tapes created in the normal course of system maintenance or other electronic copies that may be routinely created in the normal course of business may be used as the vital record copy. For hard copy records, agencies may choose to make microform copies. Standards for the creation, preservation and use of microforms are found in 36 CFR part 1230, Micrographic Records Management. The Clinger-Cohen Act (40 U.S.C. 1401, Pub. L. 104–106, *et seq.*, as amended by Pub. L. 104–208), OMB Circular A–130, and 36 CFR part 1234, Electronic Records Management, and 41 CFR part 201, subchapter B, Management and Use of Information and Records, specify protective measures and standards for electronic records.

* * * * *

(c) * * *

(2) The off-site copy of legal and financial rights vital records may be stored at an off-site agency location or, in accordance with § 1228.162 of this chapter, at an FRC.

* * * * *

Dated: May 2, 2001.

John W. Carlin,

Archivist of the United States.

[FR Doc. 01–12265 Filed 5–15–01; 8:45 am]

BILLING CODE 7515–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 122–1122; FRL–6980–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a rule revision submitted by the state of Missouri to clarify that any credible evidence (referenced as the "CE revisions" or "CE" throughout this document) may be used to establish compliance or noncompliance with applicable requirements of the Missouri air pollution control regulations under the authority of applicable provisions in section 110(a) of the Clean Air Act (the "Act") (CAA). EPA proposed approval of the Missouri rule on February 6, 1996. The proposal was accompanied by a direct final rule approving the Missouri submission. In that rule, EPA stated that the rule would become final if no adverse comments were received, but that if EPA received adverse comments, it would withdraw the final rule, treat the action as a proposed rulemaking, and respond to the comments prior to taking a final action. Because it received adverse comments, EPA withdrew the final action. We are now taking final action to approve the rule. Public comments are addressed in this action and in a Response to Comments document.

DATES: This rule is effective on June 15, 2001.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

I. SUPPLEMENTARY INFORMATION:

A. Introduction

Throughout this document whenever "we, us, or our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a State Implementation Plan (SIP)?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
What comments were received by EPA and what are EPA's responses to the comments?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a State Implementation Plan (SIP)?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. We must provide public notice and seek additional public comment

regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

What Is Being Addressed in This Document?

EPA is approving a rule revision submitted by the state of Missouri to clarify that any credible evidence may be used to establish compliance or noncompliance with applicable requirements of the Missouri air pollution control regulations under the authority of applicable provisions in section 110(a) of the CAA. Missouri adopted and submitted the CE revision pursuant to an EPA call for a SIP revision under section 110(k)(5) of the Act, issued by us on May 11, 1994 (the "SIP call"). The SIP call to Missouri was part of a national SIP call announced in a proposed rulemaking published on October 22, 1993, at 58 FR 54648, which, in part, proposed rule revisions to various EPA rules to clarify that any credible evidence can be used to establish compliance or noncompliance with applicable requirements of the Act. EPA published its final rule promulgating the CE rules on February 24, 1997, at 62 FR 8314. EPA proposed approval of the Missouri rule on February 6, 1996, at 61 FR 4391. The proposal was accompanied by a direct final rule approving the Missouri submission (61 FR 4352). In that rule, we stated that the rule would become final if no adverse comments were received, but that if we received adverse comment, we would withdraw the final rule, treat the action as a proposed rulemaking, and respond to the comments prior to taking a final action. Because we received adverse comments, we withdrew the final action and we are responding to the comments in this document. References to the "proposal" or "proposed rule" are to the rule published initially as a direct final rule.

What Comments Were Received by EPA and What Are EPA's Responses to the Comments?

In response to the proposed approval of the Missouri rule, EPA received a number of comments, submitted by six industries and industry associations. Some comments relate specifically to the Missouri rule. Other comments are the same or similar to comments submitted on the 1993 national proposed rulemaking (sometimes referenced herein as the "national" rule). In its response to comments, we have responded in detail to the Missouri-specific comments, and in summary form to the comments that were also submitted on the national proposal. We provided a more detailed response to these comments in the "Supplement to the Technical Support Document for the Missouri Compliance Monitor Usage Rule—Response to Comments" and in the February 1997 response to comments accompanying the promulgation of the national rule, both of which are in the docket for the final action on the Missouri rule. The reader may request a copy at the location identified above. A summary of the more important comments and our responses follow.

Because a petition for review, which raised issues relevant to EPA's action on the Missouri rule, was pending on the national rule, we chose to withhold temporarily our final action on the state rule. Since the petition on the national rule has been dismissed, *Clean Air Implementation Project* v. *Environmental Protection Agency*, 150 F. 3d 1200 (D.C. Cir. 1998), we are now proceeding with final action on the Missouri rule.

Comments Relating to Statutory Authority for the Use of CE

A number of commenters objected to allowing the use of any credible evidence to determine compliance, arguing that section 113(e) allows such evidence to be used only to assess penalties, and not to determine initially whether a violation has occurred. In general, the commenters argue that, by its terms, section 113(e) applies only to evidence showing the duration of the violation and not to the evidence that can be used to establish the existence of a violation. The commenters also argue that the legislative history supports their assertion that CE can only be used to establish duration. One commenter also stated that the rule is a departure from the "longstanding" practice of determining violations based solely on the reference test method specified in the relevant emission limit.

As explained in detail in the February 1997 response to comments on the national rule (in particular, section 1.1), the CAA provides ample authority to allow the states, EPA, and citizens to offer any credible evidence to establish the initial existence of a violation as well as the duration of a violation. This authority is not only in section 113(e), but also in other sections (e.g., sections 113(a), 114(a)(3), 301, and 504(b)). The various provisions dealing with the basis for enforcing against violations, for monitoring, and for certifying compliance, show that Congress intended to clarify the types of evidence that can be used to prove a violation initially, as well as the evidence that can be used to show subsequent violations (for purposes of establishing the duration of the violation). Moreover, because the use of CE does not change existing compliance obligations, the credible evidence revisions are a permissible exercise of our general rulemaking authority in section 301.

Regarding past practice concerning the use of the applicable reference test method, we explained in the February 1997 response to comments that it has used and continues to use the reference test method as the major indicator of compliance status. However, we also explained that past use of the reference test method as the exclusive means to show compliance has not been dictated by any requirement of the CAA, but by the language in individual regulations. EPA's promulgation of the national CE rules amended the regulations consistent with the authority in section 113(a) to base enforcement actions on "any information" available to us. Similarly, our approval of the Missouri compliance usage rule into the SIP clarifies that nonreference test data can be used to determine compliance with the Missouri air pollution control rules, and remedies a deficiency in the SIP, to the extent that state regulations could previously have been interpreted to mean that compliance could only be determined by the results of a reference test method. (Authority to require CE provisions in SIPs is discussed in section 4 of the response to comments document.)

Comments Relating to the Relationship Between CE and Enhanced Monitoring

Several commenters objected to the proposed approval of the Missouri rule based on the perceived relationship between the credible evidence rule and the enhanced monitoring rule (proposed in 1993 along with the proposed national CE rule). The commenters stated that the national CE rule was dependent on the proposed enhanced monitoring (EM) rule, and that since the EM rule was, according to one commenter, withdrawn, EPA could not go forward with the CE rule, the CE SIP call, or approval of any state CE rules. Another commenter stated that, since the revised EM or compliance assurance monitoring (CAM) rule had not yet been developed, there was no meaningful opportunity to comment on the effect of the Missouri CE rule on underlying emission limits. Finally, one commenter stated that EPA should take no action on the Missouri rule until EPA had promulgated a CAM rule.

We responded extensively to the issues raised in these comments in our promulgation of the national CE rule, in the preamble and the response to comments document. In summary, we clarified that the EM proposal had not been formally withdrawn. In addition, we determined that the CE rule, while proposed at the same time as the EM proposal, could be promulgated apart from the EM/CAM rule. The purpose of the CE rule is to remove barriers to consideration of credible evidence, such as EM/CAM data and other relevant data, in determining violations of emission standards, and knowledge of the specific requirements of the EM/CAM rule is not necessary to formulate comments on the CE rule. In addition, we noted that the 1993 proposal gave notice that the CE revisions were separate from the EM proposal. Both the national CE rule revisions and the Missouri CE rule are revisions to existing regulations that were not dependent on promulgation of the EM/CAM rule.

Compliance of the State Rule With Missouri Law

Two commenters raised issues concerning the validity of the Missouri rule under state law. The commenters referenced a provision in the Missouri statutes that provides, with certain exceptions, that the state environmental agency cannot adopt rules which are "any stricter than those required under the provisions of the Federal Clean Air Act * * *" (Mo. Rev. Stat. section 643.055.1). One commenter stated that since EPA had not (as of the date of the comment letter, March 6, 1996) adopted either the enhanced monitoring or the credible evidence rule, EPA's approval of the state rule would be contrary to the Missouri statute referenced above. Another commenter stated that since EPA had no authority under the Act to require that Missouri adopt a CE rule (see discussion of related comments in sections 1 and 4 of the Response to Comments on the Missouri rule), Missouri lacked legal authority to adopt the state rule because of the limitation on rulemaking in the state statute.

EPA's authority to issue the call for SIP revisions to Missouri and other states was summarized above and in section 4 of the Response to Comments and discussed in detail in the national CE rulemaking. As shown in those discussions, the premise for the commenters' assertion that Missouri lacked authority to adopt its CE rule is incorrect, since the state rule was adopted in response to a SIP call issued by EPA to correct a deficiency in the state rules to meet a requirement of the Act. Therefore, the comments concerning the validity of the state regulation are, in large part, a reiteration of the issues relating to our authority to issue the CE rule and SIP call, to which we have previously responded.

In addition, contrary to the suggestion of one commenter, the state's statutory restriction on adoption of rules is a limitation on the state's ability to promulgate rules. It is not a restriction on our authority to approve a rule that the state has properly submitted. In submitting the state rule, both EPA and Missouri determined that the CAA required the rule, and that the state had adequate legal authority to adopt and implement the rule (letter dated February 21, 1995, from David Shorr, Director, Missouri Department of Natural Resources to Dennis Grams, Regional Administrator, EPA). EPA's review of the rule was based on whether it met the requirements of section 110 and related provisions of the Act.

Significantly, the record of public comments on the state's proposal of the rule does not indicate that this issue, which is clearly a matter of state law, was ever raised to the state's rulemaking body for consideration prior to its adoption of the rule. Even if there were any validity to the assertion that Missouri lacked authority to adopt the rule, this would have been an issue for the state, not EPA, to consider. In fact, however, the state agency charged with promulgating rules in accordance with its enabling authority specifically determined that the rule was required by Federal law, and that it had adequate authority to adopt the rule. The commenter, in effect, asks EPA to second-guess the state's application of its own law, by raising an issue that it raised for the first time after the state's rulemaking action has been completed. The commenter incorrectly states not only the requirements of the CAA, but also our role in acting on state revisions to its SIPs. The state determined that it properly adopted the rule under state law, and the commenter raises no issues that would cause us to question the state's determination.

One commenter stated that the proposed approval of the Missouri rule was procedurally flawed because we had effectively withdrawn the national enhanced monitoring rule, and the SIP call had not required submission of the Missouri rule until promulgation of the national rule. The commenter contended that approval of the Missouri rule would be pointless, because state law (referenced previously) bars the state from enforcing a rule sooner than required by Federal law.

The Missouri statute provides that the state agency may not, in certain instances, adopt standards that are more stringent than required by the Federal Act, and that such standards cannot be "enforced" any sooner than required by the Act. The commenter states that, since the SIP call did not require states to submit CE SIP revisions until promulgation of the "enhanced monitoring" rule (which had not been promulgated in any form), the state cannot enforce its rule pending EPA action promulgating a national monitoring rule.

As shown above, Missouri determined that it had adequate authority to adopt and implement the CE rule under state law, and EPA has no basis to question this determination. In addition to that discussion, EPA notes that the comment is based on the implicit assumption that the Missouri rule adds substantive requirements that could be "enforced." As explained in response to a prior comment, the rule does not add substantive new requirements, but only clarifies that nonreference test data may be used to determine compliance with the applicable standard. Therefore, the rule does not impose requirements that Missouri would be enforcing prior to a time required under the Act. EPA notes that its position on this issue is consistent with the position stated by Missouri in its response to comments on the proposed state rule. In response to a comment that the rule would give the state "undefined and unbridled" enforcement authority, Missouri responded that it "does not open a whole new area of enforcement * * * Violations can only exist in the context of an emission limitation or requirement [in the existing rules]." While the commenters did not ask Missouri to consider its CE rule in the context of the statutory restriction, the state clearly understood the rule as a clarification of existing emission limitations rather than as establishing additional enforceable requirements. (See "Comments and Responses on the Proposed Rule 10 CSR 10–6.280 Compliance Monitoring Usage and Recommendation for Adoption," Commission Briefing Document, August 25, 1994, p. 222, which is in the docket for this rulemaking.)

Regarding the comment that EPA cannot approve the state rule before it takes final action on the national CE rule, EPA regards the comment as moot, since we have now taken final action to promulgate the national rule. Moreover, our approval of state CE rules is not contingent on promulgation of the national rule, but on whether the state submittal meets the requirements of the Act. Our rationale for proceeding with the SIP calls and acting on state submissions before the national CE rule promulgation was explained in the preamble to the proposed and final CE rulemaking, referenced above.

The reader should refer to the Response to Comments on the proposed approval of the Missouri rule for other issues raised by the commenters and our responses.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above in the response to comments and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. More information on the February 6, 1996, notice of direct final rulemaking is contained in the technical support document in the docket.

What Action Is EPA Taking?

EPA is granting final approval to Missouri rule 10 CSR 10–6.280 for which approval was proposed in the **Federal Register** on February 6, 1996.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 26, 2001.

William A. Spratlin,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by adding in numerical order the entry for "10–6.280" to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
	Missouri Department of Natural Resources			
	Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri			
10–6.280	Compliance Monitoring Usage	12/30/94	May 16, 2001 66 FR 27032	

* * * * *

[FR Doc. 01–12356 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6978–8]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA), New Hampshire Department of Environmental Services (NH DES) requested approval to implement and enforce State permit terms and conditions that substitute for the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and the National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical Pulp Mills. The Environmental Protection Agency (EPA) has reviewed this request and has found that it satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting NH DES the authority to implement and enforce alternative requirements in the form of title V permit terms and conditions after EPA has approved the state's alternative requirements.

DATES: This rule is effective on July 16, 2001 without further notice, unless EPA receives adverse comments by June 15, 2001. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Steven Rapp, Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP) at the EPA New England office listed below. Copies of NH DES's request for approval are available for public inspection at the following locations:

U.S. Environmental Protection Agency, EPA-New England, Office of Ecosystem Protection, One Congress Street, Suite 1100, Boston, MA 02114–2023.

New Hampshire Department of Environmental Services, Air Resources Division, 6 Hazen Drive, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023, Telephone: (617) 918–1656.

SUPPLEMENTARY INFORMATION:

I. Background

On April 15, 1998, the Environmental Protection Agency (EPA) promulgated the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry (see 63 FR 18617), which has been codified in 40 CFR part 63, subpart S, "National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry" (Pulp and Paper MACT I). Subsequently, on January 12, 2001, EPA promulgated the National Emission Standard for Hazardous Air Pollutants from the Pulp and Paper Industry (see 66 FR 3180) which has been codified in 40 CFR part 63, subpart MM, "National Emission Standards for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semichemical Pulp Mills' (Pulp and Paper MACT II). The only sources currently subject to subpart S and subpart MM in New Hampshire are Groveton Paper Board Inc. of Groveton, NH (Groveton) and Pulp & Paper of America, LLC of Berlin, NH (Pulp & Paper of America).

On January 23, 2001, New Hampshire Department of Environmental Services (NH DES) requested delegation of subpart S and subpart MM under § 63.94 for both Groveton and Pulp & Paper of America. EPA received the request on January 30, 2001. NH DES requested to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable requirements of subpart S and subpart MM under the process outlined in 40 CFR 63.94. As part of its request to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable Federal section 112 standards, NH DES also requested approval of its demonstration that NH DES has adequate authorities and resources to implement and enforce all Clean Air Act (CAA) section 112 programs and rules. The purpose of this demonstration is to streamline the approval process for future CAA section 112(l) applications.

II. EPA Action

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 Federal rules, emission standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (see 65 FR 55810, dated September 14, 2000). Under these regulations, a local air pollution control agency has the option to request EPA's approval to substitute alternative

requirements and authorities that take the form of permit terms and conditions instead of source category-specific regulations. This option is referred to as the equivalency by permit (EBP) option. To receive EPA approval using this option, the requirements of 40 CFR 63.91 and 63.94 must be met.

The EBP process comprises three steps. The first step (see 40 CFR 63.94(a) and (b)) is the "up-front approval" of the state EBP program. The second step (see 40 CFR 63.94(c) and (d)) is EPA review and approval of the state alternative section 112 requirements in the form of pre-draft permit terms and conditions. The third step (see 40 CFR 63.94(e)) is incorporation of the approved pre-draft permit terms and conditions into specific title V permit and the title V permit issuance process itself. The final approval of the state alternative requirements that substitute for the Federal standard does not occur for purposes of the Act, section 112(l)(5), until the completion of step three.

The purpose of step one, the "up-front approval" of the EBP program, is three fold: (1) It ensures that NH DES meets the 63.91(b) criteria for up-front approval common to all approval options; (2) it provides a legal foundation for NH DES to replace the otherwise applicable Federal section 112 requirements with alternative, federally enforceable requirements that will be reflected in final title V permit terms and conditions; and (3) it delineates the specific sources and Federal emission standards for which NH DES will be accepting delegation under the EBP option.

Under § 63.94(b) and § 63.91, NH's request for approval is required to include the identification of the sources and the source categories for which the state is seeking authority to implement and enforce alternative requirements, as well as a one time demonstration that the State has an approved title V operating permit program that permits the affected sources. After reviewing the request for approval of NH DES's EBP program for subpart S and subpart MM, EPA has determined that this request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91 and 63.94. Accordingly, EPA approves NH DES's request to implement and enforce alternative requirements in the form of title V permit terms and conditions for Groveton and Pulp & Paper of America for subpart S and subpart MM. The requirement applicable to the sources and the "applicable requirement" for title V purposes remains the Federal section 112 requirement until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review." This rule is not subject to Executive Order 13045, entitled, "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

B. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This Federal action allows the state of New Hampshire to implement equivalent alternative permit requirements to replace pre-existing requirements under Federal law and does not have tribal implications. Thus, Executive Order 13175 does not apply to this rule.

C. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action simply allows New Hampshire to implement equivalent alternative requirements to replace a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this rule.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C 601 et seq. generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.94 do not create any new requirements but simply allows the state to implement and enforce permit terms in place of federal requirements that the EPA is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action allows New Hampshire to implement equivalent alternative requirements to replace pre-existing requirements under Federal law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

F. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 2, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA—New England.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraphs (a)(29)(i)and (a)(29)(ii) to read as follows:

§ 63.99 Delegated Federal Authorities

(a) * * *

(29) New Hampshire.

(i) [Reserved]

(ii) New Hampshire Department of Environmental Services (NH DES) may implement and enforce alternative requirements in the form of title V permit terms and conditions for Groveton Paper Board Inc. of Groveton, NH and Pulp & Paper of America, LLC of Berlin, NH for subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and subpart MM—National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical Pulp Mills. This action is contingent upon NH DES including, in title V permits, terms and conditions that are no less stringent than the Federal standard and have been approved by EPA. In addition, the requirement applicable to the source remains the Federal section 112 requirement until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

* * * * *

[FR Doc. 01–12039 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[WV057–6016; FRL–6979–8]

Determination of Attainment of the NAAQS for PM–10 in the Weirton, West Virginia Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA has determined that the Weirton, West Virginia PM–10 Moderate nonattainment area (comprised of the City of Weirton) attained the National Ambient Air Quality Standards (NAAQS) for Particulate Matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10) by its applicable December 31, 2000 attainment date. This determination is based upon monitored air quality data for the PM–10 NAAQS during the years 1998–2000. This determination of attainment does not redesignate the Weirton area to attainment for PM–10. The Clean Air Act requires that for an area to be redesignated, five criteria must be satisfied including the submittal of a maintenance plan as a State Implementation Plan (SIP) revision.

DATES: This rule is effective on July 2, 2001 without further notice, unless EPA receives adverse written comment by June 15, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David Arnold, Chief, Air Quality Planning and Information Services Branch, EPA Region III, 3AP21, 1650 Arch Street, Philadelphia, PA 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, at the EPA Region III address above, or by e-mail at knapp.ruth@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Basis for EPA's Action
III. EPA's Final Action
IV. Administrative Requirements

I. Background

A. Designation and Classification of PM–10 Nonattainment Areas

On the date of enactment of the 1990 Clean Air Act Amendments (Act), PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law (see generally, 42 U.S.C. 7407(d)(4)(B)). These areas included all former Group I areas identified in 52 FR 29383 (August 7, 1987) and further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the PM–10 standards prior to January 1, 1989 (many of these areas were identified by footnote 4 in the October 31, 1990 **Federal Register** document). A **Federal Register** document announcing the areas designated nonattainment for PM–10 upon enactment of the Act was published in 56 FR 11101 (March 15, 1991). A subsequent **Federal Register** document correcting some of these areas was published on August 8, 1991 (56 FR 37654). These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a **Federal Register** document published on November 6, 1991 (56 FR 56694). All other areas in the nation not designated nonattainment at enactment were designated unclassifiable (see section 107(d)(4)(B)(iii) of the Act). Most of the "Additional" PM–10 nonattainment areas including the Weirton, West Virginia area were subsequently designated in a **Federal Register** document published on December 21, 1993 (58 FR 67334). Pursuant to the Act, these areas have an attainment date of December 31, 2000.

B. Finding of Attainment

Once an area is designated nonattainment, section 188 of the Act outlines the process for classification of the area and establishes the area's attainment date. Pursuant to section 188(a), all PM–10 nonattainment areas are initially classified as moderate by operation of law upon designation as nonattainment.

EPA has the responsibility, pursuant to sections 179(c) and 188(b)(2) of the Act, of determining within 6 months of the applicable attainment date whether PM–10 nonattainment areas have attained the NAAQS. Section 179(c)(1) of the Act provides that these determinations are to be based upon an area's "air quality as of the attainment date" and section 188(b)(2) is consistent with this requirement. EPA will make the determinations as to whether an area's air quality is meeting the PM–10 NAAQS based upon air quality data gathered at monitoring sites in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). This data will be reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50, appendix K.

Pursuant to appendix K, attainment of the annual PM–10 standard is achieved when the annual arithmetic mean PM–10 concentration is equal to or less than 50 µg/m3. Attainment of the 24-hour standard is determined by calculating the expected number of exceedances of the 150 µg/m3 limit per year. The 24-hour standard is attained when the expected number of exceedances is 1.0 or less. A total of 3 consecutive years of clean air quality data is generally necessary to show attainment of the 24-hour and annual standards for PM–10. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

II. Basis for EPA's Action

The Weirton, West Virginia area contains four monitoring sites and each site has a continuous monitor which is scheduled to sample PM–10 every day. In addition, one of the monitoring sites has a co-located monitor which samples on a 1 in 6 day sampling schedule. During the years 1998 through 2000, none of the monitoring sites recorded any exceedances of the 24-hour PM–10 standard. The maximum 24-hour concentration was 130 $\mu g/m^3$ which occurred in 1998. Lower concentrations occurred in more recent years. The maximum annual concentration was 35.2 $\mu g/m^3$ which also occurred in 1998. These maximum concentrations are below the 24-hour standard of 150 $\mu g/m^3$ and the annual standard of 50 $\mu g/m^3$ respectively. Therefore, zero expected exceedances of the 24-hour standard were predicted and no violations of the annual standard as defined in appendix K occurred during 1998–2000. During most calendar quarters, data collection was over 90% of the scheduled samples and the lowest percentage of quarterly observations from any monitor was 85%. Therefore, sufficient data was obtained in order to make a determination of attainment.

Although the Weirton area has attained the PM–10 NAAQS, it will continue to carry the designation of nonattainment and the classification of moderate in 40 CFR part 81. The area may be redesignated to attainment under section 107(d)(3), if five criteria are met including the submittal of a maintenance plan as a SIP revision. A request to redesignate an area to attainment must be made by a State to EPA. EPA must review the request and required maintenance plan and follow rulemaking procedures to approve or disapprove it.

EPA is publishing this document without prior proposal because the Agency views this determination of attainment based upon monitored air quality data as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to determine that the Weirton, West Virginia area achieved attainment by its attainment date of December 31, 2000 if adverse comments are filed. This document will be effective on July 2, 2001 without further notice unless EPA receives adverse comment by June 15, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the determination will not take effect. EPA will address all public comments in a subsequent final notice based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. EPA's Final Action

EPA is making the determination that the Weirton PM–10 nonattainment area achieved attainment by its applicable attainment date of December 31, 2000. This area will continue to carry the designation of nonattainment and classification of moderate under 40 CFR part 81, until the State of West Virginia submits a redesignation request and maintenance plan, and that request and maintenance plan are approved by EPA. This area is eligible to be redesignated to attainment under section 107(d)(3) of the Act, if the five criteria of that section are met.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and

therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999) because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action making a determination that the Weirton, West Virginia PM–10 nonattainment area has attained the PM–10 NAAQS by its applicable attainment date must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12349 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–6980–7]

Final Effective Date Modification for the Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking; delay of effective date.

SUMMARY: On March 19, 2001, EPA published a final rule entitled "Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois" (66 FR 15578). The effective date for the final rule was May 18, 2001. At the same time, EPA also published its proposal to delay the effective date of the determination and reclassification until June 29, 2001. The 30-day comment period on our March 19, 2001, proposal to extend the effective date has ended and EPA received no adverse comments. Today EPA is finalizing the modification of the effective date of our March 19, 2001, rule from May 18, 2001, until June 29, 2001. Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

DATES: The effective date of the final rule amending 40 CFR part 81 published at 66 FR 15578, March 19, 2001, is delayed for six weeks, from May 18, 2001, to a new effective date of June 29, 2001. The amendments in this final rule are effective June 29, 2001.

FOR FURTHER INFORMATION CONTACT: Lynn M. Slugantz, EPA Region 7, (913) 551–7883; or Edward Doty, EPA Region 5, (312) 886–6057.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we, us, or our" is used, we mean EPA. Throughout this document, whenever "St. Louis Area," "St. Louis Nonattainment Area," "St. Louis NAA," or "St. Louis Ozone Nonattainment Area" is used, we mean the interstate area which includes Madison, Monroe, and St. Clair Counties in Illinois; and Franklin, Jefferson, St. Charles, St. Louis Counties and the City of St. Louis in Missouri.

In November 1998, the Sierra Club and the Missouri Coalition for the Environment filed a complaint in the United States District Court for the District of Columbia against EPA ((*Sierra Club* v. *Browner* (now *Sierra Club* v. *Whitman*), No. 98–2733 (CKK)), alleging, in part, that EPA failed to publish a determination of nonattainment and notice of the reclassification of the St. Louis Area to "serious" nonattainment. With respect to the reclassification issue, the Court in an opinion and Order dated January 29, 2001, stated that it would require EPA to "reach its statutorily required determination promptly," and ordered EPA to make its determination no later than March 12, 2001, "whether the St. Louis NAA attained the requisite ozone standards." It also ordered EPA to publish a notice of the determination, as required by the Act, by March 12, 2001. EPA subsequently requested and the Court granted an extension to March 20, 2001, for publishing the notice. Court Order of February 14, 2001. EPA published its determination on March 19, 2001, in response to the Court's Order.

On March 8, 2001, in its Motion Re: Alternative Planned Response to Comply with the Court's Order of January 29, 2001, EPA informed the Court of its planned course of action to comply with the Court's Order, should the Court deny a request for a stay filed by another party. This course of action included issuing the "Determination of Nonattainment as of November 15, 1996, and Reclassification." EPA also advised the Court that it intended to propose to postpone the effective date of that Determination and Notice until June 29, 2001, and of EPA's intent to withdraw the determination and reclassification if EPA approves an attainment date extension for the St. Louis Area before the determination becomes effective.

The Court, in a limited review to determine whether EPA's planned course of action would contravene the Court's Order, indicated that EPA, by signing a determination by March 12, and publishing the required Notice by March 20, would comply with the Court's Order. The Court noted that it lacked jurisdiction to assess the propriety of the remainder of EPA's planned course of action.

On March 19, 2001, EPA published its proposal to delay the effective date of the determination and reclassification until June 29, 2001 (66 FR 15591). EPA received letters from 39 commenters in support of the proposal to delay the effective date. We did not receive any adverse comments. EPA has determined that the additional delay of the effective date of the determination of nonattainment and reclassification is necessary to allow regulated entities in the St. Louis Area a period of time to prepare for the new requirements that are applicable to serious nonattainment areas. In the March 19 proposal, EPA noted that on the effective date of the reclassification to serious, the cutoff for "major sources" under the Illinois SIP will be reduced from 100 tons of emissions on an annual basis to 50 tons. Thus, a number of facilities with volatile organic compound or nitrogen oxide emission levels between 50 and 100 tons per year may become subject to major source requirements for the first time.[1] As one commenter pointed out in support of EPA's proposal, extending the date to June 29, 2001, will provide sufficient notice to the regulated entities given that the reclassification proposal on which the March 19, 2001, rule was based was published two years ago (64 FR 13384, March 18, 1999). In that proposal, EPA announced its intent not to finalize the nonattainment determination and reclassification if it granted an attainment date extension. EPA has determined that sources possibly subject to these new requirements should have additional time to prepare for the impact of these requirements.

In addition, as EPA stated in its March 19, 2001, proposal, we will continue to work on completing a separate rulemaking on the issue of whether the St. Louis Area should be granted an extension of its attainment date pursuant to EPA's "Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas" (64 FR 14441, March 25, 1999), and remain classified as a moderate nonattainment area. By taking this final action to extend the effective date for the nonattainment determination, EPA is in a position to take final action on the proposal to extend the attainment date for the St. Louis Area before the nonattainment determination becomes effective. Section 181(b)(2)(A) of the Act requires that EPA determine attainment within six months of the attainment date. If the attainment date were extended, there would be a new deadline for the determination that would arise only in the future. See Guidance. Thus, if the attainment date were extended, EPA's obligation to determine attainment would not yet have occurred. If EPA were to extend the attainment date for the St. Louis Area, EPA would withdraw the published nonattainment determination and the consequent reclassification, which would not yet have gone into effect.

In light of the fact that Missouri and Illinois have submitted their final SIP submissions, EPA believes that it will be able to complete rulemaking on the attainment date extension request by June 29, 2001. On April 3, 2001, EPA published its proposal to: (1) Approve the St. Louis nonattainment area ozone attainment demonstration for both Missouri and Illinois, contingent on Illinois' submittal of a final attainment demonstration and motor vehicle emission budgets, and of an adopted rule requiring EGUs to achieve a NO_x emission rate of 0.25 pounds per mmBtu of heat input or less. (The Illinois NO_x rule is the subject of a separate April 3, 2001, proposed rulemaking, 66 FR 17641. Illinois submitted its final adopted EGU rule to EPA on April 24, 2001); (2) find that the transportation conformity motor vehicle emission budgets submitted by Illinois and Missouri are adequate for conformity purposes; (3) extend the attainment date to November 15, 2004. If, prior to the reclassification delayed effective date of June 29, 2001, EPA finalizes an extension to the attainment date for the St. Louis Area, pursuant to EPA's policy regarding extension of attainment dates for downwind transport areas, then EPA would rescind its determination of nonattainment and notice of reclassification of the area and the area would retain its classification as a moderate nonattainment area for ozone; and (4) withdraw its March 19, 2001, rulemaking determining nonattainment and reclassifying the St. Louis nonattainment area as a serious nonattainment area for ozone (66 FR 15578).

Such a course would allow the Agency to fulfill its duty to take into account upwind transport and allow an opportunity for the St. Louis Area to qualify for an extension under the attainment date extension policy which EPA has applied in other areas affected by transport. EPA recently issued final

[1] See section 182(c) in conjunction with section 182(f) of the Act for the serious area major source thresholds for these pollutants.

rulemakings granting requests for attainment date extensions based on its policy in four ozone nonattainment areas: Washington, D.C.; Greater Connecticut; Springfield, Massachusetts; 66 FR 568 (January 3, 2001), 66 FR 634 (January 3, 2001), 66 FR 666 (January 3, 2001) and Beaumont/Port Arthur, Texas (rulemaking signed on April 30, 2001).[2]

Final Action

For the reasons stated above, and in the March 19, 2001, proposal, EPA is taking final action to extend to June 29, 2001, the effective date of the final rule entitled "Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois" (66 FR 15591). Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities."

The Agency has determined that this effective date modification would result in none of the effects identified in section 3(f) of the Executive Order. This final rulemaking merely delays the effective date of EPA's determination of nonattainment and would not impose any new requirements on any sectors of the economy, or on state, local, or tribal governments or communities.

B. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed action is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

C. Executive Order 13175

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. This rulemaking does not affect the communities of Indian tribal governments. Accordingly, the requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rulemaking to delay the effective date of EPA's nonattainment determination does not create any new requirements. Instead, this rulemaking only delays the effective date of a factual determination, and would not regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), I certify that today's proposal would not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

E. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA believes, as discussed above, that the delay of the effective date of a determination of nonattainment does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

F. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This delay of the effective date of a nonattainment determination does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because this action does not impose any new requirements on any sectors of the economy, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this final action.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects for Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 7, 2001.

William Rice,

Acting Regional Administrator, Region 7.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 81.314 is amended by revising the ozone table entry for the St. Louis Area to read as follows:

§ 81.314 Illinois.

* * * * *

ILLINOIS—OZONE

[1-hour standard]

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
St. Louis Area:				
Madison County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
Monroe County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
St. Clair County	June 29, 2001	Nonattainment	June 29, 2001	Serious.

[1] This date is November 15, 1990, unless otherwise noted.

3. Section 81.326 is amended by revising the ozone table entry for the St. Louis area to read as follows:

§ 81.326 Missouri.

* * * * *

MISSOURI—OZONE

[1-hour standard]

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
St. Louis Area:				
Franklin County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
Jefferson County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
St. Charles County	June 29, 2001	Nonattainment	June 29, 2001	Serious.
St. Louis	June 29, 2001	Nonattainment	June 29, 2001	Serious.
St. Louis County	June 29, 2001	Nonattainment	June 29, 2001	Serious.

[1] This date is November 15, 1990, unless otherwise noted.

[2] A petition for review of the Washington, D.C. rulemaking is pending in the Court of Appeals for the District of Columbia (*Sierra Club* v. *EPA*, No. 01–1070).

* * * * *

[FR Doc. 01–12353 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3200

[WO–310–1310–PB–01–24 1A]

RIN 1004–AB18

Geothermal Resources Leasing and Operations; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the current regulations for geothermal resources leasing and operations published in the **Federal Register** on September 30, 1998 (63 FR 52356).

DATES: Effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: You may contact Richard Hoops, Bureau of Land Management (BLM), Nevada State Office, (775) 861–6568 (Commercial or FTS) or Shirlean Beshir, Regulatory Affairs Group (WO–630), (202) 452–5033 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Hoops or Ms. Beshir.

SUPPLEMENTARY INFORMATION:

Background

We need to clarify the current regulations that are the subject of this correction. In paragraph (a) of § 3261.18, we clarify that the amount of the surety or personal bond listed in this section is the minimum bond amount you must hold by adding the word "minimum." As written, the bond amount of the surety or personal bond BLM requires appears to be fixed. BLM indicates in §§ 3214.13 and 3214.14 that the bond amounts indicated in § 3261.18 and other sections are minimum bond amounts. § 3214.14 makes clear that BLM has the authority to raise the bond amount if necessary. Today's action removes any ambiguity or inconsistency between § 3261.18 and other sections.

Need for Correction

As published, the current regulations may confuse or mislead the public.

In paragraph (a) of § 3261.18, we added the word "minimum" to clarify the minimum bond amount for a surety or personal bond to be consistent with the language of § 3214.13.

List of Subjects in 43 CFR Part 3200

Environmental protection, geothermal energy, government contracts, public lands-mineral resources, reporting and recordkeeping requirements, surety bonds.

Dated: April 12, 2001.

Piet deWilt,

Acting Assistant Secretary, Land and Minerals Management.

Accordingly, 43 CFR Part 3200 is corrected by making the following amendment:

PART 3200—GEOTHERMAL RESOURCE LEASING

1. The authority citation for part 3200 continues to read as follows:

Authority: 5 U.S.C. 552; 25 U.S.C. 396d, 2107; 30 U.S.C. 1023.

2. Revise paragraph (a) introductory text of § 3261.18 to read as follows:

§ 3261.18 Do I need a bond before I build a well pad or drill a well?

* * * * *

(a) Send us either a surety or personal bond in the following minimum amount:

* * * * *

[FR Doc. 01–12276 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1149; MM Docket No. 01–35; RM–10054]

Radio Broadcasting Services; Young Harris, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 236A to Young Harris, Georgia, as that community's first local FM transmission service, in response to a petition for rule making filed by M. Terry Carter and Douglas Sutton, Jr. d/b/a Tugart Communications. See 66 FR 12449, February 27, 2001. This allotment is made without a site restriction utilizing city reference coordinates at 34–56–00 NL and 83–50–54 WL. With this action, this docketed proceeding is terminated.

DATES: Effective June 22, 2001. A filing window for Channel 236A at Young Harris, Georgia, will not be opened at this time. Instead, the issue of opening the allotment for auction will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–35, adopted April 25, 2001, and released May 8, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Young Harris, Channel 236A.

Federal Communicatiions Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12272 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1151; MM Docket No. 01–4; RM–10020]

Radio Broadcasting Services; Willow Creek, California

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 253A to Willow Creek, California, as its first local aural transmission service. See 66 FR 7607, (January 24, 2001). Coordinates used for Channel 253A at Willow Creek, are 40–56–50 NL and 123–37–10 WL. With this action, this docketed proceeding is terminated.

DATES: Effective June 18, 2001.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–4, adopted April 25, 2001, and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Willow Creek, Channel 253A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12271 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1150; MM Docket No. 01–26; RM–10045]

Radio Broadcasting Services; Patterson, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 296A to Patterson, Georgia, as that community's first local aural transmission service, in response to a petition for rule making filed by Bernice P. Hedrick and supported by Mattox Broadcasting, Inc. See 66 FR 10267, February 14, 2001. This allotment requires a site restriction 2.9 kilometers (1.8 miles) east of Patterson, utilizing coordinates at 31–23–12 NL and 82–06–18 WL.

DATES: Effective June 18, 2001. A filing window for Channel 296A at Patterson, Georgia, will not be opened at this time. Instead, the issue of opening the allotment for auction will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–26, adopted April 25, 2001, and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Patterson, Channel 296A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12270 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1148; MM Docket No. 00–42; RM–9826]

Radio Broadcasting Services; Charleroi and Duquesne, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Keymarket Licenses, LLC, reallots Channel 252A from Charleroi to Duquesne, Pennsylvania, and modifies Station WOGI–FM's license accordingly. See 65 FR 15886, March 24, 2000. Channel 252A can be reallotted to Duquesne in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.1 kilometers (1.9 miles) east at petitioner's requested site. The coordinates for Channel 252A at Duquesne are 40–21–52 North Latitude and 79–48–49 West Longitude.

DATES: Effective June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–42, adopted April 25, 2001 , and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 54, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by removing Channel 252A at Charleroi and by adding Duquesne, Channel 252A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12269 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1147; MM Docket No. 00–250; RM–10025]

Radio Broadcasting Services; Sauk Centre and Alexandria, Minnesota

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Main Street Broadcasting, Inc., licensee of Station KMSR(FM), Sauk Centre, Minnesota, and BDI Broadcasting, Inc., licensee of Station KIKV–FM, Alexandria, Minnesota, (1) allots Channel 232C3 in lieu of 232A at Sauk Centre, reallots Channel 232C3 from Sauk Centre to Alexandria, and modifies Station KMSR's license accordingly; and (2) reallots Channel 264C1 from Alexandria to Sauk Centre, and modifies Station KIKV's license accordingly. Channel 232C3 is allotted at Alexandria, Minnesota, in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at petitioner's requested site 8.8 kilometers (5.5 miles) northwest of the community at coordinates 45–55–57 NL and 95–28–21 WL. Channel 264C1 is reallotted from Alexandria to Sauk Centre in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at a site 15.6 kilometers (9.7 miles) west of the community at coordinates 45–41–03 NL and 95–08–14 WL.

DATES: Effective June 18, 2001 .

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–250, adopted April 25, 2001, and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

List of Subjects in 47 CFR part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b) the FM Table of Allotments under Minnesota is amended by removing Channel 232A and adding Channel 264C1 at Sauk Centre, and by removing Channel 264C1 and adding Channel 232C3 at Alexandria.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12266 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 010510119–1119–01; I.D. 050901B]

RIN 0648–AP27

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary area and gear restrictions.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. The AA implements gear restrictions for an area totaling 460 square nautical miles (sq. nm)for 15 days to provide immediate protection to an aggregation of northern right whales. The AA also requests that fishermen adhere to voluntary measures for a 600 sq. nm precautionary area, which surrounds the restricted area.

DATES: The areas and gear restrictions are effective beginning May 13, 2001, through May 30, 2001.

ADDRESSES: Send comments on this document to Gregg LaMontagne, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930. Copies of the Environmental Assessment (EA), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Gregg LaMontagne, NMFS/Northeast Region at the address above.

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.nmfs.gov/whaletrp/*. Copies of the most recent marine mammal stock assessment reports may be obtained by writing to Richard Merrick, NMFS, 166 Water St., Woods Hole, MA 02543, or can be downloaded from the Internet at *http://www.nero.nmfs.gov/whaletrp/*.

FOR FURTHER INFORMATION CONTACT: Gregg LaMontagne, NMFS, Northeast Region, 978–281–9291; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION: The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of four species of whales (northern right, fin, humpback and minke) due to incidental interaction with commercial fishing activities. The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of these whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

In addition, the regulations provide authority for contingency measures for addressing unusual or unexpected aggregations of right whales, or providing protection for such groups of animals during times or in areas not addressed by the requirements specified elsewhere in § 229.32. Section 229.32(g)(2) allows the AA to revise the ALWTRP requirements through a publication in the **Federal Register** if, among other things, NMFS determines that right whales are remaining longer than expected in a closed area or have left earlier than expected, NMFS determines that the boundaries of a closed area are not appropriate, or similar situations occur.

On April 30, 2001, NMFS received a verified report of 13 northern right whales, including 4 cow-calf pairs, in the proximity of 42° 16′N. lat. and 69° 28′W. long. On May 2, 2001, NMFS received a verified sighting of six northern right whales, including two cow-calf pairs, in the proximity of 42° 12′N. lat. and 69° 30′W. long. These positions lie northeast of Cape Cod in an area called Wilkinson Basin.

The AA, through this action, restricts lobster and gillnet gear set in the waters bounded by: 42° 30′ N. lat. 69° 15′ W. long. (NE corner); 42° 05′ N. lat. 69° 15′ W. long. (SE corner); 42° 30′ N. lat. 69° 40′ W. long. (NW corner); and 42° 05′ N. lat. 69° 40′W. long. (SW corner), as follows: (1) All gillnet gear must be removed from these waters within 48 hours of filing of this document in the **Federal Register**, and no new gear may be set in this area; (2) for all lobster trap gear set within this area at least 50 percent of the vertical lines in the water must be removed within 48 hours of filing of this document in the **Federal Register**, and no new gear may be set in this area. The restrictions will remain in effect through May 30, 2001, unless terminated sooner or extended by the AA, through another notification in the **Federal Register**. This restriction will be announced to state officials and fishermen through e-mail, phone contact, NOAA website, and other media immediately upon filing with the **Federal Register**.

In addition, the AA requests voluntary compliance from gillnet and lobster fishermen, with the same restrictions as mentioned here, for the precautionary area, which surrounds the restricted area, in the waters bounded by: 42° 36′ N. lat., 69° 10′W. long. (NE corner); 41° 55′ N. lat., 69° 10′ W. long. (SE corner); 42° 36′N. lat., 69° 45′ W. long. (NW corner); and 41° 55′N. lat., 69° 45′W. long. (SW corner). Voluntary compliance with the measures in this precautionary area is urged for the same time period as the restricted area defined above.

Authority

This action is authorized by section 118 of the Marine Mammal Protection Act and regulations at 50 CFR 229.32(g)(2).

Dated: May 10, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12326 Filed 5–11–01; 1:07 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010208032–1109–02; I.D. 050801D]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Commercial Quota Harvested for North Carolina

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest; closure.

SUMMARY: NMFS announces that the Atlantic bluefish commercial quota available to the State of North Carolina has been harvested. Vessels issued a commercial Federal fisheries permit for the Atlantic bluefish fishery may not land Atlantic bluefish in North Carolina for the remainder of calendar year 2001, unless additional quota becomes available through a transfer. Regulations governing the Atlantic bluefish fishery require publication of this notification to advise the State of North Carolina that the quota has been harvested and to advise Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing Atlantic bluefish in North Carolina.

DATES: Effective 0001 hours, May 15, 2001, through 2400 hours, December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Myles A. Raizin, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.160.

The initial total commercial quota for Atlantic bluefish for the 2001 calendar year was set equal to 9,583,010 lb (4,348,008 kg)(66 FR 23625, May 9, 2001). The percent allocated to vessels landing Atlantic bluefish in North Carolina is 32.0608 percent, or 3,072,386 lb (1,394,005 kg).

Section 648.161(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota is harvested. NMFS will then publish a notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing Atlantic bluefish in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of North Carolina has attained its quota for 2001.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land Atlantic bluefish in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, May 15, 2001, further landings of Atlantic bluefish in North Carolina by vessels holding Atlantic bluefish commercial Federal fisheries permits are prohibited for the remainder of the 2001 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, May 15, 2001, federally permitted dealers are also advised that they may not purchase Atlantic bluefish from federally permitted vessels that land in North Carolina for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 10, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12325 Filed 5–11–01; 1:07 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 043001B]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish in the Southeast Outside District. This action is necessary because the second seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than sablefish and demersal shelf rockfish in the Southeast Outside District has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 17, 2001, until 1200 hrs, A.l.t., August 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), as prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch mortality allowance for groundfish included in the other hook-and-line fishery, which is defined at § 679.21(d)(4)(iii)(C), was established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) and subsequent adjustment (66 FR 17087, March 29, 2001) for the second season, the period May 17, 2001, through August 31, 2001, as 0 metric tons (mt). Under 50 CFR 679.21(d)(5), 30 mt of the Pacific halibut hook-and-line prohibited species catch (PSC) limit was moved from the May 17 through August 31 seasonal allowance to the January 1 through May 17 seasonal allowance in order to accommodate new Pacific cod seasons implemented under an emergency rule (66 FR 7276, January 22, 2001) and to optimize the harvest of Pacific cod.

The other hook-and-line fishery includes all groundfish except sablefish in the GOA and demersal shelf rockfish in the Southeast Outside District.

In accordance with § 679.21(d)(7)(ii), NMFS is prohibiting directed fishing for groundfish other than sablefish in the GOA or demersal shelf rockfish in the Southeast Outside District by vessels using hook-and-line gear.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action because the Pacific halibut hook-and-line PSC limit for the second seasonal bycatch mortality allowance has been reached constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the Pacific halibut hook-and-line PSC limit for the second seasonal allowance has been reached constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 10, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12365 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 95
Wednesday, May 16, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 80

[Doc. No. FV–01–80–01]

Regulations Governing the Fresh Russet Potato Diversion Program, 2000 Crop

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of comment period and amendment to the proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is extending the public comment period for regulations governing the fresh russet potato diversion program for the 2000 crop year. The AMS is also extending in proposed § 80.4 the period for producers to divert potatoes to eligible diversion outlets.

DATES: Written comments must be received on or before June 12, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this action to: Susan Proden, Chief, Commodity Procurement Branch, Fruit and Vegetable Programs, AMS, USDA, P. O. Box 96456, Room 2546—South Building, Washington, DC 20090–6456; Fax: (202) 720–2782, or visit the website at: *http://www.ams.usda.gov/fv/fvcomm.htm*. All written submissions made pursuant to this proposed rule will be made available for public inspection in Room 2546—South Building, USDA, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

FURTHER INFORMATION CONTACT: Susan Proden, Branch Chief, Room 2546—South Building, USDA or call (202) 720–4517. Information may also be obtained at the website: *http://www.ams.usda.gov/fv/fvcomm.htm*.

FOR THE NEAREST FEDERAL INSPECTION OFFICES CONTACT: 1–800–811–2373 or visit the website at: *http://www.ams.usda.gov/fv/fpboffices.html*.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on April 13, 2001. The proposal invited comments on the procedures setting forth the terms of the Fresh Russet Potato Diversion Program for the 2000 crop year pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended. The proposed program will assist fresh russet potato growers faced with oversupplies and low prices by diverting potatoes to charitable institutions, for livestock feed, to convert them to ethanol, and to render them nonmarketable and dispose of in accordance with federal, state and local regulations. AMS is extending the public comment period from May 13, 2001 to June 12, 2001 and amending the proposed rule to extend, by an additional 30 days, the period for producers to divert potatoes to eligible diversion outlets until June 12, 2001. This action was based on a request from farmers who have had difficulty finding eligible diversion outlets due to the time they need for Spring planting. In addition, the volumes signed up thus far remain below 2 million hundredweight, far short of the program's goal.

Accordingly, we are amending §§ 80.4 and 80.9 of the proposed regulation, found in the April 13, 2001, **Federal Register**, pages 19099–19102 to read as follows:

PART 80—[AMENDED]

§ 80.4 Length of program.

This program is effective April 13, 2001. Producers diverting potatoes to charitable institutions, livestock feed, ethanol production, or rendering them nonmarketable must complete the diversion of the 2000 crop potatoes no later than June 12, 2001.

§ 80.9 Claim for payment.

(a) In order to obtain payment for shipments to charitable institutions, the producer must submit to the county FSA office between June 13 and July 13, 2001, a certified FV–184 or FV–301 inspection certificate, a completed Form FSA–117, and a bill of lading showing shipment was made.

(b) To obtain payment for potatoes diverted to livestock feed, ethanol production or rendering nonmarketable, the producer must submit to the county FSA office between June 13 and July 13, 2001 each of the following: a properly executed Form FSA–117, an inspection certificate (FV–184 or FV–301), a livestock feed recipient, or an ethanol production or disposal delivery receipt (issued by livestock feed lot, ethanol plant or federal-state inspector) indicating hundredweight received, the date, name, address and telephone number of the recipient.

Dated: May 11, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12389 Filed 5–11–01; 4:43 pm]

BILLING CODE 3410–02–U

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2, 50, 51, 52, 54, 60, 70, 73, 76, and 110

RIN 3150–AG49

Changes to Adjudicatory Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On April 16, 2001 (66 FR 19610), the Nuclear Regulatory Commission (NRC) published for public comment a proposed rule amending its rules of practice to make the NRC's hearing process more effective and efficient. Jonathan M. Block and the Nuclear Information and Resource Service (NIRS) requested a 90 and 120 day extension, respectively, to the public comment period. Their requests were based on the fact that the transcripts of a public meeting on NRC Hearing Processes which was held on October 26–27, 1999, had not been placed in the NRC Public Document Room (PDR) as was indicated in the April 16, 2001 **Federal Register** notice for the proposed rule, nor otherwise made available for electronic downloading on the NRC Web page or through ADAMS. The Commission placed the transcripts in the PDR on April 26, 2001, and subsequently placed the transcripts on the NRC's Web page (*http://www.nrc.gov/NRC/PUBLIC/meettrans.html*) and in ADAMS (Accession Nos. ML011160507, ML011160525). In view of the 10-day delay in placing the transcripts in the PDR and in the interest of obtaining

public comment from the broadest range of stakeholders, the comment period on the proposed rule is being extended for an additional 60 days from the original July 16, 2001 deadline to September 14, 2001.

DATES: The comment period has been extended and now expires on September 14, 2001. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. ATTN: Rulemakings and Adjudications Staff.

Hand delivered comments should also be addressed to the Secretary, U.S. Nuclear Regulatory Commission, and delivered to: 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website (*http://ruleforum.llnl*). This site also provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@nrc.gov*.

Certain documents relating to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Room O1–F21, Rockville, MD. The same documents may also be viewed and downloaded electronically via the rulemaking website, *http://ruleforum.llnl.gov*. Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Geary S. Mizuno, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1639, e-mail GSM@nrc.gov.

Dated at Rockville, Maryland, this 10th day of May, 2001.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01–12338 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice 3639]

Exchange Visitor Program

AGENCY: Department of State.

ACTION: Proposed rule with request for comment.

SUMMARY: This proposed rule would amend existing regulations governing the au pair exchange program. These amendments would create a sub-category of au pair exchange participation under which the au pair participant would provide fewer hours of child care for the host family while the required educational component that the au pair must complete would increase from not less than six semester hours of academic credit or its equivalent per year to not less than twelve semester hours of academic credit or its equivalent per year.

DATES: Comments regarding this proposed rule will be accepted until June 15, 2001.

ADDRESSES: Comments regarding this proposed rule should be submitted in duplicate and addressed as follows: U.S. Department of State, Bureau of Educational and Cultural Affairs, 301 Fourth Street, SW., Room 852, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, U.S. Department of State, 301 Fourth Street, SW., Room 852, Washington, DC 20547; telephone (202) 619–6828.

SUPPLEMENTARY INFORMATION: These regulations govern Department-designated au pair programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family while providing child care services and attending a U.S. post-secondary educational institution. The Department's goal in proposing amendment of these existing regulations is to provide an opportunity for participation by foreign nationals who wish to pursue their academic studies more vigorously. To this end, the Department proposes to reduce the amount of child care services the potential au pair participant will provide to not more than 30 hours per week while increasing the amount of academic credit the au pair will pursue to not less than twelve semester hours or its equivalent. At the suggestion of Department-designated au pair sponsors, the Department proposes to identify this form of au pair participation as EduCare. Existing provisions for au pair participation based upon up to 45 hours of child care services and the pursuit of not less than six semester hours of academic credit or its equivalent remain unchanged.

To accomplish this dual objective, the Department is advised by its designated au pair program sponsors that potential EduCare au pair participants should be placed with host families that need before and after school child care services for their school age children. Accordingly, the Department proposes that potential EduCare au pair participants not be placed with families having pre-school children unless alternative, full-time arrangements are in place for the supervision of such pre-school children. As the potential EduCare au pair participant will be more actively pursuing his or her academic studies, the Department is also proposing a reduction in the number of hours that the au pair will provide child care services from not more than 45 hours per week to not more than 30 hours per week. This reduction in the number of hours of child care services provided dictates a corresponding reduction in the weekly wage paid to an EduCare au pair participant. An au pair participating in the EduCare program would still be paid in accordance with the provisions of the Fair Labor Standards Act. However, as a matter of administrative convenience for both Department-designated sponsors and participating host families, the Department proposes that the weekly wage for EduCare au pair participants be calculated as a percentage of the weekly wage paid to all other au pair participants.

The Department invites comment regarding this proposed rule notwithstanding the fact that it is under no legal obligation to do so. The oversight and administration of the Exchange Visitor Program are deemed to be a foreign affairs function of the United States Government. The Administrative Procedures Act, 5 U.S.C. 553(a)(1) (1994), specifically exempts foreign affairs functions from the rulemaking requirements of the Act.

List of Subjects in 22 CFR Part 62

Cultural exchange programs.

Accordingly, 22 CFR Part 62 is proposed to be amended as follows:

PART 62—EXCHANGE VISITOR PROGRAM

1. The Authority citation for Part 62 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451–2460; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168.

2. Section 62.31 is amended by revising paragraphs (a), (c)(1) through (c)(3), (e) introductory text, (e)(3) and (e)(5), (j), and (k) to read as follows:

§ 62.31 Au pairs.

(a) *Introduction.* This section governs Department of State-designated exchange visitor programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family. All au pair participants provide child care services to the host family and attend a U.S. post-secondary educational institution. Au pair participants provide up to forty-five hours of child care services per week and pursue not less than six semester hours of academic credit or its equivalent during their year of program participation. Au pairs participating in the EduCare program provide up to thirty hours of child care services per week and pursue not less than twelve semester hours of academic credit or its equivalent during their year of program participation.

* * * * *

(c) * * *

(1) Limit the participation of foreign nationals in such programs to not more than one year;

(2) Limit the number of hours an EduCare au pair participant is obligated to provide child care services to not more than 10 hours per day or more than 30 hours per week and limit the number of hours all other au pair participants are obligated to provide child care services to not more than 10 hours per day or more than 45 hours per week;

(3) Require that EduCare au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent;

* * * * *

(e) *Au pair placement.* Sponsors shall secure, prior to the au pair's departure from the home country, a host family placement for each participant. Sponsors shall not:

* * * * *

(3) Place an au pair with a host family having children under the age of two, unless the au pair has at least 200 hours of documented infant child care experience. An au pair participating in the EduCare program shall not be placed with a family having pre-school children in the home unless alternative full-time arrangements for the supervision of such pre-school children are in place;

* * * * *

(5) Place an au pair with a host family unless a written agreement between the au pair and the host family detailing the au pair's obligation to provide child care has been signed by both the au pair and the host family prior to the au pair's departure from his or her home country. Such agreement shall clearly state whether the au pair is an EduCare program participant or not. Such agreement shall not limit the obligation to provide child care services to not more than 10 hours per day or more than 45 hours per week unless the au pair is an EduCare participant. Such agreement shall limit the obligation of an EduCare participant to provide child care service to not more than 10 hours per day or more than 30 hours per week.

* * * * *

(j) *Wages and hours.* Sponsors shall require that au pair participants:

(1) Are compensated at a weekly rate based upon 45 hours of child care services per week and paid in conformance with the requirements of the Fair Labor Standards Act as interpreted and implemented by the United Stated Department of Labor. EduCare participants shall be compensated at a weekly rate that is 75% of the weekly rate paid to non-EduCare participants;

(2) Do not provide more than 10 hours of child care per day, or more than 45 hours of child care in any one-week. EduCare participants may not provide more than 10 hours of child care per day or more than 30 hours of child care in any one week;

(3) Receive a minimum of one and one half days off per week in addition to one complete weekend off each month; and

(4) Receive two weeks of paid vacation.

(k) *Educational component.* Sponsors shall require that during their period of program participation, all EduCare au pair participants are enrolled in an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants are enrolled in an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of the au pair in an accredited U.S. post-secondary institution and to pay the cost of such academic course work in an amount not to exceed $1,000 for EduCare au pair participants and in an amount not to exceed $500 for all other au pair participants.

* * * * *

Dated: March 23, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–12375 Filed 5–15–01; 8:45 am]

BILLING CODE 4710–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–057–200105; FRL–6980–5]

Approval and Promulgation of Implementation Plans: Alabama: Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Alabama on March 12, 2001. This revision responds to the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_X SIP Call." This revision establishes and requires a nitrogen oxides (NO_X) allowance trading program for large electric generating and industrial units, and reductions for cement kilns, beginning in 2004. The intended effect of this SIP revision is to reduce emissions of NO_X in order to help attain the national ambient air quality standard for ozone. EPA is proposing to approve Alabama's NO_X Reduction and Trading Program because it meets the requirements of the Phase I NO_X SIP Call that will significantly reduce ozone transport in the eastern United States. EPA has deemed the

submittal is administratively and technically complete, and a letter of completeness was sent to Alabama Department of Environmental Management (ADEM) on April 26, 2001.

DATES: Written comments must be received on or before June 15, 2001.

ADDRESSES: All comments should be addressed to: Sean Lakeman at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION: On October 13, 2000, ADEM submitted a draft NO_X emission control rule to the EPA for pre-adoption review, requesting parallel processing to the development of the rule at the State level and included a schedule for development and adoption of the rule by the State. On March 12, 2001, ADEM submitted final revisions to its SIP to meet the requirements of the Phase I NO_X SIP Call. The revisions comply with the requirements of the Phase I NO_X SIP Call. Included in this document are revisions to chapter 335–3–1 General Provisions and chapter 335–3–8 Control of Nitrogen Oxide Emissions. The information in this proposal is organized as follows:

I. EPA's Action
  A. What action is EPA proposing today?
  B. Why is EPA proposing this action?
  C. What are the NO_X SIP Call general requirements?
  D. What is EPA's NO_X budget and allowance trading program?
  E. What guidance did EPA use to evaluate Alabama's submittal?
  F. What is the result of EPA's evaluation of Alabama's program?
II. Alabama's Control of NO_X Emissions
  A. When did Alabama submit the SIP revision to EPA in response to the NO_X SIP Call?
  B. What is the Alabama's NO_X Budget Trading Program?
  C. What is the Compliance Supplement Pool?
  D. What is the New Source Set-Aside program?
III. Proposed Action
IV. Administrative Requirements

I. EPA's Action

A. What Action Is EPA Proposing Today?

EPA is proposing to approve revisions to Alabama's SIP concerning the adoption of its NO_X Reduction and Trading Program, submitted on March 12, 2001.

B. Why Is EPA Proposing This Action?

EPA is proposing this action because Alabama's NO_X Reduction and Trading Program regulations meet the requirements of the Phase I NO_X SIP Call. Therefore, EPA is proposing full approval of Alabama's NO_X Reduction and Trading Program.

C. What Are the NO_X SIP Call General Requirements?

On October 27, 1998, EPA published a final rule entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_X SIP Call." See 63 FR 57356. The NO_X SIP Call requires 22 States and the District of Columbia to meet statewide NO_X emission budgets during the five month period between May 1 and October 1 in order to reduce the amount of ground level ozone that is transported across the eastern United States.

EPA identified NO_X emission reductions by source category that could be achieved by using cost-effective measures. The source categories included were electric generating units (EGUs) and non-electric generating units (non-EGUs), internal combustion engines and cement kilns were also included. EPA determined state-wide NO_X emission budgets based on the implementation of these cost effective controls for each affected jurisdiction to be met by the year 2007. Internal combustion engines are not addressed by Alabama in this response to Phase I, but will be in Phase II. However, the NO_X SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. In the NO_X SIP Call notice, EPA suggested that imposing statewide NO_X emissions caps on large fossil-fuel fired industrial boilers and EGUs would provide a highly cost effective means for states to meet their NO_X budgets. In fact, the state-specific budgets were set assuming an emission rate of 0.15 pounds NO_X per million British thermal units (lb. NO_X/mmBtu) at EGUs, multiplied by the projected heat input (mmBtu) from burning the quantity of fuel needed to meet the 2007 forecast for electricity demand. See 63 FR 57407. The calculation of the 2007 EGU emissions assumed that an emissions trading program would be part of an EGU control program. The NO_X SIP Call state budgets also assumed on average a 30 percent NO_X reduction from cement kilns, and a 60 percent reduction from industrial boilers and combustion. The non-EGU control assumptions were applied at units where the heat input capacities were greater than 250 mmBtu per hour, or in cases where heat input data were not available or appropriate, at units with actual emissions greater than one ton per day.

To assist the states in their efforts to meet the SIP Call, the NO_X SIP Call final rulemaking notice included a model NO_X allowance trading regulation, called "NO_X Budget Trading Program for State Implementation Plans," (40 CFR part 96), that could be used by states to develop their regulations. The NO_X SIP Call notice explained that if states developed an allowance trading regulation consistent with the EPA model rule, they could participate in a regional allowance trading program that would be administered by the EPA. See 63 FR 57458–57459.

There were several periods during which EPA received comments on various aspects of the NO_X SIP Call emissions inventories. On March 2, 2000, EPA published additional technical amendments to the NO_X SIP Call in the **Federal Register** (65 FR 11222). On March 3, 2000, the D.C. Circuit issued its decision on the NO_X SIP Call ruling in favor of EPA on all the major issues. *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000). The DC Circuit Court denied petitioners' requests for rehearing or rehearing en banc on July 22, 2000. However, the Circuit Court remanded four specific elements to EPA for further action: The definition of electric generating unit, the level of control for stationary internal combustion engines, the geographic extent of the NO_X SIP Call for Georgia and Missouri, and the inclusion of Wisconsin. On March 5, 2001, the U.S. Supreme Court declined to hear an appeal by various utilities, industry groups and a number of upwind states from the D.C. Circuit's ruling on EPA's NO_X SIP Call rule.

EPA expects to publish a proposal that addresses the remanded portion of the NO_X SIP Call Rule. Any additional emissions reductions required as a result of a final rulemaking on that proposal will be reflected in the second phase portion (Phase II) of the State's emission budget. On April 11, 2000, in response to the Court's decision, EPA notified Alabama of the maximum amount of NO_X emissions allowed for the State during the ozone season. This emission budget reflected adjustments to Alabama's NO_X emission budget to reflect the Court's decision that Georgia and Missouri should not be included in full. Although the Court did not order EPA to modify Alabama's budget, the EPA believes these adjustments are consistent with the Court's decision.

D. What Is EPA's NO_X Budget and Allowance Trading Program?

EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, sets forth a NO_X emissions trading program for large EGUs and non-EGUs. A state can voluntarily choose to adopt EPA's model rule in order to allow sources within its borders to participate in regional allowance trading. The October 27, 1998, **Federal Register** notice contains a full description of the EPA's model NO_X budget trading program. See 63 FR 57514–57538 and 40 CFR part 96.

Air emissions trading, in general, uses market forces to reduce the overall cost of compliance for pollution sources, such as power plants, while maintaining emission reductions and environmental benefits. One type of market-based program is an emissions budget and allowance trading program, commonly referred to as a "cap and trade" program.

In an emissions budget and allowance trading program, the state or EPA sets a regulatory limit, or emissions budget, in mass emissions from a specific group of sources. The budget limits the total number of allowances for each source covered by the program during a particular control period. When the budget is set at a level lower than the current emissions, the effect is to reduce the total amount of emissions during the control period. After setting the budget, the state or EPA then assigns, or allocates, allowances to the participating entities up to the level of the budget. Each allowance authorizes the emission of a quantity of pollutant, e.g., one ton of airborne NO_X.

At the end of the control period, each source must demonstrate that its actual emissions during the control period were less than or equal to the number of available allowances it holds. Sources that reduce their emissions below their allocated allowance level may sell their extra allowances. Sources that emit more than the amount of their allocated allowance level may buy allowances from the sources with extra reductions. In this way, the budget is met in the most cost-effective manner.

E. What Guidance Did EPA Use To Evaluate Alabama's Submittal?

The final NO_X SIP Call rule included a model NO_X budget trading program regulation. See 40 CFR part 96. EPA used the model rule and 40 CFR 51.121–51.122 to evaluate Alabama's NO_X reduction and trading program.

F. What Is the Result of EPA's Evaluation of Alabama's Program?

EPA has evaluated Alabama's March 12, 2001, SIP submittal and finds it approvable. The Alabama NO_X reduction and trading program is consistent with EPA's guidance and meets the requirements of the Phase I NO_X SIP Call. EPA finds the NO_X control measures in the Alabama's NO_X reduction and trading program approvable. The March 12, 2001, submittal will strengthen Alabama's SIP for reducing ground level ozone by providing NO_X reductions beginning in 2004. Also, EPA finds that the submittal contained the information necessary to demonstrate that Alabama has the legal authority to implement and enforce the control measures, and to demonstrate their appropriate distribution of the compliance supplement pool. Furthermore, EPA proposes to find that the submittal demonstrates that the compliance dates and schedules, and the monitoring, recordkeeping and emission reporting requirements will be met.

II. Alabama's Control of NO_X Emissions

A. When Did Alabama Submit the SIP Revision to EPA in Response to the NO_X SIP Call?

On October 13, 2000, the Alabama Department of Environmental Management submitted a draft NO_X emission control rule to the EPA for pre-adoption review, requesting parallel processing to the development of the rule at the State level and included a schedule for adoption of the rule by the State. On March 12, 2001, ADEM submitted a final revision to its SIP to meet the requirements of the Phase I NO_X SIP Call.

B. What Is the Alabama's NO_X Budget Trading Program?

Alabama proposes, as in the model rule, to allow the large EGUs, boilers and turbines to participate in the multi-state cap and trade program. Cement kilns are not included in the trading program, but will be required to install low NO_X burners, mid-kiln system firings or technology that achieves the same emission decreases. Alabama's SIP revision to meet the requirements of the NO_X SIP Call consists of the revision of chapter 335–3–1 General Provisions and chapter 335–3–8 Control of Nitrogen Oxide Emissions. The regulations under 335–3–8 affect EGUs, non-EGUs, and cement manufacturing facilities. Chapter 335–3–1 added one new regulation (.14) Emissions Reporting Requirements Relating to Budgets for NO_X Emissions. Chapter 335–3–8 Control of Nitrogen Oxide Emissions added eleven new regulations: (.01) Standards for Portland Cement Kilns; (.04) Standards For Stationary Reciprocating Internal Combustion Engines (reserved); (.05) NO_X Budget Trading Program; (.06) Authorized Account Representative for NO_X Budget Sources; (.07) Permits; (.08) Compliance Certification; (.09) NO_X Allowance Allocations; (.10) NO_X Allowance Tracking System; (.11) NO_X Allowance Transfers; (.12) Monitoring and Reporting; and (.13) Individual Unit Opt-ins.

Alabama's NO_X Reduction and Trading Program establishes and requires a NO_X allowance trading program for large EGUs and non-EGUs, and reductions from cement kilns. The regulations under 335–3–8 establish a NO_X cap and allowance trading program for the ozone control seasons beginning May 31, 2004.

The State of Alabama voluntarily chose to follow EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, that sets forth a NO_X emissions trading program for large EGUs and non-EGUs. Alabama's NO_X Reduction and Trading Program is based upon EPA's model rule, therefore, Alabama sources are allowed to participate in the interstate NO_X allowance trading program that EPA will administer for the participating states. The State of Alabama has adopted regulations that are substantively identical to 40 CFR part 96. Therefore, pursuant to 40 CFR 51.121(p)(1), Alabama's SIP revision is approved as satisfying the State's NO_X emission reduction obligations. Under 335–3–8, Alabama allocates NO_X allowances to the EGU and non-EGU units that are affected by these requirements. The NO_X trading program applies to all fossil fuel fired EGUs with a nameplate capacity greater than 25 MW or more that sell any amount of electricity to the grid as well as any non-EGUs that have a heat input capacity equal to or greater than 250 mmBtu per hour. Each NO_X allowance permits a source to emit one ton of NO_X during

the seasonal control period. NO_X allowances may be bought or sold. Unused NO_X allowances may also be banked for future use, with certain limitations.

Source owners will monitor their NO_X emissions by using systems that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each budget source complies with the program by demonstrating at the end of each control period that actual emissions do not exceed the amount of allowances held for that period. However, regardless of the number of allowances a source holds, it cannot emit at levels that would violate other federal or state limits, for example, reasonably available control technology (RACT), new source performance standards, or Title IV (the Federal Acid Rain program).

Alabama's NO_X Reduction and Trading Program establishes requirements for cement manufacturing facilities, however, these sources are subject to NO_X reduction requirements but do not participate in the NO_X trading program. Alabama's submittal does not rely on any additional reductions beyond the anticipated Federal measures in the mobile and area source categories.

Alabama's submittal demonstrates that the Phase I NO_X emission budgets established by EPA will be met as follows:

Source category	EPA 2007 NO_X budget emissions (tons/season)	Alabama 2007 NO_X budget emissions (tons/season)
EGUs	23,242	23,169
Non-EGUs	31,240	31,159
Area Sources	21,109	21,109
Non-road Sources	13,402	13,402
Highway Sources	35,801	35,801
Total	124,795	124,640

C. What Is the Compliance Supplement Pool?

To provide additional flexibility for complying with emission control requirements associated with the NO_X SIP Call, the final NO_X SIP Call rule provided each affected state with a "compliance supplement pool." The compliance supplement pool is a quantity of NO_X allowances that may be used to cover excess emissions from sources that are unable to meet control requirements during the 2004 and 2005 ozone season. Allowances from the compliance supplement pool will not be valid for compliance past the 2005 ozone season. The NO_X SIP Call included these voluntary provisions in order to address commenters' concerns about the possible adverse effect that the control requirements might have on the reliability of the electricity supply or on other industries required to install controls as the result of a state's response to the NO_X SIP Call.

A state may issue some or all of the compliance supplement pool via two mechanisms. First, a state may issue some or all of the pool to sources with credits from implementing NO_X reductions beyond all applicable requirements after September 30, 1999, but before May 31, 2004 (i.e., early reductions). This allows sources that cannot install controls prior to May 31, 2004, to purchase other sources' early reduction credits in order to comply. Second, a state may issue some or all of the pool to sources that demonstrate a need for an extension of the May 31, 2004, compliance deadline due to undue risk to the electricity supply or other industrial sectors, and where early reductions are not available. See 40 CFR 51.121(e)(3). Alabama has opted to not participate in the Early Reduction Credit program. The compliance supplement pool will be reserved for those companies that demonstrate an actual need for the available allowance.

D. What Is the New Source Set-Aside Program?

The major difference between Alabama's rule and EPA's model rule is in the allocation of allowances. Alabama's SIP provides for no New Source Set-asides. Initial allocations submitted with this revision for the control periods in 2004, 2005, and 2006, and were given to those NO_X budget units in operation, permitted, or with complete permit application on or before October 2, 2000 (referred to as "baseline units"). After this date there will be no allowances available for new sources unless an existing source shuts down. If an existing unit is shut down, a replacement unit constructed at the same site will be given priority in allowance allocations over new sources. The replacement unit must be of the same or less heat input capacity as the former unit. Once allocations are made to the replacement unit, other new units can qualify for excess allowances resulting from the shutdown. Future allocations will be distributed by April 1st of every third year (2004, 2007, 2010 etc.). Allocations will be calculated for three years each three year period (2004–2006, 2007–2009, etc.). This approach to allocations for new units is acceptable because it falls within the flexibility of the NO_X SIP Call requirements for a state's allocation to new sources.

III. Proposed Action

EPA is proposing to approve the Alabama's SIP revision consisting of its NO_X Reduction and Trading Program, which was submitted on March 12, 2001. EPA finds that Alabama's submittal is fully approvable because it meets the requirements of the Phase I NO_X SIP Call.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This proposed approval of the Alabama NO_X Reduction and Trading Program does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 8, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–12355 Filed 5–15–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 150–4108; FRL–6980–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conversion of the Conditional Approval of the 15 Percent Plan for the Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area to a Full Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to convert its conditional approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania to a full approval. This revision satisfies the conditions imposed by EPA on our approval of the 15 percent reasonable further progress plan (15% plan) requirement of the Clean Air Act (the Act) for Pennsylvania's portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is proposing to convert its conditional approval of this 15% plan to full approval because the Commonwealth has fulfilled its obligation and satisfied the conditions imposed in EPA's conditional approval of the 15% plan for the Philadelphia area. The intended effect of this action is to convert our conditional approval of Pennsylvania's 15% plan SIP for the Philadelphia area to a full approval.

DATES: Written comments must be received on or before June 15, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. They are also available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, by phone at: (215) 814–2176 (at the EPA Region III address above), or by e-mail at: rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 5, 1998, the Pennsylvania Department of Environmental Protection (PA DEP) submitted a revision to the Pennsylvania State Implementation Plan (SIP) for its portion of the Philadelphia ozone nonattainment area. The revision consists of an amendment to its plan to achieve a 15% reduction from 1990 base year levels in volatile organic compound (VOC) emissions. The previous version of Pennsylvania's 15% plan for its portion of the Philadelphia ozone nonattainment area was conditionally approved by EPA on June 9, 1997 (62 FR 31343). Pennsylvania's June 1998 revision to that 15% plan was done in order to satisfy conditions imposed by EPA in its conditional approval of the Commonwealth's plan.

The Philadelphia ozone nonattainment area consists of six counties in Southern New Jersey (Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem), two counties in Northern Delaware (Kent and New Castle), one county in Maryland (Cecil), and five counties in Southeastern Pennsylvania (Bucks, Chester, Delaware, Montgomery, and Philadelphia). Each of the states comprising the multi-state ozone nonattainment area submitted its own 15% plan to achieve reasonable further progress towards attainment of the ozone standard. EPA has taken separate rulemaking action on each state's plan.

EPA is taking action today on the revised 15% plan SIP for Pennsylvania's portion of the Philadelphia nonattainment area, submitted to EPA by PA DEP on June 5, 1998. These revisions to the plan satisfy the conditions stipulated by EPA in its June 9, 1997 conditional approval of the previous Philadelphia 15% plan. Those approval conditions related to the I/M program upon which the 15% plan relies (and which were conditions of EPA's approval of the I/M program).

EPA is proposing in this rulemaking to convert the June 9, 1997 conditional approval of Pennsylvania's 15% plan for the Philadelphia area to a full approval. The basis for this action is that EPA has determined that Pennsylvania has

fulfilled all of the conditions imposed by EPA's conditional approval.

II. Pennsylvania's Calculation of the 15% Plan Target Level

As stated above, the subject of this rulemaking is Pennsylvania's June 5, 1998 revision to the 15% plan, submitted by the Commonwealth to remedy conditions imposed by EPA in its June 9, 1997 approval of the original 15% plan. These conditions of the June 9, 1997 approval are related to the I/M program and the modeling of the credits for that program that impact the target level of the 15% plan. Only those aspects of this target level calculation associated with the conditions of EPA's approval (*i.e.*, related to Pennsylvania's June 5, 1998 SIP revision) are the subject of today's proposed rulemaking action by EPA. For clarity, however, the entire calculation process is set forth below.

A. Base Year Emission Inventory

The baseline from which the required reductions towards the 15% plan goal are applied is the 1990 base year emission inventory. The first step in calculating a 15% target is a 15% plan 1990 base year inventory. The inventory is broken down into four emissions source sectors: stationary, or point, sources; area sources; on-road, or highway, mobile sources; and off-highway, or non-road, mobile sources. The base year inventory includes emissions of all sources within the nonattainment area and certain large point sources within twenty-five miles of the boundary.

For purposes of planning reasonable further progress towards attainment (*e.g.*, 15% planning), a subset of the 1990 base year inventory is used. This 1990 rate-of-progress (ROP) inventory includes only anthropogenic emissions that occurred within the boundaries of the subject nonattainment area. EPA approved Pennsylvania's 1990 base year inventory SIP revision for the Philadelphia area in its June 9, 1997 conditional approval of the 15% plan (62 FR 31343).

B. Growth in Emissions Between 1990 and 1996

EPA interprets the Clean Air Act to require that reasonable further progress towards attainment of the ozone standard must occur after offsetting any growth in the level of emissions expected to occur over the period being considered. To meet the 15% reasonable further progress requirement, a state must enact measures to offset projected growth in VOC emissions, in addition to a 15% reduction of 1996 VOC emissions (compared with 1990 levels). For a detailed description of the growth methodologies used by Pennsylvania, please refer to EPA's June 9, 1997 conditional approval of Pennsylvania's 15% plan (62 FR 31343), Pennsylvania's September 12, 1996 SIP (and related addendums), and the Technical Support Document (TSD) prepared for EPA's June 9, 1997 conditional approval action.

C. Enhanced Vehicle Inspection and Maintenance (I/M) Program

Both of the conditions listed in EPA's June 9, 1997 conditional approval of Pennsylvania's 15% plan for Philadelphia were related to Pennsylvania's enhanced I/M program for motor vehicles. The first of these conditions required Pennsylvania to "meet the conditions listed in the January 28, 1997 conditional interim inspection and maintenance (I/M) rulemaking (approval) notice". The second condition required Pennsylvania to remodel the I/M reductions credited towards the 15% plan using the EPA guidance memoranda: "Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance", from Gay McGregor and Sally Shaver, dated December 23, 1996. The policy for this I/M remodeling methodology is derived from another EPA guidance memoranda entitled, "Date by which States Need to Achieve All the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation," from John Seitz and Margo Oge, dated August 13, 1996.

With respect to the approval status of its I/M program SIP, Pennsylvania has remedied the related condition upon EPA's approval of the Philadelphia 15% plan. The I/M program had been conditionally approved by EPA (62 FR 4004, January 28, 1997). However, Pennsylvania has since revised the enhanced I/M program SIP to address the conditions of EPA's January 1997 approval. On June 17, 1999 (64 FR 32411), EPA published a direct final rule converting the conditional approval of Pennsylvania's I/M program to full approval. EPA's basis for conversion of the I/M program SIP to full approval was that Pennsylvania had remedied all of the conditions set forth in the January 28, 1997 conditional approval.

With respect to the condition upon approval of the 15% plan related to the claimed credits in the 15% plan for the I/M program SIP, Pennsylvania addressed this condition submitting a remodeling analysis of the I/M program benefits (following the guidelines set forth by EPA's guidance memos on the subject) in its June 5, 1998 SIP revision. That SIP revision is the subject of this proposed action. A discussion of the resulting recalculation of the highway mobile source projection inventory and the resultant 15% plan target level is discussed later in this action. Pennsylvania has properly followed EPA's guidance in its remodeling analysis.

D. Target Level Emissions/Emission Reductions Needed for the 15% Reduction

As part of its remodeling analysis to determine the amount of VOC reductions from the I/M program needed for the 15% plan, Pennsylvania remodeled the benefits from all of its 15% plan control measures that reduce highway source emissions. Highway mobile source emissions are modeled using an emission factor model called MOBILE. In assessing highway mobile source emissions, the benefits from all highway emission control strategies must be evaluated. In addition to the enhanced I/M program, such control measures include: the use of Federal reformulated gasoline (RFG) in highway vehicles and the implementation of new (*i.e.*, post-1990) vehicle standards that are part of the Federal Motor Vehicle Control Program (FMVCP). Per EPA guidance, this MOBILE remodeling demonstration compares the highway mobile source target level in 1999 versus the highway mobile source target level for 1996 performed for the original 15% plan.

EPA approves of the Commonwealth's remodeling demonstration submitted with the June 5, 1998 revised 15% plan. This revised plan properly accounts for the "1996 target level", which is then compared to the projections of actual "1996 controlled emissions".

EPA approves of the revised mobile source target level calculation for Philadelphia, and the resultant overall corrected target level. The overall corrected target level is 487.89 tons per day (tpd). A detailed description of the revised target level calculation process is described in more detail below, and in the Technical Support Document prepared in support of this proposed rulemaking action.

EPA's interpretation of section 182(b) of the Act requires states to adjust the base year VOC emission inventory for the 15% plan to account for non-creditable VOC reductions (*i.e.*, that were required to occur prior to the 1990 Clean Air Act Amendments). In calculating its target level, Pennsylvania's plan subtracts those reductions occurring between 1990 and 1996 from the pre-1990 FMVCP and low-RVP gasoline programs from the

1990 15% plan base inventory. The result is the "1990 base year inventory adjusted to 1996".

Pennsylvania's 15% plan relies upon reductions from an enhanced I/M program to achieve the required 15% level as soon after November 15, 1996 as practicable, but not later than 1999. Therefore, Pennsylvania was required to remodel the benefits of its I/M program in the 15% plan. EPA's applicable remodeling guidance requires that the base year inventory must also be calculated for 1999. This 1999 base year inventory must then be adjusted in the same way to remove non-creditable, pre-1990 control measure reductions from the inventory for the period from 1996 to 1999. Pennsylvania's 15% plan contains a calculation of those non-creditable emissions occurring between 1996 and 1999. These non-creditable emissions cannot be used toward the 15% plan goal, and they are therefore subtracted from the 1990 base year inventory for the 15% plan. The result yields the "1990 base year inventory adjusted to 1999."

Pennsylvania calculated a base 1996 VOC target level by taking 85% of the "1990 adjusted base year inventory for 1996." Per EPA guidance, the non-creditable reductions were then subtracted from the "base" 1996 VOC target level to yield a "final" 1996 VOC target level for the 15% plan. See Table 1 below, for a summary of the calculation of the target level.

TABLE 1.—REQUIRED REDUCTIONS FOR THE PENNSYLVANIA PORTION OF THE METROPOLITAN PHILADELPHIA-WILMINGTON-TRENTON, PA-DE-NJ NONATTAINMENT AREA 15% PLAN

[Tons/day]

Steps	Calculation method	Tons per day (tpd)
Revised 15% Plan Target Level/I/M Remodeling Calculation: 5-County Philadelphia, PA Area		
1990 Rate-of-Progress Base Year Inventory		615.56
1. Calculate the 1990 base year inventory (relative to 1996)	[1996 MOBILE factor (w/CAA controls off) × 1990 VMT] + non-inventory mobile 1990 inventory.	582.53
2. Calculate the 1996 base year (relative to 1999)	[1999 MOBILE factor (w/CAA controls off) × 1990 VMT] + non-inventory mobile 1990 inventory.	576.11
3. Calculate non-creditable fleet turnover between 1996 and 1999.	1990 base (for 1996) − 1990 base (for 1999); or, (Step 2 − Step 1).	5.42
4. Calculate the "base" 1996 target level	1990 adjusted base (for 1996) × 0.85 − RACT Fix-Ups; or, (Step 1 × 0.85) − RACT fix-ups (0.84 tpd).	494.31
5. Correct the 1996 target level ("final" target level)	1996 target level − 1996–1999 non-creditable emissions; or, (Step 4 − Step 3).	487.89
6. Projected 1996 Uncontrolled Emissions		617.95
7. Projected 1996 Controlled Inventory	Remodeled highway emissions + remainder of existing 1996 projected inventory (*i.e.*; point, area, non-road emissions) [84.58 + 151.15 + 153.98 + 81.33].	476.53
8. Required Emission Reductions for 15% plan	(Line 6 − Line 5)	130.06
Total Reductions Claimed from 15% Plan Control Measures		133.63

The reduction in emissions needed to meet the 15% reasonable further progress requirement equals the difference between the projected 1996 emissions under the pre-1990 Clean Air Act control strategy (i.e., the 1996 uncontrolled emissions) and the 15% plan target level. The difference between these two numbers reflects a 15% reduction from the adjusted base year inventory, including any additional reductions necessary to offset projected emissions growth between 1990 and 1996. For Philadelphia, the calculated target level is 487.89 tons per day. EPA is proposing to accept this final, corrected target level for the Pennsylvania portion of the Philadelphia area.

E. Determination That Revised 15% Plan Achieves Reasonable Further Progress

As part of the 15% plan I/M remodeling process, the inventory, target level, and projected reduction levels from the control measures claimed in the 15% plan were recalculated. After completion of the revised target level calculation, the Commonwealth was required to demonstrate that that the control measures in the 15% plan will ensure sufficient reductions to achieve the revised target level. Under the revised 15% plan, the emissions reductions claimed for the Philadelphia 15% plan increased from 127.91 tons per day to 133.63 tons per day.

EPA agrees with the Commonwealth's calculations and methodology used in the revised plan to justify this number. Pennsylvania properly employed EPA's guidance in calculating the revised estimates. EPA therefore concurs that Pennsylvania must achieve a reduction of at least 130.1 tons per day of creditable emission reductions to demonstrate that its portion of the Philadelphia ozone nonattainment area has met its 15% VOC reduction requirement, as required by the Clean Air Act. EPA believes that Pennsylvania's revised 15% plan has sufficient VOC reductions from its claimed, creditable measures to achieve the required 15% reduction. Pennsylvania claims 133.63 tons per day of VOC reductions, which is sufficient to ensure that reasonable further progress is achieved.

Table 2 below lists the creditable measures, and the VOC reductions claimed for those measures, in Pennsylvania's 15% plan for the Philadelphia area. It should be noted that these are the same measures approved by EPA in the June 9, 1997 conditional approval of Pennsylvania's 15% plan. Due to the I/M remodeling exercise, however, the level of credits associated with the highway mobile source control measures (*i.e.*, I/M, Tier 1 standards, and the Federal reformulated gasoline program) has changed. Since these measures and credit levels were approved by EPA previously, this rulemaking action applies only to the revised credit levels associated with the highway mobile source controls.

TABLE 2.—SUMMARY OF CONTROL MEASURES FOR THE 15% PLAN FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA OZONE NONATTAINMENT AREA

Pennsylvania Portion of Philadelphia, PA 15% Plan Control Measures

Control measure	Approved by EPA	VOC reduction (tons per day)
Highway Mobile Source Control Measures		
Reformulated Gasoline Program	Federal rule	21.19
Enhanced I/M Program	SIP approved [June 17, 1999 (64 FR 32411)]	56.91
Tier 1 Motor Vehicle Standards (post-1990 FMVCP)	Federal rule	6.59
Non-Highway Measures (Point, Area, Non-road)		
Reformulated Gasoline Program—Non-road benefits	Federal rule	0.59
Stage II Gasoline Vapor Recovery	SIP approved [December 13, 1994 (60 FR 63938)]	17.02
AIM Coatings Reformulation	Federal rule	7.28
Consumer and Commercial Products Reformulation	Federal rule	6.58
Autobody Refinishing Reformulation	Federal rule	6.30
Treatment, Storage, & Disposal Facility (TSDF) Controls	Federal rule	9.35
Facility Shutdowns	Conditionally Approved Philadelphia 15% Plan approved use of specified banked shutdown credits (under PA banking rule, Chapter 127.206–209).	1.82
Total Creditable Emission Reductions		133.63

F. Transportation Conformity Budgets

As is the case with any 15% plan, Pennsylvania's 15% plan for its portion of the Philadelphia ozone nonattainment area contains a budget for VOC emissions from on-road mobile sources. By proposing approval of this 15% plan, EPA is proposing to grant a de facto approval of the budget in this plan. However, EPA wishes to clarify that the budget in Pennsylvania's 15% plan for the Philadelphia area will not be the applicable budget for future conformity determinations, because there are budgets for the Philadelphia area that supercede this plan that apply for 1999 and all subsequent years. To verify which budget applies to the Pennsylvania portion of the Philadelphia area, please contact the EPA Regional office listed in the **ADDRESSES** section above or consult EPA's "Adequacy Review of SIP Submissions for Conformity" web page at http://www.epa.gov/oms/transp/conform/adequacy.htm.

Proposed Action

After review of Pennsylvania's June 5, 1998 revision to the 15% plan SIP for its portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area, EPA has determined that the Commonwealth has remedied all of the EPA-imposed conditions listed in our June 9, 1997 conditional approval (62 FR 31343) of the 15% plan SIP for the Philadelphia area. EPA is therefore proposing to convert its conditional approval of Pennsylvania's 15% plan SIP for the Philadelphia area to a full approval.

EPA is soliciting public comments on this action to convert our conditional approval of the Philadelphia 15% plan to a full approval, based upon Pennsylvania's June 5, 1998 submittal to remedy the conditions. These comments will be considered before the Agency takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

I. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

This proposed rule to convert the conditional approval of the 15% plan for the Pennsylvania portion of Philadelphia to a full approval does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 7, 2001.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12354 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6978–9]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA), New Hampshire Department of Environmental Services (NH DES) requested approval to implement and enforce State permit terms and conditions that substitute for the for the National Emissions Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and the National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical Pulp Mills. In the Rules section of this **Federal Register**, EPA is granting NH DES the authority to implement and enforce alternative requirements in the form of title V permit terms and conditions after EPA has approved the state's alternative requirements. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by June 15, 2001.

ADDRESSES: Comments should be addressed to: Steven Rapp, Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023.

Copies of the submitted request are available for public inspection at EPA's Region I office during normal business hours.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023 Telephone: (617) 918–1656.

SUPPLEMENTARY INFORMATION: This document concerns NH DES's Equivalency by Permit program. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 2, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA-New England.

[FR Doc. 01–12040 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket No.: WA–01–001; FRL–6980–9]

Finding of Attainment for PM–10; Spokane PM–10 Nonattainment Area, Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rule.

SUMMARY: EPA is proposing to find that the Spokane nonattainment area in Washington has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM–10) as of December 31, 1997.

DATES: Written comments must be received on or before June 15, 2001.

ADDRESSES: Written comments should be mailed to Steven K. Body, Office of Air Quality, Mailcode OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of documents relevant to this action are available for public review during normal business hours (8:00 am to 4:30 pm) at this same address.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553–0782.

SUPPLEMENTARY INFORMATION: Throughout this document, the words "we", "us", or "our" means the Environmental Protection Agency (EPA).

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I. Background

A. Designation and Classification of PM–10 Nonattainment Areas

Areas meeting the requirements of section 107(d)(4)(B) of the Clean Air Act (CAA) were designated nonattainment for PM–10 by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. *See* generally 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM–10 planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31,

1990), and any other areas violating the NAAQS for PM–10 prior to January 1, 1989. A **Federal Register** document announcing the areas designated nonattainment for PM–10 upon enactment of the 1990 Amendments, known as "initial" PM–10 nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent **Federal Register** document correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). The Spokane PM–10 nonattainment area was one of these initial moderate PM–10 nonattainment areas.

All initial moderate PM–10 nonattainment areas had the same applicable attainment date of December 31, 1994. Section 188(f) of the CAA provides the Administrator with the authority to waive a specific date for attainment of the standard under certain circumstances based on the relative contribution of anthropogenic and nonanthropogenic sources of PM–10 to violation of the PM–10 standard in the area. *See* 59 FR at 41998 (April 16, 1994).

B. How Does EPA Make Attainment Determinations?

All PM–10 nonattainment areas are initially classified "moderate" by operation of law when they are designated nonattainment. See section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the CAA, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM–10 nonattainment areas attained the PM–10 NAAQS by that date. Determinations under section 179(c)(1) of the Act are to be based upon the area's "air quality as of the attainment date." Section 188(b)(2) is consistent with this requirement.

Generally, we determine whether an area's air quality is meeting the PM–10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment areas and entered into the EPA Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (see 40 CFR 50.6, 40 CFR part 50, appendix J, 40 CFR part 53, 40 CFR part 58, appendix A and B) and may be used to determine the attainment status of areas. We also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM–10 standard is achieved when the annual arithmetic mean PM–10 concentration over a three-year period (for example 1995, 1996, and 1997 for areas with a December 31, 1997, attainment date) is equal to or less than 50 micrograms per cubic meter (μg/m³). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM–10 concentrations greater than 150 μg/m³. The 24-hour standard is attained when the expected number of days with levels above 150 μg/m³ (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are generally required to show attainment of the annual and 24-hour standards for PM–10. See 40 CFR part 50 and appendix K.

C. What Is the Attainment Date for the Spokane PM–10 Nonattainment Area?

As stated above, the Spokane PM–10 nonattainment area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act upon enactment of the Clean Air Act Amendments of 1990. See 40 CFR 81.348 (PM–10 Initial Nonattainment Areas); see also 56 FR 56694 (November 6, 1991). Under subsections 188(a) and (c)(1) of the Act, the original attainment date for the Spokane PM–10 nonattainment area, as well as for all other initial moderate PM–10 nonattainment areas, was December 31, 1994.

The Washington Department of Ecology (Ecology) submitted a SIP revision for the Spokane area on November 15, 1991 followed by addendums on January 31, 1992, December 9, 1994, and May 18, 1995. The December 1994 addendum included a more detailed technical analysis indicating that nonanthropogenic sources may be significant in the Spokane PM–10 nonattainment area during windblown dust events. Based on our review of the State's submissions, we deferred action on several elements in the Spokane SIP, approved the control measures in the SIP as meeting RACM/RACT for all sources except for windblown dust, and, under section 188(f) of the CAA, granted a temporary waiver to extend the attainment date for the Spokane area to December 31, 1997. See 61 FR 35998 (July 9, 1996) (proposed action); 62 FR 3800 (January 27, 1997) (final action). The temporary waiver was intended to provide Ecology time to evaluate further the Spokane nonattainment area and to determine the significance of the anthropogenic and nonanthropogenic sources impacting the area. Once these activities were complete or the temporary waiver expired, EPA was to make a decision on whether the area was eligible for a permanent waiver under section 188(f) of the CAA or whether the area had attained the standard by the extended attainment date. See 62 FR at 3802.

II. EPA's Proposed Action

As discussed above, whether an area has attained the PM–10 NAAQS is based exclusively upon measured air quality levels. See 40 CFR part 50 and 40 CFR 50, appendix K. For an area with a December 31, 1997, attainment date, such as the Spokane area, data reported for calendar years 1995, 1996, and 1997 are considered.

The Spokane County Air Pollution Control Authority (SCAPCA), the local air pollution control authority in Spokane County, established and operates six PM–10 SLAMS monitoring sites in the Spokane PM–10 nonattainment area. All six monitoring sites meet EPA SLAMS network design and siting requirements, set forth at 40 CFR part 58, appendices D and E, and have been monitoring for PM–10 since before1995.

The air quality data in AIRS for these monitors show that, for the three-year period from 1995 though 1997, there were no violations of the annual PM–10 standard. The highest annual arithmetic average measured during this three-year period was 32 μg/m³ at the Crown Zellerbach monitoring site in 1995 and 1996. Based on this information, EPA has determined that the area attained the annual PM–10 standard as of the extended attainment date of December 31, 1997. A review of air quality data in AIRS for 1998 through 2000 also confirms that there have been no violations of the annual PM–10 standard subsequent to the attainment date.

With respect to the 24-hour PM–10 standard, a review of the air quality data in AIRS for the three-year period from 1995 through 1997 shows that there was one recorded exceedence of the 24-hour PM–10 standard in the Spokane PM–10 nonattainment area: a concentration of 186 μg/m³ reported at the Crown Zellerbach site on August 30, 1996, which the State has claimed as attributable to a high wind "natural event." The next highest 24-hour PM–10 concentration measured during this time period was 124 μg/m³ at the Crown Zellerbach site on February 12, 1996.

Under section 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K, section 2.4, specific exceedences due to uncontrollable natural events, such as unusually high winds, may be discounted or excluded entirely from decisions regarding an area's air quality status in appropriate circumstances. See Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled "Areas Affected by Natural Events," dated May 30, 1996 (EPA's Natural Events Policy). Under the policy, where a State believes natural events have caused a violation of the NAAQS, the State enters the exceedence in the AIRS data base, flags the exceedence as being attributable to a natural event, documents a clear causal relationship between the measured exceedence and the natural event, and develops a natural events action plan (NEAP) to address future natural events. In the case of high-wind events where the sources of dust are anthropogenic, the State should also document that Best Available Control Measures (BACM) were required for those sources and that sources were in compliance with BACM at the time-of the high-wind event. EPA's Natural Events Policy also contains guidance for notifying the public of the occurrence of natural events and the health effects of such events, as well as minimizing public exposure to high concentrations of PM–10 due to natural events.

As discussed above, the State of Washington flagged the August 30, 1996, exceedence in the AIRS data base as an exceedence caused by high winds under EPA's Natural Events Policy EPA has concurred with that determination. Therefore, EPA has excluded this exceedence from consideration in determining whether the Spokane PM–10 nonattainment area attained the 24-hour. As a result, the expected number of days over the 24-hour standard for 1996 is 0.0 and, when averaged over the three-year period from 1995 through 1997, the three-year expected exceedence rate is also 0.0. EPA has therefore determined that the Spokane PM–10 nonattainment area attained the 24-hour PM–10 standard as of the extended attainment date of December 31, 1997.

Even if the August 30, 1996, exceedence was not excluded in determining the attainment status of the Spokane area, the data would still show attainment of the 24-hour PM–10 standard. Accounting for the sampling schedule and missing data, the expected number of days over the standard for 1996 would be 1.03 if the August 30, 1996, exceedence was not excluded. When averaged over the three-year period from 1995 through 1997, during which time no other exceedences were recorded in the Spokane area, the three-year expected exceedence rate is 0.34 days. This value is less than the expected exceedence rate for the 24-hour PM–10 standard of 1.0 that would represent a violation of the standard.

A review of air quality data in AIRS for 1998 through 2000 shows that there was one reported exceedence of the 24-hour standard during this time: 343 μg/m³ on September 25, 1999, at the Crown Zellerbach monitor. The State has also flagged this exceedence in the AIRS data base as an exceedence caused by high winds under EPA's Natural Events Policy. EPA is still reviewing the documentation submitted to support the State's flagging of the September 25, 1999, exceedence as attributable to uncontrollable natural event. Once EPA has completed its review, EPA will notify the State regarding whether EPA will confirm the flagging of the exceedence as due to natural events. Even if the September 25, 1999, is exceedence is considered in determining the attainment status of the Spokane area, however, the data still show attainment of the 24-hour PM–10 standard as of the end of 2000. Accounting for the sampling schedule and missing data, the expected number of days over the 24-hour standard for 1999 is 1.04. When averaged over a three-year period, during which no other exceedences were recorded, the three-year expected exceedence rate is 0.35. This value is less than the expected exceedence rate for the 24-hour PM–10 standard of 1.0 that would represent a violation of the standard.

In summary, EPA proposes to find that the Spokane PM–10 nonattainment area attained the PM–10 NAAQS as of the extended attainment date of December 31, 1997. If we finalize this proposal, consistent with CAA section 188, the area will remain a moderate PM–10 nonattainment area and will avoid the additional planning requirements that apply to serious PM–10 nonattainment areas. This proposed finding of attainment should not be confused with a redesignation to attainment under CAA section 107(d). Washington has not submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain moderate nonattainment for the Spokane PM–10 nonattainment area until such time as Washington meets the CAA requirements for redesignations to attainment.

We are soliciting public comments on EPA's proposal to find that the Spokane PM–10 nonattainment area has attained the PM–10 NAAQS as of the December 31, 1997, attainment date. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely makes a determination based on air quality data and does not impose any requirements. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule does not impose any enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely makes a determination based on air quality data and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA

has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 30, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–12357 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[WV057–6016b; FRL–6979–9]

Determination of Attainment of the NAAQS for PM–10 in the Weirton, WV Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to determine that the Weirton, West Virginia PM–10 Moderate nonattainment area (comprised of the City of Weirton) attained the National Ambient Air Quality Standards (NAAQS) for Particulate Matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10) by its applicable December 31, 2000 attainment date. In the Final Rules section of this **Federal Register**, EPA is making this determination as a direct final rule without prior proposal because the Agency views this as a noncontroversial determination and anticipates no adverse comments. A more detailed description of EPA's evaluation is included in a Technical Support Document (TSD) prepared in support of this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final notice based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 15, 2001.

ADDRESSES: Written comments should be addressed to David Arnold, Chief, Air Quality Planning and Information Services Branch Name, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, at the EPA Region III address above or by e-mail at *knapp.ruth@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information on the determination that Weirton, West Virginia has attained the PM–10 NAAQS, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12350 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1152, MM Docket No. 01–107, RM–10057]

Radio Broadcasting Services; Hemlock and Mount Pleasant, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Wilks Broadcasting LLC requesting the reallotment of Channel 233C1 from Mount Pleasant, Michigan, to Hemlock, Michigan, and modification of the license for Station WCEN–FM to specify Hemlock, Michigan, as the community of license. The coordinates for Channel 233C1 at Hemlock are 43–43–36 and 84–36–16. In accordance with section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 233C1 at Hemlock.

DATES: Comments must be filed on or before June 25, 2001, and reply comments on or before July 10, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard R. Zaragoza, Veronica D. McLaughlin, Shaw Pittman, 2300 N Street, NW., Washington, DC 20037–1128.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–107, adopted April 25, 2001 and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 233C1 at Mount Pleasant and adding Hemlock, Channel 233C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12268 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–1015, MM Docket No. 01–93, RM–10076]

Radio Broadcasting Services; McCall, ID and Pinesdale, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Idaho Broadcasting Consortium, Inc. requesting the substitution of Channel 294C1 for Channel 294C2 at McCall, Idaho, and reallotment of Channel 294C1 from McCall, Idaho, to Pinesdale, Montana, and modification of the construction permit for Channel 294C2 to specify operation on Channel 294C1 at Pinesdale, Montana, as its community of license. Channel 294A was allotted to McCall, Idaho, in MM Docket No. 86–350, 52 FR 42438, November 5, 1987. Idaho Broadcasting Consortium, Inc. filed a first-come/first-serve and one-step application for the allotment at McCall as a C2 allotment in lieu of a Class A allotment. Idaho Broadcasting Consortium, Inc. was granted a construction permit for Channel 294C2 at McCall on December 8, 1999 (BPH–19971023MD) (not published in the **Federal Register**)). The coordinates for Channel 294C1 at Pinesdale are 46–10–07 and 114–17–06. Canadian concurrence will be requested for this allotment. In accordance with section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 294C1 at Pinesdale.

DATES: Comments must be filed on or before June 11, 2001, and reply comments on or before June 26, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Laura A. Otis, Rosenman & Colin LLP, 805 15th Street, NW., 9th Floor, Washington, DC 20005–2212.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–93, adopted April 11, 2001, and released April 20, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 294A at McCall.

3. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Pinesdale and Channel 294C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–12267 Filed 5–15–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 365, 385, and 387

[Docket No. FMCSA 97–2709 (formerly FHWA–97–2709)]

RIN 2126–AA26 (formerly RIN 2125–AE01)

Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders; Withdrawal

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: The FMCSA withdraws the notice of proposed rulemaking (NPRM) relating to proposed interim rules on the registration of for-hire motor property and passenger carriers, property brokers, and freight forwarders published in the **Federal Register** at 63 FR 7362 on February 13, 1998. This NPRM will be superseded by three rulemaking proceedings now in development that will impact the registration process: registration rules for new entrants as required by the Motor Carrier Safety Improvement Act of 1999 (MCSIA); registration rules for Mexican motor carriers operating in the United States under the North American Free Trade Agreement (NAFTA); and rules implementing a unified carrier registration system as required by the Interstate Commerce Commission Termination Act of 1995 (ICCTA). Maintaining an open docket on the proposed interim registration rules would be inconsistent with changes that FMCSA will propose in these proceedings.

DATES: The notice of proposed rulemaking published on February 13, 1998 at 63 FR 7362 is withdrawn as of June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Angeli Sebastian, Chief, Driver and Carrier Operations, MC–PSD, (202) 366–4001, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission Termination Act of 1995 (ICCTA) (Pub. L.104–88, 109 Stat. 803) required the Secretary of Transportation to issue regulations replacing: (1) the current DOT identification number system, (2) the single State registration system under 49 U.S.C. 14504, (3) the registration system for for-hire motor carriers, property brokers and freight

forwarders under chapter 139 of title 49, and (4) the financial responsibility information system under 49 U.S.C. 13906 with a single on-line Federal system. Before implementation of this unified system, the ICCTA authorized the Secretary to continue registering for-hire motor carriers, property brokers and freight forwarders under the system in effect prior to the Act's January 1, 1996 effective date.

On February 13, 1998, the Federal Highway Administration (FHWA) (the agency responsible for registering motor carriers, property brokers and freight forwarders after the demise of the ICC and before the creation of the FMCSA) proposed revisions to the old ICC registration rules (recodified as 49 CFR part 365) to conform to statutory changes made by the ICCTA (63 FR 7362). These proposed regulations were to be interim rules because they were intended to remain in effect only until implementation of the unified registration system required by section 13908.

The FHWA published an advance notice of proposed rulemaking (ANPRM) on August 26, 1996, inviting public comment on the elements of the unified system envisioned by section 13908 (61 FR 43816). The FMCSA, after considering these comments, is developing a notice of proposed rulemaking that will supersede the proposed rules published on February 13, 1998. Furthermore, the FMCSA intends to soon propose additional revisions to part 365 in response to the new entrant requirements of section 210 of the MCSIA and has already proposed changes to part 365 to accommodate the anticipated expansion of Mexican motor carrier operations within the United States in accordance with NAFTA. Because of these developments, the NPRM is being withdrawn.

Issued on: May 10, 2001.

Julie Anna Cirillo,

Acting Deputy Administrator.

[FR Doc. 01–12348 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register

Vol. 66, No. 95

Wednesday, May 16, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Report of Requests for Restrictive Trade Practice or Boycott, Single or Multiple Transactions.

Agency Form Number: 621P, 6051P, 6051P–A.

OMB Approval Number: 0694–0012.

Type of Request: Extension of a currently approved collection of information.

Burden: 1,298 hours.

Average Hours Per Response: 121 to 151 minutes per response.

Number of Respondents: 1,177 respondents.

Needs and Uses: Used to carefully and accurately monitor requests for participation in foreign boycotts against countries friendly to the U.S. which are received by U.S. persons. Used to note trends in such boycott activity and to assist in carrying out U.S. policy of opposition to such boycotts.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12252 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Application for Transfer of License to Another Party.

Agency Form Number: None.

OMB Approval Number: 0694–0051.

Type of Request: Extension of a currently approved collection of information.

Burden: 11 hours.

Average Time Per Response: 66 minutes per response.

Number of Respondents: 10 respondents.

Needs and Uses: In certain circumstances (*i.e.*, company mergers, takeovers, etc.), it is necessary to transfer ownership of licenses to another party. The information collected is necessary to ensure that all parties are aware of and agree to the transfer, both of the ownership as well as responsibilities associated with export authorizations.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12253 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Special Comprehensive License.

Agency Form Number: BXA–748P, BXA–752.

OMB Approval Number: 0694–0089.

Type of Request: Extension of a currently approved collection of information.

Burden: 1,017 hours.

Average Time Per Response: 50 minutes to 40 hours per response.

Number of Respondents: 176 respondents.

Needs and Uses: The SCL Procedure authorizes multiple shipments of items from the U.S. or from approved consignees abroad who are approved in advance by BXA to conduct the following activities: servicing, support services, stocking spare parts, maintenance, capital expansion, manufacturing, support scientific data acquisition, reselling and reexporting in the form received, and other activities as approved on a case-by-case basis.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of Management and Organization.

[FR Doc. 01–12254 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Reporting and Recordkeeping Requirements Under the Wassenaar Arrangement.

Agency Form Number: N/A.

OMB Approval Number: 0694–0106.

Type of Request: Extension of a currently approved collection of information.

Burden: 559 hours.

Average Time Per Response: 12 minutes per response.

Number of Respondents: 1,525 respondents.

Needs and Uses: To fulfill U.S. commitments to the Wassenaar Arrangement with regard to dual-use items, Section 743 of the EAR imposes reporting and recordkeeping requirements for license exception exports of certain items controlled under the Wassenaar Arrangement.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12255 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committees

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463, as amended by Pub. L. 94–409, Pub. L. 96–523, and Pub. L. 97–375), we are giving notice of a joint meeting followed by separate and concurrently held meetings of the Census Advisory Committees (CAC) on the African American Population, the American Indian and Alaska Native Populations, the Asian Population, the Native Hawaiian and Other Pacific Islander Populations, and the Hispanic Population. The Committees will give de-briefings regarding Census 2000 programs and operations, as well as address issues related to 2010 census effort, including the American Community Survey, and related decennial programs. The five Census Advisory Committees on Race and Ethnicity will meet separately and concurrently in the morning and in the afternoon. Last minute changes to the schedule are possible, which could prevent us from giving advance notice.

DATES: June 19–20, 2001. The June 19 meeting will begin at 8:15 a.m. and end at approximately 5:30 p.m. The June 20 meeting will begin at 8:15 a.m. and end at 5:30 p.m.

ADDRESSES: The meeting will be held at Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, VA 20191.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3619, Federal Building 3, Washington, DC 20233, telephone 301–457–2075, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The CACs on the African American Population, the American Indian and Alaska Native Populations, the Asian Population, the Hispanic Population, and the Native Hawaiian and Other Pacific Islander Populations are comprised of nine members each. The Secretary of Commerce appoints the members. The Committees provide an organized and continuing channel of communication between the representative communities and the Census Bureau. The Committee provides an outside user perspective about how research and design plans for the 2010 decennial census, and the development of the American Community Survey and other related programs, will realize decennial census goals and satisfy their representative community needs. They assist the Census Bureau in determining ways that census data can best be disseminated to their communities and other users.

All meetings are open to the public, and a brief period will be set aside on June 20 for public comment and questions. Individuals with extensive questions or statements must submit them in writing to the Committee Liaison Officer, named above, at least three days before the meeting. Seating is available to the public on a first-come, first-serve basis.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Committee Liaison Officer.

Dated: May 9, 2001.

William G. Barron, Jr.,

Acting Director, Bureau of the Census.

[FR Doc. 01–12248 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Decennial Census Advisory Committee

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463, as amended by Pub. L. 94–409, Pub. L. 96–523, and Pub. L. 97–375), we are giving notice of a meeting of the Decennial Census Advisory Committee. The Committee will give a debriefing regarding Census 2000 programs and operations, as well as address issues related to the 2010 census effort, including the American Community Survey, and other related decennial programs. Last minute changes to the schedule are possible, which could prevent us from giving advance notice.

DATES: June 21–22, 2001. On Thursday, June 21, the meeting will begin at 8:30 a.m. and end at approximately 5:15 p.m.

On Friday, June 22, the meeting will begin at 8:30 a.m. and adjourn at approximately 3 p.m.

ADDRESSES: The meeting will be held at the Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, VA 20191.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3627, Federal Building 3, Washington, DC 20233, telephone 301–457–2075, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The Decennial Census Advisory Committee is composed of a Chair, Vice-Chair, and up to 40 member organizations, all appointed by the Secretary of Commerce. The Committee considers the goals of the decennial census and users' needs for information provided by that census. The Committee provides an outside user perspective about how research and design plans for the 2010 decennial census, and the development of the American Community Survey and other related programs, will realize those goals and satisfy those needs. The members of the Advisory Committee draw on their experience with Census 2000 planning and operational processes, results of research studies, test censuses, and results of the Census 2000 Evaluation Program, to provide input on the design and related operations of the 2010 decennial census, the American Community Survey, and other related decennial programs.

A brief period will be set aside at the meeting for public comment. However, individuals with extensive statements for the record must submit them in writing to the Census Bureau Committee Liaison Officer named above at least three working days prior to the meeting. Seating is available to the public on a first-come, first-serve basis.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer.

Dated: May 11, 2001.

Lee Price,

Acting Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 01–12381 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results and partial rescission of fourth new shipper review and rescission of third antidumping duty administrative review.

SUMMARY: On January 8, 2001, the Department of Commerce published the preliminary results and partial rescission of the fourth new shipper review and the preliminary rescission of the third antidumping duty administrative review of the antidumping duty order on brake rotors from the People's Republic of China. *See Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303 (January 8, 2001) (*Preliminary Results*). The new shipper review initially covered two respondents and the administrative review was requested for three exporter/producer combinations (*see* "Background" section below for further discussion). The period of review is April 1, 1999, through March 31, 2000. We gave interested parties an opportunity to comment on our preliminary results.

Based on the additional publicly available information used in these final results and the comments received from the interested parties, we have made changes in the margin calculation for the one respondent in the new shipper review. The final weighted-average dumping margin for the reviewed firm in the new shipper review is listed below in the section entitled "Final Results of New Shipper Review."

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Brian Ledgerwood, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–3836.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to 19 CFR part 351 (2000).

Background

On January 9, 2001, the Department published in the **Federal Register** the preliminary results and partial rescission of the fourth new shipper review and rescission of the third antidumping duty administrative review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC") (66 FR 1303). The petitioner[1] submitted its case brief on March 15, 2001. The respondents[2] submitted their rebuttal brief on March 22, 2001.

On April 9, 2001, we placed on the record additional publicly available information for pallet wood for consideration in the final results and provided the parties with an opportunity for comment. On April 16, 2001, both parties submitted comments on this additional information.

The Department has conducted these reviews in accordance with section 751 of the Act.

Scope of the Reviews

The products covered by these reviews are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain

[1] The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

[2] The respondent in the new shipper review is Hongfa Machinery (Dalian) Co., Ltd. ("Hongfa"). The respondents in the administrative review are the following exporters/producer combinations (which are excluded from the order on brake rotors only with respect to brake rotors sold through those combinations): (1) China National Automobile Industry Import & Export Corporation ("CAIEC") or Shandong Laizhou CAPCO Industry ("Laizhou CAPCO")/(Laizhou CAPCO; (2) Sheyang Honbase Machinery Co., Ltd. ("Sheyang Honbase") or Laizhou Luyuan Automobile Fittings Co., Ltd. ("Laizhou Luyuan")/Shenyang Honbase or Laizhou Luyuan; and (3) China National Machinery and Equipment Import & Export (Xinjiang) Co., Ltd ("Xinjiang")/Zibo Botai Manufacturing Co., Ltd. ("Zibo").

vehicles, vans and recreational vehicles under "one ton and a half," and light trucks designated as "one ton and a half."

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer ("OEM") which produces vehicles sold in the United States (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in these reviews are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of these reviews are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these reviews is dispositive.

Partial Rescission of New Shipper Review

We have rescinded the new shipper review with respect to Luoyang Haoxiang Brake Disc Factory ("Luoyang") because Luoyang did not respond to the Department's supplemental questionnaire. Section 776(a)(2) of the Tariff Act provides that "if an interested party or any other person (A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the from and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to subsection 782(d), use the facts otherwise available in reaching the applicable determination under this title."

Section 776(b) of the Act provides that the Department may use an inference that is adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for necessary information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316 (1994) (SAA) at 870. Failure by Luoyang to respond to the Department's antidumping questionnaire constitutes a failure to act to the best of its ability to comply with a request for information within the meaning of section 776(b) of the Act. As a consequence of Luoyang's decision to discontinue participation in this review, the Department canceled verification of Luoyang's questionnaire response, including its separate rate information. Luoyang's failure to respond to the Department's supplemental questionnaire constitutes a failure to act to the best of its ability to comply with a request for information within the meaning of Section 776(b) of the Act. Therefore, we considered Luoyang to be an uncooperative respondent and made the adverse assumption that Luoyang does not qualify for a separate rate. Thus, we have treated it as part of the NME entity. As part of the NME entity, Luoyang is not entitled to a rate as a new shipper, because the NME entity as a whole was subject to the less-than-fair-value ("LTFV") investigation. Consequently, we have rescinded the new shipper review of Luoyang. *See Preliminary Results*, 66 FR at 1303.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we have determined that, during the period of review ("POR"), the exporters which received zero rates in the LTFV investigation did not make shipments of subject merchandise to the United States during the POR through a non-excluded exporter/producer combination. Specifically, we have determined that during the POR, (1) neither CAIEC nor Laizhou CAPCO exported brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (2) neither Shenyang Honbase nor Laizhou Luyuan exported brake rotors to the United States that were manufactured by producers other than Shenyang Honbase or Laizhou Luyuan; and (3) Xinjiang did not export brake rotors to the United States that were manufactured by producers other than Zibo (see Memorandum dated October 25, 2000, from Brian C. Smith, Team Leader, to the File, titled, "Results of Request for Assistance from the U.S. Customs Service to Further Examine U.S. Entries Made By Exporter/Producer Combinations") ("October 25, 2000, memorandum"). In order to make this determination, we first examined POR-subject merchandise shipment data furnished by the Customs Service by performing a Customs data query. Since the data from our initial Customs query was voluminous, we randomly selected 23 entries from the data query results for further examination by the Customs Service. Specifically, we requested the Customs Service to examine further the documentation filed at the U.S. port for each of those selected entries made by the exporters at issue to determine the manufacturer of the merchandise. Based on the results of our query (*see* October 25, 2000, memorandum), the petitioner in this review filed comments in its case brief alleging that 12 of the 23 entries represented situations where the entry may not have been based on an excluded exporter/producer combination. As a result of the petitioner's comments, we re-examined the record data for the 12 entries at issue and requested additional clarification from the Customs Service on three of them. Based on our re-examination and clarification of the data on the record for these entries, we found no evidence that any of the exporter/producer combinations which are the subject of this administrative review made shipments of subject merchandise during the POR through a non-excluded exporter/producer combination. (*See* "Issues and Decision Memorandum" ("Decision Memo") from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated May 8, 2001 (Comment 2), and Memorandum dated May 8, 2001, from Brian C. Smith, Team Leader, to the File, titled, "Clarification of 12 U.S. Entries Made By Exporter/Producer Combinations Included in the Department's September 28, 2000, Request for Further Information from the U.S. Customs Service on Selected Brake Rotor Entries During the Period of Review" for further discussion.) Therefore, we are rescinding this review with respect to CAIEC, Laizhou CAPCO, Shenyang Honbase, Laizhou Luyuan, and Xinjiang.

Analysis of Comments Received

All issues raised in the case briefs are addressed in the Decision Memo, which is hereby adopted by this notice. A list of the issues raised, all of which are in the Decision Memo, is attached to this

notice as an Appendix. Parties can find a complete discussion of all issues raised in the briefs and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on the use of additional publicly available information and the comments received from the interested parties, we have made changes in the margin calculation for the one respondent that cooperated fully in the new shipper review. For a discussion of this change, see the "Margin Calculations" section of the Decision Memo.

Final Results of New Shipper Review

We determine that the following weighted-average margin percentage exists for the period April 1, 1999, through March 31, 2000:

Exporter	Margin (percent)
Hongfa Machinery (Dalian) Co., Ltd	0.00

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR from Hongfa for which the import-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent). In accordance with 19 CFR 351.212(b), we have calculated importer-specific *ad valorem* duty assessment rates. We will direct the Customs Service to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period. For entries from the PRC non-market economy ("NME") entity companies (*i.e.*, PRC exporters which are not entitled separate rates (including Luoyang), the Customs Service shall assess *ad valorem* duties at the PRC-wide rate. Because the PRC-wide entity was not reviewed during this POR, the PRC-wide rate remains the rate which was established in the less-than-fair-value investigation. For entries made by PRC companies for which the Department has rescinded the administrative review (*i.e.*, the exporter/producer combinations listed in the "Background" section of this notice), the Customs Service shall continue not to assess ad valorem duties on those entries made by those exporter/producer combinations.

Cash Deposit Requirements

The following deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) and 751(a)(2)(B) of the Act: (1) The cash deposit rate for Hongfa will be the rate indicated above; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding, but for whom the Department has rescinded the review or of whom the review was not requested for this POR will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity (*i.e.*, all other exporters, including Luoyang, which have not been reviewed) will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

May 8, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix—Issues in Decision Memo

Comments

1. Rescission of Third Administrative Review Based on the Results of the Department's Customs Data Query
2. Alleged Violation of Exporter/Producer Combinations Excluded from the Order Based on Examination of Selected U.S. Brake Rotor Entries During the Period of Review
3. Surrogate Value Selection for Pallet Wood

[FR Doc. 01–12379 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Circular Welder Non-Alloy Steel Pipe From Mexico: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: In January 31, 2001, the Department of Commerce ("the Department") published in the **Federal Register** (66 FR 8378) a notice announcing the initiation of an administrative review of the antidumping duty order on circular welded non-alloy steel pipe from Mexico. This administrative review covered two Mexican manufacturers of circular welded non-alloy steel pipe, Tuberia Nacional S.A. de C.V. ("TUNA") and Tuberias Procarsa, S.A. de C.V. ("Procarsa"), for the period of November 1, 1999 through October 31, 2000. The Department has now rescinded this review as a result of requests by both parties to withdraw from the review.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: John Drury or Steve Bezirganian, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–0195 or (202) 482–1131, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (2000).

Scope of the Review

The products covered by these orders are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A–53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders.

All carbon steel pipes and tubes within the physical description outlined above are included within the scope of these orders, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the United States as line pipe of a kind used for oil or gas pipelines is also not included in these orders.

Imports of the products covered by these orders are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Background

The Department published an antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico on November 2, 1992 (57 FR 49453). The Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order for the 1999/2000 review period on November 8, 2000 (65 FR 66965). Respondents TUNA, Procarsa, and Hylsa S.A. de C.V. ("Hylsa") requested that the Department conduct an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. Hylsa withdrew its request for administrative review on December 19, 2000. We initiated this review for respondents TUNA and Procarsa on January 31, 2001. See 66 FR 8378.

The Department received timely requests for withdrawal from the administrative review from TUNA on February 23, 2001, and from Procarsa on March 9, 2001. The applicable regulation, 19 CFR 351.213(d)(1), states that the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. In light of the fact that all of the parties who initially requested an administrative review have withdrawn their requests in a timely manner, we are rescinding this review.

This notice is published in accordance with 19 CFR 351.213(d)(4).

Dated: April 26, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–12380 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–824]

Notice of Extension of the Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 16, 2001.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0165.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On October 30, 2000, the Department published a notice of initiation of the administrative review of the antidumping duty order on Stainless Steel Sheet and Strip in Coils from Italy, covering the period January 4, 1999 through June 30, 2000 (65 FR 64662). On January 8, 2001, the Department extended the preliminary results of review by 90 days. *See Notice of Extension of the Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Italy*, 66 FR 1310 (January 8, 2001). The preliminary results are currently due no later than July 1, 2001.

Extension of Time Limit for Preliminary Results

Because of the complex issues enumerated in the Memorandum from Edward C. Yang to Joseph A. Spetrini, *Extension of Time Limit for the Preliminary Results of Administrative Review of Certain Stainless Steel Sheet and Strip in Coils from Italy*, dated May 9, 2001, and on file in the Central Records Unit (CRU) of the Main Commerce Building, Room B–099, we find that it is not practicable to complete the preliminary results of this review by the scheduled deadline. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is further extending the time period for issuing the preliminary results of review by 30 days (*i.e.*, until July 31, 2001).

Dated: May 9, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–12378 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001C]

Monthly Cold Storage Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 16, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW., Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Barbara K. O'Bannon, U.S. Department of Commerce, NOAA, National Marine Fisheries Service, Fisheries Statistics and Economics Division, F/ST1, Room 12326, 1315 East-West Highway, Silver Spring, MD 20910 (phone 301–713–2328, ext. 206).

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA collects monthly data on the quantity of fish and shellfish being held in cold storage in the United States. Data are collected under authority of Section 742(d) of the Fish and Wildlife Act of 1956 as amended (16 U.S.C. 742(A) and provisions of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) as amended. Responses are voluntary. Monthly reports are published and are used by the fishing industry to plan purchases, processing, sales, distribution, and prices for both wholesale and retail of fishery products. monthly. Both monthly and annual documents are available on the Internet at http://www.st.nmfs.gov/st1/.

II. Method of Collection

Paper forms are mailed to respondents.

III. Data

OMB Number: 0648–0015.
Form Number: NOAA Form 88–16.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 103.
Estimated Time Per Response: 8 minutes.
Estimated Total Annual Burden Hours: 165.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12361 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001D]

Weather Modification Activities Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 16, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW., Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Karen King, R/WA, Room 11216, 1315 East-West Highway, Silver Spring MD 20910–3282 (phone 301–713–0460, ext. 202).

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 6(b) of Pub. L. 92–205 requires that persons who engage in weather modification activities (e.g. cloud-seeding) provide reports prior to and after the activity. They are also required to maintain certain records. The requirements are detailed in 15 CFR 908. NOAA uses the data for scientific research, historical statistics, international reports, and other purposes.

II. Method of Collection

Paper forms and recordkeeping are used.

III. Data

OMB Number: 0648–0025
Form Number: NOAA Forms 17–4 and 17–4A.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 40
Estimated Time Per Response: 30 minutes per report, 5 hours per year for recordkeeping.
Estimated Total Annual Burden Hours: 240
Estimated Total Annual Cost to Public: $160.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12362 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–KD–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001E]

Marine Recreational Fishery Statistics Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 16, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW., Washington DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. David A. Van Voorhees, U. S. Department of Commerce, NOAA, National Marine Fisheries Service, Fisheries Statistics & Economics Division, F/ST1, Room 12454, 1315 East-West Highway, Silver Spring, MD 20910 (phone: 301–713–2328, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Marine recreational anglers are surveyed for catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

II. Method of Collection

A random-digit-dialing telephone survey of coastal zone households collects data on the proportion of marine fishing households and the number of shore and private/rental boat fishing trips by residents of those households. A directory telephone survey of boat operators collects data on the numbers of angler fishing trips on party and charter boats. On-site intercept interviews of marine recreational anglers collect data on the catch per trip by species. Supplemental surveys collect economic data about marine recreational fishing.

III. Data

OMB Number: 0648–0052.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Individuals or households, business or other for-profit organizations.
Estimated Number of Respondents: 585,383.
Estimated Time Per Response: 7 minutes for fishing households, 7 minutes for party/charter boat operators, 4.5 minutes for intercepted anglers, 3 minutes for supplemental economic data from fishing households, 5 minutes for supplemental economic data from party/charter boat operators, 8 minutes for supplemental economic data from intercepted anglers, 1.5 minutes for verification calls, 1 minute for non-fishing households, .5 minutes for non-households.
Estimated Total Annual Burden Hours: 27,207.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12364 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001F]

Processed Products Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 16, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW., Washington DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Steven J. Koplin, F/ST1, Room 12456, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2328, ext. 209).

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA annually collects information from seafood and industrial fishing processing plants on the volume and value of their processed fishery products and their monthly employment figures. NOAA also monthly collects information on the production of fish meal and oil. The information gathered is used by NOAA in the economic and social analyses used when proposing and evaluating fishery management actions.

II. Method of Collection

Paper forms are sent to respondents. NOAA is in the process of developing the capability for the online submission of requested data.

III. Data

OMB Number: 0648–0018.
Form Number: NOAA Forms 88–13, 88–13C.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 1,320.
Estimated Time Per Response: 30 minutes for an Annual Processed Products Report and 15 minutes for a Fishery Products Report Fish Meal and Oil, Monthly.
Estimated Total Annual Burden Hours: 680.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12366 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.050801A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice advises the public that the Nez Perce Indian Tribe has submitted a Tribal resource management plan (Tribal Plan) to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under the Endangered Species Act. The Tribal Plan specifies the management of recreational, ceremonial, and subsistence fisheries in 2001 in the Imnaha River basin in the State of Oregon that potentially affect Snake River spring/summer chinook salmon listed as threatened under the ESA. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to how the Tribal Plan addresses the criteria in the ESA.

DATES: Written comments on the Secretary's pending determination must be received no later than 5 p.m. Pacific Standard Time on May 29, 2001.

ADDRESSES: Written comments and requests for copies of the pending determination should be addressed to Herb Pollard, Sustainable Fisheries Division, 10215 W. Emerald St. Suite 180, Boise, ID 83704. Comments may also be sent via fax to 208/378–5699. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Herb Pollard at phone number: 208/378–5614, or e-mail: *herbert.pollard@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Imnaha River basin population of the Snake River Spring/Summer Chinook salmon (*Oncorhynchus tshawytscha*) Evolutionarily Significant Unit (ESU).

Background

The Nez Perce Tribe has submitted to NMFS a Tribal Plan for recreational, ceremonial, and subsistence fisheries in 2001 in the Imnaha River basin potentially affecting threatened Snake River spring/summer chinook salmon. The Tribal Plan includes recreational fisheries specified by the Oregon Department of Fish and Wildlife, acting as an agent of the Nez Perce Tribe, that take place in the same waters and in the same timeframe as the tribal ceremonial and subsistence fisheries. The Nez Perce Tribe and the State of Oregon have co-manager responsibilities for spring chinook salmon within the Imnaha River sub-basin and manage this salmon population under cooperative agreements. The objective of the Tribal Plan is to harvest spring chinook in a manner that does not jeopardize the survival and recovery of the ESU. Impact levels to the listed spring chinook populations in the ESU are specified in the Tribal Plan. Analysis of the predicted return of naturally and hatchery-produced spring chinook salmon to the Imnaha River basin in 2001 and the proposed harvest levels indicate that all hatchery brood stock and supplemental spawning needs will be met and natural spawning escapement will be approximately 133 percent of the previously highest count, after the proposed fisheries. A variety of monitoring and evaluation tasks to be conducted by the co-managers is specified in the Tribal Plan to assess the abundance of spring chinook and to determine fishery effort and catch of spring chinook. A comprehensive review of the Tribal Plan to evaluate whether the fisheries and listed spring chinook populations are performing as expected will be done within and at the end of the proposed 2001 season.

As required by the ESA 4(d) rule for Tribal Plans (65 FR 42481, July 10, 2000), the Secretary is seeking public comment on his pending determination as to whether the Tribal Plan for Imnaha River chinook salmon would appreciably reduce the likelihood of survival and recovery of the threatened Snake River spring/summer chinook salmon ESU.

Under section 4 (d) of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. NMFS has issued a final ESA 4(d) Rule for Tribal Plans adopting regulations necessary and advisable to harmonize statutory conservation requirements with tribal rights and the Federal trust responsibility to tribes (65 FR 42481, July 10, 2000). This 4(d) Rule for Tribal Plans applies the prohibitions enumerated in section 9(a)(1) of the ESA. NMFS did not find it necessary and advisable to apply the take prohibitions described in section 9(a)(1)(B) and 9 (a)(1)(C) to fishery harvest activities if the fisheries are

managed in accordance with a Tribal Plan that has been approved by NMFS. As specified in the 4(d) Rule, before the Secretary makes a decision on the Tribal Plan, the public must have an opportunity to review and comment on the pending determination.

Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) Rule (65 FR 42481, July 10, 2000) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of survival and recovery for the listed species.

Dated: May 10, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12360 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000616180–1115–03]

RIN 0648–ZA91

NOAA Climate and Global Change Program, Program Announcement

AGENCY: Office of Global Programs, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Climate and Global Change Program represents a National Oceanic and Atmospheric Administration (NOAA) contribution to evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. This program builds on NOAA's mission requirements and long-standing capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Global Change Research Program (USGCRP), which is coordinated by the interagency Committee on Environmental and Natural Resources. NOAA's program is designed to complement other agencies' contributions to that national effort.

All proposals must be submitted in accordance with the requirements below. Failure to heed these guidelines will result in proposals being returned without review.

DATES: Unless otherwise noted, strict deadlines for submission to the FY 2002 process are: Letters of intent must be received at the Office of Global Programs (OGP) no later than July 2, 2001. Applicants who have not received a response to their letter of intent within four weeks should contact the Program Manager. Full proposals must be received at OGP no later than August 27, 2001. The time from receipt of proposals to grant award varies by program area. We anticipate that review of full proposals will occur during October and November 2001, and funding should begin during spring of 2002 for most approved projects. Applicants should be notified of their status within six months. April 1, 2002, should be used as the proposed start date on proposals, unless otherwise directed by the appropriate Program Manager.

ADDRESSES: Letters of Intent and Proposals should be submitted to: Office of Global Programs; National Oceanic and Atmospheric Administration; 1100 Wayne Avenue, Suite 1210; Silver Spring, MD 20910–5603

FOR FURTHER INFORMATION CONTACT: Irma duPree at the above address, or at (301) 427–2089 ext. 107, fax: (301) 427–2222, Internet: irma.duPree@noaa.gov.

SUPPLEMENTARY INFORMATION:

1. Funding Availability

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current Program plans assume that over 50% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. However, please be advised that actual funding levels will depend upon the final FY 2002 budget appropriations. This Program Announcement is for projects to be conducted by investigators both inside and outside of NOAA, primarily over a one, two or three year period. The NOAA Climate and Global Change Program has been approved for multi-year funding up to a three year duration. The funding instrument for extramural awards will be a grant unless it is anticipated that NOAA will be substantially involved in the implementation of the project, in which case the funding instrument should be a cooperative agreement. Examples of substantial involvement may include but are not limited to proposals for collaboration between NOAA or NOAA scientists and a recipient scientist or technician and/or contemplation by NOAA of detailing Federal personnel to work on proposed projects. NOAA will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for contractual arrangements for services and products for delivery to NOAA is not available under this announcement. Matching share is not required by this program.

2. Program Authority

49 U.S.C. 44720(b); 33 U.S.C. 883d; 15 U.S.C. 2904; 15 U.S.C. 2931 et seq.; (CFDA No. 11.431)—CLIMATE AND ATMOSPHERIC RESEARCH.

3. Program Objectives

The long-term objective of the Climate and Global Change Program is to provide reliable predictions of climate variability and change with associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that climate variability across these time scales can be modeled with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmosphere-land surface system will be NOAA's primary contribution to a successful national effort to deal with observed or anticipated changes in the global environment. NOAA has a range of unique facilities and capabilities that can be applied to Climate and Global Change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural investigators are encouraged.

4. Program Priorities

In FY 2002, NOAA will give priority attention to individual proposals in the Main Program Elements listed below. The names, affiliations and phone numbers of relevant Climate and Global Change Program Managers are provided. Funding for some programs may be limited to ongoing projects or may be used to fund projects proposed in FY 2001 that were unable to be funded due to budgetary circumstances. Prospective investigators are urged to check the Climate & Global Change Program web page (http://www.ogp.noaa.gov/) for general program information, and more specifically for current funding status and priorities prior to submitting letters or proposals. Prospective applicants may also communicate with Program Managers for information on priorities within program elements and prospects for funding.

(A) Aerosols

This program element focuses on field measurements and modeling of aerosol properties and distributions, with an emphasis on improving the predictive understanding of the role of aerosols in climate forcing. Due to budgetary limitations, funding may not be available for new grants in FY 2002; prospective investigators are urged to check the Climate and Global Change Program web page for current funding status and priorities prior to submitting letters or proposals. For further information contact: Joel M. Levy, NOAA/Office of Global Programs, 301–427–2089 ext. 111, Internet: joel.levy@noaa.gov.

(B) Atmospheric Chemistry

The Atmospheric Chemistry Project focuses on global monitoring, process-oriented laboratory and field studies, and theoretical modeling to improve the predictive understanding of the atmospheric trace species that influence the earth's chemical and radiative balance and the variation of the concentration of these trace species regionally and seasonally. For an information sheet containing further details and current priorities, please contact: Joel M. Levy, NOAA/Office of Global Programs, 301–427–2089 ext. 111, Internet: joel.levy@noaa.gov; or Fred C. Fehsenfeld, NOAA/Aeronomy Laboratory, Boulder, CO, 303–497–5819, Internet: fcf@al.noaa.gov.

(C) Climate Observation

The goal of this element is to build and sustain the global climate observing system that is needed to satisfy the long-term requirements of the operational forecast centers, international research programs, and major scientific assessments. The element supports in situ ocean and atmospheric components that contribute to global networks for understanding the Earth's climate system, the global water cycle, and the global carbon cycle, and looks for efficiencies to be gained by utilizing common platforms/sites/data infrastructure for several objectives. This program element will not accept applications for new projects in FY 2002. For more information contact: Michael Johnson, NOAA Office of Global Programs, 301–427–2089 ext. 169, Internet: johnson@ogp.noaa.gov.

(D) Climate and Societal Interactions (CSI)

Research on Vulnerability, Opportunities, and Response Options. Variability, change, and surprise results from a wide variety of climatological, social, economic and ecological circumstances and interactions. The purpose of this program is to increase understanding of the impacts of climate variability and change as conditioned by ongoing processes of decision-making and socio-economic transformation. The suite of efforts is intended to further research-based integration between studies of the whole of the climate system, including human components, such as health, and evolving informational and educational needs of decision-makers in climate sensitive sectors around the world. The goal is to provide the basis for more effective application of climate information, including climate forecasts, for purposes of adaptation. The intent of this program is to encourage overlapping research approaches to integrate knowledge for problem solving. The CSI is a chapeau for a suite of activities; prospective applicants must apply to one of the following program elements:

Human Dimensions of Global Change Research (HDGCR): The HDGCR program is aimed at understanding and analyzing the decision process as it relates to information about a dynamic climate system. This year, the program is specifically interested in building on lessons learned from cases of climate forecast use to reveal how information can be best communicated and disseminated to groups otherwise unlikely to benefit from climate information. Research would consider how forecast use is influenced by perceptions and human judgment, as well as public policy, and the most effective means of designing forecast information and its delivery to improve its usability. For more information and an information sheet on program objectives, contact: Caitlin Simpson, NOAA/Office of Global Programs, 301–427–2089 ext. 152, simpson@ogp.noaa.gov; or Claudia Nierenberg, NOAA/Office of Global Programs, 301–427–2089 ext. 151, nierenberg@ogp.noaa.gov.

Health and Climate Variability: A joint interagency announcement is anticipated on Climate and Health. (For more information on this future announcement contact Juli Trtanj, NOAA/Office of Global Programs, 301–427–2089 ext. 134, Internet: trtanj@ogp.noaa.gov.)

Regional Integrated Sciences and Assessments: This Program Element was formerly titled Regional Assessments. NOAA's present program of Regional Integrated Sciences and Assessments possesses three distinct qualities:

(1) Interdisciplinary, integration and synthesis;

(2) Bridging the gap between climatic, environmental and societal interactions on different temporal and spatial scales; and (3) Decision support and services. It requires innovative partnerships among a spectrum of interests (Federal, State, local and private) to enable regional organizational capacity to develop accurate (*i.e.*, identifying risks, uncertainties, and/or indeterminacies), balanced syntheses and services on an ongoing basis. As such, the program relies heavily on consolidating the results and data from ongoing NOAA–OGP disciplinary program elements, already funded in a region, into an integrated framework. This program will not accept applications to initiate new activities, but will accept renewal applications for ongoing efforts or as part of ongoing negotiations. For more information and a detailed information sheet, contact: Roger Pulwarty, NOAA/Office of Global Programs, 301–427–2089 ext. 103, Internet: pulwarty@ogp.noaa.gov.

(E) Climate Change Data and Detection

The scientific goals of this element include efforts to: (1) Provide data and information management support activities needed to assure the availability of critical data sets from a variety of national and international programs of primary interest to NOAA's Climate and Global Change Program, *e.g.*, the CLIVAR (Climate Variability and Predictability) Program, GEWEX (Global Energy & Water Cycle Experiment), GCOS (Global Climate Observing System), National and International Assessments, the WCRP (World Climate Research Program) CLIVAR/PAGES (Past Global Changes) Research Initiative etc.; (2) provide data and information management support related to crosscutting science efforts necessary to assess seasonal, interannual, decadal, and longer climate variations and changes; (3) document and quantitative character of observed climate variations and changes; (4) attribute changes in the observed climate record to specific climate forcings; and (5) establish linkages between the paleoclimatological record and the modern instrumental record, with a focus on interannual variability, extremes, and spatial completeness for the Northern and Southern Hemispheres.

During FY 2002, the Climate Change Data and Detection program element expects to include the following three major interagency activities:

—Enhanced Data Sets: NOAA and the National Aeronautics and Space Administration (NASA) will co-sponsor a project that supports research in the areas of data fusion and enhancement of climate data sets through the use of

space and/or ground based observations. Preference will be given to those proposals that use more than one observing system to develop a blended data set.

—Climate Change Detection and Attribution: NOAA and the Department of Energy (DOE) will co-sponsor a project that addresses all aspects of Climate Change Detection and Attribution.

—Paleoclimatology: NOAA and the National Science Foundation (NSF) will co-sponsor a Paleoclimatology project that will entertain proposals that support the joint WCRP CLIVAR/IGBP PAGES Research Initiative. This initiative is jointly supported by NOAA and the NSF through the Earth System History (ESH) Program at NSF.

Prospective investigators are urged to check the Climate and Global Change web page for current funding status and priorities prior to submitting proposals. For further information contact: Bill Murray, NOAA, 301–427–2089 ext. 133, Internet: murray@ogp.noaa.gov; Chris Miller, NOAA, 301–427–2089 ext. 143, Internet: miller@ogp.noaa.gov; Martha Maiden, NASA, 202/358–1078, Internet: maiden@hq.nasa.gov; Rick Petty, DOE; 301–903–5548, Internet: rick.petty@oer.doe.gov; or David Verardo, NSF, 703–292–8527, Internet: dverardo@nsf.gov.

(F) Climate Dynamics and Experimental Prediction

This program will not accept applications to initiate centers at new institutions, but will accept renewal applications for ongoing efforts or as part of ongoing negotiations. Qualified applications for this program may be submitted throughout the year. For further information contact: Phil Arkin, NOAA/Global Programs, Silver Spring, MD; telephone: 301–427–2089 ext. 116, Internet: arkin@ogp.noaa.gov.

(G) Climate Variability and Predictability (CLIVAR)

The U.S. CLIVAR program seeks to observe, model and understand natural variability on seasonal to decadal time scales and to assess the predictability of such climate variability. The ultimate goal of NOAA's participation in CLIVAR is to develop skillful predictions of climate variability on seasonal-to-interdecadal time scales and regional space scales for optimal use in resource planning. The program is designed to understand global climate variability; to determine the spatial and temporal extent to which this variability is predictable, to develop the observational, theoretical, and computational means to predict variability; and to make enhanced predictions, where feasible. NOAA's research focuses on large-scale recurrent patterns of variability that influence climate on the regional scale, particularly over the US. Among these patterns are the El Niño-Southern Oscillation (ENSO), Pacific Decadal Oscillation (PDO), Tropical Atlantic Variability (TAV), the North Atlantic Oscillation (NAO), and the American monsoon systems. NOAA has structured its CLIVAR program to focus on variability and predictability within three regions: the Atlantic, the Pacific, and Pan America. For an information sheet containing further details and current priorities for research in each of these regions, visit the NOAA CLIVAR website at http://www.ogp.noaa.gov/mpe/clivar/index.htm. For further information on CLIVAR–Atlantic, please contact James Todd, NOAA/Global Programs, 301/427–2089 ext. 139, Internet: james.todd@noaa.gov. For the CLIVAR–Pacific and the Pan American Climate Studies (PACS) efforts, please contact, Michael Patterson, NOAA/Global Programs, 301–427–2089 ext. 102, Internet: michael.patterson@noaa.gov.

(H) Economics and Human Dimensions of Climate Fluctuations

Please see Climate and Societal Interactions (CSI) above.

(I) GEWEX Americas Prediction Project (GAPP)

GAPP is jointly supported by NOAA and NASA. Details about GAPP are available through the GAPP Science Plan and Implementation Strategy available on the OGP Home Page or from the NOAA GAPP Program Manager. Initiatives are solicited which have a geographical focus on the western USA or the Mississippi River Basin, and address the following GAPP priorities:

(1) Land memory processes and their spatial and temporal variability: GAPP seeks to better understand the contributions of orography (including features such as the low level jet), soil moisture, vegetation and snow and other cold land processes to the predictability of the water cycle.

(2) Model transferability studies, enriched data set production and assimilation of remotely-sensed data to support the US contribution to the GEWEX Coordinated Enhanced Observing Period.

(3) Scientific Investigations to examine the application of climate forecasts and GAPP products in water resources management.

It is possible that a joint call with CLIVAR–PACS will be issued to deal with GAPP interests in monsoonal systems. Questions regarding this call should be addressed to Rick Lawford (lawford@ogp.noaa.gov) or 301–427–2089 Ex. 146 or to Michael Jasinski (mjasinsk@mail.hq.nasa.gov) or 202–358–1847.

(J) Global Carbon Cycle (GCC)

GCC focuses on global observations, process-oriented field studies and modeling to improve our ability to predict the fate of anthropogenic carbon dioxide (CO_2) and future atmospheric CO_2 concentrations. A separate program announcement for GCC will be issued later this year. Investigators interested in the GCC program area are encouraged to respond to this later announcement. For further information, please contact: Lisa Dilling, NOAA/Office of Global Programs, 301–427–2089 ext. 106, Internet: dilling@ogp.noaa.gov or see the web at: http://www.ogp.noaa.gov/mpe/gcc/index/html.

(K) Paleoclimatology

Please see Climate Change Data and Detection above.

5. Eligibility

Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, international organizations, state, local and Indian tribal governments. Applications from non-Federal and Federal applicants will be competed against each other. Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this notice. Proposals selected for funding from NOAA scientists shall be effected by an intra-agency fund transfer. Proposals selected for funding from a non-NOAA Federal agency will be funded through an inter-agency transfer.

Please Note: Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. The only exception to this is "governmental research facilities" for awards issued under the authority of 49 U.S.C. 44720. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

6. Letters of Intent (LOI)

The purpose of the LOI process is to provide information to potential applicants on the relevance of their proposed project to the Climate and Global Program and the likelihood of it being funded in advance of preparing a full proposal. Full proposals will be encouraged only for LOIs deemed relevant, therefore, it is in the best interest of the applicants and their institutions to submit an LOI; however, it is not a requirement. The LOI should provide a concise description of the proposed work and its relevance to the targeted program element. the LOI must include the components listed below. If these components are not included, the LOI risks a delayed response and may not be considered by the program reviewers. (A) Investigators must identify the program element that is being targeted in the LOI. (B) Investigators must specify a tentative project title in the LOI. (C) LOIs must include the name and institution of all principal investigator(s), and specify which individual is the Lead principal investigator. (D) LOIs should be no more than two pages in length and must include a statement of the problem, brief summary of work to be completed, methodology to be used, and approximate cost of the project. Facsimile and electronic mail are acceptable for LOIs (but not for full proposals).

A panel of program managers will review each LOI to determine whether the LOI is responsive to the program goals as advertised in this notice. An LOI response (e-mail or letter) will be sent back to the investigator encouraging or discouraging a full proposal. The final decision to submit a full proposal will be made by the investigator.

7. Evaluation Criteria

Consideration for financial assistance will be given to those proposals that address one of the Program Elements listed and meet the following evaluation criteria:

(A) *Scientific Merit:* Intrinsic scientific value of the subject and the study proposed, including methodology and readiness.

(B) *Relevance:* Importance and relevance to the goals of the selected Program Element(s). (See Program Objectives above).

8. Selection Procedures

Proposals, including those submitted by NOAA employees, will be evaluated in accordance with the above evaluation criteria by (A) independent peer mail review, and/or (B) independent peer panel review, and a rating will be calculated based on these evaluations; both NOAA and non-NOAA experts in the field may be used in this process. The Program Manager will not be a voting member of an independent peer panel. The recommendations and evaluations of the panel members will be considered by the Program Manager in final selections. Proposals are usually awarded in the numerical order they are ranked based on the independent peer mail review or the independent peer panel review. However, the Program Manager will ascertain which proposals do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other federal agencies, and fall within remaining funds available. Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding. As a result of this review, the Program Manager may decide to select an award out of order. The Program Manager will also determine the total duration of funding and the amount of funding for each selected proposal.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HIS), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MISs. Institutions eligible to be considered MSIs are listed at the following Internet website: http://www.ed.gov/offices/OCR/99minin.html.

9. Proposal Submission

The following forms are required in each application, with original signatures on each federal form. Failure to comply will result in proposal application being returned.

(A) Full Proposals

(1) Proposals submitted to the NOAA Climate and Global Change Program must include the original and two unbound copies of the proposal. (2) Investigators are required to submit 3 copies of the proposal, however, the normal review process requires 20 copies. For an optimal review, investigators are encouraged to submit sufficient proposal copies, especially color or unusually sized (not 8.5" × 11"), or otherwise unusual materials submitted as part of the proposal. Only three original copies of the Federally-required forms are needed. (3) Proposals must be limited to 30 pages (numbered), including budget, investigators vitae, and all appendices, and should be limited to funding requests for one to three year duration. Appended information may not be used to circumvent the page length limit. Federally-mandated forms are not included within the page count. (4) Proposals should be sent to the NOAA Office of Global Programs at the above address. (5) Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

(B) Required Elements

All proposals must include the following elements: (1) Signed title page: The title page should be signed by the Principal Investigator (PI) and the institutional representative and should clearly indicate which program element is being addressed. If more than one investigator is listed on the title page, please identify the lead investigator. The PI and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period. (2) Abstract: An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear on a separate page, headed with the proposal title, institution(s), investigator(s), total proposed cost and budget period. (3) Results from prior research: The results of each prior research project (during the last 3 years) relevant to the proposed effort should be summarized in brief paragraphs. This section should not exceed two pages. (4) Statement of work: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goal of the Climate and Global Change Program priorities listed above. Benefits of the proposed project to the general public and the scientific community should be discussed. The statement of work, including references but excluding figures and other visual materials, must not exceed 15 pages of text. Investigators wishing to submit group proposals that exceed the 15-page limit should discuss this possibility with the appropriate Program Manager prior to submission. Proposals from 3 or more investigator may include a statement of work containing up to 15 pages of

overall project description plus up to 5 additional pages for individual project descriptions. (5) Budget Justification: A brief description of the expenses listed on the budget and how they address the proposed work. Item justifications must include salaries, equipment, publications, supplies, tuition, travel, etc. (6) Budget: The proposal must include total and annual itemized budgets corresponding with the descriptions provided in the statement of work. Non-Federal Applicants must submit a Standard Form 424 (4–92) "Application for Federal Assistance," including a detailed budget using the Standard Form 424a (4–92), "Budget Information—Non-Construction Programs." Travel must be itemized to include destination, airfare, per diem, lodging and ground travel. The from is included in the standard NOAA application kit. (7) Vitae: Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to all publications in the last three years with up to five other relevant papers. (8) Current and pending support: For each investigator, submit a list that includes project title, supporting agency with grant number, investigator months per year, dollar value and duration. Requested values should be listed for pending support.

(C) Other Requirements

Applicants may obtain a standard NOAA application kit from Internet: http://www.ogp.noaa.gov/.

10. Primary Applicant Certification

All primary applicants must submit a completed Form CD–511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying". Applicants are also hereby notified of the following:

(A) Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR Part 26, section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension," and the related section of the certification form prescribed above applies;

(B) Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(C) Anti-Lobbying

Persons (as defined at 15 CFR Part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions", and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000; and

(D) Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

11. Lower Tier Certifications

(A) Recipients must require applicants/bidders for subgrants, contracts, subcontracts, or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

(B) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

(C) Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of Commerce to cover pre-award costs.

(D) Financial assistance recipients funded by this program are subject to the applicable administrative requirements found in 15 CFR Part 14, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit and Commercial Organizations, or 15 CFR Part 24, "Uniform Administrative Requirements for Grants and Agreements to State and Local Governments" as applicable.

Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

(E) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(F) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(G) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (i) The delinquent account is paid in full, (ii) A negotiated repayment schedule is established and at least one payment is received, or (iii) Other arrangements satisfactory to the Department of Commerce are made.

(H) Buy American-Made Equipment or Products—Applicants are encouraged that any equipment or products authorized to be purchased with funding provided under this program be American-made to the maximum extent feasible.

(I) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(J) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(K) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the NOAA Climate and Global Change Program. The NOAA Climate and Global Change Program does not have direct TDD (Telephonic Device for the Deaf) capabilities, but can be reached through the State of Maryland supplied TDD

contact number, 800–735–2258, between the hours of 8 a.m.–4:30 p.m.

12. Classification

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, and 0348–0046. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB control number. This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: May 10, 2001.

Louisa Koch,

Deputy Assistant Administrator.

[FR Doc. 01–12347 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–KF–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050901D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee and Herring Oversight Committee and Advisory Panel (joint with the Atlantic States Marine Fisheries Commission (ASMFC) Herring Section Panel) in May and June 2001 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on May 31, 2001, and June 6, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Wakefield and Peabody, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492. Requests for special accommodations should be addressed to the Council (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, May 31, 2001, 9:30 a.m.—Research Steering Committee Meeting.

Location: Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

The agenda will include an update on the April 2001 workshop held to discuss industry-based surveys/study fleets and NMFS follow-up activities. The committee will discuss and evaluate recommendations in a report prepared by the New England Aquarium on cod-tagging. There will also be a discussion of the committee's role in long-term research programs in New England. The committee will have a follow-up discussion about future research planning over the next 3 to 5 years.

Wednesday, June 6, 2001, 10 a.m.—Joint Herring Oversight Committee, Advisory Panel and ASMFC Meeting.

The committee and advisors will review the annual Stock Assessment and Fishery Evaluation (SAFE) Report for the 2000 fishing year, and recommendations from the Herring Plan Development Team for 2002 fishing year specifications for optimum yield from the fishery, total allowable level of foreign fishing, joint venture processing and total allowable catch for each management area. The committee and advisors will develop recommendations to the Council on specifications for the 2002 fishing year. The meeting will be held jointly with the ASMFC Herring Section who will be discussing proposals for herring spawning area closures tolerance provisions. Following that discussion, time permitting, the committee will finalize its list of questions to the advisors on controlled access/limited entry in the herring fishery.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 11, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12367 Filed 5– 15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050701C]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT) will hold a working meeting which is open to the public.

DATES: The GMT working meeting will begin Monday, June 4, 2001 at 1 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m. Tuesday, June 5 through Thursday, June 7.

ADDRESSES: The meetings will be held at NMFS Northwest Regional Office, 7600 Sand Point Way NE., Building 1, Director's Conference Room, Seattle, WA; telephone: (206) 526–6120.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Glock, Groundfish Fishery Management Coordinator, (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the GMT meeting is to prepare reports and technical advice for the upcoming Council meeting and in support of Council decisions. The GMT will discuss, receive reports, and/or prepare reports on the following topics during this working session, (1) inseason adjustments to 2001 trip limits and other management measures; (2)

assignments relating to the groundfish strategic plan; (3) rebuilding plans for canary rockfish, cowcod, bocaccio, and lingcod; (4) draft widow and darkblotched rockfish rebuilding plans; (5) sablefish endorsement qualification; (6) marine recreational fisheries statistics survey update; (7) exempted fishing permit (EFP) applications; (8) mandatory retention of rockfish proposal; (9) work plan for 2001; (10) Amendment 14 (permit stacking): clarifications and corrections for 2002.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 10, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12368 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050801B]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315) and receipt of application to modify permit (1140).

SUMMARY: NMFS has received new applications for permits and modifications for permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA) from the City of Kent Public Works in Kent, WA; King County Department of Natural Resources in Seattle, WA; King County Department of Transportation in Seattle, WA; the Northwest Fisheries Science Center, NMFS in Seattle, WA; Olympic Resource Management in Aberdeen, WA; Pentec Environmental in Edmonds, WA; the Port of Seattle in Seattle; WA; and the U.S. Army Corps of Engineers in Seattle, WA.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received no later than 5 p.m. Pacific daylight time on June 15, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (phone: 503/230–5400). Comments may also be sent via fax to 503/230–5435. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Christopher Bill, Portland, OR, at phone: 503/230–5424, Fax: 503/230–5435, e-mail:christopher.bill@noaa.gov.

SUPPLEMENTARY INFORMATION: The following ESA-listed species and evolutionary significant units (ESUs) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened, naturally produced and artificially propagated, Puget Sound (PS); Threatened Lower Columbia River (LCR).

Chum salmon (*O. keta*): Threatened Hood Canal (HC) summer-run; Threatened Columbia River (CR).

Coho salmon (*O. kisutch*): Threatened Oregon Coast (OC).

Steelhead (*O. mykiss*): Threatened LCR.

New Applications Received

The City of Kent Public Works (CKPW) requests a 2-year permit (1308) for annual takes of juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted in Mullen Slough, a tributary to the lower Green River. The purpose of the study is to determine habitat limiting factors that affect juvenile salmonids. The research will benefit PS chinook salmon by providing a spatial and temporal inventory of fish present in Mullen Slough and by helping guide King County in designing projects that will protect PS chinook salmon and fish resources. The study will also be used to guide future protection and restoration of critical habitat within the City of Kent and its urban growth area. CKPW proposes to observe/harass, capture (using electrofishing), handle, and release juvenile PS chinook salmon.

The King County Department of Natural Resources (KCDNR) requests a 5-year permit (1309) for annual takes of juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted under three studies in Washington State.

Study 1. The purpose of study 1 is to determine the presence of PS chinook salmon and their use of nearshore habitat in King County's lakes, streams, and marine nearshore habitats. The research will benefit PS chinook salmon by determining the effectiveness of County programs at protecting, conserving, and restoring habitat for PS chinook salmon. KCDNR proposes to capture (using beach and purse seines, fyke nets, and minnow traps), handle, and release juvenile PS chinook salmon. KCDNR also requests indirect mortality associated with the study.

Study 2. The purpose of study 2 is to determine juvenile salmonid utilization of off-channel rearing habitats in the Cedar River system in King County and Puget Sound nearshore habitat. The study will benefit PS chinook salmon by providing information about the effects of habitat restoration efforts and management activities. The study will also provide information about ESA-listed species' distribution. KCDNR proposes to capture (using fyke nets), handle, and release juvenile PS chinook salmon. KCDNR also requests indirect mortality associated with the study.

Study 3. The purpose of study 3 is to collect information about PS chinook salmon survival and outmigration timing and to refine sampling methods for application to future studies of salmonid survival in the Green/Duwamish watershed. The research will benefit PS chinook salmon by providing information to help implement an effective salmon recovery plan. KCDNR proposes to capture (using beach seines and fyke nets), handle, scale sample, and release juvenile PS chinook salmon. KCDNR also requests indirect mortality associated with the study.

The King County Department of Transportation (KCDOT) requests a 5-year permit (1310) for annual takes of adult and juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted in multiple streams in King County, WA. The purpose of the research is to evaluate the effectiveness of mitigation and enhancement of streams, wetlands, and riparian habitats associated with King County road projects. The research will benefit PS chinook salmon by providing information to help minimize the effect of future road projects on listed species. KCDOT proposes to observe and harass adult and juvenile PS chinook salmon and capture (using electrofishing, dip nets, block nets, seines, and minnow traps), handle, and release juvenile PS chinook salmon. KCDOT also requests indirect mortality associated with the study.

The Northwest Fisheries Science Center (NWFSC) requests a 5-year permit (1311) for annual takes of juvenile, naturally produced PS chinook salmon associated with scientific research to be conducted in multiple river basins in the Puget Sound and Washington basins. The purpose of this study is to determine the effectiveness of off-channel restoration efforts at increasing juvenile salmonid abundance and to study the formation and evolution of natural off-channel habitats. The research intends to determine the effectiveness of various off-channel habitat restoration techniques, and how to design and construct off-channel habitat types that provide maximum benefits to salmonids. NWFSC proposes to observe/harass, capture (using electrofishing, smolt traps, and minnow traps), handle, and release juvenile PS chinook salmon. NWFSC also requests indirect mortality associated with the study.

Olympic Resource Management (ORM) requests a 2-year permit (1312) for takes of juvenile, naturally produced and artificially propagated PS chinook salmon, juvenile HC summer-run chum salmon, juvenile CR chum salmon, juvenile LCR chinook salmon, and juvenile LCR steelhead associated with scientific research to be conducted in multiple river basins in western Washington State. The purpose of this study is to determine the presence of ESA-listed and other fish species. The research will benefit listed species by allowing landowners to make informed land management decisions to conserve listed salmonids. ORM proposes to capture (using electrofishing), handle, and release juvenile; naturally produced and artificially propagated PS chinook salmon, juvenile HC summer-run chum salmon, juvenile CR chum salmon, juvenile LCR chinook salmon, and juvenile LCR steelhead.

Pentec Environmental (Pentec) requests a 5-year permit (1313) for annual takes of juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted under three studies in Washington State.

Study 1. The purpose of study 1 is to minimize the potential effects of maintenance dredging on ESA-listed fish habitat in the Snohomish River. Pentec proposes to capture (using beach seines and fyke nets), handle, and release juvenile PS chinook salmon. Pentec also requests indirect mortality associated with the study.

Study 2. The purpose of study 2 is to provide information on salmonid migration patterns and mitigation site usage in Commencement Bay. The mitigation site is planned to compensate for loss of habitat because of sediment remediation work occurring in Commencement Bay. The research will benefit PS chinook salmon by yielding information that will help determine if mitigation is successful. Pentec proposes to capture (using beach seines), handle, and release juvenile PS chinook salmon. Pentec also requests indirect mortality associated with the study.

Study 3. The purpose of study 3 is to determine the distribution, status, and habitat availability for ESA-listed species in five streams that traverse SeaTac, Washington. The research will benefit PS chinook salmon by determining the effectiveness of program activities aimed at conserving PS chinook salmon and their habitat. Pentec proposes to capture (using electrofishing), handle, and release juvenile PS chinook salmon. Pentec also requests indirect mortality associated with the study.

The Port of Seattle (The Port) requests a 2-year permit (1314) for annual takes of adult and juvenile naturally produced and artificially propagated PS chinook salmon associated with scientific research in southeast Elliot Bay. The results of the research will allow The Port to select a disposal site for dredged material that will have the least effect on PS chinook salmon. The research will benefit PS chinook salmon by providing life history data, information about the quality and quantity of habitat, and data on the availability of PS chinook salmon food sources. The Port proposes to observe/harass, capture (using beach seines), handle, and release adult and juvenile PS chinook salmon. The Port also requests indirect mortality associated with the study.

The U.S. Army Corps of Engineers (COE) requests a 5-year permit (1315) for annual takes of juvenile, naturally produced and artificially propagated PS chinook salmon associated with scientific research to be conducted under five studies in Washington State.

Study 1. The purpose of study 1 is to determine the effectiveness of habitat restoration projects in tributaries of Lake Washington. The research will benefit PS chinook salmon by improving restoration projects and knowledge of chinook salmon habitat use in the Lake Washington watershed. COE proposes to capture (using beach seines, minnow traps, and hand nets), handle, mark, and release juvenile PS chinook salmon. COE also requests indirect mortality associated with the study.

Study 2. The purpose of study 2 is to investigate fish passage conditions at the large lock chamber of the Hiram M. Chittenden Locks and Lake Washington Ship Canal to identify effects on salmonids in the Lake Washington Basin. The research will benefit PS chinook salmon by identifying limiting factors contributing to smolt survival, developing smolt survival estimates, and assessing restoration measures to improve smolt survival. COE proposes to capture (using purse seins and screw traps), handle, mark/tag, and release juvenile PS chinook salmon. COE also requests indirect mortality associated with the study.

Study 3. The purpose of study 3 is to document fish presence in various habitats in the Sammamish River. The research will benefit PS chinook salmon by identifying juvenile salmon habitat and restoration needs in the river. COE proposes to observe/harass, capture (using beach seines and electrofishing), handle, mark, and release juvenile PS chinook salmon. COE also requests indirect mortality associated with the study.

Study 4. The purpose of study 4 is to determine juvenile salmon use of shoreline areas in Lake Washington and to direct restoration projects to enhance shoreline habitats. The research will benefit PS chinook salmon by identifying and directing restoration needs in the Lake Washington watershed. COE proposes to capture (using beach seines), handle, and release juvenile PS chinook salmon. COE also requests indirect mortality associated with the study.

Modification Requests Received

The Northwest Fisheries Science Center (NWFSC) requests a modification to permit 1140, which authorizes annual takes of ESA-listed fish species.

Study 1. The take in study 1 is associated with a research study designed to assess the relationship between environmental variables, selected anthropogenic stressors, and bacterial and parasitic pathogens on disease-induced mortality of juvenile salmon in selected coastal estuaries in Oregon and Washington. The results of the study will benefit ESA-listed species by providing a better understanding of

how environmental factors influence disease transmission. For the modification, NWFSC requests annual takes of juvenile OC coho.

Study 2. NWFSC requests annual takes of juvenile naturally produced and artificially propagated PS chinook salmon with an expansion of work locations associated with a new study (study 2) to be conducted in Puget Sound nearshore marine areas. The purpose of study 2 is to evaluate the effects of shoreline development on nearshore fish and submerged aquatic plant assemblages. NWFSC proposes to capture juvenile PS chinook salmon with beach seines, trap nets, fyke nets, and trammel nets and analyze their stomach contents. NWFSC also requests indirect mortality associated with the research. NWFSC requests the modification to be valid for the duration of permit 1140, which expires on December 31, 2002.

Dated: May 10, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12363 Filed 5–15–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Revised Short Supply Request under the African Growth and Opportunity Act (AGOA) and United States–Caribbean Basin Trade Partnership Act (CBTPA)

May 14, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a revised request for a determination that certain yarns of 55 percent polyester staple fibers and 45 percent worsted wool cannot be supplied by the domestic industry in commercial quantities in a timely manner.

FOR FURTHER INFORMATION CONTACT: For Further Information Contact: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUMMARY: This Federal Register Notice revises and supercedes the Federal Register Notice published May 10, 2001 (66 FR 23885), regarding a petition to the Chairman of CITA received on May 4, 2001, from Stillwater Sales, Inc./Metcalf Bros. and Company. The petitioner resubmitted the petition on May 11, 2001 because the original petition contained an error in the Harmonized Tariff Schedule of the United States (HTSUS) classification of the yarn. The correct HTSUS classification is 5509.52.00. The petition alleges that yarns of 55 percent polyester staple fibers and 45 percent worsted wool, 1, 2, and 3 ply yarns, in their natural (undyed) state or in their stock dyed state (fiber dyed), with 12 to 20 twists per inch, and in sizes of 1/15 to 1/30, 2/30 to 2/60, and 3/48 to 3/60 worsted count (1/17 to 1/34, 2/34 to 2/68 and 3/54 to 3/68 metric count), classified in subheading 5509.52.00 of the HTSUS, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requests that the President proclaim that apparel articles of woven U.S. formed-fabric of such yarns be eligible for preferential treatment under the AGOA and the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether these yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by May 31, 2001 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, Washington, DC 20230. The new comment period reflects the date of the corrected submission.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA; Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Sections 1 and 6 of Executive Order No. 13191 of January 17, 2001.

Background

The AGOA and the CBTPA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The AGOA and the CBTPA also provide for quota– and duty–free treatment for apparel articles that are both cut (or knit–to–shape) and sewn or otherwise assembled in one or more AGOA or CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President has proclaimed such treatment. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. 66 FR 13502.

On May 4, 2001 the Chairman of CITA received a petition from Stillwater Sales, Inc./Metcalf Bros. and Company. The petitioner resubmitted the petition on May 11, 2001 because the original petition contained an error in the HTSUS classification of the yarn. The correct HTSUS classification is 5509.52.00. The petition alleges that yarns of 55 percent polyester staple fibers and 45 percent worsted wool, 1, 2, and 3 ply yarns, in their natural (undyed) state or in their stock dyed state (fiber dyed), with 12 to 20 twists per inch, and in sizes of 1/15 to 1/30, 2/30 to 2/60, and 3/48 to 3/60 worsted count (1/17 to 1/34, 2/34 to 2/68 and 3/54 to 3/68 metric count), classified in subheading 5509.52.00 of the HTSUS, cannot be supplied by the domestic industry in commercial quantities in a timely manner, and requesting that the President proclaim quota- and duty-free treatment under the AGOA and the CBTPA for apparel articles that are cut and sewn in one or more AGOA or CBTPA beneficiary countries from woven U.S.-formed fabric of such yarns.

CITA is soliciting public comments regarding this request, particularly with respect to whether these yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for these yarns for purposes of the intended use. Comments must be received no later than May 31, 2001. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230. The new comment period reflects the date of the corrected submission.

If a comment alleges that these yarns can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is in the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–12441 Filed 5–14–01; 1:59 pm]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0025, Practice by Former Members and Employees of the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to practice before the Commission by former members and employees of the Commission.

DATES: Comments must be submitted on or before June 15, 2001.

ADDRESSES: Comments may be mailed to Linda J. Mauldin, Office of the General Counsel, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Linda J. Mauldin at (202) 418–5120; FAX: (202) 418–5524; email: *lmauldin@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirements, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

Practice by former members and employees of the Commission, OMB control number 3038–0025—Extension

Commission Rule 140.735–6 governs the practice before the Commission of former members and employees of the Commission and is intended to ensure that the Commission is aware of any existing conflict of interest. The rule generally requires former members and employees who are employed or retained to represent any person before the Commission within two years of the termination of their CFTC employment to file a brief written statement with the Commission's Office of General Counsel. The proposed rule was promulgated pursuant to the Commission's rulemaking authority contained in Section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5) (1994).

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR section	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
17 CFR 140.735–6	3	1.5	4.5	.10	0.45

There are no capital costs or operating and maintenance costs associated with this collection.

This estimate is based on the number of responses received over the last three years.

Dated: May 10, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–12242 Filed 5–15–01; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DOD.

ACTION: Notice of Closed Meeting.

SUMMARY: The Chief of Naval Operations Executive Panel will meet to conduct the final briefing of the Expeditionary Sensors Task Force to the Chief of Naval Operations. This meeting will consist of discussions relating to how best to bring a robust sensor system with supporting networks into being. This meeting will be closed to the public.

DATES: The meeting will be held on Thursday, May 24th, 2001, from 1:15 p.m. to 1:45 p.m.

ADDRESSES: The meeting will be held at the office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Commander Christopher Agan, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, telephone (703) 681–6205.

SUPPLEMENTARY INFORMATION: This meeting was originally scheduled for January 19, 2001, (65 FR 82328) and was postponed to May 24, 2001. Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Dated: May 3, 2001.

J.L. Roth,

Lieutenant Commander, U.S. Navy, Judge Advocate General's Corps, Federal Register Liaison Officer.

[FR Doc. 01–12341 Filed 5–15–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 16, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 10, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: New.

Title: General Education Provisions Act (GEPA) Section 427 Guidance for All Grant Applications.

Frequency: One time, only once per application for new awards.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 6,600.

Burden Hours: 9,900.

Abstract: In compliance with Section 427 of the General Education Provisions Act, as amended by Pub. L. 103–282, all applicants for grant awards made by the Department of Education are required to describe in their applications the steps they propose to take to ensure equitable access to, and equitable participation in, the proposed grant activities conducted with federal funds. The Department has developed a single document that provides common guidance for all competitive and formula grant applicants on how they can meet this requirement. The language in this common guidance document is nearly identical to language that the Department has previously used in separate guidance documents applicable to discretionary grant applicants and to States that have previously applied for formula grants on the basis of consolidated plans available under Title XIV of the Elementary and Secondary Education Act.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jackie Montague at (202) 708–5359 or via her internet address Jackie.Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12259 Filed 5–15–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.245]

Office of Vocational and Adult Education; Tribally Controlled Postsecondary Vocational and Technical Institutions Program

ACTION: Modification of notice published on March 28, 2001 inviting applications for new awards for fiscal year (FY) 2001.

Notice to Applicants: On March 28, 2001, the Secretary published in the **Federal Register** (66 FR 17036) a notice inviting applications for new awards for FY 2001 for the Tribally Controlled Postsecondary Vocational and Technical Institutions Program. This notice modifies the notice published on March 28, 2001 by reducing the project period under this competition from three years to one year and by extending the deadline for transmittal of applications under this competition to June 21, 2001. Under the program statute, the Secretary has the discretion to determine the length of project periods to be funded. As a result of concerns raised about the Department's implementation of the changes to the program resulting from the 1998 statutory reauthorization, the Secretary has determined that it is important to engage in a more extensive consultative process with Indian tribes and other interested parties about the future implementation of this program, as soon as possible, without unduly delaying this year's grant competition. Accordingly, the Secretary has determined that it is preferable to award grants for one-year project periods in FY 2001, rather than to award grants for three-year project periods. The extension of the application deadline is intended to provide eligible applicants, who have begun preparation of three-year project applications based on the March 28, 2001 notice, with additional time to revise their applications in accordance with this notice of modification.

New Deadline for Transmittal of Applications: June 21, 2001.

Project Period: 1 year.

FOR FURTHER INFORMATION CONTACT: Paul Geib, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4528, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 205–9962. Internet address: paul.geib@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–888–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed at the beginning of this paragraph.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 2327(a)–(f) and (h).

Dated: May 11, 2001.

Robert Muller,

Deputy Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 01–12328 Filed 5–15–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.331A]

Office of Vocational and Adult Education; Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders Program

ACTION: Notice establishing a closing date for the receipt of applications for awards for fiscal year (FY) 2001.

Note to Applicants: The Workplace and Community Transition Training for Incarcerated Youth Offenders Program is a formula grant program that provides assistance to State correctional education agencies to—

(a) Assist and encourage incarcerated youths to acquire functional literacy or life and job skills through the pursuit of a postsecondary education certificate or an associate of arts or bachelors' degree while in prison; and

(b) Provide employment counseling and other related services that start during incarceration and continue through pre-release and while on parole or during release.

In order to receive assistance under this program for Fiscal Year 2001, a State correctional educational agency that has been appointed by the Governor must submit an application to the Department on or before June 15, 2001.

Eligible Applicants: A State correctional education agency appointed by the Governor of any of the 50 States, the Commonwealth of Puerto Rico, District of Columbia, Guam, America Samoa, the Virgin Islands, and the Northern Mariana Islands.

Applications Available: May 16, 2001. Application materials have been sent to the State correctional education agency appointed by the Governor. Eligible State correctional education agencies may request additional application material if needed.

Deadline for Transmittal of Applications: June 15, 2001.

Available Funds: $17,000,000.

Estimated Number of Awards: 56.

Note: The Department is not bound by any estimates in this notice.

Applicable Statute and Regulations: (a) The relevant provisions of Public Law 105–244, Title VIII, section 821, 20 U.S.C. 1151.

(b) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 76 (State-Administered Programs).

(2) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(4) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

FOR FURTHER INFORMATION CONTACT: John Linton or Carlette Huntley, Office of Correctional Education, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4529, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 260–7007 or (202) 205–5621, respectively. Internet addresses: John.Linton@ed.gov Carlette.Huntley@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–888–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed at the beginning of this paragraph. Individuals with disabilities may obtain a copy of the application package in an alternative format, also, by contacting those persons. Please note, however, that the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 1151.

Dated: May 11, 2001.

Robert D. Muller,

Deputy Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 01–12403 Filed 5–15–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Nonproliferation and National Security University Research Initiative (NNURI)

AGENCY: Idaho Operations Office, Department of Energy.

ACTION: Notice of availability of solicitation.

SUMMARY: The U.S. Department of Energy (DOE) Office of Research and Engineering (NN–20), of the Office of Defense Nuclear Nonproliferation (NN), National Nuclear Security Administration (NNSA), in keeping with its mission to strengthen the Nation's capabilities in the areas of nonproliferation of weapons of mass destruction and national security through the support of science, engineering and mathematics, announces its interest in receiving grant applications from academic researchers, preferably in collaborative partnerships with U.S. Department of Energy Laboratories. The purpose of this program is to expand our national capability to detect illicit nuclear proliferation activities and to attract new talent to national security research and development organizations. The DOE is seeking applications from domestic private and public institutions of higher learning to support innovative research in areas that will contribute to the Department of Energy's Nonproliferation and National Security missions.

DATES: The deadline for receipt of applications is 5 p.m. MDT June 18, 2001. The issuance date of Solicitation No. DE–PS07–01ID14060 will be approximately May 9, 2001.

ADDRESSES: Applications should be submitted through DOE's Industry Interactive Procurement System (IIPS) at *http://e-center.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Marshall Garr, Contract Specialist, at *garrmc@id.doe.gov* or telephone (208) 526–1536.

SUPPLEMENTARY INFORMATION: The purpose of this program is to expand our national capability to detect illicit nuclear proliferation activities and to attract new talent to national security research and development organizations. The DOE is seeking applications from domestic private and public institutions of higher learning to support innovative research in areas that will contribute to the Department of Energy's Nonproliferation and National Security missions. Approximately $600,000 in federal funds is expected to be available to fund the first year of selected research efforts. DOE anticipates making 3 grant awards, each with a budget of $200,000 per year and a project performance period of three years. Additional grants may be awarded at a later date if more funding becomes available. There is a limit of one award per institution. Award of a grant under this solicitation does not commit the Government to fund any follow-on research. Successful applicants will be required to submit annual and final reports to DOE. Project performance periods are divided into budget periods. Each budget period is 12 months, beginning on the day of award. Continuation of the award into each new budget period will be based on submission of timely and informative reports; adequate progress based on reports and site visits from DOE representatives; and adequate planning for the new budget period. Planning should be based on the budget period not the fiscal or calendar year. All U.S. institutions of higher learning, whether private or public, may submit applications in response to this solicitation. DOE anticipates that federal funds provided through this solicitation will be used to support research and development (R&D) by faculty and students at institutions of higher learning. Collaboration or a close working relationship with a DOE National Laboratory is strongly encouraged; however, no award dollars can be used to fund DOE Laboratory activities.

The solicitation will be available in full text via the Internet on DOE's Industry Interactive Procurement System (IIPS) at *http://e-center.doe.gov*. Technical and non-technical questions should be submitted in writing to Marshall Garr by e-mail *garrmc@id.doe.gov*, or facsimile at 208–526–5548 no later than May 22, 2001.

The statutory authority for this program is the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65).

Issued in Idaho Falls on May 9, 2001.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–12331 Filed 5–15–01; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Golden Field Office; Event Organizer for U.S. Collegiate Solar Car Race Competitions

AGENCY: U.S. Department of Energy.

ACTION: Issuance of Solicitation for Financial Assistance Applications DE–PS36–01GO90011.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to solicit Applications for the planning, management and conduct of a biennial collegiate competition to design, build, and race solar-powered cars in cross-country events in the United States during calendar years 2003 and 2005. The Financial Assistance award issued under this Solicitation will be a cooperative agreement.

DATES: The solicitation will be issued May 2001.

ADDRESSES: To obtain a copy of the solicitation once it is issued, interested parties must access the DOE Golden Field Office Home Page at http://www.golden.doe.gov/businessopportunities.html, click on "Solicitations." And then locate the solicitation number identified above. DOE does not intend to issue written copies of the solicitation.

FOR FURTHER INFORMATION CONTACT: Ruth E. Adams, Contracting Officer, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or via facsimile to Ruth E. Adams at (303) 275–4788, or electronically to ruth_adams@nrel.gov. Responses to questions will be made by Amendment and posted on the DOE Golden Field Office Home Page.

SUPPLEMENTARY INFORMATION: Under this solicitation, DOE is soliciting Applications for the planning, management and conduct of the 2003 and 2005 U.S. cross-country solar car race competitions. The events should focus on collegiate competitions for the advancement of solar technologies—specifically photovoltaics; educational and engineering excellence; environmental consciousness; and public awareness of the potential of emerging solar technologies. Through sponsorship of the solar car race competitions, DOE intends to promote and encourage educational excellence and engineering creativity, and to champion the creative integration of technical and scientific expertise across a broad range of energy and transportation related disciplines in the application of solar energy resources.

Organizations applying under this solicitation are required to work in collaboration with National Laboratories and academic institutions in the development and execution of this program. No eligibility restrictions are imposed upon this solicitation; however, proposals will be screened for potential conflicts of interests where it may appear that an award Recipient could potentially gain substantial benefits or have conflicting vested interests in this program. Applicants should be able to demonstrate past experience in event planning, management, and conduct of competitions (preferably with colleges and universities) and in soliciting co-sponsorship and funding. Any award under this solicitation will be a Cooperative Agreement with a potential term of four years. Subject to funding availability, the total DOE funding anticipated under this solicitation will be approximately $1,000,000 over a four-year period ($250,000 per year or $500,000 per event). Support for the second event will be subject to performance of the 2003 event and funding availability. DOE anticipates selecting one application for negotiation toward an award. In addition to funding the planning, management, and conduct of the events, DOE intends to lead the public outreach efforts for these competitions.

This program is not considered research, development, or demonstration; therefore, no cost share is required. However, proposed cost share levels based upon anticipated sponsorship and support for the competitions will be a major consideration for an award under this solicitation. While it is believed that program success can be achieved without cost share, DOE recognizes that an increased level of sponsorship above that provided by DOE would enhance the impact of these solar competitions.

Applications under this Solicitation must provide a comprehensive plan for the management and conduct of the 2003 and 2005 biennial collegiate solar car race competitions including a plan for obtaining co-sponsorship and support for each event. A critical component of the Applicant's proposal will be their demonstrated ability to organize these events and demonstrated success in securing co-sponsorship and support for similar collegiate competitions.

Applications submitted by Federally Funded Research and Development Centers (FFRDC's), as defined by Federal Acquisition Regulation (FAR) 35.017, will not be considered for award. All questions concerning this Solicitation must be submitted in writing to: Ruth E. Adams, Contracting Officer, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or transmitted via facsimile to Ruth E. Adams, Contracting Officer, at (303) 275–4788 or electronically to ruth_adams@nrel.gov.

Issued in Golden, Colorado, on May 4, 2001.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 01–12330 Filed 5–15–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

McNary-John Day Transmission Line Project

AGENCY: Bonneville Power Administration (Bonneville), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and notice of floodplain and wetlands involvement.

SUMMARY: Bonneville intends to prepare an EIS on the construction, operation, and maintenance of a 75-mile-long 500-kilovolt transmission line in Benton and Klickitat Counties, Washington, and Umatilla and Sherman Counties, Oregon. The new line would start at Bonneville's McNary Substation in Oregon and would cross the Columbia River just north of the substation into Washington. The line would then proceed west for about 70 miles along the Columbia River. At the John Day Dam, the line would again cross the Columbia River into Oregon and terminate at Bonneville's John Day Substation. The new line would parallel existing transmission lines for the entire length. Bonneville has available right-of-way next to those lines; the new line would be within the available right-of-way wherever feasible. The proposed McNary-John Day line is needed to help move power from east to west. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, Bonneville will prepare a floodplain and wetlands assessment as necessary to avoid or minimize potential harm to or within any affected floodplains and wetlands. The assessment will be included in the EIS being prepared for the proposed project in accordance with the National Environmental Policy Act.

DATES: Written comments are due to the address below no later than June 18, 2001. Comments may also be made at the EIS scoping meetings to be held on May 23 and 24, 2001, from 4 p.m. to 8 p.m. at the addresses below.

ADDRESSES: Send letters with comments and suggestions on the proposed scope of the Draft EIS, and requests to be placed on the project mailing list, to Bonneville Power Administration, Communications—KC–7, PO Box 12999, Portland, Oregon 97212. You may also call Bonneville's toll-free comment line at 1–800–622–4519, and leave a message (please include the name of this project); or send an e-mail to: *comment@bpa.gov*.

On Wednesday, May 23, 2001, a scoping meeting will be held from 4 p.m. to 8 p.m. at Paterson School, 51409 West Prior Road, Paterson, Washington. On Thursday, May 24, 2001, a scoping meeting will be held from 4 p.m. to 8 p.m. at Roosevelt School, 615 Chinook Avenue, Roosevelt, Washington. At these informal meetings, we will provide information about the project, including maps, and have several members of the project team available to answer questions and accept oral and written comments.

FOR FURTHER INFORMATION CONTACT: Lou Driessen, Project Manager, Bonneville Power Administration—TNP–3, PO Box 3621, Portland, Oregon, 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–5525; or e-mail *lcdriessen@bpa.gov*. You may also contact Stacy Mason, Environmental Coordinator, Bonneville Power Administration—KEC–4, PO Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–5455; or e-mail *slmason@bpa.gov*. Additional information can be found at Bonneville's web site: *www.efw.bpa.gov*.

SUPPLEMENTARY INFORMATION: Presently, the existing transmission lines between McNary and John Day substations are operating at capacity. These lines help move power from the east side of the Cascades to the west side, where there is a high need for electricity (cities along the I–5 corridor). Because the Northwest is short on power, there are many new proposals for facilities to generate new power. Some of these generation facilities are in the vicinity of the proposed transmission line. The new

line would help insure that existing and newly generated power could move through the system.

Alternatives Proposed for Consideration. At this point the alternatives we are considering for evaluation in the EIS include alternative tower locations near the existing lines, and the alternative of not building the line (an alternative we always consider). Other alternatives may be identified through the scoping process.

Public Participation and Identification of Environmental Issues. The potential environmental issues identified for most transmission line projects include land use, cultural resources, visual, sensitive plants and animals, erosion/soils, wetlands, floodplains, and fish and water resources. Bonneville has established a 30-day scoping period during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help Bonneville ensure that a full range of issues related to this proposal is addressed in the EIS, and also will identify significant or potentially significant impacts that may result from the proposed project. When completed, the Draft EIS will be circulated for review and comment, and Bonneville will hold public meetings to hear comments. Bonneville will consider and respond in the Final EIS to comments received on the Draft EIS. The Final EIS is expected to be published in mid to late 2002. Bonneville's decision will be documented in a Record of Decision.

Issued in Portland, Oregon, on May 8, 2001.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 01–12332 Filed 5–15–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–412–000]

Algonquin Gas Transmission Company; Notice of Tariff Filing

May 10, 2001.

Take notice that on May 7, 2001, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective June 7, 2001.

Algonquin states that the purpose of this filing is to make the benefits and opportunities of e-commerce available to Algonquin's existing and potential customers and to advance the Commission objectives as expressed in Order Nos. 637, et seq. of providing equality between the pipeline services and capacity release transactions.

Algonquin states that the proposed tariff modifications permit customers to request service agreements electronically and to execute such contracts on line via the LINKr System, which will facilitate nomination and increase the efficiency and convenience of the Algoquin contracting process for all customers.

Algonquin states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12289 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–240–001]

ANR Pipeline Company; Notice of Compliance Filing

May 10, 2001.

Take notice that on April 17, 2001, ANR Pipeline Company (ANR) tendered for filing its responses to the comments of the Wisconsin Distributor Group (WDG), regarding ANR's quarterly filing for recovery of its Dakota Gasification costs, in the above-captioned docket.

ANR states that the filing is being made in compliance with the Commission's Letter Order issued on March 28, 2001,[1] in the above referenced proceeding, which directed ANR to respond to WDG's questions and concerns within 20 days of the date of the order.

ANR states that copies of the filing have been served upon each person designated on the official service list complied by the Secretary in this proceeding.

Any person desiring to protest or file comments to said filing should file a protest or comments with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests or comments must be filed on or before May 17, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12295 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–413–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

May 10, 2001.

Take notice that on May 7, 2001, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective June 7, 2001.

East Tennessee states that the purpose of this filing is to make the benefits and opportunities of e-commerce available to East Tennessee's existing and potential customers and to advance the Commission objectives as expressed in Order Nos. 637, et seq. of providing equality between the pipeline services and capacity release transactions.

East Tennessee states that the proposed tariff modifications permit customers to request service agreements electronically and to execute such contracts on line via the LINKr System, which will facilitate nominations and increase the efficiency and convenience of the East Tennessee contracting process for all customers.

East Tennessee states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12288 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

[1] 94 FERC ¶ 61,345 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–411–000]

Kern River Gas Transmission Company; Notice of Tariff Filing

May 10, 2001.

Take notice that on May 7, 2001, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective June 7, 2001:

Third Revised Sheet No. 71
Sheet Nos. 187–204 (Reserved)
Original Sheet No. 205
Sheet Nos. 206–299 (Reserved)
Third Revised Sheet No. 501
Third Revised Sheet No. 601
Third Revised Sheet No. 701
Third Revised Sheet No. 901

Kern River states that the purpose of this filing is to comply with the Order Issuing Certificate issued April 6, 2001 in Docket No. CP01–106–000 by submitting a proposed tariff provision allowing Kern River to reserve capacity for future expansion projects.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12290 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–76–000]

The State of Michigan and the Michigan Public Service Commission v. Wolverine Power Supply Cooperative, Inc.; Notice of Complaint

May 10, 2001.

Take notice that on May 9, 2001, the State of Michigan and the Michigan Public Service Commission (collectively, Michigan) tendered for filing a Complaint under Section 206 of the Federal Power Act in which Michigan petitions the Commission to institute an investigation to determine the just and reasonable level of wholesale rates for Wolverine Power Supply Cooperative, Inc. (Wolverine). Michigan has requested a refund effective date of July 8, 2001.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before May 29, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before May 29, 2001. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions

on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12298 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–22–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff and Filing of Non-Conforming Service Agreement

May 10, 2001.

Take notice that on May 7, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing and acceptance a Rate Schedule TF–2 non-conforming service agreement. Northwest also tendered the following tariff sheet as part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective June 7, 2001:

Tenth Revised Sheet No. 364

Northwest states that the service agreement contains a scheduling priority provision imposing subordinate primary corridor rights. Northwest states that the tariff sheet is submitted to add such agreement to the list of non-conforming service agreements contained in Northwest's tariff and to update that list to reflect other minor changes.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12297 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–358–000]

NUI Corporation/NUI Utilities, Inc. C&T Enterprises Inc./Valley Energy, Inc.; Notice of Application

May 10, 2001.

Take notice that on May 4, 2001, NUI Corporation/NUI Utilities, Inc., together referred to as NUI, One Elizabethtown Plaza, P.O. Box 3175, Union, New Jersey 07083–1975, and C&T Enterprises, Inc./Valley Energy, Inc., together referred to as C&T, Suite 310, 208 North Third Street, P.O. Box 12090, Harrisburg, Pennsylvania 17108–2090, in Docket No. CP01–358–000 filed an application pursuant to Section 7(f) of the Natural Gas Act (NGA) for an order granting to C&T the same Section 7(f) service area determination held by NUI in connection with the operation of two local gas distribution systems, the Waverly Division in the State of New York, and the Valley Cities Division located in the Commonwealth of Pennsylvania, in anticipation of the proposed sale by NUI and the purchase by C&T of the assets of the two distribution systems, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

NUI and C&T further request that the Commission (i) to the extent necessary, authorize NUI to terminate, relinquish, and/or transfer its NGA Section 7(f) service area determination upon its sale of the two systems to C&T; (ii) waive the regulatory requirements ordinarily applicable to a natural gas company under the NGA and the Natural Gas Policy Act of 1978 (NGPA), including but not limited to reporting and accounting requirements and charges, in consideration of the New York and Pennsylvania state regulatory requirements to which C&T will be subject upon its acquisition of the two local distribution systems; (iii) declare that C&T qualifies as a local distribution company (LDC) in the service area to be determined for purposes of Section 311 of the NGPA; and (iv) grant such other relief as it may be deem appropriate.

Any questions regarding the application should be directed to Mary Patricia Keefe, at (908) 351–7373 or Kenneth Zielois at (717) 234–1250.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 31, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Also, comments protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.ded.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12284 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–259–000]

Ohio Valley Hub, LLC; Notice of Application

May 10, 2001.

Take notice that on May 1, 2001, Ohio Valley Hub, LLC (OVH), 19 Northwest Fourth Street, Suite 600, Evansville, Indiana 47708, filed in Docket No. CP01–259–000 an application pursuant to Section 1(c) of the Natural Gas Act (NGA) and the Commission's Rules and Regulations, for a declaration stating that OVH qualifies for Hinshaw status, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Specifically, OVH is asking the Commission to declare it as qualifying for Hinshaw status under Section 1(c) of the NGA and that neither OVH's construction, ownership and operation of the facilities located in Knox County, Indiana, nor the initial services related thereof will subject OVH or any portion of its facilities to the jurisdiction of the Commission under the NGA.

Any questions regarding the application should be directed to Mark W. Head, General Manager, Ohio Valley Hub, LLC, 19 Northwest Fourth Street, Suite 600, Evansville, Indiana 47708, call (812) 465–5231.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 31, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the internet is lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12285 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–307–001]

Overthrust Pipeline Company; Notice of Compliance Filing

May 10, 2001.

Take notice that on May 4, 2001, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets, to be effective May 1, 2001:

Substitute Fifth Revised Sheet No. 78D
Substitute Second Revised Sheet No. 78E

Overthrust states that this filing was tendered in compliance with the Commission's Order issued April 26, 2001, in Docket No. RP01–307–000, which directed that three corrections be made to Overthrust's Order No. 587–M compliance filing in Docket No. RM96–1–015 filed March 30, 2001.

Overthrust states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://

www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12293 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–329–001]

Questar Pipeline Company; Notice of Compliance Filing

May 10, 2001.

Take notice that on May 4, 2001, Questar Pipeline Company (Questar) tendered for filing to as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Third Revised Sheet No. 99E, to be effective May 1, 2001.

Questar states that this filing was tendered in compliance with the Commission's Order issued April 26, 2001, in Docket No. RP01–329–000, which directed that one correction be made to Questar's Order No. 587–M compliance filing in Docket No. RM96–1–015 filed March 30, 2001.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12292 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–183–000]

Southern Natural Gas Company; Notice of Application

May 10, 2001.

Take notice that on April 25, 2001, Southern Natural Gas Company (Southern) P.O. Box 2563, Birmingham, Alabama 35202–2563, filed an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Section 157.7 and 157.14 of the Commission's regulations for approval of Southern's abandonment of capacity by sale to Cypress Natural Gas Company, L.L.C. (Cypress), all as more fully set forth in the application that is on file with the Commission and open for public inspection.

Southern proposes to abandon by sale to Cypress an undivided interest in two parallel 30-inch pipelines owned and operated by Southern equal to 310,000 Mcf per day of capacity from the tailgate of the liquefied natural gas facility of Southern LNG, Inc., on Elba Island in Chatham County, Georgia (LNG Facility) to an interconnection to be constructed with the pipeline facilities of Cypress at Cypress' meter station at Port Wentworth in Chatham County, Georgia (Pipelines). Southern states that this sale of capacity in the Pipeline is being proposed in conjunction with an overall project by Cypress to construct a pipeline system from the LNG Facility to Clay County, Florida, pursuant to an application Cypress filed concurrently with the Commission. Southern states that the capacity of the pipelines of approximately 1250 Mmcf/d greatly exceeds the maximum daily vaporization quantity of the LNG Facility. Southern further states that this demonstrates that even after the sale of 310 Mmcf/d of capacity to Cypress, Southern will still retain more than enough capacity in the Pipelines for Southern to take the entire deliverability from the LNG Facility that its downstream facilities are capable of accepting. Southern states it will continue to operate the Pipelines.

Any questions regarding the application should be directed to Patrick B. Pope, General Counsel, Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202–2563 at 205–325–7133.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings, for this project should, on or before May 31, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12287 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. RP01–335–001

TransColorado Gas Transmission Company; Notice of Compliance Filing

May 10, 2001.

Take notice that on May 4, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing, of its FERC Gas Tariff Original Volume No. 1, the following tariff sheets, to be effective May 1, 2001:

Substitute Eight Revised Sheet No. 203
Substitute Fifth Revised Sheet No. 203.01

TransColorado states that this filing was tendered in compliance with the Commission's Order issued April 26, 2001, in Docket No. RP01–335–000, which directed TransColorado to make two corrections to its Order No. 587–M compliance filing in Docket No. RM96–1–015 filed March 30, 2001.

TransColorado states that a copy of this filing has been served upon TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 10426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12291 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–258–001]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

May 10, 2001.

Take notice that on April 30, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing additional documentation and support for the proposed Transportation Electric Power Cost Adjustment as directed by a Commission letter order issued March 30, 2001, in this proceeding.

Transco states that copies of the filing are being served to all parties in the referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 21, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12294 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–195–000]

Williston Basin Interstate Pipeline Company; Notice of Application

May 10, 2001.

Take notice that on April 30, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), P.O. Box 5601, Bismarck, North Dakota 58506–5601, filed an Abbreviated Application pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (the Commission) Regulations for an order authorizing the abandonment of gathering facilities and related land rights and services located in Phillips and Valley Counties, Montana by sale to Bitter Creek Pipelines, LLC (Bitter Creek). Facilities include: approximately 363.689 miles of 2 to 12 inch diameter gas gathering pipeline; three compressor stations; and 278 field meter stations in Bowdoin Field. Land rights and services include: pipeline gathering easements; Bureau of Land Management, highway, railroad and other permits; and various gathering service agreements. Bitter Creek has informed Williston Basin that it will operate the gathering facilities to be acquired on an open access basis. Williston Basin also seeks a determination that following abandonment of the subject facilities, and upon their transfer to Bitter Creek, the subject facilities will be nonjurisdictional gathering facilities and not subject to regulation by the Commission as provided in NGA Section 1(b), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Questions regarding the details of this proposal should be directed to Keith A. Tiggelaar, Manager, Regulatory Affairs, Williston Basin Interstate Pipeline Company, Post Office Box 5601, Bismarck, North Dakota, 58506–5601, call 701–530–1560.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 31, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the

proceedings can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, interventions and protests may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12286 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Amendment of License.

b. Project No.: 2114–091.

c. Date Filed: May 9, 2001.

d. Applicant: Public Utility District No. 2 of Grant County, Washington.

e. Name of Project: Priest Rapids Hydroelectric Project.

f. Location: On the Columbia River, in Grant, Yakima, Kittitas, Douglas, Benton and Chelan Counties, Washington. The project occupies 3,051.92 acres of federal lands administered by the Bureau of Land Management, Department of Energy, Department of Army, Bureau of Reclamation, and the US Fish and Wildlife Service.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Lon Topaz, Public Utility District No. 2 of Grant County, Washington, P.O. Box 878, Ephrata, WA, 98823; (509) 754–6609.

i. FERC Contact: Questions about this notice can be answered by Charles Hall at (202) 219–2853 or e-mail address: *charles.hall@ferc.fed.us*. The Commission cannot accept comments, recommendations, motions to intervene or protests sent by e-mail; these documents must be filed as described below.

j. Deadline for filing comments, motions to intervene, and protests: 14 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Filing: Public Utility District No. 2 of Grant County, Washington, has filed a request for temporary suspension from May 9, 2001 through the 2001 summer fish migration season of the interim spill requirements of the Commission's May 25, 1994, Order on Interim License Conditions (67 FERC ¶ 61,225) for the Priest Rapids Hydroelectric Project. In its request, the public utility district, said that it would not alter spill flows without first obtaining concurrence from the principal governmental agencies and tribes in the region, including, specifically, the Governor of Washington, the National Marine Fisheries Service, the Northwest Power Planning Council and the Yakima Indian Nation.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12296 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11902–000.

c. *Date filed:* March 8, 2001.

d. *Applicant:* Mr. Edward T. Navickis.

e. *Name and Location of Project:* The Lake Pillsbury Project would be located on the Eel River in Lake County, California.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

g. *Applicant contact:* Mr. Edward T. Navickis. P.O. Box 910, Penn Valley, CA 959546, (530) 432–9226, fax (530) 432–2520.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.3001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11902–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project, using the existing Lake Pillsbury impoundment formed by Scott Dam, which has a storage capacity of 80,556 acre-feet, would consist of: (1) A powerhouse with a total installed capacity of 2.5 megawatts; (2) a nine-mile-long, three phase transmission line; and (3) appurtenant facilities. The project would have an average annual generation of 15 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12299 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions to Intervene

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11905–000.

c. *Date filed:* March 16, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Bull Lake Dam Project would be located on Bull Lake Creek in Fremont County, Wyoming.

f. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, fax (208) 745–7909.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protest, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11905–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would use the existing Bull Lake Dam impoundment with a storage capacity of 152,500 acre-feet and consist of: (1) A powerhouse with a total installed capacity of 4 megawatts; (2) a 260-foot-long, 8.5-foot-diameter penstock; (3) a 14-mile-long, 25 kv transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 26 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commis8ion, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no late than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36..

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rule of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take,the Commission will consider all protest or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS.", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower administration and Compliance, federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be serve upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12300 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11908–000.

c. *Date filed:* March 19, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Lemon Dam Project.

f. *Location:* On the Florida River, in La Plata County, Colorado. Would utilize the existing Bureau of Reclamation's Lemon Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, president, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for Filing Motions To Intervene, Protests and Comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11908–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Lemon Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 800-foot-long, 48-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 4 MW; (4) a proposed 14-mile-long, 25 kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 35 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts.Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE" as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by producing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative.

David P. Boergers,

Secretary.

[FR Doc. 01–12301 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.
b. *Project No.:* 11910–000.
c. *Date filed:* March 19, 2001.
d. *Applicant:* Symbiotics, LLC.
e. *Name of Project:* Applegate Dam Project.
f. *Location:* On the Applegate River, in Jackson County, Oregon. Would utilize the existing U.S. Army Corps of Engineers' Applegate Dam.
g. *Filed Pursuant to:* Federal Power Act, USC §§ 791(a)–825(r).
h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–8630.
i. *FERC Contact:* Robert Bell, (202) 219–2806.
j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11910–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Applegate Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 100–foot-long, 10-foot-diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 12 MW; (4) a proposed 1.5-mile-long 25–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 38 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of inent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,
Secretary.
[FR Doc. 01–12302 Filed 5–15–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.
b. *Project No:* 11911–000.
c. *Date Filed:* March 20, 2001.
d. *Applicant:* Symbiotics, LLC.
e. *Name of Project:* Eagle Rock Hydroelectric Project.
f. *Location:* On the Snake River, approximately 18 miles southwest of the town of American Falls, in Power County, Idaho. The project would be located on federal lands administered by the Bureau of Land Management and private lands.
g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).
h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address *npsihydro@aol.com.*
i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: *lynn.miles@ferc.fed.us.*
j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efe/doorbell.htm.*

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* (1) A proposed small earth-fill dam approximately 30 feet high and 350 feet long; (2) a proposed reservoir having a surface area of 250 acres with a storage capacity of 2,250 acre-feet at an normal water surface elevation of 4,242 feet; (3) a 2000-foot-long power canal; (4) a 24-foot-diameter 400 foot-long steel penstock; (5) a concrete powerhouse containing one generating unit with an installed capacity of 20 megawatts; (6) a 138 kv transmission line approximately 2.5 miles long; and (7) appurtenant facilities.

The project would have an annual generation of 105 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211,.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,
Secretary.
[FR Doc. 01–12303 Filed 5–15–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11917–000.

c. *Date filed:* March 22, 2001.

d. *Applicant:* Edward T. Navickis.

e. *Name of Project:* Boca Power Project.

f. *Location:* On the Little Truckee River, in Nevada County, California. No federal land or facilities would be used.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Edward T. Navickis, P.O. Box 910, Penn Valley, CA 95946, (530) 432–9226.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for Filing Motions To Intervene, Protests and Comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11917–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedures require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Boca Dam and impoundment would consist of: (1) A proposed 8-foot-long, 50-inch-diameter steel penstock; (2) a proposed powerhouse containing one generating unit having a total installed capacity of 1.125 MW; (3) a proposed 2000-foot-long, transmission line; and (4) appurtenant facilities.

The project would have an annual generation of 5 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12304 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11920–000.

c. *Date Filed:* March 26, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Angostura Dam Hydroelectric Project.

f. *Location:* On the Cheyenne River in Fall River county, South Dakota. The project would use the U.S. Bureau of Reclamation's Angostura Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: *npsihydro@aol.com*.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: *lynn.miles@ferc.fed.us*.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would use the existing U.S. Bureau of Reclamation's Angostura Dam and Reservoir and would consist of: (1) A proposed 54-inch diameter, 100 foot-long steel penstock; (2) a powerhouse containing one generating unit with an installed capacity of 5MW; (3) a proposed 9-mile-long 60kV transmission line; and (4) appurtenant facilities.

The project would have an annual generation of 43.8 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedures, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene mut also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12305 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protects, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11922–000.

c. *Date filed:* March 26, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Caballo Dam Project.

f. *Location:* On the Rio Grande River, in Sierra County, New Mexico. Would utilize the existing Bureau Of Reclamation's Caballo Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (202) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comment:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11922–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Caballo Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 300-foot-long, 54-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 7 MW; (4) a proposed 10-mile-long, 25-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 34 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene mut also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12306 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11923–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Cle Elum Dam Project.

f. *Location:* On the Cle Elum River, in Kittitas County, Washington. Would utilize the existing Bureau of Reclamation's Cle Elum Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11923–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Cle Elum Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 300-foot-long, 240-inch diameter steel penstock; (3) a proposed powerhouse containing two generating unit having a total installed capacity of 10 MW; (4) a proposed 10-mile-long, 25-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 87.6 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (2020 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application.

A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12307 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11925–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Arthur R. Bowman Dam Project.

f. *Location:* On the Crooked River, in Crook County, Oregon. Would utilize the existing Bureau Of Reclamation's Arthur R. Bowman Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11925–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Arthur R. Bowman Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 3 MW; (4) a proposed 8-mile-long, 15-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 15 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12308 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11926–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* John Redmond Dam Project.

f. *Location:* On the Neosho River, in Coffey County, Kansas. Would utilize the U.S. Army Corps of Engineers' John Redmond Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11926–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' John Redmond Dam and would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 48-inch-diameter steel penstock; (3) a proposed powerhouse containing three generating units having a total installed capacity of 6.5 MW; (4) a proposed 3-mile-long, 25 kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 19.5 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit.*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each

representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12309 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11927–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Kachess Dam Project.

f. *Location:* On the Kachess River, in Kittitas County, Washington. Would utilize the existing Bureau of Reclamation's Kachess Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11927–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Kachess Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 300-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 3.2 MW; (4) a proposed 8-mile-long, 15-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 28 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory

Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12310 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11928–000.

c. *Date filed:* March 28, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Oologah Lake Project.

f. *Location:* On the Verdigris River, in Rogers County, Oklahoma. Would utilize the U.S. Army Corps of Engineers' Oologah Lake Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11928–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Oologah Lake Dam and would consist of: (1) A proposed intake structure; (2) a proposed 200-foot-long, 240-inch diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 7.9 MW; (4) a proposed 5-mile-long, 25-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 52.2 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*— Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*— Any development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*— A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*— A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of Preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*— Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who filed a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*— Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional

copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*— Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12311 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11929–000.

c. *Date filed:* March 29, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Glen Elder Dam Project.

f. *Location:* On the Solomon River, in Mitchell County, Kansas. Would utilize the Bureau of Reclamation's Glen Elder Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745-8630.

i. *FERC Contact:* Robert Bell, (202) 219-2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11929–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau of Reclamation's Glen Elder Dam and would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 80-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 3.5 MW; (4) a proposed 2-mile-long, 15 kV transmission line; and (5) appurtenant facilities

The project would have an annual generation of 4.3 GWh that would be sold to a local unity.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application not later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the Commission's Rules may become a party to the proceedings. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent,

competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12312 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11930–000.

c. *Date filed:* March 29, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Perry Dam Project.

f. *Location:* On the Delaware River, in Jefferson County, Kansas. Would utilize the U.S. Army Corps of Engineers' Perry Dam.

g. *Filed Pursuant to:* Federal Power Act 16 USC §§ 791(a)-825(r).

h *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Service, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (Original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11930–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Perry Dam and would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 4.5 MW; (4) a proposed mile-long, 25kv transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 13.1 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, Located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent,

competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12313 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulary Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11931–000.

c. *Date filed:* March 29, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Milford Dam Project.

f. *Location:* On the Republican River, in Geary County, Kansas. Would utilize the U.S. Army Corps of Engineers' Milford Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 188 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11931–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Milford Dam and would consist of: (1) A proposed intake structure; (2) a proposed 100-foot-long, 96-inch-diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 8.2 MW; (4) a proposed mile-long, 25-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 29.7 GWh that would be sold to a local utility.

l. A copy of the application is a available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE. Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http:/www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments.*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12314 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11932–000.

c. *Date filed:* March 29, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* W.D. Mayo Lock & Dam Project.

f. *Location:* On the Arkansas River, in Sequoyah County, Oklahoma. Would utilize the U.S. Army Corps of Engineers' W.D. Mayo Lock & Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11932–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commissioner elating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' W.D. Mayo Lock & Dam and would consist of: (1) A proposed intake structure (2) a proposed 200-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing three generating units having a total installed capacity of 30 MW; (4) a proposed 2-mile-long, 25–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 124 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us.online.rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedures, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory

Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene mut also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12315 Filed 5–15–01; 8:45 am]

BILLING CODE 5717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11934–000.

c. *Date filed:* March 30, 2001.

d. *Applicant:* Byram Hydropower, Inc.

e. *Name of Project:* Byram Hydropower Project.

f. *Location:* On the Big Wood River and the Twin Falls North Side Main Canal (X Canal), in Gooding county, Idaho. The project would not utilize federal lands.

g. *File Pursuant to:* Federal Power Act, 16 USC §§ .791(a)–825(r).

h. *Applicant Contact:* Mr. Silvio Coletti, Byram Hydropower, Inc., 2727 South Merrimac Place, Boise, ID 83709, (208) 562–1527.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Please include the Project Number (P–11934–000) on any comments, protests, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A proposed intake; (2) a proposed 900-foot-long, 64-inch-diameter steel penstock; (3) a proposed powerhouse containing two turbine/generating units having an installed capacity of 697 kW; and (4) appurtenant facilities.

The project would have an annual generation of 6.53 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NW., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 384.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12317 Filed 5–15–01; 8:45 am]

BILLING CODE 5717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11939–000.

c. *Date filed:* April 2, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Horsetooth Reservoir Outlet Project.

f. *Location:* On the Horsetooth Reservoir, in Larimer County, Colorado. Would utilize federal lands administered by the Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11939–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project using the Bureau of Reclamation's Horsetooth Reservoir Dam and would consist of: (1) A proposed intake structure; (2) a proposed 500-foot-long, 120-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 2.5 MW; (4) a proposed mile-long, 15-kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 20.5 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http//www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application.) A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, 214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory

Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12318 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11940–000.

c. *Date filed:* April 4, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Willow Creek Reservoir Dam Project.

f. *Location:* On the Willow Creek, in Lewis and Clark County, Montana. Would utilize the existing Bureau Of Reclamation's Willow Creek Reservoir Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–11940–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Willow Creek Reservoir Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 500-foot-long, 240-inch-diameter steel penstock; (3) a proposed powerhouse containing four generating units having a total installed capacity of 10 MW; (4) a proposed 5-mile-long, 15 kV transmission lien; and (5) appurtenant facilities.

The project would have an annual generator of 87.6 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional

copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12319 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11941–000.

c. *Date filed:* April 2, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Alta Lakes Project.

f. *Location:* On the Alta Lakes, in San Miguel County, Colorado. Would utilize the land and dam administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.us/efi/doorbell.htm*. Please include the project number (P–11941–000) on my comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Forest Service's Alta Lakes Dam and would consist of: (1) A proposed intake structure; (2) a proposed 5000-foot-long, 18-inch-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 749 kW; (4) a proposed mile-long, 15–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 1.45 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE.,

Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be resumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12320 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11945–000.

c. *Date filed:* April 9, 2001.

d. *Applicant:* Symbiotic, LLC.

e. *Name of Project:* Dorena Lake Dam Project.

f. *Location:* On the Row River, in Lane County, Oregon. Would utilize the existing U.S. Army Corps of Engineers' Dorena Lake Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11945–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Dorena Lake Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 900-foot-long, 8-foot-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 4 MW; (4) a proposed 6-mile-long, 25 kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 26.3 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by

the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12321 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11946–000.

c. *Date filed:* April 9, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Unity Dam Project.

f. *Location:* On the Burnt River, in Baker County, Oregon. Would utilize the existing Bureau Of Reclamation's Unity Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11946–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamaiton's Unity Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 220-foot-long, 6-foot-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having a installed capacity of 4 MW; (4) a proposed 6-mile-long, 15–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 26.2 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*— Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*— Any development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36

o. *Notice of intent*— A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*— A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*— Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who filed a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*— Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents

must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*— Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12322 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11947–000.

c. *Date filed:* April 10, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Warm Springs Dam Project.

f. *Location:* On the Malheur River, in Maheur County, Oregon. Would utilize the existing Bureau of Reclamation's Warm Springs Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11947–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Warm Springs Dam and impoundment would consist of: (1) A proposed intake structure; (2) a proposed 200-foot-long, 6-foot-diameter steel penstock; (3) a proposed powerhouse containing one generating unit having an installed capacity of 3 MW; (4) a proposed 2-mile-long, 15–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 19.7 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the

Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One Copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12323 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 10, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11948–000.

c. *Date Filed:* April 10, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Agency Valley Dam Project.

f. *Location:* On the Malheur River, in Malheur County, Oregon. Would utilize the existing Bureau Of Reclamation's Agency Valley Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.* Please include the project number (P–11948–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project using the Bureau Of Reclamation's Agency Valley Dam and impoundment would consist of: (1) A proposed intake structure (2) two proposed 150-foot-long, 3-foot-diameter steel penstock; (3) a proposed powerhouse containing two generating units having a total installed capacity of 2 MW; (4) a proposed 0.25-mile-long, 15–kV transmission line; and (5) appurtenant facilities.

The project would have an annual generation of 13.1 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT

TO FILE COMPETING APPLICATION," "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12324 Filed 5–15–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6961–2]

Notice of Approval of Prevention of Significant Deterioration (PSD) Permit to Midway Sunset Cogeneration Company (Permit No. SJ–00–01)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA Region 9 is hereby providing notice that it issued PSD permit to Midway Sunset Cogeneration Company.

The permit (Authority to Construct) was issued on April 20, 2001. Since no comments were received during the public comment period and the proposed permit conditions were not changed in the final permit, the final permit became effective immediately. The proposed Western Midway Sunset Cogeneration Project (WMSCP) will be located adjacent to an existing 225 MW Midway Sunset Cogeneration Plant (MSCP) in western Kern County near the communities of Fellows and McKittrick in California. The proposed WMSCP is a natural gas-fired combined cycle power plant, with a nominal electrical output of 500 MW. The proposed facility is subject to PSD for Carbon Monoxide (CO). The permit includes the Best Available Control Technology (BACT) emission limit of 4 ppmvd (three-hour averaging at 15% O_2). Continuous emission monitoring is required for NO_X, CO and O_2. To limit SO_X emissions, the fuel type is limited to the use of pipeline-quality natural gas. The proposed plant is also subject to New Source Performance Standards, Subparts A and GG, and the Acid Rain program under title IV of the Clean Air Act.

Concurrently, on April 20, 2001, we issued a revised PSD permit for the existing power plant (Permit No. SJ–87–01) to allow it to retrofit its three existing turbines with low NO_X burners.

FOR FURTHER INFORMATION CONTACT: If you have any questions or would like a copy of the permits, please contact Nahid Zoueshtiagh at (415) 744–1261. You may also contact us by mail at: Permits Office (Air–3), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Judicial Review: No comments were received on the proposed permits and no appeals were filed concerning these permits before the Environmental Appeals Board pursuant to 40 CFR 124.19.

40 CFR 124.19(f)(2) requires notice of any final agency action regarding a PSD permit to be published in the **Federal Register**. Section 307(b)(1) of the Clean Air Act provides for review of final agency action that is locally or regionally applicable in the United States Court of Appeals for the appropriate circuit. Such a petition for review of final agency action must be filed within 60 days from the date of notice of such action in the **Federal Register**. (However, 40 CFR 124.19(f)(1) provides that, for purposes of judicial review under the Clean Air Act, final agency action occurs when a final PSD permit is issued or denied by EPA *and* agency review procedures are exhausted.)

Dated: May 8, 2001.

Jack P. Broadbent,

Director, Air Division, Region IX.

[FR Doc. 01–12358 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00718; FRL–6783–1]

Workshop Series on Bt Corn Insect Resistance Management Framework Development; Notice of Public Workshops

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a series of small expert group (about 15 people) workshops focusing on Bt corn insect resistance management (IRM). These workshops are designed to provide EPA with information on the following general topics: Pest simulation model design and validation, resistance monitoring and field survey techniques with validation, resistance monitoring program design and resistance control strategies (refuges, seed mixtures, etc.), and remedial action plans. Information from these workshops will be used to assist the Agency in the design and evaluation of effective insect resistance management strategies for Bt corn. EPA will provide a publically-available workshop report after all four workshops have been concluded.

DATES: The first workshop will be held on June 4–5, 2001, from 8 a.m. to 5 p.m. The second workshop will be held on July 26–27, 2001, from 8 a.m. to 5 p.m.

Requests to participate in the workshops must be received on or before May 31, 2001, for the first workshop and July 23, 2001, for the second workshop.

ADDRESSES: The workshops will be held at EPA's Conference Center, WIC 1 North, Waterside Mall, 401 M St., SW., Washington DC 20460. Space is limited.

Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your request must identify docket control number OPP–00718 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: John Glaser, National Risk Management Research Laboratory, Environmental Protection Agency, 26 W. King Dr., Cincinnati, OH 45268; telephone number: (513) 569–7568; fax number: (513) 487–2511; e-mail address: glaser.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to registrants and users of Bt corn under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as well as non-users of Bt corn and the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about the Office of Research and Development (ORD) workshops on Bt corn IRM, go directly to the Home Page for Biopesticides at http://www.epa.gov/pesticides/biopesticides, and select "ORDworkshops."

2. *In person.* The Agency has established an administrative record for this meeting under docket control number OPP–00718. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the ORD Workshops on Bt Corn IRM, including any information claimed as Confidential Business Information (CBI). This administraive record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. How Can I Request To Participate in This Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before May 31, 2001, for the first workshop on June 4th and 5th and July 23, 2001, for the second workshop on July 26th and 27th. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00718 in the subject line on the first page of your request.

1. *By mail.* You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your request electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–00718. You may also file a request online at many Federal Depository Libraries.

III. Focus of Workshops

The first workshop (June 4-5) will focus on pest simulation model design and validation. The second workshop (July 26-27) will focus on resistance monitoring and field survey techniques with validation. The third workshop will focus on resistance monitoring program design and resistance control strategies (refuges, seed mixture etc.). The fourth workshop will focus on remedial action plans. The third and fourth workshops will be announced later in a **Federal Register** notice.

List of Subjects

Environmental protection, Bt corn.

Dated: May 3, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–11837 Filed 5–15–01; 8:45 am]

BILLING CODE 6560–50–S

OFFICE OF NATIONAL DRUG CONTROL POLICY

Renewal of Charter of Drug Free Communities Advisory Commission

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of charter renewal.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 and 41 CFR 101–6.1013, the Office of National Drug Control Policy renewed the Charter of the Drug Free Communities Advisory Commission on May 3, 2001. The renewed charter is available for viewing through the Library of Congress and the United States General Services Administration.

FOR FURTHER INFORMATION CONTACT: Linda V. Priebe, (202) 395–6622, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20503.

Dated: May 9, 2001.

Linda V. Priebe,

Assistant General Counsel.

[FR Doc. 01–12343 Filed 5–15–01; 8:45 am]

BILLING CODE 3180–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; Systems of Records

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of amended, altered and consolidated systems of records.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") has conducted a review of systems of records notices published pursuant to the Privacy Act of 1974 (5 U.S.C. 552a, "Privacy Act") and now publishes this notice of amended, revised, and consolidated systems of records.

DATES: Comments on the proposed routine uses for the systems of records included in this notice must be received by the FDIC on or before June 15, 2001. The amendments, revisions and consolidations that are the subject of

this notice will become effective 45 days following publication in the **Federal Register**, unless a superseding notice to the contrary is published before that date.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, FDIC, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (facsimile number (202) 898–3838; Internet address: *comments@fdic.gov*). Comments may be posted on the FDIC internet site at *http://www.fdic.gov/regulations/laws/federal/propose.html* and may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days. All comments should refer to "FDIC Systems of Records."

FOR FURTHER INFORMATION CONTACT: Fredrick L. Fisch, Senior Attorney, Privacy Act Officer, FDIC, Office of the Executive Secretary, 550 17th Street, NW., Washington, DC, 20429, (202) 898–3819.

SUPPLEMENTARY INFORMATION: The Privacy Act applies to information about individuals that may be retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a "record" and the system, whether manual or computer-driven, is called a "system of records." A system is considered altered whenever certain fundamental changes are made to the system, such as whenever certain disclosures, called "routine uses," are changed. U.S. Office of Management and Budget Circular A–130, Appendix I specifies periodic reviews of Privacy Act systems of records. In accordance with the reviews specified in Circular A–130, Appendix I, the FDIC has conducted a thorough review of FDIC's systems of records for accuracy and completeness. The FDIC has specifically considered changes in technology, function, and organization that may have rendered existing systems of records notices out-of-date and reviewed the routine uses published in the system notices to make sure they are necessary and compatible with the purposes for which the information is collected. Pursuant to that review, the FDIC hereby publishes this notice of amended, altered and consolidated systems of records. In its review, the FDIC has determined that two of its systems of records should be consolidated and that the remaining twenty-one systems notices require either technical and/or substantive revision.

Many of the revisions to existing systems of records reflected by this notice are minor, technical amendments necessitated by organizational changes within the FDIC. The location of various systems and the FDIC divisions or offices responsible for the maintenance of various systems have been updated to reflect these changes. Also, minor revisions have been made to clarify or more accurately describe various system elements and to insure the use of consistent language wherever possible.

The FDIC has identified two systems of records which should be consolidated (system 30–64–0009, Examiner Training and Education Records—FDIC and system 30–64–0007, Employee Education System—FDIC). Each system contains information about the educational and training course history of certain categories of employees. For reasons of efficiency, these systems are consolidated as system 30–64–0007, and the system name is changed to "Employee Training Information Records."

Additional substantive revisions to FDIC systems of records notices are as follows:

1. A statement of the purpose(s) for maintaining each system of records is added to each system notice.

2. The "Contesting record procedures" section included in each system notice is amended to provide that individuals wishing to amend or contest information in the system should indicate the information being contested, the reason for contesting it, and the proposed revision to the information.

3. The "Notification procedure" of each system notice has been updated to provide that individuals requesting their own records must provide a notarized statement attesting to their identity.

4. A routine use presently included in sixteen system notices (30–64–0001, –0002, –0005, –0006, –0008, –0010, –0011, –0012, –0013, –0016, –0018, –0019, –0020, –0022, –0023 and –0024) regarding disclosure of information to courts, magistrates or administrative tribunals in connection with civil or criminal proceedings is amended to limit disclosure to instances when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary. This routine use has also been added to two systems, 30–64–0003 and –0017 as further detailed in the notices below.

5. A statement entitled "Disclosures to consumer reporting agencies" providing that "information, pursuant to subsection (b)(12) of the Privacy Act, may be disclosed to consumer reporting agencies in accordance with 31 U.S.C. 3711(e)" is added to five systems (30–64–0002, –0007, –0010, –0012, and –0022) and updated in one other system (30–64–0020). The update is to reference 31 U.S.C. 3711(e), thereby tracking the language of subsection (b)(12) of the Privacy Act and to note limitations on the disclosures. (Individuals are referred to 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f) for a definition of the term "consumer reporting agency.") The purpose of these disclosures is to provide an incentive for debtors to the FDIC to repay debts to the FDIC by making these debts part of their credit records. Disclosure of records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

6. A routine use providing that information may be disclosed to debt collection agents, to any appropriate Federal agency, or to other third parties who are authorized to collect a Federal debt for the purpose of collecting delinquent debts due to the FDIC is added to six systems (30–64–0002, –0007, –0010, –0012, –0020 and –0022). The purpose of this disclosure is to implement relevant portions of the Debt Collection Improvement Act of 1996. Disclosure of records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

7. A routine use providing that information may be disclosed to consultants and contractors to the extent that the information is relevant and necessary for them to perform their function or fulfill their contract is added to twelve systems (30–64–0003, –0004, –0005, –0007, –0008, –0010, –0011, –0012, –0016, –0018, –0019 and –0020). The routine use contains the proviso that those consultants and contractors are subject to the relevant provisions of the Privacy Act.

8. The "Safeguards" subsection of all system notices with records stored in electronic media is amended to state that records so stored are now password protected and accessible only by authorized personnel.

9. A "Note" is added to system 30–64–0001 (Attorney-Legal Intern Applicant Records) to provide for future record storage in electronic media.

10. The "Categories of records in the system" section in system 30–64–0002 (Financial Institutions Investigative and Enforcement Records) is amended to add suspicious activity reports. A "Note" is added after the "Categories of records in the system" section which states that certain records in the system may be proprietary to other Federal entities and that the FDIC may forward requests for such records to the originating agency. Routine use #2 is modified to include reporting of information contained in this system to licensing and standards boards, such as the bar associations and other groups who set standards of conduct for their professional members. The "Record access procedures" are revised to give notice of certain exemptions from disclosure under 12 CFR 310.13 and 5 U.S.C. 552a(j)(2) and (k)(2).

11. The "Routine uses of records" section in system 30–64–0003 (Administrative and Personnel Action Records) is revised to add three routine uses which authorize the disclosure of information to a court, magistrate or administrative tribunal and to certain government agencies for the specific purposes and subject to the limitations described in the routine uses.

12. The "Categories of records in the system" section in system 30–64–0004 (Changes in Bank Control Ownership Records) is amended to include certain financial information of proposed acquirers. The "Routine uses of records" section is revised to delete the current routine use and to add four routine uses which provide for disclosure of information to: Federal or state financial institution supervisory authorities; a court, magistrate or administrative tribunal; Federal, state or local regulatory authorities; and to a congressional office. The "Notification procedure" subsection is revised to provide that individuals requesting records about themselves must furnish their name, address, and the name and address of the FDIC insured institution. The "Record source categories" section is amended to add persons who filed a "Change in Control Notice" or "Notice of Acquisition of Control" forms during the period from 1989 to 1995. Also, a "Note" is included in the notice to advise that the system was maintained only for the period from 1989 to 1995, and that the resultant, current records system does not maintain information retrievable by name or any personal identifier.

13. The "Authority for maintenance of the system" section in system 30–64–0005 (Consumer Complaint and Inquiry Records) is revised to add section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819). The "Notification procedure" section is amended to provide that requests must include the name and address of the complainant or inquirer and the name and address of the insured depository institution that is the subject of the inquiry.

14. The "Categories of records in the system" section of system 30–64–0006 (Employee Confidential Financial Disclosure Records) is revised (i) to delete the Confidential Report of Employment Upon Resignation, and (ii) to delete from category (5) the limitation that certain employees' credit cards issued by FDIC insured state nonmember banks must not exceed a $10,000 line of credit. The "Policies and practices" section for storing, retrieving and safeguarding system records is updated to reflect that records are stored in electronic media, as well as paper format. A "Note" is added to the notice advising that various categories of records in the system are maintained in addition to those maintained in the government-wide system maintained by the United States Office of Government Ethics (known as "OGE/GOVT–2").

15. As noted above, the system name of 30–64–0007, formerly known as "Employee Education System—FDIC," is consolidated with system 30–64–0009 (Examiner Training and Education Records—FDIC) and is changed to "Employee Training Information Records." The "Category of records in the system" section is amended to delete records pertaining to the educational history of employees prior to employment with the FDIC. The "Routine uses of records" section is revised to add a routine use which authorizes the disclosure of information to a court, magistrate, mediator or administrative tribunal. Also, a routine use providing for disclosure of information to vendors and other appropriate third parties for the purpose of verification of training or licensing requirements is amended to include professional licensing boards.

16. The name of system 30–64–0008, formerly known as the Chain Bank Report, is changed to "Chain Banking Organizations Identification Records." The "Category of records" section is amended to include stock certificate numbers, total asset size, the percentage of stock ownership, name of intermediate holding company and the percentage of holding company stock held by the controlling individual or group owning or controlling two or more insured depository institutions. The "Policies and practices" section for storing, retrieving and safeguarding the system records is updated to reflect that records are stored only in electronic media and are retrievable by an assigned identification number, as well as by name.

17. The name of system 30–64–0010, formerly known as "Investigative Files and Records," is changed to "Investigative Files of the Office of the Inspector General." The "Category of records in the system" section is amended to include records and information regarding possible violations of the FDIC employee and contractor Standards of Conduct. Routine uses (1), (2) and (5) are revised, and eight new routine uses are included which authorize the disclosure of information to various agencies, organizations or individuals for the specific purposes and subject to the limitations described in the routine uses. These routine uses are compatible with the purposes for which the records were assembled, as they are narrowly tailored under limited circumstances and are exemplary of other approved routine uses for other records of Inspectors General in other federal agencies subject to the Privacy Act. A "Note" is added after the routine uses stating that records may additionally be disclosed if they are also present in other nonexempt systems of records. The "Retention and disposal" section is amended to provide that records will be retained for a period of ten years and then destroyed. A second "Note" after the "Notification procedure" subsection is added to give the proviso that some records may be exempt from the disclosure provisions of the Privacy Act as further explained in a subsequent subsection of the notice.

18. The name of system 30–64–0011, formerly known as the "Vacancy Announcement Tracking System," is changed to "Corporate Recruitment Tracking Records." The Office of Government Ethics is added as an agency to which information may be disclosed under routine use (1).

19. The name of system 30–64–0012, formerly known as the "Financial Information System", is changed to "Financial Information Management Records." The "System location" section is revised to specify that certain records concerning FDIC employees are located with the General Counsel, Legal Division. A similar change is implemented for the "System manager" section, but only as to limited, specific records enumerated in the system notice. The "Categories of individuals covered by the system" section is amended to include "FDIC customers." A "Note" is added after the "Categories of individuals covered by the system" section stating that the system also contains records concerning failed bank receiverships, corporations and other

entities the records of which are not subject to the Privacy Act. The "Authority for maintenance of the system" section is amended to delete the reference to the Travel Expense Act of 1949. Routine use (6) providing for disclosure of information to the U.S. Treasury Department for use in the preparation of savings bonds is deleted. The "Retention and disposal" section has been revised to provide that certain of the system records are to be retained for a period of ten years and then transferred to the Federal Records Center or destroyed. The "Notification procedure" subsection has been revised to state that individuals seeking access to the system must include certain identifying information to aid in the location of records.

20. The "System location" section of 30–64–0013 (Insured Bank Liquidation Records) is revised to reflect that records are now only located in Washington, DC or Dallas, Texas. The "Categories of individuals covered by the system" section is amended to include obligees of failed financial institutions for which FDIC has been appointed receiver or liquidator or provided with open-bank assistance. A "Note" is added after the aforementioned section which states that this system of records may also contain many records about business entities and other organizations that may not be subject to the Privacy Act. The "Categories of records in the system" section is revised to include records concerning receivership claims filed by claimants, creditors, or obligees of the failed financial institution. A "Note" is added after the aforementioned section which gives notice that records are only held in the system if not inconsistent with any state law governing failed financial institution receiverships.

21. The name of system 30–64–0016, formerly known as the "Municipal Securities Dealers and Government Securities Brokers/Dealers Personnel Records System," is changed to "Professional Qualification Records for Municipal Securities Dealers, Municipal Securities Representatives and U.S. Government Securities Brokers/Dealers."

22. The name of system 30–64–0017, formerly known as the "Medical Records and Emergency Contact Information System," is changed to "Employee Medical and Health Assessment Records." "Notes" are added advising that (i) in addition to the FDIC system of records, the United States Office of Personnel Management maintains its own government-wide system of records (known as "OPM/GOVT–10"), and (ii) the records are disclosed only to a very limited number of FDIC officials. Eight routine uses are added to authorize disclosure of information to various offices, agencies, or organizations for the specific purposes and subject to the limitations described in the routine uses. The "Policies and practices" section for storing and safeguarding the records is amended to reflect that records are stored in electronic media, as well as paper format. The "Notification procedure" section is revised to provide that all requests must contain the requestor's name and office where employed. The "Record source" section is amended to include records from health screening programs, ergonomic assessments or requests for health or medical accommodation.

23. The "Authority for maintenance of the system" section for system 30–64–0018 (Grievance Records) is revised to include section 9 of the Federal Deposit Insurance Act. Routine use (6), concerning release to the National Archives for records management inspections is deleted. The "Storage" subsection of the section, "Policies, and practices for storing, retrieving, accessing, retaining, and disposing of records in the system" is amended to provide that some of the records in the system may be stored in electronic media.

24. The name of system 30–64–0019, formerly known as the "Secondary Marketing Asset Prospect System," is changed to "Potential Bidders List."

25. The "Categories of individuals covered by the system" section in system 30–64–0020 (Telephone Call Detail Records) is amended to include individuals who receive calls placed from or charged to FDIC telephones. Routine use (2), concerning release of information to the General Services Administration or the National Archives and Records Administration, is deleted.

26. Two routine uses are added to system 30–64–0021 (Fitness Center Records) to allow for the release of information to courts, magistrates or administrative tribunals and to contractors or subcontractors under the restrictions and limitations detailed in the routine uses. A "Note" is added to provide for future record storage in electronic media.

27. The "Category of records in the system" section in system 30–64–0022 (Freedom of Information Act and Privacy Act Request Records) is expanded to further and better explain the types of records found in the system. A "Note" is added immediately after the aforementioned section which states that other Privacy Act records could become part of this system during the course of processing a request. The "System manager and address" section is updated to further identify the correct contact position within the Office of the Executive Secretary. The "Records access procedures" and "Contesting record procedures" sections are amended to note that material from FDIC systems of records which are exempt from certain Privacy Act requirements may be included in this system of records, and, if so, the material will retain its original exemption.

28. The "System location" section in system 30–64–0023 (Affordable Housing Program Records) is amended to reflect that all records in the system are now in one location. The "Categories of individuals covered by the system" section is revised to remove superfluous language. A "Note" is added immediately after the aforementioned section which sets forth some basic requirements for participation in FDIC's Affordable Housing Program.

29. The name of system 30–64–0024, formerly known as the "Unclaimed Deposits Reporting System," is changed to "Unclaimed Deposit Account Records." The "System location" section is amended to reflect that all records in the system are now in one location.

System of records 30–64–0015 (Unofficial Personnel System) is not being revised at this time. An amended Notice of this system will be published at a later date.

Accordingly, the FDIC proposes to adopt the following systems of records in their entirety as set forth below:

Federal Deposit Insurance Corporation

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30–64–0002 Financial Institutions Investigative and Enforcement Records
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30–64–0007 Employee Training Information Records
30–64–0008 Chain Banking Organizations Identification Records
30–64–0009 [Reserved]
30–64–0010 Investigative Files of the Office of the Inspector General
30–64–0011 Corporate Recruitment Tracking Records
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30–64–0013 Insured Bank Liquidation Records
30–64–0014 [Reserved]
30–64–0015 Unofficial Personnel System (to be revised at a later date)
30–64–0016 Professional Qualification Records for Municipal Securities Dealers, Municipal Securities Representatives and U.S. Government Securities Brokers/Dealers
30–64–0017 Employee Medical and Health Assessment Records
30–64–0018 Grievance Records
30–64–0019 Potential Bidders List
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30–64–0023 Affordable Housing Program Records
30–64–0024 Unclaimed Deposit Account Records

30–64–0001

SYSTEM NAME:

Attorney—Legal Intern Applicant Records.

SYSTEM LOCATION:

Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for the position of attorney or legal intern with the Legal Division of the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from the applicants and individuals whose names were provided by the applicants as references; applicants' resumes; application forms; and in some instances, comments of individuals who interviewed applicants; documents relating to an applicant's suitability or eligibility; and writing samples.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The information in this system is used to evaluate the qualifications of individuals who apply for attorney or legal intern positions in the Legal Division.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) In requesting information of individuals or concerns whose names were supplied by the applicant as references and/or past or present employers;

(2) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective functions;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal proceedings when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary; and

(5) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper format within individual file folders in file cabinets.

Note: In the future all or some portion of the records may be stored in electronic media. These records will be retrieved by name and will be password protected and accessible only by authorized personnel.

RETRIEVABILITY:

Individual file folders are indexed and retrieved by name. Records of unsuccessful applicants are indexed first by job position category and year and then by name.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records of unsuccessful applicants are retained two years after their submission; records of successful applicants become a part of the FDIC's "Unofficial Personnel System" (FDIC 30–64–0015) and are retained two years after the applicant leaves the employ of the FDIC.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records, or to gain access to records maintained in this system, must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Unsuccessful applicants or those individuals with applications pending with the FDIC who request their records must identify the job position description and year in which they applied. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the applicants; references supplied by the applicants; current and/or former employers of the applicants; and FDIC employees who interviewed the applicants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 12 CFR 310.13(b), investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for FDIC employment may be withheld from disclosure to the extent that disclosure of such material would reveal the identity of a source who furnished information to the FDIC under an express promise of confidentiality.

30–64–0002

SYSTEM NAME:

Financial Institutions Investigative and Enforcement Records.

SYSTEM LOCATION:

Division of Supervision, Special Activities Section, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who participate or have participated in the conduct of or who are or were connected with financial institutions, such as directors, officers, employees, and customers, and who have been named in suspicious activity reports, investigatory records, or administrative enforcement orders or agreements. Financial institutions include banks, savings and loan associations, credit unions, other similar institutions, and their affiliates whether or not federally insured and whether or not established or proposed.

(2) Individuals, such as directors, officers, employees, controlling shareholders, or persons seeking to establish control of financial institutions, who are the subject of background checks designed to uncover criminal activities bearing on the individual's fitness to be a director, officer, employee, or controlling shareholder.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains interagency or intra-agency correspondence or memoranda; criminal referral reports; suspicious activity reports; newspaper clippings; Federal, State, or local criminal law enforcement agency investigatory reports, indictments and/or arrest and conviction information; and administrative enforcement orders or agreements.

Note: Certain records contained in this system (principally criminal investigation reports prepared by the Federal Bureau of Investigation, Secret Service, and other federal law enforcement agencies) are the property of federal law enforcement agencies. Upon receipt of a request for such records, the FDIC will notify the proprietary agency of the request and seek guidance with respect to disposition. The FDIC may forward the request to that agency for processing in accordance with that agency's regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 5, 6, 7, 8, 9, 18, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1817, 1818, 1819, 1828, 1829).

PURPOSE(S):

The information is maintained to support the FDIC's regulatory and supervisory functions by providing a centralized system of information (1) for conducting and documenting investigations by the FDIC or other financial supervisory or law enforcement agencies regarding conduct within financial institutions by directors, officers, employees, and customers, which may result in the filing of suspicious activity reports or criminal referrals, referrals to the FDIC Office of the Inspector General, or the issuance of administrative enforcement actions; and (2) to identify whether an individual is fit to serve as a financial institution director, officer, employee or controlling shareholder.

ROUTINE USES OF RECORDS MAINTAINED (OTHER THAN PROPRIETARY RECORDS OF ANOTHER AGENCY) INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(2) To the appropriate Federal, State, or local agency or authority, or to licensing boards, professional associations or administrative bodies responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law, rule, regulation or order, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(4) To a financial institution affected by enforcement activities or reported criminal activities;

(5) To other Federal, State or foreign financial institutions supervisory or regulatory authorities;

(6) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(7) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term "consumer reporting agency" is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. (f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of the individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized persons. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Electronic media and paper copies are retained until no longer needed.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name and address, the name and address of the FDIC-insured bank, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURE:

Portions of this system may contain records that are exempt from disclosure under 12 CFR 310.13 and 5 U.S.C. 552a(j)(2) and (k)(2). An individual who is the subject of a record in this system may access those records that are not exempt from disclosure. A determination whether a record may be accessed will be made at the time a request is received. See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

Portions of this system may contain records that are exempt from disclosure and contest under 12 CFR 310.13 and 5 U.S.C. 552a(j)(2) and (k)(2). An individual who is the subject of a record in this system may contest those records that are not exempt from disclosure. A determination whether a record is exempt from contest shall be made at the time a request is received. See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Financial institutions; financial institution supervisory or regulatory authorities; newspapers or other public records; witnesses; current or former FDIC employees; criminal law enforcement and prosecuting authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of the records in this system of records were compiled for law enforcement purposes and are exempt from disclosure under 12 CFR 310.13 and 5 U.S.C. 552a(k)(2). Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

30–64–0003

SYSTEM NAME:

Administrative and Personnel Action Records.

SYSTEM LOCATIONS:

Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the subject of administrative actions or personnel actions by the FDIC Board of Directors or by standing committees of the FDIC and individuals who have been the subject of administrative actions by FDIC officials under delegated authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Minutes of the meetings of the FDIC Board of Directors or standing committees and orders of the Board of Directors, standing committees, or other officials as well as annotations of entries into the minutes and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 8, 9, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819, 1829).

PURPOSE(S):

The system is maintained to record the administrative and personnel actions taken by the FDIC Board of Directors, standing committees, or other officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(9) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(10) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(11) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(12) To the U.S. Office of Personnel Management, General Accounting Office, the Office of Government Ethics, the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media, microfilm, paper format within individual file folders, minute book ledgers and index cards.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format, index cards, and minute book ledgers are stored in lockable metal file cabinets or vault accessible only by authorized personnel. A security copy of certain microfilmed portions of the records is retained at another location.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system or seeking access to records maintained in this system must submit their requests in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reason for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Intra-agency records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0004

SYSTEM NAME:

Changes in Bank Control Ownership Records.

SYSTEM LOCATION:

Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who acquired or disposed of voting stock in an FDIC-insured bank resulting in a change of bank control or ownership; and (b) individuals who filed or are included as a member of a group listed in a "Notice of Acquisition of Control" of an FDIC-insured bank.

Note: The information is maintained only for the period 1989 to 1995. Commencing in 1996 the records were no longer collected nor maintained on an individual name or personal identifier basis and are not retrievable by individual name or personal identifier. Beginning in 1996, information concerning changes in bank control is collected and maintained based upon the name of the FDIC-insured financial institution or specialized number assigned to the FDIC-insured financial institution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the name of proposed acquirer; statement of assets and liabilities of acquirer; statement of income and sources of income for each acquirer; statement of liabilities for each acquirer; name and location of the bank; number of shares to be acquired and outstanding; date "Change in Control Notice" or "Notice of Acquisition of Control" was filed; name and location of the newspaper in which the notice was published and date of publication. For consummated transactions, names of sellers/transferors; names of purchasers/transferees and number of shares owned after transaction; date of transaction on institution's books, number of shares acquired and outstanding. If stock of a holding company is involved, the name and location of the holding company and the institution(s) it controls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 7 (j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

PURPOSE(S):

The system maintains information on individuals involved in changes of control of FDIC-insured banks for the period 1989 to 1995 and is used to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To other Federal or State financial institution supervisory authorities;

(2) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(4) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains; and

(5) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records for the period 1989 to 1995 are indexed and retrieved by name of the individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized persons. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Electronic media and paper copies are retained until no longer needed and are destroyed in accordance with established FDIC record retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address, the name and address of the FDIC-insured bank, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend the information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Persons who acquired control of an FDIC-insured bank; the insured bank or holding company in which control changed; filed "Change in Control Notice" form and "Notice of Acquisition of Control" form during the period 1989 to 1995; Federal and State financial institution supervisory authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0005

SYSTEM NAME:

Consumer Complaint and Inquiry Records.

SYSTEM LOCATION:

Division of Compliance and Consumer Affairs, FDIC, 550 17th Street, NW., Washington, DC 20429, and FDIC regional offices for complaints or inquiries originating within or involving an FDIC-insured depository institution located in an FDIC region. (See Appendix A for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted complaints or inquiries concerning activities or practices of FDIC-insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence and records of other communications between the FDIC and the individual submitting a complaint or making an inquiry, including copies of supporting documents supplied by the individual. May contain correspondence between the FDIC and the FDIC-insured depository institution in question and/or intra-agency or inter-agency memoranda or correspondence concerning the complaint or inquiry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and sec. 202(f) of title II of the Federal Trade Improvement Act (15 U.S.C. 57a(f)).

PURPOSE(S):

The system maintains correspondence from individuals regarding complaints or inquiries concerning activities or practices of FDIC-insured depository institutions. The information is used to identify concerns of individuals, to manage correspondence received from individuals and to accurately respond to complaints, inquiries, views and concerns expressed by individuals. The information in this system supports the FDIC regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the insured depository institution which is the subject of the complaint or inquiry when necessary to investigate or resolve the complaint or inquiry;

(2) To authorized third-party sources during the course of the investigation in order to resolve the complaint or inquiry. Information that may be disclosed under this routine use is limited to the name of the complainant or inquirer and the nature of the complaint or inquiry and such additional information necessary to investigate the complaint or inquiry;

(3) To the Federal or State supervisory/regulatory authority that has direct supervision over the insured depository institution that is the subject of the complaint or inquiry;

(4) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(5) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(6) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains; and

(7) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by unique identification number which may be cross referenced to the name of complainant or inquirer.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format files are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained for two years after receipt, unless updated by correspondence received during the second year. Electronic media is deleted and paper format records are destroyed in accordance with the FDIC Records Retention and Disposition Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Compliance and Consumer Affairs, FDIC, 550 17th Street, NW., Washington, DC 20429, or the Regional Director, Division of Compliance and Consumer Affairs for records maintained in FDIC regional offices (See Appendix A for the location of FDIC Regional Offices).

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain the name and address of the complainant or inquirer and the name and address of the insured depository institution that is the subject of the complaint or inquiry. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained; FDIC-insured depository institutions that are the subject of the complaint; the appropriate agency, whether Federal or State, with supervisory authority over the institution; congressional offices that may initiate the inquiry; and other parties providing information to the FDIC in an attempt to resolve the complaint or inquiry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0006

SYSTEM NAME:

Employee Confidential Financial Disclosure Records.

SYSTEM LOCATION:

Records are located in component divisions, offices and regional offices to which individuals covered by the system are assigned. Duplicate copies of the records are located in the Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429. A complete list of record locations is available from the Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429 (See

Appendix A for a list of the FDIC regional offices and their addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former officers and employees, and special government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains statements of personal and family financial holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions and determinations of ethics counselors; information related to conflict of interest determinations; and information contained on the following forms:

(1) Confidential Financial Disclosure Report—contains listing of personal and family investment holdings, interests in business enterprises and real property, creditors, and outside employment.

(2) Confidential Report of Indebtedness—contains information on extensions of credit to employees, including loans and credit cards, by FDIC-insured depository institutions or their subsidiaries; may also contain memoranda and correspondence relating to requests for approval of certain loans extended by insured banks or subsidiaries thereof.

(3) Confidential Report of Interest in FDIC-Insured Depository Institution Securities—contains a brief description of an employee's direct or indirect interest in the securities of an FDIC-insured depository institution or affiliate, including a depository institution holding company, and the date and manner of acquisition or divestiture; a brief description of an employee's direct or indirect continuing financial interest through a pension or retirement plan, trust or other arrangement, including arrangements resulting from any current or prior employment or business association, with any FDIC-insured depository institution, affiliate, or depository institution holding company; and a certification acknowledging that the employee has read and understands the rules governing the ownership of securities in FDIC-insured depository institutions.

(4) Employee Certification and Acknowledgment of Standards of Conduct Regulation—contains employee's certification and acknowledgment that he or she has received a copy of the Standards of Ethical Conduct for Employees of the FDIC.

(5) Confidential Statement of Credit Card Obligation in FDIC-insured State Nonmember Bank and Acknowledgment of Conditions for Retention—Notice of Disqualification—for Division of Supervision and Division of Compliance and Consumer Affairs employees; identifies FDIC-insured State Nonmember depository institutions outside the employee's region or field office of assignment from which a credit card was obtained, and employee certification that the credit cards listed were obtained only under such terms and conditions as are available to the general public, and that the employee is aware of and understands the requirement for self-disqualification from participation in matters affecting the creditors identified.

Note: The records identified in categories (2)–(5) above are maintained in addition to those maintained by the United States Office of Government Ethics for the government-wide system of records identified as "Confidential Statements of Employment and Financial Interests," (known as OGE/GOVT–2).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Ethics in Government Act of 1978 (5 U.S.C. 7301 and App.); sec. 9 and 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a) and 1822(f)); 26 U.S.C. 1043; Executive Order Nos. 12674 (as modified by 12731), 12565, and 11222; 5 CFR parts 2634, 2635 and 3201.

PURPOSE(S):

The records are maintained to assure compliance with the standards of conduct for Government employees contained in the Executive Orders, Federal Statutes and FDIC regulations and to determine if a conflict of interest exists between employment of individuals by the FDIC and their personal employment and financial interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order when the information indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto;

(2) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(3) To third party sources and their representatives during the course of an investigation to obtain information relevant or pertinent to resolve a conflict or potential conflict of interest. Information is disclosed to the extent necessary and pertinent to conduct an investigation with respect to a conflict of interest investigation or determination; and

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation or settlement negotiations, or in connection with the criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual. Electronic media and paper format do not index the names of prospective employees who are not selected for employment.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format copies are maintained in lockable file cabinets.

RETENTION AND DISPOSAL:

Records concerning prospective employees who are not selected for employment are retained for one year and then destroyed, except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. All other records are retained for six years and then destroyed. Entries maintained in electronic media are deleted, except that paper format documents and electronic media entries needed in an ongoing investigation will be retained until no longer needed for the investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Ethics Counselor, Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity. The request must identify the office location of the individual covered by the system.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual or a person or entity designated by the individual; Ethics Counselors; Deputy Ethics Counselors; support personnel or other parties to whom the FDIC has provided information in connection with evaluating the records maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0007

SYSTEM NAME:

Employee Training Information Records.

SYSTEM LOCATION:

Division of Administration, Training and Consulting Services Branch, 3501 Fairfax Drive, Arlington, Virginia 22226; Office of Management and Policy, FDIC Office of Inspector General, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the educational and training course history of an individual while employed by the FDIC. Records include schedule of employee's training classes and other educational programs attended, dates of attendance, tuition fees and expenses. The system may also contain employee certifications on training attended, employee certifications or other information on educational degrees or professional memberships, and other similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The system is used by employees, training administrators and managers to record training and educational courses attended and to manage and plan training courses. The system maintains attendance records for an employee of courses attended and is utilized for FDIC internal reporting purposes and to maintain records for applicable continuing education requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, the Equal Employment Opportunity Commission, or another Federal agency, to the extent disclosure is determined to be relevant and necessary to carry out government-wide personnel management, security, investigatory, adjudicatory and appellate functions, or the issuance of a contract, grant, license or other benefit by a requesting agency;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains;

(4) To educational institutions for purposes of enrollment and verification of employee attendance and performance;

(5) To vendors, professional licensing boards or other appropriate third parties, for the purpose of verification, confirmation, and substantiation of training or licensing requirements.

(6) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(7) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term "consumer reporting agency" is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media are accessible by social security number or name. File folders are indexed and retrieved by name of individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper records within individual file folders are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESSES:

Assistant Director, Training Operations, Training and Consulting Services Branch, FDIC, 3501 Fairfax Drive, Arlington, Virginia 22226–3500; Assistant Inspector General, Office of Management and Policy, Office of Inspector General, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records

or seeking access to records maintained in this system must submit their request in writing to Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the employee on whom the record is maintained; training administrators and the training facility or institution attended.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0008

SYSTEM NAME:

Chain Banking Organizations Identification Records.

SYSTEM LOCATION:

Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429, and FDIC regional offices. (See Appendix A for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who directly, indirectly, or in concert with others, own or control two or more insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information relating to an individual (or group of individuals acting in concert) that own or control two or more insured depository institutions as well as the insured depository institutions names, locations, stock certificate numbers, total asset size, and percentage of outstanding stock owned by the controlling individual or group of individuals; charter types and, if applicable, name of intermediate holding entity and percentage of holding company held by controlling individual or group.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 7(j) and 9 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j) and 1819).

PURPOSE(S):

This system identifies and maintains information of possible linked FDIC-insured depository institutions or holding companies which, due to their common ownership, present a concentration of resources that could be susceptible to common risks. The information in this system is used to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To other Federal or State financial institution supervisory authorities for: (a) Coordination of examining resources when the chain banking organization is composed of insured depository institutions subject to multiple supervisory jurisdictions; (b) coordination of evaluations and analysis of the condition of the consolidated chain organization; and (c) coordination of supervisory, corrective or enforcement actions;

(2) To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation or order, when the information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(4) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains; and

(5) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Indexed and retrieved by name of controlling individual(s) or assigned identification number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained in electronic media. Certain records are archived in off-line storage. All records are periodically updated to reflect changes and maintained as long as needed and then deleted.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or to gain access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Examination reports and related materials; regulatory filings; and Change in Bank Control Notices filed pursuant to 12 U.S.C. 1817(j).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–009 [Reserved]
30–64–0010

SYSTEM NAME:

Investigative Files of the Office of the Inspector General.

SYSTEM LOCATION:

Office of the Inspector General ("OIG"), FDIC, 550 17th Street, NW., Washington, DC 20429. In addition, records are maintained at OIG field offices. OIG field office locations can be obtained by contacting the Assistant Inspector General for Investigations, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former FDIC employees and individuals involved in or associated with FDIC programs and operations including contractors, subcontractors, vendors and individuals associated with inquiries and investigations, including witnesses, complainants, and suspects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files, including memoranda, computer-generated background information, correspondence, computerized case management and tracking files, reports of investigations with related exhibits, statements, affidavits, records or other pertinent documents, reports from or to other law enforcement bodies, pertaining to violations or potential violations of criminal laws, fraud, waste, and abuse with respect to administration of FDIC programs and operations, and violations of employee and contractor Standards of Conduct as set forth in section 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1822(f)) and 5 CFR parts 2634, 2635 and 3201.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act of 1978, as amended, (5 U.S.C. App. 3).

PURPOSE(S):

Pursuant to the Inspector General Act, the system is maintained for the purposes of (1) conducting and documenting investigations by the OIG or other investigative agencies regarding FDIC programs and operations in order to determine whether employees or other individuals have been or are engaging in waste, fraud and abuse with respect to the FDIC's programs or operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations which have the authority to bring criminal or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities which were the subject of investigations; (4) reporting investigative findings to other FDIC components or divisions for their use in operating and evaluating their programs or operations, and in the imposition of civil or administrative sanctions; and (5) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the appropriate Federal, State, local, foreign or international agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the record, either by itself or in combination with other information, indicates a violation or potential violation of law, or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC or OIG is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the FDIC's or another Federal agency's legal representative, including the U.S. Department of Justice or other retained counsel, when the FDIC, OIG or any employee thereof is a party to litigation or administrative proceeding or has a significant interest in the litigation or proceeding;

(4) To a grand jury agent pursuant either to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury;

(5) To the subjects of an investigation and their representatives during the course of an investigation and to any other person or entity that has or may have information relevant or pertinent to the investigation to the extent necessary to assist in the conduct of the investigation;

(6) To third-party sources during the course of an investigation only such information as determined to be necessary and pertinent to the investigation in order to obtain information or assistance relating to an audit, trial, hearing, or any other authorized activity of the OIG;

(7) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the records pertain;

(8) To a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary for the FDIC to obtain information concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit;

(9) To a Federal agency responsible for considering suspension or debarment action where such record is determined to be necessary and relevant;

(10) To a consultant, person or entity who contracts or subcontracts with the FDIC or OIG, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a);

(11) To a governmental, public or professional or self-regulatory licensing organization when such record indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed;

(12) To the U.S. Office of Personnel Management, General Accounting Office, Office of Government Ethics, Merit Systems Protection Board, Office of Special Counsel, Equal Employment Opportunity Commission, Department of Justice, Office of Management and Budget or the Federal Labor Relations Authority of records or portions thereof determined to be relevant and necessary to carrying our their authorized functions, including but not limited to a request made in connection with the hiring or retention of an employee, rendering advice requested by OIG, the issuance of a security clearance, the reporting of an investigation of an employee, the reporting of an investigation of prohibited personnel practices, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to

the requesting agency's decision on the matter;

(13) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt; and

(14) To other Federal Offices of Inspector General for the purpose of conducting quality assessments or peer reviews of the OIG, or its investigative components.

Note: In addition to the foregoing, a record which is contained in this system and derived from another FDIC system of records may be disclosed as a routine use as specified in the published notice of the system of records from which the record is derived.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term "consumer reporting agency" is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual, unique investigation number assigned, referral number, or investigative subject matter.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets and lockable offices accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Electronic media and file folders are retained for ten years and then destroyed by deletion or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or to gain access to records maintained in this system must submit their request in writing to Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

Note: This system contains records that are exempt under 5 U.S.C. 552a (j)(2), (k)(2) and (k)(5). See the section of this notice titled "Systems exempted from certain provisions of the Act" below.

RECORDS ACCESS PROCEDURE:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURE:

See "Notification procedure" above and the section of this notice titled "Systems exempted from certain provisions of the act." Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Current and former employees of the FDIC, other government employees, private individuals, vendors, contractors, subcontractors, witnesses and informants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system of records, to the extent that it consists of information compiled for the purpose of criminal investigations, has been exempted from the requirements of subsections (c)(3) and (4); (d); (e)(1), (2) and (3); (e)(4)(G) and (H); (e)(5); (e)(8); (f); (g); (h); and (i) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). In addition, this system of records, to the extent that it consists of other investigatory material compiled for law enforcement purposes has been exempted from the requirements of subsections (c)(3); (d); (e)(1); (e)(4)(G) and (H); (f); (g); (h); and (i) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). Finally, this system of records, to the extent that it consists of investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the FDIC on a confidential basis, has been exempted from the requirements of subsection (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(5).

30–64–0011

SYSTEM NAME:

Corporate Recruitment Tracking Records.

SYSTEM LOCATION:

Personnel Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing applications for employment with the FDIC in response to advertised position vacancy announcements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position vacancy announcement information such as position title, series and grade level(s), office and duty location, opening and closing date of the announcement, and dates of referral and return of lists of qualified candidates; applicant personal data such as name, address, social security number, date of birth, sex, veterans' preference and federal competitive status; and applicant qualification and processing information such as qualifications, grade level eligibility, reason for ineligibility, referral status, and dates of notification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); 5 U.S.C. 1104.

PURPOSE(S):

The records are collected and maintained to monitor and track individuals filing employment applications with the FDIC and to assess recruiting goals and objectives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in this system of records may be disclosed:

(1) To the U.S. Office of Personnel Management, the Merit Systems Protection Board, the Office of Government Ethics, the Office of Special Counsel, the Federal Labor Relations Authority or its General Counsel, the Equal Employment Opportunity Commission, to the extent disclosure is

determined to be relevant and necessary to carry out the government-wide personnel management, investigatory, adjudicatory, and appellate functions within their respective jurisdictions;

(2) To a congressional office in response to a written inquiry made by a congressional office at the request of the individual to whom the record pertains;

(3) To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto;

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary; and

(5) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Indexed and retrieved by name and social security number of individual applicant.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Network servers are located in a locked room with physical access limited to only authorized personnel.

RETENTION AND DISPOSAL:

Information is maintained for two years and, if no longer needed, deleted.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Information Systems and Services Section, Personnel Service Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or gain access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information originates from position vacancy announcements, applications for employment submitted by individuals, and applicant qualification and processing system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0012

SYSTEM NAME:

Financial Information Management Records.

SYSTEM LOCATION:

Division of Finance, FDIC, 550 17th Street, NW., Washington, DC 20429. Records concerning garnishments, attachments, wage assignments and related records concerning FDIC employees are located with the General Counsel, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees, current and former vendors and contractors providing goods and/or services to the FDIC, and current and former FDIC customers.

Note: Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed bank receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains (a) employee payroll and disbursement-related records; (b) contractor and vendor invoices and other accounts payable records; and (c) customer records related to accounts receivables. The payroll and/or disbursement records include employees' mailing addresses and home addresses; rate and amount of pay; hours worked; leave accrued and leave balances; tax exemption; tax deductions for employee supplemental payments; and Corporate payments for taxes, life insurance, health insurance, and retirement funds. Records relating to employee claims for reimbursement of official travel expenses include travel authorizations, advances, vouchers showing amounts claimed, exceptions taken as a result of audit, advance balances applied, amounts paid, and travel savings awards program payments. Other records maintained on employees include reimbursement claims for relocation expenses consisting of authorizations, advances, vouchers of amounts claimed and amounts paid; reimbursement for educational expenses or professional membership dues and licensing fees; awards and buyout payments; child care and Life Cycle reimbursements; advances or other funds owed to the FDIC; and garnishments, attachments, wage assignments or related records. Records on individuals who are not employees of the FDIC consist of all documents relating to the purchase of goods and/or services from those individuals including contractual documents and amounts paid as well as customer information necessary for the collection of accounts receivable. The records may also include general ledger and detailed trial balances and supporting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9 and 10(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1820(a)).

PURPOSE(S):

The records are maintained for the FDIC and the failed bank receiverships managed by the FDIC. The records are used to manage and account for financial transactions of the FDIC. The records and associated databases and subsystems provide a data source for the production of reports and documentation for internal and external management reporting associated with the financial operations of the FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To auditors employed by the General Accounting Office;

(2) To the appropriate Federal, State or local agency or authority responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation or order, when the information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(4) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicate and appellate functions within their respective jurisdictions;

(5) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(6) To Federal, State, and City income tax authorities, including the Internal Revenue Service and the Social Security Administration, and to other recipients, as authorized by the employee, including the United States Treasury Department, savings institutions, insurance carriers, and charity funds;

(7) By the FDIC Office of Inspector General to vendors, carriers, or other appropriate third parties for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations;

(8) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(9) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term "consumer reporting agency" is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM;

STORAGE:

Records are stored in electronic media and paper format/record cards in individual file folders.

RETRIEVABILITY:

Electronic media are indexed and retrievable by social security number or specialized identifying number; paper format/record cards are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format/record cards are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Financial receipt and payment, trial balance, payroll and employee supplemental payment, and official travel expense and reimbursement records are retained by the FDIC for ten years in electronic format and then transferred to the Federal Records Center or destroyed. Source documents for employee financial records and authorization vouchers are retained for the period of use and up to six additional years, after which they are destroyed. Records on individuals who are employees of the FDIC authorized to approve payment authorization vouchers or regulatory and supervision expenditures are maintained for a period of three years or until the next audit by the General Accounting Office.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Finance, FDIC, 550 17th Street, NW., Washington, DC 20429. For records about FDIC employees concerning garnishments, attachments, wage assignments and related records, the system manager is the General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FDIC, FOIA/PA Unit, 550 17th Street, NW., Washington, DC 20429. The request must contain the individual's name, social security number, a notarized statement attesting to their identity, and, to the extent relevant, the duty station, division and approximate dates of employment.

RECORDS ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORDS PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information contained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual upon whom the record is maintained; other government agencies, contractors, documents submitted to or received from another FDIC office maintaining the records in the performance of their duties. Where an employee is subject to a tax lien, a bankruptcy, an attachment, or a wage garnishment, information also is obtained from the appropriate taxing or judicial authority.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0013

SYSTEM NAME:

Insured Bank Liquidation Records.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were obligors or obligees of FDIC-insured financial institutions for which the FDIC was appointed receiver or liquidator or FDIC-insured financial institutions that were provided open-bank assistance by the FDIC and the FDIC is acting as liquidator, receiver or conservator of certain of the financial institution's assets.

Note: Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed bank receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the individual's files held by the closed financial institution or assisted financial institution, which files may include the loan or contractual agreement and related documents and correspondence. It also contains FDIC asset files, including judgments obtained, restitution orders and loan deficiencies arising from the liquidation of the obligor's loan asset(s) and associated collateral, if any; information relating to the obligor's financial condition such as financial statements, income tax returns, asset or collateral verifications or searches, appraisals, and potential sources of repayment. FDIC asset files also include intra- or inter-agency memoranda, notes relating to the liquidation of the loan obligation or asset, correspondence and any other documents related to the liquidation of the loan obligation or asset. FDIC's receivership claims files may include all information related to claims filed with the receivership estate by a failed financial institution's landlords, creditors, service providers or other obligees or claimants.

Note: Records held by the FDIC as receiver are a part of this system only to the extent that the state law governing the receivership is not inconsistent or does not otherwise establish specific requirements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9, 11, and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1823) and applicable State laws governing the liquidation of assets and wind-up of the affairs of failed financial institutions.

PURPOSE(S):

The records are maintained to: (a) Identify and manage loan obligations and assets acquired from failed FDIC-insured financial institutions for which the FDIC was appointed receiver or liquidator or FDIC-insured financial institutions that were provided open-bank assistance by the FDIC; (b) identify, manage and discharge the obligations to creditors, obligees and other claimants of FDIC-insured financial institutions for which the FDIC was appointed receiver or liquidator or FDIC-insured financial institutions that were provided open-bank assistance by the FDIC; and (c) assist with financial and management reporting. The records support the liquidation and receivership functions of the FDIC required by applicable Federal and State statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Information in the system may be disclosed, subject to applicable law:

(1) To prospective purchaser(s) of the individual's obligation(s), including judgments and loan deficiencies, for the purpose of informing the prospective purchaser(s) about the nature and quality of the loan obligation(s) to be purchased;

(2) To contractors or entities performing services for the FDIC in connection with the liquidation of an individual's obligation(s), including judgments and loan deficiencies or in connection with the fulfillment of a claim filed with the FDIC as receiver or liquidator. Third party contractors include, but are not limited to, asset marketing contractors; loan servicers; appraisers; environmental contractors; attorneys retained by the FDIC; collection agencies; and auditing or accounting firms retained to assist in an audit or investigation of FDIC's liquidation activities;

(3) To participants in the loan obligation in order to fulfill any contractual or incidental responsibilities in connection with the loan participation agreement;

(4) To Federal or State agencies or to financial institutions where information is relevant to an application or request by the individual for a loan, grant, financial benefit, or other entitlement;

(5) To Federal or State agencies, such as the Internal Revenue Service or State taxation authorities, in the performance of their governmental duties, such as obtaining information regarding income, including the reporting of income resulting from a compromise or write-off of a loan obligation;

(6) To apprise courts of competent jurisdiction supervising the FDIC's liquidation or receivership functions of information required by statute to be disclosed to the court and necessary to obtain approvals from the court for the disposal of assets and the disposition of claims and other related issues;

(7) To Federal or State bank examiners for the purposes of examining borrowing relationships in operating financial institutions that may be related to an obligation of an individual covered by this system;

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, of only such information that is determined to be relevant and necessary;

(9) To the appropriate Federal, State, or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information by itself or together with other information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(10) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains; and

(11) To the individual, the individual's counsel or other representatives, insurance carrier(s) or underwriters of bankers' blanket bonds or financial institutions bonds for failed or assisted FDIC-insured financial institutions in conjunction with claims made by the FDIC or litigation instituted by the FDIC or others on behalf of the FDIC against former officers, directors, accountants, lawyers, consultants, appraisers, or underwriters of bankers blanket bonds or financial institutions bonds of a failed or assisted FDIC-insured financial institution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed by financial institution number, name of failed or

assisted insured institution, and by name of individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records maintained in individual file folders are stored in lockable file cabinets and/or in secured vaults or warehouses and are accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Credit/loan files or files concerning the obligees of the failed or assisted financial institution are maintained until the receivership claim, loan obligation, judgment, loan deficiency or other asset or liability is sold or otherwise disposed of, or for the period of time provided under applicable Federal or State laws pursuant to which the FDIC liquidates the assets, discharges the liabilities or processes the claims. FDIC asset files and information maintained in magnetic media are retained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Deputy Director, Field Operations Branch, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, 550 17th Street, NW., Washington, DC 20429. The request must contain the individual's name, address, a notarized statement attesting to their identity, and the name and address of the failed or assisted institution at which the individual had a loan obligation or otherwise transacted business.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on whom the record is maintained; appraisers retained by the originating bank or the FDIC; investigative and/or research companies; credit bureaus and/or services; loan servicers; court records; references named by the individual; attorneys or accountants retained by the originating bank or the FDIC; participants in the obligation(s) of the individual; officers and employees of the failed or assisted bank; congressional offices that may initiate an inquiry; and other parties providing services to the FDIC in its capacity as liquidator or receiver.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0015

SYSTEM NAME:

Unofficial Personnel System (to be revised at a later date).

30–64–0016

SYSTEM NAME:

Professional Qualification Records for Municipal Securities Dealers, Municipal Securities Representatives, and U.S. Government Securities Brokers/Dealers.

SYSTEM LOCATION:

Securities, Capital Markets and Trust Branch, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who are or seek to be associated with municipal securities principals or municipal securities representatives which are FDIC-insured, state-chartered banks (including insured state-licensed branches of foreign banks), not members of the Federal Reserve System, or are subsidiaries, departments, or divisions of such banks; (2) persons who are or seek to be persons associated with U.S. Government securities dealers or brokers which are FDIC-insured state-chartered banks, other than members of the Federal Reserve System, or are departments or divisions of such banks.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain identifying information, detailed educational and employment histories, examination information, disciplinary information, if any, and information concerning the termination of employment of individuals covered by the system. Identifying information includes name, address, date and place of birth, and may include social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 15B(c), 15C, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4, 78o–5, and 78q and 78w); and section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records are maintained to comply with the registration requirements of municipal securities dealers, municipal securities representatives, and U.S. Government securities brokers or dealers and associated persons contained in the Securities Exchange Act of 1934 and to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

Information in the system may be disclosed:

(1) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the courses of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, of only such information that is determined to be relevant and necessary;

(2) To the appropriate Federal, State, local, or foreign agency or authority or to the appropriate self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (a)(26)), to the extent disclosure is determined to be necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information by itself or together with additional information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or regulation, rule or order issued pursuant thereto;

(3) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains;

(4) To assist in any proceeding in which the Federal securities or banking laws are in issue or a proceeding involving the propriety of a disclosure of information contained in this system, in which the FDIC or one of its past or present employees is a party, to the extent that the information is relevant to the proceeding;

(5) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to

an FDIC inquiry concerning a person who is or seeks to be associated with a municipal securities dealer as a municipal securities principal or representative or a U.S. Government securities broker or a U.S. Government securities dealer;

(6) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization in connection with the issuance of a license or other benefit to the extent that the information is relevant and necessary;

(7) To a registered dealer, registered broker, registered municipal securities dealer, U.S. Government securities dealer, U.S. Government securities broker, or an insured bank that is a past or present employer of an individual that is the subject of a record, or to which such individual has applied for employment, for purposes of identity verification or for purposes of investigating the qualifications of the subject individual; and

(8) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Indexed by name, social security number, and dealer registration number or FDIC bank certificate number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in file folders in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Financial Analyst, Securities, Capital Markets and Trust Branch, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, the date and place of their birth, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, municipal securities dealers and U.S. Government securities dealers and brokers (as such dealers are described in "Categories of individuals covered by the system" above), and Federal, State, local, and foreign governmental authorities and self-regulatory organizations or agencies which regulate the securities industry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0017

SYSTEM NAME:

Employee Medical and Health Assessment Records.

SYSTEM LOCATION:

Health Unit, Acquisition and Corporate Services Branch, Division of Administration, FDIC, located at the following addresses: 550 17th Street, NW., Washington, DC 20429, and 3501 North Fairfax Drive, Arlington, Virginia 22226; and Health Units located in FDIC regional offices. (See Appendix A for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees who participate in health screening programs administered by contractor personnel retained by the FDIC and individuals who seek treatment, medical accommodations or information at an FDIC Health Unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records of the employee, including name, age, height, weight, history of certain medical conditions, health screening records; dates of visits to the FDIC Health Unit, diagnoses, and treatments administered; ergonomic reviews and assessments; and the name and telephone number of the person to contact in the event of a medical emergency involving the employee.

Note: In addition to the FDIC system of records, the United States Office of Personnel Management maintains its own government-wide system of records (known as OPM/GOVT–10).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. § 1819).

PURPOSE(S):

The records are collected and maintained to identify potential health issues and concerns of an individual and to identify and collect information with respect to medical conditions reported by an individual to the FDIC Health Unit and to identify necessary contacts in the event of a medical emergency involving the covered individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Note: The records are disclosed only to a very limited number of FDIC officials, generally only to a medical review or management official to the extent necessary for a determination concerning a medical issue or condition affecting the individual.

Information in the system may be disclosed:

(1) To the appropriate Federal, State or local agency when necessary to adjudicate a claim (filed by or on behalf of the individual) under a retirement, insurance or health benefit program;

(2) To a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC is a party to the proceeding or has a significant interest in the proceeding, and only of such information that is determined to be relevant and necessary and it has been determined that the disclosure is compatible with the purpose for which the records were collected;

(4) To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the information by itself or together with additional information, indicates a violation or potential violation of civil or criminal law or regulation;

(5) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains;

(6) To the Merit Systems Protection Board or the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, the U.S. Office of Personnel Management, the Equal Employment Opportunity Commission, arbitrators, hearing examiners and appointed representatives of an individual to the extent necessary to carry out their authorized duties or functions;

(7) To health or life insurance carriers contracting with the FDIC to provide life insurance or to provide health benefits plan, such information necessary to verify eligibility for payment of a claim for life or health benefits;

(8) To a Health Unit contractor, including contract nurses, retained for the purpose of performing any function associated with the operation of the Health Unit; and

(9) To the person designated on the appropriate form as the individual to contact in the event of a medical emergency of the employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in lockable metal file cabinets. Access is limited to authorized employees, authorized employees of the contractor or contract nurses responsible for servicing the records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are kept for the duration of the employee's employment with FDIC. Upon termination of employment, the records are maintained for six years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Health, Safety and Environmental Program Manager, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their requests in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. All requests must contain the individual's name and identify the office where the individual was employed. Individuals must also provide a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

The records are compiled by the employee and contractor personnel during the course of a visit to the Health Unit for treatment. Records are created also as a result of the individual's participation in a health screening program, or if the individual requests an ergonomic assessment or health or medical accommodation. The employee supplies the information contained in the emergency contact sheet.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0018

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Personnel Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429. Records at the regional level generated through grievance procedures negotiated with recognized labor organizations are located in the FDIC regional office where originated (See Appendix A for a list of the FDIC regional offices and their addresses). For non-headquarters employees, duplicate copies may be maintained by the Personnel Services Branch, Division of Administration, Washington, DC, for the purpose of coordinating grievance and arbitration proceedings.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FDIC employees who have submitted grievances in accordance with part 771 of the United States Office of Personnel Management's regulations (5 CFR part 771) or a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by FDIC employees under part 771 of the United States Office of Personnel Management's regulations, or under 5 U.S.C. 7121. Case files contain documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the final decision, and related correspondence and exhibits. This system includes files and records of internal grievance procedures that FDIC may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7121; 5 CFR part 771; sec. 9 of the Federal Deposit Insurance Act, 12 U.S.C. 1819.

PURPOSE(S):

The information contained in this system is used to make determinations and document decisions made on filed grievances and settle matters of dissatisfaction or concern of covered individuals. Information from this system may be used for preparing statistical summary or management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To the appropriate Federal, State, local agency or responsible authority, such information that is necessary and pertinent for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto;

(2) To any source during the course of an investigation only such information as determined to be necessary and pertinent to process a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested;

(3) To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter;

(4) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(5) To the United States Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies (while published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference);

(6) To officials of the Merit Systems Protection Board, the Office of the Special Counsel, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, the Office of Personnel Management, or an arbitrator, when requested in performance of their authorized duties and functions, but only to the extent that the information disclosed is determined to be necessary and relevant to the requesting agency's decision on the matter;

(7) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, alternative dispute resolution, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(8) To officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions; and

(9) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper format within individual file folders or electronically.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Records in paper format are maintained in lockable metal filing cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

The records are disposed of three years after closing of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Personnel Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429. The appropriate FDIC regional director for records maintained in FDIC regional offices (see Appendix A for a list of the FDIC regional offices and their addresses).

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to their records maintained in this system must submit their requests in writing to the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information in this system is provided: (1) By the individual on whom the record is maintained; (2) by testimony of witnesses; (3) by agency officials; and (4) from related correspondence from organizations or persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0019

SYSTEM NAME:

Potential Bidders List.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have purchased or submitted written notice of an interest in purchasing loans, owned real estate or other assets from the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, address, telephone number and electronic mail address, if available; information as to the kind or category and general geographic location of loans or owned real estate that the individual may be interested in purchasing; and information relating to whether any bids have been submitted on prior loan sales.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9, 11 and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821 and 1823).

PURPOSE(S):

The system collects, identifies and maintains information about potential purchasers of assets (primarily loans and owned real estate) from the FDIC. The information is utilized by the FDIC in the marketing of assets, to identify potential purchasers and to solicit bids for assets. The information in this system is used to support the FDIC's liquidation/receivership functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed, subject to applicable law:

(1) To other Federal or State agencies and to contractors to assist in the marketing and sale of loans and real estate held by the FDIC;

(2) To the appropriate Federal, State or local agency or responsible authority, to the extent that disclosure is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation or order, when the information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and

whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary; and

(4) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format in file folders.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by name of prospective purchaser or unique identification number assigned to the prospective purchaser.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Hard copy printouts are maintained in lockable metal file cabinets or offices.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed. Obsolete records are deleted or destroyed after 15 months.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual about whom the record is maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0020

SYSTEM NAME:

Telephone Call Detail Records.

SYSTEM LOCATION:

Division of Information Resources Management, FDIC, 3501 N. Fairfax Dr., Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned telephone numbers and authorization codes by the FDIC, including current and former FDIC employees and contractor personnel, who make local and long distance telephone calls and individuals who receive telephone calls placed from or charged to FDIC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, including telephone number, location, dates and duration of telephone call, relating to use of FDIC telephones to place or receive long distance and local calls; records of any charges billed to FDIC telephones; records indicating assignment of telephone numbers to individuals covered by the system; and the results of administrative inquiries to determine responsibility for the placement of specific local or long distance calls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records in this system are maintained to identify and make a record of all telephone calls placed to or from FDIC telephones and enable the FDIC to analyze call detail information for verifying call usage; to determine responsibility for placement of specific long distance calls; and for detecting possible abuse of the FDIC provided long distance telephone network.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(2) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the appropriate Federal, State, or local agency or responsible authority such information that is necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or by particular program statute, or by regulation, rule, or order issued pursuant thereto;

(4) To current and former FDIC employees and other individuals currently or formerly provided telephone services by the FDIC to determine their individual responsibility for telephone calls;

(5) To respond to a Federal agency's request made in connection with the hiring or retention of an employee, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter;

(6) To a telecommunications company providing telecommunications support to permit servicing the account;

(7) To a consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(8) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term "consumer reporting agency" is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Records are indexed and retrieved by telephone number and office location.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records are destroyed after the close of the fiscal year in which they are audited or after three years from the date the record was created, whichever occurs first.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Information Resources Management, 3501 N. Fairfax Dr., Arlington, Virginia 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their requests in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain the individual's name, office location, the telephone number assigned to the individual by the FDIC, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Telephone assignment records; call detail listings; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance and local calls.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0021

SYSTEM NAME:

Fitness Center Records.

SYSTEM LOCATION:

Fitness Center, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FDIC employees who apply for membership and participate in the Fitness Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Principally contains the individual's name, gender, age; fitness assessment results; identification of certain medical conditions; and the name and phone number of the individual's personal physician and emergency contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records are collected and maintained to control access to the fitness center; to enable the Fitness Center contractor to identify any potential health issues or concerns and the fitness level of an individual; and to identify necessary contacts in the event of a medical emergency while the individual is participating in a fitness activity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in the system may be disclosed to:

(1) The individuals listed as emergency contacts or the individual's personal physician, in the event of a medical emergency;

(2) A consultant, person or entity who contracts or subcontracts with the FDIC, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a); and

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

Records are stored in paper format within individual file folders. Information recorded on index cards is stored in a card file box.

RETRIEVABILITY:

Individual file folders and cards are indexed and retrieved by name.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets. Access is limited to authorized employees of the contractor responsible for servicing the records in the performance of their duties.

Note: In the future, all or some portion of the records may be stored in electronic media. These records will be indexed and retrieved by name and will be password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Active records are retained indefinitely; inactive records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Health, Safety and Environmental Program Manager, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their requests in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reason for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information is principally obtained from the individual who has applied for membership and contractor personnel. Some information may be provided by the individual's personal physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0022

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Records.

SYSTEM LOCATION:

Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. In addition, records may be maintained at the division or office level in the FDIC Washington office or at FDIC Regional offices (see Appendix A for a list of the FDIC regional offices and their addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted requests for information pursuant to the Freedom of Information Act; individuals who have submitted requests for records about themselves under the provisions of the Privacy Act of 1974 and individuals filing an administrative appeal of a denial, in whole or part, of any such requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains names and addresses of individuals making written requests for access to information; written requests for amendment of records made pursuant to the Privacy Act; correspondence to or from the requester; correspondence to or from a person writing on the requester's behalf; internal FDIC memoranda; memoranda to or from other Federal agencies having a substantial interest in the determination of the request; responses to requests (including for example acknowledgment letters, fee estimate letters, and final determinations); administrative appeals of denials of access to records; administrative appeals of denials of requests for amendment of records made pursuant to the Privacy Act. These records may contain personal information retrieved in response to a request.

Note: Freedom of Information Act and Privacy Act case records may contain inquiries and requests regarding any of the FDIC's other systems of records subject to the Freedom of Information Act and Privacy Act, and information about individuals from any of these other systems may become part of this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819(a)); Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C 552a), 12 CFR part 309, and 12 CFR part 310.

PURPOSE(S):

The records maintained in this system are collected to process requests made under the provisions of the Freedom of Information Act and the Privacy Act. The records are also used by the FDIC to prepare reports to the Office of Management and Budget and Congress required by the Freedom of Information Act and the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be disclosed:

(1) To another Federal government agency having a substantial interest in the determination of the request or for the purpose of consulting with that agency as to the propriety of access or correction of the record in order to complete the processing of requests;

(2) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(4) To a third party authorized in writing to receive such information by the individual about whom the information pertains;

(5) To the appropriate federal, state, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, and the information is determined to be relevant and necessary to the investigation and/or prosecution or enforcement action; and

(6) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system, pursuant to subsection (b)(12) of the Privacy Act, to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). (The term "consumer reporting agency" is defined by 31 U.S.C. 3701(a)(3) and 15 U.S.C. 1681a(f).) Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format records are indexed and retrieved by the requester's name or by unique log number assigned to the request. Records sometimes are retrieved by reference to the name of the requester's firm, if any, or the subject matter of the request.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Records for Freedom of Information Act requests which are granted, withdrawn or closed for non-compliance or similar reason, are destroyed two years after the date of the reply. Records for all other Freedom of Information Act requests (e.g., requests denied in part, requests denied in full, and requests for which no responsive information was located) are destroyed six years after the date of the reply, unless the denial is appealed, in which case the request and related documentation are destroyed six years after the final agency determination or three years after final adjudication by the courts, whichever is later. Documents maintained for control purposes are destroyed six years after the last entry. Documents maintained for processing Privacy Act requests are disposed of in accordance with established disposition schedules for individual records, or five years after the date of the disclosure was made, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Program Attorney, FOIA/PA Unit, Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORDS ACCESS PROCEDURES:

The FDIC systems of records that are exempt from certain Privacy Act requirements may be included in this system as part of a Freedom of Information Act or Privacy Act case record. Such material retains its exemption if it is included in this system of records (see section of this notice titled, "Systems Exempted from Certain Provisions of the Act"). Individuals seeking access to their records in this system should direct their request to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429.

CONTESTING RECORD PROCEDURES:

The FDIC systems of records that are exempt from certain Privacy Act requirements may be included in this system as part of a Freedom of Information Act or Privacy Act case record. Such material retains its exemption if it is included in this system of records (see section of this notice titled, "Systems exempted from certain provisions of the act"). Individuals wishing to contest or amend information maintained in the system should direct their request to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429, stating specifically what information is being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Requesters and persons acting on behalf of requesters, FDIC offices and divisions, other Federal agencies having a substantial interest in the determination of the request, and employees processing the requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The FDIC has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5) and 12 CFR 310.13. During the processing of a Freedom of Information Act or Privacy Act request, exempt records from these other systems of records may become part of the case record in this system of records. To the extent that exempt records from other FDIC systems of records are entered or become part of this system, the FDIC has claimed the same exemptions, and any such records compiled in this system of records from any other system of record continue to be subject to any exemption(s) applicable for the records as they have in the primary systems of records of which they are a part.

30–64–0023

SYSTEM NAME:

Affordable Housing Program Records.

SYSTEM LOCATION:

Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Purchasers and prospective purchasers of residential properties offered for sale through the FDIC's Affordable Housing Program.

Note: To be considered a prospective purchaser for purposes of this record system, the individual must have (1) completed and signed an FDIC "Certification of Income Eligibility" and (2) delivered the form to an authorized representative of the FDIC's Affordable Housing Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the purchaser's or prospective purchaser's income qualification form and substantiating documents (such as personal financial statements, income tax returns, assets or collateral verifications, appraisals, and sources of income); copies of sales contracts, deeds, or other recorded instruments; intra-agency forms, memoranda, or notes related to the property and purchaser's participation in the FDIC's Affordable Housing Program; correspondence; and other documents related to the FDIC's Affordable Housing Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9, 11, 13, and 40 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, 1823, 1831q).

PURPOSE(S):

The records are collected and maintained to determine individual eligibility to participate in the FDIC Affordable Housing Program; monitor compliance by individuals with purchaser income restrictions; and to verify that an individual qualifies to participate in the program. The information in the system supports the FDIC's liquidation of qualifying residential housing units and the FDIC goal to provide homeownership for low-income and moderate-income families.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be disclosed, subject to applicable law:

(1) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(2) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the appropriate Federal, State, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(4) To contractors retained by the FDIC to perform services in connection with the implementation of the FDIC

Affordable Housing Program such as brokers, appraisers, mortgage lenders, nonprofit organizations, counsel, and consultants; and

(5) To mortgage companies, financial institutions, federal agencies (such as the Federal Housing Administration, the Housing and Urban Development Agency, the Farm Service Agency, and the Veterans Administration), or state and local government housing agencies where information is determined to be relevant to an application or request for a loan, grant, financial benefit, or other type of assistance or entitlement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format are accessible by name of purchaser or prospective purchaser and by address of the property purchased.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

If no longer needed by the FDIC, electronic media and paper format files and information are destroyed six years after termination of the closed bank receivership from which the eligible affordable housing property was acquired.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

NOTIFICATION PROCEDURE:

Individuals who wish to determine if they are named in this system of records or seeking access to records maintained in this system, must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain the purchaser's or the prospective purchaser's name, property address, and a notarized statement attesting to their identity.

RECORDS ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual upon whom the record is maintained; information pertaining to an individual may, in some cases, be supplemented with reports from credit bureaus and/or other services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

30–64–0024

SYSTEM NAME:

Unclaimed Deposit Account Records.

SYSTEM LOCATION:

Operations Branch, Division of Resolutions and Receiverships, Field Operations Branch, Divisions of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals identified as deposit account owners of unclaimed insured deposits of a closed insured depository institution for which the FDIC was appointed receiver after January 1, 1989.

CATEGORIES OF RECORDS IN THE SYSTEM:

Deposit account records, including signature cards, last known home address, social security number, name of insured depository institution, relating to unclaimed insured deposits or insured transferred deposits from closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 9, 11, and 12 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1822).

PURPOSE(S):

The information in this system is used to process inquiries and claims of individuals with respect to unclaimed insured deposit accounts of closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989, and to assist in complying with the requirements of the Unclaimed Deposits Amendments Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in this system of records may be disclosed, subject to applicable law:

(1) To the appropriate State agency accepting custody of unclaimed insured deposits;

(2) To a congressional office in response to an inquiry made by the congressional office at the request of the individual to whom the record pertains;

(3) To the appropriate Federal, state or local agency or authority responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; and

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by depository institution name, depositor name, depositor social security number, or deposit account number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Hard copy printouts are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

If the appropriate State has accepted custody of unclaimed deposits, a record of the unclaimed deposits will be retained by the FDIC during the custody period of ten years. Such records will subsequently be destroyed in accordance with the FDIC's records retention policy in effect at the time of return of any deposits to the FDIC from the State. If the appropriate State has declined to accept custody of the unclaimed deposits of the closed insured depository institution, the FDIC will retain the unclaimed deposit records and upon termination of the receivership of the closed insured depository institution, the records will be destroyed in accordance with the FDIC's records retention policy.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Operations Branch, Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or seeking access to records maintained in this system must submit their request in writing to the Office of the Executive Secretary, FOIA/PA Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. The request must contain the individual's name, address, the name and address of the closed depository institution, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information.

RECORD SOURCE CATEGORIES:

Information originates from deposit records of closed insured depository institutions. Records of unclaimed transferred deposits are provided to the FDIC from assuming depository institutions to which the FDIC transferred deposits upon closing of the depository institution.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Appendix A

Federal Deposit Insurance Corporation Regional Offices

Atlanta Regional Office, FDIC, One Atlantic Center, 1201 West Peachtree Street, NE., Suite 1600, Atlanta, Georgia 30309–3415

Boston Regional Office, FDIC, 15 Braintree Hill Office Park, Braintree, Massachusetts 02184–8701

Chicago Regional Office, FDIC, 500 West Monroe Street, Suite 3300, Chicago, Illinois 60661

Dallas Regional Office, FDIC, 1910 Pacific Avenue, 20th Floor, Dallas, Texas 75201–4586

Kansas City Regional Office, FDIC, 2345 Grand Boulevard, Suite 1200, Kansas City, Missouri 64108–2638

Memphis Regional Office, FDIC, 5100 Poplar Avenue, Suite 1900, Memphis, Tennessee 38137–5900

New York City Regional Office, FDIC, 20 Exchange Place, Room 6014, New York, New York 10005

San Francisco Regional Office, FDIC, 25 Ecker Street, Suite 2300, San Francisco, California 94105–2780

By direction of the Board of Directors.

Dated at Washington, DC, this 8th day of May, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–12209 Filed 5–15–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011764

Title: Zim/Norasia/CSAV Slot Exchange Agreement

Parties: Compania Sud-Americana DeVapores S.A., Norasia Container Lines Limited, Zim Israel Navigation Co., Ltd.

Synopsis: The agreement authorizes Zim and CSAV/Norasia to exchange slots in the trade between the U.S. West Coast and countries bordering the Adriatic Sea, Israel, Egypt, Sri Lanka and the Far East in the Korea/Singapore/South East Asia range, allocations to be proportionate to their vessel allocation. Expedited review is requested.

Agreement No.: 011765

Title: Senator/OOCL-Slot Charter Agreement

Parties: Senator Lines GmbH Orient Overseas Container Line Limited

Synopsis: The proposed agreement would allow Senator Lines to sell 100 TEU (1100 m/tons) per voyage westbound and 150 TEU (1650 m/tons) eastbound to OOCL in the trade between the U.S. East Coast and Korea, the People's Republic of China, Hong Kong and Taiwan. Senator may sell OOCL a maximum of 300 TEU (3300 m/tons) per voyage to both directions.

By Order of the Federal Maritime Commission.

Dated: May 11, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–12370 Filed 5–15–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary Licenses or provisional licenses have been revoked in accordance with the Commission's Order in Docket No. 00–12, Revocation of Licenses, Provisional Licenses and Order to Discontinue Operations in U.S.—Foreign Trades for Failure to Comply with the New Licensing Requirements of the Ocean Shipping Reform Act of 1998 and section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries:

A.I.F. Services, Inc. d/b/a Agency International Forwarding, Inc.
Agency International Forwarding, Inc.
Air & Sea Inc.
Airlift Container Lines, Inc.
Albatross Shipping Inc.
Almcorp Project Transport, Inc.
Alrod International, Inc. d/b/a Alrod Ocean Company
Andreani Corporation
Auto Export Services North America, Inc.
Auto Overseas Ltd.
Blackbird Line, Inc.
Calico Equipment Corp. d/b/a Global Equipment Transport
Cargo Maritime Services, Inc.
Century Express, Inc.
Chin, Johnnie C. F. d/b/a J C Express
Continental Shipping & Trading Import-Export, Inc.
Continental Van Lines, Inc. d/b/a Continental International
Danali International, Inc.
Dukes System Corp.
Excel Shipping Corp.
Exploit Express Freight Inc.
Federal Warehouse Company
Feith, Cornelis J. d/b/a Tiger Express
Formerica Consolidation Service, Inc.
Frontier International Forwarders, Inc.
Hemisphere International Shipping, Inc.
Hopkins, James E. d/b/a Hopkins Services
Inter-American Freight Consolidators, Inc.
International Distribution, Inc.
International Trade and Logistics, Inc.
International Transport Agency d/b/a I.T.A.
Iris Enterprises Corp. d/b/a Iris Cargo
Johnson Storage & Moving Co.
Landstar Ranger, Inc.
Loa Int'l (USA) Transport Co. Inc.
Maurice Pincoffs Company, Inc.
Nador Shipping Corporation

Naviera Mundial Inc.
Ocean Pacific Lines, Inc.
Og International (USA) Co., Inc.
P. H. Petry, Company, Inc.
Poseidon Freight Forwarders, Inc. d/b/a Poseidon Line
Roberto Bucci (USA) Inc.
Rolines Shipping Corp.
S. h. r. Enterprises, Inc.
S. t. s. International, Inc.
Sanchez, Carlos B. d/b/a R & S Trading
Seamax, Inc.
Transbridge International, Inc.
Transneftegazstroy America, Inc.
Treset Corporation
World Marine Services Dominicana, LLC
World Wide Cargo Logistics, Inc.
Yellow Freight System, Inc.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–12369 Filed 5–15–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 31, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Murphy O'Banion, Leesville, Louisiana; to acquire additional voting shares of Vernon Bancshares, Inc., Leesville, Louisiana, and thereby indirectly acquire additional voting shares of The Vernon Bank, Leesville, Louisiana.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. William Robert Phelps, Fairmont, Minnesota; to retain voting shares of Swea City Bancorporation, Inc., Estherville, Iowa; and thereby indirectly retain voting shares of Bank Plus, Estherville, Iowa.

Board of Governors of the Federal Reserve System, May 11, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12377 Filed 5–15–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 11, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. First Union Corporation, Charlotte, North Carolina, to merge with Wachovia Corporation, Winston-Salem, North Carolina, and thereby indirectly acquire voting shares of Wachovia Bank, National Association, Winston-Salem, North Carolina; Wachovia Acquisition Corporation 2001-01, Winston-Salem, North Carolina; Republic Security Bank, West Palm Beach, Florida; and First National Bank of Atlanta, New Castle, Delaware. First Union also requests approval to exercise an option to acquire up to 19.9 percent of the voting shares of Wachovia Corporation under certain circumstances.

In connection with this application, Applicant also has applied to acquire Atlantic Savings Bank, FSB, Hilton Head Island, South Carolina, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, May 11, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12376 Filed 5–15–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 30, 2001.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Caisse Nationale de Credit Agricole; Paris, France, to retain, indirectly through Banco Espirito Santo, S.A., Lisbon, Portugal, an existing investment in and acquire additional shares of Clarity Incentive Systems, New York, New York, and thereby continue engaging in data processing and management consulting activities pursuant to §§ 225.28(b)(9) and (b)(14) of Regulation Y.

2. Caisse Nationale de Credit Agricole; Paris, France, to retain, indirectly through Banco Espirito Banco Espirito Santo, S.A., Lisbon, Portugal, shares of FiNet.com, Inc., San Ramon, California, and thereby continue engaging in extending credit and activities related to extending credit pursuant to §§ 225.28(b)(1) and (b)(2) of Regulation Y.

Board of Governors of the Federal Reserve System, May 10, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12263 Filed 5–15–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–39]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Patterns of Eye Movement and Message Processing—NEW—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

NIOSH often develops work-related health and safety messages designed to persuade workers to follow specific work-related habits that reduce the risk of on-the-job injury or disease. Research has shown that the more a reader thinks about a message being read, the more persuasive the message will be in changing the attitude and behavior of the reader. However, assessing how much a reader is actually thinking about a message has been difficult to do in any way beyond simply asking the reader questions about the material. Such self-report methods are limited in that they are imprecise and are vulnerable to measurement error.

The primary purpose of this study by the Institute's Health Effects Laboratory Division, Health Communication Research Branch (HCRB) is to determine if specific patterns of eye movement are related to the amount of thinking a person does while reading persuasive materials. From the eye-tracking literature, certain patterns of eye movement have already been associated with reading conceptually difficult text. It is believed that these identified patterns of eye movement represent more thinking about what is being read. It is predicted that the same patterns of eye-movement found for conceptually difficult text also will be found when participants are reading persuasive materials designed to be more thought provoking, or persuasive. If consistent patterns of eye movement are found to be related to more or less thinking about persuasive materials, then eye-tracking can be further developed as a measure of persuasive message effectiveness. Such a finding would be an improvement over the more commonly employed self-report methods of assessing message effectiveness.

As a secondary consideration, a measure of impulsivity will be included in this study to determine if higher or lower ratings of impulsivity predict if a person will think about a persuasive message. It is predicted that participants higher in impulsivity will be less likely to think as much about a message as participants lower in impulsivity. If this prediction about impulsivity is confirmed in this study, messages could possibly be tailored in ways to improve persuasive effectiveness for readers potentially high in impulsivity. Additionally, a general measure of personality traits also will be administered for the purpose of considering other personality characteristics that may be related to more or less thinking about persuasive materials.

The persuasion theory guiding the first two studies is the Elaboration Likelihood Model (ELM). Each study will involve a manipulation of constructs used in the model, persuasive message relevance (high or low) and argument strength (strong or weak). The high relevance condition is intended to lead to more thinking about the material than the low relevance condition. The strong and weak arguments are a manipulation check to make sure that the high and low relevance manipulation was convincing. Both self-report measures of thinking and measures of eye movement will be obtained from all participants. Analyses will be performed to test the predictions stated above. Analyses also will be performed to determine the relation between impulsivity and personality traits to more or less thinking about the persuasive materials.

The third year will be an application of the results obtained from the first two studies. From the first two studies a template will have been developed that will show how to best design effective occupational safety and health communication materials. This template will be incorporated into other current and future HCRB projects.

The specific goals for this project are as follows: (1) partially replicate an ELM study with the addition of eye movement measures, (2) examine the relation between amount of thinking while reading persuasive materials and eye movement, (3) extend the replicated study and eye movement measure to an occupational safety and health issue, i.e., forklift operation, (4) incorporate the eye movement template into ongoing HCRB projects, and (5) disseminate findings at relevant conferences and in the appropriate professional journals. There are no costs to respondents.

Type of respondents	Number. of respondents	Number. of responses per respondent	Average burden per response (in hours)	Total burden in hours
Morgantown community members	200	1	90/60	300
Forklift operators	200	1	90/60	300
Various occupational groups	400	1	90/60	600
Total	800			1,200

Dated: May 9, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–12372 Filed 5–15–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–30–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Survey of User Satisfaction with National Health Care Survey Data—New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). This Survey of User Satisfaction with National Health Care Survey Data is needed to provide current information on the use and usefulness of the variety of data products describing health care delivery systems in the United States. The National Health Care Survey comprises several component surveys: National Hospital Discharge Survey, National Nursing Home Survey, National Home and Hospice Care Survey, National Ambulatory Medical Care Survey, National Hospital Ambulatory Medical Care Survey and occasional other similar surveys when funded, such as the National Health Provider Inventory. Unlike other national surveys conducted by CDC National Center for Health Statistics, the National Health Care surveys address the health care delivery systems rather than the vital statistics, health status, health-related behavior, and access to care experienced by individuals and households who are consumers of the health care delivery systems. Between the years of 1968 and 1984, a number of surveys were conducted to learn more about National Center for Health Statistics (NCHS) data users and to assess the quality of data dissemination activities conducted by NCHS. Studies focusing solely on user satisfaction with National Health Care Survey data products have not been conducted since 1984. We need current specific information on how well our users' needs are being met, how to improve our data products, and how to serve current non-users of our data who are, nonetheless, potential users. Our data products consist mainly of published reports and web-published data sets including Data Highlights and E-Stats. Our published reports include Advance Data Reports, a newsletter-like summary of more detailed analyses to be published later, and Series Reports, which are in-depth analyses of specific topics addressed by our collected data. As the contractor for this project, CHPS Consulting will conduct a multi-mode survey using a web-based survey for those in the sample for whom an email address is available and a mail survey for those without an email address. Current users will be asked questions about what publications they use, how they use them, and their opinion of the timeliness, accessibility, format, and quality of the data publications. Non-users will be asked why they do not use our publications, their current sources of health care provider data, and how we improve data products to meet their needs. Our target population will include the following groups of persons: researchers, educators, health facility administrators, practitioners, and policymakers. Our goal for this survey is to obtain 600 returned surveys with an approximately equal number of returned surveys from users and non-users. The total annualized burden is 75 hours.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Users	300	1	10/60
Non-Users	300	1	5/60

Dated: May 9, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–12373 Filed 5–15–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF/HS 2001–07A]

Fiscal Year 2000 Discretionary Announcement for Head Start Family Worker Training and Credentialing Initiative; Availability of Funds and Request for Applications

AGENCY: Administration for Children, Youth, and Families, ACF, DHHS.

ACTION: Notice; Correction.

SUMMARY: This document contains a correction to the Notice that was published in the **Federal Register** on Thursday, May 3, 2001, Part II. On page 22294, first column (Item D), the August 1, 2001 closing date for the submission of applications is incorrect. The correct closing time and date for receipt of applications is 5 p.m. EDT on July 2, 2001.

FOR FURTHER INFORMATION CONTACT: The ACYF Operation Center at 1–800–351–2293 for referral to the appropriate contact person in ACYF for programmatic questions or send an e-mail to *hs@icgnet.com*

Dated: May 10, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–12283 Filed 5–15–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N-0050]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Premarket Approval of Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by June 15, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION:

I. Background

In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Premarket Approval of Medical Devices—21 CFR Part 814 (OMB Control No. 0910–0231)—Extension

Section 515 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(e)) sets forth the requirements for premarket approval of certain class III medical devices. Class III devices are either preamendments devices that have been classified into class III, postamendments devices that are not substantially equivalent to a preamendments device, or transitional devices. Class III devices are devices such as implants, life sustaining or life supporting devices, or devices which otherwise present a potentially unreasonable risk of illness or injury, or for which are of substantial importance in preventing impairment of human health. Most premarket approval applications (PMAs) are for postamendments class III devices.

Under section 515 of the act, an application must contain several pieces of information including full reports of all information concerning investigations showing whether the device is reasonably safe and effective. The application should also include a statement of components, ingredients, and properties and of the principle or principles of operation of such a device and should also include a full description of the methods used in, and the facilities and controls used for the manufacture and processing of the device; and labeling specimens.

The implementing regulations, contained in part 814 (21 CFR part 814), further specify the contents of a PMA for a class III medical device and the criteria FDA employs in approving, denying, or withdrawing approval of a PMA and supplements to PMAs. The regulation's purpose is to establish an efficient and thorough procedure for FDA's review of PMAs and supplements to PMAs for certain class III (premarket approval) medical devices. The regulations contained in part 814 facilitate the approval of PMAs and supplements to PMAs for devices that have been shown to be reasonably safe and effective and otherwise meet the statutory criteria for approval. The regulations also ensure the disapproval of PMAs and supplements to PMAs for devices that have not been shown to be reasonably safe and effective and that do not otherwise meet the statutory criteria for approval.

The Food and Drug Modernization Act of 1997 (FDAMA) (Public Law 105–115) was enacted on November 21, 1997, to implement revisions to the act by streamlining the process of bringing safe and effective drugs, medical devices, and other therapies to the U.S. market. Several provisions of this act affect the PMA process, such as section 515(d)(6) of the act. This section provided that PMA supplements were required for all device changes that affect safety and effectiveness of a device unless such changes are modifications to manufacturing procedures or method of manufacture. This type of manufacturing change requires a 30-day notice, or where FDA finds such notice inadequate, a 135-day PMA supplement.

To make the PMA process more efficient, FDA has in the past 3 years made changes to the PMA program based on comments received, has complied with changes to the program mandated by FDAMA and has worked towards completion of its PMA reinvention efforts.

Respondents to this information collection are persons filing a PMA application or a PMA supplement with FDA for approval of certain class III medical devices. Part 814 defines a person as any individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit, or other legal entity. These respondents include entities meeting the definition of manufacturers such as manufacturers of commercial medical devices in distribution prior to May 28, 1976 (the enactment date of the Medical Device Amendments). Additionally, hospitals that reuse single use devices (SUDs) are

also included in the definition of manufacturers. For the next 3 years, it is expected that FDA will receive four PMA applications from hospitals that remanufacture SUDs. This figure has been included in table 1 of this document as part of the reporting burden in § 814.15.

In the **Federal Register** of February 8, 2001 (66 FR 9582), the agency requested comments on the proposed collection of information. No comments were received.

The total estimated reporting and recordkeeping burden for this information collection is 107,321 hours. FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR section	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
814.15, 814.20, and 814.37	62	1	62	837	51,894
814.39(f)	487	1	487	66	32,142
814.82	43	1	43	66	5,805
814.84	43	1	43	10	430
Section 201 (FDAMA)	10	1	10	10	100
Section 202 (FDAMA)	15	1	15	10	150
Section 205 (FDAMA)	8	1	8	50	400
Section 208 (FDAMA)	26	1	26	30	780
Section 209 (FDAMA)	8	1	8	40	320
Total					92,021

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR section	No. of recordkeepers	Annual frequency per recordkeeping	Total annual records	Hours per recordkeeper	Total hours
814.82(a)(5) and (a)(6)	900	1	900	17	15,300

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The industry-wide burden estimate for PMAs is based on an FDA actual average fiscal year annual rate of receipt of 62 PMA original applications and 487 PMA supplements, using fiscal year 1996 through 2000 data.

The burden data for PMAs is based on data provided by manufacturers by device type and cost element in an earlier study. The specific burden elements for which FDA has data are as follows: (1) Clinical investigations: 67 percent of total burden estimate; (2) submission of additional data or information to FDA during a PMA review: 12 percent; (3) additional device development cost (e.g., testing): 10 percent; and (4) PMA and PMA supplement preparation and submissions, and development of manufacturing and controls data: 11 percent.

II. Paperwork Burden Estimate

The burden estimates were derived by consultation with FDA and industry personnel. FDA's estimates are based on actual data collected from industry over the past 3 years. An evaluation of the type and scope of information requested was also used to derive some time estimates. For example, disclosure information primarily requires time only to update and maintain existing manuals.

A. Reporting/Disclosure

The reporting burden can be broken out by certain sections of the PMA regulation: (1) § 814.15 *Research conducted outside the United States*; (2) § 814.20 *Application*; and (3) § 814.37 *PMA amendments and resubmitted PMA's*.

The majority of the burden—51,894 burden hours—is due to the above three requirements. Included in these three requirements are the conduct of laboratory and clinical trials as well as the analysis, review, and physical preparation of the PMA application. FDA estimates that 62 manufacturers (including hospital remanufacturers of single use devices) will be affected by these requirements based on actual average FDA receipt of new PMA applications in years 1996 through 2000. FDA's estimate of the hours per response (837) was derived through FDA's experience and consultation with industry and trade associations. Included in these three requirements are the conduct of laboratory and clinical trails as well as the analysis, review, and physical preparation of the PMA application. In addition, FDA has based its estimate on the results of an earlier study that these requirements account for the bulk of the burden identified by manufacturers.

1. § 814.39(f)—PMA Supplements: 32,142 Burden Hours

FDA believes that the amendments mandated by FDAMA for § 814.39(f), permitting the submission of the 30-day notices in lieu of regular PMA supplements, will result in an approximate 10 percent reduction in the total number of hours as compared to regular PMA supplements. As a result, FDA estimates that 32,142 hours of burden are needed to complete the requirements for regular PMA supplements.

2. § 814.82—Postapproval requirements: 5,805 Burden Hours

Postapproval requirements concern approved PMAs that were not reclassified and require a periodic report. In the last decade (1991 to 2000), the range of PMAs that fit this category averaged approximately 43 per year (70 percent of the 62 periodic submissions). Most approved PMAs have been subject to some postapproval study requirement. Approximately half of the average submitted PMAs (31) require associated postapproval studies (i.e., followup of patients used in clinical trials to support the PMA or additional preclinical information) that is labor-intensive to compile and complete, and the other PMAs require minimal information. Based on its experience and on consultation with industry, FDA estimates that preparation of reports and information required by this section require 5,805 hours (135 hours per respondent).

3. § 814.84—Reports: 430 Burden Hours

Postapproval requirements described in § 814.82 (above) require a periodic report. FDA has determined respondents meeting the criteria of § 814.84 will submit reports on a periodic basis. As stated previously, the range of PMAs fitting this category averaged approximately 43 per year. These reports have minimal information requirements. FDA estimates that respondents will construct their report and meet their requirements in approximately 10 hours. This estimate is based on FDA's experience and on consultation with industry. FDA estimates that the periodic reporting required by this section take 430 hours.

The total hours for statutory burden is 1,750. This burden estimate was based on actual real FDA data tracked from January 1, 1998, to the present, and an estimate was derived to forecast future expectations with regard to this statutory data.

B. Recordkeeping

The recordkeeping burden in this section involves the maintenance of records used to trace patients and the organization and indexing of records into identifiable files to ensure the device's continued safety and effectiveness. These records would be required only of those manufacturers who have an approved PMA and who had original clinical research in support of that PMA. For a typical year's submissions, 70 percent of the PMAs are eventually approved and 75 percent of those have original clinical trial data. Therefore, approximately 43 PMAs a year (62 annual submissions times 70 percent) would be subject to these requirements. Also, because the requirements apply to all active PMAs, all holders of active PMA applications must maintain these records. PMAs have been required since 1976, and there are 900 active PMAs that could be subject to these requirements, based on actual FDA data. Each study has approximately 200 subjects, and, at an average of 5 minutes per subject, there is a total burden per study of 1,000 minutes, or 17 hours. The aggregate burden for all 900 holders of approved original PMAs, therefore, is 15,300 hours (900 approved PMAs with clinical data x 17 hours per PMA).

The applicant determines which records should be maintained during product development to document and/or substantiate the device's safety and effectiveness. Records required by the current good manufacturing practices for medical devices regulation (21 CFR part 820) may be relevant to a PMA review and may be submitted as part of an application. In individual instances, records may be required as conditions to approval to ensure the device's continuing safety and effectiveness.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12277 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00E–1412]

Determination of Regulatory Review Period for Purposes of Patent Extension; Uvasorb HA88

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Uvasorb HA88 and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that food additive.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years as long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For food additives, the testing phase begins when a major health or environmental effects test involving the food additive begins and runs until the approval phase begins. The approval phase starts with the initial submission of a petition requesting the issuance of a regulation for use of the food additive and continues until FDA grants permission to market the food additive product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a food additive will include all of the testing phase and approval phase as specified in 35 U.S.C. section 156(g)(2)(B).

FDA recently approved for marketing the food additive Uvasorb HA88. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Uvasorb HA88 (U.S. Patent No. 4,477,615) from 3V Partecipazioni Industriali S.p.A., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated August 4, 2000, FDA advised the Patent and Trademark Office that this food additive had undergone a regulatory review period and that the approval of Uvasorb HA88 represented the first permitted commercial marketing or use of the product. Subsequently, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Uvasorb HA88 is 3,482 days. Of this time, 684 days occurred during the testing phase of the regulatory review period, and 2,798 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a major health or environmental effects test (test) involving this food additive additive product was begun:* November 2, 1989. FDA has verified the applicant's claim that the test was begun on November 2, 1989.

2. *The date the petition requesting the issuance of a regulation for use of the additive (petition) was initially*

submitted with respect to the food additive product under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348): September 16, 1991. FDA has verified the applicant's claim that the petition was initially submitted on September 16, 1991.

3. *The date the petition became effective: May 14, 1999.* FDA has verified the applicant's claim that the regulation for the additive became effective/commercial marketing was permitted on May 14, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,827 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by July 16, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 12, 2001. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 2, 2001.

Jane A Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–12228 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0191]

Medical Devices; Global Harmonization Task Force; Study Group 1; Working Draft "Medical Devices Classification;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft document entitled "Medical Devices Classification." Study Group 1 of the Global Harmonization Task Force (GHTF) has prepared this document on premarket regulation of medical devices. This document is intended to provide information only and represents a harmonized proposal that may be used by governments developing or updating their premarket regulation schemes for medical devices. This draft document is not being issued as an FDA guidance. Elements of the approach set forth in this document may not be consistent with current U.S. regulatory requirements. However, FDA is publishing the draft at this time to give the public an opportunity to comment on the document before the agency resumes discussions with other countries. Public comments will help FDA decide whether and how the agency can adapt these recommendations to our own regulatory requirements.

DATES: Submit written comments concerning this at any time. FDA must submit its comments on this draft to GHTF by July 1, 2001. FDA will consider any comments that it receives after it prepares its comments for GHTF in future discussions with GHTF on this issue.

ADDRESSES: Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the document. Submit written requests for single copies on a 3.5" diskette of the draft document entitled "Medical Devices Classification" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818.

FOR FURTHER INFORMATION CONTACT: Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–3084.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has participated in a number of activities to promote the international harmonization of regulatory requirements. The GHTF was established in 1992 to facilitate medical device harmonization. Subsequent meetings have been held on a yearly basis in various locations throughout the world. The most recent GHTF meeting was held in September 2000, in Ottawa, Canada. The GHTF is a voluntary consortium of representatives from medical device regulatory authorities and trade associations from around the world, including Canada, Japan, and the European Union.

The objective of the GHTF is to encourage harmonization of regulatory systems for medical devices in order to facilitate trade while recognizing the right of participating members to enforce regulatory requirements considered most suitable to protect the public health of their citizens. One of the ways this objective is achieved is by identifying and developing areas of international cooperation that can reduce differences in systems established to regulate medical devices. In an effort to accomplish these objectives, the GHTF has formed four study groups to draft documents and carry on other activities designed to facilitate global harmonization. This notice is a result of documents that have been developed by Study Group 1.

Study Group 1 was formed in January 1993, and was originally tasked with identifying differences between various premarket regulatory systems. In 1995, the group was asked to propose areas of potential harmonization for premarket device regulations and offer guidance that could help lead to harmonization. As a result of their efforts, this group has developed the document entitled "Medical Devices Classification." This GHTF document suggests some general guidelines for classification of medical devices to encourage harmonization. It recommends that there is a need to classify medical devices based on their risk to patients, users, and other persons; and that there is a benefit for manufacturers and regulatory authorities if a globally harmonized classification system is developed. The classification framework presumes that the risk presented by a particular device depends on its intended purpose and the effectiveness of the risk management techniques applied during the design, manufacture, and use of that device. The document also suggests that the regulatory controls applied should be proportional to the level of risk associated with a medical device and should increase with the associated degree of risk presented by the medical device. The GHTF document suggests four global classifications of devices.

This document also presents a decision tree logic that may help regulatory authorities develop different parameters that might be used to classify specific devices.

When FDA discusses draft documents with representatives of other countries, we seek public comment on the resulting documents. We believe that it is important to publish draft documents for comment at the same time as other countries so we may review the public comments and resume discussions in a timely manner. Because other countries do not follow our good guidance practices (GGPs), we do not require draft documents that result from international discussions to comply with the format requirements of our GGP regulation. The GGP regulation does require that any final FDA guidance that results from international discussions will comply with the GGP regulation.

II. Electronic Access

In order to receive "Medical Devices Classification" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1327) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft document may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

III. Comments

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments regarding this draft guidance. FDA must submit its written comments to the GHTF by July 1, 2001. FDA will consider any comments that it receives in a timely manner, while preparing those comments. FDA will consider any public comments that it receives after preparation of its comments to GHTF in future discussions on this issue. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–12226 Filed 5–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10041]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection; *Title of Information Collection:* Long Term Care Awareness Project; *Form No.:* HCFA–10041 (OMB# 0938–NEW); *Use:* HCFA needs to collect data to pilot test a national campaign to educate current and future Medicare beneficiaries and their families about long term health care needs, as requested in the Clinton Fiscal Year 2000 Budget, to design and implement a nationwide campaign. Respondents will be from two groups: 55–70 year-olds and 18–64 years old persons with disability; *Frequency:* Quarterly; *Affected Public:* Individuals or households; *Number of Respondents:* 7,800; *Total Annual Responses:* 3,900; *Total Annual Hours:* 800.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Attn. 10041, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 8, 2001.

Julie Brown,

Acting Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–12342 Filed 5–15–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 10, 2001.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeanne N. Ketley, Ph.D, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–1789.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 8, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12260 Filed 5–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); National Institute of Environmental Health Sciences; NTP Announces the Release of the NTP Final Report From the Endocrine Disruptors Low-Dose Peer Review for Public Comment

Summary

The National Toxicology Program (NTP)/National Institute of Environmental Health Sciences (NIEHS) organized and conducted a scientific peer review at the request of the US Environmental Protection Agency (EPA) to evaluate reported low-dose reproductive and developmental effects and dose-response relationships for endocrine disrupting chemicals. The NTP is soliciting public comment prior to transmitting the final report to the US EPA. Public comments received in response to this solicitation will be included in the final transmittal. The final report is available on the NTP web site at *http://ntp-server.niehs.nih.gov* or by contacting the NTP Office of Liaison and Scientific Review; 919–541–0530 (phone); 919–541–0295 (fax); liaison@starbase.niehs.nih.gov; 111 T.W. Alexander Drive, P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709.

Background

The NTP final report will be provided to the US EPA to help guide the agency in determining whether or not its guidelines for reproductive and developmental toxicity testing are adequate for endocrine active chemicals. For this meeting, "low-dose effects" referred to biological changes that occur in the range of human exposures or at doses lower than those typically used in the US EPA's standard testing paradigm for evaluating reproductive and developmental toxicity.

The peer review included plenary sessions and several subpanel meetings. The peer review panel was divided into five subpanels: Bisphenol A, Other Environmental Estrogens and Estradiol, Androgens and Anti-Androgens, Biological Factors and Study Design, and Statistics and Dose-Response Modeling. The Panel examined data from major, selected studies (excluding studies on phthalates and dioxin and dioxin-like compounds) supporting the presence or absence of low-dose effects in laboratory animals that could be relevant for human health assessments. The Panel was also asked to evaluate the shape of the dose-response curve for endocrine active substances in the low-dose region. Prior to the peer review, members of the Statistics and Dose-Response Modeling Subpanel analyzed the raw data on selected parameters for 38 studies and provided its analyses to the other subpanels. At the peer review, members from this subpanel participated in other subpanels.

Request for Public Comment on the Final Report

Interested parties are encouraged to submit written comments on the NTP Endocrine Disruptors Low-Dose Peer Review Final Report. Comments should include name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization (if any). The NTP invites written public comment on the final report through July 16, 2001. Comments should be submitted to the NTP Office of Liaison and Scientific Review; 919–541–0530 (phone); 919–541–0295 (fax); liaison@starbase.niehs.nih.gov ; 111 T.W. Alexander Drive, P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709.

Additional Information About the Endocrine Disruptors Low-Dose Peer Review

For additional information about the Endocrine Disruptors Low-Dose Peer Review including the peer review's program, list of participants, literature reference lists, and **Federal Register** notices, visit the NTP web site at: *http://ntp-server.niehs.nih.gov*

Previously three **Federal Register** notices were published about this peer review: January 6, 2000, Volume 65, Number 4, pages 784–787; April 17, 2000, Volume 65, Number 74, pages 20478–20479; September 27, 2000, Volume 65, Number 188, pages 58097–58099.

Dated: May 8, 2001.

Kenneth Olden,

Director, NIEHS, Director, NTP.

[FR Doc. 01–12261 Filed 5–15–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4655–N–13]

Notice of Proposed Information Collection: Comment Request; Hospital—Section 242, Application for Project Mortgage Insurance

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 16, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Building, Room 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Roger Miller, Director, Office of Insured Health Care Facilities, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone number (202) 708–0599 (this is not a toll-free number), for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1955 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Hospital Project Mortgage Insurance.

OMB Control Number: if applicable: 2502–0518.

Description of the need for the information and proposed use: Information is collected to provide HUD with the data necessary to determine if a hospital qualifies for FHA insurance under Section 242 of the National Housing Act. HUD reviews the information to determine if the proposed project meets basic eligibility criteria, underwriting standards, and adequacy of state and/or local certifications, approvals, and waivers.

Agency form numbers, if applicable: HUD–92013–HOSP.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 15, the frequency of responses is one per respondent, estimated time to finish each response is approximately 750 hours per response, and the total annual burden hours requested are 11,250.

Status of the proposed information collection: Reinstatement with change of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 4, 2001.

Sean G. Cassidy,

General Deputy—Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 01–12240 Filed 5–15–01; 8:45 am]

BILLING CODE 4210–37–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–36]

Notice of Submission of Proposed Information Collection to OMB; Single Family Property Disposition and Acquisition (Conveyance) of Mortgaged Properties

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 15, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0306) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Single Family Property Disposition and Acquisition (Conveyance) of Mortgaged Properties.

OMB Approval Number: 2502–0306.

Form Numbers: HUD–9516–A, 9519, 9519–A, 9733, 9544, 9548, 9548–A, 9548–B, 9548–C.

Description of the Need for the Information and Its Proposed Use: The collection of information is needed in order to determine the condition of the property upon conveyance, the results of the repair contracts, and to monitor contractor performance in maintaining properties. Also, the sales contracts and addenda will be used in binding contracts between the purchaser and HUD. The respondents are potential contractors, contractors who work for HUD, purchasers of HUD-owned properties, teachers, school districts, nonprofit organizations and governmental entities. This information collection is needed to administer procurement contracts for goods and services for acquired properties and to deal with, complete, rent renovate, modernize, insure, or sell for cash or credit, any properties conveyed to the Department under contracts of mortgage insurance.

Respondents: Individuals or households, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Frequency of Submission: On occasion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	105,798		10.6		.50		563,765

Total Estimated Burden Hours: 563,765.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 8, 2001.

Donna L. Eden,

Director, Office of Investment Strategies, Policy and Management.

[FR Doc. 01–12241 Filed 5–15–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Exchange of Lands With Federal Interest on South Fox Island, Leelanau County, MI, Between the State of Michigan and a Private Citizen

AGENCY: Fish and Wildlife Service, Interior, lead; National Park Service, Interior, cooperating; Michigan Department of Natural Resources, cooperating.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) for the proposed exchange of lands with Federal interest on South Fox Island, Leelanau County, Michigan.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (FWS) intends to gather the information necessary for the preparation of an EIS. The actions to be evaluated by this EIS are: (1) The approval by FWS of the exchange of 313 acres, acquired by the State with Federal Aid in Wildlife Restoration assistance, for lands with equal monetary and wildlife restoration values; (2) the approval by the National Park Service (NPS) for the State to exchange 105 acres with NPS interest for private lands with equal or greater monetary and recreational value; and (3) the related exchange of 220 acres of unencumbered State-owned land for fee title and easements for private lands of equal value. All acreage is approximate. The proposed exchange will consolidate and confine most State ownership to approximately the northern one-third of South Fox Island, Leelanau County, Michigan, about 30 miles west northwest of Charlevoix, in Lake Michigan.

Based upon public comments and agency concerns, the current Proposed Action is a modification of the original proposal as presented in the Environmental Assessment Notice of Intent (65 FR 57367, Sep. 22, 2000) and public scoping meetings. The approximately 115 acre southern tip would feature three areas: (1) The southernmost portion (part of section 21) that includes the lighthouse, associated buildings, and part of the harbor area would remain in public ownership. (2) The unforested, sandy area, approximately bounded by forest on the north and south and the water's edge on the east and west (parts of sections 16 and 21), would be placed in a conservation easement if that portion was transferred to private ownership. The conservation easement would prevent any form of development from occurring within its borders. (3) The northernmost portion of the southern tip is forested and would go into private ownership without any conservation easement. The internet site at: http://midwest.fws.gov/NEPA/ contains a map of the proposed conservation easement and southern tip. The island property containing a cemetery would move into public ownership.

The FWS Regional Director is considering an exchange of lands acquired with Federal Aid in Wildlife Restoration funds under the authority of 50 CFR 80.14 and 43 CFR 12.71. The NPS and General Service's Administration (GSA) are considering the removal of a title reversion clause to allow the disposal of certain lands on South Fox Island and for the placement of a title reversion clause on replacement lands of equal monetary and recreational value. Alternatives could include approval, disapproval, or modification of the State's current proposal of the land exchange. Modifications could include, but are not limited to: changes in the boundaries and acreage of tracts to be exchanged; elimination of more of the NPS tract from the exchange; and deed restrictions on certain lands to be conveyed to the private owner to protect wildlife and historic resources.

This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7 and 1508.22). The intent of the notice is to obtain suggestions and additional information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received on or before June 15, 2001. Scoping meetings are scheduled for June 5, 2001 at Leland High School, 200 N. Grand Avenue, Leland, Michigan 49654 and on June 6, 2001 at Charlevoix High School, 108 E. Garfield, Charlevoix, Michigan 49720. At each location, the meeting will take place from 6:30 to 9 p.m.

Public Involvement

The public is invited to participate in the scoping process, attendance at public meeting, and review of the draft EIS when it is produced. Scoping meetings are scheduled for June 5, 2001 at Leland High School, 200 N. Grand Avenue, Leland, Michigan and on June 6, 2001 at Charlevoix High School, 108 E. Garfield, Charlevoix, Michigan. At each location, the meeting will take place from 6:30 to 9 p.m.. There will be a 30 minute presentation at the beginning of each meeting prior to breaking into groups for comments and questions. Both meetings will be announced in the local news media. Release of the draft EIS for public comment will also be announced in the local news media, as these dates are established. Written scoping comments should be received within 30 days from the date of publication of this Notice of Intent. Public comments that were provided during an Environmental Assessment process on a similar proposal will be utilized in developing alternatives and issues for the draft EIS.

All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's NEPA regulations [40 CFR 1506.6(f)]. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

ADDRESSES: Comments should be addressed to: Mr. Craig Czarnecki, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823. Electronic mail comments may also be submitted within the comment period to: *fw3foxisland@fws.gov*

FOR FURTHER INFORMATION CONTACT: For the various agencies, the contacts are: Mr. Craig Czarnecki, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823, telephone: (517) 351–8470, facsimile: (517) 351–1443; Mr. Jon Parker, U.S. Fish and Wildlife Service, Division of Federal Aid, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111; telephone: (612) 713–5142, facsimile: (612) 713–5290; or Ms. Elyse LaForest, National Park Service, 15 State Street, Boston, MA 02109, telephone: (617) 223–5190, facsimile: (617) 223–5164; Mr. Doug Erickson, Michigan Department of Natural Resources, Wildlife Division, P.O. Box 30444, Lansing, MI 48909–7944; telephone: (517) 335–4316, facsimile: (517)373–6705.

SUPPLEMENTARY INFORMATION: The approximately 115 acre State owned tract with NPS and GSA interest contains the South Fox Island Lighthouse facilities that are either listed or may be eligible to be listed on the National Register of Historic Places and other historical or archeological resources may be present. The National Historic Preservation Act and other laws require these properties and resources be identified and considered in project planning. The public is requested to inform the FWS of concerns about archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns. Under the Proposed Action, the specific lands containing the lighthouse and associated buildings are not intended to be traded out of public ownership.

The NPS tract also includes proposed critical habitat for the federally endangered piping plover. The tract also contains federally threatened Pitcher's thistle, which is also present at other locations on the island. The deed will be subject to a conservation easement, if the portion of the southern tip containing these two federally listed species is traded.

The Grand Traverse Band of Ottawa and Chippewa Indians has unresolved claims to title and other property rights on the island. There is a cemetery on private land, which under the proposed action, would move to public ownership with guaranteed access.

There have been ongoing conflicts over trespass on both public, and private land parcels on the island. The ability of the public to access all land currently in State ownership is an ongoing issue.

The Service estimates that the draft EIS will be made available to the public by late 2001.

Dated: May 3, 2001.

William F. Hartwig,

Regional Director, Region 3, Fort Snelling, MN.

[FR Doc. 01–12335 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Weber Dam Repair and Modification Project, Lyon and Mineral Counties, NV

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), with the cooperation of the Walker River Paiute Indian Tribe (Tribe), intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for the Weber Dam Repair and Modification Project on the Walker River Paiute Reservation, Lyon and Mineral Counties, Nevada. The purpose of the project is to correct unsafe conditions at Weber Dam in order to protect health and welfare needs of the Walker River Paiute and the citizens of the two counties. Details on the project location, proposed action, alternatives, and initial area of environmental concern to be addressed in the EIS are provided in the **SUPPLEMENTARY INFORMATION** section. This notice also announces public meetings on the scope of issues to be addressed in the EIS.

DATES: Comments on the scope and implementation of this proposal must arrive by June 18, 2001. The public scoping meetings will be held on June 5, 2001, from 6 p.m. to 8 p.m., and on June 6, 2001, from 6 p.m. to 8 p.m.

ADDRESSES: You may mail or hand carry written comments to Amy L. Heuslein, Regional Environmental Protection Officer, Western Regional Office, Bureau of Indian Affairs, Environmental Quality Services, P.O. Box 10 (400 N. 5th Street, 14th floor), Phoenix, Arizona, 85001; or to Chuck O'Rourke, Natural Resources Officer, Western Nevada Agency, Bureau of Indian Affairs, 1677 Hot Springs Road, Carson City, Nevada, 89706. (See **SUPPLEMENTARY INFORMATION** for E-mail options.)

The June 5, 2001, public meeting will be held at the Walker River Paiute Tribal Hall, #1 Hospital Road, Schurz, Nevada. The June 6, 2001, public meeting will be held at the Casino West Convention Center, 11 N. Main Street, Yerington, Nevada.

FOR FURTHER INFORMATION CONTACT: Amy Heuslein, (602) 379–6750, or Chuck O'Rourke, (775) 887–3550.

SUPPLEMENTARY INFORMATION: Weber Dam is located on the Walker River, northwest of the town of Schurz, Nevada, and upriver from Walker Lake. Walker Lake is a desert lake located at the terminus of the Walker River, which once supported naturally-reproducing, indigenous, Lahontan cutthroat trout (*Oncorhyncus clarki henshawi*) (LCT). LCT are currently listed as threatened under the Endangered Species Act, 16 U.S.C. 1531–44. The lake fishery is maintained by hatchery production. Weber Dam is one of many structures on the Walker River that prevents LCT from migrating from the lake to a historical habitat in the Walker River basin.

Construction of Weber Dam, which is an earthen structure, began in 1934. It was completed in 1937. The dam serves to store water for irrigation of farmland on the Walker River Paiute Reservation. Because it sits on an earthquake fault and has been leaking for many years, the BIA has determined, under the Indian Dams Safety Act, 25 U.S.C. 3801–04, that Weber Dam is a high hazard dam. This means that if the dam should fail, there is a potential for loss of human life downstream. The BIA has therefore assigned Weber Dam the highest priority for modification due to its unsafe condition.

On September 30, 1991, the Tribe entered into a contract with BIA pursuant to Public Law 93–638, under which the Tribe will carry out the BIA's responsibilities for repair and modification of Weber Dam pursuant to the Indian Dams Safety Act, including the preparation of environmental compliance documents. In this case, after completing an Environmental Assessment in 1994 and Supplemental Assessment in 1998, the BIA, in consultation with the Tribe, determined that an EIS is needed in order to analyze the effects of the proposed project on the human environment. The design and specifications for the repair and modification were provided by the Bureau of Reclamation.

The proposed action to be addressed in the EIS is the repair and modification of Weber Dam, pursuant to the Indian Dams Safety Act. Alternatives to the proposed action include no action, relocating a section of the dam from an existing earthquake fault, renovating the outlet works, reestablishing a wetlands area and removing the impediment to upstream and downstream passage for LCT. The effect of the proposed action on LCT is a primary area of environmental concern to be addressed in the EIS.

Public Comment Solicitation

As an alternative to submitting written comments regarding the content of the EIS to the locations identified in the **ADDRESSES** section, interested

persons may instead comment via the Internet to AmyHeuslein@blm.gov or to ChuckO'Rourke@blm.gov. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. If you do not receive confirmation from the system that your Internet message was received, contact Amy Heuslein at (602) 379–6750, or Chuck O'Rourke at (775) 887–3550.

Comments, including names and home addresses of respondents, will be available for public review at the mailing addresses shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: April 12, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–12371 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; F–19557]

Alaska Native Claims Selection

Authority: 43 CFR 2650.7(d)

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: Notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to the Heirs, Devisees, and/or Assigns of Evans Egowa for lands in T. 1 S., R. 1 W., Fairbanks Meridian, located in Fairbanks, Alaska. Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until June 15, 2001 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Jerri Sansone (907) 271–3231.

Jerri Sansone,

Land Law Examiner.

[FR Doc. 01–12257 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–700–01–1220–AL–1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Southwest Resource Advisory Council meeting.

SUMMARY: Notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will meet in July, 2001 in Montrose, Colorado.

DATES: The meeting will be held on Thursday, July 12, 2001.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management, 2465 South Townsend Avenue, Montrose, Colorado 81401; phone 970.240.5335; e-mail roger_alexander@co.blm.gov.

SUPPLEMENTARY INFORMATION: The July 12, 2001 meeting will be held at the Delta-Montrose Electric Association building, 11925 6300 Road, in Montrose, Colorado. The meeting will begin at 9 a.m. and end no later than 4:30 p.m. The agenda will include an update on BLM Colorado's travel management planning process, a presentation on the land health assessment process, and discussions on off-highway vehicle issues and oil and gas issues. General public comment is scheduled for 9:15 a.m.

Summary minutes for Council meetings are maintained at BLM's Western Slope Center office in Montrose and on the internet at www.co.blm.gov/swrac/swrac.htm and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: May 7, 2001.

Roger Alexander,

Public Affairs Specialist.

[FR Doc. 01–12258 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1610–DU]

Notice of Availability, Public Meeting, and Protest Period for the Proposed Bureau of Land Management and U.S. Navy Natural Resource Management Plan for Federal Lands in Churchill County, NV

AGENCIES: Department of the Interior, Bureau of Land Management, Carson City Field Office in partnership with the Department of Defense, U.S. Naval Air Station Fallon, Nevada.

ACTION: Notice of availability, public meeting, and protest period for a proposed amendment to the Lahontan Resource Management Plan (RMPA) for the Bureau of Land Management, Carson City Field Office (BLM) based on specific direction within Public Law 106–65, section 3014 (Military Lands Withdrawal Act of 1999). In addition, as a personnel and cost-saving stratagem, the RMPA was prepared jointly with the Naval Air Station Fallon (Navy) to comply with Department of Defense requirements for an Integrated Natural Resource Management Plan (INRMP) in accordance with the Sikes Act Amendment Act (1997), Public Law 105–85.

SUMMARY: The BLM and Navy determined that combining the two agencies' planning processes is the appropriate means to serve as the analysis and basis for decisions on lands identified in the Military Lands Withdrawal Act of 1999 (Act), for withdrawn public lands, Navy-owned lands, and the NAS Fallon Main Station. Public scoping was initiated with a Notice of Intent published in the **Federal Register** on May 26, 2000 and two public open houses were held in Fallon and Reno, Nevada in June 2000. The following resource-related issues were identified in the Act and through public scoping: Off Highway Vehicle (OHV) use; public access (hunting, ranching, mining, etc.); livestock grazing; sage grouse habitat preservation; Pony Express Trail protection; wildfire prevention and suppression; noxious weeds; cultural resources; water resources and water rights; and sensitive species.

DATES: The document is available for public and agency review and a public open house is scheduled in accordance with 43 CFR 1610.2 and 2310.3–1 to discuss the proposed RMPA/draft INRMP. Personnel from the BLM and Navy will be available to answer questions and take comments at the following public open house: June 6, 2001 (5–7 p.m.), Fallon Convention Center, 100 Campus Way, Fallon, Nevada. Comments will be accepted until June 15, 2001. After the review and protest period ends for the Proposed Natural Resource Management Plan for Federal Lands in Churchill County, comments will be analyzed and considered jointly by the BLM and Navy in preparing the final document.

ADDRESSES: Comments should be sent to: Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, Attn: Gary Ryan, Project Manager. Comments may also be sent via electronic mail to the following address: *ryang@nsawc.navy.mil* or via fax: (775) 885–6147.

Comments, including names and addresses of respondents, will be available for public review at the above address during regular business hours (7:30 a.m.–5 p.m.), Monday through Friday, except holidays, and may be published as part of the document. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. However, we will not consider anonymous comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Gary Ryan, BLM Military Liaison at (775) 426–4011, or Ester Hutchison, NAS Fallon Environmental Office at (775) 426–2912.

Dated: May 2, 2001.

John Singlaub,

Manager, Carson City Field Office.

[FR Doc. 01–11874 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–950–1420–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

The plats of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10 a.m., April 23, 2001.

The plat representing the dependent resurvey of a portion of the subdivisional lines, portions of Mineral Surveys 85, 92, 96, 157 and 264, and Mineral Surveys 117, 146, 147, 150, 152, and 441, T. 16 N., R. 80 W., Sixth Principal Meridian, Wyoming, Group No. 493, was accepted April 23, 2001.

The plat representing the dependent resurvey of a portion of the Fourteenth Guide Meridian West, through Township 30 North, between Ranges 112 and 113 West, and a portion of the subdivisional lines, and the subdivision of section 18, T. 30 N., R. 112 W., Sixth Principal Meridian, Wyoming, Group No. 658, was accepted April 23, 2001.

The plat representing the dependent resurvey of portions of the Twelfth Standard Parallel North, through Range 102 West, Tract 38, and portions of the subdivisional lines, and the subdivision of sections 4 and 5, T. 48 N., R. 102 W., Sixth Principal Meridian, Wyoming, Group No. 666, was accepted April 23, 2001.

Dated: April 23, 2001.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 01–12273 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–950–1420–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land is scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 44 N., R. 118 W., Metes and Bounds Survey of Tract 39, accepted April 23, 2001

This plat will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest this survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest within thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

If protests against this survey are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

FOR FURTHER INFORMATION CONTACT: John P. Lee, (307) 775–6216, Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: April 23, 2001.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 01–12274 Filed 5–15–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Office for Victims of Crime

[OJP(OVC)–1319]

Victims of Crime Act Victim Compensation Grant Program

AGENCY: Office for Victims of Crime, Office of Justice Programs, Justice.

ACTION: Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), United States Department of Justice (DOJ) is publishing Final Guidelines to implement the crime victim compensation grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, *et seq.*, hereafter referred to as VOCA.

EFFECTIVE DATE: These Final Guidelines are effective upon publication in the **Federal Register** or until reissuance by OVC.

FOR FURTHER INFORMATION CONTACT: Carol R. Watkins, Director, State Compensation and Assistance Division, Office for Victims of Crime 810 Seventh Street, NW., Washington, DC 20531; phone: (202) 514–4696. (This is not a toll-free number). E-mail:watkinsc@ojp.usdoj.gov

SUPPLEMENTARY INFORMATION: The Victims of Crime Act (VOCA) authorizes federal financial assistance to states for the purposes of compensating and assisting crime victims, funding training and technical assistance, and serving victims of federal crimes. These Final Guidelines provide information specifically for the administration and implementation of the VOCA crime victim compensation grant program as authorized in section 1403 of VOCA, Public Law 98–473, as amended, codified at 42 U.S.C. 10602.

Summary of the Revisions to the Final Guidelines for the Victims of Crime Act Crime Victim Compensation Grant Program

These Final Guidelines for the VOCA Crime Victim Compensation Grant Program are in accordance with VOCA and are all inclusive. Thus, these Final Guidelines supersede any VOCA Crime Victim Compensation Grant Program Guidelines previously issued by OVC. The changes contained in these Final Guidelines result from developments in the criminal justice and victim services fields since the 1997 Guidelines were issued.

OVC published in the **Federal Register** Proposed VOCA Crime Victim Compensation Program Guidelines that were distributed to interested individuals and organizations for the purpose of soliciting comments. Copies were mailed to all state VOCA victim compensation and assistance program administrators, to executive directors of national victim organizations, and to VOCA victim assistance subgrantee programs. OVC received 16 responses from state VOCA victim compensation administrators and the National Association of Crime Victim Compensation Boards; representatives of other victim services organizations, law enforcement, and U.S. Attorneys Offices; one local organization representing senior citizens; and one national association representing financial planners.

I. Comments From the Field

A. Nonviolent Crimes

VOCA administrators questioned the statutory authority to include nonviolent crimes and the related victim expenses under VOCA crime victim compensation funding. As a result, the Final Guidelines have been clarified to explain that VOCA does not prohibit coverage of nonviolent crimes and that states choosing to cover these crimes may include amounts paid to these victims in their certified payout figures, which are used to determine the amount of federal funding the state is entitled to receive. Compensable expenses could include crisis counseling, mental health treatment, financial counseling, and other services funded by a state's program. The Final Guidelines have also been clarified to explain that amounts paid by states to victims for property, damaged or lost in violent or nonviolent crimes, except in certain instances, cannot be included in a state's certified payout figures. The Final Guidelines emphasize that priority under VOCA continues to be coverage for victims of violent crime.

B. Encouragement From OVC To Expand Coverage

Two respondents questioned OVC's encouragement to expand coverage of certain crimes, expenses, and victims within the Guidelines, stating that the Guidelines establish policy, and that encouragements are better addressed through other means. OVC has removed the encouragements from the body of the Final Guidelines and has explained its identification of emerging trends and unmet needs of crime victims in a preamble. This information is provided for states to consider as they examine their programs' responsiveness to crime victims and strive to improve the range of assistance provided. The Final Guidelines state that these are not mandates and emphasize that it is within the discretion of the state to determine coverage under its compensation statute, rule, or other established policy. The Final Guidelines also clarify that state funds paid to crime victims for these purposes may be included in a state's annual certification of payments to victims.

C. Victims Experiencing Financial Loss as a Result of Crime

Five respondents expressed support for inclusion of economic crime as a compensable crime category that states may include in their annual certification of payments. Others acknowledged that while victims of economic crime have needs, priority must remain with meeting the needs of victims of violent crime. As a result, economic crime is addressed in the preamble to the Final Guidelines and the body of the Final Guidelines emphasize that priority under VOCA is given to victims of violent crime.

Respondents sought clarification on use of the term financial planning in the proposed Guidelines. Since the term conflicts with a term used by professional financial planners who assist with investments, insurance, and estate planning, the term used in the Final Guidelines has been changed to *financial counseling.*

The purpose of financial counseling services is to assist victims who have to restructure their financial affairs because of a crime. These claimants may be survivors of homicide victims or victims of domestic violence, fraud, or other crimes. Allowable activities provided by financial counselors include but are not limited to: Analysis of a victim's financial situation such as income producing capacity and crime-related financial obligations; assistance with restructuring budget and debt; assistance in accessing insurance, public assistance, and other benefits; assistance in completing financial impact statements for criminal or civil courts; and assistance in settling estates and handling guardianship concerns.

D. Victim Cooperation With Law Enforcement

One respondent commented that requiring a victim who is a vulnerable adult to report a crime to law enforcement is unrealistic. As a result, these Final Guidelines allow a state to accept, as an indication of a victim's cooperation with law enforcement, a crime report to law enforcement or to a child or adult protective services agency from a mandated reporter or other person knowledgeable about a crime against a child or a vulnerable adult.

A crime victim's willingness to cooperate with law enforcement may be affected by compelling health or safety concerns including apprehension about personal safety, fear of retaliation, and intimidation by the offender or others. Crime victims may be reluctant to cooperate fully with law enforcement after receiving threats of violence or death against themselves and their families from the offender.

Many barriers—age, psychological, cultural, and linguistic—may affect the victim's ability to cooperate with law enforcement. There may be unique barriers deterring a young child or senior citizen from complying fully with law enforcement. Embarrassment, shame, and the psychological trauma may delay the reporting of sexual assault. Cultural and language differences may diminish a victim's access to and understanding of the criminal justice system. In setting the standard for victim cooperation with law enforcement, OVC encourages state programs to determine how to address these considerations.

E. Crime Scene Cleanup

VOCA administrators requested clarification on what could be covered under crime scene cleanup. Since state statute, rules, and policy dictate allowable expenses for this service, the Final Guidelines have been clarified to say that states may not include property replacement or repair cost, except for replacement of locks and windows, and replacement of bedding and clothing held as evidence, in their annual certification of payments.

F. Nonsupplantation

One respondent asked OVC to clarify if the use of federal funds that a state receives as a result of the expenditure of state revenues constitutes supplantation. As a result, clarifying language has been added stating that use of federal funds received as a result of its certified state payouts is not supplantation.

II. Legislative Changes

A. Child Abuse Prevention and Enforcement Act

This Act amended VOCA to allow for an increase in funds set aside for child abuse victims from $10 million up to $20 million. This occurs in any fiscal year in which Crime Victim Fund deposits are greater than the amount deposited in Fiscal Year 1998. An amount equal to 50 percent of the increase plus the base amount of $10 million is available for this purpose. This applies regardless of whether there is a cap on the amount of money made available from the Fund for VOCA purposes.

B. Consolidated Appropriations Acts of Fiscal Year 1997 and 2000

The VOCA distribution formula was amended to provide funds for victim assistance provided through the Federal Criminal Justice System.

C. Victims of Trafficking and Violence Protection Act of 2000

Provides: 1. Aid for victims of terrorism and expanded OVC's authority to respond to incidents of terrorism outside the United States and of terrorism and mass violence occurring within the United States; 2. authorization for the OVC Director to increase money set aside for the Antiterrorism and Emergency Fund to $100 million and to deposit deobligated dollars from other funded program areas into this Fund; 3. an expanded list of eligible applicants for Antiterrorism and Emergency Funds for incidents of terrorism outside the U.S. to include, not only states and United States Attorneys Offices, but also victim service organizations, and public agencies (including Federal, State, or local governments), and non-governmental organizations that provide assistance to victims of crime for provision of emergency relief including crisis response efforts, assistance, training and technical assistance and on-going assistance including during any investigation and prosecution [42 U.S.C. 10603b(a)]; 4. an expanded range of support provided to victims of terrorism and mass violence beyond emergency relief to include crisis response efforts, assistance, training and technical assistance and on-going assistance; 5. for the establishment of a program to compensate victims of acts of international terrorism that occur outside the United States for associated expenses.

OVC will publish separate guidelines entitled *Antiterrorism and Emergency Fund Guidelines for Terrorism and Mass Violence Crimes* and for the International Crime Victim Compensation Program.

In addition, the Act establishes policy for international trafficking in persons and provides access to services and accommodation in immigration status for victims of severe forms of trafficking, regardless of their immigration status. It also establishes a new, non-immigrant visa classification for certain victims of severe forms of trafficking.

III. Final Program Guidelines for VOCA Crime Victim Compensation Grant Program

The Office for Victims of Crime (OVC), U.S. Department of Justice (DOJ) is publishing these Final Guidelines for the VOCA Crime Victim Compensation Grant Program (hereinafter referred to as Final Guidelines) to implement the victim compensation grant program as authorized by the Victims of Crime Act (VOCA) of 1984, as amended, 42 U.S.C. 10601, *et seq.* These Final Guidelines are in accordance with VOCA and supersede any Guidelines previously issued by OVC.

A. Preamble

OVC has administered the VOCA crime victim compensation program for fourteen years, funded hundreds of discretionary grants, hosted many focus groups with experts from various fields that serve crime victims, and responded to issues and concerns of hundreds of crime victims. Through these contacts, OVC has identified a number of emerging trends and unmet needs. OVC's partnership with states to meet the needs of all crime victims has, in some cases, resulted in statutory and policy changes. While no specific amendments have been made to VOCA to address many of these emerging issues and needs, OVC shares this information with states for consideration as they examine their programs' responsiveness to crime victims and strive to improve the range of assistance provided.

OVC has identified emerging issues and unmet needs for the following four groups of victims and crimes and acknowledges that many states already compensate crime victims in some or most of these categories.

1. Crimes Involving Threat But Not Physical Injury. Many crimes involve threat but the victims suffer no physical injury. For example, a stalking victim may be intimidated and harassed over the Internet but not physically attacked by the stalker and a robbery victim may be threatened with a weapon but not physically injured. Another example would be incidents such as school and workplace shootings in which many people are in danger but not all are physically injured or killed. In property related hate crimes, windows may be broken and graffiti painted on a home, with the intent to intimidate and cause fear in a person or family. In all of these instances, persons may be seriously traumatized by a crime but not be physically injured. States are encouraged to consider the safety and mental health needs of these victims.

2. Witnesses to Violence. The primary group considered under this category is children who witness domestic violence. In addition, in mass violence incidents, others impacted by the violence may be considered victims. States are encouraged to consider the mental health and other needs of these victims.

3. Economic Crime. Increasing attention is being directed by law enforcement officials to economic crime. While anyone can be a victim of financial fraud, often criminals target elders specifically. In addition, identity theft can damage or destroy the financial integrity of many unsuspecting adults. Economic crime can have a devastating impact on victims emotionally, physically, and financially. States are encouraged to consider the needs of these victims.

4. State Residents Who Are Victims of Crime Outside U.S. Jurisdiction. As required by VOCA, all states provide benefits under their crime victim compensation programs for victims of terrorism occurring outside the United States. Because state residents function in a global society, OVC encourages coverage of residents who are victims of crimes other than terrorism that occur when they are outside the territorial jurisdiction of the U.S. This would allow coverage to residents who are studying, conducting business, touring, and living abroad. It would also cover victims of crimes occurring on international waters.

Again, OVC's purpose in identifying the above emerging trends and unmet needs of crime victims is to challenge states to assess the comprehensiveness of their crime victim compensation programs and to provide needed background information for those states desiring to expand the scope of crimes and benefits provided to people victimized by crime. The identification of these issues does not constitute a mandate or requirement of states beyond the statutory requirements outlined in VOCA.

These VOCA Final Guidelines are outlined as follows:

I. Definitions
II. Background
III. Funding Allocations
IV. State Eligibility Criteria
V. State Certification
VI. Application Process and Performance Reporting
VII. Administrative Costs
VIII. Financial Requirements
IX. Monitoring
X. Suspension and Termination of Funding

I. Definitions

For purposes of these Final Guidelines, the following terms are defined:

A. Driving While Intoxicated. This includes drunk driving and driving under the influence of alcohol and/or other drugs. Specific definitions may be provided by state statutes, written rules, or other established policies.

B. Federal Crime. A federal crime is any crime that is a violation of the United States Criminal Code or violation of the Code of Military Justice. In general, federal crimes are investigated by federal law enforcement agencies, including the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco and Firearms (BATF), U.S. Postal Service (USPS), Department of Interior (DOI), U.S. Secret Service (USSS), U.S. Customs Service (USCS), and Immigration and Naturalization Service (INS). Federal crimes are prosecuted in Federal District Courts by U.S. Attorneys and the U.S. Department of Justice Criminal Division. Examples of Federal crimes include, but are not limited to:

1. Crimes against Federal officials
2. Crimes that take place on Federal property, including national parks and military bases, certain maritime and territorial jurisdictions, and buildings owned or leased by the Federal Government
3. Bank robberies where the bank is insured or otherwise secured by the Federal Government
4. Crimes affecting interstate activities, such as kidnaping, interstate domestic violence, and fraud via U.S. mail, telephone, or wire
5. Crimes occurring in Indian Country or on reservations, where the Federal Government has criminal jurisdiction
6. Trafficking of persons

C. Federal Program, or a federally financed State or local program is a program that provides third party reimbursement for victim expenses and includes such funding sources as Medicaid, Medicare, and CHAMPUS or provides direct Federal appropriations for organizations that provide direct services such as Indian Health Service and the Veterans' Administration.

D. Mass Violence occurring within or outside the United States. The term mass violence is not defined in VOCA or in any statute amending VOCA nor is it defined in the U.S. Criminal Code. Thus, OVC has developed a working definition of this term. The term mass violence means an intentional violent criminal act, for which a formal investigation has been opened by the Federal Bureau of Investigation or other law enforcement agency, that results in physical, emotional or psychological injury to a sufficiently large number of people as to significantly increase the burden of victim assistance and compensation for the responding jurisdiction. If there is a discrepancy between the definition provided in these Final Guidelines and the *Antiterrorism and Emergency Fund Guidelines for Terrorism and Mass Violence Crimes*, the definition in the Antiterrorism and Emergency Fund Guidelines takes precedence.

E. Mental Health Counseling and Care. Mental health counseling and care mean the assessment, diagnosis, and treatment of an individual's mental and emotional functioning. Mental health counseling and care must be provided by a person who meets state standards to provide these services.

F. Property Damage and Loss. Property damage is damage to material goods. Property loss is destruction of material goods or loss of money, stocks, bonds, etc. Property damage does not include damage to prosthetic devices, eyeglasses, other corrective lenses, dental devices, or other medically related devices.

G. Restitution. Restitution is payment made by the offender to the victim who was injured in the crime, to the legal guardian of a vulnerable adult or child victim, or to beneficiaries of the victim of homicide. Restitution does not refer to the general collection of fines, fees, and other penalties from offenders that provide basic revenue for a compensation program and are not attributable to reimbursement of payouts on a specific claim.

H. State. The term *state* includes the 50 states, the District of Columbia, the U.S. Virgin Islands, Guam, Puerto Rico and any other possession or territory of the United States.

I. Terrorism occurring within the United States. The term terrorism means an activity that... (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and (2) appears to be intended ... (a) to intimidate or coerce a civilian population, (b) to influence the policy of a government by intimidation or coercion, or (c) to affect the conduct of a government by assassination or kidnaping (18 U.S.C. 3077).

J. Terrorism Occurring Outside the United States. The *Antiterrorism and Emergency Reserve Fund Guidelines for Terrorism and Mass Violence Crimes* refers to the term terrorism, when occurring outside the United States, as international terrorism to mean an activity that... (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; (2) appears to be intended ... (a) to intimidate or coerce a civilian population; (b) to influence the policy of a government by intimidation or coercion; or (c) to affect the conduct of a government by assassination or kidnaping; and (3) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum (18 U.S.C. 2331).

II. Background

In 1984, VOCA established the Crime Victims Fund (hereinafter referred to as the Fund) in the U.S. Treasury to receive deposits from fines, penalties, and bond forfeitures levied on criminals convicted of federal crimes. The Fund is administered by OVC to support the activities authorized by VOCA.

OVC makes annual VOCA crime victim compensation grants from the Fund to eligible states and territories. The primary purpose of these grants is to supplement state efforts to provide financial assistance and reimbursement to crime victims throughout the Nation for costs associated with crime, and to encourage victim cooperation and participation in the criminal justice system.

With the exception of most property damage and loss as explained in these Final Guidelines, state crime victim compensation programs may use VOCA compensation grant funds to pay for eligible expenses allowed by state compensation statute, rule, or other established policy.

III. Funding Allocations

A. Distribution. By statute, deposits are to be allocated as follows:

1. Child Abuse Prevention and Treatment Grants. Up to $20 million [1] of the first amounts deposited in the Fund are allocated to Child Abuse Prevention and Treatment Grants. Of these funds, 85 percent are forwarded to the Department of Health and Human Services. The remaining 15 percent is retained by OVC to assist Native American Indian tribes in developing, establishing and operating child abuse programs.

2. Federal Criminal Justice System. Specific amounts are earmarked by Congress annually for improving services for the benefit of crime victims in the Federal criminal justice system.

3. Remaining Fund Deposits. The remaining fund deposits are distributed as follows:

a. Victim Compensation Grants. Forty-eight and one half percent (48.5%) is available to eligible state programs for crime victim compensation.

b. Victim Assistance Grants. Forty-eight and one half percent (48.5%) is available to states for victim assistance grants. Unused funds from the victim compensation portion of the deposits are added to this amount.

c. Discretionary Grants. Three percent (3%) is available to OVC for demonstration projects, training and technical assistance grants, and financial support for services to victims of federal crime.

d. Antiterrorism and Emergency Fund. If monies in the Fund are sufficient to fully provide VOCA grants to the states, and deposits total 110 percent of the previous fiscal year, or if any funds are deobligated, the OVC director may retain up to $100 million in an emergency fund. These funds are to be used (1) for Victims of terrorism within and outside the United States and for victims of other mass violence crimes; (2) for supplementing State Compensation and Assistance Programs' basic state compensation and assistance awards at the discretion of the OVC Director; and (3) to pay benefits under the newly authorized international compensation program.

B. Grant Period. Victim compensation grant funds are available for expenditure throughout the fiscal year (FY) of the award plus the next three fiscal years. The federal fiscal year (FFY) begins on October 1 and ends on September 30. State crime victim compensation programs may pay compensation claims retroactively to October 1, even though the VOCA grant may not be awarded until later in the fiscal year.

C. VOCA Victim Compensation Grant Formula. The Director of OVC is required to make an annual grant to eligible crime victim compensation programs that is equal to 40 percent of the amount awarded by the state program to victims of crime from state revenues during the fiscal year preceding the year of deposits in the Fund (two years prior to the grant year). If the amount in the Fund is insufficient to award each state 40 percent of its prior year's compensation payout from state revenues, all states will be awarded the same reduced percentage of their prior year payout from the available funds.

To determine the amount available, each state must submit with its annual application a certification of the amount expended by the crime victim compensation program in the previous federal fiscal year. See Section V. for additional information.

IV. State Eligibility Criteria

A. Grantee. The grantee must be an operational state-administered crime victim compensation program. A new compensation program is entitled to a VOCA grant after it has awarded benefits that can be matched under VOCA. VOCA may not be used as start-up funds for a new state compensation program. In the event that a state chooses to administer its compensation program in a decentralized fashion, the state remains accountable to VOCA for expenditure of these funds.

B. Program Requirements. For a state to meet or maintain eligibility for a VOCA crime victim compensation grant, it must satisfy the following requirements:

1. Compensable Crimes.

(a) VOCA Mandated Crimes. At a minimum, VOCA specifically requires the grantee to offer compensation to crime victims and survivors of victims of criminal violence for certain identified expenses (see below) resulting from physical injury from a compensable crime as defined by the state. VOCA requires that states include as compensable crimes those crimes whose victims suffer death or physical injury as a result of terrorism, driving while intoxicated, and domestic violence.

In addition, VOCA requires that states include as compensable crimes those crimes whose victims suffer death or personal injury as a result of the intentional or attempted defacement, damage, or destruction of any religious real property because of (1) its religious character or the obstruction, by force or threat of force, of any person's enjoyment of the free exercise of religious beliefs when the crime is covered by interstate or foreign commerce; (2) the race, color, or ethnic characteristics of any individual associated with the religious property.

(b) Coverage of Other Crimes. VOCA places priority on violent crime, but it does not prohibit coverage of nonviolent

[1] In any fiscal year in which Fund deposits are greater than the amount deposited in fiscal year 1998, an amount equal to 50 percent of the increase in the amount from fiscal year 1998 shall be available for Child Abuse Prevention and Treatment Grants in addition to the base amount of $10 million. The total amount allocated for Child Abuse Prevention and Treatment grants for any fiscal year cannot exceed $20 million.

crime. States may choose to broaden the range of compensable crimes to include those involving threats of injury or economic crime where victims are traumatized but not physically injured. In doing so, they may include payments to victims for compensable expenses for these crimes on the state's certification of funds expended for the compensation program.

2. Compensable Expenses.

(a) VOCA Mandated Expenses. At a minimum, VOCA requires states to award compensation for the following expenses when they are attributable to a physical injury resulting from a compensable crime:

i. Medical Expenses. This may include eyeglasses and other corrective lenses, dental services, prosthetic or other devices, and other services rendered in accordance with a method of healing recognized by state law.

ii. Mental health counseling and care.

iii. Lost wages.

iv. Funeral expenses attributable to a death resulting from a compensable crime.

(b) Other Allowable Expenses. State grantees may offer compensation for other types of expenses *as authorized by state statute, rule, or other established policy.*

(i) Property Damage and Loss. Amounts awarded for property damage and loss cannot be included in the amount certified as a basis for the award of VOCA compensation grants except as listed under Section IV.B.2(b)(ii)4&5 of these Final Guidelines.

(ii) In addition to VOCA mandated expenses, other allowable expenses may be included in the certified payout amount such as:

1. Travel and transport for survivors of homicide victims to secure bodies of deceased victims from another country or state.

2. Temporary lodging.

3. Necessary building modification and equipment to accommodate physical disabilities resulting from a compensable crime.

4. Replacement costs for clothing and bedding held as evidence.

5. Replacement or repair of windows and locks.

6. Crime scene cleanup, as defined by state statute, rule or other established policy. Crime scene cleanup does not include replacement of lost or damaged property, except for locks and windows, and for clothing and bedding held as evidence.

7. Attorneys' fees related to a victim's claim for compensation, for establishing guardianship, settling estates, and other activities related to the crime.

8. Payments related to forensic sexual assault examinations (1) If such payments are made from funds administered by the compensation programs and are allowable under state statute, rule, or other established policy; and (2) to the extent that other funding sources such as state appropriations specifically earmarked for these exams are unavailable or insufficient.

9. Dependent care to allow victims to participate in criminal justice activities or secure medical treatment and rehabilitation services.

10. Financial counseling services for victims of economic crime, domestic violence, survivors of homicide victims, and other victims faced with financial difficulty as a result of a crime. Allowable activities provided to crime victims by financial counselors include but are not limited to: analysis of a victim's financial situation such as income producing capacity and crime related financial obligations; assistance with restructuring budget and debt; assistance in accessing insurance, public assistance and other benefits; assistance in completing financial impact statements for criminal courts; and assistance in settling estates and handling guardianship concerns. Financial counseling must be provided by a person who meets state standards for provision of this service.

11. Pain and suffering.

12. Annuities for loss of support for children of victims of homicide.

3. Victim Cooperation With Law Enforcement. Crime victim compensation programs must promote victim cooperation with the reasonable requests of law enforcement authorities. State crime victim compensation programs maintain the authority and discretion to establish their own standards for victim cooperation with the reasonable requests of law enforcement.

VOCA's cooperation with the reasonable requests of law enforcement requirement may be fulfilled by using the following criteria or by any other criteria the state believes is necessary and acceptable to encourage and document victim cooperation with law enforcement. For example, a state may:

a. Require a victim to report the crime to a law enforcement agency;

b. Require a victim to report the crime to an appropriate government agency, such as child and/or adult protective services, family court, or juvenile court;

c. In the case of a child or a vulnerable adult, accept a crime report to law enforcement or to a child or adult protective services agency from a mandated reporter or other person knowledgeable about the crime;

d. Accept proof of the completion of a medical evidentiary examination, such as medical reports, x-rays, medical photographs, and other clinical assessments as evidence of cooperation with law enforcement.

4. Nonsupplantation. The state must certify that grants received under VOCA will not be used to supplant state funds otherwise available to provide crime victim compensation benefits or to administer the state crime victim compensation program. States may not decrease their financial commitment to crime victim compensation solely because they are receiving VOCA funds for the same purpose. Expenditure of VOCA funds received based on state certified payouts from previous years does not constitute supplantation.

5. Compensation for Residents Victimized Outside Their Own State. A state must provide compensation to state residents who are victims of crimes occurring outside the state if the crimes would be compensable crimes had they occurred inside that state and the crimes (1) occurred in a state without an eligible VOCA crime victim compensation program, or (2) in cases of terrorism, occurred outside the territorial jurisdiction of the United States. The state must make these awards according to the same criteria used to make awards to those who are victimized while in the state.

6. Compensation for Nonresidents of a State. The state, in making awards for compensable crimes occurring within the state, must make compensation awards to nonresidents of the state on the basis of the same criteria used to make awards to victims who are residents of the state.

7. Victims of Federal Crime. The state must provide compensation to victims of federal crimes occurring within the state on the same basis that the program provides compensation to victims of state crimes.

8. Unjust Enrichment. States cannot deny compensation to a victim based on the victim's familial relationship to the offender or because the victim shares a residence with the offender. States must adopt a rule or other written policy to avoid unjust enrichment of the offender, but it cannot have the effect of denying compensation to a substantial percentage of victims of violence perpetrated by family members or others with whom the victim shares a residence. In developing a rule, or other written policy, states are encouraged to consider the following:

a. The legal responsibilities of the offender to the victim under the laws of the state and collateral resources available from the offenders to the victim. For example, legal responsibilities of the offender may include court-ordered restitution or family support under the domestic, marital property or child support laws of the state. Collateral resources may include insurance or pension benefits available to the offender to cover the costs incurred by the victim as a result of the crime. Victims of family violence must not be penalized when collateral sources of payment are not viable. Examples of such situations include when the offender refuses to, or cannot, pay restitution or other civil judgments within a reasonable period of time or when the offender impedes direct or third party (i.e., insurance) payments.

b. Payments to victims of family violence that only minimally or inconsequentially benefit offenders. These payments are not considered unjust enrichment. For example, denial of medical or dental expenses solely because the offender has legal responsibility for the charges, but is unwilling or unable to pay them, could result in the victim not receiving treatment. When indicated, the state has the option of seeking reimbursement from the offender.

c. Consultation with social services and other concerned government entities, and with private organizations that support and advocate on behalf of victims of violence perpetrated by family members.

d. The special needs of child witnesses to violence and child victims of criminal violence, especially when the perpetrator is a parent who may or may not live in the same residence.

9. Discrimination Prohibited. No person shall on the grounds of race, color, religion, national origin, disability, or sex, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under VOCA. States must comply with these VOCA nondiscrimination requirements, the Federal civil rights statutes and regulations cited in the Assurances that accompany the grant award document, and all other applicable civil rights requirements. States with decentralized operations must assure that all operations comply with these requirements.

10. Additional Information Requested by the OVC Director. The state must provide other information and assurances as the Director of OVC may reasonably require.

C. VOCA Funds and Collateral Federal Programs

1. Means Testing. Federal, state, or local government programs that use federal funds are prohibited from including victim compensation benefits when determining income eligibility for an applicant, until the total amount of medical or other assistance that the applicant receives from all programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime. VOCA requires this policy when an applicant needs medical or other assistance, in full or in part, because of the commission of a crime against the applicant. VOCA gives the OVC Director authority to determine whether such medical or other assistance is necessary to an applicant for victim compensation because of the commission of a crime against the applicant. Through these Final Guidelines, the Director's authority is delegated to state VOCA crime victim compensation administrators.

2. Payor of Last Resort. The compensation program is the payor of last resort with regard to federal or federally financed programs. When a victim is eligible to receive benefits from a federal program such as Veterans' benefits, Medicare, and Social Security Disability or federally financed state or local program, such as Medicaid the state compensation program shall not use VOCA funds to pay costs that another federal or federally financed program covers. The federal or federally financed program must make payments without regard to benefits awarded to a crime victim by a state crime victim compensation program.

To facilitate victim access to other funding resources, OVC recommends that VOCA compensation administrators coordinate their activities and provide appropriate referrals to other programs that provide financial assistance and services to crime victims, whether funded by federal, state or local governments. Examples of such programs include worker's compensation, vocational rehabilitation, and VOCA victim assistance subgrantee programs. Outreach to other programs can result in mutual understanding of eligibility requirements, application processing, time lines, and other program specific requirements. As payor of last resort, it is in the compensation program's discretion to make exception for victim needs that are not adequately met by collateral sources. Additionally, this provision does not mandate that states require victims to apply for or use other federally funded programs prior to accessing the crime victim compensation program.

V. State Certifications

State grantees must provide information about crime victim compensation claim payouts including all available funding sources, deductions, and recovery costs on a certification form provided by OVC. The Office of Budget and Management Services, Office of Justice Programs, uses this information to calculate allocations for VOCA eligible crime victim compensation programs.

A. Program Revenue. States must report on the certification form all sources of revenue to the crime victims compensation programs during the federal fiscal year. In some instances, funds are made available to the crime victim compensation programs from other departments or agencies, from supplemental appropriations, donations, or unspent funds carried over from prior years. The amount of certified revenue, excluding VOCA funds, but including all other sources, including carried over funds, must meet or exceed the amount of certified payments to crime victims.

B. Program Expenditures. The total amount to be certified by the state program must include only those amounts paid from state funding sources that are allowable under Section IV.B.1&2 to, or on behalf of, crime victims during the federal fiscal year (October 1 to September 30).

C. Amounts to be Excluded. Compensation for property damage or loss except for items found in Section IV.B.2.(b)ii.4&5 of these Final Guidelines; audit costs; personnel costs; costs related to the collection of offender fines, fees, penalties, and other revenues that provide basic program funding; and, any other program administrative costs.

D. Deductions. Deductions are receipts or refunds that offset or reduce expense items that are allocable to a particular crime victim compensation claim. These include funds received through a state's subrogation interest in a claimant's civil law suit recovery, restitution, refunds, or other reimbursements. For purposes of applicable credits, the term *restitution* means payment made by the offender to the victim who was injured in the crime, to the legal guardian of a vulnerable adult or child, or to beneficiaries of the victim of homicide.

Restitution does not refer to the costs of general collection of fines, fees and other penalties from offenders that provides the basic revenue for the compensation program and are not attributable to reimbursement of payouts on a specific claim. Refunds include amounts from overpayment, erroneous payments made to claimants, and uncashed checks. Additional guidance regarding applicable credits

can be found in *OMB Circular A–87, Cost Principles for State and Local Governments.*

F. Recovery Costs. Salary and benefits costs for personnel directly involved in recovery efforts may be offset against the amount of income received from such reimbursement. Recovery efforts are those activities that are directly attributable to obtaining restitution, refunds, and other reimbursements for the expenses of specific crime victims who have received compensation from the state program. Expenses shall be limited to the percentage of those salaries and benefits incurred by the state for individual employees whose primary responsibilities (not less than 75 percent of each individual employee's work time) are directly and specifically related to recovering restitution and other reimbursements on behalf of compensated victims. Additional allowable recovery costs are garnishment fees, service of legal documents, costs of legal publication, and subpoena fees related to collecting reimbursements. Recovery costs cannot be claimed for employees whose salary and benefits are derived from federal administrative grant funds. Recovery costs do not include the collection of fines, fees, and other penalties that provide the basic revenue for the compensation program and are not identifiable to reimbursement of payouts on a specific victim claim.

G. Sources of Payments to Crime Victims. There is no financial requirement that state compensation programs identify the source of individual payments to crime victims as either federal or state dollars, nor are there any requirements that restitution recoveries or other refunds be tracked to federal or state dollars paid out to the victim.

H. Incorrect Certifications. If it is determined that a state has made an incorrect certification of payments of crime victims compensation from state funding sources and a VOCA crime victim compensation grant is awarded in error, one of the following two courses of action will be taken:

1. Overcertification. In the event that an overcertification comes to the attention of OVC or the Office of the Comptroller, OJP, the necessary steps will be taken to recover funds that were awarded in error. OVC does not have the authority to permit states to keep amounts they were not entitled to as a result of overcertification. Generally, it is the policy of OVC to reduce the amount of the subsequent year VOCA victim compensation award by the amount of the overpayment.

2. Undercertification. If a state undercertifies amounts paid to crime victims, OVC and the Office of the Comptroller, OJP, will not supplement payments to the state to correct the state's error since this would require recalculating allocations to every state VOCA compensation and assistance program and cause disruption in administration of these programs.

VI. Application Process and Performance Reporting

A. Application for Federal Assistance. Each year, OVC issues to each eligible state an application package that contains the necessary forms and detailed information required to apply for VOCA crime victim compensation grant funds. The amount for which each state may apply is included with the application package. States shall use the Standard Form 424, *Application for Federal Assistance,* and its attachments to apply for VOCA victim compensation grant funds. Applications for VOCA crime victim compensation grants may only be submitted by the state agency designated by the governor to administer the VOCA victim compensation program and grant.

Completed applications must be submitted on or before the stated deadline, as determined by OVC. If an eligible state fails to apply for its crime victim compensation allocation by the prescribed deadline, OVC will redistribute federal VOCA crime victim compensation dollars to the VOCA victim assistance grant program, after all states have received the statutorily prescribed percentage of their prior years' payout.

B. Annual Performance Report. States receiving VOCA crime victim compensation grant funds must submit an annual OVC Performance Report. The Performance Report is due January 15 of each year for the preceding federal fiscal year.

VII. Administrative Costs

A. Administrative Costs Allowance. VOCA allows states to use up to 5 percent of crime victim compensation grant funds for administering the crime victim compensation grant program. Any portion of the allowable 5 percent that is not used for administrative purposes must be used for awards of compensation to crime victims.

The intent of this provision is to support and advance program administration in all operational areas including claims processing, staff development and training, public outreach, and program funding by supporting activities that will improve program effectiveness and service to crime victims. If a state elects to use up to 5 percent of the VOCA compensation grant for administrative purposes, only those costs directly associated with administering the program, enhancing overall program operations, and ensuring compliance with federal requirements can be expended with administrative grant funds. State grantees are not required to match the portion of the grant that is used for administrative purposes. The state administrative agency may charge a federally approved indirect cost rate to this grant, but this cost is capped by the limits of these 5 percent administrative funds.

States must certify that VOCA funds used for administrative purposes will not supplant state or local funds but increase the amount of funds available for administering the compensation program. For the purpose of establishing a baseline level of effort, states must maintain documentation on the overall administrative commitment of the state prior to their use of VOCA administrative grant funds. State grantees will not be in violation of the nonsupplantation clause if there is a decrease in the state's previous financial commitment toward the administration of the VOCA grant programs in the following situations: (1) if serious loss of revenue occurs at the state level, resulting in across-the-board budget restrictions, and (2) if there is a decrease in the number of state-supported staff positions used to meet the state's effort in administering the VOCA grant programs. State grantees using administrative funds must notify OVC if there is a decrease in the amount of its previous state financial commitment to the cost of administering the VOCA program.

Only staff activities directly related to compensation functions can be funded with VOCA administrative funds. Similarly, any equipment purchases or other expenditures charged to the VOCA administrative funds can be charged only in proportion to the percentage of time used by the compensation program.

B. Allowable Costs. Allowable administrative costs include but are not limited to, the following:

1. Salaries and benefits for staff and consultant fees to administer and manage the financial and programmatic aspects of the crime victim compensation program. Staff supported by administrative funds under the VOCA crime victim compensation grant must work directly for the compensation program in the same proportion as their level of support from VOCA grant funds. If the staff performs other functions unrelated to the provision of compensation to crime victims, the proportion of time spent working on the compensation program must be documented using some reasonable method of valuation at regular measurable intervals, e.g., time and attendance records. The documentation must provide a clear audit trail for the expenditure of grant funds.

Temporary or periodic personnel support, such as qualified peer reviewers for medical and mental health claims, and data processing support services are also allowable. These services may be obtained through means deemed acceptable by state administrative procedures.

2. Training and technical assistance includes attendance at training and technical assistance meetings and conferences that address issues relevant to state administration of victim compensation programs. Allowable costs may include travel, registration fees, and other such expenses.

3. Monitoring compliance with federal and state requirements.

4. Automation, including the study, design, and implementation of claims processing and other relevant systems; purchase and maintenance of equipment for the state grantee, including computers, software, FAX machines, copying machines, and TTYs; and services required to support the use of technology to enhance services to crime victims.

5. Training to victim services providers, criminal justice personnel, and health, mental health and social services providers about the crime victim compensation program.

6. Memberships in crime victim organizations and victim-related informational materials.

7. Prorated program audit costs for the crime victim compensation program.

8. Indirect costs at a federally approved rate that, when applied, does not exceed the 5 percent administrative cost allowance.

9. Participation in improving coordination efforts on behalf of crime victims with other federal, state, and local agencies and organizations. This includes development of protocols, policies, and procedures that promote coordination of victim compensation with other financial and victim service programs that improve responses to crime victims. Such participation includes the development and coordination of criminal crisis response teams.

10. Informational materials including development of applications, brochures, posters, training manuals and other relevant publications that describe the compensation application process, eligibility criteria, and the range of benefits available for crime victims. This includes related printing costs.

11. Development of strategic and financial plans, conduct of surveys, and needs assessments, survey of victim satisfaction with the program, and employment of geographic information systems (GIS) technology for planning.

12. Toll-free telephone numbers, Internet access to claim information, and other such program enhancements.

C. Requirements to Notify OVC of Use of Administrative Funds. State grantees that elect to use administrative funds under the VOCA compensation grant are required to include with their annual application, notification of their intent to use administrative funds, the percentage of funds, and the purposes for which they will be used. Grantees will be expected to include in their annual performance report, documentation of actual use of administrative funds.

D. Confidentiality of Research Information. Except as otherwise provided by federal law, no officer or employee of the Federal Government or recipient of monies under VOCA shall use or reveal any research or statistical information gathered under this program by any person, and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained, in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

This provision is intended, among other things, to assure confidentiality of information provided by crime victims to employees of VOCA-funded victim compensation programs. However, there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a state's existing law governing the disclosure of information, which is supportive of VOCA's fundamental goal of helping crime victims. For example, this provision would not act to override or repeal, in effect, a state's existing law pertaining to the mandatory reporting of a suspected child abuse. See Pennhurst State School and Hospital vs. Halderman, et al., 451 U.S. 1 (1981).

VIII. Financial Requirements

As a condition of receiving a grant, states must agree to ensure adherence to the general and specific requirements of the *OJP Financial Guide* (effective edition) and all applicable OMB Circulars and Common Rules. This includes the maintenance of books and records in accordance with generally accepted government accounting principles. For copies of the *OJP Financial Guide,* call or write the OJP Office of the Comptroller, 810 7th Street NW., Washington, DC 20531, Customer Service Center 1/800–458–0786; or visit the website at: www.ojp.usdoj.gov/FinGuide/

IX. Monitoring

A. Office of the Comptroller/General Accounting Office/Office of the Inspector General. The U.S. Department of Justice, Office of Justice Programs, Office of the Comptroller; the General Accounting Office; and the U.S. Department of Justice, Office of the Inspector General, conduct periodic reviews of the financial policies and procedures and records of VOCA state grantees. Therefore, upon request, states must provide authorized representatives with access to examine all records, books, papers, case files, or other documents related to the expenditure of funds received under this grant.

B. Office for Victims of Crime. OVC conducts onsite monitoring in accordance with its monitoring plan. While on the site, OVC personnel review various documents and files including (1) Program manuals; (2) procedures; (3) program reports; (4) claimant application, eligibility requirements, and determination and appeal process; (5) a random sampling of victim compensation claim files; and (6) other applicable state records and files. Grantees are notified in writing of their compliance with requirements of VOCA.

X. Suspension and Termination of Funding

If, after reasonable notice to the grantee, OVC finds that a state has failed to comply substantially with the following: VOCA, the state's application for funding, the *OJP Financial Guide* (effective edition), the Final VOCA Crime Victim Compensation Grant Program Guidelines, or any implementing regulation or federal requirements, the OVC Director may suspend or terminate funding to the state and/or take other appropriate action. Under the procedures of 28 CFR part 18, states may request a hearing on the record on the justification for the suspension and/or termination of VOCA funds.

Dated: May 10, 2001.

Kathryn M. Turman,

Director, Office for Victims of Crime.

[FR Doc. 01–12256 Filed 5–15–01; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Institute of Museum and Library Services, Office of Research and Technology

Submission for OMB Review, Comment Request; Museum School Partnership Research

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Notice.

SUMMARY: The Institute of Museum Services has submitted the following public information request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). Currently, the Institute of Museum and Library Services is soliciting comments concerning a new collection entitled, Museum School Partnership Research. A copy of the proposed instrument, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director, Office of Research and Technology, Rebecca Danvers (202) 606–2478. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–8636.

Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316, by June 15, 2001.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

BACKGROUND:

Type of Review: New.
Agency: Institute of Museum and Library Services.
Title: Museum School Partnership Research.
OMB Number: N/A.
Affected Public: Museums.
Total Respondents: 1,500.
Frequency: Once.
Total Responses: 1,500.
Average Time per Response: 90 minutes.
Estimated Total Burden Hours: 2,250 hours.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $0.

FOR FURTHER INFORMATION CONTACT: Mamie Bittner, Director, Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

Dated: May 10, 2001.

Mamie Bittner,

Director, Public and Legislative Affairs.

[FR Doc. 01–12262 Filed 5–15–01; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–390, 50–327, 50–328, 50–269, 50–260, 50–296; License Nos. NPF–90, DPR–77, DPR–79, DPR–33, DPR–52, DPR–68 EA 99–234]

Tennessee Valley Authority, Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 & 2, Browns Ferry Nuclear Plant, Units 1, 2 & 3; Order Imposing Civil Monetary Penalty

I

Tennessee Valley Authority (Licensee) is the holder of Operating License Nos. NPF–90, DPR–77, DPR–79, DPR–33, DPR–52, DPR–68, issued by the Nuclear Regulatory Commission (NRC or Commission) on February 7, 1996, September 17, 1980, September 15, 1981, December 20, 1973, August 2, 1974, and July 2, 1976. The licenses authorize the Licensee to operate Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 and 2, and Browns Ferry Nuclear Plant, Units 1, 2, and 3, in accordance with the conditions specified therein.

II

An investigation of the Licensee's activities was completed on August 4, 1999. The results of this investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 7, 2000. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in letters dated January 22, 2001, and March 9, 2001. In its response, the Licensee denied the violation and protested the proposed imposition of a civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of $110,000 within 30 days of the date of this Order, in accordance with NUREG/BR–0254. In addition, at the time of making the payment, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region II, 61 Forsyth Street, SW., Suite 23T85, Atlanta, Georgia 30303–8931.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and

(b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland, this 4th day of May 2001.

For the Nuclear Regulatory Commission.

William F. Kane,

Deputy Executive Director for Regulatory Programs.

[FR Doc. 01–12340 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Louisiana License Nos. LA–0577–L01; LA–7112–L01; LA–10207–L01]

Request for Exemption From 10 CFR 34.20, Performance Requirements for Industrial Radiography Equipment; Environmental Assessment, Finding of No Significant Impact, and Notice of Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission is considering authorizing Global X-ray & Testing Corporation, Bayou Testing Services Inc, Accurate NDE & Inspection L.L.C., and others an exemption to use pipeliner style radiography devices on lay barges in the Gulf of Mexico.

Environmental Assessment

Identification of the Proposed Action

Global X-ray & Testing Corporation, Morgan City, Louisiana; Bayou Testing Services, Inc, Amelia, Louisiana; Accurate NDE & Inspection L.L.C., Opelousas, Louisiana, (the applicants) are licensed by the State of Louisiana to conduct industrial radiography operations. They have requested, in letters dated July 11, 2000, August 28, 2000, and September 18, 2000, respectively, that the United States Nuclear Regulatory Commission (NRC) grant them reciprocity, and an exemption from 10 CFR 34.20(a)(1), to use their pipeliner type radiography cameras (pipeliners) for pipeline radiography, on lay barges, in areas under exclusive Federal jurisdiction, within the Gulf of Mexico. Pipeliners are older model radiography cameras that do not meet the requirements of 10 CFR 34.20(a)(1). These regulations require equipment, used in industrial radiographic operations, to meet the requirements in ANSI N432–1980 [1]. Each of the applicants are allowed to conduct similar operations in the State of Louisiana under an exemption granted in their state licenses, and they are requesting NRC exemptions under 10 CFR 150.20 "Recognition of Agreement States Licenses" (Reciprocity).

Need for the Proposed Action

The exemption is needed so that the applicants can conduct pipeline radiography on lay barges. The applicants contend that due to the design of the lay barges, and the limited space available, the pipeliner is the only device of its kind that will keep up with production rate on a lay barge, while at the same time provide a safe working environment for their radiographers and barge personnel.

Environmental Impacts of the Proposed Action

There will be no significant environmental impact from the proposed action due to the fact that no radioactive material is being released into the environment, and all of the radioactive material is wholly contained within the radiography camera, which is only used in an enclosed radiography stall on a lay barge.

During normal operation the external radiation dose levels will not be significantly greater than an approved radiography camera's normal operating external radiation dose levels. Compensatory safety measures will be in place at all times during the operation of the pipeliner device.

Alternatives to the Proposed Action

As required by section 102(2)(E) of NEPA (42 U.S.C. 4322(2)(E)), possible alternatives to the final action have been considered. The only alternative is to deny the exemption. This option was not considered practical, and there would be no gain in protecting the human environment. Denying the exemption request would force the applicants to revert to radiography cameras that are designed to meet ANSI N432–1980, but, according to the applicants, these cameras would not be easily adaptable to lay barge operations. The newer cameras would be similar to the pipeliners in that their radioactive material is housed as a sealed source and there would be no release of material to the environment. However, the newer cameras have associated equipment, such as a drive cable and guide tube, that would require additional space to perform radiography on pipelines. According to the applicant, this equipment becomes cumbersome and may get in the way as the pipe is moved through the lay barge. In the newer devices, the sealed source would have to be cranked out of the shielded position in the camera housing through a guide tube to the exposure head location where the radiograph takes place. Because this "crank out" action causes the source to be unshielded while the source is cranked out to the exposure head, the "restricted area" boundary must be increased and could cause a greater potential exposure to non-radiography personnel on the lay barge.

Alternative Use of Resources

No alternative use of resources was considered due to the reasons stated above.

Agencies and Persons Consulted

The State of Louisiana was contacted by telephone on 04/18/01 regarding this proposed action. The State of Louisiana did not object to the proposed action and had no additional comments.

Identification of Sources Used

Letters from the applicants to U.S. Nuclear Regulatory Commission, Region IV, Re: Global X-ray & Testing Corporation, Louisiana License No. LA–0577–L01, July 11, 2000; Bayou Testing Services Inc., Louisiana License No. LA–7112–L01, August 28, 2000; Accurate NDE & Inspection L.L.C., Louisiana License No. LA–10207-L01, September 18, 2000.

Finding of No Signiticant Impact

Based on the above environmental assessment, the Commission has concluded that environmental impacts that would be created by the proposed action would not have a significant

[1] "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography (ANSI N432–1980)." (published as NBS Handbook 136, issued January 1981).

effect on the quality of the human environment and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The applicants applications are available for inspection and copying for a fee in the Region IV Public Document Room, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011–8064. The documents may also be viewed in the Agency-wide Documents Access and Management System (ADAMS) located on the NRC website at www.nrc.gov.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this action may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852), and on the applicants, Global X-ray & Testing Corporation, PO Box 1536, Morgan City, Louisiana 70381; Bayou Testing Services Inc, PO Box 1065, Amelia, Louisiana 70340; Accurate NDE & Inspection L.L.C., P.O. Box 1298, Opelousas, Louisiana 70571–1298 and must comply with the requirements for requesting a hearing set forth in the Commission's regulations, 10 CFR Part 2, Subpart L, "Information Hearing Procedures for Adjudications in Materials Licensing Proceedings."

These requirements, which the request must address in detail, are:

1. The interest of the requestor in the proceeding;
2. How that interest may be affected by the results of the proceeding (including the reasons why the requestor should be permitted a hearing);
3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for hearing is timely—that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 9th day of May, 2001.

For the Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Materials Safety and Inspection Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–12339 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143]

Environmental Assessment and Finding of No Significant Impact of License Amendment for Nuclear Fuel Services, Inc., and Notice of Opportunity To Request a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Amendment of Nuclear Fuel Services, Inc., Materials License SNM–124 to Approve Partial Site Decommissioning Plan.

The U.S. Nuclear Regulatory Commission is considering the amendment of Special Nuclear Material License SNM–124 to approve the North Site Decommissioning Plan at the Nuclear Fuel Services, Inc., facility located in Erwin, TN, and has prepared an Environmental Assessment in support of this action.

ENVIRONMENTAL ASSESSMENT

1 Introduction

1.1 Background

Nuclear Fuel Services, Inc. (NFS) began operations at the Erwin, Tennessee facility in 1957. From then until 1981, portions of the North Site (NS) area were used for disposal of radioactive waste in accordance with 10 CFR 20.304. Since that time, the area has not been used for licensed operations. In 1991, NFS began partial remediation of the NS. These activities included removing the sludges from Ponds 1, 2, and 3, and removal of accessible waste in the Pond 4 area under authorization from the US Nuclear Regulatory Commission (NRC). Excavation of the (§ 20.304) burial area began in 1997. All previous work is authorized by license amendment and is not the subject of this environmental assessment. By request for license amendment dated July 30, 1999 (NFS North Site Decommissioning Plan, Rev. 1), NFS requested authorization to use the land use scenarios and residual radioactive concentrations described below to meet the requirements of suitability for release for unrestricted use as defined in NRC regulations. NFS has no plans at this time to release the NS area from their NRC license.

In 1997, NRC issued radiological criteria for license termination in 10 CFR part 20 subpart E. Section 20.1402 defines the radiological criteria for suitability for unrestricted use: 25 mrem/yr total effective dose equivalent from all pathways. As part of the rule-making to institute this regulation, an environmental impact statement determined that there was no significant impact on human health and safety at this level of exposure.

1.2 Geographic and Temporal Boundaries of the Environmental Assessment (EA)

The geographic scope of this EA is limited to the NS area of the NFS site, as defined in NRC license SNM–124. At the time of license termination for the entire NFS site, the results of the NS area final status survey may be reassessed in order to incude any possible dose contribution from the NS area in the dose assessment for the entire site and any impact from possible recontamination of the NS area.

Consistent with 10 CFR part 20, subpart E, the time of compliance for deriving the proposed cleanup levels is 1,000 years. Evaluation of dose impacts past this point is not considered to be necessary. When predicting thousands of years into the future, uncertainties become very large because of major potential changes in the hydrogeologic regime at the site over such long periods of time. The consequences of exposure to residual radioactivity levels such as those proposed are small and considering the large uncertainties, long-term modeling of possible doses would have little value. In addition, because of the long half-lives of the radioactive materials in question, no significant changes in potential impacts are anticipated until thousands of years after release.

2 Purpose and Need for Proposed Action

The licensee is remediating the North Site area so that it will be suitable for unrestricted use in accordance with the criteria in 10 CFR 20.1402. This action is required by 10 CFR 70.38 (Timeliness Rule) and a 1994 NRC Order.

3 Description of Proposed Action

Approval of the license amendment request will authorize decommissioning of the North Site by removal of contaminated soil to levels at or below the proposed derived concentration guideline levels (DCGLs) presented in Table 1. These levels were calculated using the RESRAD computer code so that the indicated concentration of a single isotope would comply with a dose limit of 25 mrem/yr specified in 10 CFR 20.1402. If multiple isotopes are present, the individual concentration limits will be reduced to comply with the dose limit. Meeting these levels will permit release of the property for unrestricted use. Groundwater encountered during soil excavation will be pumped and treated at either the Wastewater or Groundwater Treatment Facilities. Upon completion of soil remediation, a final status survey of the North Site will be performed. Backfill of remediated areas with clean soil will begin after the final status survey demonstrates the area has been sufficiently decommissioned. Groundwater will be monitored for several years after excavation to determine uranium levels once residual radioactivity in soil is reduced to acceptable levels.

Also, pursuant to the hazardous waste permit issued to NFS in 1991–1993 under Resource Conservation and Recovery Act/Hazardous and Solid Waste Amendments (RCRA/HSWA) authority, EPA and TDEC are also requiring NFS to conduct appropriate monitoring, groundwater pilot studies and remediation until the EPA and Tennessee drinking water standards for hazardous and radioactive constituents are satisfied. This permit will also be used to establish and enforce any necessary institutional controls.

3.1 Proposed Action: Release for Unrestricted Use

The proposed action is to remove solid waste material from the existing burial areas, previously disposed in accordance with 10 CFR 20.304, and to remove contaminated material and soil until the residual concentrations of radionuclides are at or below those shown in Table 1. The major activities include the following:

Remove Building 400, surrounding tanks, utilities, and structures.[1]

Decontaminate and Decommission (D & D)[2] area north of Banner Spring working east to west. The excavation area is bounded by Banner Spring Branch and the security zone.

Relocate or temporarily reroute Banner Spring Branch and the plant drainage system.

D&D Banner Spring Branch streambed and Ponds 1 and 2.

D&D Banner Spring Branch outside the protected area.

D&D security zone areas.

D&D northwest area.

Remove 205 Substation and the guard tower and D&D area.

Remove Building 410 and D&D area.

TABLE 1—SOIL/SEDIMENT DCGLS[1] (pCi/g) FOR NORTH SITE DECOMMISSIONING

Radionuclide	DCGL[2,3]
U-238	306
U-235	74
U-233/234[4]	642
Th-232	3.7
Th-230	17
Am-241	130
Pu-242	148
Pu-241	4365
Pu-240	141
Pu-239	140
Pu-238	155
Tc-99	414

[1] Values are for single nuclides; actual residual concentrations will be calculated using unity rule.

[2] Ingrowth of daughters radionuclides are taken into account in these DCGLs.

[3] DCGLs derived using RESRAD pathway analysis model.

[4] DCGL for U233/234 is collectively proposed.

Contaminated soil which exceeds the applicable release criteria will be stockpiled and covered as appropriate, transported to Building 410 or another area for processing, or loaded directly into containers. This material will be disposed in a licensed facility. Details of this alternative are provided in Section 3 of the NFS North Site Decommissioning Plan. Soils that meet the criteria in Table 1 will remain on site.

3.2 Analyses

A dose assessment was performed by NFS for both industrial or suburban residential use of the land after license termination. The licensee selected radionuclide-specific DCGLs for the soil from this dose assessment and selected the most restrictive limit for the radionuclide from the set of scenarios.[3] These DCGLs are listed in Table 1 above. Because the limits are radionuclide-specific, the licensee would then use the sum of fractions to verify that the final concentrations result in a dose equal to or less than 0.25 mSv/y (25 mrem/y).

As part of the analysis, the licensee proposed that groundwater pathways be eliminated from consideration as part of the dose modeling for soil DCGLs. The staff has agreed with this approach for the following reasons:

- The water in the shallow aquifer is of lower quality, is in contact with a marsh, and contaminated above EPA limits for drinking water with pollutants not related to operations at the site;
- There are readily available sources of inexpensive, clean water at the site;
- Based on current practices and water-well regulations in the region, a new well would not tap the shallow, unconsolidated aquifer in the North Site area, which is located within the 100-year flood plain of the Nolichucky River;
- Only a small portion of the shallow aquifer of the North Site is contaminated at levels that would cause drinking water dose above NRC's regulatory limit; and
- The licensee is committed to implementing appropriate remediation of contaminated groundwater under the continued authority of the EPA and TDEC RCRA/HSWA permit.

Therefore, the calculation of soil DCGLs with no water-borne pathways is a reasonable assessment of potential future dose estimates.

4 Decommissioning Alternatives

NRC considered alternatives to the proposed action. These are described below.

4.1 No Action

This alternative is to leave the site in its current, contaminated condition. This would leave large volumes of contaminated soil and groundwater. Leaving the site in this condition would not comply with NRC regulations requiring remediation of unused outdoor areas and poses a potential threat to public health and safety. Therefore, this alternative is not acceptable.

4.2 Alternative Actions Considered and Decision Rationale

4.2.1 Approval of the amendment request, but with additional conditions restricting use of the site to industrial development only with no groundwater use.

A dose assessment was performed by NFS for both the postulated industrial land-use scenario and a construction scenario. Results of this dose assessment were used to determine radionuclide-

[1] These tasks will begin prior to approval of this plan. Removal of Building 400 and associated utilities and equipment is being performed under the NRC approved decommissioning plan for Ponds 1, 2, and 3 (NFS 1991).

[2] D&D of the area includes excavating contaminated soil, conducting a final survey of the area, and backfilling the excavation. D&D of some areas may be performed concurrently (*i.e.*, excavation of one area may begin before backfilling of another area is completed).

[3] NFS's report "Potential Dose Due to Radioactive Contamination in Soil and Groundwater in the North NFS Plant Site, Revision 1."

specific dose-to-source factors (mrem/y per pCi/g in soil) for site contaminants. These are presented in the NFS report "Potential Dose Due to Radioactive Contamination in Soil and Groundwater in the North NFS Plant Site, Revision 1". Based on TEDE dose limits of 25 mrem/y to the average member of the critical group (industrial worker and/or construction worker) and 100 mrem/y if controls failed, these dose-to-source factors were used to derive a set of restricted release soil concentration guideline levels (CGLs). Site characterization results were compared (on a sum-of-fractions basis) to the set of restricted-release DCGLs to estimate the volume of soil that would need to be removed from the site to meet the DCGLs. Approximately 864,000 ft^3 of material (including an estimated 500,000 ft^3 of debris and soil from the North Site burial trenches) was determined to require removal to achieve the set of restricted-release DCGLs. This alternative was rejected by NFS because it does not meet the goal of unrestricted release at license termination.

4.2.2 Approval of the amendment request, but with additional conditions imposing legally enforceable restrictions prohibiting use of groundwater.

This alternative is similar to 4.3, but does not limit land use to industrial activities. It would add a prohibition against the use of groundwater from the shallow alluvial formation. The remediation activities are the same as those in the proposed alternative. NFS has presented data on current use of land and groundwater that demonstrates that there is no anticipated use of the groundwater in the alluvial formation because it is of poor quality and because of the availability of inexpensive, high quality water from the City of Erwin (see § 3.2). Current zoning in the area is for industrial use and the immediate surrounding area is classified as suburban residential. Therefore, subsistence farming is not likely to occur in the area, and City water will be used for all activities requiring water, such as consumption, bathing, watering lawns, etc. This alternative is rejected because the addition of institutional controls is deemed not to provide significant benefit, and to add to the cost of decommissioning because of the provision to 10 CFR 20.1403(e) requiring funds in perpetuity for a third party to implement the controls. Furthermore, it is not necessary for NRC to establish requirements prohibiting use of ground water, as EPA and TDEC are requiring remediation to drinking water standards (see Section 3.0 above).

4.3 Alternatives Considered and Rejected.

Require remediation of both groundwater and soil to levels such that the dose from all pathways meets criteria for unrestricted use.

This alternative would require calculation of the dose from existing contamination in both soil and water-borne sources. Then, residual contamination limits in both media must be calculated. The residual concentration in both media must then be reduced to levels that would limit the all-pathways-dose to 25 mrem/yr.

This alternative is rejected for the following reasons: (a) The water in the shallow aquifer is of lower quality, in-contact with a marsh, and contaminated above EPA limits for drinking water with pollutants not related to operations at the site; (b) there are readily available sources of inexpensive, clean water at the site; (c) based on current practices and water-well regulations in the region, a new well would not tap the shallow, unconsolidated aquifer in the North Site area, which is located within a 100-year flood plain; (d) only a small portion of the shallow aquifer of the North Site is contaminated at levels that would cause drinking water dose above NRC's regulatory limit; and (e) The licensee is committed to implementing appropriate remediation of contaminated groundwater under the continued authority of the EPA and TDEC RCRA/HSWA permit. Further, there would be large additional cost to ship more than 300,000 ft^3 of moderately contaminated soil to a licensed disposal facility.

5 Affected Environment

5.1 Site Location and Physical Description

The NFS facility is located immediately south of Erwin, Tennessee. Erwin is a town of about 6,000 people located in Unicoi County, about 15 mi (24 km) south of Johnson City and 120 mi (190 km) east of Knoxville, TN. Unicoi County is 200 mi^2 (520 km^2) in NE Tennessee and has a population of about 20,000. The area surrounding Erwin is mostly within the Cherokee National Forest. The facility comprises about 62 acres (25 ha), of which about 24 acres (9.7 ha) are designated as the North Site area. The site is situated in a valley that parallels the Nolichucky River, running roughly NE–SW. To the southeast, the land rises up Banner Hill and on to the Unaka mountains; to the west across the Nolichucky River is Looking Glass Mountain.

5.1.1 Climate

The climate in the Erwin area is temperate with an average annual temperature high of 73°F and an average low of 38°F (USDA 1985). The average high in January is 46°F and the low is 25°F. The average high in July is 87°F and the low is 63°F. Precipitation is moderate and evenly distributed throughout the year. The average annual precipitation for Erwin is 43.83 inches (based on data from 1967–1990). The average seasonal snowfall in Erwin is 15 inches and occurs within a five-month period (November–March) (USDA 1985). Prevailing wind is from the south-southwest. Average monthly wind speed is highest, 8 mph, in March (USDA 1985). Atmospheric data are maintained at Erwin Utilities and at NFS.

5.1.2 Surface Water

Surface water runoff from NFS drains to Martin Creek either directly through two 42-inch culverts parallel to the northwest site boundary, or indirectly via Banner Spring Branch. Martin Creek discharges to the Nolichucky River via North Indian Creek. Characteristics of Banner Spring Branch, Martin Creek, and the Nolichucky River are summarized below.

Banner Spring Branch: Banner Spring Branch emanates from a spring (Banner Spring) located on the NFS property upgradient of manufacturing facilities. The source of Banner Spring is probably fracture controlled groundwater from the mountains southeast of the site. Banner Spring has a continuous flow rate of about 300 gallons/minute. Neither Banner Spring nor Banner Spring Branch are used as a source of drinking water. Along the northern corner of the site, Banner Spring Branch empties into Martin Creek, a stream that runs along the northeast boundary of the NFS property.

Martin Creek: The base flow of Martin Creek is 1,000 to 5,000 gallons per minute with seasonal variations. Martin Creek originates in the Unaka mountains southeast of Erwin at an elevation near 4,000 feet above sea level. It follows a very straight course near the NFS site leading some investigators to conclude that its course follows a strike slip fault adjacent to or downstream of the NFS site. Martin Creek is a tributary to North Indian Creek, which empties into the Nolichucky River approximately one and one-half miles north of the NFS property.

Nolichucky River: The Nolichucky River originates in the North Carolina mountains to the southeast and has an average flow rate of 450,000 gallons/

minute. In the vicinity of NFS, the river follows a relatively straight course parallel to the long axis of the facility (southwest to northeast) and is generally located from 800 to 1,000 feet to the facility's northwest. The nearest public water supply on the Nolichucky River, downstream of the plant site, is the town of Jonesborough, Tennessee, located approximately eight miles northwest of Erwin.

5.1.3 Geology and Groundwater

The geology consists of six to fifteen feet of unconsolidated alluvium consisting of silts and clays, clayey sand, and sand with varying amounts of gravel and cobble. The alluvium coarsens with depth into cobbles and boulders. This cobble/boulder zone overlies weathered, fractured bedrock consisting of steeply dipping beds of shale or shale interbedded with dolomite and siltstone. The bedrock exists at depths ranging from approximately seven to twenty-nine feet below ground surface (EcoTek 1994). Both the alluvium and the shallow bedrock contain groundwater under unconfined conditions. No laterally continuous physical separation exists between the two lithologies. Recharge to the alluvium and shallow bedrock is predominantly from downward infiltration of rainwater through the vadose zone. Some upward component of flow is evident within the deeper bedrock (50+ feet) which is probably the result of higher elevation recharge through fracture systems in the mountains to the southeast. Measured heads in the bedrock wells are consistent with and indicative of a nonfractured dominated flow regime. The thinly bedded, poorly competent nature of the bedrock may contribute to flow patterns more analogous to the porous media model than the fracture flow model. Limited evidence, such as high well yields, exists for structure or fracture controlled movement of groundwater in the deeper zone (EcoTek 1994).

5.2 Facility Operations

The North Site area has two former burial sites of waste disposed under 10 CFR 20.302 and 20.304, three wet ponds used to hold process waste, and a wetlands area. There is one temporary building (410) in the southwest part of the area. Prior to that time the area was a farm, as was much of the surrounding area.

The area being decommissioned is located both inside and outside of the plant protected area which is defined by a double security fence. Within the protected area are Banner Spring Branch, a small marsh, open grass-covered grounds, the three surface impoundments, and Pond 4. Banner Spring Branch runs through the property originating in the east just outside the security fence and discharging into Martin Creek to the north. The grounds outside the plant protected area, but inside the outer access control fence (the perimeter fence), include grass-covered fields, wooded areas, and a marsh. Also present are a burial ground and a demolition landfill. Trees cover most of the grounds outside the perimeter fence. Temporary buildings located in the area to be decommissioned include steel frame, metal buildings. These buildings are currently used in support of remediation activities. Five trailers located in the area provide offices, break area, showers and storage. Four small (less than 100 ft^2 sheds located in the characterization area house analytical equipment environmental sampling equipment (Banner Spring Branch Sampling Station and Sanitary Sewer Sampling Station), water control equipment (Backflow Preventer Bldg.), and vehicle cover. Other structures include a locked guard tower, a series of abandoned, partially intact residences located in the woods in the northeast area of the site, concrete pads for support of remediation equipment, fencing, light poles, electrical distribution facilities, pipes and conduits, a concrete drainage ditch, enclosed culverts, and miscellaneous equipment (*e.g.*, knockout tank, bladder tanks).

5.3 Radiological Status of the Facility

5.3.1 Radiological status of structures and equipment

Direct surveys were limited to four sampling sheds and a guard tower which are not likely to be affected by remediation efforts. Surveys found the amount of activity present on these structures to be below the surface contamination limits in NFS' SNM–124 license. All other structures in the North Site will be used to support decommissioning operations and will be surveyed at the time of their release from the site.

5.3.2 Radiological Status of Surface and Subsurface Soils

The primary radioactive contaminants in the North Site are uranium (U-234, U-235, and U-238), thorium (Th-228, Th-230, and Th-232), plutonium (Pu-238, Pu-239/240, Pu-241, and Pu-242), americium 241, and technetium 99. Levels of radioactive contamination currently exceed the release criteria in soil and sediment across much of the North Site inside the plant protected area. Contamination above the criteria is present down to the level of auger refusal in much of the protected area. Contamination also exists between the cobbles. Only a portion of the north east corner of the plant protected area is not contaminated above the release criteria.

Areas outside the plant protected area that exceed the release criteria include soil/sediment surrounding Banner Spring Branch, the burial trenches, the contaminated soil mound area, and isolated occurrences between the radiological burial ground trenches and Banner Spring Branch. Radioactive contamination primarily occurs on the surface and does not extend beyond a depth of about four feet except in the burial ground where it extends approximately 4–5 meters. Analytical results from the burial trench cap indicated only a few isolated areas where contamination was present above the release criteria. There is no indication that soil contamination extends off-site to the north and east. Radiological soil contamination to the west of the North Site is bounded by the former streambed of Banner Spring Branch which was released by the NRC in 1987 (NRC 1987). Soil beneath the current microwave security zone (area between the inner and outer fences) at the west site boundary was not included in the NRC release and is contaminated above the release criteria.

5.3.3 Radiological Status of Ground and Surface Water

Banner Spring Branch and Martin Creek contain contamination below effluent concentration limits in Appendix B to 10 CFR part 20. Groundwater throughout the North Site Area is contaminated to varying levels ranging from a few ρCi/l, below release limits, to more than 600 ρCi/l. The primary contaminants are isotopes of uranium and technetium-99. Tc-99 is present in off-site wells to the west of the site boundary in concentrations above background, but a small fraction (~1%) of EPA limits. Uranium has not yet been detected off-site. Based on no ground water remediation, NFS projections calculate concentrations exceeding 30 ρCi/l in the alluvial ground water migrating beyond the site boundary as early as 2003; migration in the deeper levels—cobbles and shallow bedrock—occurs at a slower rate, but is calculated to exceed 30 ρCi/l beyond the site boundary within 1,000 years. (Geraghty & Miller, 1996)

6 Environmental Impacts

6.1 Adverse Impacts

The International Commission on Radiological Protection has determined that the current level of protection from radiation for man will ensure that other species are not put at risk (ICRP, 1990). The Department of Energy has issued an interim standard with screening dose limits for aquatic animals (1 rad/d), riparian and terrestrial animals (0.1 rad/d), and terrestrial plants (1 rad/d). These doses are in excess of the 25 mrem/yr limit for the release of this site. Therefore, no separate environmental risk assessment was performed.

6.1.1 Radiological Impacts to the Public and Workers

Material contaminated above release limits will be shipped to a licensed disposal facility. The licensee's radiological protection program, which is described in Chapter 4 of the Decommissioning Plan, requires use of hazardous work permits, etc. that will limit doses to workers to less than or equal to the limits in 10 CFR part 20.

Minor spills and/or releases may occur as contaminated soil is being prepared for shipment or during transport to an offsite disposal facility. However, considering that the majority of the waste stream expected to be generated during decommissioning comprises contaminated soil, these incidents would pose only negligible impact to human health and the environment. In the event of a spill of this nature, decontamination efforts and any required notification would be performed in accordance with the NFS Emergency Plan and emergency procedures.

Residual concentrations of radionuclides in soil are shown in Table 1. Based on the industrial and suburban resident land use scenarios, the radiological impact from the residual contamination will not exceed 25 mrem/yr the public.

6.1.2 Non-Radiological Impacts

Portions of the site, primarily the groundwater, are contaminated with solvents (PCE, TCE, etc.) from NFS activities. These materials are the subject of an EPA and TDEC RCRA/HSWA Permit requiring investigation and remediation to EPA and Tennessee standards in a time-frame agreed upon between EPA, TDEC and NFS. Therefore they are not addressed in this EA. However, a pilot groundwater remediation study has recently been implemented to accommodate all groundwater contaminants, i.e., radioactive and non-radioactive.

6.1.3 Historical and Archaeological Resources

After considering the documentation submitted, it is the opinion of the Tennessee Historical Commission that there are no national register of historic places listed or eligible properties affected by this undertaking. This determination is made either because of the location, scope and/or nature of the undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualified the property for listing in the National Register or alter such property's location, setting or use. Therefore, this office has no objections to proceeding with the project.

6.1.4 Terrestrial Biota

There is a Federally Threatened Plant in the vicinity of the NFS site: Virginia spiraea (Spiraea virginiana). Because of the industrial nature of the NFS site and surrounding area, there is no suitable habitat for this species at the site.

6.1.5 Aquatic Biota

There is a Federally Endangered mussel species, Appalachian elktoe (Alasmidonta raveneliana), near the confluence of the Nolichucky River and South Indian Creek. Because this is upstream of the confluence of the Nolichucky River and Martin Creek and the NFS site, no impact is expected on this species. No discharges from NFS into Martin Creek are expected from decommissioning activities.

6.1.6 Wetlands

There is a wetland area (0.2 acres) near Pond 3 and Banner Spring that will be removed as part of the proposed decommissioning activities. This will be replaced with a larger one (0.4 acres) in the northeast corner of the North Site Area in accordance with a permit from TDEC. Banner Spring Branch will be relocated and enclosed in a pipe for the balance of plant life. To compensate for this, NFS will improve a wetland area near the federal fishery, approximately three miles north of the site. TDEC and US Fish and Wildlife Service will authorize this activity by a Memorandum of Agreement with NFS.

6.1.7 Water Resources

No ground water remediation will take place as part of the proposed alternative. The existing contamination, primarily uranium and technetium, will remain in the alluvial groundwater. Some uranium and technetium are calculated to migrate off-site to the west in the shallow groundwater. As discussed in Section 3.0, NFS will remediate ground water to drinking water standards in the future. However, this groundwater will not be used as a water supply. Therefore, it will not contribute to a dose to members of the public. Vertical migration of the contamination is also calculated, but it is not expected to reach the deep aquifer, that is used as a drinking water supply, within 1,000 years.

Banner Spring Branch will be relocated during remediation activities as discussed in § 6.1.6 above.

6.1.8 Construction Impacts

No building construction will occur in this action except the removal of temporary building 410, at the completion of remediation. No adverse effects will occur in the environment from this activity.

6.2 Impacts to Aesthetic, Economic, Cultural, Social, Air Quality, Noise Resources and Habitat Destruction

There will be no discernable impacts on aesthetics, socio-economics or cultural resources because the work is being done by existing staff and the physical configuration of the facility will remain the same as current.

There may be minor, temporary impacts on air quality and noise during remediation activities. NFS has dust control measures in place, and the use of equipment will not significantly change from the current industrial environment.

A part of a marsh area (wetland) will be destroyed as part of the remediation activities. This area will be replaced as discussed in Section 6.1.6 above.

7 Planned Monitoring

This area will remain within licensee control and will be monitored in accordance with the pertinent provision of the license for operational and environmental monitoring.

8 Agencies and Individuals Consulted, and Sources Used

8.1 Environmental Protection Agency

EPA Region IV has reviewed the proposed action and:

- Concurs with the rationale that the groundwater pathway can be eliminated from consideration in calculating soil cleanup levels and radioactive doses from the sources of the North Site
- Maintain that the RCRA/HSWA Permit issued to NFS will be used to enforce appropriate groundwater pilot studies and necessary groundwater remediation of all contaminated groundwater according to the most recent "Handbook of Groundwater Policies for RCRA Corrective Action" (EPA 530–D–00–001, updated 4/40/2000). See *http://www.epa.gov/correctiveaction*
- Maintain that the RCRA/HSWA Permit issued to NFS will be used to enforce appropriate and necessary layered institutional controls (ICs) according to the EPA document titled "Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups" (EPA 540–F–00–005, OSWER 9355.0–74FS–P, dated September 2000). Some examples of ICs include easements, covenants, well drilling prohibitions, zoning restrictions, and special building permit requirements. Deed restriction is a phrase often used in remedy decision documents to describe easements or other forms of ICs; however, this is not a traditional property law term and will be avoided. Because fences are physical barriers instead of administrative or legal measures, they are not considered to be ICs.

8.2 Tennessee Department of Environment and Conservation

The State has reviewed the proposed action and concurs with the conclusion regarding radiological dose and approval of the North Site Decommissioning Plan.

8.3 Tennessee State Historic Preservation Officer (SHPO)

After considering the documentation submitted, it is SHPO's opinion that there are no national register of historic places listed or eligible properties affected by this undertaking.

8.4 U.S. Fish and Wildlife (US FWS)

The US FWS has determined that no listed species will be impacted by the proposed action. FWS also concludes that the EA supports the conclusion that the proposed action is not likely to adversely affect the environment. A Memorandum of Agreement between TDEC, USFWS and NFS will be developed to regulate activities near the federal fishery.

9 References

U.S. Nuclear Regulatory Commission (NRC). 1987. Official Correspondence from Leland C. Rouse, Chief, Fuel Cycle Safety Branch, to NFS. July 24, 1987.

U.S. Department of Agriculture Soil Conservation Service. 1985. Soil Survey of Unicoi County, Tennessee. Carlie McCowan. September 1985.

International Commission on Radiological Protection. 1990. ICRP 60 § 16.

NRC approved decommissioning plan for Ponds 1, 2, and 3 (NFS 1991).

EcoTek 1994. 1992/1993 NFS Hydrogeologic Investigation and Monitoring Well Installation Program. EcoTek, Inc. June 30, 1994.

Nuclear Fuel Services, Inc. (NFS). 1999a. Potential Dose to Radiological Contaminants in North Site Soil and Groundwater, Revision 1. February 1999.

Final Report: Groundwater and Constituent Transport modeling at the Nuclear Fuel Services Facility; Geraghty & Miller, Inc. 4/99.

NFS North Site Decommissioning Plan, Revision 1, 7/99.

Nuclear Fuel Services, Inc. (NFS). 1999. North Site Characterization Report for Nuclear Fuel Services, Inc., Erwin, Tennessee, Revision 1. July 1999.

U.S. Department of Energy. Interim Technical Standard "A Graded Approach for Evaluating Radiation Doses to Aquatic and Terrestrial Biota." June 2000.

Tennessee Historical Commission 2000. Letter from R. L. Harper to Larry W. Camper. December 19, 2000.

U.S. Environmental Protection Agency, Region 4 2001. Letter from Leo J. Romanowski, Jr. to Phil Ting. February 21, 2001.

Tennessee Department of Environment and Conservation 2001. Letter from Debra Schults to Phil Ting. February 20, 2001.

U.S. Fish and Wildlife Service. Letter from Steven Alexander, U.S. FWS to J.C. Shepherd, April 18, 2001.

Finding of No Significant Impact

The Commission has prepared the above Environmental Assessment related to the amendment of Special Nuclear Material License SNM–124. On the basis of the assessment, the Commission has concluded that environmental impacts associated with the proposed action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," the Environmental Assessment and the documents related to this proposed action will be available electronically for public inspection from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room).

Opportunity For a Hearing

Based on the EA and accompanying safety evaluation, NRC is preparing to amend License SNM–124. The NRC hereby provides that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission either:

1. By delivery to the Rulemakings and Adjudications Staff of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or
2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h).
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

In accordance with 10 CFR § 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

1. The applicant, Nuclear Fuel Services, Inc., 1205 Banner Hill Road, Erwin, TN 37650; and
2. The NRC staff, by delivering to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The NRC contact for this licensing action is Mary T. Adams, who may be contacted at (301) 415–7249 or by e-mail at *mta@nrc.gov* for more information about the licensing action.

Dated at Rockville, Maryland, this 3rd day of May 2001.

For the Nuclear Regulatory Commission

Lidia A. Roche,

Acting Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–11755 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Materials and Metallurgy, Thermal-Hydraulic Phenomena, and Reliability and Probabilistic Risk Assessment; Cancellation

The joint meeting of the ACRS Subcommittees on Materials and Metallurgy, Thermal-Hydraulic Phenomena, and Reliability and Probabilistic Risk Assessment scheduled for May 25, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland has been canceled. Notice of this meeting was previously published in the **Federal Register** on Tuesday, May 8, 2001 (66 FR 23280).

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Markley cognizant ACRS staff engineer, (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EDT).

Dated: May 10, 2001.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–12337 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 23, 2001, through May 4, 2001. The last biweekly notice was published on May 2, 2001 (66 FR 22021).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By June 15, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the

following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: April 16, 2001.

Description of amendment request: Energy Northwest is requesting approval for a change to the facility as described by the Final Safety Analysis Report (FSAR). The change allows for an unisolable drain line between the reactor core isolation cooling (RCIC) and control rod drive/condensate (CRD/COND) pump rooms. This change will modify the requirements that the RCIC and CRD/COND pump rooms be water-resistant or watertight, and connected by an isolable drain line.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to allow operation of the plant with an open drain line between the RCIC and CRD/COND pump rooms does not increase the chances of a flooding event occurring in the RCIC or CRD/COND pump rooms. Also, operating the plant with an open drain line between the RCIC and CRD/COND pump rooms does not increase the radiological consequences of any previously evaluated accidents. A conservative revision to the flooding safe shutdown analysis, which combines the effects on equipment of both rooms flooding simultaneously, shows that sufficient safe shutdown equipment remains available and safe plant shutdown can be accomplished. Remaining systems are the same as the equipment providing the safe shutdown path approved by the NRC for Appendix R post-fire safe shutdown scenarios. Furthermore, the effects of the postulated flood from a pipe crack plus other normal leakage spread over the large floor area of the combined RCIC and CRD/COND rooms results in a flood event that develops slowly. If credited, safety-related leak detection instrumentation is available to provide plant operators more time to terminate the flood and limit the amount of equipment potentially lost from the event. With consideration of operator action and mitigation, the flood could be terminated quickly with minimal components affected. Plant procedures provide direction for operators to take actions to mitigate floods.

The proposed change to remove the requirement that pump room wall penetrations and doors located in the Reactor Building be "water-resistant" or "watertight" does not contribute to the likelihood that a flooding event will occur, nor does it increase the radiological dose received in any previously evaluated accidents. Reactor Building pump room doors and penetrations will exhibit a minimal amount of leakage during a flooding event, and have seals that can leak yet still minimize flooding between rooms even with significant hydrostatic pressure generated from flooding water levels. The minimal water leakage past these seals is consistent with assumptions documented in the existing flooding analysis.

Therefore, operation of Columbia Generating Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of

accident from any accident previously evaluated.

The proposed change to allow an unisolable drain line between the RCIC and CRD/COND pump rooms is accounted for in a revised and conservative flooding safe shutdown analysis. The flooding safe shutdown analysis documents the impact of flooding on equipment in the pump rooms, and on electrical circuits routed through, but not terminated in, the RCIC and CRD/COND pump rooms. From this analysis no link could be established between affected systems and mechanisms that could create a new or different kind of accident. The analysis also concluded that the effects of the unisolable drain line and subsequent flood would not cause a transient that would be imposed on the current analysis that assumes a flood with a single active failure. Therefore, the unisolable line between the RCIC and CRD/COND rooms will not create the possibility of a new or different kind of accident. The proposed change to allow minimal water leakage past ECCS [Emergency Core Cooling System], RCIC and CRD/COND pump room doors and penetrations is consistent with and documented in existing flooding analysis assumptions. These rooms do not need to be water-resistant or watertight.

Therefore, operation of Columbia Generating Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change to allow an unisolable drain line between the RCIC and CRD/COND pump rooms does not result in a significant reduction in the margin of safety. The change is of very low risk significance, with an increase in core damage frequency of less than 1E–10. Furthermore, a revised and conservative flooding safe shutdown analysis has concluded, as with previous flooding analysis for the ECCS, RCIC and CRD/COND pump rooms, that the ability to safely shutdown the plant has been preserved when considering a flooding scenario which impacts both the RCIC and CRD/COND pump rooms. In addition, safety-related leak detection instrumentation is available and could be credited to provide plant operators more time to terminate the flood and limit the amount of equipment potentially lost from the event. With consideration of operator action and mitigation, the flood could be terminated quickly with minimal components affected. Plant procedures provide direction for operators to take actions to mitigate flooding in ECCS, RCIC and CRD/COND pump rooms.

The proposed change to allow minimal water leakage past ECCS, RCIC and CRD/COND pump room doors and penetrations does not result in a significant reduction in the margin of safety because it does not prevent the plant from achieving safe shutdown during a flooding event. Minimal water leakage is consistent with and documented in existing flooding analysis assumptions.

Therefore, the operation of Columbia Generating Station in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas C. Poindexter, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Stephen Dembek.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 19, 2001.

Description of amendment request: **The proposed change to the Technical Specifications (TS) modifies TS 3.6.5, "Vacuum Relief Valves," limiting condition for operation and extends the allowed outage time from 4 hours to 72 hours for returning an inoperable primary containment to annulus relief valve to OPERABLE status. In addition, Entergy proposes to delete Attachment 1 to the Waterford Steam Electric Station, Unit 3 Operating License and revise Condition 2.C.1 to reflect the deletion.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not create any new system interactions and have no impact on operation or function of any system or equipment in a way that could cause an accident. The primary containment to annulus vacuum relief valves are part of the containment vacuum relief system and are not initiators of any events nor affect any accident initiators of any events previously analyzed in Chapter 15 of the FSAR [Final Safety Analysis Report].

The primary containment to annulus vacuum relief valves are designed to mitigate the consequences of an inadvertent containment spray system actuation during normal plant operation. The FSAR analysis determined that with one of the two containment vacuum lines failed, the resultant peak calculated external pressure load of 0.49 psi [pounds per square inch] on the containment was less than the design external pressure loading of 0.65 psi. These proposed changes do not affect any of the assumptions used in the analysis. Hence, the consequences of the design basis accident previously evaluated do not change.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not alter the design, configuration, or the method of operation of the plant. There is no change being made to the parameters within which the plant is operated. The setpoints at which the protective or mitigative actions are initiated are unaffected by this change. As such, no new failure modes are being introduced that would involve any potential initiating events that would create any new or different kind of accident.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The proposed changes do not affect the bases used in or the results of the analysis to establish the margin of safety. The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. None of these are impacted by the proposed change. The proposed change is acceptable because it assures at least one vacuum relief line will remain available in the event of a single failure. This further assures the ability to actuate upon demand for the purpose of mitigating the consequences of the design basis accident (inadvertent actuation of the containment spray system during normal operation). The remaining vacuum relief line provides sufficient vacuum relief capacity to prevent exceeding the design external pressure loading on containment of 0.65 psi. The resultant calculated peak external pressure loading on containment is 0.49 psi.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: April 2, 2001.

Description of amendment request: **Pursuant to 10 CFR 50.59, Entergy Operations, Inc. (the licensee) requests review and approval of changes to the Waterford Steam Electric Station, Unit 3, design basis as described in the Updated Final Safety Analysis Report (UFSAR) for which it has been determined that an unreviewed safety question exists. The change concerns design requirements for the alignment of the Refueling Water Storage Pool (RWSP) boundary isolation valves to the RWSP Purification System.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

The proposed change will allow the manual valves (FS–423 and FS–404) that isolate the RWSP from the RWSP Purification System to be maintained open. The RWSP Purification System is aligned to the RWSP to maintain the purity and clarity of the borated water contained in the pool. The RWSP is also one of two means of makeup to the Spent Fuel Pool (SFP), with the Condensate Storage Pool being the primary makeup source. These manual valves provide the boundary between the seismically qualified safety related RWSP and the non-seismic, non-safety related RWSP Purification System.

(1) The proposed activity does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The RWSP is not involved in any initiating event that could result in any accident. The RWSP has a safety function that assists in accident mitigation.

The proposed change has been reviewed against Engineering Standards and Licensing requirements contained in the Updated Final Safety Analysis Report (UFSAR). This review has concluded that use of operator action to isolate the RWSP Purification System Boundary Isolation valves or secure the RWSP Purification pump, as necessary, will allow the RWSP to perform its safety function in any plant mode. The RWSP, however, is not required to perform a safety function concurrent with a seismic event. The highest estimated annual probability of a small Loss of Coolant Accident (LOCA) while the purification system is aligned to the SFP, and operator failure to isolate the purification system, causing a diversion of RWSP water that could affect the Emergency Core Cooling System (ECCS) pumps is about 2.5E–8 per year, which is considered a negligible risk.

Therefore, the proposed activity does not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) The proposed activity does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The RWSP Purification System was intended to be aligned periodically to the RWSP. The proposed change will allow the RWSP Purification System to be normally aligned to the RWSP through manually operated open valves. It has been shown that operator action can be credited to isolate the RWSP Purification System in a sufficient time to ensure the safety function of the RWSP is maintained. If Recirculation Actuation Signal (RAS) occurs the isolation valves will become inaccessible due to high dose rates in the general area. However if the RAS occurs before an operator can isolate the RWSP (i.e. 54 minutes), the RWSP Purification System would not have to be isolated because the RWSP would have fulfilled its required safety function.

The proposed alignment to maintain the RWSP Purification System isolation valves open introduces a new system interaction during a LOCA. However, it has been demonstrated the the safety function of the RWSP is assured assuming the new system interaction.

Therefore, the proposed activity does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed activity does not involve a significant reduction [in] a margin of safety.

It has been evaluated that it will take no more than 54 minutes for operations personnel to isolate the RWSP. During this time, approximately 1.4% of the RWSP level could be depleted assuming maximum leakage. This volume will be incorporated into the analytical limit. The proposed analytical limit will continue to assure the safety limits evaluated in the Design Basis Accident (DBA) analyses are maintained.

Therefore, this proposed activity does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: April 2, 2001.

Description of amendment request: **The proposed amendment would revise the Technical Specifications (TSs) to relocate TSs 3/4.9.4, "Refueling Operations, Decay Time;" 3/4.9.5, "Refueling Operations, Communications;" 3/4.9.6, "Refueling Operations, Refueling Platform;" and 3/4.9.7, "Refueling Operations, Crane Travel-Spent Fuel Storage Pool;" to the Hope Creek Updated Final Safety Analysis Report (UFSAR). The proposed amendment would also modify the associated Bases pages and index pages.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested amendments will not involve an increase in the probability or consequences of an accident previously evaluated. Relocation of the affected Technical Specification sections and their Bases to the Hope Creek UFSAR will have no affect on the probability that any accident will occur. Additionally, the consequences of an accident will not be impacted because the affected systems and components will continue to be utilized in the same manner as before. No impact on the plant response to accidents will be created.

Based on the above, the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms will be created as a result of the relocation of the affected Technical Specification requirements and their Bases to the Hope Creek UFSAR. Plant operation will not be affected by the proposed amendments and no new failure modes will be created. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendments will not involve a reduction in the margin of safety. Relocation of the affected Technical Specification requirements to the Hope Creek UFSAR is consistent with NUREG 1433, ["]Standard Technical Specifications, General Electric Plants, BWR/4,["] Revision 1, dated April 1995, and with the NRC's Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors (58 FR 39132), dated July 22, 1993, which encourages utilities to propose amendments consistent with NUREG 1433. The margin of safety is unchanged; therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21,

P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: James W. Clifford.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: April 17, 2001.

Description of amendment request: The amendment would remove unnecessary details for certain secondary post-accident monitoring instrumentation from Technical Specification Table 3.2.6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Will the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The post accident monitoring (PAM) instrumentation is not considered as an initiator or contributor to any previously evaluated accident. The proposed change will not impact the ability of the PAM instrumentation to perform its intended function, nor does it impact any Final Safety Analysis Report safety analysis. Therefore, the proposed change will not increase the probability of any accident previously evaluated.

Additionally, while the PAM instrumentation provides information to the control room operator that may be used to mitigate an accident, this change does not affect the ability of the PAM instrumentation to perform this function. This change does not modify any parameters of previously analyzed events.

Therefore, the proposed change will not increase the consequences of any accident previously evaluated.

2. Will the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical modification to the plant, change in Technical Specification setpoints, plant operation, or design basis of the plant. The PAM instrumentation provides information to the plant operator to assist in the mitigation of an accident, and the means for accomplishment of this function are unchanged. Under the proposed change, operability of the PAM instrumentation is not impacted. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will the proposed changes involve a significant reduction in a margin of safety?

The proposed change would delete instrument identification numbers and instrument ranges from Technical Specifications for certain PAM instrumentation. These details are not necessary to ensure the PAM instrumentation is maintained operable. The requirements of Technical Specification Limiting Condition for Operation and associated Surveillance Requirements are adequate to ensure the required instrumentation is maintained operable. The proposed change will not impact the ability of the PAM instrumentation to perform its intended function. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 22, 2001 (ET 01–0007).

Description of amendment request: The amendment would delete the inequality (≤) in front of the allowed temperature value and increase the allowed methyl iodide penetration values in item c of Technical Specification 5.5.11, "Ventilation Filter Testing Program (VFTP)," for the engineered safety feature (ESF) control room emergency ventilation system and auxiliary/fuel building emergency exhaust ventilation system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes revise the allowable methyl iodide penetration percent for the carbon in the Control Room Emergency Ventilation System and the Auxiliary/Fuel Building Emergency Exhaust System when tested in accordance with ASTM D3803–1989. The proposed change is based on the values that would be derived using a safety factor of 2 between credited and tested carbon efficiencies. This use of a safety factor of 2 is discussed in Generic Letter 99–02. Generic Letter 99–02 allows the reduction of the safety factor between the credited and tested carbon efficiencies from 5 (for systems with heaters) and 7 (for systems without heaters) to 2 (for systems with or without heaters) when tested in accordance with ASTM D 3803–1989. Analyses of design-basis accidents assume a particular charcoal filter adsorption efficiency when calculating offsite and control room operator doses. A test of the charcoal filter samples determines whether the filter adsorber efficiency is greater than that assumed in the design-basis accident analysis. The laboratory test acceptance criteria contain a safety factor to ensure that the efficiency assumed in the accident analysis is still valid at the end of the operating cycle. Because ASTM D3803–1989 is a more accurate and demanding test, the use of a safety factor of 2 provides an acceptable adsorption efficiency greater than that assumed in the safety analysis.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes revise the allowable methyl iodide penetration percent for the carbon in the Control Room Emergency Ventilation System and the Auxiliary/Fuel Building Emergency Exhaust System when tested in accordance with ASTM D3803–1989. The change in the allowable methyl iodide penetration percent is based on the values that would be derived using a safety factor of 2 as provided in Generic Letter 99–02. Generic Letter 99–02 allows the reduction of the safety factor between the credited and tested carbon efficiencies from 5 (for systems with heaters) and 7 (for systems without heaters) to 2 (for systems with or without heaters) when tested in accordance with ASTM D 3803–1989. No new or different accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of using a safety factor of 2 and deletion of the inequality sign associated with the temperature at which testing occurs.

Therefore, the proposed changes do not create a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The charcoal adsorber sample laboratory testing protocol accurately demonstrates the required performance of the adsorbers in the Control Room Emergency Ventilation System and the Auxiliary Building Emergency Exhaust System following a design basis accident or in the Fuel Building Emergency Exhaust System following a fuel handling accident. The change in safety factor and deletion of the inequality sign associated with the temperature at which testing occurs will not affect system performance or operation. This use (of) a safety factor of 2 is discussed in Generic Letter 99–02. Generic Letter 99–02 allows the reduction of the safety factor between the credited and tested carbon efficiencies from 5 (for systems with heaters) and 7 (for systems without heaters) to 2 (for systems with or without heaters) when tested in accordance with ASTM D3803–1989. Analyses of design-basis accidents assume a particular charcoal filter adsorption efficiency when calculating offsite and control room operator doses. A test of the charcoal filter samples determines whether the filter adsorber efficiency is greater than that assumed in the design-basis accident analysis. The laboratory test acceptance criteria contain a safety factor to ensure that the efficiency assumed in the accident analysis is still valid at the end of the operating cycle. Because ASTM D3803–1989 is a more accurate and demanding test, the use of a safety factor of 2 ensures the charcoal filter adsorption efficiency is greater than that assumed in the safety analysis when the penetration acceptance criterion is met. The offsite and control room dose analyses are not affected by this change and will remain within the limits of 10 CFR 100 and 10 CFR 50, Appendix A.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: August 29, 2000.

Brief description of amendment: The amendment revised the Technical Specifications to change the "Administrative Controls" section regarding certain position titles and the Shift Technical Advisor (STA) staffing requirement to allow one of the required on-shift Senior Reactor Operator (SRO) positions to be combined with the required STA position so as to serve in a dual SRO/STA position.

Date of Issuance: April 27, 2001.

Effective date: April 27, 2001 and shall be implemented within 30 days of issuance.

Amendment No.: 220

Facilit Operating License No.DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 29, 2000 (65 FR 71133).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 27, 2001.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: April 26, 2000, as supplemented November 6, 2000.

Brief Description of amendments: The amendments change the Technical Specifications Ultimate Heat Sink maximum 24-hour average temperature from 89 degrees F to 90.5 degrees F and increase the lower temperature of the condition temperature range. In addition, they change a surveillance requirement to require verification that the temperature is less than or equal to 90.5 degrees F.

Date of issuance: April 20, 2001.

Effective date: April 20, 2001.

Amendment Nos.: 213 and 240.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 17, 2000 (65 FR 31356), superseded on March 21, 2001 (66 FR 15916). The November 6, 2000, supplement contained additional information that expanded the scope of the initial application. Subsequently, the supplemented application was renoticed.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 20, 2001.

No significant hazards consideration comments received: No.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: December 7, 2000.

Brief description of amendment: The amendment changes the Technical Specifications regarding the Limiting Conditions for Operation for the containment cooling systems, the component cooling water system, and the service water system to be similar to changes to the "Standard Technical Specifications, Combustion Engineering Plants," NUREG–1432, Revision 1, made by the Nuclear Energy Institute Technical Specifications Task Force Change Number 325, "ECCS Conditions and Required Actions with < 100% Equivalent ECCS Flow."

Date of issuance: May 3, 2001.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 199.

Facility Operating License No. DPR–20. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 24, 2001 (66 FR 7677).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 2001.

No significant hazards consideration comments received: No.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: December 7, 2000.

Brief description of amendment: The amendment changes Technical

Specification (TS) 3.7.5 regarding the Limiting Conditions for Operation (LCOs) for the auxiliary feedwater system to be similar to changes to the "Standard Technical Specifications, Combustion Engineering Plants," NUREG 1432, Revision 1, made by the Nuclear Energy Institute Technical Specifications Task Force Change Number 325, Revision 0.

Date of issuance: May 3, 2001.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 200.

Facility Operating License No. DPR–20. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 24, 2001 (66 FR 7674).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 2001.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station (formerly known as WNP–2), Benton County, Washington

Date of application for amendment: September 5, 2000, as supplemented December 14, 2000.

Brief description of amendment: The amendment revised Technical Specification (TS) Tables 3.3.5.1–1, 3.3.6.1–1 and 3.3.6.2–1. The changes add notes to the tables listing instrument channels that are common to, or support the operability of interrelated systems as governed by these technical specifications. Specifically:

(1) Added note "(e)" to Table 3.3.5.1–1, "Emergency Core Cooling System Instrumentation," Functions 1c, 1d, 2c and 2d in the column entitled "Required Channels Per Function," indicating the applicability of the new footnote which reads as follows: "(e) Also supports OPERABILITY of 230 kV offsite power circuit pursuant to LCO 3.8.1 and LCO 3.8.2."

(2) Added note "(e)" to Table 3.3.6.1–1, "Primary Containment Isolation Instrumentation," in Functions 2b and 2c, in the column entitled "Required Channels Per Trip System," indicating the applicability of the new footnote which reads as follows: "(e) Also required to initiate the associated LOCA Time Delay Function pursuant to LCO 3.3.5.1."

(3) Added note "(c)" to Table 3.3.6.2–1, "Secondary Containment Isolation Instrumentation," in Functions 1 and 2, in the column entitled "Required Channels Per Trip System," indicating the applicability of the new footnote which reads as follows: "(c) Also required to initiate the associated LOCA Time Delay Function pursuant to LCO 3.3.5.1."

Date of issuance: April 30, 2001.

Effective date: April 30, 2001, to be implemented within 30 days of the date of issuance.

Amendment No.: 172.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 15, 2000 (65 FR 69059).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 2001.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: September 7, 2000, as supplemented on April 2, 2001.

Brief description of amendment: The amendment revises Technical Specification 3.7.3 to reflect planned modifications to the main feedwater system.

Date of issuance: April 18, 2001.

Effective date: April 18, 2001.

Amendment No.: 207.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 15, 2000 (65 FR 69062).

The April 2, 2001, submittal contained clarifying information only, and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 2001.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: August 16, 2000.

Brief description of amendment: The amendment (1) removes the "Offgas Treatment System Explosive Gas Mixing Instrumentation" Technical Specification (TS) 3.7 from the Radiological Effluent Technical Specifications contained in Appendix B and adds a reference to the Offgas Treatment System Explosive Gas Monitoring Program to Administrative Section 6 of the TSs contained in Appendix A; (2) replaces the position title of Radiological and Environmental Services Manager contained in the Administrative Section 6 of Appendix A with Radiation Protection Manager; and (3) revises Plant Staff organization requirements contained in Administrative Section 6 to require either the Operations Manager or the Assistant Operations Manager to hold a Senior Reactor Operator license.

Date of issuance: April 18, 2001.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 270.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 20, 2000 (65 FR 56956).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: November 10, 2000, as supplemented by letters dated February 15 and March 22, 2001.

Brief description of amendment: The amendment changes the safety limit minimum critical power ratio (SLMCPR) for Cycle 12 operation with a mixed core of Siemens Power Corporation (now known as Framatome ANP Richland, Inc.) ATRIUM–10 reload fuel, and General Electric GE11 reactor fuel. The amendment reflects a decrease of the two recirculation loop SLMCPR from 1.09 to 1.08, with the single recirculation loop SLMCPR remaining unchanged at 1.10. The amendment also revises Technical Specification 5.6.5 to update the list of references that are currently used to determine core operating limits.

Date of issuance: April 26, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days of the date of issuance.

Amendment No: 146.

Facility Operating License No. NPF–29: The amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 27, 2000 (65 FR 81917).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 2001. The February 15 and March 22, 2001, supplements did not change the scope of the amendment or the original proposed no significant hazards consideration determination.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: October 24, 2000, as supplemented on March 26, 2001.

Brief description of amendments: The amendments revise the technical specifications to reference the generically approved Westinghouse Best-Estimate large break loss of coolant accident methodology for the plants.

Date of issuance: April 16, 2001.

Effective date: April 18, 2001.

Amendment Nos.: 118, 118, 112 and 112

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revise the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 21, 2001 (66 FR 11052).

The March 26, 2001, letter provided clarifying information that did not change the scope of October 24, 2000, application or the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 18, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: July 5, 2000, as supplemented by letters dated November 27, 2000, December 21, 2000, January 31, 2001, February 20, 2001, February 28, 2001, March 26, 2001, April 5, 2001, and April 16, 2001.

Brief description of amendments: The amendments revise the licenses and technical specifications to reflect approval of an increase in maximum thermal power from 3411 megawatts-thermal (MWt) to 3586.6 MWt.

Date of issuance: May 4, 2001.

Effective date: May 4, 2001.

Amendment Nos.: 119, 119, 113 and 113.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 13, 2000.

The supplements to the application provided clarifying information that did not change the scope of the July 5, 2000, application or the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 4, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: November 17, 1999, as supplemented June 14, November 13, and December 4, 2000, and February 21, 2001.

Brief description of amendment: Increased the allowed outage time to restore an inoperable Emergency Diesel Generator to operable status from 72 hours to 14 days.

Date of Issuance: April 26, 2001.

Effective Date: Date of issuance, to be implemented within 60 days.

Amendment No.: 115.

Facility Operating License No. NPF–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 15, 1999 (64 FR 70089). The June 14, November 13, and December 4, 2000, and February 21, 2001, supplements did not affect the original proposed no significant hazards determination, or expand the scope of the request as noticed in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Dade County, Florida

Date of application for amendments: October 30, 2000, as supplemented February 28, 2001.

Brief description of amendments: The amendments revised Technical Specification 5.3.2 for Turkey Point Units 3 and 4 to extend the residual heat removal (RHR) pump allowed outage time (AOT) from 72 hours to 7 days to restore an inoperable RHR pump to operable status.

Date of issuance: April 25, 2001.

Effective date: Effective as of date of issuance, to be implemented within 60 days.

Amendment Nos. 212 and 206.

Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 27, 2000 (65 FR 81922). The February 28, 2001, supplemental letter provided clarifying information which did not change the proposed no significant hazards consideration determination or expand the scope of the request as noticed.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Dade County, Florida

Date of application for amendments: December 6, 2000.

Brief description of amendments: These amendments revised Technical Specification Surveillance Requirement 4.6.1.3.c to extend the interval for testing the containment air lock interlock mechanisms from 6 months to 24 months. Additionally, the amendments corrected an unrelated administrative error in TS Table 3.3–2, "Engineered Safety Features Actuation System Instrumentation."

Date of issuance: April 26, 2001.

Effective date: April 26, 2001.

Amendment Nos. 213 and 207.

Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 7, 2001 (66 FR 9385).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 26, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: October 16, 2000, as supplemented December 22, 2000.

Brief description of amendment: The amendment revises the TSs to incorporate new pressure and temperature (P-T) limit curves. The reactor pressure vessel P-T limit curves are updated for inservice leakage and hydrostatic testing, non-nuclear heatup and cooldown, and criticality. The revised P-T limit curves are approved for an interim period not to exceed September 1, 2003.

Date of issuance: April 30, 2001.
Effective date: As of the date of issuance and shall be implemented within 30 days.
Amendment No.: 238.
Facility Operating License No. DPR–49: The amendment revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** December 13, 2000 (65 FR 77921).
The December 22, 2000, letter was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 2001.
No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket No. 50–323, Diablo Canyon Nuclear Power Plant, Unit No. 2, San Luis Obispo County, California

Date of application for amendment: June 2, 2000, as supplemented by letters dated December 15, 2000, and February 14, 2001.
Brief description of amendments: The amendment revised Technical Specification (TS) Section 3.5.2, "ECCS—Operating," Action A to allow a one-time increase in the allowed outage time for centrifugal charging pump (CCP) 2–1 during Unit 2's Cycle 10 from 72 hours to 7 days. This change will allow for a potential on-line repair or a potential replacement of CCP 2–1. This pump is currently experiencing elevated vibration levels due to a structural resonance in the outboard bearing support structure and has been on an increased testing frequency since May 1996 due to high vibration.
Date of issuance: April 20, 2001.
Effective date: April 20, 2001, and shall be implemented within 30 days from the date of issuance.
Amendment No.: 146.
Facility Operating License No. DPR–82: The amendment revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** July 12, 2000 (65 FR 43051).
The December 15, 2000, and February 14, 2001, supplemental letters provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 20, 2001.
No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: November 30, 2000.
Brief description of amendments: The license amendments revised Technical Specifications (TS) Section TS 3.5.1, "Accumulators" to (1) reflect the values of the accumulator pressure and volume consistent with the analyses assumptions documented in the current DCPP Final Safety Analysis Report (FSAR) Update, and (2) align the DCPP TS with the standard TS for Westinghouse plants.
Date of issuance: May 3, 2001.
Effective date: May 3, 2001, and shall be implemented within 30 days from the date of issuance.
Amendment Nos.: Unit 1–147; Unit 2–147.
Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** December 27, 2000 (65 FR 81928).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 3, 2001.
No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia

Date of application for amendment: March 9, 2001.
Brief description of amendment: The amendment revises the Technical Specifications only until the Fall 2001 refueling outage and allows Mode 2 (startup) operation with two required intermediate range monitor channels per trip system.
Date of issuance: April 27, 2001.
Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.
Amendment No.: 166.
Facility Operating License No. NPF–5: Amendment revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** March 20, 2001 (66 FR 15768).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 27, 2001.
No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: March 17, 2000.
Brief description of amendments: The amendments revise Technical Specification (TS) 3/4.7.4, "Essential Cooling Water System," to delete Surveillance Requirement 4.7.b.3, and to change Surveillance Requirements 4.7.4.b.1 and 4.7.4.b.2 to incorporate the wording from the Standard Technical Specifications for Westinghouse Plants (NUREG–1431). Surveillance Requirement 4.7.4.b.3 requires verifying at least once per 18 months that each screen wash booster pump and the traveling screen start automatically on a Safety Injection test signal. The Bases for TS 3/4.7.4 were also changed.
Date of issuance: April 30, 2001.
Effective date: The amendments are effective as of the date of their issuance.
Amendment Nos.: Unit 1—126; Unit 2—115.
Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** April 19, 2000 (65 FR 21039).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 2001.
No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: November 18, 1999, as supplemented by letters dated November 29, 1999, and November 22, 2000.
Brief description of amendments: Changes to Technical Specifications surveillance testing to satisfy the actions requested in Generic Letter 99–02. The November 29, 1999, and November 22, 2000, letters provided additional clarifying information that was within the scope of the original application and **Federal Register** notice and did not change the NRC staff's initial proposed no significant hazards consideration determination.
Date of issuance: May 1, 2001.
Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.
Amendment Nos.: Unit 1—127; Unit 2—116.
Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 29, 1999 (64 FR 73099).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 1, 2001.
No significant hazards consideration comments received: No.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: May 17, 2000, as supplemented by letters dated August 31, 2000, and January 31, 2001.
Brief description of amendments: The amendments revise the Allowable Values specified in Technical Specification (TS) Table 3.3.5–1, "Loss of Power (LOP) Diesel Generator (DG) Start Instrumentation" to ensure that the 6.9 kiloVolt and 480 Volt undervoltage relays initiate the necessary actions when required. In addition, a change is made to Condition D of TS 3.3.5, "Loss of Power (LOP) Diesel Generator (DG) Start Instrumentation," to eliminate the term "undervoltage." This change is consistent with a change to TS Table 3.3.5–1.
Date of issuance: April 20, 2001.
Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.
Amendment Nos.: 85 and 85.
Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** March 21, 2001 (66 FR 15930).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 20, 2001.
No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: November 30, 2000, as supplemented by letters dated March 8 and 12, 2001.
Brief description of amendment: The changes revise the operability requirements for the refueling interlocks contained within TS 3.12.A as well as the surveillance requirements specified within 4.12.A. Clarifying changes are made to TS 3.12.D and 3.12.E to indicate that only the required interlocks need to be operable. In addition, TS 3.12.F will be clarified to articulate that there must be a minimum of 24 hours fission product decay prior to fuel handling. Some editorial changes were made in TS 3.12.B.
Date of Issuance: April 20, 2001.
Effective date: As of the date of issuance, and shall be implemented within 30 days.
Amendment No.: 200.
Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** March 20, 2001 (66 FR 15770).
The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 20, 2001.
No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: November 27, 2000.
Brief description of amendment: The amendment eliminates the specifications associated with the 24 Vdc Emergency Core Cooling System (ECCS) instrumentation batteries and chargers. The 24 Vdc ECCS instrumentation loads will be transferred to the 125 Vdc main station batteries.
Date of Issuance: April 20, 2001.
Effective date: As of the date of issuance, and shall be implemented within 60 days.
Amendment No.: 201.
Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** January 10, 2001 (66 FR 2024).
The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 20, 2001.
No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: November 1, 2000.
Brief description of amendment: The amendment revises the operability requirement for high pressure coolant injection (HPCI) and reactor core isolation cooling low steam line pressure isolation instrumentation to coincide with system operability requirements. The proposed change eliminates the need to open manual containment isolation valves under administrative control during reactor heatup, reduces the potential for operator error when closing these valves (potential for leaving valve mispositioned), and clarifies the steam line low pressure isolation function description. An administrative change to correct the HPCI High Steam Line d/p instrument component numbers was also made to ensure the accuracy of isolation instrumentation information.
Date of Issuance: April 20, 2001.
Effective date: As of the date of issuance, and shall be implemented within 60 days.
Amendment No.: 202.
Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** December 13, 2000 (65 FR 77928)
The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 20, 2001.
No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 19, 2000 as supplemented on February 13 and 23, 2001, and March 29, 2001.
Brief description of amendment: The amendment revises the Technical Specifications (TSs) by changing the reactor vessel pressure/temperature limit curves specified in TS 3.6.A.1, "Reactor Coolant Systems—Pressure and Temperature Limitations," as graphically represented in Figures 3.6.1, Hydrostatic Pressure and Leak Tests, Core Not Critical, Figure 3.6.2, Normal Operation, Core Not Critical, and 3.6.3, Normal Operation/Core Critical.
Date of Issuance: May 4, 2001.
Effective date: As of the date of issuance, and shall be implemented within 60 days.
Amendment No.: 203.
Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.
Date of initial notice in ***Federal Register:*** January 24, 2001 (66 FR 7687).
The February 13 and 23, and March 29, 2001, supplements provided clarifying information that did not expand the scope of the application as published in the **Federal Register**, or change the proposed no significant consideration determination.
The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 4, 2001.
No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: June 22, 2000, as supplemented September 19, 2000, and January 4, February 14, March 13, March 22, and April 11, 2001.

Brief description of amendment: These amendments revise Technical Specification (TS) Figures 3.4–2 and 3.4–3, and the associated Bases. These amendments approve new pressure-temperature limits, low-temperature overpressure protection (LTOP) system setpoints, and LTOP system effective temperature (T_{enable}) in the TS to a maximum of 32.3 effective full-power years (EFPY) for Unit 1 and 34.3 EFPY for Unit 2. These changes were based, in part, on the use of the American Society of Mechanical Engineers Code Case N–641.

Date of issuance: May 2, 2001.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment Nos.: 226 and 207.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the TS.

Date of initial notice in ***Federal Register:*** February 23, 2001 (66 FR 11334). The January 4, 2001, submittal expanded the scope of the original June 22, 2000, application, which was noticed at 65 FR 48760. The February 14, March 13, March 22, and April 11, 2001, supplements contained clarifying information only, and did not change the February 23, 2001, initial no significant hazards consideration determination or expand the scope of the **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 2, 2001.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland this 8th day of May 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–12192 Filed 5–15–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting; Board Votes To Close May 15, 2001, Meeting

At its meeting on May 7, 2001, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for May 15, 2001, in Washington, DC, in person and via teleconference.

MATTERS TO BE CONSIDERED:

1. Legal Update.
2. Strategic Planning.
3. Personnel Matters.
4. Compensation issues.

PERSONS EXPECTED TO ATTEND:

Governors Ballard, Daniels, del Junco, Dyhrkopp, Fineman, Kessler, McWherter, Rider and Walsh; Postmaster General Henderson, Deputy Postmaster General Nolan, Secretary to the Board Hunter, and General Counsel Gibbons.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, David G. Hunter, at (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–12477 Filed 5–14–01; 2:06 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44287; File No. 4–443]

Joint Industry Plan; Notice of Filings of a Proposed Options Listing Procedures Plan by the American Stock Exchange LLC, Chicago Board Options Exchange, Incorporated, International Securities Exchange LLS, The Options Clearing Corporation, Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc.

May 10, 2001.

I. Introduction

On January 11, 2001, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 11Aa3–2 thereunder,[2] The American Stock Exchange LLC ("Amex"), Chicago Board Options Exchange, Incorporated ("CBOE"), International Securities Exchange LLC ("ISE"), The Options Clearing Corporation ("OCC"), Pacific Exchange, Inc., ("PCX"), and Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, the "Sponsors") filed with the Securities and Exchange Commission ("Commission") a proposed options listing procedures plan ("OLPP" or "Plan").[3] The Sponsors filed amendments to the proposed Plan on March 3, 2001[4] and May 9, 2001.[5] Pursuant to Rule 11Aa3–2(c)(1) under the Act,[6] the Commission is publishing notice of, and soliciting comments on the proposed Plan, as amended.

II. Background

On September 17, 1991, the Commission approved the Joint-Exchange Options Plan ("JEOP"), which sets forth procedures governing the listing of new options.[7] The Amex, CBOE, PCX, Phlx, and New York Stock Exchange[8] were parties to the JEOP.[9] On September 11, 2000, the Commission instituted public administrative proceedings pursuant to Section 19(h)(1) of the Act[10] against, and simultaneously accepted offer of settlement from the Amex, CBOE, PCX, and Phlx (collectively, the "respondent exchanges").[11] Under the Settlement

[1] 15 U.S.C. 78k–1(a)(3)(B).

[2] 17 CFR 240.11Aa3–2.

[3] *See* Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934, dated January 11, 2001. The OLPP is available at the Commission's Public Reference Room.

[4] Letter dated March 2, 2001, from Claire P. McGrath, Vice President and Special Counsel, Amex, to Elizabeth King, Associate Director, Division of Market Regulation ("Division"), Commission ("Amendment No. 1"). Amendment No. 1 provided information required by Rule 11Aa3–2(b)(4) under the Act, 17 CFR 240.11Aa3–2(b)(4), regarding implementation of the proposed OLPP, the proposed OLPP's impact on competition, and written agreements or understandings among the Sponsors of the plan.

[5] Letter dated May 4, 2001, from Clair P. McGrath, Vice President and Special Counsel, Amex, to Elizabeth King, Associate Director, Division, Commission ("Amendment No. 2"). Amendment No. 2 would add procedures for new eligible exchanges to become Sponsors of the Plan and a provision for Sponsors that are no longer eligible to participate in the Plan.

[6] 17 CFR 240.11Aa3–2(c)(1).

[7] *See* Securities Exchange Act Release No. 29698 (September 17, 1991), 56 FR 48954 (September 25, 1991). The JEOP provides specific procedures governing the selecting, listing, challenging, and arbitrating the eligibility of new equity options overlying both exchange-traded an over-the-counter listed securities.

[8] The NYSE later sold its options business to the CBOE. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

[9] The parties filed, and the Commission approved the JEOP as identical proposed rule changes. The OLPP would not replace these rules. The parties would have to file proposed rule changes to amend their rules.

[10] 15 U.S.C. 78s(h)(1).

[11] *See* Order Instituting Public Administrative Proceeding Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000) ("Settlement Order"). The Settlement Order states that the respondent exchanges have

Order, the respondent exchanges were ordered to amend the JEOP to: (i) Eliminate the requirement that advance notice of the intention to list a new option be given to any other exchange, alternative trading system, or other trading venue that lists any options issued by the OCC; (ii) eliminate advance notice to any other market that already lists or has applied to list the option in question; (iii) eliminate any provisions of the JEOP that prevent a market from commencing to list or trade any option listed on another market or an option that another market has expressed an intention to list; (iv) eliminate any provisions of the JEOP allowing one market to prevent or delay another market from listing an option; and (v) eliminate any provisions of the JEOP that allow one market to delay the commencement of trading of an option by another market.[12]

On January 11, 2001, the respondent exchanges, along with the ISE and the OCC, submitted the proposed OLPP to the commission to replace and supersede the JEOP and to comply with the respondent exchanges' obligations under Section IV.B.a. of the Settlement Order. Although not parties to the Settlement Order, the ISE and the OCC have elected to become Sponsors of the proposed OLPP to facilitate the listing and trading of standardized options contracts.

III. Description of the OLPP

The proposed Plan would provide procedures for: (i) Listing and trading new options classes; (ii) selecting new options series; (iii) petitioning the OCC to review the eligibility, pursuant to the exchanges' listing standards, of a selected option class without delaying the trading of that option class; (iv) determining operational details for option contracts adjusted pursuant to OCC By-Laws; (v) admitting new sponsors; and (vi) losing eligibility to participate in the Plan. The proposed OLPP would eliminate the requirement that an exchange give advance notice of its intention to list a new or currently trading option class to any other options exchange that already lists or has applied to list the selected option.[13] The proposed OLPP also contains no provisions that would prevent or delay an exchange from commencing to list or trade any option class other than the one-day advance notice requirement to the OCC for operational purposes.

A. Selection of an Option Class

Under the proposed OLPP, a Sponsor that seeks to trade an option on an equity security ("Selecting Exchange") would be required to submit a certificate notifying the OCC of its intention to trade the option. The Selecting Exchange would be required to submit the certificate between 12:01 a.m. and 11 a.m. (Chicago time) on the trading day before the exchange intended to start trading the option. If the option was not currently trading on another exchange, or had not been certified for listing and trading on another exchange, the Selecting Exchange would be required to provide certain additional information to the OCC when it submitted its certificate. The Selecting Exchange would be required to provide the options symbol, initial exercise prices, expiration cycle, and the position and exercise limits for the selected option class. If more than one Selecting Exchange submits a certificate indicating its intention to commence trading an options class, the OCC would use the information provided on the certificate that was submitted first. The OCC would provide all other Selecting Exchanges with this information, as well as the identity of other Selecting Exchanges, by 1 p.m. (Chicago time) on the day that it received the certificate.

If the option class had been previously certified and was currently trading on at least one registered options exchange, the OCC would notify all other exchanges that traded the option class and all Selecting Exchanges of the identity of each Selecting Exchange. The OCC would provide this notice by 1 p.m. (Chicago time) on the day that it received notification from the Selecting Exchange(s).

B. Selection of a New Option Series

The proposed OLPP would provide procedures for each of the Sponsors to trade additional series of an option class it currently trades. If an exchange decided to trade a new option series and began trading the new series on the same day, it would be required to notify the OCC, and any other exchange that also traded the same option class, within 10 minutes of commencing trading, under normal market circumstances. If the exchange decided to trade the new series on the next trading day or thereafter, it would be required to notify the OCC, and any other exchange that traded the same option class of the new series to be traded, by 4:15 p.m. (Chicago time) the day before the new series is to be traded.

If the addition of a new series would involve the introduction of new expiration months, different procedures would apply. First, the exchange would be required to provide a preliminary notification of the new expiration month for the series it intended to trade to the OCC and any other exchange that traded the same option class, by 9 a.m. (Chicago time) on the second day prior to expiration. Second, the exchange would be required to provide to the OCC and any other exchange that traded the same option class by 2 p.m. (Chicago time) on or before the trading day before the existing series' expiration a final notification of the new expiration month series it intended to trade. With respect to adding new option series and melding LEAP series into near-term series, the proposed OLPP would permit an exchange that wanted to trade a new series and any other exchange that traded the same option class to jointly determine, when necessary, the symbol and trading codes for the new series.

C. Petition To Review the Eligibility of a New Option Class

Under the proposed Plan, the Sponsors would be permitted to petition the OCC to review whether an option class was eligible for listing on the day a Selecting Exchange certified the option for listing and trading. The exchange listing and trading the option class would be permitted to continue to do so unless and until the OCC determined that the class was ineligible. An exchange that wished to challenge the eligibility of an option class would be required to submit a petition to the OCC, setting forth the listing standards or guidelines the petitioning exchange was requesting the OCC to review, by 3 p.m. (Chicago time) on the date that the option class began trading. The OCC would be required to then provide a copy of the petition to the Selecting Exchange by 4 p.m. (Chicago time). Both exchanges would be required to submit written support for their claims of eligibility or ineligibility to the OCC by 3 p.m. (Chicago time) on the second day that the option class had been trading.

The OCC would endeavor to complete its review and notify the Sponsors of its determination by 4 p.m. (Chicago time) on the third day that the option class

significantly impaired the operations of the options markets by, among other things, refraining from multiply listing a large number of options.

[12] *See* Section IV.B.a. of the Settlement Order. The Settlement Order requires an exchange to provide to the OCC (i) not more than one business day's notice of the exchange's intent to list an existing option, and (ii) reasonable advance notice of the exchange's intention to list a new option. *Id.*

[13] However, the proposed OLPP would include a provision that allows an exchange to provide the OCC with not more than one business day's notice of an exchange's intention to list an existing options class. Further, under the proposed OLPP, the Sponsors would communicate with each other only indirectly, through the OCC.

had been trading.[14] If the OCC determined that the option class was ineligible, the Selecting Exchange would be required, on the first trading day after the OCC's determination, to delist any option series without open interest and allow only closing transactions in any series with open interest. If the option class subsequently became eligible, any exchange would be permitted to submit a certificate to the OCC to list and trade the option class.

D. Adjustments Pursuant to OCC By-Laws

The OCC's By-Laws permit a securities committee composed of representatives from each registered options exchange trading options on a particular security to determine whether to make adjustments to reflect particular events affecting the underlying security, as well as operational issues attendant to the adjustment.[15] Events affecting the underlying security that may require an adjustment would include, among other things, stock dividends or distributions, stock splits, rights offerings, mergers, and reorganizations. The proposed OLPP would permit the Sponsors to make these adjustments, as well as determine operational issues in connection with such adjustments.

E. New Plan Sponsors

The proposed OLPP contains a self-effecting provision for the addition of new sponsors, in which an Eligible Exchange would be able to become a sponsor of the Plan by: (i) Executing a copy of the Plan; (ii) providing each then-current Plan Sponsor with a copy of such executed Plan; and (iii) effecting an amendment to the Plan reflecting the addition of the new sponsor's name.[16] An Eligible Exchange would be defined as a national securities exchange registered with the Commission in accordance with Section 6(a) of the Act that: (i) Has effective rules for the trading of option contracts issued and cleared by OCC approved in accordance with the provisions of the Act and the rules and regulations thereunder; and (ii) is a party to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (the "OPRA Plan").

F. Loss of Eligibility

An exchange would no longer be an Eligible Exchange when it ceased trading OCC issued and cleared option contracts, or, if it had become a Plan sponsor and had not commenced to list and trade OCC issued an cleared option contracts, within one year of becoming a Plan Sponsor.

G. Implementation of the OLPP

The Sponsors of the proposed Plan intend to implement the Plan immediately upon approval by the Commission. The Sponsors do not believe that development, implementation, or pilot phases are necessary for the operation of the OLPP.

H. Impact on Competition

The Sponsors represent that the proposed OLPP would: (i) Facilitate the orderly introduction of new equity options; (ii) ensure that there is a mechanism in place to ensure that only eligible securities are selected for options trading; (iii) ensure the continued fungibility of multiply-trade option classes; (iv) allow the options exchanges to list new options as soon as possible to reap the benefits of their research efforts; and (v) minimize investor confusion.

The Sponsors note that the Plan does not require advance notice to any options exchange of an intention to list a new options class (except for not more than one business day's notice to any options exchange that already lists or has applied to list the selected option class) or prevent or delay an options exchange from commencing to list or trade any option class. The Sponsors state that the OLPP would facilitate the orderly and fair introduction of new options and prevent unnecessary confusion among member firms in deciding where to direct their order flow by standardizing the process for listing option classes.

Additionally, the proposed Plan would provide procedures for the selection of new option series and for the determination of operational details for option contracts adjusted pursuant to OCC By-Laws. The Sponsors represent that these procedures are necessary for the fair and orderly trading of multiply-listed option classes. The Sponsors state that the listing and trading of the same option series on two or more exchanges trading that option class requires uniformity and standardization of operational procedures, including uniform trading symbols, trading codes, and contract terms. The Sponsors further state that consistency is necessary for fully effective multiple trading, maintaining the fungibility of option contracts, efficient order routing decisions by member firms, and investor expectations that orders be routed and executed quickly at the exchanges that offer the potential for best execution. While the Plan would not require exchanges multiply-trading a particular option class to trade all series listed by the other exchanges trading the same class, it would provide a means of notification through the OCC of the series to be traded by each exchange. Such notification would give the other exchanges trading that class the ability to add the quotations for such new series into their calculation of the national best bid and offer on the date the new series began trading.

I. Description of Written Understandings or Agreements

The Sponsors represent that they have not entered into any understandings or agreements, written or otherwise, relating to interpretations of the proposed Plan or conditions for becoming a sponsor or participant in the Plan.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed plan, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal offices of the Sponsors of the proposed OLPP. All submissions should refer to the File No. 4–443 and should be submitted by June 16, 2001.

[14] The OCC would be entitled to take five additional days to complete its review if it notified both exchanges of the additional time needed.

[15] See Article VI, Section 11 of the OCC By-Laws. Operational issues attendant to the adjustment could include option symbols and trading codes, contract multipliers, and position and exercise limits applicable to the adjusted option class.

[16] An amendment to the Plan may be effected by a new Eligible Exchange executing a copy of the Plan, as then in effect (with the only change being the addition of the new Plan Sponsor's name in Section 9 of the Plan) and submitting such executed Plan to the SEC. Such amendment will be effective when it has been approved by the SEC or otherwise becomes effective pursuant to Section 11A of the Act and Rule 11Aa3–2 thereunder.

By the Commission.
Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 01–12250 Filed 5–15–01; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44286; File No. SR–Amex–2001–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Amendments to Fee Schedules

May 9, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change, and amended such proposed rule change on May 3, 2001,[3] as described in Items I, II, and III below, which Items have been prepared by the Amex. The Amex has designated this proposal as one constituting the establishment or change of a due, fee or other charge imposed by the Amex under Section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2),[5] which renders the rule effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend the Amex Member Fees Schedule; Floor Fees Schedule; Booth Rental and Order Pads Schedule; and CFD and IDC Fees Schedule. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex proposes to amend certain Exchange fees imposed on Amex members and member organizations as set forth below.

(1) Member Fees:

The Exchange incurs certain expenses in connection with the administering applications for Exchange membership. In order to better align Amex's fees with the actual costs of delivering these services, the Exchange is increasing from $500 to $2,000 the fee for processing membership applications. In addition, the Exchange is imposing a $500 fee for each qualifying exam taken by an applicant for membership beyond the first attempt. These fees will be imposed beginning May 1, 2001.

(2) Floor Fees:

The Exchange is eliminating the current $500 annual Specialist Post Privilege Fee, which is imposed on each individual specialist, and will impose a new annual post fee per podium of $750 beginning July 1, 2001. This fee will be increased to $1,000 for each podium beginning January 1, 2002. These new fees better reflect the maintenance costs borne by the Exchange.

To improve reliability, the Amex recently replaced its wireless telephone system with a SpectraLink system.[6] The new annual charge for all wireless handsets will be phased in as follows: $1,700 per handset from July 2, 2001 to June 30, 2002 and $2,100 per handset beginning July 1, 2002.

The Amex has recently upgraded its booth telephones from an 18-button turret system, for which it charged $600 per year to a new 40-button system. The new annual charge for all turret telephones will be phased in as follows: $900 per telephone from July 1, 2001 to June 30, 2002 and $1,290 per telephone beginning July 1, 2002.

The Amex has incurred significant development and installation expenses in implementing its Booth Automated Routing System ("BARS") for routing orders to and within the Exchange and will also incur significant annual operation costs. The Exchange is imposing its BARS annual equipment fees of $3,600 per configuration of up to ten hand-held devices, one keyboard, one Central Processing Unit ("CPU"), one monitor, and one printer, with users retaining liability for the cost of any damage, loss, or repairs. These fees will be implemented beginning May 1, 2001.

In order to address security risks that may be associated with loss of photo identification cards used on the Floor, the Exchange is increasing the fee to replace lost photo identification cards from $15 to $100, beginning May 1, 2001. This fee also better reflects Exchange costs associated with card replacements.

For construction and craft services provided by the Exchange at any member's request, the Exchange will charge $50.00 per worker per hour for work performed 8 a.m.–6 p.m. New York time only on the days the Exchange is open for business and $75.00 per hour for worked performed at all other times. These charges serve to eliminate an Exchange subsidy for such services.

(3) Booth Rentals:

The Exchange is restructuring and simplifying annual booth rental charges on a phased in basis as follows:

Booth type	New fees as of July 1, 2001	New fees as of July 1, 2002	Former fees
Type 1 ("telephone")	$3,000	$3,500	$1,600–$2,200.
Type 2 (24 "standard")	4,500	4,500	Not applicable.
Type 3 (36 "standard")	6,000	6,000	Not applicable.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 substituted the words "Membership-Registration" for "CRD" in the CRD and IDC Fee Schedule in Exhibit A of the original rule filing. See letter from Michael Cavalier, Associate General Counsel, the Amex, to Katherine England, Assistant Director, Division of Market Regulation, the SEC (May 3, 2001).

[4] 15 U.S.C. 78s(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] The SpectraLink system is a system of wireless phones used by members on the floor for communication on the trading floor. Telephone conversation between Cyndi Nguyen, Attorney, the SEC, and Michael Cavalier, Associate General Counsel, the Amex (April 26, 2001).

Booth type	New fees as of July 1, 2001	New fees as of July 1, 2002	Former fees
Type 4 ("machine")	6,000	7,000	$5,000–$5,400.

The revised fee schedule is designed to provide partial recovery by the Exchange of costs associated with constructing and maintaining booth rental space.

(4) Membership Registration and IDC Fee Schedule:

The Exchange is amending its fee schedule, effective May 1, 2001, applicable to membership registration to bring such charges in line with those of other exchanges. Renewal fees will be raised from $30 to $47, initial fees will be raised from $55 to $60, and termination fees will be raised from $25 to $30.

2. Statutory Basis

The Amex believes the proposed rule change is consistent with the provisions of section 6(b) of the Act[7] in general, and furthers the objectives of section 6(b)(4) of the Act[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among members, issuers, and other persons using Exchange facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (f)(2) of Rule 19b–4 thereunder[10] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR–Amex–2001–22 and should be submitted by June 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12281 Filed 5–15–01; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b).
[8] 15 U.S.C. 78f(b)(4).
[9] 15 U.S.C. 78s(b)(3)(A)(ii).
[10] 17 CFR 240.19b–4(f)(2).
[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44289; File No. SR–CHX–2001–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc., To Allow Floor Brokers To Clear a Specialist's Post By Telephone

May 10, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 23, 2001, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities Exchange Act Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Article XX, Rule 10 to permit floor brokers to clear a specialist's post telephonically. The text of the proposed rule change is below. Proposed additions are in italics. Proposed deletions are in brackets.

ARTICLE XX, RULE 10

Manner of Bidding and Offering

Rule 10. Bids and offers to be effective must be audibly made at the post and shall remain in full force until the person making the bid or offer shall audibly announce that he is out of the market or until he leaves the post.

* * * Interpretations and Policies: .01 Although there may be certain amount of negotiation by voice away from the post, every trade must be consummated at the post. .02 Clearing the Post.

Policy. All orders received by floor brokers or originated by market makers on the floor of the Exchange must effectively clear the post before the orders may be routed to another market[, either] via the ITS [System] or through the use of alternative means.

Floor brokers who receive an order on the floor have a fiduciary responsibility to seek a best price execution for such order. This responsibility includes clearing of the Exchange's post prior to routing an order to another market so that other buying and selling interest at the post can be checked for a potential execution *equal to* [that may be as good as] or better than the execution available in another market. *It is not inconsistent with a floor broker's fiduciary responsibility to effectively clear the post telephonically, provided that: (i) through the specialist, the floor broker probes the market for other buying and selling interest at the post, and (ii) after probing the market, if equal or better buying or selling interest is available at the post, the floor broker, while physically present at the post, consummates the trade at the post.*

[1] 15 U.S.C. 78s(b)(1).
[2] 17 U.S.C. 240.19b–4.

Market makers are required to provide depth and liquidity to the Exchange market, among other things. Exchange Rules require that all market maker transactions constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. In so doing, market makers must adhere to traditional agency auction market principles on the floor. Transactions by Exchange market markers on other exchanges, which fail to clear the Exchange post, do not constitute such a course of dealings.

Notwithstanding the above, it is understood that on occasion a customer will insist on special handling of a particular order that would preclude it from clearing the post on the Exchange floor. For example, a customer might request that a specific order be given primary market execution. These situations must be documented and reported to the Exchange. Customer directives for special handling of all orders in a particular stock or all stocks, however, will not be considered as exceptions to the clearing the post policy.

All executions resulting from bids and offers reflected on Instinet terminals resident on the Exchange floor constitute "orders" which are "communicated" to the Exchange floor. Therefore, all orders resulting from interest reflected on Instinet terminals on the Exchange floor must be handled as any other order communicated to the floor. All such orders must be presented to the post during normal trading hours. All trades between Instinet and Exchange floor members are Exchange trades and must be executed on the Exchange.

Method of Clearing the Post. Subject to Article XX, Rule 11 relating the cabinet securities, the Exchange's *general* clearing the post policy requires [the] floor brokers *and* [or] market makers to be physically present at the post, *but permits floor brokers, as a means of clearing the post, to telephonically probe a market through the specialist in order to more efficiently fulfill their fiduciary responsibility to seek a best price execution for their customer orders.* A market maker, after requesting the specialist's market quote, must bid or offer the price and size of his intended interest at the post. A floor broker must clear the post be requesting a market quote from the specialist. If the specialist or any other member who has the post indicates an interest to trade at the price that was bid or offered by the market maker or the price of the floor broker's order (even through that order has not yet been bid or offered), then the trade may be consummated with the specialist (or whomever has the post) in accordance with existing Exchange priority, parity and precedence rules. If the specialist (or any other member who has the post) indicates interest to trade at that price but the member communicating the intended interest, including Instinet interest, determines not to consummate the trade with the specialist or such member, then, to preserve the Exchange's existing priority, party and precedence rules, the trade may not be done with any other Exchange floor member. (See Article XXX, Rule 2). If the trade is consummated with the specialist or other member who has the post, the specialist (or any customer represented by the specialist) is not required to pay any fees to the broker or market maker in connection with the execution of the order, unless such fee is expressly authorized by an Exchange Rule. If the specialist does not indicate an interest to trade, then the trade may be consummated with another Exchange floor member on the Exchange floor with a resultant Exchange print. Failure to clear the post result in a "trade-through" or "trading ahead" of other floor interest. In addition, failure to properly clear the post may result in a violation of the Exchange's Just and Equitable Trade Principles Rule (Article VIII, Rule 7) and a market maker rule that requires all market maker transactions to constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market (Article XXXIV, Rule 1). Failure to properly clear the post may also subject *members* [the violator] to a *fine* [minor rule violation] under the Exchange's Minor Rule Violation Plan.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend CHX Article XX, Rule 10 to allow floor brokers to clear a specialist's post by phone. Under the Exchange's current rules, physical presence at a specialist's post is the only satisfactory method to clear the post before executing an order on the floor with another member or transmitting an order to another market center for execution via the Intermarket Trading System or through other means. The Exchange believes that permitting floor brokers, while on the CHX floor, to telephonically clear a specialist's post—for the purpose of determining the presence of other buying and selling interest on the CHX—would expand the manner of probing the CHX market in a faster, more efficient way while continuing to satisfy the rule's purpose. This change also will permit floor brokers to more efficiently fulfill their fiduciary obligations to seek the best available price in the national market for their customers' orders.

The proposed rule does not place any absolute responsibility on specialists to permit floor brokers to clear a post by phone, but allows specialists to require floor brokers to come to the post if there is an active crowd or if the specialist is too busy to probe the market. Under the proposed rule, all trades must nevertheless continue to be consummated at the post.

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and with the requirements of section 6(b).[3] In particular, the Exchange believes the proposed rule is consistent with section 6(b)(5) of the Act[4] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the CHX consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[3] 15 U.S.C. 78f(b).
[4] 15 U.S.C. 78f(b)(5).

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–2001–09 and should be submitted by June 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12280 Filed 5–15–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44282; File No. SR–GSCC–2001–01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to the Redesign of Comparison Rules

May 8, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on January 16, 2001, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") and on April 11, 2001,[1] amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow GSCC to redesign its comparison rules in order to implement real-time interactives services.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In a white paper distributed to all members in early 1997, GSCC outlined its long-range plans to provide straight-through processing and a point-of-trade guarantee to its members primarily through the implementation of real-time interactive services. Last year, GSCC announced that it would implement its interactive services in three phases. Phase 1 will introduce interactive messaging to support real-time comparison; phase 2 will introduce interactive messaging to support netting; and phase 3 will introduce support of same-day settlement of repo start legs.

During the latter part of 2000, GSCC implemented the necessary technical changes to its automated system to implement the first phase of its interactive processing service (*i.e.*, making available the interactive messaging facility to support real-time comparison). Up until this point, GSCC's processing experience has been essentially batch. Members now have the ready ability, from a technological perspective, to submit trade input on an automated basis to GSCC intraday as trades are executed. While GSCC will continue to support its existing batch input and output facilities initially, it plans to eventually stop supporting these older formats. Members will be encouraged to make the shift from batch to interactive processing as soon as it is feasible for them to do so. At some point in time, once a sufficient nucleus of members has begun processing interactively, GSCC will implement disincentives to discourage members from continuing to submit and receive data via the old batch formats.

Concurrent with this development, GSCC has been redesigning its matching and comparison procedures to better meet the needs of its members during their transition from a batch on an interactive environment. This redesign is the subject of this rule filing. GSCC's central goal in this redesign is to provide straight-through processing by allowing for the easy identification and resolution of trades intraday to achieve 100 percent comparison. GSCC believes that interactive messaging and enhanced real-time trade matching processing are critical steps in helping to reduce risk by ensuring that more transactions are compared earlier in the day and then eventually also netted and guaranteed through GSCC so that intraday credit exposure to counterparties is minimized.

In the current environment, most trades are compared within the GSCC system as a result of bilateral comparison with the exception being certain locked-in trades, such as members' Federal Reserve auction purchases. To facilitate real-time comparison while still providing members with the flexibility to transition from batch to interactive submission according to a timeframe suitable to their own needs and resources, GSCC is proposing to: (i) Amend its rules to provide for three types of trade comparison: (a) Bilateral comparison, (b), demand comparison, and (c) locked-in comparison and (ii) make certain other related rules changes as further discussed below.

Bilateral Comparison

Bilateral comparison, which is the traditional method of comparison, will continue to require that the two trade counterparties (or if one or both of the counterparties are not GSCC members, the members acting on their behalf) submit trades to GSCC in which certain mandatory details either match or fall within predefined parameters to effect a match. Bilateral comparison will remain the primary comparison type for dealer-to-dealer trades and will be available in both real-time and batch. Members may elect to submit interactively regardless of whether their trade counterparties do so.

A new feature of bilateral comparison will be the ability for members to "DK" any trades they "do not know." The proposed rule change introduces the term "DK Notice" to GSCC's rules. If a member determines that a request for comparison is invalid or incorrect, it can send a DK notice to GSCC which will be forwarded to the original submitter. The receipt of the DK notice by GSCC will prevent the trade from comparing in GSCC's system. If a member that sent a DK notice determines that it did so erroneously, the member will be able to remove the DK and enable comparison to occur if it does so within the timeframes prescribed by GSCC for such purpose.

Demand Comparison

Demand comparison is a new type of comparison that has been designed to provide members with flexibility and control over the comparison process for trades executed via intermediaries. Demand comparison strikes a balance between bilateral comparison, where the member is required to submit trade data in order for its trade to compare, and locked-in comparison (discussed in more detail below), where the trade has essentially been operationally compared before being submitted to GSCC.

Demand trades will be submitted by approved intermediaries (*e.g.*, brokers) which will be called "demand trade sources." Demand trade sources must be able to communicate with GSCC interactively. In order for GSCC to accept trades from a demand trade source on a member's behalf, the member must provide GSCC with prior written authorization. The intermediary must also be approved and authorized by GSCC to be a demand trade source.

GSCC will deem a demand trade compared upon receipt of the trade data from the demand trade source. However, if a member does not know a trade submitted on its behalf by a demand trade source, the member will be able to submit a DK notice to GSCC. The receipt of a DK notice by GSCC will cause the demand trade to no longer be eligible for comparison. If a member that sent a DK notice determines that it did so erroneously, the member will be able to remove the DK and enable comparison to occur if it does so within the timeframes prescribed by GSCC for such purpose.

GSCC is making incidental rules changes to Rules 11, 16, 18, 21, 22, and 39 to take into account the introduction of demand trades.

Locked-In Comparison

Locked-In Comparison will be similar to that currently provided for in GSCC's rules. Locked-In Comparison presumes that a member would elect not to submit corresponding trade details to affect a match because the trade has been precompared by the trade source. An example of a trade appropriate for locked-in comparison would be one executed through a "pure" electronic trading system that is terminal-driven and that exercises no discretion over the trade.

In order to participate, the locked-in trade source must be authorized by both the members on whose behalf it will be submitting trade data and by GSCC. With the exception of some current locked-in sources, such as the Federal Reserve banks, locked-in trade sources will be expected to communicate with GSCC.

Locked-In trades will be deemed compared upon receipt by GSCC. The DK feature will also be available for locked-in trades. However, unlike in the case of demand trades, a DK of a locked-in trade will be treated by GSCC as a request for cancellation to the locked-in trade source. In order to actually cancel the trade on GSCC's system, the locked-in trade source will have to respond to the request by submitting a trade cancellation. The locked-in trade source can modify the trade in response to a DK notice in order to remove the trade's DK status.

Submission Methods

In order to set forth the concept of a member submitting interactively versus submitting in one of the batch modes, GSCC is proposing to add three new definitions to its rules: "interactive submission method," "multiple batch submission method," and "single batch submission method." The proposed rules changes make clear which submission type is required for each type of comparison.

In addition, GSCC is proposing to add a definition of "real time" in its rules to be used to indicate when a particular process (*e.g.*, the enhanced comparison processes set forth in Rule 10) will be performed by GSCC in real time as opposed to at the end of day.

Submission of Full-Sized Trades

GSCC is also proposing to permit members to submit full-sized trades. Currently, non-GCF Repo trades are submitted in $50 million increments. Because members' internal systems tend to reflect the full size of each trade (as opposed to the pieces that they submit to GSCC), the submission of full-sized trades will permit members to better reconcile their trading activity. GSCC recognizes that not all members will be able to begin processing full-sized trades immediately. Therefore, GSCC will not require that members exercise this option.

Timing of Key Processes of GSCC

GSCC's key processes are comparison, netting, novation, and guaranty of settlement. GSCC is proposing to change the timing of two of these processes (comparison and guaranty of settlement).

With respect to the timing of comparison, GSCC's rules currently provide that it occurs when GSCC makes its comparison output available to members. The proposed rule filing provides that, while comparison will continue to occur upon issuance of the comparison message by GSCC with respect to trades submitted for bilateral comparison, it will be deemed to occur upon receipt of trade data from the authorized trade source with respect to trades submitted for demand comparison and locked-in comparison.

With respect to the timing of netting, GSCC's rules currently provide that this occurs upon issuance of the report of or output on net settlement positions by GSCC. This will continue to be the case. Similarly, GSCC's rules currently provide that novation, the process by which GSCC becomes the substituted counterparty to trades submitted to it, occurs upon the issuance of the report of or output on net settlement positions by GSCC. This will also remain unchanged.

With respect to the timing of GSCC's guaranty of settlement, GSCC's current rules provide that GSCC guarantees the settlement of a netting-eligible trade upon issuance of the report/output that sets forth the member's net settlement position. The exception to this rule is GSCC's policy of guaranteeing blind brokered repos entered into in good faith upon trade execution.[3]

The proposed rule changes will move the timing of GSCC's guaranty to the point of comparison. This means that a netting-eligible trade submitted for bilateral comparison will be guaranteed upon issuance of the comparison message by GSCC and that a netting-eligible trade submitted for demand or

[5] 17 CFR 200.30–3(a)(12).

[1] Letter from Nikki M. Poulos, Vice President and Associate General Counsel, GSCC (April 10, 2001). Subsequent to filing GSCC–2001–01, GSCC filed a rule proposal (SR–GSCC–2001–02) that became immediately effective under Section 19(b)(3). The letter states that GSCC–2001–02 amends rules previously listed by GSCC–2001–01 in Exhibit A and that both rule filings are consistent with each other. The amendment does not amend any language in GSCC–2001–01 as originally filed with the Commission and as presented herein.

[2] A copy of the text of GSCC's proposed rule change and the attached exhibits are available at the Commission's Public Reference Section or through GSCC.

[3] GSCC adopted its policy of guaranteeing blind brokered repos entered into in good faith upon trade execution in order to comfort dealers that have intraday credit exposure to brokers through whom they execute such transactions. The policy only applies to such transactions that are entered into in good faith, which means, for example, that GSCC would not honor it in the event that a dealer entered into a transaction knowing that the counterparty was insolvent.

locked-in comparison will be guaranteed upon receipt of trade data from the authorized trade source. if a trade is DKed (and with respect to a locked-in trade, canceled by the locked-in trade source), GSCC's guaranty will no longer be in effect with respect to that trade. As a transition measure that recognizes that members may need some time to switch to interactive processing, GSCC is proposing that it maintain its policy of guaranteeing blind brokered repo trades entered into in good faith upon trade execution through the year 2001.

General Responsibilities of Members

GSCC's comparison rule contains a provision that requires members to review documents that they receive from GSCC.[4] GSCC desires to expand the provision to cover any type of communication provided to members by GSCC and require members to inform GSCC promptly, but in no event later than ten calendar days after receipt of the communication, if there is any error, omission or other problem with respect to the communication.[5] GSCC's netting rule contains a similar provision with respect to which GSCC has proposed to add the ten-day requirement.[6] GSCC believes that the ten-day timeframe will provide members with a sufficient amount of time within which to detect problems in a communication from GSCC.

Amendments to Schedules

GSCC is proposing incidental changes to certain of its Schedules for clarification purposes and to bring them into conformity with the proposed rules changes discussed above. Specifically, GSCC is expanding the output time slot in its "Schedule of Timeframes" from "midnight to 2 a.m." to "8 to 2 a.m." This change reflects the fact that GSCC may be able to provide certain output earlier given the implementation of real-time trade matching and also the recent shift to the 8 p.m. trade submission deadline.

GSCC is also proposing additional amendments to the Schedule of Timeframes in order to update it to reflect actual practice. Specifically, funds-only settlement payments are due to GSCC at 10 a.m. (currently at 9 a.m.) and funds-only settlement payments are due from GSCC at 11 a.m.). GSCC has proposed clarifying language to indicate that the 10:30 a.m. deadline for satisfaction of a clearing fund deficiency call is approximate because members have two hours after a call is made to fulfill their obligation.

GSCC is also updating its "Schedule of Required Match Data," "Schedule of Required Data Submission Items," and its "Schedule of Required Data Submission Items for a Right of Substitution" to make clear that the only locked-in trades to which those schedules do not apply are Treasury/Federal Reserve auction purchases and GCF repo transactions.

GSCC is also amending its fee structure to set fees for demand trades which will be the same as those currently imposed on locked-in trades.

The proposed rules changes are consistent with the requirements of the Act and rules and regulations thereunder because they will help to eliminate risk by promoting a higher rate of comparison and ensuring that more transactions are compared on a more timely basis, and then eventually netted and guaranteed through GSCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rules changes will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule changes have not yet been solicited or received. Members will be notified of the rule change filing and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–2001–01 and should be submitted by June 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12251 Filed 5–15–01; 8:45 am]

BILLING CODE 8010–01–M

[4] GSCC proposed revised Rule 5, Section 5 will state: "Each Member shall promptly review each Report it receives from the Corporation pursuant to this Rule. Any errors, omissions, or similar problems noted by a Member with respect to a Report must be promptly reported to the Corporation, but such reporting to the Corporation shall be made no later than ten calendar days after the receipt of the Report."

[5] In its rules, GSCC requires its members to review reports received from GSCC. In its Rule 1, "Definitions," GSCC defines the term "report" as follows: "The term Report means any document, record, or other output prepared by the Corporation and made available to a Member in any format (including, but not limited to, machine-readable and print-image formats) or medium (including, but not limited to, print copy, magnetic tape, video display terminal, and CPU-to-CPU interface formats) that provides information to such Member with regard to the services provided by, or the operations, of, the Corporation."

[6] GSCC proposed revised Rule 11, Section 12 will state: "The Netting member shall inform the Corporation after the occurrence of any event specified above; provided however, that the Netting Member shall inform the Corporation no later than ten calendar days after receiving a Report described in subsection (b) above."

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44278; File No. SR–SCCP–2001–05]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Eliminating Certain Specialist Fees, Discounts, and Credits

May 8, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 2, 2001, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends SCCP's fee schedule by eliminating certain equity floor specialist fees, discounts, and credits for transactions with orders entered before the opening of trading on PACE.[2] Under the proposed rule change, certain trade recording and value fees are eliminated. The proposed amendment also eliminates volume related discounts given to specialists for trades cleared through a SCCP margin account as well as a $.20 credit per specialist trade on PACE.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, SCCP included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to eliminate certain specialist fees, discounts, and credits which pertain to trades that a specialist executes on PACE on the opening.

Presently, orders entered in the PACE system prior to the opening which are executed on the opening are subject to the following SCCP fees and credits: (1) Trade recording fees; (2) value fees; (3) specialist discounts for trades cleared through a SCCP margin account; and (4) a PACE specialist credit of $.20. The proposed rule change eliminates the above charges and credits in relation to orders entered on PACE before the opening which were executed by the specialist and not matched automatically by PACE.[4]

In some instances, where PACE cannot match a buy and sell order, the specialist is responsible for their independent execution and fees. The proposed rule change eliminates the transaction fees imposed by the Philadelphia Stock Exchange in the above circumstances which affect specialists with orders on the opening that are not executed automatically through PACE. SCCP believes that the proposed rule change will enable the specialist to continue to provide the market with prompt execution of orders that require his intervention without the additional burden of a transaction fee. SCCP states that a more affordable, fair, and competitive market for specialists should encourage the specialists' efforts in attracting more order flow which in turn should promote a more liquid market. SCCP intends to implement the proposed rule change effective May 1, 2001.

For these reasons, SCCP believes that the proposed rule change is consistent with section 17A(b)(3)(D) of the Act[5] which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by SCCP, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(f)(2) thereunder.[7] At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at SCCP. All submissions should refer to the File No. SR–SCCP–2001–05 and should be submitted by June 6, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12279 Filed 5–15–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] PACE is the Philadelphia Stock Exchange's Automated Communication and Execution System. It is the Exchange's order routing, delivery, execution, and reporting system for its equity trading floor.

[3] The Commission has modified parts of these statements.

[4] For a detailed listing of the above fees, please see *Exhibit B* of this proposed rule change in the Commission's Public Reference Section.

[5] 15 U.S.C. 78q–1(b)(3)(D).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(s)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–37]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition number involved and must be received on or before June 5, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy, Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on May 10, 2001.

Donald P. Byrne,

Assistance Chief Counsel for Regulations.

Petitions for Exemptions

Docket No.: FAA–2001–8841.

Petitioner: HammerHead Aerobatics Inc.

Section of 14 CFR Affected: 14 CFR 91.315.

Description of Relief Sought: To permit HammerHead to operate its Sukhoi 29, which holds an experimental airworthiness certificate, for the purpose of carrying passengers on local flights in return for compensation, dual instruction, and demonstration flights, until the SU–29 can be certificated under 14 CFR parts 23.

[FR Doc. 01–12237 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 186 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B).

DATES: The meeting will be held June 4–7, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held at the Honeywell—Laguna South "Training Center," 14980 NE 31st Circle, Redmond, WA, 98052.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.* (2) *On-site Point of Contact:* Pio Blankas, Redmond, WA: telephone (425) 885–8277; fax (425) 887–8431.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, U.S.C., Appendix 2), notice is hereby given for a Special Committee 186 meeting. The agenda will include:

- June 4, 5, 6:
  - Working Group 4, ASA Minimum Aviation System Performance Standards (MASPS)
  - Joint Working Group 1, Operations and Implementation
- June 7:
  - Opening Session (Chairman's Introductory Remarks, Review of Meeting Agenda, Review/Approval of Previous Meeting Summary)
  - USAF/DOD Requirements Process
  - EUROCAE WG–51 Status Report (WG–51 Participation with ASA Minimum Aviation System Performance Standard (MASPS); WG–53 "Top Down" Methodology)
  - SC–186 Activity Reports
  - WG–1, Operations & Implementation
  - WG–2, Traffic Information Service—Broadcast (TIS–B)
  - WG–3, 1090 MHz Minimum Operational Performance Standard (MOPS)
  - WG–4, Application Technical Requirements
  - WG–5, Universal Access Transceiver (UAT) MOPS
  - Ad Hoc MASPS Working Group (DO–242)
  - Closing Session (Review Actions Items/Work Program, Other Business, Date, Place and Time of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12233 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 165: Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 165 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 165: Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services.

DATES: The meeting will be held June 5–7, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held in the RTCA Conference Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 165 meeting. The agenda will include:

- June 5, 6, 7:
  - Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting, Chairman's Remarks)
  - Review of SC–165 Working Group Activities
  - Working Group 1 (AMS(R)S Avionics Equipment Minimum Operational Performance Standard (MOPS))
  - Working Group 3 (AMS(R)S MASPS)
  - Complete Final Review and Comment (FRAC) Process for *Minimum Aviation System Performance Standards (MASPS) for the Aeronautical Mobile-Satellite (R) Service (ASM(R)S) as Used in Aeronautical Data Links*
  - Brief Overview of Related Activities
  - AEEC 741 and 761 Characteristics
  - ERUOCAE WG–55
  - AMS(R)S Spectrum Issues
  - ICAO Aeronautical Mobile Communications Panel
  - Industry, Users, Government
  - Closing Session (Other Business, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12234 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 197: Rechargeable and Starting Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 197 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 197: Rechargeable and Starting Batteries.

DATES: The meeting will be held May 22–24, 2001 starting at 8:30 p.m. on Tuesday, May 22nd, and at 8 a.m. the following days.

ADDRESSES: The meeting will be held at the Government Conference Centre, Rideau Street, Ottawa, Canada.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.* (2) *On-site Point of Contact:* Jim Deviller, Ottawa, Canada; telephone (613) 993–0696.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 197 meeting. Note: SC–197 will be meeting with TC21 Working Group 4 of the International Electrotechnical Commission (IEC). The agenda will include:

- May 22, 23, 24:
  - Opening Session (Welcome and Introductory Remarks, Review of Agenda, Review Summary of Previous Meeting)
  - Review Action Items and Status
  - Review and Discuss RTCA activity and relationship with IEC
  - Discuss draft documents, intended use and implementation
  - Closing Session (Other Business, Establish Agenda for Next Meeting, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12235 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 181/EUROCAE Working Group 13: Standards of Navigation Performance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 181/EUROCAE Working Group 13 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 181/EUROCAE Working Group 13: Standards of Navigation Performance.

DATES: The meeting will be held May 21–25, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., Colson Board Room and Rohde & Schwartz Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 181/EUROCAE Working Group 13 meet. *Note: Working Groups 1 and 4 will meet separately each day of the meeting.* The agenda will include:

- May 22:
  - Opening Session (Chairman Remarks, Working Group Reports, Plenary Review)
- May 24:
  - Closing Session (Plenary Review, New Business, Future Meeting Schedule, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12236 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number ANM–01–03]

Factors To Consider When Reviewing an Applicant's Proposed Human Factors Methods of Compliance for Flight Deck Certification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of policy statement; request for comments.

SUMMARY: This notice announces a proposed FAA general statement of policy that is applicable to the type certification process of transport category airplanes. This policy statement provides guidance to FAA Certification Teams that will enable them to conduct an effective review of an applicant's proposed methods of compliance identified in a Human Factors Certification Plan, or the human factors components of a general Certification Plan, if one is submitted as part of a type certification certificate (TC), supplemental type certification certificate (STC), or amended type certificate (ATC) application. This policy also is applicable in cases where an applicant chooses to identify methods of compliance in other types of documents, such as a letter containing the description of changes to production configurations. This guidance describes a process to promote early discussion and agreement between the FAA and the applicant regarding the methods by which the applicant may demonstrate compliance with human factors-related regulations during certification projects. This notice is to advise the public of FAA policy and give all interested persons an opportunity to review and comment on the policy statement.

DATES: Send your comments by June 15, 2001.

ADDRESSES: Address your comments to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Steve Boyd, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airplane & Flightcrew Interface Branch, ANM–111, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–1138; fax (425) 227–1320; e-mail: *9-ANM-111-humanfactors@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites your comments on this proposed general statement of policy. We will accept your comments, data, views, or arguments by letter, fax, or e-mail. Send your comments to the person indicated in **FOR FURTHER INFORMATION CONTACT.** Mark your comments, "Comments to Policy Statement ANM–01–03."

Use the following format when preparing your comments:

- Organize your comments issue-by-issue.
- For each issue, state what specific change you are requesting to the proposed general statement of policy.
- Include justification, reasons, or data for each change you are requesting.

We also welcome comments in support of the proposed policy.

We will consider all communications received on or before the closing date for comments. We may change the proposals contained in this notice because of the comments received.

Effect of General Statement of Policy

The FAA is presenting this information as a set of guidelines suitable for use by certain applicants for a type certificate (TC), supplemental type certificate (STC), or amended type certificate (ATC). However, the general policy stated in this document is not intended to establish a binding norm; it does not constitute a new regulation, and the FAA would neither apply nor rely on it as a regulation. The FAA Aircraft Certification Offices (ACO) that certify transport category airplanes and/or the flight deck systems installed on them should attempt to follow this policy, when appropriate. However, in determining compliance with certification standards, each FAA office has the discretion not to apply these guidelines where it determines that they are inappropriate. Applicants should expect that the certificating officials will consider this information when making findings of compliance relevant to new certificate actions.

As with all advisory material, this general statement of policy identifies one means, but not the only means, of compliance.

Background

Recent aviation safety reports underscore the importance of addressing issues related to human performance and flightcrew error in system design and certification. Applicants have demonstrated the effectiveness of using a "Human Factors Certification Plan," or any other certification plan which identifies human factors issues and considerations, to communicate to the FAA their proposed approach to identifying and resolving human performance issues. The FAA previously issued Policy Statement No. ANM–99–2, entitled "Guidance for Reviewing Certification Plans to Address Human Factors for Certification of Transport Airplane Flight Decks" (64 FR 54399, October 6, 1999; and 65 FR 19958, April 13, 2000). That policy statement provides guidance on the recommended content of a Human Factors Certification Plan. A Human Factors Certification Plan is not a required document, but may be included as part of a certification project if an applicant so chooses. Policy Statement No. ANM–99–2 recommended that the plan include a list of the "Methods of Compliance (MOC)" that the applicant proposes to use to show compliance with each applicable regulation.

The guidance contained in this new policy statement provides further recommendations regarding the review of the applicant's proposed MOCs. These recommendations can be used as a means by which the applicant and the FAA can establish an early and formal written agreement on the methods of compliance for regulations that relate to human factors and that are applicable to the certification project. This will help FAA Certification Teams address the MOCs as early in the certification process as possible, thus decreasing the applicant's certification cost and schedule risk.

This new policy statement is one portion of an overall FAA strategy for developing policies related to human factors in the certification of flight decks on transport category airplanes. Policy development will cover the following areas related to showing compliance with regulatory requirements associated with human factors:

1. *Information on the recommended content of certification plans.* (The FAA previously published this information as Policy Statement No. ANM–99–2). This policy is intended to improve the timeliness and effectiveness of communication between the applicant and the FAA concerning the requirements related to human factors.
2. *Information on how to determine the adequacy of an applicant's proposed methods of compliance.* (This is the information provided in this policy statement.) This policy provides further information on the methods of compliance that may be proposed in certification plans or other documents provided by the applicant.
3. *Information on how to determine the adequacy of an applicant's proposed human factors test plans intended to support certification.* (The FAA has not yet developed or published this information.) This policy will support the ACO when it determines that test plans related to compliance with requirements related to human factors require FAA review and concurrencethe ACO determines that it is appropriate for the FAA to review and concur with the applicant's test plans relative to human factors requirements.
4. *Information on how to reach agreement on design acceptability for human factors analyses and tests performed to support certification.* (The FAA has not yet developed or published this information.) This policy will improve the process by which the applicant and the FAA jointly agree on how to determine whether the design meets the regulatory requirements. This is especially important for those requirements that rely on subjective evaluations to determine acceptability.
5. *Information on the recommended roles and responsibilities of test pilots, human factors specialists, and other technical specialists in certification programs, with respect to regulations related to human factors.* (The FAA has not yet developed or published this information.) This policy will clarify how these individuals should work together to review and approve the various aspects of the certification project that concern human factors.

Objectives of This Policy Statement

The policy statement is for use by members of FAA Certification Teams, which may include the following individuals:

- Aircraft evaluation group inspectors,
- Avionics engineers,
- Certification Team project managers,
- Flight test pilots,
- Flight test engineers,
- Human factors specialists,
- Propulsion engineers, and
- Systems engineers.

While this policy is focused on providing guidance to these FAA Certification Team members, it may be of use to applicants, as well.

This policy statement addresses the methods by which applicants may show compliance with regulations related to flight deck human factors during a type certificateion (TC), a supplemental type certificateion (STC), or an amended type certificate (ATC) project for transport category airplanes. The objective of this policy is to provide information for the FAA Certification Team to refer to's reference when reviewing the applicant's proposed MOCs. For projects in which a certification plan is not submitted, this policy can stillmay be used useful in discussions between the applicant and the FAA about how applicants may demonstrate compliance with applicable regulations. Although the policy provides information to all members of the FAA Certification Team, test pilots and human factors specialists will normally determine the interpretation of the acceptability of a proposed MOC.

The goal of this policy is to improve the consistency of FAA evaluations of applicants' proposed MOCs. Its purpose is not to standardize the MOC for any given requirement; rather, it provides information about the issues and factors that should be considered when evaluating an applicant's proposed MOCs. The specifics of each certification project will determine the outcome of those evaluations and the acceptability of an applicant's proposed MOCs.

The FAA recognizes that decisions concerning MOCs for human factors issues are complex and context-dependent. Usually, selecting the appropriate MOC for a regulation in a specific project will be based on an understanding of the human factors issues and the capabilities and limitations of the various MOCs with regard to the issues and the regulations. However, it may be appropriate to consider other factors to ensure that the desired MOCs are reasonable for the specific project. These other factors include:

- The complexity of the project.
- The safety implications of the human factors issues.
- The availability and need for test environments (simulators, for example).
- The experience base of the applicant.
- The cost and schedule implications of each MOC.

These factors should be considered as a whole when determining the adequacy of the applicant's proposed MOCs, as well as when determining the need for alternative MOCs.

The Certification Team should strive to agree on MOCs that effectively show compliance with the regulation in a manner that is commensurate with:

- The significance of the human factors safety risks, and
- The complexity of the issues underlying a finding of compliance.

For example, the FAA should not insist on an extensive and costly evaluation of a simple design change that has no significant safety implications. Conversely, the applicant should not request a quick FAA sign-off for a novel, complex design that may have the potential for significant safety-related pilot errors.

This policy statement does not supersede any current or future FAA Advisory Circulars that deal with human factors MOCs. Wherever possible, this policy statement attempts to provide references to relevant existing advisory material. If there are any cases in which there is a conflict between existing Advisory Circulars and this policy statement, the Advisory Circulars take precedence.

The FAA recognizes the current effort of several Harmonization Working Groups, chartered under the Aviation Rulemaking Advisory Committee (ARAC) process, that may develop regulatory or advisory material affecting human factors requirements or MOCs. If these Working Groups develop or modify regulatory or advisory material relevant to human factors issues, the FAA will review this policy statement and update it as necessary to maintain consistency.

Application of the General Statement of Policy

Because this general statement of policy only announces what the FAA seeks to establish as policy, the FAA considers it an issue for which public comment is appropriate. Therefore, as stated previously, we request comments on the following proposed general statement of policy. Resolution of any public comments received will determine how the policy is applied in the long term for future projects.

General Statement of Policy

Guidance for Reviewing Human Factors Methods of Compliance for Flight Deck Certification

The guidance provided in the following sections is intended to help the FAA Certification Team members review the human factors MOCs proposed by an applicant during a certification project. Those MOCs may be identified in a Certification Plan or other document submitted by an applicant. The applicant may wish to provide this information by any number of means, such as:

- Part of a Human Factors Certification Plan or overall Project Certification plan, if submitted;
- A separate, unique document; or
- A briefing or series of briefings and discussions.

Regardless of the medium used for providing information, it should be

organized in a way that shows the relationship between the specific human factors requirements and the MOCs used for each. The applicant is under no obligation to provide the information described in this policy statement, except as necessary to demonstrate compliance when certification is requested. However, the FAA considers that early discussions of the proposed MOCs for human factors requirements is beneficial to both the FAA and the applicant, and may significantly reduce certification risk. This policy does not imply that applicants should be required to provide extensive, written justifications of their proposed MOCs. Rather, the information in this policy statement should be used by the FAA Certification Team to evaluate the proposed MOCs, and to provide common reference points for discussions between the applicant and the FAA.

Organization of This Policy Statement

The information provided in this policy statement covers three topics:

1. General information on methods of compliance for regulations related to human factors.

2. Identification of design-specific human factors issues.

3. Identification of regulation-specific human factors issues.

In addition, a list of selected regulations is included in Appendix A. This list contains the same regulations as those cited in Policy Statement No. ANM–99–2 (referred to previously). However, Appendix A of this new policy statement provides a more detailed discussion of MOCs for each of the cited regulations. The FAA also plans to provide the information in Appendix A of this policy statement on an internet web site, where it can become a "living document" and can be updated as new regulatory material, information, processes, and technology become available.

1. Methods of Compliance

In the Human Factors Certification Plan, overall Certification Plan, or other certification project documents, the applicant may propose or describe the methods that will be or have been used to demonstrate compliance with the relevant human factors regulations. The review and discussion of the methods of compliance is an opportunity for the FAA and the applicant to work together, early in the certification program, to identify potential certification issues related to human factors. Policy Statement No. ANM–99–2 provided a brief discussion of the MOCs; the section below expands on that information by providing more detailed discussions.

The methods of compliance are not mutually exclusive. The applicant may choose to include any one or a combination of these methods of compliance. The applicant should describe all methods of compliance to be used in a certification project in enough detail to give the FAA Certification Team confidence that the results of the chosen methods will provide the information necessary for finding compliance. Following is a list of MOCs relevant to compliance with human factors regulations:

1.a. *Drawings:* These are layout drawings and/or engineering drawings that show the geometric arrangement of hardware or display graphics. Drawings typically are used when demonstration of compliance can easily be reduced to simple geometry, arrangement, or the presence of a given feature, on a technical drawing.

1.b. *Configuration description:* This is a description of the layout, general arrangement, direction of movement, etc., of the regulated item, or a reference to similar documentation. For example, such a description could be used to show the relative locations of flight instruments, groupings of control functions, allocation of color codes to displays and alerts, etc. Configuration descriptions are generally less formalized than engineering drawings, and are developed in order to point out the features of the design that are supportive of a finding of compliance. Configuration descriptions may illustrate how a design philosophy or concept is implemented in a consistent, easy-to-understand manner. In some cases, such configuration descriptions may provide sufficient information for a finding of compliance with a specific requirement; however, more often, configuration descriptions provide important background information requiring demonstrations, tests, or other means to confirm compliance. The background information provided by configuration descriptions, however, may significantly reduce the complexity and/or risk associated with the demonstrations or tests.

1.c. *Statement of similarity:* This is a description of the system to be approved and a description of a previously-approved system. The description details the physical, logical, and operational similarities of the two systems in complying with the regulations. Past certification precedents are important; however, this method of compliance must be used with care because the flight deck should be evaluated as a whole, rather than merely as a set of individual functions or systems. For example, two functions that have been previously approved on two different programs may be incompatible when combined on a single flight deck. Also, changing one feature in a flight deck may necessitate corresponding changes in other features, in order to maintain consistency and prevent confusion.

1.d. *Evaluations, assessments, and analyses:* These are conducted by the applicant or others (not the FAA or a designee), who then provide a report of their results to the FAA. Traditionally, these types of activities have been used as part of the design process without formal certification credit. However, when properly performed, these activities can result in better designs that are more likely to be compliant with applicable regulations. In cases where human subjects (pilots, for example) are used to gather data (subjective or objective), the applicant should fully document the selection of participants, what data will be collected, and how it will be collected. This will allow the FAA Certification Team to determine the extent to which the evaluations, assessments, and analyses provide valid and relevant information with respect to finding compliance with the regulations. For a more detailed discussion of how these evaluations, assessments, and analyses can be used and formalized, see Appendix D of this policy statement.

1.d.(1) *Engineering evaluations or analyses*—These assessments can involve a number of techniques, including:

- Procedure evaluations (complexity, number of steps, nomenclature, etc.);
- Reach or strength analysis via computer modeling;
- Time-line analysis for assessing task demands and workload; or
- Other methods, depending on the issue being considered.

Certification Teams should carefully consider the validity of assessment techniques for analyses that are not based on advisory material or accepted industry standard methods, and request that applicants validate any computation tools used in such analyses. If analysis involves comparing measured characteristics to recommendations derived from pre-existing research (internal or public domain), the applicant may be asked to validate the use of the data derived from the research.

1.d.(2) *Mock-up evaluations*—These are evaluations using mock-ups of the flight deck and/or components. Mock-ups are typically used for assessment of reach and clearance and, therefore, they demand a high degree of geometric accuracy. Mock-ups have traditionally been physical representations of the design, which have allowed evaluators to physically interact with the design. In some cases, drawings of controls and indicators, placed on accurately positioned representations of instrument panels, can be beneficial in conducting reach assessments. Using data extracted from computer-aided design (CAD) systems, control panels can now be mocked-up physically in three-dimensional form (a process generally referred to as "stereo lithography"). These mock-ups can allow more precise evaluations of finger clearances, visibility of labels, etc. Three-dimensional representations of the design in a CAD system, in conjunction with three-dimensional models of the flight deck occupants, also have been used as "virtual" mock-ups for certain limited types of evaluations. For example, reach assessments using this technique can use either:

- Statistical samples of relevant body characteristics (for example, limb sizes, joint limits, etc.) or
- Carefully chosen sets of specific combinations of body characteristics.

In the latter case, attention should be given to selecting reasonable worst-case combinations of characteristics (for example, a worst-case might be a 5′2″ pilot with more than proportionally short legs). Care must be taken to determine if the model of the human reasonably represents actual human movement capabilities, especially at extreme body positions or near joint rotation limits. It is important to note that this type of virtual mock-up and, in fact, many types of mock-ups may be of even greater use during the design phase as part of engineering evaluations. They should only be used judiciously as an MOC because they typically represent only certain features of the physical arrangement. For example, a control may be reachable in a given location, but, due to the means of actuation or forces required, it may be too difficult to use when placed there. For many of the compliance issues typically evaluated in mock-ups, final compliance findings often can be found only in the actual airplane or a simulator.

1.d.(3) *Part-task evaluations*—These are evaluations using devices that emulate the crew interfaces for a single system or a related group of systems, using flight hardware, simulated systems, or combinations of these. Typically, these evaluations are limited by the extent to which acceptability may be affected by other flight deck tasks. This MOC is most easily used for stand-alone systems. As flight deck systems become more integrated, part-task evaluations may become less useful as an MOC, even although their utility as engineering tools may increase. A typical example of a part-task demonstrator for an integrated system would be an avionics suite installed in a mock-up of a flight deck, with the main displays and autopilot controllers included. Such a tool may be valuable during development and for providing system familiarization to the authorities. However, in a highly integrated architecture, it may be difficult or impossible to assess how well the avionics system will fit into the overall flight deck without more complete simulation or use of the actual airplane.

1.d.(4) *Simulator evaluations*—These are evaluations using devices that present an integrated emulation (using flight hardware, simulated systems, or combinations of these) of the flight deck and the operational environment. They can also be "flown" with response characteristics that replicate, to some extent, the responses of the airplane. Typically, these evaluations are limited by the extent to which the simulation is a realistic, high fidelity representation of the airplane, the flight deck, the external environment, and crew operations. It should be noted that not all aspects of the simulation must have a high level of fidelity for any given compliance issue. Rather, fidelity requirements should be evaluated in view of the issue being evaluated. For additional information, see section 4.b.(1) of FAA Advisory Circular (AC) 25–11, "Transport Category Airplane Electronic Display Systems," dated July 16, 1987.

1.d.(5) *In-flight evaluations*—These are evaluations using the actual airplane. light test generally offer the most realistic and comprehensive environment for evaluating the flight crew interface design in realistic scenarios. Assuming that the airplane is fully configured, the integration of the flight crew interface features can be evaluated in a flight environment, including communication tasks and interaction with the ATC environment. However, Ttypically, these evaluations are may be limited by the extent to which the critical flight conditions (for example, weather, failures, or unusual attitudes) can be located or generated, and then safely evaluated in flight. While evaluations using the actual airplane are the closest to real operations, in some cases not all of the scenarios of interest can be demonstrated. The applicant may not be able to show certain failures or combinations of failures for a variety of technical or safety reasons. In such cases, applicants may find it necessary to combine flight testing with other MOCs in order to gain a complete evaluation. For additional information, see FAA AC 25–11, section 4.b.(1).

1.e. *Demonstrations:* These are similar to evaluations (as described above), but conducted by the applicant with participation by the FAA or its designee. The applicant may provide a report or summary, requesting FAA concurrence on the findings. In each case, the applicant should note the limitations of the demonstration and how those limitations relate to the compliance issues being considered. The FAA should carefully consider which of its specialists will participate (for example, pilots, human factors specialists, or systems engineers), what data will be collected (objective and/or subjective), and how the data will be collected. This is to ensure that the demonstration adequately addresses the compliance issues and that there is participation by the appropriate FAA evaluators. Examples of demonstrations include:

- Mock-up demonstrations.
- Part-task demonstration.
- Simulator demonstration.

1.f. *Inspection:* This is a review of a regulated item by the FAA or its designee, who will be making the compliance finding. This MOC is generally limited to those items for which compliance can be found simply by looking at (or listening to) the feature being considered (for example, the presence or absence of a placard, the direction of control movement, etc.).

1.g. *Tests:* These are tests conducted by the FAA or a designee. Types of tests include:

1.g.(1) *Bench tests*—These are tests of components in a laboratory environment. This type of testing is usually confined to showing that the components perform as designed. Typical bench testing may include measuring physical characteristics (forces, luminance, or format, for example) or logical/dynamic responses to inputs, either from the user or from other systems (real or simulated). For most human factors evaluations, bench tests are insufficient to show compliance, but can provide useful supporting data in combination with other methods. For example, visibility of a display under the brightest of the expected lighting conditions might be shown with a bench test, provided there is supporting analysis to define the expected lighting conditions. This might include a geometric analysis to show the potential directions from which the sun could shine on the display, along with

calculations of expected viewing angles. These conditions might then be replicated in the laboratory.

1.g.(2) *Ground tests*—These are tests conducted in the actual airplane, while the airplane is on the ground and stationary. In some cases, specialized test equipment may be used to allow the airplane systems to behave as if the airplane were airborne. Certain failures that would be unsafe to test in flight might be evaluated using ground tests, provided that the test capability can adequately simulate the in-flight failure condition. Another example of a typical ground test is an evaluation of potential reflections in displays. Such a test usually involves covering the flight deck windows to simulate darkness and setting the flight deck lighting to desired levels. This particular test may not be possible in a simulator, due to differences in the light sources, display hardware, and/or window construction.

1.g.(3) *Simulator tests*—[See *Simulator evaluations*, paragraph 1.d.(4), above.]

1.g.(4) *Flight tests*—These are tests conducted in the actual airplane during flight. [See *In-flight evaluations*, paragraph 1.d.(5), above.] In some cases, applicants and the FAA may place too much emphasis on flight testing, to the exclusion of other MOCs. This may be based on the belief that flight testing is the best available method for evaluating the flight deck. While it is true that flight testing can be very powerful, it also has limitations. As described in the section on in-flight evaluations, above, it may not be possible to test all of the important scenarios or conditions. Flight testing provides the least control over conditions of any of the MOCs. In addition, flight testing is extremely expensive and may not allow a thorough, comprehensive evaluation with sufficient numbers of FAA evaluators. While many simple evaluations can and should be handled by a single FAA evaluator, in other cases, the issues are too complex and subjective to be decided by a single person on a few flights, especially for novel designs. For such issues, it is often best to use flight testing as a final confirmation of data collected using other MOCs, including analyses and evaluations. The FAA and the applicant should discuss thoroughly how and when flight tests will be used to show compliance, as well as how flight test results will be supported by other MOCs.

1.h. *Compliance vs. design optimization:* The FAA personnel who are evaluating proposed methods of compliance for rules related to human factors should keep in mind there may be a number of crew interface design features that are compliant with the applicable rules, but could be improved. However, applicants are under no legal obligation to conduct assessments to show that a compliant design is the best that they could implement among feasible alternatives (i.e., is "optimized").

2. Identification of Design-Specific Human Factors Issues

The MOCs identified above cover a wide spectrum, from documents that simply describe the product, to partial approximations of the system(s), to methods that replicate the actual airplane and its operation with great accuracy. Features of the product being certified and the types of human factors issues to be evaluated are key considerations when selecting which method is to be used. The characteristics described below can be used to help in coming to agreement on what constitutes the minimum acceptable method(s) of compliance for any individual requirement. When a product may need to meet multiple requirements, some requirements may demand more complex testing, while others can be handled using simple descriptive measures. It is important to note that the following characteristics are only *general* principles. They are intended to form the basis for discussions regarding acceptable methods of compliance for a specific product with regard to a requirement.

2.a. *Degree of integration/independence:* If the product to be evaluated for compliance is a stand-alone piece of equipment that does not interact with other aspects of the crew interface, less integrated methods of compliance may be acceptable. However, if the product is a complete flight deck (as in a TC program) or is a single system that is tightly tied to other systems in the flight deck, either directly or by the ways that flightcrews use them, it may be necessary to use methods that allow the testing of those interactions.

2.b. *Novelty/past experience:* If the technology is mature and well-understood, less rigorous methods may be appropriate. More rigorous methods may be called for if the technology is:

- New,
- Used in some new application,
- New for the particular applicant, or
- Unfamiliar to the certification personnel.

2.c. *Complexity/Level of automation:* More complex and automated systems typically require test methods that will reveal how that complexity will manifest itself to the pilot, in normal and backup or reversionary modes of operation.

2.d. *Criticality:* Highly critical systems may require testing in the most realistic environments (high quality simulation or flight test), because any problems are more likely to have serious consequences.

2.e. *Dynamics:* If the control and display features of the product are highly dynamic, the compliance methods should be capable of replicating those dynamic conditions.

2.g. *Subjectivity of acceptance criteria:* If a requirement has specific, objectively measurable criteria, the applicant can often use simpler methods to demonstrate compliance. As the acceptance criteria become more subjective, the applicant will need to use more integrated test methods, so that the evaluations take into account the aspects of the integrated flight deck that may affect those evaluations.

The central point is to carefully match the method to the product and the underlying human factors issues. It is also important for the FAA Certification Team to recognize that several alternative methods may be acceptable.

3. Identification of Regulation-Specific Human Factors Issues

The following steps outline a strategy for identifying the human factors issues associated with each regulation. Two examples are carried through each issue for purposes of illustration. Further detail on a selected set of regulations related to human factors can be found in Appendix A of this policy statement.

3.a. *Identify key human factors issues related to the rule.* While rules may focus on a single concept, there may be several underlying components that must be considered in order to evaluate that issue.

- *Example 1:* Section 25.777 (in part) states that the flight deck must accommodate pilots from 5′2″ to 6′3″ in height. This means that pilots within this range should be able to reach all required controls, see all of the displays, and have sufficient clearance with the structure, panels, etc. Height is not the only variable of interest, because people of the same height may have different lengths of arms, legs, etc. So, consideration must be given to various representative body proportions that fall within the height range identified in the regulation.
- *Example 2:* Section 25.773(a)(2) states that there should be no objectionable reflections in the flight deck. Underlying variables may include the size, brightness, color, dynamics, and location of the reflections.

3.b. *Identify systems, components, and features that are potentially affected by the rule.*

- *Example 1:* Components that are near the expected reach boundaries, as well as those that may be blocked by intervening objects (such as a control that is installed in front of the throttles), should be evaluated for reach. Potential knee contact with the lower edge of the main instrument panel may need to be evaluated for clearance, especially for tall pilots with long legs.
- *Example 2:* Windows, displays, and light sources (all in the correct geometry) may be affected.

3.c. *Look for aspects of those systems, components, and features that need to be evaluated in order to show compliance with the rule* (for example, forces required, readability of labels, and number of discrete actions required). These aspects are likely to vary by system, component, and feature, and by rule.

- *Example 1:* Seat and rudder pedal adjustment ranges should be factored into evaluations of reach and clearance.
- *Example 2:* Light source luminance levels, reflectance of display surfaces, and readability of the display in the presence of the reflections should all be considered.

3.d. *For modifications to existing flight decks or new type designs that are based on or derived from an existing flight deck design, look for ways in which new aspects of the design may compromise compliance with previously certified designs.*

- *Example 1:* Reaching for a new control may result in the inadvertent activation of a previously installed and certificated control. Another example might be the possibility of striking one's head on a newly installed head-up display when reaching for an existing control on the main instrument panel.
- *Example 2:* Placing a new display device in the flight deck may produce new reflections in the windows. In another situation, a new electronic display [for example, a liquid crystal display (LCD)] may be more susceptible to reflections than the electro-mechanical display it replaces.

3.e. *Review past precedents.* In this context, precedents should be reviewed to assess novelty of the design, because novelty of the design will often affect the selection of an appropriate MOC. Similarity to a previously certificated design does not necessarily mean that the new product will be certificated. Rather, that similarity may result in fewer unknowns and a commensurate reduction in the rigor of the evaluations. It is important to assess whether or not there are new issues or interactions that were not present in previously certificated installations. Because it is the *installation* (in the flight deck) that is certificated, not the equipment itself, it is important to look for installation-unique issues when evaluating the relevance of past precedents.

- *Example 1:* Two questions to ask are: If a new control is being added, have other similar controls been installed in the same location on other versions of this flight deck? Are there any other differences that might cause new reach or clearance issues to emerge?
- *Example 2:* Determine whether the actual LCD "glass" in the new device is already certificated in similar installations. If so, there may be less concern about unacceptable reflectance characteristics. However, any unique characteristics of the lighting environment in the new installation may increase uncertainty.

3.f. *Assess design novelty.* In addition to the need to fully determine their compliance with existing rules, novel designs may require more rigorous evaluations to ensure that their novel features (not covered by current regulations) do not result in any new safety problems. *Note:* Any evaluations intended to identify such new safety problems, which might require the development of Special Conditions, should be accomplished as early in the project as possible. This will allow the FAA and the applicant to reach a common understanding of the issues, and to allow the applicant sufficient time to show compliance with any resultant Special Conditions.

3.g. *Review the proposed MOCs for each human factors rule and determine if, taken together, they adequately address the compliance issues that have been identified for the relevant systems.* There is no formula for this determination; it is based on the judgment of the FAA Certification Team. It is important to note that this step is not intended to determine if all potential human factors issues have been fully addressed. Instead, it is concerned only with determining if the proposed MOCs address the regulatory compliance issues, including those associated with Special Conditions.

3.h. *If the proposed MOCs do not fully address the human factors issues associated with compliance, determine if the level of effort needed for the MOC preferred by the FAA Certification Team is commensurate with the level of safety risk and the compliance uncertainty.* This step is also based on the judgment of the FAA Certification Team. The Team should carefully consider the regulation-specific issues and the design-specific issues to ensure that onerous MOCs are not demanded for simple, low-risk designs. The MOCs should focus on the compliance and safety issues, rather than on design optimization. However, applicants should be allowed to select (and justify) efficient and low cost MOCs, when appropriate. The applicant and the FAA Certification Team should strive for consensus on the MOCs. An open dialog is an important part of reaching that consensus.

Certification Documentation

This policy statement describes a number of issues that the FAA should consider when evaluating the applicant's proposed Human Factors MOCs. In most cases, it will be beneficial for the applicant to review this policy and use it to structure the explanation or justification for the selection of Human Factors MOCs for the certification project. The applicant may provide to the FAA the information supporting the proposed Human Factors MOCs in any format or media that is mutually agreeable to the applicant and the FAA Certification Team. In general, a formal document is not required, although the applicant may choose to record the information in the relevant Certification Plan(s) or in a separate document. Often, the most effective and efficient means to convey the rationale for the selected MOCs is to hold discussions between the applicant and the FAA. If this latter option is used, it is recommended that the discussion be documented and that the conclusions be jointly approved.

Additional guidance on this policy statement is provided in the following appendices:

- Appendix A: Partial List of 14 CFR part 25 Regulations Related to Human Factors Issues. (This same list was published in Policy Statement No. ANM–99–2. It contains detailed description of the regulation-specific issues, and cites relevant Advisory Circulars.)
- Appendix B: Related Documentation.
- Appendix C: Sample Human Factors Methods of Compliance Briefing.
- Appendix D: The Use of Design Evaluations to Support the Certification Process.

Appendix A—Partial List of 14 CFR Part 25 Regulations Related to Human Factors Issues

This appendix provides a list of current regulations that are related to human factors issues. The list is divided into the following three categories:

1. *General Human Factors Requirements:* Rules that deal with the acceptability of the flight deck and flightcrew interfaces across a variety of systems/features.

2. *Specific Human Factors Requirements:* Rules that deal with the acceptability of a specific feature or function in the flight deck.

3. *Specific Crew Interface Requirements:* Rules that mandate a specific system feature that must be implemented in an acceptable manner.

This list does not include all regulations associated with flightcrew interfaces. However, those listed represent some of the requirements for which demonstrating compliance can be problematic. In some cases, where only subparagraphs are noted, they have been paraphrased for clarity. However, the FAA Certification Team should ensure that the applicant refers to the exact wording of the regulation in all plans and compliance documents.

Where there is associated advisory material, it is cited. In many other cases, there may be no explicit guidance on methods of compliance (MOC). Therefore, it is important for the FAA Certification Team to carefully consider the applicant's proposed MOCs and attempt to come to agreement with the applicant. Rather than specifying an acceptable MOC for any given project, which is the function of advisory material, the information that is provided below for each rule is intended to identify issues that should be considered when reviewing the applicant's proposed MOC. Following each regulatory requirement are the following subsections, where appropriate:

1. *General discussion* of the regulation and issue.

2. *Key questions* to be asked or considered by the FAA Certification Team in order to help identify the MOC issues associated with the requirement. These regulation-specific questions assist the Certification Team to ensure that the applicant has tailored the MOCs to the potential human factors issues for the design being considered. The questions help provide focus on some of the features of designs and the way the flightcrew will use them that typically result in concerns about how to show compliance with the requirement. These lists are not all-encompassing. Rather, they are intended to stimulate the review process and lead to additional questions that are unique to the features of the specific designs. As new technologies emerge, the issues may change and new questions will need to be asked in order to identify the human factors issues related to the requirement.

3. *Design-related factors*, such as those listed below, are included when appropriate to point out other more generic issues relevant to the MOC for the requirement:

- Novelty and past experience;
- Degree of integration and independence;
- Complexity or Level of automation;
- Criticality;
- Dynamics;
- Level of training required; and
- Subjectivity of acceptance criteria.

It is important to remember that, for the purposes of this policy statement, the information is directed at reviews of the proposed MOCs, not the acceptability of the design itself. More specifically, the focus is on the general types of MOCs that the applicant has proposed. Details of how the compliance assessments are to be conducted (for example, the test designs, and the types of subjects) or the criteria for compliance (i.e., acceptance criteria) are not included. These topics will be the subjects of future policy statements. For example, this appendix discusses whether or not simulation would be appropriate for showing compliance with a given requirement; it does not discuss how the simulator should be used, what data should be collected, or how to determine whether or not the design is acceptable based on the data.

Note that none of the regulations listed below are associated with airplane handling qualities. While such rules obviously have human factors implications, they have traditionally been the responsibility of aeronautical engineers, control system designers, and test pilots. The applicant may, if it so chooses, include such regulations in the Human Factors Certification Plan. However, the methods of compliance are discussed in flight test advisory material and FAA orders, and are outside the purview of this policy statement.

1. General Human Factors Requirements

Section 25.771(a) [at amdt. 25–4]: "Each pilot compartment and its equipment must allow the minimum flightcrew to perform their duties without unreasonable concentration or fatigue."

Discussion: The FAA Certification Team should carefully consider the aspects of the flightcrew interface that might require significant or sustained mental or physical effort, or might otherwise result in fatigue. Other factors affecting fatigue, such as noise and seat comfort, may also need to be evaluated. When reviewing the applicant's proposed MOC, the FAA Certification Team should consider the expected sources of fatigue, as well as how and when that fatigue is likely to manifest itself. Applicants have often successfully used comparisons to previously certificated designs, although testing may be warranted for new flightcrew interface designs or functions.

Questions that the FAA Certification Team should ask the applicant when identifying the human factors-related MOC issues are discussed in Table A–1.

TABLE A–1.—§ 25.771(a): QUESTIONS TO IDENTIFY HUMAN FACTORS ISSUES

Question	Discussion
Are there any controls that will require significant peak or sustained muscular exertion.	If the applicant chooses to perform analyses as a way to provide data in support of compliance, the FAA Certification Team should review any strength data and analysis methods to ensure that they can be generalized to the flight deck controls in question.
Are there any displays that will require sustained attention	The FAA Certification Team may determine that the ability to time-share attention to the displays may require testing in a full simulation or in flight, in order to replicate the other tasks. In some cases, it may be possible to measure task performance, but subjective assessments are more frequently used and are likely to be more practical.
Are there any pilot actions that will require sustained mental concentration, especially during high workload flight phases, other than that required as part of normal flying skills.	Simulation and/or flight testing, using subjective measures, are typically proposed for such issues, due to the complex interactions between the various flightcrew tasks.
Is this aircraft intended primarily for low cycle rate, long haul operations, or for high cycle rate, short haul operations.	The effects of multiple cycles per crew per day or long duration flights may need to be factored into MOCs.
Is this a new or modified seat design	It may be appropriate to determine that a new seat design should be tested for long-term comfort, to the extent that discomfort is expected to add to fatigue.
Are there functions of time-shared displays or controls that increase pilot workload.	In some cases, the FAA Certification Team may accept analysis intended to show that there is sufficient time available to use the display for multiple purposes (for example, maintenance display functions time-shared with navigation). However, in many other cases, that information is likely to be usable only as supporting data that must be verified in simulation or flight test, depending on the functions being time-shared and the critical scenarios.

Other factors to consider when reviewing the MOC are discussed in Table A–2.

TABLE A–2.—§ 25.771(a): FACTORS TO CONSIDER

Issue	Discussion
Complexity/Level of automation	Navigating though complex menu trees and deciphering or predicting operating modes for complex automation can lead to high concentration and memory demands. These demands can be especially significant if they occur during high stress or workload portions of the flight (for example, during non-normal conditions, severe weather, etc.). System description information, and an analysis of menu complexity and function accessibility, if provided by the applicant, can yield useful supporting data. However, as complexity and level of automation increases, the need for demonstrations and tests increases.
Criticality	A high demand for concentration, especially on a single issue during a critical flight situation, has been shown to result in "attention tunneling" or "channelized attention" (focusing of attention on one task to the extent that other important tasks receive little or no attention). This phenomenon has been implicated in numerous accidents. The FAA Certification Team should ensure that the proposed MOCs cover such critical situations, if they exist.
Subjectivity of acceptance criteria	Currently available and accepted methods for assessing concentration and mental fatigue usually involve subjective assessment, although certain applicants have employed physiological methods as methods to collect supporting data. It is often useful to compare the proposed design with previously certificated designs that have been shown in service to result in acceptable levels of concentration and fatigue.

Section 25.771(e) [at amdt. 25–4]: "Vibration and noise characteristics cockpit equipment may not interfere with safe operation of the airplane."

Discussion: When reviewing the proposed MOC, the FAA Certification Team should ensure that the applicant has carefully considered the types and magnitudes of vibration and noise that may be present under both normal and abnormal conditions. Then, the tasks that may be affected by vibration (for example, display legibility and the operation of controls) and noise (for example, communication and identification of aural alerts) should be identified. Additionally, the methods that could be used to determine whether the vibration or noise will unacceptably interfere with safe operation of the airplane should be identified.

Unfortunately, there are no widely used and accepted vibration standards or testing methods which directly address whether or not pilots will be able to safely operate the airplane under the expected vibration conditions. Existing standards for workplace vibration primarily focus on injury to the worker after long periods of exposure (days, weeks, months), rather than on the ability to perform the required tasks (i.e., continued safe flight and landing).

Actual testing of pilots in representative vibration environment with actual flight deck equipment (seats, controls, displays) can be extremely involved and expensive, especially if an applicant were to be required to develop a test facility with which the pilots could interact as with the actual airplane. The duration of the tests may also present a problem—it may be difficult to find a group of pilots willing to sit on a shaker table for the maximum duration of an extended twin-engine operation (ETOPS) diversion. As a result, showing compliance with this rule can be especially problematic.

Questions to ask when identifying the human factors-related compliance issues are discussed in Table A–3.

TABLE A–2.—§ 25.771(e): QUESTIONS TO IDENTIFY HUMAN FACTORS ISSUES

Question	Discussion
Are there any controls requiring precise dexterity to operate (for example, cursor control devices, touch screens, etc.).	In some cases, the devices may already be in service for non-essential functions. More thorough testing may be warranted if the devices are to be used for essential or critical functions.
Are there fine details of displays that must be interpreted during turbulence or vibration conditions.	(Self-explanatory.)
What are the characteristics (frequency, acceleration, amplitude) of the expected engine fan blade-loss vibrations or other expected vibratory modes.	Are the vibration frequencies the same as any relevant body resonant frequencies (hand, arm, eye, head, abdomen, etc.)? If the pilots are not likely to be exposed to frequencies at body resonances, then testing may not be needed.
To what extent will the seat design dampen or amplify the vibrations that are transmitted from the seat structure, through the seat cushion, to the pilot.	Relatively minor changes to seat cushion design can significantly affect the transmission of vibrations to the pilot. Such changes may warrant testing, especially if frequencies at known body resonances are expected to be present at the seat pan.

Other factors to consider when reviewing the MOC are discussed in Table A–4.

TABLE A–4.—§ 25.771(e): FACTORS TO CONSIDER

Issue	Discussion
Novelty/past experience	Conventional controls, such as pushbuttons and rotary knobs can generally be shown to be compliant via similarity, providing that they have conventional characteristics (size, force/friction, tactile feedback) and the vibration environment is not expected to be severe (see discussion above).
Criticality	Are the tasks that require a high degree of visual resolution or manual dexterity likely to be critical to continued safe flight and landing in situations that result in flight deck vibration? Such a condition may warrant testing, if the controls/displays are non-conventional or if the vibration is expected to be unusual.
Subjectivity of acceptance criteria	Analysis and testing of components could be used to show that no significant vibration problems are present. However, in cases that cannot be clearly disposed of through similarity or analysis, the FAA Certification Team may wish to request testing with human subjects. There is no standardized and accepted subjective measurement method for this requirement. As of the time of publishing this policy statement, the only certification evaluations in an actual vibratory environment have involved a subjective assessment of the acceptability of the vibration, after a short duration exposure.

Other factors relative to finding compliance with § 25.771(e) are:

1. Improved MOCs and standards for this requirement are being considered for development. As the FAA and applicants become more experienced in dealing with

this issue, the FAA will provide more information on MOCs.

2. The FAA Aircraft Certification Offices (ACO) should use care when assessing the proposed MOCs, due to the difficulty and cost of doing full-scale testing. The ACOs should work closely with the applicant to develop sufficient evidence to make a supportable determination regarding the need for such testing.

Section 25.773(a)(1) [at amdt. 25–72]: "Each pilot compartment must be arranged to give the pilots sufficiently extensive, clear, and undistorted view, to enable them to safely perform any maneuvers within the operating limitations of the airplane, including takeoff, approach, and landing."

Discussion: The applicant should carefully consider the methods of compliance described in Advisory Circular (AC) 25.773–1, "Pilot compartment View for Transport Category Airplanes," dated January 8, 1993.

Section 25.773(a)(2) [at amdt. 25–72]: "Each pilot compartment must be free of glare and reflections that could interfere with the normal duties of the minimum flightcrew."

Discussion: The applicant may be able to develop analytical techniques that identify potential sources of glare and reflections, as a means for reducing the risk of problems identified after the major structural features have been committed. Mock-ups also may be a useful means for early assessments. However, analysis results typically should be verified in an environment with a high degree of geometric and optical fidelity. Both internal sources of reflections (for example, area and instrument lighting) and external sources of reflection (for example, shafting sunlight) so should be considered. Compliance can be greatly affected by the relative geometry of the reflective surfaces (windows, glass instrument faces, etc) and the direct/indirect light sources (instrumentation, area lighting, white shirts, etc). In addition, the reflective characteristics of the surfaces (windows, instruments) can vary greatly with material and manufacturing processes. Therefore, it is important that those surfaces are representative of those that will be present in the airplane.

Factors to consider when reviewing the MOC are listed in Table A–5.

TABLE A–5.—§ 25.773 (a)(2): FACTORS TO CONSIDER

Issue	Discussion
Degree of integration/independence	This means that testing or evaluations usually must be conducted using an environment with accurate geometry.
Criticality	If reflections are likely to be present in the forward windshield, they must be carefully evaluated for the possibility of interference with external visual scanning during critical phases of flight (especially takeoff and landing). Similarly, potential reflections on primary flight displays or other important display surfaces should get special attention.
Subjectivity of acceptance criteria	Even though objective standards for reflectivity do not exist, the FAA Certification Team should encourage applicants to measure the intensity of reflections as an objective means for comparison with existing designs.

Section 25.777(a) [at amdt. 25–46]: "Each cockpit control must be located to provide convenient operation and to prevent confusion and inadvertent operation."

Discussion: While applicants sometimes use physical mock-ups for preliminary evaluations, such devices often have insufficient fidelity to allow findings of compliance. Simulators, if available, provide a more powerful evaluation environment, because they allow the evaluation to take place in a flight scenario that may influence convenience and inadvertent operation. Simulator evaluations also may reduce the need for flight testing.

Questions to ask when identifying the human factors-related compliance issues are discussed in Table A–6.

TABLE A–6.—§ 25.777(a): QUESTIONS TO IDENTIFY HUMAN FACTORS ISSUES

Question	Discussion
Are there situations in which a pilot will be required to reach across the centerline of the flight deck to operate controls on the other side (for example, the landing gear handle).	Are there other circumstances where the pilot will need to reach past prominent controls in order to accomplish flight deck tasks, whether or not those tasks are "required" for operation of the airplane (for example, reaching for something stowed behind a seat, or reaching for food from the flight attendant)? Such cases may provide justification for the FAA Certification Team to request specific evaluations using computer modeling, mock-ups, the flight simulators, and/or the airplane.
Are there safety consequences if the pilot inadvertently activates a similar control that is in proximity to the control in question.	If safety is not a significant issue, and if the error will be obvious and easy to correct, then the MOCs necessary to fully evaluate the possibility of confusion may be reduced.

Factors to consider when reviewing the MOC are discussed in Table A–7.

TABLE A–7.—§ 25.777(a): FACTORS TO CONSIDER

Issue	Discussion
Complexity/Level of automation	The proposed MOC should address the ease of use and inadvertent operation of control functions that are accessed through menu logic.
Criticality	Determine if the controls for which inadvertent operation has significant safety implications have appropriate guards or other means of protection. Such safeguards typically reduce both inadvertent operation and convenience, so the proposed evaluations should include both aspects.

Section 25.777(c) [at amdt. 25–46]: "The controls must be located and arranged, with respect to the pilot's seats, so that there is full and unrestricted movement of each control without interference from the cockpit structure or the clothing of the minimum flightcrew when any member of this flightcrew, from 5′2″ to 6′3″ in height, is seated with the seat belt and shoulder harness fastened."

Discussion: While this rule directly addresses body height, other body dimensions, such as sitting height, sitting shoulder height, arm length, hand size, etc, can have significant effects on the geometric acceptability of the flight deck for pilots within the specified height range. These other dimensions do not necessarily correlate well with height or with each other. The MOC should reasonably account for these variables. The applicant may choose to use analytical methods, such as computer modeling of the flight deck and the pilots, for early risk reduction and to supplement certification evaluations using human subjects. Computer modeling allows for more

control over the dimensions of the pilot model, and thus, may allow the assessment of otherwise unavailable combinations of body dimensions.

The FAA Certification Team should carefully consider the advantages and limitations of each of these methods when assessing the applicant's proposal to use such data in support of findings of compliance. In addition, the FAA Certification Team should usually require final verification in the airplane, because even simulators rarely reproduce all of the aspects of the flight geometry that may be relevant to this requirement.

Section 25.1301(a) [original amdt.]: "Each item of installed equipment must be of a kind and design appropriate to its intended function."

Discussion: The applicant might propose a number of methods for showing compliance with this requirement, with respect to human factors. For example, service experience may be an effective means for assessing systems with well-understood, successful crew interfaces, assuming that other factors, such as changes in the operational environment, do not affect the relevance of that experience. System descriptions can be used to define the intended functions of the systems, along with those of the components or other elements of the system (for example, the intended function of each piece of data on a display). Various requirements analysis techniques can be used to show that the information that the pilot needs to perform key tasks is available, usable, and timely. Simulation may be used to verify that properly trained pilots can adequately perform all required tasks, using the controls and displays provided by the design, in realistic scenarios and timelines. Finally, flight tests can be used to investigate specific normal and abnormal operational scenarios to show that the system adequately supports the pilots' tasks, in accordance with the stated intended functions. For additional guidance on electronic display systems, see FAA AC 25–11, Transport Category Airplane Electronic Display Systems," dated July 16, 1987," sections 6 and 7, as appropriate.

Section 25.1309(b)(3) [at amdt. 25–41]: "* * * Systems, controls, and associated monitoring and warning means must be designed to minimize crew errors that could create additional hazards."

Discussion: The applicant may propose analyses of crew procedures in response to system faults. This can be especially useful in cases where the applicant wishes to take certification credit (for example, in a fault tree analysis) for correct pilot response to a system failure. A crew procedure analysis could be supported by qualitative evaluations that compare actual procedures to procedure design philosophies by developing measures of procedure complexity, or by other techniques that focus on procedure characteristics that impact the likelihood of crew errors. Simulation testing can be helpful in demonstrating that the design is not prone to crew errors.

Section 25.1321(a) [at amdt. 25–41]: "Each flight, navigation, and powerplant instrument for use by any pilot must be plainly visible to him from his station with the minimum practicable deviation from his normal position and line of vision when he is looking forward along the flight path."

Discussion: The applicant may wish to perform analyses of the visual angles to each of the identified instruments. Final assessments of the acceptability of the visibility of the instruments may require a simulator with a high degree of geometric fidelity and/or the airplane. For more information on electronic display systems, see FAA AC 25–11, section 7, as appropriate.

Section 25.1321(e) [at amdt. 25–41]: "If a visual indicator is provided to indicate malfunction of an instrument, it must be effective under all probable cockpit lighting conditions."

Discussion: Demonstrations and tests intended to show that these indications of instrument malfunctions, along with other indications and alerts, are visible under the expected lighting conditions will typically use production quality hardware and careful control of lighting conditions (for example, dark, bright forward field, shafting sunlight). Simulators and aircraft are often used, although supporting data from laboratory testing also may be useful.

Section 25.1523 [at amdt. 25–3]: "The minimum flightcrew must be established so that it is sufficient for safe operation, considering:

(a) The workload on individual crewmembers;

(b) The accessibility and ease of operation of necessary controls by the appropriate crewmember; and

(c) The kind of operation authorized under § 25.1525."

Discussion: The criteria used in making the determinations required by this section are set forth in Appendix D of 14 CFR part 25. For additional information, see:

- AC 25.1523–1, "Minimum Flightcrew," dated February 2, 1993; and
- AC 25–11, section 5.b.

Section 25.1543(b) [at amdt. 25–72]: "Each instrument marking must be clearly visible to the appropriate crewmember."

Discussion: The applicant may choose to use computer modeling to provide preliminary analysis showing that there are no visual obstructions between the pilot and the instrument markings. Where head movement is necessary, such analyses also can be used to measure its magnitude. Other analysis techniques can be used to establish appropriate font sizes, based on research-based requirements. Mock-ups also can be helpful in some cases. The data collected in these analysis and assessments are typically used to support final verification in the flight deck, using subjects with vision that is representative of the pilot population, in representative lighting conditions. For more information on electronic display systems, see AC 25–11, sections 6 and 7, as appropriate. For more information on marking of power plant instruments, see AC 20–88A, "Guidelines on the Marking of Aircraft Powerplant Instruments (Displays)," dated 9/30/85.

2. Specific Human Factors Requirements

Section 25.785(g) [at amdt. 25–88]: "Each seat at a flight deck station must have a restraint system * * * that permits the flight deck occupant, when seated with the restraint system fastened, to perform all of the occupant's necessary flight deck functions."

Discussion: The applicant may choose to develop a list of what it considers to be necessary flight deck functions, under normal and abnormal conditions. Methods similar to those used to show compliance with § 25.777 also may be appropriate for this paragraph, with the additional consideration of movement constraints imposed by the full restraint system.

Factors to consider when reviewing the MOC are discussed in Table A–8:

TABLE A–8.—§ 25.785(g): FACTORS TO CONSIDER

Issue	Discussion
Dynamics	If the restraint system could lock-up during turbulence or vibration, and thus restrict reach, the MOC may need to include evaluations under these conditions.

Section 25.785(l) [at amdt. 25–88]: "The forward observer's seat must be shown to be suitable for use in conducting the necessary enroute inspections."

Discussion: The applicant may choose to develop a set of requirements (for example, what must be seen and reached) based on the expected tasks to be performed by an inspector. The FAA Certification Team personnel may wish to consult with FAA Flight Standards personnel to validate these requirements. Computer-based analysis and/or mock-ups can be used to develop supporting data (for example, visibility of displays); evaluation of enroute inspection scenarios can be used to verify that all required tasks can be performed. Since the geometric relationship between the observer's seat and the rest of the flight deck (including the pilots) is important, the evaluations often must occur in the actual airplane.

Section 25.1141(a) [at amdt. 25–72]: "Each powerplant control must be located so that it cannot be inadvertently operated by persons entering, leaving, or moving normally in the cockpit."

Discussion: This type of assessment typically requires at least a physical mock-up, due to limitations in the ability to adequately model "normal" movement in the cockpit. Evaluations should be designed:

- To include cases in which the pilots must reach across the area surrounding the powerplant controls; and
- To look for places where pilots will naturally place their hands and feet during ingress and egress, and during cruise.

Subjective assessments by the FAA Designated Engineering Representative (DER) or FAA pilots would be the most typical method for assessing the likelihood and seriousness of any inadvertent operation of the powerplant controls.

Section 25.1357(d) [original amdt.]: "If the ability to reset a circuit breaker or replace a fuse is essential to safety during flight, that circuit breaker or fuse must be located and

identified so that it can be readily reset or replaced in flight."

Discussion: The applicant may choose to use methods similar to those employed for § 25.777 to demonstrate the ability of the pilot to reach the specific circuit protective device(s). The applicant also should consider how to evaluate the ability of the pilot to readily identify the device(s), whether they are installed on a circuit breaker panel or controlled using an electronic device (i.e., display screen on which the circuit breaker status can be displayed and controlled).

A necessary question to ask when identifying the human factors-related compliance issues is discussed in Table A–9.

TABLE A–9.—§ 25.1357(d): QUESTIONS TO IDENTIFY HUMAN FACTORS ISSUES

Question	Discussion
Are there any crew procedures which require the flightcrew to reset a circuit breaker or replace a fuse.	If not, it may be reasonable for an applicant to state this and to provide verification via published flightcrew specific procedures.

Section 25.1381(a)(2) [at amdt. 25–72]: "The instrument lights must be installed so that * * * (ii) no objectionable reflections are visible to the pilot."

Discussion: See the discussion of § 25.773(a), above.

3. Specific Crew Interface Requirements

Section 25.773(b)(2)(i) [at amdt. 25–72]: "The first pilot must have a window that is openable * * * and gives sufficient protection from the elements against impairment of the pilot's vision."

Discussion: While the applicant may perform analyses to show the visual field through the openable window, due to the nature of the task (landing the airplane by looking out the opened window), it is likely that a flight test would be the most appropriate method of compliance. Assessment of the forces required to open the window under flight conditions also may be needed.

Section 25.1322 [at amdt. 25–38]: "If warning, caution, or advisory lights are installed in the cockpit, they must, unless otherwise approved by the Administrator, be—

(a) Red, for warning lights (lights indicating a hazard which may require immediate corrective action);

(b) Amber, for caution lights (lights indicating the possible need for future corrective action);

(c) Green for safe operation lights; and

(d) Any other color, including white, for lights not described in paragraphs (a) through (c) of this section, provided the color differs sufficiently from the colors prescribed in paragraphs (a) through (c) of this section to avoid possible confusion."

Discussion: Compliance with this requirement is typically shown by a description of each of the warning, caution, and advisory lights (or their electronic equivalents). Evaluations may also be useful to verify the chromaticity (for example, red looks red, amber looks amber) and discriminability (i.e., colors can be distinguished reliably from each other) of the colors being used, under the expected lighting levels. These evaluations can be affected by the specific display technology being used, so final evaluation with flight quality hardware is sometimes needed. A description of a well-defined color coding philosophy which is consistently applied across flight deck systems can be used to show how the design avoids "possible confusion". For additional information, see AC 25–11, section 5.a.

Appendix B—Related Documents

1. *Advisory Circulars (AC):* The specified sections of the ACs listed below concern selecting a method of compliance (test, inspection, simulation, etc.), rather than identifying specific design features that will generally be accepted as compliant.

a. AC 25.1309–1B, "System Design and Analysis" [draft]: This AC identifies certain human factors assessments that should be done as part of the overall safety assessments intended to show compliance with § 25.1309. Section 9 (subparagraphs on "Crew and Maintenance Actions") provides some information on determining if failure indications are considered to be recognizable, and if the required actions cause an excessive workload.

b. AC 25–11, "Transport Category Airplane Electronic Display Systems," dated July 16, 1987: This AC applies to systems using cathode ray tube (CRT)-based technology, but the FAA plans to update it to cover other display technologies [for example, liquid crystal displays (LCD)]. The AC is used to support compliance with a number of regulations, including the following, also cited in this policy statement, that are related to human factors aspects of the flightcrew interfaces:

- § 25.771, Pilot compartment.
- § 25.777, Cockpit controls.
- § 25.1141, Powerplant controls: general.
- § 25.1301, Equipment: Function and installation.
- § 25.1309, Equipment, systems, and installations.
- § 25.1322, Warning, caution, and advisory lights.
- § 25.1381, Instrument lights.
- § 25.1523, Minimum flightcrew.
- § 25.1543, Instrument markings: general.

Several sections of AC 25–11 identify display system characteristics that can be verified by inspection. The information provided in the following sections of the AC may be useful in assessing the applicant's other proposed evaluation methods:

- *Section 4.b.(1): General Certification Considerations, Compliance Considerations, Human Factors.* This section includes a discussion of the use of simulation and in-flight evaluations.
- *Section 6.: Display Visual Characteristics.* Various subsections of this section contain guidance on evaluation and test conditions and methods.

c. AC 20–88A, "Guidelines on the Markings of Aircraft Powerplant Instruments (Displays)," dated September 30, 1985: This AC provides information related to marking of aircraft powerplant instruments and electronic displays (cathode ray tubes, etc.). The AC is used to support compliance with a number of regulations, including the following, that are related to human factors aspects of the flightcrew interfaces:

- § 25.1541, Placards and markings: General.
- § 25.1543, Instrument markings: General.
- § 25.1549, Powerplant and auxiliary power unit instruments.

d. AC 25.1523–1, "Minimum Flightcrew," dated February 2, 1993: This AC provides information related to compliance with § 25.1523 and Appendix D of 14 CFR part 25, which contain the certification requirements for the minimum number of flightcrew personnel on transport category airplanes.

e. AC 25.773–1, "Pilot Compartment View Design Considerations," dated January 8, 1993: This AC defines a method for determining the clear view area of the flight deck windows. In practice, this approach can be carried out using direct measurements of an actual flight deck (or high fidelity physical flight deck), or using computer analysis of a 3-D computer aided design (CAD) model of the flight deck. Referenced in this AC is Society of Automotive Engineers (SAE) Aerospace Recommended Practice (ARP) 4101/2 (which replaced AS 580B), "Pilot Visibility from the Flight Deck," dated February 1989.

2. Other References

a. Technical Report DPT/FAA/RD–93/5, "Human Factors for Flight Deck Certification Personnel," dated July 1993, which can be ordered through the National Technical Information Service (http://www.ntis.gov/): Key chapters of this document include:

- *Chapter 8:* Timesharing, Workload, and Human Error.
- *Chapter 11:* Workload Assessment.
- *Chapter 12:* Human Factors Testing and Evaluation.

Appendix C—Sample Human Factors Methods of Compliance Briefing

This sample briefing is intended to provide examples of the types of information that could be included in such a briefing. Keep the following in mind while reviewing it:

- It is based on a *totally hypothetical* certification program, and no connection to any real system or certification program is intended or implied. For more information on this hypothetical program, see the FAA policy on human factors certification plans, contained Appendix C of Policy Statement No. ANM–99–2. The extracts from the human factors certification compliance matrix contained in this policy statement are drawn from that appendix.
- This sample briefing should not be considered comprehensive. The examples are intended to be illustrative, but do not necessarily include all of the issues, even for the hypothetical program.
- The methods of compliance are intended to show the methods that a hypothetical applicant might have proposed for the project. It should not be construed as describing an acceptable list of methods for any real program. Such methods would have to be discussed and agreed upon within the context of a specific program.
- The "Deliverable Products" column in the compliance matrix identifies what the hypothetical applicant will produce to substantiate compliance. The titles of reports represent examples of how an applicant might choose to package the information.
- Finally, the sample briefing is not intended to specify the format of how this information is provided to the FAA; rather, it is meant to provide guidance only on an acceptable structure and recommended content. Alternative methods for providing this information are acceptable, such as adding it to the Certification Plan or providing it in a separate document. For large, complex projects, it could be a part of the overall project, without being a separate piece. The primary intent is to illustrate how an applicant could provide information to the FAA, explaining why and how the proposed methods of compliance are sufficient.

[Hypothetical]

Human Factors Certification Methods of Compliance for the Electronic Approach Chart System (EACS)

1. Introduction

a. Project: This project seeks a Supplemental Type Certificate (STC) for the installation of an Electronic Approach Chart System (EACS) in Guerin Model 522 airplanes. The intent of the EACS is to provide an alternative to the use of paper approach charts.

b. Installation: The ECAS will be installed so that it is physically and functionally integrated into the flight deck.

c. Data loading: System data will use existing on-board data loading capabilities.

d. System type: The EACS will be certified as a non-essential system.

2. System Description

a. Intended Function: The EACS uses a panel-mounted Active Matrix Liquid Crystal Display (AMLCD) to display approach charts for the pilots to use on the ground and in flight. The key functions include the following:

(1) *During the preflight preparation:*

(a) The pilot will use the system to call up and review the approach charts for the destination airport and selected alternates.

(b) The pilot will be able to "mark" the appropriate charts for quick retrieval later in the flight.

(c) If initiated by the pilot, the system will be able to query the Flight Management System (FMS) to pre-identify the appropriate charts, based on the flight plan.

(2) *During flight (normal operations):*

(a) The pilot will quickly access the pre-selected approach charts. Charts that were not pre-selected also will be accessible.

(b) The pilot will be able to manipulate the display of the chart to show only the information relative to the planned route of flight.

(c) The pilot will be able to select the appropriate approach parameters (transition, approach navigation aids, minimums, etc.) using the EACS. Upon pilot initiation, the EACS will load these selections into the other systems on the airplane [for example, the approach navaids will be sent to the FMS for autotuning, and decision height (DH) will be sent to the altitude alerting system and display system]. For a complete list of EACS functions, see the EACS System Description Document.

(3) *During flight (non-normal operations, i.e., requiring an emergency diversion):* In addition to those functions available for normal operations, the EACS provides the following functionality to support emergency diversions:

(a) When the pilot selects the ALTERNATE AIRPORT function on the FMS, the FMS automatically identifies the five nearest airports that meet the landing requirements for the airplane. These airports will be automatically transmitted to the EACS, which will preselect them (mark them for quick retrieval).

(b) At the pilot's request, the EACS will display a listing of the diversion airports and allow the pilot to quickly review the approach charts and select the desired approach. As in normal operations, this selection will be automatically transmitted to the FMS and other using systems.

Note: For more detail on the EACS, see the Human Factors Certification Plan and System Description Document.

3. Proposed Methods of Compliance

a. The following slides provide a discussion of the proposed Method of Compliance for each of the human factors rules identified in the EACS Human Factors Certification Plan.

b. The rules are organized into the following categories for discussion:

(1) Flightcrew workload.
(2) Noise and vibration.
(3) Internal/external vision.
(4) Flight deck lighting.
(5) Flight deck arrangement.
(6) System failures and alerting.
(7) Miscellaneous.

4. Simulator

a. A rudimentary PC-based simulator will be used for some evaluations.

b. The simulator has representative (generic) flight controls, autopilot, and performance models. (The EACS has no interaction with aircraft performance, so high fidelity is not needed.)

c. The simulator includes the same flight management computer (FMC) and main displays as the STC configuration. The EACS will be installed only on the captain's side in the simulator. Any evaluations requiring participation by both crew members will be conducted on the test airplane.

d. Installation geometry of the simulator is approximately equivalent to the actual installation. Any evaluations requiring accurate installation geometry will be conducted on the test airplane.

e. Because EACS does not interact with other airplane systems (pressurization, hydraulics, etc), those systems are not replicated in the simulator. It will be possible to fail the EACS, simulating an electrical bus failure.

f. The simulator will be used primarily to assess EACS/FMS interaction and to perform comparisons between use of paper charts and EACS.

5. Flightcrew Workload

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.771(a) [at amdt. 25–4].	Each pilot compartment and its equipment must allow the minimum flightcrew to perform their duties without unreasonable concentration or fatigue.	• Analysis • Simulator evaluations • Flight test	Workload Certification Report.
25.1523 [at amdt. 25–3].	The minimum flightcrew must be established so that it is sufficient for safe operation, considering: (a) The workload on individual crewmembers; (b) The accessibility and ease of operation of necessary controls by the appropriate crewmember; and	• Simulator demonstration • Flight test	• Demonstration Report. • Flight Test Report.

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
	(c) the kind of operation authorized under § 25.1525. The criteria used in making the determinations required by this section are set forth in Appendix D of 14 CFR part 25.		

a. The EACS functions are centered around the selection and review of approach charts. Although we do not anticipate any certification issues with respect to showing compliance with the above rules (workload reduction is a central goal for this system), we will perform a workload evaluation in order to show the benefits of the system.

b. Analysis will be used to identify all of the pilot activities associated with identification, retrieval, review, and use of the charts, along with any other tasks necessary for operation of the EACS.

c. Simulator evaluations or demonstrations will be used to measure task times and error rates for conventional charts and the EACS. Subjective measures of task difficulty and workload will be taken. Normal and non-normal scenarios will be included. Subjects will include DER and customer pilots.

d. Limited flight tests with FAA pilots will be used to confirm the analyses and simulator tests.

6. Vibration and Noise

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.771(e) [at amdt. 25–4].	Vibration and noise characteristics of cockpit equipment may not interfere with safe operation of the airplane.	Flight test	Flight Test Report.

a. Controls are conventional in design and similar to other certificated systems:

(1) Function keys [similar to keys on current Master Control Display Unit (MCDU)].

(2) Touch screen [similar to certain Aircraft Communications Addressing and Reporting System (ACARS) units].

(3) Brightness control (conventional rotary knob).

b. The EACS is a supplemental system, so we suggest that full testing of usability in high vibration and turbulence is not required (pilot can revert to paper charts).

c. During flight test program, turbulence will be sought out for pilot subjective evaluations of EACS usability. However, certification will not be contingent upon testing in turbulence.

7. Internal/External Vision and Flight Deck Lighting

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.773(a)(1) [at amdt. 25–72].	Each pilot compartment must be arranged to give the pilots sufficiently extensive, clear, and undistorted view, to enable them to safely perform any maneuvers within the operating limitations of the airplane, including takeoff, approach, and landing.	Similarity	Vision Certification Report.
25.1321(a) [at amdt. 25–41].	* * * Each flight, navigation, and powerplant instrument for use by any pilot must be plainly visible to him from his station with the minimum practicable deviation from his normal position and line of vision when he is looking forward along the flight path.	• System description • Analysis • Flight test	• Installation Drawings • Vision Certification Report • Flight Test Report.
25.1543(b) [at amdt. 25–72].	Each instrument marking must be clearly visible to the appropriate crewmember.	Ground test	• Vision Certification Report • Ground Test Report.

a. Because this system will be fully integrated into the existing instrument panels, external vision will be unaffected by the installation.

b. Because all pilots are intended to position themselves at the Design Eye Reference Point (DERP), there will be little pilot-to-pilot variability with respect to the visibility of the display. Thus, visibility will be easily confirmed during flight test. Risk for this installation is expected to be very low.

c. The visual angles from the DERP to the EACS will be determined and compared to other display systems, as well as the clipboard where pilots currently place their paper charts.

d. Readability will be assessed (using a questionnaire) in the airplane during ground testing, concurrently with the lighting tests. This will allow evaluation of readability under all expected lighting conditions.

8. Flight Deck Lighting

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.773(a)(2) [at amdt. 25. 72]. 25.1321(e) [at amdt. 25–41].	Each pilot compartment must be free of glare and reflections that could interfere with the normal duties of the minimum flightcrew. If a visual indicator is provided to indicate malfunction of an instrument, it must be effective under all probable cockpit lighting conditions.	Ground test • Similarity • Flight test • Ground test	Lighting Certification Report. • System Description and Statement of Similarity. • Flight Test Report.
25.1381(a)(2) [at amdt. 25–72].	The instrument lights must be installed so that (ii) no objectionable reflections are visible to the pilot.	Ground test	Flight Test Report.

a. This system uses a conventional normally white Active Matrix Liquid Crystal Display (AMLCD) display.

b. The AMLCD is provided by a vendor who has produced similar display glass for other previously certificated flight deck systems.

c. In general, visibility/lighting risk should be low for this display.

d. Ground tests will cover the following lighting cases:

(1) Night (windows will be covered), and

(2) Shafting sunlight (using a hand held spotlight).

e. Flight tests will cover the following lighting cases:

(1) Bright forward field (flying into brightly lit clouds), and

(2) Bright forward point light source (flying toward the sun).

f. Reflections that might be caused by the EACS, or that might be present on the EACS display, will be assessed subjectively during the ground test.

9. Flight Deck Arrangement

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
25.777(a) [at amdt. 25–46].	Each cockpit control must be located to provide convenient operation and to prevent confusion and inadvertent operation.	• Ground test • Flight test	Flight Deck Anthropometry Certification Report.
25.777(c) [at amdt. 25–46].	The controls must be located and arranged, with respect to the pilot's seats, so that there is full and unrestricted movement of each control without interference from the cockpit structure or the clothing of the minimum flightcrew when any member of this flightcrew, from 5'2" to 6'3" in height, is seated with the seat belt and shoulder harness fastened.	Ground test	Flight Deck Anthropometry Certification Report.

a. Reach to the EACS will be shown by using a representative sample of people within the required height range.

b. Ground tests will show that the EACS does not interfere with use of the nose wheel steering tiller and oxygen masks (the only controls in the vicinity of the EACS).

10. Miscellaneous:

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
§ 25.1309(b)(3) [at amdt. 25–41].	. . . Systems, controls, and associated monitoring and warning means must be designed to minimize crew errors that could create additional hazards.	• Hazard assessment • Simulator demonstration	• Fault Tree Analyses. • Demonstration Report.
§ 25.1322 [at amdt. 25–38].	If warning, caution, or advisory lights are installed in the cockpit, they must, unless ortherwise approved by the Administrator, be— (a) Red, for warning lights (lights indicating a hazard which may require immediate corrective action); (b) Amber, for caution lights (lights indicating the possible need for future corrective action); (c) Green for safe operation lights; and (d) Any other color, including white, for lights not described in paragraphs (a) through (c) of this section, provided the color differs sufficiently from the colors prescribed in paragraphs (a) through (c) of this section to avoid possible confusion.	Configuration description	System Description Document.

Section [amdt.level]	Human factors requirements	Method(s) of compliance	Deliverable product
§ 25.773(b)(2)(i)[at amdt. 25–72].	The first pilot must have a window that is openable * * * and gives sufficient protection from the elements against impairment of the pilot's vision.	Ground test (to verify no interference with window opening) • System description • Simulator demonstration	Flight Test Report. Flight test • System Description Document. • Demonstration Report. • Flight Test Report.
§ 25.1301(a) [original amdt.].	Each item of installed equipment must be of a kind and design appropriate to its Document intended function.		

a. Regarding § 25.1309(b)(3):

(1) The EACS failure annunciations, along with their associated crew procedures, will be demonstrated in the simulator.

(2) The annunciation, data transfer inhibits, and crew procedures are very simple and straight-forward. We believe this to be a very low risk issue.

b. Regarding § 25.1301(a):

(1) A checklist of all functions (listed in the System Description Document) involving flightcrew interfaces will be developed.

(2) The DER and FAA pilots will use this checklist throughout the demonstration and test program to verify that all intended functions are satisfactorily implemented.

Appendix D—Information on the Use of Applicant-Conducted Human Factors Evaluations, Assessments, and Analyses in Support of Certification

1. What Are the Benefits of Evaluations?

The FAA recognizes the benefits of early and continuing human factors evaluations, assessments, and analyses (from here on referred to as "evaluations") during the applicant's design process. Such evaluations have several potential benefits:

a. *Human factors or flight crew interface problems can be identified in a timely manner,* so changes can be made with acceptable technical, schedule, and economic impacts. This can help foster better designs with fewer certification risks and fewer last minute design changes. Design changes that are incorporated early also are more likely to be well-integrated into the design, rather than quick "patches" needed to "plug holes."

b. *Good aspects of the design can be confirmed early,* which can increase applicant and FAA confidence. Such confidence, especially with respect to human factors issues, can reduce the amount of more costly testing (especially flight testing).

c. *Cooperation between the FAA and the applicant* on these evaluations can give the FAA more overall confidence in the applicant's methods and processes with respect to human factors issues.

d. *The applicant may choose to conduct evaluations using a variety* of pilots, with different backgrounds and levels of experience. Such tests and evaluations can provide valuable insights into how the well the airplane or system will function with line pilots.

2. Are Evaluations Required?

While such human factors evaluations are not required by current FAA regulations or advisory material, many applicants routinely perform them as part of their normal design development processes. The FAA should encourage all applicants to conduct such evaluations, when warranted by the nature of the design being developed. This policy does not establish any new requirements for such evaluations. Instead, the FAA wishes to provide incentives by establishing an explicit process by which applicants can use these evaluations to reduce certification risk if they choose to do so.

3. Are Evaluations Necessary To Show Compliance?

These evaluations, in and of themselves, should never be considered to be necessary or sufficient to show compliance with the regulations. However, in situations where compliance or non-compliance is not obvious and clear-cut, applicants may wish to use such data to support compliance decisions. The FAA personnel should take note of the results of evaluations presented for consideration by applicants, providing that the FAA agrees the results are relevant to the compliance findings.

4. How Should the Evaluations Be Conducted?

Because these evaluations can take a variety of forms, the FAA and the applicant should discuss them fully to understand the capabilities and limitations of the evaluations and the conclusions that can be drawn from them.

This policy will not establish a specific set of recommendations for these evaluations. The requirements for any specific evaluation that an applicant might propose would be influenced by several factors, including those listed as follows. The FAA and applicant should discuss these factors.

- The level of similarity between the tested flightcrew interface (including displays, controls, procedures, system performance) and the expected characteristics of the system (hardware and software) that will be certified.
- The areas of certification risk related to human factors. The design characteristics and the related regulations should both be considered.
- The pilots (or others) that will be used in the evaluations.
- The types of data that will be collected (objective vs. subjective, performance vs. opinion).
- The types of conclusions that the applicant hopes to derive, based on the evaluations.

5. When Should the Evaluation Be Planned and Coordinated With the FAA?

It would be desirable for the applicant to identify the types of evaluations that will be conducted when certification planning is in progress, if the applicant wishes to use such evaluations as part of their overall data collection effort in support of certification. Applicants should be encouraged to discuss in some detail with the FAA the evaluations they are developing. In most cases, it is appropriate for FAA personnel to ask for an opportunity to review the tested configuration and the test scenarios. This will allow the FAA personnel to determine whether the evaluations are appropriate and relevant for the compliance issues under consideration.

However, the FAA recognizes that such evaluations may be conceived and planned later during the development cycle. In such cases, it is acceptable for the applicant to communicate such plans to the FAA as they develop, so that agreement can be reached on the appropriateness of the evaluations with respect to certification. If the applicant has already developed a certification plan, it may be useful to update the certification plan as a way to document the intent to use such evaluations.

Finally, the FAA recognizes that the applicant may collect data during evaluations without intending to use the evaluations to support certification, but may achieve results that are subsequently believed to be relevant to certification. Under these circumstances, it is acceptable for the applicant to describe the evaluations to the FAA and request consideration of the results, even though the evaluations were not part of the certification plans.

6. How Should Evaluation Results Be Interpreted?

In order for applicants to consider such evaluations to be a way to reduce rather than increase certification risk, some latitude in interpreting evaluation results must be permitted, especially in view of the issues described above.

For example, the applicant should feel confident collecting and then presenting evaluations that include data from subjects who experienced difficulties or who provided negative comments on the design. Such data should be considered a normal part of such development testing, and in some cases, point out the strength and value of such testing. In such situations, applicants should be given the opportunity to explain causes of the reported problems and how the features of the design have been modified to account for the problems. Unlike conventional certification testing for systems, the applicant should not be expected to repeat the evaluations in order to "prove" that the problems have been mitigated. Rather, the nature of the problems, the explanations, and the design modifications can all be used to form the basis for the FAA's overall assessment of the results and the relevance of those results to certification.

7. Summary

In summary, this policy is intended to provide an incentive to applicants, so that they will conduct effective human factors evaluations during the design phase of a program. Involvement of the FAA during the design phase is also a desired, but not a required, outcome.

This policy should not be used by FAA personnel to force such evaluations as part of the certification process. In other words, there should be no penalties, either formal or informal, for an applicant who chooses not to use such evaluations as part of their certification effort.

However, if the applicant chooses to submit the results of such evaluations, and the FAA agrees that the evaluations were appropriate, then the FAA should consider the results of the evaluations as part of their overall determination of the amount of additional testing (or other methods of compliance) required to show compliance with the regulations.

Applicants should be encouraged to keep the FAA involved. This will improve the quality and value of the evaluations (with respect to certification), foster FAA confidence in the applicant's evaluation methods and processes, and maximize the benefit of the evaluations.

Issued in Renton, Washington, on May 8, 2001.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12275 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Environmental Impact Statement; Douglas County, CO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, the FHWA, in cooperation with the Colorado Department of Transportation (CDOT), have prepared a Final Environmental Impact Statement (EIS) for proposed transportation improvements in the South I–25 Corridor and US 85 Corridor of the Denver, Colorado metropolitan area. The project is within Douglas County. The Final EIS identifies the Preferred Alternative and the Other Alternative and their associated environmental impacts. Interested citizens are invited to review the Final EIS and submit comments. Copies of the Final EIS may be obtained by telephoning or writing the contact person list below under Addresses. Public reading copies of the Final EIS are available at the locations listed under Supplementary Information.

DATES: A 30-day public review period will begin on May 11, 2001 and conclude on June 11, 2001. Written comments on the alternatives and impacts to be considered must be received by CDOT by June 11, 2001. Two public hearings to receive oral comments on the Final EIS will be held in Castle Rock and Sedalia.

ADDRESSES: Written comments on the Final EIS should be addressed to Wes Goff, Project Manager, Colorado Department of Transportation, South I–25 Corridor and US 85 Corridor, 18500 East Colfax Avenue, Aurora, CO 80011. Requests for a copy of the Final EIS may be addressed to Ms. Wes Goff at the address above. Please see Supplementary Information section for a listing of the available documents and formats in which they may be obtained. Copies of the Final EIS are also available for public inspection and review. See Supplementary Information section for locations.

FOR FURTHER INFORMATION CONTACT: To request copies of the Final EIS or for additional information, contact: Mr. Scott Sands, FHWA, Colorado Division, 555 Zang Street, Room 250, Lakewood, CO, 80228, Telephone: (303) 969–6730 extension 362; or Mr. Wes Goff, Colorado Department of Transportation, Region 1, 18500 East Colfax Avenue, Aurora, CO 80011, Telephone: (303) 757–9647.

SUPPLEMENTARY INFORMATION:

Hearing Dates and Locations:

Tuesday, June 5, 2001: Louviers Village Club House (5 p.m.–7:30 p.m.)

Thursday, June 7, 2001: Douglas County Building (5 p.m.–7:30 p.m.)

Copies of the Final EIS are available in hard copy format for public inspection at:

- City of Lone Tree, 6399 S. Fiddlers Green Cr., Ste. 102, Greenwood Village, CO 80111, 303–779–4525
- CDOT Arapahoe Residency, 359 Inverness Drive South, Suite K, Englewood, CO 80112, 303–790–1020
- CDOT Office of Environmental Services, 1325 South Colorado Boulevard, Suite B400, Denver, CO 80222, 303–757–9259
- CDOT Region 1, 18500 E Colfax Avenue, Aurora, CO 80010, 303–757–9371
- Douglas County Planning Department, 100 Third Street, Castle Rock, CO 80104, 303–660–7490
- Federal Highway Administration, 555 Zang Street, Room 250, Lakewood, Co 80228, 303–969–6730
- Highlands Ranch Library, 48 West Springer Drive, Littleton, CO 80129–2314, 303–791–7703
- Lone Tree Library, 8827 Lone Tree Parkway, Lone Tree, CO 80124–8961, 303–799–4446
- Louviers Library, 7885 Louviers Boulevard, Louviers, CO 80131–9900, 303–791–7323
- Parker Library, 10851 South Crossroads Drive, Parker, CO 80134–9081, 303–841–3503
- PBS&J, 5500 Greenwood Plaza Blvd., Suite 150, Englewood, CO 80111, 303–221–7275
- Philip S. Miller Library, 961 S Plum Creek Road, Castle Rock, CO 80104, 303–688–5157
- Town of Castle Rock, 100 Wilcox Street, Castle Rock, CO 80104
- The document is also available on the project Website: www.southi25.com

Background

This Final EIS provides a detailed evaluation of the South I–25 Corridor and US 85 Corridor improvement project. The project corridors both lie within Douglas County, Colorado. The I–25 Corridor extends from C–470 at approximate milepost 195 to the southern limit of Castle Rock at approximate milepost 178 and the US 85 Corridor extends from C–470 at approximate milepost 200 to Castle Rock at approximate milepost 184. This Final EIS includes an examination of the purpose and need, alternatives under consideration, travel demand, affected environment, environmental consequences, and mitigation measures as a result of the improvements under consideration. Three alternatives, including the No-Action Alternatives, are considered for improvements.

The FHWA, the CDOT, and other local agencies invite interested individuals, organizations, and Federal, State, and local agencies to comment on the evaluated alternatives and associated social, economic, or

environmental impacts related to the alternatives.

Edrie Vinson,

Environmental Program Manager, Federal Highway Administration, Lakewood, Colorado.

[FR Doc. 01–12344 Filed 5–15–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 8, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 15, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1461.

Regulation Project Number: INTL–24–94 Final.

Type of Review: Extension.

Title: Taxpayer Identifying Numbers (TINs).

Description: This regulation relates to requirements for furnishing a taxpayer identifying number on returns, statements, or other documents. Procedures are provided for requesting a taxpayer identifying number for certain alien individuals for whom a social security number is not available. The regulation also requires foreign persons to furnish a taxpayer identifying number of their tax returns.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 1.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: On occasion, Annually.

Estimated Total Reporting/Recordkeeping Burden: 1 hour.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–12333 Filed 5–15–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 8, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 15, 2001, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0181.

Form Number: IRS Form 4768.

Type of Review: Extension.

Title: Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

Description: Form 4768 is used by estates to request an extension of time to file an estate (and GST) taxes and to explain why the extension should be granted. IRS uses the information to decide whether the extension should be granted.

Respondents: Individuals or households, business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 18,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 13 min.;
Learning about the law or the form: 16 min.;
Preparing the form: 22 min.;
Copying, assembling, and sending the form to the IRS: 20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 22,200 hours.

OMB Number: 1545–0201.

Form Number: IRS Form 5308.

Type of Review: Revision.

Title: Request for Change in Plan/Trust Year.

Description: Form 5308 is used to request permission to change the plan or rust year for a pension benefit plan. The information submitted is used in determining whether IRS should grant permission for the change.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 480.

Estimated Burden Hours Per Respondent/Recordkeeper: 41 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 325 hours.

OMB Number: 1545–1212.

Form Number: IRS Form 706–QDT.

Type of Review: Extension.

Title: U.S. Estate Tax Return for Qualified Domestic Trusts.

Description: Form 706–QDT is used by the trustee or the designated filer to compute and report the Federal estate tax imposed on qualified domestic trusts by Internal Revenue Code (IRC) section 2056A. IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Respondents: Individuals or households, business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 80.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 1 hr., 12 min.;
Learning about the law or the form: 42 min.;
Preparing the form: 1 hr., 30 min.;
Copying, assembling, and sending the form to the IRS: 1 hr., 3 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 357 hours.

OMB Number: 1545–1733.

Form Number: IRS Form 720–CS.

Type of Review: Extension.

Title: Carrier Summary Report.

Description: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–CS is an information return that will be used by carriers to report their monthly deliveries and receipts of products to and from terminals.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 475.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 12 hr., 10 min.;
Learning about the law or the form: 30 min.;
Preparing and sending the form to the IRS: 43 min.

Frequency of Response: Monthly.

Estimated Total Reporting/Recordkeeping Burden: 148,485 hours.

OMB Number: 1545–1734.

Form Number: IRS Form 720–TO.

Type of Review: Extension.

Title: Terminal Operator Report.

Description: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–TO is an information return that will be used by terminal operators to report their monthly receipts and disbursements of products.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 18 hr., 52 min.;
Learning about the law or the form: 30 min.;
Preparing and sending the form to the IRS: 49 min.

Frequency of Response: Monthly.

Estimated Total Reporting/Recordkeeping Burden: 2,285,280 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–12334 Filed 5–15–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

May 10, 2001.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain a copy of the submission by calling the Acting OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the Acting OTS Clearance Officer, Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to: *infocollection.comments@ots.treas.gov.*

DATES: Submit written comments on or before June 15, 2001.

OMB Number: 1550–0062.

Form Number: Not applicable.

Type of Review: Renewal.

Title: Minimum Security Devices and Procedures.

Description: The Bank Protection Act and OTS implementing regulations require thrifts to establish security devices and procedures. Written security programs allow OTS to evaluate whether thrifts have adopted policies and procedures to ensure compliance with the law and regulations. FDIC, OCC, and FRB have substantially similar regulations.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 1,068.

Estimated Burden Hours Per Response: 2.

Frequency of Response: 1 per year.

Estimated Total Reporting Burden: 2,136.

Acting Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation Division.

[FR Doc. 01–12382 Filed 5–15–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

May 10, 2001.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain a copy of the submission by calling the Acting OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the Acting OTS Clearance Officer, Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to: *infocollection.comments@ots.treas.gov.*

DATES: Submit written comments on or before June 15, 2001.

OMB Number: 1550–0030.

Form Number: OTS Forms 1344 and 1561.

Type of Review: Renewal.

Title: Application for Issuance of Subordinated Debt Securities/Notice for Issuance of Subordinated Debt or Mandatorily Redeemable Preferred Stock.

Description: The information provided to OTS issued to determine if the proposed issuance of securities will benefit the thrift institution or create an unreasonable risk to the Savings Association Insurance Fund (SAIF).

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses:

Type of information collection	Number of respondents	Number of responses per respondent	Hours per response	Annual totals
Application	1	1	80	80
Notice	6	1	42	252

Estimated Burden Hours Per Response: See chart above.
Frequency of Response: 1 per year.
Estimated Total Reporting Burden: 312.
Acting Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 Street, NW., Washington, DC 20552.
OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Deborah Dakin,
Deputy Chief Counsel, Regulations & Legislation Division.
[FR Doc. 01–12383 Filed 5–15–01; 8:45 am]
BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–5: OTS Nos. H–3746 and 04232]

Globe Bancorp, Inc., Metairie, LA; Approval of Conversion Application

Notice is hereby given that on May 10, 2001, the Director, Examination Policy, Office of Thrift Supervision, or his designee, acting pursuant to delegated authority, approved the application of Globe Homestead Federal Savings Association, Metairie, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 225 E. John Carpenter Freeway, Suite 500, Irving, Texas 75062–2326.

Dated: May 11, 2001.
By the Office of Thrift Supervision,
Nadine Y. Washington,
Corporate Secretary.
[FR Doc. 01–12264 Filed 5–15–01; 8:45 am]
BILLING CODE 6720–01–M

Corrections

Federal Register
Vol. 66, No. 95
Wednesday, May 16, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–6920–6]

RIN 2040–AD58

Unregulated Contaminant Monitoring Regulation for Public Water Systems; Analytical Methods of List 2 Contaminants; Clarifications to the Unregulated Contaminant Monitoring Regulation

Correction

In rule document 01–59 beginning on page 2273 in the issue of Thursday, January 11, 2001, make the following corrections:

1. On page 2302, in Table 1.—Unregulated Contaminant Monitoring Reporting Requirements, item 15 should read as follows:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS

Data Element	Definition
15. Analytical Accuracy	Accuracy describes how close a result is to the true value measured through the use of spiked field samples. For purposes of unregulated contaminant monitoring, accuracy is defined as the percent recovery of the contaminant in the spiked matrix sample analyzed in the same analytical batch as the sample result being reported and calculated using: % recovery = [(amt. found in spiked sample—amt. found in sample)/amt. spiked] × 100%.

2. On page 2303, in Table 1.—Unregulated Contaminant Monitoring Regulation (1999) List, the entry for "Perchlorate" should read as follows:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REGULATION (1999) LIST

List 1—assessment monitoring chemical contaminants					
1-contaminant	2–CAS registry number	3-analytical methods	4-minimum reporting level	5-sampling location	6-period during which monitoring to be completed
Perchlorate	14797–73–0	EPA Method 314.0[l]	4 µg/L[m]	EPTDS[r]	2001–2003

3. On page 2304, in the table titled "List 2—screening survey chemical contaminants", the entry for "Terbufos" should read as follows:

List 2—screening survey chemical contaminants

1-contaminant	2-CAS registry number	3-Analytical methods	4-Minimum reporting level	5-sampling location	6-Period during which monitoring to be completed
Terbufos	13071–79–9	EPA Method 526[a]	0.5 µg/L[f]	EPTDS[c]	2001—Selected Systems serving ≤10,000 persons; 2002-Selected systems serving > 10,000 persons.

[FR Doc. C1–59 Filed 5–15–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

USCG–2001–8659

RIN 2115–AG06

Notification of Arrival: Addition of Charterer to Required Information

Correction

In proposed rule document 01–10838 beginning on page 21710 in the issue of Tuesday, May 1, 2001, make the following corrections:

§160.211 [Corrected]

1. On page 21715, in the second column, in amendatory instruction 5.b., in the second line "all" should read "add".

§160.213 [Corrected]

2. On page 21715, in the second column, in amendatory instruction 6.b., in the third line "read add" should read "reads".

[FR Doc. C1–10838 Filed 5–15–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
May 16, 2001

Part II

Environmental Protection Agency

40 CFR Part 266

Storage, Treatment, Transportation, and Disposal of Mixed Wastes; Final Rule

40 CFR Parts 261 and 268

Hazardous Waste Identification Rule (HWIR); Revisions to Mixture and Derived-From Rules; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 266

[FRL–6975–1]

RIN 2050–AE45

Storage, Treatment, Transportation, and Disposal of Mixed Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today finalizing its proposal to provide increased flexibility to facilities that manage low-level mixed waste (LLMW) and technologically enhanced naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. The final rule reduces dual regulation of LLMW, which is subject to the Resource Conservation and Recovery Act (RCRA) and to the Atomic Energy Act (AEA). This final rule conditionally exempts from RCRA hazardous waste management low-level mixed wastes during storage and treatment. The storage and treatment exemption in today's rule requires the use of tanks or containers to store or treat the waste and applies only to low-level mixed waste that meets the specified conditions and is generated under a single Nuclear Regulatory Commission (NRC) or NRC Agreement State license.

Today's rule also exempts LLMW and hazardous NARM waste from RCRA manifest, transportation, and disposal requirements when specified conditions are met. Under this conditional exemption, the waste remains subject to manifest, transport, and disposal requirements under the NRC (or NRC Agreement State) regulations for low-level radioactive waste (LLW) or eligible NARM.

DATES: This final rule is effective November 13, 2001.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC) located at Crystal Gateway One, First Floor, 1235 Jefferson Davis Highway, Arlington, Virginia. The Docket Identification Number is F–2001–ML2F–FFFFF. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except for Federal holidays. To review docket materials you should make an appointment by calling (703) 603–9230. You may copy up to 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 (toll free), or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area call (703) 412–9810 or TDD (703) 412–3323 (hearing impaired). For information on this rule, contact Nancy Hunt at (703) 308–8762 or Chris Rhyne at (703) 308–8658. They are in the Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Use this address to access the rule electronically on the Internet: http://www.epa.gov/epaoswer/hazwaste/radio/:

The official record for this rule will be kept in paper form. Accordingly, EPA transferred all comments received electronically into paper form and placed them in the official record, which also includes all comments submitted directly in writing. The official record is the record maintained at the RCRA Docket Information Center. See the **ADDRESSES** section above.

EPA responses to comments on the March 1, 1999 Advance Notice of Proposed Rulemaking (64 FR 10063) and the November 19, 1999 Storage, Treatment, Transportation, and Disposal of Mixed Waste; Proposed Rule (64 FR 63464) are in a response to comments document placed in the official record for this rulemaking.

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I. References

A. Acronyms Used in This Preamble

AEA—Atomic Energy Act of 1954, as amended
ALARA—As Low As Reasonably Achievable
ANPRM—Advance Notice of Proposed Rulemaking
ARAR—Applicable or Relevant and Appropriate Requirements
BDAT—Best Demonstrated Available Technology
CBI—Confidential Business Information
CERCLA—Comprehensive Environmental Response, Compensation, and Liability Act
DOD—Department of Defense
DOE—Department of Energy
EEI—Edison Electric Institute
EPA—Environmental Protection Agency (referred to as "we" throughout this document)
FFCA—Federal Facilities Compliance Act
FUSRAP—Formerly Utilized Sites Remedial Action Program
GWRL—Groundwater Risk Levels
HSWA—Hazardous and Solid Waste Amendments of 1984
HWIR—Hazardous Waste Identification Rule
ICR—Information Collection Request
LDR—Land Disposal Restrictions
LLW—Low-Level Radioactive Waste
LLMW—Low-Level Mixed Waste
LLRWDF—Low-Level Radioactive Waste Disposal Facility
MMR—Military Munitions Rule
NAAG—National Association of Attorneys General
NARM-Technologically Enhanced Naturally Occurring and/or Accelerator-produced Radioactive Material
NGA—National Governors' Association
NNPP—Naval Nuclear Propulsion Program
NRC—Nuclear Regulatory Commission
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
OSW—Office of Solid Waste
OSWER—Office of Solid Waste and Emergency Response
RCRA—Resource Conservation and Recovery Act
RFA—Regulatory Fairness Act
RIC—RCRA Information Center
RQ—Reportable Quantity
SARA—Superfund Amendments and Reauthorization Act
SBREFA—Small Business Regulatory Enforcement Fairness Act
SQG—Small Quantity Generator
TC—Toxicity Characteristic
TRI—Toxics Release Inventory
TSDF—Treatment, Storage and Disposal Facility
UHC—Underlying Hazardous Constituent
UMRA—Unfunded Mandates Reform Act of 1995
UMTRCA—Uranium Mill Tailings Radiation Control Act
USWAG—Utility Solid Waste Activities Group
UTS—Universal Treatment Standards

B. Definition of Terms Used in the Preamble

Agreement State means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

ANPRM (Advance Notice of Proposed Rulemaking) refers in this document to the advance notice published in the **Federal Register** on March 1, 1999 (64 FR 10063) on mixed waste storage.

Certified Delivery means certified mail with return receipt requested, or equivalent courier service or other means that provides the sender with a receipt confirming delivery.

Director refers to the definition in 40 CFR 270.2.

"Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)" is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a LLRWDF licensed in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations.

Exempted waste means a waste that meets the eligibility criteria in § 266.225 and meets all of the conditions in § 266.230, or meets the eligibility criteria in § 266.310 and complies with all of the conditions in § 266.315. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in 40 CFR 261.3.

Generator refers to the definition in 40 CFR 260.10.

Hazardous waste means any material which is defined to be hazardous waste in accordance with 40 CFR 261.3, "Definition of Hazardous Waste."

Legacy waste means waste that was generated by past activities and has been in storage beyond RCRA accumulation time periods in 40 CFR 262.34 because appropriate treatment technologies have not been developed, or treatment and disposal capacity has not been available.

License means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as amended.

Low-Level Mixed Waste (LLMW) means a waste that contains both low-level radioactive waste and RCRA hazardous waste.

Low-Level Radioactive Waste (LLW) is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2)

Mixed Waste defined in RCRA as amended by the Federal Facility Compliance Act of 1992, means a waste that contains both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) means radioactive materials that (1) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or (2) are produced by an accelerator. NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.

NRC or NRC Agreement State license means a license issued by the Nuclear Regulatory Commission or an NRC Agreement State under authority granted by the AEA.

NUREG refers to Nuclear Regulatory Commission publications and documents that include formal staff reports, which cover a variety of regulatory, technical and administrative subjects; brochures, which include manuals, procedural guidance, directories and newsletters; conference proceedings and papers presented at a conference or workshop; and books, which serve a technical purpose or an industry-wide needs. Many of the NUREG documents are listed on the NRC Home Page (*http://www.nrc.gov*).

On-site is defined in the RCRA regulations at 40 CFR 260.10, *et seq.*

Tie-down conditions include NRC guidance documents and policies concerning storage and treatment of LLW which become part of the NRC or NRC Agreement State radioactive materials license by reference.

We or *us* within this preamble means the EPA.

You means a generator, treater, or other handler of low-level mixed waste or Eligible NARM.

C. Who Is Potentially Affected by This Rule?

The conditional exemption for low-level mixed waste (LLMW) storage and treatment applies to any mixed waste generator that has an NRC or NRC Agreement State license to possess radioactive material or to operate a nuclear reactor, so long as the waste is eligible and the generator can satisfy the conditions set forth in today's rule.

The transportation and disposal exemption applies to generators of LLMW and Eligible NARM so long as they meet all specified conditions. Facilities potentially affected by this action include those identified in Table 1.

TABLE 1.—FACILITIES POTENTIALLY AFFECTED

Category	Examples of facilities
Nuclear Utilities	Firms that generate electricity using nuclear fuel as the source of energy and that are licensed by the NRC.
Universities/Academic Institutions	Academic institutions at all levels that are licensed by NRC, or an NRC Agreement State, to use radionuclides for academic, biomedical, and research purposes.
Medical Facilities	Hospitals, medical laboratories, doctors' offices, or clinics that are licensed by NRC or an NRC Agreement State to use radionuclides for health care purposes.
Industrial Establishments	Private companies and institutions, including pharmaceutical companies, and research and development institutions that are licensed by NRC or an NRC Agreement State to use radionuclides.
Government Facilities	Facilities, installations and laboratories operated by State Agencies, and by some Federal Agencies, including, but not limited to, the National Institutes of Health, the National Institute of Standards and Technology, the Veterans Administration and the Department of Defense (except the Naval Nuclear Propulsion Program).
Disposal facilities	Low-level radioactive waste disposal facilities licensed under 10 CFR part 61or by an NRC Agreement State.

The preceding table is not intended to be exhaustive, but rather to provide examples of facilities likely to be affected by this rule. To determine whether you are affected by this regulatory action, you should carefully examine the applicability criteria in this preamble. If you have any questions regarding the applicability of this section to a particular entity, consult the persons listed under **FOR FURTHER INFORMATION CONTACT.**

D. What Is the Legal Authority for Today's Final Rule?

The statutory basis for this rule is in sections 1006, 2002(a), 3001–3009 and 3013 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the Federal Facility Compliance Act of 1992 (FFCA), 42 U.S.C. 6905, 6912(a), 6921–6929 and 6934.

II. Summary of Today's Action

In today's rule we are promulgating a conditional exemption for the storage, treatment, transportation, and disposal of low-level mixed waste (LLMW), and Eligible NARM where specified. As a

waste generator and handler who meets certain conditions specified in 40 CFR 266.230 or 266.315, (a) your LLMW could be exempt from most RCRA Subtitle C storage and treatment regulations, and (b) your LLMW and Eligible NARM could be exempt from most RCRA Subtitle C manifesting, transportation, and disposal regulations. Thus, LLMW, and Eligible NARM where specified, may be conditionally exempted from most RCRA Subtitle C requirements through much of the waste management process.

To claim a conditional exemption you must notify the regulatory agencies specified that you meet the conditions. However, if information you provide on your notification is incomplete or inaccurate, your claim for a conditional exemption is nullified subjecting your waste to RCRA Subtitle C regulation.

A. How Does This Rule Affect the Storage and Treatment of LLMW?

Our rule will allow qualified generators of LLMW to claim a conditional exemption from the regulatory RCRA definition of hazardous waste for mixed wastes stored and treated by the generator under a single NRC or NRC Agreement State license. This conditional exemption acknowledges that NRC regulation for low-level waste (LLW) provides protective regulation of storage and treatment of mixed waste in tanks and containers. This regulatory flexibility applies only to generators of low-level mixed waste who are licensed by NRC or an NRC Agreement State. Once your LLMW is removed from storage or treatment for transportation or disposal, it is subject to RCRA Subtitle C regulation unless it qualifies for the transportation and disposal exemption. Under this rule, if you fail to meet any of the conditions in § 266.230, your LLMW is no longer exempted from the regulatory definition of hazardous waste. As a hazardous waste, your LLMW is subject to RCRA Subtitle C regulation.

B. How Does This Rule Affect Transportation and Disposal of LLMW and Eligible NARM?

Today's rule will allow generators of LLMW and Eligible NARM to claim a conditional exemption from the RCRA regulatory definition of hazardous waste for the manifesting, transportation, and disposal of these wastes. (Throughout this document when we refer to the conditional exemption for manifest, transportation and disposal of LLMW, we also mean Eligible NARM.) If your wastes meet the eligibility requirements and if you meet the specified conditions for the transportation and disposal exemption, then you may manage your wastes as you would solely radioactive wastes. This conditional exemption acknowledges the protection provided by NRC and NRC Agreement States requirements for the manifest, transportation and disposal of the radioactive portion of the eligible waste.

III. Why Are We Issuing This Rule?

A. Response to Dual Regulation Concerns and Inadequate Capacity

Mixed waste is regulated under multiple authorities: RCRA (for the hazardous component), as implemented by EPA or Authorized States; and AEA (for the source, special nuclear, or by-product material component), as implemented by the NRC or NRC Agreement States (for commercially-generated mixed wastes), or the Department of Energy (DOE) (for defense-related mixed waste generated by DOE activities). NARM-contaminated hazardous waste is also regulated under multiple authorities: RCRA (for the hazardous component); and State law (for the NARM component), as implemented by a State agency designated by State law. EPA and NRC recognize that joint oversight of mixed waste has been cumbersome, in part because of the different regulatory approaches of the agencies, and has complicated safe management and disposal of mixed waste. With this rule we are responding to the concerns of mixed waste generators regarding the burden and duplication of dual regulation, as well as concerns about reducing the radiation exposures of workers managing mixed wastes. (See discussion related to decay-in-storage in section VI. A. 4. e. i.)

In addition, mixed waste generators have expressed concerns about limited LLMW treatment and disposal options which can put them in violation of RCRA. These concerns originated because RCRA section 3004(j) generally prohibits the storage of hazardous wastes that are also subject to RCRA land disposal restrictions unless the storage is "solely for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal." Under EPA's regulation codifying RCRA section 3004(j), we presume that the initial year of hazardous waste storage is for the sole purpose of accumulating a quantity necessary to facilitate treatment and disposal. However, if you store LLMW on-site for more than one year, you have the burden of proving that the storage is for the allowed purpose.

Based on our information collection effort in the ANPRM, published March 1, 1999 in the **Federal Register**, and information from mixed waste generators, we found that treatment technology and disposal capacity for certain LLMW are not always available. We also found that, in some cases, commercial mixed waste treatment facilities have not been willing to accept LLMW for treatment unless there are also disposal options. When disposal options do not exist, generators of LLMW store the waste beyond a year. Because of limited LLMW disposal capacity, we believe it is appropriate to provide safe and legal alternatives for the disposal of LLMW.

We assessed NRC regulations for management of LLW and compared them with EPA's regulations for hazardous waste storage, treatment, transportation, and disposal. Our review found that given the NRC's regulatory controls, human health and environmental protection from chemical risks would not be compromised if we deferred to many of the NRC low-level radioactive waste management practices. Given NRC waste management, we do not believe that the addition of RCRA Subtitle C regulation is necessary to protect human health or the environment. Through this rule, we are providing regulatory relief intended to facilitate the disposal of certain LLMW (such as legacy waste requiring long-term storage due to lack of treatment technology and disposal capacity), that has been stored on-site by NRC licensees as mixed waste subject to both RCRA permitting and NRC licensing requirements.

Ninety individuals and organizations commented on the proposal. In general, utilities, nuclear trade organizations, industry, universities, and some States supported the rule; private citizens, waste treatment and disposal facilities, environmental groups, and other States and universities opposed the rule or expressed concerns. We discuss the major comments of both supporting and opposing views by topic below.

In the preamble of the proposal we specifically sought comment on dual regulation. (See 64 FR 63469.) Of the 90 total comments, 77 from organizations or individuals addressed dual regulation, 61 of which expressed support for a conditional exemption of mixed waste. Several stated that the exemption would provide important and necessary regulatory flexibility for LLMW. Others stated that EPA has developed a sound and compelling technical record for both the storage and treatment of LLMW, as well as for off-site transportation and disposal of

LLMW and Eligible NARM in qualified low-level radioactive waste disposal facilities.

Our approach for addressing the issue of dual regulation of LLMW was opposed in whole or part by 16 commenters. Three commenters felt that EPA should establish a Memorandum of Understanding (MOU) with the Nuclear Regulatory Commission to transfer regulatory authority for mixed waste to NRC and Agreement States. However, an MOU would not allow EPA to relinquish jurisdiction over the hazardous portion of mixed waste. In addition, these commenters did not suggest how the NRC management framework might be changed to provide safer treatment and disposal of hazardous wastes. Our regulatory approach provides flexibility for mixed waste storage, treatment, transportation and disposal which addresses dual regulation concerns, and received the support of many generators who have raised the issue of dual regulation to us in the past.

B. Response to HWIR Consent Decree

The Edison Electric Institute (EEI), the Utility Solid Waste Activities Group (USWAG), and the Nuclear Energy Institute (NEI)—trade groups representing commercial nuclear power plants—were parties to settlement discussions regarding the deadline for the final Hazardous Waste Identification Rulemaking, ETC v. Browner, C.A. No. 94–2119 (TFH) (D.D.C.). On April 11, 1997, the court entered a consent decree which required EPA to propose revisions to the mixture and derived-from rules, 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), and to seek comment on eleven items listed in the decree with respect to those revisions. (See EPA Consent Decree, Ref. 1.) One of the eleven items concerns an exemption from RCRA hazardous waste disposal regulations for low-level mixed waste generated by nuclear power plants where such waste is also subject to regulation by the Nuclear Regulatory Commission. (See Side-bar letter, Ref. 2.) The consent decree required that the proposal also request comment on other regulatory relief for these wastes, if EPA finds that any other relief would be appropriate. (See ANPRM for further information.) This decree requires that EPA take final action on the proposal by April 30, 2001.

Today's rule provides regulatory relief to LLMW generators and other regulatory relief as described in this document. In a separate notice, EPA is revising the mixture and derived-from rules. (See Docket #F–2001–WHWF–FFFFF.) The revision includes an exemption from the mixture and derived-from rule for low-level mixed waste that is managed in compliance with the requirements in part 266, subpart N. These two final rules satisfy EPA's obligations under the consent decree.

C. Response to Petition From USWAG and Concerns of Other Mixed Waste Generators

The Utility Solid Waste Activities Group (USWAG), a national organization of power companies, petitioned the U.S. EPA on January 13, 1992 to amend RCRA Subtitle C regulations governing storage of mixed wastes. The USWAG organization cited difficulties in complying with RCRA Subtitle C regulations because of limited treatment technology and disposal capacity for some mixed wastes. (See discussion in ANPRM for additional information.) Today's action is our response to the USWAG petition.

Policy of Lower Enforcement Priority for Mixed Waste

Recognizing the limitations of available technology and capacity, in 1991 EPA issued a policy on a lower priority for enforcement of the storage prohibition contained in 3004(j) of RCRA for certain waste streams. (See 56 FR 42730; August 29, 1991.) Section 3004(j) prohibits storage of a waste restricted from land disposal (including the hazardous component of mixed waste), except for the purposes of the accumulation of such quantities of hazardous waste necessary to facilitate proper recovery, treatment, or disposal. The lack of adequate treatment technology or disposal capacity for some mixed waste streams necessitated mixed waste storage in violation of land disposal restrictions. The policy stated that violators who were faced with the impossibility of complying with the RCRA regulations, had a RCRA storage permit, and were storing their wastes in an environmentally responsible manner would be a low enforcement priority for EPA. Because treatment technology or disposal capacity was still unavailable for some mixed wastes, we extended this policy in 1994, 1996 and again in 1998. The policy expires on October 31, 2001. (See 63 FR 59989, November 6, 1998.)

This rulemaking is intended to provide flexibility to generators of mixed waste where EPA requirements are to a large extent duplicative of performance standards required by the NRC or NRC Agreement States. With the promulgation of this rule, EPA is stating its determination that facilities that comply with certain criteria can safely store mixed waste at NRC licensed facilities. The prohibition for storage in 3004(j) will not apply to waste that both meets the eligibility criteria of, and is stored in accord with the conditions of, this rule. Thus, the federal government is providing with this rule a potential option for mixed waste generators to store mixed wastes legally. We recognize that States are not required to become authorized for this rule. States may choose to be more stringent than the federal RCRA program. However, since many States have followed EPA's lead on the enforcement policy, we anticipate that most states will choose to address the storage problem of concern to mixed waste generators by adopting this rulemaking.

IV. Precedent for Regulatory Flexibility

A. Military Munitions Rule

The flexibility of this rule is modeled on the conditional exemption developed for waste military munitions in the Military Munitions Rule published February 12, 1997 (62 FR 6622–6657). (See 40 CFR part 266, subpart M.) The Military Munitions Rule (MMR) identifies when conventional and chemical military munitions become hazardous wastes subject to RCRA Subtitle C. In the MMR, EPA developed a conditional exemption to provide regulatory flexibility to storers and transporters of non-chemical waste military munitions. EPA provided the exemption for waste military munitions because the Defense Department Explosives Safety Board (DDESB) standards apply to and are binding on the military, and there is an institutional oversight process within the military. (See 62 FR at 6636.) Under the conditional exemption, non-chemical waste military munitions that normally meet the definition of "hazardous waste" are exempt from the regulatory definition of hazardous wastes under RCRA Subtitle C so long as the facilities storing or transporting munitions meet all of the conditions listed in the rule. (For the complete text of the Military Munitions Rule preamble, see 62 FR 6621, February 12, 1997.)

The U.S. Court of Appeals for the D.C. Circuit upheld all aspects of the MMR in Military *Toxics Project* v. *EPA*, 146 F.3d 948 (D.C. Cir. 1998). The court agreed with EPA that "Congress has not spoken directly to the issue of conditional exemption," and upheld as reasonable EPA's interpretation that 3001(a), which requires the Administrator to promulgate criteria for identifying and listing wastes that should be subject to Subtitle C requirements, allows the use of

conditional exemptions. (Id.) The court also agreed with EPA that "where a waste might pose a hazard only under limited management scenarios, and other regulatory programs already address such scenarios, EPA is not required to classify a waste as hazardous waste subject to regulation under Subtitle C." (Id. at 958.) For a more complete explanation of the legal basis for establishing a conditional exemption under RCRA, see the preamble to the Military Munitions Rule at 62 FR 6636. Today's final rule recognizes the safeguards which the NRC or NRC Agreement State regulatory program for low-level radioactive wastes already provides during storage, treatment, transportation and disposal. State radiation programs address NARM wastes under separate authorities.

B. Applying the Conditional Exemption Concept to Mixed Waste

In the Military Munitions Rule, EPA conditionally exempted from RCRA Subtitle C regulation stored waste military munitions and waste military munitions transported from one military owned or operated facility to another that are subject to DDESB standards. We take a comparable approach for generators of LLMW in this rule, which provides a conditional exemption for the storage, treatment, transportation, and disposal of LLMW that is subject to NRC or NRC Agreement State regulation. The exemption is based on the NRC or the NRC Agreement State licensing process and regulatory requirements, and their adequacy in addressing risks from both radioactivity and RCRA hazardous constituents. By promulgating a conditional exemption, we can eliminate redundant or dual requirements where wastes are managed safely; the NRC-required safeguards are in place (for example, inspection, recordkeeping, reporting); and penalties or other consequences may be imposed if the governing regulatory framework is not followed. Taking these features together, EPA concludes that these wastes should not be regulated under Subtitle C, because the NRC regulatory framework ensures protection of human health and the environment.

1. Evaluation of NRC Storage and Treatment Requirements

The NRC was created as an independent agency by the Energy Reorganization Act of 1974, which abolished the Atomic Energy Commission (AEC) and moved the AEC's regulatory function to NRC. This act, along with the Atomic Energy Act of 1954, as amended, provides the foundation for regulation of the nation's commercial nuclear power industry. The NRC's scope of responsibility includes regulation of commercial nuclear power reactors; non-power research, test, and training reactors; fuel cycle facilities; medical, academic, and industrial uses of nuclear materials; and the transport, storage, and disposal of nuclear materials and waste.

NRC regulations are issued under the United States Code of Federal Regulations (CFR) Title 10, Chapter 1. Regulation of LLMW is addressed through the issuance of regulations including those found in 10 CFR parts 20, 30, 35, 40, 50, 61, 70, and 71. NRC interprets these regulations and offers guidance on how licensees should comply with them through numerous Criteria, Regulatory Guides, Generic Communications, and NRC Reports.

Licenses that are issued on the basis of NRC's regulatory system allow entities to manage nuclear materials including wastes. Conditions of these licenses are enforced by NRC's Office of Enforcement, which oversees, manages, and directs the development and implementation of policies and programs for enforcement of NRC requirements. The system in place provides a comprehensive framework for the safe management of the various forms of waste generated by the nuclear industry, including LLMW. The NRC shares with EPA a common responsibility to protect the public health and safety.

In considering a conditional exemption from RCRA Subtitle C regulation for storage and treatment of low-level mixed waste generated by an NRC or NRC Agreement State licensee, we evaluated certain key factors. First, we reviewed the licensing requirements and NRC standards for the storage and treatment of LLW to determine whether NRC regulation of stored low-level waste adequately protects against possible risks from RCRA hazardous constituents in mixed waste. Although NRC regulation and oversight are designed primarily to address risks posed by radiation, the NRC, the regulated industry, and others have argued that these standards largely duplicate RCRA requirements and also protect against risks to human health and the environment posed by hazardous waste.

Second, we compared NRC low-level waste and EPA hazardous waste storage and treatment requirements. (See Ref. 4, EPA Comparison of Storage and Treatment Requirements, for details.) We found that activities performed by a licensee to safely store, treat, or address the release of the radioactive component of mixed waste also resulted in the safe management of the hazardous waste of the LLMW matrix. This result is attributable to the nature of mixed wastes—that is, migration of hazardous constituents does not occur except in the presence of radionuclides. Our analysis was conducted independently of similar studies performed by USWAG, the Electric Power Research Institute, and the Nuclear Management and Resources Council, Inc. (who represent members of the power generation industry). (See proposal F–1999–ML2P–FFFFF, Ref. 6 and 16 for the industry studies.) These other studies concluded that the technical design and operating standards of the NRC meet or exceed RCRA standards in virtually all respects, though the other studies note differences in implementation and emphasis (for example, NRC requirements are performance based whereas EPA's requirements under RCRA are prescriptive. NRC licenses are specifically tailored to the site, whereas RCRA permits are based on national standards.)

Third, we reviewed the compliance history of licensed facilities. We investigated a variety of NRC produced violation summaries for the years 1993–1998. These reports included: Office of Enforcement Annual Report-Fiscal Year 1996; Office of Enforcement Annual Report-Fiscal Year 1997; and Escalated Enforcement Actions Issued Since March 1996 for Reactor Licensees (Last Updated August 14, 1998). For Agreement States, Integrated Materials Performance Evaluation Program NRC Reviews were analyzed for 17 States. We looked at these and other records for documentation of incidents involving the storage and on-site treatment of radioactive wastes by LLMW generators who are licensed users of radionuclides. Our review found that, with few exceptions, the sampled NRC licensed facilities had excellent low-level waste management safety records. (See proposal F–1999–ML2P–FFFFF, Ref. 3, EPA's compliance record review.) Based on our evaluation of these factors, we concluded that low-level mixed wastes stored and treated at these facilities are safely managed and not likely to pose a threat to human health and the environment.

Two environmental groups suggested that EPA should undertake research on the potential synergistic effects of radioactive and hazardous constituents in wastes with the goal of making exposure standards for protecting individuals more restrictive. We note that NRC requires licensed facilities to manage LLW (in both the design of the facility and in its standard operating

procedures) to prevent releases, explosions, fume generation, accidental ignition, and reaction of ignitable wastes that could result from improper mixing or from instability of some LLW. In addition, one of the conditions for the storage exemption is that generators must store low-level wastes in tanks or containers in compliance with chemical compatibility requirements, to prevent chemical interactions. (See § 266.230 [b][2].) Management of the waste adhering to these requirements will avoid potential synergistic effects during storage, or avoid impairment to human health or the environment. The disposal exemption requires both treatment to the levels specified in the Land Disposal Restrictions, and placement in specific types of containers prior to disposal at a Low-Level Radioactive Waste Disposal Facility. Moreover, existing NRC requirements prohibit the disposal of liquid wastes in LLRWDFs. The Agency concludes that potential synergistic effects have been addressed because these conditions must be met to qualify for and maintain a conditional exemption, and the conditions are designed to ensure no contact, or minimal contact, between the waste materials and human and environmental receptors. Finally, EPA is not aware of any such synergistic effects being documented for the waste types being exempted, and has no reason to suspect them. The current system of dual regulation does not take any such effects into account. Should EPA determine in the future that such effects exist, it could re-evaluate the protectiveness of the NRC regime. In the meantime, EPA believes the conditional exemption will be as protective as the current system.

2. Review of NRC Disposal Requirements

In considering the transportation and disposal conditional exemption, we also evaluated certain key factors. First, we compared EPA's and DOT's hazardous waste manifest and transportation requirements with NRC's and DOT's low-level radioactive waste manifest and transportation requirements. We found that the waste tracking and transportation requirements for LLW are either equal to or more restrictive than those required by EPA for treated RCRA hazardous waste. DOT concurred with our assessment that the transportation requirements for LLW are equivalent, if not more restrictive than, the transportation requirements for a RCRA hazardous waste that has been treated and has met LDR treatment standards. (See Ref. 19, Discussion with DOT on Mixed Waste Transportation on August 1999.) As a result, requiring compliance with RCRA hazardous waste manifest and transportation requirements would be redundant and, therefore, unnecessary.

Second, we compared EPA's disposal requirements with NRC's LLW disposal practices and requirements. We reviewed NRC requirements and the practices of low-level waste disposal facilities to determine if NRC provides levels of human health and environmental protection similar to RCRA Subtitle C protection for permitted disposal facilities. (See proposal F–1999–ML2P–FFFFF, Ref. 7, Technical assessment of LLRWDFs.) Our review indicates that NRC regulations for disposal facilities provide protection comparable to that provided by RCRA particularly given that we are requiring that the RCRA hazardous constituents be treated to LDR treatment standards, and that the waste be placed in certain types of containers prior to disposal. We believe that LLMW and Eligible NARM treated, placed in containers, and disposed of at these facilities are not likely to pose a threat to human health and the environment. Therefore, RCRA Subtitle C regulation for these wastes is not necessary to ensure protection of human health and the environment.

V. How Are the Final Storage and Treatment Provisions Different From the Proposal?

The final rule contains a number of language changes to respond to comments, including changes to make the wording for storage and treatment exemption more closely parallel to the wording for transportation and disposal exemption. However, the final rule maintains the conditional exemption for storage, treatment, transportation, and disposal. The changes to our proposal for storage and treatment are highlighted below, and are discussed in greater detail in Section VI of this preamble. The changes to our proposal for transportation and disposal are highlighted in Section VII, and are discussed in greater detail in Section VIII of this preamble.

A. Streamlined Language

In the final rule we have streamlined the eligibility criteria and conditions to remove overlapping and, according to some commenters, redundant language. For example, in our proposal we had said that to be eligible for this conditional exemption LLMW must be managed under an NRC or NRC Agreement State license. We also had listed a condition that you must have a valid NRC license. We have dropped this overlapping language. In another example, our proposal included a condition which stated that you must meet the eligibility criteria. However, it is obvious that if you do not meet the eligibility criteria you cannot claim the exemption. The condition was not necessary as the threshold eligibility criteria must be met first. We note that while eligibility criteria are considered threshold matters, your waste must continue to meet the eligibility criteria to remain exempt.

We moved two of the eligibility criteria we specified in our proposal. (See 64 FR 63498, § 266.225.) These criteria were related to waste storage which meets the requirements of your license for storing LLW and storage in compliance with chemical compatibility requirements. These provisions appear in the final rule in § 266.230 as conditions that you must meet and maintain.

B. Eligibility Revisions

In the final rule we have specified that LLMW eligible for the exemption must be generated and managed by you under a single NRC or NRC Agreement State license. This language replaces the proposed language "stored on-site." The change was based upon comments received on this provision. (See in-depth discussion in Section VI of this preamble.)

C. Clarifications Related to Inventory and Treatment

Commenters indicated the language we used in the proposal related to the frequency of inventory and the types of acceptable treatment was not clear. In the final rule we have clarified that an annual, not quarterly, inventory is required. Regarding treatment, we have clarified that types of treatment allowable are those that can be done in a tank or container and are allowed under the terms of the NRC or NRC Agreement State license. These clarifications have been made in § 266.230 and § 266.235.

D. Recordkeeping Requirements

In our proposal, recordkeeping requirements appeared in two places. We have removed the recordkeeping requirement under the inventory condition proposed as § 266.230(f) and consolidated all recordkeeping requirements in § 266.250 of the final rule. Commenters had found the references in our proposal redundant and unclear. We have also clarified that you must keep records relating to meeting the eligibility criteria, and meeting and maintaining the conditions.

These records form the basis of your claim for the exemption.

In addition, compliance with NRC or NRC Agreement State recordkeeping provisions relating to the storage of your waste is no longer a condition in § 266.230. Instead, we are requiring you to keep these records as a RCRA requirement in § 266.250 under the authority of sections 2002 and 3007 of RCRA. This change responds to comments received, and means that you no longer automatically lose the conditional exemption for your waste for failure to maintain records, though you may be subject to enforcement to ensure compliance and may be assessed RCRA fines and penalties if your records are not complete and accurate. If you fail to meet the recordkeeping requirements, you must take prompt action to return to compliance and to correct inaccurate information in your records. You must be able to demonstrate with your records that your waste is eligible and you meet the conditions for the exemption. In addition we included in § 266.240 language from the proposal (at § 266.245) relating to terminating your conditional exemption for serious or repeated noncompliance with any requirement of subpart N. (See further recordkeeping discussion in Section VI.A.4.d.)

E. Implementation

Commenters were confused regarding how RCRA closure applied to existing storage units. We have clarified that interim status and permitted facilities that have storage units which are used only for storage of conditionally exempt low-level mixed waste do not need to go through RCRA closure, but should seek modification of their permits or revise their interim status closure plans after the date this conditional exemption goes into effect. (See detailed discussion in VI.A.4.g.)

VI. Discussion and Response to Major Comments on the Storage and Treatment Conditional Exemption

A. Storage and Treatment—General Discussion of Provisions

We are promulgating today a conditional exemption from RCRA Subtitle C requirements for storage and treatment of low-level mixed waste in qualified tanks or containers. (See 51 FR 10168, March 24, 1986 regarding waste treatment in tanks or containers.) This regulatory flexibility for storage and treatment applies to any generator of LLMW who is licensed by NRC or an NRC Agreement State to manage radioactive materials. Note, the storage and treatment conditional exemption is available only to low-level mixed wastes generated under a single NRC or NRC Agreement State license. The conditional exemption for LLMW applies only while the waste is stored and/or treated in tanks or containers by the generator, and exempts the stored or treated waste from the regulatory definition of hazardous waste found in 40 CFR 261.3. Prior to storage and/or treatment, all relevant regulations related to hazardous waste generators in 40 CFR part 262 apply. In most cases, where exempted wastes are immediately placed in storage, subpart A would apply. When waste is removed from storage or treatment and is transported to any facility with another NRC license (other than to a LLRWDF under the provisions of 40 CFR 266.305), 40 CFR 262.30 through 262.34 and part 262 subpart D will apply.

LLMW must be eligible under § 266.225, and generators must meet the conditions listed in § 266.230. The storage and treatment exemption will be valid only as long as the eligibility criteria and conditions are met.

During storage or allowable treatment of conditionally exempted LLMW, the generator will not be required to have a RCRA permit for the conditionally exempt waste or meet other RCRA Subtitle C requirements. The storage and treatment conditional exemption applies only to LLMW and does not affect other RCRA hazardous wastes a licensee may generate. A RCRA permit may be required for management of those other wastes depending on the circumstances. In such cases, facilities might decide to identify and locate conditionally exempt stored wastes separately from other stored wastes (whether storage by the generator for less than 90 days or permitted storage).

In the regulatory language, we describe which wastes are eligible for the storage and treatment conditional exemption (§ 266.225), what conditions a generator must meet to qualify for the exemption (§ 266.230), and how the exemption will be implemented (§ 266.240 through § 266.260). Under this rule, if you fail to meet the specified conditions, your LLMW is no longer exempted from regulation as a hazardous waste.

1. What Wastes Are Eligible for the Storage and Treatment Conditional Exemption? (§ 266.225)

Low-level mixed waste meeting the definition in § 266.210 is eligible for a storage and treatment conditional exemption if it is generated and managed by you under a single NRC or NRC Agreement State license. Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a RCRA permit and is ineligible for this exemption. The types of facilities that may have LLMW eligible for the storage and treatment exemption include nuclear power plants, fuel cycle facilities, pharmaceutical companies, medical and research laboratories, universities and academic institutions, hospitals, and some industrial facilities.

a. Eligibility provisions and changes from storage and treatment proposed regulatory language. The eligibility provision covers two prerequisites that must be met for the waste to be eligible for the storage and treatment conditional exemption:

1. The waste must be a LLMW;

2. The waste must be generated and managed by you under a single NRC or NRC Agreement State license.

We realize there may be instances where one NRC or NRC Agreement State license number might apply to more than one non-contiguous unit. (For example, a generator such as a university may have a storage unit that is not contiguous to the main generating campus, but has the same NRC license number.) In the event that a generator must ship to another non-contiguous storage area under the same NRC license, the rule allows for the shipment of the waste either from the point of generation to the storage location, or from one storage point to another storage or treatment point with the same NRC license number. In the event of a shipment, the hazardous waste manifesting requirements remain in effect, as the eligible waste is still a hazardous waste until such time as it is place in the accumulation storage area. Storage areas will not need a RCRA permit in the case where only LLMW is stored. However, shipment of exempted waste to these storage areas may occur as they will be considered designated facilities for the purpose of this rule, since they continue to be safely regulated under their NRC licenses. (See letter from Elizabeth Cotsworth to J.D. Givens, dated March 27, 1998, Ref. 20.) Storage may, therefore, be either at the generating site or at your accumulation storage unit with the same NRC or NRC Agreement State license number as that under which the waste was generated.

i. Waste is a LLMW (Excludes NARM). We are finalizing a conditional exemption for LLMW because of the dual regulation to which it is subject. NARM does not meet the definition in § 266.210 of low-level mixed waste. We heard from several commenters on NARM. Some assumed we had included NARM as eligible for the storage

exemption; others suggested we do so. To clarify what we intended, eligible NARM in the proposal applied only to the conditional exemption for transportation and disposal. NARM is not included as a waste eligible for the storage and treatment conditional exemption because that exemption is based upon our study of NRC or NRC Agreement State management practices for stored waste. NARM is not regulated by NRC but by individual states or other federal agencies. We did not study State licensing procedures for managing NARM. Therefore, we have not included NARM waste containing hazardous waste in the storage and treatment conditional exemption because it was beyond the scope of our research relating to safe storage and treatment of LLMW.

ii. Waste is generated and managed by you under a single NRC license. In the proposal, we stated that having an NRC license was a condition. However, we now recognize that it was redundant to require an NRC license provision as both a prerequisite for eligibility and a condition. Therefore, we have deleted the license provision as a condition, and retained it as a prerequisite for eligibility. If, at any time, a facility ceases to be subject to an NRC or NRC Agreement State license, then LLMW managed at the facility would become ineligible for the storage and treatment conditional exemption and would become subject to RCRA Subtitle C regulation. Similarly, if the waste has decayed to background levels, and ceases to be subject to LLW regulation, then the waste becomes subject to RCRA Subtitle C. (See VI.A.4.e.) The conditional exemption is predicated on our finding that NRC regulations and oversight provide the controls necessary to ensure that the hazardous portion of an exempted waste will not be mismanaged. It is the NRC license or NRC Agreement State license, issued and enforced by an independent government agency, that assures proper management during exempt storage. A majority of commenters agreed with the appropriateness of requiring an NRC license.

Many commenters specified that the storage and treatment conditional exemption should not apply to DOE wastes because DOE is not subject to oversight by an independent regulatory agency. States expressed similar concerns in comments submitted to us. In addition, based on site treatment plans resulting from the Federal Facility Compliance Act of 1992, DOE and States have reached agreement on compliance orders regarding management of mixed wastes at DOE facilities. We do not intend to affect or disrupt these compliance orders. We continue to believe that DOE's storage and treatment of low-level mixed wastes raises additional and more complex issues. Therefore, as proposed, we are not extending the storage and treatment conditional exemption to DOE.

In this rulemaking, we have relied upon our thorough studies of the safety of generator management of LLW at facilities operating under a single NRC or NRC Agreement State license. These studies indicate that management of the hazardous component of LLMW under an NRC or NRC Agreement State license is unlikely to pose a threat to human health and the environment. We have changed the eligibility criteria from LLMW generated "on-site" (as stated in our proposal) to "under a single NRC or NRC Agreement State license." This change from a prescribed RCRA definition of location to an NRC definition is in keeping with the flexibility we have sought in management of stored mixed waste under one regulatory framework. Our study did not focus on licensees who commercially store and treat waste for other generators. We therefore allow LLMW you generate under a single NRC or NRC Agreement State license to be eligible for a storage and treatment conditional exemption.

b. Differences from proposed eligibility for storage and treatment exemption. These final eligibility criteria differ from those proposed in § 266.225 for stored low-level mixed waste. Our proposal said LLMW "is eligible for a conditional exemption if managed subject to NRC or Agreement State regulations, and if it is: (a) Generated at your facility * * *; (b) stored on-site in a tank or container meeting the requirements of your NRC or Agreement State license for storing low-level waste; and (c) stored in compliance with chemical compatibility requirements. * * *"

We have moved the references in the proposal at § 266.225(b) "stored in a tank or container" and (c) "stored in compliance with chemical compatibility requirements." These provisions are combined as a condition in the final rule language at § 266.230(b)(2). The condition must be met initially and maintained in order to keep the exemption. The exemption is automatically lost if the conditions are not met. (See discussion related to loss of the exemption in § 266.240.)

Similarly, the proposed eligibility criteria in § 266.225(b), "* * * meeting the requirements of your NRC or Agreement State license for storing low-level waste," has been moved. In the final rule it is at § 266.230(b)(1) and refers specifically to the requirements of your license that apply to proper storage of low-level radioactive waste. Note that the requirements of your license which relate solely to recordkeeping are identified under the reporting requirements in § 266.250. This separation of safe management of the waste from the records relating to waste management was based on comments received, which argued that the automatic loss of the conditional exemption should be for improper management, and not solely for failure to maintain records.

Another change in the final rule language at § 266.225 relates to the replacement of "on-site" with "under a single NRC or NRC Agreement State license." We received numerous comments relating to the question of limiting the conditional exemption to LLMW stored "on-site." We had specifically requested comment related to use of the term "on-site" to describe stored wastes meeting our proposed condition and the "appropriateness of extending a conditional exemption to facilities that own or operate consolidated storage facilities that do not meet our current definition of "on-site." (See 64 FR 63472.) In our preamble, we had also sought comment on a related issue—"whether the conditional exemption should include a storage facility which serves as a consolidation point for a single entity." (See 64 FR 63472.)

We received a large number of comments in response to these requests. Most of them recommended that we include, within the scope of the conditional exemption, storage of LLMW at facilities that do not meet the RCRA definition of "on-site" in 40 CFR 260.10. Commenters gave several reasons. Several commenters in support of centralized facilities (and commercial TSDFs) believed that consolidation of waste storage would reduce risks to the public because, unlike accumulation areas, centralized facilities are designed for longer term storage. Some of the commenters indicated that applying the RCRA "on-site" definition to limit the exemption would result in operational and administrative inefficiencies. These inefficiencies include the need for multiple storage facilities each with its own inventory and inspection schedules and emergency plan. Some commenters indicated that organizations, such as universities and medical institutions, store LLMW at generator owned and operated facilities and under their NRC licenses are able to store LLW for decay. However, the consolidation points these organizations use may not meet the "on-site" definition, nor have a single RCRA permit number. A few of the total commenters noted that consolidation areas were covered by their NRC licenses and were not considered commercial facilities. Several stated that a license under NRC may cover several non-contiguous facilities or generation points that all are owned by one institution.

We agree with these commenters that the consolidation of LLMW in a specially designed and operated consolidation facility will enhance protectiveness and is more efficient than maintaining multiple storage facilities. A number of commenters recommended that we allow LLMW to be transferred from the point of generation (even if off-site) to a centralized waste management facility. We agree as long as the mixed waste is managed under the same NRC or NRC Agreement State license number. This approach will promote the safe handling of LLW in centralized waste management facilities designed for radioactive waste management and decay-in-storage and facilitate compliance with ALARA principles, which seek to reduce exposures and which govern NRC LLW management. (For further discussion see background documents, Ref. 3, "Review of Waste Management Practices" and Ref. 4 "Comparison of EPA's RCRA and NRC's Licensing Requirements.")

We also received a small number of comments opposing an expansion of the exemption to consolidation areas or storage facilities that do not meet the "on-site" definition. (See 40 CFR 260.10.) Some of these commenters maintained that EPA had not explained why management of LLMW should be different from hazardous waste. Others stated that covering off-site generated wastes may cause generators to lose control of their wastes and may create opportunities for abuse. We disagree with these reasons for not expanding our rule to include off-site consolidation points under a single NRC license within the storage conditional exemption. The overall NRC mandate is for protective management of LLW. (See Energy Reorganization Act of 1974, Public Law 93–438, 42 U.S.C. 5801(a).) We explained in our proposal that the NRC management framework is imposed on the waste generator by virtue of their NRC or the NRC Agreement State license. Since it is the controls imposed by this license that provide the basis for the exemption, it makes most sense to have the scope of the exemption be the same as the scope of the license. The "on-site" concept in RCRA serves principally to govern the scope of the RCRA permit exemption for hazardous wastes that are accumulated by a generator for a limited time period with limited controls. That concept has no bearing on this rule since the basis for the exemption created today is the protectiveness afforded by another regulatory program.

Further, we do not believe a generator will lose control of the waste. The LLMW must be generated and consolidated in a storage area operated under the same NRC license as the waste was generated. First, as stated above, the waste must be manifested from the generation point to the storage site. In addition, control is maintained by the license and by the conditions that the waste be inventoried annually and inspected quarterly. The NRC or NRC Agreement State framework provides safe management of both the chemical and radiological hazards associated with LLMW. Such management is provided in addition to the license and "tie-down" conditions by adherence to NUREG–0933, "A Prioritization of Generic Safety Issues," and by regulations like 10 CFR 61.56, which include many features related to the physical and chemical characteristics of the waste. This management framework provides safeguards against abuse as expressed in the concerns of these commenters. In short, the NRC, or NRC Agreement State, licensing scheme provides substantial controls over waste managed under an NRC license. The commenter here provided no basis to believe that the NRC scheme fails to control the movement of waste, and EPA is not aware of any basis.

c. Treatment and storage facilities managing LLMW from other generators. We are not extending the conditional exemption to those mixed waste facilities that manage wastes from other licensees. We requested comment on whether we should include in the conditional exemption for storage and treatment those mixed waste facilities that manage wastes from other generators. (See 64 FR 63473.) Some of the commenters addressed the issue of whether the scope of the conditional storage exemption should be expanded to include waste treatment and storage facilities that manage wastes from other generators. Many of those who did comment urged EPA to allow commercial storage and treatment facilities that manage LLMW from other generators the opportunity to claim the conditional storage exemption. These commenters cited several reasons to support their position. One reason given was the need of small businesses (for example, one-time or sporadic LLMW generators) who lack sufficient space for storage and decay to have a place to store their waste. A second reason was that the NRC and NRC Agreement State regulatory framework, which safely addresses storage, should also be sufficient for storage or treatment of wastes off-site, provided the off-site facility meets the conditions of the exemption. Commenters arguing the second position said that storage facilities would be able to accept wastes for storage that they currently cannot accept due to regulatory restrictions.

Other commenters, however, maintain that EPA should not expand eligibility for the conditional storage exemption to commercial storage facilities. These commenters believe NRC regulations are not as protective of human health as are RCRA waste management requirements; NRC provides less rigorous oversight of storage facilities as compared with nuclear power plants; NRC lacks enforcement authority over hazardous constituents; and storage facilities would have difficulty keeping track of exempt waste and separating it when necessary. One commenter indicated that commercial storage facilities already have RCRA permits so there would be little burden reduction if they were to operate under a conditional storage exemption. Other commenters stated that allowing storage facilities to operate under the storage exemption would place an additional burden on the host communities. Because commercial storage facilities are in the "business of managing such materials for compensation," some commenters maintained the commercial storage facilities should have RCRA permits and not be eligible for the conditional exemption.

While there may be some small businesses that would benefit as a result of an expansion of the conditional exemption to commercial storage facilities, small businesses that generate only small quantities of waste are eligible under RCRA regulations for conditionally exempt small quantity generator (CESQG) status. (See 40 CFR 261.5.) If it is eligible for CESQG status, a small business may be conditionally exempt from RCRA regulatory requirements based on the very small volume of hazardous wastes or acutely hazardous wastes which they generate. If it is not a small quantity generator, commercial storage facilities (without an exemption) are still available for waste storage (up to one year) and treatment under current regulations.

We also disagree with some of the reasons offered by commenters opposing extending the conditional exemption to waste managed at commercial storage facilities. The focus of this regulatory effort from its

inception has been limited to a response to expressed concerns of generators regarding overlapping regulation of mixed waste still under their control (*i.e.*, at their licensed facility). We did not comprehensively evaluate commercial storage facilities storing wastes for other licensees given the focus of the rule and limitations of time. While we asked for information regarding the relevance of the rule to commercial facilities that manage wastes from other generators, we did not receive data to support opening the exemption to commercial facilities. Although we believe that the quantities of waste shipped to these facilities could be small, some question still remains as to the long-term effect of commercial storage facilities on the management of LLMW. For example, while we do not establish a time limit on the storage of conditionally exempt waste, we continue to believe that it is highly desirable to have a system under which waste is stored for short periods of time before being sent for treatment and disposal. Even without a regulatory time limit, a generator has incentives (such as capacity limitations, management costs and the rising trend in disposal costs) to move waste stored at its facility from storage to treatment and disposal. (See section VI.A.4.e.iii.) A commercial storage facility may have reduced incentives to minimize storage time, since a commercial facility is more likely to have excess capacity to account for fluctuations in waste shipments. In addition, since storage is the main business of such facilities, they are less likely to view waste storage as an ancillary operation to be kept to a minimum. We agree with those who argue that most commercial TSDFs are permitted and should remain so. In addition, by limiting the scope of the exemption to storage and treatment at facilities operating under the same NRC or NRC Agreement State license, the compliance orders which DOE has signed with States pursuant to the FFCA will not be affected. In summary, because we did not thoroughly evaluate commercial facilities, and the other issues associated with these facilities, at this time we are not expanding the storage and treatment conditional exemption to include storage facilities in the business of treating and storing other licensees' wastes.

2. What Conditions Must You Meet To Qualify for and Maintain a Storage and Treatment Exemption? (§ 266.230)

a. Initial condition to qualify—you must notify the Director of your claim. Under § 266.230(a), to qualify for the storage and treatment conditional exemption, you must notify the Director in writing by certified delivery that you are claiming a conditional exemption for a storage unit containing low-level mixed waste. Your notification must be signed by your authorized representative, as defined in 40 CFR 260.10, who certifies that the information in the notification is true, accurate, and complete. You must notify the RCRA regulatory authority of your claim either within 90 days of the effective date of this rule in your State, or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

You, as the party claiming the conditional exemption, must be able to demonstrate that your waste and storage unit meet the eligibility criteria and all the conditions. Notification is necessary because it provides the Director with a record of your claim for the exemption. Your notification is self-implementing, although we may use our inspection and information collection authorities to verify whether you are meeting the conditions. You will not receive a notice of approval from EPA or the Director.

i. Cross reference to proposed rule. The rule language is reordered, but the wording related to notification is substantively the same as in proposed § 266.230(d). We reordered the language to improve the clarity of the final rule. (See 64 FR 63472.)

ii. Comments we received on storage and treatment notification. We received a number of comments regarding storage and treatment notification. The majority asked that we require generators to notify either the EPA Regional Administrator or the Director. Several commenters mentioned a preference that state hazardous waste programs be notified. Other commenters thought the notification should also be sent to NRC. These commenters also thought that we should require additional information in the notice, such as:

- The scope of activities and type of mixed waste,
- Radiological and chemical characteristics,
- The RCRA waste codes,
- The expected length and method of storage (container or tank type),
- Where waste storage and treatment will take place,
- The type of treatment, and
- A copy of the emergency plan and the NRC license, including the license number and expiration date of the NRC license.

As a result of these comments, we have more clearly spelled out in the notification language in § 266.230(a) basic information which is readily available to a mixed waste generator and which specifically identifies that generator, waste code(s), and storage unit(s). In the final rule, the dated notification must include your name and address, RCRA identification number, NRC or NRC Agreement State license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of subpart N. We note that some of the information requested by commenters is unnecessary and could change after the initial notification. The purpose of the notification is to identify and notify, not to provide a management plan for the waste. Based on our studies, we can confidently rely on the NRC management framework for conditionally exempted LLMW. The Director will have access to information substantiating your claim in the records you are required to keep. We do not find it is necessary to impose a requirement to provide all of this information in the notification. In particular, providing a copy of the NRC license would be burdensome as it is readily available for a site inspection and is generally quite lengthy. In addition, today's conditional exemption is based on the protectiveness of the NRC regulatory scheme, not on a license-by-license review. In any event, much of this information will be available to a RCRA inspector during a site visit from records that a generator is required to maintain. Of course, after the Director receives your initial notification, information may be requested using information gathering authorities if needed for any reason.

One commenter suggested an annual status report with projected dates for treatment, shipment, and disposal. We do not agree with this suggestion because a status report adds a recurring reporting burden that is not necessary to protect human health and the environment. Since projected dates for treatment, shipment, and disposal may change a status report does not provide useful information regarding safe management. The information is also irrelevant to any of the conditions for the exemption. The fact that a RCRA inspector may follow-up at any time on the claim of exemption to verify that the conditions are met should provide sufficient opportunity to gather needed information. The notification, coupled with the management of this waste under NRC or equivalent NRC Agreement State regulations, provides information on who is managing exempt waste and assurance regarding its safe management. If a generator fails to comply with the eligibility criteria, or any of the conditions, the generator must notify the Director of the failure under § 266.240(a).

b. Conditions to maintain the storage and treatment exemption (§ 266.230(b)).

i. Store waste in tank or container in compliance with storage requirements of your NRC or NRC Agreement State license.

In the final rule, we state that you must "store your low-level mixed waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping)." This condition had been an eligibility provision in the proposed rule at § 266.225(b). In the final rule, the waste management aspects of this condition (relating to storage under your NRC or NRC Agreement State license) have been separated from the recordkeeping aspects related to storage of your LLW. We believe that adherence to NRC licensing requirements is important to the safe storage of the hazardous portion of the LLMW stream. In the proposal, we requested comment on whether this condition should include the loss of the exemption if any LLW storage requirement of the NRC license is not met; or restrict loss of the exemption to those violations which may result in an environmental impact. (See 64 FR 63472.)

Comments Received on Compliance With License Storage Requirements

We received numerous comments on this aspect of the rule. Most of these comments expressed the view that the storage and treatment conditional exemption should be lost only when NRC license noncompliance is specifically related to waste management, and only in situations that may result in adverse environmental impact. Many reasons were given for this view. Commenters expressed concerns for cycling in and out of the exemption because of minor non-compliance such as misspelled names or incorrect phone listings in the emergency plan. Commenters pointed out that NRC can cite a licensee for failure to comply with the licensee's own internal procedures, so a licensee could be in violation of an NRC license condition without any adverse health or environmental impact, or release of hazardous constituents.

Commenters compared failure to meet the requirements of the NRC license with failure to meet RCRA permit requirements. Correction of the failure is required, and the Director may impose a fine or penalty, but the permit is not automatically lost for such a failure. (However, the Director does have the ability to revoke a permit for significant non-compliance. See 40 CFR 270.41 and 270.43.) Commenters indicated that many kinds of errors can be easily corrected, and should not trigger the loss of the exemption nor subject the generator to RCRA Subtitle C regulation. Conversely, other commenters thought a generator should lose the exemption for failing to meet any NRC LLW storage requirement. These commenters said that it would provide a powerful incentive for generators to comply with the conditions.

We believe that the loss of the exemption for failure to meet any NRC LLW storage requirement, including minor requirements not directly related to safe storage, is unwarranted and not necessary to protect human health and the environment. As noted above, the consequence of failure to meet a RCRA permit requirement is not the automatic loss of the permit. Based upon comments supporting a specific condition relating to waste management, and the difficult situations which commenters have brought to our attention, we have revised the condition in § 266.230(b)(1) to read, "* * * in compliance with the requirements of your license that apply to proper storage of low-level radioactive waste.* * * " The final rule does not limit the loss of the exemption to events causing adverse environmental impact, but strikes a balance by specifying a loss of the exemption when noncompliance with the condition is related to waste management. We believe it would create considerable uncertainty and great difficulties for purposes of enforcement and compliance assurance, if the RCRA status of the waste turned on the judgment of whether a particular violation might cause an adverse environmental impact.

The recordkeeping requirements related to your NRC license have been moved to section § 266.250. Upon consideration of the comments, we have concluded that reporting compliance is better treated as a requirement rather than a condition. First, given the logic of the conditional exemption, it seems artificial to say that a waste which is not "hazardous" under the RCRA regulatory definition becomes "hazardous" if a report contains an inaccuracy, even if the waste is still being properly managed. In addition, we agree with the commenters that we should not create a system under which the storage and treatment exemption can be easily lost for minor or inadvertent infractions. Finally, we believe the final rule scheme retains a strong incentive for compliance with recordkeeping requirements. Again, in striking a balance based on comments we received, we provide language in § 266.240(b) that the Director may terminate an exemption, or specify additional conditions, for repeated or serious noncompliance with the requirements of subpart N. (See proposal at § 266.245(b).)

ii. Store waste in compliance with chemical compatibility requirements. You must "store your low-level mixed waste in tanks or containers in compliance with chemical compatibility requirements of a tank or container in 40 CFR 264.177, or 264.199, or 40 CFR 265.177, or 265.199." The rule requires that the waste be compatibly stored in tanks or containers. This condition is found in § 266.230(b)(2) in the final rule. For clarity, this provision has been moved from § 266.225(c) in our proposed rule where it was required for eligibility. The proposed rule language stated LLMW is eligible "if it is: * * * (c) Stored in compliance with chemical compatibility requirements of a tank or container (See § 264.177, or § 264.199 of this chapter), or (§ 265.177, or § 265.199 of this chapter)." The language in the final rule is essentially the same as in the proposal. We received a number of comments on eligibility provisions in the proposal. However, none was directed at the proposed eligibility requirement in § 266.225(c) relating to compliance with chemical compatibility requirements. We have therefore retained this provision as a condition and emphasize the importance of meeting this condition to retain the conditional exemption for storage.

iii. Certify that personnel are trained in hazardous waste management. You must certify that facility personnel who manage stored mixed waste are trained in a manner which ensures that the conditionally exempt waste is safely managed and includes training in hazardous waste management and hazardous materials incidents response that meets the personnel training standards found in 40 CFR 265.16(a)(3)." Personnel managing the waste must be trained in identifying and providing initial response to a release of hazardous constituents as well as in managing radioactive waste. As part of the notification process, you must certify by a written statement that personnel managing stored LLMW are appropriately trained. This condition at § 266.230(b)(3) is the same as our proposal where it appeared at § 266.230(e).

Comments on Storage and Treatment Related to Training

We received a comment that similar training was already required by NRC or an NRC Agreement State license; the commenter felt that the training condition could be deleted. Other commenters believed that proper training was critical, and that the training condition as written in the proposal was reasonable. We determined, based on our studies, that added training in chemical waste management was important to assure protection of human health and the environment. We, therefore, agree with these latter commenters. One commenter objected to the need to certify that personnel had been trained, and recommended we drop the certification. We used the word "certify" because we believe that training in hazardous waste management is critical. The certification ensures that the LLMW facility will verify compliance with the training requirements. It provides an assurance to commenters who expressed concerns about the ability of personnel trained in safe management of radioactive materials also to manage hazardous wastes safely, and respond to hazardous materials incidents. The certification also ensures that a record is available for review by an inspector, enabling verification that all personnel involved in managing or handling the exempt stored wastes are aware of the potential hazards of the hazardous portion of these wastes.

iv. Inventory and inspect your waste. You must "conduct an inventory of your stored low-level mixed waste at least annually and inspect it at least quarterly for compliance with this paragraph (part 266 subpart N)." An important part of assuring that you comply with the conditions in today's rule is the condition that you perform regular inspections of the areas in which you store exempted waste, as well as an annual inventory of the waste to detect any loss or other mismanagement. We received comments that the proposal was unclear as to what inventory frequency we intended.

Revision to Inventory Language From Proposed Storage and Treatment Exemption

In our November 1999 proposal, at § 266.230(f), we said, "Inventory your stored low-level mixed waste at least annually; inspect it at least quarterly for compliance with the other conditions of the paragraph; update your inventory records of conditionally exempt LLMW quarterly; and maintain records for three years.* * *" Several commenters requested that we clarify the inventory frequency; they did not know if we meant an annual or quarterly inventory. We had intended that generators conduct an inventory annually. Therefore, we have deleted the reference to "update your inventory records of conditionally exempt LLMW quarterly." The annual inventory records, copies of the generator's notification of additional claims for conditional exemption of storage units, and records of all shipments for treatment or disposal since the annual inventory will be available to an inspector. These records will enable an inspector to gain access to a complete file of all conditionally exempt LLMW storage units and to verify the amount stored at any given time. Our proposal addressed records requirements in § 266.230(f) and § 266.250. We have consolidated required records maintenance in § 266.250.

v. Maintain an accurate emergency plan (§ 266.230[b][5]). You must "maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment." In our proposal, nearly identical language was found in § 266.230(g). However, in proposed § 266.230(g) we also provided at the end of the paragraph the following reference: "(See 40 CFR part 265, subpart D.)." The reference caused confusion. We had intended this reference to serve to identify those aspects of a contingency plan and emergency procedures necessary for managing hazardous wastes during an emergency. Several commenters interpreted that reference as serving as guidance in the development and maintenance of an emergency plan; others interpreted the reference as a requirement. Because we enumerate, within the rule language, the essential components of the RCRA emergency plan, we have dropped the reference. However, the regulations at 40 CFR part 265, subpart D can continue to provide guidance concerning the necessary elements of a comprehensive emergency plan.

c. Modifications to proposed storage and treatment conditions. We have modified the storage and treatment exemption conditions listed at § 266.230 in the proposed rule as described below.

First, we moved the proposed condition to have a valid NRC or Agreement State license (proposed as § 266.230[a]) from the conditions section to the eligibility section (§ 266.225). We made this change because this is best described under eligibility. Before your waste can qualify for the conditional exemption, your waste must be eligible, i.e. managed under an NRC or NRC Agreement State license. If your waste is not eligible, it cannot be conditionally exempt from RCRA Subtitle C regulation. Eligibility criteria are threshold provisions.

Second, we deleted the condition to meet the eligibility criteria (proposed as § 266.230[c]) because we determined that this was basic. A generator could not claim the exemption without first meeting (and maintaining) the eligibility criteria.

Third, we maintained the condition that you notify the regulatory authority in writing by certified delivery that you are claiming a conditional exemption for your low-level mixed waste (proposed as § 266.230(d) and finalized as § 266.230(a)). Your notification must be signed by an authorized representative of your establishment who certifies that the information in the notification is true, accurate, and complete. You must notify your regulatory authority of your claim either within 90 days of the effective date of this rule in your State, or within 90 days of when a storage unit is first used to store conditionally exempt low-level mixed waste. Your dated notification must include identifying information such as your name and address, your RCRA generator ID number, your NRC license number, and the name of your authorized representative signing the notice. In addition, your notification must indicate that you meet all the conditions for the exemption, and indicate the waste and storage unit for which you are claiming the exemption.

Fourth, both to streamline the regulatory language, and to make clear the conditions that you must meet and maintain for your waste to qualify for the conditional exemption, we combined and moved the eligibility criteria proposed in § 266.225(b) and (c) to § 266.230(b). Based on comments we clarified these conditions that must be met and maintained.

We received considerable comment on whether claimants should be required to comply with all the requirements of their NRC or NRC Agreement State license, or with just those provisions that related to the management of conditionally exempt LLW (i.e., those provisions, which if violated, could result in an environmental impact from the exempted waste). In response, we modified the proposed condition that claimants must be in compliance with the requirements of their license for storing LLMW (proposed as (§ 266.230[b]). This modification resulted in the condition ((§ 266.230[b][1]), which requires you to store your LLMW in tanks or containers in compliance with the requirements of your license that apply to the proper storage of LLW (not including those license requirements that relate solely to recordkeeping).

The remaining conditions—proposed as § 266.230(e), (f), and (g)—are being finalized as § 266.230(b)(3), (4), and (5), respectively. Specifically, claimants still must:

- Certify that facility personnel who manage stored conditionally exempt LLMW have been trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in 40 CFR 265.16(a)(3);
- Conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with part 266 subpart N; and
- Maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.

3. Treatment (§ 266.235)

a. Treatment Clarification. In the proposed § 266.235, we allowed treatment of LLMW by generators in a tank or container covered by the provisions of their NRC or NRC Agreement State licenses, but we excluded "thermal treatment, such as incineration." The proposal was intended to make the storage and treatment conditional exemption consistent with the types of treatment NRC currently allows in a tank or container. By excluding thermal treatment we inadvertently have excluded some treatment (for example, drying processes) which the NRC has allowed in tanks or containers. It was not our intent to limit treatment currently allowable in tanks and containers. We, therefore, revised the regulatory language in § 266.235. Our clarification reflects the level of flexibility originally intended. As we explain below, however, forms of treatment that are done in units other than tanks and containers are not exempt from RCRA Subtitle C requirements. Treatments such as incineration, molten salt and super critical water oxidation would not be exempt and would require a RCRA permit.

b. Comments received on treatment. We heard from a number of commenters regarding the conditional exemption for treatment of LLMW in tanks and containers. As discussed below, the majority of the commenters approved of the conditional exemption for treating LLMW at a generator's NRC licensed facility in tanks and containers, many noting that this option would provide a valuable opportunity to process waste at their facilities for safer storage and disposal. However, a number of commenters requested that we consider expanding the scope of the exemption to include thermal treatment, while a few commenters requested that we not allow generators to conduct any form of treatment without a RCRA permit.

i. EPA should reconsider allowing treatment. We heard from several commenters who specifically requested that EPA reconsider any exemption of any storage or treatment activities involving LLMW from the RCRA permitting requirements. One commenter believed that when it comes to LLW and LLMW, the NRC appears to be more concerned with radionuclides than the potential chemical hazards. Thus the commenter said EPA should consider which treatment and storage processes, as defined under RCRA, require permitting and which processes may be exempted due to small scale, low risk of personal or environmental hazard, or similar concerns.

Another commenter, citing experience as a fully licensed and permitted mixed waste TSDF, is concerned that the treatment, transportation, and disposal exemptions are premised upon a generator being able to treat its waste properly to meet LDR requirements. The commenter stated that experience has proven treatment to be a highly technical process requiring the proper equipment, the proper treatment formulae, and careful monitoring. The commenter noted that a treatment failure could result in the subsequent closing of the "disposal facility as a RCRA Subtitle C facility, if the waste cannot be retrieved or if its hazardous constituents cannot be delisted."

Another commenter stated the treatment exemption is redundant because generators already are allowed to treat and store RCRA wastes (including LLMW) without a RCRA permit within 90 days, and questioned whether we intended to capture the spectrum of legacy wastes. The commenter opposed our extension of the conditional exemption to legacy wastes. The commenter alleged that many wastes have already been stored for numerous years despite existing treatment and disposal capacity because of cost reasons. The commenter stated that the exemption would allow LLMW generators to further delay the treatment and disposal of legacy wastes. The commenter concluded that extended treatment and storage of LLMW is in no way protective of human health or the environment.

We disagree with the commenters' assertions that the storage and treatment conditional exemption is not protective of human health and the environment. We agree that the NRC licensing framework for storage and treatment of LLMW is geared primarily to protection against radiological hazards through treatment and containment of radionuclides. However, one of Congress' purposes in establishing the NRC is to "advance the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety." (See Energy Reorganization Act of 1974, Pub. L. 93–438, 42 U.S.C. 5801(a)).

This statutory purpose is reflected in NRC's mission statement. "The mission of the U.S. Nuclear Regulatory Commission (NRC) is to ensure adequate protection of the public health and safety, the common defense and security, and the environment in the use of nuclear materials in the United States." (See *http://www.nrc.gov.*) Therefore, EPA and NRC share a common mandate to protect human health and the environment.

Moreover, we conducted studies and analyses to determine the protectiveness of the NRC's regulatory framework for managing LLW. (See 64 FR 63497; Section VII., Supporting Documents.) We determined that the various management requirements with regard to treatment, primary and secondary containment, inspections, etc., provide protection for the hazardous constituents in the mixed waste that is comparable to the protection provided by RCRA. We found that NRC has extensive experience with waste compatibility and stability. For example, NRC requires facilities to consider the chemical properties (including ignitable, reactive, and

explosive properties) of their LLW both in the design of the LLW facility, and in writing the standard operating procedures for the facility and associated waste handling systems, storage containers, and storage areas to prevent accidental mixing of incompatible wastes. The intent of the NRC licensing and EPA RCRA programs are equivalent in that both programs require the anticipation, recognition, and prevention of accidental ignition, reaction of reactive wastes, releases, explosions, and fume generation resulting from improper mixing procedures or from the inherent instability of some wastes.

Our studies also included a review of the storage and treatment compliance record of a number of licensees. Violation rates at these facilities compared favorably with RCRA facilities and demonstrate that NRC licensed facilities operate under a regulatory scheme that assures that waste is protectively managed. Based on our studies we concluded that NRC storage and treatment regulations and license requirements regarding storage and treatment are at least as stringent and protective of human health and the environment as RCRA's Subtitle C system. (See "Comparison of the EPA's RCRA Requirements and the NRC's Licensing Requirements for the Treatment [In Tanks & Containers] and Storage of Low-Level Mixed Wastes at Nuclear Facilities," Final Document, April 2001, Ref. 4.) Therefore, we will allow NRC licensees to treat LLMW in tanks and containers. We note that today's rule is consistent with existing RCRA regulatory interpretation which allows treatment in tanks and containers by a generator without a permit. (See 51 FR 10168.)

With regard to the commenter who was concerned with generators' being able to treat their wastes to the applicable LDRs and the potential consequences a LLRWDF, we note that the majority of the volume reduction and chemical stabilization and encapsulation processes that these generators currently conduct at their facilities in tanks and containers are no different from the treatment processes used at RCRA permitted commercial TSDFs. While some generators may have to request a license modification to change their current processes (for example, add a stabilization step) to meet the LDRs, this adjustment would be approved under the auspices of the generator's license. In addition, an NRC or NRC Agreement State licensed LLRWDF may require testing data, and/or conduct verification testing itself, to document that wastes meet the applicable LDR treatment standards prior to the acceptance and subsequent disposal of these treatment residues. In any event, there are potentially significant enforcement consequences if the waste does not attain LDRs, providing a strong incentive for the parties involved to meet LDR levels. If a generator is uncertain of its ability to treat its waste to comply with LDRs, the generator has the option of sending the waste to a permitted TSDF for treatment, or of continuing to store the waste until permitted treatment capacity exists.

We disagree with the commenter's characterization of legacy wastes as wastes that could have been treated years ago, but were not because of cost issues. As the commenter noted, many of these wastes have been in storage for several decades; these wastes remained in storage because legacy wastes, by definition, are wastes for which treatment or disposal capacity does not exist. Although the federal government and industry have conducted significant research on innovative waste treatment and management methods, much more needs to be done before acceptable treatment processes and management methods are developed for all legacy wastes. In addition, siting of new low-level radioactive waste disposal facilities continues to be difficult.

Finally, there appears to be some confusion on the part of commenters as to the time period allowed for treatment by a generator under this exemption. Today's rule allows generators to treat their mixed waste in tanks and containers at their facilities in accordance with the terms of their NRC or NRC Agreement State license without a permit and without a time constraint, in view of the protection afforded by the NRC scheme.

ii. EPA should broaden the scope of treatment in the storage and treatment conditional exemption. We heard from a number of commenters who specifically requested that we consider widening the scope of the conditional exemption to approve thermal treatment if allowed under the generator's NRC or NRC Agreement State license. Many of these commenters were concerned that the prohibition proposed in § 266.235 on conducting any form of thermal treatment would inappropriately bar otherwise sound LDR treatment options for mixed waste containing organic constituents. Though these commenters did not raise objections to our ban on incineration, they believed that the practical effect of the thermal treatment prohibition was that treatment of any mixed waste containing organic constituents would have to be conducted off-site at RCRA permitted mixed waste commercial treatment, storage, and disposal facilities, assuming any are available. Some of these commenters noted that there are numerous thermal technologies that are not, or do not rely on incineration or "open flame combustion," including evaporation, steam reforming, high temperature catalytic oxidation, super critical water oxidation, and molten salt technology. Several of these commenters stated that a blanket prohibition against thermal treatment could deter the development of new and innovative treatment processes. They argued that a complete ban on any type of thermal treatment was overly broad and unnecessary, limiting otherwise viable, cost effective, and environmentally sound treatments available to NRC licensees. These commenters further suggested that the exemption should provide for a risk-based variance mechanism from any thermal treatment prohibition because they believe such an approach would provide a strong incentive for innovative waste treatment vendors to develop new and protective treatment methods.

We also heard from several commenters who wanted any treatment option approved in an NRC or NRC Agreement State license to be permissible under the storage exemption. They suggested that we clarify treatment to reflect this. Some of these commenters noted that clarification is necessary because the text proposed in § 266.235 could be misinterpreted to limit treatment types to solidification, neutralization, or stabilization, when in fact, additional forms of treatment (other than thermal treatment) may be allowed under the NRC or NRC Agreement State license. Another commenter recommended that we remove ambiguity by specifying exactly what treatment options the generator can expect to apply. That is, the EPA should specify by code which treatment options are considered allowable treatment technologies, or prohibited treatment technologies. Two of the commenters also recommended that EPA either delete the specific examples referenced in the second sentence of proposed § 266.235 or, alternatively, make clear that they are only examples to eliminate ambiguity. Commenters also suggested that the conditional exemption should be modified to allow for treatment in other than tanks and containers, provided that it is carried out within a controlled area such as a laboratory, is performed under NRC or NRC Agreement State

regulations and approval, and that there are no uncontrolled releases of hazardous substances to the environment. These commenters believe that the NRC safeguards are an adequate alternative to EPA permit requirements for most aspects of treatment facility operations.

We agree that the scope of the conditional exemption should include any type of treatment that generators can conduct in tanks and containers at their facilities in accordance with the terms of their NRC or NRC Agreement State license. As stated, we have revised the regulation language to drop the blanket restriction on thermal treatment since we had not intended in the proposal to limit the forms of treatment that could be conducted in licensed tanks or containers.

We are not, however, extending the storage and treatment conditional exemption to all forms of treatment that might be allowed under a generator's NRC or NRC Agreement State license. We did a thorough comparison of NRC's requirements for storage and treatment in tanks and containers with RCRA Subtitle C's requirements and concluded that our regulations and guidance governing generator storage and treatment in tanks and containers and NRC's are generally equivalent. (See our background document "Comparison of the EPA's RCRA Requirements and the NRC's Licensing Requirements for the Treatment [In Tanks and Containers] and Storage of Low-Level Mixed Wastes at Nuclear Facilities.") We did not do a comparative study comparing what NRC would require for treatment that occurs outside of tanks and containers with RCRA subtitle C requirements. For example, we did not evaluate the requirements NRC would impose on a LLW incinerator with the requirements that EPA would impose under 40 CFR part 264 subpart O on a hazardous waste incinerator.

For these reasons, consistent with current regulations for accumulation of waste in tanks and containers, we are limiting the allowable forms of treatment under the conditional exemption for storage of LLMW to only those forms that can occur in tanks and containers. Treatment that could qualify includes, but is not limited to, those treatment types that occur within a tank or container, such as certain forms of thermal treatment, neutralization, solidification, or other forms of stabilization. The rule no longer cites these examples, since they may appear exclusive. We do not want to exclude all technologies that might rely on some degree of heat.

Finally, because this conditional exemption relies upon waste handlers monitoring their compliance with the conditions, we do not believe that a risk-based variance approach is appropriate. Specifically, we do not have the authority to require the NRC or NRC Agreement States to implement the risk-based variance approach for specific treatment technologies (such as incineration). Generators seeking authority to construct and operate a complex treatment process unit such as an incinerator can apply for a RCRA treatment permit under the current regulatory system. Therefore, a variance process would duplicate the current RCRA permitting program.

4. Implementation of the storage and treatment conditional exemption

a. Self-implementation. The storage and treatment conditional exemption is triggered by the claimant who generates and stores the waste. To be eligible for a conditional exemption for stored low-level mixed waste you must notify the Director of your claim for exemption of your storage unit containing low-level mixed waste and of your compliance with all the conditions in § 266.230. You do not need to wait for approval from the State or Region with jurisdiction over the RCRA mixed waste program. However, you must be able to demonstrate that your claim is accurate, that your waste is eligible, and that you meet the conditions and other requirements specified in this rule. The Director may use inspection and information collection authorities to verify whether your waste met the eligibility provisions, you are meeting the conditions, and you are complying with all of the requirements.

RCRA section 3008(a) gives the Director the authority to take enforcement actions when you fail to meet any of the provisions of the conditional exemption. The appropriate regulatory authority can take a direct enforcement action against you when you fail to meet a specific RCRA requirement for your waste under this conditional exemption such as the notification or recordkeeping requirement. When you lose your exemption for your waste due to failure to meet a condition of the exemption, your waste is no longer exempted and it becomes a RCRA hazardous waste. The appropriate regulatory authority can take enforcement action against you for managing a hazardous waste without complying with RCRA hazardous waste requirements. As is the case under current RCRA regulations, concerned citizens also can bring to the regulator's attention any circumstance that might aid the authorities in monitoring and enforcement efforts. A concerned citizen also may file a suit under RCRA section 7002 against a generator for failure to meet any of the provisions of the conditional exemption. Lastly, the Director can take actions using authority under section 7003 and section 3013 of RCRA, 42 U.S.C. 6973, when it is determined that there may be an imminent and substantial endangerment to human health or the environment.

Comments Regarding Self-Implementation

We received few comments on self-implementation. One commenter who supported our approach indicated it was a practical way to implement the exemption and consistent with other EPA exemption programs, such as the Military Munitions Rule. We agree. Another commenter objected to self-implementing rules as not protective, and suggested we clearly specify enforcement and penalty provisions. Our studies conclude that regulation by NRC or NRC Agreement States of low-level radioactive waste protects human health and the environment during storage and treatment. In addition, our approach requires reporting of any failure to comply with the conditions of the exemption and the automatic loss of the exemption. We note this is similar to the current system under RCRA in which we rely upon reporting requirements and inspections for oversight.

The Director continues to have authority to inspect or collect information to verify independently the safe management of stored exempt waste. If a licensee reclaims a lost exemption, any violation must be corrected prior to the reclaim of the exemption, and an explanation of steps taken to prevent recurrence must be described in the reclaim notification. The Director can impose additional requirements or conditions on a licensee reclaiming an exemption, if appropriate. If violations of conditions or requirements demonstrate repeated and serious failure to comply, the Director may revoke a claim or reclaim of the conditional exemption. We expect that revocation would be an unusual event.

b. Loss of the storage and treatment conditional exemption (§ 266.240). If you previously claimed a storage and treatment conditional exemption from hazardous waste regulations and then fail to meet a condition listed at § 266.230, we continued to require at § 266.240 that you report the specific condition to the Director, and the NRC or NRC Agreement State in writing by certified delivery within 30 days of

learning of the failure. Your report must be signed by your authorized representative certifying that the information is true, accurate, and complete. This report must include the condition(s) you failed to meet, a description of the LLMW and storage location at the facility; and the date(s) on which you failed to meet the condition(s). If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Director orally (within 24 hours), and follow up with written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan. Note that failure to meet recordkeeping and other requirements may subject you to an enforcement action requiring compliance, fines and penalties, or both.

We also clarified in § 266.240(b) that the Director may terminate your conditional exemption or add conditions to your exemption for serious or repeated noncompliance with any requirement(s) of subpart N. This language had appeared under § 266.245(b) in the proposal.

Under § 266.240, your waste automatically loses the storage and treatment exemption when you fail to meet any of the conditions in § 266.230. If your stored waste no longer meets one or more of the exemption conditions, that waste will be fully regulated under RCRA Subtitle C as a hazardous waste. The conditions set forth in § 266.230 are important, in conjunction with your NRC license, to ensure that LLMW is properly managed to avoid potential adverse impact on human health or the environment. In addition, the Director may terminate your ability to claim a conditional exemption for your waste and storage unit, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of subpart N. The potential loss of the exemption resulting from failure to meet a condition will provide a strong incentive to properly manage the waste.

Response to Comments on Loss of the Storage and Treatment Conditional Exemption

We heard from a number of commenters in response to our specific request on whether the conditional storage and treatment exemption should be lost when any of the LLW storage requirements of the NRC or NRC Agreement State license are not met, or only when violations have occurred which may result in an adverse health or environmental impact. Several of these commenters supported losing the storage and treatment exemption when any of the LLMW storage requirements of the NRC or NRC Agreement State license are violated. These commenters believed that such a provision was a strong incentive for ensuring that the waste was managed properly. One of these commenters also requested that we retain a broad list of exemption violations because a limited list effectively suggests regulatory compliance is unimportant. A different commenter urged us to define the exemption conditions as specifically as possible to improve enforceability.

The majority of commenters, however, opposed our proposal that the generator would lose the storage and treatment exemption when any of the conditions of the exemption were violated. These commenters asked that we increase our specificity and limit the loss of exemption to violations resulting in actual endangerment of human health or the environment. Many of these commenters were concerned that the storage and treatment conditional exemption could be lost due to relatively minor administrative violations. In addition, although one of these commenters agreed that generator requirements are necessary to demonstrate that the waste has been properly managed, others believed that the failure to comply with recordkeeping requirements does not represent an imminent threat to public health and safety.

We also heard from a number of commenters who believed that we should build upon this concept of not automatically terminating a storage and treatment exemption for failure to comply with all of the provisions of the NRC or NRC Agreement State license to preclude also the automatic termination of an exemption for failure to meet any of the conditions listed in § 266.230(a)–(g). These commenters believed that we should not revoke an exemption because there was a violation of a condition only. One of these commenters cited our own research, which indicated that NRC inspections would ensure protection of human health and the environment during the storage period.

These commenters raised a number of valid points. Specifically, we agree that generators should not lose their exemption because of violations of their NRC or NRC Agreement State licenses that do not bear directly on whether the waste is being managed protectively on a day-to-day basis. Also, we have defined the exemption conditions specifically to improve enforceability. We note that NRC or NRC Agreement States can also enforce if LLW is improperly stored.

We did not intend to create a system that would render waste "hazardous" even though it is being managed in conformance with all the substantive conditions that EPA found to be protective. Although the potential for immediate return to RCRA regulation is consistent with the Military Munitions Rule, and may be necessary in some instances, we believe that recordkeeping violations (such as maintaining paperwork on training certifications) that you could promptly remedy, should not result in automatically subjecting you to all applicable RCRA permitting requirements. We have modified the conditions of the exemption so that you do not lose the storage and treatment conditional exemption automatically for a violation of a recordkeeping requirement associated either with your NRC or NRC Agreement State license, or today's rule. However, recordkeeping is important. Violations will subject you to enforcement, and repeated and serious violation of recordkeeping or other requirements could result in revocation of your claim or reclaim of a storage and treatment conditional exemption.

Finally, many commenters also suggested a 30-day time period (or other period of time as agreed to by the agency) to reestablish compliance before a generator risks losing the exemption. The commenters noted that failure to meet exemption conditions subjects the waste generator to enforcement actions from the regulatory agency having jurisdiction. Many of these commenters stated that the NRC or NRC Agreement State regulations or license conditions in effect during this time period should be sufficient to ensure protection of human health and the environment. Two of these commenters said this 30-day time period (or another time period agreed to by EPA) and the opportunity to reestablish regulatory compliance should be allowed even in situations where noncompliance results in endangering human health or the environment. We disagree; however, facilities have other options for

reclaiming the storage and treatment conditional exemption as soon as practicable.

As we discussed above, we modified the list of conditions so that only those provisions that we believe pertain directly to safe management of the waste are included. As a result of these changes, the storage and treatment conditional exemption will not be lost automatically for failure to meet a recordkeeping requirement (unless the Director determines that it indicates a serious or recurring problem or decides to revoke the reclaimed exemption under § 266.245[b]). We have concluded the conditions are, however, the minimum necessary to ensure that LLMW will be properly managed. We believe that the threat of losing the exemption for failure to meet any one of the conditions listed at § 266.230 will provide a strong incentive to properly manage the waste. We note that if you lose the storage and treatment exemption, the affected waste would return to the RCRA system as hazardous waste, and you would have 90 days (or up to 270 days if you are a small quantity generator) to accumulate the waste before it must be either shipped off-site for treatment and disposal or stored in a RCRA permitted storage unit. You could also reclaim your storage and treatment exemption, as long as you again meet the conditions in § 266.230 and submit the required reclaim notification.

c. If you lose your storage and treatment exemption can it be reclaimed? (§ 266.245). This conditional exemption final rule creates a process for the claim of a storage and treatment exemption, for the loss of the exemption in § 266.240, and for reclaim of the exemption in § 266.245. The storage and treatment exemption is automatically lost at the time of noncompliance with a condition. The Director does not need to take action to revoke the exemption. However, you may reclaim a lost conditional exemption if you again meet the conditions in § 266.230. You must send notification of the loss of the storage and treatment exemption due to a failure to meet a condition before you can reclaim the exemption. To reclaim, you must send the Director a notice by certified delivery that you are reclaiming the exemption. Your notice must be signed by your authorized representative certifying that the information contained in your reclaim notice is true, accurate, and complete. In your notice you must do the following:

- Explain the circumstances of the failure;
- Certify that you have corrected each failure that caused you to lose the exemption and that the waste again meets all conditions as of the date you specify;
- Describe plans you have implemented listing specific steps you have taken to ensure that the conditions are met in the future; and
- Include any other information you want the Director to consider when reviewing your notice reclaiming the exemption.

The storage and treatment exemption is automatically restored if you reclaim the exemption and meet these conditions. However, the Director may terminate a reclaimed conditional exemption if he finds that your claim is inappropriate based on factors including, but not limited to, the following: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of § 266.230. In reviewing a reclaimed conditional exemption under this section, the Director may add conditions to the exemption to ensure waste management during storage and treatment of the LLMW will protect human health and the environment. The language of the final rule has been reworded slightly for clarity, but is very similar to the proposal.

Comments Received on Reclaiming a Storage and Treatment Exemption

Many of the commenters who addressed the issue of reclaiming a storage and treatment exemption suggested that we provide a 30-day period during which a failure to meet a condition could be corrected without loss of the exemption. A small number of commenters suggested we impose a 90-day waiting period before a lost exemption could be reclaimed. One reason given for this waiting period was to allow regulators time to review documentation and conduct inspections before reinstating the exemption. A few commenters stated that the exemption should be maintained unless the violations endanger public health and safety. Another commenter stated the reclaimed exemption should apply both automatically and retroactively from the date of the loss. Yet another commenter stated that a licensee who loses a conditional exemption should not be allowed to reclaim it, and that the rule should contain heavy penalties for failure to meet one or more of the conditions.

Based on our studies of NRC storage requirements coupled with the conditions we have specified, we find that LLMW will be safely managed as LLW. We believe that because the reinstatement is available, it is appropriate that a licensee who fails to meet a condition is required not only to correct the failure, but also to implement procedures that would prevent such a failure from recurring. A large quantity generator of hazardous waste generally has 90 days to ship waste to a treatment or disposal facility before a permit for storage is required. This time period should provide sufficient time to correct most violations of the conditions. We have also indicated that the Director may revoke the reclaimed exemption if he finds the reclaim to be inappropriate. In addition, the Director may add conditions which must be met for a reclaimed exemption if deemed necessary to protect human health and the environment. Thus, we believe that the approach we have developed here, which allows EPA to devote its attention to facilities that raise particular concerns (for example, through inspections following the receipt of a reclaim notification), is protective, and more appropriate, than a scheme that would impose a 90-day waiting period on all facilities reclaiming the exemption. Such a scheme would make it very difficult for the generator to obtain reinstatement before becoming subject to the requirement to obtain a RCRA permit—a result that is unnecessary and undesirable since the NRC scheme is protective without a RCRA permit, and since EPA does not anticipate that it would typically choose to expend the resources to inspect and review reclaim requests during the proposed 90-day period. After the failure has been discovered by the generator or an inspector, but before a reclaimed exemption is in place, the generator may be subject to an enforcement action requiring compliance, or monetary sanctions, or both for violations that occur as a result of the loss of the exemption.

We also disagree with the commenter who stated that a licensee who loses a conditional exemption should not be allowed to reclaim it. Safeguards provided by NRC or NRC Agreement State oversight, coupled with the reclaim process we have outlined will provide both appropriate enforcement and a mechanism to correct any failure of the conditions. We believe these safeguards will deter noncompliance and will ensure that any violations are quickly corrected.

d. Recordkeeping requirements for the storage and treatment exemption (§ 266.250).

An important part of assuring that a generator is complying with the

conditions in today's rule is mandating the generator perform quarterly inspections of the units and drums or containers storing exempted waste, as well as conduct an inventory of the waste to prevent loss or other mismanagement. You must keep records of these activities to assure the Director of consistent compliance with exemption conditions. The annual inventory records, coupled with records of wastes placed in storage and records of shipments for treatment or disposal, will enable an inspector or other regulator to view a complete file of all conditionally exempt LLMW stored.

In our proposal, we used language similar to § 266.230 in § 266.250. Our intent was to ensure the availability of a complete record for inspectors to account for all stored conditionally exempt LLMW. Because this language appeared in two places in the proposal—§§ 266.230(f) and 266.250—it caused confusion. In the final rule we have eliminated the redundancy and combined all requirements relating to recordkeeping in § 266.250. Generators are responsible for demonstrating that the conditions have been and are being met, and must retain the necessary records to substantiate that claim. Violations of recordkeeping or other requirements could subject you to penalties and enforcement actions and, if violations are repeated and serious, could result in the revocation of your storage and treatment conditional exemption claim.

Comments Received on Recordkeeping for the Storage and Treatment Exemption

A few commenters addressed the types of records we are requiring. One commenter recommended we delete this section because NRC and Agreement States already have requirements for inventory and records management, objected that the frequency may conflict with keeping occupational exposures low, and requested an explanation for three-year record retention if not required by NRC. In response, we are retaining § 266.250 because these records relate to conditionally exempt waste which can only be identified through these records. We have clarified that the frequency of inventory is annual, thus minimizing the potential for occupational exposure. The rule requires record retention for three years after disposal of the waste because this is the general standard for RCRA record retention. In the absence of the conditional exemption (for example, if you lose the exemption), the waste would have to be managed under RCRA Subtitle C and records relating to the waste need to be available. Note that in some instances, NRC may require record retention for longer periods, in which case the records must be retained for the time specified by NRC requirements under 10 CFR part 20 (or NRC Agreement State requirements). NRC requirements always apply.

e. Return to RCRA of LLMW no longer eligible for the storage and treatment exemption (§ 266.255). For LLMW containing short-lived radionuclides, the storage and treatment conditional exemption will be in effect only until the radionuclide in the mixed waste has decayed to a point that it is no longer subject to NRC license requirements. After the decay-in-storage process is completed, the waste becomes subject to RCRA Subtitle C requirements. Under § 266.255 of the final rule, your waste is no longer eligible for the conditional exemption when one of two things occurs: (a) When "your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste * * * " or (b) when "your conditionally exempt LLMW, which has been generated and stored under a single NRC or NRC Agreement State license, is removed from storage. * * * However, your waste may be eligible for the transportation and disposal conditional exemption at § 266.305." In the first instance, our intent with this language is to clarify the applicability of the conditional exemption during a decay-in-storage time period and identify when RCRA Subtitle C jurisdiction resumes. In the second instance, we seek to make clear that all RCRA regulatory requirements apply during transport to a treatment or disposal facility, unless the waste qualifies for the transportation and disposal exemption at § 266.305.

i. How does the storage and treatment exemption facilitate decay-in-storage? NRC generally allows research, medical, and other facilities to store low-level wastes containing radionuclides with half-lives of less than 65 days (or more under an amended license) until 10 half-lives have elapsed, and the radiation emitted from the unshielded surface of the waste (as measured with an appropriate monitoring equipment) is indistinguishable from background levels. This process is known as decay-in-storage. Our final rule facilitates decay-in-storage by allowing LLMW with short-lived radionuclides to remain in storage until it is indistinguishable from background levels of radioactivity. The time allowed for LLW decay-in-storage is based on the radionuclides (and their half-lives) specified in a low-level waste generator's NRC license. Such management of LLW reduces worker exposures to radionuclides since workers are not exposed to wastes in containers during preparation or shipment to treatment and disposal facilities. Once the specified radionuclide decay has occurred, the waste may be disposed of as non-radioactive waste after you ensure that all radioactive material labels are rendered unrecognizable. (See 10 CFR 35.92 and 10 CFR 20.2001.) On that date, your waste is subject to hazardous waste regulation under the relevant sections of 40 CFR parts 260–271, and the time period for accumulation of a hazardous waste as specified in 40 CFR 262.34 begins.

ii. Change from proposed language. This language is essentially unchanged from the proposed storage and treatment exemption with the exception of the reference to "under a single NRC or NRC Agreement State license," where the proposal stated "when your waste is transported off-site." The change was incorporated here to be consistent with the eligibility requirements in § 266.225 of the final rule. We discuss the reason for this change in this preamble under section VI.A.1.

iii. Comments received on storage time limits and decay-in-storage. The comments we received on time limits for storage and decay-in-storage focused upon addressing the three areas on which we requested comment in the preamble. They are discussed below.

Determining RCRA Reentry for Radioactive Decayed Waste

In our proposal, we stated that "We would appreciate comments regarding the standard to use for determining when the decayed waste would reenter RCRA Subtitle C management." (See 64 FR 63471.)

In both the proposed and final rule at § 266.255(a), the standard for determining RCRA reentry is when your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste. At that point, management of any radionuclide in the waste is no longer required by the NRC or NRC Agreement State license. We picked this time frame because it is at this point that dual regulation ceases. It is also familiar to NRC licensees. Implementation will be clear, and will not conflict with NRC regulations.

A number of commenters wrote to us on this question. All but two supported our proposal, which indicated our reliance on NRC management during decay-in-storage, and transfer to EPA's RCRA Subtitle C oversight when decay is complete for the radionuclides

allowable under the NRC or NRC Agreement State license provisions. The two commenters who did not support the time frame we proposed were opposed to any conditional exemption of LLMW from RCRA Subtitle C management. These commenters believe that having waste exit the RCRA cradle-to-grave management system is contrary to the fundamentals of RCRA.

The other commenters agreed the transfer should occur on the date when NRC considers the decay complete—when the radionuclide with the longest half-life in a container has decayed as specified in the license (generally ten half-lives), and when the radiation emitted from the unshielded surface of the waste is not above background levels when measured by appropriate monitoring equipment. One commenter suggested that RCRA regulations should apply when the licensee removes the radiation label from the container—when the radiation emitted is indistinguishable from background levels—since RCRA reentry on this date would ensure continuous regulatory oversight.

We appreciate the support of the commenters who agree with our use of the NRC standard for decay-in-storage. Once the waste can be disposed of as non-radioactive waste, the waste is subject to hazardous waste regulation, and time periods for accumulation apply. We do not agree with the commenters who broadly oppose any conditional exemption because, as stated earlier, we have found that NRC or NRC Agreement State management of this waste during storage, coupled with the conditions we have specified in § 266.230, will ensure safe storage. In the final rule, we have retained the language in the proposal. We also believe that the lower cost of disposing of hazardous waste rather than LLMW, coupled with RCRA Subtitle C generator time limits (90–270 days depending on applicable regulations) will ensure timely waste management.

Appropriateness of Time Limit for Storage and Treatment Exemption

In our proposal, we made the following statement,

> We are considering whether a general storage exemption time limit should be imposed. A time limit may affect both facilities with untreatable legacy wastes and future treatment and disposal capacity. We invite comment on whether a time limit may be appropriate, and, if so, on what basis that time limit might be established. (See 64 FR 63471.)

The time limit for decay-in-storage is established by the terms of the NRC license. Under a decay-in-storage scenario, LLMW is no longer subject to NRC regulation when it has met the requirements of your license for decay-in-storage and can be disposed of as non-radioactive waste. On that date your waste is subject to hazardous waste regulation under the relevant sections of 40 CFR parts 260–271, and the time period for accumulation of a hazardous waste as specified in 40 CFR 262.34 begins. If the decayed waste still exhibits a RCRA hazardous waste characteristic or is a listed hazardous waste, then it must be shipped promptly off-site for treatment, if needed, to meet LDR treatment standards, and disposed of at a RCRA compliant facility. Thus, the RCRA accumulation time for a formerly mixed—now solely hazardous—waste begins when the radionuclide with the longest half-life in a container has decayed as specified in the license (generally ten half-lives), and the radiation emitted from the unshielded surface of the waste is not above background levels as measured by appropriate monitoring equipment as specified by NRC.

Some radionuclides take longer than 10 half-lives to decay to levels that are indistinguishable from background. If we limit the time for decay to ten half-lives only, then some portion of LLMW that is being stored may still emit radiation levels above background. To minimize radiation exposures, we have used "and" in § 266.255 to ensure that the LLMW does not emit radiation that is above background levels as measured by appropriate monitoring equipment. In the final rule language, we defer to the NRC practice for determining when the waste can be managed as non-radioactive and radioactive labels can be removed.

For those mixed wastes which are not undergoing decay-in-storage, the majority of commenters, including one State, agreed that the length of time that a LLMW could be stored under the conditional exemption should be that which is allowed for LLW under a facility's NRC or NRC Agreement State license, because of the significant management safeguards in place while the mixed waste is subject to NRC or NRC Agreement State regulations. Some commenters indicated that the cost of long-term storage and the rising trend in disposal costs would provide an incentive for generators to dispose of the waste in a timely manner to limit their overall costs for waste management. One commenter stated the following,

> "Limiting the conditional exemption by an artificial clock will not improve on the safe and responsible management of LLMW under the NRC's jurisdiction. Instead it will * * * divert limited resources. * * * "

A few commenters, including several States, provided suggestions for time limits we should impose for storage. They suggest lengths of time from one year, to two years, to three years, to an unspecified limit based upon the availability of treatment and disposal capacity, particularly for legacy wastes. Another commenter suggested a 5-year limit be imposed. An organization of state regulators commented that the quantity of waste accumulated is affected by the time period allowed and suggested that EPA set a limit either of time (3 years) or of capacity (volume). Other commenters suggested we set a capacity limitation of up to 10 kg because the disposal of small quantities of LLMW can be inefficient and extremely costly. Another commenter suggested that time limits be imposed through site-specific variances, in combination with capacity limitations and conditions for storage.

We also heard from two commenters, including one State, who believed a time limit was inappropriate because they opposed any exemption from RCRA Subtitle C regulations, and because NRC does not limit the volume of waste that can be stored on-site. A third commenter noted that RCRA prohibits storage of mixed wastes beyond specified periods, and no such storage prohibition exists in AEA-based regulations.

We agree with the large number of commenters who stated that we should adopt the NRC approach and not establish a limit on the length of time during which conditionally exempt LLMW may be stored. Their underlying argument was that the waste is safely stored if provisions of storage in the generator's NRC or NRC Agreement State license are being met. Our study of radioactive material storage indicated that NRC requires a licensee to maintain sufficient storage space to safely manage these wastes. For example, a generator must maintain sufficient aisle space for inspections and emergency response actions, and safeguards to limit exposures to ALARA. While NRC does not specifically limit the volume of waste stored, it does place a maximum on the radioactivity a licensee can manage. This provision of an NRC license serves to limit storage volumes. In addition, NRC discourages the accumulation of wastes that can be treated and/or disposed of. (See Generic Letter 81–38, "Storage of Low-Level Radioactive Wastes at Power Reactor Sites.") This fact, combined with cost considerations—that long term storage has associated management costs, and that the rising trend in disposal costs serves to encourage immediate rather

than delayed disposal—provides an incentive to generators to treat and dispose of wastes and avoid accumulation.

Another factor encouraging immediate disposal is the present uncertainty regarding access to existing LLRWDFs for many generators, given the present LLW Compact system. Our analyses of the protectiveness of the NRC regulatory framework for managing LLW indicated that LLMW would be stored in a manner that provided protection to human health and the environment equivalent to that based on EPA's RCRA Subtitle C system. To limit the storage time for wastes, including legacy wastes, further than time periods allowed by NRC or NRC Agreement States would subject generators to extraneous regulation without significantly reducing the likelihood of human health or environmental threats arising from stored LLMW. Commenters did not provide data which would assist us in establishing a non-arbitrary basis for choosing a time period for storage.

Potential Gap in Regulatory Coverage for Decayed Waste

In our proposal, we invited comment on whether waste being stored for decay under 10 CFR 20.2001(a)(2) and 10 CFR part 35 can be completely decayed while at the same time reenter RCRA Subtitle C without a gap in time during which the waste is not regulated as either hazardous or radioactive. We also requested that you do the following.

"* * * [I]ndicate in your comment what mixed wastes you generate that have radionuclides with activity levels which would not qualify for the conditional exemption we are proposing if it were based on whichever occurred first—ten half-lives of decay or not registering above background levels. Also indicate how this limitation would affect your management of the waste." (See 64 FR 63471.)

We note that an NRC licensee is not required to monitor the waste immediately after decay of 10 half-lives to determine if the radiation emitted is indistinguishable from background levels. Prior to monitoring, there may be an interval when the waste is hazardous only. However, it is only when the waste is monitored and the radiation emitted declared indistinguishable from background levels that the radioactive waste labels on each container must be removed. Our final rule indicates in § 266.255 that the waste would then be subject to RCRA Subtitle C jurisdiction for the hazardous wastes it contains.

A number of commenters responded to our request regarding a gap in coverage for decay-in-storage wastes. Some of them asserted there would be no gap if we relied on NRC provisions which require the generator to obliterate the container's radiation label once the container has been surveyed by appropriate monitoring equipment, and the radiation level is determined to be indistinguishable from background levels. One commenter noted that NRC requires documenting the release of the material from NRC regulation. Such documentation provides a date on which appropriate RCRA Subtitle C accumulation time periods would start.

Three commenters stated that if we did not conditionally exempt LLMW from the regulatory definition of hazardous waste, then no gap in coverage would occur. One of these commenters did note that for decay-in-storage waste, if we finalized a conditional exemption, "RCRA control would be gained upon destruction of the radioactive label affixed on the waste * * *"

We appreciate hearing the suggestions of these commenters on eliminating a potential gap in regulation, and we agree that the date of the obliteration of the radioactive label (as the NRC requires) provides a documented and certain date for applying RCRA accumulation time periods.

iv. Effect on biennial reporting. Under 40 CFR 262.41, a generator who ships any hazardous waste off-site to a treatment, storage or disposal facility; or who treats, stores or disposes of hazardous waste on-site must submit a biennial report covering those wastes. Newly generated low-level mixed wastes that are exempted under this rule may be subject biennial reporting in accordance with 262.41 since, as generated, they are hazardous. Wastes only become nonhazardous when they meet the eligibility criteria and conditions of subpart N. Wastes that are exempted under today's storage and treatment exemption may, as with other RCRA wastes, again be subject to the reporting requirements of 262.41 if the waste is further managed outside the scope of the exemption. The Hazardous Waste Report Forms and Instructions booklet (EPA Form 8700–13 A/B) for the required reporting year explains who must file the hazardous waste report, and can be found at http://www.epa.gov/epaoswer/hazwaste/data/brs01/forms.html

Finally, it should be noted that today's final rule does not change the ability of states to impose reporting requirements above and beyond the Federal requirements, e.g., annual reporting or additional information about the generated, treated, recycled, or disposed hazardous waste.

f. Enforcement and enforcement policy. You, as the RCRA generator and NRC licensee, must be able to document that your claim for an exemption is accurate, that your waste is eligible, and that you meet the conditions and requirements specified in this rule. The Director may use inspection and information collection authorities to verify whether you have met and continue to meet the eligibility criteria, the requirements, and the conditions.

Facilities that fail to meet any of the conditions in § 266.230 for exemption will be subject to RCRA Subtitle C from the time that failure occurs. Utilities or other LLMW generators that claim the storage and treatment conditional exemption, but fail to store and/or treat the LLMW in compliance with the conditions of the exemption, no longer will be exempt from the applicable provisions of RCRA. Failure to meet requirements (in §§ 266.225 and 266.250) may result in an enforcement action to ensure compliance, penalties and fines. Moreover, imminent and substantial endangerment provisions under section 7003 of RCRA will continue to apply to conditionally exempt mixed waste as a safeguard since the waste remains a statutory solid and hazardous waste, so EPA can act in the unlikely event of circumstances which may pose a health or environmental threat. All RCRA statutory authorities that hinge on a waste's being a statutory solid and hazardous waste still apply (for example, sections 3007, 3013). We anticipate that most generators will be able to correct a failure to meet the conditions within a 90-day period and reclaim the exemption, thus avoiding any practical effect of losing the storage and treatment exemption and becoming subject to RCRA subtitle C regulation.

The storage exemption is based upon the NRC's regulatory framework governing the low-level radioactive waste component of LLMW. The NRC has a "General Statement of Policy and Procedure for NRC Enforcement Actions" (NUREG–1600) which states the NRC's policy regarding enforcement. This policy specifies significant consequences for violating NRC or license requirements and takes into consideration the specific circumstances of a particular case. For example, if a nuclear power plant violates an NRC license, or tie-down conditions of a license (see definition at the beginning of this preamble), the nuclear power plant (and the responsible person) may be subject to substantial civil and criminal penalties. Based on NRC regulations and this policy, licensed facilities have a strong incentive to manage stored waste properly.

EPA Enforcement Policy Expiration

We intend to allow the mixed waste enforcement policy to expire on October 31, 2001. Several commenters have stated that EPA should extend the "Policy on Enforcement of RCRA Section 3004(j) Storage Prohibition at Facilities Generating Mixed Radioactive-Hazardous Waste" for sufficient time to allow authorized states to adopt the rule we are promulgating today. Commenters have expressed concern that EPA may rescind the mixed waste enforcement policy or that facilities may be subjected to "unreasonable enforcement actions," including citizen suits, before they have the opportunity to obtain the exemption.

Commenters are correct that it may take some time for states (who choose to do so) to become authorized for this rule allowing a storage and treatment conditional exemption from RCRA Subtitle C for mixed waste. This rulemaking is intended to provide flexibility to generators of mixed waste where EPA requirements duplicate performance standards required by the NRC or NRC Agreement States. With the promulgation of this rule, EPA is expressing its view that facilities that comply with certain criteria can safely store mixed waste at NRC licensed facilities. Thus, the federal government is providing with this rule a potential option for mixed waste generators to store mixed wastes legally. We recognize that States are not required to become authorized to implement this rule. States may choose to be more stringent than the federal RCRA program. Although we do not intend at this time to extend the enforcement policy, we will monitor the implementation of today's final rule. Since States have generally followed EPA's lead on the enforcement policy, we anticipate a good number will choose to address dual regulation of mixed waste generators by acting on this rulemaking. States which do not adopt the rule may provide an enforcement policy within their states.

g. Storage unit closure. We received two comments indicating that our proposal may have generated some confusion as to how the conditional exemption would affect a facility's closure obligations for mixed waste storage units already regulated under RCRA. For example, one commenter requested that EPA develop a streamlined closure guidance for applicable facilities that are NRC licensed and can demonstrate an excellent compliance history. Another commenter specifically asked us to clarify that a generator would be exempt not only from the requirement to obtain a permit, but also from closure requirements. On reviewing these comments, we realized that we had not explicitly addressed closure of previously regulated units, although it was our intent to treat these units the same way the proposal would treat new units storing exempt waste, which is to say that they would be subject only to NRC decommissioning requirements, and not also to RCRA closure requirements. This is clear for new units, since the waste would not be hazardous and would not trigger closure requirements.

Thus, we are modifying the final rule to add § 266.260 to exclude LLMW storage units containing conditionally exempt waste from RCRA Subtitle C closure requirements. Without this modification, the rule could be read to require that facilities currently managing low-level mixed waste in permitted or interim status units to close these units because they no longer would be receiving hazardous waste. See 40 CFR 264.113 and 265.113. It was not our intent to require LLMW storage tanks or containers to be emptied and decontaminated to comply with RCRA closure requirements merely to be refilled with the same waste (now conditionally exempt). Such closure would run contrary to our conclusion that mixed waste managed under NRC regulation renders RCRA Subtitle C regulation, including closure, unnecessary. We also see no human health or environmental rationale for treating previously regulated units differently from new units in this regard. Finally, we believe that requiring RCRA closure before the unit can manage the same waste under NRC standards could unnecessarily increase worker exposures to the radionuclides. Therefore, a facility with a permitted tank or container that is storing only conditionally exempt LLMW, and has stored only LLMW prior to the effective date of this rule, is not subject to RCRA closure requirements, and may terminate their RCRA closure obligations as to that unit by modifying the facility permit under 40 CFR 270.42. Similarly, an interim status storage facility with a unit that has stored only LLMW will not be subject to RCRA closure requirement, and should amend the facility closure plan when the stored LLMW becomes conditionally exempt after the effective date of this rule. Without a modification to a facility's permit or closure plan, a facility would, arguably, still be required to close exempted units under RCRA. Of course, a storage unit that also stores non-exempt hazardous waste, either prior to or after the effective date of this rule, will remain subject to the closure requirements of 40 CFR 264.110 and 265.110 as applicable for areas storing the non-exempt hazardous waste.

These changes related to closure of a permitted or interim status storage unit, as described above, do not affect the applicability of corrective action authorities that the EPA or authorized State may have to address releases from these units (or from other solid waste management units at the facility). For these facilities, all hazardous wastes will be addressed either through the NRC requirements for decommissioning and decontamination (D&D) or through the use of our corrective action authorities. We note that current NRC guidance states that when an NRC inspector is preparing to inspect any facility that is undergoing decommissioning, the inspector should coordinate with the U.S. Environmental Protection Agency, or the appropriate State agency if the decommissioning involves hazardous waste. (See NRC Inspection Manual, Chapter 2602, 2602–05 General Guidance, 05.05 Inspection Coordination.) EPA commits to working with NRC to ensure that coordination with EPA or the appropriate state agency continues on these previously regulated units undergoing decommissioning.

B. Discussion and Response to Comments on Storage Background Studies

The storage and treatment provisions of our proposed and final rule are based on studies which we cited in the preamble to the proposal. These studies are available as supporting documents to provide background information to the public and to commenters on this rulemaking. These studies are "Review of Waste Management Practices and Compliance History at Nuclear Power Plants and Other Entities that Generate Low-Level Mixed Waste." (April 12, 1999); and "Comparison of the EPA's RCRA Requirements and the NRC's Licensing Requirements for the Treatment (In Tanks and Containers) and Storage of Low-Level Mixed Wastes at Nuclear Facilities" (April 2001). To determine the protectiveness of NRC management requirements for LLMW, we researched the LLW storage and treatment provisions of NRC and material licenses, reviewed NRC compliance data on violations related to storage and treatment of LLW, and compared the regulatory framework of

EPA and NRC related to waste management. We found that safeguards were in place which would protect human health and the environment during storage and treatment of LLW and LLMW.

1. Review of NRC Licensing Requirements

We researched NRC's regulatory and licensing framework under which low-level radioactive waste (LLW), and therefore LLMW, is stored and treated by waste generators. We examined provisions concerning the on-site storage and treatment of LLW to assess whether these requirements are protective of human health and the environment with respect to preventing releases of hazardous constituents. We found that NRC and NRC Agreement States regulate licensees through the issuance of performance-based regulations, regulatory guides, generic communications (Generic Letters and Information Notices), and NUREGs. These documents work together to enable the NRC and Agreement States to ensure that nuclear power facilities and other licensees are operating in a safe manner. NRC uses these tools to guide licensees on how to meet the performance requirements in the regulations, and to impose an effective and enforceable regime to ensure protectiveness of the management of radioactivity.

For example, on November 10, 1981, NRC issued Generic Letter 81–38, "Storage of Low-Level Radioactive Wastes at Power Reactor Sites," and enclosure, "Radiological Safety Guidance for Onsite Contingency Storage Capacity." In this generic letter, NRC discussed its position on proposed increases in storage capacity for low-level wastes generated by normal reactor operation and maintenance, and stated that the safety of the proposed increase in capacity must be evaluated by the licensee under the provisions of 10 CFR 50.59. The NRC also attached a radiological safety guide to this letter. This guide was developed for the design and operation of interim contingency low-level waste storage facilities, and stated that necessary design features and administrative controls would be dictated by such factors as the waste form, concentrations of radioactive material in individual waste containers, a total amount of radioactivity to be stored, and retrievability of waste. NRC also noted that this guidance document should be used in the design, construction and operation of storage facilities, and that the NRC would judge the adequacy of 10 CFR 50.59 evaluations based on compliance with the guidance. (NRC also referenced IE Circular No. 80–19, dated August 22, 1980, as providing information on preparing 50.59 evaluations for changes to radioactive waste treatment systems.)

NRC regulations concerning the generation, storage, and treatment of LLW are performance-based (for example, no releases or leaks), whereas RCRA regulations are more prescriptive (where types of containers and waste management are specified to prevent leaks). Based on our review, the NRC-enforceable tie-down conditions found in individual licenses protect human health and the environment from exposure to hazardous wastes during storage comparable to RCRA regulatory requirements. A compilation of the NRC documents that we reviewed can be found in the docket. (See Ref. 3, EPA's compliance history review.)

2. Research on Compliance Records of NRC and NRC Agreement State Licensees

In addition to comparing NRC's storage requirements to EPA's, we researched compliance records related to NRC radiation controls for nuclear power plants and other licensees, to determine if there were storage-related releases or mismanagement of LLW. To provide a baseline for the comparison of NRC LLW violations, we queried two of EPA's generator information management systems—the Biennial Reporting System (BRS) and the Resource Conservation and Recovery Information System (RCRIS)—to obtain the number of RCRA violations.

Using BRS data for 1995, 18,497 facilities were identified as having generated hazardous waste (including small quantity generators). These records were merged with the information from RCRIS, and then sorted by RCRIS violation area codes. The violations were sorted by group (generator, other, treatment, and transporter) and by state. Based on this process, we identified a total of 4,547 violations by a total of 1,352 facilities (or 7.3% of the 18,497 facilities). Of the 4,547 violations, 3,355 resulted from noncompliance with the generator requirements (manifesting, recordkeeping, time-in-storage, reporting, etc.); of the 3,355 generator violations, 142 involved mixed waste.

To review the NRC facility compliance records, we reviewed a number of enforcement reports for both NRC-enforced and Agreement State-enforced licensing programs. (See IV.B.1. for a summary of reports reviewed.) The number of violations reported (on a percentage basis) by NRC for both nuclear power reactors (directly licensed by NRC) and material licensees (generally licensed by NRC Agreement States) compares favorably with the percentage of violations reported by EPA. Fines, penalties, and other consequences assessed by NRC and NRC Agreement States serve to deter violations. Based upon the compliance data, the industries' record is good and will serve to protect human health and the environment. In addition, the record suggests that there will be relatively few instances of violations of conditions leading exempt LLMW to become hazardous. We conclude that regulation under Subtitle C is unlikely to improve that record significantly. For further information on applicable NRC regulations refer to 10 CFR part 20 subpart I. Information regarding NRC's regulations, or guidance documents may be obtained by either contacting the NRC Public Document Room, at 11555 Rockville Pike, Room 0–1F21, Rockville, MD 20852 (301–415–4737 or 800–397–4209, Monday through Friday, 7:30 a.m. to 4:15 p.m.), or by visiting NRC's Internet web page at *http//www.nrc.gov*.

3. Comparison of Regulatory and Management Requirements of EPA and NRC

We compared NRC documents used in license preparation with the permitting framework established under RCRA. The technical design and operating standards of the NRC licensing program meet or exceed RCRA standards in virtually all respects, though there were differences in certain procedural requirements and in areas unrelated to actual releases of hazardous waste from storage. Based on our review, we do not believe these differences undermine protection of human health and the environment, or that the super-imposition of RCRA specific standards significantly increases protection. (See Ref. 4, EPA's comparison of EPA and NRC storage and treatment requirements.)

Relevant NRC licensing criteria are in the docket for the NPRM, and also may be obtained by contacting the NRC public document room at 301–415–4737, or accessing the NRC web site at *http://www.nrc.gov*. These criteria, while designed primarily to minimize radiation risk, also address risk posed by byproduct material in general, including hazardous constituents.

Because of the unique nature of mixed wastes, migration of hazardous constituents does not occur except in the presence of radionuclides. Therefore, activities performed by a licensee to safely store or address the release of the radioactivity of mixed waste will also result in the safe storage

of the chemical components of the LLMW matrix. The applicability of NRC licensing standards to mixed waste in storage is the major reason for our finding that, under specified conditions, it is not necessary to also subject these wastes to RCRA storage regulation also.

4. Conclusions Based on Our Studies

We reviewed the requirements of NRC licenses, looked into the compliance records of NRC and NRC Agreement State licensees, and compared the regulatory and waste management requirements of EPA and NRC. Based on these studies, we conclude that NRC regulatory and licensing requirements will effectively control risks from hazardous constituents as well as radioactive material. We found that there are NRC regulatory safeguards in place which will apply during the storage and treatment of conditionally-exempt LLMW in tanks and containers. Therefore, because NRC and NRC Agreement State controls effectively address the mismanagement of LLMW, RCRA Subtitle C regulation is not necessary for those wastes. As the court explained in *Military Toxics Project* v. *EPA*, 146 F.3d 948 (D.C. Cir. 1998), "where a waste might pose a hazard only under limited management scenarios, and other regulatory programs already address such scenarios, EPA is not required to classify a waste as hazardous waste subject to regulation under Subtitle C." We find that NRC and NRC Agreement State regulations governing LLW address scenarios where LLMW may pose a hazard.

5. Comments Received on Our Studies

We received several comments related to the studies we completed prior to our proposal. We heard from a number of commenters regarding our comparison of NRC's and EPA's regulatory and management requirements. A number of commenters concurred, indicating that the technical record for proposing the conditional exemption was compelling. Some of them stated that our comparison was comprehensive, and supported our rulemaking proposal.

Others commenting on the comparison encouraged us to conduct additional research regarding whether a single regulatory framework provides sufficient protection to safeguard human health and the environment. Some of these commenters were concerned about NRC monitoring for radiation but not chemical releases. They also wondered if NRC has "sufficient expertise to properly deal with many of the issues related to storage and disposal of hazardous materials." Another commenter suggested that we require a minimum secondary containment volume for stored liquid LLMW. This commenter wanted us to define requirements for segregating chemically incompatible wastes, and thought that quarterly inspections were not protective and should be re-evaluated. Another commenter cited a 1986 chemical accident at a uranium conversion facility as evidence that NRC management of chemical hazards is deficient.

We disagree with those commenters who believe that the conditional exemption we proposed is not protective of human health and the environment because of NRC's focus on radiation. Our thorough studies do not support these concerns. Because exempted LLMW is mixed, the same management practices that address concerns for containment of radionuclides will also address concerns for the containment of the hazardous constituent. For example, NRC requires that chemically incompatible wastes be segregated to prevent the release of not only radionuclides, but also hazardous constituents. In another example, secondary containment for radionuclide release accomplishes the containment of hazardous constituents at the same time. Further, if, or when, a chemical release should occur, radionuclides are also released. Radiation release detection as required by the license will simultaneously alert personnel of a release of the chemical matrix in which the radionuclides exist. Therefore, management practices including treatment, primary and secondary containment, inspections, emergency responses, and others, that reduce the risk of radionuclide release will also mitigate the release of hazardous constituents. In summary, the expertise required to manage LLW is very similar to that necessary to manage hazardous waste. The NRC management framework provides protection for the hazardous constituents contained in mixed waste. (Note that 10 CFR 61.56 includes many features related to the physical and chemical characteristics of the waste.) As we indicated in our studies, minor differences exist between NRC's and EPA's regulatory frameworks (including inspection frequencies); the latter is more prescriptive and the former more performance based. However, taken together, the systems are equivalent. Both prevent releases, expeditiously address releases that may occur, avoid exposures, and protect human health and the environment.

We also disagree with commenters who believe our evaluation of the NRC framework was incomplete (i.e., that additional research was necessary to determine the sufficiency of a single regulatory framework). Rather, we agree with those commenters whose review concluded that our comparison was comprehensive. Based on our previous discussion, and on the written record we reviewed, we do not believe that additional research is necessary, or would yield information contrary to the conclusions we reached as a result of our studies.

In order to ensure that the hazardous portion of LLMW receives special management attention, we have made final the conditions in § 266.230 that address both personnel training in chemical waste management and hazardous materials incidents response, and emergency planning comparable to RCRA.

One commenter's reference to a 1986 radiation accident is not compelling evidence to support delaying this rule. Firstly, the date cited for the incident does not take into account guidance or operating procedures addressing such events at facilities which NRC has subsequently developed to prevent such accidents. Two examples of NRC's attempt to address problems with facilities as they arise are the NRC document NUREG–0933, "A Prioritization of Generic Safety Issues," which provides priority rankings to resolve safety issues that have a significant potential for reducing risk, and NUREG–1601, "Chemical Process Safety at Fuel Cycle Facilities, August 1997, which specifically addresses the handling of chemicals such as the one involved in the 1986 accident. Secondly, our review of waste management practices at NRC and NRC Agreement state licensed facilities in recent years, demonstrates an excellent record of safety, even when compared to hazardous waste management under RCRA. Thirdly, the accident cited by the commenter was not a waste management accident, but a chemical processing accident (allegedly caused by negligence). Finally, a single example of an accident that occurred 15 years ago does not lead us to conclude that the two regulatory schemes do not provide equivalent protection.

VII. How Are the Final Transportation and Disposal Provisions Different From the Proposal?

The final rule contains a number of language changes to respond to comments, and to make the storage and treatment exemption, and transportation and disposal exemption more consistent with each other. However, the final rule maintains conditional exemptions for

storage and treatment, and transportation and disposal. The changes to our proposal for transportation and disposal are highlighted below, and are discussed in greater detail in Section VIII of this preamble.

Streamlined Language

In the final rule we have streamlined our discussion of what the transportation and disposal conditional exemptions do and what the eligibility requirements are (§ 266.305 and § 266.310, respectively). These changes were made for clarity, and do not represent a substantive modification.

Specification Related to Containers

The language we used in the proposal was not clear as it related to the types of containers that must be used prior to placing the exempted waste in a disposal cell. We have specified in the final language that the container must be: a carbon steel drum, an alternative container with containment performance in the disposal environment equivalent to a carbon steel drum, or a high integrity container as defined by NRC. We made this clarification in § 266.340.

Notification

The proposed rule required you to notify multiple regulators and the LLRWDF during implementation of the conditional exemption. We proposed that you notify three separate regulators with various waste information. In addition, we also proposed that you notify the same agencies of any change in information presented in the initial notification, including a claim for the exemption of any waste stream not identified in the initial notification. In response to public comments, we streamlined the requirement of notifying the regulators. In the final rule, you must notify your RCRA regulatory agency. However, you are not required to notify the RCRA regulatory authority at the state where the LLRWDF resides, or NRC or NRC Agreement states that licensed the LLRWDF as proposed. In addition, we simplified the notification so that it is a one-time notice in order to identify who is claiming the exemption. As a result, you are no longer required to provide information such as the process that generated the waste, or the volume of the waste. You are also not required to notify your RCRA regulatory agency of changes from initial notice.

We modified slightly the proposed shipment-specific notice to a LLRWDF. It now incorporates a couple of elements that were previously in the notice to regulatory agencies (treatment standard verification and a signature requirement). We also added a statement indicating that the exempted waste must be placed in a container for disposal.

In the proposed rule, we proposed that you notify your RCRA regulatory agency in writing within 30 days of learning of your failure to satisfy any of the conditions and RCRA requirements under the conditional exemption. In response to comments, the final rule does not require reporting of noncompliance with paper work and administrative types of RCRA requirements such as notification and recordkeeping. However, we do require reporting of noncompliance with conditions in § 266.315.

Recordkeeping Requirements

We removed the proposed recordkeeping requirements associated with the notice of change to the regulatory agency, since this notification is not required in the final rule. We revised the duration you must keep your exempted waste manifest records from "until closure of the disposal facility or closure of your facility" to reliance on the existing NRC or NRC Agreement State requirement. We also revised your recordkeeping duration for the notice to the LLRWDF from "until closure of the disposal facility or closure of your facility" to "for three years after the exempted waste is sent for disposal."

Point of Exemption

The point at which a waste meeting land disposal restriction (LDR) treatment standards is conditionally exempted from RCRA regulatory requirements remains unchanged from the proposal. However, we changed one of the elements that described the point of exemption (§ 266.330[b]) from "receiving return receipts from the regulators" to "receiving return receipts from the LLRWDF."

Loss of Exemption

In the final rule, we do not require maintaining records or providing notice as conditions of keeping the exemption. Notice or recordkeeping becomes a RCRA regulatory requirement instead. Failure to meet either a recordkeeping, or a notice requirement will not result in the automatic loss of the exemption of the waste. However, the Director may terminate the conditional exemption for your waste or add additional conditions to the exemption for serious or repeated noncompliance with any of the RCRA requirements of Subpart N. In addition, such a failure may subject you to an enforcement action requiring compliance, monetary sanctions, or both.

In another change, we specified minimum reporting requirements in § 266.355(a) when you report the loss of an exemption.

Finally, in § 266.355(a) we added the provision of orally notifying your RCRA regulatory agency within 24 hours of discovery of failure to meet any of the conditions if the failure may endanger human health or the environment. This oral notice must be followed up with a written notice within 5 days.

Reclaiming the Transportation and Disposal Exemption

In the final rule, we have slightly modified the procedure you must follow to reclaim an exemption for your waste. You are required to send a notice to your RCRA regulatory agency, by certified delivery with return receipt requested, that you are reclaiming the exemption for your waste. In the final rule, the reclaimed exemption becomes effective after you receive the return receipt from this reclaim notice. This procedure is different from the proposal, which allowed the reclaimed exemption to become effective as soon as you meet the reclaim requirements for your waste. In addition, you may initiate the reclaim process for your waste only after you have received the return receipt from your RCRA regulatory agency confirming that it has received your notice that you have lost the exemption for your waste. We made these change in response to comments received on our question on whether there should be a waiting period prior to a reclaimed exemption becoming effective.

VIII. Discussion and Response to Major Comments on the Transportation and Disposal Conditional Exemption

In today's rule, we are finalizing a conditional exemption from RCRA Subtitle C regulation for hazardous wastes containing LLW and/or NARM that are transported and disposed of subject to NRC or NRC Agreement State regulation. Eligible wastes (LLMW or Eligible NARM) that are managed in accordance with the conditions under § 266.315 are exempt from the RCRA regulatory definition of hazardous waste. The conditional exemption takes effect once specified actions have occurred. You then may manage your wastes as you would solely radioactive wastes. Since the point of exemption takes place when a waste is placed on a transportation vehicle destined for a low-level radioactive waste disposal facility (LLRWDF) for disposal, the exempted waste need not comply with RCRA Subtitle C transport and disposal requirements. This conditional exemption acknowledges the protection provided by NRC and NRC Agreement States regulations for the manifest, transportation, and disposal of the radioactive portion of the eligible waste.

The conditions for the transportation and disposal exemption are listed in § 266.315, and include the following:

- The wastes must meet LDR treatment standards;
- Waste shipments from those of you who are not already subject to NRC or NRC Agreement State manifest and transportation regulation must comply with the NRC (or NRC Agreement State) manifest and transportation regulations;
- The wastes must be disposed of at a LLRWDF licensed by NRC (or Agreement State); and
- The wastes must be disposed of in containers that meet specified minimum requirements.

Your waste automatically loses its transportation and disposal exemption if you failed to meet any of the conditions specified in § 266.315. You must notify your RCRA regulatory agency when your waste loses its exemption. You may be subject to an enforcement action requiring compliance, monetary sanctions, or both for any violations that occur as a result of this loss of exemption. You may reclaim your transportation and disposal conditional exemption for your waste if it again meets the conditions specified in § 266.315, and you notify your RCRA regulatory agency that you are reclaiming the exemption for your waste.

A. What Is the Basis of the Transportation and Disposal Conditional Exemption?

We determined that a conditional exemption from RCRA Subtitle C regulation for the transportation and disposal of eligible waste is appropriate because we concluded that management of eligible waste under NRC and NRC Agreement State regulations coupled with the additional conditions set forth in today's rule provide a comparable level of protection for the RCRA constituents. We reached this conclusion after a thorough analysis comparing NRC transportation and disposal requirements to RCRA hazardous waste regulations. We believe that this analysis demonstrates that NRC regulations effectively protect human health and the environment for the circumstances allowed under today's conditional exemption. Thus, we do not believe the waste managed under these conditions should be subject to Subtitle C, since Subtitle C controls are not necessary to protect human health and the environment. For a complete explanation of the legal basis for establishing a conditional exemption under RCRA see the preamble to the Military Munition Rule at 62 FR 6636 (February 12, 1997). See also *MTP* vs *EPA*, 146 F3rd 948 (D.C. Cir.1998) upholding EPA authority to establish conditional exemptions under RCRA.

We received comments both supporting and opposing the general approach of our proposed rule. Forty-nine commenters—including generators, some states, RCRA facilities, members of the public, and the NRC—supported our overall approach. They believed that our proposal was sound and would provide the important and necessary regulatory protection and flexibility for the management of the eligible waste.

Of the commenters that questioned our proposed rule, some stated that NRC's regulations and requirements were established to protect against radioactive hazards and not against hazards posed by RCRA hazardous waste. Therefore, they believed that it is not appropriate to rely on NRC regulations for protection against chemical hazards. We agree that NRC and NRC Agreement State regulations were not established for the primary purpose of protecting against risks posed by RCRA hazardous waste. However, we disagree with the conclusion that it is not appropriate to rely on these regulations for protection against hazards posed by RCRA wastes.

Specifically, concerning the transportation of hazardous material, EPA and NRC have expressly adopted DOT regulations governing the transportation of hazardous material. The Department of Transportation (DOT) packaging and transportation requirements for a LW provide adequate protection against chemical hazard during the transportation of an eligible waste meeting the LDR treatment standards. DOT Hazardous Material Regulations (HMR; 49 CFR parts 100 through199) contain requirements for transporting hazardous materials. DOT HMR contains packaging, labeling, documenting, placarding, and other requirements for transporting hazardous material. The DOT hazard classification system includes materials that are explosive, flammable, reactive, toxic, infectious, corrosive, radioactive, and gases. Hazardous materials subject to the HMR must, at a minimum, be packaged in strong tight containers that can safely survive transportation incidents. EPA has adopted DOT regulations governing the transportation of hazardous materials to protect human health and the environment in the transportation of hazardous waste. NRC LLW packaging and transportation regulations have also adopted DOT regulations for transporting radioactive material. Under this conditional exemption, the exempted waste is required to meet the LDR treatment standards and therefore no longer exhibits the flammable, corrosive, and reactive characteristics. As a result, the transportation packaging requirement for the exempted waste do not need to consider these hazards. The remaining hazard of concern of the exempted waste is the toxicity of the waste. We consulted with DOT who stated, and we agreed, that the transportation packaging requirement for the transportation of the LLW is adequate for the protection against the toxic hazard that would remain in the waste that has met LDR treatment standards. (See Ref. 19, Discussion with DOT on mixed waste transportation.) Therefore, the exempted waste, once meeting the LDR treatment standards, will be properly managed if it is packaged and transported as a LLW. For these reasons, we concluded that packaging and transportation controls that apply to a LLW are adequate, appropriate, and will ensure safe management of the exempted waste during transportation.

Concerning tracking of hazardous waste, the exempted waste (a radioactive waste) is subject to NRC or NRC Agreement State equivalent manifest regulations. We conducted a detailed comparison between RCRA and NRC manifest regulations that track the movement of the exempted waste (See Ref. 12, Comparison of NRC and EPA's Waste Tracking.) We determined that NRC's waste tracking regulations are at least as stringent as RCRA regulations. Most notably, both RCRA and NRC manifests were developed to be consistent with the DOT shipping paper regulations at 49 CFR 172.200. Therefore, RCRA and NRC manifests share many basic elements, including closed-loop notification and tracking, exception reporting, and mandatory retention of manifests. However, the NRC manifest regulations exceed the RCRA Subtitle C manifest regulations in several areas, such as requiring longer manifest retention times in certain cases and specifying more stringent schedules for generators to investigate shipments for which they have not received the LLRWDF's acknowledgment of receipt. Therefore, we believe that NRC regulations for tracking low-level waste meet our needs to ensure that the exempted waste arrives at the appropriate licensed LLRWDF, and that NRC provides adequate mechanisms for

Federal or state oversight of the waste shipments.

We also reviewed NRC regulations (10 CFR part 61) and the practices of low-level waste disposal facilities to determine if they provide levels of human health and environmental protection comparable to RCRA Subtitle C permitted disposal facility requirements. (See proposal F–1999–ML2P–FFFFF, Ref. 7, Technical assessment of LLRWDFs.) This analysis included the elements of siting, disposal cell engineering and design, and management control. Our assessment indicates that NRC regulations for disposal facilities provide protection comparable to that provided by RCRA Subtitle C regulations, particularly given that we are requiring that the RCRA hazardous constituents be treated to LDR treatment standards and that the waste be placed in certain types of containers prior to disposal. More detailed discussion of this technical analysis can be found in section VIII.G. of today's document.

In summary, our analysis of NRC transportation and disposal regulations leads us to conclude that the NRC regulations coupled with a few additional conditions provide adequate protection of human health and the environment, and that regulation under RCRA Subtitle C is not necessary. The fact that NRC regulations were designed primarily for the purpose of protecting against radioactive waste is largely irrelevant since the regulations are designed to ensure protective transporting, tracking, and containment of the waste, which will protect against chemical hazards as well as radiation hazards.

B. What Wastes Are Eligible for the Transportation and Disposal Conditional Exemption?

As we proposed it, the transportation and disposal conditional exemption would apply only to LLMW that meets the waste acceptance criteria of a LLRWDF and Eligible NARM. A LLMW is a RCRA hazardous waste as defined in 40 CFR part 261, containing a low-level radioactive waste as defined in 10 CFR 61.2. A table identifying the types of RCRA hazardous waste commonly found in LLMW is provided as background material in the RCRA Docket (See Ref. 10, RCRA Hazardous Constituents and Waste Codes.) In the final rule, Eligible NARM is defined as a NARM waste that contains RCRA hazardous waste, and meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed at a LLRWDF licensed in accordance with 10 CFR 61 or NRC Agreement State equivalent regulations.

NARM is defined by its origin of generation rather than by the level of its radioactivity. The manner in which NARM waste is managed depends on the radioactive content of the material. In most cases, NARM waste is radiologically similar to low-level radioactive waste. Because today's rule applies to LLMW, we are extending the exemption to NARM only when its radioactive content is comparable to LLW and is managed as such. A LLRWDF is required to establish waste acceptance criteria as part of its license requirements to ensure protection of human health and the environment. The waste acceptance criteria are derived from the performance criteria of the disposal facility and ensure that only those wastes that can be accepted and properly managed at the LLRWDFs are accepted. Therefore, we are requiring that in order to be eligible for the transportation and disposal exemption, your Eligible NARM waste must meet the waste acceptance criteria of a LLRWDF and therefore will be properly managed.

In the proposed rule, we solicited comments on the applicability of this conditional exemption to hazardous waste contaminated with NARM. We received comments that both supported and questioned the inclusion of NARM contaminated with RCRA hazardous waste for the exemption. Those who supported including this waste stated that we should not exclude NARM waste solely because it is not regulated under the Atomic Energy Act (AEA). They also stated that the source of generation of the radioactive material, under which NARM is defined, should not have bearing on whether the NRC or Agreement State equivalent regulations provide a sufficient level of protection for the waste. They stated that NARM is similar to LLW, and should be eligible for the conditional exemption.

Those who opposed the inclusion believe that the NRC has no regulatory authority over NARM. We note that although NRC does not have regulatory authority over NARM, the States may regulate this material. Some states have laws and regulations in place for managing this material. We note that all three states that license the existing LLRWDFs have such authority. In the case of Non-NRC Agreement states, where the NRC implements the radioactive material management regulations, the States may enact additional laws and regulations to regulate NARM. However, to ensure that there will not be regulatory gap under this conditional exemption for NARM, we are specifying that you can claim this exemption for your Eligible NARM waste and dispose of the NARM waste at a LLRWDF only if state laws and regulations governing that LLRWDF allow the disposal of NARM waste. In addition, as discussed earlier the waste acceptance criteria of a LLRWDF will ensure that any NARM accepted at a LLRWDF will meet the licensing requirement and will be properly managed. Therefore, there is no regulatory gap in managing NARM waste even though the NRC does not have regulatory authority over this waste.

We received two comments requesting that DOE waste be excluded from the exemption due to oversight concerns. Rather than excluding DOE waste from eligibility for the conditional exemption, we fashioned the conditional exemption to ensure external oversight of DOE waste. First, to be exempt, eligible waste must be disposed of at an NRC or NRC Agreement State licensed LLRWDF. Second, DOE must follow the NRC or NRC Agreement State equivalent manifest and transportation regulations. These conditions ensure that any exempted DOE wastes are under the oversight of an external regulatory agency. (As explained below, in the case of the manifest and transportation provisions, the agency would be the RCRA regulatory agency, by virtue of a condition contained in the final rule.)

C. What Conditions Must You Meet for Your Waste To Qualify for and Maintain the Transportation and Disposal Conditional Exemption?

1. Land Disposal Restriction Treatment Standards

As we proposed, eligible waste must meet the RCRA Land Disposal Restriction (LDR) treatment standards before it is transported and disposed of as an exempted waste. You can find the RCRA LDR treatment standards in 40 CFR part 268, subpart D.

In HSWA, Congress prohibited the land disposal of hazardous waste unless the waste is treated to minimize threats to human health and the environment. The statute required EPA to establish treatment standards that will substantially diminish the toxicity or mobility of hazardous waste to minimize short and long-term threats to human health and the environment. We have developed a series of treatment standards for hazardous waste based on the best demonstrated available technology (BDAT) for treating the waste. The LDR treatment standards ensure that the organic constituents are destroyed or substantially reduced and the mobility of the toxic metals are stabilized to minimize threats to human health and the environment. In contrast, the approach to waste treatment for a radioactive waste is stabilization and containment while the waste undergoes radioactive decay. We could not confidently conclude that NRC waste stabilization requirements for radioactive waste assure long term protection of human health and the environment from all types of RCRA hazardous waste. Therefore, we have decided to maintain the LDR treatment requirements as a condition of the exemption.

In some instances, a RCRA hazardous waste becomes a nonhazardous waste when it is treated to the designated LDR treatment standards. These situations involve treatment standards for ignitable, corrosive, and reactive characteristic wastes, and most standards for the toxic characteristic wastes. Some of the treatment standards for hazardous debris also allow the treated debris to be managed as a nonhazardous waste. In addition, there are other processes (e.g. delisting under 40 CFR 260.20 and 260.22) through which a RCRA hazardous waste can become a nonhazardous waste. Under these situations when your LLMW or Eligible NARM waste is no longer a RCRA hazardous waste, you do not need to claim the transportation and disposal conditional exemption in order to manage and/or dispose of the resulting waste as a LLW or a NARM waste. The resulting waste would be regulated as a radioactive waste only. You should contact your RCRA regulatory agency if you have questions concerning the treatment standards or the processes which may allow your LLMW or Eligible NARM waste to be regulated as non-hazardous waste.

You must continue to comply with all other provisions associated with the LDR treatment regulations (e.g. sampling and analysis to determine compliance with LDR treatment standards or certifying such compliance). Additionally, recognizing the public's concern over potential radiation exposure from mixed waste testing we developed a mixed waste testing guidance. The guidance was developed in close coordination with NRC, and is titled "Joint NRC/EPA Guidance on Testing Requirements for Mixed Radioactive and Hazardous Waste." You can find this guidance at EPA's mixed waste web site at (*www.epa.gov/radiation/mixed-waste/*). The primary purpose of the guidance document is to assist you in the characterization of mixed waste in accordance with RCRA regulations, while keeping radiation exposure as low as reasonably achievable (ALARA). The guidance document emphasizes flexibility in the RCRA testing requirements to incorporate the ALARA concept.

In the proposed rule, we solicited comments on whether we should exclude LDR Phase IV alternative soil treatment standards from the LDR treatment standards that eligible waste must meet for you to claim the conditional exemption. The majority of the commenters supported including the alternative soil treatment standard as part of the LDR treatment standards which must be met to qualify for the conditional exemption. The Association of State and Territorial Solid Waste Management Officials commented that this decision should rest with the States in which the disposal will occur.

We believe that it is appropriate to include the alternative soil treatment standards under this conditional exemption. We promulgated the alternative soil treatment standards under the LDR Phase IV Rule found at § 268.49 to provide flexibility for remediation activities. The LDR Phase IV Rule can be found at [63 FR 28602–28622, May 26, 1998]. In the LDR Phase IV Rule, we determined that the technology-based treatment standard (90 percent reduction capped by 10 times the Universal Treatment Standards) for contaminated soil is sufficiently stringent to satisfy the core requirement of RCRA § 3004(m) that short and long-term threats to human health and the environment are minimized. The alternative soil treatment standards also consider the need to encourage remediation of contaminated soil which involves excavation and treatment of the soil. In the case of this conditional exemption, wastes treated to LDR treatment standards, including the alternative soil treatment standards, must be placed in a container for disposal. We believe the soil treatment and waste container requirement, in conjunction with the protection provided by the radioactive waste disposal facility, ensure protection to human health and the environment. We note that states may impose more stringent requirements when they adopt this rule. In conclusion, the final rule does not exclude the alternative soil treatment standard in § 268.49 from the LDR treatment standard in today's transportation and disposal conditional exemption.

2. Manifest and Transportation

a. If you are subject to NRC or NRC Agreement State regulation: Today's final rule relies on NRC or NRC Agreement State manifest and transportation regulations (which also refer to DOT regulations at 49 CFR parts 100–199) to control the manifesting and transportation of the exempted waste shipment. If your exempted waste streams are already subject to these externally regulated manifest and transportation requirements, you have no additional transportation and manifest requirements or conditions under today's rule. The Agency believes it is unnecessary to impose additional requirements on you because your waste shipments already are subject to NRC, NRC Agreement State, or DOT enforcement actions if you failed to meet the manifest or transportation regulations.

b. If you are not directly subject to NRC or NRC Agreement State regulation: Today's rule imposes a condition on facilities, such as DOE facilities, whose radioactive waste shipments are not directly subject to NRC or NRC Agreement State manifest and transportation requirements. The condition requires these facilities to comply with the manifest requirements at 10 CFR part 20 (or NRC Agreement State equivalent regulations), and/or the transportation requirements under 10 CFR part 71 (or NRC Agreement State equivalent regulations). This condition is necessary because such facilities are not subject to enforcement actions by NRC or an NRC Agreement State in the event they fail to meet the NRC or NRC Agreement State specified requirements. Hence, as an alternative to NRC or NRC Agreement State oversight, when such a facility fails to meet this condition in today's rule, the facility's waste will automatically lose its exemption. This facility may become subject to an EPA (or RCRA-authorized State) enforcement action requiring compliance, monetary sanctions, or both, thus providing an external enforcement mechanism that would otherwise not exist. This approach addresses concerns regarding shipment of conditionally exempted waste by facilities who are not already subject to NRC or NRC Agreement State manifest and transportation regulatory requirements. This condition also ensures the consistent application of the manifest and transportation requirements for the exempted waste.

This exemption is contingent upon waste disposal in an NRC, or NRC Agreement State, licensed LLRWDF. Therefore, it is important that a mechanism be in place to track all exempted waste in transit and confirm that the exempted waste arrives at the appropriate disposal facility. This exemption also relies on the added

protection provided by the NRC, or NRC Agreement State regulations for the transportation of the exempted waste. We do not believe this condition will impose an unreasonable burden on these facilities who are not directly subject to NRC or NRC Agreement State manifest and transportation requirements. Therefore, we are maintaining this condition as proposed.

Some commenters expressed a broad concern that reliance on the LLW manifest would not provide carriers or emergency responders with the information they need to respond to transportation incidents involving the exempted waste. We note that even though the LLW manifest does not contain specific information of the chemical constituent of the exempted waste, the emergency response procedures for an incident involving radioactive material are very rigorous and similar to the procedures used in responding to an incident involving a chemical material. In addition, an NRC or NRC Agreement State LLW manifest also contains an emergency contact telephone number allowing the emergency responder to contact the shipper for additional information on the waste contained in the particular shipment if needed.

It is important to note that the exempted waste will be treated to meet the RCRA LDR treatment standards. In particular, the acute hazards related to the reactivity, corrosivity, and ignitability characteristics of the RCRA characteristic waste that are of primary concern during transportation, will be eliminated when a waste is treated to LDR treatment standards. The chronic toxicity of the toxic characteristic and listed wastes will also be greatly reduced. Also, the exempt waste will not contain free liquids, which will significantly enhance containment of the waste.

A professional emergency responder is trained to manage a wide variety of transportation incidents. The responders will approach radioactive wastes with the same care and caution as they would use in approaching a LLMW. Radioactive constituents generally have similar exposure pathways to humans (e.g. dermal contact, ingestion, or inhalation) as RCRA hazardous constituents do. Therefore, emergency response personnel would take the same precautions as they would for a RCRA hazardous waste such as wearing protective clothing and carrying supplied air. Also, because radioactive wastes present a risk based on the responder's proximity to the waste package, emergency responders also will limit their proximity and time near the waste as they would for a RCRA hazardous waste. Therefore, we believe the concern raised by these commenters is properly addressed due to the nature of the waste and the procedures and precautions that will be taken for responding to a radioactive waste transportation incident.

3. Container Requirement

Today's rule requires placing the exempted waste in a container before disposal. The container must be one of the three types specified under § 266.340:

- A carbon steel drum;
- A container with equivalent containerization performance in the disposal environment as a carbon steel drum; or
- A high integrity container as defined by NRC.

It is your responsibility to make the appropriate arrangements and ensure that the exempted waste is placed in a container for disposal.

The proposed rule did not require specific types of containers, but instead specified that the container "cannot be cardboard or fiberboard boxes." However, a commenter indicated that they did not believe that this standard was prescriptive enough to ensure appropriate containment of the waste. We agree with this comment. In response, we have specified in the final rule the acceptable types of containers which are consistent with the technical analysis performed during the rulemaking process.

In the proposed rule, we noted that both EPA and NRC disposal facility requirements provide similar features to isolate waste from its disposal environment. An NRC disposal facility is not required to have a synthetic liner, whereas a RCRA facility is. To ensure an equally protective disposal environment for purposes of the conditional exemption, we compared the performance of the RCRA hazardous waste landfill synthetic liner to the performance of a carbon steel drum and a high integrity container (as defined by NRC). We found that the performance of these specific containment devices are comparable for the purpose of retaining the integrity of the waste in the disposal cell (See Ref. 7, Technical Evaluation.) The Agency based its proposed container requirement on the landfill liner and container comparison analysis, but now realizes that the proposed regulatory language could allow disposal alternatives that do not provide the same protections as we intended. The proposal language specified that the container cannot be cardboard or fiberboard boxes. Some commenters noted that the description would allow paper boxes or wooden crates that are also unacceptable.

The final requirement is still flexible in that it allows for alternatives to carbon steel drums as long as the container used achieves equivalent performance. We also allow the use of high integrity containers (HICs) since they must pass a series of rigorous tests as specified by NRC to demonstrate that they will retain their structural integrity for 300 years or more. These HICs are more often used by LLRWDFs to stabilize and contain wastes with higher radioactivity than LLMW. We decided to codify HICs for purposes of this conditional exemption because they provide containment equivalent to carbon steel drums.

4. Waste Disposal Destination

Today's final rule requires that the exempted waste must be disposed of only at a LLRWDF licensed and regulated by NRC, or an NRC Agreement State, in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations. It is your responsibility to make the appropriate arrangements to dispose of the exempted waste at the designated LLRWDF. This provision is unchanged from the proposal.

Some commenters stated that NRC shallow land burial facilities are "designed to fail," and cited past failures at such facilities. Our investigation indicated that the facilities cited by the commenters were designed and operated prior to NRC's codification of regulations for LLRWDFs in 1982 at 10 CFR part 61. NRC promulgated these requirements in response to the failures and problems cited by the commenters. Since that time, the NRC and the NRC Agreement States have worked aggressively with the LLRWDF licensees to ensure that the LLRWDFs meet current regulatory requirements and additional NRC technical guidance specified in technical position papers. In particular, the NRC waste form technical position paper "Technical Position on Waste Form (Revision 1)" contains specific criteria on how the waste should be stabilized prior to disposal at LLRWDF. The waste form criteria are generally incorporated into the LLRWDF's license as waste acceptance criteria. In addition, since 1982, NRC regulation has prohibited disposal of liquid waste. Based on EPA's analysis of NRC and NRC Agreement State LLRWDFs, EPA concludes that LLMW treated to LDR standards will be safely managed at such facilities. (See discussion in VIII. G.)

Prior to our proposed rule, States expressed concern about DOE's self-regulating status for managing the radioactive material. Generally, States that regulate radioactive material have no regulatory oversight authority for DOE's radioactive material. However, NRC and NRC Agreement States have regulatory authority over commercial and other non-self regulating federal facilities that manage radioactive materials. Therefore, in today's rule, we are exempting only those wastes disposed of at an LLRWDF that is licensed and regulated by NRC or an NRC Agreement State. This approach will ensure that all exempted waste (radioactive waste) remains under an external regulatory framework and enforcement authority. DOE may take advantage of the transportation and disposal exemption if it disposes of its exempted waste in LLRWDFs licensed and regulated by NRC or an NRC Agreement State. This approach addresses the States' concern and allows DOE to take advantage of the exemption. All of the comments on this provision supported the Agency's proposed approach.

D. What Other Provisions Must You Meet?

The Agency is finalizing the RCRA notification and recordkeeping requirements for this rule. These RCRA requirements are obligations that you must meet at all times. If you fail to meet these RCRA requirements, you must take prompt actions to return to compliance with these RCRA requirements. Your waste will not automatically lose the transportation and disposal conditional exemption if you fail to meet these RCRA requirements for your waste. However, your RCRA regulatory agency may terminate a conditional exemption or add additional conditions to an exemption for serious or repeated noncompliance with any of the RCRA requirements of subpart N. In addition, you could be subject to an enforcement action requiring compliance, monetary sanctions, or both under RCRA 3008(a) enforcement authority for failure to comply with any of the RCRA requirement(s) of subpart N for your waste.

1. Notification

Today's rule requires you to provide a one time notice to your RCRA regulatory agency under § 266.345(a) prior to the initial shipment of an exempted waste from your facility to a LLRWDF to claim the transportation and disposal conditional exemption. The notification must include your facility name, address, telephone number, and your RCRA ID number. You need not notify your RCRA regulatory agency again for subsequent shipments of the same or a different waste stream from your facility. The purpose of this notice is to identify to the RCRA regulatory agency those of you who are claiming the conditional exemption.

Today's rule also requires you to notify the LLRWDF receiving your exempted waste before each shipment of your waste. Your notification must provide the information required under § 266.345(b) which includes:

- A statement that you have claimed the exemption for your waste;
- A statement that the waste meets all applicable LDR treatment standards;
- A statement identifying your facility name, address, and RCRA ID number;
- All applicable RCRA waste codes for the waste before the waste was exempted;
- A statement that the exempted waste must be placed in a container for disposal;
- The manifest number of the shipment that will contain the exempted waste; and
- A certification that the information provided is true, accurate and complete.

We expect that most, although not all, of the information on this notice to a LLRWDF will remain the same from shipment to shipment, especially when the same waste stream is continuously being shipped for disposal. Therefore, a previous notice to the LLRWDF can easily be updated and used as the new notice. Alternatively, you also can choose to develop your own standard notice to an LLRWDF with unchanging information already filled in.

The notice in § 266.345(b) serves several important purposes. First, it will allow the LLRWDF receiving the exempted waste to identify the waste and place it in a container for disposal. Since the exempted waste would be managed and identified as any other radioactive waste after the point of exemption (See discussion in section VIII. E.), a mechanism is needed to allow the identification of the exempted waste at the LLRWDF. The manifest number of a shipment that contains exempted waste will enable such identification. In the case of the standard NRC Uniform Low-Level Radioactive Waste Manifest Form 541, the manifest number appears in block number 2.

Second, the notice informs the LLRWDF that it is receiving a conditionally exempted waste, and allows it to take actions that it may deem appropriate. A LLRWDF's willingness to receive the exempted waste is essential in obtaining the benefit of this rule. During the proposal stage of this rulemaking, owners and operators of LLRWDFs indicated that they want to know when they would be receiving an exempted waste. (See Ref. 9, Notes of meeting with LLRWDFs.) They want to be able to decide, on an operational basis, whether to take precautionary actions such as screening for specific constituents in a shipment or screening for LDR compliance. The information regarding the RCRA hazardous waste codes of the waste stream before it was exempted will allow the LLRWDFs to be aware of the content of the waste and take proactive steps as they deem appropriate. In addition, you may only ship the exempted waste to an LLRWDF after you have received the return receipt from the LLRWDF confirming that it has received your notice. This provision ensures that the LLRWDF will have advance notice of the arrival of the exempted waste so that the LLRWDF can ensure that the exempted waste is handled accordingly.

Finally, this notice, in conjunction with the recordkeeping requirement, also will provide information to facilitate inspection and other oversight activities. You are required to keep records of this notice, and make these records available during inspection or upon request.

The notification requirements in today's final rule differ from the proposed rule in several respects:

- Simplified initial notices to regulatory agencies when claiming an exemption;
- Added notification elements in the notice to LLRWDF to ensure proper handling of the exempted waste at the LLRWDF;
- Removed notices to regulatory agencies of changes in information submitted in the initial notice;
- Removed notices to regulatory agencies of failure to satisfy recordkeeping or notification requirements; and
- Changed status of the notice to your RCRA regulatory agency when claiming the conditional exemption from a condition of the rule to a RCRA requirement. (See loss of exemption discussion in Sec. VIII.F.2.)

We received comments that both supported and opposed the multiple notifications to the regulators and the LLRWDFs. Some commenters stated that proper notification to the LLRWDF will allow the LLRWDF to prepare for receipt of waste and ensure compliance.

To address the concern raised regarding multiple notices, we evaluated the proposed notification requirements. We found difficulties and burdens associated with multiple notifications and broad notification requirements. Consequently, we simplified the notification requirement by reducing the number of regulators you must notify and the amount of information you must provide. In the final rule, you need only notify the RCRA regulatory authority. You are no longer required to provide information such as the exempted waste volume and the process that generated the waste. The re-notification of changes from the initial notice to the regulator also is not required. The intention of the proposed notices to the regulators was to identify those of you who are claiming the conditional exemption, and to provide information on the exempted waste. The revised notice to your RCRA regulatory agency in today's final rule will continue to serve these purposes while reducing unnecessary burden. The notice will identify those of you who are claiming the conditional exemption. In addition, even though the notice will not contain information about the exempted waste, the regulatory agency can still obtain information related to the waste or other aspect of the exemption from you when necessary because you are required to keep records related to the exemption.

We also evaluated the notice to the LLRWDF. We modified this shipment-by-shipment notification requirement to ensure that the exempted waste will be properly managed at the LLRWDF. We slightly expanded this notice requirement to include the following additional information: a statement that you have claimed the exemption; a statement that the waste meets the LDR treatment standards; and a statement that the exempted waste must be placed in a container for disposal. This information can be included in a standard form letter. Therefore, we do not expect that the additional information requested will increase the reporting burden. This notice to a LLRWDF will continue to include identification information including your facility and the RCRA waste code of the waste stream. We believe this notification requirement will provide the mechanism to ensure proper handling of the exempted waste at the LLRWDF.

Notices to your RCRA regulatory authority and the LLRWDF, in conjunction with the recordkeeping requirement, will provide adequate information to facilitate inspection and enforcement activities. You are required to maintain records of the exempted waste, and must make records available during an inspection or upon request. (See Sec. VIII. D. 2. of this preamble.) The state regulator who licensed the LLRWDF can obtain information about the exempted waste from the RCRA regulatory authority where the LLRWDF is located or where you are located.

In the proposed rule, we required you to report to your RCRA regulatory agency when you fail to satisfy administrative and paper work requirements, such as notification or recordkeeping. Many commenters said that this provision is unnecessarily broad and should focus only on reporting noncompliance that would endanger human health and the environment. The commenters believed that broader reporting requirements would impose an undue burden on the regulated community and provide information of little or no value to the regulators. We considered this comment and agree that reporting noncompliance with administrative requirements (such as recordkeeping) is unnecessary. We believe that human health and the environment will be protected provided facilities meet the technical conditions and standards necessary to ensure safe management of the waste. However, you are required to make the appropriate notifications, maintain records, and ensure that records are accurate and complete. You also are required to make these records available either during an inspection or as requested. If the records are found to be incomplete or inaccurate, then you are subject to an enforcement action requiring compliance, monetary sanctions, or both. These penalties can be significant. Therefore, we believe that there is a strong incentive for you to satisfy the RCRA notification and recordkeeping requirements, and make the necessary corrections promptly. As a result, we no longer require you to report noncompliance with notice and recordkeeping requirements.

2. Recordkeeping

Today's rule includes recordkeeping provisions in § 266.350 as follows:

- Records in § 266.350(a) reference the existing RCRA recordkeeping requirements necessary to demonstrate compliance with the LDR treatment standards.
- Records in § 266.350(b), (c) and (d) are necessary to demonstrate compliance with the RCRA notification requirement and waste container condition of the conditional exemption.
- Records in § 266.350(d) are also necessary to document that exempted waste was disposed of at the designated disposal facility. It enables regulators to track and identify the shipment of low-level radioactive waste that contained exempted waste.
- Records in § 266.350(e) are necessary to document and demonstrate compliance with the manifest and transportation condition for the facilities who are not directly subject to NRC or NRC Agreement State manifest and transportation regulations.

These records will provide the regulatory agency with information during inspections to determine whether you are complying with all of the conditions and RCRA requirements of the rule. It is important that you maintain a complete and accurate set of the required records, and that you make them available when requested. The recordkeeping provision is now a RCRA requirement instead of a condition for the exemption. Your waste will not automatically lose the exemption if you fail to meet the recordkeeping requirements. However, you could be subject to an enforcement action requiring compliance, monetary sanctions, or both.

We received comments both supporting and questioning the proposed duration of the recordkeeping requirements. Specifically, some commenters voiced concern over requiring a generator or treater to retain records for the radioactive waste manifest and the notice to LLRWDF until closure of the LLRWDF or closure of the generator's or treater's facility. These commenters stated that such requirements are overly burdensome and inconsistent with existing regulations, and indicated that the proposed recordkeeping timeframes could result in record retention for decades after a waste was shipped. They pointed out that both NRC (10 CFR part 30) and EPA (40 CFR part 262) regulations require a generator or treater to retain records for only three years. In addition, they stated that 10 CFR 61 already requires a LLRWDF to maintain records of the LLW manifest until termination of the LLRWDF license activities.

We reexamine the proposed recordkeeping duration requirement and agreed with the commenters that it is not necessary for a generator or treater to maintain records beyond three years after the waste is sent for disposal. Therefore, the final rule requires the records be retained for three years. In the case of maintaining LLW records such as the LLW manifest, this time period is consistent with NRC regulations under 10 CFR part 20, or equivalent NRC Agreement State regulations which generally is also three years for generators and treaters. For disposal facilities, the NRC manifest records are maintained by the facility until closure of the LLRWDF or closure of the generator's or treater's facility. Although not required by today's rule, we recommend and encourage LLRWDF's to similarly maintain their copy of the exempt-waste notices until facility closure since these records could be useful in the future for identifying the exempted waste that was disposed at the facility.

Today's recordkeeping requirement changed from the proposed rule as noted below.

- In the proposal we had required you to keep NRC manifest records until closure of the disposal facility or closure of your facility. In the final rule you only need to keep records of the NRC manifest for the time period required by NRC.
- In the proposal we had required you to keep your notices to LLRWDFs until closure of the disposal facility or closure of your facility. The final rule only requires you to keep the records for three years after the exempted waste is sent for disposal.
- The recordkeeping requirement is a RCRA requirement under the authority of sections 2002 and 3007 of RCRA instead of a condition of the rule. (See loss of exemption discussion in Sec. VIII.F.2.)
- You are not required to report noncompliance related to recordkeeping requirements. (See Sec. VIII.D.1. notification discussion.)
- The recordkeeping requirements associated with the re-notification to regulator of changes have been removed because this notice no longer exists. (See notification discussion in Sec. VIII.D.1.)

E. When Does the Transportation and Disposal Exemption Take Effect?

Today's rule conditionally exempts eligible waste from RCRA Subtitle C manifest, transportation, and disposal requirements because we found that RCRA Subtitle C regulation is not necessary if waste meeting LDR treatment standards and containerized prior to disposal is managed according to NRC manifest, transportation, and disposal requirements for the management of the radioactive component of the waste (See our technical evaluation, Ref. 7, and our comparison of NRC and EPA waste tracking, Ref. 12.) The Agency has chosen to exempt the waste from the RCRA regulatory definition of hazardous waste at the point where your waste meets LDR treatment standards; you have completed NRC or NRC Agreement State equivalent packaging, preparation for shipment, and manifest requirements; and you have placed the waste on a transportation vehicle destined for an LLRWDF licensed by NRC or an Agreement State. Once the exempted waste has been placed on a transportation vehicle for disposal, the waste may not be taken to other facilities for further management purposes. Stops during transportation to pick up additional wastes, or to transfer wastes (including radioactive waste transporters using their transfer facilities to consolidate radioactive waste shipments) are not considered "further management."

Thus when:

- Your eligible waste meets LDR treatment standards;
- You have received return receipts confirming that you have notified your RCRA regulatory agency and the receiving LLRWDF;
- You have completed the Packaging and Preparation for Shipment requirements for the eligible waste according to NRC Packaging and Transportation regulations found under 10 CFR part 71 (or NRC Agreement State equivalent regulations);
- You have manifested the treated waste according to NRC manifest regulations found under 10 CFR 20.2006 (or NRC Agreement State equivalent regulations); and
- You have placed the waste on a transportation vehicle destined for the receiving LLRWDF,

then the exempted waste may be transported as a LLW or NARM. Once properly containerized at the disposal facility, the exempted waste may also be disposed of as LLW or NARM.

We received comments describing complications if the point of exemption occurs when the waste has been placed on a truck destined for a disposal facility. The commenter indicated that facilities often use centralized waste staging areas to package, label, inspect, and manifest wastes in preparation for transportation. According to the commenter, placing the point of exemption after the waste is placed on the transportation vehicle would require meeting both RCRA hazardous waste and NRC radioactive waste packaging and labeling regulations instead of meeting just the NRC radioactive waste packaging and labeling regulations. However, this was not our intention because we found that the NRC or Agreement State packaging, preparation for shipment, and manifest requirements are adequate for the shipping and tracking of the treated waste. Therefore, we are clarifying that it is not necessary to package, label, and manifest the waste as RCRA hazardous waste when preparing the waste for transportation to disposal. The exemption will start at the moment waste is placed on the transportation vehicle if you claim and qualify for this conditional exemption.

Another commenter expressed concern over the proposed requirement that exempted waste not go to any other facility en route to the designated LLRWDF, other than to a transfer facility. The commenter stated that this requirement would not allow a transporter to pick up waste from more than one facility and would unnecessarily increase the shipping cost and waste shipping traffic. We agree with the commenter and are changing the final rule language to clarify that such stops are acceptable.

F. Implementation

1. How Will the Transportation and Disposal Conditional Exemption Be Implemented?

The transportation and disposal conditional exemption we are promulgating today will require no prior governmental approval or review of documentation before your waste exits RCRA Subtitle C regulations. This basic framework is consistent with other hazardous waste exemptions. It also is consistent with the LDR program. The LDR program allows a generator or treater to certify that their hazardous waste meets LDR treatment standards and qualifies for land disposal without prior governmental approval.

We are allowing this approach because we believe that there is no significant benefit to requiring approval for an exemption. Furthermore, the waste exiting RCRA Subtitle C requirements will continue to be managed under an alternate regulatory program (NRC or NRC Agreement State regulations) that provides appropriate protection for human health and the environment. This also is true for those of you who self-regulates under the AEA, because your waste also must be disposed of at an LLRWDF regulated by NRC or NRC Agreement State. Therefore, we conclude that under the proposed method, the waste will continue to be properly managed while the regulatory burden is reduced. In addition, such implementation has the following advantages:

- The exemption can take effect more quickly;
- It reduces your burden associated with acquiring the approval; and

• It does not impose a burden on the regulatory agency to review and approve the exemption.

However, this approach does not mean that the appropriate regulatory authority does not have a role in overseeing the conditional exemption. You must keep records of the exemption and make them available to the appropriate regulatory authority during inspection or upon request. The appropriate regulatory authority may conduct inspections, audit records, obtain samples, and perform any other information gathering activities authorized under RCRA, including under 3007, 42 U.S.C. 6927, to determine whether you are in compliance with all of the provisions of this exemption. Nothing in subpart N shall be interpreted or applied to restrict any inspection or enforcement authority under RCRA, 42 U.S.C. 6901, et seq.

RCRA 3008(a) gives the appropriate regulatory agency the authority to take enforcement actions when you fail to meet any of the provisions of the conditional exemption. The appropriate regulatory authority can take a direct enforcement action against you when you fail to meet a specific RCRA requirement for your waste under this conditional exemption such as the notification or recordkeeping requirement. When you lose your exemption for your waste due to failure to meet a condition of the exemption, your waste is no longer exempted and it becomes a RCRA hazardous waste. The appropriate regulatory authority can take enforcement action against you for managing a hazardous waste without complying with RCRA hazardous waste requirements. However, note that a loss of exemption can be reclaimed (see discussion in the following section). Depending on the situation that led to the loss of exemption, an exemption could be quickly reclaimed in order to avoid any significant consequences. Today's rule also does not change the ability of citizens to inform regulators of any circumstance that might aid in monitoring and enforcement efforts. A concerned citizen also may file a suit under RCRA 7002 against you for failure to meet any of the provisions of the conditional exemption. Lastly, the appropriate regulatory agency can take actions using authority under 7003 and 3013 of RCRA, 42 U.S.C. 6973, when it determines that there may be an imminent and substantial endangerment to human health or the environment.

2. Loss of Transportation and Disposal Conditional Exemption

Under today's final rule, any waste will automatically lose its transportation and disposal conditional exemption if you do not manage it in accordance with all of the conditions specified in § 266.315. Depending on which condition or conditions you failed to meet and the circumstances surrounding the failure, the affected waste could be a single drum, a number of drums, a treated waste stream containing specific waste codes, or a number of treated waste streams with specific waste codes. The exemption is lost at the time of noncompliance. The appropriate regulatory authority need not take action to remove the exemption. The conditions of the exemption are the technical conditions and standards that we have determined to be necessary to achieve proper management of the waste and ensure protection of human health and the environment. Therefore, we believe it is appropriate that a waste automatically lose its exemption if you do not manage it in accordance with these technical conditions and standards.

You must report to your RCRA regulatory agency when any of your waste loses its exemption. Your report must be in writing, by certified delivery, within 30 days of learning of the failure. In your report you must describe at a minimum: any specific condition(s) that you failed to meet for your waste, information (e.g. name, waste code, and quantity) regarding the waste stream that lost the exemption, and the date(s) on which the condition(s) were not met. The report will allow the appropriate regulatory agency to be aware of any noncompliance and to take appropriate actions, if necessary. The appropriate regulatory authority may request additional information from you to facilitate the investigation. If the failure to meet any of the conditions may endanger human health or the environment, then you also must report such failure to your RCRA regulatory agency orally within 24 hours of learning of the failure. A written notice must follow your oral notification within 5 days.

You also may lose the transportation and disposal conditional exemption for your waste for serious or repeated noncompliance with any of the RCRA requirement(s) (e.g. notification or recordkeeping) of Subpart N. In this situation, the appropriate regulatory authority may terminate your ability to claim the conditional exemption for your waste. The appropriate regulatory authority also may require you to meet additional conditions in order to claim a conditional exemption. This provision gives the appropriate regulatory authority the ability to revoke a conditional exemption from you if you have serious and repeated compliance problems related to the notification or reporting requirements.

When you lose the exemption for your waste, you may also be subject to an enforcement action requiring compliance, monetary sanctions, or both for any violation of RCRA Subtitle C regulations.

Today's loss of exemption provision changed from the proposed rule in several respects:

• In the final rule, notice to regulator and recordkeeping are RCRA requirements instead of conditions of the exemption. Noncompliance with these RCRA requirements will not result in automatic loss of exemption;

• You can lose your ability to claim a conditional exemption for serious or repeated noncompliance with any of the RCRA requirements (e.g. notice to regulator or recordkeeping) of Subpart N;

• We have specified minimum reporting requirements for reporting a failure to meet a condition; and

• We have added one reporting requirement stating that when a waste loses its exemption, if the failure to meet any of the conditions may endanger human health or the environment, you must orally notify EPA or the Director within 24 hours of discovery of failure and follow up with a written notice within 5 days.

We received comments that both supported and opposed the proposed loss of exemption provision. The commenters who supported the provision believed that an automatic loss of exemption was a strong incentive for ensuring that waste would be properly managed. However, the majority of comments expressed concern over losing the exemption due to relatively minor administrative violations such as incorrect spelling of a facility name.

Upon further evaluation, we believe that the commenters raised a valid issue. We recognize the undue difficulties and burdens associated with the automatic loss of exemption due to failure to comply with administrative requirements alone. In the proposed rule, the exemption conditions included both technical conditions and standards necessary to ensure safe management of the waste, and administrative type of requirements such as notification and recordkeeping. As proposed, when an exemption is lost due to failure to meet the administrative requirement alone, you would have to manage the waste as RCRA hazardous waste while correcting the infraction and then reclaim the exemption. However, the technical conditions and standards of the conditional exemption necessary to ensure safe waste management would continue to be met. We believe that it is appropriate to impose the automatic loss of exemption when technical conditions and standards for safe management of the waste are not met and could by itself directly lead to impact to human health and the environment. However, we do not believe that automatic loss of exemption is warranted for errors related to administrative requirements, such as recordkeeping, which by themselves are unlikely to lead to environmental harm. We evaluated the proposed conditions and made modifications so that the administrative requirements, such as recordkeeping, are RCRA requirements instead of conditions of the exemption. The conditions as specified under 40 CFR 266.315 of today's rule are the technical conditions and standards necessary to maintain the exemption. We believe this is more consistent with the overall approach of today's rule, which is that eligible waste is not "hazardous" for Subtitle C purposes if properly managed. Although it is important that EPA be able to enforce paperwork violations, we do not think these violations alone support the conclusion that the waste becomes hazardous for Subtitle C purposes. As a result, the automatic loss of exemption will only apply to noncompliance with technical conditions and standards, and not to failure to meet the RCRA requirements of this rule such as recordkeeping.

Nevertheless, the notification and recordkeeping requirements serve an important function in the implementation of the conditional exemption. These RCRA requirements also play an important role in compliance determination. Therefore, we want to maintain a mechanism that will provide the appropriate regulatory authority with the ability to revoke the exemption for failure to comply with these RCRA requirements where necessary. In the final rule, the appropriate regulatory authority may terminate your ability to claim a transportation and disposal conditional exemption for your waste for serious and repeated noncompliance with the RCRA requirements of Subpart N. We do not expect this provision to be used casually. We view it as a means to ensure that you take the reporting and recordkeeping requirements seriously and that you comply with these RCRA requirements at all times. Revocation of the transportation and disposal conditional exemption would be effective after the Director takes this action and would only affect subsequent waste shipments.

We also received comments regarding the requirement to report noncompliance with the conditions and RCRA requirements of the rule. Two commenters urged us to consider requiring the facility to orally report a condition that endangers human health and the environment within 24 hours. We agree with the commenter and note that it is a standard RCRA requirement that an oral report, followed up with a written notice within five days, be made for situations that threaten human health and the environment. Therefore, we have modified the final rule to incorporate this provision.

3. Reclaiming the Transportation and Disposal Conditional Exemption

Under the final rule, any waste will automatically lose its exemption if it is not managed in accordance with the conditions under § 266.315. However, you may reclaim the exemption for your waste if it is again managed in accordance with all of the conditions under § 266.315. You may initiate the reclaim process for your waste only after you have received the return receipt from your RCRA regulatory agency confirming that it has received your loss of exemption notice that you have lost the exemption for your waste. When reclaiming a lost exemption, you must notify your RCRA regulatory agency that you are reclaiming the conditional exemption for your waste. In this reclaim notice, you must do the following:

• Explain the circumstance of each failure to meet a condition;

• Certify that each failure that caused the waste to lose the exemption has been corrected and that the waste again meets all of the conditions as of the date you specified; and

• Demonstrate that each failure is not likely to recur, listing the specific steps that you have implemented to ensure the conditions will be met.

You also may provide any other information that you want your RCRA regulatory agency to consider when it reviews your notice reclaiming the exemption.

We are requiring a notice to reclaim an exemption because the conditions of the exemption represent those technical conditions and standards which will ensure safe management of the waste. Therefore, we believe that it is important that you notify your RCRA regulatory agency of events that led to the loss of the exemption so that it can take steps, if necessary, to ensure that waste will be managed properly. The appropriate regulatory authority can review your records, collect additional information, or conduct site visits. This communication and information will allow your RCRA regulatory agency to work with you to correct the problems that led to the non-compliance with the conditions. The appropriate regulatory authority may add additional conditions, where appropriate, to the exemption to ensure proper management of the waste to protect human health and the environment.

The reclaimed transportation and disposal exemption becomes effective when you have received the return receipt confirming that your RCRA regulatory agency has received your reclaim notice. The return receipt can be a certified U.S. Postal receipt or a certified receipt from a mail delivery service. Additionally, as proposed, the appropriate regulatory authority may terminate a reclaimed conditional exemption if it finds that the claim is inappropriate.

Today's transportation and disposal exemption reclaim requirement is changed from the proposed rule in one area. We added a new requirement that you may initiate the reclaim process for your waste only after you have received the return receipt confirming that your RCRA regulatory agency has received your notice that you have lost the exemption for your waste. This provision is not required under the storage and treatment exemption. This slight variation is designed to ensure that a waste, for which the lost exemption is being reclaimed, will not be transported to a LLRWDF before your RCRA regulatory authority is made aware that you have lost the exemption for your waste.

We received comments on the issue of whether a transportation and disposal exemption could be reclaimed after it has been lost. Some commenters supported the proposed rule that allowed the exemption to be reclaimed. Some commenters noted that requiring notification to reclaim is burdensome and unnecessary. One commenter urged the Agency to disallow the reclaiming of an exemption.

In general, we believe that you should be allowed to reclaim a lost exemption. We believe that even a responsible generator or other waste handler may, on rare occasion, be in noncompliance with the conditions of the exemption. Because the consequence of the loss of the exemption for a waste is potentially the full imposition of the RCRA Subtitle C regulation, we believe a permanent loss of exemption would unduly penalize responsible generators and other waste handlers and downstream handlers. However, we want to

emphasize that failure to meet the conditions can result in RCRA enforcement actions, fines, penalties, and the permanent loss of exemption. Thus, the mechanism to discourage violation of the conditions is in place. Therefore, we are allowing you the opportunity to reclaim the exemption for its waste when the infraction has been corrected and is not likely to recur.

We note that other RCRA rules provide a similar provision for reclaiming a lost exemption. We established a conditional exemption from the RCRA transportation and storage requirements for persons that transport or store nonchemical waste military munitions in accordance with 40 CFR 266.203 or 266.205, respectively. Under that conditional exemption, we established procedures for persons to reclaim a lost transportation or storage exemption (see § 266.203[b] and § 266.205[c]). The final rule is consistent with the provisions of § 266.203 and § 266.205.

In addition, as stipulated in § 266.360(b), the appropriate regulatory authority may terminate a reclaimed exemption if warranted. This provision allows the appropriate regulatory authority to deal with repeat or serious offenders. Therefore, we believe that the final rule is adequately flexible to enable the appropriate regulatory authority to react to violations in a manner that is commensurate with the severity of the violation. The final rule not only ensures protection of the environment, but also motivates facilities to meet the exemption conditions.

In the proposed rule, we solicited comments as to whether we should impose a waiting period before the exemption could be reclaimed. We asked whether we should provide a 90-day waiting period before the reclaimed exemption is effective. We solicited input on whether a waiting period is necessary to allow time for the appropriate regulatory authority to review the reclaim notification, and to deal with repeat or serious offenders. The majority of the commenters believed that a 90-day waiting period was unnecessary. They believed that you should be able to reclaim the conditional exemption for your waste as soon as the noncompliance with the conditions is corrected with reasonable assurance that the noncompliance would not recur. Several commenters noted that further delay in reclaiming the exemption would serve no purpose and could potentially result in uncertain regulatory status and/or unreasonable enforcement action. Other commenters stated that the appropriate regulatory authority could conduct an inspection at any time and take actions if necessary. Some states believed that there should not be a binding time period for the review. Lastly, one commenter stated that without a waiting period, you would be motivated to correct the noncompliance that resulted in the loss of conditional exemption as quickly as possible in order to minimize penalties and return to exempt operations. However, several commenters indicated their support for a 90-day waiting period before allowing licensees to reclaim a lost transportation and disposal exemption so that there would be time to review documentation, conduct an inspection, and/or hold a public hearing before reinstating the exemption.

After considering the comments, we do not believe that it is necessary to require a waiting period before the exemption is reinstated if the violation has been corrected. This approach is generally consistent with the current RCRA regulatory program. For example, under the LDR program, hazardous waste generators or treaters can send the waste for disposal after self-certifying that the waste has met the LDR treatment standard without a waiting period.

Today's rule also provides the appropriate regulatory authority with flexibility regarding the amount of time it has to review a request to reclaim an exemption. It can, at any time, review the notification, request additional information, or conduct a site inspection to verify the validity of the reclaim or the purported successfulness of measures designed to prevent the recurrence of a failure. By not specifying a time period for review, we are providing regulators flexibility and the ability to evaluate any reclaim notice at any time and to focus their attention and limited resources as they deem most appropriate. This mechanism also avoids the implication that a reclaim is approved if the appropriate regulatory authority was not able to review the reclaim and respond before the end of the waiting period. We note that the appropriate regulatory authority will continue to maintain a broad range of inspection, and information collection authorities to ensure compliance with the exemption conditions under RCRA 3007, 42 U.S.C. 6927. Thus, the appropriate regulatory authority has the ability to conduct an inspection at any time, and can take enforcement actions, and assess fines and penalties if you are found to be in noncompliance with the reclaim requirements.

We believe that these requirements are sufficient for the appropriate regulatory authority to track compliance and conduct enforcement activities. Most importantly, today's rule provides the appropriate regulatory authority with adequate means to discover, evaluate, and, if necessary, terminate an exemption (for example, determine that the claim is inappropriate because the claimant failed to correct the problem). The appropriate regulatory authority can terminate the reclaimed exemption at any time for violations and does not need a waiting period to do so. Therefore, the final rule does not require a waiting period before you can reclaim an exemption for your waste. However, we want to ensure that the appropriate regulatory authority is aware that you have lost the conditional exemption for your waste before you reclaim the exemption. Therefore, you may not reclaim the exemption for your waste until after you have received a return receipt confirming that the Director has received your notification of loss of exemption. This requirement will allow the appropriate regulatory authority to initiate action, if necessary, while minimizing your burden.

G. How Did We Conduct Our Technical Assessment for the Disposal of Treated Waste at Low-Level Radioactive Waste Disposal Facilities?

We conducted a technical assessment to evaluate the protectiveness afforded by a combination of the conditions of the exemption and NRC criteria for the LLRWDF. We considered a number of factors in the analysis:

- LDR treatment and waste container conditions;
- NRC waste form requirement;
- NRC/EPA disposal site properties comparison;
- Disposal unit engineering design and performance;
- NRC groundwater monitoring;
- Other NRC/EPA regulatory comparisons.

We made our technical determination on the comparability between the NRC and EPA disposal systems based on the consideration of all of the above factors. This determination is not based solely on any one factor, but on the aggregation of all the factors considered.

In our technical assessment, we considered these factors and the potential for release of chemical constituents from LLMW disposed of in LLRWDFs, and concluded that the threat of such a release would not be significant. Several significant factors that helped support this conclusion are briefly summarized below. More detail on these factors, and a discussion of other factors that we considered, is provided in the proposed rule preamble and the technical background document. (See Technical Evaluation, Ref. 7.)

We assessed the likelihood of a chemical release from the disposal of waste in a LLRWDF under the conditions of this rulemaking. The intent of RCRA LDR treatment standards is to significantly reduce the toxicity and mobility of chemical constituents. We performed a screening risk analysis to assess the potential for leachate releases of these constituents from wastes treated to LDR levels. We concluded that the potential threat to drinking water would be insignificant. In addition, prior to disposal the treated waste must be containerized. Therefore, we concluded, based on the treatment to LDR for both RCRA and as a condition of this rule, and container conditions along with the LLRWDF cap design performance comparable to RCRA Subtitle C performance, the potential threat to drinking water would be very low, if any.

We also assessed the protection afforded by NRC waste form criteria. NRC waste form criteria for low level waste stipulates that the waste be stabilized to ensure the structural integrity of the waste for the duration when the radioactive waste is undergoing decay. The requirement for waste form is to minimize the potential for waste/liquid contact and subsequent leachate production. Depending on the radioactivity of the waste, the structural integrity of the waste is required to last up to 500 years. The waste must pass a series of American Society of Testing Methods (ASTM) tests to demonstrate its compliance with the waste form criteria. These tests provide indication of waste form performance in the area of, among other things, structural integrity and resistance to corrosion.

We evaluated NRC's LLRWDF siting requirements and compared them to RCRA hazardous waste disposal facility siting requirements. We found that the siting requirements are very similar, with NRC siting requirements being more stringent in certain respects. The NRC siting requirement for LLRWDFs are designed to enhance the protectiveness of the disposal unit and minimize releases to the environment. These regulations ban location of disposal facilities in environmentally sensitive locations such as, 100-year flood plains, wetlands, and coastal high hazard areas. These requirements also mandate restrictions for ground water to surface water connectivity on-site.

We assessed NRC LLRWDF engineering design and performance requirements and concluded they will effectively minimize water infiltration and waste migration from the disposal cell. The LLRWDFs must be designed to limit human exposure to a specified level of radioactivity and intrusion by humans and animals. NRC LLRWDF disposal regulations require that the engineered landfill design system integrate both the site properties (climate, soil geology) along with the performance of the cover system. LLRWDFs must be designed to provide assurance that concentrations of radioactive material that may be released to ground water, surface water, air, soil, plants, or animals not result in exposures to humans above specified health-based levels. NRC and EPA disposal regulations require a final cover with low permeability to minimize infiltration of precipitation and contact of waste with infiltrated water. NRC LLRWDF disposal regulations also require a landfill design that promotes short liquid/waste residence time which would minimize the potential leachate generation at LLRWDFs.

NRC's ground water monitoring regulations require that groundwater be monitored to allow for early detection and mitigation of radiological contamination. In practice, the NRC Agreement States have also included requirements in the LLRWDFs license to monitor for selected chemical constituents.

We also estimated the annual amount of mixed waste that is expected to be disposed of at LLRWDFs under this conditional exemption. Commercial sources of mixed waste would constitute less than 0.5% of the annual total waste volume at these sites. This amount of disposal volume is expected to contribute very limited volumes of hazardous waste.

In addition to the major technical factors outlined above, we also analyzed other aspects of the NRC regulatory and licensing program for LLRWDFs. This analysis is described in detail in the technical background document. (See Technical Evaluation, Ref. 7.) Some of the key findings include:

- The NRC licensing process provides for public participation and scrutiny of potential disposal facilities, which plays an important role in not only the siting of a facility but also in prescribing conditions governing its final operation.
- NRC prohibits disposal of waste with free liquids greater than 1% by volume, waste contaminated with reactive, explosive, volatile, and corrosive materials, and LLW that is incompatible with containers used for disposal of LLW.
- NRC regulations require active care disposal facility surveillance for up to 100 years under governmental control and government ownership.
- NRC's LLRWDF disposal regulations require corrective measures for the disposal of radioactive waste to assure that corrective measures are taken if a radiation hazard becomes a groundwater concern.

We received 15 comments pertaining to our overall technical analysis and conclusions. The eleven comments supporting the technical approach came from industry associations, generators, academia, and some government agencies. They felt that the approach was thorough and presented compelling analysis supporting the conditional exemption. They agreed that the combination of LDR treatment in conjunction with the stringent controls already in place at the LLRWDFs were protective of human health and the environment. Some commenters argued that dual regulation is not appropriate and only seems to hinder the timely disposal of waste. Based on our analysis that disposal of LLMW would be properly managed in a LLRWDF, without degradation to human health and the environment, the redundant regulation by RCRA adding additional cost and time to permit the facility does not seem prudent.

In contrast, we also received four negative reactions to the technical approach from environmental groups and some State agencies. Some of the comments related to the uncertainties inherent in the analysis. Another commenter believed that we need to address all contingencies and technical aspects before making our final decision. Although there are always uncertainties associated with complex environmental analysis, we are confident of the conclusions of our technical analysis that indicate the RCRA exemption conditions coupled with the NRC performance requirements will be protective of human health and the environment. Our comfort derives from having designed a waste management scheme with multiple redundant systems and conditions that will limit contaminant movement. These include waste treatment, waster form, containers, cover performance, monitoring, and site-specific public participation. We believe that we have addressed all major technical aspects and waste management contingencies in making our decision on the comparability of the two regulatory programs.

Our responses to major comments on specific technical issues are presented in the following sections.

1. Synergistic Effects

Commenters indicated that the radioactive portion of the waste could negatively influence the nature and mobility of the hazardous portion of the waste and similarly the hazardous portion could possibly enhance the mobility of the radioactive constituents. Commenters also raised concerns regarding potential toxicological interaction between the hazardous and radioactive fractions in mixed waste. Interaction between radioactive and hazardous waste components that enhance the mobility or toxicity of constituents is referred to as "synergy." The agency acknowledges that interaction between the waste components may be possible. There is not an adequate scientific understanding of such processes (e.g., synergy and cumulative interactions) that would allow EPA to design additional, and appropriate, management standards, if needed. In addition, the current regulatory schemes do not explicitly account for such effects. Our redundant control systems would make the possibility of such effects remote and go beyond current management practices. From a practical perspective, we concluded that the synergistic effects between radioactive and hazardous constituents would be minimal due to treatment requirements minimizing the hazardous constituents, waste form requirements, container conditions of the waste minimizing radioactive and hazardous interaction, and cover requirements resulting in the lack of liquid to generate leachate. Indeed, the container condition will enhance protectiveness over the current scheme, under which LLMW could interact more readily in a landfill with other radioactive or hazardous wastes.

2. Groundwater Monitoring

Today's final rule does not require LLRWDFs that accept LLMW under the provisions of today's transportation and disposal exemption to conduct groundwater monitoring for chemical constituents. These facilities already are required to conduct groundwater monitoring for radioactive material and other indicators which include selected hazardous constituents. We believe that this monitoring will provide adequate warning if there is a breach of the containment systems at the disposal facility.

A significant number of commenters agreed with the Agency's approach to not require groundwater monitoring for the RCRA constituents as one of the conditions of the disposal exemption because they believed the current NRC and Agreement provisions adequately address the monitoring needs for disposal sites. One commenter pointed out that the Agreement States have the authority to require groundwater monitoring for non-radiological constituents in the license for hazardous constituents under NRC regulations. This commenter noted that additional monitoring (if needed) can be best established as part of the site license condition with the Agreement State and be tailored to the local environmental conditions and the nature of the waste being accepted for disposal. EPA's analysis supports this contention. All three existing LLRWDFs licensed by the Agreement States have groundwater monitoring for RCRA hazardous constituents in their licenses. We believe this data will supplement the groundwater monitoring data of the radioactive constituents in providing the necessary warning sign when there may be a breach of containment at the disposal facility. Further, we found no evidence to suggest that these facilities have ground water contamination above regulatory levels for hazardous constituents as a result of disposal unit design problems or management.

In the proposed rule we specifically asked if commenters knew of reasons why we should include groundwater monitoring requirements for RCRA hazardous constituents as part of the conditional exemption. Some commenters believed that we had not adequately supported our assumption that controlling radionuclides will also adequately control hazardous constituents, because hazardous constituents may be more mobile than radionuclides. One commenter added that monitoring requirements should be based on the contents of the disposal cells; that is, if there are hazardous constituents in the disposal cell, they should be included on the list of analytes to be monitored.

The concerns expressed by these comments are addressed first and foremost by the preconditions established in today's rule for the exempted wastes. Specifically, the LLMW will be treated. Organics will be destroyed and metals will be immobilized through meeting the LDR standards. There will be no free liquid. The waste will then be containerized, at a minimum in carbon steel drums, prior to being placed in the disposal environment. Stable Class-A waste that is mixed with more active Class-B or C waste will meet the NRC requirement of high integrity containers (HICs) (e.g., concrete casks). This system of controls should preclude both transport alluded to by the commenter (e.g., organic solvents either moving faster than other constituents or promoting transport of inorganic constituents) and uncontrolled leaching of inorganic constituents (e.g., the inorganic constituents will be immobilized and unavailable for leaching, if not already destroyed by thermal treatment, and will be contained).

Although we believe the likelihood of hazardous constituent releases is minimal for the reasons presented above, we still believe that ground water monitoring is a prudent safeguard. The NRC/Agreement States already require LLRWDFs to conduct groundwater monitoring for radionuclides and other indicators (including selected hazardous constituents) using traditional analytical methods. The NRC/Agreement States ensure that the monitoring protocols established by the LLRWDFs are based on the wastes and constituents disposed of in the facility. Therefore, the list of analytes will include indicator constituents that are representative of the materials in the facility. In general, the migration of metals, whether as hazardous constituents or radioactive, will migrate in a similar way. We note that the detection of an indicator radioisotope (e.g., Cr-51, Cu-64, Pb-201, Se-75, Tl-201, or Zn-63) would also serve as an indicator of migration of the chemical portion of the waste. For example, if mixed waste contains hazardous chromium and radioactive CR–51 and groundwater monitoring detects CR–51, it would be reasonable to expect that hazardous chromium is also present in groundwater. As noted above, the three operating LLRWDFs monitor for RCRA constituents, including metals and some of the more mobile organic constituents (e.g., benzene, xylene). In conclusion, we are satisfied that the NRC ground water monitoring program will provide adequate protections for the exempted wastes managed under today's rule.

3. Site-Specific Variance

The Agency solicited comment on the use of a "site-specific, risk-based variance" approach to determine the waste disposal eligibility. We proposed this alternative to the conditional exemption based on States' interest to factor in site properties into the risk determination. In addition to the site-specific approach, the Agency also solicited comment on the need for guidance in support of performing site-specific risk assessments. Today's final rule regarding the "conditional exemption" for disposal does not include the site-specific, risk-based variance approach as an alternative method for exemption. The requirements identified in the final rule and the existing NRC and Agreement State regulations, guidance, and licences were deemed to be adequate and protective for the management of these wastes.

We received more than forty comments on the use of site-specific, risk-based variances for the determination of waste disposal acceptability. The comments represented a wide disparity of positions. Many comments from States supported the use of the site-specific risk-based alternative to the conditional exemption. The commenters expressed the concern that efforts outside of site-specific modeling would not properly reflect the conditions at a specific site, either by overestimating or underestimating disposal performance. The commenters argued that using a national approach would tend to average site conditions and not truly represent any specific site resulting in uncertainty around the conclusion regarding the qualifications of natural and engineered site conditions.

A set of industry comments did not support the use of site-specific, risk-based analysis, in lieu of the conditional exemption. Their position was that the conditional exemption was technically sound and was instantly available, whereas the site-specific alternative would take time to perform and delay decisionmaking.

One environmental commenter opposed the use of site-specific, risk-based analysis completely on the grounds that the state of the science was not appropriate and too much uncertainty surrounded this type of analysis.

We have decided not to include the site-specific, risk-based alternative in the final rule. We concluded that the disposal of LLMW in LLRWDFs would be protective and be properly managed based on the benefits derived from siting, LDR treatment and waste form requirements, and the protection afforded by LLRWDFs licensed pursuant to 10 CFR part 61. Our review of NRC regulations, guidance, and licenses indicated that disposal facilities provide adequate protection for the disposal of LLMW so long as the additional conditions and requirements of this rule are met. In summary, the approach adopted in this rule will ensure that any potential risks that arise as a consequence of site-specific circumstances will be thoroughly reviewed and mitigated through the NRC licensing process.

H. Why Is Financial Assurance Beyond 10 CFR Part 61 Not Necessary?

You are not required to provide additional financial assurance beyond what NRC requires under 10 CFR part 61 or an NRC Agreement State requires under the state equivalent regulations. This decision is based on our review and comparison of EPA and NRC financial assurance regulations. (See comparison document, Ref. 18.) Both EPA and NRC financial assurance regulations require a disposal facility to provide sufficient funding to enable a third-party to conduct closure and post-closure care activities. Financial assurance for closure and post-closure activities are the key elements of financial assurance requirements under both EPA and NRC regulations. Based on our comparison and analysis of EPA and NRC financial assurance regulations, we have determined that the financial assurance provided by the NRC regulations will ensure that sufficient funds will be available to conduct the similar closure and post-closure care activities at a LLRWDF as required under RCRA. We note that there are variations between EPA and NRC financial assurance requirements. However, we conclude that as a whole, the NRC financial assurance requirements for the LLRWDF are adequately protective, making additional EPA financial assurance requirements for a LLRWDF unnecessary.

Similar to the financial assurance requirements set out under 40 CFR part 264 subpart H for a RCRA hazardous waste disposal facility, 10 CFR part 61 requires a LLRWDF to establish financial assurance that will provide funding for activities such as decommissioning and closure of the facility, cover placement over the disposal unit, post-closure care, and monitoring. NRC and NRC Agreement States do not issue licenses to facilities that cannot obtain financial assurance and these regulatory authorities will revoke licenses from facilities that cannot maintain adequate coverage.

For post-closure care, the NRC and NRC Agreement States require the LLRWDFs to provide financial assurance for an initial monitoring period of five years (or longer if deemed necessary by the regulatory authority) followed by a period of institutional control. At the completion of the five-year (or longer) initial post-closure monitoring period, the license of the LLRWDF is transferred from the disposal facility operator to the State or other Federal Agency who is the property owner. At that time, the next phase of the post-closure care period begins. This second phase of the post-closure care period is the institutional control period. The activities conducted under the institutional control period include monitoring, maintenance of cover, and access control. The NRC or NRC Agreement States also require that the LLRWDF licensees' financial assurance include all the costs associated with the institutional control phase of the post-closure care period. Specifically, prior to the issuance of the license, the applicant needs to provide for NRC review and approval, a copy of a binding arrangement between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and any required maintenance during the institutional control period. (See 10 CFR part 61.) The NRC or NRC Agreement State reviews this arrangement periodically to ensure that changes in inflation, technology, and disposal facility operations are reflected in the arrangements. Thus, the responsibility for funding the institutional control period belongs to the licensee and is assured prior to the issuance of the license and subsequent transfer of the license to the State or Federal Agency for institutional control of the LLRWDF. The institutional control period may last up to 100 years thus providing financial assurance for a considerably long period of time. In comparison, EPA requires RCRA land disposal facilities to provide for 30 years of post-closure monitoring unless the permitting authority modifies the monitoring period.

Although we determined that the EPA and NRC financial assurance requirements are not identical under a requirement-by-requirement comparison, we believe that the overall NRC financial assurance requirements are adequately protective of human health and the environment for a LLRWDF receiving the exempted waste. However, we requested public comment on whether we should require LLRWDFs to provide additional RCRA financial assurance as part of the conditional exemption.

Some commenters supported our proposal of not imposing the RCRA financial assurance requirement for LLRWDFs, because they believed adequate financial assurance exists under NRC regulations. Some of these commenters noted that further financial assurance requirements could discourage LLRWDFs from accepting the exempted wastes. Other commenters believed that it is necessary to impose the additional RCRA financial assurance requirement on a disposal facility

receiving the exempted waste to address the chemical constituents that will be disposed of there.

As discussed above, our analysis showed that the NRC or NRC Agreement State provisions for financial assurance will ensure that sufficient funds will be available to conduct closure and post-closure care activities which are the key elements of RCRA financial assurance requirements. We do not expect the cost for closure activities such as cover placement and post-closure maintenance activities, at a LLRWDF receiving the exempted waste to differ from the cost for the same activities at the same LLRWDF if it did not receive the exempted waste. Because NRC regulations already require financial assurance for closure and post-closure activities, additional funding requirements for the same activities would be redundant.

We also believe that the NRC financial assurance requirement for decommissioning activities is adequate for a LLRWDF that accepted the exempted waste. We note that NRC guidance has a provision that requires cost estimates for decommissioning to include the management of mixed waste (which includes the RCRA chemical constituents) during the decommissioning process. (See "NMSS Decommissioning Standard Review Plan [NUREG/SR–1727]".) Therefore, we believe that the NRC financial assurance requirement is adequate, and we do not need to require additional RCRA financial assurance requirements.

IX. Regulatory Impacts

We anticipate that implementation of this rule will result in positive net benefits, resulting from cost savings and risk reductions. We have based our assessment on the best data available; full references and details are available in the Regulatory Impact Analysis which accompanies today's rule. (See Ref. 14.)

The primary benefit of this rule is in facilitating treatment and disposal of mixed wastes, by addressing problems caused by dual regulation of these wastes. We estimate quantified net benefits of this rule to range between $4.1 million and $5.9 million per year. Sections A and B below provide further detail on benefits and costs associated with this rule; Section C addresses economic impacts. We base assessment of benefits and costs on a comparison of waste management after implementation of this final rule compared with waste management in the absence of this rule.

Significant uncertainties make it unusually difficult to estimate the impacts of this rulemaking. In addition to uncertainties about the quantities of LLMW generated in the U.S. there are also questions about the eventual disposition of these wastes. Although this rulemaking creates opportunities for disposal of much of this waste, these opportunities also depend on as-yet undetermined action by State regulatory agencies, low-level radioactive waste disposal facilities, and the generators themselves. These uncertainties and assumptions, however, do not affect the Agency's projection of positive net benefits stemming from this rule; they only affect the magnitude of that net benefit. To the extent that any generators can take advantage of storage or disposal provisions of this proposal, net benefits will accrue.

A. What Are the Regulatory Benefits of This Rule?

The storage component of the rule provides the most significant benefits of this rule, from administrative cost savings and from allowing certain mixed wastes to decay-in-storage. Dollar savings from the disposal portion of this rulemaking are likely to be low, even more so if the LLRWDFs (especially Envirocare) do not accept the exempted waste for disposal as LLRW. To estimate the impact of the rule, EPA first needed to characterize generation and management of low-level waste and low-level mixed waste in the nation.

In 1990, EPA, NRC and the Oak Ridge National Laboratory conducted a survey of commercially generated low-level mixed waste. A report of the survey findings was published in 1992 under the title National Profile on Commercially Generated Low-Level Radioactive Mixed Waste. (See Ref. 8.) As stated in the Executive Summary, "The * * * objective of the work was to compile a national profile on the volumes, characteristics, and treatability of commercially generated low-level mixed waste * * * by major facility categories * * * [including] academic, industrial, medical, and * * * government facilities and nuclear utilities."

"The industrial category was estimated to be the largest generator and accumulator of mixed waste, with more than 36% of the generation * * * of the total mixed waste in the United States in 1990." (Ref. 8, National Profile, p. 40). Nuclear utilities accounted for roughly 10 percent of the total commercially generated LLMW volume in the United States.

Based on our discussions with the regulated community, we understand that commercial generators of LLMW have taken a number of steps, including pollution prevention, waste minimization, and source reduction (such as using water-based scintillation cocktails as opposed to the solvent-based formulations), to reduce quantities of LLMW they generate. Also, nuclear power plants have instituted steps for controlling the use of organic solvents (for example, establishing procedures to track quantities of organic solvents purchased, used, and left over and discarded). Therefore, despite industrial growth over the intervening years, we believe that the LLMW volumes generated today may be similar to those reported in 1992.

Based on this research and site visits in 1998, we believe that there are a number of LLMW generators, who could benefit from this rulemaking. Using the National Profile we estimated that the national generation rate of mixed waste was 108,000 cubic feet per year. (See Regulatory Impact Analysis, Ref. 14, and Regulatory Impact Analysis, Background Documents, Ref. 17.) Some federal facilities also generate LLMW. The total volume of LLMW generated annually by DOE facilities far exceeds the volume generated by the commercial sector.

Benefits from this rule may accrue in the following areas.

- Permitting cost savings. Those generators needing RCRA permits only for storage or treatment of their mixed wastes will save these permitting costs and associated corrective action costs. These cost savings are approximated at $2.7 million per year.
- Other administrative cost savings. Generators of mixed waste and Federal and State RCRA regulating agencies are expected to save approximately $700,000 in administrative burden and costs because of this rule.
- Decay-in-storage cost savings. The rule will allow facilities to store certain wastes while the radioactivity decays. These wastes can then be treated and disposed of as hazardous waste, which is less expensive than LLMW treatment and disposal. EPA estimates aggregate cost savings from these waste streams will be between $600,000 and $2.6 million per year.
- Other disposal cost savings. This rule will facilitate disposal of wastes in LLRWDFs, depending on approval by state regulatory agencies and the willingness of LLRWDFs to accept the wastes, as well as limitations of the low-level waste disposal compact system. These limitations mean that the savings from the disposal exemption are expected to be at most $100,000 per year. EPA has not estimated savings resulting from reduced storage costs.
- Risk Reductions. EPA anticipates that generators will take advantage of this rule to allow certain LLMW to undergo decay-in-storage. NRC or the NRC Agreement State approves a decay-in-storage process which allows certain short-lived radionuclides in these wastes to decay to background levels. The remaining decayed waste no longer meets the definition of radioactive under the AEA. Since EPA does not expect these wastes to be treated or handled during the radioactive decay process, waste handlers in treatment and transportation will not be exposed to this radioactivity. Generators who comply with existing RCRA regulations are handling this waste while still radioactive. This decrease in exposure translates to an unquantified risk reduction, attributable to the relaxed RCRA storage restrictions in this rule.

DOE may also save on transportation and disposal costs, to the extent that it chooses to meet the conditions for exemption and dispose of wastes in commercial disposal facilities licensed by NRC or an NRC Agreement State. DOE would not gain permitting or storage cost savings, since the storage and treatment conditional exemption regulations in this rule do not apply to DOE facilities.

B. What Are the Costs of This Rule?

Generators taking advantage of storage or disposal exemptions will incur costs to meet notification conditions. EPA estimates these costs to be approximately $200,000 per year, in the aggregate.

Under this rule, there will also be some increased costs to EPA and RCRA authorized States overseeing management of mixed wastes. We expect these entities to incur costs associated with notification conditions for generators and treaters of exempted LLMW sending their waste for disposal at LLRWDFs and related implementation costs. This will result in a small increase in costs for these regulating bureaus estimated at $5,000 per year, in the aggregate.

C. What Are the Economic Impacts of This Rule?

Economic impacts of this rulemaking are expected to be minimal. Generators who are not meeting regulatory requirements for disposal will incur spending for treatment and disposal of wastes that previously had been stranded in storage. These costs are expected to total about $300,000 in aggregate across the nation. These are not true social costs, though, since these generators are already liable for costs of treatment and disposal of these wastes. The effect of this rule will be to open up disposal capacity for these wastes which currently do not meet the waste acceptance criteria of the existing LLMW disposal facility. Without this rulemaking, these legacy wastes might simply continue to be stored on-site indefinitely, leaving the generators in violation of RCRA requirements. These generators would incur not only storage costs, but social costs associated with being in violation of RCRA.

By allowing LLMW to be disposed of as LLW, this rule may have impacts on the national market for disposal of LLW, although we have not specifically modeled these impacts. The larger the volume to be added to the disposal market, the greater the effects are likely to be. The largest volumes of LLW potentially to be disposed of at commercial LLRWDFs are those generated by the Department of Energy, including wastes from site cleanup and remediation activities. Wastes from commercial LLMW alone are not likely to have any significant impact on these markets.

The only possible negative impact may fall upon the single mixed waste disposal facility which currently accepts some LLMW for disposal. By allowing LLRWDFs to dispose of the LLMW that meets Land Disposal Restrictions, this rule may introduce some competition into the market for disposal of LLMW.

X. State Authorization

As of December 2000, a total of 43 states and one territory were authorized to implement RCRA mixed waste regulations of 1986 (51 FR 24504), which provide for the hazardous components of mixed waste to be managed under RCRA Subtitle C.[1] Today's rule will apply to the hazardous component of mixed waste in a State that has mixed waste authorization, but only when the State amends its State law and becomes authorized to implement this final rule containing a new conditional exemption. The effective date will be the date the State is authorized for this final rule. This rulemaking affects the RCRA base program implementing the Resource Conservation and Recovery Act of 1976. Therefore, authorization for this rule is not automatic, but depends upon State action. In addition, since the flexibility provided by a conditional exemption for disposal and permitting is considered less stringent than the current RCRA program, States are not required to adopt this final rule. When choosing to adopt this rule, States have the option of being more stringent than a federal requirement where they deem it appropriate. (See 40 CFR 271.1(i).)

In Alaska, Hawaii, Iowa, Puerto Rico, and the Virgin Islands, which are jurisdictions not authorized to implement any part of the RCRA program, the federal government implements the RCRA program. In these jurisdictions, this final rule will become effective 180 days after the date of publication of this rule.

We encourage States and territories to adopt this conditional exemption. The conditional exemption does not preclude regulation or enforcement by States against generators who are not eligible for the exemption or who do not meet the conditions or requirements of the exemption. Under this regulatory framework, States retain their regulatory oversight and RCRA enforceability provisions over a noncompliant claimant. The flexibility provided by this rule is conditional. A LLMW generator must meet the eligibility provisions and conditions to qualify for and maintain the exemption from hazardous waste storage and disposal regulations. Failure to meet the conditions results in automatic loss of the exemption; failure to meet the requirements may result in fines and penalties under the RCRA hazardous waste enforcement program. In addition, since the transportation and disposal exemption may involve interstate transportation of conditionally exempt waste, the exemption must be authorized in both the State of the generator and the State where the disposal site is located.

Note: If the waste is transported through a State which considers the waste to be hazardous, the transporter must be in compliance with 40 CFR part 263, including manifest provisions. EPA recommends that the initiating facility note that the waste is subject to today's exemption in block 15 of the manifest.

XI. Relationship With Other RCRA and Environmental Programs

A. What Is the Relationship of Today's Rule With Other RCRA Regulatory Programs?

1. Does This Rule Change How You Determine if a Waste Is Hazardous?

No, the hazardous waste determination remains unchanged. This rule is a conditional exemption from the RCRA regulatory definition of hazardous waste. Under current RCRA regulations, if you generate a solid waste, you must determine if it is a

[1] The District of Columbia, Massachusetts, Maryland, Rhode Island and West Virginia are RCRA authorized States that have adopted mixed waste regulations under State law but have not yet been authorized to implement the mixed waste regulations. This rule will become effective in these jurisdictions when the State adopts and is authorized for the final rule.

hazardous waste as outlined in 40 CFR 262.11, Hazardous Waste Determination. A generator of LLMW must also determine if the waste is excluded from regulation under 40 CFR 261.4, Exclusions. Next, a generator must determine whether the waste meets the regulatory description for a listed hazardous waste in subpart D of part 261, Lists of Hazardous Wastes. If the waste is not a listed hazardous waste, the generator must then determine if the waste exhibits a characteristic defined in subpart C of part 261.

2. Can LLMW or Eligible NARM Be a Non-Hazardous Waste Under This Rule?

LLMW, or Eligible NARM, meeting the eligibility criteria and all the conditions under the storage and treatment or transportation and disposal conditional exemption, will be conditionally exempt from the regulatory definition of hazardous waste under RCRA Subtitle C, and therefore managed as non-hazardous waste under this rule.

3. How does the LLMW conditional exemption differ from delisting under 40 CFR 260.22?

The evaluation criteria used for delisting differ from today's rule. In the conditional exemption, the evaluation criteria are national and categorical. This contrasts with the evaluation criteria for delisting, which are based upon a designated waste stream and are case specific. In delisting, we evaluate the processes generating a specific waste stream to determine the constituents likely to be present, as well as the potential variability in the waste. In addition, conditionally exempt LLMW must be managed in accordance with applicable NRC regulations. Delisted waste is generally managed as an industrial solid waste.

4. Will My Waste Analysis Plan of My RCRA-Permitted TSDF Change?

No, your waste analysis plan will not change. If you are a generator or an owner or an operator of a RCRA-permitted or interim status TSDF, also licensed by the NRC for managing LLW, and plan to claim a conditional exemption, you remain subject to the waste analysis and waste analysis plan requirements of 40 CFR part 268. If you treat to Land Disposal Restriction standards, you must have a waste analysis plan. This includes DOE treatment facilities treating LLMW to meet the conditions for the disposal exemption.

5. Will the Final Rule Change How the RCRA Closure Requirements Apply to My Disposal Facility?

If you have a disposal facility subject to NRC or NRC Agreement State regulations for disposal of LLW, and you accept conditionally exempt waste under this rule, the hazardous waste facility closure requirements do not apply to any units at your facility receiving only conditionally exempt LLMW.

6. How Does the Conditional Exemption Relate to RCRA Air Emission Standards?

RCRA Air Emission Standards do not apply to a LLRWDF where conditionally exempt LLMW or Eligible NARM waste has been disposed of.

B. What Is the Relationship of This Rule to Other Environmental Programs?

1. How Are CERCLA Actions Affected by Today's Rule?

The affect of today's rule on Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) actions depends on whether the waste will be managed on or off the CERCLA site. Off-site disposal of CERCLA remediation waste must comply with all conditions of today's final rule for a generator to take advantage of the exemption provided, including that the waste must be disposed of at a LLRWDF that is licensed by the NRC or an NRC Agreement State, and is in compliance with the 10 CFR part 61 or equivalent State regulations. Off-site rule requirements in 40 CFR part 300 continue to apply to CERCLA remediation wastes.

Mixed waste managed during on-site waste remediation must meet all applicable or relevant and appropriate requirements of Federal or State environmental laws or justify a waiver from those standards. This rule requires that the disposal facility be licensed and overseen by the NRC or NRC Agreement State. On-site CERCLA response action must comply with the substantive provisions of environmental regulations and standards, but not the administrative provisions. Therefore, no permit or license is required for on-site activities. In accordance with the National Contingency Plan and CERCLA, today's regulation is not expected to be an applicable requirement at most CERCLA sites managing LLMW. However, relevant and appropriate determinations are site-specific and these may or may not be deemed relevant and appropriate given site-specific conditions. In general, we expect that most CERCLA sites will meet both the substantive provisions of the RCRA Subtitle C landfill requirements as well as the 10 CFR part 61 requirements for a LLRWDF.

2. How Might Clean Air Act Regulations Be Affected?

This rule will not affect Clean Air Act regulations. LDR treatment of LLMW or Eligible NARM remains subject to the air emission standards applicable to hazardous waste treatments under RCRA.

3. How Might Clean Water Act Regulations Be Affected?

This rule will not affect Clean Water Act regulations.

XII. Effective Date November 13, 2001

XIII. Regulatory Assessment Requirements

A. Executive Order 12866: Determination of Significance

Under Executive Order (E.O.) 12866, (58 FR 51,735 October 4, 1993) EPA must determine whether the regulatory action is "significant," and therefore, subject to OMB review and the requirements of the Executive Order The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order

Under the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" because it raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order This rule addresses problems caused by dual regulation of mixed wastes, and facilitates treatment and disposal of mixed wastes. We estimate quantified net benefits of this rule to range between $4.1 million and $5.9 million per year. As a significant regulatory action this rule was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

Under the terms of Executive Order 12866, EPA must prepare for any significant regulatory action an assessment of the action's potential costs and benefits. If that action satisfies the first of the criteria listed above, this assessment must include, to the extent feasible, a quantification of these costs and benefits, the underlying analyses supporting such quantification, and an assessment of the costs and benefits of reasonably feasible alternatives to the planned regulation. This final rule is not economically significant, although it is expected to yield net benefits to society because of reduced waste management and administrative costs for both generators of mixed waste and regulatory agencies, and reduced worker exposures. A summary description of costs and benefits associated with this final rule appears in section IX of this preamble. A regulatory impact analysis has been prepared and is available in the docket for today's final rulemaking.

B. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132, because the rule will not impose any requirements on States or any other level of government. As explained above, today's final rule may provide regulatory flexibility for generators and treaters of LLMW by establishing a conditional exemption from RCRA Subtitle C requirements, which States are not required to adopt. Thus, the requirements of the Executive Order do not apply to this rule.

C. Executive Order 12898: Environmental Justice

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations' as well as through EPA's April 1995, "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report" and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population—regardless of race, color, national origin, or income—bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

To address this goal, EPA considered the impacts of this rule on low-income populations and minority populations. This waste would be stored according to other regulatory authorities (NRC or NRC Agreement States) which offer comparable protection to RCRA Subtitle C. We evaluated the demographics of the areas surrounding the three existing commercial low-level radioactive waste disposal facilities. We did not find disproportionate populations of minority groups residing in the surrounding area. Most importantly, we do not expect adverse environmental impact as a result of the disposal rule. The RCRA exempted waste will have been treated, for example, to destroy hazardous organic constituents and stabilize toxic metals. The waste would then be placed in a container, managed, and disposed of, in an environmentally sound manner according to NRC or NRC Agreement State equivalent regulations for disposal of low-level radioactive waste. Therefore, we believe there will not be disproportionately high and adverse environmental or economic impacts on any minority or low-income group, or on any community.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that is determined to be "economically significant" as defined under Executive Order 12866, and concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental or health and safety risks addressed by this action present a disproportionate risk to children. We find that waste management under NRC regulations for radioactive waste could diminish (not increase) concerns regarding environmental health or safety risks for all, including children.

E. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 took effect on January 6, 2001, and revoked Executive Order 13084 (Tribal Consultation) as of that date. EPA developed this final rule, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. This Executive Order requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process that permits elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Prior to the publication of the November 1999 proposal, we briefed two organizations with an interest in tribal environmental issues on both the storage and disposal exemptions we

were proposing. The organizations were the American Indian Environmental Office, and the executive director and staff of the Tribal Association of Solid Waste and Emergency Response (TASWER). TASWER staff indicated that there was an annual tribal conference the following week and the representatives of tribes in attendance would be informed about our proposed rule and encouraged to comment. None of the comments received were identified by the sender as representing tribes. Based on the discussion at our meetings with tribal organizations, we do not expect this rule to significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of Section 3(b) of Executive Order 13084 do not apply to this rule.

F. The Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (5 U.S.C. 601 et seq.)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards established for industries as described in the North American Industry Classification System (see *http://www.sba.gov/size/NAICS-cover-page.html*); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." (5 U.S.C. 603 and 604.) Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The overall economic effect of this regulation has been determined to be a net savings to all regulated entities that choose to avail themselves of a conditional exemption for storage or disposal of the mixed wastes they generate. This rule will not impose additional costs on any entities. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities.

G. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of sec. 205 do not apply when they are inconsistent with applicable law. Moreover, sec. 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector because it imposes no enforceable duty on any State, local, or tribal governments or the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113 Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, with explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rule does not involve technical standards. In 1997, EPA and NRC published in the **Federal Register** joint testing guidance for sampling and testing of mixed waste. Facilities subject to this rule may continue to use that guidance, which allows analysis of smaller samples and reduces exposure of workers to radiation hazards.

I. Paperwork Reduction Act

Under the implementing regulations for the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), an agency is required to certify that any agency-sponsored collection of information from the public is necessary for the proper performance of its functions, has practical utility, does not unnecessarily duplicate information otherwise reasonably accessible to the agency, and reduces to the extent practicable and appropriate the burden on those required to provide the information. (5 CFR 1320.9.) Any proposed collection of information must be submitted, along with this certification, to the Office of Management and Budget (OMB) for approval before the collection of information goes into effect.

The information collection requirements in this final rule have been submitted for approval to OMB under the Paperwork Reduction Act. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1922.01), and a copy may be obtained from Sandy Farmer, Office of Environmental Information, Collection Strategies Division, U.S. Environmental Protection Agency (2137), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 260–2740.

This information collection is required to provide documentation of conditional exemption from RCRA Subtitle C requirements. The exemptions from RCRA Subtitle C under today's action would require no government approval before being effective. For this final rule, information collection, maintenance, and reporting issues are especially important. Successful implementation of today's rule will depend upon the documentation, certification, and verification provided by the information collection.

The general authority for this rule is 1006, 2002(a), 3001–3009 and 3013 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the Federal Facility Compliance Act of 1992 (FFCA), 42 U.S.C. 6905, 6912(a), 6921–6929 and 6934. To the extent that this rule imposes any information collection requirements under existing RCRA regulations promulgated in previous rulemakings, those requirements have been approved by OMB under the Paperwork Reduction Act, and have been assigned one of the following OMB control numbers: 2050–0009 (ICR no. 1573, Part B Permit Application, Permit Modifications, and Special Permits); 2050–0120 (ICR 1571, General Facility Hazardous Waste Standards); 2050–0028 (ICR 261, Notification of Hazardous Waste Activity); 2050–0034 (ICR 262, RCRA Hazardous Waste Permit Application and Modification, Part A); 2050–0039 (ICR 801, Requirements for Generators, Transporters, and Waste Management Facilities under the Hazardous Waste Manifest System); 2050–0035 (ICR 820, Hazardous Waste Generator Standards); and 2050–0024 (ICR 976, 1997 Hazardous Waste Report).

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR parts 9 and 48 CFR chapter 15. This rule includes new information collection requirements subject to OMB review under the Paperwork Reduction Act. To be eligible for a conditional exemption for stored low-level mixed waste, facilities must notify EPA or the RCRA Authorized State of their claims for a conditional exemption for their LLMW and storage units. If they do not choose to claim a conditional exemption, generators will have to comply with the existing Subtitle C recordkeeping requirements for the low-level mixed wastes they generate.

This rule also includes notification requirements for generators or treaters of LLMW and Eligible NARM seeking a conditional exemption from the definition of hazardous waste, which would allow disposal of the waste meeting the conditions for exemption in a low-level radioactive waste disposal facility licensed by NRC or an NRC Agreement State. If the generator or treater of LLMW chooses not to claim an exemption, it remains subject to the existing hazardous waste disposal requirements.

Some of the requirements contained in today's final action entail new reporting and recordkeeping requirements for members of the regulated public, if an exemption is claimed. The requirements have practical utility in that they are necessary to ensure that the disposal of conditionally exempted low-level mixed waste is safely managed. If generators choose to avail themselves of the regulatory flexibility discussed in this final rule, they will be subject to the notification and recordkeeping requirements described above. However, such notification and recordkeeping would replace the paperwork burden required for treatment and storage permits for their low-level mixed wastes if they did not claim a conditional exemption. States (but not Tribes) would have additional recordkeeping requirements for receiving a generator's notice to claim a conditional exemption, and for reviewing a generator's notice to reclaim a conditional exemption.

We have prepared a full ICR in support of today's final rule. We estimate the total annual public burden associated with the storage and treatment conditional exemption to average 3.5 hours per respondent. We estimate the reporting burden to average 1.9 hours per respondent annually, including time for reading the regulations, and preparing and submitting notifications. We estimate the recordkeeping burden to average 1.6 hours per respondent annually, including the time for recording the results of inventories and inspections, and maintaining records pertaining to the mixed waste exemption.

The total public burden associated with the transportation and disposal exemption is estimated to average 3.9 hours per respondent. We estimate the reporting burden to average 2.9 hours per respondent annually, including time for reading the regulations, and preparing and submitting notifications. The annual recordkeeping burden is estimated to average 1.0 hours per respondent and includes the time for maintaining records pertaining to the mixed waste exemption.

Burden means the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide information to or for a Federal agency. Burden includes the time needed to:

- Review instructions;
- Develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information;
- Adjust the existing methods to comply with any previously applicable instructions and requirements;
- Train personnel to be able to respond to a collection of information;
- Search data sources;
- Complete and review the collection of information; and
- Transmit or otherwise disclose the information.

We received no public comment on the proposed information collection.

J. The Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 13, 2001.

XIV. Supporting Documents

1. EPA Consent Decree, HWIR Settlement Agreement, April 11, 1997.
2. EPA Side-bar letter to EEI/USWAG dated April 7, 1997.
3. "Review of Waste Management Practices and Compliance History at Nuclear Power Plants and Other Entities that Generate Low-Level Mixed Waste." April 12, 1999.

4. "Comparison of the EPA's RCRA Requirements and the NRC's Licensing Requirements for the Treatment (In Tanks and Containers) and Storage of Low-Level Mixed Wastes at Nuclear Facilities", April 2001.
5. Comment Summary Document—Approach to Reinventing Regulations of Storing Mixed Low-Level Radioactive Waste; Advance Notice of Proposed Rulemaking (ANPRM), September 21,1999.
6. Report to Utility Solid Waste Activities Group and Utility Nuclear Waste Management Group on Comparative Assessment of the Environmental Protection Agency's Regulations for Hazardous Waste Tank Systems (40 CFR part 265, subpart J) and Comparable Nuclear Regulatory Commission Requirements, July 1988.
7. Technical Evaluation on Document for the Disposal of Mixed Waste at Low-Level Radioactive Waste Disposal Facilities, Draft Technical Background Document, July 1999.
8. National Profile on Commercially Generated Low-Level Radioactive Mixed Waste, NUREG/CR–5938, December 1992.
9. Meeting Notes for EPA Meeting with Low-Level Radioactive Waste Disposal Facilities, December 7, 1998.
10. RCRA Hazardous Constituents and Waste Codes Associated with Mixed Waste, December 1997.
11. Joint State/EPA Workshop on Mixed Waste Rulemaking, October 7–9, 1998, Meeting Summary.
12. Comparison of NRC and EPA's Waste Tracking and Related Record Keeping Requirements, July 1999.
13. Technical Alternatives Considered for Evaluating Protectiveness of Low-Level Waste Disposal Facilities, July 21, 1999.
14. Regulatory Impact Analysis: Storage, Treatment, Transportation, and Disposal of Mixed Waste, February 2001.
15. Summary of Public Comments on "Contingent Management of Mixed Waste" Submitted in Response to the 1995 HWIR Proposal, July 1999.
16. The Management of Mixed Low-Level Radioactive Waste in the Nuclear Power Industry, NUMARC/NESP–006, Nuclear Management Resources Council, Inc., Washington, D.C., January 1990.
17. Regulatory Impact Analysis: Storage, Treatment, Transportation, and Disposal of Mixed Waste—Supplemental Documents, February 2001.
18. Comparison of Financial Assurance Requirements Under EPA and NRC Regulations, November, 2000.
19. Discussion with DOT on Mixed Waste Transportation on August 1999.
20. Letter from Elizabeth A. Cotsworth, Director, Office of Solid Waste, to J. Dale Givens, State of Louisiana, Department of Environmental Quality, March 27, 1998.

Note that this is a list of supporting documents for both the proposed and final rules. Reference documents numbered 5, 11, 13, and 15 were referred to in the proposed rule but not in the final rule.

List of Subjects in 40 CFR Part 266

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: April 30, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble 40 CFR part 266 is amended as follows:

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 is revised to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3001–3009, 3014, 6905, 6906, 6912, 6921, 6922, 6924–6927, 6934, and 6937.

2. Part 266 is amended by adding subpart N to read as follows:

Subpart N—Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal

Terms

Sec.
266.210 What definitions apply to this subpart?

Storage and Treatment Conditional Exemption and Eligibility

266.220 What does a storage and treatment conditional exemption do?
266.225 What wastes are eligible for the storage and treatment conditional exemption?
266.230 What conditions must you meet for your LLMW to qualify for and maintain a storage and treatment exemption?

Treatment

266.235 What waste treatment does the storage and treatment conditional exemption allow?

Loss of Conditional Exemption

266.240 How could you lose the conditional exemption for your LLMW and what action must you take?
266.245 If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed?

RecordKeeping

266.250 What records must you keep at your facility and for how long?

Reentry Into RCRA

266.255 When is your low-level mixed waste no longer eligible for the storage conditional exemption?

Storage Unit Closure

266.260 Do closure requirements apply to units that stored LLMW prior to the effective date of subpart N?

Transportation and Disposal Conditional Exemption

266.305 What does the transportation and disposal conditional exemption do?

Eligibility

266.310 What wastes are eligible for the transportation and disposal conditional exemption?

Conditions

266.315 What are the conditions you must meet for your waste to qualify for and maintain the transportation and disposal exemption?
266.320 What treatment standards must your eligible waste meet?
266.325 Are you subject to the manifest and transportation condition in § 266.315(b)?
266.330 When does the transportation and disposal exemption take effect?
266.335 Where must your exempted waste be disposed of?
266.340 What type of container must be used for disposal of exempted waste?

Notification

266.345 Whom must you notify?

Recordkeeping

266.350 What records must you keep at your facility and for how long?

Loss of Transportation and Disposal Conditional Exemption

266.355 How could you lose the transportation and disposal conditional exemption for your waste and what actions must you take?
266.360 If you lose the transportation and disposal conditional exemption for a waste, can the exemption be reclaimed?

Subpart N—Conditional Exemption for Low-Level Mixed Waste Storage and Disposal

Terms

§ 266.210 What definitions apply to this subpart?

This subpart uses the following special definitions:

Agreement State means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

Certified delivery means certified mail with return receipt requested, or equivalent courier service, or other means, that provides the sender with a receipt confirming delivery.

Director refers to the definition in 40 CFR 270.2.

Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations.

Exempted waste means a waste that meets the eligibility criteria in 266.225 and meets all of the conditions in § 266.230, or meets the eligibility criteria in 40 CFR 266.310 and complies with all the conditions in § 266.315. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in 40 CFR 261.3.

Hazardous Waste means any material which is defined to be hazardous waste in accordance with 40 CFR 261.3, "Definition of Hazardous Waste."

Land Disposal Restriction (LDR) Treatment Standards means treatment standards, under 40 CFR part 268, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

License means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as amended.

Low-Level Mixed Waste (LLMW) is a waste that contains both low-level radioactive waste and RCRA hazardous waste.

Low-Level Radioactive Waste (LLW) is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2)

Mixed Waste means a waste that contains both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) means radioactive materials that:

(1) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(2) Are produced by an accelerator. NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.

NRC means the U. S. Nuclear Regulatory Commission.

We or us within this subpart, means the Director as defined in 40 CFR 270.2.

You means a generator, treater, or other handler of low-level mixed waste or eligible NARM.

Storage and Treatment Conditional Exemption and Eligibility

§ 266.220 What does a storage and treatment conditional exemption do?

The storage and treatment conditional exemption exempts your low-level mixed waste from the regulatory definition of hazardous waste in 40 CFR 261.3 if your waste meets the eligibility criteria in § 266.225 and you meet the conditions in § 266.230.

§ 266.225 What wastes are eligible for the storage and treatment conditional exemption?

Low-level mixed waste (LLMW), defined in § 266.210, is eligible for this conditional exemption if it is generated and managed by you under a single NRC or NRC Agreement State license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible this exemption.)

§ 266.230 What conditions must you meet for your LLMW to qualify for and maintain a storage and treatment exemption?

(a) For your LLMW to qualify for the exemption you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on your facility. The dated notification must include your name, address, RCRA identification number, NRC or NRC Agreement State license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this subpart. Your notification must be signed by your authorized representative who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of this rule in your State, or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

(b) To qualify for and maintain an exemption for your LLMW you must:

(1) Store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);

(2) Store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in 40 CFR 264.177, or 264.199 or 40 CFR 265.177, or 265.199;

(3) Certify that facility personnel who manage stored conditionally exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in 40 CFR 265.16(a)(3);

(4) Conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with subpart N of this part; and

(5) Maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.

Treatment

§ 266.235 What waste treatment does the storage and treatment conditional exemption allow?

You may treat your low-level mixed waste at your facility within a tank or container in accordance with the terms of your NRC or NRC Agreement State license. Treatment that cannot be done in a tank or container without a RCRA permit (such as incineration) is not allowed under this exemption.

Loss of Conditional Exemption

§ 266.240 How could you lose the conditional exemption for your LLMW and what action must you take?

(a) Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in § 266.230. When your LLMW loses the exemption, you must immediately manage that waste which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container and/or tank storage requirements.

(1) If you fail to meet any of the conditions specified in § 266.230 you must report to us and the NRC, or the oversight agency in the NRC Agreement State, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that

the information provided is true, accurate, and complete. This report must include:

(i) The specific condition(s) you failed to meet;

(ii) A description of the LLMW (including the waste name, hazardous waste codes and quantity) and storage location at the facility; and

(iii) The date(s) on which you failed to meet the condition(s).

(2) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

(b) We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of subpart N of this part.

§ 266.245 If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed?

(a) You may reclaim the storage and treatment exemption for your LLMW if:

(1) You again meet the conditions specified in § 266.230; and

(2) You send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:

(i) Explain the circumstances of each failure.

(ii) Certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify.

(iii) Describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future.

(iv) Include any other information you want us to consider when we review your notice reclaiming the exemption.

(b) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of § 266.230. In reviewing a reclaimed conditional exemption under this section, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

Recordkeeping

§ 266.250 What records must you keep at your facility and for how long?

(a) In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

(1) Your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;

(2) Records of your LLMW annual inventories, and quarterly inspections;

(3) Your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW including training in chemical waste management and hazardous materials incidents response; and

(4) Your emergency plan as specified in § 266.230(b).

(b) You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter, or in accordance with NRC regulations under 10 CFR part 20 (or equivalent NRC Agreement State regulations), whichever is longer. You must maintain records concerning your annual inventory and quarterly inspections for three years after the waste is sent for disposal, or in accordance with NRC regulations under 10 CFR part 20 (or equivalent NRC Agreement State regulations), whichever is longer.

Reentry Into RCRA

§ 266.255 When is your LLMW no longer eligible for the storage and treatment conditional exemption?

(a) When your LLMW has met the requirements of your NRC or NRC Agreement State license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant sections of 40 CFR parts 260 through 271, and the time period for accumulation of a hazardous waste as specified in 40 CFR 262.34 begins.

(b) When your conditionally exempt LLMW, which has been generated and stored under a single NRC or NRC Agreement State license number, is removed from storage, it is no longer eligible for the storage and treatment exemption. However, your waste may be eligible for the transportation and disposal conditional exemption at § 266.305.

Storage Unit Closure

§ 266.260 Do closure requirements apply to units that stored LLMW prior to the effective date of Subpart N?

Interim status and permitted storage units that have been used to store only LLMW prior to the effective date of subpart N of this part and, after that date, store only LLMW which becomes exempt under this subpart N, are not subject to the closure requirements of 40 CFR parts 264 and 265. Storage units (or portions of units) that have been used to store both LLMW and non-mixed hazardous waste prior to the effective date of subpart N or are used to store both after that date remain subject to closure requirements with respect to the non-mixed hazardous waste.

Transportation and Disposal Conditional Exemption

§ 266.305 What does the transportation and disposal conditional exemption do?

This conditional exemption exempts your waste from the regulatory definition of hazardous waste in 40 CFR 261.3 if your waste meets the eligibility criteria under § 266.310, and you meet the conditions in § 266.315.

Eligibility

§ 266.310 What wastes are eligible for the transportation and disposal conditional exemption?

Eligible waste must be:

(a) A low-level mixed waste (LLMW), as defined in § 266.210, that meets the waste acceptance criteria of a LLRWDF; and/or

(b) An eligible NARM waste, defined in § 266.210.

Conditions

§ 266.315 What are the conditions you must meet for your waste to qualify for and maintain the transportation and disposal conditional exemption?

You must meet the following conditions for your eligible waste to qualify for and maintain the exemption:

(a) The eligible waste must meet or be treated to meet LDR treatment standards as described in § 266.320.

(b) If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must manifest and transport your waste according to NRC regulations as described in § 266.325.

(c) The exempted waste must be in containers when it is disposed of in the LLRWDF as described in § 266.340.

(d) The exempted waste must be disposed of at a designated LLRWDF as described in § 266.335.

§ 266.320 What treatment standards must your eligible waste meet?

Your LLMW or eligible NARM waste must meet Land Disposal Restriction (LDR) treatment standards specified in 40 CFR part 268, subpart D.

§ 266.325 Are you subject to the manifest and transportation condition in § 266.315(b)?

If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must meet the manifest requirements under 10 CFR 20.2006 (or NRC Agreement State equivalent regulations), and the transportation requirements under 10 CFR 1.5 (or NRC Agreement State equivalent regulations) to ship the exempted waste.

§ 266.330 When does the transportation and disposal exemption take effect?

The exemption becomes effective once all the following have occurred:

(a) Your eligible waste meets the applicable LDR treatment standards.

(b) You have received return receipts that you have notified us and the LLRWDF as described in § 266.345.

(c) You have completed the packaging and preparation for shipment requirements for your waste according to NRC Packaging and Transportation regulations found under 10 CFR part 71 (or NRC Agreement State equivalent regulations); and you have prepared a manifest for your waste according to NRC manifest regulations found under 10 CFR part 20 (or NRC Agreement State equivalent regulations), and

(d) You have placed your waste on a transportation vehicle destined for a LLRWDF licensed by NRC or an NRC Agreement State.

§ 266.335 Where must your exempted waste be disposed of?

Your exempted waste must be disposed of in a LLRWDF that is regulated and licensed by NRC under 10 CFR part 61 or by an NRC Agreement State under equivalent State regulations, including State NARM licensing regulations for eligible NARM.

§ 266.340 What type of container must be used for disposal of exempted waste?

Your exempted waste must be placed in containers before it is disposed. The container must be:

(a) A carbon steel drum; or

(b) An alternative container with equivalent containment performance in the disposal environment as a carbon steel drum; or

(c) A high integrity container as defined by NRC.

Notification

§ 266.345 Whom must you notify?

(a) You must provide a one time notice to us stating that you are claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from your facility to a LLRWDF. Your dated written notice must include your facility name, address, phone number, and RCRA ID number, and be sent by certified delivery.

(b) You must notify the LLRWDF receiving your exempted waste by certified delivery before shipment of each exempted waste. You can only ship the exempted waste after you have received the return receipt of your notice to the LLRWDF. This notification must include the following:

(1) A statement that you have claimed the exemption for the waste.

(2) A statement that the eligible waste meets applicable LDR treatment standards.

(3) Your facility's name, address, and RCRA ID number.

(4) The RCRA hazardous waste codes prior to the exemption of the waste streams.

(5) A statement that the exempted waste must be placed in a container according to § 266.340 prior to disposal in order for the waste to remain exempt under the transportation and disposal conditional exemption of subpart N of this part.

(6) The manifest number of the shipment that will contain the exempted waste.

(7) A certification that all the information provided is true, complete, and accurate. The statement must be signed by your authorized representative.

Recordkeeping

§ 266.350 What records must you keep at your facility and for how long?

In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

(a) You must follow the applicable existing recordkeeping requirements under 40 CFR 264.73, 40 CFR 265.73, and 40 CFR 268.7 of this chapter to demonstrate that your waste has met LDR treatment standards prior to your claiming the exemption.

(b) You must keep a copy of all notifications and return receipts required under §§ 266.355, and 266.360 for three years after the exempted waste is sent for disposal.

(c) You must keep a copy of all notifications and return receipts required under § 266.345(a) for three years after the last exempted waste is sent for disposal.

(d) You must keep a copy of the notification and return receipt required under § 266.345(b) for three years after the exempted waste is sent for disposal.

(e) If you are not already subject to NRC, or NRC Agreement State equivalent manifest and transportation regulations for the shipment of your waste, you must also keep all other documents related to tracking the exempted waste as required under 10 CFR 20.2006 or NRC Agreement State equivalent regulations, including applicable NARM requirements, in addition to the records specified in § 266.350(a) through (d).

Loss of Transportation and Disposal Conditional Exemption

§ 266.355 How could you lose the transportation and disposal conditional exemption for your waste and what actions must you take?

(a) Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in § 266.315.

(1) When you fail to meet any of the conditions specified in § 266.315 for any of your wastes, you must report to us, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

(i) The specific condition(s) that you failed to meet for the waste;

(ii) A description of the waste (including the waste name, hazardous waste codes and quantity) that lost the exemption; and

(iii) The date(s) on which you failed to meet the condition(s) for the waste.

(2) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within 5 days.

(b) We may terminate your ability to claim a conditional exemption for your

waste, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of subpart N of this part.

§ 266.360 If you lose the transportation and disposal conditional exemption for a waste, can the exemption be reclaimed?

(a) You may reclaim the transportation and disposal exemption for a waste after you have received a return receipt confirming that we have received your notification of the loss of the exemption specified in § 266.355(a) and if:

(1) You again meet the conditions specified in § 266.315 for the waste; and

(2) You send a notice, by certified delivery, to us that you are reclaiming the exemption for the waste. Your notice must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. The notice must:

(i) Explain the circumstances of each failure.

(ii) Certify that each failure that caused you to lose the exemption for the waste has been corrected and that you again meet all conditions for the waste as of the date you specify.

(iii) Describe plans you have implemented, listing the specific steps that you have taken, to ensure that conditions will be met in the future.

(iv) Include any other information you want us to consider when we review your notice reclaiming the exemption.

(b) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of § 266.315. In reviewing a reclaimed conditional exemption under this section, we may add conditions to the exemption to ensure that transportation and disposal activities will protect human health and the environment.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 268

[FRL–6975–2]

RIN 2050–AE07

Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action finalizes the retention of the mixture rule and the derived-from rule in the Resource Conservation and Recovery Act (RCRA), with two revisions. The mixture and derived-from rules ensure that hazardous wastes that are mixed with other wastes or that result from the treatment, storage or disposal of hazardous wastes do not escape regulation and thereby cause harm to human health and the environment.

EPA is finalizing two revisions to the mixture and derived-from rules. These revisions would narrow the scope of the mixture and derived-from rules, tailoring the rules to more specifically match the risks posed by particular wastes. The first revision is an expanded exclusion for mixtures and/or derivatives of wastes listed solely for the ignitability, corrosivity, and/or reactivity characteristics. The second revision is a new conditional exemption from the mixture and derived-from rules for "mixed wastes" (that is, wastes that are both hazardous and radioactive).

DATES: These final regulations are effective on August 14, 2001.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–2001–WHWF–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the "Supplementary Information" section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412–9810 or TDD 703 412–3323.

For more detailed information on specific aspects of this rulemaking, contact Tracy Atagi, Office of Solid Waste 5304W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, 703–308–8672, *atagi.tracy@epa.gov*.

SUPPLEMENTARY INFORMATION: The index and many of the supporting materials are available on the Internet. You can find these materials at <http://www.epa.gov/epaoswer/hazwaste/id/hwirwste/index.htm>.

Affected Entities

Entities potentially affected by this action are generators of industrial hazardous waste, and entities that treat, store, transport and/or dispose of these wastes. This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action.

SIC code	NAICS code	List of potentially affected US Industrial Entities
Revision to 40 CFR 261.3 Definition of hazardous waste		
2800	32xxxx	Chemicals & allied products manufacturing.
2819	Five possible codes	Industrial inorganic chemicals manufacturing.
2821	325211	Plastics materials & resins manufacturing.
2833	325411	Medicinal chemicals & botanicals manufacturing.
2834	325412	Pharmaceutical preparations manufacturing.
2851	32551	Paints & allied manufacturing.
2869	Five possible codes	Industrial organic chemicals manufacturing.
2879	32532	Pesticides & agricultural chemicals manufacturing.
3089	Four possible codes	Plastics products manufacturing.
3241	32731	Hydraulic cement products manufacturing.
3479	Four possible codes	Fabricated metal coating & allied services
3711	Five possible codes	Motor vehicle & passenger car bodies manufacturing.
4212	562111 & 562112	Local trucking services (industrial waste shipment).
4953	Five possible codes	Refuse (industrial waste) treatment/disposal services.

SIC code	NAICS code	List of potentially affected US Industrial Entities
7389	36 possible codes	Business services.
7532	811121	Auto repair & auto paint shops.
9511	92411	Waste management.
9711	811121	National security (military bases).

Explanatory Notes:
(1) SIC= 1987 Standard Industrial Classification system (US Department of Commerce's traditional code system last updated in 1987).
(2) NAICS= 1997 North American Industrial Classification System (US Department of Commerce's new code system as of 1997).
(3) Refer to the Internet website *http://www.census.gov/epcd/www/naicsdev.htm* for additional information and a cross-walk table for the SIC and NAICS codes systems.

This table lists those entities that EPA believes could be affected by this action, based on industrial sectors identified in the economic analysis in support of this final rule. A total of about 120 entities are expected to benefit from the proposed revisions to 40 CFR 261.3 in the 17 industrial sectors listed above, but primarily in the chemicals and allied products sector (i.e., SIC code 28, or NAICS code 325). Other entities not listed in the table also could be affected. To determine whether your facility is regulated by this action, you should examine 40 CFR parts 260, 261 and 268 carefully in concert with the amended rules found at the end of this **Federal Register** document. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

ACRONYMS

Acronym	Definition
3MRA	Multimedia, Multipathway and Multireceptor Risk Assessment
APA	Administrative Procedures Act
BDAT	Best Demonstrated Available Technology
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
CMA	Chemical Manufacturers Association
CWA	Clean Water Act
DOT	Department of Transportation
EPA	Environmental Protection Agency
HSWA	Hazardous and Solid Waste Amendments of 1984
HWIR	Hazardous Waste Identification Rule
ICR	Information Collection Request
IRIS	Integrated Risk Information System
LDR	Land Disposal Restriction
LLMW	Low Level Mixed Wastes
LLRWDF	Low Level Radioactive Waste Disposal Facility
MACT	Maximum Achievable Control Technology
NPDES	National Pollution Discharge Elimination System
NRC	Nuclear Regulatory Commission (NRC)
NTTAA	National Technology Transfer and Advancement Act
OMB	Office of Management and Budget
ORD	Office of Research and Development
OIRM	Office of Information and Resources Management
OSW	Office of Solid Waste
OSWER	Office of Solid Waste and Emergency Response
PBMS	Performance Based Measurement System
QA/QC	Quality Assurance / Quality Control
RCRA	Resource Conservation Recovery Act
RFA	Regulatory Flexibility Act
RfD	Reference Dose
RfC	Reference Concentration
RIC	RCRA Docket Information Center
SBREFA	Small Business Regulatory Enforcement Fairness Act
TC	Toxicity Characteristic
TCLP	Toxicity Characteristic Leaching Procedure
TDD	Telecommunications Device for the Deaf
TSDF	Treatment, Storage, and Disposal Facility
UMRA	Unfunded Mandates Reform Act
UTS	Universal Treatment Standards

Outline

Background
I. What law authorizes these rules?
II. Which hazardous waste identification rules is EPA finalizing today?
III. What is the legal history of these rules?
IV. How do the final rules compare to those proposed on November 19, 1999?
V. When will the final rules become effective?
VI. What other changes to the hazardous waste identification rules is EPA continuing to pursue?

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VII. What were the major comments on retaining the mixture and derived-from rules, and how has EPA responded to them?
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B. Legality of the mixture and derived-from rules
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A. Eligibility of waste listed for the toxicity characteristic
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C. Eligibility of F003 solvents for this exclusion
D. Applicability of Land Disposal Restrictions (LDRs) to excluded wastes
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IX. What were the major comments on the revision to 40 CFR 261.3 for mixed wastes, and how has EPA responded to them?
X. What were the major comments on the proposals submitted by the Chemical Manufacturers Association (CMA), and how has EPA responded to them?
A. Expanding the current headworks exclusion
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XI. How will today's regulatory changes be administered and enforced in the States?
Administrative Requirements
XII. How has EPA fulfilled the administrative requirements for this rulemaking?
A. Executive Order 12866: Determination of Significance
B. Regulatory Flexibility Act
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E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
H. National Technology Transfer and Advancement Act of 1995
I. Executive Order 12898: Environmental Justice
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Technical Correction
XIII. What technical correction is EPA making in today's rulemaking?

Background

I. What Law Authorizes These Rules?

These rules are promulgated under the authority of Sections 2002(a), 3001, 3002, 3004, and 3006 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912(a), 6921, 6922, 6924, 6926.

II. Which Hazardous Waste Identification Rules Is EPA Finalizing Today?

Today, EPA is finalizing retention and revision of the mixture and derived-from rules, previously set forth in 40 CFR 261.3(a)(2)(iii), 261.3(a)(2)(iv) and 261.3(c)(2)(i), and proposed at 64 FR 63382 (November 19, 1999). The mixture and derived-from rules are a part of the RCRA rules that define which wastes are considered to be hazardous and therefore subject to RCRA Subtitle C rules. The mixture and derived-from rules identify as hazardous those wastes that originate from RCRA hazardous waste listed under 40 CFR part 261 (referred to as "listed hazardous wastes"). Under the mixture rule, a mixture of a solid waste with one or more listed hazardous wastes is a hazardous waste. Under the derived-from rule, any solid waste generated from the treatment, storage, or disposal of a listed hazardous waste remains regulated as a hazardous waste. These derived-from wastes include wastes such as sludges, spill residues, ash, emission control dust, and leachate generated from listed hazardous wastes.

The mixture and derived-from rules that are being finalized today include two revisions to these rules. For the first revision, we have narrowed the applicability of the derived-from rules by excluding derivatives of wastes listed solely for the characteristics of ignitability, reactivity, and/or corrosivity when they no longer exhibit any characteristic of hazardous waste. Mixtures of wastes listed solely for the characteristic of ignitability, reactivity, and/or corrosivity which no longer exhibit any characteristic of hazardous waste continue to be excluded under today's rules. In summary, under today's final rules, all wastes listed solely for an ignitability, reactivity and/or corrosivity characteristic (including mixtures, derived-from and as generated wastes) are excluded once they no longer exhibit a characteristic.

For the second revision, we are also finalizing a conditional exemption for certain low-level mixed waste (i.e., waste that is both radioactive and hazardous) from the mixture and derived-from rules, provided the mixed waste is handled in accordance with 40 CFR part 266, Subpart N. This Subpart, which is being published as a final rule elsewhere in today's **Federal Register**, explains the eligibility requirements for this exemption, and includes several conditions and requirements for the exempted waste.

III. What Is the Legal History of These Rules?

EPA promulgated the mixture and derived-from rules in 1980 as part of the comprehensive "cradle to grave" requirements for managing hazardous waste. 45 FR 33066 (May 19, 1980). Numerous industries that generate hazardous wastes challenged the 1980 mixture and derived-from rules. In December 1991, the D.C. Circuit Court of Appeals vacated the rules because they had been promulgated without adequate notice and opportunity to comment. *Shell Oil Co.* v. *EPA*, 950 F. 2d 741 (D.C. Cir. 1991). The court, however, suggested that EPA might want to consider reinstating the rules pending full notice and comment in order to ensure continued protection of human health and the environment.

In response to this decision, we promulgated an emergency rule reinstating the mixture and derived-from rules as interim final rules without providing notice and opportunity to comment. 57 FR 7628 (March 3, 1992). We also promulgated a "sunset provision" which provided that the mixture and derived-from rules would remain in effect only until April 28, 1993. Shortly after, we published a proposal containing several options for revising the mixture and derived-from rules. See 57 FR 21450 (May 20, 1992). The May 1992 proposal and the time pressure created by the "sunset provision" generated significant controversy. In response, Congress included in EPA's fiscal year (FY) 1993 appropriation several provisions addressing the mixture and derived-from rules. Public Law No. 102–389, 106 Stat. 1571. First, Congress nullified the sunset provision by providing that EPA could not promulgate any revisions to the rules before October 1, 1993, and by providing that the reinstated regulations could not be "terminated or withdrawn" until revisions took effect. However, to ensure that we could not postpone the issue of revisions indefinitely, Congress also established a deadline of October 1, 1994 for the promulgation of revisions to the mixture and derived-from rules. Congress made this deadline enforceable under RCRA's citizen suit provision, section 7002.

On October 30, 1992, we published two notices, one removing the sunset provision, and the other withdrawing the May 1992 proposal. (See 57 FR 49278, 49280). We had received many comments criticizing the May 1992 proposal. The criticisms were due, in a large part, to the very short schedule imposed on the regulation development process itself. Commenters also feared that the proposal would result in a "patchwork" of differing State programs because some states might not adopt the revisions. This fear was based on the belief that States would react in a negative manner to the proposal and refuse to incorporate it into their programs if finalized. Finally, many commenters also argued that the risk assessment used to support the proposed exemption levels failed to provide adequate protection of human health and the environment because it evaluated only the risks of human consumption of contaminated groundwater and ignored other pathways that could pose greater risks. Based on these concerns, and based on EPA's desire to work through the individual elements of the proposal more carefully, we withdrew the proposal.

Subsequently, a group of waste generating industries challenged the March 1992 action that reinstated the mixture and derived-from rules without change. *Mobil Oil Corp.* v. *EPA*, 35 F.3d 579 (D.C. Cir. 1994). The court rejected this challenge, holding that the fiscal year (FY) 1993 appropriations act made the challenge moot because it prevented both us and the courts from terminating or withdrawing the interim rules before we revised them, even if we failed to meet the statutory deadline for the revisions.

We did not meet Congress' October 1, 1994 deadline for revising the mixture and derived-from rules. In early October 1994, several groups of waste generating and waste managing industries filed citizen suits to enforce the October 1 deadline for revising the mixture and derived-from rules. Two of the cases were consolidated and a third was dismissed with the plaintiffs being added as intervenor to the consolidated cases. *Environmental Technology Council* v. *Browner*, C.A. No. 94–2119, 94–2436 (TFH) (D.D.C.). The U.S. District Court for the District of Columbia entered a consent decree resolving the consolidated cases. The consent decree, as subsequently amended, required the Administrator to sign a proposal to revise the mixture and derived-from rules by November 13, 1995 and a notice of final action on the proposal by February 13, 1997, and it also specified that the deadlines in the 1992 appropriations act do not apply to any rule revising the separate regulations that establish jurisdiction over media contaminated with hazardous wastes. On November 13, 1995, the Administrator signed the proposed Hazardous Waste Identification Rule to revise the mixture and derived-from rules, which was published in the **Federal Register** on December 21, 1995. (60 FR 66344). It proposed a set of exemption levels for hundreds of hazardous constituents, many of which were based on a complex multipathway risk assessment. The notice also proposed to revise the derived-from rule to exclude wastes listed because they exhibited the characteristics of ignitability, corrosivity and/or reactivity from the definition of hazardous waste, and solicited comment on the concept of providing a separate exemption for hazardous wastes mixed with low level radioactive wastes.

We received extensive comments, many critical, on the 1995 proposal, particularly with respect to the scientific risk assessment supporting the proposed concentration-based exemption from the mixture and derived-from rules. As a result of the comments, we concluded that considerable work needed to be done to resolve the complex scientific and technical issues raised. On April 11, 1997, the District Court entered an order amending the consent decree in *Environmental Technology Council* v. *Browner*. The amended decree provided us with additional time to perform further scientific risk assessment work and required us to ask for comment on specific issues. On November 19, 1999, we published a proposal requesting comment on revisions to the mixture and derived-from rules, and discussed and requested comment on the issues specified in the consent decree. Today's final rulemaking completes our legal obligation regarding revisions to the mixture and derived-from rules.

IV. How Do the Final Rules Compare to Those Proposed on November 19, 1999?

As we proposed, we are retaining both the mixture and derived-from rules, and the revisions to those rules that we are finalizing today are for the most part the same as those we proposed in November 1999. Our rationale and basis for today's final rulemaking is set forth in Sections VII, VIII, and IX of this preamble.

The first revision amends the regulations under 40 CFR 261.3 for wastes listed in 40 CFR part 261, subpart D solely because they exhibit a characteristic of hazardous waste. Under current regulations, such listed wastes as generated or treated are considered hazardous under RCRA Subtitle C, even when the waste does not exhibit a characteristic, unless they are delisted. However, mixtures are considered non-hazardous if the waste no longer exhibits any characteristic.

In the November 19, 1999 notice, we proposed to amend the scope of and expand the applicability of the current exclusion. The notice proposed a clarifying change to the scope of the exclusion to include those wastes listed in part 261, subpart D only for a characteristic of ignitability corrosivity, or reactivity. The notice also proposed to expand the applicability of the exclusion so all these materials would be excluded from hazardous waste regulation if they are decharacterized and meet the appropriate treatment standards. The notice stated that most of the currently regulated waste eligible for this exclusion is listed as F003, but would also include certain K-, P- and U-listed wastes (See 64 FR 63390–63391, November 19, 1999).

The exclusion applies when a generator determines that the waste, whether as generated or after treatment, does not exhibit any characteristic. This exclusion is self implementing, with no additional recordkeeping and reporting requirements.[1] EPA is finalizing this exclusion as it was proposed. With respect to the applicability of land disposal restrictions (LDR) in Part 268, EPA is clarifying that when a waste has been listed solely because it exhibits a characteristic of ignitability, corrosivity, and/or reactivity AND that waste does not exhibit any hazardous waste characteristic *at the point of generation*, then that waste is not subject to the LDR requirements. Wastes that are characteristic at the point of generation and then are subsequently decharacterized are still subject to LDR requirements. For information on the major public comments and EPA's responses and rationale for this exclusion, please see Section VIII of this preamble. For discussion of the LDR issue in particular, please see Section VIII.D.

The second revision to the mixture and derived-from rules involves mixed waste (i.e., wastes that are both hazardous and radioactive). Under this revision, mixed waste is conditionally exempt from the mixture and derived-from rules, provided the mixed waste is

[1] However, under 40 CFR 268.7(a)(7)(a) generator must still put a one-time notification in the facility files describing the waste generation, regulatory exclusion, and disposition of the waste(s). According to 40 CFR 268.7(a)(8), this notification must be kept for at least three years.

handled in accordance with 40 CFR part 266, Subpart N.

The regulatory language in 40 CFR part 266, Subpart N, which we are promulgating in a separate final rule published elsewhere today, conditionally exempts hazardous waste mixed with low-level radioactive wastes (low-level mixed wastes/LLMW) from the storage, treatment in tank, transportation, and disposal requirements of RCRA. In addition, hazardous waste mixed with Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM mixed waste) can be exempted from transportation and disposal requirements. The Nuclear Regulatory Commission (NRC) or its Agreement State licensed LLMW generators can store, or treat LLMW in storage tanks without RCRA Subtitle C permits if all exemption conditions are met. Treated LLMW or NARM mixed waste could be disposed at a low level radioactive waste disposal facility (LLRWDF) regulated by the NRC or its Agreement State if all exemption conditions are met. The rationale for conditionally exempting LLMW from the mixture and derived-from rules is the same as that for creating the conditional exemption from the RCRA regulatory definition of hazardous waste for LLMW.

We are largely finalizing the mixed waste exemption from the mixture and derived-from rules as proposed. However, to address public comments on the need for more clarity of this exemption, we have revised the regulatory language and have moved it to its own subsection (40 CFR 261.3(h)). As used in section 261.3(h), the term "eligible radioactive mixed waste" refers to hazardous waste containing radioactive waste that meets the eligibility criteria and conditions of part 266, subpart N. In addition, we have made some changes to the new Subpart N from what we proposed. Those changes are explained in the mixed waste final rule, published elsewhere in the **Federal Register** today. For information on the public comment regarding the exemption, and EPA's responses please see Section IX of this preamble.

V. When Will the Final Rules Become Effective?

Today's rules become effective August 14, 2001. Pursuant to section 3010(b)(1) of RCRA, the Administrator finds that the regulated community does not need six months to come into compliance with today's rulemaking, because today's action retains rules already in effect, and expands an exclusion that reduces regulatory burden.

VI. What Other Changes to the Hazardous Waste Identification Rules Is EPA Continuing To Pursue?

EPA continues to pursue an exemption from hazardous waste management that we discussed in the November 19, 1999 HWIR **Federal Register** notice (64 FR 63382). That exemption, also known as the Hazardous Waste Identification Rule (HWIR) exemption, would exempt listed hazardous wastes that meet chemical-specific exemption levels[2] from the definition of hazardous waste. The HWIR exemption would help address concerns that the mixture and derived-from rules result in over-regulation, since listed hazardous waste remains under Subtitle C jurisdiction regardless of constituent concentration or presence in the waste, either before or after treatment. This concern was exacerbated with the passage of HSWA in 1984. HSWA set Land Disposal Restrictions (LDR) requiring best demonstrated available technology (BDAT) treatment for all listed hazardous wastes prior to disposal. In cases where a specific listed wastestream contained relatively innocuous constituents, or very low concentrations, BDAT treatment requirements were felt to be overly protective, and unnecessarily expensive. The Agency believes that an HWIR exemption process would help reduce the potential over-regulation of low risk hazardous waste while, at the same time, reducing the time and resource burden on industry and government. An exemption process would also reduce the burden on the ongoing delisting program. In the 1995 HWIR proposal, we estimated cost savings ranging from $75 million to $99 million, based on exemption levels proposed at that time. Given that the modeling for exemption levels is undergoing major revision, it is not possible at this time to estimate the cost savings from a future constituent-based exemption.

We plan to develop the HWIR exemption levels based on results from the Multi-media, Multi-pathway and Multi-receptor risk assessment (3MRA) Model. The model evaluates simultaneous chemical exposures across several environmental media and multiple exposure pathways to human and ecological receptors in order to estimate the health and ecological effects in the vicinity of waste disposal units that may receive exempt listed hazardous waste. We presented the underlying methodology and assumptions for the 3MRA Model in the **Federal Register** (64 FR 63382, November 19, 1999). However, because of technical difficulties arising from the complexity of the modeling effort, we were unable to propose exemption levels in that notice. Since then, we have made numerous revisions to correct and improve the model.

On July 18, 2000, EPA made available in a Notice of Data Availability (NODA) the model results for 36 chemicals, using an updated version of the model (65 FR 44491). The NODA, and referenced background information placed in the docket, explained technical changes made to the model since the November 19, 1999 **Federal Register** notice. Finally, the NODA extended the comment period for the November 19, 1999 HWIR exemption discussion until October 16, 2000.

We are currently reviewing the public comments and will decide if further revisions to the HWIR risk assessment (3MRA) model are necessary. We also are continuing independent testing and external peer review of the HWIR risk assessment model.

In addition to the HWIR risk assessment, the November 19, 1999 **Federal Register** notice discussed options for implementing the HWIR exemption. We also plan to review the comments relating to implementation. Before using the revised risk assessment to support a final rulemaking on the HWIR exemption, we will publish a proposal to allow public comment on a unified package.

In another effort to better calibrate risk and regulatory standards, the Agency is also developing two targeted exemptions from the hazardous waste mixture and derived-from rules: one for certain solvents destined for wastewater treatment and discharge under the Clean Water Act, and another for slagged combustion residues from hazardous waste combustors. Other targeted exemptions are being assessed for later development (see Section X of this preamble for further discussion). We also plan to continue on-going efforts to streamline the existing delisting process.

Major Comments

VII. What Were the Major Comments on Retaining the Mixture and Derived-From Rules, and How Has EPA Responded to Them?

EPA received several dozen comments on the issue of retaining the mixture and derived-rules for both the 1995 and 1999 HWIR proposals. Below is a summary of three major issue areas raised in the comments, and EPA's responses. For more detailed comment responses, please see *Hazardous Waste Identification Rule: Revisions to the Mixture and Derived-From Rules Response to Comments Document.*

[2] An "exemption level" in this context is a specific chemical concentration. If all chemicals in a waste are below their exemption levels, then the waste would be considered non-hazardous.

A. Need for the Mixture and Derived-From Rules

(1)(a) Summary of the Comments on the Need for the Mixture and Derived-From Rules

EPA received comments from 38 commenters in response to both the 1995 and the 1999 HWIR proposals specifically concerning the necessity of the mixture and derived-from rules. Of those comments, 14 were received from industry, seven were from industry associations, eight were from State Agencies, five were from waste management companies, two were from waste management associations, one was from a Federal Agency and one was from a consultant.

The States and waste management associations supported the retention of the mixture and derived-from rules, while the industry commenters generally believed that the mixture and derived-from rules were unnecessary. A summary of the specific issues raised by commenters is provided below.

Twelve commenters explicitly supported the retention of the mixture and derived-from rules. Many of the State commenters said that the rules were necessary to capture mixtures and derivatives of listed hazardous wastes in the universe of regulated hazardous wastes in order to protect human health and the environment. The commenters noted that without these rules, it would be possible to alter a particular waste to the point that it no longer meets the listing description without detoxifying, immobilizing, or otherwise actually treating the waste. One industry association commenter also supported the retention of the mixture and derived-from rules, noting that although it is not a perfect solution, the approach has been used for the last 15 years in a generally effective manner.

One waste management association commenter also strongly supported the retention of the mixture and derived-from rules. The commenter believed the mixture and derived-from rules were necessary because they prevented many wastes that clearly were hazardous and that posed substantial threats to human health and the environment from escaping RCRA controls only because they are mixtures or derivatives that no longer fit an original listing description. The commenter noted that generators send their listed hazardous wastes to treatment facilities for initial treatment to reduce the toxicity and/or mobility of some, but not all, toxic constituents in the waste. The commenter also agreed that EPA's experience with delisting petitions further supported the rationale for the mixture and derived-from rules.

Twenty-six commenters did not support the retention of the mixture and derived-from rules. Some asserted that eliminating the derived-from rule would be a common sense reform of RCRA to reduce unnecessary over-regulation of many wastes. Many industry commenters and industry associations commented that the mixture and derived-from rules unnecessarily continue to regulate low-risk material resulting in significant waste management costs with no associated environmental benefit, thus also affecting the credibility of EPA. Several of the comments cited EPA's 1992 HWIR proposal, saying that "millions of tons of mixtures and derived-from residuals that must be managed as hazardous waste * * * may actually pose quite low hazards." (57 FR 21451, May 20, 1992). The Department of Defense acknowledged the need to retain the mixture and derived-from rules; however, the commenter noted that the mixture and derived-from rules have been a source of over-regulation for low-risk wastes.

Several commenters asserted that the mixture and derived-from rules have no continued viability, particularly in light of the technological advances that have developed since the rules were first promulgated in 1980. They noted that since 1980, the regulated community has made considerable improvements in the treatment, storage, and disposal of hazardous waste. In their view, the result is that the risks that formerly may have been associated with the management of hazardous waste have been reduced significantly or eliminated, such that the universe of waste that may have warranted Subtitle C regulation in 1980 has been reduced significantly. Six commenters agreed with the U.S. Court of Appeals observation in *Shell Oil Co.* v. *EPA*, 590 F.2d 741, 752 (D.C. Cir. 1991) that, "the derived-from rule becomes counterintuitive as applied to processes designed to render wastes nonhazardous. Rather than presuming that these processes will achieve their goals, the derived-from rule assumes their failure." Commenters also noted that the hazardous waste characteristics, particularly the Toxicity Characteristic, would continue to ensure proper management of high risk wastes under RCRA.

Several commenters stated that when compared to established standards, a waste material is either hazardous or it is not and it is not necessary to consider the origin of the material. The consultant noted that the mixture rule is completely unnecessary and isn't scientifically appropriate because if the compound or element in the waste needs to be controlled in a certain environment, it doesn't matter what the source is. Therefore, a regulation should set the limit for that environment for that compound or element and the mixture and derived-from rules should be eliminated. One commenter believed that the continued inflexible application of the mixture and derived-from rules has served only to bring to light the self-defeating complexity of the program.

(1)(b) EPA Response To Comments on the Need for the Mixture and Derived-From Rules

EPA acknowledges that the mixture and derived-from rules apply regardless of the concentrations and mobilities of hazardous constituents in the waste. We have implemented and will continue to pursue actions to reduce any overregulation of low-risk wastes arising from the mixture and derived-from rules. Nevertheless, EPA believes that retention of the mixture and derived-from rules are necessary to ensure protection of human health and the environment. When EPA determines that a waste should be listed as hazardous, we consider several different factors, including the toxicity of the chemicals in the waste, the persistence of those toxic chemicals, and the degree to which the chemicals bioaccumulate in the environment. As discussed below, the act of mixing a hazardous waste with another waste, or storing, treating, and disposing of that waste does not necessarily remove the hazard posed by these toxic chemicals. Under RCRA, EPA has an obligation to ensure that the risk posed by a hazardous waste is controlled from the cradle to the grave. Both the mixture and derived-from rules are needed to make sure that this obligation is carried out.

Concerns About Deliberate Evasion

When EPA originally promulgated the mixture and derived-from rules in 1980, one of our main concerns was that, without these rules, generators could deliberately evade regulation by taking advantage of a "loophole" in the hazardous waste identification process. (45 FR 33084, 33095 (May 19, 1980)). Specifically, we believed that without the mixture and derived-from rules, generators could potentially alter their waste so that it no longer meets the

listing description without detoxifying, immobilizing, or otherwise effectively treating the waste.

Despite the progress that has been made in environmental compliance in the past twenty years, this concern remains, and the comments of EPA's co-regulators, the State governments, echo this continuing concern. EPA agrees with those industry comments that claim many companies are more environmentally aware and responsible than they were in the past. However, there will always be some entities who might try and exploit gaps in the regulatory system. Absent the mixture and derived-from rules, there would be a potentially significant gap in the coverage of the hazardous waste listings.

For example, without a "mixture" rule, generators of hazardous wastes could potentially evade regulatory requirements by mixing listed hazardous wastes with other hazardous wastes or nonhazardous solid wastes to create a "new" waste that arguably no longer meets the listing description, but continues to pose a serious hazard. Similarly, without a "derived-from" rule, hazardous waste generators and hazardous waste treatment, storage, and disposal facilities (TSDFs) could potentially evade regulation by minimally processing or managing a hazardous waste and claiming that the resulting residue is no longer the listed waste, despite the continued hazards that could be posed by the residue even though it does not exhibit a characteristic. A hazardous waste regulatory system under which it could be argued that hazardous waste could leave the system as soon as it was modified to any degree by being mixed or marginally treated would be ineffective and unworkable. Such a system could act as a disincentive to adequately treat, store and dispose of listed hazardous waste.

In addition, as explained below, even if generators or TSDFs do not deliberately try to evade hazardous waste regulations, certain waste mixtures and derived-from wastes could pose substantial present or potential hazards if mismanaged. We, therefore, continue to believe that the mixture and derived-from rules are necessary to capture wastes that would pose unacceptable risks to human health and the environment.

Regulating Hazardous Waste Mixtures

Mixing hazardous waste with another waste may dilute, and sometimes mask, the concentrations of toxic constituents in the listed waste, but does not necessarily address the hazards posed by these constituents. Some of the comments focused on diluted wastewaters as an example of mixtures that are potentially "low risk." Of the "millions of tons" of waste that EPA estimated would be exempted under the 1995 HWIR proposal because they may pose low risks, 99% of the waste by volume is wastewater (60 FR 66415, December 21, 1995). Wastewaters are generally disposed either in an underground injection control well regulated under the Safe Drinking Water Act (SDWA)or to the environment under the Clean Water Act (CWA). Because discharged hazardous wastewaters must meet CWA standards, some commenters believe that these wastewater mixtures should be excluded from hazardous waste regulation prior to their discharge.

We have several concerns with this argument. The management of wastewater mixtures is already largely exempt from most RCRA requirements. The two main requirements that remain under RCRA are that the wastewaters must be managed in tanks, and the treatment sludge must be managed as a hazardous waste once removed from the tank. Continued management of these wastewaters in tanks is usually needed to avoid infiltration to groundwater of concentrations of toxic constituents that pose unacceptable risks. Even when they meet their CWA discharge limits, mismanaged wastes could pose unacceptable risks through the groundwater pathway, which is not addressed by the CWA. Sludges from wastewater treatment need to be managed as hazardous waste, because they can contain the same persistent and toxic chemicals (e.g., heavy metals) that originated in the wastewaters. Each of these points is discussed in more detail below.

RCRA section 1004(27) already excludes industrial wastewater discharges subject to CWA section 402 regulation from the definition of "solid waste" under RCRA. See also, 40 CFR 261.4(a)(2). In addition, wastewater treatment units, as defined in 40 CFR 260.10 (i.e., tanks), are excluded from almost all RCRA regulation (see 40 CFR 264.1(g)(6); 265.1(c)(10); and 270.1(c)(2)(v)). RCRA has historically deferred to the Clean Water Act and its oversight in properly regulating hazardous wastewaters discharged by CWA wastewater treatment systems or other point sources subject to CWA discharge requirements, including storage in wastewater treatment units prior to discharge. However, with the exception of sewage sludge, the CWA does not apply to sludges which are a byproduct of wastewater treatment. To the extent treatment of listed hazardous wastewaters generates sludges, those sludges are considered hazardous by the derived-from rule (as discussed below).

Furthermore, to the extent that additional hazards may be associated with wastewaters managed in such systems (including risks via inhalation pathway and risks via groundwater ingestion when treatment takes place in surface impoundments),[3] the Agency considers such wastes as hazardous and within RCRA jurisdiction until discharged. While wastewaters must meet CWA requirements at the point of discharge, they can still have high concentrations of constituents during the management of the waste.

Even after hazardous wastewaters have been treated to meet CWA standards, they could still have the potential to pose unacceptable risks to human health and the environment when managed in surface impoundments or other retention ponds (or otherwise managed on the land, i.e., during a spill) prior to discharge to the receiving water body. Both surface impoundments and retention ponds can have high potential for discharge of the wastewaters they contain to underlying groundwater (*see* RCRA sections 1002(b)(7) and 3005(j)). Discharge treatment requirements based on State water quality standards are calculated by taking the nature of the effluent and the receiving water body into account. An effluent treated to meet water quality standards for a surface water body could leach into groundwater, depending on the hydrogeology of the site, if subsequently held in a surface impoundment or retention pond prior to discharge. This leachate could undergo a lesser degree of dilution in groundwater than in the intended surface water body, potentially posing unacceptable risks to groundwater users through a drinking water well. This risk is not accounted for under the current federal CWA standards.[4] Therefore, EPA continues to believe that retaining

[3] The Revised Air Characteristic Study (EPA 530–R–99–019a) published August 1999 suggests that potential risks emanating from wastewaters managed in wastewater treatment tanks may be of regulatory concern and may represent a regulatory gap because of the existing exclusions for wastewater treatment units from control requirements.

[4] The current federal National Pollution Discharge Elimination System (NPDES) program under the CWA does not require permitting authorities to issue permits for discharges of wastewater to groundwater (See 40 CFR 122.1 and 122.2). The exception is those instances in which a discharge to surface water may occur via a hydrologic connection between a groundwater and surface water. In addition, some states have chosen to exceed federal program requirements and do issue such permits. *See also* U.S. EPA NDPES. Permit Writers' Manual, United States Environmental Protection Agency, Office of Water, December 1996. EPA–833–B–96–003.

jurisdiction over hazardous wastewaters under RCRA prior to their NPDES-permitted discharge is necessary to ensure protection of human health and the environment.

Another reason why these wastewaters should not be categorically designated as non-hazardous prior to discharge is because that would effectively exclude their treatment sludges as well (by avoiding the application of the derived-from rule).[5] As explained below in more detail, treatment sludges from these dilute wastes cannot be assumed to be low risk. In fact, treatment sludges can contain high levels of the very chemicals (e.g., heavy metals) that caused the original waste to be listed. In these cases, the hazard that was identified as the original basis of listing has not been removed; it has merely been transferred to another type of waste matrix (i.e., from a water to a solid).

In sum, EPA has excluded (through the wastewater treatment unit exclusions) hazardous wastewaters from regulation where we believe there is a reasonable basis to do so, grounded in the protection of human health and the environment, and the statute excludes from RCRA jurisdiction industrial wastewater discharges subject to CWA discharge permits. But based on the available data, EPA believes that a blanket wastewater exclusion from regulation is not warranted. Instead, EPA will continue to develop approaches (e.g., targeted exemptions and HWIR exemption levels) to address wastewaters that are be considered low risk.

Regulating Derived-From Wastes

As explained in 40 CFR 261.3(c)(2)(i), any solid waste derived from the treatment, storage, or disposal of a hazardous waste is also considered a hazardous waste. Specific examples of these derived-from wastes include sludges, spill residues, ash, emission control dust, and leachate. For derived-from wastes that change location but are otherwise unmodified, the question of their continued regulation is more straightforward. Because such waste would have the same levels of toxic constituents and presumably the same potential exposure patterns as the waste that was evaluated for the original hazardous listing determination, it would pose the same unacceptable risk as the original waste.

Other types of derived-from wastes may have a different physical form than the original waste, but still present the same chemical hazard. Leachate derived from the disposal of hazardous waste, for example, can contain the same chemicals as found in the original waste. When EPA analyzed leachate for purposes of promulgating effluent guidelines for landfill leachate (65 FR 3007, January 19, 2000), we found that wastewater generated as a result of a particular industrial operation can have a similar pollutant profile to leachate generated by a landfill receiving the bulk of their waste from that same operation (65 FR 3008, 3012, January 19, 2000). During treatment, chemicals in hazardous wastewater are transferred to the sludge, which is disposed of in the captive landfill. Once the sludge is disposed in a landfill, persistent chemicals in this sludge can then transfer to the leachate, which, when managed in a wastewater treatment unit, transfers them once more to sludge. Although changed in form, the treatment sludge (and leachate) could still pose similar unacceptable risks as the originally listed waste, depending on actual concentrations and exposure patterns.

We also found considerable differences between the leachate samples from hazardous and those from non-hazardous waste landfills in both numbers of constituents of concern and their concentrations. Hazardous waste landfill leachate contained a greater number of constituents than non-hazardous waste landfill leachate, and constituents found in both hazardous and non-hazardous waste landfill leachate were generally present in hazardous waste landfill leachate at concentrations an order of magnitude higher than those found in non-hazardous waste landfill leachate.[6] Absent a risk assessment, it is not possible to determine whether the levels of these constituents pose unacceptable risk. However, the presence of such constituents creates a continuing concern regarding leachate derived from hazardous waste.

The other broad category of derived-from waste are treatment residues. At least six commenters cited the D.C. Circuit Court of Appeals observation in *Shell Oil Co.* v. *EPA*, 590 F.2d at 752 that "the derived-from rule becomes counterintuitive as applied to processes designed to render wastes nonhazardous." However, the presumption that treatment always renders hazardous waste nonhazardous is overly simplistic. This presumption does not take into account all products of treatment. Even treatment that operates properly is often designed to isolate a hazardous residual. For example, wastewater treatment designed to produce a sufficiently clean effluent for discharge is also designed to move the hazardous constituents from the wastewater into the sludge. The resulting de-watered sludge, while much lower in volume than the original hazardous wastewater, has the potential to have much greater concentrations of hazardous chemicals. As explained above, once the sludge is disposed in a landfill, persistent chemicals in this sludge can then transfer to the leachate, which, when managed in a wastewater treatment unit, transfers them once more to sludge.

The derived-from rule thus ensures that the chemicals in the originally listed waste that are transferred to another matrix when the waste is managed remain under RCRA Subtitle C control. Without the derived-from rule, a hazardous wastewater could be treated so that hazardous constituents are moved to the sludge. If the generator could claim that the resulting sludge, regardless of chemical concentration, no longer meets the listing description, then that sludge could be handled as non-hazardous waste, and placed in an unlined industrial landfill, or sent to a land application unit.[7] The resulting leachate would not necessarily be collected. Instead, those chemicals that first caused the waste to be listed could potentially now enter the environment and, depending on the actual chemical concentrations and exposure patterns, could pose unacceptable risks.

Other types of treatment, which result in combining wastes with different chemical concentrations, can result in dilution of those chemicals, but may not adequately address the hazard they could pose. As mentioned earlier in the discussion on regulating mixtures, combining wastewaters for centralized treatment is often a legitimate treatment practice, but the diluting effect of such treatment does not address the transfer of persistent chemicals to the sludge.

Finally, treatment that reduces the amount of organic chemicals in a waste does not typically address the risk from

[5] These wastes would still be subject to the hazardous waste characteristics of 40 CFR Part 261, Subpart C, but, as explained later in this preamble section, such coverage would not address all the unacceptable risks potentially posed by the chemicals in these wastes.

[6] Development Document for Final Effluent Limitations Guidelines and Standards for the Landfills Point Source Category, EPA–821–R–99–019, U.S. EPA, January 2000.

[7] These wastes would still be subject to the hazardous waste characteristics of 40 CFR Part 261, Subpart C, but, as explained later in this preamble section, such coverage would not address all the unacceptable risks potentially posed by the chemicals in these wastes.

metals in the waste. For example, biological treatment and incineration, which are among the most aggressive forms of treatment, are designed to reduce or destroy organic chemicals. However, these types of treatment do not address heavy metals and may form chemical by-products (e.g., dioxins) that could pose unacceptable risks, if not managed properly. For example, baghouses on combustion devices serve to collect hazardous constituents that would otherwise be emitted to the air from the combustion process, and the dust that is removed from the baghouses predictably contains metals that were in the original waste. In response to industry comments, EPA will explore specific approaches for dealing with biological treatment residues and has already begun considering an alternative approach to address combustion residues (See Sections X.C. and X.D. of this preamble.) EPA will also continue to develop approaches (e.g., targeted exemptions and HWIR exemption levels) to exempt other waste streams that are currently captured by the derived-from rules but pose low risks.

Historic Information on Mixture and Derived-From Wastes

As we discussed in the 1999 proposal, EPA's experience with the delisting program further supports retaining the mixture and derived-from rules as a necessary part of hazardous waste identification. Generators can petition EPA under 40 CFR 260.22 to exclude a waste produced at a particular facility from the definition of hazardous waste. Such petitions must demonstrate that the waste does not meet any of the criteria for which it was listed nor has other attributes that might result in the waste being hazardous.

Over the 20-year period from 1980 through 1999, EPA reviewed over 900 petitions to delist wastes, and granted delistings to 136 waste streams generated at 115 separate facilities. Most of the petitions (i.e., more than 600) were withdrawn or mooted before the review was complete; 108 were denied. Most of these denials were based on lack of information. In at least 13 of the 36 cases where enough information is available in the source documentation to determine whether a waste was a mixture or derivative, we denied delisting petitions for mixtures or residuals of listed waste because risk analyses indicated that the toxicity and leaching potential of hazardous chemicals in those wastes posed unacceptable risk to human health. These mixture and derived-from wastes had potentially hazardous levels of a wide range of chemicals including barium, cadmium, chromium, lead, mercury, nickel, benzene, benzo(a)pyrene, cyanide, chloroform, 1,1-dichloroethane, 1,1-dichloroethylene, 2,4-dinitrotoluene, methylene chloride, trichloroethylene, and vinyl chloride.[8]

We have also identified possible damage cases associated with mixture and derived-from wastes. For example, there are Superfund sites that contain mixture and derived-from wastes (See 50 FR 658). We have identified at least twenty sites that may have involved the mismanagement of mixture and derived-from wastes.[9] The sites identified include cases of extensive contamination of soils and groundwater with metals (e.g., arsenic, lead, mercury), cyanide, and organics (e.g., benzene, toluene, and xylenes). It is very difficult to identify the full range of damage cases that specifically involve waste mixtures or derivatives since neither EPA nor other parties track or categorize waste based on its status under the mixture or derived from rules.

The legislative history of RCRA also provides examples of damage cases caused from disposal of mixture and derived-from hazardous wastes. In introducing the purpose of Subtitle C, the House Committee on Interstate and Foreign Commerce cited seven pages of damage cases, stating, "The most effective way of illustrating the dangers of improper hazardous waste disposal is perhaps to cite actual instances of damage caused by current hazardous waste disposal practices. The following section is merely illustrative of the problem. Far more cases could be cited, even more have gone unreported." H.R. Rep. No. 94–1491 (94th Cong. 2d Sess. 1976) 17–23. Of the 59 instances described in the House Committee Report, at least 40 involved spills, leachate or runoff from landfills, lagoons or waste storage facilities. Leachate and run-off are derived-from wastes, as are spills from storage and disposal facilities, and some of the sources contained mixtures of hazardous and non-hazardous solid wastes.

Intrinsic Chemical Properties of RCRA Hazardous Waste "Mixtures" and "Derived-From" Wastes

We also analyzed the information in EPA's National Hazardous Waste Constituent Survey (NHWCS) Database to assess the intrinsic physical and chemical properties of RCRA hazardous waste "mixtures" and "derived-from" wastes. The purpose of the NHWC Survey was to collect descriptive information about the identity and measured concentrations of chemical constituents contained in RCRA hazardous wastes. The NHWCS was a one-time, voluntary participation mail survey we administered in 1996, providing a single-year "snapshot" of the intrinsic physical and chemical properties of RCRA hazardous wastes. It is EPA's most comprehensive and current database about hazardous waste constituents. We benchmarked the 1996 survey to data already collected in our 1993 Biennial Reporting System (BRS) database—which contains data provided by the 1993 universe of RCRA hazardous waste large quantity generators—by pre-loading survey questionnaires with the known 1993 BRS data for the NHWC survey facilities, and asking facilities to verify the known BRS data, as well as to provide new data about the known chemical constituents in the RCRA hazardous wastes they managed (constituent data are not contained in the BRS database). This analysis is presented as a technical supplement to this rulemaking for purpose of public understanding of the intrinsic nature of these two groups of wastes, which we currently regulate as RCRA hazardous. This supplemental analysis corroborates the substance of our proposed rule (64 FR 63382–63461, Nov. 19, 1999).

Although the survey results apply to a subset of the total universe of waste and should not be extrapolated to the larger universe of RCRA hazardous waste generators, the information provides valuable insight into the types and levels of chemicals that could be present in such wastes. A large number of waste streams captured in the NHWCS were identified by their generators as mixtures of solid waste and hazardous waste or derived-from hazardous wastes. The analysis revealed that potentially hazardous chemical constituents, have been and can be present in wastes mixed with or derived-from, RCRA hazardous wastes. Although this analysis is not a quantitative risk assessment, this conclusion is supported by the presence of persistent, bioaccumulative, and toxic (PBT) chemicals in these two waste groups, some of which are at relatively high concentrations. Consequently, we continue to be concerned about the potential risks posed by the mismanagement of RCRA hazardous waste "mixtures" and "derived-from" wastes.

For more information about this analysis, please see the background document *Analysis of RCRA "Mixtures and Derived-from" Hazardous Waste Constituent Data*, which is available to the public from the RCRA Docket. The NHWCS database is available to the public via the Internet at *http://www.epa.gov/epaoswer/hazwaste/id/hwirwste/economic.htm*.

Regulatory Coverage by the Toxicity Characteristic

EPA also does not agree with comments that the mixture and derived-from rules are not necessary because the Toxicity Characteristic (TC) provides regulatory coverage of these wastes. The TC currently sets regulatory levels for only 40 chemicals. (see 40 CFR 261.24). On the other hand, the hazardous waste listings are based on hundreds of different chemicals. (see Appendix VII to 40 CFR Part 261). In addition, the TC levels are the result of laboratory analyses to predict whether a waste is likely to leach chemicals into groundwater at hazardous levels, not the result of a comprehensive risk assessment. Depending on the actual constituents in a waste and their concentrations, wastes with constituents that fall below TC levels can still pose unacceptable risks to human health and the environment if mismanaged. (55 FR 11799). EPA has listed wastes based on the presence of constituents below the TC levels. For example, in the final listing decision for spent hydrotreating and hydrorefining catalysts from refinery operations, we analyzed the potential risk from arsenic and benzene using input leachate concentrations capped at TC regulatory levels. The results of this analysis suggested unacceptable risks posed by these wastestreams from concentrations below the TC regulatory levels (63 FR 42154). The mixture and derived-from rules are necessary for capturing such wastes that could pose unacceptable risks from chemicals without TC levels and for risks not addressed by the TC approach.

Conclusion

When EPA determines that a waste is capable of posing a hazard to human health or the environment when improperly managed, that determination is based on consideration of several different factors, including the toxicity, persistence, degradability in nature, the potential of chemicals to bioaccumulate in tissue, flammability, corrosiveness, and other hazardous characteristics and related factors. The act of mixing, storing, disposing or even treating the waste does not guarantee removal of the hazard posed by these chemicals, nor does it remove EPA's obligation to ensure that the hazards presented by the waste continue to be controlled from the cradle to the grave, even when it is transferred to another waste matrix. Nevertheless, EPA will continue to develop approaches to exempt low-risk wastes from full Subtitle C regulation, as appropriate. Since the original promulgation of the mixture and derived-from rules, we have invited suggestions as to better ways of handling the difficult issues associated with the mixing, treating, storing, disposing, and otherwise managing waste following its generation. See 45 FR 33095 (May, 19, 1980). We have considered and are continuing to pursue suggestions for targeted exemptions (e.g., the CMA suggestions discussed at Section X of the preamble) as well as a risk-based exit level approach to identifying low-risk wastes.

B. Legality of the Mixture and Derived-From Rules

EPA received comments in response to both the 1995 and 1999 HWIR proposals on RCRA Subtitle C jurisdiction over mixtures and derivatives from the management of listed hazardous wastes. Of the 42 commenters who specifically commented on the statutory authority for these rules, 38 were received from industry (including utilities and trade associations), two were from waste management companies, one was from a waste management association and one was from an individual commenter. Almost all these comments expressed the view that EPA lacked statutory authority to promulgate these rules, although other commenters who generally supported retention of the mixture and derived-from rules expressed the view that these wastes are properly under RCRA Subtitle C jurisdiction.

The waste management association agreed that EPA had statutory authority under RCRA to promulgate the mixture and derived-from rules in 1980, and that EPA also had ample authority to retain the basic rules now without change. The commenter, citing *Shell Oil Corp.* v. *EPA*, believed that the rules were consistent with EPA's legal authority under RCRA section 3001 to determine when wastes are hazardous based on listing criteria, and under RCRA sections 3002–3004 to impose regulatory standards until wastes have ceased to pose a hazard to the public.

As noted, most commenters expressed the view that EPA is acting beyond its statutory authority by retaining the mixture and derived-from rules. These comments asserted three main points: (1) Mixture and derived-from wastes do not meet the statutory definition of hazardous under RCRA section 1004(5); (2) EPA has not met the requirements under section 3001, 42 U.S.C. Section 6921 and 40 CFR 261.10 and 261.11 for designating wastes as hazardous; and (3) EPA has no authority under sections 3002–3004 of RCRA to designate wastes as hazardous. A summary of each of these specific issues raised by commenters, and EPA's response to these issues, is provided below. For more information on these comments and EPA' responses, please see *Hazardous Waste Identification Rule: Revisions to the Mixture and Derived-From Rules Response to Comments Document.*

(1)(a) Comment: Mixture and Derived-From Wastes Do Not Meet the Statutory Definition of Hazardous Under RCRA Section 1004(5)

Numerous commenters from industries, industry associations, utility companies, utility company associations and waste management companies generally believed that the mixture and derived-from rules were too broad and swept in many wastes which did not meet the statutory definition of hazardous wastes, and that the derived-from rule in particular was not supported by statutory authority. One commenter even felt that the derived-from rule was a "legal fiction" because treatment residuals must be managed as if the treatment had not occurred. Commenters noted that EPA only was authorized under the Resource Conservation and Recovery Act (RCRA) to designate as hazardous waste those solid wastes that EPA determined may (1) cause, or significantly contribute to an increase in mortality or serious illness, or (2) pose a substantial present or potential hazard to human health or the environment when improperly managed (RCRA section 1004(5), 42 U.S.C. 6903(5)). Commenters expressed the view that EPA can regulate under Subtitle C only those solid wastes that EPA determined pose substantial hazards per the language in Section 1004(5) of RCRA. Many commenters also noted that, in their view, many of these wastes pose minimal or no threat to the environment and public health. The majority of these commenters believed that EPA made no attempt to demonstrate that derived-from wastes met the statutory definition of hazardous waste. Instead, these commenters believed EPA simply drew conclusions that these materials were

[8] U.S. EPA *Evaluation of Hazardous Waste Delisting Program*, December 2000; and *Analysis of the Delisting Petition Data Management System*, U.S. EPA, September 1998). EPA Docket 99–WH2P–FFFFF.

[9] EPA 2000. *Releases of Hazardous Constituents - Associated with Mixture and Derived-from Wastes (An Update)* U.S. EPA, April 2000.

hazardous waste, even though many derived-from wastes had not met the statutory definition of hazardous waste. They also noted that EPA has admitted that many derived-from wastes pose little risk to human health or the environment. Therefore, they claim that the derived-from rule was not a legally valid approach to regulating materials that result from the management of hazardous waste.

(1)(b) EPA Response

While we agree that the mixture and derived-from rules capture some waste that may actually pose quite low hazard, we have implemented and continue to pursue approaches (such as today's revisions) to exclude such waste from full Subtitle C regulation. Nevertheless, these rules are a necessary component of cradle-to-grave waste management, to protect human health and the environment from unacceptable risks. EPA does not agree with comments that mixtures and derivatives do not meet the definition of "hazardous waste" in section 1004(5) of RCRA, nor do we agree that Congress did not intend these wastes to be regulated under Subtitle C of RCRA.

The definition of hazardous waste is a broad definition which encompasses solid wastes or combinations of solid wastes which, because of their "quantity, concentration, or physical, chemical, or infectious characteristics may * * * pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed." Because they originate from waste that has already been determined to be hazardous, EPA has a reasonable basis to conclude that mixtures and derivatives could also pose a potential or present hazard to human health or the environment if not properly managed. The original listing of the waste already establishes the reasons, i.e., the "quantity, concentration, or physical, chemical, or infectious characteristics" for having identified the listed waste as hazardous. It is reasonable to conclude, without information to the contrary, that both mixtures and derivatives of such wastes may pose a substantial potential or present hazard to human health or the environment if not properly managed, and therefore fall under the definition of hazardous waste in RCRA section 1004(5).

Nothing in the section 1004(5) definition of hazardous waste requires EPA to prove that every member of a category of waste poses a hazard. In fact, many waste listings describe categories or "classes" of hazardous wastes because they cover a range of materials that are not identical in composition.

EPA also does not agree with commenters' assertion that wastes derived from the treatment, storage, or disposal of listed hazardous wastes in particular do not meet the section 1004(5) definition. As explained in section VII.A.2, residuals from the treatment of hazardous wastes can contain higher concentrations of the chemicals that led to the hazardous waste listing in the first place, and therefore may pose a present or potential hazard to human health or the environment if improperly managed. Indeed, the objective of many forms of treatment is precisely to isolate and collect hazardous constituents, often in concentrated form, for further management. For example, de-watering of waste, e.g., to make it easier to transport, is a form of treatment that often does not significantly change the character of the waste other than to leave it in a more compact and concentrated form. At the more aggressive end of the treatment spectrum, baghouses on hazardous waste combustion devices collect hazardous constituents that would otherwise be emitted to the air from the combustion process, creating dust that predictably contains any metals that were in the original wastes as well as products of incomplete combustion. Congress specifically expressed concern in RCRA about treatment residues created by federal and state pollution control laws, RCRA 1002(b)(3). The potential for persistent hazardous constituents in treatment residues and the Congressional findings in the RCRA statute support EPA's conclusion that residuals from the treatment, storage and disposal of listed hazardous waste may pose a substantial present or potential hazard.

EPA acknowledges that not all mixtures and derivatives pose hazards to human health and the environment (see, e.g. 57 FR 21451). There are mechanisms to address this fact, and we are continuing to pursue approaches to exempt low-risk wastes. First, RCRA and EPA regulations provide for the delisting of listed hazardous waste. RCRA 3001(f); 40 CFR 261.20 and 40 CFR 261.22. Since the federal delisting program took effect in 1980, EPA has excluded an estimated 45 million tons of waste, resulting in an estimated cumulative cost savings between $1.1 billion and $1.3 billion dollars (in 1999 dollars). In 2000 alone, we estimate cost savings of approximately $105.4 million.[10] In the 1995 HWIR proposal, EPA stressed the continued need for the delisting program, although we also acknowledged that it had not provided an efficient solution to the regulation of low-risk wastes. However, as discussed in Section VIII.C of this preamble, since the delisting program was delegated to the EPA Regions on October 10, 1995, a number of innovations have been adopted that have greatly improved the efficiency and effectiveness of the delisting program. EPA will continue these efforts and others in order to keep improving the delisting process.

In addition, as EPA has identified specific mixtures and derived-from wastes which no longer meet the definition of hazardous waste, and has therefore established a number of exclusions in 40 CFR 261.3. Currently, there are over a dozen types of hazardous waste mixtures and residuals excluded or conditionally exempted under section 261.3. See the "Table of Revisions to 40 CFR 261.3" in Section VII.C.2 of this notice for a list of these exclusions. This is in addition to other exclusions and conditional exclusions set forth in 40 CFR 261.4 as well in other parts of the hazardous waste regulations.

Furthermore, as discussed in Section VI of this notice, EPA is continuing work to develop exit levels for listed hazardous wastes, so that listed wastes can become "delisted" automatically, under a self-implementing procedure. But, as also explained in Section VI of this notice, that is a complex undertaking and, despite best efforts, EPA is not able at this time to propose a technically supported concentration-based exemption.[11] Also, as explained in Section X of this preamble, we are also investigating and will actively pursue other specific exemption proposals.

EPA continues to believe, as it did in 1980, that it would be virtually impossible to try to identify all possible waste mixtures and treated wastes and assess their hazards individually. EPA's rule reasonably retains jurisdiction over both broad classes and places the burden of proof on the regulated community to show that a particular waste has ceased to present a hazard.

Even if all listed hazardous waste mixtures and derivatives could not be

[10] U.S. EPA *Evaluation of Hazardous Waste Delisting Program*, December 2000.

[11] Congressional report language accompanying EPA's FY 2001 appropriations act directs EPA to submit the HWIR model to an independent peer review, and respond publicly to the findings of the peer review prior to using it to establish regulatory determinations. S. Rep. No. 106–410 at 90 (2000)). EPA is currently in the process of preparing for that peer review.

said to meet the statutory hazardous waste definition, at the very least it is reasonable and consistent with RCRA to *presume* that mixtures and derivatives of listed hazardous wastes remain hazardous under the definition, unless that presumption is rebutted through the delisting process. As discussed further in the next section, Congress established clear standards for hazardous waste identification, but did not speak specifically to the issue of the circumstances under which mixtures and derivatives of listed hazardous wastes should be regulated. Under these circumstances, EPA must interpret and implement the statute in a way that effectuates the statutory objectives. The mixture and derived-from rules are the only implementation approach that EPA is aware of at this time that effectuates the protective purposes of RCRA.

(2)(a) Comment: EPA Has Not Met the Requirements Under Section 3001, 42 U.S.C. 6921 and 40 CFR 261.10 and 261.11 for Designating Wastes as Hazardous

These commenters also disagreed with EPA's claim of authority under section 3001 (60 FR at 66348, 64 FR 63390). The commenters believed that EPA had not followed the required procedures or made the findings required by RCRA to identify "mixture and derived-from wastes" as hazardous. They noted that sections 3001(a) and (b) outline a two-step process for classifying wastes as hazardous. EPA first must specify criteria to determine if the waste is "hazardous," 42 U.S.C. 6921(a), which is defined as presenting a substantial present or potential hazard to human health or the environment 42 U.S.C. 6904(5). Once the criteria are established—as they have been in 40 CFR 261.10 and 261.11—the commenters stated that EPA must apply these criteria to identify a characteristic of hazardous waste or to list a waste as hazardous. In these commenters' view, the mixture and derived-from rules identify a broad class of wastes as hazardous without regard to the criteria established by EPA. Also, they noted that the proposal did not discuss how mixtures and derived-from wastes pose a substantial present or potential threat to human health or the environment, nor did EPA discuss concentration levels, mobility, persistence, or any other objective factors of hazardousness that are listed in the statute or the regulations.

In addition, numerous commenters from industries, industry associations, utility companies and utility company associations disagreed with EPA identifying mixture and derived-from wastes as a "class" under 40 CFR 261.11 (60 FR at 66348, 64 FR at 66390). They believed that such identification required a finding that EPA had reason to believe that individual wastes within the class "typically or frequently are hazardous" under the definition at RCRA section 1004(5) (see 40 CFR 261.11(b)). Commenters noted that EPA's own longstanding practice was that, in a class-wide listing determination, "typically or frequently" meant that more than 50 percent of the samples taken from that class exhibited some or all of the 40 CFR 261.11(a) criteria (see, *e.g.*, 56 FR 48020, Sept. 23, 1991 and 45 FR 33114, May 19, 1980). The commenters stated that EPA historically has required that samples of a waste class contain concentrations of toxic constituents at 100–1000 times specified health-based numbers to be considered as posing a "substantial hazard" under 40 CFR 261.11(a)(3) (see, *e.g.*, 56 FR. 48018, Sept. 23, 1991 and 57 FR 21453, May 20, 1992). They noted that EPA generally requires that wastes typically and frequently contain toxic constituents at "many times" health-based levels and that such constituents be mobile and persistent. The current proposal made no reference to these prior practices, nor did it offer evidence that EPA collected or analyzed any samples or otherwise attempted to demonstrate that 50 percent—or any substantial percentage—of mixtures or treatment residues met any of the specific criteria of § 261.11(a). Also, they commented that the proposal offered nothing responsive to the 100–1000 times health-based numbers requirement. In addition, they noted that the class must have "sufficient uniformity" to apply the criteria in 40 CFR 261.11 (45 FR 33114). The commenters felt that it was obvious that the class of mixture and derived-from wastes was anything but uniform, a point admitted by EPA (45 FR 33095–96, "the potential combinations of listed wastes and other wastes are infinite"). Therefore, the class did not have the requisite uniformity needed to be classified as hazardous.

(2)(b) EPA Response

EPA does not agree with comments that the Agency lacks statutory authority under RCRA Section 3001 for either the mixture rule or the derived-from rule. We have the statutory authority to promulgate these rules as part of the authority to "develop and promulgate criteria for identifying the characteristics of hazardous waste and for listing hazardous waste." Among the criteria are the provisions of 40 CFR 261.3, which provide generally applicable criteria for the identification of hazardous waste. The mixture and derived-from rules are included in section 261.3(a)(2), which states that a solid waste is a hazardous waste if "[i]t meets any of the following criteria." These rules ensure that listed hazardous wastes that are mixed with other wastes or treated in some fashion do not escape regulation as hazardous waste until EPA has made some determination that they no longer threaten human health or the environment. This section also includes the exclusions from the definition of hazardous waste, including those promulgated today, where EPA has made specific findings on the record that the excluded wastes are no longer hazardous under the criteria set forth in the exclusions. We will continue to pursue additional approaches to exempt low-risk wastes, as appropriate.

The commenters' position rests largely on the assumption that mixtures and derivatives of wastes are entirely new and distinct substances from the originally listed waste, leading to the apparent conclusion that EPA must make a separate, record-based finding of hazardousness for each of the infinite variations of mixtures and derivatives generated from the wastes EPA has listed. EPA disagrees. In upholding the "contained-in policy," the U.S. Court of Appeals for the D.C. Circuit deferred to EPA's conclusion that a listed hazardous waste cannot be presumed to change character when it is mixed with an environmental medium. *Chemical Waste Management* v. *EPA*, 869 F.2d 1526, 1539 (1989). We believe that the same reasoning applies to the mixture rule. Similarly, as discussed in Section VII.A.2, waste management residuals can contain constituents from the originally listed waste at even higher concentrations than the original waste and, therefore, may pose a hazard. Indeed, EPA views the mixture and derived-from rules as applications of the general principle that "a hazardous waste will remain a hazardous waste" unless it is excluded through a regulatory process. 40 CFR 261.3(c)(1). *See Chemical Waste Management*, 869 F.2d at 1539 (upholding contained-in policy as interpretation of § 261.3(c)(1)).

EPA's approach is consistent with Congress' intention that hazardous waste be regulated for the long term under a comprehensive regulatory program. One of the findings upon which the 1976 RCRA legislation was based was that "hazardous waste presents, in addition to the problems associated with nonhazardous solid waste, special dangers to health and requires a greater degree of regulation than does nonhazardous solid waste."

Public Law No. 94–580, section 1002(5). With enactment of the Hazardous and Solid Waste Amendments (HSWA) in 1984, Public Law No. 98–616, Congress strengthened that provision and added three more findings: "the placement of inadequate controls on hazardous waste management will result in substantial risks to human health and the environment; if hazardous waste management is improperly performed in the first instance, corrective action is likely to be expensive, complex , and time consuming; certain classes of land disposal facilities are not capable of assuring long-term containment of certain hazardous wastes * * *". RCRA section 1002(b)(5), (6), (7). Similarly, when RCRA was enacted in 1976, Congress stated one of the objectives of the Act was "regulating the treatment, storage, transportation, and disposal of hazardous wastes which have adverse effects on health and the environment." Public Law No. 94–580, 1003(a)(4). This provision too was replaced with a stronger statement by HSWA, that an object of the statute is "*assuring* that hazardous waste management practices are conducted in a manner which protects human health and the environment." (Emphasis added.) RCRA 1003(a)(4). Further, HSWA added as national policy that hazardous waste "should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment." RCRA 1003(b). It is clear that Congress' principal objective under Subtitle C was protecting against threats to human health and the environment caused by hazardous waste. We acknowledge that such a goal does not imply that all mixtures and derived-from wastes must be regulated under full Subtitle C requirements, regardless of the potential risks they pose, but we believe that it is reasonable to regulate these wastes until it is shown that such wastes do not pose a hazard.

The D.C. Circuit Court of Appeals has characterized RCRA as establishing "a "cradle-to-grave" regulatory structure overseeing the safe treatment, storage and disposal of hazardous waste." *United Technologies Corp.* v. *EPA*, 821 F.2d 714, 716 (D.C. Cir. 1987). The mixture and derived-from rules are a necessary part of this approach, by maintaining jurisdiction over mixtures and derivatives of already listed waste. Without these rules, as explained in Section VII.A.(2), the "cradle-to-grave" structure would have a major loophole, undermining the objectives of RCRA.

The delisting provision supports the mixture and derived-from rules as a means to address wastes that could pose unacceptable risks. In amending RCRA section 3001 in 1984, Congress enacted subsection (f) to require the Agency to "consider factors (including additional constituents) other than those for which the waste was listed" if the Agency "has a reasonable basis to believe that such additional factors could cause the waste to be a hazardous waste." The legislative history shows that Congress was concerned that both as generated wastes and wastes resulting from treatment were exiting the Subtitle C system while still hazardous. "The delisting process allows petitioners (usually individual hazardous waste generators or treatment facilities) the opportunity of showing that their wastes are significantly different—because of treatment, or because they are generated in a different process—from listed wastes of the same type. * * * Under this amendment, there would no longer be a risk that delisting a waste means releasing waste which may still be hazardous from regulation." H.R. Rep. No. 98–198 Part I (May 17, 1983). Congress made this change because it believed that under its previously existing delisting regulations, EPA allowed wastes that remained hazardous to exit the Subtitle C system. S.-Rep. No. 98–284 (Oct. 28, 1983). The language and legislative history reflect Congress' assumption that treatment derivatives from listed wastes *would* remain subject to Subtitle C absent a delisting.

The land disposal restrictions (LDR) provisions of the statute further demonstrate that the mixture and derived-from rules are consistent with Congress' intent. The statute authorizes EPA to promulgate regulations establishing levels or methods of treatment, "if any," that substantially diminish the toxicity or mobility of the hazardous waste, and provide that the waste may thereafter be disposed of in a land disposal facility that "meets the requirements of [Subtitle C]." RCRA section 3004(m). This section demonstrates two things. (1) Congress contemplated the possibility that there may be hazardous wastes for which no form of treatment would be adequate; and (2) Congress assumed that waste that was treated according to the promulgated treatment standards would nonetheless still be disposed of in a Subtitle C (hazardous waste) facility. This provision is at odds with the commenters' assertion that, once treated, a hazardous waste becomes a fundamentally different waste and is unregulated unless EPA undertakes a separate rulemaking to list the treated waste.

Other provisions of the 1984 amendments to RCRA relating to land disposal provide further support for the mixture and derived-from rules. See, e.g., section 3004(o) (establishing minimum technological requirements for land-based hazardous waste management units); section 3004(p) (establishing groundwater monitoring requirements); section 3005(c)(3) (requiring 5-year permit reviews for land disposal facilities); section 3005(e)(2), (3) (establishing interim status termination dates for certain non-compliant land disposal facilities); section 3005(i), (j) (establishing specific additional requirements for certain land-based units); section 1002(b)(7) (finding that certain classes of land disposal facilities are not capable of assuring long-term containment). Some commenters suggest that treatment residuals from listed hazardous wastes do not remain hazardous. We believe it is unlikely Congress would have created such stringent requirements for land disposal, if it intended for treatment residuals to escape Subtitle C regulation.

Taken to the extreme, the view that mixtures containing listed wastes should not be regulated as hazardous wastes would imply that most listed hazardous wastes, even if they reached a management unit in "pure" form, would cease to be hazardous once they entered the unit, since most units contain mixtures of different wastes. However, the RCRA statute clearly assumes that units would not only receive, but continue to contain, hazardous waste. See, e.g. section 3005(j)(11) and (12)(A), Moreover, the comprehensive requirements mandated for hazardous waste management units, including the technical standards of section 3004 and the permitting regime of section 3005, could be undermined if facilities receiving listed hazardous wastes could argue that their management units are subject to this scheme only as long as they are receiving the waste, but that they become exempt thereafter since the units do not contain hazardous waste.

Various provisions in RCRA appear to contemplate that at least some hazardous waste mixtures and derivatives would themselves be hazardous. See, e.g., section 3004(d)(2)(A), (B) (addressing liquid hazardous wastes, "including free liquids associated with any solid or sludge," suggesting that liquid derivatives of hazardous waste would themselves be hazardous). Another example is the language in section 3005(b), which requires permit applicants to provide information regarding hazardous wastes and "combinations of * * * hazardous waste and any other solid waste" to be managed at the permitted facility, as well as information regarding the site at which the "products of treatment" of hazardous waste will be managed.

Finally, the appropriations act provision that EPA is implementing with today's rule requires that the mixture and derived-from rules would continue in effect while EPA developed revisions to the regulations. Public Law No. 102–389, 106 Stat. 1571 (October 1992). That provision instructed EPA to "promulgate revisions to paragraphs (a)(2)(iv) and (c)(2)(i) of 40 CFR 261.3, as reissued on March 3, 1992 * * *". Congress expressed no intent that these rules be rescinded or replaced.

We also disagree with commenters' assertion that the mixture and derived-from rules violate the "two-step process" of section 3001(a) and (b) for hazardous waste identification. It is true that the statute requires EPA to promulgate criteria for hazardous waste identification (section 3001(a)) and, based on those criteria, to identify characteristics of hazardous waste and to list hazardous wastes (section 3001(b)). In general, EPA has done this in separate steps. *See* 40 CFR part 261, Subpart B (criteria) and Subparts C and D (characteristics and lists). However, the statute does not preclude EPA from creating self-implementing criteria, as EPA has done with the mixture and derived-from rules. EPA does not interpret 3001(b) as imposing an obligation on EPA to undertake a separate waste identification rulemaking step following the development of self-implementing criteria. Alternatively, the mixture and derived-from rules could be viewed as a simultaneous exercise of EPA's 3001(a) and 3001(b) authority. Nothing in the statute prevents EPA from simultaneously, in combined regulations, establishing the criteria for waste identification, and identifying the characteristics of hazardous waste and listing waste.

We agree with commenters who point out that EPA has not used the class listing process under 40 CFR 261.11(b) to list mixtures and derived-from wastes as a class. However EPA does not agree that mixtures and derivatives must be individually listed or identified as hazardous wastes before being subject to Subtitle C jurisdiction. As previously stated, mixtures and derivatives are identified as hazardous waste by virtue of containing or coming from wastes that have been listed pursuant to the criteria in 40 CFR 261.11. EPA cannot presume that the hazardous constituents that are the basis of the original listing are always eliminated or rendered nontoxic simply because a waste is mixed with other wastes or managed in some fashion.

(3)(a) Comment: EPA Has No Authority Under Sections 3002–3004 of RCRA To Designate Wastes as Hazardous

Several commenters from industries, industry associations, utility companies, utility company associations and waste management companies also disagreed with EPA's claim of authority under sections 3002–3004 of RCRA. They argued that these sections of RCRA provide for hazardous waste management standards for generators, transporters, and treatment, storage and disposal facilities, not for identifying hazardous wastes. Instead, that role is unambiguously carried out by section 3001. 42 U.S.C. 6921, and in previous promulgations and in litigation, EPA relied primarily on section 3001 to justify the mixture and derived-from rules.

(3)(b) EPA Response

In citing sections 3002–3004 in the discussion of EPA's statutory authority, we did not intend to imply that these sections by themselves provide statutory authority for the mixture and derived-from rules. Rather, our intent was to explain that these sections inform the process of identifying hazardous waste under section 3001 because the purpose of identifying a solid waste as hazardous is to ensure that it is managed properly.

The statute directs EPA to regulate hazardous waste generators (section 3002(a)), hazardous waste transporters (section 3003(a)), and hazardous waste treatment, storage, and disposal facilities (section 3004(a)) "as necessary to protect human health and the environment." It is our view that this informs the decision of when waste should be identified as hazardous and therefore subject to the regulatory requirements of Subtitle C . In deciding whether to identify a waste as hazardous under section 3001, EPA considers whether Subtitle C controls on the waste are necessary to protect human health and the environment. We have therefore consistently interpreted section 3001 to give us broad flexibility in fashioning criteria for hazardous wastes to enter or exit the Subtitle C regulatory system. See, *Military Toxics Project* v. *EPA*, 146 F.3d 948, 958 (D.C. Cir. 1998). As discussed above, this interpretation is consistent with the statutory purpose of protecting human health and environment by establishing a comprehensive hazardous waste regulatory program. (RCRA sections 1002, 1003).

In addition to providing the context in which the determination of whether a waste "should be subject to the requirements of Subtitle C," sections 3002–3004 allow us to continue to impose requirements on waste handlers until wastes have "cease[d] to pose a hazard to the public." *Shell Oil Co.* v. *EPA*, 959 F.2d 741, 754 (D.C. Cir. 1991). See also *Chemical Manufacturers Assoc.* v. *EPA*, 919 F.2d 158, 162–65 (D.C. Cir. 1990) (EPA may regulate the disposal of nonhazardous wastes in a hazardous waste impoundment under section 3004) and *Chemical Waste Management, Inc.* v. *EPA*, 976 F.2d 2, 8, 13–14 (D.C. Cir. 1992) (EPA may require further treatment of wastes under section 3004 even though they cease to exhibit a hazardous characteristic). Without the mixture and derived-from rules, EPA could not effectively carry out its obligation under sections 3002–3004 to protect human health and the environment. Thus, in addition to the specific authority of section 3001, the mixture and derived-from rules are authorized under section 2002(a)(1), which empowers the Administrator to "prescribe * * * such regulations as are necessary to carry out his functions" under RCRA.

C. Regulatory Cost of the Mixture and Derived-From Rules

(1) Summary of Comments on the Regulatory Cost of the Mixture and Derived-From Rules

EPA received comments from five commenters in response to both the 1995 and the 1999 HWIR proposals concerning the regulatory cost of the mixture and derived-from rules. Of those comments, four were received from industries, and one was from an industry association. The commenters generally argued that the rules constituted over-regulation of low-risk wastes causing high costs and heavy burdens with little benefit to human health and the environment. A summary of the specific issues raised by commenters is provided below.

One industry commenter argued that the rules have added significant costs to the operation of manufacturing facilities throughout the nation, while providing insignificant benefits to human health and the environment. The commenter noted that the generation of large quantities of hazardous wastewaters based solely on the practice of efficient, centralized wastewater treatment has led the company to evaluate the segregation of hazardous and non-hazardous wastewaters, to prevent the attachment of a "hazardous" label to those non-hazardous wastewaters. Such a segregation would require a second treatment facility and much re-piping.

with the net result that millions of dollars would be expended and there would be no improvement in the wastewaters ultimately discharged to the environment through two, rather than one, discharge points. All that would be achieved is an apparent reduction in hazardous waste generation which does not, in reality, represent a decrease in waste generation, treatment or discharge, but rather a reporting game and artificial waste minimization driven by EPA requirements. It is this kind of "game" that compromises the credibility of both EPA and the regulated community and imposes a significant burden on the regulated community.

Another industry commenter noted that managing the residuals as if they were listed hazardous waste was significantly more expensive than managing the waste in accordance with solid waste regulations. For example, in 1995 transportation and disposal of ash from a hazardous solids incinerator cost approximately $185,000. In comparison, the ash could be managed in a state permitted Subtitle D landfill as non-hazardous waste for about $25,000. Another industry stated that these rules have resulted in significant expense that has diverted resources away from greater environmental opportunities.

One association commenter stated that the rules frequently cause waste codes to be carried through and applied to wastes that are fundamentally different from the original waste considered in the development of the listing classification. The commenter noted that there are many instances in which the risk associated with the original listed waste simply does not carry through in the same way, and that the composition and nature of any risk posed by these materials often bears little or no relationship to the original listed waste. Specific examples cited include (1) Wastewaters where most of the arsenic has been precipitated and removed, (2) debris from hazardous waste refractories undergoing repair, and (3) wastewaters that had received ethylene oxide as part of an emergency incident. The costs and impacts of this automatic waste-code carry-through are quite significant. Much of the industry operates through smaller "batch" processes, while the regulations are crafted for a continuous manufacturing process. And, in many operations, delisting the mixture is not an option, as the facility can only store the mixture on-site for 90 days, which is not enough time for a delisting.

An industry association also stated that the costs imposed by the rules from a number of member companies are easy to identify: on-site storage costs, paperwork and administrative costs, higher shipping and transportation costs, and higher treatment, storage and disposal costs. And, these are the same types of costs analyzed and tallied by EPA in documenting the cost savings it attributes to the modified exemption for hazardous wastes listed solely for a characteristic of ignitability, corrosivity and/or reactivity. The commenter also stated that another significant cost of the current regulatory regime was the extra time and effort required to evaluate and apply the rules in the real world. Even after 20 years, facilities still have difficulty evaluating when, whether and why certain waste streams must be managed as Subtitle C hazardous wastes under this approach.

2. Response to Comments on Regulatory Cost of the Mixture and Derived-From Rules

We agree that the mixture and derived-from rules have captured wastes that could safely be managed outside of RCRA Subtitle C regulation. As explained below, we have addressed specific cases of such over-regulation through targeted rulemaking in the past, and we will continue to explore options for exempting wastes that do not warrant Subtitle C regulation. However, we do not agree that hazardous waste regulation of mixture and derived-from waste provides no additional protection of human health and the environment. For example, as we discuss in Section VII.A, wastewaters prior to discharge may contain constituents at levels that could pose unacceptable risks if they are mismanaged. Furthermore, the mixture and derived-from rules address cross-media transfer of persistent hazardous chemicals from the wastewater to the treatment sludge.

One way of reducing the regulatory burden available to individual waste generators is the delisting process. Generators have the option of petitioning the Agency under 40 CFR 260.20 and 40 CFR 260.22 to exclude their wastes from the lists of hazardous wastes in subpart D of part 261 if they believe those wastes no longer pose risk to human health and the environment. Since the delisting program was delegated to the EPA Regions on October 10, 1995, a number of innovations have been adopted that have greatly improved the efficiency and effectiveness of the delisting program. In particular, EPA Region VI's award-winning program has created a process that produces a decision within an average of 180 days, provides a streamlined application checklist, proactively coordinates with State personnel, and includes a user-friendly, stand-alone software program that produces an updated, state-of-the art assessment of risks associated with delisting a petitioned waste. In addition, EPA and the applicant now work together to develop an initial application that can be approved without the need for major revisions, which is a major factor in reducing the processing time. EPA will continue these efforts and others in order to keep improving the delisting process. Since 1980, EPA has excluded an estimated 45 million tons of waste, resulting in an estimated cumulative cost savings between $1.1 billion and $1.3 billion (in 1999 dollars). In 2000 alone, we estimate cost savings of approximately $105.4 million.[12]

In addition, EPA has taken steps since the mixture and derived-from rules were promulgated in 1980 to further reduce the scope, and therefore the cost, of these rules when appropriate. As one commenter to the 1999 proposal pointed out, eighteen months after the original mixture and derived from rules, EPA promulgated the first of several exclusions for low-risk waste from the definition of hazardous waste. Over the past twenty years, EPA has developed exclusions and/or tailored regulations to reduce the regulatory cost for more than a dozen types of hazardous waste mixtures and residuals. (see table below)

[12] U.S. EPA *Evaluation of Hazardous Waste Delisting Program*, December 2000.

REVISIONS TO 40 CFR 261.3 THAT HAVE REDUCED THE REGULATORY COST OF THE MIXTURE AND DERIVED-FROM RULES

CFR citation	Hazardous waste(s) affected	Year promulgated (FR citation)
40 CFR 261.3(a)(2)(iv)(A) and (B)	Certain solvents managed in wastewater treatment systems.	1981 (46 FR 56582)
40 CFR 261.3(a)(2)(iv)(C)	Certain petroleum wastes discharged to the refinery oil recovery sewer.	1981 (46 FR 56582) Additional wastes added in 1998 (63 FR 42184)
40 CFR 261.3(a)(2)(iv)(D)	De minimis losses of commercial chemical product.	1981 (46 FR 56582)
40 CFR 261.3(a)(2)(iv)(E)	Certain laboratory wastewaters	1981 (46 FR 56582)
40 CFR 261.3(a)(2)(iv)(F) and (G)	Certain carbamate wastewaters	1995 (60 FR 7848)
40 CFR 261.3(a)(2)(v)	Used oil	1992 (57 FR 41611)
40 CFR 261.3(c)(2)(ii)(A)	Certain waste pickle liquor sludges	1984 (49 FR 23284)
40 CFR 261.39(c)(2)(ii)(B)	Wastes derived from burning certain oil-bearing wastes as fuel.	1987 (52 FR 11819)
40 CFR 261.3(c)(2)(ii)(C)	Wastes derived from high temperature metals recovery of certain hazardous wastes.	1992 (57 FR 37263)
40 CFR 261.3(c)(2)(ii)(D)	Certain types of biological treatment sludge	1995 (60 FR 7848)
40 CFR 261.3(c)(2)(ii)(E)	Certain types of catalyst inert support media	1998 (63 FR 42184)
40 CFR 261.3(f)	Certain types of debris contaminated with a hazardous waste.	1992 (57 FR 37264)

In each of these revisions to 40 CFR 261.3, EPA considered the case-specific circumstances of the waste affected and, through the formal rulemaking process, determined that these wastes merited special consideration under the hazardous waste identification rules. In many cases, these wastes still warranted enough concern to impose specific management and other implementation requirements. For example, the solvent exclusions in 40 CFR 261.3(a)(2)(iv)(A) and (B) require that (1) these wastes are managed in a system the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act, and (2) the total weekly usage of these solvents divided by the average weekly flow of the wastewater into the treatment works would not exceed a specific regulatory level (either 1 ppm or 25 ppm).

Under today's final rule, EPA has continued the effort to reduce the burden from the mixture and derived-from rules where appropriate by excluding wastes listed solely for ignitability, corrosivity, and/or reactivity, once the waste no longer exhibits any of the hazardous waste characteristics (40 CFR 261.3(g)). We are also finalizing a conditional exemption for mixed waste from the mixture and derived-from rules, provided the mixed waste is handled in accordance with 40 CFR part 266, Subpart N. (40 CFR 261.3(h))

Finally, over the past twenty years EPA has promulgated numerous rules establishing exclusions or conditional exemptions from the solid and hazardous waste definitions, and from regulatory requirements for particular wastes and management practices. These exemptions are part of EPA's overall effort to avoid unnecessary regulation of waste.

EPA plans to continue work on other types of hazardous waste exemptions, including the additional targeted exemptions for certain categories of wastes and management practices, and the concentration-based exemptions (HWIR exemption) discussed in the November 19, 1999 proposal. We also plan to continue on-going efforts to streamline the existing delisting program.

In regard to the specific examples of over-regulation claimed by one commenter (see comment # WH2P–00035, page 10), it is difficult for EPA to fully evaluate these cases without more specific data. For example, in the case of wastewaters where most of the arsenic has been precipitated and removed, it is not clear whether there are any other hazardous constituents of concern in the treatment sludge, and whether the residual arsenic might still pose a risk (depending on waste volume and management method). In the case of contaminated bricks from hazardous waste refractories undergoing repair, it would appear that the exclusion for debris [40 CFR 261.3(f)] could address this concern. Finally, for wastewaters that had received ethylene oxide as part of an emergency incident, while it is true that ethylene oxide eventually breaks down to ethylene glycol, this reaction is not instantaneous. When released into water, ethylene oxide will primarily be lost by three processes: volatilization, hydrolysis and biodegradation. The half-lives of these reactions range from a few hours to up to 20 days.[13] Ethylene oxide itself is toxic, and if these wastewaters were automatically considered non-hazardous, they could present a substantial risk, depending on actual concentrations and exposure patterns. Both low level chronic exposure and acute high levels of ethylene oxide can lead to a broad spectrum of neurological effects. Also, inhalation studies have shown that exposure to ethylene oxide can result in a wide range of carcinogenic effects, and NIOSH considers ethylene oxide to be a potential occupational carcinogen.[14] Therefore, EPA does not agree that such a mixture should be automatically excluded from hazardous waste regulation. More importantly, since the purpose of this rulemaking is not to evaluate individual wastestreams, EPA does not believe this example demonstrates that the mixture and derived-from rules themselves are unnecessary as a general matter.

EPA understands that the RCRA regulations, in particular the waste identification regulations, can be difficult to understand. We have attempted to use plain language in drafting today's revised regulatory language, and will continue to make regulatory language more accessible to readers in the future. In addition, we believe that the mixture and derived-from rules are more straightforward than the alternative of having to evaluate each combination and permutation of

[13] Agency for Toxic Substances and Disease Registry. (1990). Draft Toxicological Profile for Ethylene Oxide.

[14] National Institute for Occupational Safety and Health. (1988). Ethylene Oxide Sterilizers in Health Care Facilities, Engineering Controls and Work Place Practices. DHHS (NIOSH) No. 89–115.

listed waste on a case-by-case basis. We believe this alternative would create uncertainty for the regulated community, state agencies, the public, and the courts, as various stakeholders press conflicting views as to whether a particular waste does or does not continue to meet the listing description.

VIII. What Were the Major Comments on the Revision to 40 CFR 261.3 To Exclude Wastes Listed Solely for Ignitability, Corrosivity, and/or Reactivity, and How Has EPA Responded to Them?

Most commenters generally supported revisions to 40 CFR 261.3 to various degrees. Chemical-producing industries as well as Federal government agencies who commented were unanimous in support. Most states supported the proposed revisions to the rules to varying degrees. Below are summaries of the major comment issue areas for this proposed exclusion. For more detailed comment responses, please see *Hazardous Waste Identification Rule: Revisions to the Mixture and Derived-From Rules Response to Comments Document.*

A. Eligibility of Waste Listed for the Toxicity Characteristic

(1) Comments on Eligibility of Waste Listed for the Toxicity Characteristic

EPA received comments from 12 commenters in response to both the 1995 and the 1999 proposals concerning inclusion of wastes listed solely for the toxicity characteristic in the expanded exclusion. Of those comments, four were received from industry, two were from industry associations, four were from utility companies or utility company associations, one was from a Federal Government Agency, and one was from an industry consultant. A summary of the specific issues raised by commenters is provided below.

While supporting the proposed exclusion, these commenters urged EPA to modify the proposal so the exclusion would apply to wastes listed due to any of the four characteristics, including the toxicity characteristic. Commenters asserted that it was not logical to limit the exclusion for derived-from wastes to three of the four characteristics, regardless of the fact that no listed wastes are listed solely on the basis of the toxicity characteristic. One commenter stated that it appears as if EPA suspects that wastes containing TC constituents below the toxicity characteristic are not really safe. A few commenters noted that in the future, wastes that may be listed solely for the toxicity characteristic should be eligible for the exclusion. Another commenter also noted that the proposed regulatory language does not provide for any additional hazardous waste characteristics that might be promulgated in the future. Commenters suggested that EPA replace references to ignitability, corrosivity, and reactivity in the proposed regulatory language for 40 CFR 261.3(g) with references to any characteristic of hazardous waste identified in subpart C, reflecting the approach and language used in the current mixture rule.

Several commenters noted that EPA did not offer an explanation for omitting wastes listed solely because they exhibit the characteristic of toxicity from eligibility for the proposed exclusions that would be granted by 40 CFR 261.3(g). EPA did explain that, since no listings to date have been based on the toxicity characteristic, EPA was proposing to limit the new revision to the derived-from rule to wastes listed because they exhibit only the characteristics of ignitability, corrosivity, or reactivity. However, the commenters believed it is confusing to give no explanation for proposing the elimination of an existing exclusion from the mixture rule, even if no wastes now exist that are eligible for the exclusion. Therefore, the commenters recommended that the preamble for the final rule contain such an explanation.

(2) EPA Response to Comments on the Eligibility of Waste Listed for the Toxicity Characteristic

EPA does not agree that wastes listed solely for the toxicity characteristic (TC) should be eligible for the exclusion. As we discussed in the 1995 HWIR proposal, wastes may still pose some risk concerns even when TC constituents are present below TC levels (60 FR 66369, December 21, 1995).

The hazards that the TC regulation addresses, carcinogenicity and chronic chemical toxicity via contaminated groundwater/drinking water, have fewer clear thresholds than the other characteristics. Wastes that exhibit the characteristics of ignitability, corrosivity or reactivity typically pose acute hazards which can be addressed by application of appropriate treatment to decharacterize the waste. For example, ignitable liquid waste or waste chemical oxidizers can be treated by combustion, and the ash treatment residue poses no ignitability threat to landfills. Similarly, strong acid or basic wastes, if effectively neutralized, generate residues that pose no threat of skin damage. Waste explosives or highly reactive chemicals that are denatured or reacted-out under controlled conditions also generate residues that pose no explosion or reaction threat.

The TC chemicals have less clear thresholds below which they pose little or no hazard for several reasons. Toxic chemicals pose a risk that is typically dependent on a range of factors, and assessment of hazard from toxicity is much more complex, and involves many more variables, than assessment of hazard from the other three characteristics. A waste that does not exhibit the toxicity characteristic for a particular chemical may nonetheless pose a substantial hazard depending on such factors as the volume of the waste, the exposure route being assessed, and the amount of dilution and attenuation that is assumed prior to exposure. These factors, along with others, are taken into account in making hazardous waste listing determinations based on toxicity. See 40 CFR 261.11((a)(3). In addition, as persistent chemicals move through the environment, they can accumulate, posing long-term chronic risks even at levels below those set for the toxicity characteristic. Thus, the toxicity characteristic is not designed to capture all of the wastes that might present a substantial hazard for the TC constituents. Rather, the TC is designed to capture wastes that may pose a substantial hazard, without the need to conduct a waste-specific risk assessment. In fact, when EPA promulgated the TC regulation, we stated that the regulation is intended to identify "* * * broad classes of wastes which are clearly hazardous * * *". We also noted that "wastes that do not exhibit the hazardous waste characteristics are not necessarily non-hazardous." (55 FR 11799, March 29, 1990). In identifying TC hazardous wastes as "clearly hazardous" the agency was identifying a universe of wastes that it believed may pose high enough risk so as to *always* require classification as hazardous. In noting that non-TC wastes are not necessarily non-hazardous, the agency both recognized the non-threshold (i.e., continuous) nature of TC constituent risks, and recognized that wastes falling just below the TC values may pose risks that are just below a "clearly hazardous" designation, and which may sometimes warrant classification as hazardous. EPA has in fact listed wastes based on toxicity where the waste did not fail the TCLP for the constituent of concern. (see, for example, the final petroleum waste listing, 63 FR 42154 (August 6, 1998)).

EPA's decision to not exclude wastes listed solely for the TC could potentially affect the regulation of certain inorganic wastes that EPA has recently proposed to list as hazardous. (65 FR 55684, September 14, 2000). The issue had been purely theoretical before that point because no waste had ever been listed for the TC. In the inorganics listing determination proposal, however, EPA proposed to list baghouse filters from antimony oxide production for the TC. Despite the fact these wastes fail the TC for lead and arsenic, they are not always being managed as Subtitle C hazardous waste, nor are these wastes always treated to the appropriate LDR standards. By listing them, we would clarify their regulatory status. In the preamble to the inorganics listing proposal, EPA noted that proposed revisions to the mixture and derived-from rules did not include an exclusion for wastes listed for the TC (65 FR 55705). EPA did not receive any public comments in response to this discussion in the Inorganics Listing proposal.

B. Toxicity of Wastes Listed for Ignitability, Corrosivity, and/or Reactivity

(1) Comments on Toxicity of Wastes Listed for Ignitability, Corrosivity, and/or Reactivity

EPA received two comments in response to the 1999 proposal concerning the potential toxicity of waste under the proposed expanded exclusion to the mixture and derived-from rules. One was from a waste management association and one from a State agency. A summary of the specific issues raised by commenters is provided below.

The commenters believed that EPA must evaluate the properties carefully, especially the toxicity, of the 29 compounds proposed to be excluded. They assert that some of these wastes are acutely hazardous and merit a thorough review to ensure that the exclusion is appropriate. The waste management association noted that EPA had not performed an evaluation of the negative environmental impact associated with eliminating these codes. Ignitable, corrosive, and reactive wastes could contain substantial levels of toxic constituents that could be low enough not to exhibit a characteristic of ignitability, corrosivity or reactivity, yet high enough to cause environmental damage. One damage case or Superfund site can cause damages far in excess of the $4.6 million estimated savings predicted by EPA. The waste management association further argued that EPA's Hazardous Waste Characteristics Scoping Study (Nov. 15, 1996) identified numerous gaps in the current RCRA identification of characteristic wastes. The commenter believed that gaps were so serious that EPA should not be proposing to eliminate any listing that was based on a characteristic until the deficiencies identified in the 1996 Scoping Study were addressed fully. Also, EPA must not eliminate any listing once the characteristic is removed, because the underlying hazardous constituent still represents a substantial threat even after LDR treatment.

(2) EPA Response to Comments on Toxicity of Wastes Listed for Ignitability, Corrosivity, and/or Reactivity

EPA continues to believe that wastes that were listed only for the characteristics of ignitability, corrosivity, and reactivity should become excluded once they no longer exhibit any characteristic, including the toxicity characteristic. While it is true that these wastes could contain constituents that were not considered in the original listing determination, EPA does not believe this possibility, without information demonstrating some particularized basis for concern, warrants continued regulation of the waste under Subtitle C once it is decharacterized. This is because of the unique nature of listings based on the three characteristics in question. (See the discussion, in Section VIII.A. above, regarding the differences between wastes listed for the toxicity characteristic and wastes listed for the characteristics of ignitability, corrosivity and reactivity). These listings are unlike toxicity-based listings, which involve development of detailed risk assessments and consideration of a range of technical factors. See 40 CFR 261.11(a)(3). In contrast, the basis for listings based on one of these characteristics is simply that the waste exhibits the relevant characteristic (see 40 CFR 261.11(a)(1)).

Listings that are based on 40 CFR 261.11(a) criteria increase the clarity and certainty of the applicability of the Subtitle C system to these wastes. By listing the waste, EPA clarifies that it is hazardous without the need for a site-by-site demonstration that the waste in fact exhibits the characteristic, thereby simplifying implementation and enforcement regarding these wastes. EPA does not believe these listings should alter the basic principle that a characteristic waste should not be regulated as hazardous if it no longer exhibits the characteristic. Consistent with this approach, EPA provided in 1981 an exemption from the mixture rule for wastes listed for one of these characteristics that no longer exhibits the characteristic (see 46 FR 56582, November 17, 1981). Today's rule provides a conforming change to the derived-from rule, which, because the 1981 rule only focused on mixtures, does not currently contain a comparable exemption. (see 60 FR 66349, December 21, 1995). The same rationale also supports the inclusion of as-generated waste in today's rule (although, since these wastes were listed solely on the basis of exhibiting a characteristic, EPA expects these wastes to exhibit the characteristic at the point of generation). Thus, EPA does not believe that the possibility that these wastes may contain additional hazardous constituents not considered in the original listing justifies continued regulation of the waste.

As stated earlier, EPA already excludes mixtures of these kinds of wastes, once the basis for listing these wastes has been removed. In addition, unlisted characteristic waste becomes non-hazardous when it ceases to be characteristic. Expanding the exclusion to non-mixtures that similarly do not exhibit the characteristic (particularly treatment residuals) would still be protective of human health and the environment. If there is any information that indicates that the original listing determination should have been based on toxicity risks, then the proper remedy is to amend the basis for listing the waste . The public can petition EPA to reconsider the basis for listing any such waste .

In regard to the toxicity of the listed chemicals themselves, EPA has examined the most recent toxicity data in IRIS concerning the chemicals in the 29 wastes listed solely for a characteristic, and does not believe these chemicals present a particular basis for concern. We found that fourteen of the chemicals have RfD's or RfC's available in IRIS. (This includes the eight F003 solvents discussed below—see Section VIII.C. of the preamble). EPA used these RfCs and RfDs to calculate conservative screening-level health-based numbers (HBN) for those chemicals, and compared them to the relevant Universal Treatment Standards (UTS) these chemicals would need to meet under Land Disposal Restrictions, in those cases in which numerical standards were available. For most of those chemicals, the relevant UTS standards are much *lower* than the conservative health-based numbers calculated for water and soil ingestion pathways. As discussed in Section VIII.C below, the level for one of the chemicals, n-butyl alcohol, is not significantly higher. Therefore EPA believes that excluding wastes that have

been listed solely for a characteristic of ignitability, corrosivity, or reactivity, when they have been decharacterized (i.e., exhibit none of the four hazardous waste characteristics), is protective of human health and the environment. However, in the future, if additional information becomes available, we may decide to reconsider the basis of listing for one or more of these wastes.

C. Eligibility of F003 Solvents for This Exclusion

(1) Comments on Eligibility of F003 Solvents for This Exclusion

EPA received comments from 17 commenters in response to the 1995 and 1999 proposals concerning the inclusion of F003 solvents in the expanded exclusion to the mixture and derived-from rules. Of those comments, five were from State Agencies, three were from utility companies or associations, four were from industries, two were from Federal Agencies, two were from waste management associations, and one was from an industry association. A summary of the specific issues raised by commenters is provided below.

About two-thirds of the commenters supported including F003 wastes in the proposed exclusion. However, one industry noted that this proposed revision would have little effect beyond eliminating the derived-from rule for a small number of wastes. Many commenters noted that if the solvent contained, before use, one or more of the toxic solvents specifically listed in F001, F002, F004, or F005, at 10 percent or more by volume, it would be regulated as that waste code. Therefore a blanket exclusion for all categories of F003 is appropriate because toxics, when present, will be addressed under other applicable waste codes. One State and two Federal commenters stated that any toxic solvents contained in an F003 spent solvent blend would not escape proper treatment because of the land disposal restrictions (LDR) program. They also noted that solvent mixtures/blends meeting the F003 listing description and containing a certain percentage of toxic solvents also will carry the waste code F001; F002, F004 and/or F005 and therefore, be subject to treatment requirements under the LDR program.

Four commenters did not support including F003 in the proposed exclusion. They argued that the listing description for F003 contains a reference to other solvent wastes (F001, F002, F004, or F005) that are listed for toxicity. Therefore, ignitability was not the only characteristic of concern. In addition, certain F003 solvents themselves may also be toxic, upon consideration of new data developed since 1985. Specifically, the commenter cited a National Toxicology Program, National Institutes of Environmental Health Sciences, Management Statistics Report dated January, 1999 on the carcinogenicity of ethylbenzene (an F003 waste).

In addition, one State noted that in the April 30, 1992 proposal to revise the Hazardous Waste Identification Rule, EPA was considering a separate rulemaking to modify the basis for listing F003 and other wastes listed solely for a characteristic because of concerns about toxicity and/or carcinogenicity. If the chemicals in these wastes are either toxic or carcinogenic according to EPA's own determinations, they should be identified as such in 40 CFR part 261, subpart D.

Commenters also argued that F003 wastes "often" contain toxic constituents other than the solvents themselves. One commenter noted that EPA states in 50 FR 53317 (December 31, 1985) "In fact, solvents become spent when they have become contaminated with other materials, (i.e., heavy metals or toxic organic compounds) and must be disposed, reprocessed or reclaimed." EPA further states " * * * since spent solvents reasonably are likely to contain other toxicants at levels of regulatory concern, and since we have not evaluated those wastes for these toxicants, we believe it inappropriate to remove these solvents from the hazardous waste list." In addition, the waste management association commenter argued that as part of the economic impact analysis associated with the 1999 HWIR proposal, there have been 51 different hazardous constituents associated with the F003 waste code. The commenter believed that if EPA lacked toxicological data on any of these constituents, then F003 could not be eligible for the exclusion once the ignitability characteristic was removed and the waste exhibited no other hazardous waste characteristics.

(2) Response to Comments on Eligibility of F003 Solvents for This Exclusion

EPA agrees with those comments that support F003 waste remaining eligible for this exclusion. Because F003 waste that contains 10% or more of the other F-listed solvents (F001, F002, F004, and F005) would also bear those waste codes, such wastes would not be eligible for the exclusion. The exclusions applies only to F003 wastes that do not contain 10% or more of these other solvents.

EPA is aware of the recent carcinogenicity study (referenced in the public comments) that was performed by the National Toxicology Program on ethylbenzene. Ethylbenzene is included in the Agency's on-going Integrated Risk Information System (IRIS) project (63 FR 68285, December 10, 1998). A focus of the IRIS project is to update selected chemical assessments by incorporating new scientific information and methods. The IRIS project consists of a process that determines the Agency's consensus position on the potential adverse health effects that may result from chronic or lifetime exposures to environmental contaminants. The carcinogenicity study on ethylbenzene, together with any other recent toxicological data, will be evaluated by the Agency as part of this process. Until that evaluation is completed, EPA does not believe it is appropriate to draw regulatory conclusions based on the referenced study.

With respect to the commenters' more generalized concerns about the possibility of toxic constituents in F003 waste, as explained above, EPA does not believe this possibility justifies the continued regulation of a waste that was listed for the sole reason that it is ignitable, where the waste is no longer ignitable and exhibits no other hazardous waste characteristic. F003 waste is unique among the listed solvents: the other listed solvents were listed on the basis of toxicity. F005 solvents were listed for both ignitability and toxicity. In fact, EPA decided to move two listed solvents (methanol and methyl isobutyl ketone) that were originally proposed to be regulated under the F005 listing to the F003 listing because EPA determined that they did not pose a significant toxicity risk, although they are highly flammable (45 FR 74884, November 12, 1980).

Since then, EPA has analyzed the toxicity risks that might be posed by F003 solvents when de-characterized. The Agency has researched the most recent data concerning the F003 solvents in the IRIS data base. None of the solvents in the listing are classified as carcinogens, but eight of the nine possess reference concentrations (RfC) and oral reference doses (RfD) for non-cancer risk. EPA used these RfCs and RfDs to calculate conservative screening-level health-based numbers (HBN) for those chemicals, and compared them to the relevant Universal Treatment Standards (UTS) these chemicals would need to meet under Land Disposal Restrictions. For seven of the eight chemicals (including ethylbenzene) the relevant UTS standards are much *lower* than the conservative health-based numbers calculated for water and soil ingestion pathways. The health-based number for the remaining chemical, n-butyl alcohol, is only slightly lower than the UTS standard (3.3 mg/L water ingestion HBN vs 5.6 mg/L wastewater UTS).[15] Given the fact that the health-based numbers are conservative screening numbers, EPA does not believe this difference is of concern. Therefore EPA remains confident that excluding ignitable F003 solvents, when they have been decharacterized, is protective of human health and the environment.

Commenters also claimed that F003 solvents, because they are general use solvents, can carry with them various constituents other than the solvents themselves, and that this was a reason for listing the F003 solvents in the first place (see 50 FR 53317, December 31, 1985). EPA acknowledges that in the 1985 solvents final rule, we noted that additional toxic contaminants would likely be present in the spent solvent. We also stated, however, that we did not evaluate F003 wastes for other toxic constituents *that could be present* at levels of regulatory concern. Therefore, toxicity was a not a basis for listing F003 waste.

When the F003 listing was finalized in 1985, because it was listed solely for ignitability, mixtures of F003 waste and solid waste were eligible for the exemption for mixtures of waste listed for a characteristic that no longer exhibit any characteristic of hazardous waste. Expanding the exclusion to non-mixtures that similarly do not exhibit any characteristic would still be protective of human health and the environment. We do not think it makes sense to continue the anomaly of retaining regulation for non-mixtures of F003 wastes based on toxicity concerns when we have no record basis to support regulation for toxicity. Today's exclusion is also consistent with the approach taken in EPA's decision not to list 14 spent solvent wastes, in which EPA declined to focus on any toxic constituents other than those in the solvents themselves, despite the likelihood of other toxic constituents in the spent solvent waste. (63 FR 64372 (Nov. 19, 1998).[16]

[15] For the water ingestion pathway, EPA assumed a 71.8 kg adult with a 2.3 L/day intake (90th percentile), 350 days/yr frequency. For the soil ingestion pathway, EPA assumed a 16.6 kg child with 400 mg/day intake (upper percentile), 350 days/yr frequency. For more information, please see U.S. EPA *Analysis of Chemicals in Wastes Listed for Ignitability, Corrosivity, or Reactivity* memorandum to the docket from David Cozzie, Office of Solid Waste, November 22, 2000.

[16] EPA's determination was upheld at *EDF* v. *EPA*, 210 F.3d 396 (D.C. Cir. 2000).

D. Applicability of Land Disposal Restrictions (LDRs) to Excluded Wastes

(1) Comments on Applicability of Land Disposal Restrictions (LDRs) to Excluded Wastes

EPA received comments from 20 commenters in response to both the 1995 and the 1999 proposals concerning the applicability of LDRs to excluded wastes. Of those comments, eight were received from industries, four were from industry associations, two were from Federal Government Agencies, two were from State Agencies, one was from a consultant, one was from a waste management association, one was from a waste management company, and one was from an individual commenter. A summary of the specific issues raised by commenters is provided below.

Several commenters supported the EPA's proposed revision to the mixture and derived-from rules provided that the excluded waste meets land disposal restriction (LDR) requirements. One industry association noted that LDR standards assure that the waste is well treated. One State Agency believed that having similar wastestreams comply with the same requirements will achieve regulatory consistency as well as protection of human health and the environment.

Several commenters supported EPA's proposed revisions to the rules but did not support meeting LDR requirements. One industry commenter stated that applying LDRs to a waste which is excluded because it no longer meets the hazardous waste criteria is unnecessarily burdensome, costly and is a contradiction of the RCRA program requirements.

Two commenters said that the applicability of LDRs to both wastewater and nonwastewater forms of wastes should be both clear and identical. They felt that there is no justification for managing these wastes inconsistently.

Several of the comments dealt with whether excluded waste would need to be treated to meet LDR treatment standards for all underlying hazardous constituents (UHCs) under the existing rules. They felt that EPA should clarify that it did not intend to revise application of the current LDR rules without any discussion of why such a change would be necessary. One commenter emphasized that EPA has not provided a compelling case for requiring testing for UHCs or a clear methodology for implementing the requirements that are proposed. They stated that since these wastes are listed, generators have not been required to obtain information on underlying hazardous constituents. Obtaining this information would pose an undue burden for the generator, and they requested clarification on who would be responsible for verifying whether the waste in question meets the condition of the exclusion: the generator or the facility receiving the excluded waste.

Two industry association commenters referenced the Land Disposal Program Flexibility Act of 1996 (LDPFA) and its relationship to the proposed exclusion. Under LDPFA, solid wastes identified as hazardous based solely on a characteristic, are not prohibited wastes under the Land Disposal Restrictions program if they are managed in certain systems including a treatment system that subsequently discharges into waters of the United States pursuant to a CWA permit. The commenters further requested that EPA revise its proposed language modifying the mixture rule for wastes in proposed 40 CFR 261.3(a)(2)(ii) so that the land disposal restrictions program does not apply to wastes that are not prohibited. They argued that this revision is crucial to maintain the status quo for managing wastes listed solely for a characteristic in land-based units. Imposing the LDR program on such wastes would put many surface impoundments out of compliance because they are managing decharacterized listed wastes in land-based units that do not meet RCRA's minimum technology requirements.

(2) EPA Response to Comments on Applicability of Land Disposal Restrictions (LDRs) to Excluded Wastes

In proposing to expand the current exclusion for waste listed solely for a characteristic, EPA did not intend to change the way land disposal restrictions (LDRs) apply to the excluded waste. EPA agrees with those comments that support the continued application of LDR requirements to mixture and derived-from wastes listed solely for a characteristic of ignitability, corrosivity, or reactivity after they have become excluded. We are not imposing any new LDR requirements in this rule.

We agree that the treatment standards for UHC's do not apply in all cases, and have not changed the applicability of these requirements. In general, wastes that are both listed as hazardous waste and exhibit a characteristic only need to meet the treatment standard for the listed waste code. (40 CFR 268.9(b)). An exception occurs when the treatment standard for the listed waste code does not include a standard for the constituent that causes the waste to exhibit the characteristic. In this case, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

EPA disagrees with the comment that LDRs for wastewaters and nonwastewaters should be identical. We continue to support the existing different treatment standards for wastewaters and nonwastewaters. Such differences are based on waste treatability and differences in the Best Demonstrated Available Technology applicable to the waste.

Today's rule also does not broaden the applicability of LDRs. The revised language to 40 CFR 261.3 (g)(3) states, "Wastes excluded under this section are still subject to part 268 of this chapter (as applicable), even if they no longer exhibit a characteristic at the point of land disposal." When the requirements of 40 CFR part 268 would not otherwise apply to a waste (for example, during treatment of certain characteristic wastes in a land-based unit), today's rule does not change that fact. In the case of wastes listed solely for ignitability, corrosivity, and reactivity that do not exhibit a characteristic at the point of generation, these wastes are considered to never have been hazardous and are not subject to 40 CFR part 268.

E. Applicability of Contained-In Policy to Excluded Wastes

1. Comment on Applicability of Contained-In Policy to Excluded Wastes

One commenter, the Department of Defense (DoD), requested that EPA clarify the interaction of the contained-in policy to the RCRA wastes that are listed solely for ignitability, corrosivity, and/or reactivity characteristics.

2. EPA Response to Comment on Applicability of Contained-In Policy to Excluded Wastes

The contained-in principle is the basis for EPA's longstanding interpretation regarding application of RCRA Subtitle C requirements to mixtures of contaminated media and hazardous wastes. Under the "contained-in" policy, EPA requires that soil (and other environmental media) be managed as hazardous wastes so long as they contain listed hazardous waste or exhibit a characteristic of hazardous waste. EPA's application of the "contained-in" policy to regulate media containing hazardous waste was upheld by the D.C. Circuit Court of Appeals in *Chemical Waste Management* v. *EPA*, 869 F2d 1526, 1539–40 (D.C. Cir. 1989). See the LDR Phase IV final rule 63 FR 28556, 28621 (May 26, 1998) for a detailed discussion of the contained-in policy and the Agency's reason, at the time, not to codify the contained-in policy for contaminated soil.

Today's final rule does not directly affect the implementation of the contained-in policy. However, wastes that are contained in contaminated media are eligible for the 40 CFR 261.3(g) exemption for wastes listed solely for a characteristic. Therefore, under today's final rule, contaminated media that contain a waste listed solely for a characteristic would no longer need to be managed as hazardous waste when it no longer exhibits a characteristic. However, consistent with the regulation of other decharacterized waste (and decharacterized contaminated media), it may remain subject to LDR requirements. (The final rule, by providing that wastes excluded under this section are subject to LDRs "as applicable," applies the current rules regarding LDR applicability to soil containing hazardous waste. See, 40 CFR 268.49. For a detailed discussion of this subject, see 63 FR 28556, 28617 (May 26, 1998).)

IX. What Were the Major Comments on the Revision to 40 CFR 261.3 for Mixed Wastes, and How Has EPA Responded to Them?

A. 1999 Proposed Revision to 40 CFR 261.3 for Mixed Waste

In the 1999 proposal, EPA proposed a change to 40 CFR 261.3 that would exclude certain eligible mixed wastes (i.e., wastes that are both hazardous and radioactive) when they met the conditions outlined in the proposed 40 CFR part 266, Subpart N, which appeared in a separate Federal Register Notice. 64 FR 63464 (Nov. 19, 1999). EPA received comments from nine commenters in response to the 1999 HWIR proposal concerning the conditional exclusion from the mixture and derived-from rules for mixed waste. The commenters supported EPA's proposed conditional exemptions for low-level mixed waste (LLMW). Many of these commenters believed that such an exemption was implicit in the mixed waste proposal and necessary for the proposed mixed waste conditional exemptions to function effectively. Many of these commenters also noted that EPA's proposal would help eliminate much of the current regulatory overlap associated with LLMW. One commenter added that since the implementation of LLMW management under RCRA, it had been difficult to find treatment/disposal capacity for its limited quantities of mixed waste, and the proposal would improve safety, efficiency, cost and timeliness of LLMW management. Several commenters encouraged EPA to expedite its implementation.

However, two commenters (both Federal agencies) were concerned with the proposed regulatory language for implementing a conditional exemption from the mixture and derived-from rules for mixed waste. The commenters believed it would be more appropriate to pursue regulatory relief for low-level mixed waste (LLMW) via the standards proposed for 40 CFR part 266, Subpart N rather than within the definition of hazardous waste in 40 CFR 261.3. This proposed exemption within 40 CFR 261.3 would provide an inconsistency in the application of the MDF rules between wastes mixed with or derived-from the treatment of hazardous wastes and wastes mixed with or derived-from the treatment of LLMWs. The commenters noted that the proposed regulation for the transportation/disposal conditional exemption for mixed waste, section 266.305, exempts the waste from certain RCRA requirements (provided specified conditions are met), but does not exempt the waste from the definition of hazardous waste.

EPA appreciates the support expressed for the conditional exemption for mixed waste mixtures and derived-from wastes. In response to the apparent confusion about how the proposed regulatory language applies to these conditionally exempt mixed wastes, EPA has created a new section to 40 CFR 261.3, section (h), which more carefully explains how the definition of hazardous waste interacts with the mixed waste conditional exemption.

B. 1995 Comments on Conditional Exemptions for Mixed Waste

In EPA's 1995 HWIR proposal, we included a discussion of possible conditional exemptions for mixed wastes based on EPA's HWIR modeling, or on other conditions outlined in a proposal developed by the Department of Energy (DOE). EPA received comments from 45 commenters regarding this discussion, many of whom urged EPA to separate mixed waste from the HWIR rulemaking. DOE has since withdrawn its proposal, and EPA has developed a separate mixed waste exemption, which is published elsewhere in today's **Federal Register**. For a more detailed explanation of all the mixed waste comments submitted as part of the HWIR rulemakings, and EPA's response to those comments please see *Hazardous Waste Identification Rule: Revisions to the Mixture and Derived-From Rules Response to Comments Document.*

X. What Were the Major Comments on the Recommendations Submitted by the Chemical Manufacturers Association (CMA), and How Has EPA Responded to Them?

In August 1999, EPA received a paper from the Chemical Manufacturers Association (CMA)[17] describing five regulatory options for revising the mixture and derived-from rules. CMA forwarded these options seeking regulatory relief for some specific high-volume wastes that they believe are low-risk and feel that EPA could propose to exclude with very little delay. Although we did not have sufficient time to analyze these options in detail, we included a discussion of them in the 1999 HWIR notice to allow for public comment. Below is a short description of each option, a summary of the comments on the option, and EPA's response to the comments.

EPA is currently developing proposals related to two of the suggestions that we believe to be the most promising and straightforward to address: expanding the current headworks exclusion and excluding certain combustion residues. (see Sections X.A. and X.D. respectively). We are also considering additional proposals on the other suggestions, but we believe more analysis would first be necessary to decide how to address specific issues raised in the public comments. In addition, we will consider whether other opportunities exist for exempting low-risk waste from full Subtitle C regulation, including additional targeted exemptions and efforts to streamline the delisting program.

A. Expanding the Current Headworks Exclusion

One option involves an expansion of the current "headworks" exclusion in 40 CFR 261.3(a)(2)(iv)(A) and (B). The headworks exclusion excludes from the mixture rule wastewaters containing small quantities of particular F-listed solvents, based on the mass-balance flow of these solvents through the headworks of industrial wastewater treatment systems. CMA's options paper requests that this exclusion be amended in three ways.

First, CMA's suggested revision would allow direct monitoring of the actual concentration of spent solvents in untreated wastewater to demonstrate compliance. The current requirement is to perform a weekly mass balance of the solvents entering the system. Losses due to volatilization must be counted in the mass balance determination under the current system. We note that CMA's suggested wastewater monitoring would provide accurate data at the point the wastewater enters the treatment system, but the losses due to volatilization would not be counted in this approach.

Second, under CMA's suggested revisions, benzene, 2-ethoxyethanol, 2-nitropropane, and 1,1,2-trichloroethane would be incorporated into the list of chemicals for exclusion. These four chemicals were added to the 40 CFR 261.31 list of spent solvents in 1986 but the exclusion does not currently include these chemicals.

Third, under CMA's suggested revisions, multi-source leachate (F039) derived solely from the disposal of the spent solvents listed in 40 CFR 261.31 would be eligible for the exclusion.

(1) Summary of Comments on Expanding Headworks Exclusion

EPA received comments from 13 commenters in response to the discussion on expanding the headworks exclusion. Of those comments, two were received from industry, three were from industry associations, three were from utility companies or utility company associations, three were from State Agencies, one was from a Federal Government Agency, and one was from a waste management association. A summary of the specific issues raised by the commenters is provided below.

One state commenter noted that CMAS's suggested exclusion does not account for volatilization, an important factor considering the solvents involved, if the wastewater treatment system is not actually subject to Clean Air Act controls. In addition, they noted that CMA's suggested exclusion addresses whether and how RCRA should be modified in the wastewater treatment context, and they felt that this is a matter that could be addressed comprehensively following the completion of the surface impoundment study.[18] One waste management association commenter stated it was not clear what the potential environmental impact would be of expanding this exclusion to additional chemicals.

The rest of the commenters supported the CMA's recommendations for specific modifications to the mixture rule to expand the headworks exclusion in 40 CFR 261.3(a)(2)(iv)(A) and (B). Commenters noted that subsequent to the original headworks exclusion, additions were made to the F code solvent listings, but the corresponding changes were not made to the list of solvents in the headworks exclusion. For consistency, benezene, 2-ethoxyethanol, 2-nitropropane and 1,1,2-trichloroethane should be added to the list of solvents allowed under the headworks exclusion. One State added that the circumstances and reasoning that EPA used to support finalizing the original exclusion remain valid for these four solvents. Commenters also noted that they believed EPA would determine the appropriate headworks concentration (i.e., either 1 part per million or 25 parts per million). Also, it is appropriate, practical, and economical for a generator to manage small amounts of spent solvent wastes in a wastewater treatment system subject to regulation under sections 402 and 307 (b) of the Clean Water Act.

Nine of the commenters supported the use of direct monitoring of the actual concentration of spent solvents in untreated wastewater to demonstrate compliance with the headworks exclusion. Several commenters believed direct monitoring would facilitate documentation of compliance. A Federal commenter noted that the suggested changes would provide accurate data at the point the wastewater enters the treatment system, but still would allow generators who rarely discharge solvents into their wastewater systems to use the current method for verifying compliance. Several commenters believed that the mass-balance approach gives rise to a number of problems due to the varying degrees of precision in the underlying measurements and, therefore, deters use of this exclusion. Instead, direct sampling and analysis methods are much more straightforward to implement and would provide more accurate information about what actually is being discharged to treatment systems. A State commented that direct monitoring provides the most definitive information on the concentration levels of hazardous constituents in a waste. Direct monitoring would allow generators to apply the exclusion to its full intended regulatory limit. An industry commenter recommended that compliance with the regulatory levels be measured on a rolling average basis since flows may be variable. Several commenters noted that they do not believe that direct monitoring would encourage volatilization. They noted that EPA did not state directly that the current measurement scheme needed to account for volatilization when the headworks exclusion was finalized and it is not part of the current regulatory

[17] CMA has since changed the name of the organization to the American Chemistry Council (ACC).

[18] Note: EPA's surface impoundment study was completed March 2001. See U.S. Environmental Protection Agency. *Industrial Surface Impoundments in the United States*. EPA530–R–01–005. Washington, D.C. March 2001.

language. However, these comments recognized that over the years, EPA has explained in preamble language and interpretive letters that it considered accounting for volatilization losses to be necessary to prevent facilities from volatilizing solvents in order to be eligible for the exclusion. In the years subsequent to the statement, EPA has issued a number of regulations addressing air emissions of organics, including the listed solvents. Because EPA has addressed these potential air emissions by regulations which focus specifically on these emissions, the commenters felt that there is no need for the headworks exclusion to have to account for them as well.

One State commenter did not support the inclusion of multi-source leachate (F039) in the headworks exclusion, even though the leachate might be derived from the disposal of solvent wastes. The commenter noted that leachate might contain any variety of hazardous constituents, due to the presence of characteristic wastes or non-hazardous wastes. The commenter further noted that it would be difficult to determine whether the headworks exclusion, if modified in this manner, would protect human health and the environment sufficiently. The commenter did state that if the discharge is regulated under the Clean Water Act (CWA), this may provide a reasonable amount of assurance with respect to exposure paths, relating to the wastewater discharge.

Six of the commenters supported extending the exclusion to multi-source leachate (F039) derived solely from the disposal of the spent solvents in 40 CFR 261.31. A Federal commenter noted that in many cases, leachate is contaminated with barely detectable concentrations of F-listed solvents, yet the leachate still is classified as hazardous waste. By allowing the wastewater to be discharged for treatment to a wastewater treatment or pre-treatment system regulated under the CWA, EPA would encourage remediation by lowering treatment costs. The commenter also stated that EPA must believe that the 1 ppm/25 ppm concentration limits established under the existing rules are protective of human health and the environment, so extending those limits to wastes derived from the land disposal of certain listed solvents should be adequately protective.

Several commenters noted that the advent of the multi-source leachate waste code simplified some hazardous waste management by applying the single listing code to hazardous waste leachate. However, this streamlining did create some unintended consequences. Leachate generated solely from F001–F005 solvents no longer qualified for the headworks exclusion, even though the composition of the leachate was virtually identical to dilute non-leachate F001–F005 streams. Therefore, even though F039 leachate derived solely from F001–F005 wastes are exactly the same in chemical composition as the wastes from which they are derived, they cannot be treated in the same treatment train. They must be segregated and handled in separate tank-based systems or shipped off site for treatment and disposal causing additional cost but providing no additional environmental protection. One industry commenter recommended that EPA issue a technical correction or clarification notice with or before promulgating the final HWIR rule to address this problem. Under CMA's recommendation, the headworks exclusion rationale for the solvent wastes from ongoing production processes would be applied equally to solvent wastes leaching from a landfill. Both are treated equally well in the wastewater treatment plant at these low concentrations, so there is no justification for regulating them differently.

(2) EPA Response to Comments on Expanding the Headworks Exclusion

EPA agrees that there is merit in proposing to expand the current exclusions in 40 CFR 261.3(a)(2)(iv)(A) and (B) (the "headworks" exclusion) to include the four solvents listed in 1986: benzene, 2-nitropropane, 2-ethoxyethanol, and 1,1,2-trichloroethane, and we are currently developing a proposal on such an expansion. In the proposal, EPA will take into account the issues raised by the commenters, including environmental impacts of the expanded exclusion, and the use of any available surface impoundment study data. In the meantime, we welcome any data or additional feedback from the public on this topic.

We will also evaluate in this proposal the issue of measurement versus mass balance calculation as a part of the implementation of the headworks rule. EPA agrees that in the past 20 years, significant new Clean Air Act regulations have come into effect that may address some of the concerns about deliberate volatilization. In developing a proposed revision to the monitoring requirements for the headworks rule, we would take into account the issue raised by the commenters, including the issues concerning volatilization. We welcome any additional data the public has to support such a change.

EPA is also interested in possible applications in which solvent-only landfill leachate may be sent to a wastewater treatment facility. We are concerned, however, about possible difficulties in determining whether a landfill has received only solvent wastes. As part of the investigation, EPA would need more information characterizing possible "solvent waste only" landfills. We welcome any additional data the public has on these landfills.

B. Excluding Hazardous Waste Leachate

Another of the suggested regulatory options involves leachate derived from the land disposal of listed hazardous waste which is subsequently managed in a system regulated under the Clean Water Act. CMA argues that the leachate is both physically and chemically dissimilar from the wastes that were originally listed. Under the option presented, leachate would not be hazardous, even when generated from the treatment, storage or disposal of hazardous waste, unless it exhibited one or more of the hazardous waste characteristics of 40 CFR Part 261, Subpart C.

(1) Comments on Excluding Hazardous Waste Leachate

EPA received comments from eight commenters in response to excluding leachate. Of those comments, three were received from industries, one was from an industry association, three were from State Agencies, and one was from a waste management association. A summary of the specific issues raised by commenters is provided below.

The waste management association did not support the exclusion, noting that treatment tanks that are part of a Clean Water Act (CWA) system already are conditionally exempt. Thus, it was not clear to the commenter why a more expansive exclusion was advisable, particularly because leachate from hazardous wastes "may often contain toxic constituents that are not subject to NPDES discharge limits or water quality standards." Also, one State did not support the exclusion noting that many organics of concern are not covered by the toxicity characteristic. Furthermore, the State commenter believed that it would be inappropriate to exclude these wastestreams without examining the results of the surface impoundment study, particularly without any supporting data on the physical/chemical properties of the leachate and its associated risks. Finally, these State comments claimed that there is no generic way to tell if these leachates will pose a problem. They could be very different from unit to unit depending upon what type of waste has been placed in the unit. The commenter also felt that there could be an air emission problem or the leachate could cause the sludge to become hazardous. Instead, the State commenter thought industries should go through a case specific delisting for these wastes.

One State commenter did not understand CMA's proposal to exclude leachate from the derived-from rule. Currently, F039 leachate waste is subject to Part 268 land disposal restriction requirements and could be treated onsite in a tank or container within 90 days of generation without a permit. If this treated waste was an industrial wastewater discharge that was a point source discharge subject to regulation under section 402 of the Clean Water Act, it would be eligible for the 261.4(a)(2) exclusion. In that case the wastewater would not be a solid waste. The State wondered if CMA was proposing that F039 be exempt from LDR requirements. If that was the case, the State did not support such a recommendation.

One State commenter stated that there may be merit in excluding leachate resulting from the land disposal of a listed hazardous waste when the leachate is subsequently managed in a wastewater treatment system regulated under the CWA. However, to make a definitive decision, the State expressed a need to evaluate constituent concentration data, current management practices, environmental injury cases caused by the residues, and whether the residues commonly exhibit a hazardous waste characteristic. Since (1) the leachate is generated from landfills where only treated hazardous wastes are disposed, and (2) bonafide treatment has occurred and the residues are physically and/or chemically different from the hazardous wastes they were generated from, the State believed it was appropriate to view the residues as newly generated wastes and impose RCRA regulation only if the waste exhibited a hazardous waste characteristic.

The rest of the commenters believed that EPA should consider leachate from hazardous waste landfills to be a newly generated waste rather than derived-from waste. As a newly generated waste, it would be subject to regulation if it failed one or more hazardous waste characteristics, but would no longer be subject to hazardous waste regulation solely because the landfill accepted listed hazardous wastes. Several commenters noted that most POTWs would not accept direct discharges of listed hazardous waste, even if the leachate met all applicable effluent guidelines and other standards. As a result, several commenters noted that they must use costly and unnecessary incineration or other treatment at off-site facilities. In addition, the transportation and management from sending the wastes off-site actually may increase environmental risks and energy usage relative to the protective and cost-effective management in industrial wastewater systems. Several commenters noted that both landfills and land treatment units, as defined by RCRA, generate a leachate when constructed with a bottom liner. Leachate from either type of unit should qualify for the exclusion so long as it did not fail for a hazardous characteristic and the wastewater treatment system receiving the leachate was subject to regulation under the CWA. Two commenters also recommended as an alternative to considering leachate from hazardous waste landfills to be a newly generated waste, that EPA make it eligible for the headworks exclusion.

(2) EPA Response to Comments on Excluding Hazardous Waste Leachate

At this time, EPA is still considering the suggested regulatory exclusion for leachate derived-from landfilled hazardous waste as well as other specific exemption options, but we first need to evaluate several important issues. As noted in the comments, most hazardous waste leachate is regulated under a separate waste code, F039. To date, we have received no information that would cause us to reconsider that listing, although we would welcome any data that might be helpful in such a re-evaluation. However, in the most recent EPA study of landfill leachate characteristics (65 FR 3007, January 19, 2000), we found considerable differences between the leachate samples from hazardous and those from non-hazardous landfills in both numbers of constituents of concern and their concentrations. Hazardous waste landfill leachate contained a greater number of constituents than non-hazardous waste landfill leachate, and constituents found in both hazardous and non-hazardous waste landfill leachate were generally present in hazardous waste landfill leachate at concentrations an order of magnitude higher than those found in non-hazardous waste landfill leachate.[19] As noted in the comments, these pollutants can include many organic hazardous constituents not covered by the Toxicity Characteristic. Absent a risk assessment, it is not possible to determine whether the levels of these constituents pose unacceptable risk. However, the presence of these constituents is a strong indication that more study would be needed before developing an exemption for hazardous waste leachate.

[19] Development Document for Final Effluent Limitations Guidelines and Standards for the Landfills Point Source Category, EPA–821–R–99–019, U.S. EPA, January 2000.

C. Excluding Hazardous Waste Aggressive Biological Treatment Residues

Another suggested regulatory option involves excluding residues from the biological treatment of listed hazardous wastewaters. CMA argues that theses wastes are both physically and chemically dissimilar from the wastes that were originally listed. In addition, CMA notes that biological treatment can greatly reduce or eliminate organic chemicals. Under the options presented in CMA's discussion papers, these wastes would not be hazardous, even though they are generated from the treatment, storage or disposal of hazardous waste, unless they exhibit one or more of the hazardous waste characteristics of Subpart C of 40 CFR part 261.

(1) Comments on Excluding Residues From Aggressive Biological Treatment of Hazardous Waste

EPA received comments from 10 commenters in response to the CMA recommendation to exclude aggressive biological treatment residues from the derived-from rule. Of those comments, four were received from industries, two were from industry associations, three were from State Agencies, and one was from a waste management association. A summary of the specific issues raised by commenters is provided below.

The waste management association did not support excluding sludges derived from the biological treatment of listed hazardous wastes. The commenter noted that the sludges typically contain concentrations of heavy metals that warrant further treatment and Subtitle C disposal. EPA's listing background document for F006 electroplating sludges, for example, provides data on the presence of lead, cadmium, chromium and other toxic metals in such wastewater treatment sludges.

Two States did not support the exclusion, noting that these sludges can continue to pose a threat to human health and the environment and should continue to be subject to the derived-from rule. The States also believed that these wastes should meet land disposal restriction (LDR) treatment standards, just as any other listed hazardous waste

is required to meet a treatment standard before being disposed in a permitted Subtitle C facility. One State noted that EPA proposed the retention of the mixture and derived-from rules in part because of the potential toxicity of wastewater treatment sludges. (See 64 FR 63389, November 19, 1999).

One State commenter noted that there may be merit in excluding aggressive biological treatment residues. However, to make a definitive decision, the State would need to evaluate constituent concentration data, current management practices, environmental injury cases caused by the residues, and whether the residues commonly exhibit a hazardous waste characteristic. Since wastewater treatment is a bonafide treatment method proven to detoxify or otherwise treat hazardous waste and the residues are physically and/or chemically different from the hazardous wastes they were generated from, the State believed it was appropriate to view the residues as newly generated wastes and impose RCRA regulation only if the waste exhibited a hazardous waste characteristic.

The rest of the commenters supported excluding sludges derived from the biological treatment of listed hazardous wastes. Many commenters noted that industrial biosludges currently are overmanaged as hazardous wastes at a high cost to industry. Several commenters added that residues from biological treatment processes have reduced organic constituent concentrations significantly relative to the original waste. Commenters noted that most listed wastewaters are 99% water and are therefore substantially different in terms of potential for environmental harm than a non-wastewater form of the same waste. Also, residues derived from aggressive biological treatment are fundamentally different (both chemically and physically) from the originally listed wastes and these residues should be considered a new point of generation. One commenter submitted data on the concentration of chemicals in a combined treatment sludge.

Additionally, commenters claimed that in recent hazardous waste listings, EPA has recognized that treatment sludges do not necessarily present any significant environmental hazard even when there is sufficient hazard in the waste as generated to warrant listing by EPA (e.g., wastewater treatment sludges from carbamates, anthraquinone, and chlorinated aliphatics). Commenters also noted that public reporting of these very large volumes of derived-from waste misleads the public over the amount of actual hazardous waste in their communities.

Several commenters believed that there should not be a specific contingent management requirement associated with the excluded biosludge. Rather, the sludge would be subject to state industrial non-hazardous waste RCRA (Subtitle D) programs, including restrictions on industrial non-hazardous waste landfilling, combustion and other management options. Since industrial biosludge resulting from an aggressive biological treatment system is not significantly different from sewage sludge, the commenters expected that any restrictions placed on the use of sewage sludge would likewise apply to excluded sludge.

A few commenters pointed out that the LDR program for characteristic wastes has over the years established new points of generation. The commenters noted that in the LDR program, EPA recognized that various treatment residuals differ from the wastes from which they are derived and should not continue to be regulated as the same wastes. In at least three other situations, EPA has made a specific determination that the generation of wastewater treatment biosludge constitutes a new point of generation, generally on the basis that the wastewater being treated falls into one treatability group and the resultant sludge into another. They are: (1) Sludge from the treatment of U154 contaminated groundwater—The sludge is considered newly generated waste because it is a different treatability group than the wastewater being treated—sludge generated from treating non-ignitable wastewaters not derived from hazardous waste (03/21/96 Berlow, EPA to Day, Bryan Cave, LLP); (2) LDR notification requirements for wastewaters and sludges—LDR requirements apply only to wastes that are hazardous at the point of generation. Non-hazardous sludges removed from a wastewater treatment unit require no LDR notification. The requirement to identify and treat for underlying hazardous constituents (UHCs) is not applicable to wastewaters managed in centralized wastewater treatment systems subject to the CWA or to sludges that are not hazardous at the point of generation (05/01/97 Cotsworth, EPA to Dolce, Award Environmental Inc.); and (3) applicability of land disposal restrictions to tank-based wastewater treatment systems—LDRs do not apply to waste managed in systems that are entirely tank-based; sludge generated from wastewater treatment belongs to a different treatability group, and is therefore a newly generated waste that should be evaluated at the point of generation (03/29/97 Berlow, EPA to Day, Bryan Cave, LLP).

(2) EPA Response to Comments on Excluding Residues From Aggressive Biological Treatment of Hazardous Waste

EPA is considering a tailored exclusion for biological treatment residues, but does not believe that a blanket exclusion from the mixture and derived-from rules is appropriate for such wastes. Not all wastestreams are amenable to biological treatment, and the composition of the residuals generated from biological treatment would vary greatly depending on the influent and on the efficacy of the treatment system.

We have, in the past, determined that biological treatment systems are inappropriate for metals and could result in impermissible dilution under the LDR program.[20] We have also denied a delisting petition for K035 sludges resulting from aerated biological treatment of creosote in a surface impoundment in part because of downgradient groundwater contamination.[21] In addition, we have information that facilities have attempted to avoid generating F037 and F038 wastes by adding minimal aeration to primary treatment units and claiming the sludges from these units as excluded.[22]

However, EPA believes there may be merit to the idea of regulating certain types of biological treatment residues differently. As noted in the comments, we have in the past excluded certain types of biological treatment wastes from regulation (see, for example, 40 CFR 261.3(c)(2)(ii)(D)). There may be other types of waste similarly amenable to biological treatment. Before developing such a regulatory proposal, EPA would first gather and analyze data on biological treatment waste. Therefore, any such data would be welcomed by the Agency.

[20] EPA 1990. *LDR Determination of Waste Stream Dilution*, Letter from Jeffery Denit, Deputy Director, Office of Solid Waste to Bruce Smith, Director, Office of Hazardous Waste Programs, EPA Region III, October 14, 1990. [FAXBACK 13414, PPC 9551.1990(06)]

[21] EPA 1987. *K035 Listing and Inclusion of Sludges from Biological Treatment of Creosote Production Wastes*, Letter from Bruce R. Weddle, U.S. EPA, to Jordan Dern, Koppers Company, Inc., December 11, 1987. [FAXBACK 13105, PPC 9444.1987(52)].

[22] U.S. EPA 1991. *Draft Region VIII Policy on "Aggressive Biological Treatment"*, Letter from Robert L. Duprey, Director, Hazardous Waste Management Division (EPA Region VIII) to Sylvia K. Lowrance, Director, Office of Solid Waste, April 19, 1991 (Ref: 8HWM–RI)

D. Excluding Hazardous Waste Combustion Residues

Another of CMA's suggested options involves excluding residues from the combustion of listed hazardous waste. CMA argues that these wastes are both physically and chemically dissimilar from the wastes that were originally listed. In addition, CMA notes that combustion can virtually eliminate organic chemicals. Under the options presented in CMA's discussion papers, these wastes, which would include combustion ash, slag, air pollution control residue and scrubber water, would not be hazardous, even though they are generated from the treatment, storage or disposal of hazardous waste, unless they exhibit one or more of the hazardous waste characteristics of 40 CFR part 261, Subpart C.

(1) Comments on Excluding Hazardous Waste Combustion Residues

EPA received comments from 15 commenters in response to the CMA recommendation to exclude hazardous waste combustion residues. Of those comments, seven were received from industries, two were from industry associations, four were from State Agencies, one was from a waste management company, and one was from a waste management association. A summary of the specific issues raised by commenters is provided below.

One waste management association and two State commenters did not support excluding combustion residues, noting that there is a great deal of variability in combustion residues. While some organic compounds are destroyed effectively by the combustion process, the residue may contain persistent constituents (e.g., dioxins and metals) that are toxic. Accordingly, while the combustion byproducts may be physically and chemically dissimilar from the listed waste it is derived from, the byproducts have toxic properties that could cause environmental degradation. The commenters believed that relying on the TC by itself fails to provide adequate protection of human health and the environment. The commenters mentioned that not all metals of concern are covered by the TC. They also noted that the TC only measures potential risks via the groundwater pathway, and it is not definitive that groundwater is the driving risk pathway for these wastes. Because the TC approach does not comprehensively evaluate potential risks, wastes that do not exhibit hazardous waste characteristics are not necessarily non-hazardous. In addition, one State commenter believed it was prudent to wait for EPA's anticipated action on proposed combustion residues to address the physical and chemical properties of these wastes before any action is taken on CMA's proposal.

Two State commenters stated that there may be merit in excluding residues from the combustion of listed hazardous wastes. However, to make a definitive decision, one State would need to evaluate constituent concentration data, current management practices, environmental injury cases caused by the residues, and whether the residues commonly exhibit a hazardous waste characteristic. Since bonafide treatment has occurred and the residues are physically and/or chemically different from the hazardous wastes they were generated from, the State believed it was appropriate to view the residues as newly generated wastes and impose RCRA regulation if the waste exhibited a hazardous waste characteristic. Another State commenter believed an exclusion for combustion residues could be appropriate if the combustion takes place in a permitted (not interim status) hazardous waste combustion device; any listed wastes are listed for organic hazardous constituents only; the residual must not exhibit any characteristics; and the residues meet LDRs, including standards for underlying constituents. This approach would protect human health and the environment fully and would allow many combustion residues to exit Subtitle C regulation once LDRs are met.

The rest of the commenters believed that EPA should consider residues from hazardous waste combustion to be a new point of generation. These combustion residuals substantially differ in their physical and chemical makeup from the original listed hazardous wastes from which they are derived. Subtitle C regulation is not needed for such combustion residuals, especially if the residues do not exhibit hazardous characteristics. Instead, the residues can be managed adequately and protectively as industrial non-hazardous waste or discharged under the Clean Water Act. The commenters believed that the high cost of regulating these materials as hazardous waste purchases little or no increased protection of human health and the environment. The hazardous waste combustion process destroys virtually all of the organics in the listed wastes from which these residuals are derived, and the Toxicity Characteristic limits for metals are virtually the same as the health-based limits EPA-established for excluding Bevill wastes from Subtitle C regulation. One commenter submitted information on the operating parameters and limits for their combustion unit and the concentrations of the sludge from incinerator scrubber water generated.

One industry commenter noted that in combustion-related rulemakings, EPA consistently has maintained that well-operated and maintained combustion units can achieve high combustion efficiencies and can be operated in a manner that is protective of human health and the environment. Therefore, the commenter recommended the exclusion be limited to residues from units that continuously monitor stack emissions of CO, and do not exceed a CO level of 100 ppmv measured as an hourly rolling average.

While agreeing with CMA's proposal, one association commenter believed it should be extended to combustion residues from facilities operating pursuant to 40 CFR part 266, subpart F, specifically residues from precious metal reclamation operations. The commenter noted that the recovery of precious metals from hazardous waste is not a TSDF operation, and the units are not permitted under the same CFR sections. The commenter added that precious metal-bearing residues also are environmentally safe for two additional reasons: (1) Precious metal-bearing residues must not exhibit one or more of the characteristics of hazardous waste and (2) the residues must contain economically significant amounts of precious metals (to partake of the authority of 40 CFR 266.100(f)), and thus such wastes will be further reclaimed rather than disposed, ensuring environmentally protective management.

One commenter supported the use of the TCLP extract concentration limits in Appendix VII to 40 CFR part 266 as the criteria for excluding combustion residues. Several commenters also believed that solid residues from hazardous waste combustion units that do not exhibit any toxicity characteristic should be considered industrial non-hazardous waste. As such, the materials would be subject to state industrial non-hazardous waste programs.

(2) EPA Response to Comments on Excluding Hazardous Waste Combustion Residues

EPA is considering a possible exclusion for certain combustion residues, but does not believe that a blanket exclusion from the mixture and derived-from rules is appropriate for such wastes. Although hazardous waste combustors must meet at least 99.99% DRE (destruction and removal efficiency), metals and certain organics may only be transferred to a residue.

The constituents can become significantly concentrated in the residue. EPA does not believe that stack emissions are a reliable measure of the risk posed by the combustion residue; in fact, as technology improves the removal capability of air pollution control devices, the resulting residue will likely have greater concentrations of hazardous constituents and may pose unacceptable risks if mismanaged. In addition, several of the mixture and derived-from waste damage cases that EPA has identified are a result of improper disposal of combustion residues.[23]

In addition, EPA is particularly concerned about the possible formation of dioxins and furans during hazardous waste combustion. In the September 1999 combustion rule, we noted that there is "a considerable body of evidence" to show that dioxin and furan compounds can be formed in the post-combustion regions of hazardous waste combustors (see 64 FR 52994). Because of this concern, we have added these dioxin and furan compounds to Appendix VIII of 40 CFR part 266, which lists products of incomplete combustion (PICs) likely to be found in stack effluents.

However, EPA is considering a proposed tailored exclusion for certain combustion residues. For example, EPA is currently developing for public comment a proposed exclusion that focuses on wastes that have been slagged to liquefaction. These slagged wastes are unique because the high temperatures associated with liquefaction (2100°F, typically) appear to eliminate organic chemicals, including PICs, and generate a slagged residue which is a glassy, liquid, molten material that, when cooled, forms a potentially durable, homogeneous, solid mass. This combination of elimination of organic chemicals and change in physical form (which can reduce risk from non-groundwater pathways) make these slagged residues potential candidates for de-regulation. However, the liquefaction process does not reduce the concentration of toxic metals in the waste, which we would need to evaluate for potential risks to human health and the environment. EPA is planning to address this issue, as well as other possible tailored exclusions for combustion residues, in the upcoming proposal.

[23] See table 1, EPA 2000. *Releases of Hazardous Constituents Associated with Mixture and Derived-from Wastes (An Update)* U.S. EPA, April 2000.

E. Expanding the Current De Minimis Exclusion

A final regulatory option to revise the mixture and derived-from rules would expand a current exclusion for "*de minimis*" losses that result from the manufacture of commercial chemical products. The current exclusion, found in 40 CFR 261.3(a)(2)(iv)(D), excludes small losses of a commercial chemical product that can result from normal handling of the chemicals during the manufacturing process. The existing exclusion applies to commercial chemical products or intermediates, when they are lost during the manufacturing operation and are subsequently managed as a wastewater subject to regulation under the Clean Water Act (CWA) (see 46 FR 56586). The suggested expansion of this option would also exclude small losses from the normal handling of all listed hazardous wastes (instead of just commercial chemical products) when managed as a wastewater under the CWA. One rationale for the current "de minimis" exclusion is that a facility has little economic incentive to allow spills, leaks or other losses of commercial products. With respect to wastes, CMA believes that tank, container and air emission management standards of 40 CFR parts 264 and 265, subparts I, J, BB, and CC serve to encourage safe management of these wastes.

(1) Summary of Comments on Expanding the Current De Minimis Exclusion

EPA received comments from 15 commenters in response to the suggested expansion of the de minimis exclusion. Of those comments, six were received from industries, four were from industry associations, three were from State Agencies, one was from a Federal Government Agency, and one was from a waste management association. A summary of the specific issues raised by commenters is provided below.

Three commenters did not support the exclusion, believing that the exclusion might serve as an incentive for generators to spill or leak listed wastes into non-hazardous wastewater systems if those wastes were eligible for an exclusion. The current exclusion exists for commercial chemical products and companies typically ensure that raw materials/products are handled in a manner which would minimize losses, as these materials/products are valuable. The commenters did not believe that companies necessarily would take the same amount of care to prevent losses of listed wastes, if those wastes were excluded from Subtitle C.

One State commenter supported the exclusion. However, the State believes that rinsate from large hazardous waste containers that are rendered empty should be outside the definition of a de minimis loss. Large containers such as tanker trucks could contain substantial quantities (possibly hundreds of gallons) of hazardous waste. Such a volume of hazardous waste is outside the scope of losses that should be defined as de minimis and should not be defined as such.

One industry commenter stated that it was not clear from the preamble discussion what was meant by "rinsate from empty containers or from containers that are rendered empty by that rinsing." The commenter noted that rinsate from containers that held hazardous waste "generally contains concentrations of hazardous constituents which are at least as high as the original waste" and may contain significant quantities of solids. The quantities used to rinse containers of this type also may be significant depending upon the level of contamination in the container. In some cases it is not possible to clean a container to the point of being empty under the RCRA regulations and the container has to be disposed of as hazardous waste. The commenter believed that this issue must be clarified further before any exclusion could be considered. An industry association commenter also noted that the CMA proposal did not identify adequately the wastes for which the exclusion would operate. Since RCRA-empty container rinsate is already excluded, the commenter believed it should be specified that any exclusion need only address acute hazardous waste rinsate.

The rest of the commenters supported expanding the de minimis exclusion to all listed wastes. Several commenters believed that the exclusion could be extended beneficially to cover the very small losses from the normal handling of all listed wastes. The stringent regulation of hazardous waste handling at the site of generation means that few losses of this type would be expected to occur. The ability to manage de minimis losses of listed wastes as non-hazardous would ease RCRA compliance significantly without compromising the integrity of the NPDES wastewater treatment system or protection of human health and the environment.

The commenters noted that there was no reason to assume that a non-hazardous industrial wastewater treatment facility was any less capable of providing adequate treatment of the hazardous constituents found in listed wastes. EPA's stringent container and tank management standards in 40 CFR parts 264 and 265 subparts I and J, and air emission standards in subpart CC, serve as powerful incentives to properly manage these wastes to minimize the occurrence of "de minimis" losses. The Federal commenter supported the expansion, noting that it would provide to military installations the same level of regulation as is currently applicable to manufacturing industries. One industry commenter recommended that facilities wishing to take advantage of this exclusion be required to develop and implement written Best Management Practices (BMP) for all loading, unloading and transfer operations which are designed to minimize spills and prevent abuse of the exclusion.

One commenter questioned why EPA never has set out a scientific rationale by which it reserves the discriminatory use of the de minimis rule to those engaged in the manufacturing process and denies it to all others, including stand-alone bulk liquid commercial chemical storage terminals. The commenter also suggested that de minimis losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers, leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing.

Another commenter believed that there would be significant benefits from allowing de minimis losses of commercial chemical products from laboratories to be covered by the current regulatory exclusion. The types of commercial chemical products being used and tested in the laboratory also could be expected to be amenable to effective treatment in an on-site wastewater treatment system. The commenter noted that significant time, effort and cost is involved in segregating and capturing these types of de minimis losses from on-site laboratories.

(2) EPA's Response to Comments on Expanding the Current De Minimis Exclusion

EPA is considering the possibility of expanding the current de minimis exclusion for wastes managed in a wastewater treatment system subject to the Clean Water Act. However, EPA is concerned about the possible negative incentives that might result from extending the de minimis exclusion to wastes listed in 40 CFR 261.31 and 261.32 (F and K wastes, respectively). As noted in the comments, there is a direct economic incentive to ensuring that raw materials/products are handled in a manner which would minimize losses, as these materials/products are valuable. This incentive does not exist for hazardous waste. The concept of "de minimis" is also variable, depending on the quantities of material handled and the relationship of those quantities with the flowrate of the facility's wastewater treatment plant. However, EPA realizes that separation of small leaks of certain hazardous wastes can sometimes be impractical.

One possible approach would be to base the concept of "de minimis" on some fixed quantity of the waste, such as a Reportable Quantity (RQ) in Superfund regulations (see 40 CFR 302.4 and Table 302.4). By statute, all hazardous wastes must be given an RQ. EPA may pursue the concept of de minimis related to RQs (or some fraction or multiple thereof) as we consider this issue further. In pursuing such a change, EPA would do so through a proposed rulemaking.

In conclusion, EPA is currently developing proposals related to two of the suggestions that we believe to be the most straightforward to address: expanding the current headworks exclusion and excluding certain combustion residues (see Sections X.A. and X.D. respectively). We will also consider developing additional proposals on the other suggestions as well as other targeted exemptions, but we believe more analysis would first be necessary to decide how to address specific issues raised in the public. EPA welcomes any information or data that would help us in developing these analyses.

State Authorization

XI. How Will Today's Regulatory Changes Be Administered and Enforced in the States?

Under section 3006 of RCRA, EPA may authorize qualified States to carry out the RCRA hazardous waste program within the State. Following authorization, we maintain independent enforcement authority under sections 3007, 3008, 3013, and 7003 of RCRA, although authorized States have enforcement responsibility. An authorized State could become authorized for today's regulatory changes by following the approval process described under 40 CFR 271.21. See 40 CFR part 271 for the overall standards and requirements for authorization.

We are finalizing the retention of the mixture and derived-from rules. Most states have already received authorization for the mixture and derived-from rules as they currently stand. The rules are already in effect in those authorized States. Those states that are already authorized for the mixture and derived-from rules do not need to obtain authorization for those rules again. We are also revising those rules under the authority of sections 3001(a), 3002(a), and 3004(a) of RCRA. These revisions will not go into effect in authorized States until they adopt the revisions and receive authorization from us for the revision to their regulations.

None of today's revisions are more stringent or broaden the scope of the existing Federal requirements. Authorized States are not required to modify their programs when we promulgate changes to Federal requirements that are less stringent than, or that narrow the scope of, existing Federal requirements. This flexibility stems from RCRA section 3009, which allows the States to impose (or retain) standards that are more stringent than those in the Federal program. (See also 40 CFR 271.1(i)). Therefore, States are not required to adopt the revisions to the mixture and derived-from rules in today's rule, although EPA will strongly encourage their adoption.

Administrative Requirements

XII. How Has EPA Fulfilled the Administrative Requirements for This Rulemaking?

Several statutes and executive orders apply to rulemaking. Below is an explanation of how we address the requirements in those provisions:

A. Executive Order 12866: Determination of Significance

Under Executive Order 12866 (58 FR 51;735 (Oct. 4, 1993)), EPA must determine whether a regulatory action is "significant" and, therefore, subject to OMB review and the other provisions of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Pursuant to the fourth term of Executive Order 12866, we have determined that this rule is a "significant regulatory action" because there are novel policy issues arising out of legal mandates. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the docket to today's rule.

Although today's final rule is not "economically significant," the Agency prepared an economics background document in support of today's rule, titled *Economic Assessment of the U.S. EPA's 2001 Final Rule Revising the Mixture and Derived-From Rules.*

There are currently 29 hazardous waste codes within the RCRA program listed solely for ignitability (I), corrosivity (C), and/or reactivity (R) characteristics. Today's rule excludes these wastes from RCRA Subtitle C regulation, if such wastes are de-characterized and meet the associated LDR treatment standards.To estimate the potential economic impact of excluding these 29 characteristically-listed RCRA waste codes, we analyzed the type and quantity of industrial hazardous wastes contained in the two databases: the 1986 "Generator Survey", and the 1996 "National Hazardous Waste Constituent Survey." These two databases are described in the Economic Assessment background document.

This exclusion is expected to benefit the relevant segment of the RCRA regulated community by reducing the cost of shipping and disposing these de-characterized wastes. This potential cost savings is modeled in this study as consisting of two components:

(1) The difference between the cost for disposal of treatment residuals from these 29 waste codes in hazardous landfills (i.e., current or "baseline" practice), compared to the cost for disposal in nonhazardous landfills under this exclusion.

(2) The reduction in burden hours and associated burden cost for no longer requiring preparation, transmitting and filing of truck shipment hazardous waste manifests (EPA Form 8700–22) for these potentially excluded wastes.

The database extractions, computations and findings of the impact analysis are presented in the Economic Assessment background document. The highlights of EPA's estimated economic impacts for this revision are as follows:

—236 applicable industrial hazardous waste streams, totaling 3.6 million tons in annual generation (before RCRA Subtitle C hazardous waste treatment) by an estimated 120 US facilities.

—As generated, these waste streams consist of 99% liquid (mainly organic liquids) and 1% non-liquid (sludge) waste forms.

—The 3.6 million annual tons of applicable waste (before RCRA Subtitle C hazardous waste treatment), represents 1.4% of the total RCRA hazardous waste universe (1993 BRS large generator total quantity = 258 million tons).

—Approximately 75% of the potentially excluded waste streams are identified by waste code F003 (spent non-halogenated solvents) plus a characteristic waste code (for example, D001), and 19% are identified by waste code F003 only.

—Applicable waste streams are located in 17 four-digit level SIC code industry sectors. 146 (62%) of the 236 applicable waste streams are generated by industries in SIC 28 (represented also by NAICS code 325).

—There are 51 different hazardous chemical constituents in the wastestreams *before treatment;* prevalent ones include: ethylbenzene, toluene, methyl ethyl ketone, methanol, ethyl acetate, xylenes, acetone, methylene chloride, and n-butyl alcohol.

—After RCRA Subtitle C treatment (mainly incineration), the 236 wastestreams result in the annual disposal of about 57,400 tons of treatment residuals, primarily in the form of incineration ash.

—Potential annual industry waste treatment residual disposal cost savings is estimated at $4.593 million, while annual reduction in truck shipment manifesting cost is estimated at $0.455 million. These two cost savings components represent a total annual cost savings estimate of $5.048 million. Applying −15% to +30% cost estimation uncertainty to this point-estimate (as explained in the background document), produces the associated cost savings estimation range of $4.29 to $6.56 million per year.

B. Regulatory Flexibility Act

Pursuant to the 1980 Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency publishes a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, a regulatory flexibility analysis is not required if the head of an agency certifies that the rule will not have a "significant" economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a "significant" economic impact on a substantial number of small entities. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et. seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards established for industries as described in the North American Industry Classification System (see http://www.sba.gov/size/NAICS-cover-page.html).; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The following discussion presents the facts for EPA's determination. EPA has examined this rule's potential effects on small entities as required by the RFA/SBREFA, and has determined that this action will not have a significant economic impact on a substantial number of small entities. As discussed in Section XII.A of this preamble, we have prepared an economic analysis of the potential effects of this rule, and have determined that the rule is expected to have a net beneficial effect on eligible entities, in the form of reduced environmental regulatory compliance costs for industrial waste management. The final rule allows small (and other size) entities voluntarily to exempt certain solid wastes (i.e. mixtures and derivatives of solid wastes listed as RCRA hazardous solely for the ignitability, corrosivity, and/or reactivity characteristics, which no longer exhibit any such characteristic, and which comply with RCRA land disposal restrictions), from compliance with the RCRA Subtitle C hazardous waste regulatory system. The economic analysis evaluates the extent to which both small quantity and large quantity industrial waste generators might be potentially eligible for cost savings under this rule, as a result of seeking this exemption. This proposed rule is voluntary, and the overall economic effect of this regulation for both small and large entities which are eligible to participate, is expected to be a net average annual reduction in industry regulatory burden and compliance costs. Consequently, because the net economic impacts and effects of this rule are beneficial rather than adverse, we have concluded that today's final rule will relieve regulatory burden for all small entities.

C. Paperwork Reduction Act (Information Collection Request)

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 0801.12) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 1200 Pennsylvania Avenue NW.; Washington, DC 20460, by E-mail at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the Internet at http://www.epa.gov/icr.

Today's revisions of 40 CFR 261.3 do not include any new recordkeeping or reporting requirements. However, the revisions could reduce the burden estimate for existing RCRA information collection requirements, such as the Uniform Hazardous Waste Manifest (Form 8700–22A). As discussed in Section XII.A. of this preamble, today's rule could exclude approximately 54,700 tons of treated waste residuals (mainly incineration ash) per year. Assuming that these now-excluded wastes are shipped offsite for disposal, and assuming that an average truckload carries about 20 tons (of solids), today's rule could result in approximately 2,870 shipments per year that would no longer require Uniform Hazardous Waste Manifest. (This estimate is an upper bound, since many hazardous waste generators manage their waste on-site). The RCRA Hazardous Waste Manifest System ICR (No. 0801.12.) estimates an annual burden of 1.29 hours per shipment of hazardous waste. Therefore, today's rule could reduce the total burden associated with manifests by 3,702 hours per year. (The current burden associated with manifests is estimated to be 2,920,383 hours per year).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes, with the final rule, an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must have developed a small government agency plan under section 203 of the UMRA. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's revision to the mixture and derived-from rules is voluntary, and because these revisions are less stringent than the current regulations, State governments are not required to adopt the regulatory changes. The UMRA generally excludes from the definition of "Federal intergovernmental mandate" duties that arise from participation in a voluntary federal program. The UMRA also excludes from the definition of "Federal private sector mandate" duties that arise from participation in a voluntary federal program. Therefore we have determined that today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. As explained in Section XI of this preamble, none of today's revisions are more stringent or broaden the scope of the existing Federal requirements. Therefore, States are not required to adopt the revisions to the mixture and derived-from rules in today's rules. Thus, Executive Order 13132 does not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with representatives of state governments in developing this rule, and included representatives of state governments as participants in the rulemaking workgroup. For an overview of EPA's consultations with the States, please see *Summary of Consultations with State Representatives for the Hazardous Waste Identification Rule (HWIR).*

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Because today's revision to the mixture and derived-from rules is less stringent than the existing program, it would not create any mandate on Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

"Protection of Children from Environmental Health Risks and Safety Risks" (62 *FR* 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866 and because the environmental health or safety risks addressed by this action do not present a disproportionate risk to children.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. Today's rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Executive Order 12898: Environmental Justice

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," as well as through EPA's April 1995, "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report," and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities. Today's rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective August 14, 2001.

Technical Correction

XIII. What Technical Correction Is EPA Making in Today's Rulemaking?

In today's final rule, we also are correcting an error made in a previous notice. In the final rule published June 8, 2000, "Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments' (65 FR 36365), the entry for listed hazardous waste code U048 (o-Chlorophenol) in Table 1 of Appendix VII to 40 CFR part 268 ("Effective Dates of Surface Disposed Wastes (Non-Soil and Debris) Regulated in the LDRs-Comprehensive List") was inadvertently removed. Today we are amending Table 1 of Appendix VII to 40 CFR part 268 to reinsert the entry for hazardous waste code U048. The LDR effective date for this waste code (all waste categories) was August 8, 1990.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Waste treatment and disposal.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

Dated: April 30, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

2. Section 261.3 is amended by removing and reserving paragraph (a)(2)(iii) and revising paragraph (a)(2)(iv) and the first sentence of paragraph (c)(2)(i); and by adding paragraphs (g) and (h) to read as follows:

§ 261.3 Definition of hazardous waste.

(a) * * *

(2) * * *

(iii) [Reserved]

(iv) It is a mixture of solid waste and one or more hazardous wastes listed in subpart D of this part and has not been excluded from paragraph (a)(2) of this section under 40 CFR 260.20 and 260.22, paragraph (g) of this section, or paragraph (h) of this section; however, the following mixtures of solid wastes and hazardous wastes listed in subpart D of this part are not hazardous wastes (except by application of paragraph (a)(2)(i) or (ii) of this section) if the generator can demonstrate that the mixture consists of wastewater the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and;

* * * * *

(c) * * *

(2) (i) Except as otherwise provided in paragraph (c)(2)(ii), (g) or (h) of this section, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash emission control dust, or leachate (but not including precipitation run-off) is a hazardous waste. * * *

* * * * *

(g)(1) A hazardous waste that is listed in subpart D of this part solely because it exhibits one or more characteristics of ignitability as defined under § 261.21, corrosivity as defined under § 261.22, or reactivity as defined under § 261.23 is not a hazardous waste, if the waste no longer exhibits any characteristic of hazardous waste identified in subpart C of this part.

(2) The exclusion described in paragraph (g)(1) of this section also pertains to:

(i) Any mixture of a solid waste and a hazardous waste listed in subpart D of this part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (a)(2)(iv) of this section; and

(ii) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in subpart D of this part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (c)(2)(i) of this section.

(3) Wastes excluded under this section are subject to part 268 of this chapter (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

(h)(1) Hazardous waste containing radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of 40 CFR part 266, Subpart N ("eligible radioactive mixed waste").

(2) The exemption described in paragraph (h)(1) of this section also pertains to:

(i) Any mixture of a solid waste and an eligible radioactive mixed waste; and

(ii) Any solid waste generated from treating, storing, or disposing of an eligible radioactive mixed waste.

(3) Waste exempted under this section must meet the eligibility criteria and specified conditions in 40 CFR 266.225 and 40 CFR 266.230 (for storage and treatment) and in 40 CFR 266.310 and 40 CFR 266.315 (for transportation and disposal). Waste that fails to satisfy these eligibility criteria and conditions is regulated as hazardous waste.

PART 268—LAND DISPOSAL RESTRICTIONS

3. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Appendix VII to Part 268—[Amended]

4. Appendix VII to part 268 Table 1 is amended by adding the following wastestream in alphanumeric order (by the first column) to read as follows:

Waste code	Waste category	Effective date
. . . . .	. . . . .	. . . . .
U048	All	Aug. 8, 1990.

[FR Doc. 01–11411 Filed 5–15–01; 8:45 am]

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Federal Register

Wednesday,
May 16, 2001

Part III

Department of Energy

Privacy Act of 1974; Publication of Compilation of Privacy Act Systems of Records; Notice

DEPARTMENT OF ENERGY

Privacy Act of 1974; Publication of Compilation of Privacy Act Systems of Records

AGENCY: Department of Energy.

ACTION: Publication of Department of Energy (DOE) compilation of Privacy Act Systems of Records and notice of intent to publish proposed new systems of records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a, and the Office of Management and Budget (OMB) Circular A–130, the DOE is publishing the compilation of the Privacy Act systems of records of the agency. This notice reflects various significant and administrative changes to existing systems of records and identifies proposed new systems of records.

DATES: Any interested person may submit written comments concerning the proposed changes to DOE's Privacy Act System of Records by June 15, 2001. Except for proposed exemptions that require separate notice and comment rulemaking, the changes proposed in this notice will be effective on July 2, 2001 unless DOE receives comments that require a contrary determination. DOE will publish a document in the **Federal Register** notifying the pubic if any changes are necessary.

ADDRESSES: Written comments should be directed to Abel Lopez, Director, Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, MA–73, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Abel Lopez, Director, Freedom of Information Act and Privacy Act Division, MA–73, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5955; Verlette Moore, Freedom of Information Act and Privacy Act Division, MA–73, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5958; and Isiah Smith, Office of General Counsel, GC–80, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8618.

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Amendments to Existing Systems of Records
III. Establishment of New Systems of Records
IV. Discussion of Deletion Notices
V. Comment Procedures
VI. Table of Contents of All DOE Systems of Records as Adopted or Proposed

I. Background

This notice provides an accurate and complete text of notices for the sixty systems of records established under the Privacy Act by the DOE. The last compilation of the Department's systems of records was published at 47 FR 14306, April 2, 1982. Since that time, the DOE has published several notices to establish new systems of records and to amend published systems.

The Department's previous compilation included appendices that listed the DOE locations where the records are maintained and the routine uses applicable to the various systems. We have determined that the proposed system notices will be a more useful tool to the subject of the records if all information related to each of the particular systems is incorporated into the individual notices. Each system notice will provide a more accurate description of the systems of records, identify the purpose and authority for collecting and maintaining the information, reflect administrative changes that have been made, identify the appropriate DOE locations, and incorporate all routine uses. In addition, this **Federal Register** notice proposes new routine uses for existing systems of records and establishes seven new systems of records.

II. Proposed Amendments to Existing Systems of Records

DOE–1 Personnel and General Employment Records

This notice proposes to change the name of "DOE–1 Personnel and General Employment Records" to "DOE–1 Grievance Records." The notice also will expand the categories of records maintained in the system and establish three new routine use provisions.

The system currently encompasses all personnel and general employment records for Federal employees at the DOE. With the exception of grievance records, the maintenance of general employment records in the system duplicates "OPM Gov't–1 Personnel Records," the government-wide system of records of the Office of Personnel Management (OPM). Therefore, the Department will no longer maintain a system for these records.

The amended system will maintain only grievance records subject to the negotiated grievance process under DOE 3771.1, "Grievance Policy and Procedures." The records in this system will be used by management officials in the resolution of employee concerns about working conditions, administration of collective bargaining agreements, employee-supervisor relations, work processes, or other similar issues.

The categories of records maintained in the system of records will include those records covered by the DOE and administrative grievance process and a negotiated grievance process, security clearance documents, management reports, witness statements, affidavits, checklists, and notes.

This notice also proposes to establish three new routine use disclosures for the system of records. The three proposed routine uses will allow disclosure of information maintained in the system (1) to union officials acting in their official capacity as a representative of the grievant or affected employees under 5 U.S.C. 7121; (2) to an appropriate Federal, State, or local agency that is authorized to review and resolve the issue(s) raised in the grievance; and (3) to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Department is a party to the judicial or administrative proceeding. These routine uses are compatible with the purpose for which the information is being collected and maintained.

DOE–5 Personnel Records of Former Contractor Employees

This notice proposes to amend "DOE–5 Personnel Records of Former Contractor Employees" by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

DOE–8 Intergovernmental Personnel Act (IPA) Contracts

This notice proposes to amend "DOE–8 Intergovernmental Personnel Act (IPA) Contracts" by expanding an existing routine use provision and modifying how the records are stored. Presently, records are maintained in paper medium. The storage of the records has been modified to include records maintained in an on-line database. Automation of the documents will improve the management of paper records. Access to records in the system is limited to those whose duties require access to the records and is completely password protected. Hard copies of the same records are stored in locked metal or office file cabinets.

This notice proposes to expand an existing routine use disclosure. Presently, information may be disclosed to State and local governments and institutions of higher education for the purpose of assigning individuals for temporary periods. The proposed routine use provision will be expanded to include disclosure of information to federally funded research and development centers. The proposed expanded routine use disclosure is compatible with the system's purpose to maintain information used to provide payments under the terms of the personnel agreements, and to provide employment histories and information for reports and program evaluations to a Federal agency in connection with the hiring or retention of an employee.

DOE–18 Accounts Payable Financial System

This notice proposes to amend the categories of individuals section to include contractor employees of the Agency who are due monies from the Department.

DOE–23 Property Accountability System

This notice proposes to amend the categories of individuals and the categories of records sections, and to add a new routine use disclosure. The categories of individuals will be expanded to include contractor employees of the Agency who are authorized to be custodians of controlled DOE equipment. The categories of records maintained in the system will be expanded to include information about the equipment such as date of purchase; cost price; purchase order number; property tag identification; status/date; condition of property; operation number; high risk field; and disposal code.

The proposed new routine use disclosure will allow the disclosure of information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency. A routine use disclosure will be made to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

The proposed new routine use disclosure is compatible with the system's purpose to provide inventories to satisfy other Federal Procurement Management Regulations (FPMR) requirements; to maintain records of the location of emergency equipment; to control equipment; to document assignments authorized under union contracts; to provide management information necessary for the budgeting and allocation of equipment; and to provide evidence of assignment, location, and value in the event that Government property is stolen.

DOE–24 Land Record System

This notice proposes to amend the system by establishing two new routine use provisions. The new routine uses will permit the disclosure of information to the Internal Revenue Service to provide notification of individuals who have received payment exceeding $600.00 on any one land right transaction, and disclosure to the Department of Justice to provide support of land right condemnation actions. These disclosures are compatible with the system's purpose to maintain and track land rights information resulting from property rights acquisitions, outgrants, licenses, transfers, exchanges, encroachments, disposals, and construction and maintenance programs.

DOE–25 Employee Parking Records

This notice proposes to change the name of "DOE–25 Employee Parking Records" to "DOE–25 U.S. Department of Energy Commuter Locator and Parking Space Information System." This notice also proposes to amend the system of records by establishing a new routine use provision.

The proposed new routine use provision will permit the disclosure of information to the Council of Governments who will provide information about car pools and van pools to commuters seeking to make commuter connections. This disclosure is compatible with the system's purpose to maintain information of existing car pools, van pools, and other categories of parking for a current record of employees who commute to work.

DOE–26 Official Travel Records

This notice proposes to amend "DOE–26 Official Travel Records" by expanding the categories of individuals and categories of records sections, and to add a new routine use disclosure. The categories of individuals will be expanded to include individuals who relocate at the Department's expense. The categories of records maintained in the system also will be expanded to include charge card account numbers, residential sales records, and receipts.

The proposed routine use disclosure will allow transmittal of information maintained in the system of records to the General Services Administration for the audit of transportation services. The proposed new routine use disclosure is compatible with the system's purpose to document official domestic and foreign travel, relocation expenditures, foreign travel approval and reimbursement of allowable expenses.

DOE–33 Personnel Medical Records

This notice proposes to amend "DOE–33 Personnel Medical Records" by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This routine use is compatible with the purpose for which the information is being collected and maintained. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

DOE–34 Employee Assistance Program (EAP)

The DOE published for public comment in the **Federal Register** an amendment to an existing system of records on May 13, 1996. The amendment expanded the system's scope to include records on assistance on all behavioral problems or issues. The existing system covers only those records relating to counseling and

referral services to resolve alcohol and/or drug counseling and records relating to referral services to resolve alcohol and/or drug abuse problems.

Records from this system will be used to provide information to the employee assistance program provider, program coordinator, and program evaluators to assist in the operation of the program. The information also will be provided to appropriate Departmental management officials regarding possible health, safety, or security risks.

The number of system locations was increased to include the offices of the Departmental service providers (counselors) when their offices are off-site. The categories of individuals covered also was amended to include former employees. The categories of records in the system now includes a detailed employee profile, interest inventory and/or psychological test results, issue inventory, case notes, consent/release forms, and psychological reports.

The new routine uses permit the disclosure of information maintained in the system of records to (1) the Department's contractors and their personnel who provide services to the Program who have a need for the records in the performance of their duties; (2) appropriate officials of law enforcement agencies, government and social service agency officials, and court officials if the employee is suspected of child, spousal, or elder abuse; (3) any person or entity to the extent necessary to prevent an imminent or potential crime that directly threatens loss of life or serious bodily injury; (4) qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report, or otherwise disclose patient identities in any manner; and (5) the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim results from action against an individual based upon the individual's behavior or mental or physical condition, or is alleged to have arisen because of activities of any Federal agency in connection with the individual. These routine uses do not apply to records maintained in the system of records that pertain to alcohol and substance abuse that are subject to the more restrictive confidentiality constraints set forth at Title 42, United States Code, section 290 dd–2, and Title 42, Code of Federal Regulations, part 2.

The proposed notice published in 1996 also deleted the routine uses listed for the system in the Department's complete compilation of Privacy Act systems of records at 47 FR 14306, and subsequent **Federal Register** republications. All intended disclosures of information maintained in the system are included in the proposed routine uses to be established in this notice.

Response to Comment Received—One comment was received in response to the amendments to the system in 1996. The comment addressed the disclosure of records to the employee's supervisor when the employee waives confidentiality. The commenter opposed allowing an employee's supervisor access to EAP records under any circumstances. The commenter states that when a waiver of confidentiality has occurred, it is acceptable for an EAP provider to discuss information with a supervisor, but not to release records. DOE agrees with this comment and is revising the Purpose section of the system to address this comment. Accordingly, the Purpose section is revised to read as follows:

> These records are used by the Department of Energy to maintain documentation on employees seeking assistance on behavioral problems or issues. Records from this system will be used to provide information to the employee assistance program provider, program coordinator, and program evaluators to assist the operation of the program. In cases of employee supervisor initiated referrals, information will be discussed with the employee's supervisor if the employee waives confidentiality, but documents will not be provided. The information also will be provided to appropriate Departmental management officials regarding possible health, safety, or security risks.

DOE–35 Personnel Radiation Exposure Records

This notice proposes to amend "DOE–35 Personnel Radiation Exposure Records" by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

DOE–41 Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others)

This notice proposes to amend "DOE–41 Claims, Litigation, Criminal Violations, Patents, and Others" by modifying how the records are stored. Records now are maintained in paper medium. The storage section will be modified to include electronic generated records. Maintenance of electronic records improves the management of paper records by using current technology to reduce redundant processes, multiple copying, and misfiling of correspondence. Access to the records will be on a need to know basis. All records containing personal information will be maintained in secured file cabinets or in files accessible only by authorized personnel. Access doors will be locked when offices are vacant and access to computerized files is password protected.

DOE–43 Personnel Security Clearance Files

This notice proposes to amend "DOE–43 Personnel Security Clearance Files" by establishing a new routine use provision. The proposed new routine use will permit disclosure of information to competent medical authorities who, under a formal agreement for payment of services with the local DOE personnel security elements, conduct evaluations under 10 CFR part 710. These evaluations are conducted to determine whether an individual has an illness or mental condition of a nature that causes or may cause a significant defect in judgment or reliability, or is alcohol dependent or suffering from alcoholism.

DOE–46 Clearance Board Cases

This notice proposes to change the name of the system from "DOE–46 Clearance Board Cases" to "DOE–46 Administrative Review Files." The proposed name reflects the administrative review proceedings that determine a DOE access authorization eligibility of an individual. The categories of individuals section has been revised to provide greater specificity about the individuals covered by the system. In addition, this notice more clearly identifies the records that are currently maintained in

connection with the process established at 10 CFR part 710.

DOE–48 Security Education and/or Infraction Reports

This notice proposes to amend "DOE–48 Security Education and/or Infraction Reports" by modifying how the records are stored. Records now are maintained in paper medium. The storage section is being amended to include electronic records. Maintenance of electronic records and a database improves the management of paper records by using current technology and allows better tracking of security infractions issued and security training taken by individuals. Access is limited to employees with a need-to-know. Records are stored in secured areas.

DOE–49 Security Correspondence File

The last compilation of DOE's Privacy Act system of records was published on April 2, 1982. This publication included the system of records notice for DOE–49 Security Correspondence File. On November 27, 1998, this system of records was inappropriately deleted from DOE's inventory. For this reason, the DOE is republishing "DOE–49 Security Correspondence File." This notice proposes to change the name to "DOE–49 Security Communications File" and to amend how the records are stored.

The records are being compiled by DOE as part of it's efforts to adequately carry out its physical security responsibilities by creating and maintaining profiles of all individuals who have made threats of any kind, and through any medium, against DOE officials, DOE employees, DOE contractor employees, DOE facilities and/or DOE buildings. Information maintained in the system will consist of threat correspondence received from individuals, as well as individuals who have been identified from articles in the new media as being potential threats to the Department, its employees, and facilities. The records will consist of information obtained from the subject individual, complainants, witnesses, agency files and records, official federal, state or local records and publicly available information. The records will be stored as paper records, microfiche, and electronic media.

The system is being establish under the authority vested in the Secretary contained in 42 U.S.C. 7101 *et seq.*, and 52 U.S.C. 2401 *et seq.* The system also will satisfy the requirements of E.O. 12958, "Classified National Security Information" (April 17, 1995).

The system will be exempt from subsections (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act; see the Department's Privacy Act regulation at 10 CFR 1008.12(b). The DOE Privacy Act regulation has been amended to allow these exemptions.

DOE–50 Personnel Assurance Program Records

This notice proposes to amend "DOE–50 Personnel Assurance Program Records" by modifying how the records are stored. Presently, records are maintained in paper medium. The storage section is being amended to include computer database files. Maintenance of electronic records improves the management of paper records by using current technology to provide greater access to the records. Access is limited to those employees with a need-to-know. All records are stored in locked file cabinets in secured buildings.

DOE–51 Employee Visitor and Access Control Records

This notice proposes to amend "DOE–51 Employee Visitor and Access Control Records" by expanding the categories of individuals section, expanding an existing routine use provision, and modifying how the records are stored. The section for categories of individuals also will include DOE contractor employees seeking access to DOE facilities and classified records.

This notice also proposes to expand an existing routine use disclosure. Presently, records may be disclosed to the Department of Defense to authorize access to classified information and areas. This proposed routine use will be amended to include disclosure of information to the National Aeronautics and Space Administration. The proposed routine use disclosure is compatible with the system's purpose to control access to Departmental facilities to those with proper identification.

This notice also proposes to amend the system by modifying how the records are stored. Presently, records are maintained in paper medium. The storage section is being amended to include an automated database. The database may contain the clearance history of an individual, access identification information, and photographs. Maintenance of electronic records improves the management of paper records by using current technology to provide greater access to the records. Access is limited to employees with a need-to-know. Records are stored in a secure area.

DOE–52 Alien Visits and Participation

This notice proposes to amend the system and change the name from "DOE–52 Alien Visits and Participation" to "DOE–52 Access Control Records of International Visits, Assignments, and Employment at DOE Facilities and Contractor Sites." The categories of individuals and the categories of records sections are more detailed. They are amended to more clearly identify the individuals and records covered by the system. In addition, the locations where the records are maintained have been expanded to include all DOE facilities and contractor facilities.

The storage section is being amended to include files on electronic media. Maintenance of electronic records improves the management of paper records by using current technology. In addition, it provides greater access to the records and improves the tracking of security infractions and security training. Access is limited to employees with a need-to-know.

DOE–55 Freedom of Information Act and Privacy Act (FOIA/PA) Requests for Records

This notice proposes to amend "DOE–55 Freedom of Information and Privacy Act (FOIA/PA) Requests for Records" by expanding the section of categories of records, establishing two new routine use provisions, and modifying how the records are stored.

The categories of records section is being amended to include the identity of the FOIA/PA Division analyst assigned to process requests and case notes for requests.

The new routine uses permit disclosures of information maintained in the system to another Federal agency to consult on or refer requests for processing, and to a Federal agency, court of law, or party in litigation or administrative proceeding challenging or seeking to enjoin actions by the Department under the FOIA or PA. This new routine use is compatible with the system's purpose to determine the actions taken on FOIA and PA requests to produce statistical reports and for case management.

This notice also will amend how records are stored and retrieved. Records now are stored in paper and microfiche media. Records will be stored in an optical imaging system database, where records are scanned and stored in an electronic media. Records include video, audio, and electronic media files. Maintaining

information electronically will improve the management of the records and is in compliance with the Electronic Freedom of Information Act Amendments to the FOIA. Information will be retrieved by name and case number. Computerized files are password protected, and paper records are stored in locked metal file cabinets. Access to the records will be limited to a need-to-know basis.

DOE–56 Congressional Constituent Inquiries

The notice proposes to amend "DOE–56 Congressional Constituent Inquiries" by establishing two new routine use disclosures. This notice will allow records to be disclosed to another Federal agency when consultation or referral is required to process the request. In addition, records from this system may be disclosed to members of Congress on behalf of their constituents, and to the Department's contractors in performance of their contracts and their officers and employees who have a need for the record to perform their duties. These parties will be subject to the same limitations applicable to the Department's officers and employees under the Privacy Act. The new routine uses are compatible with the system's purpose to track inquiries by members of Congress on behalf of constituents, to ensure proper document control of the response, and to record the Department's responses to such inquiries.

This notice also will amend how the records are stored. Records now will include electronic records. Maintaining information electronically will improve the management of executive correspondence in the Department using current technology to reduce redundant processes, multiple copying, and misfiling of correspondence. Access to the records is limited to a need-to-know basis. The records are password protected.

DOE–57 Congressional Profiles

Records from this system will be used by DOE personnel, particularly those in the Office of Congressional Affairs, who need to be informed about energy issues of interest to members of Congress and to have available minimal biographical information on each member and the member's district or State. Maintaining the information will enable DOE to be better informed and more responsive in its interactions with Congress. For this reason, DOE will collect and maintain publicly available information derived from information releases by members' offices, abstracts from the Congressional Record, committee hearings, and other published or public sources. This information will be maintained by the name of each individual member of the current Congress.

The storage of these records was previously reported as paper records and computer printouts. This notice will amend and modify this section of the systems notice to include storage of the records on electronic format.

DOE–58 General Correspondence Files of the Office of the Secretary of Energy

Records in this system consist of correspondence written to the Secretary, Deputy Secretary, and Under Secretary of Energy. The system of records has been amended to expand the categories of individuals who are covered by the system to include all individuals who communicate by letter with the Secretary, Deputy Secretary, and Under Secretary. This section will include members of Congress, representatives of organizations, other Federal and state agencies, and the general public.

At present, the records maintained in the system are only paper records. This notice proposes to amend the storage section of the system to include databases and electronic images. The records will be stored in an optical imaging system database, where records are scanned and stored in an electronic medium. Maintaining information electronically will improve the management of executive correspondence in the Department using current technology to reduce redundant processes, multiple copying, and misfiling of correspondence. The records are password protected. Access to the records is limited to a need-to-know basis.

DOE–62 Historical Files—Published Information Concerning Selected Persons in the Energy Field

The History Division in the Office of the Executive Secretariat of the DOE is responsible for assembling significant materials about the history of the Federal role in energy development in the United States. In furtherance of this function, published information from newspaper and magazine articles, press releases, announcements, and speeches is collected and maintained about individuals who are prominently involved in historic events of interest to the energy community. These materials are used to prepare official histories and to respond to specific requests for historical information.

The previously published notice described one routine use disclosure to members of the public and media. This notice will amend the system by adding three proposed new routine use disclosures. The proposed new routine use disclosures will permit disclosure of information (1) to another Federal agency when consultation or referral is required to process requests; (2) to a congressional office submitting a request or inquiring about a request on behalf of a constituent who is the subject matter of the record; and (3) to DOE contractors to perform their duties in accordance with the same limitations applicable to the DOE officers and employees under the Privacy Act. These proposed routine uses are compatible with the purpose of preparing histories to respond to informational inquiries from members of the public and from DOE officials.

DOE–71 The Radiation Accident Registry

This notice proposes to amend "DOE–71 Radiation Accident Registry" by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained.

DOE–72 The DOE Radiation Study Registry

This notice proposes to amend "DOE–72 The DOE Radiation Study Registry" by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, to estimate radiation doses and other workplace exposures received by Department of Energy Federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained.

DOE–73 The US–DPTA Registry

This notice proposes to amend "DOE–73 The US–DPTA Registry" by establishing a new routine use disclosure. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy Federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained.

DOE–84 Counterintelligence Investigations

The DOE, as the successor agency to the Atomic Energy Commission, has broad responsibilities under the Atomic Energy Act (AEA) to direct the development, use, and control of atomic energy. These responsibilities include a specific mandate to protect sensitive and classified information and materials involved in the design, production, and maintenance of nuclear weapons, and a general obligation to ensure that permitting an individual to have access to information classified under the AEA will not endanger the nation's common defense and security. As an element of carrying out its national security mission, the DOE has instituted a more rigorous counterintelligence program to strengthen its protection of information and technologies in connection with DOE's atomic energy defense activities. This stronger counterintelligence program has emphasized selection and training of field counterintelligence personnel; counterintelligence analysis; counterintelligence and security awareness; protections against potential insider threats; computer security; improved coordination with the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), and the National Security Agency (NSA); and the establishment of a counterintelligence evaluation program to include a counterintelligence-scope polygraph examination.

At 64 FR 70962 on December 17, 1999, the DOE published a final rule for the use of counterintelligence-scope polygraph examinations for certain DOE Federal and contractor employees, applicants for employment, and other individuals assigned or detailed to Federal positions at DOE. See 10 CFR part 709. The DOE now requires counterintelligence-scope polygraph examinations for individuals in positions with access to the most sensitive and classified information and materials in connection with DOE's atomic energy defense activities as a necessary, prudent measure to fulfill DOE's national security responsibilities.

An additional part of DOE's enhanced counterintelligence program is the establishment of a pilot program to monitor and analyze selected outgoing and incoming electronic mail (e-mail) from the DOE Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest National Laboratory, which are engaged in nuclear weapons design or work involving special nuclear material. The purpose of the pilot project at the national laboratories is to test whether e-mail monitoring is an effective device to address threats to DOE assets by foreign governments, groups, organizations or persons that attempt to gather classified and other protected information through e-mail communications with DOE Federal and contractor personnel.

In accordance with the Privacy Act, 5 U.S.C. 552a, DOE proposes to amend "DOE–84, Counterintelligence Investigative Records" by expanding the categories of records section and categories of individuals section. The amendment will expand the categories of records section to include hard copy as well as electronic versions of investigative reports, evaluations records, polygraph examination records and videotapes of polygraph sessions, and compact disks of e-mail.

In addition, as a result of the implementation of the DOE counterintelligence evaluation program to include the counterintelligence-scope polygraph examination, the categories of individuals section covered by the system also will be expanded to include employees and applicants for employment with DOE and its contractors (including subcontractors at all tiers), and individuals who may be assigned or detailed to Federal positions at DOE. There are eight program categories covered by the polygraph examination regulation. These include positions that DOE has determined include counterintelligence activities or access to counterintelligence sources and methods; positions requiring access to Sensitive Compartmented Information; positions requiring access to non-intelligence Special Access Programs; positions subject to the Personnel Assurance Program (PAP) or Personnel Security Assurance Program (PSAP); positions with a need-to-know or access to information specifically designated by the Secretary regarding the design and operation of nuclear weapons and associated use and control features; positions within the Office of Independent Oversight and Performance Assurance, or any successor thereto, involved in inspection and assessment of safeguards and security functions, including cyber-security, of the Department; and positions within the Office of Security and Emergency Operations, or any successor thereto. The categories of individuals also will include those individuals who voluntarily request a polygraph examination in order to respond to questions that have arisen in the context of a counterintelligence investigation. These last examinations are referred to as exculpatory polygraph examinations. The categories of individuals also will be expanded as a result of the e-mail analysis pilot project to include users of the e-mail systems at the Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest National Laboratory.

Hard copy and electronic versions of investigative records and counterintelligence evaluation records, except polygraph records and videotape and e-mail records, contained in this system of records may be maintained at DOE Headquarters or other DOE sites listed below. The polygraph records and videotapes will be maintained only at the DOE Test Center, Albuquerque, NM, 87106, and at DOE, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585. The records will be stored as paper records, electronic records, and videotapes. The polygraph records are safeguarded in locked cabinets and electronic records are password protected. Access is limited to authorized staff only.

The e-mail records will be maintained only at the DOE Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, Pacific Northwest National Laboratory, and at DOE

Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585. The records will be stored as electronic records on compact disks. The e-mail records are safeguarded in locked cabinets, and access is limited to authorized staff only.

The polygraph examinations are authorized by the National Defense Authorization Act of Fiscal Year 2000, Pub. L. 106–65 section 3154; the Employee Polygraph Protection Act, Pub. L. 100–347; 29 U.S.C. 2006 (b)(1)(B); Executive Order 12958, Classified National Security Information (April 17, 1995); Executive Order 12968, Access to Classified Information (August 2, 1995); and Presidential Decision Directive-61.

The pilot e-mail analysis project is authorized by the Electronic Communications Privacy Act, Pub. L. 99–508, 18 U.S.C. 2510 *et seq.*, Executive Order 12333, and the DOE Procedures for Intelligence Activities.

DOE–88 Epidemiologic and Other Health Studies, Surveys and Surveillances

This notice proposes to amend "DOE–88 Epidemiologic and Other Health Studies, Surveys and Surveillances" by establishing a new routine use disclosure pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000. The proposed routine use will allow disclosure of information maintained in the system to the Department of Health and Human Services, its contractors, grantees, and cooperative agreement holders to estimate radiation doses and other workplace exposures received by Department of Energy Federal and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. This disclosure is compatible with the purpose for which the information is being collected and maintained.

III. Discussion of New Systems of Records

DOE–3 Employee Concerns Program Records

The Department of Energy (DOE) proposes to establish a new system of records entitled "DOE–3 Employee Concerns Program Records." The DOE recognizes that free and open expression pertaining to the concerns of DOE Federal and contractor and subcontractor employees is essential to accomplishing DOE's mission. The employees have the right and responsibility to report concerns relating to the environment, safety, health, or management of Department operations. The Employee Concerns Program is designed to encourage open communication; inform employees of the proper forum for consideration of their concerns; ensure employees can raise issues without fearing reprisal; address employee concerns in a timely and objective manner; and provide employees an avenue for consideration of concerns that fall outside existing systems.

The categories of records maintained in the system will include concerns or complaints brought to the attention of the appropriate Employee Concerns Program office. This can include the receipt of complaints filed under 10 CFR part 708, Department of Energy Contractor Employee Protection Program, informal complaints; names; social security numbers; work and home address and telephone numbers; job titles; job series; grade or pay levels; organization; supervisor names and telephone numbers; copies of employee records such as personnel actions; performance appraisals; pay and leave records and security clearance documents; management reports; witness statements; affidavits; checklists; and notes. The records maintained in this system will be used by the Department Employee Concerns Program offices to document concerns brought to their attention and to assist in the resolution of concerns about various work-related issues including the environment, safety, health, employer-supervisor relationships, or work processes and practices.

The records will be maintained at all Department Employee Concerns Program offices at DOE Headquarters and Field offices. The categories of individuals covered will include current and former DOE employees, and current and former DOE contractor and subcontractor employees who have filed appropriate concerns.

This system proposes five new routine use disclosures. The five proposed routine uses will allow disclosure to designated representatives, including union or legal representatives, acting in their official capacity on behalf of the employee raising a concern or complaint; to a member of Congress or their staff when submitting a request involving a constituent and the constituent has requested assistance with respect to the subject matter of the record; to an appropriate Federal, State or local agency that is authorized to review and resolve or assist in the resolution of the concern or complaint; to another Federal agency; to a court, or a party in litigation before a court or in an administrative proceeding being conducted by or at the request of the Department or another Federal agency; and to a contractor or subcontractor of the Department that is authorized or responsible to review and resolve the issue(s) raised in the concern or complaint, including a mediator, facilitator, or arbitrator. These routine uses are compatible with the purpose of the system enabling the Department to document and resolve employee concerns about environmental, safety and health issues, employee-supervisor relations, work processes and practices, and other work-related issues.

The DOE proposes to exempt this system from subsections (k)(1), (2), and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. The system will further be exempted from subsections (c)(3), (d), and (e)(1) of 5 U.S.C. 552a to the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2), and (5). See DOE Privacy Act Regulation at 10 CFR part 1008.12(b). The DOE Privacy Act regulation will be amended to allow these exemptions by publishing a separate proposed rulemaking under RIN: 1901–AA69.

The records in this system will be stored both in paper hard copy and in an automated database.

DOE–4 EIA-Form 457 Residential Energy Consumption Survey

On April 20, 1983, the DOE established a new system of records entitled "EIA Residential Energy Consumption Survey" (RECS). This system of records was grouped with an existing system of records "DOE–67 Participants in Experiments Studies and Surveys" and published as Subsystem C "EIA Residential Energy Consumption Survey" at 48 FR 16959. On November 27, 1998, DOE–67 and all of its subsystems were inappropriately deleted at 63 FR 65575. Documents within Subsystem C, are still required and maintained by the Energy Information Administration (EIA).

For this reason, the DOE is republishing the portion of DOE–67 that covered records maintained in Subsystem C. This notice proposes to change the name to "DOE–4 EIA-Form 457 Energy Survey Report—Residential Energy Consumption Survey (RECS)."

Data is collected by the EIA to satisfy the needs of the U.S. Government, State governments, industry, and the public for information at the national and sub-national levels on the consumption of and expenditures for fuels used by American homes. The data includes energy-related housing characteristics, appliance use, thermal characteristics of the housing unit, household vehicles, conservation measures taken by the household, demographic features of the household and weather conditions. The EIA disseminates this data through published reports used by a wide range of public and private groups, special statistical reports to U.S. Government agencies, and distribution of the basic data on computer data files properly edited to protect the identity of the household.

The data in the system of records will be collected by Roper Starch Worldwide, Inc. The information will be used by government and private groups for monitoring, modeling, and policymaking about energy use in U.S. households. In order to preserve the confidentiality of the data and to protect the privacy of the respondents, no individually identifiable data will be released.

DOE–6 EIA Customer Database

The DOE is proposing to establish a new system of records entitled "DOE–6 EIA Customer Data Base." The EIA of the DOE is developing a program to gather data about its products and services provided to its customers. The data collection pertains largely to companies that request energy related information. However, there are occasions when private citizens request energy related information. The EIA will collect and maintain the names of its customers, business addresses and telephone numbers, description of information requested, and description of service(s). This data will be analyzed and evaluated by EIA staff personnel to account for orders and subscriptions and to better understand the needs and interests of its customers. The data may be retrieved under categories of records. The information will be maintained in computer programs and accessible to password holders in secured offices.

The system is being established under the authority vested in the Secretary contained in 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.* The records also are maintained to better understand, control, and prepare for the work flow of the office and meeting the customers' needs. As a result, DOE does not believe the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of the subject individuals. Access is restricted to authorized management personnel on a need-to-know basis.

DOE–7 Whistleblower Investigation, Hearing, and Appeal Records

DOE proposes to establish a new system of records entitled "DOE–7 Whistleblower Investigation, Hearing, and Appeal Records." The records are being compiled by DOE as part of the Department's efforts to resolve whistleblower complaints, made by employees of DOE and by DOE contractors, at the investigatory, hearing, and appeal stages of a proceeding, for which the Office of Hearings and Appeals bears the responsibility. *See* Title 10, Code of Federal Regulations, part 708. These records will consist of information gathered, recorded, or processed in the course of the investigation of an allegation of acts of reprisal taken against a DOE employee or DOE-contractor employee who claims to have made a protected disclosure, as defined in those regulations, or in the course of a subsequent hearing or appeal. These records do not include the informal handling of whistleblower concerns in the Department's various Employee Concerns offices, nor files maintained at the Office of the Deputy Secretary concerning appeals from determinations made by the Director of the Office of Hearings and Appeals.

Information in the system will include whistleblower reprisal complaints; names and other identifying information about whistleblowers, their co-workers, their supervisors, and other individuals; employment records such as personnel actions and performance appraisals; witness statements and affidavits; notes taken by employees of the Office of Hearings and Appeals; reports of investigation; and correspondence related to the processing of the complaints.

The proposed new system will pertain to DOE employees and DOE-contractor employees who file reprisal complaints. Although the records contained in this system will be protected from disclosure in accordance with the provisions of the Privacy Act, the identity of the employee will be made known to his or her employer, because that entity will be provided with a copy of the complaint. *See* 10 CFR 708.11. Moreover, decisions, opinions, reports of investigation, orders and other determinations that the Office of Hearings and Appeals issues concerning such complaints are public documents and are published, along with our other decisions and orders, in a looseleaf service entitled Federal Energy Guidelines, as well as on the Office's website, the current address of which is http:/www.oha.doe.gov.

DOE proposes to exempt this system from subsections (k)(1), (2), and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. The system will further be exempted from subsections (c)(3), (d), and (e)(1) of 5 U.S.C. 552a to the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2), and (5). See DOE Privacy Act Regulation at 10 CFR 1008.12(b). The DOE Privacy Act regulation will be amended to allow these exemptions by publishing a separate proposed rulemaking under RIN: 1901–AA69.

DOE–10 Worker Advocacy Records

The Energy Employees Occupational Illness Compensation Program Act of 2000 (hereinafter the "Act"), Pub. L. 106–398, provides that DOE assist workers with occupational illnesses to file State workers' compensation claims. DOE contractor employees with occupational illnesses that are not covered under the Federal program created by the Act can apply to the DOE Office of Worker Advocacy for help in obtaining State workers' compensation benefits. Under this effort, DOE will forward a worker's application to an independent panel of physicians appointed by the Secretary of Health and Human Services. The panel will determine whether the employee's illness or death was due to exposure to a toxic substance at a DOE facility. Based on a determination of work-relatedness, the Office of Worker Advocacy could assist the employee with a State claim for benefits, and DOE contractors would be directed not to contest claims before the State.

To adequately carry out the responsibilities given to DOE under the Act, the Office of Worker Advocacy will collect and maintain several types of records, e.g. medical records, employment records, to assist current and former DOE contractor employees or their families with the filing of State workers' compensation claims for conditions that may be due to exposures during employment by or for DOE. The assistance provided by this Office may include, but is not limited to the following: (1) Maintaining a helpline; (2) conducting outreach and educational programs; (3) providing referral assistance; and (4) case review. Although the primary focus is on DOE contractor employees, assistance may be provided to DOE Federal employees and employees of other agencies by directing them to the appropriate compensation programs, such as the Federal Employees Compensation Act program

administered by the Department of Labor.

Individually identifiable information will not appear in published or unpublished reports, studies, or surveys. The system, however, will contain records compiled to complete published or unpublished reports, studies, or surveys from which information may be retrieved by name or other personal identifier. Non-identifiable information regarding the assumptions, methodology, and data used in establishing radiation doses under section 3623(d) of the Energy Employees Occupational Illness Compensation Program Act of 2000 will be made available to researchers and the general public, consistent with the protection of private medical records.

DOE–12 Automated Materials and Property Systems (AMPS)

The DOE is proposing to establish a new system of records entitled "DOE–12, Automated Materials and Property Systems (AMPS)." The Department has established a Working Capital Fund (WCF) that charges benefitting programs and organizations for certain administrative and housekeeping activities traditionally funded in a central account. One of the activities is a central supply service for stock and non-stock supplies and equipment that are maintained to meet in whole or in part the requirements of the Department.

The AMPS will be used by the DOE to control the incoming and outgoing expendable supplies that are used by DOE Headquarters employees to perform their work. The system will maintain inventories and costs of all supply products; records on quantities of supplies at the warehouse and all self service stores; prices for all of the items in each location; and point of sale transactions at all locations. Receipts will be generated that provide information about purchasers from their DOE identification badges. Reports will be created to provide usage, trends, customers, dates of purchases, and other related information. This information is provided to the WCF for billing DOE program offices. The WCF issues bills to Headquarters program offices for both stock and non-stock supplies that were purchased for use by their employees.

DOE–15 Intelligence Related Access Authorization

The DOE is proposing to establish a new system of records entitled "DOE–15 Intelligence Related Access Authorization." This system will consist of administrative records concerning DOE Federal and contractor employees, consultants and certain other persons applying for, granted, or denied access to certain categories of classified information. The purpose of the system is to satisfy the requirements of Executive Order 12333, "United States Intelligence Activities," Executive Order 12958, "Classified National Security Information" (April 17, 1995); Executive Order 12968, "Access to Classified Information" (August 2, 1995); Presidential Decision Directive-61, U.S. Department of Energy Counterintelligence Program, the DOE Procedures for Intelligence Activities, and DOE Order 5670.1A, Management and Control of Foreign Intelligence. Under DOE Order 5670.1A, the Director of the Office of Intelligence is directed to control access to and use of Sensitive Compartmented Information (SCI) and other classified intelligence information bearing the Director, Central Intelligence (DCI), authorized control markings, and to approve access to SCI in compliance with DCI directives. The proposed system will contain information necessary for the Director, IN, to conduct eligibility determinations, adjudications, revocations, and appeals from denials and revocations. The system is being established under the authority vested in the Secretary contained in 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.* Access will be limited to authorized staff only.

The DOE proposes to exempt this system from subsections (k)(1), (2), and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. The system will further be exempted from subsections (c)(3), (d), and (e)(1) of 5 U.S.C. 552a to the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2), and (5). See DOE Privacy Act Regulation at 10 CFR Part 1008.12(b). The DOE Privacy Act regulation will be amended to allow these exemptions by publishing a separate proposed rulemaking under RIN: 1901–AA69.

The seven proposed new systems identified above have been assigned reserve numbers that were previously assigned to systems of records that have been deleted or are being deleted with this notice.

IV. Discussion of Deletion Notices

During the review process of the systems of records established by DOE under the Privacy Act, DOE identified 35 record systems for deletion. These record systems either duplicate other governmental or departmental record systems, were obsolete, or were not record systems subject to the Privacy Act. The published notice of these deleted systems can be found at 47 FR 14285, April 2, 1982; 62 FR 61497, November 18, 1997; and 63 FR 65575, November 27, 1998. This notice also deletes nine additional DOE internal record systems.

We have determined that information maintained in six systems of records is no longer collected or maintained. These systems are "DOE–12 Nationwide Traineeship Reporting System'; "DOE–22 Plant Services History"; "DOE–47 Security Investigation Records"; "DOE–65 Energy Extension Service Records'; "DOE–76 California, Utah, and Nevada Milk Directory"; and "DOE–87 Human Radiation Helpline Records."

DOE–40 Contractor Employee Insurance Claims" currently covers Federal employees who sustain injuries while working on the job. It is not necessary for the DOE to maintain a record system of this type since these records are covered by the government-wide system DOL/GOV't-1 "Office of Workers" Compensation Programs, Federal Employees' Compensation Act File" that is administered by the Department of Labor.

Information maintained in "DOE–74 Bonneville Power Administration Conservation Program" is retrieved by company or utility name and, therefore, does not constitute a Privacy Act system of records.

Information maintained in "DOE–78 Pacific Northwest Residential Energy Survey" is retrieved by company or utility name and, therefore, does not constitute a Privacy Act system of records.

Information maintained in "DOE–27 Foreign Travel Records" duplicates information in a DOE internal system, "DOE–26 Official Travel Records."

The following is a listing of all the record systems that DOE identified or has deleted from the Department's inventory of systems of records.

A. OBSOLETE

DOE–6

SYSTEM NAME:

Report of Consultants to DOE Contracts (Deleted November 18, 1997).

DOE–7

SYSTEM NAME:

Applications and Reference Checks for Overseas Employment with International Atomic Energy Agency (IAEA) (Deleted November 18, 1997).

DOE–12

SYSTEM NAME:

Nationwide Traineeship Reporting System (Deleted with this notice).

DOE–15

SYSTEM NAME:

Payroll and Pay Related Data for Employees of Terminated Contractors (Deleted November 27, 1998).

DOE–17

SYSTEM NAME:

Certificates of Eligibility for FHA Insured Loans (Deleted November 18, 1997).

DOE–22

SYSTEM NAME:

Plant Services History (Deleted with this notice).

DOE–29

SYSTEM NAME:

Technology Training Program—Skill Training at Technician Level (Deleted November 18, 1997).

DOE–30

SYSTEM NAME:

Nuclear Qualification Examination Records (Deleted April 2, 1982).

DOE–32

SYSTEM NAME:

Government Motor Vehicle Operator Records (Deleted November 27, 1998).

DOE–39

SYSTEM NAME:

Labor Standards Complaints & Grievances (Deleted November 27, 1998).

DOE–47

SYSTEM NAME:

Security Investigation Records (Deleted with this notice).

DOE–63

SYSTEM NAME:

Electric Rate Demonstration Data Base (Deleted April 2, 1982).

DOE–64

SYSTEM NAME:

Low-Income Weatherization Program Home Report Records (Deleted November 18, 1997).

DOE–65

SYSTEM NAME:

Energy Extension Service Records (Deleted with this notice).

DOE–68

SYSTEM NAME:

Minority Energy Technical Assistance Program (METAP) Records (Deleted November 18, 1997).

DOE–76

SYSTEM NAME:

California, Nevada, and Utah Milk Directory (Deleted with this notice).

DOE–78

SYSTEM NAME:

Clinch River Breeder Reactor Plant Work Force Survey (Deleted with this notice).

DOE–79

SYSTEM NAME:

Clinch River Breeder Reactor Plant Work Force Survey (Deleted November 27, 1998).

DOE–80

SYSTEM NAME:

Quality Assurance Training and Qualification Records (Deleted April 2, 1982).

DOE–87

SYSTEM NAME:

Human Radiation Helpline Records (Deleted with this notice).

B. DUPLICATES OTHER SYSTEMS OF RECORDS

DOE–3

SYSTEM NAME:

DOE Personnel Appraisal and Development Records (Deleted November 18, 1997. This system duplicates Office Personnel Management OPM/Gov't-2).

DOE–4

SYSTEM NAME:

Applications for DOE Employment (Deleted November 18, 1997. This system duplicates Office of Personnel Management OPM/Gov't-5).

DOE–10

SYSTEM NAME:

Office of General Counsel Time and Accountability Reports (Deleted November 27, 1998. This system duplicates DOE–13 Payroll and Leave Records).

DOE–16

SYSTEM NAME:

Reports of Financial Interest (Deleted November 18, 1997. This system duplicates Office of Government Ethics OGE/Gov't-1 and OGE/Gov't-2).

DOE 27

SYSTEM NAME:

Foreign Travel Records (Deleted with this notice. This system duplicates DOE internal system DOE–26 "Official Travel Records").

DOE–36

SYSTEM NAME:

Statistical Analysis Using Personnel Security Questionnaire (Deleted November 18, 1997. This system duplicates DOE–88 "Epidemiologic and Other Health Studies, Surveys and Surveillances").

DOE–37

SYSTEM NAME:

Equal Employment Opportunity Complaint Files (Deleted November 18, 1997. This system duplicates Equal Employment Opportunity Commission EEOC/Gov't-1).

DOE–40

SYSTEM NAME:

Contractor Employee Insurance Claims (Deleted with this publication notice. This system duplicates the Department of Labor DOL/Gov't-1 Office of Workers' Compensation Program Federal Employees' Compensation Act File).

DOE–42

SYSTEM NAME:

Personnel Security Clearance Index (Deleted November 27, 1998).

DOE–67

SYSTEM NAME:

Participants in Experiments Studies, and Surveys (Deleted November 27, 1998).

DOE–69

SYSTEM NAME:

Residential Solar Water Heating Workshops Pilot Program Records (Deleted November 18, 1997).

DOE–70

SYSTEM NAME:

Electricity Uses and Conservation Analysis Records (Deleted November 18, 1997).

C. NOT RETRIEVED BY NAME OR PERSONAL IDENTIFIERS

DOE–20

SYSTEM NAME:

Imprest Fund and Cashiers (Deleted November 18, 1997).

DOE–74

SYSTEM NAME:

Bonneville Power Administration Conservation Program (Deleted with this notice).

V. Comment Procedures

As provided by section 3(e)(11) of the Privacy Act of 1974, interested persons are invited to submit written data, views or comments related to these proposals to the U.S. Department of Energy, FOIA and Privacy Act Division, MA–73, 1000 Independence Avenue, SW., Washington, DC 20585. "Comments" should be written on the outside of the envelope and on the documents submitted to DOE with the designation "Department of Energy Privacy Act Systems of Records Proposals." These comments and all other relevant information will be considered by DOE before the various proposals are adopted in their final form.

If no comments to the contrary are received with respect to a particular proposed system, it is the intent of the DOE to operate any such system as proposed at the expiration of the 45-day advance notice period for informing Congress and OMB of proposed new systems as defined in OMB Circular A–130.

The DOE is submitting the Reports on New Systems and Amended Systems required by OMB Circular A–130 concurrently with publication of the **Federal Register** Notice.

In consideration of the foregoing, the measures described above are proposed. Set forth below is the compilation of the DOE Privacy Act Systems of Records that includes a Table of Contents and the text of the individual systems of records.

Issued in Washington, DC on May 2, 2001.

Richard H. Hopf,

Acting Director, Office of Management and Administration.

VI. Table of Contents of All DOE Systems of Records as Adopted or Proposed

DOE–1 Grievance Records
DOE–2 Supervisory Maintained Personnel Records
DOE–3 Employee Concern Program Records (Proposed New System—DOE Assigned Number Is Being Re-issued)
DOE–4 Consumption Survey (RECS) (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–5 Personnel Records of Former Contractor Employees
DOE–6 EIA Consumer Data Base (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–7 Whistleblower Investigation, Hearings and Appeals Records (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–8 Intergovernmental Personnel Act (IPA) Contracts
DOE–9 Members of DOE Advisory Committees
DOE–10 Worker Advocacy Records (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–11 Emergency Locator Records
DOE–12 Automated Materials Property System (AMPS) (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–13 Payroll and Leave Records
DOE–14 Report of Compensation
DOE–15 Intelligence Related Access Authorization (Proposed New System—DOE Assigned Number is Being Re-issued)
DOE–16 Deleted—Reserved
DOE–17 Deleted—Reserved
DOE–18 Accounts Payable Financial System
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DOE–20 Deleted—Reserved
DOE–21 Emergency Defense Mobilization Files
DOE–22 Deleted—Reserved
DOE–23 Property Accountability System
DOE–24 Land Records
DOE–25 U.S. DOE Commuter Locator and Parking Space Information System
DOE–26 Official Travel Records
DOE–27 Deleted with this notice—Reserved
DOE–28 General Training Records
DOE–29 Deleted—Reserved
DOE–30 Deleted—Reserved
DOE–31 Firearms Qualifications Records
DOE–32 Deleted—Reserved
DOE–33 Personnel Medical Records
DOE–34 Employee Assistance Program
DOE–35 Personnel Radiation Exposure Records
DOE–36 Deleted—Reserved
DOE–37 Deleted—Reserved
DOE–38 Occupational and Industrial Accident Reports
DOE–39 Deleted—Reserved
DOE–40 Deleted—Reserved
DOE–41 Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others)
DOE–42 Deleted—Reserved
DOE–43 Personnel Security Clearance
DOE–44 Special Access Authorization for Categories of Classified Information
DOE–45 Weapons Data Access Control System
DOE–46 Clearance Board Cases
DOE–47 Deleted with this notice—Reserved
DOE–48 Security Education and/or Infraction Reports
DOE–49 Security Communications File
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DOE–55 Freedom of Information and Privacy Act (FOIA/PA) Requests for Records
DOE–56 Congressional Constituent Inquiries
DOE–57 Congressional Profiles
DOE–58 General Correspondence Files of the Secretary of Energy
DOE–59 Mailing List for Requesters of Energy Related Information
DOE–60 Deleted—Reserved
DOE–61 Census of High Energy Physicists
DOE–62 Historical Files—Published Information Concerning Selected Persons in the Energy Field
DOE–63 Deleted—Reserved
DOE–64 Deleted—Reserved
DOE–65 Deleted—Reserved
DOE–66 Power Sales to Individuals
DOE–67 Deleted—Reserved
DOE–68 Deleted—Reserved
DOE–69 Deleted—Reserved
DOE–70 Deleted—Reserved
DOE–71 The Radiation Accident Registry
DOE–72 The DOE Radiation Study Registry
DOE–73 The US–DPTA Registry
DOE–74 Deleted—Reserved
DOE–75 Call Detail Records
DOE–76 Deleted with this notice—Reserved
DOE–77 Physical Fitness Test Records
DOE–78 Deleted with this notice—Reserved
DOE–79 Deleted—Reserved
DOE–80 Deleted—Reserved
DOE–81 Counterintelligence Administrative and Analytical Records and Reports
DOE–82 Grant and Contract Records for Research Projects, Science Education, and Related Activities
DOE–83 Allegations Based Inspections Files of the Office of the Inspector General
DOE–84 Counterintelligence Investigative Records
DOE–85 Reserved
DOE–86 Human Radiation Experiments Records
DOE–87 Deleted with this notice—Reserved
DOE–88 Epidemiologic and Other Health Studies, Surveys, and Surveillances

Text of Notices

DOE–1

SYSTEM NAME:

Grievance Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION(S):

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Laramie Energy Technology Center, P.O. Box 3395, University Station, Laramie, WY 82070

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 90403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees, consultants, board members, and applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grievances; names; social security numbers; work and home address; work and home telephone numbers; job titles, series, and grade levels; organization; supervisors' names and telephone numbers; copies of employee records, such as personnel actions, performance appraisals, pay and leave records, and security clearance documents; management reports; witness statements; affidavits; checklists; notes; and relevant correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 5 U.S.C. 7121, and 5 CFR part 771.

PURPOSE(S):

The records are maintained and used by the Department to resolve employee concerns about working conditions, the administration of collective bargaining agreements, employee-supervisor relations, and work processes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to union officials acting in their official capacity as a representative of the grievant or affected employees under 5 U.S.C. Chapter 71.

2. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from this system may be disclosed as a routine use to an appropriate Federal, State, or local agency that is authorized to review and resolve the issue(s) raised in the grievance.

4. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) a person representing the Department or assisting in such representation; (2) others involved in the matter, their representatives and persons assisting such persons; and (3) witnesses, potential witnesses, their representatives and assistants, and any other persons possessing information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

5. A record from this system may be disclosed as a routine use to a contractor of the Department who is authorized to review and resolve the issue(s) raised in the grievance, including a mediator or arbitrator in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by the name of the grievant or complainant or other personal identifier, such as social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director of Human Resources Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Human Resources Directors of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of

records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records generally are kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORDS PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The grievant or complainant, applicable management officials, program office records, congressional offices, and fact finders' notes and reports.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–2

SYSTEM NAME:

DOE–Personnel Supervisor Maintained Personnel Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Laramie Energy Technology Center, P.O. Box 3395, University Station, Laramie, WY 82070

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 90403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Department of Energy (DOE) employees, former employees who have departed within the last year, assigned military or detailed personnel, and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies and summaries of employment history; SF–171; job description; education; address; next of kin; home and work telephone numbers; date of birth; awards and commendations received; participation in professional or community activities; training; earnings and leave data; travel actions; certification or qualification examinations; injury reports; appraisals; copy of ADP-produced Form 702; Form 50; assignment records; security infraction notices; records of supervisor-employee discussions; supervisor observations; reprimands; admonitions; adverse actions; commendations; contingency planning data; security clearance status; and Government property in employee possession.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by DOE to maintain a file of personnel information that would allow DOE managers to make informed personnel and management decisions concerning employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

3. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters and Field Offices: The immediate supervisor of the subject of the record(s).

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject employee, employee's supervisor(s), personnel action documents, payroll documents, and personnel security documents.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–3

SYSTEM NAME:

Employee Concerns Program Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585.

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87185–5400.

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Nevada Operations Office, 232 Energy Way, North Las Vegas, NV 89030

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 200 Administration Road, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Office of River Protection, P.O. Box 550, MS A1–61, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93 Unite A, Golden, CO 80402

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Savannah River Operations Office, Road 1A, Aiken, SC 29802

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees and DOE contractor and subcontractor employees who file concerns or complaints with the DOE Employee Concerns Program offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee concerns, informal whistleblower reprisal complaints, names, social security numbers, work and home addresses and telephone numbers, job titles, series, grade or pay levels; organization; supervisors names and telephone numbers; copies of employee records such as personnel actions, performance appraisals, pay and leave records and security clearance documents; management reports; witness statements; affidavits; checklists; notes; and relevant correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 2201 (p); 42 U.S.C. 7254; 42 U.S.C. 5801(a).

RETRIEVABILITY:

Records may be retrieved by name and social security number.

PURPOSE:

The records are maintained and used by the Department to document and resolve employee concerns about environmental, safety and health issues, employee-supervisor relations, work processes and practices, and other work-related issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to union officials acting in their official capacity as a representative of the grievant or affected employees under 5 U.S.C. Chapter 71.

2. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member of Congress with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from this system may be disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal

or regulatory in nature, and whether arising by general statue of particular program pursuant thereto.

4. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) a person representing the Department or assisting in such representation; (2) others involved in the matter, their representatives and persons assisting such persons; and (3) witnesses, potential witnesses, their representatives and assistants, and any other persons possessing information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

5. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by the name of the concerned employee or complainant or other personal identifier, such as social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE records schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Employee Concerns, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Director of the Office of Employee Concerns at the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information and Privacy Act Division, U. S. Department of Energy or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records generally are kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORDS PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The concerned employee or complainant; applicable management officials; program office records; and congressional offices.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The system is exempt under subsections 552a(k)(1), (2) and (5) of the Privacy Act to the extent that information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3); 5 U.S.C. 552a (d); 5 U.S.C. 552a (e)(1) of the Act; see the Department's Privacy Act regulation at 10 CFR part 1008.

DOE–4

SYSTEM NAME:

FORM EIA–457 Survey Reports (Residential Energy Consumption Survey (RECS)).

SYSTEM LOCATION:

U.S. Department of Energy, Energy Information Administration (EIA), 1000 Independence Avenue, SW., Washington, DC 20585.

Roper Starch Worldwide, Inc., Response Analysis Division, 1060 State Road, Princeton, NJ 08540.

SECURITY CLASSIFICATION:

Unclassified.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons responding to the FORM EIA–457 (Residential Energy Consumption Survey (RECS)) or a sample thereof.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, age, gender, race, ethnicity, home address, home telephone number, income, family size and composition, characteristics of housing unit, household vehicles, name and address of landlord, name and address of fuel suppliers, and records of energy purchases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE:

The information is collected and maintained by the DOE to measure the levels of energy consumption used by homeowners and the cost of heating fuel. The information also is used for monitoring, modeling and making policy decisions regarding energy use in U.S. households.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and identification number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are

password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Administrator, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual and energy supply companies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–5

SYSTEM NAME:

Personnel Records of Former Contractor Employees.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 North Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, PO BOX 3020, Miamisburg, OH 45343–3020

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550 Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former employees of companies that currently have or have had a contract with the Department of Energy (DOE).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, employment history, earnings, medical history, and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*, 50 U.S.C. 2401 *et seq.* and the Memorandum of Understanding between the Department of Energy and the Department of Health and Human Services, 56 FR 9701, March 7, 1991.

PURPOSE(S):

The records are maintained and used by the DOE to verify employment of contractor employees who have worked at a DOE facility or for a prime management and operating contractor for the DOE to settle or pay claims associated their employment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency when records alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statue of particular program pursuant thereto.

2. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) witness, potential witness, or their representatives and assistants, and any person possesses information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from this system may be disclosed as a routine use to foreign governments in accordance with treaties, international conventions, or executive agreements.

6. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

7. A record from the system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

8. A record from the system of records may be disclosed to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry pursuant to Memoranda of Understanding between the Department and the Department of Health and Human Services or its components.

9. A record from the system may be disclosed to contractors, grantees, participants in cooperative agreements, collaborating researchers, or their employees, in performance of health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to perform such studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record to: Federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subject's vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys, and surveillance. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above described research purposes.

10. A record from this system may be disclosed to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities, and to designated employees of Federal, State, or local government or government-sponsored entities authorized to provide advice to the DOE concerning health, safety, or environmental issues. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice to the DOE or to the Department of Health and Human Services.

11. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored as paper records.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Contractor Human Resource Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the "System locations" listed above are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The employer of the subject individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–6

SYSTEM NAME:

EIA Customer Data Base.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (DOE), Energy Information Administration (EIA), 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting energy related information.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

The following information may be maintained in the system: EIA contact name, date of contact, contact method, address, e-mail address, telephone number, fax number, description of information or services requested, description of services, and energy interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE:

The records are used and maintained by the DOE to analyze, evaluate and better serve EIA customers, their needs, and their interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, e-mail address, or telephone number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, Part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–7

SYSTEM NAME:

Whistleblower Investigation, Hearings, and Appeals Records.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

These records are maintained at the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0107.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Department of Energy (DOE), contractor and subcontractor employees whose complaints are received at the Office of Hearings and Appeals pursuant to Title 10, Code of Federal Regulations, part 708, and pursuant to section 3164 of the National Defense Authorization Act for FY 2000, Pub. L. 106–65, codified at 42 U.S.C. 7239.

CATEGORIES OF RECORDS IN THE SYSTEM:

Whistleblower reprisal complaints; names, social security numbers, work and home addresses and telephone numbers, job titles, series, grade or pay levels; organization information; supervisors' names and telephone numbers; copies of employee records such as personnel actions, performance appraisals, pay and leave records, and security clearance documents; management reports; witness statements; affidavits; checklists; notes; reports of investigation; and relevant correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 2201(b), (c), (I), (p), 5814, 5815, 7251, 7254, 7255, 7257; 42 U.S.C. 7239.

PURPOSE(S):

The records are maintained and used by the DOE to document and resolve complaints made by employees of DOE and its contractors and subcontractors who allege retaliation by their employer for disclosure of information concerning danger to public or worker health or safety, substantial violations of law, or gross mismanagement; for participation in Congressional proceedings; or for refusal to participate in dangerous activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed to any source from which additional information is requested when necessary to obtain information relevant to the processing of a whistleblower complaint by the Office of Hearings and Appeals. The source will be provided such information from the system of records only to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

2. A record from this system may be disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute of particular program pursuant thereto.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) persons representing the Department or assisting

in such representation; (2) others involved in the matter, their representatives and assistants, and any other person possessing information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publicly available pleadings, filings, or discussion in open court) when such disclosure (1) is relevant to, and necessary for, the proceeding, and (2) is compatible with the purpose for which the Department collected the record; and (3) the proceeding involves:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity, or in any individual capacity where the Department or other United States Government agency has agreed to present the employee.

5. A record from this system may be disclosed as a routine use to contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

6. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. Decisions, opinions, reports of investigation, orders and other determinations signed by investigators, hearing officers or the Director of the Office of Hearings and Appeals that are records contained in this system of records may be published for the general public, for precedential or educational purposes, in paper format and electronically on the Office of Hearings and Appeals' website, the current address of which is http://www.oha.doe.gov.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by complainant's name or other personal identifier or case number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only to the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE records schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Docket and Publications Branch, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0107.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "system locations." The request should include the requester's complete name, time period, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

The complainant; individuals and organizations that have pertinent knowledge about the subject of the complaint; those authorized by the complainant to furnish information; confidential informants; and Congressional offices.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The system is exempt under subsections 552a(k)(1), (2) and (5) of the Privacy Act to the extent that information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3); 5 U.S.C. 552a (d); 5 U.S.C. 552a (e)(1) of the Act; see the DOE Privacy Act regulation at Title10, Code Federal Regulations, Part 1008.

DOE–8

SYSTEM NAME:

Intergovernmental Personnel Act (IPA) Agreements.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Headquarters, Germantown, 19901 Germantown Road, Germantown, MD 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U. S. Department of Energy, National Petroleum Technology Office, William

Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Office of Naval Reactors, Crystal City, VA 22202

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343–3020

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Bldg., Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are now, or have been, under an IPA agreement to or from the Department of Energy (DOE).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home and work addresses, social security number, home and work telephone numbers, salary, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 5 U.S.C. Chapter 33, Subchapter VI, and 5 CFR part 334.

PURPOSE:

The records are maintained and used by DOE to provide a basis for payments under the terms of the IPA agreements, provide employment histories, and provide information for reports and program evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed to State and local governments, institutions of higher education, Federally Funded Research and Development Centers, or other "eligible" organizations for the purpose of assigning prospective individuals for temporary periods.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as electronic media and paper records.

RETRIEVABILITY:

Records may be retrieved by name or social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Deputy Assistant Secretary for Human Resources, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585.

Field Offices: The Personnel Officers at the field locations listed above under "Systems Locations" are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual and current or prospective employer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–9

SYSTEM NAME:

Members of DOE Advisory Committees.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Office of the Executive Secretariat, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who are members of a Department of Energy (DOE) Advisory Committee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, biographical information, home address and telephone number, work address and telephone number, type of business or organizational affiliation, present position with business or other organization, number of years in present position, other related experience, congressional district, and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; and the Federal Advisory Committee Act, 5 U.S.C. App. 2.

PURPOSE:

The records are maintained and used by the DOE to keep a current listing of advisory committee members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of the Executive Secretariat, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, members of Congress, and public interest groups.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–10

SYSTEM NAME:

Worker Advocacy Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albany Research Center, 1450 Queen Avenue, SW., Albany, OR 97321

U.S. Department of Energy, Albuquerque Operations Office, Pennsylvania & H Street, Kirtland Air Force Base, Albuquerque, NM 87116

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2373, Amarillo, TX 79177

U.S. Department of Energy, Ames Laboratory, #311 TASF, Iowa State University, Ames, IA 50011

U.S. Department of Energy, Argonne Group, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Argonne National Laboratory-East, 9700 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Argonne National Laboratory-West, INEEL, EBRII Site, Scoville, ID 83415

U.S. Department of Energy, Atlanta Regional Office, 75 Spring Street, Suite 200, Atlanta, GA 30308

U.S. Department of Energy, Bettis Atomic Power Laboratory, Bechtel Bettis, Inc., 814 Pittsburgh McKeesport Blvd., West Mifflin, PA 15122–0079

U.S. Department of Energy, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232

U.S. Department of Energy, Bonneville Power Administration, 1520 Kelley Place, Walla Walla, WA 99362

U.S. Department of Energy, Bonneville Power Administration, Seattle Customer Service Center, 1601 Fifth Avenue, #1000, Seattle, WA 98101–1625

U.S. Department of Energy, Bonneville Power Administration, Spokane Sales Office, 707 West Main Street, Suite 500, Spokane, WA 99201

U.S. Department of Energy, Boston Regional Office, John F. Kennedy Federal Bldg., Room 675, Boston MA 02203–0002

U.S. Department of Energy, Brookhaven Group, 53 Bell Avenue, Bldg. 464, Upton, NY 11973

U.S. Department of Energy, Brookhaven National Laboratory, P.O. Box 5000, Upton, NY 11973–5000

U.S. Department of Energy, Carlsbad Area Office, 4021 National Parks Highway, Carlsbad, NM 88220

U.S. Department of Energy, Chicago Regional Office, One South Wacker Drive, Chicago, IL 60606–4616

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Denver Regional Office, 1617 Cole Blvd., MS–1721, Golden, CO 80401

U.S. Department of Energy, Environmental Measurements Laboratory, 201 Varick Street, 5th Floor, New York, NY 10014–4811

U.S. Department of Energy, Fermi Group, Kirk Road & Pine Street, Batavia, IL 60510

Fermi National Accelerator Laboratory, Kirk Road & Pine Street, Batavia, IL 60510

U.S. Department of Energy, Fernald Environmental Management Project, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, General Atomics Site Office, 3550 General Atomic Court, B–7, Room 119, San Diego, CA 92121.

U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, CO 80401

U.S. Department of Energy, Grand Junction Office, 2597 3/4 Road, Grand Junction, CO 81503

U.S. Department of Energy, Hanford Environmental Health Foundation, 3080 George Washington Way, Richland, WA 99352

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83403

U.S. Department of Energy, Idaho National Engineering and Environmental Laboratory, 2525 North Fremont Avenue, Idaho Falls, ID 83401–1563

U.S. Department of Energy, Idaho National Engineering and Environmental Laboratory, CF 690 MS 4149, Scoville, ID 83415

U.S. Department of Energy, Kansas City Area Office, 2000 E 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Kirtland Area Office, Pennsylvania & H Street, Albuquerque, NM 87185–5400

U.S. Department of Energy, Knolls Atomic Power Laboratory, 2401 River Road, Niskayuna, NY 12309

U.S. Department of Energy, Lawrence Berkeley National Laboratory, 1 Cyclotron Road, Berkeley, CA 94720

U.S. Department of Energy, University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, L–1, Livermore, CA 94550

U.S. Department of Energy, Lawrence Livermore National Laboratory, Nevada Test Site, University of California, P.O. Box 45, Mercury, NV 89023

U.S. Department of Energy, Lockheed Idaho Technical Center, 765 Lindsay Blvd., Idaho Falls, ID 83403

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

University of California, Los Alamos National Laboratory, SM #30 Bikini Road, Los Alamos, NM 87545

U.S. Department of Energy, Miamisburg Environmental Management Project, 1 Mound Road, Miamisburg, OH 45342–0066

U.S. Department of Energy, National Energy Technology Laboratory (NETL–MGN), 3610 Collins Ferry Road, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (NETL–PGH), 626 Cochrans Mill Road, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, One West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, National Renewable Energy Laboratory Area Office, 1617 Cole Blvd., Golden, CO 80401–3393

U.S. Department of Energy, National Renewable Energy Laboratory, 1617 Cole Blvd., Golden, CO 80401–3393

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, 1601 New Stine Road, Suite 240, Bakersfield, CA 93309

U.S. Department of Energy, Nevada Operations Office, 232 Energy Way, North Las Vegas, NV 89030–4199

U.S. Department of Energy, Nevada Test Site Mercury, Nevada, Building 111, P.O. Box 677, Mercury, NV 89023–0677

U.S. Department of Energy, New Brunswick Laboratory, 9800 South Cass Avenue, Bldg. 350, Argonne, IL 60439

U.S. Department of Energy, Oak Ridge Institute for Science and Education, 230 Warehouse Road, Bldg. 1916T2, Oak Ridge, TN 37830

U.S. Department of Energy, Oak Ridge National Laboratory, Bethel Valley Road, Oak Ridge, TN 37831

U.S. Department of Energy, Oak Ridge Operations Office, 200 Administration Road, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific and Technical Information, 175 Oak Ridge Turnpike, Oak Ridge, TN 37830

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pacific Northwest National Laboratory, 902 Battelle Blvd., P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Paducah Site Office, 5600 Hobbs Road, West Paducah, KY 42086

U.S. Department of Energy, Philadelphia Regional Office, 1880 John F. Kennedy Blvd., Suite 501, Philadelphia, PA 19103–7483

U.S. Department of Energy, Portsmouth Enrichment Office, 3930 U.S. 23, Perimeter Road, Piketon, OH 45661

U.S. Department of Energy, Princeton Group Office, US Rt. 1, Forrestal Campus C Site, Room B290 LSB, Princeton, NJ 08542

U.S. Department of Energy, Princeton Plasma Physics Laboratory, James Forrestal Campus, Princeton, NJ 08542

U.S. Department of Energy, Radiobiology & Environmental Health Laboratory, University of California, San Francisco, Box 0750, 3rd Avenue & Parnassos Avenue, San Francisco, CA 94143–0750

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 90403–8200

U.S. Department of Energy, Sandia National Laboratories, 1515 Eubank Blvd., SE, Albuquerque, NM 87123

U.S. Department of Energy, Sandia National Laboratories, 7011 E Avenue, Livermore, CA 94551–0969

U.S. Department of Energy, Savannah River Ecology Laboratory, Drawer E, Aiken, SC 29802

U.S. Department of Energy, Savannah River Operations Office, Road 1A, Aiken, SC 29801

U.S. Department of Energy, Seattle Regional Office, 800 Fifth Avenue, Suite 3950, Seattle, WA 98104

U.S. Department of Energy, Southeastern Power Administration, 2 South Public Square, Samuel Elbert Bldg., Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 728, Gore, OK 74435

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1223, Jonesboro, AR 72403

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 3337, Springfield, MO 65808

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Stanford Linear Accelerator Center, 2575 Sand Hill Road, Menlo Park, CA 94025

U.S. Department of Energy, Stanford Site Office, 2575 Sand Hill Road, B–41, MS: 8–A, Menlo Park, CA 94025

U.S. Department of Energy, Stanford Synchrotron Radiology Laboratory, Stanford University, P.O. Box 4349, MS 69, Stanford, CA 94025

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Laboratory of Structural Biology and Molecular Medicine, University of California, 900 Veteran Avenue, Los Angeles, CA 90024–1786

U.S. Department of Energy, Thomas Jefferson National Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606

U.S. Department of Energy, Waste Isolation Pilot Project Office, P.O. Box 3090, Carlsbad, NM 88221

U.S. Department of Energy, West Valley Demonstration Project, 10282 Rock Springs Road, West Valley, NY 14171–9799

U.S. Department of Energy, Western Area Power Administration, 12155 W. Alameda Parkway, Lakewood, CO 80228–1213

U.S. Department of Energy, Western Area Power Administration, 1800 South Rio Grande, Montrose, CO 81401

U.S. Department of Energy, Western Area Power Administration, Colorado

River Storage Region, 257 E 200 S, Suite 475, Salt Lake City, UT 84111–2048

U.S. Department of Energy, Western Area Power Administration, Desert Southwest Region, 615 S. 43rd Avenue, Phoenix, AZ 85009

U.S. Department of Energy, Western Area Power Administration, Rocky Mountain Region, 5555 E. Crossroads Blvd., Loveland, CO 80538–8986

U.S. Department of Energy, Western Area Power Administration, Sierra Nevada Region, 114 Parkshore Drive, Folsom, CA 95630–4710

U.S. Department of Energy, Western Area Power Administration, Upper Great Plains Region, 2900 4th Avenue North, Billings, MT 59101–1266

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records contains materials submitted to DOE for the purpose of seeking assistance in obtaining compensation for an illness believed to have been contracted due to employment by or for DOE. These records may pertain to individuals in the following categories who contacted DOE through the Workers' Compensation Helpline, through a member of Congress, or through correspondence in any format. These individuals may be: (1) Members of the public; (2) employees or surrogates of employees of DOE, its predecessor agencies, and their contractors and subcontractors; (3) former members of the armed forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Telephone conversations; correspondence to DOE from individuals, members of Congress, attorneys who represent workers, other surrogates of workers, doctors, and other Federal agencies; medical records; employment records; exposure records; safety records or other incident reports, including but not limited to area sampling data, accidental releases, explosions, spills, etc.; workers' or family members' contemporaneous diaries, journals, or other notes; internal DOE forms for reviewing worker cases; physical and vocational rehabilitation records; records pertaining to previously filed claims; and any other records related to or pertinent to the condition or case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; The Energy Employees Occupational Illness Compensation Program Act of 2000, Pub. L.106–398.

PURPOSE(S):

The purpose of this system of records is to collect and maintain records needed by the Office of Worker Advocacy to assist current and former DOE contractor employees or their families in connection with the filing of state workers' compensation claims for conditions that may be due to exposures during employment by or for DOE. The assistance provided by this Office may include, but is not limited to the following: (1) Maintaining a helpline, (2) conducting outreach and educational programs, (3) providing referral assistance, and (4) case review. Although the primary focus is on DOE contractor employees, assistance may be provided to DOE federal employees and employees of other agencies by directing them to the appropriate compensation programs, such as the Federal Employees Compensation Act program administered by the Department of Labor.

Individually identifiable information will not appear in published or unpublished reports, studies or surveys. However, the system will contain records compiled in completing published or unpublished reports, studies or surveys from which information may be retrieved by name or other personal identifier. Non-identifiable information regarding the assumptions, methodology, and data used in establishing radiation doses under section 3623(d) of the Energy Employees Occupational Illness Compensation Program Act of 2000 will be made available to researchers and the general public, consistent with the protection of private medical records.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system may be disclosed as a routine use to DOE financial assistance recipients in performance of their financial assistance agreements, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

3. A record from this system may be disclosed as a routine use to other state and Federal agencies or entities whose mission entails reviewing or managing workers' compensation claims or administering other benefits programs. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system may be disclosed as a routine use to members of a physicians panel(s) established to review and provide a determination regarding whether the illness or death that is the subject of an application for compensation arose out of and in the course of employment by or for DOE. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use to medical specialists in fields that include occupational medicine, pulmonology, immunology, toxicology, dermatology, hematology/oncology, rheumatology, neurology, neurotoxicology, psychiatry, psychology, endocrinology, pathology, and any other specialty that the physicians panel member(s) deem necessary to reach a conclusion in a case. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

6. A record from this system may be disclosed as a routine use to the personnel, contractors, grantees, and cooperative agreement holders of the Federal agency or agencies and its components, designated by the President to implement the Federal compensation program established by the Energy Employees Occupational Illness Compensation Program Act. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

7. A record from this system may be disclosed as a routine use to the members and the staff of the DOE advisory committee established to provide advice on workers' compensation issues, and the members and the staff of an advisory board on Radiation and Worker Health required to be established under the Energy Employees Occupational Illness Compensation Program Act. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice relating to workers' compensation.

8. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

9. A record from this system may be disclosed as a routine use to the Department of Justice when DOE determines that an individual may be eligible for compensation under the Radiation Exposure and Compensation Act of 1990 (42 U.S.C. 2210, note, and as further clarified in 28 CFR part 79), a compensation program administered by the Department of Justice.

10. A record from this system may be disclosed as a routine use to the appropriate local, state or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

11. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available information to researchers and the general public on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by the name of the individual, case number and document number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Director, Office of Worker Advocacy, 1000 Independence Ave, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as notification procedures.

RECORD SOURCE CATEGORIES:

Records in this systems will be obtained from sources, including, but not limited to the individual who is the subject of the records; physicians and other medical professionals; medical institutions; state and Federal workers' compensation offices; family members of the subject; attorneys representing the individual; individuals' employer, including DOE and its contractors and subcontractors; medical laboratories; other state and Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

DOE–11

SYSTEM NAME:

Emergency Operations Notification Call List.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Office of Naval Reactors, Crystal City, VA 22202

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343–3020

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Bldg., Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) senior officials, office directors and key support staff, and DOE contractors involved in DOE Headquarters emergency management and operations activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, office telephone number, home telephone number, home address and pager and cellular phone numbers (if appropriate).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the DOE to create a list that will enable 24 hour contact with select DOE Headquarters personnel and contractors to inform them of situations, occurrences, and emergencies that may impact DOE facilities or activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name of subject individual.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters, Director, Office of Nonproliferation and National Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–12

SYSTEM NAME:

Automated Materials and Property Systems (AMPS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U. S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Germantown, 19901 Germantown Road, Germantown, MD 20784–1290

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Department of Energy (DOE) Headquarters employees who purchase supply products at the three Self Service Stores in the Washington, DC area and vicinity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of DOE employee, organization, date of purchase, quantity, and price.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 7263, and 42 U.S.C. 5815G.

PURPOSE(S):

The records are maintained and used by the Department for billing purposes under the Working Capitol Fund (WFC). The WCF issues bills to Headquarters program offices for both stock and non stock supplies that were purchased for use by employees to perform their work.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

2. A record in this system of records may be disclosed as a routine use to a

member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

SYSTEM EXEMPT FROM CERTAIN PROVISION OF THE ACT:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and badge number of the DOE employee.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Assets Management and Support Services Group 1000 Independence Avenue, SW., Washington, DC 20585

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, Part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic locations(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notifications procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Sources of information for the system include: supplies and their respective price lists that are purchased and placed into the supply system for sale; purchases made by DOE employees; and the information contained on the employee's badge.

SYSTEM EXEMPT FROM CERTAIN PROVISION OF THE ACT:

None.

DOE–13

SYSTEM NAME:

Payroll and Leave Records.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Atlanta Regional Support Office, 730 Peachtree, NE., Suite 876, Atlanta, GA 30308

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Boston Regional Support Office, One Congress Street, Room 1101, Boston, MA 021144–2021

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), 626 Cochrans Mill Road, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, 1601 New Stine Road, Suite 240, Bakersfield, CA 93309

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific & Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343

U.S. Department of Energy, Philadelphia Regional Support Office, 1880 John F. Kennedy Boulevard, Suite 501, Philadelphia, PA 19103–7483

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, PO A, Aiken, SC 29801

U.S. Department of Energy, Seattle Regional Support Office, 800 Fifth Avenue, Suite 3950, Seattle, WA 98104

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) personnel and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Time and attendance records, earning records, payroll actions, deduction information requests, authorizations for overtime and night differential, and Office of Personnel Management (OPM) retirement records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Privacy Act of 1974, Pub. L. 93–

579 (5 U.S.C. 552a); General Accounting Office Policy and Procedures Manual; Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. 104–193.

PURPOSE(S):

The records are maintained and used by the DOE to document historical information on employee wages, deductions, retirement benefits, and leave.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Department of Treasury to collect withheld taxes, process payroll payments, and issue savings bonds.

2. A record from this system may be disclosed as a routine use to the Internal Revenue Service to process Federal income tax payments and tax levies.

3. A record from this system may be disclosed as a routine use to state and local governments to process State and local income tax deductions and court ordered child support or alimony payments.

4. A record from this system may be disclosed as a routine use to OPM to establish and maintain retirement records and benefits.

5. A record from this system may be disclosed as a routine use to the Thrift Savings Board to update Section 401K type records and benefits.

6. A record from this system may be disclosed as a routine use to the Social Security Administration to establish Social Security records and benefits.

7. A record from this system may be disclosed as a routine use to the Department of Labor to process workmen's compensation claims.

8. A record from this system may be disclosed as a routine use to the Department of Defense to adjust military retirement.

9. A record from this system may be disclosed as a routine use to financial institutions to credit net check deposits, savings allotments, and discretionary allotments.

10. A record from this system may be disclosed as a routine use to the employee unions to credit accounts for employees with union dues deductions.

11. A record from this system may be disclosed as a routine use to health insurance carriers to process insurance claims.

12. A record from this system may be disclosed as a routine use to the General Accounting Office to verify accuracy and legality of disbursement.

13. A record from this system may be disclosed as a routine use to the Department of Veterans Affairs to evaluate veteran's benefits to which the individual may be entitled.

14. A record from this system may be disclosed as a routine use to States' departments of employment security to determine entitlement to unemployment compensation or other State benefits.

15. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

16. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

17. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

18. A record from this system of records may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

19. A record from this system may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, Federal Parent Locator System (FPLS) and Federal Tax Offset System to locate individuals and identify their income sources to establish paternity, establish and modify orders of support, and for enforcement action.

20. A record from this system may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, FPLS and Federal Tax Offset System, for release to the Social Security Administration to verify social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.

21. A record from this system may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, FPLS and Federal Tax Offset System, for release to the Department of Treasury to administer the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verify a claim with respect to employment in a tax return.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, social security number, and payroll number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, U.S. Department of Energy, Office of Chief Financial Officer, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, supervisors, timekeepers, official personnel records, and the Internal Revenue Service.

SYSTEM EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–14

SYSTEM NAME:

Report of Compensation.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum Reserves in California, Post Office Box 11, Tupman, CA 93276

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 North Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, 700 N, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Strategic Petroleum Reserve Office, 9000 Commerce Road East, New Orleans, LA 70123

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of Energy (DOE) and contractors performing and operating onsite service work in the DOE-owned or controlled facilities, including long-term architect-engineering and cost-reimbursement construction contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, job title, contractor, current salary up to $100,000, amount reimbursed, and other compensation (actual and amount reimbursed).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the DOE to aid Managers of Field Offices, Program Secretarial Officers and Headquarters Program Managers in determining the reasonableness of compensation paid to top level contractor employees and to monitor the growth of contractor compensation at all levels.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as magnetic tape and paper records.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and

physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Contractor and Resource Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Contractor salary administrative personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–15

SYSTEM NAME:

Intelligence Related Access Authorization.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Office of Intelligence, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Lawrence Livermore National Laboratory, 7000 East Avenue, B–261, Livermore, CA 94551

U.S. Department of Energy, Idaho National Engineering & Environmental Laboratory Systems Analysis Facility, 2271 N. Boulevard, Idaho Falls, ID 83403

U.S. Department of Energy, Nevada Operations Office, 232 Energy Way, Las Vegas, NV 89193

U.S. Department of Energy, Pacific Northwest National Laboratory, Energy & Environmental Sciences Building (EESB), 3230 Q Avenue, Richland, WA 99352

U.S. Department of Energy, Sandia National Laboratories, Center for National Security & Arms Control, Building 810W, Albuquerque, NM 87185

U.S. Department of Energy, Remote Sensing Laboratory, EG&G/EM, 4600 N. Hollywood Blvd. Nellis AFB, Bldg 2211, Las Vegas, NV 89191–6403

U.S. Department of Energy, Los Alamos National Laboratory, Nonproliferation & National Security, TA–3, Building SM–43, Los Alamos, NM 87544

U.S. Department of Energy, Savannah River Operations Office, Savannah River Technology Center, Technical Area 700, Bdlg 735–A, New Ellington, SC 29809

U.S. Department of Energy, Special Technologies Laboratory, 5520 Ekwill Street, Santa Barbara, CA 93111

U.S. Department of Energy, Lockheed Martin Energy Systems, P.O. Box 2003, Blair Road Oak Ridge, TN 37831–7312

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DOE employees and contractor employees; applicants for employment at DOE; individuals who may be assigned or detailed to Federal positions at DOE; consultants to DOE.

CATEGORIES OF RECORDS IN THE SYSTEM:

The following information may be maintained in the system: Results of background investigations, law enforcement records, reports and files; reports on foreign contacts/travel; records, reports and files received from other DOE elements and other Federal agencies related to intelligence activities; polygraph examination records, reports and videotapes of the polygraph session; eligibility evaluation reports; and electronic mail stored on CD.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C., 2401 *et seq.*; The Atomic Energy Act of 1954, as amended; 42 U.S.C. 7239; Executive Order 12333, United States Intelligence Activities (December 4, 1981); Department of Energy Procedures for Intelligence Activities, approved by the Attorney General under Executive Order 12333 (October 19, 1992); Executive Order 12958, Classified National Security Information (April 17, 1995); Executive Order 12968, Access to Classified Information (August 2, 1995); Presidential Decision Directive–61, U.S. Department of Energy Counterintelligence Program, and DOE Order 5670.1A, Management and Control of Foreign Intelligence.

PURPOSE(S):

The records are maintained and used by the DOE to conduct eligibility determinations, adjudications, revocations and appeals from denials and revocations. Under DOE Order 5670.1A the Director of Intelligence is directed to control access to and use of Sensitive Compartmented Information (SCI) and other classified Intelligence information bearing the Director, Central Intelligence (DCI) authorized control markings; and approve access to SCI in compliance with DCI directives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the appropriate Federal, State, or local agency when records alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute of particular program pursuant thereto.

2. A record from the system may be disclosed as a routine use to a Federal, state or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) a person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) a witness, potential witness, or their representatives and assistants, and any person possessing information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publicly available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to and necessary for, the proceeding; and (2) compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from this system may be disclosed as a routine use to foreign governments in accordance with treaties, international conventions, or executive agreements.

6. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

7. A record from the system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records may be stored as paper records, electronic media, and videotapes.

RETRIEVABILITY:

Records may be retrieved by name and/or social security number.

SAFEGUARDS:

Paper records and videotapes are maintained in locked cabinets. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), secured for classified information and are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Intelligence, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The managers of the System Locations listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters, Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Office at the appropriate address identified above under System Locations. Requests for polygraph records should be directed to the FOIA/PA Division, U.S. Department of Energy (Headquarters). The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Records are generally kept at locations where work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, present and former DOE employees and DOE contractor employees; consultants; publicly available material; other agencies within the Intelligence Community; other agencies within the U.S. Government, other offices within the DOE; the FBI, and other federal, state and local law enforcement agencies; and sources contacted during investigations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt pursuant to (k)(1), (2) and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. To the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2) and (5), the system has been further exempted from subsections (c)(3) and (4), (d), (e)(1), (e)(4)(G) and (H) and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. See DOE's Privacy Act Regulation at 10 CFR 1008.12.

DOE–16

SYSTEM NAME:

Accounts Payable Financial System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR, 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83404

U.S. Department of Energy, National Energy Technology Laboratory, (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory, (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U. S. Department of Energy, National Petroleum Technology Office, William Center, Tower One, 1West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 North Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U. S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80402–0928

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29808

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301–1069

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Creditors who are due money from the Department of Energy (DOE), including employees, former employees, contractors, and members of the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Creditors name and address; amount owed and services or goods received; underpayment or other accounting information; invoice number; servicing bank name and address, and account number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; the GAO Policy and Procedures Manual; Statement of Federal Financial Accounting Standards published by the General Accounting Office and the Office of Management and Budget.

PURPOSE(S):

The records are maintained and used by the DOE to substantiate obligations and payments to individuals for goods and services received by the agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal when that record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

2. A record from this system may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper, electronic files, and magnetic tapes.

RETRIEVABILITY:

Records may be retrieved by name and personal identification.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Office of Chief Financial Officer, 1000 Independence Avenue, SW., Washington, DC 20585. Field Offices: The Managers of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, contracting officer, and accounting records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–19

SYSTEM NAME:

Accounts Receivable Financial System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserve, 907 N. Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Suite 700N, Oakland, CA94612–5208

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343–3020

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 10940, West Mifflin, PA 15236–0940

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, Federal Building Lobby, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80402–0928

U.S. Department of Energy, Savannah River Operations Office, Road 1A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 3063

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 7410

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons owing money to the Department of Energy (DOE).

CATEGORIES OF RECORDS IN SYSTEM:

The following information may be maintained in the system:

name, address, telephone number, taxpayer identification number, and other applicable debtor identifying information; invoice number; amount and status of claim; and history of claim, including collection actions taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Debt Collection Improvement Act of 1996, 31 U.S.C. 3512; 5 U.S.C. 5701–09; Federal Property Management Regulations 101–107; Treasury Financial Manual; Executive Order 12009; and Executive Order 9397.

PURPOSE(S):

The records are maintained and used by the DOE to record and manage the Department's accounts receivables.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from this system may be disclosed as a routine use to other Federal agencies, consumer reporting agencies for acquiring credit information, and collection agencies to aid in the collection of outstanding debts owed to the Federal Government.

2. A record from this system may be disclosed as a routine use to Defense Manpower Data Center, Department of Defense, the United States Postal Service, and the other Federal, State, or local agencies to identify and locate, through computer matching, individuals indebted to DOE who are receiving Federal salaries or benefit payments. Information from the match will be used to collect the debts by voluntary repayment, by administrative offset, or by salary offset procedures.

3. A record from this system may be disclosed as a routine use to the Internal Revenue Service (1) to collect the debt by offset against the debtor's tax refunds under the Federal Tax Refund Offset Program, and (2) to obtain the mailing address of a taxpayer to collect a debt owed to the DOE. Subsequent disclosure by DOE to a consumer reporting agency is limited to the purpose of obtaining a commercial credit report on the particular taxpayer. The mailing address information will not be used for any other DOE purpose or disclosed by DOE to another Federal, State, or local agency which seeks to locate the same individual for its own debt collection purpose.

4. A record from this system may be disclosed as a routine use to the Department of the Treasury for the

purpose of administrative offset and debt recovery under section 31001 (m)(1) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

5. A record from this system may be disclosed as a routine use to a "consumer reporting agency" as defined by the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collections Act of 1966, 31 U.S.C. 3701(a)(3), in accordance with 31 U.S.C. 3711(f).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, taxpayer identification number, or invoice number.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Office of Chief Financial Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Chief Financial Officers of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record; contracting officer, where applicable; and accounting records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–21

SYSTEM NAME:

Emergency Defense Mobilization Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Office of Emergency Management, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM:

Members of the National Defense Executive Reserve and other individuals assigned responsibilities in the event of a national defense emergency.

CATEGORIES OF RECORDS IN THE SYSTEM:

The following information may be maintained in the system:

name, home address, home telephone number, and e-mail address.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Defense Production Act of 1950.

PURPOSE(S):

The records are maintained and used by the Department of Energy (DOE) to facilitate security clearance information for prompt re-assignment in the event of a reservist call-up and activation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to officials of other departments and agencies to administer the National Defense Executive Reserve Program.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored as paper records.

RETRIEVABILITY: RECORDS MAY BE RETRIEVED BY NAME.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Emergency Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–23

SYSTEM NAME:

Property Accountability System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, National Energy Technology Laboratory, (Pittsburgh) P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Southeastern Area Power Administration, 2 S. Public Square, Elberton, GA 30635–2496

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK, 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) and contractor employees authorized to be custodians of controlled DOE equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Item description, date of purchase, acquire date, purchase price, purchase order number, vendor and manufacturer, model/serial/license number, property tag identification, status/date, condition of property, operation number, high risk field, disposal code, responsible officer, the employees' assigned equipment, account numbers, organization, organization code, and location.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Federal Property and Administrative Services Act of 1949, section 202(b), 40 U.S.C. 483(b); and 41 CFR part 109, Federal Property Management Regulation (FPMR), Subchapter E, part 109.

PURPOSE(S):

The records are maintained and used by the DOE to (a) provide inventories to satisfy other Federal Procurement Management Regulation requirements; (b) to maintain a record of location of emergency equipment; (c) to control equipment assignments authorized under union contracts; (d) to provide management information necessary for the budgeting and allocation of equipment; and (e) to provide evidence of assignment, location, and value in the event that government property is stolen.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to any law enforcement agency as needed to provide evidence of assignment, location, and value in the event that Government property is stolen.

2. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency when that record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) witness, potential witness, or their representatives and assistants, and any other person who possess information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

6. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

7. A record from this system of records may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by tag number, license number, custodian name, employee identification number, position number, accounting information, catalog number, contract number, make, model, security logon identification, serial number, and storage location.

SAFEGUARDS:

Paper records and microfilm are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National

Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Southeastern Area Power Administration, 2 S. Public Square, Elberton, GA 30635–2496

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK, 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Information in this system comes from the Payroll/Personnel system application, various internal Bonneville Power Administrative forms, accountable property representative and employees, data processing personnel, and supply officers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–24

SYSTEM NAME:

Land Records System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Bonneville Power Administration, Information Resources, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals from whom or to whom Western Area Power Administration and Bonneville Power Administration have acquired or given interests in land.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual, agency, and/or company names; description of land tract, type of agreement; rights granted or received; history of the transaction, and IRS Form 1099 information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the DOE to track land rights information resulting from property right acquisitions outgrants, licenses, transfer, exchanges, encroachments and disposals in support of Western Power Administration and Bonneville Power Administration construction and maintenance programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

2. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) a person representing the Department or assisting in such representation; (2) others involved in the matter, their representatives and persons assisting such persons; and (3) witnesses, potential witnesses, their representatives and assistants, and any other persons possessing information pertaining to the matter when it is necessary to obtain information or testimony relevant to the matter.

3. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

5. A record from the system may be disclosed as a routine use to the Internal Revenue Service to provide notification of individuals who have received payment exceeding $600 on any one land right transaction.

6. A record from the system may be disclosed as a routine use to the Department of Justice to provide support of land right condemnation actions.

7. A record from the system may be disclosed as a routine use to courts and attorneys for the purpose of land right settlement disputes or litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by line identification, personal identification, cross referenced by name of landowner, grantee, or grantor.

SAFEGUARDS:

Paper records and microfilm are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS(S):

Bonneville Power Administration: Manager, Real Estate, Bonneville Power Administration, U.S. Department of Energy, P.O. Box 3621, Portland, OR 97208

Western Area Power Administration: Director, Division of Lands, Western Area Power Administration, U.S. Department of Energy, P.O. Box 3402, Golden, CO 80401.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Information in this system comes from individual landowners, grantees, or grantors; agency officials; and state and local authorities.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–25

SYSTEM NAME:

Commuter Locator and Parking Space Information System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of Energy (DOE) employees and contractor employees who apply as members of a car pool or van pool for parking spaces managed and controlled by DOE under the general direction of the General Services Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of driver and car or van pool members, federal service computation date, payroll and other assigned number, office address and telephone number, home addresses, home telephone numbers, make and year of automobile, state of registration, tag number of vehicles, number of days per week in the car pool or van pool, and other car pooling or van pooling information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Executive Order 12778; DOE HQ 0344.1 Parking.

PURPOSE(S):

Records are maintained and used by DOE to maintain information of existing car pools, van pools, and other categories of parking, in order to keep a current record on employees who commute to work.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Council of Governments for commuter connections.

2. A record from this system may be disclosed as a routine use to individuals seeking to car pool or van pool operating from their community or residential area.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, location of parking assignment, home address, assigned number, and license number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director of Building Operations U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, Part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD AND ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

RECORD SOURCE CATEGORIES:

Individual car poolers and van poolers.

DOE–26

SYSTEM NAME:

Official Travel Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Center (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Center (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Tower Center One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves in Colorado, Utah, and Wyoming, 907 North Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, 28950 Highway 119, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U. S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29808

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301–1069

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who travel or relocate at the expense of DOE.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, social security number, travel itinerary, mode and purpose of travel, advance amount, expenses claimed, amounts reimbursed, charge card account numbers, residential sales records, and receipts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 5 U.S.C. 301; 5 U.S.C. Chapter 57; Policy and Procedures Manual for Guidance of Federal Agencies, Titles 3 and 4; Federal Travel Regulation; Federal Property Management Regulations 101–41; Department of Energy Order DOE 1500.2A, Travel Policy and Procedures.

PURPOSE(S):

The records are maintained and used by DOE to document official domestic and foreign travel and relocation expenditures and to support reimbursement of allowable expenses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the U.S. Treasury for payment of claim.

2. A record from this system may be disclosed as a routine use to the U.S. General Accounting Office for audit and verification of accuracy and legality of disbursements.

3. A record from this system may be disclosed as a routine use to the Internal Revenue Service for notification regarding taxable reimbursements.

4. A record from this system may be disclosed as a routine use to the General Services Administration for audit of transportation services.

5. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, social security number, and travel authorization number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Office of Chief Financial Officer, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Individual travelers, supervisors, Government travel offices, and finance office standard references.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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SYSTEM NAME:

General Training Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Headquarters, Germantown, 19901 Germantown Road, Germantown, MD 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA, 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120–0030

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Atlanta Support Office, 730 Peachtree, NE., Suite 876, Atlanta, GA 30308

U.S. Department of Energy, Batavia Area Office, P.O. Box 2000, Batavia, IL 60510

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Bonneville Power Administration, Lower Columbia Area, 1500 NE., Irving Street, Portland, OR 97232

U.S. Department of Energy, Bonneville Power Administration, Puget Sound Area, 201 Queen Ann Avenue, N., Suite 400, P.O. Box C—19030, Seattle, WA 98109–1030

U.S. Department of Energy, Bonneville Power Administration, Snake River Area, 101 West Poplar, Walla Walla, WA 99362

U.S. Department of Energy, Bonneville Power Administration, Upper Columbia Area, Room 561, U.S. Court House, W. 920 Riverside Avenue, Spokane, WA 99201

U.S. Department of Energy, Boston Support Office, One Congress Street, Room 1101, Boston, MA 02114–2021

US. Department of Energy, Brookhaven Area Office, 53 Bell Avenue, Bldg. 464, Upton, NY 11973

U.S. Department of Energy, Brookhaven National Laboratory, P.O. Box 5000, Upton, NY 11973–5000

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Continuous Electron Beam Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606

US. Department of Energy, Dallas Support Office, 1420 W. Mockingbird Lane, Suite 400, Dallas, TX 75247

U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45342–0066

U.S. Department of Energy, Denver Support Office, 2801 Youngfield Street, Suite 380, Golden, CO 80401–2266

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, Kansas City Support Office, 911 Walnut Street, Room 1411, Kansas City, MO 64106

U.S. Department of Energy, Kirtland Area Office. P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, University of California, Los Alamos National Laboratory, P.O. Box 1663, Los Alamos, NM 87545

U.S. Department of Energy, Metairie Site Office, 900 Commerce Road, East, New Orleans, LA 70123

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, New York Support Office, 26 Federal Plaza, Room 3437, New York, NY 10278–0068

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Office of Superconducting Super Collider, 2550 Beckleymeade Avenue, MS 1020, Dallas, TX 75237–3946

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Philadelphia Support Office, 1880 John F. Kennedy Blvd., Ste 501, Philadelphia, PA 19103–7483

US. Department of Energy, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Pittsburgh Naval Reactors Office, Idaho Branch Office, P.O. Box 2469, Idaho Falls, ID 83403–2469

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352
U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200
U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801
U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301
U.S. Department of Energy, Seattle Support Office, 800 Fifth Avenue, Suite 3950, Seattle, WA 98104
U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Bldg., Public Square, Elberton, GA 30635
U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101
U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123
U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401
U.S. Department of Energy, Western Area Power Administration, Billings Area Office, P.O. Box 35800, Billings, MT 59107–5800
U.S. Department of Energy, Western Area Power Administration, Loveland Area Office, P.O. Box 3700, Loveland, CO 80539–3003
U.S. Department of Energy, Western Area Power Administration, Salt Lake City Area Office, P.O. Box 11606, Salt Lake City, UT 84147–0606
U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of Energy (DOE) Federal Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; resume; assigned number; occupational series; training requests and authorizations; grade; organization; date of birth; social security number; home address and telephone number; special interest area; education completed; course name; justification for attending the course; direct and indirect costs of training; coded information dealing with purpose, type, source of training; training evaluations; course evaluation forms; training examinations; training attendance records; lesson plans; training assignment sheets; reading assignment sheets; position qualification statement; self study sheet; position descriptions; accounting records; and quarterly training report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Nuclear Waste Policy Act of 1982 (Pub. L. 97–425); Nuclear Waste Policy Amendment Act of 1987 (Pub. L. 100–203); Government Employees Training Act of 1958; and 5 CFR parts 410 and 412,

PURPOSE(S):

Records are maintained and used by the Department to document planning, completion, funding and effectiveness of employee training and development. Appropriate local, State and Federal agencies use certain records maintained in this system to ensure Departmental compliance with other regulatory requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to Federal agencies, including the Office of Personnel Management, for purposes of determining eligibility or suitability for training and as source documents for training reports; to training institutions that personnel have requested to attend; and to other Federal agencies as necessary for payment of training.

2. A record from this system may be disclosed as a routine use to state and local governments, the Nuclear Regulatory Commission (NRC), and other Federal agencies that conduct research, investigations, or audits to determine whether DOE and contractor personnel satisfy quality assurance requirements for activities necessary to obtain a license from the NRC for the construction, operation and closing of a nuclear waste repository and/or a Monitored Retrievable Storage facility. These activities also will include research and development, site characterization, transportation, waste packaging, handling, design, maintenance, performance confirmation, inspection, fabrication, and development and production of repository waste forms.

3. A record from this system may be disclosed as a routine use to federal, state or local government officials where the regulatory program being implemented is applicable to the DOE or contractor program and requires that such access be provided for the conduct of the regulatory agencies' activities. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the record.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Training and Human Resource Development, 1000 Independence Avenue, SW., Washington, DC 20585–0702.

Field Offices: The Managers and Directors of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individuals and their supervisors.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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SYSTEM NAME:

Personnel Medical Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Wash, DC 20585
U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115
U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400
U.S. Department of Energy, Allied-Signal, Kansas City Division, P.O. Box 419159, Kansas City, MO 64141
U.S. Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120–0030
U.S. Department of Energy, Ames Laboratory, Iowa State University, Ames, IA 50011
U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439
U.S. Department of Energy, Ashtabula Area Office, P.O. Box 579, Ashtabula, OH 44005–0579
U.S. Department of Energy, Bartlesville Project Office, 220 North Virginia Avenue, P.O. Box 1398, Bartlesville, OK 74003
U.S. Department of Energy, Battelle Columbus Laboratories, 505 King Avenue, Room A–496 Columbus, OH 43201
U.S. Department of Energy, Batavia Area Office, P.O. Box 2000, Batavia, IL 60510
U.S. Department of Energy, Bettis Atomic Power Laboratory, P.O. Box 79, Pittsburgh, PA 15122–0079
U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208
U.S. Department of Energy, Brookhaven Area Office, 53 Bell Avenue, Bldg 464, Upton, NY 11973
U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439
U.S. Department of Energy, Continuous Electron Beam Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606
U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45342–0066
U.S. Department of Energy, EG&G Mound Applied Technologies, P.O. Box 3000, Miamisburg, OH 45343–3000
U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Street, New York, NY 10014–3621
U.S. Department of Energy, Fermi National Accelerator Laboratory, P.O. Box 500, Batavia, IL 60510
U.S. Department of Energy, Fernald Environmental Restoration Management Corporation, P.O. Box 398704, Cincinnati, OH 45239–8704
U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030
U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401
U.S. Department of Energy, Grand Junction, P.O. Box 2567, Grand Junction, CO 81502–2567
U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive MS 1214, Idaho Falls, ID 83404
U.S. Department of Energy, Inhalation Toxicology Research Institute, P.O. Box 5890, Albuquerque, NM 87185
U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202
U.S. Department of Energy, Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185–5400
U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301
U.S. Department of Energy, Lawrence Livermore National Laboratory, P.O. Box 808, Livermore, CA 94551
U.S. Department of Energy, Lawrence Berkeley Laboratory, One Cyclotron Road, Building 26, Room 143, Berkeley, CA 94720
U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544
U.S. Department of Energy, Lockheed Martin Energy Systems, Inc., Y–12 Plant, P.O. Box 2009 Oak Ridge, Tennessee 37831–8103
U.S. Department of Energy, Lockheed Martin Energy Systems, Inc., K–25 Plant, P.O. Box 2003 Oak Ridge, TN 37831–7422
U.S. Department of Energy, MK Ferguson of Oak Ridge Company, P.O. Box 2011, Oak Ridge, TN 37831–2011
U.S. Department of Energy, National Energy Technology Center (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880
U.S. Department of Energy, National Energy Technology Center (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940
U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103
U.S. Department of Energy, National Renewable Energy Laboratory Area Office, 1617 Cole Boulevard, Golden, CO 80401–3393
U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150 Casper, WY 82601
U.S. Department of Energy, Naval Petroleum Reserves in California, 28590 Highway 119, P.O. Box 11, Tupman, CA 93276
U.S. Department of Energy, Naval Reactors Representative Office, Naval Base Branch Post Office, General Delivery, Charleston Naval Shipyard, Charleston, SC 29408–5615
U.S. Department of Energy, Naval Reactors Representative Office, P.O. Box 7021, Groton, CT 06340
U.S. Department of Energy, Naval Reactors Representative Office, Mare Island Naval Shipyard P.O. Box 2053, Vallejo, CA 94592
U.S. Department of Energy, Naval Reactors Representative Office, Newport News Shipbuilding & Dry Dock Company, P.O. Box 973, Newport News, VA 23607
U.S. Department of Energy, Naval Reactors Representative Office, Norfolk Naval Shipyard P.O. Box 848, Portsmouth, VA 23705–0848
U.S. Department of Energy, Naval Reactors Representative Office, Pearl Harbor Naval Shipyard P.O. Box 128, Pearl Harbor, HI 96860
U.S. Department of Energy, Naval Reactors Representative Office, Portsmouth Naval Shipyard Naval Base Branch, P.O. Box 2008, Portsmouth, NH 03801–2008
U.S. Department of Energy, Naval Reactors Representative Office, Puget Sound Naval Shipyard Substation, P.O. Box 1A, Bremerton, WA 98314
U.S. Department of Energy, Nevada Test Site Mercury, Mercury, NV 89023
U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518
U.S. Department of Energy, New Brunswick Laboratory, 9800 South Cass Avenue, Argonne, IL 60439
U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831
U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–52019
U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005
U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109
U.S. Department of Energy, Plasma Physics Laboratory, James Forrestal Campus, Princeton University, P.O. Box 451, Princeton, NJ 08543
U.S. Department of Energy, Portsmouth Enrichment Office, P.O. Box 700, Piketon, OH 45661
U.S. Department of Energy, Princeton Area Office, P.O. Box 102, Princeton, NJ 08542
U.S. Department of Energy, Radiological and Environmental Sciences Laboratory, 785 DOE Place, Idaho Falls, ID 83402
U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352
U.S. Department of Energy, Rocketdyne—Rockwell Aerospace, 6633 Canoga Avenue, P.O. Box 7922, Department 056 EA08, Canoga Park, California 91309–7922
U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 8040–8200
U.S. Department of Energy, Sandia National Laboratories, P.O. Box 5800, Albuquerque, NM 87115
U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801
U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301
U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635
U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101
U.S. Department of Energy, Stanford Linear Accelerator Center, P.O. Box 4349, Stanford, California 94309
U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123
U.S. Department of Energy, Waste Isolation Pilot Plant, Westinghouse Electric Company, Waste Isolation Division, P.O. Box 2078, Carlsbad, NM 88220
U.S. Department of Energy, Weldon Spring Site Remedial Action Project, 7295 Highway 94 South, St. Charles, MO 63304
U.S. Department of Energy, West Valley Nuclear Service Company, Inc., P.O. Box 191, MS: F, West Valley, NY 14171
U.S. Department of Energy, Waste Isolation Pilot Project Office, P.O. Box 3090, Carlsbad, NM 88221
U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401
U.S. Department of Energy, Westinghouse Electric Corporation, Bettis Atomic Power Laboratory, Naval Reactors Facility, P.O. Box 2068, Idaho Falls, ID 83403–2068
U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Department of Energy (DOE) employees and DOE contractor employees. This system includes in-patients at Kadlec Hospital, Richland, WA, prior to September 9, 1956.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories on contractor employees resulting from medical examination; in cases of injury, description of injury occurrence and treatment; medical records of periodic physical examinations and psychological testing, blood donor program records, audiometric testing, routine first aid, and other visits; hospital in-patients at Kadlec Hospital; Records on the results of work place and medical monitoring of individuals for exposure to chemical and physical agents (not covered in DOE–35) and related work history data, including drug testing information and results; contractor employee-completed health questionnaires not resulting from a medical examination; information from the contractor employee's private medical doctor or other health care providers, such as hospitals or laboratories not generated from workplace medical examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Atomic Energy Act of 1954, (42 U.S.C. 2051a), section 31a; Economy Act of 1932, as amended, (31 U.S.C. 1535); 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; and DOE Order 440.1.

PURPOSE(S):

The records are maintained and used by the Department to: (a) Provide data necessary for proper medical evaluations, diagnosis, treatment and care; (b) provide an accurate medical history, included job and/or hazard exposure documentation and health monitoring in relation to health status and claims of the individual; (c) provide a method for evaluating quality of health care rendered and job-health protection including engineering protection provided, protective equipment, workplace monitoring, and medical examinations monitoring required by the Occupational Safety Health Administration (OSHA) or by good practice; (d) provide data for health hazard evaluations, epidemiologic studies and public health activities; (e) ensure that all relevant, necessary, accurate, and timely data are available to support any medically-related employment decisions affecting the subject of the records, including decisions pertaining to the fitness-for-duty and disability retirement; (f) document possible re-employment rights under statutes governing that program; (g) document employee's reporting of on-the-job injuries or unhealthy or unsafe working conditions, including the reporting of such conditions to the OSHA and actions taken by the agency or by the employing agency; and (h) ensure proper and accurate operation of the agency's employee drug testing program under Executive Order 12564.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to physicians, the U.S. Department of Labor, various state departments of labor and industry groups, and contractors to: (a) Ascertain suitability of an employee for job assignments with regard to health; (b) provide benefits under Federal programs or contracts; and (c) maintain a record of occupational injuries or illnesses and the performance of regular diagnostic and treatment services to patients.

2. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

3. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

4. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

6. A record from this system of records may be disclosed as a routine use to a member of Congress submitting a request involving the constituent when the constituent has requested the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system may be disclosed as a routine use to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry pursuant to Memoranda of Understanding between the Department and the Department of Health and Human Services or its components.

8. A record from this system may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements, collaborating researchers, or their employees, when conducting health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to conduct such studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record to federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subject's vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillance. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above described research purposes.

9. A record from this system may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities and to designated employees of Federal, State, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety or environmental issues. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice to the Department or to the Department of Health and Human Services.

10. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records.

Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Assistant Secretary for Environment, Safety, and Health, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers and Directors of "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record, physicians, medical institutions, Office of Workers Compensation Programs, military retired pay systems records, Federal civilian retirement systems, Office of Personnel Management retirement life insurance and health benefits records system, and the personnel management records systems of the Office of Personnel Management.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–34

SYSTEM NAME:

Employee Assistance Program (EAP) Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Forrestal Building., 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Headquarters, Germantown, 19901 Germantown Road, Germantown, MD 20585

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle WA, 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2372, Amarillo, TX 79120

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Atlanta Regional Support Office, 730 Peachtree, NE., Suite 876, Atlanta, GA 30308

U.S. Department of Energy, Batavia Area Office, P.O. Box 2000, Batavia, IL 60510

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Boston Regional Office, JFK Federal Building, Room 675 Boston, MA 02203–0002

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Office of Superconducting Super Collider, 2550 Beckleymeade Avenue, MS 1020, Dallas, TX 75237–3946

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Pittsburgh Naval Reactors Office, Idaho Branch Office, P.O. Box 2469, Idaho Falls, ID 83403–2469

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Bldg., Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees who have contacted a service provider and have received counseling and/or have been referred for assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Employee profile—name; social security number; work and home addresses, and work and home telephone numbers; job title and grade level; organization; supervisor's name and telephone number; sex; race; marital status; spouse and family members' names; name, address, and telephone number of any previously seen counselor or treatment facility; security clearance; (b) interest inventory and/or psychological test results; (c) issue(s) inventory; (d) case notes; (e) consent/release forms; (f) correspondence, including referrals to community resources and/or treatment facilities; and (g) medical and/or psychological reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Public Law 91–616, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; Pub. L. 102–142, The Omnibus Transportation Employee Testing Act of 1991; 5 U.S.C. 301, 7901, and 7904; 5 CFR part 792; and 15 U.S.C. 764.

PURPOSE(S):

The records are maintained and used by the Department to document employees seeking assistance on behavioral problems or issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

2. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal

agency in the event that a record within this system of records, alone or in conjunction with other information, if the employee is suspected of child, spousal, or elder abuse.

3. A record from this system may be disclosed as a routine use to any person or entity to the extent necessary to prevent an imminent or potential crime which directly threatens loss of life or serious bodily injury.

4. A record from this system may be disclosed as a routine use to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report, or otherwise disclose patient identities in any manner.

5. A record from this system may be disclosed as a routine use to the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim results from action against an individual based upon the individual's behavior, or mental or physical condition, or is alleged to have arisen because of activities of any Federal agency in connection with the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director of Human Resources Management, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Human Resource Directors of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE Privacy Act regulation, identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject employee, employee's supervisor(s), employee assistance program coordinator, staff of the applicable servicing personnel office, staff of the applicable personnel security office, and therapists or institutions providing treatment.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–35

SYSTEM NAME:

Personnel Radiation Exposure Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Alaska Power Administration, Federal Records Center, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Allied-Signal, Kansas City Division, P.O. Box 419159, Kansas City, MO 64141

U.S. Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120–0030

U.S. Department of Energy, Ames Laboratory, No. 311TASF, Iowa State University, Ames, IA 50011

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Batavia Area Office, P.O. Box 2000, Batavia, IL 60510

U.S. Department of Energy, Bettis Atomic Power Laboratory, P.O. Box 79, Pittsburgh, PA 15122–0079

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven Area Office, 53 Bell Avenue, Bldg 464, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Continuous Electron Beam Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606

U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45342–0066

U.S. Department of Energy, EG&G Mound Applied Technologies, P.O. Box 3000, Miamisburg, OH 45343–3000

U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Street, New York, NY 10014–3621

U.S. Department of Energy, Fermi National Accelerator Laboratory, P.O. Box 500, Batavia, IL 60510

U.S. Department of Energy, Fernald Environmental Restoration Management Corporation, P.O. Box 398704, Cincinnati, OH 45239–8704

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Grand Junction, P.O. Box 2567, Grand Junction, CO 81502–2567

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83404

U.S. Department of Energy, Inhalation Toxicology Research Institute, P.O. Box 5890, Albuquerque, NM 87185

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301

U.S. Department of Energy, Lawrence Livermore National Laboratory, P.O. Box 808, Livermore, CA 94551

U.S. Department of Energy, Lawrence Berkeley Laboratory, One Cyclotron Road, Building 26, Room 143, Berkeley, CA 94720

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Lockheed Martin Energy Systems, Inc., Y–12 Plant, P.O. Box 2009 Oak Ridge, TN 37831–8103

U.S. Department of Energy, Lockheed Martin Energy Systems, Inc., K–25 Plant, P.O. Box 2003 Oak Ridge, TN 37831–7422

U.S. Department of Energy, MK Ferguson of Oak Ridge Company, P.O. Box 2011, Oak Ridge, TN 37831–2011

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, National Institute for Petroleum and Energy Research, BDM–Oklahoma, Inc., P.O. Box 2565, Bartlesville, OK 74005

U.S. Department of Energy, National Renewable Energy Laboratory Area Office, 1617 Cole Boulevard, Golden, CO 80401–3393

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150 Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276

U.S. Department of Energy, Naval Reactors Representative Office, Naval Base Branch Post Office, General Delivery, Charleston Naval Shipyard, Charleston, SC 29408–5615

U.S. Department of Energy, Naval Reactors Representative Office, P.O. Box 7021, Groton, CT 06340

U.S. Department of Energy, Naval Reactors Representative Office, Mare Island Naval Shipyard P.O. Box 2053, Vallejo, CA 94592

U.S. Department of Energy, Naval Reactors Representative Office, Newport News Shipbuilding & Dry Dock Company, P.O. Box 973, Newport News, VA 23607

U.S. Department of Energy, Naval Reactors Representative Office, Norfolk Naval Shipyard P.O. Box 848, Portsmouth, VA 23705–0848

U.S. Department of Energy, Naval Reactors Representative Office, Pearl Harbor Naval Shipyard P.O. Box 128, Pearl Harbor, HI 96860

U.S. Department of Energy, Naval Reactors Representative Office, Portsmouth Naval Shipyard Naval Base Branch, P.O. Box 2008, Portsmouth, NH 03801–2008

U.S. Department of Energy, Naval Reactors Representative Office, Puget Sound Naval Shipyard Substation, P.O. Box 1A, Bremerton, WA 98314

U.S. Department of Energy, Nevada Test Site Mercury, Mercury, NV 89023

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, New Brunswick Laboratory, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–52019

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005

U.S. Department of Energy, Pinellas Area Office, P.O. Box 2900, Largo, FL 34649

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Plasma Physics Laboratory, James Forrestal Campus, Princeton University, P.O. Box 451, Princeton, NJ 08543

U.S. Department of Energy, Portsmouth Enrichment Office, P.O. Box 700, Piketon, OH 45661

U.S. Department of Energy, Princeton Area Office, P.O. Box 102, Princeton, NJ 08542

U.S. Department of Energy, Radiological and Environmental Sciences Laboratory, 850 Energy Drive, Idaho Falls, ID 83402

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocketdyne—Rockwell Aerospace, 6633 Canoga Avenue, P.O. Box 7922, Department 056 EA08, Canoga Park, CA 91309–7922

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A Golden, CO 80403–8200

U.S. Department of Energy, Sandia National Laboratories, P.O. Box 5800, Albuquerque, NM 87115

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Stanford Linear Accelerator Center, P.O. Box 4349, Stanford, CA 94309

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Waste Isolation Pilot Plant, Westinghouse Electric Company, Waste Isolation Division, P.O. Box 2078, Carlsbad, NM 88220

U.S. Department of Energy, Weldon Spring Site Remedial Action Project, 7295 Highway 94 South, St. Charles, MO 63304

U.S. Department of Energy, West Valley Nuclear Service Company, Inc., 10282 Rock Springs Road, P.O. Box 191, MS: F, West Valley, NY 14171

U.S. Department of Energy, Waste Isolation Pilot Project Office, P.O. Box 3090, Carlsbad, NM 88221

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Westinghouse Electric Corporation, Bettis Atomic Power Laboratory, Naval Reactors Facility, P.O. Box 2068, Idaho Falls, ID 83403–2068

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Department of Energy (DOE) employees and contractor employees, and any other persons having access to certain DOE facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

DOE contractor personnel and other individuals' radiation exposure records, and other records, in connection with registries of uranium, transuranic, or other elements encountered in the nuclear industry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department for the purpose of monitoring and recording levels of radiation exposure to individuals working or visiting DOE facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Department of the Navy to monitor radiation exposure of Naval and other personnel.

2. A record from this system may be disclosed as a routine use to the Nuclear Regulatory Commission to monitor radiation exposure of DOE and its contractors and consultants, contractors from other agencies who have been exposed to ionizing radiation during nuclear testing, and to conduct epidemiological studies of radiation effects on individuals so identified.

3. A record from this system may be disclosed to the Department of Defense for the purpose of identifying DOD and DOD-contractor personnel exposed to ionizing radiation during nuclear testing and for conducting epidemiological studies of radiation effects on individuals so identified.

4. A record from this system may be disclosed as a routine use to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry pursuant to a Memoranda of Understanding between the Department and the Department of Health and Human Services or its components.

5. A record from this system may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements, and collaborating researchers, or the employees of these parties, in performance of health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to perform such studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record to federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subject's vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillance. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above described research purposes.

6. A record from this system may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities and to designated employees of Federal, State, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety or environmental issues. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice to the Department or to the Department of Health and Human Services.

7. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, alphanumeric code, and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Assistant Secretary for Environment, Safety, Health, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers and Directors of the "System locations" listed above are the records are maintained are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, accident-incident investigations, film badges, dosimetry records, and previous employee records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–38

SYSTEM NAME:

Occupational and Industrial Accident Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATIONS:

U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585;
U.S. Department of Energy, Alaska Power Administration, San Point Way, NE., Seattle, WA 98115
U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115
U.S. Department of Energy, Amarillo Area Office, Pantex Plant, P.O. Box 1086, Amarillo, TX 79105
U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208
U.S. Department of Energy, Brookhaven Area Office, Upton, NY 11973
U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439
U.S. Department of Energy, Carbondale Mining Research Center, P.O. Box 2587, Carbondale, IL 62901
U.S. Department of Energy, Clinch River Breeder Reactor Plant Project, P.O. Box U, Oak Ridge, TN 37830
U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45342
U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Street, New York, NY 10014
U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401
U.S. Department of Energy, Idaho Branch Office, P.O. Box 2469, Idaho Falls, ID 83401
U.S. Department of Energy, Kansas City Area Office, P.O. Box 202, Kansas City, MO 64141
U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301
U.S. Department of Energy, Los Alamos Area Office, P.O. Box 5800, Los Alamos, NM 87544
U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505
U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122
U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103
U.S. Department of Energy, Naval Petroleum Reserve, P.O. Box 11, Tupman, CA 93276
U.S. Department of Energy, Nevada Test Site, Mercury, NV 89023
U.S. Department of Energy, New Brunswick Laboratory, D–350, 9800 S. Cass Avenue, Argonne, IL 60439
U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114
U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830
U.S. Department of Energy, Pinellas Area Office, P.O. Box 11500, St. Petersburg, FL 33733
U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122
U.S. Department of Energy, Puerto Rico Area Office, P.O. Box BB, San Juan, PR 00935
U.S. Department of Energy, Rocky Flats Field Office, P.O. Box 928, Golden, CO 80401
U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352
U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, 700–N, Oakland, CA 94612
U.S. Department of Energy, Sandia Area Office, P.O. Box 5800, Albuquerque, NM 87115
U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801
U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301
U.S. Department of Energy, Shippingport Branch Office, P.O. Box 11, Shippingport, PA 15077
U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635
U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101
U.S. Department of Energy, Strategic Petroleum Reserve, 900 Commerce Road, East, New Orleans, LA 70123
U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401
U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) employees, contractor employees, and any other persons having access to DOE facilities who have had accidents on DOE facilities. Also individuals involved in accidents with employees or contractor employees or other persons having access to DOE facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Accident/incident information, occupational injury and illness experience, property damage experience, and motor vehicle accidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Federal Tort Claims Act, 28 U.S.C. 2671–2680; Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 240–243; Executive Order 12009.

PURPOSE(S):

The records are maintained and used by the Department to monitor and record information about DOE employees, contract employees, and other persons, who have had accidents on DOE facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to physicians, the Department of Labor, various state departments of labor and industry groups, and contractors who use information to: (a) Ascertain suitability of an employee for job assignments with regard to health (b) provide benefits under Federal programs or contracts, and (c) maintain a record of occupational injuries or illnesses and the performance of regular diagnostic and treatment services to patients.

2. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

6. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

8. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

9. A record from this system may be disclosed as a routine use to DOE contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health, the National Center for Environmental Health of the Center for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry when conducting epidemiological studies, or public health activities as required by law performed and pursuant to a Memorandum of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

10. A record from this system may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements, and collaborating researchers, or the employees of these parties, when conducting health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to conduct the studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record to federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subjects vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillances. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above descried research purpose. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

11. A record from this system of records may be disclosed to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Project Related to Department of Energy Facilities and to designated employees of Federal, State, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety, or environmental issues. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Assistant Secretary for Environmental, Safety, Health, EH–1, Washington, DC 20585.

Field Offices: The Managers and Directors of field locations listed above under "System location(s)" are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above

under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record, physicians, medical institutions, Office of Workers Compensation Programs, military retired pay system records, Federal civilian retirement systems, retirement life insurance and health benefits records system of the Office of Personnel Management, and the personnel management records systems of the Office of Personnel Management.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–41

SYSTEM NAME:

Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Bartlesville Energy Technology Center, P.O. Box 1398, Bartlesville, OK 74003

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U. S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland CA 94162–5208

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden CO 80403–8200

U.S. Department of Energy, Oakland Operations Office, 1333 Broadway, Oakland, CA 94612

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons identified in files maintained by the Office of General Counsel, which includes attorneys at all DOE offices, from which information is retrieved by name or other personal identifier, including: litigants and other claimants against the Department and its contractors asserting matters including, but not limited to, personal injury, property damage or infringement (including intellectual property), contract violation and harms resulting from employer-employee relationships; persons who are the subjects of claims by the DOE, such as persons who may have violated criminal laws, DOE regulations and contracts with the DOE and persons against whom the DOE considered asserting such claims; DOE's contractors and potential contractors; persons holding copyrights and issued patents pertaining to the DOE's activities; DOE employees subject to garnishment or assignments; and DOE employees and contractor employees who use Alternative Dispute Resolution (ADR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning legal matters include, but are not limited to, documents pertaining to: (1) Litigation and all other claims against, and by, the DOE and its contractors, which have been assigned to the Office of General Counsel; (2) DOE contracts; (3) issued patents and copyright matters; (4) records pertaining ADR. Litigation and claim records may, among others, include correspondence, pleadings such as complaints, answers, and motions; depositions, court orders and briefs. Records in this system also may include accident reports, inspection reports, investigation reports, audit reports, personnel files, contracts, consultants agreements, reports pertaining to criminal matters of interest to the DOE, Personnel Security Review Board documents, medical records, photographs, telephone records, patents and related documents, correspondence, and memoranda.

Note: This system does not include records maintained in DOE–16, Standards of Conduct.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to settle claims and prepare for litigation and resolve disputes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to: (1) A person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and

litigation, and their representatives and individuals assisting those representatives; (3) a witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, case name, claim name, or assigned identifying number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Office of General Counsel, GC–2, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Chief Counsels of the "System location(s)" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals, inspection reports, other agencies, Office of General Counsel attorneys, other agency officers and staff, contractors, investigators, and auditors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsection (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act; see the DOE Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–43

SYSTEM NAME:

Personnel Security Files.

SECURITY CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O.

Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Department of Energy (DOE) employment; DOE employees including assignees and detailees, agents and consultants with the DOE, DOE contractors and subcontractors, and DOE access permittees processed for DOE access authorizations for access to classified matter or special nuclear materials; other

Federal agency contractor and subcontractor applicants for employment, and their employees, detailees, agents, and consultants processed for DOE access authorizations; and other individuals processed for DOE access authorizations as determined by the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date and place of birth, Social Security Number, citizenship status, grade, organization, employer(s), initial investigation and reinvestigation history; and access authorization history; the formal request(s) and justification(s) for access authorization processing; security forms, fingerprint cards, and acknowledgments completed by the individual for both the initial investigation and reinvestigations; results of preemployment checks (if required); request(s) and approval(s) for issuance of a security badge(s); report of investigation provided by an agency which has previously conducted an investigation of the individual for employment or security clearance purposes; approvals for classified visits; photographs; security infraction reports; security termination statement(s), foreign travel document; letters of interrogatory, personnel security interview transcripts or summaries, and/or audio tapes of the interviews, and evaluations of the interviews; reports of hospitalization or treatment for a mental condition or substance abuse, including information provided by an Employee Assistance Program provider; reports of DOE-sponsored mental evaluations conducted by competent medical authorities; reports of security violations; public record information to include law enforcement, financial, divorce, bankruptcy, name change and other court information or reports and copies of information appearing in the media; security advisory letters; information concerning citizenship status, foreign contacts, and spouse and/or individual(s) with whom the individual resides; administrative review processing data; justifications for participation in sensitive DOE activities and/or for Sensitive Compartmented Information access approval; results of required testing for participation in sensitive DOE activities; documents concerning Interim Access Authorization processing or processing under section 145b of the Atomic Energy Act of 1954, as amended; written evaluations of reported derogatory information; credit check results; copies of correspondence to and from the individual concerning the items above and copies of inter-and intra-agency correspondence concerning the items above; and any other material relevant to the individual's DOE access authorization or special authorization eligibility or processing and, for DOE employees, suitability for Federal employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 10 CFR part 710, subparts A and B; Executive Orders 10450 and 12968; 5 CFR part 732; DOE O 472.1B, Personnel Security Activities, of 3–24–97; Personnel Security Program Manual DOE M 472–1.1, of 5–22–98; and Director of Central Intelligence Directive 1/14 of 1–22–92.

PURPOSE(S):

The records are maintained and used by the Department as an official record of all information gathered and evaluated to determine an individual's initial and continued DOE access authorization eligibility and, if applicable, an individual's eligibility for participation in DOE sensitive activities or for access to Sensitive Compartmented Information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to competent medical authority who, under a formal agreement for payment of services with the local DOE personnel security element, conducts evaluations under Title 10, Code of Federal Regulations, part 710, to determine whether an individual has an illness or mental condition of a nature which causes, or may cause, a significant defect in judgment or reliability, or is alcohol dependent or suffering from alcohol abuse.

2. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system of records may be disclosed to a Federal agency in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

5. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record . The member of Congress must provide a copy of the constituent's request for assistance.

6. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record may be stored as paper records, microfiche, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and assigned DOE file number (alpha-numeric code).

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Office of Safeguards and Security, 19901 Germantown Road, Germantown, MD 20874–1290. Field Offices: The Manager of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Documents completed and/or furnished by subject; Department of Energy; Office of Personnel Management; Federal Bureau of Investigation; Defense Security Service; medical professionals; and confidential sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsection (k)(1), (k)(2), and (k)(5) of the Privacy Act to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act. See the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–44

SYSTEM NAME:

Special Access Authorization for Categories of Classified Information.

SECURITY CLASSIFICATION:

Classified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2373, Amarillo, TX 79120

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, 2000 E 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Sandia National Laboratories, 7011 E Avenue, Albuquerque, NM 87123

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees, current and former DOE contractor employees, and employees of other Federal agencies authorized access to special categories of classified information and compartmentalized DOE facilities and/or areas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals, social security numbers, letters and memoranda, and status reports relating to authorized access to special categories of classified information and compartmentalized DOE facilities and/or areas.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101; 50 U.S.C. 2401; 5 U.S.C. 301; Atomic Energy Act of 1954, as amended; Department of Energy Organization Act, including authorities incorporated by reference in Title of the Department of Energy Organization Act; DOE M 471.2–4, Executive Order 12333; Executive Order 12968; Federal Personnel Manual, Chapters 731 and 736.

PURPOSE(S):

The records are maintained and used by DOE to verify individuals who are authorized access to special categories of classified information and compartmentalized DOE facilities and or areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to DOE contractors in performance of their

contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system may be disclosed as a routine use to other federal agencies or departments for determining individuals who have access to classified information generated by these agencies.

3. A record from this system may disclosed as a routine use to the appropriate local, State or Federal agency in the event that a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal or regulatory in nature, and whether arising by general statute of particular program pursuant thereto.

4. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member of Congress with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record may be stored as paper records, microfiche, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records and microfiche are maintained in locked General Services Administration approved security containers. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are locked in General Services Administration approved security containers. Access is limited to those whose official duties require access to the records on a strict need-to-know basis.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Office of Security Affairs, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

Field Offices: The Managers of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, present and former DOE employees and contractor employees; publicly available material; other agencies within the Intelligence Community; other offices and elements within DOE; and other federal agencies and official records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsection (k)(1) of the Privacy Act to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), and (e)(1) of the Act. See the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–45

SYSTEM NAME:

Weapon Data Access Control System (WDACS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Headquarters: U.S. Department of Energy, Defense Programs, Deputy Associate Deputy Assistant Secretary for Technical and Environmental Support, Germantown Road, Germantown, MD 20874–1290.

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120–0030

U.S. Department of Energy, Kansas City Area Office, P.O. Box 410202, Kansas City, MO 64141–0202

U.S. Department of Energy, Miamisburg Area Office, P.O. Box 66, Miamisburg, OH 45342–0066

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Pinellas Area Office, P.O. Box 2900, Largo, FL 34649

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Rocky Flats Field Office, P.O. Box 928, Golden, CO 80402–0928

U.S. Department of Energy, Sandia National Laboratories, Albuquerque, P.O. Box 5800, Albuquerque, NM 87185–5800

U.S. Department of Energy, Sandia National Laboratories, P.O. Box 969, Livermore, CA 94551–0969

U.S. Department of Energy, Sandia National Laboratories, Tonopah Test Range, P.O. Box 871, Tonopah, NV 89049.

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29808

U.S. Department of Energy, University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, Livermore, CA 94550

U.S. Department of Energy, University of California, Los Alamos National Laboratory, P.O. Box 1663, Los Alamos, NM 87545

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE), Department of Defense (DOD), and other Government agency employees, contractors, and consultants requiring access to classified weapons information and/or DOE nuclear weapons program facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, date of birth, citizenship, employer, type of clearance, number and date of clearance, categories of information requested and authorized, locations to be visited and dates of visit, purpose of visit, point of contact, Government agency certifying need-to-know, and classified mail/shipping addresses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained by the Department to document all persons who have been authorized access to nuclear weapon information through a visit to one of the DOE Nuclear Weapons Complex facilities or to receive classified data via a classified mail/shipping channel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as microfiche, paper records, electronic media.

RETRIEVABILITY:

Records may be retrieved by social security number, and name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Office of Defense Programs, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874.

Field Offices: The Managers and Directors of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individuals, DOE, DOD, and other Government agencies, and their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–46

SYSTEM NAME:

Administrative Review Files.

SECURITY CLASSIFICATION:

The contents of Administrative Review Files are unclassified and classified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 1230–1069

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals processed for or granted DOE access authorization who are subsequently processed under 10 CFR part 710 for denial or revocation of access authorization; applicants for employment; employees including assignees and detailees; agents, and consultants with the DOE; DOE contractors and subcontractors at any tier; and DOE access permittees processed for DOE access authorizations for access to classified matter or special nuclear materials; other agency Federal, contractor, and subcontractor at any tier; applicants for employment, employees (including assignees and detailees), agents, and consultants processed for DOE access authorization; other individuals as processed for DOE access authorization as determined by the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Transcript of the hearing convened under 10 CFR part 710 procedures (when an individual does not avail himself/herself of the right to a hearing under 10 CFR part 710 procedures, his/her DOE Personnel Security File (see DOE–43, Personnel Security File) becomes the basis of the administrative record); exhibits submitted by the DOE and the respondent to the Hearing Officer for inclusion in the administrative record; the Hearing Officer's opinion; decisions rendered by the Manager, Director of Safeguards and

Security, and/or the Appeal Panel; evidence submitted by the DOE or the respondent subsequent to the closing of the administrative record; correspondence to and from the individual (and his/her counsel or representative) related to the conduct of proceedings; intra-agency correspondence related to the conduct of proceedings; and information concerning reconsideration of the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 10 CFR part 710, subparts A and B; Executive Order 12968; and DOE O 472.1B, PERSONNEL SECURITY ACTIVITIES, of 3–24–97, and Personnel Security Program Manual DOE M 472–1.1 of 5–22–98.

PURPOSE(S):

The records are maintained and used by the Department to maintain an official administrative record of 10 CFR part 710 proceedings that are conducted to determine an individual's DOE access authorization eligibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from this system may be disclosed to competent medical authority who, under a formal agreement for payment of services with the local DOE personnel security element, conducts evaluations under Title 10, Code of Federal Regulations, part 710, to determine whether an individual has an illness or mental condition of a nature that causes, or may cause, a significant defect in judgment or reliability, or is alcohol dependent or suffering from alcohol abuse.

2. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

5. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

6. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES OR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, audio tape, video tape, microfiche and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and assigned DOE file number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Office of Safeguards and Security, 19901 Germantown Road, Germantown, MD 20874–1290.

Field Offices: The Managers of the "System location(s)" listed above are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedures" above.

RECORD SOURCE CATEGORIES:

The individual's Personnel Security File, and DOE staff.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsections (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act; see the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–48

SYSTEM NAME:

Security Education and/or Infraction Reports.

SECURITY CLASSIFICATION:

Classified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2373, Amarillo, TX 79120

U.S. Department of Energy, Carlsbad Area Office, 4021 National Parks Highway, Carlsbad, NM 88220

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, 2000 E. 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Kirtland Area Office, Pennsylvania & H Street, Albuquerque, NM 87185–5400

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, GO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors, P.O. Box 1069, Schenectady, NY 12301

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) employees and DOE contractor employees possessing DOE access authorizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of security education briefings, and investigative and summary reports of security infraction incidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to inform individuals of their responsibilities for protecting classified matter, and the procedures established by the Department to ensure authorized disclosure.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper files and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Safeguards and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20545. Field Offices: The Managers and Directors of the "System locations" above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Training officers, security personnel, individual's supervisor, and local, state, and Federal authorities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–49

SYSTEM NAME:

Security Communications File.

SECURITY CLASSIFICATION:

. Classified and Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who transmits correspondence of any kind and by any medium which threatens any DOE official, DOE employee, DOE contractor employee. It also includes the names of any individual who threatens to destroy or damage DOE facilities and/or property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Threat communications received from individuals as well as individuals who have been identified from articles in the news media as being potential threats to DOE officials, DOE employees and DOE contractor employees. Also includes profiles and informational reports on any of the individuals who may have made threats against DOE personnel or property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*, 50 U.S.C. 2401 *et seq.*, and the implementing directive of E.O. 12958.

PURPOSE(S):

The records are maintained and used by DOE to maintain a database and profiles of all individuals who have made threats of any kind, and through any medium, against DOE officials, DOE employees, DOE contractor employees, DOE facilities and/or DOE buildings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to the appropriate local, State or Federal agency when that record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

2. A record from the system may be disclosed as a routine use to a Federal, state or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

5. A record from the system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfiche, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, social security number, date of birth, and other miscellaneous personal identifiers.

SAFEGUARDS:

Paper records are maintained in locked General Services Administration approved security containers. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records on a strict need-to-know basis and other law enforcement authorities, as applicable.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE records schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Director, Office of Security Affairs, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, complainants, witnesses, agency files and records, official federal, state, or local records, and publicly available material.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under subsections (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Act; see the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–50

SYSTEM NAME:

Personnel Assurance Program (PAP) Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115–5400

U.S. Department of Energy, Amarillo Area Office, Pantex Plant, P.O. Box 30030, Amarillo, TX 79120

U.S. Department of Energy, Kirtland Area Office, AL, P.O. Box 5400, Albuquerque, NM 87158–5400;

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544;

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518;

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) or contractor employees performing work that affords both technical knowledge and access to assembled nuclear explosives or certain nuclear weapon components.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of medical examination; employment review; credit/consumer reports; data pertaining to access authorizations (clearances); training records pertaining to individuals' duties involving assembled nuclear explosives or certain nuclear weapon components; employee name; department division; job title; L-code (mail code); telephone number; pager number employee number; and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Executive Orders 10450, 10865, and 12356; and 10 CFR part 711, Personnel Assurance Program.

PURPOSE(S):

The records are maintained and used by the Department to ensure that individuals assigned to nuclear explosive duties do not have emotional, mental, or physical incapacities that could result in a threat to nuclear explosive safety. The PAP establishes the requirements and responsibilities for screening, selecting, and continuously evaluating employees assigned to or being considered for assignment to nuclear explosive duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information,

indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper files and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Office of Weapons Surety, 19901 Germantown Road, Germantown, MD 20874–1290.

Field Offices: The Managers and Directors of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Medical records, occupational training records, and personnel security records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–51

SYSTEM NAME:

Employee and Visitor Access Control Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM2373, Amarillo, TX 79177

U.S. Department of Energy, Carlsbad Area Office, 4021 National Parks Highway, Carlsbad, NM 88220

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Kansas City Area Office, 2000 E. 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Kirtland Area Office, Pennsylvania & H Street, Albuquerque, NM 87185–5400

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, GO 80401

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors, P.O. Box 1069, Schenectady, NY 1230–1069

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy (DOE) employees, DOE contractor employees and other individuals seeking access to DOE facilities and classified records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of individuals visiting DOE facilities, employees identification files, and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to track and control individuals accessing Departmental facilities and classified information areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

2. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. Records from this system may be disclosed to Department of Defense contractors and National Aeronautics and Space Administration to authorize access to classified information and areas.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper files and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Safeguards and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20545.

Field Offices: The Managers and Directors of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, Department of Defense, DOE offices and contractors, National Aeronautics and Space Administration, and other Government agencies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–52

SYSTEM NAME:

Access Control Records of International Visits, Assignments, and Employment at DOE facilities and Contractor Sites.

SECURITY CLASSIFICATION:

Classified and Unclassified.

SYSTEM LOCATION:

The centralized data system is located at Los Alamos National Laboratories.

U.S. Department of Energy, Headquarters, Office of Security and Emergency Operations, Office of Foreign Visits and Assignments, 1000 Independence Avenue, Washington DC 20585

U.S. Department of Energy, Albany Research Center 1450 Queen Avenue, SW., Albany, OR 97321

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Amarillo Area Office, Highway 60 FM 2373, Amarillo, TX 79120

U.S. Department of Energy, Ames Laboratory, 311 Tasf, Iowa State University, Ames, IO 50011

U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Argonne National Laboratory-East, 9700 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Batavia Area Office, Kirk Road & Pine Street, Batavia, IL 60510

U.S. Department of Energy, Bonneville Power Administration, 1520 Kelley Place, Walla Walla, WA, 99362

U.S. Department of Energy, Brookhaven National Laboratory, P.O. Box 5000, Upton, NY 11973–5000

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Dayton Area Office, Dayton, OH, 45343

U.S. Department of Energy, Environmental Measurements Laboratory, 201 Varick Street, 5th Floor, New York, NY, 10014–4811

U.S. Department of Energy, Fernald Field Office, 7400 Willey Road, Cincinnati, OH 45030

U.S. Department of Energy, FERMI Laboratory, Kirk Road and Pine Street, Batavia, IL 60510

U.S. Department of Energy, Grand Junction Project Office 2597 ¾th Road, Grand Junction, CO 81503

U.S. Department of Energy, General Atomics, P.O. Box 85608, San Diego, CA 92186

U.S. Department of Energy, Hanford Environmental Health Foundation, 3080 George Washington Way, Richland, WA, 99352

U.S. Department of Energy, Idaho National Engineering Laboratory, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy Kansas City Area Office, 2000 E. 95th Street, Kansas City, MO 64131–3095

U.S. Department of Energy, Kirtland Area Office, Pennsylvania & H Street, Albuquerque, NM

U.S. Department of Energy, Lawrence Berkeley Laboratory, 1 Cyclotron Road Berkeley, CA 94720

U.S. Department of Energy, Lawrence Livermore National Laboratory, 700 East Avenue, P.O. Box 808, L–1, Livermore, CA 94551

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, Los Alamos National Laboratory, University

of California, SM #30 Bikini Road, Los Alamos, NM 87545
U.S. Department of Energy, Miamisburg Area Office, 1 Mound Road, Miamisburg, OH 45342
U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518
U.S. Department of Energy, National Energy Technology Center (Pittsburgh), P.O. Box 10940, Pittsburgh. PA 15236
U.S. Department of Energy National Petroleum Technology Office, William Center Tower One 1, West Third Street, Suite 1400, Tulsa, OK 74103
U.S. Department of Energy, National Renewable Energy Laboratory Area Office, 1617 Cole Blvd., Golden, CO 80401
U.S. Department of Energy, Oak Ridge National Laboratory, Bethel Valley Road, Oak Ridge, TN, 37831
U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831
U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208
U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342
U.S. Department of Energy, Pacific Northwest National Laboratory, 902 Battelle Boulevard P.O. Box 999, Richland, WA 99352
U.S. Department of Energy, Princeton Area Office, P.O. Box 102, Princeton, NJ 08542
U.S. Department of Energy, Princeton Plasma Physics Laboratory, Princeton University, P.O. Box 451, Princeton, NJ 08543
U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. 550, Richland, WA 99352
U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200
U.S. Department of Energy, Sandia National Laboratories, Eubank Street SE, Albuquerque, NM 87185–5800
U.S. Department of Energy, Sandia National Laboratories, Livermore, 7011 East Avenue, Livermore, CA 94551–0969
U.S. Department of Energy, Savannah River Ecology Laboratory, Drawer E Aiken, SC 29802
U.S. Department of Energy, Savannah River Technology Center, Drawer E, Aiken, SC 29802
U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801
U.S. Department of Energy, Scientific and Technical Information, 175 Oak Ridge Turnpike, Oak Ridge, TN 37830
U.S. Department of Energy, Stanford Linear Accelerator Center, 2575 Sand Hill Road, Menlo Park, CA 94205
U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East New Orleans, LA 70123
U.S. Department of Energy, Thomas Jefferson National Accelerator Facility 12000 Jefferson Avenue, Newport News, VA 23606
U.S. Department of Energy, University of Rochester, 250 East River Road, Rochester, NY 14623
U.S. Department of Energy, Waste Isolation Pilot Plant, 370 Wipp Road, Carlsbad, NM
U.S. Department of Energy, West Valley Project Office, P.O. Box 191, West Valley, NY 14171
U.S. Department of Energy, Western Area Power Administration 12155 W. Alamino Parkway, Lakewood, CO 80401
U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All non-U.S. citizens seeking access to DOE facilities, laboratories, contractor sites, or Department of Energy (DOE) sponsored events for unclassified purposes to include employees of DOE or DOE contractors; prospective DOE or DOE contractor employees; employees of other U.S. Government agencies or their contractors of universities, of companies (professional or service staff), or of other institutions; foreign students at US. institutions; officials or other persons employed by foreign governments or other foreign institutions who may or may not be involved in cooperation under international agreements; permanent resident aliens; representatives or agents of foreign national governments seeking access to DOE facilities, laboratories, or contractor sites or DOE-sponsored events for purposes of high-level protocol; national security; International Atomic Energy Agency, or international relations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal data: Full name (including Also Known As (AKA's), visitor request number, gender, place of birth, city and country, date of birth, country(ies) of citizenship, date of last visit to country of citizenship, passport number and passport, expiration date, immigration status, type of visa and expiration date, country of current residence and how long at current residence, language interpretation needs, work phone, e-mail and fax, name of current employer, place of work, street, city, state, zip code, country; position title or description of requesters duties. Visit/Assignment Request Information: Date of request, purpose of request (including subjects to be discussed or researched and specific activities involved); requesters current whereabouts, (i.e., is proposed visitor currently in the US), specific visa status and purpose, (i.e., exchange visitor (J–1) Visa), time duration of proposed visit, assignment or activity (desired start and end dates), identification of specific international agreement(s) or delegations related to the proposed request, name, organization, telephone number of DOE contact, name of financial Sponsor, cost if sponsor is other than DOE. Visit/Assignment Facility Information: Name, location and room number of facility or organization to be accessed during visit/assignment, name of the host responsible for the visit/assignment, Host's telephone number, building and room numbers, number of days on site, visit assignment relationship to program, subject codes, subjects to be discussed or statement of research, determination of computer access, and sensitive subject designation. Visit/Assignment Program Information and Remark: Designation of high level protocol visit, cost to DOE, visit or assignment purpose code, purpose and justification of visit assignment including benefits to DOE program(s) and certification of DOE mission advancement, technology transfer determination, name of requesting official or contractor, title and organization of requesting officer, signature of requesting official or contractor, date signed, name of site manager and local headquarters approving official, title and organization of local headquarters approving official, signature(s) of site field, headquarters approving official, date signed and remarks, the kind of business or organization of assignee's employer (e.g. government, company, Laboratory, university), education background of requestor including college or university training with degrees and dates conferred; field of research, and family members who will accompany or join the applicant later.) Management Reviews and Approvals: Level, type or topic of review, name of reviewer and or approval authority(ies), the date of the review approval, and remarks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

Records are maintained and used by the Department to document, track, manage, analyze, and or report on foreign visit and assignment access to

DOE facilities including Headquarters, Field Offices, National Laboratories, and Contractor Sites.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A records from this system may be disclosed as a routine use to Department of Defense contractors responsible for security controlling access to sensitive information and sensitive equipment, and sensitive property areas.

2. A record from this system may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements, collaborating researchers, or their employees, in performance of national security, international visit and assignment, or foreign access related responsibilities.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

9. A record from this system of records may be disclosed as a routine use to members of the DOE Advisory committees and interagency boards charged with responsibilities pertaining to international visits and assignments and/or national security.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfiche, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and other personal identifiers.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Headquarters, Office of Security and Emergency Operations, Director, Office of Foreign Visits and Assignments, 1000 Independence Avenue, Washington DC 20585.

Field Offices: The Managers and Directors of the "System locations" listed above are system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Foreign national individuals requesting access to DOE facilities including contractor sites, reports from federal investigation agencies, DOE Office of Counterintelligence, Department of State, Department of Defense, and Immigration and Naturalization Service.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–53

SYSTEM NAME:

Access Authorization for ADP Equipment.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Headquarters, Energy Information Administration, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of the Energy Information Administration computer system, including DOE employees and contractor employees (including employees and contractor employees of the Federal Energy Regulatory Commission), and other authorized users of the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, user identification number, office address and telephone number, organizational code, computer usage figures, data accessed, and other management-related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; OMB Circular A–71; Department of Commerce Federal Information Processing Standards Publications (FIPS PUBS) on computer security; GSA Procurement Regulations Amendment 155, adding Section 1–1.327.

PURPOSE(S):

The records are maintained and used by the Department to monitor and control the computer usage and to ensure that only authorized users have access to the computer system. The information is frequently reviewed and updated to ensure records are current and accurate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as electronic media.

RETRIEVABILITY:

Records may be retrieved by name, and user identification number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Energy Information Administration, U.S. Department of Energy 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, with some information assigned by the ITG Staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–54

SYSTEM NAME:

Investigation Files of the Office of Inspector General (OIG).

SYSTEM CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

U.S. Department of Energy, Office of Inspector General, Headquarters, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of an investigation, witnesses in an investigation, sources of investigative information, investigative personnel, and other individuals involved in an Office of Inspector General investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal, civil, and administrative investigative records and files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; The Inspector General Act of 1978, as amended, 5 U.S.C. App. 3.

PURPOSE(S):

The records are maintained and used by the Department in furtherance of the responsibilities of the Inspector General. These responsibilities include conducting and supervising investigations relating to Departmental programs and operations; promoting economy, efficiency, and effectiveness in the administration of such programs and operations, and preventing and detecting fraud and abuse in such programs and operations. The records are used in investigations of individuals and entities suspected of having committed illegal or unethical acts. The records also are used in any resulting criminal prosecutions, civil proceedings, or administrative actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND PURPOSES OF SUCH USES:

Pursuant to the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, the information contained in the investigative files is collected and maintained in carrying out the duties and responsibilities of the Inspector General to investigate, prevent and detect fraud and abuse in departmental programs and operations. Material gathered is used for prosecuting civil or administrative actions.

The Inspector General Act of 1978 further states that "the Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation." This provision will be applied to any release of investigation information.

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) a current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency, in response to its written request, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper and electronic media.

RETRIEVABILITY:

Records may be retrieved by name of subject(s), case number, title of investigative report, name of complainant, name of subject(s), and names of witnesses.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected known only to the system manager. Classified information is maintained in locked General Services Administration approved class 6 security containers. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations U.S. Department of Energy 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals; individuals and organizations that have pertinent knowledge about the subject; those authorized by the individual to furnish information; confidential informants; the Department of Justice; Federal Bureau of Investigation (FBI); and other Federal, State, and local agencies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt under (j)(2) of the Privacy Act to the extent that the information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections: (c)(3) and (4), (d)(1), (2), (3), and (4), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) of the Act; see the Department's Privacy Act regulation at Title 10, Code of Federal Regulations part 1008.

This system is exempt under (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1), (e)(4)(G), (H) and (f) of the Act; See the Department's Privacy Act regulation at Title 10, Code of Federal Regulations, part 1008.

DOE–55

SYSTEM NAME:

Freedom of Information and Privacy Act (FOIA/PA) Requests for Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (Headquarters), 1000 Independence Avenue, SW., Washington, DC 20585
U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115
U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973
U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208
U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439
U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201
U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401
U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), 3610 Collins Ferry Road, Morgantown, WV 26507–0940
U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122
U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103
U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114
U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830
U.S. Department of Energy, Ohio Field Office, 1 mound Road, Miamisburg, OH 45342
U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122
U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352
U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612
U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801
U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301
U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635
U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101
U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401
U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requesting copies of records from Department of Energy (DOE) under the provisions of the FOIA and the Privacy Act (PA) of 1974.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, and telephone number; description or identification of records requested, furnished and/or denied; FOIA and PA division employee assigned responsibility for processing request; dates of request and actions; interim and final actions taken on request; persons or offices assigned actions on requests; copy of records requested, furnished and/or denied; fee data, including payment delinquencies; final determinations of appeals; name/title of officials responsible for denial of records; and case notes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Freedom of Information Act 5 U.S.C. 552, and the Privacy Act of 1974, 5 U.S.C. 552a.

PURPOSE(S):

The records are used and maintained by the Department to record, control, and determine the status of FOIA and PA requests; produce statistical reports; and as a data source for management information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from this system of records may be disclosed to another Federal agency when consultation or referral is required to process requests.
2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper, microfiche, video, audio, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name of requester and assigned request control number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Freedom of Information and Privacy Act Officers of the "Systems locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records afe sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Individuals requesting copies of records and individuals responsible for processing and/or making determination on requests.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–56

SYSTEM NAME:

Congressional Constituent Inquiries.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (Headquarters), 1000 Independence Avenue, SW., Washington, DC 20585; U.S. Department of Energy
U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115
U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208
U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973
U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439
U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401
U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505
U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122;
U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Tulsa, OK 74103
U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114
U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, 700 N, Oakland, CA 94612–5208
U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830
U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122
U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352
U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200
U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801
U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301
U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635
U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101
U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401
U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested assistance from their Congressional Representative, and the member of Congress who corresponded with the Department on behalf of the constituent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of constituent and date of letter by a Member of Congress on behalf of the constituent; materials forwarded by a member of Congress; and DOE response.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to record Congressional inquiries on behalf of constituents, to ensure proper document control of the response, and to record the Department's responses to such inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERE AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to another Federal agency when consultation or referral is required to process requests.
2. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.
3. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United

States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

4. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

5. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic records.

RETRIEVABILITY:

Records may be retrieved by name of constituent and name of member of Congress.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Executive Secretariat, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

Field: The Managers or Directors of the "System location(s)" listed above are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, member of Congress, and the author of the DOE response.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–57

SYSTEM NAME:

Congressional Profiles.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Alaska Power Administration, San Point Way, NE., Seattle, WA 98115

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115

U.S. Department of Energy, Bartlesville Energy Technology Center, P.O. Box 1398, Bartlesville, OK 74003

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, ND 58201

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–6518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U. S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland CA 94162–5208

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden CO 80403–8200

U.S. Department of Energy, Oakland Operations Office, 1333 Broadway, Oakland, CA 94612

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Members of Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, picture from Congressional Yellow Book, personal background

obtained from published sources, demographic information by state or district, committee assignments, and information about energy interests obtained from published sources, information from member's office, abstracts from Congressional Record, committee hearings and other public sources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

PURPOSE(S):

The information is maintained and used by the Department to maintain biographical data on all members of Congress, including a list of their sensitive energy issues or energy related legislation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office Congressional and Intergovernmental Affairs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Published sources, committee hearings, and the members' offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–58

SYSTEM NAME:

General Correspondence Files of the Office of the Secretary, Deputy Secretary and Under Secretary of Energy.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (Headquarters), 1000 Independence Avenue, SW., Washington, DC 20585

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress, representatives of organizations, and other federal and state agencies and the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address of correspondent, and copies of the agency response. This is the portion of the Department of Energy (DOE) correspondence files that relates to correspondence with individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE:

The records are maintained and used by the Department to document and manage information from or to correspondents outside of DOE and to ensure proper document control of the DOE response.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a

copy of the constituent's request for assistance.

4. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Executive Secretariat, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field: The Managers and Directors of the "System locations" listed above are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals and drafter of DOE response.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–59

SYSTEM NAME:

Mailing Lists for Requesters of Energy Related Information.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATIONS:

DOE Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting energy related information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of the subject individual; some mailing lists may also indicate specific interests of or publications requested by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

PURPOSE(S):

The system is maintained and used by the Department to distribute DOE related material to DOE employees, DOE contractors, and others requesting information from DOE.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfiche and electronic media.

RETRIEVABILITY:

Records may be retrieved by record identification and code number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Print Media and Mail Services Group, Washington DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with DOE's Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, generally as the result of a request for information by that individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–61

SYSTEM NAME:

Census of High Energy Physicists.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Office of Science, 19901 Germantown Road, Germantown, Maryland 20874–1290.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Scientists and graduate students in the field of high energy physics.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, education, employment history, research activities, and technical specialties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The information is maintained and used by the Department to provide a database for statistical and demographic studies of the high energy physics research community.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to physicists, research organizations, and various Government organizations engaged in supporting physics research to obtain information for statistical and demographic purposes, on individuals and institutions engaged in high energy physics research.

2. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as electronic media.

RETRIEVABILITY:

Records may be retrieved by name of individual.

SAFEGUARDS:

Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for High Energy and Nuclear Physics, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–62

SYSTEM NAME:

Historical Files—Published Information Concerning Selected Persons in the Energy Field.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, History Division, Office of the Executive Secretariat, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Selected senior staff officials of the Manhattan Project, Atomic Energy Commission, Nuclear Regulatory Commission, Energy Research and Development Administration, DOE, and other selected individuals prominent in the energy field.

CATEGORIES OF RECORDS IN THE SYSTEM:

Newspaper and magazine articles, press releases, announcements, and speeches.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The information is maintained and used by the Department to record, historical records of the DOE and predecessor agencies, including the Atomic Energy Commission, Federal Energy Administration, and the Energy Research and Development Administration. Records are used to prepare histories in responding to informational inquiries from DOE officials and members of the public.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to members of the public and the media when responding to requests for information.

2. A record from the system may be disclosed as a routine use to another Federal agency when consultation or referral is required to process requests.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Historian, History Division, Office of the Executive Secretariat, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

DOE press releases, DOE News Clips (a daily compilation of energy related newspaper and magazine articles), and other published sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–66

SYSTEM NAME:

Power Sales to Individuals.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Western Area Power Administration, 1800 South Rio Grand, Montrose, CO 81401

U.S. Department of Energy, Colorado River Storage Region, 257 E200S, Suite 475, Salt Lake City, UT 84111

U.S. Department of Energy, Desert Southwest Region, 615 S. 43rd Avenue, Phoenix, AZ 85009

U.S. Department of Energy, Rocky Mountain Region, 5555 E. Crossroads Boulevard, Loveland, CO 80538–8986

U.S. Department of Energy, Sierra Nevada Region, 114 Parkshore Drive, Folsom, CA 95630–4710

U.S. Department of Energy, Upper Great Plains Region, 2900 4th Avenue North, Billings, MT 59101–1266

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals purchasing power from the Western Area Power Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Executed contracts, agreements, amendments, extensions, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to bill individuals for sale of purchase power.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record, alone or in conjunction with other information, indicates a violation or potential

violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Western Area Power Administration, U.S. Department of Energy, P.O. Box 3402, Golden, CO 80401.

Regional Offices: The Managers and Directors of the "System locations" listed above are the system managers for their respective locations.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–71

SYSTEM NAME:

The Radiation Accident Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those persons accidentally exposed to acute dose of ionizing radiation as defined by exposure dose criteria agreed to by the Department of Energy (DOE) and the Nuclear Regulatory Commission (NRC) by an interagency agreement. The dose criteria established by this agreement include one or more of the following: Greater than or equal to 25 REM (Roentgen Equivalent in Man) to the whole body, active blood forming organs or gonads; greater than or equal to 600 REM to skin of the whole body or extremities; greater than or equal to 75 REM to other tissues or organs from an external source; and greater than or equal to ½ NCRP maximum permissible organ burden internally; all those medical administrations of radioisotopes that result in a dose or organ burden equal to or greater than those given above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official accident reports including reports of those accidents that have occurred within the jurisdiction of the NRC and have been transferred to the DOE for the Accident Registry according to the DOE/NRC agreement; names, addresses, social security numbers, date of birth, and sex; medical records compiled at the time of the accident (such records include physician and hospital records, diagnostic and laboratory test reports, radiographs, EKGs, and radiation exposure report); medical records of illnesses, examinations, including routine follow-up examinations, and investigations that have occurred since the radiation exposure; photographs or facsimiles of radiation-induced injuries; search and contact information for registrants not identified and/or located; consent to release information forms completed by registrants; death certificates; anecdotal information; and correspondence relating to the accident and/or the individuals involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; DOE Order 5500.2B, Emergency Categories, Classes, and Notification and Reporting Requirements, April 30, 1991; 42 U.S.C. 7274i. Program to monitor Department of Energy workers exposed to hazardous and radioactive substances.

PURPOSE(S):

The information is maintained and used by the Department to provide a current record of radiation accidents; to identify specific populations for use in epidemiological and clinical studies; and to conduct medical surveillance during the lifetime of the registrants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

2. A record from this system of records may be disclosed to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry to facilitate health hazard evaluations, epidemiological studies, or public health activities required by law pursuant to a

Memoranda of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

3. A record from this system of records may be disclosed as a routine use to DOE contractors, grantees, participants in cooperative agreements, and collaborating researchers, or the employees of these parties, in performance of health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements; federal, state and local health and medical agencies or authorities; to subcontractors in order to determine a subject' s vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillances. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system of records may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities and to designated employees of federal, state, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety, or environmental issues. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from this system of records may be disclosed to foreign governments or international organizations, in accordance with treaties, international conventions, or executive agreements.

8. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected known only to the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–72

SYSTEM NAME:

The Department of Energy Radiation Study Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees, Department of Energy (DOE) contractor employees, including employees of predecessor agencies and organizations, including the Manhattan District, U.S. Atomic Energy Commission, and Energy Research and Development Administration; and present and former civilian employees in the DOE Naval Reactor Program who received a whole body exposure of ionizing radiation equal to or in excess of 5 REM in any 1 year.

CATEGORIES OF RECORDS IN THE SYSTEM:

Rosters of names of individuals meeting the above criteria for inclusion in the Registry submitted through the DOE field operation officers from DOE owned and operated facilities and sites. In addition to names of such individuals, these rosters include social security number or other identifying information, sex, race, date of birth, date and/or place of death, first date of hire, last date of termination, continuity of hire, year in which they received first dose greater than or equal to 5 REM, actual radiation doses in excess of 5 REM, and total career radiation exposure dose.

Original or copied lifetime medical records from plant and private physicians and hospitals including routine physical examinations, reports of diagnostic and laboratory tests, radiographs, EKGs, etc., or abstracted portions of such records as are required for the purposes of this study.

Contact information for registrants who are no longer employed at qualified sites or who are deceased.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; DOE Order 5500.2B, Emergency Categories, Classes, and Notification and Reporting Requirements, April 30, 1991; 42 U.S.C. 7274i.

PURPOSE(S):

The information is maintained and used by the Department to identify specific populations for use in epidemiological and clinical studies; and to conduct medical surveillance during the lifetime of the registrants.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from this system of records may be disclosed to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry to facilitate health hazard evaluations, epidemiological studies, or public health activities required by law pursuant to a Memoranda of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system of records may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities and to designated employees of federal, state, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety, or environmental issues. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from this system of records may be disclosed as a routine use to the United States Enrichment Corporation and its contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to DOE officers and employees under the Privacy Act at the following sites: (1) Portsmouth Gaseous Diffusion Plant at Piketon, Ohio, and (2) Paducah Gaseous Diffusion Plant at Paducah, Kentucky.

8. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public

information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF THE RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–73

SYSTEM NAME:

The US–DTPA Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are or suspected of internal contamination with transuranic elements and have received diethylene triamine pentaacetic acid (DTPA) in the calcium or zinc form during the course of chelation therapy. Administration of the agent DTPA is limited to physicians who are co-investigators with the DOE contractor staff on the Investigative New Drug License of the Food and Drug Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records compiled by the physician administering DTPA in the event of an exposure that was known to have or was suspected of having caused transuranic contamination internally requiring chelation therapy with DTPA. These records include a description of the exposure, the results of serial bioassays and investigations conducted to evaluate the level of internal contamination and the efficacy of subsequent chelation by DTPA.

Name, social security numbers or other identifiers and vital status of treated persons. The name and address of the individual's last known private physicians are included in the DTPA Registry to facilitate the search and contact of individuals; medical records of illnesses, examinations, including routine follow-up examinations, and investigations that have occurred since the initial administration of DTPA; and death certificate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 7274i.

PURPOSE(S):

The records are maintained and used by the Department to provide a current record of individuals treated with DTPA. To identify by epidemiological methods any long-term effects associated with DTPA therapy; and to provide information to Food and Drug Administration in accordance with the Investigative New Drug licenses and issuances, epidemiological and clinical studies; and to conduct medical surveillance during the lifetime of the registrants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING, CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from this system of records may be disclosed to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health and the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry to facilitate health hazard evaluations, epidemiological studies, or public health activities required by law pursuant to Memoranda of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system of records may be disclosed as a routine use to members of DOE advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities, and to designated employees of federal, state, or local government or government-sponsored entities authorized to provide advice to the Department concerning health, safety, or environmental issues. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

STORAGE:

Records may be stored as paper records, microfilm, and electronic-media.

RETRIEVABILITY:

Records may be retrieved by name and social security number.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–75

SYSTEM NAME:

Call Detail Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (DOE) Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy (Headquarters), 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Brookhaven National Laboratory, Industrial Medicine Division, Upton, NY 11973

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive., Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Tulsa, OK 74103

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, 700 N, Oakland, CA 94612–5208

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of Department of Energy (DOE) and those employees of other Federal agencies and contractors who are located on the DOE premises and who have assigned station numbers in the on-premise telecommunications system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Originating and terminating call data records relating to use of DOE telephones, including calling station number; Date, time call originated, duration of call, and called number; directory records indicating assignment of telephone numbers to employees; and records relating to location of telephones. Reports may be generated from stored call detail records and may include, but are not limited to, station usage summaries, trunk usage summaries, traffic and network busy hour studies, on-net and off-net pricing, exception reports, bill certification, and cost allocation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The information is maintained and used by the Department to help manage and control the costs of operating the Department's telephone systems. To this end, the program will collect information about the use of the agency's telephone system for local, long distance, and other toll calls and may attempt to assign responsibility to individual person for particular calls. The information also assists the Department in choosing more efficient and cost effective ways of communicating; in making decisions about acquiring hardware, software, and services; and in developing management strategies for more efficient use of existing telecommunications capabilities. Other uses are to deter use of the telephone systems for unofficial purposes, and to recover the cost of unofficial calls.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to representatives of the General Services Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

2. A record from this system may be disclosed as a routine use to "consumer reporting agencies" as defined in the Fair Credit Reporting Act, 15 U.S.C. 2904 and 2906.

3. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

4. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

5. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

6. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

7. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

8. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

9. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

10. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by individual telephone extension number.

SAFEGUARDS:

Paper and microfilm records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Headquarters Office of Information Management, Germantown, MD 20874

Field Offices: The Managers and Directors of the "System locations" listed above are the system managers for their respective locations.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Categories include telephone assignment records; call detail listings; results of administrative inquiries relating to assignment of responsibility for placement of special local and long-distance calls.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–77

SYSTEM NAME:

Physical Fitness Test Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, (Headquarters), 19901 Germantown Road, Germantown, MD 20874–1290

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26505

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15122

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831–8501

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, Pittsburgh, PA 15122

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOE contractor employees (armed uniformed guards).

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of individual's ability to complete the physical fitness test as set forth in applicable DOE directives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The records are maintained and used by the Department to record physical fitness tests of Department of Energy (DOE) federal and contractor employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties,

witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Office of Safeguards and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers and Directors of the "System locations" listed above are the system managers for their respective portions.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES:

The subject individual, physicians, and persons administering the tests.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–81

SYSTEM NAME:

Counterintelligence Administrative and Analytical Records and Reports.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

U.S. Department of Energy (Headquarters), Office of Counterintelligence, 1000 Independence Avenue, SW., Washington, DC 20585;

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 4500, Albuquerque, NM 87115;

U.S. Department of Energy, Chicago Operations Office, 9800 Cass Ave., Argonne, IL 60439;

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401;

U.S. Department of Energy, Lawrence Livermore National Laboratory, P.O. Box 808, L–062, Livermore, CA 94551

U.S. Department of Energy, Lockheed Martin Idaho Technology, P.O. Box 1625, M/S 2800, Idaho Falls, ID 83415–2800

U.S. Department of Energy, Los Alamos National Laboratory, Mail Station 5000, P.O. Box 1663, Los Alamos National Laboratory, NM 87545

U.S. Department of Energy, Martin Lockheed Energy Systems, P.O. Box 2009, Oak Ridge, TN 37831–8107

U.S. Department of Energy, Mason & Hangar—Silar Mason, Co., Inc., Pantex Plant, Bldg 11–54, P.O. Box 30020, Amarillo, TX 79177

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114;

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830;

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612

U.S. Department of Energy, Ohio Field Office. Mound Plant, P.O. Box 3000, OSE–4, Miamisburg, OH 45343

U.S. Department of Energy, Pacific Northwest Laboratory, 902 Battelle Blvd., P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352;

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 880403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801;

U.S. Department of Energy, Sandia National Laboratory, P.O. Box 969, M/S 9020, Livermore, CA 94551–0969

U.S. Department of Energy, Sandia National Laboratory, Org 7400, P.O. Box 5800, M/S 0173, Albuquerque, NM 87185

U.S. Department of Energy, Westinghouse Hanford Co., P.O. Box 1970, Richland, WA 99352

U.S. Department of Energy, Worldwide Security Service Ltd., Rocky Flats Environmental Technology Site, P.O. Box 464, T893B, Golden, CO 80402–0464

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy (DOE) employees, contractor employees, and consultants; persons suspected of violating DOE regulations or laws; and, where there are indications of contact with a current or former DOE employee, contractor employee or consultant, persons who are reasonably believed to be officers or employees of, or otherwise acting for or on behalf of, a foreign power; members of an organization reasonably believed to be owned or controlled directly or indirectly by a foreign power; reasonably believed to be targets, hostages, or victims of international terrorist organizations; or reasonably believed to be engaged in or about to engage in clandestine intelligence activities, sabotage, assassinations, or international terrorist activities involving DOE programs, personnel, facilities, information or materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Analytical, training and investigative records, reports and files; travel reports; reports on foreign contacts; records, reports and files received from other DOE elements and other Federal agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; Federal Personnel Manual, Chapters 731 and 736.

PURPOSE(S):

The information is maintained and used by the Department in furtherance of the responsibilities of the Office of Counterintelligence (OCI), which include analysis of the foreign intelligence threat; conducting administrative inquiries and investigations to identify and neutralize the foreign intelligence threat to classified and sensitive DOE programs, personnel, information and activities; reporting on foreign contacts and travel, including briefings and debriefings; conducting counterintelligence investigations and producing intelligence on hostile and foreign intelligence entities; counterintelligence related training; and other activities relating to OCI's responsibilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Federal Bureau of Investigation when such records indicate a violation or probable violation of the law.

2. A record from this system may be disclosed as a routine use to other counterintelligence agency components with whom the Office of Counterintelligence is preparing joint analysis of counterintelligence-related threats which may impact the Department.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

6. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

7. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

8. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

9. A record from this system of records may be disclosed to foreign governments or international organization in accordance with treaties, international conventions, or executive agreements

10. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, social security number or other personal identifying data.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Department of Energy, Office of Counterintelligence, Headquarters, Analytical Division, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers and Directors of the "System locations" listed above are the system managers for their respective portions.

NOTIFICATION PROCEDURE:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

RECORD SOURCE CATEGORIES

The subject individual; present and former DOE employees and contractor employees; publicly available material; other agencies within the Intelligence Community; other offices and elements within DOE; the FBI, and other federal, state and local law enforcement agencies; sources contacted during administrative inquiries and investigations; and official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

This system is exempt under (k)(1), (k)(2), and (k)(5) of the Privacy Act to the extent that information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), and (4), (d), and (e)(1) (e)(4)(G) and (H) and (f) of the Act; See the DOE Privacy Act regulation at Title10, Code of Federal Regulations, part 1008.

DOE–82

SYSTEM NAME:

Grant and Contract Records for Research Projects, Science Education, and Related Activities.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Science, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicant/Grantee organization; Principal Investigator, i.e., the scientist or other individual designated by the applicant or proposer to direct the project; Senior Personnel, i.e., scientists or other individuals designated by the applicant or proposer to perform work on the project; Certifying Representative, i.e., the business representative having the authority to accept the obligation to comply with Department of Energy (DOE) terms and conditions if DOE makes a grant or contract award. (2) DOE officials DOE Project Officer, i.e., the individual who is responsible for the review and evaluation of the application or proposal and the monitoring of a resulting grant or contract; DOE Program Official, i.e., the individual who is responsible for review and approval of applications or proposals for funding; DOE Budget Official, i.e., the individual who is responsible for certifying funds availability for approved applications or proposals; DOE Contracting Officer or Contract Specialist, i.e., individuals who are responsible for awarding and administering grants or contracts. (3) Merit/Peer Reviewer, i.e., the individual (Federal or non-Federal) who provides a written review or evaluation of the application or proposal to the DOE Project Officer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant applications, contract proposals, technical reviews by peer reviewer, records of grant and contract awards, financial data, and any other pertinent information needed for the tracking or approval of a grant or contract.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S):

The information is maintained and used by the Department to track and monitor the receipt, review, and disposition of grant applications and contract proposals from universities, non-profit organizations, large and small businesses, other Federal agencies, State and local governments, individuals, and DOE national laboratories seeking Federal financial support for research projects, training, and related activities. The system also tracks and monitors funding authorizations and associated financial data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to expert peer reviewers selected by DOE for their expertise in specific research areas to evaluate the application or proposal in accordance with established evaluation criteria.

2. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

3. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system may be disclosed as a routine use to an applicant's principal investigator, sponsored programs office, business office, or similar element, via electronic media for the purpose of checking the status of its grant applications or contract proposals which have been submitted to DOE for support. Safeguards will be employed on a case by case basis to allow access only to authorized persons having a need to know.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

Records may be retrieved by application or proposal number, project number, award number, name of applicant or awardee, name of principal investigator, social security number, name of peer reviewer, DOE project officer, or budget and reporting classification code.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Grants and Contracts Division, Office of Resource Management, Office of Science, U.S. Department of Energy, Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures.

RECORD SOURCE CATEGORIES:

Grant applications and contract proposals.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

DOE–83

SYSTEM NAME:

Allegation-Based Inspections Files of the Office of Inspector General.

SECURITY CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

Official Allegation-Based Inspections Files are located at:

U.S. Department of Energy, Office of Inspector General, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Office of Inspector General, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Office of Inspector General, Building 703–41A, Aiken, SC 29802

U.S. Department of Energy, Office of Inspector General, P.O. Box 2254, Livermore, CA 94551

U.S. Department of Energy, Office of Inspector General, P.O. Box 62, Room 502, Oak Ridge, TN 37831

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subjects of inspections or inquiries concerning allegations or complaints, individuals who have pertinent knowledge about the inspection or inquiry, individuals authorized to furnish information, confidential informants, complainants, Office of Inspector General inspections personnel, and other individuals involved in these inspections.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inspection files predicated on allegations or complaints and which identify subjects or sources of information by name. Inspections performed relate to sensitive allegations of wrongdoing received concerning certain individuals, including agency employees, or other persons or entities with some relationship to the agency. Allegations include, but are not limited to, abuse of authority; misuse of government time, property, or position; conflicts of interest; whistleblower reprisal; or other non-criminal violations of law, rules, or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; The Inspector General Act of 1978, as amended, 5 U.S.C. App. 3.

PURPOSE(S):

The records are maintained and used by the Department in furtherance of the responsibilities of the Inspector General. These responsibilities include evaluating the effectiveness and efficiency of an operation, determining compliance with laws and regulations, evaluating Departmental program operations and results, preventing and detecting fraud and abuse in such programs and operations, and assuring the investigation of complaints by contractor employees alleging retaliation for making disclosures protected under 10 CFR part 708 and 41 U.S.C. 265.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

5. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

6. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

7. A record from this system of records may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements

8. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper, microfilm, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name of individual involved, case number, report title, or subject matter.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Inspector General for Inspections, U.S. Department of Energy, Room 5B–250, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals; individuals and organizations that have pertinent knowledge about a subject individual or corporate entity; those authorized by an individual to furnish information; confidential informants; and Federal Bureau of Investigation (FBI) and other Federal, state, and local entities.

SYSTEM EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

This system is exempt under (k)(1) and (k)(2) of the Privacy Act to the extent that information within the System meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1), (e)(4)(G) and (H) and (f) of the Act; See the DOE Privacy Act regulation at Title10, Code of Federal Regulations, part 1008.

DOE–84

SYSTEM NAME:

Counterintelligence Investigative Records.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

Records maintained in DOE–84, except those pertaining to polygraph examinations and the e-mail analysis project, will be stored at the following locations:

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87115

U.S. Department of Energy, Argonne National Laboratory-East, 9700 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy Brookhaven National Laboratory, P.O. Box 5000, Upton, NY 11973–5000

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83403

U.S. Department of Energy, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, Livermore, CA 94551

U.S. Department of Energy, Lockheed Idaho Technical Center, 765 Lindsay Boulevard, Idaho Falls, ID 83403

U.S. Department of Energy, Los Alamos Area Office, M/S B–236, P.O. Box 1663, Los Alamos, NM 87545

U.S. Department of Energy, Nevada Operations Office, P.O. Box 14100, Las Vegas, NV 89114

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, P.O. Box 808, Livermore, CA 94550

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343

Pacific Northwest National Laboratory, 902 Battelle Blvd., P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352;

U.S. Department of Energy, Rocky Flats Field Office, P.O. Box 928, Golden, CO 80402

U.S. Department of Energy, Rocky Flats, World Wide Security Services, Ltd, P.O. Box 40, Broomfield, CO 80038

U.S. Department of Energy, Sandia National Laboratory—Albuquerque, P.O. Box 5400, Albuquerque, NM 87185–5800

U.S. Department of Energy, Sandia National Laboratory—California, P.O. Box 969, Livermore, CA 94551

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801; Savannah River, Westinghouse Savannah River Company, Bldg. 703–45A, Aiken, SC 29808

Records maintained in DOE–84 in connection with DOE administered counterintelligence-scope polygraph examinations, will be maintained only at the following locations:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, DOE Test Center, Albuquerque, NM 87106

Records maintained in DOE–84 in connection with the DOE e-mail analysis project will be maintained only at the following locations:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, Livermore, CA 94551

U.S. Department of Energy, Los Alamos Area Office, P.O. Box 1663, Los Alamos, NM 87545

U.S. Department of Energy, Pacific Northwest National Laboratory, 902 Battelle Blvd., P.O. Box 999, Richland, WA 99352

U.S. Department of Energy, Sandia National Laboratory—Albuquerque, P.O. Box 5800, Albuquerque, NM 87185–5800

U.S. Department of Energy, Sandia National Laboratory—California, P.O. Box 969, Livermore, CA 94551

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DOE employees and contractor employees; applicants for employment at DOE; individuals who may be assigned or detailed to Federal positions at DOE; consultants to DOE; users of the e-mail systems at the Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest National Laboratory; persons suspected of violating DOE regulations or criminal laws; individuals who voluntarily request a polygraph examination in order to respond to questions that have arisen in the context of a counterintelligence investigation; and those individuals who are (a) reasonably believed to be officers or employees of, or otherwise acting for or on behalf of, a foreign power; (b) members of an organization reasonably believed to be owned or controlled directly or indirectly by a foreign power; (c) reasonably believed to be targets, hostages, or victims of international terrorist organizations; or (d) reasonably believed to be engaged or about to engage in clandestine intelligence activities, sabotage, assassinations, or international terrorist activities involving DOE programs, personnel, facilities, information, or materials and have made personal or impersonal contact with a current or former DOE employee, contractor employee or consultant.

CATEGORIES OF RECORDS IN THE SYSTEM:

Law enforcement records, reports and files; reports on foreign contacts; records, reports and files received from other DOE elements and other Federal agencies related to intelligence activities; counterintelligence evaluation records; polygraph examination records; reports and videotapes of the polygraph session; and electronic mail stored on CD.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; The Atomic Energy Act of 1954, as amended; National Defense Authorization Act of Fiscal Year 2000 Pub. L. 106–65; the Employee Polygraph Protection Act, Pub. L. 100–347; 29 U.S.C. 2006 (b)(1)(B); the Electronic Communications Privacy Act, Pub. L. 99–508, 18 U.S.C. 2510 *et seq.*; Executive Order 12333, United States Intelligence Activities (December 4, 1981); Department of Energy Procedures for Intelligence Activities, approved by the Attorney General under Executive Order 12333 (October 19, 1992); Executive Order 12958, Classified National Security Information (April 17, 1995); Executive Order 12968, Access to Classified Information (August 2, 1995); and Presidential Decision Directive-61.

PURPOSE(S):

The information is maintained and used by the Department to conduct counterintelligence investigations. The records in this system also will be used by the Office of Counterintelligence when participating in joint law enforcement counterintelligence-related investigations with the FBI or other Federal law enforcement agencies or components thereof in order to detect and prevent foreign intelligence threats directed at or involving DOE classified and sensitive information, materials, programs, facilities, personnel, and other Department resources. Finally, the records in this system are collected and maintained by the Office of Counterintelligence in order to fulfill its statutory responsibilities under section 3154 of the National Defense Authorization Act for Fiscal Year 2000.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to an appropriate Federal, State, local or foreign agency when a record within this system of records, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute of particular program pursuant thereto.

2. A record from this system of record may be disclosed, as a routine use, to a Federal, state or local agency that maintains relevant information to obtain information relevant to a Department decision concerning the hiring or

retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use to a Federal agency, to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. The contractor and its officers receiving information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, electronic media, and videotapes.

RETRIEVABILITY:

Records may be retrieved by name and/or social security number.

SAFEGUARDS:

Paper records and videotapes are maintained in locked cabinets. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), secured for classified information and are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Counterintelligence, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Field Offices: The Managers of the "System locations" listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Office at the appropriate address identified above under "System locations." Requests for polygraph records should be directed to Headquarters, Freedom of Information and Privacy Act Division, U.S. Department of Energy. The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Records are generally kept at locations where work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, present and former DOE employees and DOE contractor employees, applicants for employment, individuals assigned or detailed to Federal positions at DOE, and consultants; any user of the DOE e-mail systems at Sandia National Laboratories, Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Pacific Northwest National Laboratory; publicly available material; other agencies within the Intelligence Community; other offices within the DOE; the FBI, and other federal, state and local law enforcement agencies; and sources contacted during investigations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt pursuant to subsections (j)(2) and (k)(1), (2) and (5) of the Privacy Act, 5 U.S.C. 552a, to the extent that information within the system meets the requirements of those subsections of the Act. Under subsection (j)(2) of the Privacy Act, this system has been exempted from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of 5 U.S.C. 552a. See DOE the Privacy Act Regulation at 10 CFR 1008.12.

To the extent the information in this system of records is exempt pursuant to 5 U.S.C. 552a(k)(1), (2) and (5), the system has been further exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G) and (H) and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. See the DOE Privacy Act Regulation at 10 CFR 1008.12(b).

DOE–86

SYSTEM NAME:

Human Radiation Experiments Records.

SECURITY CLASSIFICATION:

None.

LOCATIONS:

U.S. Department of Energy, Office of Human Radiation Experiments, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Coordination and Information Center, 3084 S. Highland St., Las Vegas, NV 89109

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who participated in the organizing, conducting, and financing of the Human Radiation Experiments and environmental releases of radiation described in Executive Order 12891, 59 FR 2935 (January 20, 1994). Records are also maintained on persons who were subjects of the experiments or were affected by the releases. Generally, the records pertain to persons in the following categories: (1) Former and current employees of the DOE, its predecessor agencies and their contractors and subcontractors; (2) members of the public; (3) persons exposed to radiation as a result of proximity to nuclear facilities or the intentional or accidental release of radiation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to the planning, organizing, financing, conducting, effects and results of experiments and environmental releases, gathered from DOE, its predecessor agencies and their contractors and subcontractors. Such records include correspondence, memoranda, published and unpublished reports, notes, logs, proposals, contracts, minutes of meetings of the Atomic Energy Commission and its advisory committees and subcommittees dealing with radiation, correspondence with members of the public, transcripts of interviews of persons associated with the organizing, financing and conducting of the experiments, reports of Congressional hearings, personal notes, diaries and papers, archival collections, interagency memoranda and agreements, consent forms, medical and laboratory reports, transcripts of medical conferences, and newspaper and magazine articles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 7151; 42 U.S.C. 2201 and 42 U.S.C. 5813 and 5817.

PURPOSE(S):

The purpose of this system of records is to assist members of the public in piecing together their own (or immediate family) history of possible involvement in government-sponsored radiation experiments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the Advisory Committee on Human Radiation Experiments to perform its assigned task of evaluating the scientific and ethical aspects of the Human Radiation Experiments and environmental releases. A record from this system of records may be disclosed to that Committee to provide it with information concerning experiments or releases of radiation that were sponsored, financed or conducted by DOE, its predecessors, or other Federal agencies, and their contractors and subcontractors. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system may be disclosed as a routine use pertaining to another Federal agency if it appears from the record, or other available information, that the other Federal agency conducted the Human Radiation Experiment or environmental release or that referral to the other Federal agency is appropriate for remedial purposes.

3. A record from this system may be disclosed as a routine use to DOE contractors and subcontractors conducting epidemiological, industrial safety or hygiene studies to ascertain or determine: (a) How radiation exposure effects the health and well being of individuals or groups of individuals; and (b) the risks of working with, or being in proximity to, nuclear equipment, devices and facilities and how such risks may be ameliorated. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system may be disclosed as a routine use to the Centers for Disease Control and Prevention, other Federal and state health agencies, and Federal and state agencies involved with industrial or employee safety to be used for epidemiological or industrial safety or hygiene studies to ascertain or determine: (a) How radiation exposure effects the health and well being of individuals or groups of individuals; and (b) the risks of working with, or being in proximity to, nuclear equipment, devices and facilities, and how such risks may be ameliorated.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from the system may be disclosed as a routine use to a Federal, State, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

8. A record from this system of records may be disclosed to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

9. A record from the system may be disclosed as a routine use to the appropriate local, state, or Federal agency when the record, alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature.

10. A record from this system of records may be disclosed to a member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member with respect to the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

11. A record from the system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

12. A record from this system of records may be disclosed to officials and contractor personnel of the Agency for Toxic Substances and Disease Registry in carrying out that agency's authorized activities at DOE's facilities pursuant to section 104(I) of the Comprehensive

Environmental Response, Compensation, and Liability Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records and electronic media.

RETRIEVABILITY:

The records may be retrieved by name or other personal identifier as dictated by the needs of the particular researcher.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Director, Office of Human Radiation Experiments, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Manager, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Division, U.S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures.

RECORD SOURCE CATEGORIES:

Persons conducting or otherwise having a role in the organization and financing of experiments or releases, present and former DOE and predecessor agency contractors and subcontractors, physicians, medical records, dosimetry records, subject individuals, DOE and its predecessor agency officials and operating offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–88

SYSTEM NAME:

Epidemiologic and Other Health Studies, Surveys and Surveillances.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Energy, Office of Environment, Safety and Health, Office of Health Studies, Germantown, MD. 20874–1290. Portions also may be located with contractors, other entities involved in conducting or managing health studies, surveys, and surveillances, or other Department offices listed below:

U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Grand Junction, P.O. Box 2567, Grand Junction, CO 81502–2567

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), 3610 Collins Ferry Road Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), P.O. Box 10940, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Tulsa, OK 74103

U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Oakland, CA 94612–5208

U.S. Department of Energy, Ohio Field Office, 1 Mound Road, Miamisburg, OH 45342

U.S. Department of Energy, Pittsburgh Naval Reactors, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80402–0928

U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, GA 30635

U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101

U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Yucca Mountain Site Characterization Office, 1551 Hillshire Drive, Suite A, Las Vegas, NV 89134

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Data about individuals who were included in any authorized epidemiologic or other health study, survey, or surveillance. Such persons include current and former employees of the Department, its predecessor agencies, and their contractors and subcontractors, as well as other individuals included in health studies, surveys, and surveillances pertaining to any potential health hazard (including electromagnetic fields) associated with energy production, transmission, or use. Accordingly, persons having access, or in proximity, to the Department's facilities, persons involved in or effected by energy production activities, and members of the general population selected as control groups also may be included.

As defined in Executive Order 12891, Human Radiation Experiments include: (1) Experiments on individuals involving intentional exposure to ionizing radiation. This category does not include common and routine clinical practices, such as established diagnosis and treatment methods, involving incidental exposures to ionizing radiation; (2) experiments involving intentional environmental releases of radiation that (A) were designed to test human health effects of ionizing radiation; or (B) were designed to test the extent of human exposure to ionizing radiation; (3) the experiment into the atmospheric diffusion of radioactive gases and test of detectability, commonly referred to as the "Green Run test," conducted by the former Atomic Energy Commission and the Air Force in December 1949 in Hanford, Washington; (4) two radiation warfare field experiments conducted at the Atomic Energy Commission's Oak Ridge office in 1948 involving gamma radiation released from non-bomb point sources at or near ground level; (5) six tests conducted during 1949–1952 of radiation warfare ballistic dispersal devices containing radioactive agents at the U.S. Army's Dugway, Utah, site; (6) four atmospheric radiation-tracking tests in 1950 at Los Alamos, New Mexico; and (7) other similar human experiments that may later be identified by the Human Radiation Interagency Working Group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specific types of records collected and maintained are determined by the needs of the individual study, survey, or surveillance. Examples include, but are not limited to, questionnaires, demographic information, work history, medical and reproductive history, birth data, radiation and other exposure history, laboratory test results, data from prior studies, surveys, and surveillances, alcohol and tobacco use history, and illness absence information. Information may be collected directly from individuals, as well as extracted as necessary from personnel files and lists, training files, medical records, legal case files, bioassay records, industrial hygiene files, payroll and leave records, radiation and other hazard exposure records, occupational and industrial accident records, employee insurance claims, personnel security clearance questionnaires, personnel assurance program records, and related sources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 7151 and 7297; 42 U.S.C. 2201(c), 2201(i)(3), 5813 and 5817

PURPOSE(S):

The information is maintained and used by the Department to conduct epidemiological and other health studies, surveys and surveillances, conducted by the Department and the Department of Health and Human Services performing studies for the Department, their contractors, grantees, and collaborating researchers. The health studies pertain to individual and aggregate population health risks from exposures to radiation, or other chemical, physical, or biological hazards that may occur or may have occurred as a result of the Department's, or its predecessor agencies' operations, or as a result of energy production, transmission, or use. Individually identifiable information does not appear in published epidemiological studies or other published health studies, surveys, and surveillances. However, the system will contain records compiled in completing published and unpublished studies, surveys, and surveillances from which information may be retrieved by name or other personal identifier.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to contractor personnel, grantees, and cooperative agreement holders of components of the Department of Health and Human Services, including the National Institute for Occupational Safety and Health, the National Center for Environmental Health of the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry pursuant to a Memoranda of Understanding between the Department and the Department of Health and Human Services or its components. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

2. A record from this system of records may be disclosed as a routine use to contractors, grantees, participants in cooperative agreements and collaborating researchers, or the employees of these parties, when conducting health studies or related health or environmental duties pursuant to their contracts, grants, and cooperating or collaborating research agreements. In order to perform such studies, the Department, its contractors, grantees, participants in cooperative agreements, and collaborating researchers may disclose a record: to Federal, State, and local health and medical agencies or authorities; to subcontractors in order to determine a subject's vital status or cause of death; to health care providers to verify a diagnosis or cause of death; or to third parties to obtain current addresses for participants in health-related studies, surveys and surveillances. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the above described research purposes. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

3. A record from this system of records may be disclosed to members of Department advisory committees, the Department of Health and Human Services Advisory Committee on Projects Related to Department of Energy Facilities, and to designated employees of Federal, State, or local government, or government-sponsored entities, authorized to provide advice to the Department concerning health, safety, or environmental issues. All recipients of such records are required to comply with the Privacy Act, to follow prescribed measures to protect personal privacy, and to disclose or use personally identifiable information only for the purpose of providing advice to the Department or to the Department of Health and Human Services. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

4. A record from this system of records may be disclosed as a routine use, to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those

representatives; (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

6. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publically available pleadings, filings or discussion in open court) when such disclosure: (1) Is relevant to, and necessary for, the proceeding; and (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

(a) The Department, its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, or

(b) A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity, or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

7. A record from this system be disclosed to Department of Health and Human Services, their contractors, grantees, and cooperative agreement holders, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000, to estimate radiation doses and other workplace exposures received by Department of Energy and contractor employees. The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses consistent with the protection of private medical records. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as microfilm, paper records, and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, study/surveillance-assigned control number, social security number, or other personal identifier, as dictated by the needs of the particular researcher.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Passwords are known only by the system manager. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Director, Office of Epidemiologic Studies, Germantown, Md. 20874–1290.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, Title 10, Code of Federal Regulations, part 1008, a request by an individual to determine if a system of records contains information about him/her should be directed to the Director, Headquarters, Freedom of Information Act and Privacy Act Division, U. S. Department of Energy, or the Privacy Act Officer at the appropriate address identified above under "System locations." The request should include the requester's complete name, time period for which records are sought, and the geographic location(s) where the requester believes the records are located.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above. Records are generally kept at location where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as notification procedures.

RECORD SOURCE CATEGORIES:

Subject individual and the individual's employer, including DOE and its predecessor agencies and their contractors and subcontractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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Federal Register

Wednesday,
May 16, 2001

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Revised Landing Gear Shock Absorption Test Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–1999–5835; Amendment No. 25–103]

RIN 2120–AG72

Revised Landing Gear Shock Absorption Test Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the airworthiness standards for landing gear shock absorption test requirements for transport category airplanes by incorporating changes developed in cooperation with the Joint Aviation Authorities (JAA) of Europe and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee (ARAC). This amendment reduces the number of design weight conditions required to be demonstrated by shock absorption tests and changes the objective of the tests to include the complete validation of the landing gear dynamic characteristics. This amendment also removes some means of compliance criteria from the rule since it is more appropriately set forth in advisory material.

EFFECTIVE DATE: June 15, 2001.

FOR FURTHER INFORMATION CONTACT: James Haynes, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Ave. SW., Renton, WA 98055–4056; telephone (425) 227–2131.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

You can get and electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page *http://dms.dot.gov/search*.

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this amendment. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get and electronic copy using the Internet *through FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm* or the **Federal Register's** web page at *http://www.access.gov/su_docs/aces/aces140.html*.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at our site *http://www.faa.gov/avr/arm/sbrefa.htm* For more information on SBREFA, e-mail us at *9–AWA–SBREFA@faa.gov*.

Background

The manufacturing, marketing and certification of transport airplanes is increasingly an international endeavor. In order for United States manufacturers to export transport airplanes to other countries, the airplane must be designed to comply, not only with the U.S. airworthiness requirements for transport airplanes (14 CFR part 25), but also with the transport airworthiness requirements of the countries to which the airplane is to be exported.

The European countries have developed a common airworthiness code for transport airplanes that is administered by the JAA of Europe. This code is the result of a European effort to harmonize the various airworthiness codes of the European countries and is called the Joint Aviation Requirements (JAR)–25. It was developed in a format similar to part 25. Many other countries have airworthiness codes that are aligned closely to part 25 or to JAR–25, or they use these codes directly for their own certification purposes.

The ARAC was established by the FAA on February 15, 1991, with the purpose of providing information, advice, and recommendations to be considered in rulemaking activities. By notice in the **Federal Register** (59 FR 30081, June 10, 1994), the FAA assigned several new tasks to an ARAC working group of industry and government structural loads specialists from Europe, the United States, and Canada. Task 6 of the working group charter concerned the shock absorption test requirements for landing gear. The ARAC working group completed its work for this task and the ARAC made recommendations to the FAA by letter dated October 29, 1997.

Although the requirements for landing gear shock absorption tests are essentially the same between the Federal Aviation Regulations (FAR) and JAR, the requirements do not address the capabilities of modern technology and do not take into account other related changes in the requirements for landing gear load conditions that have already been incorporated into other sections of the FAR. When the landing loads requirements for transport airplanes were originally developed, the required the landing load factors to be determined and applied to the airplane. The airplane was treated as a rigid body and the landing loads were applied to this rigid representation of the airplane for the purpose of structural analysis. For the early landing gear systems, analysis alone was considered sufficient for determining the landing load factor that will be applied to the rigid airplane. It was only necessary to determine the landing load factor (by analysis or tests) and this load factor will then be used to design and substantiate the airplane for the landing load conditions.

The development of more complex landing gear systems, for which analysis alone was unreliable, led to the adoption of a requirement to verify the landing factor by actual shock absorption tests. This requirement was added to the Civil Air Regulations (CAR) 4b, which was the predecessor to part 25. These shock absorption tests were allowed by § 4b.200 of the CAR to be free drop tests in which the gear alone, could be dropped in free fall to impact the ground. In these tests, mass is added to represent the proportion of the airplane weight on the landing gear unit, and the mass may be reduced to account for the effects of airplane lift acting during the landing impact. Later, the corresponding requirement in § 25.723(a), was modified to allow the substantiation of some changes to the landing gear shock absorption systems by analysis alone without verification by tests.

Prior to this amendment, §§ 25.473(d) and 25.723(a) for shock absorption tests required just the determination of the limit landing load factor from the shock absorption test. However, the landing gear shock absorption systems had become even more sophisticated and the airplane had become more flexible. Part 25 was previously revised to require that determinations of airplane loads in the landing configuration take into account the dynamic flexibility of the airplane. In order to determine the airplane loads in the landing load conditions, it was no longer sufficient to determine just the load factor from a drop test of a landing gear unit. A comprehensive analysis of the combined dynamic systems for the landing gear and airplane had become essential in order to determine the structural design loads for the airplane. In developing the mathematical model, it is necessary to provide an accurate representation of all the landing gear dynamic characteristics. This includes the energy absorption characteristics and the time histories of force and displacement during a landing impact.

Notice 99–08 was published in the **Federal Register** on June 18, 1999 (64 FR 32978). The notice proposes to revise the main objective of the shock absorption tests to be the validation of the landing gear dynamic characteristics which make up the analytical model rather than just to determine the landing load factors. In addition, the number of actual design weight conditions were proposed to be reduced to include just the landing weight, or design take-off weight, whichever provided the greatest landing impact energy. Furthermore, §§ 25.725 and 25.727 were proposed to be removed from part 25, since these sections only contained criteria for one means of compliance to the shock absorption test requirement. These criteria were proposed to be set forth as acceptable means of compliance in Advisory Circular (AC) 25.723–1 "Shock Absorption Tests."

Discussion of Comments

There are 6 commenters from aviation manufacturers and foreign airworthiness authorities. Although one commenter objects to the proposed rule, most of the commenters support the proposed changes. Several of the commenters provide suggestions for clarity, consistency and organization. Comments are summarized as follows along with disposition.

One commenter objects to the proposed change in the basic purpose of the shock absorption tests from the validation of the load factors to the validation of the dynamic characteristics of the landing gear. The commenter believes that the new proposal has the potential for requiring a significant volume of recalculation for refinement of load values and this would be neither productive nor cost effective. Furthermore, the commenter believes that this approach would not fit well in the timeline between design concept and the development of the first prototype and so would bring the potential for discovering a different answer for the completed product late in the design process. Finally, the commenter believes the existing regulations are sufficient. The FAA agrees that validation of dynamic characteristics by test always brings a risk if the assumptions made in the prediction of these characteristics are not sufficiently accurate or conservative. However, the process of prediction, design, and validation are normal, and expected, in the development of aircraft and the risks can be minimized by the use of conservative assumptions. Furthermore, the FAA does not agree that the existing shock absorption test requirements are sufficient. The development of airplane loads for dynamic landing conditions requires a valid analytical model of the landing gear which includes a valid representation of the energy absorbing characteristics of the gear. The dynamic landing requirement has existed in 14 CFR part 25 for a number of years but the validation shock absorption test requirement has remained outdated, since it requires only the validation of a simple static landing load factor which may not even be used in design of the airplane. Because of the existing dynamic landing requirement, it has become a standard practice to develop the design loads for the airplane structure based on a mathematical model of the airplane and landing gear and to validate the assumed gear characteristics by shock absorption tests. Therefore, the requirement is being updated to be consistent with the related design landing load requirements and also to be consistent with standard practice.

One commenter points out that the terminology used in the proposed § 25.723(a)(1) for design weight conditions was inconsistent with that used in § 25.473, "Landing load conditions and assumptions," which is the same as that used in the proposed AC 25.723–1. The FAA agrees, and the language in the new § 25.723(a)(1) has been changed to refer to these design weight conditions as "limit design conditions" and to use the terms "design landing weight" and "design takeoff weight" to be consistent with § 25.473(a).

One commenter is concerned that the proposed location of the requirement for shock absorption tests in § 25.473(d) implies that the individual tests would be required for each of the landing conditions and configurations specified in § 25.473, including unsymmetrical conditions. The FAA does not agree since the specific landing conditions are referenced in § 25.473(a) while the requirement related to validating landing gear dynamic characteristics, potentially of use in some or all conditions, is set forth in § 25.473(d). Validation is intended to mean that the adequacy of the dynamic characteristics would be confirmed by shock absorption tests to whatever extent necessary to provide confidence in the analysis of the specified landing conditions. To clarify this intent, an additional sentence is added to § 25.723(a) which would require that a range of tests be conducted to ensure that the analytical representation is valid for the design condition specified in § 25.723.

The same commenter suggests that the terms, "dynamic characteristics," are ambiguous and that the rule should completely define dynamic characteristics and specify which dynamic characteristics must be validated by tests. The FAA agrees that these terms are general. However, the FAA does not agree that an exhaustive list of dynamic characteristics or shock absorption characteristics can be provided in the rule. The relevant landing gear dynamic characteristics depend on the parameter chosen by the applicant for use in the analysis. The analysis must represent the full energy absorbing characteristics of the landing gear and it would be impossible to provide an exhaustive list of characteristics that would apply to all designs. Typically the manufacturer will validate the dynamic characteristics used in the analysis in a gross fashion by using the analytical mathematical model to predict the shock absorption response time histories in the test for a range of test conditions. In response to this comment, changes have been made to the proposed advisory material to identify some of the energy absorption components and characteristics that are usually of significance and the extent that they could be changed or revised without additional testing.

One commenter is concerned that the elimination of § 25.723(b) means that the reserve energy shock absorption tests would no longer be required. Removal of § 25.723(b) was not a proposal of Notice 99–08. The commenter fails to recognize that the paragraph is represented in the notice as a set of asterisks at the end of § 25.723(a) signifying that the remaining paragraphs of § 25.723 would remain unchanged. However, consideration of the commenters concern brings to light the fact that the allowance provided in § 25.723(a)(3) for using analysis in lieu of tests, would not necessarily apply to the reserve energy drop test of § 25.723(b). In order to correct this

oversight, § 25.723(b) is clarified, and the allowance in the proposed § 25.723(a)(3) is now set forth in a separate § 25.723(c) and made applicable to both §§ 25.723(a) and (b).

One commenter is concerned that the removal of the free drop test requirements in §§ 25.725 and 25.727 of the rules means that these tests would no longer be required and that this could result in a reduction in the degree of safety. These specific types of tests, known as *free drop tests*, have never been required. They have always been a means of compliance to the general requirement to conduct shock absorption tests. This general requirement for conducting shock absorption tests remains in the revised § 25.723. The free drop test criteria are provided for the manufacturer that chooses to use this particular method of performing the required shock absorption tests. In the free drop test, the manufacturer may represent the airplane lift by using a reduced effective weight for the test. However many manufacturers represent the lifting force directly in a drop test or perform other types of shock absorption tests. The criteria for establishing the effective drop weight is applicable to only this one means of compliance and would be more appropriately presented in an advisory circular (AC). To this end, AC 25.723–1 "Shock Absorption Tests," was made available to provide this means of compliance.

Two commenters are concerned that the removal of the free drop test criteria from the regulation would result in the loss of the current method for establishing the effective mass over the nose gear for the free drop test. As stated above, this information is not being lost but is being moved to an AC as acceptable means of compliance.

Except for the minor editorial and organizational changes mentioned above, the amendment is issued as proposed.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C., 3507(d)), there are no requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that its economic impact is minimal. Since its costs and benefits do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory impact analysis." Similarly, we have not prepared a "regulatory evaluation," which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

Economic Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to preparer a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more, in any one year (adjusted for inflation).

However, for regulations with an expected minimal impact, the above-specified analyses are not required. The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposal does not warrant a full Evaluation, a statement to that effect and the basis for it is included in proposed regulation. Since this final rule makes landing gear requirements consistent with other requirements in the FAR, harmonizes these standards to be consistent with the European JAR, and since industry is currently in compliance with the new requirements, the expected outcome is to have a minimal cost impact with positive net benefits.

The regulatory evaluation summary examines the costs and benefits of a Final Rule entitled *Revised Landing Gear Shock Absorption Test Requirements*. The rule changes the transport category airplane certification requirements for landing gear shock absorption tests. This amendment to part 25 updates the current standards to take into account the structural dynamic flexibility of modern airplanes, the complexity of landing gear shock absorption systems, and the ability of highly sophisticated computer models to simulate dynamic structural loads. The amendment also makes landing gear requirements consistent with other requirements in the FAR, harmonizes these standards with those being proposed for the European JAR, and is expected to maintain the level of safety provided by the test requirements.

Background

Landing load requirements have evolved as the designs of transport category airplanes have changed. Initially, analysis alone was considered sufficient for determining the landing load factor that would be applied to a rigid airplane. The development of more complex landing gear systems and flexible airplanes led to the requirement for actual shock absorption tests. Later, the requirement for tests was modified to allow analysis alone to substantiate some changes to landing gear systems.

The current landing load requirements in Subpart D (Design and Construction) of part 25 require determination of the landing load factors for landing gear by means of energy absorption tests (drop tests) at maximum takeoff and landing weights. To comply with the landing load requirements of Subpart D and the requirements of Subpart C (Structure) of part 25, manufacturers build sophisticated computer models that comprehensively analyze landing gear and airplane structure and accurately represent landing gear shock absorption characteristics. These analytical models for landing conditions are validated through shock absorption tests (usually drop tests) at the maximum takeoff weight and the maximum landing weight.

The rule will allow manufacturers to validate the analytical representation of the dynamic characteristics of landing gear by conducting energy absorption tests at the weight (maximum takeoff weight or maximum landing weight) which provides the maximum impact energy. Because of the ability of the computer models to describe landing gear characteristics, tests at weights other than that of maximum impact energy are unnecessary. The rule will continue to provide for the substantiation of minor changes in landing gear systems through the use of the analyses.

The current §§ 25.725 and 25.727 are deleted as regulatory requirements and moved to a new proposed Advisory Circular 25.723–1, except that current § 25.725(c), which describes conditions for the attitude of the landing gear and the representation of drag loads during the tests, is included in § 25.723.

This amendment was developed by the ARAC and presented to the FAA as a recommendation for rulemaking. This amendment will harmonize shock absorption tests with those being proposed by the JAA.

Costs and Benefits

The requirements, applicable to future type certificated transport category airplanes, will result in two regulatory changes: Utilizing landing gear energy absorption tests to validate the landing gear dynamic characteristics rather than the limit load factor value, and confirming energy absorption in characteristics by requiring tests at either the maximum landing weight or maximum takeoff weight condition, whichever provides the maximum landing impact energy. This is in contrast to current requirements, which require tests at both weight conditions.

The tests results will be used to develop the analytical modeling of the landing gear dynamic characteristics. These regulatory changes are not expected to result in any physical change in the way landing gears are tested: the attitude of the gear being usually simulated directly by orienting the gear on the rig and drag loads being applied by spinning the wheel up to the ground speed. Therefore, it is not expected to impose additional costs on manufacturers. This was confirmed by two manufacturers. No comments to the contrary were received in response to the Notice of Proposed Rulemaking.

Significant cost savings may result from not having to test both at maximum landing weight and maximum takeoff weight, but instead, conducting shock absorption in tests only for the conditions associated with maximum energy. One manufacturer estimates that this would result in 15 fewer test conditions per airplane certification. At a cost of $5,000 per condition, the total cost savings as a result of this provision equals $75,000 per airplane certification. Another manufacturer estimates a cost saving of approximately $190,000 for a ten-year period.

Additionally, by harmonizing the standards of the FAR ad JAR, the rule is expected to yield cost savings by eliminating duplicate certification activities. One manufacturer "applauds" this FAA/JAA harmonization effort and its influence on the regulations.

The imposition of this rule is expected to maintain the current level of aviation safety.

Based on the finding of regulatory cost savings, coupled with the cost savings realizable from harmonization, and the expectation that these revisions will maintain the existing level of safety provided by the test requirements, the FAA has determined that the rule is expected to be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The primary effect of this rule is expected to be cost savings for aircraft manufacturers. The FAA received no comments regarding its earlier assessment of no impact on small entities. The U.S. Small Business Administration specifies in its Table of Size Standards of March 1, 1996 that, for aircraft manufacturers, a small entity is one with 1,500 or fewer employees. Since no part 25 airplane manufacturer is believed to have 1,500 or fewer employees, and the rule is expected to reduce manufacturing costs, the FAA certifies that the rule is not expected to have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from setting any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the

potential effect of this rule and has determined that it is not expected to constitute a barrier to international trade, including the export of American airplanes to foreign countries and the import of foreign airplanes into the United States. The requirements in this rule are expected to have no adverse impact on trade opportunities for U.S. manufacturers selling airplanes in foreign markets and foreign manufacturers selling airplanes into the U.S. market. Instead, by harmonizing the standards of the FAR and the JAR, it will serve to facilitate international trade.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFT in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions, as he or she considers appropriate. Because this final rule applies to the certification of future designs of transport category airplanes and their subsequent operation, it could affect intrastate aviation in Alaska. The Administrator has considered the extent to which Alaska is not served by transportation modes other than aviation, and how the final rule could have been applied directly to intrastate operations in Alaska. However, the Administrator has determined that airplanes operated solely in Alaska would present the same safety concerns as all other affected airplanes; therefore, it would be inappropriate to establish a regulatory distinction for the intrastate operation of affected airplanes in Alaska.

Environmental Analysis

Federal Aviation Administration Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.ID, appendix 4, paragraph 4(j), this amendment qualifies for a categorical exclusion.

Energy Impact

The energy impact of the amendment has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 25 of Title 14, Code of Federal Regulations (14 CFR part 25) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

2. Section 25.473 is amended by revising paragraph (d) to read as follows:

§ 25.473 Landing load conditions and assumptions.

* * * * *

(d) The landing gear dynamic characteristics must be validated by tests as defined in § 25.723(a).

* * * * *

3. Section 25.723 is revised to read as follows:

§ 25.723 Shock absorption tests.

(a) The analytical representation of the landing gear dynamic characteristics that is used in determining the landing loads must be validated by energy absorption tests. A range of tests must be conducted to ensure that the analytical representation is valid for the design conditions specified in § 25.473.

(1) The configurations subjected to energy absorption tests at limit design conditions must include at least the design landing weight or the design takeoff weight, whichever produces the greater value of landing impact energy.

(2) The test attitude of the landing gear unit and the application of appropriate drag loads during the test must simulate the airplane landing conditions in a manner consistent with the development of rational or conservative limit loads.

(b) The landing gear may not fail in a test, demonstrating its reserve energy absorption capacity, simulating a descent velocity of 12 f.p.s. at design landing weight, assuming airplane lift not greater than airplane weight acting during the landing impact.

(c) In lieu of the tests prescribed in this section, changes in previously approved design weights and minor changes in design may be substantiated by analyses based on previous tests conducted on the same basic landing gear system that has similar energy absorption characteristics.

§ 25.725 [Reserved]

4. By removing and reserving § 25.725.

§ 25.727 [Reserved]

5. By removing and reserving § 25.727.

Issued in Renton, Washington, on May 9, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 01–12231 Filed 5–15–01; 8:45 am]

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May 16, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Revision of Hydraulic Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 28617; Amendment No. 25–104]

RIN 2120–AF79

Revision of Hydraulic Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the hydraulic systems design and test requirements of the airworthiness standards for transport category airplanes. The amendment adds appropriate existing Joint Aviation Requirements (JAR) standards to achieve harmonization; moves some of the existing regulatory text to a new advisory circular (AC) 25.1435–1; consolidates and/or separates certain subparagraphs for clarity; and revises airplane static proof pressure test requirements to allow a complete functional (dynamic) airplane test at the hydraulic system relief pressure. These revisions were developed in cooperation with the Joint Aviation Authorities (JAA) of Europe, Transport Canada, and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee (ARAC). These changes benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing, but potentially enhancing, the current level of safety.

DATE: Effective June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Mahinder K. Wahi, Propulsion/Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–2142; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (http://dms.dot.gov/search).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of the notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register**'s web page at *http://www.access.gpo/gov/su_docs/aces/aces140.html*.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, *http://www.gov/avr/arm/sbrefa.htm*. For more information on SBREFA, e-mail us at *9-AWA-SBREF@faa.gov*.

Background

This amendment is based on notice of proposed rulemaking (NPRM) Notice No. 96–6, which was published in the **Federal Register** on July 3, 1996 (61 FR 35056). The related background leading to Notice No. 96–6 is as follows:

In 1988, the FAA, in cooperation with the JAA and other organizations representing the American and European aerospace industries, began a process to harmonize the airworthiness requirements of the United States and the airworthiness requirements of Europe, especially in the areas of Flight Test and Structures.

In 1992, the FAA harmonization effort was undertaken by the Aviation Rulemaking Advisory Committee (ARAC). A working group of industry and government hydraulic systems specialists of Europe, the United States, and Canada was chartered by notice in the **Federal Register** (57 FR 58843, December 12, 1992) to harmonize requirements and the associated test conditions for hydraulic systems, installed in transport category airplanes (§ 25.1435). The harmonization task was completed by the working group and recommendations were submitted to FAA by letter dated November 6, 1995. The FAA concurred with the recommendations and proposed them in Notice No. 96–6. A Notice of availability of proposed AC 25.1435–1 and request for comments was also published in the **Federal Register** on July 3, 1996 (61 FR 35062). In August 1996, the JAA issued its Notice of Proposed Amendment (NPA) 25F–273: "Hydraulic Systems" which included the proposed advisory material AMJ 25.1435. The amendments proposed in NPA 25F–273 and the advisory material proposed in AMJ 25.1435 were substantively the same as the amendments proposed in Notice No. 96–6 and the advisory material in proposed AC 25.1435–1.

As a result, although the FAA (and JAA) has received two sets of comments from the public, in response to the proposed rule and the proposed AC, the comments are interlinked and addressed jointly. Therefore, the FAA has considered both sets of comments in preparing the final rule contained herein and the new AC. The announcement of the FAA's issuance of the new AC will be published in the **Federal Register** once it is available to the public. Interested persons have been given an opportunity to participate in this rulemaking, and due consideration has been given to all matters presented. Comments received are discussed below.

Discussion of Comments

Eight commenters responded to the request for comments contained in Notice No. 96–6, the notice of availability of proposed AC 25.1435–1 and the corresponding JAA document NPA 25F–273 and AMJ 25.1435. Comments were received from foreign airplane manufacturers, foreign airworthiness authorities, and both foreign and domestic industry organizations. The majority of the commenters agree with the proposal and recommend its adoption. However, some commenters disagree with the proposal while providing alternative proposals that appear to merit further consideration by the ARAC. Therefore the FAA tasked the ARAC Hydraulic Systems Harmonization Working Group (HWG) by notice in the **Federal Register** (62 FR 38187, July 16, 1997) to consider the comments and provide recommendations for the disposition of the comments along with any recommendations for changes to the proposal. The disposition of the comments that follows is based on the agreement reached by the HWG. Several

of the comments address multiple issues and some of the issues were addressed by many commenters. As a result, the FAA responses to the comments are organized by individual comment under each proposal, *i.e.*, proposals 1 through 12.

Proposal 1, § 25.1435(a)(1). One commenter states that the structure of the punctuation in the first sentence appears to allow leakage under proof pressure, providing that such leakage does not prevent the element from performing its intended function. The proper intent should be to prohibit any leakage under proof pressure. The commenter suggests to revise the regulatory text of the first sentence as follows: "(1) Withstand the proof pressure without leakage and without permanent deformation that would prevent it from performing its intended function, and withstand the ultimate pressure without rupture." The FAA agrees that some clarification of the rule text is necessary. The FAA does not however agree with the commenter's suggested text because under proof pressure, some external seal leakage is allowed as long as the element's ability to perform its intended function remains unaffected once the design operating pressure (DOP) is restored. Accordingly, the final rule text of the first sentence and the associated advisory circular text have been revised to read:

Rule text: "(a) *Element design.* Each element of the hydraulic system must be designed to:

(1) Withstand the proof pressure without permanent deformation that would prevent it from performing its intended functions, and the ultimate pressure without rupture."

Advisory circular text: The following text has been added to Paragraph 4a(1)(d), Ref. § 25.1435(a)(1), of the AC: "At proof pressure, seal leakage not exceeding the allowed maximum in-service leak rate is permitted. Each element should be able to perform its intended function when the DOP is restored." For consistency, in Paragraph 4a(2), Ref. § 25.1435(a)(2), of the AC, the following text will be added: "At limit load, seal leakage not exceeding the allowed maximum in-service rate is permitted."

Another commenter recommends that consideration be given to address system "return pressures" in addition to the "design, proof, and ultimate pressures" in the table presented as part of § 25.1435(a)(1). The FAA did consider the return pressures but decided that since the factors specified in the table apply to both high/supply pressures and low/return pressures, it was unnecessary to specify two sets of factors.

A third commenter recommends that the advisory material should include guidance for determination of the DOP for elements in the low pressure side of the system. The FAA concurs and has added the following definition in the AC, Paragraph 4a(1)(b), Ref. § 25.1435(a)(1): "The DOP for low pressure elements (*e.g.*, return, case-drain, suction, reservoirs) is the maximum pressure expected to occur during normal user system operating modes. Included are transient pressures that may occur during separate or simultaneous operation of user systems such as slats, flaps, landing gears, thrust reversers, flight controls, and power transfer units. Short term transient pressures, commonly referred to as pressure spikes, that may occur during the selection and operation of user systems (e.g., those pressure transients due to the opening and closing of selector/control valves) may be excluded, provided the fatigue effect of such transients is addressed in accordance with Paragraph 4a(4) of this AC."

A fourth commenter proposes to replace the term DOP with the term "nominal pressure" claiming that this terminology was consistent with MIL-standards and the commenter's own country's practices where operating pressure of 3000 psi corresponds to the nominal pressure. The FAA notes that consideration was given by the working group to use the term "nominal pressure" but no agreement could be reached on its definition because the term "nominal" could involve tolerances, fluctuations, and other interpretations; the term "DOP" is more specific.

This commenter also proposes that the same safety factor be used for all elements, *i.e.*, not less than 1.5 for proof pressure and not less than 3.0 for burst pressure. The FAA does not agree. Existing U.S. and European industry standards/practices were used to arrive at these factors and to harmonize with current JAR 25, Appendix "J" (Appendix "K" effective May 27, 1994) requirements. The commenter's suggestion would simplify the requirements but does not reflect the acceptable industry standards.

For the above reasons, the proposed § 25.1435(a)(1) has been modified by deleting reference to "without leakage" and text added in the advisory circular regarding leakage and a definition of the DOP for elements in the low pressure side of the system.

Proposals 2 and 3, §§ 25.1435(a)(2), (3). One commenter states that in spite of the guidance material, there is still room for misunderstanding the meaning of structural loads in the context of hydraulic system elements. The commenter states that the intent is that the designer must consider those loads arising when the airplane responds to the relevant critical loading conditions of subpart C, in which case it would improve clarity to say so. Also, the strength analysis of hydraulic system elements must not stop at consideration of inertia, dynamic and aerodynamic loads, but must also include consideration of strains imposed by the deformation (bending, twist, etc.) of the structure to which the elements are attached. Furthermore, thermal stresses are likely to be important at the normal operating temperature of the hydraulic system. To address these factors, the commenter proposes the following amendment:

"§ 25.1435(a)(2)—Withstand, without deformation that would prevent it from performing its intended functions, the design operating pressure in combination with the loads and structural deflections arising from the critical limit loading conditions of subpart C. Where appropriate, thermal effects must also be taken into account.

§ 25.1435(a)(3)—Withstand, without rupture, the design operating pressure multiplied by a factor of 1.5, in combination with the ultimate loads and ultimate structural deflections arising from the critical loading conditions of subpart C. Where appropriate, thermal effects must also be taken into account."

The commenter also suggests that the third sentence of Paragraph 4a(2) of the proposed AC be modified to read: "The loading conditions to be considered include, but are not limited to flight and ground maneuvers, and gust and turbulence conditions. The loads arising in these conditions should be combined with the maximum hydraulic pressures, including dynamic transients, that could occur simultaneously. Where appropriate, thermal effects should also be accounted for in the strength justification."

The FAA has considered these comments. The commenter's suggested amendments to §§ 25.1435(a)(2) and (a)(3) are inherent in the regulations as stated in the original document and do not have to be itemized in the rule. Therefore, it was determined that it would be more appropriate that the texts for §§ 25.1435(a)(2) and (a)(3) should remain as proposed in the NPRM but that the associated advisory material should be improved, as suggested by the commenter, to more adequately reflect the intent of the proposed requirements.

The AC, Paragraph 4a(2), is therefore amended to read as follows:

"(2) (Ref. § 25.1435(a)(2)) Limit structural loads are defined in § 25.301(a). The loading conditions of Part 25, Subpart C to be considered include, but are not limited to flight and ground maneuvers, and gust and turbulence conditions. The loads arising in these conditions should be combined with the maximum hydraulic pressures, including transients, that could occur simultaneously. Where appropriate, thermal effects should also be accounted for in the strength justification. For hydraulic actuators equipped with hydraulic or mechanical locking features, such as flight control actuators and power steering actuators, the actuators and other loaded elements should be designed for the most severe combination of internal and external loads that may occur in use. For hydraulic actuators that are free to move with external loads, i.e., do not have locking features, the structural loads are the same as those produced by the hydraulic actuators. At limit load, seal leakage not exceeding the allowed maximum in-service leak rate is permitted." For consistency, the statement "Where appropriate, thermal effects should be accounted for in the strength justification" will also be added at the end of Paragraph 4a(3) of the AC.

The same commenter further adds "The final sentence in Paragraph 4a(3) of the proposed AC specifically allows operational/functional failure under (when subjected to) ultimate load conditions. However, the use of the word "under" in this context could give rise to confusion as to whether operational/functional failure is allowed "below" ultimate load. If so, this would be inconsistent with the safety objectives set by the structural requirements that prohibit failure at any load level up to and including ultimate. If a hydraulic component is essential for continued safe flight then it must not be allowed to fail, or lose operational functionality, at or below, ultimate load conditions. For example, the hydraulic system powering an elevator would be critical for recovery from the design maneuvering condition, and must not be allowed to fail below the ultimate loads associated with this condition. To improve clarity and remove confusion, the wording should be changed to state positively that operational/functional failure is not allowed at any load level up to and including ultimate." The FAA agrees with the commenter that no structural failure (rupture) may occur up to ultimate load. However, the commenter seems to be suggesting that operational/functional failures should not be allowed up to ultimate loads. The FAA disagrees. Section 25.1435(a)(3) of the regulation requires that elements of the hydraulic system not rupture (structural failure) up to ultimate loads. Section 25.1435(a)(2) requires operational/functional integrity only up to limit load. Paragraphs 4a(2) and (3) of the AC properly capture this relationship and no change is necessary.

Another commenter suggests that time limits for proof and burst pressure tests be included in the regulation, not just in the AC. The FAA does not agree. The recommended time limits in the proposed AC, paragraph 4(a)(1)(e), are an industry standard and one method, but not the only method, of demonstrating compliance and therefore not appropriate for inclusion in the regulation. The commenter also states that the definitions of pressures and/or pressures and times given in the proposed AC do not appear to match the current JAA criteria and wondered whether they had been fully harmonized. The FAA notes that the proposed pressures and times have been fully harmonized although they may differ from the current JAA criteria (Appendix J to JAR 25). The regulatory agencies have agreed to use the criteria proposed in the AC.

A third commenter states that the proposed advisory material for § 25.1435(a)(3) was simply rephrasing of the regulation and not a means of compliance as expected; a more detailed clarification in the AC of the methods of implementing this requirement was desirable. The FAA notes that the first statement in the AC references regulations relevant to the requirement, however the remainder is advisory and gives details of the methods of pass/fail of a test of the requirement but allows flexibility for the applicant to propose any method acceptable to the FAA.

In light of the above discussion, §§ 25.1435(a)(2) and (a)(3) are adopted as proposed with clarifying text added in the AC to account for thermal effects in strength justification and to allow some leakage at limit load.

Proposal 4, § 25.1435(a)(4). One commenter states that in order to provide sufficient safeguard against the possibility of a premature failure in the operational life of an airplane, it will be necessary to consider the effects of material fatigue variability on life. Conventionally, this would be done through application of an appropriate scatter factor to the result of the fatigue analysis or fatigue test (See JAR ACJ 25.571(a)(3)). To ensure that the effects of variability are properly taken into account in the interpretation of the fatigue analysis and test data required by this paragraph, the commenter proposed the following:

"§ 25.1435(a)(4)—Withstand, without failure, the fatigue effects of repeated loads of variable magnitude expected during its service life, including pressure cycles, pressure transients, externally induced loads, structural deformations and, where appropriate, thermal effects. Appropriate safe-life scatter factors must be applied."

The FAA understands the concerns expressed here, but does not agree with the linkage to § 25.571, which applies to safe-life components, e.g., landing gear, and not to hydraulic components. However, the intent of this comment is already addressed in AC Paragraph 4c(1), Ref. § 25.1435(c)(1).

The same commenter adds, "The term "cyclical loads" in Paragraph 4a(4) of the proposed AC, is usually associated with a periodic force. It would be better to use the term "load cycles." This paragraph would be an appropriate place to give guidance on the need to cover scatter in fatigue properties—JAR ACJ 25.571(a) has some relevant guidance material." The FAA agrees with the use of the term "load cycles" and the advisory text has been modified accordingly. The FAA does not agree that any advisory material is needed for scatter factors or the relevance to § 25.571, as discussed earlier.

Another commenter states that it is not understood how the current JAR 25.1435(a)(6) requirement—means of providing flexibility—comes into the new § 25.1435(a)(4) requirement. The FAA notes that it is not the new § 25.1435(a)(4) but rather the new § 25.1435(a)(5) that addresses the current JAR 25.1435(a)(6) requirement and NPRM Proposal 5 clearly stated that. The new § 25.1435(a)(5) addresses the environmental factors, including the vibrational & acceleration effects of the elemental installation as discussed in the associated advisory material. The commenter also suggested including in the advisory material, a recommendation for the scatter factor to be used when conducting the fatigue testing (for example 4.0 for non-critical parts, 6.0 for critical parts). The FAA notes that as stated in Paragraph 4c(1) of the AC, the manufacturer may select design factors identified in accepted manufacturing, national, military, or industry standards provided that it can be established that they are suitable for the intended application. It is not appropriate to give scatter factors since they are more suitable for safe life components, e.g., landing gear and not hydraulic system components.

This same commenter also wonders whether there should be an allowance for the fact that a component might be fitted on more than one airplane in its lifetime, and hence the fatigue cycles could well be considerably more than predicted for a part which is assumed to be on the airplane for its entire life; it would be very useful to have a consistent policy for this issue. The FAA notes that the requirements of §§ 25.671 and 25.1309 specify that the failure of no single element shall jeopardize the continued safe flight and landing of the airplane. Section 25.1435(a)(4) specifies the design requirements of the element and its failure consequences that should be understood and addressed by the designer. The existing requirements adequately cover the overall safety of an airplane at the time of certification and part 25 regulations are not intended to deal with parts tracking. Furthermore, reliability of hydraulic systems is based on redundancy of the design architecture rather than safe-life of components.

Yet another commenter suggests that Society of Automotive Engineers (SAE) document ARP 1383 "Impulse Testing of Hydraulic Actuators, Valves, Pressure Containers, and Similar Fluid System Components" be included as a reference in the AC. The FAA notes that ARP 4752 "Aerospace-Design and Installation of Commercial Transport Aircraft Hydraulic Systems" listed in the advisory circular in turn refers to ARP 1383. All of the relevant SAE documents are referenced in ARP 4752 and are too numerous to be individually listed in the AC.

For the reasons stated, § 25.1435(a)(4) is adopted as proposed.

Proposal 5, § 25.1435(a)(5). One commenter recommends that the advisory material state that thermal effects be particularly considered for accumulators which are isolated from the hydraulic system by non-return valves. The FAA notes that § 25.1435(a)(5) addresses the environmental factors that are to be considered when designing the element and that in the AC, temperature effects are specifically stated as one of the variables to be addressed. For the stated reasons, § 25.1435(a)(5) is adopted as proposed.

Proposal 6, § 25.1435(b)(1). One commenter expresses a concern that the requirements of (b)(1)(i) could be open for interpretation by different airworthiness authorities, particularly with respect to fluid level quantity indication. The commenter further states that there were occasions when the warning/indication philosophy that had been agreed to with one airworthiness authority had not been agreed to by other authorities and this therefore led to redesign and/or other additional costs. The FAA notes that the commenter's concern of eliminating differences in interpretations is the basic reason for harmonization effort. The intent of the harmonized rule is to specify what type of indication is required from the point of view of what the pilot can use, without specifying the design of the indication. Adoption of a harmonized rule and guidance material will enhance the likelihood of similar interpretations during the certification process. But neither the rule nor the guidance material can assure precision in interpretation and application absent detailed listings of acceptable methods for particular applications. Since the rule and guidance material are intended to establish performance based standards, useful for future applications and developments, as well as current certifications, it is impossible, and undesirable to provide the detail that would assure uniformity. The FAA has determined that the currently agreed upon language is as likely to produce uniform interpretations as any other language which can prudently be adopted.

Another commenter states that "moving from prescriptive to general indication requirements is considered to be sensible, but to be truly meaningful, the requirement should be stated more objectively. Section 25.1435(b)(1)(ii) is close to being an objective requirement but § 25.1435(b)(1)(i) is not. In fact it is not apparent what indication might be required by § 25.1435(b)(1)(i) that would not be required by § 25.1435(b)(1)(ii)." The FAA does not agree. Changing the existing requirement of JAR 25.1435(a)(2), which refers to the provision of indications of system pressure and fluid quantity, to § 25.1435(b)(1) which is less prescriptive in that it requires the provision of indications of only the appropriate parameters, establishes an objective statement of the requirement. The FAA has determined that, to ensure continued safe flight and landing, each hydraulic system that either (1) performs an essential function or (2) that requires corrective action by the flightcrew following a malfunction (irrespective of whether it performs an essential function), must be associated with the appropriate flight-crew indications. The associated AC clarifies that the "appropriate indications" are not limited other than that they should be appropriate. As discussed in the response to the preceding comment, the FAA believes the current language is as close to a performance based standard as is possible, while avoiding dictating design and allowing flexibility in future design development.

The second commenter also points out that "in Paragraph 4b of the proposed AC, the statement 'These requirements are unique to hydraulic systems' is questioned." The FAA agrees with the commenter. Accordingly, the first sentence "These requirements are unique to hydraulic systems, and may compliment § 25.1309" has been deleted and the second sentence has been modified to read "Design features that should be considered for elimination of undesirable conditions and effects are:"

The first commenter also points out that the NPRM cited this requirement as § 25.1435(a)(1) when it should have been § 25.1435(b)(1). The FAA concurs that the preamble of the proposed rule had a typographical error but not the proposed rule text.

For the stated reasons, § 25.1435(b)(1) is adopted as proposed with clarifying changes made in the AC text including deleting reference to § 25.1309.

Proposals 7, 8, and 9, §§ 25.1435(b)(2), (3), and (4). No comments were received. Sections 25.1435(b)(2), (3), and (4) are therefore adopted as proposed.

Proposal 10, § 25.1435(b)(5). One commenter states that the means to identify the hydraulic fluid may not always be practical—particularly for small components such as in line non-return valves. The FAA notes that the intent of the requirement is not that every component be so identified but rather that suitable placarding be provided as practical so that servicing of the hydraulic system(s) is done with the specified fluid. As pointed out by another commenter, typical/acceptable marking locations for the hydraulic fluid used are hydraulic actuators, refill points, reservoirs, and applicable servicing documents. The second commenter recommends specifying these typical locations in the AC. The FAA concurs and appropriate wording has been included in Paragraph 4b(5), Ref. § 25.1435(b)(5), of the AC.

A third commenter suggests that FAA consider clarifying the language in proposed § 25.1435(b)(5) to address the situation of fluid mixtures. The FAA infers that the commenter is referring to Paragraph 4b(5) of the AC which states: "If more than one approved fluid is specified, the term suitable hydraulic fluid is intended to include acceptable mixtures." The FAA notes that acceptable fluids and/or mixtures are those listed in the airplane

manufacturer's maintenance manuals as approved for that airplane model. These maintenance manual provisions, coupled with the proposed AC language, seem to provide adequate clarity. For the stated reasons, § 25.1435(b)(5) is adopted as proposed.

Proposal 11, § 25.1435(c). One commenter states that as written, this section continues the practice of including some means of compliance within the main code rather than in the advisory material. The commenter believes § 25.1309(d) currently contains the same anomaly, but understands that the decision has been taken in the § 25.1309 Working Group to rectify this by moving § 25.1309(d) into the advisory material. The commenter recommends that the same thing could be done here. The FAA partially accepts this comment, and is amending the opening paragraph by deleting the words "To demonstrate compliance with § 25.1435 and support compliance with § 25.1309," The paragraph would commence "Tests must be conducted . . . ." and would otherwise remain unchanged from the original proposal. Except for qualifying statements that bring immediate clarification to the primary regulatory statements, the remainder of the paragraph is considered regulatory and not advisory. Section 25.1435(c) has been revised accordingly.

Proposal 11, §§ 25.1435(c)(1) and (c)(2). One commenter states "Although it is considered that an endurance test of a complete airplane hydraulic system is a very useful test, there are circumstances where a full endurance test is an expensive exercise with no benefit to the integrity and safety of the airplane. Particular examples of this are: (1) the airplane hydraulic system is substantially based on an existing, well proven in-service airplane, and (2) the number and/or nature of services which are powered hydraulically are such that the loss of the system has no significant effect on the airworthiness of the airplane."

The FAA concurs with the commenter in that testing may not always be necessary and notes that the proposed requirement test criteria already include the provision "except that analysis may be used in place of or to supplement testing, where the analysis is shown to be reliable and appropriate." The type and extent of testing guidance covered in AC adequately address commenter's concern. In addition, full system testing is not required; subsystem or element testing is allowed. The commenter further states:

"It should be noted that American engineers quite often think of endurance as fatigue testing. It is therefore recommended that 'pressure impulse' be added after fatigue in this section." The FAA notes that Paragraph 4c(1) of the AC adequately defines these terms (for all engineers) and the associated testing. For the stated reasons, §§ 25.1435(c)(1), and (c)(2) are adopted as proposed.

Proposal 12, § 25.1435(c)(3). One commenter states: "It is proposed that this requirement be dispensed with. This is because (1) in the course of an airplane production run, the hydraulic system can undergo many modifications (including the introduction of a cargo door system) which affect the system installation. Yet, it is the norm that this is a once only test which is conducted on an early production airplane during the certification test program, and (2) each airplane should be inspected with respect to clearances with the hydraulic system unpressurized and then pressurized. It is doubtful whether there will be any significant movement of the piping, hoses, components, etc. as a result of increasing the pressure by 25%."

The FAA notes that this test is conducted only once per installation. However, the FAA requires that any significant modification(s) such as introduction of a cargo door system, a ram air turbine (RAT), or a tail-skid system be assessed along with any associated/affected system(s) to meet this requirement. There are several recent examples of such modifications that will require additional testing. Such testing may also be supplemented by analysis if appropriate.

Regarding the commenter's statement (2) about insignificant movement of the piping etc., when pressurized at 25% above nominal, the FAA concurs and notes that both the proposed and the final rule states that instead a full range-of-motion, testing be conducted at just below the system relief pressure setting. The commenter goes on to state "There are some reservations with the new test proposal, as follows:

(1) The requirement to check clearances may not be easily achieved for those parts of the system which are actuated, for example, landing gear, flight controls.

(2) As the system is pressurized to a higher value, there may be concerns about safety, particularly as the services may operate quicker.

(3) The validity of the test results could be queried as the flight control actuators are unloaded."

The FAA notes that: (1) Paragraph 4c(3) of the AC adequately addresses this concern by stating: "it may be permissible that certain components of the system need not be tested if it can be shown that they do not constitute a significant part of the system with respect to the evaluation of adequate clearances or detrimental effects."

(2) The system(s) relief valve(s) protect against over-pressurization. Standard safety precautions on the factory floor while the testing is being conducted must be practiced. There are no appreciable differences from full functional test(s) conducted by the manufacturer.

(3) The intent is not to check/verify structural deflections or motion of surfaces for flight controls. Loading is not anticipated to cause surface deflections.

Lastly, the commenter states: "With respect to the low pressure side of the hydraulic system, it is proposed that the tests be conducted with a dummy return filter element installed, thereby forcing all the fluid through the return filter bypass. This meets the same criteria as for increasing the system pressure to 125%, that is increasing the pressure levels to that which could conceivably occur in service."

The FAA notes that the commenter's scenario may be applicable to some of the hydraulic system architectures (layouts), but not all. It is the FAA's policy to allow flexibility for the applicant to propose a method of compliance which is acceptable to the cognizant certification office. Specifying the proposed dummy filter installation may be misinterpreted by an applicant as too restrictive. The commenter's suggested method is one means but not the only means of demonstrating compliance.

In light of the discussion above and the explanations already provided in the AC, § 25.1435(c)(3) is adopted as proposed.

General: One commenter states: "It is considered that the harmonization of the § /JAR 25.1435 has produced a good set of airworthiness requirements. However, there is still a concern that there are areas within the new requirements, which could be subject to interpretation by airworthiness surveyors. It is recommended that the FAA/JAA review the advisory material and ensure that there are no areas where misinterpretation can occur. The reason for this comment is not to direct concern at the professionalism of the JAA and FAA, but rather there is a concern that other national authorities could read in additional requirements where none were intended." The HWG together reviewed and developed these regulations and the associated advisory material. Both the regulations and the advisory material are fully harmonized. A considerable amount of time was spent discussing the very issues and concerns raised by the commenter to arrive at the final rule and the AC. As discussed previously in addressing the comment on Proposal 6, the FAA believes that these rules are as likely to produce uniform interpretations as any other language which can be prudently adopted.

Another commenter points out that the word "must" in Paragraphs 4a(1), a(2), and a(4) of the AC, and the word "shall" in Paragraph 4a(3) of the AC should be replaced by "should." The FAA agrees and the text in the AC has been revised. The commenter adds that in Paragraph 4a(1), third paragraph, reference to "structural loads" should be replaced by "external loads." The FAA does not agree since reference to structural loads is appropriate as used in §§ 25.301 and 25.1435(a)(1).

With the exception of the changes noted in §§ 25.1435(a)(1) and (c) this final rule is adopted as proposed in Notice 96–6.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C, 3507(d)), there are no requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that its economic impact is minimal. Since its costs and benefits do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory impact analysis." Similarly, we have not prepared a "regulatory evaluation," which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

Economic Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

In conducting these analyses, the FAA has determined this rule: (1) has benefits which do justify its costs, is not a "significant regulatory action" as defined in the Executive Order and is "not significant" as defined in DOT's Regulatory Policies and Procedures; (2) will not have a significant impact on a substantial number of small entities; (3) reduces barriers to international trade; and (4) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector of 100 million or more in any one year. These analyses, available in the docket, are summarized below.

Economic Evaluation

Manufacturers contacted by the FAA (in its preparation of the economic evaluation for the NPRM), estimated that three of the revisions to § 25.1435 (corresponding to proposals 1, 4, and 12) would impose additional costs—revision 1 (regarding design load factors for proof and ultimate pressure conditions), 4 (regarding induced loads, pressure transients, and fatigue), and 12 (regarding functional testing of the complete hydraulic system). However, based on new information from the same manufacturers related to their experiences with recent type certifications, the FAA has determined that none of the provisions will impose incremental costs. The rule changes codify current industry practice and or conform § 25.1435 to corresponding sections of the JAR. Adoption of the rule changes increases harmonization and commonality between American and European airworthiness standards. Harmonizing airworthiness standards reduces manufacturers' certification costs for testing, report preparation, certification-related travel abroad, etc. One manufacturer of part 25 large airplanes estimates that such cost savings could range between $65,000 and $650,000 per type certification (pertaining to hydraulic systems' requirements as discussed in this rulemaking). Since this estimate has such a wide range and represents only one manufacturer, the FAA used the midpoint of approximately $360,000 for a conservative estimate of harmonization cost savings for a part 25 large airplane type certification. A manufacturer of part 25 small airplanes estimates such savings at $65,000 per type certification. The FAA believes these industry-provided numbers are reasonable estimates of potential harmonization cost savings. Potential safety benefits resulting from specification of minimum accepted standards will supplement these cost savings. Thus, with the described benefits and no associated incremental costs, the FAA finds the rule cost-beneficial. (Note: All estimates in this analysis are expressed in 1999 dollars).

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (the Act) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a "significant economic impact on a substantial number of small entities." If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The rule will affect manufacturers of transport category airplanes produced under future new airplane type certifications. For manufacturers, a small entity is one with 1,500 or fewer employees. Since no part 25 airplane manufacturer has 1,500 or fewer employees, and, in addition, the rule imposes no incremental costs, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small manufacturers.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this final rule and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to the extent permitted by law, to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a significant regulatory action.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this final rule applies to the certification of future designs of transport category airplanes and their subsequent operation, it could affect intrastate aviation in Alaska. The Administrator has considered the extent to which Alaska is not served by transportation modes other than aviation, and how the final rule could have been applied differently to intrastate operations in Alaska. However, the Administrator has determined that airplanes operated solely in Alaska would present the same safety concerns as all other affected airplanes; therefore, it would be inappropriate to establish a regulatory distinction for the intrastate operation of affected airplanes in Alaska.

Environmental Analysis

Federal Aviation Administration Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this amendment qualifies for a categorical exclusion.

Energy Impact

The energy impact of the amendment has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 25 of Title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS—TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

2. Section 25.1435 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 25.1435 Hydraulic systems.

(a) *Element design.* Each element of the hydraulic system must be designed to:

(1) Withstand the proof pressure without permanent deformation that would prevent it from performing its intended functions, and the ultimate pressure without rupture. The proof and ultimate pressures are defined in terms of the design operating pressure (DOP) as follows:

Element	Proof (xDOP)	Ultimate (xDOP)
1. Tubes and fittings.	1.5	3.0
2. Pressure vessels containing gas:		
High pressure (e.g., accumulators)	3.0	4.0
Low pressure (e.g., reservoirs)	1.5	3.0
3. Hoses	2.0	4.0
4. All other elements	1.5	2.0

(2) Withstand, without deformation that would prevent it from performing its intended function, the design operating pressure in combination with limit structural loads that may be imposed;

(3) Withstand, without rupture, the design operating pressure multiplied by a factor of 1.5 in combination with ultimate structural load that can reasonably occur simultaneously;

(4) Withstand the fatigue effects of all cyclic pressures, including transients, and associated externally induced loads, taking into account the consequences of element failure; and

(5) Perform as intended under all environmental conditions for which the airplane is certificated.

(b) *System design.* Each hydraulic system must:

(1) Have means located at a flightcrew station to indicate appropriate system parameters, if

(i) It performs a function necessary for continued safe flight and landing; or

(ii) In the event of hydraulic system malfunction, corrective action by the crew to ensure continued safe flight and landing is necessary;

(2) Have means to ensure that system pressures, including transient pressures and pressures from fluid volumetric changes in elements that are likely to remain closed long enough for such changes to occur, are within the design capabilities of each element, such that they meet the requirements defined in § 25.1435(a)(1) through (a)(5);

(3) Have means to minimize the release of harmful or hazardous concentrations of hydraulic fluid or vapors into the crew and passenger compartments during flight;

(4) Meet the applicable requirements of §§ 25.863, 25.1183, 25.1185, and 25.1189 if a flammable hydraulic fluid is used; and

(5) Be designed to use any suitable hydraulic fluid specified by the airplane manufacturer, which must be identified by appropriate markings as required by § 25.1541.

(c) *Tests.* Tests must be conducted on the hydraulic system(s), and/or subsystem(s) and elements, except that analysis may be used in place of or to supplement testing, where the analysis is shown to be reliable and appropriate. All internal and external influences must be taken into account to an extent necessary to evaluate their effects, and to assure reliable system and element functioning and integration. Failure or unacceptable deficiency of an element or system must be corrected and be sufficiently retested, where necessary.

(1) The system(s), subsystem(s), or element(s) must be subjected to performance, fatigue, and endurance tests representative of airplane ground and flight operations.

(2) The complete system must be tested to determine proper functional performance and relation to the other systems, including simulation of relevant failure conditions, and to support or validate element design.

(3) The complete hydraulic system(s) must be functionally tested on the airplane in normal operation over the range of motion of all associated user systems. The test must be conducted at the system relief pressure or 1.25 times the DOP if a system pressure relief device is not part of the system design. Clearances between hydraulic system elements and other systems or structural elements must remain adequate and there must be no detrimental effects.

Issued in Renton, Washington, on May 9, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 01–12232 Filed 5–15–01; 8:45 am]

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Federal Register

Wednesday,
May 16, 2001

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1 and Parts 2, et al.
Federal Acquisition Circular 97–26; Introduction; Final Rule
Federal Acquisition Regulations; Interim Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 97–26; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 97–26. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at http://www.arnet.gov/far.

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 97–26 and specific FAR case number(s). Interested parties may also visit our website at http://www.arnet.gov/far.

Item	Subject	FAR case	Analyst
I	Electronic Commerce in Federal Procurement	1997–304	Moss.
II	Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.	2001–016	Nelson.
III	Executive Order 13204, Revocation of Executive Order On Nondisplacement of Qualified Workers Under Certain Contracts.	2001–017	Klein.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

Federal Acquisition Circular 97–26 amends the FAR as specified below:

Item I—Electronic Commerce in Federal Procurement (FAR Case 1997–304)

This interim rule amends the FAR to (a) further implement section 850 of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85 (section 850) and (b) implement section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398, section 810). Section 850 calls for the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems. This includes the designation in the FAR of a single point of universal electronic public access to Governmentwide procurement opportunities (the "Governmentwide Point of Entry" or "GPE"). Section 810 allows agencies to provide access to notices through the GPE, as designated in the FAR, instead of publishing them via the Commerce Business Daily (CBD).

This rule designates Federal Business Opportunities ("FedBizOpps") as the GPE. Agencies have until October 1, 2001, to complete their transition to, or integration with, FedBizOpps. By that date, all agencies must use FedBizOpps to provide access to public notices of procurement actions over $25,000 that are currently required to be published in the CBD along with associated solicitations and amendments. In addition, agencies will not be required to provide notice in the CBD as of January 1, 2002, since access to this information will be provided via the Internet through FedBizOpps.

Item II—Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects (FAR Case 2001–016)

This interim rule amends the FAR to provide language in Part 36 and revises Subparts 17.6 and 22.1 to add cross-references to Part 36. The Executive order provides that agencies may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permits agency heads to exempt a project from the requirements of the Executive order under special circumstances but the exemption may not be related to the possibility of, or an actual labor dispute.

Item III—Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts (FAR Case 2001–017)

This interim rule amends the FAR to remove Subpart 22.12, Nondisplacement of Qualified Workers Under Certain Contracts. Executive Order 12933, Nondisplacement of Qualified Workers Under Certain Contracts (October 20, 1994), required that building service contracts for public buildings include a clause requiring the contractor under a contract that succeeds a contract for performance of similar services at the same public building to offer certain employees under the predecessor contract, a right of first refusal to employment under the new contract. E.O. 12933 was implemented in the FAR in Subpart 22.12.

On February 17, 2001, President George W. Bush signed E.O. 13204 rescinding E.O. 12933 and calling for the prompt recession of any orders, rules, regulations, guidelines, or policies implementing or enforcing E.O. 12933, to the extent consistent with law. Contracting officers should not take any action on any complaint filed under former FAR Subpart 22.12.

Effective March 23, 2001, the Department of Labor rescinded its rule implementing E.O. 12933 (66 FR 16126, March 23, 2001).

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97–26 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

All Federal Acquisition Regulation (FAR) changes and other directive material contained in FAC 97–26 are effective May 16, 2001.

Dated: April 25, 2001.

Deidre A. Lee,

Director, Defense Procurement.

Dated: April 12, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: April 13, 2001.

James A. Balinskas,

Acting Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 01–12243 Filed 5–15–01; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36

[FAC 97–26; FAR Case 1997–304; Item I]

RIN 9000–AI10

Federal Acquisition Regulation; Electronic Commerce in Federal Procurement

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to further implement section 850 of the National Defense Authorization Act for Fiscal Year 1998; and implement section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Section 850 calls for the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems. This includes the designation in the FAR of a single point of universal electronic public access to Governmentwide procurement opportunities (the "Governmentwide Point of Entry" or "GPE"). Section 810 allows agencies to provide access to notices through the GPE, as designated in the FAR, instead of publishing them via the Commerce Business Daily (CBD).

This rule designates Federal Business Opportunities ("FedBizOpps") as the GPE. Agencies have until October 1, 2001, to complete their transition to, or integration with, FedBizOpps. By that date, all agencies must use FedBizOpps to provide access to public notices of procurement actions over $25,000 that are currently required to be published in the CBD along with associated solicitations and amendments. In addition, agencies will not be required to provide notice in the CBD as of January 1, 2002, since access to this information will be provided on the Internet through FedBizOpps.

DATES: *Effective Date:* May 16, 2001.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before July 16, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.1997–304@gsa.gov

Please submit comments only and cite FAC 97–26, FAR case 1997–304 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–26, FAR case 1997–304.

SUPPLEMENTARY INFORMATION:

A. Background

1. The First Interim Rule

An interim rule was published in the **Federal Register** at 63 FR 58590, October 30, 1998, amending FAR Subpart 4.5 and making associated changes to FAR Parts 2, 5, 13, 14, and 32 to implement Section 850. Section 850 amended Titles 10, 15, 40, and 41 of the United States Code to eliminate the statutory preference for the Federal Acquisition Computer Network (FACNET) computer architecture in conducting transactions electronically. Towards this end, the first interim rule revised the FAR to—

- Promote the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems; and
- Require Federal procurement systems that employ electronic commerce to apply nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information.

The Councils received and considered public comments from 28 respondents that were used in the development of this second interim rule.

2. The Proposed Rule—Designation of FedBizOpps

Section 850 calls for "any notice of agency requirements or agency solicitation for contract opportunities" to be provided in a form that allows "convenient and universal user access through a single, Government-wide point of entry." Subsequent to the consideration of public comments on the first interim rule, the Office of Federal Procurement Policy (OFPP) recommended that FedBizOpps (http://www.fedbizopps.gov) be designated as the GPE. The Councils published a proposed rule in the **Federal Register** at 65 FR 50872, August 21, 2000, to solicit public comments on the implementation of OFPP's recommendation. The preamble to the proposed rule describes the Government's objectives in designating a GPE (*i.e.*, to create a central point for electronic access to business opportunities, to follow the commercial lead, and to facilitate re-engineering for sellers and buyers) and how FedBizOpps meets these objectives.

The Councils received and considered public comments from 22 respondents. OFPP also reviewed the comments on the proposed designation and continues to believe that FedBizOpps can most effectively meet the Government's objectives, including improved and enhanced access to information for businesses small and large. Among other things, GSA and the agencies using FedBizOpps have sought to shape FedBizOpps to take advantage of electronic tools that have widespread commercial acceptance and interface with sellers' electronic tools, and can adapt to new tools as they gain commercial acceptance. FedBizOpps allows sellers and service providers to access and download information through different commercial electronic means and business applications, including web-based technology, bulk data feed, and push technology through electronic mail (e-mail). This ability to accommodate various business techniques means that sellers can choose the means they find more suitable (*i.e.*, direct or service-provider

enhanced) for gaining access to Federal business opportunities.

Some comments have urged greater reliance on the private sector in providing access. The Government has a strong interest in ensuring potential sources have reliable electronic access to notices of open market contracting opportunities. For this reason, until more standardized processes evolve to ensure more reliable and accurate searches, it is appropriate for the Government to ensure access by managing the technological architecture for doing so. In the future, it may be possible for the Government to rely on sellers' use of commercial tools to identify Government business opportunities without the Government having to manage a technological architecture.

3. This Second Interim Rule

Public comments received in response to first interim rule and the proposed rule were considered in drafting this second interim rule. This rule designates FedBizOpps as the GPE. Agencies must make notices of contracting opportunities that meet the criteria in FAR 5.101 and 5.201 accessible via FedBizOpps. In addition, the rule—

- Adds place of contract performance and set-aside status to the required notice content;
- Requires agencies to make accessible through FedBizOpps other notices that are currently published in the CBD, such as presolicitation notices and award notices supporting subcontracting opportunities;
- Requires agencies to make accessible via FedBizOpps most solicitations and amendments associated with business opportunities listed on the FedBizOpps website;
- Permits contractors to publicize subcontracting opportunities with the intent of supporting achievement of subcontracting goals; and
- Permits agencies to make accessible via FedBizOpps information that allows potential offerors to better understand how they can meet the Government's needs.

Agencies must provide access to all applicable actions through FedBizOpps by October 1, 2001. This phase-in period is designed to better enable agencies to achieve a smooth transition to FedBizOpps.

This second interim rule also implements section 810, which was enacted after publication of the proposed rule. Public comment is specifically sought on this rule's implementation of section 810.

Section 810 amends section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)). As amended, these provisions allow agencies to provide access to their notices of solicitation either by transmitting them to the GPE designated in the FAR or by publishing them in the Commerce Business Daily (CBD) rather than mandating notice through the CBD as had previously been required.

This rule establishes FedBizOpps (the designated GPE) as the principal venue for procurement notices. As noted above, agencies must begin transmitting notices to FedBizOpps no later than October 1, 2001. Until January 1, 2002, agencies must also direct FedBizOpps to forward the information to the CBD, using the current format prescribed for the electronic version of CBD, Commerce Business Daily Network (CBDNet). The duplication of notices transmitted to FedBizOpps in the CBD through the end of calendar year 2001 will provide additional time for vendors to become acclimated to FedBizOpps as the GPE. On and after January 1, 2002, agencies will no longer be required to provide duplicate notice in the CBD and instead may rely exclusively on the mandatory notice in FedBizOpps to provide the required access.

Since public comments received in response to the first interim rule and the proposed rule have already been addressed, comments on the issues unique to this second interim rule are especially requested.

This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the interim rule establishes FedBizOpps as the single GPE for all large and small business entities accessing notices of proposed contract actions, solicitations, and related procurement information. We have prepared an Initial Regulatory Flexibility Analysis. The analysis is summarized as follows:

The interim rule further implements section 850 of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85 and section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106–398. Section 850 amends Titles 10, 15, 40, and 41 of the United States Code to eliminate the preference for electronic commerce within Federal agencies to be conducted on the Federal Acquisition Computer Network (FACNET) computer architecture. Section 810 amends 41 U.S.C. 416 and 15 U.S.C. 637 to allow solicitation notices to be published via a single point of entry on the Internet designated in the FAR or via the Commerce Business Daily.

The objectives of the rule are (1) to designate a single point of entry on the Internet, http://www.fedbizopps.gov, where agencies will be required (as of October 1, 2001), to provide convenient and universal public access to information on their procurement opportunities, and (2) to permit electronic access to notices of solicitation through the single point of entry as a substitute for the currently required paper publication in the CBD beginning on January 1, 2002

The interim rule will apply to all large and small entities that do business or are planning to do business with the Government. FedBizOpps is designed to be sufficiently versatile to allow sellers and service providers to access and download information through different commercial electronic means, including web-based technology, bulk data feeds, and electronic mail. This versatility will enable the more than 47,340 small and 29,200 large businesses to have easy access to Government business opportunities.

The rule imposes no reporting, recordkeeping, or other compliance requirements. Basic skill in operating a personal computer with access to the Internet is required to access the GPE website. The estimated purchase cost of a personal computer, modem, software, telephone lines, and Internet access is $1,600. The benefit of increased access to Federal contracting opportunities should far outweigh these additional costs.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no practical alternatives that will accomplish the objectives of this rule.

The FAR Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–26, FAR case 1997–304), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

The public has previously been given an opportunity to comment on the proposed designation of FedBizOpps as the Governmentwide point of entry (GPE). A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate the remainder of this interim rule (*i.e.*, the ending on January 1, 2002, of the mandatory forwarding of notices through the GPE to the Commerce Business Daily (CBD)) without prior opportunity for public comment. Permitting electronic notice of business opportunities through the designated GPE as a substitute for the currently required paper publication in the CBD is key to agencies' ability to realize the efficiencies in electronic processes that justify agency investments in these processes. This action is, therefore, necessary to reinforce agency commitment to the use of electronic processes that provide enhanced, user friendly vendor access to Federal business opportunities. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36

Government procurement.

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36 as set forth below:

1. The authority citation for 48 CFR parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by adding, in alphabetical order, the definition "Commerce Business Daily (CBD)"; revising the definition "Federal Acquisition Computer Network (FACNET) Architecture"; and adding the definition "Governmentwide point of entry (GPE)" to read as follows:

2.101 Definitions.

* * * * *

Commerce Business Daily (CBD) means the publication of the Secretary of Commerce used to fulfill statutory requirements to publish certain public notices in paper form.

* * * * *

Federal Acquisition Computer Network (FACNET) Architecture is a Government system that provides user access, employs nationally and internationally recognized data formats, and allows the electronic data interchange of acquisition information between the private sector and the Federal Government.

* * * * *

Governmentwide point of entry (GPE) means the single point where Government business opportunities greater than $25,000, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public. The GPE is located at http://www.fedbizopps.gov.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

4.502 [Amended]

3.–4. Amend section 4.502 in paragraph (b)(4) by adding the word "single" after the word "a" the first time it is used; and by removing "single," which precedes "Governmentwide".

5. Amend section 4.803 by revising paragraph (a)(4) to read as follows:

4.803 Contents of contract files.

* * * * *

(a) * * *

(4) Synopsis of proposed acquisition as required by part 5 or a reference to the synopsis.

* * * * *

PART 5—PUBLICIZING CONTRACT ACTIONS

6. Add section 5.003 to read as follows:

5.003 Governmentwide point of entry.

For any requirement in the FAR to publish a notice, the contracting officer may transmit the notice to the Commerce Business Daily (CBD) if the contracting office lacks the capability to access the Governmentwide point of entry (GPE) and the notice is issued prior to October 1, 2001. Effective October 1, 2001, the contracting officer must transmit all notices to the GPE.

7. Amend section 5.101 by removing the introductory paragraph and revising paragraph (a) to read as follows:

5.101 Methods of disseminating information.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), contracting officers must disseminate information on proposed contract actions as follows:

(1) For proposed contract actions expected to exceed $25,000, by synopsizing in the GPE (see 5.201), unless covered by 5.003.

(2) For proposed contract actions expected to exceed $10,000, but not expected to exceed $25,000, by displaying in a public place, or by any appropriate electronic means, an unclassified notice of the solicitation or a copy of the solicitation satisfying the requirements of 5.207(d) and (g). The notice must include a statement that all responsible sources may submit a response which, if timely received, must be considered by the agency. The information must be posted not later than the date the solicitation is issued, and must remain posted for at least 10 days or until after quotations have been opened, whichever is later.

(i) If solicitations are posted instead of a notice, the contracting officer may employ various methods of satisfying the requirements of 5.207(d) and (g). For example, the contracting officer may meet the requirements of 5.207(d) and (g) by stamping the solicitation, by a cover sheet to the solicitation, or by placing a general statement in the display room.

(ii) The contracting officer need not comply with the display requirements of this section when the exemptions at 5.202(a)(1), (a)(4) through (a)(9), or (a)(11) apply, when oral or Federal Acquisition Computer Network (FACNET) solicitations are used, or when providing access to a notice of proposed contract action and solicitation through the GPE and the notice permits the public to respond to the solicitation electronically.

(iii) Contracting officers may use electronic posting of requirements in a place accessible by the general public at the Government installation to satisfy the public display requirement. Contracting offices using electronic systems for public posting that are not accessible outside the installation must periodically publicize the methods for accessing the information.

* * * * *

8. Revise section 5.102 to read as follows:

5.102 Availability of solicitations.

(a)(1) Except as provided in paragraph (a)(4) of this section, the contracting

officer must make available through the GPE solicitations synopsized through the GPE, including specifications and other pertinent information determined necessary by the contracting officer. Transmissions to the GPE must be in accordance with the interface description available via the Internet at http://www.fedbizopps.gov.

(2) The contracting officer is encouraged, when practicable and cost-effective, to make accessible through the GPE additional information related to a solicitation.

(3) The contracting officer must ensure that solicitations transmitted to FACNET are forwarded to the GPE to satisfy the requirements of paragraph (a)(1) of this section.

(4) The contracting officer need not make a solicitation available through the GPE when—

(i) Disclosure would compromise the national security (*e.g.*, would result in disclosure of classified information) or create other security risks. The fact that access to classified matter may be necessary to submit a proposal or perform the contract does not, in itself, justify use of this exception;

(ii) The nature of the file (*e.g.*, size, format) does not make it cost-effective or practicable for contracting officers to provide access through the GPE;

(iii) The agency's senior procurement executive makes a written determination that access through the GPE is not in the Government's interest; or

(iv) The contracting office lacks the capability to access the GPE and the synopsis is issued prior to October 1, 2001.

(b) When the contracting officer does not make a solicitation available through the GPE pursuant to paragraph (a)(4) of this section, the contracting officer—

(1) Should employ other electronic means (*e.g.*, CD–ROM or electronic mail) whenever practicable and cost-effective. When solicitations are provided electronically on physical media (*e.g.*, disks) or in paper form, the contracting officer must—

(i) Maintain a reasonable number of copies of solicitations, including specifications and other pertinent information determined necessary by the contracting officer (upon request, potential sources not initially solicited should be mailed or provided copies of solicitations, if available);

(ii) Provide copies on a "first-come-first-served" basis, for pickup at the contracting office, to publishers, trade associations, information services, and other members of the public having a legitimate interest (for construction, see 36.211); and

(iii) Retain a copy of the solicitation and other documents for review by and duplication for those requesting copies after the initial number of copies is exhausted; and

(2) May require payment of a fee, not exceeding the actual cost of duplication, for a copy of the solicitation document.

(c) In addition to the methods of disseminating proposed contract information in 5.101(a) and (b), provide, upon request to small business concerns, as required by 15 U.S.C. 637(b)—

(1) A copy of the solicitation and specifications. In the case of solicitations disseminated by electronic data interchange, solicitations may be furnished directly to the electronic address of the small business concern;

(2) The name and telephone number of an employee of the contracting office who will answer questions on the solicitation; and

(3) Adequate citations to each applicable major Federal law or agency rule with which small business concerns must comply in performing the contract.

(d) When electronic commerce (see subpart 4.5) is used in the solicitation process, availability of the solicitation may be limited to the electronic medium.

(e) Provide copies of a solicitation issued under other than full and open competition to firms requesting copies that were not initially solicited, but only after advising the requester of the determination to limit the solicitation to a specified firm or firms as authorized under part 6.

(f) This section 5.102 applies to classified contracts to the extent consistent with agency security requirements (see 5.202(a)(1)).

9. Revise section 5.201 to read as follows:

5.201 General.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), agencies must make notices of proposed contract actions available as specified in paragraph (b) of this section.

(b)(1) For acquisitions of supplies and services, other than those covered by the exceptions in 5.202 and the special situations in 5.205, the contracting officer must transmit a notice to the GPE, for each proposed—

(i) Contract action meeting the threshold in 5.101(a)(1);

(ii) Modification to an existing contract for additional supplies or services that meets the threshold in 5.101(a)(1); or

(iii) Contract action in any amount when advantageous to the Government.

(2) When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

(3) When transmitting notices to FACNET, contracting officers must ensure the notice is forwarded to the GPE. For notices published before January 1, 2002, contracting officers must ensure that the notices are forwarded by the GPE to the CBD.

(c) The primary purposes of the notice are to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities.

(d)(1) The GPE may be accessed via the Internet at http://www.fedbizopps.gov.

(2) Subscriptions to the CBD must be placed with the Superintendent of Documents, Government Printing Office, Washington, DC 20402, Telephone (202) 512–1800.

10. Amend section 5.202 by revising paragraph (a)(13)(ii) to read as follows:

5.202 Exceptions.

* * * * *

(a) * * *

(13) * * *

(ii) Will be made through a means that provides access to the notice of proposed contract action through the GPE; and

* * * * *

11. Amend section 5.203 by revising the introductory text, paragraphs (a), (b), (e), the first sentence of paragraph (g), and paragraph (h) to read as follows:

5.203 Publicizing and response time.

Whenever agencies are required to publicize notice of proposed contract actions under 5.201, they must proceed as follows:

(a) An agency must transmit a notice of proposed contract action to the GPE (see 5.201). All publicizing and response times are calculated based on the date of publication. For notices published before January 1, 2002, the publication date is the date the notice is published in the CBD. For notices published on or after January 1, 2002, the publication date is the date the notice appears on the GPE. The notice must be published at least 15 days before issuance of a solicitation except that, for acquisitions of commercial items, the contracting officer may—

(1) Establish a shorter period for issuance of the solicitation; or

(2) Use the combined synopsis and solicitation procedure (see 12.603).

(b) The contracting officer must establish a solicitation response time that will afford potential offerors a reasonable opportunity to respond to each proposed contract action, (including actions via FACNET or for which the notice of proposed contract action and solicitation information is accessible through the GPE), in an amount estimated to be greater than $25,000, but not greater than the simplified acquisition threshold; or each contract action for the acquisition of commercial items in an amount estimated to be greater than $25,000. The contracting officer should consider the circumstances of the individual acquisition, such as the complexity, commerciality, availability, and urgency, when establishing the solicitation response time.

* * * * *

(e) Agencies must allow at least a 45-day response time for receipt of bids or proposals from the date of publication of the notice required in 5.201 for proposed contract actions categorized as research and development if the proposed contract action is expected to exceed the simplified acquisition threshold.

* * * * *

(g) Contracting officers may, unless they have evidence to the contrary, presume that notice has been published 10 days (6 days if electronically transmitted through the GPE or other means) following transmittal of the synopsis to the CBD.

* * * * *

(h) In addition to other requirements set forth in this section, for acquisitions subject to NAFTA or the Trade Agreements Act (see subpart 25.4), the period of time between publication of the synopsis notice and receipt of offers must be no less than 40 days. However, if the acquisition falls within a general category identified in an annual forecast, the availability of which is published, the contracting officer may reduce this time period to as few as 10 days.

12. Revise section 5.204 to read as follows:

5.204 Presolicitation notices.

Contracting officers must provide access to presolicitation notices through the GPE (see 15.201 and 36.213–2). The contracting officer must synopsize a proposed contract action before issuing any resulting solicitation (see 5.201 and 5.203).

13. Revise section 5.205 to read as follows:

5.205 Special situations.

(a) *Research and development (R&D) advance notices.* Contracting officers may transmit to the GPE advance notices of their interest in potential R&D programs whenever market research does not produce a sufficient number of concerns to obtain adequate competition. Advance notices must not be used where security considerations prohibit such publication. Advance notices will enable potential sources to learn of R&D programs and provide these sources with an opportunity to submit information which will permit evaluation of their capabilities. Potential sources which respond to advance notices must be added to the appropriate solicitation mailing list for subsequent solicitation. Advance notices must be entitled "Research and Development Sources Sought," cite the appropriate Numbered Note, and include the name and telephone number of the contracting officer or other contracting activity official from whom technical details of the project can be obtained. This will enable sources to submit information for evaluation of their R&D capabilities. Contracting officers must synopsize (see 5.201) all subsequent solicitations for R&D contracts, including those resulting from a previously synopsized advance notice, unless one of the exceptions in 5.202 applies.

(b) *Federally Funded Research and Development Centers.* Before establishing a Federally Funded Research and Development Center (FFRDC) (see Part 35) or before changing its basic purpose and mission, the sponsor must transmit at least three notices over a 90-day period to the GPE and the **Federal Register**, indicating the agency's intention to sponsor an FFRDC or change the basic purpose and mission of an FFRDC. The notice must indicate the scope and nature of the effort to be performed and request comments. Notice is not required where the action is required by law. When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

(c) *Special notices.* Contracting officers may transmit to the GPE special notices of procurement matters such as business fairs, long-range procurement estimates, prebid or preproposal conferences, meetings, and the availability of draft solicitations or draft specifications for review.

(d) *Architect-engineering services.* Contracting officers must publish notices of intent to contract for architect-engineering services as follows:

(1) Except when exempted by 5.202, contracting officers must transmit to the GPE a synopsis of each proposed contract action for which the total fee (including phases and options) is expected to exceed $25,000. When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD. The notice must reference the appropriate CBD Numbered Note.

(2) When the total fee is expected to exceed $10,000 but not exceed $25,000, the contracting officer must comply with 5.101(a)(2). When the proposed contract action is not required to be synopsized under paragraph (d)(1) of this section, the contracting officer must display a notice of the solicitation or a copy of the solicitation in a public place at the contracting office. Other optional publicizing methods are authorized in accordance with 5.101(b).

(e) *Effort to locate commercial sources under OMB Circular A–76.* When determining the availability of commercial sources under the procedures prescribed in subpart 7.3 and OMB Circular A–76, the contracting officer must not arrive at a conclusion that there are no commercial sources capable of providing the required supplies or services until publicizing the requirement through the GPE at least three times in a 90 calendar-day period, with a minimum of 30 calendar days between notices. When necessary to meet an urgent requirement, this may be limited to a total of two notices through the GPE in a 30 calendar-day period, with a minimum of 15 calendar days between each. When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

(f) *Section 8(a) competitive acquisition.* When a national buy requirement is being considered for competitive acquisition limited to eligible 8(a) concerns under subpart 19.8, the contracting officer must transmit a synopsis of the proposed contract action to the GPE. When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD. The synopsis may be transmitted to the GPE concurrent with submission of the agency offering (see 19.804–2) to the Small Business Administration (SBA). The synopsis should also include information—

(1) Advising that the acquisition is being offered for competition limited to eligible 8(a) concerns;

(2) Specifying the North American Industry Classification System (NAICS) code;

(3) Advising that eligibility to participate may be restricted to firms in either the developmental stage or the developmental and transitional stages; and

(4) Encouraging interested 8(a) firms to request a copy of the solicitation as expeditiously as possible since the solicitation will be issued without further notice upon SBA acceptance of the requirement for the section 8(a) program.

14. Amend section 5.206 by revising the introductory text of paragraph (a) to read as follows:

5.206 Notices of subcontracting opportunities.

(a) The following entities may transmit a notice to the GPE, the CBD, or both to seek competition for subcontracts, to increase participation by qualified HUBZone small business, small, small disadvantaged, and small women-owned business concerns, and to meet established subcontracting plan goals:

* * * * *

15. Amend section 5.207 by—

a. Redesignating paragraphs (a) through (h) as (b) through (i), respectively, and by adding a new paragraph (a);

b. Revising newly designated paragraph (b);

c. Revising the introductory text of newly designated paragraph (c), and adding under "Format Item and Explanation/Description of Entry" item numbers 18 and 19; and

d. Revising the newly designated paragraph (i). The revised text reads as follows:

5.207 Preparation and transmittal of synopses.

(a) *Content.* Each synopsis transmitted to the GPE or CBD must address the following data elements, as applicable:

(1) Action Code.
(2) Date.
(3) Year.
(4) Government Printing Office (GPO) Billing Account Code.
(5) Contracting Office Zip Code.
(6) Classification Code.
(7) Contracting Office Address.
(8) Subject.
(9) Proposed Solicitation Number.
(10) Opening and Closing Response Date.
(11) Contact Point or Contracting Officer.
(12) Contract Award and Solicitation Number.
(13) Contract Award Dollar Amount.
(14) Contract Line Item Number.
(15) Contract Award Date.
(16) Contractor.
(17) Description.
(18) Place of Contract Performance.
(19) Set-aside Status.

(b) *Transmittal*—(1) *GPE.* Transmissions must be in accordance with the interface description available via the Internet at http://www.fedbizopps.gov.

(2) *CBD*—(i) *Electronic transmission.* All synopses transmitted electronically to the CBD, other than through the GPE (see 5.003), must be in ASCII Code. Contact your agency's communications center for the appropriate transmission instructions or services.

(ii) *Hard copy transmission.* When electronic transmission is not feasible (see 5.003), synopses should be sent to the CBD via mail or other physical delivery of hard copy and should be addressed to the Commerce Business Daily, U.S. Department of Commerce, P.O. Box 77880, Washington, DC 20013-8880.

(c) *Format for the CBD.* The contracting officer must prepare the synopsis in the following style and format to assure timely processing of the synopsis by the Commerce Business Daily.

* * * * *

Format Item and Explanation/ Description of Entry

* * * * *

18. PLACE OF CONTRACT PERFORMANCE. (Include where applicable; where not applicable, enter N/A.)

19. SET-ASIDES. (Identify if the proposed acquisition provides for a total or partial set-aside, a very small business set-aside, or a HUBZone small business set-aside. If not a set-aside, enter N/A.)

* * * * *

(i) *Cancellation of synopsis.* Contracting officers should not publish notices of solicitation cancellations (or indefinite suspensions) of proposed contract actions in the GPE or CBD. Cancellations of solicitations must be made in accordance with 14.209 and 14.404–1.

16. Amend section 5.301 by revising the introductory text of paragraph (a); by revising paragraphs (b)(7)(ii) and (c); and by adding paragraph (d) to read as follows:

5.301 General.

(a) Except for contract actions described in paragraph (b) of this section and as provided in 5.003, contracting officers must synopsize through the GPE awards exceeding $25,000 that are—

* * * * *

(b) * * *

(7) * * *

(ii) Was made through a means where access to the notice of proposed contract action was provided through the GPE; and

* * * * *

(c) With respect to acquisitions subject to the Trade Agreements Act, contracting officers must submit synopses in sufficient time to permit publication in the CBD, through the GPE, not later than 60 days after award.

(d) When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

17. Amend section 5.404–1 by revising paragraph (b)(3)(iii) to read as follows:

5.404–1 Release procedures.

* * * * *

(b) * * *

(3) * * *

(iii) More specific information relating to any individual item or class of items will not be furnished until the proposed action is synopsized through the GPE or the solicitation is issued;

* * * * *

18. Revise section 5.404–2 to read as follows:

5.404–2 Announcements of long-range acquisition estimates.

Further publicizing, consistent with the needs of the individual case, may be accomplished by announcing through the GPE that long-range acquisition estimates have been published and are obtainable, upon request, from the contracting officer.

PART 6—COMPETITION REQUIREMENTS

6.303–2 [Amended]

19. Amend section 6.303–2 in paragraph (a)(6) by removing "CBD".

PART 7—ACQUISITION PLANNING

20. Amend section 7.303 in paragraph (a) and the introductory text of paragraph (b) by removing "shall" and adding "must" in their place; and by revising paragraph (b)(1) to read as follows:

7.303 Determining availability of private commercial sources.

* * * * *

(b) * * *

(1) Synopsizing the requirement through the Governmentwide point of entry (GPE) in accordance with 5.205(e) until a reasonable number of potential sources are identified. If necessary, a synopsis must be submitted up to three times in a 90-day period with a minimum of 30 days between notices (but, when necessary to meet an urgent requirement, this notification may be limited to a total of two notices in a 30-day period with a minimum of 15 days between them); and

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

21. Amend section 9.204 in the introductory text of paragraph (a) by removing "shall" and adding "must" in its place; and by revising paragraph (a)(1) to read as follows:

9.204 Responsibilities for establishment of a qualification requirement.

* * * * *

(a) * * *

(1) Periodically furnish through the Governmentwide point of entry (GPE) a notice seeking additional sources or products for qualification unless the contracting officer determines that such publication would compromise the national security. When transmitting notices to the GPE, contracting officers must direct the GPE to forward the notice to the Commerce Business Daily (CBD) to satisfy the requirements of 10 U.S.C. 2319(d)(1)(A) and 41 U.S.C. 253c(d)(1)(A).

* * * * *

22. Amend section 9.205 by revising the introductory text of paragraph (a) to read as follows:

9.205 Opportunity for qualification before award.

(a) If an agency determines that a qualification requirement is necessary, the agency activity responsible for establishing the requirement must urge manufacturers and other potential sources to demonstrate their ability to meet the standards specified for qualification and, when possible, give sufficient time to arrange for qualification before award. The responsible agency activity must, before establishing any qualification requirement, furnish notice through the GPE. When transmitting notices to the GPE, contracting officers must direct the GPE to forward the notice to the CBD to satisfy the requirements of 10 U.S.C. 2319(d)(1)(A) and 41 U.S.C. 253c(d)(1)(A). The notice must include—

* * * * *

PART 12—ACQUISITION OF COMMERCIAL ITEMS

23. Amend section 12.603 by revising paragraphs (a), (c)(2)(xv), (c)(3), and (c)(4) to read as follows:

12.603 Streamlined solicitation for commercial items.

(a) When a written solicitation will be issued, the contracting officer may use the following procedure to reduce the time required to solicit and award contracts for the acquisition of commercial items. This procedure combines the synopsis required by 5.203 and the issuance of the solicitation into a single document. Section 5.207 limits descriptions in the CBD to 12,000 textual characters (approximately 3½ single-spaced pages).

* * * * *

(c) * * *

(2) * * *

(xv) A statement regarding any applicable Numbered Notes.

* * * * *

(3) Allow response time for receipt of offers as follows:

(i) Because the synopsis and solicitation are contained in a single document, it is not necessary to publicize a separate synopsis 15 days before the issuance of the solicitation.

(ii) When using the combined synopsis and solicitation, contracting officers must establish a response time in accordance with 5.203(b) (but see 5.203(h)).

(4) Publicize amendments to solicitations in the same manner as the initial synopsis and solicitation.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

24. Amend the introductory paragraph of section 13.104 and the introductory text of paragraph (a) by removing "shall" and adding "must" in their place; and revise the first sentence of paragraph (b) to read as follows:

13.104 Promoting competition.

* * * * *

(b) If using simplified acquisition procedures and neither using FACNET nor providing access to the notice of proposed contract action and solicitation information through the Governmentwide point of entry (GPE), maximum practicable competition ordinarily can be obtained by soliciting quotations or offers from sources within the local trade area.* * *

13.105 [Amended]

25. Amend section 13.105 in the introductory text of paragraph (a) by removing "shall" and adding "must" in its place; in paragraph (a)(1)(ii) by removing "single, Governmentwide point of entry" and adding "GPE" in its place; in the first sentence of paragraph (b) by removing "synopsis/solicitation" and "adding synopsis and solicitation" in its place; and in the second sentence by removing "such" and adding "these" in its place.

PART 14—SEALED BIDDING

26. Revise section 14.203–2 to read as follows:

14.203–2 Dissemination of information concerning invitations for bids.

(a) Procedures concerning display of invitations for bids in a public place, information releases to newspapers and trade journals, paid advertisements, and synopsizing through the Governmentwide point of entry (GPE) are set forth in 5.101 and Subpart 5.2.

(b) For procedures that apply to publicizing notices through the GPE to determine whether commercial sources are available, as prescribed by OMB Circular A–76, see 5.205(e) and 7.303(b).

27. Amend section 14.503–2 by revising paragraphs (a)(4) and (b) to read as follows:

14.503–2 Step two.

(a) * * *

(4) Not be synopsized through the Governmentwide point of entry (GPE) as an acquisition opportunity nor publicly posted (see 5.101(a)).

(b) The names of firms that submitted acceptable proposals in step one will be listed through the GPE for the benefit of prospective subcontractors (see 5.207(b)(1)).

PART 19—SMALL BUSINESS PROGRAMS

28. Amend section 19.202–2 by revising paragraph (c) to read as follows:

19.202–2 Locating small business sources.

* * * * *

(c) Publicize solicitations and contract awards through the Governmentwide point of entry (see subparts 5.2 and 5.3).

29. Amend section 19.804–2—

a. In the first sentence of the introductory text of paragraph (a) by removing "shall" and adding "must" in its place;

b. In paragraph (a)(9) by removing "in" and "Commerce Business Daily" and adding "through" and "Governmentwide point of entry (GPE)" in their places, respectively; and

c. By revising the third and fourth sentences of paragraph (c) to read as follows:

19.804–2 Agency offering.

* * * * *

(c) * * * All requirements, including construction, must be synopsized through the GPE. For construction, the synopsis must include the geographical area of the competition set forth in the SBA's acceptance letter.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

30. Amend section 22.1009–4 in paragraph (a) by removing "shall" and adding "must" in its place; and by revising the introductory text of paragraph (b) to read as follows:

22.1009–4 All possible places of performance not identified.

* * * * *

(b) Include the following information in the notice of contract action (see 5.207(g)(4)):

* * * * *

PART 34—MAJOR SYSTEM ACQUISITION

34.005–2 [Amended]

31. Amend section 34.005–2 in paragraph (a)(1) by removing "publication in the Commerce Business Daily" and adding "publicizing through the Governmentwide point of entry" in its place.

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

32. Amend section 35.004 in the introductory text of paragraph (a) by removing "shall" and adding "must" in its place; and by revising paragraph (a)(1) to read as follows:

35.004 Publicizing requirements and expanding research and development sources.

(a) * * *

(1) Early identification and publication of agency R&D needs and requirements, including publicizing through the Governmentwide point of entry (GPE) (see part 5);

* * * * *

33. Amend section 35.016 by revising paragraph (c) to read as follows:

35.016 Broad agency announcement.

* * * * *

(c) The availability of the BAA must be publicized through the Governmentwide point of entry (GPE) and, if authorized pursuant to subpart 5.5, may also be published in noted scientific, technical, or engineering periodicals. The notice must be published no less frequentiy than annually. When transmitting a notice to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the Commerce Business Daily.

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

34. Amend section 36.213–2 in the introductory text of paragraph (b) by removing "shall" and adding "must" in its place; and by revising paragraph (b)(9) to read as follows:

36.213–2 Presolicitation notices.

* * * * *

(b) * * *

(9) Be publicized through the Governmentwide point of entry in accordance with 5.204.

[FR Doc. 01–12244 Filed 5–15–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 17, 22, and 36

[FAC 97–26; FAR Case 2001–016; Item II]

RIN 9000–AJ14

Federal Acquisition Regulation; Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, which prohibits including requirements for affiliation with a labor organization as a condition for award of any contract or subcontract for construction or construction management services.

DATES: *Effective Date:* May 16, 2001.

Applicability Date: This rule applies to contracts awarded after February 17, 2001.

Comment Date: Interested parties must submit comments to the FAR Secretariat at the address shown below on or before July 16, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2001–016@gsa.gov.

Please submit comments only and cite FAC 97–26, FAR case 2001–016 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 97–26, FAR case 2001–016.

SUPPLEMENTARY INFORMATION:

A. Background

On February 17, 2001, President George W. Bush signed E.O. 13202 revoking E.O. 12836 of February 1, 1993, and Presidential Memorandum of June 5, 1997, entitled "Use of Project Labor Agreements for Federal Construction Projects." The E.O. was published in the **Federal Register** at 66 FR 11225, February 22, 2001, and amended by E.O. 13208 published in the **Federal Register** at 66 FR 18717, April 11, 2001. The E.O. 13202 is intended to improve the internal management of the Executive branch by—

- Promoting and ensuring open competition on Federal and federally funded or assisted construction projects;
- Maintaining Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects;
- Reducing construction costs to the Government and to the taxpayers;
- Expanding job opportunities, especially for small and disadvantaged businesses;
- Preventing discrimination against Government contractors or their employees based upon labor affiliation or lack thereof, thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects; and
- Preventing the inefficiency that may result from the disruption of a previously established contractual relationship in particular cases.

The interim rule amends the FAR to provide language in Part 36 on the new E.O. The E.O. provides that agencies may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permits agency heads to exempt a project from the requirements of the E.O. under special circumstances, but the exemption may not be related to the possibility of or an actual labor dispute. The amended E.O. also allows for exemption of a project governed by a project labor agreement in place as of February 17, 2001, which had a construction contract awarded as of February 17, 2001.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration believe that this interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule will assist in expanding job opportunities for small and small disadvantaged businesses in Federal and federally funded construction projects. Therefore, we have prepared an Initial Regulatory Flexibility Analysis that is summarized as follows:

The rule amends FAR Parts 17, 22, and 36 to implement Executive Order 13202 that requires that any construction contract awarded after February 17, 2001, or any obligation of funds pursuant to such contract, must not require or prohibit offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or other related construction project(s); or otherwise discriminate against offerors, contractors, or subcontractors for becoming or refusing to become or remaining signatories or otherwise adhering to agreements with one or more organizations, on the same or other related construction projects. The rule will apply to all large and small entities that seek Federal construction contracts. The rule should have a positive economic impact on those small businesses that are not union shops, and that want to bid on Federal construction contracts, because it may provide additional opportunities for work on Federal construction projects by non-union small businesses.

We invite comments from small businesses and other interested parties. We will consider comments from small entities concerning the affected FAR Parts in accordance with 5 U.S.C. 610. Small entities must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–26, FAR Case 2001–016), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose or remove information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement Executive Order (E.O.) 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, dated February 17, 2001. Section 7 of the E.O. directed that, within 60 days of the E.O. the Federal Acquisition Regulations Council amend the FAR to implement the provisions of the E.O. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 17, 22, and 36

Government procurement.

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 17, 22, and 36 as set forth below:

1. The authority citation for 48 CFR parts 17, 22, and 36 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 17—SPECIAL CONTRACTING METHODS

2. Amend section 17.603 by adding paragraph (c) to read as follows:

17.603 Limitations.

* * * * *

(c) For use of project labor agreements, see 36.202(d).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

3. Amend section 22.101–1 by removing the paragraph designation "(b)" and adding "(b)(1)" in its place, and adding a new paragraph (b)(2) to read as follows:

22.101–1 General.

* * * * *

(b)(1) * * *

(2) For use of project labor agreements, see 36.202(d).

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

4. Amend section 36.202 by adding paragraph (d) to read as follows:

36.202 Specifications.

* * * * *

(d) In accordance with Executive Order 13202, of February 17, 2001, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, as amended on April 6, 2001—

(1) The Government, or any construction manager acting on behalf of the Government, must not—

(i) Require or prohibit offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations (as defined in 42 U.S.C. 2000e(d)) on the same or other related construction projects; or

(ii) Otherwise discriminate against offerors, contractors, or subcontractors for becoming, refusing to become, or remaining signatories or otherwise adhering to agreements with one or more labor organizations, on the same or other related construction projects.

(2) Nothing in this paragraph prohibits offerors, contractors, or subcontractors from voluntarily entering into project labor agreements.

(3) The head of the agency may exempt a construction project from this policy if the agency head finds that, as of February 17, 2001—

(i) The agency or a construction manager acting on behalf of the

Government had issued or was a party to bid specifications, project agreements, agreements with one or more labor organizations, or other controlling documents with respect to that particular project, which contained any of the requirements or prohibitions in paragraph (d)(1) of this section; and

(ii) One or more construction contracts subject to such requirements or prohibitions had been awarded.

(4) The head of the agency may exempt a particular project, contract, or subcontract from this policy upon a finding that special circumstances require an exemption in order to avert an imminent threat to public health or safety, or to serve the national security. A finding of "special circumstances" may not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

[FR Doc. 01–12245 Filed 5–15–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22 and 52

[FAC 97–26; FAR Case 2001–017; Item III]

RIN 9000–AJ13

Federal Acquisition Regulation; Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts, signed by the President on February 17, 2001. The E.O. requires that any rules implementing E.O. 12933, Nondisplacement of Qualified Workers Under Certain Contracts, be promptly rescinded.

DATES: *Effective Date:* May 16, 2001.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before July 16, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2001–017@gsa.gov

Please submit comments only and cite FAC 97–26, FAR case 2001–017 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAC 97–26, FAR case 2001–017.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 12933 was signed October 20, 1994, by President Clinton and published in the **Federal Register** on October 24, 1994 (59 FR 53559). The E.O. required that building service contracts for public buildings include a clause requiring the contractor under a contract that succeeds a contract for performance of similar services at the same public building to offer certain employees under the predecessor contract, a right of first refusal to employment under the new contract. E.O. 12933 was implemented in the FAR as an interim rule in FAC 97–01 (62 FR 44823) dated August 22, 1997. The regulation was finalized with minor changes in FAC 97–11 (64 FR 10545) dated March 4, 1999. A further change was made in FAC 97–15 adding the clause to the commercial item clause list at 52.212–5 (64 FR 72450, December 27, 1999).

On February 17, 2001, President George W. Bush signed E.O. 13204 rescinding E.O. 12933 and calling for the prompt recession of any orders, rules, regulations, guidelines, or policies implementing or enforcing E.O. 12933, to the extent consistent with law. Contracting officers should not take any action on any complaint filed under former FAR Subpart 22.12.

Effective March 23, 2001, the Department of Labor rescinded its rule implementing E.O. 12933 (66 FR 16126, March 23, 2001).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 51 U.S.C. 601, *et seq.*, because the rule merely removes requirements from the FAR that implemented regulations issued by the Department of Labor (DoL) for which DoL certified would not have a significant economic effect on a substantial number of small entities (62 FR 28175, May 22, 1997). This rule implements the requirements of E.O. 13204. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Parts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–26, FAR case 2001–017), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement E.O. 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts, dated February 17, 2001. E.O. 13204 required the Federal Acquisition Regulatory Council to promptly rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing E.O. 12933. However, pursuant to Public Law 98–577 and FAR 1.501, public comments

received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 22 and 52

Government procurement.

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22 and 52 as set forth below:

1. The authority citation for 48 CFR parts 22 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 22.12 [Reserved]

2. Remove and reserve Subpart 22.12.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.212–5 [Amended]

3. Amend section 52.212–5 by revising the clause date to read May 2001; and by removing paragraph (c)(6).

52.222–50 [Reserved]

4. Remove and reserve section 52.222–50.

[FR Doc. 01–12246 Filed 5–15–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 97–26 which amend the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 97–26 which precedes this document. These documents are also available via the Internet at http://www.arnet.gov/far.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 97–26

Item	Subject	FAR case	Analyst
I	*Electronic Commerce in Federal Procurement	1997–304	Moss.
II	*Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.	2001–016	Nelson.
III	Executive Order 13204, Revocation of Executive Order On Nondisplacement of Qualified Workers Under Certain Contracts.	2001–017	Klein.

Item I—Electronic Commerce in Federal Procurement (FAR Case 1997–304)

This interim rule amends the FAR to (a) further implement section 850 of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85 (section 850) and (b) implement section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398, section 810). Section 850 calls for the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems. This includes the designation in the FAR of a single point of universal electronic public access to Governmentwide procurement opportunities (the "Governmentwide Point of Entry" or "GPE"). Section 810 allows agencies to provide access to notices through the GPE, as designated in the FAR, instead of publishing them via the Commerce Business Daily (CBD).

This rule designates Federal Business Opportunities ("FedBizOpps") as the GPE. Agencies have until October 1, 2001, to complete their transition to, or integration with, FedBizOpps. By that date, all agencies must use FedBizOpps to provide access to public notices of procurement actions over $25,000 that are currently required to be published in the CBD along with associated solicitations and amendments. In addition, agencies will not be required to provide notice in the CBD as of January 1, 2002, since access to this information will be provided via the Internet through FedBizOpps.

Item II—Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects (FAR Case 2001–016)

This interim rule amends the FAR to provide language in Part 36 and revises Subparts 17.6 and 22.1 to add cross-references to Part 36. The Executive order (E.O.) provides that agencies may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permits agency heads to exempt a project from the requirements of the E.O. under special circumstances but the exemption may not be related to the possibility of, or an actual labor dispute.

Item III—Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts (FAR Case 2001–017)

This interim rule amends the FAR to remove Subpart 22.12, Nondisplacement of Qualified Workers Under Certain Contracts. Executive Order 12933, Nondisplacement of Qualified Workers Under Certain Contracts (October 20, 1994), required that building service contracts for public buildings include a clause requiring the contractor under a contract that succeeds a contract for performance of similar services at the same public building to offer certain employees under the predecessor contract, a right of first refusal to employment under the new contract. E.O. 12933 was implemented in the FAR in Subpart 22.12.

On February 17, 2001, President George W. Bush signed E.O. 13204 rescinding E.O. 12933 and calling for the prompt recession of any orders, rules, regulations, guidelines, or policies implementing or enforcing E.O. 12933, to the extent consistent with law. Contracting officers should not take any action on any complaint filed under former FAR Subpart 22.12.

Effective March 23, 2001, the Department of Labor rescinded its rule implementing E.O. 12933 (66 FR 16126, March 23, 2001).

Dated: May 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–12247 Filed 5–15–01; 8:45 am]

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Federal Register

Wednesday,
May 16, 2001

Part VII

Department of Education

Arts in Education Model Development and Dissemination Grant Program; Notice Inviting Applications for New Grant Awards for Fiscal Year 2001 Funds

DEPARTMENT OF EDUCATION

[CFDA No. 84.351D]

Arts in Education Model Development and Dissemination Grant Program; Notice Inviting Applications for New Grant Awards for Fiscal Year (FY) 2001 Funds

Note to Applicants: This notice is a complete application package. Together with the statute authorizing these grants and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for an Arts in Education Model Development and Dissemination Grant Program under this competition. This grant program is authorized by 20 U.S.C. 8091.

Purpose of Program: The Arts in Education Model Development and Dissemination Grant Program will support the development, documentation, evaluation, and dissemination of innovative, cohesive models that have demonstrated effectiveness in effectively (1) integratinge arts into the core elementary and middle school curricula, (2) strengthening arts instruction in these grades, and (3) improving students' academic performance, including their skills in creating, performing, and responding to the arts.

Eligible Applicants: (1) One or more local educational agencies (LEAs), that may work in partnership with one or more of the following:

State or local non-profit or governmental arts organization;

State educational agencies or regional educational service agencies;

Institutions of higher education; and/or

Other public and private agencies, institutions, and organizations with expertise in the arts.

(2) One or more state or local non-profit or governmental arts organizations that must work in partnership with one or more LEAs and may partner with one or more of the following:

State educational agencies or regional educational service agencies;

Institutions of higher education; and/or

Other public and private agencies, institutions, and organizations with expertise in the arts.

Note: If more than one LEA and/or arts organization wish to form a consortia and jointly submit a single application, they must follow the procedures for group applications described in 34 CFR 75.127–129 of EDGAR.

E-Mail Notification of Intent to Apply for Funding: The Department will be able to develop a more efficient process for reviewing grant applications if it has an estimate of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department with a short e-mail noting the intent to submit an application for funding. The e-mail need not include information regarding the content of the proposed application, only the applicant's intent to submit. The Secretary requests that this e-mail notification be sent no later than June 15, 2001. The e-mail notification should be sent to: artsdemos@ed.gov.

Applicants that fail to provide this e-mail notification may still apply for funding.

Deadline for Transmittal of Applications: July 16, 2001.

Deadline for Intergovernmental Review: September 13, 2001.

Estimated Available Funds: $10,000,000.

Estimated Range of Awards: $350,000–$1,000,000 (total for the project period).

Project Period: Up to 36 months.

Applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Secretary will determine at the time of the initial award the funding levels for each year of the grant award. The Department of Education is not bound by any estimates in this notice.

Note: To provide the applicant with the capacity to effectively plan for and carry out the comprehensive long-term activities involved in model development, documentation, evaluation, and dissemination the Secretary anticipates awarding the entire grant amount for the project at the time of the initial award.

Page Limits: Applicants are strongly encouraged to limit the application narrative to no more than 30 double-spaced pages. The following standards are preferred: (1) A "page" is 8.5″ x 11″ (one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative must be double spaced. The page limit does not apply to the cover sheet, the one-page abstract, budget section, appendices, and forms and assurances. However, all of the application narrative must be included in the narrative section.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

SUPPLEMENTARY INFORMATION: While many schools and districts have moved swiftly in recent years to reform and enhance traditional core academic programs, most have not made similar efforts to integrate arts effectively into the regular curriculum, either as vehicle by which to strengthen other core academic subjects or as an academic discipline in its own right. High-quality programs effectively integrating and improving arts instruction are increasingly important as students face the demands of the information age in the 21st century. Creating, performing, and responding to works of art build creativity, self-confidence, and critical thinking skills " qualities central to success in school, work, and life.

For several reasons, high-quality arts and art education programs have implications for students' other academic development. First, most educators agree that arts-rich education programs keep students engaged and interested in school. For example, James Catterall's work suggests that students who participate in arts programs, especially students identified as at-risk of educational failure, are less likely to drop out of school (See Catterall, *et al.* in *Champions of Change* at: *http://artsedge.kennedy-center.org/champions).* Additionally, research studies suggest that involvement in arts-rich schooling affects students' success in other academic areas (See also Burton, *et al.* in *Champions*). In a study reanalyzing the cross-sectional National Educational Longitudinal Survey (NELS) data, for example, Catterall found that students in learning environments with diverse, high-quality arts education offerings had higher achievement than students in arts-poor communities, even when controlling for students' socioeconomic background. Sustained involvement in particular arts disciplines, like music and theater, seemed to be highly correlated with success in traditional academic subjects like math and reading. These studies have also found that improving the quality of arts education has a particularly positive impact on students from low-income backgrounds. Unfortunately, students from low socioeconomic backgrounds are almost twice as likely to attend arts-poor schools, while students from socio-economically advantaged backgrounds are twice as likely to attend arts-rich schools (Catterall, *et al.*)

To ensure that high expectations are held for all of America's students, it is critical to assess and develop high-quality, research-based models for effectively integrating arts into the regular school curricula, both as a core academic content area and as a means for strengthening other core academic

areas. The Arts in Education Model Development and Dissemination Grant Program seeks to redress the lack of information in this area by encouraging partnerships of arts and education specialists to develop and document effective models for improving arts education and student achievement " particularly for students from poor and disadvantaged backgrounds. The Department of Education intends to disseminate the results of this program to other educational entities.

Program Description: The Arts in Education Model Development and Dissemination Grant Program is authorized under section 10401, Part D, Subpart 1 of Title X of the Elementary and Secondary Education Act. The Arts in Education Model Development and Dissemination Grant Program will further the development of innovative, cohesive models that have demonstrated effectiveness in integrating arts into the school curriculum. In this case, "integrating" should be understood both as strengthening the use of high-quality arts in the course of other academic instruction and strengthening the place of arts as a core academic subject in the regular school curricula.

These grants are designed to enable LEAs and organizations with art expertise to further develop and create materials for the replication or adaptation of current comprehensive approaches for integrating a range of arts disciplines—such as music, dance, theater, and visual arts, including folk arts in these fields—into the elementary and middle school curricula. Such development work should yield more systematic information about effective models that provide quality arts instruction and use the arts to enhance instruction in other core academic subjects. The goal of the Arts in Education Model Development and Dissemination Grant Program is to bring to the field additional models with a solid research base for effectively integrating the arts, in the same way that solid research bases have been developed for instruction in other fields, such as reading.

Under this program, applicants should propose projects that may include but are not limited to the following components:

Field testing and evaluating promising new educational strategies;

Field testing and evaluating model in-service and pre-service professional development programs;

Ensuring comprehensive coverage of the arts disciplines—such as visual arts, dance, music, theater, and the folk arts in these areas;

Developing partnerships among schools, arts organizations, and others with expertise in the arts to enhance the quality and sustainability of effective programming;

Creating materials documenting the implementation and achievement of the model program for other educators and agencies; and

Obtaining the services of outside experts to assist with program implementation, curriculum development, data collection, evaluation design or other appropriate activities.

This program seeks to increase the research base and provide communities with additional information regarding innovative, research-based models for effectively integrating and strengthening arts instruction and improving students' skills in creating, performing, and responding to works of arts, as well as achievement in other core academic subjects. In addition to any dissemination work in which the applicants choose to engage, the Department intends to take the products and information resulting from these demonstration grants and share them widely with other communities. Upon completion of the project, the Department requires that any materials or products developed as a part of model development activities be provided to the Department for further dissemination. Such activities will be carried out in full compliance with copyright requirements.

Application Content: To apply for Arts in Education Model Development and Dissemination funds, applicants must be prepared to: further the development of programs designed to improve or expand the integration of arts education in elementary or middle school curricula; develop materials designed to help replicate or adapt the program; document the program's results and benefits; and develop products and services that can be used to replicate the program in other settings. Thus, grant applications must describe an existing set of strategies for integrating the arts into the regular elementary and middle school curriculum which could successfully be implemented, expanded, documented, evaluated, and disseminated. Taken together, a research-based, comprehensive Arts in Education Model will:

Be based, to the extent possible, on the most rigorous theory, research, and evaluation available and effective in improving student achievement and performance and other program objectives.

Be linked to state and national standards enabling all students to meet challenging expectations, and improving student and school performance.

Have the potential to improve students' achievement both in creating, performing, and responding to works of art, and in other core academic subjects.

Highlight the development of model professional development for arts educators and other instructional staff.

Include multiple partners and effectively combine resources to create quality, sustainable programs.

Demonstrate the feasibility of further replication and dissemination.

Be applicable to a broad range of high poverty and disadvantaged, rural and urban schools, including those that are chronically low-performing.

Make effective use of technology to further the model's goals.

Describe methods by which the applicant will assess the model's outcomes.

Additionally, grant applicants should describe activities which, to the extent possible, coordinate model development with relevant activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters. (20 U.S.C. 8091(e)(1))

Waiver of Proposed Rulemaking: In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Secretary to exempt from rulemaking requirements governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). Funding was provided for this new initiative in the fiscal year 2001 Department of Education Appropriations Act, enacted in December 2000. As this competition is the first under this program, it therefore qualifies for the exemption. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards.

Absolute Priority: The Secretary will only fund applications from LEAs or non-profit organizations which propose to work with at least one elementary and/or middle school with no less than 35% of its students from low-income families consistent with section 1113(b)(1)(A) of Title I of the Elementary and Secondary Education Act.

Competitive Priority: The Secretary will award five (5) points, in addition to

any points the applicant earns under the selection criteria, to projects proposing models that involve schools in rural or inner-city communities.

Invitational Priority: The Secretary strongly encourages applicants to bring together a partnership of educational and arts-based entities as well as other community resources to carry out activities designed under this program. Partnerships among these entities are important to ensure the quality of programming as well as the sustainability of the activities.

Definition: In addition to definitions in the statute and EDGAR, the following definition applies:

Research-based, when used with respect to an activity or a program, means that, to the extent possible, the activity or program is based on the most rigorous theory, research, and evaluation available and effective in improving student achievement and performance and other program objectives.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for grants under this competition. In all instances where the word "project" appears in the selection criteria, the reference to an Arts in Education Model Development and Dissemination grant program should be made.

The maximum composite score for all of these criteria is 100 points. The maximum score an applicant may receive is 105 if they meet the competitive priority.

The maximum score for each criterion is indicated in parentheses. Within each criterion, the Secretary evaluates each factor equally.

(a) Need for project. (10 points)

In determining the need for the proposed project, the Secretary considers the following factors:

(i) The extent to which the model addresses specific needs of students at risk of educational failure.

(ii) The extent to which specific gaps, weaknesses, or opportunities have been identified in effectively integrating arts into the core curricula, strengthening arts instruction and improving students' academic performance, including skills in creating, performing and responding to the arts. Also, the nature and magnitude of those gaps or weaknesses and the degree to which they will be addressed by the proposed model.

(b) Significance. (20 points)

In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The potential contribution of the proposed project to increase knowledge and understanding of effective strategies for strengthening the use of high-quality arts in the course of other academic instruction and the place of arts as a core academic subject in the regular school curricula.

(ii) The likely utility and replicability of the proposed model and the extent to which its products (including information, materials, processes, or techniques) will be effective in a variety of settings.

(c) Quality of the project design. (30 points)

In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and results to be achieved over the proposed project period are clearly specified and measurable.

(ii) The extent to which the proposed model is based on reliable research, effective practice and/or coherent theory regarding means for strengthening the use of high-quality arts in the course of other academic instruction and the place of arts as a core academic subject in the regular school curricula.

(iii) The extent to which the proposed model aims to strengthen the academic performance of students in creating, performing, and responding to multiple arts disciplines and other core academic areas.

(iv) The extent to which the project will document and evaluate the success of the model and disseminate relevant information.

(d) Quality of the management plan. (10 points)

In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within a reasonable budget, including relevant contributions and commitments from partners, timelines, continuous improvement strategies and milestones for accomplishing project tasks.

(e) Quality of the project personnel. (5 points)

In determining the quality of the personnel plan for the proposed project, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience of key project personnel, major partners, project consultants and/or subcontractors and the extent to which personnel have clearly defined responsibilites.

(ii) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(f) Quality of the project evaluation. (25 points)

In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are rigorous, thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data on the results of the program.

(iii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant, you must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedures established in each State under the Executive Order.

If you want to know the name and address of any State Single Point of Contact (SPOC), you may view the latest SPOC list on the OMB Web site at the following address: http://www.whitehouse.gov/omb/grants/spoc.html.

In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, area-wide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA No. 84.351D, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125. Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern Standard Time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.351D), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Eastern Standard Time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.351D), Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C. 20202.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. (2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494. (3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains all required forms and instructions, including instructions for preparing the application narrative, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), various assurances and certifications, a list of relevant definitions from the authorizing statute and EDGAR, and a checklist for applicants.

To apply for an award under this competition, your application must be organized in the following order and include the following four parts. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (ED 424, Exp. 06/30/2001) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions. An applicant for a multi-year project must provide a budget narrative that provides budget information for each budget period of the proposed project period.

Part III: Application Narrative.

Part IV: Assurances and Certifications: Assurances—Non-Construction Programs (Standard Form 424B).

b. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

c. Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications as printed in this notice in the **Federal Register**. However, the application form, assurances, and certifications must each have an original signature. All applicants are required to submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application, one bound and one unbound copy suitable for photocopying. Please mark each application as "original" or "copy". To aid with the review of applications, the Department also encourages applicants to submit two additional paper copies of the application (five total). The Department will not penalize applicants who do not provide additional copies. No grant may be awarded unless a completed application form, including the signed assurances and certifications, has been received.

FOR FURTHER INFORMATION CONTACT: Margaret McNeely or Gillian Cohen, Arts in Education Model Development and Dissemination Program, Academic Improvement and Demonstration Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W312, FOB–6, Washington, DC 20202. Telephone: (202) 260–1335 (Margaret McNeely) or (202) 260–7813 (Gillian Cohen) E-mail: artsdemos@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following site: www.ed.gov/legislation/FEDRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at the previous site. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498, or in the Washington, DC area at 202–512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 8091.

Dated: May 10, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

Appendix—Instructions for the Application Narrative

The narrative is the section of the application where the selection criteria used by reviewers in evaluating the application are addressed. The narrative must encompass each function or activity for which funds are being requested. Before preparing the application narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

Applicants should note there is a suggested 30 page limit for the application narrative with the following standards applying: A "page" is 8.5" x 11" (one side only) with one-inch margins (top, bottom, and sides). All text in the application narrative must be double spaced. The suggested page limit does not apply to the cover sheet, the one-page abstract, budget section, appendices, and forms and assurances. However, all of the application narrative must be included in the narrative section.

Applicants are strongly encouraged to use the following format in developing applications:

1. Begin with a one-page Abstract summarizing the proposed Arts in Education Model Development and Dissemination project, including a description of project objectives and activities and any partners in the application. Also include a short description of the population to be served by the project.
2. Include a table of contents and be sure to number the pages.
3. Describe how the applicant meets the absolute priority and the competitive priority if necessary.
4. Describe fully the proposed project in light of the selection criteria in the order in which the criteria are listed in the application package. Do not simply paraphrase the criteria.
5. Provide the following in response to the attached "Notice to all Applicants": (1) a reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.
6. When applying for funds as a consortium, individual eligible applicants must enter into an agreement signed by all members. The consortium's agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the consortium's application. The designated applicant must submit the consortium's agreement with its application.
7. Applicants may include supporting documentation as appendices to the narrative. This material should be concise and pertinent to the competition. Note that the Secretary considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)
8. Attach copies of all required assurances and forms.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 1810–NEW (Expiration Date: 05/31/2004). The time required to complete this information collection is estimated to average 60 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* Arts in Education Model Development Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W312 or 5C145, Washington, DC 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Arts in Education Model Development Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W312 or 5C145, Washington, DC 20202–4651.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance (ED 424).
2. Budget Information—Non-Construction Programs (ED Form No. 524) and budget narrative.
3. Application Narrative, including information that addresses section 427 of the General Education Provisions Act (see the section entitled "Notice to All Applicants"), and relevant appendices.
4. Consortia agreement, if applicable.
5. Assurances—Non-Construction Programs (SF 242B).
6. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).
7. Disclosure of Lobbying Activities (Standard Form LLL).

BILLING CODE 4000–01–U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved OMB No. 1875-0106 Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
City / State / County / ZIP Code + 4
Organizational Unit

2. Applicant's D-U-N-S Number
3. Applicant's T-I-N
4. Catalog of Federal Domestic Assistance #: 8 4 3 5 1 D → Title: Arts in Education Model Development and Dissemination Grant Program
5. Project Director:
Address:
City / State / ZIP Code + 4
Tel. #: ( ) Fax #: ( )
E-Mail Address:
6. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)
7. Type of Applicant *(Enter appropriate letter in the box.)*
A State; B County; C Municipal; D Township; E Interstate; F Intermunicipal; G Special District; H Independent School District; I Public College or University; J Private, Non-Profit College or University; K Indian Tribe; L Individual; M Private, Profit-Making Organization; N Other *(Specify)*:
8. Novice Applicant ☐ Yes ☐ No

Application Information

9. Type of Submission:

	—PreApplication	*—Application*
	☐ Construction	☐ Construction
	☐ Non-Construction	☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/___
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: ___/___/___ End Date: ___/___/___

12. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #:
OR
b. Assurance of Compliance #:
c. IRB approval date: ___/___/___ ☐ Full IRB or ☐ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative
b. Title
c. Tel. #: ( ) Fax #: ( )
d. E-Mail Address:
e. Signature of Authorized Representative — Date: ___/___/___

REV. 11/12/99 ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/iatlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking **"Yes"** the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are not planned at any time during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes." If all the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in "Protection of Human Subjects in Research" attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If some or all of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gow humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

Name of Institution/Organization

SECTION A - BUDGET SUMMARY

U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching or other contribution is provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Approved by OMB
0348-0046

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):

11.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

[FR Doc. 01–12329 Filed 5–15–01; 8:45 am]
BILLING CODE 4000–01–C

Federal Register

Wednesday,
May 16, 2001

Part VIII

Department of State

Foreign Terrorist Organization Designation; Notice

DEPARTMENT OF STATE

[Public Notice 3671]

Office of the Coordinator for Counterterrorism; Designation of a Foreign Terrorist Organization

AGENCY: Department of State.

ACTION: Designation.

Pursuant to Section 219 of the Immigration and Nationality Act ("INA"), as added by the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104–132, section 302, 110 Stat. 1214, 1248 (1996), and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104–208, 110 Stat. 3009 (1996), the Secretary of State hereby designates, effective May 16, 2001, the following organization as a foreign terrorist organization:

The "Real IRA"
also known as the "Real Irish Republican Army"
also known as "RIRA"
also known as the "32 County Sovereignty Committee"
also known as the "32 County Sovereignty Movement"
also known as the "Real Oglaigh na hEireann"
also known as the "Irish Republican Prisoners Welfare Association"

Dated: May 11, 2001.

Edmund J. Hull,

Acting Coordinator for Counterterrorism, Department of State.

[FR Doc. 01–12612 Filed 5–15–01; 5:00 pm]

BILLING CODE 4710–10–P

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Vol. 66, No. 95

Wednesday, May 16, 2001

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Rural Business-Cooperative Service
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- Rural Business Enterprise Grant Program; published 5-16-01

DEFENSE DEPARTMENT
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- Nondisplacement of qualified workers under certain contracts; published 5-16-01
- Preservation of open competition and government neutrality towards government contractor's, etc.; published 5-16-01

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  - Pollutants analysis; test procedures; guidelines establishment; published 1-16-01

FEDERAL COMMUNICATIONS COMMISSION
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- Interstate, interexchange marketplace; telecommunication services, enhanced services, and customer premises equipment; bundling restrictions eliminated; published 4-16-01

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- Electronic commerce n Federal procurement; published 5-16-01
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HEALTH AND HUMAN SERVICES DEPARTMENT
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  - Alpha-acetolactate decarboxylase enzyme preparation; published 5-16-01

Medical devices:
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  - Tissue culture media for human ex vivo tissue and cell culture processing applications; classification; published 5-16-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
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- Electronic cmmerce in Federal procurement; published 5-16-01
- Preservation of open competition and government neutrality towards government contractor's, et al.; published 5-16-01

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Federal Aviation Administration
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LIST OF PUBLIC LAWS

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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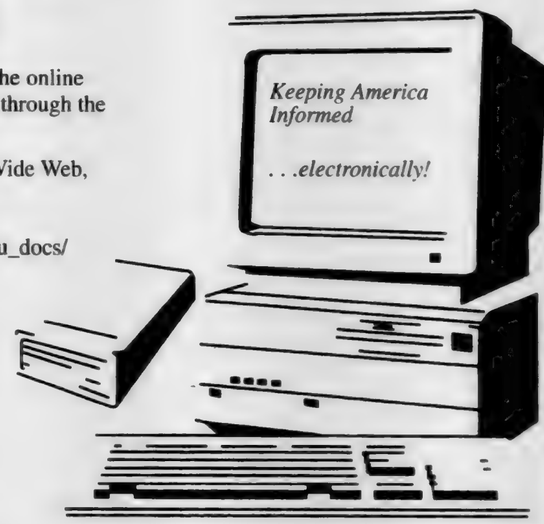

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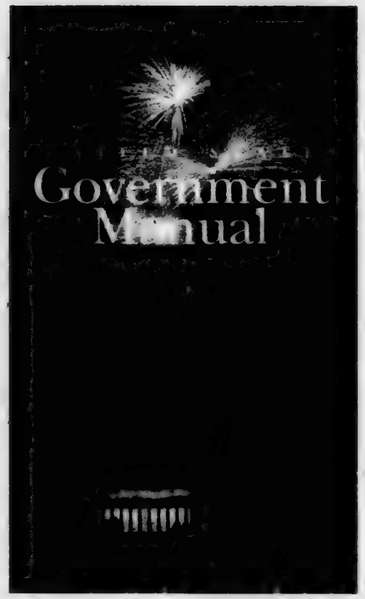

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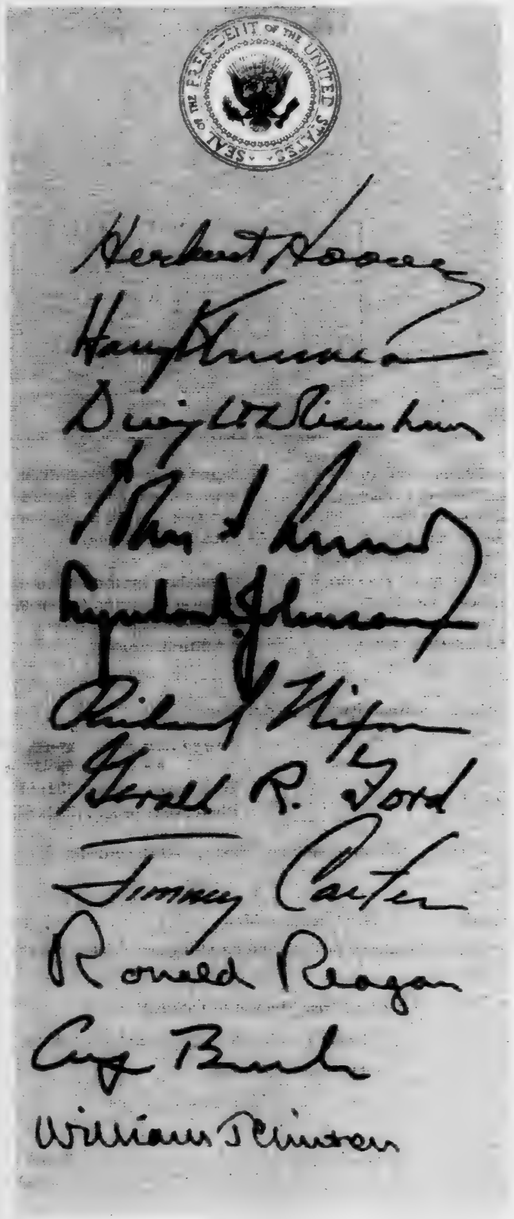

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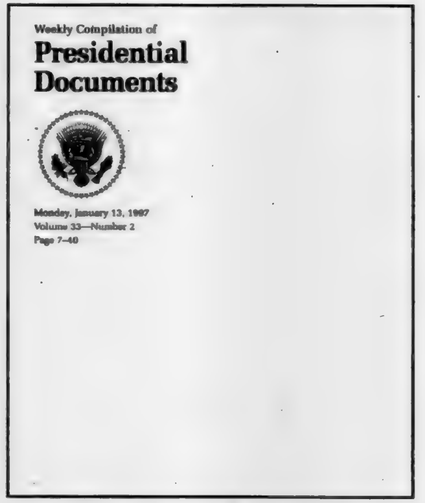

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Federal Register

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RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

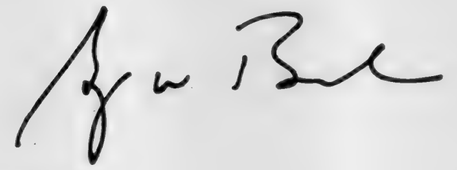
The President

Notice of May 15, 2001

Continuation of Emergency With Respect to Burma

On May 20, 1997, the President issued Executive Order 13047, certifying to the Congress under section 570(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), that the Government of Burma has committed large-scale repression of the democratic opposition in Burma after September 30, 1996, thereby invoking the prohibition on new investment in Burma by United States persons, contained in that section. The President also declared a national emergency to deal with the threat posed to the national security and foreign policy of the United States by the actions and policies of the Government of Burma, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)).

The national emergency declared on May 20, 1997, must continue beyond May 20, 2001, because the Government of Burma continues its policies of committing large-scale repression of the democratic opposition in Burma, threatening the national security and foreign policy of the United States. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Burma. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
May 15, 2001.

[FR Doc. 01–12598
Filed 5–16–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[INS No. 2122–01]

RIN 1115–AG17

Adjustment of Status for Certain Syrian Nationals Granted Asylum in the United States

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: On October 27, 2000, the President signed into law Public Law 106–378, providing for the adjustment of status to that of lawful permanent resident for certain nationals of Syria. This interim rule discusses the eligibility requirements and sets forth application procedures for persons wishing to adjust status on the basis of Public Law 106–378. This provision does not affect an alien's eligibility for adjustment of status under section 209 of the Immigration and Nationality Act (Act) based on a grant of asylum.

DATES: *Effective date.* This rule is effective May 17, 2001.

Comment date. Comments must be submitted on or before July 16, 2001.

ADDRESSES: Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I street NW., Room 4034, Washington, DC 20536, or via fax to (202) 305–0143. To ensure proper handling, please reference INS number 2122–01 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3040, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is Public Law 106–378?

On October 27, 2000, former President Clinton signed Public Law 106–378, providing the Attorney General with the authority to adjust status to that of lawful permanent resident for an estimated 2,000 eligible Syrian nationals who were granted asylum in the United States. The stated objective for this law is to provide relief for a group of Jewish Syrian nationals who were allowed to depart Syria and enter the United States after December 31, 1991, and who were subsequently granted asylum in the United States.

Under section 209 of the Immigration and Nationality Act (Act), all aliens granted asylum are eligible to apply for adjustment of status 1 year after being granted asylum. Section 209 of the Act also limits the number of asylee-based adjustments to 10,000 per year. Since in recent years the Immigration and Naturalization Service (Service) has granted asylum to more than 10,000 aliens each year, asylees face a substantial wait until they can adjust status. Public Law 106–378 is an adjustment provision independent of section 209 of the Act, and therefore provides eligible Syrian nationals relief from the wait caused by the annual limit on the number of aslyees who can adjust status.

Who Is Eligible To Adjust Status to That of Lawful Permanent Resident Under Public Law 106–378?

(1) In order to be eligible for adjustment of status under this law, the principal alien must:

- Be a Jewish national of Syria;
- Have arrived in the United States after December 31, 1991, after being permitted by the Syrian government to depart from Syria; and,
- Be physically present in the United States at the time of filing the application to adjust status.

(2) In addition, the alien must:

- Apply for adjustment of status under Public Law 106–378 no later than October 26, 2001, or have applied for adjustment of status under another provision of the Act and request that the basis of that application be changed to Public Law 106–378;
- Have been physically present in the United States for at least 1 year after being granted asylum;
- Not be firmly resettled in any foreign country; and
- Be admissible as an immigrant under the Act at the time of examination for adjustment of status.

The spouse, child, or unmarried son or daughter of an eligible Syrian national may also adjust status under Public Law 106–378 provided he or she meets the requirements listed under section (2) above.

What Ground of Inadmissibility Does Not Apply When Adjusting Status Under Public Law 106–378?

While Public Law 106–378 requires that aliens applying to adjust status under this provision must be admissible as an immigrant, the Service will not apply the ground of inadmissibility found at section 212(a)(4) of the Act relating to public charge to applicants for adjustment of status under Public Law 106–378.

Public Law 106–378 affords its beneficiaries the opportunity to adjust their status from asylee to lawful permanent resident without regard to the normal numerical limits on such adjustments.

Pre-existing law provides that the ground of inadmissibility found at section 212(a)(4) of the Act relating to public charge is inapplicable to an alien seeking adjustment of status from that of a refugee or asylee. Accordingly, the Service has determined that it would be inconsistent with the purpose of this law to enforce this ground of inadmissibility against this small (2,000) groups of aliens where, given the short application period, Congress has directed that "the Attorney General should act without further delay to grant [them] lawful permanent resident status."

Indeed, granting lawful permanent resident status sooner, rather than later, to an asylee who might otherwise be found to be a public charge helps the country as a whole by granting them an immigration status that expands their employment potential. Such considerations have been taken into account previously when interpreting the impact of section 212(a)(4) of the Act on an alien's eligibility for other

special adjustment programs. *See Matter of Mesa* 12 I&N Dec. 432 (BIA 1967).

What Grounds of Inadmissibility May Be Waived When Adjusting Status Under Public Law 106–378?

Applicants may apply for the waivers of other grounds of inadmissibility found at section 212(h), (i), and (k) of the Act, to the extent they are eligible.

How Do Eligibility Syrian Nationals File for Adjustment of Status Under Public Law 106–378?

Aliens With Applications for Adjustment of Status Already Pending

Filed Before October 27, 200

Some eligible Syrian nationals may have already filed a Form I–485, Application to Register Permanent Residence or Adjust Status, prior to October 27, 2000, when Public Law 106–378 was enacted. If that application remains pending, such an eligible Syrian national has the option of (1) requesting that the basis for that pending Form I–485 be changed to Public Law 106–378, at any time or (2) submitting a new Form I–485 based on Public Law 106–378 prior to October 26, 2001, that would be processed independently of the other Form I–485 on file.

Any new application for adjustment based on Public Law 106–378 is subject to the statutory deadline of October 2, 2001. However, according to the language of § 2(a)(1) of Public Law 106–378, as interpreted by the Services, the statutory deadline does not apply if the alien had applied for adjustment of status, before the date of enactment of Public Law 106–378, under any other provision of the INA.

Filed On or After October 27, 2000

If an eligible Syrian national filed Form I+485 under another provision of law on or after October 27, 2000, he or she has the same 2 options of requesting that the basis for that pending Form I–485 be changed to Public Law 106–378, or submitting a new Form I–485 based on Public Law 106–378. However, to remain eligible for adjustment of status under Public Law 106–378, the alien must make the request or file the new application on or before October 26, 2001.

Requesting That the Basis of the Pending Form I–485 Be Changed to Public Law 106–378

An eligible Syrian national requesting that the basis of his or her pending Form I–485 be changed to Public Law 106–378 must submit this request in writing to the Nebraska Service Center at the address listed below. The request must state that the applicant wants to change the basis of his or her Form I–485 that is currently pending with a Service office to Public Law 106–378. The request must state at which Service office that adjustment application is pending. In addition, the request must be signed by the applicant and mailed to: U.S. Immigration and Naturalization Service, Nebraska Service Center, P.O. Box 87485, Lincoln NE 68501–7485.

The applicant should clearly annotate "*SYRIAN ASYLEE P.L. 106–378*" on the envelope to identify the correspondence. It is important to note that if an applicant makes this request and is found to be ineligible under Public Law 106–378, but appears eligible for adjustment under another section of the Act, the Service will provide the applicant with notice of this fact and also that the Form I–485 will resume pending for adjustment under the original provision of the Act.

New Applications for Adjustment of Status

(1) Syrian nationals eligible to apply for adjustment of status under Public Law 106–378 should file Form I–485 with the: U.S. Immigration and Naturalization Service, Nebraska Service Center, P.O. Box 87485, Lincoln NE 68501–7485.

(2) Applicants should clearly mark "*SYRIAN ASYLEE P.L. 106–378*" on the outside of their envelope.

(3) All applicants must submit all additional documents required by Service regulations and the instructions on Form I–485. On Form I–485, Part 2, question "h", applicants must write "*SYRIAN ASYLEE—P.L. 106–378*" to indicate that they are applying based on this provision.

(4) Applicants younger than 14 years old must submit the required filing fee, currently $160, or request that the fee be waived.

(5) Applicants 14 years and older must submit the associated filing fee, currently $220, or request that the fee be waived pursuant to 8 CFR 103.7(c). In addition, applicants 14 years and older must submit a $25 fingerprinting fee.

(6) The application must be physically received by the Service Center prior to close-of-business on October 26, 2001. Mailing or having the application post-marked prior to October 26, 2001, is not sufficient proof of filing.

Is There a Limit to the Number of Adjustments That May Be Granted Under Public Law 106–378?

Yes, the Service may only grant adjustment of status under Public Law 106–378 to 2,000 aliens. Adjustments of both principals and dependents count towards this total. The Service has no discretion in increasing this number. Although the Service does not anticipate that there are more than 2,000 aliens eligible, applicants should apply early.

What Is the Benefit of Changing a Pending Asylee-Based Form I–485 to Public Law 106–378?

An alien who changes the basis of his or her Form I–485 from section 209 of the Act (asylee-based only) to Public Law 106–378 is no longer subject to the 10,000 annual limit requirement of section 209(b) of the Act on the adjustment of status of aliens granted asylum. An alien adjustment status under Public Law 106–378 may have his or her status adjustment immediately, as long as the 2,000 numerical limitation has not been met.

Since generally, asylum is granted to more than 10,000 aliens annually, a queue develops and aliens must wait until a space in a future year's annual limit is available. The queue is chronologically based on the date of the asylum grant. (For example, in FY 2001, the Service was processing asylum-related adjusted applications filed prior to January 6, 1998.)

When Is the Deadline for Submitting an Application for Adjustment Under Public Law 106–378?

All new Forms I–485 based upon Public Law 106–378 must be received by the Nebraska Service Center by close-of-business on October 26, 2001. New applications received by the Service Center after that day will be rejected. Mailing or having the application post-marked prior to October 26, 2001, is not sufficient proof of filing.

There is no deadline for requests to change the basis of a pending Form I–485 that was filed before Public Law 106–378 was enacted on October 27, 2000. Such requests to change may be submitted until such time as the 2,000 statutory limit on adjustments has been reached. However, requests to change the basis of a pending Form I–485 that was filed on or after October 27, 2000, are subject to the statutory deadline and must be received no later than October 27, 2001.

What Evidence Will Demonstrate That the Applicant Is Eligible for Public Law 106–378?

Since an alien applying for adjustment of status under Public Law 106–378 must have been granted asylum, Service records will contain information relating to the alien's nationality, religion, date of arrival in the United States, and date asylum was granted. Unless requested by the Service, an alien applying for adjustment of status under Public Law 106–378 does not need to submit evidence to satisfy these requirements.

An alien must demonstrate that the he or she meets the other requirements of Public Law 106–378, specifically that the alien was permitted to depart from Syria by the Syrian Government (principal beneficiaries only), has been physically present in the United States for 1 year after the grant of asylum, and has not firmly resettled in any foreign country. To do so, aliens must submit a copy of the alien's passport, a copy of the applicant's Arrival-Departure Record (Form I–94) or other evidence of inspection and admission or parole into the United States after December 31, 1991.

With respect to evidence of physical presence, the Service is incorporating by reference the existing provision of a different rule, § 245.15(j)(2) of this part. Although the latter section pertains to a different category of aliens, paragraph (j)(2) of that rule sets forth a common approach for demonstrating physical presence in the United States, and provides examples of the kinds of documentation that applicants can submit. Aliens applying for adjustment of status under Public Law 106–378 must submit sufficient documentation to establish that they were physically present in the United States for at least a 1-year period after being granted asylum. It is not necessary that the period of physical presence be a single, unbroken period.

What Date Will Be Recorded as the "Record of Permanent Residence" for Aliens Granted Lawful Permanent Resident Status Under Public Law 106–378?

Upon the approval of an application for adjustment of status under Public Law 106–378, the Service in accordance with section 2(d) of Public Law 106–378 will establish a record of the alien's admission for lawful permanent residence as of the date 1 year before the date of the approval of the application.

Can Applicants for Adjustment of Status Obtain Employment Authorization?

Yes, aliens who have filed Form I–485 based on Public Law 106–378 may apply for employment authorization with the Service. Aliens must file Form I–765, Application for Employment Authorization, with the required application fee, currently $100, or a request for a fee waiver in accordance with 8 CFR 103.7(c). Applications for employment authorization based on a pending Form I–485 filed under Public Law 106–378 must be filed with the Nebraska Service Center.

What Happens if I Submit an Application for Adjustment of Status Under Public Law 106–378 After the Service Has Approved 2,000 Applications?

Although the Service does not anticipate that there are more than 2,000 aliens eligible under Public Law 106–378, if an eligible alien submits his or her application, or request for a change in the basis of an already pending application, after the 2,000 limit for adjustments under Public Law 106–378 has been reached, that application or request and any associated fees or evidence submitted will be returned to the alien. In the case of an alien making a request to change the basis of a currently pending application, his or her application will continue to remain pending with the Service and will be adjudicated based on the law upon which it was filed. If the alien is an asylee who does not yet have an adjustment of status application pending, he or she may be eligible to file for adjustment under section 209 of the Act. Such an alien should follow the procedures at 8 CFR 209.2 to file under section 209 of the Act.

Good Cause Exception

The Service's implementation of this rule as an interim rule with provisions for post-promulgation public comment is based on the "good cause" exceptions found at 5 U.S.C. 533(b)(B), and (d)(3). The immediate implementation of this rule without prior notice and comment is necessary because Public Law 106–378 provided for a 1-year application period which will end on October 26, 2001. Consequently, implementing this regulation upon date of publication is necessary to provide as much time as possible to allow eligible aliens to apply for benefits under Public Law 106–378. Since prior notice and public comments with respect to this rule is impractical and contrary to public interest, there is good cause under 5 U.S.C. 553 to make this rule effective upon publication in the **Federal Register**.

Regulatory Flexibility Act

The Acting Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects certain individual Syrian nationals who were granted asylum in the United States. It does not have an effect on small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section (6)(a)(3)(A).

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This interim rule does not impose any new reporting or recordkeeping requirements. The information collection requirements contained in this rule were previously approved for use by the Office of Management and Budget (OMB). The OMB control numbers for these collections are contained in 8 CFR 299.5, Display of control numbers.

List of Subjects in CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 245 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

1. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; sec. 202, Pub. L. 105–100, 111 Stat. 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681; 8 CFR part 2.

2. Section 245.20 is added to read as follows:

§ 245.20 Adjustment of status of Syrian asylees under Public Law 106–378.

(a) *Eligibility.* An alien is eligible to apply to adjust status under Public Law 106–378 if the alien is:

(1) A Jewish national of Syria;

(2) Arrived in the United States after December 31, 1991, after being permitted by the Syrian Government to depart from Syria;

(3) Is physically present in the United States at the time of filing the application to adjust status;

(4) Applies for adjustment of status no later than October 26, 2001, or has a pending application for adjustment of status under the Act that was filed with the Service before October 27, 2000;

(5) Has been physically present in the United States for at least 1 year after being granted asylum;

(6) Has not firmly resettled in any foreign country; and

(7) Is admissible as an immigrant under the Act at the time of examination for adjustment.

(b) *Qualified family members.* The spouse, child, or unmarried son or daughter of an alien eligible for adjustment under Public Law 106–378 is eligible to apply for adjustment of status under this section if the alien meets the criteria set forth in paragraphs (a)(4) through (a)(7) of this section.

(c) *Grounds not to be applied and waivers.* The grounds of inadmissibility found at section 212(a)(4) of the Act, relating to public charge, and at section 212(a)(7)(A) of the Act, relating to documentation, do not apply to applicants for adjustment of status under Public Law 106–378. Applicants may also request the waivers found at sections 212(h), (i), and (k) of the Act, to the extent they are eligible.

(d) *Application.*—(1) *New applications.* An applicant must submit From I–485, Application to Register Permanent Residence or Adjust Status, along with the appropriate application fee as stated in § 103.7(b)(1) of this chapter, to the Nebraska Service Center. The application must physically be received by the Nebraska Service Center no later than close of business on October 26, 2001. Applicants 14 years of age or older must also submit the fingerprinting service fee provided for in § 103.7(b)(1) of this chapter. Each application filed must be accompanied by two photographs as described in the Form I–485 instructions; a completed Biographic Information Sheet (Form G–325A) if the applicant is between 14 and 79 years of age; and a report of medical examination (Form I–693 and vaccination supplement) as specified in 8 CFR 245.5. On Form I–485, Part 2, question "h", applicants must write *"SYRIAN ASYLEE—P.L. 106–378"* to indicate that they are applying based on this provision.

(2) *Filing of requests to change the basis of a pending Form I–485.*—(i) *Request.* An eligible Syrian national with a Form I–485 that is currently pending with the Service may request that the basis of his or her Form I–485 be changed to Public Law 106–378. The alien must submit this request in writing to the Nebraska Service Center. The request may only be granted if the 2,000 adjustment limit specified in paragraph (i) of this section has not yet been reached. The 2,000 adjustment limit includes both new and pending Form I–485 petitions. The applicant should clearly annotate *"SYRIAN ASYLEE P.L. 106–378"* on the envelope to identify the correspondence.

(ii) *Time limit.* If the Form I–485 was filed before October 27, 2000, there is no time limit for requesting a change of basis for adjustment of status. However, if the Form I–485 was filed on or after October 27, 2001, then the Service must receive the request for change of basis no later than October 27, 2001.

(e) *Evidence.* Applicants must submit evidence that demonstrates they are eligible for adjustment of status under Public Law 106–378. Required evidence includes the following:

(1) A copy of the alien's passport;

(2) A copy of the applicant's Arrival-Departure Record (Form I–94) or other evidence of inspection and admission or parole into the United States after December 31, 1991;

(3) Documentation including, but not limited to, those listed at § 245.15(j)(2) to establish physical presence in the United States for at least 1 year after being granted asylum;

(4) If the applicant is the spouse of a principal alien applying for adjustment, he or she must submit a marriage certificate, if available, or other evidence to demonstrate the marriage; and

(5) If the applicant is the child of a principal alien applying for adjustment of status, he or she must submit a birth certificate, if available, or other evidence to demonstrate the relationship.

(f) *Employment authorization.* Applicants who want to obtain employment authorization based on a pending application for adjustment of status under Public Law 106–378 may submit Form I–765, Application for Employment Authorization, along with the application fee listed in § 103.7(b)(1) of this chapter. If the Service approves the application for employment authorization, the applicant will be issued an employment authorization document.

(g) *Travel while an application to adjust status is pending.* Applicants who wish to travel abroad and re-enter the United States while an application for adjustment of status is pending without being considered to have abandoned that application must obtain advance parole prior to departing the United States. To obtain advance parole, applicants must file Form I–131, Application for a Travel Document, along with the application fee listed in § 103.7(b)(1) of this chapter. If the Service approves Form I–131, the alien will be issued Form I–512, Authorization for the Parole of an Alien into the United States.

(h) *Approval and date of admission as a lawful permanent resident.* When the Service approves an application to adjust status to that of lawful permanent resident based on Public Law 106–378, the applicant will be notified in writing of the Service's decision. In addition, the record of the alien's admission as a lawful permanent resident will be recorded as of the date 1 year before the approval of the application.

(i) *Number of adjustments under Public Law 106–378.* No more than 2,000 aliens may have their status adjusted to that of lawful permanent resident under Public Law 106–378.

(j) *Notice of Denial.*—(1) *General.* When the Service denies an application to adjust status to that of lawful permanent resident based on Public Law 106–378, the applicant will be notified of the decision and the reason for the denial in writing.

(2) *Cases involving requests to change the basis of a pending Form I–485.* If an applicant who requested that a pending Form I–485, be considered under Public Law 106–378, is found to be ineligible under Public Law 106–378, but he or she appears eligible for adjustment under the original section of the Act under which the Form I–485 was filed, the Service will provide the applicant with notice of this fact. Processing the Form I–485 under the original provision of law will resume as appropriate.

(k) *Administrative review.* An alien whose application for adjustment of status under Public Law 106–378 is denied by the Service may not appeal the decision. However, the denial will be without prejudice to the alien's right to renew the application in proceedings under 8 CFR part 240 provided that the 2,000 statutory limit on such adjustments has not yet been reached.

Dated: May 11, 2001.

Kevin D. Rooney,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–12432 Filed 5–16–01; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG70

List of Approved Spent Fuel Storage Casks: VSC–24 Revision; Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of May 21, 2001, for the direct final rule that appeared in the **Federal Register** of March 6, 2001 (66 FR 13407). This direct final rule amended the NRC's regulations by revising the Pacific Sierra Nuclear Associates (PSNA) VSC–24 listing within the "List of approved spent fuel storage casks" to include Amendment No. 3 to the Certificate of Compliance (CoC).

DATES: The effective date of May 21, 2001 is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking website (http://ruleforum.llnl.gov). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail, spt@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: On March 6, 2001 (66 FR 13407), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72 to revising the Pacific Sierra Nuclear Associates (PSNA) VSC–24 listing within the "List of approved spent fuel storage casks" to include Amendment No. 3 to the Certificate of Compliance (CoC). This amendment changes the Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC–24 cask system, modifies the text in TS 1.2.7 for accuracy, modifies the text in Certificate Section 2.b. to remove ambiguity, modifies Certificate Section 3 to be consistent with TS 1.1.4, modifies Certificate Section 4 for consistency with TS 1.1.3, and modifies Certificate Section 5 to remove ambiguity. This document confirms the effective date. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on the date noted above. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 11th day of May, 2001.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 01–12412 Filed 5–17–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–05–AD; Amendment 39–12232; AD 2001–10–06]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, S–76B, and S–76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that applies to Sikorsky Aircraft Corporation (Sikorsky) Model S–76A, S–76B, and S–76C helicopters and currently requires, before further flight, performing a fluorescent penetrant inspection (FPI) of the main rotor shaft assembly (shaft). Also, a recurring FPI and visual inspection for a cracked shaft are required by that AD. That AD also requires replacing the shaft with an airworthy shaft before further flight if a crack is found. This amendment requires replacing certain serial numbered shafts with an airworthy shaft before further flight. This amendment is prompted by further investigation and a determination that the inspections can be safely eliminated if certain serial-numbered shafts are removed from service before further flight. The actions specified by this AD are intended to prevent failure of the shaft and subsequent loss of control of the helicopter.

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Wayne Gaulzetti, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–23–52, Amendment 39–12095 (66 FR 8507, February 1, 2001), which applies to Sikorsky Model S–76A, S–76B, and S–76C helicopters, was published in the **Federal Register** on March 15, 2001 (66 FR 15062). That action proposed to require, before further flight, replacing each shaft, part number 76351–09030—all dash numbers, serial number B015–00700 through B015–00706, with an airworthy shaft.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No

comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 3 helicopters of U.S. registry would be affected by this AD, that it would take approximately 5 work hours per helicopter to replace the shafts, and that the average labor rate is $60 per work hour. Required parts would cost approximately $19,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $57,900.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12095 (66 FR 8507, February 1, 2001), and by adding a new airworthiness directive (AD), Amendment 39–12232, to read as follows:

AD 2001–10–06 Sikorsky Aircraft Corporation: Amendment 39–12232. Docket No. 2001–SW–05–AD. Supersedes AD 2000–23–52, Amendment 39–12095, Docket No. 2000–SW–61–AD.

Applicability: Model S–76A, S–76B, and S–76C helicopters with main rotor shaft assembly (shaft), part number 76351–09030- all dash numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required before further flight, unless accomplished previously.

To prevent failure of the shaft and subsequent loss of control of the helicopter:

(a) Replace each affected shaft, serial number B015–00700 through B015–00706, with an airworthy shaft.

Note 2: Sikorsky Alert Service Bulletin No. 76–66–32A (319A), Revision A, dated January 17, 2001, pertains to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on June 21, 2001.

Issued in Fort Worth, Texas, on May 10, 2001.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–12336 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30248; Amdt. No. 2051]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Available of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendence of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designed FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only those specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on May.11, 2001.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC Date	State	City	Airport	FDC No.	Subject
03/02/01	CA	Oakland	Metropolitan Oakland Intl	1/2278	NDB Rwy 27R, Amdt 5
04/12/01	SD	Watertown	Watertown Muni	1/3577	ILS Rwy 35, Amdt 10 VOR or GPS Rwy 2
04/16/01	VA	Richmond	Richmond Intl	1/3633	Amdt 5 RNAV (GPS) Rwy 3
04/18/01	WA	Spokane	Spokane Intl	1/3688	Orig
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3962	ILS Rwy 27R Amdt 33
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3965	ILS Rwy 29 (CAT I, II, III) Amdt 23B
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3967	VOR/DME Rwy 29 Orig
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3968	VOR/DME Rwy 27L Amdt 11
04/26/01	CA	Hayward	Hayward Executive	1/3969	VOR or GPS–A Amdt 6B
04/26/01	CA	Hayward	Hayward Executive	1/3970	VOR/DME or GPS–B Amdt 1B
04/26/01	CA	Hayward	Hayward Executive	1/3971	LOC/DME Rwy 28L Amdt 1A
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3978	ILS Rwy 11 Amdt 4A VOR or GPS Rwy 9R
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3980	Amdt 7A

FDC Date	State	City	Airport	FDC No.	Subject
04/30/01	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	1/4048	ILS Rwy 36L, Amdt 6A Converging ILS
04/30/01	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	1/4049	Rwy 36L, Amdt 3C
04/30/01	TX	Mesquite	Mesquite Metro	1/4054	ILS Rwy 17, Amdt 1
04/30/01	TX	Mesquite	Mesquite Metro	1/4056	NDB or GPS Rwy 17, Amdt 5A
04/30/01	TX	Mesquite	Mesquite Metro	1/4057	LOC BC Rwy 35, Amdt 2
04/30/01	HI	Kaunakakai	Molokai	1/4059	VOR or TACAN or GPS–A, Amdt 15A
05/02/01	AR	Carlisle	Carlisle Muni	1/4156	VOR/DME Rwy 9, Amdt 2
05/03/01	OH	Columbus	Rickenbacker Intl	1/4185	HI–ILS Rwy 5R, Amdt 2
05/04/01	CA	Marysville	Yuba County	1/4218	ILS Rwy 14, Amdt 4D
05/07/01	ND	Grand Forks	Grand Forks Intl	1/4257	ILS Rwy 35L, Amdt 11B
05/07/01	WA	Everett	Snohomish County (Paine Field)	1/4272	NDB RWY 16, Amdt 12A
05/07/01	WA	Everett	Snohomish County (Paine Field)	1/4273	GPS Rwy 16R, Orig
05/07/01	WV	Lewisburg	Greenbrier Valley	1/4292	ILS Rwy 4, Amdt 9
05/07/01	ND	Bismarck	Bismarck Muni	1/4297	ILS Rwy 31, Amdt 32A
05/08/01	PW	Babel Thuap Island	Babel Thaup/Kor Or	1/4320	GPS Rwy 27, Amdt 1
05/08/01	PW	Babel Thuap Island	Babel Thuap Island/Kor Or	1/4321	GPS Rwy 9, Amdt 1
05/09/01	VA	Saluda	Hummel Field	1/4328	GPS Rwy 36, Orig
05/09/01	MN	Duluth	Duluth Intl	1/4354	GPS Rwy 21, Orig
05/09/01	TX	Cleveland	Cleveland Muni	1/4368	GPS Rwy 16, Orig
05/09/01	WA	Everett	Snohomish County (Paine Field)	1/4386	VOR or GPS–B, Orig–A

[FR Doc. 01–12485 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30247; Amdt. No. 2050]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169

ADDRESSES: (Mail P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP

as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on May 11, 2001.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective July 12, 2001*

Bethel, AK, Bethel, VOR RWY 36, Amdt 7A, CANCELLED
St George, AK, St George, ILS RWY 11, Orig
St. Mary's, AK, St. Mary's, RNAV (GPS) RWY 16, Orig
St. Mary's, AK, St. Mary's GPS RWY 16, Amdt 1, CANCELLED
Washington, DC, Ronald Regan Washington National, VOR/DME RNAV OR GPS–A, Amdt 6A, CANCELLED
Fort Myers, FL, Southwest Florida Intl, RADAR–1, Amdt 6
Fort Meyers, FL, Page Field, RADAR–1, Amdt 3
Jasper, GA Pickens County, NDB RWY 34, Orig
Belleville, IL, Scott AFB/Midamerica, ILS RWY 14R, Orig
Salem, IL, Salem-Leckrone, NDB RWY 18, Amdt 10
Salem, IL, Salem-Leckrone, RNAV (GPS) RWY 18, Orig
Salem, IL, Salem-Leckrone, RNAV (GPS) RWY 36, Orig
Salem, IL Salem-Leckrone, GPS RWY 18, Orig, CANCELLED
Lexington, KY, Blue Grass, RNAV (GPS) RWY 4, Orig
Lexington, KY, Blue Grass, RNAV (GPS) RWY 8, Orig
Lexington, KY, Blue Grass, RNAV (GPS) RWY 22, Orig
Lexington, KY, Blue Grass, RNAV (GPS) RWY 26, Orig
Houma, LA, Houma-Terrebonne, VOR/DME RNAV 36, Amdt 4, CANCELLED
Bedford, MA, Laurence G. Hanscom Field, ILS RWY 29, Amdt 5
Baudette, MN, Baudette Intl, VOR RWY 30, Amdt 10
Baudette, MN, Baudette Intl, VOR/DME RWY 12, Amdt 5
Baudette, MN, Baudette Intl, RNAV (GPS) RWY 30, Orig
Olive Branch, MS, Olive Branch, RNAV (GPS) RWY 18, Orig
Kenansville, NC, Duplin County, LOC RWY 22, Orig
Kenansville, NC, Duplin County, LOC RWY 22, Orig-B, CANCELLED
Kenansville, NC, Duplin County, NDB RWY 22, Amdt 5B, CANCELLED
Kenansville, NC, Duplin County, NDB RWY 22, Orig
Philadelphia, PA, Philadelphia Intl, RADAR–1, Amdt 17, CANCELLED
Salt Lake City, UT, Salt Lake City Intl, ILS RWY 16L, Orig
Salt Lake City, UT, Salt Lake City Intl, ILS/DME RWY 16L, Amdt 12A, CANCELLED
Salt Lake City, UT, Salt Lake City Intl, ILS RWY 16R, Orig
Salt Lake City, UT, Salt Lake City Intl, ILS/DME RWY 16R, Amdt 3A, CANCELLED
Salt Lake City, UT, Salt Lake City Intl, ILS RWY 17, Amdt 12
Salt Lake City, UT, Salt Lake City Intl, RNAV (GPS) RWY 16L, Orig
Salt Lake City, UT, Salt Lake City Intl, RNAV (GPS) RWY 16R, Orig
Salt Lake City, UT, Salt Lake City Intl, GPS RWY 16L, Orig-A, CANCELLED
Salt Lake City, UT, Salt Lake City Intl, GPS RWY 17, Orig-B CANCELLED
Salt Lake City, UT, Salt Lake City Intl, RNAV (GPS) RWY 17 Orig
Green Bay, WI, Austin Straubel Intl, RNAV (GPS) RWY 6, Amdt 1
Green Bay, WI, Austin Straubel Intl, RNAV (GPS) RWY 18, Orig
Green Bay, WI, Austin Straubel Intl, RNAV (GPS) RWY 24, Orig
Green Bay, WI, Austin Straubel Intl, RNAV (GPS) RWY 36, Amdt 1

The FAA published an Amendment in Docket No. *30245*, Amdt No. *2048* to Part 97 of the Federal Aviation Regulations (Vol *66*, FR No. *87*, Page *22438*; dated *May 4, 2001*) Under section 97.33 effective *July 12, 2001*, which is hereby amended as follows:

Colby, KS, Shaltz Field, RNAV RWY 17, ORIG
Colby, KS, Shaltz Field, RNAV RWY 35, ORIG

Should read:

Colby, KS, Shaltz Field, RNAV (GPS) RWY 17, ORIG
Colby, KS, Shaltz Field, RNAV (GPS) RWY 35, ORIG

[FR Doc. 01–12486 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 132 and 163

[T.D. 01–35]

RIN 1515–AC83

Licensee for Certain Worsted Wool Fabrics Subject to Tariff-Rate Quota

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim rule; correction.

SUMMARY: This document contains a correction to the interim regulations that

were published in the **Federal Register** on May 1, 2001, concerning the implementation of a tariff-rate quota for certain worsted wool fabric. The interim regulations amended the Customs Regulations to set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce, is in effect for worsted wool fabric that is subject to the tariff-rate quota. The importer must be in possession of the license, or if the importer is not the licensee, the importer must possess a written authorization from the licensee, in order to be able to claim the in-quota rate of duty on the worsted wool fabric.

DATES: Interim rule effective on May 1, 2001. The interim rule is applicable to products that are entered, or withdrawn from warehouse, for consumption on or after January 1, 2001. Comments must be received on or before July 2, 2001.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Tom Fitzpatrick, Office of Field Operations, (202–927–5385).

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** (66 FR 21664) on May 1, 2001, as T.D. 01–35, amended the Customs Regulations on an interim basis concerning the implementation of a tariff-rate quota for certain worsted wool fabric. Specifically, the interim regulations amended the Customs Regulations by adding a new § 132.18 that set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce ("Commerce"), is in effect for worsted wool fabric that is the subject of the tariff-rate quota. The importer must be in possession of the license or, if not the licensee, the importer must possess a written authorization from the licensee, in order to be able to claim the in-quota rate of duty on the worsted wool fabric.

The interim rule stated that it would be applicable to worsted wool products that were entered or withdrawn from warehouse for consumption on or after May 1, 2001.

However, under section 501 of the Trade and Development Act of 2000(Pub. L. 106–200, 114 Stat. 251; May 18, 2000), the Harmonized Tariff Schedule of the United States (HTSUS) was amended to establish a tariff-rate quota covering designated worsted wool fabrics that were entered or withdrawn from warehouse for consumption, on or after January 1, 2001.

In this regard, an import license issued by Commerce that would entitle an importer to claim the in-quota rate of duty on worsted wool fabric is valid for the entire calendar year for which the license is issued (see 19 CFR 132.18(c)(2) at 66 FR 21667). Licenses issued by Commerce for the year 2001 are therefore intended to cover worsted wool fabrics subject to the tariff-rate quota that are entered or withdrawn from warehouse for consumption on or after January 1, 2001.

Consequently, the interim rule is applicable to worsted wool fabrics covered under the tariff-rate quota that are entered or withdrawn from warehouse for consumption on or after January 1, 2001, as indicated above under the **DATES** caption, and as corrected below.

Need for Correction

For the reasons noted, the interim rule, as published, requires clarification.

Correction of Publication

The publication on May 1, 2001 of the interim rule (T.D. 01–35), which was the subject of FR Doc. 01–10717, is corrected as follows:

On page 21664, in the third column, under the **DATES** caption, the second sentence is corrected to read: "The interim rule is applicable to products that are entered, or withdrawn from warehouse, for consumption, on or after January 1, 2001."

Dated: May 11, 2001.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 01–12391 Filed 5–16–01; 8:45 am]

BILLING CODE 4820–02–P

RAILROAD RETIREMENT BOARD

20 CFR Part 217

RIN 3220–AB45

Application for Annuity or Lump Sum

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board amends its regulations to enable a divorced spouse who remarries the employee within six months of the divorce to use the spouse application to qualify for a divorced spouse annuity for the period prior to the remarriage. This amendment eliminates the necessity for the spouse to file a separate application for a short period of benefits.

EFFECTIVE DATE: This rule is effective May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, telephone (312) 751–4945, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 217.8 of the Board's regulations describes situations where the Board will accept an application filed for one type of annuity as an application for another type of annuity. An application may be effective for the period six months prior to the date of filing. This final rule adds a provision to enable a divorced spouse who remarries the employee within six months of the divorce to use the spouse application to qualify for a divorced spouse annuity for the period after the divorce and prior to the remarriage. In such cases the requirement that a claimant be married to the employee for a period of one year prior to application for a spouse annuity, as required by § 216.54 of this part, is waived.

The Board published this rule as a proposed rule on May 11, 2000 (65 FR 30366) and invited comments by July 10, 2000. No comments were received. Accordingly, the proposed rule is adopted as a final rule without change.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866; therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 217

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board amends chapter II of title 20 of the Code of Federal Regulations as follows:

PART 217—APPLICATION FOR ANNUITY OR LUMP SUM

1. The authority citation for part 217 continues to read as follows:

Authority: 45 U.S.C. 231d and 45 U.S.C. 231f.

2. In Subpart B, § 217.8, redesignate paragraphs (m) through (u) as (n) through (v), and add a new paragraph (m) to read as follows:

§ 217.8 When one application satisfies the filing requirement for other benefits.

* * * * *

(m) A divorced spouse annuity if the spouse claimant has remarried the employee during the six-month retroactive period of the spouse annuity application.

* * * * *

Dated: May 1, 2001.
By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–12395 Filed 5–16–01; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[ND–040–FOR; North Dakota State Program Amendment XXIX]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of changes to North Dakota's revegetation policy document, Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments. Many of the changes are the result of rule changes that were submitted as amendments to the North Dakota regulatory program and approved by OSM in the April 28, 1997, and March 16, 1999, **Federal Registers** (62 FR 22889, and 64 FR 12896), giving mining companies options for proving reclamation success and revising requirements for tree and shrub standards. The corresponding changes are now being incorporated into the policy document. Other changes include clarifications, adjusting crop yield data, adding factors for adjusting yield standards, requiring plant species to be predominantly native, providing consistency for diversity and seasonality, prescribing the number of species for tame pastureland and clarifying sampling procedures. North Dakota intended to revise its policy document to reflect changes to its statute and regulations and make it consistent with corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–6550, Internet address: Gpadgett@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background of the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82214). North Dakota's "Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments," hereafter referred to as the "policy document" was submitted to OSM on June 1, 1988. The policy document was submitted to satisfy the requirements of 30 CFR 816.116(a)(1). The Federal regulations at 30 CFR 816.116(a)(1) require that regulatory authorities select revegetation success standards and statistically valid techniques for determining revegetation success and include them in its approved regulatory program. The policy document satisfies both these requirements. OSM's approval of the policy document was published in the March 10, 1989, **Federal Register** (46 FR 10141). Subsequent revisions to the policy document were approved by OSM on February 17, 1994, and January 8, 1999.

The North Dakota regulatory program contains specific rules governing standards for success of various postmining land uses in NDAC 69–05.2–22–07. These rules have been approved by OSM as being consistent with 30 CFR 816.111 and 816.116. North Dakota's policy document must be consistent with these State requirements.

You can find other actions concerning North Dakota's program and program amendments at 30 CFR 934.15 and 934.16.

II. Submission of the Proposed Amendment

By letter dated March 16, 2000, North Dakota sent us an amendment to its program (North Dakota State Program Amendment XXIX), administrative record No. ND–DD–01) under SMCRA (30 U.S.C. 1201 *et seq.*). The amendment revises North Dakota's revegetation policy document. Many of the changes are made to incorporate rule changes that were approved by OSM on April 28, 1997, and March 16, 1999, pertaining to the new option of proving reclamation success for three out of five years, starting no sooner than the eighth year of the responsibility period and revised reclamation success standards for woodlands and shelter belts.

In addition to revisions that are made as a result of rule changes previously approved by OSM, numerous other changes are also proposed. These changes include (1) clarifying the objectives section, (2) adding provisions to adjust North Dakota Agricultural Statistic Service crop yield data to reflect certain management practices, (3) including other factors, in addition to precipitation and temperature, in developing a cropland and/or tame pastureland regression equation to climatically adjust yield standards, (4) adding a statement to the native grassland section that established plant species must be predominantly native, (5) providing more consistency for species that must be present on tame pastureland, and (7) clarifying sampling procedures regarding when plant growth forms must be weighed separately. Some example calculations were also revised to better reflect premine conditions found at most of the mines. Editorial changes were made to correct errors in statistical formulas and revisions were made to the objectives section to clarify when certain requirements became effective.

We announced receipt of the proposed amendment in the March 31, 2000, **Federal Register** (65 FR 17211). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (administrative record No. ND–DD–04). We did not hold a public hearing or meeting because no one requested one. The public comment period ended at 4 pm m.d.t. May 1, 2000.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment revising

North Dakota's Revegetation Policy Document ("Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments") as described below.

1. Numerous Revisions To Reflect Changes to Rules Governing Requirements for Tree and Shrub Standards and Options for Proving Reclamation Success, Previously Approved by OSM as Amendments to the North Dakota Regulatory Program

a. OSM approved amendments to the North Dakota regulatory program in the April 28, 1997, **Federal Register** (62 FR 22889) revising NDAC 69–05.2–22–07. Revegetation standards for reclaimed woodlands and shelterbelts require that at least eighty percent of the trees, shrubs and half-shrubs counted for meeting standards to be in place for at least six years. New rule language states this standard will be deemed satisfied if the mine operator demonstrates that no tree, shrub or half-shrub replanting has occurred during the last six years of the responsibility period. This new language allows mining companies to count all shrubs on reclaimed lands that are established by natural regeneration during the entire revegetation responsibility period. The policy document is revised to reflect these approved changes.

b. OSM approved an amendment to the North Dakota regulatory program in the March 16, 1999, **Federal Register** (64 FR 12896) revising NDAC 69–05.2–22–07. This change gave mining companies the option of proving reclamation success for three out of five consecutive years, starting no sooner than the eighth year of the responsibility period. The responsibility period runs for at least ten years from the date reclaimed lands are seeded. Mining companies still have the option of proving reclamation success by meeting standards for the last two consecutive growing seasons of the responsibility period. The policy document is revised to reflect this approved change.

2. Minor Editorial Revisions to the Policy Document

a. Changing Soil Conservation Service (SCS) to Natural Resources Conservation Service (NRCS)

b. Citing both NRCS and SCS regarding consultation,

c. Updating the title of the NRCS National Range and Pasture Handbook (1997),

d. Correcting rule citations,

e. Changing the document to reflect that three years required for crop production on prime farmlands need not necessarily be consecutive years.

These changes are minor and will not make North Dakota's revegetation policy document less effective than the Federal provisions contained in 30 CFR 816.111 and 816.116.

3. Adding Clarification or Improving Examples Given

a. Improving the examples provided, by reformatting and adding a standard t-test formula for convenience,

b. Clarifying when to use North Dakota Agricultural Service annual county yield data for alfalfa hay yield versus all other hay yield information when evaluating hayland/tame pastureland vegetation production,

c. Clarifying sampling of representative cropland strips, and

d. Clarifying that hand clipped production samples must be separated by growth forms only when used for assessing seasonality.

These changes are mostly clarifications, added explanations, or changes to improve existing examples. We find that they will not make North Dakota's revegetation policy document less effective than the Federal provisions contained in 30 CFR 816.116.

4. Approved Grazing on Native Grasslands

North Dakota proposed adding a statement to Section D. Native Grasslands encouraging the use of approved grazing on native grasslands during the responsibility period. However, initial grazing plans must be approved by the State in accordance with NDAC 69–05.2–22–06. This statement is consistent with State regulations.

5. Native Grasslands Must Be Predominantly Native Cool and Warm Season Grasses

North Dakota proposed adding a statement that native grasslands must be predominantly native cool and warm season grasses and other appropriate plant species in the approved seed mixtures. This statement is consistent with 30 CFR 816.111 which requires the use of species native to the area, or of introduced species where desirable and necessary to achieve the approved postmining land use.

6. Effective Date of Rules That Required Vegetation Measurements

In the Objectives section, North Dakota proposes clarifying the applicability of the revegetation success standards and time frames for evaluation to lands disturbed under the State program both prior to and following the passage SMCRA. This includes language that August 1, 1980, was the effective date of rules that required vegetation measurements to be taken in the last two growing seasons of the revegetation responsibility period. The effective date of the option to prove reclamation success for three out of five consecutive years starting in the eighth year of the revegetation liability period was also added. These dates are the effective dates contained in the existing North Dakota regulations.

7. Vegetative Composition Requirements for Tame Pasturelands at Bond Release

North Dakota proposes to revise Section II–E to establish percentages for the vegetative composition requirements for tame pasturelands at bond release, consistent with the fish and wildlife habitat requirements, (previously there was no defined percentage for individual species). This ensures that the seeded species are present at the time of final bond release consistent with 30 CFR 816.111.

8. Predicting Estimated Summer Fallow or Continuous Cropping Yields

North Dakota proposes to revise the Cropland Section to include county-specific regression/correlation equations to predict the estimated summer fallow or continuous cropping yields based on annual county yields. The regression/correlation equations are based on long term county data. The equations were developed for the years of 1996 and later because the NDASS discontinued reporting individual yield values for summer fallow or continuous cropping after 1995.

The existing Cropland Section of the policy document, which applies to both prime farmland and non-prime farmland, allows the use of North Dakota Agricultural Statistics Service (NDASS) county cropland yields. This is consistent with 30 CFR 816.116(b)(2) which requires that for areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority.

For prime farmland only, 30 CFR 823.15(b)(7) states that Reference crop yields for a given crop season are to be determined from—(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service (now the Natural Resources Conservation Service (NRCS); or (ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. (NRCS) for local yield variation within the county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

The prime farmland regulations at 30 CFR 823.15(b)(8) state that under either procedure in Paragraph (b)(7) of this Section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service (NRCS), for—(i) Disease, pest, and weather-induced seasonal variations; or (ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

North Dakota's proposed county-specific regression/correlation equations to predict the estimated summer fallow or continuous cropping yields based on annual county yields are appropriate for creating technical standards. In accordance with 30 CFR 823.15(b)(8)(ii) for prime farmland standards (which are included under this section of the guidelines) the NRCS must concur with the proposed adjustment of average reference crop yields for differences in specific management practices where the overall management practices of the crops being compared are equivalent. In response to this requirement North Dakota provided a letter dated April 6, 2000, documenting the NRCS's concurrence with the proposed method for adjusting county yield data for summer fallow or continuous cropping.

9. Revise Correction Method 3 (Cropland) and 2 (Tame Pastureland)

North Dakota proposes to revise Correction Method 3 in Section II–C, Cropland, and Correction Method 2 in Section II–E, Tame Pastureland, to allow the use of other pertinent data, as well as precipitation and temperature to calculate a correction factor. It also allows the use of other formulas developed by the State besides regression equations.

30 CFR 816.116(b)(2) requires that for areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority. The approved policy document, sections II–C, Cropland, and II–E, Tame Pastureland, contain correction methods that allow the use of NDASS data in conjunction with precipitation and temperature data to calculate a correction factor. The regression equations will be developed or updated by the State. They would predict a deviation from the long term average NDASS yields based on current precipitation and growing season temperature.

For prime farmlands, 30 CFR 823.15(b)(7) states that Reference Crop yields for a given crop season are to be determined from—(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service (NRCS); or (ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. Soil Conservation Service (NRCS) for local yield variation within the county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

The prime farmland regulations at 30 CFR 823.15(b)(8) require that under either procedure in Paragraph (b)(7) of this Section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service (NRCS), for—(i) Disease, pest, and weather-induced seasonal variations; or (ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

In support of the proposed language to allow the use of other pertinent data in developing correction factors for any regression equations that are developed, North Dakota has stated that pertinent data includes other factors such as number of days during critical parts of the growing season where the maximum temperature exceeds a certain level, the incidence of widespread crop disease and/or insect damage. Based on the information provided and the NRCS concurrence discussed below the proposed revision of the two correction methods is appropriate.

Pursuant to 30 CFR 823.15(b)(8) for prime farmland standards (which are included under the Cropland section of the guidelines) North Dakota has provided a letter dated April 6, 2000 (administrative record No. ND–DD–05), documenting the NRCS's concurrence with the proposed changes to the correction methods.

10. Diversity and Seasonality Standards for Native Grassland

North Dakota proposes to revise its diversity and seasonality standards contained in Section II–D, for Native Grassland. As proposed the State would add an introduction to the diversity standard that the presence of adequate plant species diversity in the reclaimed native grasslands is of much importance because it reflects environmental/community stability and ensures some degree of sustainability under the intended land use. Both cool and warm season grass species are important and needed in native grasslands. Therefore, reclaimed native grasslands must be established predominantly with both cool and warm season native grass species and other appropriate plant species in the approved seed mixtures. The diversity and seasonality standards that follow require that either production or cover data be used to show that the standards have been achieved.

The diversity and seasonality standards can be based on the range sites that occurred in the premine native grassland tract or they can be based on the range sites that are expected to develop on the reclaimed tract. However, the same methodology must be used when measuring both diversity and seasonality in each of the years these measurements are taken on a given tract. That is if the diversity standard is based on the premine range sites, the seasonality standard must also be based on the premine range sites.

If the diversity and seasonality standards will be based on the range sites that are expected to develop on the reclaimed tract, the discussion of this method in the permit application must address the projected native grassland topsoil and subsoil respread thicknesses and the maximum postmining slopes, with a reference to the postmining area slope map provided in another section of the permit. Soils of the reclaimed tract may be characterized by evaluating the premine soil survey data and the expected mixing that will occur. Following revegetation, a field assessment will be needed to verify the site types on the reclaimed native grassland.

In addition, all the examples for calculating diversity have been revised to reflect the revised diversity standards.

The seasonality standard is also being revised. Seasonality will be based on the percentage of warm season grasses because cool season grasses are very competitive and generally dominate a seeded stand in the Northern Great Plains. To evaluate seasonality of reclaimed native grassland, one of two following standards may be used. Both standards allow the use of either the pre-mine range sites or the range sites that are expected to develop on the reclaimed tract. As previously noted, the same methodology used to measure diversity must be used to measure seasonality. Both standards are based on the percent composition of warm season grasses relative to total species composition. The example seasonality calculations have also been revised to reflect the revised standard.

The Federal regulations at 30 CFR 816.111(a)(1) require that the permittee shall establish on regraded areas and on all other disturbed areas except water areas and surface areas of roads that are approved as part of the postmining land use, a vegetative cover that is in accordance with the approved permit and reclamation plan and that is diverse, effective, and permanent. 30 CFR 816.111(b)(2) requires that the reestablished plant species shall have the same seasonal characteristics of growth as the original vegetation. Beyond this language no specific success standards are provided for diversity or seasonality. This is left to the discretion of the regulatory authority. North Dakota's proposed diversity and seasonality standards are consistent with the Federal regulations and are no less effective.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (administrative record No. ND–DD–03), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested on March 30, 2000, comments on the amendment from various Federal agencies with an actual or potential interest in the North Dakota program (administrative record No. ND–DD–03).

Thomas E. Jewett, State Conservationist for the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), in addition to stating in his April 6, 2000 letter to North Dakota Reclamation Division Director James R. Deutsch, that "We concur with all proposed changes. * * *" further commented on recent changes to NRCS cropland productivity indexes that are used in North Dakota's revegetation document. In an April 11, 2000 letter to OSM Casper Field Office Director, Guy Padgett, North Dakota Reclamation Division Director James R. Deutsch stated, "Please be advised we plan to incorporate the updated indexes into the document the next time some changes are made."

State Conservationist Thomas E. Jewett, further responded with a May 2, 2000 letter (administrative record No. ND–DD–06) to OSM Casper Field Office Director, Guy Padgett, thatNRCS is in the process of developing Ecological Site Descriptions to replace Range Site Descriptions. It also questioned what reference sites might be used if soil chemistry or other critical soil parameters were sufficiently altered on reclaimed areas.

NRCS also raised the possibility that a native grassland reference area may be located on rangeland that is in poor condition. In addition, that NRCS references should be made to specific parts of the Field Office Technical Guide. Finally, that vegetation document text references should be to the current name of the agency, the Natural Resources Conservation Service, and not to its former name, the Soil Conservation Service.

In his June 23, 2000 response (administrative record No. ND–DD–07) to Mr. Jewett's May 2, 2000 letter, the director of the Reclamation Division of the North Dakota Public Service Commission, James R. Deutsch, stated that: (1) He was aware that Ecological Site Descriptions will be replacing Range Site Descriptions but that it would be several years at which time he would decide if it is necessary to revise the revegetation document accordingly; (2) that a reference area and a reclaimed tract must receive management that is equivalent in effect during the revegetation responsibility period; and (3) that North Dakota will review the bibliography and references for possible changes with the next revision to the revegetation document.

OSM concurs with Mr. Deutsch's response to Mr. Jewett's concerns.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (administrative record No. ND–DD–03). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 30, 2000, we requested comments on North Dakota's amendment (administrative record No. XXIX), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment sent to us by North Dakota, as revised on March 16, 2000.

We approve, as discussed in: finding No. 1, Minor Editorial changes, finding No. 2, concerning II–C, Cropland; finding No. 3, concerning II–C and II–E, Cropland and Tame Pastureland; and finding No. 4, concerning Native Grassland.

To implement this decision, we are amending the Federal regulations at 30 CFR part 934, which codify decisions concerning the North Dakota program. We are making his final rule effective immediately to expedite the State program amendment process and to encourage States to make their programs conform with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

This rule doe not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on any local, State, or Tribal governments or private entities.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 3, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

PART 934—NORTH DAKOTA

1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 934.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 934.15 Approval of North Dakota regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
March 16, 2000	May 17, 2001	Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments.

[FR Doc. 01–12456 Filed 5–16–01; 8:45 am]
BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE 054–1031a; FRL–6981–4]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Nitrogen Oxides Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Delaware State Implementation Plan (SIP) submitted on November 17, 2000. This revision responds to the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_X SIP Call." This revision establishes and requires a nitrogen oxides (NO_X) allowance trading program for large electric generating and industrial units, beginning in 2003. The intended effect of this action is to approve the Delaware NO_X Budget Trading Program because it addresses the requirements of the NO_X SIP Call Phase I that will significantly reduce ozone transport in the eastern United States. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on July 16, 2001 without further notice, unless EPA receives adverse written comment by June 18, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION: On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP to address the requirements of the NO_X SIP Call Phase I. The revision consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program.

The information in this section is organized as follows:

I. EPA's Action
  A. What action is EPA taking today?
  B. Why is EPA taking direct final action?
  C. What are the general NO_X SIP Call requirements?
  D. What is EPA's NO_X budget trading program?
  E. What guidance did EPA use to evaluate Delaware's submittal?
II. Delaware's NO_X Budget Trading Program
  A. When did Delaware submit the SIP revision to EPA in response to the NO_X SIP Call?
  B. What is the Delaware NO_X Budget Trading Program?
  C. What is the result of EPA's evaluation of Delaware's program?
III. Final Action
  A. NO_X SIP Call Requirements
  B. One-Hour Attainment Demonstration Plans
IV. Administrative Requirements
  A. General Requirements
  B. Submission to Congress and the Comptroller General
  C. Petitions for Judicial Review

I. EPA's Action

A. What Action Is EPA Taking Today?

EPA is taking direct final action to approve the Delaware SIP revision concerning the adoption of its NO_X

Budget Trading Program, submitted on November 17, 2000.

B. Why Is EPA Taking Direct Final Action?

EPA is taking direct final action for two purposes. Delaware's NO_X Budget Trading Program regulations address the requirements of the NO_X SIP Call Phase I. In addition, Delaware's NO_X Budget Trading Program regulations are part of the Delaware one-hour ozone attainment demonstration plan for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. The Delaware one-hour attainment demonstration plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area relies on the NO_X reductions associated with the NO_X Budget Trading Program in 2003 and beyond. Therefore, EPA is approving Delaware's NO_X Budget Trading Program for two reasons. First, because it addresses the requirements of the NO_X SIP Call Phase I, and secondly as a strengthening measure for the one-hour ozone standard attainment for Philadelphia-Wilmington-Trenton ozone nonattainment area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve Delaware's NO_X Budget Trading Program if adverse comments are filed. This rule will be effective on July 16, 2001 without further notice unless EPA receives adverse comment by June 18, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

C. What Are the General NO_X SIP Call Requirements?

On October 27, 1998, EPA published a final rule entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_X SIP Call." See 63 FR 57356. The NO_X SIP Call requires 22 States and the District of Columbia to meet statewide NO_X emission budgets during the five month period between May 1 and October 1 in order to reduce the amount of ground level ozone that is transported across the eastern United States.

EPA determined state-wide NO_X emission budgets for each affected jurisdiction to be met by the year 2007. EPA identified NO_X emission reductions by source category that could be achieved by using cost-effective measures. The source categories included were electric generating units (EGUs), non-electric generating units (non-EGUs), area sources, nonroad mobile sources and highway sources. However, the NO_X SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. In the NO_X SIP Call document, EPA suggested that imposing statewide NO_X emissions caps on large fossil-fuel fired industrial boilers and electricity generating units would provide a highly cost effective means for States to meet their NO_X budgets. In fact, the state-specific budgets were set assuming an emission rate of 0.15 pounds NO_X per million British thermal units (lb. NO_X/mmBtu) at EGUs, multiplied by the projected heat input (mmBtu) from burning the quantity of fuel needed to meet the 2007 forecast for electricity demand. See 63 FR 57407. The calculation of the 2007 EGU emissions assumed that an emissions trading program would be part of an EGU control program. The NO_X SIP Call state budgets also assumed on average a 30% NO_X reduction from cement kilns, a 60% reduction from industrial boilers and combustion turbines, and a 90% reduction from internal combustion engines. The non-EGU control assumptions were applied at units where the heat input capacities were greater than 250 mmBtu per hour, or in cases where heat input data were not available or appropriate, at units with actual emissions greater than one ton per day.

To assist the states in their efforts to meet the SIP Call, the NO_X SIP Call final rulemaking notice included a model NO_X allowance trading regulation, called "NO_X Budget Trading Program for State Implementation Plans," (40 CFR part 96), that could be used by states to develop their regulations. The NO_X SIP Call notice explained that if states developed an allowance trading regulation consistent with the EPA model rule, they could participate in a regional allowance trading program that would be administered by the EPA. See 63 FR 57458–57459.

There were several periods during which EPA received comments on various aspects of the NO_X SIP Call emissions inventories. On March 2, 2000, EPA published additional technical amendments to the NO_X SIP Call in the **Federal Register** (65 FR 11222). The March 2, 2000 final rulemaking established the inventories upon which Delaware's final budget is based.

On March 3, 2000, the D.C. Circuit issued its decision on the NO_X SIP Call ruling in favor of EPA on all the major issues. *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000). The Court denied petitioners' requests for rehearing or rehearing *en banc* on July 22, 2000. However, the Court ruled against EPA on four narrow issues. The Court remanded certain matters for further rulemaking by EPA. EPA expects to publish a proposal that addresses the remanded portion of the NO_X SIP Call Rule. Any additional emissions reductions required as a result of a final rulemaking on that proposal will be reflected in the second phase portion (Phase II) of the State's emissions budget. Delaware is required to submit SIP revisions to address the Phase II of the NO_X SIP Call Rule.

D. What Is EPA's NO_X Budget Trading Program?

EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, sets forth a NO_X emissions trading program for large EGUs and non-EGUs. A state can voluntarily choose to adopt EPA's model rule in order to allow sources within its borders to participate in regional allowance trading. The October 27, 1998 **Federal Register** document contains a full description of the EPA's model NO_X budget trading program. See 63 FR 57514–57538 and 40 CFR part 96. In general, air emissions trading uses market forces to reduce the overall cost of compliance for pollution sources, such as power plants, while maintaining emission reductions and environmental benefits. One type of market-based program is an emissions budget and allowance trading program, commonly referred to as a "cap and trade" program.

In an emissions budget and allowance trading program, the state or EPA sets a regulatory limit, or emissions budget, in mass emissions from a specific group of sources. The budget limits the total number of allocated allowances during a particular control period. When the budget is set at a level lower than the current emissions, the effect is to reduce the total amount of emissions during the control period. After setting the budget, the state or EPA then assigns, or allocates, allowances to the participating entities up to the level of the budget. Each allowance authorizes the emission of a quantity of pollutant, *e.g.*, one ton of airborne NO_X.

At the end of the control period, each source must demonstrate that its actual emissions during the control period were less than or equal to the number of available allowances it holds. Sources that reduce their emissions below their allocated allowance level may sell their extra allowances. Sources that emit more than the amount of their allocated allowance level may buy allowances from the sources with extra reductions. In this way, the budget is met in the most cost-effective manner.

E. What Guidance Did EPA Use To Evaluate Delaware's Submittal?

The final NO_X SIP Call rule included a model NO_X budget trading program regulation. See 40 CFR part 96. EPA used the model rule and 40 CFR 51.121–51.122 to evaluate Delaware's NO_X Budget Trading Program.

II. Delaware's NO_X Budget Trading Program

A. When Did Delaware Submit the SIP Revision to EPA in Response to the NO_X SIP Call?

On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control submitted a revision to its SIP to address the requirements of the NO_X SIP Call.

B. What Is the Delaware NO_X Budget Trading Program?

Delaware's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program. Delaware's NO_X Budget Trading Program affects electric generating units and certain non-electric generating units.

Regulation No. 39—Nitrogen Oxides Budget Trading Program is divided into fifteen new sections and two appendices: (1) Purpose; (2) Emission Limitation; (3) Applicability; (4) Definitions; (5) General Provisions; (6) NO_X Authorized Account Representative for NO_X Budget Sources; (7) Permits; (8) Monitoring and Reporting; (9) NATS; (10) NO_X Allowance Transfers; (11) Compliance Certification; (12) End-of-Season Reconciliation; (13) Failure to Meet Compliance Requirements; (14) Individual Unit Opt-Ins; (15) General Accounts; Appendix A—Allowance Allocations to NO_X Budget Units; Appendix B—Regulation No. 37–Regulation No. 39 Program Transition.

The Delaware NO_X Budget Trading Program establishes and requires a NO_X allowance trading program for large electric generating and industrial units. Regulation No. 39—NO_X Budget Trading Program establishes a NO_X cap and allowance trading program with a budget of 5,227 tons of NO_X for the ozone seasons of 2003 and beyond. The State of Delaware voluntarily chose to follow EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, that sets forth a NO_X emissions trading program for large EGUs and non-EGUs. Because the Delaware NO_X Budget Trading Program is based upon EPA's model rule, Delaware sources are allowed to participate in the interstate NO_X allowance trading program that EPA will administer for the participating states. The State of Delaware has adopted regulations that are substantively identical to 40 CFR part 96. Therefore, pursuant to 40 CFR 51.121(p)(1), Delaware's SIP revision is automatically approved as satisfying the same portion of the State's NO_X emission reduction obligations Delaware projects such regulations will satisfy.

Under the NO_X Budget Trading Program, Delaware allocates NO_X allowances to the EGUs and non-EGUs units that are affected by these requirements. The NO_X trading program applies to all fossil fuel fired EGUs with a nameplate capacity greater than 15 MW or more that sell any amount of electricity to the grid as well as any non-EGUs that have a heat input capacity equal to or greater than 250 mmBtu per hour. Each NO_X allowance permits a source to emit one ton of NO_X during the seasonal control period. NO_X allowances may be bought or sold. Unused NO_X allowances may also be banked for future use, with certain limitations. Source owners will monitor their NO_X emissions by using systems that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each budget source complies with the program by demonstrating at the end of each control period that actual emissions do not exceed the amount of allowances held for that period. However, regardless of the number of allowances a source holds, it cannot emit at levels that would violate other federal or state limits, for example, reasonably available control technology (RACT), new source performance standards, or Title IV (the federal Acid Rain program).

Delaware's SIP revision, submitted on November 17, 2000, does not establish requirements for stationary internal combustion engines. Delaware will be required to submit SIP revisions to address any additional emission reductions required to meet the State's overall emissions budget. In addition, Delaware's submittal does not rely on any additional reductions beyond the anticipated federal measures in the mobile and area source categories.

Delaware's submittal demonstrates that the NO_X emission budgets established by EPA (65 FR 11222) will be met as follows:

Source category	EPA 2007 NO_X budget emissions (tons/season) Delaware 2007	Delaware 2007 NO_X budget emissions (tons/season)
EGUs	5,250	5,250
Non-EGUs	2,473	2,473
Area Sources	1,129	1,129
Non-road Sources	5,651	5,651
Highway Sources	8,358	8,358
Total	22,861	22,861

C. What Is the Result of EPA's Evaluation of Delaware's Program?

EPA has evaluated Delaware's November 17, 2000 SIP submittal and finds it approvable. The Delaware NO_X Budget Trading Program is consistent with EPA's guidance and addresses the requirements of the NO_X SIP Call Phase I. EPA finds the NO_X control measures in the Delaware's NO_X Budget Trading Program approvable. The November 17, 2000 submittal will strengthen Delaware's SIP for reducing ground level ozone by providing NO_X reductions beginning in 2003. Furthermore, Delaware's NO_X Budget Trading Program is necessary to fulfill a requirement of the one-hour ozone attainment plan for the severe ozone nonattainment area of Delaware. The Delaware attainment demonstration plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area relies on the NO_X reductions associated with the NO_X Budget Trading Program in 2003 and beyond. EPA finds that Delaware's submittal is fully approvable because it addresses the requirements of the NO_X SIP Call Phase I and it is a strengthening measure for the Delaware one-hour ozone attainment plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area.

III. Final Action

A. NO_X SIP Call Requirements

EPA is approving the Delaware SIP revision consisting of its NO_X Budget

Trading Program, submitted on November 17, 2000. EPA finds that the Delaware NO_X Budget Trading Program is fully approvable because it addresses the requirements of the NO_X SIP Call Phase I.

B. One-Hour Attainment Demonstration Plans

EPA is approving the Delaware SIP revision concerning the adoption of the NO_X Budget Trading Program, which was submitted on November 17, 2000. EPA finds that Delaware's submittal is fully approvable because it is a strengthening measure for the Delaware's one-hour ozone attainment plan for its severe ozone nonattainment area, namely the Philadelphia-Wilmington-Trenton ozone nonattainment area. Moreover, this SIP revision is necessary for full approval of the attainment demonstration SIP for the Philadelphia-Wilmington-Trenton ozone nonattainment area. The EPA is currently under an obligation to complete rulemaking by October 15, 2001 fully approving the attainment demonstration for the Philadelphia-Wilmington-Trenton ozone nonattainment area or, in the alternative, proposing a federal implementation plan.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Delaware NO_X Budget Trading Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 8, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart I—Delaware

2. In § 52.420, add entry in numerical order for Delaware Regulation No. 39—Nitrogen Oxides Budget Trading Program in the "EPA-Approved Regulations in the Delaware SIP" table in paragraph (c) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA–APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Comments
•	•	•	•	•
Regulation 39—Nitrogen Oxides (NO_X) Budget Trading Program				
Section 1	Purpose	12/11/00	5/17/01 Federal Register cite.	[Use this section as necessary to explain exceptions or limitations]
Section 2	Emission Limitation	12/11/00		
Section 3	Applicability	12/11/00		
Section 4	Definitions	12/11/00		
Section 5	General Provisions	12/11/00		
Section 6	NO_X Authorized Account Representative for NO_X Budget Sources.	12/11/00		
Section 7	Permits	12/11/00		
Section 8	Monitoring and Reporting	12/11/00		
Section 9	NATS	12/11/00		
Section 10	NO_X Allowance Transfers	12/11/00		
Section 11	Compliance Certification	12/11/00		
Section 12	End-of-Season Reconciliation	12/11/00		
Section 13	Failure to Meet Compliance Requirements.	12/11/00		
Section 14	Individual Unit Opt-Ins	12/11/00		
Section 15	General Accounts	12/11/00		
Appendix "A"	Allowance Allocations to NO_X Budget Units.	12/11/00		
Appendix "B"	Regulation No. 37—Regulation No. 39 Program Transition.	12/11/00		
•	•	•	•	•

[FR Doc. 01–12351 Filed 5–16–01; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301126; FRL–6781–8]

RIN 2070–AB78

Cyfluthrin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of cyfluthrin in or on grapes and raisins; grain of barley, oats, and wheat; and fat of cattle, goats, hogs, horses and sheep. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on grapes and stored grain. This regulation establishes maximum permissible levels for residues of cyfluthrin in these food commodities. These tolerances will expire and are revoked on June 30, 2003.

DATES: This regulation is effective May 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301126, must be received by EPA on or before July 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301126 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–9362; and e-mail address: schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that

might be available electronically from the EPA Internet Home Page at http://www.epa.gov. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301126. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the insecticide cyfluthrin, cyano[4-fluoro-3-phenoxyphenyl]-methyl-3-[2,2-dichloroethenyl]-2,2-dimethyl-cyclopropanecarboxylate, in or on grape at 1.0 part per million (ppm); grape, raisin at 1.5 ppm; grain of barley, oats, and wheat at 2.0 ppm; and fat of cattle, goats, hogs, horses and sheep at 6.0 ppm. These tolerances will expire and are revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemptions for Cyfluthrin on Grapes and Stored Grains and FFDCA Tolerances

According to the South Dakota Department of Agriculture, reports of damage to stored grain from infestations of lesser grain borer have increased in recent years. Lesser grain borer is a serious pest of stored grain because it is capable of destroying whole, sound grain. Storage of grain in larger, less protective structures have caused grain to be more vulnerable to infestations, primarily because the grain remains warmer, creating conditions favorable to insect development. The Applicant claims that there are not currently any effective registered alternatives for control of lesser grain borer. Reldan 4E (chlorpyrifos-methyl) is registered for use on wheat and sorghum but will not control lesser grain borer. Most malathion uses are no longer available, but even if they were insect resistance has built up to the point that this chemical is not effective. Phosphine gas is the primary fumigant of stored grain, but lesser grain borer has begun to demonstrate resistance. Storcide is a combination product containing the active ingredients chlorpyrifos-methyl and cyfluthrin; while the chlorpyrifos-methyl component of this product controls most insect pests in stored grain, the cyfluthrin component is necessary to control the lesser grain borer. The Applicant predicts that without the proposed use of Storcide, between 33% and 50% of bushels could be affected, resulting in $13.3 million in economic losses.

The California Department of Pesticide Regulation states that glassy winged sharpshooters are a recently introduced pest of grape production, and serve as a vector of Pierce's disease, which is caused by the bacterium *Xylella fastidiosa*. This disease can destroy a vineyard within 12 months and can still kill vines 2 to 3 years after infection. Since 1998, growers have observed a 25–30% reduction in vines, with 80% of some vineyard blocks being removed due to the disease. This same infection process and bacterium are the causal agents for other plant diseases in peaches in the southeastern United States and citrus in Brazil.

The required feeding time necessary for the pest to successfully vector bacterium for Pierce's disease is not known as of yet. Therefore, rapid control of the glassy winged sharpshooter may be essential to avoid significant economic losses. Given this, the Applicant claims that the available alternatives, imidacloprid and dimethoate, are not sufficient to provide control of this pest throughout the 7–month period of occurrence in California vineyards. While imidacloprid may provide some control of this pest, the soil applied formulation is slow acting and the foliar formulation has little persistence (thus making multiple applications necessary). The pre-harvest interval for dimethoate makes it impractical for use in grapes. Because of its rapid population advance and ability to vector problem plant diseases, glassy-winged sharpshooter is now considered to be a significant threat to California's $2.8 billion/year wine, raisin, table grape and citrus industries. The California Department of Food and Agriculture (CDFA) maintains that Pierce's disease is responsible for $12 million in losses of grapevines in Temecula, California.

EPA has authorized under FIFRA section 18 the uses of cyfluthrin on grapes for control of glassy winged sharpshooter in California and on stored grain in South Dakota for control of lesser grain borer and other insect pests. After having reviewed these submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by residues of cyfluthrin in or on grapes, raisins, and grain, and by secondary residues of cyfluthrin in animal commodities as a result of treated grain commodities being used as feed items. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address urgent non-routine situations and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on grapes and raisins; grain of barley, oats, and wheat; and fat of cattle, goats, hogs, horses and sheep after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed the levels that were authorized by these tolerances at the time of those applications. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether cyfluthrin meets EPA's registration requirements for use on grapes or stored grain or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of cyfluthrin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than California or South Dakota to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for cyfluthrin, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of cyfluthrin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of cyfluthrin in or on grape at 1.0 ppm; grape, raisin at 1.5 ppm; grain of barley, oats and wheat at 2.0 ppm; and fat of cattle, goat, hogs, horses and sheep at 6.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for cyfluthrin used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CYFLUTHRIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose (mg/kg bwt/day)	Endpoint	Study
Acute Dietary (All population)	Developmental NOAEL = 20.0; LOAEL = 60.0	Increased numbers of resorption and percent incidence of postimplantation loss in rabbits in a developmental toxicity study.	Developmental - rabbit (oral)
	UF=300 (10x inter- and 10x intra- and 3x FQPA considerations)	Acute Population Adjusted Dose (aPAD)aPAD = NOAEL/UF= 20/300 = 0.07 mg/kg bwt/day	
Chronic Dietary	NOAEL = 2.5; LOAEL = 6.2	Decreased body weight gain in males, and inflammatory foci in kidneys of female rats in a chronic toxicity/ carcinogenicity study.	2-year rat (oral)
	UF = 300: 10X inter- and 10X intra and 3x FQPA factor for all population subgroups	Chronic Population Adjusted Dose (cPAD) cPAD = NOAEL/UF = 2.5/300 = 0.008 mg/kg bwt/day	
Short, intermediate-Term (1–7 days) Occupational/Residential	Dermal NOAEL =20.0; LOAEL =60.0 (Dermal absorption rate = 25%)	Increased numbers of resorption and percent incidence of postimplantation loss in rabbits.	Developmental - rabbit (oral)
		MOE = 300	
Intermediate-Term (one week to several months) Occupational/ Residential	Dermal NOAEL = 20.0; LOAEL = 60.0 (Dermal absorption rate = 25%)	Increased numbers of resorption and percent incidence of postimplantation loss in rabbits. MOE = 300	Developmental - rabbit (oral)
Long-Term	Dermal NOAEL = 2.5; NOAEL = 6.2 (Systemic) Dermal absorption rate = 25%	Decreased body weight in male and inflammatory foci in the kidney of female rats in a chronic toxicity/ carcinogenicity study. MOE=300	2–year rat (oral)
All time periods	Inhalation: Short-Term: NOAEL = 0.44 µg/L = 0.12 mg/kg/day;LOAEL=6 µg/L	Decreases in body and thymus weights, hypothermia and clinical pathology in rats in a 28–day study (short-term) and behavioral effects in rats in a 90–day study (intermediate/ chronic). UF = 300	28–day rat inhalation study (short-term)
	Intermediate/Chronic: NOAEL = 0.09 µg/L = 0.024 mg/kg/ day;LOAEL=0.7 µg/L	The extrapolation method was used in converting the NOAEL from µg/L to mg/kg/day	90-day rat inhalation study (intermediate/chronic)
Cancer	Oral	Cyfluthrin is classified as a group E chemical. Carcinogenicity studies in rats and mice were negative.	

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.436) for the residues of cyfluthrin, in or on a variety of raw agricultural commodities. Existing tolerances for aspirated grain fractions (300 ppm), sorghum, grain (4 ppm); and meat and meat byproducts of cattle, goats, hogs, horses, and sheep (0.4 ppm for both meat and meat byproducts) are sufficient to cover residues resulting from the application of cyfluthrin under the emergency exemption. The existing tolerance of 5.0 ppm for fat of cattle, goats, hogs, horses, and sheep is insufficient to cover residues resulting from section 18 use on stored grains; the time-limited tolerance of 6.0 ppm is therefore being established. While time-limited tolerances of 1.0 ppm for grapes and 1.5 ppm for raisins are required, no concentration of residues occurs in grape juice and a separate tolerance for that commodity is not required. For purposes of dietary risk assessment, residue data generated from residue field trials conducted at maximum application rate and minimum preharvest intervals were used, as were processing data for grapes. To assess secondary exposure from edible animal commodities, animal dietary burdens were calculated using mean field trial residues, adjusted to take into account percent of crop treated information, and applying appropriate processing factors for all feed items. Risk assessments were conducted by EPA to assess dietary exposures from cyfluthrin in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: anticipated residues and percent of crop treated refinements were used for existing tolerances; anticipated residues and 100% of crop treated were assumed for the proposed tolerances associated with section 18 uses on stored grains and grapes. Anticipated residues were also assumed for meat, milk, poultry and egg tolerances. This Tier 3 Monte Carlo analysis is considered partially to highly refined. Field trial residue distributions were assumed for those foods identified by EPA as single-serving commodities. For those foods considered to be blended or processed, mean field trial residues were calculated, substituting the full limit of detection (LOD) for those samples for which residues were reported below the LOD.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: field trial residues and percent of crop treated refinements were used for the existing tolerances; anticipated residues and 100% of crop treated were assumed for the section 18 uses on stored grains and grapes. Anticipated residues were also assumed for meat, milk, poultry and egg tolerances. This Tier 3 analysis is considered partially to highly refined.

iii. *Cancer.* Cyfluthrin has been classified as a not likely human carcinogen (Group E chemical). A cancer dietary risk assessment is not required.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information as shown in the following Table 2:

TABLE 2.—PERCENT OF CROP TREATED ESTIMATES FOR ACUTE AND CHRONIC RISK ASSESSMENT

Site	Percent of Crop Treated	
	Weighted Average (Chronic)	Estimated Maximum (Acute)
Corn	1	3
Alfalfa	1	1
Orange	5	13
Sorghum	1	1
Sweet Corn	3	8
Tomato	3	5

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the

data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which cyfluthrin may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for cyfluthrin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of cyfluthrin. Cyfluthrin is poorly mobile and moderately persistent, and will remain sorbed to the soil for weeks following treatment. This suggests little potential to leach and contaminate groundwater, but high potential for transport to surface water via particulate run-off during rain events.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to cyfluthrin they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models the estimated environmental concentrations (EECs) of cyfluthrin for acute exposures are estimated to be 5.49 parts per billion (ppb) for surface water and 0.006 ppb for ground water. The EECs for chronic exposures are estimated to be 2.18 ppb for surface water and 0.006 ppb for ground water. Because the Tier II PRZM/EXAMS exposure estimates exceed the solubility of cyfluthrin in water, EPA used the value of 1.2 ppb, the solubility of cyfluthrin in water, as the acute and chronic EEC for the surface water drinking water assessment. This value represents that maximum concentration of cyfluthrin that would be found in surface water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyfluthrin is currently registered for use on the following residential non-dietary sites: residential lawn and gardens, inside households, carpets, and as a termiticide. The termite control is achieved by establishing a continuous chemical barrier between the wood and the termite colonies in the soil. Like many other termite control chemicals, cyfluthrin is normally applied to the entire surface of soil or other substrate to be covered by the slab before the construction, or applied under the slab after the construction. The potential of dermal exposure is not expected. However, some termite control chemicals applied to the soil may penetrate house foundation to become a source for emission inside of the house. Consequently, short-term and intermediate-term as well as chronic exposures via inhalation route may occur. However, the vapor pressure of cyfluthrin is 3.3×10 E-8 Torr which indicates that the amount of emission from this chemical is extremely limited. For this reason, the potential of inhalation exposure is also very limited. Based on these considerations, residential risk assessment was not conducted for the termiticide use.

As mentioned above, cyfluthrin is also registered for use on residential lawns and carpets (fogger). Under current Office of Pesticide Programs' (OPP) guidelines, these uses do not present a chronic exposure scenario; because exposure to cyfluthrin may occur as a result of inhalation or contact from indoor and outdoor uses, these uses do constitute a short- and/or intermediate-term exposure scenario. A residential exposure assessment for those uses of cyfluthrin was conducted in conjunction with the EPA's risk assessment supporting the extension of tolerances for synthetic pyrethroids. The exposure data (in mg/kg/day) from this assessment are summarized in the following tables 3 and 4:

TABLE 3.—EXPOSURE ASSESSMENT DATA FROM CYFLUTHRIN USE ON LAWNS

Scenario	Individual	Inhalation	Dermal	Oral
Lawn Application	Adult	not conducted	not conducted	not conducted
Post-Application Lawn	Adult	1.16E-05	1.39E-03	not conducted
Post-Application Lawn	Child (1–6)	2.78E-05	2.63E-03	2.85E-04
Post-Application Lawn	Infant (<1)	3.56E-05	2.72E-03	3.03E-04

This product for lawns is a restricted use pesticide, and therefore, required to be applied by professional lawn care operators only. Thus, from the applicator perspective, this lawn scenario is considered out of EPA's scope for purposes of residential exposure.

TABLE 4.—EXPOSURE ASSESSMENT DATA FROM CYFLUTHRIN USE ON CARPET

Scenario	Individual	Inhalation	Dermal	Oral
Carpet (fogger) Application	Adult	not conducted	8.84E-03	not conducted
Post-Application Carpet	Adult	3.40E-05	1.63E-03	not conducted
Post-Application Carpet	Child (1-6)	8.56E-06	4.20E-03	3.60E-04
Post-Application Carpet	Infant (<1)	1.04E-05	4.65E-03	3.84E-04

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether cyfluthrin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, cyfluthrin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that cyfluthrin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *Safety factor for infants and children*—i. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies.* In the rat developmental study, neither a maternal LOAEL nor a developmental LOAEL was observed. The maternal NOAEL was >10 mg/kg/day (the highest dose tested), as was the developmental NOAEL. The previously conducted range finding study supported the dose selection which was used in the developmental study, and the rat study is classified as an Acceptable guideline. In the rabbit developmental study, the maternal LOAEL was 60 mg/kg/day, based on decreased body weight gain and food consumption during the dosing period. The maternal NOAEL was 20 mg/kg/day. The developmental LOAEL was 60 mg/kg/day, based on increased numbers of resorptions and percent incidence of postimplantation loss. The developmental NOAEL is 20 mg/kg/day.

Two rat developmental toxicity studies via the inhalation route of exposure were also conducted. In the first study, maternal effects were observed at 4.7 mg/M^3 and above, and effects in the pups were observed at 1.1 mg/M^3 and above. At 1.1 mg/M^3 and above, a dose-related increase in the incidence of runts and skeletal anomalies in the sternum were observed. At 4.7 mg/M^3 and above, increases in post-implantation losses and decreases in pup weights were observed. At 23.7 mg/M^3, increased incidences of late embryonic deaths and in skeletal anomalies in the extremities, pelvis and skull were observed as well as microphthalmia. The maternal NOAEL is 1.1 mg/M^3 and the maternal LOAEL is 4.7 mg/M^3, based on reduced motility, dyspnea, piloerection, ungroomed coats and eye irritation. The developmental NOAEL is 0.59 mg/M^3 and the developmental LOAEL is 1.1 mg/M^3, based on increases in the incidence of runts and skeletal anomalies in the sternum (1.1 mg/M^3 and above), increases in post-implantation losses and decreases in pup weights (4.7 mg/M^3 and above), and increased incidences of late embryonic deaths, in skeletal anomalies in the extremities, pelvis and skull and in microphthalmia (23.7 mg/M^3).

In the second study, the maternal NOAEL and LOAEL were < 0.46 mg/M^3, based on decreased body weight gain and reduced relative food efficiency. The developmental NOAEL was 0.46 mg/M^3 and the developmental LOAEL was 2.55 mg/M^3, based on reduced fetal and placental weight, and reduced ossification in the phalanx, metacarpals, and vertebrae.

iii. *Reproductive toxicity study.* In the 3-generation rat reproduction study, the LOAEL for parental toxicity was 22.5 mg/kg/day, based on decreased body weight gains; the NOAEL was 7.5 mg/kg/day. The LOAEL for reproductive toxicity was 7.5 mg/kg/day based on decreased viability and lactational indices and decreased pup body weight gains. The NOAEL was 2.5 mg/kg/day.

iv. *Prenatal and postnatal sensitivity.* There are no data gaps for reproductive and developmental toxicity studies. Evidence of increased sensitivity of young rats following pre- and/or post-natal exposure to cyfluthrin was observed in the three-generation reproduction study in rats. There was suggestive sensitivity of rats to *in utero* exposure based on bradypnea seen in dams in the developmental inhalation studies. In addition, the reproductive NOAEL of 2.5 mg/kg/day and the LOAEL of 7.5 mg/kg/day established in the three-generation reproduction study in rats are identical to the systemic NOAEL/LOAEL of 2.5/7.5 mg/kg/day established in the chronic toxicity/ carcinogenicity study in rats. This NOAEL (2.5 mg/kg/day) and a UF of 100 was used in deriving the RfD (0.025 mg/ kg/day) and the RfD does not provide protection for infants and children.

v. *Conclusion.* There is a complete toxicity database for cyfluthrin and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Based on the considerations above, EPA determined that the tenfold FQPA safety factor should be replaced with an uncertainty factor of three for acute,

short- and intermediate-term, and chronic risk assessments. While evidence of increased sensitivity of young rats following pre- and/or post-natal exposure to cyfluthrin was observed in the three-generation reproduction study in rats, an uncertainty factor of 3 was selected because of the lack of severity of effects (reduced body weight gain in males in chronic toxicity study and decreased body weight gain in parental animals in the reproduction study) and the availability of acceptable reproduction (rat) and developmental (rats and rabbits) toxicity studies.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to cyfluthrin in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of cyfluthrin on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to cyfluthrin at the 99.9th percentile will occupy 59% of the aPAD for the U.S. population, 28% of the aPAD for females age 13–50 years, 89% of the aPAD for infants and 80% of the aPAD for children aged 1 through 6 years. In addition, despite the potential for acute dietary exposure to cyfluthrin in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of cyfluthrin in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CYFLUTHRIN

Population Subgroup	aPAD (mg/kg/day)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.07	59	1.2	0.006	1,000
All infants < 1 yr.	0.07	89	1.2	0.006	1500
Children 1–6 yrs.	0.07	80	1.2	0.006	140
Female 13–50 yrs.	0.07	28	1.2	0.006	80

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to cyfluthrin from food will utilize 30% of the cPAD for the U.S. population, 26% of the cPAD for infants < 1 yr. and 73% of the cPAD for children 1 through 6 years. Based on the use pattern, chronic residential exposure to residues of cyfluthrin is not expected. In addition, despite the potential for chronic dietary exposure to cyfluthrin in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of cyfluthrin in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 6:

TABLE 6.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CYFLUTHRIN

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.008	30	1.2	0.006	200
All infants < 1 yr.	0.008	26	1.2	0.006	79
Children 1–6 yrs.	0.008	73	1.2	0.006	22

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Cyfluthrin is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for cyfluthrin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,500 for adults, 1,400 for children 1 through 6 years old, and 1,600 for infants < 1 year old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of cyfluthrin in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 7:

TABLE 7.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO CYFLUTHRIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Adult (male)	1,500	300	1.2	0.006	1,900
Adult (female)	1,500	300	1.2	0.006	1,600
Child 1–6 yrs.	1,400	300	1.2	0.006	530
Infant < 1 yr.	1,600	300	1.2	0.006	540

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Cyfluthrin is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for cyfluthrin.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 460 for adults, 530 for children 1 through 6, and 470 for infants < 1 year. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of cyfluthrin in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 8:

TABLE 8.— AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO CYFLUTHRIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
Adult (male)	460	300	1.2	0.006	800
Adult (female)	460	300	1.2	0.006	690
Children 1–6 yrs.	530	300	1.2	0.006	290
Infants < 1 yr.	470	300	1.2	0.006	240

5. *Aggregate cancer risk for U.S. population.* Cyfluthrin has been classified as a not likely human carcinogen (Group E chemical). A cancer dietary risk assessment is not required.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to cyfluthrin residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas/liquid chromatography with an electron capture detector) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Codex tolerances established for cyfluthrin on grapes, raisins, or grains. Nor have any tolerances been established by Canada or Mexico for cyfluthrin on grapes, raisins, or grains (of barley, oat, or wheat).

VI. Conclusion

Therefore, the tolerances are established for residues of cyfluthrin, cyano[4-fluoro-3-phenoxyphenyl]-methyl-3-[2,2-dichloroethenyl]-2,2-

dimethyl-cyclopropanecarboxylate, in or on grape at 1.0 ppm; grape, raisin at 1.5 ppm; grain of barley, oat, and wheat at 2.0 ppm; and fat of cattle, goat, hog, horse, and sheep at 6.0 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301126 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 16, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301126, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes time limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule."

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 3, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.436 is amended by adding paragraph (b) to read as follows:

§ 180.436 Cyfluthrin; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the insecticide cyfluthrin, cyano[4-fluoro-3-phenoxyphenyl]-methyl-3-[2,2-dichloroethenyl]-2,2-dimethyl-cyclopropanecarboxylate in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. These tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/revocation date
Barley, grain	2.0	6/30/03
Cattle, fat	6.0	6/30/03
Goat, fat	6.0	6/30/03
Grape	1.0	6/30/03
Grape, raisin	1.5	6/30/03
Hog, fat	6.0	6/30/03
Horse, fat	6.0	6/30/03
Oat, grain	2.0	6/30/03
Sheep, fat	6.0	6/30/03
Wheat, grain	2.0	6/30/03

* * * * *

[FR Doc. 01–12440 Filed 5–16–01; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Logistics Agency

48 CFR Parts 5433 and 5452

DLA Acquisition Directive: Alternative Dispute Resolution

AGENCY: Defense Logistics Agency (DLA), Defense.

ACTION: Final rule.

SUMMARY: This final rule adds a new provision to DLA solicitations concerning the use of alternative dispute resolution (ADR). The purpose is to establish ADR as the initial dispute resolution method, except for certain circumstances, to increase cooperative problem solving and reduce litigation. The provision is optional for offerors; however, if they agree to the provision, both the contractor and DLA will be committed to use of ADR except in limited circumstances. Increased use of ADR is consistent with the Administrative Dispute Resolution Act, the Federal Acquisition Regulation (FAR), and Departmental policy.

EFFECTIVE DATE: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Massaro, Procurement Analyst, Defense Logistics Agency, DLA/J–336, at (703) 767–1366, or via email to mary_massaro@hq.dla.mil.

SUPPLEMENTARY INFORMATION:

A. Background

DLA is pursuing several initiatives to increase the use of ADR in resolving contract disputes. One way to increase use of ADR is for the parties to agree, as part of the contract, that they will use ADR before initiating litigation. This type of approach is used by DoD in partnering agreements and Agency-contractor ADR pacts.

The provision provides a vehicle for both parties to agree to use ADR. Offerors can opt out of the provision by checking the box if they do not want it in their contract in the event of award. Offerors can also propose alternate wording to tailor the language while retaining the concept.

A proposed rule was published in the **Federal Register** on May 16, 2000. Sixteen commenters submitted comments. Changes were made to the proposed rule to clarify or simplify the language, and to reference existing FAR and DLA requirements. The language of the final rule, as revised, appears below.

B. Regulatory Flexibility Act

This final rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. An initial regulatory flexibility analysis was not performed.

C. Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements that require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 5433 and 5452

Government procurement.

For the reasons set forth above, the Defense Logistics Agency amends 48 CFR Chapter 54 as follows:

1. Part 5433 is added to read as follows:

PART 5433—PROTESTS, DISPUTES AND APPEALS

Authority: 10 U.S.C. Chapter 137.

5433.214. Alternative Dispute Resolution (ADR).

The contracting officer shall insert the provision in 5452.233 in all solicitations unless the conditions at FAR 33.203(b) apply.

PART 5452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. The authority citation for Part 5452 continues to read as follows:

Authority: 10 U.S.C. Chapter 137.

3. Part 5452 is amended by adding solicitation provision 5452.233–9001 to read as follows:

5452.233–9001 Disputes: Agreement to Use Alternative Dispute Resolution (ADR).

As prescribed in 5433.214, insert the following provision:

Disputes: Agreement to Use Alternative Dispute Resolution (ADR) (Apr 2001)—DLAD

(a) The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the contractor (see FAR 52.233–1), or, for the Agency, by the contracting officer, and approved at a level above the contracting officer after consultation with the ADR Specialist and with legal counsel. Contractor personnel are also encouraged to include the ADR Specialist in their discussions with the contracting officer before determining ADR to be inappropriate.

(c) If you wish to opt out of this clause, check here [ ]. Alternate wording may be negotiated with the contracting officer.

William J. Kenny,

Executive Director, Logistics Policy and Acquisition Management.

[FR Doc. 01–12450 Filed 5–16–01; 8:45 am]

BILLING CODE 3620–01–M

Proposed Rules

Federal Register

Vol. 66, No. 96

Thursday, May 17, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–19–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50 and CF6–80C2 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to General Electric Company CF6–50 and CF6–80C2 turbofan engines. This proposal would require replacement of certain existing CF6–50 and CF6–80C2 shrouds with new design shrouds. This proposal is prompted by 37 low pressure turbine (LPT) uncontained events on the CF6–50 and 24 on the CF6–80C2 engine models since 1993, and the development and certification of newly designed shrouds that will improve LPT containment capability. The actions specified by the proposed AD are intended to prevent uncontained engine failure and possible airplane damage.

DATES: Comments must be received by July 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–19–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone: (513) 672–8400; fax: (513) 672–8422. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7192, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–19–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–19–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

Since 1993, the General Electric CF6 turbofan engine has experienced a number of low pressure turbine (LPT) failures in which debris from the engine has escaped from the engine case and nacelle. The engine shroud is part of the containment system intended to prevent such debris from an LPT failure from threatening the aircraft. For the CF6–50 engine model, there have been 16 such events where the debris escaped the engine case, 12 where the debris escaped both the case and nacelle, and nine where the debris escaped the case and nacelle and impacted the aircraft. The CF6–80C2 has experienced 16 events where the debris escaped the engine case, six where the debris escaped the case and nacelle, and two where the debris impacted the aircraft.

Many different upstream failures have led to the secondary breakup and separation of LPT blades, and resulted in low energy LPT case penetrations. High pressure turbine (HPT) blade failures, HPT nozzle failures, and fan mid shaft separations due to high pressure compressor airduct failures have been the leading causes for uncontained LPT failures for these engine models. In addition, multiple shroud repairs can lead to reduced shroud backsheet thickness and result in reduced containment system capability.

The manufacturer has developed, and the FAA has certified, newly designed shrouds that will improve LPT containment capability and enhance engine safety. Although the manufacturer and the FAA have also designed and certified design improvements to address the known upstream failure modes, not all such failure modes can be anticipated and therefore improved LPT containment capability is necessary to protect the airplane from debris from an LPT failure, and enhance safety for these engine models.

This proposal would require replacement of certain existing CF6–50 and CF6–80C2 shrouds with new design shrouds.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Aircraft

Engines Service Bulletin (GEAE SB) CF6–80C2 S/B 72–1006, dated April 11, 2001 and GEAE SB CF60–50 S/B 72–1170, dated May 7, 1999, that specify part numbers and procedures for the removal and replacement of the shrouds.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other General Electric Company CF6–50 and CF6–80C2 turbofan engines of the same type design, the proposed AD would require replacement of certain existing CF6–50 and CF6–80C2 shrouds with new design shrouds at the next shroud piece part exposure, but no later than December 31, 2006. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Economic Impact

There are approximately 5,055 GE CF6–50 and CF6–80C2 turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 1,106 engines installed on airplanes of U.S. registry would be affected by this proposed AD. Because this proposal calls for the replacement of shrouds at piece part exposure, the FAA does not expect that additional labor costs will be accrued beyond that normally required to remove the existing shroud. New shrouds will cost approximately $63,250 for the CF6–50 engines, and $87,020 for the CF6–80C2 engines. Based on these figures, the total cost to retrofit all installed US registered engines is estimated to be $85,096,038 over a five year period, or $17,019,207 annually.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

General Electric Company: Docket No. 2001–NE–19–AD.

Applicability: This airworthiness directive (AD) is applicable to General Electric Company (GE) CF6–50 and CF6–80C2 turbofan engines These engines are installed on, but not limited to DC–10–15, DC–10–30, MD11, 747, 767, A300 and A310 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done. To prevent uncontained engine failure and possible airplane damage, do the following:

(a) Remove existing Stage 2, 3 and 4 low pressure turbine (LPT) CF6–80C2 shrouds and replace with new design part numbers (P/N's) 2083M12G01, 2083M13G01, and 2083M14G01, respectively, in accordance with GE Aircraft Engines Service Bulletin (GEAE SB) CF6–80C2 S/B 72–1006, dated April 11, 2001, at the next shroud piece part exposure, but no later than December 31, 2006.

(b) Remove existing Stage 1, 2, 3 and 4 LPT CF6–50 shrouds and replace with new design P/N's 1822M35G01, 1822M36G01, 1822M36G02, and 1822M37G01, respectively, in accordance with GEAE SB CF6–50 S/B 72–1170, dated May 7, 1999, at the next shroud piece part exposure, but no later than December 31, 2006.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

(d) Special flight permits may be issued in accordance §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on May 11, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12425 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 170

RIN Number: 3038–AB84

Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: In accordance with certain provisions of the Commodity Futures Modernization Act of 2000 ("CFMA"), the Commodity Futures Trading Commission ("Commission") is proposing to amend Rule 3.10, which specifies the information that various applicants for registration must file. The amendment would provide for notice registration as a futures commission merchant ("FCM") or introducing broker ("IB"), as applicable, in the case of a broker or dealer ("BD") registered with the Securities and Exchange Commission ("SEC") that, among other things, limits its involvement with commodity futures contracts to security futures products. In accordance with certain other provisions of the CFMA, the Commission is proposing to amend Rule 170.15, which requires each registered FCM to be a member of a registered futures association. The amendment would exempt notice-registered BDs from this requirement.

DATES: Comments must be received by June 18, 2001.

ADDRESSES: Comments on the proposed rule amendments may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to "Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers."

FOR FURTHER INFORMATION CONTACT: Barbara S. Gold, Assistant Chief Counsel, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–5450, electronic mail: bgold@cftc.gov, or lpatent@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the CFMA was signed into law.[1] Among other things, the CFMA removed the restriction in the Commodity Exchange Act ("CEA") on the trading of futures contracts on individual equity securities and narrow-based indices of equity securities.[2] Under the revised law, security futures products[3] may be traded on a designated contract market or on a registered derivatives transaction execution facility.[4]

Section 4d of the CEA provides that any person who engages in soliciting or accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility—e.g., for a security futures product—must be registered with the Commission as (1) an FCM, if it also accepts any money, securities, or property, or extends credit in lieu thereof, to margin, guarantee, or secure contracts, or (2) otherwise as an IB.[5] Section 4f(a)(1) of the CEA provides that application for registration as an FCM or IB "shall be made in such form and manner as prescribed by the Commission."[6] Pursuant to this authority, the Commission adopted Rule 3.10, which currently requires that an applicant for registration as an FCM or IB file a Form 7–R[7] along with a Form 1–FR–FCM or Form 1–FR–IB, as applicable.[8] In addition, Rule 170.15 requires that each person required to register as an FCM must become and remain a member of at least one registered futures association (i.e., NFA).

However, as a result of the CFMA, new Section 4f(a)(2) of the CEA now provides that notwithstanding Section 4f(a)(1), any BD that is registered with the SEC[9] shall be registered as an FCM or IB, as applicable, "effective contemporaneously with the submission of notice," if—

(A) the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products;

(B) the broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

(C) the registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(D) the broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

Moreover, new Section 4f(a)(4)(C)(i) of the CEA provides that a BD that is registered as an FCM pursuant to notice registration shall not be required to become a member of a registered futures association. Accordingly, by this **Federal Register** release, the Commission is proposing to amend Rule 3.10 to provide for FCM and IB notice registration thereunder and to amend Rule 170.15 to exclude from its scope BDs notice-registered as FCMs.[10]

II. Proposed Amendments

A. Rule 3.10

Rule 3.10 currently is structured as follows: paragraph (a), "Application for registration," contains the information that an application for registration under the rule must contain; paragraph (b), "Duration of registration," generally provides that registration under paragraph (a) will continue until withdrawal or revocation; paragraph (c),

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[1] Pub. L. No. 106–554, 114 Stat. 2763. The text of the CFMA may be accessed on the Internet at http://agriculture.house.gov/txt5660.pdf.

[2] See Section 251(a) of the CFMA. This trading previously had been prohibited by Section 2(a)(1)(B)(v) of the CEA.

[3] The term "security futures product" is defined in Section 1a(32) of the CEA to mean "a security future or any put, call, straddle, option, or privilege on any security future." The term "security future" is defined in Section 1a(31) of the CEA. Because the CFMA also provides that options on security futures cannot be traded until at least December 21, 2003, security futures are the only security futures product that may be available for trading during the next 31 months.

[4] The CFMA also specifically prescribes certain dates on which security futures trading can commence. Specifically, principal-to-principal transactions between institutions cannot commence until August 21, 2001 and retail transactions cannot commence until December 21, 2001. Both starting dates are conditioned upon the registration of a futures association (i.e., National Futures Association ("NFA")) as a national securities association under the Securities Exchange Act of 1934 ("'34 Act"). Section 202(a) of the CFMA; Section 6(g)(5) of the '34 Act.

[5] See Sections 1a(20) and (23) of the CEA, which define the terms "futures commission merchant" and "introducing broker," respectively.

[6] Prior to the enactment of the CFMA, this provision was found in Section 4f(a) of the CEA. The CFMA amended Section 4(f) by redesignating paragraph (a) as paragraph (a)(1) and by adding new paragraphs (a)(2) and (a)(3) (Section 252(b)(2) of the CFMA) and (a)(4) (Section 252(c) of the CFMA).

[7] Rule 3.10(a)(1)(i). The Form 7–R, which requires general information such as a list of the applicant's principals and the applicant's disciplinary history, must be completed and filed with NFA in accordance with the instructions thereto. NFA is registered with the Commission as a registered futures association pursuant to Section 17 of the CEA. By Rule 3.2 and various orders issued by the Commission, the Commission has delegated to NFA the authority to register, among other persons, FCMs and IBs. Commission rules referred to herein are found at 17 CFR Ch. I (2001).

[8] Rule 3.10(a)(1)(ii). The Form 1–FR (–FCM or –IB) includes detailed financial statements and schedules that display the applicant's financial condition. Where the applicant is registered with the SEC as a BD, it may accompany its Form 7–R with a copy of its Financial and Operational Combined Uniform Single Report under the '34 Act, Part II or Part IIA. See Rule 1.10(h).

[9] Because the CFMA speaks in terms of a "broker or dealer," the term "BD" as used in this release applies equally to a broker, a dealer or a person registered as both a broker and a dealer.

[10] Section 4k(1) of the CEA generally requires each person who is an associated person ("AP") of an FCM or IB to register as such. Rule 3.12 generally requires an applicant for registration as an AP to file a Form 8–R, which requires basic biographical information, along with a sponsor's certification. It is not necessary for the Commission to similarly propose notice registration under Rule 3.12 for the APs of those FCMs and IBs who would be subject to the proposed notice registration under Rule 3.10, because the CFMA exempts these APs from registration altogether. Specifically, Section 252(d) of the CFMA amends Section 4(k) of the CEA to provide that:

Any associated person of a broker or dealer that is registered with the Securities and Exchange Commission, and who limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery or any options on such a contract, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products, shall be exempt from [Section 4k(1)] of this Act and the rules thereunder.

"Exemption from registration for certain persons," provides an exemption from registration as an FCM for certain persons; and paragraph (d), "Annual filing," prescribes an annual review of a printout of registration information on file with NFA for persons registered pursuant to paragraph (a).

The Commission is proposing to amend Rule 3.10 in several ways. First, paragraph (a)(1)(i) would be revised to alert applicants for registration that there is an alternative registration procedure under new Rule 3.10(a)(3). Second, paragraph (a)(3) would be added. Captioned "Notice registration as a futures commission merchant or introducing broker for certain securities brokers or dealers," it would add an exception to the FCM and IB registration requirements of Rule 3.10(a) for BDs who meet the criteria of new Section 4f(a)(2) of the CEA. Registration under paragraph (a)(3) would be made "by following such procedures for notice registration as may be specified" by NFA. This registration would be effective upon the filing of the notice prescribed by NFA, as mandated by Section 252(b)(2) of the CFMA. Finally, paragraph (d) would be amended to relieve these notice registrants from the annual update requirement.

The Commission's proposal is consistent with the Commission's previous delegation of registration authority to NFA under Rule 3.2 and through various Commission orders. The Commission believes that its proposal is also consistent with Section 125 of the CFMA, which requires the Commission to report to Congress later this year on a study of the CEA and the Commission's rules, regulations and orders governing the conduct of persons required to be registered under the CEA. One area that the study must identify is "the regulatory functions the Commission currently performs that can be delegated to a registered futures association * * * and the regulatory functions that the Commission has determined must be retained and the reasoning therefor."

As referred to above, notice registrant FCMs and IBs are exempt from NFA membership.[11] Although the Commission cannot require NFA to perform registration functions for persons that are not NFA members,[12] the Commission may authorize NFA to perform any registration function.[13] Commission staff have discussed this matter with NFA, and NFA has agreed to undertake the function of processing notice registrations for BDs as discussed herein. If the Commission adopts these amendments to Rule 3.10, it expects to issue an order authorizing NFA to perform this function.

B. Rule 170.15

Section 17(m) of the CEA states that—

> [n]otwithstanding any other provision of law, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of [the CEA].

Pursuant to this provision, the Commission adopted Rule 170.15, which provides that each person required to register as an FCM must become and remain a member of at least one registered futures association.[14] However, and as noted above, because new section 4f(a)(4)(C)(i) of the CFMA exempts BDs who notice-register as FCMs from the requirement to become a member of a registered futures association, the Commission is proposing to amend Rule 170.15. The amendment would add a provision to exempt FCMs registered in accordance with Rule 3.10(a)(3) from the requirement to become and remain a member of a registered futures association.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–611 (1994), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein would affect persons seeking to be registered under notice registration procedures as an FCM or IB pursuant to new Section 4f(a)(2). The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[15] The Commission previously determined that registered FCMs are not small entities for the purpose of the RFA.[16] With respect to IBs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected IBs would be considered to be small entities and, if so, the economic impact on them of any rule.[17]

These amendments would provide exemptive relief from provisions of the Commission's regulations that otherwise would be applicable to such persons. Consequently, the Commission believes that the adoption of these rule amendments would reduce the burden of compliance by persons seeking to be registered as an FCM or IB. Accordingly, the Acting Chairman of the Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comment on the impact this proposed rule may have on small entities.

B. Paperwork Reduction Act

This proposed rulemaking contains information collection requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[18] The Commission has submitted a copy of this part to the Office of Management and Budget ("OMB") for its review.

Collection of Information

Registration of future commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants, OMB Control Number 3038–0023.

The burden associated with the proposed addition of Rule 3.10(a)(3) is estimated to be 1,000 hours, which will result from the notice registration as an FCM or IB of various persons who currently are registered as BDs with the SEC.

The estimated burden of the proposed new rule was calculated as follows:

Estimated number of respondents: 5,000.

Reports annually by each respondent: 1.

Total annual Responses: 5,000.

Estimated average Number of Hours Per Response: 2.

Estimated Total Number of Hours of Annual Burden in Fiscal Year: 1,000.

There are no paperwork burdens associated with the proposed amendments to Rule 3.10(d), which would clarify that the annual filing prescribed therein does not apply to notice-registered BDs, or to Rule 170.15, which would exclude notice-registered BDs from the requirement that each registered FCM must become and remain a member of NFA.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235 New Executive Building, Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technolcgy, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

C. Cost-Benefit Analysis

Section 119 of the CFMA amended Section 15 of the CEA to require that the Commission, before promulgating a regulation under the CEA or issuing an order, consider the costs and benefits of the Commission's action in light of five criteria.[19] The main considerations relevant to this proposal are the first two considerations set forth in the CEA, "protection of market participants and the public" and "efficiency, competitiveness and financial integrity of the futures markets." The Commission believes that persons who are registered as BDs with the SEC are appropriate subjects for notice registration where their futures-related activity is restricted to security futures products. The Commission also believes that these additional registrants may promote the efficiency and competitiveness of those futures markets on which security future products may be traded and that their presence as intermediaries in these markets may serve to promote the financial integrity of those markets. The Commission further notes that the CFMA specifically mandates that registered BDs be noticed-registered with the Commission as an FCM or IB.

List of Subjects

17 CFR Part 3

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 170

Authority delegations (Government agencies), Commodity futures.

For the reasons discussed in the preamble, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 552, 552b; 7 U.S.C. 1a, 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

2. Section 3.10 is amended by revising paragraph (a)(1)(i), by adding a new paragraph (a)(3) and by revising the first sentence of paragraph (d), to read as follows:

§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

(a) *Application for registration.* (1)(i) Except as provided in paragraph (a)(3) of this section, application for registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant must be on Form 7–R, completed and filed with the National Futures Association in accordance with the instructions thereto.

* * * * *

(3) Notice registration as a futures commission merchant or introducing broker for certain securities brokers or dealers. (i) Any broker or dealer that is registered with the Securities and Exchange Commission may be registered as a futures commission merchant or introducing broker, as applicable, by following such procedures for notice registration as may be specified by the National Futures Association, if—

(A) The broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility, to security futures products as defined in section 1a(32) of the Act;

(B) The registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(C) The broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

(ii) The registration will be effective upon the filing of the notice prescribed by the National Futures Association in accordance with the instructions thereto.

* * * * *

(d) Annual filing. Any person registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant in accordance with paragraph (a)(1) and (a)(2) of this section must file with the National Futures Association a Form 7–R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. * * *

PART 170—REGISTERED FUTURES ASSOCIATIONS

3. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 6p, 12a and 21, unless otherwise noted.

Subpart C—Membership in a Registered Futures Association

4. Section 170.15 is revised to read as follows:

§ 170.15 Futures commission merchants.

(a) Except as provided in paragraph (b) of this section, each person required to register as a futures commission merchant must become and remain a member of at least one futures

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[11] Section 252(c) of the CFMA; Section 4f(a)(4)(C) of the CEA.

[12] See Section 17(o)(1) of the CEA.

[13] Sections 8a(10) and 17(o)(2) of the CEA.

[14] NFA is the only registered futures association.

[15] 47 FR at 18618–21 (April 30, 1982).

[16] 47 FR at 18619–20.

[17] 47 FR at 18618, 18620.

[18] 44 U.S.C. 3501 *et seq.*

[19] These considerations include: (A) protection of market participants and the public; (B) efficiency, competitiveness, and financial integrity of futures markets; (C) price discovery; (D) sound risk management practices; and (E) other public interest considerations.

association which is registered under section 17 of the Act and which provides for the membership therein of such futures commission merchant, unless no such futures association is so registered.

(b) The requirements of paragraph (a) of this section shall not apply to a futures commission merchant registered in accordance with § 3.10(a)(3) of this chapter.

Issued in Washington, DC on May 14, 2001 by the Commission.

Edward W. Colbert,

Deputy Secretary of the Commission.

[FR Doc. 01–12489 Filed 5–16–01; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–2001–8646]

RIN 2125–AE83

Revision of the Manual on Uniform Traffic Control Devices; General Provisions, Markings, and Signals

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices on all public roads. The purpose of this notice is to propose revised wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD.

This document proposes new text for the MUTCD in Part 1—General and Part 4—Signals. The proposed changes included herein are intended to revise supporting information and guidance relating to the decisionmaking process concerning accessible pedestrian signals.

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Mail or hand deliver comments with the docket number that appears in the heading of this document to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590 or submit electronically at *http://dmes.dot.gov/submit*. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information regarding the notice of proposed amendments contact Mr. Ernest Huckaby, Office of Transportation Operations, Room 3408, (202) 366–9064, or Mr. Raymond Cuprill, Office of the Chief Counsel, Room 4230, (202) 366–0791, U.S. Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL 401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this notice of proposed amendment may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

Background

The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7 on the FHWA's website at *http://mutcd.fhwa.dot.gov*. This notice is being issued to provide an opportunity for public comment on the desirability of proposed amendments to Section 1A.11 and to Section 4E.06 concerning accessible pedestrian signals. Based on the comments received and its own experience, the FHWA may issue a final rule concerning the proposed changes included in this notice.

This notice of proposed amendment is being published in response to several letters received by the U.S. Department of Transportation objecting to language in the text of the MUTCD summarized in the final rule published at 65 FR 78923 on December 18, 2000. The letters received by the U.S. Department of Transportation were written by the American Council of the Blind, the Association for Education and Rehabilitation of the Blind and Visually Impaired Division Nine—Orientation and Mobility, the National Committee on Uniform Traffic Control Devices, and Accessible Design for the Blind.

The letter from the National Committee on Uniform Traffic Control Devices (NCUTCD) discusses a meeting it held in January 2001 with representatives of various organizations that represent individuals with visual disabilities. During the meeting the attendees drafted text they believe would be more acceptable to pedestrians with visual disabilities and the organizations that represent them. However, the NCUTCD recommended one sentence of the draft text be deleted because it believed it may encourage a "do nothing" response by a traffic agency as opposed to conducting an engineering study of the request to install a traffic control device at a location.

The FHWA agrees with this position as Federal, State, and local agencies are required to comply with the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 1201 *et seq.*). Title II of the ADA of 1990 requires that public entites not discriminate against people with disabilities. Subject to the provisions of Title II, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. The FHWA believes that a traffic agency should review a request for pedestrian signals accessible to visually impaired persons in the same manner as it does all other requests to install a traffic control device. Also, the FHWA has the added requirement under the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*) and the ADA of 1990 of overseeing that recipients of Federal-aid funding comply with the laws and do not discriminate against people with disabilities.

The FHWA invites comments on the proposed new text for the last paragraph of the MUTCD Section 1A.11 and the first six paragraphs of the MUTCD Section 4E.06. The proposed changes are included in the following discussion:

Discussion of Proposed Amendments to Part 1—General

1. In Section 1A.11 Relation to Other Documents, the FHWA is proposing to add a new document in subparagraph U to paragraph 3 to read, " 'Accessible Pedestrian Signals,' A–37, U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board)." This new document would be a useful source of information for traffic engineers to use because it provides various techniques for making pedestrian signal information available to pedestrians with visual disabilities. The address for the U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board) would be added to page i of the MUTCD.

Discussion of Proposed Amendments to Part 4—Signals

1. In Section 4E.06, the FHWA proposes to revise paragraph 1 to read, "The primary technique that pedestrians who have visual disabilities use to cross streets at signalized intersections is to initiate their crossing when they hear the traffic in front of them stop and the traffic alongside them begin to move, corresponding to the onset of the green interval. This technique is effective at many signalized intersections. The existing environment is often sufficient to provide the information that pedestrians who have visual disabilities need to operate safely at a signalized intersection. Therefore, many signalized intersections will not require any accessible pedestrian signals." The FHWA is proposing to replace the phrase "the vast majority of" with "many" because "many signalized intersections" better represents the degree of effectiveness of the technique used by pedestrians who have visual disabilities to cross the street.

2. In Section 4E.06, the FHWA proposes to revise paragraph 2 to read, "If a particular signalized intersection presents difficulties for pedestrians who have visual disabilities to cross safely and effectively, an engineering study should be conducted that considers the safety and effectiveness for pedestrians in general, as well as the information needs of pedestrians with visual disabilities." The FHWA is proposing to delete text from this paragraph that suggested safety and effectiveness concerns for all pedestrians be examined first before considering any access issues for pedestrians with visual disabilities. The FHWA is proposing to use the term "engineering study" rather than "examination" or "review" to explain the general practice used for determining needed intersection improvements for road users, including all pedestrians. Engineering studies can examine numerous tools to assist pedestrians, including accessible pedestrian signals.

3. In Section 4E.06, the FHWA proposes to revise paragraph 4 to read, "Local organizations, providing support services to pedestrians who have visual and/or hearing disabilities, can often act as important advisors to the traffic engineer when consideration is being given to the installation of devices to assist such pedestrians. Additionally, orientation and mobility specialists or similar staff also might be able to provide a wide range of advice. The U.S. Access Board's Document A–37, 'Accessible Pedestrian Signals,' [1] provides various techniques for making pedestrian signal information available to persons with visual disabilities." The FHWA is proposing to replace "professionals" with "staff," because the term "professionals" could connote that a certification is necessary. The FHWA is proposing to add the sentence "The U.S. Access Board's Document A–37, 'Accessible Pedestrian Signals,' provides various techniques for making pedestrian signal information available to persons with visual disabilities' to the end of the paragraph. This reference was published in the NPA of December 30, 1999, at 64 FR 73612, 73670 under FHWA docket 99–6575, but inadvertently deleted from the final rule.

4. In Section 4E.06, the FHWA proposes to delete existing paragraphs 5 and 6. The FHWA proposes to delete these paragraphs because paragraph 4 covers the consideration of advice from organizations that represent individuals with disabilities. In addition, an engineering study, mentioned in paragraph 2, covers consideration of cost.

Rulemaking Analysis and Notices

The FHWA believes a 30-day comment period is sufficient for these proposed changes inasmuch as the issue has already been the subject of a notice-and-comment rulemaking (RIN 2125–AE71) and the proposed changes are in response to the aforementioned comments by the National Committee on Uniform Traffic Control Devices, organizations providing support services to pedestrians with visual disabilities, and others. It appears that the concerns indicated by the different organizations have been addressed in these proposed changes. The notice of the FHWA's intent to add a section on accessible pedestrian signals in the MUTCD was first published in a notice of proposed amendment on December 30, 1999 (RIN 2125–AE71). The FHWA provided an extensive opportunity for public comment and review by accepting comments on this issue for a period of 6 months until June 30, 2000. Because the public is very familiar with the issues, the FHWA believes a 30-day comment period would be sufficient. In addition, there are three national organizations, American Association of State Highway and Transportation Officials, Institute of Transportation Engineers and American Traffic Safety Services Association, that are in the process of printing the new MUTCD. Providing more than a 30-day comment period would be contrary to the public interest because it would also delay implementation of a massive publication effort and distribution of the MUTCD to traffic engineering practitioners. Since printing the MUTCD involves a large investment and they are aware of the possible changes to Section 4E.06, these national organizations would not like to print an MUTCD when such a significant change is pending. In addition, all of the concerned parties have expressed that they would be greatly concerned if the national organizations who plan to print the MUTCD do so with the current text of Section 4E.06. The FHWA believes that this is the most equitable and economic solution; and therefore, a comment period longer than 30-days would be contrary to public interest.

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this action will not be

[1] "Accessible Pedestrian Signals," U.S. Access Board, August 1998, is available online at URL: *http://www.access-board.gov*. A single hardcopy may be obtained without charge by contacting the U.S. Access Board at (202) 272–5343 (voice) or (202) 272–5449 (TTY); or by writing to the Board at 1331 F Street, NW., Suite 1000, Washington, DC 20004–1111.

a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. The new standards and other changes proposed in this notice are intended to improve traffic operations and safety, and provide additional guidance, clarification, and optional applications for traffic control devices. The FHWA expects that these proposed changes will create uniformity and enhance safety and mobility at little additional expense to public agencies or the motoring public. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities. This notice of proposed amendment proposes revised wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD. The proposed changes are intended to improve traffic operations and safety, expand guidance, and clarify application of traffic control devices as it relates to accessible pedestrian signals. The FHWA hereby certifies that these proposed revisions would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 13132 (Federalism)

The FHWA has analyzed this proposed action in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999. This proposal amends the existing regulation to revise wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD. The FHWA has consulted with States and local governments and believes that the proposed changes will not increase direct cost compliance costs of States and local governments.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposal under Executive Order 13175, dated November 6, 2000, and believes that the notice of proposed amendment would not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. The proposed changes in this notice of proposed amendment revise guidance and supporting information, not standards, related to the decisionmaking process concerning whether or not to install accessible pedestrian signals. Therefore, a tribal summary impact statement is not required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain a collection of information requirement for purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

This proposed action meets applicable standards in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This is not an economically significant action and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed action would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 655

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

(23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b))

Issued on: May 11, 2001.

Vincent F. Schimmoller,

Deputy Executive Director, Federal Highway Administration.

[FR Doc. 01–12426 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE 054–1031b; FRL–6981–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Nitrogen Oxides Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of establishing a nitrogen oxides (NO_X) allowance trading program for large electric generating and industrial units, beginning in 2003. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by June 18, 2001.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178, at the EPA Region III address above, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION: On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP to address the requirements of the NO_X SIP Call Phase I. The revision consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program. For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 8, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–12352 Filed 5–16–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–200108; IN121–1; FRL–6982–2]

Determination of Attainment of Ozone Standard by Louisville, Kentucky and Indiana, Area and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to determine that the Louisville moderate ozone nonattainment area (Louisville area) has attained the 1-hour ozone National Ambient Air Quality Standard (NAAQS). The Louisville area includes Jefferson County and portions of Bullitt and Oldham Counties, Kentucky, and Clark and Floyd Counties, Indiana. This proposed determination is based on three years of complete, quality-assured, ambient air monitoring data for the 1998 to 2000 ozone seasons that demonstrate that the area has attained the 1-hour ozone NAAQS. On the basis of this determination, EPA is also proposing to determine that State Implementation Plan (SIP) submissions for certain reasonable further progress (RFP) and attainment demonstration requirements, along with certain other related requirements of part D of Title 1 of the Clean Air Act (CAA) are no longer required for the Louisville area for so long as the area continues to attain the 1-hour ozone NAAQS. All previously-approved SIP revisions must continue to be implemented and enforced and are not affected by this action.

DATES: Written comments on EPA's proposed action must be received on or before June 18, 2001.

ADDRESSES: All comments should be addressed to: Allison Humphris, Environmental Scientist, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia, 30303. J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the air quality data and EPA's analysis are available at the following addresses for inspection during normal business hours: United States Environmental Protection Agency, Region 4, Air Planning Branch, Regulatory Planning Section, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. United States Environmental Protection Agency, Region 5, Air Programs Branch (AR–18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Allison Humphris, Environmental Scientist, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303, (404) 562–9030, (*humphris.allison@epa.gov*). Ryan Bahr, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–4366, (*bahr.ryan@epa.gov*).

SUPPLEMENTARY INFORMATION:

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I. Determination of Attainment

A. What Action is EPA Proposing to Take?

The EPA is proposing to determine that the Louisville area has attained the 1-hour ozone NAAQS. The Louisville area includes Jefferson County and portions of Bullitt and Oldham Counties, Kentucky, and Clark and Floyd Counties, Indiana. On the basis of this determination, EPA is also determining that certain requirements of part D of Title I of the CAA do not apply to the Louisville area. SIP submittals based on these requirements are no longer required so long as the Louisville area continues to attain the NAAQS. These requirements include RFP (see the general requirement of section 172(c)(2) and the more specific requirement of section 182(b)(1) for a plan that reduces volatile organic compound (VOC) emissions by 15%), attainment demonstration (see the general requirement of section 172(c)(1)) and the specific requirement of section 182(j) for a multi-state attainment demonstration) and contingency measures (see the general requirement of section 172(c)(9)). Making these sections inapplicable to the area means that the States are not required to

submit future SIP revisions related to the sections cited above regarding attaining the NAAQS. Furthermore, EPA would not be required to act on the planning SIPs that have been submitted and not yet approved. However, all previously-approved SIP revisions must continue to be implemented and enforced and are not affected by this action. In addition EPA will continue to process any submittals that have not yet been approved and revise the SIP to incorporate State- and locally-adopted rules and other legally-enforceable requirements which have helped the area come into attainment prior to the effective date for this rule. This will ensure that the rules the area has depended on for attainment are permanent and enforceable as part of the SIP.

B. Why is EPA Taking This Action?

The EPA proposes to make this determination for the Louisville area because complete, quality-assured, ambient air monitoring data for the 1998 to 2000 ozone seasons demonstrate that the 1-hour ozone NAAQS has been attained in the entire Louisville area. For ozone, an area may be considered attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and appendix H, based on three complete, consecutive calendar years of quality-assured ambient monitoring data. A violation of the 1-hour ozone NAAQS occurs when the annual average number of expected exceedances at a monitoring site is greater than 1.0 per year, using conventional rounding techniques.

The calculation for expected exceedances in a three-year period is computed by averaging the three estimated exceedances (one for each of the three years) during this period. The calculation for the estimated exceedances takes into account not only the number of exceedances during a given ozone season, but also completeness of data, and days in the ozone season that can be assumed to be less than the level of the standard. An example calculation of estimated exceedances at the Charlestown monitor is given in section C. A daily exceedance occurs when the maximum hourly ozone concentration during a given day is greater than 0.12 parts per million (ppm), using conventional rounding techniques. Monitoring data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in EPA's Aerometric Information Retrieval System (AIRS). The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet (Cabinet) and the Indiana Department of Environmental Management (IDEM) submitted quality-assured ozone monitoring data to EPA for the 1998 to 2000 ozone monitoring seasons. Table 1 below summarizes these air quality data.

TABLE 1.—1-HOUR OZONE NAAQS EXCEEDANCES IN THE LOUISVILLE, KENTUCKY-INDIANA AREA FROM 1998 TO 2000

Site	County	Year	Exceedances measured	Estimated exceedances
Charlestown	Clark, IN	1998	3	3.1
Charlestown	Clark, IN	1999	0	0.0
Charlestown	Clark, IN	2000	0	0.0
New Albany	Floyd, IN	1998	2	2.0
New Albany	Floyd, IN	1999	0	0.0
New Albany	Floyd, IN	2000	0	0.0
Bates	Jefferson, KY	1998	1	1.2
Bates	Jefferson, KY	1999	0	0.0
Bates	Jefferson, KY	2000	0	0.0
Buckner	Oldham, KY	1998	1	1.1
Buckner	Oldham, KY	1999	1	1.2
Buckner	Oldham, KY	2000	0	0.0
Sheperdsville	Bullitt, KY	1998	0	0.0
Sheperdsville	Bullitt, KY	1999	0	0.0
Sheperdsville	Bullitt, KY	2000	0	0.0
Watson	Jefferson, KY	1998	1	1.2
Watson	Jefferson, KY	1999	0	0.0
Watson	Jefferson, KY	2000	0	0.0
WLKY–TV	Jefferson, KY	1998	1	1.1
WLKY–TV	Jefferson, KY	1999	0	0.0
WLKY–TV	Jefferson, KY	2000	0	0.0

During the 1998 to 2000 time period, the Charlestown monitor recorded a total of 3 exceedances, with all 3 exceedances occurring during 1998. Remaining monitors recorded 2 or fewer exceedances for this same time period. Calculation of the estimated exceedances for 1998 for the Charlestown monitor, in accordance with 40 CFR part 50, appendix H, yields 3.1 estimated exceedances for 1998. Due to no exceedance occurring at the Charlestown monitor in 1999 or 2000, the total estimated exceedances for the years of 1998 through 2000 is also 3.1, or 1.0 average expected exceedance per year. This indicates that the monitoring site with the most exceedances is attaining the 1-hour ozone NAAQS. As a result, the Louisville area is currently meeting the air quality requirement for this determination of attainment of the 1-hour ozone NAAQS.

C. How was the Number of Estimated Exceedances at the Charlestown Monitor Determined?

During the 1998 to 2000 time period, the Charlestown monitor was determined to have a total of 3.1 estimated exceedances. This value was determined in accordance with 40 CFR 50.9 and appendix H, as follows: e = v + [(v/n)*(N-n-z)] where:

Variable description	Value for Charlestown monintor for 1998	Comments
e = the estimated number of exceedances for the year	3.1	Calculated.
N = the number of required monitoring days in the year	183	Indiana's ozone season is April 1–September 30.
n = the number of valid daily maxima	172	Days with valid data based on 40 CFR part 50 and appendix H.
v = the number of daily values above the level of the standard	3	Based on monitored values.
z = the number of days assumed to be less than the standard level.	3	Based on 40 CFR part 50. Appendix H, for days that were likely below the standard.

The current version of the AIRS database calculates the Charlestown monitor as having 3.2 estimated exceedances during the 1998 ozone season, based on the availability of valid AIRS data for 172 out of 183 ozone season days. However, EPA has determined, in accordance with 40 CFR part 50, appendix H, that for three days during the 1998 ozone monitoring season for which no air quality data was available, it is highly unlikely that the ozone NAAQS was exceeded, and air quality can be assumed to have been below the ozone NAAQS. Part 50, appendix H states, in part, that: "Some allowance should also be made for days for which valid daily maximum hourly values were not obtained but which would quite likely have been below the standard." It then suggests a criterion that "may be used" for ozone. Since appendix H lists only a permissible, but not exclusive method for determining when a missing value may be assumed to have been below the standard, it leaves room for Agency discretion to define alternative conditions for making such a determination. For two days early in the 1998 ozone monitoring season (April 3–4, 1998), this conclusion is based on records of valid daily maxima well below the standard for the remaining 6 Louisville area monitors and overwhelming meteorological evidence that conditions were not highly conducive to ozone formation. In addition, no exceedances have ever been recorded at this monitoring site in early April. For a third day (August 1, 1998), this conclusion is based on records of valid daily maxima below the 75 percent level of the standard for the Charlestown monitor for the days immediately preceding and following this date. Calculation of the estimated exceedances for the Charlestown monitor using the above equation, and assuming that the ozone standard was not exceeded for 175 out of 183 ozone season days yields a total of 3.1 estimated exceedances for the 1998 ozone season. Since no exceedance was recorded for 1999 or 2000, the average number of expected exceedances for this monitor are 1.0 per year for the three-year period of 1998 through 2000, using conventional rounding techniques.

D. What Would Be the Effect of This Action?

The EPA believes it is reasonable to interpret that the Clean Air Act provisions regarding RFP and attainment demonstrations, along with certain other related provisions, do not require certain SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (i.e., has three consecutive years of complete, quality-assured, air quality monitoring data) without those provisions being implemented. Specifically, the requirements of sections 172(c)(1) and 182(j) concerning submission of an ozone attainment demonstration, the requirements of sections 172(c)(2) and 182(b)(1) concerning submission of a 15% VOC emission reduction plan, and the requirements of section 172(c)(9) concerning contingency measures for RFP or attainment will not be applicable to the Louisville area. EPA intends, however, to approve the regulations that were submitted by the Commonwealth with its 15% plan, since these regulations were adopted by the Commonwealth or the Air Pollution Control District of Jefferson County prior to 1998 and provided permanent and enforceable reductions for the Louisville area during the 1998 to 2000 ozone seasons. Likewise, previously-approved SIP revisions must continue to be implemented and enforced and are not affected by this action.

The above determinations are contingent upon continued monitoring and continued attainment and maintenance of the 1-hour ozone NAAQS in the Louisville area. If a violation of the 1-hour ozone NAAQS is monitored in any of the five counties, EPA will initiate rulemaking action to reinstate these requirements in the **Federal Register**. A violation in any of the five counties would mean that the entire area would thereafter have to address the above-cited requirements, since the basis for the determination that they do not apply would no longer exist.

E. What Is the Background for this Action?

Subpart 2 of part D of Title I of the CAA contains various air quality planning and SIP submission requirements for 1-hour ozone nonattainment areas. EPA interprets the general provisions of subpart 1 of part D of Title I (sections 171 and 172) and the more specific attainment demonstration and related provisions of subpart 2 (section 182) to not require the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures for areas where the monitoring data show that the area is attaining the 1-hour ozone standard (See *Sierra Club* vs *EPA*, 99 F.3d 1551 (10th Cir. 1996)). This rationale is described in a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," dated May 10, 1995. EPA has previously applied this interpretation in a number of areas, including Cincinnati (65 FR 37879 (June 19, 2000)), Grand Rapids (61 FR 31831 (June 21, 1996)), Cleveland (61 FR 20458 (May 7, 1996)), and Salt Lake City (60 FR 36723 (July 18, 1995)).

First, with respect to RFP, section 171(1) states that, for purposes of part D of Title I, RFP "means such annual incremental reductions in the emissions of the relevant air pollutant as are required by this part or may be reasonably required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." Thus, whether dealing with the general RFP requirement of section 172(c)(2), or the more specific RFP requirements of subpart 2 for classified ozone

nonattainment areas (such as the 15% plan requirement of section 182(b)(1)), the stated purpose of RFP is to ensure attainment by the applicable attainment date. If an area has, in fact, attained the standard without implementing RFP, the stated purpose of the RFP requirement will have already been fulfilled, and EPA does not believe that the area need submit SIP revisions providing for the further emission reductions described in the RFP provisions of section 182(b)(1).

EPA notes that it took this view with respect to the general RFP requirement of section 172(c)(2) in the General Preamble for the Interpretation of title I of the Clean Air Act Amendments of 1990 (57 FR 13498, April 6, 1992), and it is now extending that interpretation to the specific provisions of subpart 2. In the General Preamble, EPA stated, in the context of a discussion of the requirements applicable to the evaluation of requests to redesignate nonattainment areas to attainment, the "requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the state will make RFP towards attainment will, therefore, have no meaning at that point." (57 FR 13564).

Second, with respect to attainment demonstration requirements, an analogous rationale can be applied. Section 182(b)(1) requires that the plan provide for "such specific annual reductions in emissions * * * as necessary to attain the national primary ambient air quality standard by the attainment date applicable under the CAA." If an area has in fact monitored attainment of the relevant NAAQS, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I. As stated in the Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since "attainment will have been reached" (57 FR 13564). Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Finally, similar reasoning applies to the contingency measure requirements of section 172(c)(9) of the CAA. EPA has previously interpreted the contingency measure requirement of section 172(c)(9) as no longer being applicable once an area has attained the standard since those "contingency measures are directed at ensuring RFP and attainment by the applicable date" (57 FR 13564). EPA has excercised this policy most recently in approvals for the Cincinnati, Ohio, and Muskegon, Michigan, areas (65 FR 37879 and 65 FR 52651).

EPA emphasizes that the lack of a requirement to submit the SIP revisions discussed above exists for only so long as an area designated nonattainment continues to attain the standard. If EPA subsequently determines that such an area has violated the NAAQS, the basis for the determination that the area need not make the pertinent SIP revisions would no longer exist. EPA would notify the state of that determination and would also provide notice to the public in the **Federal Register**. Such a determination would mean that the area would have to address the pertinent SIP requirements within a reasonable amount of time, which EPA would establish taking into account the individual circumstances surrounding the particular SIP submissions at issue. Thus, a determination that an area need not submit one of the above-mentioned SIP submittals amounts to no more than a determination that new submittals are no longer required for the Louisville area for so long as the area continues to attain the standard.

The state must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The air quality data relied upon to determine that the area is attaining the 1-hour ozone NAAQS must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in AIRS.

The determination that is being made with this **Federal Register** document is not equivalent to redesignation of this area to attainment. Attainment of the ozone NAAQS is only one of the criteria set forth in section 107(d)(3)(E) that must be satisfied for an area to be redesignated to attainment. To be redesignated, the state must submit and receive full approval of a redesignation request for the area that satisfies all of the criteria of that section, including the requirement of a demonstration that the improvement in the area's air quality is due to permanent and enforceable reductions and the requirement that the area have a fully approved SIP meeting all of the applicable requirements under section 110 and part D and a fully approved maintenance plan.

The determinations made in this document do not shield an area from future EPA action to require emissions reductions from sources in the area where there is evidence, such as photochemical grid modeling, showing that emissions from sources in the area contribute significantly to nonattainment in, or interfere with maintenance by, any other states with respect to the NAAQS (see section 110(a)(2)(D)). The EPA has authority under sections 110(a)(2)(A) and 110(a)(2)(D) of the CAA to require such emission reductions if necessary and appropriate to deal with transport situations.

F. Where Is the Public Record and Where Do I Send Comments?

The official record for this proposed rule is located at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document. Public comments are solicited on EPA's proposed rulemaking action. Public comments received by June 18, 2001 will be considered in the development of EPA's final rulemaking action.

II. What Administrative Requirements did EPA Consider?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to determine that air quality meets federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to determine that air quality meets federal requirements and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it determines that air quality meets federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards, but air quality considerations governed by federal regulations. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 20, 2001.
Dated: May 8, 2001.

A. Stanley Meiburg,
Acting Regional Administrator, Region 4.

Norman Neidergang,
Acting Regional Administrator, Region 5.

[FR Doc. 01–12439 Filed 5–16–01; 8:45 am]
BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 66, No. 96
Thursday, May 17, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 00–097–1]

Notice of Request for an Extension of a Currently Approved Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of a currently approved information collection to gather data on West Nile virus.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by July 16, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00–097–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–097–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information on the West Nile virus collection activities, contact Dr. Randall Crom, Senior Staff Veterinarian, Emergency Programs, Veterinary Services, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737; (301) 734–8073. For copies of more detailed information on the information collection, contact Mrs. CelesteSickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: West Nile Virus Surveillance Project.

OMB Number: 0579–0162.

Expiration Date of Approval: June 30, 2001.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS), is responsible for protecting the health of our Nation's livestock and poultry by controlling and eradicating contagious, infectious, or communicable animal diseases. Veterinary Services'Emergency Programs unit coordinates APHIS' roles and responsibilities in planning for and responding to emerging or exotic animal diseases.

In 1999, West Nile virus (WNV), which can cause encephalitis, an inflammation of the brain, was first identified in the United States in wild birds, mosquitoes, humans, and equines. Clinical illness in humans and equines occurred during early August through late October 1999, with 62 human cases, including 7 deaths, and 25 equine cases, including 9 deaths. Because the virus is transmitted by mosquitoes, it has the potential to affect humans, livestock, and poultry. No treatment or vaccine is currently available.

In 2000, WNV was detected in humans, equines, other mammals, birds, and mosquitoes in the northeastern United States and in one crow in North Carolina. Of the 21 additional cases of WNV confirmed in humans in 2000, two deaths have been reported. Of the 59 cases confirmed in equines in 2000, 23 equines died or were euthanized. The equine cases were confirmed in Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. The three equine cases in Delaware were the first cases of WNV to be documented in that State. Over 4,300 dead birds and 480 mosquito pools were documented as positive for WNV in 12 States and the District of Columbia. A dead crow tested positive for WNV in North Carolina, making that the first confirmation of the presence of WNV in that southeastern State. More data on the distribution of WNV is available online at http://www.aphis.usda.gov/oa/wnv/wnvstats.html.

Under an approved emergency information collection, data was collected on equines infected in 2000 from equine owners in up to five States in the northeastern United States. We collected data on equines infected in 2000, the premises on which they reside, and on equines and premises in the immediate area of the infected equines. We will analyze the data in an attempt to explain equine or premises risk factors for WNV infection. Extending the approval for an additional 3 years will allow additional epidemiologic data to be collected and analyzed.

We are asking the Office of Management and Budget (OMB) to approve the WNV information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1.125 hours per response.

Respondents: Equine owners.

Estimated annual number of respondents: 420.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 840.

Estimated total annual burden on respondents: 945 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 11th day of May 2001.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12429 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–009–2]

Wildlife Services; Availability of Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment for oral rabies vaccination programs in several States. The environmental assessment analyzes the potential environmental effects of a proposal to continue and expand the Agency's involvement in programs to stop the spread of certain wildlife-borne rabies strains in the States of New York, Ohio, Texas, Vermont, and West Virginia, and examines similar efforts that may be conducted in New Hampshire, Pennsylvania, Florida, Massachusetts, Maryland, New Jersey, Virginia, and Alabama. We are making this environmental assessment available to the public for review and comment prior to an Agency decision.

DATES: We will consider all comments that we receive by June 18, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–009–2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–009–2.

To obtain a copy of the environmental assessment, contact Elizabeth Harris, Operational Support Staff, Wildlife Services, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; phone (301) 734–7921, fax (301)734–5157, or e-mail: elizabeth.harris@aphis.usda.gov. You may also read the environmental assessment and any comments we receive on this notice of availability in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dennis Slate, Rabies Program Coordinator, Wildlife Services, APHIS, 59 Chennell Drive, Suite 7, Concord, NH 03301–8548; phone (603) 223–6832.

SUPPLEMENTARY INFORMATION:

Background

The Wildlife Services (WS) program in the Animal and Plant Health Inspection Service (APHIS) cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources. Wildlife-borne diseases that can affect domestic animals and humans are among the types of conflicts that APHIS–WS addresses. Wildlife is the dominant reservoir of rabies in the United States.

On December 7, 2000, a notice was published in the **Federal Register** (65 FR 76606–76607, Docket No. 00–045–1) in which the Secretary of Agriculture declared an emergency and transferred funds from the Commodity Credit Corporation to APHIS–WS for the continuation and expansion of oral rabies vaccination (ORV) programs to address rabies in the States of Ohio, New York, Vermont, Texas, and West Virginia.

On March 7, 2001, we published a notice in the **Federal Register** (66 FR 13697–13700, Docket No. 01–009–1) to solicit public involvement in the planning of a proposed cooperative program to stop the spread of rabies in the States of New York, Ohio, Texas, Vermont, and West Virginia. The notice also stated that a small portion of northeastern New Hampshire and the western counties in Pennsylvania that border Ohio could also be included in these control efforts, and discussed the possibility of APHIS–WS cooperating in smaller-scale ORV projects in the States of Florida, Massachusetts, Maryland, New Jersey, Virginia, and Alabama. The March 2001 notice contained detailed information about the history of the problems with raccoon rabies in eastern States and with gray fox and coyote rabies in Texas, along with information about previous and ongoing efforts using ORV baits in programs to prevent the spread of the rabies strains of concern.

To provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with the proposed rabies control programs discussed in the March 2001 notice, we have prepared an environmental assessment (EA). The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended(42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

This EA reflects our review and consideration of the comments received in response to the March 2001 notice, as well as a number of issues and alternatives identified during the preparation of previous EA's covering ORV use in earlier, State-level ORV programs. The EA is now available for public review and comment prior to an Agency decision.

Done in Washington, DC, this 11th day of May 2001.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12430 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–038–1]

Temporary Closure of the Miami Animal Import Center's Bird Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are giving notice that the Miami Animal Import Center will be unavailable for the quarantine of birds (except for confiscated or smuggled birds) from June 1, 2001, through August 31, 2001, due to facility renovations. During the closure, avian importers requiring the services of a United States Department of Agriculture animal import center for the quarantine of imported birds may utilize either the New York Animal Import Center or the Los Angeles Animal Import Center. Avian importers who need to make alternate arrangements during the temporary closure period of the Miami Animal Import Center should contact either the New York Animal Import Center, USDA, APHIS, VS, 200 Drury Lane, Rock Tavern, NY 12575, (845) 564–2950 or the Los Angeles Animal Import Center, USDA, APHIS, VS, 11850 South LaCienega Boulevard, Hawthorne, CA, 90250, (310) 725–1970. Further information regarding avian importation and quarantine is also available on the Internet at http://www.aphis.usda.gov/NCIE/ind–3000.html.

FOR FURTHER INFORMATION CONTACT: Dr. Sara Kaman, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–8364.

Done in Washington, DC, this 11th day of May 2001.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12431 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Salem, Oregon on Saturday, June 2, 2001. The meeting is scheduled to begin at 9 a.m., and will conclude at approximately 2 p.m. The meeting will be held at the Salem City Library, Anderson Room B, located at 585 Liberty Street SE in Salem, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Public Law 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. The tentative agenda will focus on describing the desired future condition of the SRA.

The public comment period is tentatively scheduled to begin at 1 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the June 2 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: May 10, 2001.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 01–12415 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on June 5, 2001 in Medford, Oregon at the Medford Bureau of Land Management Office at 3040 Biddle Road. The meeting will begin at 9 a.m. and continue until 5 p.m. Agenda items to be covered include: (1) Province Advisory Committee Operating Guidelines; (2) Public Comment; (3) Discussion of Land Management Issues; and (4) Current issues as perceived by Advisory Committee members.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Roger Evenson, Province Advisory Committee Coordinator, USDA, Forest Service, Umpqua National Forest, 2900 NW Stewart Parkway, Roseburg, Oregon 97470, phone (541) 957–3344.

Dated: May 11, 2001.

Michael D. Hupp,

Acting Designated Federal Official.

[FR Doc. 01–12414 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–11–M

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: May 22, 2001; 9:30 A.M.–4 P.M.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b. (c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b. (c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b. (c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: May 14, 2001.

Carol Booker,

Legal Counsel.

[FR Doc. 01–12613 Filed 5–15–01; 3:17 pm]

BILLING CODE 8230–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 1 p.m. on May 30, 2001, at the Des Moines Marriott Hotel, 700 Grand Avenue, Des Moines, Iowa. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 7, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–12443 Filed 5–16–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 4 p.m. on Wednesday, June 6, 2001, at the New Jersey State House, Room 319, 125 W. State Street, Trenton, New Jersey 08625. The purpose of the meeting is to: (1) review the Committee's draft report on Asian American representation in the New Jersey state government employment; and (2) the Committee will hold a briefing session focusing on the Federal role in compliance with a consent decree remedying racial profiling practices by the New Jersey state police or alternatively criminal prosecutions for civil rights violations in New Jersey.

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson Dr. Irene Hill-Smith, 856–468–5546 or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 7, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–12442 Filed 5–16–01; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance for following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 3506(c)(2)(A).

Agency: Office of Human Resources Management.

Title: Commerce Opportunities On-Line (COOL).

Form Number: None.

OMB Number: 0690–0019.

Type of Request: Regular submission.

Burden Hours: 32,832.

Number of Respondents: 32,832.

Average Hours Per Response: 1 hour.

Needs and Uses: Commerce Opportunities On-Line (COOL) is a web-based software system that automates the vacancy announcement, application intake, application evaluation, and application referral processes, for positions in the Department of Commerce (DOC).

COOL will provide the DOC with a more user-friendly on-line employment application process and enable the DOC to process hiring actions in a more efficient and timely manner. The on-line application will provide an electronic real time candidate list that will allow the DOC to review applications from applicants almost instantaneously. Given the immediate hiring needs of the DOC, time consumed in the mail distribution system or paper review of applications delays the decision-making process by several weeks. The implementation of the COOL electronic application will result in increased speed and accuracy in the employment process. It will also streamline labor and reduce costs.

Affected Public: Individuals or households, Federal Government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or maintain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *Mclayton@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of the notice to David Rostker, OMB Desk Officer,Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 11, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12393 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

[I.D. 051101C]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: South Pacific Tuna Act.

Form Number(s): None.

OMB Approval Number: 0648–0218.

Type of Request: Regular submission.

Burden Hours: 430.

Number of Respondents: 32.

Average Hours Per Response: 15 minutes for a license application, 30 minutes for a registration application, 15 minutes for a vessel monitoring system application, 1 hour for a catch report, 30 minutes for an unloading logsheet, 4 hours to install a vessel monitoring system, 24 seconds a day for

position reports from a vessel monitoring system, and 2 hours per year to maintain a vessel monitoring system.

Needs and Uses: NOAA collects license, registration, catch, and unloading information from tuna vessels fishing within a large region of the Pacific Ocean governed by the "Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States." Vessel monitoring systems are also required to provide automated position reports. The information collected is needed to meet obligations under that treaty.

Affected Public: Business and other for-profit organizations.

Frequency: On occasion, weekly, and annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12482 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee will meet on June 19, 2001, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Public Session

1. Opening remarks and introductions.
2. Presentation of papers or comments by the public.
3. Update on Bureau of Export Administration initiatives.
4. Update on the Wassenaar Arrangement.
5. Status on post-shipment checks.
6. Status on "specially designed" entries to the Commerce Control List (CCL).
7. Status on Category 2 Matrix Guide for CCL users.

Closed Session

8. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available for the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials, the Committee suggests that presenters forward the materials prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BXA MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 11, 1999, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC 20230. For more information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: May 14, 2001.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 01–12455 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of California Coastal Management Program; Change of Meeting Location

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of change of meeting location.

SUMMARY: On May 3, 2001, the NOAA Office of Ocean and Coastal Resource Management (OCRM) announced its intent to evaluate the performance of the California Coastal Management Program/California Coastal Commission. This Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR Part 923.

The site visit for this evaluation is June 5–13, 2001, and two public meetings are being held, June 6, and June 11, 2001, as part of the site visit.

Notice is hereby given of a change of location of the second public meeting to be held June 11, 2001. The new public meeting location is: The Los Angeles Airport Marriott, Philadelphia Room, 5855 W. Century Blvd., Los Angeles, California 90045.

FOR FURTHER INFORMATION CONTACT: Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 215.

Dated: May 14, 2001.

Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–12483 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–18–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Technology Panel Meeting will meet in Kirtland Air Force Base, New Mexico on May 23–25, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12445 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Urban Targets Panel Meeting will meet in Washington, DC on May 29–31, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12446 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Automatic Target Recognition (ATR) for Sensor Meeting will meet in Boston, Massachusetts on May 24–25, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12447 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Summer General Board Meeting will meet in Irvine, California on June 18–29, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to draft initial findings and recommendations for each study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12448 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Buried Target Panel Meeting will meet in Pasadena, California on May 24, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12449 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant Ohio University, Athens, Ohio, an exclusive license in U.S. Provisional Patent Application Serial Number 60/220,768, entitled "Object Identification System and Method," and any subsequently filed patent applications related to this provisional application. The invention described in this application is a joint invention between Ohio University and the Air Force.

A license for this invention will be granted unless a written objection is received within 60 days from the date of publication of this Notice. Information concerning this Notice may be obtained from Mr. William H. Anderson, Associate General Counsel (Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Anderson can be reached at 703–588–5090 or by fax at 703–588–8037.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12444 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patent Application for Non-Exclusive, Exclusive, or Partially Exclusive Licensing

AGENCY: U.S. Army Soldier and Biological Chemical Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209 and 37 CFR Part 404 announcement is made of the availability for licensing of the following U.S. Patent applications for non-exclusive, exclusive, or partially exclusive licensing. The patent applications listed below have been assigned to the United States Government as represented by the Secretary of the Army, Washington, DC.

Title: "Method and Apparatus for Counting Submicron Sized Particles."

Description: A system for detecting the presence of different size groups of submicron sized particles in a fluid sample collected from the environment. The system includes a collecting apparatus for collecting a fluid sample containing the submicron size particles which include virus and virus-like agents. After the sample is collected, the sample is directed to a means for detecting the submicron size particles wherein the detection apparatus includes an electrospray assembly having an electrospray capillary, a differential mobility analyzer which receives the output from the capillary, and a condensation particle counter for counting and identifying the submicron size particles in the sample.

Patent Application Number: 09/662,787.

Filing Date: September 15, 2000.

Title: "Method and System for Detecting and Recording Submicron Sized Particles."

Description: A system and method for detecting the presence of submicron sized particles in a sample taken from the environment which includes a means for collecting a sample from the environment and a means for purifying and concentrating the submicron particles in a sample by purifying and concentrating the particles based on size. The purified and concentrated particles are detected with an apparatus which includes an electrospray assembly having an electrospray capillary, a differential mobility analyzer which received the output from the capillary, and a condensation particle device for counting the number of particles that pass through the differential mobility analyzer. The system is intended to collect a sample containing submicron size particles having a size from about 10 to about 350 nanometers and include submicron size particles selected form the group consisting of viruses, prions, macromolecules, protein satellites, and virus fragments. Automated controls can be utilized to control the flow of the sample through the system.

Patent Application Number: 09/662,788.

Filed: September 15, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Intellectual Property Attorney, U.S. Army SBCCOM, ATTN: AMSSB–CC (Bldg E4435), APG, MD 21010–5424, Phone: (410) 436–1158; FAX: 410–436–2534 or E-mail:*John.Biffoni@sbccom.apgea.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–12490 Filed 5–16–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Grant an Exclusive or Partially Exclusive License to Paratek Microwave, Inc.

AGENCY: U.S. Army Research Laboratory (ARL), DoD.

ACTION: Notice of intent.

SUMMARY: In compliance with 37 CFR 404 et seq., the Department of the Army hereby gives notice of its intent to grant to Paratek Microwave, Inc., a corporation having its principle place of business at 6935N Oakland Mills Rd., Columbia, MD 21045, an exclusive license relative to a patented ARL technology (U.S. Patent #5,427,988, Sengupta, et al.; June 27, 1995; Ceramic Ferroelectric Composite Material—BSTO–MgO). Anyone wishing to object to the granting of this license has 15 days from the date of this notice to file written objections along with supporting evidence, if any.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications. ATTN: AMSRL–CS–TT/Bldg. 459, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–12491 Filed 5–16–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Plant-Derived Anti-Parasitic and Antifungal Compounds and Methods of Extracting the Compounds

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application No. 09/428,203 entitled "Plant-Derived Anti-parasitic and Antifungal Compounds and Methods of Extracting Compounds" and filed May 24, 2000. This patent application has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Provided are biologically active extracts from Aframomum aulocacarpus, Aframomum danelli, Dracaena arborea, Eupatorium odoratum, Glossocalyz brevipes, and Napoleonaea imperialis, which are suitable for use in treating fungal and protozoa diseases.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–12492 Filed 5–16–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on November 5, 1999, an arbitration panel rendered a decision in the matter of *California Department of Rehabilitation* v. *General Services Administration (Docket No. R–S/97–11).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(b) upon receipt of a complaint filed by petitioner, the California Department of Rehabilitation.

FOR FURTHER INFORMATION: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington DC 20202–2738. Telephone: (202) 205–9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8298.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)) (the Act), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerns the alleged violation by the General Services Administration (GSA) in the termination of the permit of the California Department of Rehabilitation, the State licensing agency (SLA), to operate a cafeteria at the Internal Revenue Service (IRS) facility, in Fresno, California. A summary of the facts is as follows: The SLA and GSA entered into an agreement to establish a cafeteria at the IRS Building, 5045 E. Butler Avenue, Fresno, California on November 1, 1995. The facility had been operated by a private vendor under contract to GSA.

Although the vending facility was a cafeteria, the SLA and GSA proposed a permit rather than a contract. GSA proposed that the permit be issued for a limited term of approximately 1 year, subject to renewal or cancellation at the end of that period. While the SLA declined to enter into a limited agreement, the permit that was eventually issued between the SLA and GSA was for an "indefinite period of time subject to suspension or termination on the basis of non-compliance by either party."

The operation of the IRS cafeteria began on December 18, 1995. On September 25, 1996, an inspection of the cafeteria was conducted by the Food and Drug Administration (FDA). The FDA inspector noted numerous unsanitary conditions such as improper food preparation and storage, pest infestation, and employees eating and drinking beverages outside the break area. The violations noted by the FDA inspector were brought to the attention of the cafeteria facility manager. On March 5, 1997, an FDA inspector conducted another inspection at the IRS cafeteria. Again, the FDA inspector observed several violations similar to those noted in the September 25, 1996, inspection. Additional violations were found such as rodent droppings, improper cleaning of the conveyor belt, lack of soap and paper towels at the handwashing sink, and improper cleaning of the floor in the dishwashing area. These violations were pointed out to the cafeteria manager, who allegedly did not dispute any of the FDA inspector's observations. Subsequently, the cafeteria was closed.

The SLA alleged that the closure of the IRS cafeteria violated the Act and the terms of the permit. Additionally, the SLA alleged that GSA violated an agreement to give the SLA revenues from the operation of a portable coffee cart in the cafeteria area.

The SLA filed a request to convene an arbitration panel to hear this complaint. A Federal arbitration hearing on this matter was held on December 15–18, 1998. A second hearing was convened on March 1–5, 1999 to conclude testimony.

Arbitration Panel Decision

The majority of the panel, after considering all of the evidence, concluded that the parties jointly agreed to a permit agreement rather than a cafeteria contract for the vending facility at the IRS building. The panel further found that, while IRS personnel were interested in having a food court at the facility, the SLA furnished the vendor with equipment that essentially provided for multiple serving stations and a broader variety of food similar to the food court concept sought by IRS officials. Thus, the panel ruled that there was no convincing evidence to support the SLA's allegation that GSA caused the termination of the vendor's permit under the pretext of putting in a food court by a private vendor.

Based upon the evidence presented, the majority of the panel further concluded that, throughout the vendor's tenure at the IRS, there were numerous inspections of the cafeteria. Most notable of the inspections were those conducted by FDA on September 25, 1996, and March 4, 1997, which identified numerous sanitation, food preparation, and storage violations. Those inspections resulted in the cafeteria closing.

The panel ruled that the unsanitary conditions created serious health risks to thousands of customers of the cafeteria at the IRS building. Therefore, it was reasonable and proper for GSA to remove the vendor because of the extreme unsanitary conditions. Furthermore, the panel ruled that the SLA's allegation concerning the vendor's removal lacking due process was without merit.

Finally, the majority of the panel ruled that the weight of the evidence indicated that GSA owed some accounting and commissions to the SLA for the coffee cart operation. The panel ordered the parties to jointly determine the formula for the amount owed by GSA to the SLA.

One panel member concurred.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: May 11, 2001.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. 01–12402 Filed 5–16–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

National Petroleum Council

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the National Petroleum Council. Federal Advisory Committee Act (Public Law 92–463,86 Stat. 770) requires notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, June 6, 2001, 9 a.m.

ADDRESSES: The Ritz Carlton,Ballroom Salon I, 1150 22nd Street, NW.,Washington, DC.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTAL INFORMATION: Purpose of the Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry.

Tentative Agenda

—Call to order and introductory remarks by Archie W. Dunham, Chair of the NPC.
—Remarks by the Honorable Spencer Abraham, Secretary of Energy (invited).
—Consideration of the proposed final report of the NPC Committee on Critical Infrastructure Protection.
—Administrative matters.
—Discussion of any other business properly brought before the NPC.
—Public comment (10-minute rule).
—Adjournment.

Public Participation: The meeting is open to the public. The chairperson of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Margie D. Biggerstaff at the address or telephone

number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Transcripts: Available for public review and copying at the Public Reading Room, Room IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 am and 4 pm, Monday through Friday, except Federal holidays.

Issued at Washington, DC, on May 11, 2001.

Belinda Hood,

Acting Deputy Committee Advisory Management Officer.

[FR Doc. 01–12438 Filed 5–16–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–35–000; Docket No. RT01–15–000]

Avista Corporation, Bonneville Power Administration, Idaho Power Company, Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company; Avista Corporation, Montana Power Company, Nevada Power Company, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company; Notice of Technical Conference

May 11, 2001.

Take notice that Commission Staff will hold a technical conference to discuss liability issues presented by the RTO West/TransConnect application on May 24, 2001, beginning at 2 p.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested persons are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 01–12428 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–262–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

May 11, 2001.

Take notice that on April 30, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing its responses to the five inquiries made by the Commission in seeking additional information on Columbia's retainage percentages filed on March 1, 2001.

Columbia states that the filing is being made in compliance with the Commission letter order issued on March 28, 2001 [1] in the above-referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 21, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12397 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR01–14–000]

Enogex, Inc; Notice of Petition for Rate Approval

May 11, 2001.

Take notice that on May 1, 2001, Enogex, Inc. (Enogex) filed a Petition for Rate Approval (Petition) pursuant to Section 284.123(b)(2) of the Commission's regulations, 18 CFR 284.123(b)(2). In the Petition, Enogex requests that the Commission approve a rate for interruptible transportation service under Section 311(a)(2) of the Natural Gas Policy Act of $0.4866 per MMBtu. Enogex states that this combined rate replaces the separate charges for compression and transmission that the Commission had previously approved. No further change is proposed to the fuel retention percentages, since they are currently under consideration by the Commission in Docket No. PR01–6–000.

Pursuant to Section 284.123(b)(2)(ii) of the Commission's regulations, if the Commission does not act within 150 days of the Petition's filing date, the rates proposed therein will be deemed to be fair and equitable and not in excess of an amount that interstate pipelines would be permitted to charge for similar services. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before May 29, 2001. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.200(a)(1)(iii) and the instruction on the Commission's web site at http://www.ferc.fed.us.efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12398 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

[1] 94 FERC ¶61,350 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER91–195–046]

Western Systems Power Pool; Notice of Filing

May 11, 2001.

Take notice that on April 30, 2001, the Western Systems Power Pool (WSPP) tendered for filing certain information as required by Ordering Paragraph (D) of the Commission's June 27, 1991 Order (55 FERC 61,495) and Ordering Paragraph (C) of the Commission's June 1, 1992 on Rehearing Denying Request Not To Submit Information, and Granting In Part and Denying In Part Privileged Treatment. Pursuant to 18 CFR 385.211 (1999), WSPP has requested privileged treatment for some of the information filed consistent with the June 1, 1992 order.

Copies of WSPP's informational filing are on file with the Commission, and the non-privileged portions are available for public inspection.

Any person desiring to be heard or to protests such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12400 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–43.000, et al.]

PPL Montour, LLC, et al.; Electric Rate and Corporate Regulation Filings

May 10, 2001.

Take notice that the following filings have been made with the Commission:

1. PPL Montour, LLC

[Docket No. EG01–43–000]

Take notice that on May 9, 2001, PPL Montour, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) a second amended and restated application for redetermination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935 (PUHCA) and Section 365.3 of the Commission's regulations.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the amended application.

2. California Independent System Operator Corporation

[Docket Nos. EL00–95–030 and EL00–98–029]

Take notice that on April 26, 2001, the California Independent System Operator Corporation (ISO) tendered for filing Amended and Restated Bylaws. The purpose of the Amendment is to submit amended Bylaws to comply with California Public Utilities Code Section 337, as revised by Assembly Bill 5X, approved by the Governor and filed with the Secretary of State on January 18, 2001.

The ISO requests that the filing be made effective on April 18, 2001.

The ISO states that this filing has been served on the California Public Utilities Commission and all California ISO Scheduling Coordinators.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Pool

[Docket No. ER01–1741–001]

Take notice that on May 2, 2001, the New England Power Pool (NEPOOL) Participants Committee tendered for filing in the above-captioned docket, a correction to a proposed billing procedure filed by NEPOOL with the Commission for informational purposes as part of NEPOOL's April 5, 2001 filing, pursuant to Section 205 of the Federal Power Act, of the NEPOOL Open Access Transmission Tariff Ancillary Service 16 Implementation Rule (the Schedule 16 Implementation Rule). The April 5, 2001 filing of the Implementation Rule is the subject of Docket No. ER01–1741–000. The correction to the billing procedure deletes a reference to a non-existent FERC account in that portion of the billing procedure which describes the Schedule 16 revenue requirement determination, and inserts a reference to the correct FERC accounts to be used in the formula.

The NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants and the six New England state governors and regulatory commissions, all as indicated in the appropriate Attachments to the April 5, 2001 filing.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER01–1966–000]

Take notice that on May 2, 2001, Cinergy Services, Inc. (Cinergy), as agent for and on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., tendered for filing a confidential long-term power sales agreement with Alcoa Power Generating, Inc. Cinergy also filed a redacted, non-confidential version of the agreement.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Idaho Power Company

[Docket No. ER01–1976–000]

Take notice that on May 7, 2001, Idaho Power Company tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and Watts United Power, L.L.C. under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER01–1977–000]

Take notice that on May 7, 2001, Idaho Power Company tendered for filing a revised Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and Arizona Public Service Company under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Idaho Power Company

[Docket No. ER01–1978–000]

Take notice that on May 7, 2001, Idaho Power Company tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between Idaho Power Company and Watts United Power, L.L.C. under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER01–1979–000]

Take notice that on May 7, 2001, Cinergy Services, Inc. (Provider) tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and NRG Power Marketing Inc. (Customer).

Provider and Customer are requesting an effective date of April 20, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER01–1980–000]

Take notice that on May 7, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing an executed service agreement between Cinergy and Carolina Power & Light Company under COC Market-Based Power Sales Tariff-MB. This service agreement supercedes the existing service agreement under Cinergy FERC Electric Power Sales Tariff, Original Volume No. 4.

Cinergy requests an effective date of April 24, 1996.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER01–1981–000]

Take notice that on May 7, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing a Market-Based Service Agreement under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and Louisiana Generating LLC (LaGen).

Cinergy and LaGen are requesting an effective date of May 1, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Texas-New Mexico Power Company

[Docket No. ER01–1982–000]

Take notice that on May 7, 2001, Texas-New Mexico Power Company (TNMP) tendered for filing the following service agreements under its open access transmission tariff: Non-Firm Point-to-Point Service Agreement between TNMP and Public Service Company of Colorado, dated March 28, 2001; Non-Firm Point-to-Point Service Agreement between TNMP and El Paso Merchant Energy, L.P., dated March 29, 2001; and Non-Firm Point-to-Point Service Agreement between TNMP and Cargill-Alliant, LLC, dated May 1, 2001.

TNMP requests waiver of the Commission's prior notice requirement to permit the service agreements to become effective on the date(s) listed above.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER01–1983–000]

Take notice that on May 7, 2001, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and Madera Power, LLC for acceptance by the Commission.

The ISO states that this filing has been served on Madera Power, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective April 27, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER01–1984–000]

Take notice that on May 7, 2001, the California Independent System Operator Corporation, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Madera Power, LLC for acceptance by the Commission.

The ISO states that this filing has been served on Madera Power, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective April 27, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER01–1985–000]

Take notice that on May 7, 2001, Cinergy Services, Inc. (Provider) tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Provider and NRG Power Marketing Inc. (Customer).

Provider and Customer are requesting an effective date of April 20, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER01–1986–000]

Take notice that on May 7, 2001, Niagara Mohawk Power Corporation, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, tendered for filing acceptance of certain interconnection agreements and a transmission owners agreement in connection with the sale of various interests in Unit 1 of the Nine Mile Point nuclear plant and Unit 2 of the Nine Mile Point nuclear plant located in Scriba, Oswega County, New York. Further information regarding this contemplated sale is available in the files of the Commission under Docket No. EC01–75–000.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Nine Mile Point Nuclear Station, LLC

[Docket No. ER01–1987–000]

Take notice that on May 7, 2001, Nine Mile Point Nuclear Station, LLC (Nine Mile LLC) tendered for filing, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, a Joint Interconnecting Facilities Operating Agreement for Nine Mile Point Nuclear Station Unit No. 2 by and between Nine Mile LLC and Long Island Lighting Company (d/b/a LIPA).

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Duke Energy Lee, LLC

[Docket No. ER01–1988–000]

Take notice that on May 7, 2001, Duke Energy Lee, LLC (Duke Lee) tendered for filing its proposed Emergency Redispatch Tariff. The tariff provides for the dispatch of the Duke Lee Generation Facility during emergencies by Commonwealth Edison Company (ComEd), the utility with which the facility is interconnected.

Duke Lee requests that the proposed tariff become effective on May 9, 2001 the date that the first unit of the facility is expected to go into commercial operation. Duke Lee has served copies of the filing on the Illinois Commerce Commission and ComEd, the only customer under the proposed tariff.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Southwest Power Pool, Inc.

[Docket No. ER01–1989–000]

Take notice that on May 7, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing on behalf of its members revised pages to the currently effective version of its tariff (SPP Tariff) intended to institute certain changes to accommodate the implementation of retail access in Texas and elsewhere, and to update or clarify other portions of the Tariff.

SPP seeks an effective date of June 1, 2001, for these changes, consistent with the commencement of the retail access pilot program in Texas.

Copies of this filing have been served on all affected state commissions, SPP customers, and SPP members.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Avista Corp.

[Docket No. ER01–2000–000]

Take notice that on May 7, 2001, Avista Corporation (AVA) tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Short-Term Firm and Non-Firm and Point-To-Point Transmission Service under AVA's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Conoco Gas and Power Marketing. AVA requests the Service Agreements be given an effective date of April 20, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Alliant Energy Corporate Services, Inc.

[Docket No. ER01–2001–000]

Take notice that on May 7, 2001, Alliant Energy Corporate Services, Inc. (Alliant Energy Corporate Services) on behalf of IES Utilities Inc. (IES), Interstate Power Company (IPC) and Wisconsin Power and Light Company (WPL) collectively the Alliant Energy Operating Companies, tendered for filing six copies of Negotiated Capacity Transaction (Agreement) between IES, IPC and WPL for the period May 1, 2001 through April 30, 2002. The Agreement was negotiated to provide service under the Alliant Energy System Coordination and Operating Agreement among IES Utilities Inc., Interstate Power Company, Wisconsin Power and Light Company and Alliant Energy Corporate Services.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. The Detroit Edison Company

[Docket No. ER01–2002–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Mirant Americas Energy Marketing, LP, dated as of March 29, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of April 30, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. The Detroit Edison Company

[Docket No. ER01–2003–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Allegheny Energy Supply Company, LLC dated as of April 20, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of May 21, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. The Detroit Edison Company

[Docket No. ER01–2005–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Consumers Energy d/b/a Consumers Energy Traders dated as of February 13, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of March 14, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. The Detroit Edison Company

[Docket No. ER01–2006–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing a Service Agreement (Service Agreement) for Short-term Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. This Service Agreement is between Detroit Edison and First Energy Services Corporation, dated as of March 30, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of April 30, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. The Detroit Edison Company

[Docket No. ER01–2007–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Exelon Generation Company, LLC dated as of April 23, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. The Detroit Edison Company

[Docket No. ER01–2008–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit

Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Wisconsin Electric Power Company dated as of February 13, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of March 14, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. The Detroit Edison Company

[Docket No. ER01–2009–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing a Service Agreement (Service Agreement) for Short-term Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. This Service Agreement is between Detroit Edison and Quest Energy, LLC, dated as of February 1, 2001. The parties have not engaged in any transactions under the Service Agreement prior to thirty days to this filing.

Detroit Edison requests that the Service Agreement be made effective as rate schedules as of March 2, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12396 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP00–129–000 and CP00–132–000]

Horizon Pipeline Company, L.L.C., Natural Gas Pipeline Company of America; Notice of Availability of the Environmental Assessment for the Proposed Horizon Project

May 11, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Horizon Pipeline Company L.L.C. (Horizon) and Natural Gas Pipeline Company of America (Natural) in the above-referenced dockets.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the following proposed natural gas transmission facilities:

- Approximately 28.5 miles of new 36-inch-diameter pipeline and leased firm capacity on 42 miles of existing pipeline facilities;
- Approximately 0.13 mile of new 24-inch-diameter piping, auxiliary piping, and valves at Natural's existing Compressor Station 113;
- Approximately 12,590 horsepower (hp) of additional compression at Compressor Station 113;
- Approximately 0.05 mile of new 20-inch-diameter lateral;
- Approximately 0.01 mile of new 12-inch-diameter lateral;
- Four meter stations;
- Two mainline block valves;
- Three taps; and
- Modified station pipping at Natural's existing Streamwood Meter Station.

The purpose of the proposed facilities is to provide a firm capacity of 380 thousand dekatherms per day (MDth/d) of natural gas that would accommodate the continued growth in demand for additional competitively-priced gas supply in northern Illinois.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Secretary, Federal Energy, Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Group 1, PJ–11.1;
- Reference Docket Nos. CP00–129–000 and CP00–132–000; and
- Mail your comments so that they will be received in Washington, DC on or before June 6, 2001.

Comments, protests and interventions may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm* under the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on "Login to File" and then "New User Account."

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 01–12401 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for a New License

May 11, 2001.

Take notice that the following notice of intent has been filed with the Commission and is available for public inspection:

a. Type of filing: Notice of Intent to File an Application for New License.

b. Project No: 2150.

c. Date filed: April 16, 2001.

d. Submitted By: Puget Sound Energy.

e. Name of Project: Baker River Hydroelectric Project.

f. Location: On the Baker River, a tributary of the Skagit River, in Whatcom and Skagit Counties, near Concrete, WA. The project is on Federal Lands in the Mt. Baker-Snoqualmie National Forest.

g. Filed Pursuant to: Section 15 of the Federal Power Act, 18 CFR 16.6.

h. Pursuant to Section 16.19 of the Commission's regulations, the license is required to make available the information described in Section 16.7 of the regulations. Such information is available from the licensee at Puget Sound Energy, Inc., 411–108 Ave NE, OBC–14W, Bellevue, WA 98004. Contact Lloyd Pernela, 425–462–3507.

i. FERC Contact: Steve Hocking, (202) 219–2656, *steve.hocking@ferc.fed.us.*

j. Expiration Date of Current License: April 30, 2006.

k. Project Description: The project includes two dams, two reservoirs, and two powerhouses. The present installed capacity and propose relicensed capacity is 162.1 megawatts (MW).

l. the licensee states its unequivocal intent to submit an application for a new license for Project No. 1971. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2004.

A copy of the notice of intent is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The notice may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

David P. Boergers,

Secretary.

[FR Doc. 01–12399 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, May 22, 2001 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–12532 Filed 5–15–01; 11:18 am]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01090]

Building Environmental Health Services Capacity in State and Local Departments of Public Health; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for "Building Environmental Health Services Capacity in State and Local Departments of Public Health." This program addresses the "Healthy People 2010" priority areas of environmental health, public health infrastructure, and education and community-based programs. The purpose of the program is for state and local public health departments to plan, implement, expand, and evaluate their environmental public health activities built on a framework that is based on the ten Essential Public Health Services (see: www.health.gov/phfunctions/public.htm), ten Essential Environmental Health Services, and Core Competencies for Effective Practice of Environmental Health (see Addendum).

B. Eligible Applicants

Applications may be submitted by state and local health departments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, federally recognized Indian tribal governments, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $1,000,000 is available in FY 2001 to fund approximately five awards. It is expected that the average award will be $200,000, ranging from $150,000 to $250,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress towards the development of the model demonstration program and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Create a comprehensive, state-of-the-art environmental health services program built on the framework of the ten Essential Public Health Services, ten Essential Environmental Health Services, and the Core Competencies for Effective Practice of Environmental Health.

b. Train, where necessary, health department staff and others who are responsible for implementing and carrying out the activities associated with building and expanding capacity to deliver comprehensive, state-of-the-art environmental public health services, based on the ten Essential Public Health Services, ten Essential Environmental Health Services, and the Core Competencies for Effective Practice of Environmental Health.

c. Plan, conduct, and coordinate the environmental health services with other health department units (e.g., epidemiology, chronic disease, etc.), governmental agencies (i.e., Environmental Protection Agency) and community-based organizations (CBOs) (e.g., environmental health advocacy groups, environmental justice organizations) that will result in the development, reorganization, or expansion of the health department's environmental health services program based on the ten Essential Public Health Services, ten Essential Environmental Health Services, and the Core Competencies for Effective Practice of Environmental.

d. Carry out process and outcome evaluations for the program undertaken.

e. Disseminate findings.

2. CDC Activities

a. Provide technical assistance and consultation, if necessary, to the award recipient to refine the project plan, data and information collection and analysis instruments.

b. Provide technical consultation, as requested, on systems planning and program development.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the Evaluation Criteria listed, so it is important to follow them in developing the program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one-inch margins, and no more than a 12-point Courier font. Number each page consecutively and provide a complete table of contents. The total number of pages should not exceed 60, including the appendix. The application must be submitted unstapled and unbound. In developing the application, the applicant must also include a one-page, double-spaced abstract that describes the project. It should be placed before the budget and narrative sections.

The application should:

1. Describe the applicant's agency and its position within the governmental structure;

2. Describe how the project will be administered, including job descriptions for all project positions and the curriculum vitae of all key administrative and technical staff;

3. Describe its operational plan, with long- and short-range objectives and provide a realistic timetable to build or expand capacity to deliver comprehensive, state-of-the-art environmental health services. The plan should be based on the ten Essential Public Health Services, ten Essential Environmental Health Services, and Core Competencies for Effective Practice of Environmental Health.

4. Contain a comprehensive evaluation scheme to measure process and outcome. The outcome evaluation should focus on the: (1) Reduction of environmentally related risk factors known to contribute to disease, and/or (2) the impact on incidence and prevalence of environmentally induced illness and disease.

F. Submission and Deadline

Letter of Intent (LOI)

A one-page letter of intent (LOI) is requested to enable CDC to determine the level of interest in the announcement. Include name, address, and telephone number for key contact, and provide a brief description of the proposed project.

The LOI is requested on or before June 16, 2001. Submit the LOI to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov or in the application kit. On or before July 16, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of the application.

Deadline

Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding the Problem (15 Points)

The extent to which the applicant understands the public health, social, and economic consequences of inadequate environmental health services in their community based upon health and demographic indicators.

2. Objectives and Methods (15 Points)

a. The extent to which the applicant has developed sound, feasible objectives that are consistent with the activities described in this announcement and are specific, measurable, and time-framed.

b. The extent to which the applicant describes the specific activities and methods to achieve each objective.

c. The extent to which the proposed time-table for developing the demonstration model is clearly defined. It should include a tentative work plan and time table for the remaining years of the proposed project.

3. Program Development Plan (30 Points)

a. The extent to which the applicant's program development plan is clear, feasible, scientifically sound, and describes the approach and activities necessary to carry out the health department's role in providing essential environmental health services under the three core functions of assessment, policy development, and assurance.

b. The extent to which the applicant has demonstrated its ability to develop a comprehensive, state-of-the art environmental health program based on the ten Essential Public Health Services, ten Essential Environmental Health Services, and the Core Competencies for Effective Practice of Environmental Health. Each element will be specifically evaluated in terms of how it applies directly to the provision or delivery and improvement of environmental health services.

4. Coordination and Collaboration (10 Points)

The extent to which the applicant involves collaborators in the development of the demonstration model. This includes describing its relationship with other health department components and government agencies, academia, and CBOs as evidenced by letters of support, memoranda of agreement, and other documented evidence.

5. Project Management and Staffing (15 Points)

The extent to which the applicant documents skills, ability, and experience of key health department staff who will be responsible for developing, implementing, and carrying out the requirements of the demonstration model. Specifically, the applicant should: (a) Describe health department staff roles in the development and implementation of the model, their specific responsibilities and their level of effort and time commitment. It should provide assurances that positions to be filled by the applicant's personnel system will be done within reasonable time after receiving funding.

6. Program Evaluation (15 Points)

a. The evaluation plan should describe useful and appropriate strategies and approaches to monitor and improve the quality, effectiveness, and efficiency of the demonstration model.

b. The extent to which the applicant proposes to measure the overall impact of the demonstration model in terms of its contribution to improving the delivery of environmental health services, as may be evidenced by the reduction of environmentally related risk factors known to contribute to disease, and/or the impact on incidence and prevalence of environmentally induced illness and disease.

7. Budget Justification (Not Scored)

The extent to which the budget is clearly explained, adequately justified, and is reasonable and consistent with the stated objectives and planned activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Semi-annual progress reports which are due within 30 days of the end of each six-month reporting period;

2. The financial status report which is due no more than 90 days after the end of the budget period; and

3. The final financial and performance reports which are due no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–7—Executive Order 12372 Review
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301 and 317 of the Public Health Service Act [42 U.S.C. Sections 241 and 247], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address: www.cdc.gov by clicking on "Funding" then "Grants and Cooperative Agreements."

To obtain additional information, contact: Virginia Hall-Broadnax, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Mailstop E–13, 2920 Brandywine Road, Suite 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2761, Email address: vdh2@cdc.gov.

For scientific technical assistance, contact: Patrick O. Bohan, Acting Chief, Environmental Health Services, Division of Emergency and Environmental Health Services, National Center for Environmental Health, Centers for Disease Control and Prevention, Mail Stop: F–30, 4770 Buford Highway, N.E., Atlanta, Georgia 30341–2724, Telephone: (770) 488–7303, Email: pbohan@cdc.gov.

For programmatic assistance, contact: Jerry M. Hershovitz, Special Assistant to the Director for Program Development, Division of Emergency and Environmental Health Services, National Center for Environmental Health, Centers for Disease Control and Prevention, Mail Stop: F–30, 4770 Buford Highway, N.E., Atlanta, Georgia 30341–2724, Telephone: (770) 488–4542, Email: jhershovitz@cdc.gov.

Dated: May 11, 2001.

John L. Williams

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12416 Filed 5–16–01; 8:45am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01157]

Public Health Disease Surveillance Initiative; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a one year grant program for the State of Delaware, Department of Health and Social Services, Public Health Disease Surveillance Initiative. This program addresses the "Healthy

People 2010" focus area of Immunization and Infectious Diseases.

The purpose of the program is to build an integrated data management system that will allow the sharing of core data elements needed by the state to effectively fulfill their responsibilities for the surveillance and reporting of communicable diseases.

B. Eligible Applicants

Assistance will be provided only to the State of Delaware, Department of Health and Social Services, Public Health Disease Surveillance Initiative. No other applications are solicited. Eligibility is limited to the Delaware Department of Health and Social Services because fiscal year 2001 Federal appropriations specially directs the Centers for Disease Control and Prevention (CDC) to award to the Department of Health funds to build an integrated disease surveillance system.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or other form.

C. Availability of Funds

Approximately $1,843,000 is available in FY 2001 to fund the award. It is expected that the award will begin on or about July 15, 2001, and will be made for a 12-month budget period within a project period of one year.

D. Where To Obtain Additional Information

To obtain additional information, contact: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: 770–488–2734, Email address: jcrowder@cdc.gov.

For program technical assistance, contact: Barbara W. Kilbourne, R.N., M.P.H., Deputy, Integrated Health Information Systems, Office of the Director, Centers for Disease Control and Prevention, Mailstop D–68, Atlanta, GA 30333, 404–639–7860 (main#) ext. 7243 (pvt. line), 404–639–7770 (fax), Email address: Bkilbourne@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12417 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01156]

Network-Based Surveillance System Initiative; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a one-year grant program for the University of New Mexico in Albuquerque, Emerging Infectious Disease Center. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases.

The purpose of the program is to build a center that will allow the unique interdisciplinary expertise of multiple institutions, as well as national laboratories, be applied to epidemics and other instances of emerging infectious diseases. The intent of a center is to develop a network-based surveillance system to understand, detect, intervene and prevent emerging epidemics by working at the intersection of public health.

B. Eligible Applicants

Assistance will be provided only to the University of Mexico in Albuquerque. No other applications are solicited. Eligibility is limited to the University of New Mexico because fiscal year 2001 Federal appropriations specifically directs the Centers for Disease Control and Prevention (CDC) to award this University funds to develop a network-based surveillance system.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or other form.

C. Availability of Funds

Approximately $921,000 is available in FY 2001 to fund the award. It is expected that the award will begin on or about July 15, 2001, and will be made for a 12-month budget period within a project period of one year.

D. Where To Obtain Additional Information

To obtain additional information, contact: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: 770–488–2734, Email address: JCrowder@cdc.gov.

For program technical assistance, contact: Barbara W. Kilbourne, R.N., M.P.H., Deputy, Integrated Health Information Systems, Office of the Director, Centers for Disease Control and Prevention, Mailstop D–68, Atlanta, GA 30333, 404–639–7860 (main#) ext. 7243 (pvt. line), 404–639–7770 (fax), Email address: BKilbourne@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12421 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01047]

Cancer Prevention and Control Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for grant programs entitled "Cancer Prevention and Control Programs". This program addresses the "Healthy People 2010" focus area of Cancer.

The purpose of the program is to improve and to promote health among at-risk cancer populations and to reduce cancer morbidity and mortality.

B. Eligible Applicants

Assistance will be provided only to the organizations listed below. No other applications are solicited. The Conference Report H.R. 4577, Consolidated Appropriations Act, 2001, specified these funds for the organizations listed below. No other applications are solicited or will be accepted.

1. Healthcare Association of New York to develop an integrated model for the delivery of comprehensive breast cancer services ($1,590,558).

2. Health Choice Network, Miami/Dade County, Florida to administer the Jesse Trice Cancer Prevention Project ($404,540).

3. East Tennessee State University, Cancer Prevention Research Center, James H. Quillen College of Medicine to address cancer care in the rural Appalachian region ($876,663).

4. University of Rhode Island, Cancer Prevention Research Center to provide interactive interventions to at-risk populations ($856,672).

5. Sisters of Charity Health Care System, to ensure that patients have access to early detection of gastrointestinal cancers ($175,144).

6. Marin County, California to evaluate high incidence of breast cancer in the San Francisco Bay Area ($202,745).

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $4,106,322 is available in FY 2001 to fund six awards. It is expected that the award will begin on or about August 1, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov. Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Glynnis Taylor, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2752, E-mail address: gld1@cdc.gov.

For program technical assistance, contact: Susan True, M.Ed., Branch, Chief, Program Services Branch, Division of Cancer Prevention and Control,National Center for Chronic Disease Prevention and Health, Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–57, Atlanta, Georgia 30341,Telephone: (770) 488–4880, E-mail address: smt7@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12423 Filed 5–16–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01038]

Notice of Availability of Funds; Cooperative Agreement for 2001 National Breast and Cervical Cancer Early Detection Program

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for the National Breast and Cervical Cancer Early Detection Program (NBCCEDP). This program addresses the "Healthy People 2010" priority area related to cancer.

The purpose of the NBCCEDP is to apply a State, territorial, or tribal public health approach to increase access to and use of screening services. The NBCCEDP was established through the Breast and Cervical Cancer Mortality Prevention Act of 1990 (Public Law 101–354) and provides screening services for low income women. Funded programs will establish a comprehensive breast and cervical cancer early detection screening program that includes the following program components: breast and cervical cancer screening, tracking, follow-up and case management; public education and outreach; professional education; quality assurance and improvement; surveillance and evaluation; coalitions and partnerships; and management, hereafter referred to as the NBCCEDP program components.

The President has committed the nation to an ambitious goal: by the year 2010, to eliminate the disparities in health status experienced by racial and ethnic minority populations. The NBCCEDP has been established to move closer to this goal by addressing the deficits in breast and cervical cancer screening and management among these women.

B. Eligible Applicants

Assistance will be provided only to the official health departments of States or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and federally recognized Indian Tribal governments. In consultation with States, assistance may be provided to political subdivisions of States.

States and Tribes currently receiving CDC funds under Program Announcement 96023, entitled 1996 National Breast and Cervical Cancer Early Detection Program, are eligible to apply for funding under this announcement.

1. The following States and Territories are not eligible to apply:

a. American Samoa, California, Colorado, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Carolina, South Carolina, Texas, and West Virginia, which are funded under Program Announcement 718 entitled National Breast and Cervical Cancer Early Detection Program.

b. Alaska, Arizona, Arkansas, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhodes Island, Utah, Vermont, Washington, Wisconsin, Puerto Rico, and Guam, which are funded under Program Announcement 99052 entitled National Breast and Cervical Cancer Early Detection Program.

2. The following Tribes are not eligible to apply:

a. Consolidated Tribal Health Project, Inc. (CA) and Southeast Regional Health Consortium (AK), which are funded under Program Announcement 718 entitled National Breast and Cervical Cancer Early Detection Program.

b. Arctic Slope Native Association (AK), Cherokee Nation (OK), Cheyenne River Sioux Tribe (OK), Poarch Band of Creek Indians (AL), South Central Foundation (AK), and South Puget Intertribal Planning Agency (WA), which are funded under Program announcement 99052 entitled National Breast & Cervical Cancer Early Detection Program.

C. Availability of Funds

1. Funds Available for States

Approximately $22,421,667 is available in FY 2001 to fund approximately 15 States and the District of Columbia. It is expected that awards will range from $600,000 to $4,000,000.

2. Funds Available for Territories and Tribes

Approximately $5,400,000 is available in FY 2001 to fund approximately 9 Territories or Tribes. It is expected that awards will range from $200,000 to $1,000,000.

It is expected that awards will begin on September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards for funded projects within an approved project period will be made on the basis of disease burden, performance, and the availability of funds.

3. Direct Assistance

Applicants may request Federal personnel as direct assistance, in lieu of a portion of financial assistance.

4. Requirements Related to Use of Funds

a. *60/40 Requirement:* Not less than 60 percent of cooperative agreement funds must be expended for screening, tracking, follow-up and the provision of appropriate support services such as case management. Cooperative agreement funds supporting public education and outreach, professional education, quality assurance and improvement, surveillance and program evaluation, coalitions and partnerships, and management may not exceed 40 percent of the approved budget. [Section 1503(a)(1) and (4) of the PHS Act, as amended] Further information about the 60/40 distribution is provided in the NBCCEDP Policies and Procedure Manual, Section II, beginning on page 10. The NBCCEDP Policies and Procedures Manual can be accessed through the Internet at http://www.cdc.gov/cancer/nbccedp or the program technical assistant contact listed in Section M, "Where to Obtain Additional Information."

b. *Inpatient Hospital Services:* Cooperative agreement funds must not be expended to provide inpatient hospital or treatment [1] services [Section 1504(g) of the PHS Act, as amended]. Refer to the NBCCEDP Policies and Procedures Manual, Section IV, "Reimbursement Policies for Screening and Diagnostic Services," beginning on page 1, for additional information about allowable screening and diagnostic services.

c. *Administrative Expenses:* Not more than 10 percent of the total funds awarded may be expended annually for administrative expenses. These administrative expenses are in lieu of and replace indirect costs. [Section 1504(f) of the PHS Act, as amended.] Administrative expenses are considered a portion of the 40 percent component of the budget.

D. Recipient Financial Participation Requirement

Recipient financial participation is required for this program in accordance with the authorizing legislation. Section 1502(a) and (b)(1), (2), and (3) of the PHS Act, as amended, requires matching funds from non-Federal sources in an amount not less than $1 for each $3 of Federal funds awarded under this program. However, Title 48 of the U.S. Code 1469a(d) requires DHHS to waive matching fund requirements for Guam, U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands up to $200,000.

Matching funds may be cash or equivalent in-kind or donated services, including equipment, fairly evaluated. Contributions may be made directly or through donations from public or private entities. Public Law 93–638 authorizes tribal organizations contracting under the authority of Title I and compacting under the authority of Title III to use funds received under the Indian Self-Determination Act as matching funds.

Applicants may also designate as State, Territory, or Tribe matching funds any non-Federal amounts expended pursuant to Title XIX of the Social Security Act for the screening, tracking, follow-up and case management of women for breast and cervical cancers.

Matching funds may not include: (1) Payment for treatment services or the donation of treatment services; (2) services assisted or subsidized by the Federal government; or (3) the indirect or overhead costs of an organization.

In determining the matching fund contribution, applicants should calculate the average amount of non-Federal contributions toward breast and cervical cancer programs and activities for the two year period preceding the first Federal fiscal year of funding for NBCCEDP. This amount is referred to as Maintenance of Effort (MOE). Only those non-Federal contributions in excess of the MOE amount may be considered as matching funds. Supplanting existing program efforts with Federal or non-Federal sources is not allowable.

Costs used to satisfy the matching requirements are subject to the same prior approval requirements and rules of allowability as those which govern project costs supported by Federal funds. All costs used to satisfy the matching requirements must be documented by the applicant and will be subject to audit. Specific rules and regulations governing the matching fund requirement are included in the OMB Circular A–87 "Cost Principles for State, Local and Indian Tribal Governments" and PHS Grants Policy Statement, Section 6.

For further information about the matching fund requirement, see the NBCCEDP Policies and Procedures Manual, Section II, pages 19–21 and page 35.

E. Requirements of The Breast and Cervical Cancer Mortality Prevention Act of 1990 (Public Law 101–354) and Related Amendments

1. *Required Screening Services:* Programs must ensure that screening and rescreening procedures are available for both breast and cervical cancers and include a clinical breast exam, mammography, pelvic exam and Pap test. [Section 1503(a)(2)(A) and (B).]

2. *Screening Procedures:* If a new or improved, and superior, screening procedure becomes widely available and is recommended for use, this superior procedure will be utilized in the program. [Section 1503(b) of the PHS Act, as amended.]

3. *Priority for Low-income Women:* Eligibility for screening services under the NBCCEDP is limited to uninsured or under insured [2] women at or below 250 percent of the Federal poverty line. The official poverty line is established by the Director of the Office of Management and Budget (OMB) and revised by the Secretary of DHHS in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1991 [Section 1504(a) of the PHS Act, as amended]. Policies related to eligibility for screening are detailed in the NBCCEDP Policies and Procedures Manual, Section IV.

4. *Medical Referrals:* Programs are required to provide appropriate referrals for medical treatment of women screened in the Program and to ensure, to the extent practicable, the provision of appropriate, affordable [3] and timely diagnostic and treatment services [Section 1501(a)(2) of the PHS Act, as amended.] The Breast and Cervical Cancer Treatment and Prevention Act (BCCTPA) of 2000 (Public Law 106–354) amends Title XIX of the Social Security Act to give States the option to provide Medicaid coverage to women who have been screened under the NBCCEDP and found to have breast or cervical pre-cancerous conditions or cancer. Additional information about this law can be obtained from the following web site: http://www.cdc.gov/cancer/nbccedp.

5. *Service Delivery Area:* Programs are required to establish breast and cervical cancer screening services throughout the State, Territory, or Tribe. [Section 1504(c)(1) of the PHS Act, as amended.] Funds may not be awarded under this announcement unless the State, Territory, or Tribe involved agrees that services and activities will be made available throughout the State, Territory, or Tribe, including availability to members of any Indian Tribe or tribal organization (as such terms are defined in Section 4 of the Indian Self-Determination and Education Assistance Act). CDC may waive [Section 1504 (c)(2) of the PHS Act, as amended] this requirement if it is determined that compliance by the State, Territory, or Tribe would result in an inefficient allocation of resources with respect to carrying out a comprehensive breast and cervical cancer early detection program [as described in Section 1501(a)]. A request from the recipient outlining appropriate and detailed justification would be required before the waiver is approved.

6. *Payer of Last Resort:* Funds may not be awarded under this announcement unless the State, Territory, or Tribe involved agrees that funds will not be expended to make payment for any item or service that will be paid or can reasonably be expected to be paid by:

a. Any State, Territory, or Tribe compensation program, insurance policy, or Federal or State, Territory, or Tribe health benefits program.

b. An entity that provides health services on a prepaid basis. [Section 1504(d)(1) and (2) of the PHS Act, as amended.]

7. *Medicare Limit for Reimbursement of Services:* The amount paid by a State, Territory, or Tribe for a screening procedure may not exceed the amount that would be paid under part B of Title XVIII of the Social Security Act (Medicare)[Section 1501(b)(3) of the PHS Act, as amended].

8. *Limitation on Imposition of Fees for Services:* Funds may not be awarded under this announcement unless the State, Territory, or Tribe involved agrees that if charges are to be imposed on clients for the provision of services or program activities, such fees/charges for allowable screening and diagnostic evaluation will be:

a. Assessed according to a schedule of fees made available to the public [Section 1504(b)(1) of the PHS Act, amended];

b. Adjusted to reflect the income of the woman screened [Section 1504(b)(2) of the PHS Act, as amended.]; and

c. Totally waived for any woman with an income of less than 100 percent of the Federal poverty line [Section 1504(b)(3) of the PHS Act, as amended].

Additionally, the schedule of fees/charges should not exceed the maximum allowable charges established by the Medicare Program administered by the Health Care Financing Administration (HCFA). Fee/charge schedules should be developed in accordance with guidelines described in the interim final rule (42 CFR Parts 405 and 534) which implements Section 4163 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) which provides limited coverage for screening mammography services.

9. *Quality Assurance Requirements:* Cooperative agreement funds may not be awarded [under Section 1501(a)(5) of the PHS Act, as amended] unless the State, Territory, or Tribe involved agrees to assure, in accordance with the applicable law, the quality of screening procedures provided.

a. All facilities conducting mammography screening procedures funded by the Program must be MQSA certified (Mammography Quality Standards Act of 1992). [Section 1503 (c) of the PHS Act, as amended]. Additional information about quality assurance is included in the NBCCEDP Policies and Procedures Manual, Section II, page 14.

b. All facilities conducting cervical screening procedures funded by the Program must be CLIA certified (Clinical Laboratory Improvement Amendments of 1988). Pathologists participating in the Program must record their findings using the Bethesda System. [Section 1503(d) of the PHS Act, as amended] Additional information about quality assurance is included in the NBCCEDP Policies and Procedures Manual, Section II, page 14.

10. *Grantee Contracting:* If a non-profit private entity and a private entity that is not a non-profit entity both submit applications to a State/Tribe/Territory, the State/Tribe/Territory may give priority, based on a competitive review process, to the application submitted by the non-profit private entity in any case in which the State/Tribe/Territory determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity [Section 1501(b) of the PHS Act, as amended].

F. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Implement a comprehensive breast and cervical cancer early detection screening program that includes the NBCCEDP program components delineated in the Purpose, Section A [Section 1501(a)(1–6)]. Descriptions of the NBCCEDP program components, including each component's minimum core expectations, are provided in Attachment 1.

b. Attend and participate in sponsored events: Attendance at sponsored training, meetings, site visits, reverse site visits, and conferences is required. Funds may be included in the budget request for this purpose.

c. Convene a Program Directors' meeting at least once a year for information-sharing and problem-solving.

2. CDC Activities

Provide technical assistance to Grantees to support their planning, implementation and evaluation of each NBCCEDP program component. Technical assistance from CDC may address:

a. Practical application of Public Law 101–354, including amendments to the law;

b. Design and implementation of program components;

c. Interpretation of current scientific literature related to the early detection of breast and cervical cancer;

d. Interpretation of program outcome, screening and surveillance data;

e. Overall operational planning and program management.

[1] Treatment is defined as any medical or surgical intervention recommended by a clinician, and provided for the management of a diagnosed condition.

[2] CDC, through its delegation from the Secretary, is tasked with implementing its programs. Therefore, when questions regarding the programs and the statutes behind them arise, CDC may provide definitions or explanations of what the statute as a whole, or terms contained therein, mean, in order to ensure proper implementation of its programs. CDC is entitled to deference in its interpretation of such statutes. CDC interprets "low income women" to include those that are "uninsured" and "underinsured." For the NBCCEDP, CDC defines an uninsured woman as one who has no health insurance and an underinsured woman as one who meets at least one of the following criteria: (1) A woman who has health insurance but whose coverage does not, to any extent, reimburse for the allowable screening or diagnostic procedure; (2) a woman who cannot afford her insurance provider's deductible or required co-payment for the allowable screening or diagnostic procedure; (3) a woman whose insurance supports the allowable screening and diagnostic procedure but at intervals greater than those recommended by the NBCCEDP; and (4) a woman who does not have reasonable access to a provider included under her insurance coverage.

[3] CDC, through its delegation from the Secretary, is tasked with implementing its programs. Therefore, when questions regarding the programs and the statutes behind them arise, CDC may provide definitions or explanations of what the statute as a whole, or terms contained therein, mean, in order to ensure proper implementation of its programs. CDC is entitled to deference in its interpretation of such statutes. Because the NBCCEDP gives priority to serving low-income women, CDC interprets "appropriate referrals" to also mean "affordable referrals."

3. Assist With Training on Selected Topics

4. Conduct Site Visits

Program Consultants may conduct site visits or coordinate reverse site visits to assess program progress and/or mutually resolve problems.

G. Application Content

Use the information in the Requirements (Section E), Recipient Activities (Section F and related attachments), and Evaluation Criteria (Section G) sections to develop the application content. Applications will be evaluated on the criteria listed in Section G. Because this is a competitive program announcement, CDC requires Applicants to submit certain data and performance indicators in order that it be considered in making funding decisions. The application, including budget, justification and appendices, should be no more than 125 double-spaced unbound pages, printed on one side of 8 ½ x 11″ paper, suitable for photocopying, with one inch margins and 12 point font. Applicants should number each page and include a header with the Applicant's program name. Please interpret the maximum page limits as a ceiling, rather than a goal.

1. Executive Summary (Maximum 4 Pages)

The applicant should provide a clear, concise summary to include the: (1) Need for the program; (2) number and characteristics of women to be screened; (3) requested amount of Federal funding; and (4) past performance indicating the applicant's capability to implement the program.

2. Background and Need (Maximum 6 Pages, Including Matrix)

The applicant should describe:

a. The State, Territory, or Tribal breast and cervical cancer age-adjusted mortality rates averaged over five years and ranked nationally (States should use SEER or State Cancer Registry data for the period 1993–1997);

b. The State, Territory, or tribal incidence rates for breast and cervical cancer by age, race, and ethnicity (where available) (States should use data from their Cancer Registries for 1998 or the most recent year available);

c. The number of women who are at or below 250 percent of the Federal poverty level and uninsured, by age (18–39; 40–49; 50–64; 65+) and racial/ethnic distribution (if possible, use 1990 Census data, unless 2000 Census data is available); and

d. The unmet screening and rescreening needs of uninsured and under-insured women (where available).

Applicants are encouraged to present these data (a–d above) using the Background and Need matrix, Attachment 2.

e. The priority populations for screening, including supporting data and/or justification for their selection. Broadly, priority populations can be described as women who are racial, ethnic and/or cultural [4] minorities, such as American Indians, Alaska Natives, African-Americans, Hispanics, Asian and Pacific Islanders, lesbians, women with disabilities, and women who live in geographically or culturally isolated communities in urban and rural areas. The term priority populations, as defined above, will be used throughout this document.

Breast and cervical cancer death rates vary by race and ethnicity; therefore, applicants must review related state and local morbidity and mortality rates to identify specific priority populations in need of breast and cervical cancer screening in their geographic area. Programs should aim to eliminate racial health disparities by prioritizing populations that are under screened and/or disproportionately affected by breast and/or cervical cancer for recruitment and enrollment.

Regardless of the geographic area, priority for breast cancer screening should be given to women age 50 to 64 years of age. Priority for cervical cancer screening should be given to rarely [5] or never screened women.

f. The specific barriers to screening services that impede women in the priority populations from participating in breast and cervical cancer screening and diagnostic services.

3. Capability for Program Implementation (Maximum 10 Pages, Not Including Letters of Commitment)

a. Applicants should address their capability to implement the proposed activities as measured by their accomplishments as part of an existing or past NBCCEDP program or relevant past experiences funded by other sources.

(1) States, Territories, or Tribes currently receiving NBCCEDP funds should detail their accomplishments in operating a comprehensive breast and cervical cancer early detection program. Applicants should address accomplishments in program and fiscal management, infrastructure development, and service delivery by summarizing progress in meeting NBCCEDP fiscal year 2001 Program Progress Indicators.[6] These program progress indicators are listed in the NBCCEDP Policies and Procedures Manual, Section III, beginning on page 3. Applicants should use the most recent data available to summarize these indicators.

(2) Territories and Tribes not currently receiving CDC NBCCEDP funds should address relevant past experiences in conducting any of the NBCCEDP program components for cancer control, chronic disease control or other relevant areas.

b. *Letters of Commitment:* Applicants should include letters of commitment (dated within the last three months) from key partners, participants, and community leaders that detail their commitment to and participation in the proposed program. If the applicant is a Tribe, also include either of the following documentation, as appropriate: (1) A signed and dated tribal resolution supporting the application from the Indian Tribe served by the project. If the applicant includes more than one Indian Tribe, resolutions from all Tribes to be served must be included; or (2) A letter of support for the application from the Board of Directors of an Urban Indian organization(s) or Indian Health organization(s), signed by the Board Chairman.

c. *Other Accomplishments:* Applicants should include information about any other accomplishments that reflect capability and capacity for implementing a breast and cervical cancer early detection program.

4. Work Plan (Maximum 30 Pages)

The applicant should develop a detailed work plan that, for each NBCCEDP program component, describes: proposed goals; measures of success related to goals; specific, measurable, attainable, realistic and time-phased objectives; and activities to attain the objectives. The minimum core expectations for each program component should be addressed in the work plan. Be reminded that descriptions of the NBCCEDP program components are included as Attachment 1.

The work plan should include a time table for program implementation that specifies dates for the accomplishment of all proposed activities. Applicants are encouraged to use the NBCCEDP work plan template available through the Internet at http://www.cdc.gov/cancer/nbccedp/training/index.htm. This template is included in the 30-page limit but may be single spaced.

Applicants should include an attachment to the work plan with realistic screening projections for fiscal year 2001–2002 that are based on past screening performance. Screening projections should be provided with the following detail: the number of women to be screened by the program by age, race, ethnicity and other identified priority populations (applicant's cultural minorities identified in the Background and Need section as priority populations). In addition, the applicant should include a projection of the number of rarely and never screened women to receive a Pap test. Projected screening levels for racial and ethnic populations should be based on population estimates of the number of women in the Program area who meet NBCCEDP age and income eligibility guidelines, as well as past screening performance. Applicants are encouraged to present the screening projections using the Screening Projections matrix, Attachment 3. Applicants with current NBCCEDP funding from CDC should provide a brief narrative justification that includes recent screening data supporting the projections.

If the applicant has submitted a request to the HCFA and received approval to provide Medicaid coverage for treatment to women screened under the NBCCEDP with breast or cervical cancer, or pre-cancerous conditions of the breast or cervix, complete Attachment 4, the Breast and Cervical Cancer Prevention and Treatment Act Form.

5. Organizational Structure (Maximum 15 Pages)

The applicant should provide the following supporting documents related to organizational structure:

a. An organizational chart (can be single spaced) indicating the placement of the proposed Program in the department or organization and the structure of the proposed breast and cervical cancer early detection program management and staffing;

b. Documentation of available resources in the State, Territory, or Tribe for the payment or reimbursement of breast and cervical cancer screening, including the Medicaid program;

c. The proposed schedule of fees and charges for breast and cervical cancer screening and diagnostic services, consistent with maximum Medicare reimbursement rates, if fees will be imposed (single line spacing is acceptable). Include a description of the use of the proposed schedule of fees and charges in the Program. In States, Territories, or Tribes where there are multiple Medicare rates and a single reimbursement rate is being proposed, the applicant must provide justification for approval.

d. Documentation of how the State, Territory, or Tribe will assure that funds will be used in a cost-effective manner.

e. A description of how the State, Territory, or Tribe will establish or enhance linkages with their State Cancer Registry program if the Applicant has a State Registry with the North American Association of Central Cancer Registries (NAACCR) certification. For more information about Cancer Registries see http://www.cdc.gov/cancer/npcr, http://www-seer.ims.nci.nih.gov, and for NAACCR certification see http://www.NAACCR.org.

6. Source Data for Matching Requirement (Maximum 5 Pages)

a. *Maintenance of Effort:* The applicant should detail the average amount of non-Federal dollars expended for breast and cervical cancer programs and activities made by a State, Territory, or Tribe for the two year period preceding the first Federal fiscal year of NBCCEDP funding. This amount will be used to establish the maintenance of effort baseline for current and future match requirements.

b. *Sources of Match:* The applicant should detail the State, Territory, or tribal allowable sources of matching funds for the Program and the estimated amounts from each. The applicant should document the procedures for determining the value of non-cash matching funds. Further information about the Matching Funds Requirement can be found in the NBCCEDP Policies and Procedures Manual, Section II, pages 19–21 and page 35.

c. *Documentation of Match Received:* The applicant should describe procedures for documenting the actual amount of match received.

7. Budget With Justification (Maximum 7 Pages)

a. Provide a detailed line item-budget (can be single spaced) with a separate narrative justification (for both Federal and non-Federal funds) of all proposed operating expenses consistent with the program activities described in this announcement. The budget may include line items for personnel, fringe benefits, travel, contractors, consultants, equipment, administrative, and other expenses. Not less than 60 percent of Federal funds will be expended for screening, tracking, follow-up and other support services such as case management. Not more than 10 percent of Federal funds will be expended for administrative expenses. The following information is required for all contracts: (1) Name of contractor; (2) method of selection; (3) period of performance; (4) scope of work; (5) method of accountability; and (6) itemized budget with justification for each contract.

b. A detailed line-item breakdown of the 60/40 distribution should be provided. A sample 60/40 budget breakdown is included in the NBCCEDP Policies and Procedures Manual, Section II, page 38. For further information about the 60/40 requirement, please refer to the NBCCEDP Policies and Procedures Manual, Section II, page 10.

c. The applicant should submit a completed Screening and Diagnostic Worksheet which is used to estimate the amount of funding needed to reimburse providers for allowable clinical services provided to eligible women served in your program. Further information about the Screening and Diagnostic Worksheet is provided in the NBCCEDP Policies and Procedures Manual, Section IV, pages 21–25. An electronic version of the Screening and Diagnostic Worksheet, an EXCEL spreadsheet, may be obtained through the program technical assistance contact listed in Section M, Where to Obtain Additional Information.

d. To request Federal, direct-assistance assignees, include:

(1) Number of assignees requested;

(2) Description of the position and proposed duties;

(3) Ability or inability to hire locally with financial assistance;

(4) Justification for request;

(5) Organizational chart and name of intended supervisor;

(6) Opportunities for training, education, and work experiences for assignees; and

(7) Description of assignee's access to computer equipment for communication with CDC (e.g., personal computer at home, personal computer at workstation, shared computer at workstation on site, shared computer at a central office).

[4] Cultural minorities are defined as communities which, in order to preserve or portect cultural or religious beliefs or practices, limit contact with other people or the larger community.

[5] Rarely screened is defined by the NBCCEDP as a woman who has not received a Pap test during the past five years.

[6] Program Progress Indicators have been developed to provide a systematic aproach for rapid assessment of program progress. Program progress indicators are defined as performance measures used to track critical processes over time to signify progress toward a particular goal or outcome of the program.

H. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available in the application kit and at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm

On or before June 27, 2001 submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

I. Evaluation Criteria (100 Points)

Applications will be evaluated individually against the criteria below which reflect an emphasis on disease burden and program quality. Funding for Tribes and Territories will be competitive based on review by a panel of independent reviewers. All applicants representing States will be funded. State applications will undergo technical acceptability reviews by independent reviewers.

1. Background and Need (20 Points)

The extent and clarity with which the applicant describes the disease burden, size of potentially eligible population, unmet screening needs, size, selection and characteristics of the priority populations and extent to which the applicant has identified barriers to care that can be addressed through program activities.

2. Capability for Program Implementation (10 Points)

The extent to which the applicant appears likely to be successful in implementing the proposed activities as measured by:

a. Prior performance reflected by the NBCCEDP program progress indicators or, for applicants not currently receiving NBCCEDP funds, their success as measured by relevant past experiences in conducting a similar program(s).

b. Letters of commitment from key partners, participants, and community leaders that detail their commitment to and participation in the proposed program. If the applicant is a Tribe, the inclusion of a tribal resolution(s) or letter of support from the Board of Directors is required.

c. Other accomplishments that reflect the capability of the applicant to implement a breast and cervical cancer screening program.

3. Work Plan (60 Points)

The degree of comprehensiveness and quality of the work plan represented by the goals, measures of success related to goals, objectives and activities to attain the objectives for each of the NBCCEDP program components and a time table for program implementation. The degree of comprehensiveness in addressing the minimum core expectations for each NBCCEDP program component within the work plan as detailed in the descriptions included as Attachment 1. The extent to which realistic screening projections are provided based on the applicant's past screening history (if applicable) and detailed separately for Pap tests and mammograms by the number of women to be screened for the 2001–2002 program year by age, race, ethnicity, and other priority populations identified by the applicant in the Background and Need section. In addition, the extent to which realistic screening projections are provided for Pap tests among rarely and never screened women.

4. Organizational Structure (10 Points)

The appropriateness of the applicant's organizational structure; documentation of the applicant's available resources for the payment or reimbursement of breast and cervical cancer screening, including the Medicaid program; the proposed schedule of fees consistent with Medicare reimbursement rates, if applicable; the assurance that funds will be used in a cost effective manner; and the description of linkages between the proposed program and the State Cancer Registry, if applicable.

5. Source Data for Matching Requirement (Not Weighted)

The extent to which the applicant provides clear evidence of maintenance of effort, sources of match, and a means to document actual match received.

6. Budget With Justification (Not Weighted)

The extent to which the proposed budget is reasonable, justified, consistent, and in compliance with this program announcement.

7. Human Subjects (Not Weighted)

The extent to which the application adequately addresses the requirement of 45 CFR Part 46 for the protection of human subjects. An application will be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.

J. Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Semiannual progress reports, to be submitted no later than 90 days after each semiannual reporting period. All manuscripts published as a result of the work supported in part or whole by the cooperative agreement must be submitted with the progress reports.

2. Financial status report (FSR), no more than 90 days after the end of each budget period.

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For descriptions of each, see the Appendix.

AR–1—Human Subjects Requirement
AR–2—Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7—Executive Order 12372 Review
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions

K. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 1501, 1502, 1507 and 1509 [42 U.S.C. 300k, 42 U.S.C. 300l, and 42 U.S.C. 300n–3] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.919.

L. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on "Funding" then "Grants and Cooperative Agreements."

Should you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Glynnis Taylor, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Program Announcement 01038, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2752, Email address: gld1@cdc.gov.

For program technical assistance, contact: Amy DeGroff, Program Services Branch, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K–57, Atlanta, GA 30341–3724, Telephone number: (770) 488–4248, Email address: asd1@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12420 Filed 5–16–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01131]

National Programs That Build the Capacity of Schools To Prevent Foodborne Illness Through Coordinated School Health Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for National Programs That Build the Capacity of Schools to Prevent Foodborne Illness and Other Important Health Problems Through Coordinated School Health Programs. This program addresses the "Healthy People 2010" focus areas of Educational and Community-Based Programs.

The purpose of this program is to develop a national program to build the capacity of state and local education and health agencies, and others to prevent foodborne illness and other important health problems as part of a coordinated school health program.

B. Eligible Applicants

Assistance will be provided to national organizations that are private health, education, or social service agencies (professional, or voluntary); qualify as a non-profit 501(c)(3) entity; have the capacity and experience to assist their local affiliates; and have affiliate offices or local, state, or regional membership constituencies in a minimum of ten states and territories.

National organizations that are funded currently by CDC/Division of Adolescent and School Health (DASH) under program announcements 99023, 97065, 00026, 00081, 00109, 00719, 98885, 99072, 00079 or 00618 are not eligible for this program announcement. A listing of CDC/DASH funded national organizations that are not eligible to apply is provided in Appendix I.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $168,000 is available in FY 2001 to fund one award. It is expected that the awards will begin on or about August 15, 2001, and will be made for a 12-month budget period within a project period of up to four years. Funding estimates may change.

Priority will be given to organizations whose direct constituencies are directors, administrators and managers of school food service programs. Affiliate offices and local, state, or regional membership constituencies may not apply in lieu of, or on behalf of, their parent national office.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under section 1 (Recipient Activities), and CDC will be responsible for conducting activities under section 2 (CDC Activities) as listed below:

1. Recipient Activities

a. Collaborate with constituents; state and local education, health, agriculture, and social service agencies; non-governmental partners; and federal government agencies to implement a national strategy to prevent foodborne illness as part of coordinated school health programs.

b. Establish specific, measurable, and realistic goals, objectives and evaluation measures to reduce and/or manage school foodborne illness outbreaks.

c. As a part of the National Food Safety Initiative, establish an operational plan that includes collaborating with federal and state agencies and others engaged in food safe schools program-related activities, and developing or using existing discipline-specific training materials that build the capacity of school food service personnel to implement the school food service component of a model coordinated school food safety schools program, and to integrate that component with other components.

d. Participate in quarterly meetings of the National Coalition for Food Safe Schools.

e. Developing or using existing discipline-specific training materials for accompanying a model coordinated school food safe schools program for constituents.

f. Disseminating programmatic information through appropriate methods, such as:

1. Sharing materials that would reduce school foodborne illness or manage an outbreak through a variety of mechanisms (e.g. clearinghouses, conferences and/or workshops, newsletters, annual progress reports, etc.);

2. Sharing project-related news and information with state and local education and health agencies, national organizations, and others through the Internet, other computer networks, the mail and at workshops and conferences.

g. Educating and enabling school food service managers, decision makers and others who are members of the national organizations to act individually and collectively to support locally determined programs to reduce/manage school foodborne illness outbreaks.

h. Educating and enabling families, media, businesses, and others in the community to act individually and collectively to support coordinated school health programs to reduce/manage school foodborne illness outbreaks.

i. Building the capacity of community agencies and parents to establish and/or maintain programs that reduce/manage school foodborne illness outbreaks;

j. Providing technical assistance and training to professionals and parents to use proven, effective strategies and programs to prevent behaviors that place elementary through college-aged young people at risk for foodborne illness.

k. Participating in national conferences to promote model food safe schools programs.

2. CDC Activities

a. Coordinate with national, state, and local education, health and social service agencies as well as other relevant organizations in planning and conducting national strategies designed to prevent foodborne illness through the development and implementation of a national food safe schools program.

b. Assist with programmatic consultation and guidance related to program planning, implementation, and evaluation; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

c. Participate in planning meetings with national, state, and local education agencies and other appropriate agencies to address issues and program activities related to improving coordinated school health programs; and strengthen the

capacity of postsecondary institutions and youth-serving agencies to prevent foodborne illness through coordinated food safe schools programs.

d. Assist with the evaluation of program activities.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than twenty (20) double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

1. Background (No More Than 4 Pages)

a. Describe your organization's current structure (mission, goals and its membership or affiliates and their geographic representation). Describe how that structure can support food safe schools programs that are part of a coordinated school health program, including the potential role of your organization's primary constituency in a food safe schools initiative. Identify current gaps in the existing structure and implementation of school-based food safety programs, and discuss how your constituency can enhance the state and local education agencies' ability to deliver an optimal food safe schools program.

b. Describe your organization's experience in assisting the state education, health and agriculture departments' current school food safety program. Include in your description, experience assisting these agencies' use of existing protocols, training, and educational materials available from the U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA) related to food safety and foodborne illness outbreaks. Describe barriers within state and local education agencies to reporting foodborne illnesses and outbreaks and indicate how your organization and constituency can build that capacity.

c. Describe your organization's experience in developing and implementing policy related to food safety programs and reporting school-based foodborne outbreaks. Discuss potential limitations to existing policies and describe, if any, the need for new policies that address school food safety and the prevention of foodborne illness.

d. Describe your organization's experience in developing and implementing model policy, curricula, training programs, surveillance activities, and evaluation protocols. Describe your organization's experience providing technical assistance and training. Priority will be given to organizations whose direct constituencies are directors, administrators and managers of school food service programs.

2. Operational Plan (No More Than 8 Pages)

a. Provide long-term (four-year) goals and short-term (one-year) objectives for the proposed project that build the capacity of coordinated food safe schools programs nationwide. The objectives should be specific, time-phased, measurable, and realistic. The proposed objectives should compliment ongoing activities related to "From Farm to Table: A National Food Safety Initiative" (see the U.S. government food safety information gateway website http://www.foodsafety.gov for more information on activities related to the National Food Safety Initiative).

b. Submit a plan that proposes first year activities to build the capacity of your organization and others to support and/or implement a model food safe schools program designed to prevent foodborne illness in schools. Include a time-line for the completion of each component or major activity that describes who will do what by when. Examples of acceptable activities can include, but are not limited to the Recipient Activities described in section D Program Requirements.

3. Administration and Management (No More Than 2 Pages)

a. Describe how the proposed professional staff will contribute to the overall food safe schools program. Describe how the current or proposed placement of each staff will assure that program implementation among state education, health, and agriculture agencies, their affiliates, and partners is coordinated with your organization's constituents.

b. Demonstrate that existing or proposed professional staff have or will have the necessary background and qualifications for the proposed responsibilities. Indicate how your organization can ensure that for each professional working on the project, their position description requires the appropriate level of education and experience related to the level of responsibility and expected duties. A curriculum vitae (no more than two pages for each staff) should be included in an appendix to the application for existing staff who are assigned to this project.

c. In an appendix to the application, provide an organizational chart that identifies lines of communication, accountability, reporting, authority, and describes management and control systems within your organization.

4. Collaboration (No More Than 2 Pages)

a. Describe the organization's current collaboration with states' health, education, and agricultural departments. Describe your organization's collaboration with other federal agencies, national non-profit organizations, foundations, community-based groups, and others who have an interest in or whose mission includes food safety programs, whether their efforts are school-based or not. Discuss how your collaborative relationship can strengthen this project. Indicate who you propose to collaborate with to implement the proposed Operational Plan. Include letters of participation and support documenting these anticipated collaborations. In particular, describe how the proposed activities compliment or build on the existing food safety programs.

b. Describe collaborative activities or anticipated relationships with other national organizations who support coordinated school health programs. Include letters of participation and support documenting these anticipated collaborations. In particular, describe how your organization can compliment the activities of existing national organizations and how their expertise can support this proposed project.

5. Evaluation Plan (No More Than 2 Pages)

Describe plans to evaluate progress in meeting objectives and conducting activities during the budget period. Specify what data will be obtained and present a plan that includes how the data will be obtained, disseminated, and used to improve the program. Indicate in the plan who will do what and when.

6. Budget and Justification (No More Than 2 Pages)

Provide a detailed budget and line-item justification for all operating expenses that are consistent with proposed objectives and planned activities. The budget should include funds for travel to two CDC meetings during the budget year.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: http://forms.psc.gov/

On or before June 15, 2001 submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing).

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following evaluation criteria by an independent review group appointed by CDC.

1. Background and Need (30 Points)

a. (10 points) The extent to which the applicant describes the current organizational structure, how that structure can support food safe schools programs, and identifies current gaps in the existing structure of education agencies that decreases the agencies' ability to deliver an optimal food safe schools program.

b. (5 points) The extent to which the applicant discusses barriers within education agencies to using existing resources that contribute to the prevention of foodborne illnesses and describes experience assisting state agencies' use of existing protocols, training, and educational materials.

c. (5 points) The extent to which the applicant describes experience in developing policy related to food safety programs and reporting school-based foodborne outbreaks, discusses gaps in existing policy and discusses a proposal for new policy.

d. (10 points) The extent to which the applicant describes experience in supporting, developing and implementing model policy, curricula, training programs, surveillance activities, and evaluation protocol and describes the organization's experience providing technical assistance and training. Priority will be given to organizations whose direct constituencies are directors, administrators and managers of school food service programs.

2. Operational Plan (30 Points)

a. (15 Points) The extent to which the applicant provides long-term (four-year) and short-term (one-year) objectives for the proposed project that build the capacity of food safe schools programs nationwide. The objectives must be specific, time-phased, measurable, and realistic. The proposed objectives should compliment ongoing activities related to "From Farm to Table: A National Food Safety Initiative" (see the U.S. government food safety information gateway website, http://www.foodsafety.gov, for more information on activities related to the National Food Safety Initiative).

b. (15 points) The extent to which the applicant submits a plan that builds the capacity of its constituents and others to assist state and local education agencies in establishing a model food safe schools program designed to prevent foodborne illness and includes a time-line for the completion of each component or major activity that describes who will do what by when. The extent to which the proposed activities are comparable to the identified Recipient Activities described in Section D Program Requirements.

3. Administration and Management (15 Points)

a. (5 points) The extent to which the applicant provides job descriptions for existing and proposed professional positions and describes how the proposed professional staff will contribute to the overall food safe schools program. The extent to which the applicant describes how the current or proposed placement of each staff will assure that program implementation is coordinated with the organization's constituents and partners.

b. (5 points) The extent to which the applicant demonstrates that existing or proposed staff have or will have the necessary background and qualifications for the proposed responsibilities. The extent to which the applicant provides a curriculum vitae for existing staff who are assigned to this project.

c. (5 points) The extent to which the applicant provides an organizational chart that identifies lines of communication, accountability, reporting, authority, and describes management and control systems within the organization and discusses how the proposed placement of the project in the organization will increase its likelihood of success.

4. Collaboration (20 Points)

a. (15 points) The extent to which the applicant describes current collaboration with health, education, and/or agricultural agencies, the organization's collaboration with other federal agencies, national non-profit organizations, foundations, community-based groups, and others who have an interest in or whose mission includes food safety programs, and discusses how the current collaborative relationships can compliment the proposed project. The extent to which the applicant indicates proposed collaborative relationships that will support the proposed operational plan and includes letters of participation and support documenting these anticipated collaborations especially with proposed activities.

b. (5 points) The extent to which the applicant describes collaborative activities or anticipated relationships with other national organizations who support model food safe schools programs, and includes letters of participation and support documenting these anticipated collaborations. The extent to which the applicant describes how the organization can compliment the activities of existing organizations and how their expertise can support this proposed project.

5. Evaluation Plan (5 Points)

The extent to which the applicant describes their plan to evaluate progress in meeting objectives and conducting activities during the budget period including their ability to describe: (a) What data will be obtained; (b) how the data will be obtained; (c) how evaluation information will be disseminated; (d) how the evaluation data will be used to improve the program; and (e) who will implement the evaluation plan and when.

6. Budget and Justification (Not Scored)

The extent to which the budget is reasonable and consistent with the purposes and activities of the program.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Annual progress report.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–7—Executive Order 12372 Review
AR–8—Public Health System Reporting Requirement
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions
AR–14—Accounting System Requirements
AR–15—Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 311(b) and (c), and 317 (k)(2) [42 U.S.C. 241(a), 243(b) and (c), and 247(b)(K)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.938.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Cynthia Collins, Grants Management Specialist, Grants Management Office, Program Announcement 01131, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Rd, Rm 3000, MS E–18, Atlanta, Georgia 30341–4146, Telephone: (770) 488–2757, Email: coc9@cdc.gov.

For program technical assistance, contact: Mary Vernon Smiley, Chief, Special Populations Section, Program Development and Services Branch, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Program Announcement 01131, Centers for Disease Control and Prevention, 4770 Buford Highway, NE MS K–31, Atlanta, GA 30341, Telephone: 770–488–6199, Email: mev0@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 01–12422 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01122]

National Programs That Build the Capacity of State and Local Health and Education Agencies To Reduce the Burden of Asthma Among Youth; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for National Programs That Build the Capacity of State and Local Health and Education Agencies to Reduce the Burden of Asthma Among Youth. This program addresses the "Healthy People 2010" focus areas of Educational and Community-Based Programs, and Respiratory Diseases 24.1 to 24.8. Background information can be found in Appendix I.

The purpose of this announcement is to develop a national program that builds the capacity of state and local health and education agencies to reduce the burden of asthma and other important health problems among youth.

B. Eligible Applicants

Assistance will be provided to national organizations that are private health, education, or social service agencies (professional or voluntary); qualify as a non-profit 501(c)(3) entity; have the capacity to assist their local affiliates; and have affiliate offices or local/state/or regional membership constituencies in a minimum of 10 states and territories. Affiliate offices and local/state/or regional membership constituencies may not apply in lieu of, or on behalf of, their parent national office because organizations must have the capacity to influence the professional actions of their constituencies at the national level.

National organizations that are funded currently by CDC/Division of Adolescent and School Health (DASH) under program announcements 98005, 97065, 99023, 99072, 00026, 00079, 00081, 00109, 00618, 00719, are not eligible for this program announcement. A listing of these organizations is provided in Appendix II.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $1,000,000 is available in FY 2001 to fund approximately four awards. It is expected that the average award will be $250,000, ranging from $200,000 to $275,000. It is expected that the awards will begin on or about August 1, 2001, and will be for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Priority will be given to organizations whose direct constituents are school nurses, health care providers, school administrators, asthma and respiratory health groups and parent groups, and have the capacity to collaborate with state and local education and health agencies.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1 (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Collaborate with constituents; state and local education, health, and social service agencies; non-governmental partners; and federal government agencies to develop a national strategy to create school and community-based asthma education and management programs with the goal of reducing morbidity, mortality and school absenteeism associated with asthma and other important health problems of youth.

b. Establish specific, measurable, and realistic goals and objectives that reduce morbidity, mortality and school absenteeism associated with asthma.

c. Establish an operational plan that includes local education and health agencies collaborating with federal and state education and health agencies, and others engaged in school and community-based asthma education and management activities, in using existing or developing target-audience and discipline-specific training materials needed to effectively build the capacity of school personnel to implement a model coordinated school health program that addresses asthma education and management.

d. Build the capacity of constituents to better promote student, parent and school staff concerning asthma education and management. Implement a model coordinated school health program addressing asthma education and management.

e. Develop or use existing discipline-specific training materials for constituents to accompany a model coordinated school health program addressing asthma education and management.

f. Evaluate the effectiveness of the program in achieving goals and objectives at the school and/or district level.

g. Disseminate and share programmatic information, projected-related news with state and local education agencies, state and local health agencies, national organizations, and others through mechanisms such as the Internet, newsletters, clearinghouses, the mail and at workshops and conferences.

h. Help schools, or other agencies that serve young people, conduct coordinated programs that prevent behaviors that place elementary through secondary school-aged young people at risk for morbidity and mortality from asthma.

i. Collaborate with other national organizations to establish and maintain initiatives to prevent behavior that place elementary through secondary school-aged young people at risk for morbidity and mortality from asthma.

j. Educate managers, leaders, teachers, school nurses, decision makers, parents, families, media, businesses, and others who are members of national organizations and/or communities to act individually and collectively to support locally determined programs to reduce morbidity, mortality and school absenteeism related to asthma and teach asthma management.

k. Build the capacity of schools, community agencies and parents to establish and/or maintain programs that teach asthma management and reduce morbidity, mortality and school absenteeism related to asthma.

l. Provide technical assistance and training to professionals and parents to use proven, effective strategies and programs to prevent behaviors that place elementary through secondary school-aged young people at risk for morbidity, mortality and absenteeism related to asthma and to educate students who are not diagnosed with asthma.

m. Participate in national conferences through presentations and workshops to promote model coordinated school health programs addressing asthma education and management.

n. Participate in meetings with national, state, and local health and education agencies and other appropriate agencies to address issues and program activities related to improving coordinated school health programs; and strengthen the capacity of youth-serving agencies to teach asthma management and reduce the burden of asthma through coordinated school health programs.

2. CDC Activities

a. Assist with planning and conducting national strategies designed to teach asthma management and reduce morbidity and mortality associated with asthma through coordinated school health programs.

b. Provide programmatic consultation and guidance related to program planning, implementation, and evaluation; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

c. Assist in planning meetings of national, state, and local education and health agencies and other appropriate agencies to address issues and program activities related to improving coordinated school health programs; and strengthen the capacity of youth-serving agencies to teach asthma management and reduce morbidity and mortality associated with asthma through coordinated school health programs addressing asthma education and management.

d. Assist in the evaluation of program activities in achieving goals and objectives at the school and/or district level.

E. Application Content

Use the information in the Purpose, Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow the criteria as you construct your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

1. Background (No More Than 4 Pages)

a. Describe your organization's current structure (mission, goals, and membership or affiliates and their geographical representation). Describe how that structure can support school-based asthma education and management programs that are part of a coordinated school health program, including the potential role of your organization's primary constituency in a school asthma education and management initiative. Identify current gaps in the existing structure and implementation of school-based asthma education and management programs and discuss how your constituency can enhance the state and local education agencies ability to deliver an optimal asthma education and management program.

b. Describe your organization's constituency experience in assisting state and local education and health departments to develop an education and management strategy for asthma and other important health problems of youth. Priority will be given to organizations whose constituencies have a direct impact on asthma education and management programs including school nurses, health care providers, school administrators, asthma and respiratory health groups and parents.

c. Describe your organization's experience in developing and implementing policy related to asthma education and management in schools. Discuss potential limitations to existing policies and describe, if any, the need for new policies that address asthma education and management.

d. Describe your organization's experience in developing and implementing model policy, curricula, training programs, surveillance activities, and evaluation protocols. Describe your organization's experience providing technical assistance and training.

2. Operational Plan (No More Than 8 Pages)

a. Provide long-term (5-year) goals and short-term (1-year) objectives for the proposed project that build the capacity of coordinated school health programs to address asthma education and management at the local level. The objectives must be specific, time-phased, measurable, and realistic. The proposed objectives should compliment ongoing activities related to the "Healthy People 2010" focus area(s) of Educational and Community-Based Programs and Respiratory Diseases 24.1 to 24.8.

b. Submit a plan that proposes first year activities to build the capacity of your organization and others to support and/or implement a model asthma education and management program designed to teach asthma management and reduce morbidity, mortality and school absenteeism associated with asthma through coordinated school health programs. Include a time-line for the completion of each component or major activity that describes who will

do what by when. Examples of acceptable activities can include, but are not limited to the Recipient Activities described in Section 1.

3. Administration and Management (No More Than 2 Pages)

a. Describe how the proposed professional staff will contribute to the overall school asthma education and management program and show on an organizational chart how the current or proposed placement of each staff will assure program implementation.

b. Demonstrate that existing or proposed professional staff have or will have the necessary background and qualifications for the proposed responsibilities and include a curriculum vitae for each proposed staff.

c. In an appendix to the application, provide an organizational chart that identifies lines of communication, accountability, reporting, authority, and describes management and control systems within your organization.

4. Collaboration (No More Than 2 Pages)

a. Describe the organization's current collaboration with local and state health and education departments. Describe your organization's collaboration with other federal agencies, national non-profit organizations, foundations, community-based groups, and others who have an interest in or whose mission includes asthma education or management programs, whether their efforts are school-based or not. Discuss how your collaborative relationship can strengthen this project. Indicate who you propose to collaborate with to implement the proposed Operational Plan. Include letters of participation and support documenting these anticipated collaborations. In particular, describe how the proposed activities compliment or build on existing asthma education or management programs.

b. Describe collaborative activities or anticipated relationships with other national organizations who support school-based health education programs including those related to asthma education and management. Include letters of participation and support documenting these anticipated collaborations. In particular, describe how your organization can compliment the activities of existing national organizations and how their expertise can support this proposed project.

5. Evaluation Plan (No More Than 2 Pages)

Describe plans to evaluate progress in meeting objectives and conducting activities during the budget period. Specify what questions will be asked, what data will be obtained and present a plan that includes how the data will be obtained, from whom, how it will be analyzed and disseminated, and used to improve the program. Indicate in the plan who will do what and by when.

6. Budget and Justification (No More Than 2 Pages)

Provide a detailed budget and line-item justification for all operating expenses that are consistent with proposed objectives and planned activities. The budget should include funds for travel to two CDC meetings during the budget year.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189) on or before June 15, 2001, to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement. Forms are available in the kit and at the following Internet address: http://forms.psc.gov/

Deadline: Applications will be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing).

Late Applications: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following evaluation criteria by an independent review group appointed by CDC.

1. Background and Need (25 Points)

a. The extent to which the applicant describes the current organizational structure, the capacity of the organization to support school-based asthma education and management programs, and identifies current gaps in the existing structure of state and local education agencies that decreases the ability of the nation's schools to deliver an optimal asthma education and management program. (10 points)

b. The extent to which the applicant discusses barriers that contribute to the morbidity and mortality associated with asthma and the prevention of asthma symptoms, describes experience in assisting state and local education agencies and health departments current school asthma education and management programs, and describes experience assisting state and local agencies use of existing protocols, training, and educational materials. Priority will be given to organizations whose direct constituents are school nurses, health care providers, school administrators, asthma and respiratory health groups and parent groups. (5 points)

c. The extent to which the applicant describes experience in developing policy and programs related to asthma education and management, discusses gaps in existing policy and programs at the state and/or local level and discusses a proposal for new policy and programs. (5 points)

d. The extent to which the applicant describes experience in using existing or developing, and implementing model policy, curricula, and training programs, and describes the organization's experience providing technical assistance and training. (5 points)

2. Operational Plan (30 Points)

a. The extent to which the applicant provides long-term (5-year) goals and short-term (1-year) objectives for the proposed project that build the capacity of coordinated school health programs to address asthma education and management at the local level. The objectives must be specific, time-phased, measurable, and realistic. The proposed objectives should compliment ongoing activities related to the "Healthy People 2010" focus area(s) of Educational and Community-Based Programs and Respiratory Diseases 24.1 to 24.8. (15 Points)

b. The extent to which the applicant submits a plan that builds the capacity of its constituents and others to assist state and local education agencies in establishing a model school asthma education and management program designed to teach asthma management and reduce morbidity, mortality and school absenteeism related to asthma through coordinated school health programs and includes a time-line for the completion of each component or major activity that describes who will do what by when. The extent to which the proposed activities are comparable to the identified Recipient Activities described in Section D Program Requirements. (15 points)

3. Administration and Management (15 Points)

a. The extent to which the applicant provides job descriptions for existing and proposed professional positions and describes how the proposed professional staff will contribute to the overall school asthma education and management program and shows on an organizational chart how the current or proposed placement of each staff will assure program implementation. (5 points)

b. The extent to which the applicant demonstrates that existing or proposed staff have or will have the necessary background and qualifications for the proposed responsibilities and includes a curriculum vitae of each staff. (5 points)

c. The extent to which the applicant provides an organizational chart that identifies lines of communication, accountability, reporting, authority, and describes management and control systems within the organization and discusses how the proposed placement of the project in the organization will increase its likelihood of success. (5 points)

4. Collaboration (20 Points)

a. The extent to which the applicant describes current collaboration with state and/or local health and education departments, the organization's collaboration with other federal agencies, national non-profit organizations, foundations, community-based groups, and others who have an interest in or whose mission includes asthma education or management programs, and discusses how the current collaborative relationships can compliment the proposed project. The extent to which the applicant indicates proposed collaborative relationships that will support the proposed operational plan and includes letters of participation and support documenting these anticipated collaborations especially with proposed activities. (15 points)

b. The extent to which the applicant describes collaborative activities or anticipated relationships with other national organizations who support school-based health education programs including asthma education and management, and provides letters of participation and support documenting these anticipated collaborations. The extent to which the applicant describes how the organization can compliment the activities of existing organizations and how their expertise can support this proposed project. (5 points)

5. Evaluation Plan (10 Points)

The extent to which the applicant describes their plan to evaluate progress in meeting objectives and conducting activities during the budget period including their ability to describe: (1) what data will be obtained; (2) how the data will be obtained; (3) from whom the data will be obtained; (4) what analysis will be conducted; (5) how evaluation information will be disseminated; (6) how the evaluation data will be used to improve the program; and (7) who will implement the evaluation plan and by when.

6. Budget and Justification (Not Scored)

The extent to which the budget is reasonable and consistent with the purposes and activities of the program.

Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Annual progress reports.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the application kit.

AR–7—Executive Order 12372 Review
AR–8—Public Health System Reporting Requirement
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions
AR–14—Accounting System Requirements
AR–15—Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 311(b) and (c), and 317 (k)(2) [42 U.S.C. 241(a), 243(b) and (c), and 247b(K)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.938.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention (CDC), Program Announcement 01122, 2920 Brandywine Rd, Room 3000, M/S E18, Atlanta, Georgia 30341–4146,Telephone number: (770) 488–2757, E-mail: *coc9@cdc.gov*

For program technical assistance, contact: Mary Vernon-Smiley, Chief, Special Populations Program Section, Program Development and Services Branch, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE M/S K31, Atlanta, GA 30341, Telephone number: (770) 488–6199, E-Mail: *mev0@cdc.gov*

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12424 Filed 5–16–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01096]

Development of Prototypes for The Paul Coverdell National Acute Stroke Registry; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement for the development of prototypes for The Paul Coverdell National Acute Stroke Registry. This project addresses the "Healthy People 2010" focus area(s) related to Heart Disease and Stroke and Access to Quality Health Services.

The purpose of this program is to design and pilot test real-time data and analysis prototypes in statewide samples that will measure the delivery of care to patients with acute stroke.

The focus is on acute care which includes the process from onset of signs and symptoms through the emergency medical system or other transport to a

hospital emergency department; diagnostic evaluation; use of thrombolytic therapy when indicated by diagnosis and timeliness; other aspects of acute care; and referral to rehabilitation services for surviving cases.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Title 2 of the United States Code, Chapter 26, Section 1611states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $3,600,000 is available in FY 2001, to fund approximately 4 to 5 awards. It is expected that the average award will be $800,000, ranging from $500,000 to $1,000,000. It is expected that the awards will begin on or about August 31, 2001, and will be made for a 12-month budget period within a project period of one year. Funding estimates may change.

Funding Priority

1. Preference may be given to applications targeting states with the highest death rates for stroke.
2. Preference may be given to applications such that different geographic areas are represented.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Plan, implement, and support the operation of hospital-based, statewide stroke registries in order to collect data concerning: each patient presenting to the hospital Emergency Departments with an admitting diagnosis of stroke.

b. Establish or enhance, and regularly convene an advisory committee to assist in building a consensus, cooperation, and planning for the statewide stroke registry. Representatives may include State Health Departments, key organizations and individuals such as hospital emergency department personnel, neurologists, nurses, clinicians, and others deemed appropriate.

c. Develop a sampling plan for the selection of hospitals to participate in the statewide stroke registry prototype such that the sample is representative of the state's facilities that provide care to patients with acute stroke.

d. Establish selected hospitals to participate in the stroke registry prototype.

e. With other grantees, participate in the final selection of a standard list of data items to be used by all recipients.

f. Develop a data collection mechanism and train hospital personnel in the data collection process.

g. Develop and maintain a data system, including quality assurance mechanisms for data collection and management, to provide timely, complete and quality data.

h. Plan and implement a methodology for assessments of hospital reporting compliance, validity of diagnosis, reliability and completeness of all reporting parameters, and hospital costs required for data collection.

i. Develop and maintain the capability to securely export data.

j. Ensure secure electronic storage, to the extent possible, of all collected data including text and codes.

k. Collaborate with an independent outside audit of data completeness and quality.

l. Develop plan and use stroke registry data to improve the delivery of care to patients with acute stroke.

2. CDC Activities

a. Provide technical assistance in the development and final selection of standard data items to be used by all recipients.

b. Provide ongoing consultation and technical assistance for effective program planning and management.

c. Collaborate in establishing or endorsing program requirements for completeness, timeliness and accuracy of data.

d. Support the independent quality control audits of registry data completeness and accuracy.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 75 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Letter of Intent

The letter of intent will be used to determine the number of potential respondents and to assist CDC in coordinating the objective review process. Your letter of intent should include the following information:

1. Name
2. Organization
3. State that will be targeted for data collection

The letter of intent should be submitted on or before May 25, 2001, to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available in the application kit or at the following Internet address: http://forms.psc.gov/

On or before June 29, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or
2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late

Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Applications will be reviewed and evaluated according to the following criteria: (Maximum 100 Points).

1. Background and Experience: (15 Points)

The extent to which the applicant describes: (a) The epidemiology of stroke in the state and rationale for consideration as a high preference state; (b) past and current registry related activities, including strengths and limitations, of health services data collection and outcomes evaluation.

2. Collaboration: (10 Points)

The extent to which the applicant: (a) Describes a current or proposed Stroke Advisory Committee; (b) describes past, current, and proposed stroke prevention activities and collaborations with relevant organizations and agencies within the state and with other states or national organizations interested in stroke prevention and stroke management; (c) provides letters of support from the State Health Department and relevant organizations.

3. Existing Resources and Sampling Plan: (20 Points)

The extent to which the applicant provides: (a) A description of all existing and in-state hospital sources that provide care to acute stroke patients; (b) a description of existing stroke registries in the state; (c) a sampling plan for the selection of hospitals such that the sample is adequate in number and representative of the state's hospitals that provide care to patients with acute stroke; (d) letters supporting willingness to participate from the selected hospitals.

4. Implementation Plan and Schedule: (30 Points)

The extent to which the major steps required for project design and implementation adequately address all recipient activities in the program requirements, are realistically described, and the project timetable displays appropriate dates for the accomplishment of specific project activities.

5. Data Utilization: (10 Points)

The extent to which the applicant provides a relevant and realistic plan to use stroke registry data to improve the delivery of care to patients with acute stroke.

6. Project Management and Staffing Plan: (15 Points)

The extent to which proposed staffing, organizational structure, staff experience and background, identified training needs or plan, and job descriptions and curricula vitae for both proposed and current staff indicate ability to carry out the purposes of the program.

7. Budget: (Not Scored)

The extent to which the applicant provides a detailed budget and justification consistent with the stated objectives and program activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports;
2. Financial status report, no more than 90 days after the end of the budget period; and
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–7—Executive Order 12372 Review
AR–8—Public Health System Reporting Requirements
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions
AR–14—Accounting System Requirements
AR–15—Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 317(k)(2) of the Public Health Service Act, [42 U.S.C. section 241], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address: http://www.cdc.gov. Click on "Funding" then "Grants and Cooperative Agreements."

Should you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Van King, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Email address: vbk5@cdc.gov.

For program technical assistance, contact: Wendy A. Wattigney, Cardiovascular Health Branch, Division of Adult and Community Health, NCCDPHP, 4770 Buford Highway, NE, Mailstop K47, Atlanta, Georgia 30341–3717, Telephone number: (770) 488–8149, Email address: wdw0@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12418 Filed 5–16–01; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–265]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection: Independent Renal Dialysis Facility Cost Report and Supporting Regulations 42 CFR 413.20 and 42 CFR 413.24.

Form No.: HCFA–265 (OMB# 0938–0236).

Use: The Independent Renal Dialysis Facility Cost Report provides for the determination and allocation of costs to the components of the facility in order

to establish a proper basis for Medicare payment.

Frequency: Daily Recordkeeping.

Affected Public: Business or other for-profit, Not-for-Profit institutions, and State, Local or Tribal Government.

Number of Respondents: 3,085.

Total Annual Responses: 3,085.

Total Annual Hours: 604,660.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's web site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 9, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–12451 Filed 5–16–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2001.

Name: Advisory Committee on Infant Mortality (ACIM).

Date and Time: June 25, 2001, 9 a.m.–5 p.m.; June 26, 2001, 8:30 a.m.–3 p.m.

Place: Georgetown Latham Hotel, 3000 M Street, NW., Washington, DC 20007, (202) 726–5000.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary of Health and Human Services on the following: Department programs which are directed at reducing infant mortality and improving the health status of pregnant women and infants; factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth; factors determining the length of hospital stay following childbirth; strategies to coordinate the variety of Federal, State, and local and private programs and efforts that are designed to deal with the health and social problems impacting on infant mortality; and the implementation of the Healthy Start initiative and infant mortality objectives from *Healthy People 2010.*

Agenda: Topics that will be discussed include the following: Early Postpartum Discharge; Low-Birth Weight; Disparities in Infant Mortality; and the Healthy Start Program.

Anyone requiring information regarding the Committee should contact Peter C. van Dyck, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration (HRSA), Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone: (301) 443–2170.

Individuals who are interested in attending any portion of the meeting or who have questions regarding the meeting should contact Ms. Kerry P. Nesseler, HRSA, Maternal and Child Health Bureau, telephone: (301) 443–2170.

Agenda items are subject to change as priorities are further determined.

Dated; May 11, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–12493 Filed 5–16–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: April 2001

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of April 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.*, a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
Program-Related Convictions	
Araboghli, Raphaela Ansonia, CT	05/20/2001
Arzadon, Rodrigo P Flint, MI	05/20/2001
Atikian, Vartan Taft, CA	05/20/2001
Billingslea, Charles A College Park, GA	05/20/2001
Boyce, Lila Clinton, SC	05/20/2001
Brown, Tanya Nichelle Fayetteville, NC	05/20/2001
Bun, Sothary Ryan Long Beach, CA	05/20/2001
Caplan, Steven Lee Superior, CO	05/20/2001
Capp, Sheldon N Greenwich, CT	05/20/2001
Chan, Tha Long Beach, CA	05/20/2001
Culver, Michael D Oxford, GA	05/20/2001
Doak, Bruce M Beaver, WV	05/20/2001
Dominguez, Ramon Mario Diamond Bar, CA	05/20/2001
Duramed, Inc Tampa, FL	05/20/2001
Foster, Bessie Sterling Baton Rouge, LA	05/20/2001
Gabriyelyan, Filip Taft, CA	05/20/2001
Geesaman, Barbara A Lake Wales, FL	05/20/2001
Goldstar Medical Services, Inc Tampa, FL	05/20/2001
Hamparian, Stephen R Winchester, MA	05/20/2001
Hart, Delores Williams Baton Rouge, LA	05/20/2001
Hidalgo, Eduardo Miami, FL	05/20/2001
Hopkins, Daniel Alan Royal Oak, MI	05/20/2001
Irvin, Etta M Marianna, FL	05/20/2001
Jacobs, Bryant Eugene Stone Mountain, GA	05/20/2001
Jones, Nettie Ruth Seattle, WA	05/20/2001
Keshishian, Akop Pasadena, CA	05/20/2001
Leung, Frances MA Albion, NY	05/20/2001
Lightfoot, Carolyn Edenton, NC	05/20/2001
Lopez, Jesus Felipe Zephyrhills, FL	05/20/2001
McEntee, Matthew Queens, NY	05/20/2001
McLilly, Hazel Clinton, SC	05/20/2001
Megrikyan, Sergei Pasadena, CA	05/20/2001
Mkrtchyan, Vardges W Hollywood, CA	05/20/2001
Muy, Nong Long Beach, CA	05/20/2001
Norris-Garwood, Peggy Sue	05/20/2001

Subject city, state	Effective date
Southfield, MI	
Ponce, Juan Miami, FL	05/20/2001
Russo, Ann Yonkers, NY	05/20/2001
Shah, Darshan Muttontown, NY	05/20/2001
Smart, James Robert Forth Worth, TX	05/20/2001
Townsend, Deneil Rae Sparks, NV	05/20/2001
United Dental Services, P C Binghamton, NY	05/20/2001
Vanmeter, Brent Eugene El Reno, OK	05/20/2001
Warren, Christine Virginia Beach, VA	05/20/2001
Williams, Joseph Stone Mountain, GA	05/20/2001
Williams, Elnor Marianna, FL	05/20/2001
Wynder, Rosa Anna Virginia Beach, VA	05/20/2001
Felony Conviction for Health Care Fraud	
Berbaum, Gerald Lee Pinckney, MI	05/20/2001
Lalonde, Wayne Lee Edgewater, CO	05/20/2001
Nortavage, Donna M Pingtown, PA	05/20/2001
Yannello, Jeffrey Minersville, PA	05/20/2001
Felony Control Substance Conviction	
Cornelius, Denice Marie Okemos, MI	05/20/2001
Gharrirassi, Amir Mission Viejo, CA	05/20/2001
Hannon, Kathleen Wilkes-Barre, PA	05/20/2001
Marcus, Vincent David Mechanicsburg, PA	05/20/2001
Payne, Arnold Jr Baltimore, MD	05/20/2001
Patient Abuse/Neglect Convictions	
Bartolo, Edmundo Vellagare Florence, AZ	05/20/2001
Baxter, Heidimarie Elyria, OH	05/20/2001
Bland, Benjamin Water Valley, MS	05/20/2001
Blue, Mishelle Deann Magalia, CA	05/20/2001
Carey, Karen Clearlake, CA	05/20/2001
Chandra, Nivrita Hayward, CA	05/20/2001
Chorjel, David Leon Boulder Creek, CA	05/20/2001
Eggins, Shonta Nayaya Alexandria, LA	05/20/2001
Floyd, Tanya Girette Clinton, SC	05/20/2001
Fullard, Hope Shawn Gresham, SC	05/20/2001
Gillis, Tiara Townsend, DE	05/20/2001
Harris, David Wayne Des Moines, IA	05/20/2001
Kelson, Lubelia Hoyel	05/20/2001
Gramercy, LA	
Patterson, Regina Compton, CA	05/20/2001
Porter, Loyce Dale Enid, OK	05/20/2001
Rice, John Lake Providence, LA	05/20/2001
Simmons, Christian Laurel, MS	05/20/2001
Thomas, Alberta M Vossburg, MS	05/20/2001
Vigil, Janis Lee Portland, OR	05/20/2001
Waller, Crystal Wilmington, DE	05/20/2001
Wilkins, Carolyn Wilmington, DE	05/20/2001
Conviction for Health Care Fraud	
Spencer, Sherry Alfreda Mansfield, LA	05/20/2001
Conviction—Obstruction of an Investigation	
Grana, Roberto Corozal, PR	05/20/2001
License Revocation/Suspension/ Surrendered	
Abramyan, Karine Santa Monica, CA	05/20/2001
Adams, Patricia Joann Richmond, IN	05/20/2001
Akindolie, Funmilayo D Central Falls, RI	05/20/2001
Allard, Sherri E Providence, RI	05/20/2001
Andrews, Heidina Anchorage, AK	05/20/2001
Arias, Tammie L Providence, RI	05/20/2001
Armas, Patricia Maxine Cypress, CA	05/20/2001
Baker, Euruegenall J St Petersburg, FL	05/20/2001
Baltazar, Willermo Las Vegas, NV	05/20/2001
Barber, Debra Jane Irving, TX	05/20/2001
Baskin, Howard H Fort Collins, CO	05/20/2001
Becker, Randy J N Miami Bch, FL	05/20/2001
Beech, Alma Denise Gillett, AR	05/20/2001
Bergeron, Michelle Speers Lake Jackson, TX	05/20/2001
Bierenbaum, Robert Elmira, NY	05/20/2001
Boyle, Donna M Chattley Maple Shade, NJ	05/20/2001
Branum, Karen Hoffman Fort Worth, TX	05/20/2001
Brigham, Susan Rauh Shamong, NJ	05/20/2001
Buckley, Marianne Trenton, NJ	05/20/2001
Burkard, Judith Asbury Park, NJ	05/20/2001
Burton, Maki Tyler, TX	05/20/2001
Burton, Amy Lynn	05/20/2001
Jacksonville, FL	
Canizio, Diane N Clark, NJ	05/20/2001
Cardenas, Presentacion E Long Branch, NJ	05/20/2001
Carmona, Agustin Florida City, FL	05/20/2001
Chesney, Leslie Susan Albuquerque, NM	05/20/2001
Click, Linda J Framingham, MA	05/20/2001
Coates, Christine Ann Clearwater, FL	05/20/2001
Coelho, Diane M Barrington, RI	05/20/2001
Copperman, Stuart M Merrick, NY	05/20/2001
Crookshank, Richard Las Vegas, NV	05/20/2001
Currey, Lisa Renee Floral, AR	05/20/2001
Davis, Eric H Weirton, WV	05/20/2001
Dean, Kari-Ann Middletown, RI	05/20/2001
Dowd, Janice Kemberling Sunbury, PA	05/20/2001
Droby, Paul Eric Palestine, TX	05/20/2001
Dubose, Charles Meridian, MS	05/20/2001
Edwards, Mary Annette Quitman, TX	05/20/2001
Evans, Julie Kay Broken Arrow, OK	05/20/2001
Fant, Sammie East Ely, NV	05/20/2001
Finucan, Thomas E Jr North East, MD	05/20/2001
Fleury, Diane Franklinville, NJ	05/20/2001
Floro, Teresita C St Peter, MN	05/20/2001
Fredrick, Nomi Judith Los Angeles, CA	05/20/2001
Gagnon, Tami A Cumberland, RI	05/20/2001
Gardner, Laurel J Laurel, MS	05/20/2001
Gillane, Donna M Blackwood, NJ	05/20/2001
Glavin, Keith M Falmouth, ME	05/20/2001
Glynn, Gayle Las Vegas, NV	05/20/2001
Goldberg, Barry Scott Dix Hills, NY	05/20/2001
Golembeski, Frank J Homestead, FL	05/20/2001
Grantham, Robert Edwin Bakersfield, CA	05/20/2001
Gremillion, Patricia Ann Plano, TX	05/20/2001
Griffin, Lea Ann Longview, TX	05/20/2001
Griffin, Gerald T Cranston, RI	05/20/2001
Griffin, James J Los Gatos, CA	05/20/2001
Haag, Polly Glee Anchorage, AK	05/20/2001
Handlow, Carla Rizzo	05/20/2001

Subject city, state	Effective date
Jacksonville, FL	
Hannigan, Judith Las Vegas, NV	05/20/2001
Harper, Charlene Denise Manila, AR	05/20/2001
Hasty, Angela Aleen Kerrville, TX	05/20/2001
Hendrickson, Linda Sue Mead, OK	05/20/2001
Henry, Scott Ernest Dunellon, FL	05/20/2001
Hetherington, Mark Arnold Lake Ozark, MO	05/20/2001
Hicks, Linda R Brandon, MS	05/20/2001
Hirsch, Gerald Paul Minersville, PA	05/20/2001
Holbrook, Linda A Turner, ME	05/20/2001
Hughes, Mardi M W Palm Beach, FL	05/20/2001
Hunt, Lajon Foxworth, MS	05/20/2001
Hutton, Charles J Philadelphia, PA	05/20/2001
Jenkins, Charles G Phoenix, AZ	05/20/2001
Johansen, Kelli J Tallahassee, FL	05/20/2001
Johnson, Pamela Jean E St Louis, IL	05/20/2001
Katz, Ryan Broomfield, CO	05/20/2001
Kim, Chongsu Diamond Bar, CA	05/20/2001
Kirk, Stacy Reno, NV	05/20/2001
Korpi, Jacqueline R Parma, OH	05/20/2001
Kupidlowski, Mary Ann Orange City, FL	05/20/2001
Lasater, Thomas Peter Modesto, CA	05/20/2001
Latiolais, Tricia St Martinville, LA	05/20/2001
Lavigne, Daryl G Westbrook, ME	05/20/2001
Lewis, Carolyn Dawn Hayward, WI	05/20/2001
Librizzi, Michelle H Ringoes, NJ	05/20/2001
Logan, Mary Bradenton, FL	05/20/2001
Loturco, Sue E Charlotte, TN	05/20/2001
Mahurin, Jennifer Kay Lubbock, TX	05/20/2001
Mankin, Celeste Machristie Philadelphia, PA	05/20/2001
Mathews, Rhonda Lynn Richfield, MN	05/20/2001
McMorrow, Kevin N Belgrade, ME	05/20/2001
Medley, Ronald Steven Anchorage, AK	05/20/2001
Melnichak, Barbara Anne White Oak, PA	05/20/2001
Merrifield, Carol Lynne Rockland, MA	05/20/2001
Mesick, Frank P Colchester, VT	05/20/2001
Miller, Kimberly S Naugatuck, CT	05/20/2001
Miller, Rebecca S Cromwell, IA	05/20/2001
Miller, Michael David Pocahontas, AR	05/20/2001
Miller, Minta Ann Arlington, VA	05/20/2001
Miller, Donald David Ogden, UT	05/20/2001
Mills, Sharon Inez Tyler, TX	05/20/2001
Mora, Rickey Estrada San Luis Obispo, CA	05/20/2001
Murray, Nichole M Chester, VT	05/20/2001
Mynster, Kim Las Vegas, NV	05/20/2001
Nacino, Ma Epifania C Union City, CA	05/20/2001
Nedwich, Patricia J Durham, NC	05/20/2001
Northrop, Karen A Cranston, RI	05/20/2001
Nyman, Jennifer Salt Lake City, UT	05/20/2001
Oates, Laurene Jo Sturgeon Bay, WI	05/20/2001
Ortiz, Rosa Moorhead, MN	05/20/2001
Pagotsisidro, Jeremias Ridgewood, NJ	05/20/2001
Palma, Dia Bloomfield, NJ	05/20/2001
Parashos, Linda Lindenwold, NJ	05/20/2001
Pashko, Robert A Anaheim, CA	05/20/2001
Patterson, Sharon Kay Minneapolis, MN	05/20/2001
Perez, Amy Manchester, CT	05/20/2001
Petrone, Jennifer Ann Plainfield, IL	05/20/2001
Pierce, Ronald D Tiptonville, TN	05/20/2001
Preston, Jody Lynne Chicago, IL	05/20/2001
Prodanovitch, Gus James Albany, NY	05/20/2001
Raines, Bannister Lee Baltimore, MD	05/20/2001
Reese, Gerrilyn M Horseheads, NY	05/20/2001
Reid, Jeri Lynn Vallejo, CA	05/20/2001
Reitzell, Sherry Grayson, LA	05/20/2001
Remy, Gennieveve Karl Woodbridge, VA	05/20/2001
Richards, Sondra S Tabor Welches, CA	05/20/2001
Robbins, David W Miami, FL	05/20/2001
Rogers, Julie Ann Peoria Hgts, IL	05/20/2001
Roldan, Thomas Phillipsburg, NJ	05/20/2001
Rollins, Christina C Mesquite, TX	05/20/2001
Ruggiero-Ruiz, Carole J North Haven, CT	05/20/2001
Rynearson, Andrew Anchorage, AK	05/20/2001
Santa Maria, Donna Lee Edison, NJ	05/20/2001
Shaw, Marvie Houston, TX	05/20/2001
Shephard, Elizabeth A Columbus, OH	05/20/2001
Shorey, Melony M Waterville, ME	05/20/2001
Similien, Jean Orma Providence, RI	05/20/2001
Simone, Susan E Burlington, VT	05/20/2001
Snyder, Edward Blaine Esko, MN	05/20/2001
Soto, Debra Jo Red Oak, TX	05/20/2001
Stephens, Carolyn Jeanette Petal, MS	05/20/2001
Stokes, Barbara L Denver, CO	05/20/2001
Tarbuck, Mary Lynn Graff Washington, PA	05/20/2001
Tarpley, Deborah Jo Houston, TX	05/20/2001
Taylor, Gail J Pawtucket, RI	05/20/2001
Traylor, Stephania Ann Highlands, TX	05/20/2001
Tucker, Karen Bueche, LA	05/20/2001
Tucker, Suzanne Colonia, NJ	05/20/2001
Turner, Susan Hope Mounds, IL	05/20/2001
Van Cleave, Jeanette Giannina Mission Viejo, CA	05/20/2001
Venie, Patricia Delmar, NY	05/20/2001
Villanueva, Josefa Galveston, TX	05/20/2001
Vincent, Mitzi Collins, MS	05/20/2001
Wade, Stacie L Streator, IL	05/20/2001
Wakenhut, Anne Wunch Lakeview, MI	05/20/2001
Walling, Georgia Frazier Park, CA	05/20/2001
Walls, Allan Christopher Huntsville, AL	05/20/2001
Wellman, Bonnie Waddell Newtown, PA	05/20/2001
Werren, Paul Van Nuys, CA	05/20/2001
Whatley, Edna D Pascagoula, MS	05/20/2001
Whitehead, Addie L Murrells Inlet, SC	05/20/2001
Williams, Pamela Lee Hartford, CT	05/20/2001
Wiltse, Thomas J W Sacramento, CA	05/20/2001
Wright, Diane D Ponde Vedra Bch, FL	05/20/2001
Wyatt, Amy Jo Seminary, MS	05/20/2001
York, Georgia K Greenville, TX	05/20/2001
Zajac, Patricia New Castle, PA	05/20/2001

Federal/State Exclusion/Suspension

An, James Los Angeles, CA	05/20/2001
Behrends, Gayle Ann	05/20/2001
Laguna Nigel, CA	
Dwan, Francis Alan Chicago, IL	05/20/2001
Greenberg, Edmund S Orange, NJ	05/20/2001
Iravedra, Luis Kankakee, IL	05/20/2001
Thompson, Bob G W Frankfort, IL	05/20/2001

Fraud/Kickbacks

Asti, Maria Lafayette, CO	01/30/2001
Garcia, Jesus Miami, FL	11/15/1999
Goldstar Healthcare, Inc Tampa, FL	05/10/2000
Heape, Alice Georgine Gilbert, AZ	03/02/2001
Homed Scan (Homed Scan/Metrol) Abington, PA	03/09/2001
Homed Scan (Pulmonary Systems) Abington, PA	03/09/2001
Kin, Gerald A Abington, PA	03/09/2001
LTC Pharmacy, INC Minonk, IL	09/28/2000

Owned/Controlled by Convicted Excluded

Adapted Wheelchair Restoration Flushing, NY	05/20/2001
Central Kings Medical Brooklyn, NY	05/20/2001
Doylestown Foot Care, Inc Doylestown, PA	05/20/2001
Evans Chiropractic, Ctr, Inc Chagrin Falls, OH	05/20/2001
Psychiatric Liaison Consultati Arlington, TX	05/20/2001
Sherman Way Medical Supply Van Nuys, CA	05/20/2001

Failure To Provide Payment information

Brown, Earl Paincourtville, LA	05/20/2001
Community Home Health Care Inc Paincourtville, LA	05/20/2001

Default on Heal Loan

Beirne, Mary Frances Island Hgts, NJ	05/20/2001
Brown, Marilyn F Los Angeles, CA	05/20/2001
Brown, David P Sr Moore, OK	05/20/2001
Caruso, Edmund M Jersey City, NJ	03/22/2001
Casselberry, Brenda L Auburn, AL	05/20/2001
Christian, Cori A Heber City, UT	05/20/2001
Clouse, Russell L Mesa, AZ	05/20/2001
Daguplo, Diosdado L La Puente, CA	05/20/2001
Dennis, Charles W Peckville, PA	05/20/2001
Digregorio, Philip James Danielson, CT	05/20/2001
Edwards, Tom A Ft Pierce, FL	05/20/2001
Fine, Halbert C Cincinnati, OH	05/20/2001
Fiore, James P Santa Ana, CA	05/20/2001
Flowers, John Lee Severn, MD	05/20/2001
Foster, Nathaniel W Folsom, CA	05/20/2001
Green, Kevin L Philadelphia, PA	05/20/2001
Hedgecorth, Julia Anne Albion, MI	04/02/2001
Henley, Robert Earl Bountiful, UT	05/20/2001
Katz, Steven Van Nuys, CA	05/20/2001
Kohanchi, Behzad Woodland Hills, CA	05/20/2001
Lamothe, David A Marietta, GA	05/20/2001
Mazhar, Mark Los Angeles, CA	05/20/2001
McSweeney, Kevin B Ft Lauderdale, FL	05/20/2001
Meehan, Maureen T Statington, PA	05/20/2001
Metcalf, John W Joplin, MO	05/20/2001
Montag, Thomas F Brookville, PA	05/20/2001
Mosley-House, Joan A Landsdale, PA	05/20/2001
Ortiz, Robert Jackson Hgts, NY	05/20/2001
Otis, Raymond J Camilla, GA	05/20/2001
Perrotti, Anthony E Pembroke Pines, FL	05/20/2001
Perry, Rickey G Little Rock, AR	05/20/2001
Pigott, Abu G Oakland, CA	05/20/2001
Poole, Gregory T Fresno, CA	05/20/2001
Praet, James Firmin Flagstaff, AZ	05/20/2001
Shelton, Annette Marie Arlington, TX	05/20/2001
Stengel, Ronald Mitchell Boca Raton, FL	05/20/2001
Stewart, Jeffrey D Tulsa, OK	05/20/2001
Stickle, John Daniel Aptos, CA	05/20/2001
Taddei, Kimberlee Jo Milwaukee, WI	05/20/2001
Thomas, William Gregory Gainesville, GA	05/20/2001
Waite, Thomas D Naugatuck, CT	05/20/2001
Zierden-Landmesser, Teresa E Dingsman Ferry, PA	05/20/2001

Owners of Excluded Entities

Grasso, John R Binghamton, NY	05/20/2001

Dated: May 4, 2001.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 01–12394 Filed 5–16–01; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Fogarty International Center Advisory Board.

Date: May 22, 2001.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: Report of the Director and a presentation on development of a not for profit pharmaceutical company to address some of the gaps in drug development for developing countries. In addition, FIC staff will give presentations on a new tobacco initiative, and a historical overview of the Fogarty International Research Collaborative Award.

Place: Lawton Chiles International House, 16 Center Drive (Building 16), Bethesda, MD 20892.

Closed: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Lawton Chiles International House. 16 Center Drive (Building 16), Bethesda, MD 20892.

Contact Person: Irene W. Edwards, Information Officer, Fogarty International Center, National Institutes of Health, Building 31, Room B2C08, 31 Center Drive

MSC 2220, Bethesda, MD 20892, 301–496–2075.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Information is also available on the Institute's/Center's home page: www.nih.gov/fic/about/advisory.html, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12463 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine; Notice of Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the Cancer Advisory Panel for Complementary and Alternative Medicine (CAPCAM).

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Cancer Advisory Panel for Complementary and Alternative Medicine.

Date: May 21, 2001.

Open: May 21, 2001, 9:00 am to adjournment.

Agenda: The agenda will include a report on clinical trial data on Virulizen (R), an update on the Rand BSC Approach to BCS, an update on NIH initiatives for CAM and Cancer treatments, and other business of the Panel.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Richard Nahin, Ph.D., Executive Secretary, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, MD 20892, 301/496–7801.

The public comments session is scheduled on May 21 from 3:00 pm to 3:30 pm. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Richard Nahin, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd, Suite 106, Bethesda, Maryland 20892, 301–496–7801, Fax 301–480–3621. Letters of intent to present comments, along with a brief description of the organization represented, should be received no later than 5:00 pm May 15, 2001. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In addition, written comments may be submitted to Dr. Nahin at the address listed above up to ten calendar days (May 31, 2001) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by Dr. Richard Nahin, Executive Secretary, CAPCAM, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, Maryland 20892, 301 496–7801, Fax 301–480–3621.

This meeting is being published less than 15 days prior to the meeting due to scheduling conflicts.

Dated: May 9, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 01–12469 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Eye Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL EYE INSTITUTE, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Eye Institute.

Date: June 4–5, 2001.

Open: June 4, 2001, 9 a.m. to 10 a.m.

Agenda: Opening remarks by the Director, Intramural Research Program, on matters concerning the intramural program of the NEI.

Place: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 10B16, Bethesda, MD 20892.

Closed: June 4, 2001, 10 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 10B16, Bethesda, MD 20892.

Closed: June 5, 2001, 9 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 10B16, Bethesda, MD 20892.

Contact Person: Robert B. Nussenblatt, MD, Director, Intramural Research Program, National Eye Institute, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892, 301–496–3123.

Information is also available on the Institute's/Center's home page: www.nei.nih.gov, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12458 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group, Genome Research Review Committee.

Date: June 5, 2001.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 31 Center Drive, Conference Rm. B2B32, NHGRI, MD 20892 (Telephone Conference Call).

Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12468 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552 (c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–078.

Date: June 11, 2001.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–079.

Date: June 12, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Radisson Governors Inn, I–40 & Davis Dr., Exit 280, Research Triangle Park, NC 27709.

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–080.

Date: June 13, 2001.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Rooming 3446, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–081.

Date: June 14, 2001.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Rooming 3446, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–082.

Date: June 15, 2001.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Workers Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Officer of Federal Advisory Committee Policy.

[FR Doc. 01–12457 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: June 7–8, 2001.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: David I. Sommers, Ph.D, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development

Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12460 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Council on Alcohol Abuse and Alcoholism, June 6, 2001, 7 p.m. to June 7, 2001, 4 p.m., Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD, 20814 which was published in the **Federal Register** on May 2, 2001, 66 FR 21993.

The times for the open and closed sessions on June 7, 2001, have changed. The open session has been changed to 9 a.m. to 11:30 a.m. and 12 p.m. to 3:30 p.m. The closed session has been changed to 11:30 a.m. to 12 p.m. The meeting is partially Closed to the public.

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12461 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group, NINR Initial Review Group.

Date: June 21–22, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Teneka Pierce, Grants Technical Assistant, National Institutes of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5972.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12462 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: June 1, 2001.

Open: 8 a.m. to 12 p.m.

Agenda: For the review of Intramural Research Programs and Scientific presentations.

Place: Building 31, Conf. Rm. 2A48, Bethesda, MD 20892.

Closed: 1 p.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Building 31, Conf. Rm. 2A48, Bethesda, MD 20892.

Contact Person: Owen M. Rennert, MD., Scientific Director, National Institute of Child Health and Human Development, 9000 Rockville Pike, Building 31, Room 2A50, Bethesda, MD 20892, (301) 496–2133, rennerto@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Information is also available on the Institute's/Center's home page: www.nichd.nih.gov/about/bsd/htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12464 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: May 14, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, Ph.D., Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institute of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12465 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, "Regulation of Interleukin-5 Receptor Signaling".

Date: June 1, 2001.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700–B Rockledge Drive, Room 2156, Bethesda, MD 20892–7610 (Telephone Conference Call).

Contact Person: Nasrin Nabavi, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, nn30t@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12466 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Post Doctoral Training.

Date: June 15, 2001.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Arthur L. Zachary, Ph.D., Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13H, Bethesda, MD 20892, (301) 594–2886, zacharya@nigms.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12467 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–56, Review of R13 Grants.

Date: May 15, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, Ph.D., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–50, Review of R01 Grants.

Date: June 11, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room E1/2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anna Sandberg, Ph.D., Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special

Emphasis Panel, 01–53, Review of R13 Grants.

Date: June 12, 2001.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, Ph.D., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–53, Review of R01s.

Date: June 15, 2001.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anna Sandberg, Ph.D., Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel.

Date: June 27, 2001.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, Ph.D., Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 9, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12470 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 15, 2001.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda MD 20892 (Telephone Conference Call).

Contact Person: Samuel Rawlings, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7844, Bethesda, MD 20892, (301) 435–1243.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 9, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12471 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 21, 2001.

Time: 1:00 p.m. to 2:15 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gloria B. Levin, Ph.D., Scientific Review Administration, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, laving@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 9, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12472 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center, June 1, 2001, 9 a.m. to June 1, 2001, 1:30 PM, National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD, 20892 which was published in the **Federal Register** on April 19, 2001, 66 FR 20157.

This meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended from 12:30 p.m. to 1 p.m. The meeting is partially Closed to the public.

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12459 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of SAMHSA Special Emphasis Panels I in June, July, and August 2001.

A summary of the meetings and a roster of the members may be obtained from: Ms. Coral Sweeney, Review Specialist, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–2998.

Substantive program information may be obtained from the individual named as Contact for the meetings listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b© (4) and (6) U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: June 4–9, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon June 4–Adjournment.

Panel: Community Initiated Prevention Intervention, SP 01–001.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: June 4–8, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon June 4, 2001–Adjournment.

Panel: Practice Research Collaboration, TI 01–001.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: June 11–15, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon June 11, 2001–Adjournment.

Panel: Consumer Network, SM 01–02.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: June 11–15, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon June 11, 2001–Adjournment.

Panel: Targeted Capacity Expansion/HIV, TI 01–007.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: June 18–22, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon June 18, 2001–Adjournment.

Panel: Circles of Care, SM 01–011.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: June 18–22, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon June 18, 2001–Adjournment.

Panel: Community Action Grants, PA 00–003.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: June 18–22, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon June 18, 2001–Adjournment.

Panel: Addictions Treatment for Homeless, TI 01–006.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: June 25–29, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon June 25, 2001–Adjournment.

Panel: Youth Violence Prevention Cooperative Agreements, SM 01–009.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 9–13, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon July 9, 2001–Adjournment.

Panel: Minority HIV/AIDS Mental Health Services, SM 01–012.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 9–13, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon July 9, 2001–Adjournment.

Panel: Recovery Community Support Program, TI 01–003.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 9–13, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon July 9, 2001–Adjournment.

Panel: Strengthening Communities—Youth, TI 01–004.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 16–20, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon July 16, 2001–Adjournment.

Panel: Statewide Family Networks, SM 01–004.

Contact: Coral Sweeney, Director, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 16, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Entire Meeting.

Panel: Statewide Family Network Coordinating Center, SM 01–005.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 16–20, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon July 16, 2001–Adjournment.

Panel: Targeted Capacity Expansion, CMHS, SM 01–007.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane,Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 23–26, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon July 23, 2001–Adjournment.

Panel: High Risk Youth, SP 01–003.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 23–27, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon July 23, 2001–Adjournment.

Panel: State Data Infrastructure, SM 01–006.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 30–August 3, 2001.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: Noon July 30, 2001–Adjournment.

Panel: High Risk Youth, SP 01–003.

Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 6–8, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 6, 2001—Adjournment.
Panel: Addiction Technology Transfer Centers, TI 01–008.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 13–17, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 13, 2001—Adjournment.
Panel: Restraint & Seclusion Training, SM 01–014.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 20–24, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 20, 2001—Adjournment.
Panel: Minority HIV Prevention Initiative, SP–1–006.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 27–31, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 27, 2001—Adjournment.
Panel: American Indian, American Alaskan Planning, TI 01–009.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane,. *Room 1789, Rockville, Maryland 20857.*

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 27–31, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 27, 2001—Adjournment.
Panel: State Treatment Needs Assessment Program, TI 01–010.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Coral Sweeney,

Review Specialist, Division of Extramural Activities and Review, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–12436 Filed 5–16–01; 8:45 am]

BILLING CODE 4162O–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–077–2822–JL–G212]

Notice of Closure to Livestock Grazing Use

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure to livestock grazing use.

SUMMARY: Effective immediately, the North Emery Allotment (#04100), Shoulder 3 Inc. Allotment (#04103), and the Baker Allotment (#04104) with the exception of Panel 1 and Panel 4, are closed to livestock grazing. This closure will remain in effect until May 1, 2003.

This closure is a direct result of two wildfires, which burned these areas during the summer of 2000, and of the subsequent rehabilitation efforts of the BLM. The closure will promote the reestablishment of vegetation on this site and improve the potential for recovery of wildlife and livestock forage.

This notice will also inform the public and permittees that any unauthorized livestock grazing upon public land or other lands under the BLM's control is in violation of 43 CFR 4140.1(b)(1) [Acts prohibited on public lands] and is subject to administrative actions described in 43 CFR Subpart 4150 (Unauthorized Grazing Use).

SUPPLEMENTARY INFORMATION: The area of closure affected by this notice is the Shoulder 3 Inc. Allotment, the North Emery Allotment, and sections of the Baker Allotment within the Upper Snake River District, and is more specifically described wholly or partially as follows:

Boise Meridian, Idaho

T. 15 S., R. 21 E.,
Public Lands Administered by BLM within Sections 22, 26, 27, 34, 35
T. 16 S., R. 21 E.,
Public Lands Administered by BLM within Sections 1, 2, 3, 10, 11, 12, 14, 15, 21, 22, 28.

Detailed maps of the area closed to livestock grazing are available at the BLM Burley Field Office.

FOR FURTHER INFORMATION CONTACT: BLM Burley Field Office, 15 East 200 South, Burley, Idaho 83318. Telephone (208) 677–6641.

Dated: March 1, 2001.

Theresa Hanley,

Burley Field Manager.

[FR Doc. 01–12409 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–5700–BX; Closure Notice No. NV–030–01–002]

Temporary Closure of Public Lands; Washoe County, NV

AGENCY: Bureau of Land Management, Nevada.

SUMMARY: The Carson City Field Office Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the 2001 Pylon Racing Seminar and 2001 Reno National Championship Air Races.

EFFECTIVE DATES: June 21 through June 24, 2001, and September 9 through September 16, 2001.

FOR FURTHER INFORMATION CONTACT: Richard Conrad, Assistant Manager, Nonrenewable Resources, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701. Telephone (775) 885–6000.

SUPPLEMENTARY INFORMATION: This closure applies to all the public, on foot or in vehicles. The public lands affected by this closure are described as follows:

Mt. Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 8, N½NE¼, SE¼NE¼ and E½SE¼;
Sec. 16, N½ and SW¼.

Aggregating approximately 680 acres.

The above restrictions do not apply to emergency or law enforcement personnel or event officials. The authority for this closure is 43 CFR 8364.1. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

A map of the closed area is the Carson City Field Office of the Bureau of Land Management.

Dated: May 7, 2001.

Richard Conrad,

Assistant Manager, Nonrenewable Resources, Carson City Field Office.

[FR Doc. 01–12410 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(AZ–070–1610–DH; AZA–31733)

Notice of Intent To Amend the Kingman Resource Management Plan, March 1995, To Determine Whether Land Which Is Not Currently Identified for Disposal Should Be Made Available for Lease and Patent Under the Recreation and Public Purposes Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) Lake Havasu Field Office proposes to prepare an Environmental Assessment to determine whether the Kingman Resource Management Plan, (RMP), March 1995, should be amended to allow the following-described lands in Mohave County to be classified in accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and Executive Order No. 6910, as suitable for lease and disposal under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*):

Gila and Salt River Meridian, Arizona

T. 19 N., R. 21 W.,
Sec. 28, E½, S½NW¼, SW¼,
Sec. 33, all.
Containing 1200 acres, more or less.

SUPPLEMENTARY INFORMATION: The Arizona Game & Fish Department (AG&FD) has filed an R&PP application requesting the described land to be made available to meet recreational and educational needs of the community. The current RMP does not identify the land as potentially suitable for disposal. The amendment would make the land available for disposal through R&PP leasing and conveyance. The (AG&FD) proposes to use the above-described sections of land for development of a public shooting range facility and related recreational facilities complex for the greater Bullhead City Area.

SEGREGATION: Upon publication of this notice in the **Federal Register**, the above-described land in Section 28 will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease and conveyance under the R&PP Act, leasing under the mineral leasing laws, and mineral material disposal laws. Upon publication of this notice, the land in Section 33 will be segregated from all forms of appropriation under the public land laws, except for lease and conveyance under the R&PP Act.

DATES: Interested parties may submit valid comments on the Intent to Amend the Plan and associated environmental assessment. Written comments related to the identification of issues will be accepted on or before July 2, 2001.

Comments, including names and street addresses of respondents, will be available for public review at the address below during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

ADDRESSES: Comments on this Notice should be sent to Donald Ellsworth, Field Manager, Bureau of Land Management, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406.

FOR FURTHER INFORMATION CONTACT: Field Manager, Donald Ellsworth, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406 or telephone (520) 505–1264.

Dated: April 13, 2001.

Donald Ellsworth,

Field Manager.

[FR Doc. 01–12404 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–PH; GP1–0184]

Notice of Meeting; Resource Advisory Council; Eastern Washington

AGENCY: Bureau of Land Management, Spokane District, Wenatchee Resource Area.

NOTICE: Notice of field-tour of the Eastern Washington Resource Advisory Council.

ACTION: Field-tour of the Eastern Washington Resource Advisory Council; May 24, 2001, on lands located in the areas of Wenatchee and Ephrata in Central Washington.

SUMMARY: The Eastern Washington Resource Advisory Council (RAC) will meet for a tour on May 24, 2001. The tour will commence at 10:30 a.m., at the Safeway parking lot in Ephrata, Washington. The RAC will visit lands along Sagebrush Flats, Jameson Lake Area, and Moses Coulee Sage Steppe. The purpose of this tour is to view sage grouse habitat representations in Central Washington. The field-trip will adjourn upon conclusion of business, but no later than 4 p.m. Public comments will be heard from 1 p.m. until 1:30 p.m. during the scheduled lunch break. If necessary to accommodate all wishing to make public comments, a time limit may be placed on each speaker. Topics to be discussed include management of the of the representative habitats. Transportation will be provided for RAC members only. Upon conclusion of the tour, return and retrieval of vehicles will commence at the Safeway parking lot in Ephrata, Washington.

FOR FURTHER INFORMATION, CONTACT: Bureau of Land Management, Wenatchee Resource AreaOffice, 915 N. Walla Walla, Wenatchee, Washington, 98801; or call 509–665–2100.

Dated May 8, 2001.

Kevin R. Devitt,

Acting District Manager.

[FR Doc. 01–12406 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–1430–01; N–63163]

Partial Termination of Segregative Effect, Maggie Creek Exchange N–63163

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action partially terminates a segregative effect on the Maggie Creek Exchange N–63163 held by Maggie Creek Ranch LP. The lands (as described below) will be opened to the operation of the public land laws, including location and entry under the mining laws.

EFFECTIVE DATE: June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Susan Elliott, Elko Field Office, 3900 E. Idaho St., Elko, Nevada 89801, 775–753–0200.

SUPPLEMENTARY INFORMATION: The segregative effect for the affected lands was made on February 3, 1999, pursuant to the Federal Land Exchange Facilitation Act of August 20, 1988, which implements the exchange provisions of the Federal Land Policy and Management Act of 1976. The

Maggie Creek Land Exchange N–63163, has been modified since the original request for segregation and the herein described parcels were removed from the exchange. The segregative effect is hereby terminated for the following described land located in Elko County:

Mount Diablo Meridian, Nevada

T. 34 N., R. 51 E.,
Sec.12, Lots 1–4, W½E½, W½.
T. 34 N., R. 52 E.,
Sec. 2, Lots 1–4, S½N½, S½;
Sec. 4, Lots 1–4, S½N½, S½;
Sec 6, Lots 1–5, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec 8, All;
Sec 10, All.
T. 35 N., R. 52 E.,
Sec. 2, Lots 3, 4, SW¼NW¼;
Sec. 4, SW¼, SW¼SE¼;
Sec. 8, Lots 1–6, E½E½, SE¼NW¼, W½SW¼;
Sec. 10, S½NW¼, S½;
Sec. 12, E½, S½NW¼, NW¼SW¼, S½SW¼;
Sec. 14, All;
Sec. 16, All;
Sec. 18, E½, E½NW¼;
Sec. 20, All;
Sec. 22, All;
Sec. 24, NE¼, N½NW¼, SW¼NW¼, S½;
Sec. 26, N½, N½SW¼, SW¼SW¼, SE¼;
Sec. 28, SE¼NE¼, W½NW¼, S½;
Sec. 30, E½, SE¼SW¼;
Sec. 32, S½N½, S½;
Sec. 34, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 36, All.
T. 35 N., R. 53 E.,
Sec. 4, Lots 1–4, S½N½, S½S½;
Sec. 6, Lots 1–3, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, All;
Sec. 16, All;
Sec. 18, Lots 1, 3, 4, E½, E½W½.
T. 36 N., R. 53 E.,
Sec. 32 All.

1. At 9 a.m. on June 18, 2001, the land described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law.

2. At 9 a.m. on June 18, 2001, the land described above will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Helen Hankins,
Elko Field Office Manager.
[FR Doc. 01–12408 Filed 5–16–01; 8:45 am]
BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1430–EU; N–27917, N–58996]

Opening of Public Lands; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of the legal Description of the notice of termination of Desert Land Entry Classification and Segregation; Nevada.

SUMMARY: This action corrects the legal description for a notice to terminate the desert-land classification N–58996, dated April 8, 1982, also to terminate the segregation of Desert Land Entry Application N–27917, published in the **Federal Register** on pages 18498–18499, Volume 66, Number 68, Document ID: fr09ap01–77, on April 9, 2001.

EFFECTIVE DATE: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Martha P. Smith, Bureau of Land Management, Winnemucca Field Office, 5100 East Winnemucca Boulevard, Winnemucca NV 89445 at (775) 623–1500.

SUPPLEMENTARY INFORMATION: The legal land description in the Notice of Termination of Desert Land Entry Classification and Segregation; Nevada, published on April 9, 2001, is hereby corrected as follows: The legal description was cited as: T. 40 N., R. 39 E., Sec. 36: NE¼SE¼, N½SE¼SE¼, but it should have read: T. 40 N., R. 38 E., Sec. 36: NE¼SE¼, N½SE¼SE¼. Mount Diablo Meridian, Nevada.

Dated: May 1, 2001.

Terry A. Reed,
Field Manager.
[FR Doc. 01–12405 Filed 5–16–01; 8:45 am]
BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1310–DB]

Draft Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS) for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of extended public comment period.

SUMMARY: The BLM announces additional time for public comment on the Draft Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS) for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties. Pursuant to 102(2)(c) of the National Environmental Quality (CEQ) regulations (40 CFR 1500–1508), and the Federal Land Policy and Management Act (FLPMA) of 1976, the BLM Las Cruces Field Office has prepared a Draft RMPA/EIS. The RMPA/EIS addresses Federal fluid minerals (Oils, gas, and geothermal) leasing and subsequent activities (e.g., exploration, development, or production) in Sierra and Otero Counties, New Mexico. The new deadline for public comment ends June 22, 2001.

DATES: Written comments on the Draft RMPA/EIS must be postmarked on or before June 22, 2001.

ADDRESSES: Written comments should be sent to: Tom Phillips, RMPA/EIS Team Leader, BLM, Las Cruces Field Office, 1800 Marquess, Las Cruces, NM 88005.

FOR FURTHER INFORMATION CONTACT: Tom Phillips, RMPA/EIS Team Leader, (505) 525–4377.

SUPPLEMENTARY INFORMATION: Written comments may be submitted to the BLM, Las Cruces Field Office, 1800 Marquess, Las Cruces, NM 88005 on or before June 22, 2001. Copies of the Draft RMPA/EIS have been distributed to a mailing list of identified interested parties. Single copies of the Draft RMPA/EIS are available from the BLM Las Cruces Field Office, 1800 Marquess, Las Cruces Field Office, New Mexico. Public reading copies are available for review at public and university libraries in Las Cruces, Alamogordo, Truth or Consequences, Roswell, and Santa Fe, New Mexico and El Paso, Texas. The RMPA amends the 1986 Resource Management Plan (RMP) for the White Sands Resource Area. The objective of the RMPA is to determine (1) which lands overlying Federal fluid minerals are suitable and available for leasing and subsequent development and (2) how those leased lands will be managed. The EIS identifies the potential impacts that alternative plans for fluid minerals leasing and subsequent activities could have on the environment and identifies appropriate measures to mitigate those impacts.

Dated: May 1, 2001.

Tim L. Sanders,
Acting Field Manager, Las Cruces.
[FR Doc. 01–12411 Filed 5–16–01; 8:45 am]
BILLING CODE 4310–VC–M

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan Amendment, Draft Environmental Impact Statement, Green Spring unit of Colonial National Historical Park, Virginia

AGENCY: National Park Service, Department of Interior.

ACTION: Availability of draft general management plan and draft environmental impact statement for Green Spring unit of Colonial National Historical Park.

SUMMARY: Pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Draft General Management Plan Amendment and Draft Environmental Impact Statement (DGMPA/DEIS) for the Green Spring Unit of Colonial National Historical Park, Virginia.

DATES: The DGMPA/DEIS will remain on Public Review through July 11, 2001. Public Meetings are scheduled on May 30, 2001 from 7:00 to 9:00 p.m. and on May 31, 2001 from 10:00 to Noon @: Colonial National Historical Park, Jamestown Visitor Center on Jamestown Island, 1368 Colonial Parkway, Jamestown, VA 23081.

Comments: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Superintendent, Colonial National Historical Park, Post Office Box 210, Yorktown, Virginia 23690. Comments may be submitted electronically via the Internet to greenspring@nps.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: Green Spring Comments" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (757) 898–3400. Finally, you may hand-deliver comments to Colonial National Historical Park Headquarters, Route 238 & Colonial Parkway, Yorktown, VA 23690. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

ADDRESSES: Copies of the DGMPA/DEIS are available by request from the Superintendent, Colonial National Historical Park, Post Office Box 210, Yorktown, Virginia 23690 or by calling 757–898–2401 or via e-mail at becky_eggleston@nps.gov.

Public Reading copies of the DGMPA/DEIS will be available for review at the following locations:

Colonial National Historical Park Headquarters(address and telephone number listed above in comments section);
Office of Public Affairs, National Park Service,Department of Interior, 18th and C Street, NW., Washington, DC 20240,215–208–6843;
Williamsburg, Virginia Area Public Libraries(Contact Colonial National Historical Park at the address or telephone above for all locations).

SUPPLEMENTARY INFORMATION: The DGMPA/DEIS analyzes 3 alternatives for managing the Green Spring unit of Colonial National Historical Park. *Alternative A*, the No Action Alternative, continues the existing management direction at the site with no general visitor access, no visitor services or interpretation and minimal maintenance of resources. *Alternative B* relies on currently identified core archeological features and would focus additional research, site improvements, visitor access and interpretation on a core archeological area on one side of the park site that is currently bisected by Centerville Road. *Alternative C*, the preferred alternative, would be predicated on a cooperative effort with local officials to remove Centerville Road, which bisects the site and detracts from the safety and quality of the park environment, and is inconsistent with the historic setting.

The DGMPA/DEIS in particular evaluates the environmental consequences of the proposed action and the other alternatives on cultural resources, natural resources, visitor experience, socioeconomic environment, and transportation and site access.

FOR FURTHER INFORMATION CONTACT: Superintendent, Colonial National Historical Park, at the above address and telephone number.

Dated: May 2, 2001.

James Pepper,
Assistant Regional Director for Strategic Planning, Northeast Region, National Park Service.
[FR Doc. 01–12434 Filed 5–16–01; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the thirty-fifth meeting of the Gettysburg National Military Park Advisory Commission.

DATES: The public meeting will be held on June 21, 2001, from 7 p.m. to 9 p.m.

Location: The meeting will be held at the Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

Agenda: Sub-Committee Reports, Federal Consistency Projects Within the Gettysburg Battlefield Historic District, Operational Updates on Park Activities, and the Citizens Open Forum.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available

for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: May 7, 2001.

John A. Latschar,

Superintendent, Gettysburg NMP/Eisenhower NHS.

[FR Doc. 01–12433 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 5, 2001. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service,1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by June 1, 2001.

Beth L. Savage,

Acting Keeper of the National Register Of Historic Places.

Arkansas

Sebastian County

West Garrison Historic District (Boundary Increase), Roughly bounded by 13th St., North B, 1st St., and Parker Ave., Fort Smith, 01000614

Hawaii

Maui County

Gomes, Frank and Theresa, House, 32 Pakani Place, Makawao, 01000616

Hana Belt Road, Hana Hwy (HI 360), Pi'ilani Hwy (HI 31), Makawao, 01000615

Indiana

Bartholomew County

Aikens, David, House, 2325 Jonesville Rd., Columbus, 01000621

Carroll County

Wilson Bridge, 0.6 mi. W of Cty Rd. 450W on Cty Rd. 300N over Deer Creek, Delphi, 01000623

Hancock County

Reeves, Jane Ross, Octagon House, 400 S. Railroad St., Shirley, 01000620

Knox County

Shadowwood, 6451 E. Wheatland Rd., Vincennes, 01000618

Lake County

Clark, Wellington A., House, 227 S. Court St., Crown Point, 01000619

Tippecanoe County

Park Mary Historic District, Roughly bounded by Union, Hartford, N. 6th, and N. 14th Sts., Lafayette, 01000617

St. Mary Historic District,

Roughly bounded by Main, South, 10th and 14th Sts., Lafayette, 01000622

Louisiana

Livingston Parish

Castleberry Boarding House, 18290 Cooper St., Port Vincent, 01000624

Massachusetts

Hampshire County

Parsons, Shepherd and Damon, Houses Historic District, 546,58 and 66 Bridge St., Northampton, 01000627

Plymouth County

Adams, Frederic C., Public Library, 33 Summer St., Kingston, 01000625

Worcester County

Cambridge Grant Historic District, 205–287 Russell Hill Rd., 15 Wilker Rd., Ashburnham, 01000626

Missouri

Cole County

Gensky, H.E., Grocery Store Building, 423 Cherry St., Jefferson City, 01000628

New Hampshire

Carroll County

Eastman, William K., House, 100 Main St., Conway, 01000629

Grafton County

Piermont Bridge, NH 25 over Connecticut R.at Vermont State line, Piermont, 01000630

South Carolina

Marion County

Marion High School, 719 N. Main St., Marion, 01000631

South Dakota

Bon Homme County

Wagner, Joseph V., House, (Federal Relief Construction in South Dakota MPS) 112 Lidice St., Tabor, 01000633

Brookings County

Brookings Central Residential Historic District (Boundary Increase), (Schools in South Dakota MPS), 601 4th St., and 521 4th St., Brookings, 01000639

Codington County

Tarbell, Dr., House, 304 Second Ave. SE, Watertown, 01000634

Hughes County

Hipple, John E. and Ruth, House, 219 N. Highland, Pierre, 01000641

Hutchinson County

Schnaidt, Edward, House, 215 South Pearl, Menno, 01000632

Kingsbury County

Royhl, Adam and Minnie, House, 203 S. Third St., Arlington, 01000638

McCook County

Stark Round Barn, (South Dakota's Round and Polygonal Barns and Pavilions MPS), 0.3 mi W of Chicago and Northwestern RR, Unityville, 01000637

Turner County

Higinbotham, William, House, 511 Main St., Centerville, 01000635

Walworth County

Java Depot, Old Railroad Grade, Java, 01000640

Yankton County

Aggergaard Manor, Thompson St., Irene, 01000636

A request for REMOVAL has been made for the following resources:

Minnesota

Carver County

Kusske and Hahn Saloon (Carver County MRA), Cty. Hwy 23, Mayer vicinity 80001977

Paine County

Pine City Naval Military Armory (Pine County MRA), 1st Ave., Pine City 8000211

[FR Doc. 01–12435 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–706 (Review)]

Canned Pineapple Fruit From Thailand

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on canned pineapple fruit from Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on June 5, 2000 (65 FR 35666) and determined on September 1, 2000 that it would conduct a full review (65 FR 55047, September 12, 2000). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on November 1, 2000 (65 FR 67401). The hearing was held in Washington, DC, on March 13, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 8, 2001. The views of the Commission are contained in USITC Publication 3417 (May 2001, entitled Canned Pineapple Fruit from Thailand: Investigation No. 731–TA–706 (Review).

By order of the Commission.

Issued: May 9, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12479 Filed 5–16–01; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Jennifer A. Hillman is not participating in this five-year review.

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–456]

In the Matter of Certain Gel-Filled Wrist Rests and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 9, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of 3M Innovative Properties Company and Minnesota Mining and Manufacturing Company, both of St. Paul, Minnesota. Supplements to the complaint were filed on April 27 and May 1, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain gel-filled wrist rests and products containing same by reason of infringement of claims 1, 3, 6, 7, and 8 of U.S. Letters Patent 5,713,544. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2580.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 8, 2001, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain gel-filled wrist rests and products containing same by reason of infringement of claims 1, 3, 6, 7, or 8 of U.S. Letters Patent 5,713,544, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

3M Innovative Properties Company, 3M Center, 2501 Hudson Road, St. Paul, Minnesota 55144.

Minnesota Mining & Manufacturing Company, 3M Center, 2501 Hudson Road, St. Paul, Minnesota 55144.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Velo Enterprise Co., Ltd., 1012 Chung Shan Road, Sec. 1, Taichia ChenTaichung Hsien 43742, Taiwan

Aidma Enterprise Co. Ltd. 19 Floor 3, 79 Hsin Tai 5th Road, Section 1, Hsi Chih City, Taipai County, Taiwan

Good Raise Chemical Industry Co., Ltd., 1st Floor, 10 Alley 12 Lane 118, Sung Chu Road, Pei Tun District, Taichung City, Taiwan

ACCO Brands, Inc., 300 Tower Parkway, Lincolnshire, Illinois 60069,

Curtis Computer Products Inc., 441 Eastbay Boulevard, Provo, Utah 84606

Alsop, Inc., 4201 Meridian Street, Bellingham, Washington 98226

American Covers Inc., 102 W. 12200, Draper, Utah 84020

Gemini Industries, Inc., 215 Entin Road, Clifton, New Jersey 07014

(c) Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an

initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Issued: May 9, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12478 Filed 5–16–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–925 (Preliminary)]

Greenhouse Tomatoes From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada of greenhouse tomatoes, provided for in subheadings 0702.00.20, 0702.00.40, and 0702.00.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. TheSecretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On March 28, 2001, a petition was filed with the Commission and Commerce by Carolina Hydroponic Growers Inc., Leland, NC; Eurofresh, Willcox, AZ; HydroAge, Cocoa, FL; Sunblest Management, Fort Lupton, CO; Sunblest Farms, Peyton, CO; and Village Farms, LP, Eatontown, NJ, alleging that an industry in the United States is materially injured, or threatened with material injury, by reason of LTFV imports of greenhouse tomatoes from Canada. Accordingly, effective March 28, 2001, the Commission instituted antidumping duty investigation No. 731–TA–925 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 4, 2001 (66 FR 17926). The conference was held in Washington, DC, on April 18, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 14, 2001. The views of the Commission are contained in USITC Publication 3234 (May 2001), entitled Greenhouse Tomatoes from Canada: Investigation No. 925 (Preliminary).

By order of the Commission.

Issued: May 14, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12481 Filed 5–16–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–457]

In the Matter of Certain Polyethylene Terephthalate Yarn and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 11, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Honeywell International Inc. of Morristown, NJ. A supplement to the complaint was filed on May 3, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain polyethylene terephthalate yarn and products containing same by reason of infringement of claims 1, 2, 4, 5, 7, 10, 13, 14, 16, and 17 of U.S. Letters Patent 5,630, 976. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours(8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

FOR FURTHER INFORMATION CONTACT: T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2575.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 10, 2001, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain polyethylene terephthalate yarn or products containing same by reason of infringement of claims 1, 2, 4, 5, 7, 10, 13, 14, 16, or 17 of U.S. Letters Patent 5,630, 976 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Honeywell International Inc. 101 Columbia Road, Morristown, NJ 07962–2245.

(b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Hyosung Corporation, 450 Kongduk-dong, Mapo-gu, Seoul 121–020, Korea.

(c) T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Debra Morriss is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Issued: May 10, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12480 Filed 5–16–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Resource Conservation and Recovery Act

In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9601–9675, and section 7003 of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 ("RCRA"), 42 U.S.C. 6973, notice is hereby given of the execution of a proposed prospective purchaser agreement ("Purchaser Agreement"), associated with a commercial property located in Waynesboro, Virginia and presently owned by Genicom, Inc. ("Site"). The Purchaser Agreement has been executed by the Environmental Protection Agency ("EPA"), the Department of Justice, and the prospective purchaser, Solutions Way Management of Huntington, West Virginia.

Genicom is a debtor in bankruptcy which has liquidated all of its assets other than certain accounts receivable, causes of action and the Site. Since entering bankruptcy in March, 2000, Genicom has continued to comply with a unilateral administrative order ("UAO") issued against it by EPA in 1990 under Section 3008(h) of RCRA, 42 U.S.C. 6928(h), with the financial assistance of a former owner of the Site. In the near future, Genicom will have no remaining assets to continue its compliance efforts. Solutions Way Management is the only entity that has shown any substantial interest in purchasing the Site. If the Site is not sold to Solutions Way Management, Genicom will seek to abandon it under 11 U.S.C. 554.

The property subject to the Purchaser Agreement is located at Genicom Drive in Waynesboror, adjacent to the east side of the South River. Volatile organic compounds, such as trichloroethene, 1,2 dicholorethene and 1,1,1 trichloroethane were released into the environment at the Site during a period of approximately 30 years, ending in the 1980s. As a result, soil and groundwater at the Site have been contaminated. Aeration is being used at the Site to reduce or eliminate groundwater contamination. One solid waste management unit ("SWMU") at the Site, where two waste lagoons were formerly located, has been capped and is regulated under a closure permit that was issued in 1999 by the Commonwealth of Virginia's Department of Environmental Quality. It is expected that a permanent remedy for the Site will be proposed within a period of a few months.

Under the terms of the Purchaser Agreement, the purchaser will inspect and maintain the cap for the SWMU referred to above, maintain records at the Site, be responsible for Site security, and submit detailed work, sampling and analytical plans to EPA in any instance were it proposes to develop the Site. In return, the purchaser will receive a covenant not to sue under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and Sections 3008(h) and 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928(h) and 6973. Since EPA has incurred no CERCLA response costs at the facility to date, the purchaser will not be making a cash payment in the United States.

DATES: Comments must be submitted on or before May 30, 2001. Comments should be submitted to Region III, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, ATTN: Kathleen Root, Esq. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

AVAILABILITY: The proposed Purchaser Agreement and additional background information relating to the proposed Purchaser Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Purchaser Agreement may be obtained from Suzanne Canning, U.S. Environmental Protection Agency,

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Regional Docket Clerk (3RC00), 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the "Genicom RCRA Site Prospective Purchaser Agreement" and "EPA Docket No. RCRA–03–2001–0272 and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Kathleen Root (3RC43), Sr. Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2684.

Robert Brook,

Department of Justice, Assistant Section Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 01–12392 Filed 5–16–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Extension of a currently approved collection; Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance (DEA Form 189).

The Department of Justice, Drug Enforcement Administration (DEA), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 13, 2001, Volume 66, Number 49, pages 14595–14596 allowing for a 60-day public comment period. No comments were received during the 60-day comment period.

The purpose of this notice is to allow an additional 30 days for public comment until June 18, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

1. *Type of information collection:* Extension of a currently approved collection.

2. *The title of the form/collection:* Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number:* DEA Form 189. Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit. *Other:* None.

Abstract: Title 21, CFR, section 1303.22 requires that any person who is registered to manufacture any basic class of controlled substance listed in Schedule I or II and who desires to manufacture a quantity of such class must apply on DEA Form 189 for a manufacturing quota for such quantity of such class.

5. *An estimate of the total number of respondents, responses and the amount of time estimated for an average respondent to respond/reply annually:* 30 respondents, 263 responses, .5 hour per response. A respondent may submit multiple responses. A respondent will take an estimate of 30 minutes to complete each form.

6. *An estimate of the total public burden (in hours) associated with the collection:* 131.5 annual burden hours.

Public comments on this proposed information collection are strongly encouraged.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: May 13, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–12454 Filed 5–16–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

114th Full Meeting of the Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 114th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held Tuesday, June 12, 2001, in Conference Room N–5437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

The purpose of the meeting, which will begin at 1 p.m. and end at approximately 3:30 p.m., is for members to be updated on activities of the Pension and Welfare Benefits Administration and for chairs of this year's working groups to provide progress reports on their individual study topics.

Members of the public are encouraged to file a written statement pertaining to any topics the Council may be studying during 2001 by submitting 20 copies on before June 4, 2001 to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 219–8921. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 4 at the address indicated.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 4, 2001.

Signed at Washington, DC this 11th day of May, 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–12473 Filed 5–16–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension Welfare Benefits Administration

Working Group on Challenges to the Employment-Based Healthcare System, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Tuesday, June 12, 2001, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study challenges to the employment-based healthcare system.

The session will take place in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for working group members to examine weaknesses, strengths and alternatives to employer-based health benefits from both employer and employee perspectives.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before June 4, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey, by June 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 4.

Dated: Signed at Washington, DC, this 11th day of May 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–12474 Filed 5–16–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Planning for Retirement, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Monday, June 11, 2001, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study planning for retirement.

The session will take place in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1 p.m. to approximately 4 p.m., is for working group members to hear testimony on ways in which individuals can be encouraged to better plan for retirement.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before June 4, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 4.

Dated: Signed at Washington, DC this 11th day of May 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–12475 Filed 5–16–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Increasing Pension Coverage, Participation and Savings, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group assigned by the Advisory Council on Employee Welfare and Pension Benefit Plans to study the issue of increasing pension coverage, participation and savings will hold an open public meeting on Monday, June 11, 2001, in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue NW., Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to hear testimony from invited witnesses and engage in discussion concerning the factors which either encourage or inhibit the growth of pension plan coverage and, ultimately, retirement security.

Members of the public are encouraged to file a written statement pertaining to the topic by sending 20 copies on or

before June 4, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 4.

Signed at Washington, DC this 11th day of May 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–12476 Filed 5–16–01; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Sunshine Act Notice

TIME AND DATE: 11 a.m., Thursday, May 31, 2001.

PLACE: Board Conference Room, Sixth Floor, 1615 M Street, NW., Washington, DC 20419.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Board adjudication of the Office of Personnel Management's Request for Reconsideration in Azdell and Fishman v. Office of Personnel Management, DC–300A–97–0368–R–1 and DC–300A–97–0369–R–1.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Matthew Shannon, Counsel to the Clerk of the Board, (202) 653–7200.

Dated: May 15, 2001.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 01–12614 Filed 5–15–01; 3:18 pm]

BILLING CODE 7400–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Records Services.

DATES: June 11, 2001, from 10:00 a.m. to 11:30 a.m.

ADDRESSES: Bill Emerson Hall, U.S. House of Representatives Page School, Library of Congress, Jefferson Building, Room LJ–A15.

FOR FURTHER INFORMATION CONTACT: Michael L. Gillette, Director, Center for Legislative Archives, 202–501–5350.

SUPPLEMENTARY INFORMATION:

Agenda

Third Report to Congress: Follow-up
Historical Services Legislative Resource Center—Update
NARA Report on Electronic Records Project—Update
Center for Legislative Archives—Update
Other current issues and new business

The meeting is open to the public.

Dated: May 10, 2001.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 01–12427 Filed 5–16–01; 8:45 am]

BILLING CODE 7515–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting, Annual Board of Directors Meeting

TIME & DATE: 2 PM, Thursday, May 31, 2001.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Washington, DC 20005.

STATUS: Open.

CONTACT FOR MORE INFORMATION : Jeffrey T. Bryson, General Counsel/Secretary 202–220–2372.

Agenda

I. Call to Order
II. Approval of Minutes: February 26, 2001, Regular Meeting
III. Election of Chairman
IV. Election of Vice Chairman
V. Committee Appointments
VI. Election of Officers
VII. Board Appointments
VII. Treasurer's Report
IX. Executive Director's Quarterly Management Report
X. Strategic Planning Discussion
XI. Adjournment

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 01–12520 Filed 5–15–01; 10:35 am]

BILLING CODE 2570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Entergy Nuclear Fitzpatrick, LLC, and Entergy Nuclear Operations, Inc.; James A. Fitzpatrick Nuclear Power Plant Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of Section III.G.2.c of Appendix R to 10 CFR Part 50 to Entergy Nuclear FitzPatrick, LLC, and Entergy Nuclear Operations, Inc. (the licensee), in connection with Facility Operating License No. DPR–59 for operation of the James A. FitzPatrick Nuclear Power Plant located in Oswego County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action would provide an exemption from the technical requirements of Section III.G.2.c of Appendix R to 10 CFR Part 50 to the extent that it requires the enclosure of cables of one redundant train of safe shutdown equipment in a 1-hour fire rated barrier, in fire area Control Tunnel 1 (CT–1).

The proposed action is in accordance with the application for exemption dated October 30, 2000, filed by the former licensee, the Power Authority of the State of New York (PASNY), as supplemented by the Entergy Nuclear Operations, Inc. letter dated February 7, 2001. On November 21, 2000, PASNY's interests in the license were transferred to Entergy Nuclear FitzPatrick, LLC, which is authorized to possess and use FitzPatrick and to Entergy Nuclear Operations, Inc., which is authorized to possess, use and operate FitzPatrick. By letter dated January 26, 2001, Entergy Nuclear Operations, Inc. requested that the U.S. Nuclear Regulatory Commission (NRC) continue to review and act on all requests before the NRC which had been submitted by PASNY.

The Need for the Proposed Action

The proposed action is needed to support continued operation with cable wrap fire barriers in CT–1 that do not have a rating of 1 hour.

No Significant Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there would be no significant environmental impact as a result of the proposed action. While the installed fire barrier in CT–1 has less than a 1-hour fire endurance rating, it will provide some resistance to fire. The area where the fire barrier is located has no ignition sources other than cables, has available manual suppression capability, and is equipped with automatic fire suppression and fire detection. Under these circumstances, there is an adequate level of fire safety that there is reasonable assurance that at least one means of achieving and maintaining safe shutdown conditions will remain available during and after any postulated fire, and, therefore, the underlying purpose of the rule is met.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the James A. FitzPatrick Nuclear Power Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on March 22, 2001, the staff consulted with the New York State State official, Jay Dunkleberger, of the New York State Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see PASNY's letter dated October 30, 2000, as supplemented by Entergy Nuclear Operations, Inc.'s letter dated February 7, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 11th day of May 2001.

The Nuclear Regulatory Commission.

Guy S. Vissing,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–12413 Filed 5–16–01; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection:

Railroad Employers with No Compensated Employees;

Under 20 CFR 209.2 of the RRB's regulations, the RRB may require any employer or employee to furnish or submit any information, records, contracts, documents, reports or other materials within their possession or control, that, in the judgement of the RRB, may have any bearing upon (a) the employer status of any individual, person or company (b) the employee or pensions status of any individual, (c) the amount and credibility of service and compensation, and (d) any other matter arising which involves the administration of the Railroad Retirement Act. The RRB proposes to establish a monitoring program designed to periodically contact covered railroad employers who have either reported no compensated employees for the last 2 years, or who, after previously reporting no compensated employees are no longer reporting. The RRB will contact the targeted railroad employers and obtain information as to whether they had compensated employees in the past reporting year, if they expect to have compensated employees in the current reporting year, and provide them the opportunity to request that their status as an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act be reviewed. For program integrity purposes, targeted employers who operate a freight or passenger service will be asked to provide additional information as to whether they conducted any freight or passenger service during the previous reporting year, if they expect to conduct any during the current reporting year, or if they have ceased all operations. If they have conducted freight or passenger service, they will be asked how the service and compensation was accounted for. If they have ceased operations, they will be asked to provide the Interstate Commerce Commission/Surface Transportation Board references to any abandonment proceedings.

The RRB proposes the establishment of Form T–7, Request to Railroad Employers to obtain the necessary information from the targeted railroad employers. Form T–7 will be accompanied by an Employer Program Letter which explains the purpose of the initiative and provides instructions. The completion time for Form T–7 is estimated at 10 minutes. Completion is mandatory.The RRB estimates that approximately 175 T–7's will be completed annually.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–12452 Filed 5–16–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Home Security International, Inc. Common Stock, par value $0.001 per share) File No. 1–14502

May 11, 2001.

Home Security International, Inc., a Delaware corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $0.001 par value ("Security"), from listing and registration on the American Stock Exchange ("Amex").

The Issuer started in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

In making the decision to withdraw the Security from listing on the Exchange, the Issuer considered:

(1) The Issuer's non-compliance with the Amex maintenance standards concerning the price per share of the Issuer's Security ($0.12 as of May 1, 2001);

(2) The Issuer's non-compliance with the Amex maintenance standards concerning the number of registered shareholders of the Issuer's Security (21 as of October 23, 2000);

(3) The volume of trading of the Security is approximately nine percent (9%) of the aggregate trading volume in the Common Stock since 1997;

(4) The resignation of the Issuer's independent auditor;

(5) The percentage of the Issuer's Security owned by affiliates of the Issuer; and

(6) The costs associated with maintaining the Issuer's listing on the Amex in light of the Issuer's current financial position.

The Issuer represent that the Security has been listed in the Pink Sheets since late April 2001. The Issuer also represents that it is investigating whether or not to file a Form 15 with the Commission.

Any interested person may, on or before June 1, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issuer an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12437 Filed 5–16–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by P.L. 104–13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB Review; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority no later than June 18, 2001.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission, new collection of information.

Title of Information Collection: TVA Police Customer Satisfaction Survey.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households and business or other for-profit.

Small Business or Organizations Affected: Yes.

Estimated Number of Annual Responses: 2,000.

Estimated Total Annual Burden Hours: 167.

Estimated Average Burden Hours Per Response: 5 Minutes.

Need For and Use of Information: This information collection will be randomly distributed to individuals who use TVA facilities and come in contact with TVA Police Officers (i.e., campers, boaters, marina operators, etc.) to provide feedback on the quality of the security and safety provided by TVA Police on TVA-managed public lands. The information collection will be used to evaluate current security and safety policies and to identify new opportunities for improvement.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations, Information Services.

[FR Doc. 01–12453 Filed 5–16–01; 8:45 am]

BILLING CODE 8120–08–P

[3] 17 CFR 200.30–3(a)(1).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the University of Oklahoma Westheimer Airport, Norman, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the University of Oklahoma Westheimer Airport under the provisions of Section 125 and 751 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21) and Section 352 of Public Law 106–346 (FY–2001 Department of Transportation Appropriation Act).

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Edward Agnew, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Arkansas/Oklahoma Airports Development Office, ASW–630, Fort Worth, Texas 76193–0630.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David L. Boren, President at the following address: The University of Oklahoma, Office of the President, 660 Parington Oval, Evans Hall, Room 110, Norman, OK 73019.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Hellen, Program Manager, Federal Aviation Administration, Oklahoma City Airports District Office, 5909 Phillip J. Rhoads Avenue, Oklahoma City, Oklahoma 73008.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comments on the request to release property at the University of Oklahoma Westheimer Airport, Norman, Oklahoma under the provisions of the AIR–21 and Public Law 106–346.

On April 2, 2001, the FAA received a proposal with supporting information requesting release of property at the University of Oklahoma Westheimer Airport. The proposal meets the requirements of section 751 of AIR–21 and section 352 of Public Law 106–346. FAA may approve the request, in whole or in part, at the conclusion of the comment period.

The following is a brief overview of the request:

The University of Oklahoma requests the release of approximately 200 acres of airport property identified as "Parcels II, III and IV" from the terms and conditions represented in Surplus Property and Grant Agreements. The release of property will permit the University of Oklahoma to derive proceeds from the use, operation and disposal of the land to construct and establish with the National Oceanic and Atmospheric Administration and the National Weather Service a weather facility.

Any person may inspect the University's request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person by contacting the University of Oklahoma.

Issued in Forth Worth, Texas on April 27, 2001.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 01–12487 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Associate Administrator for Commercial Space Transportation; Notice of Availability of a Draft Environmental Assessment (EA) for Proposed Issuance of a Launch Operator License (LOL) or Launch Specific Licenses to Sea Launch Limited Partnership (SLLP)

AGENCY: Federal Aviation Administration (FAA), Associate Administrator for Commercial Space Transportation (AST).

ACTION: Notice of availability.

SUMMARY: In accordance with Executive Order 12114, the implementation of which is guided by the National Environmental Policy Act (NEPA), the FAA is initiating a 30-day public review and comment period of a Draft Environmental Assessment (EA) for proposed issuance of a launch operator license (LOL) or launch specific licenses to Sea Launch Limited Partnership (SLLP). If issued, the LOL would authorize SLLP to conduct, within certain launch parameters, up to eight commercial launches per year for five years without having to apply for a separate license for each launch. These launches would all be equatorial and would use azimuths between 82.6° and 97.4°, inclusive, originating from the SLLP Launch Platform (LP) at 0° latitude and 154° West (W) longitude, which is 425 kilometers (266 miles) from Kiritimati (Christmas Island) in the Kiribati Island Group in the Pacific Ocean. This Draft EA also addresses the proposed issuance of a launch-specific license for the launch of a Galaxy IIIC payload as well as other proposed launch specific licenses within the defined azimuth range and other specified launch parameters should the proposed LOL not be issued or be delayed. As a foreign entity in which a U.S. citizen has a controlling interest, in order to conduct commercial launch operations SLLP must obtain a license from FAA. Copies of the draft document are available through AST's Website (*http://ast.faa.gov/*) or by contacting Ms. Michon Washington at the address listed below.

DATES: The official comment period will begin with publication of this Notice of Availability. The comment period will end June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Questions about the license applicant's proposed action and the Draft EA may be addressed to Ms. Michon Washington, Office of the Associate Administrator for Commercial Space Transportation, Space System Development Division, Suite 331/AST–100, 800 Independence Avenue SW., Washington, DC 20591; email *michon.washington@faa.gov* or phone (202) 267–9305. Written comments regarding the Draft EA should be sent to the same mailing address.

Additional Information: Under the license applicant's proposed action, the FAA would issue a license to SLLP to conduct (1) Up to eight launches per year over a five-year period, for a maximum of 40 launches; (2) from a launch site at 0° latitude and 154° W longitude; (3) within a range of launch azimuths from 82.6° to 97.4°, inclusive; (4) using a Zenit-3SL launch vehicle; and (4) transporting specified classes of payloads. The FAA is also evaluating the possibility of issuing a launch-specific license to SLLP for the launch of Galaxy IIIC, as well as other potential launch-specific licenses (not to exceed eight per year) as necessary should the proposed LOL not be issued or be delayed. The proposed launch-specific licenses would authorize SLLP to conduct specific launches (1) From a launch site at 0° latitude and 154° W longitude; (2) for a launch along an azimuth of 90.0°; (3) using a Zenit-3SL launch vehicle; and (4) transporting specified classes of payloads.

The FAA is considering six alternatives to the license applicant's proposed action. Three of these alternatives were briefly considered and dismissed as not fulfilling the purpose and need of the proposed action. They include: (1) Increasing the annual number of launches to a range of up to 12 per year; (2) using a range of azimuths from 70° to 110° (identified as

possible azimuths for GSO launches); (3) launching along a range of azimuths between 82.6° and 97.4° but avoiding specific azimuths within this range that would overfly any nation's National Park or National Reserve. Two alternatives were carried forward and considered in detail in the Draft EA including: (1) Launching along a range of azimuths between 82.6° and 97.4° but avoiding any azimuth that would overfly any of the Oceanic Islands (Galapagos Islands, Cocos Island, and Malpelo Island) and (2) launching along a range of azimuths between 82.6° and 97.4° but avoiding any azimuths that overfly the Galapagos Islands. The No Action Alternative was also considered in detail. Under the No Action alternative, FAA would not issue a LOL to SLLP. SLLP would continue to prepare and submit launch-specific applications for individual licenses to launch up to six satellites per year, including appropriate environmental analyses and documentation to support launch-specific applications when required.

Potential impacts of the license applicant's proposed action were analyzed in the Draft EA. Potential environmental impacts of successful launch vehicle flight include impacts to the geology, oceanography, atmospheric processes, and biological communities within the overflight and stage and fairing deposition areas. Additionally, possible impacts to commercial activities in these areas were analyzed. Potential environmental impacts of three failed mission scenarios were also considered including: (1) Possible failure at the launch platform, (2) possible failure during Stage I and Stage II flight over open ocean, and (3) possible failure during Upper Stage flight over the ocean, Oceanic Islands, or South America. Finally, potential environmental impacts associated with the avoidance of the Oceanic Islands alternative and the avoidance of the Galapagos Islands alternative were also analyzed. The impacts of the No Action Alternative would be the same as those addressed in the FAA's Final Environmental Assessment for the Sea Launch Project (February 11, 1999).

Potential cumulative impacts of each phase of the launch operation associated with eight SLLP launches per year for five years, or a maximum of 40 proposed launches, over the broader range of azimuths of the license applicant's proposed action are also addressed in the Draft EA.

Based on the Draft EA, FAA will determine whether there are potentially significant impacts requiring preparation of an Environmental Impact Statement (EIS) or whether to issue a Final EA and Environmental Finding Document finding no significant impact.

Dated: May 11, 2001.

Herb Bachner,

Manager, Space Systems Development Division.

[FR Doc. 01–12390 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–38]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petitioner or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC., on May 14, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: 29725.
Petitioner: Federal Express Corporation.
Section 14 CFR Affected: 14 CFR 121.417(c)(2)(i).
Description of Relief Sought/Disposition: To provide FedEx relief from the requirement that each flight crewmember perform hands-on emergency drills and operate certain emergency equipment every 24 months during recurrent training.
Denial, 04/30/2001, Exemption No. 7521.

Docket No.: FAA–2001–9228.
Petitioner: Bridger Aviation Services, Inc.
Section 14 CFR Affected: 14 CFR 135.143(2)(2).
Description of Relief Sought/Disposition: To permit Bridger to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 04/26/2001, Exemption No. 7519.

Docket No.: FAA–2001–8745.
Petitioner: Caribou Air Service.
Section 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Caribou to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 04/26/2001, Exemption No. 7518.

Docket No.: FAA–2001–8743.
Petitioner: Beaver Air Taxi, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Beaver Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 04/26/2001, Exemption No. 7517.

Docket No.: FAA–2001–9043.
Petitioner: Horizon Air Industries, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(a)(14), (a)(29), (a)(33), (a)(40), (a)(44), and (a)(54).
Description of Relief Sought/Disposition: To permit Horizon and all similarly situated air carriers to operate the Bombardier CL–600–2C10 airplane without recording the parameters listed in § 121.344(a)(14), (a)(29), (a)(33), (a)(40), (a)(44), and (a)(54) within the ranges, accuracies, resolutions, and recording intervals specified in appendix M to part 121.
Denial, 04/27/2001, Exemption No. 7520.

Docket No.: 28855.
Petitioner: Offshore Logistics, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/Disposition: To amend Exemption No. 6714, as amended, which permits Offshore to operate certain helicopters under part 135 without an approved digital flight data recorder installed on each helicopter. By (1) changing the name of the exemption holder from Offshore Logistics, Inc., to Air Logistics, L.L.C., and (2) updating the list of helicopters covered by the exemption.
Grant, 05/04/2001, Exemption No. 6714C.

Docket No.: FAA–2001–8738.
Petitioner: DHL Airways, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(b)(3).
Description of Relief Sought/Disposition: To allow DHL to operate two Airbus 300B4–200 series airplanes (Registration Nos. N367DH and N366DH) without installing in each the airplane the required digital flight data recorder.
Grant, 05/04/2001, Exemption No. 7522.

Docket No.: FAA–2000–8423.
Petitioner: Alaska Flying Network.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J of part 121.
Description of Relief Sought/Disposition: To permit AFN to conduct no more than four local sightseeing flights at an airport in the vicinity of Kenai, AK, as part of a raffle to raise funds for local charities, at a date and time to be determined by you and recipient(s) of the flight, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 04/27/2001, Exemption No. 7274A.

[FR Doc. 01–12488 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34021]

Central Michigan Railway Company and CSX Transportation, Inc.—Joint Relocation Project Exemption—In Saginaw, MI

Central Michigan Railway Company (CMGN) has filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate its rail operations within the City of Saginaw, MI, from a portion of its line to a portion of line owned by CSX Transportation, Inc. (CSXT). CMGN will operate over the portion of the line owned by CSXT by overhead trackage rights. CMGN states that the transaction will be consummated by September 1, 2001, but not before April 26, 2001, the effective date of the exemption.[1]

CMGN operates over an approximately 1.92-mile rail line entirely in Saginaw, from CMGN milepost 0.07, at or near the Denmark Switch, to CMGN milepost 1.99, at or near Hoyt Diamond, MI (subject line). CMGN currently connects with CSXT at milepost BB 07, at or near Mershon Switch.

Under the joint relocation project, CMGN and CSXT propose the following trans (1) CMGN will acquire overhead trackage rights over approximately 2.9 miles of rail line owned by CSXT from milepost BBO 7 at or near the Mershon Switch east to milepost CB 1 near the Saginaw Yard (a distance of approximately 1.7 miles), then from milepost CB 1 southeast to milepost CC 2.2, at or near the Hoyt Diamond (a distance of approximately 1.2 miles), at which point CMGN would connect with its main line;[2] (2) CMGN will abandon its operations from CMGN milepost 0.07 at or near the Denmark Switch to CMGN milepost 1.99 at or near the Hoyt Diamond (the subject line); and (3) CMGN will construct a new public team track facility, approximately 570 feet long beginning at CSXT milepost CC 2.1 on CSXT's line and connecting with CMGN at approximately CMGN's milepost 2.04.

The proposed joint relocation project will not disrupt service to shippers.[3] Its purpose is to eliminate approximately 22 grade crossings (8 of which cross major system routes) pursuant to a highway improvement project funded by CMGN, CSXT, the Michigan Department of Transportation, the City of Saginaw and TEA–21 Local Safety Program funds. Thus, it will enhance public safety by reducing the risk of crossing accidents. The notice further states that CSXT's trackage rights provides an alternate route by which CMGN can access its own rail line. There will be no expansion into new territory; nor will there be a change in the existing competitive situation.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into a new territory. *See City of Detroit* v. *Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993), *aff'd sub nom., Detroit/Wayne County Port Authority* v. *ICC*, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.&I.R.—Trackage Rights*, 363 I.CC. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34021, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Weinryb, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–12345 Filed 5–16–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34026]

Summit View, Inc.—Control Exemption—Mahoning Valley Railroad Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323, *et seq.*, the acquisition by Summit View, Inc. (Summit) of control of Class III rail carrier Mahoning Valley Railroad Company (MVRC). Summit is a noncarrier holding company that controls eight Class III rail carriers.[1] MVRC's capital stock is owned by Cuyahoga Valley Railway Company which, in turn, is a wholly owned subsidiary of LTV Steel Company (LTV).[2] On March 28, 2001, Summit submitted to the Board for review and

[1] An unredacted version of the trackage rights agreement between CMGN and CSXT, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed with the notice of exemption under seal along with a motion for a protective order. A protective order was served on May 2, 2001.

[2] CMGN's use of the trackage rights would make its rail operations more efficient. It would further allow CMGN to access its shippers east of the Hoyt Diamond by having a more direct route between the Saginaw Yard and the Hoyt Diamond after it interchanges with CSXT.

[3] By letter dated April 11, 2001, Self-Serve Lumber, the only shipper on the line fully supports the proposed relocation and incidental abandonment by CMGN.

[1] Ohio Central Railroad, Inc., Ohio Southern Railroad, Inc., Youngstown Belt Railroad, Inc., Warren & Trumbull Railroad, Ohio & Pennsylvania Railroad, Youngstown & Austintown Railroad, Pittsburgh & Ohio Central Railroad, and Columbus & Ohio River Railroad Company.

[2] LTV, MVRC's largest shipper, is presently engaged in voluntary reorganization proceedings under Chapter 11 of the U.S. Bankruptcy Code. LTV has sought and secured conditional approval from the Bankruptcy Court to sell MVRC and other non-core assets as promptly as practicable in order to streamline LTV's operations and emerge a stronger and more efficient organization by selling a number of assets that are either unproductive or nonessential.

an informal opinion under 49 CFR 1013 a proposed voting trust agreement [3] to be entered into by Summit and MVRC.[4] Summit requests expedited action on the exemption petition. This request is addressed in the Board's decision.

DATES: The exemption will be effective June 1, 2001. Petitions for stay must be filed by May 22, 2001. Petitions for reconsideration must be filed by June 6, 2001.

[3] A corrected copy of the agreement was submitted on April 3, 2001.

[4] On April 12, 2001, the Board's Secretary, Vernon A. Williams, issued an informal opinion in which he concluded that the voting trust "effectively insulates Summit and its subsidiaries and affiliates from unauthorized control of MVRC."

ADDRESSES: Send an original and 10 copies of any pleadings referring to STB Finance Docket No. 34026 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any pleadings to petitioner's representatives: Kelvin J. Dowd and Andrew B. Kolesar III, 1224 Seventeenth St., NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600 [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā-to-Dā Office Solutions, 1925 K Street NW., Suite 210, Washington, DC 20006. Telephone: (202) 756–1649. [Assistance for the hearing impaired is available through TDD services 1–800–877–8339.]

Board decisions and notices are available on our website at WWW.STB.DOT.GOV."

Decided: May 11, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–12346 Filed 5–16–01; 8:45 am]

BILLING CODE 4915–00–P

Federal Register

Thursday,
May 17, 2001

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Flight Crewmember Flight Time Limitations and Rest Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

Flight Crewmember Flight Time Limitations and Rest Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of enforcement policy.

SUMMARY: This notice of enforcement policy announces to the public the Federal Aviation Administration's (FAA's) intent to rigorously enforce its existing regulations governing flight crewmember rest requirements that are presently codified at 14 CFR 121.471. These regulations have been in existence since 1985, and it is the FAA's intention to ensure that the current rules, as interpreted, are followed by those whose conduct they govern. Accordingly, this notice publishes the FAA's long-standing construction of 14 CFR 121.471 and affords notice to affected certificate holders and flight crewmembers of the FAA's intent to enforce its rules in accordance with these interpretations. This policy statement is being given so those affected will have an opportunity to review their practices and, if necessary, come into full regulatory compliance.

DATES: This notice of enforcement policy is effective on May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Alberta Brown, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION:

The Regulation

The Civil Aeronautics Act of 1938 (52 Stat. 1007; as amended by 62 Stat. 1216, 49 U.S.C. 551) and subsequently the Federal Aviation Act of 1958 (now codified at 49 U.S.C. 40101 *et seq.*) addressed the issue of regulating flight crewmember hours of service. The FAA's governing statute empowers and directs the Secretary of Transportation to establish "regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers." 49 U.S.C. 44701(a)(4). The statue further provides the FAA with the authority to prescribe "regulations and minimum standards for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security." 49 U.S.C. 44701(a)(5).

The FAA's rules at 14 CFR 121.471(b) and (c) set forth flight time limitations and rest requirements for domestic operations. These provisions state:

Section 121.471—Flight time limitations and rest requirements: All flight crewmembers

(b) Except as provided in paragraph (c) of this section, no certificate holder conducting domestic operations may schedule a flight crewmember and no flight crewmember may accept an assignment for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during that 24 hours of at least the following:

(1) 9 consecutive hours of rest for less than 8 hours of scheduled flight time.

(2) 10 consecutive hours of rest for 8 or more but less than 9 hours of scheduled flight time.

(3) 11 consecutive hours of rest for 9 or more hours of scheduled flight time.

(c) A certificate holder may schedule a flight crewmember for less than the rest required in paragraph (b) of this section or may reduce a scheduled rest under the following conditions:

(1) A rest required under paragraph (b)(1) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 10 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(2) A rest required under paragraph (b)(2) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 11 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(3) A rest required under paragraph (b)(3) of this section may be scheduled for or reduced to a minimum of 9 hours if the flight crewmember is given a rest period of at least 12 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(4) No air carrier may assign, nor may any flight crewmember perform any flight time with the air carrier unless the flight crewmember has had at least the minimum rest required under this paragraph.

In June 1999, FAA issued a notice of enforcement policy related to this rule. In that notice, the FAA clarified that the rules were applicable to all pilots operating in domestic scheduled operations. In December, 1999, FAA conducted a comprehensive review of air carrier scheduling practices and found that with one exception all operators were in compliance with the rule.

Interpretations of Rest Requirements

In part in response to the FAA's earlier focus on air carrier compliance with the flight and rest rules, the chairman of a national pilots union sent the FAA a letter posing a set of circumstances and inquiring about the applicability of 14 CFR 121.471 (b) and (c) to various scenarios. The FAA issued a response that reflects the agency's long-standing construction of these regulatory provisions. That response is attached to this notice. In substance, the FAA reiterated that each flight crewmember must have had a minimum of 8 hours of rest in any 24 hour period that includes flight time. In addition, the interpretation reiterated that if a pilot's actual rest was less than 9 hours in the 24 hour period that included flight time, the next rest period must be lengthened to provide for the appropriate compensatory rest. The substance of the FAA response is contained in the Appendix.

After the interpretation was issued, many operators questioned whether this was consistent with earlier FAA interpretations. FAA met with representatives of the airlines as well as with organizations that represent them. At the meeting, the representatives stated that their approved scheduling systems had not been tracking the actual rest that a pilot had received in a 24-hour period that included flight time. The operators expressed concern that applying the rule as interpreted could reduce safety. They suggested that a pilot should not be diverted from important preflight and taxi-out duties by the need to constantly monitor whether he or she has had sufficient rest to finish the flight. They were particularly concerned about what might happen when there has been a lengthy ground delay and the flightcrew or the aircraft dispatcher determines that the flight cannot be completed within the rest requirements.

FAA met with representatives of the pilots unions. The pilots stated that in the vast majority of cases pilots are receiving the amount of rest required by the rule. However, they suggested that in a small number of operations it was possible that when a pilot completed his or her assigned flight schedule, he or she may have had less than 8 hours of rest in the preceding 24-hour period.

To ensure that the application of the rule would have no consequences that would reduce safety, the FAA considered all these concerns and all the information provided by the operators and the pilot unions. Although there may be some impacts to schedules and some delayed operations, FAA believes that safe operations require that a flight crewmember has a minimum of 8 hours rest in a 24 hour period that includes flight time. In addition, that flight crewmember must receive additional rest in the next rest period to compensate for any potential fatigue.

Compliance and Enforcement Plan

The FAA intends to rigorously enforce these regulations governing flight time restrictions and rest requirements. Accordingly, any noncompliance with the regulation should be corrected without delay.

For any air carriers that are not currently in compliance with these regulations, the FAA intends to take into consideration the certificate holder's good faith efforts to come into compliance in determining what, if any, enforcement action is appropriate if noncompliance is discovered. With regard to violations by individual flight crewmembers, the FAA will consider the circumstances of each case, including such factors as the employing certificate holder's effort to come into compliance and the culpability of the individual.

While the FAA reserves the right to take appropriate action to address regulatory noncompliance, particularly in egregious circumstances, the FAA does not intend to target its inspection resources on this compliance issue at this time. However, this notice serves to advise air carriers, flight crewmembers, and the public that on [insert date (6 months from publication date)] the FAA intends to begin a comprehensive review of certificate holders' flight scheduling practices and expects to deal stringently with any violations discovered.

Issued in Washington, DC, on May 14, 2001.

Margaret Gilligan,

Acting Associate Administrator for Regulation and Enforcement.

Appendix

Facts: A crew is assigned reserve standby duty commencing at 0600. They are then called at 0900 to check in for a flight assignment at 1100.

End of rest	Report at	Release at	Sched. rest	Look-back rest
Day 1 0600	1100	2100	10:00	9:00
Day 2 0700	0700	1700	12:00	10:00

In the above example, assume that the crew was assigned to three segments with a total of less than 8 hours of flying in each duty period and that the scheduled block-in of the last flight of each day is 15 minutes prior to release. This original schedule does not require compensatory rest. I note, preliminarily, that your letter states that I should assume that the flight crew "was assigned to three segments with a total of less than 8 hours of flying in each duty period." I assume that by that statement you mean "less than a total of 8 hours of scheduled flight time for the three flight segments, on both Day 1 and Day 2." Based on that assumption, the regulations that I will apply are those that require a minimum of 9 consecutive hours of scheduled rest (section 121.471(b)(1)) that may be reduced to a minimum of 8 hours with a minimum of 10 hours compensatory rest that must begin no later than 24 hours after the commencement of the reduced rest (section 121.471(c)(1) (the "reduced/compensatory rest" exception)). I have also made other assumptions or clarifications that are described in my responses below.

Situation 1: On Day 1, all goes according to plan on the first two segments. However, after leaving the gate on the third segment, the crew encounters an unanticipated ground delay that results in only an 8 hour, 45 minutes look-back rest period upon termination at destination.

1. Is compensatory rest now required upon landing?

Response: You do not provide specific details on what is the termination time of the last flight segment. (I assume that by "termination at destination" you mean the "termination of the last flight segment.") However, you state, above, that the flight crew would only receive an 8 hours and 45 minutes look-back rest period. I therefore assume that the termination of that last flight segment, based on the other factual details you provide above, was at 2115. Looking back 24 hours from 2115 on Day 1 to 2115 on the day prior to Day 1, one finds only 8 and three quarters consecutive hours of rest in the period 2115 (of the day prior to Day 1) to 0600 hours (on Day 1).

The only situation in which a certificate holder may reduce the minimum 9 hour required rest period is to utilize the "reduced/compensatory rest" exception that allows certificate holders the flexibility to adjust scheduled rests in the event of late arrivals. Thus, a certificate holder may reduce the required scheduled rest so that one finds a minimum look-back rest of 8 consecutive hours on termination of the last flight segment, as well as provide the required compensatory rest. In your scenario, the certificate holder could reduce the required minimum 9 consecutive hours of scheduled rest to 8 and three-quarters hours.[1] However, the certificate holder must also provide the flight crewmember with a compensatory rest period of at least 10 hours that must begin no later than 24 hours after commencement of the reduced rest period. In your scenario, that compensatory rest must begin at 2115 on Day 1, since the reduced rest begins at 2115 on the day before Day 1.

2. In the case of a ground delay prior to take-off, would the crew and certificate holder be correct in using planned flight time and taxi-in time in determining the scheduled arrival time?

Response: The FAA requires the crew and the certificate holder to use the actual expected flight time and taxi-in time, based on the specific conditions that exist on the day, to determine the scheduled arrival time for purposes of determining whether a flight should be commenced. For example, if an airline has published a flight time of three hours, but knows that the actual time the flight will take is four hours because of weather, ground delays, etc., then the FAA requires the carrier to use four hours for purposes of calculating the arrival time. On the other hand, if the air carrier has scheduled a flight for three hours, but on the day in question, it is reasonable to conclude that flight time would only be two and a half hours, the carrier may use two and a half hours to calculate the arrival time.

3. If the ground delay continues to the point that the look-back rest is reduced below 8 hours, can the crew continue? If so, what are the rest requirements upon arrival?

Response: The flight may not take off if the look-back rest period is reduced to less than 8 hours. There must be at least an eight-hour look-back rest period. The eight-hour minimum reduced rest may not be further reduced under any circumstance.

4. If a ground delay, that would result in a late arrival that would not provide at least 8 hours of look-back rest is known by the certificate holder and/or crew prior to gate departure, can the crew depart legally based upon the published scheduled flight time?

Response: No. As stated above, the FAA requires the crew and the certificate holder to use the actual expected flight time and taxi-in time, based on the specific conditions that exist on the day, to determine the scheduled arrival time for purposes of determining whether a flight should be commenced. If the actual expected flight time is longer than the carrier originally calculated in determining the scheduled arrival time, then the actual expected flight time must be used in determining the look-back rest period.

Situation 2. On Day 1, the crew is late inbound on the second segment which results in not being able to leave the gate on the third and last segment on time. As a result, the look-back would now provide 8 hours and 45 minutes rest in the previous 24, based on the scheduled duration of the final segment.

1. Is compensatory rest now required upon arrival?

Response: Yes. Compensatory rest would be required upon arrival at the third destination. See the discussion in my response to question 1 of Situation 1 above.

2. If the crew were further delayed so that they could not depart to provide at least 8 hours of look-back rest upon arrival, could they depart legally?

[1] I note that the certificate holder could reduce the scheduled rest to a minimum of 8 hours.

Response: No. If, when using the actual expected flight time, the carrier cannot find at least 8 hours of look-back rest upon arrival, then the flight may not depart, under the FAA regulations. See my response to question 3 of Situation 1 above.

3. If there is a known ground stop for the destination of the final segment, which would result in look-back rest of only 7 hours and 45 minutes, can the crew legally leave the gate? If they are off the gate when the ground stop occurs, can they continue?

Response: If it is known, or reasonably should be known, that the flight time will be extended because of ground stops at the destination airport, then this information must be included in determining the actual expected flight time. If, when this information is factored in, it is known or should be known that arrival based upon the actual expected flight time will not result in at least 8 hours of look-back rest, then the flight may not leave the gate. If the flight is away from the gate, but is not yet in the air, then the flight may not take off. If the ground stops at the destination airport do not become known until after the flight is in the air, the FAA will not, as a matter of enforcement policy, take enforcement action against the flight crewmember or the certificate holder for a violation of the regulations, provided the ground stops at the destination airport are an unforeseen delay beyond the control of the certificate holder and the full, required minimum reduced rest and the compensatory rest are given at the completion of the flight segment.

4. Should the scheduled arrival time in 3 above be based upon published scheduled flight time or flight planned duration (flight time plus taxi time)?

Response: Arrival time in 3 above should be based on flight planned duration, i.e., the actual expected flight time based on the conditions existing on the day in question. Also, I am not sure what you mean by "published scheduled flight time." If you mean scheduled flight time as published in the Official Airline Guide (OAG), such flight time may be unrealistically high. Sometimes a certificate holder might overestimate the duration of a flight in order to have some cushion in the schedule and be able to report an on-time arrival. The actual realistic flight time (block to block time) may be less than such "published scheduled flight time" in the OAG.

5. Would the reason for the crew being late on the second flight (beyond the control of the air carrier or not) have any bearing on the rest requirement?

Response: I assume that your question is whether section 121.471(g) (the "circumstances beyond the control of the certificate holder" exception) excuses a rest violation. No. That exception applies only to the scheduling of flight time. It is inapplicable to, and does not excuse, a violation of a rest requirement. Also see my response to question 1 of Situation 1 in which I discuss the use of the "reduced/compensatory rest" exception, its purpose, and compliance with its terms.

Situation 3: On Day 1, one of the carrier's hubs is impacted by a weather system in the morning. As a result, the carrier decides to delay all remaining departure times that day out of the hub.

1. If a departure so delayed would result in a crew having look-back rest of less than 9 hours, would compensatory rest be required?

Response: Yes. (I assume that the look-back rest, which is less than 9 hours, would still be at least 8 hours.)

2. If the delay resulted in a crew having look-back rest of less than 8 hours, could a crew legally depart?

Response: No. The FAA would consider this flight to be in violation of the regulations.

Situation 4. The crew and air carrier know, prior to departure, that forecast winds or enroute weather are resulting in a flight plan for that segment that exceeds the normal duration published in the carrier's schedules.

1. Can the crew legally depart if the scheduled arrival time based on the flight plan would encroach upon or delay the required start of a compensatory rest period?

Response: I assume that the questions for Situation 4 relate to Day 1 and to the last flight segment. I am not sure what you mean by "published in the carrier's schedules." See my response to question 4 in Situation 3 above. If you mean that the crew and certificate holder know, prior to take-off, that en route weather conditions will result in the flight taking longer than expected, then my answer is as follows. Even if the expected termination of the last flight segment would allow a minimum 8 consecutive hours look-back rest period, if the crew and certificate holder expect, prior to take-off, that the flight will infringe on the required start of the compensator rest period, the crew may not legally depart. Thus, although the actual flight time might exceed flight time limits and although exceeding flight time limits in these circumstances would be allowed under the "circumstances beyond the control of the certificate holder" exception, that exception does not permit an encroachment on reduced rest or compensatory rest below the minimums specified in the regulations.

2. If the original crewmember's schedule did not require compensatory rest, would compensatory rest be required if the scheduled arrival based upon the flight plan information resulted in the crewmember having less than 9 hours of look-back rest upon arrival?

Response: If, upon termination of the last segment, the look-back rest was actually less than 9 hours, then compensatory rest is required regardless of the scheduled arrival.

3. If the original crewmember's schedule did not require compensatory rest, would the crewmember be legal to depart if the scheduled arrival based upon the flight plan information resulted in the crewmember having less than 8 hours of look-back rest upon arrival?

Response: No. If, at the time of departure, it is calculated that a pilot will have less than 8 hours of look-back rest upon termination of the last flight segment, then the flight may not take off. The intention to give compensatory rest may not be used to permit a pilot to take a flight when it is known at the beginning of the flight that the pilot will have less than 8 hours of look-back rest upon termination of the last flight segment.

[FR Doc. 01–12419 Filed 5–14–01; 2:00 pm]

BILLING CODE 4910–13–M

Federal Register

Thursday,
May 17, 2001

Part III

Department of Agriculture

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning; Extension of Compliance Deadline; Interim Rule and Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning; Extension of Compliance Deadline

AGENCY: Forest Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Department is issuing an interim final rule to extend for one year the date specified in 36 CFR 219.35(b) by which all land and resource management plan amendments and revisions would be subject to the new planning regulations adopted November 9, 2000. The Department has determined that the Forest Service is not sufficiently prepared to fully implement the rule agencywide. Without relief from the dates established in 36 CFR 219.35(b), the agency will experience serious disruption in its planning processes with attendant confusion of employees and the public. Such disruption and confusion would be contrary to the public interest. In addition, serious concerns have arisen regarding some of the provisions of the new planning rule, and an extension of the compliance date will allow the Department to review these provisions carefully and to identify any adjustments that may be necessary. While an interim final rule is necessary, the Department also believes that the public should have an opportunity to comment on the advisability and effects of extending the compliance date. To provide this opportunity, the Department is simultaneously publishing a proposed rule elsewhere in this part of today's **Federal Register**. The Department's intent is that the interim final rule will remain in effect until the Department completes the corollary rulemaking process initiated by the proposed rule.

EFFECTIVE DATE: This interim final rule is effective May 17, 2001.

ADDRESSES: Written inquiries about or comments on this rule may be sent to the Director, Ecosystem Management Coordination Staff, USDA Forest Service, P.O. Box 96090, Washington, DC 20090–6090 or by facsimile to (202) 205–1012.

FOR FURTHER INFORMATION CONTACT: Dave Barone, Planning Specialist, Forest Service, USDA; Telephone (202) 205–1019.

SUPPLEMENTARY INFORMATION: On November 9, 2000, the Secretary of Agriculture adopted a final rule, which revised the land and resource management planning rules at 36 CFR part 219 (65 FR 67514). The new rule established requirements for the implementation, monitoring, evaluation, amendment, and revision of land and resource management plans. Under the requirements of § 219.35, all amendments and revisions to land and resource management plans must be prepared pursuant to the new planning rules, unless those amendments and revisions were initiated before November 9, 2000, and a notice of availability of the required environmental disclosure document (that is, a draft environmental impact statement or an environmental assessment) is published before May 9, 2001.

The Need for Immediate Action

Approximately 34 forests are currently revising land and resource management plans under the 1982 planning regulations (47 FR 43026, September 30, 1982) as amended (48 FR 29122; June 24, 1983 and 48 FR 40383; September 7, 1983). About 20 of these forests have conducted extensive public involvement activities under the 1982 planning regulations, but are not able to complete the necessary environmental disclosure documents by May 9, 2001. The new planning regulations require substantially different analyses to be completed prior to initiating revisions and engaging the public in the revision process. The November 2000 regulations also require different procedures for collaborating with the public in the revision process. Unless the May 9, 2001, date is extended, these ongoing revision efforts must be halted, and these forests then will have to re-engage the public using the different procedures and analyses of the new rule. The Department believes the resulting confusion, disruption of the agency's programs, and additional expenditure of public funds are unreasonable, unnecessary, and contrary to the public interest.

Another immediate concern is that many forests need to amend their land and resource management plans within the next few months to implement site-specific projects that support the objectives of the National Fire Plan, which was developed in response to the catastrophic wildfires of last summer. These projects include activities to reduce high-hazard fuels near urban and suburban areas and to restore and rehabilitate areas burned last year. Because the new regulations are less well understood, and, in some respects, more complicated than the 1982 regulations, the Department is concerned that it may not be possible for forests to complete the necessary amendments in time to implement those projects before this year's fire season begins.

Agency Readiness To Implement New Rule

In addition to the foregoing pressing concerns, the Department has determined that, despite diligent efforts, the Forest Service is not sufficiently prepared to fully implement the new planning rule agencywide. Many employees, retirees, elected officials, and representatives of external organizations interested in National Forest System management have expressed serious concerns to the new Administration regarding the agency's ability to implement some of the provisions of the new planning rule, such as ecological sustainability and species viability. The agency's ability to promptly implement the planning regulations has also been called into question through pending litigation. A coalition of environmental organizations (*Citizens for Better Forestry et al.* v. *USFS* (N.D. Calif.)) and a coalition of timber and grazing interests (*American Forest & Paper Association et al.* v. *Veneman* (D. D.C.)) have filed separate lawsuits challenging the legality of the new planning regulations on a variety of grounds.

Many of the topics addressed by the new rule are complex; many new analytical requirements are imposed; several new terms are incorporated into the planning process, some with little explanation of their meaning or use, such as critical watersheds. As a result, additional implementing direction, new training programs, and new types of technical support and skills are needed to ensure consistent and efficient implementation of the new rule. While the agency has undertaken significant efforts to develop the policies, procedures, and training programs needed to implement the new rule, these tasks not only have not been completed, but they also require substantial additional work before they are sufficient to guide the workforce in implementing the new planning rule. Accordingly, an extension of the date in § 219.35(b) is necessary for the agency to complete policies, training, and tools needed to effectively implement the new planning rule, and for the Department to have adequate opportunity to review these provisions carefully and to identify any adjustments that may be needed.

In light of these findings, the Department has directed the agency to review the new planning rule and recommend ways to address these and any other concerns. If the agency determines that additional revisions are needed, a proposed rule incorporating the recommended changes will be published in the **Federal Register** for public comment at a later date. Given the likelihood of additional change to the November 2000 rule, it would be unreasonable to halt amendments and revisions already begun under the 1982 rule, resume those efforts under the new procedures of the November 2000 regulations, and then change the process again if revisions to the new rule are subsequently proposed and adopted.

Option To Implement New Rule

While most units are not prepared to implement fully the November 2000 rule, this interim final rule does not prohibit forests from preparing amendments or revisions of land and resource management plans under the November 2000 rule. In fact, there are several forests that have begun revisions to their land and resource management plans under the November 2000 rule, and these planning efforts not only may continue, but also may provide valuable information about the feasibility of implementing the new rule.

Exemption From Notice and Comment

The Administrative Procedure Act (the "APA") generally requires agencies to provide advance notice and an opportunity to comment on agency rulemakings. However, APA allows agencies to promulgate rules without notice and comment when an agency, for good cause, finds that notice and public comment are "impracticable, unnecessary, or contrary to the public interest." (5 U.S.C. 553(b)(3)(B)). Furthermore, the APA exempts certain rulemakings from its notice and comment requirements, including rulemakings involving "public property" and "rules of agency organization, procedure, or practice" (5 U.S.C. 553(a)(2) and (b)(3)(A)).

In 1971, Secretary of Agriculture Hardin announced a voluntary partial waiver from the APA notice and comment rulemaking exemptions. (July 24, 1971; 36 FR 13804). Thus, USDA agencies proposing rules generally provide notice and an opportunity to comment on proposed rules. However, the Hardin policy permits agencies to publish final rules without prior notice and comment when an agency finds for good cause that notice and comment procedures would be impracticable, unnecessary, or contrary to the public interest. The courts have recognized this good cause exception of the Hardin policy and have indicated that since the publication requirement was adopted voluntarily, the Secretary should be afforded "more latitude" in making a good cause determination. See *Alcaraz* v. *Block*, 746 F.2d 593, 612 (9th Cir. 1984).

To the extent that 5 U.S.C. section 553 applies to this interim final rule, good cause exists to exempt this rulemaking from advance notice and comment. (5 U.S.C. 553(b)(B) and 553(d)(3)). In view of these factors, the Department has determined that delaying an extension of the compliance date in § 219.35(b) in order to obtain public comment is impracticable, unnecessary, and contrary to the public interest. In the preceding parts of this preamble, the Department has made a clear showing that an extension of the compliance date is necessary to allow amendments and revisions to land and resource management plans to continue and to help ensure, among other things, timely implementation of the National Fire Plan as directed by Congress. Given the agency's inability to complete all the actions necessary to meet the May 9, 2001, deadline, it is impracticable to provide for prior public comment on this extension. The public interest is best served by extending the compliance date and avoiding the loss and duplication of agency analysis and public involvement efforts for amendments and revisions prepared pursuant to the 1982 rule.

Conclusion

For the reasons identified in this preamble, the Department is issuing an interim final rule to extend the date by which land and resource management plan amendments or revisions must comply with the November 2000 planning rule. In § 219.35(b), the date is extended from May 9, 2001, to May 9, 2002. In addition to this extension, this interim final rule would include at § 219.35(b) the interpretation of the term "initiated" as published in an interpretive rule on January 10, 2001 (66 FR 1864) to clarify this term as it applies to amendments or revisions initiated prior to May 9, 2002. The changes to § 219.35(b) are also fully consistent with the other provisions of the interpretive rule.

This interim final rule is necessary to grant relief to the approximately 20 units that have begun plan revisions under the 1982 regulations but could not meet the May 9, 2001, deadline. The interim final rule is also needed to facilitate timely implementation of site-specific projects that support the National Fire Plan. Nevertheless, the Department believes the public should have an opportunity to comment on the modification of § 219.35(b) which extends the period of use of the 1982 planning rule. Thus, the Department is simultaneously publishing this extension as a proposed rule with request for public comment in this same part of today's **Federal Register**.

Regulatory Certifications

Regulatory Impact

This is not a significant rule. This interim final rule will not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This interim final rule will not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, this interim final rule will not alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this interim final rule is not subject to Office of Management and Budget (OMB) review under Executive Order 12866. Moreover, this interim final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This interim final rule will not have a significant economic impact on a substantial number of small entities as defined by the Act. This interim final rule will not impose recordkeeping requirements; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

Environmental Impact

This interim final rule has no direct or indirect effect on the environment, but merely extends the date by which amendments and revisions of land and resource management plans may be continued under the 1982 planning rule, as well as the date by which plans must conform to the November 2000 rule. The planning regulation itself deals with the development and adoption of Forest Service land and resource management plan decisions as well as procedures for developing site-specific decisions that may include decisions regarding the occupancy and use of National Forest System land. An environmental assessment was completed on the November 2000 planning rule, with a finding that the rule would have no significant impact on the environment. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement rules,

regulations or policies to establish Service-wide administrative procedures, program processes, or instructions. Based on the nature and scope of this rulemaking and the procedural nature of 36 CFR part 219, the agency has determined that this interim final rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

No Takings Implications

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that the interim final rule will not pose the risk of a taking of private property, as the interim final rule is limited to adjustment of the compliance date in the new planning rule.

Civil Justice Reform

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This interim final rule (1) does not preempt State and local laws and regulations that conflict with or impede its full implementation; (2) has no retroactive effect; and (3) will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this interim final rule on State, local and tribal governments and the private sector. This interim final rule will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism and Consultation and Coordination With Tribal Governments

The Department has considered this interim final rule under the requirements of Executive Orders 12612 and 13132 and concluded that the rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

This interim final rule does not have tribal implications as defined in Executive Order 13175 and, therefore, advance consultation with tribes is not required.

Controlling Paperwork Burdens on the Public

This interim final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, part 219 of title 36 of the Code of Federal Regulations is amended as follows:

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

1. The authority citation for subpart A continues to read as follows:

Authority: 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

2. Revise paragraph (b) of § 219.35 to read as follows:

§ 219.35 Transition.

(a) * * *

(b) Until May 9, 2002, a responsible official may elect to continue or to initiate new plan amendments or revisions under the 1982 planning regulations in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000), or the responsible official may conduct the amendment or revision process in conformance with the provisions of this subpart. For the purposes of this paragraph, the reference to a plan amendment or revision initiated before May 9, 2002, means that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan amendment or revision as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

* * * * *

Dated: May 10, 2001.

Ann M. Veneman,

Secretary.

[FR Doc. 01–12384 Filed 5–14–01; 2:27 pm]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning; Extension of Compliance Deadline

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to extend for one year the date specified in 36 CFR 219.35(b) by which all land and resource management plan amendments and revisions would be subject to the new planning regulations adopted November 9, 2000. The Department has determined that the Forest Service is not sufficiently prepared to fully implement the rule agencywide. Without relief from the dates established in 36 CFR 219.35(b), the agency will experience serious disruption in its planning processes with attendant confusion of employees and the public. Such disruption and confusion would be contrary to the public interest. In addition, serious concerns have arisen regarding some of the provisions of the new planning rule, and an extension of the compliance date will allow the Department to review these provisions carefully and to identify any adjustments that may be necessary.

In addition to this proposed rule, the Department is also adopting an interim final rule to immediately extend the compliance date in 36 CFR 219.35(b) to May 9, 2002. This interim final rule, published elsewhere in this part of today's **Federal Register**, will remain in effect until the Department adopts a final rule following receipt and consideration of comments on this proposed rule.

DATES: Comments must be received in writing by July 16, 2001.

ADDRESSES: Send written comments to Content Analysis Team, USDA Forest Service Attention: NFMA Planning Regulations Proposed Extension, 200 East Broadway, Room 301, P.O. Box 7669, Missoula, MT 59807. Send e-mail comments to mailroom_wo_caet@fs.fed.us and indicate "Planning Rule Extension" in the subject line.

FOR FURTHER INFORMATION CONTACT: Dave Barone, Planning Specialist, Forest Service, USDA; Telephone (202) 205–1019.

SUPPLEMENTARY INFORMATION: On November 9, 2000, the Secretary of Agriculture adopted a final rule, which revised the land and resource management planning rules at 36 CFR part 219 (65 FR 67514). The new rule established requirements for the implementation, monitoring, evaluation, amendment, and revision of land and resource management plans. Under the requirements of § 219.35, all amendments and revisions to land and resource management plans must be prepared pursuant to the new planning rules, unless those amendments and revisions were initiated before November 9, 2000, and a notice of availability of the required environmental disclosure document (that is, a draft environmental impact statement or an environmental assessment) is published before May 9, 2001.

The Need for Extension

Approximately 34 forests are currently revising land and resource management plans under the 1982 planning regulations (47 FR 43026, September 30, 1982) as amended (48 FR 29122; June 24, 1983 and 48 FR 40383; September 7, 1983). About 20 of these forests have conducted extensive public involvement activities under the 1982 planning regulations, but are not able to complete the necessary environmental disclosure documents by May 9, 2001. The new planning regulations require substantially different analyses to be completed prior to initiating revisions and engaging the public in the revision process. The November 2000 regulations also require different procedures for collaborating with the public in the revision process. Unless the May 9, 2001, date is extended, these ongoing revision efforts must be halted, and these forests then will have to re-engage the public using the different procedures and analyses of the new rule. The Department believes the resulting confusion, disruption of the agency's programs, and additional expenditure of public funds are unreasonable, unnecessary, and contrary to the public interest.

Another immediate concern is that many forests need to amend their land and resource management plans within the next few months to implement site-specific projects that support the objectives of the National Fire Plan, which was developed in response to the catastrophic wildfires of last summer. These projects include activities to reduce high-hazard fuels near urban and suburban areas and to restore and rehabilitate areas burned last year. Because the new regulations are less well understood, and, in some respects, more complicated than the 1982 regulations, the Department is concerned that it may not be possible for forests to complete the necessary amendments in time to implement those projects before this year's fire season begins.

Agency Readiness To Implement New Rule

In addition to the foregoing pressing concerns, the Department has determined that, despite diligent efforts, the Forest Service is not sufficiently prepared to fully implement the new planning rule agencywide. Many employees, retirees, elected officials, and representatives of external organizations interested in National Forest System management have expressed serious concerns to the new Administration regarding the agency's ability to implement some of the provisions of the new planning rule, such as ecological sustainability and species viability. The agency's ability to promptly implement the planning regulations has also been called into question through pending litigation. A coalition of environmental organizations (*Citizens for Better Forestry et al.* v. *USFS* (N.D. Calif.)) and a coalition of timber and grazing interests (*American Forest Paper Association et al.* v. *Veneman* (D. D.C.)) have filed separate lawsuits challenging the legality of the new planning regulations on a variety of grounds.

Many of the topics addressed by the new rule are complex; many new analytical requirements are imposed; several new terms are incorporated into the planning process, some with little explanation of their meaning or use, such as critical watersheds. As a result, additional implementing direction, new training programs, and new types of technical support and skills are needed to ensure consistent and efficient implementation of the new rule. While the agency has undertaken significant efforts to develop the policies, procedures, and training programs needed to implement the new rule, these tasks not only have not been completed, but they also require substantial additional work before they are sufficient to guide the workforce in implementing the new planning rule. Accordingly, an extension of the date in § 219.35(b) is necessary for the agency to complete policies, training, and tools needed to effectively implement the new planning rule, and for the Department to have adequate opportunity to review these provisions carefully and to identify any adjustments that may be needed.

In light of these findings, the Department has directed the agency to review the new planning rule and

recommend ways to address these and any other concerns. If the agency determines that additional revisions are needed, a second proposed rule incorporating the recommended changes will be published in the **Federal Register** for public comment at a later date. Given the liklihood of additional change to the November 2000 rule, it would be unreasonable to halt amendments and revisions already begun under the 1982 rule, resume those efforts under the new procedures of the November 2000 regulations, and then change the process again if revisions to the new rule are subsequently proposed and adopted.

Option To Implement New Rule

While most units are not prepared to fully implement the November 2000 rule, this proposed rule would not prohibit forests from preparing amendments or revisions of land and resource management plans under the November 2000 rule. In fact, there are several forests that have begun revisions to their land and resource management plans under the November 2000 rule, and these planning efforts may provide valuable information about implementing the new rule.

Conclusion

For the reasons identified in this preamble, the Department is proposing to extend the date by which land and resource management plan amendments or revisions must comply with the November 2000 planning rule. In § 219.35(b), the date is proposed to be extended from May 9, 2001, to May 9, 2002. In addition to this extension, this proposed rule would include at § 219.35(b) the interpretation of the term "initiated" as published in an interpretive rule on January 10, 2001 (66 FR 1864) to clarify this term as it applies to amendments or revisions initiated prior to May 9, 2002. The proposed changes to § 219.35(b) are also fully consistent with the other provisions of the interpretive rule.

This proposed rule is necessary to grant relief to the approximately 20 units that have begun plan revisions under the 1982 regulations but could not meet the May 9, 2001, deadline. The proposed rule is also needed to facilitate timely implementation of site-specific projects that support the National Fire Plan. The Department is simultaneously publishing this extension in an interim final rule effective immediately. Nevertheless, the Department also believes the public should have an opportunity to comment on the modification of § 219.35(b) which would extend the period during which the 1982 planning rule could be used.

Regulatory Certification

Regulatory Impact

This is not a significant rule. This proposed rule will not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This proposed rule will not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, this proposed rule will not alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed rule is not subject to Office of Management and Budget (OMB) review under Executive Order 12866. Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Act. This proposed rule will not impose recordkeeping requirements; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

Environmental Impact

This proposed rule has no direct or indirect effect on the environment, but merely proposes to extend the date by which amendments and revisions of land and resource management plans may be continued under the 1982 planning rule, as well as the date by which plans must conform to the November 2000 rule. The planning regulation itself deals with the development and adoption of Forest Service land and resource management plan decisions as well as procedures for developing site-specific decisions that may include decisions regarding the occupancy and use of National Forest System land. An environmental assessment was completed on the November 2000 planning rule, with a finding that the rule would have no significant impact on the environment. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement rules, regulations or policies to establish Service-wide administrative procedures, program processes, or instructions. Based on the nature and scope of this rulemaking and the procedural nature of 36 CFR part 219, the agency has determined that this proposed rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that the proposed rule will not pose the risk of a taking of private property, as the proposed rule is limited to adjustment of the compliance date in the new planning rule.

Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule (1) does not preempt State and local laws and regulations that conflict with or impede its full implementation; (2) has no retroactive effect; and (3) will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this proposed rule on State, local and tribal governments and the private sector. This proposed rule will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism and Consultation and Coordination With Tribal Governments

The Department has considered this proposed rule under the requirements of Executive Orders 12612 and 13132 and concluded that the rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

This proposed rule does not have tribal implications as defined in Executive Order 13175 and, therefore, advance consultation with tribes is not required.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, part 219 of title 36 of the Code of Federal Regulations is proposed to be amended as follows:

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

1. The authority citation for subpart A continues to read as follows:

Authority: 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

2. Revise paragraph (b) of § 219.35 to read as follows:

§ 219.35 Transition.

* * * * *

(b) Until May 9, 2002, a responsible official may elect to continue or to initiate new plan amendments or revisions under the 1982 planning regulations in effect prior to November 9, 2000 (See 36 CFR Parts 200 to 299, Revised as of July 1, 2000), or the responsible official may conduct the amendment or revision process in conformance with the provisions of this subpart. For the purposes of this paragraph, the reference to a plan amendment or revision initiated before May 9, 2002, means that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan amendment or revision as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

* * * * *

Dated: May 10, 2001.

Ann M. Veneman,

Secretary.

[FR Doc. 01–12385 Filed 5–14–01; 2:27 pm]

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Federal Register

Thursday,
May 17, 2001

Part IV

Commodity Futures Trading Commission

17 CFR Part 41

Securities and Exchange Commission

17 CFR Part 240

Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index; Proposed Rules

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 41

RIN 3038–AB77

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–44288; File No. S7–11–01]

RIN 3235–AI13

Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index

AGENCIES: Commodity Futures Trading Commission and Securities and Exchange Commission.

ACTION: Joint proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") (collectively, "Commissions") are proposing Rule 41 under the Commodity Exchange Act ("CEA") and Rules 3a55–1 through 3a55–3 under the Securities Exchange Act of 1934 ("Exchange Act"). These proposed rules would implement new statutory provisions enacted by the Commodity Futures Modernization Act of 2000 ("CFMA"). Specifically, the CFMA directs the Commissions to jointly specify by rule or regulation the method to be used to determine "dollar value of average daily trading volume" and "market capitalization" for purposes of the new definition of "narrow-based security index" in the CEA and the Exchange Act. Proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act are intended to fulfill this statutory directive by specifying such methods. In addition, these proposed rules define certain terms that would add clarity to the statutory definition of "narrow-based security index."

In addition, proposed Rule 41.12 under the CEA and proposed Rule 3a55–2 under the Exchange Act would create an exception to the definition of narrow-based security index, to permit, subject to certain conditions, a designated contract market, registered derivatives transaction execution facility ("DTEF"), or foreign board of trade to continue trading a contract of sale for future delivery on a security index that becomes a narrow-based security index during the first 30 days after the future begins trading. Similarly, proposed Rule 41.14 under the CEA would permit a national securities exchange to continue trading a contract of sale for future delivery on an index that ceases to be a narrow-based security index, subject to certain conditions. These rules are intended to minimize market disruption when a broad-based security index becomes a narrow-based security index, and when a narrow-based security index becomes a broad-based security index.

Finally, proposed Rule 41.13 under the CEA and proposed Rule 3a55–3 under the Exchange Act would provide that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based security index or the exclusions from that definition. These rules would clarify and establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, the index underlying such contract shall be considered a broad-based security index if it qualifies as such pursuant to the statutory definition of narrow-based security index, or pursuant to the exclusions from that definition.

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Comments should be sent to both agencies at the addresses listed below.

CFTC: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to secretary@cftc.gov. Reference should be made to "Narrow-Based Security Indexes."

SEC: Persons wishing to submit written comments should send three copies to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–11–01; this file number should be included on the subject line if e-mail is used. Comment letters received will be available for public inspection and copying in the SEC's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549–0102. Electronically submitted comment letters will be posted on the SEC's Internet web site (http://www.sec.gov). The SEC does not edit personal identifying information, such as names or e-mail addresses, from electronic submissions. Submit only the information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

CFTC: Elizabeth L.R. Fox, Acting Deputy General Counsel; Richard A. Shilts, Acting Director; or Thomas M. Leahy, Jr., Financial Instruments Unit Chief, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5000. E-mail: (EFox@cftc.gov), (RShilts@cftc.gov), or (TLeahy@cftc.gov).

SEC: Nancy J. Sanow, Assistant Director, at (202) 942–0771; Ira L. Brandriss, Special Counsel, at (202) 942–0148; or Sapna C. Patel, Attorney, at (202) 942–0166, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Commissions are proposing Subparts A and B of Rule 41 (Rules 41.1 and 41.2 and Rules 41.10 through 41.14) under the CEA,[1] 17 CFR 41, and Rules 3a55–1 through 3a55–3 under the Exchange Act,[2] 17 CFR 3a55–1 through 3a55–3.[3]

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[1] All references to the CEA are to 7 U.S.C. 1 *et seq.*

[2] All references to the Exchange Act are to 15 U.S.C. 78a *et seq.*

[3] Subpart A of proposed Rule 41 under the CEA consists of general provisions for purposes of the rule, including definitions (Rule 41.1) and recordkeeping requirements (Rule 41.2). Subpart B of proposed Rule 41, "Narrow-Based Security Indexes," begins with proposed Rule 41.10 on purpose and scope. Proposed Rules 41.11, 41.12, and 41.13 of Subpart B correspond to proposed Rules 3a55–1, 3a55–2, and 3a55–3 under the Exchange Act, respectively. Proposed Rule 41.14 of Subpart B parallels provisions incorporated in the CEA and the Exchange Act by the CFMA.

I. Introduction

The CFMA,[4] which became law on December 21, 2000, lifted the ban on single stock and narrow-based stock index futures ("security futures"). In addition, the CFMA established a framework for the joint regulation of these newly-permissible products by the CFTC and the SEC.

Prior to enactment of the CFMA, the Shad-Johnson Accord ("Accord") governed trading in contracts of sale for future delivery ("futures contracts" or "futures") on securities and security indexes. Negotiated by the Chairmen of the SEC and the CFTC in 1982 and signed into law in 1983, the Accord permitted futures exchanges to offer futures contracts on security indexes if the contracts satisfied certain statutory criteria: (1) the contract had to be cash-settled; (2) the contract could not be readily susceptible to manipulation; and (3) the underlying securities had to measure and reflect the entire market or a substantial segment of the market, *i.e.*, it was a contract on a "broad-based" security index.[5] The Accord prohibited any futures contracts on security indexes that did not meet these criteria.

In addition to repealing the prohibition on certain types of security futures, the CFMA amended the CEA and the Exchange Act by adding a definition of "narrow-based security index." This definition establishes an objective test of whether a security index is narrow-based.[6] Futures contracts on security indexes that are narrow-based security indexes will be jointly regulated by the CFTC and the SEC under the framework established by the CFMA.[7] Futures contracts on indexes that are broad-based security indexes,[8] on the other hand, are under the sole jurisdiction of the CFTC and, therefore, only designated contract markets, registered derivatives transaction execution facilities ("DTEFs"), and foreign boards of trade may trade these products.

For this reason, it is important that the definition of "narrow-based security index" in the CEA and the Exchange Act be easily understood and applied by market participants. As directed by the CFMA, the rules jointly proposed today by the Commissions specify the method to be used to determine market capitalization and dollar value of average daily trading volume for purposes of the new definition of "narrow-based security index."[9]

The proposed rules would also establish provisions governing certain circumstances when narrow-based security indexes become broad-based, and when broad-based security indexes become narrow-based.

II. Definition of "Narrow-Based Security Index"

The CFMA amended the definition of "security" in the Exchange Act,[10] the Securities Act of 1933 ("Securities Act"),[11] the Investment Company Act of 1940 ("Investment Company Act"),[12] and the Investment Advisers Act of 1940 ("Investment Advisers Act")[13] to include a "security future." For purposes of each of those Acts, as well as the CEA, "security future" is defined, in relevant part, as "a contract of sale for future delivery of a single security or of a *narrow-based security index.*"[14] The definition of "narrow-based security index" in the CEA and the Exchange Act is the focus of this release.[15]

A. Indexes Included within the Definition of a Narrow-Based Security Index

Under the CEA and the Exchange Act, an index is a "narrow-based security index" if it has *any one* of the following four characteristics: (1) it has nine or fewer component securities; (2) any one of its component securities comprises more than 30% of its weighting; (3) any group of five of its component securities together comprise more than 60% of its weighting; or (4) the lowest weighted component securities comprising, in the aggregate, 25% of the index's weighting have an aggregate dollar value of average daily trading volume ("ADTV") of less than $50 million (or in the case of an index with 15 or more component

[4] Pub. L. No. 106–554, 114 Stat. 2763 (2000).

[5] Section 2(a)(1)(B) of the CEA implemented the terms of the 1982 jurisdictional accord between the SEC and the CFTC. Futures Trading Act of 1982 Section 101, Publ. Law. No. 97–444, 96 Stat 2294 [codified at 7 U.S.C. Section 2(a)], *repealed by* the Commodity Futures Modernization Act of 2000, Pub. L. No. 106–554, 114 Stat. 2763 (2000).

[6] *See* Section 1a(25) of the CEA and Section 3(a)(55) of the Exchange Act.

[7] No person may execute or trade a security future product until the later of December 21, 2001 or such date that a futures association registered under Section 17 of the CEA meets the requirements in Section 15A(k)(2) of the Exchange Act, except that beginning on August 21, 2001, eligible contract participants may enter into transactions with each other on a principal-to-principal basis.

[8] Use of the term "broad-based security index" in this release means a security index that is not a narrow-based security index.

[9] Section 1a(25)(E) of the CEA and Section 3(a)(55)(F) of the Exchange Act.

[10] Section 3(a)(10) of the Exchange Act.

[11] Section 2(a)(14) of the Securities Act, 15 U.S.C. 77b(a)(14).

[12] Section 2(a)(36) of the Investment Company Act, 15 U.S.C. 80a–2(a)(36).

[13] Section 202(a)(18) of the Investment Advisers Act, 15 U.S.C. 80b–2(a)(18).

[14] The term "security future" is defined in Section 3(a)(55)(A) of the Exchange Act. This definition is incorporated by reference in Section 2(a)(16) of the Securities Act, 15 U.S.C. 77b(a)(16); Section 2(a)(52) of the Investment Company Act, 15 U.S.C. 80a–2(a)(52); and Section 202(a)(27) of the Investment Advisers Act, 15 U.S.C. 80b–2(a)(27). "Security future" is also defined in Section 1a(31) of the CEA.

[15] *See* Section 3(a)(55) of the Exchange Act. The definition of "narrow-based security index" in the Exchange Act is incorporated by reference in Section 2(a)(16) of the Securities Act, 15 U.S.C. 77b(a)(16); Section 2(a)(52) of the Investment Company Act, 15 U.S.C. 80a–2(a)(52); and Section 202(a)(27) of the Investment Advisers Act, 15 U.S.C. 80b–2(a)(27). "Narrow-based security index" is also defined in Section 1a(25) of the CEA.

securities, $30 million).[16] An index that has none of the four characteristics set forth above is not a "narrow-based security index." Accordingly, any contract of sale for future delivery on such an index would not be a security future and thus would be subject to the sole jurisdiction of the CFTC.[17]

With regard to the fourth test noted above, *i.e.*, whether an index is a "narrow-based security index" based on the dollar value of ADTV of the lowest weighted securities in the index, the CEA and the Exchange Act require the CFTC and SEC to jointly specify the method of determining the dollar value of average daily trading volume, and mandate that this value be calculated as of the "preceding 6 full calendar months."[18] The proposed rules discussed below in Part III. of this release specify such a method and define the terms "preceding 6 full calendar months" and "lowest weighted 25% of the index's weighting" as those terms are used in the proposed rules.

B. Indexes Excluded from the Definition of a Narrow-Based Security Index

In addition to defining an index as narrow-based if the index has any of the characteristics described above, the definition of "narrow-based security index" in the CEA and Exchange Act *excludes* from its scope indexes that satisfy certain criteria. Any contract of sale for future delivery on an index excluded from the definition, as described below, is not a security futures product under the securities laws, and thus would be subject solely to the jurisdiction of the CFTC.

1. The Index's Component Securities Have High Market Capitalization and Dollar Value of Average Daily Trading Volume

Under the CEA and the Exchange Act, an index is not a "narrow-based security index" if it has *all* of the following characteristics: (1) it has at least nine component securities; (2) no component security comprises more than 30% of its weighting; (3) each of its component securities is registered under Section 12 of the Exchange Act; and (4) each component security is one of 750 securities with the largest market capitalization ("Top 750") and one of 675 securities with the largest dollar value of ADTV ("Top 675").[19]

The CEA and the Exchange Act require the Commissions to jointly specify the method to be used to determine market capitalization and dollar value of ADTV for purposes of this exclusion from the definition of "narrow-based security index."[20] These values are to be calculated as of the preceding 6 full calendar months.[21] The rules the Commissions are proposing today specify the methods to determine these values, and are discussed below in Part III.

To assure that a futures contract on a security index qualifies for this exclusion, a designated contract market, registered DTEF, or foreign board of trade trading the futures contract must calculate both the Top 750 and Top 675 securities based on market capitalization and dollar value of ADTV, respectively, for the preceding 6 full calendar months, in addition to assessing compliance with the exclusion's other criteria.[22]

Q1: The Commissions request comment on whether it would be difficult for market participants to determine the Top 750 and Top 675 out of all securities registered under Section 12 of the Exchange Act. Should the Commissions establish, by rule, a subset of Section 12-registered securities from which market participants would have to determine the Top 750 and Top 675? If so, what should this subset of securities be? For example, would it be appropriate to limit the universe of securities from which market participants determine the Top 750 and Top-675 to the securities traded on the New York Stock Exchange, the Nasdaq National Market System, and the American Stock Exchange? Is there another subset that would be more appropriate, such as the securities comprising the Russell 3000 Index?

Q2: The Commissions also request comment on whether they should undertake to determine the Top 750 and Top 675. For example, should the Commissions determine these securities and make these lists publicly available? If the Commissions do this, how often should the Top 750 and Top 675 be determined and published? Monthly? Quarterly? More or less often? If the Commissions do publish such lists, they would have to establish a rule that any security that appears on both the Top 750 and Top 675 list would be deemed to be one of the Top 750 and Top 675 securities every day during the period in which these lists were publicly available. Conversely, any security that did not appear on the lists would be deemed not to satisfy paragraph (B)(i)(III) of Section 1a(25) of the CEA and paragraph (C)(i)(III) of Section 3(a)(55) of the Exchange Act. The Commissions solicit commenters' views on the benefits and drawbacks of this approach and on any preferable methods for the Commissions to determine the Top 750 and the Top 675.

Q3: Are there any other approaches or issues that the Commissions should consider with respect to determining the Top 750 and Top 675?

2. A Futures Contract on a Broad-Based Security Index that Becomes Narrow-Based

a. Statutory Grace Period

If a futures contract were trading on an index that was broad-based for at least 30 days and subsequently the index became a narrow-based security index, the index is excluded from the definition of a "narrow-based security index" if it is narrow-based for 45 or fewer business days over the course of three consecutive calendar months. If the index is a "narrow-based security index" for *more than 45* business days over three consecutive calendar months, the index is a "narrow-based security index," but the Exchange Act and the CEA provide a temporary grace period of three months before the futures contract becomes a security future.[23] In contrast, under these statutory provisions, if the futures contract has been trading for *fewer than 30* days as a contract of sale for future delivery on an index that is not a "narrow-based security index," the future would become a security futures product immediately if the index satisfies any of the criteria set forth in Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act.[24]

[16] Section 1a(25)(A)(i)—(iv) of the CEA and Section 3(a)(55)(B)(i)—(iv) of the Exchange Act.

[17] *See* Section 2(a)(1)(C)(ii) of the CEA. A contract of sale for future delivery on a security index that is not a narrow-based security index may include component securities that are not registered under Section 12 of the Exchange Act.

[18] Section 1a(25)(E) of the CEA and Section 3(a)(55)(F) of the Exchange Act.

[19] Section 1a(25)(B)(i) of the CEA and Section 3(a)(55)(C)(i) of the Exchange Act.

[20] Section 1a(25)(E) of the CEA and Section 3(a)(55)(F) of the Exchange Act.

[21] *Id.*

[22] As a general matter, any national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades a futures contract on a security index will be required to determine whether or not the contract is a security future to assure that the market is in compliance with the CEA and the Exchange Act. The Commissions note that national securities exchanges, designated contract markets, or registered DTEFs that trade security index futures will need to preserve records of all their determinations with respect to the daily narrow-based or non-narrow-based status of security indexes in order to comply with their recordkeeping requirements under Sections 5(d)(17) and 5a(d)(8) of the CEA and proposed Rule 41.2 under the CEA, and Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1.

[23] Section 1a(25)(D) of the CEA and Section 3(a)(55)(E) of the Exchange Act.

[24] *See supra* note 16 and accompanying text.

If a security index on which a futures contract is trading became narrow-based for more than 45 days over three consecutive months, and thus pursuant to Section 1a(25)(D) of the CEA and Section 3(a)(55)(E) of the Exchange Act becomes narrow-based, the Commissions believe that in order for trading to continue to be regulated exclusively by the CFTC, the designated contract market, registered DTEF, or foreign board of trade trading the contract would be required, before the temporary three-month grace period elapses, to change the composition of, or weightings of securities in, the index so that the index is not a narrow-based security index. Alternatively, the designated contract market, registered DTEF, or foreign board of trade trading a futures contract on such index could comply with the requirements of the securities laws applicable to security futures products.

Q4: Should the Commissions specify expressly the extent of changes a designated contract market, registered DTEF, or foreign board of trade needs to make to an index before the end of the temporary three-month grace period so that it does not need to comply with the securities laws applicable to markets trading security futures products? If so, commenters are asked for their views on what types of changes should be required.

b. Proposed Exclusion from the Definition of Narrow-Based Security Index During First 30 Days of Trading

To address the potential dislocation of market participants trading a future on an index that becomes narrow-based during the first 30 days of trading, and thus does not qualify for the statutory grace period under Section 1a(25)(D) of the CEA and Section 3(a)(55)(E) of the Exchange Act, the Commissions are proposing Rule 41.12 under the CEA and Rule 3a55–2 under the Exchange Act. These rules are being proposed pursuant to paragraph (vi) of Section 1a(25)(B) of the CEA and Section 3(a)(55)(C) of the Exchange Act, which permit the Commissions to establish, by rule, requirements for futures contracts on indexes that, if met, would provide additional exclusions from the definition of a "narrow-based security index."[25]

Specifically, the proposed rules would provide an exclusion from the definition of narrow-based security index for a futures contract that began trading on a security index that was not narrow-based and became narrow-based during the first 30 days after it began trading, if the index would not have been a narrow-based index, had it been in existence, for an uninterrupted period of 6 months prior to the first day of trading. The Commissions preliminarily believe that this six-month period is appropriate as an indication that the change in the index's character during the first 30 days was an anomaly, so that a temporary exclusion from the definition of a narrow-based security index is warranted.

The proposed rules provide, however, that an index that is not a narrow-based security index for the first 30 days of trading, as discussed above, *would* become a narrow-based security index if it has been a narrow-based security index for more than 45 business days over three consecutive calendar months, and would be a security future, with the attendant legal obligations, following an additional three-month grace period.

Q5: The Commissions request commenters to provide their views on proposed Rule 41.12 under the CEA and proposed Rule 3a55–2 under the Exchange Act. In particular, the Commissions request comment on their proposal that an index not be narrow-based for 6 months prior to a futures contract on such index commencing to trade in order for the exclusion in these proposed rules to apply. Is 6 months the appropriate time frame?

3. Proposed Rule for Futures Contracts Traded on or Subject to the Rules of a Foreign Board of Trade

As noted above, the statutory definition of narrow-based security index set forth in Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act, and the exclusions from that definition provided by Section 1a(25)(B) of the CEA and Section 3(a)(55)(C) of the Exchange Act, in effect also define a broad-based security index. The federal securities laws do not apply to futures contracts on broad-based security indexes. Prior to the enactment of the CFMA, futures contracts on broad-based security indexes were reviewed by both the CFTC and the SEC to ensure compliance with the provisions of the Shad-Johnson Accord. Specifically, this review evaluated whether the contract was cash-settled, not readily susceptible to manipulation, and represented a broad market segment. The CFMA altered the statutory requirements for approval of broad-based indexes such that no approval or review is required by the SEC for these products.

With regard to security index futures traded on or subject to the rules of foreign boards of trade, the Commissions believe that security indexes underlying such contracts should be considered broad-based security indexes if they qualify as such pursuant to the statutory definition of a narrow-based index, or pursuant to the exclusions from that definition. The Commissions are proposing Rule 41.13 under the CEA and Rule 3a55–3 under the Exchange Act to clarify and establish that when a futures contract on an index is traded on or subject to the rules of a foreign board of trade, such index would not be a narrow-based security index (*i.e.*, it would be broad-based) if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF.[26] The Commissions recognize their obligation to jointly adopt rules or regulations that set forth the requirements that a futures contract on a security index traded on or subject to the rules of a foreign board of trade must meet in order for the index to be excluded from the definition of narrow-based security index and request comment on how rules relating to foreign broad-based indexes should address issues specific to indexes traded on or subject to the rules of a foreign board of trade.

Additionally, the Commissions note that Section 1a(25)(B)(v) of the CEA and Section 3(a)(55)(C)(v) of the Exchange Act create a "grandfather" provision that permits the offer and sale in the United States of security index futures traded on or subject to the rules of foreign boards of trade that were authorized by the CFTC before the CFMA was enacted.[27] This "grandfather" provision is in effect for 18 months after the CFMA's enactment, after which such indexes will be subject

[25] Section 1a(25)(B)(vi) of the CEA and Section 3(a)(55)(C)(vi) of the Exchange Act provide that notwithstanding the definition of narrow-based security index, an index is not a narrow-based security if a futures contract is "traded on or subject to the rules of a board of trade and meets such requirements as are jointly established by rule, regulation, or order by [the Commissions]."

[26] Section 1a(25)(B)(iv) of the CEA and Section 3(a)(55)(C)(iv) of the Exchange Act grant the Commissions joint authority to exclude an index underlying a futures contract from the definition of narrow-based security index when that index is traded on or subject to the rules of a foreign board of trade and meets such requirements that are established by rule or regulation jointly by the Commissions.

[27] Certain such futures contracts are currently offered to U.S. customers pursuant to no-action letters by the CFTC staff, to which the SEC did not object. The Commissions note that some of the index futures trading on or subject to the rules of foreign boards of trade that are trading pursuant to such no-action letters would not be considered to be broad-based index futures under Sections 1a(25)(A) or 1a(25)(B)(i) of the CEA and Sections 3(a)(55)(B) or 3(a)(55)(C)(i) of the Exchange Act.

to the ongoing requirements of the CEA and any new standard in effect thereafter.

The Commissions have identified and request comment on the following issues:

Q6: The Commissions ask for comment on their proposed rules. As noted above, the Commissions propose that the statutory definition of narrow-based security index under Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act and the exclusion under Section 1a(25)(B)(i) of the CEA and Section 3(a)(55)(C)(i) of the Exchange Act would be applicable to futures on indexes traded on or subject to the rules of a foreign board of trade, including indexes comprised of domestic securities as well as those that are comprised primarily of securities traded on foreign markets. Would it be appropriate for the statutory definition and exclusion to be the sole criteria for index futures traded on or subject to the rules of a foreign board of trade?[28] If not, what issues should be considered in order to develop an additional exclusion from the statutory definition to describe whether an index that underlies a future trading on or subject to the rules of a foreign board of trade is broad-based?

Q7: What criteria should be set forth for futures on indexes traded on or subject to the rules of a foreign board of trade in order for such indexes to be considered broad-based? For example, commenters are asked for their views regarding criteria for the depth of the market, the concentration of the component securities, the permissibility of any affiliation among the issuers of component securities, the liquidity of component securities, and any other factors.

Q8: What provisions should be included to assure the accuracy of the information that is used to determine that the index is broad-based, in view of the fact that certain key data regarding such foreign securities is often not required to be disclosed.

Q9: If commenters believe that an additional exclusion is warranted, what are the unique characteristics of foreign securities and foreign securities markets that would argue in favor of a different standard for determining whether an index comprised of such securities is broad-based? Commenters are also requested to provide their views on the impact of such a different standard on investor protection. Taking into account the nature and size of the markets for the securities underlying the index, is it appropriate to consider indexes comprised of foreign securities to be broad-based where those indexes are more concentrated in one or a few securities? Is it appropriate to consider indexes comprised of *foreign securities* to be broad-based, considering the nature and size of the underlying securities markets, if they are comprised of less liquid securities than would be permitted in a broad-based index, pursuant to the statutory definition of narrow-based security index? If so, please indicate why this is appropriate.

Q10: If a rule is adopted providing an additional exclusion from the definition of narrow-based security index for an index underlying a futures contract traded on or subject to the rules of a foreign board of trade, how should the Commissions address any potential competitive disadvantage to U.S. securities exchanges, alternative trading systems, designated contract markets, or registered DTEFs that might result from an additional exclusion?

Q11: How can the Commissions craft rules that avoid potential uncertainty as to the characterization of an index on an ongoing basis? How can the Commissions best design criteria that remain sound over time and do not introduce unforeseeable uncertainties into the regulatory and trading framework?

Q12: As noted above, certain futures contracts on indexes of foreign securities that are currently traded on foreign boards of trade (and in some cases, domestic contract markets) have been permitted to be offered to U.S. customers under CFTC no-action relief granted under standards that required such indexes to represent a broad segment of the cash market; the SEC did not object to such relief. Some of these indexes may become narrow-based security indexes in the absence of the "grandfather" provision described above. Would it be appropriate for the Commissions to use their authority under Section 1a(25)(B)(vi) of the CEA and Section 3(a)(55)(C)(vi) to jointly establish rules excluding such indexes or exclude such indexes by order?

Q13: The SEC asks for comment on whether an additional exclusion from the definition of narrow-based security index for index futures contracts traded on or subject to the rules of foreign boards of trade would be consistent with the purposes of the federal securities laws.

[28] The Commissions note that currently some futures contracts on indexes traded on or subject to the rules of foreign boards of trade are excluded from the definition of narrow-based security index solely under the "grandfather" provisions in Section 1a(25)(B)(v) of the CEA and Section 3(a)(55)(C)(v) of the Exchange Act, which terminate on June 21, 2002.

III. Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume

A. Determining Market Capitalization

As discussed above, an index is not a "narrow-based security index" under paragraph (B)(i) of Section 1a(25) of the CEA and paragraph (C)(i) of Section 3(a)(55) of the Exchange Act if, among other things, all of its component securities are among the Top 750 securities in terms of market capitalization. The Commissions are jointly proposing new rules under the CEA and the Exchange Act that would set forth the method for determining the market capitalization of a security.[29]

Paragraph (a)(1) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would establish that market capitalization is the product of: (1) the number of outstanding shares of the security as reported in the most recent quarterly or annual report of the company[30]—*i.e.*, Form 10–Q, 10–K, 10–QSB, 10–KSB, or 20–F;[31] and (2) the average price of the security over the preceding 6 full calendar months. The definitions of "average price" of a security and "preceding 6 full calendar months" are discussed in Parts III.D. and III.F. below.[32]

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades or proposes to trade a futures contract on a security index may contract with an outside party to supply the information and data analysis required to determine market capitalization. For example, the market trading the futures contract may have a contract with a data vendor that supplies transaction information through an electronic medium.

[29] The proposed method would apply only to calculating market capitalization of a security to determine whether it is a Top 750 security. Because the CFMA directs the two Commissions to specify a method for calculating market capitalization solely for this purpose, the sponsor or compiler of an index otherwise categorized as a market capitalization-weighted index would not be required to use the proposed method to determine the relative weightings of the index's component securities. See Section 1a(25)(E)(ii) of the CEA and Section 3(a)(55)(F)(ii) of the Exchange Act.

[30] To rely on this exclusion from the definition of narrow-based security index, all the component securities of an index must be registered pursuant to Section 12 of the Exchange Act. *See* Section 1a(25)(B)(i)(III)(aa) of the CEA and Section 3(a)(55)(C)(i)(III)(aa) of the Exchange Act. Therefore, information regarding the number of outstanding shares will be contained in the company's annual and periodic reports.

[31] 17 CFR Sections 249.308a, 249.310, 249.308b, 249.310b, and 249.220f.

[32] *See infra* notes 40–41 and 48–49 and accompanying text.

However, in these circumstances, the market would be responsible for determining that the calculation by the outside party is consistent with the Commissions' proposed rules.

Q14: The Commissions solicit comment on their proposed method for calculating the market capitalization of a security. In particular, are there other methods of calculating the market capitalization of a security that would be better for market participants to use? If so, are these alternatives as appropriate as the method proposed by the Commissions?

Q15: The Commissions also solicit comment on whether relying on the information reported by issuers to the SEC is the best way to determine the number of outstanding shares of a security.

Q16: It is possible that a corporate event affecting the number of shares outstanding of a security, such as a stock split, stock dividend, stock buyback, or merger, can occur after the filing by its issuer of an annual or periodic report. This may be particularly relevant in the case of foreign issuers that file with the SEC just once a year. Should the proposed rule specifically address such events, and, if so, how? For example, should national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade be permitted to or be required to rely on updated information contained in any subsequent Form 8–K[33] filed by the issuer, or on more current information submitted to the primary market center for the underlying security? Are there reliable means other than SEC annual, periodic, and current reports to determine the current number of shares outstanding of a security in the event of a corporate event that results in a change in the number of outstanding shares?

Q17: The Commissions solicit comment on whether they should permit a national securities exchange, designated contract market, registered DTEF, or foreign board of trade to rely on an independent calculation of the market capitalization of a security by a third party. Should there be any conditions imposed when such a third party is used?

Q18: Do third parties, such as data vendors, calculate market capitalization using a different method than that proposed by the Commissions? If so, what are these methods? Should the Commissions incorporate these methods into the proposed rules? What would be the impact of any variation that may result if the same calculations are made based on slightly different information?

Q19: If national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade rely on the calculations of third parties, should those third parties be required to meet certain qualification standards? For example, should third parties be qualified only if data dissemination and calculation is part of their regular business? Should notification to the Commissions be required if a third party's calculations are used?

B. Determining Dollar Value of Average Daily Trading Volume

Dollar value of ADTV is used in two provisions of the definition of "narrow-based security index."[34] As required by the CFMA, the Commissions are proposing rules that would set forth the method for determining an individual security's dollar value of ADTV. Specifically, paragraph (a)(2) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would establish that dollar value of ADTV is the product of: (1) the average daily trading volume of the security over the preceding 6 full calendar months; and (2) the average price of the security over the preceding 6 full calendar months.

The Commissions believe that multiplying a security's average daily trading volume over the preceding 6 full calendar months by its average price over the same period is a reasonable and simple method to use to determine the dollar value of its ADTV. The definitions of "average price" of a security and "preceding 6 full calendar months," are discussed in Parts III.D. and III.F. below.

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades or proposes to trade a futures contract on a security index may contract with a third party information provider to calculate, or provide the information necessary to calculate, the dollar value of ADTV. The market, however, would be responsible for determining that such calculation is consistent with the Commissions' proposed rules.

Q20: The Commissions solicit comments on their proposed method of calculating a security's dollar value of ADTV.

Q21: The Commissions are also interested in commenters' views on whether alternative ways to calculate this value would be more accurate or less burdensome to compute. For example, should the dollar value of ADTV of a security be calculated by multiplying the number of shares in each transaction by the price at which the transaction took place, then summing these values for each day in the six-month period, and finally dividing that sum by the number of trading days in the six-month period?

Q22: While the security of an issuer that underlies an American Depository Receipt ("ADR") must be registered under Section 12 of the Exchange Act, the ADR itself is deemed to be a separate security and is exempt from registration under Section 12. The Commissions solicit comments on whether, when determining the ADTV of a security, the ADTV of ADRs representing shares of such security should be included. The Commissions also solicit comment on whether, when determining average price of a security, the average price, on a proportional basis, of ADRs representing shares of such security should be considered.

Q23. For purposes of the exclusion from the definition of narrow-based security index in Section 1a(25)(B)(i) of the CEA and Section 3(a)(55)(C)(i) of the Exchange Act, should an ADR be considered registered pursuant to Section 12 of the Exchange Act if its underlying security is so registered?

Q24: The Commissions solicit comment on whether they should permit a national securities exchange, designated contract market, registered DTEF, or foreign board of trade to rely on an independent calculation of the dollar value of ADTV of a security by a third party. Should there be any conditions imposed when such a third party is used?

Q25: Do third parties, such as data vendors, calculate dollar value of ADTV using a different method than that proposed by the Commissions? If so, what are those methods? Should the Commissions incorporate these methods into the proposed rules? What would be the impact of any variation that may result if the same calculations are made based on slightly different information?

Q26: If national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade rely on the calculations of third parties, should those third parties be required to meet certain qualification standards? For example, should third parties be qualified only if data dissemination and calculation is part of their regular business? Should notification to the Commissions be required if a third party's calculations are used?

[33] 17 CFR 249.308.

[34] Section 1a(25)(A)(iv) and (B)(i) of the CEA and Section 3(a)(55)(B)(iv) and (C)(i) of the Exchange Act.

C. Determining Average Daily Trading Volume

Paragraph (b)(1) of Proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would define the ADTV of a security as the total number of shares of such security traded on the trading days of the principal market for the security[35] during the preceding 6 full calendar months divided by the number of trading days on the principal market for the security during the same period.[36] The inclusion of foreign trading data is discussed in Part III.E. below.[37]

Q27: The Commissions request comment on the proposed definition of ADTV.

Are there other, more appropriate ways to determine ADTV?

D. Determining Average Price

1. Basic Definition

The proposed methods for determining market capitalization and dollar value of ADTV require assessing the average price of a security over the preceding 6 full calendar month period. Paragraph (b)(2)(i) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would establish a method that takes into account the number of shares in each transaction in calculating the average price of a security. This method, often termed "volume-weighted average price," would require that there first be established a value for each transaction, by multiplying the price per share in U.S. dollars of each transaction by the number of shares traded in that transaction. Then, the sum of these values for all the transactions in the security during the 6-month period is divided by the total number of shares traded during that period. The inclusion of foreign trading data is discussed in Part III.E. below.[38]

Q28: The Commissions request commenters' views on the proposed method for calculating a security's "average price." Are there other methods that would be more appropriate? For example, another way to determine "average price" is to use the closing price of the security for each day of the preceding 6 full calendar months averaged over that same 6-month period. Should the rules permit the use of the average closing price of a security to calculate dollar value of ADTV instead of requiring an overall average price based on transactions throughout the day?

Q29: Do third parties, such as data vendors, calculate the average price of a security using a different method than that proposed by the Commissions? If so, what are those methods? Should the Commissions incorporate these methods into the proposed rules?

Q30: If national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade rely on the calculations of third parties, should those third parties be required to meet certain qualification standards? For example, should third parties be qualified only if data dissemination and calculation is part of their regular business? Should notification to the Commissions be required if a third party's calculations are used?

2. Exception Permitting Use of Non-Volume-Weighted Average Price for Certain Calculations

Paragraph (b)(2)(ii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would permit the use of a non-volume-weighted average price under certain conditions. Specifically, for purposes of determining whether the dollar value of ADTV of the lowest weighted 25% of a security index exceeds the statutory threshold[39] of $50 million (or $30 million for indexes with 15 or more component securities), national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would be permitted to use an average price for each component security defined as the average price level at which transactions in the security took place over the six-month period, irrespective of the number of shares traded in each transaction.[40]

Such non-volume-weighted average price may be easier to calculate than a volume-weighted average price, and the Commissions preliminarily believe that it would be a reasonable alternative for purposes of this one aspect of the statutory definition of narrow-based security index.[41] However, because the method does not take into account the volume of shares traded at each price, and thus yields only an approximation of a security's true average price, the Commissions are proposing to permit its use subject to a limitation.

Sometimes, the dollar value of ADTV of the lowest weighted 25% of an index, when based on the non-volume-weighted average price of each security comprising it, may exceed the statutory threshold, while the *real* dollar value of its ADTV—based on the more exact, volume-weighted figures for average price of each security—falls short. Accordingly, paragraphs (a)(2)(iii) and (b)(2)(ii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would stipulate that this method may be used only when the dollar value of ADTV of the lowest weighted 25% of an index based on this method equals or exceeds $55 million (or $33 million for indexes with 15 or more component securities)—*i.e.*, it exceeds the statutory thresholds of $50 million (or $30 million for indexes with 15 or more component securities) by at least 10%. If it does not, the average price of securities must be calculated using the volume-weighted average price method in paragraph (a)(2)(i) of the proposed rules. The Commissions preliminarily believe that when the dollar value of ADTV of a security index exceeds the $50 million threshold (or the $30 million threshold, as the case may be) by 10% when using the non-volume weighted price, the security index would most likely exceed those thresholds if the volume-weighted average price test was used.

Q31: The Commissions request comment on this proposed alternative method for calculating average price for purposes of determining whether the dollar value of ADTV of the lowest weighted 25% of an index equals or exceeds $55 million (or $33 million, for indexes with 15 or more component securities). Is the 10% threshold appropriate? Should it be higher or lower?

E. Component Securities of an Index That Trade in Foreign Markets

Security indexes may contain a number of securities that are registered under Section 12 of the Exchange Act and traded in the United States and that may also trade in markets outside the United States.

Paragraphs (b)(1) and (b)(2)(i) and (ii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would permit data from non-U.S. markets to be included in determining the average daily trading volume and average price of a security, provided that the information has been reported to a foreign financial regulatory authority[42] in the jurisdiction where the security is traded. The Commissions preliminarily believe that it is reasonable to allow markets to include such non-U.S. trading volume in determining the total dollar value of a security's ADTV.[43] To the extent that trades that are executed on non-U.S. markets are included in the calculation of a security's ADTV, the proposed rules would also require those same trades to be included in calculating the security's average price.[44]

In addition, paragraph (b)(2)(ii) and (iii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would allow price information from non-U.S. markets to be figured into the average price only when the price for each transaction included in that calculation is translated into U.S. dollars at the trading date's noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York ("noon buying rate").[45]

Finally, the Commissions recognize that because the trading days in various countries do not necessarily conform to each other, a uniform standard would be appropriate. To assure consistency, the proposed rules would permit price and trading volume data for each security to be included only for the trading days of the "principal market for the security."[46] "Principal market" for a security is defined as the single market with the largest aggregate reported trading volume for the security during the preceding 6 full calendar months.[47]

Q32: Do the proposed rules adequately allow foreign trading volume to be included? Is information regarding non-U.S. trading volume for the preceding 6 full calendar months readily available?

Q33: The Commissions solicit comment specifically on the proposed requirement that the exchange rate used be the noon buying rate. Are rates readily available for all currencies in which securities may trade worldwide? How should the rule account for the possibility that trades occur on days when the noon buying rate is unavailable? For example, should the rule require that the prior day's rate, or an average rate over a period of time, be used? Is another exchange rate method preferable to the noon buying rate, and if so, which exchange rate method?

Q34: The Commissions also solicit comment specifically on the proposed limitation on the use of market data to data for the trading days of the principal market of the security. Is there an alternative way to take into account the fact that trading calendars in various countries are not always synchronous? For example, one alternative way is to calculate the dollar value of ADTV over the preceding 6 full calendar months separately for each securities market where the security trades, based on that market's own trading calendar (and taking into account the appropriate exchange rate), and then to sum the dollar value of ADTV over the preceding 6 full calendar months for all the securities markets. What would be the advantages and disadvantages of such an approach? Commenters are asked to provide specific examples of how to determine both ADTV and average price if data from various securities markets for all trading days is to be included.

Q35: Commenters are requested to provide their views regarding whether any other issues relating to foreign trading data need to be addressed.

F. Determining "the Preceding 6 Full Calendar Months"

The CEA and Exchange Act specify that the dollar value of ADTV and market capitalization shall be calculated as of the "preceding 6 full calendar months."[48] Paragraph (b)(5) of proposed Rules 41.11 under the CEA and 3a55–1 under the Exchange Act would define the preceding 6 full calendar months, with respect to a particular day, as the period of time beginning on the same day of the month 6 months before such day, and ending on the day prior to such day. For example, for August 16 of a particular year, the preceding 6 full calendar months means the period beginning February 16 and ending August 15. Similarly, for March 8 of a particular year, the 6-month period begins on September 8 of the previous year and ends on March 7.

The Commissions believe that this "rolling" 6-month approach is appropriate, particularly in light of issues that would arise if 6 full calendar months were measured from the first to the last day of each month on the calendar. If that approach were used, it would be difficult to apply the CEA and Exchange Act provisions excepting a security index from the definition of narrow-based security index if, among other things, it is narrow-based for 45 or fewer business days in a three-month period.[49]

For example, if a national securities exchange, designated contract market, registered DTEF, or foreign board of trade needed to assess the dollar value of ADTV for the six months preceding July 20, and the measuring period for which the dollar value of ADTV for the component securities of an index is determined as the 6-month period from January 1 through June 30, the dollar value of ADTV would be static for each day in July. In this example, the calculation would not take into account any transactions that occurred during July. Thus, if this approach were used to define the 6-month period, the Commissions believe it would leave meaningless the statutes' provisions concerning the number of days within a three-month period that a future on an index that is narrow-based may continue to trade under the regulatory framework for futures on indexes that are not narrow-based.

Q36: Is there an approach other than the one proposed to determine the preceding 6 full calendar months? How would such an alternative work in applying the provision that excludes a non-narrow based index future that becomes narrow-based from the definition of a narrow-based security index future if it is narrow-based for 45 or fewer days in a three month period?

G. The Lowest Weighted 25% of an Index

As discussed in Part II.A. above, one of the factors that may render a security index narrow-based is if the aggregate dollar value of the ADTV of the lowest

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[35] The principal market for a security is proposed to mean the single market with the largest aggregate reported trading volume for the security during the preceding 6 full calendar months. *See* Paragraph (b)(7) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act.

[36] *See* below in Part III.E. regarding the proposed limitation of trading days to "trading days of the principal market for the security."

[37] *See infra* notes 42–47 and accompanying text.

[38] *Id.*

[39] *See* Section 1a(25)(A)(iv) of the CEA and Section 3(a)(55)(B)(iv) of the Exchange Act.

[40] *Id.*

[41] The Commissions do not believe it appropriate to permit the use of an alternative method to true, volume-weighted average price for purposes of the other statutory tests that require the use of average price. If a choice of methods was permitted for these other tests—which require determining whether a security is one of the Top 750 and Top 675 securities in terms of market capitalization and dollar value of ADTV—different markets might arrive at different lists of the Top 750 and Top 675 securities. As a result, the same index could be deemed a narrow-based security index in one market and a broad-based index in another.

[42] "Foreign financial regulatory authority" is defined in the paragraph (b)(3) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act to have the same meaning as in Section 3(a)(52) of the Exchange Act.

[43] The use of foreign trading data could also affect average price for purposes of determining market capitalization, although the Commissions do not believe that the impact would be significant.

[44] *See* paragraph (b)(2)(iv) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act.

[45] *See also* 17 CFR 229.301 (Instructions to Item 301, No. 7), which similarly requires registrants to use the noon buying rate for purposes of determining the rate of exchange for selected financial data included in registration statements under the Securities Act and periodic reports under the Exchange Act.

[46] *See* paragraphs (b)(1) and (b)(2)(i) and (ii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act.

[47] Paragraph (b)(7) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act.

[48] Section 1a(25)(E)(i) of the CEA and Section 3(a)(55)(F)(i) of the Exchange Act.

[49] Sections 1a(25)(B)(iii) and (D) of the CEA and Sections 3(a)(55)(C)(iii) and (E) of the Exchange Act.

weighted 25% of its component securities is less than $50 million (or $30 million for an index of 15 component securities or more).[50]

The proposed rules would establish that the "lowest weighted 25% of an index's weighting" is comprised of those component securities that have the lowest weightings in the index such that, when their weightings are summed, they equal no more than 25% of the weight of the index.[51] To identify these securities, the following method would apply: (1) all component securities in an index would be ranked from the lowest to highest weighting; and (2) beginning with the lowest weighted security and proceeding to the next lowest weighted security and continuing in this manner, the weightings would be added to each other until they reach the sum that would come closest to, or equal 25%, but would not exceed 25%. Those securities would then comprise the lowest weighted 25% of the index.

In addition, the calculation of ADTV and its dollar value for any given moment in time must take into account trading volume and price data for the relevant securities over the preceding 6 months of trading. Yet the securities that comprise the lowest weighted 25% of an index may vary from day to day. The proposed rules establish how the ADTV of the lowest weighted 25% of an index and its dollar value is to be determined.

Specifically, the proposed rules would establish that, for any particular day, the ADTV of the lowest weighted 25% of the index is calculated based on the price and trading data over the preceding 6 months for the securities that comprise the lowest weighted 25% of the index *for that day*. The Commissions believe that this method of taking a "snapshot" of the current lowest weighted 25% and then looking retroactively to determine the aggregate dollar value of the ADTV over the preceding 6 months of the securities in the snapshot is a reasonable approach for the purposes of the statute and would be considerably less burdensome than the alternative of requiring a calculation of the data for the lowest weighted 25% of the index for each day of the preceding 6 full calendar months.

Q37: The Commissions request comment concerning whether the method for identifying the securities comprising the lowest weighted 25% of an index's weighting is practicable. Is there any other approach the Commissions should consider?

IV. Transitional Exemption for Broad-Based Index Futures

As discussed above, the statutory definition of narrow-based security index provides a temporary exclusion under certain conditions for a futures contract trading on an index that was not narrow-based and subsequently became narrow-based for no more than 45 business days over three consecutive calendar months. If the index becomes narrow-based for more than 45 days over three consecutive calendar months, the statute then provides a grace period of three months during which the index is excluded from the definition of narrow-based security index.[52]

The CFTC is proposing to adopt Rule 41.14 under the CEA to provide a similar temporary exclusion and transitional grace period for a security futures product that was trading on a narrow-based security index that becomes a broad-based index. Paragraph (a) of proposed Rule 41.14 under the CEA would establish a temporary exclusion for a security future that began trading on an index that was narrow-based and subsequently became broad-based for no more than 45 days in a three-month calendar period. In such case the index would continue to be considered narrow-based. Paragraph (b) of proposed Rule 41.14 would provide a transition period for an index that was a narrow-based security index and became broad-based for more than 45 days over three consecutive calendar months, permitting it to continue to be a narrow-based security index for the three following calendar months.[53]

To minimize disruption, paragraph (c) of the proposed CEA rule also provides that a national securities exchange may, following the transition period, continue to trade only in those months in which the contract had open interest on the date the transition period ended and shall limit trading to liquidating positions. The Commissions note that a national securities exchange that intends to trade an index following the end of the transition period, other than as specified in paragraph (b), would be required to take such action as may be necessary to trade the index as a broad-based index subject to the sole jurisdiction of the CFTC.[54]

V. Request for Comments

The Commissions solicit comments on all aspects of proposed Rules 41.1 and 41.2 and Rules 41.10 through 41.14 under the CEA and proposed Rules 3a55–1 through 3a55–3 under the Exchange Act. In particular, the Commissions seek comments on whether the proposed methods for determining the market capitalization and dollar value of ADTV are appropriate, or whether other calculation methodologies would be more suitable. In suggesting other methodologies, commenters should provide specific examples. Commenters are welcome to offer their views on any other matter raised by the proposed rules.

VI. Paperwork Reduction Act

CFTC

A. Summary of Collection of Information

The Paperwork Reduction Act ("PRA") of 1995[55] imposes certain requirements on federal agencies (including the CFTC) in connection with their conducting or sponsoring any collection of information as defined by the PRA.

Futures contracts on security indexes that meet the statutory definition of narrow-based security index are jointly regulated by the SEC and CFTC. Futures contracts on indexes that do not meet the statutory definition of narrow-based remain under the sole jurisdiction of the CFTC. To implement the definition of a narrow-based security index, the Commissions are required to jointly specify by rule or regulation the method for determining market capitalization and dollar value of ADTV of securities comprising an index.

In addition, the CFMA amended the CEA by requiring national securities exchanges that deal in security futures products to become designated contract markets solely for the purpose of trading security futures products ("notice-registered contract markets").[56]

A designated contract market or registered DTEF that trades or proposes to trade a futures contract on a security index must ascertain whether or not the security index falls within the definition of narrow-based security index to determine the jurisdiction under which trading in such contract falls, and whether the market in which it trades is in compliance with the relevant securities and commodities laws. This will entail, among other things, a collection of the information necessary to make the requisite determination under the provisions of the CEA and the Exchange Act regarding the market capitalization and dollar value of ADTV of individual securities or groups of securities comprising the index.

The proposed rules would provide the method by which a market trading a futures contract on a security index must determine the market capitalization and dollar value of ADTV of securities comprising the index in order to assure that it is in compliance with the applicable requirements of the CEA and the Exchange Act.

Proposed Rule 41.2 requires designated contract markets (including notice-registered contract markets) and registered DTEFs that trade a security index or security futures product to maintain, in accordance with the requirements of Rule 1.31, books and records of all activities relating to the trading of such products. This proposed rule restates the existing recordkeeping requirements of the CEA.[57] The proposed rule also specifies that, in order to comply with these recordkeeping requirements, designated contract markets and registered DTEFs that trade futures contracts on security indexes and security futures products would be required to preserve records of any calculations used to determine whether an index is broad-based or narrow-based.

B. Proposed Use of Information

Designated contract markets and registered DTEFs that wish to trade futures contracts on a security index would use the methods specified in the proposed rules to determine market capitalization and dollar value of ADTV of a security or a group of securities comprising the index. These determinations would enable these designated contract markets and registered DTEFs to ascertain whether a security index on which they propose to trade or are trading a futures contract is "narrow-based," and thus subject to the joint jurisdiction of the SEC and the CFTC, or is "broad-based," and thus subject to the exclusive jurisdiction of the CFTC.

Any market that trades a futures contract on a broad-based or narrow-based security index would be required to retain records of its determinations as required by the recordkeeping requirements of the proposed rules.

C. Respondents

The only entities required under the proposed rules to retain such records would be designated contract markets (including notice-registered contract markets) and registered DTEFs that trade futures contracts on security indexes. The CFTC estimates that potentially 11 designated contract markets (of which four would be notice-registered) would be required by the proposed rules to comply with these recordkeeping requirements. No registered DTEFs are currently trading futures products. The CFTC requests comment on whether any additional entities would be required to keep these records.

D. Total Annual Reporting and Recordkeeping Burden

1. Capital Costs

Designated contract markets (including notice-registered contract markets) and registered DTEFs that trade futures contracts on security indexes would be required to keep on file all records concerning their determinations that such indexes were either broad-based or narrow-based for a period of five years, of which the first two years of such records would be required to be readily accessible. Because these markets are already required to have recordkeeping systems in place, the CFTC preliminarily estimates that any additional costs of retaining and storing the collected information discussed above would be nominal. The CFTC is soliciting comment on this finding.

2. Burden Hours

Designated contract markets and registered DTEFs that trade futures contracts on security indexes would be required to retain and store the determinations of market capitalization and dollar value of ADTV obtained by applying the methods provided by the proposed rules for five years; of which the first two years of such records would be required to be readily accessible. The CFTC estimates that it would take the 11 respondents one hour each to retain any documents made or received by it in determining whether an index is narrow-based or broad-based. The total burden in complying with proposed rule 41.2 would be 11 hours. The CFTC is soliciting comment on this estimate.

E. General Information About the Collection of Information

The collection of information required by the proposed rules is mandatory and would need to be retained by designated contract markets and registered DTEFs for five years, and for the first two years the information must be readily accessible. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

F. Request for Comment

The CFTC requests comments: (1) on whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) to evaluate the accuracy of the CFTC's estimate of the burden of the proposed collection of information; (3) on whether the proposed collection of information will enhance the quality, utility, and clarity of the information to be collected; and (4) whether the proposed collection of information will minimize the burden of collection on those who are to respond, including through the use of electronic or automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503, Attention: Desk Officer for the CFTC, and to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or by e-mail to secretary@cftc.gov. Reference should be made to Narrow-Based Security Indexes.

The CFTC has submitted the proposed collection of information to OMB for approval. Members of the public should direct any general comments to both the CFTC and OMB within 30 days. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication in the **Federal Register**, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this release. Requests for the materials submitted to OMB by the CFTC with regard to this collection of information are available from the CFTC Clearance Officer, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, Telephone: (202) 418–5160.

SEC

Certain provisions of the proposed rules contain "collection of information" requirements within the

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[50] Section 1a(25)(A)(iv) of the CEA and Section 3(a)(55)(B)(iv) of the Exchange Act.

[51] Paragraph (b)(4) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act. Paragraph (b)(9) of the proposed rules, respectively, would clarify that "weighting" of a component security of an index means the percentage of the index's value represented or accounted for by that component security.

[52] *See supra*, Part II.B.2.

[53] Proposed Rule 41.1(a) under the CEA would define "broad-based security index" as "a group or index of securities that does not constitute a narrow-based security index."

[54] *See* Section 2(a)(1)(C)(ii) of the CEA.

[55] 44 U.S.C. 3504(h).

[56] *See* Sections 2(a)(1)(D)(ii) and 5f of the CEA.

[57] *See* Sections 5(d)(17) and 5a(d)(8) of the CEA.

meaning of the Paperwork Reduction Act of 1995 ("PRA"),[58] and the SEC has submitted them to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The SEC is proposing to amend the collection of information entitled "Rule 17a–1: Recordkeeping rule for national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board" (OMB Control Number 3235–0208). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

A. Summary of Collection of Information

As noted above, the CFMA lifted the ban on trading single stock and narrow-based stock index futures and established a framework for the joint regulation of these products by the SEC and the CFTC. In addition, the CFMA amended the Exchange Act and CEA by adding a definition of "narrow-based security index," which establishes an objective test of whether a security index is narrow-based.[59] Futures contracts on security indexes that meet the statutory definition of narrow-based security index are jointly regulated by the SEC and the CFTC. Futures contracts on indexes that do not meet the statutory definition of narrow-based security index remain under the sole jurisdiction of the CFTC. To implement the definition of a narrow-based security index, the Commissions are required to specify jointly by rule or regulation the method for determining market capitalization and dollar value of ADTV of securities comprising an index.[60]

In addition, the CFMA amended the Exchange Act by adding new Section 6(g), which would require an exchange that is a designated contract market or a registered DTEF that lists or trades security futures products to register as a national securities exchange ("notice-registered national securities exchange") solely for the purpose of trading security futures products.[61]

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades or proposes to trade a futures contract on a security index must ascertain whether or not the security index falls within the definition of narrow-based security index to determine the jurisdiction under which trading in such contract falls, and whether the market in which it trades is in compliance with the relevant securities and commodities laws. This will entail, among other things, a collection of the information necessary to make the requisite determination under the provisions of the Exchange Act and the CEA regarding the market capitalization and dollar value of ADTV of individual securities or groups of securities comprising the index.

Proposed Rule 3a55–1 under the Exchange Act specifies the method to determine market capitalization and dollar value of ADTV of index securities.[62] Thus, the proposed rule would provide the method by which a market trading a futures contract on a security index must determine the market capitalization and dollar value of ADTV of index securities in order to assure that it is in compliance with the applicable requirements of the Exchange Act and the CEA.

Rule 17a–1 under the Exchange Act,[63] among other things, requires national securities exchanges, which by definition include entities registered under the new notice registration provisions of the Exchange Act,[64] to retain copies of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other records made or received by them in the course of their business and in the conduct of their self-regulatory activities for a period of not less than five years, in the first two years in an easily accessible place. Any exchange that lists or trades a futures contract on a narrow-based security index product must be registered with the SEC pursuant to Section 6 of the Exchange Act and, as a registered national securities exchange, will be subject to the recordkeeping requirements of Rule 17a–1. Rule 17a–1 thus will apply to any notice-registered national securities exchange. Accordingly, in order to comply with these recordkeeping requirements, a national securities exchange, including a notice-registered national securities exchange, that lists or trades futures contracts on narrow-based security indexes would be required to preserve records of any calculations used to determine whether an index is narrow-based.[65]

B. Proposed Use of Information

National securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would use the methods specified in the proposed rules to determine market capitalization and dollar value of ADTV of a security or a group of securities comprising the index. These determinations would enable these national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade to ascertain whether a security index on which they propose to trade or are trading a futures contract is "narrow-based," and thus is subject to the joint jurisdiction of the SEC and CFTC. If the market determined that the index is not narrow-based under the proposed rules' methodology, the futures contract would be solely under the CFTC's jurisdiction.

The SEC will use the collected information to monitor the accuracy of the determinations made by national securities exchanges, including notice-registered national securities exchanges, as to whether a security index is narrow-based.

Any national securities exchange, including any notice-registered national securities exchange, that trades a futures contract on a narrow-based security index would be required to retain records of its determinations pursuant to the recordkeeping requirements of Rule 17a–1.

C. Respondents

The only entities required under Rule 17a–1 under the Exchange Act to retain such records would be national securities exchanges (including designated contract markets and registered DTEFs registered as national securities exchanges pursuant to Section 6(g) of the Exchange Act) that trade futures contracts on narrow-based security indexes. The SEC estimates that potentially 4 national securities exchanges and 7 notice-registered national securities exchanges (designated contract markets registered pursuant to Section 6(g) of the Exchange Act)[66] would be required by the Exchange Act and the rules thereunder to comply with these recordkeeping requirements. No registered DTEFs are currently trading futures products. The SEC requests comment on whether any additional entities would be required to keep these records.

D. Total Annual Reporting and Recordkeeping Burden

1. Capital Costs

Rule 17a–1 under the Exchange Act would require national securities exchanges, including any notice-registered national securities exchanges, that trade futures contracts on narrow-based security indexes to keep on file for a period of no less than five years, the first two years in an easily accessible place, all records concerning their determinations that such indexes were narrow-based.[67] Because national securities exchanges, including notice-registered national securities exchanges that have been designated contract markets with the CFTC, currently are required to have recordkeeping systems in place,[68] the SEC preliminarily estimates that any additional costs of retaining and storing the collected information discussed above would be nominal. The SEC is soliciting comment on this estimation.

2. Burden Hours

National securities exchanges, including notice-registered national securities exchanges, that trade futures contacts on security indexes would be required to comply with the recordkeeping requirements under Rule 17a–1 under the Exchange Act.[69] National securities exchanges, including notice-registered national securities exchanges, would be required to retain and store any documents related to determinations made using the definitions in proposed Exchange Act Rule 3a55–1 for no less than five years, the first two years in an easily accessible place. The current burden estimate for Rule 17a–1, as of July 20, 1998, is 50 hours per year for each exchange.[70] The SEC estimates that it would take each of the 11 respondents one hour annually to retain any documents made or received by it in determining whether an index is a narrow-based security index. The total burden in complying with Rule 17a–1 for each national securities exchange, including notice registered national securities exchanges, under proposed Rule 3a55–1 would be 11 hours. The SEC is soliciting comment on this estimate.

E. General Information About the Collection of Information

The collection of information required by the proposed rules is mandatory and would need to be retained by the national securities exchanges and notice-registered national securities exchanges for no less than five years, and for the first two years the information must be in an easily accessible place, as required under Exchange Act Rule 17a–1. Under Rule 17a–1, the information collected pursuant to the proposed rules would be retained by the national securities exchange or the notice-registered national securities exchange that is relying on the proposed rules. The SEC would obtain access to the information upon request. Any collection of information received by the SEC would not be made public.

F. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2)(B), the SEC solicits comments to: (1) evaluate whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) evaluate the accuracy of the SEC's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and the clarity of the information to be collected; and (4) minimize the burden of collection on those who are to respond, including through the use of electronic or automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; and (2) Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, with reference to File No. S7–11–01.

The SEC has submitted the proposed collection of information to OMB for approval. Members of the public should direct any general comments to both the SEC and OMB within 30 days. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication in the **Federal Register**, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this release. Requests for the materials submitted to OMB by the SEC with regard to this collection of information should be in writing, refer to File No. S7–11–01, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549–0609.

VII. Costs and Benefits of the Proposed Rules

CFTC

Section 15(a) of the CEA requires the CFTC to consider the costs and benefits of its action before issuing a new regulation.[71] The CFTC understands that, by its terms, Section 15(a) does not require the CFTC to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Nor does it require that each proposed rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, Section 15(a) simply requires the CFTC to "consider the costs and benefits" of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the CFTC could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed rules constitute a package of related rule provisions. The rules provide guidance to trading facilities in order to facilitate compliance with governing laws. Furthermore, the rules provide alternatives that may reduce the costs of compliance.

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[58] 44 U.S.C. 3501 *et seq.*

[59] *See* Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act.

[60] Section 3(a)(55)(F) of the Exchange Act and Section 1a (25)(E) of the CEA.

[61] See Section 6(g) of the Exchange Act, 15 U.S.C. 78f(g).

[62] Proposed Rule 41.11 under the CEA parallels proposed Rule 3a55–1.

[63] 17 CFR 240.17a–1.

[64] *See* Section 6 of the Exchange Act, 15 U.S.C. 78f.

[65] This PRA analysis does not include any collection of information and recordkeeping requirements that would apply to designated contract markets, registered DTEFs, and foreign boards of trade that trade futures contracts on security indexes that are not narrow-based because the trading of these products is not subject to the SEC's jurisdiction. Therefore, such information and recordkeeping would not be subject to Rule 17a–1 under the Exchange Act.

[66] Notice-registered national securities exchanges are those entities that register in accordance with Section 6(g) of the Exchange Act and proposed Rule 6a–4 under the Exchange Act by filing a proposed Form 1–N. *See* Securities Exchange Act Release No. 44279 (May 8, 2001).

[67] 17 CFR 240.17a–1.

[68] *See* Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1, and Sections 5(d)(17) and 5a(d)(8) of the CEA.

[69] 17 CFR 240.17a–1.

[70] *See* 63 FR 38865 (July 20, 1998) (SEC File No. 270–244, OMB Control No. 3235–0208) (seeking an extension of OMB approval of Rule17a–1 under the Exchange Act).

[71] Section 15(a) of the CEA, 7 U.S.C. 19(a).

The CFTC is considering the costs and benefits of the proposed rules as a totality, in light of the specific areas of concern identified in Section 15(a). The proposed rules should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets or on the risk management practices of trading facilities or others. The proposed rules also should have no material effect on the protection of market participants and the public and should not impact the efficiency and competition of the markets.

Accordingly, the CFTC has determined to propose the rules discussed above. The CFTC invites public comment on the application of the cost-benefit provision of Section 15(a) of the CEA in regard to the proposed rules. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposed rules.

SEC

The SEC is proposing new rules, Rules 3a55–1 through 3a55–3, under the Exchange Act. The proposed rules are in response to the mandate of the CFMA, which, among other things, requires the CFTC and SEC to jointly specify by rule or regulation the method to be used to determine "market capitalization" and "dollar value of average daily trading volume" with respect to implementing the new provisions of the CEA and Exchange Act regarding contracts for future delivery on security indexes.

The CFMA lifted the ban on, and will permit the trading of, single stock futures and futures on narrow-based security indexes. In addition to repealing the prohibition on certain types of security index futures, the CFMA amended the CEA and Exchange Act by adding the definition of "narrow-based security index." This definition establishes an objective test of whether a security index is narrow-based.[72] Futures contracts on security indexes that are narrow-based security indexes will be jointly regulated by the CFTC and the SEC under the framework established by the CFMA. Futures contracts on indexes that are not narrow-based security indexes, on the other hand, will be under the sole jurisdiction of the CFTC, and therefore only a designated contract market, registered derivatives transaction execution facility ("DTEF"), or foreign board of trade may trade these products.

[72] *See* Section 1a(25) of the CEA and Section 3(a)(55) of the Exchange Act.

Proposed Rule 3a55–1 under the Exchange Act would provide methods of calculating market capitalization and dollar value of average daily trading volume ("ADTV") for purposes of determining whether a security index is narrow-based within the meaning of the Exchange Act. Proposed Rule 3a55–2 under the Exchange Act would exempt from the definition of narrow-based security index those security indexes on which futures contracts have traded on a designated contract market, a registered DTEF, or foreign board of trade for fewer than 30 days, provided they would not have been narrow-based security indexes for an uninterrupted 6 full calendar months prior to the first day of trading. Proposed Rule 3a55–3 under the Exchange Act would establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based index or the exclusions from that definition. These proposed rules would provide methods of calculation and guidance for national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade in determining whether or not a security index is narrow-based under the Exchange Act.

The SEC has identified below certain costs and benefits relating to proposed Rules 3a55–1 through 3a55–3 under the Exchange Act. The SEC requests comments on all aspects of this cost-benefit analysis, including identification of any additional costs and/or benefits of the proposed rules. The SEC encourages commenters to identify and supply any relevant data, analysis and estimates concerning the costs and/or benefits of the proposed rules.

A. Benefits

The benefits of proposed Rules 3a55–1 through 3a55–3 under the Exchange Act are related to the benefits that will accrue as a result of the enactment of the CFMA. By repealing the ban on single stock futures and futures on narrow-based security indexes, the CFMA will enable a greater variety of financial products to be traded that potentially could facilitate price discovery and the ability to hedge. Investors will benefit by having a wider choice of financial products to buy and sell, and markets and market participants will benefit by having the ability to trade these products. The benefits are likely to relate to the volume of trading in these new instruments. Because security futures are a new product, however, the SEC is unable to quantify these benefits and therefore requests comments, data, and estimates.

Furthermore, the CFMA clarifies the jurisdiction of the CFTC and the SEC over futures contracts on security indexes, and alleviates the regulatory burden of dual CFTC and SEC jurisdiction where it is appropriate to do so. Under the new provisions of the CEA and Exchange Act, the CFTC and SEC will jointly regulate futures contracts on narrow-based security indexes. The trading of futures contracts on broad-based security indexes will be under the sole jurisdiction of the CFTC and may be traded only on designated contract markets and by and through intermediaries registered with the CFTC. The CFMA provides objective criteria for determining whether or not a security index is narrow-based, and the proposed rules would provide instruction in applying those criteria. The SEC requests comments, data, and estimates regarding the increased regulatory certainty that will result from the definition of narrow-based security index contained in the Exchange Act.

Proposed Rule 3a55–1 under the Exchange Act would provide methodologies for determining market capitalization and the dollar value of ADTV for purposes of ascertaining whether or not a security index is narrow-based as defined in the CFMA. The proposed rules would provide the benefit of clear, objective standards for determining both market capitalization and the dollar value of ADTV. Market capitalization would, under the proposed rules, be computed as the product of the average price of a component security and the number of outstanding shares of that security. The dollar value of ADTV would, under the proposed rules, be computed as the product of the average price of a component security and the ADTV of that security.

To implement these calculations, the proposed rules would define "average daily trading volume" and, as more fully described below, a method to calculate "average price." In addition, the proposed rules would clarify how to calculate the dollar value of ADTV for the lowest weighted 25% of an index. The SEC requests specific comments regarding the benefits and efficiency of the proposed methods for determining market capitalization and the dollar value of ADTV, and invites comments regarding the benefits of any alternative approaches.

Proposed Rule 3a55–1 under the Exchange Act would provide the following objective definition for

"average price" for purposes of calculating market capitalization and dollar value of ADTV: The total dollar value of all transactions in a component security on the trading days of the principal market for the security during the preceding 6 full calendar months divided by the total number of shares traded in such transactions for the preceding 6 full calendar months, where the dollar value for each transaction is the price per share in U.S. dollars of that transaction multiplied by the number of shares in such transaction ("volume-weighted average price").

For purposes of determining whether the dollar value of the ADTV of the lowest weighted 25% of an index reaches the statutory threshold of $50 million (or $30 million), the proposed rules would also permit a national securities exchange, designated contract market, registered DTEF, or foreign board of trade to elect a different method of calculation of average price, under certain conditions,[73] which may be more cost-efficient for it to use. Average price according to this method would be the sum of the price per share in U.S. dollars for each transaction in a component security during the preceding 6 full calendar months divided by the total number of such transactions during the preceding 6 full calendar months ("non-volume-weighted average price"). This choice provides flexibility in a manner that may lower implementation costs. The SEC seeks comments as to the benefits and flexibility of these two methods of calculating "average price" for purposes of determining whether the dollar value of ADTV of the lowest weighted 25% of an index meets the statutory threshold under the above-stated condition.

Proposed Rule 3a55–1 under the Exchange Act would also mandate a "snapshot" method for determining dollar value of ADTV for the lowest weighted 25% of an index.[74] On a particular day, the lowest weighted component securities comprising, in the aggregate, 25% of an index's weighting, would be those securities that are the lowest weighted securities when all the securities in such index are ranked from lowest to highest based on the index's weighting methodology, and for which the sum of the weight of such securities is equal to, or less than, 25%.

The SEC believes that taking a "snapshot" of the securities comprising the lowest weighted 25% of an index for a particular day, and then using that "snapshot" to determine the dollar value of ADTV for those securities for the preceding 6 months, is a reasonable method of calculation that may reduce the computation burden on national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade. Otherwise, for each day of the preceding 6 full calendar months, the market would have to assess the weighting of each security, rank the securities by weighting, and then determine the ADTV for the lowest weighted 25% of the index that day. The SEC seeks comments as to the benefits of this "snapshot" method of calculating the lowest weighted 25% of an index.

Under the Exchange Act, market capitalization and the dollar value of ADTV must be calculated "as of the preceding 6 full calendar months." The proposed rule would specify a "rolling" 6 month period, *i.e.*, with respect to a particular day, the "preceding 6 full calendar months" would mean the period of time beginning on the same calendar date 6 months before and ending on the day prior to that day. A national securities exchange, designated contract market, registered DTEF, or foreign board of trade would benefit from this definition because a specific and objective time frame for the required calculations would be provided. The SEC requests comment as to the benefits of this "preceding 6 full calendar months" criteria and asks for suggestions and examples of any alternative approach.

The SEC believes proposed Rule 3a55–1 under the Exchange Act would provide an additional benefit to national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade by permitting use of foreign trading data for the calculations of market capitalization and the dollar value of ADTV when component securities of an index are also traded on markets outside of the United States. The proposed rule would clarify that such foreign transaction data may be used only if it has been reported to a foreign financial regulatory authority in the jurisdiction in which the security is traded, and that, if the price information is reported in a foreign currency, it must be converted into U.S. dollars on the basis of the transaction date's noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York. The SEC invites comments and appropriate data regarding the benefits and/or costs associated with the use of information from transactions outside the United States.

In addition, proposed Rule 3a55–2 under the Exchange Act would provide a limited exclusion from the definition of "narrow-based security index" for an index underlying a futures contract that has traded for less than 30 days, as long as the index would not have been a narrow-based index for the 6 full calendar months prior to the first day of trading. This exclusion would be beneficial because it would allow futures contracts to continue to trade during this 30 day period without triggering Exchange Act provisions requiring registration by the market trading the futures. The SEC requests comments on the benefits of this exemption.

Finally, proposed Rule 3a55–3 under the Exchange Act would establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based security index or the exclusions from that definition. The proposed rule would clarify and establish that when a futures contract on an index is traded on or subject to the rules of a foreign board of trade, such index would not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF. The SEC seeks comments on the benefits of such a rule.

The SEC welcomes comments as to the benefits and flexibility provided by the methods of calculation and limited exclusion discussed above and also seeks comments as to any alternative methodologies that may be used.

B. Costs

In complying with proposed Rules 3a55–1 through 3a55–3 under the Exchange Act, a national securities exchange, designated contract market, registered DTEF, or foreign board of trade would incur certain costs. Under the CFMA, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade must use the methods provided by the proposed rules to determine whether or not a security index is narrow-based and thus whether the

[73] The proposed rules specify that the volume-weighted average price must be used for purposes of determining dollar value of ADTV of the lowest weighted 25% of an index, if the result is less than $55,000,000 when using the non-volume-weighted average price ($33,000,000 in the case of an index with 15 or more component securities).

[74] For purposes of the Exchange Act, a narrow-based security index includes an index in which the lowest weighted component securities comprising in the aggregate 25% of the index's weighting have an aggregate dollar value of ADTV of less than $50,000,000 ($30,000,000 in the case of an index with 15 or more component securities).

futures contract is subject solely to the CFTC's jurisdiction or subject to joint jurisdiction of the CFTC and SEC. Thus the costs of complying with the proposed rules primarily are attributable to the implementation of the new provisions of the Exchange Act pertaining to the definition of narrow-based security index. National securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade trading these products are responsible for assuring compliance with the proposed rules and thus would incur various costs in determining the market capitalization and the dollar value of ADTV for component securities of a security index. The SEC, however, is unable at this time to estimate the extent of the costs the proposed calculation methodologies will engender.

The statutorily-mandated computations contained in the proposed rules would require national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade to gather information to ascertain the market capitalization and the dollar value of ADTV for component securities of an index with respect to each day, taking into account data for the preceding 6 full calendar months. To compute market capitalization, the proposed rules require a market to know the number of outstanding shares of a security as reported on the issuer's most recent annual or periodic report filed with the SEC and each security's average price during the preceding 6 full calendar months. To compute dollar value of ADTV, the rules require a market to tally the average daily trading volume and the average price for each component security during the preceding 6 full calendar months. An additional calculation would be required to determine the lowest weighted 25% of an index. Alternatively, a market could incur costs if it contracted with an outside party to perform the calculations. In addition, a national securities exchange, designated contract market, registered DTEF, or foreign board of trade may be confronted with costs associated with obtaining and accessing appropriate data from an independent third party vendor. For example, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade may be required to pay certain fees to such a vendor to acquire the necessary information. Furthermore, if the market capitalization and dollar value of ADTV calculations require data that is not readily available, particularly if foreign data is used, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade possibly would incur additional costs to obtain such data. The SEC requests comments, data, and estimates on all aspects of the costs associated with the proposed calculations. Commenters should address the likelihood that certain market information may not be readily available and the potential costs associated with obtaining that information.

In addition, an exclusion from the definition of narrow-based security index is available when all component securities are among both the Top 750 securities (by market capitalization) and Top 675 securities (by dollar value of ADTV). A designated contract market, registered DTEF, or foreign board of trade would be charged with identifying these Top 750 and Top 675 securities to determine whether a security index qualifies for this exclusion by using the calculations specified in the proposed rules. Commenters are requested to provide comments, cost estimates, and any other relevant data with respect to the costs involved in making such determinations.

The calculations required under the proposed rules for market capitalization and the dollar value of ADTV may require additional data storage.[75] A national securities exchange, designated contract market, or registered DTEF would need to consider how to store the data—whether to maintain hard copies or electronic copies of all the computations. The national securities exchange, designated contract market, or registered DTEF would also have to take into consideration the time period for which the data would have to be stored and the costs associated with such storage and maintenance. The SEC specifically requests comments on the recordkeeping costs and data maintenance associated with the proposals and whether these costs would be significant.

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade may also incur resource costs to carry out the computations required under the proposed rules. Comments are requested as to whether the proposed rules are likely to result in a need to increase the number of staff, or result in additional resource burdens, to perform the required calculations. Commenters should provide cost data to support their views.

Finally, the SEC requests commenters to identify any other costs associated with the proposals that have not been considered herein, and what the extent of those costs would be.

VIII. Consideration of Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

SEC

Section 3(f) of the Exchange Act requires the SEC, when engaged in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action would promote efficiency, competition, and capital formation.[76] Section 23(a)(2) requires the SEC, in adopting rules under the Exchange Act, to consider the impact any rule would have on competition.[77]

The SEC believes that proposed Rule 3a55–1 would promote efficiency by setting forth clear methods and guidelines for national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade in applying the statutory definition of narrow-based security index. The SEC further believes that proposed Rule 3a55–2 would promote efficiency by providing designated contract markets, registered DTEFs, and foreign boards of trade a way to ensure that a futures contract trading solely under the jurisdiction of the CFTC does not suddenly become a security future within the first 30 days of trading and subject, as a result, to a new regulatory regime. The SEC also believes that proposed Rule 3a55–3 would promote efficiency by clarifying and establishing that when a futures contract on an index is traded on or subject to the rules of a foreign board of trade, such index would not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF.

The SEC preliminarily believes that the proposed rules may enhance capital formation, because the proposed rules would provide clarity with respect to the method for determining whether a particular security index is narrow-based or broad-based. In this way, market participants would have certainty as to whether a futures contract on a particular index falls within the sole jurisdiction of the CFTC or will be under the joint jurisdiction of the SEC and CFTC. The benefits to the capital formation process, however, principally flow from the CFMA itself, which lifts the ban on the trading of single stock futures and narrow-based stock index futures.

The SEC preliminarily believes that the proposed rules would not impose any significant burdens on competition. The statutory definition of narrow-based security index and the exclusions from that definition contained in Section 1a(25)(A) and (B) of the CEA and Section 3(a)(55)(B) and (C) of the Exchange Act set forth the criteria that a market trading a futures contract on a stock index must use to determine whether the SEC and CFTC jointly, or the CFTC alone, would have regulatory authority over that futures contract. The statutory definition of a narrow-based security index and the exclusions from that definition substantively are identical in both the CEA and the Exchange Act, and the joint CFTC–SEC rules proposed in this release also are substantively identical.

The CFMA directs the SEC and CFTC to jointly specify methods for determining market capitalization and the dollar value of ADTV as those terms are used in the aforementioned statutory definition and exclusion. The SEC believes that proposed Rule 3a55–1, developed jointly with the CFTC, sets forth objective methods in fulfillment of the CFMA directive and further clarifies the application of the statute. The SEC believes that proposed Rule 3a55–2 is necessary in the public interest to prevent potential dislocations for market participants trading a futures contract on an index that becomes narrow-based during the first 30 days of trading and would impose no burden on competition. In addition, the SEC believes that proposed Rule 3a55–3 is necessary in the public interest and would impose no burden on competition because it serves to clarify and establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based security index or the exclusions from that definition.

The SEC requests comments on the potential benefits, as well as adverse consequences, that may result with respect to efficiency, competition, and capital formation if the proposed rules are adopted.

IX. Regulatory Flexibility Act Certifications

CFTC

The Regulatory Flexibility Act ("RFA") requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities.[78] The rules adopted herein would affect contract markets and other trading facilities. The CFTC has previously established certain definitions of "small entities" to be used in evaluating the impact of its rules on small entities in accordance with the RFA.[79] In its previous determinations, the CFTC has concluded that contract markets are not small entities for the purpose of the RFA.[80] The CFTC has also recently proposed determining that the other trading facilities subject to its jurisdiction, for reasons similar to those applicable to contract markets, would not be small entities for purposes of the RFA.[81]

Accordingly, the CFTC does not expect the rules, as proposed herein, to have a significant economic impact on a substantial number of small entities. Therefore, the Acting Chairman, on behalf of the CFTC, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed amendments will not have a significant economic impact on a substantial number of small entities. The CFTC invites the public to comment on this finding and on its proposed determination that trading facilities such as registered DTEFs not be small entities for purposes of the RFA.

SEC

Section 603(a)[82] of the Administrative Procedures Act ("APA"),[83] as amended by the RFA,[84] generally requires the SEC to undertake a regulatory flexibility analysis of all proposed rules, or proposed rule amendments, to determine the impact of such rulemaking on "small entities."[85] Section 605(b) of the RFA specifically exempts from this requirement any proposed rule, or proposed rule amendment, which, if adopted, would not "have a significant economic impact on a substantial number of small entities." Proposed Rule 3a55–1 provides methods for determining market capitalization and dollar value of ADTV in addition to other guidelines in applying the definition of narrow-based security index. Proposed Rule 3a55–2 creates an exemption from the definition of narrow-based security index for designated contract markets, registered DTEFs, and foreign boards of trade trading certain futures contracts. Proposed Rule 3a55–3 under the Exchange Act establishes that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based security index or the exclusions from that definition. Because only national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would be making determinations as to the status of security indexes on which future contracts are trading, the Acting Chairman of the SEC has certified that the proposed rules, if adopted, would not have a significant economic impact on a substantial number of small entities.

The SEC invites commenters to address whether the proposed rules would have a significant economic impact on a substantial number of small entities, and if so, what would be the nature of any impact on small entities. The SEC requests that commenters provide empirical data to support the extent of such impact.

This certification is attached as an Appendix.

X. Statutory Bases and Text of Proposed Rules

List of Subjects

17 CFR Part 41

Security futures products, Reporting and recordkeeping requirements.

17 CFR Part 240

Securities.

Commodity Futures Trading Commission

17 CFR Chapter I

In accordance with the foregoing, Title 17, chapter I of the Code of Federal Regulations is proposed to be amended by adding part 41 as follows:

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[75] Under Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1, and Sections 5(d)(17) and 5a(d)(8) of the CEA, and proposed Rule 41.2 under the CEA, respectively, national securities exchanges, designated contract markets, and registered DTEFs would need to preserve records of all their determinations with respect to the narrow-based or non-narrow-based status of security indexes.

[76] Section 3(f) of the Exchange Act, 15 U.S.C. 78c(f).

[77] Section 23(a)(2) of the Exchange Act, 15 U.S.C. 78w(a)(2).

[78] 5 U.S.C. 601 *et seq.*

[79] *See* 47 FR 18618–21 (April 30, 1982).

[80] *See id.* at 18619 (discussing contract markets).

[81] *See* 66 FR 14262, 14268 (March 9, 2001).

[82] 5 U.S.C. 603(a).

[83] 5 U.S.C. 551 *et seq.*

[84] 5 U.S.C. 601 *et seq.*

[85] Although Section 601(b) of the RFA defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has adopted definitions of the term small entity for the purposes of Commission rulemaking in accordance with the RFA. Those definitions, as relevant to this proposed rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 18452 (January 28, 1982), 47 FR 5215 (February 4, 1982).

PART 41—SECURITY INDEX AND SECURITY FUTURES PRODUCTS

Sec.

Subpart A—General Provisions

41.1 Definitions.
41.2 Required records.
41.3–41.9 [Reserved]

Subpart B—Narrow-Based Security Indexes

41.10 Purpose and scope.
41.11 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.
41.12 Indexes underlying futures contracts trading for fewer than 30 days.
41.13 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.
41.14 Transition period for indexes that cease being narrow-based security indexes.

Authority: 7 U.S.C. 1a(25), 2a and 12a(5).

Subpart A—General Provisions

§ 41.1 Definitions.

For purposes of this part:

(a) *Broad-based security index* means a group or index of securities that does not constitute a narrow-based security index.

(b) *Foreign board of trade* means a board of trade located outside of the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options are entered into.

(c) *Narrow-based security index* has the same meaning as in section 1a(25) of the Commodity Exchange Act.

§ 41.2 Required records.

A designated contract market or registered derivatives transaction execution facility that trades a security index or security futures product shall maintain in accordance with the requirements of § 1.31 books and records of all activities related to the trading of such products, including: Records related to any determination under subpart B of this part whether or not a futures contract on a security index is a narrow-based security index or a broad-based security index.

§§ 41.3—41.9 [Reserved]

Subpart B—Narrow-Based Security Indexes

§ 41.10 Purpose and scope.

This subpart includes methods to be used by trading facilities for the purpose of determining whether a futures product is based on an index of securities subject to the joint jurisdiction of the Commodity Futures Trading Commission and the Securities and Exchange Commission or is based on a broad-based security index subject to the exclusive jurisdiction of the Commodity Futures Trading Commission. The methods included in this subpart relate to determining market capitalization and dollar value of average daily trading volume which are terms used, but not developed, in the statutory definitions of "narrow-based security product." Consistent with Section 1a(25)(E)(ii) of the Commodity Exchange Act and Section 3a(55)(F)(ii) of the Securities Exchange Act of 1934, the methods for determining market capitalization and dollar value of average daily trading volume set forth in this subpart have been adopted jointly by the Commodity Futures Trading Commission and the Securities and Exchange Commission. The subpart also includes rules that permit, subject to certain conditions, a trading facility to continue to trade a narrow-based security index or a broad-based security index, as the case may be, after that index has become a broad-based security index or a narrow-based security index, as the case may be. The comparable rules of the Securities and Exchange Commission may be found at 17 CFR 240.3a55–1 through 240.3a55–3.

§ 41.11 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.

(a) *Determining market capitalization and dollar value of average daily trading volume ("ADTV").* The method to be used to determine a security's market capitalization for purposes of Section 1a(25)(B) of the Act (7 U.S.C. 1a(25)(B)), and dollar value of ADTV for purposes of Section 1a(25)(A) and (B) of the Act (7 U.S.C. 1a(25)(A) and (B)) shall be as follows:

(1) *Market capitalization.* The market capitalization of a security is the product of:

(i) The average price of such security; and

(ii) The number of outstanding shares of such security.

(2) *Dollar value of ADTV.* (i) The dollar value of ADTV of a single security is the product of:

(A) The average price of such security; and

(B) The ADTV of such security.

(ii) The dollar value of ADTV of the lowest weighted 25% of an index is the sum of the dollar value of ADTV of each of the component securities comprising the lowest weighted 25% of such index.

(iii) The dollar value of ADTV of the lowest weighted 25% of an index may be calculated by using average price as defined in paragraph (b)(2)(ii) of this section, provided that when such average price is used, the dollar value of ADTV of the lowest weighted 25% of the index equals or exceeds $55,000,000 (or in the case of an index with 15 or more component securities, $33,000,000).

(b) *Definitions.* For purposes of this section:

(1) *Average daily trading volume* in a security means the total number of shares of such security traded on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include any shares traded on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the number of trading days of the principal market for the security during the preceding 6 full calendar months.

(2) *Average price.* (i) Average price of a security means the total dollar value of all transactions in such security on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include transactions on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the total number of shares traded in such transactions, where the dollar value for each transaction is the price per share in U.S. dollars of such transaction multiplied by the number of shares in such transaction.

(ii) For purposes of paragraph (a)(2)(iii) of this section only, average price of a security may be calculated as the sum of the price per share in U.S. dollars for each transaction in such security on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include prices of transactions on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the total number of such transactions during the preceding 6 full calendar months.

(iii) If the price of a transaction is reported in a currency other than U.S. dollars, such price must be converted into U.S. dollars on the basis of the transaction date's noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York.

(iv) The transactions used to determine average price must be the same transactions used to determine ADTV.

(3) *Foreign financial regulatory authority* has the same meaning as in Section 3(a)(52) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(52)).

(4) *Lowest weighted 25% of an index.* With respect to any particular day, the lowest weighted component securities comprising, in the aggregate, 25% of an index's weighting for purposes of Section 1a(25) of the Act ("lowest weighted 25% of an index"), means those securities:

(i) That are the lowest weighted securities when all the securities in such index are ranked from lowest to highest based on the index's weighting methodology; and

(ii) For which the sum of the weight of such securities is equal to, or less than, 25%.

(5) *Outstanding shares* of a security means the number of outstanding shares of such security as reported on the most recent Form10–K, Form10–Q, Form 10–KSB, Form 10–QSB, or Form 20–F (17 CFR §§ 249.310, 249.308a, 249.310b, 249.308b, or 249.220f) filed with the Securities and Exchange Commission by the issuer of such security.

(6) *Preceding 6 full calendar months* means, with respect to a particular day, the period of time beginning on the same day of the month 6 months before and ending on the day prior to such day.

(7) *Principal market* for a security means the single securities market with the largest reported trading volume for the security during the preceding 6 full calendar months.

(8) *Trading days* of the principal market means all days on which the principal market for the security is open for trading.

(9) *Weighting* of a component security of an index means the percentage of such index's value represented, or accounted for, by such component security.

§ 41.12 Indexes underlying futures contracts trading for fewer than 30 days.

(a) An index on which a contract of sale for future delivery is trading on a designated contract market, registered derivatives transaction execution facility, or foreign board of trade is not a narrow-based security index under Section 1a(25) of the Act (7 U.S.C. 1a(25)) for the first 30 days of trading, if such index would not have been a narrow-based security index on each day of the preceding 6 full calendar months prior to the commencement of trading of such contract.

(b) An index that is not a narrow-based security index for the first 30 days of trading pursuant to paragraph (a) of this section, shall become a narrow-based security index if such index has been a narrow-based security index for more than 45 business days over 3 consecutive calendar months.

(c) An index that becomes a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to paragraph (b) of this section shall not be a narrow-based security index for the following 3 calendar months.

(d) *Preceding 6 full calendar months* has the same meaning as in § 41.11(b)(6).

§ 41.13 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.

When a contract of sale for future delivery on a security index is traded on or subject to the rules of a foreign board of trade, such index shall not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility.

§ 41.14 Transition period for indexes that cease being narrow-based security indexes.

(a) *Forty-five day tolerance provision.* An index that is a narrow-based security index that becomes a broad-based security index for no more than 45 days over 3 consecutive calendar months shall be a narrow-based security index.

(b) *Transition period for indexes that cease being narrow-based security indexes for more than forty-five days.* An index that is a narrow-based security index that becomes a broad-based security index for more than 45 days over 3 consecutive calendar months shall continue to be a narrow-based security index for the following 3 calendar months.

(c) *Trading in months with open interest following transition period.* After the transition period provided for in paragraph (b) of this section ends, a national securities exchange may continue to trade only in those months in the security futures product that had open interest on the date the transition period ended and shall limit trading to positions that liquidate previously-established positions.

(d) *Definition of calendar month.* Calendar month means, with respect to a particular day, the period of time beginning on a calendar date and ending during another month on a day prior to such date.

By the Commodity Futures Trading Commission.

Dated: May 10, 2001.

Jean A. Webb,

Secretary.

Securities and Exchange Commission

17 CFR Chapter II

In accordance with the foregoing, Title 17, chapter II, part 240 of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Sections 240.3a55–1 through 240.3a55–3 are added to read as follows:

§ 240.3a55–1 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.

(a) *Determining market capitalization and dollar value of average daily trading volume ("ADTV").* The method to be used to determine a security's market capitalization for purposes of Section 3(a)(55)(C) of the Act (15 U.S.C. 78c(a)(55)(C)) and dollar value of ADTV for purposes of Section 3(a)(55)(B) and (C) of the Act (15 U.S.C. 78c(a)(55)(B) and (C)) shall be as follows:

(1) *Market capitalization.* The market capitalization of a security is the product of:

(i) The average price of such security; and

(ii) The number of outstanding shares of such security.

(2) *Dollar value of ADTV.* (i) The dollar value of ADTV of a single security is the product of:

(A) The average price of such security; and

(B) The ADTV of such security.

(ii) The dollar value of ADTV of the lowest weighted 25% of an index is the sum of the dollar value of ADTV of each of the component securities comprising the lowest weighted 25% of such index.

(iii) The dollar value of ADTV of the lowest weighted 25% of an index may be calculated by using average price as defined in paragraph (b)(2)(ii) of this section, provided that when such average price is used, the dollar value of ADTV of the lowest weighted 25% of

the index equals or exceeds $55,000,000 (or in the case of an index with 15 or more component securities, $33,000,000).

(b) *Definitions.* For purposes of this section:

(1) *Average daily trading volume* in a security means the total number of shares of such security traded on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include any shares traded on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the number of trading days of the principal market for the security during the preceding 6 full calendar months.

(2) *Average price.* (i) Average price of a security means the total dollar value of all transactions in such security on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include transactions on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the total number of shares traded in such transactions, where the dollar value for each transaction is the price per share in U.S. dollars of such transaction multiplied by the number of shares in such transaction.

(ii) For purposes of paragraph (a)(2)(iii) of this section only, average price of a security may be calculated as the sum of the price per share in U.S. dollars for each transaction in such security on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include prices of transactions on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the total number of such transactions during the preceding 6 full calendar months.

(iii) If the price of a transaction is reported in a currency other than U.S. dollars, such price must be converted into U.S. dollars on the basis of the transaction date's noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York.

(iv) The transactions used to determine average price must be the same transactions used to determine ADTV.

(3) *Foreign financial regulatory authority* has the same meaning as in Section 3(a)(52) of the Act (15 U.S.C. 78c(a)(52)).

(4) *Lowest weighted 25% of an index.* With respect to any particular day, the lowest weighted component securities comprising, in the aggregate, 25% of an index's weighting for purposes of Section 3(a)(55)(B)(iv) of the Act (15 U.S.C. 78c(a)(55)(B)(iv)) ("lowest weighted 25% of an index") means those securities:

(i) That are the lowest weighted securities when all the securities in such index are ranked from lowest to highest based on the index's weighting methodology; and

(ii) For which the sum of the weight of such securities is equal to, or less than, 25%.

(5) *Outstanding shares* of a security means the number of outstanding shares of such security as reported on the most recent Form 10–K, Form 10–Q, Form 10–KSB, Form 10–QSB, or Form 20–F (17 CFR 249.310, 249.308a, 249.310b, 249.308b, or 249.220f) filed with the Commission by the issuer of such security.

(6) *Preceding 6 full calendar months* means, with respect to a particular day, the period of time beginning on the same day of the month 6 months before and ending on the day prior to such day.

(7) *Principal market* for a security means the single securities market with the largest reported trading volume for the security during the preceding 6 full calendar months.

(8) *Trading days* of the principal market means all days on which the principal market for the security is open for trading.

(9) *Weighting* of a component security of an index means the percentage of such index's value represented, or accounted for, by such component security.

§ 240.3a55–2 Indexes underlying futures contracts trading for fewer than 30 days.

(a) An index on which a contract of sale for future delivery is trading on a designated contract market, registered derivatives transaction execution facility, or foreign board of trade is not a narrow-based security index under Section 3(a)(55) of the Act (15 U.S.C. 78c(a)(55)) for the first 30 days of trading, if such index would not have been a narrow-based security index on each day of the preceding 6 full calendar months prior to the commencement of trading of such contract.

(b) An index that is not a narrow-based security index for the first 30 days of trading pursuant to paragraph (a) of this section, shall become a narrow-based security index if such index has been a narrow-based security index for more than 45 business days over 3 consecutive calendar months.

(c) An index that becomes a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to paragraph (b) of this section shall not be a narrow-based security index for the following 3 calendar months.

(d) *Preceding 6 full calendar months* has the same meaning as in § 240.3a55–1.

§ 240.3a55–3 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.

When a contract of sale for future delivery on a security index is traded on or subject to the rules of a foreign board of trade, such index shall not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility.

By the Securities and Exchange Commission.

Dated: May 10, 2001.

Margaret H. McFarland,

Deputy Secretary.

Appendix

Note: This appendix to the preamble will not appear in the Code of Federal Regulations.

Regulatory Flexibility Act Certification

I, Laura S. Unger, Acting Chairman of the Securities and Exchange Commission ("SEC"), hereby certify, pursuant to 5 U.S.C. 605(b), that proposed Rules 3a55–1, 3a55–2, and 3a55–3 under the Securities Exchange Act of 1934 ("Exchange Act") would not, if adopted, have a significant economic impact on a substantial number of small entities. Under the Commodity Futures Modernization Act of 2000, the SEC and the Commodity Futures Trading Commission ("CFTC") jointly must specify the method to be used to determine "market capitalization" and "dollar value of average daily trading volume" ("ADTV") for purposes of Section 3(a)(55) of the Exchange Act and Section 1a(25) of the Commodity Exchange Act. Proposed Rule 3a55–1 would specify the methods for determining the dollar value of ADTV and market capitalization for purposes of ascertaining whether a security index is narrow-based under Section 3(a)(55) of the Exchange Act. Proposed Rule 3a55–2 would create an exemption from the definition of narrow-based security index for designated contract markets, registered derivatives transaction execution facilities ("DTEFs"), and foreign boards of trade trading certain futures contracts. Proposed Rule 3a55–3 under the Exchange Act would establish that

when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the definition of a narrow-based security index, or the exclusions from that definition, contained in Section 3(a)(55) of the Exchange Act. The proposed rules would be incorporated into a joint rulemaking with the CFTC. Only national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would be involved in the calculation of ADTV and market capitalization, all of which are not small entities for purposes of the Regulatory Flexibility Act. Accordingly, proposed Rules 3a55–1, 3a55–2, and 3a55–3 would not have a significant economic impact on a substantial number of small entities.

Dated: May 9, 2001.

Laura S. Unger,

Acting Chairman.

[FR Doc. 01–12278 Filed 5–16–01; 8:45 am]

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Federal Register

Thursday,
May 17, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 25
Electrical Installation, Nickel Cadmium Battery Installation, and Nickel Cadmium Battery Storage; Proposed Rule
Advisory Circular, Electrical Equipment and Installation; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2001–9634; Notice No. 01–04]

RIN 2120–AH27

Electrical Installation, Nickel Cadmium Battery Installation, and Nickel Cadmium Battery Storage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes concerning electrical equipment and nickel cadmium battery installations, and nickel cadmium battery storage. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

DATES: Send your comments on or before July 16, 2001.

ADDRESSES: Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. You must identify the docket number FAA–2001–9634 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2001–9634". We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: *http://dms.dot.gov*.

You may review the public docket containing comments to this proposed regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. Also, you may review the public dockets on the Internet at *http//dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, FAA, Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone 425–227–2315; facsimile 425–227–1320, e-mail steve.slotte@faa.gov.

SUPPLEMENTARY INFORMATION:

How Do I Submit Comments to This NPRM?

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

We will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

How Can I Obtain a Copy of This NPRM?

You may download an electronic copy of this document using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339); the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202–512–1661); or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: 800–322–2722 or 202–267–5948).

Internet users may access recently published rulemaking documents at the FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or the *GPO's* web page at *http://www.access.gpo.gov/nara*.

You may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591; or by calling 202–267–9680. Communications must identify the docket number of this NPRM.

Any person interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular 11–2A, "Notice of Proposed Rulemaking Distribution System," which describes the application procedure.

Background

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR) part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is "Harmonization" and How Did It Start?

Although part 25 and JAR–25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial additional costs to manufacturers and operators. These additional costs, however, frequently do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to "harmonize" their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the wording of part 25 and JAR–25. Both the FAA and the JAA consider "harmonization" of the two sets of standards a high priority.

What Is ARAC and What Role Does It Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The Committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language "recommended" by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR–25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry [including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)] proposed an accelerated process to reach harmonization.

What Is the "Fast Track Harmonization Program"?

In light of a general agreement among the affected industries and authorities to expedite the harmonization program, the FAA and JAA in March 1999 agreed upon a method to achieve these goals. This method, which the FAA has titled "The Fast Track Harmonization Program," is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all of the standards needing harmonization into three categories:

Category 1: Envelope

For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be "enveloped" into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or Near Complete

For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize

For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be "enveloped" (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first NPRM published under this program, Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes (65 FR 36978, June 12, 2000).

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC suggested a number of editorial changes, which have been incorporated into this NPRM.

Discussion of the Proposal

How Does This Proposed Regulation Relate to "Fast Track"?

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. In this notice, the FAA proposes to amend three sections concerning transport category airplane electrical equipment and nickel cadmium batteries. The three proposed changes are described separately below.

Proposal 1: Section 25.1353(a), "Electrical Equipment Installation"

What Is the Underlying Safety Issue Addressed by the Current Standards?

Section 25.1353 and JAR 25.1353 require that transport category airplanes install electrical equipment, controls, and wiring in a manner that will not adversely affect the simultaneous operations of any other electrical unit or

system essential to the safe operation of the airplane.

What Are the Current 14 CFR and JAR Standards?

• The current text of 14 CFR 25.1353(a) is:

Section 25.1353 Electrical equipment and installations

(a) Electrical equipment, controls, and wiring must be installed so that operation of any one unit or system of units will not adversely affect the simultaneous operation of any other electrical unit or system essential to the safe operation.

• The current text of JAR–25.1353(a) is:

JAR 25.1353 Electrical equipment and installations

(a) Electrical equipment, controls, and wiring must be installed so that operations of any one unit or system of units will not adversely affect the simultaneous operation of any other electrical unit or system essential to the safe operation. *Any electrical interference likely to be present in the aeroplane must not result in hazardous effects upon the aeroplane or its systems except under extremely remote conditions. (See ACJ 25.1353(a).)*

What Are the Differences in the Standards and What Do Those Differences Result in?

Both part 25 and JAR texts require that operation of any one unit or system will not adversely affect the simultaneous operation of any other electrical unit or system essential to safe operation under normal operating conditions. The JAR text also considers failure effects on the airplane or its systems and is therefore considered to be more stringent. JAR 25.1353(a) with its related Advisory Circular Joint (ACJ) 25.1353(a) provides a clarification in the intent of the requirement.

What, If Any, Are the Differences in the Means of Compliance?

Part 25 does not give a specific means of compliance for this regulation. The JAR standard has a specific ACJ to establish a list of possible sources of interference and reference to JAR 25.1309 to be considered and used for means of compliance. Although the explicit standards are different, there are no differences in the means of compliance.

What Is the Proposed Action?

The proposed action would add both the additional JAR text to part 25, and also adopt the JAR ACJ material.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard would continue to address the underlying safety issue in the same manner, but would add a requirement to ensure that transport category airplanes include failure conditions and establish a means of compliance.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed standard would increase the level of safety for transport category airplanes by adding the additional JAR text to address failure effects in the airplane and its systems. Also, the intent of this regulation would be clarified.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed standard would maintain the same level of safety since current industry practice is to comply with both standards. Additionally, the understanding of the intent of this regulation would be clarified.

What Other Options Have Been Considered and Why Were They Not Selected?

Adoption of the FAA text was considered, however, it was decided to adopt the more stringent JAR with the associated ACJ material. The FAA considers the proposed action to be the most appropriate way to fulfill harmonization goals while maintaining safety and without affecting current industry practice.

Who Would Be Affected by the Proposed Change?

The proposed change would have a minimum effect for aircraft operators and manufacturers of transport category airplanes. However, since the proposed change does not result in any practical changes in requirements or practice, there would not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA plans to adopt the JAR advisory material as an acceptable means of showing compliance with the proposed revision to § 25.1353(a). Public comments concerning the AC material are invited by separate notice following this NPRM.

Proposal 2: Section 25.1353(c)(5). "Nickel Cadmium Battery"

What Is the Underlying Safety Issue Addressed by the Current Standards?

This requirement addresses the design and installation of nickel cadmium storage batteries. Part 25 limits this requirement to batteries only capable of being used to start an engine or auxiliary power unit.

What Are the Current 14 CFR and JAR Standards?

• The current text of 14 CFR 25.1353(c)(5) is:

Section 25.1353 Electrical equipment and installations

* * * (c)(5) Each nickel cadmium battery installation capable of being used to start an engine or auxiliary power unit must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of individual cells.

• The current text of JAR–25.1353(c)(5) is:

JAR–25.1353 Electrical equipment and installations

* * * (c)(5) Each nickel cadmium battery installation must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of individual cells.

What Are the Differences in the Standards and What Do Those Differences Result in?

Section 25.1353 requires provisions only for the batteries capable of being used to start an engine or auxiliary power unit; whereas JAR 25.1353 requires provisions to prevent any hazardous effect on structure or essential systems by all nickel cadmium batteries regardless of their capabilities.

What, If Any, Are the Differences in the Means of Compliance?

Although the explicit standards are different, there are no differences in the means of compliance.

What Is the Proposed Action?

The proposed action would adopt the more stringent JAR standard. This would allow for coverage of a greater range of battery sizes and capabilities than is currently covered in part 25.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard would add the additional JAR text to part 25. The level of safety would be increased by the new § 25.1353(c)(5) by covering all nickel cadmium battery sizes regardless of their capabilities.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed standard would increase the level of safety by covering the design and installation of all nickel cadmium batteries regardless of their sizes and capabilities for transport category airplanes.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed standard would maintain the same level of safety for aircraft main batteries used for engine or APU starting since this is the current industry practice, however, in relation to all other nickel cadmium batteries, the level of safety may be increased.

What Other Options Have Been Considered and Why Were They Not Selected?

The FAA considers the proposed action to be the most appropriate way to fulfill harmonization goals while maintaining safety and without affecting current industry practice. The FAA considered deletion of the reference to "nickel cadmium" batteries so that the rule would apply to all battery types. This change was not adopted because it would require evaluation of the impact of other types of batteries.

Who Would Be Affected by the Proposed Change?

The proposed change for main batteries would be in line with current design practices, and therefore, the effect would be considered minimal. There may be an impact on other nickel cadmium battery installations by aircraft operators, manufacturers and modifiers.

Is Existing FAA Advisory Material Adequate?

There is no specific advisory material for either part 25 or the JAR. The FAA considers developing new harmonized advisory material to be unnecessary.

Proposal 3: Section 25.1353(c)(6), "Nickel Cadmium Battery Installation"

What Is the Underlying Safety Issue Addressed by the Current Standards?

This requirement is part of § 25.1353(c)(6) and JAR 25.1353(c)(6) that addresses nickel cadmium battery installations with regard to protection against battery overheating.

What Are the Current 14 CFR and JAR Standards?

• The current text of 14 CFR 25.1353(c)(6) is:

Section 25.1353 Electrical equipment and installations

* * * (c)(6) Nickel cadmium battery installations capable of being used to start an engine or auxiliary power unit must have—

(i) A system to control the charging rate of the battery automatically so as to prevent battery overheating;

(ii) A battery temperature sensing and over-temperature sensing and over-temperature warning system with a means for disconnecting the battery from its charging source in the event of an over-temperature condition; or

(iii) A battery failure sensing and warning system with a means for disconnecting the battery from its charging source in the event of battery failure.

• The current text of JAR–25.1353(c)(6) is:

JAR–25.1353 Electrical equipment and installations

(c)(6) Nickel cadmium battery *installations that are not provided with low-energy charging means* must have—

(i) A system to control the charging rate of the battery automatically so as to prevent battery overheating;

(ii) A battery temperature sensing and over-temperature warning system with a means for disconnecting the battery from its charging source in the event of an over-temperature condition; or

(iii) A battery failure sensing and warning system with a means for disconnecting the battery from its charging source in the event of battery failure. [See ACJ 25.1353(c)(6)(ii) and (iii).)]

What Are the Differences in the Standards and What Do Those Differences Result in?

The part 25 standard specifies nickel cadmium battery installations capable of being used to start an engine or auxiliary power unit. The more stringent JAR standard, with its related ACJ 25.1353(c)(6) material, provides requirements for all nickel cadmium battery installations (not provided with low-energy charging means) in addition to those provided for engine or APU starting.

What, If Any, Are the Differences in the Means of Compliance?

Section 25.1353 requires only nickel cadmium battery installations capable of being used to start an engine to show compliance. The JAR 25.1353 requires all nickel cadmium battery installations (not provided with a low energy charging means) to show compliance to the JAR 25.1353 requirements. The JAR has specific ACJ material to address the maintenance requirements of temperature sensing and over-temperature warning devices installed to cover the requirements of 25.1353.

What Is the Proposed Action?

The proposed action would revise § 25.1353(c)(6) to adopt a modified, more stringent JAR 25.1353(c)(6) and the associated ACJ. The modification to the JAR is to remove the words "that are not provided with low energy charging means." The proposed standard would provide for greater coverage by including all nickel cadmium battery installations, irrespective of whether provided for engine or APU starting. Service experience has shown that any battery installation can, if not carefully controlled, result in an overheat or fire condition. The proposed action is also in line with current design practices.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard would expand the requirement to cover all nickel cadmium battery installations addressing the underlying safety concern of battery overheat and/or fire.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed revision for part 25 would expand the requirement to include all nickel cadmium batteries regardless of their use. The level of safety, therefore, would be increased.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed standard would be in line with current industry practice for aircraft main batteries used for engine or APU starting, however, in relation to all other nickel cadmium batteries the level of safety may be increased.

What Other Options Have Been Considered and Why Were They Not Selected?

The FAA considers the proposed action to be the most appropriate way to fulfill harmonization goals while maintaining safety and without affecting current industry practices. The adoption of § 25.1353(c)(6) was considered, however, for the reasons stated above the JAR was selected.

Who Would Be Affected by the Proposed Change?

The proposed change is in line with current design practices and, therefore, the effect on batteries used for engine or APU starting is considered to be minimal. There may be an impact on other nickel cadmium battery installations by aircraft operators, manufacturers and modifiers.

Is Existing FAA Advisory Material Adequate?

The FAA considers that adopting the existing JAA ACJ material would be necessary to address the means of compliance for § 25.1353(c)(6). The FAA recommends adopting the JAR ACJ to 25.1353(c)(6) as advisory material. Public comments concerning this

proposed revision are invited by separate notice, following this NPRM.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more, in any one year (adjusted for inflation).

In conducting these analyses, the FAA has determined that this proposed rulemaking has benefits, but no costs, and that it is not "a significant regulatory action" under section 3(f) of Executive Order 12866. This proposed rulemaking would not have a significant economic impact on a substantial number of small entities, reduces barriers to international trade, and imposes no unfunded mandates on State, local, or tribal governments, or the private sector.

Because there are no apparent costs associated with this proposal, it does not warrant the preparation of a full economic evaluation for placement in the docket. The basis of this statement and for the above determinations is summarized in this section of the preamble. The FAA requests comments with supporting documentation in regard to the conclusions contained in this section.

Presently, airplane manufacturers must satisfy both the Title 14, Code of Federal Regulations (14 CFR) and the European Joint Aviation Requirements (JAR) certification standards to market transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create to the maximum possible extent a single set of certification requirements accepted in both the United States and Europe. These efforts are referred to as harmonization.

This proposed rulemaking would replace section(s) 25.1353(a), 25.1353(c)(5), and 25.1353(c)(6) of part 25 with the "more stringent" section(s) 25.1353(a), 25.1353(c)(5), and 25.1353(c)(6) of JAR part 25. The FAA has concluded for the reasons previously discussed in the preamble that the adoption of these JAR requirements into 14 CFR is the most efficient way to harmonize these section(s) and in so doing, the existing level of safety will be preserved.

Proposal 1: Electrical Installation, Section 25.1353(a)

The FAA estimates that there are no costs associated with this proposal. A review of current manufacturers of transport category aircraft certificated under part 25 has revealed that all such future aircraft are expected to be certificated under part 25 of both 14 CFR and JAR. Since future certificated transport category aircraft are expected to meet the existing section 25.1353(a) of JAR requirement and this proposed rule simply adopts the same JAR requirement, manufacturers would incur no additional cost resulting from this proposal.

Furthermore, this proposed rulemaking is in line with current industry practices, which follow Radio Technology Commission for Aeronautics (RTCA) DO–160D, Environmental Conditions and Test Procedures. The DO–160D sets forth the standard procedures and environmental test criteria for testing airborne equipment for the entire spectrum of aircraft from light general aviation aircraft and helicopters through the "Jumbo Jets" and SST categories of aircraft. Examples of tests covered include vibration, power input radio frequency susceptibility, lightning, and electrostatic discharge. This standard is an internationally recognized standard of testing.

Also, a new company entering the manufacturing industry must comply with these standards for testing electrical systems, and therefore, the FAA expects any additional cost imposed by this proposal to be minimal and the level of safety to be maintained. In fact, manufacturers are expected to receive cost-savings by a reduction in the FAA/JAA certification requirements for new aircraft.

The FAA, however, has not attempted to quantify the cost savings that may accrue due to this specific proposed rulemaking, beyond noting that while they may be minimal, they contribute to a large potential harmonization savings. The agency concludes that because there is consensus among potentially impacted airplane manufacturers that savings will result, further analysis is not required.

Proposal 2: Nickel Cadmium Battery, Section 25.1353(c)(5)

The FAA estimates that there are no costs associated with this proposal. A review of current manufacturers of transport category aircraft certificated under part 25 has revealed that all such future aircraft are expected to be certificated under part 25 of both 14 CFR and JAR. Since future certificated transport category aircraft are expected to meet the existing section 25.1353(c)(5) of JAR requirement and this proposed rule simply adopts the same JAR requirement, manufacturers would incur no additional cost resulting from this proposal.

This proposed rulemaking would require *all* nickel cadmium batteries to be tested. The FAA believes this testing is the current practice. For example, engineers identified a total of 33 nickel cadmium batteries on a typical Boeing Model 777. In line with current industry practice, nickel cadmium batteries used to power the Engine and Auxiliary Power Unit are tested to prevent any hazardous effect on structure or essential systems that may be caused by overheating of the battery or its individual cells.

This proposed rulemaking would require that the other batteries used for such things as the Emergency Power Assist System (door), the Cockpit Voice Recorder—Underwater Locator Beacon, and the Flight Data Recorder—Underwater Locator Beacon also be tested according to current industry practice. Thus, the FAA expects any additional costs imposed by this proposal to be minimal, and the level of safety to be maintained. The FAA requests comments to the contrary, identifying additional testing, time, procedures, paperwork, and cost estimates.

Proposal 3: Nickel Cadmium Battery Installation, Section 25.1353(c)(6)

The FAA estimates that there are no costs associated with this proposal. A review of current manufacturers of transport category aircraft certificated under part 25 has revealed that all such future aircraft are expected to be certificated under part 25 of both 14 CFR and JAR. Since future certificated transport category aircraft are expected to meet the existing section 25.1353(c)(6) of JAR requirement and this proposed rule simply adopts the same JAR requirement, manufacturers would incur no additional cost resulting from this proposal.

Current industry practice requires that the nickel cadmium batteries used to start the Engine or Auxiliary Power Unit must have a system to control the battery to prevent overheating, a temperature sensing and over-temperature warning system, or a battery failure sensing and warning system with a means for disconnecting the battery. Thus, the FAA expects any additional costs imposed by this proposal to be minimal, and the level of safety to be maintained. The FAA requests comments to the contrary, identifying additional testing, time, procedures, paperwork, and cost estimates.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) of 1980 as amended, establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the sale of the business, organizations, and government jurisdictions subject to regulation. To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this proposed rule would not have a significant economic impact on a substantial number of small entities for two reasons. First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule requires that new transport category aircraft manufacturers meet just the "more stringent" European certification requirement, rather than both the United States and European standards. Airplane manufacturers already meet or expect to meet this standard as well as the existing requirements of 14 CFR. Second, all United States transport-aircraft category manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for aircraft manufacturers. United States part 25 airplane manufacturers include: The Boeing Company, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation.

Given that this proposed rule is only minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this proposed rule and determined that it supports the Administration's free trade policy because this proposed rule would use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year, therefore the requirements of the act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determines that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D,

appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the issue of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

2. Amend § 25.1353 by revising paragraphs (a), (c)(5), and (c)(6) to read as follows:

§ 25.1353 Storage battery design and installation.

(a) Electrical equipment, controls, and wiring must be installed so that operations of any one unit or system of units will not adversely affect the simultaneous operation of any other electrical unit or system essential to the safe operation. Any electrical interference likely to be present in the airplane must not result in hazardous effects upon the airplane or its systems except under extremely remote conditions.

* * * * *

(c) * * *

(5) Each nickel cadmium battery installation must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of individual cells.

(6) Nickel cadmium battery installations must have—

(i) A system to control the charging rate of the battery automatically so as to prevent battery overheating; or

(ii) A battery temperature sensing and over-temperature warning system with a means for disconnecting the battery from its charging source in the event of an over-temperature condition; or

(iii) A battery failure sensing and warning system with a means for disconnecting the battery from its charging source in the event of battery failure.

Issued in Renton, Washington, on May 3, 2001.

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12196 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 25.1353–1X, Electrical Equipment and Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed Advisory Circular (AC) 25.1353–1X and request for comments.

SUMMARY: This notice announces the availability of and requests comment on a proposed advisory circular (AC) that provides methods acceptable to the Administrator for showing compliance with the airworthiness standards for electrical equipment on transport category airplanes. The guidance provided in the AC supplements the engineering and operational judgment that must form the basis of any compliance findings relative to electrical installation and nickel cadmium installation to minimize the hazards to an airplane. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before June 15, 2001.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Attn: Stephen Slotte, FAA, Transport Airplane Directorate, Aircraft Certification Service, Airplane and Flightcrew Branch, ANM–111, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Boylon, Standardization Branch, ANM–113, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1152.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify the AC by title and submit comments in duplicate to the address specified above. The Transport Airplane Directorate will consider all communications received on or before the closing date for comments before issuing the final AC.

Availability of Proposed AC

The proposed AC can be found and downloaded from the Internet at *http://www.faa.gov/avr/air/airhome.htm*, at the link titled "Draft AC's" under the "Available Information" drop-down menu. A paper copy of the proposed AC may be obtained by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT.**

Discussion

Proposed AC 25.1353–1X, "Electrical Equipment and Installations," has been prepared to provide guidance on one means of demonstrating compliance with the requirements of § 25.1353, "Electrical Equipment and Installations," of Title 14, Code of Federal Regulations (CFR) part 25, commonly referred to as part 25 of the Federal Aviation Regulations (FAR). Part 25 contains the airworthiness standards applicable to transport category airplanes.

The means of compliance described in proposed AC 25.1353–1X is intended to provide guidance to supplement the engineering and operational judgment that must form the basis of any compliance findings relative to paragraph §§ 25.1353(a) and 25.1353(c)(6). These paragraphs concern electrical equipment, nickel cadmium battery installations, and nickel cadmium battery storage.

In accordance with the requirements of § 25.1353(a), show compliance by considering the following sources of interference:

a. Conducted and radiated interference caused by electrical noise generation from apparatus connected to the busbars,

b. Coupling between electrical cables or between cables and aerial feeders,

c. Malfunctioning of electrically-powered apparatus,

d. Parasitic currents and voltages in the electrical distribution and earth systems, including the affects of lightning currents or static discharge,

e. Difference frequencies between generating or other systems, and

f. The requirements of § 25.1309 should also be satisfied.

In accordance with the requirements § 25.1353(c)(6)(ii) and (iii), show compliance by demonstrating the following:

a. Where temperature sensing and over-temperature warning devices are installed to comply with § 25.1353(c)(6)(ii) or (iii), their correct operations should be verified at agreed maintenance intervals in addition to compliance with § 25.1309(a) and (b).

Harmonization of Standards and Guidance

The proposed AC is based on recommendations submitted to the FAA by the Aviation Rulemaking Advisory Committee (ARAC). The FAA tasked ARAC (63 FR 50954, September 23, 1998) to provide advice and recommendations on "harmonizing" certain sections of part 25 with the counterpart standards contained in Joint Aviation Requirements (JAR) 25. The goal of "harmonization tasks," such as this, is to ensure that:

- Where possible, standards and guidance do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards and guidance adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The guidance contained in the proposed AC has been harmonized with that of the JAA, and provides a method of compliance that has been found acceptable to both the FAA and JAA.

Issued in Renton, Washington, on May 3, 2001.

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12197 Filed 5–16–01; 8:45 am]

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LIST OF PUBLIC LAWS

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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106th Congress, 2nd Session, 2000

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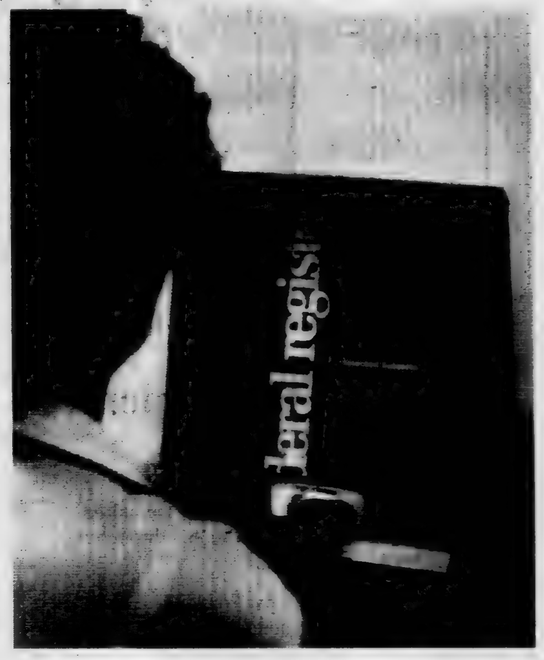

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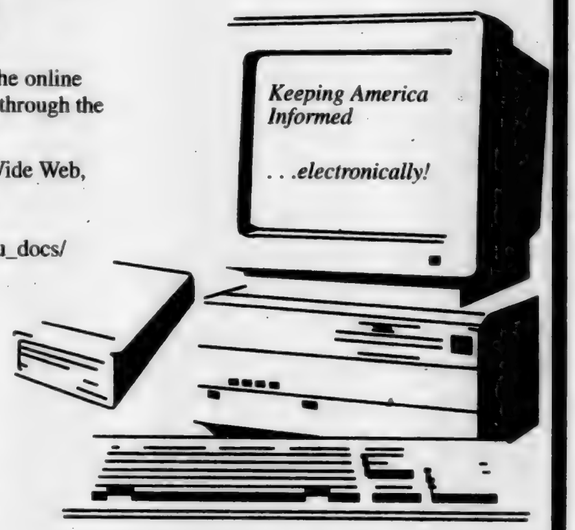

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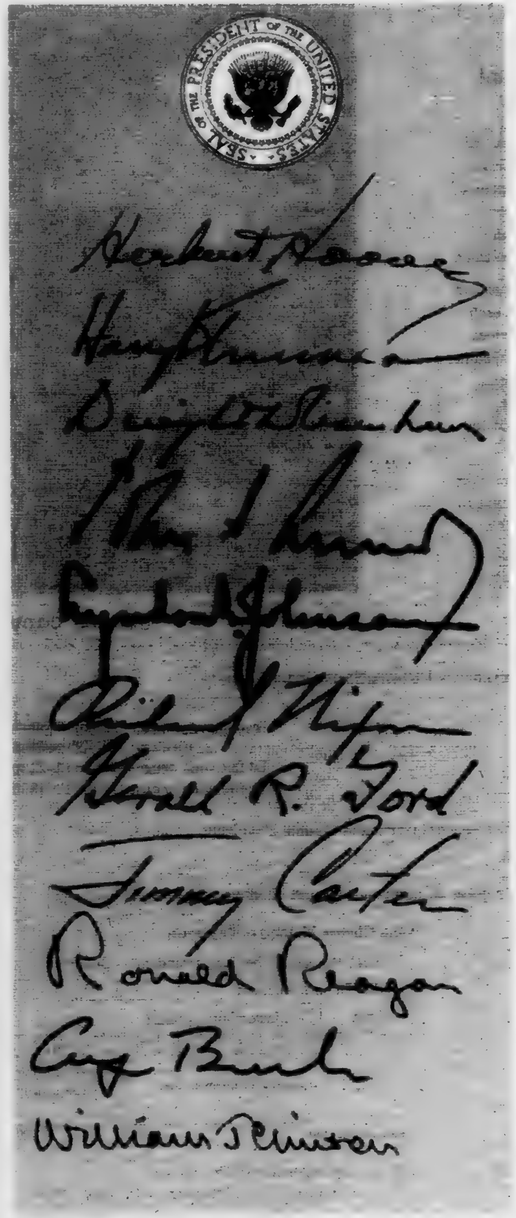

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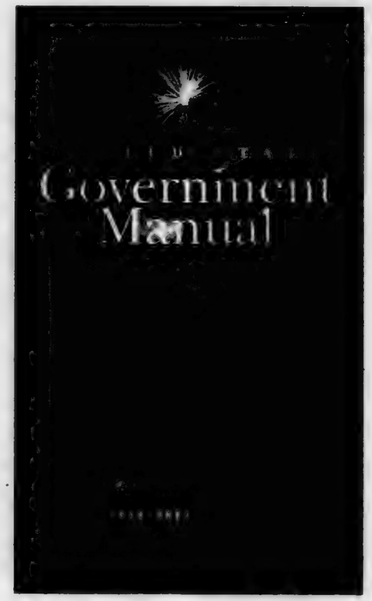

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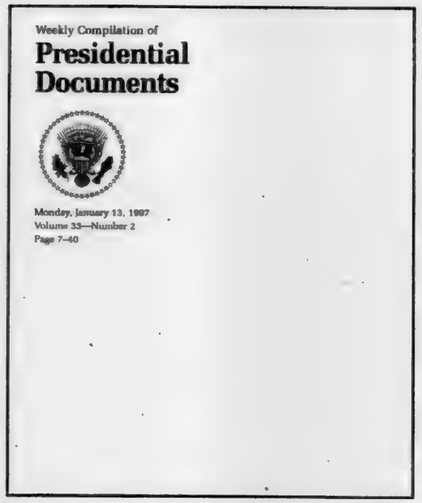

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Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Rules and Regulations

Federal Register
Vol. 66, No. 97
Friday, May 18, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–347–AD; Amendment 39–12231; AD 2001–10–05]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes, that requires removing certain foam filters from the cabin ducting installation located below the dado panels on the left- and right-hand sides of the airplane. The actions specified by this AD are intended to prevent an increased risk of spreading a fire or failure of the cabin to pressurize adequately if certain foam filters are installed. This action is intended to address the identified unsafe condition.

DATES: Effective June 22, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 22, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7505; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes was published in the **Federal Register** on February 14, 2001 (66 FR 10232). That action proposed to require removing certain foam filters from the cabin ducting installation located below the dado panels on the left-and right- hand sides of the airplane.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 38 Bombardier Model DHC–8–100, –200, and –300 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $18,240, or $480 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–10–05 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–12231. Docket 2000–NM–347–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes, certificated in any category, having serial numbers 408, 413, 434 through 463 inclusive, 465 through 489 inclusive, 491 through 505 inclusive, and 507.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent an increased risk of spreading a fire, or failure of the cabin to pressurize adequately if certain foam filters are installed, accomplish the following:

Removal of Foam Filters

(a) Within 4 months after the effective date of this AD, remove the foam filters from the cabin ducting installation located below the dado panels on the left- and right-hand sides of the airplane (including verifying that the foam filters are installed behind the grille assemblies, inspecting the grille assemblies on both the port and starboard sides and along the entire length of the interior of the airplane, removing all foam filters and ensuring that no pieces remain, and reinstalling the grille assemblies by locating the fasteners and pressing each with a quarter-turn), per Bombardier Aerospace Repair Drawing RD8–21–23, Issue 2, dated December 16, 1999.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Bombardier Aerospace Repair Drawing RD8–21–23, Issue 2, dated December 16, 1999, which contains the following list of effective pages:

Page No.	Revision Level shown on page	Date shown on page
1	2	Dec. 16, 1999.
2	1	Dec. 18, 1998.
3	2	Dec. 16, 1999.

(Only page 1 contains the issue date of the drawing; no other page contains this information.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2000–25, dated August 28, 2000.

Effective Date

(e) This amendment becomes effective on June 22, 2001.

Issued in Renton, Washington, on May 8, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12007 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–05–AD; Amendment 39–12233; AD 2001–10–07]

RIN 2120–AA64

Airworthiness Directives; General Electric Co. CF6–80C2 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to General Electric Co. (GE) CF6–80C2 turbofan engines with certain stage 1 high pressure turbine (HPT) rotor disks installed. This amendment requires initial and repetitive inspections of certain HPT rotor disks for cracks in the bottom of the dovetail slot. This amendment is prompted by a report of an uncontained failure of an engine during a high-power ground run for maintenance. The actions specified by this AD are intended to detect cracks in the bottoms of the dovetail slots that could propagate to failure of the disk and cause an uncontained engine failure.

DATES: Effective date June 18, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 18, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ann Mollica, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7740, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to General Electric Co. (GE) CF6–80C2 turbofan engines with certain stage 1 HPT rotor disks installed was published in the **Federal Register** on March 12, 2001 (66 FR 14348). That action proposed to detect cracks in the bottoms of the dovetail slots that could propagate to failure of the disk and cause an uncontained engine failure.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Include Alert Service Bulletin Revision 1

One commenter states that Table 1 should reference GE Alert Service Bulletin (ASB) CF6–80C2 72–A1024, Revision 1, dated November 3, 2000, as well as the original ASB issue.

The FAA agrees. The inspection requirements in ASB Revision 1 are the equivalent of the inspection requirements of original issue ASB CF6–80C2 72–A1024, dated October 13, 2000. Reference to ASB CF6–80C2 72–A1024, Revision 1 has been added to the final rule.

Change Economic Impact To Reflect Labor Cost for Engines That Are Not Due for HPT Piece-Part Exposure

Three commenters request that the economic impact include labor costs for engines in the shop, that would otherwise not require HPT piece-part exposure. The commenters state that not all engine shop visits (ESV's) (scheduled or unscheduled) require complete disassembly of the HPT rotor. One commenter states that their inventory has 77 HPT rotor stage 1 disks that will require the inspection proposed in the rule over the next year, and an additional 22 units that will require 24 hours of labor to complete piece-part exposure of the HPT rotor that would otherwise have remained assembled during the shop visit. Another commenter estimated it would cost an additional $22,000 per year to complete the additional disassembly required to perform the inspections.

The FAA agrees. After considering the information presented by commenters, the FAA revised the subject work hours in the labor cost impact information. The FAA estimates that approximately 75% of all engines introduced into a shop each year will have the HPT at piece-part level. The remaining 25% would require additional work scope to obtain HPT rotor piece-part exposure. The economic impact is revised to include this additional cost.

Change Economic Impact To Reflect Parts and Labor Costs Per Year, Due to "Check & Repair" Engines

One commenter requests that the economic impact include parts and labor costs per year, for "Check & Repair" engines that would be upgraded to heavy work scopes due to the "Next Shop Visit" provision of the proposed rule. The commenter states that engines, termed as "Check & Repair" engines, which is on-average eight engines per year, would have to be upgraded to heavy work scopes due to the "Next Shop Visit" provision of the proposed rule. The commenter states that this is an additional $2,000,000 in parts and labor costs per year. The commenter does not provide a breakdown of the total cost, but suggests that the additional exemptions requested to the definition of ESV would minimize the exposure to "Check & Repair" increased work scope.

The FAA partially agrees. The FAA's interpretation of a "Check and Repair" engine is one that is introduced into a shop to address a known problem, with a limited work scope. The commenter did not provide the breakdown in the stated cost for these engines. The FAA has already included two exemptions to the definition of ESV in the notice of proposed rulemaking (NPRM) to lessen the economic impact of these maintenance actions. Any additional exemptions would result in an unacceptable level of safety. Therefore, the FAA made no changes to the rule with respect to this request. However, the economic impact has been revised to include the cost of the additional work scope required by approximately 25% of the engines affected by this AD, that would not have completed HPT rotor piece-part disassembly otherwise, during their ESV.

Change Economic Impact To Include Disk Replacement Cost

One commenter states that the economic impact in the NPRM did not include the $283,480 cost of a replacement disk when a disk is found unserviceable.

The FAA disagrees. The economic impact section of the NPRM did, in fact, include the cost of a replacement disk, assuming an annual projected rate of disks found unserviceable during the inspection program.

Clarify Inspection Requirements for Disks With Zero Cycles-Since-New (CSN), at Time of Inspection Using GE ASB CF6–80C2 72–A1024

One commenter requests that the inspection requirements for disks with zero CSN at the time of inspection and using ASB CF6–80C2 72–A1024, be clarified. The commenter states the NPRM is unclear, but did not supply any supporting data.

The FAA partially agrees. ASB CF6–80C2 72–A1024 was issued as an interim step for engines undergoing HPT overhaul during the development of, and prior to, the implementation of the eddy current inspection (ECI), as introduced in ASB CF6–80C2 72–A1026. Since ASB CF6–80C2 72–A1024 was issued for shop use during HPT overhaul, the FAA expects there are no disks with zero CSN that were inspected per ASB CF6–80C2 72-A1024. The FAA does not consider it necessary to identify disks with zero CSN, in particular with respect to inspection in accordance with ASB CF6–80C2 72–A1024. However, to help clarify disk inspection requirements, the FAA has changed the inspection requirement of Table 1, row three, to exclude inspection of disks with zero CSN. Furthermore, the intent of the inspections in both ASB CF6–80C2 72–A1024 and ASB CF6–80C2 72–A1026 is to detect cracks in the bottoms of the dovetail slots that have grown during engine service. The propagation occurs during accumulation of disk cycles. Potential cracks have not propagated in unused disks, therefore, inspections of unused disks do not mitigate the risk.

Clarify Inspection Requirements for Disks With Less Than 1,500 CSN

One commenter states that the NPRM is unclear, and requests clarification of the required inspection for a disk that has less than 1,500 CSN on the effective date of this AD, and is at piece-part condition after the effective date of this AD. The commenter speculates that the average Mean Time Between Shop Visit on the CF6–80C2 engine is less than approximately 3,500 CSN, and in some instances the Mean Time Between Shop Visit is less than 1,000 cycles.

The FAA disagrees that clarification is required. If an HPT stage 1 disk is at piece-part condition, this qualifies as an ESV according to the NPRM. Therefore, the disk satisfies the requirements for Table 1, paragraph 1, and must be inspected. The initial inspection of all disks is required to occur at the next ESV. Also, paragraph (c) of this AD clearly states that after the effective date of this AD, stage 1 HPT rotor disks with greater than zero CSN must not be installed until inspected. If the disk has 1,500 or fewer CSN on the effective date of this AD, this initial inspection must occur at the next ESV, but before the disk usage exceeds 5,000 CSN, regardless of whether or not another shop visit is anticipated before the disk reaches 5,000 CSN. The proposed compliance times of the rule considered ESV rates, while maintaining an acceptable level of safety. In determining the calculated risk levels, the engine shop visit cyclic distribution data was used in the statistical model.

Add Contact Information for Reporting Requirements

Two commenters request that contact information such as telephone number, fax number, address, and e-mail address of the Engine Certification Manager be added to the Reporting Requirements Section of the final rule. The FAA agrees. The contact information is added to the final rule.

Change "Next Engine Shop Visit" to "Any Engine Shop Visit"

One commenter requests that the initial inspection be required at any shop visit, not to exceed 3,500 cycles-in-service for used disks, and not to exceed 5,000 CSN for new disks. No substantiating data was included with this comment. The reason for the

request was stated as airline operator convenience.

The FAA disagrees. In determining the calculated risk levels, the ESV cyclic distribution data was used in the statistical model. From a calculated risk standpoint, specifying only cycles is not the same as specifying next shop visit not to exceed a certain number of cycles. The initial inspection intervals of next shop visit are based on the risk assessment of the entire fleet. The change requested by the commenter would result in an extension of the inspection intervals. Extensions to the inspection intervals would increase risks to an unacceptable level of safety.

Incorporate Additional Exemptions to Engine Shop Visit

Four commenters request that paragraph (d)(2) of the Compliance section in the NPRM be changed to add other maintenance actions as exemptions to an ESV, to include the following, individually and in combination:

Introduction of an engine into a shop solely for:

- Removal or replacement of the stage 1 fan disk.
- Replacement of the Turbine Rear Frame.
- Replacement of the Accessory and/or Transfer Gearboxes.
- Replacement of the fan forward case.

One of the four commenters suggests that these proposed exemptions are to address quick turn-time maintenance actions, and that these quick turn-time maintenance actions would otherwise not require HPT rotor piece-part disassembly. Therefore, the commenter suggests that significant additional cost would result if the visits for these maintenance actions were not exempt. In addition, this commenter states that their experience shows the number of engines that fall into the proposed categories are limited, and therefore, the proposed exemptions for ESV's will have no significant detriment to the level of safety over the program. All four commenters recommend that the addition of these exemptions will be consistent with AD 99–24–15 (CF6 High Pressure Compressor (HPC) stage 3–9 Spool Inspection). One of the four commenters states that these ESV exemptions will minimize the operator's exposure during "Check & Repair" work scope shop visits.

The FAA disagrees that additional ESV exemptions are appropriate for this rule, based on the severity of the potential unsafe condition. As one commenter cited, the FAA finds that the frequency of these proposed shop visit exemptions is very low. While the four commenters request consistency with the existing AD 99–24–15 (HPC stage 3–9 spool inspection), the FAA notes that the most recent HPC stage 3–9 spool inspection, AD 2000–16–12, contains no exemptions from the definition of shop visit. The NPRM allowed two exemptions to the definition of an ESV, while maintaining the necessary level of safety. The FAA made no changes to the rule. In addition, operators can submit a request for an alternate method of compliance or adjustment of the compliance time that provides an acceptable level of safety. The NPRM definition paragraph (d) is now paragraph (e) in this rule.

Incorporate an Additional Exemption in the Definition of Engine Shop Visit

One commenter requests an additional exemption in the definition of ESV to include a maintenance action that will result in removal of the compressor stator lower case, without need to separate any other major flanges. The commenter has a single engine scheduled for removal for the HPC 3–9 spool inspection. During the shop visit, removal of the compressor stator lower case may arise to replace bushings. The commenter developed an approved method to remove the lower case after reinstalling the top case while the engine is in a horizontal position, without separating any major flanges.

The FAA disagrees. This was the only request of this kind. As the rule is intended to cover the entire fleet, the FAA does not want to revise the AD based on one engine. For unique situations, operators can submit a request for an alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety. Therefore, the FAA made no changes to the rule.

Add a Row to Table 1 for Disks Already Inspected Per GE ASB CF6–80C2 72–A1026

One commenter requests that a row be added to Table 1 for disks already inspected in accordance with GE ASB CF6–80C2 72–A1026 before the effective date of this AD. The added row would state a compliance time of "any number of CSN if the disk has been inspected using ASB CF6–80C2 72–A1026, dated January 17, 2001, before the effective date of this AD", with an initial inspection that is "not applicable", and a repetitive inspection that is "at each piece-part exposure". The commenter provides no substantiating data.

The FAA partially agrees. The FAA has been informed that approximately 20 disks from US operators have been inspected in accordance with ASB CF6–80C2 72–A1026, dated January 17, 2001, since that ASB's issuance. These disks have significant cycles-since-new, and do not require another inspection until next piece-part exposure. Therefore, Table 1 remains as-written and a paragraph has been added to the compliance section stating that, for a stage 1 HPT rotor disk that has been inspected in accordance with 3.A(1) through 3.C.(10)(i) of the Accomplishment Instructions of GE Alert Service Bulletin (ASB) CF6–80C2 72–A1026, dated January 17, 2001, before the effective date of this AD, and had greater than zero cycles-since-new (CSN) at the time of inspection, inspect the disk at each piece-part exposure, and replace as necessary. In addition, operators can submit a request for an alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety.

Option To Perform Initial Inspection for Zero Cycle Disks

One commenter requests an option to perform ASB CF6–80C2 72–A1026, dated January 17, 2001, for zero cycle disks prior to installation. The commenter does not provide technical justification. The commenter states that since GE does not offer an HPT stage 1 disk that is not affected by the proposed AD, all first-run engines and engines in which zero cycle disks are or will be installed, will be limited to 5,000 CSN. Because the inspections cannot be performed on-wing or at engine-level, the proposed rule will cause forced-engine removals and disassembly of the HPT for short range applications.

The FAA disagrees. The intent of the inspection is to detect cracks in the bottoms of the dovetail slots that have grown during engine cyclic service. The propagation occurs during accumulation of disk cycles. Potential cracks have not propagated in unused disks, therefore, inspections of unused disks do not mitigate the risk. The greater the number of cycles accumulated, the greater the risk for fatigue-induced failure. Therefore, short haul operators or operators with fleets that accumulate a large number of cycles per year are more significantly at risk of disk failure.

Change Initial Inspection Threshold, Paragraph 1, of Table 1, for Disks With 1,500 or Fewer CSN

One commenter requests a change in Table 1, paragraph (1), for disks with 1,500 or fewer CSN on the effective date of the AD, to change the initial inspection threshold from "not to exceed 5,000 CSN" to "not to exceed 5,000 CSN or 10,000 hours time-since-new, whichever comes later." The commenter provided no technical substantiation. The commenter states that since all HPT stage 1 disks are affected by the proposed AD, and the inspections cannot be performed on-wing or at engine level, short range applications will cause forced-engine removals.

The FAA disagrees. Specifying hours-since-new does not address the cyclic nature of the crack propagation. The intent of the inspection is to detect cracks in the bottoms of the dovetail slots that have propagated during engine cyclic service. Because the propagation is related to low-cycle fatigue, the propagation occurs during accumulation of disk cycles. The greater the number of cycles accumulated, the greater the risk for fatigue-induced failure. Therefore, short haul operators or operators with fleets that accumulate a large number of cycles per year are more significantly at risk of disk failure. Inspections according to the compliance times in this rule will maintain an acceptable level of safety. Therefore, the FAA made no changes to the rule.

Review Initial Eddy Current Inspection Data

Two commenters request that the "Next Shop Visit" accomplishment schedule be reviewed by the FAA, GE, and the airlines, after substantial data has been collected from the initial eddy current inspections. The commenters note that each data point referenced in the discussion of the proposed rule refers to crack initiation due to handling damage. The commenters believe a timely review of the expanded data set resulting from the inspection program is necessary to confirm the proposed schedule ensures safety without placing an unwarranted burden on the operators.

The FAA partially agrees. The FAA considers this rule to be an interim action. A timely review of the expanded data set resulting from the inspection program is appropriate. Additional inspection results will be considered to ensure that the actions and schedule provide an acceptable level of safety. While the rule requires that inspection rejects be reported to the FAA, it is recommended that operators comply with GE's request for all inspection results be sent to GE, regardless of pass or failure of the inspection. All data, including successes and failures, will be analyzed to evaluate the safety level, and risk of a future event. The subject of handling damage will be discussed in the next response.

Initial Inspection Exemption for New Disks Installed in Engines Since New

Two commenters request that the hard time limits for initial inspections in Table 1, items 1 and 2, should not apply to new disks which have been installed in engines since new. The commenters reason that because new disks have not been repaired or handled, this should preclude the disks from incurring the damage referenced in the proposed rule.

The FAA disagrees. It is possible to incur damage during any handling of the disk, such as during part manufacture, engine assembly, engine disassembly, and during engine overhaul. Recent data on a disk previously rejected by an overhaul shop for a fluorescent-penetrant inspection indication at a slot end broaching burr that had not been completely removed at manufacturing, was destructively evaluated. This burr was associated with a crack, which extended into the slot aft corner. The crack had not propagated from fatigue. While this disk did not have cracking in the slot bottom corner, this finding suggests that it is possible for a disk to have a manufactured burr-related crack as a potential root cause for this series of events. Based on this data, the FAA made no changes to the rule.

Change to Definition of Piece-Part Exposure

The FAA has also changed the definition of piece-part exposure in paragraph (e) of the final rule. The proposal provided that a piece-part exposure would be achieved by a complete disassembly performed in accordance with the engine manufacturer's manual. It is possible that some operators may disassemble the HPT rotor disk using their own manual. Therefore, to make clear that a complete disassembly performed in accordance with an FAA-approved manual other than the manual published by the engine manufacturer, would constitute a piece-part exposure of the HPT rotor disk, the FAA has added the phrase "or other FAA-approved" to paragraph (e)(1)(i) of the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Impact

There are approximately 2,954 engines of the affected design in the worldwide fleet. The FAA estimates that 637 engines installed on aircraft of U.S. registry will be affected by this AD. The FAA estimates that it will take approximately three work hours per engine to accomplish the required actions, and the average labor rate is $60 per work hour. Required parts will cost approximately $283,480 per engine. The FAA also estimates that approximately 191 engines per year will have shop visits, and that of those 191 engines, approximately two disks per year will have to be replaced. Also, based on information provided by NPRM commenters to the FAA, approximately 48 (25%) of the shop visits will require additional work scope because they would not otherwise have required HPT rotor piece-part disassembly. The FAA estimates it will take approximately 50 work hours per engine to accomplish the required additional work scope actions, and the average labor rate is $60 per work hour. Based on these figures, the total additional work scope labor cost will be approximately $144,000. Based on all of these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $745,340 per year.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule. For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–10–07 General Electric Co.: Amendment 39–12233. Docket No. 2001–NE–05–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company (GE) CF6–80C2 series turbofan engines with stage 1 high pressure turbine (HPT) rotor disks, part numbers (P/N's) 1531M84G02, 1531M84G06, 1531M84G08, 1531M84G10, 9392M23G10, 9392M23G12, 9392M23G21, and 1862M23G01 installed. These engines are installed on, but not limited to Airbus Industrie A300 and A310 series, Boeing 747 and 767 series, and McDonnell Douglas MD–11 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated below, unless already done.

To detect cracks in the bottoms of the dovetail slots that could propagate to failure of the disk and cause an uncontained engine failure, perform the following inspections:

(a) For stage 1 HPT rotor disks that have been inspected prior to the effective date of this AD, in accordance with 3.A(1) through 3.C.(10)(i) of the Accomplishment Instructions of GE Alert Service Bulletin (ASB) CF6–80C2 72–A1026, dated January 17, 2001, and had greater than zero cycles-since-new (CSN) at the time of inspection, inspect the disk at each piece-part exposure, and replace as necessary.

(b) For stage 1 HPT rotor disks not previously inspected, inspect the disk in accordance with 3.A.(1) through 3.C.(10)(i) of the Accomplishment Instructions of GE ASB CF6–80C2 72–A1026, dated January 17, 2001, and Table 1 of this AD, and replace if necessary, as follows:

TABLE 1.—COMPLIANCE TIMES FOR STAGE 1 HPT ROTOR DISK INSPECTIONS

Stage 1 HPT Rotor Disk Cycles-since-new (CSN) on the effective date of this AD	Initial inspection	Repetitive inspections
(1) 1,500 CSN or fewer	At the next engine shop visit (ESV) after the effective date of this AD, but not to exceed 5,000 CSN.	At each piece-part exposure.
(2) More than 1,500 CSN	At the next ESV after the effective date of this AD, but not to exceed 3,500 cycles-in-service (CIS) after the effective date of this AD.	At each piece-part exposure.
(3) Any number of CSN if the disk has been inspected using ASB CF6–80C2 72–A1024, Revision 1, dated November 3, 2000, or original ASB issue, dated October 13, 2000, before the effective date of this AD, and, if the disk had greater than zero CSN at the time of inspection.	At the next ESV after the effective date of this AD.	At each piece-part exposure.

(c) After the effective date of this AD, do not install any stage 1 HPT rotor disk with greater than zero CSN until it has been inspected in accordance with 3.A.(1) through 3.C.(10)(i) of the Accomplishment Instructions of GE ASB CF6–80C2 72–A1026, dated January 17, 2001.

(d) Thereafter, inspect the disk at each piece-part exposure, and replace if necessary.

Definitions

(e) The following definitions apply for this AD:

(1) Piece-part exposure means the stage 1 HPT rotor disk is considered completely disassembled as follows:

(i) When done in accordance with the disassembly instructions in the engine manufacturer's, or other FAA-approved engine manual, AND

(ii) The disk has accumulated more than 100 CIS since the last piece-part opportunity inspection, if the disk was not damaged or related to the cause for its removal from the engine.

(2) An ESV is defined as the induction of an engine into a shop where the separation of a major engine flange will occur after the effective date of this AD. The following actions, either separately or in combination, are not considered ESV's for the purpose of this AD:

(i) Induction of an engine into a shop solely for removal of the upper compressor stator case for airfoil maintenance.

(ii) Induction of an engine into a shop solely for the module level inspection of the high pressure compressor rotor 3–9 spool.

Reporting Requirements

(f) Report the results of inspections on all disks that equal or exceed the reject criteria of GE ASB CF6–80C2 72–A1026, dated January 17, 2001, within 5 calendar days of the inspection, to the Manager, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7140; fax: (781) 238–7199. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056. The following information must be included in the report:

(1) Engine model in which the stage 1 HPT rotor disk was installed, AND

(2) Disk P/N, AND

(3) Disk serial number, AND

(4) CSN on the disk, AND

(5) Cycles-since-last-inspection, AND

(6) Date and location of the inspection.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) The inspections must be done in accordance with GE ASB CF6–80C2 72–A1026, dated January 17, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone: (513) 672–8400, fax: (513) 672–8422. Copies may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date of This AD

(j) This amendment becomes effective on June 18, 2001.

Issued in Burlington, Massachusetts, on May 10, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12374 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[TD 8945]

RIN 1545–AY65

Taxable Fuel Measurement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the measurement of taxable fuel. The regulations affect certain blenders, enterers, refiners, terminal operators, and throughputters.

DATES: *Effective Date:* These regulations are effective May 18, 2001.

Applicability Date: These regulations are applicable January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Frank Boland (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 4081 imposes a tax on certain removals, entries, and sales of taxable fuel. Section 4083 provides that taxable fuel means gasoline, diesel fuel, and kerosene.

Before July 1, 2000, regulations provided that gallons of taxable fuel could be measured on the basis of actual volumetric gallons or gallons adjusted to 60 degrees Fahrenheit. However, regulations that were published in the **Federal Register** on March 31, 2000, (TD 8879; 65 FR 17149) provide that beginning July 1, 2000, for each period from July 1 through the following June 30 a person liable for tax on a removal may use only one of the two bases of measurement with respect to taxable fuel removed from any particular terminal, refinery, or blending facility. This rule (the consistency requirement) also applies to taxable entries and sales.

After publication of TD 8879, the IRS and the Treasury Department determined that many taxpayers would have had to change their accounting systems to comply with the consistency requirement and would have been unable to complete the necessary changes by July 1, 2000. Accordingly, Notice 2000–33 (2000–27 I.R.B. 97) provided that taxpayers would not be required to comply with the consistency requirement before July 1, 2001. In the meantime, a taxpayer could use either basis of measurement for each taxable removal, entry, or sale of taxable fuel.

Explanation of Provisions

The IRS and the Treasury Department have now determined that the consistency requirement would force many taxpayers to alter current standard business practices and potentially could make routine IRS examinations more time consuming and burdensome. To avoid these adverse consequences, the final regulations in this document remove the consistency requirement and reinstate the provision that was in effect before July 1, 2000.

Effect on Other Documents

Notice 2000–33 (2000–27 I.R.B. 97) is obsolete as of May 18, 2001.

Special Analyses

This rule relieves taxpayer burden by eliminating a requirement with respect to the measurement of taxable fuel. Therefore, it has been determined that notice and public comment are unnecessary and contrary to the public interest. For the same reason, a delayed effective date under 5 U.S.C. 553(d) is not required. Because no preceding notice of proposed rulemaking is required for this Treasury decision and the rule does not impose on small entities a collection of information requirement, the provisions of the Regulatory Flexibility Act do not apply. It also has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to section 7805(f) of the Code, these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Frank Boland, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 48 is amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 48.4081–8 is revised to read as follows:

§ 48.4081–8 Taxable fuel; measurement.

(a) *In general.* Volumes of taxable fuel may be measured on the basis of actual volumetric gallons or gallons adjusted to 60 degrees Fahrenheit.

(b) *Effective date.* This section is applicable January 1, 1994.

Approved: May 10, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Mark A. Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 01–12600 Filed 5–17–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AK55

U.S. Flags for Burials of Certain Members of the Selected Reserve

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) adjudication regulations to reflect changes made by The Strom Thurmond National Defense Authorization Act of Fiscal Year 1999. These changes concern issuance of United States flags for burials of certain members of the Selected Reserve.

DATES: *Effective Dates:* The amendment is effective October 17, 1998.

FOR FURTHER INFORMATION CONTACT: Diane Fuller, Assistant Director, Compensation and Pension Service (216), Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: On October 17, 1998, the President signed into law the Strom Thurmond National Defense Authorization Act of Fiscal Year 1999, Public Law 105–261 (the Act). One provision of the Act directly affects issuance of United States flags for burial purposes by the Department of Veterans Affairs. The provision requires VA to issue United States flags for burials of certain members of the Selective Reserve, when VA receives a claim for such a flag.

This regulatory amendment reflects that provision by stating that VA will provide a burial flag, upon receipt of a claim, upon the death of any deceased member or former member of the Selected Reserve (as described in section 10143 of title 10) who is not otherwise eligible for a flag under this section or section 1482(a) of title 10 and (1) who completed at least one enlistment as a member of the Selected Reserve or, in the case of an officer, completed the period of initial obligated service as a member of the Selected Reserve; or (2) who was discharged before completion of the person's initial enlistment as a member of the Selected Reserve or, in the case of an officer, period of initial obligated service as a member of the Selected Reserve, for a disability incurred or aggravated in the line of duty; or (3) who died while a member of the Selected Reserve.

(Authority: 38 U.S.C. 2301(a)(1))

Changes made by this final rule merely reflect the statutory requirements in Pub. L. 105–261. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. These amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program number is 64.101.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Flags, Freedom of information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Investigations, Parking, Penalties, Postal Service, Privacy, Reporting and recordkeeping requirements, Seals and insignia, Security measures, and Wages.

Approved: May 3, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 1 is amended as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 1.10 is amended by adding paragraph (a)(1)(v) immediately following the authority citation at the end of paragraph (a)(1)(iv) to read as follows:

§ 1.10 Eligibility for and disposition of the United States flag for burial purposes.

(a) * * *

(1) * * *

(v) Any deceased member or former member of the Selected Reserve (as described in section 10143 of title 10) who is not otherwise eligible for a flag under this section or section 1482(a) of title 10 and who:

(A) Completed at least one enlistment as a member of the Selected Reserve or, in the case of an officer, completed the period of initial obligated service as a member of the Selected Reserve;

(B) Was discharged before completion of the person's initial enlistment as a member of the Selected Reserve or, in the case of an officer, period of initial obligated service as a member of the Selected Reserve, for a disability incurred or aggravated in the line of duty; or

(C) Died while a member of the Selected Reserve.

(Authority: 38 U.S.C. 2301(f)(1))

[FR Doc. 01–12525 Filed 5–17–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 416, 482, and 485

RIN 0938–AK08

Medicare and Medicaid Programs: Hospital Conditions of Participation: Anesthesia Services: Delay of Effective Date

AGENCY: Health Care Financing Administration, (HCFA), Department of Health and Human Services (DHHS).

ACTION: Final Rule; Delay of Effective Date.

SUMMARY: To give the Department an opportunity to obtain comment on modifications to the rule entitled Medicare and Medicaid Programs: Hospital Conditions of Participation: Anesthesia Services, the Department is delaying until November 14, 2001 the effective date of the rule, which was published in the **Federal Register** on January 18, 2001, 66 F.R. 4674, pending the Department's action on a forthcoming notice of proposed rulemaking. The rule's effective date was previously delayed by 60 days on March 19, 2001, in accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled A Regulatory Review Plan, published in the **Federal Register** on January 24, 2001. *See* 66 F.R. 15352.

DATES: The final rule, Medicare and Medicaid Programs; Hospital Conditions of Participation; Anesthesia Services, published in the **Federal Register** on January 18, 2001, at 66 FR 4674 and delayed on March 19, 2001 at 66 FR 15352 until May 18, 2001 is further delayed until November 14, 2001.

FOR FURTHER INFORMATION CONTACT: Stephanie Dyson, Health Care Financing Administration, (410) 786–9226.

SUPPLEMENTARY INFORMATION: On January 18, 2001, the Department of Health and Human Services (DHHS) published in the **Federal Register** a Final Rule, with an effective date of March 19, 2001 (66 F.R. 4674), intended to amend Subpart D of 42 CFR part 482, Subpart C of 42 CFR part 416, and Subpart F of 42 CFR part 485 of the Code of Federal Regulations.

The Department has determined that there is a need to delay this rule's effective date in order to consider (1) whether a Governor may certify to the Department, after consultation with the State's Boards of Medicine and Nursing, or their equivalents, and consistent with State law, that it is in the best interests of the citizens of the State that licenced Certified Registered Nurse Anesthetists (CRNAs) within the State administer anesthesia services without physician supervision, and (2) whether a prospective study should be undertaken to assess the impact of different state CRNA practices. The Department will, therefore, very shortly issue a proposed rule to afford the public the opportunity to comment on these changes.

The notice and comment requirements of 5 U.S.C. 553 do not apply to this delay of the rule's effective date, which is a rule of procedure. See 5 U.S.C. 553(b)(3)(A). To the extent that section 553 applies in these circumstances, however, the Department finds that the action comes within that provision's good cause exceptions in that obtaining public comment is impracticable, unnecessary, and contrary to the public interest. See 5 U.S.C. 553(b)(3)(B). Given the imminence of the effective date, and the imminence of a new notice of proposed rulemaking, seeking prior public comment on this delay is impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. Further, comment is unnecessary because no harm is caused by delay of the effective date of the regulations, as the current rules will remain in effect pending any further action by the Department, and any action taken will be subject to notice and comment before final publication.

Dated: May 16, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–12765 Filed 5–17–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 46

RIN: 0925–AA14

Protection of Human Research Subjects: Delay of Effective Date

AGENCY: Department of Health and Human Services (DHHS).

ACTION: Final Rule; Delay of Effective Date.

SUMMARY: To give the Department an opportunity to obtain comment on three modifications to the rule entitled Protection of Human Subjects, Additional Protections for Pregnant Women and Human Fetuses Involved in Research, and Pertaining to Human In Vitro Fertilization, the Department is delaying until November 14, 2001 the effective date of the rule, which was published in the **Federal Register** on January 17, 2001, 66 F.R. 3878, pending the Department's action on forthcoming notice of proposed rulemaking. The rule's effective date was previously delayed by 60 days on March 19, 2001, in accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled A Regulatory Review Plan, published in the **Federal Register** on January 24, 2001. See 66 F.R. 15352.

DATES: The final rule, Protection of Human Subjects, published in the **Federal Register** on January 17, 2001, at 66 F.R. 3878 and delayed on March 19, 2001 at 66 FR 15352 is further delayed until November 14, 2001.

FOR FURTHER INFORMATION CONTACT: Irene Stith-Coleman, Ph.D., Office of Human Research Protections (OHRP) 200 Independence Avenue, S.W., Room 733–E, Washington, D.C., 20201. Telephone 202–260–1587. Email *istithco@osophs.dhhs.gov*.

SUPPLEMENTARY INFORMATION: On January 17, 2001, the Department of Health and Human Services (DHHS) published in the **Federal Register** a Final Rule, with an effective date of March 19, 2001 (66 Fed. Reg. 3878), intended to amend Subpart B of 45 CFR Part 46 of the Code of Federal Regulations. These regulations provide additional protections for pregnant women and human fetuses involved in research.

The Department has determined that there is a need to delay this rule's effective date in order to consider three limited aspects: (1) Whether paternal consent (when the father is readily available) should be obtained for participation in federally funded research that is directed solely at a fetus; (2) whether the definition of "fetus" should be modified so that it describes only the stage prior to delivery; and (3) whether the rule should be modified to make clear that fetuses of uncertain viability may be subjected to added risk only if the research is intended to enhance the probability of survival of the particular fetus to the point of viability. The Department will, therefore, very shortly issue a proposed rule to afford the public the opportunity to comment on these changes. In the meantime, current Subpart B remains in effect for the special protection of pregnant women and human fetuses involved in research.

The notice and comment requirements of 5 U.S.C. section 553 do not apply to this delay of the rule's effective date, which is a rule of procedure. See 5 U.S.C. 553(b)(3)(A). To the extent that section 553 applies in these circumstances, however, the Department finds that the action comes within that provision's good cause exceptions in that obtaining public comment is impracticable, unnecessary, and contrary to the public interest in the orderly promulgation and implementation of regulations. Further, comment is unnecessary because no harm is caused by delay of the effective date of the regulations, as the current rule, 45 CFR part 46, Subpart B, Protection of Human Subjects, Additional Protections for Pregnant Women and Human Fetuses Involved in Research, and Pertaining to Human In Vitro Fertilization, published in the **Federal Register** on August 8, 1975 and amended January 11, 1978 and June 1, 1994, will remain in effect pending any further action by the Department, and any action taken will be subject to notice and comment before final publication.

Dated: May 16, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–12755 Filed 5–17–01; 8:45 am]

BILLING CODE 4160–17–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 68

[GEN Docket No. 98–68; FCC 01–141]

Streamlining the Equipment Authorization Process; Implementation of Mutual Recognition Agreements and the GMPCS MOU

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document responds to the Petition for Reconsideration filed by Motorola. The petition requested clarification of the Report and Order in this proceeding regarding the handling of confidential information by "Telecommunication Certification Bodies."

DATES: Effective June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Hugh Van Tuyl, Office of Engineering and Technology, (202) 418–7506.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, GEN Docket No. 98–68, FCC 01–141, adopted April 24, 2001, and released April 30, 2001. The full text of this Commission decision is available on the Commission's Internet site at www.fcc.gov. It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Summary of the Memorandum Opinion and Order

1. The *Report and Order*, 64 FR 4984, February 2, 1999, in this proceeding, established a process through which private sector organizations could be designated to approve radio frequency devices and telephone terminal equipment in essentially the same manner as the Commission. These organizations are called Telecommunication Certification Bodies (TCBs). The rules we adopted specify the criteria that an organization must meet to be eligible for designation as a TCB, the designation procedure, the scope of responsibility of TCBs, and the requirements that TCBs must follow after issuing equipment approvals. Motorola, Inc. (Motorola) filed a petition requesting a clarification of the confidentiality of applications filed with TCBs. By this action, we clarify the confidentiality requirements in Parts 2 and 68 of the rules that TCBs must follow in certifying radio frequency devices and telephone terminal equipment as compliant with the Commission's rules.

2. Equipment authorization applications and related materials are not routinely available for public inspection prior to the effective date of the authorization. Upon grant of an application, the application file is routinely available for public inspection. However, the party filing an application for equipment authorization may request that the Commission hold certain exhibits confidential. Those exhibits for which confidentiality have been requested and granted are not routinely available for public inspection even after grant of the application. The factors that the Commission considers in determining whether to grant confidentiality include, among others, whether the material contains information that is commercial, financial, privileged or a trade secret, and whether disclosure of the information could result in substantial competitive harm.

3. When the requirements for TCBs were established, one of the rules adopted states that, upon request from the Commission, a TCB shall provide a copy of an application file to the Commission accompanied by a request for confidentiality for any information that qualifies as trade secrets. This requirement is intended to ensure the appropriate handling of materials filed with a TCB that are not routinely available for public inspection. Just as similar materials filed with the Commission are not routinely available for public inspection, TCBs are obligated to safeguard the confidentiality of information obtained in the course of their certification activities.

4. In its petition, Motorola requests that we clarify § 2.962(g)(4) of the rules regarding the handling of confidential information by TCBs. Specifically, Motorola is concerned about the use of the term trade secrets in this section to identify confidential materials. It states that this term as construed by the courts refers to a process that a business does not disclose publicly. Thus, it contends, this wording of the rule provides less protection to material included with applications filed with TCBs than those filed with the Commission. It believes that the rules for TCBs we adopted in this proceeding should refer more broadly to material that qualifies for confidential treatment under the Commission's rules rather than to trade secrets.

5. Motorola is correct that our rules permit material besides trade secrets to be held as confidential. We find that its recommended change to the rules we adopted in this proceeding more clearly reflects the intent of the rules, which is to ensure that applications processed by TCBs are treated in the same manner as applications processed by the Commission. We are therefore adopting this change. Motorola only specifically requested that we change § 2.962(g)(4) of the rules, which applies to the authorization of radio frequency devices by TCBs. However, on our own motion we are also making this change to § 68.162(g)(4) of the rules which applies to authorization of telephone terminal equipment by TCBs because the same confidentiality requirements that apply to radio frequency devices apply to telephone terminal equipment. This change will ensure consistent treatment of applications for both types of equipment.

Final Regulatory Flexibility Certification

6. The Regulatory Flexibility Act of 1980, as amended (RFA),[1] requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."[2] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[3] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[4] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

7. The *Report and Order*, 64 FR 4984, February 2, 1999, established a process through which private sector organizations could be designated to approve radio frequency devices and telephone terminal equipment. These TCBs were required under the *Report and Order* to keep "trade secret" information confidential. A Final Regulatory Flexibility Analysis was incorporated in the *Report and Order*.[5] Following publication of the *Report and Order*, Motorola filed its petition seeking clarification of the confidentiality of applications filed with TCBs. In this *Memorandum Opinion and Order* we are amending the rules to indicate that confidentiality should apply to "any material that qualifies for confidential treatment under the Commission's Rules."

8. This amendment to the rules will affect the 15 to 20 TCBs in operation; and it is the Commission's belief that most of the TCBs are small businesses. Most applications filed with TCBs do not require that any information be held confidential. Where material does require confidential treatment it is predominantly because the materials are "trade secrets." Systems for determining and storing "trade secrets" are already in place. The small amount of additional material required to be stored because it is "material considered to be confidential by the Commission" is insignificant. Therefore, we expect that the increased burden on TCBs caused by this amendment is nominal and does not rise to the level of a "significant economic burden." Therefore, we certify that the amendments included in this *Memorandum Opinion and Order* will not have a significant economic impact on a substantial number of small entities.

9. The Commission will send a copy of the *Memorandum Opinion and Order*, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.[6] In addition, the *Memorandum Opinion and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration.[7]

10. The petition for clarification filed by Motorola is granted. It is further ordered that Parts 2 and 68 of the Commission's Rules are amended June 18, 2001. Pursuant to the authority contained in sections 4(i), 303(f), 303(g) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), 303(g) and 303(r).

11. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of the *Memorandum Opinion and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 2 and 68

Communications equipment, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rules Changes

For the reasons discussed in the preamble, parts 2 and 68 of title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303 and 336, unless otherwise noted.

2. Section 2.962 is amended by revising paragraph (g)(4) to read as follows:

§ 2.962 Requirements for Telecommunication Certification Bodies.

* * * * *

(g) * * *

(4) Where concerns arise, the TCB shall provide a copy of the application file to the Commission within 30 calendar days of a request for the file made by the Commission to the TCB and the manufacturer. Where appropriate, the file should be accompanied by a request for confidentiality for any material that may qualify for confidential treatment under the Commission's Rules. If the application file is not provided within 30 calendar days, a statement shall be provided to the Commission as to why it cannot be provided.

* * * * *

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

3. The authority citation for part 68 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

4. Section 68.162 is amended by revising paragraph (g)(4) to read as follows:

§ 68.162 Requirements for Telecommunication Certification Bodies.

* * * * *

(g) * * *

(4) Where concerns arise, the TCB shall provide a copy of the application file to the Commission within 30 calendar days of a request for the file made by the Commission to the TCB and the manufacturer. Where appropriate, the file should be accompanied by a request for confidentiality for any material that may qualify for confidential treatment under the Commission's Rules. If the application file is not provided within 30 calendar days, a statement shall be provided to the Commission as to why it cannot be provided.

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[FR Doc. 01–12609 Filed 5–17–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018–AH63

Changes in List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, or "the Convention") regulates international trade in certain animals and plants. Species for which such trade is controlled are listed in Appendices I, II, and III to the Convention. This final rule announces decisions made by the eleventh meeting of the Conference of the Parties to CITES (COP11) in April 2000 on amendments to Appendices I and II, and incorporates those decisions in 50 CFR 23.23. This rule also discusses the issue of entering of reservations by the United States on any of the amendments. The effect of a reservation would be to exempt the United States from implementing CITES for a particular species. The United States has entered no reservations. The CITES amendments to Appendices I and II described in this rule entered into effect on July 19, 2000, unless specifically indicated otherwise.

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[1] The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1966) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 5 U.S.C. 605(b).

[3] 5 U.S.C. 601(6).

[4] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

[5] 13 FCC Rcd 24737 (1999).

[6] *See* 5 U.S.C. 801(a)(1)(A).

[7] *See* 5 U.S.C. 605(b).

DATES: This final rule is effective May 18, 2001. The amendments to Appendices I and II adopted at the recent meeting of the Conference of the Parties held in Gigiri, Kenya, on April 10–20, 2000, entered into force 90 days after their adoption under the terms of CITES and, therefore, were enforceable as of July 19, 2000.

ADDRESSES: Please send correspondence concerning this rule to Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service, Mail Stop ARLSQ–750, Washington, DC 20240; (fax number: 703–358–2276;).

FOR FURTHER INFORMATION CONTACT: Dr. Susan Lieberman, Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service, Mail Stop ARLSQ–750, Washington, DC 20240 (phone: 703–358–1708; fax: 703–358–2276; e-mail: r9osa@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in one of three Appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that, although not necessarily threatened with extinction now, may become so unless trade in them is strictly controlled. Appendix II also lists species that must be subject to regulation in order that trade in other listed species may be brought under effective control (e.g., because of similarity-of-appearance problems). Appendix III includes species that any Party to CITES (i.e., a country that has ratified the treaty) identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which the Party needs the cooperation of other Parties to regulate trade. Any Party may propose amendments to Appendices I and II for consideration at biennial meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate their responses to all Parties no later than 30 days before the meeting.

Recent Decisions

The eleventh meeting of the Conference of the Parties to CITES (COP11) was held April 10–20, 2000, in Gigiri, Kenya, at the headquarters of the United Nations Environment Programme (UNEP). The meeting was hosted by UNEP. At the meeting, the Parties considered 21 different plant proposals and 41 different animal proposals to amend the Appendices (see Table 1 below). We described those proposals in the **Federal Register** on February 17, 2000, for proposals submitted by the United States (65 FR 8190), and on March 8, 2000, for proposals submitted by other countries (65 FR 12400). In the **Federal Register** of March 8, 2000, we also discussed the proposed U.S. negotiating positions on those proposals submitted by other countries.

The CITES COP meeting was divided into two simultaneous committees. Committee II discussed management, implementation, and enforcement issues. Committee I considered and acted upon all proposals to amend the Appendices (except, of course, those that were withdrawn by the proponents during the meeting). Each duly accredited attending Party had one vote, and countries and approved observer organizations were afforded the opportunity to comment on the proposals. Adoption of amendments by Committee I required either consensus or, in case of a vote, a two-thirds majority of those Parties present and voting (abstentions were not included). The Plenary Session accepted actions by Committee I on species proposals, unless a motion to reopen debate was put to vote and approved by one-third of the non-abstaining Parties voting.

Debate was reopened and votes recast on the following proposals that had not received the required two-thirds majority in Committee I: the proposal submitted by Norway to transfer the Northeast Atlantic and North Atlantic Central stocks of minke whales (*Balaenoptera acutorostrata*) from Appendix I to Appendix II; the proposal submitted by Cuba to transfer the "Cuban" population of the hawksbill sea turtle (*Eretmochelys imbricata*) from Appendix I to Appendix II; and the proposal submitted by the United Kingdom to include the basking shark (*Cetorhinus maximus*) in Appendix II. All these proposals were amended in Plenary, and were rejected by the Parties in Plenary.

Secret ballots were cast in Committee I or Plenary on seven different proposals. The proposals that were decided by secret ballot were for the following species: all whale proposals, hawksbill sea turtle, great white shark, and basking shark. All proposals brought to a vote in Plenary were also conducted by secret ballot. The United States considers this proliferation of secret ballots to be unfortunate for a number of reasons. We believe that the position of CITES Parties on species proposals should be public and the voting process transparent. Governments must be accountable to their citizens. In addition, secret ballots take significant time away from the deliberations in both Committee and Plenary. Consequently, the U.S. delegation to the COP always made public (on the floor or in other public fora) its vote on species proposals conducted by secret ballot at COP11. In Committee I, the United States voted for the proposals on basking shark and great white shark, and against all proposals for downlisting of whales and sea turtles.

Species proposals submitted or cosponsored by the United States met with mixed results. The proposals on white wicky (*Kalmia cuneata*), Asian box turtles (*Cuora* spp.; cosponsored by Germany), Sonoran green toad (*Bufo retiformis*), and *Mantella* frogs (*Mantella* spp.; cosponsored by The Netherlands) were adopted. The proposals on gyrfalcon (*Falco rusticolus*), spotted turtle (*Clemmys guttata*), whale shark (*Rhincodon typus*), great white shark (*Carcharodon carcharias;* cosponsored by Australia), and Eastern Hemisphere tarantulas (*Poecilotheria* spp.; cosponsored by Sri Lanka) were rejected. It is notable that the proposals for whale shark, great white shark, and tarantulas received a simple majority of votes, although they did not receive the two-thirds majority required for adoption. The proposal on Asian pangolins (*Manis crassicaudata, M. pentadactyla,* and *M. javanica;* cosponsored by India, Nepal, and Sri Lanka) was amended (species maintained in Appendix II, with a zero quota for wild specimens) and subsequently adopted. The proposal on musk deer (*Moschus* spp.), cosponsored by India and Nepal, was withdrawn, but a resolution and decision were adopted instead.

The proposal on Black Sea bottlenose dolphin (*Tursiops truncatus ponticus;* cosponsored by Georgia), pancake tortoise (*Malacochersus tornieri;* cosponsored by Kenya), and timber rattlesnake (*Crotalus horridus*) were withdrawn, for varying reasons. A number of range countries supported the bottlenose dolphin proposal, but Georgia was unable to attend the meeting; the proposal did generate an official COP decision directing action by the CITES Animals Committee. The timber rattlesnake proposal was withdrawn by the United States after significant opposition from European countries led to defeat of the spotted turtle proposal. That bloc opposition was based on opposition to submission of a proposal for an endemic species (spotted turtle). Parties argued that it should be up to the United States to adopt domestic laws regulating their trade as they are native species. We disagree, since CITES is by definition a multilateral instrument to deal with the conservation of species subject to international trade. We continue to assert, and the representatives of U.S. States concurred at the COP, that the spotted turtle and timber rattlesnake qualify for CITES Appendix II, and any country has a right to recommend the inclusion of endemic species in the CITES Appendices. By precedent, a large number of endemic plant and animal species are already included in the CITES Appendices. The proposals to include three shark species (whale shark, great white shark, and basking shark) in Appendix II encountered bloc opposition from Parties opposed to any CITES involvement in marine species issues and were defeated. The gyrfalcon proposal (*Falco rusticolus*), involving another U.S. species, was opposed primarily by members of the European Union and other European countries, which claimed that such a split-listing would encourage illegal collection and trade in wild specimens originating in Europe.

The United States is currently considering, at least for the spotted turtle and timber rattlesnake, an Appendix III listing as an alternative conservation strategy for these native species subject to international trade. In considering this approach, we will fully consult State wildlife agencies. If we decide to pursue this course of action, we will solicit public comments.

TABLE 1.—RESULTS OF ACTIONS BY THE ELEVENTH MEETING OF THE CONFERENCE TO THE PARTIES (COP11) TO CITES

Proposal	Species/taxon	Proposed amendment	Proponent	Decision
		PLANTS		
		Proposals submitted on behalf of the Plants Committee		
11.1	*Ceropegia* spp	Delete from Appendix II	Switzerland	Adopted.
11.2	*Frerea indica*	Delete from Appendix II	Switzerland	Adopted.
11.3	*Byblis* spp	Delete from Appendix II	Australia	Adopted.
11.4	*Disocactus macdougalli* (McDougal's cactus).	Transfer from Appendix I to Appendix II.	Switzerland	Adopted.
11.5	*Sclerocactus mariposensis* (Mariposa cactus).	Transfer from Appendix I to Appendix II.	Switzerland	Rejected.
11.6	*Cephalotus follicularis*	Delete from Appendix II	Australia	Adopted.
11.7	*Dudleya stolonifera Dudleya traskiae* (Laguna Beach and Santa Barbara Island Dudleya).	Transfer from Appendix I to Appendix II.	Switzerland	Adopted as amended.[1]
11.8	*Cyathea* spp	(a) Change listings of Cyatheaceae spp. to *Cyathea* spp (including *Alsophila, Nephelea, Sphaeropteris, Trichipteris*).	Switzerland	Adopted.
	Cibotium barometz Dicksonia spp.	(b) Change listing of *Dicksoniaceae* spp. to *Dicksonia* spp. (the Americas only) and *Cibotium barometz.*		
11.9	*Shortia galacifolia* (Oconee bells).	Delete from Appendix II	Switzerland	Withdrawn.
11.10	*Lewisia cotyledon* (Siskiyou lewisia) *Lewisia maguirei* (Maguire's lewisia) *Lewisia serrata* (Saw-toothed lewisia).	Delete from Appendix II	Switzerland	Adopted as amended.[2]
11.11	*Darlingtonia californica* (California pitcher plant, cobra-lily).	Delete from Appendix II	Switzerland	Adopted.
		OTHERS		
11.53		Harmonize exemptions for medicinal products: combine annotation #2—*P. hexandrum* and *R. serpentina* with annotation #8—*Taxus wallichiana.*	Switzerland	Adopted.
11.54	*Panax ginseng* (Ginseng)	Inclusion in Appendix II of roots	Russia	Adopted as amended.[3]
11.55	*Araucaria araucana* (Monkey-puzzle tree).	Transfer from Appendix II to Appendix I (Argentina population).	Argentina	Adopted.
11.56	*Cactaceae* spp	Exempt up to 3 specimens of rainsticks (Cactaceae, *Echinopsis, Eulychnia*) per person.	Chile	Withdrawn.[4]
11.57	*Kalmia cuneata* (White wicky)	Delete from Appendix II	United States	Adopted
11.58	*Camptotheca acuminata* (Happy tree).	Inclusion in Appendix II	China	Withdrawn.
11.59	*Cistanche deserticola* (Desert cistanche).	Inclusion in Appendix II	China	Adopted as amended.[4]

TABLE 1.—RESULTS OF ACTIONS BY THE ELEVENTH MEETING OF THE CONFERENCE TO THE PARTIES (COP11) TO CITES—Continued

Proposal	Species/taxon	Proposed amendment	Proponent	Decision
11.60	*Harpagophytum procumbens Harpagophytum zeyheri* (Devil's claw).	Inclusion in Appendix II	Germany	Withdrawn.
11.61	*Adonis vernalis* (Spring adonis)	Inclusion in Appendix II (excluding potted live plants).	Germany	Adopted as amended.[5]
11.62	*Guaiacum sanctum* (Lignum vitae).	Transfer from Appendix II to Appendix I.	United States	Withdrawn.*
	ANIMALS			
	Proposals with export quotas			
11.12	*Crocodylus niloticus* Nile crocodile.	Maintain Tanzanian population in Appendix II; annual export quota of 1,600.	Tanzania	Adopted.
	OTHER PROPOSALS			
	MAMMALS			
	Order Pholidota			
11.13	*Manis crassicaudata Manis pentadactyla Manis javanica* (Asian pangolins).	Transfer from Appendix II to Appendix I.	India; Nepal; Sri Lanka; United States.	Adopted as amended.[6]
	Order Cetacea			
11.14	*Tursiops truncatus ponticus* (Black Sea bottlenose dolphin).	Transfer from Appendix II to Appendix I.	Georgia; United States	Withdrawn.*
11.15	*Eschrichtius robustus* (Gray whale).	Transfer the Eastern North Pacific stock from Appendix I to Appendix II.	Japan	Rejected.
11.16	*Balaenoptera acutorostrata* (Minke whale).	Transfer the Southern Hemisphere stock from Appendix I to Appendix II.	Japan	Rejected as originally submitted and as amended.[7]
11.17	*Balaenoptera acutorostrata* (Minke whale).	Transfer the Okhotsk Sea-W. Pacific stock from Appendix I to Appendix II.	Japan	Rejected.
11.18	*Balaenoptera acutorostrata* (Minke whale).	Transfer the NE Atlantic stock & the N. Atlantic Central stock from Appendix I to Appendix II.	Norway	Rejected as originally submitted and as amended.[8]
	Order Carnivora			
11.19	*Parahyaena (Hyaena) brunnea* (Brown hyaena).	Delete from Appendix II	Namibia; Switzerland	Adopted.
	Order Proboscidea			
11.20	*Loxodonta africana* (African elephant).	Transfer South African population from Appendix I to Appendix II with annotations for trade (30 tons of ivory, hides and leather goods, trophies, live animals).	South Africa	Adopted as amended.[9]
11.21	*Loxodonta africana* (African elephant).	Maintain the Botswana population in Appendix II, with annotations for trade (12 tons of ivory, hides and leather goods, trophies, live animals).	Botswana	Withdrawn.
11.22	*Loxodonta africana* (African elephant).	Maintain the Namibia population in Appendix II, with annotations for trade (2 tons of ivory, hides and leather goods, trophies, live animals).	Namibia	Withdrawn.
11.23	*Loxodonta africana* (African elephant).	Maintain the Zimbabwe population in Appendix II, with annotations for trade (10 tons of ivory, hides and leather goods, ivory carvings, live animals, trophies).	Zimbabwe	Withdrawn.

TABLE 1.—RESULTS OF ACTIONS BY THE ELEVENTH MEETING OF THE CONFERENCE TO THE PARTIES (COP11) TO CITES—Continued

Proposal	Species/taxon	Proposed amendment	Proponent	Decision
11.24	*Loxodonta africana* (African elephant).	Transfer to Appendix I all populations currently listed in Appendix II.	India; Kenya	Withdrawn.
11.25	*Loxodonta africana* (African elephant).	Amend the annotation for Appendix II populations (regarding the destination of live animals).	Switzerland	Adopted.
	Order Sirenia			
11.26	*Dugong dugon* (Dugong)	Transfer the Australian population from Appendix II to Appendix I.	Australia	Adopted.
	Order Artiodactyla			
11.27	*Vicugna vicugna* (Vicuña)	Transfer all populations in Bolivia that are in Appendix I to Appendix II.	Bolivia	Withdrawn.
11.28	*Vicugna vicugna* (Vicuña)	Delete the zero quota for trade in cloth from populations in Appendix II.	Bolivia	Adopted.
11.29	*Moschus* spp. (Musk deer)	Transfer to Appendix I all populations listed in Appendix II.	India; Nepal; United States	Withdrawn.*
11.30	*Ovis vignei* (Urial)	Include in Appendix I all subspecies not yet listed in the Appendices.	Germany	Adopted as amended.[10]
	BIRDS			
	Order Rheiformes			
11.31	*Rhea pennata* (= *Pterocnemia pennata pennata*) (Darwin's rhea).	Transfer Argentine populations from Appendix I to Appendix II.	Argentina	Adopted.
	Order Falconiformes			
11.32	*Falco rusticolus* (Gyrfalcon)	Transfer the North American population from Appendix I to Appendix II, with a zero quota for export of wild birds.	United States	Rejected.
	Order Psittaciformes			
11.33	*Eunymphicus cornutus cornutus* (Horned parakeet).	Transfer from Appendix II to Appendix I.	France	Adopted.
11.34	*Eunymphicus cornutus uveaensis* (Horned parakeet).	Transfer from Appendix II to Appendix I.	France	Adopted.
	Order Passeriformes			
11.35	*Garrulax canorus* (Hwamei)	Inclusion in Appendix II	China	Adopted.
	REPTILES			
	Order Testudinata			
11.36	*Cuora* spp. (Asian box turtles) ...	Inclusion in Appendix II	Germany; United States	Adopted.
11.37	*Clemmys guttata* (Spotted turtles).	Inclusion in Appendix II	United States	Rejected.
11.38	*Geochelone sulcata* (African spurred turtle).	Transfer from Appendix II to Appendix I.	France	Adopted as amended.[11]
11.39	*Malacochersus tornieri* (Pancake tortoise).	Transfer from Appendix II to Appendix I.	Kenya; United States	Withdrawn.[12]
11.40	*Eretmochelys imbricata* (Hawksbill sea turtle).	Transfer "Cuban Population" from Appendix I to Appendix II, with annotation for: (1) export of stocks (6,900 kg) to Japan; (2) export each year thereafter, to Japan or to other Parties (up to 500 turtles).	Cuba; Dominicia	Withdrawn.

TABLE 1.—RESULTS OF ACTIONS BY THE ELEVENTH MEETING OF THE CONFERENCE TO THE PARTIES (COP11) TO CITES—Continued

Proposal	Species/taxon	Proposed amendment	Proponent	Decision
11.41	*Eretmochelys imbricata* (Hawksbill sea turtle).	Transfer "Cuban population" from Appendix I to Appendix II, with annotation for export in one shipment of registered stocks (6,900 kg) to Japan only.	Cuba	Rejected as originally submitted and as amended.[13]
	Order Sauria			
11.43	*Varanus melinus* (Quince monitor).	Transfer from Appendix II to Appendix I.	Germany	Withdrawn.
	Order Serpentes			
11.44	*Crotalus horridus* (Timber rattlesnake).	Inclusion in Appendix II	United States	Withdrawn.
	AMPHIBIANS			
	Order Anura			
11.45	*Bufo retiformis* (Sonoran green toad).	Delete from Appendix II	United States	Adopted.
11.46	*Mantella* spp. (Mantella frogs)	Inclusion in Appendix II (*Mantella aurantiaca* already in Appendix II).	Netherlands; United States	Adopted.
	FISH			
	Order Orectolobiformes			
11.47	*Rhincodon typus* (Whale shark)	Inclusion in Appendix II	United States	Rejected.
	Order Lamniformes			
11.48	*Carcharodon carcharias* (Great white shark).	Inclusion in Appendix I	Australia; United States	Rejected as originally submitted and amended.[14]
11.49	*Cetorhinus maximus* (Basking shark).	Inclusion in Appendix II	United Kingdom	Rejected as amended.[15]
	Order Coelacanthiformes			
11.50	*Latimeria* spp. (Coelacanths)	Inclusion in Appendix I (*Latimeria chalumnae* is already in Appendix I).	Germany; France	Adopted.
11.51	*Latimeria menadoensis*	Inclusion in Appendix I	Indonesia; Germany	Withdrawn.
	INVERTEBRATES			
	Order Araneae			
11.52	*Poecilotheria* spp. (Eastern Hemisphere tarantulas).	Inclusion in Appendix II	United States; Sri Lanka	Rejected.

[1] *Dudleya stolonifera* transferred to Appendix II. *Dudleya traskiae* to remain in Appendix I.
[2] *Lewisia cotyledon* deleted. *Lewisia maguirei* and *Lewisia serrata* retained in Appendix II.
[3] Russian population only.
[4] Amended annotation (now same as annotation #3).
[5] Annotation for dried specimens (either whole or in part) only.
[6] Species remain in Appendix II with a zero quota for trade from the wild.
[7] Proposal was amended twice. First amended by Japan to allow only trade between Parties with a DNA identification. Then, Suriname proposed amendment for zero quota until COP12.
[8] Limited trade to animals taken within Norwegian waters, and only for trade to countries with DNA-based identification systems.
[9] Amendment: Zero quota on ivory.
[10] All unlisted populations listed in Appendix II.
[11] Species remains in Appendix II with a zero quota for exports from the wild.
[12] Withdrawn after discussions between Kenya and Tanzania. Tanzania committed to not allow any exports from the wild.
[13] Cuba proposed annotation that trade would not take place until the control systems in Japan were reviewed by the Standing Committee.
[14] Amended to Appendix II.
[15] Amended to include a 12-month delay in effective date for implementation.
* A Resolution or Decision of the Conference of the Parties was adopted dealing with this species.

Nomenclature Changes

At each meeting of the Conference of the Parties, the Parties also adopt certain nomenclature changes to the Appendices, based on adoption of new references or other scientific information. The adoption of the Nomenclature Report does not change the Appendix in which a species appears, but does change what name must be used for the species. As a result of the adoption by the Conference of the Parties of nomenclature changes, the names of the following taxa have been included in the CITES Appendices:

TABLE 2.—TAXONOMIC CHANGES TO THE CITES APPENDICES AS DECIDED AT COP11

Common name	Currently listed as	Previously listed as	Class, order, and family
Southern or Antarctic minke whale	*Balaenoptera bonaerensis*	*Balaenoptera acutorostrata*	Class Mammalia, Order Cetacea, Family Balaenopteridae
Cuatro Cienagas spiny soft-shell turtle.	*Apalone ater*	*Trionyx ater*	Class Reptilia, Order Testudinata, Family Trionychidae
Indian soft-shell turtle	*Aspideretes gangeticus*	*Trionyx gangeticus*	Class Reptilia, Order Testudinata, Family Trionychidae.
Peacock soft-shell turtle	*Aspideretes hurum*	*Trionyx hurum*	Class Reptilia, Order Testudinata, Family Trionychidae.
Black soft-shell turtle	*Aspideretes nigricans*	*Trionyx nigricans*	Class Reptilia, Order Testudinata, Family Trionychidae.
Pythons	Family Pythonidae	Family Boidae	Class Reptilia, Order Serpentes.
Round Island boas	Family Bolyeriidae	Family Boidae	Class Reptilia, Order Serpentes.
Mexican dwarf boas	Family Loxocemidae	Family Boidae	Class Reptilia, Order Serpentes.
Small ground boas	Family Tropidophiidae	Family Boidae	Class Reptilia, Order Serpentes.
Chameleons	*Calumma* spp. and *Furcifer* spp	*Chamaeleo* spp.	Class Reptilia, Order Sauria, Family Chamaeleonidae.

COP11 Results

Results of the actions by the Conference of the Parties on the Appendices are given in tables 3–5 below. Details on the actual votes for proposals and related information are available from the Division of Scientific Authority (see **ADDRESSES**, above), our web site (http://international.fws.gov/cop11/cop11.html), and the CITES Secretariat's web site (www.wcmc.org.uk/CITES/eng/index.shtml).

TABLE 3.—TAXA REMOVED FROM THE CITES APPENDICES

Species	Common name	Appendix
CLASS MAMMALIA	MAMMALS.	
Order Carnivora	Canids, Cats, Bears, Mustelids, etc.	
Parahyaena brunnea	Brown hyaena	II
CLASS AMPHIBIA	AMPHIBIANS.	
Order Anura	Frogs, Toads.	
Bufo retiformis	Sonoran green toad	II
PLANT KINGDOM	PLANTS.	
Family Asclepiadaceae	Milkweed family.	
Ceropegia spp	Ceropegia family	II
Frerea indica		II
Family Byblidaceae	Byblis family.	
Byblis spp	Byblis, Rainbow plants	II
Family Cephalotaceae	Australian pitcher-plant family.	
Cephalotus follicularis	West Australian pitcher-plant	II
Family Ericaceae	Heath family.	
Kalmia cuneata	White wicky	II
Family Portulacaceae	Portulaca family.	
Lewisia cotyledon	Siskiyou lewisia	II
Family Sarraceniaceae	New World pitcher plant family.	
Darlingtonia californica	Western pitcher plant, Cobra-lily	II

TABLE 4.—NEW TAXA OR POPULATIONS ADDED TO THE CITES APPENDICES

Species	Common name	Appendix
CLASS MAMMALIA	MAMMALS.	
Order Artiodactyla	Even-toed ungulates.	
Ovis vignei [all previously unlisted subspecies]	Urial	II
CLASS AVES	BIRDS.	
Order Passeriformes	Perching birds, Songbirds.	
Garrulax canorus	Hwamei	II
CLASS REPTILIA	REPTILES.	
Order Testudinata	Turtles, Tortoises.	

TABLE 4.—NEW TAXA OR POPULATIONS ADDED TO THE CITES APPENDICES—Continued

Species	Common name	Appendix
Cuora spp.	Asian box turtles	II
CLASS AMPHIBIA	AMPHIBIANS.	
Order Anura	Frogs, Toads.	
Mantella spp. [all previously unlisted species]	Mantella frogs	II
CLASS OSTEICHTHYES	BONY FISHES.	
Order Coelacanthiformes	Coelacanth.	
Latimeria spp. [all previously unlisted species]	Coelacanth	I
PLANT KINGDOM	PLANTS.	
Family Araliaceae	Ginseng family.	
Panax ginseng [population of Russia]	Ginseng	II
Family Orobanchaceae.		
Cistanche deserticola	Desert cistanche	II
Family Ranunculaceae.		
Adonis vernalis	Spring adonis	II

TABLE 5.—REVISIONS IN THE CITES APPENDICES RESULTING FROM NOMENCLATURE CHANGES AND SPLIT-LISTING OF SPECIFIC POPULATIONS

Species	Common name	Appendix
CLASS MAMMALIA	MAMMALS.	
Order Cetacea	Whales, Porpoises, Dolphins.	
Balaenoptera bonaerensis[1]	Southern minke whale	I
Order Proboscidea	Elephants.	
Loxodonta africana [population of South Africa[2]]	African elephant	II
Order Sirenia	Dugongs, Manatees.	
Dugong dugon [population of Australia[3]]	Dugong	I
CLASS AVES	BIRDS.	
Order Rheiformes	Rheas.	
Rhea pennata pennata [population of Argentina[2]]	Darwin's rhea	II
Order Psittaciformes	Parrots, Parakeets, Macaws, Lories, Cockatoos, etc.	
Eunymphicus cornutus cornutus[3]	Horned parakeet	I
Eunymphicus cornutus uveaensis[3]	Horned parakeet	I
CLASS REPTILIA	REPTILES.	
Order Testudinata	Turtles, Tortoises.	
Apalone ater[4]	Cuatro Cienegas softshell turtle	I
Aspideretes gangeticus[4]	Indian soft-shell turtle	I
Aspideretes hurum[4]	Peacock soft-shell turtle	I
Aspideretes nigricans[4]	Black soft-shell turtle	I
Order Sauria	Lizards.	
Calumma spp.[5]	Chamaeleons	II
Furcifer spp.[5]	Chamaeleons	II
Order Serpentes	Snakes.	
Atropoides nummifer[6]	Jumping pit-viper	III (Honduras)
Bolyeriidae spp.[7]	Round island boas	II
Daboia russellii[8]	Russell's viper	III (India)
Bothriechis schlegelii[6]	Eyelash palm pit-viper	III (Honduras)
Porthidium nasutus[6]	Rainforest hognosed pit-viper	III (Honduras)
Porthidium ophryomegas[6]	Slender hognosed pit-viper	III (Honduras)
Loxocemidae spp.[7]	Mexican dwarf boas	II
Pythonidae spp.[7]	Pythons	II
Tropidophiidaedae spp.[7]	Small ground boas	II
PLANT KINGDOM	PLANTS.	
Family Araucariaceae	Monkey-puzzle tree family.	
Araucaria araucana [population of Argentina][3]	Monkey-puzzle tree	I
Family Cactaceae	Cactus family.	
Disocactus (= Lobeira, = Nopalxochia) macdougallii[2]	MacDougall's cactus	II
Family Crassulaceae	Stonecrop family.	
Dudleya stolonifera[2]	Laguna Beach dudleya	II
Family Cyatheaceae	Tree-fern family.	
Cyathea spp.[9]		II
Family Dicksoniaceae	Tree-fern family.	
Cibotium barometz[10]		II
Dicksonia spp. [the Americas only][10]		II

[1] Previously considered a southern population of *Balaenoptera acutorostrata*.
[2] Downlisted from Appendix I to Appendix II.
[3] Uplisted from Appendix II to Appendix I.
[4] Previously in genus *Trionyx*.
[5] Previously member of genus *Chamaeleo*.
[6] Previously in genus *Bothrops*.
[7] Previously listed as family Boidae.
[8] Previously *Vipera russellii*.
[9] Previously entire family Cyatheaceae listed.
[10] Previously entire family Dicksoniaceae listed.

Consequences of Amendments of Appendices I and II

All proposals in table 1 that were approved by the Conference of the Parties entered into effect 90 days after the meeting (i.e., on July 19, 2000) under the terms of the CITES treaty. Article XV of CITES enables any Party to exempt itself from implementing CITES for any particular species, if the Party enters a reservation with respect to that species. A Party desiring to enter a reservation must do so during the 90-day period immediately following the close of the meeting at which the Parties voted to include the species in Appendix I or Appendix II. If the United States were to decide to enter any reservation, this action must have been transmitted to the Depositary Government (Switzerland) by July 19, 2000.

Reservations, if entered, do little to relieve importers in the United States from the need for foreign export permits, because the U.S. Lacey Act Amendments of 1981 (16 U.S.C. 3371 *et seq.*) make it a Federal offense to import into the United States any animals taken, possessed, transported, or sold in violation of foreign conservation laws. If a foreign country has enacted CITES as part of its positive law, and that country has not taken a reservation with regard to the animal or plant, or its parts or derivatives, the United States (even if it had taken a reservation on a species) would continue to require CITES export documents as a condition of import.

Any reservation by the United States would provide exporters in this country with little relief from the need for U.S. export documents. Importing countries that are party to CITES would generally require CITES-equivalent documentation from the United States, even if it enters a reservation, because the Parties have agreed to allow trade with non-Parties (including reserving Parties) only if they issue documents containing all the information required in CITES permits or certificates. In addition, if a reservation is taken on a species listed in Appendix I, the species should still be treated by the reserving Party as in Appendix II according to Resolution Conf. 4.25, thereby still requiring CITES documents for export.

The United States has never entered a reservation to a CITES listing, including the listings resulting from COP11. It is the policy of the United States that commercial trade in Appendix I species for which a country has entered a reservation undermines the effectiveness of CITES. All new listings in the Appendices adopted at COP11 (all previously unlisted populations of urial, hwamei, Asian box turtles, Mantella frogs, all coelacanths, ginseng, desert cistanche, and spring adonis) and all transfers from Appendix II to Appendix I (dugong, horned parakeets, and monkey-puzzle tree) were supported by the United States. Because we announced our position on all of these proposals well in advance of the meeting, we did not solicit public comments on whether we should enter any reservations following COP11.

Requirements of Other Laws

Changes in the CITES listing status of species as a consequence of actions taken at COP11 do not supersede import or export requirements pursuant to other wildlife conservation laws. For example, import or export of species listed as "threatened" or "endangered" under the U.S. Endangered Species Act (ESA) still must meet the provisions of that law and its implementing regulations in 50 CFR part 17, even if those species have been transferred to a less protective CITES Appendix or removed from the Appendices entirely.

Among the species downlisted to Appendix II at COP11, or with an amended annotation, but still subject to stricter ESA provisions are the African elephant, Darwin's rhea, and the vicuña. The brown hyena, removed from Appendix II, also remains listed under the ESA. The African elephant is also subject to provisions of the U.S. African Elephant Conservation Act (AECA). Because of the high public interest in this species and the complexity of the terms of the CITES downlistings, the effects of the downlistings on trade in African elephant products is treated separately in more detail below. Species of birds included in the CITES Appendices for the first time (hwamei) are now subject to the terms and provisions of the U.S. Wild Bird Conservation Act (WBCA) and its regulations in 50 CFR part 15. This inclusion will result in a prohibition on the importation of this species unless they qualify for exemptions established by regulation. Copies of these implementing regulations are available from the Service's Division of Management Authority and from our web site at http://international.fws.gov/.

Importation Into the United States of Sport-Hunted Trophies of African Elephants From the Republic of South Africa

The African elephant is listed as "threatened" under the ESA with a special rule at 50 CFR 17.40(e). Under the special rule, a personally taken sport-hunted trophy may be imported into the United States when it has (1) originated in a country for which the Service has received notice for that country's African elephant ivory quota for the year of export; (2) the permit requirements of the regulations for CITES permits (50 CFR 13 and 23) have been met; (3) the Service has determined that the take of the trophy for import would enhance the survival of the species; and (4) the ivory has been marked as outlined in the special rule. All these conditions continued to apply after the Appendix II listing for the elephant populations of South Africa became effective on July 19, 2000.

In making the required enhancement findings, the Service reviews the status of the population and the total management program for the elephant in each country to ensure the program is promoting the conservation of the species. The Service will make such findings on a periodic basis upon receipt of new information on the species' population or management. The enhancement findings for importation of sport-hunted elephant trophies from South Africa are on file in the Division of Management Authority and remain in effect until the Service finds, based on new information, that the conditions of the special rule are no longer met and has published a notice of any change in the **Federal Register**.

The practical effect of the downlisting of the South African population for sport hunters is that an import permit will no longer be required for noncommercial imports of African elephant sport-hunted trophies from South Africa, as well as Namibia, Botswana, and Zimbabwe only (elephant populations in the latter three countries were downlisted to Appendix II in 1997 during COP10). Only a CITES export permit from the country of origin or a reexport certificate from an intermediate country will be required. Populations of African elephants in all other countries, however, remain in Appendix I. Therefore, importation into the United States of sport-hunted elephant trophies from these other

countries will continue to require prior issuance of both an import and export permit. As in the past, under the requirements of the AECA, no sport trophies of African elephants, or the raw ivory derived from sport-hunted trophies, whether from Appendix I or Appendix II populations, may be exported from the United States.

Importation of Live African Elephants, Ivory, and Other African Elephant Products

When the downlisting of the elephant populations of South Africa became effective on July 19, 2000, it became possible to import live elephants from that country into the United States "to appropriate and acceptable destinations" without an import permit and without need for an enhancement finding. Only an export permit from the country of origin, or a reexport certificate from an intermediate country, is now necessary. Commercial trade in hides and leather products will also be allowed. Hides or leather products from elephant populations other than those of South Africa and Zimbabwe are still considered to be specimens included in Appendix I and cannot be imported by any CITES Party for commercial purposes. Regardless of any provisions of the African elephant downlistings at COP10 and COP11 for export of elephant ivory or ivory products, import of worked ivory into the United States continues to be prohibited under the terms of AECA or under the provisions of the ESA 4(d) special rule, unless they meet any of the following exceptions: (1) Bona fide antiques more than 100 years old; (2) personal and household effects registered with U.S. Customs on export and now being reimported; or (3) pre-Convention items for noncommercial use acquired prior to the first listing of the elephants under CITES in 1977. With the exception of appropriately marked sport-hunted trophies, import of raw ivory is strictly prohibited.

Required Determinations

This rule was not subject to Office of Management and Budget review under Executive Order 12866. Because these amendments are simply notifications of actions taken by the CITES Parties, they are not "rules" as defined in 5 U.S.C. 551. Similarly, the Regulatory Flexibility Act (5 U.S.C. 601) does not apply to the CITES listing process. The proposed adjustments to the list in 50 CFR 23.23 are solely informational to provide the public with accurate data on the species covered by CITES. The listing changes adopted by the Parties took effect on July 19, 2000, under the terms of the CITES treaty.

This rule does not contain new or revised information collection for which Office of Management and Budget (OMB) approval is required under the Paperwork Reduction Act. Information collection associated with CITES permits is covered by an existing OMB approval, and is assigned clearance No. 1018–0093, Form 3–200–27, with an expiration date of February 28, 2001. Detailed information for the CITES documentation appears at 50 CFR 23.15(g). The Service may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The Department of the Interior has determined that amendments to the CITES Appendices, which result from actions of the Parties to the Convention, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321–4347). This rule is categorically excluded from further National Environmental Policy Act requirements, under Part 516 of the Departmental Manual, Chapter 2, Appendix 1.10.

This document is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq. and 87 Stat. 884, as amended). It was prepared by Dr. Javier Alvarez, Division of Scientific Authority.

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Fish, Imports, Marine mammals, Plants, Reporting and recordkeeping requirements, Treaties.

Regulation Promulgation

For the reasons set forth in the preamble, the Service amends title 50, chapter I, subchapter B, part 23 of the Code of Federal Regulations as follows:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 1087; and Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

2. In § 23.23, amend the table in paragraph (f) as follows:

a. Remove the following entries:

In CLASS MAMMALIA (common name, MAMMALS):

Parahyaena brunnea (common name, brown hyaena; in Order Carnivora, common name, Carnivores: Cats, Bears, etc.);

D. dugon (Australian population) (common name, Dugong; in Order Sirenia, common name, Dugongs, Manatees);

O. vignei vignei (common name, Shapo; in Order Artiodactyla, common name, Even-toed ungulates).

In CLASS REPTILIA (common name, REPTILES):

B. nasutus (common name, Rainforest hognosed pit-viper; in Order Serpentes, common name, Snakes).

In CLASS AMPHIBIA (common name, AMPHIBIANS):

B. retiformis, (common name, Sonoran green toad; In Order Anura, common name Frogs, Toads).

In PLANT KINGDOM:

Araucaria araucana (all populations except that of Chile) (common name, Monkey-puzzle tree; in Family Araucariaceae, common name Monkey-puzzle tree family);

A. araucana (population of Chile) (common name, Monkey-puzzle tree; in Family Araucariaceae, common name Monkey-puzzle tree family);

Family Asclepiadaceae (common name, Milkweed family), including Ceropegia spp. (common name, Ceropegias) and *Frerea indica;*

Family Byblidaceae (common name, Byblis family), including *Byblis* spp. (common name, Byblis, Rainbow plants);

Disocactus (=*Lobeira, =Nopalxochia*) *macdougallii* (common name, MacDougall's cactus; in Family Cactaceae, common name, Cactus family);

Family Cephalotaceae (common name, Australian pitcher-plant family), including *Cephalotus follicularis* (common name, West Australian pitcher plant);

Family Ericaceae (common name, Heath family), including *Kalmia cuneata* (common name, White wicky);

Lewisia cotyledon (common name, Siskiyou lewisia; in Family Portulacaceae, common name, Portulaca family);

Darlingtonia californica (common name, Western pitcher plant, Cobra-lily; in Family Sarraceniaceae, common name, New World pitcher plant family).

b. Revise the following entries:

In CLASS MAMMALIA (common name, MAMMALS):

Manis spp. (common name, pangolins; in Order Pholidota, common name, Pangolins, Scaly Anteaters);

Balaenoptera acutorostrata (common name, Minke whale; in Order Cetacea, common name, Whales, Porpoises, Dolphins);

Loxodonta africana (common name, African elephant; in Order Proboscidea, common name, Elephants) (both entries);

Dugong dugon (except for Australian population) (common name, Dugong; in Order Sirenia, common name, Dugongs, Manatees);

Bos gaurus (common name, Seladang, Guar; in Order Artiodactyla, common name, Even-toed ungulates);

V. vicugna (Bolivia) (common name, Vicuña; in Order Artiodactyla, common name, Even-toed ungulates).

In CLASS AVES (common name, BIRDS):

Rhea pennata pennata (common name, Darwin's rhea; in Order Rheiformes, common name Rheas);

Eunymphicus cornutus (common name, horned parakeet; in Order Psittaciformes, common name Parrots, Parakeets, Macaws, Lories, Cockatoos, etc.).

In CLASS REPTILIA (common name, REPTILES):

Trionyx ater (common name, Cuatro Cienegas softshell turtle; in Order Testudinata, common name, Turtles, Tortoises);

Trionyx gangeticus (common name, Indian softshell turtle; in Order Testudinata, common name, Turtles, Tortoises);

Trionyx hurum (common name, Peacock softshell turtle; in Order Testudinata, common name, Turtles, Tortoises);

Trionyx nigricans (common name, Black softshell turtle; in Order Testudinata, common name, Turtles, Tortoises);

Boidae spp. (common name, Boa Constrictors and Pythons; in Order Serpentes, common name, Snakes);

Bothrops nummifer (common name, Jumping pit-viper; in Order Serpentes, common name, Snakes);

Bothrops ophryomegas (common name, Slender hognosed pit-viper; in Order Serpentes, common name, Snakes);

Bothrops schlegelii (common name, Eyelash palm pit-viper; in Order Serpentes, common name, Snakes);

Vipera russellii (common name, Russell's viper; in Order Serpentes, common name, Snakes).

In PLANT KINGDOM (common name, PLANTS):

Rauvolfia serpentina (common name, Snake-root devil-pepper; in Family Apocynaceae, common name, Dogbane family);

Podophyllum hexandrum (common name, Himalayan may-apple; in Family Berberidaceae, common name Barberry family);

Dudleya stolonifera (common name, Laguna Beach dudleya; in Family Crassulaceae, common name, Stonecrop family);

Family Cyatheaceae (common name, Tree-fern family);

Family Dicksoniaceae (common name, Tree-fern family);

Taxus wallichiana (common name, Himalayan yew; in Family Taxaceae, common name, Yew family).

c. Add new entries as set forth below.

Note: In the animal classes (Mammals, Birds, Reptiles, Amphibians, and Bony Fishes), the orders are listed in taxonomic sequence, and the species are listed alphabetically within each order; in the plant kingdom, the families are listed alphabetically, and the species are listed alphabetically within each family.

The revisions and additions read as follows:

§ 23.23 Species listed in Appendices I, II, and III.

* * * * *

(f) * * *

Species	Common name	Appendix	First listing date (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
. . .	. . .	.	.
Order Pholidota:	Pangolins, Scaly Anteaters:		
Manis spp. (all species except those with an annual export quota).	Pangolins	II	7/1/75
Manis crassicaudata [zero quota for wild specimens].	Indian pangolin	II	7/1/75
Manis javanica [zero quota for wild specimens]	Malayan pangolin	II	7/1/75
Manis pentadactyla [zero quota for wild specimens].	Chinese pangolin	II	7/1/75
. . .	. . .	.	.
Order Cetacea:	Whales, Porpoises, Dolphins:		
. . .	. . .	.	.
Balaenoptera acutorostrata (all populations except that of West Greenland).	Northern minke whale	I	6/28/79
Balaenoptera bonaerensis	Southern minke whale	I	6/28/79
. . .	. . .	.	.
Order Proboscidea:	Elephants:		
. . .	. . .	.	.
Loxodonta africana [except populations of Botswana, Namibia, South Africa, and Zimbabwe].	African elephant	I	2/4/77

Species	Common name	Appendix	First listing date (month/day/year)
L. africana [only the populations of Botswana, Namibia, South Africa and Zimbabwe, to allow: (1) Export of hunting trophies for non-commercial purposes; (2) export of live animals to appropriate and acceptable destinations (Namibia: for noncommercial purposes only; South Africa: for reintroduction purposes); (3) export of hides and leather goods (South Africa and Zimbabwe); (4) export of ivory carvings for noncommercial purposes (Zimbabwe only); (5) export of ivory tusks from Kruger National Park (South Africa; zero quota)].	African elephant	II	2/4/77
Order Sirenia:	Dugongs, Manatees:		
Dugong dugon	Dugong	I	7/1/75
Order Artiodactyla:	Even-toed ungulates:		
B. gaurus (excluding domestic forms)	Seladang, Gaur	I	7/1/75
Ovis vignei (except subspecies listed below)	Urial	II	7/19/00
O. vignei vignei	Ladakh urial	I	7/1/75
Vicugna vicugna (except populations listed below, under the conditions specified).	Vicuña	I	7/1/75
V. vicugna [Bolivia: populations of the Conservation Units -of Mauri-Desaguadero, Ulla Ulla and Lipez-Chichas (export limited to wool sheared from live animals and to cloth and items made thereof, including luxury handicrafts and knitted articles; the reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the Convenio para la Conservación y Manejo de la Vicuña and the words, "VICUÑA-BOLIVIA"; all specimens not meeting any of the above conditions shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly)].	Vicuña	II	7/1/75
CLASS AVES:	BIRDS:		
Order Rheiformes:	Rheas:		
R. pennata pennata (Argentina only)	Darwin's rhea	II	7/1/75
R. pennata pennata (except population of Argentina).	Darwin's rhea	I	7/1/75
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories, Cockatoos, etc.:		
Eunymphicus cornutus (except subspecies listed below).	Horned parakeet	II	7/1/75
Eunymphicus cornutus cornutus	Horned parakeet	I	7/1/75
Eunymphicus cornutus uveaensis	Horned parakeet	I	7/1/75
Order Passeriformes:	Perching birds, Songbirds:		
Garrulax canorus	Hwamei	II	7/19/00

Species	Common name	Appendix	First listing date (month/day/year)
CLASS REPTILIA:	REPTILES:		
Order Testudinata:	Turtles, Tortoises:		
Apalone ater	Cuatro Cienegas softshell turtle	I	7/1/75
Aspideretes gangeticus	Indian soft-shell turtle	I	7/1/75
Aspideretes hurum	Peacock soft-shell turtle	I	7/1/75
Aspideretes nigricans	Black soft-shell turtle	I	7/1/75
Cuora spp.	Asian box turtles	II	7/19/00
Geochelone sulcata [zero quota for wild specimens].	African spurred tortoise	II	7/1/75
Trionyx ater (see *Apalone ater*) *T. gangeticus* (see *Aspideretes gangeticus*) *T. hurum* (see *Aspideretes hurum*) *T. nigricans* (see *Aspideretes nigricans*)			
Order Sauria:	Lizards:		
Calumma spp.	Chamaeleons	II	2/4/77
Furcifer spp.	Chamaeleons	II	2/4/77
Order Serpentes:	Snakes:		
Atropoides nummifer	Jumping pit-viper	III (Honduras)	4/13/87
Boidae spp. (all species except those in App. I or with earlier date in App. II).	Boas	II	2/4/77
Bolyeriidae spp. (all species except those in App. I or with earlier date in App. II).	Round island boas	II	2/4/77
Bothriechis schlegelii	Eyelash palm pit-viper	III (Honduras)	4/13/87
Bothrops nasutum (see *Porthidium nasutum*) *B. nummifer* (see *Atropoides nummifer*) *B. ophryomegas* (see *Porthidium ophryomegas*) *B. schlegelii* (see *Bothriechis schlegelii*)			
Daboia russellii	Russell's viper	III (India)	2/12/84
Loxocemidae spp. (all species except those in App. I or with earlier date in App. II).	Mexican dwarf boas	II	2/4/77
Porthidium nasutum	Rainforest hognosed pit-viper	III (Honduras)	4/13/87
Porthidium ophryomegas	Slender hognosed pit-viper	III (Honduras)	4/13/87
Pythonidae spp. (all species except those in App. I or with earlier date in App. II).	Pythons	II	2/4/77
Tropidophiidae spp. (all species except those in App. I or with earlier date in App. II).	Small ground boas	II	2/4/77
Vipera russellii (see *Daboia russellii*).			

Species	Common name	Appendix	First listing date (month/day/year)
CLASS AMPHIBIA:	AMPHIBIANS:		
Order Anura:	Frogs, Toads:		
Mantella spp. (except species below)	Mantella frogs	II	7/19/00
CLASS OSTEICHTHYES:	BONY FISHES:		
Order Coelacanthiformes:	Coelacanth:		
Latimeria spp. (except species below)	Coelacanth	I	7/19/00
Latimeria chalumnae	Gombessa coelacanth	I	7/1/75
PLANT KINGDOM (note general exclusions and exceptions in introductory text):	PLANTS:		
Family Apocynaceae:	Dogbane family:		
Rauvolfia serpentina (except chemical derivatives and finished pharmaceutical products).	Snake-root devil-pepper	II	1/18/90
Family Araliaceae:	Ginseng family:		
Panax ginseng [population of Russia] (whole and sliced roots and parts of roots, excluding manufactured parts or derivatives such as powders, pills, extracts, tonics, teas, and confectionery).	Ginseng	II	7/19/00
Family Araucariaceae:	Monkey-puzzle tree family:		
Araucaria araucana	Monkey-puzzle tree	I	7/1/75
Family Berberidaceae:	Barberry family:		
Podophyllum hexandrum (=*P. emodi*, =*Sinopodophyllum hexandrum*) (except chemical derivatives and finished pharmaceutical products).	Himalayan may-apple	II	1/18/90
Family Crassulaceae:	Stonecrop family:		
Dudleya stolonifera	Laguna Beach dudleya	II	7/29/83
Family Cyatheaceae:	Tree-fern family:		
Alsophila spp. (see *Cyathea* spp.)			
Cyathea spp. (includes *Alsophila* spp., *Nephelea* spp., *Sphaeropteris* spp., *Trichipteris* spp.).		II	2/4/77
Cyathea (=*Hemitelia*) *capensis*		II	7/1/75
C. dregei		II	7/1/75
C. mexicana		II	7/1/75
C. (=*Alsophila*) *salvini*		II	7/1/75
Nephelea spp. (see *Cyathea* spp.)			
Sphaeropteris spp. (see *Cyathea* spp.)			
Trichipteris spp. (see *Cyathea* spp.)			
Family Dicksoniaceae:	Tree-fern family:		
Cibotium barometz		II	2/4/77
Dicksonia spp. (the Americas only)		II	2/4/77
Family Orobanchaceae:	Broomrape family:		
Cistanche deserticola	Desert cistanche	II	7/19/00

Species	Common name	Appendix	First listing date (month/day/year)
Family Ranunculaceae:	Buttercup family:		
Adonis vernalis	Spring adonis	II	7/19/00
Family Taxaceae:	Yew family:		
Taxus wallichiana (=*T. baccata* subs. *wallichiana*) (except chemical derivatives and finished pharmaceutical products).	Himalayan yew	II	2/16/95

Dated: January 18, 2001.

Kenneth L. Smith,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–10144 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1066–03; I.D. 050801C]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Maine and Delaware

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the summer flounder commercial quotas available to the States of Maine and Delaware have been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Maine and Delaware for the remainder of calendar year 2001, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the States of Maine and Delaware that their quotas have been harvested and to advise Federal vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in Maine and Delaware.

DATES: Effective 0001 hours, May 18, 2001, through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273, e-mail: paul.h.jones@noaa.gov

SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2001 calendar year was set equal to 10,747,535 lb (4,875,000 kg)(66 FR 16151, March 23, 2001). The percent allocated to vessels landing summer flounder in Maine is 0.04756 percent, or 5,112 lb (2,319 kg). The allocation for Maine was adjusted due to an overage in 2000, as provided in § 648.100(i)(2), for a final allocation of 2,146 lb (973 kg).

The percent allocated to vessels landing summer flounder in Delaware is 0.01779 percent, or 1,912 lb (867 kg). In 2000, NMFS prohibited Federal permit holders from landing summer flounder in the State of Delaware because there was no quota available after the deduction from the 2000 quota of quota overages in 1999 (65 FR 33486, May 24, 2000). As a result of those deductions and further quota reductions published in the **Federal Register** on August 18, 2000 (65 FR 50463), and December 29, 2000 (65 FR 82945), the 2000 quota allocation to the State of Delaware was -31,303 lb (-14,199 kg). An additional 12,317 lb (5,587 kg) of summer flounder were landed in Delaware in 2000. The 2001 quota for Delaware is not sufficient to offset this negative 2000 allocation and the additional landings in 2000.

Section 648.101(b) requires the Administrator, Northeast Region, NMFS to monitor state commercial quotas and to determine when a state's commercial quota is harvested. NMFS will then publish a notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the States of Maine and Delaware have attained their quotas for 2001.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, May 18, 2001, further landings of summer flounder in Maine and Delaware by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 2001 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, May 18, 2001, federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in Maine and Delaware for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 15, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12606 Filed 5–17–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 97
Friday, May 18, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CA–019–FOI, FRL–6982–5]

Clean Air Act Reclassification, San Joaquin Valley Nonattainment Area; Designation of East Kern Nonattainment Area and Extension of Attainment Date; California; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to change the boundary for the San Joaquin Valley (SJV) serious ozone nonattainment area by separating out the eastern portion of Kern County into its own nonattainment area. We are also proposing to extend the attainment deadline for the new East Kern serious ozone nonattainment area from November 15, 1999 to November 15, 2001.

As a result of this boundary change proposal, EPA is reproposing its June 19, 2000 proposed finding (65 FR 37926) that the SJV area did not attain the 1-hour ozone national ambient air quality standard (NAAQS) by the November 15, 1999 Clean Air Act (CAA) deadline. If we finalize this proposal, the SJV nonattainment area with its revised boundaries will be reclassified by operation of law as severe, and the East Kern nonattainment area will remain classified as serious.

DATES: Comments on these proposed actions must be received by June 18, 2001.

ADDRESSES: Comments may be mailed to: John Ungvarsky, Planning Office (AIR–2), Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; ungvarsky.john@epa.gov.

Copies of the proposed rule and technical support document (TSD) are contained in the docket for this rulemaking. The docket is available for inspection during normal business hours at the address listed above. A copy of this proposed rule and the TSD are also available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air*.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, Planning Office (AIR–2), Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1286.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 19, 2000 EPA proposed to find that the SJV serious ozone nonattainment area did not attain the 1-hour ozone NAAQS by November 15, 1999, the CAA attainment deadline for serious ozone nonattainment areas.[1] 65 FR 37926. The current SJV nonattainment area includes the counties of San Joaquin, Kern, Fresno, Kings, Madera, Merced, Stanislaus and Tulare. 40 CFR 81.301. During the public comment period for the proposal, EPA received a substantial number of comments requesting that EPA remove the eastern portion of Kern County from the SJV nonattainment area and designate it a separate ozone nonattainment area. On August 28, 2000, The California Air Resources Board (CARB) formally requested that EPA create a separate ozone nonattainment area for eastern Kern County.

Based on the public's comments, the State's request and our own analysis, we are today proposing to revise the SJV ozone nonattainment area by changing its boundaries to remove eastern Kern County. In order to reflect this proposed boundary change, we are reproposing our finding that the SJV did not attain the ozone NAAQS by the statutory deadline. If we finalize this proposal, the SJV nonattainment area with its revised boundaries will be reclassified by operation of law to severe.

We are today also proposing to designate eastern Kern County as a new, separate ozone nonattainment area, which would keep its serious classification. That is because we are proposing to extend the attainment deadline for the proposed East Kern County serious ozone nonattainment area from November 15, 1999 to November 15, 2001. This proposed extension is based in part on monitoring data that indicate there were no exceedances of the 1-hour ozone NAAQS during 1999 and 2000 in eastern Kern County.

[1] EPA also proposed to find that the approved serious area ozone California state implementation plan (SIP) for the SJV nonattainment area has not been fully implemented. The Agency intends to take final action on that proposal in a separate rulemaking.

II. Proposed Boundaries for the Revised San Joaquin Valley Nonattainment Area and the New East Kern Nonattainment Area

During the public comment period for our proposed finding that the SJV had failed to attain the ozone NAAQS, CARB, the Kern County Air Pollution Control District (KCAPCD), and the U.S. Department of Defense submitted information supporting the removal of eastern Kern County from the SJV nonattainment area.

As stated above, CARB subsequently requested, pursuant to CAA section 107(d)(3)(D), that EPA create a separate ozone nonattainment area for East Kern County. That section provides that the Governor of any State may submit a revised designation of any area or portion of an area within the State. Based on our analysis of the information provided and under the authority in section 107(d)(3)(D), we are proposing to remove eastern Kern County from the SJV nonattainment area and to designate East Kern County as a new, separate ozone planning area.

The only change to the existing SJV nonattainment area would be within Kern County, where the new boundary would divide the county into two parts, generally following the ridge line of the Sierra Nevada and Tehachapi Mountain Ranges. It would be the same as the current boundary line for the Kern County and San Joaquin Valley air districts. The portion of Kern County that is west of the proposed split, which includes the Bakersfield area, would remain in the SJV ozone nonattainment area. The area east of the proposed split, which includes Ridgecrest, Mojave, California City, and the remainder of Kern County, would be designated the East Kern ozone nonattainment area. The specific boundary proposal for the new East Kern nonattainment area is as follows:

Kern County (part)—that portion of Kern County east and south of a line described below:

Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Liebre Land Grant to the point of intersection with the range line common to Range 16 West and Range 17 West, San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El Tejon Grant to the northwest corner of Section 3, Township 11 North, Range 17 West; then west 1.2 miles; then north to the Rancho El Tejon Land Grant boundary; then northwest along the Rancho El Tejon line to the southeast corner of Section 34, Township 32 South, Range 30 East, Mount Diablo Base and Meridian; then north to the northwest corner of Section 35, Township 31 South, Range 30 East; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of Section 18, Township 31 South, Range 31 East; then east to the southeast corner of Section 13, Township 31 South, Range 31 East; then north along the range line common to Range 31 East and Range 32 East, Mount Diablo Base and Meridian, to the northwest corner of Section 6, Township 29 South, Range 32 East; then east to the southwest corner of Section 31, Township 28 South, Range 32 East; then north along the range line common to Range 31 East and Range 32 East to the northwest corner of Section 6, Township 28 South, Range 32 East, then west to the southeast corner of Section 36, Township 27 South, Range 31 East, then north along the range line common to Range 31 East and Range 32 East to the Kern-Tulare County boundary.[2]

III. Proposed Finding of Failure To Attain for the Revised San Joaquin Valley Nonattainment Area

A. June 19, 2000 Proposal

In order to reflect the proposed change to the boundaries for the SJV ozone nonattainment area, we must repropose our June 19, 2000 proposed finding (65 FR 37926) that the SJV ozone nonattainment area failed to attain the ozone NAAQS. In addition to the proposed boundary change, EPA is also revising the original proposal by proposing a new deadline for the State to submit a severe area attainment plan (discussed below).

EPA intends to respond to the comments submitted concerning the original proposed finding of failure to attain along with the comments on this reproposal in the final action for this rulemaking. A brief summary of the June 19, 2000 proposed failure to attain finding follows.

Based on air quality data for the 1997–1999 period, at least twelve ozone monitoring sites in the current SJV nonattainment area, excluding monitors in eastern Kern County, averaged more than one exceedance per year. Because the average number of exceedance days per year for 1997–99 exceeded one, we proposed to find that the San Joaquin Valley serious ozone nonattainment area failed to attain by its applicable CAA deadline of November 15, 1999. 65 FR at 37927.

When EPA finalizes a finding of failure to attain the 1-hour ozone standard, the area is reclassified by operation of law to a higher classification (CAA section 181(b)(2)(a)). The impact that a reclassification to severe would have on the San Joaquin Valley nonattainment area includes the establishment of a new attainment deadline, as expeditiously as practicable but no later than November 15, 2005, and the requirement to submit a new attainment plan that meets the CAA requirements for severe ozone nonattainment areas (CAA section 182(d)).

Under CAA section 182(d), the new severe area plan must meet all the requirements for serious area plans plus the requirements for severe areas, including, but not limited to: (1) A 25 ton per year major stationary source threshold; (2) additional reasonably available control technology (RACT) rules for sources subject to the new lower major source applicability cutoff; (3) a new source review (NSR) offset ratio of at least 1.3 to 1; (4) a rate of progress demonstration showing emissions reductions of at least 3 percent per year from 2000 until the attainment year; and (5) a fee requirement[3] for major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X)[4] should the area fail to attain by the attainment deadline. Failure to submit the severe area requirements can result in the start of a sanctions clock (CAA section 179(a)).

Also, the severe area plan must include new transportation conformity emissions budgets for the SJV nonattainment area. The current SIP-approved attainment year budgets for VOC and NO_X will remain in place until new severe area budgets are submitted and have been determined adequate. For a detailed discussion of the requirements that the severe area plan must meet, see 65 FR at 37928–37930; June 19, 2000.

B. Modifications to June 19, 2000 Proposal

Having been put on notice by the June 19, 2000 proposal, the State has been working with the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) to prepare for the severe area plan requirements. In recent discussions with EPA, the State suggested that despite past progress and future reductions, attainment by 2005 may not be possible given the air quality problem in the area. The current design value in the SJV is .161.[5] This design value is higher than all other areas in the country with a 2005 attainment deadline. We are therefore soliciting comment on the viability of the 2005 attainment deadline. We are also soliciting comment on any legal, policy, and technical rationale for allowing a 2007 attainment deadline that would justify EPA establishing a 2007 attainment deadline when the Agency takes final action on the proposed finding. The 2007 date is the attainment deadline for areas originally classified as "severe 17" on November 15, 1990 pursuant to CAA section 181(a)(2).

In the June 19, 2000 proposal we stated that the State would be required to submit the severe area SIP revisions no later than 18 months from the effective date of the area's reclassification. 65 FR at 37928. Pursuant to section 182(i), EPA can adjust any applicable deadline (other than the attainment date) as appropriate. EPA is today proposing a new submittal deadline of May 31, 2002 to ensure that control measures are put in place as quickly as possible and there is ample time for the control measures to take effect before the attainment deadline. EPA believes the May 31, 2002 SIP submittal deadline is both reasonable and feasible given the advance notice provided by our June 19, 2000 proposal and the planning efforts already under way at the SJVUAPCD and the State.

IV. Rationale for Establishing a New, Separate East Kern Nonattainment Area

A. Background

EPA is proposing the designation of the new East Kern ozone nonattainment area pursuant to CAA section

[2] The revised SJV ozone nonattainment area would include the following counties: Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare, and that portion of Kern County which lies west and north of the line described above.

[3] Section 182(d)(3) sets a deadline of December 31, 2000 to submit the plan revision requiring fees for major sources should the area fail to attain. This date can be adjusted pursuant to CAA section 182(i). We propose to adjust this date to coincide with the submittal deadline for the rest of the severe area plan requirements.

[4] Ozone is not emitted directly into the air, but is formed through the photochemical reaction of NO_X and VOCs.

[5] A design value is an ambient ozone concentration that indicates the severity of the ozone problem in an area and is used to determine the level of emission reductions needed to attain the standard, that is, it is the ozone level around which a State designs its control strategy for attaining the ozone standard. A monitor's design value is the fourth highest ambient concentration recorded at that monitor over the previous three-year period. An area's design value is the highest of the design values from the area's monitors.

107(d)(3)(D). CAA section 107(d)(3)(D) states that the Governor may, on the Governor's own motion, submit a revised designation request to EPA. On August 28, 2000, in a letter from Michael Kenny, Executive Director, CARB, to Felicia Marcus, EPA Region 9 Administrator, the State formally requested that EPA split the SJV nonattainment area into two separate nonattainment areas. While section 107(d)(3)(D) does not contain criteria upon which to evaluate the request, EPA believes it can rely on the criteria listed in an analogous CAA provision, section 107(d)(3)(A), which authorizes EPA to notify the Governor that the designation of an area should be revised on the basis of air quality data, planning and control considerations, or any other air quality-related considerations that EPA deems appropriate.

The SJV 1-hour ozone nonattainment area currently includes all of Kern County, a region that straddles the Sierra Nevada and Tehachapi mountains. It is located in two separate air basins: the SJV and the Southeast Desert (SED) air basins. The dividing line between these two air basins coincides with the jurisdictional boundary between the KCAPCD and the SJVUAPCD;[6] it is also consistent with the boundary that we are today proposing to draw between eastern Kern and the rest of the SJV nonattainment area.

Prior to 1991, the eastern portion of Kern County was designated unclassified. 43 FR 8964, 8972 (March 3, 1978). On November 6, 1991, all of Kern County became part of the SJV ozone nonattainment area as recommended by the Governor of California and promulgated by EPA. 56 FR 56693. In 1991, we generally relied on the Metropolitan Statistical Area (MSA) boundaries for the purpose of designating nonattainment areas consistent with CAA section 107(d)(4)(A)(iv), and all of Kern County is in the same MSA as the other counties in the SJV nonattainment area. While the State acknowledged that eastern Kern County did not have any monitoring sites established in 1991, the State supported eastern Kern's inclusion in the nonattainment area because "ozone is clearly a regional pollutant, and violations of both the state and federal ozone standards have been measured within 10 miles of Kern County's desert border."[7]

The 1991 designation also pre-dated the consolidation of the SJV counties into a single air district, the SJVUAPD. With this change, the western portion of Kern County was annexed into the newly-formed SJVUAPCD. At the same time, the eastern portion of Kern County, which was within the SED air basin, became an independent air district, the KCAPCD.

Commenters on EPA's June 19, 2000 proposal, including the State, KCAPCD, and the Department of Defense, provided a compelling technical justification as to why eastern Kern County should be designated a separate ozone planning area.[8] A summary of their reasoning follows, and a more in-depth technical discussion is found in the companion TSD for this notice.

B. Justification for New Boundaries

1. *Geography.* Eastern Kern is in a different air basin than the SJV; it is separated from the SJV by the Sierra Nevada and Tehachapi Mountain Ranges at elevations up to 7,500 feet. Eastern Kern is a vast arid desert, 3,700 square miles in size.

2. *Population and Employment.* There are no major or fast growing population centers in eastern Kern County. Eastern Kern's population of approximately 92,000 has stayed constant over the past 10 years. The area has a low population density of approximately 25 persons per square mile. People tend to live and work in eastern Kern, and because of its geographic isolation there is no convenient commute to cities outside the region. The major employers in eastern Kern are Edwards Air Force Base (AFB) and China Lake Naval Weapons Station (NAWS), which employ over half of the eastern Kern workforce. Two of the three major towns within eastern Kern are Ridgecrest, which is located just outside the China Lake NAWS, and California City, located 9 miles from Edwards AFB. This close correlation between population and workforce suggests that a large percentage of the traffic in eastern Kern is independent of western Kern and urban areas in the SED nonattainment area. Ridgecrest, the largest town in eastern Kern, has a population of approximately 28,000. It is located in the portion of eastern Kern with air quality well below the 1-hour standard and farthest from any major urban areas in western Kern or SED. The SED urban areas nearest to eastern Kern, Palmdale and Lancaster, are bedroom communities for the Los Angeles area. There are no significant commute patterns from eastern Kern into the SED, SJV or the South Coast Air Basin (SCAB) or vice versa.

3. *Commercial Development.* Eastern Kern County is not strongly integrated economically with western Kern County or the SED urban areas. The economy of western Kern is largely based on the oil and agricultural industries. Eastern Kern's economy is based largely on the aerospace, defense, and mineral extraction industries. Also, eastern Kern residents are not dependent on western Kern for economic activities such as employment, shopping, or other services.

4. *Sources of Emissions.* There are only a handful of major emission sources in eastern Kern, and projected industrial growth is minimal. The 1996 annual emissions inventory for eastern Kern indicates 11 tons per day (tpd) of VOC and 33 tpd of NO_X.[9] Total emissions in the area are not sufficient to cause violations of the federal 1-hour ozone standard.

5. *Air Quality.* During the late 1990s, eastern Kern County averaged only a few days over the 1-hour ozone NAAQS each year; the SJV averaged approximately 30 days over the NAAQS each year. Ozone levels in eastern Kern are markedly lower than the SJV and marginally lower than the SED. For the 1997–1999 period, the 1-hour design value for eastern Kern was 0.139 parts per million (ppm) compared to 0.154 ppm for western Kern, 0.161 ppm for the highest site in the SJV, and 0.147 for Victorville in the SED.

[6] Prior to the formation of the SJVUAPCD in 1992, the SJV ozone nonattainment area consisted of eight county air pollution control districts (i.e., San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern).

[7] See March 15, 1991 letter from CARB Executive Officer, James D. Boyd, to Daniel McGovern, Regional Administrator, EPA, Region IX.

[8] The SJVUAPCD indicated in its comments that it supports the split.

[9] Ozone is not emitted directly into the air, but is formed through the photochemical reaction of NO_X and VOCs.

TABLE 1.—OZONE AIR QUALITY IN EASTERN KERN COUNTY (1997–1999)

Monitoring site	Number of days over the standard 1997–1999 [10]	Average number of exceedance days per year	Site design value (ppm)
China Lake NAWS [11]	0	0.0	0.083
Mohave	2	0.6	0.119
Edwards AFB [12]	8	2.0	0.139

[10] No exceedances of the 1-hour ozone standard were recorded in 1999 or 2000 in eastern Kern County.

[11] The China Lake monitor is a special purpose monitor (SPM) operated by the Navy at China Lake NAWS in eastern Kern County. It began operation in April, 1998. EPA's policy on the use of ozone special purpose monitoring data is described in a memorandum entitled "Agency Policy on the Use of Ozone Special Purpose Monitoring Data" from John Seitz, Director, Office of Air Quality Planning and Standards, to the Regional Air Directors, August 22, 1997. Until three years of data can be collected, the design value for the China Lake monitoring site is based on its highest recorded value.

[12] The Edwards AFB monitor is a SPM operated by the Air Force on Edwards AFB in eastern Kern County. We have evaluated the Edwards site and its quality assurance information and have determined that its data are valid.

6. *Pollution Transport.* The State has completed three reviews of the impacts of pollution transport on ozone concentrations in California. The State has determined that the few exceedances that have occurred in eastern Kern County were the result of pollutant transport from the SJV Air Basin and SCAB.[13] Wind patterns are such that eastern Kern does not contribute to exceedances in the SJV, SED, or SCAB.

Based on the above factors, EPA believes that the criteria listed in CAA section 107(d)(3)(A) have been met. Eastern Kern is in a separate air basin than the SJV and has a small population that primarily lives and works in the immediate area. Furthermore, eastern Kern has minimal VOC and NO_X emission sources with markedly better air quality than the SJV. In addition, the few exceedances of the ozone NAAQS that have occurred in eastern Kern are a result of overwhelming transport from outside the eastern Kern air basin. EPA is therefore proposing to approve the State's section 107(d)(3)(D) request to change the boundaries of the current SJV ozone nonattainment area to remove eastern Kern County and make it its own nonattainment area.

V. Proposed Attainment Date Extension for Proposed East Kern Nonattainment Area

Because a new East Kern nonattainment area would retain the serious classification that it had as part of the originally designated SJV nonattainment area, the attainment deadline for the area would be November 15, 1999. CAA section 181(a)(1). On December 15, 2000, the State requested two one-year attainment date extensions for the proposed East Kern ozone nonattainment area.[14]

CAA section 181(a)(5) provides that, upon application by any State, the Administrator may extend the attainment deadline for one year if the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and no more than one exceedance of the NAAQS has occurred in the area in the year preceding the extension year. This section further provides that up to two one-year extensions may be granted.

We interpret this provision to authorize the granting of a one-year extension under the following minimum conditions: (1) The State requests a one-year extension; (2) all requirements and commitments in the EPA-approved SIP for the area have been complied with; and (3) at any one monitor, the area has no more than one measured exceedance of the NAAQS during the year that includes the attainment date (or the subsequent year, if a second one-year extension is requested). See generally 57 FR 13506 (April 16, 1992) and Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors; "Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas," February 3, 1994.[15] Granting extensions is discretionary; EPA guidance states that, in exercising this discretion, the Agency will examine the air quality progress made in the nonattainment area. Specifically, EPA will expect the state to have adopted and substantially implemented control measures necessary to reduce emissions in the area.[16]

We have determined that both the mandatory and discretionary requirements for one-year extensions of the attainment date for both 1999 and 2000 have been fulfilled as follows:

(1) CARB has formally submitted the attainment date extension request, in a letter dated December 15, 2000, from Michael P. Kenny, Executive Officer, CARB, to Felicia Marcus, EPA Regional Administrator, Region 9.

(2) California is currently implementing the EPA-approved SIP. The State's letter, cited above, discusses implementation of State measures in the SIP, and shows that these measures plus new State measures have achieved an overall surplus of emission reductions beyond those assumed in the SIP. In addition, a letter dated December 1, 2000 from Thomas Paxson, Air Pollution Control Officer, KCAPCD, provides evidence that all District SIP

[13] Transport Assessment, November 1996 and November 1999, California Air Resources Board (http://www.arb.ca.gov/aqd/transport/transport.htm).

[14] A review of the ambient air quality ozone data from the EPA Aerometric Information Retrieval System (AIRS) and special purpose monitors shows that two of the three air quality monitors located in the proposed East Kern ozone nonattainment area recorded exceedances of the NAAQS for ozone during the three-year period from 1997 to 1999. There were 6 exceedances at the Edwards AFB monitor, an average of more than 1.0 over the three-year period, which constitutes a violation of the ozone NAAQS for the proposed East Kern area during this three-year period. Thus, because we determine attainment status on the basis of the expected number of exceedances of the NAAQS over the three-year period up to, and including, the attainment date (57 FR 13498, 13506, April 16, 1992), the area needs the two 1-year extensions to avoid a reclassification to severe.

[15] While explicitly applicable only to marginal areas, the general procedures for processing reclassifications and extension requests described in this memorandum apply regardless of the initial classification of an area.

[16] See Memorandum from Sally Shaver, Director, Air Quality Strategies and Standards Division, EPA, to EPA Regional Offices, titled "Criteria for Granting Attainment Date Extensions, Making Attainment Determinations, and Determinations of Failure to Attain the NAAQS for Moderate [carbon monoxide] CO Nonattainment Areas," October 23, 1995. While this memorandum specifically addresses the CAA extension provisions for CO nonattainment areas, it applies equally to ozone areas. Compare the substantially identical language of sections 181(a)(5) (ozone) and 186(a)(4) (CO).

rules and serious area requirements have been fully implemented.[17]

(3) Data recorded at the three eastern Kern monitors (TSD, Appendix A) and confirmed by CARB in its December 15, 2000 letter, indicate no monitored exceedances during 1999 and 2000.

Because the statutory provisions have been satisfied, we are proposing to grant two one-year attainment date extensions for the proposed East Kern ozone nonattainment area. If we finalize this action, the attainment deadline would be extended from November 15, 1999 to November 15, 2001.

VI. Summary of EPA Proposed Rulemaking

We are proposing to change the boundaries for the SJV ozone nonattainment area by removing the eastern portion of Kern County and proposing the designation of a new East Kern ozone nonattainment area with a serious classification. Concurrently, EPA is proposing to grant the State's request for two one-year attainment date extensions for the proposed East Kern ozone nonattainment area, which would make the attainment deadline November 15, 2001.

In order to reflect the proposed boundary change, we are reproposing our finding that the SJV ozone nonattainment area failed to attain the federal 1-hour ozone standard by its CAA deadline of November 15, 1999. If we finalize this nonattainment finding, the revised SJV nonattainment area will be reclassified by operation of law to severe and California must submit to EPA by May 31, 2002 a severe area nonattainment plan that meets the requirements of CAA section 182(d), including providing for the attainment of the federal 1-hour ozone standard as expeditiously as practicable, but no later than November 15, 2005. We are also asking for comment on the legal, technical, and policy justifications for an alternative November 15, 2007 attainment deadline.

VII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Under section 188(b)(2) of the CAA, findings of failure to attain are based solely upon air quality considerations and the subsequent nonattainment area reclassification must occur by operation of law in light of those air quality conditions. These actions do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities. The proposed designation of eastern Kern County as a new, separate nonattainment area with a serious classification and the proposed attainment date extensions will not impose any new requirements on any sectors of the economy because the area is already classified as serious.

Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

These proposed actions do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) for the following reasons: (1) The proposed finding of failure to attain is a factual determination based on air quality considerations; (2) the resulting reclassification must occur by operation of law and will not impose any federal intergovernmental mandate; and (3) the proposed designation of eastern Kern County as a separate nonattainment area with a serious classification will not impose any new requirements on any sectors of the economy. For the same reason, this proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). For these same reasons, these proposed actions will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). These proposed actions are also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because they are not economically significant. Finally, for these same reasons, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing these proposed actions, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. These proposed actions do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, National parks, Nitrogen oxides, Ozone, Volatile organic compounds, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 10, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–12576 Filed 5–17–01; 8:45 am]

BILLING CODE 6560–50–P

[17] As noted in footnote 1, EPA's June 19, 2000 proposal included a finding of failure to fully implement the SIP. The SIP measures at issue in that proposal are ones committed to by the SJVUAPCD, not the KCAPCD. All KCAPCD SIP measures have been implemented.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 36

Meetings of the Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance

AGENCY: Indian Health Service, HHS.

ACTION: Notice of meetings.

SUMMARY: The Secretary of Health and Human Services has established a Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance (Committee) to negotiate and develop a proposed rule implementing the Tribal Self-Governance Amendments of 2000 (the Act). We intend to publish the proposed rule for notice and comment no later than one year after the date of enactment of the Act (August 18, 2000 + one year), as required by section 517(a)(2) of the Act.

EFFECTIVE DATES: Meetings of the Committee are as follows:

1. June 11–12, 8:30 a.m.–5:00 p.m.; June 13, 8:30 a.m.–1:00 p.m., St. Paul, MN.
2. July 10–12, 8:30 a.m.–5:00 p.m., Seattle WA,
3. July 30–August 1, 8:30 a.m.–5:00 p.m., Anchorage, AK.

ADDRESSES: The meeting locations are:

1. St. Paul, MN—Radisson City Center, 411 Minnesota St., St. Paul, MN 55101, Phone: 1–800–333–3333.
2. Seattle, WA—Red Lion Hotel in South Center Area, 205 Strander Blvd., Seattle, WA 98188, Phone: 206–575–8220.
3. Anchorage, AK—Hilton Anchorage, 500 West 3rd Avenue, Anchorage, AK 99501, Phone: 1–800–245–2527.

Written statements may be submitted to Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A–55, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A–55, Rockville, MD 20857, Telephone 301–443–7821. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: All meetings are open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meetings to the extent time permits and file written statements with the Committee for its consideration. Submit your written statements to the address listed above. Summaries of the Committee meetings will be available for public inspection and copying ten days following each meeting at the same address.

Dated: May 14, 2001.

Michel E. Lincoln,

Deputy Director.

[FR Doc. 01–12531 Filed 5–17–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA 2001–9404; Notice 1]

RIN 2127–AI42

Civil Penalties

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposed to adjust certain civil penalties authorized for violations of odometer tampering and theft prevention statutes administered by the National Highway Traffic Safety Administration (NHTSA). The Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires us to take this action at least every four years. The penalties that would be increased were last adjusted in March 1997.

DATES: Comments on the proposal are due June 18, 2001.

Proposed effective date: 30 days after date of publication of the final rule in the **Federal Register**.

ADDRESSES: All comments on this document should refer to the docket and notice number set forth above and be submitted to Dockets Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. The docket room hours are from 9:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, telephone (202) 366–5263, facsimile (202) 366–3820, electronic mail "ATVinson@nhtsa.dot.gov", 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

In order to preserve the remedial impact of civil penalties and to foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (("Adjustment Act"), 28 U.S.C. Sec. 2461 note, Public Law 101–410), as amended by the Debt Collection Improvement Act of 1996 ("Collection Act," Pub. L. 104–134), requires us and other Federal agencies to regularly adjust certain civil penalties for inflation. Under these laws, each agency must make an initial inflationary adjustment for all applicable civil penalties, and must make further adjustments of these penalty amounts at least once every four years. The Collection Act limited the initial increase to 10 percent of the penalty being adjusted.

Our initial adjustment of civil penalties under these legislative authorities was published on February 4, 1997 (62 FR 5167). We established 49 CFR part 578, *Civil Penalties*, which applies to violations that occur on and after March 6, 1997. These adjustments resulted in the maximum permissible increases of 10 percent. On July 14, 1999, we further adjusted certain penalties to enhance their deterrent effect (64 FR 37876), effective August 13, 1999. As we are now at the end of the four-year period following the initial adjustment, the purpose of this notice is to review the penalties that have remained unchanged since 1997, and to propose adjusting those penalties where the statutory formulae authorize it.

Method of Calculation

Under the Adjustment Act as amended by the Collection Act, we determine the inflation adjustment for each applicable civil penalty by increasing the maximum civil penalty amount per violation by the cost-of-living adjustment, and then applying a rounding factor. Sec. 5(b) of the Adjustment Act defines the "cost-of-living" adjustment as:

> The percentage (if any) for each civil monetary penalty by which—
>
> (1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds
>
> (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

Since the proposed adjustment is intended to be effective before December 31, 2001, the "Consumer Price Index [CPI] for the month of June of the calendar year preceding the adjustment" would be the CPI for June 2000. This figure is 172.4. NHTSA's penalties were initially adjusted in February 1997 based on the CPI figure for June 1996, which was 156.7. The factor that we are using in calculating the increase, then, is 172.4 divided by 156.7, or 1.1001914. We shall use 1.1 as the appropriate figure. Any calculated increase under this adjustment is then subject to a specific rounding formula set forth in Sec. 5(a) of the Adjustment Act. Under the formula:

Any increase shall be rounded to the nearest

(1) multiple of $10 in the case of penalties less than or equal to $100;

(2) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) multiple of $25,000 in the case of penalties greater than $200,000.

Review of Civil Penalties Prescribed by Section 578.6

Section 578.6 contains the civil penalties authorized by the statutes that we enforce. We have reviewed these penalties, multiplied each of them by 1.1, considered the nearest higher multiple specified in the rounding provisions, and concluded that only the penalties discussed below may be increased.

Section 578.6(f) Odometer Tampering and Disclosure

The maximum civil penalty for a related series of violations of 49 U.S.C. Chapter 327 is $110,000, as specified in § 578.6(f)(1). The inflation factor raises this figure to $121,000. Under the formula, any increase in a penalty shall be rounded to the nearest multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000. Accordingly, we propose that § 576.8(f)(1) be amended to increase the maximum civil penalty to $120,000 for a related series of violations of the odometer tampering and disclosure provisions. However, the maximum civil penalty for a single violation remains at $2,200 because the inflation-adjusted figure of $2,420 is not yet at a level to be rounded to the nearest multiple of $1,000.

Section 578.6(g) Vehicle Theft Prevention

Under § 578.6(g)(1), the maximum civil penalty for a related series of violations of 49 U.S.C. 33114(a)(1–4) is $275,000. The inflation factor raises this figure to $302,500. Under the formula, any increase in a penalty shall be rounded to the nearest multiple of $25,000 in the case of penalties greater than $200,000. Accordingly, we propose that Sec. 576.8(g)(1) be amended to increase the maximum civil penalty to $300,000 for a related series of violations of the vehicle theft prevention provisions. However, the maximum penalty for a single violation remains at $1,100.

Under § 578.6(g)(2), a person that violates 49 U.S.C. 33114(a)(5) is liable for a civil penalty of not more than $110,000 a day for each violation. The inflation factor modified by the rounding factor results in this penalty being raised to $120,000, and we are proposing this adjustment as well.

Effective Date

The amendments would be effective 30 days after publication of the final rule in the **Federal Register**. The adjusted penalties would apply to violations occurring on and after the effective date.

Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES**.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA (NCC–30), at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR Part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. Because we must issue a final rule not later than June 30, 2002, and a proposed rule in the interim, we are unlikely to extend the comment closing dates for this notice or for the proposed rule. However, in accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the proposed rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the internet. To read the comments on the internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on "search."

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were "NHTSA–2001–1234," you would type "1234."

(4) After typing the docket number, click on "search."

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. The comments are imaged documents, in either TIFF or pdf format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under Executive Order 12866, "Regulatory Planning and Review." This action is limited to the proposed adoption of adjustments of civil penalties under statutes that the agency enforces, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that a final rule based on this proposal will have no significant economic impact on a substantial number of small entities.

The following is my statement providing the factual basis for the certification (5 U.S.C. 605(b)). The proposed amendments primarily affect manufacturers of motor vehicles. Manufacturers of motor vehicles are generally not small businesses within the meaning of the Regulatory Flexibility Act.

The Small Business Administration's regulations define a small business in part as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC), SIC Code 3711 "Motor Vehicles and Passenger Car Bodies" has a small business size standard of 1,000 employees or fewer.

For manufacturers of passenger cars and light trucks, NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Since each manufacturer serves a niche market, often specializing in replicas of "classic" cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most 500 cars manufactured per year by U.S. small businesses.

In contrast, in 2001, there are approximately nine large manufacturers producing passenger cars, and light trucks in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks. We do not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

Further, small organizations and governmental jurisdictions would not be significantly affected as the price of motor vehicles ought not to change as the result of this proposed rule. As explained above, this action is limited to the proposed adoption of a statutory directive, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

Finally, this action would not affect our civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (62 FR 37115, July 10, 1997). We shall continue to consider the appropriateness of the penalty to the size of the business charged.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), we state that there are no requirements for information collection associated with this rulemaking action.

National Environmental Policy Act

We have also analyzed this rulemaking action under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

Executive Order 12612 (Federalism)

We have analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612, and have determined that it has no significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. § 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million effect, no Unfunded Mandates assessment will be prepared.

List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Rubber and Rubber Products, Tires, Penalties.

1. The authority citation for 49 CFR Part 578 would continue to read as follows:

Authority: Pub. L. 101–410, Pub. L. 104–134, 49 U.S.C. 30165, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; delegation of authority at 49 CFR 1.50.

2. Section 578.6 would be amended by revising the last sentence of paragraph (f)(1), the last sentence of paragraph (g)(1), and paragraph (g)(2) to read as follows:

PART 578—CIVIL AND CRIMINAL PENALTIES

* * * * *

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

* * * * *

(f) *Odometer tampering and disclosure.* (1) * * * The maximum civil penalty under this paragraph for a related series of violations is $120,000.

* * * * *

(g) *Vehicle theft prevention.* (1) * * * The maximum penalty under this paragraph for a related series of violations is $300,000.

(2) A person that violates 49 U.S.C. 33114(a)(5) is liable to the United States government for a civil penalty of not more than $120,000 a day for each violation.

* * * * *

Issued on: May 15, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–12551 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010419099–1099–01; I.D. 040201A]

RIN 0648–AP19

Fisheries off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaiian Islands; Control Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; consideration of a control date; request for comments.

SUMMARY: This document announces that persons who enter the offshore pelagic handline fishery around the Cross Seamount, four NOAA weather buoys, and the "Bigeye Buoy" in the U.S. exclusive economic zone (EEZ) around Hawaii, after February 15, 2001 (control date), may not be assured of continued participation in the fishery if, in the future, the Western Pacific Fishery Management Council (Council) prepares, and NMFS approves, a program limiting entry or effort. This control date supersedes the previous control date of July 2, 1992. This document does not commit the Council to limiting effort or preclude the

Council from using any other date for determining future participation in this fishery. The Council may also use other criteria to limit fishing effort or participation in a limited entry program if one is developed in the future.

DATES: Comments must be submitted by July 2, 2001.

ADDRESSES: Submit written comments to Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700; or fax to 808–973–2941. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, 808–973–2937.

SUPPLEMENTARY INFORMATION: At its 108th meeting, the Council established February 15, 2001, as a new control date for the offshore pelagic handline fishery around the Hawaiian Islands. The previously established control date (July 2, 1992) is more than 8 years old and considered to be outdated (57 FR 36637, August 14, 1992). The new control date, which supersedes the old control date, applies to the Cross Seamount, four NOAA weather buoys, and one University of Hawaii research buoy off the Hawaiian Islands ("Bigeye Buoy"). The precise areas of application would be determined in a future rulemaking, should the Council decide to proceed with limiting entry or effort. This action responds to concerns associated with changes to the management program governing the Hawaii-based pelagic longline fishery, the participants of which may switch to the offshore pelagic handline fishery resulting in the substantial and unregulated expansion of the currently small fishery.

At present, the fishery consists of 15 to 20 Hawaii-based, small fishing vessels (<50 ft or 15.2 m) employing hook and line handline gear to target bigeye and yellowfin tuna that are seasonally abundant at the Cross Seamount and four NOAA weather buoys, located about 160 nautical miles from the islands of Hawaii. A fifth buoy, the "Bigeye Buoy" was placed in the same vicinity approximately 2 years ago by University of Hawaii fishery researchers studying bigeye habitat. This buoy has also been found to aggregate fish and has been utilized by Hawaii-based pelagic handline vessels. The vessels in this fishery primarily operate from the island of Hawaii, although one or two are based on the island of Oahu.

The Council believes that there is a risk of speculative entry into the fishery while the potential benefits and costs of limited entry alternatives and the development of a regulatory amendment to address a substantially expanded fishery are being evaluated. The control date is designed to discourage speculative entry during this period of analysis, as well as to provide notification to new participants that their access may be restricted in the future. The control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the offshore pelagic handline fishery. Fishermen are not guaranteed future participation in this fishery, regardless of their level of participation before or after the control date. The Council may choose a different control date or it may choose a management regime that does not involve a control date. Other criteria, such as documentation of commercial landings and sales, may be used to determine eligibility for participation in the fishery. The Council may also choose to take no further action to control entry or access to the fishery.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 13, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12605 Filed 5–17–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 97
Friday, May 18, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–01–04]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: June 6, 2001, from 8 a.m. to 5:30 p.m. and June 7, 2001, from 8:30 a.m. to 5:30 p.m. (Central Time).

Place: Best Western Midway Hotel, 1835 Rose Street, La Crosse, Wisconsin 54603. Telephone: (608) 781–7000.

FOR FURTHER INFORMATION CONTACT: Richard Mathews, Acting Program Manager, National Organic Program, USDA–AMS–TMP–NOP, P.O. Box 96456, Room 2945–So., Ag Stop 0268, Washington, DC 20090–6456, Telephone: (202) 720–3252.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production and to advise the Secretary on other aspects of the implementation of OFPA. The NOSB met for the first time in Washington, DC, in March 1992 and currently has five committees working on various aspects of the organic program. The committees are: Accreditation, Crops, Livestock, Materials, and Processing.

In August of 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture. Since that time, the NOSB has submitted 30 addenda to its recommendations and reviewed more than 189 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held on March 6–7, 2001, in Buena Park, CA.

The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000 (65 FR 80548). The rule became effective April 21, 2001.

Purpose and Agenda

The principal purposes of the meeting are to provide an opportunity for the NOSB to: receive various committee reports; receive updates from the Aquatic Task Force Working Group, the Task Force on Board Policy for Expert Presentations, and the Task Force on Outreach to Producers; receive an update from the USDA/NOP; review materials to determine if they should be included on the National List of Approved and Prohibited Substances; hear a presentation from the Environmental Protection Agency (EPA) on pesticide product labeling; and hear a presentation from the Foreign Agricultural Service, USDA on trade issues.

The Livestock Committee will present a recommendation to the NOSB on "access to pasture." The Processing Committee will seek from the NOSB adoption of its recommendation for clarifying the materials for which a petition must be submitted requesting a review of a material for inclusion on the National List of substances allowed or prohibited for use in organic production and handling; discuss what "novel" processes will be allowed in organic handling; and discuss potential mislabeling issues that might arise in regard to products produced by uncertified processors. The Crops Committee will present a draft guidance document on compost tea and vermiculture; draft recommendations for greenhouse standards; draft recommendations for mushroom standards; and discuss transitional organic labeling and transitional organic operations. The Accreditation Committee will seek adoption of a plan for a Peer Review Panel; make recommendations about what issues guidance should be provided about on the NOP Website; present a new certifier outreach report; and discuss the committee's draft "Principles of Organic Production and Handling." The Materials Committee will present its materials decision matrix for adoption by the Board, review materials for possible inclusion on the National List of Allowed or Prohibited Substances; seek adoption of a policy for updating the National List; and review committee communications with the Organic industry.

Materials to be reviewed at the meeting by the NOSB are as follows: for Livestock production: DL-Methionine (including, DL-Methionine Hydroxy Analog and Hydroxy Analog Calcium); for Crops: Monocalcium Phosphate; and for Processing: Potassium Hydroxide, Ammonium Hydroxide, Cyclohexlamine, Diethylaminoethanol, Morpholine, Octadecylamine.

For further information see *http://www.ams.usda.gov/nop*. Copies of the NOSB meeting agenda can be requested from Mrs. Toni Strother, USDA–AMS–TMP–NOP, P.O. Box 96456, Room 2510-So., Ag Stop 0268, Washington, DC 20090–6456; by telephone at (202) 720–3252; or by accessing the NOP website at *http://www.ams.usda.gov/nop* on or after May 4, 2001.

Type of Meeting

The meeting is open to the public. The NOSB has scheduled time for public input on Wednesday, June 6, 2001, from 8 a.m. until 10 a.m., and on Thursday, June 7, 2001, from 4:30 p.m. until 5:30 p.m. at the Best Western Midway Hotel 1835 Rose Street, La Crosse, WI 54603. Telephone: (608) 781–7000. Individuals and organizations wishing to make an oral presentation at the meeting should forward their request to Mrs. Toni Strother at USDA–AMS–TMP–NOP, P.O. Box 96456, Room 2510–So., Ag Stop 0268, Washington, DC 20090–6456, or by FAX to (202) 205–7808, or by e-mail to *toni.strother2@usda.gov*, by close of business May 31, 2001. While persons wishing to make a presentation may sign up at the door, advance registration will ensure that a person has the opportunity to speak during the allotted time period and will help the NOSB to better manage the meeting and

to accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing. Written submissions may contain information other than that presented at the oral presentation. Written comments may be submitted to the NOSB at the meeting or to Mrs. Strother after the meeting at the above address.

Dated: May 16, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12685 Filed 5–16–01; 11:35 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–033–1]

Notice of Request for Reinstatement of an Expired Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an expired information collection in support of regulations governing the importation of tomatoes from Spain, Chile, France, Morocco, and Western Sahara to prevent the introduction of foreign plant pests into the United States.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by July 17, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–033–1, Regulatory Analysis and Development PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–033–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information regarding foreign quarantine regulations, contact Donna L. West, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1232; (301) 734–8262. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS" Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Tomatoes from Spain, Chile, France, Morocco, and Western Sahara.

OMB Number: 0579–0131.

Expiration Date of Approval: April 30, 2001.

Type of Request: Reinstatement of an expired information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for preventing plant pests from entering the United States and controlling and eradicating plant pests in the United States. The Plant Protection Act authorizes the Department to carry out this mission. The Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service is responsible for implementing the regulations that carry out the intent of this Act.

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56 through 319.56–8) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests, including fruit flies, that are new to or not widely distributed within the United States.

The regulations in § 319.56–2dd allow tomatoes from Spain, Chile, France, Morocco, and Western Sahara to be imported into the United States subject to certain conditions. Allowing tomatoes to be imported necessitates the use of certain information collection activities, including completing phytosanitary inspection certificates and maintaining records regarding trap placement and Medfly captures. The information we collect serves as the supporting documentation needed to confirm that the tomatoes have been produced in accordance with the conditions set forth in the regulations.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection activity. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Foreign plant health protection authorities.

Estimated annual number of respondents: 34.

Estimated annual number of responses per respondent: 72.

Estimated annual number of responses: 2448.

Estimated total annual burden on respondents: 1224 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 14th day of May 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12535 Filed 5–17–01; 8:45 am]

BILLING CODE 3410–34–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List: Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 18, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Janitorial/Custodial

Naval & Marine Corps Reserve Center (NMCRC), 1201 N. 35th Avenue, Phoenix, Arizona
NPA: The Centers for Habilitation/TCH, Tempe, Arizona

Janitorial/Custodial

At the following U.S. Army Reserve Center Locations:
Brandt Memorial USARC, Baltimore, Maryland
Fleming Goodwin USARC, Dover, Delaware
Cape Henlopen USARC, Lewes, Delaware
Annapolis USARC, Annapolis, Maryland
Sheridan USARC, Baltimore, Maryland
Jachman USARC, Owings Mills, Maryland
AMSA 83 Curtis Bay, Baltimore, Maryland
Jecelin USARC, Baltimore, Maryland
NPA: CHI Centers, Inc., Silver Spring, Maryland

Janitorial/Custodial

Bombay Hook National Wildlife Refuge, Smyrna, Delaware
NPA: The Chimes, Inc., Baltimore, Maryland

Janitorial/Custodial

St. John's Border Station, Route 9B, New York
NPA: Clinton County Chapter, NYSARC, Inc., Plattsburgh, New York

Janitorial/Custodial

Social Security Administration, Trust Fund Building, Chambersburg, Pennsylvania
NPA: Goodwill Services, Inc., Harrisburg, Pennsylvania

Janitorial/Custodial

Naval and Marine Corps Reserve Center, Milwaukee, Wisconsin
NPA: Milwaukee Center for Independence, Inc., Milwaukee, Wisconsin

Patrick T. Mooney,

Director, Pricing and Program Operations.

[FR Doc. 01–12599 Filed 5–17–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Census Bureau

2002 Economic Census Covering Transportation of Commodities

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the proposed continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 17, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *mclayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John Fowler, Bureau of the Census, Room 2761, Building 3, Washington, DC 20233 on (301) 457–2108.

SUPPLEMENTARY INFORMATION

I. Abstract

The Commodity Flow Survey, a component of the Economic Census, is the only comprehensive source of multi-modal, system-wide data on the volume and pattern of goods movement in the United States. These data are used by government analysts and policy makers at the Federal, state, and local levels to estimate the future demand for transportation services and facilities; assess the adequacy of our current transportation infrastructure to accommodate the future demand; and to evaluate the economic, social and environmental impacts of transportation flows. The data also are used extensively by academics, researchers, economic planning organizations, and the business community.

The Commodity Flow Survey is co-sponsored by the Bureau of Transportation Statistics, Department of Transportation. The survey provides data on the movement of commodities in the United States from their origin to destination. The survey produces summary statistics on value, tons, ton-miles and average miles for all shipments. The Census Bureau will publish shipment characteristics at the national, census regions and divisions, state, and Metropolitan Areas levels.

Primary strategies for reducing respondent burden in the Commodity Flow Survey include: employing a stratified random sample of business establishments, requesting data on a limited sample of shipment records from each establishment, and accepting estimates.

II. Method of Collection

The Commodity Flow Survey will survey a sample of business establishments in mining, manufacturing, wholesale, and selected retail industries. Each selected establishment will receive, by mail, four questionnaires, one during each quarter of 2002. On each form, an establishment will be asked to report data for an average of 25 shipments, selected during a designated one-week reporting period.

III. Data

OMB Number: Not Available.
Form Number: CFS–1000.
Type of Review: Regular review.

Affected Public: Businesses and other for-profit, small businesses or organizations.

Estimated Number of Respondents: 50,000.

Estimated Time Per Response: 2 hours.

Estimated Total Annual Burden Hours: 400,000.

Estimated Total Annual Cost: $7,280,000.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. 131.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the utility of the information to businesses/private industry for marketing/cost evaluation/planning; (c) the accuracy of the agency's estimate of burden (including hours and cost) of the proposed collection of information; (d) ways to enhance the quality, utility, and clarity of the information to be collected; and (e) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12611 Filed 5–17–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–856, A–580–846, A–469–810]

Antidumping Duty Orders: Stainless Steel Angle From Japan, Korea, and Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty orders.

EFFECTIVE DATE: May 18, 2001.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder (Japan) at (202) 482–0189, Brian Smith (Korea) at (202) 482–1766, or Minoo Hatten (Spain) at (202) 482–1690, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations refer to 19 CFR Part 351 (2000).

Scope of Orders

For purposes of these orders, the term "stainless steel angle" includes hot-rolled, whether or not annealed or descaled, stainless steel products of equal leg length angled at 90 degrees, that are not otherwise advanced. The stainless steel angle subject to these orders is currently classifiable under subheadings 7222.40.30.20 and 7222.40.30.60 of the *Harmonized Tariff Schedules of the United States* ("HTSUS"). Specifically excluded from the scope of these orders is stainless steel angle of unequal leg length. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

Antidumping Duty Orders

In accordance with section 735(a) of the Act, the Department published its final determinations that stainless steel angle from Japan, Korea, and Spain is being, or is likely to be, sold in the United States at less than fair value. *See Notice of Final Determinations of Sales at Less Than Fair Value: Stainless Steel Angle from Japan, Korea, and Spain*, 66 FR 16175 (March 23, 2001). On May 11, 2001, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Japan, Korea, and Spain. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel angle from Japan, Korea, and Spain. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after January 12, 2001, the date on which the Department published its notice of affirmative preliminary determinations in the **Federal Register** (66 FR 2880).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "All Others" rates apply to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

	Weighted-average margin percentage
Weighted-Average (Japan):	
Daido Steel Co., Ltd.	114.51
Aichi Steel Corporation	114.51
Sumitomo Metal Industries, Ltd.	114.51
All Others	70.48
Exporter/Manufacturer (Korea):	
Bae Myung Metal Co., Ltd.	99.56
SK Global Co., Ltd.	99.56
All Others	40.21
Exporter/Manufacturer (Spain):	
Roldan, S.A.	61.45
All Others	24.32

This notice constitutes the antidumping duty orders with respect to stainless steel angle from Japan, Korea, and Spain, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of Act and 19 CFR 351.211.

Dated: May 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12596 Filed 5–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Final Results of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty new shipper review: Stainless steel bar from India.

SUMMARY: On March 6, 2001, the Department of Commerce published the preliminary results of the new shipper review of the antidumping duty order on stainless steel bar from India. This review covers one manufacturer/exporter, Snowdrop Trading Pvt. Ltd. and sales of the subject merchandise to the United States during the period February 1 through September 30, 2000. We received no comments on the preliminary results of review. The final results do not differ from the preliminary results of review, in which we found that the respondent did not make sales in the United States at prices below normal value.

EFFECTIVE DATE: May 18, 2001.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–4207.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to 19 CFR Part 351 (2000).

Background

On March 6, 2001, the Department published in the **Federal Register** the preliminary results of its new shipper review of stainless steel bar from India. *See Preliminary Results of the New Shipper Review*, 66 FR 13496 (March 6, 2001). We invited parties to comment on our preliminary results of review. We received no comments. The Department has now completed the new shipper review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of stainless steel bar ("SSB"). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to these orders is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Final Results of the Review

We received no comments from interested parties on our preliminary results. In addition, we have determined that no changes to our analysis are warranted for purposes of these final results. The weighted-average dumping margin for Snowdrop for the period February 1, 2000 through September 30, 2000, is as follows:

Manufacturer/Exporter	Margin (percent)
Snowdrop Trading Pvt. Ltd. ("Snowdrop")	0.00

Because the weighted-average dumping margin is zero, we will instruct the Customs Service to liquidate entries made during this review period without regard to antidumping duties for the subject merchandise that Snowdrop exported.

Cash-Deposit Requirements

The following deposit requirements shall be effective upon publication of this notice of final results of administrative review for all shipments of stainless steel bar from India, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash-deposit rate for the reviewed company will be the rate indicated above; (2) for previously investigated or reviewed companies, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or any previous review or the original less-than-fair-value investigation, but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will continue to be 12.45 percent, the all-others rate.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these final results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act, and 19 CFR 351.214.

Dated: May 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12597 Filed 5–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 010327081–1106–02]

RIN 0648

Request for Proposals for FY 2001—NOAA Educational Partnership Program With Minority Serving Institutions: Environmental Entrepreneurship Program

AGENCY: Office of Finance and Administration (OFA), National Oceanic and Atmospheric Administration (NOAA). Commerce.

ACTION: Notice of request for proposals.

SUMMARY: The Office of Finance and Administration (OFA) in the National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce, is soliciting proposals for the NOAA Educational Partnership Program with Minority Serving Institutions (EPP/MSI) Environmental Entrepreneurship Program. The goal of the Program is to strengthen the capacity of Minority Serving Institutions to foster student careers in environmental fields. The Program will provide funds on a competitive basis to eligible minority serving institutions to support education, training, research, and outreach in environmental fields related to NOAA's mission. The term "environmental fields" is defined as those environmental, natural and social sciences and engineering, professional and technical fields that are relevant to NOAA's mission which is to "describe and predict changes in the Earth's environment, and conserve and manage wisely the Nation's coastal and marine resources to ensure sustainable economic opportunities."

Eligible Minority Serving Institutions (MSIs) include educational institutions identified by the Department of Education as (i) Historically Black Colleges and Universities, (ii) Hispanic-Serving Institutions, and (iii) Tribal Colleges and Universities (see Section III. Eligibility.)

In Fiscal Year 2001, NOAA expects to make available a total of $3,300,000 to support the EPP/MSI Environmental Entrepreneurship Program. The funds will be allocated competitively to support projects at eligible minority serving institutions, of up to three years duration, in the following two categories:

(1) Program Development and Enhancement Grants—approximately six grants, each up to $250,000 total for up to three years. These grants will support the development of effective academic education, training, and research programs, at eligible MSIs, focused on issues directly related to NOAA's environmental management, assessment, and prediction mission. The goal is to enhance education, training, and research opportunities that will strengthen developing environmental programs at MSIs and facilitate the entry of MSI students into careers in environmental fields.

(2) Environmental Restoration Demonstration Projects—approximately six grants, each up to $300,000 total for up to three years. These grants will support the engagement of MSI faculties and students in demonstration projects that integrate education and training opportunities with outreach and/or research activities focused on the application of sound methods and technologies to environmental restoration and ecosystem protection.

While partnerships, particularly with NOAA programs and facilities, are encouraged where appropriate, there is no requirement for a partner or a requirement for the applicant to provide matching funds. NOAA retains the right to allocate funds differently than indicated above if the number of proposals received is not balanced across these two categories, or the proposal quality does not warrant the stated allocation. In such cases, funds may be shifted between the two grant categories.

DATES: A Letter of Intent is requested by June 18, 2001. Proposals must be received by 5 p.m. (Eastern Daylight Savings Time) on July 20, 2001. (See Section VI. Instructions for Application: Timetable)

ADDRESSES: Proposals should be submitted to: Dr. Francis Schuler, EPP/MSI Environmental Entrepreneurship Program, National Oceanic and Atmospheric Administration, Room 11837, SSMC3 (R/SG), 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Francis Schuler, EPP/MSI Environmental Entrepreneurship Program, NOAA, Room 11837 SSMC3 (R/SG), 1315 East-West Highway, Silver Spring, MD 20910. Tel. (301) 713–2445 ext. 158; e-mail: *msi@oar.noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Program Authority

Authority: 15 U.S.C. 1540, 49 U.S.C. 44720, 33 U.S.C. 883d, 33 U.S.C. 1442, 16 U.S.C. 1854(e), 16 U.S.C. 661, 16 U.S.C. 753(a), 16 U.S.C. 1451 et seq., 16 U.S.C. 1431, 33 U.S.C. 883a and Executive Orders 12876, 12900 and 13021. Catalog of Federal Assistance Number: 11.481—Educational Partnership Program with Minority Serving Institutions.

II. Program Description

Background

To meet its principal goals of environmental stewardship, assessment, and prediction, NOAA provides science, technology, and services to describe and predict changes in the Earth's environment, and conserve and manage wisely the Nation's coastal and marine resources to ensure sustainable economic opportunities. NOAA has made a commitment to expand and strengthen its partnership with MSIs. In accordance with NOAA's overall mission, and with the policy of NOAA and the U.S. Department of Commerce to increase education and training of underrepresented minorities in NOAA-related sciences at MSIs, the purposes of the NOAA EPP/MSI Environmental Entrepreneurship Program are:

1. To provide opportunities for undergraduate MSI students to gain exposure to the fields related to NOAA's mission and to increase the number of underrepresented minority students pursuing professional environmental-related career fields.

2. To build the capacity of educational programs in environmental fields at MSIs in order to facilitate entrance of well-prepared students into environmental career fields or advanced academic programs.

3. To accelerate the development of strong partnerships, where appropriate, with NOAA programs and facilities or with other universities and research institutions, industry, government agencies, and organizations (public, nonprofit, or private) that strengthen cooperative education and training, student experiential internships, and faculty development opportunities in environmental fields.

4. To design and encourage the structuring and implementation of curricula and training opportunities that facilitate the integration of environmental knowledge with entrepreneurship for students interested in pursuing careers in the field of environmental restoration.

Rationale

The recruitment of minorities, particularly underrepresented minorities, in the fields of science and engineering, lags behind expectations. According to the National Science Foundation (NSF), "Women, Minorities and Persons with Disabilities in Science and Engineering: 2000," the percentage of minority scientists and engineers in the workforce ranges from 0.3 percent for American Indians to about 3.0 percent each for African-Americans and Hispanics.

The quality and nature of academic experiences at each point of the educational pipeline are crucial to bringing more minorities into environmental and engineering fields. Bachelors, Masters and Doctoral degrees are the underpinnings of science career achievement and employment. At both the undergraduate and graduate levels, Hispanics, African Americans, and Native Americans complete fewer degrees, relative to their demographic composition in the population, than majority ethnic groups. At the Bachelors level, NSF data show that African Americans received about 7.4 percent of the Bachelors degrees in science and engineering in 1996, Hispanics received 6.4 percent, and American Indians/Alaskan Natives receive 0.6 percent. At the Master's level, African Americans receive about 5.0 percent of the science and engineering degrees, Hispanics about 4.0 percent, and American Indians 0.4 percent. In FY 1998, MSIs received only 5.8 percent of Department of Commerce grants to institutions of higher education.

NOAA EPP/MSI Environmental Entrepreneurship Program

Proposals should be firmly grounded in "environmental fields" related to NOAA's mission. The term "environmental fields" is defined as those environmental, natural and social sciences and engineering, professional and technical fields that are relevant to NOAA's mission which is to "describe and predict changes in the Earth's environment, and conserve and manage wisely the Nation's coastal and marine resources to ensure sustainable economic opportunities." (See *http://www.noaa.gov/*)

The long-term, underlying objective of the NOAA EPP/MSI Environmental Entrepreneurship Program is to enhance participation of MSI students and faculty in environmental fields related to NOAA's mission. Broadening the opportunity for eligible MSIs to participate in NOAA's missions will also serve to increase understanding of the role of environmental science and technology among underrepresented groups of the American population. Proposals should identify mechanisms to be employed that will encourage and enable members of underrepresented groups to enter and to remain in environmental fields, particularly in the NOAA-related sciences.

Proposals will be accepted that address one of the following categories:

(1) Program Development and Enhancement Grants—approximately six grants, each up to $250,000 total for up to three years. These grants will support the development of effective academic education, training, and research programs, at eligible MSIs, focused on issues directly related to NOAA's environmental management, assessment, and prediction missions. The goal is to enhance education, training, and research opportunities that will strengthen developing environmental programs at MSIs and facilitate the entry of MSI students into careers as entrepreneurs, scientists, resource managers, and community leaders in environmental fields related to NOAA's mission. Developing and enhancing education, training, and research capabilities at MSIs is intended to expand opportunities for students to develop the technical skills, insights, and experiences needed to equip them for the task of environmentally sound decision-making. Typical activities funded under this element may include, but are not limited to: Environmental science courses and curriculum enhancement; faculty exchange opportunities; training and research experiences and active learning opportunities for students; and other activities aimed at improving access to and retention of students from underrepresented groups in environmental fields related to NOAA's mission.

(2) Environmental Restoration Demonstration Project Grants—approximately six grants, each up to $300,000 total for up to three years. These grants will support the engagement of MSI faculty and students in demonstration projects that apply environmentally sound methods and technologies to environmental restoration and ecosystem protection. Demonstration projects should integrate education and training opportunities with outreach and/or research to, among other things, enhance and restore coastal and estuarine habitats, prevent marine pollution, reduce coastal hazards, assess marine protected areas, protect coral reefs, curb the spread of invasive species, restore fisheries and fisheries habitat, develop and expand aquaculture, plan community waterfront revitalization, mitigate and assess impacts of climate variability, or employ remotely sensed data and information systems to support environmental monitoring and prediction. Projects should involve students with academic training across the broad array of environmental fields needed to implement resource restoration projects. Research to understand the nature and extent of environmental degradation within communities and to test and monitor methods for preventing, controlling, and reducing the degradation of natural environments is encouraged.

Partnerships: For both the (1) Program Development and Enhancement Grants and the (2) Environmental Restoration Demonstration Project Grants, proposals should build creatively on existing expertise and research programs, as appropriate. Innovative, imaginative approaches to the issue are sought that take maximum advantage of the synergies of strong linkages and collaborations with partners such as other universities, research institutions, industry, Federal, state, local, and tribal government agencies, and other organizations (public, nonprofit, or private). While partnerships, particularly with NOAA programs and facilities, are encouraged where appropriate, there is no requirement for a partner or a requirement to provide matching funds.

Proposals: Proposals must be submitted by an eligible MSI and are expected to have a rigorous work plan, a strong rationale, and clearly identified and achievable goals. Proposals should emphasize innovative approaches to encouraging, preparing, and graduating MSI students trained in environmental science and related professional career fields. Projects should strive for multiple-year participation by students and include effective use of role models and mentors. A plan for evaluating the outcome of the project should be included.

III. Eligibility

Minority Serving Institutions eligible to submit proposals include institutions of higher education identified by the Department of Education as: (i) Historically Black Colleges and Universities, (ii) Hispanic-Serving Institutions, (iii) Tribal Colleges and Universities, on the "2001 United States Department of Education Accredited Post-Secondary Minority Institutions" list: *http://www.ed.gov/ocr/minorityinst.html*

IV. Evaluation Criteria

The evaluation criteria for proposals submitted for support under the NOAA EPP/MSI Environmental

Entrepreneurship Program are weighted as follows:

(1) *Technical and Educational Merit (40 percent):* The degree to which the activity will advance or transfer knowledge and understanding in environmental science, education, or professional fields as they relate to NOAA's mission; the qualifications of the applicant (individual or team) to conduct the project, including the ability to involve individuals from the MSI's student population successfully in the project; the degree to which the activity explores creative and original concepts; the overall design and organization of the planned activity; the strength of the proposed partnership, if any, to help meet the goals of the project; and the sufficiency of resources for the plan of work.

(2) *Impact of Proposed Project (60 percent):* The contributions the project will make to enhancing the capability of the MSI to bring education and training opportunities to its student population in the environmental and professional fields related to NOAA's mission; the benefit accruing to a faculty member and the institution from participation in the NOAA EPP/MSI Environmental Entrepreneurship Program; the degree to which the proposed activity develops mechanisms that will broaden and sustain the participation of MSIs in NOAA-related environmental fields; the extent to which the proposed activity will enhance and improve education, training, and research at MSIs; and the adequacy of the plan for evaluating the outcome of the project. For environmental restoration demonstration projects, the degree to which the project is expected to help prevent, control, and reduce degradation to habitats will be considered.

V. Selection Procedures

Reviews of the proposals will be conducted by an independent peer review panel. Proposals will be ranked in accordance with the above evaluation criteria (Section IV) by the panel members. The panel members will provide individual evaluations on proposals, but there will be no consensus recommendation. Their recommendations and evaluations will be considered by NOAA in the final selection of proposals to be funded. NOAA may also consider programmatic or geographic balance and budget availability in the final selection of proposals to be funded. Investigators may be asked to modify objectives, work plans, budget levels, or project duration prior to final approval of an award.

VI. Instructions for Application

Timetable

June 18, 2001—Letters of Intent: To aid NOAA in planning the review, potential Principal Investigators are strongly encouraged to submit an optional Letter of Intent by June 18, 2001. Letters of Intent should be e-mailed (no attachments) to msi@oar.noaa.gov. Information contained should include a brief description of the scope of the work, the parties involved, and an estimated budget.

July 20, 2001—Proposals are due no later than 5 p.m. (Eastern Daylight Savings Time), July 20, 2001. (See Section VII. HOW TO SUBMIT for further details.)

August, 2001—Successful applicants can expect to be notified during the last week of August, 2001. Successful applicants may be asked to provide revised narratives and/or budgets which would be due the first week of September, 2001.

October 1, 2001—Funds will be awarded through a grant with an expected start date of October 1, 2001.

Proposal Guidelines

All proposals should be typewritten and may not exceed 20-pages. Tables and visual materials, including charts, graphs, maps, photographs and other pictorial presentations are included in the page limitation; literature citations are not included in the page limitation. All information needed for review of the proposal should be included in the main text; no appendices are permitted. The following information should be included:

(1) *Signed title page:* The title page should be signed by the Principal Investigator and the institutional representative and should clearly identify the program area being addressed by starting the project title with "NOAA EPP/MSI Environmental Entrepreneurship Program" followed by either "Program Development and Enhancement" or "Environmental Restoration Demonstration Project," depending upon the particular type of grant for which you are applying. The Principal Investigator and institutional representative should be identified by full name, title, organization, telephone number, e-mail and mailing address. The total amount of Federal funds being requested should be listed for each budget period.

(2) *Abstract:* This information is very important. It is critical that the abstract accurately describe the essential elements of the project being proposed. The abstract should include: 1. Title: Use the exact title as it appears in the rest of the application. 2. Investigators: List the names and affiliations of each investigator who will significantly contribute to the project. Start with the Principal Investigator. 3. Funding request for each year of the project as well as total funding requested. 4. Project Period: Start and completion dates. Proposals should request a start date of October 1, 2001. 5. Objectives, Methodology, and Rationale: This should include a concise statement of the objectives of the project, the scientific or educational methodology to be used, and the rationale for the work proposed.

(3) *Project Description:* (a) Introduction/Background/Justification: What is the problem or opportunity being addressed and what is its scientific, technical, educational, or socioeconomic importance to the region or nation?

(b) Technical Plan: What are the goals, objectives, and anticipated approach of the proposed project? While a detailed work plan is not expected, the proposal should present evidence that there has been thoughtful consideration of the approach to the problem under study. If a partner is involved, what capabilities does the partner possess that will benefit the project, faculty member and students?

(c) Output/Anticipated Benefits: What measures will be used to evaluate the outcome of the proposed project? Upon completion of the project, what are the anticipated benefits to the MSI and its students?

(d) Literature Cited: Should be included here, but does not count against the page limit.

(4) *Budget and Budget Justification:* Form SF424A Budget Information Non-Construction Programs and budget justification narrative are required. There should be an annual budget for each year of the project as well as a cumulative budget for the entire project. Subcontracts should have a separate budget. Each annual budget should include a separate budget justification page that itemizes all budget items in sufficient detail to enable reviewers to evaluate the appropriateness of the funding requested. (Please see the NOAA budget guidelines at *http://www.rdc.noaa.gov/grants/BUDGTGUD.PDF*).

(5) *Current and Pending Support:* Applicants must provide information on all their current and pending Federal support for ongoing projects and proposals, including potential subsequent funding in the case of continuing grants. The proposed project and all other projects or activities using Federal assistance and requiring a portion of time of the principal investigator or other senior personnel should be included. The relationship between the proposed project and these other projects should be described, and the number of person-months per year to be devoted to the projects must be stated.

(6) *Vitae* (two pages maximum per investigator).

(7) *Letters of commitment from partnering organizations (if applicable).* Letters of commitment from partners must be included as an attachment to the application. The letters from partnering organizations should describe their commitment, identify key participants, and state briefly their role in the project.

(8) *Standard Application Forms:* Proposals submitted in response to this solicitation must be complete and submitted in accordance with instructions in the standard NOAA Grants Application package. Applicants may obtain all required application forms through the NOAA internet site http://www.rdc.noaa.gov/grants/pdf or from Ms. Arlene Simpson Porter, NOAA Grants Management Division, (301) 713–0962 ext. 152, *Arlene.S.Porter@noaa.gov.*

(a) *Standard Forms 424,* Application for Federal Assistance; SF424A Budget Information Non-Construction Programs; SF424B Assurances Non-Construction, (Rev 4–88). Please note that both the Principal Investigator and an administrative contact should be identified in Section 5 of the SF424 or Section 10, applicants should enter "11.481" for the CFDA Number and "Educational Partnership Program with Minority Serving Institutions" for the title. The form must contain the original signature of an authorized representative of the applying institution.

(b) *Primary Applicant Certifications.* All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

(i) *Non-Procurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Non-Procurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(ii) *Drug-Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(iii) *Anti-Lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000; and

(iv) *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

(c) *Lower Tier Certifications.* Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." ORM CD–512 is intended for the use of recipients and should not be transmitted to the Department of Commerce (DOC). SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

VII. How To Submit

Although investigators are not required to submit more than three copies of the proposal, the normal review process utilizes 15 copies. Applicants are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5" × 11"), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally required forms are needed.

Proposals must be received by 5 p.m. (Eastern Daylight Savings Time) on July 20, 2001. The address is: Dr. Francis Schuler, EPP/MSI Environmental Entrepreneurship Program, NOAA, Room11837 SSMC3 (R/SG), 1315 East-West Highway, Silver Spring, MD 20910.

Facsimile transmissions and electronic mail submission of applications will not be accepted.

VIII. Other Requirements

(A) *Federal Policies and Procedures*—Recipients and subrecipients are subject to all Federal laws and Federal and Department of Commerce (DOC) policies, regulations, and procedures applicable to Federal financial assistance awards.

(B) *Past Performance*—Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(C) *Pre-Award Activities*—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

(D) *No Obligation for Future Funding*—If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

(E) *Delinquent Federal Debts*—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until:

(1) The delinquent account is paid in full,

(2) A negotiated repayment schedule is established and at least one payment is received, or

(3) Other arrangements satisfactory to DOC are made.

(F) *Name Check Review*—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(G) *False Statements*—A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(H) *Purchase of American-Made Equipment and Products*—Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program.

(I) For awards receiving funding for the collection or production of geospatial data (e.g., GIS data layers), the recipient will comply to the

maximum extent practicable with E.O. 12906, Coordinating Geographic Data Acquisition and Access, The National Spatial Data Infrastructure, 59 FR 17671 (April 11, 1994). The award recipient shall document all new geospatial data collected or produced using the standard developed by the Federal Geographic Data Center, and make that standardized documentation electronically accessible. The standard can be found at the following Internet website: (http://www.fgdc.gov/standards/standards/html).

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This action has been determined to be not significant for purposes of E.O. 12866.

This notice contains collection of information requirements subject to the Paperwork Reduction Act. Standard Forms 424, 424A, and 424B have been approved under control numbers 0348–0043, 0348–0044, and 0348–0040. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Dated: May 15, 2001.

Louisa Koch,

Chair, NOAA Minority Serving Institutions Council.

[FR Doc. 01–12607 Filed 5–17–01; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Federal Voting Assistance Program (FVAP), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Washington Headquarters Services announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 17, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Department of Defense, Washington Headquarters Services, Federal Voting Assistance Program, 1155 Defense Pentagon, Washington, DC 20301–1155, ATTN: Ms. Elaine Perna.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Federal Voting Assistance Program at (703) 588–1584 or 1–(800) 438–8683.

Title and OMB Number: Post-election Voting Survey of Overseas Citizens and Post-election Voting Survey of Local Election Officials; OMB Number 0704–0125.

Needs and Uses: The information collection requirement is necessary to meet a requirement of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 (42 U.S.C. 1973ff). UOCAVA requires a report to the President and Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State-Federal cooperation.

Affected Public: Individuals or Households: State or Local Government.

Annual Burden Hours: 401.

Number of Respondents: 2,403.

Responses Per Respondent: 1.

Average Burden Per Response: 10 minutes.

Frequency: Quadrennially.

SUPPLEMENTARY INFORMATION:

Summary of Information

UOCAVA requires the states to allow Uniformed Services personnel, their family members, and overseas citizens to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal offices. The Act covers members of the Uniformed Services and the merchant marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service, and their eligible dependents, Federal civilian employees overseas, and overseas U.S. citizens not affiliated with the Federal Government. FVAP conducts the post-election survey on a statistically random basis to determine participation rates that are representative of all citizens covered by the Act, measure State-Federal cooperation, and evaluate the effectiveness of the overall absentee voting program. The information collected is used for overall program evaluation, management and improvement, and to compile the congressionally mandated reported to the President and Congress.

Dated: May 10, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–12559 Filed 5–17–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 31 May 2001 (830 am to 1600 pm).

ADDRESSES: The Defense Intelligence Agency, 200 MacDill Blvd, Washington, DC 20340.

FOR FURTHER INFORMATION CONTACT: Victoria J. Prescott, Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(I), Title 5 of the U.S. Code, and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: May 14, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–12560 Filed 5–17–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Public Hearing for the Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR) for the Disposal and Reuse of Fleet and Industrial Supply Center Naval Fuel Depot (NFD) Point Molate, CA

AGENCY: Department of the Navy, DOD.

ACTION: Announcement of public hearing.

SUMMARY: The Department of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency (EPA) a DEIS/DEIR for disposal and reuse of NFD Point Molate, California. A public hearing will be held for the purpose of receiving oral and written comments on the DEIS/DEIR. Federal, local and state of California agencies, and interested individuals are invited to be present at the hearing.

DATES: One public hearing will be held on Wednesday, June 20, 2001, at 6:00 p.m.

ADDRESSES: City of Richmond Council Chambers, 2600 Barrett Avenue, Richmond, CA, 94804.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Montana (06CM.RM), Southwest Division, Naval Facilities Engineering Command, 1220 Pacific Highway, San Diego, CA, 92132–5190, telephone (619) 532–0942, facsimile (619) 532–0940.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Navy has prepared and filed with the EPA a DEIS/DEIR for Disposal and Reuse of NFD Point Molate, CA.

A Notice of Intent (NOI) to prepare the DEIS/DEIR was published in the **Federal Register** on September 15, 1997 (62 FR 178). A public scoping meeting announcement was published on September 27 and 28, 1997, in both the West Contra Costa Times and the Oakland Tribune, and on September 24 and 28, 1997, in the Richmond Post. One public scoping meeting was held on October 1, 1997, at the City of Richmond Council Chambers, Richmond, CA.

The proposed action is the disposal of surplus Navy property for subsequent reuse and redevelopment, in accordance with the 1990 Defense Base Closure and Realignment Act, and the 1995 Base Closure and Realignment Commission recommendations. A parcel totaling 413 acres (167 hectares) has been declared surplus and is the focus of this DEIS/DEIR. NFD Point Molate was operationally closed on September 30, 1998.

The DEIS/DEIR evaluates three reuse alternatives, each emphasizing various types of development, e.g., residential, commercial, industrial, open space, recreation, etc. A fourth alternative, no action, assumes no disposal of property and retention of the depot by the Navy in caretaker status. Under the No Action alternative, the site would not be reused or redeveloped. Environmental cleanup would continue and be completed.

The base reuse plan recommended by the Blue Ribbon Advisory Committee, a committee appointed by the Local Redevelopment Authority (LRA), was approved by the Richmond City Council acting as the LRA. It includes the preferred reuse alternative of the City of Richmond and the Navy. This plan, Alternative 2, consists of the following major elements: Commercial uses including retail shops, bed and breakfast establishments, small hotels, conference centers, and office space; industrial uses including manufacturing, sales and distribution businesses, wholesale services, warehousing, data processing, telecommunications, and research and development. No decision on the proposed action will be made until the NEPA process has been completed.

Potential impacts evaluated in the DEIS/DEIR include, but are not limited to land use compatibility; geology and soils, traffic, utilities, air quality, and public services. With one exception, all potentially significant impacts under all of the reuse alternatives can be mitigated to non-significant levels. Potentially significant but mitigable impacts include: Future odor emissions from necessary sewage treatment plants, future requirements for developments to be implemented in conformance with existing guidelines for seismic hazards, possible future impacts due to increased traffic demand on the existing road network, and an increase in emissions which may exceed local air quality standards. The one exception is a land use compatibility impact; no mitigation is available except to revise the land use plan.

The DEIS/DEIR has been distributed to affected federal, local and state of California agencies and other interested parties. In addition, copies of the DEIS/DEIR are available for review at the following public libraries:

—Richmond Public Library, 325 Civic Center Plaza, Richmond, CA.

—West Side Branch Library, 135 Washington Avenue, Pt. Richmond, CA.

A public hearing will be held to inform the public of the DEIS/DEIR findings and to solicit and receive oral and written comments. The hearing will be held at 6:00 p.m. on Wednesday, June 20, 2001, at city of Richmond Council Chambers, 2600 Barrett Avenue, Richmond, CA 94804. Government agencies and interested parties are invited to be present at the hearing. Oral comments will be heard and transcribed by a court recorder; written comments are also requested to ensure accuracy of the record. All comments, both oral and written, will become part of the official record. In the interest of available time, each speaker will be asked to limit oral comments to three minutes. Those who intend to speak will be asked to submit a speaker card (available at the door). Longer comments should be summarized at the public hearing and submitted in writing either at the hearing or mailed to Mr. Robert A. Montana at the address given above. Written comments are requested not later than July 2, 2001.

Dated: May 8, 2001.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–12568 Filed 5–17–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Agency Information Collection Under Review By The Office of Management and Budget

AGENCY: Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Department of Energy (DOE), pursuant to section 3507(g) of the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection package with the Office of Management and Budget (OMB). The Department's Office of Environment, Safety and Health information collection package, OMB No. 1910–5105, allows the Department and its contractors to provide management control and oversight over health and safety programs concerning worker exposure to ionizing radiation.

DATES: Written comments and recommendations for the proposed collections of information must be mailed to the OMB Desk Officer, on or before June 18, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–7318. In addition, please notify the DOE contact listed in this notice.

ADDRESSES: Address comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Persons submitting comments to OMB are requested to send a copy to Dr. Judith D. Foulke, U.S. Department of Energy, Office of Worker Protection Policy and Programs (EH–52), Office of Environment, Safety and Health, 19901 Germantown Road, Germantown, MD 20874–1290.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the Department's Paperwork Reduction Act Submission and other information should be directed to Ms. Susan L. Frey, U.S. Department of Energy, Director, Records Management Division, Office of Records and Business Management (SO–312), Office of the Chief Information Officer, Germantown, MD 20874–1290. Ms. Frey can be contacted by telephone at (301) 903–3666 or e-mail at Susan.Frey@hq.doe.gov.

SUPPLEMENTARY INFORMATION: This package contains: (1) *Current OMB No.* 1910–5105; (2) *Package Title:* Occupational Radiation Protection; (3) *Summary:* Request for a three-year extension without change, which covers mandatory responses; (4) *Purpose:* The recordkeeping and reporting requirements that comprise this information collection will permit DOE and its contractors to provide management control and oversight over health and safety programs concerning worker exposure to ionizing radiation; (5) *Type of Respondents:* 50 DOE management and operating contractors; (6) *Estimated Number of Burden Hours:* 50,000.

Statutory Authority: Sections 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) (44 U.S.C. 3501 et seq.).

Issued in Washington, DC on May 10, 2001.

Susan L. Frey,

Director, Records Management Division, Office of Records and Business Management, Office of the Chief Information Officer.

[FR Doc. 01–12540 Filed 5–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; Office of Science Financial Assistance Program Notice 01–26: Program for Ecosystem Research (PER)

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications for research grants in the Program for Ecosystem Research (PER). Applications should describe research projects that address the scientific aims of PER. Applications for research on carbon sequestration in terrestrial ecosystems were solicited under an earlier announcement (Carbon Sequestration Research Program; Notice 00–09), and applications for research on terrestrial ecosystem carbon cycle and carbon balance were solicited under another earlier announcement (Terrestrial Carbon Processes (TCP) Notice 00–12). Applications for research on those topics will not be considered by PER.

DATES: Potential applicants are strongly encouraged (but not required) to submit a preapplication for programmatic review. The deadline for preapplications is July 2, 2001. A response to the preapplications will be communicated to the principal investigators by July 9, 2001.

The deadline for receipt of formal applications is 4:30 p.m., EST, August 13, 2001, to be accepted for merit review and to permit timely consideration for award in early Fiscal Year 2002. An original and seven copies of the application must be submitted. Applicants are requested not to submit multiple applications using more than one delivery or mail service.

ADDRESSES: If submitting a preapplication, it should be sent as ASCII text attached to an e-mail to *Karen.Carlson@science.doe.gov*, using an e-mail subject line of "PER preapplication."

Formal applications, referencing Program Notice 01–26, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 01–26. This address must also be used when submitting applications by U.S. Postal Service Express Mail or any other commercial overnight delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey S. Amthor, Environmental Sciences Division, SC–74, Office of Biological and Environmental Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–2507, e-mail: *Jeff.Amthor@science.doe.gov*, fax: (301) 903–8519. The full text of Program Notice 01–26, is available via the Internet at the following URL: *http://www.sc.doe.gov/production/grants/grants.html*.

SUPPLEMENTARY INFORMATION: DOE has responsibility for developing energy resources, technologies, and policies to provide for the nation's energy needs in a manner that will maintain, protect, and enhance environmental quality. Complementary to this commitment, and as part of the U.S. Global Change Research Program, DOE also addresses the question of how ecosystems respond and adjust to global and regional changes in atmospheric composition and related climate changes associated with energy production and use.

The mission of PER is to improve the scientific basis for predicting or detecting effects of simultaneous changes in climate and atmospheric composition on terrestrial ecosystems and their component organisms and processes. Ecosystem processes and components of importance to humanity are of special concern. Climatic and atmospheric changes of key interest include (but need not be limited to): Warming (and changes in diurnal, seasonal, and interannual temperature cycles), changes in precipitation and evapotranspiration (*e.g.*, intensification of the hydrologic cycle), changes in frequency and/or magnitude of extreme weather events and patterns, and rising atmospheric carbon dioxide and ozone concentrations. (Hereafter, these climate and atmospheric changes are referred to as "environmental changes"). Effects of factors such as human land use and introduction and spread of invasive species on ecosystem structure and function are of programmatic interest only to the extent that they interact with (modify impacts of) environmental changes on terrestrial ecosystems, not as stand-alone factors influencing ecosystems and their component processes. Study of coastal ecosystems is presently outside the purview of PER.

Program objectives are to improve scientific understanding of how and why (or if):

(1) Terrestrial ecosystems and their component organisms are affected by and respond to multiple environmental changes; and

(2) Underlying biological and/or ecological processes in terrestrial ecosystems are controlled or modified by multiple environmental changes.

PER is interested in both experimental research (in the laboratory or field as appropriate to the research objectives) and modeling that considers both (either) direct and indirect effects of environmental changes on terrestrial ecosystems, their components, their processes, and their structures. Experimental research based on underlying theory, and modeling that considers ecological hierarchies (*i.e.*, multi-level or mechanistic modeling), are most relevant, as are considerations of multiple environmental changes. Ecosystem responses to environmental changes of special interest include: (1) Adjustments at the ecosystem scale, such as changes in the organized hierarchy of ecosystem processes, structures, biological diversity, and/or succession, and (2) adjustments at the organismal scale that are manifested at the ecosystem scale, including physiological, biochemical, and/or genetic changes that may facilitate (or hinder) ecosystem homeostasis.

Goals of PER research are to (1) determine and quantify cause-and-effect relationships between environmental changes and the structure and functioning of terrestrial ecosystems, including adjustments at the ecosystem level and the biological/ecological controls on the cause-and-effect relationships, and (2) develop and test methods of integrating biotic responses to environmental changes up to levels of organization as high as whole ecosystems. Mathematical modeling can play an important role in attaining these goals, but such modeling must involve new empirically based science. Modeling projects must either introduce new theories into existing models, and/or critically evaluate and improve existing models with independent experimental data. PER modeling must go beyond simply making predictions of ecosystem responses to environmental change scenarios; it must develop and/or test hypotheses concerning cause-and-effect relationships between environmental changes and terrestrial ecosystem structure and functioning. The main theme defining PER goals is the mechanistic understanding and quantification of ecosystem-scale responses to ongoing and potential future environmental changes, with an emphasis on multiple changes.

Applications should succinctly articulate the choice of environmental factors to be studied and the magnitude of changes considered. Those choices might be related to physically based models of the future climate system and/or models and projections of the chemical characteristics of the future atmosphere. Time scales of decades to a century are appropriate.

When appropriate, use of existing DOE facilities and sites for ecosystem research is encouraged. Such facilities/sites include the National Environmental Research Parks (NERPs) located at DOE facilities throughout the country (see *http://www.pnl.gov/nerp/nerpmap.gif*), free-air CO_2 enrichment (FACE) sites (see *http://cdiac.esd.ornl.gov/programs/FACE/face.html*), and DOE's Atmospheric Radiation Measurement (ARM) Program site in Oklahoma (see *http://www.arm.gov/*).

Applications focusing primarily on ecosystem carbon exchange or carbon balance, or directed at carbon sequestration in terrestrial ecosystems, are not appropriate for PER. Such applications should be directed to the DOE OBER Terrestrial Carbon Processes (TCP) and the Carbon Sequestration Research programs, respectively.

Concise applications will aid the evaluation process. The technical portion of each application should clearly state links between proposed research and the PER mission, objectives, and goals. Background material (e.g., literature review) in the technical portion of each application should be only long enough to demonstrate familiarity with the subject and to critically define the need for the proposed research. The complete technical portion of each application should not exceed 20 double-spaced pages with at least 1-inch margins using a 10-point (or larger) font. Figures and tables are included in this page limit, though the font size in tables and figures may be smaller, as long as all material is fully legible. A one-page, single-spaced summary should precede the technical portion of the application. Applications exceeding these limits may be returned with a request for compliance to these standards, but the deadline will not be extended.

Applications submitted to continue existing PER-sponsored research should devote one to one and a half pages of the technical portion of the application to a succinct description of the earlier/ongoing research and results, including a statement of the project funding start date. An appendix must be included listing all refereed publications from the project, papers accepted for publication, and papers submitted for publication (not draft manuscripts). This appendix (which will not count against the 20-page limit) may take the form of an annotated bibliography, with a one or two sentence description of the significance of each paper listed after each citation. Similarly, applications for new research from principal investigators previously supported by PER (or by TECO through DOE) may devote one to one and a half pages of the technical portion of the application to a succinct description of the earlier research and results, including a statement of the project(s) funding start and end dates. An appendix (which will not count against the 20-page limit) listing all refereed publications (published, accepted for publication, and submitted for publication) from the earlier project(s) may be included.

The technical portion of each application should end with a brief, clear time line of proposed work and a concise listing of responsibilities of each investigator.

The technical portion of the application should be followed by a list of scientific references cited in the technical portion. The references-cited section will not count against the 20-page limit.

Applications must include a curriculum vita for each principal and co-principal investigator (two pages maximum per investigator). The vitae should specify previous research and publications (if any) related to the proposed research. The vitae are not part of the technical portion of the application.

Program Funding

It is anticipated that approximately $1.8 million will be available for multiple awards to be made in early FY 2002, contingent on availability of funds. Applications may request project support for up to three years, with out-year support contingent on availability of funds, progress of the research, and programmatic needs. Previous awards have been in the range from $80,000 to $250,000 per year, with some larger awards made in exceptional cases, including coordinated multi-institutional projects. DOE may encourage collaboration among prospective investigators to promote joint applications or joint research projects by using information obtained in the preapplications or other forms of communication.

Preapplication

A preapplication is strongly encouraged. The preapplication should contain a title, address, telephone, fax and e-mail address of the Principal Investigator, and consist of 500 words or less of narrative outlining the proposed research objectives and methods. Include a list of proposed principal investigators and their institutions at the end of the narrative. Responses to preapplications, encouraging or discouraging formal applications, will generally be communicated within 7 days of receipt. Notification of a successful preapplication is not an indication that an award will be made in response to the formal application.

Merit Review

Applications will be subjected to formal merit review (peer review) and will be evaluated against the following criteria which are listed in descending order of importance codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project;
2. Appropriateness of the Proposed Method or Approach;
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources; and
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and the agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Submission Information

Information about the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is made available via the World Wide Web at: *http://www.sc.doe.gov/production/grants/grants.html*. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

In addition, for this notice, the research description should not exceed 20 pages, exclusive of attachments, must include detailed budgets, form DOE F 4620.1, for each year of support requested, and must contain a one-page abstract or summary of the proposed research. On the SC grant face page, form DOE F 4650.2, in block 15, also provide the PI's phone number, fax number and e-mail address. Attachments should include curriculum vitae for all key personnel, a listing of all current and pending federal support, and letters of intent when collaborations are part of the proposed research. Curriculum vitae should be submitted in a form similar to that of NIH or NSF (two pages maximum), see for example: *http://www.nsf.gov:80/bfa/cpo/gpg/fkit.htm#forms-9*.

For researchers who do not have access to the World Wide Web, please contact Karen Carlson, Environmental Sciences Division, SC–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, phone: (301) 903–3338, fax: (301) 903–8519, e-mail: *karen.carlson@science.doe.gov*; for hard copies of background material mentioned in this solicitation.

(The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.)

Issued in Washington, DC May 9, 2001.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–12539 Filed 5–17–01; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

[FE Docket No. PP–197, DOE/EIS–0307]

Notice of Reopening Scoping Period and Schedule for Public Scoping Meetings; Public Service Company of New Mexico

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that it is reopening the scoping period and will hold additional public scoping meetings for the environmental impact statement (DOE/EIS–0307) that is being prepared in connection with an application for a Presidential permit field by Public Service Company of New Mexico (PNM). PNM has applied for a Presidential permit to construct electric transmission lines across the U.S.-Mexico border. DOE is preparing an EIS, with the U.S. Forest Service as a cooperating agency, because together they have determined that the issuance of a DOE Presidential permit and/or issuance of a Forest Service "Special Use Permit" would constitute major Federal actions that may have a significant impact upon the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA). The purpose of this notice is to open a new scoping period to obtain comments on the five alternative corridors proposed to be analyzed in the EIS. These alternative corridors have been derived from the eight study corridors that were the subject of previous scoping periods.

DATES: DOE invites interested agencies, organizations, and members of the public to submit comments or suggestions to assist in identifying significant environmental issues not previously identified and in determining the appropriate scope of the EIS. This new scoping period starts with the publication of this notice in the **Federal Register** and will continue until June 22, 2001. Written and oral comments will be given equal weight and DOE will consider all comments received or postmarked by June 22, 2001, in defining the scope of the EIS. Comments received or postmarked after that date will be considered to the extent possible.

Dates, times and locations for the public scoping meetings are:

1. June 12, 2001, 4 p.m. to 7 p.m., Rio Rico Resort, 1069 Camino Caralampi, Rio Rico, Arizona.
2. June 13, 2001, 4 p.m. to 7 p.m., Marana High School, Marana, Arizona.

Requests to speak at a public scoping meeting(s) should be received by the NEPA Document Manager, Mrs. Ellen Russell, at the address indicated below on or before June 7, 2001. Requests to speak may also be made at the time of the scoping meeting(s). However, persons who submitted advance requests to speak will be given priority if time should be limited during the meeting.

ADDRESSES: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meeting(s) should be addressed to: Mrs. Ellem Russell, NEPA Document Manager, Office of Fossil Energy (FE–27), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585–0350; phone 202–586–9624, facsimile: 202–287–5736, or by electronic mail at *Ellen.Russell@hq.doe.gov*. Comments that relate exclusively to activities on or impacts to lands under the control of the U.S. Forest Service may also be transmitted directly to Jerry Conner, Coronado National Forest, 300 W. Congress Street, Tucson, Arizona 85701; phone 520–670–4527 or via electronic mail at *jconner@fs.fed.us*.

FOR FURTHER INFORMATION CONTACT: For information on the proposed project or to receive a copy of the Draft EIS when it is issued, contact Mrs. Russell at the address listed in the **ADDRESSES** section of this notice.

For general information on the DOE NEPA review process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119; Phone: 202–586–4600 or leave a message at 800–472–2756; Facsimile: 202–586–7031.

SUPPLEMENTARY INFORMATION:

Background and Need for Agency Action

Executive Order 10485, as amended by Executive Order 12038, requires that a Presidential permit be issued by DOE before electric transmission facilities may be constructed, maintained, operated or connected at the U.S. international border. The Executive Order provides that a Presidential permit may be issued after a finding that the proposed project is consistent with the public interest. In determining consistency with the public interest, DOE considers the impacts of the project on the reliability of the U.S. electric power system and on the environment. The regulations implementing the Executive Order have been codified at 10 205.320–205.329. Issuance of a Presidential permit does not mandate that the project be completed; in fact, prior to construction, the recipient must obtain approval from all other Federal, state and local authorities with jurisdiction over the project.

On December 28, 1998, PNM filed an application for a Presidential permit with the Office of Fossil Energy of DOE. PNM proposed to construct up to two transmission lines on a single right-of-way extending approximately 210 to 250 miles from the electric switchyard near the Palo Verde Nuclear Generating Station (PVNGS), located approximately 30 miles west of Phoenix, Arizona, to the U.S.-Mexico border. South of the border, PNM would extend the line(s) approximately 60 miles to the Santa Ana Substation, located in the City of Santa Ana, Sonora, Mexico, and owned by the Commission Federal de Electricdad (CFE), the national electric utility of Mexico.

In its December 28, 1998, Presidential permit application, PNM identified three alternative corridors for construction of the two cross-border transmission lines. These corridors were the subject of public scoping meetings conducted in Nogales, Tucson, Patagonia, Sells, Ajo, Gila Bend, and Casa Grande, Arizona, in March 1999. The initial scoping period extended from February 12 to March 15, 1999 (64 FR 7173, February 12, 1999), and was later extended to April 14, 1999 (64 FR 13553, March 19, 1999). Later, three additional alternative corridors were developed and were the subject of public scoping meetings conducted in Green Valley, Tubac, Sasabe, Three Points (Robles Junction), and Tucson in June 1999, during a second scoping period that extended from June 10 to July 14, 1999 (64 FR 31204, June 10, 1999). A third scoping period was opened on July 20, 2000 (65 FR 45042, July 20, 2000), and, by an August 20, 2000, information letter to the public, continued until October 2, 2000, to receive public comment on two additional alternative corridors, one identified as the PNM "Preferred Alternative." Public scoping meetings on these two additional alternative corridors were scheduled for Rio Rico and Tucson during August but were later canceled when DOE became aware from comments by the public that the quality of maps distributed and posted on the project web site was not adequate. Also, the public pointed out to DOE that during the month of August many residents of southern Arizona vacation outside of the State and either would not be available for the meeting or would not have received information on the proceeding.

When the third scoping period was opened on July 20, 2000, PNM had identified a total of eight corridors, modified the path of several from what had originally been presented to the public by DOE, and eliminated the proposal to use direct current (DC) technology. Since the close of the third scoping period, PNM has continued to identify, eliminate and/or modify its proposed alternative corridors. For example, initially, for each of its proposal corridors, PNM had assumed a two-mile-wide study corridor. As its proposal has evolved, PNM has more narrowly defined each alternative study corridor, reducing the width of most to approximately one mile. PNM also has continued to define corridor alternatives and consider multiple options to many segments of these corridors.

Earlier this year DOE informed PNM that this proceeding and the number of variations to proposed corridors had become too cumbersome for DOE to adequately describe and analyze or for the public to decipher. DOE requested PNM to identify the set of alternatives that DOE would propose to analyze in the EIS. DOE then mapped PNM's set of alternatives to provide the public with information to identify potential impacts to their property and to their community during this scoping period. In addition, DOE decided that it would not consider corridors PNM had earlier proposed through the Tohono O'odham Nation in light of the Nation's sovereignty and in response to its request that DOE terminate the NEPA and Presidential permit processes as they pertain to the Nation.

Each of the five corridors that DOE proposed to analyze in the EIS has been named after distinguishing characteristics in the southern part of the corridor within the United States: the East Valley Corridor, the Sasabe Corridor, the Pipeline Corridor, the Cross-Over Corridor (designated the PNM preferred corridor), and the Tucson Corridor. The first four of these corridors have an optional routing in the area near Picacho and Marana. A map and description of each of the alternatives (and options) is being mailed to stakeholders who have previously expressed an interest in this proposal. In addition, maps are available on the project web site maintained for DOE by Battelle Memorial Institute at *http://projects.battelle.org/pnmeis/* or may be received by mail by leaving a message at 1–888–806–3421. In addition, from this web site interested persons can download other project-related information.

The EIS is being prepared to satisfy the environmental review requirements of any Federal agency having jurisdiction over the proposed project or any segment of it. The U.S. Forest Service (Coronado National Forest) has notified DOE that it will participate as a cooperating agency in the preparation of this EIS; several of the PNM-proposed corridors cross land under control of the Coronado National Forest. PNM must obtain a "Special Use Permit" from the U.S. Forest Service before a transmission line can be constructed on these lands.

Scoping Process

Interested parties are invited to participate in the scoping process. Public scoping meetings will be held at the locations, dates, and times indicated above under **DATES** and **ADDRESSES** sections. These scoping meetings will be informal but a transcript will be taken and made available on the project web site. The DOE presiding officer will establish only those procedures needed

to ensure that everyone who wishes to speak has a chance to do so and that DOE understands all issues and comments. At this time DOE expects to provide speakers with approximately 5 minutes for their oral statements. Allotted time may change based on the number of speakers who register. Persons who have not submitted a request to speak in advance may register to speak at each scoping meeting, but advance requests are encouraged. Should any speaker desire to provide for the record further information that cannot be presented within the designated time, such additional information may be submitted in writing by the date listed in the **DATES** section. Both oral and written comments will be considered and given equal weight by DOE. Oral and written comments previously submitted in this proceeding have been entered in the official record of this proceeding and need not be resubmitted.

Issued in Washington, DC on May 15, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power System, Office of Fossil Energy.

[FR Doc. 01–12538 Filed 5–17–01; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–61–001]

PacifiCorp; Notice of Filing

May 14, 2001.

Take notice that on May 4, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Long-Term Firm Transmission Service Agreement with Idaho Power Company (Idaho) under PacifiCorp's FERC Electric Tariff, Second Revised Volume No. 11 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 25, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(m)(iii) and the instructions on the Commission's web site at *http://www.ferc.us/efi/doorbell.htm*.

David P. Boergers,

Secretary.

[FR Doc. 01–12504 Filed 5–17–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–360–000]

Tennessee Gas Pipeline Company; Notice of Application

May 14, 2001.

Take notice that on May 7, 2001, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana, Houston, Texas 77002, filed in Docket No. CP01–360–000, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA), and the Regulations of the Federal Energy Regulatory Commission's requesting authorization for its proposed Dracut Expansion Project. In the proposal for the Dracut Expansion Project, Tennessee seeks to abandon approximately 11.92 miles of 16-inch pipeline, and requests a certificate of public convenience and necessity to construct, install and operate approximately 11.50 miles of 24-inch diameter replacement pipeline and 0.42 miles of 16-inch diameter replacement pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* [call (202) 208–2222 for assistance].

Tennessee states that the Project will increase Tennessee's capacity and flexibility on its system in the New England region, so that it can help meet the significant growth in the demand for natural gas services projected in this area of the country. Tennessee's current capacity from Dracut is 200 MMcfd on a firm year-round basis. Tennessee states that the proposed replacement and upgrade of facilities will increase its capacity from Dracut to 500 MMcfd on a firm year-round basis, with minimal environmental disruption and relatively modest facility construction.

The estimated cost for installations and removal of the Dracut Project facilities is approximately $36.4 million. Tennessee proposes to place the Dracut Expansion facilities in service by November 1, 2002. Tennessee requests that the Commission grant the requested authority by December 31, 2001. Tennessee states that it will charge transportation rates as currently set forth in its tariff for any service which utilizes the proposed facilities; that no new or rate schedules are being proposed; and that capacity created by the Dracut Expansion Project will be awarded in accordance with Tennessee's existing Gas Tariff.

Any questions regarding this application should be directed to Susan T. Halbach, Senior Counsel, P.O. Box 2511, Houston, Texas 77252 (713) 420–5751.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 4, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicants may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–12505 Filed 5–17–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–45–000, et al.]

Constellation Power Source Generation, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 11, 2001.

Take notice that the following filings have been made with the Commission:

1. Constellation Power Source Generation, Inc.

[Docket No. EG01–45–000]

Take notice that on May 8, 2001, Constellation Power Source Generation, Inc. (Applicant), having its principal place of business at 111 Market Place, Suite 500, Baltimore, Maryland 21202, filed with the Federal Energy Regulatory Commission (FERC or the Commission) a second amended and restated application for redetermination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations. This application amends and restates an application for EWG status originally filed by the Applicant with the Commission on December 5, 2000, as amended on January 19, 2001 in the above-captioned proceeding.

The Applicant is a Maryland corporation and is engaged, directly or indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA), exclusively in owning or operating, or owning and operating, eligible facilities and participating in project development activities incidental to such eligible electric facilities as authorized under PUHCA. The Applicant owns and operates eligible facilities located in Maryland and Pennsylvania.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the amended application.

2. Gray County Wind Energy, LLC

[Docket No. EG01–206–000]

Take notice that on May 8, 2001, Gray County Wind Energy, LLC (the Applicant), with its principal office at 700 Universe Boulevard, Juno Beach, Florida 33408, filed with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a Delaware limited liability company engaged directly and exclusively in the business of developing and operating an approximately 110 MW wind-powered generating facility located in Gray County, Kansas. Electric energy produced by the facility will be sold at wholesale or at retail exclusively to foreign consumers.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

3. Timber Energy Resources, Inc.

[Docket No. EG01–207–000]

Take notice that on May 8, 2001, Timber Energy Resources, Inc. (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant, a Texas corporation and currently an indirect wholly owned subsidiary of Casella Waste Systems, Inc., owns and operates a 14 MW eligible facility near Telogia, Florida. The facilities will consist of one steam turbine generator driven by a boiler fired by waste wood products from chip production, waste from logging operations and unrecyclable waster paper, and interconnecting transmission facilities necessary to effect sales of electric energy at wholesale. Applicant also owns and operates a chip mill located near Cairo, Georgia, which is one of the primary sources of the wood waste utilized as fuel for the TERI facility. Applicant, as more fully explained in the application, asserts that it is and will be engaged either directly or indirectly and exclusively in the business of owning and operating the subject facility and selling electric energy at wholesale.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

4. Itiquira Energética S.A.

[Docket No. EG01–208–000]

Take notice that on May 8, 2001, Itiquira Energética S.A., Rua Isaac Povoas 901, Cidade de Cuiabá, MT, Brazil (Itiquira), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Itiquira is a Sociedade anônima formed under the laws of the Federative Republic of Brazil that is developing a hydroelectric generation facility located in the City of Itiquira, State of Mato Grosso, Brazil (the Itiquira Facility or the Facility). Itiquira will build and own a hydroelectric generation facility (the Itiquira Facility) in the City of Itiquira, State of Mato Grasso, Brazil. The Itiquira Facility will consist of two hydroelectric generating units, one of which will have an installed capacity of 60.8 MW and the other of which will have an installed capacity of 95.2 MW. The Itiquira Facility will have an aggregate installed capacity of approximately 156 MW. None of the electric energy produced by the Itiquira Facility will be sold into the United States either at retail or otherwise.

Itiquira has served a copy of the filing on the Securities and Exchange Commission and any affected state commissions.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

5. Indian River Power LLC

[Docket No. EG01–209–000]

Take notice that on May 9, 2001, Indian River Power LLC filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA). The applicant is a limited liability company organized under the laws of the State of Delaware that is acquiring the Indian River Station in Millsboro, Delaware (Facilities) and selling electric energy at wholesale. The total capacity of the Facilities is 784 MW. Determinations pursuant to section 32(c) of PUHCA have been received from the State commissions of Delaware, Maryland, and Virginia, and a determination is pending from the State commission of New Jersey.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

6. Vienna Power LLC

[Docket No. EG01–210–000]

Take notice that on May 9, 2001, Vienna Power LLC filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA).

The applicant is a limited liability company organized under the laws of the State of Delaware that is acquiring a 153 MW oil-fired steam unit and a 17 MW oil-fired combustion turbine unit at the Vienna Station in Vienna, Maryland. Determinations pursuant to section 32(c) of PUHCA have been received from the State commissions of Delaware, Maryland, and Virginia, and a determination is pending from the State commission of New Jersey.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

7. AES Huntington Beach, L.L.C.

[Docket No. ER98–2184–006]

Take notice that on May 7, 2001, AES Huntington Beach, L.L.C. (AES Huntington Beach) tendered for filing an updated market power analysis as required by the Commission's April 30, 1998 order in Docket No. ER98–2184–000 granting AES Huntington Beach market-based rate authority. This filing is a triennial update of the 1998 analysis submitted to the Commission in connection with the initial request for market-based rates by AES Huntington Beach.

AES Huntington Beach also filed a revision to its Rate Schedule FERC No. 1 and a Supplemental Code of Conduct thereto.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. AES Alamitos, L.L.C.

[Docket No. ER98–2185–006]

Take notice that on May 7, 2001, AES Alamitos, L.L.C. (AES Alamitos) tendered for filing an updated market power analysis as required by the Commission's April 30, 1998 order in Docket No. ER98–2185–000 granting AES Alamitos market-based rate authority. This filing is a triennial update of the 1998 analysis submitted to the Commission in connection with the initial request for market-based rates by AES Alamitos.

AES Alamitos also filed a revision to its Rate Schedule FERC No. 1 and a Supplemental Code of Conduct thereto.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. AES Redondo Beach, L.L.C.

[Docket No. ER98–2186–006]

Take notice that on May 7, 2001, AES Redondo Beach, L.L.C. (AES Redondo Beach) tendered for filing an updated market power analysis as required by the Commission's April 30, 1998 order in Docket No. ER98–2186–000 granting AES Redondo Beach market-based rate authority. This filing is a triennial update of the 1998 analysis submitted to the Commission in connection with the initial request for market-based rates by AES Redondo Beach.

AES Redondo Beach also filed a revision to its Rate Schedule FERC No. 1 and a Supplemental Code of Conduct thereto.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER99–3288–002]

Take notice that on May 8, 2001, Arizona Public Service Company (APS) tendered for filing Quarterly Refund payments to eligible wholesale customers under the Company's Fuel Cost Adjustment Clause (FAC).

A copy of this filing has been served upon the affected parties, the California Public Utilities Commission, and the Arizona Corporation Commission.

Customer name rate schedule	APS–FPC/FERC
Electrical District No. 3	12
Tohono O'odham Utility Authority [1]	52
Arizona Electric Power Cooperative	57
Wellton-Mohawk Irrigation and Drainage District	58
Arizona Power Authority	59
Colorado River Indian Irrigation Project	[2] 65
Electrical District No. 1	68
Arizona Power Pooling	70
Town of Wickenburg	74
Southern California Edison Company	120
Electrical District No. 6	126
Electrical District No. 7	128
City of Page	134
Electrical District No. 8	140
Aguila Irrigation District	141
McMullen Valley Water Conservation and Drainage District	142
Tonopah Irrigation District	143
Citizens Utilities Company	[2] 207
Harquahala Valley Power District	153
Buckeye Water Conservation and Drainage District	155
Roosevelt Irrigation District	158
Maricopa County Municipal Water Conservation District	168
City of Williams	192
San Carlos Indian Irrigation Project	201
Maricopa County Municipal Water Conservation District at Lake Pleasant	209

[1] Formerly Papago Utility Tribal Authority.
[2] APS–FPC/FERC Rate Schedule in effect during the refund period.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. New York Independent System Operator, Inc.; New York Independent System Operator, Inc.; New York State Electric & Gas Corp. v. New York Independent System Operator, Inc.

[Docket Nos. ER00–3591–007, ER00–1969–008, ER00–3038–008 and EL00–70–005]

Take notice that on May 7, 2001, the New York Independent System Operator, Inc. (NYISO) tendered for filing revisions to its Open Access Transmission Tariff and Market Administration and Control Area Services Tariff in order to implement its hybrid fixed block pricing rule, pursuant to the Commission's order issued on April 26, 2001 in the above-captioned dockets. The NYISO has requested an effective date of May 1, 2001 for the filing.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned dockets.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Sithe Fore River Development LLC; Sithe Mystic Development LLC

[Docket Nos. ER01–41–001 and ER01–42–001]

Take notice that on May 4, 2001, Sithe Fore River Development, LLC (SFRD) and Sithe Mystic Development, LLC (SMD) tendered for filing to grant them a waiver of the Commission's inter-affiliate power sales pricing limitation and code of conduct requirements consistent with the waivers granted the Sithe Jurisdictional Affiliates in Sithe Edgar, LLC, *et al.*, 94 FERC ¶ 61,051 (2001) in FERC Docket No. ER01–513–000. In addition, SFRD and SMD included in their May 4 filing their Original FERC Electric Rate Schedules Nos. 1 and 2, which were accepted by the Commission in a letter order on November 29, 2000 in FERC Docket Nos. ER01–41–000 and ER01–42–000, with the appropriate Order No. 614 designations.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER01–798–002]

Take notice that on May 7, 2001, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations and in compliance with the Commission Order dated April 27, 2001 under FERC Docket No. ER01–798–000, Commission ordered revisions to Schedules 4, 7 and 8 and a new Attachment J to its open access transmission tariff, PacifiCorp's FERC Electric Tariff, Second Revised Volume No. 11 (Tariff). The revisions modify the procedures used in the handling of energy imbalances and transmission losses under the Tariff.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Green Mountain Power Corporation

[Docket No. ER01–989–001]

Take notice that on May 4, 2001, Green Mountain Power Corporation (GMP) tendered for filing a generation market power study that supports acceptance of its proposed FERC Electric Tariff, Original Volume No. 4, which is a wholesale market-based rate power sales tariff.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. New England Power Pool

[Docket Nos. ER01–1401–002]

Take notice that on May 4, 2001, the New England Power Pool (NEPOOL) Participants Committee tendered for filing a report of compliance in response to requirements of the Commission's April 26, 2001 order in Docket No. ER01–1401–000. New England Power Pool, 95 FERC ¶ 61,123 (2001).

The NEPOOL Participants Committee states that copies of these materials were sent to all persons identified on the service lists in the captioned proceedings, the NEPOOL Participants and the six New England state governors and regulatory commissions.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Virginia Electric and Power Company

[Docket No. ER01–1647–002]

Take notice that on May 8, 2001, Virginia Electric and Power Company, doing business as Dominion North Carolina Power (the Company) tendered for filing an amendment in the above-captioned proceeding in order to include Schedule TS–NCEMC in the North Carolina Electric Membership Corporation Agreement for the Purchase of Electricity for Resale from Virginia Electric and Power Company, Rate Schedule FERC No. 105. The Company inadvertently excluded Schedule TS–NCEMC from its original filing in the above-captioned proceeding.

Copies of the filing were served upon NCEMC, North Carolina Utilities Commission and the Virginia State Corporation Commission.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Ameren Services Company

[Docket No. ER01–1786–001]

Take notice that on May 8, 2001, Ameren Services Company, as agent for Union Electric Company (d/b/a AmerenUE) and Central Illinois Public Service Company (d/b/a AmerenCIPS), tendered for filing with the Federal Energy Regulatory Commission (Commission) notice that copies of the April 12, 2001 tariff filing in Docket No. ER01–1786–000 (April 12th Filing) were being served on all transmission customers under the Ameren Operating Companies' Open Access Transmission Tariff (Ameren OATT). The April 12th Filing proposed changes to the Ameren OATT. Ameren Services requested a shortened period for any additional motions to intervene and protests and requested an effective date for the April 12th Filing of July 1, 2001.

Copies of May 8, 2001 filing were served on all transmission customers and affected state commissions.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. California Independent System Operator Corporation

[Docket No. ER01–1990–000]

Take notice that on May 8, 2001, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and Sunrise Power Company for acceptance by the Commission.

The ISO states that this filing has been served on Sunrise Power Company and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective May 3, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. California Independent System Operator Corporation

[Docket No. ER01–1991–000]

Take notice that on May 8, 2001, the California Independent System Operator Corporation, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Sunrise Power Company for acceptance by the Commission.

The ISO states that this filing has been served on Sunrise Power Company and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective May 3, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Idaho Power Company

[Docket No. ER01–1992–000]

Take notice that on May 8, 2001, Idaho Power Company tendered for filing a long-term service agreement under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Timber Energy Resources, Inc.

[Docket No. ER01–1993–000]

Take notice that on May 8, 2001, Timber Energy Resources, Inc. (TERI) tendered for filing an initial rate schedule and request for certain waivers and authorizations pursuant to Section 35.12 of the regulations of the Federal Energy Regulatory Commission (the Commission). The initial rate schedule provides for market-based sales to wholesale purchasers of the output of a 14 MW electric power generation facility located near Telogia, Florida.

TERI requests that the Commission set an effective date for the rate schedule on the date the Commission issues an order accepting the rate schedule.

A copy of the filing was served upon the Florida Public Service Commission.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Snapping Shoals Electric Membership Corp.

[Docket No. ER01–1994–000]

Take notice that on May 8, 2001, Snapping Shoals Electric Membership Corp. (Snapping Shoals), a non-profit electric distribution cooperative located in Marietta, Georgia, tendered for filing a petition for authority to sell power at market-based rates, acceptance of its proposed rate schedule and certain waivers. Snapping Shoals requests an effective date for its proposed rate schedule that would be 60 days from the date of the filing of its petition or the date of the order accepting Snapping Shoals' rate schedule for filing, whichever is earlier.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. California Independent System Operator Corporation

[Docket No. ER01–1995–000]

Take notice that on May 8, 2001, the California Independent System Operator Corporation (ISO) tendered for filing an amendment (Amendment No. 1) to the Interconnected Control Area Operating Agreement (ICAOA) between the ISO and Nevada Power Company (NEVP). The primary purpose of Amendment No. 1 to the ICAOA is to implement the change in Control Area boundary related to the new Merchant Intertie between the ISO and NEVP. The ISO requests that the Commission allow the filing to be effective as of January 17, 2001.

The ISO states that this filing has been served upon all parties that received service in Docket No. ER00–2292–000.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Entergy Services, Inc.

[Docket No. ER01–1996–000]

Take notice that on May 8, 2001, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing an Interconnection and Operating Agreement with Borden Chemicals and Plastics Operating Limited Partnership, Debtor-in-Possession (Borden), and a Generator Imbalance Agreement with Borden.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. California Independent System Operator Corporation

[Docket No. ER01–1997–000]

Take notice that on May 8, 2001, the California Independent System Operator Corporation, on May 3, 2001, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and POSDEF Power Company, L.P. for acceptance by the Commission.

The ISO states that this filing has been served on POSDEF Power Company, L.P. and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective April 25, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. California Independent System Operator Corporation

[Docket No. ER01–1998–000]

Take notice that on May 8, 2001, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and Los Medanos Energy Center, LLC for acceptance by the Commission.

The ISO states that this filing has been served on Los Medanos Energy Center, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective May 3, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Monroe Power Company

[Docket No. ER01–1999–000]

Take notice that on May 8, 2001, Monroe Power Company (MPC) tendered for filing an executed Service Agreement with Dynegy Power Marketing, Inc. under the provisions of MPC's Market-Based Rates Tariff, FERC Electric Tariff No. 1. MPC is requesting an effective date of June 1, 2001 for this agreement.

Copies of the filing were served upon the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Georgia Public Service Commission.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12503 Filed 5–17–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6980–1]

Agency Information Collection Activities; Submission of EPA ICR No. 1365.06 to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule (EPA ICR No. 1365.06; OMB Control No. 2070–0091). The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden. The Federal Register document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on October 20, 2000 (65 FR 63071). EPA received no comments on this ICR during the comment period.

DATES: Additional comments may be submitted on or before June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone on (202) 260–2740, by e-mail: "farmer.sandy@epamail.epa.gov," or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1365.06 and/or OMB Control No. 2070–0091.

ADDRESSES: Send comments, referencing EPA ICR No. 1365.06 and OMB Control No. 2070–0091, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code: 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Title: Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule (OMB Control No. 2070–0091; EPA ICR No. 1365.06). This is a request for extension of an existing approved collection that is currently scheduled to expire on May 31, 2001. Under 5 CFR 1320.10(e)(2), the Agency may continue to conduct or sponsor the collection of information while the submission is pending at OMB.

Abstract: The Asbestos Hazard Emergency Response Act (AHERA) requires local education agencies (LEAs) to conduct inspections, develop management plans, and design or conduct response actions with respect to the presence of asbestos-containing materials in school buildings. AHERA also requires states to develop model accreditation plans for persons who perform asbestos inspections, develop management control plans, and design or conduct response actions. This information collection addresses the burden associated with recordkeeping requirements imposed on LEAs by the asbestos in schools rule, and reporting and recordkeeping requirements imposed on states and training providers related to the model accreditation plan rule.

Responses to the collection of information are mandatory (see 40 CFR part 763, subpart E). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Burden Statement: The annual public reporting burden for this collection of information is estimated to range between 5.5 hours and 140 hours per response, depending upon the category of respondent. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Local education agencies (e.g., elementary or secondary school districts); asbestos training providers to schools and educational systems; state education departments or commissions; or public health programs.

Frequency of Collection: On occasion.

Estimated No. of Respondents: 107,759.

Estimated Total Annual Burden on Respondents: 2,212,151 hours.

Estimated Total Annual Costs: $58,860,737.

Changes in Burden Estimates: The total burden associated with this ICR has decreased from 2,367,293 hours in the previous ICR to 2,212,151 hours for this ICR. This adjustment in burden reflects decreases in the estimated number of school buildings containing friable asbestos, offset slightly by an increase in the burden that applies to training providers.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: May 3, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–12577 Filed 5–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 6980–2]

Agency Information Collection Activities; Proposed Collection; Submission for OMB Review; Comment Request; 2001 Emergency Planning and Community Right-To-Know Act (EPCRA) and Risk Management Program (RMP) Implementation Status Questionnaire for Tribal Emergency Response Commissions (TERCs) and Their Duly Appointed Local Emergency Planning Committee(s) (LEPCs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: 2001 Emergency Planning and Community Right-to-Know Act (EPCRA) and Risk Management Program (RMP) Implementation Status Questionnaire for Tribal Emergency Response Commissions (TERCs) and Their Duly Appointed Local Emergency Planning Committee(s) (LEPCs), EPA ICR No. 2004.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 18, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 2004.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at Farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 2004.01. For technical questions about the ICR contact Sam Agpawa on 415–744–2342.

SUPPLEMENTARY INFORMATION:

Title: 2001 Emergency Planning and Community Right-to-Know Act (EPCRA) and Risk Management Program (RMP) Implementation Status Questionnaire for Tribal Emergency Response Commissions (TERCs) and Their Duly Appointed Local Emergency Planning Committee(s) (LEPCs), EPA ICR No. 2004.01. This is a new collection.

Abstract: The Environmental Protection Agency, Region IX, Superfund Division, proposes to conduct a Regional survey of the Tribal Emergency Response Commissions (TERCs). The information collected in this survey will be used to assess the progress, status, needs, resources and activity level of TERCs. The information will be used by EPA Region IX staff to gain a better understanding of EPA Region IX tribes' actual implementation of EPCRA and RMP. The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), also known as SARA Title III, and the Risk Management Program (RMP) under the Clean Air Act, 1990, section 112(r) and 40 CFR part 68, June 20, 1996, introduced fundamental changes in the regulation of chemical facilities and the prevention of and preparedness for chemical accidents. These laws and rules seek to improve emergency preparedness and reduce the risk of chemical accidents by providing information to citizens about the chemicals in their community. EPCRA, in conjunction with the RMP requirements, sought to create partnerships between all levels of government, tribal governments, and the regulated tribal community to identify, prevent, plan, prepare and respond to hazardous material risks in our communities, including tribal lands, reservations, rancherias and colonies. The purpose of this survey is to obtain input from the tribal organizations to improve Region IX's EPCRA and RMP programs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on January 10, 2001 (66 FR 1975); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: TERCs and Tribal LEPCs.

Estimated Number of Respondents: 145.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 290 Hours.

Estimated Total Annualized Capital, Operating/Maintenance Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 2004.01 in any correspondence.

Dated: May 3, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–12578 Filed 5–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6618–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa.

Weekly receipt of Environmental Impact Statements

Filed May 07, 2001 Through May 11, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010164, Draft EIS, AFS, MT, Little Bear-Wilson Timber Sale and Road Decommission Project, Implementation, Gallatin Range, Gallatin National Forest, Bozeman Ranger District, Gallatin County, MT, Comment Period Ends: July 02, 2001, Contact: Tim Hancock (406) 522–2554.

EIS No. 010165, Draft EIS, AFS, UT, Flat Canyon Federal Coal Lease Tract (UTU–77114), Application for Learning, Manti-La Sal National Forest, Ferron-Price Ranges District, Sanpete and Emery Counties, UT, Comment Period Ends: July 02, 2001, Contact: Stan Perks (801) 539–4038. The US Department of Agriculture Forest Service and US Department of Interior Bureau of Land Management are Joint Lead Agencies for this project.

EIS No. 010166, Draft EIS, NPS, VA, Green Spring Colonial National Historical Park Management Plan, Implementation, James City County, VA, Comment Period Ends: July 11, 2001, Contact: Alec Gould (757) 898–3400.

EIS No. 010167, Draft EIS, AFS, UT, WY, Wasatch-Cache National Forest Revised Land and Resource Management Plan, Implementation, several counties, UT and Uinta County, WY, Comment Period Ends: September 04, 2001, Contact: Jack Blackwell (801) 524–3908.

EIS No. 010168, Final EIS, AFS, MT, Knox-Brooks Timber Sales and Road Rehabilitation, Implementation, Lola National Forest, Super Ranger District, Mineral County, MT, Wait Period Ends: June 18, 2001, Contact: Bruce Erickson (406) 822–3957.

EIS No. 010169, Draft EIS, FTA, NC, Phase I Regional Rail System Improvements, Durham to Raleigh to North Raleigh, Implementation, Durham and Wake Counties, NC, Comment Period Ends: July 20, 2001, Contact: Alex McNeil (404) 562–3511.

EIS No. 010170, Final EIS, FHW, CA, San Francisco—Oakland Bay Bridge, East Span Seismic Safety Project, Connection between I–80 Yerba Buena Island and Oakland, US Coast Guard Permit and COE Section 404 Permit, San Francisco and Alameda Counties, CA, Wait Period Ends: June 18, 2001, Contact: C. Glenn Clinton (916) 498–5020.

EIS No. 010171, Draft EIS, FTA, CA, San Fernando Valley East-West Transit Corridor Project, Bus Rapid Transit (BRT) on former Burbank/ Chandler Southern Pacific Rail Right-of-Way, Development and Implementation, Los Angeles County. CA , Comment Period Ends : July 03, 2001, Contact: Ervin Poka (213) 202–3950.

EIS No. 010172, Draft EIS, FHW, MD, MD–210 (Indian Head Highway) Multi-Modal Study, MD–210 Improvements between I–95/I–495 (Capitol Beltway) and MD–228 Funding and US COE Section 404 Permit Issuance, Prince George's County, MD , Comment Period Ends: September 23, 2001, Contact: Nelson Castellanos (410) 962–4342.

EIS No. 010173, Draft EIS, USN, CA, Point Molate Property Naval Fuel Depot (NFD) for the Disposal and Reuse, Implementation, Fleet and Industrial Supply Center, City of Richmond, Contra Costa County, CA , Comment Period Ends: July 02, 2001, Contact: Roberta Montana (619) 532–0942.

Amended Notices

EIS No. 010088, Draft EIS, FHW, NB, Lincoln South and East Beltways Project, To Complete a Circumferential Transportation System linking I–80 on the north and U.S.77 on the west, Funding, COE 404 Permit, Lancaster County, NB, Comment Period Ends: June 15, 2001, Contact: Edward Kosola (402) 437–5973. Revision of FR Notice Published on 03/23/2001: CEQ Review Period Ending 05/07/2001 has been Extended to 06/15/2001.

EIS No. 010159, Draft Supplement, DOE, NV, Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste, Construction, Operation, Monitoring and Eventually Closing a Geologic Repository at Yucca Mountain, Updated and Additional Information, Nye County, NV , Comment Period Ends: June 25, 2001, Contact: Jane R. Summerson (702) 794–1493. Revision of FR notice published on 05/11/2001: Correction to Title.

Dated: May 15, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–12570 Filed 5–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6618–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

Summary of Rating Definitions Environmental Impact of the Action

Lo—Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC—Environmental Concerns

The EPA review has identified environmental impacts the should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO—Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU—Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information,

data, analyses, or discussion should be included in the final EIS.

Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Draft EISs

ERP No. D–BLM–J65331–00 Rating E02, Williams, Questar, Kern River Pipeline Project, To Approve a Petroleum Products Pipeline, and one or two Natural Gas Pipelines and to Amend Forest Plan, UT, NM and CO.

Summary: EPA expressed environmental objections with the narrow range of alternatives, new construction activity in the Uinta NF roadless area, potential air impacts to Arches National Park and the lack of information disclosed on potentially connected actions. EPA supports efforts to reduce environmental impacts by locating pipelines in existing ROW corridors, avoid landslide areas and headwaters for sources of drinking water, slightly modify the ROW to project roadless areas and use directional drilling methods which may reduce impacts to wetlands and aquatic life.

ERP No. D–FAA–E51049–KY Rating EC2, Cincinnati/Northern Kentucky International Airport, Construction and Operation of a New 8,000-foot Runway 17/35 (Future 18R/36L); 2,000-foot Extension of Runway 9/27, Funding and Airport Layout Plan, (ALP) Boone County, KY.

Summary: EPA expressed concern about proposed noise mitigation, air quality analysis, and wetland/stream mitigation. use of adaptive management regarding the monitoring of noise contours is recommended to ensure accurate footprints once prospective operations are initiated and when substantive changes affecting airport noise occur.

ERP No. D–USA–D11031–MD Rating EC2, Fort George G. Meade Future Development and Operations of a New Administrative and Support Buildings, Anne Arundel and Howard Counties, MD.

Summary: EPA expressed concern regarding potential impacts due to increased base traffic. EPA encouraged Fort Meade to make a committed effort to institute traffic mitigation alternatives such as flextime, flexiplace and car pooling programs.

ERP No. DS–FAA–J51009–UT Rating EC2, Cal Black Memorial Airport Project, New and Updated Information for the Replacing of Halls Crossing Airport, within the boundary of Glen Canyon National Recreation, Halls Crossing, San Juan Counties, UT.

Summary: EPA has environmental concerns with the ongoing noise impacts especially when combined with enroute jet aircraft noise, and that additional information is needed in the final Supplemental EIS that establishes a threshold of significance for these cumulative noise impacts. In addition, EPA suggests that the connected action of the proposed BLM land transfer be analyzed in a revised supplemental EIS to provide analysis of BLM's proposed action for this same airport.

Final EISs

ERP No. F–AFS–J65321–MT Mill-Key-Wey Project, Proposed Timber Harvesting, Ecosystem Burning, Road Construction and Reconstruction, Implementation, Lolo National Forest, Superior Ranger District, Mineral County, MT.

Summary: While the FEIS was largely responsive to EPA's comments on the DEIS, EPA continue to express concerns about timber harvests on erosive soils, wetland impacts, use of weed control chemicals, and the level of monitoring proposed to identify actual project impacts.

ERP No. F–NOA–A91066–00 Tilefish Fishery Management Plan (FMP), (Lopholatilus chamaeleonticeps), To Prevent Overfishing and to Rebuild the Resource of Tilefish, Located along the Atlantic Ocean.

Summary: EPA had environmental concerns about the proposed regulations and the sufficiency of the information in the document. EPA's concern included the adequacy of the mitigation measures and the impacts of trawling on Tilefish EFH.

ERP No. FS–AFS–L60104–WA Huckleberry Land Exchange Consolidate Ownership and Enhance Future Conservation and Management, Updated Information, Proposal to Exchange Land and Mineral Estates, Federal Land and Non-Federal Land, Mt. Baker-Snoqualmie National Forest, Skagit, Snohomish, King, Pierce, Kittitas, and Lewis Counties, WA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: May 15, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–12569 Filed 5–17–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6978–7]

Allocation of Drinking Water State Revolving Fund Monies

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The 1996 Safe Drinking Water Act (SDWA) Amendments established a Drinking Water State Revolving Fund (DWSRF) program and authorized $9.6 billion to be appropriated for the program through fiscal year 2003. Congress directed that allotments for fiscal year 1998 and subsequent years be distributed among States based on the results of the most recent Drinking Water Infrastructure Needs Survey.

In this notice, the Environmental Protection Agency (EPA) is releasing a revised allocation for DWSRF monies among States in accordance with the results from the most recent Drinking Water Infrastructure Needs Survey (i.e., the 1999 Drinking Water Infrastructure Survey) which was released on February 28, 2001. This revised allocation affects DWSRF program appropriations for fiscal years 2002 through 2005.

Beginning in fiscal year 1998, EPA established a formula which allocates funds to the States based directly on each State's proportional share of the total State need, provided that each State receives a minimum share of one percent of the funds available to the States, as required by the SDWA. EPA has made the determination that it will continue to use this method for allocating DWSRF funds. The findings from the 1999 Needs Survey will change the percentage of the DWSRF monies received by some States relative to their current allotments. This change reflects an increase or decrease in these States' share of the total State need.

DATES: This notice is effective May 18, 2001.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Veronica Blette, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606), 1200 Pennsylvania Avenue NW., Washington, DC 20460. The telephone number is (202) 260–3980 and email address is blette.veronica@epa.gov. Copies of this document and information on the Drinking Water Needs Survey and the DWSRF program can be found on EPA's Office of Ground Water and Drinking Water website at http://www.epa.gov/safewater.

SUPPLEMENTARY INFORMATION:

Background

The 1996 Safe Drinking Water Act (SDWA) Amendments established a Drinking Water State Revolving Fund (DWSRF) program and authorized to be appropriated $9.6 billion for the program through fiscal year 2003. Since 1996, Congress has appropriated $4.4 billion for the DWSRF program. Congress directed that allotments for fiscal year 1998 and subsequent years be distributed among States based on the results of the most recent Drinking Water Infrastructure Needs Survey (SDWA section 1452(a)(1)(D)(ii)), which must be conducted every four years. The first survey, which reflected 1995 data, was released in February 1997.

The 1999 Drinking Water Infrastructure Needs Survey was conducted over the last two years with the cooperation of the States. States participated in the development of the survey methods, documentation requirements, and the Report to Congress, which was released on February 28, 2001 (EPA 816–R–01–004). The survey examined the needs of approximately 4,300 water systems and used these data to extrapolate needs to each State. The survey included all of the nation's 1,111 largest systems (those serving over 40,000 people) and a statistical sample of systems serving fewer than 40,000 people. EPA conducted site visits to approximately 600 small community water systems and 100 not-for-profit noncommunity water systems. The sample design produces a statistically valid State-by-State estimate of need.

The 1999 Needs Survey presents State-by-State needs in several ways. For each State, the Needs Survey provides a bottom-line estimate of the total need, which reflects the capital costs for all drinking water infrastructure projects allowed for inclusion in the Survey. The Needs Survey also presents capital needs for each State by system size, by category of need (i.e., treatment, distribution and transmission, storage, source, and "other"), by existing SDWA regulation, and by current and future need. A current need is a project needed now to protect public health, while a future need is a project that will be needed over the next 20 years.

The 1999 Needs Survey found that the total national need is $150.9 billion (Table 1). This estimate represents the needs of the approximately 55,000 community water systems (CWS) and 21,400 not-for-profit non-community water systems (NCWS) that are eligible to receive DWSRF assistance. These systems are found in all 50 States, the District of Columbia, Puerto Rico, on American Indian lands and in Alaska Native Villages, and the Virgin Island and Pacific Island territories.

TABLE 1.—1999 DRINKING WATER INFRASTRUCTURE NEEDS SURVEY 20-YEAR NEEDS

Type of need	Need (billions)
States	$139.0
Territories	0.4
American Indian and Alaska Native Villages	2.2
Costs for Proposed and Recent Regulations	9.3
Total National Need	150.9

The total national need also includes $9.3 billion in capital needs associated with recently promulgated and future regulations, as identified in EPA Economic Analyses accompanying the rules. Although these needs are included in the total national need, they were not apportioned to the States based upon the unanimous recommendation of the State representatives who participated in the survey design. The States expressed concern that the methods available for allocating the costs of these regulations would not represent the true costs of compliance on a State level.

The total State need, which is the figure that EPA will use to calculate the allotment formula, includes only the needs of the 50 States, the District of Columbia, and Puerto Rico. The 1999 Needs Survey estimates that the total State need is $139.0 billion.

Allocation Method

On October 31, 1996, EPA solicited public comment on six options for using the results of the first Drinking Water Infrastructure Needs Survey to allocate DWSRF monies to the States (61 FR 56231). On March 18, 1997, EPA announced its decision to allocate DWSRF monies for fiscal years 1998 through 2001 appropriations based on each State's proportional share of the total eligible needs for the States as derived from the 1995 Needs Survey (62 FR 12900). EPA has made the determination that it will continue to use this method for allocating DWSRF funds for fiscal years 2002 through 2005 appropriations utilizing the results of the 1999 Needs Survey.

The funds available to the States will be the level of funds appropriated by Congress, less the national set-asides, which includes an allocation for American Indian and Alaska Native Village water systems. Of the funds available to States, the SDWA includes specific allocations for the Pacific Islands, the Virgin Islands, and the District of Columbia.

Each State will receive an allotment of DWSRF funds based on each State's proportional share of the total State need ($139.0 billion), provided that each State receives a minimum allocation of one percent of the funds available to States, as required by the SDWA. The total need calculated for each State is the survey's bottom-line and the simplest way of allocating DWSRF grant funds among States.

The total State need includes all documented projects collected by the Needs Survey. In general, a project was included in the Needs Survey if project documentation demonstrated that meeting the need would address the public health objectives of the SDWA. The total State need includes projects needed now and over the next 20 years in four general categories: treatment, source, storage, and transmission and distribution. The total State need excludes capital projects that are ineligible for DWSRF assistance, such as projects solely for growth and dams, and the capital costs associated with recently promulgated and future regulations.

The formula based on the total need makes no distinction between the four categories—that is, it assigns an equal weight to all categories of need. Also, projects to correct imminent public health threats (e.g., replacing a deteriorated filter plant) are given the same weight as less critical needs (e.g., replacing a storage tank that is expected

to reach the end of its useful life in five years).

Consideration of Alternative Allocation Methods

The method that EPA uses to allocate funds to States is based on each State's share of the total State need. Several States have explicit restrictions against providing funding to privately-owned enterprises. Such restrictions may be the result of statutory or constitutional provisions at the State level or may be due to policy decisions made by the State program. The constitution or statutes of 17 States prohibit the provision of DWSRF monies to privately owned systems.

EPA had been asked by some stakeholders to consider changes to the allotment method to account for restrictions in some States that limit the provision of DWSRF assistance to publicly owned water systems. These stakeholders expressed the opinion that the allocation for these States should only consider the total need associated with publicly owned water systems that are eligible to receive DWSRF monies. They proposed that capital needs associated with privately owned water systems (determined thorough inventory information) be deducted from these States's total need estimates, although, as required by the SDWA, each State (even those States restricting privately-owned water systems from funding) would receive at least one percent of the funds available to States. Stakeholders felt that basing the allotment formula on whether States restrict DWSRF funding would ensure that States receive an allotment directly in proportion to their total needs eligible for assistance from the State.

EPA has reviewed the statutory language authorizing the program and determined that State DWSRF allotments should be based on the needs reported in the most recent needs survey which must assess "capital improvement needs of all eligible public water systems". The total State need collected through the survey represents the needs associated with publicly and privately-owned community water systems and non-profit noncommunity water systems, therefore these needs must be included in determining the allotment of funds.

It is important to note that in reviewing the issue, EPA found that some States with explicit restrictions are working to make changes to legislation or are working to identify alternative methods of assisting privately-owned systems. Some States are working to develop funding mechanisms which would enable them to provide DWSRF assistance to these water systems. Other States are using set-aside funds to provide technical assistance or are helping privately-owned systems obtain assistance from other State or Federal sources. EPA also found that some States that had the authority to provide assistance to privately-owned utilities had not done so. It is likely that any attempt to remedy inequities through the allotment method would itself be inequitable.

Although we are not making changes to the allotment formula, the Agency will continue to monitor States with respect to their decisions to fund privately-owned systems to ensure that the program maximizes benefits to public health. The Agency will also continue to work to assist States in working with privately-owned systems by providing financial management training on the mechanics of applicant credit evaluation and facilitating the dissemination of information between States.

Allocation of Monies

Table 2 contains each State's expected DWSRF allotment based on an appropriation of $823,185,000 and national set-aside assumptions. The appropriation amount is based on the President's budget request of $823,185,000 for fiscal year 2002. The national set-asides for fiscal year 2002 include funds for American Indian and Alaska Native Village water systems at the level of 1.5 percent of the total appropriation. (SDWA Section 1452(i)). This comes to $12,374,700 for Indian Tribes and Alaska Native Villages. Additional national set-asides for fiscal year 2002 include $2,000,000 for monitoring for unregulated contaminants and $30,000,000 for operator certification expense reimbursement grants. If funds are appropriated for the DWSRF at the level of $823,185,000 million and if the anticipated national set-asides do not change, the total funds available to the States, the District of Columbia and Territories would equal $778,837,300. Because the percentages are based on the total funds available for allotment to the States, they can be used for general planning purposes for future years. Once the appropriated amount and national set-asides are known, a State's allotment can be estimated by subtracting the national set-asides from the total funds available for allotment and then applying the appropriate percentage shown below. EPA will annually notify each State of their allotment from a specific fiscal year's appropriation after the final budget has been passed.

The findings from the 1999 Needs Survey will change the percentage of the DWSRF monies received by some States when compared to their current percentages. This change reflects an increase or decrease in these States' share of the total State need. The variation in these States' needs occurred principally as a result of the data submitted by individual water systems, but also in part due to refinements in the survey methods. With the collection of data from nearly 4,300 water systems and over 80,000 projects submitted, a change in some States' allotments represents an inevitable consequence of conducting a survey of this scale.

TABLE 2.—DISTRIBUTION OF DRINKING WATER STATE REVOLVING FUND ALLOTMENTS

State	Percent	Amount allotted
Alabama	1.00	$7,788,400
Alaska	1.00	7,788,400
Arizona	1.13	8,826,900
Arkansas	1.08	8,431,800
California	10.24	79,756,000
Colorado	1.65	12,886,000
Connecticut	1.00	7,788,400
Delaware	1.00	7,788,400
Florida	2.34	18,223,300
Georgia	1.58	12,331,600
Hawaii	1.00	7,788,400
Idaho	1.00	7,788,400
Illinois	3.73	29,064,700
Indiana	1.17	9,144,900
Iowa	1.84	14,299,600
Kansas	1.15	8,931,800
Kentucky	1.22	9,483,500
Louisiana	1.00	7,788,400
Maine	1.00	7,788,400
Maryland	1.16	9,044,200
Massachusetts	3.58	27,843,600
Michigan	4.10	31,920,400
Minnesota	1.98	15,429,600
Mississippi	1.00	7,788,400
Missouri	1.45	11,318,800
Montana	1.00	7,788,400
Nebraska	1.00	7,788,400
Nevada	1.00	7,788,400
New Hampshire	1.00	7,788,400
New Jersey	2.30	17,930,500
New Mexico	1.00	7,788,400
New York	7.75	60,382,900
North Carolina	1.76	13,676,100
North Dakota	1.00	7,788,400
Ohio	3.05	23,742,400
Oklahoma	1.55	12,038,200
Oregon	1.76	13,684,800
Pennsylvania	3.22	25,080,100
Puerto Rico	1.33	10,388,900
Rhode Island	1.00	7,788,400
South Carolina	1.00	7,788,400
South Dakota	1.00	7,788,400
Tennessee	1.01	7,877,800
Texas	7.70	59,989,300
Utah	1.00	7,788,400
Vermont	1.00	7,788,400
Virginia	1.38	10,762,600
Washington	2.47	19,220,200

TABLE 2.—DISTRIBUTION OF DRINKING WATER STATE REVOLVING FUND ALLOTMENTS—Continued

State	Percent	Amount allotted
West Virginia	1.00	7,788,400
Wisconsin	1.98	15,423,400
Wyoming	1.00	7,788,400
District of Columbia	1.00	7,788,400
Territories	0.33	2,570,200
Total	100.00	778,837,200

Dated: May 4, 2001.

Diane C. Regas,

Acting Assistant Administrator, Office of Water

[FR Doc. 01–12579 Filed 5–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51969; FRL–6782–3]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from March 24, 2001 to April 11, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The "S" and "G" that precede the chemical names denote whether the chemical identity is specific or generic.

DATES: Comments, identified by the docket control number OPPTS–51969 and the specific PMN number, must be received on or before June 18, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51969 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51969. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, any test data submitted by the manufacturer/importer and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51969 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: "oppt.ncic@epa.gov," or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51969 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with

procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from March 24, 2001 to April 11, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

TABLE I. 70 PREMANUFACTURE NOTICES RECEIVED FROM: 03/24/01 TO 04/11/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0456	03/26/01	06/24/01	CBC Corporation America	(S) Heat resistant filler for brake-pads	(G) Inorganic layer polymer
P–01–0457	03/27/01	06/25/01	CBI	(G) Paint additive	(G) Alkyl alkoxy silane
P–01–0458	03/28/01	06/26/01	CBI	(G) Ion exchange resin for water treatment	(G) Crosslinked copolymer of substituted polystyrene
P–01–0459	03/28/01	06/26/01	CBI	(S) Acid dye for the dyeing of leather	(G) Chromate, bis[[[substituted [[[hydroxynaphthalenyl) azo]phenyl] sulfonyl]amino] heterocycle]azo]-(hydroxynitrobenzene sulfonato)], -sodium salt
P–01–0460	03/28/01	06/26/01	CBI	(S) Acid dye for the dyeing of leather	(G) Chromate, bis[[[substituted [[[hydroxynaphthalenyl) azo]phenyl] sulfonyl]amino] heterocycle]azo]-(hydroxynitrobenzene sulfonato)], -mixed salts
P–01–0461	03/28/01	06/26/01	CBI	(S) Aroma chemical for use in fragrance mixtures, which are in turn used to perfume soaps, cleaners, etc.	(G) Carbobicycle alcohol
P–01–0462	03/29/01	06/27/01	Loctite Corporation	(S) A component of adhesive formulations	(S) Poly(oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, 2-hydroxyethyl acrylate-blocked
P–01–0463	03/29/01	06/27/01	CBI	(S) Inks;coatings	(G) Polyester acrylate
P–01–0464	03/29/01	06/27/01	CBI	(G) Component of coating with open use	(G) Alkoxy alcohol
P–01–0465	03/29/01	06/27/01	CBI	(S) Raw material for use in fragrances for soaps, detergents, cleaners and other household products	(G) Cycloalkene-1-alkanal tetramethyl
P–01–0466	03/29/01	06/27/01	CBI	(G) Catalyst	(G) Organic transition metal complex

TABLE I. 70 PREMANUFACTURE NOTICES RECEIVED FROM: 03/24/01 TO 04/11/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0467	03/29/01	06/27/01	CBI	(G) Catalyst	(G) Organic transition metal complex
P–01–0468	03/30/01	06/28/01	Degussa Corporation	(S) Hot melt for textile/clothes applications	(G) Aliphatic dicarboxylic acid, polymer with aliphatic diamine and cycloaliphatic amide
P–01–0469	03/30/01	06/28/01	International Specialty Products	(S) Component of coatings for digital printing paper	(S) 2-propenamide, *n*-[3-(dimethylamino)propyl]-2methyl-, polymer with 1-ethenyl-2-pyrrolidone, hydrochloride
P–01–0470	04/02/01	07/01/01	Piedmont Chemical Industries I, LLC	(S) Dispersant for carbon black;dispersant for organic pigments	(G) Ethoxylated alkylphenol sulfate, ammonium salt
P–01–0471	04/02/01	07/01/01	The DOW Chemical Company	(G) Modified epoxy resin for printed circuit boards epoxy resin adhesive coating	(G) Phosphorus modified epoxy resin
P–01–0472	04/02/01	07/01/01	CBI	(G) Open non-dispersive (resin)	(G) Modified polymeric diphenylmethane diisocyanate prepolymer
P–01–0473	04/03/01	07/02/01	Dystar L. P.	(S) Dyestuff part 1 for coloration of polyester;dyestuff part 2 for coloration of polyester	(G) Substituted cyano acetic acid butylester and butoxyethylester
P–01–0474	04/03/01	07/02/01	Dystar L. P.	(S) Dyestuff part 1 for coloration of polyester;dyestuff part 2 for coloration of polyester	(G) Substituted cyano acetic acid butylester and butoxyethylester
P–01–0475	04/02/01	07/01/01	DMC-2, L.P.	(G) Precious metal additive	(G) Inorganic palladium compound
P–01–0476	04/03/01	07/02/01	CBI	(S) Light stabilizer for plastic articles	(G) O-macroalkyl hydroxylamine
P–01–0477	04/04/01	07/03/01	CBI	(G) Open, non-dispersive use	(G) (monosubstituted naphthalene azo) tri substituted naphthalene sulfonic acid, salt
P–01–0478	04/04/01	07/03/01	CBI	(S) Dye intermediate	(G) Substituted naphthalenyl azo substituted hydroxynaphthalene disulfonic acid
P–01–0479	04/04/01	07/03/01	CBI	(G) Component of manufactured consumer article - contained use	(G) Dodecyl 4-methoxybenzene derivative
P–01–0480	04/04/01	07/03/01	Clayton Corporation	(S) Polyurethane foam sealant	(S) Propanol, [(1-methyl-1,2-ethanediyl)bis(oxy)bis-, polymer with 1,1,'-methylenebis[isocyanatobenzene], oxybis[propanol] and alpha, alpha',alpha''-1,2, 3-propanetriyltris[omega-hydroxypoly[oxy (methyl-1,2-ethanediyl)]]
P–01–0481	04/04/01	07/03/01	CBI	(G) This material is a processing aid in the pest control industry	(G) Polyurethane polymer
P–01–0482	04/05/01	07/04/01	CBI	(G) Open,non-dispersive (resin)	(G) Modified polyurethane resin
P–01–0483	04/05/01	07/04/01	Solutia Inc.	(S) Wet strength agent for industrial paper	(G) Modified melamine formaldehyde resin
P–01–0484	04/06/01	07/05/01	CBI	(G) A destructive use as a chemical intermediate	(G) Polyester resin
P–01–0485	04/06/01	07/05/01	CBI	(G) Acrylic pressure sensitive adhesive	(G) Acrylic solution polymer
P–01–0486	04/06/01	07/05/01	CBI	(G) Reactive diluent	(G) Reactive hydroxy carbamate
P–01–0487	04/06/01	07/05/01	CBI	(G) Reactive intermediate	(G) Reactive carbonate intermediate
P–01–0488	04/06/01	07/05/01	CBI	(G) Component of an odorant composition for highly dispersive applications	(G) Alkyl substituted heterocycle
P–01–0489	04/09/01	07/08/01	CBI	(G) Component of coating with open use	(G) Hydroxy urethane
P–01–0490	04/09/01	07/08/01	CBI	(G) Component of coating with open use	(G) Hydroxy urethane
P–01–0491	04/09/01	07/08/01	CBI	(G) Component of coating with open use	(G) Hydroxy urethane
P–01–0492	04/09/01	07/08/01	CBI	(G) Component of coating with open use	(G) Hydroxy urethane
P–01–0493	04/09/01	07/08/01	CBI	(G) Component of coating with open use	(G) Hydroxy urethane
P–01–0494	04/09/01	07/08/01	CBI	(G) Component of coating with open use	(G) Hydroxy urethane
P–01–0495	04/09/01	07/08/01	CBI	(G) Printing ink additive	(S) Alkanes, C_{10-15}-iso-, cyclic and linear

TABLE I. 70 PREMANUFACTURE NOTICES RECEIVED FROM: 03/24/01 TO 04/11/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0496	04/09/01	07/08/01	CBI	(G) Component of coatings, inks, and varnishes	(G) Acrylate ester
P–01–0497	04/10/01	07/09/01	CBI	(G) Chemical intermediate	(G) Polyester prepolymer
P–01–0498	04/11/01	07/10/01	CBI	(G) Open, non-dispersing use	(G) Quaternary salt of glycol succinate
P–01–0499	04/11/01	07/10/01	CBI	(G) Destructive use	(G) Mercaptoalkyl alcohol
P–01–0500	04/11/01	07/10/01	CBI	(S) Chemical intermediate	(G) Distillation residues from reaction product of alkyl alcohol with hydrogen sulfide
P–01–0501	04/11/01	07/10/01	CBI	(S) Inks;coatings	(G) Polyester acrylate
P–01–0502	04/09/01	07/08/01	CBI	(G) Open non-dispersive use	(G) Polyesterimide resin, based on theic
P–01–0503	04/11/01	07/10/01	CBI	(G) Raw material	(G) Bis substituted amino benzenesulfonic acid, amine salt
P–01–0504	04/11/01	07/10/01	CBI	(G) Multi-purpose adhesive;open, non-dispersive use;laminating adhesive; open, non-dispersive use	(G) Polyurethane prepolymer;polyurethane hot melt adhesive
P–01–0505	04/10/01	07/09/01	CBI	(G) Chemical intermediate	(G) Polyester prepolymer
P–01–0506	04/10/01	07/09/01	Dow Corning Corporation	(S) Siloxane cure catalyst	(G) Tetraalkyltitanate-alkyl alkanatoalkanoate complex
P–01–0507	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half amide
P–01–0508	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half amide, alkanolamine salt
P–01–0509	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half amide, alkanolamine salt
P–01–0510	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic anhydride half amide, alkanolamine salt
P–01–0511	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half amide, alkali metal salt
P–01–0512	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half amide, alkali metal salt
P–01–0513	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester
P–01–0514	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester, alkanolamine salt
P–01–0515	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester, alkanolamine salt
P–01–0516	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic anhydride half ester, alkanolamine salt
P–01–0517	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester, alkali metal salt
P–01–0518	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester, alkali metal salt
P–01–0519	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester
P–01–0520	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester, alkanolamine salt
P–01–0521	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester, alkanolamine salt
P–01–0522	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic anhydride half ester, alkanolamine salt
P–01–0523	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester, alkali metal salt
P–01–0524	04/11/01	07/10/01	CBI	(G) Lubricant additive	(G) Alkenyl dicarboxylic acid anhydride half ester, alkali metal salt
P–01–0525	04/11/01	07/10/01	CBI	(G) Industrial coating	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-hydro-omega-hydroxy-, polymer with 1,6-diisocyanato-2,2,4-trimethylhexane and 1,6-diisocyanato-2,4,4-trimethylhexane, 2-oxepanone homopolymer 2-[(1-oxo-2-propenyl)oxy]ethyl ester-blocked

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

TABLE II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 03/24/01 TO 04/11/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–01–0010	04/11/01	05/26/01	Westvaco corporation - chemical division	(S) Binding agent in paper coatings	(G) Butyl acrylate, polymer with styrene and methylamino chloride compounds

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

TABLE III. 34 NOTICES OF COMMENCEMENT FROM: 03/24/01 TO 04/11/01

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0012	04/09/01	04/03/01	(G) Amine functional epoxy curing agent
P–00–0311	04/02/01	03/09/01	(G) Alkyiphenol, potassium salt
P–00–0326	03/26/01	02/28/01	(G) Aliphatic urethane
P–00–0327	04/05/01	03/08/01	(G) Amine salt
P–00–0443	04/02/01	03/09/01	(G) Alkaryl polyoxyalkylene derivative
P–00–0444	04/02/01	03/12/01	(G) Alkaryl polyoxyalkylene derivative
P–00–0509	04/03/01	03/09/01	(G) Polyether polyurethane
P–00–0667	04/09/01	03/22/01	(G) Substituted biaryl aralkyl phosphite
P–00–0857	04/04/01	03/16/01	(G) Polyester resin
P–00–0859	04/04/01	03/16/01	(G) Polyester resin
P–00–0904	03/27/01	02/26/01	(G) Hot melt polyurethane adhesive
P–00–1071	03/27/01	03/13/01	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, acetates
P–00–1072	03/27/01	03/13/01	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, sulfates
P–00–1073	03/27/01	03/13/01	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, phosphates
P–00–1074	03/27/01	03/13/01	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, methanesulfonates
P–00–1075	03/27/01	03/13/01	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, hydrochlorides
P–00–1132	04/09/01	03/08/01	(G) Fluoro/amino silane mixture
P–00–1134	04/10/01	03/28/01	(G) Urethane prepolymer
P–00–1163	04/02/01	03/27/01	(S) Oxiranemethanamine, *n,n'*-(methylenedi-4,1-phenylene)bis[*n*-(oxiranylmethyl)-, polymer with 4,4'-methylenebis[2-methylcyclohexanamine]
P–00–1189	04/04/01	03/28/01	(G) Aromatic thiophene derivative
P–00–11	03/29/01	03/06/01	(G) Polyurethane polymer
P–01–0002	03/27/01	03/20/01	(G) Linear alkyl polyhydroxypolyester
P–01–0079	04/06/01	03/28/01	(G) Benzoic acid, 3,5-diamino-2-[(1,5-disulfo-2-naphthalenyl)azo]-4,6-bis[[4-(substituted)phenyl]azo]-, sodium salt
P–01–0086	03/26/01	02/24/01	(G) Alkanolamine
P–01–0092	04/05/01	02/07/01	(S) 2-propanol, reaction products with (3-chloropropyl)trimethoxysilane and diethylenetriamine-ethylenimine polymer
P–01–0139	03/28/01	03/21/01	(G) *N*-alkyl modified polyisocyanate, reaction products with diamine
P–01–0146	04/02/01	03/01/01	(G) Aliphatic amine salt of aromatic polyamic acid
P–01–0148	03/27/01	03/09/01	(G) Styrene maleic anhydride copolymer, partial alkyl ester
P–01–0157	04/09/01	03/26/01	(G) Aminoalkoxysilane
P–01–0169	04/02/01	03/20/01	(G) Aromatic polyester polyol
P–01–0179	04/05/01	03/19/01	(G) Acrylate polymer
P–01–0184	04/10/01	03/29/01	(G) Quaternary amine salt of a fatty acid polyester amide
P–95–1951	03/26/01	03/25/98	(G) Alkyl glucosides
P–99–1015	04/11/01	03/31/01	(G) Modified hydrocarbon resin

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated:May 3, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–12580 Filed 5–17–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51970; FRL–6783–9]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from April 12, 2001 to April 27, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments, identified by the docket control numbers OPPTS 51970 and the specific PMN number, must be received on or before June 18, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51970 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51970. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, any test data submitted by the manufacturer/importer and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51970 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: "oppt.ncic@epa.gov," or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51970 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from April 12, 2001 to April 27, 2001, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

TABLE I. 34 PREMANUFACTURE NOTICES RECEIVED FROM: 04/12/01 TO 04/27/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0526	04/12/01	07/11/01	Pilot Chemical Company	(S) Demulsifier and corrosion inhibitor in hydraulic fluids	(G) Alkylarylsulfonic acid, zinc salts
P–01–0527	04/13/01	07/12/01	CBI	(G) Open non-dispersive (polyol)	(G) Polyester polyol
P–01–0528	04/13/01	07/12/01	Roma Color Inc.	(S) Chemical intermediate	(S) Benzenesulfonic acid, 2-amino-4,5-dichloro
P–01–0529	04/16/01	07/15/01	CBI	(G) Charge control agent in colour toners for electrophotography use	(G) Organo aluminium complex
P–01–0530	04/17/01	07/16/01	CBI	(G) Processing aid	(G) Alkoxylated alcohol
P–01–0531	04/17/01	07/16/01	CBI	(G) Lubricant additive	(G) Diisocyanatomethylbenzene- alkylamine reaction products
P–01–0532	04/18/01	07/17/01	CBI	(G) Open - non-dispersive uses	(G) Silyated polyurethane prepolymer
P–01–0533	04/18/01	07/17/01	CBI	(S) Raw material for use in fragrances for soaps, detergents, cleaners and other household products	(G) Cycloalkenone
P–01–0534	04/19/01	07/18/01	CBI	(G) Component of coating with open use	(G) Modified melamine
P–01–0535	04/19/01	07/18/01	UCB Chemicals Corporation	(S) Pressure sensitive adhesive	(G) Acrylic copolymer
P–01–0536	04/19/01	07/18/01	CBI	(G) Open non-dispersive (resin)	(G) Blocked polyisocyanate
P–01–0537	04/19/01	07/18/01	Electra Polymers' Chemicals LTD	(S) Protective coating for printed circuit boards	(G) Epoxy novolac acrylate carboxylate
P–01–0538	04/19/01	07/18/01	Electra Polymers' Chemicals LTD	(S) Protective coating for printed circuit boards	(G) Epoxy novolac acrylate
P–01–0539	04/19/01	07/18/01	Electra Polymers' Chemicals LTD	(S) Protective coating for printed circuit boards	(G) Epoxy novolac acrylate carboxylate

TABLE I. 34 PREMANUFACTURE NOTICES RECEIVED FROM: 04/12/01 TO 04/27/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0540	04/19/01	07/18/01	Cognis Corporation	(G) Textile antistat	(S) Poly(oxy-1,2-ethanediyl), alph-hydro-omega-hydroxy-, mono-c11-14-isoalkyl ethers, c13-rich, phosphates, potassium salts
P–01–0541	04/19/01	07/18/01	Cognis Corporation	(G) Textile antistat	(S) Ethanol, 2,2',2''-nitrilotris-, compds. with polyethylene glycol mono(c13-rich c11-14-isoalkyl) ethers phosphates
P–01–0542	04/19/01	07/18/01	CBI	(G) Destructive use	(G) Substituted carbopolycycle heteropolycycle substituted sulfo heteropolycycle
P–01–0543	04/19/01	07/18/01	CBI	(G) Destructive use	(G) Substituted carbopolycycle heteropolycycle substituted sulfo heteropolycycle
P–01–0544	04/23/01	07/22/01	CBI	(G) Open, non-dispersive use in a coating application	(G) Aqueous polyurethane dispersion
P–01–0545	04/23/01	07/22/01	CBI	(G) A raw material for making urethane prepolymer adhesives for open, non-disperse use	(G) Isocyanate urethane prepolymer
P–01–0546	04/18/01	07/17/01	Bystronic Inc.	(S) Gloss varnish for enhancing printed products (a liquid) (print finishing varnish)	(G) Acrylate
P–01–0547	04/18/01	07/17/01	Bystronic Inc.	(S) Gloss varnish for enhancing printed products (a liquid) (print finishing varnish)	(G) Acrylate
P–01–0548	04/18/01	07/17/01	Bystronic Inc.	(S) Gloss varnish for enhancing printed products (a liquid) (print finishing varnish)	(G) Acrylate
P–01–0549	04/24/01	07/23/01	CBI	(G) Detergent additive	(G) Acrylic polymer
P–01–0550	04/23/01	07/22/01	CBI	(G) Binder	(G) Polycarbonate-polyurethane resin
P–01–0551	04/23/01	07/22/01	CBI	(G) Industrial coating	(S) 2-propenoic acid, 2-methyl-, methyl ester, polymer with 2-ethylhexyl 2-propenoate and 2-hydroxyethyl 2-propenoate, tert-bu 2-ethylhexaneperoxoate-initiated
P–01–0552	04/23/01	07/22/01	BASF Corporation	(G) Surfactant	(G) Polyalkylene oxide modified silicone
P–01–0553	04/23/01	07/22/01	CBI	(S) Coating on pet film and paper	(G) Aromatic/aliphatic copolyester
P–01–0554	04/23/01	07/22/01	CBI	(S) Paper coating	(G) Copolyester
P–01–0555	04/23/01	07/22/01	CBI	(S) Industrial coatings for plastics, in automotive use and for construction elements (e.g. window frames)	(G) Hexanedioic acid, polymer with 1,4-butanediol, 2,2-dimethyl-1,3-propanediol, 1,6-hexanediol, oxyalkylpropanoic acid and 5-isocyanato-1-(isocyanatomethyl)-alkylcyclohexane, compd. with triethylamine
P–01–0556	04/23/01	07/22/01	CBI	(G) Industrial coating	(S) 2-propenoic acid, 2-methyl-, methyl ester, polymer with 2-ethylhexyl 2-propenoate and 2-hydroxyethyl 2-propenoate, [3,3,5-trimethyl-5-[[[[2-[(1-oxo-2-propenyl)oxy]ethoxy]carbonyl]amino]methyl]cyclohexyl] carbamate, tert=bu 2-ethylhexaneperoxoate-initiated
P–01–0557	04/26/01	07/25/01	CBI	(S) Selective base for chemical synthesis	(S) Lithium, hexyl-
P–01–0558	04/26/01	07/25/01	CBI	(G) Plastic additive	(G) Phosphoramidate
P–01–0559	04/26/01	07/25/01	Reichhold, Inc.	(G) Surfactant	(S) Benzene, 1,1'-oxybis-, tetrapropylene derivs., sulfonated, ammonium salts

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

TABLE II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 04/12/01 TO 04/27/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–01–0011	04/19/01	06/03/01	CBI	(G) Component of coating with open use	(G) Modified melamine

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

TABLE III. 17 NOTICES OF COMMENCEMENT FROM: 04/12/01 TO 04/27/01

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0826	04/13/01	03/22/01	(G) Polyacrylate, partially neutralized
P–00–1016	04/13/01	03/26/01	(S) 2-propenoic acid, 2-methyl-, methyl ester, polymer with 2-methylpropyl 2-methyl-2-propenoate and 1,2-propanediol mono-2-propenoate
P–00–1041	04/23/01	04/11/01	(G) Polyester acrylate
P–00–1090	04/18/01	03/20/01	(G) Modified cationic acrylamide polymer
P–00–1143	04/18/01	03/29/01	(G) Polyester acrylate
P–00–1205	04/24/01	03/26/01	(G) 6-methoxy-1h-benz[de]isoquinoline-2[3h]-dione derivative
P–01–0006	04/23/01	04/09/01	(G) Ethoxylated glycol ether phosphate salt
P–01–0071	04/24/01	03/30/01	(G) Substituted triazine
P–01–0087	04/23/01	03/29/01	(G) Polyether poly-t-butyl peroxycarbonate
P–01–0096	04/25/01	03/27/01	(G) Modified acrylate polymer
P–01–0133	04/25/01	04/03/01	(G) Alkoxylaated amine
P–01–0151	04/16/01	04/05/01	(G) Cobaltate(5-), bis[4-[[6-[(substituted-1,3,5-triazin-2-yl)amino]-1-hydroxy-3-sulfo-2-naphthalenyl]azo]-3-hydroxy-7-substituted-1-naphthalenesulfonato(4-)]-, pentasodium
P–01–0177	04/23/01	03/27/01	(G) Aromatic substituted diurea
P–94–1065	04/18/01	03/15/01	(G) Hydroxy acrylic polymer
P–97–0329	04/27/01	03/29/01	(S) Silixanes and silicones, 3-(4-carboxy-2-oxo-1-pyrrolidinyl)propyl me, di-me
P–99–0219	04/16/01	03/15/01	(G) Hydroxy acrylic polymer
P–99–1077	04/13/01	04/05/01	(G) [1,1'biphenyl]-2,2'disulfonic acid, 4,4'-bis[[substituted[-4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]-substituted]azo}-salt

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: May 8, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–12581 Filed 5–17–01;8:45am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

May 14, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 17, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0188.

Title: Call Sign Reservation and Authorization System.

Form No.: FCC 380.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit, Not-for-profit institutions, State, local or tribal government.

Number of Respondents: 1,600.

Estimated Hours Per Response: 0.166–0.5 hours.

Frequency of Response: On occasion.

Cost to Respondents: $130,000.

Estimated Total Annual Burden Hours: 333.

Needs and Uses: Section 73.3550 provides that all requests for new or modified call signs be made via the on-line call sign reservation and authorization. The Commission uses an on-line system (FCC 380) for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs. Access to the call sign reservation and authorization system is made by broadcast licensees and permittees, or by persons acting on their behalf, via the Internet's World Wide Web. This on-line, electronic call sign system enables users to determine the availability and licensing status of call signs; to request an initial, or change an existing, call sign; and to determine and submit more easily the appropriate fee, if any. Section 74.783 also permits any low power television (LPTV) station to request a four-letter call sign after receiving its construction permit. All initial LPTV construction permits will continue to be issued with a five-character alpha-numeric LPTV call sign. LPTV licensees/permittees are also required to use the on-line call sign reservation and authorization system. The call sign reservation and authorization system is used by permittees, licensees or persons acting on their behalf to determine the availability of a call sign and to request an initial call sign or change an existing call sign.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–12610 Filed 5–17–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control, Special Emphasis Panel (SEP): RFA OH–01–004: Centers for Agricultural Disease and Injury Research, Education and Prevention

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): RFA OH–01–004: Centers for Agricultural Disease and Injury Research, Education and Prevention.

Times and Dates:

6 p.m.–7 p.m., June 24, 2001. (Open)
7:15 p.m.–9 p.m., June 24, 2001. (Closed)
8 a.m.–5 p.m., June 25, 2001. (Closed)
8 a.m.–5 p.m., June 26, 2001. (Closed)
6 p.m.–7 p.m., June 27, 2001. (Open)
7:15 p.m.–9 p.m., June 27, 2001. (Closed)
8 a.m.–5 p.m., June 28, 2001. (Closed)
8 a.m.–5 p.m., June 29, 2001. (Closed)
8 a.m.–5 p.m., August 6, 2001. (Closed)
8 a.m.–5 p.m., August 7, 2001. (Closed)

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement: RFA OH–01–004.

Contact Person for More Information: Price Connor, Ph.D., National Institute for Occupational Safety and Health, CDC, 1600 Clifton Rd, NE, M/S D30, Atlanta, Georgia 30333, telephone 404–639–2383.

The Director, Management Analysis and Services Office has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 26, 2001.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12521 Filed 5–17–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: TANF High Performance Bonus Report, Assessment of Medicaid and SCHIP Enrollment.

OMB No.: New Collection.

Description: Public Law 104–93 (PRWORA) established the Temporary Assistance for Needy Families (TANF) Program. It also included provisions for rewarding States that attain the highest levels of success in achieving the legislative goals of that program. The purpose of this collection is to obtain data upon which to base the computation for measuring State performance in meeting those goals by providing Medicaid and SCHIP work supports. DHHS will use the information to allocate the Medicaid/SCHIP portion of the bonus grant funds appropriated under the law and implemented by 45 CFR Part 270 published on August 30, 2000. States will not be required to submit this information unless they elect to compete in a Medicaid/SCHIP measure for the TANF High Performance Bonus awards in Federal fiscal years 2002 or 2003, or any subsequent Federal fiscal year for which Congress authorizes and appropriates bonus funds.

Respondents: Respondents may include any of the 50 States, the District of Columbia, and the U.S. Territories of Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF High Performance Bonus Report, Assessment of Medicaid and SCHIP Enrollment Among Individuals After leaving TANF Assistance	54	4	20	4,320

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Estimated Total Annual Burden Hours	.....	.....	.....	4,320

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: May 14, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–12495 Filed 5–17–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/HS–2001–11]

Fiscal Year 2001 Discretionary Announcement for a Center on the Social and Emotional Foundations for Early Learning; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Announcement of the availability of funds and request for applications for a Center on the Social and Emotional Foundations for Early Learning.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF) announces the availability of funds for a Center on the Social and Emotional Foundations for Early Learning. This Center will improve the capacity of Head Start and Child Care programs to promote the social and emotional development of the preschool age children they serve.

Statutory Authority

The Child Care and Development Block Grant Act as amended, 42 U.S.C. 9858 *et seq.*

CFDA 93.647

The Head Start Act, as amended, 42 U.S.C. 9801 *et seq.*

CFDA: 93.600

DATES: The closing time and date for receipt of applications is 5 p.m. (Eastern Time Zone) July 13, 2001. Applications received after 5 p.m. on the deadline date will be classified as late.

Note: The full announcement, including all the necessary forms can be downloaded from the Head Start Web Site at *http://www.acf.dhhs.gov/programs/hsb,* and/or the Child Care Bureau Web Site at *http://www.acf.dhhs.gov/programs/ccb.*

ADDRESSES: Mail applications to: ACYF Operations Center, 1815 N. Fort Myer Drive, Suite 300, Arlington, Virginia 22209.

Hand Delivered, Courier or Overnight Delivery applications are accepted during the normal working hours of 8 a.m. to 5 p.m., Monday through Friday, on or prior to the established closing date.

All packages should be clearly labeled as follows:

Application for Center on the Social and Emotional Foundations for Early Learning.

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center at 1–800–351–2293 (ACYF) is available to answer questions concerning application requirements and to refer you to the appropriate contact person in ACYF for programmatic questions. You may also e-mail your questions tot he ACYF Operations Center at: ehs@lcgnet.com

In order to determine the number of expert reviewers that will be necessary, if you are going to submit an application, you must send a post card or e-mail with the following information: the name, address, telephone and fax number, e-mail address of the project director, and the name of the university or non-profit institution at least four weeks prior to the submission deadline date to: ACYF Operations Center, 1815 N. Fort Myer Drive,Suite 300, Arlington, Virginia 22209, (1–800) 351–2293, E-mail: ehs@lcgnet.com.

SUPPLEMENTARY INFORMATION: A: *Eligible Applicants:* Universities and non-profit organizations with a recognized record of national leadership and service and current capabilities in this area of expertise. To adequately address the scope of topics and experiences this project requires, an application may be comprised of a consortium of organizations.

B. *Project Duration:* The announcement is soliciting applications for a project period of up to five years. Awards, on a competitive basis, will be for the first one-year budget period. Applications for continuation of cooperative agreements funded under these awards beyond the one-year period, but within the established project period, will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

C. *Federal Share of Project Cost:* The Federal share of project costs shall not exceed $1,000,000 per year. $600,000 of this amount will be from Head Start funds and $400,000 will be from Child Care and Development Block Grant funds.

D. *Matching Requirement:* There is no matching requirement.

E. *Anticipated Number of Projects to be Funded:* It is anticipated that one project will be funded.

Criteria

Reviewers will consider the following factors when assigning points.

1. Results or Benefits Expected (Maximum of 10 Points)

The extent to which the applicant:

- clearly states the objectives and their relation to the expected benefits of the project.
- explains why chosen objectives are appropriate for Head Start and Child Care program efforts to improve social and emotional outcomes for young children, given current knowledge on effective practices.

• explains how the results and benefits expected are reasonable given the resources available for this project.

2. Approach (maximum of 50 Points)

The extent to which the applicant's approach:

• adequately describes and responds to key issues outlined in the background section above;

• represents a cost effective strategy to improve Head Start and Child Care program practices to promote positive social and emotional outcomes for children;

• demonstrates a thorough knowledge and understanding of the Head Start Program Performance Standards and quality child care program practices;

• demonstrates thorough knowledge of evidence-based approaches to improving social and emotional outcomes and address mental health and behavioral concerns for preschool-age children:

• demonstrates appropriate strategies for communication and ongoing coordination with the Head Start and Child Care training and technical assistance providers; and,

• describes specific strategies for how the project will promote local program's adopting and implementing practices.

3. Staff and Position Date (Maximum of 30 Points)

The extent to which the key staff and the organization possess the experience and expertise necessary to plan and implement a project of this type and scope, including:

• planning and disseminating training and technical assistance resources addressing issues of early childhood social and emotional development and mental health services;

• working with programs serving diverse cultures, languages and ethnicity and with programs serving low income families with young children;

• analyzing and preparing information for national dissemination to early childhood programs on issues of social and emotional development and mental health;

• designing, developing, and delivering coordinated technical assistance as part of a national network;

• experience with early childhood service settings, collaborating with mental health, child care and school system partners, and working with Head Start program staff and parents;

• key staff will devote adequate time to ensure a high level of professional input and attention;

• staff have experience designing and delivering information and T/TA for audiences of diverse cultures, languages and ethnicity and experience working with programs serving low income families with young children;

• staff have the skills and experiences needed to implement an approach covering the broad scope of issues required by the comprehensiveness of the Head Start model; and

• staff have experience and skills in reviewing and adapting information on social and emotional development and mental health to communicate effectively with this project's intended audiences.

Budget and Budget Justification (Maximum of 10 Points)

The extent to which the applicant's proposed costs are reasonable in view of the planning and activities to be carried out and the anticipated outcomes.

Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these jurisdictions need not take action regarding Executive Order 12372.

Applications for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(?), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to the ACF, they should be addressed to: William Wilson, Head Start Bureau, Grants Officer, 330 C Street SW., Room 2220, Washington, DC 20447. Attn: Center on the Social and Emotional Foundations for Early Learning.

A list of the Single Points of Contact for each State and Territory can be found on the following web site: http://*http://www.whitehouse.gov/omb/grants/spoc.html*.

(Catalog of Federal Domestic Program Number 93.600, Project Head Start and Number 93.647, Child Care and Development Block Grant)

Dated: May 14, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–12498 Filed 5–17–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–3069–N]

Medicare Program; Meeting of the Executive Committee of the Medicare Coverage Advisory Committee—June 14, 2001

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Executive Committee (the Committee) of the Medicare Coverage Advisory Committee (MCAC). The Committee will do the following:

• Act on the February 21, 2001 recommendations of the Medical Devices and Prosthetics Panel regarding Ambulatory Blood Pressure Monitoring.

• Discuss the "Interim Guidelines—Recommendations for Evaluating Effectiveness," prepared by the Executive Committee to assist panels in consistently judging the scientific evidence of a particular topic (also available on the HCFA website at www.hcfa.gov/coverage).

• Discuss the future role of the Committee, in light of the provisions of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 that removes the requirement that the Committee ratify all medical specialty panel recommendations.

• Discuss the contents of, and framing the questions for, a future presentation of "neuroimaging for dementia" to be presented to the Diagnostic Imaging Panel later this year.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)).

DATES: *The Meeting:* June 14, 2001, from 8 a.m. until 4 p.m., E.D.T.

Deadline for Presentations and Comments: June 1, 2001, 5 p.m., E.D.T.

Special Accommodations: Persons attending the meeting who are hearing impaired and require sign language interpretation, or have a condition that requires other special assistance or accommodations, are asked to notify the Executive Secretary by June 1, 2001.

ADDRESSES: *The Meeting:* The meeting will be held at the Baltimore Convention Center, Room 339, One West Pratt Street, Baltimore, Maryland 21201.

Presentations and Comments: Submit formal presentations and written comments to Constance A. Conrad, Executive Secretary; Office of Clinical Standards and Quality; Health Care Financing Administration; 7500 Security Boulevard; Mail Stop S3–02–01; Baltimore, MD 21244.

Website: You may access up-to-date information on this meeting at www.hcfa.gov/coverage.

Hotline: You may access up-to-date information on this meeting on the HCFA Advisory Committee Information Hotline, 1–877–449–5659 (toll free) or in the Baltimore area (410) 786–9379.

FOR FURTHER INFORMATION CONTACT: Constance A. Conrad, Executive Secretary, 410–786–4631.

SUPPLEMENTARY INFORMATION: On August 13, 1999, we published a notice (64 FR 44231) announcing a meeting of the Drugs, Biologics, and Therapeutics Panel and also describing the Medicare Coverage Advisory Committee (MCAC), which provides advice and recommendations to us about clinical issues. This notice announces the June 14, 2001 public meeting of Executive Committee (the Committee) of the MCAC.

Current Committee Members

Harold C. Sox, MD (Chairperson); Thomas V. Holohan, MD (FACP); Leslie P. Francis, JD, PhD; John H. Ferguson, MD; Robert L. Murray, PhD; Alan M. Garber, MD, PhD; Michael D. Maves, MD, MBA; Frank J. Papatheofanis, MD, PhD; Barbara J. McNeil, MD; Ronald M. Davis, MD; Daisy Alford-Smith, PhD; Joe W. Johnson, DC; Robert H. Brook, MD, ScD; Linda A. Bergthold, PhD; Randel E. Richner, MPH.

Meeting Topic

The Committee of the MCAC will do the following:

• Act on the February 21, 2001 recommendations of the Medical Devices and Prosthetics Panel regarding Ambulatory Blood Pressure Monitoring.

• Discuss the "Interim Guidelines—Recommendations for Evaluating Effectiveness," prepared by the Executive Committee to assist panels in consistently judging the scientific evidence of a particular topic (also available at www.hcfa.gov/coverage).

• Discuss the future role of the Committee, in light of the provisions of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 that removes the requirement that the Committee ratify all medical specialty panel recommendations.

• Discuss the contents of, and framing the questions for, a future presentation of "neuroimaging for dementia" to be presented to the Diagnostic Imaging Panel later this year.

Procedure and Agenda

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 1 hour. The Committee may limit the number and duration of oral presentations to the time available. If you wish to make formal presentations, you must notify Executive Secretary Constance A. Conrad, in the **FOR FURTHER INFORMATION CONTACT** section of this notice, and submit the following by the Deadline for Presentations and Comments date listed in the **DATES** section of this notice: A brief statement of the general nature of the evidence or arguments you wish to present and the names and addresses of proposed participants. A written copy of your presentation must be provided to the Executive Secretary before the meeting. We will request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public presentations, we will make a presentation to the Committee. Then, the Committee will deliberate openly. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will allow an approximately 30-minute open public session for any attendee to address issues specific to the topic. After that open session, the members will vote, and the Committee will make its recommendation.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 8, 2001.

Jeffrey L. Kang,

Director, Office of Clinical Standards and Quality, Health Care Financing Administration.

[FR Doc. 01–12582 Filed 5–17–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Mental Health and Community Safety Initiative for American Indian/Alaska Native Children, Youth, and Families

AGENCY: Indian Health Service, HHS.

ACTION: Notice of funding availability for competitive grants for the Mental Health and Community Safety Initiative for American Indian/Alaska Native (AI/AN) Children, Youth, and Families.

SUMMARY: The Indian Health Service (IHS) announces the availability of competitive grants under the Mental Health and Community Safety Initiative for American Indian/Alaska Native (AI/AN) Children, Youth, and Families for fiscal year (FY) 2001. Grants under this Initiative will be administered by the following Federal Agencies:

(1) The Center for Substance Abuse Treatment (CSAT) and the Center for Mental Health Services (CMHS), Substance Abuse and Mental Health Services Administration (SAMHSA), United States Department of Health and Human Services (HHS);

(2) The Office of Community Oriented Policing Services (COPS) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP), United States Department of Justice (DOJ); and

(3) The Office of Elementary and Secondary Education (OESE), United States Department of Education (ED).

The Initiative will provide tribes and tribal organizations with easy-to-access assistance in developing innovative strategies that focus on the mental health, behavioral, substance abuse, and community safety needs of AI/AN young people and their families through a coordinated Federal grant process. Total funding for the four grant programs involved in the Initiative is approximately $4.95 million.

The primary purpose of the Initiative is to promote AI/AN youth mental health, education, and substance abuse-related (alcohol as well as drug abuse) services, and to support juvenile delinquency prevention and intervention through the creation and implementation of culturally sensitive programs. Grant funds will be available for the Initiative beginning in FY 2001, and a coordinated grant program may continue subject to the availability of funds.

The Initiative will support tribes in providing a range of youth support services and programs to address the mental health and related needs of AI/AN young people and their families through various settings within the community, such as in the home, in the schools, in violence prevention education programs, in health care treatment programs, and in the juvenile justice system. Interagency programs are included in this effort based upon their combined potential to comprehensively address mental health, juvenile justice, and related issues. As part of this Initiative, tribes are encouraged to promote coordination and collaboration among the local programs that serve young people in their communities.

Tribes are strongly encouraged to apply for one or more of the grant programs included in the Initiative. In submitting an application(s), tribes should identify the complex community issues involved and demonstrate how the proposed application(s) will provide for a comprehensive approach to addressing and attempting to solve these issues.

Government Agencies Providing Grants Funding

A. The HHS agency providing grant funding for the Initiative is SAMHSA; two Centers, CSAT and CMHS, are providing separate funding.

1. CSAT

The CSAT has available approximately $1 million in FY 2001 for 1-year grant awards for the AI/AN Community Planning Program. The average award may range from $100,000 to $150,000 depending on the size of the identified service population of the applicant. The focus of the grant program is to support planning and consensus building, lending to the development of local substance abuse treatment plans, especially in those communities not previously successful in applying for service funding. The average award may range from $100,000 to $150,000 in total (direct and indirect) costs. Actual funding will depend on availability of funds to SAMHSA. Grants will be awarded for a period of 12 months.

This program will support the development of plans that describe how tribal governments and organizations providing services to urban Indian communities, and other indigenous community organizations, will work together to deliver integrated substance abuse treatment and related services, such as HIV/AIDS prevention, mental health services, primary care, and other public health services. The grants are made up of two types: (1) Development of a community planning process, and (2) Implementation of a services integration plan. The current announcement is for Phase I grants only. Subject to the availability of future funding and accomplishment of Phase I, CSAT may issue a Phase II announcement in the future.

This program is described in the Catalog of Federal Domestic Assistance under #93.230. The deadline for receipt of applications is July 10, 2001.

For information regarding this SAMHSA program contact Maria Burns, Program Management Officer, Division of Practice and Systems Development, Center for Substance Abuse Treatment, 5600 Fishers Lane, RWII, Suite 740, Rockville, MD 20857, (301) 443–7611, Fax: (301) 443–3543, e-mail:*mburns@samhsa.gov*.

2. CMHS

The CMHS has approximately $2.4 million available for 3-year grant awards to AI/AN tribal governments and urban organizations for the Circles of Care Initiative. The average award may range from $250,000 to $350,000 depending on the size of the identified service population. This Initiative supports planning, designing, and assessing the feasibility of implementing a culturally appropriate system of care for AI/AN children and their families who are experiencing or are at risk of serious emotional/behavioral disturbance. This is the second issuance of the grant program which seeks to provide tribal communities with tools and resources to design systems of care for their children that reflect the unique needs of their communities. This grant program will not fund actual services. An important focus will be to integrate traditional healing methods indigenous to the communities with conventional treatment methodologies.

This program is described in the Catalog of Federal Domestic Assistance under #93.230. The deadline for receipt of applications is May 10, 2001.

For information regarding this SAMHSA program, contact Jill Shepard Erickson, M.S.W., Public Health Advisor, or Gary De Carolis, M.Ed., Chief, Child, Adolescent and Family Branch, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, Suite 11C–16, Parklawn Building, 5600 Fishers Ln., Rm. 6A–54, Rockville, MD 20857, (301) 443–1333, Fax: (301) 443–3693, e-mail: *jerickso@samhsa.gov*.

B. DOJ agencies providing grant funding for the Initiative are COPS and OJJDP.

1. COPS

The DOJ/COPS announces the availability of $550,000 for the Mental Health and Community Safety Initiative for AI/AN Children, Youth, and Families. Grants will be awarded for salaries and benefits for new police officers, as well as law enforcement training and equipment, including technology and vehicles, for new and existing police officers. Resources funded under this program (officer positions, equipment, and/or training) must be used to address the mental health, behavioral, and substance abuse needs of Native American youth and their families and provide a range of youth support services and programs both in the community and in the school arena. Sworn police officers must be deployed as Community Resource Officers or as School Resource Officers that engage in community policing activities. Salaries and benefits cover a 3-year period. A 25% local match requirement may be waived on the basis of demonstrated fiscal distress. All applicants must submit a written plan to retain their COPS-funded officer positions after Federal funding has ended.

Included in this $550,000 offering is $50,000 made available by the U.S. Department of Education, Safe and Drug-Free Schools and Communities, to support activities that combat alcohol, tobacco, and other drugs, as well as violence prevention education activities in school- or community-based settings. These activities will be implemented by police officers serving as School Resource or Community Resource Officers. Training in these topic areas will be provided as well as technical assistance to assess needs and to develop a community-wide collaborative implementation plan to address these needs. Once an implementation plan is developed, Community and/or School Resource Officers will be expected to engage in activities—along with their law enforcement activities—as part of the plan to address those community and/or school issues. Examples of such activities might include:

Teach school-based drug or crime prevention programs;

Teach problem-solving courses and supervise tailored responses to problems;

Run after-school programs and recruit parents and other volunteers to assist;

Form task forces of students, parents, teachers, and others to identify concerns;

Implement crime prevention through environmental design projects in the community or school settings;

Refer youth/students to appropriate treatment programs; and

Focus on specific problems like truancy.

This program is described in the Catalog of Federal Domestic Assistance under #16.710. The deadline for receipt of applications is June 22, 2001.

For further information regarding this COPS program, please contact: Linda Rosen, Policy Analyst, Office of Community Oriented Policing Services (COPS), U.S. Department of Justice, 1100 Vermont Avenue, NW., 8th Floor, Washington, DC 20530, (202) 616–2879, Fax: (202) 514–9272, e-mail: *linda.rosen@usdoj.gov*.

2. OJJDP

The purpose of the Tribal Youth Program (TYP) Mental Health Initiative is to support and enhance tribal efforts for comprehensive delinquency prevention and control as well as improve juvenile justice systems for Native American youth. In FY 2001, $1 million of the total appropriation for the TYP has been set aside to provide mental health services to adjudicated youth in Tribal and/or State juvenile justice systems. The programs or projects to be funded must provide mental health services through one or more of the following activities:

(1) Reduce, control, and prevent crime and delinquency both by and against tribal youth;

(2) Provide interventions for court-involved tribal youth;

(3) Improve tribal juvenile justice systems; and

(4) Provide prevention programs focusing on alcohol and drugs.

This program is described in the Catalog of Federal Domestic Assistance under #16.731. The deadline for receipt of applications is July 6, 2001.

For more information, please contact: Laura Ansera, Program Manager, Tribal Youth Program, Office of Juvenile Justice and Delinquency Prevention (OJJDP), State Relations and Assistance Division, U.S Department of Justice, 810 Seventh Street, NW., Washington, DC 20531, (202) 307–5924, Fax: (202) 307–2819, e-mail: *anseral@ojp.usdoj.gov*.

Distribution of Grant Application Kits

The SAMHSA, COPS, and OJJDP are preparing a single, consolidated grant application package that will include the program announcement and application kit for each of the four grant programs described above. The consolidated application package will be distributed on or about May 1, 2001. A package will be sent directly to (1) the Tribal Chairman of every federally recognized tribe; (2) the Director of every tribal organization as defined by section 4(1) of Publication Law 93–638, Indian Self-Determination and Education Assistance Act, as amended; and (3) the Director of every tribal health department.

To request additional application packages, please contact: Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Clearing House, 2277 Research Boulevard, Rockville, Maryland 20850.

Reference: Mental Health and Community Safety Initiative for American Indian/Alaska Native Children, Youth, and Families (Solicitation #476), Telephone: 1–800–638–8736.

Dated: May 14, 2001.

Michel E. Lincoln,

Deputy Director, Indian Health Services.

[FR Doc. 01–12530 Filed 5–17–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Indians Into Medicine Programs

AGENCY: Indian Health Service, HHS.

ACTION: Notice of funds availability for competitive grant applications for the Indians Into Medicine Program.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are being accepted for the Indians Into Medicine (INMED) Program established by section 114 of the Indian Health Care Improvement Act of 1976 (25 U.S.C. 1612), as amended by Public Law 102–573. There will be only one funding cycle during fiscal year (FY) 2001. This program is described at 93.970 in the Catalog of Federal Domestic Assistance and is governed by regulations at 42 CFR 36.310 *et seq*. Costs will be determined in accordance with applicable OMB Circulars. Executive Order 12372 requiring intergovernmental review does not apply to this program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2010*, a PHS-led activity for setting priority areas.

This program announcement is related to the priority area of Educational and Community-based programs. Potential applicants may obtain a copy of *Healthy People 2010*, summary report in print, Stock No. 017–001–00579–9, or via CD–ROM, Stock No. 107–001–00549–5, through the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7945, (202) 512–1800. You may access this information via the Internet at the following website: *www.health.gov/healthypeople/publication*

Smoke Free Workplace: The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

DATES: A. Application Receipt Date—An original and two (2) copies of the completed grant application must be submitted with all required documentation to the Grants Management Branch, Division of Acquisition and Grants Management, Twinbrook Building, Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, by close of business June 1, 2001.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand-carried applications received by close of business 5 p.m.; or (2) postmarked on or before the deadline date and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications not accepted for processing will be returned to the applicant and will *not* be considered for funding.

Additional Dates:

1. Application Review: July 13, 2001.

2. Applicants Notified of Results (approved, approved unfunded, or disapproved): August 1, 2001.

3. Anticipated Start Due: September 1, 2001.

FOR FURTHER INFORMATION CONTACT: For program information, contact Ms. Jacqueline Santiago, Chief, Loan Repayment Branch, Division of Health Professions Support, Indian Health Service, Twinbrook Building, 12300 Twinbrook Parkway, Suite 100A, Rockville, Maryland 20852, (301) 443–3396. For grants application and business management information, contact Crystal C. Furgusen, Grants Management Officer, Division of Acquisition and Grants Management, Indian Health Service, Twinbrook Building, 12300 Twinbrook Parkway, Suite 100 Rockville, Maryland 20852, (301) 443–5204. (The telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, eligibility and priority, fields of health care considered for support, required affiliation, fund availability and period of support, and application procedure for FY 2001.

A. General Program Purpose

The purpose of the INMED program is to augment the number of Indian health professional serving Indians by encouraging Indians to enter the health professions and removing the multiple barriers to their entrance into the IHS and private practice among Indians.

B. Eli ibility and Priority

Public and nonprofit private colleges and universities with medical and other allied health programs are eligible. Nursing programs are not eligible under this announcement since the IHS currently funds the Nursing Recruitment grant program. The existing INMED grant program at the University of North Dakota has as its target population Indian tribes primarily within the States of North Dakota, South Dakota, Nebraska, Wyoming and Montana. A college or university applying under this announcement must propose to conduct its program among Indian tribes in States not currently served by the University of North Dakota INMED program.

C. Program Objectives

Each proposal must address the following five objectives to be considered for funding:

1. Provides outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on Indian reservations which will be served by the program.

2. Incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program.

3. Provides summer preparatory programs for Indian students, who need enrichment in the subjects of math and science in order to pursue training in the health professions.

4. Provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university.

5. To the maximum extent feasible, employs qualified Indians into the program.

D. Fields of Health Care Considered for Support

The grant program must be developed to locate and recruit students with educational potential in a variety of health care fields. Primary recruitment efforts must be in the field of medicine with secondary efforts in other allied health fields such as pharmacy, dentistry, medical technology, x-ray technology, etc. The field of nursing is excluded since the IHS does fund the IHS Nursing Recruitment grant program.

E. Required Affiliations

The grant applicant must submit official documentation indicating a tribe's cooperation with and support of the program within the schools on its reservation and its willingness to have a tribal representative serving on the program advisory board. Documentation must be in the form prescribed by the tribes governing body, i.e., letter of support or tribal resolution. Documentation must be submitted from every tribe involved in the grant program.

F. Fund Availability and Period of Support

It is anticipated that approximately $400,000 will be available for one award. The anticipated start date of the grant will be September 1, 2001, in order to begin recruitment for the 2001–2002 academic year. Projects will be awarded for a budget term of 12 months, with a maximum project period of up to three (3) years. Grant funding levels include both direct and indirect costs. Funding of succeeding years will be based on the FY 2001 level, continuing need for the program, satisfactory performance, and the availability of appropriations in those years.

G. Application Process

An IHS Grant Application Kit, including the required PHS 5161–1 (Rev. 6/99) (OMB Approval No. 0920–0428) and the U.S. Government Standard forms (SF–424, SF–424A and SF–424B), may be obtained from the Grants Management Branch, Division of Acquisition and Grants Management, Indian Health Service, Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, telephone (301) 443–5204. (This is not a toll-free number.)

H. Grant Application Requirements

All applications must be single-spaced, typewritten, and consecutively numbered pages using black type not smaller than 12 characters per one inch, with conventional one inch border margins, on only one side of standard size 8½ × 11 paper that can be photocopied. The application narrative (not including abstract, tribal resolutions or letters of support, standard forms, table of contents or the appendix) must not exceed 15 typed pages as described above. All applications must include the following in the order presented:

—Standard Form 424, Application for Federal Assistance
—Standard Form 424A, Budget Information-Non-Construction Programs. (pages 1 and 2)
—Standard Form 424B, Assurances—Non-Construction Programs (front and back)
—Certifications, PHS 5161–1 (pages 17–18)
—Checklist, PHS 5161–1 (pages 23–24)
—Project Abstract (one page)
—Table of Contents Program Narrative to include:
—Introduction and Potential Effectiveness of Project
—Project Administration
—Accessibility to Target Population
—Relationship of Objectives to Manpower Deficiencies
—Project Budget
—Appendix to include:
—Tribal Resolution(s) or Letters of Support
—Resumes (Curriculum Vitae) of Key Staff
—Position descriptions for Key Staff
—Organizational Chart
—Workplan Format
—Completed IHS Application Checklist
—Application Receipt Card, PHS 3038–1, Rev. 5–90

I. Application Instructions

The following instructions for preparing the application narrative also constitute the standards (criteria or basis for evaluation) for reviewing and scoring the application. Weights assigned each section are noted in parenthesis.

Abstract—An abstract may not exceed one typewritten page.

The abstract should clearly present the application in summary form, from a "who-what-when-where-how-cost" point of view so that reviewers see how the multiple parts of the application fit together to form a coherent whole.

Table of Contents—Provide a one page typewritten table of contents.

Narrative

1. *Introduction and Potential Effectiveness of Project* (30 pts.)

a. Describe your legal status and organization.

b. State specific objectives of the project, which are measurable in terms of being quantified, significant to the needs of Indian people, logical, complete and consistent with the purpose of sec. 114.

c. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

d. Provide a project specific workplan (milestone chart) which lists each objective, the tasks to be conducted in order to reach the objective, and the timeframe needed to accomplish each task. Timeframes should be projected in a realistic manner to assure that the scope of work can be completed within each budget period. (A workplan format is provided.)

e. In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, include a method for assessing the potential of interested Indians for undertaking necessary education or training in such health professions.

f. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

g. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

h. Identify who will perform the evaluation and when.

2. *Project Administration (20 pts.)*

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangements and the facilities and resources to be utilized to conduct the proposed project (include in appendix).

b. Provide the name and qualifications of the project director of other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the application's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant) (include in appendix).

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, *i.e.*, although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

3. *Accessibility to Target Population (20 pts.)*

a. Describe the current and proposed participation of Indians (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

4. *Relationship of Objectives to Manpower Deficiencies (20 pts.)*

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

5. *Project Budget (10 pts.)*

a. Clearly define the budget. Provide a justification and detailed breakdown of the funding by category for the first year of the project. Information on the project director and project staff should include salaries and percentage of time assigned to the grant. List equipment purchases necessary for the conduct of the project.

b. The available funding level of $400,000 is inclusive of both direct and indirect costs. Because this project is for a training grant, the Department of Health and Human Services' policy limiting reimbursement of indirect cost to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of tuition and related fees and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education other than agencies of State and local government.

c. The applicant may include as a direct cost tuition and student support costs related only to the summer preparatory program. Tuition and stipends for regular sessions are not allowable costs of the grant; however, students recruited through the INMED program may apply for funding from the IHS Scholarship Programs.

d. Projects requiring a second and third year must include a program narrative and categorical budget and justification for each additional year of funding requested (this is not considered part of the 15-page narrative).

Appendix—to include:

a. Tribal Resolution(s) or Letters of Support
b. Resumes (Curriculum Vitae) of Key Staff
c. Position descriptions for key Staff
d. Organizational Chart
e. Workplan Format
f. Completed IHS Application Checklist
g. Application Receipt Card, PHS 3038–1, Rev. 5–90

J. Reporting

1. Progress Report—Program progress reports may be required quarterly or semi-annually. These reports will include a brief description of a comparison of actual accomplishments to the goals established for the period, reasons for slippage and other pertinent information as required. A final report is due 90 days after expiration of the budget/project period.

2. Financial Status Report—Quarterly or semiannually financial status reports will be submitted 30 days after the end of the quarter or half year. Final financial status reports are due 90 days after expiration of the budget/project period. Standard Form 269 (long form) will be sued for financial reporting.

K. Grant Administration Requirements

Grants are administered in accordance with the following documents:

1. 45 CFR 92, HHH, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments or 45 CFR part 74, Administration of Grants,

2. PHS Grants Policy Statement, and

3. OMB Circular A–21, Cost Principles for Educational Institutions.

L. Objective Review Process

Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed by an Objective Review Committee (ORC) in accordance with IHS objective review procedures. The objective review process ensures a nationwide competition for limited funding. The ORC will be comprised of IHS (405 or less) and other federal or non-federal individuals (60% or more) with

appropriate expertise. The ORC will review each application against established criteria. Based upon the evaluation criteria, the reviewer will assign a numerical score to each application, which will be used in making the final funding decision. Approved applications scoring less than 60 points will not be considered for funding.

M. Results of the Review

The results of the objective review are forwarded to the Director, Office of Management Support (OMS), for final review and approval. The Director, OMS, will also consider the recommendations form the Division of Health Professions Support and Grants Management Branch. Applicants are notified in writing on or about August 1, 2001. A Notice of Grant Award will be issued to successful applicants. Unsuccessful applicants are notified in writing of disapproval. A brief explanation of the reasons the application was not approved is provided along with the name of the IHS official to contact if more information is desired.

Dated: May 14, 2001.

Michel E. Lincoln,

Director, Indian Health Service.

[FR Doc. 01–12529 Filed 5–17–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4655–N–14]

Notice of Proposed Information Collection: Comment Request; Compliance Inspection Report and Mortgagee's Assurance of Completion

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 17, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title of Proposal: Compliance Inspection Report & Mortgagee's Assurance of Completion.

OMB Control Number, if applicable: 2502–0189.

Description of the need for the information and proposed use: This is a request for reinstatement, without change, of a previously approved collection for which approval has expired. Form HUD–92051, Compliance Inspection Report, is the document on which the property inspector or appraiser prepares his/her findings. The form provides categories for the inspector or appraiser to report the status of repair requirements on proposed construction cases. This report becomes a part of the case file and a copy is provided to the lender. Form HUD–92300, Mortgagee's Assurance of Completion, is completed by the mortgagee and assures HUD that the items set forth in the inspection report will be completed by the required date stated.

Agency form numbers, if applicable: HUD–92051 and HUD–92300.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents for the HUD–92051 is 14,500 which will generate 3,625,000 responses; frequency of response is approximately 250 times each, the estimated time per response is 0.25 hours and the total annual burden requested is 906,250 hours. The estimated number of respondents for the HUD–92300 is 14,500 which will generate 14,500 responses, frequency of response is one time; the estimated time per response is 0.25 hours and the total annual burden is 3,625.

Status of the proposed information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 10, 2001.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commission.

[FR Doc. 01–12494 Filed 5–17–01; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–20]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Air Force:* Ms. Barbara Jenkins, Air Force Real Estate Agency, Area–MI, Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; *Army:* Mr. Jeff Holste, Military Programs, U.S. Army Corps of Engineers, Installation Support Center, Planning Branch, Attn: CEMP–IP, 441 G Street, NW., Washington, DC 20314–1000; (202) 761–5737; *Energy:* Mr. Tom Knox, Department of Energy, Office of Contract & Resource Management, MA–53, Washington, DC 20585; (202) 586–8715; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; *Navy:* Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: May 10, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 5/18/01

Suitable/Available Properties

Buildings (by State)

Maryland

Bldg. 117
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120102
Status: Unutilized
Comment: 400 sq. ft., needs rehab, most recent use—storage, off-site use only.

Bldg. 124
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120103
Status: Unutilized
Comment: 480 sq. ft., needs rehab., most recent use—warehouse, off-site use only.

Bldg. 130
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120104
Status: Unutilized
Comment: 2225 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage/recycling, off-site use only.

Bldg. 181
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120105
Status: Unutilized
Comment: 491 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—equip. maint., off-site use only.

Bldg. 196
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120106
Status: Unutilized
Comment: 456 sq. ft., needs rehab, most recent use—destructor bldg., off-site use only.

Nevada

Fed Bldg./Post Office
301 East Steward Ave.
Las Vegas Co: NV 89101–
Landholding Agency: GSA
Property Number: 54200120007
Status: Excess
Comment: 36,758 sq. ft., 3 floors + basement, needs repair totaling approx. $7 million, presence of asbestos, listed on the Natl Register of Historic Places.
GSA Number 9–G–NV–517

Unsuitable Properties

Buildings (by State)

Alabama

Bldg. 3491
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120001
Status: Unutilized
Reasons: Secured Area; Extensive deterioration.

Bldg. 3525
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000

Landholding Agency: Army
Property Number: 21200120002
Status: Unutilized
Reasons: Secured Area; Extensive deterioration.

Bldg. 3710
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120003
Status: Unutilized
Reasons: Secured Area; Extensive deterioration.

Bldg. 7368
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7356
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7360A
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7364
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7366
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7367
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7372
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7384
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7521
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7522
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7601
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7610
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120015
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7635
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7639
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7660
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120018
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7670
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7688
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7689
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120021
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7722
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120022
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7724
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120023
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 7727
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120024
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 8721
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120025
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. 8987
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200120026
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Alaska

Bldg. 10549
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200120001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration.

Bldg. 11634
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200120002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration.

Bldg. 14545
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200120003
Status: Unutilized
Reason: Secured Area.

Bldg. 16504
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200120004
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area.

Arizona

Bldg. S–2003
Yuma Proving Ground
Yuma Co: La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 21200120027
Status: Excess
Reason: Extensive deterioration.

Bldg. S–2093
Yuma Proving Ground
Yuma Co: La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 21200120028
Status: Excess
Reason: Extensive deterioration.

Former Courthouse
Scott Ave. & Congress St.
Law Enforcement Site
Tucson Co: AZ
Landholding Agency: GSA
Property Number: 54200120006
Status: Excess
Reason: Extensive deterioration, GSA Number: 9–G–AZ–820.

California

Bldg. 10600
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number 18200120005
Status: Unutilized
Reason: Secured Area.

Bldg. 10605
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number 18200120006
Status: Unutilized
Reason: Secured Area.

Bldg. 16109
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number 18200120007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.

Bldg. S–1
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number 21200120029
Status: Unutilized
Reason: Secured Area.

Bldg. S–2
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number 21200120030
Status: Unutilized
Reason: Secured Area.

Bldg. P–32
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number 21200120031
Status: Unutilized
Reason: Secured Area.

Bldg. S–42
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120032
Status: Unutilized
Reason: Secured Area.

Bldg. S–44
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120033
Status: Unutilized
Reason: Secured Area.

Bldg. S–213
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120034
Status: Unutilized
Reason: Secured Area.

Bldg. P–217
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120035
Status: Unutilized
Reason: Secured Area.

Bldg. S–218
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120036
Status: Unutilized
Reason: Secured Area.

Bldg. S–288
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120037
Status: Unutilized
Reason: Secured Area.

Bldg. P–403
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120038
Status: Unutilized
Reason: Secured Area.

Bldg. P–405
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120039
Status: Unutilized
Reason: Secured Area.

Bldg. P–508
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200120040
Status: Unutilized
Reason: Secured Area.

Bldg. 53320
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200120096
Status: Excess
Reason: Extensive deterioration.

Bldg. 53321
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200120097
Status: Excess
Reason: Extensive deterioration.

Bldg. 53335
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200120098
Status: Excess
Reason: Extensive deterioration.

Bldg. 53336
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200120099
Status: Excess
Reason: Extensive deterioration.

Colorado

Bldg. 8412
Air Force Academy
El Paso Co: CO 80840–2400
Landholding Agency: Air Force
Property Number: 18200120008
Status: Unutilized
Reason: Within airport runway clear zone.

Bldg. 762
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 762A
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 792
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120005
Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 792A
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Georgia

Bldg. 00509
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200120041
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–704
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200120042
Status: Excess
Reason: Extensive deterioration.

Hawaii

Bldg. T–643
Schofield Barracks
Wahiawa Co: HI 96786–
Landholding Agency: Army
Property Number: 21200120043
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–1
Dillingham Military
Reservation
Wahiawa Co: HI 96857–
Landholding Agency: Army
Property Number: 21200120044
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–13
Dillingham Military
Reservation
Wahiawa Co: HI 96857–
Landholding Agency: Army
Property Number: 21200120045
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–21
Dillingham Military
Reservation
Wahiawa Co: HI 96857–
Landholding Agency: Army
Property Number: 21200120046
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–24
Dillingham Military
Reservation
Wahiawa Co: HI 96857–
Landholding Agency: Army
Property Number: 21200120047
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–27
Dillingham Military
Reservation
Wahiawa Co: HI 96857–
Landholding Agency: Army
Property Number: 21200120048
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–893
Dillingham Military
Reservation
Wahiawa Co: HI 96857–
Landholding Agency: Army
Property Number: 21200120049
Status: Unutilized
Reason: Extensive deterioration.

24 Units
Peal City Peninsula
Navy Family Housing
Pearl City Co: HI 96782–
Location: #904, 906, 908, 920, 922, 924, 928, 930, 949, 951, 960
Landholding Agency: Navy
Property Number: 77200120100
Status: Unutilized
Reason: Extensive deterioration.

6 Bldgs.
Pearl City Peninsula
Navy Family Housing
Pearl City Co: HI 96792–
Location: #787, 788, 789, 790, 791, 797
Landholding Agency: Navy
Property Number: 77200120101
Status: Unutilized
Reason: Extensive deterioration.

Kentucky

Bldg. T02154
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 21200120050
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T02538
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 21200120051
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T02708
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 21200120052
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T03106
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 21200120053
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T05185
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 21200120054
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T06108
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 21200120055
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T06422
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 21200120056
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T07236
Fort Campbell
Ft. Campbell Co.: Christian KY 42223–
Landholding Agency: Army
Property Number: 21200120057
Status: Unutilized
Reason: Extensive deterioration.

Louisiana

Bldg. 5674
Fort Polk
Ft. Polk Co.: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21200120058
Status: Unutilized
Reason: Floodway.

Maryland

Bldg. 00310 (portion)
Aberdeen Proving Ground
Aberdeen Co.: Hartfort MD 21005–5001
Landholding Agency: Army
Property Number: 21200120059
Status: Unutilized
Reason: Extensive deterioration.

Bldg. E3871
Aberdeen Proving Ground
Aberdeen Co.: Hartfort MD 21005–5001
Landholding Agency: Army
Property Number: 21200120060
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 403
Adelphi Laboratory Center
Adelphi Co.: Montgomery MD 20783–
Landholding Agency: Army
Property Number: 21200120061
Status: Unutilized
Reasons: Within 2000 Ft. of flamable or explosive material; Secured Area.

Bldg. 404
Adelphi Laboratory Center
Adelphi Co.: Montgomery MD 20783–
Landholding Agency: Army
Property Number: 21200120062
Status: Unutilized
Reasons: Within 2000 Ft. of flamable or explosive material; Secured Area.

Missouri

Bldg. 5387
Fort Leonard Wood
Ft. Leonard Wood Co.: MD 65473–
Landholding Agency: Army
Property Number: 21200120063
Status: Unutilized
Reason: Extensive deterioration.

New Mexico

Bldg. 105. TA–3
Los Alamos Natl Lab
Los Alamos Co.: NM 87545–
Landholding Agency: Energy
Property Number: 41200120007
Status: Excess
Reason: Secured Area.

Bldg. 452. TA–3
Los Alamos Natl Lab
Los Alamos Co.: NM 87545–
Landholding Agency: Energy
Property Number: 41200120008
Status: Excess
Reason: Secured Area.

North Dakota

Bldg. 548
Grand Forks AFB
Grand Forks AFB Co.: ND 58205–
Landholding Agency: Air Force
Property Number: 18200120009
Status: Excess
Reasons: Within 2000 Ft. of flamable or explosive material; Secured, Extensive deterioration.

Ohio

Bldg. 54A
Fernald Env. Mgmt. Project
Fernald Co.: Hamilton OH 45013–9402
Landholding Agency: Energy
Property Number: 41200120009
Status: Excess
Reason: Secured Area.

Rhode Island

Bldg. 104
Army Aviation
North Kingstown Co.: Washington RI 02852–
Landholding Agency: Army
Property Number: 21200120064
Status: Unutilized
Reason: Extensive deterioration.

Utah

Bldg. 5234
Dugway Proving Ground
Dugway Co: Tooele UT 84022–
Landholding Agency: Army
Property Number: 21200120065
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, secured area.

Virginia

Bldg. TT0255
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427–
Landholding Agency: Army
Property Number: 21200120066
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–5210
Fort Lee
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 21200120067
Status: Unutilized
Reason: Extensive deterioration.

Washington

Bldg. 8288
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200120068
Status: Exces
Reason: Extensive deterioration.

Bldg. U004A
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120069
Status: Unutilized
Reason: Extensive deterioration.

Bldg. U016B
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120070
Status: Unutilized
Reason: Extensive deterioration.

Bldg. U019B
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120071
Status: Unutilized
Reason: Extensive deterioration.

Bldg. U025A
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120072
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. U055A, U015H, U010G
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120073
Status: Unutilized
Reason: Extensive deterioration.

Bldg. U055C
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120074
Status: Unutilized
Reason: Extensive deterioration.

Bldg. U085A
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120075
Status: Unutilized
Reason: Exetnsive deterioration.

Bldg. U085B
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120076
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 02325
Yakima Training Center
Yakima Co: Kittitas WA 98908–5000
Landholding Agency: Army
Property Number: 21200120084
Status: Unutilized
Reason: Extensive deterioration.

Wisconsin

Bldg. 1655
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5136
Landholding Agency: Army
Property Number: 21200120077
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1845
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5136
Landholding Agency: Army
Property Number: 21200120078
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1849
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5136
Landholding Agency: Army
Property Number: 21200120079
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2163
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5136
Landholding Agency: Army
Property Number: 21200120080
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2167
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5136
Landholding Agency: Army
Property Number: 21200120081
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2193
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5136
Landholding Agency: Army
Property Number: 21200120082
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 8030
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5136
Landholding Agency: Army
Property Number: 21200120083
Status: Unutilized
Reason: Extensive deterioration.

Wyoming

Bldg. 2110
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 18200120010
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Unsuitable Properties

Land (by State)

North Carolina

1.84 acres
Neuse Middle Marker Annex
Seymour Johnson AFB
Wayne Co: NC 27531–
Landholding Agency: Air Force
Property Number: 18200120011
Status: Unutilized
Reason: Floodway inaccessible.

[FR Doc. 01–12239 Filed 5–17–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Permit No. TE–041668

Applicant: Eric R. Lichtwardt, Sebastopol, California.

The applicant requests a permit to take (harass by survey and nest monitor) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (nest monitor) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and population monitoring throughout the species' range in California for the purpose of enhancing their survival.

Permit No. TE–041673

Applicant: Dr. Rachel E. O'Malley, San Jose, California.

This applicant requests a permit to take (capture, handle, and release) the Zayante band-winged grasshopper (*Trimerotropis infantilis*) in conjunction with scientific research throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–814222

Applicant: California Department of Parks and Recreation, San Diego, California.

This applicant requests a permit amendment to take (harass by survey, and locate and monitor nests) the coastal California gnatcatcher (*Polioptila californica californica*) and the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) while conducting survey and population monitoring activities for these species on all California State Park System lands for the purpose of enhancing their survival.

Permit No. TE–844027

Applicant: Deborah House, Bishop, California.

This applicant requested a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) while conducting presence/absence surveys for this species in Inyo and Mono Counties for the purpose of enhancing its survival.

Permit No. TE–820301

Applicant: Stephen Eugene Leach, Walnut Creek, California.

The applicant requests a permit to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), vernal pool tadpole shrimp (*Lepidurus packardi*), and Riverside fairy shrimp (*Streptocephalus wootoni*) throughout each species' range in conjunction with surveys for the purpose of enhancing their survival.

Permit No. TE–042211

Applicant: Steven Lysne, Boise, Idaho.

The applicant requests a permit to take (collect and sacrifice) the Utah valvata snail (*Valvata utahensis*) from Lake Walcott, Minidoka County, Idaho in conjunction with scientific research for the purpose of enhancing its survival.

Permit No. TE–042064

Applicant: Cecilia L. Meyer, San Diego, California.

The applicant requests a permit to take (survey by pursuit) Quino checkerspot butterfly (*Euphydryas editha quino*) throughout the species' range in conjunction with surveys for the purpose of enhancing its survival.

Permit No. TE–042065

Applicant: Joseph A. Desarro, Roberts, Montana.

The applicant requests a permit to purchase, in interstate commerce, four female and four male captive bred Hawaiian (=nene) geese (*Nesochen [=Branta] sandvicensis*) for the purpose of enhancing the species propagation and survival. This notification covers activities conducted by the applicant over the next 5 years.

DATES: Written comments on these permit applications must be received on or before June 18, 2001.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: May 4, 2001.

Rowan W. Gould,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 01–12522 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–130–1610–DE]

Colorado Canyons National Conservation Area Advisory Council; Notice of Intent To Establish and Call for Nominations

AGENCY: Bureau of Land Management (BLM), Grand Junction Field Office, Grand Junction, CO

ACTION: Notice of intent to establish and call for nominations for the Colorado Canyons National Conservation Area Advisory Council under the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000, 16 U.S.C. 460mmm, 4(h)(2000).

SUMMARY: BLM is publishing this notice under Section 9(a)(2) of the Federal Advisory Committee Act. Pursuant to the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000, BLM gives notice that the Secretary of the Interior intends to establish the Colorado Canyons National Conservation Area Advisory Council (Council). The notice requests the public to submit nominations for membership on the Council. The Council is necessary to advise the Secretary and BLM on resource management issues associated with the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000.

DATES: Submit a completed nomination form and nomination letters to the address listed below no later than June 18, 2001.

ADDRESSES: Send nominations to: Field Manager, Grand Junction Field Office, Bureau of Land Management, 2815 H Road, Grand Junction, CO 81506.

FOR FURTHER INFORMATION CONTACT: Catherine Robertson, Grand Junction Field Manager, (970) 244–3010, *catherine_robertson@co.blm.gov* or the following web site *http://conet.coso.co.blm.gov/gjra/ccnca/ccncahome.htm*.

SUPPLEMENTARY INFORMATION: Any individual or organization may nominate one or more persons to serve on the Colorado Canyons National Conservation Area Advisory Council.

Individuals may nominate themselves for Council membership. You may obtain nomination forms from the Grand Junction Field Office, Bureau of Land Management or download the application from the Internet site (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT,** above). To make a nomination, you must submit a completed nomination form, letters of reference from the represented interests or organizations, as well as any other information that speaks to the nominee's qualifications, to the Grand Junction Field Office. You may make nominations for the following categories of interest:

(1) A member of, or nominated by, the Mesa County Board of County Commissioners.

(2) A member of, or nominated by, the permittees holding grazing permits within the National Conservation Area or Wilderness.

(3) A member of, or nominated by, the Northwest Colorado Resource Advisory Council.

(4) Seven members residing in, or within reasonable proximity to, Mesa County, Colorado, with recognized backgrounds reflecting—

(A) The purposes for which the National Conservation Area or Wilderness was established; and

(B) The interests of the stakeholders that are affected by the planning and management of the National Conservation Area and Wilderness.

The specific category the nominee would like to represent should be identified in the letter of nomination and in the nomination form. The Grand Junction Field Office will collect the nomination forms and letters of reference and distribute them to the officials responsible for submitting nominations (commissioners of Mesa County, grazing permittees holding grazing allotments within the National Conservation Area or Wilderness, the Northwest Colorado Resource Advisory Council, and the Bureau of Land Management). The Bureau of Land Management will then forward recommended nominations to the Secretary of the Interior who has responsibility for making the appointments.

The purpose of the Colorado Canyons National Conservation Area Advisory Council is to advise the Bureau of Land Management on the management of the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness. Each member will be a person who, as a result of training and experience, has knowledge or special expertise which qualifies him or her to provide advice from among the categories of interest listed above.

Members will serve without monetary compensation, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

Dated: May 14, 2001.

Nina Rose Hatfield,

Acting Director, Bureau of Land Management.

[FR Doc. 01–12603 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(WY–050–2001–1060–JJ)

Notice of Intent To Remove Excess and Stray Wild Horses

SUMMARY: The Wild, Free Roaming Horse and Burro Act (Pub. L. 92–195) requires that , among other things, horses that exceed the Appropriate Management Levels (AMLs) established for them or stray from designated Herd Management Areas (HMAs) be removed. In order to accomplish that, the Lander Field Office of the Bureau of Land Management plans to remove 350 excess and stray horses from four contiguous herd areas within the Lander Field Office known as the Muskrat Basin HMA, Conant Creek HMA, Rock Creek Mountain HMA, Dishpan Butte HMA and an area north and east of the Muskrat Basin HMA into which horses have strayed outside of the HMA. The removal is scheduled for the summer/fall seasons of 2001. Specific dates depend on the weather and soil conditions, and other factors unforseen at this time. The Appropriate Management level for these four contiguous areas is 320 horses. An Environmental Analysis (EA), and Gather Plan for this removal will be available on June 15, 2001 for a thirty (30) day comment period. from: Jack Kelly, Field Manager, P.O. Box 589, Lander, Wyoming 82520; (307) 332–8400. These documents are also available for review on the Wyoming BLM homepage at *www.wy.blm.gov*

FOR FURTHER INFORMATION CONTACT: For further information please contact Roy Packer, Bureau of Land Management, Lander Field Office, 1335 Main Street, P.O. Box 589, Lander, Wyoming 82520, (307) 332–8400.

Dated: May 9, 2001.

Roy Packer,

Acting Field Manager.

[FR Doc. 01–12516 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[ID–075–1330–AC–241E]

North Rasmussen Ridge Mine, BLM Pocatello Field Office and Caribou-Targhee National Forest, Caribou County, ID

AGENCIES: Bureau of Land Management, USDI and Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM), Pocatello Field Office and the Department of Agriculture, Forest Service (USFS), Caribou-Targhee National Forest, will jointly prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental and human effects of the proposed North Rasmussen Ridge Mine and Reclamation Plan for future operations at the existing Rasmussen Ridge Mine, Caribou County, Idaho, located approximately 25 miles northeast of Soda Springs, Idaho. The proposed mining operations would utilize land administered by the U.S. Forest Service and Bureau of Land Management. Mining will take place on Federal Phosphate Leases I–04375, I–07619 within the Caribou-Targhee National Forest, and in State Lease I–7957 adjacent the Federal Phosphate Leases.

Nu-West Industries, Inc. (Agrium) must obtain federal and state permits prior to mining under the proposed mine plan. The existing mining operation was authorized by Decision Records (DR) associated with two environmental analyses prepared—the DR first issued in 1990 for the South Rasmussen Ridge Mine and the second DR in1997 for Central Rasmussen Ridge Mine. The conditional permits granted by the BLM and USFS at the beginning of the Rasmussen Ridge mining operations required that subsequent site-specific mine plans for the individual mine panels be submitted to the agencies for their review and that appropriate mitigation measures be developed using further environmental analysis.

The environmental effects from the South and Central Rasmussen Ridge mining panels were assessed in the 1990 and 1997 EAs, however this EIS would evaluate the effects of the proposed North Rasmussen Ridge Mine and

Reclamation Plan in light of additional information on selenium and other potential contaminants collected since 1997. Based on the EIS analysis, the BLM would make decisions regarding the North Rasmussen Ridge Mine and Reclamation Plan and additional land use authorizations for the proposed mining activities, including lease modifications by the BLM. In addition, a Section 404, Clean Water Act permit may be required by the U.S. Army Corps of Engineers (Corps) for the proposed operations.

Agency Decisions: The BLM Pocatello Field Office Manager, who is the responsible official for the EIS and administers mineral development activities on Federal leases, will consider approval of a mine and reclamation plan. The Caribou-Targhee National Forest Supervisor, who is the responsible official for Caribou-Targhee National Forest lands not on-lease, would make a related recommendation of appropriate land use authorizations regarding this proposal. The recommendation and decision will include consideration of scoping comments and responses; anticipated environmental consequences discussed in the EIS; and applicable laws, regulations, and policies. Decisions may include approval of site-specific Mine and Reclamation Plans; issuance of phosphate lease modifications by the BLM; and possible modification of existing special use permits for roads, ponds, and ditches by the USFS. A Section 404 Clean Water Act Permit may also be required by the Corps. They would render a decision related to that permit and how to mitigate the impacts to affected wetlands and Waters of the United States.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received on or before June 18, 2001.

Scoping Procedure: The scoping procedure to be used for this EIS will involve the following: a broad mailing asking for comments, issues and concerns to interested and potentially affected individuals, groups, Federal, State and local government; news releases or legal notices; and public scoping meetings.

ADDRESSES: Send written comments to Jerry Koblitz, Greystone Environmental Consultants, Inc., 5231 Quebec Street, Greenwood Village, CO 80111. They may also be submitted by e-mail to *jkoblitz@greystone-consultants.com.*

FOR FURTHER INFORMATION CONTACT: Wendell Johnson, Bureau of Land Management, Pocatello Field Office, 1111 N. 8th Ave., Pocatello, Idaho 83201, phone (208) 478–6353; or Darrel VandeWeg, Caribou-Targhee National Forest, Soda Springs Ranger District, 421 W. Second South, Soda Springs, Idaho 83276, phone (208) 547–4356.

SUPPLEMENTARY INFORMATION: The proposed mining activities consist of the extension of open pit mining to the northern end of Lease I–04375, into State Lease I–7957, then into Federal Lease I–07619—known as North Rasmussen Ridge. In addition, a topsoil stockpile, haul road, and runoff/sediment control facilities would be constructed. Mining would include best management practices for control of releases of sediment and dissolved metals. The proposed open pits would be located along Rasmussen Ridge and would cross the upper west fork of an ephemeral stream known locally as No Name Creek. The creek would be temporarily diverted, then reestablished in it's original location after mining has been concluded. A haulroad would be constructed on the east side of the proposed open pit and would extend along the hillside adjacent to the upper west fork of Sheep Creek and into the upper reach of Reese Canyon. The existing Forest Service road that was built for timber access into upper Sheep Creek has been temporarily closed to the public. The road would remain closed until mining has been completed in Central and North Rasmussen Ridge. The public would be allowed access into the upper Sheep Creek using the existing USFS road DFR 192 from Lanes Creek to Midnight Springs.

Existing mine, haul roads, maintenance, and administrative facilities would be used during the mine period. Ore from the North Rasmussen Ridge Mine would be hauled by truck to Agrium's railroad loading facility located on private property in Wooley Valley. Ore is then transported to Agrium's Conda Plant located approximately seven miles north of Soda Springs, Idaho. Overburden from the mining activity would be used to backfill previously mined panels in Central and North Rasmussen Ridge.

Disturbed lands directly resulting from the proposed activities would total 329.1 acres. The new pits would include 254.6 acres and the rest of the disturbed acreage would be for roads, ponds, and growth media piles. Approximately 248.4 acres of the proposed disturbance would be reclaimed by backfilling most of the proposed open pit areas, regrading fill slopes, spreading topsoil, planting of appropriate vegetation, and installation and maintenance of runoff and sediment control facilities.

The BLM and USFS believe, at this early stage, it is important to give reviewers notice of several court rulings, related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519,553 (1978).* Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F. 2d 1016, 1022 (9th Cir. 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 60-day comment period for the draft EIS so that substantive comments and objections are made available to the BLM and USFS at a time when it can meaningfully consider them and respond to them in the final EIS.

Preliminary Issues

Initially identified issues include potential effects on: ground water and surface water quantity and quality, wildlife and their habitats, livestock grazing, wetlands and riparian habitat, socio-economics, and development of best management practices for mine operations.

Possible Alternatives

The EIS will analyze the Proposed Action and No Action Alternatives. Other alternatives may include alterations to portions of the proposed mining plan or sequence and design parameters to provide mitigation for resources of concern.

Tentative EIS Project Schedule

The tentative project schedule is as follows:

- Begin Public Comment Period—April, 2001
- Hold Public Scoping Meetings—May, 2001
- Estimated date for Draft EIS—May, 2002
- Public Comment Period on Draft EIS—60 days from when the Notice of Availability is published in the **Federal Register**
- Final EIS—September 2002
- Record of Decision—October 2002

Public Scoping Meetings

Two public scoping meetings will be held, each an open house, from 7:00 PM–9:00 PM. The open houses would include displays explaining the project and a forum for commenting on the project. Scoping meetings will be held in the Soda Springs City Office Building, Soda Springs, Idaho, and in the BLM Field Office, Pocatello, Idaho. Dates for the two scoping meetings will be published in the Caribou County Sun and in the Idaho State Journal newspapers.

Public Input Requested

The BLM and USFS are seeking information and written comments from Federal, State and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. To assist the BLM and USFS in identifying and considering issues and concerns related to the proposed action, comments for scoping, and later for the Draft EIS, should be as specific as possible. Referring to specific pages or chapters of the EIS or the merits of the alternatives formulated and discussed in the EIS is most helpful. All scoping comments are due 30 days after publication in the Idaho State Journal.

Dated: April 18, 2001.

Jeff S. Steele,

BLM Pocatello Field Manager.

Jerry Reese,

Forest Supervisor, Caribou-Targhee National Forest.

[FR Doc. 01–12512 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–01–1020–PB]

New Mexico Resource Advisory Council Meeting

AGENCY: The Bureau of Land Management, Department of the Interior.

ACTION: Notice of council meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, The Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). The meeting will be held on June 7 and 8, 2001, at the Holiday Inn Santa Fe, 4048 Cerrillos Road, Santa Fe, New Mexico, 87505.

There will be an optional all day field trip on Wednesday, June 6, 2001. Transportation will be provided for RAC members. The optional field trip will be organized by the Albuquerque and Taos Field Offices of the BLM. The field trip will leave from the Holiday Inn at 8:30 a.m.

The meeting on Thursday, June 7, 2001, will start at 8 a.m. and will end about 5 p.m. The draft agenda for the RAC meeting includes agreement on the meeting agenda, any RAC comments on the draft minutes of the last RAC Meeting which was held on April 4 through 6, 2001, in Carlsbad, New Mexico, and a check-in from the RAC members. The focus of the meeting will be on Off Highway Vehicle issues and Energy issues. Presentations will include discussion.

The three established RAC Subcommittees may have late afternoon or evening meetings on Wednesday, June 6, after the optional field trip, or on Thursday, June 7, after the meeting. The exact time and location of possible subcommittee meetings will be established by the Chairperson of each subcommittee and be available to the public following the field trip on Wednesday, June 6, and during the RAC meeting on Thursday, June 7, for that evening. That information will also be available at the desk of the Holiday Inn on those two days. On Friday, June 8, the meeting starts at 8 a.m. and will end about 3 p.m. The ending time of 3 p.m. may be changed depending on the work remaining for the RAC.

The meeting is open to the public, and starting at 2:45 p.m. on Thursday, June 6, 2001, there will be an additional 15 minute Public Comment Period for members of the public who are not able to be present for the regular Public Comment Period on Friday, June 8, to address the RAC.

The meeting on Friday, April 6, will start at 8 a.m. with a review of the agenda thus far. RAC Subcommittee Reports are scheduled from the Urban and Open Space Subcommittee, the Roads and Trails Subcommittee, and the Energy Subcommittee at various times throughout the two day meeting.

The regular Public Comment Period for the Public to address the RAC is on Friday, June 8, 2001, from 10 a.m. to 12 noon. The RAC may reduce or extend the end time of 12 noon depending on the number of people wishing to address the RAC. Anyone wishing to address the RAC should be present at the 10 a.m. starting time. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people wish to address the RAC, but usually not more than 15 minutes. At the completion of public comments, the RAC may continue discussion of its agenda items.

BLM State of the Field Office Reports, presented by the Field Office Managers, will be scheduled at various times during the 2 day meeting.

RAC discussions any any RAC recommendations are scheduled for 2:45 p.m. followed by a RAC assessment of the current meeting and development of draft agenda items and selection of a location for the next RAC meeting.

FOR FURTHER INFORMATION CONTACT: Mary White, New Mexico State Office, Office of External Affairs, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7404.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Dated: April 24, 2001.

Richard Whitley,

Associate State Director.

[FR Doc. 01–12509 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–079–01–1020–AC]

Resource Advisory Council Meeting, Dillon, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Western Montana Resource Advisory Council will convene on May 31, 2001 at 12 Noon at the U.S. Forest Service Sheridan Work Center, 103 North Main, Sheridan, Montana., A field tour of the Garden Creek allotment will begin from there and end at Dillon, Montana. This area of the Ruby Mountains has recently been assessed for compliance with Standards for Rangeland Health. The tour is designed to look at areas that are not currently meeting the standards, and discussions on the planning process for making changes in the current grazing management to initiate progress in meeting the standard will be held on the

allotment. Some watershed restoration projects in the Stone Creek watershed will also be visited on the way to Dillon.

The meeting will continue at the Dillon Field Office, 1005 Selway Drive, Dillon, Montana at 8 a.m. on June 1, 2001. A briefing on the status of the Dillon Resource Management Plan will be given. Public comment will be accepted at 9 a.m.

Following the public comment session, a field trip to visit an area that has been assessed for compliance with the Standards for Rangeland Health and found to be meeting the standards will be held. This will allow the RAC members to see how the Standards for Rangeland Health are being assessed on the ground. The location for this tour will be determined later based on weather conditions.

The meeting is open to the public and written comments can be given to the Council. Oral comments may be presented to the Council on June 1 at 9:00 a.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or who need special assistance, such as sign language or other reasonable accommodations, should contact Jean Nelson-Dean, Resource Advisory Coordinator, at the Butte Field Office, 106 North Parkmont, Butte, Montana 59702–3388, telephone 406–533–7617.

FOR FURTHER INFORMATION CONTACT: Scott Powers, Dillon Field Manager, 406–683–8023 or Jean Nelson-Dean at the above address and telephone number.

Dated: April 27, 2001.

Dave Pacioretty,

Acting Field Manager.

[FR Doc. 01–12510 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–370–1020–PG]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northeast California Resource Advisory Council, Cedarville, California, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Pub. L. 94–579), the U.S. Bureau of Land Management's Northeast California Resource Advisory Council will meet Thursday, May 31, and Friday, June 1, 2001, in Cedarville, CA

SUPPLEMENTARY INFORMATION: On Thursday, May 31, the RAC will convene at 7 p.m. at Jan's Country Hearth, 551 Main St., Cedarville, to hear public comments on issues affecting management of public lands administered by the BLM. On Friday, June 1, the council will convene at 8 a.m. at the BLM Surprise Field Office, 602 Cressler St., Cedarville, and depart for a field tour of public lands sites managed by the BLM. Discussion topics during the field tour will include BLM Native American consultation responsibilities, management considerations associated with threatened fish species, juniper management, and rangeland management after fires. Members of the public are welcome on the tour. They must provide their own transportation and lunch. The field tour will return to Cedarville by 4 p.m.

FOR FURTHER INFORMATION: Contact BLM Surprise Field Office Manager Susie Stokke at (530) 279–6101, or Public Affairs Officer Joseph J. Fontana, (530) 257–5381.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 01–12515 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–930–1310–EI]

Notice of Intent To Hold Oil and Gas Lease Sale 2002; National Petroleum Reserve—Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: National Petroleum Reserve-Alaska (NPR–A); Notice of Intent to Hold Oil and Gas Lease Sale 2002 in the NPR–A. This Notice of Intent is published as a matter of information to the public.

FOR FURTHER INFORMATION CONTACT: Bob Merrill or Gene Terland, BLM Alaska State Office, 907–271–3833.

SUPPLEMENTARY INFORMATION: The lands proposed for leasing in this sale will be limited to a reoffering of those lands which were made available but not leased in Sale 991 on May 5, 1999, so we are not issuing a new call for Nominations and Comments on tracts for this sale. The tracts will be renumbered. Some modifications may be made regarding tract potential and tract delineations. Therefore, the minimum bids, rentals, royalties, and tract sizes for those lands may be increased or decreased. Despite such changes, all of the unleased lands will be reoffered.

A Proposed Notice of Sale will be published in the **Federal Register** at least 60 days prior to the date of bid opening. That publication will also announce the availability of the Detailed Statement of Sale and where copies may be obtained. Compliance with all applicable environmental laws and regulations will be ensured before the sale is held. The Secretary of the Interior will also provide the State of Alaska and the North Slope Borough the opportunity to review the 2002 Detailed Statement of Sale in regard to, among other things, Coastal Zone Management review.

The Final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is tentatively scheduled for June 2002.

Francis R. Cherry, Jr.,

State Director, Alaska.

[FR Doc. 01–12513 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MTM–050–1330–ES, MTM–89572]

Notice of Realty Action: Recreation and Public Purposes (R&PP) Act Classification, Madison County, MT

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The following public lands in Madison County, Montana, have been examined and found suitable for classification for conveyance to the State of Montana through the Montana Heritage Commission under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Montana Heritage Commission proposes to use the lands for historic monument purposes to preserve the historic mining features on the property for interpretation purposes. A narrow gage railroad, built in the 1940s, runs between Nevada City and Virginia City, Montana providing the public with an interpretive tour of the historic mining period and technologies used in the area. The parcel will provide an integral link between the historic towns of Nevada City and Virginia City. The revenues received from the train operation will be used for the operation and maintenance of buildings and artifacts owned by the State of Montana in Virginia City and Nevada City.

Principal Meridian Montana

T. 6S., R. 3W.,
Sec. 21, lot 8; sec. 22, lot 14
Containing 160 acres more or less.

The lands are not needed for Federal purposes. Conveyance of these lands is consistent with current Bureau of Land Management (BLM) land use planning and would be in the public interest. A patent will be issued for these lands. The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States (Act of August 30, 1890).

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management's Dillon Field Office, 1005 Selway Drive, Dillon, Montana 59725–9431.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws and the mineral leasing laws, except for conveyance under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the classificaiton of the lands or the proposed conveyance to the Field Manager at the address listed above.

Classification Comments: Interested parties may submit comments involving the suitability of the land for historic monument purposes. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for historic monument purposes.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Mark J. Goeden,

Acting Dillon Field Manager.

[FR Doc. 01–12407 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–EU; N–66786]

Notice of Realty Action; Nevada; Direct Sale of Public Lands in Nye County

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Direct Sale of Public Lands in Nye County, Nevada.

SUMMARY: The following described land near Beatty, Nye County, Nevada, has been examined and found suitable for disposal by direct sale, at the appraised fair market value, to James Key, resident of Beatty, Nevada. The sale is authorized under Section 203 and Section 209 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1713 and 1719):

Mount Diablo Meridian, Nevada

T. 12 S., R. 47 E.,
Section 8, NW¼SW¼NW¼SW¼;
comprising 2.5 acres, more or less.

The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Charles Wright, Realty Specialist, Bureau of Land Management, Tonopah Field Station, P.O. Box 911, 1553 South Main Street, Tonopah, NV, 89049.

SUPPLEMENTARY INFORMATION: The land has been identified as suitable for disposal within the Tonopah Resource Management Plan. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency. An environmental assessment which analyzes potential impacts from this action has been prepared and is available for review at the address shown above.

The mineral estate, has been determined to have no known value. Therefore, the mineral estate will be conveyed simultaneously with the surface estate in accordance with Section 209(b)(1) of Federal Land Policy and Management Act of 1976. Acceptance of the sale offer will constitute application for conveyance of the mineral interests. The sale proponent will be required to submit a $50.00 non-refundable filing fee for conveyance of the mineral interests with the purchase price for the land. Failure to submit the non-refundable fee for the mineral estate within the time frame specified by the authorized officer will result in cancellation of the sale.

Upon publication of this Notice of Realty Action in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or disposals pursuant to Sections 203 and 209 of FLPMA. The segregation shall terminate upon issuance of a patent or other document of conveyance, upon publication in the **Federal Register** of a termination of segregation, or 270 days from date of this publication, which ever occurs first.

Patent, if issued, will be subject to the following third party rights:

Excepting and Reserving to the United States:

A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1980 (43 U.S.C. 945).

Subject to:

All valid existing rights.

For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the Assistant Field Manager, Tonopah Field Station, P.O. Box 911, Tonopah, NV 89049. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of timely filed objections, this realty action will become a final determination of the Department of the Interior.

Dated: May 4, 2001.

W. Craig MacKinnon,

Assistant Field Manager.

[FR Doc. 01–12511 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–330–1220–AF]

King Range National Conservation Area, California

AGENCY: Bureu of Land Management, Interior.

ACTION: Establishment of supplementary rules.

SUMMARY: The Arcata Field Office is establishing the following Supplementary Rules for the King Range National Conservation Area as provided for under the recreation regulations of the Bureau of Land Management (BLM). The supplementary rules on camping limits are necessary to reduce resource damage and fire danger in the riparian area, dunes, and other undeveloped lands. The supplementary rules on camping fees are needed to cover a portion of maintenance and visitor service costs. The supplementary rule on nighttime parking is necessary to allow visitors to Black Sands Beach and other parts of the King Range backcountry to park if they arrive at night, while prohibiting nighttime activities that would disturb neighbors.

EFFECTIVE DATES: April 1, 2001.

ADDRESSES: You may send inquiries or suggestions to Field Office Manager, Bureau of Land Management, Arcata Field Office, 1695 Heindon Rd., Arcata, CA 95521.

FOR FURTHER INFORMATION CONTACT: Lynda J. Roush, (707) 825–2300.

SUPPLEMENTARY INFORMATION:

I. Background

The proposed Supplementary Rules were published in the **Federal Register** on May 25, 2000, with a 30-day comment period ending on June 26, 2000. BLM received 30 comments during this comment period.

Supplementary rules are authorized by 43 CFR 8365.1–6. The implementation of fees is authorized under the Land and Water Conservation Fund Act of 1965 as Amended, and the Omnibus Consolidated Rescissions Act of 1996 as Amended (Public Law 104–134).

II. Response to Public Comments

Based on the public comments and other information we received, BLM makes the following changes in the supplementary rules:

- We removed the proposed overnight parking fees for the Mattole and Black Sands Beach Recreation Sites. We will consider the need for parking fees at a later date.
- We clarified the description of the Black Sands Beach Recreation Site. The nighttime use requirements apply only to the immediate area within the developed site, not to the beach itself.
- We changed the nighttime camping fee periods for Honeydew Creek and Mattole Campground. Under the final Supplementary Rules you must pay a fee at Honeydew Creek for the period from sunset until 8 a.m. We made this change in order to be consistent with all other campgrounds in the King Range. We changed the nighttime fee period for Mattole Campground to one hour after sunset until one hour before sunrise. Note that these changes do not affect free public access to Honeydew Creek or Mattole Beach, but only pertain to overnight use of the developed campground.

III. Discussion of the Final Supplementary Rules

A. Camping at Mattole Campground

Currently visitors camp in areas between sites or in undeveloped areas immediately adjacent to the Mattole Campground. BLM intends the restriction of camping to developed campsites and the imposition of site capacity limits to reduce resource damage and fire danger the riparian area, dunes, and other undeveloped lands surrounding the Mattole Campground. This supplementary rule is also intended to provide a high quality experience to campground visitors by ensuring that the site is used for its intended purpose and capacity.

B. Camping Fees and Occupancy Limits

We have established camping fees at Honeydew Creek and Mattole Campgrounds to cover a portion of the maintenance and visitor service costs. BLM manages both sites under the Federal Fee Demonstration Program. This program requires that all fees be used for on-the-ground maintenance and services at the sites where they are collected. We have set the fees at a level commensurate with fees charged at other public and private camping areas in the region, adjusted for the level of amenities and on-site facilities we provide.

BLM has established occupancy limits to help provide a quality experience to campground visitors by ensuring that the sites are used for their intended purpose and capacity by families and small groups.

C. Nighttime Use of Black Sands Beach Recreation Site

Winter storms washed away the original Black Sands Beach Recreation Site, and BLM closed it in 1998. We closed this site to overnight use and camping beginning May 20, 1997 (FR Volume 62, Number 100, page 28495–28496), because coastal erosion made the site too small to accommodate camping and parking. This original site was separated from adjoining residences by a 75-foot coastal bluff that blocked both visual and sound impacts. A new site (planned for completion in autumn 2000) is under construction on top of the bluffs and immediately adjacent to private residences. BLM has designed the site to accommodate 2 types of use while protecting the privacy of adjoining residents. First, the site will serve as a day-use facility/beach access point, offering on-site amenities such as parking, a restroom, scenic overlooks, and interpretive signs. The opportunities we provide here will complement other BLM-managed coastal sites such as Abalone Point and Seal Rock, which are also adjacent to residences. All of these sites are open to day-use only, to minimize impacts on adjoining residents. In addition, the Black Sands Beach Recreation Sites serves as a major staging area for visitors heading onto the beach for overnight camping, backpacking, surfing, and other longer-term activities. Many of these visitors travel from long distances and may arrive or depart during the nighttime period. This rule allows nighttime access to the parking lot for visitors who are heading onto Black Sands Beach and other parts of the King Range backcountry, while prohibiting use of the site itself for nighttime activities.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules are not a significant regulatory action and are not subject to review by Office of Management and Budget under Executive Order 12866. These supplementary rules will not have an effect of $100 million or more on the economy. They will not affect commercial activity, but contain rules of conduct for public use of certain recreational areas. They will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues.

Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these supplementary rules easier to understand, including answers to questions such as the following:

(1) Are the requirements in the supplementary rules clearly stated?

(2) Do the supplementary rules contain technical language or jargon that interferes with their clarity?

(3) Does the format of the supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

(4) Would the supplementary rules be easier to understand if they were divided into more (but shorter) sections?

(5) Is the description of the supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the supplementary rules? How could this description be more helpful in making the supplementary rules easier to understand?

Please send any comments you have on the clarity of the supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that the supplementary rules do not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the Environmental Protection Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The supplementary rules merely contain rules of conduct for certain recreational lands in California. These rules are designed to protect the environment and the public health and safety. A detailed statement under NEPA is not required. BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section. BLM invites the public to review these documents.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The supplementary rules do not pertain specifically to commercial or government entities of any size, but to public recreational use of specific public lands. Therefore, BLM has determined under the RFA that these supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These supplementary rules do not constitute a "major rule" as defined at 5 U.S.C. 804(2). Again, the supplementary rules merely contain rules of conduct for recreational use of certain public lands. The supplementary rules have no effect on business—commercial or industrial—use of the public lands.

Unfunded Mandates Reform Act

These supplementary rules do not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor do these supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. The supplementary rules do not require anything of State, local, or tribal governments. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. The supplementary rules do not address property rights in any form, and do not cause the impairment of anyone's property rights. In part, the rules are intended to protect the property rights of neighboring landowners by restricting the nighttime use of the Black Sands Beach Parking Area/Recreation Site. Therefore, the Department of the Interior has determined that the supplementary rules will not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The supplementary rules will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The supplementary rules affect land in only one State, California, and do not address jurisdictional issues involving the State government. Therefore, in accordance with Executive Order 13132, BLM has determined that these supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, BLM has determined that these supplementary rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

These supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Author

The principal author of these supplementary rules is Robert Wick, Outdoor Recreation Planner, of the Arcata Field Office, Bureau of Land Management, Department of the Interior.

For the reasons stated in the Preamble, and under the authority of 43 CFR chapter II, part 8360, section 8365.1–6, the Arcata Field Office Manager establishes supplemental rules to read as follows:

Supplementary Rules for the King Range National Conservation Area

Section 1 Camping Limits at Mattole Campground

BLM-administered public lands within 500 feet of the perimeter of the Mattole Campground are closed to camping (overnight occupancy) other than at developed campsites. For the purposes of this supplementary rule, a developed campsite contains both a picnic table and a permanent fire ring/grill.

Section 2 Overnight Camping Fees and Occupancy Limits for Mattole and Honeydew Creek Campgrounds

a. You must pay a campground use fee of $5.00 per campsite per night at the Mattole and Honeydew Creek Campgrounds. Fees are only for use of the developed campgrounds. There is no fee for use of the adjacent parking lot/beach access at the Mattole Campground.

1. Fees for campground use at Mattole Campground are in effect from one hour after sunset to one hour before sunrise.

2. Fees for campground use at the Honeydew Creek Campground are in effect from sunset to 8 a.m.

b. You may occupy a campsite with no more than 2 vehicles and 8 persons per site.

Section 3 Nighttime Use of Black Sands Beach Parking Area/Recreation Site

a. The Black Sands Beach Parking Area/Recreation Site is closed to all overnight camping. The developed parking area/recreation site is intended for day use and vehicle parking for beach access. This developed recreation site includes approximately 5 acres of public lands and easements on the bluffs above the wave slope north of Humboldt Creek and south of Telegraph Creek. This supplementary rule affects the developed site only and does not pertain to nighttime use of the beach.

b. Nighttime use is limited to vehicle parking and unloading for off-site public land visits. You may use the parking area/recreation site for no more than 30 minutes for unloading/loading purposes during the nighttime period. This supplementary rule does not affect day use.

c. For the purpose of this supplementary rule, the nighttime period is defined as 1 hour after sunset to 1 hour before sunrise.

Section 4 Prohibited Acts

You must not—

a. Camp overnight at the Mattole Campground or within 500 feet of the campground perimeter other than at developed campsites;

b. Fail to pay the campground use fee of $5.00 per campsite per night at the Mattole and Honeydew Creek Campgrounds;

c. Occupy a campsite at the Mattole and Honeydew Creek Campgrounds with more than 2 vehicles or 8 persons per site; or

d. Camp or engage in activities other than parking and unloading or loading at the Black Sands Beach Parking Area/Recreation Site during the nighttime hours.

Section 5 Penalties

Under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), is you knowingly and willfully violate or fail to comply with any of the supplementary rules provided in this notice, you may be subject to a fine under 18 U.S.C. 3571 or other penalties in accordance with 43 U.S.C. 1733.

Michael Pool,

California State Director.

[FR Doc. 01–12514 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management/National Park Service

[NM–930–01–1050–DS–005G]

Notice of Intent To Prepare a Comprehensive Management Plan, Including Possible Resource Management Plan Amendments for the El Camino Real de Tierra Adentro National Historic Trail; New Mexico and Texas

AGENCY: Bureau of Land Management, National Park Service, Interior.

ACTION: Notice of intent to prepare a Comprehensive Management Plan, including possible Resource Management Plan Amendments and an invitation to the public to participate in the planning process.

SUMMARY: Pursuant to the National Trails System Act, as amended (Pub. L. 90–543), the National Park Service (NPS) and the Bureau of Land Management (BLM) are initiating preparation of a Comprehensive Management Plan (CMP) for the El Camino Real de Tierra Adentro National Historic Trail in New Mexico and Texas. The trail passes through four BLM Field Office administrative areas with five existing Resource Management Plans (RMPs) and there may be a need to amend one or more of these Plans. The RMPs that have the possibility of being amended are: (1) Taos RMP, (2) Rio Puerco RMP, (3) Socorro RMP, (4) White Sands RMP, and (5) Mimbres RMP.

The public is invited to participate in each stage of the planning process, and public meetings will be held. The initial scoping meetings will occur at 6:30 p.m. at the following locations: Alcalde, New Mexico (Oñate Visitor Center, State Road 68,)—June 25, 2001; Santa Fe, New Mexico (Genoveva Chavez Community Center, 3221 Rodeo Road)—June 28, 2001; Albuquerque, New Mexico (National Hispanic Cultural Center of New Mexico, 1701 Fourth Street, N.W.)—June 22, 2001; Socorro, New Mexico (Holiday Inn Express, 1100 California Avenue)—June 19, 2001; Truth or Consequences, New Mexico (T or C Civic Center, 505 Sims Street)—June 18, 2001; Las Cruces, New Mexico (Farm and Ranch Heritage Museum, Dripping Springs Road)—June 13, 2001; El Paso, Texas (Chamizal National Memorial, 800 S. San Marcial)—June 14, 2001.

DATES: Written comments relating to the planning process will be accepted on or before July 16, 2001, and should be addressed to Harry Myers at the address below.

FOR FURTHER INFORMATION CONTACT: Harry Myers, National Park Service, P.O. Box 728, Santa Fe, NM 87504–0728, phone (505) 988–6717, fax (505) 986–5214 or Terry Humphrey, Bureau of Land Management, 226 Cruz Alta Road, Taos, NM 87571; phone (505) 758–8851, fax (505) 758–1620.

SUPPLEMENTARY INFORMATION: The National Park Service Long Distance Trails Group Office—Santa Fe and the Bureau of Land Management, New Mexico State Office, are the lead offices for preparation of the plan, and both are responsible for administering the trail as per agency agreement. They will coordinate with the public, various Federal agencies, tribal governments, and local and state governments in the plan's development. Consultation will be an important factor to the process and should be an integral part of the planning team's efforts. Once an advisory council has been formed as required by section 5(d) of the National Trails System Act, the study team will work closely with that body.

The purpose of the Comprehensive Management Plan will be to establish the administrative objectives, policies, processes, and management actions needed to fulfill the preservation and public use goals of the El Camino Real de Tierra Adentro National Historic Trial. It will be comprehensive in nature, and will resolve or address issues along the El Camino Real de Tierra Adentro National Historic Trail which are identified through agency, interagency, and public scoping efforts.

The purpose of a National Historic Trail is the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. National Historic Trails are extended trails that follow as closely as possible and practicable original routes of travel that are historically significant. The designation of such trails or routes is to be continuous, but the established or developed trails are not necessarily continuous land areas; they may include portions or sections of land areas, land and water segments, or other specific sites.

Existing trail segments already in Federal ownership will become the initial components of the National Trail. Other trail segments could be developed and protected through various means such as cooperative and certification agreements, easements, and actions by private organizations. Generally, there would be little if any acquisition of private lands, and then only with the landowner's consent.

The plan will explain or identify the desired future conditions to be maintained or achieved, administrative and management actions necessary to achieve objectives, and a schedule and a cost estimate for implementing the actions for achieving those goals. Through these actions, the El Camino Real de Tierra Adentro Historic Trail will be administered and managed according to the intent of Congress, as expressed in the establishing legislation and the National Trails System Act.

The joint BLM/NPS administration of the El Camino Real de Tierra Adentro National Historic Trail must rely on the cooperative management efforts and support of state, local, and private interests, including landowners, to ensure the protection of trail-related resources, to provide outdoor recreational opportunities, and to accomplish the objectives of the interpretive programs.

Consistent with the National Trails System Act, the NPS/BLM administrative role will be to set goals, stimulate public support and partnerships, provide technical and limited financial assistance and other incentives, manage trail marker use, and otherwise coordinate, facilitate, and monitor management and use of the trail. Therefore, public agencies and private interests at the grassroots will be encouraged to mark the trail route, seek certification, secure necessary interests in lands, provide for the preservation of the trail's resources, ensure the upkeep and accessibility of sites and segments for public educational and recreational benefits, and perform the day-to-day management of their own sites and areas.

Within this partnership both agencies will work to ensure that the trail is managed as a single, integrated resource, with the Comprehensive Management Plan providing overall guidance for trail management. The Comprehensive Management Plan will identify the various tasks of administration and the means of carrying out those tasks. It will define the relationships between administration and the day-to-day management of the trail and outline effective strategies for achieving plan implementation.

The Comprehensive Management Plan will identify objectives to guide the establishment of a cooperative management system for the El Camino Real de Tierra Adentro National Historic Trail. It will also describe a certification process for non-Federal trail sites/segments and identify the role that existing Federal land management agencies along the trail will play in the plan implementation.

The plan will define the criteria that will be used to select sites suitable for interpretation, preservation, recreational retracement, and potential development support. It will tell how to define priorities for marking, protection, and potential public use and it will describe what strategies are most appropriate for resource protection. The issue of potential liability and impacts upon landowners will be addressed. The promotion and coordination of the tourism potential of the trail will also be addressed.

The establishment law authorizes cooperation with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

The legislation also stated that: (1) The El Camino Real de Tierra Adentro (the Royal Road to the Interior Lands), served as the primary route between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros (1598–1600), San Gabriel (1600–1609) and then Santa Fe (1610–1821); (2) The portion of the El Camino Real de Tierra Adentro that resided in what is now the United States extended between El Paso, Texas, and present San Juan Pueblo, New Mexico, a distance of 404 miles; (3) The El Camino Real is a symbol of the cultural interaction between nations and ethnic groups and of the commercial exchange that made possible the development and growth of the borderland; (4) American Indian groups, especially the Pueblo Indians of the Rio Grande, developed trails for trade long before Europeans arrived; (5) In 1598, Juan de Oñate led a Spanish military expedition along those trails to establish the northern portion of the El Camino Real; (6) During the Mexican National Period and part of the U.S. Territorial Period, the El Camino Real de Tierra Adentro facilitated the emigration of people to New Mexico and other areas that would become the United States; (7) The exploration, conquest, colonization, settlement, religious conversion, and military occupation of a large area of the borderlands was made possible by this route, whose historical period extended from 1598 to 1882; (8) American Indians, European emigrants, miners, ranchers, soldiers, and missionaries used the El Camino Real during the historic development of the borderlands. These travelers promoted cultural interaction among Spaniards, other Europeans, American Indians, Mexicans, and Americans; (9) The El Camino Real fostered the spread of Catholicism, mining, an extensive network of commerce, and ethnic and cultural traditions including music, folklore, medicine, foods, architecture, language, place names, irrigation systems, and Spanish law.

The following preliminary criteria were developed internally and will be reviewed by the public before used in the Comprehensive Management Plan/RMP Amendment/Environmental Impact Statement process. After public input analysis, they become proposed criteria, and can be added to or changed as the issues are addressed or new information is presented: (1) The plan should be completed in compliance with Sec. 5(a) of the National Trails System Act and all other applicable laws. It will meet the requirements of P.L. 106–307 to protect the trail's natural and historic resources and recreation opportunities; (2) The planning team should work cooperatively with the State of New Mexico, tribal governments, county and municipal governments, other Federal agencies, and all other interested groups, agencies, and individuals. Public participation will be encouraged throughout the process; (3) The planning process will include an Environmental Impact Statement that will comply with NEPA and Council on Environmental Quality guidelines; (4) The plan will emphasize the protection and enhancement of the historic values of the Trail, while providing the public with opportunities for compatible recreation activities; (5) Development and management of each segment of the National Trails System shall be designed to harmonize with, and complement, any established multiple-use plans for the specific area in order to ensure continued maximum benefits from the land (National Trails System Act, Sec 7. (a)(2); (6) The lifestyles and concerns of area residents, including the activities of grazing and hunting, will be recognized in the plan; (7) Any lands along the trail which are acquired by federal agencies from willing sellers to accomplish purposes for which the trail

was designated will be managed consistent with the National Trails System Act; (8) The planning process will involve American Indian tribal governments and will provide strategies for the protection of recognized traditional uses; (9) Decisions in the plan should strive to be compatible with the existing plans and policies of adjacent local, State and Federal agencies as long as the decisions are in conformance with Congressional direction and federal laws, regulation and policy; (10) The location of the trail has been determined by historical information and actual field surveys and will be further refined using Geographic Information Systems.

A range of alternatives, including a No Action alternative, will be developed to respond to the issues identified at the outset of the process. Each alternative will provide different solutions to the issues and concerns brought out. The objective in alternative formulation will be to develop realistic, implementable solutions that represent a complete plan, in and of themselves. The public will assist in the development of a range of alternatives during the community workshops. Preliminary issues and management concerns include: (1) How the historic, scenic and natural resources of the trail will be preserved; (2) How management of the trail will affect activities and use by the public; (3) How trail management will be integrated with tribal and other government agency and community plans; (4) Availability of opportunities to provide visitor services, education and/or recreation; (5) Incorporation of international interest in the trail; and (6) Effect of National Historic Trail designation on private property.

A preliminary public participation plan has been developed and sets forth the methods by which the public has the opportunity to be informed and involved so they can participate effectively in the planning and NEPA process. The public involvement process will focus on an interactive dialogue of information that will result in the exchange of constructive ideas, alternatives and new possibilities for mitigating potential environmental impact associated with this project.

The plan will also be responsive to the requirements of Presidential Executive Order 12898 on Environmental Justice. This Executive Order requires Federal agencies to identify potential disproportionate impacts on low income and minority communities. In addition, the Executive Order requires each Federal agency to provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving accessibility of meetings, crucial documents and notices.

This project impacts multiple agencies and local governmental jurisdictions. It is important to have roles and responsibilities, as well as input of the affected entities, established at the outset. The BLM and NPS will engage other affected or potentially interested Federal agencies, North American Indian tribes, state and county government, and international partners, early in the EIS process. Their opinions on issues, scope of work, decisions to be made, and process are essential to the EIS process. Documents pertinent to the Environmental Impact Statement, such as Land and Resource Management Plans, Resource Management Plans, State codes and regulations, County and City zoning, and land use policies, need to be identified during this stage. Ongoing communication throughout the project is vital. The Bureau of Land Management and the National Park Service are committed to a collaborative planning approach.

Contact Terry Humphrey, BLM, El Camino Real Planning Team Leader at Taos Field Office, 226 Cruz Alta Road, Taos, New Mexico 87571 or Harry Myers, NPS, El Camino Real Planning Team Leader at P.O. Box 728, Santa Fe, New Mexico 87504–0728 for additional information.

Dated: May 9, 2001.

Carsten F. Goff,

Acting State Director, BLM—New Mexico.

Michael D. Snyder,

Acting Director, NPS, Intermountain Region.

[FR Doc. 01–12508 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–AG–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundtable Amendments Subcommittee Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meetings.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem Roundtable Amendments Subcommittee will meet on May 23, 2001 to discuss proposed contract modifications for several ongoing ecosystem restoration projects. This meeting is open to the public. Interested persons may make oral statements to the Amendments Subcommittee or may file written statements for consideration.

DATES: The BDAC's Ecosystem Roundtable Amendments Subcommittee meeting will be held from 9 a.m. to 12 p.m. on Wednesday, May 23, 2001.

ADDRESSES: The Amendments Subcommittee will meet at the Resources Building, 1416 Ninth Street, Room 1131, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Terry Mills, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan that addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: May 11, 2001.

Lowell F. Ploss,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 01–12604 Filed 5–17–01; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

Summary of Commission Practice Relating to Administrative Protective Orders

AGENCY: International Trade Commission.

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: Since February 1991, the U.S. International Trade Commission ("Commission") has issued an annual report on the status of its practice with respect to violations of its administrative protective orders ("APOs") in investigations under Title VII of the Tariff Act of 1930 in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than Title VII and violations of the Commission's rule on bracketing business proprietary information ("BPI")(the "24-hour rule"), 19 CFR 207.3(c). This notice provides a summary of investigations of breaches in Title VII investigations completed during calendar year 2000. There were no completed investigations of breaches for other Commission proceedings or for 24-hour rule violations during that period. The Commission intends that this report educate representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission and the corresponding types of actions the Commission has taken.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission can also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: Representatives of parties to investigations conducted under Title VII of the Tariff Act of 1930 may enter into APOs that permit them, under strict conditions, to obtain access to BPI of other parties. See 19 U.S.C. 1677f; 19 CFR 207.7. The discussion below describes APO breach investigations that the Commission has completed, including a description of actions taken in response to breaches. The discussion covers breach investigations completed during calendar year 2000.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and the 24-hour rule. See 56 FR 4846 (Feb. 6, 1991); 57 FR 12,335 (Apr. 9, 1992); 58 FR 21,991 (Apr. 26, 1993); 59 FR 16,834 (Apr. 8, 1994); 60 FR 24,880 (May 10, 1995); 61 FR 21,203 (May 9, 1996); 62 FR 13,164 (March 19, 1997); 63 FR 25064 (May 6, 1998); 64 FR 23355 (April 30, 1999); 65 FR 30434 (May 11, 2000). This report does not provide an exhaustive list of conduct that will be deemed to be a breach of the Commission's APOs. APO breach inquiries are considered on a case-by-case basis.

As part of the effort to educate practitioners about the Commission's current APO practice, the Commission Secretary issued in March 2001 a third edition of *An Introduction to Administrative Protective Order Practice in Import Injury Investigations* (Pub. No. 3403). This document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, tel. (202) 205–2000.

I. In General

The current APO form for antidumping and countervailing duty investigations, which the Commission has used since March 1995, requires the applicant to swear that he or she will:

(1) Not divulge any of the BPI obtained under the APO and not otherwise available to him, to any person other than—

(i) personnel of the Commission concerned with the investigation,

(ii) the person or agency from whom the BPI was obtained,

(iii) a person whose application for disclosure of BPI under this APO has been granted by the Secretary, and

(iv) other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decisionmaking for the interested party which is a party to the investigation; and (d) have submitted to the Secretary a signed Acknowledgment for Clerical Personnel in the form attached hereto (the authorized applicant shall sign such acknowledgment and will be deemed responsible for such persons' compliance with the APO);

(2) Use such BPI solely for the purposes of the Commission investigation [or for binational panel review of such Commission investigation or until superceded by a judicial protective order in a judicial review of the proceeding];

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO without first having received the written consent of the Secretary and the party or the representative of the party from whom such BPI was obtained;

(4) Whenever materials (*e.g.*, documents, computer disks, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of the APO);

(5) Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

(6) Transmit such document containing BPI disclosed under this APO:

(i) with a cover sheet identifying the document as containing BPI,

(ii) with all BPI enclosed in brackets and each page warning that the document contains BPI,

(iii) if the document is to be filed by a deadline, with each page marked "Bracketing of BPI not final for one business day after date of filing," and

(iv) if by mail, within two envelopes, the inner one sealed and marked "Business Proprietary Information—To

be opened only by [name of recipient]", and the outer one sealed and not marked as containing BPI;

(7) Comply with the provision of this APO and section 207.7 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (e.g., change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of the APO; and

(10) Acknowledge that breach of the APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems appropriate including the administrative sanctions and actions set out in this APO. The APO further provides that breach of a protective order may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, such person or the party he represents; denial of further access to business proprietary information in the current or any future investigations before the Commission; and issuance of a public or private letter of reprimand; and

(5) Such other actions, including but not limited to, a warning letter, as the Commission determines to be appropriate.

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI through APO procedures. Consequently, they are not subject to the requirements of the APO with respect to the handling of BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI, and face potentially severe penalties for noncompliance. *See* 18 U.S.C. 1905; Title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

An important provision of the Commission's rules relating to BPI is the "24-hour" rule. This rule provides that parties have one business day after the deadline for filing documents containing BPI to file a public version of the document. The rule also permits changes to the bracketing of information in the proprietary version within this one-day period. No changes—other than changes in bracketing—may be made to the proprietary version. The rule was intended to reduce the incidence of APO breaches caused by inadequate bracketing and improper placement of BPI. The Commission urges parties to make use of the rule. If a party wishes to make changes to a document other than bracketing, such as typographical changes or other corrections, the party must ask for an extension of time to file an amendment document pursuant to section 201.14(b)(2) of the Commission's rules.

II. Investigations of Alleged APO Breaches

Upon finding evidence of a breach or receiving information that there is a reason to believe one has occurred, the Commission Secretary notifies relevant offices in the agency that an APO breach investigation file has been opened. Upon receiving notification from the Secretary, the Office of General Counsel (OGC) begins to investigate the matter. The OGC prepares a letter of inquiry to be sent to the possible breacher over the Secretary's signature to ascertain the possible breacher's views on whether a breach has occurred. If, after reviewing the response and other relevant information, the Commission determines that a breach has occurred, the Commission often issues a second letter asking the breacher to address the questions of mitigating or aggravating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. In some cases, the Commission determines that although a breach has occurred, sanctions are not warranted, and therefore has found it unnecessary to issue a second letter concerning what sanctions might be appropriate. Instead, it issues a warning letter to the individual. The Commission retains sole authority to determine whether a breach has occurred and, if so, the appropriate action to be taken.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, section 135(b) of the Customs and Trade Act of 1990, and 19 U.S.C. 1677f(g).

The breach most frequently investigated by the Commission involves the APO's prohibition on the dissemination of BPI to unauthorized persons. Such dissemination usually occurs as the result of failure to delete BPI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to unauthorized recipients. Other breaches have included: the failure to bracket properly BPI in proprietary documents filed with the Commission; the failure to report immediately known violations of an APO; and the failure to supervise adequately non-legal personnel in the handling of BPI.

Counsel participating in Title VII investigations have reported to the Commission potential breaches involving the electronic transmission of public versions of documents. In these cases, the document transmitted appears to be a public document with BPI omitted from brackets. However, the BPI is actually retrievable by manipulating codes in software. The Commission has recently completed an investigation of such a breach that will be reported in the annual **Federal Register** notice for calendar year 2001. In that case, the Commission found that the electronic transmission of a public document containing BPI in a recoverable form was a breach of the APO.

The Commission advised in the preamble to the notice of proposed rulemaking in 1990 that it will permit authorized applicants a certain amount of discretion in choosing the most appropriate method of safeguarding the confidentiality of the BPI. However, the Commission cautioned authorized applicants that they would be held responsible for safeguarding the confidentiality of all BPI to which they are granted access and warned applicants about the potential hazards of storage on hard disk. The caution in that preamble is restated here:

> [T]he Commission suggests that certain safeguards would seem to be particularly useful. When storing business proprietary information on computer disks, for example, storage on floppy disks rather than hard disks is recommended, because deletion of information from a hard disk does not necessarily erase the information, which can often be retrieved using a utilities program. Further, use of business proprietary information on a computer with the capability to communicate with users outside the authorized applicant's office incurs the risk of unauthorized access to the information through such communication. If a computer malfunctions, all business proprietary information should be erased from the machine before it is removed from the authorized applicant's office for repair. While no safeguard program will insulate an authorized applicant from sanctions in the event of a breach of the administrative protective order, such a program may be a mitigating factor. Preamble to notice of proposed rulemaking, 55 FR 24,100, 21,103 (June 14, 1990).

In 2000, the Commission conducted four investigations of instances in which members of a law firm or consultants working with a firm were granted access to APO materials by the firm although they were not APO signatories. In all these cases, the firm and the person using the BPI mistakenly believed an APO application had been filed for that person. The Commission has completed three of these investigations to date and determined in all three cases that the person who was a non-signatory, and therefore did not agree to be bound by the APO, could not be found to have breached the APO. These persons could be sanctioned, however, under Commission rule 201.15 (19 CFR 201.15) for good cause shown. In all three cases, the Commission decided that the non-signatory was a person who appeared regularly before the Commission and was aware of the requirements and limitations related to APO access and should have verified their APO status before using the BPI. In all three cases the Commission issued warning letters because it was the first time the persons in question were subject to possible sanctions under section 201.15 and there were no aggravating circumstances. These investigations will be individually summarized in the **Federal Register** notice summarizing cases completed in 2001.

Sanctions for APO violations serve two basic interests: (a) preserving the confidence of submitters of BPI that the Commission is a reliable protector of BPI; and (b) disciplining breachers and deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, "the effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation." H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the Commission generally considers mitigating factors such as the unintentional nature of the breach, the lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not under the APO actually read the BPI. The Commission considers whether there are prior breaches by the same person or persons in other investigations and multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit economists or consultants to obtain access to BPI under the APO if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. 19 CFR 207.7(a)(3) (B) and (C). Economists and consultants who obtain access to BPI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document. This is so even though the attorney exercising direction or control over the economist or consultant may also be held responsible for the breach of the APO.

III. Specific Investigations in Which Breaches Were Found

The Commission presents the following case studies to educate users about the types of APO breaches found by the Commission. The case studies provide the factual background, the actions taken by the Commission, and the factors considered by the Commission in determining the appropriate actions. The Commission has not included some of the specific facts in the descriptions of investigations where disclosure of such facts could reveal the identity of a particular breacher. Thus, in some cases, apparent inconsistencies in the facts set forth in this notice result from the Commission's inability to disclose particular facts more fully.

Case 1: One associate attorney breached an APO by failing to redact BPI from the public version of his firm's Final Comments. Although the BPI was aggregate data, it had been bracketed in the Commission's staff report because it could be used with other publicly available data to determine the market share of one company. The BPI in the confidential version of the firm's Final Comments was properly bracketed.

The Commission Secretary discovered the breach. Letters of inquiry were sent to three other attorneys in addition to the associate because their names were on the Final Comments. Responses to the letters showed that the associate had been responsible for the error and had been the only attorney to sign the public version of the Final Comments. Therefore, the Commission determined that the associate attorney had breached the APO and the three other attorneys had not. The Commission issued a private letter of reprimand to the associate because the record did not clearly show that the BPI had not been reviewed by a non-signatory.

Three parties on the public service list, who were not signatories to the APO, received the Final Comments. One of these parties had forwarded the document to three client officials, one of whom had made copies. Although they destroyed all copies of the page with the BPI, their certifications did not state that they had not reviewed the document.

In reaching its decision, the Commission also considered that the breach had been inadvertent and that the associate made prompt efforts to limit the possibility of disclosure to persons not already under the APO. This was the associate's first breach of an APO.

Cases 2, 3, and 4: A law firm, new to Commission practice, became involved in a series of breaches in one investigation. Case 2 was a breach in which one of the partners had submitted BPI obtained under the Commission's APO to the Commerce Department. Before that information was retrieved, it had been read by individuals who were non-signatories to the Commission's APO. Case 3 involved two breaches. The first breach was caused by a junior associate attorney serving the BPI version of the prehearing brief on parties who were not APO signatories. In the second breach, the same associate served the public version of the post hearing brief while failing to redact one instance of BPI. Case 4 was a breach in which the law firm and the economic consulting firm working with the law

firm on the investigation failed to file certificates of destruction or return of the BPI obtained under the APO.

The Commission found that all five of the attorneys in the law firm breached the APO. Two of the attorneys were given public letters of reprimand with six months suspension from access to BPI. Three of the attorneys, including the associate, were given private letters of reprimand. For the final breach, the economic consultants were issued warning letters.

The Commission decided on the sanctions it imposed after considering the role of each of the attorneys in the preparation of the prehearing and posthearing briefs and the failure of the partners and senior attorneys to adequately supervise the junior associate and to develop procedures for the handling of BPI to avoid all of these breaches.

The Commission found that the first breach, sending Commission BPI to Commerce, was the sole responsibility of one attorney who is a partner practicing for many years. The second and third breaches involving the pre hearing and post hearing briefs were the responsibility of the associate, the lead attorney, and a partner of the firm. The lead attorney prepared the briefs with the assistance of the associate and the partner reviewed the documents. The associate was given the sole responsibility for proofreading, cite checking, implementing final changes, filing, and serving the documents. Both the lead attorney and the partner were issued a public letter of reprimand and were suspended from access to BPI for six months because they delegated primary responsibility for APO compliance to a junior attorney and then failed to provide appropriate supervision of that attorney, which resulted in two APO breaches; they repeatedly failed to remedy obvious flaws in their firm's procedures for protecting BPI obtained under the APO; and they failed to certify to the return or destruction of the BPI obtained under the APO. The associate was issued a private letter of reprimand for serving a prehearing brief containing BPI on persons not covered by the APO, failing to redact BPI from the public version of the post-hearing brief, failing to remedy flaws in the firm's procedures for protecting BPI, and failing to certify to the return or destruction of the BPI obtained under the APO. The Commission noted that it reached its decision after considering that the associate was involved in multiple breaches over a short period of time and that the associate did not discover the breaches. In deciding on a private letter of reprimand, the Commission also considered that the breaches appear to have been inadvertent and that the associate made prompt efforts to minimize the public dissemination of BPI.

The partner who transmitted Commission BPI to Commerce was issued a private letter of reprimand. The Commission noted that breach and found him also responsible for the third breach involving the post hearing brief because he failed to remedy flaws in his firm's procedures for protecting BPI. He also failed to certify to the return or destruction of the BPI obtained under the APO.

The Commission issued a private letter of reprimand to the fifth attorney, also a partner. He was found responsible for the third breach for failing to remedy flaws in his firm's procedures for protecting BPI and by failing to certify to the return or destruction of the BPI obtained under the APO.

In the letters to the partners and lead attorney the Commission explained that it recognized the firm's inexperience with Commission practice. Although such inexperience is a mitigating factor for the first breach, that breach put the firm on notice that the Commission's APO rules require a great deal of attention. Inexperience does not excuse the firm's subsequent lack of attention to APO compliance, particularly with regard to the delegation of unsupervised authority over APO matters to a junior attorney, and the continued reliance on that attorney after the attorney had committed one breach. Therefore, the Commission did not consider inexperience after the first breach to be a mitigating factor.

Case 5: A law firm legal assistant provided the firm's clients, who were not signatories to the APO, with redacted copies of the confidential version of the pre-hearing brief, which contained BPI that had been left on two pages. The legal assistant had redacted the confidential version of the brief when the assistant was unable to locate the firm's public version of the pre-hearing brief.

The Commission Secretary sent letters of inquiry to three attorneys who were named on the brief. One attorney responded with an affidavit that indicated he had no knowledge and was not involved in the breach. The Commission determined that he was not responsible for the breach. The lead attorney responded by taking responsibility for the breach and providing the Commission with information about the changed APO procedures in the law firm. The lead attorney was the attorney responsible for maintaining APO compliance by clerical employees, including legal assistants, since he signed the clerical acknowledgement as part of the firm's APO application. The third attorney was the attorney who had directed the legal assistant to provide the clients with copies of the public version of the pre-hearing brief and was for that purpose the immediate supervisor of the legal assistant.

The Commission found the lead attorney, the supervising attorney, and the legal assistant to be responsible for the breach and issued warning letters to all three. The clients who received the brief had not read it before the firm retrieved the brief. In determining to issue warning letters, the Commission also considered the facts that neither the attorneys nor the legal assistant had breached an APO in the previous several years, that the breach was unintentional, and that prompt action was taken to remedy the breach.

Case 6: A lead attorney served the BPI version of a pre-hearing brief on a party that was not on the APO. When filing and serving the brief, the attorney had mistakenly printed from his computer and used the public service list. The attorney realized his mistake in the evening on the same day he served the briefs. He contacted the recipient law firm that was not a signatory to the APO the next morning. The law firm immediately returned the unopened envelope containing the brief.

The Commission Secretary sent letters of inquiry to the lead attorney and another attorney whose name was also on the brief. Those attorneys and four other persons on the APO from the firm sent affidavits in response. The response also provided information on new procedures that were developed at the firm to prevent similar breaches in the future. The responses indicated that only the lead attorney participated in the serving of the brief. The Commission found that the lead attorney had breached the APO and issued a warning letter to him. The Commission informed the other attorney who had received a letter of inquiry of its decision that he did not breach the APO.

In determining to issue a warning letter to the lead attorney, the Commission considered the facts that the breach was unintentional, he had no prior breaches, he took prompt action to remedy the breach, and no non-signatory of the APO actually read the document.

Case 7: The Commission found two attorneys responsible for a breach in which they served the confidential version of their Final Comments on a firm that was not on the APO. The Commission issued a warning letter to each of these attorneys.

The more senior of the two attorneys directed the second attorney, a junior associate, to prepare a certificate of service for the BPI version of the final comments. The associate mistakenly retrieved a prior public certificate of service from his computer and changed pertinent dates and headings, but did not verify or modify the names on the list. He presented the certificate of service as the BPI version to the senior attorney who then directed others to copy the BPI version of the final comments and serve it on the parties on the certificate of service.

The senior attorney discovered the mistake the following day when preparing to file the public version of the final comments. He immediately investigated the matter and took action to retrieve the document from the firm that had been served but was not on the APO. He was able to retrieve the document in the unopened, sealed envelope. The non-signatory who had received it declined to open the envelope because its markings showed it contained BPI. The senior attorney also immediately informed the Commission Secretary of the error.

The Secretary sent letters of inquiry to the three attorneys whose names were on the Final Comments. After receiving the initial response to these letters, the Secretary sent a letter of inquiry to the junior associate who was involved. The Commission received affidavits from the four attorneys and seven other personnel subject to the APO. The responses indicated that the one senior attorney and the associate were the only ones involved in the service of the final comments. The responses also provided a description of new procedures that were being implemented to avoid a similar breach in the future.

Based on the information provided, the Commission determined that the senior attorney and the associate were both responsible for the breach. The senior attorney admitted that the junior attorney was inexperienced and should have been supervised more closely. The Commission determined that the other two senior attorneys did not breach the APO because they were not involved in the service of the final comments. The Commission sent them letters informing them of that fact. In deciding to issue warning letters to the senior attorney and the associate, the Commission considered that neither attorney had prior breaches, the breach was unintentional, prompt action was taken to remedy the breach, and no non-signatory actually read the document.

Case 8: In a five year review investigation, a law firm filed the public version of a prehearing brief that contained BPI which had been bracketed but not redacted. The BPI was contained in two footnotes in the text of the brief and in a chart in the economic analysis portion of the brief. The public version of the brief had been prepared by an attorney. A economic consultant working with the firm prepared the public version of the economic analysis. In addition, two other attorneys reviewed the brief and another economic consultant reviewed the economic analysis portion of the brief. The Commission determined that all three attorneys and the two consultants breached the APO and issued warning letters to each of them.

One of the attorneys who had reviewed the brief discovered the breach the morning after it had been filed. He immediately contacted the economic consultants, opposing counsel, and the Commission Secretary. The opposing counsel had forwarded the document to three of his clients. However, he was able to retrieve the documents in unopened envelopes and then return the unredacted pages to the attorneys who had filed the brief. Thus, the three non-signatories to whom the brief was sent did not read the BPI.

The Secretary initially sent letters of inquiry to the two attorneys whose names were on the brief and to a third attorney who had signed the certificate of service. The Secretary also sent a letter of inquiry to all of the economic consultants working for the firm who had signed the APO. The lead attorney responded to the letters of inquiry and enclosed affidavits from the APO signatories. The response indicated that the firm will continue its procedure of having two attorneys review a public document for BPI, but will make every effort to conduct the review the day before it is scheduled for filing so a more thorough review is possible.

In deciding to issue warning letters to the three attorneys and the two consultants involved in this breach, the Commission considered the facts that this was the only breach in which they had been involved over the previous several year period, that the breach was unintentional, and that prompt action was taken to remedy the breach.

IV. Investigation in Which No Breach Was Found

During 2000, the Commission completed one investigation in which no breach was found. A law firm filed the public version of the pre-hearing brief and failed to redact bracketed information. One of the attorneys in the firm discovered the error, notified the Commission, and retrieved the document from the parties on whom it had been served. The information on the record does not indicate that any non-signatory read the unredacted information. The Commission Secretary sent letters of inquiry to three attorneys at the firm. Two of the attorneys responded in a letter and attached affidavits from the three attorneys and four other employees at the firm who had worked on the matter. The response presented the argument that the unredacted information was not BPI and the attorneys attached pages from the staff report and the Commission's report that contained public numbers the attorneys had used to derive the unredacted information. Based on the information provided by the firm and research that included discussions with the drafters of the two reports about what the information could reveal, the Commission determined that the information was aggregated data that would not reveal information about an individual company and, therefore, it was not BPI. The Commission therefore informed the involved persons that there was no breach of the APO.

Issued: May 14, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

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INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–888–890 (Final)]

Stainless Steel Angle From Japan, Korea, and Spain

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Japan, Korea, and Spain of stainless steel angle, provided for in subheading 7222.40.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Background

The Commission instituted these investigations effective August 18, 2000, following receipt of a petition filed with the Commission and Commerce by Slater Steels Corp., Specialty Alloys Division, Fort Wayne, IN, and the United Steelworkers of America, AFL–CIO/CLC, Pittsburgh, PA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of stainless steel angle from Japan, Korea, and Spain were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 26, 2001 (66 FR 7942). The hearing was held in Washington, DC, on March 27, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on May 11, 2001. The views of the Commission are contained in USITC Publication 3421 (May 2001), entitled Stainless Steel Angle from Japan, Korea, and Spain: Investigations Nos. 731–TA–888–890 (Final).

Issued: May 14, 2001.
By order of the Commission.

Donna R. Koehnke,

Secretary.

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DEPARTMENT OF LABOR

Notice of Determination Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of April, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm of subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,834; Reptron Manufacturing Service, Gaylord, MI
TA–W–38,844; Discwax Corp., Stanley, NC
TA–W–39,069; Rosboro Lumber Co., Mill B, Springfield, OR
TA–W–38,684; Ashley Leigh Enterprises, Inc., Hillsville, VA
TA–W–38,879; Hastings Manufacturing Co., Hastings, MI
TA–W–38,908; Electronic Circuits and Design Co., Sebring, OH
TA–W–38,796; Electronic Corp., Edingburg, TX

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increases imports did not contribute importantly to worker separation at the firm

TA–W–38,687; Outboard Maring Corp. (OMC), Lebanon, MO
TA–W–38,574; Outboard Marine Corp., Lowe Aluminum Boats Div., Syracuse, IN
TA–W–39,051; Pleasant River Lumber Co., Dover Foxcroft, ME
TA–W–38,797; Lehigh Coal and Navigation Co., Tomaqua, PA
TA–W–38,750; Porex Technologies, College Point, NY

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–39,141; Textile Sales & Repair, Inc., Gastonia, NC
TA–W–38,849; BI–Comp, Inc., York, PA
TA–W–39,138; Small Woodland Services, Inc., Eagle Point, OR
TA–W–39,035; Precision Twist Drill Co., Sandvik Div., Crystal Lake, IL

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–38,821; Donohue Industries, A subsidiary of Abitibi Consolidated, Sheldon Mill, Sheldon, TX

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–38,811; Universal Furniture Limited, Morristown, TN: March 10, 2000.
TA–W–38,945; Avaya, Inc., Formerly Known as Lucent Technologies, Shreveport, LA: March 15, 2000.
TA–W–39,038; Woodbury Apparel Group, Woodbury, TN: March 29, 200.
TA–W–38,761; Snuffy's Pet Products, Inc., McConnellsburg, PA: February 12, 2000.
TA–W–38,759; GST Steel Co., Kansas City, MO: February 12, 2000.
TA–W–38,572; Outboard Maine Corp. (OMC), Calhoun, GA: January 4, 2000.
TA–W–38,564 & A, B; Outboard Maine Corp.
TA–W–38,606; Outboard Marine Corp. (OMC), Andrews, NC, Burnsville, NC and Spruce Pine, NC: January 5, 2000.
TA–W–38,606; Outboard Marine Corp. (OMC), Beloit, WI: January 10, 2000.
TA–W–38,772; Hedstrom Corp., Alma, GA: March 5, 2000.
TA–W–38,838; Centec Roll Corp., Div. of Whemco Corp., Bethlehem, PA: February 22, 2000.
TA–W–39,003; Cajun Bag and Supply Corp., Rayne, LA: March 23, 2000.
TA–W–39,063; Grove U.S. LLC, Shady Grove, PA: March 28, 2000.
TA–W–38,565; Outboard Marine Corp. (OMC), Waukegan, IL: January 5, 2000.
TA–W–38,685; Hendrickson-Spring, Chicago, Chicago, IL: January 31, 2000.
TA–W–38,985 & A, B & C; Dunbrooke Industries, Inc., Orange City, IA, Hawarden, IA, Marcus, IA and Rock Rapids, IA: March 23, 2000.
TA–W–38,976; Cummins, Inc., Cummins Power Generation, St. Peter, MN: March 20, 2000.
TA–W–38,688; Cooper Tools/Nicholson Saw, Greenville, MS: February 5, 2000.
TA–W–38,006; American Steel Foundries, ASK-Keystone, Inc., East Chicago, IN: March 22, 2000.

TA–W–38,771; Elkins Hardwood Dimension, Elkins, West Virginia: February 9, 2000.
TA–W–38,977; The Doe Run Co., Smelter Division, Herculaneum, MO: March 16, 2000.
TA–W–38,749; Guilford Mills, Inc., Herkimer, NY: February 20, 2001.
TA–W–38,897; J.E. Morgan Knitting Mills, Inc., Tamaqua, PA: March 7, 2000.
TA–W–38,672; TECO Westinghouse Motor Co., Round Rock, TX: January 30, 2000.
TA–W–38,858; The Goodyear Tire and Rubber Co., Cartersville, GA: June 17, 2000.
TA–W–38,714; Spec Cast, Dyersville, IA: February 3, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of April, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in ports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04651; Discwax Corp., Stanley, NC
NAFTA–TAA–04640; Hastings Manufacturing Co., Hastings, MI
NAFTA–TAA–04542; Weyerhaeuser Co., Mt. Pine Wood Products, Mt. Pine, AR
NAFTA–TAA–04630; Sierra Pacific Industries, Loyalton, CA
NAFTA–TAA–04439 & A, B; Outboard Maine Corp. (OMC), Andrews, NC, Burnsville, NC and Spruce Pine, NC
NAFTA–TAA–04444; Outboard Marine Corp. (OMC), Waukegan, IL
NAFTA–TAA–04440; Outboard Marine Corp. (OMC), Beloit, WI
NAFTA–TAA–04597; Reptron Manufacturing Services, Gaylord, MI
NAFTA–TAA–04734; Pleasant River Lumber Co., Dover Foxcroft, ME
NAFTA–TAA–04699; American Steel Foundries, ASK-Keystone, Inc., East Chicago, IL

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

NAFTA–TAA–04755; Diamler Chrysler AG, Auburn Hills, MI
NAFTA–TAA–04746; Small Woodlands Services, Inc., Eagle Point, OR
NAFTA–TAA–04767; Precision Twist Drill Co., Sandvik Division, Crystal Lake, IL

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04645; Acme Die Casting, Racine, WI: March 9, 2000.
NAFTA–TAA–04711; Snuffy's Pet Products, Inc., McConnellsburg, PA: March 30, 2000.
NAFTA–TAA–04687; Avaya, Inc., Formerly Known as Lucent Technologies, Shreveport, LA: March 15, 2000.
NAFTA–TAA–04577; GST Steel Co., Kansas City, MO: February 13, 2000.
NAFTA–TAA–04490; Fleischmann's Yeast, Div. of Burns Philip Food, Inc., Gastonia, NC: January 25, 2000.
NAFTA–TAA–04689; Cajun Bag and Supply Corp., Rayne, LA: March 23, 2000.
NAFTA–TAA–04742; Grove U.S. LLC, Shady Grove, PA: March 28, 2000.
NAFTA–TAA–04554; Haggar Clothing Co., Edinburg Manufacturing, Edinburg, TX and Haggar Clothing Co., Weslaco Operations, Weslaco, TX: May 1, 2001.
NAFTA–TAA–04698; Cummins, Inc., Cummins Power Generation, St. Peter, MN: March 29, 2000.

I hereby certify that the aforementioned determinations were issued during the month of April, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 7, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–12562 Filed 5–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,024]

Alabama Structural Beams, a Division of Gulf States Steel, Gadsden, AL; Notice of Negative Determination Regarding Application for Reconsideration

By application dated January 15, 2001, the attorney for United Steelworkers of America, Local 2176, requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on December 5, 2000, and was published in the **Federal Register** on December 21, 2000 (65 FR 80456).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Alabama Structural Beams, a Division of Gulf States Steel, Gadsden, Alabama, was denied because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm. None of the customers reported purchasing imported I-beams.

The petitioner states that the workers at the Structural Beams plant should be eligible to apply for the program benefits because the Structural Beams plant and the parent company, Gulf States Steel, were on in the same. They shared the same Board of Directors, payroll, on-site medical facilities, workers compensation, and health insurance. The petitioner adds that Alabama Structural Beams was part of Gulf States Steel in every sense except that the pay scale and employee union contract was different. When Gulf States Steel closed, so too did the subject firm plant. The petitioner states that the Structural Beam plan relied on the parent company for the raw material to produce the I-beams. The I-beams were sold mainly to manufacturers of mobile homes.

The source of the raw material to produce the I-beams is irrelevant in this case. Workers of the Alabama Structural Beams plant could be certified only if they supplied the I-beams to Gulf States Steel (whose workers were certified eligible to apply for TAA).

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April 2001.

Linda A. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12564 Filed 5–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,507]

Dresser-Wayne Division (Halliburton) Salisbury, MD; Notice of Negative Determination Regarding Application for Reconsideration

By Application of February 8, 2001, the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW), Local 354, request administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA).

The denial notice was signed on January 17, 2001, and published in the **Federal Register** on February 8, 2001 (66 FR 9599).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers producing retail fuel dispensers at Dresser-Wayne Division (Halliburton) in Salisbury, Maryland, was denied because the group eligibility requirement of Section 222(2) of the Trade Act of 1974, as amended, was not met. Sales and production of articles produced at the plant increased from 1999 to 2000.

The petitioner provided a copy of an e-mail from a company official at Dresser-Wayne to the President of UAW, Local 354, indicating that jobs were lost at the plant because some of the work at the subject firm plant was being sent to Brazil.

The transfer of work, or shift of production, is not a basis for worker group certification under the worker adjustment assistance provisions of Section 222 of the Trade Act of 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12565 Filed 5–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,964, TA–W–37,964A]

Hampton Industries, Kinston, NC; Hampton Industries Distribution Center, Snow Hill, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on October 11, 2000, applicable to workers of Hampton Industries, Kinston, North Carolina. The notice was published in the **Federal Register** on November 1, 2000 (65 FR 65330).

At the request of the Company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of Men's and boys' woven and knit shirts. New information shows that worker separations have occurred at the subject firms' Distribution Center located in Snow Hill, North Carolina. The Snow Hill, North Carolina location provided distribution services for Hampton Industries' production facilities including Kinston, North Carolina.

Accordingly, the Department is amending the certification to cover the workers of Hampton Industries, Distribution Center, Snow Hill, North Carolina.

The intent of the Department's certification is to include all workers of Hampton Industries who were adversely affected by increased imports of men's and boys' woven and knit shirts.

The amended notice applicable to TA–W–37,964 is hereby issued as follows:

All workers of Hampton Industries, Kinston, North Carolina (TA–W–37,964) and Distribution Center, Snow Hill, North Carolina (TA–W–37,964A) who became totally or partially separated from employment on or after July 20, 1999, through October 11, 2002, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12566 Filed 5–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 29, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 29, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 16th day of April, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 04/16/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,010	Intel Puerto Rico, Ltd (Comp)	Las Piedras, PR	03/28/2001	Computer Equipment.
39,011	Texas Boot, Inc. (Comp)	Hartsville, TN	03/27/2001	Western Footwear.
39,012	Commtouch, Inc. (Comp.)	Mountain View, CA	03/28/2001	Provide Office Solutions.
39,013	Boise Cascade Corp. (WCIW)	Emmett, ID	04/02/2001	Softwood Dimension Lumber.
39,014	North American Heritage (Wrks)	Faribault, MN	03/15/2001	Woven Blankets and Afghens.
39,015	Wheeling Pittsburgh Steel (USWA)	Allenport, PA	03/29/2001	Hot and Cold Rolled Sheet, Galvanized.
39,016	Wabash Alloys (IAM)	Oak Creek, WI	03/28/2001	Secondary Aluminum Ingots.
39,017	Federal Mogul Ignition (UAW)	Cambridge, OH	03/30/2001	Spark Plugs.
39,018	Alamac Knit Fabrics (Comp)	New York, NY	03/30/2001	Yarn Dye and Piece Dye Knit Fabric.
39,018	Alamac Knit Fabrics (Comp)	New York, NY	03/30/2001	Yarn Dye and Piece Dye Knit Fabric.
39,019	Opelika Foundry Co. (Comp)	Opelika AL	04/02/2001	Grey Iron Castings.
39,020	Magnesium Corp of America (Comp)	Salt Lake City, UT	04/03/2001	Magnesium Metal, Alloy & Granular.
39,021	Ferry Cap and Set Screw (Wkrs)	Cleveland, OH	03/31/2001	Steel Fasteners.
39,022	General Automotive (Comp)	Franklin, WI	03/28/2001	Precision Machining—Diesel Engines.
39,023	Texas Instruments (Wkrs)	San Jose, CA	03/29/2001	Automotive Sensors.
39,024	Premier Circuit Assembly (Wkrs)	Springhope, NC	03/31/2001	Cables—Computers, Telephones.
39,025	Talon Automotive Group (Wkrs)	New Baltimore, MI	03/30/2001	Metal Stampings—Automotive.
39,026	Bristol Myers Squibb (PACE)	North Brunswick, NJ	03/29/2001	Medication.
39,027	Mar-Bax Shirt Co. (Comp)	Gassville, AR	03/12/2001	Shirts.
39,028	M and G Polymers USA (Comp)	Apple Grove, WV	03/27/2001	PET Resin.
39,029	Atofina Chemicals, Inc. (IAM)	Portland, OR	04/04/2001	Chloralkali Chemicals.
39,030	Novo Knitting Co. (Wkrs)	Mansfield, OH	03/30/2001	Knitted Outerwear.
39,031	IER, Inc. (Wkrs)	Temple, TX	03/30/2001	Airline Ticket Printers.
39,032	Pinson Mining Co. (Comp)	Winnemucca, NV	04/05/2001	Gold Mining.
39,033	General Electric	Bucyrus, OH	03/06/2001	Florescent Lamps.
39,034	Thermodisc, Inc. (Comp)	El Paso, TX	04/05/2001	Fabricated Molded Products.
39,035	Precision Twist Dril Co. (Wkrs)	Crystal Lake, IL	03/21/2001	Warehousing—Drills.
39,036	Nooter Fabricators (Comp)	St. Louis, MO	03/30/2001	Custom Metal Plate Vessels.
39,037	Clinton Industries, Inc. (Comp)	Carlstadt, NJ	04/03/2001	Industrial Sewing Machine Parts.
39,038	Woodbury Apparel Group (Owner)	Woodbury, TN	03/29/2001	Men's and boys' Shirts.
39,039	Fashions International (UNITE)	Scranton, PA	03/31/2001	Men's Sportswear, Suits, & Overcoats.
39,040	Lebanon Apparel Corp. (Comp)	Lebanon, VA	03/28/2001	Career Apparel.
39,041	Rawlings Manufacturing (UNITE)	Ava, MO	04/02/2001	Baseballs, Footballs, Gloves, Helmets.
39,042	Agilent Technologies (Comp)	Loveland, CO	03/30/2001	Volt Meters & Bench Top Instruments.
39,043	Pete's Cutting Service (Wkrs)	Hialeah, FL	03/25/2001	Cut Materials.
39,044	Kahn-Lucas Lancaster (Wkrs)	Columbia, PA	03/23/2001	Children's Garments.
39,045	Longview Aluminum Corp. (LATC)	Longview, WA	03/30/2001	Aluminum.
39,046	Deferiet Paper Co. (PACE)	Deferiet, NY	03/23/2001	Groundwood Specialty Paper.
39,047	Rayovac Corp. (Comp)	Wonewoc, WI	03/28/2001	Latern Batteries, Flashlights.
39,048	Invensys Powerware Corp. (Wkrs)	Necedah, WI	03/23/2001	Power Protection, Power Supplies.
39,049	Saunders Manufacturing Co. (Comp)	Readfield, ME	04/05/2001	Aluminum Clipboards, Bus. Form Holders.
39,050	SCI Systems, Inc. (Comp)	Augusta, ME	04/06/2001	Electronic Assemblies.
39,051	Pleasant River Lumber Co. (Wkrs)	Dover Foxcroft, ME	04/05/2001	Softwood Dimensional Lumber.
39,052	Bechtel Jacobs LLC (PACE)	Piketon, OH	04/06/2001	Enriched Uranium Products.
39,053	SGL Carbon LLC (USWA)	Niagara Falls, NY	03/29/2001	Carbon Graphite.
39,054	Consolidated Loose Leaf (Wrks)	New York, NY	04/03/2001	Book Binders, Folders & Indexes.

APPENDIX—Continued

[Petitions instituted on 04/16/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,055	Newport Steel Corp. (CO.)	Newport, KY	04/06/2001	Steel Pipe.
39,056	Peerless Pattern Works (Wkrs)	Portland, OR	04/02/2001	Foundry Patterns.
39,057	Kolb Lena Bresse Bleu (UFCW)	Watertown, WI	04/06/2001	Goat's Milk Cheese.
39,058	Garden State Cutting Co. (Wkrs)	Passaic, NJ	03/28/2001	Ladies' Apparel.
39,059	Ludlow Coated Products (Wkrs)	Adrian, MI	04/02/2001	Laminatee Fiber Board.
39,060	Ludlow Coated Products (Wkrs)	Adrian, MI	04/02/2001	Laminated Fibre Board.
39,061	SOLA Optical (Comp)	Petaluma, CA	03/30/2001	Ophthalmic Lens.
39,062	Gateway Sportswear Corp. (UNITE)	Charleroi, PA	04/02/2001	Sportswear Apparel.
39,063	Grove U.S. LLC (Wkrs)	Shady Grove, PA	03/28/2001	Aerial Work Platforms.
39,064	Minnesota Rubber Co. (IAM)	Minneapolis, MN	04/05/2001	Rubber Gastets, Sealers.
39,065	Mundy Industrial Contract (Comp)	Leland, NC	04/05/2001	Yarn Filament, Staple Material.
39,066	Boston Scientific (Comp)	Maple Grove, MN	03/30/2001	Diagnostic Catheters.

[FR Doc. 01–12561 Filed 5–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,396]

Philips Electronics North American Corporation, Philips Display Components Company Ottawa, OH; Notice of Negative Determination Regarding Application for Reconsideration

By application of February 23, 2001, the International Brotherhood of Electrical Workers (IBEW), Local 1654, requests administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on January 24, 2001, and was published in the **Federal Register** on February 20, 2001 (66 FR 10916).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition for workers at, Philips Electronics North America Corporation, Philips Display Components Company, Ottawa, Ohio, was denied because criterion (3) of Section 222 of the Trade Act of 1974, as amended, was not met. The workers were engaged in employment related to yoke matching which is attaching a yoke to the back of a television picture tube. The investigation found that layoffs occurred when the company shifted yoke matching to Mexico. The workers are separately identifiable by product line. The yoke matching operation is not imported. Furthermore, yoke matching increased up until the shift to Mexico.

The petitioner provides a history of cathode ray tube (CRT) production at the Ottawa facility over the past 50 years and describes various operations that the company is transferring abroad. A shift of production to a foreign location is not a criterion for worker group eligibility. Increases of imports of articles like or directly competitive with those produced by the workers must contribute importantly to sales or production declines and worker separations.

Workers engaged in yoke matching were certified eligible, on January 24, 2001, to apply for North American Free Trade Agreement-Transitional Adjustment Assistance under NAFTA–4336.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12563 Filed 5–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[Docket No. TA–W–38,325, TA–W–38,325A]

Posies, Inc., Rockport, ME; Posies, Inc., Posies Showroom, Dallas, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on February 20, 2001, applicable to workers of Posies, Inc., Rockport, Maine. The notice was published in the Federal Register on April 5, 2001 (66 FR 18118).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at Posies' Showroom, Dallas, Texas when the company closed in August, 2000. The Dallas, Texas location was the corporate showroom, sales and marketing office which supported the production of children's dresses at the subject firm's Rockport, Maine facility.

Based on these findings, the Department is amending the certification to include workers of Posies, Inc., Posies Showroom, Dallas, Texas.

The intent of the Department's certification is to include all workers of Posies, Inc. who were adversely affected by increased imports of children's dresses.

The amended notice applicable to TA–W–38, 325 is hereby issued as follows:

All workers of Posies, Inc., Rockport, Maine (TA–W–38,325) and the Posies Showroom, Dallas, Texas (TA–W–38,325A) who became totally or partially separated from employment on or after November 3, 1999, through February 20, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of April, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12567 Filed 5–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled "General Wage determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Rhode Island
RI010001 (Mar. 02, 2001)

Volume II

Pennsylvania
PA010014 (Mar. 02, 2001)

Volume III

Kentucky
KY010003 (Mar. 02, 2001)
KY010004 (Mar. 02, 2001)
KY010029 (Mar. 02, 2001)

Volume IV

Ohio
OH010009 (Mar. 02, 2001)
OH010012 (Mar. 02, 2001)
OH010023 (Mar. 02, 2001)
OH010029 (Mar. 02, 2001)

Volume V

None

Volume VI

None

Volume VII

None

General Wage Determination Publication

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Signed at Washington, DC this 10th day of May 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–12206 Filed 5–17–01; 8:45 am]

BILLING CODE 4510–27–M

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Proposed Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Merit Systems Protection Board (MSPB) request for a three-year reinstatement of its expired Generic Clearance Request for Voluntary Customer Surveys under Executive Order 12862, "Setting Customer Service Standards," has been forwarded to the Office of Management and Budget (OMB) for review and comment. The original approval for this information collection was provided by OMB on February 28, 1994, as a three-year generic clearance request for voluntary customer surveys under Executive Order 12862, "Setting Customer Service Standards," and in accord with 44 U.S.C. 3506. Surveys under this approval are assigned OMB Control Number 3124–0012. That approval expired on February 28, 1997. A limited-term approval from OMB reinstated that authority through April 30, 2001.

In this regard, we are soliciting comments on the public reporting burden. The reporting burden for the collection of information on this form is estimated to vary from 10 minutes to 30 minutes per response, with an average of 15 minutes, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Estimated Annual Reporting Burden

5 CFR section	Annual number of respondents	Frequency per response	Total annual responses	Hours per response (average)	Total hours
1201, 1208 and 1209	2,000	1	1,500	.25	375

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the address shown below. Please refer to OMB Control No. 3124–0012 in any correspondence.

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Comments concerning the paperwork burden should be addressed to Mr. John Crum, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419, by e-mail to *john.crum@mspb.gov*, or by calling (202) 653–8900, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for MSPB, 725—17th Street NW., Washington, DC 20503.

Dated: May 14, 2001.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 01–12499 Filed 5–17–01; 8:45 am]

BILLING CODE 7400–01–U

MERIT SYSTEMS PROTECTION BOARD

Opportunity To File Amicus Briefs in Cassandra Augustine v. Department of Veterans Affairs, MSPB Docket Number SF–3443–00–0085–I–1

AGENCY: Merit Systems Protection Board (MSPB).

ACTION: The Merit Systems Protection Board is providing interested parties with an Opportunity to submit amicus briefs in the above-referenced appeal. The issues to be addressed in such briefs are set forth in the Board's May 14, 2001, opinion and order, which is reprinted in its entirety in the summary below.

SUMMARY: The Department of Veterans Affairs (DVA) petitions for review of the initial decision which found that it violated the appellant's veterans' preference rights. The Office of Personnel Management (OPM) has intervened in support of DVA's petition for review. For the reasons set forth below, we VACATE the initial decision, REOPEN the record, and ORDER presentation of further argument and evidence. We also invite interested parties to submit briefs amicus curiae on the issues discussed in this decision.

Background

The appellant, a veteran with a 30% service-connected disability, applied for the position of Veterans Service Representative (VSR), GS–996–7, with the DVA. Initial Appeal File (IAF), Tab 8, Subtab 2 at 3, 20, 23. The vacancy announcement listed nine locations, and indicated that there were "[o]ne or more positions at each location." The announcement also stated that the candidates would be "rated" and "rank[ed]" according to how well their knowledge, skills, and abilities "matche[d] * * * the requirements identified for the position." In addition, the announcement indicated that individuals who met one of the following "recruitment categories" could apply: "Outstanding Scholar"; "Veterans Readjustment Act (VRA) eligibles"; "30% or more disabled veterans"; "Preference Eligibles" and veterans honorably discharged after 3 or more years of active military duty; "Chapter 31 veterans"; "Handicapped Eligibles"; and "VA CTAP or Interagency CTAP Eligibles." The announcement further stated, however, that "first consideration" would be given to "[i]nternal candidates" who applied under DVA's "Merit Promotion" plan. Id., Subtab 1 at 1–3.

DVA, which holds delegated authority from OPM to examine candidates, generated seven certificates, each corresponding to one of the recruitment categories listed in the vacancy announcement. The appellant's name appeared on the 30% or more disabled veteran certificate and the VRA certificate. Although the appellant qualified as a preference eligible pursuant to 5 U.S.C. 2108(3)(C), the agency did not include her name on the certificate of "Preference Eligibles" and veterans honorably discharged after 3 or more years of active military duty. DVA did not rank any of the candidates. Ultimately it filled nine positions, selecting five individuals from the 30% or more disabled veteran certificate, three individuals from the Outstanding Scholar certificate (none of whom were preference eligible), and one individual from the certificate of "Preference Eligibles" and veterans honorably discharged after 3 or more years of active military duty. The record indicates that the individual selected from the final certificate was preference eligible pursuant to 5 U.S.C. 2108(3)(E) as the spouse of a service-connected disabled veteran. Although the initial decision indicates that the agency did not treat this candidate as a preference eligible, IAF, Tab 11 at 4, the certificate on which this candidate's name appeared clearly indicated that she was entitled to 10 veterans preference points, IAF, Tab 8, Subtab 3 at 9. IAF, Tab 8, Subtab 3 at 9–10; Petition for Review (PFR) File, Tab 3. DVA found the appellant qualified for the position but did not select her. IAF, Tab 8, Subtab 3 at 1–5, Subtab 5. .

The appellant filed a complaint with the Department of Labor (DoL) claiming that her veterans' preference rights had been violated. After an investigation, DoL notified the appellant that her claim did "not have merit." IAF, Tab 8, Subtab 9. The appellant then filed this timely appeal. Id., Tab 1; see 5 U.S.C. 3330a(d). The administrative judge, after considering argument and documentary evidence from the parties (the appellant did not request a hearing, IAF, Tab 1 at 7), held that DVA violated the appellant's veterans' preference rights at 5 U.S.C. 3318 by "passing [her] over" in favor of non-veterans without seeking and obtaining OPM's approval. He further held that DVA's "practice of issuing multiple certificates" corresponding to different recruitment categories "and then selecting from them all at once, regardless of whether preference eligibles have been exhausted," had the effect of "nullif[ying]" the appellant's veterans" preference. By way of relief, the administrative judge ordered DVA to appoint the appellant retroactive to the date she would have entered on duty had she been selected, to provide her with back pay, and to pay her an additional sum as damages. IAF, Tab 11.

DVA argues in its timely petition for review that the authority relied on by the administrative judge, 5 U.S.C. 3318, applies only to selections from ranked certificates, and that it was not required to rank candidates for the VSR position the appellant sought because it filled the position by "internal agency merit promotion procedures." DVA further argues that by regulation, it has broad discretion in choosing how it fills positions. DVA argues, in the alternative, that the remedies ordered by the administrative judge are not authorized by statute. Petition for Review File (PRF), Tab 3. In response, the appellant argues, as she did below, that "[c]ivil service law requires Federal examining offices to give job applicants numerical scores and to refer candidates for employment based on their scores." She further maintains that as part of this process, veterans preference rules mandate that the scores of preference eligibles be "augment[ed]." Id., Tab 4; see also IAF, Tab 9 at 8. Although labeled "Cross Petition for Review," the appellant's response to the petition for review is not actually in the nature of a cross petition because the appellant does not argue that the initial decision contains an error. See *Hanner* v. *Department of the Army*, 62 M.S.P.R. 677, 680 n.2 (1994), aff'd, 48 F.3d 1236 (Fed. Cir. 1995) (Table).

OPM has intervened as a matter of right. PRF, Tab 7; see 5 U.S.C. 7701(d)(1). OPM argues that the authority relied on by the administrative judge, 5 U.S.C. 3318, applies only to "competitive appointments," and that "[h]ere, the agency filled the positions non-competitively." OPM further argues that agencies have "wide discretion in selecting the method by which they make appointments," and that the seven recruitment categories used in this case, each of which represents a different "hiring authorit[y]," are all based on "non-competitive procedures." OPM maintains that DVA was not required to rank the candidates. OPM argues, in the alternative, that even if there was a violation of the appellant's veterans' preference rights, the remedies ordered by the administrative judge are not authorized by statute. PRF, Tab 11. The appellant argues in response to OPM's brief that DVA was required to rank candidates, and that it was not permitted to segregate VRA-eligibles from other candidates. She also appears to contend that the remedies ordered by the administrative judge are authorized by statute. Id., Tab 12.

Analysis

The appellant has veterans' preference eligibility, she claims that her statutory veterans' preference rights were violated when DVA did not select her for the VSR position in 1999, and she has exhausted her remedy with DoL. Accordingly, her appeal is within the Board's jurisdiction under the Veterans Employment Opportunities Act (VEOA). See 5 U.S.C. 3330a(a), (d); see also *Smyth* v. *U.S. Postal Service*, 85 M.S.P.R. 549, ¶¶ 2 & 6 (2000) (VEOA creates a right of redress for actions taken after October 30, 1998 that are alleged to violate an individual's veterans' preference rights). The appellant appears to claim that irrespective of her veterans' preference rights, she was qualified for an Outstanding Scholar appointment. See IAF, Tab 9 at 3–4; PRF, Tab 12 at 7. This appeal, however, is limited to the question of whether the agency violated the appellant's veterans' preference rights. 5 U.S.C. 3330a(a). The Board lacks independent authority to enforce an individual's rights under the Outstanding Scholar program.

With the exception of certain high-level and specialized jobs that have no relevance here, positions in the federal civil service are either "competitive" or "excepted." See 5 U.S.C. §2102, 2103. The parties have not addressed, and the vacancy announcement does not expressly state, whether the VSR position is in the competitive service. Nonetheless, the position is not listed in the comprehensive schedules of excepted-service positions published by OPM. See 5 CFR 213.3101–213.3302; 64 Fed. Reg. 48,461–48,464 (1999). Moreover, according to regulations and guidance issued by OPM, at least two of the recruitment categories listed in the vacancy announcement for the VSR position, VRA and Outstanding Scholar, are restricted to competitive-service positions. See 5 CFR 307.101(d); see also <http://www.opm.gov/employ/luevano.htm>. Finally, the SF–50 memorializing the appellant's appointment to the VSR position in compliance with the interim relief order unmistakably indicates that the position is in the competitive service. PRF, Tab 1, Ex. 1 at 2.

Having determined that the VSR position is in the competitive service, we now turn to how veterans' preference operates in hiring for competitive-service positions. Veterans' preference in this context takes two basic forms. First, by statute, agencies are permitted to appoint certain veterans non-competitively. For example, veterans with compensable service-connected disabilities of 30% or more may receive "non-competitive appointment[s] leading to conversion to career or career-conditional employment." 5 U.S.C. 3112. To take another example, veterans of certain conflicts who meet specified education requirements are eligible for non-competitive "excepted" appointments at or below particular grades to positions "otherwise" in the competitive service. See 38 U.S.C. 4214; 5 CFR 307.104; Exec. Order No. 11,521, 35 FR 5311 (1970).

The second form that veterans' preference takes in hiring comes into play in the competitive examining process. An examination may consist of a written test, but it might instead consist of a work sample assessment, a structured interview, rating and ranking according to job-related competencies, verification of a professional certification recognized by a general professional community, or a combination of these or other formal evaluation devices. See Delegated Examining Operations Handbook, Office of Personnel Management (Oct. 1999), 2.2. In this decision we cite OPM's Delegated Examining Operations Handbook as general background and as evidence of what OPM's official guidance to employing agencies is. We make no finding on whether the Handbook or any part of it is consistent

with related statutes and regulations, whether it is entitled to deference, whether it was promulgated under or subject to notice-and-comment procedures, see 5 U.S.C. 553, or any other matter bearing on its validity. The appellant correctly points out that an integral part of the competitive examining process is the assignment of numerical scores, and then rating and ranking candidates according to those scores. PRF, Tab 4 at 2 ("[c]ivil service law requires Federal examining offices to give job applicants numerical scores and to refer candidates for employment based on their scores"); see also IAF, Tab 9 at 8. An examining authority, either OPM or an agency operating under a delegation of authority from OPM pursuant to 5 U.S.C. 1104(a)(2), "shall assign numerical ratings" to candidates. 5 CFR 337.101(a).

Under the Veterans' Preference Act, Pub. L. 359, ch. 287, 58 Stat. 390, as amended, preference-eligible veterans have additional points added to their passing scores on examinations. See 5 U.S.C. 3309; 5 CFR 337.101(b). The names of applicants who have qualified for appointment to the competitive service are entered onto registers, or "lists of eligibles," in rank order, with preference eligibles ranked ahead of others with the same rating. See 5 U.S.C. 3313; 5 CFR 332.401. For positions other than scientific and professional positions in the grades of GS–9 or higher, disabled veterans who have a compensable service-connected disability of 10 percent or more are entered onto registers in order of their ratings ahead of all remaining applicants. See 5 U.S.C. 3313(2). An examining authority certifies "enough names from the top of the appropriate register" to permit the appointing authority "to consider at least three names for appointment to each vacancy in the competitive service." 5 U.S.C. 3317(a). The appointing authority "shall select for appointment to each vacancy from the highest three eligibles available for appointment on the certificate furnished under section 3317(a)." 5 U.S.C. 3318(a). If an appointing authority "proposes to pass over a preference eligible on a certificate in order to select an individual who is not a preference eligible, such authority shall file written reasons with (OPM) for passing over the preference eligible" and obtain OPM's approval for the passover. 5 U.S.C. 3318(b)(1). In the case of a preference-eligible veteran with a 30% or more disability (such as the appellant), the veteran is entitled to notice of the proposed passover and an opportunity to respond to OPM. 5 U.S.C. 3318(b)(2). For appointments to vacancies in the excepted service in the executive branch, the nominating or appointing authority must select applicants in the same manner and under the same conditions required for the competitive service by 5 U.S.C. 3308–3318. See 5 U.S.C. 3320.

The administrative judge held that DVA violated the appellant's rights as a preference-eligible veteran under 5 U.S.C. 3318 when it selected non-preference eligibles without notifying the appellant and OPM that it proposed to pass her over. He further held that DVA's use of multiple certificates, and then its selection from them "all at once," had the effect of "nullif[ying]" the appellant's veterans" preference. DVA and OPM disagree, offering three different explanations for why DVA was permitted to use multiple certificates of unranked candidates. None of these explanations squares with the vacancy announcement itself, which expressly indicates that candidates would be rated and ranked. IAF, Tab 8, Subtab 1 at 3.

Before the administrative judge, DVA explained its actions by citing a regulation governing selection from unranked candidates for *excepted*-service positions. IAF, Tab 8 at 4 n.3 & Subtab 11 (relying on 5 CFR 302.401(a)). This regulation does not appear to have any application in this case, which concerns the selection process for a *competitive*-service position. However, as noted supra, ¶ 16 n.6, the individual selected from the certificate for "Preference eligibles" and veterans honorably discharged after 3 or more years of active military duty was appointed using a Schedule B excepted service appointing authority. The VEOA, as originally enacted, directed OPM to create a new appointing authority pursuant to 5 U.S.C. 3304(f). See Pub. L. 105–336, section 2, 112 Stat. 3182. OPM then announced a new Schedule B excepted appointing authority for appointments under the statute. See 63 FR 66,705 (1998) (codified at 5 CFR 213.3202(n) (1999)). Congress amended 5 U.S.C. 3304(f) in 1999, requiring that an individual hired under the new authority receive a career or career-conditional appointment. Pub. L. 106–117, § 511, 113 Stat. 1575 (codified at 5 U.S.C.A. 3304(f)(2) (West. Supp. 2000)). Thereafter, OPM announced that the Schedule B excepted appointing authority could no longer be used for new appointments after November 30, 1999, and that a new competitive appointing authority would replace it. See 65 FR 14,431 (2000) (to be codified at 5 CFR 315.611). In this case, the individual hired under the VEOA to the VSR position the appellant sought was appointed on or about August 2, 1999, under the then-existing Schedule B excepted authority. IAF, Tab 8, Subtab 3 at 9.

On review, DVA now contends that ranking of the candidates and recognition of veterans' preference was not required because it filled the positions by "internal Agency merit promotion procedures." PRF, Tab 3 at 3. Based on the statutes cited above and an OPM regulation, it appears that promotion of a current employee—as opposed to a new appointment in the competitive service—does not require competitive examination. 5 CFR § 332.101(b) ("An examination for promotion, demotion, reassignment, transfer, or reinstatement may be a noncompetitive examination."). Nonetheless, in this case DVA described the vacancy announcement in a letter to DoL as "a solicitation for *new* employees who could join our roles (sic)." IAF, Tab 8, Subtab 4 at 1 (emphasis supplied). Furthermore, the selection certificates indicate that outside candidates were considered. Id., Subtab 3 at 1, 3, 5, 7. Indeed, three of the selectees were hired under the Outstanding Scholar program; it appears that the order approving the consent decree that created that program and OPM's official guidance describing the program limit Outstanding Scholar appointments to *new* hires into the competitive service. See generally *Luevano* v. *Campbell*, 93 F.R.D. 68 (D.D.C. 1981); Delegated Examining Operations Handbook, § 2.8(A). In short, on this record we have no basis to conclude that DVA filled all nine of the VSR positions (or any of them, for that matter) by internal promotion.

OPM offers a third explanation for what happened: DVA exercised its discretion to fill the VSR position "non-competitively." PRF, Tab 11 at 3. Five of the selectees in this case were appointed under a statute authorizing non-competitive appointment of a veteran with a 30% or greater service-connected disability; the statute is written in permissive terms, and its use appears to be committed to agency discretion. See 5 U.S.C. 3112 ("Under such regulations as the Office of Personnel Management shall prescribe, an agency may make a noncompetitive appointment leading to conversion to career or career-conditional employment of a disabled veteran who has a compensable service-connected disability of 30 percent or more."). The sixth selectee was appointed from the certificate of preference eligibles and veterans honorably discharged after 3 or more years of active military duty; this appointment was made under 5 U.S.C. 3304(f), which at the relevant time OPM interpreted as allowing the non-competitive appointment of certain veterans under merit promotion procedures when an agency is accepting applications from outside its workforce. All indications are that use of this authority also was discretionary. The VEOA, as originally enacted, directed OPM to create a new appointing authority pursuant to 5 U.S.C. 3304(f). See Pub. L. 105–336, sec. 2, 112 Stat. 3182. OPM then announced a new Schedule B excepted appointing authority for appointments under the statute. See 63 FR 66,705 (1998) (codified at 5 CFR 213.3202(n) (1999)). Congress amended 5 USC 3304(f) in 1999, requiring that an individual hired under the new authority receive a career or career-conditional appointment. Pub. L. 106–117, sec. 511, 113 Stat. 1575 (codified at 5 U.S.C.A. 304(f)(2) (West. Supp. 2000)). Thereafter, OPM announced that the Schedule B excepted appointing authority could no longer be used for new appointments after November 30, 1999, and that a new competitive appointing authority would replace it. See 65 FR 14,431 (2000) (to be codified at 5 CFR § 315.611). In this case, the individual hired under the VEOA to the VSR position the appellant sought was appointed on or about August 2, 1999, under the then-existing Schedule B excepted authority. IAF, Tab 8, Subtab 3 at 9.

The remaining three selectees were appointed under the Outstanding Scholar program. This program was created in 1981 under a consent decree entered in a class action suit in which the plaintiffs alleged that OPM's competitive examination for entry into over 100 civil service occupations had a disparate impact on minority racial and ethnic groups. See Luevano, 93 F.R.D. at 73–74, 78–79. The GS–0996 job series covering the VSR position the appellant sought is covered by the decree. See Delegated Examining Operations Handbook, Appendix B. OPM's official guidance concerning the Outstanding Scholar program states as follows:

> Under the terms of the Luevano consent decree the Outstanding Scholar program was established as a supplement to the competitive examining process where under-representation of Blacks and Hispanics exists. This authority was not intended to replace competitive examining, nor to become the primary method of hiring. This authority allows agencies to appoint Outstanding Scholars [meeting specified college grade-point or class standing criteria] as an exception to normal competitive procedures, that is, the rule of three and veterans' preference do not apply.

Id., § 2.8(A).

OPM contends that DVA had the discretion to fill the VSR position under the Outstanding Scholar program instead of under competitive examination procedures. PRF, Tab 11 at 7. However, the only authority cited by OPM in support of this argument is the Luevano consent decree itself. Id. At this stage we are not convinced that the consent decree—an agreement between an executive agency and private parties approved by a district court judge—by itself is sufficient authority for an agency to choose not to use competitive examining, especially when a qualified veteran with statutory preference in such an examination applies for an announced vacancy. Indeed, in explaining why it interpreted the original version of VEOA as requiring a new excepted appointing authority under 5 U.S.C. 3304, see note 5 above, OPM stated that "absent specific legislation or Executive order, OPM has no authority to permit the noncompetitive appointment of candidates in the competitive service." 65 FR 14,431 (2000). If this is so, then we would expect OPM to cite "specific legislation or [an] Executive order" as authority for the Outstanding Scholar program, but OPM does not cite any such source. OPM does argue that DVA's use of the Outstanding Scholar appointing method was authorized by 5 CFR 330.101, which states that "[a]n appointing officer may fill a position in the competitive service by any of the methods authorized in this chapter." PRF, Tab 11 at 4. The current version of Chapter I, Title 5 CFR, contains three references to the Outstanding Scholar program, but none actually authorizes an appointment under that program; more important, OPM does not argue that these provisions are based on "specific legislation or Executive order." See 5 CFR 315.710, 330.205(g), 330.705(b)(2). At one point Outstanding Scholar appointments were covered by a special Schedule B appointing authority at 5 CFR 213.3202. That authority, however, was an interim measure to be used while OPM developed an alternative competitive examining method for positions covered by the Luevano consent decree, which it ultimately did when it announced the Administrative Careers with America examination. The Schedule B hiring authority no longer covers Outstanding Scholars. See 57 FR 724 (1992); 54 FR 15,369 (1989); *National Treasury Employees Union* v. *Newman*, 768 F. Supp. 8, 9–10 (D.D.C. 1991).

To recapitulate, even if OPM's regulations authorize non-competitive hiring under the Outstanding Scholar program, OPM and DVA have not shown, or even argued, that Congress or the President approved the Outstanding Scholar program as an exception to competitive examining laws. Likewise, OPM and DVA have not shown, or even argued, that any statute or executive order delegates to OPM or any other executive agency the power to create a non-competitive appointing authority such as the Outstanding Scholar program. Finally, even if the Outstanding Scholar program was within OPM's or another executive agency's authority to create, OPM and DVA have not explained what rules, if any, guide its use, either in general, or when, as in this case, a qualified preference-eligible veteran vies for a position. In particular, the record does not show, with respect to the VSR position at issue, that DVA's use of the Outstanding Scholar program was consistent with OPM's requirement that the program be invoked "as a *supplement* to the competitive examining process where under-representation of Blacks and Hispanics exists." Delegated Examining Operations Handbook, § 2.8(A) (emphasis supplied). It is undisputed that DVA did not conduct a competitive examination before selecting nine individuals for the VSR position the appellant sought; moreover, the record as currently developed does not indicate that DVA invoked the Outstanding Scholar appointing authority to ameliorate "under-representation of Blacks and Hispanics."

We are mindful of the important social goals of the civil rights laws under which the Luevano plaintiffs brought their suit. This case seeks redress for alleged violation of the veterans' preference provisions of the civil service laws. The government "is obliged to abide by both [sets of] statutes, and may not satisfy one at the expense of the other." *National Treasury Employees Union* v. *Horner*, 654 F. Supp. 1159, 1166 n.5 (D.D.C. 1987), aff'd in part, rev'd in part on other grounds, 854 F.2d 490 (D.C. Cir. 1988). We must consider seriously the appellant's argument that DVA was not permitted to choose to hire non-veterans without competitive examination because of the primacy that competitive examination has in the civil service system, as discussed below.

The Pendleton Civil Service Act of 1883 replaced a patronage system, under which civil service appointments had frequently been used to reward political supporters, with a "classified civil service," entry into which required competitive examination. See *Hampton* v. *Mow Sun Wong*, 426 U.S. 88, 106

(1976); *Arnett* v. *Kennedy*, 416 U.S. 134, 149 (1974). The "fundamental" idea underlying the Pendleton Act was that "a new appointment" in the civil service "shall be given to the [person] who is best fitted to discharge the duties of the position, *and that such fitness shall be ascertained by open, fair, honest, impartial competitive examination.*" *National Treasury Employees Union* v. *Horner*, 654 F. Supp. at 1161–62 (quoting S. Rep. No. 576, 47th Cong., 1st Sess., at 13–14 (1882) (emphasis supplied by court)). Nearly 100 years after the Pendleton Act, Congress reaffirmed the principle of fair and open competition for entry into the civil service. The Civil Service Reform Act of 1978 codified the "merit system principles," the first of which states:

> Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, *after fair and open competition* which assures that all receive equal opportunity.

5 U.S.C. 2301(b)(1) (emphasis supplied).

Exceptions to the competitive examination requirement are permitted. See 5 U.S.C. 3304(b) ("[a]n individual may be appointed in the competitive service only if he has passed an examination" or is appointed under an authority excepting him from the examination requirement); see also 5 U.S.C. 3302(2). For example, statutes such as those mentioned in ¶ 9 above authorize non-competitive appointment of veterans meeting certain criteria. Likewise, Civil Service Rules 1.3(c) and 7.1, first promulgated by the President in 1954 under 5 U.S.C. 3301, give an appointing officer the discretion to fill a position in the competitive service either by competitive examination or by non-competitive appointment of a former federal employee who acquired "competitive status" under a prior appointment. See Exec. Order No. 10,577 (Nov. 23, 1954), sec. 101, 19 FR 7521 (1954), reprinted at 5 U.S.C.A. 3301 note, currently codified at 5 CFR Part 1, §§ 1.3(c), 7.1; see also 5 CFR 212.301 (explaining how competitive status is acquired). Apart from the discretionary use of non-competitive appointing authorities, Civil Service Rule 3.2 allows appointment without competitive examination "in rare cases," namely, when because of the "duties or compensation" of a position or the scarcity of "qualified persons," the position "cannot be filled through open competitive examination." 5 CFR Part 1, 3.2; see also 5 CFR 332.101(a) (OPM may authorize non-competitive examinations "when sufficient competent persons do not compete"). The parties do not argue, and there is no evidence to indicate, that these exceptions to the competitive examining requirement were or could properly have been invoked with regard to the VSR position the appellant sought.

In light of the importance of the above questions to veterans and to class members in the Luevano litigation, we decline to rule on the merits of the appellant's claim without further briefing. A decision either way could profoundly affect one group or the other (or both), and as the above discussion indicates, thus far the issues have not been well-framed or discussed. Furthermore, it would be unwise for us to decide this case and potentially set precedent with just the appellant, DVA, and OPM in front of us, considering that individuals, veterans' groups, Luevano class members, unions, minority advocacy groups, and other government agencies, have a large stake in the outcome.

Order

The initial decision's findings on the merits may or may not survive review, and in any event, OPM and DVA make strong arguments that the remedy ordered in the initial decision exceeds the Board's authority. Accordingly, we VACATE the initial decision, without deciding the propriety of the remedy ordered below. We will revisit the issue of the appropriate remedy if, after further briefing, we conclude that DVA violated the appellant's veterans' preference rights.

The record is reopened for presentation of supplemental argument and evidence on the following related questions: (1) Was the execution of the Luevano consent decree a valid exercise of delegated executive authority for necessary exceptions of positions from the competitive service or necessary exceptions from the provisions of sections 2951, 3304(a), 3321, 7202, and 7203 of Title 5, United States Code; (2) what rules govern the use of the Outstanding Scholar appointing method, both in general, and when, as in this case, a qualified individual with veterans' preference applies for a competitive-service position; (3) when a qualified individual with veterans' preference applies for a competitive-service position, is the appointing authority limited to filling the position through competitive examination or non-competitive appointment of a preference-eligible, or are there other means by which an appointing authority may fill the position, and if so, what are the other means; (4) does an agency with delegated examining authority have the discretion to issue multiple certificates of unranked candidates, grouped according to specific hiring authorities or criteria, for consideration by a selecting official; and (5) if the agency can issue multiple certificates based on specific criteria, and a candidate meets the criteria for inclusion on more than one such certificate, does the agency have the discretion to exclude a candidate from a certificate for which she meets the criteria? For example, in this case it appears that the agency excluded the 30% disabled veterans from the VEOA certificate despite the fact that each of these veterans was eligible to compete pursuant to the VEOA. See supra, ¶3. The supplemental argument addressing question (1)–(3) should focus on the matters discussed in ¶¶ 17–19 of this opinion, although the parties are not limited to those matters.

Within 30 days of the date of this order, OPM and DVA shall submit (individually or jointly) legal argument on the questions posed above. OPM and DVA shall also submit (individually or jointly) copies of the full Luevano consent decree and DVA's merit promotion plan. In addition, DVA shall submit, no later than 15 days from the date OPM files its response to this order, supplemental evidence and argument showing that the appointments it made under the Outstanding Scholar program met the requirements of that program as explained in OPM's response.

The appellant may reply within 30 days of the date of service of OPM's and DVA's legal argument and evidence. (If OPM and DVA do not make service on the same date, the appellant's response is due no later than 30 days from the later date of service.) The appellant may supplement her reply, no later than 15 days from the date DVA files its supplemental evidence and argument, with regard to whether the Outstanding Scholar appointees met the terms of that program.

The Clerk is directed to cause this decision to be printed in the **Federal Register**, and to advise any interested party that it may submit an amicus brief on the questions posed above, within 30 days of the date of publication. The notice shall instruct amici to file two copies of their briefs with the Clerk of the Board, and shall include instructions for service of briefs on DVA and OPM. The Clerk will serve copies of amicus briefs on the appellant.

DVA, OPM, and the appellant may respond to any amicus briefs filed within 20 days from the latest date an amicus brief is served, but in any case no later than 60 days from the date of publication of the notice in the **Federal Register**.

DATES: All briefs in response to this notice shall be filed with the Clerk of the Board within 30 days of May 18, 2001.

ADDRESSES: All briefs submitted must include the case name and docket number noted above (Cassandra Augustine v. Department of Veterans Affairs, docket number SF–3443–00–0085–I–1) and be entitled "Amicus Brief," and should be submitted in duplicate. Briefs should be filed with the Office of the Clerk, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419. A copy of any amicus brief that is submitted must also be served on Patricia Geffner, Department of Veterans Affairs, (344/02), Office of Regional Counsel, 11000 Wilshire Boulevard, Los Angeles, CA 90024, and Rafael Morell, Office of Personnel Management, Office of General Counsel, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Shannon McCarthy, Deputy Clerk of the Board, or Matthew Shannon, Counsel to the Clerk (202) 653–7200.

Dated: May 15, 2001.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 01–12627 Filed 5–17–01; 8:45 am]

BILLING CODE 7400–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–060)]

NASA Advisory Council, Space Flight Advisory Committee (SFAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Flight Advisory Committee.

DATES: Friday, May 25, 2001 from 4 p.m. until 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Y. Edgington (Stacey), Code M, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4519.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to seating capacity of the room. The agenda for the meeting is as follows:

—OBPR Personnel & Organization Status
—ISS Status
—OBPR Performance Targets
—Division Director's Reports—Status
—Interim Mission Status Report
—Subcommittee Reports
—Discussion of Committee Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 15, 2001.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–12536 Filed 5–17–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–061)]

NASA Advisory Council, Biological and Physical Research Advisory Committee, Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee.

DATES: Thursday, June 14, 2001, 10 a.m. to 5 p.m.; and Friday, June 15, 2001, 8 a.m. to 12 Noon.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW., MIC–7, Room 7H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley M. Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0826.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—OBPR Personnel & Organization Status
—ISS Status
—OBPR Performance Targets
—Division Director's Reports—Status
—Interim Mission Status Report
—Subcommittee Reports
—Discussion of Committee Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 15, 2001.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–12537 Filed 5–17–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental: Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (1189).

Date/Time: June 7–8, 2001, 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Michael Domach, Program Director, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–7941.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12590 Filed 5–17–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Sciences (1754).

Date/Time: June 13, 14, 15, 2001.

Place: National Science Foundation, 4201 Wilson Boulevard, Stafford II—Room 525, 545, 565 and 575, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Matthew Kane, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8480.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Biocomplexity and the Environment: Genome-Enabled Environmental Sciences and Engineering proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12594 Filed 5–17–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical System; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date/Time: June 1, 2001, 8:30 a.m. to 5 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 530, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Ken P. Chong, Program Director, Mechanics and Structures of Materials, Division of Civil and Mechanical Systems, National Science Foundation, 4201 Wilson Blvd., Room 545, Arlington, VA, (703) 292–8360.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY'01 Surface Engineering and Material Design Review Panel as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12586 Filed 5–17–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunity in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunity in Science and Engineering (1173).

Date/Time: June 14, 2001, 8 a.m.–5:45 p.m. and June 15, 2001, 8 a.m.–3 p.m.

Place: Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: Michelle McMurry, Executive Secretary, CEOSE, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Phone (703) 292–8094.

Minutes: May be obtained from the Executive Secretary at the above address.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda

Thursday, June 14, 2001, 8 AM–5:45 PM

8:00 AM Breakfast with NSF Staff
8:30 AM Welcome
Approval of February 2001 Minutes
8:45 AM Report of Executive Council Liaison
9:00 AM Historical Summary of Main CEOSE Issues and Overview of Issues to Be Discussed At This Meeting
10:00 AM Discussions with Dr. Bob Suzuki
12:00 PM Lunch
1:00 PM Research Presentation by Dr. Thomas Windham
1:45 Directorate Dialogue: Education and Human Resources
3:45 PM Break
4:00 PM Research Presentation by Dr. Willie Pearson
4:45 PM Committee Discussion I: Reflections of Departing Members
5:45 PM Adjourn for the day

Friday, June 15, 2001, 8 AM–3 PM

8:00 AM Breakfast
8:30 AM Committee Discussion II: Report Planning for 2002
10:30 AM Break
10:45 AM Directorate Dialogue: Geological Sciences
11:45 AM Lunch
Committee Discussion III: Advisory Committee Reports
1:00 PM Budget Overview, Report Response, and Criterion 2
2:00 PM Committee Discussion IV: Wrap-up and Future Directions
3:00 PM Adjourn

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12595 Filed 5–17–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental and Integrative Activities; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Experimental and Integrative Activities (#1193):

Date/time	Place
June 4, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.
June 11–12, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.
June 14–15, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.
June 21–22, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201, Wilson Boulevard, Arlington, VA.

Type of Meetings: Closed.

Contact Person: Gary Strong, National Science Foundation, 4201 Wilson Boulevard, Room 1160, Arlington, VA 22230, (703) 292–8980.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Information Technology Research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12587 Filed 5–17–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Human Resource Development (#1199).

Date/Time: June 7–8, 2001, 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 320 & 330, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Victor Santiago, Program Director, Human Resource Development Division, Room 815, National Foundation, 4210 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–4673.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12591 Filed 5–17–01 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date/Time: June 4–June 5, 2001, 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 1150, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Ephriam Glinert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review evaluate Computer and Social Systems proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12589 Filed 5–17–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Integrative Activities (1373).

Date/Time: June 5–7, 2001—8:30 am—5:30 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Nathaniel G. Pitts, Director, Office of Integrative Activities, Room 1270, 4201 Wilson Blvd, Arlington, Virginia 22230; Telephone: (703) 292–8040.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate full proposals submitted to the Science and Technology Centers: Integrative Partnerships Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under U.S.C. 552B(c)(4) and (6) of the Government Sunshine Act.

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12588 Filed 5–17–01; 8:45am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Material Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR) #1203.

Dates/Times: June 6 and 7, 2001, 7:30 a.m.–9 p.m.; June 8, 2001, 7:30 a.m.–3 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Ulrich Strom, Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4938.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552

b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12592 Filed 5–17–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collection under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted.

1. *The title of the information collection:*
   NRC Form 4, "Cumulative Occupational Exposure History"
   NRC Form 5, "Occupational Exposure Record for a Monitoring Period"
2. *Current OMB approval number:*
   NRC Form 4: 3150–0005
   NRC Form 5: 3150–0006
3. *How often the collection is required:*
   NRC Form 4: Occasionally
   NRC Form 5: Annually
4. *Who is required or asked to report:*
   Licensees who are required to comply with 10 CFR Part 20.
5. *The number of annual respondents:*
   NRC Form 4: 286 (104 reactor sites and 182)
   NRC Form 5: 5,400 (104 reactor sites and 5,296 materials licensees)
6. *The number of hours needed annually to complete the requirement or request:*
   NRC Form 4: 11,531 hours or an average of 0.5 hours per response.
   NRC Form 5: 66,682 hours (55,242 hours for recordkeeping hours or an average of 10 hours per recordkeeper and 11,440 hours for reporting hours or an average of 40 hours per response).
7. *Abstract:* NRC Form 4 is used to record the summary of an individual's cumulative occupational radiation dose for the current year to ensure that dose does not exceed regulatory limits. NRC Form 5 is used to record and report the results of individual monitoring for an occupational dose from radiation during a one-year period to ensure regulatory compliance with annual dose limits.

Submit, by July 17, 2001, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 14th day of May 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12556 Filed 5–17–01; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27397]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

May 11, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 5, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After June 5, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Grid USA, et al. (70–9089)

National Grid USA ("Grid"), a registered public utility holding company, and its electric public utility subsidiary companies, Massachusetts Electric Company), (The Narragansett Electric Company, New England Electric Transmission Corporation, New England Hydro-Transmission Electric Company, Inc., New England Hydro-Transmission Corporation, New England Power Company, New England Energy Incorporated, and National Grid USA Service Company, Inc. ("Service Company"), all located at 25 Research Drive, Westborough, Massachusetts 01582, and Granite State Electric Company, 407 Miracle Mile, Suite 1, Lebanon, New Hampshire 03766, Nantucket Electric Company, 25 Fairgrounds Road, Nantucket, Massachusetts 02554, and the Narragansett Electric Company, 280 Melrose Street, Providence, Rhode Island 02901 (collectively, "Applicants") have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10 and 12 of the Act and rule 43, 45 and 54 under the Act. The Commission issued a notice describing various proposed financing transactions on January 26, 2001 (Holding Co. Act Release No. 27340), and a supplemental order authorizing those transactions was issued on April 19, 2001 (Holding Co. Act Release No. 27381) ("April Order"). This supplemental notice describes Applicants' proposal to engage in certain additional internal financing transactions as described below.

In late April Order, the Commission, among other things, approved Service Company's request for authority to borrow up to $60 million ("Service Company Borrowing Limit") through May 31, 2003 ("Authorization Period"), either by issuing notes or commercial paper, or by borrowing from Grid's intrasystem money pool. As described in this supplemental notice, Applicants also request authority to meet Service Company's borrowing requirements, up to the Service Company Borrowing Limit, by direct loans from Grid to Service Company through the Authorization Period.

These loans would be at the rate equal to the prime rate for Fleet/Boston less 1%. Based on the 7.5% prime rate existing as of April 19, 2001, the effective interest costs of these borrowings would be 6.5%. The loans would have no stated maturities, but the borrowings may be prepaid by the Service Company without penalty.

Conectiv, et al. (70–9095)

Conectiv, a registered holding company, Conectiv's public-utility subsidiaries: Atlantic City Electric Company ("ACE"); Delmarva Power & Light Company ("Delmarva"); Conectiv Atlantic Generation, L.L.C. ("CAG"); and Conectiv Delmarva Generation, L.L.C. ("CDG") [1] (collectively, "Utility Subsidiaries"); and Conectiv's nonutility subsidiaries ("Nonutility Subsidiaries"): ACE REIT, Inc. ("ACE REIT"); ATE Investment, Inc.; ATS Operating Services, Inc.; Atlantic Generation, Inc.; Atlantic Jersey Thermal Systems, Inc.; Atlantic Southern Properties, Inc.; Binghamton General, Inc., Binghamton Limited, Inc.; Conectiv Communications, Inc.; Conectiv Energy Holding Company ("CEH"); Conectiv Energy Supply, Inc.; Conectiv Mid-Merit, Inc.; Conectiv Operating Services Company; Conectiv Resource Partners, Inc.; Conectiv Services, Inc.; Conectiv Solutions, LLC; Conectiv Thermal Systems, Inc.; DCI I, Inc.; DCI II, Inc.; DCTC-Burney, Inc.; Delmarva Capital Investments, Inc.; Delmarva Services Company; King Street Assurance, Ltd. ("KSA"); Pedrick Gen., Inc.; Vineland Limited, Inc.; and Vineland General, Inc., all located at 800 King Street, Wilmington, Delaware 19899; and Conectiv Plumbing, L.L.C., located at 621 Chapel Avenue, Cherry Hill, New Jersey 08034 (collectively, "Applicants"), have filed a post-effective amendment ("Post-Effective Amendment") under sections 6(a), 7, 9(a), 10, and 12(b) of the Act and rules 45, 53 and 54 under the Act, to its application-declaration previously filed under the Act. Utility Subsidiaries and Nonutility Subsidiaries are referred to collectively as "Subsidiaries."

[1] The Commission authorized the acquisition of CDG and CAG by order dated June 29, 2000 (Holding Co. Act Release No. 27192) ("GENCO Order").

I. Background

By order dated February 26, 1998 (Holding Co. Act Release No. 26833), and by various supplemental orders [2] (collectively, "Financing Orders"), the Commission authorized Conectiv and its subsidiaries to effect certain financing transactions through March 31, 2002. These included: (1) The issuance by Conectiv of short-term debt in an aggregate amount not to exceed $1.3 billion less any amount of short-term debt issued by Delmarva under its authorization to issue up to $275 million of short-term debt; (2) the issuance by Conectiv of up to $250 million of long-term debt with the reservation of jurisdiction over an additional $750 million of long-term debt; [3] (3) the issuance by Conectiv of common stock which, when combined with any long-term debt issued, does not exceed $500 million in the aggregate; [4] and (4) the issuance by Conectiv of guaranties, letters of credit, expense agreements or other forms of credit support for the obligations of Subsidiaries in an aggregate amount not to exceed $350 million.

Financings authorized in the Financing Orders are subject to the following limitations ("Financing Parameters"): (1) Conectiv's consolidated common equity will be at least 20% of its total consolidated capitalization ("Common Equity Ratio"), as adjusted to reflect subsequent events that affect capitalization; (2) the effective cost of money on long-term debt securities will not exceed 300 basis points over comparable term U.S. Treasury securities and the effective cost of money on short-term debt securities will not exceed 300 basis points over the comparable term London Interbank Offered Rate ("LIBOR"); (3) maturity of indebtedness will not exceed 50 years; and (4) the underwriting fees, commissions, or similar remuneration paid in connection with the issue, sale or distribution of a security will not exceed 5% of the principal amount of the financing. Conectiv proposes that these Financing Parameters also apply to all transactions proposed by this Post-Effective Amendment.

[2] These orders were issued on August 21, 1998 (Holding Co. Act Release No. 26907); September 28, 1998 (Holding Co. Act Release No. 26921); October 21, 1998 (Holding Co. Act Release No. 26930); November 13, 1998 (Holding Co. Act Release No. 26941); December 14, 1999 (Holding Co. Act Release No. 27111); and August 17, 2000 (Holding Co. Act Release No. 27213).

[3] If this reservation of jurisdiction is released, the proceeds of any new issuance of long-term debt exceeding $250 million must be used to reduce short-term debt.

[4] Conectiv has issued $250 million of long-term debt under the Financing Orders. Therefore, Conectiv may issue up to an additional $250 million of common stock and long-term debt.

II. Description of Proposed Transactions

A. Summary of Requests

By this Post-Effective Amendment, Applicants request the following: (1) An extension of the effective period for all authorizations contained in the Financing Orders through September 30, 2003 ("Authorization Period"); (2) an increase in the amount of short-term debt that Conectiv is authorized to have outstanding during the Authorization Period from $1.3 billion to $2.0 billion, with Conectiv permitted to issue securities during the Authorization Period so long as the Common Equity Ratio is at least 20% [5] (3) an increase in the amount of guaranties, letters of credit and other forms of credit support that Conectiv can offer to third parties on behalf of the obligations of Subsidiaries from $350 million to $1.5 billion and the addition of obligations of certain nonaffiliated third parties to the obligations that may be guaranteed; (4) the establishment of special purpose direct or indirect subsidiaries of CEH ("New Utility Subsidiaries") and the acquisition of utility property by CDG, CAG and the New Utility Subsidiaries in an amount not to exceed $1 billion in the aggregate; (5) the issuance of up to $1 billion of debt and equity securities in the aggregate by CDG, CAG and the New Utility Subsidiaries to their respective parent companies ("GENCO Securities"), and the acquisition of the GENCO Securities by each of these parent companies; (6) the issuance of up to $1 billion of debt and equity securities in the aggregate by CDG and CAG's parent company, CEH, to Conectiv in order to fund CEH's acquisition of the securities issued by its subsidiaries; and (7) participation in the Conectiv System Money Pool ("Money Pool") by the New Utility Subsidiaries, with aggregate Money Pool borrowings by CDG, CAG and the New Utility Subsidiaries limited to $1 billion, less

[5] Conectiv's proposed short-term debt authorization would be exclusive of any short-term debt issued by Delmarva.

the amount of any GENCO Securities issued to their respective parents.

B. Proposed Increase in Short-term Debt Authorization

Conectiv requests an increase in the aggregate amount of short-term debt it may issue at any one time outstanding during the Authorization Period to no more than $2 billion, exclusive of any short-term debt issued by Delmarva.[6] Applicants state that the continued uncertainty of the timing of the receipt of certain funds, as described below, combined with the need to fund the ongoing operations of Conectiv and the Subsidiaries, require this increased short-term debt authorization.

Applicants note that Delmarva and ACE entered into agreements to sell substantially all of Delmarva's generation assets and all of ACE's generation assets to third parties.[7] However, these sales have not yet closed, and applicants state that they may be further delayed or modified. After ACE closes on the sales of its generation assets, it is expected that debt will be issued by a special purpose subsidiary of ACE and secured by regulatory assets created under the New Jersey Electric Discount and Energy Competition Act ("Securitized Debt").[8]

The primary use of the funds from the sales of the generation facilities and the issuance of the Securitized Debt is planned to be short-term and long-term debt reduction, ACE and Delmarva equity repurchase and new investments. The additional short-term debt proposed in this Post-Effective Amendment will be used to bridge any further delays in these sales, to finance Conectiv's capital program, including the construction of mid-merit generation facilities, and for other general corporate purposes.[9]

Applicants state that the types of short-term debt securities will include, but not be limited to, borrowings under one or more revolving credit facilities, commercial paper, short-term notes and bid notes. Interest rates on short-term debt will be comparable to interest rates on debt with like terms and maturities issued by companies with similar credit ratings, and in any case will not exceed 300 basis points over the comparable term LIBOR rate. The maturity of any short-term debt issued will not exceed 364 days or, if the notional maturity is greater than 364 days, the debt security will include put options at appropriate points to cause the security to be accounted for as a current liability under United States generally accepted accounting principles ("GAAP"). All short-term debt will be unsecured, ranking pari passu with other unsecured debt of Conectiv. Applicants state that it is highly unlikely that the increased level of short-term debt requested in this Post-Effective Amendment would reduce the common stock equity positions on a consolidated basis of Conectiv, ACE and Delmarva as detailed in exhibit H–3 to this Post-Effective Amendment through the Authorization Period.

C. Proposed Increase in Conectiv Guaranties

Authorization is requested for Conectiv to enter into guaranties, obtain letters of credit, enter into support or expense agreements or otherwise provide credit support to third parties during the Authorization Period in an aggregate amount up to $1.5 billion ("Guaranty Limit") with respect to: (1) The obligations of the Subsidiaries as may be appropriate to carry on their respective businesses; and (2) the obligations of certain nonaffiliated third parties in connection with certain lease transactions, as described below. Applicants state that the increased level will permit Conectiv to provide guaranties to vendors involved in the construction of mid-merit generation plants, to lenders for potential financing transactions related to mid-merit plants and to counterparties for a higher level of energy trading activity.[10] Conectiv also may issue a portion of the proposed guaranties in connection with the business of Conectiv's subsidiary, Conectiv Energy Supply, Inc. ("CESI"), which conducts the power marketing and trading operations of the Conectiv System.[11] To the extent that any guaranties appear as short-term debt on Conectiv's balance sheet, that debt also would be included in the short-term debt limitation.

Conectiv proposes to guarantee certain obligations of non-affiliated third parties in connection with a financial transaction known as a "synthetic lease." Applicants state that the synthetic lease affords off-balance sheet accounting treatment but permits Conectiv to retain the tax benefits of ownership. Specifically, under such an arrangement, Conectiv would receive the tax benefits of depreciation but would not have to recognize such depreciation in its income statement. To implement a synthetic lease, Conectiv would lease certain mid-merit generation facilities, which may be either exempt wholesale generators ("EWGs") or utility property, from a non-affiliated third-party special purpose entity ("SPE") established to finance construction of the generation facilities. The SPE would borrow on a short-term basis from a group of lenders to fund construction and Conectiv would guarantee a portion of the short-term debt of the SPE. These guarantees would be included under the Guaranty Limit.[12]

D. Proposed Formation of New Subsidiaries and Related Transactions

Conectiv requests authorization to establish the New Utility Subsidiaries and for CDG, CAG, or the New Utility Subsidiaries to acquire up to an aggregate amount of $1 billion of utility property during the Authorization Period.[13] Applicants assert that use of the New Utility Subsidiaries is necessary to provide operating and tax planning flexibility, and that the New Utility Subsidiaries may be corporations or limited liability companies wholly owned directly or indirectly by CEH.

Conectiv intends to retain and develop additional flexible, low-cost mid-merit generation to address competitive opportunities in the Mid-Atlantic region. As part of this business strategy, Conectiv has transferred certain net generating capacity to CDG and CAG,[14] and will pursue acquisition and development opportunities for additional CDG and CAG generation. This generation will be located within the region where Conectiv currently operates and participates in the power supply business.

E. Proposed Financing of Utility Property; Participation by New Utility Subsidiaries in Conectiv System Money Pool ("Money Pool")

Conectiv expects to fund the construction of these mid-merit generating facilities using internally generated funds and short-term debt until such time as long-term debt may be issued. Applicants request authority: (1) For Conectiv to fund CEH, the subsidiary formed to hold CDG, CAG, and ACE REIT, an intermediate holding company parent of CAG; (2) for CEH in turn to fund CDG and ACE REIT; (3) for ACE REIT to fund CAG; and (4) for CDG and CAG to fund any New Utility Subsidiary formed by each through the issuance of debt or equity securities to, and the acquisition of those securities by, CDG's and CAG's respective parent company.

The aggregate amount of securities issued by CDG, CAG or the New Utility Subsidiaries will not exceed $1 billion during the Authorization Period.[15] Any debt issued by CDG, CAG or the New Utility Subsidiaries will mature in thirty years or less and will bear interest at a rate designed to approximate the lender's cost of money. This interest rate will not exceed 300 basis points over comparable term United States Treasury securities for long-term debt and the effective cost of money on short-term debt securities will not exceed 300 basis points over the comparable term LIBOR rate.

Applicants state that CDG, CAG and the New Utility Subsidiaries may finance all or part of the construction using borrowings from the Money Pool. To facilitate these borrowings, Applicants request authorization for the New Utility Subsidiaries to participate in the Money Pool.[16] Aggregate Money Pool borrowings by CDG, CAG and the New Utility Subsidiaries, in combination with any debt or equity securities issued to their respective parents as described above, will not exceed $1 billion during the Authorization Period. Applicants further state that the Money Pool borrowings will be made under the same terms and conditions as borrowings by existing Money Pool participants.

Kansas City Power & Light Company, et al. (70–9861)

Great Plains Energy Incorporated ("GPE"), a newly formed Missouri holding company; Kansas City Power & Light Company ("KCPL"), an electric public utility company; Great Plains Power, Inc. ("GP Power"), KCPL's wholly owned nonutility subsidiary; KCPL Receivable Corporation ("KCPL Receivable"), KCPL's wholly owned special purpose entity all located at 1201 Walnut Street, Kansas City, Missouri 64106 and KLT Inc. ("KLT"), 10740 Nall Street, Suite 230, Overland Park, Kansas 66211, KCPL's wholly owned intermediate holding company (collectively, "Applicants") have filed an application-declaration under sections 6(a), 7, 9(a)(1), 10, 11(b)(1), 12(b), 12(c), 13(b), 32, and 33 of the Act and rules 45(b), 46, 52, 53, 54, and 80–92 under the Act.

Under a corporate reorganization ("Reorganization"), KCPL proposes to adopt a new corporate structure in which KCPL will become a wholly owned subsidiary of the newly formed Missouri holding company, GPE. Applicants state they are undertaking the Reorganization in response to the dramatic changes in the wholesale electric power market, the emergence of unregulated competitive generators, open access to the nation's transmission grid, and the appearance of competitive retail electricity markets in a significant percentage of the country. Upon completion of the Reorganization, GPE will register. In addition to the Reorganization, Applicants request post-Reorganization financing authority and request approval for other intrasystem transactions.

I. Description of the Applicants

A. KCPL

KCPL is an electric utility company engaged in the generation, transmission, distribution, and sale of electric energy in Missouri and Kansas. KCPL owns approximately 3,700 MW of generation and provides retail electric service to approximately 467,000 customers in Kansas and Missouri, serving retail customers in the region in and around the Kansas City metropolitan area. KCPL also engages in limited gas brokering activities.

KCPL is subject to the regulatory jurisdiction of the Missouri Public Service Commission ("MPSC") and the Corporation Commission of the State of Kansas ("KCC") with respect to its retail operations. KCPL also is subject to regulation of the Federal Energy Regulatory Commission ("FERC") with respect to its wholesale and transmission-related operations and the Nuclear Regulatory Commission ("NRC") with respect to licensing and operation of its nuclear generating units.

B. Nonutility Subsidiaries

KCPL wholly owns the following nonutility subsidiaries ("Nonutility Subsidiaries"): WYMO Fuels, Inc. ("WYMO"), a Missouri corporation that was established to acquire and develop coal properties in Wyoming, but is in the process of divesting its assets and will dissolve; Home Service Solutions, Inc. ("Home Services"), a Missouri corporation that is an intermediate holding company that owns a 100 percent interest in Worry Free Services, Inc. and a 49.4 percent interest in R.S. Andrews Enterprise, Inc.; KCPL Receivable, a Delaware corporation, that is a special purpose entity established to purchase customer accounts receivable from KCPL; GP Power, a recently created Missouri corporation which will hold interests in exempt wholesale generators ("EWGs"); and KLT, a Missouri corporation that is an intermediate holding company with the following subsidiaries: KLT Investments Inc.; invests, as a limited partner, in affordable housing partnerships; KLT Investments Inc. II, pursues passive investment in community, economic development and energy-related opportunities, KLT Energy Services, Inc., and its subsidiaries, which invest in companies that provide products and services to customers to control the amount, cost and quality of electricity to commercial and industrial customers, provide demand-side management services, power supply coordination (including purchasing electricity at wholesale for resale to end users), gas management, energy consulting, and generation optimization (such as scheduling and dispatching generation and wholesale marketing services); KLT Gas Inc., owns and operates interests in oil and gas producing properties; and

[6] Delmarva would retain its authorization under the Financing Orders to issue up to $275 million of short-term debt.

[7] Applicants state that, under the Delaware, Maryland, Virginia and New Jersey electric industry restructuring legislation and the implementing rules, Delmarva and ACE are required to exit the business of generating electricity.

[8] The Securitized Debt will be issued under an order of the New Jersey Board of Public Utilities and an order of this Commission under an application to be filed later.

[9] In addition, Conectiv states that it needs to maintain a liquidity facility for certain subsidiary variable rate demand bonds, and capacity to handle margin calls for energy trading operations and the requirement to be the provider of last resort in deregulated electricity markets.

[10] Applicants state that obligations exempt under rule 45 are excluded from the Guaranty Limit. The issuance of guarantees will be subject to the limitations of the financing Order issued under rule 53(c) authorizing Conectiv to invest up to $350 million in exempt wholesale generators, or rule 58(a)(1), as applicable. *See* Holding Co. Act Release No. 27213 (August 17, 2000).

[11] Conectiv states that it may wish to provide credit support in connection with the trading positions of CESI entered into in the ordinary course of CESI's energy marking and trading businesses. Applicants assert that the provision of parent guaranties by holding companies to affiliates in the generation and power marketing business is standard business practice.

[12] Applicants state that the leased assets are not utility property for purposes; of state regulation. Therefore, the synthetic lease arrangement would not require the approval of any state public utility commission.

[13] Conectiv's proposed acquisition of utility property is in addition to CDG's previously authorized reacquisition of certain utility assets by means of a like-kind exchange. *See* GENCO Order. This proposed acquisition also is in addition to Conectiv's authority under the Financing Orders to invest up to $350 million in EWGs.

[14] In the GENCO Order, the Commission authorized Conectiv, Delmarva and ACE to form CDG and CAG in order to hold certain net generating and related assets of Delmarva and ACE.

[15] Under the GENCO Order, CEH is authorized to issue up to $750 million of equity or debt securities less any amount of debt issued by a CEH subsidiary directly to Conectiv, CDG is authorized to issue up to $150 million of equity or debt securities and ACE REIT and CAG each are authorized to issue up to $100 million of equity or debt securities. To consolidate all authorizations related to financing of or by subsidiaries under one file, Conectiv requests that increased authorizations be approved in this file and that the CEH, CDG, ACE REIT and CAG financing portion of the GENCO Order and the authorization for CEH, CDG, ACE REIT and CAG to participate in the Money Pool be deemed replaced by the order issued in this file.

[16] The Commission approved the participation in the Money Pool of CEH, ACE REIT, CDG and CAG in the GENCO Order.

KLT Telecom Inc., pursues investment opportunities in telecommunications and wireless technology and will qualify as an exempt telecommunications company ("ETC") under section 34 of the Act. KLT also wholly-owns Energetechs, Inc., which is currently inactive.

Applicants request that the Commission find that the KCPL system constitutes an "integrated" electric utility system within the meaning of section 2(a)(29)(A) and that all of the direct and indirect Nonutility Subsidiaries are retainable under the standards of section 11(b)(1) of the Act. Applicants also request that investments in Nonutility Subsidiaries prior to the date of the Reorganization be disregarded for purposes of calculating the dollar limitation placed on GPE for investments under rule 58.

For the year ended December 31, 2000, KCPL had consolidated operating revenues of approximately $1.1 billion,[17] resulting in a net income of approximately $159 million. At December 31, 2000, KCPL had consolidated total assets of approximately $3.3 billion, including approximately 1,700 miles of transmission lines, approximately 8,900 miles of overhead distribution lines, and approximately 3,400 miles of underground distribution lines.

II. The Reorganization

GPE, the newly formed holding company, is authorized under its Articles of Incorporation to issue 150,000,000 shares of common stock, without par value ("Common Stock") and 390,000 shares of cumulative preferred stock, $100 par value ("Preferred Stock"). Also, under the Articles of Incorporation, GPE is authorized to issue 1,572,000 shares of cumulative no par preferred stock without par value and 11,000,000 shares of preference stock without par value.

GPE will form another new Missouri subsidiary, KC Merger Sub Incorporated, ("NewCo"). KCPL will merge with and into NewCo, with KCPL as the surviving corporation, resulting in KCPL becoming a wholly owned subsidiary of GPE. KCPL will dividend to GPE two of KCPL's nonutility subsidiaries, KLT and GP Power, making both wholly owned subsidiaries of GPE. KCPL Receivable, WYMO, and Home Service will remain wholly owned subsidiaries of KCPL or become direct or indirect subsidiaries of GPE, unless they are disposed of or dissolved. Following the completion of the Reorganization, GPE will register as a public utility holding company under section 5 of the Act.

To effect the Reorganization approximately 62 million shares of GPE common stock and approximately 390,000 shares of GPE Preferred Stock will be issued in a one-to-one exchange of shares. As of December 31, 2000, no shares of cumulative no par preferred stock or preference stock were issued or outstanding. To the extent KCPL may issue these types of shares prior to the Reorganization, GPE requests authority to issue corresponding shares of no par preferred stock and preference stock as necessary to consummate the one-to-one exchange of shares.

Upon consummation of the share exchange, (A) all of KCPL's common shares will be held by GPE, (B) KCPL will have no preferred shares outstanding, (C) all of GPE's common shares will be held by the former KCPL common shareholders, and (D) all of GPE's preferred shares will be held by the former KCPL preferred shareholders (with the exception of the 4.00% cumulative preferred stock to be redeemed).

III. Post-Reorganization Financing

Applicants request authority to establish: (A) A program of external financing; (B) intrasystem credit support arrangements; (C) interest rate hedging measures; (D) and other intrasystem transactions. Applicants are requesting approval for each of the proposals through December 31, 2004 (the "Authorization Period").

A. External Financing

GPE proposes to issue and sell from time Common Stock and, directly or indirectly, short-term and long-term debt securities and other forms of preferred or equity-linked securities. In addition, as part of the one-to-one share exchange for the Reorganization, GPE also proposes to issue a limited amount of Preferred Stock upon consummation of the Reorganization. The aggregate amount of all securities issued by GPE during the Authorization Period will not exceed $450 million.

1. GPE's Issuance of Common Stock

GPE requests authority to issue Common Stock, either: (a) Through negotiation with underwriters, dealers, or agents; (b) effected through competitive bidding among underwriters; (c) through private placements or other non-public offerings to one or more persons; and (d) through its employee and director compensation plans.[18] If Common Stock is sold in an underwritten offering, GPE may grant the underwriters a "green shoe" option permitting the purchase from GPE, at the same price, additional shares offered solely for the purpose of covering over-allotments.

Also, as consideration for the purchase of equity securities or assets of other existing companies, GPE proposes to issue stock options, performance shares, stock appreciation rights ("SARs"), warrants, or other stock purchase rights that are exercisable for Common Stock and to issue Common Stock upon the exercise of options, SARs, warrants, or other stock purchase rights. Applicants further state that the acquisition of any equity securities or assets would be authorized in a separate proceeding or would be exempt under the Act or the rules. If this type of consideration is used, the market value of the Common Stock on the day before closing, as negotiated by the parties, will be counted against the proposed $450 million limitation on financing.

2. GPE's Issuance of Preferred Stock

GPE requests authorization to issue Preferred Stock, as necessary to accomplish the one-to-one exchange of shares for the Reorganization. The dividend rate on only series of Preferred Stock will not exceed at the time of issuance 500 basis points over the yield to maturity of a U.S. Treasury security having a remaining term equal to the term of such securities. Dividends or distributions on such Preferred Stock will be made periodically and to the extent funds are legally available for this purpose, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. Preferred Stock may be convertible or exchangeable into share of Common Stock.

3. GPE's and the Financing Subsidiaries' Issuance of Long-term Debt and Other Preferred or Equity-Linked Securities

GPE requests authorization to issue long-term debt, directly or indirectly, through one or more financing subsidiaries ("Financing Subsidiary") and to issue indirectly, through one or more Financing Subsidiaries, other types of preferred or equity-linked securities (including, specifically, trust preferred securities).

Long-term debt of GPE may be in the form of unsecured notes ("Debentures") issued in one or more series. The Debentures of any series (a) may be convertible into any other securities of GPE, (b) will have a maturity ranging from one to 50 years, (c) will bear interest at a rate not to exceed 500 basis points over the yield to maturity of a U.S. Treasury security having a remaining term approximately equal to the term of these series of Debentures, (d) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at various premiums above or discounts below the principal amount, (e) may be entitled to mandatory or optional sinking fund provisions, (f) may provide for reset of the coupon under a remarketing arrangement, and (g) may be called from existing investors or put to the company, or both. the Debentures will be issued under an indenture ("Indenture") to be entered into between GPE and a national bank, as trustee. Also, GPE's long-term debt may be in the form of bank lines of credit. Loans under these bank lines will have maturities of not more than five years from the date of each borrowing and the effective cost of the loans will not exceed at the time of issuance 500 basis points above London Interbank Offered Rate ("LIBOR").

GPE contemplates that the Debentures would be issued and sold directly to: (a) One or more purchasers in privately negotiated transactions; (b) one or more investment banking or underwriting firms or other entities that would resell the Debentures without registration under the 1933 Act, in reliance upon one or more applicable exemptions from registration; or (c) the public through underwriters. The maturity dates, interest rates, call and/or put options, redemption and sinking fund provisions and conversion features, if any, will be established by negotiation or competitive bidding and reflected in the applicable supplemental indenture, officer's certificate and purchase agreement, or underwriting agreement.

Preferred or equity-linked securities may be issued by one or more Financing Subsidiaries, in one or more series, and with rights, preferences, and priorities as may be designated in the instrument creating each series as determined by GPE's board of directors. The dividend rate on any series of preferred or equity-linked securities will not exceed at the time of issuance 500 basis points over the yield of maturity of a U.S. Treasury security having a remaining term equal to the term of these securities. Dividends of distribution on preferred or equity-linked securities will be made periodically and to the extent funds are legally available, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. Preferred or equity-linked securities may be convertible or exchangeable into shares of Common Stock.

GPE states that without further Commission authorization it will not issue any preferred or equity-linked securities or any Debentures that are not at the time of original issuance rated at least investment grade by a nationally recognized statistical rating organization.

4. GPE's, KCPL's, and the Nonutility Subsidiaries' Issuance of Short-term Debt

GPE may sell, directly or indirectly through one or more Financing Subsidiaries, commercial paper or establish bank lines of credit ("Short-term Debt") to provide financing for general corporate purposes, other working capital requirements, and investments in new enterprises until long-term financing can be obtained. The effective cost of money on Short-term Debt authorized in this proceeding will not exceed at the time of issuance 500 basis points above LIBOR for maturities of one year or less.

GPE also proposes to establish, directly or indirectly, bank lines in an aggregate principal amount sufficient to support projected levels of short-term borrowings and to provide an alternative source of liquidity. Loans under these lines will have maturities not more than one year from the date of each borrowing. GPE also may engage, directly or indirectly, in other types of short-term financing generally available to borrowers with comparable credit ratings.

KCPL requests authorization to issue and sell from time to time during the Authorization Period notes and other evidence of indebtedness having a maturity of one year or less in an aggregate principal amount outstanding at any one time not to exceed $500 million. Short-term financing could include, without limitation, commercial paper sold in established domestic or European commercial paper markets in a manner similar to GPE, bank lines of credit, and other debt securities. The effective cost of money on short-term debt of KCPL authorized in this proceeding will not exceed at the time of issuance 500 basis points over LIBOR for maturities of one year or less.

Nonutility Subsidiaries will engage in financing transactions that are in almost all cases exempt from prior Commission authorization under rule 52(b), which requires that any loan by GPE to a Nonutility Subsidiary or by one Nonutility Subsidiary to another must have interest rates and maturities that are designed to parallel the lending company's effective cost of capital. Applicants also request authority to make loans to any associate company at interest rates and maturities designed to provide a return to the lending company of not less than its effective cost of capital, if the Nonutility Subsidiary making a borrowing is not wholly owned by GPE, directly or indirectly, and does not sell goods or services to KCPL.

B. GPE's and the Nonutility Subsidiaries' Guarantees and Other Forms of Credit Support

GPE proposes to enter into guarantees and other forms of credit support agreements on behalf of KCPL and the Nonutility Subsidiaries (collectively, "Subsidiaries") during the Authorization Period in an aggregate principal amount not to exceed $600 million outstanding at any one time. GPE requests authorization to enter into guarantees and capital maintenance agreements, obtain letters of credit, enter into expense agreements or otherwise provide credit support (collectively, "GPE Guarantees") on behalf or for the benefit of any Subsidiary in an aggregate principal amount not to exceed $600 million outstanding at any one time. GPE may guarantee both securities issued by and other contractual or legal obligations of any Subsidiary. GPE proposes to charge each Subsidiary a fee for each guarantee provided on its behalf that is determined by multiplying the amount of the GPE Guarantee provided by the cost of obtaining the liquidity necessary to perform the guarantee (*i.e.*, bank line commitment fees or letter of credit fees, plus other transactional expenses) for the period of time the guarantee remains outstanding.

Applicants request authority for Nonutility Subsidiaries to provide guarantees and other forms of credit support ("Nonutility Subsidiary Guarantees") on behalf or for the benefit of other Nonutility Subsidiaries in an aggregate principal amount not to exceed $300 million outstanding at any one time. The Nonutility Subsidiary, which provides any credit support, may charge its associate company a fee for each guarantee provided on its behalf, to be determined by the same method used for GPE's Guarantees.

C. GPE and Subsidiary Hedging Transactions

GPE and the Subsidiaries request authorization to enter into interest rate hedging transactions with respect to existing indebtedness ("Interest Rate

[17] Approximately $952 million or 85% is derived from regulated sales of electricity and electric transmission service and $164 million or 15% is derived from activities of the Nonutility Subsidiaries.

[18] KCPL maintains the following employee and director stock plans (the "Stock Plans"): The Dividend Reinvestment and Direct Stock Purchase Plan; The Employee Savings Plus Plan; and The Long-Term Incentive Plan.

Hedges"), subject to certain limitations and restrictions, in order to reduce or manage interest rate cost. Interest Rate Hedges will involve the use of financial instruments commonly used in today's capital markets, such as interest rate swaps, caps, collars, floors, and structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations.

D. Other Intrasystem Transactions and Organizational Changes

1. Changes in Capital Stock of Subsidiaries

Applicants state that the proposed sale of capital securities may in some cases exceed the then-authorized capital stock of a Subsidiary. A Subsidiary may choose to use capital stock with no par value or receive a capital contribution without issuing capital stock. Also, a wholly owned Subsidiary may engage in a reverse stock split to reduce franchise taxes. To accommodate the proposed transactions and to provide for future issues, Applicants request authority to change the terms of any wholly owned Subsidiary's authorized capital stock capitalization by an amount deemed appropriate by GPE or other intermediate parent company. A Subsidiary would be able to change the par value, or change between par value and no-par stock, without additional Commission approval. Applicants state that such action by a utility subsidiary would be subject to and would only be taken upon the receipt of any necessary approvals by the state commissions in the state or states in which the utility subsidiary is incorporated and doing business.

2. Financing Subsidiaries

GPE and the Subsidiaries request authority to acquire, directly or indirectly, the equity securities of one or more Financing Subsidiaries organized as corporations, trusts, partnerships or other entities created specifically for the purpose of facilitating the financing of the authorized and exempt activities (including exempt and authorized acquisitions) of GPE and the Subsidiaries through the issuance of long-term debt or equity securities, including but not limited to company-obligated mandatorily redeemable trust preferred securities, to third parties. Financing Subsidiaries would loan, dividend or otherwise transfer the proceeds of any financing to its parent or to other Subsidiaries provided, however, that a Financing Subsidiary of KCPL will dividend, loan or transfer proceeds of financing only to KCPL. The terms of any loan of the proceeds of any securities issued by a Financing Subsidiary to GPE would mirror the terms of those securities. GPE may, if required, guarantee or enter into expense agreements in respect to the obligations of any Financing Subsidiary that it organizes. The Subsidiaries also may provide guarantees and enter into expense agreements. If the direct parent company of a Financing Subsidiary is authorized in this proceeding or any subsequent proceeding to issue long-term debt or similar types of equity securities, then the amount of the securities issued by that Financing Subsidiary would count against the limitation applicable to its parent for those securities. However, the guaranty by the parent of that security issued by its Financing Subsidiary would not be counted against the limitations on GPE Guarantees or Subsidiary Guarantees. In other cases, in which the parent company is not authorized to issue similar types of securities, the amount of any guarantee not exempt that is entered into by the parent company with respect to securities issued by its Financing Subsidiary will be counted against the limitation on GPE Guarantees or Subsidiary Guarantees.

3. Intermediate Subsidiaries

GPE proposes to acquire, directly or indirectly through a Nonutility Subsidiary, the securities of one or more new subsidiary companies ("Intermediate Subsidiaries") which may be organized exclusively for the purpose of acquiring, holding and/or financing the acquisition of the securities of or other interest in one or more EWGs, foreign utility companies ("FUCOs"), ETCs, rule 58 companies or other non-exempt Nonutility Subsidiaries.

An Intermediate Subsidiary may be organized: (a) To facilitate the making of bids or proposals to develop or acquire an interest in any exempt company, rule 58 company, or other non-exempt Nonutility Subsidiary; (b) to facilitate closing on the purpose or financing of the acquired company; (c) to effect an adjustment in the respective ownership interests in the business held by GPE and unaffiliated investors; (d) to facilitate the sale of ownership interest in one or more acquired nonutility companies; (e) to comply with applicable laws of foreign jurisdictions limiting or otherwise relating to the ownership of domestic companies by foreign nationals; (f) to limit GPE's exposure to U.S. and foreign taxes; (g) to further insulate GPE and KCPL from operational or other business risks that may be associated with investments in non-utility companies; or (h) for other lawful business purposes.

Investments in Intermediate Subsidiaries may take the form of any combination of the following: purchases of capital shares, partnership interests, member interests in limited liability companies, trust certificates or other forms of equity interests; capital contributions; open account advances with or without interest; loans; and guarantees issued, provided or arranged in respect of the securities or other obligations of any Intermediate Subsidiaries. Funds for any direct or indirect investment in any Intermediate Subsidiary will be derived from: (a) Financings authorized in this proceeding; (b) any appropriate future debt or equity securities issuance authorization obtained by GPE from the Commission; and (c) other available cash resources, including proceeds of securities sales by a Nonutility Subsidiary. To effect any consolidation or other reorganization, GPE seeks to either contribute the equity securities of one Nonutility Subsidiary to another Nonutility Subsidiary or sell (or cause a Nonutility Subsidiary to sell) the equity securities of one Nonutility Subsidiary to another Nonutility Subsidiary. These transactions may take the form of a Nonutility Subsidiary selling, contributing or transferring the equity securities of a subsidiary as a dividend to an Intermediate Subsidiary or the acquisition by Intermediate Subsidiaries, directly or indirectly, of the equity securities of companies, either by purchase or by receipt of a dividend. The purchasing Nonutility Subsidiary in any transaction structured as an intrasystem sale of equity securities may execute and deliver its promissory note evidencing all or a portion of the consideration given. Any transaction structured as a sale will be carried out for a consideration equal to the book value of the equity securities being sold.

GPE also requests authority for Intermediate Subsidiaries to provide management, administrative, project development and operating services to entities at fair market prices and requests an exemption (to the extent that Rule 90(d) does not apply) from the cost standards of section 13(b) and rules 90 and 91 under the Act in any case in which the Non-Utility Subsidiary purchasing such goods or services is:

(a) A FUCO and foreign EWG that derives no part of its income, directly or indirectly from the generation, transmission, or distribution of electric energy for sale within the United States;

(b) An EWG that sells electricity at market-based rates which have been approved by the FERC, provided that the purchaser is not KCPL;

(c) A "qualifying facility" ("QF") within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA") that sells electricity exclusively (i) at rates negotiated at arms' length to one or more industrial, commercial customers purchasing the electricity for their own use and not for resale, and/or (ii) to an electric utility company at the purchaser's "avoided cost" as determined in accordance with the regulations under PURPA;

(d) A domestic EWG or QF that sells electricity at rates based upon its cost of service, as approved by FERC or any state public utility commission having jurisdiction, provided that the purchaser is not KCPL; or

(e) A rule 58 subsidiary or any other Nonutility Subsidiary that (i) is partially-owned by GPE, provided that the ultimate purchaser of such goods or services is not KCPL (or any other entity that GPE may form whose activities and operations are primarily related to the provision of goods and services to KCPL), (ii) is engaged solely in the business of developing, owning, operating and/or providing services or goods to Nonutility Subsidiaries described in clauses (a) through (e) immediately above, or (iii) does not derive, directly or indirectly, any material part of its income from sources within the United States and is not a public-utility company operating within the United States.

4. Payment of Dividends out of Capital and Unearned Surplus

GPE proposes, on behalf of each of its current and future non-exempt Nonutility Subsidiaries, that the companies be permitted to pay dividends with respect to the securities of these companies, from time to time through the Authorization Period, out of capital and unearned surplus (including revaluation reserve), to the extent permitted under applicable corporate law. However, without further approval of the Commission, no non-exempt Nonutility Subsidiary will declare or pay any dividend out of capital or unearned surplus if the Nonutility Subsidiary derives any material part of its revenues from the sale of goods, services, electricity or natural gas to KCPL. GPE requests that the Commission reserve jurisdiction over dividends paid by any non-exempt Nonutility Subsidiary.

IV. Use of Proceeds

The proceeds from the post-Reorganization financings will be used for general corporate purposes, including: financing investments by and capital expenditures of GPE and its subsidiaries; funding of future investments in any EWG, FUCO, ETC, or energy-related or gas-related company within the meaning of rule 58; the repayment, redemption, refunding or purchase by GPE or any subsidiary of its own securities; financing working capital requirements of GPE and its subsidiaries; and for any other lawful corporate purposes. More specifically, the proceeds of the long-term debt or other preferred or equity-linked securities will enable GPE to reduce short-term debt with permanent capital and provide an important source of future financing for the operations of and investments in nonutility businesses exempt under the Act. Applicants represent that no financing proceeds will be used to acquire the securities of or other interest in any company unless the acquisition has been approved by the Commission in this proceeding, in a separate proceeding, or in accordance with an available exemption under the Act or rules, including sections 32 and 33 and rule 58. Also, proceeds of financings and guarantees utilized to fund investments in rule 58 companies will be subject to the limitations of that rule.

V. Leases and Service Arrangements

Finally, GPE requests authorization under section 9(a)(1) for KCPL and GPE to engage in certain leasing transactions and authorization under sections 12 and 13 for certain intrasystem transactions. KCPL currently leases certain utility assets for use in providing electric service within its service territory. Two of these leases are for transmission assets,[19] and one lease is for a combustion turbine.[20] KCPL also leases from nonaffiliates a number of railcars for the purpose of delivering fuel to KCPL's electric generating plants.

Also, KCPL holds contracts for delivery of five combustion turbines. Following the Reorganization, KCPL may transfer these contracts to GP Power, an EWG affiliate. In the alternative, KCPL may transfer these contracts to nonaffiliated parties that, in turn, would lease the delivered turbines to KCPL or GP Power for use in GP Power's EWGs.

KCPL has been providing administrative, management, technical, legal and other support services to its subsidiaries for some years, subject to regulation by the MPSC and KCC. KCPL intends to file with the Commission not later than October 1, 2001, an application/declaration seeking authority to create a service company and to implement the final support service structure for the GPE holding company system ("GPE System"). Until the application/declaration is made effective, Applicants request authorization under section 13(b) of the Act and rules for KCPL and the Nonutility Subsidiaries, after consummation of the Reorganization, to provide services on an interim basis, as well as sell goods, to each other and to GPE (as well as services and goods of a substantially similar nature). Applicants request that the provision of services of sale of goods may be on a basis other than "cost," provided the pricing arrangements are consistent with applicable Missouri and Kansas statutes and regulations. KCPL request that the interim authority extend until December 31, 2001, at which time, KCPL intends to implement the final service company structure for the GPE System.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12507 Filed 5–17–01; 8:45 am]

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[19] The first transmission line lease is with Kansas Gas and Electric Company, a wholly owned subsidiary of Western Resources, Inc., for the Wolf Creek/LaCygne transmission line under a tariff on file with the FERC. The second transmission line lease is with Associated Electric Cooperative, Inc. for KCPL's share of certain Joint Facilities, as defined in the Coordinating Agreement by and among Associated Electric Cooperative, Inc., Kansas City Power & Light Company, St. Joseph Light & Power Company, Nebraska Public Power District, Omaha Public Power District, City of Lincoln and Iowa Power Inc. for the Cooper-Fairport-St. Joseph 345 Kilovolt Interconnection.

[20] The combustion turbine lease is with First Security Bank, N.A. as Owner Trustee, which expires October 2001, unless extended by mutual agreement of KCPL and the lessor.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44304; File No. 4–444]

Roundtable on Portals

AGENCY: Securities and Exchange Commission

ACTION: Notice of roundtable meeting.

SUMMARY: On May 23, 2001, the Securities and Exchange Commission will host a roundtable to discuss issues related to relationships between Internet websites and financial service providers. Invitees include a cross section of individuals, including representatives from the financial industry, representatives of the Internet community, regulators, and academics.

The roundtable will take place at the Commission's William O. Douglas Room, Room 1C30, 450 Fifth Street, NW., Washington, DC, from 1 p.m. to

4:30 p.m. The public is invited to observe the roundtable discussions. Seating is available on a first-come first-serve basis. The schedule, agenda, and list of panelists for the roundtable will be posted on the Commission's Internet website (*http://www.sec.gov*).

FOR FURTHER INFORMATION CONTACT: Brian Bussey or Christine Richardson, Office of the Chairman, at (202) 942–0100.

Dated: May 14, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12542 Filed 5–17–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44303; File No. SR–NASD–2001–30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Establishing the Fee Schedule for the Nasdaq ReSource℠ Service

May 14, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 8, 2001, the National Association of Securities Dealers, Inc. ("NASD") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Act, and Rule 19b–4 thereunder, Nasdaq is herewith filing a proposed rule change of the NASD to establish the fee schedule Nasdaq's new ReSource℠ Service ("Service"). The Service is voluntary and is designed to assist NASD members in complying with Rule 11Ac1–5 under the Act. Below is the text of the proposed rule change; proposed additions are italicized.

* * * * *

7000. Charges for Services or Equipment

7010. System Services

(a)–(p) No Changes

(q) Nasdaq ReSource℠ Service

(1)(A) Subscribers to the Nasdaq ReSource℠ shall be charged an Activation Fee and an Annual Subscription Fee, both of which generally will vary depending upon a subscriber's trading volume, as measured in accordance with paragraphs (B) through (D) below, and corresponding tier classification as follows:

Tier	Average monthly trade volume
1	500,000 or greater.
2	100,000–499,999
3	10,000–99,999
4	5,000–9,999
5	1,000–4,999
6	500–999
7	0–499

(B) During the first year of the ReSource℠ Service (i.e., August 2001 through July 2002) Nasdaq will assign subscribers to one of the tiers listed in paragraph (A) above based on their average monthly trading volume reported to the tape, for the period from September 1, 2000, through February 28, 2001, in Nasdaq National Market securities for which the subscriber is registered as a market maker.

(C) Members that subscribe to the ReSource℠ Service other than at the beginning of a "Subscription Year," as the term is defined below, will be assigned to one of the tiers listed in paragraph (A) above based on their average monthly trading volume reported to the tape, during the six month period preceding the date of their subscription, in Nasdaq National Market securities for which the subscriber is registered as a market maker.

(D) Beginning in July of 2002, and on an annual basis thereafter, Nasdaq will review each subscriber's average monthly trading volume and assign the subscriber to one of the tiers listed in paragraph (A) above based on their average monthly trading volume reported to the tape, during the preceding six month period, in Nasdaq National Market securities for which the subscriber is registered as a market maker.

(2)(A) Activation Fees and Annual Subscription Fees shall be as follows:

Tier	Activation fee	Annual subscription fee
1	$3,000	$35,000
2	3,000	30,000
3	2,000	20,000
4	1,000	10,000
5	1,000	7,500
6	1,000	5,000
7	1,000	2,500

(B) The Activation Fee shall be billed after execution of the Addendum to Nasdaq Workstation II Subscriber Agreement for Nasdaq ReSource℠ ("Agreement").

(C) The Annual Subscription Fee shall be charged after execution of the Agreement, and at the beginning of each Subscription Year thereafter. A "Subscription Year" shall mean a 12-month period from August 1st to July 31st. The Annual Subscription Fee will be pro-rated on a monthly basis for those firms that subscribe to the Service other than at the beginning of a Subscription Year. Nasdaq will offer no refunds of the Annual Subscription Fee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 2, 2001, the Commission approved the Nasdaq Resource℠ Service, [3] which is designed to assist NASD members in complying with certain of their obligations pursuant to Rule 11Ac1–5 [4] (the "Rule") under the Act. Generally, the Rule seeks to improve the ability of public investors to evaluate how their orders are handled after being submitted to a broker-dealer for execution. The Rule requires "market centers" that trade national market system securities to prepare and make publicly available standardized, monthly reports containing statistical information concerning the handling and execution of their "covered orders." [5] A "market center" under the Rule is defined as "any exchange market maker, OTC market maker, alternative trading system, national securities exchange, or national securities association." [6] To facilitate cross-market comparisons, the Rule establishes and defines uniform measures of execution quality, including effective spread, rate of price improvement and disimprovement, fill rate, and execution speed.

Nasdaq's new voluntary service—Nasdaq ReSource℠—assists NASD member market centers in meeting their reporting obligations under Rule 11Ac1–5. For members that subscribe to the Service, Nasdaq will collect, compile, and web-host the reports required by the Rule. These reports will be referred to as Execution Quality Reports ("XQ Reports"℠) and will be available on a free, publicly accessible web site. Through certain existing systems, Nasdaq already can capture a portion of the data required to complete XQ Reports. In order to ensure complete XQ Reports, however, firms will be required to submit to Nasdaq additional data for certain categories of orders. Member firms will be required to provide an electronic file containing execution and cancellation information for orders routed to Nasdaq execution systems, orders routed to ECNs, orders routed to non-NASD members, and certain orders executed as riskless principal, depending upon which method the subscriber chooses to report riskless principal transactions. [7]

Generally, Nasdaq proposes a tiered fee structure for the ReSource℠ Service that is based on a subscriber's average monthly trading volume reported to the tape, over a certain specified number of months, in Nasdaq National Market securities for which the subscriber is registered as a market maker. Firms that generate higher trading volume will be charged a proportionately higher fee to account for the greater computer system and Nasdaq staff resources needed to provide the Service to these firms. The seven different fee levels, or tiers, will be based on monthly trading volume averaged over a six-month period. The six-month period is designed to account for seasonal fluctuations in trading volume and significant business changes. The proposed tier structure is as follows:

Tier	Average monthly trade volume
1	500,000 or greater.
2	100,000–499,999
3	10,000–99,999
4	5,000–9,999
5	1,000–4,999
6	500–999
7	0–499

For the first year that Nasdaq offers the ReSource℠ Service (*i.e.*, August 2001 [8] through July 2002), Nasdaq will assign subscribers to one of the above tiers based on their average monthly trading volume reported to the tape, for the period from September 1, 2000, through February 28, 2001, in Nasdaq National Market securities for which they are registered as market makers. For members that subscribe other than at the beginning of a Subscription Year, as that term is defined in the fee schedule and described below, Nasdaq will place the subscriber in the appropriate tier based on the subscriber's average monthly trading volume during the six month period preceding the subscription date. Beginning with the first anniversary of the Service in July of 2002, and on an annual basis thereafter, Nasdaq will conduct a review of each subscriber's average monthly trading volume during the preceding six-month period, and will assign the applicant to the appropriate corresponding tier.

Fees for the ReSource℠ Service will include an initial, one-time setup fee ("Activation Fee") and an Annual Subscription Fee, both of which generally will vary depending upon the firm's trading volume and corresponding tier classification. The Activation Fee is related to the costs associated with assisting member firms in establishing the proper hardware and software configuration necessary to submit data to Nasdaq, establishing the necessary data feeds, and testing with Nasdaq. The Activation Fee will be billed upon receipt of an executed Addendum to Nasdaq Workstation II Subscriber Agreement for Nasdaq ReSource℠ ("Agreement").

The Annual Subscription Fee is related to the on-going costs associated with compiling, calculating, and web-hosting the statistical data required by Rule 11Ac1–5. Member firms will be billed for the Annual Subscription Fee after submitting the executed Agreement, and thereafter at the beginning of each Subscription Year (*i.e.*, the 12-month period from August 1st to July 31st). The Annual Subscription Fee will be pro-rated on a monthly basis for those firms that subscribe to the Service other than at the beginning of a Subscription Year. Nasdaq will offer no refunds of the Annual Subscription Fee.

The proposed Activation Fees and Annual Subscription Fees are as follows:

Tier	Activation fee	Annual subscription fee
1	$3,000	$35,000
2	3,000	30,000
3	2,000	20,000
4	1,000	10,000
5	1,000	7,500
6	1,000	5,000
7	1,000	2,500

2. Statutory Basis

Nasdaq believes that the proposed rule changes are consistent with Section 15A(b)(5) of the Act, [9] which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Nasdaq represents that the proposed fee schedule complies with this statutory standard because Nasdaq will charge every member in a particular category or tier an amount that is related to the resources expended to provide the ReSource℠ Service to such member. For instance, the computer system and staff resources required to provide the Service to a market center member with relatively high average monthly trading

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 44246 (May 2, 2001), 66 FR 23289.

[4] 17 CFR 240.11Ac1–5.

[5] The Rule defines "covered order" as any market order or any limit order (including immediate-or-cancel orders) received by a market center during regular trading hours at a time when a consolidated best bid and offer is being disseminated, and, if executed, is executed during regular trading hours. Excluded from the definition of "covered order" is any order for which the customer requests special handling for execution, including, but not limited to, orders to be executed at a market opening or closing price, orders submitted with stop prices, orders to be executed only at their full size, orders to be executed on a particular type of tick or bid, orders submitted on a "not held" basis, orders for other than regular settlement, and orders to be executed at prices unrelated to the market price at the time of execution. 17 CFR 240.11Ac1–5(a)(8).

[6] 17 CFR 240.11Ac1–5(a)(14).

[7] See NASD Rule 4632(d)(B) and NASD Notice to Members 00–79.

[8] The initial compliance date for the reporting of listed securities under Rule 11Ac1–5 was May 1, 2001. The Commission has temporarily exempted (until July 31, 2001) all orders in Nasdaq securities. Letter from Annette L. Nazareth, Director, Division of Market Regulation, SEC, to Stuart J. Kaswell, Senior Vice President and General Counsel, Securities Indsutry Association, dated April 12, 2001.

[9] 15 U.S.C. 78*o*–3(b)(5).

volume is greater than that required for a member with relatively low average monthly trading volume.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[10] and Rule 19b–4(f)(2) thereunder,[11] in that it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–30 and should be submitted by June 8, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12545 Filed 5–17–01; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFT 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44296; File No. SR–NYSE–2001–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Increase the Fee for Administering the Compliance Official Qualification Examination ("Series 14")

May 11, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission"), the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to increase the fee charged by the NYSE for the Compliance Official Qualification Examination ("Series 14 Examination") from $200 to $300.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 342 ("Offices—Approval, Supervision and Control") requires each member and member organization to designate a person to direct-to-day compliance activity. Such persons, as well as those compliance supervisors who direct ten or more persons engaged in compliance activity, must have overall knowledge of securities laws and Exchange rules and must pass the Series 14 Examination that was initially implemented in September 1989.

The fee for the Series 14 Examination has been $200 since its inception in 1989. The Exchange now seeks to increase the fee to $300. The fee increase will defray expenses incurred in developing, updating, and administering the Series 14 Examination.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[3] in that the proposed rule change is designed to provide for the equitable allocation of reasonable dues, fees and other charges among the Exchange members, issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[4] and subparagraph (f) of Rule 19b–4 thereunder.[5] Accordingly, the proposed rule change has become effective upon filing. At any time within 60 days of the filing of such proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b)(4).

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f).

rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File Number SR–NYSE–2001–09 and should be submitted by June 8, 2001.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12544 Filed 5–17–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.3–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44292; File No. SR–Phlx–2001–49]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Adopting a Monthly Credit of up to $1,000 to Qualified Members for an Aggregate Period of 36 Months

May 11, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 24, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 under the Act, proposes to adopt for an aggregate period of 36 months ("permanently adopt")[3] its current pilot program that allows a monthly credit of up to $1,000 to be applied against fees, dues, charges and other amounts as may from time to time be owed to the Exchange that month (collectively referred to as "credit-eligible fees")[4], except fines, late fees, out-of-pocket expenses,[5] pass-through costs,[6] capital funding fees,[7] payment for order flow fees,[8] any fees paid by equity trading permit holders respecting any trading permits the Exchange may issue, the fee for electronic communications networks,[9] and the fee for the print subscription of the Phlx Guide[10] by members who own the membership by which they are a member ("member-owners") and certain other categories of members described below. The Exchange's current pilot program[11] is in effect through May 16, 2001.

In addition to member-owners, a monthly credit of up to $1,000 may be applied against credit-eligible fees incurred by the following persons, who are so closely connected to the owners that the Exchange believes they should be treated as member-owners: (1) all members who are parties to an A–B–C Agreement[12] with a member organization who owns that membership; or (2) all members who are lessees if: (a) the member is also an owner of a different membership; (b) the member is an immediate family member of the owner of that membership;[13] (c) the member is associated with a member organization in which the owner of that membership has an interest of at least ten percent; (d) the member leases from an owner or a related entity of the owner who provides order flow to the Exchange through the member or member organization consisting of at least 5,000 equity trades over the preceding twelve months or 50,000 option contracts over the preceding twelve months; or (e) the member leases from a clearing firm or a related entity of the clearing firm that provides clearing services to the leasing member. The aforementioned categories

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This total period of 36 months includes the time period that the previous pilot programs were in effect. The first pilot program became effective upon filing on May 16, 2000 and lasted six months, expiring on November 16, 2000. *See* Securities Exchange Act Release No. 42791 (May 16, 2000), 65 FR 33606 (May 24, 2000) (SR–Phlx–00–44). The pilot program was then extended for an additional six-month period through May 16, 2001. *See* Securities Exchange Act Release No. 43567 (November 15, 2000), 65 FR 71187 (November 29, 2000) (SR–Phlx–00–100). Therefore, the credit program will be in effect from May 16, 2000 until May 16, 2003.

[4] The credit-eligible fees are fees assessed on members and include transaction as well as trading floor fees. Transaction fees include equity transaction value charges, equity floor brokerage transaction fees, option comparison charges and option transaction charges. Trading floor fees include charges for trading post/booth, controller space, shelf space, transmission, execution/communication charge and floor facility fees. Fees assessed on foreign currency options participants are not considered credit-eligible fees.

[5] Out-of-pocket expenses include charges for wireless telephone services, postage, ILX machines and Dow Jones News Service.

[6] Pass-through costs include charges for member health insurance and parcel delivery services.

[7] Capital funding fees are those fees assessed on owners to provide for funding for technological improvements and other capital needs. On June 29, 2000, the Commission permanently approved the capital funding fee. *See* Securities Exchange Act Release No. 4 2993 (June 29, 2000) 65 FR 42415 (July 10, 2000) (SR–Phlx–99–510.

[8] Payment for order flow fees are those fees imposed on transactions by Phlx specialists and Registered Options Traders in the Top 120 Options on the Phlx. *See* Securities Exchange Act Release Nos. 43177 (August 18, 2000), 65 FR 51889 (August 25, 2000) (SR–Phlx–00–77); 43480 (October 25, 2000), 65 FR 66275 (November 3, 2000) (SR–Phlx–00–86 and SR–Phlx–00–87); 43481 (October 25, 2000), 65 FR 66277 (November 3, 2000) (SR–Phlx–00–88 and SR–Phlx–00–89); and 44237 (April 30, 2001) (SR–Phlx–01–43).

[9] An ECN fee is currently a $2,500 monthly fee, imposed on a one-year pilot basis, for ECNs that are member organizations and send order flow to the Exchange's equity trading floor. *See* Securities Exchange Act Release No. 44155 (April 5, 2001), 66 FR 19274 (April 13, 2001) (SR–Phlx–01–09).

[10] *See* Securities Exchange Act Release No. 44196 (April 18, 2001), 66 FR 21035 (April 26, 2001) SR–Phlx–2001–47).

[11] *See* Securities Exchange Act Release No. 43567 (November 15, 2000), 65 FR 71187 (November 29, 2000) (SR–Phlx–00–100). This credit is part of the Exchange's long-term financing plan, which separately includes a $1,500 capital funding fee. *See supra* note 7. The Exchange reserves the right to suspend the credit at any time.

[12] Pursuant to Phlx Rule 940, the parties to an A–B–C Agreement are an employee, general partner, or officer and the member organization with which such person is associated. The member organization provides all or part of the funds for the purchase of a membership of which the legal title is placed in the member and the equitable title is placed in the member organization.

[13] Immediate family member is defined as a member's spouse, parents, stepmother, stepfather, mother-in-law, father-in-law, brothers, sons-in-law, brothers-in-law, stepbrothers, sisters, daughters-in law, sisters-in-law, stepsisters, children, stepchildren or any other person living with the member for whom the member provides at least 50 percent of his/her financial support per year.

(including member-owners) are hereinafter referred to as "qualified members."

Specifically, the amount of credit-eligible fees owed to the Exchange shall be reduced on a monthly basis by an amount equal to: (1) $1,000 per month if such fees, dues, charges and other amounts are equal to or greater than $1,000, or (2) the amount of such fees, dues charges and other amounts if such fees, dues, charges and other amounts are less than $1,000.[14] Credits may not be carried over from one month to the next and only one credit of up to $1,000 is available per membership per month.

Credits cannot be shared among members, except qualified member(s) in the same member organization may aggregate their credit(s). The monthly credit of up to $1,000 will be applied against the invoice of the member or member organization with which the member is associated. However, in no event shall the aggregated credit(s) exceed $1,000 per membership per month.

Initially, any request to receive the credit was application driven, with each applicant submitting an Exchange form delineating the credit-eligible fees for that calendar month. To reduce the burden on members, the Exchange may now include the amount of the credit directly on a member's invoice, once it has been established that the member is eligible for the credit, in lieu of the member completing a credit form each month.[15] A member's eligibility shall be determined by the opening of trading on the first business day of each month. The Exchange reserves the rights to suspend the credit at any time.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exhange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

1. Purpose

a. *Introduction.* The purpose of the proposed rule change is to amend the Exchange's schedule of fees, dues, and charges to allow for a monthly credit of up to $1,000 to be applied against certain fees, dues, charges and other amounts, as defined above, owed to the Exchange by a qualified member of the Exchange.

As more fully explained below, the Exchange believes that the proposed credit should provide qualified members with additional liquidity and an incentive for seat owners to trade on the Exchange. In turn, the Exchange believes that this will introduce additional liquidity into the marketplace to the benefit of the investing public.

The Exchange believes that leasing of memberships by passive holders of equitable title to leasees who trade on the Exchange (*e.g.*, members) does not necessarily promote the long-term interests of the Exchange. Although the practice of leasing by financial investors to members is permitted by the rules of the Exchange, and may provide an important means by which members can access trading rights on the Exchange, the Exchange believes that lessors who are passsive finanical investors have a limited stake and interest in the liquidity, technology or operations of the Exchange.

Moreover, such lessors have limited practical ability to influence the affairs of the Exchange, because practically all voting rights are vested in "members" under Phlx's Certificate of Incorporation and By-Laws.[16]

The Exchange also believes that members who acquire membership and access trading on the Exchange by means of a lease may in many cases have a very limited stake in the well-being and survival of the Exchange. Although such members may have voting rights, they have no capital investment in their membership, and, because leases typically may be terminated on 30 days notice,[17] they do not necessarily have the incentive to act in the long-term best interests of the Exchange.

Specifically, by terminating a lease with 30 days notice, lessees who do not have "other" business interests or relationships with the Exchange beyond the mere existence of a lease (such as those relationships enumerated in part b. below) may, and often do, leave the Exchange to trade on another exchange, perhaps seeking to trade a certain "hot" option or other product. Thus, their potential commitment to the Exchange's long-term well-being and survival is undercut by their easy ability to pursue business endeavors that further their own well-being. Further, although member-lessees may be appointed to certain Exchange committees and sub-committees, their motivation to devote the time to such service may be less, as is their incentive to make decisions focused on the long-term. Both daily and longer term, strategic decision-making could thus be affected.

This short-term commitment may also bear on the quality and quantity of liquidity provide don the Exchange. Building order flow commitments with order flow providers is a long-term endeavor, often requiring regular performance, evaluation, and most importantly, a relationship with the trading crowd providing liquidity. Thus, familiarity and consistency of crowd participation are an important marketing mechanism to order flow providers. Providing liquidity also involves a longer-term view of sacrificing profit today for continued order flow, as well as acknowledging that not every order is a profitable one, but continuous order flow, spawned by ample liquidity, should, over time, provide more opportunity for additional order flow.

Lessees that do not have other business interests or relationships (such as those referred to in part b. below) may also have a limited stake in the technology of the Exchange, including participation in and good use of technology, nor would they necessarily have an incentive to invest in the longer-term development of that technology. Such investment is not only financial, but also strategic. Such lessees may also have a limited stake in the operations of the Exchange, including the continued long-term refinement and upgrading of facilities, other equipment and the pricing of such operations. In sum, lessees, absent other factors tying them to the Exchange, may be less vested in the long-term success of the

[14] For example, if a member has $1,500 in credit-eligible fees for the month, such member is entitled to the full $1,000 credit. However, if the member has $600 in credit-eligible fees for the month, such member is entitled to a $600 credit.

[15] The Exchange believes, at this time placing the amount of credit on a member's invoice should reduce the burdens associated with completing the credit form each month. However, the Exchange may revert to the credit form application process at a later date if it is determined that credits are more efficiently processed that way. If any changes are made to the credit form process, members wil be given updated instructions as to how to apply for the credit.

[16] A lessor is entitled to vote in any decision relating to a compromise or arrangement between the Phlx and its creditors or its members, or relating to a reorganization of the Phlx. *See e.g.* Article Thirteenth of the Exchange's Certificate of Incorporation and Phlx By-Law Art. XII, Section 12–6.

[17] *See* Phlx Rule 930(b).

Exchange, in terms of a lesser inventive to create liquidity,invest in technology and be active in strategic and daily decision-making.

In contrast, the Exchange is of the view that members who *own* their own memberships (and their functional equivalents, such as members who lease their memberships from close family members), and members who have certain other business or financial relationships with owners who are active on the Exchange (*e.g.*, members who are associated with member organizations and hold their memberships pursuant to "A–B–C Agreements") have a combination of financial incentives and voting rights (in some cases, indirectly via the owners with whom they are closely related or associated) to create liquidity on the Exchange, to invest in systems and compliance infrastructure, to be active in and informed about the decision-making processes of the Exchange, and otherwise to act in the Exchange's long-term best interests. By providing the credit described in this filing to these groups of members, the Exchange expects to create economic incentives for owners to trade on the Exchange by actively using their memberships (or selling them to persons who would do so) and for members to organize their affairs in ways that, in the Exchange's view, properly align the interests of the members with the long-term interests of the Exchange. The Exchange also believes that the credit should help retain or create liquidity on the Exchange by freeing up funds that member-owners or their functional equivalents may otherwise be expending on credit-eligible fees.[18]

Although the credit described in this filing is available to some Exchange members and not others, it meets the criteria set forth in Sections 6(b)(4)[19] and 6(b)(5)[20] of the Act because it: (i) provides for "* * * the equitable allocation of dues, fees and other charges among its members * * * and other persons using its facilities;" and (ii) is not designed "* * * to permit unfair discrimination between customers, issuers, brokers or dealers." Although the Exchange is not aware of precedent sin which other exchanges have established fee or credit programs based upon ownership of seats or the connection between lessees and their lessors, as the Phlx proposes to adopt in this filing, the Commission has approved many exchange fee and credit arrangements that do not treat all members (or other persons covered by Sections 6(b)(4)[21] and (5))[22] equally, such as credits and discounts based on transaction volume, fees based upon the usage by certain members of equipment or other services or resources of an exchange, and fee structures that distinguish among the various activities of persons and firms (*e.g.*, specialists versus floor brokers, or specialists versus market makers). As with the credit, such measures are designed to promote and encourage certain behaviors and/or discourage others. The Exchange believes that this is an appropriate, nondiscriminatory business strategy.

As more fully articulated below, the Exchange believes that the credit is equitably distributed and not unfairly discriminatory, because it is based on legitimate, reasonable business interests of the Exchange, and is reasonably designed to further those interests. Moreover, it does not unfairly single out individuals or groups for personal or political reasons. To the contrary, any member may become eligible for the credit by changing the way in which such member finances his or her access to the Exchange by purchasing the membership or by changing the member's lease arrangement.

b. *More Detailed Rationale Specifically Applied to the Various Eligibility Criteria.* i. *Member-Owners.* In many areas of economic life, businesses and governments establish incentives to encourage behavior that is deemed desirable. In the case of exchanges, volume discounts and credits encourage members to direct transaction volume and trading activity to the exchange; other fee structures are designed to deter excessive usage of exchange resources or to cause scarce resources to be allocated more efficiently (*e.g.*, equipment service fees or fees relating to use of post/booth space on the floor).[23] The Exchange, as a matter of policy, believes that owner-membership or its functional equivalents as described above, should be encouraged because:

(A) Unlike passive, financial investors, owner-members risk their capital by their trading and other activities on the floor, thereby (in many cases) creating liquidity in our market and generating revenues for the Exchange, both directly through transaction-based revenues, and indirectly, by generating activity that results in tape revenues, such as under the Consolidated Tape Association ("CTA") and Options Price Reporting Authority ("OPRA") plans.[24]

Seat ownership is one aspect of Exchange "investment" and the actual use of that membership by the qualified member is a different form. Member-owners or their functional equivalents, have *additional* operational and market risks. for example, a qualified member who is also a specialist or market maker may have additional risks related to fluctuations in the securities market and order-processing errors in addition to market risks associated with seat ownership. Similarly, a qualified member who is also a specialist may have risks (in addition to seat risk) associated with the specialists' obligation to promote a fair and orderly market and, particularly, maintain the limit order book. Furthermore, in addition to any fees assessed on owners, qualified members also contribute to the Exchange by paying transaction fees, such as equity transaction value charges, equity floor brokerage transaction fees, option comparison charges and option transaction charges, and trading floor fees, such as trading post/booth, controller space, shelf space, transmission, execution/communication charges and floor facility fees.

(B) Unlike members who lease their seats under typical lease arrangements that may be cancelled on 30 days' notice, member-owners have a

[18] The Exchange notes that, as part of its overall strategic financing plan, contemporaneously with the implementation of the credit described in this filing, it separately instituted a $1,500 monthly capital funding fee upon all "owners," regardless of their level of activity (if any) on the Exchange. *See supra* note 7. Although the credit is not available to offset all or any portion of the capital funding fee, the credit will enable member-owners and others eligible for the credit to defray a portion of the transaction and other fees charged by the Exchange (that, in general, result from member activity on the Exchange), thereby effectively reducing, for member-owners and other eligible members the cost of trading on the Exchange. Therefore, the credit may also have the indirect effect of blunting the incremental economic burden of the capital funding fee for owners who are active and, directly or indirectly, trading on (or otherwise providing certain economic benefits to) the Exchange. In addition, the credit frees up funds for trading activity on the Exchange that would otherwise be used for the payment of credit-eligible Exchange fees.

[19] 15 U.S.C. 78f(b)(4).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b)(4).

[22] 15 U.S.C. 78f(b)(5).

[23] *See e.g.*, Securities Exchange Act Release Nos. 41748 (August 16, 1999), 64 FR 46218 (August 24, 1999) (SR–CBOE–99–34); 40496 (September 29, 1998), 63 FR 54175 (October 8, 1998) (SR–PCX–98–42); and 41108 (February 25, 1999), 64 FR 10516 (March 4, 1999) (SR–BSE–99–2).

[24] The CTA Plan and the OPRA Plan are approved by the Commission as national market system plans under Exchange Act Rule 11Aa3–2, 17 CFR 240.11Aa3–2, governing the dissemination of market information for certain equity securities and options, respectively; these plans govern both the fees that can be charged for such information as well as the distribution of revenues derived from those fees among participants in these plans, including the Exchange.

significant capital investment at risk; and

(C) Unlike owners that are not members, member-owners may have voting rights under the Exchange's by-laws, and may participate on certain Exchange committees.[25]

Because of their dual interest in preserving and increasing the value of their memberships, and in the technological, operational, and regulatory infrastructure that affects the present and future conditions of transacting business on or at the Exchange, the Exchange believes that member-owners have powerful incentives to create liquidity on the Exchange, and to participate responsibility in the business life of the Exchange through the exercise of voting rights, and through service on the Board and certain Exchange committees. The concept (and the underlying policy) of making the credit available to member-owners is not unlike that of the federal government in providing tax incentives to homeowners that are not available to renters. The long-term capital stake of the homeowner in his or her property promotes various behaviors that have social utility in that it fosters community-oriented behavior, and increases the prospect that the homeowner will make further socially useful investments in the property and in the neighborhood.

The Exchange believes that similar principles are involved in this proposed rule change. The ability to lease memberships has been available for many years. Over time, the equitable ownership of memberships by passive financial investors has become a very pervasive phenomenon at the Exchange, with 326 of the Exchange's 505 memberships being owned by such financial investors.[26] Of those memberships owned by passive financial investors, approximately 13 memberships are currently dormant (neither used for active trading nor leased).[27] Although the Exchange believes that leasing of memberships has a legitimate role in providing members a means of accessing trading rights on the Exchange, it also believes that the extent to which long-term capital investment is currently divorced from voting rights and trading interest is not healthy insofar as it relates to the long-term viability of the institution and its membership as a whole. The credit should create an incentive for owners to actively use their trading rights through membership and for members to reconsider the manner in which they finance their access to the Exchange. Furthermore, the Exchange believes that the credit will free up funds for those owners who are most likely to put their capital to work by trading and creating liquidity on the floor. The credit may also effectively (but indirectly) lessen the overall impact of the capital funding fee on those owners who are trading at the Exchange and (because the credit may be applied against transactional fees) create further incentives to trade.

The Exchange notes that no member may claim that his or her lack of eligibility for the credit is unfair or discriminatory. Any member may obtain eligibility for the credit by changing his or her method of financing their access to the Exchange—*e.g.*, by purchasing their membership and (if they choose) borrowing from third-party lenders to effect that purchase. Any owner may obtain eligibility for the credit by, for instance, becoming an Exchange member (if they qualify for this and subject to the procedures set forth in the Exchange's rules).

ii. *Members/Member Organizations with A–B–C Agreements.* By definition, with respect to A–B–C Agreements, there is a very close nexus between a member and the member organization with whom the member is associated; in general, the member is an employee of the member organization. This close connection is reflected in the fact that the member organization provides all or part of the funds for the purchase of the membership of which the legal title is placed in the member, while the equitable title remains with the member organization.[28] In addition, the Exchange's By-Laws state, in part, that "[a]n A–B–C Agreement is a contract between the member and member organization with which the member is associated in which a portion of the risk of fluctuations in the value of the membership shall rest with the member organization rather than with the member."

Pursuant to the A–B–C Agreement, the member contributes the use of the membership to the member organization and subjects the membership to the claims of the creditors of the member organization. Moreover, the member organization pays the dues, fees and other charges on behalf of the member. Thus, given this unique business relationship, owners who are member organizations have significant capital investment at risk and have a long-term interest in preserving and increasing the value of their membership, much like member-owners. For this reason, the Exchange is providing the credit to members who are parties to an A–B–C Agreement with a member organization who owns that membership.[29]

iii. *Lessees.* As stated previously, although leasing arrangements are permitted, lessees, other than five types of qualifying members discussed in detail below ("non-qualifying lessees"), may have a limited stake in the long-term well-being of the Exchange. In fact, non-qualifying lessees may lack the incentive to engage in certain types of behavior that promote the long-term best interests of the Exchange, including providing liquidity and investing in technology enhancements. Specifically, non-qualifying lessees who do not put their own (or a member with whom they have a close nexus) capital at risk with respect to a membership may provide liquidity or order flow with less of a long-term view and more of a focus on their current market risk only. This view may be at odds with behavior needed to address long-term Exchange needs. These non-qualifying lessees who do not have the types of additional connections to owners on the Exchange described below, may only have the incentive to participate in a self-focused way for their short-term benefit. If the credit were made available to all lessees, it would not serve its purpose as an inducement to promote owner-membership or other relationships to the Exchange that the Exchange believes are the most conducive to its continued health and success. Therefore, the Exchange is not making the credit available to all lessees. However, the Exchange is seeking to provide the credit to those qualified members whose relationship with the owners from whom they lease their seats is such that the Exchange believes they (either individually or indirectly when viewed in conjunction with their owners) have incentives properly aligned with the long-term interests of the Exchange.

(A) *Members Who Are Lessees But Who Are Owners of Different Memberships.* Members who are lessees but who also are owners of a different membership should be accorded the same treatment as the traditional member-owners who were previously discussed. These members, who are also owners, have an interest in preserving and increasing the value of their membership as well as an interest in preserving and increasing the standard of technology and the operational and regulatory infrastructure that affects the present and future conditions of transacting business at the Exchange. As with traditional member-owners, the Exchange believes that the credit will free up funds for those members who are also owners thereby encouraging them to put their capital to work by trading and creating liquidity on the floor. As previously discussed, the credit may also effectively (but indirectly) lessen the overall impact of the capital funding fee on those owners who are trading at the Exchange.

(B) *Members Who Lease From Close Family Members.* At the Phlx, many member firms are family businesses, which choose to structure their operations with the owner being a relative (rather than that member) for tax or estate planning purposes. The Exchange believes that there is commonality of interest in property of close family members, thus affording the credit to members who lease from close family members. This concept is one that is widely accepted, especially in connection with rules relating to the securities industry and tax law. For example, Commission Rule 16a–1(a)(2)[30] under the Act defines the term "beneficial owner" to mean any person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares a direct or indirect pecuniary interest in the equity security. Indirect pecuniary interest is then defined to include securities held by members of a person's immediate family sharing the same household.[31] In addition, Rule 701 under the Securities Act of 1933 ("Securities Act")[32] exempts from Section 5 of the Securities Act[33] certain offers and sales of securities under a written compensatory benefit plan established by the issuer for the participation of their employees and their family members who acquire such securities from such persons though gifts or domestic relations orders. Family members are defined in Rule 701(c)(3)[34] the same as "immediate family" is defined in Rule 16a–1(e).[35]

Tax laws also recognize the commonality of interest in property of close family members. For example, the Internal Revenue Code ("IRC") recognizes the shared interests of family members by way of attributing the ownership of stock held by close family members to the taxpayer.[36] The IRC treats stock owned by these close family members as owned by the taxpayer in determining the tax liability of the taxpayer in various situations.[37]

A further example is the National Association of Securities Dealers, Inc. ("NASD") Freeriding and Withholding Interpretation,[38] which restricts sales by NASD members to accounts in which so-called "restricted persons" have a beneficial interest. Such restrictions are also applicable, with some exceptions, to immediate family members of those restricted persons.

The Exchange believes that it should not penalize members who choose to lease memberships from close family members, as it believes that these persons are the functional equivalents of member-owners, and the same rationale applies to giving the credit to these members as to member-owners.

(C) *Members who are Associated with a member Organization in which the Owner of That Membership has an Interest of at Least Ten Percent.* Members who are lessees and are associated with a member organization in which the owner has at least a ten percent interest also should be eligible for the credit based on their closely aligned interests with the owner. The federal securities laws and rules of the securities industry have long recognized that a ten percent ownership interest is a significant capital investment. For example, Section 16 of the Act[39] requires any person who is the beneficial owner of more than ten percent of an equity security registered under Section 12 of the Act[40] to file a statement with the Commission indicating his ownership interest. Section 16[41] also treats such beneficial owners as company insiders and limits their ability to realize "short swing" profits. In enacting Section 16,[42] the Congress found that a ten percent owner was sufficiently involved in the affairs of the issuer to be treated as an insider.

Moreover, for purposes of NASD Conduct Rule 2720, which restricts the ability of an NASD member to participate in the distribution of a public offering of its own securities or the securities of the member's parent or affiliate, a company is presumed to control a member (and thus is an affiliate) if the company beneficially owns ten percent or more of the member firm. Finally, under the NASD's Freeriding and Withholding Interpretation,[43] an individual with a ten percent or more equity interest in an NASD member firm is deemed restricted by virtue of his ownership interest, and, thus, NASD member firms may not sell so-called "hot issues" to that individual.

In each of these examples, Congress or the NASD found that a ten percent owner is sufficiently involved in the affairs of the subject entity to be subject to the applicable restriction. A similar analysis is applicable with respect to owners of Phlx memberships who hold a ten percent or greater interest in the very member organization with which the lessee is associated. The interests of the owner, the member lessee and the member organization are sufficiently aligned to allow the lessee member the benefit of the credit.

(D) *members who Lease from Owners or Their Affiliates who Provide Order Flow to the Exchange.* Similar to member-owners and other eligible members discussed above, members who lease from owners or their affiliates who provide order flow to the Exchange through the member or member organization have a direct contractual relationship with that owner. For example, a floor broker who executes orders entered by the owner from whom the member leases his or her seat has a fiduciary relationship with that owner. The member derives income, by way of commissions, from the order floor provider and the order flow provider, in turn, provides revenue to the Exchange mainly by way of transaction fees (and indirectly via tape revenues). Giving a credit to members in this situation should encourage the member to fully maximize the business relationship between the floor broker and order flow provider by encouraging the member to get more order flow, which in turn equates to an increase in fees paid by the floor broker to the Exchange. The Exchange believes that by extending the credit to this category of members who are closely associated with the owner, it is encouraging behavior that is beneficial to the long-term interests of the Exchange, *e.g.*, providing more order flow.

(E) *Members who Lease from a Clearing Firm or a Related Entity of the Clearing Firm That Provides Clearing Services to the Leasing Member.* Members who lease from a clearing firm

[25] *See supra* note 16.

[26] As of March 31, 2001, 326 memberships were subject to lease agreements. This number may change on a monthly basis.

[27] As of March 31, 2001, 13 seats were dormant (neither used for active trading nor leased).

[28] *See* Phlx Rules 940 and 941.

[29] *See* supra note 12.

[30] 17 CFR 240.16a–1(a)(2).

[31] Immediate family is defined to mean any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships. 17 CFR 240.16a–1(e).

[32] 17 CFR 230.701.

[33] 15 U.S.C. 77e.

[34] 17 CFR 230.701(c)(3).

[35] 17 CFR 240.16a–1.

[36] *See* 26 U.S.C. Section 318.

[37] *See* 26 U.S.C. Section 301 *et seq.*

[38] NASD Conduct Rule IM–2110–1. The Freeriding and Withholding Interpretation is based on the premise that NASD members have an obligation to make a bona fide distribution of securities of a public offering that trade at a premium in the secondary market.

[39] 15 U.S.C. 78p.

[40] 15 U.S.C. 78l.

[41] 15 U.S.C. 78p.

[42] *Id.*

[43] *See supra* note 38.

or related entity of the clearing firm that provides clearing services to the leasing member should also be eligible to receive the credit. Members have a close connection to their clearing firms, or related entity of the clearing firms, in that the clearing firms provide important and essential services by contractual agreement with such members; for instance, they guarantee members' trades. In addition, clearing firms lend money and extend credit; they also manage risk by way of tracing positions and other monitoring functions. Moreover, the clearing firm offers various ancillary services to the members, including stock executions services, office space and other business amenities. Therefore, given this close connection between the members and clearing firms or their affiliates, the Exchange believes that the credit is appropriate and should further their joint interest in the well-being of the Exchange.

2. Statutory Basis

For these reasons, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[44] in general, and with Section 6(b)(4).[45]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change imposes no inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received respecting the permanent adoption of the credit for 36 months.[46]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[47] and Rule 19b–4(f)(2) thereunder[48] because it establishes a due, fee or other charge. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–49, and should be submitted by June 8, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[49]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12543 Filed 5–17–01; 8:45 am]

BILLING CODE 8010–01–M

[44] 15 U.S.C. 78f(b).

[45] 15 U.S.C. 78(b)(4).

[46] Written comments were received in connection with the first proposed rule change relating to the credit, which implemented the initial pilot program for the credit (in effect May 16, 2000 through November 16, 2000). Those comments are discussed in the Commission's Notice of Filing and Immediate Effectiveness of that initial pilot program. *See* Securities Exchange Act Release Act Release No. 42791 (May 16, 2000), 65 FR 33606 (May 24, 2000)(SR–Phlx–00–44).

[47] 15 U.S.C. 78s(b)(3)(A)(ii).

[48] 17 CFR 240.19b–4(f)(2).

[49] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3338]

State of Illinois

As a result of the President's major disaster declaration on May 9, 2001, I find that Carroll, Hancock, Henderson, Jo Daviess, Rock Island and Whiteside Counties in the State of Illinois constitute a disaster area due to damages caused by flooding occurring between April 18, 2001 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 9, 2001 and for economic injury until the close of business on February 11, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Illinois may be filed until the specified date at the above location: Adams, Bureau, Henry, Lee, McDonough, Mercer, Ogle, Schuyler, Stephenson and Warren; Clark and Lewis Counties in the State of Missouri; and Grant and Lafayette Counties in the State of Wisconsin.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 333806. For economic injury the numbers assigned are 9L6600 for Illinois; 9L6700 for Missouri; 9L6800 for Wisconsin. Iowa counties contiguous to the above named primary counties are not listed here because they have been previously declared.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 11, 2001.

James E. Rivera,

Acting Associate Administrator For Disaster Assistance.

[FR Doc. 01–12502 Filed 5–17–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3339]

State of Wisconsin

As a result of the President's major disaster declaration on May 11, 2001, I find that Buffalo, Burnett, Crawford, Douglas, Grant, La Crosse, Pepin, Pierce, St. Croix, Trempealeau and Vernon Counties in the State of Wisconsin constitute a disaster area due to damages caused by flooding occurring between April 10, 2001 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 10, 2001 and for economic injury until the close of business on February 11, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Wisconsin may be filed until the specified date at the above location: Barron, Bayfield, Dunn, Eau Clair, Iowa, Jackson, Juneau, Lafayette, Monroe, Polk, Richland, Sauk, Sawyer and Washburn; and Carlton, Chisago, Dakota, Goodhue, Houston, Pine, St. Louis, Wabasha, Washington and Winona Counties in the State of Minnesota.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agriculture Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 333906. For economic injury the numbers assigned are 9L6900 for Wisconsin and 9L7000 for Minnesota.

Iowa counties and Illinois counties contiguous to the above named primary counties are not listed here because they have been previously declared.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 14, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–12584 Filed 5–17–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

New Markets Venture Capital Program; Extension of Application Deadline

AGENCY: U.S. Small Business Administration.

ACTION: Notice of extension of application deadline.

SUMMARY: SBA invites applications for designation as a New Markets Venture Capital ("NMVC") Company and for grant awards available both to participants in the NMVC Program and to Specialized Small Business Investment Companies. SBA extends its deadline for accepting applications from 4 p.m. on May 21, 2001 to 4 p.m. on May 29, 2001.

DATES: Applications may be submitted to SBA immediately. The deadline for receipt of an application has been extended to 4 p.m. EST on May 29, 2001. Applications received in SBA's offices after that date and time will be rejected and returned to the sender.

ADDRESSES: Applications must be sent to Austin Belton, Director, Office of New Markets Venture Capital, Investment Division, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6300, Washington, DC 20416. Applications sent electronically or by facsimile will not be accepted.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the requirements for this program or application procedures, or wish to request an application package, contact Austin Belton, Director, Office of New Markets Venture Capital, Investment Division, or Louis Cupp, Policy Analyst, Investment Division, 202–205–6510. Applications and other information regarding SBA and its programs may be downloaded from SBA's web site at *http://www.sba.gov/inv.*

SUPPLEMENTARY INFORMATION: SBA previously extended this application deadline from April 19, 2001 to May 21, 2001 (66 FR 18993, April 12, 2001). SBA originally published information about this funding opportunity in a Notice of Funds Availability ("NOFA"), published in the **Federal Register** on January 22, 2001 (66 FR 7247).

Applicants should refer to the NOFA (66 FR 7247) for more detailed information concerning this funding opportunity, including how to obtain applications and the amount of funds available for award. However, SBA makes one important revision to the NOFA. The NOFA referred applicants to an interim final rule SBA published in the **Federal Register** on January 22, 2001 (66 FR 7218). However, SBA will be withdrawing that interim final rule and, as a result, will not be implementing the NMVC program with that rule (see discussion in preamble to SBA's proposed rule, published in the **Federal Register** on April 23, 2001, 66 FR 20531–20532). Applicants instead are directed to a new final rule that SBA intends to publish in the **Federal Register** within a week of today's date. SBA will implement the NMVC program, including evaluating and selecting applications, through that new rule instead of through the interim final rule SBA previously published on January 22, 2001. Applicants should refer to SBA's new final rule for information concerning fee requirements, evaluation criteria, and other program requirements. SBA's new final rule will apply to all applications received for the NMVC program.

Authority: New Markets Venture Capital Program Act of 2001, Pub. L. No. 106–553, 114 Stat. 2762A; Federal Funding Act, Fiscal Year 2001, Pub. L. 106–554, 114 Stat. 2763; and 13 CFR part 108.

Dated: May 15, 2001.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 01–12585 Filed 5–17–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

RIN 3245–AE72

Small Business Innovation Research Program Policy Directive

AGENCY: Small Business Administration.

ACTION: Notice of proposed policy directive.

SUMMARY: This document proposes revisions to the Small Business Innovation Research (SBIR) Program Policy Directive. This revised proposed policy directive reflects recently enacted statutory requirements. It is proposed to provide guidance to participating Federal agencies for the general conduct of the SBIR Program.

DATES: Public comments on this proposed policy directive should be received on or before June 18, 2001.

ADDRESSES: Address all comments concerning this proposed revision to Maurice Swinton, Assistant Administrator for Technology, Office of Technology, Office of Policy, Planning, and Liaison, Office of Government Contracting/Business Development, U.S. Small Business Administration, 409 3rd Street, SW, Washington, DC 20416 or via email to technology@sba.gov.

FOR FURTHER INFORMATION CONTACT: Maurice Swinton, Office of Technology; Office of Policy, Planning, and Liaison; Office of Government Contracting/Business Development, at (202) 205–6450. You may also e-mail technology@sba.gov.

SUPPLEMENTARY INFORMATION: In 1982, Congress enacted the Small Business Innovation Development Act of 1982 (SBIDA), Public Law 97–219 (codified at 15 U.S.C. 638), which established the Small Business Innovation Research Program (SBIR Program). SBIDA requires the SBA to "issue policy directives for the general conduct of the SBIR programs within the Federal Government." 15 U.S.C. 638(j)(1). The U.S. Small Business Administration (SBA) published its first policy directive, Policy Directive No. 65–01, 19 years ago (47 FR 52966, Nov. 24, 1982). The last SBIR Policy Directive amendments were published 8 years ago (58 FR 6144–6158, Jan. 26, 1993).

The statutory purpose of the SBIR Program is to strengthen the role of innovative small business concerns (SBCs) in Federally-funded research and research and development (R/R&D). Specific program purposes are to: (1) Stimulate technological innovation; (2) use small business to meet Federal R/R&D needs; (3) foster and encourage participation by socially and economically disadvantaged SBCs, and by SBCs that are 51 percent owned and controlled by women, in technological innovation; and (4) increase private sector commercialization of innovations derived from Federal R/R&D. The SBIR Program is a phased process, uniform throughout the Federal Government, of soliciting proposals and awarding funding agreements for R/R&D to meet stated agency needs or missions. To stimulate and foster scientific and technological innovation, including increasing commercialization of Federal R/R&D, the program must follow a uniform competitive process of three phases: Phase I, Phase II, and Phase III.

Recently, Congress enacted the Small Business Innovation Research Program Reauthorization Act of 2000 (Reauthorization Act), Public Law 106–554 (Dec. 21, 2000). The Reauthorization Act extends the SBIR Program through September 30, 2008. In addition, the Reauthorization Act: (1) Clarifies SBIR data rights pertaining to SBIR Phase I and II awards and awards issued pursuant to Phase III (Proposed Policy Directive, section 8(b) and App. I, Instructions, § 5(d)(1)(iii)); (2) requires the establishment of SBIR Program Government-accessible and a public-accessible database (Proposed Policy Directive, section 11(e)); (3) requires each application for a Phase II award contain a succinct commercialization plan (Proposed Policy Directive, section 6(b)); (4) requires agencies to report to SBA all instances in which the agency fails to issue a Phase III or follow-on funding agreement (Proposed Policy Directive, section 4(c)(7–8)); (5) clarifies when a Phase III award can be issued (Proposed Policy Directive, section 4(c)); (6) requires agencies with extramural budgets over $50,000,000 to enter into an agreement with the National Academy of Sciences for the National Research Council to conduct a review of their SBIR Program (Proposed Policy Directive, section 2(a)(1)(iv)); (7) requires agencies to report to SBA annually on the calculations of the agency's extramural budget within 4 months of enactment of the agency's annual Appropriations Act (Proposed Policy Directive, sections 2(a)(1)(v) and 9(a)(1)); (8) establishes the Federal and State Technology (FAST) Partnership Program to strengthen the technological competitiveness of small business concerns (SBCs) in the United States (Proposed Policy Directive, § 12(a)); (9) and extends the Rural Outreach Program through September 30, 2005, (Proposed Policy Directive, section 12(b)). SBA welcomes comment on our proposed provisions to implement these new statutory requirements. In addition, we request comment on section 11(e)(3)(iii) of the Proposed Policy Directive, implementing the new statute requiring information provided to the SBIR databases to be privileged, confidential, and not subject to the Freedom of Information Act, codified at 15 USC 638(k)(4).

The Reauthorization Act directs SBA to modify its policy directive to address these amendments within 120 days after the date of enactment of the Reauthorization Act. In addition to addressing these recent amendments to the SBIR Program, SBA proposes changes in this policy directive to simplify and enhance the program. The proposed policy directive is organized into 12 self-explanatory sections: (1) Purpose; (2) Summary of Legislative Provisions; (3) Definitions; (4) Competitively Phased Structure of the Program; (5) Program Solicitation Process; (6) Eligibility and Application (Proposal) Requirements; (7) SBIR Funding Process; (8) Terms of Agreement Under SBIR Awards; (9) Responsibilities of SBIR Participating Agencies and Departments; (10) Annual Report to SBA; (11) Responsibilities of SBA; and (12) FAST Partnership Program and Rural Outreach Program. Two appendices are also included: (1) Instructions for SBIR Program Solicitation Preparation; and (2) Tech-Net Data Fields for Public Database.

Furthermore, this proposed policy directive will provide more flexibility to the agencies participating in the SBIR Program to continue vital research for meritorious proposals that could potentially go unfunded due to a lack of resources available under SBIR Program or Small Business Technology Transfer (STTR) Program budgets. STTR is a separate program from SBIR in which Federal agencies with extramural budgets for R/R&D in excess of $1 billion per fiscal year make funding agreements with SBC's joint venturing with a research institution, non-profit organization, or Federally Funded Research and Development Center (FFRDC). SBA proposes a new policy at section 4(b) that would allow participating Federal agencies to fund Phase II awards under their SBIR or STTR Programs, which had its origin in either program. Agencies must continue to meet the statutory expenditure of the extramural budget of 2.5 percent for the SBIR program and .15 percent for the STTR program. Any award that is funded through this process will then be deemed an award of the program which provides the Phase II funding. The awardee must meet the eligibility requirements for the program under which the Phase II award is funded. For example, if a Phase I STTR award is changed to a Phase II SBIR award, the collaborative partner for the Phase I STTR award could then be converted from a joint venture to a subcontractor. Conversely, if a Phase I SBIR award is changed to a Phase II STTR award, the small business concern must then partner with a research institution, Federal laboratory or non-profit organization.

In developing this proposed policy directive, SBA has considered initial comments from all agencies required to have SBIR programs. All of these comments received by SBA were individually reviewed and considered. SBA welcomes public comments upon this proposed policy directive and will revise the policy directive as necessary to improve the general conduct of the SBIR Program based upon comments received.

Notice of Proposed Policy Directive; Small Business Innovation Research Program

To: The Small Business Innovation Research Program Directors

Subject: Small Business Innovation Research Program Reauthorization Act of 2000—Amendments to the Small Business Innovation Research (SBIR) Program

1. *Purpose.* Section 9(j)(3) of the Small Business Act 15 U.S.C. 638(j)(3) requires the U.S. Small Business Administration (SBA) Administrator to modify the Small Business Innovation Research (SBIR) Program Policy Directive for the general conduct of the SBIR Program within the Federal Government.

2. *Authority.* This proposed policy directive is issued under the authority of 15 U.S.C. 638(j).

3. *Procurement Regulations.* The Federal Acquisition Regulations may need to be modified to conform to the requirements of the Reauthorization Act and a final policy directive. Regulatory provisions that pertain to the areas of SBA responsibility will require approval of the SBA Administrator or designee. The Office of Technology, Office of Policy, Planning, and Liaison, Office of Government Contracting/Business Development, SBA, is the appropriate office for coordinating such regulatory provisions.

4. *Personnel Concerned.* All Federal Government personnel who are involved in the administration of the program, including those involved with the issuance and management of funding agreements of the SBIR Program and the establishment of goals for small business concerns (SBCs) in research or research and development procurements or grants.

5. *Distribution.* Federal Government agencies and departments participating in the SBIR Program and those required to establish small business research and development goals as directed by section 9 of the Small Business Act 15 U.S.C. 638(j).

6. *Originator.* Office of Technology, Office of Policy, Planning, and Liaison, Office of Government Contracting/Business Development, SBA.

7. *Dates.* The SBIR Program is authorized through September 30, 2008. A final Policy Directive will be effective when published in the **Federal Register**.

Authorized By:

William A. Fisher,

Deputy Associate Deputy Administrator, Government Contracting/Business Development, U.S. Small Business Administration.

John Whitmore,

Acting Administrator, Small Business Administration.

Small Business Innovation Research (SBIR) Program, Proposed Policy Directive

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Appendix I: Instructions For SBIR Program Solicitation Preparation

Appendix II: Tech-Net Data Fields For Public Database

1. Purpose

(a) Section 9(j) of the Small Business Act (Act) requires that the Small Business Administration (SBA) issue an SBIR Program Policy Directive for the general conduct of the SBIR Program within the Federal Government.

(b) This proposed policy directive fulfills SBA's statutory obligation to provide guidance to the participating Federal agencies for the general operation of the SBIR Program. Additional or modified instructions may be issued by the SBA as a result of public comment or experience.

(c) The statutory purpose of the SBIR Program is to strengthen the role of innovative small business concerns (SBCs) in Federally-funded research and research and development (R/R&D). Specific program purposes are to: (1) Stimulate technological innovation; (2) use small business to meet Federal R/R&D needs; (3) foster and encourage participation by socially and economically disadvantaged SBCs, and by SBCs that are 51 percent owned and controlled by women, in technological innovation; and (4) increase private sector commercialization of innovations derived from Federal R/R&D.

(d) Federal agencies participating in the SBIR Program (SBIR agencies) should follow the guidance provided by this proposed policy directive. Each agency is obligated to review its rules, policies, and guidance on the SBIR Program to ensure consistency with this policy directive and to make any necessary changes in accordance with each agency's normal procedures. This is consistent with the statutory authority provided to the SBA concerning the SBIR Program.

2. Summary of Legislative Provisions

(a) The Small Business Innovation Research Program Reauthorization Act of 2000, Public Law 106–554, amended section 9 of the Act (15 U.S.C. 638).

(1) The purposes of the amendments to the Act are to:

(i) Continue the SBIR Program through September 30, 2008;

(ii) Clarify data rights pertaining to SBIR Phase I, Phase II, and federally funded Phase III awards.

(iii) Establish databases—one for the public and one for Government use—to collect and maintain in a common format, information necessary to assist SBCs and assess the SBIR Program.

(iv) Require agencies with SBIR budgets of over $50,000,000 to enter into an agreement with the National Academy of Sciences for the National Research Council to conduct a review of each agency's SBIR Program.

(v) Require SBIR agencies to report to SBA on the calculation of the agency's extramural budget within 4 months of enactment of each agency's annual Appropriations Act.

(vi) Establish the Federal and State Technology (FAST) Partnership Program to strengthen the technological competitiveness of SBCs.

(vii) Extend the Rural Outreach Program through September 30, 2005.

(b) The Act requires each Federal agency with an extramural budget for Research/Research & Development (R/R&D) in excess of $100,000,000 to participate in the SBIR Program.

(c) The statutory requirements assist SBCs by establishing a uniform, simplified process for the operation of the SBIR Program while allowing the SBIR agencies flexibility in the operation of their individual SBIR Program. This policy directive fulfills the Congressional intent to minimize regulatory burden in the conduct of this program.

(d) The Act requires each SBIR agency to establish an SBIR Program by reserving not less than 2.5 percent of its extramural budget for awards to SBCs for R/R&D through a uniform, three-phase process, including:

(1) Phases I and II. The first two phases help SBIR agencies meet R/R&D and commercialization objectives through funding agreements.

(2) Phase III. The third phase, when appropriate helps SBCs,

(i) to pursue commercial applications from the Government-funded R/R&D in order to stimulate technological innovation and provide for the national return on investment from R/R&D, and/or

(ii) to obtain additional contract or grant activity with Federal agencies through non-SBIR funding agreements.

(e) The Act directs each SBIR agency to report annually to SBA. The Act also requires SBA to obtain annual reports and monitor each agency's SBIR Program and to report our findings annually to the Committee on Small Business of the Senate and to the Committee on Science and the Committee on Small Business of the House of Representatives.

(f) The competition requirements of the Armed Services Procurement Act of 1947 (10 U.S.C. 2302 *et seq.*) and the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 *et seq.*) must be read in conjunction with the procurement notice publication requirements of Section 8(e) of the Small Business Act (15 U.S.C. 637(e)). The following notice publication requirements of Section 8(e) of the Small Business Act (15 U.S.C. 637(e)) apply to SBIR agencies using contracts as a SBIR funding agreement:

(1) Any Federal executive agency intending to solicit a proposal to contract for property or services valued above $25,000 must transmit a notice of the impending solicitation to the governmentwide point of entry (GPE) for access by interested sources. *See* FAR 5.201. The GPE, located at http://www.fedbizopps.gov, is the single point where Government business opportunities greater than $25,000, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public. The contracting office may transmit the notice to the Commerce Business Daily (CBD) in lieu of the GPE if the contracting office lacks the capability to access the GPE and the notice is issued prior to October 1, 2001.

(i) No agency shall issue its solicitation for at least 15 days from the date of the publication of the GPE or CBD notice. The agency may not establish a deadline for submission of proposals in response to a solicitation earlier than 30 days after the date on which the solicitation was issued.

(ii) When transmitting notices to the GPE before January 1, 2002, contracting officers must direct the GPE to forward the notice to the CBD.

(2) The contracting officer must generally make available through the GPE solicitations synopsized through the GPE including specifications and other pertinent information determined necessary by the contracting officer. *See* FAR 5.102.

(3) Any executive agency awarding a contract for property or services valued at more than $25,000 must submit a synopsis of the award through the GPE if a subcontract is likely to result from such contract. *See* FAR 5.301. The contracting office may transmit the notice to the CBD in lieu of the GPE if the contracting office lacks the capability to access the GPE and the notice is issued prior to October 1, 2001.

(4) The following are exemptions from the notice publication requirements:

(i) In the case of agencies intending to solicit Phase I proposals for contracts in excess of $25,000, the head of the agency may exempt a particular solicitation from the notice publication requirements if he/she makes a written determination, with the consultation of the Administrator of the Office of Federal Procurement Policy and the SBA Administrator, that it is inappropriate or unreasonable to publish a notice before issuing a solicitation.

(ii) The SBIR Phase II award process is exempt.

(iii) The SBIR Phase III award process is exempt.

3. Definitions

(a) *Act.* The Small Business Act (15 U.S.C. 631 *et seq.*), as amended.

(b) *Applicant.* The organizational entity that, at the time of award, will qualify as a SBC, as defined in this section, and that submits a contract proposal or a grant application for a funding agreement under the SBIR Program.

(c) *Affiliate.* This term has the same meaning as set forth in 13 CFR Part 121—Small Business Size Regulations, § 121.103, What is affiliation?

(d) *Awardee.* The SBC receiving an SBIR funding agreement.

(e) *Commercialization.* The process of developing markets and producing and delivering products or services for sale (whether by the originating party or by others) to Government and/or commercial markets.

(f) *Cooperative Agreement.* A financial assistance mechanism used when substantial Federal programmatic involvement with the awardee during performance is anticipated by the issuing agency. The Cooperative Agreement contains the responsibilities and respective obligations of the parties.

(g) *Data rights.* The license the Government obtains in scientific or technical data, including computer software and computer software documentation, generated during the performance of a funding agreement that an awardee provides to the Government upon completion of a Federally-funded project.

(h) *Essentially Equivalent Work.* The "scientific overlap," which occurs when (1) substantially the same research is proposed for funding in more than one contract proposal or grant application submitted to the same Federal agency; (2) substantially the same research is submitted to two or more different Federal agencies for review and funding consideration; or (3) a specific research objective and the research design for accomplishing an objective are the same or closely related in two or more proposals or awards, regardless of the funding source.

(i) *Extramural Budget.* The sum of the total obligations for R/R&D minus amounts obligated for R/R&D activities by employees of a Federal agency in or through Government-owned, Government-operated facilities. For the Agency for International Development, the "extramural budget" shall not include amounts obligated solely for general institutional support of international research centers or for grants to foreign countries. For the Department of Energy, the "extramural budget" shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs. (*Also see* Section 7(i) of this policy directive for additional exemptions related to national security.)

(j) *Feasibility.* The practical extent to which a project is capable of being successfully performed.

(k) *Federal Agency.* An executive agency as defined in 5 U.S.C. 105, or a military department as defined in 5 U.S.C. 102 except that it does not include any agency within the Intelligence Community as defined in Executive Order 12333, Section 3.4(f), as amended.

(l) *Funding Agreement.* Any contract, grant, cooperative agreement, or other transaction entered into between any Federal agency and any SBC for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government.

(m) *Funding Agreement Officer.* A contracting officer, a grants officer, or a cooperative agreement officer.

(n) *Grant.* A financial assistance mechanism providing money, property, or both to an eligible entity to carry out an approved project or activity. A grant is used whenever the Federal agency anticipates no substantial programmatic involvement with the awardee during performance of the financially assisted activities.

(o) *Innovation.* Something new or improved, including research for (1) development of new technologies, (2) refinement of existing technologies, or (3) development of new applications for existing technologies.

(p) *Intellectual Property.* The four separate and distinct types of intangible property that are referred to collectively as "intellectual property": patents, trademarks, copyrights, and trade secrets. The patent is the most common type of intangible property fostered by the SBIR Program.

(q) *Joint Venture.* An association of persons or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management and is eligible under the SBIR Program provided that the entity created qualifies as a "SBC" as defined in this section of the policy directive.

(r) *Outcomes.* The measures of long-term, eventual, program impact.

(s) *Outputs.* The measures of near-term program impact.

(t) *Principal Investigator/Project Manager.* The one individual designated by the applicant to provide the scientific and technical direction to the project that will be supported by the funding agreement.

(u) *Program Solicitation.* A formal solicitation of proposals whereby a Federal agency notifies the small business community of its R/R&D needs and interests in selected areas and requests proposals in response to these needs from SBCs. Announcements in the *Federal Register, Commerce Business Daily,* or the GPE are not considered an SBIR Program solicitation.

(v) *Prototype.* A model of something to be further developed, which includes designs, protocols, questionnaires, software, and devices.

(w) *Research or Research and Development (R/R&D).* Any activity that is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied;

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need; or

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

(x) *Small Business Concern.* An SBC is a concern that, on the date of award for both Phase I and Phase II funding agreements:

(1) is organized for profit, with a place of business located in the United States, which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials or labor;

(2) is in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture;

(3) is at least 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States; and

(4) has, including its affiliates, not more than 500 employees.

(y) *Socially and Economically Disadvantaged Individual.* A member of any of the following groups:

(1) Black Americans.

(2) Hispanic Americans.

(3) Native Americans.

(4) Asian-Pacific Americans.

(5) Subcontinent Asian Americans.

(6) Other groups designated from time to time by SBA to be socially disadvantaged; or any other individual found to be socially and economically disadvantaged by SBA pursuant to Section 8(a) of the Small Business Act, 15 U.S.C. 637(a).

(z) *Socially and Economically Disadvantaged SBC. See* 13 CFR Part 124 —8(A) Business Development/Small Disadvantaged Business Status Determinations, §§ 124.103 (Who is socially disadvantaged?) and 124.104 (Who is economically disadvantaged?).

(aa) *Subcontract.* Any agreement, other than one involving an employer-employee relationship, entered into by an awardee of a funding agreement calling for supplies or services required solely for the performance of the original funding agreement.

(bb) *United States.* Means the 50 states, the territories and possessions of the Federal Government, the Commonwealth of Puerto Rico, the District of Columbia, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(cc) *Women-Owned SBC.* A SBC that is at least 51 percent owned by one or more women, or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by women, and who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

4. Competitively Phased Structure of the Program

The SBIR Program is a phased process, uniform throughout the Federal Government, of soliciting proposals and awarding funding agreements for R/R&D to meet stated agency needs or missions. To stimulate and foster scientific and technological innovation, including increasing commercialization of Federal R/R&D, the program must follow a uniform competitive process of three phases:

(a) *Phase I.* Phase I involves a solicitation of grant applications or contract proposals (proposals) to conduct feasibility related experimental or theoretical R/R&D related to described agency requirements. These requirements, as defined by agency topics contained in a solicitation, may be general or narrow in scope, depending on the needs of the agency. The object of this phase is to determine the scientific and technical merit and feasibility of the proposed effort and the quality of performance of the SBC with a relatively small agency investment before consideration of further Federal support in Phase II.

(1) Several different proposed solutions to a given problem may be funded.

(2) Proposals will be evaluated on a competitive basis. Agency criteria used to evaluate SBIR proposals shall give primary consideration to the scientific and technical merit of the proposal along with its potential for commercialization. Secondary considerations may include program balance or critical agency requirements.

(3) Agencies may include requirements for submission of a Phase II proposal as a deliverable item under Phase I.

(b) *Phase II.* The object of Phase II is to continue the R/R&D effort from the completed Phase I. Agencies must make efforts to reduce the time frame for

issuing Phase II awards and are encouraged to develop gap-funding methods to address the duration of Phase II award cycles. Only SBIR awardees in Phase I (including those identified via a "novated" or "successor in interest" or similarly-revised funding agreement, or those that have reorganized with the same key staff, regardless of whether they have been assigned a different tax identification number) are eligible to participate in Phase II.

(1) Awardees of an STTR (Small Business Technology Transfer) Phase I award may submit a proposal for an SBIR Phase II award, which continues the research conducted under the STTR Phase I award. Agencies may then issue an SBIR Phase II award to those awardees using SBIR funds. However, those awardees must meet the requirements of the SBIR Program. For example, the awardee could no longer partner with a non-profit joint ventured within the STTR Phase I award, but could subcontract work to a non-profit. In effect, the award converts from an STTR to an SBIR award.

(2) Awardees of an SBIR Phase I award may submit a proposal for an STTR Phase II award, which continues the research conducted under the SBIR Phase I award. Agencies may then issue an STTR Phase II award to those awardees using STTR funds. However, those awardees must meet the requirements of the STTR Program. Thus, the awardee must partner with a research institution, non-profit organization or Federally Funded Research and Development Center (FFRDC). In effect, the award converts from an SBIR to an STTR award. Agencies must provide to the SBA a written justification with their annual report the rationale for this deviation.

(3) Agencies must provide to the SBA a written justification with their annual report the rationale for this deviation. Funding shall be based upon the results of Phase I and the scientific and technical merit and commercial potential of the Phase II proposal. Phase II awards may not necessarily complete the total research and development that may be required to satisfy commercial or Federal needs beyond the SBIR or STTR Programs. Completion of the research and development may be through a Phase III. The Phase II funding agreement with the awardee may, at the discretion of the agency awarding the agreement, establish the procedures applicable to third phase agreements. The Government is not obligated to fund any specific Phase II proposal. The SBIR or STTR Phase II award decision process requires, among other things, consideration of a proposal's commercial potential. Commercial potential includes the potential to transition the technology to private sector applications, Government applications, or Government contractor applications. Commercial potential in a Phase II proposal may be evidenced by:

(i) the SBC's record of successfully commercializing SBIR, STTR or other research;

(ii) the existence of second phase funding commitments from private sector or other non-SBIR or STTR funding sources;

(iii) the existence of third phase, follow-on commitments for the subject of the research; and

(iv) the presence of other indicators of commercial potential of the idea.

(a) *Phase III.* The term third phase agreement means a follow-on, non-SBIR funded award as described below. A Federal agency may enter into a third phase agreement with the awardee of the second phase for additional work to be performed during or after the second phase period.

(1) The competition for SBIR Phase I and Phase II awards satisfies any competition requirement of the Armed Services Procurement Act and the Federal Property and Administrative Services Act. Therefore, an agency that wishes to fund an SBIR project in Phase III (with non-SBIR funds), or enter into a follow-on procurement with an SBIR concern, is not required to conduct another competition in order to satisfy those statutory provisions.

(2) Where appropriate, there will be a third phase, which is funded by:

(i) non-Federal sources of capital for commercial applications of SBIR funded research or research and development; or

(ii) non-SBIR Federal funding for SBIR derived products or services intended for use by the Federal Government; or

(iii) non-SBIR Federal funding sources for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria.

(3) The term "third-phase award" or "SBIR Phase III award" applies to each of the following activities:

(i) commercial application of SBIR-funded research or R&D funded by non-Federal sources of capital;

(ii) products and services intended for use by the Federal Government funded by follow-on non-SBIR Federal funding awards;

(iii) the continuation of R/R&D funded by non-SBIR Federal funding sources.

(4) The third phase work may be for products or production, services, R/R&D, or any combination.

(5) There is no limitation on the number, duration, or dollar value of third phase awards made to a business concern.

(6) As indicated above, the competition for SBIR Phase I and Phase II awards satisfies any competition requirement of the Armed Services Procurement Act and the Federal Property and Administrative Act. Therefore, agencies or their Government-owned, contractor-operated facilities or Federally funded research and development centers or Government prime contractors, that wish to fund an SBIR project in Phase III (with non-SBIR funds) or enter into a follow-on procurement with a business concern, shall not request FAR required Justifications and Approvals in the conduct of contract actions relative to a third phase agreement.

(7) Congress intends that agencies or their Government-owned, contractor-operated facilities or Federally-funded research and development centers or Government prime contractors, pursuing R/R&D, or production developed under the SBIR Program give special acquisition preference, including sole source awards, to the awardee that developed the technology. In fact, the Act requires reporting to SBA of all instances in which an agency fails to issue a Phase III award to a SBC that pursued R/R&D pursuant to the SBIR Program (see Section 9 of this policy directive). SBA, in turn, reports these instances to the Congress. The Phase III awardee does not need to be eligible as a SBC (as defined in this policy directive) to receive the Phase III funding agreement.

(8) Agencies or their Government-owned, contractor-operated facilities or Federally-funded research and development centers, intending to pursue R/R&D, or production developed under the SBIR Program with an entity other than the awardee of the second phase, must notify SBA in writing prior to awarding such a funding agreement. This notification shall include: (a) the reasons why the follow-on funding agreement with the SBC is not practicable; (b) the identity of the entity with which the agency intends to make an award to perform research, development, or production; and (c) a description of the type of funding agreement under which the research, development, or production will be obtained. SBA reviews the justification and may appeal the decision to the head of the contracting activity. If SBA decides to appeal the decision, SBA will file its notice of intent to appeal to the contracting officer no later than 5 business days after receiving notice of the agency's intent to make an award. Upon receipt of SBA's notice of intent to appeal, the contracting officer should suspend further action regarding the funding agreement until the head of the contracting activity issues a written decision on the appeal. Within 15 business days of SBA's notification of its intent to appeal, SBA must either file its formal appeal with the head of the contracting activity or that agency may consider the appeal withdrawn. The contracting activity must specify in writing to SBA its reasons for a denial of an appeal.

5. Program Solicitation Process

(a) Each agency shall at least annually issue a program solicitation that sets forth a substantial number of R/R&D topics and subtopic areas consistent with stated agency needs or missions. Both the list of topics and the description of the topics and subtopics must be sufficiently comprehensive to provide a wide range of opportunity for SBCs to participate in the agency research or R&D programs. Topics and subtopics must emphasize the need for proposals with advanced concepts to meet specific agency R/R&D needs. Each topic and subtopic must describe the needs in sufficient detail to assist small firms in providing on-target responses, but cannot involve detailed specifications to prescribed solutions of the problems.

(b) The Act requires issuance of SBIR (Phase I) Program solicitations in accordance with a Master Schedule coordinated between SBA and the SBIR agency. The SBA organization responsible for coordination is: Office of Technology, Office of Policy, Planning, and Liaison, Office of Government Contracting/Business Development, U. S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416, Phone: (202) 205–6450, Internet site: www.sba.gov/sbir.

(c) For maximum participation by interested SBCs, it is important that the planning, scheduling and coordination of agency program solicitation release dates be completed as early as practicable in order to be coordinated with the commencement of the fiscal year on October 1. Bunching of agency program solicitation release and closing dates may prohibit SBCs from the preparation and timely submission of proposals for more than one SBIR project. SBA's coordination of agency schedules minimizes the bunching of proposed release and closing dates. Participating agencies may elect to publish multiple program solicitations within a given fiscal year to facilitate in-house agency proposal review and evaluation scheduling.

(d) *Master Schedule*

SBA posts an electronic Master Schedule of release dates of program solicitations with links to Internet web sites of agency solicitations. Agencies must post on their Internet web sites the following information regarding each program solicitation:

(1) The list of topics upon which research or R&D proposals will be sought.

(2) Agency address, phone number, or email address from which SBIR Program solicitations can be requested or obtained, especially through electronic means.

(3) Names, addresses, and phone numbers of agency contact points where SBIR-related inquiries may be directed.

(4) Release date(s) of program solicitation(s).

(5) Closing date(s) for receipt of proposals.

(6) Estimated number and average dollar amounts or level of effort of Phase I awards to be made under the solicitation.

(e) Each agency representative must notify SBA in writing or by e-mail of its proposed program solicitation release and proposal due dates for the next fiscal year on or before August 1. The SBA and the agency representatives will coordinate the resolution of any conflicting agency solicitation dates by the second week of August. In all cases, the SBA will make final decisions.

(f) For those agencies that use both general topic and more specific subtopic designations in their SBIR solicitations, the topic data should accurately describe the research solicited. For example, rather than just announcing topic information characterized as "Chemistry" or "Aerodynamics," the SBIR agency could summarize the subtopic statements and, where appropriate, utilize National Critical Technologies.

(g) *Simplified, Standardized, and Timely SBIR Program Solicitations*

(1) The Act requires "* * * simplified, standardized and timely SBIR solicitations" and for SBIR agencies to use a "uniform process" minimizing the regulatory burden for SBCs. Therefore, the instructions in Appendix I to this policy directive purposely depart from normal Government solicitation format and requirements. SBIR Program solicitations shall be prepared according to Appendix I.

(2) Agencies must provide the SBA's Office of Technology with two hard copies or an e-mail version of each solicitation and any modifications no later than the date of release of the solicitation or modification to the public. Those agencies that issue program solicitations in electronic format only shall provide the Internet site at which the program solicitation may be accessed no later than the date of posting at that site of the program solicitation or modification to the public.

(3) SBA does not intend that the SBIR Program solicitation replace or be used as a substitute for unsolicited proposals for R/R&D awards to SBCs. In addition, the SBIR Program solicitation procedures do not prohibit other agency research or R&D actions with SBCs that are carried on in accordance with applicable statutory/regulatory authorizations.

6. Eligibility and Application (Proposal) Requirements

(a) *Eligibility Requirements:*

(1) Each awardee under the SBIR Program must qualify as a SBC as defined in this policy directive.

(2) For Phase I—a minimum of two-thirds of the research or analytical effort must be performed by the awardee. Deviation from this requirement must be approved in writing by the funding agreement officer.

(3) For Phase II—a minimum of one-half of the research or analytical effort must be performed by the awardee. Deviation from this requirement must be approved in writing by the funding agreement officer.

(4) For both Phase I and II, the primary employment of the principal investigator must be with the SBC at the time of award and during the conduct of the proposed effort. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the SBC. Primary employment with a SBC precludes full-time employment with another organization. Deviation from this requirement must be approved in writing by the funding agreement officer. (For purposes of the SBIR Program, personnel obtained through a Professional Employer Organization or other similar personnel leasing company may be considered employees of the awardee. This is consistent with 13 CFR § 121.106—Small Business Size Regulations.)

(5) Also, for both Phase I and Phase II, the research or R&D work must be performed in the United States, as defined in this proposed policy directive. However, based on a rare and unique circumstance agencies may approve that particular portion of the

research or R&D work to be performed or obtained in a country outside of the United States. For example, if a supply or material or other item or project requirement is not available in the United States. Approval by the funding agreement officer for each such specific condition(s) must be in writing.

(b) *Proposal Requirements:*

(1) *Documentation of commercialization record of firms with multiple Phase II awards.* A SBC submitting a proposal for a funding agreement for Phase I of an SBIR Program that has received more than 15 Phase II SBIR awards during the preceding 5 fiscal years must document the extent to which it was able to secure third phase funding to develop concepts resulting from previous Phase II SBIR awards.

(2) *Commercialization Plan.* A succinct commercialization plan must be included with each proposal for an SBIR Phase II award moving toward commercialization. Elements of a commercialization plan may include the following:

(i) *Company information:* Focused objectives/core competencies; size; specialization area(s); products with significant sales; and history of previous Federal and non-Federal funding, regulatory experience, and subsequent commercialization.

(ii) *Customer and Competition:* Clear description of key technology objectives, current competition, and advantages compared to competing products or services; description of hurdles to acceptance of the innovation.

(iii) *Market:* Milestones, target dates, market analyses of market size, and estimated market share after first year sales and after 5 years; explanation of plan to obtain market share.

(iv) *Intellectual Property:* Patent status or other demonstration of a plan to achieve sufficient protection to realize the commercialization stage and attain at least a temporal competitive advantage.

(v) *Financing:* Plans of securing necessary funding in Phase III.

(vi) *Data Collection:* Each Phase II applicant will be required to provide information to the Tech-Net Database System (http://technet.sba.gov). See Appendix I, Item III. C., for additional information.

7. SBIR Funding Process

In requiring the establishment of a "simplified, standardized funding process," the SBIR legislation requires that specific attention be given to the following areas of SBIR Program administration:

(a) *Timely Receipt and Review of Proposals.*

(1) Participating agencies must establish firm schedules and review formats for appropriate distribution of the proposals for reviewing recommendations and submission to the SBIR Project Manager for award determinations.

(i) All activities related to Phase I proposal reviews shall normally be completed and awards made within 6 months from the closing date of the program solicitation. However, agencies may extend that period up to 12 months based on agency needs.

(ii) The program solicitations for Phase I must establish proposal submission dates. Related to Phase II activity, an agency may also establish set proposal submission dates. However, agencies may negotiate mutually acceptable proposal submission dates with individual Phase I performers, accomplish proposal reviews expeditiously, and proceed with awards. While recognizing that Phase II arrangements between the agency and applicant may require more detailed negotiation to establish terms acceptable to both parties, agencies must not sacrifice the R/R&D momentum created under Phase I by engaging in unnecessarily protracted Phase II proceedings.

(iii) SBIR participants often submit duplicate or similar proposals to more than one soliciting agency when the work projects appear to involve similar topics or requirements, which are within the expertise and capability levels of the applicant. To the extent reasonably feasible, interagency funding duplications of "essentially equivalent work" under the SBIR or other Federal programs should not occur. For this purpose, the standardized program solicitation will require applicants to indicate the name and address of the agencies to which essentially equivalent work proposals were made, or anticipated to be made, and to identify by subject the projects for which the proposal was submitted and the dates submitted. The same information will be required for any previous Federal Government awards. To assist in avoiding duplicate funding, each agency must provide to SBA and to each SBIR agency a listing of Phase I and Phase II awardees including the complete address and title of each SBIR project. This information should be distributed no later than release of the funding agreement award information to the public.

(b) *Review of SBIR Proposals.* SBA encourages SBIR agencies to use their routine review processes for SBIR proposals whether internal or external evaluation is used. A more limited review process may be used for Phase I due to the larger number of proposals anticipated. Where appropriate, "peer" reviews external to the agency are authorized by the Act. SBA cautions SBIR agencies that all review procedures must be designed to minimize any possible conflict of interest as it pertains to applicant proprietary data. The standardized SBIR solicitation advises potential applicants that proposals may be subject to an established external review process and that the applicant may include company designated proprietary information in its proposal.

(c) *Selection of Awardees.* Normally, SBIR agencies shall establish a proposal review cycle wherein successful and unsuccessful applicants will be notified of final award decisions within 6-months of the agency's Phase I proposal closing date. However, agencies may extend that period up to 12 months based on agency needs.

(1) The standardized SBIR Program solicitation must:

(i) Advise Phase I applicants that additional information may be requested by the awarding agency to evidence awardee responsibility for project completion.

(ii) Contain information advising applicants of basic proposal evaluation criteria for Phase I and Phase II.

(2) Phase II proposal submissions, reviews, and selections shall be managed by arrangements between the SBIR agency and each Phase I awardee considered for Phase II award.

(d) *Cost Sharing.*

Cost sharing can serve the mutual interests of the SBIR agencies and certain SBIR awardees by assuring the efficient use of available resources. However, cost sharing on SBIR projects is not required, although it may be encouraged. The standardized SBIR Program solicitation (Appendix I) will provide information to prospective SBIR applicants concerning cost sharing.

(e) *Payment Schedules and Cost Principles.*

(1) Under Section 9(g)(7) of the Small Business Act, 15 U.S.C. 638(g)(7), SBIR awardees may be paid under an applicable, authorized progress payment procedure or in accordance with a negotiated/definitized price and payment schedule. Advance payments are optional and may be made under appropriate law. In all cases, agencies must make payment to recipients under SBIR funding agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of the award.

(2) All SBIR funding agreements must use, as appropriate, current cost principles and procedures authorized for use by the SBIR agencies. At the time of award, agencies shall inform each SBIR awardee, to the extent possible, of the applicable Federal regulations and procedures that refer to the costs that, generally, are allowable under funding agreements.

(f) *Funding Agreement Types and Fee or Profit.* Statutory requirements for uniformity and standardization require consistency in application of SBIR Program provisions among SBIR agencies. However, consistency must allow for flexibility by the various agencies in missions and needs as well as the wide variance in funds required to be devoted to SBIR Programs in the agencies. The following instructions are for the purpose of meeting these requirements:

(1) *Funding Agreement.* The choice of type of funding agreement (contract, grant, or cooperative agreement) rests with the awarding agency but must be consistent with 31 U.S.C. 6301–6308.

(2) *Fee or Profit.* Unless expressly excluded by statute, awarding agencies must provide for a reasonable fee or profit on SBIR funding agreements, consistent with normal profit margins provided to profit-making firms for R/R&D work.

(g) *Periods of Performance and Extensions.*

(1) In keeping with the legislative intent to make a large number of relatively small awards, modification of funding agreements to extend periods of performance, increase the scope of work, or to increase the dollar amount should be kept to a minimum, except for options in original Phase I or II awards.

(2) *Phase I.* Period of performance should normally not exceed 6 months. However, agencies may provide a longer performance period based on agency needs or research plans.

(3) *Phase II.* Period of performance under Phase II is a subject of negotiation between the awardee and the issuing agency. The duration of Phase II should normally not exceed 2 years. However, agencies may provide a longer performance period based on agency needs or research plans.

(h) *Dollar Value of Awards.*

(1) The Act establishes $100,000 as the maximum amount of funds which an agency may award in the first phase of an SBIR Program, and $750,000 as the maximum amount of funds which an agency may award in the second phase of an SBIR Program. SBA may adjust these amounts once every 5 years to reflect economic adjustments and programmatic considerations.

(2) After award of any funding agreement exceeding $100,000 for Phase I or $750,000 for Phase II, the agency SBIR representative must provide SBA with written justification of such action. This justification must be submitted with the SBIR agency's Annual Report data. Similar justification is required for any dollar increase of a funding agreement that would bring the cumulative dollar amount to a total in excess of the amounts above.

(i) *National Security Exemption.*

The Act provides for exemptions related to the simplified standardized funding process "* * * if national security or intelligence functions clearly would be jeopardized." This exemption should not be interpreted as a blanket exemption or prohibition of SBIR participation related to the acquisition of effort on national security or intelligence functions except as specifically defined under Section 9(e)(2) of the Act, 15 USC 638(e)(2). Agency technology managers directing R/R&D projects under the SBIR Program, where the project subject matter may be affected by this exemption, must first make a determination on which, if any, of the standardized proceedings clearly place national security and intelligence functions in jeopardy, and then proceed with an acceptable modified process to complete the SBIR action. SBA's SBIR Program monitoring activities, except where prohibited by security considerations, shall include a review of nonconforming SBIR actions justified under this public law provision.

8. Terms of Agreement Under SBIR Awards

(a) *Proprietary Information Contained in Proposals.* The standardized SBIR Program solicitation, as described in the Appendix I of this policy directive, will include provisions requiring the confidential treatment of any proprietary information to the extent permitted by law. Agencies will discourage SBCs from submitting information considered proprietary unless the information is deemed essential for proper evaluation of the proposal. The solicitation will require that all proprietary information to be clearly identified and marked with a prescribed legend. Agencies may elect to require SBCs to limit proprietary information to that essential to the proposal and to have such information submitted on a separate page or pages keyed to the text.

(b) *Rights in Data Developed Under SBIR Funding Agreement.* The Act provides for "retention by a SBC of the rights to data generated by the concern in the performance of an SBIR award."

(1) The legislative history states that the law provides authority for the SBIR agency to protect technical data generated under the funding agreement. Each agency should refrain from disclosing such data to competitors of the SBC or from using the information to produce future technical procurement specifications that could harm the SBC that discovered and developed the innovation until the SBC has a reasonable opportunity to seek patent protection, if appropriate.

(2) SBIR agencies shall protect such technical data for a period of not less than 4 years from completion of each phase of the SBIR Program (Phase I, Phase II, and Federally-funded Phase III) from which the data were generated unless the agencies obtain permission to disclose such data from the awardee. The Government shall retain a royalty-free license for Government use of any technical data delivered under an SBIR funding agreement whether patented or not. This section does not apply to program evaluation.

(3) These data rights apply to all funding awards, including subcontracts to such awards, that fall within the statutory definition of first phase, second phase, and third phase of the SBIR Program, as described in Section 4 of this proposed policy directive. The scope and extent of the SBIR data rights applicable to Federally funded third phase awards shall be identical to the SBIR data rights applicable to Phases I or II SBIR awards. That is, for phases one and two SBIR awards, the 4-year period of protection identified in 8(b)(2) immediately above begins with the completion of the Phase I period, and if a Phase II award is made, the 4-year period extends through the completion of the Phase II period. A Phase III award, if made, may not occur for several years beyond completion of the Phase II SBIR award period. Thus, the 4-year period of protection for a Phase III award begins with the completion of the Phase III award period.

(c) *Title Transfer of Agency Provided Property.* Under the Act, title to equipment purchased for project performance with funds provided under SBIR funding agreements may be transferred to the awardee where such transfer would be more cost effective than recovery of the property by the Government.

(d) *Continued Use of Government Equipment.* The Act directs that a SBC participating in the third phase of the SBIR Program be allowed continued use, as a directed bailment, of any property transferred by a Federal agency to the SBC in the second phase of an SBIR Program for a period of not less

than 2 years, beginning on the initial date of the concern's participation in the third phase of such program.

(e) *Grant Authority.* The Act does not, in and of itself, convey grant authority. Each agency must secure grant authority in accordance with its normal procedures.

(f) *Conflicts of Interest.* SBA cautions SBIR agencies that awards made to SBCs owned by or employing current or previous Federal Government employees can create conflicts of interest for those employees in violation of FAR Part 3 and the Ethics in Government Act of 1978, as amended. Each SBIR agency should refer to the standards of conduct review procedures currently in effect for its agency to ensure that such conflicts of interest do not arise.

(g) Congress intends that the awardee of a funding agreement under the SBIR Program should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program. Each SBIR agency must provide to each awardee a notice of this.

9. Responsibilities of SBIR Participating Agencies and Departments

(a) The Act requires each agency participating in the SBIR Program to:

(1) Submit to the SBA, not later than 4 months after the date of enactment of its annual Appropriations Act, a report describing the methodology used for calculating the amount of its extramural budget. The report must also include an itemization of each research program excluded from the calculation of its extramural budget and a brief explanation of why it is excluded.

(2) Unilaterally determine the categories of projects to be included in its SBIR Program, giving special consideration to broad research topics and to topics that further one or more critical technologies, as identified by:

(i) the National Critical Technologies panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy Organization and Priorities Act of 1976, and in subsequent reports issued under that authority, or

(ii) the Secretary of Defense in the 1992 report issued in accordance with 10 U.S.C. 2522 and in subsequent reports issued under that authority.

(3) Release SBIR solicitations in accordance with the SBA master schedule.

(4) Unilaterally receive and evaluate proposals resulting from program solicitations and issue funding agreements.

(5) Provide for the requirement of a succinct commercialization plan with each proposal for a Phase II funding agreement that is moving toward commercialization.

(6) Collect and maintain information from awardees and provide it to SBA to develop and maintain the Tech-Net Database, as identified in Section 11(e) of this proposed policy directive.

(7) Administer its own SBIR funding agreements or delegate such administration to another agency; and inform each awardee under such agreement, to the extent possible, of the costs of the awardee that will be allowable under the funding agreement.

(8) Include provisions in each funding agreement under the SBIR Program setting forth the respective rights of the United States and the SBC with respect to intellectual property rights and with respect to any right to carry out follow-on research.

(9) Ensure that the rights in data developed under each Federally-funded SBIR first phase, second phase, and third phase funding agreement are properly protected.

(10) Make payments to awardees of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements and in all cases make payment to awardees under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements.

(11) Provide an annual report on the SBIR Program to SBA. *See* Section 10 of this policy directive.

(12) Report at least annually to the SBA's Office of Technology all instances in which an agency pursued research, development, or production of a technology developed by a SBC using an award made under the SBIR Program of that agency, where the agency determined that it was not practicable to enter into a follow-on non-SBIR Program funding agreement with the SBC. The report shall include, at a minimum:

(i) The reasons why the follow-on funding agreement with the SBC was not practicable;

(ii) The identity of the entity with which the agency contracted to perform the research, development, or production; and

(iii) A description of the type of funding agreement under which the research, development, or production was obtained.

(13) Include in its annual performance plan a section on its SBIR Program, and shall submit such section to the Committee on Small Business of the Senate, and the Committee on Science and the Committee on Small Business of the House of Representatives.

(14) Provide data to SBA to be used in SBIR Program evaluation (see Section 11(e) of this policy directive).

(b) The Act allows discretionary technical assistance to SBIR awardees:

(1) Agencies may enter into funding agreements to provide technical assistance to SBIR awardees, which may include:

(i) Assistance in technical decisions;

(ii) Assistance with technical problems; and

(iii) Assistance with all facets of commercialization.

(2) Under Phase I, each agency may provide up to $4,000 of SBIR funds for such technical assistance, for each Phase I award. The amount will be in addition to the award and will count as part of the agency's SBIR funding.

(3) In Phase II, agencies may allow awardees to expend up to $4,000 of SBIR funds per year of the funding agreement for such services.

(c) Interagency actions.

(1) *Joint funding.* An SBIR project may be financed by more than one Federal agency. Joint funding is not required but can be an effective arrangement for some projects.

(2) *Phase II awards.* An SBIR Phase II award may be issued by a Federal agency other than the one that made the Phase I award. The Phase I and Phase II agencies should document their files appropriately, providing clear rationale for the transfer of the Phase II proposal to, and award by, the funding Federal agency.

(3) *Timely notification of awards.* In order to avoid duplicate funding of an SBIR project, agencies shall promptly search the Tech-Net Database System for awards for essentially equivalent work. Discussion among agencies receiving similar proposals is strongly encouraged before an SBIR award is made.

(4) *Participation by women-owned SBCs and socially and economically disadvantaged SBCs in the SBIR Program.* In order to meet statutory requirements for greater inclusion, SBA and the Federal participating agencies must conduct outreach efforts to find and place innovative women-owned SBCs and socially and economically disadvantaged SBCs in the SBIR Program information system. These SBCs will be required to compete for SBIR awards on the same basis as all other SBCs. However, participating agencies are encouraged to work independently and cooperatively with SBA to develop methods to encourage qualified women-owned SBCs and socially and economically disadvantaged SBCs to participate in the SBIR Program.

(d) Agency limitation of participation and use of funds.

(1) A Federal agency must not use any of its SBIR budget for the purpose of funding administrative costs of the program, including costs associated with program operations, employee salaries, and other associated expenses.

(2) A Federal agency shall not issue an SBIR funding agreement that includes a provision for subcontracting any portion of that agreement back to the issuing agency or to any other Federal Government agency or other units of the Federal Government. However, an agency may deviate from this requirement based on a determination that such subcontracting is vital to its mission. Approval by the funding agreement officer for each such specific condition must be in writing. (SBA expects that agency deviations will not be routine, and will occur only for those special SBIR projects where the use of Federal resources is absolutely essential to the successful conduct of a project that is vital to the mission of the agency, and equivalent resources are not available in the private sector.)

(3) No agency, at its own discretion, may unilaterally cease participation in the SBIR Program. R/R&D agency budgets may cause fluctuations and trends that must be reviewed in light of SBIR program purposes. An agency may be considered by SBA for a phased withdrawal from participation in the SBIR Program over a period of time sufficient in duration to minimize any adverse impact on SBCs. However, the SBA decision concerning such a withdrawal will be made case-by-case basis and will depend on significant changes to extramural R/R&D 3-year forecasts as found in the annual *Budget of the United States Government* and National Science Foundation breakdowns of total R/R&D obligations as published in the *Federal Funds for Research and Development.* Any withdrawal of an SBIR Federal participating agency from the SBIR Program will be accomplished in a standardized and orderly manner in compliance with these statutorily mandated procedures.

(4) Voluntary participation in the SBIR Program by Federal agencies not otherwise qualified for such participation may be permitted under this policy directive. Federal agencies seeking to participate in the SBIR Program must submit their written requests to SBA. Voluntary participation requires the written approval of the SBA after review of the request.

10. Annual Report to the Small Business Administration

The Act requires a "simplified, standardized and timely annual report" from the SBIR agencies, The following paragraphs expand on this requirement, providing the due date, the kinds of information to be included, and the number of copies to be submitted to SBA.

(a) Annual Report Due Date and Number of Copies

Reporting shall be on an annual basis and will be for the period ending September 30 of each fiscal year. A single, hard copy report is due to SBA by March 15 of each year. However, if agencies choose to send an e-mail version, it should be sent to technology@sba.gov. Example: The report for FY 2001 (October 1, 2000—September 30, 2001) must be submitted to SBA by March 15, 2002. SBA encourages agencies to submit their annual report before the due date of March 15 of each year.

(b) Annual Report Content

(1) Agency total fiscal year, extramural R/R&D total obligations as reported to the National Science Foundation pursuant to the annual *Budget of the United States Government.*

(2) SBIR Program total fiscal year dollars derived by applying the statutory per centum to the agencies extramural R/R&D total obligations.

(3) SBIR Program fiscal year dollars obligated through SBIR Program funding agreements for Phase I and Phase II.

(4) Number of topics and subtopics contained in each program solicitation.

(5) Number of proposals received by the agency for each topic and subtopic in each program solicitation.

(6) For both Phase I and Phase II, the awardee's name and address, solicitation topic and subtopic, solicitation number, project title, and total dollar amount of funding agreement. Identify women-owned SBCs, economically and socially disadvantaged SBCs, and Phase II awardees with a follow-on funding commitment(s).

(7) Justification for the award of any funding agreement exceeding $125,000 for Phase I or $750,000 for Phase II.

(8) The number of awardees for whom the Phase I process exceeded the 6-month period from the closing date of the SBIR solicitation to award of the funding agreement.

(9) For an agency Phase III award using non-SBIR Federal funds to continue a Phase II project, the agency shall instruct the Phase III awardee to provide the name, address, project title, and dollar amount obligated.

(10) Awards made under a topic or subtopic wherein only one proposal was received shall be reported and justified. Agencies must provide name, address, topic or subtopic and dollar amount of award. Information must be collected quarterly but updated in agencies' annual reports.

(11) An accounting of Phase I awards made to SBCs that have received more than 15 Phase II awards from all agencies in the preceding 5 fiscal years. Agencies to report as a minimum: name of awarding agency, date of award, funding agreement number, topic or subtopic title, amount and date of Phase II funding, and commercialization status for each Phase II award.

(12) If applicable, report the number of National Critical Technology topic or subtopic funding agreements, the percentage by number and dollar amount of total SBIR awards to such National Critical Technologies.

(13) Report at least annually all instances in which an agency pursued research, development, or production of a technology developed by a SBC using an award made under the SBIR Program of that agency, and determined that it was not practicable to enter into a follow-on non-SBIR Program funding agreement with the SBC. *See* Section 9(a)(12). for minimum reporting requirements.

(14) Justification for continuing an STTR Phase I project through the SBIR Program using SBIR funds. Explain in detail the rationale for this deviation.

11. Responsibilities of SBA

(a) The SBA's Office of Technology will annually obtain available information on the current critical technologies from the National Critical Technologies panel (or its successor) and the Secretary of Defense and provide such information to the SBIR agencies.

(b) SBA will request this information in June of each year. The data received will be submitted to each of the participating Federal agencies and will also be published in the September issue of the SBIR Pre-Solicitation Announcement.

(c) Examples of SBIR Areas to be Monitored by SBA.

(1) *SBIR Funding Allocations.* Of major significance to the success of the SBIR Program is the magnitude and nature of the SBIR agencies' funding allocations identified for fiscal year

funding agreements. The Act explicitly relates to both the definition of the SBIR effort, R/R&D (as defined in the Act and OMB Circular A–11), and the mathematical methodology for determining fiscal year participation levels for all work categorized within the statutory definitions. SBA monitors these allocations.

(2) *SBIR Program Solicitation and Award Status.* The accomplishment of scheduled SBIR events, such as SBIR Program solicitation release and the issuance of funding agreements is critical to meeting statutory mandates and to operating an effective, useful program. SBA monitors these and other operational features of the SBIR Program. SBA does not plan to monitor administration of the awards except in instances where SBA assistance is requested and is related to a specific SBIR project or funding agreement.

(3) *Follow-on Funding Commitments.* SBA will monitor whether follow-on non-Federal funding commitments obtained by Phase II awardees for Phase III were considered in the evaluation of Phase II proposals as required by the Act.

(4) *Agency Rules and Regulations.* It is essential that no policy, rule, regulation, or interpretation be promulgated by the SBIR agencies that are inconsistent with the Act or this policy directive. SBA's monitoring activity will include review of policies, rules, regulations, interpretations, and procedures generated to facilitate intra-agency SBIR Program implementation.

(d) The SBA develops, participates in, and, when appropriate and feasible, sponsors seminars for innovative women-owned SBCs and socially and economically disadvantaged SBCs to inform them of the SBIR Program and Federal and commercial assistance and services available for SBIR Program participants.

(e) *Standardized Collection of Data—"Technology Resources Access Network" (Tech-Net) Database System Overview.*

The SBA's Office of Technology, as functional program manager for the SBIR and the Small Business Technology Transfer (STTR) Programs, is required to collect and report to the Congress, information regarding awards made to SBCs by each Federal agency participating in these programs. The Office of Technology maintains an internal database of awards and uses the system to report on technology and demographical statistics regarding the SBIR and the STTR Programs. The system also stores the 200-word technical abstract for each SBIR and STTR award that is prepared by the awardee summarizing the research effort that has been supported by the Federal Government. The system also provides the Office of Technology with the ability to perform keyword searches in many areas, including any part of the name, address, and technical abstract of the awardee. The system produces many reports that are used in the conduct of audits performed by the General Accounting Office (GAO) and to expose potential duplication of research and development efforts funded by the SBIR agencies. The Office of Technology, in a joint effort with the SBA's Office of the Chief Information Officer, is redesigning the Office of Technology's internal awards database system to operate on the Internet. The Internet system is titled the "Technology Resources Access Network," or Tech-Net. Tech-Net offers a vast array of user friendly capabilities, and is accessible by the public at no charge. Tech-Net allows for the online submission of SBIR/STTR awards data from all SBIR agencies, a process that until now was part manual and part automated. Tech-Net also allows any end-user to perform keyword searches and create formatted reports of SBIR/STTR awards information. Tech-Net will allow for potential research partners to view research and development efforts that are ongoing in the SBIR and the STTR Programs, increasing the investment opportunities of the SBIR/STTR SBCs in the high tech arena. Tech-Net serves as an excellent marketing tool for the small high tech business community, allowing investors to view first hand the technical capabilities of SBIR/STTR awardees, which will ultimately produce investments, partnerships, and strategic alliances resulting in commercialization of SBIR/STTR research. Tech-Net also houses legislatively mandated information on all SBIR and STTR awards, as well as outcome and output information that will be relevant to measuring the effectiveness and success of the programs. Agencies can update awardee information and add project commercialization and sales data with user names and passwords. This can be done via the "Procurement Marketing and Access Network" or Pro-Net database. Pro-Net is the single source client database for all internal and external SBA database systems and contains information regarding SBIR and STTR awardees. Username and passwords will be assigned only to awardees to provide access to their respective awards information maintained in the Pro-Net system. Award data maintained in the Tech-Net database can be changed only by the awardee, SBA, or the awarding SBIR /STTR Federal agency. Project commercialization and sales data can only be viewed by Congress, the Government Accounting Office (GAO), agencies participating in the SBIR and the STTR Programs, Office of Management and Budget (OMB), Office of Science and Technology Policy (OSTP), Office of Federal Procurement Policy (OFPP), and other authorized persons (e.g., authorized contractors) who are subject to a use and nondisclosure agreement with the Federal Government covering the use of the database. To use the Tech-Net or Pro-Net database systems, visit the website http://tech-net.sba.gov. Online help is available.

(1) Public Tech-Net Database (See Appendix II for Data Fields)

SBA, in consultation with the Federal agencies participating in the SBIR and the STTR Programs, develops and maintains a searchable, up-to-date, electronic database that includes:

(i) the name, size, location, funding agreement number, and tax identification number of each SBC that has received an SBIR or STTR Phase I or Phase II award from a Federal agency;

(ii) a description of each SBIR or STTR Phase I or Phase II award received by the SBC including:

(A) an abstract of the project funded by the award, excluding any proprietary information so identified by the awardee;

(B) the Federal agency making the award; and

(C) the date and amount of the award.

(iii) an identification of any business concern or subsidiary established for the commercial application of a product or service for which an SBIR or STTR award is made; and

(iv) information regarding mentors and Mentoring Networks, as required in the Federal and State Technology (FAST) Partnership Program described in Section 12 of this proposed policy directive.

(2) Government Tech-Net Database

SBA, in consultation with the Federal agencies participating in the SBIR and the STTR Programs, develops and maintains a secure database that:

(i) contains, for each Phase II award:

(A) revenue from the sale of new products or services resulting from the research conducted under each Phase II award;

(B) additional investment from any source, other than Phase I or Phase II SBIR or STTR awards, to further the research and development conducted under each Phase II award; and

(C) any other information received in connection with the award that the Administrator, in conjunction with the SBIR program managers of the participating agencies, considers relevant and appropriate;

(ii) includes any narrative information that a Phase II awardee voluntarily submits to further describe the outputs and outcomes of its awards;

(iii) includes for each applicant that does not receive a Phase I or Phase II award: (1) The name, size, location, identifying number assigned by the agency, and tax identification number; (2) an abstract of the project; and (3) the Federal agency to which the application was made;

(iv) includes any other data collected by or available to any Federal agency that such agency considers to be useful for SBIR program evaluation; and

(v) is available for use solely for program evaluation purposes by the Federal Government or, in accordance with policy directives issued by SBA, or by other authorized persons who are subject to a use and nondisclosure agreement with the Federal Government covering the use of the database.

(3) Data Collection for Government Tech-Net Database

(i) Each SBC applying for a Phase II award is required to update the appropriate information in the Tech-Net database for any prior Phase II award received by that SBC. In meeting this requirement, the SBC may apportion sales or additional investment information relating to more than one Phase II award among those awards, if it notes the apportionment for each award.

(ii) Each Phase II awardee is required to update the appropriate information in the Tech-Net database on that award at the expiration of the award period. In addition, the awardee is requested to voluntarily update the appropriate information on that award in the Tech-Net database annually thereafter for a minimum period of 5 years.

(iii) Under 15 U.S.C. 638(k)(4) information provided to the Government Tech-Net Database is privileged and confidential and not subject to disclosure pursuant to 5 U.S.C. 552 (Government Organization and Employees); nor shall it be considered to be publication for purposes of 35 U.S.C. 102 (a) or (b).

(iv) SBA will minimize the data reporting requirements of SBCs, make updating available electronically, and provide standardized procedures.

12. Federal and State Technology (FAST) Partnership Program and Rural Outreach Program

(a) Federal and State Technology Partnership Program

The Small Business Innovation Research Program Reauthorization Act of 2000 (Pub. L. 106–554) established the Federal and State Technology (FAST) Partnership Program to strengthen the technological competitiveness of SBCs in the United States. Congress found that programs that foster economic development among small high-technology firms vary widely among the States. Thus, the purpose of the FAST Program is to improve the participation of small technology firms in the innovation and commercialization of new technology, thereby ensuring that the United States remains on the cutting edge of research and development in the highly competitive arena of science and technology. SBA administers the FAST Program. Additional and detailed information regarding this program is available electronically at www.sba.gov/SBIR.

(b) Rural Outreach Program

The Rural Outreach Program is authorized by section 9(s) of the Small Business Act, 15 U.S.C. 638 (s). The Small Business Innovation Research Program Reauthorization Act of 2000, Public Law 106–554, which was signed by the President on December 21, 2000, extends the program through fiscal year 2005 (September 30, 2005).

Historically, SBCs located in a relatively small number of States have been highly successful in securing awards under the SBIR Program. To expand competition under the SBIR and STTR Programs, and to encourage the maximum number of SBCs to submit proposals and succeed in winning awards, SBA provides Federal assistance to support statewide outreach to small high-technology businesses located in States that are underrepresented in SBIR/STTR awards. Cooperative Agreements to "Eligible States" are made on a matching funds basis. The awards will be made in a ratio of Federal dollars to non-Federal dollars of 2:1, with a maximum Federal contribution of $100,000. Assistance provided to an Eligible State under this program announcement shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of SBCs located in the State in the SBIR and STTR Programs. Only "Eligible States" may submit proposals for the Rural Outreach Program. An "Eligible State" is defined in section 9(s)(1) of the Small Business Act (15 U.S.C. 638(s)(1)): "Eligible State" means a State-(A) if the total value of SBIR/STTR awards made to recipient businesses in the State during fiscal year 1995 under this section [i.e., under SBIR and STTR Programs], was less than $5,000,000 (as reflected in SBA's database of fiscal year 1995 awards); and (B) that certifies to the Administration that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

The 25 States for which the total value of awards issued under the SBIR and STTR Programs in fiscal year 1995 was less than $5,000,000 are: Alaska, Arkansas, Delaware, District of Columbia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Puerto Rico, Rhode Island, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming.

Appendix I: Instructions for SBIR Program Solicitation Preparation

1. General

Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) requires "***simplified, standardized and timely SBIR solicitations" and for SBIR agencies to utilize a "uniform process" minimizing the regulatory burden of participation. Therefore, the following instructions purposely depart from normal Government solicitation formats and requirements. SBIR solicitations must be prepared and issued as program solicitations in accordance with the following instructions.

2. Limitation in Size of Solicitation

In the interest of meeting the requirement for simplified and standardized solicitations, while also recognizing that the Internet has become the main vehicle for distribution, each agency should structure its entire SBIR solicitation to produce the least number of pages (electronic and printed), consistent with the procurement/assistance standard operating procedures and statutory requirements of the participating Federal agencies.

3. Format

SBIR Program solicitations must be prepared in a simplified, standardized, easy-to-read, easy-to-understand format including a cover sheet, a table of contents and the following sections in the order listed (content of each section is discussed below):

1. Program Description.
2. Definitions.
3. Proposal Preparation Instructions and Requirements.
4. Method of Selection and Evaluation Criteria.

5. Considerations.
6. Submission of Proposals.
7. Scientific and Technical Information Sources.
8. Submission Forms and Certifications.
9. Research Topics.

4. Cover Sheet

The cover sheet or title page of an SBIR Program solicitation must clearly identify the solicitation as a SBIR solicitation, identify the agency releasing the solicitation, specify date(s) on which proposals (contract proposals/grant applications) are due under the solicitation, and state the solicitation number or year.

Instructions for Preparation of SBIR Program Solicitation Sections 1 Through 9

1. Program Description

(a) Summarize in narrative form the invitation to submit proposals and the objectives of the SBIR Program.

(b) Describe in narrative form the agency's SBIR Program including a description of the three phases. Note in your description that the solicitation is for Phase I proposals only.

(c) Describe program eligibility, as follows:

Eligibility. Each concern submitting a proposal must qualify as a SBC for research or R&D purposes at the time of award. In addition, the primary employment of the principal investigator must be with the SBC at the time of award and during the conduct of the proposed research, unless otherwise approved in writing by the funding agreement officer. Also, for both Phase I and Phase II, the research or R&D work must be performed in the United States. However, based on a rare and unique circumstance, for example, a supply or material or other item or project requirement that is not available in the United States, agencies may allow that particular portion of the research or R&D work to be performed or obtained in a country outside of the United States. Approval by the funding agreement officer for such specific condition(s) must be in writing.

(d) List name, address and telephone number of agency contacts for general information on the SBIR Program solicitation.

2. Definitions

Whenever terms are used that are unique to the SBIR Program, a specific SBIR solicitation or a portion of a solicitation, they will be defined in a separate section entitled "Definitions." At a minimum, the definitions of "SBC," "socially and economically disadvantaged SBC," "women-owned SBC," "funding agreement," and "subcontract" as stated in this proposed policy directive shall be included.

3. Proposal Preparation Instructions and Requirements

The purpose of this section is to inform the applicant on what to include in his or her proposal and to set forth limits on what may be included. It should also provide guidance to assist applicants in improving the quality and acceptance of proposals particularly to firms that may not have previous Government experience.

(a) *Limitations on Length of Proposal.* Include at least the following information: (1) SBIR Phase I proposals must not exceed a total of 25 pages, including cover page, budget, and all enclosures or attachments, unless stated otherwise in the agency solicitation. Pages should be of standard size (8 1/2" × 11"; 21.6 cm × 27.9 cm) and should conform to the standard formatting instructions; in particular, 2.5 cm margins and type no smaller than 10 point font size.

(2) A notice that no additional attachments, appendices, or references beyond the 25-page limitation shall be considered in proposal evaluation (unless specifically solicited by an agency) and that proposals in excess of the page limitation shall not be considered for review or award.

(b) *Proposal Cover Sheet.* Every applicant will be required to include at least the following information on the first page of proposals. Items 8 and 9 are for statistical purposes only.

(1) Agency and solicitation number or year.
(2) Topic Number or Letter.
(3) Subtopic Number or Letter.
(4) Topic Area.
(5) Project Title.
(6) Name and Complete Address of Firm.
(7) Small Business Certification (by statement or checkbox) as follows:

"The above concern certifies that it is a SBC and meets the definition as stated in this solicitation or that it will meet that definition at time of award."

(8) Socially and Economically Disadvantaged SBC Certification (by statement or checkbox) as follows:

"The above concern certifies that it __ does __ does not qualify as a socially and economically disadvantaged SBC and meets the definition as stated in this solicitation."

(9) Women-owned SBC Certification (by statement or checkbox) as follows:

"The above concern certifies that it does does not qualify as a women-owned SBC and meets the definition as stated in this solicitation."

(10) An information statement regarding duplicate research as follows:

"The applicant and/or Principal Investigator __ has __ has not submitted proposals for essentially equivalent work under other Federal program solicitations or __ has __ has not received other Federal awards for essentially equivalent work." (Identify proposals/awards in section III.D.10, "Similar Proposals and Awards")

(11) Disclosure permission (by statement or checkbox), such as follows, may be included at the discretion of the funding agency: "Will you permit the Government to disclose the title and technical abstract page of your proposed project, plus the name, address, and telephone number of the corporate official of your concern, if your proposal does not result in an award, to concerns that may be interested in contacting you for further information? Yes __ No __"

(12) Signature of a company official of the proposing SBC and that individual's typed name, title, address, telephone number, and date of signature.

(13) Signature of Principal Investigator or Project Manager within the proposing SBC and that individual's typed name, title, address, telephone number, and date of signature.

(14) Legend for proprietary information as described in the "Considerations" section of this program solicitation if appropriate. May also be noted by asterisks in the margins on proposal pages.

(c) *Data Collection Requirement.*

(1) Each Phase II applicant will be required to provide information for the Tech-Net Database System (http://technet.sba.gov). Following are examples of the data to be entered by applicants into Tech-Net:

(i) Any business concern or subsidiary established for the commercial application of a product or service for which an SBIR award is made.

(ii) Revenue from the sale of new products or services resulting from the research conducted under each Phase II award;

(iii) Additional investment from any source, other than Phase I or Phase II awards, to further the research and development conducted under each Phase II award.

(iv) Update the information in the Tech-Net database for any prior Phase II award received by the SBC. The SBC may apportion sales or additional investment information relating to more than one Phase II award among those awards, if it notes the apportionment for each award.

(2) Each Phase II awardee is required to update the appropriate information on the award in the Tech-Net database at the expiration of the award period and is requested to voluntarily update the information in the Tech-Net database annually thereafter for a minimum period of 5 years.

(d) *Abstract or Summary.* Applicants will be required to include a one-page project summary of the proposed research or R&D including at least the following:

(1) Name and address of SBC.
(2) Name and title of principal investigator or project manager.
(3) Agency name, solicitation number, solicitation topic, and subtopic.
(4) Title of project.
(5) Technical abstract limited to two hundred words.
(6) Summary of the anticipated results and implications of the approach (both Phases I and II) and the potential commercial applications of the research.

(e) *Technical Content.* SBIR Program solicitations must require as a minimum the following to be included in proposals submitted thereunder:

(1) *Identification and Significance of the Problem or Opportunity.* A clear statement of the specific technical problem or opportunity addressed.

(2) *Phase I Technical Objectives.* State the specific objectives of the Phase I research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.

(3) *Phase I Work Plan.* Include a detailed description of the Phase I R/R&D plan. The plan should indicate what will be done, where it will be done, and how the R/R&D will be carried out. Phase I R/R&D should address the objectives and the questions cited in D.2. above. The methods planned to achieve each objective or task should be discussed in detail.

(4) *Related R/R&D.* Describe significant R/R&D that is directly related to the proposal including any conducted by the project manager/principal investigator or by the proposing SBC. Describe how it relates to the proposed effort, and any planned coordination with outside sources. The applicant must persuade reviewers of his or her awareness of key recent R/R&D conducted by others in the specific topic area.

(5) *Key Personnel and Bibliography of Directly Related Work.* Identify key personnel involved in Phase I including their directly related education, experience, and bibliographic information. Where vitae are extensive, summaries that focus on the most relevant experience or publications are desired and may be necessary to meet proposal size limitation.

(6) *Relationship with Future R/R&D.*

(i) State the anticipated results of the proposed approach if the project is successful (Phase I and II).

(ii) Discuss the significance of the Phase I effort in providing a foundation for the Phase II R/R&D effort.

(7) *Facilities.* A detailed description, availability and location of instrumentation and physical facilities proposed for Phase I should be provided.

(8) *Consultants.* Involvement of consultants in the planning and research stages of the project is permitted.

If such involvement is intended, it should be described in detail.

(9) *Potential Post Applications.* Briefly describe:

(i) Whether and by what means the proposed project appears to have potential commercial application.

(ii) Whether and by what means the proposed project appears to have potential use by the Federal Government.

(10) *Similar Proposals or Awards.* WARNING—While it is permissible with proposal notification to submit identical proposals or proposals containing a significant amount of essentially equivalent work for consideration under numerous Federal program solicitations, it is unlawful to enter into funding agreements requiring essentially equivalent effort. If there is any question concerning this, it must be disclosed to the soliciting agency or agencies before award. If an applicant elects to submit identical proposals or proposals containing a significant amount of essentially equivalent work under other Federal program solicitations, a statement must be included in each such proposal indicating:

(i) The name and address of the agencies to which proposals were submitted or from which awards were received.

(ii) Date of proposal submission or date of award.

(iii) Title, number, and date of solicitations under which proposals were submitted or awards received.

(iv) The specific applicable research topics for each proposal submitted or award received.

(v) Titles of research projects.

(vi) Name and title of principal investigator or project manager for each proposal submitted or award received.

(11) *Prior SBIR Phase II Awards.* If the SBC has received more than 15 Phase II awards in the prior 5 fiscal years, submit name of awarding agency, date of award, funding agreement number, amount, topic or subtopic title, follow-on agreement amount, source, and date of commitment and current commercialization status for each Phase II. (This required proposal information will not be counted toward proposal pages count limitation.)

(f) *Cost Breakdown/Proposed Budget.* The solicitation will require the submission of simplified cost or budget data.

4. Method of Selection and Evaluation Criteria

(a) *Standard Statement.* Essentially the following statement shall be included in all SBIR Program solicitations:

"All Phase I and II proposals will be evaluated and judged on a competitive basis. Proposals will be initially screened to determine responsiveness. Proposals passing this initial screening will be technically evaluated by engineers or scientists to determine the most promising technical and scientific approaches. Each proposal will be judged on its own merit. The Agency is under no obligation to fund any proposal or any specific number of proposals in a given topic. It also may elect to fund several or none of the proposed approaches to the same topic or subtopic."

(b) *Evaluation Criteria.*

(1) The Agency in its evaluation process shall develop a standardized method that will consider as a minimum the following factors:

(i) The technical approach and the anticipated agency and commercial benefits that may be derived from the research.

(ii) The adequacy of the proposed effort and its relationship to the fulfillment of requirements of the research topic or subtopics.

(iii) The soundness and technical merit of the proposed approach and its incremental progress toward topic or subtopic solution.

(iv) Qualifications of the proposed principal/key investigators, supporting staff, and consultants.

(v) In Phase II, evaluations of proposals require, among other things, consideration of a proposal's commercial potential as evidenced by:

(A) the SBC's record of commercializing SBIR or other research,

(B) the existence of second phase funding commitments from private sector or non-SBIR funding sources,

(C) the existence of third phase follow-on commitments for the subject of the research, and,

(D) the presence of other indicators of commercial potential of the idea.

Phase II proposals may only be submitted by Phase I award winners.

(2) The factors in B.1. above and other appropriate evaluation criteria, if any, shall be specified in the "Method of Selection" section of SBIR Program solicitations.

(c) *Peer Review.* The program solicitation must indicate if the SBIR agency contemplates that as a part of the SBIR proposal evaluation it will use external peer review.

(d) *Release of Proposal Review Information.* After final award decisions have been announced, the technical evaluations of the applicant's proposal may be provided to the applicant. The identity of the reviewer must not be disclosed.

5. Considerations

This section must include, as a minimum, the following information:

(a) *Awards.* Indicate the estimated number and type of awards anticipated under the particular SBIR Program solicitation in question, including:

(i) Approximate number of Phase I awards expected to be made.

(ii) Type of funding agreement, i.e., contract, grant or cooperative agreement.

(iii) Whether fee or profit will be allowed.

(iv) Cost basis of funding agreement, for example, firm-fixed-price, cost reimbursement, or cost-plus-fixed fee.

(v) Information on the approximate average dollar value of awards for Phase I and Phase II.

(b) *Reports.* Describe the frequency and nature of reports that will be required under Phase I funding agreements. Interim reports should be brief letter reports.

(c) *Payment Schedule.* Specify the method and frequency of progress and final payment under Phase I and II agreements.

(d) *Innovations, Inventions and Patents.*

(1) *Limited Rights Information and Data.*

(i) *Proprietary Information.* Essentially the following statement shall be included in all SBIR solicitations: "Information contained in unsuccessful proposals will remain the property of the applicant. The Government may, however, retain copies of all proposals. Public release of information in any proposal submitted will be subject to existing statutory and regulatory requirements. If proprietary information is provided by an applicant in a proposal, which constitutes a trade secret, proprietary commercial or financial information, confidential personal information or data affecting the national security, it will be treated in confidence, to the extent permitted by law. This information must be clearly marked by the applicant with the term "confidential proprietary information" and the following legend must appear on the title page of the proposal:

"For any purpose other than to evaluate the proposal, this data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part, provided that if a funding agreement is awarded to this applicant as a result of or in connection with the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the funding agreement and pursuant to applicable law. This restriction does not limit the Government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction are contained on pages ____ of this proposal." Any other legend may be unacceptable to the Government and may constitute grounds for removing the proposal from further consideration, without assuming any liability for inadvertent disclosure. The Government will limit dissemination of such information to within official channels.

(ii) *Alternative To Minimize Proprietary Information.* Agencies may elect to instruct applicants to:

(A) Limit proprietary information to only that absolutely essential to their proposal.

(B) Provide proprietary information on a separate page with a numbering system to key it to the appropriate place in the proposal.

(iii) *Rights in Data Developed Under SBIR Funding Agreements.* To notify the SBC of the policy stated in Section 8(b) of this proposed policy directive, the following statement will be included in all SBIR Program solicitations: "These SBIR data are furnished with SBIR rights under Funding Agreement No. __ (and subcontract __ if appropriate). For a period of 4 years after acceptance of all items to be delivered under this funding agreement, the Government agrees to use this data for Government purposes only, and it shall not be disclosed outside the Government (including disclosure for procurement purposes) during such period without permission of the awardee, except that, subject to the foregoing use and disclosure prohibitions, such data may be disclosed for use by support contractors. After the 4-year period, the Government has a royalty-free license to use, and to authorize others to use on its behalf, this data for Government purposes, but is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of this data by third parties. This Notice shall be affixed to any reproductions of this data, in whole or in part."

(iv) *Copyrights.* Include an appropriate statement concerning copyrights and publications; for example: "With prior written permission of the contracting officer, the awardee normally may copyright and publish (consistent with appropriate national security considerations, if any) material developed with (agency name) support. (Agency name) receives a royalty-free license for the Federal Government and requires that each publication contain an appropriate acknowledgement and disclaimer statement."

(v) *Patents.* Include an appropriate statement concerning patents. For example: "Small business concerns normally may retain the principal worldwide patent rights to any invention developed with Government support. The Government receives a royalty-free license for Federal Government use, reserves the right to require the patent holder to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must normally manufacture it domestically. To the extent authorized by 35 U.S.C. 205, the Government will not make public any information disclosing a Government-supported invention for a 4-year period to allow the awardee a reasonable time to pursue a patent."

(vi) *Invention Reporting.* Include requirements for reporting invention Include appropriate information concerning the reporting of inventions, for example: "SBIR awardees must report inventions to the awarding agency within 2 months of the inventor's report to the awardee. The reporting of inventions may be accomplished by submitting paper documentation, including fax."

Note: Some agencies provide electronic reporting of inventions through the NIH Edison Invention Reporting System. Use of the Edison system satisfies all invention reporting requirements mandated by the Code of Federal Regulations, Title 37 CFR Part 401, with particular emphasis on the Standard Patent Rights Clauses, Section 401.14. Access to the system is through a secure interactive Internet site, http://www.iedison.gov, to ensure that all information submitted is protected. All agencies are encouraged to use the Edison System. In addition to fulfilling reporting requirements, Edison notifies the user of future time sensitive deadlines with enough lead-time to avoid the possibility of loss of patent rights due to administrative oversight.

(e) *Cost-Sharing.* Include a statement essentially as follows: "Cost-sharing is permitted for proposals under this program solicitation; however, cost-sharing is not required. Cost-sharing will not be an evaluation factor in consideration of your Phase I proposal."

(f) *Profit or Fee.* Include a statement on the payment of profit or fee on awards made under the SBIR Program solicitation.

(g) *Joint Ventures or Limited Partnerships.* Include essentially the following language: "Joint ventures and limited partnerships are eligible provided the entity created qualifies as a small business concern as defined in this program solicitation."

(h) *Research and Analytical Work.* Include essentially the following statement:

(1) "For *Phase I* a minimum of *two-thirds* of the research and/or analytical effort must be performed by the proposing small business concern unless otherwise approved in writing by the funding agreement officer.

(2) For *Phase II* a minimum of *one-half* of the research and/or analytical effort must be performed by the proposing small business concern unless otherwise approved in writing by the funding agreement officer."

(i) *Awardee Commitments.* To meet the legislative requirement that SBIR solicitations be simplified, standardized and uniform, clauses expected to be in or required to be included in SBIR funding agreements shall not be included in full or by reference in SBIR Program solicitations. Rather, applicants shall be advised that they will be required to make certain legal commitments at the time of execution of funding agreements resulting from SBIR Program solicitations. Essentially, the following statement shall be included in the "Consideration" section of SBIR Program solicitations: "Upon award of a funding agreement, the awardee will be required to make certain legal commitments through acceptance of numerous clauses in Phase I funding agreements. The outline that follows is illustrative of the types of clauses to which the contractor would be committed. This list should not be understood to represent a complete list of clauses to be included in Phase I funding agreements, or to be specific wording of such clauses. Copies of complete terms and conditions are available upon request."

(j) *Summary Statements.* The following are illustrative of the type of summary statements to be included immediately following the statement in the subparagraph I. These statements are examples only and may vary depending upon type of funding agreement.

(1) *Standards of Work.* Work performed under the funding agreement must conform to high professional standards.

(2) *Inspection.* Work performed under the funding agreement is subject to Government inspection and evaluation at all times.

(3) *Examination of Records.* The Comptroller General (or a duly authorized representative) shall have the right to examine any directly pertinent records of the awardee involving transactions related to this funding agreement.

(4) *Default.* The Government may terminate the funding agreement if the contractor fails to perform the work contracted.

(5) *Termination for Convenience.* The funding agreement may be terminated at any time by the Government if it deems termination to be in its best interest, in which case the awardee will be compensated for work performed and for reasonable termination costs.

(6) *Disputes.* Any dispute concerning the funding agreement that cannot be resolved by agreement shall be decided by the contracting officer with right of appeal.

(7) *Contract Work Hours.* The awardee may not require an employee to work more than 8 hours a day or 40 hours a week unless the employee is compensated accordingly (e.g., overtime pay).

(8) *Equal Opportunity.* The awardee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(9) *Affirmative Action for Veterans.* The awardee will not discriminate against any employee or application for employment because he or she is a disabled veteran or veteran of the Vietnam era.

(10) *Affirmative Action for Handicapped.* The awardee will not discriminate against any employee or applicant for employment because he or she is physically or mentally handicapped.

(11) *Officials Not To Benefit.* No Government official shall benefit personally from the SBIR funding agreement.

(12) *Covenant Against Contingent Fees.* No person or agency has been employed to solicit or secure the funding agreement upon an understanding for compensation except bonafide employees or commercial agencies maintained by the awardee for the purpose of securing business.

(13) *Gratuities.* The funding agreement may be terminated by the Government if any gratuities have been offered to any representative of the Government to secure the contract.

(14) *Patent Infringement.* The awardee shall report each notice or claim of patent infringement based on the performance of the funding agreement.

(15) *American Made Equipment and Products.* When purchasing equipment or a product under the SBIR funding agreement, purchase only American-made items whenever possible.

(k) *Additional Information.* Information pertinent to an understanding of the

administration requirements of SBIR proposals and funding agreements not included elsewhere shall be included in this section. As a minimum, statements essentially as follows shall be included under "Additional Information" in SBIR Program solicitations:

(1) This program solicitation is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting SBIR funding agreement, the terms of the funding agreement are controlling.

(2) Before award of an SBIR funding agreement, the Government may request the applicant to submit certain organizational, management, personnel, and financial information to assure responsibility of the applicant.

(3) The Government is not responsible for any monies expended by the applicant before award of any funding agreement.

(4) This program solicitation is not an offer by the Government and does not obligate the Government to make any specific number of awards. Also, awards under the SBIR Program are contingent upon the availability of funds.

(5) The SBIR Program is not a substitute for existing unsolicited proposal mechanisms. Unsolicited proposals shall not be accepted under the SBIR Program in either Phase I or Phase II.

(6) If an award is made pursuant to a proposal submitted under this SBIR Program solicitation, the contractor or grantee or party to a cooperative agreement will be required to certify that he or she has not previously been, nor is currently being, paid for essentially equivalent work by any agency of the Federal Government.

6. Submission of Proposals

(a) This section shall clearly specify the closing date on which all proposals are due to be received.

(b) This section shall specify the number of copies of the proposal that are to be submitted.

(c) This section shall clearly set forth the complete mailing and/or delivery address(es) where proposals are to be submitted.

(d) This section may include other instructions such as the following:

(1) *Bindings.* Please do not use special bindings or covers. Staple the pages in the upper left corner of the cover sheet of each proposal.

(2) *Packaging.* All copies of a proposal should be sent in the same package.

7. Scientific and Technical Information Sources

Wherever descriptions of research topics or subtopics include reference to publications, information on where such publications will normally be available shall be included in a separate section of the solicitation entitled "Scientific and Technical Information Sources."

8. Research Topics

Describe the research or R&D topics and subtopics for which proposals are being solicited sufficiently to inform the applicant of technical details of what is desired while leaving sufficient flexibility in order to obtain the greatest degree of creativity and innovation consistent with the overall objectives of the SBIR Programs.

9. Submission Forms and Certifications

Multiple copies of proposal preparation forms necessary to the contracting and granting process may be required. This section may include Proposal Summary, Proposal Cover, Budget, Checklist, and other forms the sole purpose of which is to meet the mandate of law or regulation and simplify the submission of proposals. This section may also include certifying forms required by legislation, regulation or standard operating procedures, to be submitted by the applicant to the contracting or granting agency. This would include certifying forms such as those for the protection of human and animal subjects.

Appendix II: Tech-Net Data Fields For Public Database

Following are the data fields pertaining to the Public Tech-Net DataBase described in Section 11.e.1. of this proposed policy directive.

(a) *For all Agency SBIR/STTR Annual Data Submissions to the SBA*

Field name	Type	Width	Description
Program Identification	Numeric	1	SBIR/STTR Award Program Identifier* (see below)
Company	Char	80	Company Name.*
Street1	Char	80	Street Address 1.*
Street2	Char	60	Street Address 2.
City	Char	40	City.*
State	Char	2	State.*
Zip	Numeric	5	Zip.*
Zip4	Numeric	4	Zip + 4.
Minority Code	Numeric	1	Minority code indicator 0 = yes 1 = no. *
Women	Numeric	1	Women-owned company indicator 0=yes 1=no.*
Contact First	Char	40	Company Official contact first name.
Contact Last	Char	40	Contact last name.
Contact Middle Init	Char	1	Contact middle initial.
Contact Title	Char	40	Contact Official title.
Contact Phone	Char	10	Contact Official phone.
Contact Email Address	Char	50	Contact email address.
Employees	Numeric	5	Number of employees.
Agency Code	Numeric	2	Awarding agency name (ex. DOD) * (see below).
Branch	Number	1	Awarding DOD branch name (ex. Navy) (see below).
Phase	Numeric	1	Phase number 1 or 2.*
Award Year	Numeric	4	Phase award year.*
Award Amount	Numeric	10	Phase award amount.*
PI First	Char	40	Principal Investigator First Name.*
PI Last	Char	40	Principal Investigator Last Name.*
PI Middle Init	Char	1	Principal Investigator middle initial.
PI Title	Char	40	Principal Investigator Title.
PI Phone	Char	10	Principal Investigator phone.
PI Email Address	Char	50	Principal Investigator email address.
Topic Code	Char	15	Agency Solicitation Topic Number.*
RI TYPE	Numeric	1	Type of research institution(see below).
RI Name	Char	80	Research institution.
RI Street 1	Char	80	Research institution address.
RI Street 2	Char	80	Research institution address.
RI City	Char	40	Research institution city.
RI State	Char	2	Research institution State.
RI Zip	Numeric	5	Research institution Zip.
RI Zip4	Numeric	4	Research institution Zip + 4.

Field name	Type	Width	Description
RI Official First	Char	40	Research institution Official First Name.
RI Official Last	Char	40	Research institution Official Last Name.
RI Official Initial	Char	1	Research institution Official Middle Initial.
RI Official Phone	Char	10	
Tracking Number	Char	20	Agency key identifier (Internal number scheme).*
TIN/EIN	Char	10	Taxpayer/Employer Identification number, * Prefix with 1 for EIN 2 for Social Security Number.
Contract/Grant Number	Char	20	Agency award contract/grant number.
Solicitation Number	Char	20	Solicitation Number.
Solicitation Year	Numeric	4 Year of the	Solicitation.
Title	Char	800	Title of research project. *
Tracking Number	Char	20	Agency key identifier (Internal number scheme).*
Abstract	Char	1500	Technical abstract (500 words).
Tracking Number	Char	20	Agency key identifier (Internal number scheme).*
Abstract SeqNmb	Numeric	1	
Results	Char	1000	—Project anticipated results.
Tracking Number	Char	20	Agency key identifier (Internal number scheme).*
Comments	Char	1000	—Project comments.
Tracking Number	Char	20	Agency key identifier (Internal number scheme).*
Industry Share Amount	Numeric	10	ATP Program Cost Share Amount.
Cost Share Tracking #	Char	20	ATP Cost Share Tracking Number.

Note: Those fields denoted with an asterisk are deemed mandatory in all agency submissions. It is understood that all agencies will not have data for each data field listed above. Each agency must ensure that data submissions to the SBA include all of the data fields above, even if they are empty.

Code	Research Institution Types
1	Nonprofit college or university.
2	Domestic nonprofit research organization.
3	Federally funded research and development center (FFDRC).

(b) Codes

(1) Program Identification Code

0–STTR (Small Business Technology Transfer)
1–SBIR (Small Business Innovation Research)
2–ATP (Advanced Technology Program)

(2) Agency Codes 1 DOD (Department of Defense)

2–DOE (Department of Energy)
3–NASA (National Aeronautics and Space Administration)
4–HHS (Health and Human Services)
5–NSF (National Science Foundation)
6–DOT (Department of Transportation)
7–EPA (Environmental Protection Agency)
8–ED (Department of Education)
9–DOA (Department of Agriculture)
10–DOC (Department of Commerce)
11–NIST (National Institute of Standards and Technology)

(3) Branch Codes

1–AF (Department of the Air Force)
2–ARMY (Department of the Army)
3–BMDO (Ballistic Missile Defense Organization)
4–DARP (Defense Advanced Research Projects Agency)
5–DSWA (Defense Special Weapons Agency)
6–NAVY (Department of the Navy)
7–OSD (Office of the Secretary of Defense)
8–SOCO (Special Operations Command)
9–NIMA (National Imaging and Mapping Agency)

(4) If any new codes, please advise the Office of Technology.

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SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S4 covers the Deputy Commissioner for Systems. Notice is given that Subchapter S4H, the Office of Systems Requirements (OSR), is being deleted. Notice is further given that a new Subchapter S4P, the Office of Systems Analysis (OSA), is being established. The new material and changes are as follows:

Section S4.10 *The Office of the Deputy Commissioner, Systems*—(Organization)

Delete

F. The Office of Systems Requirements (S4H).

Establish

F. The Office of Systems Analysis (S4P).

Section S4.20 *The Office of the Deputy Commissioner, Systems*—(Functions)

Delete In Its Entirety

F. The Office of Systems Requirements (OSR) (S4H).

Establish

F. The Office of Systems Analysis (OSA) (S4P) directs, develops and coordinates information technology requirements for new systems and modifications to existing systems in direct support of SSA programs. It is responsible for long-range planning and analyses to define new and improved systems processes in support of agency requirements and maintains a comprehensive, updated and integrated set of system requirement specifications. The office directs validation of computer programs against user-defined requirements and performance criteria, and approves the resulting system for operational acceptance. It directs the development of procedures and instructions to support user needs in effective implementation of all systems. It determines automation solutions for user needs, develops software systems specifications, analyzes existing computer applications, prepares recommendations including costs and benefits of alternatives, tests and validates systems, documenting systems, accepting systems on behalf of SSA's user community and conducting post-installation evaluation. The office develops security standards and ensures implementation of the standards within OSA. It provides system support of the Agency's programmatic systems

interactive validation environment, project management and control, resource management, ITS Budget/Five-Year Plan coordination, Agency Strategic Plan and workload scheduling.

Delete

Subchapter S4H, The Office of Systems Requirements in its entirety.

Establish

Subchapter S4P—Office of Systems Analysis

S4P.00 Mission
S4P.10 Organization
S4P.20 Functions

Section S4P.00 *The Office of Systems Analysis*—(Mission)

The Office of Systems Analysis (OSA) directs, develops and coordinates information technology requirements for new systems and modifications to existing systems in direct support of SSA programs. It is responsible for long-range planning and analyses to define new and improved systems processes in support of agency requirements and maintains a comprehensive, updated and integrated set of system requirement specifications. OSA directs validation of computer programs, which are part of SSA's large, integrated, programmatic systems against user-defined requirements and performance criteria, and approves the resulting system for operational acceptance. It directs the development of procedures and instructions to support user needs in effective implementation of all systems. OSA is responsible for several phases in the systems development life cycle. The responsibilities include determining automation solutions for user needs, developing software systems specifications, analyzing existing computer applications, preparing recommendations including costs and benefits of alternatives, testing and validating systems, documenting systems, accepting systems on behalf of SSA's user community and conducting post-installation evaluation. It develops security standards and ensures implementation of the standards within OSA. It directs the evaluation of the effect of proposed legislation, policies or regulations to determine the impact on SSA systems and develops information requirements and procedures as they relate to such legislation, regulations and SSA policy directives. It directs the coordination of user requirements with SSA central and regional operations to ensure the efficiency and effectiveness of program information needs and overall systems support. Based on input from users, OSA translates organizational information requirements and priorities into plans and, in coordination with other Office of Systems organizational components, develops SSA's annual automated data processing plans (and directs development and maintenance of the plans). OSA serves as primary contact and advocate for the SSA user community on issues concerning the development of systems requirements, functional specifications and supporting operational procedures and instructions. OSA provides system support for the Agency's programmatic systems interactive validation environment, project management and control, resource management, ITS Budget/Five-Year Plan coordination, Agency Strategic Plan and workload scheduling.

Section S4P.10 *The Office of Systems Analysis*—(Organization)

The Office of Systems Analysis (S4P), under the leadership of the Associate Commissioner for Systems Analysis, includes:

A. The Associate Commissioner for Systems Analysis (S4P).

B. The Deputy Associate Commissioner for Systems Analysis (S4P).

C. The Immediate Office of the Associate Commissioner for Systems Analysis (S4P).

D. The Division of Client, Enumeration and Exchanges (S4PA).

E. The Division of Disability (S4PB).

F. The Division of Earnings (S4PC).

G. The Division of Notices (S4PE).

H. The Division of Payments (S4PG).

I. The Division of Planning and Configuration Management (S4PH).

J. The Division of Retirement and Survivors Insurance (RSI) (S4PJ).

K. The Division of Security and Requirements Automation (S4PK).

L. The Division of Supplemental Security Income (SSI) (S4PL).

M. The Division of Validation Technology (S4PM).

Section S4P.20 *The Office of Systems Analysis*—(Functions)

A. The Associate Commissioner for Systems Analysis (S4P) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OSA mission and providing general supervision to the major components of OSA.

B. The Deputy Associate Commissioner for Systems Analysis (S4P) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associated Commissioner my prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Analysis (S4P) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. Division of Client, Enumeration and Exchanges (S4PA).

1. Plans, analyzes, develops, tests, validates, implements and evaluates program data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) for data exchanges, enumeration and client records.

2. With the technical assistance of DVT, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications of existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and co-ordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development (the Five-Year Plans) as they relate to Client, Enumeration and Data Exchanges. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for Client, Enumeration and Data Exchanges.

6. Evaluates legislative proposals, regulations and policy changes affecting Client, Enumeration and Data Exchanges. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Client, Enumeration and Data Exchange process with other Office of Systems components. Establishes, corrects, maintains and verifies Social Security numbers and issues new or replacement cards.

8. Process death, prisoner and fugitive felon data, the Death Master File; the Integrated Client Database system; and programmatic queries and other

software that access and display data from the SSA master files.

9. Provides database access to programmatic information, access to SSA main and sub menus, and telecommunications support.

E. Division of Disability (S4PB).

1. Plans, analyzes, develops, tests, validates, implements and evaluates programmatic information and data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) for the Disability program, including service to the State Disability Determination Service (DDS) offices.

2. With the technical assistance of DVT, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and co-ordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development (the Five-year Plans) as they relate to Disability. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for Disability.

6. Evaluates legislative proposals, regulations and policy changes affecting Disability. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Disability process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

9. Supports Individual State Disability Determination Service offices automated systems development by establishing national practices and contracts and optional local area software. The Division evaluates State Disability Determination Systems developing requests with the objective of integrating State efforts into overall SSA automation plans.

10. Resolves systems discrepancies and performance issues for all DDS offices, Federal and State. The State DDS systems interface with SSA central systems. The division is responsible for testing applications software that exchanges the required disability data between the offices involved.

F. Division of Earnings (S4PC).

1. Plans, analyzes, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures instructions and standards (including security and fraud detection) for reporting earnings data and for establishment, correction, maintenance and use of earnings and employer data. These functions include trust fund accounting information provided to the Department of the Treasury; reconciling disagreements and discrepancies related to earnings data; the establishment and maintenance of employer identification, classification and control information and the SSA/IRS reconciliation process. Functions also include providing certified earnings data to support other agency processes and reinstating earnings data from suspense.

2. With the technical assistance of DVT, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and co-ordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development (the Five-year Plans) as they relate to Earnings. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for systems' services for Earnings.

6. Evaluates legislative proposals, regulations and policy changes affecting Earnings. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Earnings process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

G. Division of Notices (S4PE).

1. Plans, analyzes, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment, for title II (RSDI), XVI (SSI), and VIII Notices.

2. With the technical assistance of DVT, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participate in the development, maintenance and co-ordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development (the Five-year Plans) as they relate to Notices. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for Notices.

6. Evaluates legislative proposals, regulations and policy changes affecting Notices. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Notice process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

9. Provides systems expertise and leadership in agency initiatives related to Plain Language, Non-English Speaking notices and Target Notice Architecture.

H. Division of Payments (S4PG).

1. Plans, analyzes, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) for titles II, VIII and XVI Payments. This includes both direct deposits and checks; Debt Management (including overpayment, underpayment, misuse, fraud and civil suit actions); Representative Payee Processing and Accounting; Workload Controls (including the paperless process, claims, folders, and transactions); and benefit-related accounting operations.

2. With the technical assistance of DVT, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development (the Five-year Plans) as they relate to payments. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for payments.

6. Evaluates legislative proposals, regulations and policy changes affecting payments. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Payment, Debt Management, Representative Payee and Workload Control processes with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

I. Division of Planning and Configuration Management (S4PH).

1. Coordinates on Software Process Improvement (SPI) and metrics activities. Participates in developing DCS policy, procedures and training for SPI and metrics. Provides training and guidance to project managers to implement process improvement practices.

2. Works with the customer community and Systems components to produce the 5-Year Plan that prioritizes workloads and developmental efforts that the Systems component works on. This division is responsible for coordinating this activity for SSA, including the support activity for the Customer Targeted Workload. In addition, this Division is responsible for coordinating the development of requirements, validation and data storage for the DCS 5-Year data in the 5-Year System.

3. Provides standards, procedures, systems support and technical assistance to OSA project managers to facilitate preparation of work plans. Directs review of project work plans to ensure completeness, compatibility with standards and managerial directives, and requirements and conformity to the 5-Year Plan, Configuration Control Board (CCB) recommendations and other management decisions. Coordinates systems-wide approval of new and modified plans, and ensures that the differences and conflicts among components are resolved. Provides for monitoring progress of work projects against work plans and reporting status to systems management.

4. With approval of systems management, sets standards for developing, maintaining and implementing configuration control and systems change control processes. Directs review and control of requests for modification of SSA systems and functional requirements. Ensures that all systems change requests are in accordance with the 5-Year Plan process, conform to CCB decisions and correspond with the approved project work plans. For each change, ensures that all necessary concurrence and approvals are obtained through the Systems Life Cycle.

5. Develops, analyzes, operates, validates and maintains the Management Support System (MSS). The MSS provides automated support to OSA and DCS planning, monitoring, project and resource management functions. Analyzes management requirements and needs of other OSA components, and develops appropriate systems support capability. Works with OSPI, OIM and contractors (as well as other involved components) to develop, maintain and implement systems' management support and control processes. Ensures that the OSA management support systems and processes are integrated systems-wide. Participates in the development, design and validation effort of the Systems Release Certification online System (SRCOL) on the Intranet WEB. This division ensures that all required Systems lifecycle documentation (from requirements through systems certification) is maintained and available.

6. Monitors DCS workloads, resource estimates and resource usage and provides comprehensive resource information to DCS management to support workload priority decisions. Directs resource estimation and reporting processes for OSA.

7. Coordinates Modernized Systems Operations Manual (MSOM) activities including Version Directory Management, Indexing, Scheduling and Transmittal release and the preparation of MSOM on CD–ROM. Also, analyzes, develops requirements and validates software changes for the MSOM ORACLE-based authoring system.

8. This division is responsible for coordinating the evaluation of legislative proposals affecting SSA programs for their impact on SSA's programmatic and administrative systems. Monitors systems changes required to implement legislation. Acts as the DCS liaison with other SSA components on legislation. Coordinates the evaluation of legislative proposals to assess impact on DCS resources and scheduled activities. Establishes project management activities for enacted legislation, and monitors the

developmental activity through implementation.

9. Responsible for the development of policies, procedures and standards for specific OSA phases of the life cycle development process and development of methods to assure the quality of these products.

10. Serves as the focal point for coordinating the development of all OSA standards and procedures.

11. Responsible for providing program expertise and process management direction and oversight for cross-cutting segments for all OSA systems initiatives, legislative initiatives or projects involving the initiation, interpretation and/or the implementation of programmatic systems.

J. Division of Retirement and Survivors Insurance (RSI) (S4PJ).

1. Plans, analyzes, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection), for title II (RSDI) Initial Claims and Post-entitlement systems processing and for title XVIII, Medicare enrollment, withdrawal and termination actions. Coordinates such processes with the Health Care Financing Administration. This includes work on the Master Beneficiary Record (MBR) update operations, including the annual cost-of-living adjustment (BRI), and benefit taxation records.

2. With the technical assistance of DVT, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and co-ordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development (the Five-year Plans) as they relate to title II Initial Claims and Post-entitlement/ Medicare systems. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for title II Initial Claims and Post-entitlement systems and Medicare systems.

6. Evaluates legislative proposals, regulations, and policy changes affecting the title II Initial Claims and Post-entitlement systems processes, and title XVIII Medicare systems processes. Reports on the impact to those processes as well as on short-term and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing title II Initial Claims and Post-entitlement process, or Medicare systems processes, with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

K. Division of Security and Requirements Automation (S4PK).

1. Provides consultations and makes recommendations on security, audit, internal control and integrity review issues for all SSA programmatic systems, and ensures the implementation of security standards within all areas of OSA's functional responsibilities. Also, develops methods to improve control and security features based on established standards and cost/benefit considerations.

2. Leads and/or coordinates reviews of programmatic processes and systems to identify weaknesses in control, auditability and security features, makes recommendations for improvement, and coordinates activities with other SSA components to ensure that approved recommendations are implemented.

3. Provides the capability for and performs static testing of all programmatic systems in support of SSA and oversight Agency requirements, as well as in support of OSA control and audit process reviews.

4. Develops, executes and validates software to provide information to security officers and investigators throughout the Agency in support of investigations of fraud, waste and abuse.

5. Manages the security access control process to access and interface with SSA's programmatic systems.

6. Performs requirements analyses and definition, conveys SSA approved user needs in the form of specifications in the area of integrity review and audit data collection, conversion and reporting to OSDD for the development of systems designs for integration of SSA programmatic systems.

7. Performs requirement analyses and definition of SSA approved security access control requirements and conveys the specifications to the appropriate component for an update of the access control apparatus.

8. Performs security, functional security, access control, Individuals of Extraordinary National Prominence and Social Security Number Block validations, and integrity review and audit trail data collection, conversion and reporting validations to ensure that the requirements have been properly integrated within SSA's programmatic systems.

9. Develops requirements for and validates software changes to the TOP–SECRET Administration process.

10. Manages the Security 5-Year Plan.

11. Implements and supports the appropriate standards and procedures for functional requirements definition and analysis stages through the use of Computer-Aided Software Engineering (CASE) tools.

12. Supports the procurement, training, use and integration of automated tools and equipment in support of OSA's development and maintenance of FRs, documents and data models for SSA's programmatic systems.

13. Defines, designs, develops, validates and implements computer, programs and automated processes which support the development and maintenance of integrated programmatic data processing systems.

14. Develops, maintains, and provides technical support of hardware, software and all networking functions within OSA and provides technical assistance to other components within DCS that interface with OSA.

15. Supports various platforms OSA uses in the development and validation of software that run on SSA's Intelligent Work Station/Local Area Network (IWS/ LAN) to support its field offices nationwide.

16. Develops strategies and guidelines for base lining automated functional requirement databases.

17. Responsible for the development of proposals and recommendations for new software engineering methods for use at OSA, based on extensive research into various methodologies utilized by other data processing installations.

L. Division of Supplemental Security Income (SSI) (S4PL).

1. Plans, analyzes, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) for title XVI (SSI) processes, title VIII and redetermination operations. This includes updates to the Supplemental Security Income Record (SSR) and the annual cost-of-living adjustment (COLA).

2. With the technical assistance of DVT, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic systems documentation and requirement specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for SSI initial claims and post-eligibility operations, computation and record balancing operations, and redeterminations.

6. Evaluates legislative proposals, regulations and policy changes affecting SSI processes. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing SSI process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

M. Division of Validation Technology (S4PM).

1. Provides test-engineering services for systems-level functional testing in the Office of Systems. The Division:

2. Designs, develops, implements, and maintains test automation software, automated test methods and techniques, and procedures, test files, test databases, and tester productivity tools used in the systems-level functional, integration, acceptance and usability testing of SSA's programmatic, administrative, and management information systems.

3. Builds test systems that simulate the target production system within the parameters of SSA's Software Engineering Facility using in-house and commercially available software development tools and products.

4. Controls and executes systems-level functional tests of programmatic, administrative, and management information systems; ensures that the correct software versions are under test and provides appropriate test output for evaluation and systems acceptance and certification.

5. Develops test procedure specifications and test design specifications for use in systems-level functional testing.

6. Performs test case design for regression testing of programmatic systems.

7. Performs software quality assurance and quality control regarding test coverage and test risk analysis as they relate to management decisions to release new or modified software to the production environment.

8. Develops standards of functional testing and software validation for the Office of Systems.

9. Develops and manages the environment in which functional testing occurs.

10. Defines standards for test planning and participates, along with other Office of Systems components, in the development of test plans for systems-level functional testing.

11. Serves as the Stage Manager for the Software Evaluation Stage of SSA's Software Engineering Environment and Systems Development Life Cycle.

Dated: May 7, 2001.

Larry G. Massanari,

Acting Commissioner of Social Security.

[FR Doc. 01–12608 Filed 5–17–01; 8:45 am]

BILLING CODE 4191–02–M

DEPARTMENT OF TRANSPORTATION

Office of The Secretary

Aviation Proceedings, Agreements Filed During the Week Ending May 4, 2001

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2001–9583.
Date Filed: April 30, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PSC/Reso/106 dated November 14, 2000
Expedited Resolutions/ Recommended Practices r1–10
PSC/Reso/107 dated December 5, 2000
Book of Finally Adopted Resolutions/RPs r11–30
Minutes—PSC/MINS/004 dated December 5, 2000
Intended effective date: January 1/ June 1, 2001

Docket Number: OST–2001–9606.
Date Filed: May 1, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PTC COMP 0801 dated 1 May 2001
Mail Vote 122—Resolution 011
Mileages and Routes for Tariffs Purposes (Amending)
Intended effective date: 1 June 2001

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–12549 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending May 4, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such

procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2001–9589.

Date Filed: April 30, 2001.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 21, 2001.

Description: Application of Gulf & Caribbean Cargo, Inc. d/b/a Gulf & Caribbean Air, pursuant to 49 U.S.C. 41102(a)(3), Parts 201 and 204 and Subpart B, requesting a fitness determination and for issuance of a certificate of public convenience and necessity to engage in foreign charter air transportation of persons, property and mail between points in the United States and points in Canada, Mexico, the Caribbean and Central and South America.

Docket Number: OST–2001–9590.

Date Filed: April 30, 2001.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 21, 2001.

Description: Application of Gulf & Caribbean Cargo, Inc. d/b/a Gulf & Caribbean Air, pursuant to 49 U.S.C. 41102(a)(3), Parts 201 and 204 and Subpart B, requesting a fitness determination and issuance of a certificate of public convenience and necessity to engage in interstate charter air transportation of persons, property and mail, as follows: between any point in any state, territory or possession of the United States or the District of Columbia, and any other point in any of those entities.

Docket Number: OST–2001–9622.

Date Filed: May 4, 2001.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 25, 2001.

Description: Application of Continental Airlines, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart B, requesting renewal of its Route 699 certificate authorizing Continental to provide scheduled air transportation of persons, property and mail between Houston, Texas and Lima, Peru, and to combine this authority with its other certificate and exemption authority.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–12550 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Springfield-Branson Regional Airport, Springfield, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the Springfield-Branson Regional Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, ACE–600, 901 Locust, Kansas City, Missouri 64106–2325.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert D. Hancik, A.A.E., Director of Aviation, Springfield-Branson Regional Airport, 5000 West Kearney, Suite 15, Springfield, Missouri 65803.

FOR FURTHER INFORMATION CONTACT: Mrs. Nicoletta S. Oliver, Airports Compliance Specialist, Federal Aviation Administration, Central Region, Airports Division, ACE–615C, 901 Locust, Kansas City, Missouri 64106–2325. The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Springfield-Branson Regional Airport under the provisions of AIR21.

On April 25, 2001, the FAA determined that the request to release property at the Springfield-Branson Regional Airport submitted by the Airport Board of the City of Springfield met the procedural requirements of the Federal Aviation Administration. The FAA will approve or disapprove the request, in whole or in part, no later than June 30, 2001.

The following is a brief overview of the request.

The Springfield-Branson Regional Airport requests the release of approximately 169 acres of airport property. The land is currently not being used for aeronautical purposes. The release of the property will allow for its incorporation into an industrial park that will bring both sewers and natural gas to the southern boundaries of the airport. With utilities and access to those utilities in place, the airport would have the opportunity to develop, for aeronautical uses, land west of the industrial center and north of the southern boundary.

It is estimated that the sale of the property would provide $1,352,000. The proceeds, less $75,000, would be used for future FAA-Airport Improvement Program (AIP) eligible projects at the Springfield-Branson Regional Airport within the next five years. The $75,000 would be applied to an aeronautical project at the airport administered by the Missouri Department of Transportation (MoDOT).

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may inspect the request, notice and other documents germane to the request in person at the Springfield-Branson Regional Airport.

Issued in Kansas City, Missouri, on April 25, 2001.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 01–12553 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Request for Review of Noise Compatibility Program for Hilo International Airport, Hilo, HI

AGENCY: Federal Aviation Administration, Transportation.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted by the State of Hawaii, Department of Transportation for the Hilo International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150, and that this program will be approved or disapproved on or before October 24, 2001.

EFFECTIVE DATE: The effective date of the FAA's start of its review of the noise compatibility program is April 27, 2001. The public comment period ends June 29, 2000.

FOR FURTHER INFORMATION CONTACT: David J. Welhouse, Project Engineer, Honolulu Airports District Office, Federal Aviation Administration, P.O. Box 50244, Honolulu, Hawaii 96850, Telephone: (808) 541–1243. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Hilo International Airport which will be approved or disapproved on or before October 24, 2001. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Hilo International Airport, effective on April 27, 2001. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 24, 2001.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP–600, 15000 Aviation Blvd., Room 3012, Hawthorne, California 90261

Federal Aviation Administration, Honolulu Airports District Office, 300 Ala Moana Boulevard, Room 7–128, Honolulu, Hawaii 96813

State of Hawaii, Department of Transportation, Airports Division, Honolulu International Airport, 400 Rodgers Boulevard, Suite 700, Honolulu, Hawaii 96819

State of Hawaii, Department of Transportation, Airports Division, District Office Manager, Kona International Airport, Kailua-Kona, Hawaii 96740

State of Hawaii, Department of Transportation, Airports Division, District Office Manager, Hilo International Airport, Hilo, Hawaii 96720

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California, on April 27, 2001.

Herman C. Bliss,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 01–12554 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lebanon Municipal Airport, Lebanon, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge at Lebanon Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Timothy J. Edwards, at the following address: Airport Manager, Lebanon Municipal Airport, 5 Airpark Road, West Lebanon, New Hampshire 03784.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Lebanon under section 158.23 of part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (781) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Lebanon Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 1, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Lebanon was substantially complete within the requirements of section 158.25 of Part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than July 30, 2001.

The following is a brief overview of the impose and use application.

PFC Project #: 01–04–C–00–LEB.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 2001.

Proposed estimated charge expiration date: February 1, 2002.

Estimated total net PFC revenue: $77,330.

Brief description of project:

• Reconstruct north ramp including adjacent taxiways, reconstruct emergency access road, construct ARFF vehicle ramp, install airfield control and power cables, and groove runway 7–25.

- Airport master plan update.
- PFC administration.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lebanon Municipal Airport, 5 Airpark Road, West Lebanon, New Hampshire.

Issued in Burlington, Massachusetts on May 4, 2001.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 01–12552 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Monterey Peninsula Airport, Monterey, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Monterey Peninsula Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Susan Kovalenko, Manager, Support Services, Monterey Peninsula Airport District, at the following address: 200 Fred Kane Drive, Suite 200, Monterey, CA 93940. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Monterey Peninsula Airport District under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Monterey Peninsula Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 27, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Monterey Peninsula Airport District was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 27, 2001.

The following is a brief overview of the impose and use application No. 01–07–C–00–MRY:

Level of proposed PFC: $4.50.

Charge effective date: October 1, 2001.

Proposed charge expiration date: March 1, 2002.

Total estimated PFC revenue: $381,935.

Brief description of the proposed projects: Acquire Airport Rescue and firefighting (ARFF) Equipment, Modify ARFF Vehicle Cooling System, Lower Obstruction to Runway 10R Obstacle-Free Zone, Reconstruct Portion of Entrance Road to North Side, Purchase Runway Sweeper, Soundproofing, Phases 6 and 7, Replace Terminal Fire Doors, Realign and Improve Sky Park/Fred Kane Drive Connection, and Environmental Impact Report/Environmental Assessment for Sky Park Drive Extension to North Side of Airport.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Unscheduled Part 135 Air Taxi Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 1500 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Monterey Peninsula Airport District.

Issued in Hawthorne, California, on May 3, 2001.

Ellsworth L. Chan,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 01–12555 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Shelby, Tipton, Lauderdale, and Dyer Counties, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed section of Interstate Highway 69 (I–69) in Shelby, Tipton, Lauderdale, and Dyer Counties, Tennessee beginning at State Route 385 (Paul Barrett Parkway) north of Memphis and extending to Dyersburg, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Doctor, Field Operations Team Leader, Federal Highway Administration, 640 Grassmere Park Road, Suite 112, Nashville, Tennessee 37211, Telephone: (615) 781–5788.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Tennessee Department of Transportation will prepare an Environmental Impact Statement (EIS) on a proposal for the construction of a four-lane freeway facility from State Route 385 (Paul Barrett Parkway) north of Memphis, Tennessee to Interstate 155 (I–155) near Dyersburg, Tennessee. The distance of this proposed project is approximately 104 kilometers (65 miles).

This proposed facility is identified as Segment of Independent Utility #8 of the Congressionally-designated High Priority Corridor 18 or Interstate 69. The overall purpose for this project is to improve international and interstate trade in accordance with national and state goals and to facilitate economic development in accordance with state, regional, and local policies, plans, and surface transportation consistent with national, state, regional, local needs and with Congressional designation of the corridor.

Alternatives under consideration include: (1) Taking no action (no-build); (2) reconstructing U.S. 51; (3) constructing a new facility east or west of existing U.S. 51; or (4) some combination of alternatives (2) and (3). Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings will be held in each of the four counties included in this project to provide input into the development of this project. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. A formal scoping meeting is also planned.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding Intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: May 10, 2001.

Charles S. Boyd,

Division Administrator, Nashville, Tennessee.

[FR Doc. 01–12506 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Applications for TIFIA Credit Assistance

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability of funds (NOFA) inviting applications for credit assistance for major surface transportation projects.

SUMMARY: The DOT's Transportation Infrastructure Finance and Innovation Act (TIFIA) Joint Program Office (JPO) announces the availability of funds to provide credit assistance in the form of secured (direct) loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. Funding for this program is limited, and the TIFIA Joint Program Office will lead DOT multi-modal teams in evaluating applications based on project merits and satisfaction of the TIFIA statutory criteria. This notice announces the availability of funds and outlines the process that applicants must follow when applying for TIFIA credit assistance.

DATES: This notice institutes a "rolling" application process replacing the practice of setting fixed application dates. See a further discussion under the caption "Application and Selection Process" in this notice.

ADDRESSES: Both the letters of interest and completed applications should be submitted to the attention of Ms. Stephanie Kaufman, TIFIA Joint Program Office, Department of Transportation, Room 4301, HABF–50, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: TIFIA Joint Program Office staff: Mr. Duane Callender, (202) 366–9644; Mr. Bryan Grote, (202) 366–9656; Ms. Stephanie Kaufman, (202) 366–9649; and Mr. Mark Sullivan, (202) 366–5785. TIFIA Joint Program Office Staff can be contacted at the above address. Hearing- and speech-impaired persons may use TTY by calling the Federal Information Relay Service at 1–800–877–8339. Additional information, including the current edition of the TIFIA Program Guide and application materials, can be obtained from the TIFIA web site at http://tifia.fhwa.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat.107, 241, created the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA), authorizing the Department of Transportation (DOT) to provide credit assistance in the form of secured (direct) loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. TIFIA regulations (49 CFR Part 80) provide specific guidance on the program requirements.

On January 5, 2001, at 65 FR 2827, the Secretary of Transportation (Secretary) delegated to the Federal Highway Administration (FHWA) the authority to act as the Executive Agent for the TIFIA program (49 CFR 1.46(nn)). The TIFIA Joint Program Office (TIFIA JPO), within the FHWA, has responsibility for coordinating program implementation.

Funding for this program is limited, and a project requesting assistance will be evaluated and selected based on the project merits and satisfaction of the TIFIA statutory criteria. Upon selection, a term sheet will be issued and subsequently a definitive credit agreement will be developed through negotiations between the project sponsor and the DOT.

Types of Credit Assistance Available

The Secretary may provide credit assistance in the form of secured (direct) loans, loan guarantees, and lines of credit. These types of credit assistance are defined in 23 U.S.C. 181 and 49 CFR 80.3.

Program Funding and Limitations on Assistance

TIFIA provides annual funding levels for both total credit amounts (i.e., the total principal amounts that may be committed in the form of direct loans, loan guarantees, or lines of credit) and subsidy amounts (i.e., the amounts of budget authority available to cover the estimated present value of the Government's expected losses associated with the provision of credit instruments, net of any fee income). Funding for the subsidy amounts is provided in the form of budget authority funded from the Highway Trust Fund (other than the Mass Transit Account). As a result of prior project selections in FY 2001 and several additional factors, including carry-over funds from prior years and an annual obligation limitation, the TIFIA JPO estimates that approximately $1.3 billion in credit amounts and $43.2 million in subsidy amounts remain available through September 30, 2001.

Total Federal credit amounts authorized for the TIFIA program beyond FY 2001 are $2.4 billion in FY 2002 and $2.6 billion in FY 2003. To support these credit amounts, TIFIA provides budget authority to fund subsidy amounts of up to $120 million in FY 2002 and $130 million in FY 2003. Of these amounts, the TIFIA JPO may use up to $2 million each fiscal year for expenses associated with program implementation, including the procurement of external financial consultants and legal counsel. Any budget authority not obligated in the fiscal year for which it is initially authorized remains available for obligation in subsequent years. Unused credit amounts lapse at the end of the year for which it is authorized.

The amount of credit assistance that may be provided to a project under TIFIA is limited to not more than 33 percent of eligible project costs.

Eligible Projects

Highway, passenger rail, transit, and intermodal projects (including intelligent transportation systems) may receive credit assistance under TIFIA. See the definition of "project" in 23 U.S.C. 181(9). For a description of eligible projects, see 49 CFR 80.3.

Threshold Criteria

Projects seeking TIFIA assistance must meet certain threshold criteria. These eligibility criteria are detailed in 23 U.S.C. 182(a) and 49 CFR 80.13.

Rating Opinions

A project sponsor must submit, with its application, a preliminary rating opinion letter from at least one nationally recognized credit rating agency, as detailed in 23 U.S.C. 182(b)(2)(B) and 49 CFR 80.11. The letter must be current, must address the creditworthiness of both the senior debt obligations funding the project (i.e., those which have a lien senior to that of the TIFIA credit instrument on the pledged security) and the TIFIA credit instrument, and must conclude that there is a reasonable probability for the senior debt obligations to receive an investment grade rating. This preliminary rating opinion letter will be based on the financing structure proposed by the project sponsor. A project that does not demonstrate the potential for its senior obligations to receive an investment grade rating will not be considered for TIFIA credit assistance.

The TIFIA JPO will use the preliminary rating opinion letter to assess the default risk on the requested TIFIA instrument. Therefore, the letter should provide a preliminary assessment of the financial strength of either the overall project or the requested TIFIA instrument; whichever assessment best reflects the rating agency's preliminary evaluation of the default risk on the requested TIFIA instrument.

Each project selected for TIFIA credit assistance must obtain an investment grade rating on its senior debt obligations (which may be the TIFIA credit facility) and a revised opinion on the default risk of its TIFIA credit instrument before the FHWA will execute a credit agreement and disburse funds. More detailed information about these TIFIA credit opinions and ratings may be found in the TIFIA Program Guide. The most current version of the TIFIA Program Guide and application materials can be obtained from the TIFIA web site provided under the caption **FOR FURTHER INFORMATION CONTACT.**

Application and Selection Process

With this notice, the FHWA is instituting a change to the application process of previous years. Previously, DOT accepted letters of interest and applications on a fixed date each year. Experience with the program suggests that project sponsors may be applying for TIFIA assistance prematurely, perhaps in response to the limited time during which the application window has been open.

Beginning immediately, the TIFIA JPO will accept, at any time, letters of interest from potential applicants. Subsequently, for projects that meet all threshold criteria, applications will be accepted. Under a rolling application process, potential applicants can better time their TIFIA submissions with their project development activities. Potential TIFIA applicants must follow the process outlined below to be considered by the TIFIA JPO for credit assistance:

1. Letter of Interest. Initially, any potential applicant for TIFIA credit assistance should first submit a detailed letter of interest to the TIFIA JPO. The letter of interest should include a brief project description (including the project's purpose, design features, and estimated capital cost), information about the proposed financing for the project (including a preliminary summary of sources and uses of funds and the type and amount of credit assistance requested), a description of the proposed project participants, and an assessment of the benefit the project sponsor seeks to achieve through use of a TIFIA credit instrument. The letter also should summarize the status of the project's environmental review (i.e., whether the project has received a Categorical Exclusion, Finding of No Significant Impact, or Record of Decision, or, at a minimum, whether a draft Environmental Impact Statement has been circulated). The letter of interest should not exceed ten pages. The TIFIA JPO will lead a review of this preliminary submission to ensure that the project meets the basic requirements for participation in the TIFIA program. The TIFIA JPO will then designate an evaluation team for the project (drawing from the DOT's various offices and operating administrations, as necessary). The DOT evaluation team will contact the project sponsor within approximately two to four weeks to review the readiness of the project.

2. Application. The project sponsor may not submit an application until it has received preliminary confirmation of eligibility from the TIFIA JPO. The project sponsor applicant may then submit its formal application including all required materials (generally described in 49 CFR 80.7 and detailed in the TIFIA application form) to the TIFIA JPO. The TIFIA JPO and the DOT evaluation teams will not review incomplete applications or applications for projects that do not fully satisfy the TIFIA program requirements.

The most current version of the application form can be obtained from the TIFIA web site provided under the caption **FOR FURTHER INFORMATION CONTACT.**

3. Sponsor Presentation. Each applicant that passes an initial screening of the submitted application for completeness and compliance with the TIFIA program requirements will be invited to make an oral presentation to the TIFIA JPO and the DOT evaluation team on behalf of its project. The TIFIA JPO will discuss the structure and content of the presentation with the applicant at the time of the invitation.

4. Project Selection. Based upon the application, the oral presentation, and any supplemental submission of information, the TIFIA JPO and the DOT evaluation teams will score each project according to specific weights assigned to each of the eight statutory selection criteria described in 23 U.S.C. 182(b) and 49 CFR 80.15 as follows: National or regional significance, 20 percent; creditworthiness, 12.5 percent; private participation, 20 percent; project acceleration, 12.5 percent; use of new technologies, 5 percent; consumption of budget authority, 5 percent; environmental benefits, 20 percent; and reduced Federal grant assistance, 5 percent.

The DOT will not select any project before a record of decision (ROD) (if required, or the equivalent final agency decision) has been issued for that project.

5. Fees. Unless otherwise notified in a subsequent NOFA published in the **Federal Register**, the TIFIA JPO will require each TIFIA applicant to pay a non-refundable application fee of $30,000. This fee is based upon historical costs associated with the DOT's evaluation of TIFIA applications. Checks should be made payable to the Federal Highway Administration. The project sponsor must submit this payment with the application. Applicants may not include application fees or any other expenses associated with the application process (such as charges associated with obtaining the required preliminary rating opinion letter) among eligible project costs for the purpose of calculating the maximum 33 percent credit amount.

In addition, consistent with 23 U.S.C. 183(b)(7), 183(e)(2), 184(b)(9) and with 49 CFR 80.17, the TIFIA JPO will charge each borrower a credit processing fee equal to a portion of the costs incurred by the TIFIA JPO in negotiating the credit agreement. The term sheet for each selected will require the borrower to pay at closing, or, in the event no credit agreement is consummated, upon invoicing by the TIFIA JPO, an amount equal to the actual costs incurred by the TIFIA JPO in procuring the assistance of financial advisors and outside legal counsel through execution of the credit agreement(s) and satisfaction of all funding requirements of those agreements. The TIFIA JPO anticipates that the amount of this fee will typically range from $100,000 to $300,000 depending on the complexity of the financial structure and the length of negotiations. The borrower may not include the credit processing fee among eligible project costs for the purpose of calculating the maximum 33 percent.

Finally, the TIFIA JPO will continue to charge borrowers a fee of not less than $10,000 per year, which may be adjusted annually, for loan servicing activities associated with each of their TIFIA credit instruments. The borrower may not include the loan servicing fee among eligible project costs for the purpose of calculating the maximum 33 percent credit amount.

The FHWA will publish in the **Federal Register**, at least once each fiscal year through FY 2003, a NOFA inviting applications for credit assistance for major surface transportation projects through the TIFIA program. Such notices will advise potential applicants of the estimated amount of funding available for TIFIA credit instruments as well as any changes to the application process, including the nature and amount of any required fees.

(Authority: 23 U.S.C. 181–189; 49 CFR 1.48(nn))

Issued on: May 9, 2001.

Vincent F. Schimmoller,

Deputy Executive Director, Federal Highway Administration.

[FR Doc. 01–12546 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Applications for TIFIA Credit Assistance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability of funds inviting applications for credit assistance for major surface transportation projects.

SUMMARY: Elsewhere in today's **Federal Register**, the Federal Highway Administration (FHWA) published a notice announcing the availability of Transportation Infrastructure Finance and Innovation Act (TIFIA) assistance and inviting applicants to submit applications for credit assistance for major surface transportation projects. The TIFIA authorizes the Department of Transportation (DOT) to provide credit assistance in the form of secured (direct) loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. Highway, passenger rail, transit, and "intermodal" projects (including intelligent transportation systems) may receive credit assistance under the TIFIA. Interested persons should review the FHWA Notice in today's **Federal Register** for further information.

FOR FURTHER INFORMATION CONTACT: Ms. Joanne McGowan, Office of Passenger and Freight Services, Freight Program Division, (202) 493–6390.

(Authority: 23 U.S.C. 181–189; 49 CFR 1.49)

Issued on: May 8, 2001.

S. Mark Lindsey,

Acting Deputy Administrator.

[FR Doc. 01–12547 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Applications for TIFIA Credit Assistance

AGENCY: Federal Transit Adminstration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability of funds inviting applications for credit assistance for major surface transportation projects.

SUMMARY: Elsewhere in today's **Federal Register** the Federal Highway Administration (FHWA) published a notice announcing the availability of Transportation Infrastructure Finance and Innovation Act (TIFIA) assistance and inviting applicants to submit applications for credit assistance for major surface transportation project. The TIFIA authorizes the Department of Transportation (DOT) to provide credit assistance in the form of secured (direct) loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. Highway, passenger rail, transit, and "intermodal" projects (including intelligent transportation systems) may receive credit assistance under the TIFIA. Interested persons should review the FHWA Notice in today's **Federal Register** for further information.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Marx, Office of Policy Development (202) 366–1675, or Ms. Paula Schwach, Office of the Chief Counsel, (816) 523–0204.

(Authority: 23 U.S.C. 181–189; 49 CFR 1.51)

Dated: Issued on May 14, 2001.

Hiram J. Walker,

Acting Deputy Administrator, Federal Transit Administration.

[FR Doc. 01–12548 Filed 5–17–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–32

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–32, Electronic Federal Tax Payments System (EFTPS) Programs for Reporting Agents.

DATES: Written comments should be received on or before July 17, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Electronic Federal Tax Payment System (EFTPS) Programs for Reporting Agents.

OMB Number: 1545–1601.

Revenue Procedure Number: Revenue Procedure 98–32.

Abstract: This revenue procedure provides information about the Electronic Federal Tax Payment System (EFTPS) programs for Batch Filers and Bulk Filers (Filers). EFTPS is an electronic remittance processing system for making federal tax deposits (FTDs) and federal tax payments (FTPs). The Batch Filer and Bulk Filer programs are used by Filers for electronically submitting enrollments, FTDs, and FTPs on behalf of multiple taxpayers.

Current Actions: The number of Bulk and Batch filers participating in the EFTPS has increased due to two factors. First, the Service eliminated its magnetic tape program for the reporting of federal tax deposits and certain estimated income tax payments effective with respect to deposits or payments made after January 31, 2000. Secondly, the number of taxpayers required by the regulations issued under § 6302(h) of the Code to make FTDs using EFTPS has increased.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,500.

Estimated Time Per Respondent: 82 hours, 23 minutes.

Estimated Total Annual Burden Hours: 123,567.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 11, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12601 Filed 5–17–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Electronic Tax Administration Advisory Committee; Open Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of the Electronic Tax Administration Advisory Committee (ETAAC).

SUMMARY: In 1998 the IRS established the Electronic Tax Administration Advisory Committee (ETAAC). The primary purpose of ETAAC is to provide an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC offers constructive observations about current or proposed policies, programs, and procedures, and suggests improvements.

There will be a meeting of ETAAC on Thursday, May 31, 2001. The meeting will be held in the Ritz Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA. A summarized version of the agenda along with a list of topics that are planned to be discussed are listed below.

Summarized Agenda for Meeting Thursday, May 31, 2001

9:00 Meeting Opens
11:30 Break for Lunch
1:00 Meeting Resumes
3:00 Meeting Adjourns

The topics that are planned to be covered are as follows:

(1) Small Business Plans
(2) e-Services 2002 Releases
(3) Lessons Learned—2001 Filing Season
(4) Preview of Report to Congress

Note: Last minute changes to these topics are possible and could prevent advance notice.

DATES: The meeting will be open to the public, and will be in a room that accommodates approximately 100 people, including members of ETAAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis. To get your name on the access list, notification of intent to attend the meeting should be made with Ms. Robin Marusin by May 25, 2001. Ms. Marusin can be reached at 202–622–8184. Notification of intent should include your name, organization and phone number. If you leave this information for Ms. Marusin in a voice-mail message, please spell out all names. A draft of the agenda will be available via facsimile transmission the week prior to the meeting. Please call Ms. Robin Marusin on or after Thursday May 24 to have a copy of the agenda faxed to you. Please note that a draft agenda will not be available until that date.

FOR FURTHER INFORMATION CONTACT: To get on the access list to attend this meeting, to have a copy of the agenda faxed to you, or to get general information about ETAAC, call Robin Marusin at 202–622–8184.

SUPPLEMENTARY INFORMATION: ETAAC reports to the Director, Electronic Tax Administration, who is the executive responsible for the electronic tax administration program. Increasing participation by external stakeholders in the development and implementation of the Internal Revenue Service' (IRS") strategy for electronic tax administration will help achieve the goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend the public meetings, working sessions, and an orientation each year.

Terence H. Lutes,

Director, Electronic Tax Administration.

[FR Doc. 01–12602 Filed 5–17–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW–ALS]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs

ACTION: Notice

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to conduct a study of amyotrophic lateral sclerosis among Gulf War veterans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 17, 2001.

ADDRESSES: Submit written comments on the collection of information to Ann W. Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *ann.bickoff@mail.va.gov*. Please refer to "OMB Control No. 2900–NEW–ALS" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann W. Bickoff (202) 273–8310 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: A Study of Amoytrophic Lateral Sclerosis Among Gulf War Veterans.

OMB Control Number: 2900–NEW–ALS.

Type of Review: New collection.

Abstract: This study is designed to investigate the occurrence and to identify the causes of Amoytrophic Lateral Sclerosis (ALS) among Gulf War veterans. The study will further define the epidemiology of the neurological disease among veterans under the age of 45, and will determine whether there is a higher than expected occurrence. ALS is a rare disease in patients under the age of 45, which is the group of the majority of veterans on active duty during the Gulf War. The study will also ascertain the probable (possible) etiology of ALS. The result of the data collection will have importance for both the VA in achieving its mission to provide for the health of veterans and for the larger society in understanding ALS. The study will indicate whether veterans deployed to the Persian Gulf during the Gulf War are at elevated risk of ALS.

Affected Public: Individuals or households.

Estimated Annual Burden: 756 hours.

Estimated Average Burden Per Respondent: 6 hours.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 126.

Dated: March 30, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–12526 Filed 5–17–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0325]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 18, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0325."

SUPPLEMENTARY INFORMATION:

Title: Certificate of Delivery of Advance Payment and Enrollment, VA Form 22–1999V.

OMB Control Number: 2900–0325.

Type of Review: Extension of a currently approved collection.

Abstract: VA is authorized to pay educational assistance to veterans and other eligible individuals pursuing approved programs of education. If certain requirements are met, VA is authorized to issue payments in advance of the beginning date of training. The schools or training establishments deliver advance payments and are required to certify the deliveries to VA. The schools or training establishments are also required to report the following to VA: (1) The failure of the student to enroll; (2) an interruption or termination of attendance; or, (3) a finding of unsatisfactory attendance conduct or progress. VA Form 22–1999V serves as the certificate of delivery of the advance payment and also the report of any changes in training status.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 6, 2001 at page 13632.

Affected Public: State, Local or Tribal Government, business or other for-profit, and Not-for-profit institutions.

Estimated Annual Burden: 1,779 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 21,353.

Send comments and recommendations concerning any aspect of the information collection to VA's Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0325" in any correspondence.

Dated: May 10, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–12524 Filed 5–17–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that the annual meeting of the Department of Veterans Affairs Voluntary Service National Advisory Committee (NAC) will be held at the Doubletree Hotel at Reid Park, 445 South Alvernon Way, Tucson, Arizona, from May 30 through June 2, 2001. The meeting begins with participant registration from 12 noon–5 p.m. on Tuesday, May 29, and from 8 a.m.–5 p.m. on Wednesday, May 30, through Friday, June 1, in the Ballroom Foyer.

The committee, comprised of 60 national voluntary organizations, advises the Under Secretary for Health and other members of the Department of Veterans Affairs Central Office staff on how to coordinate and promote volunteer activities within VA facilities. The primary purposes of this meeting are to provide for committee review of volunteer policies and procedures; to accommodate full and open communications between the organizations, representatives and the Voluntary Service Office and field staff; to provide educational opportunities geared toward improving volunteer programs with special emphasis on methods to recruit, retain, motivate, and recognize volunteers; and to approve committee recommendations. This year's meeting will serve as an opportunity to promote and celebrate "International Year of Volunteers-2001."

On Tuesday, May 29, pre-meeting activities include a VAVS Field Staff meeting from 4–6 p.m. in the Boojum Room. The session on Wednesday, May 30, includes the following events: The Executive Committee to the NAC will meet from 8 a.m.–12 noon in the Bonsai/Boojum Room; Southern Arizona Health Care System will provide a Health Exhibit from 10 a.m.–3 p.m. in the Ballroom Foyer; New Member Orientation will be from 1–2:30 p.m. in Ballroom A–D; and an Open Forum will be from 3–4:30 p.m. in Ballroom A–D. Opening ceremonies will begin at 6 p.m. featuring Thomas L. Garthwaite, M.D., Under Secretary for Health, as keynote speaker.

On Thursday, May 31, there will be a Business Session from 8:30–11:30 a.m. in Ballroom A–E, where the Honorable Anthony J. Principi, Secretary of Veterans Affairs, will be the keynote speaker. The workshops include the following topics. (The locations of the workshops are also noted.) Volunteer In Home Respite Care Program, in Salons A–C; It's All About CHANGE—What Fits and What Doesn't, in Salons F–H; Community Based Volunteers and the Advanced Illness Coordinated Care Programs, in Salon E; and Closing the Digital Divide for Our Nation's Veterans, in Salon D.

On Friday, June 1, a NAC Business Session will be held from 8:30–10 a.m. in Ballrooms A–E. The educational workshops will be repeated from 10:30 a.m.–12:30 p.m. and from 3–4:30 p.m. in the same rooms as on Thursday. The James H. Parke Memorial Scholarship Luncheon will be held from 12:30–2 p.m. in Ballrooms D–E, honoring the 2001 recipient of the James H. Parke Scholarship.

On the morning of Saturday, June 2, the NAC will hold a Business Session from 8:30–11:30 a.m. in Ballrooms A–E. A critique of the meeting will be held from 11:30 a.m.–12:30 p.m. in Bonsai/Boojum. A closing celebration honoring the NAC Volunteers of the Year, Parke Scholarship Award recipient and the Voluntary Service Award for Excellence recipient will be held in Ballrooms A–D, beginning at 6 p.m.

The meeting is open to the public. Individuals interested in attending are encouraged to contact Ms. Laura Balun, Administrative Officer, Voluntary Service Office (10C2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, 20420, at (202) 273–8392.

Dated: May 10, 2001.

By Direction of the Secretary.

Ventris C. Gibson,

Committee Management Officer.

[FR Doc. 01–12528 Filed 5–17–01; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of Amendment of Systems of Records Notice "Healthcare Eligibility Records—VA".

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records currently entitled as "Healthcare Eligibility Records—VA" (89VA19) as established in **Federal Register** 59 FR 8677 dated 2/23/94 and amended in **Federal Register** 64 FR 13049 dated 3/16/99. VA is amending the system by revising the System Location; Categories of Records in the System; Routine Use Disclosure Statements; and Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System, including Storage, Retrievability and Safeguards. VA is republishing the system notice in its entirety at this time.

Title 38 U.S.C. Section 1705, requires the Veterans Health Administration (VHA) to establish a system of annual patient enrollment. VHA determined that the Health Eligibility Center (HEC) database would be expanded to serve as the central enrollment database, thereby adding veteran eligibility and enrollment information in the database. Veterans' eligibility and enrollment information maintained in this database is shared with VA health care facilities involved in the veterans' care. The National Enrollment Database (NED) located at VA's Austin Automation Center (AAC), Austin, Texas, supports the national enrollment system. The NED is populated via nightly batch updates from the HEC. The extracts do not contain federal tax information.

In an effort to facilitate patient education about VA enrollment, VHA established a call center operated by contractors. The HEC shares certain veteran data with the contractor, to facilitate the contractor's ability to accurately respond to veteran inquiries relating to enrollment and eligibility information, and to assist in fulfilling requests for enrollment-related materials (brochures, application forms, etc.). Specific data shared with the contractor include veterans' names, social security numbers, addresses, phone numbers, dates of birth, enrollment priority groups and primary health care facilities. The contractor asks the veteran caller for his or her social security number (SSN) and date of birth when it is necessary to transfer the call to a VA Medical Center or HEC for further assistance. SSN and Date of Birth information assists VA Medical Center and HEC staffs in locating the veteran's records. Other data elements provided to the contractor are utilized to assist in advising the veteran on enrollment-related matters and to mail enrollment information to the caller. Veterans also contact the call center to provide change of address information. Any updated demographic data obtained from the caller by the contractor is submitted to the HEC through electronic mail. Information is secured through use of a dedicated T–1 line, which contains a firewall to secure the data.

DATES: Comments on the amendment of this system of records must be received no later than June 18, 2001. If no public comment is received, the new system will become effective June 18, 2001.

ADDRESSES: Written comments concerning the amendment of this system of records may be submitted to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, D.C. 20420, telephone (727) 320–1839.

SUPPLEMENTARY INFORMATION: The purpose for this system of records amendment is to expand the categories of individuals covered; to add a new routine use for the data contained in the system of records and to cover records to be maintained in the NED. The system location has been amended to reflect additional locations of certain data contained in the system of records, e.g., with or by contractor and records maintained at the AAC. The individuals covered by this system have been increased to include all enrolled veterans who have applied for VA health care services under Title 38, United States Code, Chapter 17, and their spouses and dependents as provided for in other provisions of Title 38, United States Code. Under the previous notice only, VA collected data on only non-service connected veterans and noncompensable, zero percent service-connected veterans.

The safeguards portion of the notice has been amended to describe the security provisions for information contained in the system of records for the NED and contractor sites.

A new routine use of the data is added to reflect that certain data contained in the system of records is shared with a contractor or subcontractor.

A supplementary statement has been added under retention and disposal of the records to reflect that records are disposed of in accordance with the records retention standards approved by the Archivist of the United States, National Archives and Records Administration, and published in VHA Records Control Schedule 10–1.

The HEC in Atlanta, Georgia, was originally established as the Income Verification Match Center (IVMC) to verify the income of non-service connected veterans with Internal Revenue Service (IRS) and Social Security Administration (SSA) information to verify the veteran's eligibility for VA health care benefits, as authorized by section 8051, Public Law 101–508. Section 8014 of Public Law 105–33 extended VA's matching authority through September 30, 2002.

Title 38, United States Code, Section 1705, requires VA to design, establish and operate a system of annual patient enrollment. As a matter of policy, VA has determined that the HEC database will be expanded to serve as the central repository for eligibility and enrollment data of veterans applying for, or receiving VA health care benefits. Veterans' enrollment information, such as the beginning and ending date of the enrollment period, enrollment status and primary health care facility, will be maintained in this database and provided to VA health care facilities involved in the veterans' care. This increases the types of records and individuals covered under the system.

To carry out the HEC programs, the Center receives electronic transmissions of eligibility and enrollment information on a nightly basis from VA health care facilities via the Department's electronic communications system (wide area network). These transmissions include personal, income and eligibility information, such as name, social security number, address, health insurance coverage, and other information concerning veteran's household income and eligibility status. Where relevant to the means test, these transmissions include information necessary to make such determination that is provided by the veteran. Compensation and pension award information contained in claims records administered by the Veterans Benefit Administration (VBA) is also sent to the HEC database by the AAC. This transmission is accomplished by using the Department's wide area network, ensuring consistency of eligibility information contained in records covered by this system. The HEC automatically sends this information over the VA's wide area network to VA medical facilities where the veteran received care within the past three years. VA medical facilities can query the HEC database to obtain information on veteran applicants who have not previously received health care at that facility. If available, updated information is transmitted to the requesting facility and loaded into the facility's database. Once in the facility database, this information is covered by another system of records.

The HEC submits record identifying information (name, social security number, data of birth, and sex) to SSA for social security number validation on the veteran, spouse or dependent. This data exchange is restricted to validation of SSN data that the VHA submits to SSA. SSA does not disclose SSN information. The validated social security number assists in matching a veteran's record maintained at one VA health care facility with records maintained at another and with records maintained on the individual by the VBA.

For certain veterans whose eligibility for VA health care is based on income, the validated social security number is also used to match VA records with SSA and IRS for income verification purposes. For veterans whose eligibility for VA health care is based on income, the HEC database contains earned and unearned income data received from IRS and SSA. However, no Federal Tax Information (FTI) data that the VA has obtained from IRS or SSA will be disclosed outside of the HEC or to a contractor or subcontractor. FTI information is tax information and tax return information obtained from the IRS or SSA, such as taxpayer's identity, source or amount of income, payment deductions, exemptions, assets, net worth, tax liability, tax withheld, deficiencies, over assessments or tax payments.

Routine use number 15 states relevant information from this system may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA in order for the contractor or subcontractor to perform the services of the contract or agreement. This routine use is being added to reflect that certain information contained in the system of records is shared with a contractor, and subcontractor as appropriate to perform the contracted services.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: April 25, 2001.
Anthony J. Principi,
Secretary of Veterans Affairs.

89VA19

SYSTEM NAME:

Health Eligibility Records—VA.

SYSTEM LOCATION:

Records are maintained at the Health Eligibility Center (HEC), 1644 Tullie Circle, Atlanta, Georgia 30329; the contractor of record's site; and the National Enrollment Database (NED) VA Austin Automation Center (AAC), Austin, Texas.

CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

Veterans who have applied for health care services under Title 38, United States Code, Chapter 17; their spouses and dependents as provided for, in other provisions of Title 38, United States Code; and non-veterans inquiring about VA health care benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

The category of records in the system include:

National Enrollment Database (NED) records including: Medical benefit application and eligibility information; identifying information including name, address, date of birth, social security number, claim number, family information including spouse and dependent(s) name, address and social security number; employment information on veteran and spouse, including occupation, employer(s) name(s) and address(es); financial information concerning the veteran and the veteran's spouse including family income, assets, expenses, debts; third party health plan contract information, including health insurance carrier name and address, policy number and time period covered by policy; facility location(s) where treatment is provided; type of treatment provided, i.e., inpatient or outpatient; and dates of visits.

Health Eligibility Center (HEC) records including [formerly the Income Verification Match (IVM) record]: Federal Tax Information (FTI) generated as a result of income verification computer match with records from Internal Revenue Service (IRS) and the Social Security Administration (SSA); documents obtained during the notification, verification and due process periods, such as initial verification letters, income verification forms, final confirmation letters, due process letters, clarification letters and subpoena documentation. FTI is tax information and tax return information obtained from the IRS or SSA, such as taxpayer's identity, source or amount of income, payment deductions, exemptions, assets, net worth, tax liability, tax withheld, deficiencies, over assessments or tax payments. Individual correspondence provided to the HEC by veterans or family members including, but not limited to, copies of death certificates; DD 214, Notice of Separation; disability award letters; IRS documents (i.e., Form 1040's, W–2's, etc.); state welfare and food stamp applications; VA and other pension applications; VA Form 10–10EZ, Application for Medical Benefits; workers compensation forms; and various annual earnings statements, as well as pay stubs. VA may not disclose to any person in any manner FTI received from IRS and SSA except as necessary to determine eligibility for benefits in accordance with the Internal Revenue Code (IRC) 26 U.S.C. 6103 (l)(7). VA may not allow access to FTI by any contractor or subcontractor.

Call Center Records including: Veteran's name, social security number, address, date of birth, phone number, enrollment priority group and primary health care facility.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Sections 501 (a), 1705, 1722, and 5317.

PURPOSE(S):

Information in the system of records is used to update, verify and validate veteran eligibility, conduct income testing and verification activities; to validate social security numbers of veterans and spouses of those veterans receiving VA health care benefits; to ensure accuracy of veterans' eligibility information for medical care benefits; to operate an annual enrollment system; to update veteran eligibility; provide enrollment materials to educate veterans on enrollment; respond to veteran and non veteran inquiries on enrollment and eligibility; and to compile management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 26 U.S.C. 6103(p)(4), i.e., the nature, source and amount of income, that information cannot be disclosed under a Routine Use set forth absent specific authorization from the IRS or the VA Office of General Counsel (024).

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of, and at the written request of, that individual.

2. Disclosure of HEC (formerly IVM) records, as deemed necessary and proper to named individuals serving as accredited service organization representatives and other individuals named as approved agents or attorneys for a documented purpose and period of time, to aid beneficiaries in the preparation and presentation of their cases during the verification and/or due process procedures and in the presentation and prosecution of claims under laws administered by the Department of Veterans Affairs (VA).

3. In the event that information in this system of records maintained by this agency to carry out its functions, indicates a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or a particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred at VA's initiative, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. However, names and addresses of veterans and their dependents will be released only to Federal entities.

4. Relevant information from this system of records may be disclosed as a routine use: in the course of presenting evidence to a court, magistrate or administrative tribunal, in matters of guardianship, inquests and commitments; to private attorneys representing veterans rated incompetent in conjunction with issuance of Certificates of Incompetency; and to probation and parole officers in connection with Court required duties.

5. Any information in this system may be disclosed to a VA Federal fiduciary or a guardian ad litem in relation to his or her representation of a veteran only to the extent necessary to fulfill the duties of the VA Federal fiduciary or the guardian ad litem.

6. Relevant information may be disclosed to attorneys, insurance companies, employers, third parties liable or potentially liable under health plan contracts, and to courts, boards, or commissions only to the extent necessary to aid VA in the preparation, presentation, and prosecution of claims authorized under Federal, State, or local laws, and regulations promulgated thereunder.

7. Relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal Agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

8. Disclosure may be made to National Archives and Records Administration (NARA) and General Services Administration (GSA) in records management inspections conducted under authority of Title 44 United States Code.

9. Information in this system of records may be disclosed for the purposes identified below to a third party, except consumer reporting agencies, in connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by VA. Information may be disclosed under this routine use only to the extent that it is reasonably necessary for the following purposes: (a) To assist the VA in the collection of costs of services provided individuals not entitled to such services; and (b) to initiate civil or criminal legal actions for collecting amounts owed to the United States and/or for prosecuting individuals who willfully or fraudulently obtained or seek to obtain title 38 medical benefits. This disclosure is consistent with 38 U.S.C. 5701(b)(6).

10. The name and address of a veteran, other information as is reasonably necessary to identify such veteran, including personal information obtained from other Federal agencies through computer matching programs, and any information concerning the veteran's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the VA may be disclosed to a consumer reporting agency for purposes of assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 5701(g)(4) have been met.

11. For computer matching program and Automated Data Processing (ADP) security review purposes, record information may be disclosed to teams from other source Federal agencies who are parties to computer matching agreements involving the information maintained in this system, but only to the extent that the information is necessary and relevant to the review.

12. The name and identifying information on a veteran and/or spouse may be provided to reported payers of earned and/or unearned income in order to verify the identifier provided, address, income paid, period of employment, and health insurance information provided on the means test and to confirm income and demographic data provided by other Federal agencies during income verification computer matching.

13. Identifying information, including Social Security Numbers, concerning veterans, their spouses, and the dependents of veterans may be disclosed to other Federal agencies for purposes of conducting computer matches to obtain valid identifying, demographic and income information to determine or verify eligibility of certain veterans who are receiving VA medical care under Title 38, United States Code.

14. The name and social security number of a veteran, spouse and dependents, and other identifying information as is reasonably necessary may be disclosed to the Social Security Administration, Department of Health and Human Services, for the purpose of conducting a computer match to obtain information to validate the social security numbers maintained in VA records.

15. Relevant information from this system may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA in order for the contractor or subcontractor to perform the services of the contract or agreement.

Note: This routine use does not authorize disclosure of FTI received from the Internal Revenue Service or the Social Security Administration to contractors or subcontractors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape, magnetic disk, optical disk and paper.

RETRIEVABILITY:

Records (or information contained in records) maintained on paper documents are indexed and accessed by the veteran's name, social security number or case number and filed in case order number. Automated veterans' health eligibility records are indexed and retrieved by the veteran's name, social security number or case number. Automated health eligibility record information on spouses may be retrieved by the spouse's name or social security number.

SAFEGUARDS:

1. Data transmissions between VA health care facilities and the HEC and VA databases housed at VA's AAC are accomplished using the Department's wide area network. The software programs at the respective facilities automatically flag records or events for transmission based upon functionality requirements. VA health care facilities and the HEC control access to data by using VHA's Veterans Health Information System and Technology Architecture (VISTA), (formerly known as Decentralized Hospital Computer Program (DHCP) software modules), specifically Kernel and MailMan. Kernel utility programs provide the interface between operating systems, application packages and users. Once data are identified for transmission, records are stored in electronic mail messages, which are then transmitted via the Department's electronic communications system (wide area network) to specific facilities on the Department's wide area network. Server jobs at each facility run continuously to check for data to be transmitted and/or incoming data which needs to be parsed to files on the receiving end. All mail messages containing data transmissions include header information that is used for validation purposes. Consistency checks in the software are used to validate the transmission, and electronic acknowledgment messages are returned to the sending application. The Department's Telecommunications Support Service has oversight responsibility for planning security.

2. Working spaces and record storage areas at the HEC are secured during all business hours, as well as during non-business hours. All entrance doors require an electronic passcard for entry when unlocked, and entry doors are locked outside normal business hours. Electronic passcards are issued by the HEC Security Officer. HEC staff controls visitor entry by door release or escort. The building is equipped with an intrusion alarm system for non-business hours, and this system is monitored by a security service vendor. The office space occupied by employees with access to veteran records is secured with an electronic locking system, which requires a card for entry and exit of that office space. Access to the VA AAC is generally restricted to AAC staff, VA Headquarters employees, custodial personnel, Federal Protective Service and authorized operational personnel through electronic locking devices. All other persons gaining access to the computer rooms are escorted.

3. Strict control measures are enforced to ensure that access to and disclosure from all records, including electronic files and veteran specific data elements, stored in the HEC veteran database is limited to VA employees whose official duties warrant access to those files. The HEC automated record system recognizes authorized users by keyboard entry of a series of unique passwords. Once the employee is logged onto the system, access to the files is controlled by discrete menus which are assigned by the HEC computer system administration staff, upon request from the employee's supervisor and employee's demonstrated need to access the data to perform the employee's assigned duties. A number of other security measures are implemented to enhance security of electronic records (automatic timeout after short period of inactivity, device locking after pre-set number of invalid logon attempts, etc.). Employees are required to sign a user access agreement acknowledging their knowledge of confidentiality requirements, and all employees receive annual training on information security. Access is deactivated when no longer required for official duties. Recurring monitors are in place to ensure compliance with nationally and locally established security measures.

4. Veteran data is transmitted from the HEC to VA health care facilities and National Enrollment Database (NED) over the Department's computerized electronic communications system. Access to data in these files is controlled at the health care facility and NED level in accordance with nationally and locally established data security procedures. The NED is a database developed to support a national enrollment system. VA employees at these facilities are granted access to patient data on a "need-to-know" basis. All employees receive information security training and are issued unique access and verify codes. Employees are assigned computer menus that allow them to view and edit records as authorized by the supervisor. While employees at the health care facility may edit data which was initially input at the facility level, employees at the facility do not have edit access to income tests which originated at the HEC.

5. In addition to passcards, the HEC computer room requires manual entry of a security code prior to entry. Only the Automated Information System (AIS) staff and the HEC security officer are issued the security code to this area. Programmer access to the HEC database is restricted only to those AIS staff whose official duties require that level of access.

6. On-line data reside on magnetic media in the HEC computer room that is highly secured. Backup media are stored in a combination lock safe in a secured room within the same building; only information system staff has access to the safe. On a weekly basis, backup media are stored in off-site storage by a media storage vendor. The vendor picks up and returns the media in a locked storage container; vendor personnel do not have key access to the locked container.

7. Any sensitive information that may be downloaded to personal computer files in the HEC or printed to hard copy format is provided the same level of security as the electronic records. All paper documents and informal notations containing sensitive data are shredded prior to disposal. All magnetic media (primary computer system) and personal computer disks are degaussed prior to disposal or release off site for repair.

8. The IVM program of the HEC requires that HEC obtain veteran and spouse earned and unearned income data from IRS and SSA. The HEC complies fully with the Tax Information Security Guidelines for Federal, State and Local Agencies (Department of the Treasury IRS Publication 1075) as it relates to access and protection of such data. These guidelines define the management of magnetic media, paper and electronic records, and physical and electronic security of the data.

9. All new HEC employees receive initial information security training with refresher training provided to all employees on an annual basis. An annual information security audit is performed by the VA Regional Information Security Officer. This annual audit includes the primary computer information system, the telecommunication system, and local area networks. Additionally, the IRS performs periodic on-site inspections to ensure the appropriate level of security is maintained for Federal tax data. The HEC Information Security Officer and AIS administrator additionally perform periodic reviews to ensure security of the system and databases.

10. Identification codes and codes used to access HEC automated communications systems and records systems, as well as security profiles and possible security violations, are maintained on magnetic media in a secure environment at the Center. For contingency purposes, database back-ups on removable magnetic media are stored off-site by a licensed and bonded media storage vendor.

11. Neither field offices, the contractor administering the Call Center for VHA, nor the NED will receive FTI from HEC.

12. Contractor working spaces and record storage areas are secured during all business hours, as well as during non-business hours. All entrance doors require an electronic passcard for entry when unlocked, and entry doors are locked outside normal business hours. Electronic passcards are issued by the contractor's Security Officer. Visitor entry is controlled by the contractor's staff by door release and/or door escort. The building is equipped with an intrusion alarm system for non-business hours, and this system is monitored by a security service vendor.

13. Strict control measures are enforced to ensure that access to and disclosure from all records including electronic files and veteran specific data elements in the contractor veteran call tracking database are limited to contractor's employees whose official duties warrant access to those files. The automated record system recognizes authorized users by keyboard entry of a series of unique passwords. Once the employee is logged onto the system, access to files is controlled by discrete menus, assigned by the contractor computer system administration staff upon request from the employee's supervisor and the employee's demonstrated need to access the data to perform assigned duties. A number of other security measures are implemented to enhance security of electronic records (automatic timeout after short period of inactivity, device locking after pre-set number of invalid logon attempts, etc.). Employees are required to sign a user security policy agreement acknowledging their understanding of confidentiality requirements, and all employees receive annual training on information security. Access is deactivated when no longer required for official duties.

14. Contractors and subcontractors will adhere to the same safeguards and security requirements as the HEC is held to.

RETENTION AND DISPOSAL:

Depending on the record medium, records are destroyed by either shredding or degaussing. Paper records are destroyed after they have been accurately scanned on optical disks. Optical disks or other electronic medium are deleted when all phases of the veteran's appeal rights have ended (ten years after the income year for which the means test verification was conducted). Tapes received from SSA and IRS are destroyed 30 days after the data have been validated as being a true copy of the original data. Summary reports and other output reports are destroyed when no longer needed for current operation. Records are disposed of in accordance with the records retention standards approved by the Archivist of the United States, National Archives and Records Administration, and published in the VHA Records Control Schedule 10–1. Regardless of the record medium, no records will be retired to a Federal records center.

SYSTEM MANAGER(S) AND ADDRESSES:

Official responsible for policies and procedures: Chief Information Officer (19), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. Official maintaining the system: Director, Health Eligibility Center, 1644 Tullie Circle, Atlanta, Georgia 30329.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier or wants to determine the contents of such record, should submit a written request or apply in person to the Health Eligibility Center. All inquiries must reasonably identify the records requested. Inquiries should include the individual's full name, social security number and return address.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of HEC records may write to the Director, HEC, 1644 Tullie Circle, Atlanta, Georgia 30329.

CONTESTING RECORD PROCEDURES:

(See Record Access procedures above).

RECORD SOURCE CATEGORIES:

Information in the systems of records may be provided by the veteran; veteran's spouse or other family members or accredited representatives or friends; employers and other payers of earned income; financial institutions and other payers of unearned income; health insurance carriers; other Federal agencies; "Patient Medical Records—VA" (24VA136) system of records; Veterans Benefits Administration automated record systems (including Veterans and Beneficiaries Identification and Records Location Subsystem—VA (38VA23); and the "Compensation, Pension, Education and Rehabilitation Records—VA" (58VA21/22).

[FR Doc. 01–12527 Filed 5–17–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 66, No. 97
Friday, May 18, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forest Service

County Line–Fourmile Project, McKean and Warren Counties, PA

Correction

In notice document 01–11866, beginning on page 24095, in the issue of Friday, May 11, 2001, make the following correction:

On page 24096, in the first column, under the heading **DATES**, beginning in the third line "June 4, 2001" should read "June 11, 2001".

[FR Doc. C1–11866 Filed 5–17–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR01–12–000]

Arkansas Western Gas Company: Notice of Application for Rate Approval

Correction

In notice document 01–11780 beginning on page 23903 in the issue of Thursday, May 10, 2001, the docket number should read as set forth above.

[FR Doc. C1–11780 Filed 5–17–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–95–012]

Notice of Initiation of Proceeding and Refund Effective Date

Correction

In notice document 01–11053 appearing on page 22223 in the issue of Thursday, May 3, 2001, the docket number should read as set forth above.

[FR Doc. C1–11053 Filed 5–17–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1571–001]

Florida Power and Light Company; Notice of Filing

Correction

In notice document 01–10330 beginning on page 20973 in the issue of Thursday, April 26, 2001, the docket number is corrected to read as set forth above.

[FR Doc. C1–10330 Filed 5–17–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Friday,
May 18, 2001

Part II

Securities and Exchange Commission

17 CFR Parts 200 and 240
Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934; Interim Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release No. 34–44291; File No. S7–12–01]

RIN 3235–AI19

Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Interim final rules with request for comments.

SUMMARY: The Securities and Exchange Commission is adopting, as interim final rules, new Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a4–6, 3a5–1, 3b–17, 3b–18, 15a–7, 15a–8, and 15a–9 under the Securities Exchange Act of 1934 ("Exchange Act"), and amending Rule 30–3 of our Rules of Organization and Program Management. These new rules address the functional exceptions for banks from the definitions of "broker" and "dealer" that were added to the Exchange Act by the Gramm-Leach-Bliley Act and will become effective May 12, 2001.

We are promulgating these rules on an interim final basis, effective May 11, 2001, to clarify the terms of the functional exceptions from the definitions of broker and dealer as well as to provide additional exemptions, which will aid banks in complying with the provisions of the Gramm-Leach-Bliley Act when they become effective. We are soliciting comments on all aspects of the interim final rules and will amend these rules as appropriate in response to comments received.

DATES: *Effective Date:* May 11, 2001.

Comment Date: Comments on the interim final rules should be submitted by July 17, 2001.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0609. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–12–01; this file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. 20549–0102. Electronically submitted comment letters will be posted on the Commission's Internet site (http://www.sec.gov).[1]

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Chief Counsel; Lourdes Gonzalez, Assistant Chief Counsel; Linda Stamp Sundberg, Banking Fellow; Patricia Albrecht, Special Counsel; or Joseph P. Corcoran, Attorney, (202) 942–0073, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is adopting Rules 3a4–2 [17 CFR 240.3a4–2], 3a4–3 [17 CFR 240.3a4–3], 3a4–4 [17 CFR 240.3a4–4], 3a4–5 [17 CFR 240.3a4–5], 3a4–6 [17 CFR 240.3a4–6], 3a5–1 [17 CFR 240.3a5–1], 3b–17 [17 CFR 240.3b–17], 3b–18 [17 CFR 240.3b–18], 15a–7 [17 CFR 240.15a–7], 15a–8 [17 CFR 240.15a–8], and 15a–9 [17 CFR 240.15a–9] under the Exchange Act as interim final rules clarifying certain terms in Sections 3(a)(4) and 3(a)(5) of the Exchange Act [15 U.S.C. 78c(a)(4) and 78c(a)(5)] and providing exemptions for banks from broker-dealer registration. The Commission is delegating authority to the Division of Market Regulation through an amendment to Rule 30–3 of its Rules of Organization and Program Management [17 CFR 200.30–3] to issue to banks, savings associations, and savings banks additional exemptions from registration and regulation.

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[1] We do not edit personal, identifying information, such as names or e-mail addresses, from electronic submissions. Submit only information you wish to make publicly available.

I. Introduction

A. Background

On November 12, 1999, the President signed the Gramm-Leach-Bliley Act ("GLBA") into law.[2] The GLBA represents the culmination of more than 30 years of Congressional efforts aimed at reforming the regulation of financial services.[3] The GLBA changed federal statutes governing the scope of permissible activities and the supervision of banks, bank holding companies, and their affiliates. The GLBA lowers (although does not altogether eliminate) barriers between the banking and securities industries erected by the Banking Act of 1933 (popularly known as the "Glass-Steagall Act")[4] and between the banking and the insurance industries erected by the 1982 amendments to the Bank Holding Company Act of 1956 (the "Bank Holding Company Act").[5] Some have described the GLBA as the most important piece of federal banking legislation since the Depression.[6]

When Congress enacted the Exchange Act in 1934, it completely exempted banks from the regulatory scheme provided for brokers and dealers. Over the past 60 years, however, evolution of the financial markets driven by competition and technology eroded the separation that previously existed between banks, insurance companies, and securities firms. Regulators responded to these changes with interpretations that increasingly sought to accommodate the market changes. The Board of Governors of the Federal Reserve System ("Federal Reserve"), the Office of the Comptroller of the Currency ("OCC"), and the Federal Deposit Insurance Corporation ("FDIC") have long permitted banks and bank holding companies to engage in retail and institutional securities brokerage and private placement activities.

Beginning in the 1980s, these developments, coupled with arguments for competitive equality both domestically and internationally, spurred Congressional action. Congress considered major restructuring of legal restrictions preventing financial services firms from offering a full array of products, while at the same time maintaining the successful system of functional regulation of securities, insurance, and banking that existed under that framework.[7]

The Commission long supported modernizing the legal framework governing financial services, so long as it was consistent with a system of functional regulation to ensure that investors purchasing securities through banks received the same protections as those when they purchased securities from registered broker-dealers.[8] The GLBA is the product of many years of Congressional deliberation and reflects a careful balance between providing investors with the same protections wherever they purchase securities, while not unnecessarily disturbing certain bank securities activities.

Sections 201 and 202 of the GLBA substantially amended the Exchange Act's definitions of "broker" and "dealer," respectively.[9] The amended definitions become effective on May 12,

[2] Pub. L. No. 106–102, 113 Stat. 1338 (1999).

[3] Jaworski, Robert M., "Financial Modernization: The Federal Government Plays Catch-up," 54 Consumer Fin. L.Q. Rep. 2 (Winter, 2000).

[4] Pub. L. No. 73–66, ch. 89, 48 Stat. 162 (1933) (as codified in various sections of 12 U.S.C.).

[5] The Garn-St. Germain Depository Institutions Act of 1982, Pub. L. No. 97–320, 96 Stat. 1469 (1982) (as codified in various sections of 12 U.S.C.), amending section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. 1841–1850 (1994).

[6] *See* Jaworski, Robert M., *supra* note 3.

[7] During recent years, the Senate, the House, and Congressional committees acted on several versions of Glass-Steagall reform bills. In 1988, the Senate passed S. 1886, the "Financial Modernization Act of 1988," which would have repealed the provisions of the Glass-Steagall Act that prohibit affiliations between commercial banks and investment banks. That same year the House Banking Committee reported H.R. 5094, the "Depository Institutions Act of 1988." This legislation never reached the House floor. In 1991, in response to the Administration's call for financial services reform, the Senate passed S. 543, the "Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991." The House Banking Committee voted to report favorably H.R. 6, the "Financial Institutions Safety and Consumer Choice Act of 1991," which would have allowed banks to affiliate with securities firms, insurance companies, and commercial entities under a diversified holding company structure. The Glass-Steagall provisions of those bills were dropped, however. In 1995, the House Banking Committee approved H.R. 1062, the "Financial Services Competitiveness Act of 1995," which would have allowed banks to affiliate with securities firms and engage in activities that were financial in nature. Later that same year, the House Banking Committee ordered reported another version as part of H.R. 1858, the "Financial Institutions Regulatory Relief Act of 1995." Significantly, in 1997, the Administration supported, through the Treasury Department, a different version of financial services modernization legislation. The House Banking Committee also approved financial services modernization legislation in the form of H.R. 10, the "Financial Services Competitiveness Act of 1997." Administration support for some version of financial services legislation, together with strong lobbying and negotiating efforts involving the affected industries, led to the passage by the House of H.R. 10 on May 13, 1998, by a one-vote margin of 214 to 213. On September 11, 1998, the Senate Banking Committee also approved its version of H.R. 10. That legislation did not reach the Senate floor.

Five comprehensive financial services reform bills were introduced in the first session of the 106th Congress in 1999. Two bills, H.R. 10 and S. 900, were reported out of committee, passed by the House and Senate, and resulted in a compromise version of S. 900 that was enacted. There was no activity on the other three bills, S. 753, H.R. 665, and H.R. 823; however, some policies in those bills, for example, in the areas of financial privacy and treatment of bank subsidiaries, were reflected to some extent in the legislation that eventually passed.

[8] *See* Letter from Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, to Senator Phil Gram, Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate (Oct. 14, 1999) (stating that "the Securities and Exchange Commission has long supported financial modernization legislation that provides the protections of the securities laws to all investors."); *see, also* Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning H.R. 10, the "Financial Services Act of 1999," Before the Subcomm. On Finance and Hazardous Materials of the House Comm. On Commerce (May 5, 1999); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning Financial Modernization Legislation Before the Senate Comm. On Banking, Housing, and Urban Affairs (Feb. 24, 1999); Testimony of Harvey J. Goldschmid, General Counsel, U.S. Securities and Exchange Commission, Concerning H.R. 10, the "Financial Services Act of 1999," Before the House Comm. On Banking and Financial Services, U.S. House of Representatives (Feb. 12, 1999); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning H.R. 10, The "Financial Services Act of 1998," Before the Senate Comm. On Banking, Housing, and Urban Affairs (June 25, 1998); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning Financial Modernization and H.R. 10, the "Financial Services Competition Act of 1997," Before the Subcomm. On Finance and Hazardous Materials of the House Comm. On Commerce (July 17, 1997); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning Financial Modernization, Before House Comm. On Banking and Financial Services (May 22, 1997); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Regarding H.R. 1062, the "Financial Services Competitiveness Act of 1995," Before the Subcomm. On Telecommunications and Finance and the Subcomm. On Commerce, Trade and Hazardous Materials of the House Comm. On Commerce (June 6, 1995); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning the "Financial Services Competitiveness Act of 1995" and Related Issues, Before the House Comm. On Banking and Financial Services (Mar. 15, 1995); Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning H.R. 3447 and Related Functional Regulation Issues, Before the Subcomm. On Telecommunications and Finance of the House Comm. On Energy and Commerce (Apr. 14, 1994); Testimony of Richard C. Breeden, Chairman, U.S. Securities and Exchange Commission, Concerning Financial Modernization, Before the Subcomm. On Telecommunications and Finance of the House Comm. On Energy and Commerce (July 11, 1990); Memorandum of the Securities and Exchange Commission (under Chairman David Ruder) to the Subcomm. On Telecommunications and Finance of the House Comm. On Energy and Commerce, Concerning Financial Services Deregulation and Repeal of the Glass-Steagall Act (Apr. 11, 1988); Testimony of David S. Ruder, Chairman, U.S. Securities and Exchange Commission, Concerning the Structure and Regulation of the Financial Services Industry, Before the Subcomm. On Telecommunications and Finance of the House Comm. On Energy and Commerce (Oct. 5, 1987).

[9] Exchange Act Sections 3(a)(4) and 3(a)(5) [15 U.S.C. 78c(a)(4) and 78c(a)(5)].

2001. Before the amendment, Sections 3(a)(4) and 3(a)(5) of the Exchange Act provided that the terms "broker" and "dealer" did not include a "bank."[10] Accordingly, banks [11] that engaged in securities activities were excepted from the requirement to register as broker-dealers under the Exchange Act.[12] The amended definitions replace this general exception for banks with specific functional exceptions from broker-dealer registration for certain bank securities activities.

In particular, the amended definitions create 11 "broker" and 4 "dealer" exceptions for banks. Three of these exceptions are similar for both "broker" and "dealer." The exceptions are outlined briefly below:[13]

1. Exceptions From Both "Broker" And "Dealer" Definitions

- *Trust and fiduciary activities:* permits banks to act as brokers and dealers in securities so long as they act as "trustees" or "fiduciaries" and meet other conditions.
- *Permissible securities transactions:* permits banks to act as brokers and dealers with respect to exempted securities, Canadian government obligations, and Brady bonds.
- *Identified banking products:* permits banks to act as brokers and dealers for certain "identified banking products," as defined in Section 206 of the GLBA.

2. Other Exceptions From "Broker" Definition

- *Third party brokerage arrangements:* permits banks to enter into contractual arrangements with registered broker-dealers to sell securities to bank customers under specified conditions.
- *Certain stock purchase plans:* permits banks, as a part of their transfer agent activities, to effect certain securities transactions in employee benefit plans, dividend reinvestment plans, and issuer plans under specified conditions.
- *Sweep accounts:* permits banks to sweep customer funds into no-load money market funds.
- *Affiliate transactions:* permits banks to effect transactions for affiliates, other than affiliates that are registered broker-dealers or affiliates engaged in merchant banking.
- *Private securities offerings:* permits banks that are not affiliated with broker-dealers to privately place securities under specified conditions.
- *Safekeeping and custody activities:* permits banks to hold securities, pledge securities, lend securities held in custody, and reinvest collateral.
- *Municipal securities:* permits banks to act as brokers in municipal securities.
- *De minimis exception:* permits banks to engage in 500 securities transactions annually without registering as brokers.

3. Other Exception From "Dealer" Definition

- *Asset-backed products:* permits banks to underwrite and sell asset-backed securities representing obligations predominantly originated by a bank, an affiliate of the bank other than a broker-dealer, or a syndicate in which the bank is a member, for some types of products.

In recent weeks, we have received an increasing number of inquiries regarding how we will interpret some of the terms in the new specific functional exceptions.[14] Because the exceptions from the definitions of broker and dealer are exceptions to the Exchange Act, we are statutorily charged with interpreting these exceptions. In response to interpretive questions that have arisen, we are adopting, as interim final rules,[15] new Exchange Act Rules 3b–17 and 3b–18.[16]

New Rule 3b–17 defines terms applicable to three exceptions from the definition of broker: (1) Networking arrangements; (2) trust and fiduciary activities; and (3) sweep accounts. Rule 3b–17 also provides legal certainty to banks regarding the availability of the fiduciary activities exception when they act as indenture trustees or as trustees for tax-deferred accounts. New Rule 3b–18 defines terms for the exception from the definition of dealer for banks that sell asset-backed securities.

To alleviate concerns that have been expressed to us in recent months, we also grant five exemptions under which banks may effect transactions in

[10] Current Exchange Act Section 3(a)(4) defines the term "broker" as "any person engaged in the business of effecting transactions in securities for the account of others, but does not include a bank." Current Exchange Act Section 3(a)(5) defines the term "dealer" as "any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank * * * ."

[11] Exchange Act Section 3(a)(6) [15 U.S.C. 78c(a)(6)] defines the term "bank" as:

(A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C) any other banking institution, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency * * * and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of this title, and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph.

[12] Exchange Act Section 15(a) [15 U.S.C. 78o(a)] generally provides that:

[i]t shall be unlawful for any broker or dealer which is either a person other than a natural person or a natural person not associated with a broker or dealer which is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with [the provisions] of this section.

[13] This outline is a summary. It does not describe the exceptions in full.

[14] Letter from Melanie L. Fein to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 30, 2001); Letter from Scott M. Albinson, Managing Director, OTS, to Annette L. Nazareth, Director, Division of Market Regulation, Commission, and Paul F. Roye, Director, Division of Investment Management, Commission (Mar. 20, 2001); Letter from Lawrence R. Uhlick, Executive Director and General Counsel, Institute of International Bankers, to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 15, 2001); Letter from Barry Harris, Chair, Bank Retail Broker-Dealer Committee, Securities Industry Association, to Laura Unger, Acting Chairman, Commission (Mar. 13, 2001); Letter from Melanie L. Fein to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 13, 2001); Letter from Melanie L. Fein to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 7, 2001); Letter from Sarah A. Miller, Director, Center for Securities, Trust and Investments, American Bankers Association, to Laura Unger, Acting Chairman, Commission (Feb. 28, 2001).

[15] Several of the banking agencies promulgated interim final rules implementing various provisions of the GLBA and solicited comments to implement the bank activity sections of the GLBA. *See* Interim Final Rule with Request for Comments, Repurchases of Stock by Recently Converted Savings Associations, Mutual Holding Company Dividend Waivers, 65 Fed Reg. 43088 (July 12, 2000), comment period extended, 65 FR 60095 (Oct. 10, 2000) (Office of Thrift Supervision ("OTS")); Joint Interim Final Rule with Request for Comments, Bank Holding Companies and Changes in Bank Control, 65 FR 16460 (Mar. 28, 2000) (Board of Governors of the Federal Reserve System ("Federal Reserve") and Department of Treasury ("Treasury")); Interim Final Rules with Request for Comment, Activities and Investments of Insured State Banks, 65 FR 15526 (Mar. 23, 2000), Final Rule, 66 FR 1018 (Jan. 5, 2001) (Federal Deposit Insurance Corporation ("FDIC")); Interim Final Rule with Request for Comments, Financial Subsidiaries, 65 FR 14819 (Mar. 20, 2000) (Federal Reserve); Joint Interim Final Rule with Request for Comments, Financial Subsidiaries, 65 FR 15050 (Mar. 20, 2000) (Treasury and Federal Reserve); Interim Final Rule with Request for Comments, Application of Sections 23A and 23B of the Federal Reserve Act to Derivative Transactions with Affiliates and Intraday Extensions of Credit to Affiliates, 66 FR 24229 (May 11, 2001) (Federal Reserve).

[16] Exchange Act Section 3(b) [15 U.S.C. 78c(b)] authorizes us to define terms in the Exchange Act.

securities without being registered as broker-dealers. New Rule 3a4–2 responds to concerns banks have expressed about calculating the compensation condition in the trust and fiduciary activities exception. This rule permits banks to compute their compensation, for purposes of the compensation condition, based on their total amount of trust and fiduciary activities, subject to a 10% limit and internal maintenance procedures. New Rule 3a4–3 allows banks to effect transactions as indenture trustees in no-load money market funds without meeting the "chiefly compensated" condition in the trust and fiduciary activities exception.

New Rule 3a4–4 provides a conditional exemption to allow small banks to effect transactions in investment company securities held in tax-deferred custody accounts and to be compensated for this brokerage activity. We define small banks as banks that had less than $100 million in assets as of December 31 in both of the prior two calendar years, and have not been, since December 31 of the third prior calendar year, an affiliate of a bank holding company or financial holding company that, as of December 31 of both of the prior two calendar years, had total assets of $1 billion or more. Small banks may not rely this exemption if they are affiliated with, or have networking arrangements with, registered broker-dealers. New Rule 3a4–5 conditionally exempts all banks that effect transactions in securities for custody accounts without, directly or indirectly, receiving compensation for providing this service. A bank relying on this exemption may pass on to the customer the broker-dealer's charge for executing the transactions. Like Rule 3a4–4, this exemption imposes conditions on banks' solicitation of transactions.

New Rule 3a4–6 provides a conditional exemption that allows banks to continue to execute transactions in investment company securities through the National Securities Clearing Corporation's ("NSCC") Mutual Fund Services, including Fund/SERV, instead of through a registered broker-dealer as required by Exchange Act Section 3(a)(4)(C). This exemption is available only to banks that otherwise meet the conditions of another exception or exemption.

New Rule 3a5–1 conditionally exempts from the definition of "dealer" banks engaged in riskless principal transactions if they do not exceed the *de minimis* transactions exception limit in Exchange Act Section 3(a)(4)(B)(xi).

We understand that banks will need time to determine whether any securities activities must be conducted through registered broker-dealers after May 11, 2001. In addition, some banks may not have completed the process of ensuring that securities transactions are conducted through registered broker-dealers, where required. Accordingly, new Rule 15a–7 exempts banks that are engaging in securities activities from the definitions of broker and dealer until October 1, 2001.[17] In addition, Rule 15a–7 exempts banks whose compensation arrangements do not meet the compensation conditions of a particular exception or exemption from the definition of broker until January 1, 2002, if they meet the other conditions for an exception or exemption.

New Rule 15a–8 exempts banks from the potential voiding under Exchange Act Section 29(b) of contracts entered into before January 1, 2003, because the bank violated the broker-dealer registration requirements or any applicable provision of the Exchange Act and rules thereunder based solely on the bank's status as a broker or dealer at the time the bank entered into the contract. Finally, new Rule 15a–9 exempts savings associations and savings banks [18] from the definitions of "broker" and "dealer" under Exchange Act Sections 3(a)(4) and 3(a)(5) on the same terms and conditions that apply to banks.

We recognize that banks have developed their particular securities activities under the general exception from broker-dealer registration that existed prior to the passage of the GLBA. Because particular banks may have individual considerations that may be appropriate for additional relief, we are authorizing the Director of the Division of Market Regulation to consider, on a case-by-case basis, individual requests for exemptive relief from banks. We also are directing the staff to consider requests from savings associations and savings banks for additional exemptive relief.[19] To facilitate the processing of these requests, we have delegated exemptive authority to the staff of the Division of Market Regulation through an amendment to Rule 30–3 of our Rules of Organization and Program Management. We expect the staff to submit novel and complex requests for exemption to us.

As a general matter, under the federal securities laws, parties relying on an exception or exemption have the burden of demonstrating that they qualify for such exception or exemption. We would therefore expect banks, as a matter of good business practice, to be able to demonstrate that they meet the terms of a particular exemption. We solicit comment regarding whether the requirements that the bank regulators are required to adopt under Section 18(t) of the FDIA [20] will be sufficient for this purpose or whether the Commission itself should adopt record keeping rules relating to these exemptions. We solicit comment on what records banks have or can develop to demonstrate to the Commission that they meet the terms of a particular exemption. We also solicit comment on whether it is necessary for savings association and savings bank regulators to adopt record keeping requirements for savings associations and savings banks analogous to those adopted for banks.

We request comment on all aspects of the interim final rules as well as comment on the specific provisions and issues highlighted below.

B. The Gramm-Leach-Bliley Act

As highlighted above, the GLBA repealed certain provisions of the Glass-Steagall Act [21] and other restrictions applicable to banks and bank holding companies. As a result, banks are able to affiliate with securities firms and insurance companies within the same financial holding company.

The GLBA codified the concept of functional regulation—that is, regulation of the same functions, or activities, by the same expert regulator, regardless of the type of entity engaging in those activities. Congress believed that, given the expansion of the activities and affiliations in the financial marketplace, functional regulation was important to building a coherent financial regulatory scheme.[22] Accordingly, Title II of the GLBA amended the federal securities laws to provide for functional regulation of securities activities by eliminating the complete exception for banks from the definitions of "broker" and "dealer." As the legislative history noted, prior to the passage of the GLBA, the exception for banks from broker-dealer registration

[17] Exchange Act Section 36 [15 U.S.C. 78mm] authorizes us to exempt any person, security, or transaction from the provisions of the Exchange Act, to the extent that such exemption is necessary or appropriate in the public interest, and consistent with the protection of investors.

[18] This exemption is limited to savings associations and savings banks that have deposits insured by the FDIC under the Federal Deposit Insurance Act ("FDIA"). 12 U.S.C. 1811 *et seq.*

[19] *See id.* The same limitation applies to this delegation.

[20] 12 U.S.C. 1828(t).

[21] *Supra* note 4.

[22] H.R. Rep. No. 106–74, pt. 3, at 106th Cong., 1st Sess. at 113 (1999).

created a competitive disparity by permitting banks to engage in securities activities without being subject to the same regulatory requirements as broker-dealers. In the legislative history, Congress specifically expressed concern that the complete exception had permitted banks to engage in securities activities without being subject to the provisions of the federal securities laws that were designed to protect investors.[23]

The federal securities laws provide a comprehensive and coordinated system of regulation of securities activities. They are specifically and uniquely designed to assure the protection of investors through full disclosure concerning securities and the prevention of unfair and inequitable practices in the securities markets. The securities laws also have as a goal fair competition among all participants in the securities markets. Broker-dealer registration is an important element of this regulatory system. Absent broker-dealer registration, bank securities activities generally are regulated only under banking law, which has as its primary purposes the protection of depositors and the preservation of the financial soundness of banks.[24] Thus, bank securities activities take place outside of the coordinated system of securities regulation that is designed to protect investors, leading to regulatory disparities.

For example, to become licensed to sell securities, all persons associated with a broker-dealer are required to pass a qualifications test covering substantive aspects of the securities business.[25] Commission and self-regulatory organization ("SRO") rules also assure that those persons associated with broker-dealers who have committed abuses that would make them subject to a statutory disqualification are prohibited from working in the securities industry or are subject to conditions such as enhanced supervision.[26] The SROs also require that persons involved in the management of the broker-dealer pass additional examinations relating to supervisory procedures and requirements.[27] These qualification requirements are supplemented by continuing education requirements, the broker-dealer's duty to supervise its employees to prevent violations of the federal securities laws, and the specific supervisory procedures imposed by the SROs.[28] In addition, our rules and those of the SROs specifically address sales practice abuses.[29] By contrast, bank personnel generally are not subject to licensing or other regulations designed to test their knowledge of the securities business.

Another area in which banking and securities regulation differ is communications with the public, including advertising. Broker-dealers must comply with specific guidelines concerning the content and review of communications with the public, including advertisements.[30] With certain limited exceptions, there are no equivalent rules governing the advertisement of bank securities activities.[31]

Broker-dealers are subject to inspections and examinations not only by our staff but also by the SROs with our supervision. SRO examinations are designed to assure compliance with the federal securities laws, in particular sales practices and financial responsibility regulations. Banks, on the other hand, are not members of SROs. While bank examiners may review for violations of the banking agencies' securities guidelines, the primary focus is on ensuring the safety and soundness of the bank rather than the protection of investors.

Congress considered the different purposes of bank and securities regulation when it eliminated the blanket exception from broker-dealer registration for banks' securities activities.[32] The GLBA replaced the general exception with eleven specific functional exceptions to the definition of broker and four specific functional exceptions to the definition of dealer. In replacing the general exception with more narrowly tailored exceptions, the GLBA sought to apply broker-dealer regulation to bank securities activities where appropriate to strengthen investor protection, taking into account the nature of the securities activities being conducted. This approach resulted in the specific exceptions enumerated in the amended definitions of broker and dealer in the Exchange Act that will continue to allow banks to engage directly in many securities activities without conducting those activities through a registered broker or dealer. The new exceptions go into effect on May 12, 2001.

II. Rule 3b–17—Definitions Related to Exception From "Broker"

Exchange Act Section 3(a)(4) generally defines a "broker" to be "any person engaged in the business of effecting transactions in securities for the account of others."[33] Prior to the passage of the GLBA, this definition was modified by the words "but does not include a bank" (emphasis added).[34] The GLBA repealed this exception and replaced it with eleven specific exceptions for certain securities activities that a bank may engage in without being considered a broker.[35]

We are adopting Rule 3b–17[36] to clarify some of the exceptions enumerated in amended Exchange Act Section 3(a)(4).[37] Rule 3b–17 defines certain terms that are used in the exceptions regarding third-party brokerage arrangements, trust and fiduciary activities, and sweep accounts. In addition, both in this Part and in Part III of this Release below, we discuss exceptions in Exchange Act Section 3(a)(4) related to safekeeping and custody activities, affiliate transactions, and a *de minimis* number of securities transactions.

A. Networking Exception

Section 3(a)(4)(B)(i) of the Exchange Act provides an exception from the definition of broker for banks that enter into third-party brokerage ("networking") arrangements.[38] Under this exception, and subject to certain conditions, a bank will not be considered a broker if it "enters into a contractual or other written arrangement" with a registered broker-dealer through which the broker-dealer "offers brokerage services on or off the premises of the bank."[39] Statutorily imposed conditions to the exception address separation of brokerage and banking services, compliance with advertising conditions, functions and compensation of bank employees, conditions to fully disclose the customers' accounts to broker-dealers, and conditions on banks acting as carrying brokers.

One particular condition prohibits unregistered bank employees from receiving:

> incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction.[40]

Legislative history indicates that this condition, like the other conditions in the networking exception, was designed to promote investor protection.[41] Specifically, Congress included the limitation on incentive compensation to unregistered bank employees to ensure that those people who have a "salesman's stake" in securities transactions are subject to the sales practice standards and other requirements of the federal securities laws.[42]

We have kept Congress' limit in mind in interpreting two terms in the provision. First, Rule 3b–17(h) defines the term "referral" to mean a bank employee arranging a first securities-related contact between a registered broker-dealer and a bank customer. The term "referral" does not include any activity (including any part of the account opening process) related to effecting transactions in securities beyond arranging that first securities-related contact.[43]

Second, Rule 3b–17(g) provides two alternative definitions of the term "nominal one-time cash fee of a fixed dollar amount." First, the rule provides that a nominal one-time cash fee of a fixed dollar amount may be a payment that does not exceed one hour of the gross cash wages of the unregistered bank employee making the referral. Second, the rule also provides that a nominal one-time cash fee of a fixed dollar amount may be a payment in the form of points in a system or program that covers a range of bank products and non-securities related services, where the points count toward a bonus that is cash or non-cash, if the points awarded for referrals involving securities are not greater than the points awarded for products or services not involving securities. Banks may use either alternative in setting nominal payments if they meet the requirements discussed below, including the requirement that any payment not be designed as an incentive to a bank employee to solicit particular investors to open accounts or to engage in securities transactions.

We provided two alternative ways to measure cash compensation to give banks the flexibility of compensating their employees for securities referrals based either on their current wages or on what the banks pay for referrals of other products and services. By creating two alternative standards, we allow banks to develop a market-based approach to employee compensation that is consistent with the compensation limitation in the networking exception. In either case, as discussed below, we require that any payment not be designed as an incentive to a bank employee to solicit particular investors to open accounts or to solicit investors to engage in securities transactions.

We considered choosing a set dollar amount as the measure for a nominal cash payment. We decided against this approach after considering that we would likely have to adjust periodically any set dollar amount to reflect changes in the economy that would affect its real value. We also determined that, given the economic differences across the country, an across-the-board dollar amount may not have a nominal value everywhere or in every part of the bank. For example, what is considered a nominal dollar amount in San Francisco, California may be considered generous in Wichita, Kansas. Similarly, one system may be used for teller referrals and another system for private banker referrals. Using one hour of the cash wages of the unregistered bank employee making a referral should alleviate these concerns. Hourly wages are generally adjusted, not just to reflect the current state of the economy, but also to reflect the economic climate of a particular location and the duties of a particular employee. Also, using one hour of cash wages as the measure for a nominal cash payment, we ensured that the referral fee is proportionate to an employee's overall wages.

We understand that bank employees making referrals typically are paid a yearly salary rather than an hourly wage. In these cases, translating the yearly salaries into hourly wages should still be a simple task. We request comment on whether an hour's wages, subject to the limits described below, is a proper measure of a "nominal" fee.

Use of a point system under the second alternative reflects our understanding that banks do not always reward employees with a set cash referral fee. Payment of bonuses as part of a point system or program offered to bank employees is not necessarily inconsistent with the networking exception. A point system may do nothing more than translate a nominal one-time cash referral fee into nominal one-time referral points. If the point system is part of an overall system that includes products other than securities and lines of business other than brokerage, and the securities-related referral points have a value that is no greater than the points received under the system for any other product or service, it should have only a nominal value in the system. Accordingly, we have provided this alternative definition in an effort to accommodate existing bank practices. Of course, the program may not be structured in any way that allows unregistered bank employees to be compensated either directly or indirectly for meeting sales targets

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[23] *Id.* at 113–14.

[24] *See Board of Governors of Federal Reserve System* v. *Investment Co. Institute*, 450 U.S. 46, 61, 101 S. Ct. 973, 984, 67 L. Ed. 2d 36 (1981); 75 Cong. Rec. 9913–9914 (1932) (remarks of Sen. Bulkley). Employees that perform purely cerical and ministerial duties are not required to pass a qualifications test.

[25] *See, e.g.*, NASD Rules 1031 and 1032, relating to the registration of representatives of member firms; and New York Stock Exchange ("NYSE") Rule 345, relating to employee registration, approval, and records.

[26] *See, e.g.*, Exchange Act Section 19(h)(3) [15 U:S.C. 78s(h)(3)].

[27] *See, e.g.*, NASD Rules 1021 and 1022, relating to the registration of principals of member firms.

[28] *See, e.g.*, Exchange Act Section 15(b)(7) [15 U.S.C. 78o(b)(7)]; NASD Rules 1120 ("Continuing Education Requirements") and 3010 ("Supervision"); NYSE Rules 345A ("Continuing Education for Registered Persons") and 405(b) ("Supervision of Accounts").

[29] *See, e.g.*, Exchange Act Rule 15g–9 [17 CFR 240.15g–9] ("Sales Practice Requirements for Certain Low-Priced Securities"); NASD Rule 2310 ("Recommendations to Customers (Suitability)"); NASD Rule 2440 ("Fair Prices and Commissions").

[30] *See* NASD Rule 2210 ("Communications with the Public"); NYSE Rule 472 ("Communications with the Public"). These rules include standards for communications with the public, approval, record keeping, and filing requirements. The NASD and the NYSE also require supervisory review of communication with the public. NASD Conduct Rule 3010 ("Supervision"); NYSE Rule 342 ("Offices-Approval, Supervision, and Control").

[31] *See, e.g.*, The Interagency Statement on Retail Sales of Nondeposit Investment Products (February 15, 1994), 7 Fed. Banking L. Rep. (CCH) ¶ 70–101 (joint statement by the Federal Reserve, OTS, FDIC, and the OCC).

[32] H.R. Rep. No. 106–74, pt. 3, at 113–14, 161–62 (1999).

[33] Exchange Act Section 3(a)(4) [15 U.S.C. 78c(a)(4)].

[34] Former Exchange Act Section 3(a)(4).

[35] Exchange Act Section 3(a)(4)(B) [15 U.S.C. 78c(a)(4)(B)].

[36] 17 CFR 240.3b–17.

[37] Exchange Act Section 3(b) [15 U.S.C. 78c(b)] authorizes us to define terms used in the Exchange Act, consistent with the provisions and purposes of the Exchange Act.

[38] This exception follows a long line of letters issued by the Commission staff regarding these types of arrangements. H.R. Rep. No. 106–74, pt. 3, at 163 (1999); *see, e.g.*, Letter re: *Chubb Securities Corp.* (Nov. 24, 1993) ("Chubb Letter"). The Chubb Letter superseded prior staff positions regarding these arrangements. *See also* NASD Rule 2350 (Broker-Dealer conduct on the Premises of Financial Institutions). The Chubb Letter will remain in effect for required service corporations of savings associations and savings banks; however, the Chubb Letter is available only to service corporations so long as a savings association or savings bank is required to use one. A savings association or savings bank that complies with the terms of the networking exception will automatically comply with the terms of the Chubb Letter.

[39] Exchange Act Section 3(a)(4)(B)(i) [15 U.S.C. 78c(a)(4)(B)(i)].

[40] Exchange Act Section 3(a)(4)(B)(i)(VI) [15 U.S.C. 78c(a)(4)(B)(i)(VI)].

[41] *See* H.R. Rep. No. 106–74, pt. 3, at 163 (1999) ("The [third-party brokerage arrangements] exception is * * * limited by a variety of conditions designed to promote investor protection.").

[42] *See id.* ("[T]he conditions contained in the networking exception * * * restrict the securities activities of unregistered bank personnel to reduce sales practice concerns.").

[43] The "account opening process" commences at the point of first contact between a broker-dealer and a customer. *See* NASD Notice to Members 97–89 (1997), at Question 7.

related to securities products or services.

We understand that banks may choose to provide prizes, rather than cash bonuses, to bank employees that meet a certain point goal.[44] As long as the point system meets the conditions described above, including the requirement that any payment not be designed as an incentive to a bank employee to solicit particular investors to open accounts or to solicit investors to engage in securities transactions, we would view the system as consistent with the statutory exception.[45]

Regardless of the form of payment banks decide to use, Rule 3b–17(g) also provides that any payment may not be designed to provide, either directly or indirectly,[46] an incentive to a bank employee to solicit investors to open accounts or to solicit investors to engage in securities transactions. Therefore, Rule 3b–17(g) also specifies that payments may not be based on: (1) The size, value, or completion of any securities transaction; (2) the amount of securities-related assets gathered; (3) the size or value of any customer's bank or securities account; or (4) the customer's financial status.

This interpretation is consistent with the Commission staff's historical position on networking activities.[47] Also, while nominal referral payments that are not based on the success of any securities transactions may provide a limited salesman's stake, we believe these parameters will help ensure that the effect of the stake will be small.[48]

We are concerned that referral payments, while "nominal" when considered independently, may not be "nominal" when considered in the aggregate. For example, one referral payment to a teller for one referral in one day of work may be "nominal," but twenty referral payments to a teller for twenty referrals in one day may not be "nominal" when considered in the aggregate. "Nominal" payments are to be paid to employees for whom referrals to the broker-dealer constitute an insubstantial part of an employee's duties. If a referral fee system were structured in such a manner that referral fees constituted a substantial portion of an employee's total compensation, it would raise serious questions about whether the payments were designed to encourage the bank employee to solicit securities activities. We solicit comment on whether we need to establish gross compensation standards so that referral payments that are "nominal" do not become incentive compensation when aggregated, and if so, what those limits should be.

Banks also have questioned whether bonuses paid in addition to a point system, either in the form of cash or non-cash compensation, are acceptable under the exception. We do not believe that bonuses based on brokerage referrals fall within the compensation limits of the exception.[49] While bonuses sometimes fall within the category of a one-time payment, by their very nature they are incentive compensation. The networking exception prohibits unregistered bank employees from receiving incentive compensation for any brokerage-related activity except for nominal one-time cash payments of a fixed dollar amount for a referral.

Banks, however, may give bonuses, either in the form of cash or non-cash compensation, to unregistered bank employees based on the overall profitability of the bank regardless of the contribution of employee or employees receiving the bonus. To rely on the third-party brokerage exception, however, banks cannot indirectly pay their unregistered bank employees incentive compensation for securities transactions through a branch, department, or line of business or through a bonus program related to the securities transactions of a branch, department, or line of business:

In addition, the language and legislative history of the networking exception indicate that brokerage referral fees can only be paid to natural persons who are bank employees.[50] The compensation limit, however, does not interfere with any incentive-based compensation arrangements between the broker-dealer and the bank as a whole. Therefore, a broker-dealer in a third-party brokerage arrangement with a bank may make transaction-related payments to the bank for brokerage transactions conducted by the broker-dealer with the bank's customers.[51]

We find that the definitions in Rule 3b–17 related to the networking exception are consistent with the provisions and purposes of the Exchange Act.[52] We request comment on the interpretation of the limits on incentive compensation in the networking exception. Commenters are specifically requested to identify other issues related to the payment of various types of incentive compensation.

B. Trust And Fiduciary Activities Exception

Exchange Act Section 3(a)(4)(B)(ii)[53] excepts banks that act as trustees or fiduciaries from the definition of "broker," subject to certain conditions. Under the terms of this exception, a bank will not be considered a "broker" if it meets the following conditions in conducting brokerage activities: (1)

[44] Non-cash compensation can include, but is not necessarily limited to, merchandise, gifts, prizes, travel expenses, meals, and lodging. *See* NASD Rule 2330(b)(1)(D) (providing essentially the same definition of non-cash compensation for NASD rule limiting cash and non-cash compensation to members in connection with investment company securities activities).

[45] This condition does not necessarily dictate equal weighting for referrals to different business lines. Rather, it means that, to the extent there are differential referral payouts, points for referrals to broker-dealers should not have greater weight than points for any other type of referral.

[46] We look behind the terms of a compensation arrangement to determine its economic substance, that is, to determine whether it is transaction-related. Thus, a fee arrangement designed to compensate a person for what that person would have received if the person directly received transaction-related compensation (for example, a flat fee that is recalculated periodically to reflect an increase or decrease in the number of transactions) would be the equivalent of transaction-related compensation. In this regard, a flat fee representing a percentage of expected future commissions could be considered transaction-related.

[47] *See* Chubb Letter, *supra* note 38.

[48] This is important, in our view, because referral compensation may create an improper salesman's incentive. For example, in 1996 NationsSecurities and NationsBank, N.A., without admitting or denying the matters set forth in the settlement order, settled administrative proceedings brought by us for alleged misleading sales practices relating to two high-risk sales of closed-end bond funds. In the Matters of NationsSecurities and NationsBank, N.A., Securities Act Rel. No. 7532; Exchange Act Rel. No. 39947; File No. 3–9596 (May 4, 1998). The bank also adopted a referral fee system that created heightened incentives for bank employees to make customer referrals to the broker-dealer. Under this program, the broker-dealer paid the bank 5% of the broker-dealer's gross commission for making referrals to the broker-dealer and the bank then paid the referring bank employee. The payment was conditioned on closing a sale of securities and was proportional to the size of the sale. In some instances, bank employees substantially increased their monthly compensation during this period by making referrals to the broker-dealer. The statutory limitations on the networking exception are designed to prevent precisely these types of incentives to unregistered bank personnel.

[49] The statute also does not contemplate deferred compensation on a sliding scale, a grid, or breakpoints for referrals. *See* H.R. Rep., No. 106–74, pt. 3, at 163 ("[B]ank employees who are not registered representatives may not receive incentive compensation in connection with securities transactions."). In the securities industry, variable commission payments are designed to be incentive compensation. *See generally* Report of the Committee on Compensation Practices (April 10, 1995) ("Tully Report").

[50] *See generally* Exchange Act Section 3(a)(4)(B)(i) [15 U.S.C. 78c(a)(4)(B)(i)]; H.R. Rep. No. 106–74, at 163 (1999) (both the language of the statute and the legislative history of the exception refer only to bank employees in the context of individual natural persons, especially when comparing their status to registered representatives; registered representatives are always individual natural persons).

[51] Banks cannot structure arrangements with networking broker-dealers or affiliated broker-dealers in which the bank becomes the carrying broker for the affiliates or networking broker-dealers. *See* Exchange Act Section 3(a)(4)(B)(viii)(II) [15 U.S.C. 78c(a)(4)(B)(viii)(II)].

[52] Exchange Act Section 3(b) [15 U.S.C. 78c(b)].

[53] 15 U.S.C. 78c(a)(4)(B)(ii).

Effects transactions in a trustee or fiduciary capacity; (2) effects such transactions in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards; (3) is chiefly compensated for such transactions, consistent with fiduciary principles and standards, on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing such securities transactions or any combination of such fees; and (4) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.[54] A bank also must execute such transactions through a registered broker-dealer or in a cross trade.[55]

This exception recognizes the traditional role banks have played in effecting securities transactions for trust customers. These activities generally were inherent in a bank's trust operation itself, or arose as an accommodation to bank customers or through a traditional trust arrangement, rather than through promotion and public solicitation of bank brokerage services.[56] Congress expressed the expectation that we would not disturb traditional bank trust activities under this exception.[57] Congress, however, did not intend the trust exception to be used to conduct a securities brokerage operation in the bank trust department without the appropriate investor protections provided under the federal securities laws.[58] We believe that this legislative history indicates that the trust and fiduciary activities exception was designed not only to preserve these traditional securities-related bank trust activities but also to apply broker-dealer protections to securities activities outside those traditional lines. We have kept that intent in mind in interpreting this exception.

1. Trustee Capacity

The trust and fiduciary activities exception excepts banks that act in a "trustee capacity" or in a "fiduciary capacity" from the definition of broker.[59] Trustees typically are subject to the strongest of fiduciary duties to trust beneficiaries.

We have been asked, however, whether a bank that acts as a "trustee" in three specific situations involving securities accounts directed by others qualify for trust and fiduciary activities exception. This question arises because banks in these situations may not be subject to significant fiduciary responsibilities. These three situations are indenture trustees, Employee Retirement Security Act ("ERISA") and other pension plan trustees, and Individual Retirement Account ("IRA") trustees. In each of these situations, the person who assumes certain ministerial duties for tax, employee benefit, or trust indenture purposes is labeled a trustee, often under a federal statute, but does not actually assume a comprehensive set of fiduciary duties under either state or federal law.

a. Indenture Trustees. Under certain forms of trust indenture,[60] a bank acting as an indenture trustee may invest idle cash in shares of money market mutual funds or other securities.[61] Sometimes, the issuer of the bonds actually directs the investments. In this case, an indenture trustee might act as an order-taker at the direction of the bond issuer, within the investment parameters set forth in the indenture. However, an indenture trustee acts in a constrained order-taking capacity, because the indenture trustee is responsible for making sure that any investments it undertakes fall within the investment parameters of the trust indenture.

Indenture trustees are subject to the Trust Indenture Act of 1939 ("TIA") when the corporate securities that underlie the indenture are sold to the public by use of the mails or in interstate commerce.[62] State law also may provide additional duties in circumstances where the TIA and federal common law are not controlling.[63] However, the courts, in expounding and construing the law regarding indenture trustees, have not always agreed on the type and nature of the duties of indenture trustees.[64]

b. ERISA And Other Similar Trustees. ERISA[65] Section 403(a) generally requires that "all assets of an employee benefit plan shall be held in trust by one or more trustees," who are to be named in the trust instrument or appointed by a named fiduciary of the plan.[66] The term "fiduciary," as defined under ERISA Section 3(21)(A),[67] provides that:

> Except as otherwise provided in subparagraph (B),[68] a person is a fiduciary

[54] Exchange Act Sections 3(a)(4)(B)(ii)(I) and (II); [15 U.S.C. 78c(a)(4)(B)(ii)(I) and (II)].

[55] Exchange Act Section 3(a)(4)(C) [15 U.S.C. 78c(a)(4)(C)].

[56] H.R. Rep. No. 106–74, pt. 3, at 164. (1999).

[57] H.R. Conf. Rep. No. 106–434, pt. 3, 164 (1999).

[58] H.R. Rep. No. 106–74, pt. 3, at 164 (1999).

[59] Exchange Act Section 3(a)(4)(B)(ii) [15 U.S.C. 3(a)(4)(B)(ii) excepts any bank * * * "that effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity. * * *" Exchange Act Section 3(a)(4)(D)(i) [15 U.S.C. 78c(a)(4)(D)(i)] defines the term "fiduciary capacity" to mean "* * * in the capacity as trustee."

[60] The difficulties of issuing secured corporate debt to numerous bondholders gave rise to the need for indenture trustees. Since it would be wholly impractical to have the security run to the group of bondholders directly or to have a separate security instrument for each bondholder, a trustee exercises its powers and duties on behalf of the bondholders. *See* G. Bogert, TRUSTS AND TRUSTEES 250, pp. 254–55 (West 1977); *E.F. Hutton v. Union Planters National Bank*, 953 F.2d 963, 968 (5th Cir. 1992).

The need for an indenture trustee for issues of modern day unsecured corporate debentures also continues because the debt represented by the debenture is typically not secured by specific assets of the issuer and is frequently subordinated to senior indebtedness of the issuer. Thus, the corporate trustee is needed to protect the rights of the many holders of the debentures and to perform certain ministerial tasks connected with the normal operation of the debentures. Although the debts created by debentures run directly from the issuer to the holders, the contractual rights conferred by the indenture run from the issuer to the trustee for the benefit of the holders of the debentures. *E.F. Hutton*, 953 F.2d at 968.

[61] *See, e.g.*, Investment Company Act Rel. No. 15900, *Community Program Loan Trust No. 1987 A; Application*, 52 FR 28628 (Applicant represented that trust indenture agreement permitted indenture trustee to invest funds of indenture trust in certain eligible investments as described in the agreement).

[62] 15 U.S.C. 77aaa *et seq.* (1988).

[63] Martin D. Sklar, *The Corporate Indenture Trustee: Genuine Fiduciary or Mere Stakeholder?*, 106 Banking L.J. 42, 49 (1989).

[64] *See Meckel* v. *Continental Resources Co.*, 758 F.2d 811, 816 (2d Cir. 1985) and *Elliott Associates* v. *J. Henry Schroder Bank and Trust Co.*, 838 F. 2d 66, 71 (2d Cir. 1988), both of which held that indenture trustees have no duties above the specific obligations imposed in the indenture. *But see Dabney* v. *Chase National Bank*, 196 F.2d 668 (2d Cir. 1952), *appeal dismissed*, 346 U.S. 863, 74 S. Ct. 102, 103, 98 L. Ed. 374 (1953), where Judge Learned Hand, writing for the Second Circuit, reached a somewhat different conclusion when the indenture trustee was a creditor of the obligor, and the court found the indenture trustee liable for prematurely collecting a debt from the obligor. The bondholders sued the indenture trustee, alleging that it had forced the obligor into bankruptcy. Judge Hand stated that the duty of a trustee not to profit at the possible expense of his beneficiary is the most fundamental of the duties, which he accepts when he becomes a trustee. It is a part of his obligation to give his beneficiary his undivided loyalty, free from any conflicting personal interest; an obligation that has been nowhere more jealously and rigidly enforced than in New York where these indentures were executed. Judge Hand indicated that indenture trustees are not fiduciaries by saying: "We can find no warrant for so supposing; and, indeed, a trust for the benefit of a numerous and changing body of bondholders appears to us to be preeminently an occasion for a scruple even greater than ordinary; for such beneficiaries often have too small a stake to follow the fate of their investment and protect their rights." *Id.* at 671.

[65] 29 U.S.C. 1001 *et seq.*

[66] 29 U.S.C. 1103(a).

[67] 29 U.S.C. 1105(c)(1)(A).

[68] Subparagraph (B) states that an investment company registered under the Investment Company Act of 1940, and the company's investment adviser or principal underwriter, are not deemed to be

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with respect to a plan to the extent (i) he exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (ii) he renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) he has any discretionary authority or discretionary responsibility in the administration of such plan. Such term includes any person designated under section 405(c)(1)(B).[69]

Under ERISA, a person performing any of the duties described in the definition of "fiduciary" would be considered a fiduciary.[70] A person is a fiduciary, however, only to the extent that he performs "fiduciary" functions.[71] For example, a person may be a fiduciary with respect to some plan assets but not others.[72]

While a trustee can be considered a plan fiduciary if the trustee has discretionary authority over the plan and its assets, depending on the structure of the particular retirement plan, the trustee may be subject to investment direction from the "named fiduciary" of the plan, investment managers, or plan participants.[73] Thus, the issue becomes whether an ERISA plan trustee who is subject to another person's investment direction is a fiduciary. Similar issues may arise regarding state and local government plans permitted under Section 457 of the Internal Revenue Code ("IRC").[74] Although courts have disagreed regarding whether a trustee subject to investment direction is a fiduciary under ERISA,[75] the Department of Labor takes the position that a trustee of an ERISA plan is a fiduciary by the very nature of its position.[76]

c. IRA Trustees. An IRA[77] account can be created through a trust or custody agreement with a bank under the IRC.[78] Whichever type of agreement is used, an IRA account must be maintained at all times as a domestic trust in the United States.[79] The trustee's duties with respect to an account are generally ministerial in nature.[80] IRA trustees do not have discretion regarding the management of the IRA assets.[81]

Courts that have considered IRA trustees in other contexts generally, but not uniformly, have reached the conclusion that an IRA trust does not establish a fiduciary relationship and that an IRA should not be treated as a trust is treated under other law.[82] An IRA trustee does not actually assume a comprehensive set of fiduciary duties towards investors under either state or federal law.

d. Definitional Exemption Alleviates Uncertainty. The law is unclear as to whether banks acting in these three capacities should be covered by the trust and fiduciary activities exception because they are acting, at most, in a limited fiduciary capacity with regard to investors who direct their investments, despite their "trustee" label. To alleviate this legal uncertainty, we are providing an exemption for these trustees if they conduct their securities activities in accordance with all of the other terms of the exception for trustee activities, including being within a "trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards."[83]

fiduciaries or parties in interest to plans investing in the company's securities (except for in-house plans of such persons). ERISA Section 3(21)(B) [29 U.S.C. 1002(21)(B)].

[69] ERISA Section 405(c)(1)(B) [29 U.S.C. 1105(c)(1)(B)] describes the designation by named fiduciaries of other persons to carry out fiduciary responsibilities.

[70] *See, e.g., Olson* v. *E.F. Hutton and Co.*, 957 F.2d 622 (6th Cir. 1992) (ERISA applied to a broker-dealer).

[71] *See, e.g., Chicago Board Options Exchange* v. *Connecticut General Life*, 713 F.2d 254 (7th Cir. 1983).

[72] *See* Class Exemption for Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers, 49 F.R. 9494, 9496 (1984).

[73] *See* Sections 403(a) and 404(c) of ERISA, 29 U.S.C. 1103(a) and 1104(c).

[74] 26 U.S.C. 457(b). Assets and deferred amounts of Section 457(b) plans can be held in trust, custodial accounts, or annuity contracts. 26 U.S.C. 457(g). However, custodial accounts and annuity contracts are treated as trusts, and regardless of how the assets and deferred amounts are held, they must be held for the exclusive benefit of participants and their beneficiaries for the plan. 26 U.S.C. 457(g)(1) and (3).

[75] *See, e.g, Bedall* v. *State Street Bank and Trust Co.*, 137 F.3d 12 (1st Cir. 1998) (bank, which held plan assets "in trust" but did not manage, administer, or conduct valuations of the assets, was not a fiduciary); *Maniace* v. *Commerce Bank of Kansas City, N.A.*, 40 F.3d 264 (8th Cir. 1994), *cert. denied*, 514 U.S. 1111 (1995) (bank trustee of an employee stock ownership plan was not a fiduciary under ERISA because it did not have real discretion over the plan's assets, and because the trust document explicitly limited the bank's discretion with respect to employer stock); *Donovan* v. *Cunningham*, 541 F. Supp. 276, 290 (S.D. Tex 1982), modified on other grounds, 716 F.2d 1455 (5th Cir. 1983), *cert. denied*, 476 U.S. 1251 (1984) (trustee, who was a "directed trustee" under ERISA Section 403(a)(1), was not liable for breach of fiduciary duties where its activities were confined to the "limited role of directed trustee"); *Robbins* v. *First American Bank*, 514 F. Supp. 1183 (1981 N.D. fil.) (bank was not a fiduciary when acting as directed trustee following instructions of a plan fiduciary, or is custodian of plan assets); *Bradshaw* v. *Jenkins*, 1984 WL 2405, Fed. Sec. L. Rep. P 99,719 (W.D.Wash. Mar. 9, 1984) (bank, which was a "directed trustee," was a "mere custodian of plan assets who follows the instructions of another fiduciary").

[76] *See* 29 CFR 2509.75–8, D–3 (trustee is a fiduciary by the very nature of its position). If a bank trustee does not make any recommendations concerning the selection of particular investment company securities, but another plan fiduciary independently selects, from mutual fund families made available to the bank, particular funds to be made available for investment by plan participants, these duties will not arise if the bank gives notice to the plan sponsor before modifying the list of funds available for investment by plan participants. *See* Department of Labor ("DOL") Advisory Opinion 97–16A (May 22, 1997) regarding Frost National Bank ("The Department points out that the act of limiting designative investment options which are intended to constitute all or part of the investment universe of an ERISA 404(c) plan is a fiduciary function, which, whether achieved through fiduciary designation or express plan language, is not a direct or necessary result of any particular direction of such plan."); DOL Information Letter to Mark H. Sokolsky, WSB File No. DL0523 (Sept. 5, 1996) (a trustee subject to direction from a named fiduciary has "residual" fiduciary authority for determining whether the direction is proper and consistent with ERISA); *see also* 29 CFR 2550.404c–1(f)(8).

[77] *See* Section 408 of the Internal Revenue Code of 1986 [26 U.S.C. 408] and the regulations promulgated thereunder. 26 CFR 1.408–2.

[78] The IRC permits an IRA to be denominated as a "trust" or a "custodial account." *See* 26 CFR 1.408–2(b) and (d). Other entities also may become the holder of custodial or trustee accounts for IRAs if they meet the requirements established by the Internal Revenue Service under the Department of the Treasury. 26 U.S.C. 408(h) and 26 CFR 408–2(e). For our purposes, this alternative qualification procedure is not relevant because banks, which are the focus of our analysis, are automatically qualified to undertake this role under the statute.

[79] *See* 26 CFR 1.408–2(b).

[80] The bank must file form "5498 IRA Contribution Information" on an annual basis. The bank also must file appropriate form "1099–R Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc." to reflect distributions from any IRA account.

[81] ERISA Section 403(a) establishes the general requirement that a plan trustee "shall have * * * exclusive authority and discretion to manage and control the assets of a plan." An exception to the general rule is when a trustee receives directions from a named plan fiduciary, that is, when it acts as a "directed trustee." *See* ERISA Section 403(a)(1) for basis of "directed trustee" exception.

[82] For example, Texas courts have likened IRAs to safe deposit boxes where the bank administers the IRA, keeping records and compiling reports, and the IRA depositor decides what assets the IRA will contain. *See Colvin* v. *Alta Mesa Resources, Inc.*, 920 S.W. 2d 688 (Tex.App."Houston 1996); *Lee* v. *Gutierrez*, 876 S.W. 2d 382 (Tex.App."Austin 1994, writ denied). Other courts have reached similar conclusions. *See In re Houck, Eisenberg* v. *Houck*, 181 B.R. 187 (Bankr. E.D. Pa. April 19, 1995) (court found that an IRA was not a trust as that term was commonly used); *Estate of Davis* v. *Davis*, 171 Cal.App.3d 854, 217 Cal. Rptr. 734 (1985) (court found that an IRA was not an express trust because there was no intent to establish a trust; an IRA was a trust for the purpose of tax deferment only). *But see In re Gillett, Tavormina* v. *Merchants Bank of Miami*, 55 B.R. 675, 13 Bankr.Ct.Dec. 1101 (Bankr. S.D. Fla., Dec. 19, 1985).

[83] Because banks may act as trustees or custodians for IRAs, it is important to note that this exemption is available only when the bank acts as a trustee and meets all of the other conditions of the trustee exception. The trust and fiduciary activities exception does not apply to IRA custodians. However, as described below, we are using our exemptive authority to grant two conditional exemptions under the safekeeping and custody exception to permit banks to effect securities transactions as IRA custodians. Furthermore, the small bank custody exemption is available to trustees and fiduciaries that are acting as custodians. For example, the small bank custody exemption is available to small bank trustees that have custody of assets and are effecting transactions in investment company securities consistent with the terms of that exemption.

Specifically, Rule 3b–17(k) defines the term "trustee capacity" in the trust and fiduciary activities exception to include trust indenture trustees and trustees for certain tax-deferred accounts.[84] By clarifying that "trustee capacity,"[85] as set forth in the trustee and fiduciary activities exception, includes these types of trustees, banks will be able to continue to effect securities transactions for investors free from doubt regarding their broker-dealer status under the trust and fiduciary activities exception.[86]

We invite comment on the scope of the fiduciary responsibilities of indenture trustees, ERISA trustees, IRA trustees, and trustees for other pension plans. We also invite comment on the scope of the fiduciary responsibilities of indenture trustees that are not subject to the TIA. In addition, we invite comment on the circumstances under which, if any, indenture trustees, ERISA trustees, IRA trustees and trustees for other pension plans may disclaim fiduciary responsibilities, which fiduciary responsibilities they may or may not disclaim, and whether, in such circumstances, this definitional exemption is appropriate.

2. Fiduciary Capacity

The trust and fiduciary activities exception applies to banks acting in a trustee or fiduciary capacity to investors. The term fiduciary capacity is defined in Exchange Act Section 3(a)(4)(D), which identifies several alternative forms of fiduciary capacity. Banks may qualify as acting in a fiduciary capacity if they act as a "trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act * * *"[87] Banks also may qualify as acting in a fiduciary capacity if they act as an investment adviser if the bank "receives a fee for its investment advice" or "possess[es] investment discretion on behalf of another."[88] Finally, banks may act in a fiduciary capacity if they act "in any other similar capacity."[89]

In general, we analyze the activities that a person is engaged in, as well as the label used, to determine whether a person is acting in a particular capacity. We take the same approach in considering whether a bank is acting as a fiduciary under the trust and fiduciary activities exception. As Justice Frankfurter stated in another context, "to say that a man is a fiduciary only begins the analysis; it gives direction to further inquiry. To whom is he a fiduciary? What obligations does he owe as a fiduciary?"[90] We understand that the exact nature of the fiduciary obligations differ depending on the type and nature of the fiduciary relationship between the customer and the bank.[91]

Congress intended that banks act in a "strict trustee or fiduciary capacity"[92] that provides investors the protection of strong fiduciary principles if conducting securities activities without broker-dealer regulation under the trust and fiduciary activities exception. We address specific situations with respect to the term "fiduciary capacity."

a. *Transfer Agent.* One category included in the statutory definition of fiduciary capacity that requires special explanation is "transfer agent."[93] In considering the fiduciary capacity role of transfer agents for purposes of the trust and fiduciary activities exception, we must take into account the Exchange Act definition of transfer agent.[94] Under the Exchange Act, a transfer agent is generally any person who engages in certain activities "on behalf of an issuer of securities or on behalf of itself as an issuer of securities. * * *" This definition makes clear that the fiduciary relationship of acting as a transfer agent runs primarily to the issuer, and any

[84] We are providing this definitional exemption under our exemptive authority under Exchange Act Section 36(a)(1) [15 U.S.C. 78mm(a)(1)]. Exchange Act Section 36(a)(1) allows us to grant exemptions from any provision of the Exchange Act or the Exchange Act's Rules, if an exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors. *See also* Exchange Act Section 15(a)(2) [15 U.S.C. 78o(a)(2)], Exchange Act Section 15(a)(2) [15 U.S.C. 78o(a)(2)] allows us to grant exemptions from Exchange Act 15(a)(1) [15 U.S.C. 78o(a)(1)], which generally requires brokers and dealers to be registered if effecting transactions in securities, if the exemption is consistent with the public interest and the protection of investors.

[85] It is important to note that our definitional exemption regarding the term "trustee capacity" in Section 3(a)(4)(B)(ii) of the Act does not alter our view that Section 3(c)(3) of the Investment Company Act of 1940 [15 U.S.C. 80a–3(c)(3)] is unavailable to common trust funds holding IRA assets.

As amended by the GLBA, Section 3(c)(3) excludes from the definition of investment company:

"any common trust fund or similar trust fund maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian, if—

"(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

"(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

"(i) advertised; or

"(ii) offered for sale to the general public; and

"(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law."

The GLBA added paragraphs (A) through (C). These changes, among other things, codify our longstanding interpretation that the common trust fund exception is unavailable to common trust funds holding IRA assets because such assets are not held "for a fiduciary purpose." *See* In re Commercial Bank and Marvin C. Abeene, Securities Act Rel. No. 7116, Investment Company Act Rel. No. 20757, Admin. Proc. File No. 3–8567, 58 SEC Dkt. 0487, 0491 (Dec. 6, 1994) (Order Instituting Public Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Sections 9(b) and 9(f) of the Investment Company Act of 1940, Making Findings, Imposing Remedial Sanctions and Ordering Respondents to Cease and Desist). See also Santa Barbara Bank and Trust, SEC No-Action Letter (Nov. 1, 1991) (citing Testimony of Richard C. Breeden, Chairman, U.S. Securities and Exchange Commission, Before the Subcommittee On Telecommunications and Finance of the House Committee on Energy and Commerce (Oct. 4, 1990)); United Missouri Bank of Kansas City, N.A., SEC No-Action Letter (Dec. 31, 1981).

[86] This exception should not, however, be considered by banks in analyzing whether they are acting in a "similar capacity" as that term is used in the definition of "fiduciary capacity." Exchange Act Section 3(a)(4)(D). *See also* discussion of "similar capacity," *infra* at Part 3 of this section.

[87] Exchange Act Section 3(a)(4)(D)(i) [15 U.S.C. 78c(a)(4)(D)(i)].

[88] Exchange Act Sections 3(a)(4)(D)(i) and (ii) [15 U.S.C. 78c(a)(4)(D)(i) and (ii)].

[89] Exchange Act Section 3(a)(4)(D)(iii) [15 U.S.C. 78c(a)(4)(D)(iii)].

[90] *SEC* v. *Chenery Corp.*, 318 U.S. 80, 85–86, 87 L. Ed. 626, 63 S. Ct. 454 (1943).

[91] *See* 1 Austin Wakeman Scott and William Franklin Fratcher, The Law of Trusts 8.1 (4th ed. 1987) ("When a bank * * * receives the position of securities or other property from a customer, its duties depend on what it undertakes to do.").

[92] *See* H.R. Rep. No. 106–74, pt. 3, at 165 (1999) note 9 above, at 165 ("Because these activities will be conducted by banks acting in a strict trustee or fiduciary capacity, subject to Federal and State trust law, and rigorously and regularly examined by bank examiners, bank trust customers will be afforded some basic protections. This mitigates concerns that would otherwise exist because of the lack of Federal securities law protections for these customers. *Absent this protection, the exemption may be inappropriate.*") (emphasis added).

[93] Exchange Act Section 3(a)(4)(B)(iv) [15 U.S.C. 78c(a)(4)(B)(iv)] also provides a separate exception for banks that effect transactions, as part of their transfer agent activities, in certain stock purchase plans.

[94] Exchange Act Section 3(a)(25) [15 U.S.C. 78c(a)(25)] provides that a transfer agent is:

"any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer of securities in (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; (D) exchanging or converting such securities; or (E) transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The term "transfer agency" does not include any insurance company or separate account which performs such functions solely with respect to variable annuity contracts or variable life policies which it issues or any registered clearing agency which performs such functions solely with respect to options contracts which it issues."

fiduciary duties that a transfer agent may have to shareholders when carrying out transfer agent activities are the same as the issuer's duty to the shareholder.[95]

Taken together, the definitions of "fiduciary capacity" and "transfer agent" in the Exchange Act indicate that the trust and fiduciary activities exception in Exchange Act Section 3(a)(4)(B)(ii) does not extend to securities activities that a bank transfer agent conducts with the shareholders of an issuer that resemble those of a broker-dealer. If a bank that is registered as a transfer agent engages in transfer agent activities for shareholders on behalf of the issuer of the type that are specified in the Exchange Act's definition of transfer agent and other similar activities, the bank may rely on the trust and fiduciary activities exception for those particular activities. Other securities activities would not be covered by the fiduciary responsibilities owed to the shareholder that are contemplated under the exception.[96] Accordingly, unless another exemption was available,[97] broker-dealer registration would be required for bank transfer agents that also effected securities transactions for investors.

We request comment on any fiduciary role of transfer agents. We also request comment on any fiduciary responsibilities owed directly to the shareholders.

b. Investment Adviser If The Bank Receives A Fee For Its Investment Advice. As further described below, if a bank provides its customer with investment advice for a fee for an account, even though the customer is free to accept or reject the bank's advice, the bank may rely on the trust and fiduciary activities exception. In this situation, the bank would be acting as "an investment adviser if the bank receives a fee for its investment advice," as described in the definition of fiduciary capacity.[98] For the reasons stated below, Rule 3b–17(d) defines the term "investment adviser if the bank receives a fee for its investment advice" to mean a relationship between the bank and a customer in which the bank: (1) provides, in return for a fee, continuous and regular investment advice to a customer's account that is based upon the individual needs of the customer; and (2) under state law, federal law, contract, or customer agreement owes a duty of loyalty, including an affirmative duty to make full and fair disclosure to the customer of all material facts relating to conflicts.

i. Continuous And Regular Investment Advice. Banks act in an advisory capacity to varying degrees in non-discretionary accounts. It may be difficult to determine whether a bank that provides some investment advice to a non-discretionary account falls within the fiduciary capacity category of an investment adviser that receives a fee for its advice. Accordingly, we are providing guidance to aid banks in determining which advisory relationships to non-discretionary accounts are covered by the fiduciary category of "investment adviser if the bank receives a fee for its investment advice."

Congress did not intend the trust and fiduciary activities exception to allow a bank to administer an account offering primarily brokerage without the investor protections of the federal securities laws.[99] At its narrowest, a brokerage relationship comes into existence when "the order has been placed and the broker has consented to execute it" and "ends when the transaction is complete."[100] Accordingly, where the responsibilities of a bank to its customer arise only when the customer places an order for his account, and terminate once the transaction is complete,[101] that account has the indicia of a brokerage account that the federal securities laws are designed to regulate. The bank's activities, therefore, would not fall within the trust and fiduciary activities exception. We reach the same conclusion even if the bank provides incidental, ancillary investment advice to the account. Because full-service broker-dealers frequently also give incidental, ancillary investment advice,[102] such an account would still have the indicia of a brokerage account, and thus, the fees paid would be primarily for brokerage services, not for advice.

Accordingly, Rule 3b–17(c) provides that a bank providing only non-discretionary investment advice must provide the customer's account with "continuous and regular investment advice * * * that is based on the individual needs of the customer" in order for the bank to fall within the definition of an "investment adviser if the bank receives a fee for its investment advice." Rule 3b–17(e) neither purports nor attempts to provide a comprehensive definition of "investment advice" or of the types of investment advice banks may offer their customers. The rule identifies the circumstances where the bank's non-discretionary advisory services to a customer's account for a fee are sufficiently substantial that any brokerage services provided for that fee are merely ancillary to the advice. To state it another way, the rule identifies the circumstances where the fees paid by the account may be viewed properly as for investment advice, rather than for brokerage, when the bank provides both investment advice and brokerage to the account. The rule thus gives effect to Congress' intent, as discussed earlier,

[95] *See generally* Uniform Commercial Code Section 8–407 (transfer agent performing transfer agent functions has the same obligation, with regard to those functions, as the issuer has with those functions). *See also Caleb and Co.* v. *E.I. DuPont de Nemours and Co.*, 599 F. Supp. 1468, 1475 (S.D.N.Y. 1984) (transfer agent acting within scope of agency, if found to have acted detrimentally to alter the rights of shareholders, would be held to fiduciary standards with respect to shareholders).

[96] Legal authorities have generally found that transfer agents who have acted outside the scope of usual transfer agent activities are more than transfer agents and therefore, owe shareholders more extensive fiduciary duties under the federal securities laws. *See Affiliated Ute Citizens* v. *United States*, 406 U.S. 128, 151–52 (1972) (if bank employees claiming to be acting as transfer agents had performed purely transfer agent functions, instead of acting as market makers for stock, they would not have expanded their liability under the federal securities laws); *see also Goldman* v. *McMahan, Brafman, Morgan and Co.*, 1987 WL 12820, *22 (S.D.N.Y. June 18, 1987) (citing *Affiliated Ute Citizens* to support holding that defendant acted as more than a transfer agent by actively engaging in activity to create fraudulent trading losses, thereby expanding its fiduciary duties beyond the scope of the transfer agency to plaintiff).

[97] Banks have a separate exception for transactions effected "as part of [their] transfer agency activities" in the securities of an issuer as part of certain stock purchase plans of the issuer. Exchange Act Section 3(a)(4)(B)(iv) [15 U.S.C. 78c(a)(4)(B)(iv)].

[98] Exchange Act Section 3(a)(4)(D)(i).

[99] *See* H.R. Rep. No. 106–74, pt. 3, at 164 (1999).

[100] *Robinson* v. *Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 337 F. Supp. 107, 111 (N.D. Ala. 11971), aff'd, 453 F.2d 417 (5th Cir.1972); *see also E.F. Hutton and Company, Inc.*, 49 S.E.C. 829, 832 n.9 (1988) (citing *Robinson* v. *Merrill Lynch, Pierce, Fenner and Smith, Inc.* as support for conclusion that broker-dealer became customer's agent for the purpose of executing a limit order). The decision in *E.F. Hutton and Company, Inc.*, also known as the Manning Decision after the name of the customer, became the genesis for the NASD's Limit Order Protection Rule, IM–2110–2, which prohibits any member from trading at the same price as, or at a better price than, a customer limit order that it holds.

[101] *See Certain Broker-Dealers Deemed Not To Be Investment Advisers*, Exchange Act Rel. No. 42099, Investment Advisers Act Rel. No. 1845 (Nov. 4, 1999) (notice of proposed rulemaking); *see also Merrill Lynch, Pierce, Fenner and Smith, Inc.* v. *Cheng*, 697 F. Supp. 1224, 1226–27 (D.D.C. 1988) (finding that fiduciary relationship between stockbroker and customer holding a non-discretionary account limited to time between placement of order and subsequent purchase).

[102] *See Certain Broker-Dealers Deemed Not To Be Investment Advisers*, Exchange Act Rel. No. 42099, Investment Advisers Act Rel. No. 1845 (Nov. 4, 1999) (proposing to codify the position that the Advisers Act applies only to those customers to whom the broker-dealer provides advice that is not incidental to brokerage services); *see also De Kwiatkowski* v. *Bear Stearns and Co., Inc.*, 126 F. Supp. 2d 672 (S.D.N.Y. 2000) (finding that broker-dealer acted as investment adviser when broker-dealer gave continuous investment advice that went beyond ancillary matters).

that a bank not be permitted to offer what is essentially a brokerage account absent the investor protections of the federal securities laws.[103]

A bank will provide "continuous and regular" investment advice under Rule 3b–17(e) if the bank has ongoing (as opposed to episodic or periodic) responsibility to select or make recommendations, based upon the needs of the client, as to specific securities or other investments the customer may purchase or sell. We adopted this same standard under Section 203A(a)(2) of the Investment Advisers Act ("Advisers Act"), which uses "continuous and regular" to determine which advisers have $25 million or more of "assets under management" and thus are eligible for Commission registration.[104] Congress added this provision to the Advisers Act in 1996, as part of the National Securities Markets Improvement Act ("NSMIA").[105]

In developing the Commission's rules to implement NSMIA, we faced the question of when are non-discretionary advisory services significant and ongoing enough to constitute "assets under management." Albeit with different import, we face a similar question here " namely, when are the bank's non-discretionary advisory services significant enough that the fee paid "for advice" is for an ongoing advisory relationship with the customer account rather than a brokerage relationship. In both cases, we look to the actual nature of the underlying advisory services that the adviser, or bank, provides and to the duties and responsibilities that the adviser, or bank, accepts.[106]

If a bank provides continuous and regular guidance for a fee to a non-discretionary account based on the individual needs of that account, the bank would fit the definition of "investment adviser if the bank receives a fee for its investment advice," even if a customer makes self-directed trades in the account independent of the bank's advice. Accordingly, we would consider the bank to be acting in a fiduciary capacity for purposes of the trust and fiduciary activities exception.[107]

If, however, the bank provides brokerage and ancillary, incidental advice in return for a fee to a self-directed non-discretionary account, such advice would not meet the continuous and regular standard, and the fee would be viewed as payment for brokerage, rather than payment for the advice. For instance, if the bank provides only impersonal advice, such as market newsletters, or provides advice only on an intermittent or periodic basis upon the request of the client or in response to some market event, the bank would not be giving continuous and regular investment advice.[108] Also, if a bank offers a certain number of trades for a set fee for an "advisory" account without providing continuous and regular advisory services, we would not consider the account to fall within the trust and fiduciary activities exception. Such an account is more similar to a brokerage account described above than the type of fiduciary account covered under the trust and fiduciary activities exception.

Customer agreements outlining an account holder's relationship with a bank will be instructive in distinguishing those non-discretionary accounts for which banks provide continuous and regular investment advice from those for which they provide little investment advice. The nature of the bank's advice and the nature of the trading in the account also will be relevant to the analysis.

ii. Full And Fair Disclosure. Investment advisers historically have been considered to be fiduciaries with corresponding duties.[109] If a bank acts in the capacity of an investment adviser and receives a fee for its advice, the bank will perforce be subject to an investment adviser's duties. The Supreme Court has stated that the most important duty an investment adviser has is a duty of loyalty.[110] This includes an affirmative duty to make full and fair disclosure of material facts, thereby eliminating, or at least exposing, conflicts of interest.[111] Therefore, the investment adviser must act with "utmost good faith" and "solely" in the best interests of the client.[112] By disclosing all of its potential conflicts of interest to a client, the investment adviser enables the client to make an informed decision of whether to enter into or continue in an advisory relationship with the adviser or whether to take some action to protect himself against the specific conflict of interest involved.[113] The definition of "investment adviser if the bank receives a fee for its investment advice" in Rule 3b–17(c) acknowledges the importance of this duty by providing that banks giving investment advice for a fee must owe a duty of loyalty that includes making full and fair disclosure to their clients. We find that this definition is

[103] H.R. Rep. No. 106–74, pt. 3, at 164 (1999).

[104] Investment Advisers Act Release No. 1633, Rules Implementing Amendments to the Investment Advisers Act of 1940 (May 15, 1997) [62 FR 33008 (May 22, 1997)] (adopting release).

[105] The amendment was part of the Investment Advisers Supervision Coordination Act, which was Title III of NSMIA. Pub. L. 104–290, 110 Stat. 3416 (1996). The Coordination Act effected several amendments to the Advisers Act, and the most significant of these was to divide responsibility for regulating investment advisers between the Commission and the securities administrators of the several states. Following NSMIA, the Commission regulates advisers that have at least $25 million in "assets under management" and the states regulate advisers with assets under management under $25 million. Congress defined "assets under management" to mean the "securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services." [15 U.S.C. 80b–3a].

[106] See Investment Advisers Act Rel. No. 1601, *Rules Implementing Amendments to the Investment Advisers Act of 1940* (December 20, 1996) (proposing release) ("Whether an adviser that does not have discretionary authority will be considered to provide continuous and regular management or supervisory services with respect to an account would depend upon the nature of the adviser's responsibilities. The greater the amount of day-to-day responsibility an adviser has, the more likely the adviser would be providing continuous and regular supervisory or management service."); *see also* Item 2 of Part 1A of Form ADV.

[107] This approach is consistent with the OCC's view on a bank receiving a fee for providing investment advice. In describing its definition of "fiduciary capacity," upon which the GLBA's definition of fiduciary capacity is based, the OCC indicated that, if the bank received a fee from the customer for investment advisory activities (regardless of whether or not the customer followed the advice) the account would be brought under the fiduciary umbrella because "the customer has a reasonable expectation of receiving advice that is free of conflicts of interest." Final Rule; Fiduciary Activities of National Banks; Rules of Practice and Procedure, 61 FR 68543, 68545 (Dec. 30, 1996) (codified at 12 CFR 9.2(e)). However, if a customer is paying a minimal fee for ancillary investment advice, there is very little, if anything, the fiduciary umbrella is covering that can be protected by the fiduciary principles that are replacing the investor protection provided under the federal securities laws.

[108] These examples are taken, in part, from examples we have previously given to provide guidance on what accounts receive continuous and regular supervisory or management services and what accounts do not. *See* Item 2 of Part 1A of Form ADV. We have included only those examples that involve the giving of advice and do not involve providing management services.

[109] *SEC* v. *Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 187 (1963) (recognizing that investment advisers have historically been considered fiduciaries).

[110] *Id.* at 191–92, 194.

[111] *Id.* at 192–92, 194.

[112] *Id.* at 191–92, 194; *see also Laird* v. *Integrated Resources, Inc.*, 897 F.2d 826, 834 (5th Cir. 1990) (citing *Capital Gains* for proposition that an investment adviser has a fiduciary duty of utmost good faith and full and fair disclosure of all material facts, as well as an affirmative obligation to employ reasonable care to avoid misleading his clients); *SEC* v. *Blavin*, 760 F.2d 706, 711–12 (6th Cir. 1985) (same).

[113] *Applicability of the Investment Advisers Act to Financial Planners, Pension Consultants, and Other Persons Who Provide Investment Advisory Services as a Component of Other Financial Services*, Investment Advisers Act Rel. No. 1092 (Oct. 8, 1987), 52 FR 38400 (Oct. 16, 1987).

consistent with the provisions of the Exchange Act.[114]

We invite comments on all aspects of this definition. Commenters also are encouraged to suggest alternative ways to evaluate whether a bank meets the definition of "investment adviser if the bank receives a fee for its investment advice."

3. Other Similar Capacity

The definition of fiduciary capacity also provides that a bank may qualify for the trust and fiduciary activities exception if it acts "in any other similar capacity" to the fiduciary relationships already described in the definition.[115] We have identified from uniform acts and codes several capacities that are not expressly set forth in the definition of fiduciary capacity that we believe are similar to the fiduciary capacities that are covered by the trust and fiduciary activities exception.[116]

For example, the Uniform Probate Code, which has been adopted in 18 states,[117] uses the term "Personal Representative" and similar successor titles in place of executor or administrator as the representative of a decedent. Under the Uniform Custodial Trust Act, which has been adopted in 14 states,[118] the terms that are used for fiduciaries who act for persons who have become incapacitated include "Conservator" and "Custodial trustee." A bank would be eligible to act in any of these capacities under these uniform acts.

Exchange Act Section 3(a)(4)(D)(i) references only the capacity of a "custodian under a uniform gift to minor act." In contrast, the Uniform Transfers to Minors Act, which has been adopted in 49 States and the District of Columbia,[119] uses both the terms "Conservator" and "Custodian" for fiduciaries that act for minors.[120] A bank would be eligible to act in either or both of these capacities for a minor under this uniform act.

We consider banks that act as fiduciaries in these representative capacities are acting in similar fiduciary capacities for purposes of the trust and fiduciary activities exception, provided that the other requirements of that exception are met. We invite comment on whether there are additional roles, functions, or relationships of banks that should be considered as being an "other similar capacity" for purposes of this exception.

As noted above, courts have raised serious questions regarding whether indenture trustees and trustees for tax-deferred accounts are fiduciaries. Thus, although we have provided legal certainty to permit them to operate within the exception, we do not believe that banks operating in a similar capacity to such exempted entities are necessarily acting in a fiduciary capacity. For example, an IRA custodian is virtually indistinguishable from an IRA trustee, but does not take on the "trustee" label. Thus, it is not eligible for the definitional exemption in Rule 3b–17(k).

4. Other Department That Is Regularly Examined By Bank Examiners For Compliance With Fiduciary Principles And Standards

To protect investors, Congress specifically required that the activities conducted by banks under the trust and fiduciary activities exception be "rigorously and regularly examined by bank examiners."[121] Because Congress believed that the "examinations of bank trust departments are today rigorous in nature," these examinations would provide customers with "some basic protections" to mitigate the lack of federal securities law protections.[122]

While the bank trust department is the traditional center of bank fiduciary services, the trust and fiduciary activities exception recognizes that banks may effect transactions in a fiduciary capacity in bank departments other than the trust department, as long as those departments are "regularly examined by bank examiners for compliance with fiduciary principles and standards." This condition is key in affording investors some protection when banks conduct activities under this exception.

Some banks place all of their fiduciary activities in the trust department, while others conduct them in different bank departments depending on the nature of the fiduciary service. As a result, the number and type of banking departments that are regularly examined by bank examiners for compliance with fiduciary principles and standards could easily vary from bank to bank. Because of this variance, we intend to rely primarily on the bank regulatory agencies in determining whether the activities are conducted in an area subject to examination by fiduciary examiners and examined on a regular basis.[123]

We also note that for a bank to be effecting securities transactions in compliance with the trust and fiduciary activities exception, the bank needs to ensure that all aspects of its role in effecting those transactions are conducted in a part of the bank that is regularly examined by bank examiners for compliance with fiduciary principles and standards. Effecting transactions in securities includes more than just executing trades or forwarding securities orders to a broker-dealer for execution. Generally, effecting securities transactions can include participating in the transactions through the following activities: (1) Identifying potential purchasers of securities; (2) screening potential participants in a transaction for creditworthiness; (3) soliciting securities transactions;[124] (4) routing or

[114] Exchange Act Section 3(b) [15 U.S.C. 78c(b)].

[115] Exchange Act Section 3(a)(4)(D)(iii) [15 U.S.C. 78c(a)(4)(D)(iii)].

[116] The National Conference of Commissioners of Uniform State Laws has worked for the uniformity of state laws since 1892. Today the Conference is recognized primarily for its work in securities law, commercial law, family law, probate and estates, law of business organizations, health law, and conflicts of law. *See* The National Conference of Commissioners of Uniform State Laws website at http://www.nccusl.org/uniformact_factsheets/uniformacts-fs-upc.htm.

[117] *Id.*

[118] *Id.*

[119] *Id.*

[120] The Uniform Transfers to Minors Act was developed in 1983, amended in 1986 and supersedes the Uniform Gifts to Minor Act (1956, amended 1965 and 1966), which was perceived to be inadequate to address all of the issues inherent in this area of the law. *See* The National Conference of Commissioners of Uniform State Laws, *Summary, Uniform Transfer to Minors Act,* available at http://www.nccusl.org/uniformact_summaries/uniformacts-s-uttma.htm.

[121] H.R. Rep. No. 106–74, pt. 3, at 165 (1999).

[122] *Id.* at 164–65.

[123] We note the use by the federal financial institutions' regulators of the Uniform Interagency Trust Rating System ("UITRS") in evaluating financial institutions' fiduciary activities. In 1999, there were 3,034 banks and trust companies (both insured and uninsured) that were subject to reporting requirements of the Federal Financial Institutions Examinations Council regarding their trust assets. *See* http://www2.fdic.gov/structur/trust/99trustdata.html.

[124] Solicitation is one of the most relevant factors in determining whether a person is effecting transactions. *See, e.g., SEC* v. *Century Investment Transfer Corp.*, [1971–72 Transfer Binder] Fed.Sec.L.Rep. (CCH) ¶ 93,232 (S.D.N.Y. 1971) at 91,441–3 (entity acted as a broker by soliciting customers for securities transactions, among other things); *SEC* v. *National Executive Planners*, 503 F. Supp. 1066, 1073 (M.D.N.C. 1980) (where entity solicited clients actively and sold $4.3 million worth of securities, "[c]learly, [the entity] was a broker-dealer as defined in the 1934 Act"); *see also* 15 David A. Lipton, *Broker-Dealer Regulation*, at 1.04[3][a] (1998) ("Solicitation is considered a badge of securities activity that would bring a person within the definition of broker"). As we have previously stated, "no amount of disclosure in a prospectus can be effective to protect investors unless the securities are sold by a salesman who understands and appreciates both the nature of the securities he sells and his responsibilities to the investor to whom he sells." *See Persons Not Deemed To Be Brokers*, Exchange Act Rel. No. 20943, 49 FR 20512 (May 15, 1984). Solicitation includes any affirmative effort intended to induce transactional business for a broker-dealer and encompasses such activities as advertising and providing investment advice or recommendations intended to induce transactions that benefit or

matching orders, or facilitating the execution of a securities transaction; (5) handling customer funds and securities;[125] and (6) preparing and sending transaction confirmations (other than on behalf of a broker-dealer that executes the trades).[126] In other words, for purposes of qualifying for the trust and fiduciary activities exception, the bank must make sure that all of the key points in a transaction that it participates in are in a part of the bank that meets the examination conditions of the exception.

We invite comment on this discussion of this prong of the trust and fiduciary activities exception. We particularly invite commenters to provide information on the location within banks of activities related to effecting securities transactions in a trust or fiduciary capacity.

5. Chiefly Compensated

To qualify for the trust and fiduciary activities exception from the definition of broker, banks must meet certain compensation limits for transactions effected in a fiduciary capacity. First, banks must be "chiefly compensated * * * on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers, or any combination of such fees."[127] Second, this revenue must be consistent with fiduciary principles and standards.[128]

The first question that must be addressed, then, is how to determine when a bank is "chiefly" compensated. The term "chiefly" has not been previously defined in the federal securities or banking laws. In choosing the term, Congress not only expected us to interpret it, Congress also expected that our interpretation would limit a bank's ability to receive incentive compensation or similar compensation that could foster a "salesman's stake" in promoting a securities transaction.[129] In framing our definition of the term "chiefly compensated," we have sought to apply the purposes of the GLBA so that the broker-dealer requirements of the federal securities laws apply to situations that could foster a salesman's stake in promoting securities transactions.[130] This definition is discussed below.

a. Account-By-Account Calculations. Determining when a bank is "chiefly compensated" requires, ultimately, a comparison of the different types of compensation that a bank receives. We considered several alternatives, but believe that the calculation to determine whether a bank is chiefly compensated by the statutorily enumerated fees should be done on an account-by-account basis. In our view, this calculation is consistent with assuring the protection of each investor and with determinations that trustees must make under state trust law.[131] Moreover, fiduciaries often use fee schedules, which should provide a basis to make an account level calculation of compensation.

We considered, alternatively, whether this calculation should be made on a transaction-by-transaction or customer-by-customer basis. We concluded, however, that these methods would be unnecessarily burdensome for banks, without providing significantly more protection for investors. We also considered whether the "chiefly compensated" calculation should be made across a bank's entire fiduciary department or on a business line basis. While a department or business line approach would provide administrative convenience to banks, we believe that adopting this approach as a guiding principle is inconsistent with the wording of the statute, which reads "chiefly compensated *for such transactions*." (emphasis added). In referring to "such transactions," the statute focuses on the compensation at the level at which the transactions occurred, which is the account level, and focuses on protection of investors making such transactions. Making the "chiefly compensated" calculation at the department or business line level would potentially allow a bank to primarily engage in a brokerage relationship, without investor protection, with a large number of customers if the compensation from the statutorily enumerated fees across the department or business line exceeded that from brokerage. Moreover, a department or line of business is difficult to define because lines of business vary from institution to institution.

Nonetheless, as discussed below, for administrative simplicity, we are adopting Rule 3a4–2, which provides an exemption to permit banks to compute compensation on the basis of their total fiduciary activities if sales compensation is less than 10% of relationship compensation for these total fiduciary activities.[132] To rely on this exemption, however, banks must have in place procedures that are reasonably designed to ensure compliance at certain key times in the life of the account with the condition that they be "chiefly compensated" by relationship compensation.

We believe this exemption reduces costs for many banks by avoiding account level calculations where most accounts are likely to satisfy the "chiefly" standard. This exemption also balances Congress's intent that brokerage relationships be administered in a broker-dealer with its desire that we not disturb traditional trust activities. Accordingly, we find that this exemption is necessary or appropriate in the public interest and is consistent with the protection of investors.[133]

b. Annual Computation. The account-by-account "chiefly" calculation should be conducted on a yearly basis. We

involve the solicitor. *See SEC* v. *Margolin*, [1992 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 97,025 (S.D.N.Y. 1992) at 94,517 (person acted as a broker by, among other things, advertising for clients); *see also* Letters re: *Attkisson, Carter and Akers* (June 17, 1998) (among other things, the person seeking relief from Section 15(a) of the Exchange Act would neither recommend nor endorse specific investments); *Charles Schwab and Co., Inc.* (Nov. 27, 1996) (same).

[125] *See, e.g.*, 15 David A. Lipton, *Id.* at 1.04[3] (having custody or control over the funds and securities of others is a badge of being a broker-dealer); *SEC* v. *Margolin*, [1992 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 97,025 (S.D.N.Y. 1992) (defendant was "engaged in the business" because he provided clearing services for the securities trading of his clients; other evidence of brokerage activity included receiving transaction-based compensation, advertising for clients, and possessing client funds and securities). However, where banks customarily hold securities for customers in accounts in other parts of the bank, these funds and securities may be accessed as part of a transaction covered by the trust and fiduciary exception.

[126] *See* 15 David A. Lipton, *Broker-Dealer Regulation*, *supra* note 124 at 1.04[3].

[127] Exchange Act Section 3(a)(4)(B)(ii) [15 U.S.C. 78c(a)(4)(B)(ii)].

[128] *Id.*

[129] H.R. Rep. No. 106–74, pt. 3, at 164 (1999) ("The Commission is expected to interpret * * * the reference[ ] to 'chiefly' * * * so as to limit a bank's ability to receive incentive compensation or similar compensation that could foster a 'salesman's stake' in promoting a securities transaction.").

[130] H.R. Rep. No. 106–74, pt. 3, at 164 (1999).

[131] Generally, trust instruments and state trust laws allow trustee compensation on an account basis that is "reasonable" and "not excessive." 1 Scott, *supra* note 91, Section 242 at 275. Moreover, we note that courts consider the cost of performing trustee services in determining the reasonableness of trustee compensation. *See, e.g., In re Powell*, 411 P.2d 162 (Wash. 1966) (stating that the "universal" standards needed to determine trustee compensation are: (1) The amount of risk and responsibility involved, (2) the time actually required of the trustee in the performance of the trust, (3) the size of the estate, (4) the amount of income received, and (5) the manual and overall services performed).

[132] We chose 10% as a threshold because we understand that many banks would fit within this exemption using that threshold.

[133] Exchange Act Sections 15(a)(2), 23(a)(1), and 36(a)(1) [15 U.S.C. 78o(a)(2), 78w(a)(1), and 78mm(a)(1)].

considered calculations on a more frequent basis, such as quarterly, but concluded that annual calculations would achieve the purposes of the provision with lower burdens for banks. The definition of "chiefly compensated" incorporates this concept by allowing banks to use a calendar year or other fiscal year consistently used by the bank for recordkeeping and reporting purposes.

c. A Flat Or Capped Per Order Processing Fee. A bank may count as one of its statutorily enumerated sources of compensation "a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers."[134] New Rule 3b–17(b) defines this term as a fee that is no more than the amount a broker-dealer charged the bank for executing the transaction, plus the costs of any resources of the bank that are solely dedicated to transaction execution, comparison, and settlement for trust and fiduciary customers. Per transaction charges are a hallmark of a brokerage relationship, and Congress explicitly limited a bank trust department to cost recovery for these charges.[135]

These dedicated resources would include the salary of a bank trust department employee whose sole responsibility is working on a trading desk that is exclusively dedicated to executing and comparing trades for trust or fiduciary customers. These dedicated resources would also include information technology resources exclusively related to trade execution, comparison, and settlement for trust or fiduciary customers, such as trade execution and comparison software that links a bank trust department trading desk with broker-dealers.

In contrast, these dedicated resources would not include the cost of an employee's incentive based compensation related to the number, size, or value of trades executed. Such incentive payments typically do not reflect costs incurred to execute trades, but rather are inducements to encourage trades. These dedicated resources also would not include the cost of shared resources, general overhead allocation, or a return on capital.

If a per order processing fee exceeds the broker-dealer charges and the costs of dedicated resources, that entire fee would be excluded from the "per order processing fee" source of revenue. We also believe that brokerage commissions paid to execute trust and fiduciary transactions would not fall within the "flat or capped per order processing fee" definition if they result in cash rebates or soft dollar benefits to the bank other than for brokerage, research, or expenses covered by this definition.[136] Soft dollar benefits are, on their face, more than the cost of executing a trade.[137] However, commissions resulting in payments for general research and brokerage expenses of the trust department that are strictly within the safe harbor of Exchange Act Section 28(e) would not need to be deducted from the costs that are permitted to be passed through to customers.[138]

We note that, consistent with fiduciary principles and standards, banks may send trades to be executed by affiliated broker-dealers under the trust and fiduciary activities exception. However, banking regulators have recognized that sending trust customer trades to an affiliated broker-dealer raises issues regarding the bank's fiduciary obligation to its trust customers.[139] In addition, we note that fees charged to fiduciary accounts, including brokerage commissions, must be consistent with fiduciary principles. We intend to rely primarily on the banking regulators' supervision of whether these fees are in fact consistent with fiduciary principles.

d. "Relationship Compensation," "Sales Compensation," And "Unrelated Compensation". To calculate whether banks are "chiefly compensated" for effecting transactions in a manner consistent with the terms of the trust and fiduciary activities exception, we compare two categories of bank compensation related to transactions, which we call "sales" compensation and "relationship" compensation. "Relationship" compensation, which is based on the statutorily enumerated sources of compensation, must exceed "sales" compensation for the account to be "chiefly compensated." We exclude other compensation not related to transactions in making the "chiefly compensated" calculation.[140]

i. Relationship Compensation. We have defined the term "relationship compensation" in Rule 3b–17(i) to include the eligible statutory fees, which are generally charged based on an account relationship. As defined in the rule, relationship compensation must be received directly from the customer or beneficiary, or directly from the assets of the trust or fiduciary account. An annual or administrative account fee, or an account fee that is based on a percentage of assets under management, received from these sources would be relationship compensation. We interpret a percentage of assets under management fee as a fee for the bank's managing or otherwise caring for the assets of a trust or fiduciary account. Assets under management fees would not include payments from other persons, such as investment companies, that are based on the amount of assets maintained by the bank's trust and fiduciary accounts with those other persons. We believe this interpretation is consistent with the intent of the trust and fiduciary activities exception.[141] In addition, relationship compensation would include a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers.

ii. Sales Compensation. We also define the term "sales compensation" in Rule 3b–17(j) for purposes of determining whether a bank is "chiefly compensated."[142] Sales compensation includes: (1) A fee for effecting a transaction in securities that is not a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers; (2) compensation that if paid to a broker or dealer would be payment for order flow;[143] (3) a fee received in connection with a securities transaction or account, except for those finders' fees received pursuant to the networking exception in Exchange Act Section 3(a)(4)(B)(i);[144] (4) fees paid for an offering of securities that are not received directly from a customer or beneficiary, or directly from the assets of the trust or fiduciary account; (5) fees paid pursuant to a Rule 12b–1 plan under the Investment Company Act of 1940 ("Investment Company Act");[145] and (6) "service fees" paid by an investment company for personal service or the maintenance of shareholder accounts.[146]

We understand that some banks acting as trustees or fiduciaries may charge customers an annual or asset-based fee that includes a specified number of securities transactions, or even unlimited trading on an irregular and occasional basis. If a bank charges an annual fee for effecting a certain number of securities transactions, this fee should be scrutinized to determine whether the fee is for transactions or fiduciary services. We believe that this approach is consistent with the statutory intent to separate compensation giving rise to sales incentives from non-sales oriented compensation. For example, if the bank effects transactions in a trustee or other fiduciary capacity where the bank is exercising investment discretion, in addition to offering trades for the annual fee, we believe the entire annual fee should be counted as relationship revenue. If a bank offers continuous and regular investment advice and a specified number of trades for a fee but separately charges for additional trades, we believe that the fees for combined advice/trading would be relationship revenues. The separate charges for trades, however, must be evaluated under the "per order processing fee" definition to determine their status. If the bank acts as an IRA trustee and offers a specified number of trades for a fee, this fee should be evaluated under the "per order processing fee" definition unless the fee permits an unlimited number of trades. If a fiduciary provides an unlimited number of transactions for an annual or assets under management fee, this fee would be considered relationship compensation.

Paying banks to distribute securities, such as when an investment company pays a bank to distribute its shares through Rule 12b–1 fees, creates a conflict of interest between the bank distributor and investors. Rule 12b–1 fees are fees for distributing investment company securities and not for managing investors' assets.[147] We view Rule 12b–1 fees as commissions, and in fact, these fees are often described as trail commissions.[148] Unlike fees for assets under management by the bank, which do not differ depending on the investment selected by the bank but are paid for the management role of the bank, the Rule 12b–1 fees differ based on the particular investment company securities in which the assets are invested and maintained. These differing fees create incentives to distribute particular investment company securities and raise conflicts between the bank and investors. Similarly, finders' fees create incentives for bank trust departments to solicit trust customers to engage in securities transactions with other entities.[149] It is precisely these divided loyalties or conflicts of interest faced by securities salesmen that drive much of broker-dealer regulation, and particularly rules governing securities practice standards.[150] Therefore, these fees are defined as sales compensation.

iii. Unrelated Compensation. Compensation that does not fall within the definitions of "sales compensation" or "relationship compensation," we call "unrelated compensation." Unrelated compensation should not be used to determine whether banks are "chiefly compensated" in a manner consistent with the terms of the trust and fiduciary activities exception. For example, unrelated compensation includes fees charged separately for any activity of the bank that is not related to securities

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[134] Exchange Act Section 3(a)(4)(B)(ii)(I) [15 U.S.C. 78c(a)(4)(B)(ii)(I)].

[135] We find that this definition is consistent with the provisions and purposes of the Exchange Act. *See* Exchange Act Section 3(b) [15 U.S.C. 78c(b)]; *see also* Exchange Act Section 23(a)(1) [15 U.S.C. 78w(a)(1)].

[136] The soft dollar safe harbor only applies to persons who exercise "investment discretion with respect to an account." Exchange Act Section 28(e)(1) [15 U.S.C. 78bb(e)(1)]. The term "investment discretion" is defined in Exchange Act Section 3(a)(35) [15 U.S.C. 78c(a)(35)].

[137] Soft dollar arrangements are understood generally as arrangements under which products, services, or other economic benefits, other than the execution of securities transactions, are obtained by a money manager in exchange for the direction by the money manager of client brokerage transactions to a broker-dealer. Investment Advisers Act Rel. No. 1469, 60 FR 9750 (Feb. 21, 1995).

[138] We also note that bank trust departments that accept soft dollar payments for expenses other than brokerage and research do not fit within the Section 28(e) safe harbor. "Brokerage and research services" are defined in Section 28(e)(3) of the Exchange Act as: (1) Furnishing advice, either directly or through publications or writings, as to the value of securities, the advisability of investing in, purchasing, or selling securities, and the availability of securities or purchasers or sellers of securities; (2) furnishing analyses and reports concerning issuers, industries, securities, economic factors and trends, portfolio strategy, and the performance of accounts; or (3) effecting securities transactions and performing functions incidental thereto (such as clearance, settlement, and custody) or required in connection therewith by rules of the Commission or a self-regulatory organization of which such person is a member or person associated with a member or in which such person is a participant. Exchange Act Section 28(e)(3) [15 U.S.C. 78bb(e)(3)].

[139] The OCC has stated, for example, that the general rule followed by it is that national banks could only effect securities transactions through an affiliated discount broker-dealer if the transactions are performed on a non-profit basis. *See* OCC Trust Banking Circular 23 (Oct. 4, 1983). The OCC subsequently stated that "[t]o the extent that TBC–23, "Policy of the OCC with Respect to Trust Department Purchase of Securities Through Affiliated Discount Brokerage Companies," (Oct. 4, 1983) permitted affiliated brokerage transactions on a nonprofit basis, that policy is no longer in effect." *See* OCC Trust Interpretive Letter No. 273 (Sept. 23, 1992).

[140] We find that this definition is consistent with the provisions and purposes of the Exchange Act. *See* Exchange Act Section 3(b) [15 U.S.C. 78c(b)]; *see also* Exchange Act Section 23(a)(1) [15 U.S.C. 78w(a)(1)].

[141] H.R. Rep. No. 106–74, pt. 3, at 164 (1999).

[142] We find that this definition is consistent with the provisions and purposes of the Exchange Act. *See* Exchange Act Section 3(b) [15 U.S.C. 78c(b)]; *see also* Exchange Act Section 23(a)(1) [15 U.S.C. 78w(a)(1)].

[143] 17 CFR 240.10b–10(d)(9).

[144] Exchange Act Section 3(a)(4)(B)(i) [15 U.S.C. 78c(a)(4)(B)(i)]. *See, e.g.*, NASD Rule 2420; NYSE Rule 345. *See also NASD Guide to Rule Interpretations*, III. Questions and Answers, A. Frequently Asked Interpretive Questions About NASD Rules and Regulations With Responses From Its Office of General Counsel, Question 1. (as of 9/12/2000) (NASD's Office of General Counsel stated that "it is improper for a member or person to [pay finders' or referral fees to third parties that introduce or refer prospective customers to the member] unless the recipient is registered as a representative of an NASD member firm. * * *" The NASD has consistently maintained that persons who introduce or refer prospective customers and receive compensation for such activities are engaged in the securities business for the member in the form of solicitation"); IV *NYSE Interpretation Handbook*, Rule 345, Employees—Registration, Approval, Records, at (a)(i)/02 (Compensation to non-registered persons) ("Rule 345(a) precludes members and member organizations from paying to non-registered persons compensation based upon the business of customers they direct to members or members organization if (a) the compensation is formulated as a direct percentage of the commissions or income generated, or * * * (d) such person regularly engages in activity which may be reasonably expected to result in the procurement of new customers or orders. * * *").

[145] Rule 12b–1 under the Investment Company Act of 1940 [17 CFR 270.12b–1] allows investment companies to use their assets to finance sales related expenses. *See* Investment Company Act Rel. No. 11414, 45 FR 73898 (Nov. 7, 1980).

[146] Our definition is based on the NASD's definition of "service fees." "Service fees" are distinguished from other fees because they relate to personal services provided to the customer, such as a registered representative providing information on investments. The NASD excludes from the term "service fees" fees paid to a transfer agent for performing shareholder services pursuant to its transfer agent agreement. The term "service fees" also does not include record keeping charges, accounting expenses, transfer costs, or custodian fees. Specific services not covered by the term "services fees" include: (1) Transfer agent and subtransfer agent services for beneficial owners of the funds' shares; (2) aggregating and processing purchase and redemption orders; (3) providing beneficial owners with statements showing their positions in the investment companies; (4) processing dividend payments; (5) providing subaccounting services for fund shares held beneficially; (6) forwarding shareholder communications, such as proxies, shareholder reports, dividend tax notices; and updating prospectuses to beneficial owners; and (7) receiving, tabulating, and transmitting proxies executed by beneficial owners. Unlike "service fees," these other fees would be unrelated compensation rather than sales compensation. *See* NASD Rule 2830(b)(9); NASD Notice to Members 93–12 (1993) at Question 17 (explanation of term "service fees").

[147] *Id. See also* Investment Company Act Rel. No. 16244, 53 FR 3192 (Feb. 4, 1988); Exchange Act Rel. No. 30897, 57 FR 30985–02 (July 13, 1992).

[148] *See supra* note 146, regarding Rule 12b–1 fees.

[149] *See supra* note 144, regarding finders' fees.

[150] By way of contrast, such conflicts of interest are managed differently under the fiduciary principles that take the place of the protections of broker-dealer regulations for activities covered by the trust and fiduciary activities exception. For example, in 1983, the FDIC issued an opinion, which generally addressed the use of unaffiliated discount brokers, stating that bank trust departments "should not share in any commission associated with the transactions" for a trust customer. *See* FDIC General Counsel's Opinion No. 6, 48 FR 22989 (May 23, 1983). The FDIC subsequently stated that, in the absence of a statutory prohibition, and assuming no unusual facts, the sharing of commissions would not itself give rise to a breach of fiduciary obligations if "(1) a trust instrument expressly authorizes the bank trustee to share in commissions generated by securities transactions effected on behalf of the account, and (2) the settlor of the trust entered into the authorization after full disclosure of the facts." *See* FDIC–84–10 (Apr. 3, 1984).

transactions, such as taking deposits, lending funds (including margin lending), managing non-securities assets, or providing other services that are not related to managing securities accounts pursuant to the trust and fiduciary activities exception. Unrelated compensation also includes compensation received pursuant to another exception under the GLBA, such as a fee received pursuant to the networking exception, except for a referral fee listed in that exception.[151]

In addition, unrelated compensation includes other compensation received by the bank, such as when the bank acts as an investment adviser, transfer agent, or custodian to an investment company, or receives administrative fees from an investment company, including payments for providing subtransfer agent, subaccounting, or administrative services for securities accounts.[152] As stated previously, where the customer is charged an annual or assets under management fee by a bank that meets the conditions of acting in a trustee or fiduciary capacity or as an investment adviser for a fee, the entire annual or assets under management fee would be relationship compensation. This would also be the case if the fee included compensation for an unlimited number of transactions, even though the investor may only effect a few transactions.

e. "Chiefly Compensated" Computation. To calculate whether it is "chiefly compensated," Rule 3b–17(a) requires that a bank must first set aside any compensation received from an account that does not fall within the definitions of "relationship compensation" or "sales compensation," in Rules 3b–17(i) and (j), respectively. In other words, the bank must set aside "unrelated compensation." The bank then must identify the remaining compensation received from the account either as "relationship compensation" or "sales compensation," again based on the definitions of those terms in Rule 3b–17. To meet the definition of "chiefly compensated" in Rule 3b–17(a) for this account, the bank's relationship compensation from the account must exceed its sales compensation for that account in the immediately preceding year, which can be either a calendar year or other fiscal year consistently used by the bank for recordkeeping and reporting purposes.[153]

A simple chart providing an example of the "chiefly" calculation is set forth below. This chart is based on a trust customer with $1,000,000 in trust assets, all of which are invested in investment company securities. In this chart, the bank trust department charges a $1,000 annual base fee plus 1.235% of the first $1,000,000 under management. For the $1,000 annual base fee, the bank provides continuous and regular investment advice and allows the customer to effect securities transactions on an occasional and irregular basis. Because the bank also provides fiduciary services in addition to trades for this fee, this fee would be relationship compensation. The 1.235% of assets under management fee is not related to the customer's self-directed trades, and therefore would be relationship compensation.[154] The bank also receives 41 basis points as sales compensation in the form of Rule 12b–1 fees from the investment company.

Bank A receives:	Relationship compensation for $1,000,000 in trust assets	Sales compensation for $1,000,000 in trust assets
Base fee $1,000	1,000	.....
Assets under management fee of 1.235%	12,350	.....
Rule 12b–1 fees		$4,100
Total	13,350	4,100

The account meets the "chiefly compensated" definition because the $13,350 in relationship compensation exceeds the $4,100 in sales compensation.

In defining "chiefly compensated," we have taken a conservative approach by adopting a definition that requires that the "relationship compensation" simply exceed the "sales compensation" on an annual basis. This definition depends upon all of the imbedded definitions and interpretations, including our definitions of the terms "relationship compensation," "sales compensation," and "flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers." In addition, the items included within each of the categories of compensation were carefully chosen in consideration of the test that simply requires that the "relationship compensation" exceed the "sales compensation." We considered requiring a higher level of relationship compensation in interpreting this phrase as we did in interpreting "predominantly" with respect to the origination of asset-backed transactions in Rule 3b–18.[155] Requiring a higher level of relationship compensation, at least initially, also would have been consistent with the approach taken by the Federal Reserve as the revenue test for so-called section 20 subsidiaries developed.[156] We chose the more than 50% approach for the purposes of this interim final rule. We solicit comment on whether the chiefly test should be higher, such as 75% or 90%.

f. Rule 3a4–2—Exemption For Banks That Are Compensated By Relationship Compensation. We are particularly sensitive to the concerns expressed by banks regarding the compensation computations required under the trust and fiduciary activities exception. Therefore, we are adopting Rule 3a4–2[157] to permit banks that are compensated almost entirely by relationship compensation to avoid making calculations on an account-by-account basis. We find that this exception is necessary or appropriate in the public interest and is consistent with the protection of investors.[158] It should minimize the costs and regulatory burdens on banks arising from the GLBA requirements relating to the trust and fiduciary compensation computations discussed above.

New Rule 3a4–2 exempts a bank from the definition of "broker" if it: (1) Complies with the trust and fiduciary activities exception, except for the "chiefly compensated" condition; (2) can demonstrate that sales compensation, as that term is defined in Rule 3b–17, received during the immediately preceding year for its total fiduciary activities is less than 10% of the total amount of relationship compensation, as that term is defined in Rule 3b–17, received for its total fiduciary activities during the same year; (3) maintains procedures reasonably designed to ensure compliance with the definition of "chiefly compensated" with respect to a trust or fiduciary account: (i) When the account is opened, (ii) when the compensation arrangement for the account is changed, and (iii) when sales compensation received from the account is reviewed by the bank for purposes of determining an employee's compensation; and (4) complies with the requirement that resulting orders be executed through a broker-dealer (or in a cross trade).

A bank must first determine whether a trust or fiduciary account involves activities for which the bank relies on the trust and fiduciary activities exception. Compensation from accounts that do not hold securities would not be included in the 10% calculation because the definitions of relationship compensation and sales compensation are based on securities activities conducted under the trust and fiduciary activities exception. Similarly, compensation received by the bank for activities covered by another exception or exemption would not be included in the 10% calculation. Once a bank determines which accounts contain securities, which should be done at the same time as the 10% calculation, the bank can use the total compensation received from these accounts for the 10% calculation.

A simple chart providing an example of the 10% calculation is set forth below. The bank's total revenue is $1,000,000 from its trust and fiduciary accounts that contain securities. The bank acts as a personal trustee, and as an ERISA trustee. Asset under management and annual fees from its personal trusts and ERISA trusts are the bank's main source of revenue. The bank also receives sales compensation in the form of Rule 12b–1 fees and fees for executing trades that are not flat or capped per order processing fees.

Bank A receives:	Relationship compensation	Sales compensation
Personal trustee:		
a. Total annual and assets under management fees	$500,000	.....
b. Total 12b–1 fees	.....	$4,000
ERISA trustee:		
a. Total annual and assets under management fees	480,000	.....
b. Total non-flat or capped per order fees	.....	16,000
Total	980,000	20,000

The bank would meet the 10% calculation because its sales compensation, $20,000, is less than 10% of its relationship compensation, $980,000 ($20,000/$980,000 = 2%).

A second chart using the example of a bank acting as an indenture trustee illustrates the interaction of this exemption with other exemptions, statutory exceptions, and non-securities income. An indenture trustee receives income from five sources: annual fees, fees for effecting transactions in government securities that are not flat or capped per order fees, fees for non-securities related services, Rule 12b–1 fees for investing in no-load money market funds, and non-flat or capped per order fees for effecting transactions in securities that are not covered by another exception. Even though the bank is charging the indenture trusts transaction fees for government securities that are not flat or capped per order processing fees, these fees would count as unrelated compensation for purposes of the 10% calculation because the transactions are covered by the permissible securities transactions exception.[159] Similarly, the Rule 12b–1 fees for no-load money funds (which are sales compensation) would count as unrelated compensation for purposes of the 10% calculation because the bank is exempt for effecting transactions in no-load money funds when acting as an indenture trustee under Rule 3a4–3. Fees for non-securities related services would also be excluded from the 10% calculation as unrelated compensation.

Bank A receives:	Relationship compensation	Sales compensation	Unrelated compensation
Indenture trustee:			
a. Annual fees	$5,000,000	.....	.....
b. Non-flat or capped per order fees for gov't securities transactions	.....	.....	$5,000
c. Non-securities related fees	.....	.....	5,000
d. 12b–1 fees for no-load money funds	.....	.....	150,000
e. Non-flat or capped per order fees for other securities transactions	.....	50,000	.....
Total	5,000,000	50,000	160,000

The bank would meet the 10% calculation because its sales compensation, $50,000, is less than 10% of its relationship compensation, $5,000,000 ($50,000/$5,000,000 = 1%).

As discussed above, the bank must maintain procedures reasonably designed to ensure compliance with the chiefly compensated condition with respect to a trust or fiduciary account: (1) When the account is opened; (2) when the compensation arrangement for the account is changed; (3) and when sales compensation received from the account is reviewed by the bank for purposes of determining an employee's compensation. We do not believe that these procedures will be unduly burdensome to banks. Rather, the procedures need to be reasonably designed to ensure compliance with the definition of "chiefly compensated" with respect to a trust or fiduciary account in the three described situations. For new accounts, bank employees could project on a prospective basis whether an account, depending on the type and activity of the account, is likely to generate more of its revenue from relationship compensation than sales compensation. For existing accounts, bank employees could review whether an account, depending on the type and activity of the account, generated more of its revenue from relationship compensation than sales compensation.

In addition, under the compensation element of the requirement, the bank

[151] *See* Exchange Act Section 3(a)(4)(B)(i)(VI) [15 U.S.C. 78c(a)(4)(B)(i)(VI)].

[152] For a complete list of payments included in this category, *see* NASD Notice to Members 93–12 (1993) at Question 17 (what does the term "service fees" include or exclude?). *See supra* note 146, regarding service fees.

[153] We find that this definition is consistent with the provisions and purposes of the Exchange Act. *See* Exchange Act Section 3(b) [15 U.S.C. 78c(b)]; *see also* Exchange Act Section 23(a)(1) [15 U.S.C. 78w(a)(1)].

[154] Even if this fee is related to the customer's self-directed trades, it would be relationship compensation if the customer effected the trades as part of the bank's fiduciary relationship.

[155] The word "chiefly" is defined as: (1) in chief, in particular; preeminently; especially, particularly; above all, most of all; and (2) (relative to others) principally, mainly, for the most part (usually with the force of "mainly but not exclusively"). 3 J.A. Simpson & E.S.C. Weiner, *The Oxford English Dictionary* (2d ed. 1989).

[156] *See infra* at notes 276–78 (Section 20).

[157] 17 CFR 240.3a4–2.

[158] Exchange Act Section 36(a)(1) [15 U.S.C. 78mm(a)(1). *See* Exchange Act Section 3(b) [15 U.S.C. 78c(b)]; *see also* Exchange Act Section 23(a)(1) [15 U.S.C. 78w(a)(1)].

[159] Section 3(a)(4)(B)(iii) of the Exchange Act [15 U.S.C. 78c(a)(4)(B)(iii)].

needs to maintain procedures for situations in which the bank uses sales compensation received from accounts in determining the compensation of an employee. The bank does not need these procedures if it only uses relationship compensation received from accounts in determining an employee's compensation.

If, after reviewing an account, a bank determines that the account either is likely to exceed the compensation limits or has done so in the past, the bank must follow its procedures to bring the account into compliance with the "chiefly compensated" definition. For example, a bank can do this by revising the compensation schedule or shifting the securities trades into the client's brokerage account.

We believe this exemption, which permits banks to avoid calculations on a continuous basis in much of their traditional trust business, is consistent with Congress' dual intents of not disturbing traditional trust activities and requiring securities business that has been conducted in the trust department to be administered in the future by a broker-dealer that is subject to the investor protections available under the federal securities laws.

g. Rule 3a4–3—Exemption From "Chiefly Computation" For Indenture Trustees. We are adopting Rule 3a4–3[160] to provide an exemption to address the use of the trust and fiduciary activities exception from the broker registration for banks that serve as indenture trustees. As discussed previously, banks may serve as indenture trustees in accordance with the requirements of the TIA. The issuer of a bond indenture may be a state, a municipality, a quasi-public authority, a school, a church, or any organization that needs to raise cash through the sale of bonds. Bonds may be sold to the general public, to a limited investor group, or to a single investor such as an insurance company or governmental agency.

As a part of its duties as an indenture trustee, a bank also may invest otherwise idle cash in shares of money market investment companies or other securities, solely at the direction of the issuer of the bonds. Commonly, compensation that may be received from an investment company or its distributor for investments of mutual funds is considered when the terms of the trust indenture, including the bank's compensation, are negotiated.

The trust and fiduciary activities exception requires banks to compute for each trustee or fiduciary account whether the bank meets the "chiefly compensated" condition. A bank acting as a trustee under an indenture may not meet the condition that it receive more of its compensation from relationship compensation than from sales compensation because of fee structures individually negotiated with the issuers. Therefore, we are adopting, in Rule 3a4–3, an exemption from the definition of broker for banks acting in the narrow role of indenture trustees investing in no-load money market funds.

Rule 3a4–3 provides that, if a bank, acting in its capacity as a bond indenture trustee, complies with all of the conditions of the trust and fiduciary activities exception, other than the compensation condition, the bank is exempt from the definition of the term "broker" solely for effecting transactions as an indenture trustee in no-load money market funds.[161] Granting banks acting as indenture trustees an exemption to directly place idle cash in a no-load money market fund, an investment vehicle with a constant net asset value per shares and without a sales load, does not create any serious risk of abuse. In addition, the limit in the exemption to no-load, money market funds is consistent with the sweep accounts exception, which provides that a bank may invest depositors' funds through a sweep program without being considered a broker as long as the bank limits its sweep program to no-load, money market funds. Also, granting such an exemption relieves banks acting as indenture trustees of the task of continually watching the maturity of an instrument with the draw schedule of a project financed by bond proceeds. Therefore, we find that this exception is necessary or appropriate in the public interest and is consistent with the protection of investors.[162]

h. Solicitation of Comment. We invite comment on the definition of "chiefly compensated," including whether other methods of calculation would accurately assess whether a bank is meeting the "chiefly compensated" condition, consistent with the investor protection concerns that we have expressed. We also request comment on whether we set the threshold test for being "chiefly compensated" too low and whether we should consider raising that test to a higher level, such as 75% or 90%. In addition, we request comment on whether the definition of "chiefly compensated" also should be changed to require a higher relative amount of "relationship compensation" in the event that any of the underlying definitions were to be changed.

Further, we seek comment on the definition of "a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers." In particular, we are interested in whether we have struck an appropriate balance between accuracy and simplicity by permitting banks to pass on costs of resources exclusively dedicated to trustee and fiduciary transactions, but not pass on the proportional allocations of costs of shared resources. If proportional allocations of costs were permitted, would the record keeping costs exceed the benefits of permitting the allocations? We also solicit comment on both exemptions, and are especially interested other ways to exempt banks that receive small amounts of sales compensation and whether a line of business calculation is feasible.

In addition, some banking industry representatives have told us that banks may charge one comprehensive fee for several accounts of an individual or members of one family. We seek comment on how to treat clusters of accounts for which a bank may charge a single fee attributable to all of the accounts in that cluster. We also seek comment on how to determine a nexus among such accounts to consider the scope of any additional relief that may be necessary.

C. Sweep Accounts Exception

Section 3(a)(4)(B)(v) of the Exchange Act[163] provides an exception from the definition of broker for sweep account activities. Under the exception, a bank will not be considered a broker if it "effects transactions as part of a program for the investment or reinvestment of deposit funds into any no-load, open-end management investment company registered under the Investment Company Act that holds itself out as a money market fund." The sweep accounts exception is intended to continue to allow banks to sweep funds into no-load money market funds without having to register as broker-dealers.

Payments by investment companies of asset-based fees to distributors of their securities create a conflict of interest for the brokers and banks that are distributing these shares. The sweep account exception protects sweep customers from conflicts of interest created by compensation arrangements by limiting banks that are not registered as broker-dealers to sweeping deposit accounts into no-load, money market funds that pay minimal distribution fees. In addition, the sweep accounts exception's limitation to no-load money market funds results in limited risks to bank customers because of the constant net asset value of the funds, the absence of a sales load, and the minimal distribution fees that funds may pay to the banks.

The term "no-load" is not defined in the GLBA or in the federal securities laws. Historically, the term "no-load" was viewed as meaning that neither investors in the fund, nor the fund itself, bore the costs of distributing the fund's shares, including making payments to broker-dealers.[164] The Commission's adoption in 1980 of Investment Company Act Rule 12b–1, which for the first time permitted funds to use their assets to finance distribution expenses, created some confusion as to the meaning of the term.[165] To address this confusion, the National Association of Securities Dealers, Inc. ("NASD") adopted Rule 2830(d)(4), which describes what a "no-load" investment company is. Rule 2830(d)(4) allows an NASD member broker-dealer to describe an investment company as being "no-load" or as having "no sales charge" if the investment company does not have a front-end or deferred sales charge, and if its total charges against net assets to provide for sales related expenses and/or service fees do *not* exceed 0.25 of 1% of average net assets per annum.[166]

Although the rules of the NASD expressly apply only to the conduct of NASD member broker-dealers and their associated persons, our Division of Investment Management has endorsed the NASD's definition of "no load" regardless of whether an investment company is associated with an NASD member. We believe that the NASD's definition of "no load in NASD Rule 2830(d)(4) is reasonable, and we have adopted this definition in Rule 3b–17(f). This definition should help clarify the sweep accounts exception.

We also are adopting a definition of "money market fund." Specifically, Rule 3b–17(e) defines that term as an open-end management investment company registered under the Investment Company Act that is regulated as a money market fund pursuant to Rule 2a–7 under the Investment Company Act. Rule 3b–17(f) provides that an investment company registered under the Investment Company Act is "no-load" if: (1) Purchases of the investment company's securities are not subject either to a sales load (as that term is defined in Section 2(a)(35) of the Investment Company Act) or a deferred sales load (as that term is defined in Rule 6c–10 under the Investment Company Act); and (2) its total charges against net assets that provide for sales or sales promotion expenses[167] and for personal services or the maintenance of shareholder accounts do not exceed 0.25 of 1% of average net assets annually and are disclosed in the mutual fund's prospectus.[168]

A bank can meet the conditions of the sweep accounts exception contained in Exchange Act Section 3(a)(4)(B)(v) if it invests customer assets through its sweep program in money market funds that meet the definition contained in new Rule 3b–17(e). All charges against fund assets that fall within the definition count toward the 0.25 of 1% limit, whether they are disclosed as an item in the fund's fee table or as part of the fund's miscellaneous or aggregate expenses.

Rule 3b–17(f) gives effect to the "no-load money market fund" condition of the sweep account exception by reflecting current industry and public understanding of what "no-load" means. The rule would not prevent a bank from directly charging its customers for the bank's sweep services, because such direct charges would have no effect on whether the fund is a "no-load" fund. The rule also would not prevent a bank from sweeping accounts into a money market fund that charges more than 0.25 of 1% of net assets under its Rule 12b–1 plan, provided that it charges a total of no more than 0.25 of 1% of the fund's net assets for sales or sales-related expenses and fees for personal service or the maintenance of the shareholder accounts.[169]

We find that our definitions of the terms "no-load" and "money market fund" used in the sweep accounts exception are consistent with the provisions and puroses of the Exchange Act.[170]

D. Safekeeping And Custody Activities Exception

Exchange Act Section 3(a)(4)(B)(viii) provides an exception from the definition of broker for certain safekeeping and custody activities.[171] Under the exception, a bank will not be considered a "broker" because, as part of customary bank activities, it engages in certain specified types of safekeeping and custody services with respect to securities on behalf of its customers.[172]

Traditionally, activities that have been identified as the type of activity requiring broker-dealer registration include, among other things, executing securities transactions and holding customer funds and securities.[173] The

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[160] 17 CFR 240.3a4–3.

[161] The term "money market fund" is defined in Rule 3b–17(e).

[162] Exchange Act Section 36(a)(1) [15 U.S.C. 78mm(a)(1). *See* Exchange Act Section 3(b) [15 U.S.C. 78c(b)]; *see also* Exchange Act Section 23(a)(1) [15 U.S.C. 78w(a)(1)].

[163] 15 U.S.C. 78c(a)(4)(B)(v).

[164] *See* Investment Company Act Release No. 15431 (June 13, 1988), 53 FR 23258.

[165] Investment Company Act Release No. 11414 (Oct. 28, 1980), 45 FR 73898 (Nov. 7, 1980).

[166] NASD Rule 2830(d)(4) specifically states that a member broker-dealer may *not* "describe an investment company as being "no-load" or as having "no sales charge" if the investment company has a front-end or deferred sales charge *or its total charges against net assets to provide for sales related expenses and/or service fees exceed .25 of 1% of average net assets per annum.*" (emphasis added). *See* Exchange Act Release No. 30897 (July 7, 199), 57 FR 30985–02 (July 13, 1992). NASD Rule 2830(d)(4) was formerly classified as Article III, Section 26(d)(3) of the NASD Rules of Fair Practice. *See* Exchange Act Release No. 36698 (Jan. 11, 1996), 61 FR 1419 (Jan. 19, 1996).

[167] Rule 12b–1 under the Investment Company Act [17 CFR 270.12b–1] provides that an investment company may make payments with respect to the distribution of shares of the investment company securities as long as, among other things, those payments are made pursuant to a written plan. Payments made by a fund pursuant to Rule 12b–1 must be disclosed in the fund's prospectus. *See* Item 8(b) of Form N–1A. In practice, however, fees paid pursuant to a Rule 12b–1 plan sometimes also may relate to types of services other than distribution-related services.

[168] Interim Final Rule 3b–17(f) provides, however, that certain charges a money market fund makes against fund assets will not be considered charges for personal service or the maintenance of shareholder accounts. In particular, charges against a money market fund's assets for transfer agent and subtransfer agent services for beneficial owners of the fund shares; aggregating and processing purchase and redemption orders; providing beneficial owners with statements showing their positions in the investment companies; processing dividend payments; providing subaccounting services for fund shares held beneficially; and forwarding shareholder communications, such as proxies, shareholder reports, dividend and tax notices, updating prospectuses to beneficial owners; and receiving, tabulating, and transmitting proxies executed by beneficial owners will not count toward the 0.25 of 1% limit in Rule 3b–17(f)(2).

[169] Accordingly, banks relying on the sweep accounts exception should ensure that any money market fund included in the bank's sweep program that discloses Rule 12b–1 fees in its prospectus that exceed 0.25 of 1% of the fund's net assets does not use more than 0.25 of 1% of the fund's net assets to pay for sales or sales promotion expenses and personal services or the maintenance of shareholder accounts. A bank could satisfy this obligation by using only money market funds that hold themselves out as no-load funds or by obtaining written confirmation from the money market fund that it is a no-load fund before including the fund in its sweep program.

[170] Exchange Act Section 3(b) [15 U.S.C. 78c(b)].

[171] 15 U.S.C. 78c(a)(4)(B)(viii).

[172] Exchange Act Section 3(a)(4)(B)(viii)(aa–ee).

[173] *See, e.g.*, 15 David A. Lipton, *supra* note 124, at 1.04[3] (having custody or control over the funds and securities of others is a badge of being a broker-dealer); *SEC* v. *Margolin*, [1992 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶97,025 (S.D.N.Y. 1992) (defendant was "engaged in the business" because he provided clearing services for the securities trading of his clients; other evidence of brokerage activity included receiving transaction-based

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safekeeping and custody exception makes clear that banks, as part of customary banking activities, may hold customer funds and securities without being considered a broker if, except with respect to government securities, they do not act as a carrying broker.[174]

In addition, the safekeeping and custody exception explicitly allows banks that hold securities for their customers, on behalf of their customers, to exercise warrants or other rights, facilitate the transfer of funds or securities in connection with the clearance and settlement of the customers' transactions, effect securities lending or borrowing transactions when the securities are in the custody of the bank, invest cash collateral pledged in connection with securities lending or borrowing transactions, and facilitate the pledging or transfer of securities that involve the sale of those securities.[175] Moreover, banks may provide custody and related administrative services to IRAs, pension, retirement, profit sharing, bonus, thrift savings, incentive, or other similar benefit plans without being considered a broker.[176]

Securities trades conducted under the safekeeping and custody exception must still be executed in compliance with Exchange Act Section 3(a)(4)(C). Exchange Act Section 3(a)(4)(C) requires banks that accept orders to the extent they engage in transactions under a specified safekeeping and custody function either to transmit orders to be executed to a registered broker-dealer or to internally cross those orders. Exchange Act Section 3(a)(4)(C) ensures that when investors purchase or sell securities through banks under the trust and fiduciary activities exception, safekeeping and custody exception, and certain stock purchase plans exception, registered broker-dealers, rather than unregulated market intermediaries, ultimately execute those transactions.

Exchange Act Section 3(a)(4)(C) does not require all orders to purchase and sell a security to be sent to a registered broker-dealer. To read the section otherwise would mean that a bank would always be required to purchase or sell the underlying securities through a registered broker-dealer in connection with, for example, an investor's exercise of rights or warrants. This would preclude a bank from filling an investors' exercise of rights or warrants by delivery of shares from the issuer—a commonly used method. However, if a bank does purchase or sell the underlying securities in the open market, Exchange Act Section 3(a)(4)(C) requires banks either to execute the transactions through a registered broker-dealer or internally to cross the trade. Furthermore, Exchange Act Section 3(a)(4)(C) should not be read to permit a bank to accept orders for the purchase or sale of securities in situations not specifically provided for under the safekeeping and custody exception. In this regard, it does not expand a bank's ability to accept orders for the purchase or sale of securities without registering as a broker-dealer.

Congress also did not intend the safekeeping and custody activities exception to allow banks to engage in broader securities activities.[177] For example, although the safekeeping and custody exception permits banks to provide custody and related administrative services to IRAs and various benefit plans,[178] as one of the limited securities-related activities that can be conducted under the safekeeping and custody activities exception, the exception does not allow banks, under the rubric of providing these "related administrative services" [179] to accept orders to purchase and sell securities.

The point at which orders are accepted from customers and routed for execution represents a critical juncture for an investment decision and results in the consummation of the sale. Therefore, it is important that the customer protections, such as employee sales practice and training requirements,

compensation, advertising for clients, and possessing client funds and securities).

[174] 15 U.S.C. 78c(a)(4)(B)(viii)(II). A bank acting as a carrying broker facilitates the transfer of funds and securities associated with the clearance and settlement of securities and related margin lending on behalf of a broker-dealer and executes trades for itself and its customers. A carrying broker relationship is distinguished from a custody relationship by the fact that the bank is selected and its systems are utilized primarily by the broker-dealer rather than primarily by the customer. In a situation where the broker-dealer arranges for a substantial majority of its customers to use bank custody or deposit services of a bank, a carrying broker relationship may be established particularly if the bank performs clearance and settlement functions that the broker-dealer cannot perform economically or efficiently. In contrast, a bank would not be a carrying broker when it acts as custodian for a customer of a broker-dealer and responds to customer directions to deliver securities against payment or cash against receipt of securities.

[175] Exchange Act Section 3(a)(14) provides, "[t]he terms "sale" and "sell" each include any contract to sell or otherwise dispose of." Similarly, Exchange Act Section 3(a)(13) provides, "[t]he terms "buy" and "purchase" each include any contract to buy, purchase, or otherwise acquire." Courts have read this language broadly. For example, the Supreme Court has stated that a transaction does not need to involve cash to constitute a sale of securities for purposes of the anti-fraud provisions of the Exchange Act. *Gelles* v. *TDA Industries*, 44 F.3d 102, 104 (2d Cir. 1994) (citing *SEC* v. *National Securities, Inc.*, 393 U.S. 453 (1969)). Moreover, neither delivery nor the passing of title is required for the transaction to be considered a "sale" for these purposes. The pledge of stock is a "sale" within the meaning of Section 2(3) of the Securities Act. *Rubin* v. *United States*, 449 U.S. 424 (1981). The Court stated that although full title to the pledged securities were not transferred, the transaction nonetheless could be a sale. In the Court's view, the "inchoate but valuable interest" transferred by a pledge (*i.e.*, the right to absolute title and ownership in the event of a default) was an "interest in a security" within the meaning of Section 2(3) of the Securities Act. 449 U.S. at 429–30.

[176] 15 U.S.C. 78c(a)(4)(B)(viii)(ee). *See* H.R. Rep. No. 106–74, pt. 3, note 9 above, at 169 (1999) ("Many of the activities permitted under the safekeeping and custody exception are incidental to activities that banks perform today.").

[177] *See* H.R. Rep. No. 106–74, pt. 3, at 169 (1999) ("This exception is not intended to allow banks to engage in broader securities activities.").

[178] We note that securities in retirement plans, including IRAs, are not immune to the sales practice abuses and fraudulent conduct that the rules of the SROs and securities laws are designed to address. The NASD has brought several enforcement actions for unsuitable recommendations and unauthorized trading in IRA accounts. *See, e.g., In re Frederick C. Heller*, 1991 NASD Discip. LEXIS 115 (Aug. 26, 1991) (registered representative engaged in excessive and unauthorized trading in an IRA account); *In re Paul D. Baune*, 1994 NASD Discip. LEXIS 17 (Aug. 4, 1994) (registered representative violated the NASD's suitability rule by recommending illiquid limited partnerships for the IRA account and non-IRA account of an elderly widow); *In re William J. Lacadamo et al.*, 1997 NASD Discip. LEXIS 35 (May 20, 1997) (registered representative made unsuitable recommendations and engaged in unauthorized trading in IRA accounts). In addition, a pension plan administrator was permanently enjoined from, among other things, violating Sections 10(b), 15(a), and 17(a) of the Exchange Act for acting as an unregistered broker-dealer and misappropriating customer funds, some of which were held at a custodial bank. *See Securities and Exchange Commission* v. *Qualified Pensions Inc. et al.*, Civil Action No. 95–1746 (LFO) (D.D.C. July 2, 1997), Litigation Releases No. 15403, 64 S.E.C. Docket 2280 (July 2, 1997) and No. 14680, 60 S.E.C. Docket 1086 (Oct. 5, 1995). *See also In re Bankers Pension Services, Inc.*, Exchange Act Rel. No. 37567 (Aug. 14, 1996) (order instituting a public administrative proceeding, making findings, and imposing a cease-and-desist order); *In re Transcorp Pension Services, Inc.*, Exchange Act Rel. No. 37278 (June 4, 1996) (order instituting a public administrative proceeding, making findings, and imposing a cease-and-desist order); *First Philadelphia Corp.*, 50 SEC 360 (1990) (allocation of shares in a "hot issue" to a custodial account for the benefit of securities firm's president's son).

[179] Although the term "related administrative services" is not defined in the securities laws, in the broker-dealer industry, administrative services generally are considered to be those services that are labeled as "clerical and ministerial." Clerical and ministerial activities include, for example, mechanical tasks such as bookkeeping and record keeping, performing calculations, and data processing functions. Accepting general orders to buy and sell securities, however, is not a "clerical and ministerial" activity. *Cf. Exchange Services, Inc.* v. *S.E.C.*, 797 F.2d 188, 190 (4th Cir. 1986) (The court determined that the SEC was not being arbitrary and capricious when it relied, as a reason to deny an exemption, on NASD's policy that anyone taking orders from the public must register.). A person accepting general securities orders must, at a minimum, register as an assistant representative for order processing with the NASD. *See generally* NASD Rules 1041 and 1042 (listing registration requirements, and limits on the activities of, assistant representatives).

that flow from broker-dealer registration and application of the federal securities laws apply at this juncture.[180] Accepting orders necessarily involves communication with customers. The risks inherent in communication with customers relating to securities transactions—sales practice abuses and customer confusion—as well as related order taking risks, are risks that the securities laws are uniquely designed to address. Accepting orders to buy and sell securities also implicates concerns traditionally covered by the federal securities laws and the requirement of best execution.[181] For these reasons and the others discussed above, we have determined that "custody" or "related administrative services" do not include accepting orders from investors to purchase or sell securities. In particular, we do not believe that by its terms the safekeeping and custody exception covers a bank that accepts orders from investors to purchase or sell securities other than those specifically permitted in the exception, such as with respect to securities lending and borrowing or investing collateral.

We are supported in our conclusion by a comprehensive reading of the GLBA broker exceptions. An interpretation that banks engaged in safekeeping and custody services may accept orders without being required to register as broker-dealers would contradict the comprehensive statutory scheme of limited brokerage exceptions with the attendant conditions that Congress established for banks to be able to effect securities transactions without any of the investor protections available under the federal securities laws.[182]

Bankers have asserted that the custody exception was intended to preserve all "customary" activities involving custody accounts. This exception, however, just like the other exceptions from broker-dealer registration, was not designed to protect from the federal securities laws every existing bank brokerage activity. Prior to the passage of the GLBA, banks could operate a brokerage business without any conditions and still be excepted from broker-dealer registration. By replacing the blanket exception with specific exceptions, the GLBA limited the range of excluded bank securities activities. Therefore, the terms of a specific exception and the purpose of the exceptions must be examined to determine what bank securities activities were, in fact, excepted. This determination cannot be made merely based on an assumption that all "customary" bank securities activities were excepted.

Although we conclude that the safekeeping and custody activities exception allows banks to accept only those orders specifically permitted in the exception, we are creating two exemptions to permit banks to accept orders from investors for the purchase and sale of securities under limited circumstances in a safekeeping and custody capacity. Rule 3a4–4 provides that small banks may effect transactions in investment company securities in customers' tax-deferred custody accounts. In addition, Rule 3a4–5 provides that banks may accept orders for securities for safekeeping and custody accounts where the bank is not compensated for these transactions. The bank, however, may pass on the broker-dealer's charge for executing the transactions. As discussed below, we find that these exceptions are consistent with the public interest and the protection of investors.[183]

1. Rule 3a4–4—Exemption For Small Bank Custodians Effecting Transactions In Investment Company Securities For Tax-Deferred Custody Accounts

To permit small banks to continue assisting IRA customers to invest in investment company securities under conditions designed to foster a passive sales environment, new Rule 3a4–4 [184] provides that, under certain conditions, a small bank [185] is exempt from the definition of the term "broker" under Section 3(a)(4) of the Exchange Act solely for effecting transactions in securities of an investment company in a tax-deferred account [186] for which the bank acts as custodian under the safekeeping and custody activities exception, or as trustee under the trust and fiduciary activities exception.

We have been advised that small banks offering tax-deferred custody accounts may not have an affiliated broker-dealer or networking arrangements with registered broker-dealers. In 1996—the last year for which data was available—over 90% of banks used registered broker-dealers to effect securities transactions as brokers.[187]

[180] A critical aspect of the federal securities laws is the protection of investors that is accomplished not only through our rules, but also through investor protection conditions imposed by SROs on registered entities and their personnel.

[181] The duty of best execution requires a broker-dealer to seek the most advantageous terms reasonably available under the circumstances for a customer's transaction. The duty of best execution derives from the common law duty of loyalty, which obligates an agent to act exclusively in the principal's best interest. When a broker-dealer acts as agent on behalf of a customer in a transaction, the agent is under a duty to exercise reasonable care to obtain the most advantageous terms for a customer. Restatement 2d Agency Sec. 424 (1958). Traditionally price has been the predominant factor in determining whether a broker-dealer has satisfied its best execution obligations. Exchange Act Release No. 34902, 59 FR 55006 (1994). We also have stated that broker-dealers should consider at least six additional factors: (1) The size of the order; (2) the speed of execution available on competing markets; (3) the trading characteristics of the security; (4) the availability of accurate information comparing markets and the technology to process such data; (5) the availability of access to competing markets; and (6) the cost of such access. *See, e.g.*, Second Report on Bank Securities Activities, at 97–98, n.233, as reprinted in H.R. Rep. No. 145, 95 Cong., 1st Sess. 233 (Comm. Print 1977).

[182] If banks were allowed to effect transactions for compensation as custodians, they would be subject to fewer requirements than banks effecting transactions for investors under other exceptions contained in the GLBA amendments to Exchange Act Section 3(a)(4). Congress created at least three specific exceptions to permit banks to effect securities transactions with retail investors—as part of networking arrangements with broker-dealers; pursuant to the trust and fiduciary exception; and as registered transfer agents for issuer plans. To read the term "administrative services" to include accepting orders for the purchase and sale of securities would mean that banks acting as custodians would be subject to significantly fewer limits than banks that effect transactions with investors in these three situations. In short, an expansive reading of the word "administrative services" would circumvent the conditions of all of the other exceptions that restrict banks' ability to become active brokerage distribution channels outside of the investor protections of the federal securities laws.

[183] Exchange Act Section 36(a)(1) [15 U.S.C. 78mm(a)(1)]; *see also* Exchange Act Sections 15(a)(2) and 23(a)(1) [15 U.S.C. 78o(b)(2) and 78w(a)(1)].

[184] 17 CFR 240.3a4–4. Of course small bank trustees for tax-deferred accounts that are affecting transactions in investment company securities and that are acting as custodian may alternatively rely on this exemption.

[185] We define the term "small bank" as a bank with less than $100 million in assets as of December 31 of both of the prior two calendar years, and since December 31 of the third prior calendar year has not been, an affiliate of a bank holding company or a financial holding company that as of December 31 of both of the prior two calendar years had consolidated assets of more than $1 billion. The $100 million in assets cut-off was derived from The Small Business Administration, Small Business Size Regulations. 13 CFR 121.201; *see also* 66 FR 10212 (citing 13 CFR 121.201).

[186] A "tax deferred account" is defined as those accounts described in Sections 401(a), 403, 408, and 408A under Subchapter D and in Section 457 under Subchapter E of the Internal Revenue Code of 1986.

[187] *See* Testimony of Andrew C. Hove, Jr., Acting Chairman Federal Deposit Insurance Corporation, on Financial Modernization before the Subcommittee on Finance and Hazardous Materials, Committee on Commerce, United States House of Representatives, July 17, 1997, where he said:

Second, the vast majority of insured institutions already use registered broker/dealers for sales of nondeposit investment products. Recent surveys, including the FDIC's 1996 survey of nondeposit investment product sales practices, have found that very few banks—less than 300 out of 10,000—sell such products using their own employees under the present exemption from registration as a broker/dealer. Thus, most of those selling nondeposit investment products at banks and thrifts already are registered representatives of broker/dealers subject to the regulatory oversight of the Securities and

Continued

Nevertheless, small banks without broker-dealers might occasionally accept unsolicited orders for investment company securities from customers in these tax-deferred accounts.

Because the IRC requires tax-deferred accounts to be held by a custodian or trustee, investors often hold these accounts with banks. To avoid unnecessarily disrupting this service in small banks that do not have an affiliate or networking arrangement with a broker-dealer, we provide an exemption from the definition of broker for small banks with under $100 million in assets as of December 31 of both of the two prior years.[188] Such a bank may also not be an affiliate of a bank holding company or financial holding company with more than $1 billion in consolidated assets in the two prior calendar years.[189] Under this exemption, small banks may effect transactions in investment company securities for customers' tax-deferred custody accounts and receive compensation for these securities transactions, subject to a revenue limit. This exemption does not apply to banks that do not meet the definition of "small banks" because these banks can more easily affiliate with a broker-dealer or develop a networking arrangement with a registered broker-dealer.[190]

Because this exemption is designed to allow the bank to effect transactions in securities as an accommodation to its customers, the bank must not be affiliated with a broker or dealer or have a networking arrangement with a broker or dealer to effect transactions in securities for the bank's customers. Similarly, a bank employee effecting transactions under this exemption must not be an associated person of a broker or dealer, must primarily perform duties for the bank other than effecting transactions in securities for customers, and must not receive incentive compensation for such transactions. In effecting transactions under this exemption, the bank also must execute the order through a broker-dealer (or in a cross transaction).[191]

In addition, the bank may solicit transactions only through certain limited activities. First, a bank may deliver only advertising and sales literature about an investment company's securities that is prepared by the registered broker-dealer that is the principal underwriter of the investment company, or prepared by the investment company that is not an affiliated person of the bank, as defined in Section 2(a)(3) of the Investment Company Act.[192] The requirement to use sales literature prepared by a broker-dealer that complies with the NASD's advertising rules is designed to protect investors from representations about investments that could not be made by a registered broker-dealer. Second, banks may respond to questions from potential purchasers of securities, but the bank must limit its answers to information contained in the registration statement for the investment company security or sales literature prepared by the investment company security's principal underwriter that is a registered broker-dealer. Third, a bank may advertise its trust activities, but only as permitted under the advertising conditions of the trust and fiduciary activities exception.[193] Finally, banks may notify their existing customers that they accept orders for investment company securities in conjunction with solicitations related to their other activities concerning tax-deferred accounts.

We are concerned that this exemption could be used primarily as a means to market proprietary investment company securities without the protections available under the federal securities laws. Thus, to meet the conditions of the exemption in Rule 3a4–4, a bank that sells investment company securities of affiliated persons must make available to the tax-deferred account the securities of similar investment companies that are not affiliated persons of the bank.[194] Investment companies with similar characteristics would be investment companies with similar investment objectives and strategies, such as two global equity funds. We solicit comment on whether we need to define further the term "similar characteristics."

Finally, the bank's compensation related to effecting transactions in securities pursuant to this exemption[195] must be less than 3% of its annual revenue.[196] This exemption is provided to permit small banks to accept the occasional investor order to purchase and sell investment company securities for tax-deferred accounts. We have chosen the 3% revenue limit consistent with this intent.

We expect small banks effecting transactions in securities under the terms of this exemption to be offering brokerage services solely as an accommodation to their customers. We do not intend for this exemption to be used to allow an unregistered sales force to market widely securities without complying with the requirements of the federal securities laws, such as licensing, advertising, and other sales practice standards, and continuing education requirements. The conditions a bank must meet to qualify for this exemption reflect this purpose.

In adopting this exemption, we have carefully balanced the administrative convenience to investors of submitting orders to small bank custodians that do not have arrangements with broker-dealers to interact with these customers, with the loss of the protections afforded to those investors under the federal securities laws. We also have considered that small broker-dealers do not have a similar exemption from the application of the federal securities laws. Nonetheless, in this limited situation, we believe that the exemption for small banks is appropriate.

We have imposed a 3% annual revenue limit under this exemption and imposed conditions to limit banks' solicitation of investors to ensure a passive securities distribution channel because none of the protections available to investors under the federal securities laws are available in this situation. We solicit comment on whether this exemption poses a burden on competition for broker-dealers that do not have a similar exemption. We also solicit comment on whether this exemption is necessary and consistent with the protection of investors under the federal securities laws.

Exchange Commission and securities industry self-regulatory organizations, such as the National Association of Securities Dealers (NASD).

[188] Because a new bank, bank holding company, or financial holding company would have no assets in either one or both of the two prior years, it would qualify for the exemption for at least the period of time in which had no assets.

[189] We chose $1 billion to indicate small bank holding companies or financial holding companies because the Federal Reserve Board has previously categorized these companies as "small, noncomplex bank holding companies" for the purpose of determining the type of supervisory review that they receive. *See* 1999 Federal Reserve Annual Report at 122.

[190] Banks cannot structure arrangements with networking broker-dealers or affiliated broker-dealers in which the custody department becomes the carrying broker for the affiliates or networking broker-dealers. *See* Section 3(a)(4)(B)(viii)(II) of the Act [15 U.S.C. 78c(a)(4)(B)(viii)(II)].

[191] Section 3(a)(4)(C) of the Exchange Act [15 U.S.C. 78c(a)(4)(C)]. The bank also may use the NSCC's Mutual Fund Services, including Fund/SERV to execute the order, pursuant to Rule 3a4–4.

[192] *Id.*

[193] Exchange Act Section 3(a)(4)(B)(ii)(II) [15 U.S.C. 78c(a)(4)(B)(ii)(II)].

[194] Investment Company Act Section 2(a)(3) [15 U.S.C. 80a–2(a)(3)].

[195] The term "compensation related to effecting transactions in securities pursuant to this exemption" means the total annual compensation received for effecting transactions in securities pursuant to this exemption, including fees received from investment companies for distribution.

[196] Revenue is defined as the annual total net interest income and noninterest income from the bank's four most recent Reports of Condition and Income or any successor reports required to be filed by the bank's appropriate federal banking agency.

2. Rule 3a4–5—Exemption for Bank Custodians Placing Orders as an Accommodation to Customers

New Rule 3a4–5 [197] is broader than Rule 3a4–4 in that it is available to all banks for the full range of securities. However, the exemption builds upon the passive sales conditions developed in Rule 3a4–4 by also prohibiting receipt by the bank of any transaction-related compensation.

Rule 3a4–5 exempts a bank from the definition of the term "broker" solely for effecting transactions in securities in an account for which the bank acts as custodian under the safekeeping and custody activities exception if the bank meets certain conditions. Specifically, the bank may not directly or indirectly receive any compensation for effecting such transactions. We also impose the same limitations on soliciting orders, and other conditions, as apply to small banks effecting transactions for investors under Rule 3a4–4. The bank also must comply with the order execution condition in Exchange Act Section 3(a)(4)(C).[198]

We believe that the exemption balances the intent of not unnecessarily disrupting bank securities activities with the intent to require active and compensated securities sales operations to be subject to the federal securities laws as required by the GLBA. It will allow existing custody customers to maintain their relationships with their banks to the extent the service of effecting securities transactions is provided as a true accommodation. However, because the protection of the securities laws will not be available, nor will fiduciary standards be applicable, the exemption contains strict compensation limits on the bank and its employees. For example, the bank may not receive sales compensation, as that term is defined in Rule 3b–17. The bank, however, may pass on the broker-dealer's charge for executing the transaction. Thus, under the exemption, if a bank charges an annual or assets under management custodial fee, it must charge the same custody fee to an investor who engaged in many securities transactions as it would to one who engaged in only a few securities transactions or none at all. A bank must also charge the same custody fees regardless of whether the investor invested in proprietary investment company securities or investment company securities sponsored by unaffiliated broker-dealers. These conditions are consistent with our intent to permit banks in their custody capacity to accept investors' orders for the purchase or sale of securities, while limiting to a passive securities distribution channel brokerage that does not carry the investor protections found in the federal securities laws.

We solicit comment on whether this exemption is necessary, and consistent with the protection of investors under the federal securities laws. We also request comments on the exemptions that we have provided for banks that engage in certain securities activities. Are there other areas or lines of business of the banks where an exemption may be appropriate if there are sufficient investor protection obligations? Are there conditions that may be imposed in those circumstances to limit solicitation of securities brokerage and compensation that could address our investor protection concerns?

III. Discussion of Other Exceptions From Broker

A. Affiliate Transactions Exception

Exchange Act Section 3(a)(4)(B)(vi) excepts from the definition of broker a bank that "effects transactions for the account of any affiliate (as defined in section 2 of the Bank Holding Company Act) [199] of the bank." [200] Questions have arisen regarding this exception, particularly in light of one of the exemptions from broker-dealer registration found in Exchange Act Rule 15a–6.[201]

The affiliate exception applies to banks effecting trades for the accounts of affiliates of the bank, excluding registered broker-dealers or affiliates engaged in merchant banking. The exception was provided because affiliates were not deemed to need the protections of broker-dealer registration. The exception does not cover a bank effecting trades with non-affiliated customers, even when the customer transaction also is effected as part of a trade involving an affiliate. A separate exception is necessary for the customer side of the trade.

Exchange Act Rule 15a–6 provides an exemption from U.S. broker-dealer registration for certain foreign broker-dealers.[202] Subsection (a)(4)(i) of Rule 15a–6 [203] allows a foreign broker-dealer to effect transactions in securities with or for a U.S. registered broker-dealer or bank acting in a broker-dealer capacity as permitted by U.S. law. If a foreign broker-dealer or bank is an affiliate of a U.S. bank acting in a broker-dealer capacity permitted by U.S. law, the foreign broker-dealer or bank can rely on Rule 15a–6(a)(4)(i) to effect transactions in securities with or for such U.S. bank without registering in the United States as a broker-dealer. Moreover, in these transactions with its foreign affiliate, the U.S. bank could rely on the affiliate transactions exception.[204] However, if the foreign broker-dealer or bank seeks to have direct contact with customers of the U.S. bank, the foreign entity may not avail itself of the exemption in Rule 15a–6(a)(4)(i). Similarly, the U.S. bank could not rely on the affiliate transactions exception to avoid any registration requirements arising out of its role in the foreign broker-dealer's or bank's dealings with its customers.

B. De Minimis Exception and RULE 3a5–1

Exchange Act Section 3(a)(4)(B)(xi) [205] excepts from the definition of broker banks that effect no more than 500 securities transactions, other than transactions that qualify for one of the other statutory exceptions. A transaction in which the bank is acting as an agent for a customer would count as one transaction toward the 500-transaction limit. Questions have arisen, however, as to whether banks can rely on this exception if they engage in "riskless" principal transactions.[206]

In the context of permissible bank activity under the Glass-Steagall Act, the OCC has interpreted "riskless"

[197] 17 CFR 240.3a4–5.

[198] 15 U.S.C. 78c(a)(4)(C). The bank also may use the Fund/SERV system to execute orders in investment company securities, pursuant to Rule 3a4–6.

[199] Bank Holding Company Act Section 2(k) [12 U.S.C. 1841(k)] defines affiliate to mean "any company that controls, is controlled by or that is under common control with another company."

[200] 15 U.S.C. 78c(a)(4)(B)(vi).

[201] 17 CFR 240.15a–6.

[202] 17 CFR 240.15a–6. Rule 15a–6 and other exemptions from registration remain viable after the passage of the GLBA to the extent that the conditions of such exemptions can be met. Even when the GLBA permits a bank to engage in securities-related activities without itself registering as a broker-dealer, a broker-dealer engaged in the business of effecting transactions for such bank still must register absent an exemption or other exclusion from the requirements of the Exchange Act. For instance, this would be the case for a foreign broker-dealer that handles trades for a bank under Exchange Act Section 3(a)(4)(C). Moreover, foreign banks do not enjoy the bank exemptions because they do not fall within the definition of bank in Exchange Act Section 3(a)(6).

[203] 17 CFR 240.15a–6(a)(4)(i).

[204] Exchange Act Section 3(a)(4)(B)(vi) [15 U.S.C. 78c(a)(4)(B)(vi)].

[205] 15 U.S.C. 78c(a)(4)(B)(xi) [15 U.S.C. 78c(a)(4)(B)(xi)].

[206] "Riskless" principal transactions are generally described as trades in which, after receiving an order to buy (or sell) from a customer, the broker-dealer purchases (or sells) the security from (or to) another person in a contemporaneous offsetting transaction. *See* Exchange Act Rule 10b–10(a)(2)(ii)(A) [17 CFR 240. 10b–10(a)(2)(ii)(A)]; Exchange Act Rel. No. 33743 (Mar. 9, 1994) at n.11.

principal activity as equivalent to agency activity.[207] Nevertheless, under the securities laws, "riskless" principal transactions involve dealer activity because entities that engage in "riskless" principal transactions as a matter of course would be involved in the business of buying and selling securities for their own accounts, even if the risk associated with the transactions is minimal or non-existent.[208] In light of the differing interpretations regarding "riskless" principal transactions, we have determined to adopt Rule 3a5–1 to exempt banks from the definition of dealer provided that the number of "riskless" principal transactions and agency transactions engaged in by a bank does not exceed 500 transactions per year.[209] We believe that this exemption provides relief to banks in an area that may have been understood to have been covered by the *de minimis* exception because of the differing legal interpretations under the banking and securities laws. This exemption, however, does not expand the number of transactions permitted under the statutory exception. Rather, this is a technical exemption to clarify that banks may act as a riskless principal, as well as an agent, and meet the terms of the *de minimis* exception.

Rule 3a5–1 provides that a bank is exempt from the definition of the term "dealer" solely for engaging in riskless principal transactions if the number of such riskless principal transactions combined with transactions in which the bank is acting as an agent for a customer under the *de minimis* exception do not exceed 500 transactions. A "riskless principal transactions" is defined as a transaction in which, after having received an order to buy from a customer, the bank purchased the security from another person to offset a contemporaneous sale to such customer or, after having received an order to sell from a customer, the bank sold the security to another person to offset a contemporaneous purchase from such customer.

For purposes of Rule 3a5–1 and the *de minimis* exception, riskless principal transactions should be counted toward the 500-transaction limit in the following manner. First, a transaction in which the dealer bank is acting as a riskless principal intermediary between a broker-dealer and a non-broker-dealer customer would count as one trade toward the 500-transaction limit. Second, a transaction in which the dealer bank is acting as a riskless principal intermediary between two non-broker-dealer customers would count as two trades toward the 500-transaction limit. We have included this methodology in Rule 3a5–1(b), which explicitly provides that for purposes of the 500-transaction limit "a riskless principal transaction counts as: (1) Two transactions if neither transaction comprising the riskless principal transaction is with a broker or dealer; or (2) one transaction if either transaction comprising the riskless principal transaction is with a broker or dealer."

We believe this methodology is consistent with the *de minimis* exception to the definition of "broker." Specifically, a broker acts as an agent for a customer in executing securities transactions. Because riskless principal transactions are in many respects equivalent to transactions effected on agency basis for customers, we determined to focus on transactions between banks and customers that are similar to agency transactions. Transactions between banks and broker-dealers appear in many respects to be transactions between principals. We therefore determined not to count transactions with broker-dealers for purpose of this exemption.

We request comment on whether riskless principal transactions should be counted as provided in Rule 3a5–1 for purposes of the *de minimis* exception. Should this exception be limited to instances where a broker or dealer is the counterparty to a particular transaction? Are there other specific types of transactions that should be specially accounted for in determining the *de minimis* exception?

IV. Rule 3b–18—Definitions of Terms Used in Asset-Backed Exception to Dealer

Exchange Act Section 3(a)(5)(A) defines the term "dealer" generally as "any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise * * *" Exchange Act Section 3(a)(5)(B)[210] provides an exception for any "person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business." Prior to the passage of the GLBA, the Exchange Act completely excepted banks from the definition. However, the Glass-Steagall Act generally prohibited banks from acting as underwriters or dealers of corporate securities and certain other types of securities. The GLBA retained the general prohibition on bank underwriting and dealing in corporate securities and certain other types of securities but repealed the Exchange Act's blanket exception for banks acting as dealers. The GLBA replaced the blanket exception with four specific exceptions for certain securities activities that a bank may engage in without being considered a dealer.[211] The four exceptions are for: (1) Permissible securities transactions;[212] (2) investment, trustee, and fiduciary transactions;[213] (3) asset-backed transactions;[214] and (4) transactions in identified banking products.[215] The permissible securities transactions exception allows banks to buy and sell permissible securities, which include commercial paper and exempted securities. The second exception permits banks to buy and sell securities for investment purposes for the bank or for the accounts for which the bank acts as a trustee or fiduciary. The third exception is discussed below. The fourth exception permits the bank to buy and sell identified banking products, which include deposit accounts, letters of credit issued by a bank, and loans made by a bank. We view the first, second, and fourth exceptions as not needing additional clarification by rule at this time. However, we do solicit comment on whether there are any issues surrounding the interpretation of these three exceptions of which we should be aware and as to which we should provide guidance.

The third exception allows banks to issue and sell certain asset-backed securities.[216] Under this exception banks are permitted to issue or sell specified securities to qualified investors through a grantor trust or other separate entity without being considered a dealer. The specified securities generally must be originated by the bank and backed by the obligations of the bank's customers. We have identified several issues under this exception that require clarification. We are adopting Rule 3b–18 to assist banks in structuring their activities in accordance with the new asset-backed transaction exception.[217]

The exception to the definition of dealer registration for banks engaging in asset-backed issuance and sale transactions specifically provides that a bank may "engage in the issuance or sale to qualified investors, through a grantor trust or other separate entity, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations (other than securities of which the bank is not the issuer), or pools of any such obligations predominantly originated by: (1) The bank; (2) an affiliate of any such bank other than a broker or dealer; or (3) a syndicate of banks of which the bank is a member, if the obligations or pool of obligations consist of mortgage obligations or consumer-related receivables."[218]

This language makes it clear that Congress intended to create a narrow dealer exception for banks that engage in the issuance and sale of securities based on assets created by the bank itself and sold only to qualified investors. Congress' intent to limit this exception to bank-generated underlying assets is shown by the language found at the conclusion of the section that requires any of the obligations to be "predominantly originated" by the group consisting of the bank and its affiliates. In the case of mortgage obligations and consumer-related receivables, the limitation is expanded to permit a syndicate of banks that includes the issuing bank to originate the obligations or pool of obligations.

Moreover, the legislative history indicates that this exception should be limited to syndicates in which the bank is more than an insignificant member. It states that, "[t]he Committee expects this provision shall be interpreted so that the bank will [have] not less than ten percent of the assets in the syndicate or pool of obligations."[219] This interpretation generally limits the availability of the underwriting exception to asset-backed transactions predominantly originated by the bank that is underwriting the transaction, or involving syndicates where that bank is not an insignificant member. In addition, the exception requires the asset-backed securities to be placed into a grantor trust or other separate entity.

The exception by its terms does not cover repurchases by the bank of the asset-backed securities after they have been originated and issued; rather, the terms of the exception cover the issuance or sale of asset-backed securities. Thus, the exception permits a bank to create, underwrite, and issue asset-backed securities predominantly originated by the bank and its affiliates. This exception does not permit the bank to be a dealer by regularly repurchasing and reselling the asset-backed securities that it issues. A bank may purchase these securities for investment purposes, so long as the bank is not acting as a dealer.[220]

We note that this is the only exception that permits this type of securitized transaction. The exception to the definition of dealer for banks buying or selling identified banking products[221] does not permit the packaging of securities for sale in an asset-backed transaction.[222]

We are clarifying several terms in the asset-backed securities exception to assist banks in understanding how this section applies to their asset-backed securities activities. Specifically, Rule 3b–18 defines the terms "affiliate," "consumer-related receivable," "member of a syndicate of banks," "obligation," "originated," "pool," "predominantly originated," and "syndicate of banks" as used in this exception. We find that these definitions are consistent with the provisions and purposes of the Exchange Act.[223]

First, in defining the term "predominantly," which modifies the term "originated," we looked to other sections of the GLBA in which the term is used. Section 103(n) of the GLBA uses the term "predominantly" to modify "financial" and to allow analysis of whether nonfinancial activities and affiliations may be retained.[224] Section 103(n)(2) of the GLBA expressly provides that a firm is predominantly engaged in financial activities when at least 85% of the annual gross revenues of the consolidated company derive from financial activities, excluding any revenue from banks. To be consistent, we are applying the same numerical test found in Section 103(n)(2) of GLBA for loan product originations for the purpose of the asset-backed securities exception from the definition of dealer.

Therefore, for the purpose of the asset-backed transaction exception, Rule 3b–18(g) defines "predominantly originated" so that a bank may engage in the issuance or sale of asset-backed securities without registration as a dealer if at least 85% of the obligations underlying the securities were originated by the bank or its affiliates, other than its broker-dealer affiliates, or any permitted syndicate of which the bank is more than an insignificant member. Specifically, the bank, its affiliates, or any such syndicate must have originated 85% of the obligations in any pool as measured by the value of the obligations. We considered and

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[207] The OCC stated that, "riskless principal activities are the legal and economic equivalent of permissible brokerage activities inasmuch as riskless principal brokerage is conducted in a manner consistent with the express terms of section 16," of the Glass-Steagall Act. *See* OCC Interpretive Letter No. 371 (June 13, 1986).

[208] *See* Securities Exchange Act Section 3(a)(5). In connection with amendments to Rule 10b–10, however, the Commission stated that "riskless" principal transactions are in many respects equivalent to transactions effected on an agency basis. *See Securities Confirmations*, Exchange Act Rel. No. 15219 (Oct. 6, 1978), 43 FR 47495 (Oct. 6, 1978).

[209] We find that this exception is necessary and appropriate in the public interest and consistent with the protection of investors. *See* Exchange Act Sections 15(a)(2), 23(a)(1), and 36(a)(1) [15 U.S.C. 78o(a)(2), 78w(a)(1), and 78mm(a)(1)].

[210] 15 U.S.C. 78c(a)(5)(B) [15 U.S.C. 78c(a)(5)(B)].

[211] Exchange Act Section 3(a)(5)(C) [15 U.S.C. 78c(a)(5)(C)].

[212] Exchange Act Section 3(a)(5)(C)(i) [15 U.S.C. 78c(a)(C)(i)].

[213] Exchange Act Section 3(a)(5)(C)(ii) [15 U.S.C. 78c(a)(C)(ii)].

[214] Exchange Act Section 3(a)(5)(C)(iii) [15 U.S.C. 78c(a)(C)(iii)].

[215] Exchange Act Section 3(a)(5)(C)(iv) [15 U.S.C. 78c(a)(C)(iv)].

[216] Exchange Act Section 3(a)(5)(C)(iii) [15 U.S.C. 78c(a)(5)(c)(iii)].

[217] *Id.*

[218] Exchange Act Sections 3(a)(5)(C)(iii)(I), (II), and (III) [15 U.S.C. 78c(a)(C)(iii)(I), (II), and (III)].

[219] *See* H.R. Rep. No. 106–74, pt. 3, at 171 (1999).

[220] Exchange Act Section 3(a)(5)(C)(ii) [15 U.S.C. 78c(a)(C)(ii)]. In contrast, a bank also may deal in government securities, such as securities of the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"). Exchange Act Sections 3(a)(5)(C)(II) (exception from "dealer" for exempted securities) [15 U.S.C. 78c(a)(5)(C)(II)], 3(a)(12)(A) (exempted security defined) [15 U.S.C. 78c(a)(12)(A)], and 3(a)(42)(B) and (C) (government securities defined) [15 U.S.C. 78c(a)(42)(B) and (C)].

[221] Section 206 of the GLBA defines the term "identified banking product" as:

"(1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

"(2) a banker's acceptance;

"(3) a letter of credit issued or loan made by a bank;

"(4) a debit account at a bank arising from a credit card or similar arrangement;

"(5) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

"(A) to qualified investors; or

"(B) to other persons that—

"(i) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

"(ii) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines; or

"(6) any swap agreement, including credit and equity swaps, except that an equity swap that is sold directly to any person, other than a qualified investor (as defined in section 3(a)(54) of the Securities Act of 1934) shall not be treated as an identified banking product." 15 U.S.C. 78c note.

[222] Exchange Act Section 3(a)(5)(C)(iv) [15 U.S.C. 78c(a)(5)(C)(iv)].

[223] Exchange Act Section 3(b) [15 U.S.C. 78c(b)].

[224] Bank Holding Company Act Section 4(n)(2) [12 U.S.C. 1843(n)(2)].

rejected also having banks apply the predominantly originated test to the number and dollar amount owing on the obligations as well as the value in an asset-backed transaction pool. We rejected this more extensive test as too burdensome for any increased reliability that it might offer. We invite comment on this definition.

Many of the definitions we are adopting are intended to shed light on the financial terms used in the exception and avoid ambiguities without delving into complex financial issues that may not be relevant to the analysis of whether a bank would be considered a dealer. Thus, the definitions should be relatively straightforward and uncomplicated. In defining the terms, we have looked to generally understood meanings and the interpretations of the other financial participants, including regulators.

For instance, Rule 3b–18(e) provides that "originated" means initially making and funding an obligation.[225] Thus, to count as an obligation originated by the bank or its affiliates, the bank and its affiliates must be the initial lender as shown both by creating and supplying the money for a loan. Rule 3b–18(d) provides that "obligation" means any note, draft, acceptance, loan, lease, receivable, or other evidence of indebtedness that is not a security issued by a person other than the bank.[226]

Rule 3b–18(a) defines the term "affiliate" by using the same definition found in Section 509 of the GLBA and Section 2 of the Bank Holding Company Act.[227] This definition states that affiliate means "any company that controls, is controlled by, or is under common control with another company." Rule 3b–18(h) defines the term "syndicate of banks" to mean a group of banks that acts jointly, on a temporary basis, to loan money in one or more bank credit obligations.[228]

The asset-backed transaction exception allows "consumer-related receivables" to be originated by a syndicate of banks of which a bank is a member, as well as being originated by the bank itself or an affiliate of the bank, other than a broker-dealer.[229] Rule 3b–18(b) defines "consumer-related receivable," as any obligation incurred by any natural person to pay money arising out of a transaction in which the money, property, insurance, or services (being purchased) are primarily for personal, family, or household purposes.[230]

Rule 3b–18(g) defines a "pool" as more than one obligation or type of obligation grouped together to provide collateral for a securities offering.[231] Finally, we note that the term "qualified investor" is defined in Section 3(a)(54) of the Exchange Act, as amended by Section 207 of the GLBA. This definition limits the universe of purchasers of asset-backed securities to a more sophisticated group when there is not a registered broker-dealer underwriting the securities offering.

We invite comment on these definitions, including whether there are any alternate definitions of these terms that would be more appropriate for the purposes of this specific functional exception to the definition of dealer. We also invite comment on whether the 85% test for "predominantly originated" and whether calculating the "predominantly originated by" test based on the value of the obligations is a workable approach, or whether other means of determining "predominantly" should be considered. Commenters also are requested to give their views on whether there are any other definitions or interpretations that should be added, or issues that should be considered to enhance the clarity of this exception.

V. Rule 3a4–6—Exemption To Permit Execution of Investment Company Securities Through NSCC'S Mutual Fund Services

We have been asked whether banks may purchase and redeem shares of open-end investment companies through NSCC's Mutual Fund Services,[232] including Fund/SERV, and still comply with Exchange Act Section 3(a)(4)(C). NSCC's Mutual Fund Services provide an automated system to participants to process transactions in investment company securities. Fund/SERV centralizes order entry, confirmation, registration, and settlement of purchases and redemptions of investment company securities. NSCC's Mutual Fund Services are available to investment companies, broker-dealers, banks, trust companies, and other financial institutions that have been accepted for membership in NSCC.

Exchange Act Section 3(a)(4)(C) requires banks to execute through a registered broker-dealer (or internally cross) securities transactions effected pursuant to the trust and fiduciary activities exception, safekeeping and custody exception, or certain stock purchase plans exception.[233] Banks that use NSCC's Mutual Fund Services to execute transactions in investment company securities may not use a registered broker-dealer to execute these transactions, depending on whether the NSCC arrangement is with the principal underwriter or the transfer agent of the investment company. Therefore, some banks require an exemption from the trade execution requirements of Exchange Act Section 3(a)(4)(C) to continue to use NSCC's Mutual Fund Services while complying with exceptions and exemptions from the definition of broker. We are adopting this exemption to allow banks to continue to execute transactions in shares of open-end investment companies through NSCC's Mutual Fund Services because NSCC's Mutual Fund Services simplify and automate the process for purchasing and redeeming investment company securities without raising investor protection concerns. This exemption is available only to banks that process orders through a service of a registered clearing agency subject to our supervision and regulation. We find that this exception is necessary or appropriate in the public interest and consistent with the protection of investors.[234]

VI. Rule 15a–7—Extentions of Time

We have received a number of requests from representatives of banks for an extension of time to comply with

[225] *See, e.g.*, John Downes and Jordan Elliot Goodman, *Dictionary of Finance and Investment Terms* 422 (5th ed. 1998); Glenn G. Munn, updated by F.L. Garcia, *Encyclopedia of Banking and Finance* 743 (8th ed 1983); and Yahoo! Financial Glossary at http://dir.yahoo.com/Business_and_Economy/Finance_and_Investment/Reference_and_Guides/Glossaries.

[226] *See, e.g., Dictionary of Finance and Investment Terms, Id.*, at 405; John F. Marshall, *Dictionary of Financial Engineering*, 122 (2000); and *Encyclopedia of Banking and Finance, Id.* at 728.

[227] Exchange Act Section 3(a)(4)(B)(vi) adopts the definition of "affiliate" found in Bank Holding Company Act Section 2(k) [12 U.S.C. 1841(k)]. Both definitions are the same.

[228] *See, e.g., Dictionary of Finance and Investment Terms, supra* note 225 at 555; *Encyclopedia of Banking and Finance, supra* note 225, at 907; Yahoo! Financial Glossary, *supra* note 225; *see also Federal Deposit Insurance Corporation Regional Outlook, First Quarter 1999*, at 19, citing American Bankers Association, *Banking Terminology*, 3rd ed., 1989, p. 435.

[229] Exchange Act Section 3(a)(5)(C)(iii)(I–III) [15 U.S.C. 78c(a)(5)(C)(iii)(I–III)].

[230] Adapted from 1989 Fed. Res. Interp. Ltr. Lexis 283 (Aug. 1, 1989).

[231] *See e.g., Dictionary of Financial Engineering, supra* note 226, at 117; *Yahoo! Financial Glossary supra* note 225.

[232] NSCC is a clearing agency registered pursuant to Section 17A of the Exchange Act [15 U.S.C. 78q–1].

[233] 15 U.S.C. 78c(a)(4)(B)(ii), (iv), and (viii).

[234] Exchange Act Section 36(a)(1) [15 U.S.C. 78mm(a)(1); *see also* Exchange Act Sections 15(a)(2) and 23(a)(1) [15 U.S.C. 78o(a)(2) and 78w(a)(1)].

the broker-dealer provisions of the GLBA.[235] These requests indicate that a number of banks will not have completed the process of shifting certain necessary securities activities to a registered broker-dealer by May 12, 2001, to avoid being considered a broker or dealer subject to registration requirements. They also request time to adapt to the guidance provided by the Commission regarding these provisions. We recognize the time concerns that banks have raised. Because banks have historically enjoyed an exception from broker-dealer regulation, we believe they may need additional time to more fully comply with the GLBA amendments and these rules. Accordingly, we are adopting Rule 15a–7, which provides two conditional exemptions from broker-dealer registration to allow additional time for banks to make the necessary arrangements either to register or to comply with a specific functional exception to the definitions of broker or dealer. We find that these exemptions are necessary or appropriate in the public interest and consistent with the protection of investors.[236]

First, Rule 15a–7(a) exempts until October 1, 2001 banks that would otherwise be required to register as a broker or dealer because the bank's securities activities do not fit within the exceptions to the definitions of broker or dealer. Second, Rule 15a–7(b) exempts until January 1, 2002, banks that would be a broker solely because their compensation arrangements—either for the bank or for its employees—do not meet the compensation conditions of a particular exception or exemption.[237] This would include effecting transactions in a money market fund that does not qualify as no-load under the sweeps exception.

VII. Rule 15a–8—Exemption for Contracts Entered Into by Banks Before 2003 From Being Considered Void or Voidable

We recognize that banks may need to adjust their procedures to shift their securities activities to registered broker-dealers or to comply with the conditions of the specific functional exceptions or exemptions to the definitions of broker and dealer. We also are aware that there may be instances where, despite having reasonable procedures in place, a bank may inadvertently fail to meet the terms and conditions of the specific functional exceptions upon which it is relying. This could result in the bank engaging in securities activities in violation of the registration requirements of Exchange Act Section 15 and the rules promulgated under that section.

Exchange Act Section 29(b)[238] provides that any contract made in violation of the Exchange Act or Exchange Act rules shall be void as regards the rights of any person who made or engaged in the performance of any such contract.[239] Occasionally, private parties have invoked this remedy, which is purely equitable in nature,[240] in instances involving broker-dealer registration violations by the opposite party.[241]

As explained above, the amended Exchange Act contains numerous broker-dealer definitional provisions that apply only to banks, which were previously excepted from broker-dealer regulation. Because of this history, we believe that banks may have unique issues in complying with these definitional provisions. It is, therefore, appropriate to provide a transitional period before these provisions fully apply. Therefore, to provide certainty to banks while they become fully familiar with the operation of the exceptions, we are adopting Rule 15a–8.[242] This rule provides an exemption for contracts entered into by banks before January 1, 2003 from being considered void or voidable by reason of Exchange Act Section 29 because a bank that is a party to the contract violated the registration requirements of Section 15(a) of the Exchange Act or any applicable provision of this Act and the rules and regulations thereunder based solely on a bank's status as a broker or dealer when the contract was created. We expect the banks are already working to come into full compliance with the functional regulation provisions of the GLBA. Banks may, however, have inadvertent, technical violations as they become accustomed to the new regulatory requirements. This exemption is designed to recognize the unique compliance problems that many banks have by preventing any inadvertent failures by banks to meet the conditions of the functional exceptions from triggering potential rescission under Exchange Act Section 29 during this transitional period.

We note that this provision does not relieve banks of the obligation to register as a broker or dealer if their securities activities do not fit within a specific functional exception or exemption. We also note that banks' securities activities continue to be subject to the antifraud provisions of the federal securities laws, irrespective of the bank's lack of registration or failure to comply with the provisions of the Exchange Act and the rules thereunder that otherwise apply to banks based on their status as broker-dealers. We, therefore, find that this exemption is consistent with the

[235] Letter from Lawrence R. Uhlick, Executive Director and General Counsel, Institute of International Bankers, to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 15, 2001); Letter from Barry Harris, Chair, Bank Retail Broker-Dealer Committee, Securities Industry Association, to Laura Unger, Acting Chairman, Commission (Mar. 13, 2001); Letter from Sarah A. Miller, Director, Center for Securities, Trust and Investments, American Bankers Association, to Laura Unger, Acting Chairman, Commission (February 28, 2001).

[236] Exchange Act Section 36(a)(1) [15 U.S.C. 78mm(a)(1); *see also*, Exchange Act Sections 15(a)(2) and 23(a)(1) [15 U.S.C. 78o(a)(2) and 78w(a)(1)].

[237] Banks should be aware that the definitions of broker and dealer do not include any exceptions for banks acting as municipal securities dealers. Banks acting as municipal securities dealers are still required to be registered under Exchange Act Section 15B [15 U.S.C. 78o–4] and to comply with requirements of the Exchange Act applicable to municipal securities dealers.

[238] 15 U.S.C. 78cc(b).

[239] Exchange Act Section 29(b) does not make the contract automatically a nullity. Rather, the contract is voidable at the option of the innocent party. *Mills v. Electric Auto-Lite Co.*, 396 U.S. 375, 387 (1970). In this manner, "interests of the victim are sufficiently protected by giving him the right to rescind; to regard the contract as void where he has not invoked the right would only create the possibility of hardships to him or others without necessarily advancing the statutory policy of disclosure." *Id.* at 388.

[240] *Id.* at 388; *see also Occidental Life Ins. Co.* v. *Pat Ryan and Assoc.*, 496 F.2d 1255, 1267 (4th Cir.), *cert. denied*, 419 U.S. 1023 (1974) (principles of equity, like estoppel and waiver, apply to actions brought under Exchange Act Section 29(b)).

[241] *See Boguslavsky* v. *Kaplan*, 159 F.3d 715, 722 (2nd Cir. 1998) (under the liberal pleading standard accorded pro se litigants, an investor properly presented an identifiable claim for rescission under Exchange Act Section 29(b) in asserting that the firm opeated without director of compliance and thus was not properly registered as securities broker-dealer); *Regional Properties, Inc.* v. *Financial and Real Estate Consulting Co.*, 752 F.2d 178, 182 (5th Cir. 1985) (subject to equitable defenses, real estate developers were entitled to rescind agreement with broker to structure and market limited partnership interest where broker had failed to register as required by the Exchange Act); *Regional Properties* v. *Financial and Real Estate Consulting Co.*, 678 F.2d 552, 557, 566–67 (5th Cir. 1982) (recognizing that Exchange Act Section 29(b) provides for a private, equitable cause of action for the rescission of a contract where the securities broker was unlicensed); *Eastside Church of Christ* v. *National Plan, Inc.*, 391 F.2d 357, 362 (5th Cir.), *cert. denied*, 393 U.S. 913 (1968) (churches could void a transaction with broker under Exchange Act Section 29(b) because the broker was unregistered); *Couldock and Bohan, Inc.* v. *Societe Generale Securities, Corp.*, 93 F. Supp. 2d 220, 233 (D. Conn. 2000) (a contract violating broker registration requirements of the Exchange Act is voidable at the option of the innocent party under Exchange Act Section 29(b)).

[242] 17 CFR 240.15a–8.

public interest and the protection of investors.[243]

We request comment on the appropriateness of this temporary exemption from Exchange Act Section 29(b).

VIII. Rule 15a–9—Exemption for Savings Associations and Savings Banks

We are granting an exemption from the definitions of "broker" and "dealer" for savings associations and savings banks[244] on the same terms and conditions that banks are excepted or exempted from broker-dealer registration.[245] Savings associations and savings banks are not "banks" as defined in Exchange Act Section 3(a)(6).[246] Accordingly, they have not had the same general exception from broker-dealer registration for securities transactions as banks have had. Savings associations and savings banks have typically established networking arrangements with broker-dealers.[247]

Now that the general exception for banks has been replaced, and the differences between banks and savings associations have narrowed;[248] it seems reasonable to afford savings associations and savings banks the same type of exemptions. Moreover, insured savings associations are subject to a similar regulatory structure and examination standards as banks.[249] We find that extending the exemption for banks to savings associations and savings banks is necessary or appropriate in the public interest and is consistent with the protection of investors.[250]

In addition, the existence of some of the bank exceptions from broker-dealer registration, such as the trust and fiduciary activities exception, the safekeeping and custody exception, and the sweep accounts exception, that may suggest registration is necessary for certain limited conduct, create legal uncertainty for savings associations and savings banks engaging in such activities. The exemption will allow savings associations and savings banks that are governed by a similar regulatory structure to operate under the same terms and conditions as banks. We emphasize, however, that consistent with functional regulation, savings associations and savings banks, as well as banks, using the trust and fiduciary activities, safekeeping and custody, or stock purchase plan exceptions, must execute securities transactions through registered broker-dealers or internally cross their trades. We note that the OTS, the FDIC, or the Federal Financial Institutions Examinations Council may adopt recordkeeping requirements.[251] We solicit comment on whether there is a need for us to propose regulations to assure parallel recordkeeping requirements. We also request comment on all aspects of this exemption as well as whether it should be extended to any other entities.

IX. Rule 30–3—Delegation of Authority

We are amending Rule 30–3 of our Rules of Organization and Program Management[252] by adding new paragraph (a)(72) to Rule 30–3 to delegate to the Director of the Division of Market Regulation authority to review and, either unconditionally or on specified terms and conditions, to grant or deny to banks, savings associations, and savings banks exemptions from the broker-dealer registration requirements,[253] pursuant to the authority provided in Section 15 and Section 36 of the Exchange Act.[254] The delegation of authority to the Division is designed to conserve our resources by permitting Division staff to grant or deny exemptions where appropriate and in a timely manner. We expect the staff to submit to us novel and complex requests for exemption.

X. Procedural Matters

A. Administrative Procedures Act And Request For Comments

The Administrative Procedures Act ("APA") permits an agency to issue a rule without prior notice and comment upon a finding of good cause, or if the rule is interpretive, a general statement of policy, or a rule of agency organization, procedure, or practice.[255] The APA also permits an agency to issue a rule without delaying its effective date for 30 days from the date of publication if the agency finds good cause and publishes its finding with the rule, or if the rule is not substantive.[256]

For the reasons discussed below, we find that there is good cause for issuing Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a4–6, 3a5–1, 3b–17, 3b–18, 15a–7, 15a–8 and 15a–9 under the Exchange Act without prior notice and comment and without a delayed effective date. We also find that the amendment to Rule 30–3 of our Rules of Organization and Program Management relates solely to agency organization, procedure, or practice, and is not a substantive rule. Accordingly, we are issuing the amendment without prior notice and comment and without a delayed effective date.

As the banking regulators found with respect to certain of their regulations under the GLBA,[257] we find good cause for issuing Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a4–6, 3a5–1, 3b–17, 3b–18, 15a–7, 15a–8 and 15a–9 without notice and comment or a delayed effective date. We make this finding for the following reasons: (1) The short time available between the time members of the banking community requested specific guidance as to the meaning of certain provisions of the GLBA and the date on which those provisions become effective; (2) the amount of input we already have received from the industry on the issues addressed by the rules; (3) the fact that the rules do not impose any new obligations in addition to those created by the GLBA, but rather provide guidance as to the meaning of certain provisions of that statute or provide exemptive relief consistent with the intent of those provisions; and (4) the interim nature of the rules, which come after discussions with the industry, and which invite further comment, with possible revision of the rules in light of those comments.

Although Congress enacted the GLBA in November 1999, members of the banking community more recently requested specific guidance as to the meaning of certain key terms used in the GLBA amendments to the definitions of "broker" and "dealer" and as to the application of those terms to certain activities. The GLBA does not require us to engage in rulemaking in this area, and we initially anticipated that we could work with banks on an individual basis to address their particular concerns. In recent weeks, however, we have received a significant number of inquiries regarding how we interpret some of the key terms in the new definitions. Based on these inquiries, we now believe that it is necessary to provide guidance in the form of rulemaking before the effective date of May 12, 2001.

We recently received many requests for guidance and certain relief by letter. Several of the letters asked us to delay implementing the GLBA amendments to the definitions of "broker" and "dealer."[258] One of the letters expressed the writer's view on how the trust and fiduciary activities exception applied to conduct by indenture trustees and requested an exemption for this conduct from the statute.[259] A different letter from the same writer asked how the trust and fiduciary activities exception applied to banks acting as trustees for certain benefit plans and self-directed IRAs.[260] A separate letter by the same writer asked whether certain investment management services offered by bank trust departments.[261] Another letter asked that we extend the exceptions to the definitions of "broker" and "dealer" to thrifts.[262] Still other letters noted that the term "no-load" was not defined in the GLBA and inquired if we interpreted the term in the same manner as the NASD's definition of that term.[263] In addition, Commission staff has had numerous discussions with industry members during the past few weeks concerning the GLBA amendments. These requests and discussions persuaded us that immediate guidance concerning the scope of the functional exceptions to the definitions of "broker" and "dealer" added by the GLBA is imperative.

The industry requests not only clarified the need for immediate rulemaking, but also provided us with valuable information in drafting the rules. In this regard, Commission staff has received critical input from the banking industry through frequent discussions with staff from banks and industry associations, as well as banking regulators. Our staff has traveled throughout the country to determine what, if any, regulatory issues are of concern to industry members in light of the GLBA amendments. In addition, we initiated a dialogue with the affected industries by soliciting inquiries, participating in industry conferences, and conducting question and answer sessions. Finally, we reviewed information provided to Congress by industry sources, including the American Bankers Association, at the time the GLBA was enacted. As a result, we have received much of the input and information that we would expect to receive from commenters during a pre-effective comment period.

The rules we have adopted in response to industry concerns do not impose any new obligations beyond those created by the statute. Rules 3b–17 and 3b–18 are primarily definitional and are designed to clarify certain terms used in the functional exceptions to the definitions of "broker" and "dealer" added by the GLBA although the definitions of trustee in Rule 3b–17 is also exemptive in nature. Six of the rules, Rules 3a4–2, 3a4–3, 3a4–4, 3a4–

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[243] Exchange Act Section 36(a)(1) [15 U.S.C. 78mm(a)(1)].

[244] This exemption requires savings associations and savings banks to have deposits insured by the FDIC under the FDIA and to not be operated for the purpose of evading the provisions of the Exchange Act. 12 U.S.C. 1811 *et seq.*

[245] Nevertheless, savings associations and savings banks that are municipal securities dealers must register and be regulated as municipal securities dealers pursuant to Exchange Act Section 15B [15 U.S.C. 78o–4]. Banks must also register pursuant to Exchange Act Section 15B. Exchange Act Section 3(a)(34)(A) [15 U.S.C. 78c(a)(34)(A) provides that the "appropriate regulatory agency" of a municipal securities dealer that is a bank regulated by the OCC, the Federal Reserve, or the FDIC is the agency that already regulates the bank. Exchange Act Section 3(a)(34)(A)(iv) [15 U.S.C. 78c(a)(34)(A)(iv)] designates the Commission as the appropriate regulatory agency in the case of all other municipal securities dealers, which includes savings associations and savings banks that are municipal securities dealers.

[246] *See* Letter re: *AmeriFed Federal Savings Bank* (Jan. 18, 1990). The OTS is the appropriate federal regulator for savings associations, which include federally chartered savings banks, and the FDIC is the appropriate federal regulator for state-chartered savings banks as it is for all state-chartered banks that are not members of the Federal Reserve System. 12 U.S.C. 1813(q); *see also,* Investment Company Act Rel. No. 13666, *Status of Savings and Loan Associations Under the Federal Securities Laws; Advance Notice of Possible Commission Action,* 49 FR 6383 (December 19, 1983).

[247] *See, e.g.,* Chubb Letter, *supra* note 38.

[248] *See FDIC Banking Review,* Volume 10, No., 1 pp. 3–18 (June 1997).

[249] *See e.g.,* 12 U.S.C. 1828(c), dealing with the regulatory responsibilities of the banking agencies regarding mergers of insured depository institutions; 12 U.S.C. 1828(i), governing the statutory requirements for a reduction in stock capital; 12 U.S.C. 1828(m), governing activities of savings associations and their subsidiaries; 12 U.S.C. 1818(e), governing insured depository institutions removal and prohibition authority; 12 U.S.C. 1831m, governing early identification of needed improvements in financial condition; and 12 U.S.C. 1831o, governing prompt corrective action. In each of these instances, the OTS has exactly the same regulatory authority as do the federal banking agencies with regard to the banks under their jurisdiction.

The FDIC also must approve the applications of savings associations and savings banks for deposit insurance. 12 U.S.C. 1815. The FDIC receives a notice every time a savings association or savings bank establishes or acquires a new subsidiary or commences a new activity. 12 U.S.C. 1828(m). The FDIC also has additional regulatory and examination authority over these insured depository institutions in its role as the insurer of their deposits, just like it does over state and national banks. 12 U.S.C. 1820. The FDIC also reviews the activities of state chartered savings associations and state chartered banks, including savings banks, whenever they engage in activities that are not permissible for federally chartered savings associations or national banks, respectively. 12 U.S.C. 1831e and 1831a, respectively.

[250] Exchange Act Section 36(a)(1) [15 U.S.C. 78mm(a)(1).

[251] *See* 12 U.S.C. 1828(t).

[252] *See* 17 CFR 200.30–3(a), which is entitled "Delegation of authority to Director of Division of Market Regulation."

[253] Section 15(a) generally requires a broker or dealer to register with us prior to effecting, inducing, or attempting to induce securities transactions.

[254] This delegation of authority does not apply to banks seeking exemptions from registration as a municipal securities dealer under Exchange Act Section 15B [15 U.S.C. 78o–4], which regulates the activities of municipal securities dealers. Banks that act as municipal securities dealers are still required to comply with the requirements of the Exchange Act applicable to non-bank municipal securities dealers. Savings associations and savings banks are required to comply with the requirements applicable to bank municipal securities dealers but by the terms of the exemption in Rule 15a–9 are exempted from complying with those requirements if they comply with rules applicable to bank municipal securities dealers.

[255] The APA provides that prior notice and comment is not required: "(A) [for] interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice; or (B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(A) and (B).

[256] The APA provides that publication of a substantive rule must be made not less than 30 days prior to its effective date, except "(1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d).

[257] *See* Interim Final Rule with Request for Comments, Repurchases of Stock by Recently Converted Savings Associations, Mutual Holding Company Dividend Waivers, 65 FR 43088 (July 12, 2000), comment period extended, 65 FR 60095 (Oct. 10, 2000) (OTS); Joint Interim Final Rule with Request for Comments, Bank Holding Companies and Changes in Bank Control, 65 FR 16460 (Mar. 28, 2000) (Board of Governors of the Federal Reserve System (Federal Reserve and Treasury); Interim Final Rules with Request for Comment, Activities and Investments of Insured State Banks, 65 FR 15526 (Mar. 23, 2000), Final Rule, 66 FR 1018 (Jan. 5, 2001) (FDIC); Interim Final Rule with Request for Comments, Financial Subsidiaries, 65 FR 14819 (Mar. 20, 2000) (Federal Reserve); Joint Interim Final Rule with Request for Comments, Financial Subsidiaries, 65 FR 15050 (Mar. 20, 2000) (Treasury and Federal Reserve); Interim Final Rule with Request for Comments, Application of Sections 23A and 23B of the Federal Reserve Act to Derivative Transactions with Affiliates and Intraday Extensions of Credit to Affiliates, 66 FR 24229 (May 11, 2001) (Federal Reserve).

[258] *See, e.g.,* Letter from Lawrence R. Uhlick, Executive Director and General Counsel, Institute of International Bankers, to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 15, 2001); Letter from Barry Harris, Chair, Bank Retail Broker-Dealer Committee, Securities Industry Association, to Laura S. Unger, Acting Chairman, Commission (Mar. 13, 2001); Letter from Robert M. Kurucza, General Counsel, Bank Securities Association, to Laura S. Unger, Acting Chairman, Commission (Mar. 12, 2001); Letter from Sarah A. Miller, Director, Center for Securities, Trusts, and Investments, American Bankers Association, to Laura S. Unger, Acting Chairman, Commission (Feb. 28, 2001).

[259] Letter from Melanie L. Fein, Counsel, Federated Investors, Inc., to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 30, 2001).

[260] Letter from Melanie L. Fein to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 13, 2001).

[261] Letter from Melanie L. Fein to Robert L. D. Colby, Deputy Director, and Catherine McGuire, Associate Director and Chief Counsel, Division of Market Regulation, Commission (Mar. 7, 2001).

[262] Letter from Scott M. Albinson, Managing Director, OTS, to Annette L. Nazareth, Director, Division of Market Regulation, Commission and Paul F. Roye, Director, Division of Investment Management, Commission (Mar. 20, 2001).

[263] Letter from Barry Harris, Chair, Bank Retail Broker-Dealer Committee, Securities Industry Association, to Laura S. Unger, Acting Chairman, Commission (Mar. 13, 2001); Letter from Senator Phil Gramm, U.S. Senate Committee on Banking, Housing, and Urban Affairs, to Arthur Levitt, Chairman, Commission (Feb. 6, 2001).

5, 3a4–6, 3a5–1, and the definition of trustee in Rule 3b–17, provide exemptive relief for certain practices or activities where we have determined that an exemption is consistent with the intent of a functional exception. Rules 15a–7 and 15a–8 provide additional exemptive relief to banks to give them sufficient time to adjust their securities activities to comply with the new regulatory scheme of the GLBA. Finally, Rule 15a–9, extends the banks' exceptions and exemptions from the definitions of "broker" and "dealer" to savings associations and savings banks.

Accordingly, these rules do not expand the obligations of banks under the new statutory definitions of "broker" and "dealer." Rather, they provide guidance and relief to banks that have not previously been subject to our jurisdiction. They either clarify the Commission's interpretation of certain statutory definitions or provide exemptive relief from those definitions. In our view, the limited scope of the rules reduces the need for pre-issuance comment.

Finally, we note that these are interim rules. While the rules will become effective on May 11, 2001, we are interested in receiving written comments on the rules within 60 days after the date they are published in the **Federal Register**. We will carefully examine the comments that we receive, and we will revise or amend the rules as necessary in light of those comments.

Because of the immediate need for guidance on the GLBA amendments to the definitions of "broker" and "dealer" prior to the May 12, 2001 statutory effective date, the input we have received from the industry, the limited scope of the rules, and the fact that the rules are interim in nature, we find, consistent with the APA, that good cause exists to issue these interim final rules without notice and comment and without a delayed effective date.

Although we have dispensed with notice of proposed rulemaking for the reasons set out above, we are soliciting written comments on the rules within 60 days after their publication in the **Federal Register**. We will consider carefully those comments and make changes to the rules as necessary.

We seek comments on the interpretations and the exemptions set forth in this release. In addition to the requests for comments throughout the release, we seek comment on the following: (1) Whether these rules operate to regulate the banks' broker-dealer operations in the same manner as broker-dealers subject to our jurisdiction prior to the exclusion of a bank from the definition of a broker or dealer; and (2) whether the fiduciary principles triggered by these interim final rules create a standard of conduct or disclosure by banks to which other registered broker-dealers may not be subject. Commenters should also address whether there are any legal or policy reasons why the we should consider different approaches or exemptions, including but not limited to: (1) A description of the issue to be addressed; (2) a description of the necessity of any alternate approach suggested; and (3) a recommendation as to how to remedy the problem identified, if any, as well as the feasibility of adopting and enforcing such remedy. Commenters should, where possible, provide us with empirical data and/or describe specific actions the commenter would suggest we take.

B. Paperwork Reduction Act

These interim final rules do not impose recordkeeping or information collection requirements, or other collections of information that require approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Accordingly, the Paperwork Reduction Act does not apply.[264]

C. Consideration of Costs and Benefits

1. Introduction

When the broker-dealer registration provisions of the GLBA become effective, many banks will need to restructure aspects of their securities-related business to comply with the new statutory requirements.[265] The interim final rules, which will become effective May 11, 2001, define statutory terms and provide banks with conditional exemptions. While these rules may affect how the banks' restructuring occurs, we believe that most of the restructuring will stem from the statute and not from the rules themselves.

Moreover, the extent to which banks need to restructure may be limited by the way they already do business.[266] The majority of banks conduct most of their securities activities through registered broker-dealers that are already regulated by the Commission.[267] Indeed, in 1995, the General Accounting Office "estimated that approximately 87 percent of all sales of securities on bank premises are effected by SEC-regulated broker-dealers."[268] The FDIC confirmed the findings of the GAO in 1997, explaining that very few banks sold securities directly using unregistered bank employees.[269]

In considering the potential costs and benefits of these interim final rules, we have considered the historical securities activities of banks, and how those activities have expanded in recent years. We also have considered the decisions many banks will face in determining how to best restructure their businesses to comply with the new requirements of the GLBA. Finally, we have identified specific costs and benefits, and requested comment on additional costs or benefits that may stem from these interim final rules.

[264] We would expect banks, as a matter of good business practice, to be able to demonstrate that they meet the terms of a particular exemption. We also note that Section 203 of the GLBA specifically requires the bank regulators to promulgate recordkeeping requirements. Banks affected by the GLBA should already be aware of these specific GLBA requirements. *See, e.g., "Gramm-Leach-Bliley Deadlines Draw Near: Be Aware, Prepared"*, Information Access Company, Mar. 1, 2001 (noting that to comply with GLBA "push-out" provisions, or to fall within an exemption in the GLBA, banks must "maintain records that will clearly indicate that the trust department securities activities fall within the exemptions. * * * While banking regulators will provide guidance on the nature any types of records they will ask banks to maintain, there are a few steps banks can take immediately to ensure compliance with the new rules.").

[265] Banks had been excepted from the definitions of "broker" and "dealer" under the Exchange Act since 1934. Until recent years, banks' ability to engage in securities activities had been constrained by federal banking laws. As these constraints lessened, banks have engaged in a broader range of securities activities.

[266] Banks have had varying reasons for choosing to conduct securities activities through a separate entity. For example, some banks believed that their securities activities had greater marketing credibility with a registered securities sales force. Separation of these activities also permitted banks to pay bank and securities sales teams differential compensation. *See* John L. Douglas, *Banking Organizations: Structural and Other Considerations Involving Non-Banking Activities*, 1 N.C. Banking Inst. 59, March 1997 (giving reasons why certain activities may be moved outside of the bank, including "compensation concerns may result in shifting highly commissioned salespeople out of the bank in order to avoid jealousies or salary complaints"); *see also* Michael G. Capatides, *A Guide to the Capital Markets Activities of Banks and Bank Holding Companies* (Mar. 1, 1993) at 154 (although banks may act as private placement agents directly, banks establish separate entities for "operational convenience as well as the desire to develop an investment bank environment with a stand alone compensation plan").

[267] *Reform Law Leaves Some Doubters*, Am. Banker, November 8, 2000 (noting that "many banks and securities firms had already merged via regulatory loopholes.")

[268] *See* U.S. General Accounting Office, Report to Congressional Requesters: *Bank Mutual Sales Practices and Regulatory Issues* GAO/GGD–95–210, at p. 52 (Sept. 1995); U.S. General Accounting Office, Report to Congressional Requesters: *Banks' Securities Activities—Oversight Differs Depending on Activity and Regulator*, GAO/GGD–95–214, at p. 25 (Sept. 1995).

[269] *See* Testimony of Andrew C. Hove, Jr., Acting Chairman, Federal Deposit Insurance Corporation on Financial Modernization Before the Subcommittee on Finance and Hazardous Materials, Committee on Commerce, United States House of Representatives, July 17, 1997, *supra* at note 187.

2. Banks' Securities Activities Before the GLBA

The Glass-Steagall Act, the Bank Holding Company Act and its 1970 amendment[270] restricted banks' ability to engage in many businesses, including the securities business.[271] As a result, commercial and investment banking[272] in the U.S. were separated for over 60 years.

The GLBA repealed Sections 20 and 32 of the Banking Act of 1933.[273] Section 20 forbade affiliations between commercial banks and securities firms that were "engaged principally" in the investment banking business.[274] Section 32 prohibited persons involved "in any aspect of the investment banking business" from serving as an officer, director, or employee of a bank that was a member of the Federal Reserve System.[275]

Prior to their repeal, however, these prohibitions had already eroded over time. In 1987, Section 20 of the Glass-Steagall Act was significantly liberalized, with the regulatory expansion of bank holding companies' abilities to underwrite corporate debt and equity through their registered broker-dealer affiliates (known as "Section 20" affiliates).[276] The Federal Reserve established a revenue test to determine if a Section 20 affiliate was "engaged principally" in underwriting and dealing.[277] That revenue test created an incentive for banks to shift permissible securities activities into affiliated broker-dealers.[278]

Commercial banks also benefited from using broker-dealers to effect securities transactions. Commercial banks entered the brokerage business by licensing operating subsidiaries as registered broker-dealers. In 1996, the OCC permitted national banks to own majority interests in certain operating subsidiaries that engaged in activities that were impermissible for national banks.[279] In the case of securities activities, these operating subsidiaries were required to register as broker-dealers.[280] Subsequent national bank operating subsidiary approvals included underwriting and dealing in municipal revenue bonds and corporate debt securities.[281]

We have studied aggregate data showing that, while banks' traditional activities (described as the financing of loans with deposits) have been declining, banks' non-traditional activities (described as fee-generating activities, including underwriting, cash management, and custody services) have been rising.[282] In addition to the bank securities activities described above, these non-traditional activities would include the provision of trust and investment services to high net worth individuals.[283]

In sum, banks today may engage in a wide range of securities activities arising from their roles as custodians of fiduciaries, as well as separately for a fee. Banks engage in these activities either directly or through affiliated broker-dealers. These activities include brokerage and dealing, as well as

[270] The Bank Holding Company Act is codified at 12 U.S.C. 1841 *et seq.*

[271] Congress placed a large amount of blame for the Great Depression on commercial banks' securities activities conducted through "so-called bank securities 'affiliates.'" As a result, Congress enacted the Glass-Steagall Act in an attempt to achieve the complete separation of commercial and investment banking. Jonathan R. Macey, *Special Interest Groups Legislation and the Judicial Function: The Dilemma of Glass-Steagall*, 33 Emory L.J. 1, 3 (Winter 1984).

[272] Section 16 is codified at 12 U.S.C. 24 (Seventh); Section 20 is codified at 12 U.S.C. 377; Section 21 is codified at 12 U.S.C. 378; and Section 32 is codified at 12 U.S.C. 78.

[273] Public Law 106–102, Section 101 repealing Section 20 (12 U.S.C. 377) and Section 32 (12 U.S.C. 78) of the Banking Act of 1933. The GLBA retains Sections 16 and 21 of the Banking Act of 1933. 12 U.S.C. 24 (Seventh); 12 U.S.C. 377. Section 16 prohibits national banks from underwriting, selling, or dealing in securities, except for certain bank-eligible securities such as U.S. government securities. *See*, 12 U.S.C. 24 (Seventh); *see also* 12 U.S.C. 335 at 5(c) (applying Glass-Steagall Act Section 16 restrictions to state-chartered banks in the Federal Reserve System). However, Section 16 excludes from its prohibitions securities transactions in which the bank acts as agent for its customers, considered agency activity. Under state law, insured state banks generally may act as agent for their customers although insured state banks are prohibited from engaging as principal in any activities that are not permissible for national banks unless the state banks comply with applicable capital standards and the FDIC has determined that the activity will not pose a significant risk to the appropriate insurance fund. Federal Deposition Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, Title III, Section 303, 12 U.S.C. 1831a. Section 21, also still in effect, prohibits investment banks from offering checking or savings accounts. 12 U.S.C. 378a.

[274] 12 U.S.C. 377. The Supreme Court interpreted the term "engaged principally" to mean that bank affiliates could engage in some ineligible activities so long as they were not the primary activities. *Board of Governors* v. *Agnew*, 329 U.S. 441, 447–49 (1947). The FDIC's interpretation that section 21 did not apply to subsidiaries of state nonmember banks and thus that these subsidiaries could engage in underwriting securities was upheld by the U. S. Court of Appeals for the D.C. Circuit in 1987. *Investment Company Institute* v. *FDIC*, 815 F.2d 1540 (D.C. Cir. 1987).

[275] 12 U.S.C. 78.

[276] The Federal Reserve initially approved bank holding company subsidiaries to underwrite municipal revenue bonds, mortgage related securities of investment quality on 1–4 family residential and large denomination commercial paper as long as the underwriting revenue from these activities did not exceed five percent of the subsidiary's gross revenue of average calculated on a two year period. *See* Orders Issued Under Section 4 of the Bank Holding Company Act, Citicorp, J.P. Morgan and Co. Inc., Bankers Trust New York Corp., Order Approving Applications to Engage in Limited Underwriting and Dealing in Certain Securities, 73 Fed. Res. Bull. 473, 485 (1987).

[277] As noted above, Section 20 prohibited a member bank from affiliating with a securities firm if the securities firm was "principally engaged" in underwriting and dealing.

[278] The revenue test distinguished between "bank eligible" securities (that is, securities that a bank itself would be allowed to underwrite or deal in) and "bank ineligible" securities. "Bank eligible" securities included government securities, as well as any securities issued in private placements. "Bank ineligible" securities were any securities that were not "bank eligible." Under the test, a bank was permitted to affiliate with a securities firm as long as the securities firm did not derive more than 5% of its gross revenues from bank-ineligible securities. In 1989, the Federal Reserve raised this restriction to 10 percent of total revenues (and later increased it again, effective in 1997 to 25 percent), and increased the types of securities allowed to include debt securities, including sovereign debt securities, corporate debt, convertible debt securities, securities issued by a trust or other vehicle secured by or representing interests in debt obligations and equity securities. *See Review of Restrictions on Director, Officer and Employee Interlocks, Cross-Marketing Activities, and the Purchase and Sale of Financial Assets Between a Section 20 Subsidiary and an Affiliated Bank or Thrift*, 61 FR 57679, 57683 (Nov. 7, 1996); *see also* 75 Fed. Res. Bull. 192 (1989). Investment banking income derived from "bank eligible securities," such as U.S. government securities and general obligation municipal bonds that banks were expressly allowed to deal in under section 16 of Glass-Steagall, were not counted as securities for the purpose of calculating the revenue limit. Riskless principal and private placement securities activities also were not deemed to be "ineligible" securities for these purposes. *Bankers Trust New York Corporation*, 75 Fed. Res. Bull. 829 (1989). Thus, under the test, the more gross revenue the Section 20 subsidiary derived from bank eligible securities, the more income they could also derive from bank ineligible securities. In other words, bank holding companies had an incentive to ensure that bank eligible securities activities were handled in a Section 20 broker-dealer subsidiary, rather than in the bank itself. *See generally Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities*, 61 FR 68750, 68752 (Dec. 30, 1996).

[279] 12 CFR 5.34, 61 FR 60342 (Nov. 27, 1996); Comptroller News Releases NR 96–129 (Nov. 20, 1996) ("Questions and Answers on Part 5"); NR 96–128 (Nov. 20, 1996) ("Part 5 Fact Sheet").

[280] The exceptions from the Exchange Act definitions of "broker" and "dealer" are only available to the bank itself. *See supra* note 10, regarding current definitions of "broker" and "dealer."

[281] Comptroller Conditional Approval No. 262 (Dec. 11, 1997) (approval to Zion's First National Bank to engage through an operating subsidiary in underwriting and dealing in municipal revenue bonds); Comptroller Conditional Approval No. 331 (November 3, 1999) (approval to National Bank of Commerce to engage through an operating subsidiary in underwriting and dealing in corporate bonds, dealing in and privately placing trust preferred securities and buying and selling collateralized mortgage obligations).

[282] Economists describe the common characteristic of nontraditional activities as being that they produce fee income rather than interest income. Kevin Rogers and Joseph F. Sinkey, Jr. An Analysis of Nontraditional Activities at U.S. Commercial Banks, 1 Review of Financial Economics, Jan. 1, 1999, at 25. Commercial banks' non-interest income has risen from 30% in 1988 to 43% in 2000. FDIC, Trends in Commercial Bank Income and Expense 1988–2000 available at http://www2.fdic.gov/qbp/2000dec/ctrends.html.

[283] *Id.*

effecting private placements and riskless principal transactions.

Once the broker-dealer registration provisions of the GLBA become effective, banks that engage in the securities activities described above will need to determine whether they can continue to engage in those activities in the same way, or whether they will need to restructure their businesses to comply with the new statutory requirements. The interim final rules adopted today are designed to provide banks with guidance in this process. The new definitions should clarify the parameters of the new statutory exemptions from the definitions of broker and dealer. In addition, the interim final rules provide banks with additional specific exemptive relief.

As always, we are mindful of the costs imposed by our rules. We believe the rules are consistent with Congress's intent in enacting the GLBA. Congress determined that all securities activities should be functionally regulated to ensure investor protection, regardless of the entity in which the activities occur. Thus, the majority of regulatory costs arise from Congress's determination that amendment of the Exchange Act was necessary in light of the liberalization of banking laws, such as Glass-Steagall. Otherwise banks that engaged in underwriting corporate securities would be subject to a fragmented securities regulatory scheme.

Banks that fall outside the scope of one of the exceptions enumerated by Congress in amended Exchange Act Sections 3(a)(4) and 3(a)(5), as further refined through these interim final rules, may incur costs from the GLBA. Even banks that have existing relationships with registered broker-dealers may incur costs in connection with discrete lines of securities business that have nonetheless been conducted directly by those banks. These costs could relate to restructuring their business operations, to transferring their non-excepted securities business to registered broker-dealers, or to entering into networking arrangements with registered broker-dealers. As noted earlier, most of banks' securities activities are currently effected by SEC regulated broker-dealers. In the following section, we outline some of the choices banks may have in determining how they can best comply with the new requirements of the GLBA as well as the interim final rules.

3. Options for Compliance With the GLBA Under the Statute in Light of These Interim Final Rules

Banks will have a number of preliminary decisions[284] in determining how to comply with these interim final rules and the amended definitions of broker and dealer under the Exchange Act.[285] While most banks already conduct their securities activities through registered broker-dealers, the GLBA may require some banks to shift some securities activities formerly conducted internally to registered broker-dealers.

A bank that engages in securities activities that are not covered by an exception in the GLBA definitions of broker and dealer may choose to shift those activities to a registered broker-dealer. The registered broker-dealer could be a broker-dealer with which the bank already has a relationship. Alternatively, the bank could enter into a new relationship. One form of relationship could be contractual—that is, a bank could enter into a third-party brokerage arrangement with a registered broker-dealer. Alternatively, a bank could choose to register an affiliate as a broker-dealer.

If a bank registers a broker-dealer affiliate, the bank has additional choices. A banking group may register a broker-dealer affiliate that is a subsidiary of the bank holding company or a financial holding company. Alternatively, a bank may register a broker-dealer that is an operating or financial subsidiary of the bank. In all cases when a bank uses a registered broker-dealer, a bank may effect securities transactions using bank employees who also are associated persons of the registered broker-dealer.[286] Most non-bank registered broker-dealers must also become members of the Securities Investor Protection Corporation.[287]

As a final option, a bank that wishes to act as a broker-dealer may register with the Commission and with at least one SRO. To begin the registration process, a broker-dealer completes the uniform form for broker-dealer registration, Form BD. The completed Form BD is submitted to the Central Registration Depository (CRD), which is operated by the NASD. Broker-dealers seeking to become members of the NASD must also provide certain information. This includes a detailed business plan, as well as descriptions of their financial controls, their communications and operational systems, their supervisory systems and written procedures, their recordkeeping systems, and their continuing education plans. The NASD conducts in-person membership interviews with all applicants. Approval for membership with the NASD is contingent upon the submission of a written membership agreement. Broker-dealers also must register their personnel. Registration of personnel is accomplished by submitting a Form U–4 and a fingerprint card. Registered personnel also need to successfully complete qualification examinations. We believe, however, that most banks will not utilize this final alternative, finding it impracticable due to the disparate capital and customer protection regulatory requirements[288] applicable to banks and securities firms, including employment prohibitions.[289]

[284] Banking and Financial Services Policy Report, Volume 19 (Oct. 2000), "Banks as Securities Lending Agents: To Register or Not as a Broker" (discussing decisions to be made by bank upon determination of GLBA to banks' own securities activities).

[285] Barbara A. Rehm, *No Merger Wave, But Money Saved*, The American Banker, Nov. 7, 2000, at 1, noted that most banks would continue to do business as usual, except that the bank, would no longer require specific "loopholes to sell insurance or underwrite securities." The article further noted that the biggest change for the banking industry was "it put an end to 20 years of battling over who could do what."

[286] Broker-dealers may also have to register with the states in which they do business.

[287] The Securities Investor Protection Act of 1970 created the Securities Investor Protection Corporation (SIPC). 15 U.S.C. 78aaa, *et seq.* SIPC is a nonprofit membership corporation funded by its member securities broker-dealers. Most broker-dealers (excluding broker-dealers whose business is limited to the following: Distributing shares of mutual funds, selling variable annuities, providing investment advice, or selling United States Government securities) registered with the Commission are automatically members of SIPC. SIPC provide investors with certain protections in the event of a bankruptcy or loss of securities by a broker-dealer.

[288] For unsecured receivables, such as a commercial loan, a bank is generally required to reserve an amount of capital equal to as much as 8% of the loan amount. In contrast, a broker-dealer would be required to reserve an amount of capital equal to 100% of unsecured loan. For certain fully secured loans, such as a margin loan, a bank would be required to reserve as capital up to 8% of the loan. A broker-dealer, however, would not be required to reserve capital for the loan, provided the account meets regulatory margin requirements. To remain in capital compliance, a bank registered as a broker-dealer would need to meet the greater of the banking or securities regulatory capital requirements for credit risk. Also, the customer protection rule applicable to broker-dealers that requires customer assets to be held separately from proprietary assets would be virtually impossible for a bank to comply with it if it accepts customer deposits (the core business of commercial banking). Therefore, in most cases, it would be prohibitively expensive for a bank to engage in traditional banking activity, such as unsecured lending, and for a broker-dealer to conduct traditional securities activities, such as extending margin loans.

[289] Dual employees who are registered representatives for a bank have certain obligations created by SRO rules. For example, transactions for bank customers must comply with NASD Rule 3040 that restricts the ability of any person associated with a member to participate in a "private securities transaction," which is defined as "any securities transactions outside the regular course or scope of an associated person's employment with a member," subject to limited exceptions. NASD Rule 3040 requires broker-dealers to review all transactions in which a registered representative participates, including transactions where the registered representative acts as an investment adviser. The registered broker-dealer must develop and maintain a record keeping system "to enable the member to properly supervise the RR/IA by aiding the member's understanding of the nature of the service provided by an RR/IA, the scope of the RR/IA's authority, and the suitability of the transactions. NASD Notice to Members 96–33.

We, therefore, expect that most banks will either enter into networking arrangements or create broker-dealer affiliates.

We are setting forth below additional benefits and costs that we believe arise from the promulgation of these interim final rules. We note, however, that due to the multitude of banking charters that distinguish a "trust bank" from a "commercial bank" from a "savings and loan," we have delegated authority to the Division of Market Regulation to consider and to process a bank's or savings and loan's request for additional relief not encompassed within either these interim final rules or the GLBA.

a. Benefits. We believe that these interim final rules will provide legal certainty for banks in connection with their determination of whether they meet the terms and conditions for an exception to the definitions of broker and dealer under the Exchange Act. By adopting specific objective criteria, with particular dollar limitations, business activities, and time conditions, we have provided banks with a basis to assess accurately if and when they may need to register as broker-dealers.

As discussed earlier, the GLBA replaced the general exception for banks from the definitions of broker and dealer with specific functional exceptions for certain bank securities activities. These interim final rules clarify exceptions to these amended definitions by defining key terms used in the new functional exceptions.

Moreover, Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a4–6, and the definition of trustee in Rule 3b–17 provide targeted exemptions for certain banks from these new definitions of broker and dealer. Banks that meet the provisions of those exemptions need not transfer their non-excepted securities business to registered broker-dealers.

Rule 15a–7 extends the date for banks to comply with the requirements of the exceptions. This alleviates the need for banks to apply individually to us for specific relief. To promote certainty in commercial markets as to the legal validity of contracts, Rule 15a–8 conditionally exempts banks temporarily from risk of rescission rights under Exchange Act Section 29. Finally, new Rule 15a–9 exempts savings associations and savings banks from the terms "broker" and "dealer" under Exchange Act Sections 3(a)(4) and 3(a)(5) on the same terms and conditions that apply to banks.

These interim final rules were written in response to requests from the banking industry for guidance. By clarifying terms in the GLBA, these interim final rules provide legal certainty to banks seeking to conform their business activities to the exceptions from the definitions of broker and dealer. This, in turn, will assist banks in planning their ongoing business operations. In the event they need additional time, we have provided temporary exemptions from compliance with the new terms.

These interim final rules, including the temporary exemptions from registration as a broker-dealer and the temporary exemption from liability under Section 29 for banks that would have been required to register as a broker-dealer, will enable banks to plan and structure their business operations to fully comply with the statute. This latter exemption, in particular, will eliminate costs that banks might have otherwise incurred from actions to rescind securities transactions during the transition to compliance with the new GLBA requirements.

In addition, Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a4–6, 3a5–1, and the definition of trustee capacity in Rule 3b–17 exclude certain bank activities from the scope of the GLBA's amended definition of broker-dealer. They, therefore, provide relief to banks from potential costs they might incur in registering as a broker-dealer, registering an affiliate as a broker-dealer, or entering into a third-party brokerage arrangement with a broker-dealer. These costs could include engaging securities counsel, registering as a broker-dealer, paying personnel to study for and pass applicable securities examinations, and joining a SRO. Indeed, Rules 3b–17 and 3b–18, and the four limited exemptions, clarify the permissible activities in which banks may engage without triggering the statutory requirement to register as a broker or dealer under the Exchange Act after May 12, 2001. As noted earlier, most of banks' securities business is currently effected through SEC-registered broker-dealers. Consequently, we do not anticipate that banks will derive a large benefit from this rulemaking in relation to their current securities business.

However, failure to adopt these interim final rules could result in additional costs. Without the certainty and uniformity these interim final rules provide, banks would have more difficulty planning and operating their existing businesses in compliance with the GLBA. This, in turn, could result in disruption of their securities business. In addition, banks could be subject to regulatory costs if their activities were later determined to fall outside of the scope of the GLBA's exceptions.

In addition, the extension of time in Rule 15a–7, and exemptions in Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a4–6, 3a5–1, and the definition of trustee capacity in Rule 3b–17 benefit banks that may not otherwise be able to comply with the statutory deadline of GLBA. Most banks that need additional time to restructure their operations may rely on these temporary exemptions and not need to seek individual relief from our staff. Banks seeking individual relief may request a specific exemption from us.

b. Costs. We believe that, regardless of how a bank chooses to comply with the GLBA in light of these interim final rules, it will likely incur certain costs. We believe, however, that almost all of these costs will be necessary because of the statutory change and not because of the interim final rules.

Interim final Rules 3b–17 and 3b–18 are intended to clarify the meanings of certain terms in the exceptions to the definitions of broker and dealer, as amended by the GLBA. Although they are not intended to impose costs on any market participant, we expect that some banks may experience some *de minimis* costs from the determination of how to best comply with the GLBA. In ascertaining this *de minimis* impact, we reviewed the number of banks that are already heavily involved in securities-related activities.

Some banks seeking to meet the exceptions to broker-dealer registration could incur *de minimis* administrative costs. For instance, Rule 3b–17 provides an objective test for determining whether a bank is "chiefly compensated" through securities activities as excepted by Exchange Act Section 3(a)(4)(B)(ii). Banks seeking to qualify for this particular exception will need to undertake a financial accounting review to determine their compliance with this objective compensation test. Some banks may already keep and analyze the data required to perform this analysis in accordance with their customary audit and reporting procedures under applicable banking regulations. It is possible, however, that some banks may

need to supplement their existing accounting or financial procedures and activities to perform this calculation on an annual basis. Moreover, some banks may incur similar costs in calculating compensation on an account-by-account basis.

Banks also may need to make limited software changes to make the "chiefly compensated" calculation.[290] Because of the differences in banks' existing computer systems, the types of account information resident in those systems, and the range of ways in which they may choose to alter those systems, we cannot estimate this cost with specificity. We believe, however, that the costs of computer alterations could include the cost of purchasing new computer hardware, as well as new computer software. Banks also could incur the costs of personnel time to re-program software. As noted previously, almost all of these costs arise from the functional regulation mandated by the GLBA and not from these interim final rules.

We also expect that many banks may incur costs for legal and other professional accounting review. Many banks will utilize their in-house counsel, accountants, and compliance officers. Banks that have provided cost information have estimated their in-house legal resources to range from $75.00 to $125.00 an hour as a composite rate based upon the yearly salary of in-house counsel. Estimates of legal counsel review time include the hours spent by in-house counsel on review and compliance with the GLBA. Discussions with banks offering services impacted by the GLBA indicate that some banks have estimated the review time of attorneys to fall within the range of 30 to 60 hours. We expect that most banks affected by the functional regulation provisions of the GLBA will either use in-house counsel or bank officers for this review. We believe that most of these costs arise from the requirements of GLBA rather than from our interim final rules.

Some banks may choose to utilize outside counsel, either exclusively or as a supplement to in-house resources. We estimate these costs as the high end of the in-house range.

If a bank affiliates with a registered broker-dealer or enters into a third-party brokerage arrangement, it may also incur certain other costs. In making these changes, the costs arise from the statutory language of the GLBA, which removed the exception banks had for certain securities operations. These costs could include, for example, the cost of training, examining, and licensing associated persons of the bank as registered representatives of the broker-dealer. In addition, banks may incur additional expenses to establish a relationship with a broker-dealer or to inform their customers of their changes in operating procedures. Since most banks operate their securities related business through broker-dealers registered with us, we believe that these costs, if any, would be quite small.

We request comments on the costs and benefits of the interim final rules, and ask commenters to provide supporting empirical data for any positions advanced. Commenters should address in particular whether any of the new rules will generate the anticipated benefits or impose any costs on investors, banks, registered broker-dealers or other market participants. As always, commenters are specifically invited to share quantifiable costs and benefits.

D. Consideration of Burden on Competition, and on Promotion of Efficiency, Competition, and Capital Formation

In accordance with our responsibilities under Section 3(f) of the Exchange Act, we have considered both the protection of investors and whether the interim final rules will promote efficiency, competition, and capital formation in determining whether they are consistent with the public interest.[291] In addition, Section 23(a)(2) of the Exchange Act[292] requires us, in adopting rules under the Exchange Act, to consider the anticompetitive effects of such rules, if any, and to refrain from adopting a rule that will impose a burden on competition not necessary or appropriate in furthering the purpose of the Exchange Act.

We do not believe that the interpretations, definitions, and exemptions will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act or Congress's intent to impose functional regulation upon banks that conduct a brokerage business outside a statutory exception in the GLBA. These interim final rules define terms in the statutory exceptions to the definitions of broker and dealer added to the Exchange Act by Congress in the GLBA, and provide guidance to banks as to the appropriate scope of those exceptions. These interim final rules, therefore, do not impose any additional competitive burdens on banks engaging in a securities business, other than those imposed through by Congress through functional regulation in the GLBA.

The conditional exemptions from broker-dealer registration granted through these interim final rules permit banks more time to fully comply with the statutory requirements of GLBA and therefore do not impose any burden on banks seeking to avail themselves of those limited exemptions.

We do not believe that the new definitional rules will adversely affect capital formation. Nothing in the interim final rules is intended to adversely affect banks' compliance with the GLBA. Banks that alter their securities-related activities in accordance with the GLBA will continue to be able to provide securities services to their customers. In enacting the GLBA, Congress determined that functional regulation was appropriate—that is, when a bank was conducting a securities business outside of the enumerated exceptions, that bank should be registered as a broker-dealer. In the interest of protecting the public and ensuring orderly markets, Congress determined that banks, with a broad securities business, should be subject to the same regulatory oversight as broker-dealers conducting the same types of activities. These interim final rules promote Congress' intent.

Since these interim final rules define statutory exceptions mandated by Congress and provide temporary exemptive relief for banks unable to comply with certain of the exceptions by the effective date of GLBA, we do not believe that the rules impose any extra-statutory adverse effects on efficiency, competition, or capital formation.[293] Once Congress passed the GLBA, Congress determined that regulation of banks conducting a securities operation outside of certain exceptions was necessary and appropriate and in the public interest.

We are, however, interested in receiving comments regarding the effect of these interim final rules on efficiency, competition, and capital formation. We will consider those comments in making any changes to the interim final rules as necessary.

We also solicit comment on the potential effect of these interim final rules on the U.S. economy on an annual basis. Commenters are requested to provide empirical data to support their views.

E. Summary of Regulatory Flexibility Analysis

We have prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with the Regulatory Flexibility Act ("RFA")[294] regarding the interim final rules under the Exchange Act that define certain terms in the GLBA's amendments to Sections 3(a)(4) and 3(a)(5) of the Exchange Act and provide exemptions from broker-dealer registration for certain banks and savings and loan associations.[295] The following summarizes the IRFA:

Rules 3b–17 and 3b–18 are intended to provide banks with guidance on how to interpret the exceptions to the definitions of broker and dealer in Sections 3(a)(4) and 3(a)(5) of the Exchange Act. This guidance is intended to assist banks in structuring their securities activities so as to continue to fit within the exceptions for their securities activities, as well as to provide more certainty as to when broker-dealer registration would be required if they choose to engage in more extensive securities activities. Rule 15a–7 provides certain limited time periods for banks to determine whether they should register as broker-dealers or restructure certain of their securities activities so as to continue to be exempted from registration. Rule 15a–8 temporarily exempts banks from liability under Exchange Act Section 29 by providing that no contract into which a bank enters before January 1, 2003 will be void or considered voidable because the bank violates the registration requirements of Exchange Act Section 15(a) or any rule under the Exchange Act based solely on the bank's status as a broker-dealer. New Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a4–6, 3a5–1, and the definition of trustee capacity in Rule 3b–17 provide exemptive relief that permits banks that meet the conditions in the exemptions to continue to effect brokerage transactions for customers in specified circumstances without registering as broker-dealers under the Exchange Act.

Specifically, Rules 3a4–2 and 3a4–3 provide that, under certain conditions, banks will not be deemed to be brokers under the trust and fiduciary activities exception if the bank fails to satisfy the compensation requirement, as long as the bank complies with the other requirements of the exception. Rule 3a4–4 conditionally exempts small banks effecting transactions in investment company securities for tax-deferred custody accounts. Rule 3a4–5 conditionally exempts banks effecting transactions in securities for tax-deferred custody accounts. Rule 3a4–6 permits banks to process transactions in investment company securities through the NSCC's Mutual Fund Services, including Fund/SERV. Rule 3a5–1 provides that a bank will not be considered a dealer if it engages in riskless principal transactions as long as the number of those transactions, combined with any agency transactions effected by the bank, is less than 500. The definition of trustee capacity makes clear that banks acting as indenture trustees and trustees for tax-deferred ERISA and IRA accounts will be eligible for the trustee exception if they meet its requirements.

Some banks affected by these interim final rules would fall under the definition of small entities for purposes of the Regulatory Flexibility Act ("RFA"). As discussed more fully in the IRFA, unlike for broker-dealers and other entities that historically have been subject to our jurisdiction, we do not have a definition of "small entity bank" for purposes of the RFA. The banking regulators have defined small entities for purposes of the RFA to include banks with less than $100 million in assets.[296] For purposes of this analysis, we have used the banking regulators' definition of small entity. According to information from the FDIC, there are approximately 8,375 FDIC-insured commercial banks; of these, 4,922 are small entity banks with less than $100 million in assets.[297] As explained more fully below, one of the interim final rules provides only small entity banks with an exception from the definition of broker. All of the other rules apply equally to all banks. Thus, all banks could be affected by the interim final rules.

The clarification of statutory terms set out in Rules 3b–17 and 3b–18 provide additional guidance to all banks in connection with their determination of whether they fall within the terms and conditions for the exceptions to the definitions of broker and dealer under the Exchange Act as amended by the GLBA. These interim final rules provide uniform definitions that will enable banks to accurately assess whether they are subject to our jurisdiction. The extensions of time in Rule 15a–7 give limited relief to certain banks that cannot comply with the GLBA provisions by the statutory effective date of May 12, 2001.

In addition, Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a5–1, and the definition of trustee capacity in Rule 3b–17 provide exemptions from the definitions of broker and dealer under the amended Exchange Act. Rule 3a4–4 benefits small entity banks that may not readily have access (through affiliation or otherwise) to a registered broker or dealer to establish a networking arrangement meeting the criteria of the GLBA, and that maintain custody accounts for the convenience of their customers. Under this interim final rule, small banks may engage in minor securities transaction activities as an accommodation to their customers in limited circumstances and still fall outside of the definition of broker under the Exchange Act.

Rules 3a4–2, 3a4–3, 3a4–4, 3a4–6, 3a5–1 and the definition of trustee capacity in Rule 3b–17 are not limited to small entity banks, but rather exempt all banks. Rules 3a4–2 and 3a4–3 are discussed above. The definition of trustee capacity makes clear that banks acting as indenture trustees and trustees for tax-deferred ERISA and IRA accounts will be eligible for the trustee exception if they meet the other requirements of the trust and fiduciary activities exception.

As definitional and exemptive rules, the interim final rules should not have a significant regulatory impact on banks, including small entity banks. Moreover, we do not anticipate that the rules will impose any additional recordkeeping requirements on banks other than recordkeeping currently required under

[290] Depending on the number of accounts in the bank, the accounts affected by the definition of "chiefly compensated," and the number of accounts resident, a bank may need to customize its computer software to match the bank's specific accounts and data.

[291] 15 U.S.C. 78c(f).

[292] 15 U.S.C. 78w(a)(2).

[293] Indeed, these rules actually enhance competition by providing relief to savings associations and savings banks as well as "commercial banks." Letter from Scott M. Albinson, Managing Director, OTS, to Annette L. Nazareth, Director, Division of Market Regulation, Commission and Paul F. Roye, Director, Division of Investment Management, Commission (Mar. 20, 2001).

[294] 5 U.S.C. 601 *et seq. See also* 5 U.S.C. 603 (requiring the preparation of an IRFA).

[295] Although the requirements of the RFA are not applicable to rules adopted under the Administrative Procedures Act's good cause exception, *see* 5 U.S.C. 601(2) (defining "rule" and notice requirements under the APA), we nevertheless prepared an Initial Regulatory Flexibility Analysis because we may supplant the interim final rules with final rules.

[296] *See* Joint Release of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency and Office of Thrift Supervision, "Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness," 65 FR 39471 (June 26, 2000).

[297] *See* FDIC, Statistics on Banking, available at http://www.fdic/gov/bank/statistical/statistics/0009/cbrc01a.html. There may be additional banks that fall within the Exchange Act's definition of "bank" under Section 3(a)(6) that may be subject to GLBA that are not reflected in these figures. For example, U.S.-licensed branches and agencies of foreign banks may not be included in the FDIC's tally because they typically are not insured. Nevertheless, we do not believe that any such omissions are material to the analysis set forth in the IRFA.

applicable banking statutes and regulations.

As described in the IRFA, we have considered and will continue to consider alternatives to the interim final rules that would accomplish our stated objectives. These objectives are to implement the Congressional requirement to provide for functional regulation of securities activities, to provide banks with clear guidance on whether they are subject to broker-dealer registration, and to provide exemptive relief to banks that require additional time to restructure their business operations to comply with the GLBA.

Congress did not exempt small entity banks from the application of the GLBA. Because the interim final rules are intended to provide guidance to all banks that are subject to the GBLA, it would not be appropriate to exempt small entity banks from operation of these interim final rules. Nevertheless, because we recognize that small banks may not have established networking relationships with broker-dealers for purposes of the GLBA amendments, we have provided an exemption for small entities that maintain custody accounts through Rule 3a4–4.

Because Rules 3b–17 and 3b–18 are definitional and clarify the securities-related activities in which banks may engage without registering as broker-dealers, these interim final rules must apply to all banks engaged in securities brokerage activities. Accordingly, providing different compliance and reporting requirements under, or exemptions from any of the requirements pursuant to, these rules for small entities would not be practicable or promote the purposes of functional regulation adopted by Congress.

The new interim final rules and exemptions provide banks with more legal certainty and additional flexibility in determining how to structure their operations to comply with the provisions of the GLBA. This flexibility benefits all banks, including small entity banks, that wish to continue to provide securities activities without being required to shift those securities activities to registered broker-dealers.

As noted in the IRFA, we encourage the submission of written comments with respect to any aspect of the IRFA. Comment is specifically is requested on the costs of compliance with these rules and suggested alternatives that would accomplish the objectives of these rules. Comments received will be considered in the preparation, if required, of a Final Regulatory Flexibility Analysis.

A copy of the IRFA may be obtained from Nancy Appel, Attorney, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001; (202) 942–0073.

XI. Statutory Authority

The Commission is amending Title 17, Chapter II of the Code of Federal Regulations by amending Section 200.30–3, and by adding, as interim final rules, Rules 3a4–2, 3a4–3, 3a4–4, 3a4–5, 3a4–6, 3a5–1, 3b–17, 3b–18, 15a–7, 15a–8, and 15a–9 [Sections 240.3a4–2, 240.3a4–3, 240.3a4–4, 240.3a4–5, 240.3a4–6, 240.3a5–1, 240.3b–17, 240.3b–18, 240.15a–7, 240.15a–8, and 240.15a–9, respectively] pursuant to authority set forth in Sections 3(b), 15, 23(a), and 36 of the Exchange Act (15 U.S.C. 78c(b), 78o, 78w(a), and 78mm, respectively).

XII. Text of Rules and Rule Amendments

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

17 CFR Part 240

Broker-dealers, Reporting and recordkeeping requirements, Securities.

Text of Amendment

For the reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

1. The authority citation for Part 200, subpart A, continues to read, in part, as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 78mm, 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. Section 200.30–3 is amended by adding paragraph (a)(72) to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(72) Pursuant to Sections 15(a)(2) and 36 of the Act (15 U.S.C. 78o(a)(2) and 78mm), to review and, either unconditionally or on specified terms and conditions, to grant or deny exemptions to any bank, savings association, or savings bank from the broker-dealer registration requirements of Section 15(a)(1) of the Act (15 U.S.C. 78o(a)(1)) or any applicable provision of this Act (15 U.S.C. 78c *et seq.*) and the rules and regulations thereunder based solely on such bank's, savings association's, or savings bank's status as a broker or dealer.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for Part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

4. Sections 240.3a4–2, 240.3a4–3, 240.3a4–4, 240.3a4–5, and 240.3a4–6 are added to read as follows:

§ 240.3a4–2 Exemption from the definition of "broker" for bank calculating compensation for effecting transactions in fiduciary accounts.

(a) A bank that meets the conditions for exception from the definition of the term "broker" under Section 3(a)(4)(B)(ii) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)), except for the "chiefly compensated" condition in Section 3(a)(4)(B)(ii)(I) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)(I)), is exempt from the definition of the term "broker" under Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) solely for effecting transactions in securities pursuant to Section 3(a)(4)(B)(ii) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)) if:

(1) The bank can demonstrate that sales compensation, as defined in § 240.3b–17(j), received during the immediately preceding year is less than 10% of the total amount of relationship compensation, as defined in § 240.3b–17(i), received during that year;

(2) The bank maintains procedures reasonably designed to ensure compliance with the "chiefly compensated" condition in Section 3(a)(4)(B)(ii)(I) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)(I)) with respect to a trust or fiduciary account:

(i) When the account is opened;

(ii) When the compensation arrangement for the account is changed; and

(iii) When sales compensation, as defined in § 240.3b–17, received from the account is reviewed by the bank for

purposes of determining an employee's compensation; and

(3) The bank complies with Section 3(a)(4)(C) of the Act (15 U.S.C. 78c(a)(4)(C)).

(b) For purposes of this section, the term *year* means either a calendar year or other fiscal year consistently used by the bank for recordkeeping and reporting purposes.

§ 240.3a4–3 Exemption from the definition of "broker" for bank effecting transactions as an indenture trustee in a no-load money market fund.

A bank that meets the conditions for exception from the definition of the term "broker" under Section 3(a)(4)(B)(ii) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)), except for the "chiefly compensated" condition in Section 3(a)(4)(B)(ii)(I) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)(I)), is exempt from the definition of the term "broker" under Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) solely for effecting transactions as an indenture trustee in a no-load money market fund, as defined in § 240.3b–17(f) and § 240.3b–17(e), respectively.

§ 240.3a4–4 Exemption from the definition of "broker" for small bank effecting transactions in investment company securities in a tax-deferred custody account.

(a) A small bank is exempt from the definition of the term "broker" under Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) solely for effecting transactions in securities of an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) in a tax-deferred account for which the bank acts as custodian under Section 3(a)(4)(B)(viii) of the Act (15 U.S.C. 78c(a)(4)(B)(viii)) if:

(1) The bank is not associated with a broker or dealer and does not have an arrangement with a broker or dealer to effect transactions in securities for the bank's customers;

(2) Any bank employee effecting such transactions:

(i) Is not an associated person of a broker or dealer;

(ii) Primarily performs duties for the bank other than effecting transactions in securities for customers; and

(iii) Does not receive compensation for such transactions from the bank, the executing broker or dealer, or any other person related to:

(A) The size, value, or completion of any securities transaction;

(B) The amount of securities-related assets gathered; or

(C) The size or value of any customer's securities account;

(3) The bank complies with Section 3(a)(4)(C) of the Act (15 U.S.C. 78c(a)(4)(C));

(4) The bank makes available to the tax-deferred account the securities of investment companies that are not affiliated persons, as defined in Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3)), of the bank and that have similar characteristics to the securities of investment companies made available that are affiliated persons;

(5) The bank does not solicit securities transactions except through the following activities:

(i) Delivering advertising and sales literature for the security that is prepared by the registered broker-dealer that is the principal underwriter of an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), or prepared by an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) that is not an affiliated person, as defined in Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3)), of the bank;

(ii) Responding to inquiries of a potential purchaser in a communication initiated by the potential purchaser; provided, however, that the content of such responses is limited to information contained in a registration statement for the security of an investment company filed under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) or sales literature prepared by the investment company security's principal underwriter that is a registered broker-dealer;

(iii) Advertising of trust activities, if any, permitted under Section 3(a)(4)(B)(ii)(II) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)(II)); or

(iv) Notifying its existing customers that it accepts orders for investment company securities in conjunction with solicitations related to its other activities concerning tax-deferred accounts; and

(6) The bank's annual compensation related to effecting transactions in securities pursuant to this exemption is less than 3% of its annual revenue.

(b) *Definitions.* For purposes of this section:

(1) The phrase *compensation related to effecting transactions in securities pursuant to this exemption* means the total annual compensation received for effecting transactions in securities pursuant to this exemption, including fees received from investment companies for distribution.

(2) The term *networking arrangement* means a contractual or other written arrangement with a broker or dealer to effect transactions in securities for the bank's customers.

(3) The term *principal underwriter* has the meaning given in Section 2(a)(29) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(29)).

(4) The term *revenue* means the total annual net interest income and noninterest income from the bank's most recent Consolidated Reports of Condition and Income (Call Reports) or any successor forms the bank is required to file by its appropriate Federal banking agency (as defined in Section 3 of the FDIA (12 U.S.C. 1813).

(5) (i) The term *small bank* means a bank that:

(A) Had less than $100 million in assets as of December 31 of both of the prior two calendar years; and

(B) Is not, and since December 31 of the third prior calendar year has not been, an affiliate of a bank holding company or a financial holding company that as of December 31 of both of the prior two calendar years had consolidated assets of more than $1 billion.

(ii) For purposes of this paragraph (b)(5) the terms *affiliate*, *bank holding company*, and *financial holding company* have the same meanings as given in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*).

(6) The term *tax-deferred account* means those accounts described in Sections 401(a), 403, 408, and 408A under Subchapter D and in Section 457 under Subchapter E of the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*).

§ 240.3a4–5 Exemption from the definition of "broker" for banks effecting transactions in securities in a custody account.

(a) A bank is exempt from the definition of the term "broker" under Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) solely for effecting transactions in securities in an account for which the bank acts as custodian under Section 3(a)(4)(B)(viii) of the Act (15 U.S.C. 78c(a)(4)(B)(viii)) if:

(1) The bank does not directly or indirectly receive any compensation for effecting such transactions;

(2) Any bank employee effecting such transactions:

(i) Is not an associated person of a broker or dealer;

(ii) Primarily performs duties for the bank other than effecting transactions in securities for customers;

(iii) Does not receive compensation for such transactions related to:

(A) The size, value, or completion of any securities transaction;

(B) The amount of securities-related assets gathered; or

(C) The size or value of any customer's securities account; and

(iv) Does not receive compensation for the referral of any customer to the broker or dealer;

(3) The bank complies with Section 3(a)(4)(C) of the Act (15 U.S.C. 78c(a)(4)(C));

(4) The bank makes available to the account the securities of investment companies with similar characteristics that are not affiliated persons, as defined in Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3)), of the bank, if the bank makes available the securities of investment companies that are affiliated persons, as defined in Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3)); and

(5) The bank does not solicit securities transactions except through the following activities:

(i) Delivering advertising and sales literature for the security that is prepared by the registered broker-dealer that is the principal underwriter of an investment company, or prepared by an investment company that is not an affiliated person, as defined in Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3)), of the bank;

(ii) Responding to inquiries of a potential purchaser in a communication initiated by the potential purchaser of the security; provided, however, that the content of such responses is limited to information contained in a registration statement for the security filed under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) or sales literature prepared by the principal underwriter that is a registered broker-dealer;

(iii) Advertising of trust activities, if any, permitted under Section 3(a)(4)(B)(ii)(II) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)(II)); and

(iv) Notifying its existing customers that it accepts orders for securities in conjunction with solicitations related to its other custody activities.

(b) For purposes of this section, the term *principal underwriter* has the meaning given in Section 2(a)(29) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(29)).

§ 240.3a4–6 Exemption from the definition of "broker" for banks that executes transactions in investment company securities through NSCC Mutual Fund Services.

A bank that meets the conditions for an exception or exemption from the definition of the term "broker," except for the condition in Section 3(a)(4)(C)(i) of the Act (15 U.S.C. 78c(a)(4)(C)(i)), is exempt from such condition solely for transactions in investment company securities effected through the National Securities Clearing Corporation's Mutual Fund Services.

5. Section 240.3a5–1 is added to read as follows:

§ 240.3a5–1 Exemption from the definition of "dealer" for bank engaged in riskless principal transactions.

(a) A bank is exempt from the definition of the term "dealer" solely for engaging in riskless principal transactions if the number of such riskless principal transactions during a calendar year combined with transactions in which the bank is acting as an agent for a customer pursuant to Section 3(a)(4)(B)(xi) of the Act (15 U.S.C. 78c(a)(4)(B)(xi)) during that same year do not exceed 500 transactions.

(b) For purposes of the 500-transaction limit in paragraph (a) of this section, a riskless principal transaction counts as:

(1) Two transactions if neither transaction comprising the riskless principal transaction is with a broker or dealer; or

(2) One transaction if either transaction comprising the riskless principal transaction is with a broker or dealer.

(c) For purposes of this section, the term *riskless principal transaction* means a transaction in which, after having received an order to buy from a customer, the bank purchased the security from another person to offset a contemporaneous sale to such customer or, after having received an order to sell from a customer, the bank sold the security to another person to offset a contemporaneous purchase from such customer.

6. Sections 240.3b–17 and 240.3b–18 are added to read as follows:

§ 240.3b–17 Definitions of terms used in Section 3(a)(4) of the Act.

For purposes of Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)):

(a) The term *chiefly compensated* means that the "relationship compensation" received by a bank from a trust or fiduciary account exceeds the "sales compensation" received by the bank from such account during the immediately preceding year, which is either a calendar year or other fiscal year consistently used by the bank for recordkeeping and reporting purposes.

(b) The term *flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers* means a fee that is no more than the amount a broker-dealer charged the bank for executing the transaction, plus the costs of any resources of the bank that are exclusively dedicated to transaction execution, comparison, and settlement for trust and fiduciary customers.

(c) The term *indenture trustee* means any trustee for an indenture to which the definition given in Section 303 of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc) applies, and any trustee for an indenture to which the definition in Section 303 of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc) would apply but for an exemption from qualification pursuant to Section 304 of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd).

(d) The term *investment adviser if the bank receives a fee for its investment advice* means a bank that has a relationship with the customer paying the fee in which the bank:

(1) Provides, in return for the fee, continuous and regular investment advice to the customer's account that is based upon the individual needs of the customer; and

(2) Under state law, federal law, contract, or customer agreement owes a duty of loyalty, including an affirmative duty to make full and fair disclosure to the customer of all material facts relating to conflicts.

(e) The term *money market fund* means an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) that is regulated as a money market fund pursuant to § 270.2a–7 of this chapter.

(f)(1) The term *no-load* in the context of an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) means:

(i) Purchases of the investment company's securities are not subject to a sales load, as that term is defined in Section 2(a)(35) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(35)), or a deferred sales load, as that term is defined in § 270.6c–10 of this chapter; and

(ii) The investment company's total charges against net assets for sales or sales promotion expenses and personal service or the maintenance of shareholder accounts do not exceed 0.25 of 1% of average net assets annually and are disclosed in the money market fund's prospectus.

(2) For purposes of paragraph (f)(1) of this section, charges for the following will not be considered charges for personal service or for the maintenance of shareholder accounts:

(i) Transfer agent and subtransfer agent services for beneficial owners of the investment company shares;

(ii) Aggregating and processing purchase and redemption orders;

(iii) Providing beneficial owners with statements showing their positions in the investment companies;

(iv) Processing dividend payments;

(v) Providing subaccounting services for investment company shares held beneficially;

(vi) Forwarding shareholder communications, such as proxies, shareholder reports, dividend and tax notices, and updating prospectuses to beneficial owners; or (vii) Receiving, tabulating, and transmitting proxies executed by beneficial owners.

(g)(1) The term *nominal one-time cash fee of a fixed dollar amount* means a payment in either of the following forms that meets the requirements of subparagraph (2):

(i) A payment that does not exceed one hour of the gross cash wages of the unregistered bank employee making a referral; or

(ii) Points in a system or program that covers a range of bank products and non-securities related services where the points count toward a bonus that is cash or non-cash if the points (and their value) awarded for referrals involving securities are not greater than the points (and their value) awarded for activities not involving securities.

(2) Regardless of the form of payment, the payment may not be related to:

(i) The size, value, or completion of any securities transaction;

(ii) The amount of securities-related assets gathered;

(iii) The size or value of any customer's bank or securities account; or

(iv) The customer's financial status.

(h) The term *referral* means a bank employee arranging a first securities-related contact between a registered broker-dealer and a bank customer, but does not include any activity (including any part of the account opening process) related to effecting transactions in securities beyond arranging that first contact.

(i) The term *relationship compensation* means any compensation received by a bank in connection with activities for which the bank relies on an exception under Section 3(a)(4)(B)(ii) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)) that is received directly from a customer or beneficiary, or directly from the assets of the trust or fiduciary account, and consists solely of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management fee, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trust and fiduciary accounts, or any combination of such fees.

(j) The term *sales compensation* means any compensation received by a bank in connection with activities for which the bank relies on an exception under Section 3(a)(4)(B)(ii) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)) that:

(1) Is a fee for effecting a transaction in securities that is not a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers;

(2) Is compensation that if paid to a broker or dealer would be payment for order flow, as defined in § 240.10b–10;

(3) Is a finders' fee received in connection with a securities transaction or account, except a fee received pursuant to Section 3(a)(4)(B)(i) of the Act (15 U.S.C. 78c(a)(4)(B)(i));

(4) Is a fee paid for an offering of securities that is not received directly from a customer or beneficiary, or directly from the assets of the trust or fiduciary account;

(5) Is a fee paid pursuant to a Rule 12b–1 plan under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*); or

(6) Is a fee paid by an investment company for personal service or the maintenance of shareholder accounts, except a fee that is not part of a Rule 12b–1 plan under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) for:

(i) Transfer agent and subtransfer agent services for beneficial owners of shares in the investment company;

(ii) Aggregating and processing purchase and redemption orders;

(iii) Providing beneficial owners with statements showing their positions in the investment companies;

(iv) Processing dividend payments;

(v) Providing subaccounting services for shares in the investment company held beneficially;

(vi) Forwarding shareholder communications, such as proxies, shareholder reports, dividend and tax notices, and updating prospectuses to beneficial owners; or

(vii) Receiving, tabulating, and transmitting proxies executed by beneficial owners.

(k) The term *trustee capacity* in Section 3(a)(4)(B)(ii) of the Act (15 U.S.C. 78c(a)(4)(B)(ii)) includes an indenture trustee or a trustee for a tax-deferred account described in Sections 401(a), 408, and 408A under subchapter D and in Section 457 under subchapter E of the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*).

§ 240.3b–18 Definitions of terms used in Section 3(a)(5) of the Act.

For purposes of Section 3(a)(5)(C) of the Act (15 U.S.C. 78c(a)(5)(C):

(a) The term *affiliate* means any company that controls, is controlled by, or is under common control with another company.

(b) The term *consumer-related receivable* means any obligation incurred by any natural person to pay money arising out of a transaction in which the money, property, insurance, or services (being purchased) are primarily for personal, family, or household purposes.

(c) The term *member of a syndicate of banks* means a bank that is a participant in a syndicate of banks and contributes no less than 10% of the money loaned by the syndicate.

(d) The term *obligation* means any note, draft, acceptance, loan, lease, receivable, or other evidence of indebtedness that is not a security issued by a person other than the bank.

(e) The term *originated* means initially making and funding an obligation.

(f) The term *pool* means more than one obligation or type of obligation grouped together to provide collateral for a securities offering.

(g) The term *predominantly originated* means that the bank or its affiliates, not including any broker or dealer affiliates, originated no less than 85% of the value of the obligations in any pool. For this purpose, the bank and its affiliates include any financial institution with which the bank or its affiliates have merged but does not include the purchase of a pool of obligations or the purchase of a line of business.

(h) The term *syndicate of banks* means a group of banks that acts jointly, on a temporary basis, to loan money in one or more bank credit obligations.

7. Section 240.15a–7, 240.15a–8, 240.15a–9 are added to read as follows:

§ 240.15a–7 Exemption from the definitions of "broker" or "dealer" for banks for limited period of time.

(a) A bank is exempt from the definitions of the term "broker" under Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) and the term "dealer" under Section 3(a)(5) of the Act (15 U.S.C. 78c(a)(5) until October 1, 2001; and

(b) A bank is exempt from the definition of the term "broker" under Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) until January 1, 2002, for activities that meet the conditions of an

exception or exemption for banks from the definition of the term "broker" except for those conditions of Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) and the rules thereunder relating to compensation of the bank or its employees.

§ 240.15a–8 Exemption for banks from Section 29 liability.

No contract entered into before January 1, 2003 shall be void or considered voidable by reason of Section 29 of the Act (15 U.S.C. 78cc) because any bank that is a party to the contract violated the registration requirements of Section 15(a) of the Act (15 U.S.C. 78o(a)) or any applicable provision of the Act (15 U.S.C. 78a *et seq.*) and the rules and regulations thereunder based solely on the bank's status as a broker or dealer when the contract was created.

§ 240.15a–9 Exemption from the definitions of "broker" and "dealer" for savings associations and savings banks.

Any savings association or savings bank that has deposits insured by the Federal Deposit Insurance Corporation under the FDIA (12 U.S.C. 1811 *et seq.*), and is not operated for the purpose of evading the provisions of the Act (15 U.S.C. 78a *et seq.*), is exempt from the definitions of the terms "broker" and "dealer" under Sections 3(a)(4) and 3(a)(5) of the Act (15 U.S.C. 78c(a)(4) and 15 U.S.C. 78c(a)(5)), based solely on the savings association's or savings bank's status as a broker or dealer on the same terms and under the same conditions that banks are excepted or exempted, provided that if a savings association or savings bank acts as a municipal securities dealer, it shall be considered a bank municipal securities dealer for purposes of the Act (15 U.S.C. 78a *et seq.*) and the rules thereunder, including the rules of the Municipal Securities Rulemaking Board.

By the Commission.

Dated: May 11, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–12388 Filed 5–11–01; 4:21 pm]

BILLING CODE 8010–01–P

Federal Register

Friday,
May 18, 2001

Part III

Department of Education

Office of Special Education and Rehabilitative Services; Special Education—Technology and Media Services for Individuals With Disabilities Program; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Special Education—Technology and Media Services for Individuals With Disabilities Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for two FY 2001 competitions under one program authorized by the Individuals with Disabilities Education Act (IDEA), as amended: Special Education—Technology and Media Services for Individuals with Disabilities.

National Education Goals

The eight National Education Goals focus the Nation's education reform efforts and provide a framework for improving teaching and learning.

This priority addresses the National Education Goals that promote new partnerships to strengthen schools and expand the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These priorities would address the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice.

General Requirements

(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see section 661(f)(1)(A) of IDEA).

(c) The projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

(d) In a single application, an applicant must address only one absolute priority in this notice.

(e) Part III of each application submitted under a priority in this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed in the table at the end of this notice for each applicable priority, using the following standards:

- A "page" is 8.5" × 11" (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters per inch.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject without consideration or evaluation any application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Pilot Project for Electronic Submission of Applications

The U.S. Department of Education is expanding its pilot project of electronic submission of applications. The program in this announcement is included in the pilot project. If you are an applicant for a grant under this 2 program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Fax a signed copy of the Application for Federal Assistance (ED 424) after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right hand corner of ED 424.
5. Fax ED 424 to the Application Control Center within three working days of submitting your electronic application. We will indicate a fax number in e-APPLICATION at the time of your submission.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the program at: *http://e-grants.ed.gov*

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Technology and Media Services for Individuals With Disabilities (CFDA 84.327)

Purpose of Program: The purpose of this program is to promote the development, demonstration, and utilization of technology and to support educational media activities designed to be of educational value to children with disabilities. This program also provides support for some captioning, video description, and cultural activities.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for the priorities under this program are drawn from the EDGAR general selection criteria menu. The specific selection criteria for each priority are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

Priority

Under section 687 of IDEA and 34 CFR 75.105(c)(3), we consider only applications that meet the following priorities:

Absolute Priority 1—Cultural Experiences for Deaf or Hard of Hearing Individuals (84.327T)

Background

Past projects funded under this priority supported a variety of activities, including: theatrical experiences in which cast members included deaf, hard-of-hearing, and hearing performers; theater and set design, directing, dance, and storytelling; cultural experiences focusing on Native American art and culture; hands-on theatre experience involving persons from minority groups; a touring "instant theater;" producing videos of performances and documentaries of performances; and drama workshops.

Priority

This priority supports a variety of cultural activities designed to enrich the lives of deaf or hard-of-hearing individuals, children, or adults. These activities must use an approach that integrates deaf or hard-of-hearing individuals with those who can hear, while conducting cultural experiences that will increase public awareness and understanding of deafness, deaf culture, and of the artistic and intellectual achievements of deaf and hard-of-hearing individuals.

A grantee may not use funds under this priority for passive activities, such as viewing a play or video or passively watching a storyteller or artist at work.

To be considered for funding under this priority, a project must—

(a) Use an integrated approach that mixes children or adults who are deaf or hard-of-hearing with those who are hearing in carrying out project activities; and

(b) Develop and implement strategies that will increase public awareness and understanding of deafness, deaf culture, and of the artistic and intellectual achievements of deaf and hard-of-hearing individuals. Outreach activities such as promoting the project to schools, community organizations, news media, and relevant national organizations are encouraged.

Invitational Priority

Within this absolute priority, the Secretary is particularly interested in applications that meet the following invitational priority. However, pursuant to 34 CFR 75.105(c)(1), an application that meets this invitational priority does not receive competitive or absolute preference over applications that do not meet this priority:

Projects that include people from a variety of cultural, racial, or ethnic backgrounds.

Competitive Preference

Within this absolute priority, we will give the following competitive preference points under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the "General Requirements" section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $110,000 per year. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the "General Requirements" section of this notice.

Absolute Priority 2—Center to Support Technology Innovation for Students With Disabilities (84.327Z) Background

Technology can dramatically improve early intervention and educational results for infants, toddlers, and children with disabilities, whether it is designed specifically for use by individuals with disabilities, or for a general population and is accessible for individuals with disabilities.

The Federal government has a number of programs that may augment the benefits of technology for infants, toddlers, and children with disabilities. For example, programs in the Office of Special Education Programs (OSEP) and in the National Institute on Disability and Rehabilitation Research (NIDRR) support a range of technology innovation and implementation efforts focused on the needs of individuals with disabilities. Other Federal programs have the potential to provide support in this area as well. These include, but are not limited to:

(a) Technology research and innovation programs offered in other offices in the Department of Education (*e.g.*, Small Business Innovation Research);

(b) The Access Board and the Federal Information Technology Accessibility Initiative (FITAI) that promote technology accessibility; and

(c) Technology research, development, and transfer programs operated by other Federal agencies (*e.g.*, National Aeronautics and Space Administration, Department of Defense, National Science Foundation).

Technology benefits can also be enhanced by federally-supported technical assistance and dissemination projects sponsored by OSEP (*e.g.*, Regional and Federal Resource Centers, Partnership Projects, and the Center to Link Urban Schools (LINK US)), and other projects in the Department of Education (*e.g.*, Regional Educational Laboratories, ABLEDATA Database Program).

Non-Federal resources and efforts can affect the benefits that infants, toddlers, and children with disabilities derive from technology. These include, but are not limited to:

(a) State and local policies (*e.g.*, technology acquisition standards, policies for program access);

(b) State and local programs and resources (e.g., technology programs and personnel, including numerous innovative technology efforts);

(c) Teacher training and professional development programs offered by State

and local educational agencies and institutions of higher education;

(d) Efforts by professional groups and trade associations (*e.g.*, the Technology and Media Division of the Council for Exceptional Children, the Quality Indicators for Assistive Technology (QIAT) Consortium, the Schools Interoperability Framework (SIF) sponsored by the Software and Information Industry Association);

(e) Technology products that are commercially developed and distributed; and

(f) Public-private partnerships focusing on technology (*e.g.*, the IMS Global Learning Consortium and the federally-funded Specifications for Accessible Learning Technologies (SALT) Partnership, the Center for Innovative Learning Technologies (CILT)).

In addition, general trends and developments in technology and instruction affect the benefits derived from technology. These include, but are not limited to:

(a) The development of faster, smaller, and cheaper computers;

(b) Increased use of wireless communications;

(c) Increased speed and capacity of the internet;

(d) Use of new information models (e.g., extensible markup language (XML));

(e) Increased use of special-purpose and "ubiquitous" computers (e.g., computers in appliances, TVs, and telephones); and

(f) New technology-based instructional approaches (*e.g.*, distance learning, simulations).

Clearly, the benefits that infants, toddlers, and children with disabilities can derive from technology are influenced by a number of programs, policies, resources, professional activities, trends, and other factors. It would be useful if all of these factors collectively contributed to maximizing the benefits of technology for this population of children.

However, such an outcome cannot be assumed. Technology innovations will not result in widespread benefits unless they are disseminated effectively. Commercially developed products may not benefit infants, toddlers, and children with disabilities unless they are designed to meet their needs. Special education researchers and technology developers cannot draw upon technology innovations and trends of which they are unaware.

Priority

This priority will support a Center to improve the use of technology to achieve better early intervention and educational results for infants, toddlers, and children with disabilities by: (a) Cultivating a collaborative network; (b) analyzing, synthesizing, and disseminating research-based and best practice information; (c) promoting the distribution and use as appropriate of technology-related products and approaches with potential to improve results, including products and approaches developed with OSEP funding; and (d) analyzing needs, issues, trends, and promising approaches.

(a) The Center's activities for cultivating a collaborative network must include, but are not limited to:

(1) Developing and updating on a regular basis a database of projects (including OSEP-funded projects), agencies, professional and trade associations, commercial companies, and other organizations and entities as discussed in the background section that may contribute to the Center's efforts to improve the use of technology to achieve better results. This database is to be posted on the web site.

(2) Forming an advisory board of eight to ten representatives with various perspectives, and maintaining communication with this board, including convening an annual meeting in Washington, DC. The purpose of this board is to review and comment at least annually on the Center's plans and evaluation findings, and to provide additional advisory support as needed. Perspectives to be represented on the advisory board must include, but are not limited to: technology developers, technology researchers, Federal agencies and programs, commercial vendors, technical assistance providers, personnel preparation programs, teachers and other service providers, persons with disabilities who use technology, and parents of children with disabilities.

(3) Developing and implementing procedures to collect information on relevant activities of the entities identified in paragraph (1).

(4) Distributing a quarterly e-mail newsletter (with links to the web site) describing the activities of the Center and of other members of the network, including the activities of OSEP-funded projects, in improving the use of technology to achieve better results.

(b) The Center's activities for analyzing, synthesizing, and disseminating research-based and best practice information must be targeted to audiences of practitioners, administrators, policymakers, parents, children, and other audiences as appropriate. These activities must include, but are not limited to:

(1) Completing and disseminating one to four syntheses of research and best practice knowledge per year on topics related to the effective use of technology to achieve better results. The results of these syntheses must be packaged in formats suitable for the target audiences, as well as technology researchers and developers. Products must include a series of research briefs announced in the newsletter and posted on the web site.

(2) Completing and disseminating at least one video package per year designed for use in teacher training, staff development, program improvement, and similar efforts presenting research-based, and best-practice information on the use of technology to achieve better results. Each package must include one 15 to 20 minute video and supporting materials intended for target audiences as previously described.

(3) Conducting technical assistance, dissemination or training activities for target audiences. The Center must conduct at least two of these activities in the first year and at least four in each subsequent year. These activities must be conducted in collaboration with other members of the network. The activities may draw upon OSEP-sponsored projects and other sources, including the materials developed by the Center. The activities must be designed to disseminate research-based and best practice information on using technology to achieve better results.

(c) The Center's activities for promoting the distribution and use as appropriate of technology-related products and approaches with potential to improve results, including products and approaches developed with OSEP funding, must include, but are not limited to:

(1) Maintaining a listing of commercial and noncommercial resources for disseminating findings and products of technology projects, and including these resources in the network.

(2) Providing technical assistance and training for developers of technology-related products and approaches on developing high quality and marketable products, and finding dissemination or marketing resources. This technical assistance and training may be delivered in conjunction with the annual meeting on technology and infants, toddlers and children with disabilities described in this priority.

(3) Including information about technology-related products and approaches with potential to improve results in the newsletter, and providing follow-up information to potential dissemination or marketing resources.

(d) The Center's activities for analyzing needs, issues, trends, and promising approaches must include, but are not limited to:

(1) Annually convening from one to four consensus panels of experts to focus on specific needs, issues, trends, and promising approaches, and produce documents describing implications for using technology to achieve better results. Consensus panels may involve preparation of background papers prior to meetings. The Center must post all background papers and the products of consensus panels on the web site.

(2) Maintaining ongoing collection of information on developments in government, private industry, early intervention, education, and similar arenas relevant to needs, issues, trends, and promising approaches. This information must be reported in the newsletter and on the web site.

In addition to, and supportive of the activities listed previously, the Center must do all of the following:

(a) Maintain a web site that includes: The network database, on-line documents and products of the Center activities, on-line descriptions of products developed by OSERS-funded projects, links to web resources (including all web sites maintained by OSERS-funded projects involved in technology innovation), articles linked to the newsletter, and discussion groups. This web site must conform to all relevant standards regarding accessibility.

(b) Conduct an annual meeting in Washington DC on technology and infants, toddlers, and children with disabilities. This meeting must include approximately 110 directors of OSEP-sponsored projects involved in technology innovations, and 20 other local participants representing Federal agencies, professional groups, etc. The Center must pay for travel and lodging for an estimate of 85 project directors (the remaining participants are local or will pay for their travel with their own project funds). The conference must include a demonstration event of OSEP-supported technologies.

(c) Meet with OSEP staff during the first month of each project year to discuss and obtain approval for plans for the year.

(d) Conduct project evaluation activities to ascertain the quality of the Center's activities and products, and to determine the Center's progress toward improving the use of technology to achieve better results.

(e) Submit quarterly reports describing and documenting Center activities, including results of the evaluation activities described in the previous paragraph.

Accessibility: All products developed by the Center must conform to relevant standards of accessibility, including captioning all videos and providing alternative formats for written materials.

Competitive Preferences

Within this absolute priority, we will award the following competitive preference points under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the "General Requirements" section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Under this priority, we will make one award for a cooperative agreement for a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In deciding whether to continue the Center for the fourth and fifth years, we will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of experts selected by the Secretary, which review will be conducted during the last half of the project's second year in Washington DC. Projects must budget for travel associated with this review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) The degree to which the Center is making a positive contribution to improving the use of technology to achieve better results for infants, toddlers, and children with disabilities.

Maximum Award: The maximum award amount is $750,000 for the first budget period of 12 months and $1,000,000 for subsequent budget periods of 12 months. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a budget funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 60 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the "General Requirements" section of this notice.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED–Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs via its Web site (*http://www.ed.gov/pubs/edpubs.html*) or its E-mail address (*edpubs@inet.ed.gov*).

If you request an application from ED Pubs, be sure to identify these competitions as follows: CFDA 84.327T and CFDA 84.327Z.

FOR FURTHER INFORMATION CONTACT: Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202–2550. Telephone: (202) 260–9182.

If you use a TDD you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Department as listed above. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Intergovernmental Review

This notice is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for those programs.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 2001

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year)*	Project period	Page limit**	Estimated number of awards
84.327T Cultural Experiences for Deaf or Hard of Hearing Individuals.	05/25/01	07/09/01	09/10/01	$110,000	Up to 36 mos	50	5
84.327Z Center to Support Technology Innovation for Students with Disabilities.	05/25/01	07/20/01	09/20/01	.....	Up to 60 mos	60	1
First twelve-month funding period.	.....	.....	.....	750,000	.....	.....	.....
Subsequent twelve-month funding periods.	.....	.....	.....	1,000,000	.....	.....	.....

*Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

**Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the "Page Limit" requirements included under each priority description and the page limit standards described in the "General Requirements" section. We will reject and will not consider an application that does not adhere to this requirement.

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Program Authority: 20 U.S.C. 1487.

Dated: May 14, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–12519 Filed 5–17–01; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Friday,
May 18, 2001

Part IV

Department of Education

Office of Special Education and Rehabilitative Services; Special Education—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities Program; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Special Education—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

SUMMARY: This notice provides closing dates, a priority, and other information regarding the transmittal of applications for a FY 2001 competition under one program authorized by the Individuals with Disabilities Education Act (IDEA), as amended: Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities.

National Education Goals

The eight National Education Goals focus the Nation's education reform efforts and provide a framework for improving teaching and learning.

This priority addresses the National Education Goals that promote new partnerships to strengthen schools and expand the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

This priority would address the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priority in this notice.

General Requirements

(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see section 661(f)(1)(A) of IDEA).

(c) The projects funded under this notice must budget for a two-day Project Directors' meeting in Washington, DC during the project period.

(d) Part III of each application submitted under this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed in the table at the end of this notice, using the following standards:

- A "page" is 8.5" x 11" (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters per inch.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject without consideration or evaluation any application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Special Education—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities (CFDA 84.326)

Purpose of Program: The purpose of this program is to provide technical assistance and information that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for the priority under this program are drawn from the EDGAR general selection criteria menu. The specific selection criteria for this priority are included in the funding application packet for this competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Eligible Applicants: State educational agencies (SEAs) of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and outlying areas (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). Freely Associated States (Federated States of Micronesia, Republic of Palau, Republic of the Marshall Islands) are also eligible to apply for funding, but only to address system needs of Part B of the IDEA because the Freely Associated States do not receive funding under Part C of IDEA. An entity eligible to apply for funding under Section 661(b)(1)(A) of IDEA may apply on behalf of an SEA or a Freely Associated State, but the entity must include a signed letter of endorsement from the Director of the SEA or the appropriate official from the Freely Associated State. The Assistant Secretary will not fund applications submitted by two agencies or entities on behalf of a single State, but encourages joint applications from SEAs and State Lead Agencies for Part C early intervention services (State Lead Agencies) in States where the SEA is not the State Lead Agency. An SEA may endorse the State Lead Agency as the State's applicant under the conditions set forth in the Maximum Award section.

Priority

Under section 685 of IDEA and 34 CFR 75.105(c)(3) we consider only applications that meet the following absolute priority:

Absolute Priority—IDEA General Supervision Enhancement Grant (84.326X)

Background

Over the past five years, the Office of Special Education Programs (OSEP) has worked with SEAs, local educational agencies (LEAs), parents, advocates, and other key stakeholders to shape its monitoring system in a way that will drive and support improved results for infants, toddlers, and children with disabilities, and their families. In order to ensure compliance with IDEA and support positive results, OSEP has implemented a Continuous Improvement Monitoring Process (CIMP) that:

(a) Is continuous;
(b) Is data-driven;
(c) Is public;
(d) Includes technical assistance;
(e) Includes partnerships with stakeholders;
(f) Includes State accountability; and
(g) Includes self-assessment.

The CIMP includes the following phases:

(a) Self-assessment;
(b) Public input;
(c) Data collection;
(d) Reporting to the public;
(e) Improvement planning;
(f) Implementation of improvement strategies; and
(g) Verification and consequences.

An in-depth explanation of the CIMP can be found at: *http://dssc.org/frc/monitor* "Click" on *manual100.doc* to view in MS WORD or on *manual100.pdf* to view as a pdf file.

Since the implementation of the CIMP, SEAs and State Lead Agencies have embraced the continuous improvement concept. Twenty-one States have been monitored using the CIMP, four have submitted Improvement Plans, fifteen States have recently completed self-assessments, and the remainder are about to initiate the process. From a State systems change perspective, many States have begun the difficult process of: (1) Developing CIMP systems at the State level; (2) supporting the development of CIMP systems at the LEA level; (3) developing new data systems to support State and local CIMP systems; and (4) developing and implementing improvement plans that include the development or enhancement of State systems to identify and disseminate research-based educational and early intervention promising practices. Providing the States with some initial funds to support their participation in the CIMP, as well as to support unique State solutions and strategies developed in response to State-specific challenges identified through participation in the CIMP, will reinforce OSEP's and the States' commitment to CIMP.

Absolute Priority

This priority has been established to support State activities in one or more of the following focus areas. Applicants are encouraged to use these funds in combination with other State or Federal funds in carrying out project activities, but grant funds awarded under this priority must be used to support specific activities whose impact will be evaluated separately from activities supported with other funding sources. SEA applicants are encouraged to submit joint applications with the State Lead Agency.

Focus 1: Developing or Enhancing a Process to Conduct a Self-Assessment

SEAs and State Lead Agencies often require technical assistance to participate in the self-assessment phase of the CIMP. This focus supports the development or enhancement of a process for statewide self-assessment of the provision of early intervention or special education and related services, or both. The process should address such areas as:

(a) Identifying and implementing fiscally efficient processes to operate the CIMP Steering Committee;

(b) Identifying and obtaining data needed to evaluate the provision of early intervention and/or special education and related services, or both;

(c) Identifying and using methods to determine data validity and reliability;

(d) Identifying and using valid and reliable techniques to collect data from parents, LEAs, advocates, service providers, and other stakeholders in early intervention, special education, and related services;

(e) Identifying and using valid and reliable data analysis techniques; and

(f) Identifying and using a decision-making process, based on data analysis, that results in valid conclusions regarding areas: (1) In compliance; (2) in need of improvement; (3) out of compliance; and (4) of strength.

The self-assessment process *must* be aligned with the self-assessment requirements of the CIMP.

Focus 2: Developing or Enhancing a Data System to Support the Needs of a CIMP at the State or Local Level

An analysis of State self-assessments has shown that many of the States, and their LEAs and local Part C agencies, lack the infrastructure to collect sufficient data to determine the impact of special education and early intervention services. The collection and use of valid and reliable data are cornerstones of the CIMP.

This focus supports the development or enhancement of a data system that will provide results-oriented information about one or more of the following:

(a) Appropriate early intervention services and/or special education and related services;

(b) The effectiveness of the monitoring system of the SEA or State Lead Agency, or both;

(c) Interagency coordination and fiscal responsibility;

(d) The effectiveness of the State's dispute resolution system;

(e) The effectiveness of the State's child find systems;

(f) Personnel shortages, including those related to retention;

(g) The system for exercising its general supervisory authority of the SEA or State Lead Agency, or both;

(h) Efforts to address family needs and enhance families' capacities to meet the developmental needs of their children;

(i) Early intervention services in the natural environment and/or special education and related services in the least restrictive environment;

(j) The transition from Part C to Part B services;

(k) The involvement of parents; and

(l) Transition from school to work or postsecondary education.

The data system *must* be aligned with the data collection needs of the CIMP.

Focus 3: Developing or Enhancing a Process to Conduct Improvement Planning Activities Based on the Self-Assessment, Data Collection and Public Reporting Phases of the CIMP

Based upon an analysis of Improvement Plans submitted by States in response to OSEP monitoring reports, OSEP recognizes that many States lack a cohesive data-based approach to developing their Improvement Plans. Many States engaging in the improvement planning process have had trouble identifying and addressing the systemic barriers or factors that contributed to the existence of the practice that the State or OSEP determined needed improvement. Improvement Plans should include solutions that: (1) Are not based on strategies previously employed without garnering the proposed results; (2) are based on a clear understanding of the systemic variables that are creating the problem; (3) address primary, rather than tangential issues and result in significant, rather than minimal changes; (4) propose process changes that result in practice changes; and perhaps most importantly, (5) address the positive impact they intend to have on children with disabilities. The process of developing Improvement Plans is a critical component of the CIMP, and if done properly will result in improved special education, related services, and early intervention services. This focus supports the development or enhancement of a process for improvement planning that, for example, will result in solutions that:

(a) Identify systemic barriers to improved early intervention services, and/or special education and related services;

(b) Address the systemic barriers to improved early intervention services, and/or special education and related services;

(c) Include an evaluation component that will demonstrate the positive impact of early intervention services, and/or special education and related services;

(d) Include an evaluation component that will demonstrate the positive changes in staff practice relative to the

provision of special education, related, or early intervention services;

(e) Are aligned or coordinated with the State's general education reform initiatives; and

(f) Are consistent with and responsive to OSEP monitoring report findings.

The process *must* be aligned with the improvement planning phase of the CIMP.

Focus 4: Developing or Enhancing State Systems to Identify, Disseminate, and Implement Research-Based Promising Educational or Early Intervention Practices

Based upon an analysis of the Self-Assessment and additional data collected through the Data Collection phase of the CIMP, an Improvement Plan that addresses both compliance with IDEA and improvement of results is developed. OSEP has found that, in order to be fully effective, many Improvement Plans require a State technical assistance and dissemination infrastructure to identify, disseminate, and implement research-based promising educational or early intervention practices. In many States, this structure is either nonexistent or lacks sufficient resources to be effective.

This focus supports the development or enhancement of a statewide technical assistance system that will address such areas as:

(a) Providing information about research-based intervention and instructional practices;

(b) Supporting the use of research-based instructional and service delivery approaches in local schools and agencies;

(c) Serving as a conduit for the dissemination of research-based information between SEAs, State Lead Agencies, local educational and Part C agencies, and national technical assistance centers; and

(d) Improving the efficacy of disseminating information.

The proposed activities must be aligned with the Improvement Planning process.

Competitive Preferences

Within this absolute priority, we will award the following competitive preference points under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the "General Requirements" section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Maximum Award

Project award amounts are for a single budget period of twelve (12) months. Maximum FY 2001 State basic grant awards are listed in this notice. Applicants should note that they may apply for awards of differing amounts based on whether the application addresses the needs of: (1) Only the Part B program; or (2) both the Parts B and C programs.

In order to apply for the combined Parts B and C award, the application must describe in Part III: (1) How the SEA and State Lead Agency participated in developing the application; and (2) how the applicant will use the funding to address the needs of both the Parts B and C programs.

If an SEA endorses the State Lead Agency as the State's applicant, the application must describe: (1) How the State Lead Agency and SEA collaborated to develop the application; and (2) how the State Lead Agency will use the award to address the needs of both the Parts C and B programs (e.g., developing or enhancing a data system that tracks the transition of toddlers from Part C to Part B services). The amounts for the State basic grant are based on OSEP's assessment that the minimal amounts necessary to address only Part B program needs and both Parts B and C program needs are $120,000 and $200,000 respectively. Amounts above the minimum levels were calculated based on the 85 percent population and 15 percent poverty rates used in the Part B formula grant award calculations. Outlying area levels are $80,000 for addressing only Part B and $100,000 for addressing both Parts B and C. Because Freely Associated States participate only in the Part B program, a level of $80,000 has been established for addressing Part B only. States should not propose a budget in their application for the basic grant award that exceeds the amounts in this notice.

At our discretion, we may reduce the grant award levels based on available funds. We will reject and will not consider an application that proposes a budget period exceeding twelve (12) months or that, for the basic grant award, exceeds the amounts listed in this notice for each State.

SUPPLEMENTARY INFORMATION: OSEP may have additional funds available to support enhancements to the activities described in the applications approved for funding under this competition. Applicants wishing to apply for enhancement funds may add up to five (5) additional pages to Part III to describe additional activities that augment or complement those presented in the narrative section of their basic grant proposal. Enhancement activities may be simply an expansion of activities already described in the narrative or they may be new activities that will improve the quality of the previously proposed tasks; for example, additional staff training, the acquisition of expert technical assistance, or improved stakeholder involvement. A separate budget for the enhancement funds must be prepared and included in Part II of the application. The budget for the enhancement funds must not exceed thirty percent of the award amount listed for the basic grant (i.e., either 30 percent of the award for Part B only *or* 30 percent of the award for Parts B and C, depending on whether the application addresses only the needs of Part B or the needs of Parts B and C).

Page Limits: The maximum page limit for this priority, if only applying to address Part B is twenty (20) double-spaced pages for a basic grant and twenty-five (25) pages for a basic grant with enhancements. The maximum page limit if applying to address Part B and Part C is thirty (30) double-spaced pages for a basic grant and thirty-five (35) pages for a basic grant with enhancements.

Note: Applications must meet the required page limit standards that are described in the "General Requirements" section of this notice.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED–Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact ED Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA 84.326X.

FOR FURTHER INFORMATION CONTACT: Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 260–9182.

If you use a TDD you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact office listed.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Department contact office. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Intergovernmental Review

This notice is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for those programs.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—APPLICATION NOTICE FOR FISCAL YEAR 2001

CFDA No. and name—84.326X IDEA General Supervision Enhancement Grant	Applications available 05/25/01	Application deadline date 07/13/01	Deadline for intergovernmental review 09/13/01	Maximum award for basic grants (per year)*		Project period, 12 months	Page limit**	Estimated number of awards, 24
				IDEA Parts B&C	IDEA Part B only			
Alabama				$326,995	228,311		(1)	
Alaska				222,501	139,433			
Arizona				365,640	260,720			
Arkansas				274,755	183,358			
California				1,152,434	919,827			
Colorado				317,398	221,322			
Connecticut				287,921	196,339			
Delaware				220,315	137,458			
Florida				615,644	476,477			
Georgia				452,348	338,250			
Hawaii				230,944	146,523			
Idaho				240,805	155,155			
Illinois				549,460	419,137			
Indiana				341,761	239,728			
Iowa				280,665	189,877			
Kansas				277,239	187,070			
Kentucky				311,373	215,831			
Louisiana				354,317	255,084			
Maine				230,857	146,922			
Maryland				337,094	238,616			
Massachusetts				365,732	264,459			
Michigan				496,541	378,845			
Minnesota				347,591	247,414			
Mississippi				288,884	195,955			
Missouri				355,803	253,942			
Montana				223,824	140,575			
Nebraska				250,664	163,832			
Nevada				255,904	167,713			
New Hampshire				233,410	149,042			
New Jersey				423,010	314,418			
New Mexico				262,833	174,414			
New York				748,801	595,330			
North Carolina				423,520	310,992			
North Dakota				219,041	136,474			
Ohio				522,298	398,591			
Oklahoma				307,176	213,685			
Oregon				301,101	207,084			
Pennsylvania				522,568	401,520			
Rhode Island				227,361	143,826			
South Carolina				316,041	220,783			
South Dakota				222,534	139,590			
Tennessee				359,337	255,436			
Texas				896,367	714,091			
Utah				282,274	189,654			
Vermont				216,439	134,520			
Virginia				389,523	284,536			
Washington				361,309	259,608			
West Virginia				250,142	163,554			
Wisconsin				348,438	248,360			
Wyoming				214,698	132,919			
D.C				214,178	132,336			
Puerto Rico				361,591	256,775			
American Samoa				100,000	80,000			

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—APPLICATION NOTICE FOR FISCAL YEAR 2001—Continued

CFDA No. and name—84.326X IDEA General Supervision Enhancement Grant	Applications available 05/25/01	Application deadline date 07/13/01	Deadline for intergovernmental review 09/13/01	Maximum award for basic grants (per year)*		Project period, 12 months	Page limit**	Estimated number of awards, 24
				IDEA Parts B&C	IDEA Part B only			
Guam				100,000	80,000			
Northern Marianas				100,000	80,000			
Virgin Islands				100,000	80,000			
Federated States of Micronesia					80,000			
Republic of Palau					80,000			
Republic of the Marshall Islands					80,000			

* Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level that exceeds the stated maximum award amount for basic grants.

** Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the "Page Limit" requirements included under the priority description and the page limit standards described in the "General Requirements" section. See also the "Supplemental Information" section. We will reject and will not consider an application that does not adhere to this requirement.

[1] Basic Grants: B Only—20; B&C—30.
Basic Grants of Enhancement: B Only—25; B&C—35.

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Program Authority: 20 U.S.C. 1485.

Dated: May 15, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–12517 Filed 5–17–01; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Friday,
May 18, 2001

Part V

Department of Education

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children With Disabilities; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children With Disabilities

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for FY 2001 competitions under one program authorized by the Individuals with Disabilities Education Act (IDEA), as amended: Special Education— Training and Information for Parents of Children with Disabilities.

National Education Goals

The eight National Education Goals focus the Nation's education reform efforts and provide a framework for improving teaching and learning.

This priority addresses the National Education Goals that promote new partnerships to strengthen schools and expand the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

This priority would address the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priority in this notice.

General Requirements

(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see section 661(f)(1)(A) of IDEA).

(c) The projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project.

(d) In a single application, an applicant must address only one absolute priority in this notice.

(e) Part III of each application submitted under a priority in this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed in the table at the end of this notice for each applicable priority, using the following standards:

- A "page" is 8.5"x11" (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters per inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject without consideration or evaluation any application if —

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Special Education—Training and Information for Parents of Children With Disabilities [CFDA No. 84.328]

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Under section 682(e) of IDEA, we are required to:

(a) Make at least one award to a parent organization in each State, unless we do not receive an application from such an organization in each State of sufficient quality to warrant approval; and

(b) Select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99; (b) The selection criteria for this priority are drawn from the EDGAR general selection criteria menu. The specific selection criteria for this priority are included in the funding application package for this competition.

Eligible Applicants: Parent organizations, as defined in section 682(g) of IDEA. A parent organization is a private nonprofit organization (other than an institution of higher education) that:

(a) Has a board of directors, the parent and professional members of which are broadly representative of the population to be served and the majority of whom are parents of children with disabilities, that includes individuals with disabilities and individuals working in the fields of special education, related services, and early intervention; or

(b) Has a membership that represents the interests of individuals with disabilities and has established a special governing committee meeting the requirements for a board of directors in paragraph (a) of this section and develops a memorandum of understanding between this special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

Priority

Under section 682 of the Act and 34 CFR 75.105(c)(3), we will give an absolute preference to applications that meet the following priority. We will fund under this competition only those applications that meet this priority:

Absolute Priority—Parent Training and Information Centers (84.328M)

Background

The IDEA Amendments of 1997 strengthen the role of parents and increase their involvement in decisions about their children's education. In order to allocate resources more equitably, create a unified system of service delivery, and provide the broadest coverage for the parents and families in every State, the Department is making awards in five (5)-year cycles for each State. In FY 2001, applications for 5-year awards will be accepted for Alaska, Alabama, Colorado, Florida, Kentucky, Maine, Maryland, Nebraska, New York, North Dakota, Nevada, Vermont, Wisconsin, and Puerto Rico.

In addition to the above State awards, we intend to fund one award that focuses on the needs of Native-American families who have children with disabilities and one award that focuses on the needs of military families who have children with disabilities.

Until the first five (5)-year cycle is completed, there is a need to have an interim schedule for awards in States where there is more than one PTI and their current awards do not have the same end date. We are holding competitions for one or more awards in these States for the time periods needed to match the end date of the last Center funded.

Applications will be accepted for FY 2001 interim competitions for the State of California and the State of Michigan. We intend to fund five awards for one-year each:

(1) One Center in the State of California that will serve the population in the northern part of the State. This award will be for $399,400.

(2) One Center in the State of California that will serve the population in the central part of the State. This award will be for $230,470.

(3) One Center in the State of California that will serve the population in the southern part of the State. This award will be for $236,970.

(4) One Center in the State of California that will serve the population in the San Francisco Bay area. This award will be for $236,970.

(5) One Center in the State of Michigan that will serve the population in the Detroit area. This award will be for $274,440.

Priority

A Parent Training and Information Center must —

(a) Provide training and information that meets the training and information needs of parents of children with disabilities in the area served by the Center, particularly underserved parents and parents of children who may be inappropriately identified, including those who are not identified at all;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in IDEA;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities;

(d) Assist parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decisionmaking processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Understand the provisions of the Act for the education of, and the provision of early intervention services to, children with disabilities; and

(6) Participate in school reform activities;

(e) Contract with the State educational agency, if the State elects to contract with the Parent Training and Information Center, for the purpose of meeting with parents who choose not to use the mediation process to encourage the use, and explain the benefits, of mediation consistent with section 615(e)(2)(B) and (D) of IDEA;

(f) Establish cooperative relations with the Community Parent Resource Center or Centers in their State in accordance with section 683(b)(3) of IDEA;

(g) Network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of IDEA, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities;

(h) Annually report to the Assistant Secretary on—

(1) The number of parents to whom the Parent Training and Information Center provided information and training in the most recently concluded fiscal year, and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

(i) If there is more than one parent center in a particular State, coordinate its activities to ensure the most effective assistance to parents in that State.

An applicant must identify the strategies it will undertake—

(a) To ensure that the needs for training and information of underserved parents of children with disabilities in the areas to be served are effectively met, particularly in underserved areas of the State; and

(b) To work with the community-based organizations, particularly in the underserved areas of the State.

A Parent Training and Information Center that receives assistance under this absolute priority may also conduct the following activities —

(a) Provide information to teachers and other professionals who provide special education and related services to children with disabilities;

(b) Assist students with disabilities to understand their rights and responsibilities on reaching the age of majority, as stated in section 615(m) of IDEA; and

(c) Assist parents of children with disabilities to be informed participants in the development and implementation of the State improvement plan under IDEA.

In addition to the annual Project Directors' meeting included in the "General Requirements" section of this notice, a project's budget must include funds to attend a regional Project Directors' meeting to be held each year of the project.

In order to demonstrate eligibility to receive a grant, an applicant must describe how its board or special governing committee meets the criteria for a parent organization in section 682(g) of IDEA. In addition, any parent organization that establishes a special governing committee under section 682(g)(2) of IDEA must demonstrate that the bylaws of its organization allow the governing committee to be responsible for operating the project (consistent with existing fiscal policies of its organization).

Current funding levels and population of school age children were factors in determining the funding levels for these grants.

Competitive Preferences

Within this absolute priority, we will award the following competitive preference points under 34 CFR 75.105(c)(2)(i): An additional 10 points to an application submitted by a parent organization or a consortia of parent organizations that qualify as parent organizations under section 682(g)(1) of IDEA.

In addition, we will give the following competitive preference points under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the "General Requirements" section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of these competitive preferences, applicants can be awarded up to a total of 20 points in addition to those awarded under the

selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 120 points.

Project Period: With the exception of the following, projects will be funded for a period up to 60 months. Interim projects will be funded for a period up to 12 months.

Estimated Project Awards: Project award amounts are for a single budget period of 12 months. The FY 2001 State awards, interim State awards, and awards focusing on Native American families and military families are listed below:

Alaska	$269,820
Alabama	280,940
Colorado	277,330
Florida	585,020
Kentucky	253,760
Maine	193,350
Maryland	297,890
Nebraska	202,110
New York	1,154,270
North Dakota	210,170
Nevada	210,280
Puerto Rico	278,880
Vermont	193,870
Wisconsin	450,000
Native American Families	100,000
Military Families	100,000
California (4 Interim Awards)	1,103,810
Michigan (Interim Award)	274,440

Awards may also be made to authorized entities in Guam, Palau, the Commonwealth of the Northern Mariana Islands, and the freely associated States. However, maximum funding levels have not been specified.

Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the "General Requirements" section of this notice.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED–Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact ED Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA 84.328M.

FOR FURTHER INFORMATION CONTACT: Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 260–9182.

If you use a TDD you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact office.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Department contact office. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Intergovernmental Review

The program in this notice is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for this program.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 2001

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year) *	Project period	Page limit **	Estimated No. of awards
84.328M Parent Training and Information Centers.	05/25/01	07/13/01	09/13/01	.....	Up to 60 mos	50	21
Alaska	.....	.....	.....	$269,820	.....	.....	.....
Alabama	.....	.....	.....	280,940	.....	.....	.....
Colorado	.....	.....	.....	277,330	.....	.....	.....
Florida	.....	.....	.....	585,020	.....	.....	.....
Kentucky	.....	.....	.....	253,760	.....	.....	.....
Maine	.....	.....	.....	193,350	.....	.....	.....
Maryland	.....	.....	.....	297,890	.....	.....	.....
Nebraska	.....	.....	.....	202,110	.....	.....	.....
New York	.....	.....	.....	1,154,270	.....	.....	.....
North Dakota	.....	.....	.....	210,170	.....	.....	.....
Nevada	.....	.....	.....	210,280	.....	.....	.....
Puerto Rico	.....	.....	.....	278,880	.....	.....	.....
Vermont	.....	.....	.....	193,870	.....	.....	.....
Wisconsin	.....	.....	.....	450,000	.....	.....	.....
Native American Families	.....	.....	.....	100,000	.....	.....	.....
Military Families	.....	.....	.....	100,000	.....	.....	.....
California (Interim)	.....	.....	.....	1,103,810	.....	.....	.....
Michigan (Interim)	.....	.....	.....	274,440	.....	.....	.....

* Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. Awards may also be made to authorized entities in Guam, Palau, the Commonwealth of the Northern Mariana Islands, and the freely associated States. However, maximum funding levels have not been specified.

** Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the "Page Limit" requirements included under each priority description and the page limit standards described in the "General Requirements" section. We will reject and will not consider an application that does not adhere to this requirement.

Electronic Access To This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PDF) on the internet at the following site: http://www.ed.gov/Legislation/FedRegister. To use PDF you must have Adobe Acrobat Reader, which is available free at the previous site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo/nara/index.html.

Program Authority: 20 U.S.C. 1482.

Dated: May 14, 2001.

Frank V. Corrigan,

Deputy Director for National Institute on Disability and Rehabilitation and Research.

[FR Doc. 01–12518 Filed 5–17–01; 8:45 am]

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Federal Register

Friday,
May 18, 2001

Part VI

Department of Education

Office of Elementary and Secondary Education—Safe and Drug-Free Schools and Communities National Programs; Notices

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education—Safe and Drug-Free Schools and Communities National Programs

AGENCY: Department of Education.

ACTION: Notice of final priority and selection criteria for Fiscal Year 2001—Safe Schools/Healthy Students Initiative.

SUMMARY: The Secretary of Education (the Secretary) announces a final priority and selection criteria for fiscal year (FY) 2001. Under this priority, the Departments of Education (ED), Health and Human Services (HHS), and Justice (DOJ) will fund the implementation and enhancement of comprehensive community-wide strategies for creating safe and drug-free schools and promoting healthy childhood development.

To be funded, local comprehensive strategies must address the following six elements and may address other elements as determined by the needs of the community: (1) Safe school environment; (2) alcohol and other drugs and violence prevention and early intervention; (3) school and community mental health preventive and treatment intervention programs; (4) early childhood psychosocial and emotional development services; (5) educational reform; and (6) safe school policies.

EFFECTIVE DATE: This notice takes effect May 18, 2001.

FOR FURTHER INFORMATION CONTACT: Detailed information regarding the Safe Schools/Healthy Students Initiative is available at the following sites on the Internet:

http://www.ed.gov/offices/OESE/SDFS
http://www.ojjdp.ncjrs.org
http://www.samhsa.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: More than a generation of research has provided a solid knowledge base of the complex risk processes that lead to violent outcomes for children, families, schools, and communities. Antisocial behaviors of children and adolescents at highest risk arise from the interaction of multiple environmental and individual antecedents that begin early in the child's life. They include (1) stressful family environments; (2) lack of parenting skills; (3) alienation between family and school (and other community institutions); and (4) individual characteristics of the child that may be biologically based (*e.g.*, irritability, impulsivity), that interfere with critical early attachment and nurturing relationships and later make the child's behavior difficult to control. This results in the early onset of aggressive behaviors, an increase in behavior problems at home, and the continuation and escalation of problems with peers and teachers when the child reaches school age. Unless interrupted, antisocial behavior persists throughout the school career and on into adulthood. High risk converges in middle school and accelerates into adolescence. Risk is exacerbated by exposure to negative peer pressure and a noxious environment where few protective factors are available. This, in turn, increases the likelihood of interpersonal violence and other antisocial behavior, substance abuse and addiction, potential drug dealing, the emergence of disorders such as depression and anxiety, academic failure, risky sexual behaviors leading to increased risk for HIV and other sexually-transmitted diseases, and teen pregnancy.

The Safe Schools/Healthy Students (SS/HS) Initiative draws on the best practices in the fields of education, justice, social service, and mental health to promote a comprehensive, integrated framework for use by communities in planning, designing, and implementing programs to prevent school violence and youth alcohol and other drug use. This comprehensive framework includes: (1) Establishing school-community partnerships; (2) identifying and measuring the problem; (3) setting measurable goals and objectives; (4) identifying appropriate research-based programs and strategies; (5) implementing the programs and strategies in an integrated fashion; (6) evaluating the outcomes of the programs and strategies; and (7) revising the comprehensive plan on the basis of evaluation information.

The goal of the Safe Schools/Healthy Students Initiative is to help students develop the skills and emotional resilience necessary to promote positive mental health and engage in pro-social behavior, thereby preventing violent behavior and alcohol and other drug use so that that all students who attend the schools served by this initiative are able to learn in a safe, disciplined, and drug-free environment. Successful applicants will provide students, schools, and families within the targeted geographic area to be served a network of effective comprehensive services, support, and activities that promote healthy youth development and safety.

Eligible Applicants: Local educational agencies.

The Secretary, with the Secretary of HHS and the Attorney General, will award approximately 15 grants in FY 2001 to local educational agencies. To be eligible for funding, applicants must:

(a) Develop a SS/HS comprehensive plan that addresses the following six elements: (1) Safe school environment, (2) alcohol and other drugs and violence prevention and early intervention programs, (3) school and community mental health preventive and treatment intervention services, (4) early childhood psychosocial and emotional development programs, (5) educational reform, and (6) safe school policies.

The SS/HS comprehensive plan must show evidence of a partnership comprising, at a minimum, the local educational agency, local public mental health authority, local law enforcement agency, family members, teachers, students, juvenile justice officials, and community organizations, including faith-based organizations.

(b) Submit two formal written agreements. The first must describe the goals and objectives of the partnership and include a delineation of the roles and responsibilities of each partner. This agreement must contain the signatures of the school superintendent, the head of the local public mental health authority, and the chief law enforcement executive adopting the SS/HS comprehensive plan, and commitments by each to accomplish all objectives.

The second written agreement must describe the procedures to be used for referral, treatment, and follow-up by the specialty mental health system for children and adolescents with serious mental health problems. This agreement must be signed by the school superintendent and the head of the local public mental health organization.

(c) Provide documentation of the community need and available resources as follows:

—Baseline assessment of risk factors among students, such as (1) students engaged in alcohol and drug use and violent behavior; (2) incidence and prevalence of alcohol and drug use by youth; (3) prevalence of weapons in schools; (4) incidents of serious and violent crime in schools; (5) truancy and other unauthorized absences; (6) suicidal behaviors; (7) student suspensions and expulsions for drug use or violent behavior; (8) students on probation; (9) students in juvenile justice placements; (10) students in foster care and child protective services; (11) students with emotional and behavioral disorders; (12) children abused and neglected; and (13) school attendance and performance.
—An assessment of community risk factors such as (1) socioeconomic conditions as measured by the percentage of families at or below the poverty level and percentage of students receiving free and reduced price lunch at school; (2) population turnover; (3) racial and ethnic heterogeneity; (4) housing density; (5) household composition; (6) crime and delinquency rates including domestic violence and rape; and (7) suicide rates.
—An assessment of resources and services available to students and their families, such as (1) number of afterschool programs; (2) number of youth served by programs to build social skills; (3) number and quality of community mental health and social service organizations available to provide services to children, adolescents, and families; (4) number of youth participating in academic readiness programs; (5) number and types of early intervention services and programs; (6) number and types of law enforcement prevention programs; (7) number of substance abuse programs; (8) presence of a community anti-drug coalition; and (9) number and types of peer mediation and community mediation programs.

(d) Provide for mental health services to all students in the SS/HS comprehensive plan.

(e) Show that Federal regulations regarding possession of firearms and reporting of firearm offenses to appropriate law enforcement officials and regulations regarding tobacco use are being enforced.

(f) Provide documentation (charter, publications, meeting minutes, etc.) of the existing partnership in operation that will be enhanced and expanded.

In making awards under this grant program, the Secretary, with the Secretary of HHS and the Attorney General, may (1) take into consideration the geographic distribution and diversity of activities addressed by the projects, in addition to the rank order of applicants, and (2) in accordance with 34 CFR 75.217(d) of the Education Department General Administrative Regulations, ensure equitable distribution of grants under this program among urban, suburban, and rural LEAs.

Contingent upon the availability of funds, the Secretary, with the Secretary of HHS and the Attorney General, may make additional awards in FY 2002 from the rank-ordered list of unfunded applicants from this competition.

Note: This notice of final priority and selection criteria does not solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Absolute Priority: Under 34 CFR 75.105(c)(3); the Safe and Drug-Free Schools and Communities Act; and Public Laws 106–554 and 106–553 enacted December 21, 2000, the Secretary, with the Secretary of HHS and the Attorney General, gives an absolute preference to applications that meet the following priority:

Implementing and Enhancing Comprehensive Community-wide Strategies for Creating Safe and Drug-free Schools and Promoting Healthy Childhood Development

Applicants proposing a project under this priority must demonstrate how the funds they are requesting support or enhance a comprehensive, integrated strategy for an entire school district that includes, at a minimum, the following six elements: (1) Safe school environment; (2) alcohol and other drugs and violence prevention and early intervention; (3) school and community mental health preventive and treatment intervention programs; (4) early childhood psychosocial and emotion development services; (5) educational reform; and (6) safe school policies. In circumstances where implementation of the strategy for an entire school district is not possible, applicants must provide a full explanation of how the chosen schools will receive services under all six elements of the plan, and why district-wide implementation is not feasible or appropriate.

Selection Criteria

The Secretary, with the Secretary of HHS and the Attorney General, uses the following selection criteria to evaluate applications for new grants under this competition. The maximum total score for all of these criteria is 100 points.

The maximum score for each criterion or factor under that criterion is indicated in parentheses.

(a) *Problems to be addressed* (15 points).

In assessing the extent to which the application is based on a clear and accurate statement of the significant problems faced by the target community, the following factors are considered:

(1) The magnitude or severity of the problem(s) to be addressed by the proposed strategy;

(2) The extent to which existing gaps in services and resources exist, the magnitude of those gaps and weaknesses, and the extent to which the community is ready to improve current conditions;

(3) The factual basis for the problem statement, based on data including, at a minimum but not limited to, the rates of the following:

—Students engaged in alcohol and drug use and violent behavior;
—Incidence and prevalence of alcohol and drug use by youth;
—Prevalence of weapons in schools;
—Incidents of serious and violent crime in schools;
—Truancy and other unauthorized absences;
—Suicidal behaviors;
—Student suspensions and expulsions;
—Students on probation;
—Students in juvenile justice placements;
—Students in foster care and child protective services;
—Child abuse and neglect;
—School attendance and academic performance data;
—Students with emotional and behavioral disorders;

(4) Evidence of community risk factors that may contribute to youth violence, drug use, and delinquency such as the following:

—Socioeconomic conditions as measured by the percentage of families at or below the poverty level and percentage of students receiving free and reduced price lunch at school;
—Population turnover;
—Racial and ethnic heterogeneity;
—Housing density;
—Household composition;
—Crime and delinquency rates including domestic violence and rape;
—Suicide rates;
—Violent crime victimization rate for youth under the age of 18;

(1) The extent to which the problem statement includes an assessment of the community resources available for children and adolescents, including:

—Number of afterschool programs;
—Number of youth served by programs to build social skills;
—Number and quality of community mental health and social service organizations available to provide services to children, adolescents, and families;
—Number of youth participating in academic readiness programs;
—Number and types of early intervention services and programs;
—Number and types of law enforcement prevention programs;

—Number and quality of substance abuse prevention programs;
—Presence of a community anti-drug coalition;
—Presence of community mediation or victim-offender mediation programs; and

(6) Extent of community readiness to collaborate and improve current conditions.

(b) *Goals and objectives* (10 points).

In assessing the goals and objectives of the proposed comprehensive plan, the following factors are considered:

(1) The extent to which the goals and objectives for the proposed strategy are clearly defined, measurable, and attainable;

(2) The extent to which the proposed strategy will meet the established goals and objectives and lead to healthy childhood development and positive mental health, and safe, disciplined, and alcohol- and drug-free learning environments; and

(3) The extent to which the objectives identified are related to measurable action steps needed to achieve the goal(s).

(c) *Design of proposed strategy* (30 points).

In assessing the design of the proposed strategy, the following factors are considered:

(1) The extent to which the proposed strategy represents a comprehensive network in which each element of the Safe Schools/Healthy Students Initiative is addressed and incorporated in an integrated fashion;

(2) The extent to which the intervention is appropriate for the age and developmental levels, gender, and ethnic and cultural diversity of the target population, and demonstrates the ability to engage and respond to the needs of identified ethnic/racial minority populations;

(3) The extent to which the application clearly describes the programs, activities, and services that comprise the proposed strategy;

(4) For Elements 2, 3, and 4 of the SS/HS comprehensive plan described under *Eligible Applicants* (above), the extent to which the proposed programs provide evidence that they are effective and do no harm. (Up to 10 points out of the maximum 30 points for this criterion will be used to assess the strength of the applicant's design for these elements);

(5) The extent to which the proposed strategy will be coordinated with similar or related efforts and will establish linkages with other appropriate agencies and organizations providing services to the target population;

(6) The potential for continued support of the strategy after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support;

(7) The extent to which the implementation process is adequately documented;

(8) The extent to which the program selected is designed to help meet the goals and objectives of the community's comprehensive plan.

(d) *Evaluation plan* (15 points).

In determining the quality of the evaluation plan, the following factors will be considered:

(1) The extent to which the plan provides information for increasing the effectiveness of management and administration of the SS/HS comprehensive plan, documents that objectives have been met, and determines the overall effectiveness of the plan, its programs, and strategies;

(2) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed comprehensive plan;

(3) The adequacy of the identified performance measures to demonstrate whether and to what extent the proposed strategy is meeting its short-term, intermediate, and long-term objectives;

(4) Adequacy and appropriateness of the plan to collect data related to violence from a variety of sources such as mental health services, social services, schools, law enforcement agencies, and the juvenile justice system;

(5) The extent to which the methods of evaluation address data needs for sustainability of the SS/HS comprehensive plan after Federal support has ended.

(e) *Management and organizational capability* (20 points).

In determining the quality of management and organizational capability, the following factors are considered:

(1) The level of commitment proposed by the written agreements signed by the school superintendent, the head of the local public mental health authority, and the chief law enforcement executive, as well as written agreements with other community partners;

(2) The relevance and demonstrated commitment of each partner in the proposed strategy to the implementation and success of the strategy, and how they will participate in the proposed project;

(3) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(4) The adequacy of procedures for communicating and sharing information among all partners to ensure feedback and continuous improvement in the operation of the proposed comprehensive plan;

(5) The skills, experience, time commitments, and educational requirements of key staff and relevance of those qualifications to the objectives of the proposed SS/HS comprehensive plan;

(6) The extent to which staff qualifications and training represent diverse and relevant experience in engaging and providing services to underserved, underrepresented, and/or diverse racial/ethnic groups.

(f) *Budget* (10 points).

In determining the quality of the budget, the following factors will be considered:

(1) The extent to which the costs are reasonable in relation to the number of students to be served and to the anticipated benefits and results;

(2) The extent to which fiscal control and accounting procedures will ensure prudent use, proper and timely disbursement and accurate accounting of funds received under the grant.

Waiver of Proposed Rulemaking

It is the Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program. Congressional action that provided Department of Labor funds in 2001 for the Safe Schools/Healthy Students constituted a significant change in the initiative. As a result of this change, the Assistant Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely awards.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Applicable Program Regulations: The Education Department General Administrative Guidelines in 34 CFR parts 74, 75 (except 75.102), 77, 79, 80, 81, 82, 85, 98, and 99.

Program Authority: 20 U.S.C. 7131.

Electronic Access to This Document: You may view this document in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister*

To use PDF you must have the Adobe Acrobat Reader, which is available free at the previous site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at (888) 293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

(Catalog of Federal Domestic Assistance Number 84.184L, Safe and Drug-Free Schools and Communities Act National Programs—Federal Activities Grants Program)

Dated: May 14, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–12557 Filed 5–17–01; 8:45 am]

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DEPARTMENT OF EDUCATION

(CFDA No: 84.184L)

Safe and Drug-Free Schools and Communities National Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

AGENCY: Office of Elementary and Secondary Education—Safe and Drug-Free Schools and Communities National Programs, Department of Education.

ACTION: Notice inviting applications for new awards for Fiscal Year (FY) 2001.

Purpose of Program: To fund the implementation and enhancement of comprehensive community-wide strategies for creating safe and drug-free schools and promoting healthy childhood development.

Eligible Applicants: Local educational agencies (LEAs).

Applications Available: May 18, 2001.

Deadline for Transmittal of Applications: July 16, 2001.

Deadline for Intergovernmental Review: September 14, 2001.

Estimated Available Funds: $31 million.

Estimated Average Size of Awards: Awards will range from up to $3 million for LEAs in urban areas; up to $2 million for LEAs in suburban areas; and up to $1 million for LEAs in rural areas and tribal school districts.

Estimated Number of Awards: 15.

Note: The Department of Education is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except 75.102), 77, 79, 80, 81, 82, 85, 98, and 99; and (b) the notice of final priority and selection criteria as published elsewhere in this issue of the **Federal Register**.

For Applications and Further Information Contact:

For applications and further information, please contact the agencies as follows:

U.S. Department of Education, Safe and Drug-Free Schools Program
Internet: *http://www.ed.gov./offices/OESE/SDFS*
Phone: (202) 260–3954

U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration
Internet: *http://www.samhsa.gov*
Phone: (800) 789–2647

U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention
Internet: *http://www.ojjdp.ncjrs.org*
Phone: (202) 307–5911

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at (800) 877–8339.

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Program Authority: 20 U.S.C. 7131.

Dated: May 14, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–12558 Filed 5–17–01; 8:45 am]

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

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5–21–01 Monday
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WHEN: Tuesday, May 22, 2001 at 9:00 a.m.

WHERE: Office of the Federal Register
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(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

The President

Presidential Determination No. 2001–14 of April 30, 2001

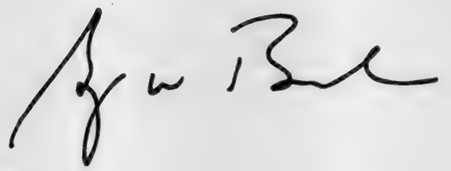
Certification To Permit U.S. Contributions to the International Fund for Ireland With Fiscal Year 2000 and 2001 Funds

Memorandum for the Secretary of State

Pursuant to section 5(c) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415), as amended in section 2811 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (as contained in Public Law 105–277), I hereby certify that I am satisfied that: (1) the Board of the International Fund for Ireland, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and (2) disbursements from the International Fund (a) will be distributed to individuals and entities whose practices are consistent with the principles of economic justice; and (b) will address the needs of both communities in Northern Ireland and will create employment opportunities in regions and communities of Northern Ireland suffering from high rates of unemployment.

You are authorized and directed to transmit this determination, together with the attached statement setting forth a detailed explanation of the basis for this certification, to the Congress.

This determination shall be effective immediately and shall be published in the **Federal Register**.



THE WHITE HOUSE,
Washington, April 30, 2001.

[FR Doc. 01–12847
Filed 5–18–01; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 2001–15 of May 11, 2001

Cooperation by Vietnam in Accounting for United States Prisoners of War and Missing in Action

Memorandum for the Secretary of State

As provided under section 610 of the Departments of Commerce, Justice, and State, the Judiciary and Other Independent Agencies Appropriations Act, 2001, as contained in the Consolidated Appropriations Act for FY 2001, Public Law 196–553, I hereby determine, based on all information available to the United States Government, that the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following four areas related to achieving the fullest possible accounting for Americans unaccounted for as a result of the Vietnam War:

1) resolving discrepancy cases, live sightings, and field activities;
2) recovering and repatriating American remains;
3) accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs; and,
4) providing further assistance in implementing trilateral investigations with Laos.

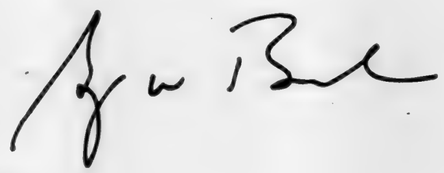
I further determine that the appropriate laboratories associated with POW/MIA accounting are thoroughly analyzing remains, material, and other information and fulfilling their responsibilities as set forth in subsection (B) of section 610, and information pertaining to this accounting is being made available to immediate family members in compliance with 50 U.S.C. 435 note.

I have been advised and believe that section 610 is unconstitutional because it purports to use a condition on appropriations as a means to direct my execution of responsibilities that the Constitution commits exclusively to the President. I am providing this determination as a matter of comity, while reserving the position that the condition enacted in section 610 is unconstitutional.

In making this determination, I have taken into account all information available to the United States Government as reported to me, the full range of ongoing accounting activities in Vietnam, including joint and unilateral Vietnamese efforts, and the concrete results we have attained as a result.

Finally, in making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, May 11, 2001.

[FR Doc. 01–12848
Filed 5–18–01; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1773

RIN 0572–AB66

Policy on Audits of RUS Borrowers; Management Letter

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulations by revising certain requirements regarding the management letter to be provided to RUS by certified public accountants (CPAs) as part of audits of RUS borrowers.

DATES: This rule will become effective July 5, 2001, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 20, 2001. If we receive such comments or notice, we will publish a timely document in the **Federal Register** withdrawing the rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Staff, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between the 8 a.m. and 4 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1523, Washington, DC 20250–1523. Telephone: 202–720–5227.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with state and local offices. See the final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any are required, must be exhausted before an action against the Department or its agencies.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS loan programs provide borrowers with loans at interest rates and terms that are more favorable than those generally available from the private sector. Borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct cost associated with RUS regulations and requirements.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under Nos. 10.850, Rural Electrification Loans and Loan Guarantees, 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572–0095, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW., Stop 1522, Washington, DC 20250–1522.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

Background

Title 7 part 1773 implements the standard RUS security instrument provision requiring RUS electric and telecommunications borrowers to prepare and furnish to RUS, at least once during each 12-month period, a full and complete report of its financial condition, operations, and cash flows,

in form and substance satisfactory to RUS; audited and certified by an independent Certified Public Accountant (CPA), satisfactory to RUS, and accompanied by a report of such audit, in form and substance satisfactory to RUS.

This rule revises requirements for the management letter. Section 1773.33(c) is revised to address continuing property records (CPRs) rather than the term plant records. In addition, the requirement that the CPA state whether the CPRs have been established, is expanded wherein the CPA must state that the CPRs are established, maintained on a current basis, and are reconciled to the general ledger plant accounts. The requirements for the CPA to determine that the borrower secured RUS approval for the sale of plant in § 1773(c)(5) is expanded to include the sale, lease, or transfer of assets secured under the mortgage and to state whether the proceeds were handled in conformance with RUS requirements.

The following requirements under § 1773.33 are eliminated: (1) The requirement for the CPA to determine that loan funds were deposited in banks designated in the loan documents; (2) a corresponding requirement in the telecommunications management letter; (3) the requirement for the CPA to determine that the borrower has complied with the RUS requirement for approval of any lease of a building or land, standard traffic settlement agreement, billing and collecting agreements, toll pooling arrangements, directory service agreements, and joint-use agreement; and (4) the requirement for the CPA to determine borrower compliance with the requirement to maintain a net plant to secured debt ratio or a funded reserve for certain loans wherein the maturity period exceeds the economic life of the plant facilities being financed.

Section 1773.33, Management Letter, specifies the minimum requirements for the CPA's management letter. RUS borrowers have increasingly diversified into other utility and nonutility related activities through the formation of subsidiary and affiliated companies. RUS has need of information on investments in these subsidiary and affiliated companies to assist in its efforts to monitor loan security issues and respond to claims of cross subsidization. A new requirement for the CPA to provide a detailed analysis of borrowers' investments is therefore being added to the management letter requirements. The CPA is required to disclose certain general and financial information regarding each of a borrower's investments in subsidiary and affiliated companies accounted for on the cost or equity basis. This information is readily available in the investment subsidiary records.

In previous versions of part 1773 the sample reports, financial statements, and management letters were contained in four appendices, two for electric borrowers and two for telecommunications borrowers. Beginning with this revision of part 1773, the appendices will no longer be codified in the Code of Federal Regulations. The appendices will be available in new RUS Bulletin 1773–1, which will contain all of 7 CFR part 1773 and the appendices. Appendix A will contain the sample reports, financial statements and management letter for electric borrowers while Appendix B will contain similar sample for telecommunications borrowers. The exhibits of the management letters, which are included in the appendices, are attached to this notice for information only. Publishing part 1773 in bulletin form will provide the RUS audit policy in a user-friendly format. A single copy of this publication will be provided to all RUS borrowers and certified public accounts approved to perform audits of RUS borrowers and will be available at http://www.usda.gov/rus/ruswide.htm.

List of Subjects in 7 CFR Part 1773

Accounting, Electric power, Loan programs—communications, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas, Telephone.

For the reasons set forth in the preamble, RUS amends 7 CFR Chapter XVII as follows:

PART 1773—POLICY ON AUDITS OF RUS BORROWERS

1. The authority citation for Part 1773 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

§ 1773.33 [Amended]

2. Amend § 1773.33 by:

A. Removing paragraphs (e)(1)(i), (e)(2)(i), (e)(2)(i)(B) through (e)(2)(ii), and (e)(2)(iv);

B. Redesignate paragraphs as listed in the table below:

From	To
(e)(1)(ii)	(e)(1)(i)
(e)(1)(iii)	(e)(1)(ii)
(e)(2)(i)(A)	(e)(2)(i)
(e)(2)(iii)	(e)(2)(ii)

C. Revising paragraphs (c)(1), (c)(5), (e) introductory text, (e)(1) introductory text, and (e)(2) introductory text and redesignated paragraphs (e)(1)(i) and (e)(2)(i); and

D. Adding a new paragraph (i).

The revisions and additions read as follows:

§ 1773.33 Management letter.

* * * * *

(c) * * *

(1) Whether continuing property records (CPRs) have been established, are updated on a current basis, at least annually, and are reconciled with the controlling general ledger plant accounts;

* * * * *

(5) Whether RUS approval was obtained for the sale, lease or transfer of capital assets secured under the mortgage when approval is required, and whether proceeds from the sale or lease of plant, material or scrap were handled in conformance with RUS requirements.

* * * * *

(e) *Compliance with RUS loan and security instrument provisions.* State whether the following provisions of RUS' loan and security instruments have been complied with:

(1) For electric borrowers, provisions related to:

(i) The requirements for a borrower to obtain written approval of mortgagees to enter into any contract for the management, operation, or maintenance of the borrower's system if the contract covers all or substantially all (90 percent) of the electric system. For purposes of this part, the following contracts shall be deemed as requiring RUS approval:

* * * * *

(2) For telecommunications borrowers, provisions relating to the requirement for a borrower to obtain written approval of the mortgagees to enter into:

(i) Any contract, agreement or lease between the borrower and an affiliate other than as allowed under 7 CFR part 1744, subpart E;

* * * * *

(i) *Investments.* For electric and telecommunications borrowers, provide a detailed schedule of all investments in subsidiary and affiliated companies accounted for on either the cost or equity basis. This requirement includes investments in corporations, limited liability corporations and partnerships, joint ventures, etc. For all investments list the name of the entity, ownership percentage, and the principal business in which the entity is engaged. For investments recorded on the cost basis include the original investment, advances, dividends declared or paid in the current and prior years and the net investment. For investments recorded on the equity basis include the ownership percentage, original investment, advances, and current and prior years' earnings and losses, including accumulated losses in excess of the original investment.

Dated: May 8, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

The Following Appendixes Will Not Appear in the Code of Federal Regulations

Exhibit 5—Illustrative Independent Auditor's Management Letter for Electric Borrowers to Appendix A to RUS Bulletin 1773–1, Sample Auditor's Report for an Electric Cooperative

Exhibit 5—Illustrative Independent Auditor's Management Letter for Electric Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Electric Borrowers

March 2, 20X2
Board of Directors
Center County Electric Energy Association, Inc.
[City, State]

We have audited the financial statements of Center County Electric Energy Association, Inc. for the year ended December 31, 20X1, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR Part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Electric Energy Association, Inc. for the year ended December 31, 20X1, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

Section 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in § 1773.33(e)(1), related party transactions, depreciation rates, a schedule of deferred debits and credits, and a schedule of investments upon which we express an opinion. In addition, our audit of the financial statements also included the procedures specified in § 1773.38 through 1773.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports other than our independent auditors' report and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 2002 or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by § 1773.33 are presented below.

Comments on Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding Center County Electric Energy Association, Inc.'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];
—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and
—The materials control [list other comments].

Comments on Compliance With Specific RUS Loan and Security Instrument Provisions

At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others for the year ended December 31, 20X1:

1. Obtained and read a borrower-prepared schedule of new written contracts entered into during the year for the operation or maintenance of its property, or for the use of its property by others as defined in § 1773.33(e)(1)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

Procedure performed with respect to the requirement to submit RUS Form 7 or Form 12 to the RUS:

1. Agreed amounts reported in Form 7 or Form 12 to Center County Electric Energy Association, Inc.'s records.

The results of our tests indicate that, with respect to the items tested, Center County Electric Energy Association, Inc. complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others as defined in § 1773.33(e)(1)(i) [list all exceptions]; and
—The borrower has submitted its Form 7 or Form 12 to the RUS and the Form 7 or Form 12, Financial and Statistical Report, as of December 31, 20X1, represented by the borrower as having been submitted to RUS is in agreement with the Center County Electric Energy Association, Inc.'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of Center County Electric Energy Association, Inc., nothing came to our attention that caused us to believe that Center County Electric Energy Association, Inc. failed to comply with respect to:

—The reconciliation of continuing property records to the controlling general ledger

plant accounts addressed at § 1773.33(c)(1) [list all exceptions];
—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at § 1773.33(c)(2) [list all exceptions];
—The retirement of plant addressed at § 1773.33(c)(3) and (4) [list all exceptions];
—Approval of the sale, lease, or transfer of capital assets and disposition of proceeds for the sale or lease of plant, material, or scrap addressed at § 1773.33(c)(5) [list all exceptions];
—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 2001, in the financial statements referenced in the first paragraph of this report addressed at § 1773.33(f) [list all exceptions];
—The depreciation rates addressed at § 1773.33(g) [list all exceptions];
—The detailed schedule of deferred debits and deferred credits; and
—The detailed schedule of investments.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of deferred debits and deferred credits required by § 1773.33(h) and the detailed schedule of investments required by § 1773.33(i), and provided below, are presented for purposes of additional analysis and are not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of deferred debits and deferred credits would be included here. The total amount of deferred debits and deferred credits as reported in the schedule must agree with the totals reported on the Balance Sheet under the specific captions of "Deferred Debits" and "Deferred Credits". Those items that have been approved, in writing, by RUS should be clearly indicated.]

[The detailed schedule of investments would be included here. The total of the investment in each company reported must agree with the investment subsidiary accounts.]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

Exhibit 5—Illustrative Independent Auditor's Management Letter for Telecommunications Borrowers to Appendix B to RUS bulletin 1773–1, sample auditor's report for a telecommunications Cooperative

Exhibit 5—Illustrative Independent Auditor's Management Letter for Telecommunications Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Telecommunications Borrowers

March 2, 2002
Board of Directors
Center County
Telecommunications Systems, Inc.
(City, State)

We have audited the financial statements of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR Part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

Section 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in § 1773.33(e)(2), and related party transactions and investments. In addition, our audit of the financial statements also included the procedures specified in § 1773.38 through 1773.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports other than our independent auditors' report, and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 2002 or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by § 1773.33 are presented below.

Comments On Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding Center County Telecommunications Systems, Inc.'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];
—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and—
The materials control [list other comments].

Comments On Compliance With Specific RUS Loan and Security Instrument Provisions

At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract, agreement or lease between the borrower and an affiliate for the year ended December 31, 2001:

1. Obtained and read a borrower-prepared schedule of new written contracts, agreements or leases entered into during the year between the borrower and an affiliate as defined in § 1773.33(e)(2)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 479 to the RUS:

1. Agreed amounts reported in Form 479 to Center County Telecommunications Systems, Inc.'s records.

The results of our tests indicate that, with respect to the items tested, Center County Telecommunications Systems, Inc. complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract agreement or lease with an affiliate as defined in § 1773.33(e)(2)(i) [list all exceptions]; and
—The borrower has submitted its Form 479 to the RUS and the Form 479, Financial and Statistical Report, as of December 31, 2001, represented by the borrower as having been submitted to RUS is in agreement with the Center County Telecommunications Systems, Inc.'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of Center County Telecommunications Systems, Inc., nothing came to our attention that caused us to believe that Center County Telecommunications Systems, Inc. failed to comply with respect to:

—The reconciliation of continuing property records to the controlling general ledger plant accounts addressed at § 1773.33(c)(1) [list all exceptions];
—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at § 1773.33(c)(2) [list all exceptions];
—The retirement of plant addressed at § 1773.33(c)(3) and (4) [list all exceptions];
—The approval of the sale, lease, or transfer of capital assets and disposition of proceeds for the sale of lease of plant, material, or scrap addressed at § 1773.33(c)(5) [list all exceptions]; The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 2001, in the financial statements referenced in the first paragraph of this report addressed at § 1773.33(f) [list all exceptions]; and
—The detailed schedule of investments.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of investments required by § 1773.33(i) and provided below is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of investments would be included here. The total of the investment in each company reported must agree with the detail investment subsidiary accounts.]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

[FR Doc. 01–12129 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1773

RIN 0572–AB62

Policy on Audits of RUS Borrowers; Generally Accepted Government Auditing Standards (GAGAS)

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulations to include in its audit requirements for electric and telecommunications borrowers recent amendments to the Generally Accepted Government Auditing Standards (GAGAS) issued by the Government Accounting Office (GAO) and to make other minor changes and corrections.

DATES: This rule will become effective July 5, 2001 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 20, 2001. If we receive such comments or notice, we will publish a timely document in the **Federal Register** withdrawing the rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between 8 a.m. and 4 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1523, Washington, DC 20250–1523. Telephone: 202–720–5227.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with state and local offices. See the final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any are required, must be exhausted before an action against the Department or its agencies.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS loan programs provide borrowers with loans at interest rates and terms that are more favorable than those generally available from the private sector. Borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct cost associated with RUS regulations and requirements.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the

National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under Nos. 10.850, Rural Electrification Loans and Loan Guarantees, 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572–0095, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C chapter 35).

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW, Stop 1522, Washington, DC 20250–1522.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

Background

Title 7 part 1773 implements the standard RUS security instrument provision requiring RUS electric and telecommunications borrowers to prepare and furnish to RUS, at least once during each 12-month period, a full and complete report of their financial condition, operations, and cash flows, in form and substance satisfactory to RUS; audited and certified by an independent Certified Public Accountant (CPA), satisfactory to RUS, and accompanied by a report of such audit, in form and substance satisfactory to RUS.

This rule amends part 1773 to reflect two amendments to Generally Accepted Government Auditing Standards (GAGAS) adopted in 1999 by the General Accounting Office (GAO): Amendment No. 1 to GAGAS, dated May 13, 1999, and Amendment No. 2 to GAGAS, dated July 30, 1999.

Amendment No. 1 to GAGAS established a new field work standard that requires auditors to document in the working papers the basis for assessing control risk at the maximum level for assertions related to material accounts balances, transaction classes, and disclosure components of financial statements when such assertions are significantly dependent on computerized information systems. The new standard also requires the auditors to document their consideration that the planned audit procedures are designed to achieve audit objectives and to reduce audit risk to an acceptable level. These new requirements are achieved through compliance with §§ 1773.7(a) and 1773.7(b).

Amendment No. 2 to GAGAS created a new fieldwork standard for planning titled "Auditor Communication" by moving and expanding an existing standard from the reporting standards. This rule revises § 1773.6 to comply with this new standard. Amendment No. 2 also changed the term "irregularities" to "fraud" in regards to the requirements for reporting on compliance with laws and regulations and internal control over financial reporting. This rule revises § 1773.9 to incorporate this change in terminology. Finally, GAGAS requires the auditor to emphasize in the auditor's report the importance of the report on compliance and on internal control over financial reporting when this report is issued separately from the report on the financial statements. This rule revises § 1773.31, to incorporate this requirement into the auditor's report.

On July 17, 1998, RUS issued, as a final rule, 7 CFR part 1773 (63 FR 38720) which incorporated the 1994 revisions of GAGAS. Those 1994 GAGAS revisions, as well as the 1999 amendments noted above, revised and updated some of the standard terminology used to describe the requirements for performing audits in conformance with GAGAS. This rule updates the appropriate sections of this part to conform to the GAGAS requirements.

The 1998 revisions to part 1773 combined the separate report on compliance and report on internal control into a single report titled "Reports on Compliance and on Internal Control Over Financial Reporting". In making the changes to substitute the combined report in the appropriate sections of part 1773, the references to the separate report on compliance were not removed thus leading the reader to conclude that the separate report on compliance was still required. This rule eliminates all the references to the report on compliance. In addition, the 1998 revision references to the telephone program were changed to telecommunications program. Not all of the references were changed and this rule will serve to make those additional corrections. The 1998 revision also reduced, from 42 months to 36 months, the period of time required in which the CPA must undergo the issuance of a new peer review. Two references to the 42-month requirement in § 1773.5(c) that were missed in the 1998 final rule are revised with this rule.

This rule adds, changes, and deletes definitions to reflect the GAGAS amendments noted above as well as the changing structure of the RUS organization and its policies and procedures. A definition is added for Assistant Administrator, Program Accounting and Regulatory Analysis, to replace the Director, Program Accounting Services Division. The name of the Borrower Accounting Division was changed to Program Accounting Services Division in the 1998 rule, but the definition was not removed from § 1773.2, Definitions. The definition of "irregularity" is replaced with the definition of "fraud" to conform to the changes made in Amendment No. 2 to GAGAS. The definition of the Private Companies Practice Section (PCPS) is removed. The peer review program conducted by this group was combined with the American Institute of Certified Public Accountants' (AICPA) quality review program in 1995, thus the reference to the PCPS is removed. The definition of REA is eliminated, as it is no longer necessary. The definition of Uniform System of Accounts for Electric Borrowers is revised to include the complete citation of the requirement to maintain a uniform system of accounts prescribed by RUS (7 CFR Part 1767, Accounting Requirements for RUS Electric Borrowers, Subpart B, Uniform System of Accounts). This rule amends § 1773.2, to reflect these changes.

Section 1773.1(d)(6) provides that a report described in the Statement on Auditing Standards (SAS) No. 35 does not meet the audit requirement of RUS. This SAS was superseded and retitled with the issuance of SAS No. 75.

In previous versions of part 1773 the sample reports, financial statements, and management letters were contained in four appendices, two for electric borrowers and two for telecommunications borrowers. Beginning with this revision of part 1773, the appendices will no longer be codified in the Code of Federal Regulations. The appendices are attached to this notice for information only. The appendices are sample formats to be used as a reference guide to assist CPAs in completing their reports. The appendices will be available in new RUS Bulletin 1773–1, which will contain all of 7 CFR part 1773 and the appendices. Appendix A will contain the sample reports, financial statements and management letter for electric borrowers while Appendix B will contain similar samples for telecommunications borrowers. Publishing part 1773 in bulletin form will provide the RUS audit policy in a user-friendly format. A single copy of this publication will be provided to all RUS borrowers and certified public accountants approved to perform audits of RUS borrowers and will be available at http://www.usda.gov/rus/ruswide.htm.

List of Subjects in 7 CFR Part 1773

Accounting, Electric power, Loan programs—communications, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas, Telephone.

For the reasons set forth in the preamble, RUS amends 7 CFR Chapter XVII as follows:

PART 1773—POLICY ON AUDITS OF RUS BORROWERS

1. The authority citation for Part 1773 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

§§ 1773.1 through 1773.7, 1773.20, 1773.21, 1773.30, and 1773.38 [Amended]

2. For each section listed below remove the word, phrase, or date indicated in the remove column, and replace it with that indicated in the add column.

Section	Remove	Add
§ 1773.1(a), two occurrences § 1773.2, under definition for RUS.	telephone	telecommunications.
§ 1773.1(d); § 1773.3(c); §§ 1773.4 (f), (f)(1), and (g); §§ 1773.6 (a)(1) and (a)(4); §§ 1773.20, (a), (b), and (c)(6); § 1773.21, (a), and (b); § 1773.30(b); § 1773.38(b).	report on compliance, report on compliance and on internal controls over financial reporting.	report on compliance and on internal control over financial reporting.
§ 1773.8(a)(2) and (c)	19X1	20X1.
§ 1773.8(a)(2) and (c)	19X3	20X3.
§ 1773.6(a)(7)	irregularities	fraud.

3. Section 1773.1(c) and (d)(6) are revised to read as follows:

§ 1773.1 General.

* * * * *

(c) This complies with the 1994 revision of Government Auditing Standards, issued by the Comptroller General of the United States, United States General Accounting Office, including amendments dated May 13, 1999, and July 30, 1999.

(d) * * *

(6) A report, as described in Statement on Auditing Standards (SAS) No. 62, entitled "Special Reports", or in SAS No. 75, entitled "Engagements to Apply Agreed-upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement", does not satisfy the RUS loan security instrument requirements.

* * * * *

4. Section 1773.2 is amended by:

A. Removing the definitions for "BAD", "Irregularity", "PCPS", and "REA"

B. Revising the definition for "Uniform System of Accounts" and

C. Adding new definitions for "AA–PARA", "Fraud", and "RUS Bulletin 1773–1".

The new and revised definitions to read as follows:

§ 1773.2 Definitions.

* * * * *

AA–PARA means Assistant Administrator, Program Accounting and Regulatory Analysis.

* * * * *

Fraud has the same meaning prescribed in SAS No. 82 entitled "Consideration of Fraud in Financial Statements".

* * * * *

RUS Bulletin 1773–1, Policy on Audits of RUS Borrowers, is a publication prepared by RUS that contains the RUS regulation 7 CFR part 1773 and exhibits of sample audit reports, financial statements, and a management letter used in preparing audit of RUS borrowers. This bulletin is available from USDA, Rural Utilities Service, Program Development and Regulatory Analysis, 1400 Independence Ave., SW., Stop 1522, Washington, DC 20250, or available on the internet at http://www.usda.gov/rus/.

* * * * *

Uniform System of Accounts means, for telecommunications borrowers, the Uniform System of Accounts for Telecommunications Companies, prescribed by the Federal Communications Commission and published at 47 CFR Part 32, as supplemented by RUS pursuant to 7 CFR Part 1770, Accounting Requirements for RUS Telephone Borrowers, subpart B, Uniform System of Accounts, and for electric borrowers, as contained in 7 CFR Part 1767, Accounting Requirements for RUS Electric Borrowers, subpart B, Uniform System of Accounts.

5. Revise § 1773.3(b) to read as follows:

§ 1773.3 Annual audit.

* * * * *

(b) Each borrower must establish an annual as of audit date within twelve months of the date of receipt of the first advance of funds from grants and insured and guaranteed loans approved by RUS and RTB and must prepare financial statements as of the date established.

* * * * *

6. Revise § 1773.4(d) to read as follows:

§ 1773.4 Borrower responsibilities.

* * * * *

(d) *Audit engagement letter.* The borrower must enter into an audit engagement letter with the CPA that complies with § 1773.6.

* * * * *

§ 1773.5 [amended]

7. Amend § 1773.5 by:

A. Removing paragraphs (c)(5) and (d);

B. Redesignating paragraphs (c)(6) and (c)(7) to (c)(5) and (c)(6), respectively;

C. In paragraph (c)(4)(iii)(C) and redesignated (c)(5)(ii), revising the

reference "42 months" to read "36 months", and

D. In redesignated paragraph (c)(6)(ii), revising the reference from "Director, Borrower Accounting Division" to read "Assistant Administrator, Program Accounting and Regulatory Analysis'.

8. Amend § 1773.6 by revising the title and paragraph (a) introductory text to read as follows:

§ 1773.6 Auditor communication.

(a) During the planning stages of a financial statement audit, GAGAS and AICPA standards require the auditor to communicate certain information regarding the nature and extent of testing and reporting on compliance with laws and regulations and internal control over financial reporting. The communication must include the nature of any additional testing of compliance and internal control required by laws and regulations or otherwise requested, and whether the auditors are planning to provide opinions on compliance with laws and regulations and internal control over financial reporting. This communication must take the form of an audit engagement letter prepared by the CPA and formally accepted by the board of directors or an audit committee representing the board of directors. The engagement letter must also encompass those items prescribed in SAS 83, entitled "Establishing an Understanding with the Client". It must also include the following:

* * * * *

9. In § 1773.7, paragraphs (b) and (c)(4) are revised to read as follows:

§ 1773.7 Audit standards.

* * * * *

(b) The audit must include such tests of the accounting records and such other auditing procedures that are sufficient to enable the CPA to express an opinion on the financial statements and to issue the required report on compliance and on internal control over financial reporting and the management letter.

(c) * * *

(4) After informing the borrower's management, if the scope limitation is not adequately resolved, the CPA should immediately contact the AA–PARA, RUS, U.S. Department of Agriculture, Washington, DC 20250–1523. The AA–PARA will endeavor to resolve the matter with the borrower.

10. In § 1773.8, paragraphs (a)(1) and the table following paragraph (c) are revised to read as follows:

§ 1773.8 Audit date.

(a) * * *

(1) A borrower may request a change in the as of audit date by writing to the AA–PARA at least 60 days prior to the newly requested as of audit date.

* * * * *

(c) * * *

Previously issued statements	Statements prepared as of new audit date
12/31/20X1; 12/31/20X0 (Statement need not be re-issued).	6/30/20X3; 6/30/20X2.

11. Amend § 1773.9 by revising the title and paragraphs (a), (b), and (c) introductory text, to read as follows:

§ 1773.9 Disclosure of fraud, illegal acts, and other noncompliance.

(a) In accordance with GAGAS, the auditor must design the audit to provide reasonable assurance of detecting fraud that is material to the financial statements and material misstatements resulting from direct and material illegal acts, and noncompliance with the provisions of contracts or grant agreements that could have a direct and material effect on financial statements amounts.

(b) If specific information comes to the auditor's attention that provides evidence concerning the existence of possible illegal acts that could have a material indirect effect on the financial statements or material noncompliance with the provisions of contracts or grant agreements that could have a material indirect effect on the financial statements, auditors should apply audit procedures specifically directed to ascertaining whether an illegal act or noncompliance with provisions of contract or grant agreements has occurred.

(c) Pursuant to the terms of its audit engagement letter with the borrower, the CPA must immediately report, in writing, all instances of fraud and all indications or instances of illegal acts, whether material or not, to:

* * * * *

12. Revise the title to subpart C to part 1773, to read as follows:

Subpart C—RUS Requirements for the Submission and Review of the Auditor's Report, Report on Compliance and on Internal Control Over Financial Reporting, and Management Letter

13. In § 1773.21, revise the title and add a new paragraph (e) to read as follows:

§ 1773.21 Borrower's review and submission of the auditor's report, report on compliance and on internal control over financial reporting, and management letter.

* * * * *

(e) All required submissions to RUS described in paragraphs (a) through (d) of this section should be sent to: Assistant Administrator, Program Accounting and Regulatory Analysis, Stop 1523, 1400 Independence Ave., SW, Washington, DC 20250–1523.

14. Section 1773.30 paragraph (a) is revised to read as follows:

§ 1773.30 General.

(a) The CPA must prepare the following (examples of which are set forth in RUS Bulletin 1773–1):

(1) An auditor's report;

(2) A report on compliance and on internal control over financial reporting; and

(3) A management letter.

* * * * *

15. Section 1773.31 is revised to read as follows:

§ 1773.31 Auditor's report.

The CPA must prepare a written report on comparative balance sheets, statements of revenue and patronage capital (or income and retained earnings, depending upon the structure of the borrower) and statements of cash flows. This report must be signed by the CPA, cover all statements presented, and refer to the separate report on compliance and on internal control over financial reporting issued in conjunction with the auditor's report. The auditor's report should also state that the report on compliance and on internal control over financial reporting is an integral part of a GAGAS audit, and in considering the results of the audit, this report should be read along with the auditor's report on the financial statements.

16. Amend § 1773.32 by revising the introductory text, paragraphs (a) through (d), and the "note" at the end of paragraph (f) to read as follows:

§ 1773.32 Report on compliance and on internal control over financial reporting.

As required by GAGAS, the CPA must prepare a written report describing the auditors testing of compliance with applicable laws, regulations, contracts, and grants, and on internal control over financial reporting and present the results of those tests. This report must be signed by the CPA and must include, as a minimum:

(a) The scope of the CPA's testing of compliance with laws and regulations and internal control over financial reporting including whether or not the tests performed provided sufficient evidence to support an opinion on compliance or internal control over financial reporting and whether the CPA is providing such opinions;

(b) If conditions believed to be material weaknesses considered to be reportable conditions are disclosed, the report should identify the material weaknesses that have come to the CPA's attention;

(c) If no reportable instances of non-compliance and no reportable conditions were found, the CPA must issue a report as illustrated in RUS Bulletin 1773–1.

(d) If material instances of non-compliance and reportable conditions are identified, the CPA must issue a report as illustrated in RUS Bulletin 1773–1.

* * * * *

(f) * * *

We noted certain immaterial instances of noncompliance, which we have reported to the management of (borrower's name) in a separate letter dated (month, day, year).

* * * * *

17. Remove Appendices A through D to part 1773.

Dated: May 8, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

Appendix A to RUS Bulletin 1773–1—Sample Auditor's Report for an Electric Cooperative

Appendix A includes an example of an auditor's report, report on compliance and on internal control over financial reporting, financial statements and accompanying notes, and management letter for an electric distribution cooperative. The sample auditor's report is intended as a guide only and, while it is recommended that the format be followed, each auditor's report should be prepared to adequately cover the circumstances. To the extent possible, it should be used as a guide in preparing auditors' reports for other types of electric borrowers. For power supply borrowers and for distribution borrowers with production or transmission plant, the same general format should be followed. However, the Statement of Revenue and Patronage Capital must be expanded to show separate totals for operations expenses and maintenance expenses for each class of production plant and for transmission plant.

Exhibit 1—Sample Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105
The Board of Directors, Center County Electric Energy Association, Inc.:
Independent Auditor's Report

We have audited the accompanying balance sheets of Center County Electric Energy Association, Inc. as of December 31, 20X1 and 20X0, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of Center County Electric Energy Association, Inc.'s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center County Electric Energy Association, Inc. as of December 31, 20X1 and 20X0, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued our report dated March 2, 2002, on our consideration of Center County Electric Energy Association, Inc.'s internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be read in conjunction with this report in considering the results of our audit.

Certified Public Accountants
March 2, 20X2

Exhibit 2—Sample Report on Compliance and on Internal Control Over Financial Reporting, the CPA Found No Reportable Instances of Noncompliance and No Material Weaknesses (No Reportable Conditions Identified)

Certified Public Accountants, 1600 Main Street, City, State 24105
The Board of Directors, Center County Electric Energy Association, Inc.:

We have audited the financial statements of Center County Electric Energy Association, Inc. as of and for the years ended December 31, 20X1 and 20X0, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Electric Energy Association, Inc.'s financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards. [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: However, we noted certain immaterial instances of noncompliance which we have reported to the management of Center County Electric Energy Association, Inc. in a separate letter dated March 2, 20X2.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Electric Energy Association, Inc.'s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses. [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: However, we noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Electric Energy Association, Inc. in a separate letter dated March 2, 20X2.]

This report is intended solely for the information and use of the audit committee, management, the Rural Utilities Service, and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants
March 2, 20X2

Exhibit 3—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA Found Reportable Instances of Noncompliance and Reportable Conditions Identified

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center County Electric Energy Association, Inc.:

We have audited the financial statements of Center County Electric Energy Association, Inc. as of and for the years ended December 31, 20X1 and 20X0, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Electric Energy Association, Inc.'s financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under Government Auditing Standards. [A description of the findings should be included in the report.] [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: We also noted certain immaterial instances of noncompliance which we have reported to the management of Center County Electric Energy Association, Inc. in a separate letter dated March 2, 20X2.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Electric Energy Association, Inc.'s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Center County Electric Energy Association, Inc.'s ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. [A description of the reportable conditions should be included in the report.]

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described above is a material weakness. [If conditions believed to be material weaknesses are disclosed, the last sentence should be deleted and instead the report should identify which of the reportable conditions described above are considered to be material weaknesses.] [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: We also noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Electric Energy Association, Inc. in a separate letter dated March 2, 2002.]

This report is intended solely for the information and use of the audit committee, management, the Rural Utilities Service, and supplemental lenders and is not intended to be and should not be used by anyone other that these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants
March 2, 2002

Exhibit 4—Sample Financial Statements

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0 ASSETS

[Notes 1 and 2]

	2001	2000
Utility Plant (Note 3):		
Electric Plant in Service	$48,382,000	$46,826,000
Construction Work in Progress	2,040,000	1,586,000
Total Utility Plant	50,422,000	48,412,000
Accumulated Provision for Depreciation	15,588,000	14,586,000
Net Utility Plant	34,834,000	33,826,000
Investments (Note 4):		
Investments in Associated Organizations	4,493,000	4,048,000
Other	1,040,000	1,410,000
Total Investments	5,533,000	5,458,000
Current Assets:		
Cash and Cash Equivalents	359,000	359,000
Short-Term Investments (Note 4)	8,000	8,000
Accounts Receivable, less allowance for doubtful accounts of $11,000 in 2001 and $10,000 in 2000	183,000	176,000
Materials and supplies	418,000	404,000
Prepayments	43,000	43,000
Total current assets	1,011,000	990,000
Deferred Charges (Note 5)	28,000	9,000
Total assets	$41,406,000	$40,283,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0

[Equities and Liabilities] [Note 1]

	20X1	20X0
Equities:		
Memberships	$60,000	$59,000
Patronage Capital (Note 6)	16,683,000	15,343,000
Other Equities (Note 7)	268,000	180,000
Net Unrealized Gain on Investments (Note 4)	15,000	8,000
Total Equities	17,026,000	15,590,000
Long-term liabilities:		
RUS Mortgage Notes, less current portion (Note 8)	16,956,000	17,532,000
CFC Mortgage Notes, less current portion (Note 8)	4,333,000	4,482,000
Post-retirement benefit obligation (Note 9)	1,004,000	841,000
Total Long-term liabilities	22,293,000	22,855,000
Current Liabilities:		
Line of credit note payable	425,000	300,000
Current portion of long-term debt (Note 8)	725,000	700,000
Accounts Payable—Purchased Power	245,000	203,000
Accounts Payable—Other	109,000	91,000
Consumer Deposits	408,000	413,000
Other Current and Accrued Liabilities	116,000	78,000
Total Current Liabilities	2,028,000	1,785,000
Deferred Credits (Note 10)	59,000	53,000
Total Equities and Liabilities	$41,406,000	$40,283,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. STATEMENTS OF REVENUE AND PATRONAGE CAPITAL

[For the years ended December 31, 20X1 and 20X0]

	20X1	20X0
Operating Revenues	$12,899,000	$12,042,000
Operating Expenses:		
Cost of Power	4,408,000	4,095,000
Distribution Operations	833,000	913,000
Distribution Maintenance	1,553,000	1,236,000
Consumer Accounts	575,000	547,000
Consumer Service and Information	288,000	305,000
Administrative and General	710,000	653,000
Depreciation and Amortization	2,163,000	2,098,000
Other	262,000	258,000
Total Operating Expenses	10,792,000	10,106,000
Operating Margins Before Interest Expense	2,107,000	1,936,000
Interest Expense	1,137,000	1,151,000
Operating Margins After Interest Expense	970,000	785,000
Nonoperating Margins:		
Interest Income	50,000	30,000
Other Nonoperating Income	6,000	6,000
Total Nonoperating Margins	56,000	36,000
Generation and Transmission Cooperative Capital Credits	361,000	283,000
Net Margins	1,387,000	1,104,000
Patronage Capital at Beginning of Year	15,343,000	14,345,000
Less: Retirements of Capital Credits	47,000	106,000
Patronage Capital at End of Year	$16,683,000	$15,343,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. STATEMENTS OF COMPREHENSIVE INCOME FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Net Margins	$1,387,000	$1,104,000
Other Comprehensive Income:		
Unrealized holding gains (losses) arising during the year	7,000	8,000
Comprehensive Income	$1,394,000	$1,112,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Cash Flows From Operating Activities:		
Cash Received from Consumers	$12,882,000	$12,017,000
Cash Paid to Suppliers and Employees	(8,335,000)	(7,784,000)
Interest Received	50,000	30,000
Interest Paid	(1,137,000)	(1,151,000)
Net Cash Provided by Operating Activities	3,460,000	3,112,000
Cash Flows From Investing Activities:		
Construction and Acquisition of Plant	(2,010,000)	(3,285,000)
Plant Removal Costs	(1,378,000)	(270,000)
Materials Salvaged from Retirements	217,000	197,000
(Increase) Decrease In:		
Materials Inventory	(14,000)	10,000
Deferred Charges-Preliminary Surveys and Investigations	(19,000)	24,000
Investments in Associated Organizations	(76,000)	(56,000)
Other Investments	370,000	323,000
Inventory Adjustment-Deferred Credit Decrease	(12,000)	(5,000)
Net Cash Used in Investing Activities	(2,922,000)	(3,062,000)
Cash Flows From Financing Activities:		
Retirements of Patronage Capital Credits	(47,000)	(106,000)
Retired Capital Credits-Gain	6,000	6,000
Donated Capital	82,000	31,000
RUS Loan Advances	.....	1,025,000
Payments on RUS Debt	(540,000)	(502,000)
Payments on CFC Debt	(160,000)	(149,000)
Line of Credit	125,000	(225,000)
Increase/(Decrease) In:		
Consumer Deposits	(5,000)	(1,000)
Memberships Issued	1,000	1,000
Net Cash Used in Financing Activities	(538,000)	80,000
Net Increase/(Decrease) in Cash	$0	$130,000
Cash—Beginning of Year	359,000	229,000
Cash—End of Year	$359,000	$359,000

RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES

	20X1	20X0
Net Margins	$1,387,000	$1,104,000
Adjustments to Reconcile Net Margins to Net Cash Provided by Operating Activities:		
Depreciation and Amortization	2,163,000	2,098,000
G&T and Other Capital Credits (Non-Cash)	(362,000)	(283,000)
Provision for Uncollectible Accounts Receivable	1,000	(3,000)
Accumulated Provision for Pensions and Benefits	163,000	150,000
(Increase)/Decrease In:		
Customer and Other Accounts Receivable	(8,000)	13,000
Current and Accrued Assets—Other	.....	1,000
Increase/(Decrease) In:		
Accounts Payable	60,000	26,000
Deferred Energy Prepayments	18,000	11,000

RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES—Continued

	20X1	20X0
Current and Accrued Liabilities—Other	38,000	(5,000)
Total Adjustments	2,073,000	2,008,000
Net Cash Provided by Operating Activities	$3,460,000	$3,112,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 20X1 AND 20X0

1. Summary of Significant Accounting Policies:
   Include a brief description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, Disclosure of Accounting Policies.
   Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, cash flow, and results of operations.
   Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.
2. Assets Pledged:
   Substantially all assets are pledged as security for long-term debt to RUS and NRUCFC.
3. Electric Plant and Depreciation Rates and Procedures:
   Listed below are the major classes of the electric plant as of December 31, 20X1 and 20X0:

	20X1	20X0
Intangible Plant	$11,000	$11,000
Distribution Plant	45,753,000	44,370,000
General Plant	2,618,000	2,445,000
Electric Plant in Service	$48,382,000	$46,826,000
Construction Work in Progress	2,040,000	1,586,000
Total Utility Plant	$50,422,000	$48,412,000

Provision has been made for depreciation of distribution plant at a straight-line composite rate of 3.00 percent per annum. General Plant depreciation rates have been applied on a straight-line basis as follows:

Structures and Improvements	2.5%
Office Furniture and Equipment	10.0%
Transportation Equipment	14.0%
Power Operated Equipment	12.0%
Other General Plant	4.0%
Communications Equipment	6.0%

4. Investments in Associated Organizations:

Investments in associated organizations consisted of the following at December 20X1 and 20X0:

	20X1	20X0
National Rural Utilities Cooperative Finance Corporation:		
Membership Fee	$1,000	$1,000
Capital Term Certificates	839,000	839,000
Patronage Capital	288,000	276,000
Fall River Power Cooperative	3,019,000	2,898,000
Other	346,000	34,000
	$4,493,000	$ 4,048,000

Center County Electric Energy Association, Inc. has adopted SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Securities." In accordance with SFAS No. 115, the Association has classified all the Other Investments as available-for-sale. Available-for-sale investments are stated at fair value with unrealized gains and losses included in members' equities. The cost of investments sold is based on the specific identification method.

Long-term and short-term investments classified as available-for-sale were as follows at December 31, 20X1 and 20X0:

Description	20X1			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
U.S. Treasury notes, bills and bonds	$222,000	$14,000	$1,000	235,000
Other U.S. Government agency securities	380,000	6,000	4,000	382,000

Description	20X1			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
Other debt securities	431,000	3,000	3,000	431,000
	$1,033,000	$23,000	$8,000	$1,048,000

Description	20X0			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
U.S. Treasury notes, bills and bonds	$397,000	$5,000	$1,000	$401,000
Other U.S. Government agency securities	410,000	2,000		412,000
Other debt securities	604,000	1,000		605,000
	$1,411,000	$8,000	$1,000	$1,418,000

At December 31, 20X1, maturities of investments classified as available-for-sale were as follows:

	Amortized cost	Fair value
Less than One Year	$8,000	$8,000
One through Five Years	958,000	961,000
After Five Years	67,000	79,000
Total	$1,033,000	$1,048,000

5. Deferred Charges:

Following is a summary of amounts recorded as deferred charges as of December 31, 20X1 and 20X0:

	20X1	20X0
Preliminary Surveys and Investigations	$28,000	$9,000

6. Patronage Capital:

At December 31, 20X1 and 20X0, patronage capital consisted of:

	20X1	20X0
Assignable	$1,387,000	$1,104,000
Assigned to date	15,955,000	14,851,000
	$17,342,000	$15,955,000
Less: Retirements to Date	659,000	612,000
	$16,683,000	$15,343,000

Under the provisions of the Mortgage Agreement, until the equities and margins equal or exceed thirty percent of the total assets of the cooperative, the return to patrons of contributed capital is generally limited to twenty-five percent of the patronage capital or margins received by the cooperative in the prior calendar year. The equities and margins of the cooperative represent 41 percent of the total assets at balance sheet date. Capital credit retirements in the amount of $47,000 were paid in 20X1.

7. Other Equities:

At December 31, 20X1 and 20X0, other equities consisted of:

	20X1	20X0
Retired Capital Credits-Gain	$181,000	$175,000
Donated Capital	87,000	5,000
	$268,000	$180,000

8. Mortgage Notes:

Long-term debt is primarily represented by mortgage notes payable to the United States of America and to the National Rural Utilities Cooperative Finance Corporation. Following is a summary of outstanding long-term debt as of December 31, 20X1 and 20X0:

	20X1	20X0
RUS, 2% Notes due March 31, 2007	$544,000	$562,000
RUS, 5% Notes due December 31, 2033	16,971,000	17,510,000
	$17,515,000	$18,072,000
Less: Current Maturities	559,000	540,000
	$16,956,000	$17,532,000

	20X1	20X0
CFC, 5.75% Notes due March 31, 2013	$166,000	$171,000
CFC, 6.95% Notes due July 31, 2018	1,453,000	1,499,000
CFC, 7.00% Notes due September 30, 2009	443,000	457,000
CFC, 6.40% Notes due October 31, 2026	2,437,000	2,515,000
	$4,499,000	$4,642,000
Less: Current Maturities	166,000	160,000
	$4,333,000	$4,482,000

Unadvanced loan funds of $286,000 and $2,500,000 are available to the cooperative on loan commitments from RUS and CFC as of December 31, 20X1. As of December 31, 20X1, annual maturities of long-term debt outstanding for the next five years are as follows:

	RUS	CFC	Total
20X2	$559,000	$166,000	$725,000
20X3	563,000	167,000	730,000
20X4	565,000	167,000	732,000
20X5	568,000	168,000	736,000
20X6	570,000	169,000	739,000

9. Employee Benefits:

Substantially all of the employees of the Association are covered by the ABC Retirement and Security Program, a defined benefit pension plan.

In addition to pension contributions the Association provides health care benefits for substantially all retired employees and dependents until they reach age 65.

The following illustrates the pension and postretirement benefits plans for the year ended December 31, 20X1 and 20X0.

	Pension benefits		Other benefits	
	20X1	20X0	20X1	20X0
Benefit obligation at December 31	$1,762,000	$2,080,000	$1,899,000	$1,800,000
Fair value of plan assets at December 31	715,000	513,000	0	0
Funded status	$(1,047,000)	$(1,567,000)	$(1,899,000)	$(1,800,000)
Prepaid (Accrued) benefit cost	$(243,000)	$(365,000)	$(1,004,000)	$(841,000)
Weighted-average assumptions as of December 31:				
Discount rate	6.75%	5.50%	8.00%	8.00%
Expected return on plan assets	6.50%	6.00%		
Rate of compensation increase	5.00%	5.50%	6.00%	6.00%

For measurement purposes, a 10 percent annual rate of increase in the per capita cost of covered health benefits was assumed for 20X2. The rate was assumed to decrease gradually to 5 percent and remain at that level thereafter.

	Pension benefits		Other benefits	
	20X1	20X0	20X1	20X0
Benefit cost	$253,000	$232,000	$220,000	$220,000
Employer Contribution	160,000	225,000	57,000	55,000
Benefits Paid	(7,000)	(48,000)	(57,000)	(55,000)

10. Deferred Credits:

Following is a summary of the amounts recorded as deferred credits as of December 31, 20X1 and 20X0:

	20X1	20X0
Customer Energy Prepayments	$33,000	$15,000
Inventory Adjustment	26,000	38,000
	$59,000	$53,000

11. Litigation:

The association is a defendant in an action in which the plaintiff claims damages totaling $200,000 for personal injuries sustained. The action has been dismissed by the District Court, but is on appeal before the State Supreme Court. Management is of the opinion that no liability will be incurred by the association as a result of this action.

12. Commitments:

Under its wholesale power agreement, the association is committed to purchase its electric power and energy requirements from Fall River Power Cooperative, Inc., until December 31, 20X7. The rates paid for such purchases are subject to review annually.

Exhibit 5—Illustrative Independent Auditor's Management Letter for Electric Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Electric Borrowers

March 2, 20X2
Board of Directors
Center County Electric Energy Association, Inc.
[City, State]

We have audited the financial statements of Center County Electric Energy Association, Inc. for the year ended December 31, 20X1, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR Part 1773, Policy on Audits of Rural Uulities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Electric Energy Association, Inc. for the year ended December 31, 20X1, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

Section 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in § 1773.33(e)(1), related party transactions, depreciation rates, a schedule of deferred debits and credits, and a schedule of investments upon which we express an opinion. In addition, our audit of the financial statements also included the procedures specified in § 1773.38 through 1773.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports other than our independent auditors' report and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 2002 or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by § 1773.33 are presented below.

Comments on Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding Center County Electric Energy Association, Inc.'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];
—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and
—The materials control [list other comments].

Comments on Compliance With Specific RUS Loan and Security Instrument Provisions

At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others for the year ended December 31, 20X1:

1. Obtained and read a borrower-prepared schedule of new written contracts entered into during the year for the operation or maintenance of its property, or for the use of its property by others as defined in § 1773.33(e)(1)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 7 or Form 12 to the RUS:

1. Agreed amounts reported in Form 7 or Form 12 to Center County Electric Energy Association, Inc.'s records.

The results of our tests indicate that, with respect to the items tested, Center County Electric Energy Association, Inc. complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others as defined in § 1773.33(e)(1)(i) [list all exceptions]; and
—The borrower has submitted its Form 7 or Form 12 to the RUS and the Form 7 or Form 12, Financial and Statistical Report, as of December 31, 20X1, represented by the borrower as having been submitted to RUS is in agreement with the Center County Electric Energy Association, Inc.'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of Center County Electric Energy Association, Inc., nothing came to our attention that caused us to believe that Center County Electric Energy Association, Inc. failed to comply with respect to:

—The reconciliation of continuing property records to the controlling general ledger plant accounts addressed at § 1773.33(c)(1) [list all exceptions];
—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at § 1773.33(c)(2) [list all exceptions];
—The retirement of plant addressed at § 1773.33(c)(3) and (4) [list all exceptions];
—Approval of the sale, lease, or transfer of capital assets and disposition of proceeds for the sale or lease of plant, material, or scrap addressed at § 1773.33(c)(5) [list all exceptions];
—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 2001, in the financial statements referenced in the first paragraph of this report addressed at § 1773.33(f) [list all exceptions];

—The depreciation rates addressed at § 1773.33(g) [list all exceptions];
—The detailed schedule of deferred debits and deferred credits; and
—The detailed schedule of investments.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of deferred debits and deferred credits required by § 1773.33(h) and the detailed schedule of investments required by § 1773.33(i), and provided below, are presented for purposes of additional analysis and are not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of deferred debits and deferred credits would be included here. The total amount of deferred debits and deferred credits as reported in the schedule must agree with the totals reported on the Balance Sheet under the specific captions of "Deferred Debits" and "Deferred Credits". Those items that have been approved, in writing, by RUS should be clearly indicated.]

[The detailed schedule of investments would be included here. The total of the investment in each company reported must agree with the detail investment subsidiary account(s).]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

Appendix B to RUS Bulletin 1773–1—Sample Auditor's Report for a Class A or B Commercial Telecommunications Company

Appendix B includes an example of a short-form auditor's report, report on compliance and on internal control over financial reporting, financial statements and accompanying notes for a commercial telecommunications company. The sample auditor's report is intended as a guide only and, while it is recommended that the format be followed, each auditor's report should be prepared to adequately cover the circumstances. To the extent possible, it should be used as a guide in preparing auditors' reports for other types of telecommunications borrowers.

Exhibit 1—Sample Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105
The Board of Directors, Center County Telecommunications Systems, Inc.:
Independent Auditor's Report

We have audited the accompanying balance sheets of Center County Telecommunications Systems, Inc., as of December 31, 20X1 and 20X0, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of Center County Telecommunications Systems Inc.'s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our audit.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center County Telecommunications Systems, Inc. as of December 31, 20X1 and 20X0, and the results of its operations and its cash flows for the years then ended in conformity with general accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued our report dated March 2, 20X2, on our consideration of Center County Telecommunications Systems, Inc.'s internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be read in conjunction with this report in considering the results of our audit.

Certified Public Accountants
March 2, 20X2

Exhibit 2—Sample Report on Compliance and on Internal Control Over Financial Reporting, the CPA Found No Reportable Instances of Noncompliance and No Material Weaknesses (No Reportable Conditions Identified)

Certified Public Accountants, 1600 Main Street, City, State 24105
The Board of Directors, Center County Telecommunications Systems, Inc.:

We have audited the financial statements of Center County Telecommunications Systems, Inc. as of and for the years ended December 31, 20X1 and 20X0, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Telecommunications Systems, Inc.'s financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards. [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: However, we noted certain immaterial instances of noncompliance which we have reported to the management of Center County Telecommunications Systems, Inc. in a separate letter dated March 2, 20X1.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Telecommunications Systems, Inc.'s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses. [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: However, we noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Telecommunications Systems Inc., in a separate letter dated March 2, 20X2.]

This report is intended solely for the information and use of the audit committee, management, the Rural Utilities Service, and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants
March 2, 20X2

Exhibit 3—Sample Report on Compliance and on Internal Control Over Financial Reporting, the CPA Found Reportable Instances of Noncompliance and Reportable Conditions Were Identified

Certified Public Accountants, 1600 Main Street, City, State 24105
The Board of Directors, Center County Telecommunications Systems Inc.

We have audited the financial statements of Center County Telecommunications Systems Inc., as of and for the years ended December 31, 20X1 and 20X0, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Telecommunications Systems' financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under Government Auditing Standards. [A description of the findings should be included in the report.] [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: We also noted certain immaterial instances of noncompliance which we have reported to the management of Center County Telecommunications Systems, Inc. in a separate letter dated March 2, 20X2.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Telecommunications Systems, Inc.'s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Center County Telecommunications Systems, Inc.'s ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. [A description of the findings pertaining to reportable conditions should be included in the report.]

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described above is a material weakness. [If conditions believed to be material weaknesses are disclosed, the last sentence should be deleted and instead the report should identify which of the reportable conditions described above are considered to be material weaknesses.] [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: We also noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Telecommunications Systems, Inc., in a separate letter dated March 2, 20X2.]

This report is intended solely for the information and use of the audit committee, management, the Rural Utilities Service, and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants
March 2, 20X2

Exhibit 4—Sample Financial Statement

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0 ASSETS

[Notes 1 and 2]

	20X1	20X0
Current Assets:		
Cash—Construction Funds	$500	$300
Cash—General Funds	60,000	32,000
Temporary Investments	26,000	24,000
Accounts Receivable, less accumulated provision of $35,000 in 20X1 and $34,000 in 20X0.	740,000	667,000
Materials and Supplies	250,000	210,000
Prepayments (Note 3)	50,000	31,700
Other Current Assets	25,000	30,000
Total Current Assets	1,151,500	995,000
Noncurrent Assets:		
Investments (Note 4):		
Marketable Securities	741,500	705,000
Nonregulated	1,550,000	1,450,000
Other deferred charges	39,000	12,000
Total Noncurrent Assets	2,330,500	2,167,000
Property, Plant and Equipment:		
Telecommunications Plant in Service (Note 5)	22,800,000	20,100,000
Telecommunications Plant Under Construction	1,200,000	1,100,000
	24,000,000	21,200,000
Accumulated Provision for Depreciation	8,500,000	7,200,000
Total Property, Plant and Equipment	15,500,000	14,000,000

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0 ASSETS—Continued

[Notes 1 and 2]

	20X1	20X0
Total Assets	$18,982,000	$17,162,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0 LIABILITIES AND RETAINED EARNINGS

[Note 2]

	20X1	20X0
Current Liabilities:		
Accounts Payable	$320,000	$324,000
Customer Deposits	33,000	30,000
Current portion of long-term debt	579,000	449,000
Accrued Taxes	500	49,800
Other Current Liabilities	22,000	15,000
Total Current Liabilities	954,500	867,800
Long-term debt:		
RUS Mortgage Notes, less current portion (Note 6)	8,900,000	8,100,000
Accrued Postretirement benefits (Note 7)	664,000	503,000
Total Long-term liabilities	9,564,000	8,603,000
Other Liabilities and Deferred Credits:		
Deferred Income Taxes (Note 8)	190,000	176,000
Other	110,000	98,000
Total Other Liabilities and Deferred Credits	300,000	274,000
Stockholder's Equities:		
Capital Stock—Common $100 par value—5,000 shares authorized; 3,500 outstanding 20X1 and 20X0	350,000	350,000
Additional Paid-in Capital	250,000	250,000
Retained Earnings	7,560,500	6,814,800
Accumulated Other Comprehensive Income (Loss)	3,000	2,400
Total Stockholder's Equities	8,163,500	7,417,200
Total Equities and Liabilities	$18,982,000	$17,162,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Operating Revenues:		
Local Network Services	$1,481,000	$924,000
Network Access Services	3,706,700	3,023,800
Billing and Collection Services	306,000	279,000
Miscellaneous	206,000	139,000
Less: Uncollectible Revenues	(26,000)	(22,000)
Total Operating Revenues	5,673,700	4,343,800
Operating Expenses:		
Plant Specific Operations	976,000	676,000
Plant Nonspecific Operations	222,000	174,000
Depreciation and Amortization	1,341,000	855,000
Customer Operations	737,000	544,000
Corporate Operations	1,034,000	809,000
Other Taxes	26,000	36,000
Total Operating Expenses	4,336,000	3,094,000
Operating Income	1,337,700	1,249,800
Other Income (Expense):		

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0—Continued

	20X1	20X0
Interest and dividend income	238,000	236,000
Interest expense	(489,000)	(429,000)
Interest during construction	53,000	28,000
Net Other Income and Expenses	(198,000)	(165,000)
Income Before Income Taxes	1,139,700	1,084,800
Income Taxes	126,000	81,000
Net Income Before Nonregulated Income	1,013,700	1,003,800
Nonregulated Income	33,000	27,000
Net Income for the Period	1,046,700	1,030,800
Retained Earnings at Beginning of Year	6,814,800	6,053,000
Dividends Paid	301,000	269,000
Retained Earnings at End of Year	$7,560,500	$6,814,800

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF COMPREHENSIVE INCOME FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Net Income	$1,046,700	$1,030,800
Other Comprehensive Income:		
Unrealized holding gains (losses) arising during the year	600	1,500
Comprehensive Income	$1,047,300	$1,032,30

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Cash Flows From Operating Activities:		
Cash Received from Consumers	$5,382,000	$4,276,000
Cash Paid to Suppliers and Employees	(2,580,400)	(2,026,200)
Interest Received	238,000	236,000
Interest Paid	(489,000)	(429,000)
Taxes Paid	(141,500)	(94,000)
Net Cash Provided by Operating Activities	2,409,100	1,962,800
Cash Flows From Investing Activities:		
Construction and Acquisition of Plant	(2,612,000)	(2,523,000)
Plant Removal Costs	(229,000)	(82,000)
(Increase) Decrease In:		
Materials Inventory	(40,000)	(58,000)
Investments in Marketable Securities	(37,900)	(34,500)
Other Investments	(100,000)	(135,000)
Deferred Charges	(27,000)	23,000
Nonregulated Income	33,000	27,000
Net Cash Used in Investing Activities	(3,012,900)	(2,782,500)
Cash Flows From Financing Activities:		
Dividends Paid	(301,000)	(269,000)
Debt Proceeds	1,379,000	1,158,000
Payments on Long-Term Debt	(449,000)	(444,000)
Increase/(Decrease) In:		
Consumer Deposits and Advance Payments	3,000	13,000
Net Cash Provided by Financing Activities	632,000	458,000
Net Increase/(Decrease) in Cash	28,200	(361,700)
Cash—Beginning of Year	32,300	394,000

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0—Continued

	20X1	20X0
Cash—End of Year	60,500	32,300

RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES

	20X1	20X0
Net Margins	$1,046,700	$1,030,800
Less: Nonregulated Income	33,000	27,000
Net Income from Regulated Operations	1,013,700	1,003,800
Adjustments to Reconcile Net Margins to Net Cash Provided by Operating Activities:		
Depreciation and Amortization	1,341,000	855,000
Provision for Uncollectible Accounts Receivable	1,000	1,000
Accumulated Provision for Pensions and Benefits	161,000	133,000
(increase)/Decrease In:		
Customer and Other Accounts Receivable	(74,000)	(69,000)
Current and Accrued Assets—Other	5,000	15,000
Prepayments	(18,300)	15,000
Increase/(Decrease) In:		
Accounts Payable	(4,000)	29,000
Accrued Taxes	(49,300)	(13,000)
Other Current and Accrued Liabilities	7,000	(2,000)
Deferred Credits	26,000	(5,000)
Total Adjustments	959,000	1,395,400
Net Cash Provided by Operating Activities	$2,409,100	$1,962,800

(The accompanying notes are an integral part of these statements.)

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 20X1 AND 20X0

1. Summary of Significant Accounting Policies:
   Include a brief description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, Disclosure of Accounting Policies.
   Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, cash flow, and results of operations.
   Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.
2. Assets Pledged:
   Substantially all assets are pledged as security for long-term debt to RUS.
3. Prepaid Expenses:
   Following is a summary of the amounts recorded as prepaid items as of December 31, 20X1 and 20X0:

	20X1	20X0
Prepaid Taxes	$10,000	$10,000
Prepaid Insurance	3,000	1,700
Prepaid Rent	37,000	20,000
	$50,000	$31,700

4. Investments:
   Marketable Debt and Equity Securities:
   Center County Telecommunications System, Inc., has adopted SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Securities." In accordance with SFAS No. 115, the company has classified all the Other Investments as available-for-sale. Available-for-sale investments are stated at fair value with unrealized gains and losses included in stockholder's equities. The cost of investments sold is based on the specific identification method.
   The cost and fair values of marketable securities available-for-sale at December 31, 20X1 and 20X0 were:

Description	20X1			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
U.S. Government Treasury securities	$62,500	$2,900	$900	564.500
Certificate of Deposit	420,000			420,000
Debt Securities	280,000	6,000	3,000	283,000

Description	20X1			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
	$762,500	$8,900	$3,900	$767,500

Description	20X0			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
U.S. Government Treasury securities	$68,000	$1,200	$200	$69,000
Certificate of Deposit	408,000			408,000
Debt Securities	249,000	5,000	2,000	252,000
	$725,000	$6,200	$2,200	$729,000

At December 31, 20X1, maturities of investments classified as available-for-sale were as follows:

	Amortized cost	Fair value
Less than One Year	$25,000	$26,000
One through Five Years	681,000	684,000
After Five Years	56,500	57,500
Total	$762,500	$767,500

As of December 31, 20X1 and 20X0, the amount of unrealized gains on available for sale securities included in accumulated other comprehensive income is shown net of deferred income taxes of $2,000 and $1,600, respectively.

Nonregulated Investments:

Investments in nonregulated activities consist of the following:

	20X1	20X0
Customer Premises Equipment	$493,000	$500,000
CATV equipment	650,000	678,000
Cellular facilities	1,329,000	1,047,000
Other	28,000	35,000
Total Nonregulated Investments	2,500,000	2,260,000
Less: Accumulated Depreciation	950,000	810,000
	$1,550,000	$1,450,000

Nonregulated property is stated at cost. The company provides for depreciation on a straight-line basis at annual rates which will amortize the depreciable property over its estimated useful life.

Following is a summary of net income from nonregulated investments for the year ending December 31, 20X1 and 20X0:

	20X1	20X0
Income	$400,000	$268,000
Expenses	367,000	241,000
	$33,000	$27,000

Income tax expense related to these activities totaled $15,000 in 20X1 and $12,000 in 20X0.

5. Investment in Telecommunications Plant:

Telecommunications Plant in Service and under construction is stated at cost. Listed below are the major classes of the telecommunications plant as of December 31, 20X1 and 20X0:

	20X1	20X0
Land	$185,000	$185,000
Buildings	1,385,000	1,435,000
Central Office Equipment	9,929,000	8,379,000
Outside Plant	10,226,000	9,120,000
Furniture and Office Equipment	352,000	256,000
Vehicles and Work Equipment	723,000	725,000
	$22,800,000	$20,100,000

The company provides for depreciation on a straight-line basis at annual rates which will amortize the depreciable property over its estimated useful life. Such provision, as a percentage of the average balance of telecommunications plant in service was 7.2 percent in 20X1 and 7.1 percent in 20X0.

6. Mortgage Notes:

Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt as of December 31, 20X1 and 20X0:

	20X1	20X0
2% Notes due September 30, 20X8	$2,495,000	$2,373,000
5% Notes due March 31, 20X12	6,984,000	6,176,000
	9,479,000	8,549,000
Less: Current Maturities	579,000	449,000
	$8,900,000	$8,100,000

As of December 31, 20X1, there were no unadvanced funds.

Principal and interest installments on the above notes are due quarterly in equal amounts of $254,000. As of December 31, 20X1, annual maturities of long-term debt outstanding for the next five years are as follows:

20X2	$579,000
20X3	600,000
20X4	612,000
20X5	624,000
20X6	637,000

The long-term debt agreements contain restrictions on the payment of dividends or redemption of capital stock. The terms of the Mortgage Agreement require the maintenance of defined amounts in member's equity and working capital after payment of dividends.

7. Employee Benefits:

Substantially all of the employees of the Company are covered by the ABC Retirement and Security Program, a multiemployer plan.

In addition to pension contributions the Company provides health care benefits for substantially all retired employees and dependents until they reach age 65.

The following illustrates the pension and postretirement benefits plans for the year ended December 31, 20X1 and 20X0.

	Pension benefits		Other benefits	
	20X1	20X0	20X1	20X0
Change in benefit obligation:				
Benefit obligation beginning of year	$1,871,000	$1,841,000	$1,552,000	$1,464,000
Service Cost	115,000	145,000	39,000	39,000
Interest Cost	95,000	86,000	104,000	104,000
Actuarial Gain	(490,000)	(157,000)		
Benefits Paid	(6,000)	(43,000)	(58,000)	(56,000)
Benefit obligation at end of year	$1,585,000	$1,872,000	$1,637,000	$1,551,000
Change in plan assets:				
Fair value of plan assets beginning of year	$461,000	$281,000	$0	$0
Actual return on plan assets	45,000	21,000		
Employer Contribution	144,000	203,000	58,000	56,000
Benefits Paid	(6,000)	(43,000)	(58,000)	(56,000)
Fair value of plan assets at end of year	$644,000	$462,000	$0	$0
Funded status	$(941,000)	$(1,410,000)	$(1,637,000)	$(1,551,000)
Unrecognized net actuarial loss (gain)	(97,000)	428,000		
Unrecognized prior service cost	627,000	654,000		
Unrecognized transition obligation			973,000	1,048,000
Prepaid (Accrued) benefit cost	$(411,000)	$(328,000)	$(664,000)	$(503,000)
Weighted-average assumptions as of December 31:				
Discount rate	6.75%	5.50%	8.00%	8.00%
Expected return on plan assets	6.50%	6.00%		
Rate of compensation increase	5.00%	5.50%	6.00%	6.00%
Components of net periodic benefit cost:				
Service cost	$115,000	$145,000	$39,000	$39,000
Interest cost	95,000	86,000	104,000	104,000
Expected return on plan assets	(33,000)	(22,000)		
Amortization of prior service cost	27,000	27,000		
Amortization of transition obligation			75,000	75,000
Recognized net actuarial loss	24,000	(28,000)		
Net periodic benefit cost	$228,000	$205,000	$218,000	$218,000

8. Income Taxes and Deferred Income Taxes:

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amount of the company's assets and liabilities for financial reporting basis and the amounts used for income tax purposes.

Deferred federal and state tax assets and liabilities in the accompanying balance sheet include the following:

	December 31,	
	20X1	20X0
Deferred Tax Liabilities:		
Federal	$192,000	$152,000
State	31,000	25,000
Total Deferred Tax Liabilities:	223,000	177,000
Deferred Tax Assets:		
Federal	28,000	700
State	5,000	300
Total Deferred Tax Assets	33,000	1,000
Net Deferred Tax Liability	$190,000	$176,000
Current Portion	$0	$0
Long-term portion	190,000	176,000
Net Deferred Tax Liability	$190,000	$176,000

Income taxes reflected in the Statement of Income and Retained Earnings include:

	December 31,	
	20X1	20X0
Federal income taxes:		
Current tax expense	$103,000	$71,000
Deferred tax expense	10,000	5,000
State income taxes:		
Current tax expense	12,000	6,000
Deferred tax expense	1,000	(1,000)
Total income tax expense	$126,000	$81,000

9. Commitments:

The company has executed contracts for construction programs for approximately $1,600,000 at December 31, 20X1. The amount unpaid against these commitments at December 31, 20X1 is $1,100,000.

Exhibit 5–Illustrative Independent Auditor's Management Letter for Telecommunications Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with Section 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Telecommunications Borrowers

March 2, 20X2
Board of Directors
Center County Telecommunications Systems, Inc.
[City, State]

We have audited the financial statements of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR Part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

Section 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in § 1773.33(e)(2), and related party transactions and investments. In addition, our audit of the financial statements also included the procedures specified in § 1773.38 through 1773.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports other than our independent auditors' report, and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 20X2 or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by § 1773.33 are presented below.

Comments on Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding Center County Telecommunications Systems, Inc.'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];
—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and
—The materials control [list other comments].

Comments on Compliance With Specific RUS Loan and Security Instrument Provisions

At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract, agreement or lease between the borrower and an affiliate of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1:

1. Obtained and read a borrower-prepared schedule of new written contracts, agreements or leases entered into during the year between the borrower and an affiliate as defined in § 1773.33(e)(2)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 479 to the RUS:

1. Agreed amounts reported in Form 479 to Center County Telecommunications Systems, Inc.'s records.

The results of our tests indicate that, with respect to the items tested, Center County Telecommunications Systems, Inc. complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract agreement or lease with an affiliate as defined in § 1773.33(e)(2)(i) [list all exceptions]; and
—The borrower has submitted its Form 479 to the RUS and the Form 479, Financial and Statistical Report, as of December 31, 20X1, represented by the borrower as having been submitted to RUS is in agreement with the Center County Telecommunications Systems, Inc.'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of Center County Telecommunications Systems, Inc., nothing came to our attention that caused us to believe that Center County Telecommunications Systems, Inc. failed to comply with respect to:

—The reconciliation of continuing property records to the controlling general ledger plant accounts addressed at § 1773.33(c)(1) [list all exceptions];
—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at § 1773.33(c)(2) [list all exceptions];
—The retirement of plant addressed at § 1773.33(c)(3) and (4) [list all exceptions];
—The approval of the sale, lease, or transfer of capital assets and disposition of proceeds for the sale of lease of plant, material, or scrap addressed at § 1773.33(c)(5) [list all exceptions];
—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 20X1, in the financial statements referenced in the first paragraph of this report addressed at § 1773.33(f) [list all exceptions]; and
—The detailed schedule of investments.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of investments required by § 1773.33(i) and provided below is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of investments would be included here. The total of the investment in each company reported must agree with the detail investment subsidiary account(s).]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

[FR Doc. 01–12127 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

RIN 1904–AB06

Energy Efficiency Program for Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air Conditioning and Water Heating Equipment

AGENCY: Department of Energy (DOE).

ACTION: Final rule; completion of regulatory review.

SUMMARY: On January 12, 2001, DOE published in the **Federal Register** the final rule entitled "Energy Efficiency Program for Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air Conditioning and Water Heating Equipment" (66 FR 3336). In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," published in the **Federal Register** on January 24, 2001 (66 FR 7702), DOE temporarily delayed for 60 days the effective date of that rule (66 FR 8745, February 2, 2001). DOE has now completed its review of that regulation, and does not intend to initiate any further rulemaking action to modify its provisions.

DATES: The effective date of the rule amending 10 CFR part 431 published at 66 FR 3336, January 12, 2001, and delayed at 66 FR 8745, February 2, 2001, is confirmed as April 13, 2001.

FOR FURTHER INFORMATION CONTACT: Jill Holtzman, Office of General Counsel, (202) 586–3410, *jill.holtzman@hq.doe.gov* or Lawrence R. Oliver, Office of the General Counsel, (202) 586–9521, *lawrence.oliver@hq.doe.gov* or Cyrus Nasseri, Office of Energy Efficiency and Renewable Energy, (202) 586–9138, *cyrus.nasseri@ee.doe.gov*.

Issued in Washington, DC on May 14, 2001.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 01–12686 Filed 5–18–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–33–AD; Amendment 39–12234; AD 2001–10–08]

RIN 2120–AA64

Airworthiness Directives; Rolladen Schneider Flugzeugbau GmbH Models LS 3, LS 4, and LS 6c Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Rolladen Schneider Flugzeugbau GmbH (Rolladen Schneider) Models LS 3, LS 4, and LS 6c sailplanes. This AD requires you to inspect the airbrake levers in the wing for lower end corrosion and for play in flight direction when fully extended and retracting under load; replace the bearings if there is jamming under load or if corrosion is found; and adjust the lower lever member (only for the Model LS 3). This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct corrosion damage to the airbrake levers and bearings caused by collection of water in the airbrake boxes, not detected during postflight checks. This condition could result in the airbrakes locking in the extended position and a consequent off-field or short landing.

DATES: This AD becomes effective on July 13, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of July 13, 2001.

ADDRESSES: You may get the service information referenced in this AD from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany; phone: ++ 49 6103 204126; facsimile: ++ 49 6103 45526. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–33–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified FAA that an unsafe condition may exist on all Rolladen Schneider Models LS 3, LS 4, and LS 6c sailplanes. The LBA reports one occurrence of corroded bearings on the lower ends of airbrake levers found on the above-referenced sailplanes. The damage was possibly the result of improper postflight checks. It has been reported that in some cases, the corrosion, occurring over a long time, could cause bearing failure and consequent locking of airbrakes in the extended position.

What are the consequences if the condition is not corrected? If the airbrakes lock in the extended position, inadvertent off-field or short landing conditions might occur.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Rolladen Schneider Models LS 3, LS 4, and LS 6c sailplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 14, 2001 (66 FR 10230). The NPRM proposed to require you to inspect the airbrake levers in the wing for lower end corrosion and for play in flight direction when fully extended; inspect for retraction under load; replace the bearings if there is jamming under load or if corrosion is found; and adjust the lower lever member (only for the Model LS 3).

Was the public invited to comment? Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

FAA's Determination

What is FAA's final determination on this issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How many sailplanes does this AD impact? We estimate that this AD affects 175 sailplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected sailplanes? We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	Not applicable	$120	$21,000

We estimate the following costs to do any necessary bearing replacement that will be required because of the results of the inspection. We have no way of determining the number of sailplanes that will need bearings replaced:

Labor cost	Parts cost	Total cost per sailplane
30 workhours × $60 per hour = $1,800	$35 for bearings + $550 for levers = $585.	$2,385

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is within the next 30 calendar days after the effective date of this AD.

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? Because of the typical use of sailplanes, calendar days compliance time is deemed more suitable than hours time-in-service. For example, one sailplane operator may use the sailplane 50 hours in a month while another may only accumulate 50 hours in a year.

Why is the compliance time of this AD different from the German AD and the service information? The service information specifies the actions required in this AD "before next flight" and the German AD mandates these actions "before next take-off, when play at levers is existent" for sailplanes registered for operation in Germany. The FAA does not have justification for requiring the action before further flight. Compliance times such as these are used for urgent safety of flight conditions. Instead, FAA has determined that 30 calendar days is a reasonable time period for doing the inspection in this AD.

Regulatory Impact

Does this AD impact various entities? The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–10–08 Rolladen Schneider Flugzeugbau GmbH: Amendment 39–12234; Docket No. 2000–CE–33–AD.

(a) *What sailplanes are affected by this AD?* This AD affects Models LS 3, LS 4, and LS 6c sailplanes, all serial numbers, certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct corrosion damage to the airbrake levers and bearings caused by collection of water in the airbrake boxes, not detected during postflight checks. This condition could result in the airbrakes locking in the extended position and a consequent off-field or short landing.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect airbrake levers in the wing for lower end corrosion and for play in flight direction when fully extended, and retracting under load.	Within the next 30 calendar days after July 13, 2001 (the effective date of this AD), and thereafter at every three calendar years.	Do these actions following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(2) Replace the bearings if there is jamming under load.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	Do this action following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(3) If corrosion of the bearings is found, but no jamming, replace the bearings.	Within 6 calendar months after the inspection required in paragraph (d)(1) of this AD.	Do this action following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(4) For only the Model LS 3, adjust the lower lever member.	Within the next 30 calendar days after July 13, 2001 (the effective date of this AD).	Do this action following the procedures contained in Rolladen Schneider Technical Bulletin No. 3051, dated September 14, 1999.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each sailplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition

addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 329–4091.

(g) *What if I need to fly the sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your sailplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Rolladen Schneider Technical Bulletin No. 3051, Technical Bulletin No. 4043, or Technical Bulletin No. 6037, all dated September 14, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on July 13, 2001.

Note 2: The subject of this AD is addressed in German AD Numbers 2000–076, 2000–082, and 2000–085, all dated March 9, 2000.

Issued in Kansas City, Missouri, on May 14, 2001.

Melvin D. Taylor,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12523 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") revises Table 1 in § 305.9 of the Commission's Appliance Labeling Rule ("Rule") to incorporate the latest figures for average unit energy costs as published by the Department of Energy ("DOE") in the **Federal Register** on March 8, 2001. Table 1 sets forth the representative average unit energy costs for five residential energy sources, which the Commission revises periodically on the basis of undated information provided by DOE. The Commission is also making two minor technical corrections to the Rule.

DATES: The amendments published in this document are effective May 21, 2001. The mandatory dates for using these revised DOE cost figures in connection with the Appliance Labeling Rule are detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, 202–326–2889, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580; E-mail:hnewsome@ftc.gov.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201.[1] The Rule requires the disclosure of energy efficiency, consumption, or cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that the energy costs, consumption, or efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in section 305.9(a) of the Rule sets forth the representative average unit energy costs to be used for all cost-related requirements of the Rule. As stated in section 305.9(b), the Table is to be revised periodically on the basis of updated information provided by DOE.

I. Representative Average Unit Energy Costs

On March 8, 2001, DOE published the most recent figures for representative average unit energy costs (66 FR 13917). These energy cost figures are for manufacturers to use, in accordance with the guidelines that appear below, to calculate the required secondary annual operating cost figures at the bottom of required EnergyGuides for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditioners. The energy cost figures also are for manufacturers of central air conditions and heat pumps to use, also in accordance with the below guidelines, to calculate annual operating cost for required fact sheets and in approved industry directories listing these products.

The DOE cost figures are not necessary for making data submissions to the Commission. The required energy use information that manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters must submit under section 305.8 of the Rule is no longer operating cost; it is now energy consumption (kilo Watt-hour use per year for electricity, therms per year for natural gas, or gallons per year for propane and oil).

Accordingly, Table 1 is revised to reflect these latest cost figures, as set forth below. The current and future obligations of manufacturers with respect to the use of DOE's cost figures are as follows:

A. For Labeling of Refrigerators, Refrigerator-Freezers, Freezers, Clothes Washers, Dishwashers, Water Heaters, and Room Air Conditioners[2]

Manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners must use the National Average Representative Unit Costs published today on labels for their products only after the Commission publishes new ranges of comparability for those products that are based on today's cost figures. In the meantime, they must continue to use past DOE cost figures as follows:

1. Refrigerators, Refrigerator-Freezers, and Freezers

Manufacturers of refrigerators, refrigerator-freezers, and freezers covered by Appendices A1, A2, A3, A4, A5, A6, B1, B2, and B3 of 16 CFR part 305 must continue to derive the operating cost disclosures on labels by using the 1998 National Average Representative Unit Costs (8.42 cents per kiloWatt-hour for electricity) published by DOE on December 8, 1997 (62 FR 64574), and by the Commission on December 29, 1997 (62 FR 67560), and that were in effect when the current (1998) ranges of comparability for these products were published.[3] Manufacturers of refrigerator-freezers covered by Appendix A7 of 16 CFR Part 305 must continue to derive the operating cost disclosures on labels by using the 2000 National Average Representative Unit Costs (8.03 cents per kiloWatt-hour for electricity) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352), and that were in effect when the current (2000) ranges of comparability for these products were published.[4] Manufacturers must continue to use the foregoing DOE cost figures until the Commission publishes new ranges of comparability. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figure for electricity in effect at that time.

2. Room Air Conditioners

Manufacturers of room air conditioners must continue to derive the operating cost disclosures on labels by using the 1995 National Average Representative Unit Costs for electricity (8.67 cents per kiloWatt-hour) that were published by DOE on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9296), and that were in effect when the current (1995) ranges of comparability for these products were published.[5] Manufacturers of room air conditioners must continue to use the 1995 DOE cost figures to calculate the operating cost disclosure disclosed on labels until the Commission publishes new ranges of comparability for room air conditioners based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figure for electricity in effect at that time.

3. Storage-Type Water Heaters

Manufacturers of storage-type water heaters must continue to use the 1994 DOE cost figures (8.41 cents per kiloWatt-hour for electricity, 60.4 cents per therm for natural gas, $1.05 per gallon for No. 2 heating oil, and 98.3 cents per gallon for propane) in determining the operating cost disclosures on the labels on their products. This is because the 1994 DOE cost figures were in effect when the 1994 ranges of comparability for storage-type water heaters were published, and those 1994 ranges are still in effect for those products.[6] Manufacturers of storage-type water heaters must continue to use the 1994 cost figures to calculate the estimated annual operating cost figures on their labels until the Commission publishes new ranges of comparability for storage-type water heaters. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures for relevant energy types in effect at that time.

4. Heat Pump Water Heaters

Manufacturers of heat pump water heaters must continue to derive the operating cost disclosures on labels by using the 2000 National Average Representative Unit Costs for electricity (8.03 cents per kiloWatt-hour) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352), and that were in effect when the current (2000) ranges of comparability for these products were published.[7] Manufacturers of heat pump water heaters must continue to use the 2000 DOE cost figures to calculate the operating cost disclosure on labels until the Commission publishes new ranges of comparability for heat pump water heaters based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures for electricity in effect at that time.

5. Gas-Fired Instantaneous Water Heaters

Manufacturers of gas-fired instantaneous water heaters must continue to base the required secondary operating cost disclosures on labels on the 1999 National Average Representative Unit Cost for natural gas (68.8 cents per therm) and propane (77 cents per therm) that were published by DOE on January 5, 1999 (64 FR 487), and by the Commission on February 17, 1999 (64 FR 7783), and that were in effect when the 1999 ranges of comparability for these products were published.[8] Manufacturers must continue to use the 1999 DOE cost figures to calculate the operating cost disclosure on labels until the Commission publishes new ranges of comparability for gas-fired instantaneous water heaters. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures for the relevant energy types in effect at that time.

6. Standard-Size Dishwashers

Manufacturers of standard-size dishwashers must continue to base the required secondary operating cost disclosures on labels on the 1997 National Average Representative Unit Costs for electricity (8.31 cents per kiloWatt-hour) and natural gas (61.2 cents per therm) that were published by DOE on November 18, 1996 (61 FR 58679), and by the Commission on February 5, 1997 (62 FR 5316), and that were in effect when the 1997 ranges of comparability for these products were published.[9] Manufacturers of standard-size dishwashers must continue to use the 1997 DOE cost figures to calculate

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[1] 44 FR 66466. Since its promulgation, the Rule has been amended five times to include new product categories—central air conditioners (52 FR 46888, Dec. 10, 1987), fluorescent lamp ballasts (54 FR 1182, Jan. 12, 1989), certain plumbing products (58 FR 54955, Oct. 25, 1993), certain lamp products (59 FR 25176, May 13, 1994), and pool heaters and certain residential water heater types (59 FR 49556, Sept. 28, 1994). Obligations under the Rule concerning fluorescent lamp ballasts, lighting products, plumbing products and pool heaters are not affected by the cost figures in this notice.

[2] Sections 305.11(a)(5)(i)(H)(2) and (3) of the Rule (16 CFR 305.11(a)(5)(i)(H)(2) and (3)) require that labels for refrigerators, refrigerator-freezers, clothes washers, dishwashers, water heaters, and room air conditioners contain a secondary energy usage disclosure in terms of an estimated annual operating cost (labels for clothes washers and dishwashers will show two such secondary disclosures—one based on operation with water heated by natural gas, and one on operation with water heated by electricity). The labels also must disclose, below this secondary estimated annual operating cost, the fact that the estimated annual operating cost is based on the appropriate DOE energy cost figure, and must identify the year in which the cost figure was published.

[3] The current (1998) ranges for refrigerators, refrigerator-freezers, and freezers covered by Appendices, A1, A2, A3, A4, A5, A6, A8, B1, B2, and B3 were published on December 2, 1998 (63 FR 66428). On December 20, 1999 (64 FR 71019) and October 23, 2000 (65 FR 63201), the Commission announced that the 1998 ranges for these products would continue to remain in effect.

[4] The current (2000) ranges for refrigerator-freezers covered by Appendix A7 were published on October 23, 2000 (65 FR 63201).

[5] The current (1995) ranges for room air conditioners were published on November 13, 1995 (60 FR 56945). On September 16, 1996 (61 FR 48620), August 25, 1997 (62 FR 44890), August 28, 1998 (63 FR 45941), December 20, 1999 (64 FR 71019), and September 1, 2000 (65 FR 53163), the Commission announced that the 1995 ranges for room air conditioners would continue to remain in effect.

[6] The 1994 DOE cost figures were published by DOE on December 29, 1993 (58 FR 68901), and by the Commission on February 8, 1994 (59 FR 5699). The current (1994) ranges of comparability for storage-type water heaters were published on September 23, 1994 (59 FR 48796). On August 21, 1995 (60 FR 43367), September 16, 1996 (61 FR 48620), August 25, 1997 (62 FR 44890), August 28, 1998 (63 FR 45941), December 20, 1999 (64 FR 71019), and September 1, 2000 (65 FR 53163), the Commission announced that the 1994 ranges for storage-type waters heaters would continue to remain in effect.

[7] The current (2000) ranges of comparability for heat pump water heaters were published on September 1, 2000 (65 FR 53163).

[8] The current ranges for gas-fired instantaneous water heaters were published on December 20, 1999 (64 FR 71019). On September 1, 2000 (65 FR 53165), the Commission announced that the 1999 ranges for gas-fired instantaneous water heaters would continue to remain in effect.

[9] The current ranges for standard-size dishwashers were published on August 25, 1997 (62 FR 44890). On August 28, 1998 (63 FR 45941), December 20, 1999 (64 FR 71019), and September 1, 2000 (65 FR 53165), the Commission announced that the 1997 ranges for standard-size dishwashers would continue to remain in effect.

the operating cost disclosures on labels until the Commission publishes new ranges of comparability for standard-size dishwashers based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figure for the relevant energy types in effect at that time.

7. Compact-Size Dishwashers and Clothes Washers

Manufacturers of compact-size dishwashers and clothes washers must continue to derive the operating cost disclosures on labels by using the 2000 National Average Representative Unit Costs for electricity (8.03 cents per kilo Watt-hour) and natural gas (68.8 cents per therm) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352), and that were in effect when the current (2000) ranges of comparability for these products were published.[10] Manufacturers of compact dishwashers and clothes washers must continue to use the 2000 DOE cost figures to calculate the operating cost disclosures on labels until the Commission publishes new ranges of comparability for compact-size dishwashers and clothes washers based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures for the relevant energy types in effect at that time.

B. For Operating Cost Information Relating to Central Air Conditioners and Heat Pumps Disclosed on Fact Sheets and in Industry Directories

In the 2001 notice announcing whether there will be new ranges of comparability for central air conditioners and heat pumps, the Commission also will announce that operating cost disclosures for these products on fact sheets and in industry directories must be based on the 2001 DOE cost figure for electricity beginning on the effective date of that notice.

C. For Operating Cost Representation Respecting Products Covered by EPCA but Not By the Commission's Rule

Manufacturers of products covered by section 323(c) of EPCA, 42 U.S.C. 6293(c), but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, and space heaters) must use the 2001 DOE energy costs in all operating cost representations beginning August 20, 2001.

II. Minor, Technical Corrections to the Rule

The Commission is amending two sections of the Rule that contain obsolete references to DOE's appliance testing requirements found in 10 CFR Part 430 ("DOE's Rule"). The current Commission Rule identifies 10 CFR 430.22 as the citation for DOE's test procedures covering a variety of appliances (see 16 CFR 305.5(a)). The correct reference is to section 430.23 of DOE's Rule. Similarly, the current Commission Rule identifies 10 CFR 430.23 as the citation for DOE's sampling procedures (see 16 CFR 305.6(a)). The correct reference is to section 430.24 of DOE's Rule.

III. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. Thus, the amendments will not have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 605). The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR part 305 is amended as follows:

1. The authority citation for part 305 continues to read:

Authority: 42 U.S.C. 6294.

2. Section 305.5(a) is revised to read as follows:

§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, and of water use rate.

(a) Procedures for determining the estimated annual energy consumption, the estimated annual operating costs, the energy efficiency ratings and the efficacy factors of covered products are those found in 10 CFR part 430, subpart B, in the following sections:

(1) Refrigerators and refrigerator-freezers § 430.23(a).
(2) Freezers—§ 430.23(b).
(3) Dishwashers—§ 430.23(c).
(4) Water heaters—§ 430.23(e).
(5) Room air conditioners—§ 430.23(f).
(6) Clothes washers—§ 430.23(j).
(7) Central air conditioners and heat pumps—§ 430.23(m).
(8) Furnaces—§ 430.23(n).
(9) Pool Heaters—§ 430.23(p)
(10) Fluorescent lamp ballasts—§ 430.23(q).

* * * * *

3. Section 305.6(a) is revised to read as follows:

§ 305.6 Sampling.

(a) For any covered product (except general service flouroscent lamps, medium base compact florescent lamps, and general service incandescent lamps, including incandescent reflector lamps), any representation with respect to or based upon a measure or measures of energy consumption incorporated into § 305.5 shall be based upon the sampling procedures set forth in § 430.24 of 10 CFR part 430, subpart B.

* * * * *

4. Section 305.9(a) is revised to read as follows:

§ 305.9 Representative average unit energy costs.

(a) Table 1, to this paragraph contains the representative unit energy costs to be utilized for all requirements of this part.

[10] The current (2000) ranges of comparability for clothes washers were published on May 11, 2000 (65 FR 30351). on April 16, 2001 (66 FR 19389), the Commission announced that the 2000 ranges for clothes washers would continue to remain in effect. The current (2000) ranges of comparability for compact-size dishwashers were published on September 1, 2000 (65 FR 53165).

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2001)

Type of energy	In commonly used terms	As required by DOE test procedure	Dollars per million Btu[1]
Electricity	8.29¢/kWh[2 3]	$0.0829/kWh	$24.30
Natural Gas	83.7¢/therm[4] or $8.63/MCF[5 6]	0.00000837/Btu	8.37
No. 2 heating oil	$1.23/gallon[7]	0.00000886/Btu	8.66
Propane	$1.03/gallon[8]	0.00001128/Btu	11.28
Kerosene	$1.27/gallon[9]	0.00000941/Btu	9.41

[1] Btu stands for British thermal unit.
[2] kWh stands for kiloWatt hour.
[3] 1 kWh = 3,412 Btu.
[4] therm = 100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,031 Btu.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary,

[FR Doc. 01–12676 Filed 5–18–01; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is granting an exemption to firms designated by the Winnipeg Commodity Exchange ("WCE") from the application of certain of the Commission's foreign futures and option rules based on substituted compliance with certain comparable regulatory and self-regulatory requirements of a foreign regulatory authority consistent with conditions specified by the Commission, as set forth herein. This Order is issued pursuant to Commission Rule 30.10, which permits specified persons to file a petition with the Commission for exemption from the application of certain of the rules set forth in Part 30 and authorizes the Commission to grant such an exemption if such action would not be otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought.

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Esq., Associate Chief Counsel, Susan A. Elliott, Esq., Staff Attorney, or Andrew V. Chapin, Esq., Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Under CFTC Rule 30.10 Exempting Firms Designated by the Winnipeg Commodity Exchange From the Application of Certain of the Foreign Futures and Option Rules the Later of the Date of Publication of the Order Herein in the **Federal Register** or After Filing of Consents by Such Firms and the Regulatory or Self-Regulatory Organization, as Appropriate, to the Terms and Conditions of the Order Herein.

Commission rules governing the offer and sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade to customers located in the U.S. are contained in Part 30 of the Commission's rules.[1] These rules include requirements for intermediaries with respect to registration, disclosure, capital adequacy, protection of customer funds, recordkeeping and reporting, and sales practice and compliance procedures, that are generally comparable to those applicable to transactions on U.S. markets.

In formulating a regulatory program to govern the offer and sale of foreign futures and option products to customers located in the U.S., the Commission, among other things, considered the desirability of ameliorating the potential extraterritorial impact of such a program and avoiding duplicative regulation of firms engaged in international business. Based upon these considerations, the Commission determined to permit persons located outside the U.S. and subject to a comparable regulatory structure in the jurisdiction in which they were located to seek an exemption from certain of the requirements under Part 30 of the Commission's rules based upon substituted compliance with the comparable regulatory requirements of the foreign jurisdiction.

Appendix A to Part 30, "Interpretative Statement With Respect to the Commission's Exemptive Authority Under 30.10 of Its Rules' ("Appendix A"), generally sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10.[2] These elements include: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons through whom customer orders are solicited and accepted; (2) minimum financial requirements for those persons who accept customer funds; (3) protection of customer funds from misapplication; (4) recordkeeping and reporting requirements; (5) sales practice standards; (6) procedures to audit for compliance with, and to take action against those persons who violate, the requirements of the program; and (7) information sharing arrangements between the Commission and the appropriate governmental and/or self-regulatory organization to ensure Commission access on an "as needed" basis to information essential to maintaining standards of customer and market protection within the U.S.

Moreover, the Commission specifically stated in adopting Rule 30.10 that no exemption of a general nature would be granted unless the persons to whom the exemption is to be applied: (1) consensually submit to jurisdiction in the U.S. by designating an agent for service of process in the

[1] Commission rules referred to herein are found at 17 CFR Ch. I (2000).

[2] 52 FR 28990, 29001 (August 5, 1987).

U.S. with respect to transactions subject to Part 30 and filing a copy of the agency agreement with the National Futures Association ("NFA"); (2) agree to provide access to their books and records in the U.S. to Commission and Department of Justice representatives; and (3) notify NFA of the commencement of business in the U.S.[3]

By letter dated June 29, 2000 and subsequent correspondence through September 26, 2000, the WCE petitioned the Commission on behalf of certain firms located and doing business in Manitoba for an exemption from the application of the Commission's Part 30 rules to those firms. In support of its petition, the WCE states that granting such an exemption with respect to firms that it has authorized to conduct foreign futures and options transactions on behalf of customers located in the U.S. would not be contrary to the public interest or to the purposes of the provisions from which the exemption is sought because such firms are subject to a regulatory framework comparable to that imposed by the Commodity Exchange Act ("Act") and the rules thereunder.

Based upon a review of the petition, supporting materials filed by the WCE and the recommendation of the Commission's staff, the Commission has concluded that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A thereof, have generally been satisfied and that compliance with applicable Manitoba and Canadian law and WCE rules may be substituted for compliance with those sections of the Act and rules thereunder more particularly set forth herein.

By this Order, the Commission hereby exempts, subject to specified conditions, those firms identified to the Commission by the WCE as eligible for the relief granted herein from:

—Registration with the Commission for firms and for firm representatives;
—The requirement in Commission Rule 30.6(a) and (d), 17 CFR 30.6(a) and (d), that firms provide customers located in the U.S. with the risk disclosure statements in Commission Rule 1.55(b), 17 CFR 1.55(b) and Commission Rule 33.7, 17 CFR 33.7, or as otherwise approved under Commission Rule 1.55(c), 17 C.F.R. § 1.55(c);
—Those sections of Part 1 of the Commission's financial rules that apply to foreign futures and options sold in the U.S. as set forth in Part 30; and
—Those sections of Part 1 of the Commission's rules relating to books and records which apply to transactions subject to Part 30,

based upon substituted compliance by such persons with the applicable statutes and regulations in effect in the province of Manitoba.

This determination to permit substituted compliance is based on, among other things, the Commission's finding that the regulatory scheme governing persons in Manitoba who would be exempted hereunder provides:

(1) A system of qualification or authorization of firms who deal in transactions subject to regulation under Part 30 that includes, for example, criteria and procedures for granting, monitoring, suspending and revoking licenses, and provisions for requiring and obtaining access to information about authorized firms and persons who act on behalf of such firms;

(2) Financial requirements for firms including, without limitation, a requirement that all firms immediately notify WCE if the firms' adjusted net capital falls below a specified level and daily mark-to-market settlement and/or accounting procedures;

(3) A system for the protection of customer assets that is designed to preclude the use of customer assets to satisfy house obligations and requires separate accounting for such assets, augmented by a compensation scheme designed to compensate customers whose assets are segregated and who have suffered a loss as a result of fraud and/or insolvency of a firm;

(4) Recordkeeping and reporting requirements pertaining to financial and trade information including, without limitation, order tickets, trade confirmations, monthly customer account statements, customers' segregation records, accounting records for customer and proprietary trades and discretionary account documentation;

(5) Sales practice standards for authorized firms and persons acting on their behalf that include, for example, a requirement that authorized persons know their customers, required disclosures to prospective customers and prohibitions on misleading advertising and improper trading activities;

(6) Procedures to audit for compliance with, and to redress violations of, customer protection and sales practice requirements including, without limitation, an affirmative surveillance program designed to detect trading activities that take advantage of customers, and the existence of broad powers of investigation relating to sales practice abuses; and

(7) Mechanisms for sharing of information between the Commission, the WCE, and the MSC on an "as needed" basis including, without limitation, confirmation data, data necessary to trace funds related to trading futures products subject to regulation in Manitoba, position data, and data on firms' standing to do business and financial condition.

This Order does not provide an exemption from any provision of the Act or rules thereunder not specified herein, for example, without limitation, the antifraud provision in Rule 30.9. Moreover, the relief granted is limited to brokerage activities undertaken on behalf of customers located in the U.S. with respect to transactions on or subject to the rules of the WCE for products that customers located in the U.S. may trade.[4] The relief does not extend to rules relating to trading, directly or indirectly, on U.S. exchanges. For example, a firm trading in U.S. markets for its own account would be subject to the Commission's large trader reporting requirements.[5] Similarly, if such a firm were carrying a position on a U.S. exchange on behalf of foreign clients, it would be subject to the reporting requirements applicable to foreign brokers.[6] The relief herein is inapplicable where the firm solicits or accepts orders from customers located in the U.S. for transactions on U.S. markets. In that case, the firm must comply with all applicable U.S. laws and regulations, including the requirement to register in the appropriate capacity.

The relief also does not extend to trading, directly or indirectly, on any other non-U.S. exchanges. Should the WCE seek to extend the Rule 30.10 relief set forth herein to permit designated members to solicit and accept orders from customers located in the U.S. for otherwise permitted transactions on any other non-U.S. exchange, it must apply for and receive prior approval from the Commission. In a petition to extend the relief set forth herein to other non-U.S. exchanges, the WCE must: (1) Represent that local law prohibits its members from intermediating otherwise permitted transactions for customers located in the U.S. on unapproved foreign exchanges as set forth therein, and must specify which exchanges are authorized by local law; (2) represent that member firms with customers located in the U.S. will comply with all the terms and conditions of this Order with respect to transactions entered into on or subject to the rules of a foreign exchange located outside its jurisdiction; and (3) confirm that it has the authority and the ability to enforce its laws, rules and/or regulations with respect to those transactions to the same extent that it conducts such activities on an exchange located within its jurisdiction.[7]

[3] 52 FR 28980, 28981 and 29002.

[4] See, e.g., Sections 2(a)(1)(C) and (D) of the Commodity Exchange Act.

[5] See, e.g., 17 CFR Part 18 (2000).

[6] See, e.g., 17 CFR Parts 17 and 21 (2000).

[7] See 64 FR 50248, 50251 (September 16, 1999)(permitting designated members of the Singapore Exchange Derivatives Trading Limited to solicit and accept orders from customers located in the U.S. for otherwise permitted transactions on Eurex Deutschland).

The eligibility of any firm to seek relief under this exemptive Order is subject to the following conditions:

(1) The regulatory or self-regulatory organization responsible for monitoring the compliance of such firms with the regulatory requirements described in the Rule 30.10 petition must represent in writing to the CFTC that:

(a) Each firm for which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards in place in Manitoba; such firm is engaged in business with customers in Manitoba as well as in the U.S.; and such firm and its principals and employees who engage in activities subject to Part 30 would not be statutorily disqualified from registration under Section 8a(2) of the Act, 7 U.S.C. § 12(a)(2);

(b) It will monitor firms to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or NFA of any change in status of a firm that would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the U.S.;

(c) All transactions with respect to customers made in the U.S. will be made on or subject to the rules of WCE and the Commission will receive prompt notice of all material changes to the relevant laws in Manitoba, any rules promulgated thereunder and WCE rules;

(d) Customers located in the U.S. will be provided no less stringent regulatory protection than Canadian customers under all relevant provisions of Manitoba law; and

(e) It will cooperate with the Commission with respect to any inquiries concerning any activity subject to regulation under the Part 30 rules, including sharing the information specified in Appendix A on an "as needed" basis and will use its best efforts to notify the Commission if it becomes aware of any information that in its judgment affects the financial or operational viability of a member firm doing business in the U.S. under the exemption granted by this Order.

(2) Each firm seeking relief hereunder must represent in writing that it:

(a) Is located outside the U.S., its territories and possessions, and where applicable, has subsidiaries or affiliates domiciled in the U.S. with a related business (e.g., banks and broker/dealer affiliates) along with a brief description of each subsidiary's or affiliate's identity and principal business in the U.S.;

(b) Consents to jurisdiction in the U.S. under the Act by filing a valid and binding appointment of an agent in the U.S. for service of process in accordance with the requirements set forth in Rule 30.5;

(c) Agrees to provide access to its books and records related to transactions under Part 30 required to be maintained under the applicable statutes and regulations in effect in Manitoba upon the request of any representative of the Commission or U.S. Department of Justice at the place in the U.S. designated by such representative, within 72 hours, or such lesser period of time as specified by that representative as may be reasonable under the circumstances after notice of the request;

(d) Has no principal, or employee who solicits or accepts orders from customers located in the U.S., who would be disqualified from directly applying to do business in the U.S. under Section 8a(2) of the Act, 7 U.S.C. § 12(a)(2), and will notify the Commission promptly of any change in that representation based on a change in control as generally defined in Rule 3.32;

(e) Consents to participate in any NFA arbitration program that offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under Part 30, even in circumstances where the claim involves a matter arising primarily out of delivery, clearing, settlement or floor practices, and consents to notify customers located in the U.S. of the availability of such a program;

(f) Agrees to maintain, on behalf of customers located in the U.S., funds equivalent to the "foreign futures and foreign options secured amount" described in Rule 1.3(rr), in a separate account as set forth in Rule 30.7, and to treat those funds in the manner described by that rule; and

(g) Undertakes to comply with the applicable provisions of Manitoba laws and WCE rules that form the basis upon which this exemption from certain provisions of the Act and rules thereunder is granted.

As set forth in the Commission's September 11, 1997 Order delegating to NFA certain responsibilities, the written representations set forth in paragraph (2) shall be filed with NFA.[8] Each firm seeking relief hereunder has an ongoing obligation to notify NFA should there be a material change to any of the representations required in the firm's application for relief.

This Order will become effective as to any designated WCE member firm the later of the date of publication of the Order in the **Federal Register** or the filing of the consents set forth in paragraph (2). Upon filing of the notice required under paragraph (1)(b) as to any such firm, the relief granted by this Order may be suspended immediately as to that firm. That suspension will remain in effect pending further notice by the Commission, or the Commission's designee, to the firm and WCE.

This Order is issued pursuant to Rule 30.10 based on the comparability representations made and supporting material provided to the Commission and the recommendation of the staff, and is made effective as to any firm granted relief hereunder based upon the filings and representations of such firms required hereunder. Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A, have generally been satisfied. Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular firm, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific firm, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion.

The Commission will continue to monitor the implementation of its program to exempt firms located in jurisdictions generally deemed to have a comparable regulatory program from the application of certain of the foreign futures and option rules and will make necessary adjustments if appropriate.

Issued in Washington, DC on May 15, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–12696 Filed 5–18–01; 8:45 am]

BILLING CODE 6351–01–P

[8] 62 FR 47792, 47793 (September 11, 1999). Among other duties, the Commission authorized NFA to receive requests for confirmation of Rule 30.10 relief on behalf of particular firms, to verify such firms' fitness and compliance with the conditions of the appropriate Rule 30.10 Order and to grant exemptive relief from registration to qualifying firms.

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

28 CFR Chapter IX

[NCPPC 100–F]

Fingerprint Submission Requirements

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Final rule.

SUMMARY: The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact), is publishing a rule interpreting the Compact's fingerprint-submission requirements as they relate to the use of the Interstate Identification Index (III) for noncriminal justice record checks during an emergency situation when the health and safety of a specified group may be endangered. Pursuant to the rule, the Compact Council has approved a proposal from a state requesting the delayed submission

of fingerprints in connection with criminal history records searches conducted for the purpose of the emergency placement of children with temporary custodians. The Council's approval of such a state request is being published in the Notice section of today's **Federal Register**.

EFFECTIVE DATE: This final rule is effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Wilbur Rehmann, Compact Council Chairman, Montana Department of Justice, 303 North Roberts, 4th Floor, Post Office Box 201406, Helena, Montana 59620–1406, telephone number (406) 444–6194.

SUPPLEMENTARY INFORMATION: The National Crime Prevention and Privacy Compact, 42 U.S.C. 14611–16, establishes uniform standards and processes for the interstate and federal-state exchange of criminal history records for noncriminal justice purposes. The Compact was signed into law on October 9, 1998, (Pub. L. 105–251) and became effective on April 28, 1999 when ratified by the second State.

Background

The Compact requires that subject's fingerprints or other approved forms of positive identification "shall be submitted with all requests for criminal history record checks for noncriminal justice purposes." *See* 42 U.S.C. 14616, Article V (a). The Compact Council recognizes the extreme reliability of fingerprint-based identifications and believes that the above quoted provision requires that, whenever feasible, fingerprints should be submitted contemporaneously with search requests. However, the Council acknowledges that there are exigent circumstances in which time is a critical factor in decision making and in which the immediate fingerprinting of the subject is not feasible. In such emergency circumstances, the Council believes that the Compact permits preliminary name searches of the III System to be conducted for noncriminal justice purposes, provided that subject's fingerprints are obtained and submitted at the earliest time feasible. This procedure allows access to criminal history record information in a timely manner in exigent circumstances with follow-up positive identification assured by fingerprint submissions.

The rule published herein authorizes state criminal history record repositories and the FBI, upon approval by the Compact Council, to grant access to the III System in emergency situations on a delayed fingerprint submission basis, predicated upon a statute approved by the U.S. Attorney General pursuant to Pub. L. 92–544 and Article III (c) of the Compact. Access authorized by the rule shall adhere to both the Criminal Justice Information Services Security Policy and applicable state security policies. A noncriminal justice agency granted access to the III must adhere to applicable federal and state audit protocols. Violation and/or misuse of the authorized access granted may result in sanctions from the Compact Council, which may include the discontinuance of services.

Proposals to the Compact Council for granting of delayed fingerprint submission under the rule should be sent to the Compact Council Chairman at the address set out above. Such proposals should include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to the health or safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

The rule (Sec. 901.3) provides that once a proposal from any state has been approved by the Compact Council, other states may apply for delayed submission authority consistent with that approved proposal through application to the FBI's Compact Officer. For example, applications for such authority dealing with the emergency placement of children, a proposal for which has been approved by the Council in a notice published separately in today's **Federal Register**, may be filed with the FBI's Compact Officer rather than with the Council Chairman.

Administrative Procedures and Executive Orders

Administrative Procedures Act

This rule is published by the Compact Council as authorized by the National Crime Prevention and Privacy Compact (Compact), an interstate/federal compact which was approved and enacted into law by Congress pursuant to Pub. L. 105–251. The Compact Council is composed of 15 members (with 11 state and local governmental representatives), and is authorized by the Compact to promulgate rules and procedures for the effective and proper use of the Interstate Identification Index (III) System for noncriminal justice purposes. The Compact specifically provides that the Council shall prescribe rules and procedures for the effective and proper use of the III System for noncriminal justice purposes, and mandates that such rules, procedures, or standards established by the Council shall be published in the **Federal Register**. *See* 42 U.S.C. 14616, Articles II(4) and VI(a)(1), (e). This publication complies with those requirements.

Executive Order 12866

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

Executive Order 13132

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this Rule fully complies with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

Executive Order 12988

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

Unfunded Mandates Reform Act

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. Accordingly, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act (Title 5, U.S.C. 801–804) is not applicable to the Council's rule because the Compact Council is not a "Federal agency" as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. *See* 5 U.S.C. 804.

List of Subjects in 28 CFR Part 901

Crime, Health, Privacy, Safety.

Accordingly, for the reasons set forth above, and by the authority vested in the National Crime Prevention and Privacy Compact, Title 28 of the Code of Federal Regulations is amended by establishing a new chapter IX consisting of Part 901 to read as follows:

CHAPTER IX—NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Part

901 Fingerprint Submission Requirements

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

Sec.

901.1 Purpose and authority.
901.2 Interpretation of fingerprint submission requirements.
901.3 Approval of delayed fingerprint submission request.

Authority: 42 U.S.C. 14616.

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

§ 901.1 Purpose and authority.

The Compact Council is established pursuant to the National Crime Prevention and Privacy Compact (Compact), Title 42, U.S.C., Chapter 140, Subchapter II, Section 14616. The purpose of these provisions is to interpret the Compact, as it applies to the required submission of fingerprints, along with requests for Interstate Identification Index (III) records, by agencies authorized to access and receive criminal history records under Public Law 92–544, and to establish protocols and procedures applicable to the III and its use for noncriminal justice purposes.

§ 901.2 Interpretation of fingerprint submission requirements.

(a) Article V of the Compact requires the submission of fingerprints or other approved forms of positive identification with requests for criminal history record checks for noncriminal justice purposes. The Compact Council finds that the requirement for the submission of fingerprints may be satisfied in two ways:

(1) The fingerprints should be submitted contemporaneously with the request for criminal history information, or

(2) For purposes approved by the Compact Council, a delayed submission of fingerprints may be permissible under exigent circumstances.

(b) The Compact Council further finds that a preliminary III name based check may be made pending the receipt of the delayed submission of the fingerprints. The state repository may authorize terminal access to authorized agencies designated by the state, to enable them to conduct such checks. Such access must be made pursuant to the security policy set forth by the state's Control Terminal Agency.

§ 901.3 Approval of delayed fingerprint submission request.

(a) A State may, based upon exigent circumstances, apply for delayed submission of fingerprints supporting requests for III records by agencies authorized to access and receive criminal history records under Public Law 92–544. Such applications must be sent to the Compact Council Chairman and include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to health and safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

(b) In evaluating requests for delayed submissions, the Compact Council must utilize the following criteria:

(1) The risk to health and safety; and

(2) The emergency nature of the request.

Upon approval of the application by the Compact Council, the authorized agency may conduct a III name check pending submission of the fingerprints. The fingerprints must be submitted within the time frame specified by the Compact Council.

(c) Once a specific proposal has been approved by the Compact Council, another state may apply for delayed fingerprint submission consistent with the approved proposal, provided that the state has a related Public Law 92–544 approved state statute, by submitting the application to the FBI's Compact Officer.

Dated: May 3, 2001.

Wilbur Rehmann,

Compact Council Chairman.

[FR Doc. 01–12533 Filed 5–18–01; 8:45 am]

BILLING CODE 4410–02–U

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

RIN 1219–AB11

Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners; Delay of Effective Dates

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; delay of effective dates and conforming amendments.

SUMMARY: The Mine Safety and Health Administration is delaying for 45 days the effective date of the rule entitled, "Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners," published in the **Federal Register** on January 19, 2001 (66 FR 5706). This temporary delay will allow the Department an opportunity to engage in further negotiations to settle the legal challenges to this rule.

EFFECTIVE DATE: The effective date of the rule amending 30 CFR Part 57 published on January 19, 2001, at 66 FR 5706 and delayed on March 15, 2001 at 66 FR 15032, is further delayed from May 21, 2001, until July 5, 2001. The amendment to § 57.5067 in this final rule will become effective July 5, 2001. However, § 57.5060(a) will continue to apply on July 19, 2002, and § 57.5060(b) will continue to apply on January 19, 2006.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Director; Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984. Mr. Meyer can be reached at Meyer-David@msha.gov (E-mail), 703–235–1910 (Voice), or 703–235–5551 (Fax).

SUPPLEMENTARY INFORMATION: On January 19, 2001, MSHA published a final rule addressing the exposure of underground metal and nonmetal miners to diesel particulate matter (dpm). The final rule establishes new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines and requires operators of these underground mines to train miners about the hazards of being exposed to diesel particulate matter. In accordance with the January 20, 2001, memorandum from Andrew H. Card, MSHA announced a 60-day delay of the effective date of certain provisions of the final regulations to permit the Secretary of Labor to further consider the provisions of the rule. An additional delay of 45 days to July 5, 2001 is necessary to give the parties an opportunity to continue negotiations to settle the legal challenge to the rule described below.

On January 29, 2001, Anglogold (Jerritt Canyon) Corp. and Kennecott Greens Creek Mining Company filed a petition for review of the rule in the District of Columbia Circuit. On February 7, 2001, the Georgia Mining Association, the National Mining Association, the Salt Institute, and MARG Diesel Coalition filed a similar petition in the Eleventh Circuit. On March 14, 2001, Getchell Gold Corporation petitioned for review of the rule in the District of Columbia Circuit. The three petitions have been consolidated and are pending in the District of Columbia Circuit. The United Steelworkers of America (USWA) has

intervened in the Anglogold case. The parties to the litigation have begun settlement negotiations, and the Department is hopeful that, within the next 45 days, agreement will be reached on many of the issues in dispute.

I. Delayed Effective Dates

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). The delay of the effective date of the rule is effective immediately upon publication of this notice in the **Federal Register**. Publication of this notice without the opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The 45-day delay of the effective dates is necessary to give the parties an opportunity to engage in negotiations to settle the legal challenges to the rule. Given the imminence of the effective date, seeking prior public comment on this delay is impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. See also, 5 U.S.C. 705 ("When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review").

II. Revisions to the Regulatory Text of the Final Rule Addressing Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners

List of Subjects in 30 CFR Parts 57

Diesel particulate matter, Metal and Nonmetal, Mine Safety and Health, Underground mines.

The final rule published on January 19, 2001 (66 FR 5526) is amended as follows:

PART 57—[AMENDED]

1. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811, 957, 961.

§ 57.5067 [Amended]

2. In § 57.5067, paragraph (a) is amended by removing the date "March 20, 2001" and adding in its place "July 5, 2001."

Note: This amendment supersedes the amendment to § 57.5067(a) published on March 15, 2001 at 66 FR 15033.)

Signed at Arlington, VA, this 16th day of May, 2001.

David D. Lauriski,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 01–12767 Filed 5–18–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 72

RIN 1219–AA74

Diesel Particulate Matter Exposure of Underground Coal Miners; Corrections

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; corrections and notice of information collection approval.

SUMMARY: This document contains corrections to the final rule published in the **Federal Register** on January 19, 2001, which addresses the exposure of underground coal miners to diesel particulate matter (dpm) (66 FR 5526).[1] As discussed in the preamble to the final rule, § 72.500 requires that all permissible equipment emit no more than 2.5 grams of dpm per hour. For nonpermissible, heavy-duty diesel-powered equipment, generators and compressors, § 72.501 specifies an interim limit of 5.0 grams of dpm per hour, and a final limit of 2.5 grams of dpm per hour. Similarly, § 72.502 specifies that nonpermissible light-duty equipment other than generators and compressors must emit no more than 5.0 grams of dpm per hour. Although the preamble discussion of these provisions made MSHA's intentions clear as to the emissions limits established in the final regulation, the preamble and the codified text of the final rule contained grammatical errors. Therefore, this correction document is necessary. These corrections are effective on May 21, 2001, the effective date of the final rule.

This document also provides notice that the information collection requirements contained in the final rule have been approved by the Office of Management and Budget (OMB).

EFFECTIVE DATE: These corrections are effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Director; Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984. Mr. Meyer can be reached at *Meyer-David@msha.gov* (E-mail), 703–235–1910 (Voice), or 703–235–5551 (Fax).

SUPPLEMENTARY INFORMATION: On January 19, 2001, MSHA published a final rule that addresses the exposure of underground coal miners to diesel particulate matter (dpm) (66 FR 5526). The rule establishes new health standards for underground coal mines that use equipment powered by diesel engines and, among other things, requires operators of these underground mines to train miners about the hazards of exposure to dpm.

As discussed in the preamble to the final rule (66 FR 5669), § 72.500(a) requires that all permissible diesel-powered equipment introduced into an underground area of an underground coal mine emit no more than of 2.5 grams of dpm per hour as of the effective date of the final rule. Paragraph (b) requires all existing equipment to meet this limit as of July 19, 2002.

For non-permissible, heavy-duty diesel-powered equipment, generators and compressors introduced into an underground area of a coal mine, the final rule's preamble to § 72.501(a) specifies an interim emissions limit; that is, that this equipment must not emit more than 5.0 grams of dpm per hour on the effective date of the final rule. Paragraph (b) requires existing diesel equipment not to exceed this limit as of July 21, 2003. Paragraph (c) prohibits non-permissible, heavy-duty diesel-powered equipment from exceeding 2.5 grams per hour of dpm emissions as of January 19, 2005.

Similarly, the preamble discussion to § 72.502 specifies that nonpermissible light-duty diesel-powered equipment, other than generators and compressors, introduced into an underground area of a coal mine after the effective date of the final rule must not emit more than 5.0 grams of dpm per hour.

The regulatory text to each of the above provisions contains grammatical errors that may be confusing to the mining community. These errors were inadvertently included at the time of publication. This document corrects these errors, as well as others made in the preamble at the time of publication. These corrections are effective on May 21, 2001, the effective date of the final rule.

Procedural Requirements

MSHA believes that correcting these inadvertent errors in the final rule is not a rule to which the procedural requirements of 5 U.S.C. 553, or the various statutes and executive orders relating to rules, apply. However, if these corrections were deemed a rule, the notice and comment provisions of the Administrative Procedure Act do not apply based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). MSHA finds good cause not to provide further notice and comment in that additional notice and comment would be unnecessary and contrary to the public interest because the public was advised in the preamble to the final rule of MSHA's intention regarding each of the above regulatory provisions. Consequently, unnecessary confusion would result if these corrections are not made immediately.

The final rule published on January 19, 2001, contained information collection provisions that require an OMB Control Number. OMB has approved the information collection requirements and assigned OMB Control Number 1219–0124 to the information collection requirements of the final rule.

These corrections contain no additional information collection requirements. In addition, this action is not a "significant regulatory action" within the meaning of Executive Order 12866. Furthermore, this action is not a "major rule" within the meaning of the Small Business Regulatory Enforcement Act, or an "unfunded mandate" within the meaning of Title II of the Unfunded Mandates Reform Act of 1995. Finally, the action will not have Federalism implications within the meaning of Executive Order 13132, and a regulatory flexibility analysis is not required by the Regulatory Flexibility Act.

Accordingly, MSHA makes the following corrections to the final rule published on January 19, 2001.

I. Printing Errors in the Preamble

In the **Federal Register** issue of January 19, 2001 (66 FR 5526), make the following corrections to the preamble:

1. On page 5526, column 1, fourth paragraph of the Summary, line 3, change "coal" to "metal and nonmetal".

[1] The effective date for this final rule was delayed in a document published in the **Federal Register** on March 15, 2001 (66 FR 15033).

2. On page 5672, column 2, first paragraph, line 8, after the word "determining" delete "the permissible fleet." and insert the following:

"the total amount of dpm, expressed in grams/hour, produced by the engine over the test cycle described in ISO 8178. The particulate index is determined by calculating the quantity of air required to dilute that particulate to a concentration of 1 mg/m^3. The quantity of dpm emitted from the machine is determined by multiplying the quantity of dpm emitted from the engine (gm/hr) by the filtration efficiency of the aftertreatment device (%). Therefore, in a very real sense, the Agency is using a significant portion of the concepts embodied in the particulate index in this final rule.

Why MSHA concluded that the emission limit for permissible equipment should be 2.5 grams per hour. The emission limit was determined with reference to technological and economic feasibility. While mine operators can use a variety of controls to reduce the emissions from a piece of permissible equipment, the two controls that can produce the significant reductions for permissible equipment are cleaner engines and filters. None of the cleaner engines produced in recent years has been approved for permissible applications. Accordingly, MSHA determined it should set the limit at what can be achieved technologically with filtration and the currently approved permissible engines.

As a reference point, MSHA calculated the emission limit that could be achieved if a high-efficiency filter were applied to the engine that produced the most dpm emission in the permissible fleet."

3. On page 5678, column 1, the second paragraph is the heading of a section and should be italicized and read as follows: "*Why the final rule uses a machine-based emission limit instead of requiring a high-efficiency filtration system.*"

4. On page 5681, column 2, the first sentence of the second paragraph is a section heading and should be italicized and read as follows: "*How did MSHA determine the emissions limit for newly introduced light-duty equipment?*"

II. Additional Corrections to the Preamble

In the final regulations published on January 19, 2001 (66 FR 5526), make the following additional corrections to the preamble:

1. On page 5547, column 1, third paragraph, line 7, change "Commerica" to "commercial".

2. On page 5563, change title of the figure from "Figure 5" to "Figure III–1".

3. On page 5565, change title of the figure from "Figure 6" to "Figure III–2".

4. On page 5568, change title of the figure from "Figure 7" to "Figure III–3".

5. On page 5598, column 1, third paragraph, line 5, change "Footnote 42" to "Footnote 44".

6. On page 5639, column 3, first paragraph, lines 5 and 6, change "Figures III–9 and III–10" to "Figures III–5 and Figure III–6".

7. On page 5640, the title of the figure should read Figure III–5" and at the end of the caption insert "(Cohen and Higgins, 1995)".

8. On page 5641, the title of the figure should read "Figure III–6" and at the end of the caption insert "(Cohen and Higgins, 1995)".

9. On page 5655, column 3, fourth paragraph, line 19, change "Figure III–11" to "Figure III–7".

10. On page 5656, column 2, first paragraph, line 1, change "Figure III–11" to "Figure III–7".

11. On page 5656, change the title of the figure from Figure III–11" to "Figure III–7".

12. On page 5683, Table 72.502–1, column 2, after the last line, insert the following:

"450≤kW<560 (600≤hp<750)	0.20 g/kW-hr (0.15 g/bhp-hr)"
"kW≥560 (hp≥750)	0.20 g/kW-hr (0.15 g/bhp-hr)"

13. On page 5685, column 1, fourth paragraph, line 15, insert "other" after the word "from".

14. On page 5685, column 1, fifth paragraph, line 10, change "by the filter" to "by one minus the filter".

15. On page 5687, column 3, first paragraph, line 24, change "within 6 months." to "within 7 calendar days."

16. On page 5687, column 3, first paragraph, line 31, at the end of the sentence insert "of the request."

17. On page 5688, Table I–1, after the last row in the table insert:

"Initial Miner Health Training—60 days"

"Submission of Diesel Equipment Inventory—60 days"

18. On page 5689, column 1, third paragraph, line 15, insert "Light-duty" at the beginning of the sentence.

19. On page 5689, column 1, third paragraph, at the end of the paragraph, insert the following:

"Section 72.510 of the final rule addresses Miners Health Training. It was unchanged from the proposed rule. Miners will be required to be trained on: (1) The health risk associated with exposure to diesel particulate matter; (2) the methods used in the mine to control diesel particulate matter concentrations; (3) identification of the person responsible for maintaining those controls; and (4) actions miners must take to ensure the controls operate as intended. The final rule is the same as

that proposed. Additionally, a record of that training must be maintained and made available to MSHA and the representatives of the miners. This section will take effect 60 days after the effective date of the regulation. The initial miners health training will have to be completed within that time frame and then annually thereafter. MSHA believes that 60 days is ample time to comply with this provision.

Section 72.520 of the final rule addresses the Diesel Equipment Inventory. This section will take effect 60 days after the effective date of the regulation. The initial Diesel Equipment Inventory containing a list of diesel equipment and exhaust emission controls must be completed and submitted within that time frame. Subsequent modifications to the inventory must be submitted within seven calendar days to the District Manager. MSHA believes that 60 days is ample time to comply with this provision. The inventory must be mailed or faxed to the MSHA District Office."

20. On page 5695, column 3, sixth paragraph, line 4, change "number 7" to "number 8."

PART 72—[CORRECTED]

III. Corrections to the Regulatory Text

In the final regulations published on January 19, 2001, (66 FR 5526) make the following corrections to the regulatory text of 30 CFR Part 72:

1. On page 5704, column 3, § 72.500, paragraph (a), line 4, remove the word "not".

2. On page 5704, column 3, § 72.500, paragraph (b), line 4, remove the word "not".

3. On page 5704, column 3, § 72.501, paragraph (a), line 6, remove the word "not".

4. On page 5705, column 1, § 72.501, paragraph (b), line 7, remove the word "not".

5. On page 5705, column 1, § 72.501, paragraph (c), line 7, remove the word "not".

6. On page 5705, column 3, § 72.502, paragraph (a), line 3, remove the word "not".

7. On page 5705, § 72.502, Table 72.502–1, column 2, add the following two entries at the end of the table:

"450≤kW<560 (600≤hp<750)"
"kW≥560 (hp≥750)"

8. On page 5705, § 72.502, Table 72.502–1, column 3, add the following two entries at the end of the table:

"0.20 g/kW-hr (0.15 g/bhp-hr)"
"0.20 g/kW-hr (0.15 g/bhp-hr)"

Signed at Arlington, VA, this 16th day of May, 2001.

David D. Lauriski,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 01–12766 Filed 5–18–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–01–003]

RIN 2115–AE47

Drawbridge Operation Regulations; Trail Creek, IN

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the operating regulation governing moveable bridges on Trail Creek in Michigan City, Indiana. This rule will establish twice-an-hour openings for the Franklin Street bridge, mile 0.5, during the peak navigation season, revise the current regulation for the Amtrak bridge, mile 0.85, and establish winter schedules for both bridges.

DATES: This rule is effective June 20, 2001.

ADDRESSES: Comments and material received from the public, as well as all material in the docket CGD09–01–003, are available for inspection or copying at the office of Commander (obr), Ninth Coast Guard District, 1240 East Ninth Stregt, Room 2019, Cleveland, OH, 44199–2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, Ninth Coast Guard District Bridge Branch, at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 28, 2001, the Coast Guard published a notice of proposed rulemaking concerning these drawbridge regulations in the **Federal Register** (66 FR 12745). We received no comments concerning the proposed rule. No public hearing was requested and none was held.

Background and Purpose

The owner of the Franklin Street bridge, LaPorte County Highway Department, IN, requested the Coast Guard approve a modified schedule for the bridge to reduce vehicular traffic delays in the vicinity of the bridge during the peak tourist season and to establish a permanent winter operating schedule. The current regulation for the Amtrak bridge is obsolete and does not accurately reflect current train and vessel operations at that location.

The Amtrak bridge is currently required to open on signal between the hours of 6:30 a.m. and 2:30 p.m., except Sundays, from February 16 through December 14. The bridge is not required to be manned all other times and would be opened within 20 minutes following notification to the Amtrak dispatcher in Chicago. The Coast Guard determined that this schedule did not provide for the reasonable needs of navigation and places undue burden on vessel operators wishing to pass the draw. Amtrak representatives concurred with this finding. Also, the bridge was manned during periods of no vessel traffic on the waterway during winter months, placing an undue burden on the railroad. The revised regulation establishes the requirement for the bridge to open on signal for vessels between March 16 and November 30 each year. Vessel operators will be required to provide at least 12 hours advance notice for openings between December 1 and March 15 each year. This will allow the bridge to be unmanned during periods of no train traffic and during winter months when there is no navigation.

The Franklin Street bridge is located in a highly congested section of Michigan City, and adjacent to a park area that is visited by a large number of residents and tourists between April 1 and December 1 each year. LaPorte County Highway Dept., acting on behalf of the City of Michigan City, asked the Coast Guard to regulate bridge openings to coincide with the park hours to alleviate vehicular traffic congestion in the area, while still providing for the reasonable needs of navigation. This final rule will require the bridge to open on signal for vessels between March 16 and November 30, except between the hours of 6:15 a.m. and 11:15 p.m., Monday through Sunday, the bridge will only be required to open for vessels three minutes before to three minutes after the quarter-hour and three-quarter hour.

This schedule is believed to provide a reasonable balance between the needs of vessel traffic and vehicular traffic through the two drawbridges in Michigan City Harbor.

Discussion of Comments and Changes

The Coast Guard received no comments to the notice of proposed rulemaking. No changes will be made to the final rule.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This determination is based on the fact that this rule will not eliminate bridge openings for any vessels, but would only require vessels to pass Franklin Street bridge during scheduled periods throughout the peak navigation season (March 16 to November 30). The bridges will still open between December 1 and March 15 if 12-hour advance notice is provided.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant impact on a substantial number of small entities. "Small entities" may include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people.

The Coast Guard certifies under 5 U.S.C 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the low number of small entities identified in the preliminary stages of this rulemaking, and the relatively minor restrictions placed on vessels desiring openings of the bridges.

Collection of Information

This rule calls for no new collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132, and determined that this rule does not have federalism implications under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the federal government having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 32(e) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This rule changes a drawbridge regulation which has been found not to have a significant effect on the environment. A "Categorical Exclusion Determination" is not required.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, the Coast Guard amends Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.401 to read as follows:

§ 117.401 Trail Creek.

(a) The draw of the Franklin Street bridge, mile 0.5 at Michigan City, shall be operated as follows:

(1) From March 16 through November 30, the draw shall open on signal; except from 6:15 a.m. to 11:15 p.m., Monday through Sunday, the draw need open only from three minutes before to three minutes after the quarter-hour and three-quarter hour.

(2) From December 1 through March 15, the draw shall open on signal if at least 12-hours advance notice is provided prior to intended time of passage.

(b) The draw of the Amtrak bridge, mile 0.9 at Michigan City, shall open on signal; except, from December 1 through March 15, the bridge shall open on signal if at least 12-hours advance notice is provided prior to intended time of passage.

(c) Public vessels of the United States, state or local vessels used for public safety, vessels in distress, and vessels seeking shelter from severe weather shall be passed through the draws of each bridge as soon as possible.

Dated: May 7, 2001.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 01–12720 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–01–001]

RIN 2115–AE47

Drawbridge Operation Regulations; Manitowoc River, WI

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On March 6, 2001, we published a direct final rule (66 FR 13433). This direct final rule notified the public of our intent to revise the operating regulations governing the Eighth Street bridge (mile 0.29), Tenth Street bridge (mile 0.43), and the Wisconsin Central (formerly Soo Line) bridge (mile 0.91), on the Manitowoc River. The direct final rule re-established the schedule published in 1983 that was erroneously removed by another rule in 1984. We have not received an adverse comment or notice of intent to submit adverse comment on this rule. Therefore, this rule will go into effect as scheduled.

DATES: The effective date of the direct final rule is confirmed as June 4, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, Ninth Coast Guard District (obr), at (216) 902–6084.

Dated: May 7, 2001.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 01–12722 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–002]

RIN 2115–AA97

Safety Zone: Captain of the Port Detroit Zone

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish safety zones for annual fireworks displays located in the Captain of the Port Detroit Zone. This action will provide for the safety of life and property on navigable waters during each event. This action will restrict vessel traffic in a portion of the Captain of the Port Detroit Zone.

DATES: This rule is effective on May 28, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–002 and are available for inspection or copying at, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Avenue, Detroit, MI 48207 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, (313) 568–9580.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 4, 2001, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone: Captain of the Port Detroit Zone", in the **Federal Register** (66 FR 17829). We received no letters commenting on the proposed rule. No public hearing was requested and none was held.

Under 5 U.S.C 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The events listed in this rule have been regularly held on an annual basis with widespread public participation. The Coast Guard has not received any complaints or negative comments previously with regard to these events. Delaying the effective date would be contrary to public interest because events being held in early June would be without an enforceable zone, thus placing the safety and property of spectators at unnecessary risk.

Background and Purpose

The Coast Guard is establishing 23 permanent safety zones that will be activated for fireworks displays occurring annually at the same location. The 23 locations are New Baltimore City Park, Lake St. Clair—Anchor Bay; 1000 yards east of Jefferson Beach Marina, Lake St. Clair; Ford's Cove, Lake St. Clair; the Brownstown Wave Pool, Lake Erie; St. Clair City Park, St. Clair River; DNR Boat Launch at the mouth of the Ausable River; Port Austin Breakwall, Lake Huron; breakwall between Oak & Van Alstyne St., Detroit River; 300 yards east of Grosse Pointe Farms, Lake St. Clair; Caseville breakwall, Saginaw River; between Algonac and Russell Island, St. Clair River—North Channel; South Harbor Breakwall, Lake Huron; 1000 yards east of Veterans Memorial Park, St. Clair Shores, Lake St. Clair; anchored 300 yards east of 223 Huron Ave: Black River; anchored 400 yards east of the Grosse Pointe Yacht Club seawall, Lake St. Clair; 300 yards east of the breakwall at Lexington, Lake Huron; anchored at the northern end of Mud Island, Ecorse Channel; Grosse Ile Yacht Club deck, Detroit River; anchored 200 yards east of Trenton, Trenton Channel; anchored 400 yards east of Belle Maer Harbor, Lake St. Clair—Anchor Bay; Tawas City Pier, Lake Huron; anchored 500 yards east of Marine City, St. Clair River; 600 yards off Jefferson Beach Marina, Lake St. Clair.

Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard associated with these events, the Captain of the Port has determined that fireworks launches in close proximity to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement within a 300 yard radius of the fireworks launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.

Discussion of Comments and Changes

MSO Detroit received no comments or related information pertaining to this rulemaking.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

These safety zones would not have a significant economic impact on these small entities for the following reasons: The safety zone is only in effect for a few hours on the day of the event. Because these are annual events, affected entities can plan for any disruptions well in advance of the day of the event. Additionally, vessel traffic can safely pass outside the safety zones during the events. In cases where traffic congestion is greater than expected and blocks shipping channels, traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Detroit.

Before the effective period, the Coast Guard will issue maritime advisories widely available to users who might be in the affected area by publication in the **Federal Register** and the Ninth Coast Guard District Local Notice to Mariners Marine information broadcasts and facsimile broadcasts may also be made. Additionally, the Coast Guard has not received any negative reports from small entities affected during these displays in previous years.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)–(34) of Commandant Instruction M16475.1–C, this rule is categorically excluded from further environmental documentation.

A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add § 165.907 to read as follows:

§ 165.907 Safety Zones: Annual fireworks events in the Captain of the Port Detroit Zone.

(a) *Safety Zones.* The following areas are designated safety zones:

(1) *Bay-Rama Fishfly Festival, New Baltimore, MI:*

(i) *Location.* All waters off New Baltimore City Park, Lake St. Clair—Anchor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42°41″ N, 082°44′ W (NAD 1983).

(ii) *Expected date.* One day early in June.

(2) *Jefferson Beach Marina Fireworks, St. Clair Shores, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32′ N, 082°51′ W (NAD 1983), about 1000 yards east of Jefferson Beach Marina.

(ii) *Expected date.* One day in the last week of June.

(3) *Sigma Gamma Assoc., Grosse Pointe Farms, MI:*

(i) *Location.* The waters off Ford's Cove, Lake St. Clair bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°27′ N, 082°52′ W (NAD 1983).

(ii) *Expected date.* One day in the last week of June.

(4) *Lake Erie Metro Park Fireworks:*

(i)Location. The waters off the Brownstown Wave Pool area, Lake Erie bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°03′ N, 083°11′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(5) *City of St. Clair Fireworks:*

(i) *Location.* The waters off St. Clair City Park, St. Clair River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°49′ N, 082°29′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(6) *Oscoda Township Fireworks:*

(i) *Location.* The waters off the DNR Boat Launch at the mouth of the Ausable River bounded by the arc of a

circle with a 300-yard radius with its center in approximate position 44°19′ N, 083°25′ W (NAD 1983).

(ii) *Expected Date.* One day in the first week of July.

(7) *Port Austin Fireworks:*

(i) *Location.* The waters off the Port Austin Breakwall, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°03′ N, 082°40′ W (NAD 1983).

(ii) *Expected Date.* One day in the first week of July.

(8) *City of Wyandotte Fireworks, Wyandotte, MI:*

(i) *Location.* The waters off the breakwall between Oak & Van Alstyne St., Detroit River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°12′ N, 083°09′W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(9) *Grosse Pointe Farms Fireworks, Grosse Pointe Farms, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°23′ N, 082°52′ W (NAD 1983), about 300 yards east of Grosse Pointe Farms.

(ii) *Expected date.* One day in the first week of July.

(10) *Caseville Fireworks, Caseville, MI:*

(i) *Location.* The waters off the Caseville breakwall, Saginaw River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°55′ N, 083°17′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(11) *Algonac Pickerel Tournament Fireworks, Algonac, MI:*

(i) *Location.* All waters of the St. Clair River within a 300-yard radius of the fireworks barge in approximate position 42°37′ N, 082°32′ W (NAD 1983), between Algonac and Russell Island, St. Clair River—North Channel.

(ii) *Expected date.* One day in the first week of July.

(12) *Port Sanilac Fireworks, Port Sanilac, MI:*

(i) *Location.* The waters off the South Harbor Breakwall, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°25′ N, 082°31′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(13) *St. Clair Shores Fireworks, St. Clair Shores, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32′ N, 082°51′ W (NAD 1983), about 1000 yards east of Veterans Memorial Park (off Masonic Rd.), St. Clair Shores.

(ii) *Expected date.* One day in the first week of July.

(14) *Port Huron 4th of July Fireworks, Port Huron, MI:*

(i) *Location.* All waters of the Black River within a 300-yard radius of the fireworks barge in approximate position 42°58′ N, 082°25′ W (NAD 1983), about 300 yards east of 223 Huron Ave., Black River.

(ii) *Expected date.* One day in the first week of July.

(15) *Grosse Pointe Yacht Club 4th of July Fireworks, Grosse Pointe Shores, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°25′ N, 082°52′ W (NAD 1983), about 400 yards east of the Grosse Pointe Yacht Club seawall, Lake St. Clair.

(ii) *Expected date.* One day in the first week of July.

(16) *Lexington Independence Festival Fireworks, Lexington, MI:*

(i) *Location.* All waters of Lake Huron within a 300-yard radius of the fireworks barge in approximate position 43°13′ N, 082°30′ W (NAD 1983), about 300 yards east of the Lexington breakwall, Lake Huron.

(ii) *Expected date.* One day in the first week of July.

(17) *City of Ecorse Water Festival Fireworks, Ecorse, MI:*

(i) Location. All waters of the Ecorse Channel within a 300-yard radius of the fireworks barge in approximate position 42°14′ N, 083°09″ W (NAD 1983), at the northern end of Mud Island, Ecorse.

(ii) *Expected date.* One day in the first week of July.

(18) *Grosse Ile Yacht Club Fireworks:*

(i) *Location.* The waters off the Grosse Ile Yacht Club Deck, Detroit River bounded by the arc of a circle with a 300-yard radius with its center approximately located at latitude 42°05′ N, 083°09′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(19) *Trenton Fireworks Display, Trenton, MI:*

(i) *Location.* All waters of the Trenton Channel within a 300-yard radius of the fireworks barge in approximate position 42°09′ N, 083°10′ W (NAD 1983), about 200 yards east of Trenton, in the Trenton Channel.

(ii) *Expected date.* One day in the first week of July.

(20) *Belle Maer Harbor 4th of July Fireworks, Harrison Township, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°36′ N, 082°47′ W (NAD 1983), about 400 yards east of Belle Maer Harbor, Lake St. Clair—Anchor Bay.

(ii) *Expected date.* One day in the first week of July.

(21) *Tawas City 4th of July Fireworks, Tawas, MI:*

(i) *Location.* The waters off the Tawas City Pier, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 44°13′ N, 083°30′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(22) *Maritime Day Fireworks, Marine City, MI:*

(i) *Location.* All waters of the St. Clair River within a 300-yard radius of the fireworks barge in approximate position 42°43′ N, 082°29′ W (NAD 1983), about 500 yards east of Marine City, St. Clair River.

(ii) *Expected date.* One day in the second weekend of August.

(23) *Venetian Festival Boat Parade & Fireworks, St. Clair Shores, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°28′ N, 082°52′ W (NAD 1983), about 600 yards off Jefferson Beach Marina, Lake St. Clair.

(ii) *Expected date.* One day in the second weekend of August.

(b) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) The safety zones in this regulation are outside navigation channels and will not adversely affect shipping. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Detroit to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on Channel 16, VHF–FM.

(c) *Effective period.* The Captain of the Port Detroit will publish a Notice of Implementation in the **Federal Register** as well as in the Ninth Coast Guard District Local Notice to Mariners the dates and times this section is in effect.

Dated: May 9, 2001.

S.P. Garrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 01–12718 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 094–0027a; FRL–6916–2]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Coconino County, Mohave County, and Yuma County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Coconino County, Mohave County, and Yuma County portions of the Arizona State Implementation Plan (SIP). These revisions concern the recision of all of the remaining defunct SIP rules from these counties. We are approving the recision of local rules that no longer regulate permitting procedures and various emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 20, 2001 without further notice, unless EPA receives adverse comments by June 20, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You may inspect the submittal documents and our technical support documents (TSDs) at our Region IX office during normal business hours. You may also go to the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used, we mean EPA.

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I. The State's Submittal

A. What Rules Did the State Submit for Recision?

The Coconino County rules submitted for recision are listed in Table 1. These rules were previously approved for incorporation into the Arizona SIP on November 15, 1978 (43 FR 53031). The replacement ADEQ rules are listed where applicable. Other justifications for recision are noted.

TABLE 1.—COCONINO COUNTY RULES FOR RECISION

Rule No.	Rule title	Replacement ADEQ SIP rule number
12–1–1	Legal Authority	(Note 1).
12–1–2	Definitions	R9–3–101.
12–1–3	Air Pollution Prohibited	(Note 1).
12–2–2	Operating Permits	R9–3–301.
12–2–4	Permit Fees	(Note 1).
12–2–5	Permit Renewals	(Note 1).
12–2–7	Testing of Installations	R9–3–313.
12–2–8	Compliance with Terms of Installation Permit	R9–3–318.
12–2–9	Notification of Denial of Permit	(Note 1).
12–2–10	Appeals to the Hearing Board	(Note 1).
12–2–11	Permits Not Transferable	R9–3–317.
12–2–12	Expiration of Installation Permit	(Note 1).
12–2–13	Posting of Permits	R9–3–315.
12–3–1	Ambient Air Quality Standards	R9–3–201, 202, 204, 205, 206, 207.
12–3–3	Reporting of Emissions	R9–3–314.
12–3–4	Production of Records: Confidentiality	R9–3–305.
12–3–5	Monitoring Devices	R9–3–306.
12–3–6	Penalty for Violation	(Note 1).
12–4–1	Shade, Density, or Opacity of Emissions	R9–3–501.
12–4–2	Dust Control	R9–3–404, 405.
12–4–3	Processing of Animal or Vegetable Matter	(Note 1).
12–4–4	Volatile and Odorous Materials	(Note 1).
12–4–5	Storage and Handling of Petroleum Products	R9–3–510.
12–5–1	Permit Required	R9–3–301.
12–5–2	Performance Tests: Permit Tags	R9–3–306, 312(G).
12–5–3	Emission Limitations	(Note 2).
12–5–4	Authority of Other Public Agencies	(Note 1).
12–6–1	Unlawful Open Burning	R9–3–402.
12–6–2	Exceptions Requiring No Permission	R9–3–402.
12–6–3	Exceptions Requiring Permission	R9–3–402 (Note 2).
12–6–4	Exceptions Under Special Circumstances	R9–3–402.

TABLE 1.—COCONINO COUNTY RULES FOR RECISION—Continued

Rule No.	Rule title	Replacement ADEQ SIP rule number
12–7–1	Misdemeanor: Penalty	(Note 1).

The Mohave County rules submitted for recision are listed in Table 2. These rules were previously approved for incorporation into the Arizona SIP on November 15, 1978 (43 FR 53031). The replacement ADEQ rules are listed where applicable. Other justifications for recision are noted.

TABLE 2.—MOHAVE COUNTY RULES FOR RECISION

Rule No.	Rule title	Replacement ADEQ SIP rule number
1–1	Policy and Legal Authority	(Note 1).
1–2	Definitions	R9–3–101.
1–3	Air Pollution Prohibited	(Note 1).
1–4	Enforcement	(Note 1).
2–1	Shade, Density, or Opacity of Emissions	R9–3–501.
2–2	Particulate Matter	R9–3–404, 405.
2–3	Reduction of Animal or Vegetable Matter	(Note 1).
2–4	Evaporation and Leakage	R9–3–502(D).
2–5	Storage Tanks	R9–3–510.
3–1	Particulate Matter from Fuel-Burning Installations	R9–3–524.
3–2	Particulate Matter from Other Sources	R9–3–502.
3–6	Incinerators	R9–3–504 (Note 2).
4–1	Responsibility of Testing	R9–3–312.
4–2	Requirements of Testing	R9–3–312.
5–1	Prohibition and Exceptions	R9–3–402 (Note 2).
6–1	Sulfur Dioxide	R9–3–202.
6–2	Non-Specific Particulate	R9–3–201.
6–3	Evaluation	(Note 1).
6–4	Anti-Degradation	(Note 1).
7	Violations	R9–3–218.

The Yuma County rules submitted for recision are listed in Tables 3 and 4. These rules were previously approved for incorporation into the Arizona SIP on November 15, 1978 (43 FR 53031) and on April 12, 1982 (47 FR 15580), respectively. The replacement ADEQ rules are listed where applicable. Other justifications for recision are noted.

TABLE 3.—YUMA COUNTY RULES (PREVIOUSLY APPROVED NOVEMBER 15, 1978) FOR RECISION

Rule No.	Rule title	Replacement ADEQ SIP rule number
8–1–1.1	Policy and Legal Authority	(Note 1).
8–1–2.7	Evaluation	R9–3–216.
8–1–2.10	Emergency Episode Criteria	R9–3–219.
8–1–4.2	Fuel Burning Installations	R9–3–503.
8–1–4.3	Sulfur Emissions—Sulfite Pulp Mills	(Note 2).
8–1–4.4	Sulfur Emissions—Sulfuric Acid Plants	R9–3–507.
8–1–4.5	Sulfur Emissions—Other Industries	(Note 2).
8–1–5.1	Storage of Volatile Organic Compounds	R9–3–510.
8–1–5.2	Loading of Volatile Organic Compounds	R9–3–510.
8–1–5.3	Pumps and Compressors	R9–3–510.
8–1–5.4	Organic Solvents; Other Volatile Compounds	R9–3–502(D).
8–1–6.1	CO Emissions from Stationary Sources—Industrial	R9–3–502(G).
8–1–7.1	NO_2 Emissions—Fuel Burning Equipment	R9–3–503(C).
8–1–7.2	NO_2 Emissions—Nitric Acid Plants	R9–3–506.
8–1–8.1	Open Burning—Prohibitions	R9–3–402.
8–1–8.2	Open Burning—Exceptions	R9–3–402.

TABLE 4.—YUMA COUNTY RULES (PREVIOUSLY APPROVED APRIL 12, 1982) FOR RECISION

Rule No.	Rule title	Replacement ADEQ SIP rule number
8–1–1.2	Definitions	R9–3–101.
8–1–1.3	Air Pollution Prohibited	(Note 1).
8–1–1.4	Enforcement	(Note 1).
8–1–1.5	Violations	(Note 1).
8–1–1.6	Penalties	(Note 1).
8–1–1.8	Permits, Exceptions Applications: Fees	R9–3–302, 304.

TABLE 4.—YUMA COUNTY RULES (PREVIOUSLY APPROVED APRIL 12, 1982) FOR RECISION—Continued

Rule No.	Rule title	Replacement ADEQ SIP rule number
8–1–1.9	Posting of Permit	R9–3–315.
8–1–1.10	Notice by Building Permit Agencies	R9–3–316.
8–1–1.11	Permit Nontransferable: Exception	R9–3–317.
8–1–1.12	Recordkeeping and Reporting	R9–3–314.
8–1–1.13	Emissions Test Methods and Procedures	R9–3–311.
8–1–2.1	Non-specific Particulate	R9–3–201.
8–1–2.2	Sulfur Dioxide	R9–3–202.
8–1–2.3	Non-Methane Hydrocarbons	(Note 1).
8–1–2.4	Photochemical Oxidants	R9–3–204.
8–1–2.5	Carbon Monoxide	R9–3–205.
8–1–2.6	Nitrogen Dioxide	R9–3–206.
8–1–2.8	Anti-Degradation	(Note 1).
8–1–3.1	Visible Emissions: General	R9–3–410, 501.
8–1–3.2	Emissions from Existing and New Non-Point Sources: General	R9–3–401.
8–1–3.3	Open Burning	R9–3–402.
8–1–3.4	Criteria for Establishing Burn Hours	R9–3–402.
8–1–3.5	Fugitive Dust and Particulate Matter	R9–3–404, 405, 406, 409.
8–1–3.6	Evaluation of Non-Point Source Emissions	R9–3–410.
8–1–3.7	Existing Point Source Performance Standards: General Unclassified Sources	R9–3–502.
8–1–3.8	Standards of Performance for Existing Fossil-Fuel Fired Steam Generators and General Fuel Burning Equipment.	R9–3–503.
8–1–3.9	Incinerators	R9–3–504.
8–1–3.10	Standards of Performance for Existing Asphalt Concrete Plants	R9–3–508.
8–1–3.11	Petroleum Storage	R9–3–510.
8–1–3.12	Standards of Performance for Steel Plants: Existing Arc Furnace	R9–3–517 (Note 2).
8–1–3.13	Standards of Performance for Existing Stationary Rotating Machinery	R9–3–519 (Note 2).
8–1–3.14	Standards of Performance for Existing Gravel and Crushed Stone Processing Plants	R9–3–522.
8–1–3.15	Existing Concrete Batch Plants	R9–3–523.
8–1–3.16	Standards of Performance for Existing Fossil-Fuel Fired Industrial and Commercial Equipment	R9–3–524.
8–1–3.17	Existing Dry Cleaning Plants	R9–3–525.
8–1–3.18	Sandblasting Equipment	R9–3–526.
8–1–3.19	Spray Painting Operations	R9–3–527.
8–1–3.20	Asphalt or Tar Kettles	R9–3–605.
Appendix I	Fuel Burning Equipment Schedule	(Note 3).
Appendix II	Allowable Particulate Emissions Computations	(Note 3).

Notes for Tables 1, 2, 3, and 4:
1. Designates a rule that we determined to be not appropriate for inclusion in the SIP, because it is unenforceable, replaced by a federal standard, refers solely to non-criteria pollutants, or refers to local procedural matters, such as those concerning assessment of fees, enforcement, issuance of permits, and local hearing board procedures.
2. Designates a rule without an exact parallel ADEQ SIP rule, for which a demonstration was provided by the ADEQ to show that rescinding the rule is consistent with section 110(l) of the CAA regarding rule relaxations.
3. Designates a rule not submitted for recision by ADEQ. We are removing the rule pursuant to our authority under section 110(k)(6) of the CAA, because it is not appropriate for inclusion in the SIP, removing the rule will not affect emissions, and we are correcting the error of previously incorporating the rule into the SIP.

On July 26, 2000, we found that these rule recision submittals meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of the Recision Submittals?

There are no previous recision submittals on which we have not acted.

C. What is the Purpose of the Recision Submittals?

The Coconino County, Mohave County, and Yuma County originally adopted a set of air pollution control rules that we approved into the Arizona SIP. These counties later dissolved their air pollution control districts and elected to have the ADEQ administer Arizona state rules in their counties. The remaining SIP rules in the individual counties are defunct and not used to enforce air regulations in those counties. All remaining SIP rules in these counties are rescinded by this action.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Recision Submittals?

Generally, the recision of SIP rules must not relax existing requirements of the SIP. Sections 110(l) and 193 of the CAA. If requirements are relaxed, the ADEQ must demonstrate that the modifications do not interfere with attainment of the NAAQS or otherwise violate sections 110(l) or 193.

B. Do the Recision Submittals Meet the Evaluation Criteria?

We believe the recision submittals are consistent with the CAA and relevant policy and guidance regarding SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action.

As authorized in section 110(k)(3) and 110(k)(6) of the CAA, we are approving the recision submittals, because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same recision submittal. If we receive adverse comments by June 20, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we

do not receive timely adverse comments, the direct final recision will be effective without further notice on July 20, 2001. This will remove the rules from the federally enforceable SIP.

III. Background Information

Why Were These Rules Originally Approved Into the SIP?

The rules regulate some of the seven criteria pollutants, which harm human health and the environment, and regulate permitting procedures for control of these pollutants. Section 110(a) of the CAA required states to submit regulations that control the emission of these pollutants.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compound.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 8, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(18)(i)(B), (c)(18)(ii)(A), (c)(18)(iii)(A), and (c)(35)(i)(B) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(18) * * *

(i) * * *

(B) Previously approved on November 15, 1978 in paragraph (i) of this section and now deleted without replacement Rules 12–1–1 through 12–1–3, 12–2–2, 12–2–4, 12–2–5, 12–2–7 through 12–2–13, 12–3–1, 12–3–3 through 12–3–6, 12–4–1 through 12–4–5, 12–5–1 through 12–5–4, 12–6–1 through 12–6–4, and 12–7–1.

(ii) * * *

(A) Previously approved on November 15, 1978 in paragraph (ii) of this section and now deleted without replacement Rules 1–1 through 1–4, 2–1 through 2–5, 3–1, 3–2, 3–6, 4–1, 4–2, 5–1, 6–1 through 6–4, and 7.

(iii) * * *

(A) Previously approved on November 15, 1978 in paragraph (iii) of this section and now deleted without replacement Rules 8–1–1.1, 8–1–2.7, 8–1–2.10, 8–1–4.2 through 8–1–4.5, 8–1–5.1 through 8–1–5.4, 8–1–6.1, 8–1–7.1, 8–1–7.2, 8–1–8.1, and 8–1–8.2.

* * * * *

(35) * * *

(i) * * *

(B) Previously approved on April 12, 1982 in paragraph (i)(A) of this section and now deleted without replacement Rules 8–1–1.2 through 8–1–1.6, 8–1–1.8 through 8–1–1.13, 8–1–2.1 through 8–1–2.6, 8–1–2.8, 8–1–3.1 through 8–1–3.20, Appendix I, and Appendix II.

* * * * *

[**Editorial note:** This document was received at the Office of the Federal Register on May 15, 2001.]

[FR Doc. 01–12572 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA157–4112a; FRL–6981–5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Stage II Vapor Recovery Regulations for Southwest Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Commonwealth of Pennsylvania State Implementation Plan which were submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection (PADEP). These revisions modify and clarify the existing regulatory requirements for the control of volatile organic compounds (VOCs) from gasoline dispensing facilities (Stage II) in the Pittsburgh-Beaver Valley ozone nonattainment area. The revisions modify the compliance dates and make other technical amendments. EPA is approving these revisions to the Commonwealth of Pennsylvania's SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on July 5, 2001 without further notice, unless EPA receives adverse written comment by June 20, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. You may inspect copies of the documents relevant to this action during normal business hours at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, Project Officer, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the SIP Revision and EPA's Action

The information in this section is organized as follows:

A. What Action Is EPA Taking Today?
B. Why Is EPA Taking This Action?
C. How Did EPA Review the Commonwealth's Submittal?
D. Why Is the Request Approvable?
E. What Is the Process for EPA Approval of This Action?

A. What Action Is EPA Taking Today?

EPA is approving revisions to the Commonwealth of Pennsylvania SIP which were submitted on March 6, 2000 by PADEP. These revisions amend the existing Stage II regulatory requirements of 25 PA Code, Chapter 129, Standards for Sources, section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II), for the Pittsburgh-Beaver Valley ozone nonattainment area. Specifically, the revisions incorporate revised compliance dates for the Pittsburgh-Beaver Valley ozone nonattainment area, and make other technical amendments. The revised Stage II compliance dates are as follows: (1) For facilities for which construction was commenced after April 1, 1997, compliance shall be achieved at the time of the opening of the gasoline dispensing facility, (2) for facilities which dispense greater than or equal to 120,000 gallons of gasoline per month, based on average monthly sales during calendar years 1995 and 1996, compliance shall be achieved by July 1, 1999; and (3) for facilities which dispense greater than 90,000 gallons per month but less than 120,000 gallons per month based on average monthly sales during calendar years 1995 and 1996 compliance shall be achieved by December 31, 2000. Other revisions include subsection (d) which provides that if the onboard canister refueling emissions control program has been fully implemented by 2010, the Stage II systems will no longer be required in the area. Finally, subsection (e) establishes the functional testing and certification requirements consistent with EPA's regulations.

B. Why Is EPA Taking This Action?

EPA is approving these SIP revisions to the Commonwealth of Pennsylvania SIP at the request of PADEP. The Commonwealth revised the Stage II VOC control requirements for Southwest Pennsylvania based upon the recommendations of the Southwest Pennsylvania Ozone Stakeholder Working Group as part of its ongoing efforts to address ozone air quality issues in the Pittsburgh-Beaver Valley ozone nonattainment area. EPA is approving these revisions as necessary for attainment and maintenance of the ozone standard in Southwest Pennsylvania.

C. How Did EPA Review the Commonwealth's Submittal?

The Commonwealth of Pennsylvania's SIP revisions were submitted by PADEP on March 6, 2000. EPA evaluated the Commonwealth's revised Stage II requirements for Southwest Pennsylvania to verify that the revisions were consistent with the previously approved Stage II regulations for the Commonwealth and met the requirements found in EPA's Stage II enforcement and technical documentation. The revisions were also reviewed for compliance with the CAA.

D. Why Is the Request Approvable?

This request is approvable because it meets the requirements of EPA's applicable technical and enforcement guidance and the CAA.

E. What Is the Process for EPA Approval of This Action?

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective on July 5, 2001 without further notice unless EPA receives adverse comment by June 20, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

II. Final Action

EPA is approving revisions to the Commonwealth of Pennsylvania SIP, which were submitted on March 6, 2000 by PADEP. These revisions will revise 25 PA Code section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II) for Southwest Pennsylvania.

III. What Are the Administrative Requirements?

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 2001. Filing a petition for reconsideration by the Administrator of this final rule approving revisions to the Commonwealth's Stage II regulations for Southwest Pennsylvania does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraphs (c)(153) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(153) Revisions to the Commonwealth of Pennsylvania Regulations pertaining to Stage II VOC control requirements for Southwest Pennsylvania submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting the revisions to the Stage II VOC control requirements for Southwest Pennsylvania.

(B) Revisions to 25 PA Code, Chapter 129, Standards for Sources at section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II). These revisions became effective on April 10, 1999.

(ii) Additional Material—Remainder of March 6, 2000 submittal.

[FR Doc. 01–12574 Filed 5–18–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6978–5]

RIN 2060–AF30

National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes national emission standards for hazardous air pollutants (NESHAP) for the nutritional yeast manufacturing source category. The EPA has identified the nutritional yeast manufacturing source category as a major source of hazardous air pollutants (HAP) emissions of acetaldehyde. These standards implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). These final standards will eliminate approximately 13 percent of nationwide acetaldehyde emissions from these sources. Acute (short term) and chronic (long term) inhalation exposure to acetaldehyde is associated with adverse health effects including irritation of the eyes, skin, and respiratory tract. Acetaldehyde is a potential developmental toxin and a probable human carcinogen.

EFFECTIVE DATE: May 21, 2001.

ADDRESSES: Docket No. A–97–13 contains supporting information used in developing the standards for the nutritional yeast manufacturing source category. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David W. Markwordt, Policy, Planning, and Standards Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0837, facsimile (919) 541–0942, electronic mail address: *markwordt.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through the EPA's Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules, *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated entities. Categories and entities potentially affected by this action include:

Category	SIC[a]	NAICS[b]	Regulated entities
Industry	2099	311999	Manufacturers of varieties of *Saccharomyces cerevisiae* nutritional yeast made for the purpose of becoming an ingredient in dough for bread or other yeast-raised baked product, and for becoming a nutritional food additive.

[a] Standard Industrial Classification
[b] North American Industry Classification System

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.2131 of the final rule.

Judicial Review. Under section 307(b) of the CAA, judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by July 20, 2001. Under section 307(d)(7)(B) of the CAA, only an objection to this rule which was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

I. Background
A. What is the source of authority for development of NESHAP?
B. What criteria do we use in the development of NESHAP?
II. What are the HAP emissions and health effects associated with the HAP emitted?
III. What are the final standards?
A. What is the source category?
B. What is the affected source?
C. What are the emission limits?
D. What are the testing and initial and continuous compliance requirements?
E. What are the notification, recordkeeping, and reporting requirements?
IV. What major changes have we made to the rule since proposal?
A. Regulation Format
B. Emission Limit Standard
C. No Wastewater Requirements
D. Brew Ethanol Monitoring
E. MACT Requirements
F. Compliance Requirements
V. What are the environmental, energy, cost, and economic impacts?
A. What are the air quality impacts?
B. What are the non-air health, environmental, and energy impacts?
C. What are the cost and economic impacts?
VI. Administrative Requirements
A. Executive Order 12866, Regulator Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act
I. Congressional Review Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Major sources of HAP are those that have the potential to emit greater than

9 Megagrams per year (Mg/yr) (10 tons per year (tpy)) of any one HAP or 23 Mg/yr (25 tpy) of any combination of HAP. The "baker's yeast manufacturing" source category was listed as a major source of HAP on the initial source category list published in the **Federal Register** on July 16, 1992 (57 FR 31576). We changed the name of the source category to "manufacturing of nutritional yeast" in order to clarify the scope of the rule and distinguish it as not including the regulation of bakeries.

B. What Criteria Do We Use in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source.

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy impacts.

II. What Are the HAP Emissions and Health Effects Associated With the HAP Emitted?

The HAP emitted from the nutritional yeast manufacturing process is acetaldehyde. We have estimated the annual acetaldehyde emissions from the manufacture of nutritional yeast to be approximately 220 Mg/yr (240 tpy).

Acetaldehyde acute (short term) exposure is associated with irritation of the eyes, skin, and respiratory tract. Acute inhalation of high concentrations of acetaldehyde can cause respiratory paralysis and death. Animal acetaldehyde exposure studies indicate that acetaldehyde may also be a developmental toxin. Rats and hamsters with chronic (long-term) exposure to acetaldehyde have an increased incidence of nasal and laryngeal tumors. Based on animal studies, we have classified acetaldehyde as a probable human carcinogen of low carcinogenic hazard.

III. What Are the Final Standards?

A. What Is the Source Category?

We have defined the nutritional yeast manufacturing source category to include facilities that manufacture varieties of *Saccharomyces cerevisiae* (also referred to as nutritional yeast, or baker's yeast) that are made for the purpose of becoming an ingredient in dough for bread or other yeast-raised baked products, or for becoming a nutritional food additive intended for consumption by humans. The nutritional yeast manufacturing source category does not include the production of yeast intended for consumption by animals (for example, as an additive for livestock feed).

B. What Is the Affected Source?

We have defined the nutritional yeast manufacturing affected source as including the collection of equipment used in the manufacture of nutritional yeast species *Saccharomyces cerevisiae*. This collection of equipment includes, but is not limited to, fermentation vessels (fermenters). We have not included the collection of equipment used in the manufacture of nutritional yeast species *Candida utilis* (torula yeast) as part of the affected source.

C. What Are the Emission Limits?

For existing and new sources, we are requiring that you meet volatile organic compound (VOC) emission limits as a surrogate for acetaldehyde, which makes up a portion of the total VOC emitted. The emission limitations include both VOC concentration limits and a percent-of-batches requirement. The concentration limits apply to each batch; they are expressed as the VOC concentration averaged over the duration of a batch. The fermentation stage of each batch determines which one of three VOC concentration limits is applicable to that batch. To meet the percent-of-batches requirement, you must ensure that at least 98 percent of batches on a rolling 12-month average are within-concentration batches. (We define a "within-concentration batch" as a batch for which the average VOC concentration is not higher than the maximum concentration that is allowed as the 98 percent emission limitation.)

D. What Are the Testing and Initial and Continuous Compliance Requirements?

To demonstrate compliance with the VOC emission limits specified in the rule, we require that you monitor either the VOC concentration in the fermenter exhaust or the brew ethanol concentration in the fermenter. (We define "brew ethanol" as the ethanol in the fermenter liquid.)

If you monitor brew ethanol, you must conduct performance tests simultaneously with brew ethanol monitoring to establish a brew-to-exhaust correlation. (The "brew-to-exhaust correlation" is the correlation between the concentration of ethanol in the brew and the concentration of VOC in the fermenter exhaust.)

If you monitor fermenter exhaust, you must ensure that at least 98 percent of batches over the initial compliance period are within-concentration batches to demonstrate initial compliance with the emission limitations.

If you monitor brew ethanol, you must ensure that the VOC fermenter exhaust concentration over the period of your performance test does not exceed the applicable maximum concentration. You must also have a record of the brew-to-exhaust correlation during the performance test while the VOC fermenter exhaust concentration is at or below the applicable maximum concentration.

To demonstrate continuous compliance with the emission limitations, you must report the percentage of batches that are within-concentration batches, based on a 12-month rolling time period. Your continuous emission monitoring system (CEMS) must be operated at all times during a fermentation batch monitoring period. If you monitor brew ethanol, you must correlate the brew ethanol concentration measured by the CEMS, by testing, to the VOC concentration in the fermenter exhaust. The brew-to-exhaust correlation will determine the brew ethanol concentration CEMS compliance monitoring limit. You are required to determine this correlation at least once a year.

E. What Are the Notification, Recordkeeping, and Reporting Requirements?

We require owners or operators of nutritional yeast manufacturing affected sources to which the final rule applies to submit the following: (1) Application for Approval of Construction or Reconstruction, (2) Notification of Compliance Status, (3) Compliance Reports, and (4) Immediate Malfunction Reports. Additionally, if an owner or operator intends to conduct a performance evaluation or performance test, we require notification of such intent. Records of reported information and other information necessary to document compliance (*e.g.*, records related to malfunction, records that show continuous compliance with emission limits) must be maintained for 5 years.

As soon as practicable before construction begins, you must submit an application for approval of construction of a new major affected source, reconstruction of a major affected source, or reconstruction of a major source such that the source becomes a major affected source subject to the rule. You must submit a separate application for each construction or reconstruction. You must submit at least your name and address, the details regarding your intent to construct or reconstruct, the address of the proposed construction or reconstruction, identification of the standard(s) that are the basis for the application, the expected commencement and completion of the construction or reconstruction, the anticipated date of startup of the source, and the type and quantity of HAP that are anticipated by the source.

You must provide us with a one-time notification of compliance with the final rule. It must describe how you are compliant with the rule, including results of initial compliance determination, identification of the method to be used to determine continuing compliance, and description of the air pollution control method employed.

You must report on your continued compliance status semiannually. This report must include your calculated percentage of within-concentration batches for 12-month calculation periods ending on each calendar month that falls within the reporting period. If you had a malfunction during the reporting period and you took actions as specified in your malfunction plan, you must include that information in the Compliance Report (CR).

If you have a malfunction during the reporting period that is not specified in your malfunction plan, you must submit an Immediate Malfunction Report. This report consists of a telephone call (or facsimile (FAX) transmission) to the Administrator within 2 working days after starting actions that are not included with your plan and shall describe the actions taken during the malfunction event, followed by a letter within 7 working days after the end of the event. If you intend to conduct a performance evaluation or performance test, you are required to submit a notification of such intent at least 60 days prior to the evaluation or test.

IV. What Major Changes Have We Made to the Rule Since Proposal?

In response to comments received on the proposed standards, we made several changes to the final rule. While some of the changes we made were clarifications designed to make our intentions clearer, some of the changes are changes to the proposed standard requirements. The substantive comments and/or changes and responses made since the proposal are summarized in the following sections. Our complete responses to public comments are contained in a memorandum that can be obtained from the docket (see **ADDRESSES** section).

A. Regulation Format

We have changed the regulatory format of the rule from what was proposed on October 19, 1998 (63 FR 55812) to improve implementation, permitting, and enforcement of the rule. The new format also improves the interface with the 40 CFR part 63 General Provisions which are cross-referenced in the proposed and final rule. Although the overall format of the final rule differs from the format of the proposal, unless noted in another paragraph of this section, the requirements are the same. We believe that the new format increases the clarity of the requirements and eases the implementation burden of the rule for both the regulated entity and enforcing agency.

B. Emission Limit Standard

We proposed two sets of emission limits and associated requirements for the nutritional yeast manufacturing source category. Both sets of emission limits potentially represented MACT. One set, which we referred to in the proposal preamble as the "Reasonably Available Control Technology (RACT) standard," relies on the concentration-based limits used in Wisconsin's and Maryland's RACT rules. The second set, which we referred to in the proposal preamble as the "Presumptive MACT (PMACT) standard," relies on a production-based format, which is the same format we considered in the 1994 PMACT.

Two commenters supported the use of the PMACT standard option, and two commenters supported the retention of both options in the final rule. Two of the commenters supported the PMACT standard option because they objected to the proposed RACT option's air flow measurement requirement and air flow cap. One of the commenters added that they would only support the PMACT option if the production-linked emission factor compliance requirement was to be kept confidential.

One of the commenters that recommended retaining both options in the final rule stated that they would prefer the RACT option over the PMACT option if the concentration limits were expressed in terms of propane and the air flow limitation was removed.

Based on comments received and further evaluation of these two options, we decided to adopt the RACT standard option, without the air flow cap, in the final rule because it offers a direct measure of compliance, does not require calculations based on confidential production data, and is simpler as well as easier to use and enforce than the PMACT standard option. Additionally, as noted at proposal, we have more data to support the RACT option. We have selected the RACT standard option because we also believe it better reflects existing control technology performance, operation, and batch emissions variability.

C. No Wastewater Requirements

At proposal, we solicited comment on regulating wastewater and what would constitute MACT for nutritional yeast manufacturing facilities. We received three comment letters that argued against the regulation of wastewater emissions of acetaldehyde at nutritional yeast manufacturing facilities. Reasons given for not regulating wastewater emissions include that the cost of monitoring and control of emissions of acetaldehyde would be high, that emissions from wastewater of acetaldehyde are insignificant, and that treatment might increase emissions of other air pollutants.

Based on comments received and further analysis of wastewater acetaldehyde emissions from nutritional yeast manufacturing facilities, we concluded that the MACT floor for wastewater emissions is no control. We then considered going beyond the floor and determined that non-air quality health and environmental impacts, energy impacts, and costs to go beyond the floor are unreasonably high (Docket No. A–97–13).

The amount of acetaldehyde in the wastewater is a function of the acetaldehyde generated during the yeast fermentation process. Acetaldehyde is a by-product of the fermentation process. Emission limits on the fermentation process result in lower air emissions from the fermentation tanks. To achieve the emission limits, facilities must regulate the yeast growth by process

control of sugar and oxygen to the yeast. This process control also results in lower concentrations of acetaldehyde in the wastewater and subsequently lower air emissions from wastewater. Thus, levels of acetaldehyde in wastewater are already reduced by process changes upstream of wastewater management operations (which process controls constitute MACT for those operations). Put another way, achieving the upstream standards also controls acetaldehyde in wastewater. The standard of "no control" in the final rule for wastewater operations thus means no additional control beyond that already afforded through the upstream standards.

Further control of wastewater emissions is achievable through use of add-on emission control technologies. No such controls are currently utilized, so that any such control would be a beyond-the-floor standard. Given the small concentrations of acetaldehyde remaining in wastewater, EPA believes any such controls would not be cost effective. In addition, there are no non-air quality impact or energy considerations that would suggest adopting such beyond-the-floor controls (which would require additional energy to operate and generate a waste stream for disposal). Therefore, we do not require control of emissions of acetaldehyde from wastewater in the final rule.

D. Brew Ethanol Monitoring

One commenter requested that the measurement of ethanol in fermenter liquid be allowed as an alternative to measurement of VOC in fermenter offgas. The commenter supplied information to us that indicated a strong correlation between the brew ethanol concentration in the fermenter liquid and the VOC concentration in the fermenter exhaust. Upon evaluation of the commenter's documentation and our own analysis, we agreed that the correlation between brew ethanol and VOC concentration from the fermenter exhaust is sufficiently strong to allow monitoring of brew ethanol as an alternative to monitoring VOC concentration. Therefore, the final rule explicitly allows for the measurement of brew ethanol as an alternative monitoring method.

E. MACT Requirements

Some commenters expressed that surrogate VOC concentration limits should be established based on what is achievable in practice. Nutritional yeast manufacturing facilities currently subject to RACT standards or RACT-like standards represent the best-controlled sources for the nutritional yeast manufacturing source category (Docket No. A–97–13). Some States with RACT or RACT-like standards apply discretion as to whether a concentration limit that is exceeded results in a violation of the standard (a VOC concentration limit is exceeded if the batch-average concentration exceeds the specified limit). For example, Maryland's continuous emissions monitoring policy allows for one VOC concentration limit exceedance, or occurrence, per facility per quarter.

We did not receive any comments that supported lowering MACT concentration limits from RACT concentration limits. One commenter stated that although most batches display batch-average VOC concentrations below the RACT limits due to the natural variability of the biological process of yeast-growing, batch-average VOC concentrations display a bell-curve distribution. The commenter added that because of the bell-curve distribution of VOC concentrations, a source needs to target VOC concentrations well below the RACT limit in order for the distribution of actual concentrations to remain below the RACT limit.

We analyzed available information for five yeast manufacturing facilities that are subject to Wisconsin or Maryland RACT standards or California Bay Area Air Quality Management District (BAAQMD) RACT-like concentration limits. Based on our analysis, we found that these facilities had concentration limits that were exceeded for 0 to 2.5 percent of their runs, with an average of 1.3 percent of the concentration limits being exceeded for the total number of runs in 1998. Only one facility had no concentration limits that were exceeded (Docket No. A–97–13).

There is no evidence that failure to meet the limit for every batch is a result of poor operation. We do not have sufficient data to indicate that the RACT limits can be achieved on every batch, so we have concluded that the MACT floor for the nutritional yeast manufacturing source category, for existing and new sources, is less stringent than meeting the RACT limits for every batch (Docket No. A–97–13). Therefore, we have concluded that MACT is the control of 98 percent of the batches to either at or below the VOC concentration limits specified in the rule.

F. Compliance Requirements

Many comments were received regarding compliance requirements. Some commenters requested that the final rule clarify the compliance period over which the concentration limits are to be met. Other commenters stated that the proposed concentration limit for VOC (as ethanol) under the RACT standard option was based on an incorrect conversion of VOC to an ethanol basis from the propane basis that is used in the RACT rules.

We agree that the final rule should clarify the compliance period for which the concentration limits must be met. As explained above, the MACT level of control is that 98 percent of the nutritional yeast manufacturing batches be lower than or equal to concentration limits established in the rule. This level of control was determined to be achievable on a rolling 12-month average basis. Therefore, the final rule clarifies that the concentration limits are to be met on the basis of an average of concentrations measured over the duration of a batch, and not on an instantaneous basis. Ninety-eight percent of the nutritional yeast manufacturing batches are to be within concentration limits on a rolling 12-month average basis.

We proposed limits in terms of VOC as ethanol. From information and comments received after proposal, we learned that the use of propane-calibrated analyzers is widespread in the nutritional yeast manufacturing industry, and that their use is consistent with the RACT requirements which represent MACT. Therefore, the final rule expresses concentration limits based on VOC as propane rather than as ethanol.

V. What Are the Environmental, Energy, Cost, and Economic Impacts?

A. What Are the Air Quality Impacts?

We estimate that the 1998 nationwide emissions from nutritional yeast manufacturing facilities were approximately 820 Mg/yr (900 tpy) of VOC and 220 Mg/yr (240 tpy) of acetaldehyde. The final rule will reduce VOC emissions by an estimated 85 Mg/yr (93 tpy) and acetaldehyde emissions by an estimated 28 Mg/yr (31 tpy) from nutritional yeast manufacturing facilities.

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

We do not expect that there will be any significant adverse non-air health, environmental or energy impacts associated with the final standards for the nutritional yeast manufacturing source category. We determine impacts relative to the baseline that is set at the level of control in absence of the rule. The predominant control measure that will be adopted by nutritional yeast manufacturing facilities as a result of the final rule is process control, which will not result in any water pollution or solid waste impacts.

C. What Are the Cost and Economic Impacts?

The total estimated capital cost of the final rule for the nutritional yeast manufacturing source category is approximately $270,000. The total estimated annual cost of the final rule is approximately $700,000 (Docket No. A–97–13). We do not expect any adverse economic impacts to result from the final rule.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." Policies that have federalism implications is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the regulation.

If the EPA complies by consulting, Executive Order 13132 requires the EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of the EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when the EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, the EPA must include a certification from the Agency's Federalism Official stating that the EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule is mandated by statute and does not impose requirements on States; however, States will be required to implement the rule by incorporating the rule into permits and enforcing the rule upon delegation. States will collect permit fees that will be used to offset the resource burden of implementing the rule. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, the EPA did consult with State and local officials in developing this rule.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. The EPA developed this final rule, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084.

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or we consult with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

These final standards do not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate nutritional yeast manufacturing facilities. Accordingly, the requirements of Executive Order 13084 do not apply to this action.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant," as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that

EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned rule is preferable to other potentially effective and reasonable alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. These final standards are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this rule has been determined not to be "economically significant" as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation as to why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final rule contains no Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of this rule for any year has been estimated to be less than $700,000. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, today's final rule is not subject to the requirements of section 203 of the UMRA.

Because this final rule does not include a Federal mandate and is estimated to result in expenditures less than $100 million in any 1 year by State, local, and tribal governments, the EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments will not be significantly or uniquely affected by this rule, the EPA is not required to develop a plan with regard to small governments. Therefore, the requirements of the UMRA do not apply to this action.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business that has fewer than 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The small business size standards are based on industries as they are defined in NAICS and were published in a final rule by the Small Business Administration on September 5, 2000 (65 FR 53533).

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant impact on a substantial number of small entities. Although there appears to be one small business in the nutritional yeast manufacturing industry, the complex ownership issues involved with this firm makes the absolute determination uncertain. The EPA thus concludes that there is at the most one small business which may be affected by these standards. Individual company cost-to-sales ratio data is considered confidential business information (CBI) and may not be disclosed. The industry average cost-to-sales ratio for all affected companies is less than 0.3 percent. No individual company is anticipated to incur a cost-to-sales ratio exceeding 3 percent. Based on the foregoing, the EPA concludes that this rule will not have a significant impact on a substantial number of small businesses.

Although this final rule will not have a significant impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities by providing alternatives to compliance and monitoring requirements.

G. Paperwork Reduction Act

The information collection requirements for these final standards will be submitted for approval to the Office of Management and Budget under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1886.02) for the nutritional yeast manufacturing source category and copies may be obtained from Ms. Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414).

The final standards require owners or operators of affected sources to retain records for a period of 5 years. The 5-year retention period is consistent with the General Provisions of 40 CFR part 63 and with the 5-year record retention requirement in the operating permit program under title V of the CAA.

Total estimated annualized capital monitoring, inspection, reporting and recordkeeping (MIRR) costs for new and existing sources is $886,307 for the first years after promulgation of the NESHAP for this source category. Of the total estimated MIRR cost, $440,917 is labor dollars and $445,390 is capital and operation and maintenance.

The annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to total 3,459 labor hours per year at a total annual cost of $146,972. This estimate includes notifications, performance evaluations and tests, compliance reports, and records of CEMS measurements.

The total estimated annualized capital monitoring, inspection, reporting and recordkeeping (MIRR) costs for existing and new major sources to comply with the promulgated standards when an affected source opts to comply by using process add-on control equipment are determined based on the estimated capital costs of VOC monitoring equipment required for MIRR activities. For the yeast manufacturing industry, the total estimated installed capital costs of this equipment is $2,453,174 for existing major sources, and $0 for new major sources because we do not anticipate construction of any new major sources in the near future. Annualized capital MIRR costs for existing and new major sources to comply with the promulgated standard using process control were estimated to be $89,782 and $0, respectively, when averaged over the first 3 years after the effective date of the promulgated rule.

The total annual estimated operating and maintenance costs (O&M) were calculated based on (1) the estimated postage costs for the estimated total annual responses associated with the provisions of the yeast manufacturing NESHAP and (2) the estimated annual cost of contracting for performance testing required for compliance with this standard. Annual O&M costs for existing and new major sources were estimated to be $58,682 and $0, respectively, when averaged over the first 3 years after the effective date of the promulgated rule.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to (1) review instructions; (2) develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; (3) adjust the existing ways to comply with any previously applicable instructions and requirements; (4) train personnel to be able to respond to a collection of information; (5) search data sources; (6) complete and review the collection of information; and (7) transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for our regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control number(s) for the information collection requirements in this rule will be listed in an amendment to 40 CFR part 9 or 48 CFR Chapter 15 in a subsequent **Federal Register** document after OMB approves the ICR.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves the following technical standards: EPA Methods 25A, PS 8, PS 9, and a method for determining ethanol in liquids. Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods.

The search for emissions monitoring procedures identified two voluntary consensus standards, both for EPA Method 25A. The EPA determined that one of these two standards, (EN 12619:1999), identified for measuring emissions of HAP or surrogates subject to emission standards in this rule, would not be practical due to lack of equivalency, detail, and/or quality assurance and/or quality control requirements. Therefore, we did not use this voluntary consensus standard in this rulemaking.

The other consensus standard (ISO/FDIS 14965) identified for EPA Method 25A is under development. Therefore, we did not use this voluntary consensus standard in this rulemaking. No voluntary consensus standards were identified for PS 8, PS 9, or a procedure to determine ethanol in liquids. The search and review results have been documented and are placed in the Docket No. A–97–13 (see **ADDRESSES** section) for this rule.

Sections 63.2161 and 63.2163 of the standards list the EPA test methods and performance standards included in this rulemaking. Most of the standards have been used by States and industry for more than 10 years.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective May 21, 2001.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air emissions control, Hazardous air pollutants, Intergovernmental relations, Recordkeeping and reporting requirements.

Dated: May 8, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63, of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Part 63 is amended by adding subpart CCCC to read as follows:

Subpart CCCC—National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast

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What This Subpart Covers

§ 63.2130 What is the purpose of this subpart?

This subpart establishes national emission limitations for hazardous air pollutants emitted from manufacturers of nutritional yeast. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.2131 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a nutritional yeast manufacturing facility that is, is located at, or is part of a major source of hazardous air pollutants (HAP) emissions.

(1) A manufacturer of nutritional yeast is a facility that makes yeast for the purpose of becoming an ingredient in dough for bread or any other yeast-raised baked product, or for becoming a nutritional food additive intended for consumption by humans. A manufacturer of nutritional yeast does not include production of yeast intended for consumption by animals, such as an additive for livestock feed.

(2) A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) [Reserved]

§ 63.2132 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing "affected source" that produces *Saccharomyces cerevisiae* at a nutritional yeast manufacturing facility.

(b) The affected source is the collection of equipment used in the manufacture of the nutritional yeast species *Saccharomyces cerevisiae*. This collection of equipment includes, but is not limited to, fermentation vessels (fermenters). The collection of equipment used in the manufacture of the nutritional yeast species *Candida utilis* (torula yeast) is not part of the affected source.

(c) The emission limitations in this subpart apply to fermenters in the affected source that meet all of the criteria listed in paragraphs (c)(1) through (2) of this section.

(1) The fermenters are "fed-batch" as defined in § 63.2192.

(2) The fermenters are used to support one of the last three fermentation stages in a production run, which may be referred to as "stock, first generation, and trade," "seed, semi-seed, and commercial," or "CB4, CB5, and CB6" stages.

(d) The emission limitations in this subpart do not apply to flask, pure-culture, yeasting-tank, or any other set-batch fermentation, and they do not apply to any operations after the last dewatering operation, such as filtration.

(e) The emission limitations in this subpart do not apply to the affected source during the production of specialty yeast (defined in § 63.2192).

(f) An affected source is a "new affected source" if you commenced construction of the affected source after October 19, 1998, and you met the applicability criteria in § 63.2131 at the time you commenced construction.

(g) An affected source is "reconstructed" if you meet the criteria as defined in § 63.2.

(h) An affected source is "existing" if it is not new or reconstructed.

§ 63.2133 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with paragraphs (a)(1) through (2) of this section.

(1) If you start up your affected source before May 21, 2001, then you must comply with the emission limitations in this subpart no later than May 21, 2001.

(2) If you start up your affected source after May 21, 2001, then you must comply with the emission limitations in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations for existing sources no later than May 21, 2004.

(c) If you have an area source that increases its emissions, or its potential to emit, so that it becomes a major source of HAP, paragraphs (c)(1) through (2) of this section apply.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the source must be in compliance with this subpart by not later than 3 years after it becomes a major source.

(d) You must meet the notification requirements in § 63.2180 according to the schedule in § 63.2180 and in subpart A of this part.

Emission Limitations

§ 63.2140 What emission limitations must I meet?

You must meet all of the emission limitations in Table 1 to this subpart.

General Compliance Requirements

§ 63.2150 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations in Table 1 to this subpart at all times, except during periods of malfunction.

(b) You must always operate and maintain your affected source, including monitoring equipment, according to the provisions in § 63.6(e)(1)(i). If the date upon which you must demonstrate initial compliance as specified in § 63.2160 falls after the compliance date specified for your affected source in § 63.2133, then you must maintain a log detailing the operation and maintenance of the continuous monitoring systems and the process and emissions control equipment during the period between those dates.

(c) You must develop and implement a written malfunction plan. It will be as specified in § 63.6(e)(3), except that the requirements for startup, shutdown, and maintenance plans, records and reports apply only to malfunctions. Under this subpart, a period of malfunction is expressed in whole batches and not in portions of batches.

Testing and Initial Compliance Requirements

§ 63.2160 By what date must I conduct an initial compliance demonstration?

(a) For each emission limitation in Table 1 to this subpart for which compliance is demonstrated by monitoring fermenter exhaust, you must demonstrate initial compliance for the period ending on the last day of the month that is 12 calendar months (or 11 calendar months, if the compliance date for your source is the first day of the month) after the compliance date that is specified for your source in § 63.2133. (For example, if the compliance date is October 15, 2003, the first 12-month period for which you must demonstrate compliance would be October 15, 2003 through October 31, 2004.)

(b) For each emission limitation in Table 1 to this subpart for which initial compliance is demonstrated by monitoring brew ethanol concentration and calculating volatile organic compound (VOC) concentration in the fermenter exhaust according to the procedures in § 63.2161, you must demonstrate initial compliance within 180 calendar days before the compliance date that is specified for your source in § 63.2133.

§ 63.2161 What performance tests and other procedures must I use if I monitor brew ethanol?

(a) You must conduct each performance test in Table 2 to this subpart that applies to you.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions that this subpart specifies in Table 2 to this subpart and in paragraphs (b)(1) through (4) of this section.

(1) Conduct each performance test simultaneously with brew ethanol monitoring to establish a brew-to-exhaust correlation equation as specified in paragraph (f) of this section.

(2) For each fermentation stage, conduct one run of the EPA Test Method 25A of 40 CFR part 60, appendix A, over the entire length of a batch. The three fermentation stages do not have to be from the same production run.

(3) Do the test at a point in the exhaust-gas stream before you inject any dilution air, which is any air not needed to control fermentation.

(4) Record the results of the test for each fermentation stage.

(c) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(d) You must collect data to correlate the brew ethanol concentration measured by the continuous emission monitoring system (CEMS) to the VOC concentration in the fermenter exhaust according to paragraphs (d)(1) through (3) of this section.

(1) You must collect a separate set of brew ethanol concentration data for each fed-batch fermentation stage while manufacturing the product that comprises the largest percentage (by mass) of average annual production.

(2) Measure brew ethanol as specified in § 63.2164 simultaneously with conducting a performance test for VOC in fermenter exhaust as specified in paragraph (b) of this section. You must measure brew ethanol at least once during each successive 30-minute period over the entire period of the performance test for VOC in fermenter exhaust.

(3) Keep a record of the brew ethanol concentration data for each fermentation stag over the period of EPA Test Method 25A of 40 CFR part 60, appendix A, performance test when the VOC concentration in the fermenter exhaust does not exceed the applicable emission limitation in Table 1 to this subpart.

(e) For each set of data that you collected under paragraph (d) of this section, perform a linear regression of brew ethanol concentration (percent) on VOC fermenter exhaust concentration (parts per million by volume (ppmv) measured as propane). The correlation between the brew ethanol concentration as measured by the CEMS and the VOC fermenter exhaust concentration as measured by EPA Test Method 25A of 40 CFR part 60, appendix A, must be linear with a correlation coefficient of at least 0.90.

(f) Calculate the VOC concentration in the fermenter exhaust using the brew ethanol concentration data collected under paragraph (d) of this section and according to Equation 1 of this section.

$$BAVOC = BAE * CF + y \quad \text{(Eq. 1)}$$

Where:

BAVOC = batch-average concentration of VOC in fermenter exhaust (ppmv measured as propane), calculated for compliance demonstration
BAE = batch-average concentration of brew ethanol in fermenter liquid (percent), measured by CEMS
CF = constant established at performance test and representing the slope of the regression line
y = constant established at performance test and representing the y-intercept of the regression line

§ 63.2162 When must I conduct subsequent performance tests?

(a) For each emission limitation in Table 1 to this subpart for which compliance is demonstrated by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161, you must

conduct an EPA Test Method 25A of 40 CFR part 60, appendix A, performance test and establish a brew-to-exhaust correlation according to the procedures in Table 2 to this subpart and in § 63.2161, at least once every year.

(b) The first subsequent performance test must be conducted no later than 365 calendar days after the initial performance test conducted according to § 63.2160. Each subsequent performance test must be conducted no later than 365 calendar days after the previous performance test. You must conduct a performance test for each 365 calendar day period for the lifetime of the affected source.

§ 63.2163 If I monitor fermenter exhaust, what are my monitoring installation, operation, and maintenance requirements?

(a) Each CEMS must be installed, operated, and maintained according to the applicable Performance Specification (PS) of 40 CFR part 60, appendix B.

(b) You must conduct a performance evaluation of each CEMS according to the requirements in § 63.8, according to the applicable Performance Specification of 40 CFR part 60, appendix B, and according to paragraphs (b)(1) through (4) of this section.

(1) If your CEMS monitor generates a single combined response value for VOC (examples of such detection principles are flame ionization, photoionization, and non-dispersive infrared absorption), but it is not a flame ionization analyzer, you must use PS 8 to show that your CEMS is operating properly.

(i) Use EPA Test Method 25A of 40 CFR part 60, appendix A, to do the relative-accuracy test PS 8 requires.

(ii) Calibrate the reference method with propane.

(iii) Collect a 1-hour sample for each reference-method test.

(2) If you continuously monitor VOC emissions using a flame ionization analyzer, then you must conduct the calibration drift test PS 8 requires, but you are not required to conduct the relative-accuracy test PS 8 requires.

(3) If you continuously monitor VOC emissions using gas chromatography, you must use PS 9 of CFR part 60, appendix B, to show that your CEMS is operating properly.

(4) You must complete the performance evaluation and submit the performance evaluation report before the compliance date that is specified for your source in § 63.2133.

(c) Calibrate the CEMS with propane.

(d) Set the CEMS span at not greater than 5 times the relevant emission limit, with 1.5 to 2.5 times the relevant emission limit being the range considered by us to be generally optimum.

(e) You must monitor VOC concentration in fermenter exhaust at any point prior to dilution of the exhaust stream.

(f) Each CEMS must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 30-minute period within each batch monitoring period. Except as specified in paragraph (g) of this section, you must have a minimum of two cycles of operation in a 1-hour period to have a valid hour of data.

(g) The CEMS data must be reduced to arithmetic batch averages computed from two or more data points over each 1-hour period, except during periods when calibration, quality assurance, or maintenance activities pursuant to provisions of this part are being performed. During these periods, a valid hour of data shall consist of at least one data point representing a 30-minute period.

(h) You must have valid CEMS data from at least 75 percent of the full hours over the entire batch monitoring period.

(i) For each CEMS, record the results of each inspection, calibration, and validation check.

(j) You must check the zero (low-level) and high-level calibration drifts for each CEMS in accordance with the applicable PS of 40 CFR part 60, appendix B. The zero (low-level) and high-level calibration drifts shall be adjusted, at a minimum, whenever the zero (low-level) drift exceeds 2 times the limits of the applicable PS. The calibration drift checks must be performed at least once daily except that they may be performed less frequently under the conditions of paragraphs (j)(1) through (3) of this section.

(1) If a 24-hour calibration drift check for your CEMS is performed immediately prior to, or at the start of, a batch monitoring period of a duration exceeding 24 hours, you are not required to perform 24-hour-interval calibration drift checks during that batch monitoring period.

(2) If the 24-hour calibration drift exceeds 2.5 percent of the span value (or more than 10 percent of the calibration gas value if your CEMS is a gas chromatograph (GC)) in fewer than 5 percent of the checks over a 1-month period, and the 24-hour calibration drift never exceeds 7.5 percent of the span value, then the frequency of calibration drift checks may be reduced to at least weekly (once every 7 days).

(3) If, during two consecutive weekly checks, the weekly calibration drift exceeds 5 percent of the span value (or more than 20 percent of the calibration gas value, if your CEMS is a GC), then a frequency of at least 24-hour interval calibration checks must be resumed until the 24-hour calibration checks meet the test of paragraph (j)(2) of this section.

(k) If your CEMS is out of control, you must take corrective action according to paragraphs (k)(1) through (3) of this section.

(1) Your CEMS is out of control if the zero (low-level) or high-level calibration drift exceeds 2 times the limits of the applicable PS.

(2) When the CEMS is out of control, take the necessary corrective action and repeat all necessary tests that indicate that the system is out of control. You must take corrective action and conduct retesting until the performance requirements are below the applicable limits.

(3) During the batch monitoring periods in which the CEMS is out of control, recorded data shall not be used in data averages and calculations, or to meet any data availability requirement established under this subpart. The beginning of the out-of-control period is the beginning of the first batch monitoring period that follows the most recent calibration drift check during which the system was within allowable performance limits. The end of the out-of-control period is the end of the last batch monitoring period before you have completed corrective action and successfully demonstrated that the system is within the allowable limits. If your successful demonstration that the system is within the allowable limits occurs during a batch monitoring period, then the out-of-control period ends at the end of that batch monitoring period. If the CEMS is out of control for any part of a particular batch monitoring period, it is out of control for the whole batch monitoring period.

§ 63.2164 If I monitor brew ethanol, what are my monitoring installation, operation, and maintenance requirements?

(a) Each CEMS must be installed, operated, and maintained according to manufacturer's specifications and the plan for malfunctions that you must develop and use according to § 63.6(e).

(b) Each CEMS must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 30-minute period within each batch monitoring period. Except as specified in paragraph (c) of this section, you must have a minimum of two cycles of operation in a 1-hour period to have a valid hour of data.

(c) The CEMS data must be reduced to arithmetic batch averages computed from two or more data points over each 1-hour period, except during periods when calibration, quality assurance, or maintenance activities pursuant to provisions of this part are being performed. During these periods, a valid hour of data shall consist of at least one data point representing a 30-minute period.

(d) You must have valid CEMS data from at least 75 percent of the full hours over the entire batch monitoring period.

(e) Set the CEMS span to correspond to not greater than 5 times the relevant emission limit, with 1.5 to 2.5 times the relevant emission limit being the range considered by us to be generally optimum. Use the brew-to-exhaust correlation equation established under § 63.2161(f) to determine the span value for your CEMS that corresponds to the relevant emission limit.

(f) For each CEMS, record the results of each inspection, calibration, and validation check.

(g) The GC that you use to calibrate your CEMS must meet the requirements of paragraphs (g)(1) through (3) of this section.

(1) Calibrate the GC at least daily, by analyzing standard solutions of ethanol in water (0.05 percent, 0.15 percent, and 0.3 percent).

(2) For use in calibrating the GC, prepare the standard solutions of ethanol using the procedures listed in paragraphs (g)(2)(i) through (vi) of this section.

(i) Starting with 100 percent ethanol, dry the ethanol by adding a small amount of anhydrous magnesium sulfate (granular) to 15–20 milliliters (ml) of ethanol.

(ii) Place approximately 50 ml of water into a 100-ml volumetric flask and place the flask on a balance. Tare the balance. Weigh 2.3670 grams of the dry (anhydrous) ethanol into the volumetric flask.

(iii) Add the 100-ml volumetric flask contents to a 1000-ml volumetric flask. Rinse the 100-ml volumetric flask with water into the 1000-ml flask. Bring the volume to 1000 ml with water.

(iv) Place an aliquot into a sample bottle labeled "0.3% Ethanol."

(v) Fill a 50-ml volumetric flask from the contents of the 1000-ml flask. Add the contents of the 50-ml volumetric flask to a 100-ml volumetric flask and rinse the 50-ml flask into the 100-ml flask with water. Bring the volume to 100 ml with water. Place the contents into a sample bottle labeled "0.15% Ethanol."

(vi) With a 10-ml volumetric pipette, add two 10.0-ml volumes of water to a sample bottle labeled "0.05% Ethanol." With a 10.0-ml volumetric pipette, pipette 10.0 ml of the 0.15 percent ethanol solution into the sample bottle labeled "0.05% Ethanol."

(3) For use in calibrating the GC, dispense samples of the standard solutions of ethanol in water in aliquots to appropriately labeled and dated glass sample bottles fitted with caps having a Teflon® seal. Refrigerated samples may be kept unopened for 1 month. Prepare new calibration standards of ethanol in water at least monthly.

(h) Calibrate the CEMS according to paragraphs (h)(1) through (3) of this section.

(1) To calibrate the CEMS, inject a brew sample into a calibrated GC and compare the simultaneous ethanol value given by the CEMS to that given by the GC. Use either the Porapak® Q, 80–100 mesh, 6′ × ⅛″, stainless steel packed column or the DB Wax, 0.53 mm × 30 m capillary column.

(2) If a CEMS ethanol value differs by 20 percent or more from the corresponding GC ethanol value, determine the brew ethanol values throughout the rest of the batch monitoring period by injecting brew samples into the GC not less frequently than every 30 minutes. From the time at which the difference of 20 percent or more is detected until the batch monitoring period ends, the GC data will serve as the CEMS data.

(3) Perform a calibration of the CEMS at least four times per batch.

§ 63.2165 How do I demonstrate initial compliance with the emission limitations if I monitor fermenter exhaust?

(a) You must demonstrate initial compliance with each emission limitation that applies to you according to Table 3 to this subpart.

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.2180(e).

§ 63.2166 How do I demonstrate initial compliance with the emission limitations if I monitor brew ethanol?

(a) You must demonstrate initial compliance with each emission limitation that applies to you according to Table 3 to this subpart.

(b) You must establish the brew-to-exhaust correlation for each fermentation stage according to § 63.2161(e).

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.2180(e).

Continuous Compliance Requirements

§ 63.2170 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously during each batch monitoring period.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or quality control activities in data averages and calculations used to report emission or operating levels, or to fulfill a minimum data availability requirement. You must use all the data collected during all other periods in assessing the operation of the control system.

§ 63.2171 How do I demonstrate continuous compliance with the emission limitations?

(a) You must demonstrate continuous compliance with each emission limitation in Table 1 to this subpart that applies to you according to methods specified in Table 4 to this subpart.

(b) You must calculate the percentage of within-concentration batches (defined in § 63.2192) for each 12-month period according to paragraphs (b)(1) through (4) of this section.

(1) Determine the percentage of batches over a 12-month calculation period that were in compliance with the applicable maximum concentration. The total number of batches in the calculation period is the sum of the numbers of batches of each fermentation stage for which emission limits apply. To calculate the 12-month percentage, do not include batches in production during periods of malfunction. In counting the number of batches in the 12-month calculation period, include those batches for which the batch monitoring period ended on or after 12 a.m. on the first day of the period and exclude those batches for which the batch monitoring period did not end on or before 11:59 p.m. on the last day of the period.

(2) You must determine the 12-month percentage at the end of each calendar month.

(3) The first 12-month calculation period begins on the compliance date that is specified for your source in § 63.2133 and ends on the last day of the month that includes the date 365 days after your compliance date, unless the

compliance date for your source is the first day of the month, in which case the first 12-month calculation period ends on the last day of the month that is 11 calendar months after the compliance date. (For example, if the compliance date for your source is October 15, 2003, the first 12-month calculation period would begin on October 15, 2003, and end on October 31, 2004. If the compliance date for your source is October 1, 2003, the first 12-month calculation period would begin on October 1, 2003, and end on September 30, 2004.)

(4) The second 12-month calculation period and each subsequent 12-month calculation period begin on the first day of the month following the first full month of the previous 12-month averaging period and end on the last day of the month 11 calendar months later. (For example, if the compliance date for your source is October 15, 2003, the second calculation period would begin on December 1, 2003 and end on November 30, 2004.)

(c) You must report each instance (that is, each 12-month calculation period) in which you did not meet each emission requirement in Table 4 to this subpart that applies to you. (Failure of a single batch to meet a concentration limit does not in and of itself constitute a failure to meet the emission limitation.) Each instance in which you failed to meet each applicable emission limitation is reported as part of the requirements in § 63.2181.

(d) During periods of malfunction, you must operate in accordance with the malfunction plan.

Notification, Reports, and Records

§ 63.2180 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(e), (f)(4) and (6), and 63.9(b) through (h) that apply to you by the dates specified.

(b) If you start up your affected source before May 21, 2001, you are not subject to the initial notification requirements of § 63.9(b)(2).

(c) If you are required to conduct a performance test as specified in Table 2 to this subpart, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1).

(d) If you are required to conduct a performance evaluation as specified in § 63.2163(b), you must submit a notification of the date of the performance evaluation at least 60 days prior to the date the performance evaluation is scheduled to begin as required in § 63.8(e)(2).

(e) If you are required to conduct a performance test or other initial compliance demonstration as specified in Table 2 or 3 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) and according to paragraphs (e)(1) through (2) of this section.

(1) For each initial compliance demonstration required in Table 3 to this subpart that does not include a performance test, you must submit the Notification of Compliance Status no later than July 31 or January 31, whichever date follows the end of the first 12 calendar months after the compliance date that is specified for your source in § 63.2133. If your initial compliance demonstration does not include a performance test, the first compliance report, described in § 63.2181(b)(1), serves as the Notice of Compliance Status.

(2) For each initial compliance demonstration required in Table 2 or 3 to this subpart that includes a performance test conducted according to the requirements in Table 2, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

§ 63.2181 What reports must I submit and when?

(a) You must submit each report in Table 5 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 5 to this subpart and according to paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.2133 and ending on either June 30 or December 31 (use whichever date is the first date following the end of the first 12 calendar months after the compliance date that is specified for your source in § 63.2133). The first compliance report must include the percentage of within-concentration batches, as described in § 63.2171(b), for the first 12-month calculation period described in § 63.2171(b)(3). It must also include a percentage for each subsequent 12-month calculation period, as described in § 63.2171(b)(4), ending on a calendar month that falls within the first compliance period. (For example, if the compliance date for your source is October 15, 2003, the first compliance report would cover the period from October 15, 2003 to December 31, 2004. It would contain percentages for the 12-month periods ending October 31, 2004; November 30, 2004; and December 31, 2004.)

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first 12 calendar months after the compliance date that is specified for your affected source in § 63.2133.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31. Each subsequent compliance report must include the percentage of within-concentration batches for each 12-month calculation period ending on a calendar month that falls within the reporting period. (For example, if the compliance date for your source is October 15, 2003, the second compliance report would cover the period from January 1, 2005 through June 30, 2005. It would contain percentages for the 12-month periods ending January 31, 2005; February 28, 2005; March 31, 2005; April 30, 2005; May 31, 2005; and June 30, 2005.)

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(a)(iii)(A) or 40 CFR 71.6(a)(3)(a)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information listed in paragraphs (c)(1) through (5) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the accuracy of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) Percentage of batches that are within-concentration batches for each 12-month period ending on a calendar month that falls within the reporting period.

(5) If you had a malfunction during the reporting period and you took actions consistent with your malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i) for each malfunction.

§ 63.2182 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (4) of this section. These include:

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Notification of Compliance Status and compliance report that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to malfunction;

(3) Records of performance tests and performance evaluations as required in § 63.10(b)(2)(viii); and

(4) Records of results of brew-to-exhaust correlation tests specified in § 63.2161.

(b) For each CEMS, you must keep the records listed in paragraphs (b)(1) through (9) of this section. These include:

(1) Records described in § 63.10(b)(2)(vi);

(2) All required measurements needed to demonstrate compliance with a relevant standard (including, but not limited to, 30-minute averages of CEMS data, raw performance testing measurements, and raw performance evaluation measurements, that support data that the source is required to report);

(3) Records described in § 63.10(b)(2)(viii) through (xi). The CEMS system must allow the amount of excess zero (low-level) and high-level calibration drift measured at the interval checks to be quantified and recorded;

(4) All required CEMS measurements (including monitoring data recorded during unavoidable CEMS breakdowns and out-of-control periods);

(5) Identification of each batch during which the CEMS was inoperative, except for zero (low-level) and high-level checks;

(6) Identification of each batch during which the CEMS was out of control, as defined in § 63.2163(k);

(7) Previous (i.e., superseded) versions of the performance evaluation plan as required in § 63.8(d)(3);

(8) Request for alternatives to relative accuracy test for CEMS as required in § 63.8(f)(6)(i); and

(9) Records of each batch for which the batch-average VOC concentration exceeded the applicable maximum VOC concentration in Table 1 to this subpart and whether the batch was in production during a period of malfunction or during another period.

(c) You must keep the records required in Table 4 to this subpart to show continuous compliance with each emission limitation that applies to you.

(d) You must also keep the records listed in paragraphs (d)(1) through (3) of this section for each batch in your affected source.

(1) Unique batch identification number.

(2) Fermentation stage for which you are using the fermenter.

(3) Unique CEMS equipment identification number.

§ 63.2183 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.2190 What parts of the General Provisions apply to me?

Table 6 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.13 apply to you.

§ 63.2191 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are as listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the non-opacity emission limitations in § 63.2140 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.2192 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Batch means a single fermentation cycle in a single fermentation vessel (fermenter).

Batch monitoring period means the period that begins at the later of either the start of aeration or the addition of yeast to the fermenter; the period ends at the earlier of either the end of aeration or the point at which the yeast has begun being emptied from the fermenter.

Brew means the mixture of yeast and additives in the fermenter.

Brew ethanol means the ethanol in fermenter liquid.

Brew ethanol monitor means the monitoring system that you use to measure brew ethanol to demonstrate compliance with this subpart. The monitoring system includes a resistance element used as an ethanol sensor, with the measured resistance proportional to the concentration of ethanol in the brew.

Brew-to-exhaust correlation means the correlation between the concentration of ethanol in the brew and the concentration of VOC in the fermenter exhaust. This correlation is specific to each fed-batch fermentation stage and is established while manufacturing the product that comprises the largest percentage (by mass) of average annual production.

Emission limitation means any emission limit or operating limit.

Fed-batch means the yeast is fed carbohydrates and additives during fermentation in the vessel. In contrast, carbohydrates and additives are added to "set-batch" fermenters only at the start of the batch.

1-hour period means any 60-minute period commencing on the minute at which the batch monitoring period begins.

Product means the yeast resulting from the final stage in a production run. Products are distinguished by yeast species, strain, and variety.

Responsible official means responsible official as defined in 40 CFR 70.2.

Specialty yeast includes but is not limited to yeast produced for use in wine, champagne, whiskey, and beer.

Within-concentration batch means a batch for which the average VOC concentration is not higher than the maximum concentration that is allowed as part of the applicable emission limitation.

Tables

As stated in § 63.2140, you must comply with the emission limitations in the following table:

TABLE 1 TO SUBPART CCCC.—EMISSION LIMITATIONS

For each fed-batch fermenter producing yeast in the following fermentation stage . . .	You must meet the following emission limitation . . .
Last stage (Trade); or Second-to-last stage (First Generation); or Third-to-last stage (Stock).	a. For at least 98 percent of all batches (sum of batches from last, second-to-last, and third-to-last stages) in each 12-month calculation period described in § 63.2171(b), the VOC concentration in the fermenter exhaust does not exceed the applicable maximum concentration (100 ppmv for last stage, 200 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane, and averaged over the duration of a batch. b. The emission limitation does not apply during the production of specialty yeast.

As stated in § 63.2161, if you demonstrate compliance by monitoring brew ethanol, you must comply with the requirements for performance tests in the following table:

TABLE 2 TO SUBPART CCCC.—REQUIREMENTS FOR PERFORMANCE TESTS

[Brew Ethanol Monitoring Only]

For each fed-batch fermenter for which compliance is determined by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161, you must . . .	Using . . .	According to the following requirements . . .
1. Measure VOC as propane	Method 25A*, or an alternative validated by EPA Method in the 301* and approved by the Administrator.	You must measure the VOC concentration in the fermenter exhaust at any point prior to dilution of the exhaust stream.
2. Select the sampling port's location and the number of traverse points.	Method 1*	
3. Measure volumetric flow rate.	Method 2*	
4. Perform gas analysis to determine the dry molecular weight of the stack gas.	Method 3*	
5. Determine moisture content of the stack gas	Method 4*	

*EPA Test Methods found in appendix A of 40 CFR part 60.

As stated in § 63.2165 (if you monitor fermenter exhaust) and § 63.2166 (if you monitor brew ethanol), you must comply with the requirements to demonstrate initial compliance with the applicable emission limitations in the following table:

TABLE 3 TO SUBPART CCCC.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

For . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
1. Each fed-batch fermenter producing yeast in a fermentation stage (last Trade), second-to-last (First Generation), or third-to-last (Stock)) for which compliance is determined by monitoring VOC concentration in the fermenter exhaust.	The VOC concentration in the fermenter exhaust, averaged over the duration of the batch, does not exceed the applicable maximum concentration (100 ppmv for last stage, 200 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane..	a. You reduce the CEMS data batch averages according to § 63.2163(g). b. The average VOC concentration in the fermenter exhaust for at least 98 percent of the batches (sum of batches from last, second-to-last, and third-to-last stages) during the initial compliance period described in § 63.2160(a) does not exceed the applicable maximum concentration.
2. Each fed-batch fermenter producing yeast in a fermentation stage (last Trade), second-to-last (First Generation), or third-to-last (Stock)) for which compliance is determined by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161.	The VOC concentration in the fermenter exhaust, averaged over the duration of the batch, does not exceed the applicable maximum concentration (100 ppmv for last stage, 2000 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane.	a. The VOC fermenter exhaust concentration over the period of the Method 25A* performance test does not exceed the applicable maximum concentration. b. You have a record of the brew-to-exhaust correlation during the Method 25A* performance test during which the VOC fermenter exhaust concentration did not exceed the applicable maximum concentration.

*EPA Test Method in appendix A of 40 CFR part 60.

As stated in § 63.2171, you must comply with the requirements to demonstrate continuous compliance with the applicable emission limitations in the following table:

TABLE 4 TO SUBPART CCCC.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS

For . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by . . .
1. Each fed-batch fermenter producing yeast in a fermentation stage (last (Trade), second-to-last (First Generation), or third-to-last (Stock)) for which compliance is determined by monitoring VOC concentration in the fermenter exhaust.	For at least 98 percent of all batches (sum of batches from last, second-to-last, and third-to-last stages) in each 12-month calculation period described in § 63.2171(b), the VOC concentration in the fermenter exhaust, averaged over the duration of the batch, does not exceed the applicable maximum concentration (100 ppmv for last stage, 200 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane.	a. Collecting the monitoring data according to § 63.2163(f). b. Reducing the data according to § 63.2163(g). c. For at least 98 percent of the batches (sum of batches from last, second-to-last, and third-to-last stages) for each 12-month period ending within a semiannual reporting period described in § 63.2181(b)(3), the batch average VOC concentration in the fermenter exhaust does not exceed the applicable maximum concentration.
2. Each fed-batch fermenter producing yeast in a fermentation stage (last (Trade), second-to-last (First Generation), or third-to-last (Stock)) for which compliance is determined by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161.	For at least 98 percent of all batches (sum of batches from last, second-to-last, and third-to-last stages) in each 12-month calculation period described in § 63.2171(b), the VOC concentration in the fermenter exhaust, averaged over the duration of the batch, does not exceed the applicable maximum concentration (100 ppmvc for last stage, 200 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane.	a. Collecting the monitoring data according to § 63.2164(b). b. Reducing the data according to § 63.2164(c). c. For at least 98 percent of the batches (sum of batches from last, second-to-last, and third-to-last stages) for each 12-month period ending within a semiannual reporting period described in § 63.2181(b)(3), the batch average VOC concentration in the fermenter exhaust does not exceed the applicable maximum concentration.

As stated in § 63.2181, you must submit a compliance report that contains the information in § 63.2181(c) as well as the information in the following table; you must also submit malfunction reports according to the requirements in the following table:

TABLE 5 TO SUBPART CCCC.—REQUIREMENTS FOR REPORTS

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. Your calculated percentage of within-concentration batches, as described in § 63.2171(b), for 12-month calculation periods ending on each calendar month that falls within the reporting period.	Semiannually according to the requirements in § 63.2181(b).
	b. If you had a malfunction during the reporting period and you took actions consistent with your malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).	Semiannually according to the requirements in § 63.2181(b).
2. Immediate malfunction report if you had a malfunction during the reporting period that is not consistent with your malfunction plan.	a. Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§ 63.10(d)(5)(ii)).

As stated in § 63.2190, you must comply with the applicable General Provisions requirements according to the following table:

TABLE 6 TO SUBPART CCCC.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART CCCC

Citation	Subject	Applicable to subpart CCCC?
§ 63.1	Applicability	Yes.
§ 63.2	Definitions	Yes.
§ 63.3	Units and Abbreviations	Yes.
§ 63.4	Prohibited Activities and Circumvention	Yes.
§ 63.5	Construction and Reconstruction	Yes.
§ 63.6	Compliance With Standards and Maintenance Requirements.	1. For § 63.6(e) and (f), requirements for startup, shutdown, and malfunctions apply only to malfunctions. 2. § 63.6(h) does not apply. 3. Otherwise, all apply.

TABLE 6 TO SUBPART CCCC.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART CCCC—Continued

Citation	Subject	Applicable to subpart CCCC?
§63.7	Performance Testing Requirements	1. §63.7(a)(1)–(2) and (e)(3) do not apply, instead specified in this subpart. 2. Otherwise, all apply.
§63.8	Monitoring Requirements	1. §63.8(a)(2) is modified by §63.2163. 2. §63.8(a)(4) does not apply. 3. For §63.8(c)(1), requirements for startup, shutdown, and malfunctions apply only to malfunctions, and no report pursuant to §63.10(d)(5)(i) is required. 4. For §63.8(d), requirements for startup, shutdown, and malfunctions apply only to malfunctions. 5. §63.8(c)(4)(i), (c)(5), (e)(5)(ii), and (g)(5), do not apply. 6. §63.8(c)(4)(ii), (c)(6)–(8), (e)(4), and (g)(1)–(4) do not apply, instead specified in this subpart. 7. Otherwise, all apply.
§63.9	Notification Requirements	1. §63.9(b)(2) does not apply because rule omits requirements for initial notification for sources that start up prior to May 21, 2001 2. §63.9(f) does not apply. 3. Otherwise, all apply.
§63.10	Recordkeeping and Reporting Requirements	1. For §63.10(b)(2)(i)–(v), (c)(9)–(15), and (d)(5), requirements for startup, shutdown, and malfunctions apply only to malfunctions. 2. §63.10(b)(2)(vii) and (c)(1)–(6) do not apply, instead specified in this subpart. 3. §63.10(c)(7)–(8), (d)(3), (e)(2)(ii)–(4), (e)(3)–(4) do not apply. 4. Otherwise, all apply.
§63.11	Flares	No.
§63.12	Delegation	Yes.
§63.13	Addresses	Yes.
§63.14	Incorporation by Reference	Yes.
§63.15	Availability of Information	Yes.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 96–262; FCC 01–146]

Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, we limit the application of our tariff rules to CLEC access services in order to prevent use of the regulatory process to impose excessive access charges on IXCs and their customers. Under the detariffing regime we adopt, CLEC access rates that are at or below the benchmark that we set will be presumed to be just and reasonable and CLECs may impose them by tariff. Above the benchmark, CLEC access services will be mandatorily detariffed, so CLECs must negotiate higher rates with the IXCs. We also adopt a rural exemption to our benchmark scheme, recognizing that a higher level of access charges is justified for certain CLECs serving truly rural areas. To avoid too great a disruption for competitive carriers, we implement the benchmark in a way that will cause CLEC rates to decrease over time until they reach the rate charged by the incumbent LEC. We also make clear that an IXC's refusal to serve the customers of a CLEC that tariffs access rates within our safe harbor, when the IXC serves ILEC end users in the same area, generally constitutes a violation of the duty of all common carriers to provide service upon reasonable request.

DATES: Effective June 20, 2001.

FOR FURTHER INFORMATION CONTACT: Jeffrey H. Dygert, Common Carrier Bureau, (202) 418–1500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Seventh Report and Order in CC Docket No. 96–262, released on April 27, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, D.C., 20554.

I. Introduction

1. By this order, we seek to ensure, by the least intrusive means possible, that CLEC access charges are just and reasonable. Specifically, we limit the application of our tariff rules to CLEC access services in order to prevent use of the regulatory process to impose excessive access charges on IXCs and their customers. Previously, certain CLECs have used the tariff system to set access rates that were subject neither to negotiation nor to regulation designed to ensure their reasonableness. These CLECs have then relied on their tariff to demand payment from IXCs for access services that the long distance carriers likely would have declined to purchase at the tariffed rate.

2. Under the detariffing regime we adopt, CLEC access rates that are at or below the benchmark that we set will be presumed to be just and reasonable and CLECs may impose them by tariff. Above the benchmark, CLEC access services will be mandatorily detariffed, so CLECs must negotiate higher rates with the IXCs. During the pendency of negotiations, or if the parties cannot agree, the CLEC must charge the IXC the appropriate benchmark rate. We also adopt a rural exemption to our benchmark scheme, recognizing that a higher level of access charges is justified for certain CLECs serving truly rural areas. To avoid too great a disruption for competitive carriers, we implement the benchmark in a way that will cause CLEC rates to decrease over time until they reach the rate charged by the incumbent LEC.

3. We also make clear that an IXC's refusal to serve the customers of a CLEC that tariffs access rates within our safe harbor, when the IXC serves ILEC end users in the same area, generally constitutes a violation of the duty of all common carriers to provide service upon reasonable request.

4. We intend to allow CLECs a period of flexibility during which they can conform their business models to the market paradigm that we adopt herein. In addition, these rules should continue to ensure the ubiquity of a fully interconnected telecommunications network that consumers have come to expect. Finally, by ensuring that CLECs do not shift an unjust portion of their costs to interexchange carriers, our actions should help continue the downward trend in long-distance rates for end users.

5. We view the mechanism we adopt today as a means of moving the marketplace for access services closer to a competitive model. Because our tariff benchmark is tied to the incumbent LEC rate, we will re-examine these rates at the close of the period specified in the *CALLS Order*, 65 FR 38684, June 21, 2000. Through a separate further notice of proposed rulemaking, published elsewhere in this issue, we also evaluate the access charge scheme as part of a broader review of inter-carrier compensation.

II. CLEC Switched Access Services

A. The Structure of the Access Service Market

6. It appears that certain CLECs have availed themselves of the tariff system and have refused to enter meaningful negotiations on access rates, choosing instead simply to file a tariff and bind IXCs receiving their access service to the rates therein. Providers of terminating access may be particularly insulated from the effects of competition in the market for access services. The party that actually chooses the terminating access provider does not also pay the provider's access charges and therefore has no incentive to select a provider with low rates. Indeed, end users may have the incentive to choose a CLEC with the highest access rates because greater access revenues likely permit CLECs to offer lower rates to their end users. The record also indicates that CLEC originating access service may also be subject to little competitive pressure, notwithstanding the fact that the IXCs typically have a relationship with the local exchange provider in order to be included on the LEC's list of presubscribed IXCs.

7. CLECs' ability to impose excessive access charges seems attributable to two separate factors. First, although the end user chooses her access provider, she does not pay that provider's access charges. Rather, the access charges are paid by the caller's IXC, which has little practical means of affecting the caller's choice of access provider. Second, the Commission has interpreted section 254(g) to require IXCs geographically to average their rates and thereby to spread the cost of both originating and terminating access over all their end users. Consequently, IXCs have little or no ability to create incentives for their customers to choose CLECs with low access charges. Since the IXCs are effectively unable either to pass through access charges to their end users or to create other incentives for end users to choose LECs with low access rates, the party causing the costs—the end user that chooses the high-priced LEC—has no incentive to minimize costs.

8. We are concerned that, in this environment, permitting CLECs to tariff any rate that they choose may allow some CLECs inappropriately to shift onto the long distance market in general a substantial portion of the CLECs' start-up and network build-out costs. Such cost shifting may promote economically inefficient entry into the local markets and may distort the long distance market.

9. We decline to conclude, in this order, that CLEC access rates, across the board, are unreasonable. Nevertheless, there is ample evidence that the combination of the market's failure to constrain CLEC access rates, our geographic rate averaging rules for IXCs, the absence of effective limits on CLEC rates and the tariff system create an arbitrage opportunity for CLECs to charge unreasonable access rates.

B. Tariff Benchmark Mechanism

10. A substantial majority of commenters strongly oppose the mandatory detariffing of CLEC access services. Apart from their opposition to mandatory detariffing, however, the two sides of the debate have been largely unable to agree about how CLECs should set rates for their switched access services.

11. In their provision of access services, competitive carriers actually serve two distinct customer groups. The first is the IXCs, which purchase access service as an input for the long distance service that they provide to their end-user customers. An equally important group of customers for access services is the end users who benefit from the ability, provided by access service, to place and receive long distance calls. The noteworthy aspect of this second group of access consumers, or beneficiaries, is that, unlike IXCs, they have competitive alternatives in the market in which they purchase CLEC access service.

12. Under the regime we adopt in this order, CLECs will be restricted only in the manner that they recover their costs from those access-service consumers that have no competitive alternative. We implement this restriction on the CLECs' exercise of their monopoly power by establishing a benchmark level at which CLEC access rates will be conclusively presumed to be just and reasonable and at (or below) which they may therefore be tariffed. Above the benchmark, CLECs will be mandatorily detariffed. The benchmark approach has several virtues that recommend it.

13. First, a benchmark provides a bright line rule that permits a simple determination of whether a CLEC's access rates are just and reasonable. Such a bright line approach is particularly desirable given the current legal and practical difficulties involved with comparing CLEC rates to any objective standard of "reasonableness." Second, by permitting CLECs to file access tariffs at or below a benchmark rate, our interim approach continues to allow the carriers on both sides of the access transaction to enjoy the convenience of a tariffed service. Third, adopting a benchmark for tariffed rates allows CLECs the flexibility to obtain additional revenues from alternative sources. They may obtain higher rates through negotiation.

C. Level and Structure of the Tariff Benchmark

14. In setting the level of our benchmark, we seek, to the extent possible, to mimic the actions of a competitive marketplace, in which new entrants typically price their product at or below the level of the incumbent provider. We conclude that the benchmark rate, above which a CLEC may not tariff, should eventually be equivalent to the switched access rate of the incumbent provider operating in the CLEC's service area. We do not, however, immediately set the benchmark rate at the competing ILEC rate because such a flash cut likely would be unduly detrimental to the competitive carriers that have not

previously been held to the regulatory standards imposed on ILECs. Our benchmark mechanism, with certain exceptions, will permit CLECs initially to tariff rates for their switched access service of up to 2.5 cents per minute, or the rate charged by the competing incumbent LEC, whichever is higher. For those carriers competing with ILECs that have tariffed rates below the benchmark (generally, the Bell operating companies), the benchmark rate will decline over the course of three years until it reaches the competing ILEC's rate. For at least one additional year, CLECs will be permitted to continue to tariff this rate, even if we decide to move other access traffic to a bill-and-keep regime. We also adopt rules to ensure that no CLEC avails itself of our benchmark scheme to *increase* its access rates, and we adopt a separate benchmark for certain firms operating in rural areas.

15. In determining the initial level for the safe harbor rates which may be imposed by tariff, we use current CLEC rates as a starting point for analysis because, as noted, we lack an established framework for translating CLEC costs into access rates. By analyzing the IXC data on actual amounts billed and actual minutes of use, we can calculate composite access rates and largely avoid the problems that arise from the fact that CLEC rate structures vary widely and that many rely, in part, on flat-rated, or distance-sensitive, charges. Taken together, the IXC submissions show a range of 0.4 cents to 9.5 cents per minute for CLEC-provided switched access service. From the underlying, individual CLEC data, we have determined the average, weighted by minutes of use, for tariffed access rates.

16. It is important that the benchmark, though within this range, also move CLEC access charges appreciably closer to the competing ILEC rate. Accordingly, setting the initial benchmark toward the lower end of the range appears to be justified. Based on our review of the universe and concentration of tariffed access rates being charged to these three IXCs, we conclude that—again, subject to certain exceptions that we discuss—our safe harbor for CLEC tariffed access rates will begin at 2.5 cents. This rate is within the current range of rates, but represents an appreciable reduction in the tariffed rate for many CLECs.

17. We draw additional support for this initial benchmark level from a consensus solution submitted by parties on both sides of the present dispute. In comments to the *Safe Harbor Public Notice*, 65 FR 77545, December 12, 2000, the Association for Local Telecommunications Services (ALTS) filed a proposed resolution, negotiated with WorldCom, suggesting, in relevant part, that a benchmark of 2.5 cents per minute for CLEC tariffed access rates would be a reasonable one in at least some markets. It appears that this rate is acceptable to a substantial number of CLECs, although it represents a significant reduction in access rates.

18. On the effective date of the rules we promulgate today, CLECs will be permitted (subject to a rural exemption discussed) to tariff their access rates, for those areas where they have previously offered service, at either the benchmark of 2.5 cents per minute, or the rate of the corresponding incumbent carrier in the study area of the relevant end-user customer, whichever is higher. One year after the effective date of these rules, the benchmark rate will drop from 2.5 to 1.8 cents per minute, or the ILEC rate, whichever is higher. On the second anniversary of the rules' effective date, the rate will drop to 1.2 cents per minute, or the ILEC rate, whichever is higher. Finally, three years after the rules become effective, the benchmark figure will drop to the switched access rate of the competing ILEC. It will remain at that level through the rule's fourth year. We conclude that such a transition period is appropriate because, as discussed, we are concerned about the effects of a flash-cut to the ILEC rate.

19. By moving CLEC tariffs to the "rate of the competing ILEC" we do not intend to restrict CLECs to tariffing solely the per-minute rate that a particular ILEC charges for its switched, interstate access service. We intend to permit CLECs to receive revenues equivalent to those the ILECs receive *from IXCs*, whether they are expressed as per-minute or flat-rate charges. For example, CLECs shall be permitted to set their tariffed rates so that they receive revenues equivalent to those that the ILECs receive through the presubscribed interexchange carrier charge (PICC), to the extent that it survives in the wake of our *CALLS Order*. This does not entitle CLECs to build into their tariffed per-minute access rates a component representing the subscriber line charge (SLC) that ILECs impose on their end users, or any other charges that ILECs recover from parties other than the IXCs to which they provide access service.

20. A number of CLEC commenters urge the Commission not to set the benchmark at "the ILEC rate" because they claim that CLECs structure their service offerings differently than ILECs. We seek to preserve the flexibility which CLECs currently enjoy in setting their access rates. Thus, in contrast to our regulation of incumbent LECs, our benchmark rate for CLEC switched access does not require any particular rate elements or rate structure; for example, it does not dictate whether a CLEC must use flat-rate charges or per-minute charges, so long as the composite rate does not exceed the benchmark. Rather it is based on a per-minute cap for all interstate switched access service charges. In this regard, there are certain basic services that make up interstate switched access service offered by most carriers. Switched access service typically entails a connection between the caller and the local switch, a connection between the LEC switch and the serving wire center (often referred to as "interoffice transport"), and an entrance facility which connects the serving wire center and the long distance company's point of presence. Using traditional ILEC nomenclature, it appears that most CLECs seek compensation for the same basic elements, however precisely named common line charges; local switching; and transport. The only requirement is that the aggregate charge for these services, however described in their tariffs, cannot exceed our benchmark. In addition, by permitting CLECs to decide whether to tariff within the safe harbor or to negotiate terms for their services, we allow CLECs additional flexibility in setting their rates and the amount that they receive for their access services.

21. We will apply the benchmark for both originating and terminating access charges. That is, it will apply to tariffs for both categories of service, including to toll-free, 8YY traffic, and will decline toward the rate of the competing ILEC for each category of service. We note, however, that shortly before the issuance of this order, AT&T raised questions regarding the application of our benchmark to originating 8YY traffic generated by CLEC customers. Because these issues arose so late in the proceeding, and because of the sparse record on them, we decline to do as AT&T suggests and immediately detariff this category of CLEC services above the rate of the competing ILEC. Instead, in this order, we solicit comment on the issues AT&T has raised so that we may decide them on an adequately developed record.

22. Our benchmark mechanism may create the possibility for carriers with lower rates to raise their rates to the benchmark. We seek to avoid this result, which could have the consequence of *increasing* the amount that IXCs pay for some CLECs' access service. This, in turn, would again allow these CLECs to shift a portion of their costs onto the long distance market generally. Accordingly, we further restrict the tariff benchmark that may be charged to a particular IXC by tariff to the lower of: (1) The 2.5 figure, declining as discussed, or (2) the lowest rate that a CLEC has tariffed for access, during the 6 months immediately preceding the effective date of these rules. Any rate above this level (unless it is still below the competing ILEC's rate) will be conclusively deemed to be unreasonable in any proceeding challenging the rate. Additionally, we expect that our benchmark rule will have no effect on negotiated contracts, under which CLECs have chosen to charge even more favorable access rates to particular IXCs. Rather, these contracts will remain in place and the participating IXCs will continue to be entitled to any lower access rates for which they provide.

23. We also find that it is prudent to permit CLECs to tariff the benchmark rate for their access services only in the markets where they have operations that are actually serving end-user customers on the effective date of these rules. We intend the declining benchmark scheme to wean competitive carriers off of their dependence on tariffed, supra-ILEC access rates without the disruption of a flash-cut to the prevailing market rate. We therefore think it important to ensure that this transitional mechanism serves that purpose, rather than presenting CLECs with the opportunity to enter additional markets in a potentially inefficient manner through reliance on tariffed access rates above those of the competing ILEC. Accordingly, we restrict the availability of the transitional benchmark rate to those metropolitan statistical areas (MSAs) in which CLECs are actually serving end users on the effective date of these rules. In MSAs where they begin serving end users *after* the effective date of these rules, we permit CLECs to tariff rates only equivalent to those of the competing ILEC; they will have to achieve rates above this level by negotiation.

D. Safe Harbor Rates for Rural CLECs

24. Limiting CLECs to the higher of the benchmark rate or the access rate of its ILEC competitor could prove rather harsh for some of the small number of CLECs that operate in rural areas. The difficulty would likely arise for those CLECs that operate in a rural area served by a price-cap incumbent with state-wide operations. Our rules require such ILECs to geographically average their access rates. During the course of this proceeding, we became concerned that tying the access rates of rural CLECs to those of such non-rural ILECs could unfairly disadvantage CLECs that lacked urban operations with which they could similarly subsidize their service to rural areas.

1. Whether To Create a Rural Exemption

25. We conclude that the record supports the creation of a rural exemption to permit rural CLECs competing with non-rural ILECs to charge access rates above those charged by the competing ILEC. First, we note that such a device is consistent with the Commission's obligations, under section 254(d)(3) of the Act and section 706 of the 1996 Act, to encourage the deployment to rural areas of the infrastructure necessary to support advanced telecommunications services and of the services themselves. The record indicates that CLECs often are more likely to deploy in rural areas the new facilities capable of supporting advanced calling features and advanced telecommunications services than are non-rural ILECs, which are more likely first to deploy such facilities in their more concentrated, urban markets. Given the role that CLECs appear likely to play in bringing the benefits of new technologies to rural areas, we are reluctant to limit unnecessarily their spread by restricting them to the access rates of non-rural ILECs.

26. We are persuaded by the CLEC comments indicating that they experience much higher costs, particularly loop costs, when serving a rural area with a diffuse customer base than they do when serving a more concentrated urban or suburban area. The CLECs argue that, lacking the lower-cost urban operations that non-rural ILECs can use to subsidize their rural operations, the CLECs should be permitted to charge more for access service, as do the small rural incumbents that charge the National Exchange Carrier Association (NECA) schedule rates. We note in this regard that a rural exemption will also create parity between the rural CLECs competing with NECA carriers and those competing with non-rural ILECs.

27. In adopting the rural exemption, we reject the characterization of the exemption as an implicit subsidy of rural CLEC operations. It is true that an exemption scheme will permit rural CLECs to charge IXCs more for access to their end-user customers than was charged by the non-rural ILECs from whom the CLECs captured their customers. The exemption we adopt today merely deprives IXCs of the implicit subsidy for access to certain rural customers that has arisen from the fact that non-rural ILECs average their access rates across their state-wide study areas.

28. Our level of comfort in creating a rural exemption is markedly increased by the fact that the record indicates it likely will apply to a small number of carriers serving a tiny portion of the nation's access lines. The Rural Independent Competitive Alliance (RICA) asserts that, fewer than 100,000 access lines are served by carriers falling in the definition that it proffers for a rural CLEC.

29. We reject AT&T's argument that CLECs must rely solely on the *CALLS Order's* interstate access support when entering the territories of non-rural ILECs. This interstate access support mechanism is portable, but that does not necessarily indicate that it fully reflects the costs (above those recovered through ILEC access rates) that a rural CLEC would encounter in serving customers in the high-cost areas for which the subsidy is available.

30. We are also skeptical of AT&T's assertions about the incentives that would flow from a rural exemption. First, AT&T argues that the exemption would "create perverse incentives for uneconomic competitive entry by CLECs in any "rural" areas in which it might be applicable." It appears from the record that both AT&T and Sprint have routinely been paying for CLEC access billed at the rate charged by the competing incumbent. If AT&T were accurate in its projection about higher access rates spurring a rash of uneconomic market entry in rural areas, such uneconomic entry should already have occurred in the territories of the rural incumbent carriers that charge the higher NECA rates. However, the record fails to indicate such a trend.

31. We thus conclude that the record supports the creation of a rural exemption to the benchmark scheme that we adopt for CLEC access charges. Under this exemption, a CLEC that is operating in a rural area, as defined, and that is competing against a non-rural ILEC may tariff access rates equivalent to those of NECA carriers.

2. Carriers Eligible for Rural Exemption

32. Administrative simplicity is an important consideration in our choice of a way to define rural CLECs. Thus, we conclude that the availability of the exemption (and the higher access rates that come with it) should be determined based on the CLEC's entire service area, not on a subscriber-by-subscriber basis. Similarly, we are concerned that the definition rely on objectively available information that will not require extensive calculation or analysis by either carriers or this Commission.

33. We conclude that the rural exemption to our benchmark limitation on access charges will be available for a CLEC competing with a non-rural ILEC, where no portion of the CLEC's service area falls within any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or an urbanized area, as defined by the Census Bureau. Thus, if any portion of a CLEC's access traffic originates from or terminates to end users located within either of these two types of areas, the carrier will be ineligible for the rural exemption to our benchmark rule. Relying on information that is readily and publicly available, this definition excludes from the exemption those CLECs operating within reasonably dense areas that are not typically considered to be rural. It does not, however, exclude from eligibility entire counties that border high population areas, as would a definition based on MSAs.

34. Sprint has raised the issue of how best to ensure that the rural exemption does not create the potential for abuse and that it is restricted to CLECs that are serving rural end users. Thus, Sprint is concerned about the potential for competitive carriers, with some qualifying end users, creating two separate operating entities so that the one serving rural end users could tariff the higher access rate permitted under the exemption. While we want to forestall that strategy for exploiting our rule, we also realize that certain incumbents with urban (or non-rural) operations may choose to enter adjacent rural markets as a competitive carrier. To the extent that such carriers provide the benefit of competition in rural markets, their non-qualifying incumbent operations should not operate entirely to deny them the benefit of the rural exemption. Accordingly, we decline Sprint's invitation to examine all of the subsidiary operations of a holding company in order to determine the applicability of the rural exemption. We expect that we will be able to address, on a case-by-case basis, the improper exploitation of our rule—such as a competitive carrier's splitting itself into two subsidiaries to qualify, in part, for the exemption rates where it would not otherwise do so.

35. Our definition for rural CLECs closely resembles the first major division of the Act's definition for rural telephone companies. It departs from the remaining three major divisions of the definition either because they would be administratively burdensome, or because they would be overly inclusive or irrational when applied solely to CLECs. Our definition adopts 50,000, rather than 10,000, as the population cut-off for incorporated places because we are concerned that, without the statute's remaining three portions of the definition as a way for a company to attain rural status, the 10,000-person threshold would be unduly restrictive and deny the exemption to companies operating in areas that would generally be viewed as rural.

36. This exemption will permit a CLEC to tariff access rates above the competing ILEC's only when the competing ILEC has broad-based operations that include concentrated, urban areas that allow it to subsidize its rural operations and therefore charge an artificially low rate for access to its rural customers. We conclude that the most effective and objective means of accomplishing this is to allow the rural exemption only to those CLECs that are competing with price-cap ILECs that do not qualify as "rural telephone companies" under the Act's definition. Those CLECs competing with carriers that qualify as rural under the Act's definition are excluded from the rural exemption and are therefore limited, under the rule we announced, to tariffing access rates equal only to those of the competing ILEC.

3. Rate for Exemption Carriers

37. The final question with respect to the rural exemption is what the access service benchmark is for those carriers that qualify. We adopt the NECA tariff for switched access service as the standard that is the most appropriately reflective of the considerations that should go into pricing the access service of rural CLECs. Accordingly, qualifying rural CLECs may tariff rates at the level of those in the NECA access tariff, assuming the highest rate band for local switching and the transport interconnection charge, *minus* the tariff's carrier common line (CCL) charge if the competing ILEC is subject to our *CALLS Order*. Above this benchmark, rural CLECs will be mandatorily detariffed in their provision of access services.

38. We adopt the NECA access rate because it is tariffed on a regular basis and is routinely updated to reflect factors relevant to pricing rural carriers' access service. We choose the highest rate bands for the two variable rate elements because the opportunity to tariff those rates will most effectively spur the development of local-service competition in the nation's rural markets and because the burden created by choosing the highest rate will be relatively minor; owing to the small number of carriers involved. We deny rural CLECs the NECA tariff's CCL charge when they compete with a *CALLS* ILEC because the price-cap LECs' CCL charge has been largely eliminated through implementation of higher subscriber line charge (SLC) caps and the multi-line business PICC. CLECs competing with *CALLS* ILECs are free to build into their end-user rates a component approximately equivalent to (or slightly below) the ILEC's SLC, as well as assessing IXCs a multi-line business PICC. These potential revenue sources obviate the need for a CCL charge, which NECA carriers use to recover loop costs that cannot be recovered because of their lower SLC caps and the absence of PICCs.

E. Forbearance Analysis for Rates Above the Benchmark

39. Section 10 of the Act requires, *inter alia*, that the Commission forbear from applying any regulation or provision of the Act to telecommunications carriers or telecommunications services, or classes thereof, if the Commission determines that certain statutory conditions are satisfied. Because section 10 permits us to exercise our forbearance authority with respect to classes of services, we conduct a forbearance analysis only for those CLEC interstate access services for which the aggregate charges exceed our benchmark. For this class of services, we conclude that the section 10 forbearance criteria are satisfied; accordingly, we must take action pursuant to the terms of this statute.

40. Under the first criterion for forbearance, we examine whether our tariff filing requirements for CLEC interstate access services priced above the benchmark are necessary to ensure that rates for these services are just and reasonable and not unreasonably discriminatory. We conclude they are not. As noted, CLECs are positioned to wield market power with respect to access service. Requiring CLECs to negotiate with their IXC customers in order to obtain access rates above the benchmark will limit the CLECs' ability to exercise this market power and unilaterally impose rates above the level that we have found to be presumptively reasonable.

41. We are not persuaded by CLEC commenters that contend they will be unable to negotiate agreements with IXCs because IXCs wield significant market power in the purchase of access services. We find these claims of IXC monopsony power unsupported in the record. We note that three major IXCs are purchasers in the market for access services, and numerous smaller players also purchase LEC access services.

Moreover, we note that our tariff rules were historically intended to protect purchasers of services from monopoly providers, not to protect sellers from monopsony purchasing power. We conclude that other remedies, like those under the antitrust laws, are available to protect CLECs from the exploitation of any monopsony power that IXCs may possess.

42. Under the second forbearance criterion, we must determine whether tariffing of CLEC access charges above the benchmark is necessary to protect consumers. Requiring negotiation of access rates above the benchmark will provide greater assurance that the rates are just and reasonable and will likely prevent CLECs from using long distance ratepayers to subsidize their operational and build-out expenses. It is possible that the reduction of CLEC access revenue caused by the benchmark scheme will increase the rates CLECs charge their end users. However, all CLEC end users have competitive alternative service providers, in the form of regulated incumbents. We are therefore not concerned that any increase in CLEC end-user rates will unduly harm consumers. To the extent that this provision requires us to examine the effect on the IXC consumers of CLEC access services, mandatory detariffing likely will protect that group by removing the CLEC's ability unilaterally to impose excessive rates through the tariff process.

43. The third forbearance criterion requires that we determine whether mandatory detariffing of CLEC access services priced above the benchmark is consistent with the public interest and, in particular, whether it will promote competitive market conditions. We conclude, as discussed, that adopting mandatory detariffing for access rates in excess of the safe harbor limit will subject to negotiation between two willing parties any access services offered at a rate above the benchmark. The negotiation-driven approach that we adopt will provide a better mechanism for IXCs to control costs, since they will not be subject to tariffs with unilaterally established rates at excessive levels. In addition, our benchmark system, with its presumption that qualifying rates are reasonable, will provide greater certainty for CLECs that they will receive full compensation for the access services that they provide. By limiting a CLEC's ability to shift its start-up costs onto the long-distance market, our benchmark approach will restrict market entry to the efficient providers. Accordingly, mandatory detariffing of CLEC access services above the benchmark fulfills all three of the criteria for forbearance.

III. Interconnection Obligations

44. Although we have created a safe harbor for CLEC access rates, within which they will be presumed to be just and reasonable, the question remains of whether and under what circumstances an IXC can decline to provide service to the end users of a CLEC.

A. Interconnection and Sections 201 and 251

45. Sections 201(a) and 251(a)(1) do not expressly require IXCs to accept traffic from, and terminate traffic to, all CLECs, regardless of their access rates. The Commission has previously found that a section 251(a)(1) duty to interconnect, directly or indirectly, is central to the Communications Act and achieves important policy objectives. However, the Commission construed the statute to require only the physical linking of networks, not to impose obligations relating to the transport and termination of traffic. Section 201 empowers the Commission, after a hearing and a determination of the public interest, to order the physical connection of networks and to establish routes and charges for certain communications. This also falls short of creating the blanket duty that the CLECs seek to impose on the IXCs to accept all access service, regardless of the rate at which it is offered. Certainly, we have made no finding that the public interest dictates such broad acceptance of access service, whatever its price. Nevertheless, we conclude that section 201(a) places certain limitations on an IXC's ability to refuse CLEC access service.

46. We agree that universal connectivity is an important policy goal that our rules should continue to promote. The public has come to value and expect the ubiquity of the nation's telecommunications network. Accordingly, any solution to the current problem that allows IXCs unilaterally and without restriction to refuse to terminate calls or indiscriminately to pick and choose which traffic they will deliver would result in substantial confusion for consumers, would fundamentally disrupt the workings of the public switched telephone network, and would harm universal service.

47. We therefore conclude that an IXC that refuses to provide service to an end user of a CLEC charging rates within the safe harbor, while serving the customers of other LECs within the same geographic area, would violate section 201(a). That section imposes on common carriers the obligation to furnish communication service "upon reasonable request therefor." As set out above, we will conclusively presume that a CLEC's access rates are reasonable if they fall at or below the benchmark that we establish herein. When an IXC's end-user customer attempts to place a call either from or to a local access line, that customer makes a request for communication service—from the originating LEC, the IXC and the terminating LEC. When that customer attempts to call from and/or to an access line served by a CLEC with presumptively reasonable rates, that request for communications service is a reasonable one that the IXC may not refuse without running afoul of section 201(a). This obligation may be enforced through a section 208 complaint before the Commission.

B. Section 214 and Discontinuance of Service

48. Section 214 of the Communications Act and 63.71 of the Commission's rules govern an IXC's withdrawal of service. Section 214 of the Communications Act provides, in relevant part, that "[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby." In light of the solution we adopt herein, we need not address the application of either section 214 or our rule 63.17.

49. We conclude that it would be a violation of section 201(a) for an IXC to refuse CLEC access service, either terminating or originating, where the CLEC has tariffed access rates within our safe harbor and, in the case of originating access, where the IXC is already providing service to other members in the same geographical area. Since section 201(a) already prohibits such a withdrawal of service, we need not address the question of whether section 214 applies to an IXC that finds itself in that position.

50. The remaining possible scenario to which section 214 might apply is that in which a CLEC wishes to charge access rates above our benchmark and an IXC will not agree to pay them. Under the rules we adopt today, a CLEC must charge the benchmark rate during the pendency of negotiations or if the parties cannot agree to a rate in excess of the benchmark. In either case, since the benchmark rate is conclusively presumed reasonable, an IXC cannot refuse to provide service to an end user served by the CLEC without violating

section 201. Here again, we need not address the applicability of section 214.

IV. Procedural Matters

A. Paperwork Reduction Act

51. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose new or modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the PRA, and will go into effect upon announcement in the **Federal Register** of OMB approval.

B. Final Regulatory Flexibility Analysis

52. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Pricing *Flexibility Order and Further Notice*, 64 FR 51280, September 22, 1999. The Commission sought written comments on the proposals in the *Pricing Flexibility Order and Further Notice*, including the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this order conforms to the RFA, as amended.

1. Need for, and Objectives of, the Proposed Action

53. With this order, we address a number of interrelated issues concerning charges for interstate switched access services provided by competitive local exchange carriers (CLECs) and the obligations of interexchange carriers (IXCs) to exchange access traffic with CLECs. In so doing, we seek to ensure, by the least intrusive means possible, that CLEC access charges are just and reasonable. We also seek to reduce regulatory arbitrage opportunities that previously have existed with respect to tariffed CLEC access services. This order is designed to spur more efficient local competition and to avoid disrupting the development of competition in the local telecommunications market.

54. We accomplish these goals by revising our tariff rules more closely to align tariffed CLEC access rates with those of the incumbent LECs. Under the detariffing regime we adopt, CLEC access rates that are at or below the benchmark that we set will be presumed to be just and reasonable and CLECs may impose them by tariff. Above the benchmark, CLEC access services will be mandatorily detariffed, so CLECs must negotiate higher rates with the IXCs. However, to avoid too great a disruption for competitive carriers (many of which may fall within the SBA's definition of a small entity), we implement this approach in a way that will cause CLEC tariffs to ramp down over time until they reach the level tariffed by the incumbent LEC. This mechanism will mimic the operation of the marketplace, as competitive LECs ultimately will have tariffed rates at or below the prevailing market price. At the same time, this approach maintains the ability of CLECs to negotiate access service arrangements with IXCs at any mutually agreed upon rate. In this order, we also make clear that an IXC's refusal to serve the customers of a CLEC that tariffs access rates within our safe harbor constitutes a violation of the duty of all common carriers to provide service upon reasonable request.

2. Summary of Significant Issues Raised by Public Comment in Response to the IRFA

55. In the *Pricing Flexibility Order and Further Notice*, we sought comment on various, alternative proposals to prevent CLECs from charging unreasonable rates for their switched access services. In the IRFA, we tentatively concluded that the proposed rule changes would have no effect on the administrative burdens of competitive LECs because they would have no additional filing requirement. In response to the Further Notice, we received comments from more than 40 parties and held a series of ex parte meetings addressing these issues. Among those parties, only ALLTEL and the Rural Independent Competitive Alliance (RICA) commented specifically on the IRFA.

56. We disagree with ALLTEL's contention that the Commission's IRFA was incomplete. ALLTEL argues that the Commission, in the IRFA, did not adequately address proposals in the Further Notice that might affect originating access and "open-end" access services; the potential burden on CLECs to modify their tariffs or to eliminate those tariffs and negotiate individual contracts; and potential burdens on other carriers, such as ILECs (which, ALLTEL asserts, might have to modify their tariffs and perform cost studies). To the contrary, for several different reasons, we conclude that the IRFA gave adequate notice of our proposals to address CLEC access service. First, we chose to discuss, in the IRFA, the primary proposals set out in the Notice, though we sought comment in the Notice on a number of variations to those primary proposals. Thus, while the IRFA only expressly mentions proposals to address terminating access, it includes cross-references to the text of the Further Notice, which discusses all variations of the Commission's proposals. Moreover, we observe that the Further Notice and the IRFA were sufficient to generate a very sizable record, including comments from many competitive LECs that likely would be considered small businesses under the closest applicable SBA definition. The IRFA provided sufficient information so that the public could react to the Commission's proposals in an informed manner.

57. Second, with respect to the administrative burdens associated with our proposals in the Further Notice, we have reconsidered our tentative conclusion to adopt mandatory detariffing. We note that many commenters, large and small, oppose the Commission's proposal to adopt mandatory detariffing for all CLEC access services. These commenters, like ALLTEL, argue that while mandatory detariffing would reduce burdens associated with filing tariffs, it would increase administrative burdens overall by imposing greater transaction costs on CLECs and IXCs. Having received these almost unanimous comments, we conclude that we should not adopt our proposal to implement mandatory detariffing, at this time. Rather, we only adopt mandatory detariffing to the extent that a CLEC chooses to charge a rate that exceeds our defined benchmark. Under this approach, CLECs and IXCs—both large and small— will be able to continue to enjoy the benefits of a tariffed service.

58. Similarly, we take into account RICA's assertion that mandatory detariffing, as proposed, might cause particular hardship for CLECs operating in rural areas. Again, we have factored these comments into our decision to adopt a benchmark system, pursuant to which CLECs will continue to be permitted to file tariffs for their switched access services. Thus, we believe that our approach adequately addresses the concerns of these CLEC commenters. Moreover, we restate that our decision to detariff rates above the benchmark was motivated by our conclusion that rates above that level would be excessive (absent an agreement between the parties) and would place an inappropriate burden on IXCs and long distance customers. In this regard, we note that even the small CLECs covered by our RFA analysis are clearly prohibited by the Act and our rules from charging unjust or unreasonable rates. This order is designed to prevent such unjust or unreasonable rates.

59. Finally, we reject ALLTEL's assertion that the proposals in the Notice would place additional regulatory burden on ILECs. The proposals applied solely to CLECs and IXCs and we find ALLTEL's arguments to be unsupported in the record.

60. Although not responding specifically to the IRFA, many parties commented generally on the potential regulatory burdens associated with the Commission's various proposals. In brief, IXC commenters typically sought a mechanism to constrain CLEC access charges. In contrast, CLEC commenters typically sought to preserve their freedom to set access rates as they choose. We note that there are small entities on both sides of this debate. We encourage readers of this FRFA also to consult the complete text of this order, which describes in detail our analysis of the issues.

3. Description and Estimate of the Number of Small Entities To Which the Rules Apply

61. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. To estimate the number of small entities that may be affected by the proposed rules, we first consider the statutory definition of "small entity" under the RFA. The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that is independently owned and operated; is not dominant in its field of operation; and meets any additional criteria established by the SBA. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.

62. The rules adopted in this order apply to CLECs and IXCs. Neither the Commission nor the SBA has developed a definition of small CLECs or small IXCs. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that telecommunications carriers file annually in connection with the Commission's universal services requirements. According to our most recent data, 349 companies reported that they were engaged in the provision of either competitive access services or competitive local exchange services (referred to collectively as CLECs) and 204 companies reported that they were engaged in the provision of interexchange services. Among these companies, we estimate that approximately 297 of the CLECs have 1500 or fewer employees and that approximately 163 of the IXCs have 1500 or fewer employees. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are 297 or fewer small CLECs, and 163 or fewer small IXCs that may be affected by the decisions and rules adopted in this order.

4. Description of Reporting, Recordkeeping, and Other Compliance Requirements

63. ALLTEL asserts that the Commission's proposals in the Further Notice "could require CLECs to modify their tariffs or to eliminate those tariffs and negotiate individual contracts." This argument was echoed by other commenters who assert that the Commission's proposal to adopt mandatory detariffing would increase carriers' transaction costs, even though tariff filing requirements would be eliminated. We acknowledge these concerns and have decided not to adopt mandatory detariffing for all CLEC switched access services, at this time.

64. Thus, pursuant to this order, we allow competitive LECs to continue to file tariffs, as long as the rates for those services are within the defined safe harbor. We recognize that many CLECs—we estimate between 100–150 CLECs—may be required to re-file their tariffs in order to comply with this order. Given that ALTS, an organization which represents many CLECs, has supported this proposal, we believe that any increased burden will be outweighed by the benefits associated with resolving these issues. Further, we conclude that it is a burden that is justified by the Act's requirement that all rates be just and reasonable. We are optimistic that this approach will provide a bright line rule that permits a simple determination as to whether CLEC access charges are just and reasonable and, at the same time, will enable both sellers and purchasers of CLEC access services to avail themselves of the convenience of a tariffed service offering. Thus, we believe that this approach should minimize reporting and recordkeeping requirements on IXCs and CLECs, including any small entities, while also providing carriers with considerable flexibility.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

65. Through this order, we seek to resolve contentious issues that have arisen with respect to CLEC switched access services. Because there are both small entity IXCs and small entity CLECs " often with conflicting interests in this proceeding—we expect that small entities will be affected by any approach that we adopt. As discussed, we conclude that our approach best balances these goals by removing opportunities for regulatory arbitrage and minimizing the burdens placed on carriers.

66. In this order, we adopt a benchmark approach to CLEC access charges. We find that this approach will minimize the impact of the rules on small entities in several ways. First, it allows small business CLECs to continue to enjoy the convenience of offering a tariffed service, an advantage sought by CLECs, many of which may be relatively new and small businesses. Second, it will enable small IXCs to purchase most access services via tariff, rather than having to negotiate agreements with every CLEC. Finally, our approach ensures that IXCs will continue to accept and pay for CLEC switched access services, as long as the CLEC tariffs rates within the Commission's benchmarks. Many CLECs argued that such an outcome was essential for new, relatively small CLECs to continue to offer services.

67. In this order, we consider and reject several alternatives to the benchmark approach. In particular, we also considered continuing to rely on market forces to constrain CLEC switched access charges; adopting a mandatory detariffing policy, which would prohibit CLECs from filing any tariffs for their switched access services; and, subjecting CLECs to the panoply of regulation with which incumbents must comply.

68. Although many CLECs contend that the Commission need not take any particular action with respect to CLEC

switched access charges, we disagree. We conclude that our action is compelled by several factors, including our desire to reduce regulatory arbitrage opportunities and to revise our rules to allow competitive market forces to constrain CLEC access charges; growing evidence that CLEC switched access charges do not appear to be constrained by market forces; significant concerns that allowing IXCs to refuse to exchange traffic without restriction may lead to a decline in the universal connectivity upon which telephone users have come to rely.

69. On the other hand, we do not impose mandatory detariffing for all CLEC switched access services because we believe that our benchmark approach will provide a less drastic alternative for carriers, including small entity CLECs and small entity IXCs. For example, by enabling CLECs to continue to file tariffs within a safe harbor range, we respond to concerns expressed by many CLECs that complete detariffing of CLEC services would cause significantly increased transaction costs. We note, as well, that many IXC commenters supported this solution.

70. We also conclude that our benchmark approach is more desirable than subjecting CLECs to the panoply of ILEC regulation. The Commission has long stated its desire to allow competitive forces to constrain access charges. By adopting a benchmark approach, we continue to allow CLECs to tariff their services, while ensuring IXCs and long distance customers, generally, that CLEC rates will be just and reasonable. We note that no commenter favors subjecting CLECs to dominant carrier regulation.

71. We also adopted a transition mechanism that should minimize the impact of the decision on all carriers, including small entities. While we considered adopting a benchmark that would immediately drop CLEC access rates to that level charged by the competing incumbent LEC, we instead implement the benchmark through a three-year transition. This will allow CLECs, including any small businesses, a period of flexibility during which they can conform their business models to the new market paradigm that we adopt, herein. At the same time, by effecting significant reductions in switched access charges immediately, we will minimize the impact that excessive access rates might have on IXCs, including any small businesses. We believe that this transition should significantly reduce the impact of this order on small businesses.

72. In addition, by clarifying rules for the transport and origination of traffic between CLECs and IXCs, this order should continue to ensure the ubiquity of a fully interconnected telecommunications network that consumers have come to expect. We considered counter-proposals from some carriers that there should be no obligation to exchange traffic; however, we believe that our approach will best satisfy the expectations of end users who have come to rely on a seamless, fully-interconnected telephone network. Further, these rules should provide considerable assurance to CLECs, many of which may be small businesses, that seek to offer their customers access to the broadest range of IXCs possible. Many of these CLECs asserted that, without such a rule, larger, more established IXCs likely would refuse to exchange traffic with them, essentially driving them out of business. Our rules should address this concern by requiring IXCs to exchange traffic with CLECs that tariff rates within the benchmark, where IXCs already exchange traffic with other carriers in the same geographic area.

73. Overall, we believe that this order best balances the competing goals that we have for our rules governing CLEC switched access charges. We have not identified any additional alternatives that would have further limited the impact on small entities across-the-board while remaining consistent with Congress' pro-competitive objectives set out in the 1996 Act.

74. *Report to Congress:* The Commission will send a copy of this *CLEC Access Charge Reform Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this *CLEC Access Charge Reform Order*, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *CLEC Access Charge Reform Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

V. Ordering Clauses

75. Pursuant to sections 1–5, 201–205, 303(r), 403, 502, and 503 of the Communications Act of 1934, as amended, this Report and Order, with all attachments, including revisions to part 61 of the Commission's rules, is hereby adopted.

76. The rule revisions adopted in this Order shall become effective thirty days after publication in the **Federal Register**.

77. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this CLEC Access Charge Order, including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 61 as follows:

PART 61—TARIFFS

Subpart C—General Rules for Nondominant Carriers

1. The authority citation for part 61 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 4(j), 201–205 and 403 unless otherwise noted.

2. Add § 61.26 to subpart C to read as follows:

§ 61.26 Tariffing of competitive interstate switched exchange access services.

(a) *Definitions.* For purposes of this section 61.26, the following definitions shall apply:

(1) *CLEC* shall mean a provider of interstate exchange access services that does not fall within the definition of "incumbent local exchange carrier" in 47 U.S.C. 251(h).

(2) *Competing ILEC* shall mean the incumbent local exchange carrier, as defined in 47 U.S.C. 251(h), that would provide interstate exchange access service to a particular end user if that end user were not served by the CLEC.

(3) *Interstate switched exchange access services* shall include the functional equivalent of the ILEC interstate exchange access services typically associated with following rate elements: carrier common line (originating); carrier common line (terminating); local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem switched transport facility (per mile); tandem switching.

(4) *Non-rural ILEC* shall mean an incumbent local exchange carrier that is not a *rural telephone company* under 47 U.S.C. 153(37).

(5) The *rate* for interstate switched exchange access services shall mean the composite, per-minute rate for these services, including all applicable fixed and traffic-sensitive charges.

(6) *Rural CLEC* shall mean a CLEC that does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either:

(i) Any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or

(ii) An urbanized area, as defined by the Census Bureau.

(b) Except as provided in paragraphs (c) and (e) of this section, a CLEC shall not file a tariff for its interstate switched exchange access services that prices those services above the higher of:

(1) The rate charged for such services by the competing ILEC or

(2) The lower of:

(i) The benchmark rate described in paragraph (c) of this section or

(ii) The lowest rate that the CLEC has tariffed for its interstate exchange access services, within the six months preceding June 20, 2001.

(c) From June 20, 2001 until June 20, 2002, the benchmark rate for a CLEC's interstate switched exchange access services will be $0.025 per minute. From June 20, 2002 until June 20, 2003, the benchmark rate for a CLEC's interstate switched exchange access services will be $0.018 per minute. From June 20, 2003 until June 21, 2004, the benchmark rate for a CLEC's interstate switched exchange access services will be $0.012 per minute. After June 20, 2005, the benchmark rate for a CLEC's interstate switched exchange access services will be the rate charged for similar services by the competing ILEC, *provided, however,* that the benchmark rate for a CLEC's interstate switched exchange access services will not move to bill-and-keep, if at all, until June 20, 2005.

(d) Notwithstanding paragraphs (b) and (c) of this section, in the event that, after June 20, 2001, a CLEC begins serving end users in a metropolitan statistical area (MSA) where it has not previously served end users, the CLEC shall not file a tariff for its interstate exchange access services in that MSA that prices those services above the rate charged for such services by the competing ILEC.

(e) *Rural exemption.* Notwithstanding paragraphs (b) through (3) of this section, a rural CLEC competing with a non-rural ILEC shall not file a tariff for its interstate exchange access services that prices those services above the rate prescribed in the NECA access tariff, assuming the highest rate band for local switching and the transport interconnection charge. If the competing ILEC is subject to the Commission's *CALLS Order*, 65 FR 38684, June 21, 2000, this rate shall be reduced by the NECA tariff's carrier common line charge.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF61

Endangered and Threatened Wildlife and Plants; Final Rule for Endangered Status for *Astragalus pycnostachyus* var. *lanosissimus* (Ventura marsh milk-vetch)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status for *Astragalus pycnostachyus* var. *lanosissimus* (Ventura marsh milk-vetch) pursuant to the Endangered Species Act (Act) of 1973, as amended. Historically known from a three-county region in coastal southern California, *A. pycnostachyus* var. *lanosissimus* was believed extinct until its rediscovery in 1997. The only known extant population of this recently rediscovered plant occurs in Ventura County, California, on less than 1 acre of degraded dune habitat that was previously used for disposal of petroleum wastes. The most significant current threats to *A. pycnostachyus* var. *lanosissimus* are direct destruction of this population from proposed soil remediation, residential development, and associated activities. This taxon is also threatened by unanticipated human-caused and natural events that could eliminate the single remaining population. Competition from nonnative invasive plant species is an additional threat. This action will extend the Act's protection to this plant.

EFFECTIVE DATE: This rule is effective June 20, 2001.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Rick Farris or Lois Grunwald, Ventura Fish and Wildlife Office, at the address above (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Astragalus pycnostachyus var. *lanosissimus* (Ventura marsh milk-vetch) was first described by Per Axel Rydberg (1929) as *Phaca lanosissima* from an 1882 collection by S.B. and W.F. Parish made from "La Bolsa," probably in what is now Orange County, California. The combination *A. pycnostachyus* var. *lanosissimus* was assigned to this taxon by Philip Munz and Jean McBurney in 1932 (Munz 1932).

Astragalus pycnostachyus var. *lanosissimus* is a herbaceous perennial in the pea family (Fabaceae). It has a thick taproot and multiple erect, reddish stems, 40 to 90 centimeters (cm) (16 to 36 inches (in)) tall, that emerge from the root crown. The pinnately compound leaves are densely covered with silvery white hairs. The 27–39 leaflets are 5 to 20 millimeters (mm) (0.2 to 0.8 in) long. The numerous greenish-white to cream colored flowers are in dense clusters and are 7 to 10 mm (0.3 to 0.4 in) long. The calyx teeth are 1.2 to 1.5 mm (0.04 in) long. The nearly sessile, single-celled pod is 8 to 11 mm (0.31 to 0.43 in) long (Barneby 1964). The blooming time has been recorded as July to October (Barneby 1964); however, the one extant population was observed in flower in June 1997. This variety is distinguished from *A. pycnostachyus* var. *pycnostachyus* by the length of calyx tube, calyx teeth, and peduncles. It is distinguished from other local *Astragalus* species by its size, perennial habit, size and shape of fruit, and flowering time.

The type locality is "La Bolsa," where the plant was collected in 1882 by S.B. and W.F. Parish (Barneby 1964). Based on the labeling of other specimens collected by the Parishes in 1881 and 1882, Barneby (1964) suggested that this collection may have come from the Ballona marshes in Los Angeles County. However, Critchfield (1978) believed that "La Bolsa" could easily have referred to Bolsa Chica, a coastal marsh system located to the south in what is now Orange County. He noted that Orange County was not made a separate county from Los Angeles until 1889, 7 years after the Parish's collection was made. In the five decades following its discovery, *Astragalus pycnostachyus* var. *lanosissimus* was collected from about four locations in Los Angeles and Ventura counties, three of which are near one another. In Los Angeles County it was collected from near Santa Monica in 1882, the Ballona marshes just to the south in 1902, and "Cienega" in 1904, also likely near the Ballona wetlands. In

Ventura County it was collected in 1901 and 1925 from Oxnard and in 1911 from Ventura, a city adjacent to Oxnard. By 1964, Barneby (1964) believed that it had certainly been extirpated from Santa Monica southward, noting that there was still the possibility it survived in Ventura County (although he knew of no locations at that time). The species was briefly rediscovered in 1967 by R. Chase, who collected a single specimen growing by a roadside between the cities of Ventura and Oxnard. Subsequent searches uncovered no other living plants at that location, although some mowed remains discovered on McGrath State Beach lands, across the road from the collection site, were believed to belong to this taxon (information on herbarium label from specimen collected by R.M. Chase, 1967). Floristic surveys and focused searches conducted in the 1970s and 1980s at historic locations failed to locate any *A. pycnostachyus* var. *lanosissimus*, and the plant was presumed extinct (Isley 1986; Spellenberg 1993; Skinner and Pavlik 1994) until June 12, 1997, when a population of the plant was rediscovered by U.S. Fish and Wildlife Service (Service) biologist Kate Symonds, in a degraded coastal dune system near Oxnard, California.

Almost nothing is known of the habitat requirements of *Astragalus pycnostachyus* var. *lanosissimus*. All but two of the known collections of this taxon were made prior to 1930. Specimen labels from these collections and original published descriptions contain virtually no habitat information. The related variety, *Astragalus pycnostachyus* var. *pycnostachyus*, is found in or at the high edge of coastal saltmarshes and seeps. The newly discovered population of *A. pycnostachyus* var. *lanosissimus* occurs in a sparsely vegetated low area, at an elevation of about 10 meters (30 feet), in a site previously used for disposal of petroleum waste products (Impact Sciences, Inc. 1997). Dominant shrub species at the site are *Baccharis pilularis* (coyote brush), *Baccharis salicifolia* (mule fat), *Salix lasiolepis* (arroyo willow), and the nonnative *Myoporum laetum* (myoporum) (Impact Sciences, Inc. 1997). The population itself occurs with sparse vegetative cover provided primarily by *Baccharis pilularis*, *Baccharis salicifolia*, a nonnative *Carpobrotus* sp. (seafig), and a nonnative annual grass, *Bromus madritensis* ssp. *rubens* (red brome). Soils are reported to be loam-silt loams (Impact Sciences, Inc. 1997). Soils were likely transported from other locations as a cap for the disposal site once it was closed. The Service is not aware of records on the origin of the soil used to cap the waste disposal site; however, because of the costs of transport, the soil source is likely of local origin.

The population of *Astragalus pycnostachyus* var. *lanosissimus* consisted of about 374 plants total in 1997, of which 260 were small plants, thought to have germinated in the last year. Fewer than 65 plants in the population produced fruit in 1997 (Impact Sciences, Inc. 1997). The plants are growing in an area of less than 1 acre, with one outlying plant located 10 to 20 meters (30–60 feet) from the main group in 1997 (D. Steeck, Service, pers. obs. 1997). In 1998, surveys revealed 192 plants. In 1999, Service efforts went into placing hardware cloth cages around a sample of plants. This experimental caging was initiated due to severe herbivory, apparently by small mammals. An estimate of between 30 and 40 plants produced flowers in 1999, believed to be fewer than half of those blooming in 1998 (D. Steeck *in litt.* 1999).

The land on which the only known population of *Astragalus pycnostachyus* var. *lanosissimus* grows is privately owned and a project to decontaminate the soils and construct a housing development on the site has been proposed (Impact Sciences, Inc. 1998). Limited efforts to assist with the conservation of the species have been initiated by the project proponent, the Service, the State, and other cooperators. The project proponent has successfully grown plants in a remote greenhouse facility. Several plants were excavated from the natural population and potted, and several plants were started from seed gathered from the natural population. In addition, we cooperated with the California Department of Fish and Game in making conservation seed collections from the site. This seed was divided into a seed storage collection and a seed bulking project at the Rancho Santa Ana Botanic Gardens.

Previous Federal Action

Federal actions on this taxon began as a result of section 12 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94–51) was presented to Congress on January 9, 1975, and *Astragalus pycnostachyus* var. *lanosissimus* was included on List C, among those taxa believed possibly extinct in the wild. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of its acceptance of the report as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3)) of the Act and its intention to review the status of the plant taxa named therein.

On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. This list, which included *Astragalus pycnostachyus* var. *lanosissimus*, was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Endangered Species Act required that all proposals more than 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In a December 10, 1979, notice (44 FR 70796), the Service withdrew the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. *A. pycnostachyus* var. *lanosissimus* was included in that withdrawal notice.

We published an updated candidate notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Astragalus pycnostachyus* var. *lanosissimus* in a list of category 1 candidate species that were possibly extinct in the wild. These category 1 candidates would have been given high priority for listing if extant populations were confirmed.

The Service maintained *Astragalus pycnostachyus* var. *lanosissimus* as a category 1 candidate in subsequent notices published on November 28, 1983 (48 FR 53640), September 27, 1985 (50 FR 39526), and February 21, 1990 (55 FR 6184). The Service published a notice (58 FR 51144) on September 30, 1993, in which taxa whose existence in the wild was in doubt, including *A. pycnostachyus* var. *lanosissimus*, were moved to Category 2. On February 28, 1996, we published a Notice of Review in the **Federal Register** (61 FR 7596) that discontinued the designation of category 2 species as candidates, including those taxa thought to be extinct. Thus, *A. pycnostachyus* var. *lanosissimus* was excluded from this and subsequent notices of review. In 1997, *A. pycnostachyus* var. *lanosissimus* was rediscovered and a review of the taxon's status indicated that a proposed rule was warranted.

We published a proposed rule to list *Astragalus pycnostachyus* var. *lanosissimus* as endangered in the **Federal Register** on May 25, 1999 (64 FR 28136). We have updated this rule to reflect any changes in information concerning distribution, status, and threats since the publication of the proposed rule.

Summary of Comments and Recommendations

In the May 25, 1999, proposed rule (64 FR 28136), we requested interested parties to submit factual reports or information that might contribute to development of a final rule. We contacted appropriate Federal agencies, State agencies, county and city governments, scientific organizations, and other interested parties and requested information and comments. We published a newspaper notice inviting public comment in the Los Angeles Times on June 3, 1999.

During the comment period we received comments from 4 individuals, agencies, or group representatives concerning the proposed rule. Two commenters supported the proposal, one was neutral, and one was opposed to the proposal. Comments provided additional information that, along with other clarifications, has been incorporated into the "Background" or "Summary of Factors" sections of this final rule. Opposing comments and our responses are summarized as follows:

Comment 1: The proposed rule failed to meet any listing criteria as defined by the Act.

Response 1: We disagree. The arguments presented in the Summary of Factors Affecting the Species section of the rule have been supported by the peer review process as well as our internal legal and biological reviews for compliance with the Act.

Comment 2: The proposed rule utilized outdated and incomplete data, and failed to include information about the horticultural experiments conducted in central California.

Response 2: The data used in determining the status of *Astragalus pycnostachyus* var. *lanosissimus* was current and complete at the time the proposed rule was written. Experimental horticultural activities involving the removal of some plants and seeds from the natural population and their propagation in a greenhouse facility have been initiated, and we believe that such activities may prove to be useful in conserving the plant species. However, these initial experiments have shown limited success, and the ability to maintain populations necessary for the recovery of *A. pycnostachyus* var. *lanosissimus* has not been demonstrated.

Comment 3: There are no additional benefits for the species by listing it.

Response 3: Federal listing will provide additional protection for the species through Federal regulations and recovery efforts. Additional protection will potentially be provided through the consultation process for projects which may affect the species that are funded, permitted, or carried out by a Federal agency as required by section 7 of the Act. In addition, Federal listing of a species generally provides for recognition and additional funding, by our agency as well as others, for the conservation and recovery of the species. Although our recovery planning process typically occurs after the species has been federally listed, the State listing of this species has served to advance the process of identifying appropriate recovery actions. We currently do not know what population size and habitat areas are needed to support the continued existence of this species. However, specific recovery objectives and criteria to delist the species in the future, including targets for population/habitat sizes, will be developed during the formal recovery planning process. This process will involve species experts, scientists, and interested members of the public, in accordance with the interagency policy on recovery plans under the Act, published on July 1, 1994 (59 FR 34272).

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited the expert opinions of three peer reviewers regarding pertinent scientific or commercial data and assumptions relating to population status and biological and ecological information for *Astragalus pycnostachyus* var. *lanosissimus*. Only one reviewer responded. This reviewer provided supporting information for the listing of the species and described the information included in the rule as factually correct to the best of his knowledge.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Astragalus pycnostachyus* var. *lanosissimus* are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Astragalus pycnostachyus var. *lanosissimus* is believed to have been extirpated from all but one of the general areas from which it has been collected. In Los Angeles County, this taxon was collected in the late 1800s and early 1900s from Santa Monica, Ballona Marsh, and "Cienega" (probably near Ballona Marsh). These coastal areas are now urbanized within the expansive Los Angeles metropolitan area. About 90 percent of the Ballona wetlands, once encompassing almost 2000 acres, have been drained, dredged, and developed into the urban areas of Marina del Rey and Venice (Critchfield 1978; Friends of Ballona Wetlands 1998). Ballona Creek, the primary freshwater source for the wetland, had been straightened, dredged, and channelized by 1940 (Friesen, *et al.* 1981). Despite periodic surveys of what remains at the Ballona wetlands, *A. pycnostachyus* var. *lanosissimus* has not been collected there since the early 1900s (Gustafson 1981; herbarium labels from collections by H. P. Chandler and by E. Braunton, 1902, housed at U.C. Berkeley Herbaria). Barneby (1964) believed that *A. pycnostachyus* var. *lanosissimus* was extirpated from all areas south of Santa Monica by the mid-1960s. In 1987, botanists searched for *A. pycnostachyus* var. *lanosissimus* at previous collection locations throughout its range in coastal habitats, including Bolsa Chica in Orange County and on public lands around Oxnard in Ventura County, without success (F. Roberts, Service, in. litt. 1987; R. Burgess, CNPS, in. litt. 1987; T. Thomas, Service, pers. comm. 1997). Point Mugu Naval Air Weapons Station, in southern Ventura County, may have potential habitat. Detailed surveys have not been conducted there; however, *A. pycnostachyus* var. *lanosissimus* was not found during cursory surveys of the base, and this taxon has never been collected there.

The single known population of *Astragalus pycnostachyus* var. *lanosissimus* occurs near the city of Oxnard, in a degraded backdune community. From 1955 to 1981 the land on which it occurs was used as a disposal site for oil field wastes (Impact Sciences, Inc. 1998). In 1998, the City of Oxnard published a Final Environmental Impact Report (FEIR) for

development of this site (Impact Sciences, Inc. 1998). The proposal for the site includes remediation of soils contaminated with hydrocarbons, followed by construction of 364 homes and a 6-acre lake on a total of 91 acres, including the land on which *A. pycnostachyus* var. *lanosissimus* grows. The proposed soil remediation would involve excavation and stockpiling of the soils, followed by soil treatment and redistribution of the soils over the site (Impact Sciences, Inc. 1998), destroying the *A. pycnostachyus* var. *lanosissimus* population that was identified on the site late in the planning process. In order to mitigate for this loss, the project included provisions for seed collection and horticultural propagation, and transplantation of greenhouse seedlings and plants collected from the wild to off-site locations.

The proposed project, as described in the FEIR, would adversely affect the only known population of *A. pycnostachyus* var. *lanosissimus*, resulting in the likely extinction of this taxon in the wild. On July 27, 1999, the California Department of Fish and Game (CDFG) signed a Memorandum of Understanding (MOU) with the project proponent to establish a permanent rare plant preserve on site and provide for experimental off-site mitigation (see Appendix E, CDFG 2000). The intent of the MOU was to increase protections to the milk-vetch beyond that in the original project description. However, implementing the MOU would still result in intensive habitat disturbance during soil remediation, up to the edge of the extant stand of *A. pycnostachyus* var. *lanosissimus*. Under the MOU, when the project is complete there will be a 5-acre preserve surrounded by urban land use.

The small size of the preserve and its proximity to future urban and suburban uses makes it subject to the effects of nonnative, invasive plant and animal species, increased water supply due to suburban irrigation runoff, and chemicals such as herbicides, pesticides, and fertilizers (see Conservation Biology Institute 2000, CDFG 2000 and references therein). Independently or in combinations, these factors present difficult management challenges which, if not adequately addressed, could lead to the elimination of *A. pycnostachyus* var. *lanosissimus* from the site. Nonnative plant and animal species are competitors and predators, respectively, that can directly reduce survival of native plants, and they can also upset the invertebrate (pollinator) and vascular plant associations upon which native plants depend (Conservation Biology Institute 2000). The limited information available about possible specific effects of competition and predation on the Ventura marsh milk-vetch is described in CDFG (2000). While the life-history requirements of the Ventura marsh milk-vetch are not well understood, any factor that substantially alters the hydrology of the site, such as increases or decreases in urban/suburban runoff, is likely to make the site unsuitable for this wetland species (see the discussion of hydrology and small preserves in Conservation Biology Institute (2000)). Likewise, increased levels of chemicals arriving via runoff or drift can be expected in small preserves and can harm native species. Specific predictions about the effects of chemicals such as herbicides and pesticides on the proposed milk-vetch preserve would be speculative at this point, but given the proximity of the preserve to future suburban and urban uses, increases in pesticides or herbicides can be expected. These increases could harm the milk-vetch directly, or alter the pollinator or plant associations upon which it depends.

Fuel management is also a concern for small preserves in urban or suburban areas; the fire hazard at the wildland-urban interface is receiving national and local attention (Federal Fire Policy 2001, Ventura County 2001). In this part of California much of the native and some of the nonnative vegetation is flammable. Currently the local fire department requires 100 feet of vegetation modification for fire safety (Ventura County 2001). If the proposed development design required that 100 feet of fuel modification was necessary in the preserve, it would reduce the size of the core preserve to 1.9 acres. Finally, attempts to grow this species elsewhere in the wild have failed, or require constant intervention (Mary Meyer, March 2000 *In litt.*; Wayne Ferren, August 2000 *In litt.*). Thus, the preserve, as designed, does not adequately address the biological needs of the species, relies on unproven management measures, and will not insure protection of the site.

B. Overuse for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not known to be a problem for *Astragalus pycnostachyus* var. *lanosissimus* at present. Soon after this taxon was discovered, the project proponent installed a fence around the population, which appears to have been effective in minimizing unauthorized visitation.

C. Disease or Predation

A sooty fungus was found on the leaves of *Astragalus pycnostachyus* var. *lanosissimus* in late summer, 1997, as leaves began to senesce and the plants entered a period of dormancy (Impact Sciences, Inc. 1997; T. Yamashita, Sunburst Plant Disease Clinic, pers. comm. 1998). The effects of the fungus on the population are not known, but it is possible that the fungus attacks senescing leaves in great number only at the end of the growing season. The plants appeared robust when in flower in June 1997, matured seed by October 1997, and were regrowing in March 1998, after a period of dormancy, without obvious signs of the fungus (D. Steeck, Service, pers. obs. 1997, 1998, 1999).

The seeds of *Astragalus pycnostachyus* var. *lanosissimus* in 1997 were heavily infested with seed beetles (Bruchidae: Coleoptera). In a seed collection made for conservation purposes, the Service found that while most fruits in 1997 partially developed at least 4 seeds, seed predation reduced the average number of undamaged seeds to only 1.8 per fruit (D. Steeck, Service, and M. Meyer, CDFG, unpublished data). Apparently heavy seed predation by seed beetles and weevils has been reported among other members of the genus *Astragalus* (Platt *et al.* 1974; Lesica 1995). The effects of seed predation on the population and its variability from year to year are not known at this time.

The introduced nonnative milk snail (*Otala lactea*) was observed causing damage to the foliage of *Astragalus pycnostachyus* var. *lanosissimus* in 1998 and 1999 concurrent with a dramatic decline in seedling plants (D. Steeck, Service pers. comm. 1999).

Severely pruned plants were observed in 1999, which was attributed to small mammal herbivory (D. Steeck field notes 1999).

D. The Inadequacy of Existing Regulatory Mechanisms

The California Fish and Game Commission listed *Astragalus pycnostachyus* var. *lanosissimus* as endangered under the Native Plant Protection Act (NPPA) (chapter 1.5 sec. 1900 *et seq.* of the California Fish and Game Code) and the California Endangered Species Act (CESA) (chapter 1.5 sec. 2050 *et seq.*) on April 6, 2000. California Senate Bill 879, passed in 1997 and effective January 1, 1998, requires individuals to obtain a section 2081(b) permit from CDFG to take a listed species incidental to otherwise lawful activities, and requires

that all impacts be fully mitigated and all measures be capable of successful implementation. However, past attempts to mitigate impacts to rare plant populations have often failed (Howald 1993), and it is unclear how well these requirements will provide for the long-term conservation of State-listed plants.

The California Environmental Quality Act (CEQA) requires a full public disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to "reduce the number or restrict the range of a rare or endangered plant or animal." Species that can be shown to meet the criteria for State listing, such as *Astragalus pycnostachyus* var. *lanosissimus*, are considered under CEQA (CEQA Section 15380). Once significant effects are identified, the lead agency must require mitigation for effects through changes in the project unless the agency decides that overriding social or economic considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of endangered species. Protection of listed species through CEQA, therefore, is ultimately left to the discretion of the agency involved.

The Coastal Zone Management Act of 1972 is a Federal statute that allowed for the establishment of the California Coastal Act (CCA) of 1976. CCA established a coastal zone. In Ventura County, the site of the only known extant population of *Astragalus pycnostachyus* var. *lanosissimus* occurs in the California Coastal Zone (Impact Sciences, Inc. 1998). As required by CCA, Ventura County has developed a Coastal Land Use Plan. It currently designates the area occupied by *A. pycnostachyus* var. *lanosissimus* as Open Space, and amendments of the Coastal Land Use Plan will be required for approval of a residential development on this property. Land use decisions made by local agencies in the Coastal Zone are appealable to the California Coastal Commission. Although the Coastal Zone designation and CEQA require that unique biological resources, such as *A. pycnostachyus* var. *lanosissimus*, be considered in the planning process, any protection offered by these regulatory mechanisms is ultimately at the discretion of the local and State agencies involved and, therefore, does not assure protection for, or preclude the need to list, this taxon.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Astragalus pycnostachyus var. *lanosissimus* is threatened with extinction from unanticipated human activities and natural events by virtue of the very limited number of individuals in, and the small area occupied by, the only known extant population. A wildfire in the summer before seeds have matured, a plane crash (the taxon is under the extended center flight line of the Oxnard airport and a crash occurred on the site in 1995 (Murphy *in litt.* 1997), and other natural or unanticipated human-caused events could eliminate the existing population and result in the extinction of this taxon from the wild.

The single known population of this taxon is also threatened by competition with nonnative plant species. *Cortaderia selloana* (pampas grass), *Carpobrotus* sp., and *Bromus* madritensis ssp. rubens are invasive nonnative plant species that occur at the site (Impact Sciences, Inc. 1997). *Carpobrotus* sp. in particular, are competitive, succulent species with the potential to cover vast areas in dense clonal mats. *Bromus madritensis* ssp. *rubens* grew in high densities around some mature individuals of *Astragalus pycnostachyus* var. *lanosissimus* in 1998, and seedlings were germinating among patches of *Carpobrotus* and *Bromus* in 1998 (D. Steeck, pers. obs. 1998). Seedling survival rates in these areas have not yet been determined. As explained under factor A, managing nonnative plants and animals and other threats to native species is difficult in small preserves (Conservation Biology Institute 2000, CDFG 2000). *Carpobrotus* and *Bromus* can compete directly with the milk-vetch and may also alter the microenvironment so seriously that they alter the invertebrate (pollinator) and vascular plant associations upon which the milk-vetch depends (see discussion of nonnative predators and competitors on the site in CDFG (2000)). In addition, the life history and biology of *Astragalus pycnostachyus* var. *lanosissimus* is not well known, owing to its only recent rediscovery. It will be many years before we understand what factors influence seedling germination and the production of viable seeds in the wild.

Astragalus pycnostachyus var. *lanosissimus* is also threatened by activities in occupied habitat associated with planning for land use at the site. For example, the project proponents have conducted at least two excavations in the population to examine the soils in which the plants occur (D. Steeck, pers. obs. 1997) and to examine the root structure of an adult plant (R. Smith, R.A. Smith and Associates, pers. comm. 1998). In April 1998 the project proponents dug up and transported three plants out of Ventura County to a greenhouse in central California in a preliminary attempt at transplanting them. In addition to the direct removal of reproducing individuals from the population, exploratory excavations within the population can potentially alter the hydrology of the micro-site where the plants are found, reduce seedling establishment by burying or removing seeds and seedlings from the soil, and injure plant roots.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this taxon in determining this final rule. Residential and commercial development have resulted in the loss and alteration of this taxon's coastal habitat and are the most likely cause of population extirpation historically. Loss and alteration of habitat from soil remediation activities and proposed residential development threaten the only known extant population. Other threats include competition from nonnative plant species and unanticipated human activities and natural events which could diminish or destroy the very small extant population. Existing regulatory mechanisms are inadequate to protect this taxon. Because *Astragalus pycnostachyus* var. *lanosissimus* is in danger of extinction throughout all or a significant portion of its range, it fits the Act's definition of endangered.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species.

In the proposed rule, we indicated that designation of critical habitat for *Astragalus pycnostachyus* var. *lanosissimus* was not prudent because we believed that designation of critical habitat would not provide any additional benefit beyond that provided through listing as endangered. We came to that conclusion because the plant occurs only on private land with no known Federal nexus, because the designation of critical habitat would not invoke the protection afforded under section 9, and because, in this case, with no permit requirement, section 10 is not applicable. In addition, the private landowner and all appropriate non-Federal agencies were aware of the Federal status of this species and its location on private land.

After further consideration, and in light of recent court rulings regarding critical habitat designations, we believe that *Astragalus pycnostachyus* var. *lanosissimus* may benefit from critical habitat designation. For example, critical habitat designation may educate and inform the public and help focus conservation efforts through future Federal, State, and local planning efforts and the public, by identifying the habitat needs and crucial areas for *Astragalus pycnostachyus* var. *lanosissimus*. Therefore, we now believe that critical habitat designation may be prudent for *Astragalus pycnostachyus* var. *lanosissimus*.

Critical habitat is not determinable (50 CFR 424.12(a)(2)) when one or both of the following situations exist—(1) Information sufficient to perform required analyses of the impacts of the designation is lacking, or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Almost nothing is known of the habitat requirements of *Astragalus pycnostachyus* var. *lanosissimus*. All but two of the known collections of this taxon were made prior to 1930. Specimen labels from these collections and original published descriptions contain virtually no habitat information. The newly discovered population of *A. pycnostachyus* var. *lanosissimus* occurs at a site previously used for disposal of petroleum waste products (Impact Sciences, Inc. 1997), on soils that were likely transported from other locations as a cap for the disposal site once it was closed. The original source of these soils is not known. As a result of this lack of information about the habitat needs of the species, we believe that the biological needs of the species are not sufficiently well known to permit designation of an area as critical habitat, and find that critical habitat for *A. pycnostachyus* var. *lanosissimus* is not determinable at this time.

Our regulations (50 CFR 424.17(b)(2)) require that, when we make a "not determinable" finding, we designate critical habitat within two years of the publication date of the original proposed listing rule, unless the designation is found to be not prudent. However, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Listing the Ventura marsh milk-vetch without designation of critical habitat will allow us to concentrate our limited resources on higher-priority critical habitat and other listing actions, while allowing us to invoke protections needed for the conservation of this species without further delay. We will make a determination regarding critical habitat in the future at such time when our available resources and priorities allow.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages public awareness and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition from willing sellers and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The single known extant population of *Astragalus pycnostachyus* var. *lanosissimus* occurs on privately owned land. While currently there are no direct Federal authorizations needed for remediation of the contaminated soils of the site, Federal involvement could potentially arise from this situation in the future.

The listing of *Astragalus pycnostachyus* var. *lanosissimus* as endangered will provide for the development of a recovery plan for this taxon. Such a plan will bring together Federal, State, and local efforts for the conservation of this taxon. The plan will establish a framework for agencies to coordinate activities and to cooperate with each other in conservation efforts. The plan will set recovery priorities and describe site-specific management actions necessary to achieve the conservation of this taxon.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to *Astragalus pycnostachyus* var. *lanosissimus*, all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.1 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant taxa under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (503/231–2063, facsimile 503/231–6243).

It is the policy of the Service, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not be likely to constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within the taxon's range. *Astragalus pycnostachyus* var. *lanosissimus* is not located on areas currently under Federal jurisdiction. Collection, damage, or destruction of this species on Federal lands is prohibited (although in appropriate cases a Federal endangered species permit may be issued to allow collection for scientific or recovery purposes). Such activities on areas not under Federal jurisdiction constitutes a violation of section 9 if conducted in knowing violation of State law or regulations, or in violation of State criminal trespass law. Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Ventura Fish and Wildlife Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new information collection requirements for which the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is required. Any information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. For additional information concerning permits and associated requirements for threatened species, see 50 CFR 17.32.

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary authors of this notice are Diane Steeck and Tim Thomas, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service hereby amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
•	•	•	•	•	•	•	•
Astragalus pycnostachyus var. *lanosissimus.*	Ventura marsh milk-vetch.	U.S.A. (CA)	Fabaceae—Pea	E	708	NA	NA
•	•	•	•	•	•	•	•

Dated: May 14, 2001.
Marshall P. Jones, Jr.,
Acting Director, Fish and Wildlife Service.
[FR Doc. 01–12663 Filed 5–18–01; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 001108316–1083–02; I.D. 060600B]

RIN 0648–AK50

Fisheries of the Exclusive Economic Zone Off Alaska; Improved Individual Fishing Quota Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to amend regulations implementing the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear fisheries in and off Alaska. NMFS has identified parts of the program that need further refinement or correction for effective management of the affected fixed gear fisheries. This action is intended to effect those refinements and is necessary to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) with respect to the IFQ fisheries.

DATES: Effective June 20, 2001, except for the gear type data element of §§ 679.5(l)(2)(vi) and 679.42 (j)(6), which are not effective until the Office of Management and Budget (OMB) approves the information collection requirements contained in those sections. NMFS will announce the effective date for those sections by publication in the **Federal Register**.

Comments on the information collections must be received by June 20, 2001.

ADDRESSES: Copies of the Regulatory Impact Review/Supplementary Final Regulatory Flexibility Analysis may be obtained from Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, (Attn: Lori J. Gravel). Send comments on the information collections to NMFS and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Regulations codified at 50 CFR part 679 implement the IFQ Program, a limited access system for management of the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in and off Alaska, under the authority of the Halibut Act with respect to halibut and the Magnuson-Stevens Act with respect to sablefish. Further information on the rationale for and implementation of the IFQ Program is codified in the final rule published in the **Federal Register**, November 9, 1993 (58 FR 59375).

NMFS' continuing assessment of the IFQ Program's responsiveness to conservation and management goals for Pacific halibut and sablefish fisheries has produced two "omnibus" packages of IFQ regulatory reforms since the inception of the program (60 FR 22307, May 5, 1995; 61 FR 41523, August 9, 1996). This final rule, the third such "omnibus" package of regulatory changes to the IFQ Program, amends various portions of the program's implementing regulations. These changes are necessary to promote the ability of fishermen to conduct IFQ fishing operations more efficiently, to enhance NMFS' ability to administer the program, and to improve the clarity and consistency of IFQ Program regulations.

This final rule makes the following changes to the IFQ regulations: (1) In § 679.1 *Purpose and scope*, adds an explicit reference to the Halibut Act, under which regulations in this part regarding the Pacific halibut fishery were developed, and in § 679.1(d) revise "IFQ management plan" to read "IFQ management measures" to prevent any inference that the IFQ Program is itself a "fishery management plan" as that term is used in the Magnuson-Stevens Act; (2) amends the requirements for IFQ fishermen participating in open-access sablefish fisheries in Alaska State waters; (3) adds nomenclature to reflect organizational changes in NMFS' Restricted Access Management (RAM) program; (4) amends the definition of an IFQ landing to include vessels that are removed from the water and put on trailers; (5) removes the reference to an "accompanying statement" establishing IFQ balances; (6) adds an exemption for lingcod fishermen using dinglebar gear from the IFQ 6-hour prior notice of landing and 12-hour landing window requirements; (7) adds gear type to the information required on a completed IFQ landing report; (8) amends the information required for a shipment report to clarify which registered buyer, in landings involving multiple registered buyers, is responsible for compliance with shipment report requirements; (9) makes minor corrections to errors arising from the consolidation of regulations; (10) amends the survivorship transfer provisions to allow the temporary transfer of a deceased QS holder's QS and IFQ to a designated beneficiary and revise a paragraph on an IFQ leasing provision that expired in 1998; (11) amends the limitations on the use of QS and IFQ to require annual updates on the status of corporations, partnerships, and other collective entities holding QS; (12) amends the submission of appeals to allow appeals to initial administrative decisions to be submitted by facsimile machine; and (13) amends reporting requirements for consistency with the Paperwork Reduction Act (PRA).

A detailed discussion of each of these changes may be found in the preamble to the proposed rule published December 14, 2000, at 65 FR 78126.

NMFS invited public comment on the changes contained in this action through January 16, 2001. No comments were received, and NMFS publishes this rule unchanged from the proposed rule.

This rule revises regulations pertaining to certain IFQ forms and reports to clarify further the data required of the public in these collections of information. Two of the collections of information contained in this final rule have not yet been authorized by OMB pursuant to the PRA. The pertinent collections of information are the addition of "gear type" to information required in a completed IFQ Landing Report at § 679.5 (l)(2) and the addition of a requirement that a corporation, partnership, and other collective entity holding QS submit annual updates on the status of the collective entity as such at § 679.42 (j)(5).

Classification

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid OMB control number.

This final rule contains collection-of-information requirements subject to the PRA and which have been approved by OMB under OMB control number 0648–0272. These requirements and their associated burden estimates per response are: Landing Report (12 minutes); request for QS Application (30 minutes for an individual, 1 hour for an existing corporation, 2 hours for a dissolved corporation, and 2 hours for a vessel); IFQ Vessel Clearance Report (12 minutes); IFQ Shipment Report (18 minutes); IFQ Transshipment Authorization Request (12 minutes); QS Designated Beneficiary Form (1 hour); QS/IFQ Transfer Application (2 hours); and Letter of Appeal (4 hours).

This rule also contains new collection-of-information requirements, which have been or will be submitted to OMB for approval, and which are not effective at this time (see the **DATES** section). These two requirements are the addition of a gear type data element to the landing report (not expected to alter the estimated 12 minutes response time for the report) and a new requirement for annual updates of identification of current shareholders or partners (30 minutes).

Comments are invited on (a) whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have a practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collections of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through use of automated collection techniques or other forms of information technology. Send comments on these or other aspects of the information collections to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Other collections of information in this rule have been approved by the OMB under OMB control number 0648–0272. These new information requirements comprise the following additions and revisions to the IFQ recordkeeping and reporting requirements: Request for QS Application; IFQ Vessel Clearance Report; IFQ Shipment Report; IFQ Transshipment Authorization Request; QS Designated Beneficiary Form; QS/IFQ Transfer Application; and the Letter of Appeal.

NMFS prepared a final regulatory flexibility analysis to describe this final rule's potential economic effects on small entities. The reporting burden of this action is identified in this final rule. Seven changes were made to clarify the regulations and improve regulatory language to avoid potential confusion for the affected small entities. Allowing QS holders to designate a beneficiary to receive temporary transfer privileges provides a benefit to the families of QS holders with a minimal burden of filling out an application form. Allowing administrative appeals to be submitted by facsimile machine will reduce the burden of submitting an appeal on the affected families. Requiring an annual update on the status of corporations, partnerships, or other non-individual entities is necessary to ensure that QS are not erroneously issued because of changes in these non-individual entities, which requires an increase in the burden to such entities because of annual submissions. Requiring the addition of gear type to landing reports is necessary for the management of the IFQ program, which is limited to certain gear types, makes a negligible increase to the burden of QS holders. Extending the exemption to the 6-hour prior notice of landing report and the 12–hour landing requirements to lingcod dinglebar gear troll fishermen will make it easier for them to land small incidental catches of halibut. Prohibiting the removal from the water of a vessel containing IFQ harvests enhance NMFS' monitoring IFQ landings to ensure accurate accounting of harvests against QS balances will cause inconvenience to some IFQ fishermen by requiring a 6-hour delay before offloading their harvest at the dock. The amendments to this final rule are expected to have minimal impact on the 1,677 unique persons holding halibut QS and the 897 unique persons holding sablefish QS, all of whom are assumed to be small entities.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: May 15, 2001.

Clarence Pautzke,
Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773, *et seq.*, 16 U.S.C. 1801 *et seq.*

2. In part 679, all references to "Chief, RAM Division" are removed and "Program Administrator, RAM" is added in its place.

3. In § 679.1, the first sentence of the introductory paragraph, paragraph (d), and paragraph (d)(1)(i)(B) are revised to read as follows:

§ 679.1 Purpose and scope.

Regulations in this part were developed by the Council under the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. * * *

* * * * *

(d) *IFQ Program for sablefish and halibut.* The IFQ management measures for the commercial fisheries that use fixed gear to harvest sablefish and halibut (see subparts A, B, D, and E of this part).

(1) * * *

(i) * * *

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that aboard such vessels are persons who currently hold quota shares, IFQ permits, or IFQ cards.

* * * * *

4. In § 679.2, the definition of "Chief, RAM Division" is removed, the definition of "IFQ landing" is revised, the definition of "Program Administrator, RAM" is added, and, under the definition of "Authorized fishing gear," paragraphs (A)(1) through (15) are redesignated as paragraphs (2) through (16), newly designated paragraph (16) is revised, and a new paragraph (1) is added to read as follows:

§ 679.2 Definitions.

* * * * *

Authorized fishing gear * * *

* * * * *

(1) *Dinglebar gear* means one or more lines retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

* * * * *

(16) *Troll gear* means one or more lines with hooks or lures attached drawn through the water behind a moving vessel. This gear type includes hand troll and power troll gear and dinglebar gear.

* * * * *

IFQ landing means the unloading or transferring of any IFQ halibut, IFQ sablefish, or products thereof from the vessel that harvested such fish or the removal from the water of a vessel

containing IFQ halibut, IFQ sablefish, or products thereof.

* * * * *

Program Administrator, RAM means the Program Administrator of Restricted Access Management Program, Alaska Region, NMFS.

* * * * *

5. In § 679.4, paragraph (d)(1)(i) is revised to read as follows:

§ 679.4 Permits.

* * * * *

(d) *IFQ*—(1) * * *

(i) *IFQ permit.* A copy of an IFQ permit that specifies the IFQ regulatory area and vessel category in which IFQ halibut or IFQ sablefish may be harvested by the IFQ permit holder; and

* * * * *

6. In § 679.5(l), paragraphs (l)(1)(iv), (l)(2)(iv)(A)(*2*), (l)(2)(vi), (l)(3)(i)(A), (l)(3)(ii), (l)(4), and (l)(5)(i) are revised to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(l) * * *

(1) * * *

(iv) *Exemption.* The operator of a category B, C, or D vessel, as defined at § 679.40 (a)(5), making an IFQ landing of IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to § 679.42(c)(2) is exempt from the prior notice of landing required by this section when such landings of IFQ halibut are made concurrent with legal landings of lingcod harvested with dinglebar gear or with legal landings of salmon.

* * * * *

(2) * * *

(iv) * * *

(A) * * *

(*2*) IFQ halibut of 500 lb (0.227 mt) or less of IFQ weight determined pursuant to § 679.42 (c)(2) is landed concurrently with a legal landing of lingcod harvested with dinglebar gear or a legal landing of salmon by a category B, C, or D vessel, as defined at § 679.40 (a)(5).

* * * * *

(vi) *Information required.* The registered buyer must enter accurate information contained in a complete IFQ landing report as follows: Date, time, and location of the IFQ landing; name and permit number of the IFQ card holder and registered buyer; the harvesting vessel's ADF&G number; gear type reported by cardholder; the Alaska State fish ticket number(s) for the landing; the ADF&G statistical area of harvest reported by the IFQ cardholder; if ADF&G statistical area is bisected by a line dividing two IFQ regulatory areas, the IFQ regulatory area of harvest reported by the IFQ cardholder; for each ADF&G statistical area of harvest reported by the IFQ cardholder, the product code landed and initial accurate scale weight made at the time offloading commences for IFQ species sold and retained.

(3) * * *

(i) * * *

(A) Complete a written shipment report for each shipment or transfer of IFQ halibut and IFQ sablefish for which the Registered Buyer submitted a landing report before the fish leave the landing site.

* * * * *

(ii) *Information required.* A shipment report must specify the following: Whether the report is a revised report; species and product type being shipped; number of shipping units and unit weight; fish product weight; names of the shipper and receiver; names and addresses of the consignee and consignor; mode of transportation; intended route; and signature of the responsible registered buyer's representative.

* * * * *

(4) *Transshipment authorization.* No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization by a clearing officer. Authorization from a clearing officer must be obtained for each instance of transshipment at least 24 hours before the transshipment is intended to commence. Requests for authorization must specify the date and location of the transshipment; names and ADF&G numbers of vessels delivering and receiving the transshipment; product destination; registered buyers' names and permit numbers; IFQ permit numbers; species, regulatory areas, product types and codes, number of units, and unit weight of IFQ harvests being transshipped; time and date of the request; and name and contact numbers for the person making the request.

(5) * * *

(i) *Applicability.* The vessel operator who makes an IFQ landing at any location other than in an IFQ regulatory area or in the State of Alaska must obtain prelanding written clearance of the vessel from a clearing officer and provide the following information: Date, time, and location of clearance; vessel name and ADF&G and IPHC numbers; homeport; Federal Fisheries Permit number; IFQ permit numbers; registered buyer permit number; IFQ cardholder name; date, time, and location of landing; areas fished and estimated weight of harvests by species; and registered buyer's signature.

* * * * *

7. In § 679.7, paragraph (f)(14) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) *IFQ fisheries.* * * *

(14) Violate any other provision under this part.

* * * * *

8. In § 679.40, paragraph (a)(6)(i) is revised to read as follows:

§ 679.40 Sablefish and halibut QS.

* * * * *

(a) * * *

(6) * * *

(i) *Application form.* The Application period for QS ended on July 15, 1994. As of that date, the Request for QS Application form replaced the QS Application form as the means by which the Administrator, RAM, reviews and makes initial administrative determinations on requests for initial allocations of QS. A Request for QS Application must contain the following: information identifying the individual, representative of a deceased fisherman's estate, corporation or partnership, or dissolved corporation or partnership making the request; contact numbers; vessel identification, length overall, and purchase date; and information on any vessel leasing arrangement pertinent to the claim of eligibility.

* * * * *

9. In § 679.41, paragraphs (h)(2) and (k) are revised to read as follows:

§ 679.41 Transfer of QS and IFQ.

* * * * *

(h) *Transfer of IFQ.* * * *

(2) IFQ resulting from category B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (k) of this section.

* * * * *

(k) *Survivorship transfer privileges*—(1) On the death of an individual who holds QS or IFQ, the surviving spouse or, in the absence of a surviving spouse, a beneficiary designated pursuant to paragraph (k)(2) of this section, receives all QS and IFQ held by the decedent by right of survivorship, unless a contrary intent was expressed by the decedent in a will. The Regional Administrator will approve an Application for Transfer to the surviving spouse or designated beneficiary when sufficient evidence has been provided to verify the death of the individual.

(2) QS holders may provide the Regional Administrator with the name of a designated beneficiary from the QS holder's immediate family to receive survivorship transfer privileges in the event of the QS holder's death and in the absence of a surviving spouse.

(3) The Regional Administrator will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse or, in the absence of a surviving spouse, from a beneficiary from the QS holder's immediate family designated pursuant to paragraph (k)(2) of this section to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (h)(2) of this section.

10. In § 679.42, paragraph (j)(6) is added to read as follows:

§ 679.42 Limitations on the use of QS and IFQ.

* * * * *

(j) * * *

(6) A corporation, partnership, or other entity, except for a publicly held corporation, that receives an initial allocation of QS assigned to categories B, C, or D must provide annual updates to the Regional Administrator identifying all current shareholders or partners and affirming the entity's continuing existence as a corporation or partnership.

* * * * *

11. In § 679.43, paragraph (c) is revised to read as follows:

§ 679.43 Determinations and appeals.

* * * * *

(c) *Submission of appeals.* Appeals must be in writing and must be submitted to the Office of Administrative Appeals, P. O. Box 21668, Juneau, AK 99802 or delivered to Federal Building, 709 West 9th St., Room 801, Juneau, AK. Appeals may be transmitted by facsimile to (907) 586–9361. Additional information about appeals may be obtained by calling (907) 586–7258, and by accessing Office of Administrative Appeals section of the NMFS Alaska Region website *http://www.fakr.noaa.gov.*

* * * * *

[FR Doc. 01–12745 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 98
Monday, May 21, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1773

RIN 0572–AB66

Policy on Audits of RUS Borrowers; Management Letter

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) is proposing to amend its regulations by revising certain requirements regarding the management letter to be provided to RUS by certified public accountants (CPAs) as part of audits of RUS borrowers.

In the final rule section of this **Federal Register**, RUS is publishing this action as a direct final rule without prior proposal because RUS views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If RUS receives adverse comments, a timely document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action. Any parties interested in commenting on this proposed action should do so at this time.

DATES: Comments on this proposed action must be received on or before June 20, 2001.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Staff, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between the 8 a.m. and 4 p.m. (7 CFR part 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1523, Washington, DC 20250–1523. Telephone: 202–720–5227.

SUPPLEMENTARY INFORMATION: See the Supplementary Information provided in the direct final rule located in the final rule section of this **Federal Register** for the applicable supplementary information on this action.

Dated: May 8, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–12130 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1773

RIN 0572–AB62

Policy on Audits of RUS Borrowers; Generally Accepted Government Auditing Standards (GAGAS)

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) is proposing to amend its regulations to include in its audit requirements for electric and telecommunications borrowers recent amendments to the Generally Accepted Government Auditing Standards (GAGAS) issued by the Government Accounting Office (GAO) and to make other minor changes and corrections.

In the final rule section of this **Federal Register**, RUS is publishing this action as a direct final rule without prior proposal because RUS views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If RUS receives adverse comments, a timely document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action. Any parties interested in commenting on this proposed action should do so at this time.

DATES: Comments on this proposed action must be received on or before June 20, 2001.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Staff, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between the 8 a.m. and 4 p.m. (7 CFR part 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1523, Washington, DC 20250–1523. Telephone: 202–720–5227.

SUPPLEMENTARY INFORMATION: See the Supplementary Information provided in the direct final rule located in the final rule section of this **Federal Register** for the applicable supplementary information on this action.

Dated: May 8, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–12128 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

[Docket No. R–1105]

Study of Banking Regulations Regarding the Online Delivery of Financial Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Study of regulations; request for comment.

SUMMARY: Pursuant to section 729 of the Gramm-Leach-Bliley Act (the GLB Act or Act), the Board is conducting a study and preparing a report about its banking regulations with respect to the online delivery of financial services. To assist this review of its regulations, the Board requests comment on whether any of its regulations should be amended or removed in order to facilitate online banking.

DATES: Comments must be received by August 20, 2001.

ADDRESSES: Comments should refer to Docket No. R–1105 and may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to *regs.comments@federalreserve.gov*. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9 a.m. and 5 p.m., pursuant to § 261.12, except as provided in § 216.14, of the Board's Rules Regarding the Availability of Information, 12 CFR 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT: Stephanie Martin, Assistant General Counsel, Legal Division, (202) 452–3198; Thomas E. Scanlon, Senior Attorney, Legal Division, (202) 452–3594; Heidi Richards, Assistant Director, Division of Banking Supervision and Regulation, (202) 452–3598; Jane Ahrens, Senior Counsel, Division of Consumer and Community Affairs, (202) 452–2412; Minh-Duc Le, Attorney, Division of Consumer and Community Affairs, (202) 452–3667; Jeff Stehm, Assistant Director, Division of Reserve Bank Operations and Payment Systems, (202) 452–2217.

SUPPLEMENTARY INFORMATION:

Background

Section 729 of the GLB Act requires the Board, the Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (the Agencies), to conduct a study of banking regulations regarding the online delivery of financial services.[1] Section 729 further requires the Agencies to report their recommendations on adapting existing legislative or regulatory requirements to online banking and lending.

In accordance with section 729, the Board is reviewing its regulations that relate to the delivery of financial services to assess their suitability for transactions that are conducted through the Internet. The Board plans to consult with the other Federal banking agencies about the appropriate aims and scope of its review and will coordinate its report with those that will be produced by the other Federal banking agencies.[2] The purpose of this document is to invite public comment on a wide range of issues that bear on delivering financial products and services over the Internet to assess whether any Board regulations should be amended in order to facilitate online banking. In addition, the Board requests comment on how particular statutory provisions affect the online delivery of financial products or services.

The Board recently requested comment on five interim final rules to establish uniform standards for the electronic delivery of notices to consumers, namely: Regulations B (Equal Credit Opportunity), E (Electronic Fund Transfers), M (Consumer Leasing), Z (Truth in Lending), and DD (Truth in Savings).[3] In connection with comments sought on those interim final rules, the Board also requested comment on whether other legislative or regulatory changes are needed to adapt current requirements to online banking and lending. In particular, the Board has requested comment on revising its regulations to facilitate electronic delivery of financial products and services to individual consumers, such as the provisions regarding periodic statements under Regulations E, Z, and DD. (Comments on those interim final rules must be received by June 1, 2001.) Any comments submitted in connection with the review of those regulations to facilitate electronic delivery of financial products and services for individual consumers shall also be considered for the study and report under section 729 of the GLB Act.

[1] Pub. L. 106–102, 113 Stat. 1476 (1999).

[2] The OCC issued an advance notice of proposed rulemaking and requested comment on a wide range of electronic banking issues to determine whether the OCC's regulations should be changed to facilitate national banks' use of new technologies. 65 FR 4895 (February 2, 2000). The Board notes that the OCC specifically requested comment in connection with its study of its regulations under section 729, and the Board will review those comments in connection with the Board's own study.

[3] 66 FR 17779 (April 4, 2001); 66 FR 17786 (April 4, 2001); 66 FR 17322 (March 30, 2001); 66 FR 17329 (March 30, 2001); 66 FR 17795 (April 4, 2001).

Issues for Comment

The Board recognizes that using electronic technology to deliver financial products and services poses distinct challenges to financial institutions and their customers. Much of the legislative and regulatory framework that governs banking was developed based on social, cultural, and technological practices that existed before the advent of widespread computer-based communications. The prospect of conducting banking transactions over the Internet has forced reconsideration of the existing legislative and regulatory framework that governs banking businesses.

The Board invites comment on how particular statutes, regulations, or supervisory policies specifically affect financial institutions and their customers' uses of new technologies. The following discussion identifies topics that the Board believes are appropriate for the design of the study and report required under section 729. Commenters are invited to respond to the questions presented and to offer comments or suggestions on any other issues related to financial products or services delivered online that are not described herein.

Laws and Regulations That Affect Transactions

Do any of the Board's regulations, such as those governing payment transactions, negatively affect the ability of financial institutions to offer certain online financial services? Which regulations, if any, negatively affect the likelihood that an individual or business customer would choose to obtain financial products or services through the Internet?

The ways in which financial institutions themselves obtain services from other financial institutions, including Federal Reserve Banks, significantly affects the products and services that financial institutions may, in turn, provide to their non-bank customers. The Board also requests comment on the specific ways in which laws, regulations, and other supervisory policies affect the online delivery of financial products and services between financial institutions.

Geography and Time Considerations

Some aspects of the Board's banking regulations, as well as other banking laws, are predicated on conceptions of geography. For example, bank mergers and acquisitions are regulated, in part, by legal standards that have been developed to determine whether a transaction poses anti-competitive

consequences in the relevant geographic market for the cluster of banking products.[4] Similarly, the legal standards that apply to the location of bank branches depend on certain conceptions of geography.[5] How should these kinds of regulatory provisions be revised (if at all) to more appropriately govern the location of online banking and lending activities?

Other laws or regulations contain concepts of time that may not be relevant in an online environment. For example, the term "banking day" in Regulation CC is defined as that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions.[6] Regulation CC requires funds that must be available for withdrawal on a business day to be available at the start of business, which may be as late as 9 a.m. local time of the depositary bank.[7] Are these provisions appropriate in the context of a customer that opened an account and performs all banking functions online?

The Board recognizes that these traditional boundaries of geography and time may need to be reexamined in light of online banking practices that enable customers to obtain financial products and services relatively free from customary time or place constraints. Comments are invited on how particular laws and regulations may be modified to accommodate the online delivery of financial products and services under these varying conditions.

Banking and Supervisory Regulations and Policies

The Board invites comment on how particular regulations or supervisory policies specifically affect financial institutions and their customers' uses of new technologies. For example, are there any specific Board regulations that unreasonably interfere with the use of online technologies? Are there any supervisory policies that impose unreasonable burdens on a financial institution's design or adaptation of online technologies? Are there any regulations or other supervisory policies regarding risk management that should be clarified or amended to adequately address any particular risks associated with methods of online banking?

Electronic Signatures in Global and National Commerce Act and Other Federal Laws That Affect Online Banking

The Board recognizes that the enactment of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) has addressed several important legal and regulatory issues regarding the uses of electronic media in commercial transactions.[8] For example, the E-Sign Act permits the retention of certain types of records in electronic form (subject to specified conditions) if such records are required by any other law or regulation.[9] Do any of the Board's regulations or supervisory policies require a banking organization to use or retain written forms, notices, or other records in a manner that hinders its ability to deliver financial products or services over the Internet? The Board requests comment on how particular provisions of the E-Sign Act, or any other law, affect financial institutions and their customers' ability to use (or ease of using) new technologies.

Differing Legal Requirements

Do certain provisions of Federal law that apply to online banking and lending practices make compliance with other provisions of State law (or laws enforced by foreign states) more costly? Are there particular aspects of conducting online banking and lending activities that could benefit from a single set of legal standards that can be applied uniformly nationwide?

Are there any inconsistencies between Federal and State laws or regulations that impede the electronic provision or use of financial products or services? For example, do State laws or regulations apply differently to state-chartered financial institutions, relative to federally chartered institutions, that conduct online banking and lending? Are there any State laws or regulations, such as licensing provisions for banking and other financial products and services, that affect the nationwide provision of financial products or services over the Internet?

By order of the Board of Governors of the Federal Reserve System, May 16, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–12689 Filed 5–18–01; 8:45 am]

BILLING CODE 6210–01–P

[4] *United States* v. *Philadelphia Nat'l Bank*, 374 U.S. 321 (1963) (In an action challenging a proposed merger of banks under the antitrust laws, the Court held, in relevant part, that the geographic market for the cluster of banking products and services is local in nature).

[5] 12 U.S.C. 321 (requiring, in relevant part, a state member bank to obtain the Board's approval to establish certain new branches "beyond the limits of the city, town, or village in which the parent bank is located").

[6] 12 CFR 229.2(f).

[7] 12 CFR 229.19(b).

[8] Pub. L. 106–229, 114 Stat. 464 (2000).

[9] Sec. 101(d), 114 Stat. 466–67.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–59–AD]

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to Pratt & Whitney (PW) JT8D series turbofan engines. That action would have superseded an existing AD to require initial and repetitive borescope inspections for loss of fuel nozzle nut torque and nozzle support wear, and replacement or modification of the fuel nozzles at the next accessibility of the diffuser build group as terminating action to the inspections. That proposal was prompted by reports of loss of fuel nozzle nut torque and nozzle support wear. Since the issuance of that NPRM, the FAA has reevaluated the likelihood that the unsafe condition will exist or develop on other products of the same type design. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7130; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to PW JT8D series turbofan engines, was published in the **Federal Register** on May 1, 1998 (63 FR 24138). The proposed rule would have required initial and repetitive borescope inspections for loss of fuel nozzle nut torque and nozzle support wear, and replacement or modification of the fuel nozzles at the next accessibility of the diffuser build group as terminating action to the inspections. That action was prompted by reports of loss of fuel nozzle nut torque and nozzle support wear. The proposed actions were intended to prevent loss of fuel nozzle nut torque and nozzle support wear, which could result in a fuel leak and possible engine fire.

Since issuing that NPRM, the FAA has reevaluated the safety concerns that the proposed actions would have addressed using the most recent fleet data. Field experience shows that leaking fuel nozzles, which can lead to burn-through of the diffuser case, was a significant flight safety concern primarily at the number 7 location because of the proximity of oil lines. This is addressed by AD 95–02–16.

To date, there have not been any incidents of diffuser case burn-through due to fuel leakage across the fuel nozzle secondary seal where the fuel nozzle configuration is as prescribed by AD 95–02–16. There has been one incident where the fuel nozzle at the number 7 position has leaked due to loss of nut torque, ignited, and burned through the diffuser case. However, because the oil line fittings had been replaced in accordance with AD 95–02–16, there was no burn-through of the oil fittings and no oil fire. The following requirements of AD 95–02–16, are sufficient to mitigate the safety concern:

- Initial and repetitive inspections of the number 7 fuel nozzle and support assembly, AND
- Replacement of the number 7 fuel nozzle and support assembly with a more leak resistant configuration, AND
- Replacement of aluminum oil pressure and scavenge tube fittings with steel fittings, AND
- Replacement of an aluminum oil scavenge line bolt with a steel bolt.

Upon further consideration, the FAA has determined that there is no longer a likelihood that the unsafe condition will exist or develop on other products of the same type design, and as a result, superseding the existing AD is no longer required. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 97–ANE–59–AD, published in the **Federal Register** on May 1, 1998, (63 FR 24138), is withdrawn.

Issued in Burlington, Massachusetts, on May 10, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12674 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Indian Arts and Crafts Board

25 CFR Part 309

RIN 1076–AE16

Protection of Products of Indian Art and Craftsmanship

AGENCY: Indian Arts and Crafts Board (IACB), DOI.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal establishes regulations to provide guidance to persons who produce, market, or purchase arts and crafts marketed as Indian products, as defined under the Indian Arts and Crafts Act of 1990. The proposed regulations further clarify the definition of "Indian product" by including specific examples of "Indian product," as well as examples of what is not an "Indian product," in the regulations implementing the Indian Arts and Crafts Enforcement Act of 2000, an amendment to the Indian Arts and Crafts Act of 1990.

DATES: Written comments must be received on or before August 20, 2001.

ADDRESSES: If you wish to comment on the proposed rule for the Indian Arts and Crafts Enforcement Act of 2000, you may submit your comments by any one of several methods. You may mail comments to: Director, Indian Arts and Crafts Board, Room 4004–MIB, 1849 C Street, NW., Washington, DC 20240. You may also fax comments to 202–208–5196 or comment via the Internet to *iacb@os.doi.gov*. Please also include "Attn: RIN 1076–AE16 and your name and return address in your mailed, faxed, or Internet message. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation from the system that we received your Internet message, contact us directly at 202–208–3773.

FOR FURTHER INFORMATION CONTACT: Meridith Z. Stanton, Director, Indian Arts and Crafts Board, Room 4004–MIB, 1849 C Street, NW., Washington, DC 20240, telephone 202–208–3773 (not a toll-free call), fax 202–208–5196, or e-mail *iacb@os.doi.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Indian Arts and Crafts Board (IACB) was created by Congress pursuant to the Act of August 27, 1935 (49 Stat. 891; 25 U.S.C. 305 *et seq.*; 18 U.S.C. §§ 1158–59). The IACB is responsible for implementing the Indian Arts and Crafts Act of 1990, promoting the development of American Indian and Alaska Native arts and crafts, improving the economic status of members of federally recognized Tribes, and helping to establish and expand marketing opportunities for arts and crafts produced by American Indians and Alaska Natives.

The Indian Arts and Crafts Act of 1990, Public Law 101–644 (hereinafter the "1990 Act"), is essentially a truth-in-marketing law designed to prevent marketing of products misrepresented as produced by Indians when the products are not, in fact, made by an Indian as defined by the 1990 Act. Under Section 104(a) of the 1990 Act (18 U.S.C. 1159(c)(2)), "the terms 'Indian product' and 'product of a particular Indian Tribe or Indian arts and crafts organization' have the meaning given such term in regulations which may be promulgated by the Secretary of the Interior."

Under the 1990 Act's current implementing regulations, at 25 CFR Part 309, prior to these amendments, the term "Indian product" is defined as:

"(1) In general. "Indian product" means any art or craft product made by an Indian.

"(2) Illustrations. The term Indian product includes, but is not limited to:

(i) Art works that are in a traditional or non-traditional Indian style or medium;

(ii) Crafts that are in a traditional or non-traditional Indian style or medium;

(iii) Handcrafts, i.e. objects created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

"(3) Exclusion for products made before 1935. The provisions of this part shall not apply to any art or craft products made before 1935."

The above definition reflects the IACB's determination that "Indian product" under the 1990 Act applies to Indian arts and crafts, and not all products generally. This determination is consistent with the IACB organic legislation, the IACB's primary mission as established by Congress, and the Congressional intent of the 1990 Act. The 1935 cut-off date for products

regulated by the Act is in keeping with the Congressional intent of the 1990 Act and the legislated mission of the IACB—economic growth through the development and promotion of contemporary Indian arts and crafts.

The "Indian product" definition under the current regulations, at 25 CFR Part 309, focused on the nature and Indian origin of products covered by the 1990 Act, and did not provide specific arts and crafts examples. This proposed rule implements the Indian Arts and Crafts Enforcement Act of 2000, Public Law 106–497, (hereinafter the "2000 Act") by clarifying the definition of "Indian product." It also provides specific examples of items that may be marketed as Indian products, thereby informing the public as to when an individual may be subject to civil or criminal penalties for falsely marketing a good as an "Indian product."

Section Analysis

Section 2 of the 2000 Act

The 2000 Act, an amendment to the Indian Arts and Crafts Act of 1990, Public Law 101–644, was enacted on November 9, 2000. Under this amendment, Congress sought to improve the cause of action for misrepresentation of Indian arts and crafts. Section 2 of the 2000 Act, directs the IACB to:

Not later than 180 days after the date of the enactment of the Indian Arts and Crafts Enforcement Act of 2000, the IACB shall promulgate regulations to include in the definition of the term "Indian product" specific examples of such product to provide guidance to Indian artisans as well as to purveyors and consumers of Indian arts and crafts, as defined under this Act.

Tribal Consultation

Prior to drafting regulations for the 2000 Act, in early January 2001 the IACB sent out individual letters to all Tribal leaders of federally recognized Tribes informing them of the 2000 Act and providing them with copies of the legislation. The letters also invited them to designate a member of their staff or Tribal member from their arts and crafts community with whom the IACB could discuss their Tribe's interest in specific language for consideration in the further clarification of "Indian product." This Tribal involvement was intended to ensure that the amended definition properly encompasses Indian art and craft products that should be protected by the 1990 Act. Throughout March, the IACB sent follow-up letters to the designees confirming their participation and providing them with additional background information for the teleconference. The following Tribes participated in teleconferences with IACB.

March 14, 2001

Representatives from the Rincon Indian Reservation, Valley Center, CA; Cow Creek Band of Umpqua Tribe of Indians, Roseburg, OR; and Pyramid Lake Pauite Tribe, Nixon, NV.

Representatives from The Cocopah Indian Tribe, Somerton, AZ; Kaibab Band of Paiute, Pine Spring, AZ; Tohono O'odham Nation of Arizona, Sells, AZ; and Pueblo of Acoma, Acoma, NM.

March 15, 2001

Representatives from the Poarch Band of Creek Indians, Atmore, AL; Mashantucket Pequot Tribal Nation, Mashantucket, CT; Nome Eskimo Community, Nome, AK, and Catawba Indian Nation, Rock Hill, SC.

March 16, 2001

Representatives from the Three Affiliated Tribes, Fort Berthold, ND; White Earth Nation, White Earth, MN; Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac du Flambeau, WI; and Cayuga Nation, Versailles, NY.

March 21, 2001

Representative from the Pueblo of Zuni, Zuni, NM.

March 22, 2001

Representatives from the Miami Tribe of Oklahoma, Miami, OK; Cherokee Nation, Tahlequah, OK; Seminole Nation of Oklahoma, Wewoka, OK; The Chickasaw Nation, Ada, OK; and Southern Ute Indian Tribe, Ignacio, CO.

March 23, 2001

Representatives from the Jicarilla Apache Nation, Dulce, NM, and Oneida Indian Nation, Vernon, NY.

March 27, 2001

Representative from the Passamaquoddy Tribe of Maine, Princeton, ME.

Representatives from the Fallon Paiute-Shoshone Tribe, Fallon, NV.

Representatives from the Confederated Tribes and Bands of the Yakama Nation, Toppenish, WA.

March 29, 2001

Representative from the Sheep Ranch Rancheria of the Me-wuk Indians of California, Tracy, CA.

March 30, 2001

Representatives from the Confederated Tribes of the Umatilla Indian Reservation, Pendleton, OR.

April 16, 2001

Representative from the Fort Mojave Indian Tribe of Arizona, California, and Nevada, Needles, CA.

April 17, 2001

Representatives from the Hopi Tribe of Arizona, Kykotsmovi, AZ.

Public Comment Solicitation

If you wish to comment on the proposed rule for the 2000 Act, you may submit your comments by any one of several methods. You may mail comments to: Director, Indian Arts and Crafts Board, Room 4004–MIB, 1849 C Street, NW., Washington, DC 20240. You may also fax comments to 202–208–5196 or comment via the Internet to *iacb@os.doi.gov*. Please also include "Attn: RIN 1076–AE16," your name and return address in your mailed, faxed, or Internet message. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation from the system that we received your Internet message, contact us directly at 202–208–3773.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

All communications received on or before the closing date for comments will be considered by the IACB before taking action on the proposed rule. The proposals contained in this document may be changed in light of comments received. All comments submitted will be available for examination in the rule docket after the closing date for comments at Room 4004–MIB, 1849 C Street, NW., Washington, DC, on weekdays, except federal holidays, between 8:30 a.m. and 5 p.m.

Drafting Information

This proposed rule was prepared by Meridith Z. Stanton (Director, Indian Arts and Crafts Board).

Compliance With Other Laws

1. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or tribal governments or communities. The rule is simply a Congressionally mandated further clarification of an existing regulatory definition of "Indian product."

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule, the further clarification of an existing regulatory definition of "Indian product," does not involve another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule does not involve any budgetary or entitlements issues.

(4) This rule does not raise novel legal or policy issues. Again, it is simply the further clarification of an existing definition of "Indian product."

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) An unknown number of individuals, small businesses, and tribal governments may be affected in some way, but they do not exceed several thousand in aggregate.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The annual effect is insignificant.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Clarification of the term "Indian product" and guidance on how to represent Indian products in the marketplace will not cause any significant increase in the costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises. Through the clarification of the term "Indian product," the ability of U.S.-based enterprises to compete with foreign-based enterprises will not be significantly affected. In fact, it should assist U.S. Indian arts and crafts producers to compete with counterfeit Indian arts and crafts produced overseas.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. It simply clarifies an existing regulatory definition of "Indian product." A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule does not involve government action or interference with Constitutionally protected rights.

6. Federalism (Executive Order 12612)

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule does not affect the relationship between State and federal governments. A Federalism Assessment is not required.

7. Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor had determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

9. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

10. Clarity of this regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand.

We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *exsec@ios.doi.gov*.

List of Subjects in 25 CFR Part 309

Indians—arts and crafts, Penalties, Trademarks.

For the reasons set out in the preamble, part 309 of 25 CFR Chapter II is proposed to be amended as follows:

PART 309—PROTECTION OF INDIAN ARTS AND CRAFTS PRODUCTS

1. The authority citation for part 309 continues to read as follows:

Authority: 18 U.S.C. 1159, 25 U.S.C. 305 *et seq.*

2. In § 309.2, paragraph (d) is revised to read as follows:

§ 309.2 What are the key definitions for purposes of the Act?

* * * * *

(d) *Indian product* means any art or craft product made by an Indian. Indian labor makes the Indian art or craft object an *Indian product*.

(1) *Illustrations.* The term *Indian product* includes, but is not limited to:

(i) Art works made by an Indian that are in a traditional or non-traditional style or medium;

(ii) Crafts made by an Indian that are in a traditional or non-traditional style or medium;

(iii) Handcrafts made by an Indian, i.e. objects created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

(2) *Exclusions.* An *Indian product* under the Act is not any of the following:

(i) An Indian style art or craft product produced in a foreign country by non-Indian labor or craftsmanship using an Indian design;

(ii) An Indian style art or craft product produced in the United States by non-Indian labor or craftsmanship;

(iii) An Indian style art or craft product that is designed by an Indian but produced by non-Indian labor;

(iv) An Indian style art or craft product assembled from a kit;

(v) An Indian style art or craft product, originating from a commercial product, without a substantial handcraft element provided by Indian labor;

(vi) An industrial product, such as a bicycle assembled by Indian labor; or

(vii) An Indian style art or craft product produced in an assembly line or related production line process using multiple workers that is not all-Indian labor. For example, an Indian style pipe assembled by non-Indians with an Indian(s) supplying a few beads for accent is not an *Indian product.*

* * * * * *

3. Sections 309.3 through 309.6 are redesignated as §§ 309.24 through 309.27.

4. New §§ 309.6 through 309.23 are added to read as follows:

§ 309.6 When does a commercial product become an Indian product?

In addressing Indian embellishments to originally commercial products, the Indian labor expended to add art or craftwork to those objects must be sufficient to change the nature, quality, and appearance of the original commercial item. Through substantial transformation due to Indian labor, a product changes from a commercial product to an Indian product. Examples of formerly commercial products that become Indian products include Indian beaded tennis shoes and Indian ribbon appliquéd denim jackets.

§ 309.7 How should a seller disclose the nature and degree of Indian labor when selling, offering, or displaying art and craftwork for sale?

The Indian Arts and Crafts Act is a truth-in-marketing law. Those who produce and market art and craftwork should honestly represent and clarify the degree of Indian involvement in the production of the art and craftwork when it is sold, displayed or offered for sale. The following guidelines illustrate how to characterize art and craftwork:

If . . .	then . . .
(a) An Indian conceives, designs, and makes the art or craftwork	it is an "Indian product."
(b) An Indian produces a product that meets the definition of "handcrafted," in 309.2(d)(1)(iii)	it can be marketed as such and it meets the definition of "Indian product."
(c) An Indian makes an art or craftwork using some machine made parts	it is "Indian made," and meets the definition of "Indian product."
(d) An Indian designs a product, such as a bracelet, which is then produced by non-Indians	it should be marketed as "Indian designed." It does not meet the definition of "Indian product" under the Act.
(e) A product, such as jewelry, is assembled from a substantial amount of non-Indian made materials	it is not an "Indian product." [1]
(f) A product is assembled by a non-Indian from a kit	it does not meet the definition of "Indian product." To avoid misleading the consumer, this product should be marketed as "assembled by a non-Indian from a kit" on the product label and packaging.
(g) A product is in the style of an Indian art or craft product, but not made by an Indian	it should be marketed as "Indian style" or "Indian inspired." It does not meet the definition of "Indian product" under the Act.
(h) An Indian non-Indian jointly undertake the art or craftwork to produce an art or craft product, for example a concho belt	only a percentage of the labor is Indian and it does not meet the definition of "Indian product" under the Act. [2]

[1] For example, a necklace strung with overseas manufactured fetishes or heshi does *not* meet the definition of "Indian product" under the Act. If an Indian assembled the necklace, in keeping with the truth-in-marketing focus of the Act, it should be marketed as "Indian assembled." Similarly, if a product, such as a kachina, is assembled by an Indian from a kit, it should be marketed as "Indian assembled" and does not meet the definition of "Indian product" under the Act.

[2] In order to be an "Indian product," the labor component of the product must be entirely Indian. In keeping with this truth-in-marketing law, the collaborative work should be marketed as such. Therefore, it should be marketed as produced by "X" (name of artist or artisan) of "Y" (enrolled Tribe) and "Z" (name of artist or artisan with no Tribe listed) to avoid misleading the consumer.

§ 309.8 For marketing purposes, what is the recommended method of identifying authentic Indian products?

The recommended method of marketing authentic Indian products is to include the "name of the artist or artisan" and the "name of the Tribe" in which the artist or artisan is enrolled. For example, the Indian product should include a label, hangtag, provenance card, or similar identification that includes the name of the artist or artisan and the name of the Tribe in which the artisan is enrolled.

§ 309.9 Is it illegal for a non-Indian to make and sell Indian style art or craft products?

A non-Indian can make and sell Indian style art or craft products only if the non-Indian or other seller does not mislead the consumer to believe that the products have been made by an Indian. These products should be offered for sale as "non-Indian made," "Indian inspired," or "Indian style."

§ 309.10 What are some sample categories and examples of Indian products?

What constitutes an Indian art or craft product is potentially very broad. However, to provide guidance to persons who produce, market, or purchase items marketed as Indian products, §§ 309.11 through 309.22 contain a sample listing of "specific examples" of objects that meet the definition of Indian products. There is some repetition, due to the interrelated nature of many Indian products. The listing in these sections contains examples, and is not intended to be all-inclusive. Additionally, although the Indian Arts and Crafts Act of 1990 and the Indian Arts and Crafts Enforcement Act of 2000 do not address materials used in Indian products, some materials are included for their descriptive nature only. This is not intended to restrict materials used or to exclude materials not listed.

§ 309.11 What are examples of jewelry that are Indian products?

(a) Jewelry and related accessories made by Indian labor using a wide variety of media, including, but not limited to, silver, gold, turquoise, coral, lapis, jet, nickel silver, glass bead, copper, wood, shell, walrus ivory, whale baleen, bone, horn, horsehair, quill, seed, and berry are Indian products.

(b) Specific examples include, but are not limited to: Ivory and baleen scrimshaw bracelets, abalone shell necklaces, nickel silver scissortail pendants, silver sand cast bracelets, silver overlay bolos, turquoise channel inlay gold rings, cut glass bead rosette earrings, wooden horse stick pins, and medicine wheel quilled medallions.

§ 309.12 What are examples of basketry that are Indian products?

(a) Basketry and related weavings made by Indian labor using a wide variety of media, including, but not limited to, birchbark, black ash, brown ash, cedar, willow, palmetto, honeysuckle, river cane, oak, buck brush, sumac, dogwood, cattail, reed, raffia, horsehair, pine needle, spruce root, rye grass, sweet grass, yucca, bear grass, beach grass, rabbit brush, hemp, maidenhair fern, whale baleen, seal gut, feathers, shell, devil's claw, and porcupine quill are Indian products.

(b) Specific examples include, but are not limited to: Double weave river cane baskets, yucca winnowing trays, willow burden baskets, honeysuckle sewing baskets, black ash picnic baskets, pine needle/raffia effigy baskets, oak splint and braided sweet grass fancy baskets, birchbark containers, baleen baskets, rye grass dance fans, brown ash strawberry baskets, sumac wedding baskets, cedar hats, hemp basket hats, yucca wicker basketry plaques, and spruce root tobacco pouches.

§ 309.13 What are examples of other weaving and textiles that are Indian products?

(a) Weavings and textiles made by Indian labor using a wide variety of media, including, but not limited to, cornhusk, raffia, tule, horsehair, cotton, wool, hemp, linen, rabbit skin, feather, bison fur, and qiviut (musk ox) wool are Indian products.

(b) Specific examples include, but are not limited to: Corn husk bags, twined yarn bags, cotton mantas, willow cradle boards, horsehair hatbands, Chiefs Blankets, Two Grey Hills rugs, horse blankets, finger woven sashes, brocade table runners, star quilts, pictorial appliqué wall hangings, hemp woven bags, embroidered dance shawls, rabbit skin blankets, and feather blankets.

§ 309.14 What are examples of beadwork, quillwork, and moose hair tufting that are Indian products?

(a) Beadwork, quillwork, and moose hair tufting made by Indian labor to decorate a wide variety of materials, including, but not limited to, bottles, baskets, bags, pouches, and other containers; belts, buckles, jewelry, hatbands, hair clips, barrettes, bolos, and other accessories; moccasins, vests, jackets, and other articles of clothing; and dolls and other toys and collectibles are Indian products.

(b) Specific examples include, but are not limited to: Quilled pipe stems, loom beaded belts, pictorial bags adorned with cut glass beads, deer skin moccasins decorated with moose hair tufting, beaded miniature dolls, and quilled and beaded amulets.

§ 309.15 What are examples of apparel that are Indian products?

(a) Apparel made or substantially decorated by Indian labor including, but not limited to, parkas, jackets, coats, moccasins, boots, slippers, mukluks, mittens, gloves, gauntlets, dresses, and shirts are Indian products.

(b) Specific examples include, but are not limited to: Seal skin parkas, ribbon appliqué dance shawls, smoked moose hide slippers, deer skin boots, patchwork jackets, calico ribbon shirts, wing dresses, and buckskin shirts.

§ 309.16 What are examples of regalia that are Indian products?

(a) Regalia are ceremonial clothing, modern items with a traditional theme, and accessories with historical significance made or significantly decorated by Indian labor, including, but not limited to, that worn to perform traditional dances, participate in traditional socials, used for dance competitions, and worn on special occasions of tribal significance. If these items are made or significantly decorated by Indian labor, they are Indian products.

(b) Specific examples include, but are not limited to: Hide leggings, buckskin dresses, breech cloths, dance shawls, frontlets, shell dresses, button blankets, feather bustles, porcupine roaches, beaded pipe bags, nickel silver stamped armbands, quilled breast plates, coup sticks, horse sticks, shields, headdresses, dance fans, and rattles.

§ 309.17 What are examples of woodwork that are Indian products?

(a) Woodwork made from wood by Indian labor, including, but not limited to, sculpture, drums, furniture, containers, hats, and masks are Indian products.

(b) Specific examples include, but are not limited to: Hand drums, totem poles, animal figurines, folk carvings, kachinas, long house posts, clan house carved doors, chairs, relief panels, bentwood boxes, snow goggles, hunting hats, spirit masks, bows and arrows, atlatls, redwood dug out canoes, war clubs, flutes, dance sticks, talking sticks, shaman staffs, cradles, decoys, spiral pipe stems, violins, and Native American Church boxes.

§ 309.18 What are examples of hide, leatherwork, and fur that are Indian products?

(a) Hide, leatherwork, and fur made or significantly decorated by Indian labor,

including, but not limited to, parfleches, tipis, horse trappings and tack, pouches, bags, and hide paintings are Indian products.

(b) Specific examples include, but are not limited to: Narrative painted hides, martingales, saddles, bonnet cases, drapes, quirts, forelocks, rosettes, horse masks, bridles, head stalls, cinches, saddle bags, side drops, harnesses, arm bands, belts, and other hand crafted items with studs and tooling.

§ 309.19 What are examples of pottery and ceramics that are Indian products?

(a) Pottery, ceramics, and related arts and crafts items made or significantly decorated by Indian labor, including, but not limited to, a broad spectrum of clays and ceramic material are Indian products.

(b) Specific examples include, but are not limited to: Ollas, pitch vessels, pipes, raku bowls, pitchers, canteens, effigy pots, wedding vases, micaceous bean pots, seed pots, masks, incised bowls, blackware plates, redware bowls, polychrome vases, and storytellers and other figures.

§ 309.20 What are examples of sculpture, carving, and pipes that are Indian products?

(a) Sculpture, carving, and pipes made by Indian labor including, but not limited to, wood, soapstone, alabaster, pipestone, argillite, turquoise, ivory, baleen, bone, antler, and shell are Indian products.

(b) Specific examples include, but are not limited to: Fetishes, animal figurines, pipestone pipes, moose antler combs, argillite bowls, ivory cribbage boards, whalebone masks, elk horn purses, and clamshell gorgets.

§ 309.21 What are examples of dolls and toys that are Indian products?

Dolls, toys, and related items made by Indian labor, including, but not limited to, no face dolls, corn husk dolls, kachina dolls, patchwork and palmetto dolls, reindeer horn dolls, lacrosse sticks, stick game articles, gambling sticks, gaming dice, miniature cradle boards, and yo-yos are Indian products.

§ 309.22 What are examples of painting and other fine art forms that are Indian products?

Painting and other fine art forms made by Indian labor, and include but are not limited to, works on canvas, photography, sand painting, mural, computer generated art, graphic art, video artwork, printmaking, drawing, bronze casting, glasswork, and art forms to be developed in the future are Indian products.

§ 309.23 Does this part apply to products made before 1935?

The provisions of this part do not apply to any art or craft products made before 1935.

Dated: May 14, 2001.

Robert Lamb,

Acting Assistant Secretary—Policy, Management, and Budget.

[FR Doc. 01–12666 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–84–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–99–007]

RIN 2115–AE47

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Coast Guard is withdrawing a notice of proposed rulemaking for the regulation governing the operation of the L & N Railroad/Old Gentilly Road bascule span drawbridge across the Inner Harbor Navigation Canal, mile 2.9 at New Orleans, Orleans Parish, Louisiana. This proposed rule was published, with request for comments, to allow the bridge to have remained closed to navigation for temporary periods of time, during the months of May, June, July, and September, 1999, for replacement of the damaged fender system. A final rule was not published for the proposed rulemaking. The fender system has been replaced and the temporary rule is no longer necessary.

DATES: The notice of proposed rulemaking is withdrawn effective May 21, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this notice of proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 15, 1999, the Coast Guard published a notice of proposed rulemaking in 64 FR 12795. The proposed temporary rule would have allowed the draw of the L & N bascule span bridge to remain closed to navigation daily from 8 a. m. until noon and from 1 p.m. until 5 p.m. from May 17 through May 28, 1999, June 1 through July 2, 1999, July 6 through September 3, 1999 and from September 7 through September 22, 1999. The comment period was limited to 45 days because the rule needed to be effective by May 17, 1999. At the end of the comment period, no comments had been received. However, there was not time to publish a final temporary rule prior to May 17, 1999. On July 19, 1999, the Coast Guard received notification that the fender system had been replaced ahead of schedule and the temporary rule was no longer necessary. The Coast Guard is withdrawing this notice of temporary rulemaking from drawbridge operating regulations (CGD08–99–007).

Dated: May 10, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–12721 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 094–0027b; FRL–6916–3]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Coconino County, Mohave County, and Yuma County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Coconino County, Mohave County, and Yuma County portions of the Arizona State Implementation Plan (SIP). These revisions concern the recision of all of the remaining defunct SIP rules from these counties. We are approving the recision of local rules that no longer regulate permitting procedures and various emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by June 20, 2001.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You may inspect copies of the submitted rule and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1135.

SUPPLEMENTARY INFORMATION: This proposal addresses the recisions of defunct SIP rules from Coconino County, Mohave County, and Yuma County. In the Rules and Regulations section of this **Federal Register**, we are approving the recision of these rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 13, 2000.

Keith A. Takata,

Acting Regional Administrator, Region IX.

[Editorial note: This document was received at the Office of the Federal Register on May 15, 2001.]

[FR Doc. 01–12573 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA157–4112b; FRL–6981–6]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Stage II Vapor Recovery Regulations for Southwest Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Pennsylvania Department of Environmental Protection (PADEP). This action proposes to approve PADEP's revised rules for the implementation of the control of volatile organic compounds (VOCs) from gasoline dispensing facilities (Stage II) in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 20, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, at the EPA Region III address above, or by e-mail at *wentworth.ellen@epa.gov*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12575 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 01–05]

Alternative Dispute Resolution

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to issue new regulations implementing the Administrative Dispute Resolution Act. The new regulations would expand the Commission's Alternative Dispute Resolution ("ADR") services, addressing guidelines and procedures for arbitration and providing for mediation and other ADR services. This proposed rule would replace current subpart U, Conciliation Service, with a new subpart U, Alternative Dispute Resolution, that would contain a new Commission ADR policy and provisions for various means of ADR. The proposal also would revise certain other regulations to conform to the Commission's new ADR policy.

DATES: Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications, no later than June 20, 2001.

ADDRESSES: Address all comments concerning this proposed rule to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001, E-mail: *secretary@fmc.gov*.

FOR FURTHER INFORMATION CONTACT: Ronald D. Murphy, Commission Dispute Resolution Specialist, Federal Maritime Commission 800 North Capitol Street, NW., Room 970, Washington, DC 20573–0001, 202–523–5787, E-mail: *adr@fmc.gov.*

SUPPLEMENTARY INFORMATION: Alternative Dispute Resolution ("ADR") refers to a variety of means to resolve conflicts or disputes, generally using a neutral third party to help the parties communicate and resolve their dispute. Generally, ADR is voluntary, and is designed to enable and empower the parties to a dispute to seek solutions which they decide meet their needs. ADR does not take the place of traditional processes; rather, it provides alternatives to traditional processes.

The Administrative Dispute Resolution Act ("ADRA") was first promulgated in 1990 (Public Law No. 101–552), and subsequently amended in 1996 (Public Law No. 104–320). It defines ADR to mean any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, fact-finding, minitrials, arbitration, and use of ombuds, or any combination thereof, 5 U.S.C. 571(3).

It is difficult to precisely define the various procedures used under the umbrella of ADR. There are a variety of definitions and the various procedures often overlap each other. The definitions of the various procedures are not as important, however, as is their focus on resolving disputes. Nevertheless, the following general descriptions may help explain the broad range of ADR procedures provided for by ADRA.

Mediation is the most frequently used ADR procedure. It is a process in which a mediator facilitates communication and negotiation between or among parties to a controversy and assists them in reaching a mutually acceptable resolution of the controversy. Mediation is a voluntary procedure, the key aspect of which is that the parties control the terms of any agreement to resolve the dispute. Conciliation is similar, but is relatively informal and unstructured in comparison to mediation. It is often used as a "cooling off" device. Facilitation, on the other hand, is a group process that is usually goal-oriented. These procedures can be considered forms of assisted negotiation.

Fact-finding, as used in the ADR context, involves the use of a neutral third party to investigate and determine a disputed fact. It is usually used for technical issues or significant factual issues which are part of a larger dispute. Sometimes, fact-finding is used in conjunction with mediation to resolve a fact which may be important to resolution of the controversy. The term mini-trials may be used to describe a procedure whereby the parties present a summary case before a panel of the parties' decision-makers. The panel then may negotiate and seek a consensus.

Arbitration in the form provided for under the ADRA is perhaps familiar to most by the term "binding arbitration." It is an adjudicatory process, the scope of which in a particular controversy is defined in an arbitration agreement. Awards in such proceedings are enforceable in federal District Court pursuant to title 9 of the U.S. Code.

The use of ombuds was added to ADRA's definition of ADR in the 1996 amendments. It involves the use of an employee or organization component to whom complaints or problems can be brought with the hopes of quick, informal resolution.

Section 2 of ADRA spells out a number of congressional findings that led to passage of the statute. Among them are the increasingly formal, costly and lengthy administrative proceedings that were intended to offer a prompt, expert and inexpensive means of resolving disputes as an alternative to Federal court litigation. Also, ADR has been used in the private sector for many years, yielding quicker, less expensive and less contentious decisions.

Section 3 of ADRA requires each agency to adopt a policy that addresses the use of ADR and case management. In developing the policy, agencies are required to examine ADR in connection with formal and informal adjudications, rulemakings, enforcement actions, issuing and revoking licenses or permits, contract administration, and litigation by or against the agency.

On July 13, 1993, the Commission issued an Alternative Dispute Resolution Policy Statement. In it, the Commission stated its policy to encourage the use of ADR to the fullest extent compatible with the law and the agency's mission and resources. It noted that Commission employees and other persons involved in disputes before the Commission are required to consider at an early stage whether the use of ADR techniques would be appropriate and useful in a particular matter.

The policy statement noted that several rules of the Commission's Rules of Practice and Procedure address the issue of ADR. Rule 1 refers to the mandatory consideration of the use of ADR in all proceedings. Rule 56 deals with negotiated rulemakings. Rule 61 requires orders instituting a formal investigation or noticing the filing of a complaint to contain language requiring that, prior to the commencement of oral hearing, consideration be given by the parties and presiding officer to the use of alternative means of dispute resolution. Rule 94 authorizes presiding officers to direct parties to attend one or more prehearing conferences and requires that the use of alternative means of dispute resolution be considered at such conferences. Rule 147 provides authority to the presiding officer to encourage the use of ADR and require consideration of ADR at an early stage in the proceeding. Rule 91(d) specifically authorizes the Chief Administrative Law Judge to appoint a mediator or settlement judge acceptable to all parties. In addition, nonattorneys may be admitted to practice before the Commission and persons may appear on their own behalf or on behalf of their employer without having been admitted to practice, 46 CFR 502.27.

The policy statement also identifies other means of implementing ADR at the Commission. The informal procedure for adjudication of claims of $10,000 or less in Subpart S, in effect, involves a form of arbitration. The shortened procedure in Subpart K provides a means to have the complaint resolved by an administrative law judge upon a written record without oral hearing. A conciliation service is provided for under Subpart U, and the policy statement also refers generally to services provided by the then Office of Informal Inquiries, Complaints and Informal Dockets within the Office of the Secretary. Those services are now provided by the Office of Consumer Complaints within the Bureau of Consumer Complaints and Licensing.

The Commission's rules provide for nonadjudicatory investigations under Subpart R and compromise procedures under Subpart W. Moreover, the services of a Settlement Judge are available and will continue to be available pursuant to section 502.91.

In addition to requiring an agency policy statement, ADRA requires each agency to designate a Dispute Resolution Specialist of the agency, and to provide for training on a regular basis for the Dispute Resolution Specialist and other employees involved in implementing the agency's policy. The Commission has designated the Deputy Director, Bureau of Consumer Complaints and Licensing as its Dispute Resolution Specialist, 46 CFR 501.5(h)(1).

Other key provisions of ADRA authorize agencies to use a dispute resolution proceeding for the resolution of an issue in controversy if the parties agree to such proceeding, 5 U.S.C. 572; provide that a neutral may be an officer or employee of the Federal Government or any other individual acceptable to the parties, 5 U.S.C. 573; provide for confidentiality of communications, 5 U.S.C. 574; and provide for arbitration in lieu of formal administrative proceedings, 5 U.S.C. 575–580.

When reorganizing the Commission in February 2000, one of the primary reforms was a plan to develop a refined ADR program for the Commission. The intent was to involve the agency more deeply in ADR and other mediation activities so as to find ways to settle disputes without having them processed via costly and time-consuming formal adjudications. Since then, Commission staff has been developing the ADR process and pursuing training and developmental activities.

The Commission's Dispute Resolution Specialist is a certified mediator and has made his services available to parties in formal complaint proceedings. Recently, those mediation services were instrumental in the parties to such a proceeding reaching an agreement that resolved not only the formal proceeding pending at the Commission, but also a pending suit before a state court.

Also within the scope of the Commission's Dispute Resolution Services are the ombuds services provided by the Office of Consumer Complaints ("OCC") within the Bureau of Consumer Complaints and Licensing. During the past year, a number of events have caused many to avail themselves more of those services. The failure of a number of non-vessel-operating common carriers ("NVOCCs") generated numerous complaints from shippers and freight forwarders. Some of the problems affected commercial shippers, while others concerned individual shippers of household goods and automobiles. Also, a number of problems were experienced with unlicensed and unbonded NVOCCs that failed to fulfill their transportation commitments. A number of these matters were resolved to the satisfaction of shippers and forwarders. In addition, recent failures of cruise lines have generated a substantial number of complaints. For the most recent fiscal year, the Commission's ombuds services responded to more than 2900 inquiries and complaints, and the efforts of OCC yielded over $193,000 in recoveries for those making complaints.

At this time, the Commission intends to further expand ADR services available from the Commission and issue the following proposed new rules. The proposed rules would implement an enhanced, comprehensive ADR program. These rules would emphasize requiring ADR consideration at early stages of proceedings and would provide for arbitration of matters at the Commission. The Commission will endeavor to provide mediation and other assisted negotiation procedures, and the rules provide for such services. Section 502.61 would be modified to make it mandatory for parties to consider ADR at an early stage of every proceeding in such a manner as the presiding Administrative Law Judge shall direct. Section 502.62 would be modified to require complainants to address the use of ADR when filing a complaint. Section 502.91 is revised to expand the means of ADR available in proceedings before Administrative Law Judges and to require the parties to consider ADR in all proceedings. Section 502.94 is modified to require consideration of ADR at prehearing conferences. Also, the current $10,000 limitation for informal docket proceedings in 502.301 has not been raised in a number of years, and would be raised to $50,000.

Finally, the conciliation service provided for in Subpart U of the Commission's Rules of Practice and Procedure has rarely been utilized, and would now be revised to provide a framework by which the Commission will provide a number of ADR services. Although many provisions of the proposed rule may seem focused on the use of ADR in formal proceedings, the Commission encourages use of the Commission's dispute resolution services at any stage. To do so, parties should contact the Commission's Dispute Resolution Specialist.

The provisions in the new proposed Subpart U regarding arbitration and confidentiality for the most part would be identical to provisions in the ADRA. Section 502.411, however, provides for mediation and other services, and makes clear that mediators and other neutrals involved in various means of dispute resolution are not bound by the Commission's *ex parte* rules. Mediators would be expressly authorized to conduct private sessions (or caucuses) with parties. While many mediators attempt to resolve disputes with little use of such caucuses, their use can be very effective in resolving many disputes.

The proposed rule contains no additional information collection or record keeping requirements and need not be submitted to OMB for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Chairman certifies, pursuant to 5 U.S.C. 605, that the proposed rule would not have a significant impact on a substantial number of small entities. The final rule would expedite the complaint process, thereby reducing costs to small entities, while at the same time providing them with more assistance.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Federal Maritime Commission proposes to amend 46 CFR part 502 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority section is revised to read:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 5 U.S.C. 571–584; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817d, 817e, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1964–1965 Comp. p. 306; 21 U.S.C. 853a; Pub. L. 105–258, 112 Stat. 1902.

2. Section 502.61 is amended by revising paragraph (d) to read as follows:

§ 502.61 Proceedings.

* * * * *

(d) All orders instituting a proceeding or noticing the filing of a complaint will contain language requiring that at an early stage of the proceeding and when practicable the parties shall consider the use of alternative dispute resolution in such manner as the presiding officer shall direct and further requiring that hearings shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. [Rule 61.]

2a. Section 502.62 is amended by redesignating paragraphs (e) through (h) as paragraphs (f) through (i) and adding a new paragraph (e) to read as follows:

§ 502.62 Complaints and fee.

* * * * *

(e) Complainant(s) must state whether informal dispute resolution procedures were used prior to filing the complaint and whether complainant(s) consulted with the Commission Dispute

Resolution Specialist about utilizing alternative dispute resolution (ADR) under the Commission's ADR program.

* * * * *

3. Section 502.91 is amended by revising current paragraph (d) and adding new paragraphs (e) and (f) to read as follows:

§ 502.91 Opportunity for informal settlement.

* * * * *

(d) As soon as practicable after the commencement of any proceeding, the presiding judge shall direct the parties or their representatives to consider the use of alternative dispute resolution, including but not limited to mediation, and may direct the parties or their representatives to consult with the Federal Maritime Commission Alternative Dispute Resolution Specialist about the feasibility of alternative dispute resolution.

(e) Any party may request that a mediator or other neutral be appointed to assist the parties in reaching a settlement. If such a request or suggestion is made and is not opposed, the presiding judge will appoint a mediator or other neutral who is acceptable to all parties, coordinating with the Federal Maritime Commission Alternative Dispute Resolution Specialist. The mediator or other neutral shall convene and conduct one or more mediation or other sessions with the parties and shall inform the presiding judge, within the time prescribed by the presiding judge, whether the dispute resolution proceeding resulted in a resolution or not, and may make recommendations as to future proceedings. If settlement is reached, it shall be submitted to the presiding judge who shall issue an appropriate decision or ruling. All such dispute resolution proceedings shall be subject to the provisions of subpart U.

(f) Any party may request that a settlement judge be appointed to assist the parties in reaching a settlement. If such a request or suggestion is made and is not opposed, the presiding judge will advise the Chief Administrative Law Judge who may appoint a settlement judge who is acceptable to all parties. The settlement judge shall convene and preside over conferences and settlement negotiations and shall report to the presiding judge within the time prescribed by the Chief Administrative Law Judge, on the results of settlement discussions with appropriate recommendations as to future proceedings. If settlement is reached, it shall be submitted to the presiding judge who shall issue an appropriate decision or ruling. [Rule 91].

4. Section 502.94 is amended by revising paragraph (c) to read as follows:

§ 502.94 Prehearing conference.

* * * * *

(c) At any prehearing conference, consideration shall be given to whether the use of alternative dispute resolution would be appropriate or useful for the disposition of the proceeding whether or not there has been previous consideration of such use.

5. Section 502.301 is amended by revising paragraph (b) to read as follows:

§ 502.301 Statement of policy.

* * * * *

(b) With the consent of both parties, claims filed under this subpart in the amount of $50,000 or less will be decided by a Settlement Officer appointed by the Commission's Alternative Dispute Resolution Specialist, without the necessity of formal proceedings under the rules of this part. Authority to issue decisions under this subpart is delegated to the appointed Settlement Officer.

* * * * *

6. Subpart U is revised in its entirety to read as follows:

Subpart U—Alternative Dispute Resolution

Sec.

502.401 Policy.
502.402 Definitions.
502.403 General authority.
502.404 Neutrals.
502.405 Confidentiality.
502.406 Arbitration.
502.407 Authority of the arbitrator.
502.408 Conduct of arbitration proceedings.
502.409 Arbitration awards.
502.410 Representation of parties.
502.411 Mediation and other alternative means of dispute resolution.

§ 502.401 Policy.

It is the policy of the Federal Maritime Commission to use alternative means of dispute resolution to the fullest extent compatible with the law and the agency's mission and resources. The Commission will consider using ADR in all areas including workplace issues, formal and informal adjudication, issuance of regulations, enforcement and compliance, issuing and revoking licenses and permits, contract award and administration, litigation brought by or against the Commission, and other interactions with the public and the regulated community. The Commission will provide learning and development opportunities for its employees to develop their ability to use conflict resolution skills, instill knowledge of the theory and practice of ADR, and to facilitate appropriate use of ADR. To this end, all parties to matters under this part are required to consider use of a wide range of alternative means to resolve disputes at an early stage. Parties are encouraged to pursue use of alternative means through the Commission's Bureau of Consumer Complaints and Licensing in lieu of or prior to initiating a Commission proceeding. All employees and persons who interact with the Commission are encouraged to identify opportunities for collaborative, consensual approaches to dispute resolution or rulemaking.

§ 502.402 Definitions.

(a) *Alternative means of dispute resolution* means any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, factfinding, minitrials, arbitration, and use of ombuds, or any combination thereof;

(b) *Award* means any decision by an arbitrator resolving the issues in controversy;

(c) *Dispute resolution communication* means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participant; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

(d) *Dispute resolution proceeding* means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

(e) *In confidence* means, with respect to information, that the information is provided—

(1) With the expressed intent of the source that it not be disclosed; or

(2) Under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

(f) *Issue in controversy* means an issue which is material to a decision concerning a program of the Commission, and with which there is disagreement—

(1) Between the Commission and persons who would be substantially affected by the decision; or

(2) Between persons who would be substantially affected by the decision;

(g) *Neutral* means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy; and

(h) *Person* has the same meaning as in 5 U.S.C. 551(2).

§ 502.403 General authority.

(a) The Commission intends to consider using a dispute resolution proceeding for the resolution of an issue in controversy, if the parties agree to such proceeding.

(b) The Commission will consider not using a dispute resolution proceeding if—

(1) A definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

(2) The matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

(3) Maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

(4) The matter significantly affects persons or organizations who are not parties to the proceeding;

(5) A full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

(6) The Commission must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the Commission's fulfilling that requirement.

(c) Alternative means of dispute resolution authorized under this subpart are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

§ 502.404 Neutrals.

(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

(c) With consent of the parties, the Commission's Dispute Resolution Specialist will seek to provide a neutral in dispute resolution proceedings through Commission staff, arrangements with other agencies, or on a contractual basis.

(d) Fees. Should parties choose a neutral other than an official or employee of the Commission, fees and expenses shall be borne by the parties as the parties shall agree.

§ 502.405 Confidentiality.

(a) Except as provided in paragraphs (d) and (e) of this section, a neutral in a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any dispute resolution communication or any communication provided in confidence to the neutral, unless—

(1) All parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication was provided by a nonparty participant, that participant also consents in writing;

(2) The dispute resolution communication has already been made public;

(3) The dispute resolution communication is required by statute to be made public, but a neutral should make such communication public only if no other person is reasonably available to disclose the communication; or

(4) A court determines that such testimony or disclosure is necessary to—

(i) Prevent a manifest injustice;

(ii) Help establish a violation of law; or

(iii) Prevent harm to the public health or safety, of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

(b) A party to a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any dispute resolution communication, unless—

(1) The communication was prepared by the party seeking disclosure;

(2) All parties to the dispute resolution proceeding consent in writing;

(3) The dispute resolution communication has already been made public;

(4) The dispute resolution communication is required by statute to be made public;

(5) A court determines that such testimony or disclosure is necessary to—

(i) Prevent a manifest injustice;

(ii) Help establish a violation of law; or

(iii) Prevent harm to the public health and safety, of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential;

(6) The dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award; or

(7) Except for dispute resolution communications generated by the neutral, the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.

(c) Any dispute resolution communication that is disclosed in violation of subsection (a) or (b) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

(d)(1) The parties may agree between or amongst themselves to alternative confidential procedures for disclosures by a neutral. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of paragraph (a) of this section that will govern the confidentiality of the dispute resolution proceeding in accordance with the guidance on confidentiality in federal proceedings published by the Inter Agency ADR Working Group and adopted by the ADR Council. (see *http://www.financenet.gov /financenet/fed/iadrwg/confid.pdf*). If the parties do not so inform the neutral, (a) shall apply.

(2) To qualify for the exemption under paragraph (j) of this section, an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section.

(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution communication, the neutral shall make reasonable efforts to notify the parties

and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

(g) Paragraphs (a) and (b) of this section shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

(h) Paragraphs (a) and (b) of this section shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifiable.

(i) Paragraphs (a) and (b) of this section shall not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution communication is disclosed only to the extent necessary to resolve such dispute.

(j) A dispute resolution communication which is between a neutral and a party and which may not be disclosed under this section shall also be exempt from disclosure under 5 U.S.C. 552(b)(3).

§ 502.406 Arbitration.

(a) (1) Arbitration may be used as an alternative means of dispute resolution whenever all parties consent, except that arbitration may not be used when the Commission or one of its components is a party. Consent may be obtained either before or after an issue in controversy has arisen. A party may agree to—

(i) Submit only certain issues in controversy to arbitration; or

(ii) Arbitration on the condition that the award must be within a range of possible outcomes.

(2) The arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing. Each such arbitration agreement shall specify a maximum award that may be issued by the arbitrator and may specify other conditions limiting the range of possible outcomes.

(b) With the concurrence of the Dispute Resolution Specialist, binding arbitration may be used to resolve any and all disputes that could be the subject of a Commission administrative proceeding before an Administrative Law Judge. The Dispute Resolution Specialist may withhold such concurrence after considering the factors specified in § 502.403, should the Commission's General Counsel object to use of binding arbitration.

(c)(1) The Commission's Dispute Resolution Specialist will appoint an arbitrator of the parties' choosing for an arbitration proceeding.

(2) A Commission officer or employee selected as an arbitrator by the parties and appointed by the Dispute Resolution Specialist shall have authority to settle an issue in controversy through binding arbitration pursuant to the arbitration agreement; provided, however, that decisions by arbitrators shall not have precedential value with respect to decisions by Administrative Law Judges or the Commission. Administrative Law Judges may be appointed as arbitrators with the concurrence of the Chief Administrative Law Judge.

(d) The arbitrator shall be a neutral who meets the criteria of 5 U.S.C. 573.

§ 502.407 Authority of the arbitrator.

An arbitrator to whom a dispute is referred may—

(a) Regulate the course of and conduct arbitral hearings;

(b) Administer oaths and affirmations;

(c) Compel the attendance of witnesses and production of evidence at the hearing under the provisions of 9 U.S.C. 7 only to the extent the Commission is otherwise authorized by law to do so; and

(d) Make awards.

§ 502.408 Conduct of arbitration proceedings.

(a) The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

(b) Any party wishing a record of the hearing shall—

(1) Be responsible for the preparation of such record;

(2) Notify the other parties and the arbitrator of the preparation of such record;

(3) Furnish copies to all identified parties and the arbitrator; and

(4) Pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

(c)(1) The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

(3) The hearing shall be conducted expeditiously and in an informal manner.

(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

(d) The provisions of § 502.11 regarding *ex parte* communications apply to all arbitration proceedings. No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policies underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

(e) The arbitrator shall make an award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless the parties agree to some other time limit.

§ 502.409 Arbitration awards.

(a)(1) The award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

(2) Exceptions to or an appeal of an arbitrator's decision may not be filed with the Commission.

(b) An award entered in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding.

§ 502.410 Representation of parties.

(a) The provisions of § 502.21 apply to representation of parties in dispute resolution proceedings, as do the provisions of § 502.27 regarding representation of parties by nonattorneys.

(b) A neutral in a dispute resolution proceeding may require participants to demonstrate authority to enter into a binding agreement reached by means of a dispute resolution proceeding.

§ 502.411 Mediation and other alternative means of dispute resolution.

(a) Parties are encouraged to utilize mediation or other forms of alternative dispute resolution in all formal proceedings. The Commission also encourages those with disputes to pursue mediation in lieu of, or prior to, the initiation of a Commission proceeding.

(b) Any party may request, at any time, that a mediator or other neutral be appointed to assist the parties in reaching a settlement. If such a request is made in a proceeding assigned to an Administrative Law Judge, the provisions of § 502.91 apply. For all other matters, alternative dispute resolution services may be requested directly from the Commission's Alternative Dispute Resolution Specialist, who may serve as the neutral if the parties agree or who will arrange for the appointment of a neutral acceptable to all parties.

(c) The neutral shall convene and conduct mediation or other appropriate dispute resolution proceedings with the parties.

(d) Ex-parte Communications. Except with respect to arbitration, the provisions of 502.11 do not apply to dispute resolution proceedings, and mediators are expressly authorized to conduct private sessions with parties.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–12500 Filed 5–18–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 96–262; FCC 01–146]

Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on whether tariffed competitive LEC-provided access service for toll free, or "8YY," numbers should be benchmarked to a different figure than the Commission has adopted for CLEC tariffed switched access traffic generally.

DATES: Comments are due by June 20, 2001. Reply comments are due by July 20, 2001. Written comments by the public on the proposed and/or modified information collections discussed in this Further Notice of Proposed Rulemaking are due by June 20, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections by July 20, 2001.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to vhuth@omb.eop.gov. Parties should also send one paper copy of their filings to Jane Jackson, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, SW., Room 5–A225, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Jeffrey H. Dygert, Common Carrier Bureau, (202) 418–1500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 96–262 released on April 27, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

This FNPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

The FNPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection(s) contained in this FNPRM, as required by the PRA, Public Law 104–13. Public and agency comments on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due by June 20, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections by July 20, 2001.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Synopsis of FNPRM

I. Further Notice of Proposed Rulemaking

1. Shortly before we issued the final rule that is published elsewhere in this issue, AT&T asserted, for the first time in this proceeding, that CLEC originating 8YY, toll-free traffic should be subject to a different benchmark scheme than other categories of switched access traffic. AT&T argues that the benchmark for CLEC 8YY traffic should immediately move to the access rate of the competing ILEC and that CLECs should be mandatorily detariffed above that point. In support of this position, AT&T asserts that certain CLECs with higher access charges attempt to obtain as customers end users that typically generate high volumes of 8YY traffic, such as hotels and universities. AT&T further asserts that some CLECs then "install limited, high-capacity facilities designed only to handle 8YY traffic" and "share their access revenues with the customers generating the [8YY] traffic" through agreements that provide for payments to the end user based on the level of 8YY

traffic it generates. AT&T contends that such arrangements do not promote the development of local exchange competition. Rather, it argues that these arrangements merely create the incentive for end users artificially to generate heavy 8YY traffic loads, which, in turn generate revenues for CLECs and their end-user customers.

2. Given the paucity of record evidence on this issue, we seek comment generally on AT&T's proposal immediately to benchmark CLEC 8YY access services to the ILEC rate. Is the generation of 8YY traffic in order to collect greater access charges, as AT&T complains, something that the Commission should attempt to address through a rulemaking, or should the IXCs be left to address specific instances of abuse directly with the relevant CLEC, with the aid of the Commission's complaint process where appropriate? In this regard, we note AT&T's assertion that one recent case of apparent abuse, confirmed by WorldCom, arose from the sequential dialing of over 800,000 8YY calls by a single end user. It appears that, even without the rule it now requests, AT&T may, through discussions with the relevant CLEC, have been able to act to prevent payment for improperly generated 8YY access minutes.

3. We seek comment on the magnitude of the potential problem with 8YY traffic that AT&T identifies. AT&T estimates that approximately 30% of its CLEC access traffic is generated by 8YY aggregators that, it speculates, have revenue-sharing agreements with their end-user subscribers. Is this an accurate figure across the industry? How many minutes and what premium over the competing ILEC rate does this represent? More generally, what proportion of CLEC access traffic is composed of originating 8YY service? What proportion of CLEC end users have 8YY revenue-sharing agreements with their carrier?

4. Are CLECs continuing to offer 8YY revenue-sharing agreements to their new end users, or are they currently available only to end users that negotiated them at some point in the past? Do CLECs notice a difference in the 8YY traffic patterns generated by end users with revenue-sharing agreements, compared to those end users without such agreements? What are the typical terms of a revenue-sharing agreement? Do they provide for payment of a per-minute fee for 8YY traffic, a per-call fee or some other arrangement? What is the magnitude of the fee paid? How, if at all, will the Commission's imposition of the switched-access benchmark affect CLECs' existing revenue-sharing agreements?

5. We are concerned that AT&T's proposed solution to the problem it identifies may paint with too broad of a brush. Does the existence of some CLECs' revenue-sharing agreements justify immediately limiting CLEC tariffed access rates for all 8YY traffic to the rate of the competing ILEC? Should the Commission instead impose such a limitation only on those CLECs that actually offer revenue-sharing agreements to their end users?

6. Additionally, we seek comment on AT&T's assertion that it promotes neither appropriate policy goals nor the development of local exchange competition when a CLEC carries an end user's 8YY traffic without also providing that end user with local exchange service or other types of access service. Would we be justified in immediately tying 8YY access tariffs to the ILEC rate for all CLECs, regardless of the services that they provide to their end users? Or would such a rule be appropriate, if at all, only for those CLECs that carry exclusively their end users' 8YY traffic? How does the presence or absence of revenue-sharing agreements, discussed, fit into the analysis of whether a CLEC's service offerings support restricting their tariffed 8YY access rates to the competing ILEC's rate?

7. We question whether, at bottom, CLEC 8YY traffic is inherently worthy of lower access charges than are other types of access traffic. A CLEC provides a closely similar service and uses similar or identical facilities, regardless of whether it provides originating 8YY access service, or terminating or originating access service for conventional 1+ calls. Accordingly, we seek comment on whether the presence of certain incentives to generate artificially high levels of 8YY traffic necessarily justifies reducing the tariffed rate for all such traffic immediately to the ILEC rate. Should we instead presume that there exists some "legitimate" level of CLEC 8YY traffic that should be treated as other categories of access traffic and subject to a lower benchmark only the traffic that exceeds this "legitimate" level? If this is an appropriate alternative, how should we define the level at or below which 8YY access traffic may be subject to the higher tariff benchmark that we permit for other categories of CLEC access service? Additionally, we seek comment on any other reasons that CLEC 8YY traffic should be subjected to a different tariff benchmark than are other categories of CLEC access traffic. We also seek comment on whether, if we adopt a different benchmark for 8YY access services, there are any different tariff filing requirements or timetables that we might adopt to account for the resources available to small entities. Commenters should indicate whether and how such provisions would be consistent with our goals in this proceeding, including our obligation to ensure just and reasonable rates for interstate access services.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Further Notice. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this Notice, which are set out. The Commission will send a copy of this Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, this Further Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Action

9. In this Further Notice, the Commission sets a benchmark for CLEC interstate switched access services that declines over time to the competing ILEC rate. In the Further Notice, the Commission seeks comment on a proposal offered by AT&T to move immediately the benchmark for CLEC 8YY access services to the competing ILEC rate and to mandatorily detariff CLEC interstate access rates for such 8YY traffic above that point. The Commission seeks comment on the nature and extent of the problem alleged by AT&T and on various means of addressing CLEC 8YY access service rates. Through the Further Notice, the Commission seeks to ensure that CLEC rates for 8YY access services are just and reasonable.

2. Legal Basis

10. The legal basis for the action as proposed for this rulemaking is contained in sections 1–5, 201–205, 208, 251–271, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151–155, 201–205, 208, 251–271, 403, 502, and 503.

3. Description and Estimate of the Number of Small Entities To Which the Proposed Action May Apply

11. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. To estimate the number of small entities that may be affected by the proposed rules, we first consider the statutory definition of "small entity" under the RFA. The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that is independently owned and operated; is not dominant in its field of operation; and meets any additional criteria established by the SBA. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.

12. The rules adopted in this order apply to CLECs and IXCs. Neither the Commission nor the SBA has developed a definition of small CLECs or small IXCs. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that telecommunications carriers file annually in connection with the Commission's universal services requirements. According to our most recent data, 349 companies reported that they were engaged in the provision of either competitive access services or competitive local exchange services (referred to collectively as CLECs) and 204 companies reported that they were engaged in the provision of interexchange services. Among these companies, we estimate that approximately 297 of the CLECs have 1500 or fewer employees and that approximately 163 of the IXCs have 1500 or fewer employees. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are 297 or fewer small CLECs, and 163 or fewer small IXCs that may be affected by the decisions and rules adopted in this order.

4. Description of Proposed Reporting, Recordkeeping, and Other Compliance Requirements

13. In the *CLEC Access Order*, the Commission sets a benchmark for CLEC interstate switched access services that declines over time to the competing ILEC rate. Through the Further Notice, the Commission seeks comment on whether it should move immediately the benchmark for CLEC 8YY access services to the competing ILEC rate and mandatorily detariff CLEC interstate access rates for such 8YY access services above that point. Adopting this proposal may require CLECs to refile tariffs with the Commission or to negotiate contracts with IXCs, rather than filing tariffs.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

14. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; the use of performance, rather than design, standards; and an exemption from coverage of the rule, or any part thereof, for small entities.

15. As mentioned, through the Further Notice, the Commission seeks to ensure that CLEC rates for 8YY access services are just and reasonable. Our proposals may affect CLECs, by altering the rates that they may tariff for 8YY access services. At the same time, our proposals might affect indirectly IXCs that must pay access charges for 8YY traffic. Because there are both small entity IXCs and small entity CLECs—with conflicting interests in this proceeding—we expect that small entities may be affected by any approach that we adopt. We seek an approach that both reduces opportunities for regulatory arbitrage and minimizes the burdens placed on carriers.

16. Among the alternatives proposed, the Commission seeks comment whether it should move immediately the benchmark for CLEC 8YY access services to the competing ILEC rate and mandatorily detariff CLEC interstate access rates for such 8YY access services above that point. The Commission seeks comment, to the extent that it finds that a separate benchmark is appropriate for 8YY access rates, on whether it should instead impose such a limitation only on those CLECs that offer revenue-sharing agreements to their end users or only on those CLECs that do not offer local exchange services in addition to their 8YY access services. Alternatively, the Commission seeks comment on whether the Commission should take no additional action and whether IXCs should be left to address specific instances of abuse directly with the relevant CLEC, with the aid of the Commission's complaint process where appropriate.

17. We also seek comment on whether, if we adopt a different benchmark for 8YY access services, there are any different tariff filing requirements or timetables that we might adopt to account for the resources available to small entities. We ask commenters to indicate whether and how such provisions would be consistent with our goals in this proceeding, including our obligation to ensure just and reasonable rates for interstate access services.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

18. None.

B. Comment Filing Procedures

19. Pursuant to §§ 1.415, 1.419, and 1.430 of the Commission's rules, interested parties may file comments by June 20, 2001, and reply comments by July 20, 2001. All filings should refer to CC Docket No. 96–262. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, CC Docket No. 96–262. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to

<ecfs@fcc.gov>, and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply.

20. Parties that choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–B204, 445 12th Street, SW., Washington, DC 20554. Regardless of whether parties choose to file electronically or by paper, parties should also serve: (1) Jane Jackson, Common Carrier Bureau, 445 12th Street, SW., Room 5–A225, Washington, DC 20554; and (2) the Commission's copy contractor, International Transcription Service, Inc. (ITS), 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 857–3800, with copies of any documents filed in this proceeding. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

21. Parties that choose to file by paper should also submit their comments on diskette to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036. These submissions should be on a 3.5-inch diskette formatted in a Windows-compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, CC Docket No. 96–262), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file.

22. Comments and reply comments must comply with § 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments.

23. That this proceeding will continue to be governed by "permit-but-disclose" *ex parte* procedures that are applicable to non-restricted proceedings under 47 CFR 1.1206. This will provide an opportunity for all interested parties to receive notice of the various issues raised in *ex parte* presentations made to the Commission in this proceeding; it will also allow interested parties to file responses or rebuttals to proposals made on the record in this proceeding. We find that it is in the public interest to continue this proceeding's designation as "permit-but-disclose."

24. Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 voice, (202) 418–7365 TTY, or <bmillin@fcc.gov>. This further notice of proposed rulemaking can also be downloaded in Microsoft Word and ASCII formats at <http://www.fcc.gov/ccb/cpd>.

III. Ordering Clauses

25. Pursuant to sections 1–5, 201–205, 303(r), 403, 502, and 503 of the Communications Act of 1934, as amended, this Further Notice of Proposed Rulemaking is hereby adopted.

26. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–12756 Filed 5–18–01; 8:45 am]

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Notices

Federal Register

Vol. 66, No. 98

Monday, May 21, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: May 31, 2001 (8:45 a.m. to 4 p.m.).

Location: Wyndham Washington DC, 1400 M Street, NW., Washington, DC.

This meeting will feature discussion of USAID's new approach to doing business in the Bush Administration. The new USAID Administrator, Andrew S. Natsios, will speak about his priorities for foreign assistance and his plans for the Agency.

The meeting is free and open to the public. Persons wishing to attend the meeting can fax or e-mail their name to Rhonda Fagan, (703) 931–9300, rfagan@datexinc.com.

Dated: May 1, 2001.

Noreen O'Meara,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA).

[FR Doc. 01–12665 Filed 5–18–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–002–1]

Notice of Request for Reinstatement of an Expired Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an expired information collection that it utilizes in regulating the interstate movement of horses that have tested positive for equine infectious anemia.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by July 20, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–002–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–002–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information regarding regulations for the interstate movement of horses that have tested positive for equine infectious anemia, contact Dr. Timothy Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 734–7709. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Communicable Diseases in Horses.

OMB Number: 0579–0127.

Expiration Date of Approval: January 31, 2001.

Type of Request: Reinstatement of an expired information collection.

Abstract: The Animal and Plant Health Inspection Service regulates the interstate movement of horses that have tested positive for equine infectious anemia (EIA) in order to prevent the spread of this disease (9 CFR 75.4). Enforcing these regulations requires us to engage in a number of information gathering activities that enable us to accurately identify and track EIA reactors as they move interstate.

Specifically, this regulatory program requires the use of an official EIA test, a certificate allowing the interstate movement of an EIA reactor, and identification of the reactor. The program also involves the services of accredited veterinarians, State veterinary officials, laboratory/diagnostic/research facility personnel, and stockyard personnel, all of whom must engage in various recordkeeping and information collection activities.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities in connection with our EIA program for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection activity. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.0912 hours per response.

Respondents: State and Federal veterinarians, accredited veterinarians, laboratory/diagnostic/research facility personnel, stockyard personnel, animal owners, and exporters.

Estimated annual number of respondents: 10,053.

Estimated annual number of responses per respondent: 107.

Estimated annual number of responses: 1,075,003.

Estimated total annual burden on respondents: 98,055 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 16th day of May 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12693 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–006–1]

Notice of Request for Reinstatement of an Expired Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an expired information collection in support of regulations preventing the spread of the Asian longhorned beetle and restricting the interstate movement of regulated articles from the quarantined areas.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by July 20, 2001.

ADDRESSES: Please send four copies (an original and three copies) of your comment to: Docket No. 01–006–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–006–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information on Asian longhorned beetle quarantine regulations, contact Mr. Michael B. Stefan, Staff Officer, Invasive Species and Pest Management Staff, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–7338. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Asian Longhorned Beetle Quarantine.

OMB Number: 0579–0122.

Expiration Date of Approval: January 31, 2001.

Type of Request: Reinstatement of an expired information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, the control and eradication of plant pests. The Plant Protection Act authorizes the Department to carry out this mission.

The Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for implementing the provisions of the Act and does so through the enforcement of its domestic quarantine regulations in 7 CFR part 301.

The Asian longhorned beetle (native to China, Japan, Korea, and the Isle of Hainan) is a destructive pest of hardwood trees, including maple, elm, ash, and horse chestnut. The beetles bore into the heartwood of host trees, eventually killing them.

The Asian longhorned beetle has been found in hardwood trees in the boroughs of Brooklyn, Manhattan, and Queens in New York City, NY, and in portions of Suffolk and Nassau Counties, NY. The Asian longhorned beetle has also been found in the Village of Summit and portions of Cook and Du Page Counties, IL. If this insect spreads into the hardwood forests of the United States, it could cause substantial economic harm to the U.S. nursery and forest products industries.

To prevent this, we have regulations in place (contained in 7 CFR 301.51–1 through 301.51–9) quarantining the areas described above. These regulations also restrict the movement of regulated articles (such as nursery stock, green lumber, firewood, and other items) from these quarantined areas.

These regulations are designed to prevent the spread of the Asian longhorned beetle within the United States. Implementing the regulations requires us to engage in certain information collection activities, which necessitates the use of several forms, including limited permits, certificates, and compliance agreements.

We are asking the Office of Management and Budget (OMB) to approve these forms for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.4190 hours per response.

Respondents: State plant health protection authorities, State cooperators, and individuals involved in growing, packing, handling, transporting, and exporting plants and plant products.

Estimated annual number of respondents: 225.

Estimated annual number of responses per respondent: 1.4.

Estimated annual number of responses: 315.

Estimated total annual burden on respondents: 132 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 16th day of May 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12694 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–013–2]

Protection of Sunflowers from Red-Winged Blackbirds in North Dakota, South Dakota, and Minnesota

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent and initiation of scoping.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service's Wildlife Services program intends to prepare an environmental impact statement for a project to protect sunflowers from red-winged blackbird damage. The environmental impact statement will analyze the potential environmental effects of reducing blackbird damage to ripening sunflowers in North Dakota, South Dakota, and Minnesota. We are also requesting comments from the public, including affected Federal, State, and local agencies, any affected Indian tribe, and any other interested persons concerning issues that should be addressed in the environmental impact statement. The information received in response to this notice, as well as the information we received in response to our March 2001 notice on this subject, will be considered during the development of the environmental impact statement that will be prepared in accordance with the National Environmental Policy Act.

DATES: We invite you to comment on this notice of intent. We will consider all comments that we receive by June 20, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–013–2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–013–2.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mastrangelo, State Director, Wildlife Services, APHIS, USDA, 2110 Miriam Circle, Suite A, Bismarck, ND 58501–2502; phone (701) 250–4405.

SUPPLEMENTARY INFORMATION: Wildlife Services (WS) of the Animal and Plant Health Inspection Service (APHIS) provides technical and operational assistance to entities who request assistance in reducing damage, in this case to sunflower producers. WS loans damage abatement equipment (*e.g.,* propane cannons, pyrotechnics), conducts training workshops, provides informational leaflets on damage management and sources of damage abatement tools, and, in the case of blackbird damage to sunflowers, conducts roost management programs to disperse blackbirds from sunflower production areas.

Approximately 80 percent of sunflower production in the United States occurs in North Dakota, South Dakota, and Minnesota. Sunflower production in these States has increased from 1 million kg in the early 1960's to about 1.5 billion kg, valued at $315 million, in 1999. However, increased production of sunflowers has been hampered by increasing blackbird populations, and resultant damage. Esophageal contents of red-winged blackbirds collected in late summer and fall reveal that 93 percent of the males and 86 percent of the females had eaten sunflower seeds, which comprised 69 percent and 57 percent of the male and female diets, respectively.

Damage surveys conducted in sunflower production areas in North Dakota, South Dakota, and Minnesota indicate that overall loss is generally 1 to 2 percent of the crop. If all producers received less than 2 percent damage, there would be little concern for damage caused by blackbirds. However, damage is not equally distributed, can be severe for some producers, and is fairly consistent from year-to-year within a locality. Research has been conducted throughout the northern Great Plains to estimate the amount of damage birds have caused to ripening sunflower crops. Sunflower damage assessments for North Dakota, South Dakota, and Minnesota showed an estimated loss of $5.1 million in 1979 and $7.9 million in 1980. More recent quantitative bird damage surveys were conducted from 1996 to 1998 in Stutsman and Pierce Counties in North Dakota and Brown and Clark Counties in South Dakota. Assuming damage in these four counties is representative of the damage in sunflower growing areas in North Dakota, South Dakota, and Minnesota, sunflower producers in these States lost about $8.26 million annually to blackbirds.

Sunflower growers and Government agencies have used both lethal and nonlethal techniques to reduce red-winged blackbird damage to ripening sunflowers. The goal of nonlethal methods is to decrease the availability or attractiveness of the crop to blackbirds or to disperse the birds so that damage is not concentrated in any given area. Examples of nonlethal methods include altering farming practices, using audio and visual frightening devices, growing bird-resistant sunflowers, increasing weed control in fields, and growing decoy crops. Additionally, research has shown that opening dense cattail stands, which are traditional roost sites for blackbirds, aids in dispersing blackbirds from nearby sunflower crops. To date, nonlethal blackbird damage management initiatives have been somewhat effective in reducing blackbird damage to unharvested sunflowers, but have not alleviated the problem for all sunflower growers.

Proposed Program

WS is proposing to implement a blackbird damage management program on private lands when requested in North Dakota, South Dakota, or Minnesota. The management approach would employ the use of nonlethal and lethal techniques to reduce red-winged blackbird damage to sunflowers. Sunflower damage and blackbird populations would be monitored to determine if the management techniques are reducing damage, if there is an effect on blackbird populations, or if additional methods or modification of implemented methods should occur.

Nonlethal Techniques

Under the proposed management program, WS would continue to employ the use of the nonlethal control methods described earlier in this document. WS would also continue to conduct roost management programs to disperse red-

winged blackbirds away from sunflower production areas. Roost management activities involve the treatment of cattail stands larger than 10 acres with glyphosate herbicide. Effective management of cattail stands can disperse blackbirds from traditional roosting sites that are often in close proximity to sunflower crops.

Lethal Techniques

Under the proposed management program, WS would employ the use of 2 percent DRC–1339-treated brown rice at red-winged blackbird staging areas in the spring to reduce breeding populations and subsequent damage to ripening sunflowers in the fall. DRC–1339 baiting would occur on not more than 50 acres in harvested fields near red-winged blackbird staging areas in east-central South Dakota and target not more than 2 million red-winged blackbirds annually. The baiting areas would be determined based on the most current red-winged blackbird roost site distribution and the areas where red-winged blackbirds stage. Baiting areas and sites would be determined through field observations by trained personnel, and DRC–1339-treated bait would not be distributed until risks to nontarget species were evaluated.

Prior EPA-Authorized Use of DRC–1339

The avian toxicant DRC–1339 (3-Chloro-p-toluidine hydrochloride) has been used to reduce blackbird populations causing agricultural damage in Louisiana, North Dakota, South Dakota, and Texas under Section 24C of the Federal Insecticide, Fungicide, and Rodenticide Act. In February 1995, the Environmental Protection Agency (EPA) granted a Section 3 label for "Compound DRC–1339 Concentrate Staging Areas" for bird control in noncrop staging areas associated with red-winged blackbird roosts. The Section 24C label for "Compound DRC–1339 Concentrate ND and SD" is still in effect for North Dakota because this label allows a broader use pattern, including baiting within ripening sunflower fields during late summer.

Scoping Process

The initial step in the process of developing an environmental impact statement (EIS) is scoping. Scoping includes solicitation of public involvement in the form of either written or oral comments, and evaluation of these comments. This process is used for determining the scope of issues to be addressed. We are therefore asking for written comments that identify significant environmental issues that should be analyzed in the EIS. We invite comments from affected Federal, State, and local agencies, any affected Indian tribe, and any other interested persons, and from Federal and State agencies that have either jurisdiction by law or special expertise regarding any issue or environmental impact that should be discussed in the EIS.

Note: On March 22, 2001, we published a notice in the **Federal Register** (66 FR 16028–16031, Docket No. 01–013–1) soliciting public involvement in the development of issues necessary to complete an analysis of the environmental impacts of reducing red-winged blackbird damage to ripening sunflowers in North Dakota, South Dakota, and Minnesota. We solicited comments on that notice for 30 days ending on April 23, 2001, and received 163 comments by the close of the comment period and an additional 27 comments by April 30, 2001. We will consider all the comments that we received in response to our March 22, 2001, notice during the preparation of the EIS that is the subject of this notice. Therefore, if you submitted comments in response the March 2001 notice, you do not need to resubmit those comments in order for the information provided in them to be considered during the development of the EIS.

We are encouraging members of the public and interested agencies and organizations to assist in the planning of this program and the development of an EIS by answering the following questions:

- What issues or concerns about the proposed sunflower protection program should we analyze?
- What alternatives to the proposed action should we analyze?
- Do you have additional information (*i.e.*, scientific data or studies) that we should consider in the analysis?

Alternatives

We will consider all reasonable and realistic action alternatives recommended in the comments we receive. The following alternatives have already been identified for comprehensive analysis in the EIS:

- No involvement by WS in sunflower protection (no Federal program);
- Non-lethal before lethal program;
- Continue the current WS blackbird damage management program;
- Integrated adaptive management with the use of DRC–1339 baiting to reduce damage caused by red-winged blackbirds (preferred action);
- Lethal only program; and
- Payment of compensation to affected growers.

Major Issues

The following are some of the major issues that will be discussed in the EIS:

- Cumulative effects of the proposed damage management program on red-winged blackbird populations;
- Safety concerns regarding the potential effects of the proposed damage management program on the public, domestic pets, and nontarget species, including threatened and endangered species;
- Efficacy of DRC–1339 spring baiting in reducing damage to unharvested sunflowers;
- Public concern about WS' use of chemicals; and
- DRC–1339 spring baiting effects on biodiversity.

Other alternatives and issues may also be included in the analysis and will be identified based on comments submitted by the public and other agencies and organizations.

Preparation of the EIS

Following completion of the scoping process, we will prepare a draft EIS for the program to protect sunflowers from blackbird damage. A notice announcing that the draft EIS is available for review will then be published in the **Federal Register**. The notice will also request comments concerning the draft EIS.

Done in Washington, DC, this 16th day of May 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12695 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Forest Service

Duck Creek—Swains Access Management Project, Dixie National Forest, Iron, Garfield, and Kane Counties, UT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare an environmental impact statement (EIS) for the Forest Service to implement several proposals within the Duck Creek—Swains Access Management Project area, on the Cedar City Ranger District, Dixie National Forest. These proposals include:

1. Maintain approximately 286 miles of road open to motorized vehicle travel. These roads are presently open to motorized use, and will remain open. Approximately 32 miles of these roads are open to street-legal vehicles only and would continue with the same management.

2. Construct 30 miles of motorized vehicle trail by restricting travel to motorized trail use on approximately 28 miles of road, and constructing approximately two miles of new trail. Motorized travel that would be allowed would consist of ATV's and motorcycles. Foot, horse, and bicycle use would also be allowed. This trail construction would include constructing a bridge over Swains Creek. These motorized trails would be segments that would connect existing trails with the goal to improve travel to destination points. Combined with the existing Duck Creek ATV trail, the total motorized travel would be approximately 32 miles.

3. Remove (decommission) approximately 122 miles from the road system and close to public motorized use. Levels of decommissioning on all or parts of these roads may include blocking the entrance, reestablishing vegetation and water barring, removing fills and culverts, establishing drainage ways and removing unstable road shoulders, or full obliteration by recontouring and restoring natural slopes. Recontouring would generally occur on slopes exceeding 30%. Approximately five segments of road totaling 1.3 acres would need recontouring. Three segments on unclassified road U–434 would need recontouring; two are within T.37S.,R.6W., Section 18, and one in T.37S.,R.7W., Section 13. The other two segments are on unclassified roads: U–349, near Swains Creek in T.38S., R.7W., Section 13; and U–85 in T.38S., R.7W., Section 28.

4. Close approximately 180 miles of road to motorized public use, retaining them on the Forest Transportation System for forest management needs. These roads would be kept on the Forest Transportation System for forest management, but not open to public motorized vehicle use. Methods used to close these roads would include a variety of techniques depending on road condition, topography, vegetation type and condition, and soil type. Management options could include gates, logs, rocks, signs, brush piles, or segments of fence.

5. Amend the Dixie National Forest Travel Plan to implement a "closed to motorized vehicle use, unless posted open" signing program in the Duck Creek—Swains Area. This proposed activity would be administrative in nature and would not involve ground-disturbing activities. The present direction in the travel plan that prohibits off-road vehicle use (except snowmobiles when adequate snow exists) would remain in effect and unchanged.

6. Relocate approximately one-eighth of a miles of the Bower's Flat road out of a wet meadow. Relocating the Bower's Flat road would require heavy equipment to create a new road and restore the old road and disturbed meadow to natural condition. The legal location is: T.37S., R.7W., Section 33.

7. Any new roads or travel ways developed by users and not approved by the Forest Service and observed after this proposal and corresponding decision will be decommissioned. The purpose of the Roads Analysis and this proposal is to identify which roads are needed for forest management, including recreation needs. In compliance with Federal Regulations at 36 CFR 212 *et al.* January 12, 2001, roads that are not needed will be decommissioned.

The purpose of these proposals is to initiate actions that would improve the motorized transportation system, improve habitat for wildlife, and reduce sedimentation and erosion. The project area is located approximately 24 miles east of Cedar City, Utah. The project would be implemented in accordance with direction in the Land and Resource Management Plan (Forest Plan) for the Dixie National Forest, 1986.

The agency gives notice that the environmental analysis process is underway. During the analysis process, an issue surfaced that warranted the disclosure of effects under an EIS. This issue is the high degree of interest associated with closing roads in the area.

Interested and potentially affected persons, along with local, state, and other Federal agencies, are invited to participate in, and contribute to, the environmental analysis. The Dixie National Forest invites written input regarding issues specific to the proposed action.

DATES: Written comments to be considered in the preparation of the Draft Environmental Impact Statement (DEIS) should be submitted on or before June 20, 2001. The DEIS is expected to be available for review by August 2001. The Record of Decision and Final Environmental Impact Statement are expected to be available by December 2001.

ADDRESSES: Submit written comments to: District Ranger, Cedar City Ranger District, 82 North 100 East, P.O. Box 0627, Cedar City, Utah 84721–0627; FAX: (801) 865–3791; E-mail: psummers@fs.fed.us

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Priscilla R. Summers, Project Environmental Coordinator, by mail at 82 North 100 East, P.O. Box 627, Cedar City, Utah 84721–0627; or by phone at (801) 865–3700; FAX: (801) 865–3791; E-mail: psummers@fs.fed.us

SUPPLEMENTARY INFORMATION: The proposed project is located in a 93,099-acre analysis area (including 20,241 acres on private land) in the Lower Mammoth, West Fork Asay Creek, Asay Creek, Duck Creek, Strawberry Creek, Swains Creek, and Castle Creek watersheds of the Upper Sevier Sub-Basin; and Upper North Fork Virgin River, Muddy Creek, Lydia's Canyon, Stout Canyon, and Upper East Fork Virgin River watersheds of the Upper Virgin Sub-Basin. There are approximately 617 miles of road in the project area, with increasing all-terrain vehicle (ATV) use.

The purpose of the project is to improve the motorized travel system in the project area while reducing erosion and sedimentation, and improving habitat for wildlife.

Construction of approximately two miles of motorized vehicle trail will connect existing routes to provide improved access to destination points (mostly private lands within the area). Road density of the area is approximately 4.8 miles per square mile. The guideline in the Dixie National Forest Land and Resource Management Plan is two miles of road per square mile or less. Generally, road densities above two miles per square mile reduce habitat effectiveness and habitat quality for big game. The higher the road density, the lower the quality of habitat. Roads within nesting areas for raptors causes disturbance to adults and young, and can cause nesting failure.

Stream crossings that lack adequate structures incur higher levels of sedimentation and erosion than those with proper structures. There are five streams lacking these structures that are causing undesirable sedimentation into streams. Approximately 12 miles of road in the project area are hydrologically connected to streams. Runoff on these roads delivers sediment from the road directly into the stream. Approximately 24 miles of road have poor drainage where people drive around the wet area creating a new route or widening the existing one. This is occurring in a wet meadow on one road, which is impacting the meadow in larger and larger areas each year.

Signing in the area is an open unless closed system. Enforcement of closures is difficult because signs get torn down. Currently, motor vehicle use is only

allowed on roads and designated motorized vehicle trails. Off-road use is prevalent and common, which has created what appear to be new roads . With the present signing system, closing this road with a sign and assuring that the sign remains in place is difficult. There are approximately four miles of unauthorized ATV trail that are causing undesirable impacts to streams and/or wildlife habitat.

Motorized vehicle trail construction (including a bridge), road closures, road decommission, and signing roads closed unless posted open would occur on National Forest system lands located within portions of Sections 23–26, and 35–36 of T.37S., R.8W., Salt Lake Base Meridian (SLBM), Iron County, UT; Sections 13–14, and 22–36 of T.37S., R.7W., and Sections 3–6, 17–23, and 26–35 of T.37S., R.6W., Salt Lake Base Meridian (SLBM), Garfield County, UT; and Sections 1–29, 33–36 of T.38S., R.8W.; Sections 1–36 of T.38S., R.7W.; Sections 3–8, 17–20, and 28–33 of T.28–33 of T.38S., R.6 W.; Sections 4–8, and 17–20 of T.39S. R.6W.; Sections 1–24 of T.39S., R.7W.; and Sections 1–3, and 11–13 of T. 39S., R.8W., Salt Lake Base Meridian (SLBM), Kane County, UT.

The proposed actions would implement management direction, contribute to meeting the goals and objectives identified in the Dixie National Forest Land and Resource Management Plan, and move the project area toward the desired condition. This project EIS would be tiered to the Dixie National Forest Land and Resource Management Plan EIS (1986), which provides goals, objectives, standards and guidelines for the various activities and land allocations on the Forest.

No permits or licenses are required to implement the proposed action and the issuing authority is the Forest Service.

As lead agency, the Forest Service would analyze and document direct, indirect, and cumulative environmental effects for a range of alternatives. Each alternative would include mitigation measures as necessary and monitoring requirements. No alternatives to the proposed action have been identified at this time, however, the following preliminary issue has been identified: (1) Use of roads within nesting areas for northern goshawk and peregrine falcon contribute to nesting failures.

Mary Wagner, Forest Supervisor, Dixie National Forest, is the responsible official. She can be reached by mail at 82 North 100 East, P.O. Box 580, Cedar City, Utah, 84720–0580.

The Forest Service is seeking comments from individuals, organizations, and local, state, and Federal agencies who may be interested in or affected by the proposed action. Scoping notices have been sent to potentially affected persons and those currently on the Dixie National Forest mailing list that have expressed interest in timber management proposals, proposals relating to wildlife habitat modifications and Forest Plan amendments. Other interested individuals, organizations, or agencies may have their names added to the mailing list for this project at any time by submitting a request to: Priscilla R. Summers, Project Environmental Coordinator, 82 North 100 East, P.O. Box 627, Cedar City, UT 84720–0627.

The analysis area includes both National Forest System lands and private lands. Proposed treatments would occur only on National Forest system lands. Motorized trails are proposed to cross State Highway 14. No federal or local permits, licenses or entitlements would be needed.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could have been raised at the DEIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in the proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at the time it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns about the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: May 11, 2001.

Mary Wagner,

Forest Supervisor, Dixie National Forest.

[FR Doc. 01–12664 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Quarterly Financial Reports (QFR) Program.

Form Number(s): QFR–101(MG), 101A(MG), 102(TR), 103(NB).

Agency Approval Number: 0607–0432.

Type of Request: Extension of a currently approved collection.

Burden: 77,708 hours.

Number of Respondents: 13,125.

Avg Hours Per Response: 2 hours and 3 minutes.

Needs and Uses: The QFR Program has published up-to-date aggregate statistics on the financial results and position of U.S. corporations since 1947. It is a principal economic indicator that also provides financial data essential to calculation of key U.S. Government measures of national economic performance. The importance of this data collection is reflected by the granting of specific authority to conduct the program in Title 13 of the United States Code, Section 91, which requires that financial statistics of business operations be collected and published quarterly. Public Law 105–252 extended the authority of the Secretary of Commerce to conduct the QFR Program under Section 91 through September 30, 2005.

The QFR is scheduled to convert to the North American Industry Classification System (NAICS) in April 2002 with the publication of the fourth quarter 2001 data. With the adoption of the NAICS, a number of industries currently covered by QFR under the Standard Industrial Classification (SIC) system will be out of scope. Specifically, QFR will no longer collect data from companies primarily engaged in Publishing and Printing, except Commercial Printing; Logging; and Eating and Drinking Places. Publishing and Printing was moved to the NAICS Information sector; Logging to the Agriculture, Forestry; Fishing, and Hunting sector; Eating and Drinking Places to the Accommodation and Food Services sector. This request is for extension of the current OMB approval.

Affected Public: Businesses or other for-profit organizations.

Frequency: Quarterly and annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Section 91; P.L. 105–252.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12672 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–07–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–811]

Certain Hot-Rolled Carbon Steel Flat Products from Ukraine; Notice of Postponement of Final Determination in the Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Lori Ellison, Laurel LaCivita, or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5811, (202) 482–4243, and (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2000).

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On May 2, 2001, the Department received a request pursuant to section 735(a)(2)(A) of the Act to postpone its final determination until 135 days after publication of the Department's preliminary determination and to extend the imposition of provisional measures from a four-month period to not more than six months from respondent Zaporizhstal Iron and Steel Works, "the Midland group of companies" (i.e. Midland Industries Limited, Midland Metals International, Inc., and Midland Resources Holding Limited), and the State Committee of Industrial Policy of Ukraine.

In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the respondent requesting a postponement accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination to no later than September 15, 2001, which is 135 days after the publication of the preliminary determination. *See Notice of Preliminary Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from Ukraine.* Suspension of liquidation will be extended accordingly.

This notice of postponement is published pursuant to 19 CFR 351.210(g).

Dated: May 15, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12750 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review: mechanical transfer presses from Japan.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan in response to a request by respondent, Komatsu, Ltd. (Komatsu). This review covers shipments of this merchandise to the United States during the period of February 1, 1999 through January 31, 2000. On March 8, 2001, we published our preliminary determination that U.S. sales were not made below normal value (NV). We have affirmed this finding in these final results. We will instruct the U.S. Customs Service to liquidate entries without regard to antidumping duties.

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Sally Gannon, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0666 or (202) 482–0162, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated,

all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (2000).

Background

On March 8, 2001, the Department published the preliminary results of review for the period February 1, 1999 through January 31, 2000 (66 FR 13891). We invited parties to comment on our preliminary results of review. On April 9, 2001, Komatsu submitted a case brief alleging that the Department had erroneously omitted home market indirect selling expenses from its analysis, and that the preliminary results as published in the **Federal Register** contained an error. On April 12, 2001, Komatsu withdrew its allegation regarding home market indirect selling expenses, but maintained its allegation of an error in the **Federal Register** notice. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8462.99.0035 and 8466.94.5040. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive. The term "mechanical transfer presses" refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover certain parts and accessories, which were determined to be outside the scope of the order. (See "Final Scope Ruling on Spare and Replacement Parts," U.S. Department of Commerce, March 20, 1992; and "Final Scope Ruling on the Antidumping Duty Order on Mechanical Transfer Presses (MTPs) from Japan: Request by Komatsu, Ltd.," U.S. Department of Commerce, October 3, 1996.) This review covers one manufacturer of MTPs, and the period February 1, 1999 through January 31, 2000.

Comments From Interested Parties and Changes Since the Preliminary Results

Komatsu has alleged that the **Federal Register** notice publishing the Department's preliminary results did not accurately state Komatsu's margin. Komatsu alleged that, while the notice stated that its margin was 0.99 percent, the Department had calculated its margin to be 0.00 percent. We agree with Komatsu. The Department calculated a preliminary margin of 0.00 percent for Komatsu, as can be seen in the *Memorandum to the File from Mark Hoadley through Sally Gannon; Analysis of Komatsu, Ltd.* (Feb. 14, 2001), and as can also be inferred from the surrounding context of the preliminary notice. Therefore, as there are no other allegations or comments from interested parties regarding our preliminary results of review, we find a margin of 0.00 percent for Komatsu for purposes of these final results.

Final Results of Review

We determine that the following percentage weighted-average margin exists for the period February 1, 1999 through January 31, 2000:

Manufacturer/ exporter	Time period	Margin percent
Komatsu, Ltd. ...	02/01/99–01/31/00	0.00

Because the weighted-average dumping margin is zero, we will instruct the U.S. Customs Service to liquidate entries made during this review period without regard to antidumping duties for the subject merchandise that Komatsu exported.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of MTPs from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 14.51 percent. This rate is the "All Others" rate from the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: May 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12751 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Oil Country Tubular Goods From the Republic of Korea; Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of changed circumstances antidumping duty administrative review.

SUMMARY: On March 1, 2001, the Department of Commerce published a notice of initiation in the above-named case. As a result of this review, the Department of Commerce preliminarily finds for the purposes of this proceeding that Hyundai Steel Company ("Hyundai Hysco") is the successor-in-interest to Hyundai Pipe Company, Ltd. ("HDP").

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Scott Lindsay, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5255 and (202) 482–3782, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the "Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("Department") regulations are to 19 CFR part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2001, the Department published a notice of initiation in this changed circumstances review (*see Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review*, 66 FR 12925). On March 20, 2001, the Department conducted a verification of Hyundai Hysco at its headquarters in Seoul. *See Memorandum to the File: Verification of Hyundai Hysco in the Changed Circumstance Review of Oil Country Tubular Goods and Circular Welded Non-Alloy Steel Pipe from South Korea*, dated April 13, 2001. Verification results are outlined in the public version of the verification report on file in Room B–099 of the main Commerce building.

Scope of the Review

The products covered by this order are oil country tubular goods ("OCTG"), hollow steel products of circular cross-section, including only oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. Although the HTSUS item numbers are provided for convenience and Customs purposes, the written description remains dispositive of the scope of this review.

Preliminary Results

In making successor-in-interest determinations, the Department examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See e.g., Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20461 (May 13, 1992). While no single factor, or combination of factors, will necessarily prove dispositive, the Department will generally consider the new company to be the successor to its predecessor company if the resulting operations are essentially the same as the predecessor company. *See e.g., Id.* and *Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as its predecessor, the Department will assign the new company the cash-deposit rate of its predecessor.

Based on the information submitted by Hyundai Hysco during the initiation stages of this changed circumstances review and the information examined during verification, we preliminarily determine that Hyundai Hysco is the successor-in-interest to HDP. We find the company's organizational structure, senior management, production facilities, supplier relationships, and customers have remained essentially unchanged. Furthermore, Hyundai Hysco has provided sufficient internal and public documentation of the name change. Based on all the evidence reviewed, we find that Hyundai Hysco operates as the same business entity as HDP. Thus, we preliminarily determine that Hyundai Hysco should be excluded from the antidumping duty order as was it's predecessor company, HDP.

Public Comment

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed-circumstances review, including the results of its analysis of issues raised in any written comments.

We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and §§ 351.216 and 351.222 of the Department's regulations.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12749 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Visiting Committee on Advanced Technology, National Institute of Standards and Technology (NIST), will meet Tuesday, June 5, 2001 from 8:15 a.m. to 5:15 p.m. and Wednesday, June

6, 2001 from 8:30 a.m. to 11:40 a.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of NIST; who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include a Cross-cut Review of Human Resources, a presentation by a member of the Visiting Committee, a laboratory tour of the Center for Advanced Research in Biotechnology, and a Cross-cut Review of NIST Impact on Law Enforcement. Discussions scheduled to begin at 4 p.m. end at 5:15 p.m. on June 5, 2001 and to begin at 8:15 a.m. and to end at 11:40 a.m. on June 6, 2001, on staffing of management positions at NIST, the NIST budget, including funding levels of the Advanced Technology Program and the Manufacturing Extension Partnership, and feedback sessions will be closed.

DATES: The meeting will convene June 5, 2001 at 8:30 a.m. and will adjourn at 11:40 a.m. on June 6, 2001.

ADDRESSES: The meeting will be held in the Employees Lounge, Administration Building, at NIST, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Janet R. Russell, Administrative Coordinator, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, Gaithersburg, MD 20899–1004, telephone number (301) 975–2107.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 12, 2001, that portions of the meeting of the Visiting Committee on Advanced Technology which involve discussion of proposed funding of the Advanced Technology Program and the Manufacturing Extension Partnership Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of the staffing issues of management and other positions at NIST may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: May 14, 2001.

Karen H. Brown,

Acting Director.

[FR Doc. 01–12688 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for a scientific research permit (1316); Issuance of permits 1298 and 1266.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a scientific research permit from Dr. Jeff Schmid, of The Conservancy of Southwest Florida; NMFS has issued permit 1298 to Ms. Melissa Salmon, of Riverbanks Zoological Park and permit 1266 to John Glass, of REMSA, Inc.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on June 20, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (phone: 301-713-1401, fax: 301-713-0376, e-mail: Terri.Jordan@noaa.gov)

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under Section 10(a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Sea turtles

Threatened and endangered Green turtle (*Chelonia mydas*)

Endangered Kemp's ridley turtle (*Lepidochelys kempii*)

Endangered Leatherback turtle (*Dermochelys coriacea*)

Threatened Loggerhead turtle (*Caretta caretta*)

Fish

Endangered Shortnose Sturgeon (*Acipenser brevirostrum*)

New Applications Received

Application 1316

The applicant proposes to characterize the essential habitat associations of subadult Kemp's ridley turtles in the nearshore waters of the upper Ten Thousand Islands. The objectives are: (1) to monitor the movements of Kemp's ridley turtles via radio and sonic telemetry and to quantify their habitat utilization from the geographical position data, (2) to produce a geographic information system (GIS) database of benthic habitats and subsequently map the habitat types within the study area, and (3) to test for habitat preferences of Kemp's ridley turtles in this region by comparing the amount of time a turtle spends in a given habitat relative to the availability of all other habitat types.

Permits and Modified Permits Issued

Permit #1298

Notice was published on March 5, 2001 (66 FR 13305), that Ms. Melissa Salmon, of Riverbanks Zoological Park applied for a enhancement permit (1298). The applicant has requested a 5–year permit to continue to maintain eleven adult shortnose sturgeon received from the South Carolina Department of Natural Resources in 1996 for education purposes. NMFS believes that captive maintenance of endangered shortnose sturgeon for enhancement purposes is to the benefit of the species as a whole. The source for the captive display are shortnose sturgeon maintained in hatchery settings that have been deemed non-releasable by NMFS. Because these cultured sturgeon have been deemed non-releasable at this time by NMFS, alternatives to sacrifice were needed. The recovery team for shortnose sturgeon felt that these cultured fish provided an excellent opportunity to educate the public and increase awareness of the species and its plight. These fish are used in research activities and, as recommended by the recovery team, in enhancement activities such as public education. Permit 1298 was issued on May 4, 2001, authorizing take of listed species. Permit 1298 expires May 31, 2006.

Permit #1266

Notice was published on October 19, 2000 (65 FR 62709), that John Glass, of REMSA, Inc. applied for a research/enhancement permit (1266). The applicant requested a 5–year permit to take leatherback, green, loggerhead, Kemp's ridley and green turtles from the Atlantic Ocean and Gulf of Mexico in conjunction with US Army Corps of Engineer Dredging projects for scientific research and enhancement purposes. Permit 1266 was issued on May 8, 2001, authorizing take of listed species. Permit 1266 expires April 30, 2006.

Dated: May 15, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12747 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051401C]

Marine Mammals; Scientific Research and Enhancement Permit (PHF# 116-1477)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that SeaWorld of Texas, 10500 Sea World Drive, San Antonio, Texas, 78251, has applied in due form for an amendment to Permit No. 116-1477 to take Hawaiian monk seals (*Monachus schauinslandi*) for purposes of scientific research.

DATES: Written comments must be received on or before June 20, 2001.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s): (see **SUPPLEMENTARY INFORMATION**).

Written comments or requests for a public hearing on this request, should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit amendment is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222.23).

Permit No. 116-1477 authorizes the permit holder to permanently transfer ten (10) captive, unreleasable female Hawaiian monk seals from the National Marine Fisheries Service's Kewalo Research Facility to SeaWorld of Texas for research and enhancement purposes. The primary objective of the Permit is to make the seals available for scientific research on an opportunistic basis in order to benefit the wild population of Hawaiian monk seals. As provided for in the Permit, the permit holder requests authorization to conduct research studies on the ten captive female Hawaiian monk seals now permanently held at SeaWorld of Texas. The research study involves systematic feeding of certain prey to the captive seals and subsequent comparison of fatty acid composition of blubber samples with the fatty acid composition of the food consumed. The goal is to determine whether the assessment of fatty acid signatures in blubber samples of free-ranging Hawaiian monk seals may be an appropriate and reliable method for qualitative and quantitative assessment of their diet. This study is aimed at reducing or eliminating adverse interactions between current and anticipated fishing operations with free-ranging Hawaiian monk seals.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this amendment application to the Marine Mammal Commission and its Committee of Scientific Advisors. The application and related documents are available for review in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018;

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702–2432; phone (727) 570–5301; fax (727) 570–5320; and

Protected Species Program Manager, Pacific Islands Area Office, 1601 Kapiolani Blvd., Room 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941.

Dated: May 15, 2001.

E. Ruth Johnson,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12746 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050901E]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet June 10-15, 2001. The Council meeting will begin on Tuesday, June 12, at 8 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. until 8:30 a.m. on Tuesday, June 12 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Park Plaza Hotel, 1177 Airport Boulevard, Burlingame, CA 94010; telephone: 650–342–9200.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503)326–6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order. All items listed are subject to potential Council action.

A. Call to Order

1. Opening Remarks, Introductions,
2. Roll Call
3. Executive Director's Report
4. Approve Agenda
5. Approve March 2001 and April 2001 Minutes

B. Salmon Management

1. NMFS Report
2. Sequence of Events and Status of Fisheries

C. Groundfish Management

1. NMFS Report
2. Sablefish Three-Tier Program Qualification with Setnet Landings
3. Marine Recreational Fisheries Statistics Survey Update
4. Status of the 2001 Stock Assessment Review Panel Meetings
5. Stock Assessment Priorities for 2002
6. Experimental Fishing Permit (EFP) Applications
7. Limited Entry Fixed Gear Sablefish Permit Stacking and Season for 2001 and beyond
8. Incidental Pacific Halibut Harvest Restrictions for the Primary, Limited Entry Longline Sablefish Fishery North of Point Chehalis, Washington
9. Strategic Plan Implementation
10. Rebuilding Plans for Canary Rockfish, Cowcod, Pacific Ocean Perch, Bocaccio, Lingcod, Widow Rockfish, and Darkblotched Rockfish
11. Preliminary Harvest Levels for 2002
12. American Fisheries Act Management Measures
13. Status of Fisheries and Inseason Adjustments
14. Full Retention Measures

D. Habitat Issues

Essential Fish Habitat Issues

E. Marine Reserves

1. Review of West Coast Marine Reserves Efforts
2. Marine Reserves in the Channel Island National Marine Sanctuary

F. Highly Migratory Species Management

1. International Highly Migratory Species (HMS) Discussions and Actions
2. Public Review Draft of the HMS Fishery Management Plan (FMP)
3. Draft FMP Public Hearing Schedule

G. Coastal Pelagic Species Management

1. Exempted Fishing Permit Applications
2. Pacific Mackerel Harvest Guideline and Other Specifications for 2002
3. Market Squid Maximum Sustainable Yield (MSY) Methodology Review Workshop

H. Administrative and Other Matters

1. Report of the Budget Committee
2. Status of Legislation
3. Appointments to Advisory Bodies or Other Council Positions
4. Council Staff Work Load Priorities
5. September 2001 Council Meeting Draft Agenda

SCHEDULE OF ANCILLARY MEETINGS

SUNDAY, JUNE 10, 2001

Scientific and Statistical Committee
Highly Migratory Species Subcommittee 10 a.m.

MONDAY, JUNE 11, 2001

Council Secretariate 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Scientific and Statistical Committee 8 a.m.
Budget Committee 10 a.m.
Habitat Steering Group 1 p.m.
Highly Migratory Species Advisory Subpanel 1 p.m.

TUESDAY, JUNE 12, 2001

Council Secretariate 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Scientific and Statistical Committee 8 a.m.
Habitat Steering Group 8 a.m.-noon
Highly Migratory Species Advisory Subpanel 8 a.m.-noon
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team: As necessary
Enforcement Consultants: Immediately following Council Session
Groundfish FMP EIS Scoping Meeting 7 p.m.

WEDNESDAY, JUNE 13, 2001

Council Secretariate 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel: As necessary
Groundfish Management Team: As necessary
Enforcement Consultants: As necessary

THURSDAY, JUNE 14, 2001

Council Secretariate 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Management Team: As necessary
Enforcement Consultants: As necessary

FRIDAY, JUNE 15, 2001

Council Secretariate 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Enforcement Consultants: As necessary

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326—6352 at least 5 days prior to the meeting date.

Dated: May 11, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12748 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

[Docket No.: 010514126–1126–01]

RIN 0692–ZA00

Under Secretary/Office of Technology Policy Grants Program

AGENCY: Technology Administration, Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Technology Policy, Technology Administration, U.S. Department of Commerce invites proposals from eligible organizations for funding projects under the Under Secretary/Office of Technology Policy (US/OTP) Grants Program. Under this program, the Under Secretary/Office of Technology Policy will provide grants and cooperative agreements in the following areas: Identifying Government Policies That Affect Innovation, Supporting State and Local Efforts to Harness Technology for Economic Development, and Facilitating Technology Development and Transfer.

DATES: The US/OTP Grants Program proposals must be received no later than the close of business September 30, 2001. Proposals received after June 30, 2001 will continue to be processed and considered for funding but may be funded in the next fiscal year, subject to the availability of funds.

ADDRESSES: Applicants are requested to submit one signed original and two copies of the proposal, along with a Grant Application, (Standard Form 424 REV. 7/97 and other required forms), clearly marked to identify the field of research, to: Jon Paugh; Office of Technology Policy; Technology Competitiveness Staff, Room 4418; United States Department of Commerce; 14th & Constitution Ave.; Washington, DC 20239; Tel: (202) 482–2100; E-mail: *otptech@ta.doc.gov*

FOR FURTHER INFORMATION CONTACT: Karen Laney-Cummings; Office of Technology Policy; Technology Competitiveness Staff, Room 4418; United States Department of Commerce; 14th & Constitution Ave.; Washington, DC 20239; Tel: (202) 482–2100; E-mail: *otptech@ta.doc.gov*

SUPPLEMENTARY INFORMATION:

Authority: The authority for the US/OTP Grants Program is as follows: As authorized by 15 U.S.C. 3704 (b) and (c) and 15 U.S.C. 3706, the Office of Technology Policy conducts directly, and supports through grants and cooperative agreements, a program of policy analysis and development relating to technological innovation and its contribution to economic growth and industrial competitiveness.

Background: The responsibilities of the Office of Technology Policy (OTP) are defined by the Stevenson-Wydler Technology Innovation Act, 15 U.S.C. 3701 et seq., and related legislation, detailed below. The Stevenson-Wydler Technology Innovation Act requires the Assistant Secretary for Technology Policy, who serves as Director of OTP, to support the Under Secretary for Technology in carrying out the Act's policy responsibilities by:

- Conducting technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;
- Identifying technological needs, problems, and opportunities within and across industrial sectors that, if addressed, could make a significant contribution to the economy of the United States;
- Supporting studies and policy experiments, in cooperation with other Federal agencies, to determine the effectiveness of measures with the potential of advancing U.S. technological innovation;
- Encouraging and assisting joint initiatives by State or local governments, regional organizations, private businesses, institutions or higher education, nonprofit organizations, or Federal laboratories to encourage technology transfer, to stimulate innovation, and to promote an appropriate climate for investment in technology-related industries;
- Serving as a convener for discussions among U.S. companies on topics of interest to industry and labor, including discussions regarding manufacturing or emerging technologies.

In addition, the Stevenson-Wydler Technology Innovation Act, the Federal Technology Transfer Act, 15 U.S.C. 3710, the Bayh-Dole Act, 15 U.S.C. 200 et seq., and implementing regulations found at 37 CFR Parts 401, 404, and 501 give OTP specific responsibilities to encourage cooperation between government, universities and industry in the development and diffusion of new technologies. OTP is to:

- Provide services to Federal agencies in support of the commercialization of technology developed at Federal laboratories
- Monitor agency use of cooperative agreements and prepare regular reports on agency use of those mechanisms
- Develop policies and issue regulations governing ownership and licensing of patents arising from Federally-funded research at universities and in small businesses
- Issue regulations governing licensing of Federally owned inventions by the federal agencies
- Decide disputes regarding ownership of patents between Federal agencies and their employees.

Program Description and Objectives: Specific examples of policy-related activities that OTP may wish to support through grants or cooperative agreements are presented here in terms of OTP's areas of policy activity:

I. Identifying Government Policies That Affect Innovation—OTP is interested in identifying and analyzing government policy areas with a marked effect on private sector innovation. To this end, OTP is interested in proposals for projects related to emerging policy issues that affect the business environment for innovation—for example, regulatory barriers, tax and accounting rules, legal issues such as intellectual property rights or liability, investment incentives, capital availability, ethical issues, or workforce-related issues. Preferences will be given to issues that impact multiple business sectors or that may have spillover effects for the U.S. economy.

II. Supporting State and Local Efforts to Harness Technology for Economic Development—OTP is primarily interested in four subtopics. First, OTP is interested in developing a systematic body of knowledge regarding the manner in which Federal laboratories seek to support economic development in the communities in which they reside, and identifying and analyzing the most effective practices utilized by the Federal laboratories for this purpose. The object of this effort is to improve the contribution that Federal laboratories make to local economies.

Second, OTP is also interested in improving the availability of web-based sources of data pertaining to technology-based economic growth, particularly at the sub-state and multi-state levels. Proposals are invited for projects that will assemble and analyze data from a variety of sources about factors that affect high technology industry growth. Such a database should allow users to customize data sets from multiple sources.

Third, OTP is interested in data development and dissemination focusing on public programs' and private entities' efforts to provide capital to new and young technology firms to generate local economic growth ant technological innovation.

Fourth, OTP is also interested in data development and dissemination efforts relating to the comparison of outcomes and determination of best practices in business incubators. Such efforts might be based on quantitative data and case studies where appropriate. OTP is particularly interested in expanding understanding of those incubators that are affiliated with universities or Federal labs.

Specific outcomes for any project may include, but not be limited to, reference guides for analysts, policy makers and program practitioners, the identification of best practices, databases to improve knowledge and program performances, and further progress toward measurement and performance criteria.

III. Facilitating Technology Development and Transfer—OTP is interested in developing a better understanding of the barriers to research collaboration and technology licensing between the private sector and the Federal laboratories. It is especially interested in studies that identify and analyze in detail specific areas where these entities' views and practices diverge in connection with such undertakings. It is also interested in identifying the kinds of information and process that can best enable private sector parties to identify Federal laboratories with the competencies they are seeking. In addition, OTP is interested in developing a more detailed knowledge base concerning the issues arising from university technology transfer with industry under the Bayh-Dole Act, 15 U.S.C. 200 *et seq.*

OTP is also interested in proposals that may illuminate questions of measurements relating to the technology policy process. For example, while R&D investment and patent grants are useful for measuring technology creation activity, equally effective measures are needed for better gauging the effective use of technology by industry. Another important area relates to measuring the performance of the many companies that rely increasingly on investment and management of intangible assets such as human intelligence, knowledge, ideas, skills, brand recognition, and organizational capabilities. Often referred to as intellectual capital (IC), these and other intangible assets are neither precisely defined nor systematically measured.

Eligibility: Under 15 U.S.C. Sec. 3706, any person is eligible for this program. When applicable, applicants should designate themselves on the SF–424 as institutions of higher education; non-profit organizations; commercial organizations; international organizations; or state, local, and Indian tribal governments.

In addition, US/OTP will accept applications from authorized Federal organizations and compete them with applications from non-Federal applicants. Before a Federal applicant may be considered for funding, it must demonstrate that it has statutory authority to receive funds from another Federal organization in excess of its appropriation. As this announcement is not proposing to procure goods or services for US/OTP from applicants, the Economy Act, 31 U.S.C. Sec. 1535, is not an appropriate legal basis.

Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this Notice. Proposals selected for funding from Federal agencies will be funded through an interagency or intra-agency transfer agreement, as applicable.

Funding Availability: In fiscal year 2001, the US/OTP Grants Program anticipates funding of approximately $400,000, including new awards and continuing projects. Most grants and cooperative agreements are expected to be in the $20,000 to $50,000 per year range.

Proposal Review Process and Evaluation Criteria: First, all proposals will be reviewed by OTP staff to determine whether the proposal supports one of OTP's areas of policy responsibility, as described in this Notice. Second, proposals meeting that threshold test will be reviewed and ranked by at least three independent reviewers knowledgeable about the relevant subject area that will be appointed by the OTP Staff Directors.

The reviewers will use the following evaluation criteria:

1. Importance of the proposed research—Does it have the potential of answering or providing new insight into pressing questions in areas of OTP's policy responsibilities? (60%)

2. Expertise and Experience—Does the proposal provide evidence of the applicant's expertise in the relevant subject area? Does the proposal provide evidence that the quality of the research previously carried out by the applicant is such that there is a high probability that the proposed research will be successfully carried out? (20%)

3. Budget—Is the proposed budget reasonable, and is adequate rationale provided for costs? (10%)

4. Implementation Plan—Does the proposal include a reasonable plan for achieving the project goals, and a realistic schedule for the performance of the work, with defined milestones? (10%)

Reviews will be conducted on a bi-monthly basis during the third quarter and fourth quarters of the fiscal year, which ends September 30, 2001.

Third, the results of the reviews will be provided to the Selecting Official, the Director of the Office of Technology Competitiveness, OTP, who will make funding recommendations, taking into account the following:

- The evaluation and ranking by the reviewers,
- The evaluation criteria listed above,
- The degree to which the slate of recommended applications, taken as a whole, satisfies the program's stated purposes, and
- The availability of funds.

Any selection recommendation outside the ranking of the reviewers shall be justified in writing by the Selecting Official on the basis of one or more of the above selection factors.

Fourth, the final approval of selected applications and the award of financial assistance will be made by the Technology Administration's National Institute of Standards and Technology (NIST) Grants Officer, who will handle administration of these awards. The Grants Officer's approval will be based on compliance with application requirements as published in this Notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible. The decision of the Grants Officer is final.

Prior to award, applicants may be asked to modify objectives, work plans, or budgets, and provide supplemental information required by the agency.

Applicants should allow up to 90 days processing time.

Award Period: Proposals will generally be considered for research projects for one year. If a proposal for a multi-year project is submitted and approved, funding will initially be provided for only the first year of the program. If an application is selected for funding, DoC has no obligation to provide any additional funding in connection with that award. Funding for each subsequent year of a multi-year proposal will be contingent on satisfactory progress, continuing relevance to OTP's mission, and the available of funds.

Matching Requirements: Pursuant to 15 U.S.C. 3706, the Office of Technology Policy Grants Program may not fund more than 75 percent of any project performed under a grant or cooperative agreement. Therefore, at least 25 percent matching funds are required for all financial assistance awarded under this program.

Application Kit: An application kit, containing all required application forms and certifications is available by contacting: Claudeen Julia; Office of Technology Policy; Technology Competitiveness Staff, Room 4418; United States Department of Commerce; 14th & Constitution Ave.; Washington, DC 20239; Tel: (202) 482–2100; E-mail: *otptech@doc.gov*

Additional Information

Funding Availability: Awards are contingent on the availability of funds.

Catalog of Federal Domestic Assistance Name and Number: 11.615, Office of Technology Policy Grants Program.

For Further Information Contact: All grants administration questions concerning these programs should be directed to the NIST Grants Office at (301) 975–5718.

Application Kit: The application kit includes the following:

SF 424 (Rev 7/97)—APPLICATION FOR FEDERAL ASSISTANCE

SF 424A (Rev 7/97)—BUDGET INFORMATION—Non-Construction Programs, including a detailed budget narrative explaining the details of each budget category and the basis for the cost. If indirect costs are included in the budget, a copy of the applicant's negotiated indirect cost rate must be submitted, if available.

SF 424B (Rev 7/97—ASSURANCE—Non-Construction Programs

CD 511 (7/91)—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS; DRUG-FREE WORKPLACE REQUIREMENTS AND LOBBYING

CD 512 (7/91)—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS AND LOBBYING

SF–LLL—DISCLOSURE OF LOBBYING ACTIVITIES

CD–346—APPLICANT FOR FUNDING ASSISTANCE

Paperwork Reduction Act: The Standard Forms 424, 424A, 424B and SR–LLL in the application kit are subject to the requirements of the Paperwork Reduction Act and have been approved by the Office of Management and Budget (OMB) under Control No. 0348–0043, 0348–0044, 0348–0040, and 0348–0046. CD–346 is approved under OMB Control No. 0605–0001.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Research Projects Involving Human Subjects, Human Tissue, Data or Recordings Involving Human Subjects: Any proposal that includes research involving human subjects, human tissue, data or recording involving human subjects must meet the requirements of the Common Rule for the Protection of Human Subjects, codified for the Department of Commerce (DoC) at 15 CFR part 27. In addition, any proposal that includes research on these topics must be in compliance with any statutory requirements imposed upon NIH and other federal agencies regarding these topics, all regulatory policies and guidance adopted by NIH, FDA, and other federal agencies on these topics, and all Presidential statements of policy on these topics.

The NIH recently released their guidelines on the use of human pluripotent stem cells derived from human embryos in research. The DoC is currently reviewing these guidelines. Until DoC has had the opportunity to fully assess the new guidelines and develop appropriate implementing procedures, DoC will not consider proposals that involve human pluripotent stem cells derived from human embryos for funding.

On December 3, 2000, the U.S. Department of Health and Human Services (DHHS) introduced a new Federalwide Assurance of Protection of Human Subjects (FWA). The FWA covers all of an institution's Federally-supported human subjects research, and eliminates the need for other types of Assurance documents. In anticipation of the new Assurance, the Office for Human Research Protections (OHRP) has suspended processing of multiple project assurance (MPA) renewals. All existing MPAs will remain in force until further notice. OHRP will continue to accept new single project assurances (SPAs) until approximately March 1, 2001. For information about FWAs, please see the OHRP website at http://ohrp.osophs.dhhs.gov/whatsnew.htm.

In accordance with the DHHS change, DoC will continue to accept the submission of human subjects protocols that have been approved by Institutional Review Boards (IRBs) possessing a current, valid MPA from DHHS. DoC also will accept the submission of human subjects protocols that have been approved by IRBs possessing a current, valid FWA from DHHS. DoC will not issue an SPA for any IRB reviewing any human subjects protocol proposed to OTP.

Research Projects Involving Vertebrate Animals: Any proposal that includes research involving vertebrate animals must be in compliance with the National Research Council's "Guide for the Care and Use of Laboratory Animals" which can be obtained from National Academy Press, 2101 Constitution Avenue, NW., Washington, DC 20055. In addition, such proposals must meet the requirements of the Animal Welfare Act (7 U.S.C. 2131 et seq.), 9 CFR Parts 1, 2, and 3, and if appropriate, 21 CFR Part 58. These regulations do not apply to proposed research using pre-existing images of animals or to research plans that do not include live animals that are being cared for, euthanased, or used by the project participants to accomplish research goals, teaching, or testing. These regulations also do not apply to obtaining animal materials from commercial processors of animal products or to animal cell lines or tissues from tissue banks.

Type of Funding Instrument: The funding instrument will be a grant or cooperative agreement, depending on the nature of the proposed work. A grant will be used unless OTP is "substantially involved" in the project, in which case a cooperative agreement

will be used. A common example of substantial involvement is collaboration between OTP personnel and recipient personnel. Further examples are listed in Section 5.03.d of Department of Commerce Administrative Order 203–26, which can be found at http://wwhttp://www.osec.doc.gov/bmi/daos/203–26.htm. OTP will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for contractual arrangements for services and products for delivery to OTP is not available under this announcement.

Additional Requirements

Primary Application Certifications: All primary applicant institutions must submit a completed form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations must be provided:

1. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, "Nonprocurment Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. *Drug-Free Workplace.* Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, Subpart F, "Government wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. *Anti-Lobbying.* Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. *Anti-Lobbying Disclosure.* Any applicant institution that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

5. *Lower-Tier Certifications.* Recipients shall require applicant/bidder institutions for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

Name Check Reviews: All for-profit and non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity. Form CD–346 must be completed for all personnel with key programmatic or fiduciary responsibilities.

Preaward Activities: Applicants (or their institutions) who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of DoC to cover pre-award costs.

No Obligation for Future Funding: If an application is accepted for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC.

Past Performance: Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

False Statements: A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Delinquent Federal Debts: No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full.

2. A negotiated repayment schedule is established and at least one payment is received, or

3. Other arrangements satisfactory to DoC are made.

Indirect costs: Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the DoC will reimburse the Recipient shall be the lesser of:

(a) the Federal Share of the total allocable indirect costs of the award based on the negotiated rate with the cognizant Federal agency as established by audit or negotiation; or

(b) the line item amount for the Federal share of indirect costs contained in the approved budget of the award.

Purchase of American-Made Equipment and Products: Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

Federal Policies and Procedures: Recipients and subrecipients under each of the above grant programs shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards, including 15 CFR part 14 and 15 CFR part 24, as applicable.

The OTP Grants Program does not directly affect any state or local government.

Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Executive Order Statement: This funding notice was determined to be "not significant" for purposes of Executive Order 12866.

Dated: May 15, 2001.

Karen H. Brown,

Acting Under Secretary for Technology.

[FR Doc. 01–12687 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–18–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Revision of Currently Approved Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. This form is available in alternate formats. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9:00 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Currently, the Corporation is soliciting comments concerning the revision of its AmeriCorps*VISTA Project Progress Report (OMB Control Number 3045–0043, with an expiration date of 07/31/2000). Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by July 20, 2001.

ADDRESSES: Send comments to the Corporation for National and Community Service, AmeriCorps*VISTA, Attn: Robert L. Bush, 1201 New York Avenue, NW., Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: Robert L. Bush, (202) 606–5000, ext. 338, or e-mail to *rbush@cns.gov.*

SUPPLEMENTARY INFORMATION:

Comment Request

The Corporation is particularly interested in comments which:

♦ Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

♦ Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

♦ Enhance the quality, utility, and clarity of the information to be collected; and

♦ Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Background:

The Corporation proposes to distribute the AmeriCorps*VISTA Project Progress Report form to AmeriCorps*VISTA sponsoring organizations upon project approval. Sponsoring organizations are required to submit a completed form to the Corporation on a quarterly basis. Corporation personnel will use the form to track project accomplishments, problems, resources generated, project sustainability, and support provided to AmeriCorps*VISTA members. Information from the form is also used to fulfill requests for substantive project information. The purpose of the form is to evaluate a sponsor's progress towards meeting project goals and objectives, assess risk, and document qualitative and quantitative information about project accomplishments for a given reporting period.

Current Action

The Corporation proposes to revise the AmeriCorps*VISTA Project Progress Report by deleting unused information from the existing version of the form, incorporating plain language, and collecting the following project information:

• Activities that contribute to building permanent infrastructure.

• Outcomes that demonstrate helping people out of poverty.

• The Corporation also proposes to revise the AmeriCorps*VISTA Project Progress Report by requesting the "e-mail address" of project supervisors to provide a more inexpensive and faster way to communicate and share information.

Further, the Corporation proposes to revise the AmeriCorps*VISTA Project Progress Report by asking sponsoring organizations if they have technical assistance needs.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*VISTA Project Progress Report.

OMB Number: 3045–0043.

Agency Number: None.

Affected Public: AmeriCorps*VISTA sponsoring organizations, site supervisors, and members.

Total Respondents: 1,200.

Frequency: Quarterly, with exceptions.

Average Time Per Response: 3 hours.

Estimated Total Burden Hours: 3,600 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 14, 2001.

Matt B. Dunne,

*Director, AmeriCorps*VISTA.*

[FR Doc. 01–12675 Filed 5–18–01; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–414–000]

Black Marlin Pipeline Co.; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Black Marlin Pipeline Company (Black Marlin) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to comply with the Commission's Order issued on October 27, 2000 in Docket No. RM96–1–014.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12659 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1183–000 and ER01–1183–001]

Celerity Energy of New Mexico, LLC; Notice of Issuance of Order

May 15, 2001.

Celerity Energy of New Mexico, LLC (Celerity) submitted for filing a rate schedule under which Celerity will engage in wholesale electric power and energy transactions at market-based rates. Celerity also requested waiver of various Commission regulations. In particular, Celerity requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Celerity.

On May 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests from blanket approval under Part 34, subject to the following.

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Celerity should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Celerity is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect to any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Celerity's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12644 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–345–001]

Columbia Gas Transmission Corp.; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of May 1, 2001:

Substitute Second Revised Sheet 307A
Third Revised Sheet No. 330
Substitute Tenth Revised Sheet No. 456

On March 30, 2001, Columbia filed tariff sheets in Docket No. RP01–345–000 to conform its Tariff to Version 1.4 of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB). The Commission directed that pipelines implement these standards by filing revised tariff sheets not less than 30 days prior to the May 1, 2001 implementation date required by Order No. 587–M. By order dated April 26, 2001, the Commission accepted the filed tariff sheets with several exceptions and required Columbia to revise its Tariff and incorporate the changes within 15 days of the date of the Order. See Standards for Business Practices of Interstate Natural Gas Pipelines, 95 FERC 61,127 (April 26, 2001).

Columbia's filed changes are as follows:

(1) Standard 0.3.1 is incorporated by reference on Substitute Tenth Revised Sheet No. 456.

(2) Standards 1.3.51, 5.3.34, 5.3.35, and 5.3.36 are deleted from Substitute Tenth Revised Sheet No. 456 since these standards are incorporated verbatim on (i) Substitute Second Revised Sheet No. 307A filed herein; and (ii) Third Revised Sheet No. 371, Second Revised Sheet No. 380 and Second Revised Sheet No. 428 previously accepted by the Commission in its April 26 Order.

(3) Standards 3.3.17 and 3.3.18 are incorporated verbatim on Third Revised Sheet No. 330 filed herein.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12657 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–342–001]

Columbia Gulf Transmission Company; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, a proposed effective date of May 1, 2001:

Substitute Second Revised Sheet No. 162A
Fourth Revised Sheet No. 176
Substitute Sixth Revised Sheet No. 286

On March 30, 2001, Columbia Gulf filed tariff sheets in Docket No. RP01–342–000 to conform its Tariff to Version 1.4 of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB). The Commission directed that pipelines implement these standards by filing revised tariff sheets not less than 30 days prior to the May 1, 2001 implementation date required by Order No. 587–M. By order dated April 26, 2001, the Commission accepted the filed tariff sheets with several exceptions and required Columbia Gulf to revise its Tariff and incorporate the changes within 15 days of the date of the order. See Standards for Business Practices of Interstate Natural Gas Pipelines, 95 FERC 61,127 (April 26, 2001) April 26 Order).

Columbia Gulf's states that the filed changes are as follows:

(1) Standard 0.3.1 is incorporated by reference on Substitute Sixth Revised Sheet No. 286.

(2) Standards 1.3.51; 5.3.34; 5.3.35; and 5.3.36 are deleted from Substitute Sixth Revised Sheet No. 286 since these standards are incorporated verbatim on (i) Substitute Second Revised Sheet 162A filed herein; and (ii) Third Revised Sheet No. 205, Third Revised Sheet No. 209 and Second Revised Sheet No. 251 previously accepted by the Commission in its April 26 Order.

(3) Standards 3.3.17 and 3.3.18 are incorporated verbatim on Fourth Revised Sheet No. 176 filed herein.

Columbia Gulf states that copies have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 22, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims/htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12652 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–255–001]

Cove Point LNG Limited Partnership; Notice of Compliance Filing

May 15, 2001.

Take notice that on April 19, 2001, Cove Point LNG Limited Partnership (Cove Point) tendered for filing additional workpapers to support its March 1, 2001 filing in this docket. Cove Point submitted its March 1, 2001 filing pursuant to Section 1.37 of the General Terms and Conditions of its FERC Gas Tariff to revise the retainage percentages for its peaking services and transportation services, to be effective April 1, 2001. Cove Point asserts that the purpose of this filing is to comply with the Commission's March 28 order, 94 FERC ¶ 61,358 (2001).

Cove Point further states that copies of this filing is being served to its affected customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 22, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance), Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12655 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–331–001]

Cove Point LNG Limited Partnership; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Cove Point LNG Limited Partnership (Cove Point) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute First Revised Sheet No. 153, with an effective date of May 1, 2001.

Cove Point states that the filing is being made to comply with the Commission's Order on Filings in Compliance with Order No. 587–M, 95 FERC 61,127 (2001).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12654 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–360–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 8, 2001, Dominion Transmission Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1,

the following tariff sheet, with an effective date of May 1, 2001:

Substitute First Revised Sheet No. 1173

DTI states that the purpose of this filing is to comply with the Commission's April 26, 2001 *Order on Filings in Compliance with Order No. 587–M*, by modifying its previously filed tariff sheet to incorporate Version 1.4 GISB standard 3.3.17 as part of its tariff.

DTI states that copies of its letter of transmittal and enclosures are being mailed to its customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

David P. Boergers,

Secretary.

[FR Doc 01–12658 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1418–000]

Effingham County Power, LLC; Notice of Issuance of Order

May 15, 2001.

Effingham County Power, LLC (Effingham) submitted for filing a rate schedule under which Effingham will engage in wholesale electric power and energy transactions at market-based rates. Effingham also requested waiver of various Commission regulations. In particular, Effingham requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Effingham.

On May 4, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Effingham should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Effingham is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Effingham's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12647 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–343–001]

Granite State Gas Transmission; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Granite State Gas Transmission (Granite State) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of May 1, 2001:

Fourth Revised Sheet No. 202

On March 30, 2001, Granite State filed tariff sheets in Docket No. RP01–343–000 to conform its Tariff to Version 1.4 of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB). The Commission directed that pipelines implement these standards by filing revised tariff sheets not less than 30 days prior to the May 1, 2001 implementation date required by Order No. 587–M. By order dated April 26, 2001, the Commission accepted the filed tariff sheets with one exception and required Granite State to revise its Tariff and incorporate the changes within 15 days of the date of the Order. See Standards for Business Practices of Interstate Natural Gas Pipelines, 95 FERC 61,127 (April 26, 2001). Specifically, Granite State files herein Fourth Revised Sheet No. 202 to correct the pagination of Sheet No. 202 as directed by the Commission in its April 26 Order.

Granite State states that copies of its filing have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

David P. Boergers,

Secretary.

[FR Doc. 01–12656 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1468–002]

Great Bay Power Corporation; Notice of Filing

May 15, 2001.

Take notice that on May 3, 2001, Great Bay Power corporation tendered for filing an amendment to its April 17, 2001 filing with revised service agreements for Chicopee Municipal Light Plant (Chicopee) and South Hadley Electric Light Department (South Hadley) under Great Bay's revised Market-Based Rate Power Sales Tariff (FERC Electric Tariff No. 2, Second Revised Volume No. 2). The revised service agreements are in conformity with Order No. 614, FERC Stats. & Regs. 31,096 (2000).

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions of the Commission's web site at http://wwww.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12642 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–78–000]

LG&E Energy Marketing, Inc. Complainant, v. Southern Company Services, Inc. Georgia Transmission Corporation, Respondents; Notice of Complaint

May 15, 2001.

Take notice that on May 14, 2001, LG&E Energy Marketing, Inc. (LEM) tendered for filing a complaint in which LEM petitions the Commission to issue an order directing that the transmission service request of Oglethorpe Power Corporation for power generated by the LG&E Power Monroe LLC generating plant has first rights to the East Social Circle to Winder 230 kV transmission line.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before May 22, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before May 22, 2001. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12643 Filed 5–18–01; 8:45am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–267–001]

Northern Border Pipeline Company; Notice of Compliance Filing

May 15, 2001.

Take notice that on April 13, 2001, Northern Border Pipeline Company (Northern Border) tendered for filing its responses to the several questions raised by the Commission in its Order issued March 30, 2001, seeking additional information on Northern Border's firm backhaul transportation service under Rate Schedule T–1B.

Northern Border states that the filing is being made in compliance with the Commission's order issued March 30, 2001 in Docket No. RP01–267–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 22, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12653 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1570–000]

Northern Iowa Windpower LLC; Notice of Issuance of Order

May 15, 2001.

Northern Iowa Windpower, LLC (Northern Iowa) submitted for filing a rate schedule under which Northern Iowa will engage in wholsesale electric

power and energy transactions at market-based rates. Northern Iowa also requested waiver of various Commission regulations. In particular, Northern Iowa requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Northern Iowa.

On May 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Northern Iowa should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Northern Iowa is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Northern Iowa's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www/ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12641 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1479–000]

Northwest Regional Power, LLC; Notice of Issuance of Order

May 15, 2001.

Northwest Regional Power, LLC (Northwest) submitted for filing a rate schedule under which Northwest will engage in wholesale electric power and energy transactions at market-based rates. Northwest also requested waiver of various Commission regulations. In particular, Northwest requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Northwest.

On May 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Northwest should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Northwest is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Northwest's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12645 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2071]

PacifiCorp; Notice of Authorization for Continued Project Operation

May 15, 2001.

On May 5, 1999, PacifiCorp, licensee for the Yale Project No. 2071, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2071 is located on the North Fork Lewis River in Cowlitz and Clark Counties, Washington.

The license for Project No. 2071 was issued for a period ending April 30, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 8 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is Section 15 of the FPA, notice is hereby given that an annual license for Project No. 2071 is issued to PacifiCorp for a period effective May 1, 2001, through April 30, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before May 1, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that PacifiCorp is authorized to continue operation of the Yale Project No. 2071 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–12640 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1397–000]

Perryville Energy Partners, L.L.C.; Notice of Issuance of Order

May 15, 2001.

Perryville Energy Partners, L.L.C. (Perryville) submitted for filing a rate schedule under which Perryville will engage in wholesale electric power and energy transactions at market-based rates. Perryville also requested waiver of various Commission regulations. In particular, Perryville requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Perryville.

On May 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Perryville should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Perryville is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Perryville's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12646 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–071]

Reliant Energy Gas Transmission Company; Notice of Negotiated Rate

May 15, 2001.

Take notice that on May 8, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective May 8, 2001:

Original Sheet No. 8AM

REGT states that the purpose of this filing is to reflect the addition of a new negotiated rate contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc, 01–12650 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1419–000]

Rowan County Power, LLC; Notice of Issuance of Order

May 15, 2001.

Rowan County Power, LLC (Rowan) submitted for filing a rate schedule under which Rowan will engage in wholesale electric power and energy transactions at market-based rates. Rowan also requested waiver of various Commission regulations. In particular, Rowan requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Rowan.

On May 4, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Rowan should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practice

and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Rowan is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Rowan's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12648 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL00–95–034 and EL00–98–033]

San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents, et al.; Notice of Filing

May 15, 2001.

Take notice that on May 11, 2001, the California Independent System Operator Corporation (ISO) tendered a filing in compliance with the Commission's April 26, 2001, Order in the above-captioned dockets.

The ISO states that this filing has been served on the California Public Utilities Commission, on all parties on the official service lists maintained by the Secretary for Docket Nos. EL00–95–000, *et al.*, and on all entities that have entered into Participating Generator Agreements with the ISO.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protest should be filed on or before May 22, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12683 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1231–001]

Southwest Power Pool, Inc.; Notice of Filing

May 15, 2001.

Take notice that on April 25, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing a revised network service agreement with Southwestern Public Service Company—Bulk Power Sales (Transmission Customer). SPP requests an effective date of January 14, 2001 for this filing.

A copy of this filing was served on the Transmission customer, and on all parties on the Docket No. ER01–1231 service list.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12651 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–426–003]

Texas Gas Transmission Corporation; Notice of Negotiated Rate

May 15, 2001.

Take notice that on May 9, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 2001:

Seventh Revised Sheet No. 1
Sheet No. 19
Original Sheet No. 40
Sheet No. 41

Texas Gas states that the purpose of this filing is to reflect the first of a new negotiated rate/non-conforming contract in its tariff as required Section 154.112(b) of the Commission's regulations and as directed by Commission Letter Order dated April 27, 2001.

Texas Gas states that copies of the revised tariff sheet is being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12651 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–906–001, et al.]

Niagara Mohawk Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

May 14, 2001.

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket No. ER01–906–001]

Take notice that on May 8, 2001, Niagara Mohawk Power Corporation, pursuant to the Commission's Letter Order in this proceeding dated February 21, 2000 and the Commission's Order No. 614 tendered for filing acceptance of an amended and restated transmission service agreement with AES NY, L.L.C. (AES) covering certain portions of the transmission service which Niagara Mohawk formerly provided to the New York State Electric & Gas Corporation (NYSEG) under Niagara Mohawk's Rate Schedule No. 165, portions of which were assigned by NYSEG to AES. This amended and restated agreement has been designated as Niagara Mohawk's Rate Schedule No. 313.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Great Bay Power Corporation

[Docket No. ER01–1588–001]

Take notice that on May 7, 2001, Great Bay Power Corporation tendered for filing an amendment to its March 21, 2001 filing (Docket No. ER01–1588–000) with a revised service agreement for Select Energy, Inc. under Great Bay's FERC Electric Tariff No. 3, Original Volume No. 1. The revised service agreement is in conformity with Order No. 614, FERC Stats. & Regs. 31,096 (2000).

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Services, Inc.

[Docket No. ER01–2010–000]

Take notice that on May 9, 2001, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing a modified and redesignated Interconnection and Operating Agreement with Hartburg Power, LP (Hartburg), and a redesignated Generator Imbalance Agreement with Hartburg.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Ameren Services Company

[Docket No. ER01–2011–000]

Take notice that on May 9, 2001, Ameren Services Company (ASC) tendered for filing Service Agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service between ASC and Engage Energy America LLC. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to Engage Energy America LLC pursuant to Ameren's Open Access Transmission Tariff.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER01–2012–000]

Take notice that on May 9, 2001, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Dayton Power and Light Company. Wisconsin Electric respectfully requests an effective date of May 2, 2001 to allow for economic transactions.

Wisconsin Electric requests waiver of any applicable notice requirements to allow for the requested effective date as specified.

Copies of the filing have been served on Dayton Power and Light Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Monroe Power Company

[Docket No. ER01–2013–000]

Take notice that on May 9, 2001, Monroe Power Company (MPC) tendered for filing an executed Service Agreement with Dynegy Power Marketing, Inc. under the provisions of MPC's Market-Based Rates Tariff, FERC Electric Tariff No. 1. MPC is requesting an effective date of June 1, 2001 for this agreement.

Copies of the filing were served upon the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Georgia Public Service Commission.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER01–2014–000]

Take notice that on May 9, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Sempra Energy Resources, Inc.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. The Detroit Edison Company

[Docket No. ER01–2015–000]

Take notice that on May 9, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements for Wholesale Power Sales Transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff) between Detroit Edison and American Electric Power Service Corporation and between Detroit Edison and Wolverine Power Supply Cooperative.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Puget Sound Energy, Inc.

[Docket No. ER01–2016–000]

Take notice that on May 9, 2001, Puget Sound Energy, Inc., as

Transmission Provider, tendered for filing an Interconnection and Parallel Operation Agreement with Pierce Power LLC (Pierce). A copy of the filing was served upon Pierce.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Ameren Energy Marketing Company

[Docket No. ER01–2017–000]

Take notice that on May 9, 2001, Ameren Energy Marketing Company (AEM) tendered for filing a Voluntary Curtailment Agreement with Central Illinois Public Service Company d/b/a AmerenCIPS (AmerenCIPS) under which AmerenCIPS shall voluntary reduce its load upon notice from AEM requesting voluntary reduction in AmerenCIPS' load. An effective date of June 1, 2001 is requested for the Agreement.

Copies of this filing were served upon AmerenCIPS and the Illinois Commerce Commission.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

David P. Boergers

Secretary

[FR Doc. 01–12635 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–P]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms, and Conditions, and Prescriptions

May 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1932–004.

c. *Date filed:* April 29, 1994.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Lytle Creek Hydroelectric Project.

f. *Location:* On Lytle Creek, near the town of Devore, San Bernardino County, California. The project is located within the San Bernardino National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Walter D. Pagel, Manager of Eastern Hydro Region, Southern California Edison Company, 300 N. Lone Hill Avenue, San Dimas, CA 91773, (909) 394–8720.

i. *FERC Contact:* Mr. Jon Cofrancesco (202) 219–0079 or E-mail address at jon.cofrancesco@FERC.fed.us.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* August 31, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, terms and conditions, protests, interventions, and prescriptions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. The existing Lytle Creek Hydroelectric Project consists of: (1) a 3-foot-high, 200-foot-long rubble masonry gravity dam; (2) a concrete intake structure with trashracks and a revolving fish screen; (3) a concrete-lined sandtrap, (4) a 4.3-mile-long flowline system comprised of 13 tunnels, a covered-concrete flume, a concrete pipeline, five siphons and 28 concrete and steel surge pipes; (5) a 750 cubic-foot concrete forebay; (6) a 1,546-foot-long, 30 to 26 inch-diameter steel penstock; (7) a powerhouse containing two generating units with a combined installed capacity of 500-kW; (8) a 904-foot-long tailrace siphon; (9) a 50-foot-long, 12-kV transmission line tap; and (10) related appurtenant facilities. The applicant proposes to continue operating the existing project.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission 60 days from the issuance date of this notice, or longer if appropriate (see item j). All reply comments must be filed with the Commission within 45 days from the date of the comment deadline.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 01–12637 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Profit Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

May 15, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2503–059.

c. *Date Filed:* April 1, 2001.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Keowee-Toxaway Hydroelectric Project.

f. *Location:* On Lake Keowee at the Cliffs at Keowee Falls Subdivision, in Oconee County, South Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006. Phone: (704) 382–5778.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 219–3076.

j. *Deadline for filing comments and motions:* June 22, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (2503–059) on any comments or motions filed.

k. Description of Proposal: Duke Energy Corporation proposes to lease to Keowee Investment Group, L.L.C., 2.80 acres of project land for construction of 97 boat slips, one boat access ramp and one courtesy dock for on/off loading of watercraft. The boat slips would provide access to the reservoir for residents of the Cliffs at Keowee Falls Subdivision. Minor shoreline stabilization (619 cubic yards of rip rap) is proposed at the site and no dredging.

l. Location of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12638 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11913–000.

c. *Date Filed:* March 20, 2001.

d. *Applicant:* Tri-Dam Power Authority.

e. *Name of Project:* Goodwin Hydroelectric Project.

f. *Location:* On the south bank of the Stanislaus River immediately downstream of Goodwin Diversion Dam. The nearby towns are Oakdale, which 12 miles west of the project area and the community of Knight's Ferry, which is 3 miles southwest of the project area, in the counties of Tuolumne and Calaveras, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Steve J. Felte, General Manager, Tri-Dam Power Authority, P.O. Box 1158, Pinecrest, CA 95364–0158 (209) 965–3996.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on

each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Project: (1) An existing double arch concrete dam 460 foot-long and 101-feet high; (2) an existing 500 acre-foot reservoir with a surface area of 70 acres; (3) an enlarged 750-foot headrace; (4) a new 11-foot diameter 75-foot long penstock; (5) a two-bay semi-outdoor 40-foot wide, 40-foot long new powerhouse; (6) two vertical axis Kaplan turbine-generator units with a total installed capacity of 5MW; (7) a new overhead transmission line approximately 1,000 feet long connecting to an existing 17 kV distribution line; and (8) appurtenant facilities.

The project would have an annual generation of 20 GWh that would be sold to the Pacific Gas & Electric Company.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12639 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

May 15, 2001.

a. *Type of Filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 2738.

c. *Date Filed:* April 2, 2001.

d. *Submitted By:* New York State Electric & Gas Corporation—current licensee.

e. *Name of Project:* Saranac River Hydroelectric Project.

f. *Location:* On the Saranac River near the City of Plattsburgh, in Clinton County, New York. The project does not occupy federal lands.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:* Carol Howland, New York State Electric & Gas Corporation, Corporate Drive, Kirkwood Industrial Park, P.O. Box 5224, Binghamton, NY 13902, cahowland@nyseg.com, (607) 762–8881.

i. *FERC Contact:* John Hannula, john.hannula@ferc.fed.us, (202) 219–0116.

j. *Effective date of current license:* April 13, 1956.

k. *Expiration date of current license:* April 12, 2006.

l. *Description of the Project:* The project consists of the following four developments:

The High Falls Development consists of the following existing facilities: (1) A 63-foot-high, 274-foot-wide gravity dam topped with 5-foot-high flashboards comprised of: (i) A spillway, (ii) a 110-foot-long eastern wingwall, and (iii) a 320-foot-long western wingwall; (2) a 2,670-acre-foot storage reservoir with a maximum pool elevation of 1,036.5 feet msl; (3) an 800-foot-long, 250-foot-wide forebay canal; (4) a 10-foot-diameter, 1,280-foot-long penstock; (5) an 11-foot by 12-foot, 3,581-foot-long tunnel; (6) a 6-foot-diameter, 150-foot-long trifurcated penstock; (7) a 30-foot-diameter, 76-foot-high surge tank; (8) a powerhouse containing three generating unit with a total installed capacity of 15.0 MW, (9) a 50-foot-long, 6.9–kV underground transmission line; and (10) other appurtenances.

The Cadyville Development consists of the following existing facilities: (1) A 50-foot-high, 237-foot-wide gravity dam with a spillway topped with 2.7-foot-high flashboards; (2) a 3,625-acre-foot storage reservoir with a maximum pool elevation of 729.3 feet msl; (3) a 58-foot-long, 20-foot-wide intake structure; (4) a 10-foot-diameter, 1,554-foot-long penstock; (5) a powerhouse containing three generating unit with a total installed capacity of 5.5 MW, (6) a 110-foot-long, 6.6-kV underground transmission line; and (7) other appurtenances.

The Mill C development consists of the following existing facilities: (1) A 43-foot-high, 202-foot-wide gravity dam with a spillway topped with 2.0-foot-high flashboards; (2) a 40.3-acre-foot storage reservoir with a maximum pool elevation of 651.9 feet msl; (3) a 37-foot-long, 16-foot-wide intake structure; (4) a 10-foot-diameter to 11.5-foot-diameter, 494-foot-long penstock; (5) a 10-foot-diameter to 11.17-foot-diameter, 84-foot-long penstock; (6) two powerhouses containing three generating unit with a total installed capacity of 6.05 MW, (7) a 700-foot-long, 6.6-kV partially underground transmission line; and (8) other appurtenances.

The Kent Falls Development consists of the following existing facilities: (1) A 59-foot-high, 172-foot-wide gravity dam with a spillway topped with 3.5-foot-high flashboards; (2) a 265-acre-foot storage reservoir with a maximum pool elevation of 584.8 feet msl; (3) a 29-foot-long, 22-foot-wide intake structure; (4) an 11-foot-diameter, 2,668-foot-long penstock; (5) a 28-foot-diameter, 32.5-foot-high surge tank; (6) a powerhouse containing three generating unit with a total installed capacity of 12.4 MW, (7) a 390-foot-long, 6.6-kV partially underground transmission line; and (8) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 12, 2004.

David P. Boergers,

Secretary.

[FR Doc. 01–12649 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

May 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1934–010.

c. *Date filed:* April 29, 1994.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Mill Creek 2/3 Hydroelectric Project.

f. *Location:* On Mill Creek, near the town of Yucaipa, San Bernardino County, California. The project is located within the San Bernardino National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Walter D. Pagel, Manager of the Eastern Hydro Region, Southern California Edison Company, 300 N. Lone Hill Avenue, San Dimas, CA 91773, (909) 394–8720.

i. *FERC Contact:* Mr. Jon Cofrancesco, (202) 219–0079 or E-mail at jon.confrancesco@FERC.fed.us

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* August 31, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, terms and conditions, prescriptions, protests and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. The existing Mill Creek 2/3 Hydroelectric Project consists of two independent water conveyance and generation systems on Mill Creek. The Mill 3 development is located upstream of the Mill 2 development and they share a common powerhouse. Mill 3 consists of: (1) A 7-foot-high, 80-foot-long rubble concrete diversion dam with a crest elevation of 4,982 feet; (2) an intake structure with a steel debris grid and a fish wheel (3) a 5.4-mile-long flowline; (4) a concrete sand box; (5) a 8,120-foot-long steel penstock; (6) the portion of the Mill 2/3 powerhouse that houses the four Mill 3 generating units with an installed capacity of 3,000 kW; (7) a 265-foot-long, 12-kV transmission line; and (8) other appurtenant structures. SCE proposes to continue to operate the Mill 3 development as it has historically operated.

The existing Mill 2 consists of: (1) The Mountain Home Creek diversion dam, a 3-foot-high, 42-foot-long, rubble concrete weir with a crest elevation of 3,626 feet; (2) the Mill 2 River Pick-up, a 2-foot-high, 34-foot-long, rubble concrete structure with a crest elevation of 3,593 feet; (3) a concrete intake structure with trashracks, drum-type fish screen, leaf rake and overflow pipe; (4) a 2.9-mile-long flowline system; (5) a concrete-lined sandbox, (6) a 600-cfs concrete-lined forebay; (7) an 18-inch-diameter, 1,411-foot-long steel penstock; (8) the portion of the Mill 2/3 powerhouse that houses the single 250-kW Mill 2 generating unit; and (9) other appurtenant structures. Because of damage resulting from an earthquake in July of 1992, the Mill 2 flowline has not been used since that time. SCE proposes to remove the Mill 2 flowline, diversions and generating equipment from the project.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see

Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice, or longer if appropriate (see item j). All reply comments must be filed with the Commission within 45 days from the date of the comment deadline.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 01–12660 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

May 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1933–010.

c. *Date filed:* April 29, 1994.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Santa Ana River 1 and 3 (formally known as Santa Ana River 1 and 2).

f. *Location:* On the Santa Ana River, near the Town of Mentone, San Bernardino County, California. The project is located within the San Bernardino National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Walter D. Pagel, Manager of Eastern Hydro Region, Southern California Edison Company, 300 N. Lone Hill Avenue, San Dimas, CA 91773, (909) 394–8720.

i. *FERC Contact:* Mr. Jon Confrancesco (202) 219–0079 or E-mail address at jon.cofrancesco@FERC.fed.us

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* August 31, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, terms and conditions, protests, interventions and prescriptions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. The existing SAR 1 and 3 Project consists of two independent water conveyance and generation systems on the river. SAR 1 consists of: (1) Three concrete diversion dams and intakes with a fixed trashracks on the Santa Ana River, Bear Creek, and Breakneck Creek; (2) a concrete-lined sand box; (3) a 3-mile-long flowline comprised tunnels, open flumes and steel pipes; (4) a 12 acre-foot concrete-lined forebay; (5) two 3,111-foot long steel penstocks; (6) a powerhouse containing four generating units with a combined installed capacity of 3,200-kW; (7) a concrete lined tailrace; and (8) related appurtenant facilities.

The existing SAR 3 consists of: (1) The SAR 3 River Pick-up, which consists of an earthen embankment and concrete diversion weir and intake adjacent to the SAR 1 powerhouse; (2) two diversion dams and intakes on Keller Creek and Alder Creek; (3) a 1.5-mile-long flowline system from the SAR 1 tailrace to the SAR 3 forebay; (4) the SAR 3 forebay; (5) a concrete headbreaking structure; (6) a 14,875-foot-long buried steel penstock; (7) a 2-mile-long flowline from the headbreaking structure to the Greenspot Water Delivery Forebay; (8) the Greenspot Water Delivery Forebay; (9) a 737-foot-long steel spillway pipe from the Greenspot forebay to the SAR 3 tailrace (10) a powerhouse containing one generating unit with an installed capacity of 3,100-kW; (11) a tailrace channel; and (12) related appurtenant facilities. The applicant proposes to continue operating the existing SAR 1 and SAR 3 projects.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice, or longer if appropriate (see item j). All reply comments must be filed with the Commission within 45 days from the comment deadline.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 01–12661 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Use Alternative Procedures In Preparing a License Application

May 16, 2001.

Take notice that the following request to use alternative procedures to prepare a license application has been filed with the Commission.

a. *Type of Application:* Request to use alternative procedures to prepare a new license application.

b. *Project No.:* 11803.

c. *Date filed:* February 1, 2000.

d. *Applicant:* City of Broken Bow, Oklahoma.

e. *Name of Project:* Broken Bow Reregulating Dam Project.

f. *Location:* On the Mountain Fork River near the town of Broken Bow, McCurtain County, Oklahoma utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Stewart Noland, Crist Engineers, Inc., 1405 North Pierce Street, Suite 301, Little Rock, AR 72207, (501) 664–1552.

i. *FERC Contact:* Peter Leitzke at (202) 219–28903; e-mail peter.leitzke@ferc.fed.us.

j. *Deadline for Comments:* 30 days from the date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

All comment filings must bear the heading "Comments on the Alternative Procedures," and include the project name and number (Broken Bow Reregulating Dam project No. 11803).

k. The proposed project would utilize the existing U.S. Army corps of Engineers' Broken Bow Reregulating Dam and would consist of: (1) A new 50-foot-long, 50-foot-wide, 20-foot-high powerhouse containing one or two generating units having a total installed capacity of 5,000 kilowatts; (2) a short transmission line; and (3) appurtenant facilities.

l. The City of Broken Bow has demonstrated that it has made an effort to contact all federal and state resources agencies, non-governmental organizations (NGO), and others affected by the project. The City of Broken Bow has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. The City of Broken Bow has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. The City of Broken Bow has submitted a communications protocol that is supported by the stakeholders.

The purpose of this notice is to invite any additional comments on the City of Broken Bow's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. the City of Broken Bow will complete and file a preliminary Environmental Assessment, in lieu of Exhibit E of the license application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the license application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

The City of Broken Bow has contacted federal and state resources agencies, NGOs, elected officials, environmental groups, business and economic development organizations, and members of the public regarding the Broken Bow Reregulating Dam Project. The City of Broken Bow intends to file 6-month progress reports during the alternative procedures process that leads to the filing of a license application.

David P. Boergers,

Secretary.

[FR Doc. 01–12682 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[SW–FRL–6982–4]

Renewal of Case-by-Case Extension of the Land Disposal Restrictions (LDR) Effective Date for Hazardous Wastes Generated by FMC/Astaris Idaho LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision.

SUMMARY: Today, EPA is approving the request submitted by FMC/Astaris Idaho LLC (referred to in this Notice as FMC/Astaris) for a one-year Case-by-Case (CBC) extension renewal of the May 26, 2001 effective date of the RCRA land disposal restrictions (LDRs) applicable to hazardous wastes generated at their Pocatello, Idaho facility. This action responds to the request submitted by FMC/Astaris to renew their existing CBC extension for one additional year. FMC/Astaris requested a renewal of the CBC extension due to the continued lack of available treatment capacity for five waste streams, and the need for additional time to design, construct, and begin operation of an on-site treatment plant to treat the wastes. EPA concludes that FMC/Astaris has adequately demonstrated that the request should be granted. By RCRA statute, this is the last CBC extension that can be granted for these wastes. As a result of today's action, FMC/Astaris can continue to manage the five waste streams in their on-site surface impoundments until May 26, 2002 without these wastes being subject to the LDRs.

DATES: This case-by-case extension renewal becomes effective on May 26, 2001.

ADDRESSES: The official record for this action is identified as Docket Number F–2000–FM2F–FFFFF. Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make

an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

For more detailed information on specific aspects of this CBC extension, contact William Kline, Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 308–8440, (e-mail address: kline.bill@epamail.epa.gov).

SUPPLEMENTARY INFORMATION: The index of supporting materials evaluated by EPA in reaching our determination to approve the requested CBC extension renewal is available on the Internet. You will find this index at <http://www.epa.gov/epaoswer/hazwaste/ldr/fmc.htm>.

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I. Background of This Notice of Final Decision

A. What Is the Congressional Mandate Behind the Land Disposal Restrictions (LDR) and Extensions of the LDR Effective Date?

The Resource Conservation and Recovery Act (RCRA) establishes a program for controlling hazardous waste from the time it is generated, through its treatment and storage, until its ultimate disposal. RCRA requires EPA to develop regulations prohibiting the land disposal of certain hazardous wastes by specified dates in order to minimize threats to human health and the environment posed by land disposal of these wastes. These hazardous wastes cannot be land disposed without first meeting treatment standards established by EPA that substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized (see RCRA section 3004 (m)).

When writing RCRA, Congress recognized that adequate treatment, recovery, or disposal capacity which is protective of human health and the environment may not always be available by the applicable statutory effective dates. Therefore, EPA is authorized to grant a national capacity variance from the effective date which would otherwise apply to specific hazardous wastes, based on the earliest dates that such capacity will be available, but not to exceed two years. EPA also is authorized to grant an additional extension of the applicable LDR deadline, on a case-by-case basis, for up to one year. Such an extension is renewable once for up to an additional year.

The requirements for obtaining a CBC extension of a LDR effective date are found in 40 CFR 268.5(a). The requirements for obtaining the renewal of a CBC extension of a Land Disposal Restriction (LDR) effective date are found in 40 CFR 268.59(e).

B. What Actions Have Led to This CBC Extension Renewal?

On January 25, 1996 (61 *FR* 2338), EPA published a proposed rule (the Phase IV LDR rule) that addressed land disposal restrictions applicable to characteristic mineral processing wastes. FMC/Astaris Corporation's elemental phosphorus plant located in Pocatello, Idaho (EPA Identification Number: IDD070929518) generated wastes affected by that proposal. Realizing the lack of adequate treatment capacity for five affected wastes, FMC/Astaris submitted a petition to EPA requesting a two-year national capacity variance. FMC/Astaris later submitted supplemental comments informing EPA that they could not design a treatment unit for their wastes until the applicable treatment standards and the wastes subject to treatment were defined by EPA.

In February 1997, attorneys for the United States met with the Tribal governing body representing the Shoshone-Bannock Tribes (on whose lands the facility is located), the Fort Hall Business Council. The Fort Hall Business Council was informed during this meeting that the United States intended to file an action against FMC/Astaris for past mishandling of hazardous wastes. This filing and subsequent negotiations led to the establishment of a proposed Consent Decree in October 1998, which is described below. This enforcement action's relevance to this case-by-case extension request is also explained below.

On May 12, 1997 (62 *FR* 26041), EPA proposed to grant a two-year national capacity variance for three of the facility's waste streams, Medusa Scrubber Blowdown, Anderson Filter Media Rinsate, and Furnace Building Washdown. FMC/Astaris submitted comments on the proposal that the Anderson Filter Media Rinsate had been eliminated by applying pollution prevention techniques. However, FMC/Astaris identified three additional waste streams (Precipitator Slurry, NOSAP Slurry, and Phossy Water) generated in the same elemental phosphorus production process for which treatment capacity was not available. FMC/Astaris requested that these three additional wastes be included in the proposed two-year national capacity variance.

On May 26, 1998 (63 *FR* 28556), EPA finalized the Final LDR Phase IV rule, which granted a two-year national capacity variance for newly identified characteristic wastes from elemental phosphorus processing. This national capacity variance covered the five waste streams generated at the Pocatello facility, and extended the LDR effective date for these wastes to May 26, 2000.

In September, 1998, the United States agreed to delay the filing of the Consent Decree to explore options for penalty sharing with the Tribes. The Tribes subsequently were offered the opportunity to become a formal party to the Consent Decree, but on October 9, 1998, the Fort Hall Business Council declined to sign the Consent Decree and passed a resolution opposing it.

On October 16, 1998, the United States filed the proposed Consent Decree in U.S. District Court for the District of Idaho, and opened a public comment period on the proposed Consent Decree.

On March 29, 1999, the United States filed the Proposed Consent Decree (*United States* v. *FMC*, Civ. No. 98–0406–E–BLW), requiring that FMC/Astaris design and construct a treatment system, referred to as the LDR Treatment System, which would treat the facility's production wastes to the LDR treatment standards. Under this RCRA Consent Decree, FMC/Astaris must begin operating the LDR Treatment System by May, 2002. In its "Reply Memorandum in Further Support of Motion of the United States for Entry of Proposed RCRA Consent Decree," (dated May 27, 1999), the United States noted that FMC/Astaris would need to obtain Case-by-Case extensions of the LDR effective date in order to allow the continued discharge of wastes to the facility's on-site surface impoundments beyond the May 26, 2000 expiration date of the national capacity variance.

On July 12, 1999, FMC/Astaris Corporation submitted to EPA a request, along with documentation to support the required seven demonstrations in 40 CFR 268.5, for a one-year CBC extension of the LDR effective date for the five waste streams.

On July 13, 1999, the District Court granted the United States' motion to enter as final the Consent Decree.

The Shoshone-Bannock Tribes filed Notice of Appeal on August 11, 1999 and on November 29, 1999, filed an appeal of the final RCRA Consent Decree (Appeal No. 99–35821) in the United States Court of Appeals for the Ninth Circuit. This appeal was ultimately denied.

On March 8, 2000 (65 FR 12233), EPA proposed to approve FMC/Astaris' request for a one-year CBC extension of the LDR effective date.

On April 17, 2000, FMC/Astaris Idaho LLC, a joint venture combining the phosphorus chemical businesses of FMC Corporation and Solutia, Inc., became the owner and operator of the Pocatello facility.

On May 2, 2000, Elizabeth Cotsworth (Director of the EPA Office of Solid Waste) met with the Fort Hall Business Council in Pocatello, Idaho to consult with the Tribes regarding FMC/Astaris' request for a CBC extension.

On May 31, 2000 (65 *FR* 34694), EPA approved the CBC extension, extending the LDR effective date to May 26, 2001.

On November 1, 2000, FMC/Astaris submitted a request to EPA for a one-year renewal of their CBC extension. On March 16, 2001 (66 *FR* 15243), EPA proposed to approve the FMC/Astaris request.

On April 24, 2001 (66 *FR* 20656), EPA published a "Notice of Data Availability" to provide public notice that FMC/Astaris had provided additional information relevant to their request for renewal of their CBC extension.

C. What Other Actions Are Underway at the Pocatello facility?

The Pocatello facility is located on Shoshone-Bannock Tribes' lands (referred to as the Fort Hall Indian Reservation). Elemental phosphorus has been produced at this location for over 50 years. The Tribes are concerned about the cleanup of past environmental contamination resulting from these operations, and the risks posed by the continued discharge of untreated hazardous wastes into on-site surface impoundments. The RCRA Consent Decree addresses FMC/Astaris' past mishandling of hazardous wastes, and directs FMC/Astaris to take measures to avoid future environmental contamination. The Consent Decree mandates site-specific treatment requirements to deactivate ignitable and reactive waste streams, and requires FMC/Astaris to design, construct, and commence operation of a Land Disposal Restrictions Treatment System (LDR Treatment System) for these waste streams by May 2002. It also requires closure of surface impoundments (ponds) used to manage the wastes, establishes a Pond Management Plan, and mandates plant upgrades, including the installation of secondary containment for sumps, tanks, and piping at the facility.

As noted above, the Shoshone-Bannock Tribes raised an unsuccessful legal challenge to the Consent Decree, citing their opposition to the continued generation and on-site disposal of these hazardous wastes.

The Consent Decree is one of several actions underway to address the environmental impact of operations at the facility. Groundwater and soil contamination from old ponds is being addressed under a Superfund cleanup. Particulate air emissions will be addressed through a Clean Air Act Federal Implementation Plan. This Plan established federally enforceable limits and control requirements for particulate emissions.

D. What Decision Has Been Reached by the Tribes and FMC/Astaris Regarding The Use of a High Temperature Dust Filtration System at the Pocatello Facility?

In the Agency's March 16, 2001 **Federal Register** notice of proposed decision, we discussed the possibility that FMC/Astaris might switch to a High Temperature Dust Filtration (HTDF) system that would replace the LDR Treatment Plant now under construction (see 66 *FR* 15248). FMC/Astaris states that this technology, if employed, would eliminate two of the five waste streams and also cause a substantial change in the composition of the other three waste streams—such that the LDR Treatment Plant would no longer be necessary to treat these wastes. On April 24, 2001 (66 *FR* 20656), EPA published a "Notice of Data Availability" to provide public notice that FMC/Astaris had sent us additional information on the HTDF technology.

At this time, the Tribes and FMC/Astaris are discussing the implications of substituting the HTDF system for the LDR Treatment Plant. Meanwhile, construction of the LDR Treatment Plant is proceeding on schedule.

Today, we are approving this final CBC extension renewal based on the commitment made by FMC/Astaris that they will complete construction of the LDR Treatment Plant and begin its operation by May 2002. Should circumstances change, EPA will consider whether the extension remains warranted. See sections 40 CFR 268.5 (f) and (g), which say that the case-by-case applicant must notify EPA of changed circumstances, and that EPA is required to consider whether the approved case-by-case extension remains warranted in light of these changed circumstances. Public comments submitted on the April 24, 2001 "Notice of Data Availability" regarding the HTDF system do not apply to our approval today of the CBC extension renewal, which is keyed to the construction of the LDR Treatment Plant. EPA will address comments on the April 24, 2001 "Notice" if the Tribes and FMC/Astaris come to agreement on switching to the HTDF system.

E. Overview of the FMC/Astaris Request for Renewing Their CBC Extension

The Pocatello facility manufactures elemental phosphorus that is shipped to other facilities to produce phosphates and other phosphorus-based products for use in products such as processed foods, beverages, detergents, cleaners, agricultural chemicals, and water treatment chemicals. Elemental

phosphorus is produced by feeding a combination of phosphate ore, coke, and silica rock into electric arc furnaces.

As noted earlier, FMC/Astaris' application involves five waste streams which are generated in the production of elemental phosphorus and are part of the CBC extension renewal request: (1) Non-Hazardous Slurry Assurance Project (NOSAP) Slurry, (2) Medusa Scrubber Blowdown, (3) Furnace Building Washdown, (4) Precipitator Slurry, and (5) Phossy Water. These waste streams exhibit two characteristics of hazardous waste: Reactivity due to the presence of cyanide and phosphine, ignitability, and toxicity due to the presence of metals. The wastes are generated in large quantities and pose unique handling, treatment, and disposal considerations, given the presence of elemental phosphorus and cyanide. Each of these waste streams also contains varying levels of Naturally Occurring Radioactive Material, which most off-site commercial treatment, storage and disposal facilities are not permitted to manage.

FMC/Astaris requested a two-year national capacity variance from the Phase IV LDR requirements, and a subsequent one-year Case-by-Case (CBC) extension of the LDR effective date for these five waste streams. FMC/Astaris stated their need for the extension due to the lack of available treatment capacity for these five waste streams, the need for additional time to initially identify an appropriate treatment technology, and, when such technology subsequently was identified, the time to design, construct, and begin operation of an on-site LDR Treatment Plant. The initial CBC extension was approved by EPA.

On November 1, 2000, FMC/Astaris submitted a request to the EPA to renew for one year their existing CBC extension, set to expire on May 26, 2001. FMC/Astaris provided documentation that there still is no available off-site commercial treatment capacity for these five waste streams.

Since approval of the initial CBC extension, progress has been made toward completing the design, procuring equipment, and commencing construction of the planned LDR Treatment Plant. As required under their existing CBC extension, FMC/Astaris has submitted to EPA monthly progress reports documenting this. A detailed discussion of these showings are in the March 16, 2001 **Federal Register** document.

However, as was anticipated at the time of approval of the initial CBC extension, additional time is needed to complete the design work, finish construction, and begin operation of the LDR Treatment Plant. May 2002 remains the date for bringing the LDR Treatment Plant on-line.

The LDR Treatment Plant will treat the five waste streams using a modified Zimpro treatment process. The Zimpro process will reduce the levels of elemental phosphorus and cyanide in the wastes so that the wastes will not exhibit the characteristic of reactivity for phosphine and hydrogen cyanide gas, or the characteristic of ignitability. Underlying hazardous constituents contained in the wastes will meet all of the applicable treatment standards found in 40 CFR 268.48 for these constituents.

Until the LDR Treatment Plant is finished, the five waste streams will continue to be managed in two on-site surface impoundments (Ponds 17 and 18). These surface impoundments may be used until May 26, 2002. The surface impoundments are constructed to meet the RCRA minimum technological requirements of 40 CFR 268.5(h)(2), including liners and groundwater monitoring. They must be operated in compliance with the Pond Management Plan that is part of the Consent Decree. The LDR Treatment Plant will eliminate the need for these surface impoundments.

F. Summary of EPA's Evaluations of the FMC/Astaris Demonstrations Under 40 CFR 268.5(a)

The following summarizes our evaluation of the adequacy of the demonstrations made by FMC/Astaris for each of the seven criteria required under 40 CFR 268.5(a) to obtain a CBC extension renewal.

1. Section 268.5 (a)(1)—the Applicant (FMC/Astaris) Has Made a Good-Faith Effort To Locate and Contract With Treatment, Recovery, or Disposal Facilities Nationwide To Manage Their Waste in Accordance With the LDR Effective Date of the Applicable Restriction (May 26, 2001)

As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices to address the initial CBC extension), several surveys of treatment, storage, and disposal facilities (TSDFs) throughout the nation were conducted by FMC/Astaris to locate commercial treatment or disposal capacity. Each of these surveys showed that no TSDFs were able or willing to provide treatment or disposal capacity for these waste streams.

The presence of elemental phosphorus, the potential for generation of phosphine gas, lack of a permit to handle naturally occurring radioactive materials (NORM), and the volume of wastes to be managed were the primary reasons noted by the TSDFs in declining to manage these waste streams. EPA itself is not aware of any available capacity for these waste streams. No commercial entity providing waste treatment has disputed these conclusions, which have been made available for public comment in several **Federal Register** notices spanning a five-year time period.

On March 30, 2001, FMC/Astaris notified us that as a consequence of the current power shortage in the western United States, the facility reached a two-year agreement with Idaho Power Company to sell back electricity. As a result, the Pocatello facility will operate at a reduced level for an indefinite time. This reduction in production will result in a 30% reduction in the volume of the waste streams that are generated at the facility.

Except for one TSDF (Environmental Enterprises) contacted in the FMC/Astaris survey, the levels of phosphorus and NORM were the main reasons provided by TSDFs for not being able to manage the Pocatello waste streams. Several other TSDFs also said that they do not have the railcar capability to handle these waste streams. Based on our review of the survey information provided by FMC/Astaris and our follow-up discussion with Environmental Enterprises, the reduction in waste quantity at the Pocatello facility does not alter the conclusion that there still is no available capacity for these waste streams. At this point, even if a TSDF expressed an interest in taking these wastes, the time needed to design and construct the infrastructure for both the railcar loading and unloading facilities at Pocatello and the receiving TSDF would make this option unreasonable—given that the LDR Treatment Plant will be operational by May 2002.

FMC/Astaris has made a reasonable effort to locate adequate, alternative treatment capacity for the off-site management of the waste streams, and therefore has fulfilled the requirements of this demonstration.

2. Section 268.5 (a)(2)—The Applicant (FMC/Astaris) Has Entered Into a Binding Contractual Commitment To Construct or Otherwise Provide Alternative Treatment, Recovery, or Disposal Capacity That Meets The Treatment Standards Specified in 40 CFR Part 268, Subpart D or, Where Treatment Standards Have Not Been Specified, Such Treatment, Recovery, or Disposal Capacity Is Protective of Human Health and the Environment.

As discussed in the March 16 (66 FR 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 FR 34694) **Federal Register** notices to address the initial CBC extension), FMC/Astaris has a contract with Raytheon Engineers and Constructors to design and construct the LDR Treatment Plant. FMC/Astaris has provided EPA with documentation of their binding contractual commitment, such as a June 2000 Authorization for Expenditures for $122.5 million. In addition, copies of many purchase orders for equipment, supplies, and services have been provided to EPA. And, since approval of the initial CBC extension in May 2000, FMC/Astaris has provided monthly reports documenting progress made in the design and construction of the LDR Treatment Plant. These progress reports show a good-faith effort by FMC/Astaris to construct the LDR Treatment Plant, with approximately $60 million spent to date on this project. We also note that the RCRA Consent Decree imposes an additional binding legal commitment on FMC/Astaris to construct the LDR Treatment System. Under the RCRA Consent Decree, FMC/Astaris is compelled to design and construct the LDR Treatment System by May 2002. If FMC/Astaris fails to meet the stipulations of this RCRA Consent Decree, they will be subject to significant financial penalties.

We conclude that FMC/Astaris has demonstrated their binding contractual commitment to construct the LDR Treatment Plant.

3. Section 268.5 (a)(3)—Due to Circumstances Beyond the Applicant's (FMC/Astaris) Control, Such Alternative Capacity Cannot Reasonably Be Made Available by the Applicable Effective Date. This Demonstration May Include a Showing That the Technical and Practical Difficulties Associated With Providing the Alternative Capacity Will Result in the Capacity Not Being Available by the Applicable Effective Date

FMC/Astaris has committed considerable resources toward determining and developing the most appropriate treatment technology for these waste streams, which pose numerous and unique handling, safety, and treatment considerations. The lack of available commercial treatment capacity also attests to the difficulties encountered in managing these waste streams.

FMC/Astaris' search for appropriate treatment technology was delayed because they had to wait for EPA to finalize the Phase IV LDR treatment standards. As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices to address the initial CBC extension), FMC/Astaris documents that they made an intensive effort to determine the treatment technology most appropriate to treat the waste streams. Now that an appropriate treatment technology and treatment process have been identified, FMC/Astaris is constructing the LDR Treatment Plant.

We are convinced that FMC/Astaris has acted in good faith to provide the necessary treatment capacity, and that it is engaged in constructing the LDR Treatment Plant to provide the necessary treatment capacity. The monthly progress reports submitted by FMC/Astaris since June 2000 show that FMC/Astaris is proceeding on schedule to construct the LDR Treatment Plant. However, FMC/Astaris will not be able to begin operation of the LDR Treatment Plant by the May 26, 2001 expiration date of their existing CBC extension.

We conclude the lack of treatment capacity for these waste streams is due to circumstances beyond the control of FMC/Astaris. Therefore, FMC/Astaris has met the § 268.5(a)(3) demonstration.

4. Section 268.5 (a)(4)—The Capacity Being Constructed or Otherwise Provided by the Applicant (FMC/Astaris) Will Be Sufficient To Manage the Entire Quantity of Waste That Is the Subject of the Application

As discussed in the March 16, 2001 (66 FR 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 FR 34694) **Federal Register** notices to address the initial CBC extension), the LDR Treatment Plant being constructed will use a combination of lime treatment, anoxic hydrolysis, metals precipitation, filtration, and stabilization. This treatment will reduce the levels of elemental phosphorus and cyanide in the waste so that the waste does not exhibit the characteristic of reactivity or ignitability. The treatment will also stabilize the waste by permanently and irreversibly bonding the waste into the molecular structure of a solid product so that it does not leach heavy metals in concentrations greater than applicable LDR universal treatment standards. FMC/Astaris has provided documentation demonstrating that this treatment system will meet the LDR treatment standards.

FMC/Astaris states that the LDR Treatment Plant will have sufficient capacity to treat the full annual production of five waste streams. Within five years of commencing operation of the LDR Treatment Plant, it will also be able to treat all the accumulated solids in Pond 18, as required by the RCRA Consent Decree.

As previously mentioned, FMC/Astaris notified us that the facility will operate at a reduced level for an indefinite time. This reduction in production will result in an approximately 30% reduction of the quantity of the five waste streams generated. Since approval of their existing CBC extension in May, 2000, FMC/Astaris has reduced by approximately 20% their estimate of the quantity of Pond 18 solids that will need to be removed and treated in the LDR Treatment Plant. This reduction in solids is due to improved efficiency and the increased use of the NOSAP System. The combination of reduced solids in Pond 18, along with the reduction in quantity of waste generated, reinforces our conclusion that the planned LDR Treatment Plant will provide sufficient treatment capacity.

5. Section 268.5 (a)(5)—The Applicant (FMC/Astaris) Provides a Detailed Schedule for Obtaining Operating and Construction Permits or an Outline of How and When Alternative Capacity Will Be Available

As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices to address the initial CBC extension), FMC/Astaris has provided EPA with a schedule for the design, construction, and permitting of the LDR Treatment Plant, which will be on-line by May 2002. FMC/Astaris has submitted monthly progress reports to us since June, 2000 showing that they are meeting their schedule. We conclude that FMC/Astaris has made a good faith effort to construct the LDR Treatment Plant in a timely manner.

6. Section 268.5 (a)(6)—The Applicant (FMC/Astaris) Has Arranged for Adequate Capacity To Manage Their Waste During an Extension, and Has Documented the Location of all sites at Which the Waste Will Be Managed

As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision, FMC/Astaris will continue to manage the five waste streams in two of their on-site surface impoundments, referred to as Ponds 17 and 18, during this CBC extension renewal. FMC/Astaris has provided data showing that each of these surface impoundments will have the necessary capacity available to manage these wastes during the extension.

The reduction (approximately 30%) in quantity of waste generated, due to the electric power shortage, and the approximately 20% decrease in the quantity of Pond 18 solids that will need to be removed and treated in the LDR Treatment Plant, also ensures that there will be sufficient capacity in Ponds 17 and 18. Even prior to this reduction (see March 16, 2001 (66 *FR* 15243) **Federal Register** notice of proposed decision), we concluded that Ponds 17 and 18 had adequate capacity to manage these waste streams until May 2002.

Further assurance of adequate capacity and proper management of these surface impoundments (ponds) will be provided by FMC/Astaris' adherence to the Pond Management Plan, as required by the RCRA Consent Decree.

We conclude that FMC/Astaris has satisfied this demonstration.

7. Section 268.5 (a)(7)—Any Waste Managed in a Surface Impoundment or Landfill During the Extension Period Will Meet the Requirements of 40 CFR 268.5(h)(2)

As previously described, the waste streams will continue to be managed in the on-site surface impoundments (Ponds 17 and 18) during this CBC extension renewal, until May 26, 2002. As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices to address the initial CBC extension), FMC/Astaris has provided information demonstrating that these surface impoundments were constructed to meet the RCRA minimum technological requirements of 40 CFR 268.5(h)(2), including such protective measures as double liners, leak detection, and groundwater monitoring wells. We conclude that FMC/Astaris has satisfied this demonstration.

II. What Are EPA's Responses to Comments Submitted on the Notice of Proposed Approval of the CBC Extension Renewal?

The Fort Hall Business Council and FMC/Astaris submitted comments in response to the March 16, 2001 **Federal Register** notice. The Fort Hall Business Council expressed the Tribes' continued opposition to the generation and disposal of untreated wastes in the on-site surface impoundments. The following section discusses specific issues raised in the comments made by the Fort Hall Business Council and FMC/Astaris.

FMC/Astaris expressed support of our propcsed decision to approve the renewal of their existing CBC extension. FMC/Astaris noted the non-availability of off-site treatment capacity, and the need for additional time to construct the LDR Treatmenf Plant and bring it on-line to meet the May 2002 startup date. FMC/Astaris also provided clarification of several statements made by us in the March 16, 2001 "Notice". In a letter to EPA, dated May 3, 2001, FMC/Astaris responded to the comments submitted by the Fort Hall Business Council.

A. Given the Recent Reductions in the Pocatello Facility Production and Waste Generated, Can FMC/Astaris Now Find Off-Site Treatment Capacity?

With the recent announcement by FMC/Astaris of a reduction in production and a resultant reduction in waste generated, the Fort Hall Business Council believes it may now be possible for a TSDF to handle the reduced volume of waste. They note the 40 CFR 268.5(a)(3) requirement—that alternative capacity cannot reasonably be made available by the effective date—may no longer be successfully demonstrated by FMC/Astaris.

As discussed earlier, except for one facility (Environmental Enterprises) contacted in the FMC/Astaris survey, the levels of phosphorus and NORM were the main reasons provided by TSDFs for not being able to manage the Pocatello waste streams. Several other TSDFs also said that they did not have the railcar capability to handle these waste streams. We reiterate that based on our review of the survey information provided by FMC/Astaris and our follow-up discussion with Environmental Enterprises, there is no available treatment capacity for these waste streams. At this point, even if a TSD facility expressed an interest in taking these wastes, the time needed to design and construct the infrastructure for both the railcar loading and unloading facilities at Pocatello and the receiving TSDF facility would make this option unreasonable " given that the LDR Treatment Plant is well under construction and will be in operation by May 2002.

B. Who Will Permit the On-Site Disposal of the LDR Treatment Plant Residue?

The LDR Treatment Plant will generate non-hazardous treatment residues (that no longer exhibit a characteristic of hazardous waste) that will be stabilized prior to disposal. The Fort Hall Business Council states that under 40 CFR 268.5(a)(5), FMC/Astaris must obtain a permit from the Shoshone-Bannock Tribes for construction of any on-site landfill for the disposal of these residuals .

FMC/Astaris states on page 89 of their November 1, 2000 submittal to us that: "Treated waste that has been verified to meet LDR and Consent Decree requirements will be disposed of in compliance with all applicable regulatory standards either on-site at the Astaris Idaho plant or at an off-site location." The Consent Decree only requires FMC/Astaris to treat their waste in the LDR treatment facility so that upon completion of treatment, the waste will have met all LDR requirements and also will no longer exhibit a characteristic of hazardous waste. The subsequent disposal of the waste will not be governed by RCRA hazardous waste rules, but by solid waste rules, including applicable Tribal requirements. Plans and schedules for the disposal of waste once it has met all RCRA LDR requirements are not required for the CBC extension. Finally, FMC/Astaris has advised us that no final decision has been made on where waste treated by the LDR Treatment Plant will be disposed. Construction of an on-site landfill may not be required if FMC/Astaris selects an off-site facility for this waste. In any case, as noted in their May 3, 2001 to EPA, FMC/Astaris states: "If Astaris continues with its current plan to dispose of this material on-site, it will apply for and obtain any solid waste permit that may be necessary."

C. Does EPA Approval of This Final CBC Extension Impose Substantial Direct Compliance Costs on the Tribes?

The Fort Hall Business Council disagrees with our interpretation that this action will not impose substantial direct compliance costs on the Tribes. They state that this CBC extension renewal will require the Tribes to monitor the facility for compliance with the Pond Management Plan. EPA's view is that it, not the Tribes, is responsible for monitoring compliance with the Pond Management Plan.

The Pond Management Plan requires air monitoring at operating ponds and the fence line near the ponds. It also requires monitoring off-site if threshold values for phosphine and hydrogen cyanide are exceeded at the fence line. The Consent Decree does require FMC/Astaris to provide the Tribes with copies of reports on implementation of the Pond Management Plan.

EPA welcomes the Tribes' interest and involvement in this monitoring, and will continue to seek additional opportunities for Tribal involvement.

D. How Does This CBC Extension Renewal Affect Pond Emissions Onto the Fort Hall Indian Reservation for an Additional Year?

The Fort Hall Business Council states that allowing an additional year for hazardous waste disposal in the impoundments allows an additional year for toxic gases (phosphine and hydrogen cyanide) to be emitted onto the Fort Hall Indian Reservation.

There will be gas emissions associated with the discharge of the five hazardous wastes to the on-site surface impoundments (Ponds 17 and 18). The Pond Management Plan is designed to ensure that these emissions do not pose a danger to public health, however. There are no residences or businesses near the ponds. However, there is a potential for workers, such as railroad workers, to be in the area. Under the Pond Management Plan, FMC/Astaris must continuously monitor for phosphine and hydrogen cyanide around the ponds, and evacuate workers without respiratory protection if the specified limits for workers are exceeded. In addition, the Pond Management Plan requires monitoring every four hours at the fence line to ensure that dangerous levels of phosphine and hydrogen cyanide are not present. If health-based levels are exceeded at the fence line, FMC/Astaris must monitor off-site and evacuate off-site areas near the ponds. FMC/Astaris also must provide immediate notice of any confirmed exceedance of the specified health-based levels to the Shoshone-Bannock Tribes, EPA, and the County Sheriff.

Once the LDR Treatment System comes on line in May 2002, further discharges to the on-site surface impoundments will be eliminated. The LDR Treatment Plant will also allow the removal and treatment of accumulated solids from Pond 18, thereby eventually eliminating the hazards posed by Pond 18 to the Fort Hall Indian Reservation.

III. What Is EPA's Final Determination on the FMC/Astaris Request To Renew Their Existing CBC Extension?

EPA concludes that FMC/Astaris has made each of the seven demonstrations required by 40 CFR 268.5(a) to be granted a renewal of their existing CBC extension. There is insufficient capacity to treat these wastes to meet the LDR requirements, a binding contractual commitment has been made to construct the necessary treatment capacity, and treatment capacity cannot reasonably be made available by the May 26, 2001 LDR effective date. Furthermore, EPA is satisfied that FMC/Astaris has made and is continuing to make a good-faith effort toward providing sufficient and appropriate treatment capacity for the five waste streams.

Therefore, EPA today is approving a final one-year extension of the applicable LDR effective date, until May 26, 2002, for these five waste streams: (1) NOSAP Slurry, (2) Medusa Scrubber Blowdown, (3) Furnace Building Washdown, (4) Precipitator Slurry, and (5) Phossy Water, generated at the Pocatello, Idaho facility. These wastes may continue to be managed in on-site surface impoundments (Ponds 17 and 18) without being subject to the land disposal restrictions applicable to these wastes until the LDR Treatment Plant commences operation (which must happen by May 26, 2002).

As previously mentioned, the Tribes are opposed to any extension of the LDR effective date, arguing that these hazardous wastes must be treated prior to being land disposed. As discussed in the March 16, 2001 Notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices), the United States recognizes that it owes an important trust responsibility to the Tribes, on whose lands the facility is located. This includes the United States' responsibility to perform its obligations under RCRA and other statutes to protect the environment and the natural resources of tribal lands. We also acknowledge the Tribes' concerns regarding the continued placement of untreated hazardous wastes in the on-site surface impoundments. As noted in sections I B and I C of this notice, the United States entered into a RCRA Consent Decree with FMC/Astaris to address FMC/Astaris' past mishandling of hazardous wastes and to direct FMC/Astaris to take measures to avoid future environmental contamination. The Consent Decree mandates site-specific treatment requirements to deactivate ignitable and reactive waste streams, and requires FMC/Astaris to design, construct, and commence operation of a LDR Treatment Plant for these waste streams by no later than May 2002. It also requires closure of specified surface impoundments (ponds) used to manage the wastes, establishes a Pond Management Plan, and mandates plant upgrades, including the installation of secondary containment for sumps, tanks, and piping at the facility. The United States must also consider facts such as section 3004(h)(3) of RCRA, which establishes that an applicant who satisfies the conditions for a CBC extension (or renewal of a CBC extension) will be granted one.

The issue in evaluating the initial CBC extension application, as well as this request for renewal of their existing CBC extension, is whether FMC/Astaris has satisfied applicable statutory and regulatory conditions. As previously noted, it is not yet feasible for FMC/Astaris to treat these wastes prior to placement in the on-site surface impoundments, and there is no available off-site commercial treatment capacity for these five hazardous waste streams. The necessary treatment capacity and capability will not be available until the LDR Treatment Plant commences operation by May 2002. We are satisfied that FMC/Astaris has made and is continuing to make a good-faith effort to construct and commence operation of the LDR Treatment Plant by May 2002.

IV. What Must FMC/Astaris Do Under This CBC Extension Renewal?

Having been granted this CBC extension renewal, FMC/Astaris must immediately notify EPA of any change in the demonstrations made in the

petition (see 40 CFR 268.5(f)). FMC/Astaris also must continue to submit a monthly report describing the progress being made toward design, construction, and operation of the LDR Treatment Plant. The monthly progress report also must identify any delay, or possible delay in developing this treatment capacity and describe the actions being taken in response to the delay (see 40 CFR 268.5(g)). The monthly progress report must be submitted every thirty days, by the 26th day of each month for the duration of this CBC extension renewal, until June 26, 2002.

Four copies of each monthly progress report must be submitted to the following address: Chief, Analysis and Information Branch, U.S. Environmental Protection Agency, Office of Solid Waste (5302W), 1200 Pennsylvania Avenue, NW., Washington, D.C. 20460.

A copy of the monthly progress report also must be provided to EPA Region 10 at the following address: Director, Office of Waste and Chemicals Management, U.S. Environmental Protection Agency 1200 Sixth Avenue, Seattle, WA 98101.

A copy of the monthly progress report must be provided to the Shoshone-Bannock Tribes at the following address: Director, CERCLA/RCRA Program, Shoshone-Bannock Tribes, P.O. Box 306, Fort Hall, Idaho 83203.

EPA can revoke this CBC extension renewal if FMC/Astaris fails to make a good-faith effort to meet the schedule for completion; if EPA denies or revokes any required permit; if conditions certified in the CBC extension renewal application change; or for a violation of any law or regulations in parts 260–266 and 268 (see § 268.5(g)). No further extension of the LDR effective date for these five hazardous wastes is allowed.

V. Administrative Requirements

Today, the EPA is approving the FMC/Astaris request for a one-year renewal of their existing CBC extension of the effective date of the RCRA land disposal restrictions, for a facility located on Tribal Lands. This action will have a substantial direct effect on the people of the Shoshone-Bannock Tribes and the Ft. Hall Business Council, as it will permit this facility to continue treating, storing, or disposing of five waste streams as currently managed in on-site surface impoundments until May 26, 2002.

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations and other actions that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes; or on the distribution of power and responsibilities between the Federal government and Indian tribes."

EPA has concluded that this decision has tribal implications, as it has a substantial direct effect on the people of the Shoshone-Bannock Tribes (on whose lands the Pocatello facility is located) and the Ft. Hall Business Council. Consistent with the Executive Order and EPA's Indian policy, EPA has ensured the meaningful and timely input of tribal officials of the Ft. Hall Business Council in the development of this decision.

EPA has had numerous meetings and calls with Tribal government officials from May 2000 to April 2001. For example, on May 2, 2000, Elizabeth Cotsworth (Director-EPA Office of Solid Waste) met with the Ft. Hall Business Council in Pocatello, Idaho to consult with the Tribes regarding FMC's request for a CBC extension. On June 9, 2000, Tim Fields (Assistant Administrator-EPA Office of Solid Waste and Emergency Response), met the Ft. Hall Business Council on the same issue. EPA has specifically solicited comment on this CBC extension from the elected officials of the Ft. Hall Business Council, and in recent months, Chuck Findley (Acting EPA Region 10 Administrator) has had several meetings and telephone conversations with the Ft. Hall Business Council to discuss the CBC extension and the HTDF option as an alternative to the LDR system.

Other consultation measures have included staff level discussions to obtain feedback from the Tribes on information provided by FMC/Astaris, providing the Tribes with an advance copy of draft **Federal Register** notices of Proposed Decision for their review and comment prior to publishing the notices, and inviting the Tribes to participate in all meetings held with FMC/Astaris on the CBC extension, are described in previous **Federal Register** notices addressing the CBC extension.

Finally, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA will continue to consult with the Tribes after this decision on all matters relating to the FMC/Astaris facility which affect the Tribes' interests.

As discussed in the March 16, 2001 (66 FR 15243) **Federal Register** notice, Executive Order 13132, entitled "Federalism," this notice also does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of this Executive Order do not apply to this action.

Authority: Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924).

Dated: May 11, 2001.

Stephen D. Luftig,

Acting Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 01–12880 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the June 14, 2001 regular meeting of the Farm Credit Administration Board (Board) will not be held. The FCA Board will hold a special meeting at 9 a.m. on Thursday, June 21, 2001. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: May 16, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–12819 Filed 5–17–01; 11:17 am]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Acquisition Services Information Requirements."

DATES: Comments must be submitted on or before July 20, 2001.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to "Acquisition Services Information Requirements." Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to revise the following currently approved collection of information:

Title: Acquisition Services Information Requirements.

OMB Number: 3064–0072.

Frequency of Response: Occasional.

Affected Public: Contractors and vendors who wish to do business with the FDIC.

Estimated Number of Respondents: 12,546.

Estimated Time per Response: varies from .05 hours to 1.0 hours.

Estimated Total Annual Burden: 6,285 hours.

General Description of Collection: The collection involves the submission of information on various forms by contractors who wish to do business, or are currently under contract with the FDIC.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, DC, this 14th day of May, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–12628 Filed 5–18–01; 8:45 am]

BILLING CODE 5714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE & TIME: *Thursday, May 17, 2001.*

This meeting has been cancelled.

DATE & TIME: *Thursday, May 24, 2001 at 10:00 a.m.*

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

Final Audit Report on the California State Republican Party.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–12866 Filed 5–17–01; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1367–DR]

Iowa; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa, (FEMA–1367-DR), dated May 2, 2001, and related determinations.

EFFECTIVE DATE: May 9, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 2, 2001: Wapello County for (Categories A and B) under the Public Assistance program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 01–12670 Filed 5–18–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1366–DR]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1366–DR), dated April 27, 2001, and related determinations.

EFFECTIVE DATE: April 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 27, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5121, as follows:

I have determined that the damage in certain areas of the State of Kansas, resulting from severe storms, hail, flooding and tornadoes beginning on April 21, 2001, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Carlos Mitchell of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Kansas to have been affected adversely by this declared major disaster:

Barton County for Individual Assistance and Public Assistance.

All counties within the State of Kansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–12669 Filed 5–18–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 4, 2001.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Martin Tuchman, Princeton, New Jersey; to acquire voting shares of Yardville National Bancorp, Mercerville, New Jersey, and thereby indirectly acquire voting shares of Yardville National Bank, Yardville, New Jersey.

Board of Governors of the Federal Reserve System, May 15, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12631 Filed 5–18–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 14, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. First National Bank Group, Inc., Edinburg, Texas; to acquire 51 percent of the voting shares of Alamo Corporation of Texas, Alamo, Texas, and thereby indirectly acquire Alamo Bank of Texas, Alamo, Texas.

Board of Governors of the Federal Reserve System, May 15, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12630 Filed 5–18–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 4, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Hancock Holding Company, Gulfport, Mississippi; to acquire Lamar Data Solutions, Inc., Purvis, Mississippi, and thereby to engage de novo in data processing and data transmission services for financial institutions, pursuant to section 225.28(b)(14)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, May 15, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12629 Filed 5–18–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—04/17/2001			
20011672	The Sisters of Charity of St. Augustine, Health System, Inc.	HCA-The Healthcare Company	Columbia/HCA Healthcare Corporation of South Carolina.
20011700	The Sage Group plc	Interact Commerce Corporation	Interact Commerce Corporation.
20011708	Ford Motor Company	Seth M. Siegel	The Beanstalk Group (Europe). The Beanstalk Group Inc. (DE). The Beanstalk Group Inc. (NY).
20011709	Ford Motor Company	Michael S. Stone	The Beanstalk Group, Inc.
Transactions Granted Early Termination—04/18/2001			
20011711	MedAssets.com, Inc	Earl H. Norman	Health Services Corporation of America.
20011718	Church & Dwight Co., Inc	USA Detergents, Inc	USA Detergents, Inc.
Transactions Granted Early Termination—04/20/2001			
20011662	Smiths Group plc	Barringer Technologies Inc	Barringer Technologies Inc.
20011696	Littlejohn Fund II, L.P	Magne Tek Inc	Magne Tek Asia Ltd., Magne Tek Electronics China Co. Ltd. Magne Tek Componentes Electricos, S.A. de C.V. Magne Tek Matamoras, S.A. de C.V.
20011715	Microsoft Corporation	Ensemble Studios Corporation	Ensemble Studios Corporation.
20011739	Nautica Enterprises, Inc	Benjamin Freiwald	Earl Jean, Inc.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—04/23/2001			
20011713	LSI Logic Corporation	C-Cube Microsystems Inc	C-Cube Microsystems Inc.
20011720	Normandy Mining Limited ACN 009 295 765.	Franco-Nevada Mining Corporation Limited.	Midas Joint Venture, Inc.
20011722	Illinois Tool Works Inc.	Foilmark, Inc	Foilmark, Inc.
20011725	The Stanley Works	Global Private Equity III Limited Partnership.	Contact East, Inc.
20011726	Protective Industries, LLC	MIV Holdings, S.A	Mark IV Industries, Inc.
20011728	General Electric Company	Paragon Leasing	Paragon Leasing
Transactions Granted Early Termination—04/25/2001			
20011698	Tyco International Ltd.	The CIT Group, Inc	The CIT Group, Inc.
20011721	Cisco Systems, Inc	Velocita Corp	Velocita Corp.
Transactions Granted Early Termination—04/26/2001			
20011693	United Parcel Service, Inc	Miles Group, Inc	Miles Group, Inc.
Transactions Granted Early Termination—04/27/2001			
20011548	Xcel Energy Inc	Duke Energy Corporation	Duke Capital Corporation. Duke Energy Audrain, LLC.
20011649	Royster-Clark Group, Inc	Land O'Lakes, Inc	Agro Distribution, LLC.
20011650	Royster-Clark Group, Inc	Cenex Harvest States Cooperatives	Agro Distribution, LLC.
20011701	Wells Fargo & Company	ACO Brokerage Holdings Corporation	ACO Brokerage Holdings Corporation.
20011714	Micron Technology, Inc	Interland, Inc	Interland, Inc.
20011744	Pilot Corporation	USX Corporation	Speedway SuperAmerica LLC.
20011745	USX Corporation	Pilot Corporation	Pilot Corporation.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–12679 Filed 5–18–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 992 3276]

Gateway, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 14, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Linda Badger, Federal Trade Commission, Western Region—San Francisco Office, 901 Market St., Suite 570, San Francisco, CA 94103. (415) 848–5151.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 15, 2001), on the World Wide Web, at *http://www.ftc.gov/os/2001/05/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Gateway, Inc. ("Gateway").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Gateway advertises and sells personal computers, computer peripherals, software, and Internet services to the public. This matter concerns allegedly false and deceptive advertising of Gateway's Internet access service, "Gateway.net." The Commission's proposed complaint alleges that Gateway advertised that with the purchase of certain computer models, Gateway.net Internet access service would be included for free for one year, or could be purchased for a flat fee, such as $14.95 a month. In fact, for many consumers one year of Gateway.net was not free or obtainable for a flat fee, because these customers incurred long distance charges to access Gateway.net, or were charged $3.95 per hour by Gateway for the use of a "toll-free" telephone number to access the service. The Commission's proposed complaint challenges these "free" or "flat-fee" ads as both misrepresentations and as failures to disclose material facts under Section 5 of the FTC Act. Further, the complaint alleges that Gateway falsely represented that the use of its "toll-free" 1–888 number to connect to the Internet was free to consumers. In fact, Gateway charged consumers $3.95 per hour for the use of this "toll-free" number.

The proposed consent order contains provisions designed to prevent Gateway from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the company from misrepresenting the price or cost of any Internet access service, or of any "toll-free" telephone number. Under the order, the term "Internet access service" is defined as "any service that enables a consumer to access the Internet or any other electronic network."

Part II of the order prohibits representations regarding the price or cost of any "1–800" or "toll-free" telephone number provided to the consumer by Gateway unless it discloses, clearly and conspicuously, the dollar amounts of any hourly surcharges and any other fees it charges for the use of such numbers. Part III of the proposed order requires that Gateway clearly and prominently disclose that consumers may have to pay long distance telephone charges, hourly surcharges, or other costs in excess of local telephone service charges to access any Internet access service. Gateway must disclose the dollar amounts of any such fees within its control or the control of any of its promotional partners providing the service. It must also provide a means for each consumer to ascertain whether he or she would incur such fees to access the service, and inform consumers that they should contact their local telephone company to determine whether using the access telephone number for the location closet to them will result in charges in excess of local telephone service charges.

Part IV of the order requires that Gateway maintain customer support to answer consumer inquiries regarding any Internet access service, including but not limited to, an adequately staffed toll-free number where consumers can determine whether they have a local access number for such service.

Part V is a redress provision requiring that Gateway refund all charges for "toll-free" numbers paid by local access plan gateway.net customers who registered for the plan between January 19, and April 1, 1999, and who paid such fees up until August 15, 1999. Parts VI through IX of the proposed order contain the usual reporting and compliance provisions, and, Part X is a provision "sunsetting" the order after twenty years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–12677 Filed 5–18–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 002 3061]

Juno Online Services, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 14, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Darren Bowie or Laura Sullivan, FTC/S–4002, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–2018 or 326–3327.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with an accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 15, 2001), on the World Wide Web, at *http://www.ftc.gov/os/2001/05/index.htm* A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of eac comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Juno Online Services, Inc. ("Juno").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Juno is an Internet service provider with approximately 842,000 subscribers to its fee-based services and nearly 4 million total active subscribers. Juno typically charges subscribers a flat monthly fee for its fee-based services. The company's subscriber revenues reached early $34.5 million for 1999 and $73.9 million last year.

This matter concerns allegedly false claims for its "free" and fee-based online services. The Commission's proposed complaint alleges:

• Juno falsely represented that consumers participating in its free trial periods for its fee-based Internet service could cancel at any time before the free trial expired and avoid incurring charges, and Juno failed to disclose the restrictive procedures that subscribers must follow to cancel this service;

• Juno misrepresented the duration of its free trial offers for its fee-based service and, in other instances, failed to disclose that these free trial periods must be completed within a month;

• Juno misrepresented that there were no additional costs associated with using its free Internet service, and failed to adequately disclose important information about potential long distance telephone toll charges ("toll charges") in promoting its free, fee-based and free trial period offers;

• Juno failed to adequately disclose in its advertising for certain rebate programs both the possibility of incurring toll charges while using its fee-based Internet service and applicable cancellation penalties; and

• Juno misrepresented that its Internet service was available for purchase at certain prices, when it was not, and concurrently misrepresented the purpose for which it solicited credit card and other personal identifying information from consumers

The proposed consent order contains several provisions designed to prevent Juno from engaging in similar acts and practices in the future and requires redress for certain injured consumers.

Part I of the proposed consent order prohibits Juno from misrepresenting the price or cost of any electronic mail, Internet or other online service ("Internet services"). The Part also prohibits Juno from misrepresenting the ability or terms by which consumers can cancel these Internet services, or the amount of time consumers have to use these services during a free trial period before fees are charged. Part I further prohibits Juno from falsely representing that Internet service is available for purchase—when it is not—and from falsely representing why it requests or collects credit card or any other personal identifying information from consumers.

Part II of the proposed consent order prohibits Juno from beginning to compute the billing cycle or free trial period for its Internet services before the consumer is able to use these services. In cases, however, where it is necessary to provide consumers with a software upgrade or hardware installment before they can use these services as advertised, Juno can comply with this Part if it clearly and conspicuously discloses when it will begin to compute the billing cycle or free trial period for these consumers before they register for these services.

Part III of the proposed consent order requires Juno to clearly and conspicuously disclose obligations that consumers have to cancel their Internet service and the procedures consumers must follow to effectively cancel their service.

Part IV of the proposed consent order requires Juno to provide consumers with reasonable means to cancel its Internet services, at a minimum providing for cancellation through e-mail and a toll-free telephone number. The Part further requires Juno to maintain adequate customer support to promptly handle requests for cancellation, terminating service before the next billing cycle.

Parts V and VI of the proposed consent order require Juno to disclose clearly and conspicuously potential toll charges associated with sing its services and any cancellation penalties.

Part VII of the proposed consent order requires that Juno provides consumers with reasonable means to determine the telephone numbers available for accessing its Internet services and the town or city where these numbers are located—at least making this information available in a directory posted on its Web site and through a toll-free telephone number. The Part further requires Juno to maintain adequate customer support to respond to consumer inquiries about its access telephone numbers.

Part VIII of the proposed consent order prohibits Juno from using or disclosing the personal identifying information obtained by the company in connection with its deceptive dry test advertisements. The Part further conditions the Commission's approval of this consent order on the veracity of representations made by Juno that: (1) did not collect credit card numbers provided by consumers responding to these dry test advertisements; (2) it has since deleted any other personal identifying information that it did collect from consumers in connection with these advertisements; and (3) it did not share this information with any third party.

Part IX of the proposed consent order prohibits Juno from providing the means and instrumentalities for any third party to violate any provision of the consent order.

Part X of the proposed consent order requires Juno to offer reimbursement to certain consumers for toll charges incurred in the first two months of subscribing to its Internet services. Eligible consumers include those who: (a) subscribed to Juno's Internet service as part of a rebate program that required the purchase of another product or service and subscription to respondent's Internet services for a period of more than a month; and (b) cancelled their subscription and either (i) identified the unavailability of a local access number as a reason for the cancellation; or (ii) complained to Juno about incurring telephone toll charges. Eligible consumers are required to supply Juno with a copy of their telephone bill(s) reflecting the amount of the toll charges they incurred. Consumers, however, who incurred such toll charges at least 18 months prior to the date on which they mailed their application form, also can prove their claim with (a) a copy of a check or other form of payment; or (b) a written declaration indicating the amount of the toll charges that they incurred. Consumers who provide these alternative proofs of claim are entitled to receive a reimbursement not to exceed a maximum dollar amount.

Parts XI through XV of the proposed consent order are standard record keeping and compliance provisions. Part XIII requires that respondent provides a summary and explanation of the consent order requirements and the consent order to all retailers and other parties who promoted its Internet services as part of a rebate program. Part XVI of the proposed consent order "sunsets" the order after twenty years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–12678 Filed 5–18–01; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary of Health have taken final action in the following case:

Ayman Saleh, Ph.D., University of Pittsburgh: Based on the report of an inquiry conducted by the University of Pittsburgh and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Dr. Saleh, former postdoctoral research associate, School of Medicine, University of Pittsburgh, engaged in scientific misconduct in research supported by the National Institutes of Health.

PHS finds that Dr. Saleh falsified:

(A) Data for a manuscript which purported to show Western blots of rabbit Bcl-2 and tubulin; the blots were actually obtained from different experiments by another researcher using antibody against Hsp70 and against Bag-1, respectively;

(B) The label on a Western blot for Bcl-2 that he presented to the inquiry committee as evidence that he had conducted the experiment at issue; the blot was actually from a different experiment by a coworker;

(C) Data for a laboratory figure purported to represent a rabbit PARP cleavage blot; the data was from another experiment, and the antibody to PARP was not available to Dr. Saleh at that time;

(D) Western blot data on pcasp-9 and p37/p35 for a manuscript on Hsp27; the data represented experiments that could not be performed because the cell lines were unavailable at the time; and

(E) Figure 2b, the panel that shows a Western blot of Casp-9(WT) in a publication by Srinivasa M. Srinivasula, Ramesh Hegde, Ayman Saleh, Pinaki Datta, Eric Shiozaki, Jijie Chais, Ryung-Ah Lee, Paul D. Robbins, Theresa Fernandes-Alnemri, Yigong Shi, and Emad S. Alnemri. "A conserved XIAP-interaction motif in caspase-9 and Smac/DIABLO regulates caspase activity and apoptosis." Nature 410(6824):112–116, 2001. The Figure 2b data were actually taken from a Western blot of Bcl-XL data, in which Dr. Saleh transposed the lanes.

The experiments examined the regulation of programmed cell death (apoptosis), a process that is important to a better understanding of cancer. Figure 2b in the Nature paper represented a control experiment that confirmed the association of an X-linked gene to a particular type of apoptosis.

Dr. Saleh has entered into a Voluntary Exclusion Agreement with PHS in which he has voluntarily agreed for a period of three (3) years, beginning on May 3, 2001:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR Part 76 (Debarment Regulations);

(2) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris Pascal,

Director, Office of Research Integrity.

[FR Doc. 01–12681 Filed 5–18–01; 8:45 am]

BILLING CODE 4150–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to grant a "Voluntary Customer Satisfaction Survey Generic Clearance for the Agency for Healthcare Research and Quality." In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection request to allow AHRQ to conduct these customer satisfaction surveys.

DATES: Comments on this notice must be received by July 20, 2001.

ADDRESSES: Written comments should be submitted to: Cynthia D. McMichael, Reports Clearance Officer, AHRQ, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

Voluntary Customer Satisfaction Survey Generic Clearance for the Agency for Healthcare Research and Quality

In response to Executive Order 12862, the Agency for Healthcare Research and Quality (AHRQ) plans to conduct voluntary customer satisfaction surveys to assess strengths and weaknesses in program services. Customer satisfaction surveys to be conducted by AHRQ may include readership surveys from individuals using AHRQ automated and electronic technology data bases to determine satisfaction with the information provided or surveys to assess effects of the grants streamlining efforts. Results of these surveys will be used in future program planning initiatives and to redirect resources and efforts, as needed, to improve AHRQ program services.

The current clearance will expire December 31, 2001. A generic approval will be requested from OMB to conduct customer satisfaction surveys over the next three years.

Method of Collection

The data will be collected using a combination of preferred methodologies appropriate to each survey. These methodologies are:

- Evaluation forms;
- Mail surveys;
- Focus groups;
- Automated and electronic technology (e.g., instant fax, on-line, feedback forms for AHRQ Clearinghouse Publications); and
- Telephone surveys.

The estimated annual hour burden is as follows:

Type of survey	Number of respondents	Average burden/response (hours per respondent)	Total hours of burden
Mail/Telephone Surveys	51,200	.15	7,680
Automated/ Web-based	52,000	.163	8,476
Focus Groups	200	1.0	200
Totals	103,400	.159	16,441

Request for Comments

Comments are invited on: (a) The necessity of the proposed collections; (b) the accuracy of the Agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the

collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Copies of these proposed collection plans and instruments can be obtained from the AHRQ Reports Clearance Officer (see above).

Dated: May 10, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–12754 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of Special Emphasis Panel meetings.

A Special Emphasis Panel (SEP) is a committee of experts selected to conduct scientific reviews of applications related to their areas of expertise. The committee members are drawn from a list of experts designated to serve for particular individual meetings rather than for extended fixed terms of services

Substantial segments of the upcoming SEP meetings listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to include personal information concerning individuals associated with these applications. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of SEP:* Centers of Excellence for Patient Safety Research and Practice.

Date: June 18–19, 2001 (Open on June 18 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

2. *Name of SEP:* Developmental Centers for Evaluation and Research in Patient Safety.

Date: June 20–21, 2001 (Open on June 20 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

3. *Name of SEP:* Primary Care PBRN: Competitive Continuations.

Date: July 13, 2001 (Open on July 13 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

4. *Name of SEP:* Building Research Infrastructure and Capacity (BRIC) Program.

Date: July 30–31, 2001 (Open on July 30 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

5. *Name of SEP:* Clinical Informatics to Promote Patient Safety RFA.

Date: August 2–3, 2001 (Open on August 2 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

6. *Name of SEP:* Improving Patient Safety: Health Systems Reporting, Analysis and Safety Improvement Research Demonstrations.

Date: August 6–7, 2001 (Open on August 6 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

7. *Name of SEP:* Patient Safety Research Dissemination and Education.

Date: August 16–17, 2001 (Open on August 16 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

8. *Name of SEP:* The Effect of Health Care Working Conditions on Quality of Care.

Date: August 23–24, 2001 (Open on August 23 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

Contact Person: Anyone wishing to obtain a roster of members of minutes of these meetings should contact Ms. Jenny Griffith, Committee management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1847.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: May 14, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–12753 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Award of Non-Competitive Grant

AGENCY: Administration on Children, Youth and Families (ACYF) Administration for Children and Families (ACF), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Notice is hereby given that ACYF will award grant funds without competition to Western Kentucky University Head Start Quality Improvement Center (QIC) in the amount of $300,000. This award is made to the QIC to further the provision of technical assistance services nationally to grantees and regional offices when they undertake the purchase, construction or major renovation of Head Start program facilities. The award will be made for the budget period beginning September 1, 2001 for a twelve month period, under existing grant award 90YQ0016.

Authority: This award will be made pursuant to the Head Start Act, amended, 42 U.S.C. 9801 et seq. (CFDA 93.600)

FOR FURTHER INFORMATION CONTACT: Douglas Klafehn, Acting Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, 330 C Street SW, Washington, D.C. 20447; (202) 205–8572.

Dated: May 15, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–12684 Filed 5–18–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Safety Research: Availability of Cooperative Agreements; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of research funds for fiscal year (FY) 2001 to support research in the following areas: Analytical detection of bovine spongiform encephalopathy and other transmissible spongiform encephalopathies (BSE/TSE) in FDA-regulated products, consumer refrigeration storage length practices for unopened and opened packages of ready-to-eat foods, microbial contamination of agricultural water, and transfer coefficients to describe the potential for *Listeria* cross-contamination in the retail environment. Approximately $700,000 will be available in FY 2001. FDA anticipates making up to four awards of $100,000 to $200,000 (direct plus indirect costs) per award per year. Support of these agreements may be up to 3 years. Budgets for all years requested may not exceed $200,000 (direct plus indirect costs). Any application received that exceeds this amount will not be considered responsive and will be returned to the applicant without being reviewed. The number of agreements funded will depend on the quality of the applications received and the availability of Federal funds to support the projects. After the first year, additional years of noncompetitive support are predicated upon performance and the availability of Federal funds.

DATES: Submit applications by July 5, 2001.

ADDRESSES: Completed applications should be submitted to: Maura C. Stephanos, Grants Management Specialist, Grants Management Staff (HFA–520), Division of Contracts and Procurement Management, Food and Drug Administration, 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7183, FAX 301–827–7106, e-mail: mstepha1@oc.fda.gov. (Applications hand-carried or commercially delivered should be addressed to rm. 2129, 5630 Fishers Lane, Rockville, MD 20857).

Application forms are available either from Maura C. Stephanos (address above) or via the Internet at http://grants.nih.gov/grants/funding/phs398/phs398.html. NOTE: Do not send applications to the Center for Scientific Research (CSR), National Institutes of Health (NIH).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Maura C. Stephanos (address above).

Regarding the programmatic aspects of this notice: John W. Newland, Microbial Research Coordinator, Office of Science (HFS–32), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–0536, e-mail: john.newland@cfsan.fda.gov.

SUPPLEMENTARY INFORMATION: FDA will support the research studies covered by this notice under section 301 of the Public Health Service Act (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103.

The Public Health Service (PHS) strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

FDA is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2010," a national effort to reduce morbidity and mortality and to improve quality of life. Applicants may obtain a hard copy of the "Healthy People 2010" objectives, vols. I and II, conference edition (B0074) for $22 per set, by writing to the Office of Disease Prevention and Health Promotion (ODPHP) Communication Support Center (Center), P.O. Box 37366, Washington, DC 20013–7366. Each of the 28 chapters of "Healthy People 2010" is priced at $2 per copy. Telephone orders can be placed at the Center on 301–468–5690. The Center also sells the complete conference edition in CD–ROM format (B0071) for $5. This publication is available as well on the Internet at http://health.gov/healthypeople. Internet viewers should proceed to "Publications."

I. Background

FDA is committed to reducing the incidence of foodborne illness to the greatest extent feasible. Research in food safety seeks to reduce the incidence of foodborne illness by improving our ability to detect and enumerate pathogens in the food supply and to find new and improved ways to control them. The Center for Food Safety and Applied Nutrition (CFSAN) supports multiyear cooperative agreements intended to help achieve the goal of reducing the incidence of foodborne illness. President Clinton's food safety initiative (FSI) inaugurated this extramural program that supports a novel collaborative research effort between CFSAN and academic scientists, and leveraged expertise not found within FDA, to complement and accelerate ongoing research. Collaborations such as these provide information critical to food safety guidance and policymaking, and stimulate fruitful interactions between FDA scientists and those within the greater research community.

In continuation of this effort CFSAN/FSI will provide FY 2001 funds to be used for research to help ensure the agency has the following capacities: To detect the presence of human pathogens that may become present in FDA regulated products; to more fully understand how consumer practices in the handling of ready-to-eat food products may affect their microbiological safety; to obtain a more precise understanding of the potential for cross contamination by *Listeria monocytogenes* between foods and food contact surfaces; and to understand mechanisms of microbial contamination of agricultural water that subsequently result in the occurrence of pathogens on raw produce.

II. Research Goals and Objectives

Proposed projects designed to fulfill the specific objectives of any one of the following requested projects will be considered for funding. Applications may address only one project and its objectives per application. However, applicants may submit more than one application for more than one project. The projects and their objectives are as follows.

A. Project 1: Analytical Detection of Bovine Spongiform Encephalopathy and Other Transmissible Spongiform Encephalopathies (BSE/TSE) in Products Regulated by CFSAN

The objective of this project is the development of a practical analytical technique for the detection of the BSE/TSE infective agent in products regulated by CFSAN (i.e., foods, including infant formula, dietary supplements, and cosmetics). Diagnostic tests to detect the BSE/TSE infective agent in a variety of FDA regulated products are currently unavailable. FDA's high priority products include milk and dairy products, food grade gelatin, dietary supplements, and foods containing beef at less than 3 percent. This research will provide detection methodology critical to support food surveillance programs designed to keep BSE and other TSEs out of U.S. foods, cosmetics, and dietary supplements.

B. Project 2: Consumer Refrigeration Storage Length Practices for Unopened and Opened Packages of Ready-to-Eat Foods

The objective of this project is to understand more fully how consumer practices in the handling of ready-to-eat food products may affect the microbiological safety of these foods. Values that were used in the Department of Health and Human Services (DHHS)/U.S. Department of Agriculture (USDA) draft *Listeria monocytogenes* risk assessment to estimate time of storage in the home before consumption were largely based on expert opinion. The agency seeks to improve the estimates of risk associated with consumer storage practices through survey data on the storage of ready-to-eat foods (as specified in the draft risk assessment, see http://www.foodsafety.gov) in home refrigerators. Proposed investigations should focus on the duration of refrigerated storage of unopened and opened food packages of ready-to-eat foods.

C. Project 3: Microbial Contamination of Agricultural Water

The objective of this project is to understand mechanisms of microbial contamination of agricultural water that subsequently result in the occurrence of pathogens on raw produce. In produce-related outbreak investigations and produce pathogen surveys agricultural water quality has been repeatedly identified as a potential source of microbial pathogen contamination. Farm investigations have found examples where water used for agriculture purposes was contaminated by raw human or animal waste. There are no guidelines for microbiological criteria for water used in agriculture. Research must specifically focus on characterizing the role of agricultural water on pathogen (and possibly fecal indicator) occurrence, survival, propagation, and attachment to raw produce. The effects of farm production practices, such as spray and furrow irrigation and pesticide applications, on microbial pathogen occurrence, survival, propagation, and attachment should also be addressed. Applications should include the following pathogens of concern, *Salmonella*, *Shigella*, *Escherichia coli* O157:H7, and *Cyclospora*.

D. Project 4: Transfer Coefficients to Describe the Potential for Listeria Cross-Contamination in the Retail Environment

The objective of this project is to quantify the potential for *Listeria* cross-contamination in the retail environment. The presence of *Listeria* in ready-to-eat foods is well established. Specific information is lacking, however, about the mechanism(s) and frequency of cross-contamination within the retail and food service environment, especially in food preparation and dispensing areas. Information is needed about the potential for transfer from microbially contaminated food to soiled and unsoiled surfaces, from microbially contaminated surfaces (soiled and unsoiled) to food, and the potential involvement of surface biofilms on cross-contamination potential. Specifically, this transfer potential should be quantified and expressed as transfer coefficients that apply to *Listeria* cross contamination that occurs within the retail environment.

III. Human Subject Protection and Informed Consent

A. Protection of Human Research Subjects

Some activities carried out by a recipient under this announcement may be governed by DHHS regulations for the protection of human research subjects (45 CFR part 46), as well as by the FDA Risk in Human Subjects Committee (RIHSC) (21 CFR parts 50 and 56). These regulations require recipients to establish procedures for the protection of subjects involved in any research activities. Prior to funding and upon request of the Office for Human Research Protection (OHRP) (formerly the Office for Protection from Research Risks (OPRR), prospective recipients must have on file with OHRP an assurance to comply with 45 CFR part 46. This assurance to comply is called an assurance document. It includes the designated institutional review board (IRB) for review and approval of procedures for carrying out any research activities occurring in conjunction with this award. If an applicable assurance document for the applicant is not already on file with OHRP, a formal request for the required assurance will be issued by OHRP at an appropriate point in the review process, prior to award, and examples of required materials will be supplied at that time. No applicant or performance site without an approved and applicable assurance on file with OHRP may spend funds on human subject activities or accrue subjects. No performance site, even with an OHPR-approved and applicable assurance, may proceed without approval by OHRP of an applicable assurance for the recipients. Applicants may wish to visit the OHRP website at http://ohrp.osophs.dhhs.gov to obtain preliminary guidance on human subject issues. Applicants wishing to contact OHRP should provide their institutional affiliation, geographic location, and all available request for applications (RFA) citation information.

Applicants are advised that the section on human subjects in the application kit entitled "Section C. Specific Instructions—Forms, Item 4, Human Subjects," on pages 7 and 8 of the application kit, should be carefully reviewed for the certification of IRB approval requirements. Documentation of IRB approval for every participating center is required to be on file with the grants management officer, FDA. The goal should be to include enough information on the protection of human subjects in a sufficiently clear fashion so reviewers will have adequate material to make a complete review. Those approved applicants who do not have a current multiple project assurance with OHRP will be required to obtain a single project assurance from OHRP prior to award.

B. Informed Consent

Consent and/or assent forms, and any additional information to be given to a subject, should accompany the application. Information that is given to the subject or the subject's representative must be in language that the subject or his or her representative can understand. No informed consent, whether oral or written, may include any language through which the subject or the subject's representative is made to waive any of the subject's legal rights, or by which the subject or representative releases or appears to release the investigator, the sponsor, or the institution or its agent from liability.

If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

C. Elements of Informed Consent

The regulations on informed consent are set forth in 45 CFR 46.116 and 21 CFR 50.25. The basic elements of informed consent are as follows:

1. Basic Elements of Informed Consent

In seeking informed consent, the following information shall be provided to each subject:

• A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental.

• A description of any reasonably foreseeable risks or discomforts to the subject.

• A description of any benefits to the subject or to others which may reasonably be expected from the research.

• A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject.

• A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained, and that notes the possibility that FDA may inspect the records.

• For research involving more than minimal risk, an explanation as to whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of or where further information may be obtained.

• An explanation of whom to contact for answers to pertinent questions about the research and research subject's rights, and whom to contact in the event of research-related injury to the subject.

• A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Additional Elements of Informed Consent

When appropriate, one or more of the following elements of information shall also be provided to each subject.

• A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable.

• Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent.

• Any costs to the subject that may result from participation in the research.

• The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

• A statement that significant new findings developed during the course of the research that may relate to the subject's willingness to continue participation will be provided to the subject.

• The approximate number of subjects involved in the study.

• The informed consent requirements are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

• Nothing in the notice is intended to limit the authority of a physician to provide emergency medical care to the extent that a physician is permitted to do so under applicable Federal, State, or local law.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of cooperative agreements. These cooperative agreements will be subject to all policies and requirements that govern the research grant programs of PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program. The NIH modular grant program does not apply to this FDA program.

B. Eligibility

These cooperative agreements are available to any public or private nonprofit entity (including State and local units of government) and any for-profit entity. For-profit entities must commit to excluding fees or profit in their request for support to receive awards. Organizations described in section 501(c)(4) of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive awards.

C. Length of Support

The length of support will be for up to 3 years. Funding beyond the first year will be noncompetitive and will depend on:

1. Satisfactory performance during the preceding year, and
2. Availability of Federal FY funds.

V. Reporting Requirements

Annual financial status reports (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's grants management officer (address same as given above for grants management specialist) within 90 days of the budget expiration date of the cooperative agreement. Failure to file the FSR on time may be grounds for suspension or termination of the agreement. Program progress reports will be required quarterly and will be due 30 days following each quarter of the applicable budget period except that the fourth quarterly report which will serve as the annual report and will be due 90 days after the budget expiration date. For continuing agreements, an annual program progress report is also required. Submission of the noncompeting continuation application (PHS 2590) will be considered as the annual program progress report. The recipient will be advised of the suggested format for the program progress report at the time an award is made. In addition, the principal investigator will be required to present the progress of the study at an annual FDA extramural research review workshop in Washington, DC. Travel costs for this requirement should be specifically requested by the applicant as part of their application. A final FSR, program progress report and invention statement, must be submitted within 90 days after the expiration of the project period, as noted on the notice of grant award.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least quarterly by the project officer and the project advisory group. Project monitoring may also be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator and/or a site visit with appropriate officials of the recipient organization. A record of these monitoring activities will be duly recorded in an official file specific for each cooperative agreement and may be available to the recipient of the cooperative agreement upon request.

VI. Delineation of Substantive Involvement

Inherent in the cooperative agreement award is substantive involvement by the awarding agency. Accordingly, FDA will have a substantive involvement in the programmatic activities of all the projects funded under this RFA. Substantive involvement includes but is not limited to the following:

1. FDA will provide guidance and direction with regard to the scientific approach and methodology that may be used by the investigator.

2. FDA will participate with the recipient in determining and executing any: (a) Methodological approaches to be used, (b) procedures and techniques to be performed, (c) sampling plans proposed, (d) interpretation of results, and (e) microorganisms and commodities to be used.

3. FDA will collaborate with the recipient and have final approval on the experimental protocols. This collaboration may include protocol

design, data analysis, interpretation of findings, coauthorship of publications and the development and filing of patents.

VII. Review Procedure and Criteria

A. Review Method

All applications submitted in response to this RFA will first be reviewed by grants management and program staff for responsiveness. Applications will be considered not responsive if they are not in compliance with sections VII.B and VIII of this document. If applications are found to be not responsive to this announcement they will be returned to the applicant without further consideration.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application.

Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence with the recommendations made by the first level reviewers. Final funding decisions will be made by the Commissioner of Food and Drugs or his/her designee.

B. Review Criteria

Applicants must clearly state in their application for which of the requested projects they are applying. Applications will be reviewed, and ranked. There is no assurance that awards will be made in all projects. Funding will start with the highest ranked application, and additional awards will be made based on the next highest ranking application, etc., until all available funds have been exhausted. All applications will be evaluated by program and grants management staff for responsiveness. Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or scientific nature should be directed to the CFSAN program staff, and all questions of an administrative or financial nature should be directed to the grants management staff. (See the **FOR FURTHER INFORMATION CONTACT** section at the beginning of this document for addresses.)

All applications will be reviewed and scored on the following criteria:

1. Soundness of the scientific rationale for the proposed study and appropriateness of the study design and its ability to address all of the objectives of the RFA;

2. Availability and adequacy of laboratory facilities, equipment, and support services, e.g., biostatistics computational support, databases, etc.;

3. Research experience, training, and competence of the principal investigator and support staff, and;

4. Whether the proposed study is within the budget guidelines and proposed costs have been adequately justified and fully documented.

VIII. Submission Requirements

The original and two copies of the completed grant application form PHS 398 (Rev. 4/98) or the original and two copies of PHS 5161–1 (Rev. 7/00) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Maura C. Stephanos (address above). State and local governments may choose to use the PHS 398 application form in lieu of PHS 5161–1. The application receipt date is July 5, 2001. No supplemental or addendum material will be accepted after the receipt date. The outside of the mailing package and item 2 of the application face page should be labeled: "Response to RFA–FDA–CFSAN–01–3, Project 1, 2, 3 or 4."

IX. Method of Application

A. Submission Instructions

Applications will be accepted during normal business hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. (Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.) Do not send applications to CSR, NIH. Any application that is sent to NIH, that is then forwarded to FDA and not received in time for orderly processing will be deemed not responsive and returned to the applicant. Applications must be submitted via mail or hand delivery as stated above. FDA is unable to receive applications electronically. Applicants are advised that FDA does not adhere to the page limitations or the type size and line spacing requirements imposed by NIH on its applications.

B. Format for Application

Submission of the application must be on grant application form PHS 398 (Rev. 4/98) or PHS 5161–1 (Rev. 7/00). All "General Instructions" and "Specific Instructions" in the application kit should be followed with the exception of the receipt dates and the mailing label address.

The face page of the application should reflect the request for applications number, RFA–FDA–CFSAN–01–3, Project 1, 2, 3, or 4. Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on Form PHS 398 and the instructions have been submitted by PHS to the Office of Management and Budget (OMB) and were approved and assigned OMB control number 0925–0001. The requirements requested on Form PHS 5161–1 were approved and assigned OMB control number 0348–0043.

C. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application that have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be used or disclosed except for evaluation purposes.

Dated: May 15, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12623 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Innovative Food Safety Projects; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Regulatory Affairs (ORA), Division of Federal-State Relations (DFSR) is announcing the availability of grant funds for the support of an innovative food safety program. Approximately $200,000 will be available in fiscal year 2001. FDA anticipates making at least four awards, not to exceed $50,000 (direct and indirect costs combined) per award per year. Support of these grants will be for 1 year. The number of grants funded will depend on the quality of the applications received and the availability of Federal funds to support the grant. These grants are not intended to fund or conduct food inspections.

DATES: Submit applications by July 5, 2001.

ADDRESSES: Application forms are available from, and completed applications should be submitted to Cynthia M. Polit, Grants Management Office, Food and Drug Administration (HFA–520), 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7180, e-mail: cpolit@oc.fda.gov. Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857. Application forms PHS–5161–1 (7/00) are available via the Internet at: http://www.psc.gov/forms (revised 7/00).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Cynthia M. Polit (address and telephone number given above).

Regarding the programmatic aspects of this notice: Paul M. Raynes or Anne Hope Scott, Division of Federal-State Relations (HFC–150), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, rm. 12–07, Rockville, MD 20857, 301–827–6906. Internet site: http://www.fda.gov/ora/fed_state/default.htm.

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA will support projects covered by this notice under section 1701 [300u] of the Public Health Service Act (42 U.S.C. 241). FDA's project program is described in the Catalog of Federal Domestic Assistance, No. 93.245 and applicants are limited to food safety regulatory agencies of State and local governments. FDA strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the FDA mission to protect and advance the physical and mental health of the American people.

FDA urges applicants to submit work plans that address specific objectives of "Healthy People 2010." Potential applicants may obtain a copy of "Healthy People 2010" (full report, stock No. 017–001–00547–9) through Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, 202–512–1800.

II. Background

ORA is the inspection component of FDA and has some 1,100 investigators and inspectors who cover the country's approximately 95,000 FDA-regulated businesses. These investigators inspect more than 15,000 facilities a year. In addition to the standard inspection program, they conduct special investigations, food inspection recall audits, perform consumer complaint inspections and sample collections. FDA has relied on the States in assisting with the above duties through formal contracts, partnership agreements, and other informal arrangements. Under the Food Safety Initiative (FSI), the demands on both the agency and the States will increase. Procedures need to be reviewed and innovative changes made that will increase effectiveness and efficiency and conserve resources. ORA will support FSI by providing: (1) Effective and efficient compliance of regulatory products, and (2) high quality, science-based work that results in maximizing consumer protection.

Under FSI, FDA is mandated to develop innovative food safety programs that would be utilized nationally by State and local food safety regulatory agencies. Even though the American food supply is among the safest in the world, millions of Americans are stricken by illness each year caused by the food they consume, and some 7,000 Americans a year, primarily the very young and elderly, die as a result. The goal of FSI is to further reduce the incidence of foodborne disease to the greatest extent possible. Innovative food safety programs that are developed at the State and local levels and have national implication could enhance programs that are developed at the Federal level.

A. Project Goals, Definitions, and Examples

The specific objective of this program will be to complement, develop, or improve State and local food safety programs that would have applicability to food safety programs nationwide. Applications that fulfill the following specific project objectives will be considered for funding. Each application must address only one project. Applicants may apply for more than one project area, but must submit a separate application for each project. These grants are not to fund or conduct food inspections for food safety regulatory agencies. Applications relating to the retail food program area should be applicable to program improvement processes for FDA's draft entitled "Recommended National Retail Food Regulatory Program Standards" (http://vm.cfsan.fda.gov/dms/ret-toc.html) (see review criteria).

There are two key project areas identified for this effort:

1. Inspection

Development of innovative regulatory inspection methods or techniques for the inspection process of various food establishments in order to improve effectiveness and efficiency. Innovative regulatory program methodology projects must demonstrate an effect on factors which contribute to foodborne illness in all, or a segment of, food industry programs. For example, projects could address key elements from the draft entitled "Recommended National Retail Food Regulatory Program Standards," such as the five Food Code interventions (management knowledge, employee health, hands as a vehicle of contamination, time/temperature relationships, and consumer advisory), or the five Centers for Disease Control and Prevention risk factors (improper holding temperature, inadequate cooking, contaminated equipment, unsafe source, and poor personal hygiene). Other examples of projects in this area could include prevention and control of *Listeria monocytogenes* in retail and food service environments and projects that address shell egg safety, such as refrigeration, safe handling, or labeling. The goal of these projects should be to achieve efficient and effective compliance with regulations that impact contributing factors to foodborne illness.

2. Education and Health Information Dissemination

Development of innovative education projects and materials for State and local food safety regulatory officials that foster consistency and uniform application of State and local food regulations. These education projects and/or materials must be reproducible by other State and local food safety regulatory agencies. These projects may incorporate concurrent education of both State and local food safety regulatory agencies and the food industry.

B. Applicability

All grant application projects that are developed at State and local levels *must* have national implication or application

that can enhance Federal, State, and local food regulatory programs and reduce factors that cause foodborne illness. At the discretion of FDA, successful project formats will be made available to interested Federal, State, and local food safety regulatory agencies. No grant will be awarded for projects that do not support the FDA Food Code.

III. Reporting Requirements

Semiannual progress reports as well as a final program progress report and a final financial status report (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's grants management officer within 90 days of the expiration date of the grant. The final program progress report must provide full written documentation of the project, copies of any results, as described in the grant application, and an analysis and evaluation of the results of the project. The documentation must be in a form and contain sufficient detail that other State and local food safety regulatory agencies could reproduce the final project.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least semiannually by the project officer. Project monitoring may also be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator and/or a site visit with appropriate officials of the recipient organization. The results of these monitoring activities will be duly recorded in the official file and may be available to the recipient upon request.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of a grant. These grants will be subject to all policies and requirements that govern the project grant programs of FDA, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 also apply to this program and are implemented through Department of Health and Human Services (DHHS) regulations at 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than federally recognized Indian tribal governments) should contact the State's single point of contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. A current listing of SPOCs is included in the application kit. The SPOC should send any State review process recommendations to FDA's administrative contact (address listed above). The due date for the State process recommendations is no later than 60days after the deadline date for the receipt of applications. FDA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

B. Eligibility

This grant program is only available to State and local government food regulatory agencies and federally recognized Indian tribal governments. (See SPOC requirements stated in section IV. A of this document.)

C. Length of Support

The length of support will be for 1 year from date of award.

V. Review Procedure and Criteria

All applications submitted in response to this request for application (RFA) will first be reviewed by grants management and program staff for responsiveness. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration. An application will be considered nonresponsive if any of the following criteria are not met: (1) If it is received after the specified receipt date; (2) if the total dollar amount requested exceeds $50,000; (3) if all required signatures are not on the face page or assurance pages of the application; (4) if there is no original signature copy; (5) if it is illegible; (6) if the material presented is insufficient to permit an adequate review; or (7) if the application demonstrates an inadequate understanding of the intent of the RFA.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Applications will be considered for funding on the basis of their overall technical merit as determined through the review process. Other award criteria will include availability of funds and overall program balance in terms of geography. Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence with the recommendations made by the first level reviewers. Final funding decisions will be made by the Commissioner of Food and Drugs or his/her designee.

Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or programmatic nature must be directed to ORA's program staff (address above) and all questions of an administrative or financial nature must be directed to the grants management staff (address above). Applications will be given an overall score and judged based on all of the following criteria:

1. Applications relating to the retail food program (http://vm.cfsan.fda.gov/dms/ret-toc.html) only: The outcomes of the project should be applicable to program improvement process for FDA's draft entitled "Recommended National Retail Food Regulatory Program Standards" (http://vm.cfsan.fda.gov/dms/ret-toc.html). These standards will serve as a guide to regulatory retail food program managers for the design and management of a regulatory retail food program. The standards apply to the operation, management, and promotion of a regulatory retail food program focused on the reduction of risk factors known and suspected to cause foodborne illness. FDA's draft entitled "Recommended National Retail Food Regulatory Program Standards" is found on the Internet site at http://www.cfsan.fda.gov/dms/ret-toc.html or contact your local FDA regional retail food specialist from the list provided in the application packet.
2. Application budgets must remain within the $50,000 cap for combined direct and indirect costs. Applications exceeding this dollar amount will be returned as nonresponsive.
3. Applications must provide in detail, a sound rationale and appropriate grant design to address the objectives of RFA and the project must be reproducible within the national regulatory framework.
4. Applications must include a detailed explanation of the desired goals and outcomes of the project.
5. Applications must include a full description of the project design, a detailed implementation plan, methods of execution, and timeline for completion. The application must include a detailed description of measures of effectiveness and a description of the source documents or data collection methods for establishing the baseline for measurement.
6. Applications must address the adequacy of facilities, expertise of project staff, equipment, databases, and support services needed for the project.

VI. Submission Requirements

The original and two copies of the completed grant application form PHS–5161–1 (revised 7/00) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Cynthia M. Polit (address above). The application receipt date is July 5, 2001. If the receipt date falls on a weekend, or if the date falls on a holiday, the date of submission will be extended to the following workday. No supplemental or addendum material will be accepted after the receipt date.

The outside of the mailing package and item 2 of the application face page should be labeled "Response to RFA–FDA–ORA–01–Project I" or "RFA–FDA–ORA–01–Project II." Submit only one project application (an original and two copies) per package.

VII. Method of Application

A. Submission Instructions

Each application must be submitted under separate cover. Do NOT submit more than one application (with copies) per envelope. Applications will be accepted during working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.

Do not send applications to the Center for Scientific Research, National Institutes of Health (NIH). Any application that is sent to NIH, that is then forwarded to FDA and not received in time for orderly processing, will be deemed unresponsive and returned to the applicant. Instructions for completing the application are included in form PHS–5161–1. FDA is unable to receive applications via Internet.

B. Format for Application

Submission of the application must be on grant application form PHS 5161–1 (revised 7/00). All instructions for the enclosed Standard Form 424 (SF–424) should be followed using the nonconstruction application pages.

The face page of the application should indicate "RFA–FDA–ORA–01–Project I," or "RFA–FDA–ORA–01–Project II."

Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on PHS Form 5161–1 were approved and issued under Office of Management and Budget Circular A–102.

C. Legend

Unless disclosure is required by FOIA as amended (5 U.S.C. 552), as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted and/or proprietary information shall not be used or disclosed except for evaluation purposes.

Dated: May 15, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12626 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0103]

Issues Associated With the Intersection of 180-Day Generic Drug Exclusivity and Pediatric Exclusivity; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is establishing the public docket identified in brackets in the heading of this document to receive comments related to the interpretation of provisions of the Federal Food, Drug, and Cosmetic Act (the act) and regulations governing the intersection of 180-day generic drug exclusivity and pediatric exclusivity. To date, there has not been a situation where pediatric exclusivity and 180-day generic exclusivity have actually overlapped. However, FDA has received a large number of inquiries about its interpretation of these provisions and, therefore, is establishing this docket to give the public an opportunity to comment on these issues.

DATES: Submit written or electronic comments by June 20, 2001.

ADDRESSES: Submit electronic comments to http://www.fda.gov/ohrms/dockets/default.htm. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rose Cunningham, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5468, FAX 301–594–5493.

SUPPLEMENTARY INFORMATION:

I. Background

Recently FDA has been asked to evaluate the intersection of 180-day generic drug exclusivity and pediatric exclusivity, specifically with respect to whether the exclusivity periods should run concurrently or consecutively. FDA has received written correspondence and telephone inquiries from pharmaceutical firms, organizations, individuals, and members of Congress concerning FDA's interpretation of these provisions. FDA is seeking broader public comment on the intersection of these two statutory provisions.

The 180-day generic drug exclusivity provision was created by the 1984 Drug Price Competition and Patent Term Restoration Act (also known as the Hatch-Waxman Amendments), enacted on September 24, 1984. This provision, contained in section 505(j)(5)(B)(iv) of the act (21 U.S.C. 355(j)(5)(B)(iv)), provides an incentive for generic drug applicants to challenge innovator patent claims and thereby speed the entry of generic competition onto the market. This benefit is available to the first abbreviated new drug application (ANDA) received that is a substantially complete application that contains a "paragraph IV" certification. This type of certification states the ANDA applicant's belief that a patent listed for the innovator drug is invalid or unenforceable or that the ANDA product seeking approval will not infringe a listed patent. Under the terms of the statute, 180-day generic drug exclusivity is triggered by and begins to run from either: (1) A court decision finding the challenged patent invalid, unenforceable, or not infringed; or (2) the date of first commercial marketing of the ANDA drug product, whichever is earlier. During the 180-day generic drug exclusivity period, FDA is prohibited

from approving a subsequently filed ANDA containing a paragraph IV certification.

Pediatric exclusivity was created by the passage of the Food and Drug Administration Modernization Act, enacted on November 21, 1997. This provision, contained in section 505A of the act, provides an incentive for innovator companies to perform and submit to the agency pediatric studies that may produce health benefits in the pediatric population. This benefit is available to a new drug application holder for the submission of pediatric studies in response to a written request issued by the agency. Pediatric exclusivity extends for 6 months existing patent and/or exclusivity protection on the innovator drug and begins to run on the date the existing patent and/or exclusivity protection on the innovator drug would otherwise expire. ANDAs referencing the innovator drug may not be approved during the pediatric exclusivity period.

FDA seeks public comment on whether pediatric exclusivity runs concurrently or consecutively with 180-day generic drug exclusivity when a favorable court decision in a paragraph IV patent challenge lawsuit is issued less than 180 days before the beginning of or during the pediatric exclusivity period.

II. Request for Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments by June 20, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 14, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12615 Filed 5–15–01; 4:12 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0197]

Clinical Development Programs for Drugs, Biological Products, and Devices for the Treatment of Ankylosing Spondylitis (AS) and Related Disorders; Request for Assistance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting assistance in developing guidance for industry on issues related to drugs, biological products, and devices for the treatment of AS and related disorders. Once finalized, the guidance would aid sponsors and others interested in developing new agents to treat AS and related disorders.

Before the agency can develop such guidance, a critical appraisal of certain fundamentals of the science related to AS is needed. FDA is interested specifically in identifying a party, or parties, willing to take the lead in coordinating this critical appraisal.

DATES: Submit written comments on this notice by July 20, 2001.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mary Jane Walling, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2268.

SUPPLEMENTARY INFORMATION: Because of the positive response to the agency's guidance on rheumatoid arthritis, the agency has recognized the need for more information on the development of drugs, biological products, and devices for the treatment of AS and related disorders. FDA intends to put the information received in response to this notice in a public docket so that interested parties can learn of each other and coordinate these activities.

Specifically, the agency is interested in identifying an interested group or consortium of interested groups from academia, industry, practitioners, and patients and their representatives willing to take the lead in a critical appraisal of certain fundamentals of the science related to AS. Initially, the parties may want to organize a public meeting to discuss relevant questions (a number of which are noted below). The agency hopes this meeting will lead to conceptual advances now not present and their expression in a series of concept papers. Subsequent workshops would then be able to fully discuss these concept papers, soliciting feedback from all quarters including regulators from the United States and elsewhere. Emphasis should be on debating the rationale for various approaches to key issues. The agency welcomes other suggestions of activities that could be undertaken as part of this guidance development effort.

To provide a starting point for discussion, the agency has developed a list of some key concepts that the interested parties may want to consider at the meeting:

1. Scope: Should the guidance discuss AS alone, or a broader spondyloarthropathy rubric? What about the clinical subgroups and pediatric expressions of the disorder(s)?

2. Claims: What type of claims structure is optimal to encompass the types of clinical benefit a therapeutic product might have on patients with AS? What type of evidence would be needed to support each proposed claim?

3. Measures of disease activity: Are currently available instruments for measuring disease activity adequate or are new measures required? Which disease activity should be measured in clinical trials in AS, and on what basis: (1) A consensus approach, which aims for agreement (clinicians, patients, and others) based on a blend of an observer-driven approach and performance characteristics; (2) a decision based on the comparative statistical characteristics of each measurement using concepts such as random measurement error; or (3) a fully data-driven approach where each measurement is tested in a standard venue to assess its predictive capacity.

4. Overall trial design: Are longitudinal comparison of means optimal? Because longer trials inevitably have substantial dropouts, would a survival analysis be more appropriate?

5. Intrinsic trial design: Which measures should be included in the primary analysis of the clinical trial to assess whether the therapeutic product is associated with a clinical benefit? Do all measures need equal-weight in the primary analysis? Can they be unequally weighted? Is the use of composites justified? Are outcomes of secondary endpoints essential for determining the success of the trial?

Interested persons should submit to the Dockets Management Branch (address above) comments and expressions of interest in taking a lead in a critical appraisal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12625 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0193]

Medical Devices Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers." This draft guidance document provides specific recommendations on data and information medical device manufacturers should submit in premarket notifications (510(k)s) for biological indicators intended to monitor sterilizers used in health care facilities. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written comments on the draft guidance by August 20, 2001.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the draft guidance document entitled "Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

FDA regulates biological indicators intended to monitor sterilizers used in health care facilities as class II medical devices, requiring premarket notification (510(k)). The effective performance of sterilizers used in health care facilities is important to prevent nosocomial infections. Biological indicators provide users with information on the effectiveness of the sterilization process. This draft guidance document recommends the kind of data and information you should submit in a 510(k) for these devices. The use of comprehensive, scientifically sound review criteria helps ensure the safety and effectiveness of these devices. FDA recognizes that providing FDA reviewers, 510(k) applicants, and other interested parties information on its review process can promote a consistent and efficient regulatory process.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on premarket notifications (510(k)) for biological indicators intended to monitor sterilizers used in health care facilities. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This draft guidance document is issued as a Level 1 guidance consistent with the GGP regulations.

III. Electronic Access

In order to receive "Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1320) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. "Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers" is also available at http://www.fda.gov/cdrh/ode/guidance/1320.pdf. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft guidance by August 20, 2001. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 8, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–12624 Filed 5–18–01; 8:45 am]

BILLING CODE 4150–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; National Institutes of Health Undergraduate Scholarship Program for Individuals From Disadvantaged Backgrounds

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director, National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 27, 2001, page 12529, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The NIH may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995 unless it displays a currently valid OMB control number.

Proposed Collection

Title: National Institutes of Health Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds. *Type of Information Collection Request:* Revision. *Form Numbers:* NIH 2762–1, NIH 2762–2, NIH 2762–3, NIH 2762–4, and NIH 2762–5. *Need and Use of Information Collection:* The NIH Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds (UGSP) requires participants to maintain enrollment in an undergraduate degree program and to begin service payback through employment at the NIH within 60 days of their graduation. The NIH is proposing to modify the current information collection by adding NIH Form 2762–5 to allow individuals to defer their service payback obligation. This information collection certifies that scholars are continuing their undergraduate program and provides those who have graduated the opportunity to request a deferment of their service payback obligation if they are enrolled in an approved graduate or medical degree program. *Frequency of response:* Annual. *Affected public:* Individuals and Academic Institutions. *Types of Respondents:* Participants in the UGSP and Academic Institutions (undergraduate, graduate, and medical schools). The annual reporting burden in as follows: *Estimated Number of Respondents:* 1,330; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 1.298; and *Estimated Total Annual Burden Hours Requested:* 1,727. The annualized cost to respondents is estimated at $30,036.33. There are no Capital Costs to report. There are no Operating Costs or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Frequency of response	Average burden hours per response	Annual hour burden
Applicant	250	1.0	3.167	791.75
Recommender	750	1.0	1.000	750.00
Financial Aid Staff	250	1.0	0.500	125.00
UGSP Participant	40	1.0	0.750	30.00
Registrar Staff	40	1.0	0.750	30.00
Totals	1,330			1,726.75

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Marc S. Horowitz, J.D., Director, Office of Loan Repayment and Scholarship, NIH, 2 Center Drive, Room 2E28, MSC 0230, Bethesda, MD 20892–0230 or call toll-free 1–800–528–7689, or e-mail your request, including your address to: <*MHorowitz@nih.gov*>.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received on or before June 20, 2001.

Dated: May 15, 2001.

Yvonne T. Maddox,

Acting Deputy Director, NIH.

[FR Doc. 01–12667 Filed 5–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Confidentiality of Alcohol and Drug Abuse Patient Records—(OMB No. 0930–0092, Extension, no change)—Statute (42 USC 290dd–2) and regulations (42 CFR Part 2) require Federally conducted, regulated, or directly or indirectly assisted alcohol and drug abuse programs to keep alcohol and drug abuse patient records confidential. Information requirements

are (1) written disclosure to patients about Federal laws and regulations that protect the confidentiality of each patient, and (2) documenting "medical personnel" status of recipients of a disclosure to meet a medical emergency. The annual burden estimates for these requirements are summarized in the table below.

	Annual responses	Responses per respondents	Burden per response	Annual burden
Disclosure 42 CFR 2.22	11,250	130.175		255,938
Recordkeeping 42 CFR 2.51	11,250	2	.17	3,938
Total	11,250			259,876

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Stuart Shapiro, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 14, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–12673 Filed 5–18–01; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–C–02]

FY 2001 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development and Empowerment Programs and Section 8 Housing Voucher Assistance; Technical Corrections; Notification of E.O. 13202

AGENCY: Office of the Secretary, HUD.

ACTION: Super Notice of Funding Availability (SuperNOFA) for HUD Grant Programs; Technical Correction.

SUMMARY: On February 26, 2001, HUD published its Fiscal Year (FY) 2001 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance. This document makes certain technical corrections to the general section of the SuperNOFA and to the following programs: Housing Counseling, HOPE VI, Economic Development Initiative (EDI); Brownfields Economic Development Initiative (BEDI); Continuum of Care; Housing Opportunities for Persons With AIDS (HOPWA); Youthbuild; Resident Opportunities and Self Sufficiency (ROSS) Program, Section 202 Supportive Housing for the Elderly Program, Section 811 Supportive Housing for Persons with Disabilities Program, and Assisted Living Conversion Program. This document also extends the application due date for Tribes and Tribally Designated Housing Entities (TDHEs) applying for funding under the ROSS Capacity Building and Conflict Resolution initiative.

DATES: Except for the extension of the application due date for Tribes and Tribally Designated Housing Entities (TDHEs) applying for funding under the ROSS Capacity Building and Conflict Resolution initiative, all application due dates remain as published in the **Federal Register** on February 26, 2001.

FOR FURTHER INFORMATION CONTACT: For the Programs listed in this notice, please contact the office or individual listed in the **FOR FURTHER INFORMATION** heading in the individual program section of the SuperNOFA, published on February 26, 2001.

SUPPLEMENTARY INFORMATION: On February 26, 2001 (66 FR 11638), HUD published its Fiscal Year (FY) 2001 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance. The FY 2001 SuperNOFA announced the availability of approximately $2.75 billion in HUD program funds covering 45 grant categories within programs operated and administered by HUD offices and Section 8 housing voucher assistance.

This notice published in today's **Federal Register** makes certain corrections and clarifications to the General Section of the SuperNOFA and to the funding availability announcements of the following programs: Economic Development Initiative (EDI); Brownfields Economic Development Initiative (BEDI); HOPE VI; Housing Counseling; Youthbuild; Resident Opportunities and Self Sufficiency (ROSS) Program, Assisted Living Conversion Program, Housing Opportunities for Persons With AIDS (HOPWA), Section 202 Supportive Housing for the Elderly Program and Section 811 Supportive Housing for Persons with Disabilities Program.

Summary of Technical Corrections

A summary of the technical corrections that will be made by this document are as follows: The page numbering shown in bracket identifies where the individual funding availability announcement that is being corrected can be found in the February 26, 2001 SuperNOFA, and the page numbering in parentheses identifies where the specific language that is being corrected can be found in the February 26, 2001 SuperNOFA.

General Section of SuperNOFA [Page 11636]

HUD corrects the Catalog of Federal Domestic Assistance Numbers (CFDA) for the Lead-Based Paint Hazard Control Program on the chart at page 11643 and the Healthy Homes Demonstration and Education Program at page 11644. The CFDA for the Lead-Based Paint Hazard Control Program should be 14.900. The CFDA for the Healthy Homes Demonstration and Education Program should be 14.901.

HUD also amends Section II (Requirements and Procedures Applicable to All Programs) by adding paragraph (L) to make the SuperNOFA consistent with Executive Order 13202 entitled, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relation on Federal and Federally Funded Construction Projects" (page 11652).

HUD also corrects Appendix A–2, List of EZs, ECs, Urban Enhanced Enterprise Communities, Strategic Planning Communities, (page 11658) to accurately reflect an Empowerment Zone in Upper Manhattan/Bronx (the Empowerment Zone was included, and the address was correct but was not identified as "Upper Manhattan/Bronx") and to add the Strategic Planning Community in Brooklyn (page 11661). A certification that should have been filed with an application for this strategic planning community may still be filed and will be treated as a technical deficiency.

Housing Counseling [Page 11841]

HUD amends paragraph (A)(2) of Section VIII (Application Submission Requirements) to correct the fiscal year referenced in the section. More specifically, HUD is requesting information for the fiscal year beginning October 1, 1999 and ending September 30, 2000. (See page 11849). This section is also being corrected to note that applicants that did not participate in the Housing Counseling program during FY 2000 should report their counseling workload during this period. (See page 11849). HUD is also correcting paragraph (A)(3) of Section VIII (Application Submission Requirements) to inform applicants that they do not need to use the budget worksheet that HUD has provided in the past to submit their proposed budgets. (See page 11849).

HOPE VI [Page 11913]

HUD corrects the cross reference in paragraph (B)(2)(b)(ii) of Section II (Amount Allocated). (See page 11917). HUD amends Rating Factor 2, paragraph (2)(a) of Section VI (Revitalization Application Selection Process) in which the maximum number of points under the Impact on Neighborhoods was correctly listed as totaling 7 points, but the discussion of the factor indicates that the maximum number of points "you will receive is 4 to 6 points." (See page 11931). HUD also amends Rating Factor 3, paragraph (7) of Section VI (Revitalization Application Selection Process) to make it consistent with Executive Order 13202 entitled, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relation on Federal and Federally Funded Construction Projects." Specifically, HUD is eliminating the current reference to union sponsored apprenticeship programs and substituting "registered apprenticeship programs." The correction also defines registered apprenticeship programs as programs that have been "registered with either a State Apprenticeship Agency recognized by the Department of Labor's Bureau of Apprenticeship and Training (BAT) or, if there is no recognized State agency, by the BAT." (See page 11934).

Economic Development Initiative (EDI) [Page 12015]

HUD corrects Rating Factor 2, paragraph (2)(b)of Section V (Application Selection Process) in which the maximum number of points under the Unemployment sub-factor were correctly listed as totaling 15 under "Rating Factor 2: Distress/Extent of the Problem", but the examples that followed incorrectly totaled a maximum of 10 points. (See page 12023).

Brownfields Economic Development Initiative (BEDI) [Page 12033]

HUD corrects section identifier errors in Rating Factor 2, Section V (The Application Selection Process) at page 12040. HUD also corrects Rating Factor 2, paragraph (2)(b) of Section V (Application Selection Process) in which the maximum number of points under the Unemployment sub-factor were correctly listed as totaling 15 under "Rating Factor 2: Distress/Extent of the Problem", but the examples that followed incorrectly totaled a maximum of 10 points. (See page 12040).

Youthbuild [Page 12055]

HUD corrects the asterisked footnote to line 12 of exhibit 4A, Total Youthbuild Grant Budget, (page 12071) to note that administrative costs, consistent with Section III (A)(7) of the Youthbuild NOFA (page 12058), may not exceed 10 percent of the grant award. HUD also corrects Form 2C 13a: Housing Project Certification for Residential Rental Units, cited in Section IV(E) (Application Selection Process), to publish both pages of this required form. (See page 12075).

Resident Opportunities and Self Sufficiency (ROSS) Program [Page 12081]

HUD extends the due date for Tribes and Tribally Designated Housing Entities (TDHEs) applying for funding under the ROSS Capacity Building and Conflict Resolution initiative to June 20, 2001. HUD also clarifies the eligibility requirements for Tribes and Tribally Designated Housing Entities (TDHEs) applying for funding under the ROSS Capacity Building and Conflict Resolution initiative at page 12082.

Continuum of Care Homeless Assistance [Page 12207]

HUD corrects the chart in Appendix A that addresses "Eligible Populations" under the Section 8 SRO program. (See, page 12218). The chart should delete the second bullet providing "Section 8 eligible current occupants." This correction conforms the program to the McKinney-Vento Act, which limits eligibility to homeless individuals, and Section IV (A)(1) (Program Requirements) of the Continuum of Care Homeless Assistance NOFA at page 12212.

Housing Opportunities for Persons With AIDS (HOPWA) [Page 12223]

HUD amends Section VI(A) (Application Submission Requirements) to correct a typographical error. Item 10 should read "Enter 14–241" and not "Enter 14–21." (See page 12235). HUD also corrects Appendix D, the HOPWA Project Information Form, to reflect the 2001 Continuum of Care competition and not the 2000 competition. (See page 12255). Specifically, Part B of the HOPWA Project Information Form requires an applicant or project sponsor to indicate whether it is seeking funding under this HOPWA competition for an activity that is duplicated in an application under the HUD Continuum of Care Homeless Assistance 2001 competition. Additionally, HUD corrects paragraph 3 of Appendix D, HOPWA Applicant Certifications to provide that "It will *not* acquire, rehabilitate, convert, lease, repair or construct property to provide housing or commit HUD, State, local or other funds to program activities with respect to any eligible property until it has obtained HUD approval of form HUD–7015.15, "Request for Release of Funds and Certification" of compliance with the National Environmental Policy Act and implementing regulations at 24 CFR part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities) or, in cases where HUD has performed the environmental review, the Applicant has obtained HUD approval of the site following HUD's completion of form HUD–4128." (See page 12265).

Section 202 Supportive Housing for the Elderly Program [Page 12267]

HUD adds to the list of deficiencies that will be considered curable in a Section 202 application, the Exhibit 7(j), Certification of Consistency with the EZ/EC Strategic Plan (Form HUD 2990), but only in connection with applications involving sites in Brooklyn, New York, in the jurisdiction of the New York Multifamily Hub (see "Exhibits" under Section V on page 12276.) This change is necessary since Brooklyn was not included in the list of EZs, Ecs, Urban Enhanced Enterprise Communities, and Strategic Planning Communities for New York, New York in Appendix A–2 to the General Section of the SuperNOFA. As a result, applicants, proposing sites in this location will not otherwise have had sufficient time to obtain the necessary signature on Exhibit 7(j) in advance of the application deadline date. (See "Exhibits" under Section V on page 12276.)

Section 811 Supportive Housing for Persons With Disabilities [Page 12301]

HUD adds to the list of deficiencies that will be considered curable in a Section 811 application, the Exhibit 7(j), Certification of Consistency with the EZ/EC Strategic Plan (Form HUD 2990), but only in connection with applications involving sites in Brooklyn, New York, in the jurisdiction of the New York Multifamily Hub (see "Exhibits" under Section V on page 12310.) This change is necessary since Brooklyn was not included in the list of EZs, Ecs, Urban Enhanced Enterprise Communities, and Strategic Planning Communities for New York, New York in Appendix A–2 to the General Section of the SuperNOFA. As a result, applicants, proposing sites in this location will not otherwise have had sufficient time to obtain the necessary signature on Exhibit 7(j) in advance of the application deadline date.

Assisted Living Conversion Program (ALCP) for Eligible Multifamily Projects [Page 12339]

HUD corrects the e-mail address for a contact persons on page 12341, second column, under the fifth full paragraph. HUD also amends paragraph (B)(11) of Section III (Program Description: Eligible and Ineligible Applicants, Developments and Activities) for clarity. (See page 12343). HUD also corrects paragraph (D) of Section III (Program Description: Eligible and Ineligible Applicants, Developments and Activities) to clarify the eligibility of Section 236 developments. (See page 12343).

Accordingly, in the Super Notice of Funding Availability for Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance for Fiscal Year 2001, FR Doc. 01–4439, beginning at 66 FR 11638, in the issue of Friday, February 26, 2001, the following corrections are made:

1. General Section of SuperNOFA, Beginning at 66 FR 11638

• On page 11643, the CFDA Number in the box labeled Lead-Based Paint Hazard Control Program should be 14.900.

• On page 11644, the CFDA Number in the box labeled Healthy Homes Demonstration and Education Program should be 14.901.

• On page 11652, paragraph (L) should be added to read as follows:

(L) Consistent with Executive Order 13202, neither you nor any subrecipient or program beneficiary receiving funds under an award granted pursuant to this SuperNOFA, nor any construction manager acting on behalf of you or any such subrecipient or program beneficiary, may require bidders, offerors, contractors, or subcontractors to enter into or adhere to any agreement with any labor organization on any construction project funded in whole or in part by such award or on any related construction project; or prohibit bidders, offerors, contractors, or subcontractors from entering into or adhering to any such agreement on any such construction project; or otherwise discriminate against bidders, offerors, contractors, or subcontractors on any such construction project because they become or refuse to become or remain signatories or otherwise to adhere to any such agreements. Contractors and subcontractors are not prohibited from voluntarily entering into such agreements.

• On page 11661, second column, the list of EZs, ECs, Urban Enhanced Enterprise Communities, Strategic Planning Communities for New York, New York, should read as follows:

NY, New York

Empowerment Zone (Upper Manhattan/ Bronx)

Mr. Marion Phillips, III, New York Empowerment Zone Corp., 633 Third Avenue, 32nd Floor, New York, NY 10017, 212–803–3240 (Phone), 212–803–3294 (Fax)

Strategic Planning Community (Brooklyn)

Ms. June Van Brackle, Mayor's Office of the New York City EZ, 100 Gold St., 2nd Floor, New York, NY 10038, 212–788–6777 (Phone), 212–788–2718 (Fax)

2. Housing Counseling Program, Beginning at 66 FR 11841

• On page 11849, second column, HUD amends paragraph (A)(2) of Section VIII to read as follows:

(2) Form HUD–9902, Housing Counseling Agency Fiscal Year Activity Report for fiscal year October 1, 1999 through September 30, 2000.

If you did not participate in HUD's Housing Counseling program during FY 2000, this report should be completed to reflect your counseling workload during that period.

• On page 11849, second column, HUD amends paragraph (A)(3) of Section VIII to read as follows:

(3) Budget Work Sheet. A proposed budget for use of the requested HUD funds. Applicants need not, however, use the budget worksheet that HUD has provided in the past to submit their proposed budgets.

3. HOPE VI Program, Beginning at 66 FR 11913

• On page 11917, second column, HUD corrects paragraph (B)(2)(b)(ii) of Section II (Amount Allocated) to read as follows:

(ii) At least half of the funds requested for relocation must be used to provide mobility counseling and other services to promote the self-sufficiency of displaced residents and must be matched by non-HOPE VI funds in accordance with Section IV(F)(2) of this HOPE VI section of the SuperNOFA below.

• On page 11931, second column, HUD amends Rating Factor 2, paragraph (2)(a) of Section VI (Revitalization Application Selection Process) to read as follows:

(a) you will receive 4 to 7 points if you demonstrate that revitalization of the severely distressed project if you demonstrate that revitalization of the severely distressed project with HOPE VI funds will significantly improve the overall health of the neighborhood and spur outside investment into the surrounding community.

• On page 11934, first column, HUD amends Rating Factor 3, paragraph (7) of Section VI (Revitalization Application Selection Process) to read as follows:

(7) Apprenticeship Program: 2 Points. As described in Section VI(1) of the General Section, Bridging the Gap is a program in which HUD encourages you to assist public housing residents in obtaining construction apprenticeships. This will involve working with registered apprenticeship sources to provide entry level apprenticeships in construction, construction-related, and maintenance activities. A registered apprenticeship program is a program which has been registered with either a State Apprenticeship Agency recognized by the Department of Labor's Bureau of Apprenticeship and Training (BAT) or, if there is no recognized State agency, by the BAT. See also DOL regulations at 29 CFR Part 29.

(a) You will receive 2 points if you propose to implement a program that offers apprenticeships to residents or relocated residents of the targeted development. You must identify the registered apprenticeship source(s) you will work with and the number and types of jobs for which apprenticeships can be obtained.

(b) You will receive 0 points if:

(i) your program does not propose to assist residents in obtaining construction, construction-related, or maintenance-related apprenticeships, or

(ii) there is not enough information in your application to enable HUD to rate this factor.

4. Economic Development Initiative (EDI) Program, Beginning at 66 FR 12015

• On page 12023, first column, Factor 2, paragraph (2)(b) of Section V (Application Selection Process) to read as follows:

(b) Unemployment (15 points)—for both the project area and jurisdiction; an application that compares the local unemployment rate in the following manner to the national average at the time of submission will receive points under this Section as follows:

(i) Equal to but less than twice the national average—3 points;

(ii) Twice but less than three times the national average—6 points;

(iii) Three but less than four times the national average—9 points;

(iv) Four but less than five times the national average—12 points;

(v) Five or more times the national average—15 points.

5. Brownfields Economic Development Initiative (BEDI) Program, Beginning at 66 FR 12035

• On page 12040, first column, the formerly undesignated second, third, and fourth paragraphs under Rating Factor (2): Distress/Extent of the Problem (40 points), should read as follows: (1) In applying this factor, HUD will consider current levels of distress for the following areas affected by the project: first, in the area (i.e., Census Tract(s) or Block Groups) immediately surrounding the project site or the target area to be served by the proposed project; second, in the jurisdiction in which the project is to be located; third, relative to the similar measures of distress in the nation. Applicants may also provide data for the overall jurisdiction alongside comparable jurisdictions in the county and state, as appropriate to the activity, in order to demonstrate the various levels of distress in context. This means that an application that provides data that show levels of distress in the project area and the jurisdiction expressed as a percent greater than the national average will be rated higher under this Factor.

Notwithstanding the above, an applicant proposing a project to be located outside the target area could still receive points under the Distress factor if a clear rationale is provided linking the proposed project location and the benefits to be derived by persons living in more distressed area(s) of the applicant's jurisdiction.

(2) Applicants should provide data that address all indicators of distress, if applicable, as follows: (a) Poverty rate (20 points)—data should be provided in both absolute and percentage form (i.e., whole numbers and percents) for both the target area(s) and the jurisdiction as a whole; an application that compares the local poverty rate in the following manner to the national average at the time of submission will receive points under this section as follows:

Equal to but less than twice the national average—5 points;

Twice but less than three times the national average—10 points;

Three or more times the national average—20 points.

• On page 12040, second column, Rating Factor 2, paragraph (2)(b) of Section V (Application Selection Process) to read as follows:

(b) Unemployment (15 points)—for both the project area and jurisdiction; an application that compares the local unemployment rate in the following manner to the national average at the time of submission will receive points under this Section as follows:

(i) Equal to but less than twice the national average—3 points;

(ii) Twice but less than three times the national average—6 points;

(iii) Three but less than four times the national average—9 points;

(iv) Four but less than five times the national average—12 points;

(v) Five or more times the national average —15 points.

6. Youthbuild Program, Beginning at 66 FR 12055

• On page 12071, the asterisked footnote to line 12 of Exhibit 4A to read that "Request may not exceed 10% of Youthbuild subtotal (line 11)."

• On page 12075, the Form 2C 13a: Housing Project Certification for Residential Rental Units, is corrected to read as follows:

2 C 13a: Housing Project Certifications For Residential Rental Units

Applicants requesting Youthbuild Grant funds to fund any part of the acquisition, architectural and engineering fees, construction, rehabilitation, operating costs or replacement reserves for a housing project that will be used for residential rental units, must make the following certifications. If the rightful property owner is not the applicant, then these certifications must be signed by that property owner. A separate certification must be signed for each housing project.

The Applicant or Rightful Property Owner certifies that, for a period of not less than ten (10) years after construction or rehabilitation is completed and an occupancy permit is issued for the Youthbuild residential rental housing project receiving Youthbuild assistance, it:

A. Will maintain at least a 90 percent level of occupancy for individuals and families with incomes less than 60 percent of the area median income, adjusted for family size. The remaining ten percent of the units will be made available to and occupied by low-income families. The income test will be conducted only at the time of entry for each unit available for occupancy. Each available rental unit will be made available to the 60 percent-of-area-median-income group for an advertising period of not less than 90 days upon each vacancy occurrence throughout the ten year period. Community-wide advertisements for tenants of this income group will be conducted. If, at the end of the 90-day advertising period, no qualifying tenant leases the unit, the unit will be advertised for individuals and families with incomes between 60 and 80 percent of the area median income, adjusted for family size, for another 90-day period. Leases for tenants whose incomes are between 60 and 80 percent of the area median income (exclusive of the ten percent allowance) will be limited to one year and such temporary tenants are not covered by paragraphs C., E., and F. below.

B. Will use the model lease submitted with the Youthbuild application with any modifications approved by HUD at the time of grant award.

C. Will not terminate the tenancy or refuse to renew the lease of a tenant occupying a Youthbuild residential rental housing unit except for serious or repeated violations of the terms and conditions of the lease, or for violation of applicable Federal, state or local laws, or for other good cause. Any termination or refusal to renew the lease will be preceded by a not less than 30-day written notice to the tenant specifying the grounds for the action.

D. Will maintain the premises in compliance with all applicable HUD, other Federal, State or local program housing quality standards and local code requirements. If no public assistance is involved other than the Youthbuild grant, HUD's Section 8 housing quality standards will be followed.

E. Will develop and adopt a tenant selection plan that:

(1) is consistent with the purpose of providing housing for homeless and very low-income families and individuals;

(2) is reasonably related to program eligibility and the certifying entity's ability to perform the obligations of the lease;

(3) gives reasonable consideration to the housing needs of families that would qualify for a preference under section 6(c)(4)(A) of the United States Housing Act of 1937;

(4) provides for the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and for the prompt notification in writing of any rejected applicant of the grounds for any rejection; and

(5) acknowledges that a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 will not be refused tenancy because of the status of the prospective tenant as a holder of such assistance.

F. Will, **if it is a nonprofit organization**, adopt and follow a plan for tenant participation in management decisions.

G. Will not require tenants to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

H. Will ensure that the aggregate monthly rental for each eligible project will not exceed the operating costs of the project (including debt service, management, adequate reserves, and other documented operating costs) plus a six percent return on any equity investment of the project owner.

I. Will, **if it is a nonprofit organization**, use any profit received from the operation, sale or other disposition of the project for the purposes of providing housing for low- and moderate-income families. Any profit-motivated partners in a nonprofit partnership will receive (i) not more than a six percent return on their equity investment from project operations; and (ii) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

J. Will not convey ownership of the property unless the instrument of conveyance requires a subsequent owner to comply with the above certifications for the remainder of the ten year period.

Signature of Authorized Certifying Official of:

☐ Applicant Organization ☐ Rightful Property Owner

Title _____

Organization _____

Date _____

Address of Property:

form HUD-40200 (3/2000)

7. Resident Opportunities and Self Sufficiency (ROSS) Program, Beginning at 66 FR 12081

• On page 12081, first column, fourth paragraph under Program Overview, should read as follows:

Application Deadline. May 24, 2001, for Resident Management and Business Development; May 24, 2001, for Capacity Building or Conflict Resolution for all applicants except that Tribes and Tribally Designated Housing Entities (TDHEs). For Tribes/TDHEs applications will be due June 20, 2001. June 26, 2001, for Resident Service Delivery Models; and

After publication of this SuperNOFA, Service Coordinator grant renewals under the Service Coordinator category will be accepted until all funds are awarded or June 28, 2001, whichever occurs first.

• On page 12081, first column, first paragraph under Section I (Application Due Date, Application Kits, Further Information and Technical Assistance) should read as follows:

Application Due Date: Your completed application (one original and two copies) is due on or before 12:00 midnight, Eastern time, on the following application due dates to HUD Headquarters at the address shown below.

May 24, 2001, for Resident Management and Business Development;

May 24, 2001, for Capacity Building or Conflict Resolution for all applicants except that Tribes and Tribally Designated Housing Entities (TDHEs). For Tribes/TDHEs applications will be due June 20, 2001.

June 26, 2001, for Resident Service Delivery Models; and

After publication of this SuperNOFA, Service Coordinator grant renewals under the Service Coordinator category will be accepted until all funds are awarded or June 28, 2001, whichever occurs first.

• On page 12082, first column, paragraph (C)(b)(iii) under Section II (Amount Allocated) should read as follows:

(iii) The maximum amounts for CB/CR are as follows: $100,000 for City-Wide Resident Organizations (CWROs) per applicant, and $240,000 per applicant for all other eligible applicants in these funding categories. Applicants are required to allocate at least two-thirds of the total grant to direct funding of CB or CR activities for Site-Based Resident Associations (RAs) and/or Tribal ROs. Tribes/TDHEs may serve a single tribal RO. CWROs are required to serve a minimum of three RAs. All other applicants are required to serve a minimum of 10 RAs.

8. Continuum of Care Homeless Assistance Program, Beginning at 66 FR 12207

On page 12218, the field of the chart in Appendix A that addresses "Eligible Populations" under the Section 8 SRO program is corrected to eliminate the second bullet providing "Section 8 eligible current occupants." (The first bullet providing "Homeless individuals" is correct.)

9. Housing Opportunities for Persons With AIDS (HOPWA) Program, Beginning at 66 FR 12225

• On page 12235, second column, HUD corrects Section VI(A) (Application Submission Requirements) to read as follows:

Item 10—Enter 14–241 and the title "Housing Opportunities for Persons with AIDS" or "HOPWA" for the Catalogue of Federal Domestic Assistance.

• On page 12255, HUD corrects paragraph B of Appendix D, the HOPWA Project Information Form, to read as follows:

B. Duplication of Assistance Requested. Please indicate if your applicant or a project sponsor is seeking funding under this HOPWA competition for an activity that is duplicated in an application under the HUD Continuum of Care Homeless Assistance 2001 competition as follows:

• On page 12265, HUD corrects paragraph 3 of Appendix D, HOPWA Applicant Certifications to read as follows:

3. It will *not* acquire, rehabilitate, convert, lease, repair or construct property to provide housing or commit HUD, State, local or other funds to program activities with respect to any eligible property until it has obtained HUD approval of form HUD–7015.15, "Request for Release of Funds and Certification" of compliance with the National Environmental Policy Act and implementing regulations at 24 CFR part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities) or, in cases where HUD has performed the environmental review, the Applicant has obtained HUD approval of the site following HUD's completion of form HUD–4128.

10. Section 202 Supportive Housing for the Elderly Program, Beginning at 66 FR 12267

On page 12276, second column, the list of Exhibits under Section V (Application Selection Process) is amended by adding the following new item (j):

(j) Certification of Consistency with the EZ/EC Strategic Plan (Form HUD 2990) (Only for applications with sites to be located in Upper Manhattan/Bronx and Brooklyn).

11. Section 811 Supportive Housing for Persons With Disabilities Program, Beginning at 66 FR 12301

On page 12310, second and third columns, the list of Exhibits under Section V (Application Selection Process) is amended by adding the following new item (j):

(j) Certification of Consistency with the EZ/EC Strategic Plan (Form HUD 2990) (Only for applications with sites to be located in Upper Manhattan/Bronx and Brooklyn).

12. Assisted Living Conversion Program (ALCP) for Eligible Multifamily Projects, Beginning at 66 FR 12341

• On page 12341, second column, under the fifth paragraph under "For Further Information and Technical Assistance" the third sentence is corrected to read as follows:

For Further Information and Technical Assistance. You should contact the Multifamily Hub where you will be mailing your ALCP Application. (Please refer to Hub telephone numbers in Appendix A.)

You also may contact Aretha Williams, Director, Grant Policy and Management Division, Room 6138, at (202)–708–3000 x2480 or Faye Norman, Housing Project Manager at (202) 708–3000 x2482 for questions regarding the ALF process. This is not a toll free number. Ms. Williams can be reached, by e-mail at *aretha_m._williams@hud.gov* and Ms. Norman at *faye_l._norman@hud.gov*. Both Ms. Williams and Ms. Norman are located at the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

If you have a hearing or speech impairment, you may access the telephone number via TTY by calling the Federal Information Relay Service at 1 800–877–8339.

• On page 12343, first column, HUD corrects paragraph (B)(11) of Section III (Program Description: Eligible and Ineligible Applicants, Developments and Activities) to read as follows:

(11) Upon receipt of a grant under this program, all project owners participating in the ALCP must provide a Declaration of Restrictive Covenants (DRC), which will be recorded with the land, to retain the low income character of the housing, and to maintain the project (including the ALF), as a

moderate, low, or very low income facility (as appropriate) for at least 20 years beyond the current 40-to-50 year term of the mortgage loan or capital advance. If you are going to use grant funds to convert unused or underutilized commercial property you must provide a DRC for at least a 20-year period or for the term of the mortgage on the property whichever is longer.

• On page 12343, third column, HUD also corrects paragraph (D) of Section III (Program Description: Eligible and Ineligible Applicants, Developments and Activities) to read as follows:

(D) *Eligible Developments.* (1) Section 202 projects, Section 202 projects receiving rental assistance under Section 8, and Section 202 projects receiving project rental assistance under Section 202(C)(2). Rural housing projects assisted under Section 515 of the Housing Act of 1949 receiving Section 8 rental assistance are also included. Projects receiving project-based rental assistance under Section 8, among others, include housing constructed, substantially rehabilitated or receiving moderate rehabilitation assistance under Section 8. Housing financed by a below-market interest rate loan or mortgage insured under Section 221(d)(3) of the National Housing Act; and housing insured, assisted or held by HUD, or a State or State Agency under Section 221(d)(3) of the National Housing Act; and housing insured, assisted or held by HUD, or a State or State Agency under Section 236 of the National Housing Act are also included. These housing projects must have been designated primarily for occupancy by elderly persons, been in occupancy for at least five years from the date the HUD–92485 Form entitled "Permission to Occupy Project Mortgages" was issued and Final Closing must have been completed. Your project must:

Dated: May 16, 2001.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing.

Donna M.Abbenante,

General Deputy Assistant Secretary for Community Planning and Development.

Gloria J. Cousar,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 01–12794 Filed 5–18–01; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Sport Fishing and Boating Partnership Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: As provided in Section 10(a)(2) of the Federal Advisory Committee Act, the Fish and Wildlife Service announces a meeting designed to foster partnerships to enhance public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating in the United States. This meeting, sponsored by the Sport Fishing and Boating Partnership Council (Council), is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: Wednesday, June 6, 2001, 10 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Hotel and Suites, 625 First St., Alexandria, VA; (703) 548–6300.

Summary minutes of the conference will be maintained by the Council Coordinator at 4040 N. Fairfax Dr., Room 132A, Arlington, VA 22203, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Laury Parramore, Council Coordinator, at (703) 358–1711.

SUPPLEMENTARY INFORMATION: The Sport Fishing and Boating Partnership Council was formed in January 1993 to advise the Secretary of the Interior through the Director, U.S. Fish and Wildlife Service, about sport fishing and boating issues. The Council represents the interests of the public and private sectors of the sport fishing and boating communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council includes the director of the Service and the president of the International Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are directors from state agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, aquatic resource outreach and education, and tourism. The Sport Fishing and Boating Partnership Council (Council) will convene to discuss: (1) The Council's continuing role in providing input to the Fish and Wildlife Service on the Service's strategic planning for its Fisheries Program and the National Fish Hatchery System. (2) The Council's work in its role as a facilitator of discussions with Federal and State agencies and other sportfishing and boating interests concerning a variety of national boating and fisheries management issues. (3) The Council's role in providing the Interior Secretary with information about the implementation of the Strategic Plan for the National Outreach and Communications Program. The Secretary approved the plan in February 1999, and the five-year, $36-million federally funded outreach campaign authorized by the 1998 Sportfishing and Boating Safety Act is now being implemented by the Recreational Boating and Fishing Foundation, a private, nonprofit organization.

Dated: May 12, 2001.

Marshall P. Jones, Jr.,

Acting Director.

[FR Doc. 01–12668 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance. The Ordinance regulates the control, possession, and sale of liquor on the Hopland Band of Pomo Indians trust lands, in conformity with the laws of the State of California, where applicable and necessary. Although the Ordinance was adopted on March 2, 2001, it does not become effective until published in the **Federal Register** because the failure to comply with the Ordinance may result in criminal charges.

DATES: This Ordinance is effective on May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Kaye Armstrong, Branch of Tribal Relations, Division of Tribal Government Services, 1849 C Street NW., MS 4631–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transaction in Indian country. The Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance, Resolution No. 01–03–02, was duly adopted by the Tribal Council of the Hopland Band of Pomo Indians on March 2, 2001. The Hopland Band of Pomo Indians, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenues to combat alcohol abuse and its debilitating effects among individuals and family members within the reservation of the Hopland Band of Pomo Indians.

This notice is being published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

I certify that by Resolution No. 01–03–02, the Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance was duly adopted by the Tribal Council on March 2, 2001.

Dated: May 11, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

The Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance, Resolution No. 01–03–02, reads as follows:

Liquor Regulation and Licensing Ordinance of the Hopland Band of Pomo Indians

Section 1. Declaration of Findings. The Council hereby finds as follows:

1. Under Article IX of the Constitution of the Tribe, the Council has the power to administer Reservation assets and manage all economic affairs of the Tribe, to promote the peace, safety, health, and general welfare of the members of the Tribe, and to promulgate and adopt ordinances as needed by the Tribe.

2. The introduction, possession and sale of alcoholic beverages on the Hopland Indian Reservation (Reservation) is a matter of special concern to the Tribe.

3. Federal law leaves to federally recognized Indian tribes the decision regarding when and to what extent alcoholic beverage transactions shall be permitted on Indian reservations.

4. Present day circumstances make a complete ban on alcoholic beverages within the Reservation ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over alcoholic beverage distribution.

5. The enactment of a tribal ordinance governing alcoholic beverage sales on the Reservation and providing for the purchase and sale of alcoholic beverages through tribally licensed outlets will increase the ability of the tribal government to control the distribution, sale and possession of liquor on the Reservation, and at the same time will provide an important and urgently needed source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.

6. In order to help ensure the certification of this Ordinance by the Secretary of the Interior, the Tribe's originally enacted Liquor Ordinance, as subsequently amended, needs to be repealed and this Ordinance enacted in its place.

Section 2. Declaration of Policy. The Council hereby declares that the policy of the Tribe is to eliminate the evils of unlicensed and unlawful manufacture, distribution, and sale of alcoholic beverages on the Reservation and to promote temperance in the use and consumption of alcoholic beverages by increasing tribal control over the possession and distribution of alcoholic beverages on the Reservation.

Section 3. Repeal of All Previously Enacted Liquor Ordinances and Adoption of a new Liquor Licensing Ordinance. All Ordinances previously enacted by the Hopland Tribal Council pertaining to the manufacture, distribution, sale or possession of alcoholic beverages are hereby repealed and a new ordinance entitled Liquor Regulation and Licensing Ordinance is hereby adopted which provides as follows:

Chapters

01. Introduction
02. General Provisions
04. Definitions
06. Prohibition of the Unlicensed Sale of Liquor
08. Application for License
10. Issuance, Renewal, and Transfer of Licenses
12. Revocation of Licenses
14. Enforcement

Chapter 01

Sections

01.010. Title
01.020. Authority
01.030. Purpose
01.040. Effective Date

Section 01.010. Title. This Ordinance shall be known as the Liquor Regulation and Licensing Ordinance of the Hopland Band of Pomo Indians.

Section 01.020. Authority. This Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub L. 83–277, 67 Stat. 588, 18 U.S.C. § 1161), and Article IX of the Constitution of the Hopland Band of Pomo Indians.

Section 01.030. Purpose. The purpose of this ordinance is to regulate and control the possession and sale of liquor on the Hopland Indian Reservation. The enactment of a tribal ordinance governing liquor possession and sale on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and will at the same time, provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal government services.

Section 01.040. Effective Date. This Ordinance shall be effective on the date that it is published in the **Federal Register** by the Secretary of the Interior as required by applicable federal law.

Chapter 02—General Provisions

Sections

02.010. Short title
02.020. Purpose
02.030. Sovereign immunity preserved
02.040. Applicability within the Reservation
02.050. Possession of alcoholic beverages
02.060. Interpretation and findings
02.070. Conflicting provisions
02.080. Application of 18 U.S.C. 1161.

02.010. Short title. This ordinance shall be known and cited as the Hopland Liquor Regulation and Licensing Ordinance.

02.020. Purpose. The purpose of this Ordinance is to prohibit the importation, manufacture, distribution and sale of alcoholic beverages on the Hopland Indian Reservation except pursuant to a license issued by the Hopland Tribal Council under the provisions of this Ordinance.

02.030. Sovereign immunity preserved. Nothing in this Ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Hopland Band of Pomo Indians. No officer or employee of the Hopland Band of Pomo Indians is authorized nor shall he/she attempt to waive the immunity of the Tribe under the provisions of this Ordinance unless such officer or employee has an express and explicit written authorization from the Hopland Tribal Council.

02.040. Applicability within the Reservation. This Ordinance shall apply to all persons within the exterior

boundaries of the Hopland Indian Reservation consistent with the applicable federal Indian liquor laws.

02.050. Possession of alcoholic beverages. Nothing in this Ordinance shall be interpreted as prohibiting the possession, transportation or consumption of alcoholic beverages within the boundaries of the Hopland Indian Reservation. Possession, transportation and/or consumption of alcoholic beverages within the exterior boundaries of the Reservation in conformity with the provisions of Federal law relating to the possession, transportation, or consumption of alcoholic beverages is expressly permitted under this Ordinance.

02.060. Interpretation and findings. The Hopland Tribal Council in the first instance may interpret any ambiguities contained in this Ordinance.

02.070. Conflicting provisions. Whenever any conflict occurs between the provisions of this Ordinance or the provisions of any other ordinance of the Tribe, the stricter of such provisions shall apply.

02.080. Application of 18 U.S.C. 1161. The importation, manufacture, distribution and sale of alcoholic beverages on the Hopland Indian Reservation shall be in conformity with this Ordinance and in conformity with the laws of the State of California as that phrase or term is used in 18 U.S.C. 1161.

Chapter 04—Definitions

Sections

04.010. Interpretation
04.020. Alcohol
04.030. Alcoholic beverage
04.040. Beer
04.050. Distilled spirits
04.060. Importer
04.070. Liquor license
04.080. Manufacturer
04.090. Person
04.100. Reservation
04.110. Sale
04.120. Seller
04.130. Tribal Council
04.140. Tribe
04.150. Wine

04.010. Interpretation. In construing the provisions of this Ordinance, the following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise.

04.020. Alcohol. Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

04.030. Alcoholic beverage. Alcoholic beverage includes all alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances. It shall be interchangeable in this Ordinance with the term liquor.

04.040. Beer. Beer means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer, and also includes sake, otherwise known as Japanese rice wine.

04.050. Distilled spirits. Distilled spirits means any alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

04.060. Importer. Importer means any person who introduces alcohol or alcoholic beverages into the Hopland Indian Reservation from outside the exterior boundaries of the Reservation for the purpose of sale or distribution within the Reservation, provided however, the term importer as used herein shall not include a wholesaler licensed by any state or tribal government selling alcoholic beverages to a seller licensed by a state or tribal government to sell at retail.

04.070. Liquor license. Liquor license means a license issued by the Hopland Tribal Council under the provisions of this Ordinance authorizing the sale, manufacture, or importation of alcoholic beverages on or within the Reservation consistent with federal law.

04.080. Manufacturer. Manufacturer means any person engaged in the manufacture of alcohol or alcoholic beverages.

04.090. Person. Person means any individual, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group, whether recognized by the United States Government or otherwise. The term shall also include the businesses of the Tribe. It shall be interchangeable in this Ordinance with the term seller or licensee.

04.100. Reservation. Reservation means all lands within the exterior boundaries of the Hopland Indian Reservation and such other lands as may hereafter be acquired by the Tribe, whether within or without said boundaries, under any grant, transfer, purchase, gift, adjudication, executive order, Act of Congress, or other means of acquisition.

04.110. Sale. Sale means the exchange of property and/or any transfer of the ownership of, title to, or possession of property for a valuable consideration, exchange or barter, in any manner or by any means whatsoever. It includes conditional sales contracts, leases with options to purchase, and any other contract under which possession of property is given to the purchaser, buyer, or consumer but title is retained by the vendor, retailer, manufacturer, or wholesaler, as security for the payment of the purchase price. Specifically, it shall include any transaction whereby, for any consideration, title to alcoholic beverages is transferred from one person to another, and includes the delivery of alcoholic beverages pursuant to an order placed for the purchase of such beverages, or soliciting or receiving such beverages.

04.120. Seller. Seller means any person who, while within the exterior boundaries of the Reservation, sells, solicits or receives an order for any alcohol, alcoholic beverages, distilled spirits, beer, or wine.

04.130. Tribal Council. Tribal Council or Council means the Hopland Tribal Council.

04.140. Tribe. Tribe means the Hopland Band of Pomo Indians.

04.150. Wine. Wine means the product obtained from the normal alcoholic fermentation of the juice of the grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made, and other rectified wine products.

Chapter 06—Prohibition of the Unlicensed Sale of Liquor

Sections

06.010. Prohibition of the unlicensed sale of liquor
06.020. Authorization to sell liquor
06.030. Types of licenses

06.010. Prohibition of the unlicensed sale of liquor. No person shall import for sale, manufacture, distribute or sell any alcoholic beverages within the Reservation without first applying for and obtaining a written license from the Council issued in accordance with the provisions of this Ordinance.

06.020. Authorization to sell liquor. Any person applying for and obtaining a liquor license under the provisions of this Ordinance shall have the right to engage only in those liquor transactions expressly authorized by such license and only at those specific places or areas designated in said license.

06.030. Types of licenses. The Council shall have the authority to issue the following types of liquor licenses within the Reservation:

A. Retail on-sale general license means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer only on the premises or at the location designated in the license.

B. Retail on-sale beer and wine license means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer only on the premises or at the location designated in the license.

C. Retail off-sale general license means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

D. Retail off-sale beer and wine license means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

E. Manufacturer's license means a license authorizing the applicant to manufacture alcoholic beverages for the purpose of sale on the Reservation.

Chapter 08—Application for License

Sections

08.010. Application form and content
08.020. Fee accompanying application
08.030. Investigation; denial of application.

08.010. Application form and content. An application for a license shall be made to the Council and shall contain the following information:

A. The name and address of the applicant. In the case of a corporation, the names and addresses of all of the principal officers, directors and stockholders of the corporation. In the case of a partnership, the name and address of each partner.

B. The specific area, location and/or premises for which the license is applied for.

C. The type of liquor transaction applied for (i.e. retail on-sale general license, etc.).

D. Whether the applicant has a state liquor license.

E. A statement by the applicant to the effect that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this Ordinance or any of the provisions of the California Alcoholic Beverage Control Act.

F. The signature and fingerprint of the applicant. In the case of a partnership, the signature and fingerprints of each partner. In the case of a corporation, the signature and fingerprints of each of the officers of the corporation under the seal of the corporation.

G. The application shall be verified under oath, notarized and accompanied by the license fee required by this Ordinance.

08.020. Fee accompanying application. The Council shall by resolution establish a fee schedule for the issuance, renewal and transfer of the following types of licenses:

A. Retail on-sale general license;

B. Retail on-sale beer and wine license;

C. Retail off-sale general license;

D. Retail off-sale beer and wine liquor; and

E. Manufacturer's license.

08.030. Investigation; denial of application. Upon receipt of an application for the issuance, transfer or renewal of a license and the application fee required herein, the Council shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied for qualify for a license and whether the provisions of this Ordinance have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The Council shall deny an application for issuance, renewal or transfer of a license if either the applicant or the premises for which a license is applied for does not qualify for a license under this Ordinance or if the applicant has misrepresented any facts in the application or given any false information to the Council in order to obtain a license.

The Council further may deny any application for issuance, renewal or transfer of a license if the Council cannot make the findings required by Section 10.20 of this Ordinance or the Council finds that the issuance of such a license would tend to create a law enforcement problem, or if issuance of said license would be a detriment to the health, safety and welfare of the Tribe or its members.

Chapter 10—Issuance, Renewal and Transfer of Licenses

Sections

10.010. Public hearing.
10.020. Council action on application.
10.030. Multiple locations.
10.040. Term of License/Temporary License.
10.050. Transfer of licenses.

10.010. Public hearing. Upon receipt of an application for issuance, renewal or transfer of a license, and the payment of all fees required under this Ordinance, the Secretary of the Council shall set the matter for a public hearing. Notice of the time and place of the hearing shall be given to the applicant and the public at least ten (10) calendar days before the hearing. Notice shall be given to the applicant by prepaid U.S. mail at the address listed in the application. Notice shall be given to the public by publication in a newspaper of general circulation sold on the Reservation. The notice published in the newspaper shall include the name of the applicant and the type of license applied for and a general description of the area where liquor will be sold. At the hearing, the Council shall hear from any person who wishes to speak for or against the application. The Council shall have the authority to place time limits on each speaker and limit or prohibit repetitive testimony.

10.020. Council action on application. Within thirty (30) days of the conclusion of the public hearing, the Council shall act on the matter. The Council shall have the authority to deny, approve, or approve with conditions the application. Before approving the application, the Council shall find: (1) that the site for the proposed premises has adequate parking, lighting, security and ingress and egress so as not to adversely affect adjoining properties or businesses, and (2) that the sale of alcoholic beverages at the proposed premises is consistent with the Tribe's Zoning Ordinance.

Upon approval of an application, the Council shall issue a license to the applicant in a form to be approved from time to time by the Council by resolution. All businesses shall post their tribal liquor licenses issued under this Ordinance in a conspicuous place upon the premises where alcoholic beverages are sold, manufactured or offered for sale.

10.030. Multiple locations. Each license shall be issued to a specific person. Separate licenses shall be issued for each of the premises of any business establishment having more than one location.

10.040. Term of license/Temporary licenses. All licenses issued by the Council shall be issued on a calendar year basis and shall be renewed annually; provided, however, that the

Council may issue special licenses for the sale of alcoholic beverages on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering, or similar occasion at a fee to be established by the Council by resolution.

10.050. Transfer of licenses. Each license issued or renewed under this Ordinance is separate and distinct and is transferable from the licensee to another person and/or from one premises to another premises only with the approval of the Council. The Council shall have the authority to approve, deny, or approve with conditions any application for the transfer of any license. In the case of a transfer to a new person, the application for transfer shall contain all of the information required of an original applicant under Section 08.010 of this Ordinance. In the case of a transfer to a new location, the application shall contain an exact description of the location where the alcoholic beverages are proposed to be sold.

Chapter 12—Revocation of Licenses

Sections

12.010. Revocation of licenses
12.020. Accusations
12.030. Hearing

12.010. Revocation of licenses. The Council shall revoke a license upon any of the following grounds:

A. The misrepresentation of a material fact by an applicant in obtaining a license or a renewal thereof.

B. The violation of any condition imposed by the Council on the issuance, transfer or renewal of a license.

C. A plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude under any federal or state law prohibiting or regulating the sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors.

D. The violation of any tribal ordinance.

E. The failure to take reasonable steps to correct objectionable conditions constituting a nuisance on the licensed premises or any immediately adjacent area leased, assigned or rented by the licensee within a reasonable time after receipt of a notice to make such corrections has been received from the Council or its authorized representative.

12.020. Accusations. The Council, on its own motion through the adoption of an appropriate resolution meeting the requirements of this section, or any person may initiate revocation proceedings by filing an accusation with the Secretary of the Council. The accusation shall be in writing and signed by the maker, and shall state facts showing that there are specific grounds under this Ordinance which would authorize the Council to revoke the license or licenses of the licensee against whom the accusation is made. Upon receipt of an accusation, the Secretary of the Council shall cause the matter to be set for a hearing before the Council. Thirty (30) days prior to the date set for the hearing, the Secretary shall mail a copy of the accusation along with a notice of the day and time of the hearing before the Council. The notice shall command the licensee to appear and show cause why the licensee's license should not be revoked. The notice shall state that the licensee has the right to file a written response to the accusation, verified under oath and signed by the licensee ten (10) days prior to the hearing date.

12.030. Hearing. Any hearing held on any accusation shall be held before a majority of the Council under such rules of procedure as it may adopt. Both the licensee and the person filing the accusation, including the Tribe, shall have the right to present witnesses to testify and to present written documents in support of their positions to the Council. The Council shall render its decision within sixty (60) days after the date of the hearing. The decision of the Council shall be final and non-appealable.

Chapter 14—Enforcement

Sections

14.010. Right to inspect
14.020. General penalties
14.030. Initiation of action

14.010. Right to Inspect. Any premises within the area under the jurisdiction of this Ordinance on which liquor is sold or distributed shall be open for inspection by representatives of the Council at all reasonable times during business hours for the purposes of ascertaining whether the rules and regulations of this Ordinance are being complied with.

14.020. General penalties. Any person adjudged to be in violation of this Ordinance shall be subject to a civil penalty of not more than Five Hundred Dollars ($500.00) for each such violation. The Council may adopt by resolution a separate schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Hundred Dollars ($500.00) limitation set forth above.

The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed in conformity with federal law by separate Chapter or provision of this Ordinance or by a separate ordinance enacted by the Hopland Tribal Council.

14.020. Initiation of action. Any violation of this Ordinance shall constitute a public nuisance. The Council may initiate and maintain an action in tribal court, or, if the tribal court does not have jurisdiction over the action, in the United States District Court for the Northern District of California, to abate and permanently enjoin any nuisance declared under this Ordinance. Any action taken under this section shall be in addition to any other penalties provided for this Ordinance.

Section 4. Severability. If any part or provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and affect. To this end the provisions of this Ordinance are severable.

Section 5. Effective Date. This Ordinance shall be effective on such date as the Secretary of the Interior certifies this Ordinance and publishes the same in the **Federal Register**.

[FR Doc. 01–12690 Filed 5–18–01; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–01–1220–AA]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will participate in a field tour of the BLM-administered public lands on Friday, June 15, 2001, from 7:30 a.m to 4:30 p.m., and meet in formal session on Saturday, June 16, from 8 a.m. to 5 p.m. The Saturday meeting will be held in the Pinnacles Room at the Kerr McGee Center, located at 100 West California Avenue in Ridgecrest, California.

The Council and interested members of the public will assemble for the field tour at the Best Western China Lake Inn parking lot at 7:15 a.m. and depart at 7:30 a.m. Tour stops will include the Rand Mountains and Jawbone Canyon Off-Highway Vehicle Recreation Area. Members of the public are welcome to participate in the tour, but should plan on providing their own transportation, drinks, and lunch.

The Council will meet in formal session on Saturday. Agenda items will include updates/briefings on BLM's off-highway vehicle program and management related issues.

All Desert District Advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the beginning of the meeting for topics not on the agenda.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Doran Sanchez at (909) 697–5220, BLM California Desert District External Affairs.

Dated: May 7, 2001.

Tim Salt,

District Manager.

[FR Doc. 01–12697 Filed 5–18–01; 8:45 am]
BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–990–AK–990–5101–NH–FL07]

Notice of Right-of-Way Renewal Application, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended, and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et. seq.) an application has been filed to renew the Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System (TAPS), which includes pipeline right-of-way, related facilities, and access roads across land between Prudhoe Bay and the Port of Valdez, Alaska. The existing Federal Agreement and Grant of Right-of-Way expires January 22, 2004. The application seeks to renew the Federal Agreement and Grant of Right-of-Way for a 30-year term. The applicants are: (1) Amerada Hess Pipeline Corporation, (2) BP Pipelines (Alaska) Inc., (3) ExxonMobil Pipeline Company, (4) Phillips Transportation Alaska, Inc., (5) Unocal Pipeline Company, and (6) Williams Alaska Pipeline Company, L.L.C. The Trans-Alaska Pipeline System carries crude oil through a 48-inch diameter pipeline from production sites in Prudhoe Bay, Alaska, 800 miles south through Alaska's interior to the Port of Valdez. The purpose of this notice is to inform the public that the Bureau will be deciding whether a renewal of the Federal Agreement and Grant of Right-of-Way should be approved, and if so, under what terms and conditions. The application proposes to renew the Federal Agreement and Grant of Right-of-Way for the following:

Federal Grant of Right-of-Way, BLM Serial Numbers F–12505 and AA–5847

Umiat Meridian, Alaska

T. 1 N., R. 14 E., Sec. 34.
T. 1 S., R. 14 E., Secs. 2, 10, 11, 15.
T. 9 S., R. 13 E., Secs. 4, 5, 7, 8.
T. 9 S., R. 12 E., Secs. 11, 12, 14, 15, 16, 17, 19, 20, 30.
T. 9 S, R. 11 E., Secs. 25, 35, 36.
T. 10 S., R. 11 E., Secs. 2, 3, 10, 11, 14, 23, 26, 35.
T. 11 S., R. 11 E., Secs. 1, 2, 12, 13, 24.
T. 11 S., R. 12 E., Secs. 19, 29, 30, 32.
T. 12 S., R. 12 E., Secs. 5, 8, 9, 16, 21, 28, 33.
T. 13 S., R. 12 E., Secs. 3, 9, 10, 15, 16, 21, 28, 32, 33.
T. 14 S., R. 12 E., Secs. 5, 7, 8, 17, 20, 29, 32.
T. 15 S., R. 12 E, Secs. 5, 6, 7, 17, 18, 19.
T. 15 S., R. 11 E., Secs. 23, 24, 26, 34, 35.
T. 16 S., R. 11 E., Secs. 2, 3, 9, 10, 16, 19, 20, 21, 29, 30.
T. 16 S., R. 10 E., Secs. 25, 33, 34, 35, 36.
T. 17 S., R. 10 E., Sec. 2.

Fairbanks Meridian, Alaska

T. 2 N., R. 1 W., Secs. 3, 10.
T. 5 N., R. 3 W., Secs. 27, 34, 36.
T. 12 N., R. 10 W., Secs. 6, 7, 18.
T. 12 N., R. 11 W., Sec. 1.
T. 13 N. R. 11 W., Secs. 7, 17, 18, 20, 21, 22, 26, 27, 35, 36.
T. 13 N., R. 12 W., Secs. 1, 2, 12.
T. 14 N. R. 12 W., Secs. 6, 7, 8, 17, 20, 21, 27, 28, 34, 35.
T. 14., R. 11 W., Sec. 26.
T. 15 N., R. 12 W., Secs. 6, 7, 17, 18, 20, 29, 30, 31.
T. 16 N., R. 12 W., Sec. 31.
T. 16 N., R. 13 W., Secs. 3, 4, 10, 14, 15, 23, 24, 25, 36.
T. 17 N., R. 13 W., Secs. 6, 7, 8, 17, 20, 21, 28, 33, 34.
T. 17 N., R. 14 W., Sec. 1.
T. 18 N., R. 14 W., Secs. 4, 5, 9, 10, 14, 15, 23, 25, 26, 36.
T. 19 N., R. 14 W., Secs. 19, 30, 31, 32.
T. 19 N., R. 15 W., Secs. 2, 11, 12, 13, 24.
T. 20 N., R. 15 W., Secs. 2, 10, 11, 15, 22, 26, 27, 35.
T. 20 N., R. 13 W., Sec 30.
T. 21 N., R. 14 W., Secs. 5, 6, 7, 18, 19, 30, 31.
T. 22 N., R. 14 W., Secs. 6, 7, 18, 19, 20, 29, 32.
T. 23 N., R. 14 W., Secs. 3, 4, 8, 9, 17, 18, 19, 30, 31.
T. 24 N., R. 14 W., Secs. 13, 23, 24, 26, 27, 34.
T. 24 N., R. 13 W., Secs. 5, 7, 8, 18.
T. 25 N., R. 13 W., Secs. 12, 13, 23, 24, 26, 27, 33, 34.
T. 25 N., R. 12 W., Secs. 6, 7.
T. 25 N., R. 13 W., Sec. 1.
T. 25 N., R. 14 W., Sec. 35.
T. 26 N., R. 13 W., Secs 2, 11, 14, 23, 25, 26, 36.
T. 27 N., R. 13 W., Secs. 1, 11, 12, 14, 23, 26, 35.
T. 27 N., R. 12 W., Sec. 6.
T. 28 N., R. 12 W., Secs. 6, 15, 16, 29, 30, 31.
T. 29 N., R. 12 W., Secs. 1, 11, 12, 13, 14.
T. 30 N., R. 12 W., Secs. 25, 36.
T. 30 N., R. 11 W., Secs. 5, 6, 7, 18, 19, 30.
T. 31 N., R. 11 W., Secs. 25, 26, 32, 33, 34, 35.
T. 31 N., R. 10 W., Secs. 6, 7, 8, 18, 19.
T. 32 N., R. 10 W., Secs. 4, 9, 16, 20, 21, 29, 31, 32.
T. 33 N., R. 10 W., Secs. 2, 11, 13, 14, 21, 24, 25, 26, 34, 35.
T. 34 N., R. 10 W., Secs. 4, 9 10, 15, 22, 26, 27, 35.
T. 35 N., R. 10 W., Secs. 4, 9, 16, 21, 28, 33.
T. 36 N., R. 10 W., Secs. 2, 3, 10, 15, 16, 21, 28, 33.
T. 37 N., R. 10 W., Secs. 25, 26, 35.
T. 1 S., R. 2 E., Secs. 22, 26, 27.
T. 2 S., R. 2 E., Secs. 13, 24.
T. 2 S., R. 3 E., Secs. 19, 20, 21, 26, 27, 28, 35, 36.
T. 3 S., R. 3 E., Secs. 1, 12.
T. 3 S., R. 4 E., Secs. 7, 17, 18, 20, 21, 28, 33, 34.
T. 4 S., R. 4 E., Secs. 2, 3.
T. 10 S., R. 10 E., Secs. 2, 11, 24, 25, 26, 35.
T. 11 S., R. 10 E., Secs. 2, 11, 10, 15, 22, 27, 34.
T. 12 S., R. 10 E., Secs. 3, 10, 15, 16, 21, 28, 32, 33.
T. 13 S., R. 10 E., Secs. 4, 9, 16, 20, 21, 28, 29.
T. 14 S., R. 10 E., Secs. 5, 8, 17, 20, 29, 32.
T. 15 S., R. 9 E., Sec. 27.
T. 15 S., R. 10 E., Secs. 6, 7, 18, 19, 29, 30, 32.
T. 16 S., R. 10 E., Secs. 5, 8, 17, 20, 29, 32.
T. 17 S., R. 10 E., Secs. 4, 9, 10, 14, 15, 23, 24, 25, 36.
T. 18 S., R. 10 E., Secs. 1, 12, 13, 24, 25, 36.
T. 19 S., R. 10 E., Secs. 1, 12, 13.
T. 19 S., R. 11 E., Secs. 18, 19, 20, 21, 29, 32.
T. 22 S., R. 12 E., Secs. 4, 9, 16, 21, 28, 29, 32.

Copper River Meridian, Alaska

T. 1 N., R. 1 E., Sec. 6.
T. 2 N., R. 1 E., Secs. 30, 31.
T. 2 N., R. 1 W., Secs. 3, 10, 11, 24, 25.
T. 4 N., R. 1 W., Secs. 30, 31.
T. 4 N., R. 2 W., Secs. 1, 12, 13, 24, 25.

T. 5 N., R. 2 W., Secs. 1, 12, 13, 24, 25, 36.
T. 6 N., R. 2 W., Secs. 1, 12, 13, 24, 25, 36.
T. 7 N., R. 2 W., Secs. 12, 13, 24, 25, 36.
T. 7 N., R. 1 W., Secs. 6, 35.
T. 7 N., R. 2 W., Sec. 1.
T. 8 N., R. 2 W., Secs. 2, 11, 14, 23, 24, 25, 36.
T. 9 N., R. 2 W., Secs. 12, 13, 23, 24, 25, 26, 35.
T. 9 N., R. 1 W., Secs. 6, 7.
T. 10 N., R. 1 W., Secs. 5, 7, 8, 17, 18, 20, 29, 31, 32.
T. 11 N., R. 1 W., Secs. 4, 9, 16, 21, 28, 32, 33.
T. 12 N., R. 1 W., Secs. 5, 8, 17, 20, 29, 32, 33.
T. 13 N., R. 1 W., Secs. 5, 6, 8, 17, 18, 20, 29, 32.
T. 14 N., R. 1 W., Sec. 31.
T. 1 S., R. 1 E., Secs. 3, 4, 8, 10, 14, 15, 23, 25, 26, 35.
T. 2 S., R. 1 E., Secs. 2, 11, 14, 15, 22, 27, 34.
T. 3 S., R. 1 E., Secs. 3, 4, 9, 16, 21, 28, 29, 32, 33.
T. 4 S., R. 1 E., Secs. 5, 8, 16, 17, 21, 22, 25, 26, 27, 36.
T. 5 S., R. 1 E., Sec. 1.
T. 5 S., R. 2 E., Secs. 6, 7.
T. 5 S., R. 1 E., Secs. 12, 13, 23, 24, 26, 27, 32, 33, 34.
T. 6 S., R. 1 E., Secs. 5, 7, 8, 17, 18, 29, 30, 32.
T. 6 S., R. 1 W., Secs. 13, 24, 25.
T. 7 S., R. 1 E., Secs. 5, 8, 17, 18.
T. 7 S., R. 1 W., Secs. 13, 23, 24, 26, 27, 34, 35.
T. 8 S., R. 1 W., Secs. 3, 4, 5, 6.
T. 8 S., R. 2 W., Secs. 1, 2, 3, 4, 7, 8, 9.
T. 8 S., R. 3 W., Secs. 12, 13, 14, 22, 23, 27, 34.

Prospect Power & Communication Line, BLM Serial No. F–84966

Fairbanks Meridian, Alaska

T. 23 N., R. 14 W., Sec. 17, SW¼.

Gulkana Communication Site & Access Road, BLM Serial No. AA–31239

Copper River Meridian, Alaska

T. 9 N., R. 2 W., Sec. 26, SW¼SE¼; Sec. 35 NW¼ NE¼.

Fuel Gas Pipeline, BLM Serial No. F–21770

Umiat Meridian, Alaska

T. 1 N., R. 15 E., Sec 7.
T. 1 S., R. 14 E., Sec 3.
T. 9 S., R.11 E., Secs. 22, 23, 24, 27, 28, 33.
T. 9 S., R.12 E., Secs. 12, 13, 14, 15, 19, 20, 21, 22.
T. 9 S., R.13 E., Secs. 3, 4, 5, 7, 8.
T. 10 S., R. 11 E., Secs. 3, 4, 10, 14, 15, 23, 26, 35.
T. 11 S., R. 11 E., Secs. 2, 11, 12, 13, 24.

Rights-of-Way for Access Roads

Umiat Meridian, Alaska

	BLM Serial No.
T. 9 S., R. 12 E., Sec. 19	F–22386
T. 9 S., R. 13 E., Sec. 7	F–20780
T. 10 S., R. 11 E., Sec. 3	F–21586
T. 10 S., R. 11 E., Sec. 23	F–21585
T. 11 S., R. 11 E., Secs. 1, 2	F–20776
T. 11 S., R. 11 E., Sec. 13	F–21467
T. 11 S., R. 12 E., Sec. 29	F–21465
T. 11 S., R. 12 E., Sec. 32	F–21656, FF–088221
T. 12 S., R. 12 E., Sec. 16	F–20719
T. 12 S., R. 12 E., Sec. 26	FF–088197
T. 13 S., R. 12 E., Secs. 3, 4	F–20717
T. 13 S., R. 12 E., Sec. 21	F–21727
T. 13 S., R. 12 E., Sec. 28	FF–088195
T. 13 S., R. 12 E., Sec. 32	F–20715
T. 13 S., R. 12 E., Sec. 9	FF–088193
T. 14 S., R. 12 E., Sec. 7, 8	F–20714
T. 15 S., R. 11 E., Sec. 24	F–21617
T. 15 S., R. 11 E., Sec. 26	F–21583
T. 15 S., R. 12 E., Sec. 6	F–20713
T. 16 S., R. 10 E., Sec. 25	F–64648
T. 16 S., R. 10 E., Sec. 36	FF–088485, F–21640
T. 16 S., R. 11 E., Secs. 3, 10	F–21535
T. 16 S., R. 11 E., Secs. 16, 21	F–21653
T. 16 S., R. 11 E., Sec. 30	F–20707

Fairbanks Meridian, Alaska

	BLM serial No.
T. 2 N., R. 1 W., Secs. 1, 2, 3	F–20564
T. 12 N., R. 11 W., Sec. 1	F–20594
T. 12 N., R. 10 W., Sec. 7	F–64643
T. 13 N., R. 12 W., Sec. 12	F–20598
T. 13 N., R. 11 W., Secs. 17, 18	F–20597
T. 13 N., R. 11 W., Sec. 22	F–20596
T. 13 N., R. 11 W., Sec. 36	F–20595
T. 14 N., R. 12 W., Sec. 7	F–21565
T. 14 N., R. 12 W., Secs. 20, 21	F–21546
T. 14 N., R. 12 W., Secs. 27, 28	F–21581
T. 14 N., R. 12 W., Sec. 34	F–20600
T. 15 N., R. 12 W., Sec. 7	F–20606
T. 15 N., R. 12 W., Sec. 29	F–20605
T. 15 N., R. 12 W., Sec. 31	F–20604
T. 16 N., R. 13 W., Sec. 4	F–20609
T. 16 N., R. 13 W., Sec. 14	F–20608
T. 17 N., R. 13 W., Sec. 28	F–20610, F–20611
T. 18 N., R. 14 W., Sec. 4	F–20616
T. 18 N., R. 14 W., Sec. 9	F–20615
T. 18 N., R. 14 W., Sec. 23	F–64644
T. 18 N., R. 14 W., Sec. 36	F–20613
T. 19 N., R. 14 W., Sec. 19	F–20621
T. 19 N., R. 14 W., Sec. 30	FF–088184, FF–088185, FF–088219
T. 19 N., R. 14 W., Sec. 31	F–20618
T. 19 N., R. 15 W., Sec. 11	F–20622
T. 19 N., R. 15 W., Sec. 24	F–20621
T. 20 N., R. 15 W., Secs. 3, 4, 10	F–21567
T. 20 N., R. 15 W., Secs. 15, 16, 17	F–20623
T. 20 N., R. 15 W., Secs. 27, 28	F–21549
T. 20 N., R. 15 W., Secs. 34, 35	F–21582
T. 21 N., R. 14 W., Sec. 7	F–20627, F–20528
T. 21 N., R. 14 W., Sec. 19	F–20625
T. 22 N., R. 14 W., Sec. 7	F–21568
T. 22 N., R. 14 W., Sec. 19	FF–81337
T. 22 N., R. 14 W., Secs. 29, 31, 32	FF–088186
T. 22 N., R. 14 W., Secs. 31, 32	F–20773
T. 23 N., R. 14 W., Sec. 3	F–20637
T. 23 N., R. 14 W., Sec. 8	F–21693
T. 23 N., R. 14 W., Secs. 4, 9	F–21552
T. 23 N., R. 14 W., Secs. 19, 30	F–22365
T. 23 N., R. 14 W., Sec. 31	F–20633
T. 24 N., R. 13 W., Sec. 5	F–20645
T. 24 N., R. 13 W., Sec. 8	F–21570
T. 24 N., R. 14 W., Sec. 23	F–20642
T. 24 N., R. 14 W., Sec. 26	F–20640
T. 24 N., R. 14 W., Sec. 34	F–20638
T. 25 N., R. 13 W., Sec. 13	F–21553
T. 25 N., R. 13 W., Secs. 23, 26	F–21551
T. 26 N., R. 13 W., Sec. 2	F–20654
T. 26 N., R. 13 W., Sec. 14	F–20653
T. 26 N., R. 13 W., Sec. 23	F–20652
T. 26 N., R. 13 W., Sec. 26	F–22978
T. 27 N., R. 12 W., Sec. 6	F–20657
T. 27 N., R. 13 W., Sec. 14	F–20656
T. 27 N., R. 13 W., Sec. 26	F–64645
T. 28 N., R. 12 W., Sec. 31	F–21763
T. 29 N., R. 12 W., Sec. 1	F–20666
T. 29 N., R. 12 W., Secs. 13, 14	F–20665
T. 30 N., R. 11 W., Sec. 5	F–20671
T. 30 N., R. 11 W., Sec. 18	F–20669
T. 30 N., R. 11 W., Sec. 19	F–20668
T. 31 N., R. 10 W., Sec. 6	F–20679
T. 31 N., R. 10 W., Secs. 7, 8	F–20678
T. 31 N., R. 10 W., Secs. 17, 18	F–20677
T. 31 N., R. 10 W., Sec. 18	F–20676, FF–088222, FF–088190
T. 31 N., R. 10 W., Sec. 19	F–20675
T. 31 N., R. 11 W., Sec. 25	FF–87266
T. 31 N., R. 11 W., Sec. 32	FF–088187
T. 31 N., R. 11 W., Sec. 33	FF–088188, FF–088189
T. 31 N., R. 11 W., Sec. 35	F–20673
T. 32 N., R. 10 W., Sec. 4	F–20683
T. 32 N., R. 10 W., Sec. 9	FF–84277, FF–088191
T. 32 N., R. 10 W., Secs. 20, 21	F–21638
T. 32 N., R. 10 W., Sec. 31	F–20679
T. 33 N., R. 10 W., Sec. 24	F–20688
T. 33 N., R. 10 W., Sec. 35	F–21429, FF–088218, FF–088220
T. 34 N., R. 10 W., Sec. 4	F–20694
T. 34 N., R. 10 W., Sec. 15	F–20693
T. 34 N., R. 10 W., Secs. 22, 23	F–20692
T. 34 N., R. 10 W., Sec. 26	F–21652
T. 35 N., R. 10 W., Sec. 4	F–21623
T. 35 N., R. 10 W., Sec. 16	F–64646
T. 35 N., R. 10 W., Sec. 28	F–21618
T. 36 N., R. 10 W., Sec. 3	FF–088194

	BLM serial No.
T. 36 N., R. 10 W., Sec. 21	FF–088192
T. 36 N., R. 10 W., Sec. 28	F–20699
T. 36 N., R. 10 W., Sec. 33	F–64647
T. 37 N., R. 10 W., Sec. 25	FF–088223
T. 2 S., R. 3 E., Sec. 19	F–21650
T. 2 S., R. 3 E., Secs. 34, 35	F–21740
T. 3 S., R. 3 E., Secs. 2, 11, 12, 13	F–21740
T. 3 S., R. 4 E., Secs. 17, 18	F–21740
T. 10 S., R. 10 E., Sec. 26	F–20557, F–21591
T. 11 S., R. 10 E., Sec. 22	F–20554
T. 11 S., R. 10 E., Secs. 33, 34	F–20553
T. 15 S., R. 10 E., Sec. 19	F–20545
T. 16 S., R. 10 E., Sec. 5	F–20542
T. 16 S., R. 10 E., Sec. 8	F–20541
T. 16 S., R. 10 E., Sec. 32	F–20536, F–21759
T. 17 S., R. 10 E., Sec. 4	F–20534, F–20535
T. 17 S., R. 10 E., Sec. 14	F–20530
T. 17 S., R. 10 E., Sec. 15	F–20532
T. 17 S., R. 10 E., Sec. 25	F–21756
T. 17 S., R. 10 E., Sec. 36	F–20526
T. 18 S., R. 10 E., Sec. 1	AA–37894
T. 18 S., R. 10 E., Sec. 12	AA–8857
T. 18 S., R. 10 E., Sec. 24	AA–8855
T. 18 S., R. 10 E., Sec. 25	AA–8854
T. 19 S., R. 11 E., Secs. 19, 20	AA–8853
T. 19 S., R. 11 E., Secs. 28, 29	AA–9213

Copper River Meridian, Alaska

	BML Serial No.
T. 2 N., R. 1 W., Sec. 12	AA–9166
T. 2 N., R. 1 W., Sec. 25	AA–8845
T. 2 N., R. 1 E., Sec. 30	AA–8845
T. 3 N., R. 1 W., Sec. 17	AA–8862
T. 5 N., R. 2 W., Sec. 36	AA–8863
T. 6 N., R. 2 W., Sec. 25	AA–9189
T. 6 N., R. 1 W., Secs. 27, 28, 29, 30	AA–9189
T. 9 N., R. 2 W., Secs. 23, 24, 25	AA–8867
T. 9 N., R. 2 W., Secs. 26, 35	AA–8866
T. 10 N., R. 1 W., Sec. 20	AA–11185
T. 11 N., R. 1 W., Secs. 16, 21	AA–9198
T. 11 N., R. 1 W., Sec. 32	AA–8849
T. 11 N., R. 1 W., Sec. 33	AA–8848
T. 12 N., R. 1 W., Secs. 7, 8	AA–8870
T. 13 N., R. 2 W., Sec. 1	AA–8871
T. 13 N., R. 1 W., Sec. 6	AA–8871
T. 13 N., R. 1 W., Secs. 19, 20	AA–8851
T. 14 N., R. 1 W., Sec. 31	AA–8871
T. 1 S., R. 1 E., Sec. 3	AA–8843
T. 1 S., R. 1 E., Sec. 10	AA–8842
T. 1 S., R. 1 E., Sec. 25	AA–8840
T. 2 S., R. 1 E., Sec. 14	AA–8838
T. 3 S., R. 1 E., Secs. 21, 22	AA–9462
T. 5 S., R. 1 E., Secs. 26, 27	AA–8829
T. 6 S., R. 1 E., Sec. 8	AA–8827
T. 6 S., R. 1 E., Sec. 19	AA–8825
T. 6 S., R. 1 W., Sec. 24	AA–8825
T. 7 S., R. 1 E., Sec. 5	AA–37895

	BML Serial No.
T. 7 S., R. 1 E., Sec. 8	AA–8822
T. 7 S., R. 1 E., Secs. 17, 18	AA–075690
T. 7 S., R. 1 W., Sec. 24	AA–9602
T. 7 S., R. 1 W., Sec. 26	AA–8820
T. 7 S., R. 1 W., Sec. 34	AA–8817
T. 8 S., R. 1 W., Sec. 6	AA–9589
T. 8 S., R. 3 W., Sec. 13	AA–77244

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for addresses where the application can be inspected.

FOR FURTHER INFORMATION CONTACT: Rob McWhorter, TAPS Renewal Coordinator, at (907) 271–3664.

SUPPLEMENTARY INFORMATION: The locations where the application can be inspected are:

U.S. Bureau of Land Management, State/Federal Joint Pipeline Office, 411 West 4th Avenue, Suite 2, Anchorage, Alaska 99501

U.S. Bureau of Land Management, Public Information Center, Alaska State Office 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599

U.S. Bureau of Land Management, Northern Field Office Public Room 1150 University Avenue, Fairbanks, Alaska 99709

U.S. Bureau of Land Management, Glennallen Field Office, P.O. Box 147, Glennallen, Alaska 99588

ARLIS 3150 C Street, Anchorage, Alaska 99503

Anchorage Loussac Public Library, 3600 Denali Street, Anchorage, Alaska 99503

Fairbanks Northstar Borough Public Library, 1215 Cowles Street, Fairbanks, Alaska 99701–4313

Valdez Consortium Library, P.O. Box 609, Valdez, Alaska 99686

Tuzzy Consortium Library, P.O. Box 749, Barrow, Alaska 99723

Delta Community Library, 2288 Deborah Street, Delta Junction, Alaska 99737

Copper Valley Community Library, Mile 186, Glenn Highway, Glennallen, Alaska 99588

Electronic Copies

Electronic copies of the application are available for interested persons to review at the Bureau of Land Management/Joint Pipeline Office web site: *tapsrenewal@jpo.doi.gov*.

Dated: May 11, 2001.

Jerry Brossia,

Authorized Officer, Joint Pipeline Office.

[FR Doc. 01–12698 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for Proposed Lease Sale 182 in the Central Gulf of Mexico (2002)

AGENCY: Minerals Management Service.

ACTION: Preparation of an environmental assessment.

SUMMARY: The Minerals Management Service (MMS) is beginning preparation of an environmental assessment (EA) for proposed lease Sale 182 (scheduled for March 2002) in the Central Gulf of Mexico Planning Area. In August 1996, MMS issued a Call for Information and Nominations/Notice of Intent to Prepare an EIS (Call/NOI) for the five proposed Central Gulf of Mexico sales in the current 5-year leasing program. In 1997, MMS prepared a single environmental impact statement (EIS) for all five sales. The multisale Final EIS, filed in November 1997, included an analysis of a single, "typical" sale, and a cumulative analysis that included the effects of holding all five sales, as well as the cumulative effects of the long-term development of the planning area. The MMS stated in the EIS that an EA would be prepared for each lease sale after the first sale covered in the EIS (Sale 169).

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. Alvin Jones, telephone (504) 736–1713.

SUPPLEMENTARY INFORMATION: The preparation of this EA is the first step in the prelease decision process for Sale 182. The proposal and alternatives for Sale 182 were identified by the Director of MMS in November 1996 following the Call/NOI and were analyzed in the Central Gulf multisale EIS, which is available from the Gulf of Mexico OCS Region's Public Information Office at 1–800–200–GULF. The proposed action analyzed in the multisale EIS was the offering of all available unleased acreage in the Central Gulf of Mexico Planning Area. The EA will also analyze alternatives to defer blocks south and within 15 miles of Baldwin County, Alabama, and to defer blocks containing topographic features with sensitive biological resources, as well as the no action alternative. The analysis in the EA will reexamine the potential environmental effects of the proposal and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final EIS was prepared.

After completion of the EA, MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a supplemental EIS. The MMS will then prepare and send consistency determinations to the affected States to determine whether the proposed sale is consistent with federally-approved State coastal zone management programs, and will send a proposed Notice of Sale to the Governors for their comments on the size, timing, and location of the proposed sale. The tentative schedule for the steps in the prelease decision process for Sale 182 is listed below:

- Comments due to MMS no later than 30 days from the publication date of this Notice;
- EA/FONNSI or Supplemental EIS, October 2001;
- Consistency Determinations sent to States, October 2001;
- Proposed Notice of Sale sent to Governors, November 2001;
- Final Notice of Sale in **Federal Register**, February 2002;
- Sale, March 2002.

Public Comment

The MMS requests interested parties to submit comments regarding any such new information or issues that should be addressed in the EA to Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5400), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 no later than 30 days from the publication date of this Notice.

Dated: April 27, 2001.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 01–12743 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf Official Protraction Diagrams

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of revised Outer Continental Shelf Leasing Maps and Official Protraction Diagrams.

SUMMARY: Notice is hereby given that effective with this publication, the NAD 27-based Outer Continental Shelf Leasing Maps and Official Protraction Diagrams last revised on the date indicated, are on file and available for information only, in the Gulf of Mexico OCS Regional Office, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Copies of Leasing Maps and Official Protraction Diagrams (OPDs) are $2.00 each. These may be purchased from the Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Mangement Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519 or (800) 200–GULF.

SUPPLEMENTARY INFORMATION: In accordance with Title 43, Code of Federal Regulations, the following maps and diagrams are the basic record for the description of mineral and oil and gas lease sales in the geographic areas they represent.

OUTER CONTINENTAL SHELF LEASING MAPS AND OFFICIAL PROTRACTION DIAGRAMS IN THE CENTRAL GULF OF MEXICO PLANNING AREA

	Description	Date
LA1	West Cameron Area	November 1, 2000.
LA1A	West Cameron Area, West Addition	November 1, 2000.
LA1B	West Cameron Area, South Addition	November 1, 2000.
LA2	East Cameron Area	November 1, 2000.
LA2A	East Cameron Area, South Addition	November 1, 2000.
LA3	Vermilion Area	November 1, 2000.
LA3A	South Marsh Island Area	November 1, 2000.
LA3B	Vermilion Area, South Addition	November 1, 2000.
LA3C	South Marsh Island Area, South Addition	November 1, 2000.
LA3D	South Marsh Island Area, North Addition	November 1, 2000.
LA4	Eugene Island Area	November 1, 2000.
LA4A	Eugene Island Area, South Addition	November 1, 2000.
LA5	Ship Shoal Area	November 1, 2000.
LA5A	Ship Shoal Area, South Addition	November 1, 2000.
LA6	South Timbalier Area	November 1, 2000.
LA6A	South Timbalier Area, South Addition	November 1, 2000.
LA6B	South Pelto Area	November 1, 2000.
LA6C	Bay Marchand Area	November 1, 2000.
LA7	Grand Isle Area	November 1, 2000.
LA7A	Grand Isle Area, South Addition	November 1, 2000.
LA8	West Delta Area	November 1, 2000.
LA8A	West Delta Area, South Addition	November 1, 2000.
LA9	South Pass Area	November 1, 2000.
LA9A	South Pass Area, South and East Addition	November 1, 2000.
LA10	Main Pass Area	November 1, 2000.
LA10A	Main Pass Area, South and East Addition	November 1, 2000.
LA10B	Breton Sound Area	November 1, 2000.
LA11	Chandeleur Area	November 1, 2000.
LA11A	Chandeleur Area, East Addition	November 1, 2000.
LA12	Sabine Pass Area	November 1, 2000.
NG15–03	Green Canyon	November 1, 2000.
NG15–06	Walker Ridge	November 1, 2000.
NG16–01	Atwater Valley	November 1, 2000.
NG16–04	Lund	November 1, 2000.
NG16–07	Lund South	November 1, 2000.
NH15–12	Ewing Bank	November 1, 2000.
NH16–04	Mobile	November 1, 2000.
NH16–07	Viosca Knoll	November 1, 2000.
NH16–10	Mississippi Canyon	November 1, 2000.

Note: NG15–09 Amery Terrace was previously revised October 25, 2000.

OUTER CONTINENTAL SHELF LEASING MAPS AND OFFICIAL PROTRACTION DIAGRAMS IN THE WESTERN GULF OF MEXICO PLANNING AREA

TX1	South Padre Island Area	November 1, 2000.
TX1A	South Padre Island Area, East Addition	November 1, 2000.
TX2	North Padre Island Area	November 1, 2000.
TX2A	North Padre Island Area, East Addition	November 1, 2000.
TX3	Mustang Island Area	November 1, 2000.
TX3A	Mustang Island Area, East Addition	November 1, 2000.
TX4	Matagorda Island Area	November 1, 2000.
TX5	Brazos Area	November 1, 2000.
TX5B	Brazos Area, South Addition	November 1, 2000.
TX6	Galveston Area	November 1, 2000.
TX6A	Galveston Area, South Addition	November 1, 2000.
TX7	High Island Area	November 1, 2000.
TX7A	High Island Area, East Addition	November 1, 2000.
TX7B	High Island Area, South Addition	November 1, 2000.
TX7C	High Island Area, East Addition, South Extension	November 1, 2000.
TX8	Sabine Pass Area	November 1, 2000.
NG14–03	Corpus Christi	November 1, 2000.
NG14–06	Port Isabel	November 1, 2000.
NG15–01	East Breaks	November 1, 2000.
NG15–02	Garden Banks	November 1, 2000.
NG15–04	Alaminos Canyon	November 1, 2000.

Note: NG15–05 Keathley Canyon and NG15–08 Sigsbee Escarpment were previously revised November 1, 2000.

Note: In most cases, there are no changes to block boundaries or acreage due to these revisions. However, users are cautioned to check carefully any areas of interest.

A CD–ROM (in ARC/INFO (.gra files) format, and in Acrobat (.pdf files) format) containing all of the Gulf of Mexico Leasing Maps and Official Protraction Diagrams in the Central and Western Gulf Planning Areas is available from the MMS Gulf of Mexico Regional Office Public Information Unit for a price of $15.00. These Leasing Maps and Official Protraction Diagrams are also available on our Internet site, *http://www.gomr.mms.gov/homepg/lsesale/mapdiag.html*. Also available on the CD-ROM and our Internet site are the Official Protraction Diagrams in the Eastern Gulf Planning Area that are in digital format.

Dated: May 15, 2001.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 01–12744 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meeting of Concessions Management Advisory Board

AGENCY: National Park Service, Interior.

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), notice is hereby given that the Concessions Management Advisory Board will hold its fifth meeting May 30 and 31, 2001, in the Grand Canyon National Park, Arizona. The meeting will be held at the Shrine of Ages on the South Rim of the Grand Canyon National Park. The meeting will convene at 9 a.m. on May 30th in the auditorium at the Shrine of Ages. The meeting will conclude on Thursday afternoon, May 31.

SUPPLEMENTARY INFORMATION: The Advisory Board was established by Title IV, Section 409 of the National Park Omnibus Management Act of 1998, November 13, 1998 (Public Law 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System.

The agenda includes the following subjects:

- Discussion and evaluation of the handcraft issue and visits to various retail outlets.
- Review and discussion of Concession Program Business Plan prepared by Price Waterhouse Coopers.
- Discussion of recent Congressional oversight hearings.

The Board will also discuss its organizational and administrative needs.

The meeting will be open to the public, however, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive

listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks (2 weeks) before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for its.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Interested persons may make oral/written presentations to the Advisory Board during the business meeting or file written statements. Such requests should be made to the Director, National Park Service, attention: Manager, Concession Program at least 7 days prior to the meeting. Further information concerning the meeting may be obtained from National Park Service, Concession Program Division, 1849 C St., NW., Rm. 7313, Washington, DC 20240, Telephone 202/565–1210.

Draft minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting, in room 7313, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: May 3, 2001.

Denis P. Galvin,

Acting Director, National Park Service.

[FR Doc. 01–12680 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–70–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting; Cancellation of Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 66, No. 93, at 24409, May 14, 2001.

TIME AND DATE: 2:00 p.m., Thursday, May 17, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The Commission meeting to consider and act upon *Sec'y of Labor on behalf of Bernardyn* v. *Reading Anthracite Co.*, Docket Nos. PENN 99–129–D, etc., has been canceled. No earlier announcement of the cancellation was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629 / (202) 708–9300 for TDD Relay / 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 01–12846 Filed 5–17–01; 12:50 pm]

BILLING CODE 6735–01–M

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Notice of Approval of Florida Proposal

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice of approval of Florida proposal.

SUMMARY: Pursuant to 28 CFR chapter IX, the Compact Council established by the National Crime Prevention and Privacy Compact has approved a proposal from the State of Florida authorizing access to the Interstate Identification Index (III) system on a delayed fingerprint submission basis for conducting criminal history record checks in connection with the placement of children with temporary custodians on an emergency basis. In approving the proposal, the Compact Council took note of the recommendation of the Criminal Justice Information Services Advisory Policy Board to allow governmental agencies authorized by an approved state statute to conduct "preliminary III name checks" for all persons occupying the residence at the time when children are placed in such residences on an emergency basis.

The approved proposal authorizes III access on a delayed fingerprint submission basis by the Florida Department of Children and Family Services which is authorized to make emergency placements of children by a Florida statute which has been approved by the U.S. Attorney General pursuant to Pub. L. 92–544. Pursuant to the approved proposal, fingerprints are to be submitted as a follow-up to the III name-based check within five working days from such time the name checks are conducted. For the purposes of the proposal, working day is defined as a day when a governmental agency is open for business.

Pursuant to Section 901.3 of 28 CFR, chapter IX, other States may apply to the FBI's Compact Officer for authority to grant delayed fingerprint submission access to governmental agencies authorized by approved state statutes to make emergency child placements. Such application must explain why the submission of fingerprints contemporaneously with search requests is not feasible and must justify the length of the requested delay in the submission of such fingerprints.

Proposals should be sent to the FBI's Compact Officer at Criminal Justice Information Services, Attn: FBI Compact Officer, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Dated: May 3, 2001.

Wilbur Rehmann,

Chairman, Compact Council.

[FR Doc. 01–12534 Filed 5–18–01; 8:45 am]

BILLING CODE 4410–02–U

NUCLEAR REGULATORY COMMISSION

Meeting Concerning the Revision of the Oversight Program for Nuclear Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of public meeting.

SUMMARY: NRC will hold a public meeting in Lynchburg, VA to provide the local public, facility employees, citizens' groups, and local officials with information about, and an opportunity to provide views on, how the NRC plans to revise and improve its oversight program for commercial nuclear fuel cycle facilities regulated under 10 CFR parts 40, 70, and 76. The facilities include gaseous diffusion plants, high- and low-enriched uranium fuel fabrication facilities, and a uranium hexafluoride (UF_6) production plant. These facilities possess large quantities of materials that are potentially hazardous (radioactive, toxic, or flammable) to workers, the public, or the environment. Also, some of the facilities possess information and material important to national security. Two of these regulated facilities, BWX Technologies and Framatome, are located in Lynchburg.

The goal of this revision project is to have an oversight program that: (1) Provides earlier and more objective indications of facility performance in the areas of safety and national security, (2) increases stakeholder confidence in the NRC, and (3) increases regulatory effectiveness, efficiency, and realism. To this end, the NRC is striving to make the oversight program more risk-informed and performance-based. The oversight revision project is described in SECY–99–188, "Evaluation and Proposed Revision of the Nuclear Fuel Cycle Facility Safety Inspection Program," and in SECY–00–0222, "Status of Nuclear Fuel Cycle Facility Oversight Program Revision." SECY–99–188 and SECY–00–0222, as well as other background information, are available in the Public Document Room and on the NRC Web Page at *http://www.nrc.gov*.

PURPOSE OF MEETING: To obtain stakeholder views for improving the NRC oversight program for ensuring fuel cycle licensees and certificate holders maintain protection of worker and public health and safety, protection of the environment, and safeguards for special nuclear material and classified matter in the interest of national security. The public meeting will focus on the revisions that are being made to the program, and on how interested parties can provide input to the change process.

DATE AND LOCATION: Members of the public, industry, and other stakeholders are invited to attend and participate in the meeting, which is scheduled for 9:30 to 10:00 a.m. on Thursday, May 31, 2001. The meeting will be held at the Lynchburg Technology Center, which is located at 1574 Mount Athos Road, Lynchburg, VA 24501.

FOR FURTHER INFORMATION, CONTACT: Patrick Castleman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–8118, e-mail *pic@nrc.gov*.

Dated at Rockville, Maryland, this 15th day of May, 2001.

For the Nuclear Regulatory Commission,

Patrick Castleman,

Project Manager, Inspection Section, Safety and Safeguards Support Branch, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 01–12692 Filed 5–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 21, 28, June 4, 11, 18, 25, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED: Week of May 21, 2001

There are no meetings scheduled for the Week of May 21, 2001.

Week of May 28, 2001—Tentative

Wednesday, May 30, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (if needed)

Week of June 4, 2001—Tentative

Tuesday, June 5, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)
2 p.m.—Discussion of Management Issues (Closed-Ex.2)

Wednesday, June 6, 2001

10:30 a.m.—All Employees Meeting (Public Meeting)
1:30 p.m.—All Employees Meeting (Public Meeting)

Week of June 11, 2001—Tentative

Thursday, June 14, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)
9:30 a.m.—Meeting with Nuclear Waste Technical Review Board (Public Meeting)
1:30 p.m.—Briefing on License Renewal Program (Public Meeting) (Contact: David Solorio, 301–415–1973)

Week of June 18, 2001—Tentative

There are no meetings scheduled for the Week of June 18, 2001.

Week of June 25, 2001—Tentative

Wednesday, June 27, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

ADDITIONAL INFORMATION: By a vote of 5–0 on May 7 and 8, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Northeast Nuclear Energy Company" (Millstone Nuclear Power Station, Unit No. 3; Facility Operating License NPF–49) Partial Review of LBP–00–26 (10/26/00), as directed by CLI–01–03 (1/17/01) Regarding Interpretation of GDC 62, Prevention of Criticality in Fuel Storage & Handling" be held on May 10, and on less than one week's notice to the public.

By a vote of 5–0 on May 10, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Carolina Power and Light Company (Shearon Harris Nuclear Power Plant), Docket No. 50–400–LA, LBP–00–12, LBP–00–19, and LBP–01–09" be held on May 10, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: May 17, 2001.

Sandra M. Joosten,

Executive Assistant, Office of the Secretary.

[FR Doc. 01–12832 Filed 5–17–01; 12:13 pm]

BILLING CODE 7590–01–M

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget (OMB Control Number 0420–0531).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C., Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request for approval of information collections, OMB Control Number 0420–0531, the Career Information Consultants waiver form. The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collections information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. A copy of the information collection may be obtained from Ms. Elvira May, Office of Returned Volunteer Services, Peace Corps, 1111 20th Street, NW, Room 2134, Washington, DC 20526. Ms. May can be contacted by telephone at 202–692–1445 or 800–424–8580 ext 1445. Comments on the form should also be addressed to the attention of Ms. May and should be received on or before July 20, 2001.

Information Collection Abstract

Title: Career Information Consultants waiver form.

Need for and Use of this Information: This form is completed voluntarily by returned Peace Corps Volunteers and professionals in specific career fields. This information will be used by Returned Volunteer Services to assist returned Peace Corps Volunteers with re-entry transition issues. Participation in this program also fulfills the third goal of the Peach Corps as required by Congressional legislation and to enhance the Returned Volunteer Services' outreach program.

Respondents: Returned Peace Corps Volunteers.

Respondent's Obligation to Reply: Voluntary.

Burden on the Public:

a. *Annual reporting burden:* 417 hours.

b. *Annual record keeping burden:* 0 hours.

c. *Estimated average burden per response:* 5 minutes.

d. *Frequency of response:* annually.

e. *Estimated number of likely respondents:* 5,000.

f. *Estimated cost to respondents:* $0.00.

At this time, responses will be returned by mail.

This notice is issued in Washington, DC, on May 7, 2001.

Dough Warnecke,

Acting, Chief Information Officer and Associate Director for Management.

[FR Doc. 01–12616 Filed 5–18–01; 8:45 am]

BILLING CODE 6051–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of an Information Collection: RI 20–64 and RI 20–64A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of an information collection. RI 20–64, Former Spouse Survivor Annuity Election, is a form used by the Civil Service Retirement System to provide information about the amount of annuity payable after a survivor reduction and to obtain a survivor benefits election form from annuitants who are eligible to elect to provide survivor benefits for a former spouse. RI 20–64A, Information on Electing a Survivor Annuity for Your Former Spouse, is a pamphlet that provides important information to retirees under the Civil Service Retirement System who want to provide a survivor annuity for a former spouse.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 30 RI 20–64 forms are completed annually. The form takes approximately 45 minutes to complete. The annual estimated burden is 23 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before July 20, 2001.

ADDRESSES: Send or deliver comments to: Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349A, Washington, DC 20415.

For Information Regarding Administrative Coordination, Contact: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01–12620 Filed 5–18–01; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: Form RI 95–4

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for review of a revised information collection. RI 95–4, Marital Information Required of Refund Applicants, is used by OPM to pay refunds of retirement contributions when the information is not included on the SF 3106, Application for Refund of Retirement Deductions (FERS). To pay these benefits, all applicants for refund must provide information to OPM about their marital status and whether any spouse(s) or former spouse(s) have been informed of the proposed refund.

Approximately 2,600 RI 95–4 forms will be completed annually. We estimate it takes approximately 30 minutes to complete the form. The annual burden is 1,300 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before June 20, 2001.

ADDRESSES: Send or deliver comments to:

John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

For Information Regarding Administrative Coordination—Contact: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01–12621 Filed 5–18–01; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Civilian Acquisition Workforce Personnel Demonstration Project; Department of Defense (DoD)

AGENCY: Office of Personnel Management.

ACTION: Notice of amendment to this demonstration to make technical corrections to the list of occupational series included in the project and to change pay setting procedures for Federal employees entering the project after initial implementation.

SUMMARY: Section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104–106; 10 U.S.C.A. 1701 note), as amended by section 845 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85), permits the Department of Defense (DoD), with the approval of OPM, to conduct a personnel demonstration project within the Department's civilian acquisition workforce and those supporting personnel assigned to work directly with the acquisition workforce. This notice amends the project plan for this demonstration to: (1) Correct discrepancies in the list of occupational series included in the project and (2) allow managers the authority to offer a buy-in to Federal employees entering the demonstration project after initial implementation.

DATES: This amendment is effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: *DoD:* Anthony D. Echols, Civilian Acquisition Workforce Personnel Demonstration, 2001 North Beauregard Street, Suite 750, Alexandria, VA 22311, 703–578–2755. *OPM:* Mary Lamary, U.S. Office of Personnel Management, 1900 E Street NW., Room 7460, Washington, DC 20415, 202–606–2820.

SUPPLEMENTARY INFORMATION:

1. Background

OPM approved and published the project plan for the Civilian Acquisition Workforce Personnel Demonstration Project in the **Federal Register** on January 8, 1999 (Volume 64, Number 5, part VII). This demonstration project involves hiring and appointment authorities; broadbanding; simplified classification; a contribution-based compensation and appraisal system; revised reduction-in-force procedures; academic degree and certificate training; and sabbaticals.

2. Overview

The project plan listed two occupational series in the wrong career path, listed one series in two career paths, and omitted a series to which at least one demonstration participant is assigned. This notice corrects these errors.

For examples who enter the project after initial implementation by lateral transfer, reassignment, or realignment, the project did not give managers the authority to offer a base payment adjustment for accrued within-grade increases and/or career ladder promotions.

This notice gives managers that authority.

Dated: May 11, 2001.

Office of Personnel Management.

Steven R. Cohen,

Acting Director.

I. Executive Summary

The project was designed by a Process Action Team (PAT) under the authority of the Under Secretary of Defense for Acquisition and Technology, with the participation of and review by DoD with the Office of Personnel Management (OPM). The purpose of the project is to enhance the quality, professionalism, and management of the DoD acquisition workforce through improvements in the human resources management system

II. Introduction

This demonstration project provides managers, at the lowest practical level, the authority, control, and flexibility they need to achieve quality acquisition processes and quality products. This project not only provides a system that retains, recognizes, and rewards employees for their contribution, but also supports their personal and professional growth.

A. Purpose

The purpose of this notice is to correct discrepancies in the list of occupational series included in the project and to give managers the authority to offer an adjustment in base pay for accrued within-grade increases and/or career ladder promotions. No other changes are made to the sections referred to herein. The changes are hereby made to the **Federal Register**, Part VII, Civilian Acquisition Workforce Personnel Demonstration Project; Department of Defense; Notice, Volume 64, Number 5, Friday, January 8, 1999; Section II.F., Table 2 and Section V.A. as outlined in the following paragraphs.

B. Employee Notification and Collective Bargaining Requirements

The demonstration project program office will notify employees of this amendment by posting it on the demonstration's web page (*www.acqdemo.com*). Participating organizations must fulfill any collective bargaining obligations to unions that represent employees covered by the demonstration.

III. Personnel System Changes

Occupational Series Included in the Project

Correct Section II.F., Table 2, Series Included in the DoD Acquisition Workforce Personnel Demonstration Project, as follows:

Technical Management Support (NJ): Add series 0342, Support Services Administration, and series 0682, Dental Hygiene. Delete series 2135, Transportation Loss and Damage Claims Examining, and series 2151, Dispatching.

Administrative Support (NK): Delete Series 0342, Support Services Administrator. Add series 2151, Dispatching.

Employees Entering the Demonstration Project After Initial Implementation

Change that last sentence in the first paragraph of V.A. to read: This conversion process (i.e., "buy-in") is applicable to employees at the initial entry of their organization into the demonstration project in accordance with the approved implementation plan and subsequently upon an individual's lateral transfer, reassignment, or realignment into the demonstration project. (For purposes of this demonstration, "lateral transfer" is defined as a reassignment across Agencies without a change in rate of basic pay, except as provided by any within-grade increase or career-ladder "buy-in" paid upon conversion.)

Change the last sentence in the third paragraph of V.A. to read: Employees who enter the demonstration project after initial implementation by lateral transfer, reassignment, or realignment will be subject to the same pay conversion rules. Specifically, adjustments to the employee's base salary for a step increase and a non-competitive career ladder promotion will be computed as a prorated share of the current value of the step or promotion increase based upon the number of weeks an employee has completed toward the next higher step or grade at the time the employee moves into the project, consistent with paragraph VIII.A.

[FR Doc. 01–12622 Filed 5–18–01; 8:45 am]

BILLING CODE 6325–45–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44306; File No. SR–NYSE–2001–10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Its Allocation Policy Relating to Exchange-Traded Funds Traded on an Unlisted Trading Privileges Basis

May 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 14, 2001, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The proposed rule change has been filed by the NYSE as a "non-controversial" rule change under Rule 19b–4(f)(6) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend its Allocation Policy ("Policy")[4] for allocating Exchange-Traded Funds ("ETFs") traded on an unlisted trading privileges ("UTP") basis to specify that specialist units may appear before the special committee responsible for allocating ETFs.

Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in brackets.

* * * * *

Policy for Allocation of Exchange-Traded Funds Admitted to Trading on the Exchange on an Unlisted Trading Privileges Basis

Exchange-traded funds ("ETFs") (as defined in paragraph 703.16 of the Listed Company Manual) admitted to trading on the Exchange on an unlisted trading privileges basis shall be allocated pursuant to this Policy rather than the Exchange's policy for allocating securities to be listed on the Exchange.

ETFs shall be allocated by a special committee consisting of the Chairman of the Allocation Committee, the three most senior Floor broker members of the Allocation Committee, and four members of the Exchange's senior management as designated by the Chairman of the Exchange. This committee shall solicit allocation applications from interested specialist units, and shall review the same performance and disciplinary material with respect to specialist unit applicants as would be reviewed by the Allocation Committee in allocating listed stocks. The committee shall reach its decisions by majority vote with any tie votes being decided by the Chairman of the Exchange. Specialist unit applicants [shall not] *may* appear before the committee.

Special Criteria

In their allocation applications, specialist units must demonstrate:

(a) An understanding of the trading characteristics of ETFs;

(b) Expertise in the trading of derivatively-priced instruments;

(c) Ability and willingness to engage in hedging activity as appropriate;

(d) Knowledge of other markets in which the ETF to be allocated trades;

(e) Willingness to provide financial and other support to Exchange marketing and educational initiatives with respect to the ETF to be allocated.

Allocation Freeze Policy

The Allocation Freeze Policy as stated in the Allocation Policy for listed stocks shall apply.

Prohibition on Functioning as Specialist in ETF and Specialist in any Component Security of the ETF

No specialist member organization may apply to be allocated an ETF if it is registered as specialist in any security which is a component of the ETF. A specialist member organization which is registered as specialist in a component stock of an ETF may establish a separate member organization which may apply to be the specialist in an ETF. The approved persons of such ETF specialist member organization must obtain an exemption from specified specialist rules pursuant to Rule 98.

If, subsequent to an ETF being allocated to a specialist member organization, a security in which the specialist member organization is registered as specialist becomes a component security of such ETF the specialist organization must (1) withdraw its registration as specialist in the security which is a component of the ETF; (ii) withdraw its registration as specialist in the ETF; or (iii) establish a separate specialist member organization, which will be registered as specialist in the ETF and whose approved persons have received an exemption from specified specialist rules pursuant to Rule 98.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

According to the Exchange, the intent of its current Policy is: (1) To ensure that the allocation process is based on fairness and consistency and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between specialist unit and security; and (4) to contribute to the strength of the specialist system.

The Exchange recently modified its conventional allocation process to provide that ETFs traded on a UTP basis be allocated by a special committee, and to establish special criteria to be considered by the special committee.[5]

This current Policy for ETFs trading on a UTP basis states that specialist units shall not appear before the special committee. The Exchange proposes to amend its Policy to specify that specialist units *may* meet with the special committee. The Exchange has determined that due to the unique aspects of certain ETF products, it may be helpful for the special committee to meet with the interview specialist units before making an allocation decision.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act[6] in general, and furthers the objectives of section 6(b)(5) of the Act[7] in particular, because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A)[8] of the Act and Rule 19b–4(f)(6)[9] thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The NYSE seeks to have the proposed rule change become operative immediately to allow it to begin the process of selecting specialists to enable ETFs to trade on a UTP basis.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately as of May 15, 2001, because the proposed amendment to the NYSE's Policy effects a minor change with respect to the allocation of ETF's listed and traded on the Exchange on a UTP basis.[11] The Commission notes that the NYSE's Policy regarding ETFs traded on a UTP basis was approved on a pilot basis.[12] Thus, the instant proposed rule change is operative as of May 15, 2001 through May 7, 2002. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld form the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–10 and should be submitted by June 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12691 Filed 5–18–01; 8:45 am]

BILLING CODE 8010–01–M

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The NYSE recently amended its Policy to provide special procedures and to establish a new allocation committee for ETFs. The Commission accelerated approval of these amendments on a pilot basis through May 7, 2002. *See* Securities Exchange Act Release No. 44272 (May 7, 2001) (File No. SR–NYSE–2001–07).

[5] *See* note 4 *supra*.

[6] 15 U.S.C 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] *See* note 4 *supra*.

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3673]

Bureau of Educational and Cultural Affairs Request for Grant Proposals (ECA/PE/C/CU–01–64): Creative Arts Exchange Programs for Africa, East Asia and the Pacific, and Central Asia

SUMMARY: The Cultural Programs Division of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for assistance awards for international Creative Arts Exchanges. Public and private U.S. non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to conduct programs for Cultural Tourism in Africa; Performing Arts Presenters in East Asia and the Pacific; or Protecting Cultural Heritage: Film And Documentary Archives In Central Asia.

Program Information

Overview: The Bureau of Educational and Cultural Affairs (ECA) invites applicants to submit proposals that promote the institutional capacity, professional expertise and economic viability of arts institutions and cultural entities in Africa, East Asia and the Pacific, and Central Asia. Programs supported by the Creative Arts Exchanges grants should create or expand ongoing institutional partnerships, and offer experiential learning activities, and share methods and materials that will enhance the development of their cultural institutions and management skills. This program is not academic in nature; programs should be designed to provide practical, hands-on experience.

Guidelines: The proposal should anticipate a grant period that will begin no earlier than September 1, 2001.

Competitive proposals usually have the following characteristics: (1) An active, existing partnership between a U.S. organization and the foreign partner institution(s), or strong potential to develop a sustainable, productive partnership; (2) a proven successful track record for conducting similar program activity; (3) experienced staff with knowledge of the region and local language(s) ability; (4) a clear and reasonable implementation plan and well-articulated expected outcomes; (5) a two-way exchange; and (6) concrete ideas for possible follow-on activities to take place after the funded grant period.

Proposals should reflect a practical understanding of the current cultural, political, economic and social environment that is relevant to the theme addressed in the proposal.

Proposals should also indicate a strong knowledge of cultural activities and organizations working in the region. Applicants should identify the U.S. and foreign partner organizations and individuals with whom they are proposing to collaborate and describe in detail previous cooperative projects in the section on "Institutional Capacity." Proposals should give an indication that the program ideas were jointly developed between the American and foreign organization(s). Resumes for proposed U.S. and foreign staff, trainers, consultants should be included in the proposal.

Unless otherwise specified below: (1) Program activities may include: A cost-effective needs assessment; an open, merit-based selection process; short-term training; study tours; consultations; site visits; internships; performances or exhibits; a specific group project; and extended, intensive workshops; (2) Programming should include a U.S. exchange component for foreign participants; (3) In-country activities should be designed to reach a wide audience and give the exchange participants an opportunity to be co-leaders on workshops, (4) Orientation sessions are required for both foreign and U.S. participants, and (5) The project should include activities that promote two-way exchanges and allow the foreign program participants to experience American life and culture, and that will provide Americans an opportunity to learn about the culture of the partner's country.

Programs should be designed so that collaboration and information sharing that occurs during the grant period will continue long after the grant period is over. Proven methods of sustainability include, but are not limited to: A commitment to create or support joint or in-country cultural projects; joint activities recognized by the international community; regularly published electronic and/or hard-copy newsletters; and ongoing mentoring through Internet communication or other means.

To be considered for a grant award in this competition, the proposed exchange program must address one of the following themes:

- *Cultural Tourism* (Single-Country Program with Ghana, Mali or Niger)
- *Performing Arts Presenters* (Single-Country/City Program with Indonesia, Korea, Vietnam or Hong Kong)
- *Protecting Cultural Heritage: Film And Documentary Archives In Central Asia* (Single- or Multiple-Country Program with the Central Asian countries of the New Independent States: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan)

Cultural Tourism

Overview: For many African countries there are few opportunities on a local or regional level to carve out a viable sector of the nation's economy. Africa's rich culture and traditions, and historical links to the global community, provide an environment unmatched in its potential for establishing a strong cultural tourism industry. Cultural tourism encourages increased involvement in the historical growth of a region, responsible stewardship of local resources, develops the local economy, and strengthens educational institutions. An established tourist industry will also provide a foundation for grassroots business development.

Museums and other culturally important sites are the gateway to tourism development, the focal point from which the tourist industry expands. Each African country has its own history, resources and professional expertise from which to establish the historical cultural tourism industry. The goals of this program are threefold: (1) To create and enhance ongoing international partnerships between specific sites in the U.S. and the African countries participating in this program, (2) to bring African and American visual arts and cultural heritage professionals together in a global arena, and (3) to comprehensively improve a specific culturally important site that will result in increased cultural tourism for the region.

Program Guidelines: Applicants are invited to submit a proposal for a two-way exchange program focusing on cultural tourism in Ghana, Mali or Niger. The program may be centered on a specific cultural site (e.g. museum, nature preserve, historical landmark, archaeological site, etc.). The program plan should indicate a balanced exchange of participants, build on an existing foundation, and include joint work for the enhancement of interpretive and educational programming and other components marketable in the area of international tourism.

Applicants are strongly encouraged to focus on the following themes when developing proposals:

Ghana: Slave Routes within Ghana. The program should focus on the northern region in Ghana, using lessons learned from the existing, well-established tourist trade on the coast of the central region.

Mali: Archaeological Tourism and Cultural Heritage. The proposal should focus on conserving and developing for tourism the archaeological sites of Jenne-Jenna and/or Mopti. This program will build on an assessment conducted by American Cultural Specialists on a previous ECA grant.

Niger: Eco/Cultural Tourism with Rock Art or Dinosaur Fossil Beds. The program should analyze the potential to study, conserve and develop for tourism Niger's dinosaur fossil beds and 8,000-year-old rock art.

The program plan should follow the program and budget guidelines included in this RFGP. In addition, the proposal should include the following components:

- Assessment site visit, if necessary.
- Video Documentation of the cultural site development throughout the grant period, conducted jointly with local staff to ensure the continuation of documentation after the grant period ends.
- At least one seminar on general museology, the role of museums in cultural tourism, and other relevant topics in cultural tourism for a wide audience. Target audience may include government officials at the local to ministry level, museum professionals, cultural specialists, tourist board, land management office, tourist agencies, national arts council and museums association. African and American participants should jointly plan and co-conduct the in-country seminars.

Additional program elements can include, but are not limited to:

- Creation of work plans to develop and run a cultural site or museum for the purpose of tourism development.
- Study tour of U.S. cultural heritage sites.
- Modest purchases of equipment or services.
- Development of educational and interpretive presentations and materials.

Program Participants: The U.S. grantee organization will recruit a mix of upper and mid-level professionals (decision makers and hands-on professionals) to participate in this program. The partner organizations will advertise to a wider target audience for the in-country seminar(s) on topics in cultural tourism.

Organizations planning to submit a proposal for Cultural Tourism in Africa are encouraged to contact the program office for a consultation before the submission deadline: Susie Baker *sbaker@pd.state.gov;* Tel: (202) 205–2209. Before calling, organizations should be ready to discuss a concrete concept specific to the guidelines supplied in this request for grant proposals.

Performing Arts Presenters

Overview: This project is intended to present opportunities for performing arts presenters in the U.S. to learn about management styles in Vietnam, Korea, Indonesia or Hong Kong and for their presenters to gain knowledge about the field in the U.S. The exchange will offer opportunities for arts managers to acquaint themselves with the range of performing artists in each other's country. Performing arts tours can help solve problems and reduce tensions caused by deep-rooted differences between the mindsets of Americans and citizens of other countries. Carrying out such exchanges is often hampered by the very cultural misperceptions that such tours hopefully can address, along, of course, with contractual misunderstanding, incompatible management styles, country-specific labor idiosyncrasies, intellectual property issues, mismatched venue expectations, etc. This program should create an arts management infrastructure that increases the access countries have to each other's performing arts groups and the cultural insight that such access brings. This cultural insight is particularly valuable to the U.S. at this time vis-à-vis Vietnam, Korea, Indonesia or Hong Kong—countries in which trade can be increased, human rights issues resolved, and bilateral tensions decreased more easily within a context of greater mutual understanding.

Program Guidelines: Applicants are invited to submit proposals for the Performing Arts Presenters program. The proposed program should facilitate the exchange of ideas and joint projects between arts presenters in the U.S. and one of the eligible countries listed above. Through joint collaboration and program elements designed to remove cross-cultural barriers, participants should examine the ideas, motivations, and presentation practices of their international counterparts, develop work plans, and participate in program activities that will help each side better understand how the other side operates.

Ideally, the program would culminate in an artistic exchange of performers from Indonesia, Korea, Vietnam or Hong Kong to the U.S. through cost sharing and/or third party funding. The goal of the program is to create an environment of mutual understanding and ongoing collaboration between performing arts presenters from different countries in order to achieve fruitful artistic exchanges.

Competitive proposals should include, but are not limited to, the following four components:

- Consultation/assessment visit by American arts presenters to Vietnam, Korea, Indonesia or Hong Kong: A team of seasoned American arts presenters will travel overseas to meet with leading arts presenters in the region, to increase their knowledge of performing arts presentations and assess performance philosophy and venues.
- Workshops in the U.S.: American experts in performing arts presentation will conduct workshops in the U.S. for foreign participants. Workshop topics should focus on legal, contractual, marketing, commercial and logistical issues involved with presenting American performing artists. Workshops should also address similarities and differences between performing arts organizations in the U.S. and overseas region, and an overview of the difficulties that American performing artists encounter when conducting overseas tours. Experiential workshops could also include case studies and problem solving exercises.
- National or regional conference for arts presenters: An opportunity for leading performing arts presenters from the overseas region to attend one of the national or regional conferences for arts presenters in the U.S., where the participants would have an opportunity to increase their understanding, with the aid of mentors, of trends in the arts presentation field and to view a wide range of performing artists. At the conclusion of this component, the American and foreign arts presenters will develop proposals and timelines to present specific artists in each other's country.
- Seminar or presentation for performing arts presenters in the overseas region: The proposed plan should include at least one in-country seminar or presentation for a group of performing arts presenters on an issue related to the grant theme, to maximize cost-effectiveness and share expertise with a wider audience.

Program Participants: (1) The grantee organization will recruit American performing arts presenters for the initial assessment visit and final phase of the project, and (2) The grantee organization will recruit qualified foreign performing arts presenters in the overseas region.

Protecting Cultural Heritage: Film and Documentary Archives in Central Asia

Overview: Prior to the collapse of the Soviet Union, the national film archive in Moscow was the central and official government repository of most of the country's feature films, documentary films, and other historical audiovisual materials. With independence, the former Soviet Central Asian countries became responsible for preserving their own film and documentary heritage for use within their country and to share with foreign professionals and public audiences. But their archives lack the means to fully achieve this.

Program Guidelines: ECA invites applicants to submit proposals for an exchange program with documentary and film archives in Central Asia that will help them become economically viable, self-sustaining cultural and scientific institutions with the structure and specialized personnel able to maintain, preserve and restore the film and documentary records of Central Asia and make them available for research, study, public screenings and film exchanges with American archives. The proposed program would link a non-profit American cultural institution with a partner organization in some or all of the following countries: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. Through site inspections, film collection assessments, workshops, seminars, training sessions and other relevant activities, the American and overseas partners would cooperate in identifying and resolving priority preservation problems requiring immediate attention. Further program components should yield steps toward long-term solutions to other problems as identified and prioritized through a joint decision making process. These program elements should deal with such matters as copyright protection and intellectual property rights, archive administration and management, film and documentary exchanges with other institutions, technology development, economic growth and sustainability as well as cataloguing, conservation, and other film preservation practices.

The goal of the proposed exchange is to upgrade and strengthen Central Asian archives so they qualify for membership in the International Federation of Film Archives (FIAF), whose members include more than 100 institutions in over 63 countries which collect, restore, document and exhibit films. FIAF membership would provide the Central Asian archives with a number of benefits, including film loans and information on congresses, symposia and workshops on film preservation. More importantly, the archives would become part of an international network of technical advice and information exchange among the world's largest association of moving image archives, thus multiplying and maximizing the institutional linkage of the proposed exchange described here. Priority consideration will be given to the proposal that can achieve this goal.

In addition to the activities included in this RFGP's general program and budget guidelines, proposed funding would support the following specific activities.

- Site inspection to assess immediate and long-term preservation and archival issues, and to jointly plan an exchange visit to the U.S.
- Assessment of archival film holdings, examination of their cultural and historical significance, and evaluation of potential for film exchanges between the U.S. and the countries of Central Asia.
- Examination of archival relationships to local film production and distribution companies.
- In-country presentation(s) and discussions with a larger group of Central Asian film professionals on issues related to film preservation and archives, to maximize cost-effectiveness and share expertise with a wider audience.

The organization(s) awarded this grant will work closely with the program office on all aspects of program implementation and will maintain contact with the Public Affairs Section(s) of the U.S. embassy/ies regarding in-country phases of the program.

Organizations planning to submit a proposal for Film and Documentary Archives in Central Asia are strongly encouraged to contact the program office for a consultation before the submission deadline: Susan Cohen *scohen@pd.state.gov;* Tel: (202) 619–5792. Before calling, organizations should be ready to discuss a concrete concept specific to the guidelines supplied in this request for grant proposals.

Selection of Participants

To be competitive, proposals should include a description of an open, merit-based participant selection process, including recruitment methods, selection criteria and proposed reviewers. A sample application should be submitted with the proposal. In some cases, the applicant pool may be small due to the level of expertise required or nature of the program. An application process should still be carried out to (1) ensure fair selection, (2) give applicants a forum in which to address their personal and professional needs and program goals, (3) provide the ECA program office and U.S. embassy an opportunity to participate in the selection process, and (4) collect necessary information for travel documents and visas. Applicants should expect to carry out the entire selection process, but the ECA Program Office and the Public Affairs Section of the U.S. Embassy abroad should be consulted. ECA and the U.S. Embassies retain the right to nominate participants and to approve or reject participants recommended by the grantee institution. Priority must be given to foreign participants who have not traveled to the United States.

Visa Regulations

Foreign participants on programs sponsored by The Bureau are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations. Please refer to the Proposal Submission Instructions (PSI) for further information.

Project Funding

The funding available for Creative Arts Exchanges will be disbursed through grants to several organizations. Priority will be given to grant proposals with budgets ranging from $45,000 to $90,000. Organizations should not submit a budget that exceeds $90,000 in costs to be paid by ECA, however the overall budget may exceed $90,000 through cost sharing by the U.S. and foreign partner organization(s) and/or a third party funder. Approximately $270,000 has been allotted for this competition, but may be subject to change. ECA expects to announce the assistance awards recipients around late July 2001. Organizations with less than four years of experience in managing international exchange programs are limited to $60,000. Grants are subject to the availability of funds.

Budget Guidelines

Applicants must submit a comprehensive line item budget for the entire program based on the model in the Proposal Submission Instructions. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants should provide separate sub-budgets for each program component, phase, location, or activity. Applicants should include a budget narrative or budget notes for clarification of each line item.

Cost sharing: Since the Bureau's grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other sources of cost sharing, including financial and in-kind support. In kind contributions may include, but are not limited to, donations of airfares, hotel and/or housing costs, ground transportation, interpreters, room rentals and equipment. Proposals with substantial private sector support from foundations, corporations, and other institutions will be considered highly competitive. Please refer to the statement on cost sharing in the Proposal Submission Instructions.

Allowable costs for the program include the following:

1. *Transportation.* International and domestic airfares (per the Fly America Act), transit costs, ground transportation costs, and visas for U.S. participants to travel to the partner organization's country (J–1 visas for foreign participants to travel to the U.S. for travel funded by ECA's grant assistance are issued at no charge).

2. *Per Diem.* For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. For activities in the partner organization's country, ECA strongly encourages applicants to budget realistic costs that reflect the local economy. Domestic per diem rates may be accessed at: *http://www.policyworks.gov/* and foreign per diem rates can be accessed at: *http://www.state.gov/www/perdiems/index.html.*

3. *Interpreters.* Local interpreters with adequate skills and experience should be used for program activities. Typically, one interpreter is provided for every four visitors who require interpreting, with a minimum of two interpreters. ECA grants do not pay for foreign interpreters to accompany delegations from their home country. Salary costs for local interpreters must be included in the budget under general program costs. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

4. *Book and cultural allowance.* Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses only when they escort participants to cultural events. U.S. program staff, consultants, trainers and participants are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise or to conduct program components. Daily honoraria cannot exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts must be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop and translate materials for participants. ECA strongly discourages the use of automatic translation software for the preparation of training materials or any information distributed to the group of participants or network of organizations. Costs for high-quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to the ECA Program Office with interim and final reports.

8. *Equipment.* Proposals may contain costs to purchase equipment for programming and partner organizations in the target country. Use of equipment purchased with grant funds must be significantly incorporated into the program plan. Eligible items include: Computers, printers, scanners, digital cameras, audio/video equipment, fax machines, copy machines, or other computer or office equipment. Costs for furniture are not allowed. Equipment costs must be kept to a minimum and are subject to approval by ECA.

9. *Working meal.* Only one working meal may be provided during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. The allowance may be used for incidental expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered under the terms of the ECA-sponsored ASPE health insurance policy. U.S. staff, consultants, trainers and participants will not be covered by the ECA-sponsored ASPE health insurance policy. Applicants are permitted to include costs in the program budget for U.S. participants' international travel insurance, for travel funded under this program.

12. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total requested from the Bureau. Proposals should show strong administrative cost-sharing contributions from the applicant, the partner organization and other sources.

Review of your budget will benefit from your professional judgment of costs for activities in the proposal. The Bureau is committed to containment of administrative expenses, consistent with overall program objectives and sound management principles. Program activities and line items to be cost-shared should be included in the narrative and the budget. Please refer to the Proposal Submission Instructions (PSI) for complete budget guidelines.

Announcement Title and Number

All communications with ECA concerning this Request for Grant Proposals (RFGP) should refer to the announcement title "Creative Arts Exchanges FY01" and reference number ECA/PE/C/CU–01–64.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. Proposals should adequately address each area of review. These criteria are not rank ordered.

1. Program Planning and Ability To Achieve Objectives

Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the included countries. Objectives should be reasonable and attainable. A detailed work plan should explain step-by-step how objectives will be achieved and should include an overall timetable for completion of major tasks for the entire grant period, and sample schedules for program components wherever possible. The substance of workshops, internships, seminars, presentations and/or consulting should be described in detail. Responsibilities of foreign partners should be clearly described.

2. Institutional Capacity

The proposal should include: (1) The U.S. institution's mission and date of establishment, (2) detailed information about the foreign partner institution's capacity and the history of joint projects, (3) descriptions of experienced staff members who will implement the program, and (4) relevant information that establishes a successful track record. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The narrative should demonstrate proven ability to handle logistics. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/region(s).

3. Cost Effectiveness and Cost Sharing

Overhead and administrative costs for the proposal, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Administrative costs should be less than twenty-five (25) per cent of the total funds requested from the Bureau. Applicants are encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, the foreign partner, and other sources should be included in the budget.

4. Program Evaluation

Proposals must include a plan and methodology to evaluate the program. The evaluation plan should show a clear link between program objectives and expected outcomes in the short- and medium-term, and provide a well-thought-out description of performance indicators and measurement tools. ECA recommends that the proposal include a draft survey questionnaire or other evaluation tool.

5. Multiplier Effect/Impact

Proposals should show how the program will strengthen long-term mutual understanding, institutionalization of program goals, and widespread sharing of information. Applicants should describe how responsibility and ownership of the program will be transferred to the foreign participants to ensure continued activity and impact. Programs that include convincing plans for sustainability will be given top priority.

6. Follow-On Activities

Proposals should provide a plan for continued follow-on activity (beyond the ECA-funded grant period) ensuring that the ECA-supported programs are not isolated events. Concrete examples of potential follow-on activities should be clearly described.

7. Support of Diversity

Proposals should demonstrate substantive support of ECA's policy on diversity. Program content (orientation, evaluation, program sessions, resource materials, follow-on activities) and program administration (selection process, orientation, evaluation) should address diversity in a comprehensive and innovative manner. Applicants should refer to the "Diversity, Freedom and Democracy Guidelines" on page

four of the Proposal Submission Instructions (PSI).

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards resides with the Bureau's Grants Officer.

Submissions

Applicants must follow all instructions given in the Application Package. The applicant's original proposal and ten (10) copies should be sent to: U.S. Department of State, Ref.: ECA/PE/C/CU–01–64, Program Management, ECA/EX/PM, Room 336, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" and "Budget" sections of the proposal on a 3.5" diskette. The Bureau will transmit these files electronically to the Public Affairs section at the U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process. Once the RFGP deadline has passed, Bureau staff may not discuss this competition in any way with applicants until the proposal review process has been completed.

Deadline for Proposals

All copies must be received by the U.S. Department of State, Bureau of Educational and Cultural Affairs, by 5 p.m. Washington, DC time on Thursday, June 21, 2001. Faxed documents will not be accepted at any time. The mailroom closes at 5:00 p.m. sharp; no late submissions will be accepted. Documents postmarked or sent by express mail or courier to arrive by June 21, 2001, but received at a later date, will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

To Download an Application Package Via the Internet

The entire Application Package (RFGP and PSI) may be downloaded from the Bureau's website at *http://exchanges.state.gov/education/rfps/*.

For Further Information Contact: *By mail:* United States Department of State, SA–44, Bureau of Educational and Cultural Affairs, Office of Citizen Exchanges (ECA/PE/C), Room 220, Washington, D.C. 20547 attn: Creative Arts Exchanges ECA/PE/C/CU–01–64;

By phone: Tel: (202) 619–4779; fax: 202–619–6315;

By e-mail: lproctor@pd.state.gov.

Interested applicants may request the Application Package, which includes the Request for Grant Proposals (RFGP) and the Proposal Submission Instructions (PSI). Please specify Creative Arts Exchanges ECA/PE/C/CU–01–64 on all inquiries and correspondence. All potential applicants should read the complete announcement before sending inquiries or submitting proposals.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *, to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau or program officers that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the U.S. Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements. Organizations will be expected to cooperate with the Bureau in evaluating their programs under the principles of the Government Performance and Results Act (GPRA) of 1993, which requires federal agencies to measure and report on the results of their programs and activities.

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal U.S. Department of State procedures.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal U.S. Department of State procedures.

Dated: May 7, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01–12571 Filed 5–18–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice Number 3660]

Overseas Schools Advisory Council; Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Friday, June 15, 2001, at 9:30 a.m. in Conference Room 1105, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas, which are assisted by the Department of State and which are attended by dependents of U.S. Government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. The agenda includes a review of the recent activities of American-sponsored overseas schools and the overseas schools regional associations, a presentation on the status of education in the United States and its impact on American-sponsored overseas schools, a progress report on projects selected for the annual Program of Educational Assistance, and selection of a new Vice Chair of the Council.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should so advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, Room H328, SA–1, Washington, DC 20522–0132, telephone 202–261–8200, prior to June 5, 2001. Each visitor will be asked to provide a date of birth and Social Security number at the time of registration and attendance and must carry a valid photo ID to the meeting. All attendees must use the C Street entrance to the building.

Dated: May 7, 2001.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council, U.S. Department of State.

[FR Doc. 01–12752 Filed 5–18–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Automatic Dependent Surveillance-Broadcast (ADS–B) Link Decision

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of FAA public meetings on ADS–B Link Decision.

SUMMARY: The FAA is issuing this notice to advise the public of two meetings to: (1) Share information concerning the use of Automatic Dependent Surveillance-Broadcast (ADS–B) as a surveillance technology; (2) address the technical, manufacturing, and implementation aspects and issues of ADS–B; and (3) gain better insight into avionics implementation costs and feasibility associated with ADS–B.

DATES: The first meeting will be held June 6, 2001, from 9 a.m. to 4 p.m. The second meeting will be held June 25–26, 2001, running from 8:30 a.m.–4 p.m. and 8:30 a.m.–12 p.m. respectively.

ADDRESSES: The June 6 meeting will be held at Capital Gallery, 600 Maryland Avenue, SW., Suite 700 (BAE Systems), Washington, DC. The June 25–26 meeting will be held at the Aerospace Building, 901 D Street, SW., Suite 850 (BAE Systems), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Jones, CNS Systems Branch, ASD–140, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 358–5345; fax (202) 358–5298; e-mail ronnie.jones@faa.gov. Mr. Jones can provide additional details on meeting locations.

SUPPLEMENTARY INFORMATION: The purpose of the June 6 meeting is to: (1) Review how the FAA sees the use of ADS–B as a surveillance technology; (2) review the progress made by the FAA defining ADS–B configurations and applications; (3) review the technical evaluations, simulations and benefits analysis recently completed; and (4) review ongoing related work by the FAA. The outcome is to give avionics and aircraft manufacturers and airspace users enough information for the follow-up meeting where participants can help the FAA gain better insight into avionics implementation costs and feasibility. The agenda for the June 6 meeting will include:

- *Introductions and Objectives*
- *ADS–B Applications/Benefits* (identify ADS–B applications and resulting benefits; focus on near-term applications included in the Operational Evolution Plan and the cost-sharing proposals; address diversity of ADS–B applications and diversity fo users)
- *Technical Link Assessment (TLAT)* (provide overview of simulation results used by TLAT; discuss work accomplished and additional plans for simulation efforts since completion of TLAT report; discuss flight test results and validation of simulation models; provide summary of TLAT report; provide summary of what we do not yet know)
- *Cost Benefit Analysis (CBA)* (provide summary and discuss CBA report)
- *Operational Safety Assessment (OSA)* (provide summary and discuss OSA report)
- *Multi-Link Options* (describe multi-link configuration options; review consequences of a multi-link answer)
- *What We Do Not Know* (discuss spectrum availability)
- *Moving Forward* (review plans for follow-on meeting)

The purpose of the June 25–26 meeting is to discuss with avionics and aircraft manufacturers the issues and costs associated with implementing ADS–B alternatives and configurations. The FAA has the ground-based cost information, but needs the avionics implementation cost information to make the ADS–B link decision planned for September 2001.

Attendance is open to the interested public but limited to space availability. Persons wishing to attend or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC, on May 15, 2001.

John A. Scardina,

Director, FAA Office of System Architecture and Investment Analysis.

[FR Doc. 01–12726 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Future Flight Data Collection Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Future Flight Data Collection Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Flight Data Collection Committee.

DATES: The meeting will be held May 31, 2001 starting at 1 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue,

NW., Suite 1020, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Future Flight Data Collection Committee meeting. The agenda will include:

May 31

- Opening Session (Welcome, Introductory, and Administrative Remarks, Agenda Review, Review/Approve Summary of Previous Meeting.)
- Receive Reports on the deliberations of Working Groups 1, 2 and 3
- Discuss Timeline for Deliverables from the Working Groups
- Review progress on the Final Report
- Receive Presentations
- Closing Session (Other Business, Establish Agenda for Next Meeting, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on May 15, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12723 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 193/EUROCAE Working Group 44 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases.

DATES: The meeting will be held June 4–8, 2001 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1140 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting. The agenda will include:

June 4

- Opening Plenary Session (Welcome and Introductory Remarks, Review/Approval of Meeting Agenda, Review Summary of Previous Meeting)
- Presentations/Discussions of formation of new Subgroup 4 (Terrain and Airport Data Exchange Formats)
- Subgroup 2 (Terrain and Obstacle Databases):
  - —Review past minutes and actions; Presentations; Review of draft document
- Subgroup 3 (Airport Databases):
  - —Review past minutes and actions; Begin Final Review and Comment (FRAC)
  - Process for the *User Requirements for Aerodrome Mapping Information* document

June 5, 6, 7

- Subgroups 2 and 3 continue discussions

June 8

- Closing Plenary Session (Summary of Subgroups 2 and 3, Summary of Discussion on Subgroup 4, Assign Tasks, Other Business, Date and Place of Next Meetings, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC, on May 15, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12724 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held June 12, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington; DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

June 12

Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)

Publication Consideration/Approval

- Final Draft, Change 2 to DO–160D, *Environmental Conditions and Test Procedures for Airborne Equipment*, RTCA Paper No. 135–01/PMC–144, prepared by SC–135.
- Final Draft, DO–181C, *Minimum Operational Performance Standards for Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/Mode S) Airborne Equipment*, RTCA Paper No. 150–01/PMC–148, prepared by SC–187.
- Final Draft, DO–218B, *Minimum Operational Performance Standards for the Mode S Airborne Data Link Processor*, RTCA Paper No. 151–01/PMC–149, prepared by SC–187
- Final Draft, Change 3 to DO–204, *Minimum Operational Performance Standards 406 MHz Emergency Locator Transmitters (ELT)*, RTCA Paper No. 132–01/PMC–143, prepared by SC–160.
- Final Draft, *Concepts For Services Integrating Flight Operations And Air Traffic Management Using Addressed Data Link*, RTCA Paper No. 147–01/PMC–146, prepared by SC–194.

Discussion

- New Special Committee, Airport Security Access Control
  - —Discuss results of earlier PMC action to establish this new committee
  - —Public comment
- Special Committee 195, Flight Information Services Communications
  - Consideration of Terms of Reference Update, Proposed Revision 3
  - Special Committee 181, Navigation Standards
  - Consideration of nominated new Special Committee, Dave Nakamura, Boeing
- Special Committee 190, Application Guidelines for DO–178B
  - —Chairman's Presentation
  - —Committee activity update and introduction of SC–190's document, *Guidelines for CNS/ATM Systems Software Integrity Assurance*
  - Special Committee 172, VHF Air-Ground Communication
  - Chairman's Report
  - Two issues: (1) Retention of Working Group papers; (2) Document Update Process

Action Item Review

- Action Item 01–01, Report on RTCA National Airspace Redesign activity
- Action Item 02–01, Member's comment on need for a Multi Function Display Special Committee

Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Dated: Issued in Washington, DC, on May 15, 2001.

James L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12725 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9688]

Notice of Request To Renew the Approval of an Information Collection: OMB No. 2126–0001 (Driver's Record of Duty Status)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: This notice announces that the FMCSA intends to request the Office of Management and Budget (OMB) to renew approval for the information collection described below. This information collection is necessary to ensure that motor carriers and commercial motor vehicle (CMV) drives comply with the maximum driving and duty time limitations prescribed in the Federal Motor Carrier Safety Regulations (FMCSR). This notice is required by the Paperwork Reduction Act.

DATES: Please submit comments by July 20, 2001.

ADDRESSES: Mail or hand-deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* Be sure to include the docket number appearing in the heading of this document on your comment. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you would like to be notified when your comments is received, you must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Ms. Angeli Sebastian, (202) 366–4001, Chief of Driver and Carrier Operations (MC–PSD), Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

- *Title:* Driver's Record of Duty Status.
  OMB Approval Number: 2126–0001.
  Background: The paper record of duty status (RODS) and automatic on-board recording device are the primary regulatory tools used by the FMCSA to determine motor carriers' and CMV drivers' compliance with the maximum driving and duty time limitations prescribed in the FMCSRs. These tools are also used by States that receive FMCSA Motor Carrier Safety Assistance Program (MCSAP) grants to determine regulatory compliance of CMV drivers during the safety inspections they perform. The information contained in the RODS determines whether a driver can drive a CMV on any given day based upon the driver's duty hours recorded over the previous 7 to 8 days. The RODS is an important tool to aid the FMCSA to help ensure the safety of the general public by reducing the number of tired drivers on the nation's highways.
  Respondents: Motor carriers and approximately 6.4 million CMV interstate drivers subject to FMCRSs or compatible State regulations.
  Frequency: Daily.
  Estimated Total Annual Burden: 42,464,327 hours.

Public Comments Invited

We invite you to comment on any aspect of this information collection, including, but not limited to (1) whether the collection of information is necessary for the FMCSA to meet its goal of reducing truck crashes, including whether the information is useful to this goal; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, usefulness and clarity of the information collected; and (4) ways to minimize the collection burden without reducing the quality of the information collected.

Electronic Access and Filing

You may submit or retrieve comments online through the Docket Management System (DMS) at *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site. You may also download an electronic copy of this document from the DOT Docket Management System on the Internet at *http://dms.dot.gov/search.htm.* Please include the docket number appearing in the heading of this document.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Issued on: May 15, 2001.

Brian M. McLaughlin,

Acting Deputy Administrator.

[FR Doc. 01–12619 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–01–9332]

Exemption Application From the Brotherhood of Railroad Signalmen and CSX Transportation, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The FMCSA has received a joint application from the Brotherhood of Railroad Signalmen (BRS) and CSX Transportation, Inc. (CSX) for an exemption from the hours-of-service rules for drivers of commercial motor vehicles engaged in interstate commerce. Petitioners request an exemption from the 60-hour in 7-day and 70-hour in 8-day rules for CSX's signal construction gangs, comprised of BRS members. The FMCSA seeks public comment on the merits of the application and whether the FMCSA should grant or deny it.

DATES: Comments must be received on or before June 20, 2001.

ADDRESSES: You can mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit*. You should include the docket number that appears in the heading of this document. You can examine and copy all comments at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. You may also view comments on the Internet at *http://dms.dot.gov* using the docket number that appears in the heading of this document. If you want us to notify you that we received your comments, please include a self-addressed, stamped postcard, or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. David Miller, (202) 366–6408.

SUPPLEMENTARY INFORMATION:

Background

BRS and CSX's Application

The CSX is a private motor carrier of property as defined by 49 CFR part 390 and a Class I railroad as defined by 49 CFR part 1201. The BRS and CSX filed a joint application that asks the FMCSA for either one of two actions. The petitioners' first (and preferred) request is for an interpretation that the hours-of-service (HOS) regulations (49 CFR Part 395) do not apply to CSX railroad signal employees driving commercial motor vehicles (CMVs) on public roads in interstate commerce. The alternative request is for an exemption from the HOS rules that would allow CSX railroad signal employees to work their collectively-bargained schedule, i.e., 8 consecutive days on duty at up to 12 hours per day, followed by 6 consecutive days off duty. A copy of the joint application for exemption is in the docket.

The FMCSA disagrees with petitioners' argument that the HOS regulations "are not intended to, and do not, apply to railroad signal employees who are subject to HOS requirements promulgated by Congress specifically for application to railroad signal employees." The 1976 amendment to the Hours of Service Act of 1907 dealing with railroad signal employees (49 U.S.C. 21104) was intended to protect them from being required to work excessive hours. Nothing in Sec. 21104 suggests that Congress intended it to supersede the HOS regulations applicable to highway operations of CMVs, which were based on the Motor Carrier Act of 1935 (49 U.S.C. 31502). The language and legislative history of section 21104 reveal no specific intent to protect the public from potential risks associated with the operation of CMVs by railroad signal personnel who are on-duty for many hours. The FMCSA's HOS regulations, on the other hand, are designed to protect all users of the public highways from fatigued CMV drivers (49 CFR Part 395). Petitioners' argument is not supported by any authority.

Exemption Request

The agency will, however, consider petitioners' request for an exemption from Part 395 to the extent needed to allow railroad signal employees to work their collectively-bargained schedule, i.e., 8 consecutive days on duty at up to 12 hours per day, followed by 6 consecutive days off duty.

According to the joint application, CSX employs about 1,765 signalmen who are represented by the BRS. It is unclear exactly how many of these employees would be affected by the exemption requested.

The petition states that CSX signal employees are organized into 91 construction gangs. They drive private vehicles from their homes to a hotel or motel close to their next job site. From there, CSX transports signal employees to the job site in company vehicles driven by other members of the crew. These drivers typically spend two to three hours per day driving, and the rest of their time working on railroad signal equipment. They also move their vehicles between job sites, which usually takes less than four hours.

Petitioners reported that "[d]uring 1999, members of CSX's signal construction gangs operated approximately 133 vehicles prior to June 1 and approximately 177 vehicles after June 1, at an average annual rate of 200 days per vehicle or more than 30,000 vehicle days. During that period of time there were no fatalities related to operation of CMVs by members of signal construction gangs. There were no instances of personal injury and only 24 instances of property damage related to operation of CMVs by members of signal construction gangs. Eleven of those instances involved CSX vehicles being struck by outside parties. Others involved such things as collisions with deer. Thus, there is minimal risk in authorizing a modest increase in the work week for this small group of CSX drivers. Any such risk that may exist is more than offset by a very substantial off-duty period between each work week."

The BRS and CSX offered additional arguments in support of an exemption. The entire application is available in the docket.

On December 15, 2000, the Association of American Railroads (AAR) filed with the FMCSA a "petition * * * in support of the joint petition filed September 12, 2000, by the Brotherhood of Railroad Signalmen and CSX Transportation, Inc." Since the AAR document is not a separate request for exemption, but rather a body of arguments and data in support of the previous petition, the FMCSA will treat it as a comment. It is also available in the docket.

Exemption Procedure

Drivers for motor carriers that do not operate every day of the week are prohibited from driving after being on duty 60 hours in any 7-day period (§ 395.3(b)(1)). Drivers for motor carriers that operate every day of the week may not drive after being on duty 70 hours in any 8-day period (§ 395.3(b)(2)). The BRS and CSX are applying for a 2-year exemption from both of these requirements under 49 CFR Part 381, subpart C (§§ 381.300 through 381.330).

Section 381.310 (c) and (d) require applicants to submit a written statement that:

1. Describes the reason the exemption is needed, including the time period during which it is needed;

2. Identifies the regulation from which the applicant would like to be exempted;

3. Provides an estimate of the total number of drivers and CMVs that would be operated under the terms and conditions of the exemption;

4. Assesses the safety impacts the exemption may have;

5. Explains how the applicant would ensure that it could achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation; and

6. Describes the impacts (e.g., inability to test innovative safety management control systems, etc.) the applicant could experience if the exemption is not granted by the FMCSA.

7. The application must include a copy of all research reports, technical papers, and other publications and documents the applicant references.

An exemption is limited to two years from its approval date, but it may be renewed upon application to the FMCSA. This document and the material in the docket constitute all of the relevant information known to the agency.

Request for Comments

In accordance with 49 CFR Part 381, the FMCSA is requesting public comment on the exemption application from the BRS and CSX.

We will consider all comments received before the close of business on the comment closing date of this notice. We will file in the public docket comments received after the comment closing date and will consider them to the extent practicable, but the FMCSA may grant or deny the BRS and CSX exemption at any time after the close of the comment period.

Authority: 49 U.S.C. 31136 and 31315; and 49 CFR 1.73.

Issued on: May 14, 2001.

Brian M. McLaughlin,

Acting Deputy Administrator.

[FR Doc. 01–12618 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcing the Fifth Quarterly Meeting of the Crash Injury Research and Engineering Network

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the Fifth Quarterly Meeting of members of the Crash Injury Research and Engineering Network. CIREN is a collaborative effort to conduct research on crashes and injuries at nine Level 1 Trauma Centers which are linked by a computer network. Researchers can review data and share expertise, which could lead to a better understanding of crash injury mechanisms and the design of safer vehicles.

DATES: The meeting is scheduled from 9 a.m. to 5 p.m. on June 21, 2001.

ADDRESSES: The meeting will be held in Room 6200–04 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: The CIREN System has been established and crash cases have been entered into the database by each Center. CIREN cases may be viewed from the NHTSA/CIREN web site at: http://www-nrd.nhtsa.dot.gov/include/bio_and_trauma/ciren-final.htm. NHTSA has held three Annual Conferences where CIREN research results were presented. Further information about the three previous CIREN conferences is also available through the NHTSA website. NHTSA held the first quarterly meeting on May 5, 2000, with a topic of lower extremity injuries in motor vehicle crashes, the second quarterly meeting on July 21, 2000, with a topic of side impact crashes, the third quarterly meeting on November 30, 2000, with a topic of thoracic injuries in crashes and the fourth quarterly meeting on March 16, 2001, with a topic of offset frontal collisions. Information from the May 5, July 21, and November 30, 2000, meetings and the March 16, 2001 meeting are also available through the NHTSA website.

NHTSA plans to continue holding quarterly meetings on a regular basis to disseminate CIREN information to interested parties. This is the fifth such meeting. The topic for this meeting is CIREN Outreach Efforts. Subsequent meetings have tentatively been scheduled for September and December 2001. These quarterly meetings will be in lieu of an annual CIREN conference.

FOR FURTHER INFORMATION CONTACT: Mrs. Donna Stemski, Office of Human-Centered Research, 400 Seventh Street, SW., Room 6206, Washington, DC 20590, telephone: (202) 366–5662.

Issued on: May 14, 2001.

Raymond P. Owings,

Associate Administrator for Research and Development, National Highway Traffic Safety Administration.

[FR Doc. 01–12617 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Docket No. NHTSA–2001–9562

Notice of Receipt of Petition for Decision That Nonconforming 1992 Chevrolet Corvette Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 1992 Chevrolet Corvette passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1992 Chevrolet Corvette passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("WETL") (Registered Importer 90–005) has petitioned NHTSA to decide whether 1992 Chevrolet Corvette passenger cars are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are 1992 Chevrolet Corvette passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1992 Chevrolet Corvette passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 1992 Chevrolet Corvette passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1992 Chevrolet Corvette passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence.* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 108 *Lamps, Reflective Devices and Associated Equipment*, 109 *New Pneumatic Tires*, 111 *Rearview Mirror*, 113 *Hood Latch Systems*, 114 *Theft Protection*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 208 *Occupant Crash Protection*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that non-U.S. certified 1992 Chevrolet Corvette passenger cars comply with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the non-U.S. certified 1992 Chevrolet Corvette passenger cars are not identical to their U.S. certified counterparts, as specified below, but still comply with the following Standard in the manner indicated:

Standard No. 101 *Controls and Displays:* The speedometer is digital and indicates both kilometers per hour and mile per hour.

Petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR part 565. Also, a certification label must be affixed to the driver's side door jamb to meet the requirements of 49 CFR part 567.

Additionally, the petitioner states that all vehicles will be inspected prior to importation to ensure that they are equipped with U.S.-model anti-theft devices, and that all vehicle that are not so equipped will be modified to comply with the Theft Prevention Standard at 49 CFR part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 15, 2001.

Marilynne Jacobs,

Director Office of Vehicle Safety, Compliance

[FR Doc. 01–12727 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9628]

Notice of Receipt of Petition for Decision that Nonconforming 2001 Ferrari 360 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2001 Ferrari 360 Passenger Cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2001 Ferrari 360 Passenger Cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 2001 Ferrari 360 Passenger Cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 2001 Ferrari 360 Passenger Cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2001 Ferrari 360 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2001 Ferrari 360 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2001 Ferrari 360 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*, as well as 49 CFR part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of the word ABrake" for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.-model headlamps and front sidemarker lamps and (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: Installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems*: Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection*: (a) Installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 15, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12728 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7523; Notice 2]

Decision That Nonconforming 1997 Chevrolet Blazer Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1997 Chevrolet Blazer multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1997 Chevrolet Blazer MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1997 Chevrolet Blazer), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("WETL") (Registered Importer 90–005) petitioned NHTSA to decide whether 1997 Chevrolet Blazer MPVs are eligible for importation into the United States. NHTSA published notice of the petition on July 13, 2000 (65 FR 44851) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice of the petition, from General Motors Corporation ("GM"), the manufacturer of the 1997 Chevrolet Blazer. In this comment, GM stated that during the 1997 model year, GM and its subsidiaries and affiliates assembled Chevrolet Blazers at several locations around the world. Those intended for sale in the United States, Canada, and some other world markets, were produced at two assembly plants located within the United States, at Linden, New Jersey (identified by plant code "K" in the 11th position of the vehicle identification number or "VIN" assigned to the vehicle) and at Moraine, Ohio, (identified by plant code "2" in the 11th position of the VIN).

GM stated that production of 1997 Chevrolet Blazers also occurred at a number of plants outside of the United States. GM stated that in order to satisfy unique market conditions and local regulations, vehicles produced at these foreign plants differed from those produced domestically in a number of respects, including the interior trim, chassis, and powertrain components with which they were built. Owing to the design and part differences between the 1997 Chevrolet Blazers produced domestically, and those produced overseas for foreign markets, GM stated that there is no assurance that the vehicles produced overseas would comply with all applicable Federal motor vehicle safety standards. GM noted that it does not typically perform tests or evaluations to determine the compliance of foreign market vehicles with the Federal standards because the vehicles were never intended for sale or use in the U.S. market. GM further observed that Blazers built overseas for foreign markets may contain locally sourced parts that are not subject to the same manufacturing, warranty, and approval process used within GM's North American operations and that these foreign sourced parts may have an impact on the vehicles' conformity with the Federal motor vehicle safety standards.

In light of these considerations, GM expressed the opinion that only the U.S. manufactured versions of the subject vehicles (those with plant codes "K" or "2" in the 11th position of their VINs) should be considered substantially similar to vehicles originally manufactured for sale in the U.S. and capable of being modified to comply with the Federal motor vehicle safety standards. GM contended that "subject vehicles manufactured at all other locations should not be considered substantially similar to vehicles originally manufactured for sale in the U.S. and, thus, not eligible for importation."

NHTSA accorded WETL an opportunity to respond to GM's comments. WETL stated that the 1997 Chevrolet Blazers that are the subject of its petition are U.S. manufactured vehicles with plant codes "K" or "2" in the 11th position of their VINs. WETL therefore did not challenge GM's contention that vehicles with plant codes other than these should not be considered substantially similar to U.S.-certified models and therefore eligible for importation. In view of GM's comments and WETL's response, NHTSA has decided to grant import eligibility only to 1997 Chevrolet Blazers with the plant code "K" or "2" in the eleventh character of their VINs.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–349 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1997 Chevrolet Blazer MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards, but that have been assigned vehicle identification numbers in which the letter "K" or the number "2" is the eleventh character, are substantially similar to 1997 Chevrolet Blazer MPVs originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Marilynne Jacobs,

Director, Office of Vehicle Safety, Compliance.

[FR Doc. 01–12729 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9560]

Notice of Receipt of Petition for Decision That Nonconforming 2000–2001 Audi TT Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2000–2001 Audi TT Passenger Cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2000–2001 Audi TT Passenger Cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 2000–2001 Audi TT Passenger Cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 2000–2001 Audi TT Passenger Cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2000–2001 Audi TT passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2000–2001 Audi TT passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2000–2001 Audi TT passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence . * * *,* 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel-System Integrity*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of the word "Brake" for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.-model headlamps and front sidemarker lamps; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps; (c) installation of a high mounted stop lamp on vehicles that are not already so equipped.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: Installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems*: Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection*: (a) Installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S-model components on vehicles that are not already so equipped. The petitioner states that the vehicles are equipped at the front and rear outboard designated seating positions with combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

Standard No. 214 *Side Impact Protection*: Inspection of all vehicles and installation of reinforcing door beams on vehicles that are not already so equipped.

Petitioner states that the bumpers and bumper support structure on all vehicles must be inspected for compliance with the Bumper Standard found at 49 CFR part 581, and replaced,

if necessary, to assure compliance with that standard.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

The agency notes that Audi TT is manufactured in both coupe and convertible models.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12730 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9649]

Notice of Receipt of Petition for Decision That Nonconforming 1995–2000 KTM Duke II Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995–2000 KTM Duke II motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1995–2000 KTM Duke II motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm.)

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Northern California Diagnostic Laboratories, Inc. of Napa, California (NCDL") (Registered Importer 92–011) has petitioned NHTSA to decide whether non-U.S. certified 1995–2000 KTM Duke II motorcycles are eligible for importation into the United States.

The vehicles which NCDL believes are substantially similar are 1995–2000 KTM Duke II motorcycles that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1995–2000 KTM Duke II motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

NCDL submitted information with its petition intended to demonstrate that non-U.S. certified 1995–2000 KTM Duke II motorcycles, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1995–2000 KTM Duke II motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses*, 111 *Rearview Mirrors*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars, and 122 Motorcycle Brake Systems*.

The petitioner also states that vehicle identification number plates that meet the requirements of 49 CFR part 565 are already affixed to non-U.S. certified 1995–2000 KTM Duke II motorcycles.

Petitioner additionally contends that the vehicles are capable of being readily altered to meet the following standard, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of a red reflector on each side of vehicle at its rear end; (b) installation of an amber reflector on each side of the vehicle at its front end. The petitioner states that the vehicle is equipped with a headlamp system, a tail lamp system, a stop lamp system, a white license plate lamp, a red rear reflector, and turn signals that are in conformity with the standard.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* Installation of a tire information label.

Standard No. 123 *Motorcycle Controls and Displays:* Modification of the speedometer to conform to the standard. The petitioner states that all other controls and displays on the vehicle, including the supplemental engine stop control, conform to the standard.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12731 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9630]

Notice of Receipt of Petition for Decision That Nonconforming 2001 Ferrari 550 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2001 Ferrari 550 passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2001 Ferrari 550 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm).

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 2001 Ferrari 550 passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 2001 Ferrari 550 passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2001 Ferrari 550 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2001 Ferrari 550 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2001 Ferrari 550 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*, as well as 49 CFR part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of the word "Brake" for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lamps and (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems:* Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection:*

(a) Installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The front outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12732 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9631]

Notice of Receipt of Petition for Decision That Nonconforming 1999–2001 BMW 7 Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1999–2001 BMW 7 Series passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1999–2001 BMW 7 Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland ("J.K.") (Registered Importer 90–006] has petitioned NHTSA to decide whether 1999–2001 BMW 7 Series passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1999–2001 BMW 7 Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1999–2001 BMW 7 Series passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1999–2001 BMW 7 Series passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1999–2001 BMW 7 Series passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*, as well as 49 CFR part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of the word "Brake" for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lamps and (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12733 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety: Emergency Plans and Procedures for Responding to Multiple Gas Leaks and Migration of Gas into Buildings

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; issuance of an advisory bulletin.

SUMMARY: The Office of Pipeline Safety (OPS) is issuing this advisory to owners and operators of gas pipeline distribution systems. Owners and operators should review their emergency plans and procedures to determine whether the procedures prompt the appropriate actions for gas leaks caused by excavation damage near buildings, and whether the procedures adequately address the possibility of multiple leaks and the underground migration of gas into nearby buildings.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, (202) 366–6205, or by e-mail, *marvin.fell@rspa.dot.gov*. This document can be viewed at the OPS home page at *http://ops.dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On January 22, 1999, while excavating a trench behind a building in the downtown area of Bridgeport, Alabama, a backhoe operator damaged a natural gas service line. This resulted in two leaks on the natural gas service line, which was operating at a pressure of 35 pounds per square inch (psig). One leak occurred where the backhoe bucket contacted the gas service line and pulled it aboveground. Although the second leak was not visible, the ensuing investigation revealed that the natural gas service line was separated at an underground joint near the gas meter, and close to a building. As a result, natural gas migrated into the building. The gas ignited, destroying three downtown buildings in a two square block area. The incident resulted in four fatalities and five injuries.

The National Transportation Safety Board (NTSB) investigated this incident and determined that the probable cause of the accident was (1) the failure of the construction contractor to establish and follow safe procedures for excavation activities, resulting in damage to the ¾-inch steel natural gas service line and (2) the failure of the operator to provide appropriate emergency response to the subsequent natural gas leak.

The operator's written emergency procedures in effect at the time of the accident instructed service personnel to "* * * evaluate the extent of the emergency, request assistance as needed, and to inform the manager if necessary." However, the procedures did not instruct employees responding to a reported leak to consider the possibility of multiple leaks, check for gas accumulation in nearby buildings, and, if necessary, take steps to promptly stop the flow of gas.

II. Advisory Bulletin (ADB–01–02)

To: Owners and Operators of Gas Distribution Systems.

Subject: Emergency Plans and Procedures for Responding to Multiple Gas Leaks and Migration of Gas into Buildings

Purpose: To advise owners and operators of gas distribution pipeline systems to review their emergency plans and procedures to determine whether the procedures prompt the appropriate actions for gas leaks caused by excavation damage near buildings, and whether the procedures adequately address the possibility of multiple leaks and the underground migration of gas into nearby buildings.

Advisory: Owners and operators of gas distribution systems should ensure that their emergency plans and procedures require employees who respond to gas leaks to consider the possibility of multiple leaks, to check for gas accumulation in nearby buildings, and, if necessary, to take steps to promptly stop the flow of gas. These procedures should be communicated to both employee and contractor personnel who are responsible for emergency response to pipeline incidents.

Issued in Washington, DC on May 16, 2001.

Jeffrey D. Wiese,

Manager, Program Development, Office of Pipeline Safety.

[FR Doc. 01–12717 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 15, 2001.

• The Department of Treasury has submitted the following public

information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 20, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0773.
Regulation Project Number: TD 8172 Final.
Type of Review: Extension.
Title: Qualification of Trustee or Like Fiduciary in Bankruptcy.
Description: Internal Revenue Code (IRC) section 6036 requires executors or receivers to advise the district director of their appointment or authorization to act. This information is necessary so that IRS will know of the proceedings and who to contact for delinquent returns or taxes.
Respondents: Individuals or households.
Estimated Number of Respondents: 50,000.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: Other (nonrecurring).
Estimated Total Reporting Burden: 12,500 hours.

OMB Number: 1545–0874.
Form Number: IRS Form 8328.
Type of Review: Extension.
Title: Carryforward Election of Unused Private Activity Bond Volume Cap.
Description: Section 146(f) of the Internal Revenue Code requires that issuing authorities of certain types of tax-exempt bonds must notify the IRS if they intend to carry forward the unused limitation for specific projects. The IRS uses the information to complete the required study of tax-exempt bonds (required by Congress).
Respondents: Business or other for-profit, State, Local or Tribal Government.
Estimated Number of Respondents/Recordkeepers: 10,000.
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	6 hr., 27 min.
Learning about the law or the form.	2 hr., 10 min.
Preparing and sending the form to the IRS.	2 hr., 22 min.

Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 110,300 hours.

OMB Number: 1545–1068.
Regulation Project Number: INTL–362–88 Final.
Type of Review: Extension.
Title: Definition of a Controlled Foreign Corporation, Foreign Base Company Income, and Foreign Personal Holding Company Income of a Controlled Foreign Corporation.
Description: The election and recordkeeping requirements are necessary to exclude certain high-taxed or active business income from subpart F income or to include certain income in the appropriate category of subpart F income. The recordkeeping and election procedures allow the U.S. shareholders and the IRS to know the amount of the controlled foreign corporation's subpart F income.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 50,500.
Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.
Frequency of Response: Other (one-time currency election).
Estimated Total Reporting/Recordkeeping Burden: 50,417 hours.

OMB Number: 1545–1165.
Form Number: IRS Form 8821.
Type of Review: Extension.
Title: Tax Information Authorization.
Description: Form 8821 is used to appoint someone to receive or inspect certain tax information. Data is used to identify appointees and to ensure that confidential information is not divulged to unauthorized persons.
Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms.
Estimated Number of Respondents/Recordkeepers: 200,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—6 min.
Learning about the law or the form—12 min.
Preparing the form—24 min.
Copying, assembling, and sending the form to the IRS—20 min.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 210,000 hours.

OMB Number: 1545–1243.
Regulation Project Number: PS–163–84 Final.
Type of Review: Extension.
Title: Treatment of Transactions Between Partners and Partnerships.
Description: Section 707(a)(2) provides that if there are transfers of money or property between a partner and a partnership, the transfer will be treated, in certain situations, as a disguised sale between the partner and the partnership. The regulations provide that the partner or the partnership should disclose the transfers and certain attendant facts in some situations.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 7,500.
Estimated Burden Hours Per Respondent/Recordkeeper: 20 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 2,500 hours.

OMB Number: 1545–1255.
Regulation Project Number: INTL–870–89 NPRM.
Type of Review: Extension.
Title: Earnings Stripping (Section 163(j)).
Description: Certain taxpayers are allowed to write off the fixed basis of the stock of an acquired corporation rather than the adjusted basis of the assets acquired corporation to elect special treatment under section 163(j).
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 2,300.
Estimated Burden Hours Per Respondent/Recordkeeper: 31 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 1,196 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 01–12734 Filed 5–18–01; 8:45 am]
BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 15, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 20, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1270.
Regulation Project Number: PS–66–93 and PS–120–90 Final.
Type of Review: Extension.
Title: Gasohol; Compressed Natural Gas (PS–66–93); and Gasoline Excise Tax (PS–120–90).
Description: PS–66–93: Buyers of compressed natural gas for a non taxable use must give a certificate. Persons who pay a "first tax" on gasoline must file a report.
PS–120–90: Gasoline refiners, traders, terminal operators, chemical companies a notify each other of their registration status and/or use of product before transactions may be made tax-free.
Respondents: Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.
Estimated Number of Respondents: 3,170.
Estimated Burden Hours Per Respondents: 7 minutes.
Frequency of Response: On occasion, Annually.
Estimated Total Reporting Burden: 371 hours.

OMB Number: 1545–1331.
Regulation Project Number: PS–55–89 Final.
Type of Review: Extension.
Title: General Asset Accounts Under the Accelerated Cost Recovery System.
Description: The regulations describe the time and manner of making the election described in Internal Revenue Code (IRC) section 168(i)(4). Basic information regarding this election is necessary to monitor compliance with the rules in IRC section 168.
Respondents: Business or other for-profit, Farms.
Estimated Number of Respondents: 1,000.
Estimated Burden Hours Per Respondents: 15 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 250 hours.

OMB Number: 1545–1338.
Regulatiop Project Number: PS–103–90 Final.
Type of Review: Extension.
Title: Election Out of Subchapter K for Producers of Natural Gas.
Description: Under section 1.761–2(d)(5)(i), gas producers subject to gas balancing agreements on the regulation's effective date are to file Form 3115 and certain additional information to obtain the Commissioner's consent to a change in method of accounting to either of the two new permissible accounting methods in the regulations.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 10.
Estimated Burden Hours Per Respondents: 30 minutes.
Frequency of Response: Other (one time only).
Estimated Total Reporting Burden: 5 hours.

OMB Number: 1545–1413.
Regulation Project Number: IA–30–95 Final.
Type of Review: Extension.
Title: Reporting of Nonpayroll Withheld Tax Liabilities.
Description: These regulations concern the Secretary's authority to require a return of tax under section 6011 and provide for the requirement of a return by persons deducting and withholding income tax from "Nonpayroll" payments.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents: 1.
Estimated Burden Hours Per Respondents: 1 hour.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1433.
Regulation Project Number: CO–11–91 Final and CO–24–95 Final.
Type of Review: Extension.
Title: Consolidated Groups and Controlled Groups-Intercompany Transactions and Related Rules (CO–11–91); and Consolidated Groups-Intercompany Transactions and Related Rules (CO–24–95).
Description: The regulations require common parents that make elections under Section 1.1502–13 to provide certain information. The information will be used to identify and assure that the amount, location, timing and attributes of intercompany transactions and corresponding items are properly maintained.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 2,200.
Estimated Burden Hours Per Respondent/Recordkeeper: 29 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 1,050 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,
Departmental Reports Management Officer.
[FR Doc. 01–12735 Filed 5–18–01; 8:45 am]
BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–41]

Amendments to U.S. Customs Mitigation Guidelines Pertaining to Claims Arising From Foreign Trade Zone Violations

AGENCY: U.S. Customs Service, Department of the Treasury.
ACTION: General notice.

SUMMARY: This document revises the "Guidelines for Cancellation for Liquidated Damages" which were published in the **Federal Register** as Treasury Decision 94–38 on April 14, 1994. This document revises the Section IX portion of those Guidelines which concerns claims arising from violations of foreign trade zone regulations. New provisions are added to that section of the Guidelines allowing for cancellation of claims arising from violations of foreign trade zone regulations, under certain conditions and limitations, in instances in which the violator voluntarily informs Customs of a violation prior to Customs discovery of the existence of that violation.

EFFECTIVE DATE: These guidelines will take effect upon May 21, 2001, and shall be applicable to all cases which are currently open at the petition or supplemental petition stage.

FOR FURTHER INFORMATION CONTACT: Steven Bratcher, Penalties Branch, Office of Regulations and Rulings, 202–927–2328.

SUPPLEMENTARY INFORMATION:

Background

"Guidelines for Cancellation of Claims for Liquidated Damages" were published in the **Federal Register** (59 FR 17830) on April 14, 1994, as Treasury Decision 94–38. Section IX of these guidelines is entitled "Guidelines

for Cancellation of Claims Arising from Violations of Foreign Trade Zone Regulations (19 CFR part 146, 19 CFR 113.73)." In this document Customs is revising the Section IX portion of the "Guidelines for Cancellation of Claims for Liquidated Damages." The revision involves the addition of provisions which allow for the cancellation of claims arising from the violation of foreign trade zone regulations, under certain conditions and limitations, in instances in which the violator voluntarily informs Customs of a violation prior to Customs discovery of the existence of that same violation. Foreign trade zone regulations are found in part 146, Customs Regulations (19 CFR 146) and in 19 CFR 113.73.

This change to the Customs guidelines with respect to violation of foreign trade zones regulations has been requested by members of the trade on the basis that these provisions will encourage self-policing of zone operations. Members of the trade have brought to Customs attention that Treasury Decision 99–29 (published in the **Federal Register** on March 26, 1999), which sets forth guidelines for the cancellation of claims for liquidated damages and mitigation of penalties for various violations that are non-foreign trade zone related, includes language which allows for cancellation of claims in instances in which the violator voluntarily informs Customs of a violation prior to Customs discovery of the violation.

As Customs has adopted a clear policy of encouraging self-policing by importers and promoting importers' voluntary compliance with Customs rules and regulations, Customs believes, in the interest of fairness, companies operating in foreign trade zones should obtain the same benefit for voluntary compliance as do non-foreign trade zone entities. Therefore, the guidelines for cancellation of claims arising from foreign trade zone regulations is revised to allow for cancellation of claims when the violator voluntarily informs Customs of a violation prior to Customs discovery of the violation. Two new provisions are added to the end of section C of the Guidelines and one new provision is added to the end of section D of the Guidelines.

The text of Section IX of the "Guidelines for Cancellation of Claims for Liquidated Damages," which was published in the **Federal Register** (59 FR 17830) on April 14, 1994, is revised as republished below.

Dated: May 15, 2001.

Charles W. Winwood,

Acting Commissioner of Customs.

IX. Guidelines for Cancellation of Claims Arising From Violations of Foreign Trade Zone Regulations (19 CFR Part 146, 19 CFR 113.73)

A. *Defaults involving merchandise.* Defaults involving merchandise include those violations relating to merchandise which:

1. Cannot be located or accounted for in the activated area of a foreign trade zone.

2. Has been removed from the activated area of the zone without a proper Customs permit; or

3. Has been admitted, manipulated, manufactured, exhibited or destroyed in the activated area of a zone:

a. Without a proper Customs permit; or

b. Not in accordance with the description of the activity in the Customs permit.

B. *Defaults not involving merchandise.* Defaults not involving merchandise means any instance of failure, other than one involving merchandise or late payment of the annual fee, to comply with the laws or regulations governing foreign trade zones. A default involving one zone lot or unique identifier may not be combined with a default under another lot or unique identifier.

C. *Defaults involving merchandise; petitions.* Claims arising from defaults involving merchandise should be processed in accordance with the following:

1. If the breach resulted from clerical error or mistake (a non-negligent inadvertent error), the claim should be cancelled without payment.

2. If the breach resulted from negligence, but no threat to the revenue occurred (*e.g.*, the merchandise was not manipulated in accordance with the permit to manipulate) the claim should be cancelled upon payment of an amount between one and 15 percent of the value of the merchandise involved in the breach, but not less than $100 nor more than $10,000. If the merchandise involved in the breach is restricted merchandise, that shall be considered an aggravating factor which shall result in mitigation on the higher end of the range. If the merchandise involved in the breach is domestic status merchandise, that shall be considered a mitigating factor which shall result in mitigation on the lower end of the range.

3. If the breach resulted from negligence and a potential loss of revenue resulted (*e.g.*, merchandise cannot be located in the zone, merchandise is removed from the zone without a permit), the claim shall be cancelled upon payment of an amount between one and three times the loss of revenue (loss of revenue to include duties, fees and taxes). If the merchandise involved in the breach is restricted merchandise, the claim shall be cancelled upon payment of an amount between three and five times the loss of revenue but in no case less than 10 percent of the value of such merchandise.

4. If the breach is intentional (*e.g.*, the foreign trade zone operator conspired to remove merchandise from the warehouse zone without proper entry being made), there will be no relief granted from liquidated damages.

5. Aggravating factors.

a. Principal's failure or refusal to cooperate with Customs.

b. Large number of violations compared to number of transactions handled.

c. Experience of principal.

d. Principal's carelessness or willful disregard toward its responsibilities.

6. Mitigating factors.

a. Contributory error by Customs.

b. Small number of violations compared to number of transactions handled.

c. Remedial action taken by principal.

d. Cooperation with Customs.

e. Lack of experience of principal.

f. Merchandise which cannot be located or which has been removed without permit is returned to Custom custody.

g. The merchandise involved in the breach is domestic status merchandise.

7. If the violator comes forward and informs Customs of a violation, prior to Customs discovery of the violation, the claim for liquidated damages may be cancelled, at the discretion of the appropriate Customs officer, upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made, plus $50.

8. If the violator comes forward and informs Customs of a violation, prior to Customs discovery of the violation, and the violation involves restricted merchandise, then the claim for liquidated damages may be cancelled, at the discretion of the appropriate Customs officer, upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made, plus 5 percent of the value of the merchandise, but not less than $500. The kind and character of the restriction will be considered before relief under this provision is allowed.

D. *Defaults not involving merchandise; modified CF 5955A.* Defaults not involving merchandise shall be processed in accordance with the following guidelines.

1. *Modified CF 5955A.* Notices of liquidated damages incurred may be issued on a modified CF 5955A. The modified form shall specify two options from which the petitioner may chose to resolve the demand.

a. *Option 1.* He may pay a specified sum within 60 days, and the case will be closed. By electing this option in lieu of petitioning, he waives his right to file a petition. He may, however, file a supplemental petition, if he does so in accordance with the Customs Regulations and has some new fact or information which merits consideration in accordance with these guidelines.

b. *Option 2.* Petition for relief. The bond principal or surety may file a petition for relief. By filing a petition for relief, the petitioner will no longer be afforded the Option 1 mitigation amount. The port director shall grant full relief when the petitioner demonstrates that the violation did not occur. If the petitioner fails to demonstrate that the violation did not occur, the port director may cancel the claim upon payment of an amount no less than $100 greater than the Option 1 amount.

2. *Maximum assessments.* In cases involving violations which do not involve merchandise which are assessed at $1,000 for each business day that the violation continues, a maximum of $10,000 shall be assessed for any one such continuing violation unless the port director can articulate a legitimate enforcement purpose for exceeding said limit. These claims shall be cancelled in conformance with the terms of these guidelines.

3. *Clerical error.* If the breach resulted from clerical error, the claim may be cancelled without payment.

4. *Negligence.* If the breach resulted from negligence, the claim may be cancelled upon payment of an amount between $100 and $250 per default actually assessed, depending on the presence of aggravating or mitigating factors. For example, if a document is filed 100 days late, Customs, by policy, will generally limit the assessment to $10,000. Mitigation will be based on the $10,000 actual assessment and not relate to the $100,000 potential assessment.

5. *Intentional breach.* If the breach was intentional, no relief shall be granted.

6. *Violator disclosing violation before Customs discovery.* If the violator comes forward and discloses the violation to Customs prior to Customs discovery of the violation, whether or not the violation is a continuing one, the claim for liquidated damages may be cancelled, at the discretion of the appropriate Customs officer, upon payment of the amount of $50.

E. *Cancellation of claims for late payment of the annual fee.*

1. If the late payment resulted from clerical error or mistake, the claim may be cancelled upon payment of the amount due but not paid.

2. If the late payment resulted from negligence, cancel the claim upon payment of the amount due but not paid plus the following percent of that amount for each day payment is in arrears:

a. First seven calendar days—not less than one-third of one percent nor more than three-fourths of one percent per day.

b. Second seven calendar days—not less than one and one-third percent nor more than one and three-fourths percent per day.

c. After the fourteenth calendar day—not less than two and one-third percent nor more than two and three-fourths percent per day.

3. If the late payment was intentional, no relief shall be granted.

[FR Doc. 01–12662 Filed 5–18–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–29–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–29–91 (TD 8556), Computation and Characterization of Income and Earnings and Profits Under the Dollar Approximate Separate Transactions Method of Accounting (DASTM) (§ 1.985–3).

DATES: Written comments should be received on or before July 20, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Computation and Characterization of Income and Earnings and Profits Under the Dollar Approximate Separate Transactions Method of Accounting (DASTM).

OMB Number: 1545–1051.

Regulation Project Number: INTL–29–91.

Abstract: This regulation provides that taxpayers operating in hyperinflationary currencies must use the United States dollar as their functional currency and compute income using the dollar approximate separate transactions method (DASTM). Small taxpayers may elect an alternate method by which to compute income or loss. For prior taxable years in which income was computed using the profit and loss method, taxpayers may elect to recompute their income using DASTM.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 700.

Estimated Time Per Respondent: 1 hour, 26 minutes.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a

matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 10, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12632 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4835

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4835, Farm Rental Income and Expenses.

DATES: Written comments should be received on or before July 20, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Farm Rental Income and Expenses.

OMB Number: 1545–0187.

Form Number: 4835.

Abstract: Form 4835 is used by landowners (or sub-lessors) to report farm income based on crops or livestock produced by a tenant when the landowner (or sub-lessor) does not materially participate in the operation or management of the farm. The information on the form is used by the IRS to determine whether the proper amount of farm rental income received by the taxpayer has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and farms.

Estimated Number of Respondents: 407,719.

Estimated Time Per Respondent: 4 hrs., 24 min.

Estimated Total Annual Burden Hours: 1,793,964.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 11, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12633 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8829

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8829, Expenses for Business Use of Your Home.

DATES: Written comments should be received on or before July 20, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Expenses for Business Use of Your Home.

OMB Number: 1545–1266.

Form Number: 8829.

Abstract: Internal Revenue Code section 280A limits the deduction for business use of a home to the gross income from the business use minus certain business deductions. Amounts not allowed due to the limitations can be carried over to the following year. Form 8829 is used to compute the allowable deduction and any carryover, and the IRS uses the information to verify that these amounts are properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 4,000,000.

Estimated Time Per Respondent: 2 hr., 36 min.

Estimated Total Annual Burden Hours: 10,400,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12738 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4868

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.

DATES: Written comments should be received on or before July 20, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.

OMB Number: 1545–0188.

Form Number: 4868.

Abstract: Form 4868 is used by taxpayers to apply for an automatic 4-month extension of time to file Form 1040, Form 1040A or Form 1040EZ. The form contains information used by the IRS to determine if a taxpayer qualifies for the extension.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,572,999.

Estimated Time Per Respondent: 1 hr., 8 min.

Estimated Total Annual Burden Hours: 6,353,219.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12739 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2441

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning.Form 2441, Child and Dependent Care Expenses.

DATES: Written comments should be received on or before July 20, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins,

(202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Child and Dependent Care Expenses.

OMB Number: 1545–0068.

Form Number: 2441.

Abstract: Internal revenue code section 21 allows a credit for certain child and dependent care expenses to be claimed on Form 1040 (reduced by employer-provided day care benefits excluded under Code section 129). Day care provider information must be reported to the IRS for both the credit and exclusion. Form 2441 is used to verify that the credit and exclusion are properly figured, and that day care provider information is reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,519,859.

Estimated Time Per Respondent: 2 hr., 18 min.

Estimated Total Annual Burden Hours: 15,517,265.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12740 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8812

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8812, Additional Child Tax Credit.

DATES: Written comments should be received on or before July 2, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Additional Child Tax Credit.

OMB Number: 1545–1620.

Form Number: 8812.

Abstract: Section 24 of the Internal Revenue Code allows taxpayers a credit for each of their dependent children who is under age 17 at the close of the taxpayer's tax year. The credit is advantageous to taxpayers as it directly reduces the tax liability for the year and, if the taxpayer has three or more children, may result in a refundable amount of the credit. Form 8812 helps respondents correctly figure their refundable credit.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,500,000.

Estimated Time Per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 2,905,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12741 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Midwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: A meeting of the Midwest Citizen Advocacy Panel will be held in Omaha, Nebraska.

DATES: The meeting will be held Thursday, June 14, 2001, and Friday, June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra McQuin at 1–888–912–1227, or 414–297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel (CAP) will be held Thursday, June 14, 2001, from 9:00 a.m. to 4:00 p.m. and Friday, June 15, 2001, from 8:00 a.m. to Noon at the Doubletree Hotel, 1616 Dodge Street, Omaha, Nebraska. The Citizen Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service. Public comments will be welcome during the meeting, or you can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Citizen Advocacy Panel, Mail Stop 1006 MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221.

The Agenda will include the following: Reports by the CAP sub-groups, presentation of taxpayer issues by individual members, discussion of issues, and an update on the recruitment for new panel members.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: May 15, 2001.

John J. Mannion,

Director, Program Planning Quality.

[FR Doc. 01–12742 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 66, No. 98
Monday, May 21, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1383–000]

Caledonia Generating, L.L.C.; Notice of Issuance of Order

May 9, 2001.

Correction

In notice document 01–12148, beginning on page 26848, in the issue of Tuesday, May 15, 2001, the docket number should read as set forth above.

[FR Doc. C1–12148 Filed 5–18–01; 8:45 am]
BILLING CODE 1505–01–D

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

Correction

In notice document 01–11237 beginning on page 22561 in the issue of Friday, May 4, 2001, make the following correction:

On page 22562, in the second column, in the first paragraph in the 12th line, "hrs. x 0.8 x $15 = $3,000). " should read "hrs. x 0.80 x $125 = $1000,000)+ clerical time (1,000 hrs. x 0.2 x $15 = $3,000).]"

[FR Doc. C1–11237 Filed 5–18–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. CFDA 93.576]

ORR Standing Announcement for Services to Recently Arrived Refugees[1]

Correction

In notice document 01–11680, beginning on page 23705, in the issue of Wednesday, May 9, 2001, make the following correction:

On page 23706, in the second column, under the heading **FOR FURTHER INFORMATION CONTACT:**, in the third line, the web address "*Sbenjamin@commat;ACF.DHHS.GOV*" should read "*Sbenjamin@ACF.DHHS.GOV*".

[FR Doc. C1–11680 Filed X–XX–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

[AAG/A Order No. 227–2001]

Privacy Act of 1974; System of Records

Correction

In notice document 01–9910, beginning on page 20478, in the issue of Monday, April 23, 2001, make the following corrections:

1. On page 20478, in the third column, under the heading **SUPPLEMENTARY INFORMATION:**, in the fifth line, "reduce" should read "reduced".

2. On page 20478, in the third column, footnote 1 at the bottom of the page, should appear on page 20479, in the first column, at the bottom of page.

3. On page 20479, in the first column, under the heading **"Categories of Records in the System:"**, in the 10th line, "a" should read "as".

4. On page 20480, in the second column, under the heading **"System Exempted From Certain Provisions of This Act:"**, in the fourth line, "(3)(1)" should read "(e)(1)".

[FR Doc. C1–9910 Filed X–XX–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. FAA–2000–7119; Amendment No. 121–280 and 135–78]

RIN 2120–AG89

Emergency Medical Equipment

Correction

In rule document 01–8932 beginning on page 19028 in the issue of Thursday, April 12, 2001, make the following corrections:

1. On page 19029, in the third column, under the "Storage" heading, fifth line, "Wtih" should read "With".

2. On the same page, in the same column, under the "Visual Inspection" heading, first line, "he" should read "the".

3. On page 19030, in the second column, in the third paragraph, 16th line "on" should read "one".

4. On page 19031, in the first column, item number 3., the second line, "contained" should read "container".

5. On the same page, in the second column, ninth line from the bottom of the page, "A non-pop off valve" should read "A no-pop off valve".

6. On page 19033, in the second column, in first complete paragraph, 22nd line, "past" should read "part".

7. On the same page, in the third column, under the heading "Single Flight Attendant Requirement", second paragraph, sixth line, "first-air" should read "first-aid ".

8. On page 19037, in the first column, under the heading "Suggested Training for Pilots", in the "FAA response", eighth line, "circumstance,s" should read "circumstances, ".

9. On page 19038, in the first column, first paragraph, fifth line, "outlines" should read "outlined".

10. On the same page, in the second column, under the heading "Other Suggested Rule Language Changes for This Action", fourth paragraph, seventh line, "hand-on" should read "hands-on".

11. On page 19039, in the first column, the heading **Alternative Considered**; should read **Alternatives Considered**.

12. On the same page, in the second column, fourth paragraph, sixth line, "burden some" should read "burdensome".

13. On page 19040, in the first column,in the first line, "thre" should read "the" and "airline" should read "airlines ".

14. On the same page, first full paragraph, second line, "Felxibility " should read "Flexibility".

15. On page 19041, in the second column, first paragraph, "SARO" should read "SARP".

16. On page 19042, in the second column, first full paragraph, first line, "AED's EMK's and training" should read "AED's, EMK's, and training".

[FR Doc. C1–8932 Filed 5–18–01; 8:45 am]
BILLING CODE 1505–01–D

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Federal Register

Monday,
May 21, 2001

Part II

Department of Commerce

Economic Development Administration

National Technical Assistance, Training, Research, and Evaluation—Request for Grant Proposals; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 000515144–1101–02]

RIN: 0610–ZA

National Technical Assistance, Training, Research, and Evaluation—Request for Grant Proposals

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Request for Grant Proposals (RFP) Upon Availability of Funds.

SUMMARY: As part of its mission to assist economically distressed areas, EDA is soliciting proposals to (1) evaluate EDA's Economic Adjustment Program, (2) review the literature and practical experience regarding issues of critical importance to economic development practitioners nationally, (3) identify the location of and economic development problems facing communities with significant Asian American and Pacific Islander populations, and (4) disseminate economic development information to practitioners serving economically distressed urban areas. EDA issues this Notice to describe the conditions under which applications for these projects will be accepted and selected for funding. Projects will be funded if acceptable proposals are received.

DATES: Prospective applicants are advised that EDA will conduct a pre-proposal conference on June 6, 2001, at 2:00 p.m. EDT in the Department of Commerce, Herbert C. Hoover Building, 1401 Constitution Avenue, NW, Washington, DC 20230, Room 6057, at which time questions on these projects can be answered. Potential applicants are encouraged to provide written questions by June 1, 2001 (See **ADDRESSES** section below). Prospective applicants unable to attend this pre-proposal conference may participate by teleconference. Teleconference information may be obtained by calling (202) 482–4085 between 8:30–4:30 EDT on June 5, 2001.

Proposals for funding under this program will be accepted through June 20, 2001, at either of the addresses provided below. Proposals received after 4 p.m. EDT, on June 20, 2001, will not be considered for funding.

By July 2, 2001, EDA will notify proposers whether or not they will be given further funding consideration. Each successful proponent will be invited to submit an Application for Federal Assistance, OMB Control Number 0610–0094. Projects will be funded no later than September 30, 2001.

ADDRESSES: 1. Proposals may be mailed to: John J. McNamee, Director, Research and National Technical Assistance Division, Economic Development Administration, Room 7019, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, or Proposals may be hand-delivered to: John J. McNamee, Director, Research and National Technical Assistance Division, Economic Development Administration, Room 1874, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: John J. McNamee (202) 482–4085; email: jmcnamee@eda.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Areas of Special Interest

• Impact of EDA Economic Adjustment Program Investments

EDA invites proposals to evaluate the extent to which EDA's Economic Adjustment Program (EAP) investments achieve structural economic adjustment in the target communities and the length of time required to do so.

Background: EDA's EAP, which was established in 1974, helps communities design and implement strategies for facilitating adjustment to economic changes that are causing or threaten to cause serious structural damage to the underlying economic base. Such changes may occur suddenly or over time, and result from industrial or corporate restructuring, reduction in defense expenditures, natural disasters, depletion of natural resources, or new federal laws or requirements. EAP grants provide such communities with the critical resources necessary to organize and carry out adjustment strategies tailored to their particular economic problems and opportunities.

EDA economic adjustment assistance may fund, for example, strategic planning, technical assistance, construction of critical infrastructure, or establishment of a revolving loan fund (RLF). To date, EDA has invested approximately $2.2 billion in EAP.

The fundamental impact of an EAP investment should be the economic adjustment of the target area. Much of that impact will occur a considerable time after the investment is made. The proposed research should determine the extent to which target communities have begun (or achieved) structural economic adjustment, factors that affect the length of time needed to achieve full adjustment, and the contribution that the EAP investment made (or did not make) in stimulating or enabling positive structural economic change within a community.

In recent years EDA has funded independent evaluations of EAP's responses to Hurricane Andrew and to the Midwest Flood of 1993, both of which focused on short-term program implementation. It also funded a preliminary assessment of the impact of defense adjustment investments. An evaluation of the long-term impact of EAP RLF investments will be completed shortly. The evaluation proposed here will complement, but not duplicate, these evaluations.

Scope of Work: The successful applicant will develop a methodology for determining and evaluating the economic impact of EAP investments in achieving structural economic adjustment. In doing so, the applicant will examine such issues as whether the adjustment strategy was the appropriate one, i.e., was the underlying adjustment strategy rational, realistic, and responsive to the structural dislocation; was the most appropriate tool or mix of tools (planning, technical assistance, RLF, infrastructure) used; was the community committed to following the strategy? The research should also evaluate whether the success or failure to achieve structural economic adjustment correlates with implementation of the economic adjustment strategy, i.e., whether the strategy itself was an appropriate one, or whether the economic adjustment happened due to other factors. The applicant will conduct the evaluation using a sample group of projects. The sample should be stratified to include investments made under EDA's (a) regular EAP, (b) Defense adjustment, and (c) other special initiatives, including disaster relief. The final report must fully document the methodology used for the project. The results must be presented in up to seven briefings and/or training workshops as set forth in Section IV.C. below.

Cost: The total EDA share of the cost of this project may not exceed $300,000.

Timing: This project must be completed and the final report submitted within one year of approval of the project.

• Reviews of Economic Development Literature and Practice

EDA invites proposals to review the literature and practical experience regarding issues of critical importance to economic development practitioners nationally.

Background: One of EDA's main functions is to disseminate high-quality information about economic development policies, issues, strategies, and techniques to practitioners. EDA fulfills this function by a number of means, including newsletters, conferences, use of the Internet, and targeted research. This project will help present important and emerging theoretical issues to practitioners and policy makers.

EDA is especially interested in reviews supporting EDA's core programs and initiatives. Examples include: e-commerce, productivity enhancement through infrastructure investment, leveraging of private investment for regional economic development, and technology-led economic development. EDA, however, welcomes other topics of importance to domestic economic development. Completed reviews must be analytical and should identify important policy implications. They must be prepared for practitioners rather than an academic audience. EDA expects researchers to demonstrate familiarity with the proposed topic and ability to conduct a timely, thorough, and objective review. EDA anticipates making multiple awards, but will not make multiple awards to any individual researcher. Authors are encouraged to submit the final review paper for publication as described below.

Scope of Work: Successful applicants will: (1) Prepare a review paper that (a) describes and analyzes critically, key debates in the literature, analytical techniques of broad importance to practitioners and/or the range of experience with specific economic development strategies; (b) identifies important policy implications of the research; (c) represents original research not previously submitted for publication elsewhere; (d) is of length and quality suitable for publication in a peer-reviewed journal; and (e) is written in a style appropriate for practitioners. (2) Conduct up to three presentations as described in Section IV.C. below.

Cost: EDA may provide funding totaling up to $75,000 for all reviews funded under this RFP. The total EDA share of the cost for any single review may not exceed $20,000. Should additional funding become available, EDA may increase the total funding for this RFP. EDA anticipates that most proposals will be in the range of $10,000 to $15,000.

Timing: EDA anticipates that most reviews will take six months or less, but recognizes that this will vary with the nature of the research. All projects must be completed and the review paper must be submitted within nine months of project approval. Presentations may take place up to one year after the research paper is submitted.

• Economic Development Needs of Asian Americans and Pacific Islanders in Distressed Areas

Background: Executive Order 13125, signed on June 7, 1999, seeks to improve the quality of life for Asian Americans and Pacific Islanders (AAPI) by, among other things, increasing their participation in federal programs where they may be underserved. The U.S. Department of Commerce seeks to identify the locations of and economic development problems facing communities with significant AAPI populations. Where a community with a significant AAPI population also has a significant population of other minorities, the research should address the problems common to all minority groups in the community as well as those unique to the AAPI population.

Scope of Work: The successful applicant will (1) identify the location of distressed communities that are composed primarily of AAPI populations; (2) identify and assess the special economic development challenges these distressed AAPI communities face; (3) prepare a final report that summarizes the research findings; and (4) conduct up to three briefings and/or training workshops as set forth in Section IV.C. below.

Cost: The total EDA share of the cost of this project may not exceed $75,000.

Timing: The project should be completed and the final research report submitted within six months of project approval.

• Information Dissemination in Distressed Urban Communities

Background: As part of its ongoing mission to assist economically distressed areas, EDA supports projects that disseminate information to economic development practitioners serving America's distressed communities.

Scope of Work: The successful applicant will undertake information dissemination activities that:

• Are targeted at a national audience of economic development practitioners working in America's distressed urban communities;

• Take greater advantage of new technologies for information dissemination (Internet, videoconferencing, e-mail, etc.);

• Identify and provide information in new or emerging areas of economic development needed by practitioners serving distressed urban areas;

• Support the development and greater understanding of new economic development tools and national, state, and local programs designed to relieve urban economic distress; and

• Influence economic development outcomes by improving the quality, accessibility, and timeliness of critical information available to economic development practitioners.

Each proposal submitted must:

(1) Identify and describe the target audience and the reason(s) why the proposed information dissemination activity is necessary;

(2) Describe how the organization plans to achieve the proposed target audience penetration;

(3) Describe the types of information that will be disseminated;

(4) Justify why the proposed activity should be federally funded;

(5) Describe the economic development outcomes or activities that will be influenced by the information dissemination efforts; and

(6) For activities proposed for multiyear funding (up to three years maximum), justify the need for such funding.

Cost: A total of $125,000 is available for this project. EDA anticipates funding only one information dissemination project under this RFP.

Timing: The award made under this RFP is for one year. However, it may be eligible for multiyear funding, i.e., renewable for two additional years after the initial award is made, at the same or lower annual project cost, subject to funding availability, satisfactory performance under the initial and, if applicable, subsequent award, and at the sole discretion of EDA.

Additional Requirements: (1) The proposed project should not be primarily for the benefit of the grantee, narrowly focused organizations, or localized geographic areas.

(2) The grantee shall participate in up to three EDA conferences each year. Locations and dates of the conferences attended shall be at EDA's sole discretion.

II. How To Apply

A. Eligible Applicants

Eligible applicants are as follows: Institutions of higher education; consortiums of institutions of higher education; public or private nonprofit organizations or associations acting in cooperation with officials of a political subdivision of a state, for-profit organizations, and private individuals; areas meeting requirements under 13 CFR 301.2; Economic Development Districts; Indian tribes; consortiums of Indian tribes; states, cities, or other political subdivisions of a state;

consortiums of political subdivisions of states.

B. Proposal Submission Procedures

Each proposal submitted must include:

(1) A description of how the researcher(s) intend(s) to carry out the scope of work (not to exceed 10 pages in length);

(2) A proposed budget and accompanying explanation;

(3) Resumes/qualifications of key staff (not to exceed two pages per individual, with an additional two pages allowed for a single summary description of all organizations/consultants named in the proposal); and

(4) A proposed schedule for completion of the project.

EDA will not accept proposals submitted by FAX. Proposals received after 4:00 p.m. EDT on June 20, 2001, will not be considered.

III. Selection Process and Evaluation Criteria

All proposals must meet EDA's statutory and regulatory requirements. Proposals will receive initial review by EDA to assure that they meet all requirements of this RFP and applicable provisions of 13 CFR Chapter III, including, for example, eligibility and relevance to the specified project as described herein. EDA's general selection process and criteria are set out in 13 CFR 304.1, 304.2, and 307.10. Proposals that do not meet all items required or that exceed the page limitations of Section II.B. of this RFP, will be considered nonresponsive. Proposals that do meet these requirements will be evaluated by a review panel comprised of at least three members all of whom will be full-time federal employees. The panel will carry out its selection process using the following criteria:

(1) The quality of a proposal's response to the Scope of Work and other requirements described in Section I above;

(2) The ability of the prospective applicant to successfully carry out the proposed activities; and

(3) Cost to the federal government.

If a proposal is selected, EDA will provide the proponent with an Application for Federal Assistance (OMB Control Number 0610–0094). Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

IV. Additional Information

A. Authority

The Public Works and Economic Development Act of 1965, as amended (Pub. L. 89–136, 42 U.S.C. 3121 *et seq.*), including the comprehensive amendments by the Economic Development Administration Reform Act of 1998 (Pub. L. 105–393) (PWEDA) authorizes EDA to make grants for training, research, and technical assistance, including grants for program evaluation and project impact analyses, that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment (42 U.S.C. 3147, Section 207). Public Law 106–553 makes funds available for this program.

B. Catalog of Federal Domestic Assistance

11.303 Economic Development Technical Assistance.
11.312 Research and Evaluation.

C. Program Description

For a description of this program see PWEDA and 13 CFR Chapter III, § 307 Subpart C.

EDA assistance is focused on areas experiencing significant economic distress, defined principally as per capita income of 80 percent or less of the national average; or an unemployment rate that is, for the most recent 24-month period for which data are available, at least one percent greater than the national average; or a special need, as determined by EDA.

Costs

Ordinarily, the applicant is expected to provide a 50% non-federal share of project costs. However, EDA may reduce or waive the required 50% matching share of the total project costs, provided the applicant can demonstrate: (1) The project is not feasible without and the project merits such a reduction or waiver, or (2) the project is addressing major causes of distress in the area serviced and requires the unique characteristics of the applicant, which will not participate if it must provide all or part of a 50% non-federal share, or (3) the project is for the benefit of local, state, regional, or national economic development efforts, and will be of no or only incidental benefit to the recipient, or (4) the requirements of 13 CFR § 301.4(b) (table) are satisfied (see 13 CFR § 307.11).

Briefings and Reports

Three of the projects described in this RFP include a requirement that the successful applicant(s) conduct briefings and/or training workshops for individuals and organizations interested in the project results. The completion dates set forth above are only for completion of the project and submission of the written report. Briefings/workshops will take place no later than one year after submission of the final report. Locations and dates of the briefings/workshops are at EDA's sole discretion. Usually these consist of at least one briefing in Washington, DC, with the other briefings/workshops held in conjunction with one or more of EDA's regional conferences.

Unless otherwise noted, each award includes a requirement that the applicant submit an electronic version and 500 hard copies of the final report in formats acceptable to EDA.

D. Other Requirements

See EDA's Notice of Funding Availability for FY 2001 (66 FR 15001ff, 3/14/2001) for additional information and requirements (available on the Internet at http://www.doc.gov/eda/html/1d_fund_prog.htm, under the heading "Notices of Funding Availability."

This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: May 15, 2001.

David L. Temple, Jr.,

Deputy Assistant Secretary for Program Operations.

[FR Doc. 01–12671 Filed 5–18–01; 8:45am]

BILLING CODE 3510–34–U

Federal Register

Monday,
May 21, 2001

Part III

The President

Proclamation 7438—National Biotechnology Week

Proclamation 7439—National Defense Transportation Day and National Transportation Week, 2001

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Presidential Documents

Title 3—

The President

Proclamation 7438 of May 16, 2001

National Biotechnology Week

By the President of the United States of America

A Proclamation

For thousands of years, man has been utilizing and modifying biological processes to improve man's quality of life. Scientific advances have enabled biotechnology to play an increasingly large role in the development of new products that enhance all areas of our lives.

In the battle against disease, our ever-increasing knowledge of cellular and genetic processes continues to improve the quality of our health care. Biotechnology has contributed to the development of vaccines, antibiotics, and other drugs that have saved or prolonged the lives of millions of people. Insulin, which is vital in the treatment of diabetes, can now be produced inexpensively and in large quantities through the use of genetically engineered bacteria. In addition, exciting gains in the understanding of the human body's genetic code show significant promise in finding treatments and eventually a cure for many diseases. This technology is now central to the research being conducted on diseases such as cancer, diabetes, epilepsy, multiple sclerosis, heart and lung disease, Alzheimer's disease, and Acquired Immune Deficiency Syndrome (AIDS).

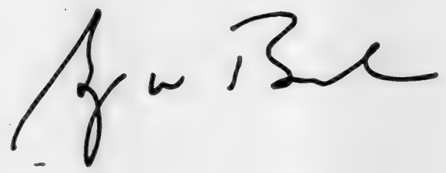
Consumers enjoy continual improvements to the quality and quantity of our Nation's food supply. Genetic engineering will enable farmers to modify crops-so that they will grow on land that was previously considered infertile. In addition, it will enable farmers to grow produce with enhanced nutritional value. We also are benefiting from crops that resist plant diseases and insects, thus reducing the use of pesticides.

The environmental benefits of biotechnology can be realized through the increased ability of manufacturers to produce their products with less energy, pollution, and waste. In addition, the development of new biotechnology promises to improve our ability to clean up toxic substances from soil and water and improve waste management techniques.

Our Nation stands as a global leader in research and development, in large part because of our successes in understanding and utilizing the biological processes of life. The field of biotechnology is important to the quality of our lives, the protection of our environment, and the strength of our economy. We must continue to be leaders in the pursuit of knowledge and technology, and we must be vigilant to ensure that new technologies are regulated and used responsibly towards achieving noble goals.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 13 through May 19, 2001, as National Biotechnology Week. I call upon the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–12966
Filed 5–18–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7439, of May 16, 2001

National Defense Transportation Day and National Transportation Week, 2001

By the President of the United States of America

A Proclamation

America's achievements in transportation have helped lay the foundation for our strength and prosperity. As our Nation moves forward into the 21st century, we celebrate how modern transportation has transformed the world and recognize the many men and women who have contributed to its development and advancement.

Whether traveling by road, rail, water, or air, Americans can choose among a large number of options in reaching their destinations. But beyond moving people, our diverse transportation system also makes possible the delivery of countless products throughout the country. Whether intended for individuals, private organizations, government agencies, or merchants, the shipment and transfer of these goods helps to generate and sustain the economic growth that benefits us all.

Our transportation system also contributes vitally to the security of the United States. From the early days of the merchant marine at the time of our Nation's founding, to the latest in 21st century aircraft, our diverse methods of transportation have moved troops and carried defense cargo quickly and efficiently both in peacetime and in war.

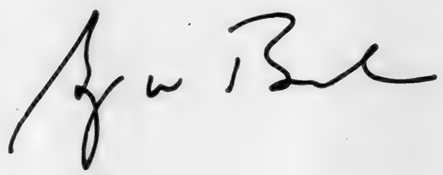
To meet America's future needs, our Nation must take advantage of scientific and technological innovation to improve existing transportation systems and develop new ones. We must strive to enhance their reliability and efficiency and close the gap between the demand for transportation and the capacity of the transportation infrastructure.

At the same time, safety will always remain our top priority. Investments in transportation must contribute to the security of the traveling public and improve access for all Americans. Our efforts to modify and strengthen transportation systems must also safeguard the environment and use energy wisely. Through these measures, we can conserve our precious natural resources and reinforce the transportation infrastructure our Nation needs to thrive in a dynamic and competitive world.

To recognize the men and women who work in transportation and thereby contribute to our Nation's well-being, defense, and progress, the United States Congress, by joint resolution approved May 16, 1957 (36 U.S.C. 120) has designated the third Friday in May of each year as "National Defense Transportation Day," and, by joint resolution approved May 14, 1962 (36 U.S.C. 133), declared that the week during which that Friday falls be designated "National Transportation Week."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Friday, May 18, 2001, as National Defense Transportation Day and May 13 through May 19, 2001, as National Transportation Week. I urge all Americans to recognize how our modern transportation system has enhanced our economy and contributed to our quality of life.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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Tuesday
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Federal Register

5–22–01 Tuesday
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Title 3—

The President

Proclamation 7440 of May 17, 2001

National Safe Boating Week, 2001

By the President of the United States of America

A Proclamation

Over 70 million recreational boaters enjoy our Nation's waters, and the national economic impact of recreational boating is more than $25 billion each year. This year marks the 30th anniversary of the enactment of the Federal Boat Safety Act. This legislation, designed to improve boating safety and to foster greater use and enjoyment of our rivers, lakes, bays, and waters, has accomplished these goals. By encouraging the participation of States, local communities, industry, and the boating public, new generations of Americans have benefited from the development of comprehensive boating safety programs.

Two years after passage of the Federal Boat Safety Act of 1971, 1,754 recreational boating fatalities were reported, on a base of approximately 6 million recreational vessels registered. Since then, the number of registered boats has grown by over 100 percent, yet reported boating fatalities have declined to approximately 750-800 each year.

The coordinated efforts over the past 29 years of the Federal Government, including the Coast Guard and the Coast Guard Auxiliary, States and local communities, and numerous recreational boating organizations, have made the Recreational Boating Safety Program a success. Cumulatively, an estimated 27,000 lives are estimated to have been saved as a result of the recreational boating safety programs established by the Federal Boat Safety Act.

However, despite these programs' successes, too many boaters still die on our Nation's waters. Recreational boating remains second only to highways in transportation-related fatalities. Some boaters lack basic boating safety knowledge and fail to adequately prepare or exercise caution when boating. Though recent accident statistics show improvement in many categories, nearly 70 percent of all recreational boating victims die by drowning. Nearly 90 percent of these drowning victims were not wearing a life jacket. Most of those lives could have been saved if the victims had simply worn their life jackets.

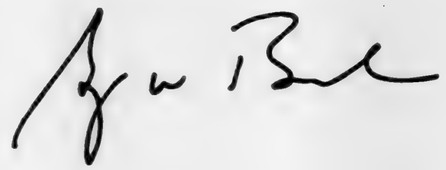
This year's North American Safe Boating Campaign, highlighted during National Safe Boating Week, will emphasize the theme of "Boat Smart from the Start! Wear Your Life Jacket!" Many recreational boating organizations promote safety through educational programs, and I encourage those who will be on our waterways to take advantage of these lessons. I also urge all Americans who enjoy boating to wear their life jackets and otherwise to conduct themselves responsibly and safely.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the 7-day period prior to Memorial Day weekend as "National Safe Boating Week."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 19 through May 25, 2001, as National Safe Boating Week. I encourage the Governors of

the 50 States, the District of Golumbia, the Commonwealth of Puerto Rico, and the officials of other areas subject to the jurisdiction of the United States, to join in observing this occasion and to urge Americans to practice safe boating habits throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



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Federal Register
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 95N–0176]

Orthopedic Devices: Classification and Reclassification of Pedicle Screw Spinal Systems; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that classified certain previously unclassified preamendments pedicle screw spinal systems and reclassified certain postamendments pedicle screw spinal systems. The agency is correcting the rule to include an intended use that was inadvertently omitted from the codified language in the rule. In addition, the agency is correcting the rule to clarify that, when intended for certain uses, the device is a preamendments, not a postamendments, device. These actions are being taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: This rule is effective June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Aric D. Kaiser, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 27, 1998 (63 FR 40025), FDA published a final rule classifying certain previously unclassified preamendments pedicle screw spinal systems and reclassifying certain postamendments pedicle screw spinal systems. Following publication of the rule, the agency discovered that the rule contained several errors.

II. Corrections to the Rule

A. Severe Spondylolisthesis (Grades 3 and 4) at L5-S1 in Skeletally Mature Patients

FDA inadvertently omitted one intended use from the codified language in the rule. This use, for which the device was being classified into class II, is treatment of severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra in skeletally mature patients receiving fusion by autogenous bone graft having the implants attached to the lumbar and sacral spine with removal of the implants after attainment of a solid fusion. This omission from the codification was a typographical error. As described in the preamble to the rule, the Orthopedics and Rehabilitation Devices Advisory Panel (the Panel) recommended classifying the device into class II when intended for this use, and the agency had determined that class II was the appropriate class. In fact, the summary of the final rule included this intended use in the list of intended uses for which the device was being classified into class II. The agency is correcting the rule, therefore, to include treatment of severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra in skeletally mature patients receiving fusion by autogenous bone graft having the implants attached to the lumbar and sacral spine with removal of the implants after attainment of solid fusion in the list of class II intended uses for the device.

B. In Skeletally Mature Patients: Degenerative Spondylolisthesis With Objective Evidence of Neurologic Impairment; Fracture; Dislocation; Failed Previous Fusion (Pseudarthrosis); Degenerative Disc Disease; and Spondylolisthesis Other Than Either Severe Spondylolisthesis (Grades 3 and 4) at L5–S1 or Degenerative Spondylolisthesis with Objective Evidence of Neurologic Impairment

In the final rule, FDA described the intended uses listed above as postamendments intended uses. However, on March 20, 1998, prior to publication of the final rule, FDA cleared a premarket notification submission (510(k)) that included preamendments documentation showing that spondylolisthesis (all types and grades), spondylolysis, trauma, failed previous fusions (pseudarthrosis), degenerative disc disease, and degeneration of the facets accompanied by instability in the cervical, thoracic, lumbar and sacral spine (C2–S1) are preamendments intended uses (Ref. 1). The 510(k) submission included affidavits establishing preamendments use from the original device marketer, the device inventor, credible users, and the sponsor of the 510(k). CDRH's Office of Compliance found these documents adequate to establish the preamendments status of this device as a pedicle screw spinal system for specific indications. Consequently, the rule should have stated that for these intended uses, the device was being classified, not reclassified.

FDA acknowledges that the additional preamendments intended uses should have been incorporated into the final rule prior to its publication. If this had been done, the codified language would be as it is below. The agency regrets any inconveniences that this delay in incorporating the additional preamendments intended uses may have caused.

1. In Skeletally Mature Patients: Degenerative Spondylolisthesis With Objective Evidence of Neurologic Impairment; Fracture; Dislocation; and Failed Previous Fusion (Pseudarthrosis)

FDA's error in referring to the device when intended to treat degenerative spondylolisthesis with objective evidence of neurologic impairment, fracture, dislocation, or failed previous

fusion (pseudarthrosis), as a postamendments, rather than a preamendments, device did not affect the classification into class II under the final rule. The agency intended to classify the device when intended for these uses into class II. In addition, the requirement that the agency obtain a recommendation from an advisory panel regarding the classification of a preamendments device was met because the Panel considered these intended uses when making its recommendation (Ref. 2). The fact that these are preamendments devices, rather than postamendments devices, intended uses has no impact on either the classification of the device or the premarket submissions required for pedicle screw spinal systems intended for these uses. In addition, no change in the codified language of the rule is necessary to reflect this fact.

2. Degenerative Disc Disease and Spondylolisthesis Other Than Either Severe Spondylolisthesis (Grades 3 and 4) at L5–S1 or Degenerative Spondylolisthesis With Objective Evidence of Neurologic Impairment

FDA also described the device when intended to treat degenerative disc disease and spondylolisthesis other than severe spondylolisthesis (grades 3 and 4) at L5–S1 as a postamendments, rather than as a preamendments, device. This error did not affect the classification of the device, when intended for these uses, into class III under the final rule. The agency intended to classify the device when intended for these uses into class III. In addition, the requirement that the agency obtain from an advisory panel a recommendation regarding the classification of a preamendments device was satisfied because the Panel considered these intended uses when making its recommendation (Ref. 2).

However, the agency's error does affect the type of premarket submission required for the device when intended for these uses. Because these are preamendments intended uses, premarket approval applications are not required until the agency issues a final rule under section 515(b) of the act (21 U.S.C. 360e(b)) requiring submission of premarket approval applications. FDA intends to initiate the call for premarket approval applications for the device when intended for these uses in a future document in the **Federal Register**. Until that time, the devices may enter the market after clearance of a premarket notification (510(k)) submission. The agency is correcting the rule accordingly.

C. Spondylolysis and Degeneration of the Facets Accompanied by Instability in the Thoracic, Lumbar and Sacral Spine; Severe Spondylolisthesis (Grades 3 and 4) at L5–S1 in the Nonskeletally Mature Population; Treatment of Cervical Spondylolisthesis (All Grades and Types); Cervical Spondylolysis; Cervical Degenerative Disc Disease; Degeneration of the Cervical Facets Accompanied by Instability; Cervical Trauma (Fracture and Dislocation); and Revision of Failed Previous Fusion Surgery (Pseudarthrosis) of the Cervical Spine

On January 20, 1995, the agency cleared a 510(k) that included documentation that use of pedicle screw spinal systems to treat severe spondylolisthesis (grades 3 and 4) at L5–S1 in patients receiving fusion by autogenous bone graft having the implants attached to the lumbar and sacral spine with removal of the implants after attainment of a solid fusion is a preamendments intended use. While the preamendments indication originally described by the agency in the final rule was limited to skeletally mature patients, the preamendments documentation also supports the use of this pedicle screw spinal system for the same intended use in patients who are not skeletally mature (Ref. 3).

In addition, the March 20, 1998, 510(k) clearance described above in section II.B of this document identified a number of intended uses that were not included as part of the final rule, specifically:

(1) Spondylolysis in the thoracic, lumbar and sacral spine;

(2) Degeneration of the facets accompanied by instability in the thoracic, lumbar and sacral spine;

(3) Cervical spondylolisthesis (all grades and types);

(4) Cervical spondylolysis;

(5) Cervical degenerative disc disease;

(6) Degeneration of the cervical facets accompanied by instability;

(7) Cervical trauma (fracture and dislocation); and

(8) Revision of failed previous fusion surgery (pseudarthrosis) of the cervical spine.

Neither the use in nonskeletally mature patients nor the eight intended uses listed above were discussed by the Panel at either its August 20, 1993, or July 23, 1994, meetings or as part of the information they subsequently reviewed. Because they are preamendments intended uses, a panel recommendation is required before they may be classified (21 U.S.C. 360c(c)). FDA intends to seek the recommendation of an advisory panel with respect to classification of the device when intended for these uses at a future Panel meeting. For these intended uses, the device currently is considered an unclassified preamendments device and may enter the market after clearance of a 510(k) submission.

D. Summary of the Revisions to § 888.3070

In light of the above, FDA has made the following changes to § 888.3070:

(1) FDA has reorganized the section to simplify the presentation.

(2) FDA has added "severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra" to the intended uses for the class II pedicle screw spinal systems (§ 888.3070(b)(1)). FDA has also added this intended use to the labeling for the special controls.

(3) FDA has changed the intended uses for which pedicle screw spinal systems are in class III from "all other uses" to "when intended to provide immobilization and stabilization of spinal segments in the thoracic, lumbar, and sacral spine as an adjunct to fusion in the treatment of degenerative disc disease and spondylolisthesis other than either severe spondylolisthesis (grades 3 and 4) at L5–S1 or degenerative spondylolisthesis with objective evidence of neurologic impairment" (§ 888.3070(b)(2)).

(4) FDA has amended § 888.3070(c) to state that, for the devices described in paragraph § 888.3070(b)(2), no effective date has been established for submission of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP). FDA will issue a rule to require PMA's or PDP's for these devices in the future. Until that time, pedicle screws for these intended uses may be marketed through the premarket notification process.

(5) At a future time, and after obtaining a Panel recommendation, FDA will propose a rule to classify the device for the unclassified uses described in section II.C of this document

III. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. These references may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. K970599, Sofamor Danek Townley Pedicle Screw Plating System.

2. Food and Drug Administration Orthopedic and Rehabilitation Devices Advisory Panel Meeting transcripts, Gaithersburg, MD, July 22, 1994.

3. K932029, Sofamor Danek TSRH Spinal System.

IV. Environmental Impact

The agency had determined under 21 CFR 25.30(i) that this final rule is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is reqnired.

V. Analysis of Impacts

FDA has examined the impact of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, this rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The only effect of this correction is to delay the requirement for manufacturers of pedicle screw spinal systems intended for certain uses to submit PMA's for these devices until FDA issues a regulation requiring such submissions. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any one year.

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 888 is amended as follows:

PART 888—ORTHOPEDIC DEVICES

1. The authority citation for 21 CFR part 888 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 888.3070 is revised to read as follows:

§ 888.3070 Pedicle screw spinal system.

(a) *Identification.* Pedicle screw spinal systems are multiple component devices, made from a variety of materials, including alloys such as 316L stainless steel, 316LVM stainless steel, 22Cr-13Ni-5Mn stainless steel, Ti-6Al-4V, and unalloyed titanium, that allow the surgeon to build an implant system to fit the patient's anatomical and physiological requirements. Such a spinal implant assembly consists of a combination of anchors (e.g., bolts, hooks, and/or screws); interconnection mechanisms incorporating nuts, screws, sleeves, or bolts; longitudinal members (e.g., plates, rods, and/or plate/rod combinations); and/or transverse connectors.

(b) *Classification.* (1) Class II (special controls), when intended to provide immobilization and stabilization of spinal segments in skeletally mature patients as an adjunct to fusion in the treatment of the following acute and chronic instabilities or deformities of the thoracic, lumbar, and sacral spine: severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra; degenerative spondylolisthesis with objective evidence of neurologic impairment; fracture; dislocation; scoliosis; kyphosis; spinal tumor; and failed previous fusion (pseudarthrosis). These pedicle screw spinal systems must comply with the following special controls:

(i) Compliance with material standards;

(ii) Compliance with mechanical testing standards;

(iii) Compliance with biocompatibility standards; and

(iv) Labeling that contains these two statements in addition to other appropriate labeling information:

"Warning: The safety and effectiveness of pedicle screw spinal systems have been established only for spinal conditions with significant mechanical instability or deformity requiring fusion with instrumentation. These conditions are significant mechanical instability or deformity of the thoracic, lumbar, and sacral spine secondary to severe spondylolisthesis (grades 3 and 4) of the L5–S1 vertebra, degenerative spondylolisthesis with objective evidence of neurologic impairment, fracture, dislocation, scoliosis, kyphosis, spinal tumor, and failed previous fusion (pseudarthrosis). The safety and effectiveness of these devices for any other conditions are unknown."

"Precaution: The implantation of pedicle screw spinal systems should be performed only by experienced spinal surgeons with specific training in the use of this pedicle screw spinal system because this is a technically demanding procedure presenting a risk of serious injury to the patient."

(2) Class III (premarket approval), when intended to provide immobilization and stabilization of spinal segments in the thoracic, lumbar, and sacral spine as an adjunct to fusion in the treatment of degenerative disc disease and spondylolisthesis other than either severe spondylolisthesis (grades 3 and 4) at L5–S1 or degenerative spondylolisthesis with objective evidence of neurologic impairment.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval for the devices described in paragraph (b)(2) of this section. See § 888.3.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12769 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: 010202029–1112–02]

RIN 0651–AB35

Revision of Patent Cooperation Treaty Application Procedure; Correction

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: The United States Patent and Trademark Office (Office) published a final rule in the **Federal Register** of March 22, 2001, revising the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT) to conform the United States rules of practice to the PCT Regulations that became effective on March 1, 2001. This document corrects three errors in that final rule.

EFFECTIVE DATE: March 22, 2001.

FOR FURTHER INFORMATION CONTACT: Charles Pearson, Director, Office of PCT Legal Administration, by telephone at (703) 306–4145; or by mail addressed to: Box PCT, Commissioner for Patents,

Washington, DC 20231; or by facsimile to (703) 308–6459, marked to the attention of Charles Pearson.

SUPPLEMENTARY INFORMATION: The Office published a final rule in the **Federal Register** of March 22, 2001 (66 FR 16004), entitled "Revision of Patent Cooperation Treaty Application Procedure." This document corrects errors in §§ 1.494(c)(2), 1.495(c)(2), and 1.497(a)(1).

Specifically, §§ 1.494(c)(2) and 1.495(c)(2) as revised in the above final rule inadvertently omitted the provisions that:

> The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 20 [or 30] months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 20 [or 30] months after the priority date. A "Sequence Listing" need not be translated if the "Sequence Listing" complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

Section 1.497(a)(1) as revised in the above final rule inadvertently omitted the section symbols before the reference to §§ 1.66 or 1.68.

In rule FR Doc. 01–7132, published on March 22, 2001 (66 FR 16004), make the following corrections:

1. On page 16006, in the second column, in § 1.494, in paragraph (c)(2), add the following sentences to the end thereof:

§ 1.494 Entering the national stage in the United States of America as a designated office.

* * * * *

(c) * * *

(2) * * * The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 20 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 20 months after the priority date. A "Sequence Listing" need not be translated if the "Sequence Listing" complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

* * * * *

2. On page 16006, in the third column, in § 1.495, in paragraph (c)(2), add the following sentences to the end thereof:

§ 1.495 Entering the national stage in the United States of America as an elected office.

* * * * *

(c) * * *

(2) * * * The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 30 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 30 months after the priority date. A "Sequence Listing" need not be translated if the "Sequence Listing" complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

* * * * *

1.497 [Corrected]

3. On page 16006, in the third column, in § 1.497, in paragraph (a)(1), line 2, correct "either 1.66 or 1.68" to read "either §§ 1.66 or 1.68".

Dated: May 15, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–12764 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD116–3067a; FRL–6979–6]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Repeal of Petroleum Refinery Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the State of Maryland State Implementation Plan (SIP) submitted on January 4, 2001 by the Maryland Department of the Environment (MDE). This revision repeals the requirements for petroleum refineries in the State of Maryland. There are no petroleum refineries located in the State of Maryland. EPA is approving this SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on July 23, 2001 without further notice, unless EPA receives adverse written comment by June 21, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. You may inspect copies of the documents relevant to this action during normal business hours at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034 at the EPA Region III address above, or by e-mail at wentworth.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Description of the SIP Revision and EPA's Action

The information in this section is organized as follows:

A. What Action Is EPA Taking Today?
B. Why is EPA Taking This Action?
C. Why Is the Request Approvable?
D. What Is the Process for EPA Approval of This Action?

A. What Action Is EPA Taking Today?

EPA is approving a revision to the State of Maryland SIP which was submitted on January 4, 2001 by MDE. This revision repeals Regulation .04, Petroleum Refineries, under Maryland's Code of Maryland Administrative Regulations (COMAR) 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants. At one time there was the possibility of a petroleum refinery being constructed in the State of Maryland which would have required regulation under COMAR 26.11.11.04, and under Maryland's SIP. However, a facility was never constructed, and at the present time there are no petroleum refineries located in Maryland.

B. Why Is EPA Taking This Action?

EPA is approving this SIP revision at the request of MDE. Since there are no petroleum refineries located in the State of Maryland, Maryland repealed its petroleum refinery regulation, COMAR 26.11.11.04, Petroleum Refineries, under COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants. Because there are no oil refineries in the State of Maryland, EPA is approving the SIP revision to amend COMAR 26.11.11 to repeal Regulation 26.11.11.04, Petroleum Refineries.

C. Why is the Request Approvable?

As stated previously, there are no petroleum refineries located in Maryland. Therefore, a regulation to control such sources is not necessary. If a new petroleum refinery were to move in to Maryland, it would be subject to New Source Performance Standards (NSPS), New Source Review (NSR), Prevention of Significant Deterioration requirements (PSD), Maximum Achievable Control Technology (MACT) standards, as well as Maryland's Toxic Air Pollutants (TAPs) regulations. Therefore, EPA finds the Maryland request approvable.

D. What Is the Process for EPA Approval of This Action?

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This rule will be effective on July 23, 2001 without further notice unless EPA receives adverse comment by June 21, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. Final Action

EPA is approving the revision to the State of Maryland SIP which was submitted on January 4, 2001 by MDE. This revision amends COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants to repeal Regulation 26.11.11.04, Petroleum Refineries.

III. What Are the Administrative Requirements?

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule approving the repeal of Regulation 26.11.11.04, Petroleum Refineries under COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 1, 2000

William C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(161) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(161) Revisions to the State of Maryland Regulations pertaining to the repeal of COMAR 26.11.11.04, Petroleum Refineries, submitted on January 4, 2001, by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of January 4, 2001, from the Maryland Department of the Environment transmitting amendments to COMAR 26.11.11 to repeal Regulation 26.11.11.04, Petroleum Refineries.

(B) Amendments to COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants, repealing Regulation 26.11.11.04, Petroleum Refineries, effective October 5, 1998.

(ii) Additional Material. Remainder of the January 4, 2001 submittal pertaining to the repeal of COMAR 26.11.11.04, Petroleum Refineries.

[FR Doc. 01–12712 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 169–0238; FRL–6980–4]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on January 10, 2001 and concerns volatile organic compound (VOC) emissions from soil decontamination operations. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approve a local rule that regulates these emission sources and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on June 21, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Ventura County APCD, 669 County Square Dr., 2nd Fl., Ventura, CA 93003–5417

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1160.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

I. Proposed Action

On January 10, 2001, 66 FR 1927, EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD	74.29	Soil Decontamination Operations	10/10/95	03/26/96

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

(Section C.4) This section provides for case-by-case exemptions by the Director from the 0.08 lb/hr allowable emission rate for vapor extraction or bioremediation, if the operator can demonstrate compliance with VCAPCD Rule 51, Nuisance. This exemption is deficient because it does not specify replicable criteria for an exemption nor require equivalent emissions reduction for an exempted source.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA provided for a 30-day public comment period on January 10, 2001 in 66 FR 1927. EPA received the following verbal comments on the proposed rulemaking during the comment period from Bernard Bigham of the Chesapeake Environmental Group.

Comment 1: VCAPCD 74.29 does little to reduce VQC emissions. Under the exemption in paragraph (C)(3)(f), it is estimated that 200,000 tons/year of contaminated soil is excavated and trucked to landfills, and VOCs volatilize during transport and when soil is used as landfill daily cover. There is currently no rule other than VCAPCD 74.17 that controls VOC loss in contaminated soil transport to landfills. VCAPCD should remove paragraph (C)(3)(f), or Rule 74.17 should be revised to establish soil handling procedures and specify test methods that adequately evaluate and control VOC loading of landfills. The commenter points, for example, to Bay Area Air Quality Management District Rule 8–40.

Response: We discussed this comment with VCAPCD staff, who explained that Alternate Daily Cover (ADC) soil is only exempt under (C)(3)(f) if it meets the test in Definition (G)(2), which states limits by weight ppm VOC as referenced in (F)(2) test methods. We agree that this does establish some control on emissions from ADC, but recommend that the rule be clarified by stating these requirements in paragraph (B) or (C)(3)(f), and by clearly referencing the appropriate test methods in this requirement.

We also recommend that the rule be revised to reference the other District protocols for safe handling and transport of contaminated soil to safe disposal.

Comment 2: Paragraph (F)(2) appropriately references Methods 8015B and 5035, but 74.29(F)(5) undermines (F)(2) by referencing (B)(1)(a), which specifies Method 21. Method 25D should be referenced in (B)(1)(a) instead in light of crust formation on piled soil.

Response: The District believes Definition (G)(2), Alternate Daily Cover, calls for the measurement of weight ppm VOC content of crusted soils, which requires the use of Method 25D for determining VOCs beneath the surface of excavated soil.

EPA concurs that an appropriate method is being required, but recommends for clarity that testing for weight ppm VOC, by methods in paragraph (F)(2), be a requirement for the "Alternate Daily Cover" exemption allowed in paragraph (C)(3)(f).

III. EPA Action

EPA has made several additional rule recommendations based on the submitted comments. No comments were submitted, however, that change our overall assessment of the rule or modify our action on the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the VCAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing them.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: April 27, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(230)(i)(A)(*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(230) * * *

(i) * * *
(A) * * *
(3) Rule 74.29, adopted on October 10, 1995.
* * * * *

[FR Doc. 01–12716 Filed 5–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD112–3066a; FRL–6979–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions from Distilled Spirits Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Maryland State Implementation Plan (SIP). These revisions establish reasonable available control technology (RACT) to limit volatile organic compound (VOC) emissions from distilled spirits facilties. EPA is fully approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on July 23, 2001 without further notice, unless EPA receives adverse written comment by June 21, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 2000, the State of Maryland submitted formal revisions to its State Implementation Plan (SIP). These SIP revisions, submitted by the Maryland Department of the Environment (MDE), consist of the control of volatile organic compound (VOC) emissions from distilled spirits facilties.

II. Summary of SIP Revision

COMAR 26.11.19.29 applies to a person who owns or operates a distilled spirits facility that has a total potential to emit VOCs of 25 tons or more per year.

General Provisions

This section establishes definitions for the terms "aging warehouse," "bottling operation," "distilled spirits," "distilled spirits facility," and "vacuum filling system."

General Requirements

This section requires the use of one of the following control methods at distilled spirits facilities subject to this regulation:

- Empty and fill barrels using a pump-operated, bayonet-type suction and filling device, or comparably effective device that minimizes VOC evaporative losses when emptying or filling barrels,
- Drain distilled spirits from filter plates that are located between the barrel unloading and storage tanks to either a recycling tank or to an enclosed collection system, and
- Use a gravity and vacuum or pressure filling system or comparably effective system to minimize fugitive emissions from the bottling operations.

This section also requires during the warmer weather, used barrels that are stored in the outdoors awaiting disposal shall be periodically (at least weekly) wetted down to reduce potential leakage and fugitive emissions.

Control of Other Fugitive Emission Sources

This section requires a submittal to MDE for approval, a good operating practices manual to minimize fugitive VOC emissions from the aging warehouse, and shall be implemented not later than 60 days after approval by MDE. This section also requires a report to be submitted to MDE following implementation of the approved good operating practices.

Evaluation: This SIP revision, controlling VOC emissions from distilled spirits facilities, will result in significant enforceable VOC emission reductions. EPA has determined that COMAR 26.11.19.29 is approvable as a SIP revision.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 23, 2001 without further notice unless EPA receives adverse comment by June 21, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

II. Final Action

EPA is approving the SIP revisions submitted by MDE on November 13, 2000 to control VOC emissions from distilled spirits facilities.

III. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to revisions to the Maryland SIP establishing requirements for distilled spirits facilities, must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 2, 2001.

William C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(160) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(160) Revisions to the Maryland State Implementation Plan submitted on November 13, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) A letter dated November 13, 2000 from the Maryland Department of the Environment transmitting additions to Maryland's State Implementation Plan, pertaining to volatile organic compound (VOC) regulations in Maryland's air quality regulations, COMAR 26.11.19.29.

(B) Addition of new COMAR 26.11.19.29—Control of Volatile Organic Compounds from Distilled Spirits Facilties, adopted by the Secretary of the Environment on September 11, 2000 and effective on October 2, 2000.

(ii) Additional Materials—Remainder of the November 13, 2000 submittal pertaining to COMAR 26.11.19.29—Control of VOC Emissions from Distilled Spirits Facilities.

[FR Doc. 01–12714 Filed 5–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY48–221; FRL–6979–2]

Approval and Promulgation of Implementation Plans; New York; Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New York. This SIP revision meets the requirements of the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," known as the " NO_X SIP Call." The SIP revision includes a narrative and a regulation that establish a statewide nitrogen oxides (NO_X) budget and a NO_X allowance trading program that begins in 2003 for large electricity generating and industrial sources. The intended effect of this SIP revision is to reduce emissions of NO_X in order to help attain the national ambient air quality standard for ozone. EPA is approving this action pursuant to section 110 of the Clean Air Act. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New York.

EFFECTIVE DATE: This rule will be effective June 21, 2001.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ted Gardella at (212) 637–3892 for general information, Rick Ruvo at (212) 637–4014 for information on the Trading Program, or Raymond Forde at (212) 637–3716 for information on the Budget Demonstration, all of the Air Programs Branch, EPA Region II Office.

SUPPLEMENTARY INFORMATION:

Overview

The Environmental Protection Agency (EPA) is approving the New York State Department of Environmental Conservation's (New York's) Nitrogen Oxides (NO_X) SIP Call State Implementation Plan (SIP) revision. The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

I. EPA's Action
A. What action is EPA approving today?
B. What administrative changes result from today's action?
C. Why is EPA approving this action?
D. What is Phase 2 of the NO_X SIP Call and how does it relate to today's action?
E. What is the impact of today's action on EPA's finding under the Clean Air Act section 126 rule?
F. When did EPA propose to approve New York's SIP revision?
G. What are the public comments on EPA's proposal?
H. Where is additional information available on EPA's action?
II. Conclusion
III. Administrative Requirements

I. EPA's Action

A. What Action is EPA Approving Today?

EPA is approving revisions to New York's ground level ozone SIP which New York submitted on April 3, 2000 and April 18, 2000. These SIP revisions include a new regulation, 6 NYCRR Part 204, "NO_X Budget Trading Program," adopted January 18, 2000, and a narrative entitled, "New York State Implementation Plan For Ozone; Meeting The Statewide Oxides of Nitrogen (NO_X) Budget Requirements Contained In The NO_X SIP Call (63 FR 57356, October 27, 1998)," dated April 18, 2000 and supplemented on May 16, 2000. New York submitted the regulation and narrative, including NO_X reducing measures, in order to strengthen its one-hour ozone SIP and to comply with the NO_X SIP Call during each ozone season, *i.e.*, May 1 through September 30, beginning in 2003. EPA has determined that New York's submittal is fully approvable as a SIP-strengthening measure for New York's one-hour ground level ozone SIP and as meeting the NO_X SIP Call requirements.

Separately, EPA is also approving administrative revisions to the New York SIP.

B. What Administrative Changes Result From Today's Action?

Independent of New York's NO_X SIP Call SIP revision, New York submitted various regulations as revisions to New York's SIP on August 10, 1979. The August 1979 submittal included, among other things, the repeal of part 204 "Hydrocarbon Emissions From Storage and Loading Facilities—New York City Metropolitan Area," because part 204 was superceded by part 229. By **Federal Register** notice published on February 5, 1980 (45 FR 7803), one of the conditions EPA imposed was either to regulate the storage of petroleum liquids other than gasoline or provide acceptable justification for not regulating such storage. New York submitted adopted revisions to part 229 to address the inclusion of petroleum liquids. On July 1, 1980 (see 45 FR 44273), EPA took final rulemaking to remove this condition after New York revised part 229 to include petroleum liquids. Since part 229 regulated all the sources previously regulated in part 204 and in some cases was more stringent, EPA should have, but inadvertently failed to, remove part 204 from the SIP at that time.

As part of today's action, EPA is now revising Title 40, § 52.1679 "EPA-approved New York State regulations," by removing the entry for old part 204, Hydrocarbon Emissions From Storage and Loading Facilities—New York City Metropolitan Area, and adding an entry for the new part 204, "NO_X Budget Trading Program."

In addition to part 204, New York made administrative amendments to regulations part 200 "General Provisions," part 220 "Portland Cement Plants," Subpart 227–1, "Stationary Combustion Installations," subpart 227–2, "Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X)," and subpart 227–3, "Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program."

EPA is approving amendments to part 200, subpart 227–1, subpart 227–2, and subpart 227–3 for the purposes of enforcing the SIP, as well as for enforcing New York's NO_X Budget Trading Program. Since New York's amendments to part 200, subpart 227–1, subpart 227–2, and subpart 227–3 were administrative, EPA is revising the SIP to include the amended regulations. With respect to the administrative amendments to part 220, "Portland Cement Plants," EPA is currently reviewing other amendments to part 220 adopted on January 18, 2000. Therefore, EPA will address all part 220 amendments at the same time in a future rulemaking.

C. Why is EPA Approving This Action?

EPA is approving this action in order to:

- Approve New York's NO_X Budget Trading Program (part 204) under the NO_X SIP Call as a control program that reduces NO_X emissions, a precursor of ozone, and which therefore helps to achieve the national ambient air quality standard for ozone in the New York City metropolitan nonattainment area,
- Fulfill New York's and EPA's requirements under the NO_X SIP Call,
- Approve administrative changes to New York's regulations part 200, part 204, subpart 227–1, subpart 227–2 and subpart 227–3.
- Make New York's NO_X allowance trading regulation federally enforceable and available for credit in the SIP, and
- Make New York's SIP narrative, including the ozone season NO_X budget and State reporting requirements, federally enforceable as part of the New York SIP.

These actions have the effect of assuring that the section 126 requirements will no longer apply to New York sources.

D. What is Phase 2 of the NO_X SIP Call and how Does it Relate to Today's Action?

On March 3, 2000, the Circuit Court of the District of Columbia handed down its decision in *Michigan* v. *EPA*, which largely upheld the NO_X SIP Call but remanded a few minor issues to EPA. After this decision, EPA decided to separate the requirements of the regional strategy into two phases. The deadline for states to submit their plans to comply with Phase 1 of the strategy was October 30, 2000. Details of Phase 1 were outlined in April 11, 2000 letters to Governors in the affected states, including New York. New York met the Phase 1 SIP submittal requirements by its April 2000 SIP revision.

On January 5, 2001, the outgoing Administrator signed a notice of proposed rulemaking for Phase 2 of the NO_X SIP Call. This notice was placed on EPA's website at *http://www.epa.gov/ttn/rto/sip/related.html#prop* but has not been published pending further EPA evaluation. Phase 2 is designed to respond to issues remanded by the court by addressing, among other things, whether, and if so, how, a small subclass of facilities that generate

electricity—cogenerators—should be included in the rule, and what control levels should be assumed in reducing NO_X from large, stationary internal combustion (IC) engines. The proposal would affect 22 jurisdictions,[1] including New York, and would identify a range of due dates for the affected states subject to Phase 2 to submit a SIP revision.

EPA fully expects that the Phase 2 rule would have no more than a slight effect on New York Statewide NO_X emission budgets. In the January 5, 2001 version of EPA's notice of proposed rulemaking, New York's Phase 2 Statewide 2007 NO_X emissions budget would be 240,285 tons or 240,322 tons based on IC engines with control efficiencies of 91% and 82%, respectively. The corresponding Phase 2 NO_X emission reductions from the 2007 baseline emissions would be 15,368 tons and 15,331 tons, respectively. New York's April 2000 SIP revision, which EPA is approving today, includes a demonstration, including a detailed emission inventory, that the Statewide emissions would not exceed 239,549 tons in 2007, corresponding to NO_X reductions of 16,103 tons (see 65 FR 76197). Therefore, EPA fully expects that New York's April 2000 SIP revision will meet the Phase 2 Statewide budgets when finalized by EPA.

Therefore, in today's action EPA is also approving New York's April 2000 SIP revision as fully meeting the NO_X SIP Call requirements including the Phase 2 Statewide NO_X emissions budget that will apply when the Phase 2 rulemaking is completed. EPA recognizes that its Phase 2 rulemaking has not been completed, but as noted above, fully expects that the final Statewide budget promulgated in that rulemaking will be no more stringent than New York's current budget. Once EPA finalizes the Phase 2 rule, should New York's adopted 2007 NO_X emissions budget (as submitted in April 2000) exceed the final Phase 2 budget (so that additional NO_X reductions are needed), EPA will take appropriate action.

E. What is the Impact of Today's Action on EPA's Finding Under the Clean Air Act Section 126 Rule?

As stated in the December 6, 2000 Proposed Rulemaking (see 65 FR 76197 at 76202), a SIP meeting the March 2, 2000 budgets and providing for reductions by May 1, 2003, should fully address the significant NO_X transport from that state. Therefore, upon approval of such a SIP, § 52.34(i) of the section 126 rule would apply to automatically withdraw the section 126 requirements for sources in that state. As noted immediately above, EPA has no reason to expect that the Phase 2 budget for New York, when finalized, will mandate any additional NO_X reductions. Thus, meeting the March 2, 2000 budget is adequate for New York's SIP to meet the NO_X SIP Call requirements. Since the New York SIP revision meets the March 2, 2000 budgets, provides for reductions by May 1, 2003, and is fully approved today as proposed, the section 126 requirements are automatically withdrawn, as of the effective date of this final rule, for sources in the State of New York pursuant to 40 CFR 52.34(i).

F. When Did EPA Propose To Approve New York's SIP Revision?

On December 6, 2000, EPA published in the **Federal Register** (65 FR 76197) a Proposed Rulemaking to approve New York's regulation and SIP narrative as a SIP revision and providing for a 30-day public comment period, which ended on January 5, 2001.

G. What Are the Public Comments on EPA's Proposal?

EPA received no public comments regarding the Proposed Rulemaking.

H. Where is Additional Information Available on EPA's Action?

A detailed discussion of this program is available in the December 6, 2000 Proposed Rulemaking (65 FR 76197). A Technical Support Document, prepared in support of the proposed rulemaking, contains the full description of New York's submittal and EPA's evaluation. A copy of the Technical Support Document is available upon request from the EPA Regional Office listed in the **ADDRESSES** section.

II. Conclusion

EPA is approving New York's April 3, 2000 and April 18, 2000 SIP submittals, as supplemented on May 16, 2000, that address EPA's NO_X SIP Call. EPA has reviewed New York's control measures and projected reductions and finds them approvable. Therefore, EPA is approving Part 204 and the SIP narrative into the New York SIP at this time. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New York.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) nor will this rule have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by

[1] Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia.

section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2). This rule will be effective June 21, 2001.

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 7, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart HH—New York

2. Section 52.1670 is amended by adding new paragraph (c)(100) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

(100) Revisions to the State Implementation Plan submitted on April 3, 2000, April 18, 2000 and as supplemented on May 16, 2000 by the New York State Department of Environmental Conservation that establishes the NO_X Budget Trading Program, a 2007 Statewide NO_X emissions budget, and a commitment by New York to comply with the § 51.122 reporting requirements.

(i) *Incorporation by reference:*

(A) Regulation Part 204 of Title 6 of the New York Code of Rules and Regulations, entitled "NO_X Budget Trading Program," adopted on January 18, 2000 and effective on February 25, 2000.

(B) Amendments to Title 6 of the New York Code of Rules and Regulations, Part 200, "General Provisions," Subpart 227–1, "Stationary Combustion Installations," and Subpart 227–2, "Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X)" adopted on January 18, 2000 and effective on February 25, 2000.

(ii) *Additional material:*

(A) Letter from New York State Department of Environmental Conservation dated April 3, 2000, requesting EPA approval of the NO_X Budget Trading Program as a revision to the New York State Implementation Plan for ozone.

(B) Letter from New York State Department of Environmental Conservation dated April 18, 2000, requesting EPA approval of the Oxides of Nitrogen (NO_X) SIP, entitled "New York State Implementation Plan For Ozone; Meeting The Statewide Oxides of Nitrogen (NO_X) Budget Requirements Contained In The NO_X SIP Call (63 FR 57356, October 27, 1998)," as a revision to the New York State Implementation Plan for ozone.

(C) Letter from New York State Department of Environmental Conservation dated May 16, 2000, transmitting supplemental information to the Oxides of Nitrogen (NO_X) SIP submitted on April 18, 2000.

3. Section 52.1679 is amended by revising the entry Under Title 6 for Part 200, Part 204, Subpart 227–1, Subpart 227–2, and Subpart 227–3 in the table to read as follows:

§ 52.1679 EPA—approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6			
Part 200, General Provisions Sections 200.1, 200.6, 200.7 and 200.9.	2/25/00	5/22/01 66 FR 28062	Redesignation of non-attainment areas to attainment areas (200.1(av)) does not relieve a source form compliance with previously appicable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYSDEC. Changes in definitions are acceptable to EPA unless a previously approved definition is necessary for implementation of an existing SIP regulation.

New York State regulation	State effective date	Latest EPA approval date	Comments
			EPA is including the definition of "federally enforceable" with the understanding that (1) the definition applies to provisions of a Title V permit that are correctly identified as federally enforceable, and (2) a source accepts operating limits and conditions to lower its potential to emit to become a minor source, not to "avoid" applicable requirements. EPA is approving incorporation by reference of those documents that are not already federally enforceable.
Part 204, NO_X Budget Trading Program	2/25/00	5/22/01 66 FR 28063	Incorporates NO_X SIP Call and NO_X Budget Trading Program for 2003 and thereafter.
Subpart 227–1, Stationary Combustion Installations.	2/25/00	5/22/01 66 FR 28063	Renumbered sections 227–1.2(a)(2), 227–1.4(a), and 227–1.4(d) continue to be disapproved according to 40 CFR 52.1678(d) and 52.1680(a). (New York repealed existing Part 227.5.)
Subpart 227–2, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X).	2/25/00	5/22/01 66 FR 28063	
Subpart 227–3, Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program.	3/5/99	5/22/01 66 FR 28063	Approval of NO_X Budget Trading Program for 1999, 2000, 2001 and 2002. NO_X caps in the State during 2003 and thereafter established in Part 204.

[FR Doc. 01–12700 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ44–220; FRL–6979–1]

Approval and Promulgation of Implementation Plans; New Jersey; Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Jersey. This SIP revision meets the requirements of the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," known as the "NO_X SIP Call." The SIP revision includes a narrative and a regulation that establish a statewide nitrogen oxides (NO_X) budget and a NO_X allowance trading program that begins in 2003 for large electricity generating and industrial sources. The intended effect of this SIP revision is to reduce emissions of NO_X in order to help attain the national ambient air quality standard for ozone. EPA is approving this action pursuant to section 110 of the Clean Air Act. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New Jersey.

EFFECTIVE DATE: This rule will be effective June 21, 2001.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ted Gardella at (212) 637–3892 for general information, Rick Ruvo at (212) 637–4014 for information on the Trading Program, or Demian Ellis at (212) 637–3713 for information on the Budget Demonstration, all of the Air Programs Branch, Region II Office.

SUPPLEMENTARY INFORMATION:

Overview

The Environmental Protection Agency (EPA) is approving the New Jersey Department of Environmental Protection's (New Jersey's) Nitrogen Oxides (NO_X) SIP Call State Implementation Plan (SIP) revision. The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

I. EPA's Action
- A. What action is EPA approving today?
- B. Why is EPA approving this action?
- C. What is Phase 2 of the NO_X SIP Call and how does it relate to today's action?
- D. What is the impact of today's action on EPA's finding under the Clean Air Act section 126 rule?
- E. When did EPA propose to approve New Jersey's SIP revision?
- F. What are the public comments on EPA's proposal?
- G. Where is additional information available on EPA's action?

II. Conclusion
III. Administrative Requirements

I. EPA's Action

A. What action is EPA approving today?

EPA is approving revisions to New Jersey's ground level ozone SIP which New Jersey submitted on December 10,

1999 and July 31, 2000. These SIP revisions include an amended regulation, N.J.A.C. 7:27–31 (Subchapter 31), "NO_X Budget Program," adopted July 28, 2000, and a narrative entitled, "State Implementation Plan (SIP) Revision for the Attainment and Maintenance of the Ozone and Carbon Monoxide National Ambient Air Quality Standards-Meeting the Requirements of the Regional NO_X Cap Program and Transportation Conformity Budgets Related to the Attainment of the Ozone and Carbon Monoxide National Ambient Air Quality Standards," dated December 10, 1999 and supplemented on July 31, 2000. New Jersey submitted the regulation and narrative, including NO_X reducing measures, in order to strengthen its one-hour ozone SIP and to comply with the NO_X SIP Call during each ozone season, i.e., May 1 through September 30, beginning in 2003. EPA has determined that New Jersey's submittal is fully approvable as a SIP-strengthening measure for New Jersey's one-hour ground level ozone SIP and as meeting the NO_X SIP Call requirements. On May 31, 2000, EPA found the mobile source emissions budgets to be adequate for transportation conformity purposes. (See 65 FR 36689, June 9, 2000).

B. Why is EPA approving this action?

EPA is approving this action in order to:

- Approve New Jersey's NO_X Budget Trading Program (Subchapter 31) under the NO_X SIP Call as a control program that reduces NO_X emissions, a precursor of ozone, and which therefore helps to achieve the national ambient air quality standard for ozone in nonattainment areas in New Jersey,
- Fulfill New Jersey's and EPA's requirements under the NO_X SIP Call,
- Make New Jersey's NO_X allowance trading regulation federally enforceable and available for credit in the SIP, and
- Make New Jersey's SIP narrative, including the ozone season NO_X budget and State reporting requirements, federally enforceable as part of the New Jersey SIP.

These actions have the effect of assuring that the section 126 requirements will no longer apply to New Jersey sources.

C. What is Phase 2 of the NO_X SIP Call and how does it relate to today's action?

On March 3, 2001, the Circuit Court of the District of Columbia handed down its decision in *Michigan* v. *EPA*, which largely upheld the NO_X SIP Call but remanded a few minor issues to EPA.

After this decision, EPA decided to separate the requirements of the regional strategy into two phases. The deadline for states to submit their plans to comply with Phase 1 of the strategy was October 30, 2000. Details of Phase 1 were outlined in April 11, 2000 letters to Governors in the affected states, including New Jersey. New Jersey met the Phase 1 SIP submittal requirements by its December 1999 and July 2000 SIP revisions.

On January 5, 2001, the outgoing Administrator signed a notice of proposed rulemaking for Phase 2 of the NO_X SIP Call. This notice was placed on EPA's website at *http://www.epa.gov/ttn/rto/sip/related.html#prop* but has not been published pending further EPA evaluation. Phase 2 is designed to respond to issues remanded by the court by addressing, among other things, whether, and if so, how, a small subclass of facilities that generate electricity—cogenerators—should be included in the rule, and what control levels should be assumed in reducing NO_X from large, stationary internal combustion (IC) engines. The proposal would affect 22 jurisdictions [1], including New Jersey, and would identify a range of due dates for the affected states subject to Phase 2 to submit a SIP revision.

EPA fully expects that the Phase 2 proposed rule would have no more than a slight effect on New Jersey Statewide NO_X emission budgets. In the January 5, 2001 version of EPA's notice of proposed rulemaking, New Jersey's Phase 2 Statewide 2007 NO_X emissions budget would be 96,876 tons. The corresponding Phase 2 NO_X emission reductions from the 2007 baseline emissions would be 8,613 tons. New Jersey's December 1999 and July 2000 SIP revisions, which EPA is approving today, includes a demonstration, including a detailed emission inventory, that the Statewide emissions would not exceed 96,275 tons in 2007 corresponding to NO_X reductions of 9,214 tons (see 65 FR 71278 and 77695). Therefore, EPA fully expects that New Jersey's December 1999 and July 2000 SIP revisions will meet the Phase 2 Statewide budgets when finalized by EPA.

Therefore, in today's action EPA is also approving New Jersey's December 1999 and July 2000 SIP revisions as fully meeting the NO_X SIP Call requirements including the Phase 2 Statewide NO_X emissions budget that will apply when the Phase 2 rulemaking is completed. EPA recognizes that its Phase 2 rulemaking has not been completed, but as noted above, fully expects that the final Statewide budget promulgated in that rulemaking will be no more stringent than New Jersey's current budget. Once EPA finalizes the Phase 2 rule, should New Jersey's adopted 2007 NO_X emissions budget (as submitted in December 1999 and July 2000) exceed the final Phase 2 budget (so that additional NO_X reductions are needed), EPA will take appropriate action.

D. What is the impact of today's action on EPA's finding under the Clean Air Act section 126 rule?

As stated in the November 30, 2000 Proposed Rulemaking (see 65 FR 71278 at 71282), a SIP meeting the March 2, 2000 budgets and providing for reductions by May 1, 2003, should fully address the significant NO_X transport from that state. Therefore, upon approval of such a SIP, § 52.34(i) of the section 126 rule would apply to automatically withdraw the section 126 requirements for sources in that state. As noted immediately above, EPA has no reason to expect that the Phase 2 budget for New Jersey, when finalized, will mandate any additional NO_X reductions. Thus, meeting the March 2, 2000 budget is adequate for New Jersey's SIP to meet the NO_X SIP Call requirements. Since the New Jersey SIP revision meets the March 2, 2000 budgets, provides for reductions by May 1, 2003, and is fully approved today as proposed, the section 126 requirements are automatically withdrawn, as of the effective date of this final rule, for sources in the State of New Jersey pursuant to 40 CFR 52.34(i).

E. When did EPA propose to approve New Jersey's SIP revision?

On November 30, 2000, as corrected on December 12, 2000, EPA published in the **Federal Register** (65 FR 71278 and corrected at 77695) a Proposed Rulemaking to approve New Jersey's regulation and SIP narrative as a SIP revision and providing for a 30-day public comment period, which ended on January 2, 2001.

F. What are the public comments on EPA's proposal?

EPA received no public comments regarding the Proposed Rulemaking.

G. Where is additional information available on EPA's action?

A detailed discussion of this program is available in the November 30, 2000 Proposed Rulemaking (65 FR 71278), as corrected in the December 12, 2000 **Federal Register** (65 FR 77695). A Technical Support Document, prepared in support of the proposed rulemaking, contains the full description of New Jersey's submittal and EPA's evaluation. A copy of the Technical Support Document is available upon request from the EPA Regional Office listed in the **ADDRESSES** section.

[1] Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia.

II. Conclusion

EPA is approving New Jersey's December 10, 1999 and July 31, 2000 SIP submittals, including New Jersey's July 31, 2000 supplement, that address EPA's NO_X SIP Call. EPA has reviewed New Jersey's control measures and projected reductions and finds them approvable. Therefore, EPA is approving Subchapter 31 and the SIP narrative into the New Jersey SIP at this time. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New Jersey.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will this rule have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2). This rule will be effective June 21, 2001.

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 7, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(70) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(70) Revisions to the State Implementation Plan submitted on December 10, 1999 and July 31, 2000 by the State of New Jersey Department of Environmental Protection that establishes the NO_X Budget Trading Program, a 2007 Statewide NO_X emissions budget, and a commitment by New Jersey to comply with the section 51.122 reporting requirements.

(i) *Incorporation by reference:*

(A) Regulation Subchapter 31 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled "NO_X Budget Program," adopted on July 31, 2000 and effective on August 21, 2000.

(ii) *Additional material:*

(A) Letter from State of New Jersey Department of Environmental Protection dated December 10, 1999, requesting EPA approval of the Ozone SIP, entitled "State Implementation Plan (SIP)

Revision for the Attainment and Maintenance of the Ozone and Carbon Monoxide National Ambient Air Quality Standards; Meeting the Requirements of the Regional NO_X Cap Program and Transportation Conformity Budgets Related to the Attainment of the Ozone and Carbon Monoxide National Ambient Air Quality Standards; December 1, 1999," as a revision to the State of New Jersey Implementation Plan for ozone.

(B) Letter from State of New Jersey Department of Environmental Protection dated July 31, 2000, requesting EPA approval of the NO_X Budget Program as a revision to the New Jersey State Implementation Plan for ozone. This submittal also contains 2007 State-wide NO_X emissions budget information that is supplemental to the December 10, 1999 SIP submittal.

* * * * *

3. Section 52.1605 is amended by revising the entry under Title 7, Chapter 27 for Subchapter 31 in the table to read as follows:

§ 52.1605 EPA-approved New Jersey regulations

State regulation	State effective date	EPA approved date	Comments
Title 7, Chapter 27			
* * *	* * *	* * *	* * *
Subchapter 31, NO_X Budget Program	Aug. 21, 2000 ...	5/22/01 66 FR 28066	Incorporates NO_X SIP Call and NO_X Budget Trading Program for 1999 through 2003 and thereafter.
* * *	* * *	* * *	* * *

[FR Doc. 01–12899 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 266

[FRL–6976–5]

RIN 2090–AA15

Project XL Site-Specific Rulemaking for US Filter Recovery Services Roseville, Minnesota and Generators and Transporters of USFRS XL Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and final project agreement.

SUMMARY: The Environmental Protection Agency (EPA) will implement a project under its Project XL (which stands for eXcellence and Leadership) program that will provide regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended, for the US Filter Recovery Services (USFRS) facility located at 2430 Rose Place, Roseville, Minnesota, 55113 and approved Minnesota generators and transporters of electroplating waste waters. The purpose of the USFRS XL Project is to encourage the use of USFRS' waste water treatment ion exchange resin process and thereby increase the recycling of metals derived from the treatment of electroplating waste waters subjected to this process. It may also result in the reduction in the use of potable water and energy savings. To achieve these objectives, this rule once adopted by the State of Minnesota would replace existing RCRA hazardous waste requirements for the handling of the spent materials in the ion exchange resin process (i.e., the resins and filters) at approved generators and transporters with a comprehensive program designed and implemented by USFRS to properly treat, recycle, store and transport these wastes. The overall terms of this XL Project are contained in the Final Project Agreement (FPA) and the new rules adopted today. The FPA is available at the RCRA Docket in Washington D.C. in the EPA Region V library, at USFRS, and on the world wide web at http://www.epa.gov/projectxl/.

DATES: This final rule is effective November 23, 2001. For judicial review purposes, this rule is promulgated as of 1:00 p.m. (Eastern Daylight Time) on May 22, 2001.

ADDRESSES: A docket containing the rule, FPA and supporting materials is available for public inspection and copying at the RCRA Information Center Docket Clerk (5305G), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460—Docket Number F–2000–FRSP–FFFFF and the U.S. Environmental Protection Agency, Region V, Waste, Pesticides and Toxics Division, (DRP–8J), 77 West Jackson, Chicago, Illinois, 60604. Contact Mr. Robert Egan at (312) 886–6212.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Egan at EPA, Region V, Waste, Pesticides and Toxics Division (DRP–8J), 77 West Jackson, Chicago, Illinois 60604, (312) 886–6212. Further information on today's action may also be obtained on the world wide web at: http://www.epa.gov/projectxl/.

SUPPLEMENTARY INFORMATION: On August 17, 2000, the Environmental Protection Agency (EPA) proposed a site-specific rule (65 FR 50283) that set forth the mechanisms through which USFRS and participating generators and transporters can test the effectiveness of an integrated, flexible, performance-based approach for managing ion exchange filter resins ("resins") and associated wastes to determine whether this approach promotes an increase in the recovery and recycling of metals from electroplating operations, a reduction in the amount of hazardous chemicals which are discharged to the local publicly owned treatment works (POTWs) and the amount of water used in the manufacturing process. The development and implementation of the USFRS XL Project will be piloted at USFRS and at approved generators and transporters of USFRS resin wastes. The approved generators and transporters will handle, store and transport the resin wastes in accordance with specific standards contained in new part 266, subpart O of Title 40 of the Code of Federal Regulations ("subpart O"). These requirements would operate in lieu of the requirements imposed under parts 261–265, 268, 270, 273 and 279 of Title 40 of the Code of Federal Regulations. As a result, it is anticipated that there will be an increase in the recovery and recycling of metals from the electroplating waste waters and that the generators will reduce their discharge of process waste waters to local POTWs. USFRS will handle the resin wastes as hazardous waste and in accordance with subpart O and its RCRA hazardous waste permit. The rule imposes on USFRS additional reporting and handling requirements in exchange for the regulatory flexibility provided to the generators and transporters.

Today's final rule promulgates regulations that are identical to the proposed rule, except where otherwise noted below. Today's rule will facilitate implementation of the FPA that has been developed and signed by USFRS, EPA, the Minnesota Pollution Control Agency (MPCA), the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington in Minnesota, Pioneer Tank Lines.[1] As generators and transporters are approved for participation they too will sign the FPA. The FPA is available in the docket for today's action and on the world wide web at http://www.epa.gov/projectxl/. The FPA addresses the nine project XL criteria, and the expectation of EPA that this XL project will meet those criteria. Those criteria are: (1) Environmental results superior to what would be achieved through compliance with current and reasonably anticipated future regulations; (2) economic opportunity; (3) stakeholder involvement, support and capacity for community participation; (4) test of innovative, multi-media, pollution prevention strategies for achieving environmental results; (5) approaches that could be evaluated for future broader application (transferability); (6) technical and administrative feasibility; (7) mechanisms for monitoring, reporting and evaluation; (8) consistency with Executive Order 12898 on Environmental Justice (avoidance of shifting of risk burden); and (9) community planning. The FPA specifically addresses the manner in which the project is expected to produce superior environmental benefits.

Today's rule is one of the required legal mechanisms necessary to implement the provisions of the USFRS XL Project. However, Minnesota has an authorized hazardous waste program. Therefore, the requirements outlined in today's rule will not take effect until Minnesota either receives from EPA authorization for an equivalent legal mechanism to implement this rule or the State uses an existing authorized mechanism to implement this rule. EPA will not be the primary regulatory agency responsible for implementing the requirements of today's rule. The State of Minnesota and, in certain areas, the County Agencies will be the primary regulatory agency. For the sake of simplicity, however, the remainder of this preamble refers to the effects of this rule, although it will be the corresponding State and local law and permits by which it will be implemented.

The information presented in this preamble is organized as follows:

I. Authority
II. Overview of Project XL
III. Overview of USFRS XL Project
  A. Scope of the USFRS XL Project
  B. What Problem has USFRS Identified?
  C. What Solutions will be implemented by the USFRS XL Project?
  D. How have the various stakeholders been involved in this Project?
  E. How will this project result in cost savings and paperwork reduction?
  F. How will EPA ensure the integrity of this XL Project?
  G. How will the terms of the USFRS XL Project and rules be enforced?
IV. Rule Description
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I. Authority

EPA is publishing this final regulation under the authority of sections 2002, 3001, 3002, 3003, 3006, 3010, and 7004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6912, 6921, 6922, 6923, 6926, 6930, and 6974).

II. Overview of Project XL

The FPA sets forth the intentions of EPA, MPCA, Pioneer Tank Lines the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington,[2] Minnesota and USFRS with regard to the USFRS XL Project. Project XL is an EPA initiative to allow regulated entities an opportunity to achieve better environmental results at less cost.

EPA announced Project XL—"eXcellence and Leadership"— on March 16, 1995. It is a central part of the National Performance Review and the EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Under Project XL EPA provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to EPA's ability to test new strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. EPA intends to evaluate the results of this and other Project XL projects to determine which specific elements of the project(s), if any, should be more broadly applied to other regulated entities for the benefit of both the environment and the economy.

Under Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance.

The XL program is intended to allow EPA to experiment with potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis.

Adoption of such alternative approaches or interpretations in the

[1] EPA mistakenly identified this company as Pioneer Transport in the proposed rules. EPA will revise its name in the final rules (section 266.301 and 266.303(c)) to reflect the correct name - Pioneer Tank Lines.

[2] These counties are identified signatories to the FPA since the State has given them certain responsibilities over hazardous waste generators, transporters and facilities within their jurisdiction.

context of a given XL project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether or not they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, EPA expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (provided that the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory provisions, such as section 8001 of RCRA.

XL Criteria

To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria: superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden. They must have full support of affected federal, state and tribal agencies to be selected.

For more information about the XL criteria, readers should refer to the two descriptive documents published in the **Federal Register** (60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997), and the December 1, 1995 "Principles for Development of Project XL Final Project Agreements" document. For further discussion as to how the USFRS XL Project addresses the XL criteria, readers should refer to the USFRS FPA available from the EPA RCRA docket or Region 5 library for this action (see **ADDRESSES** section of today's preamble).

XL Program Phases

Development of a Project has four basic phases: the initial pre-proposal phase where the project sponsor comes up with an innovative concept that it would like EPA to consider as an XL pilot; the second phase where the project sponsor works with EPA and interested stakeholders in developing its XL proposal; the third phase where EPA, local regulatory agencies, and other interested stakeholders review the XL proposal; and the fourth phase where the project sponsor works with EPA, local regulatory agencies, and interested stakeholders in developing the FPA and legal mechanisms. The XL pilot proceeds into the implementation phase and evaluation phase after promulgation of the required federal, state and local legal mechanisms and after the designated participants sign the FPA.

Final Project Agreement

The FPA is a written agreement between the project sponsor, participants and regulatory agencies. The FPA contains a detailed description of the proposed pilot project. It addresses the eight Project XL criteria, and the expectation of EPA that this XL Project will meet those criteria. The FPA identifies performance goals and indicators (monitoring schedules) which will enable USFRS to clearly illustrate the baseline quantities and compare them to quantities derived after implementation of the pilot. The FPA specifically addresses the manner in which the project is expected to produce superior environmental benefits. The FPA also discusses the administration of the agreement, including dispute resolution and termination. The FPA for the USFRS XL Project is available for review in the docket for today's action, and also is available on the world wide web at *http://www.epa.gov/projectxl/*.

III. Overview of the USFRS XL Project

Today's new rules will facilitate implementation of the FPA and the USFRS XL Project. The regulatory relief provided in the final rules promulgated today, however, will not be federally effective in Minnesota until the state has made similar changes to its hazardous waste management program and, as necessary, EPA has approved of those changes as part of the State's authorized hazardous waste program. See the preamble to the August 17, 2000, **Federal Register** for a more detailed discussion of the manner in which the state may make such changes and the consequences of such actions.

A. Scope of the USFRS XL Project

The USFRS XL Project is limited in scope to the USFRS facility located in Roseville, Minnesota and to approved generators and transporters located within the State of Minnesota. It is further limited to waste specifically defined as USFRS XL wastes from the approved generators.

This XL Project is limited to USFRS ion exchange resin canisters, the USFRS resin process filters used prior to and after waste water treatment in the resin canisters ("pre- and postfilters") and the contents of the resin canisters and filter containers after use by an approved generator. The wastes include the resins, the wastes contained on or within the resins, the pre- and post-resin filters and any other wastes contained within the canisters or the filter containers. The wastes include only those wastes which are generated from processes subject to the RCRA F006 hazardous waste listing from approved generators.

EPA and MPCA must approve of each generator or transporter prior to it being added to this XL Project as a participant. If the generator's principal place of business is located within the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington, Minnesota then the environmental agencies located within these counties ("county environmental agencies" or "county agencies") must also approve of the generator. EPA's review of a proposed participant will focus primarily on its compliance and enforcement history. Before USFRS proposes to EPA to add a company to this project USFRS will conduct a preliminary evaluation of the company to ensure that it qualifies.

USFRS' preliminary evaluation of a proposed generator will ensure that the proposed generator is within the electroplating, metal working and circuit board manufacturing industrial sectors, has a complete USFRS application form, and has a storage area which meets the standards specified in subpart O. Only generators who generate or may generate waste water treatment sludges from electroplating operations may participate in the USFRS XL Project since it is limited in scope to RCRA F006 hazardous waste.

USFRS' preliminary evaluation of a proposed transporter will consist of determining whether the transporter has a current satisfactory safety rating from the United States Department of Transportation (USDOT), an EPA hazardous waste identification number, and a Minnesota Uniform Hazardous Materials Registration (Minnesota registration). This USFRS XL Project is limited to transporters who have a current satisfactory rating from the USDOT. They do not need an EPA identification number or Minnesota registration to participate.

The federal procedures for approving a company as a participant in the USFRS XL Project as a generator or transporter are detailed in the final rule. In summary, if a company passes USFRS' preliminary evaluation, USFRS will notify EPA in writing of its desire to add the company to the USFRS XL Project. EPA will have twenty one days to veto such company's participation in the USFRS XL Project. If USFRS does not receive a written disapproval from EPA within the twenty one days, the company is deemed to have EPA approval. USFRS must also obtain the approval of the MPCA and appropriate county agency. After USFRS has received the approval of EPA, MPCA and the appropriate county agency it will notify the potential generator or transporter that it has received the required agency approvals. At that time, USFRS will obtain the company's signature to the FPA and a certification that it has received the appropriate training. Upon request, USFRS will forward a copy of the signed documents to EPA, MPCA and the appropriate county agency.

On the date USFRS receives the signed FPA and certification, the potential generator or transporter is considered part of this USFRS XL Project. This date may be referred to as the generator or transporter "effective date." Only generators or transporters who signed the FPA and certification after receiving EPA's approval may participate in the USFRS XL Project. The generator or transporter must handle its USFRS XL waste generated on or after the effective date in accordance with the requirements of part 266, subpart O. The generator or transporter must handle USFRS XL waste generated prior to the effective date according to the RCRA regulations applicable at that time. New subpart O does not apply retroactively to these wastes.

The USFRS Roseville facility will handle the USFRS XL wastes as a hazardous waste and consistent with its hazardous waste permit.[3] USFRS' treatment of the wastes will consist of treatment to regenerate the resins and make them amenable for reuse in another canister. USFRS will handle any residual wastes from the resin regeneration process and the filters from the pre- and post-filtration process according to the RCRA hazardous waste code designation they would have had if they were not subject to the XL001 designation (i.e., F006 and any other appropriate waste codes). USFRS will ensure that this hazardous waste is legitimately recycled through metal recovery.

[3] The conditions in new subpart O must be incorporated into USFRS' hazardous waste permit by the State of Minnesota. This must be accomplished in time to allow USFRS to have the revised permit before it installs the ion exchange resin process at its first generator approved by the agencies.

B. What Problems Has USFRS Identified?

USFRS has stated that the present RCRA regulatory structure may act as a disincentive for certain manufacturers to use the ion exchange resin process. This in turn may act as a disincentive for them to reduce the amount of metals being discharged to a water body; to increase the recycling of metals from electroplating processes and reduce the consumption of potable water.

Electroplaters, metal finishers and other similar industries use large volumes of water to wash and rinse materials during the manufacturing process. In most manufacturing processes today, wash and rinse water is used once, then discarded. This "single-use" waste water is usually directed to an on-site waste water treatment plant where it is treated to levels required by the Clean Water Act prior to discharge to a POTW or surface waters. This single-use of water is very wasteful. A great amount of effort and cost is expended to produce potable water for this single use. Additional costs are incurred in treating these waste waters prior to discharge.

To minimize single water use and to encourage recycling of rinse waters, USFRS has developed an ion exchange resin treatment process ("resin process"). The resin process consists of three separate but integrally linked components—pre-filter, resin filter and post-filter components. The manufacturing waste waters are directed to the pre-filter components first. The pre-filter components consist of a polypropylene wound particle cartridge(s) contained in a plastic container. The pre-filters collect a certain size particulate from the waste water. They are essential to the proper operation of the resin filter since they collect particles which may plug or foul the resin filter. The pre-filters collect particles which contain metals such as copper, zinc, chrome and nickel from the manufacturing waste waters. The waste waters are directed from the pre-filters by hose to the resin filters. The resin filter consists of a cylindrical canister which contains the ion exchange resin. The waste waters are directed to the resins which further collect metals onto themselves. After treatment in the resin canisters the waste waters are directed to the post-filters via hose. The post-filters also consist of a polypropylene wound particle cartridge(s) contained within a plastic canister. The post-filters function as a final polishing step and fail-safe mechanism should the ion exchange resin leak from the resin canister. The waste waters entering the post-filter container(s) generally meet final discharge limits under the Clean Water Act. The water that exits the post-filters ("regenerated water") can then be discharged to the local publicly owned treatment works (POTW) or directed back to the manufacturing process and reused. If the regenerated water is directed back to the manufacturing process this would reduce the amount of potable water that is needed in the manufacturing process.

The use of water reuse systems such as USFRS's ion exchange system by electroplaters, metal finishers and similar industries often results in the resins, filters, canisters and associated containers being considered a listed hazardous waste (F006) once the resins and filters have been spent at the manufacturing plant. However, these resins and the canisters can be regenerated at USFRS' Roseville, Minnesota facility. This regeneration process produces a regenerated resin and residual wastes containing metals, such as copper, nickel and zinc ("sludges"). The regenerated resin may be reused again in other water treatment systems. The residual wastes from USFRS's regeneration process along with the pre- and post-filters may be recycled to recover the metals contained within them. However, since the resins, filters, canisters and associated containers may be a RCRA hazardous waste, the manufacturer incurs additional obligations under RCRA that it would not necessarily incur if it had not implemented the water reuse system. The additional regulatory obligations may act as a disincentive to a company's use of a water reuse system and thus increases the use of potable water.

USFRS suggested that the use of its water reuse system would lower the amount of metals ultimately discharged to a local water body. Collecting and recycling of sludges and filters will result in less wastes being land filled. Furthermore, USFRS suggests that the metals that are recovered may reduce the energy and environmental impacts

from mining and manufacturing of virgin ores.

C. What Solutions Will Be Implemented by the USFRS XL Project?

To encourage water and waste reduction and increased recycling new subpart O will temporarily defer from the RCRA regulatory requirements contained in 40 CFR parts 261–265, 268, 270, 273 and 279 the resins, filters, resin canisters and filter containers used in the USFRS ion exchange resin treatment process. This temporary deferral will be implemented through a new waste code designation which will be used while the waste is at the approved generator and during its transport to USFRS. This deferral is premised on the fulfillment of five general requirements. First, the generator would handle the waste in accordance with specific standards required by the new rule. Second, the waste is transported only to USFRS' Roseville, Minnesota facility and only by approved transporters. Third, the generators and transporters are limited to companies located in Minnesota who pass a preliminary evaluation by USFRS and are approved by EPA, MPCA and the appropriate county agencies. Fourth, USFRS handles the waste according to the waste code designation it would have had but for the temporary deferral contained in the new rule (i.e., F006 and any other appropriate waste code). Finally, USFRS will recycle, through metals recovery, any metals contained in these wastes. Presented in Section IV below is a more detailed discussion of these elements of the new rule and final FPA.

D. How Have Various Stakeholders Been Involved in This Project?

Nine public meetings were held to inform the general public and environmental groups about the project and to invite their comments and participation. EPA solicited comments on the draft FPA and proposed rule on August 17, 2000 and made them both available on its web page and in dockets established in Washington, D.C. and Chicago, Illinois.

USFRS may hold additional public meetings during implementation of the FPA based on public interest or as decided by direct participants. Stakeholder input and community goals have been and will continue to be considered throughout project implementation. USFRS shall report on a quarterly basis efforts to maintain stakeholder involvement and public access to information in accordance with the requirements of the new subpart O.

E. How Will This Project Result in Cost Savings and Paperwork Reduction?

EPA believes that this project has the potential for cost savings by making recycling of water and waste more cost competitive with traditional treatment/disposal options. Costs savings may include those associated with: purchase of additional potable water for single use; capital and operating costs to treat mildly contaminated waste waters so that they meet pretreatment standards prior to discharge; discharge fees associates with wastewater discharge (including permits, monitoring and sewer access charges); transport and disposal of hazardous waste sludges; and taxes paid to local authorities.[4] A cost comparison will be conducted during project implementation to evaluate the cost savings. EPA believes that the paperwork burden for the generator will be reduced as compared to current RCRA requirements. USFRS will be required to retain and submit certain reports which RCRA would normally require of its customers, and report ongoing environmental performance and success in meeting its targets. For further information about the impacts of this rule on paperwork reduction, please see section VI.E.

F. How Will EPA Ensure the Integrity of This XL Project?

EPA will ensure the integrity of this project through the regulations that it is finalizing today, its prior approval of the generators and transporters, its normal enforcement and oversight authority and coordination and cooperation with the State of Minnesota and appropriate county agencies.

The final rules will be the primary vehicle EPA will use to ensure that USFRS and all generators or transporters of USFRS XL waste handle the USFRS XL wastes in a manner which is acceptable to EPA.

G. How Will the Terms of the USFRS XL Project and Final Rule Be Enforced?

All XL projects must include a legally enforceable mechanism to ensure accountability and superior environmental performance. EPA retains its full range of enforcement options under the final rules. Thus, once there is a federally enforceable mechanism in place, if EPA determines that a company is not in compliance with it then EPA and, under certain conditions, private citizens may take enforcement action against that company and may terminate that person's continued participation in the project (section 3005(d), 3006(d) and 3008(a) of RCRA).

In addition to its enforcement options EPA retains its option to terminate a company's continued participation in this XL Project. In the event EPA terminates a person's continued participation in this XL Project, EPA will use the criteria and procedures identified in the final rules, not those contained in Minnesota's rules, statutes, permits or other implementing mechanisms.[5] (See proposed § 266.414–418).

The enforcement response on the part of EPA will depend upon the actual performance of each generator, transporter and USFRS, the mechanism the State uses to implement this XL Project and the severity of any violation.

EPA will enforce the existing Minnesota hazardous waste management regulations which are part of the Minnesota authorized hazardous waste program. The flexibility proposed in the final rule will not be available to USFRS, its generators and transporters until the State of Minnesota adopts equivalent flexibility which is federally applicable and enforceable. The instrument selected for the State's implementation of this XL Project must be one that is clearly federally enforceable.

Once all of the required federal and state legal authorities are in place, EPA will retain a role in evaluating this XL Project, USFRS and each generator and transporter. EPA will evaluate each generator and transporter prior to it being accepted into the program. Additionally, once this XL Project is effective EPA may routinely inspect any of the participants to determine their compliance. If EPA determines that a participant has violated a particular provision of the rules, then that participant may be subject to civil or criminal penalties pursuant to section 3008 of RCRA. Furthermore, EPA may terminate that company's continued participation in this XL Project.

In the event of a termination, the participant must remove the USFRS XL waste, take appropriate steps to decontaminate and return to compliance with RCRA.[6] The new rules specify a

[4] The counties each will decide whether to exempt the XL 001 waste from normal hazardous waste taxation.

[5] EPA expects that whatever mechanism the State elects to use to implement this XL Project it will clearly state that a company's continued participation may be terminated by EPA pursuant to its procedures contained in 40 CFR 266.414 through 266.418. Furthermore, such termination shall require the company to close its USFRS XL waste operations and comply with RCRA in accordance with 40 CFR 266.414 through 266.418.

[6] If a generator or transporter elects to terminate its participation prior to ever generating or transporting USFRS XL waste the rules provide a truncated termination procedure. This procedure does not require removal or decontamination of USFRS XL waste since none have been generated or transported at that point in time. The rules also provide for a shorter time for notice to EPA, MPCA and the appropriate county agencies. (See proposed §§ 266.414 and 266.416).

time period for accomplishing this. USFRS XL waste transporters will have 30 days after receipt of EPA's notice of termination to complete the termination procedures required by the new rules and return to compliance with RCRA. USFRS XL waste generators will have 60 days and USFRS will have 120 days. During the 30, 60 and 120 transition periods, the provisions of new subpart O would continue to apply in full. At the conclusion of the transition periods, the applicable RCRA regulations would again apply to the participant.

The rationale for the transition period is to allow sufficient time for the participant to reinstate the operational and administrative infrastructure necessary for proper RCRA compliance. EPA selected different time frames for the transporters, generators and USFRS based on the complexity of the activities they may have to engage in to return to compliance with RCRA. The preamble to the August 17, 2000 **Federal Register** explained the rationale for the various time frames.

G. How Long Will This Project Last and When Will It Be Completed?

As with all XL projects testing alternative environmental protection strategies, the term of this XL Project is one of limited duration. Today's rules would set the term of the XL Project at five years after the date that Minnesota modifies USFRS' RCRA permit to incorporate the requirements imposed on USFRS under new subpart O.

Because Project XL is a voluntary and experimental program, today's rule contains provisions that allow the project to conclude prior to the end of the five years in the event that it is desirable or necessary to do so. For example, an early conclusion would be warranted if the project's environmental benefits do not meet the Project XL requirement for the achievement of superior environmental results. In addition, new laws or regulations may become applicable to the wastes during the project term which might render the project impractical, or might contain regulatory requirements that supersede the superior environmental benefits that are being achieved under this XL Project. Similarly, the participants may also ask to discontinue participation in this XL Project prior to the five years if the experimental project does not provide sufficient benefits for them to justify continued participation.

IV. Description of the New Rules

A. XL Waste and Other Terms Defined

A definition of "USFRS XL waste" is contained in new 40 CFR 266.401. Based on its review of the public comments EPA has modified the definition contained in the proposed rule in two ways. First, EPA has included within the definition of USFRS XL waste, and thus in this XL Project, the USFRS pre- and post-filters and their containers used as part of the ion exchange resin process. Second, EPA has eliminated the requirement that the treated waste waters must be reused in the manufacturing process. EPA discusses the rationale for these changes and their anticipated impact on the project's environmental performance in section V below.

"USFRS XL waste" will consist of the USFRS used water treatment resin canisters, the USFRS required pre- and post-resin filters and their containers and the contents of the canisters and filter containers. It is limited to approved USFRS generators located within the State of Minnesota. The USFRS XL wastes are limited to wastes which result from processes which would be subject to the RCRA F006 hazardous waste designation at the point of generation (i.e. waste water treatment sludges from specified electroplating operations). These wastes may also exhibit a characteristic of hazardous waste as a result of the operations of a particular company. Spills of USFRS XL wastes by the generator or transporter are considered USFRS XL waste provided the generator or transporter handles the spill in accordance with the spill requirements of proposed 40 CFR 266.408(e) and 266.411. This definition does not include wastes that were generated prior to the date a generator is added to this USFRS XL Project. The definition states that USFRS XL waste while at an approved generator and during transport will be identified by the waste code XL001. It further states that the XL001 waste designation applies only to USFRS XL wastes generated by approved USFRS XL waste generators.

Section 266.400 contains a definition for an "approved USFRS XL waste generator." It is a company located in Minnesota who: has properly identified its wastes and processes; has passed a preliminary evaluation by USFRS; has not been excluded by EPA, MPCA and appropriate county agencies; has received notice of approval from USFRS; and has signed the FPA, and a certification that it has taken and understood the specific training required by subpart O.

Section 266.400 contains definitions for other terms used in subpart O, such as County Environmental Agencies, USFRS, USFRS XL waste application form, USFRS XL waste approved customer, USFRS waste approved transporter, USFRS XL waste facility, USFRS XL waste final project agreement, USFRS XL waste generator, USFRS XL waste project, USFRS XL waste training module, USFRS XL waste transportation tracking document and USFRS XL waste transporter. Except as noted in section V below, EPA has not changed these definitions from those it proposed on August 17, 2000.

B. Waste Identification and Characterization

Pursuant to § 266.406, prior to being accepted into this XL Project, the customer/potential generator company will properly identify its processes and chemicals contributing to the water proposed for treatment in the USFRS ion exchange resin treatment process. It may only identify those waste streams which meet the F006 listing. The company will complete and submit the USFRS XL waste application form to USFRS. After being accepted into this XL Project, the company shall provide USFRS with prior notification of any changes in its processes.

USFRS will perform a chemical profile analysis, of the company's waste stream(s) and processes contributing to the water treated within the ion exchange resin treatment process. USFRS will conduct this analysis in accordance with the test methods identified in its waste analysis plan contained in its RCRA hazardous waste permit. This waste stream analysis will substitute for an analysis of the resins and filters after use in their canisters and containers. The analysis will also ensure that the waste waters are compatible with the ion exchange resin process and that the wastes are compatible with maintaining the integrity of the canisters and containers. USFRS will conduct the waste stream analysis once for each company prior to accepting it into this XL Project. Once a company is accepted into the USFRS XL Project, USFRS will repeat the analysis whenever a company provides it with notice that it has changed its processes contributing to the USFRS XL waste.

The USFRS XL waste designation will only apply to those water treatment resin canisters, the pre- and post-resin filter containers and their contents for processes identified by the customer,

evaluated by USFRS and approved by EPA, MPCA and appropriate county agencies.

C. Notification and Recording of Participation in the USFRS XL Project

The new rules relieve the approved generators and transporters from the RCRA requirements of submitting an EPA hazardous waste notification form and obtaining an EPA identification number. In lieu of these RCRA requirements USFRS and its generators and transporters will follow the notification requirements and processes contained new §§ 266.402, 403 and 406. The procedures for adding generators and transporters to this XL Project are contained in new §§ 266.402 and 266.403. Section 266.406 requires the generators to use and complete the USFRS XL waste application form. Additionally, it requires USFRS to assign a unique customer and process waste stream number to each approved generator and waste stream. The USFRS XL waste application form will contain information similar to that required on the EPA Hazardous Waste Notification Form, except that it will identify the wastes by the "XL001" designation in addition to the EPA waste codes.

Section 266.406 requires USFRS to assign to each approved generator a unique client number. The generator will use this number whenever it generates and transports off-site USFRS XL waste. USFRS will also assign to each approved waste stream from the generator a unique number known as a waste profile number.

Pursuant to new proposed § 266.419(c), USFRS will maintain a list of the approved customers and generators.[7] USFRS will include on that list the customer name, the USFRS client and waste profile numbers, a summary of the results of the USFRS profile analysis and the process waste streams approved for participation in the XL Project. USFRS will have that list available at its Roseville, Minnesota facility and will provide that list to EPA and MPCA on a quarterly basis.[8] If any of the customer information is claimed as confidential business information or trade secrets USFRS will indicate that fact and notify EPA and MPCA. EPA will treat such material in accordance with 40 CFR part 2.

D. Transportation and Tracking of USFRS XL Waste Shipments

The new rules ensure that USFRS XL waste reaches its destination by applying strict transportation routing and tracking requirements on the transportation of USFRS XL waste from the time it leaves the generator to the time it is received by USFRS. Subpart O accomplishes this by directly imposing these requirements on USFRS and its generators and transporters (proposed § 266.410). The requirements are summarized below.

USFRS will control the transportation and routing of the USFRS XL wastes from a generator and its transporters. All USFRS XL waste generators must use a USFRS XL waste approved transporter to transport the USFRS XL waste. The USFRS XL waste must be sent to USFRS' Roseville, Minnesota facility. The generator must contact USFRS when it wants to transport its USFRS XL waste. USFRS' Roseville facility has a dedicated shipping department. That department will arrange with a USFRS XL waste approved transporter to pick-up the generator's USFRS XL waste within the 90 days the generator is allowed to store the waste on site.[9] USFRS' shipping department will complete the USFRS Transportation Tracking Document and provide it to the generator with a copy to USFRS' lab analysis. USFRS will include on the Transportation Tracking Document information required by these new rules. USFRS will provide the generator with the Transportation Tracking Document by the time the transporter arrives at the generator's site to pick up the waste.[10]

USFRS's transporters must pick-up the USFRS XL waste at the generator within the 90 days the generator is allowed to store the waste on-site. The transporters are required to transport the USFRS XL waste to USFRS' Roseville, Minnesota facility within 30 days of picking up the waste at the generator. A USFRS transporter may store or arrange to store a shipment of USFRS XL waste during that 30 day period, provided however, it may only do so for a 10 day or less period without triggering the facility requirements in sections 264, 265, 268 and 270 of RCRA. This 10 day limitation on the storage of USFRS XL waste by the transporter mirrors the limitations on storage by transfer facilities contained in section 263.12.

If the shipment is not received by USFRS within 30 days of the USFRS transporter picking it up at the USFRS generator, USFRS will contact the transporter to determine the disposition of the load. If USFRS does not receive the shipment within 5 days of its scheduled arrival date, it will notify EPA, MPCA and appropriate county agencies. USFRS will send a copy of the Transportation Tracking Document to the USFRS generator within 10 days of USFRS' receipt of the XL001 waste from the transporter.[11]

USFRS will use its own trucks or those of approved transporters to transport USFRS XL waste to USFRS's Roseville facility. USFRS may use any transporter provided it conducts a preliminary evaluation of the transporter; the transporter has a current satisfactory safety rating from USDOT; the transporter has been approved by EPA, MPCA, and, as appropriate the County Agencies; it has completed the USFRS XL waste training; and it has signed the FPA. New § 266.403 requires USFRS to include in its preliminary evaluation information on the current USDOT safety rating for the transporter, its EPA identification number and the status of its Minnesota registration to transport hazardous waste. USFRS will assign to each approved transporter a unique USFRS client identification number. This number will be used on the Transportation Tracking Document.

In lieu of the manifest, the new rules require USFRS, its transporters and generators to use the USFRS Transportation Tracking Document when transporting the USFRS XL waste from the generator to USFRS's Roseville facility. New rule § 266.410 and the definition of the USFRS XL Waste Transportation Tracking Document contained in proposed § 266.401 requires that USFRS obtain EPA approval of the Transportation Tracking Document prior to using the Transportation Tracking Document and whenever it proposes to revise it. With this rule EPA approves of the Transportation Tracking Document provided by USFRS and included in the docket for this rule. Pursuant to proposed §§ 266.419(d), 420 and 421 USFRS, the transporter and the generator(s) will retain a copy of the Transportation Tracking Document for three years for each shipment of XL wastes that is shipped off-site to the Roseville, Minnesota facility.

Section 266.410(a), requires USFRS, not the generator, to complete and submit any exception reports. USFRS will use a shorter time period—five days—to gauge whether it is necessary to take further steps to locate a shipment. If USFRS is unable to locate the shipment within five days it will then notify EPA, MPCA and appropriate county agencies of that fact.

E. Pre-Transport and Transportation Requirements

The new rules specify that only USFRS or an approved USFRS transporter will transport the USFRS XL wastes from the generator to the USFRS Roseville, Minnesota facility.[12] USFRS has an EPA identification number and a hazardous waste permit. USFRS approved transporters will have a current satisfactory safety rating from USDOT and a unique USFRS customer identification. All transporters will use the USFRS Transportation Tracking Document when transporting USFRS XL waste. Pursuant to §§ 266.408(c) and 409 the transporters and generators will ensure the USFRS XL wastes have affixed to the ion exchange resin canisters and the filter containers the following warning statement which will be provided by USFRS:

XL001 wastes—USFRS ion exchange resin process wastes—Federal Law Prohibits Improper Disposal. This is USFRS XL waste from (insert XL waste generator's name). Handle as a hazardous waste and ship only to USFRS located at 2430 Rose Place, Roseville, MN. This waste was placed in this container on (date) and placed in storage at (insert USFRS XL waste generator's name) on (insert date). *If found, contact USFRS and the nearest police, public safety authority, EPA or MPCA. The USFRS telephone number is (insert phone number). USFRS Transportation Tracking Document Number_____." If spilled immediately contain the spill and prevent it from going into any water body; collect the spilled material and place in an appropriately sized polycontainer; contact USFRS and the nearest police, public safety authority, EPA or MPCA.*[13]

USFRS will supply these labels to the generator at the same time that it provides the generator with the USFRS Transportation Tracking Document. The transporters will ensure that these labels are affixed to the containers during transport and that the XL wastes are within an approved container.

F. Accumulation and Storage Prior to Shipment

The accumulation and storage requirements are contained in § 266.408. The new rule requires the generator to store its USFRS XL waste on an impervious surface. Pursuant to § 266.402(c), prior to accepting a customer into this XL Project, USFRS will obtain from its customers the waste application form. This form will provide information on the location and condition of the proposed storage area. This information will be supplied on a site engineering form which USFRS developed and submitted as part of the waste application form. The generator will indicate on the site engineering form the location and construction of the storage area for the USFRS XL waste. Prior to accepting a generator into this XL Project, USFRS will review the site engineering form and inspect the company's storage area to determine if it is impervious. USFRS will only propose to EPA for this XL Project persons who, among other things, have an impervious storage area. Upon request, USFRS will provide a copy of the customer's site engineering form and the results of USFRS' evaluation of the customer to EPA, MPCA and appropriate county agencies.

The rule limits the generator to 90 days for the on-site storage of its USFRS XL waste. The generator must store the USFRS XL wastes in the water treatment resin canisters and filter containers and must store them separately from its other wastes or materials, including explosive or ignitable wastes or materials. The generator will ensure that the canisters and containers are closed and disconnected from the manufacturing process(es). It will place on the resin canisters and filter containers a label which indicates the company's name, location, contents of the resin canister and filter container and the date they were placed in storage. The generator will ensure that there is adequate aisle space to determine the condition of the canisters and containers and to respond to any leaks from them during their storage. The generator will inspect the condition of the canisters or containers weekly while they are stored on-site. The generator will maintain a log of these inspections. The log will indicate the date the canister and containers were placed in storage, the condition of the canisters and containers, the date of the inspection, the person conducting the inspection and the condition of the canisters and containers and the storage area at the time of the inspection.

Pursuant to § 266.413, the generator will retain the ability to legally treat or dispose of its wastes contributing to its USFRS XL waste stream in the event that it is no longer a participant in this XL Project. In most cases this will mean that the generator would have to make arrangements with its local POTW whereby the POTW would agree to take the generators' wastewater on 60 days notice. The POTW serving the Counties of Anoka, Hennepin, Ramsey, Washington, Dakota, Carver and Scott, known as the Metropolitan Council of Environmental Services (MCES) has advised EPA that it will be able to accept the wastewater of those generators who participate in this XL Project in its district on 60 days notice.

Generators will comply with tailored closure requirements contained in § 266.412. If and when a generator's participation is terminated in this XL Project, USFRS will pick up all of the generator's canisters and containers. Generally, § 266.415 provides USFRS and the generator sixty days to complete the closure activities required by proposed § 266.412. USFRS will collect the generator's USFRS XL waste within thirty days of notice of the company's termination in the program. The generator will remove from the storage area any USFRS XL wastes and clean any related contamination. The generator will retain records of all activities it has undertaken to decontaminate its storage area and equipment.

Within the same sixty days, the generator will provide USFRS with access to visit the generator. The purpose of this access is to allow USFRS to determine if all of the USFRS XL waste has been removed. USFRS has developed a systems discontinuation form that it will use to document its visual observations during this visit. Pursuant to § 266.412(b) USFRS will provide a summary of its observations at the generator of the condition of the storage area and the removal of all USFRS XL Waste. USFRS may use its systems discontinuation form. USFRS will provide the summary to the customer to EPA, MPCA and appropriate county agencies. Pursuant to §§ 266.419(d) and 266.420 USFRS and the USFRS XL waste generator will

[7] A distinction is made in the rules between an approved customer and an approved generator. They are essentially the same with the only difference being that a customer is not automatically a generator. A customer becomes a generator when if first generates or causes to be regulated USFRS XL waste.

[8] USFRS will also have a list of the approved transporters, see proposed § 266.419(c).

[9] EPA has changed the time period based on its review of the public comments it received. See section V below for a summary of the changes and EPA's rationale for such changes.

[10] Section 266.410(a) requires USFRS to provide the Transportation Tracking Document to the generator at the time the transporter arrives at the generator. This is a slight revision of proposed 266.410(a) which required USFRS to provide the provide the Transportation Tracking Document prior to the transporter arriving at the generator. See Section V below for a discussion of the reason for this change.

[11] Based on a review of the public comments EPA increased the time period from 5 days to 10 days. See section V below for a summary of EPA's support for such a change.

[12] The rule names USFRS and Pioneer Tank Lines as transporters. Both entities will be approved for participation when they sign the FPA.

[13] Based on the public comments EPA made two modifications to the warning statement. First, EPA changed the statement to indicate that it will be placed on the filter containers, not just the resin canisters. Second, EPA indicated that spills are to be placed in appropriately sized polypropylene containers, not 55 gallon steel drums. See section V below for a summary of the public comments and the reasons for these changes.

maintain records of their compliance with the requirements of § 266.412, including a copy of the systems discontinuation form or its EPA approved equivalent summary.

Abbreviated closure requirements are specified in § 266.414 for those companies who have not generated USFRS XL wastes at the time their participation is terminated. All that is required of these companies is that notice of their termination is provided and that they implement the alternative treatment or disposal required by § 266.413. This truncated closure is appropriate for these companies (i.e., USFRS XL waste approved customers) because at the time of their termination they will not have generated any USFRS XL waste. Consequently, the requirements related to decontamination and off-site shipment contained in § 266.412 are not appropriate.

Section 266.408(e) specifies the generator's responsibilities for spilled or leaked USFRS XL waste on-site. If there is a leak or spill of USFRS XL waste in the generator's storage area, then the generator will immediately contain and collect the wastes. It is anticipated that the spilled or leaked materials may consist of water and/or resins. The generator will place spilled or leaked resins in a polycontainer of sufficient size to contain the spilled or leaked resins.[14] When allowed by the local POTW, the generator will direct water spilled from the canisters or filters to its drainage system for permitted discharge to the local POTW, and notify the POTW. Otherwise, the generator will place the spilled or leaked water and resin from the canister(s) in a polycontainer of sufficient size to contain the spilled or leaked water and resin. The generator will store and label the spilled or leaked USFRS XL wastes in accordance with the requirements for USFRS XL wastes. The generator will notify USFRS and MPCA of the spill or leak and arrange with USFRS for the transport of any such spilled or leaked USFRS XL wastes with the next scheduled shipment of USFRS XL wastes.

This XL Project and the new rule do not impose on the generator a requirement for an internal communication device. It eliminates the need for fire extinguishers, water or foam. It also eliminates the need for a written contingency plan and an emergency coordinator at the generator. Instead, § 266.408(i) requires the generator to have an external communication device, such as a telephone. It also requires in §§ 266.408(a) and (b) that the generator store the wastes in a manner which should all but eliminate the potential for a release to the environment or an emergency. In particular, it requires the generator to segregate the USFRS XL wastes from other wastes and to store it on an impervious surface. Section 266.408(d) and (e) require the generator to inspect the storage area on a weekly basis and to immediately respond to spills or leaks of the USFRS XL waste.

Prior to generating any USFRS XL waste, pursuant to § 266.408(h), the generator must designate a contact person responsible for handling the USFRS XL wastes and responding to any releases of the wastes. It also requires USFRS to provide that person with adequate training on how to handle the USFRS XL waste and any releases. USFRS is required to provide each company (generators and transporters) with adequate training through the use of a training module ("USFRS training module"). USFRS may use any recorded communication media that it believes is appropriate for the training module (e.g., printed brochures, videos, etc.) Pursuant to proposed § 266.404 USFRS will submit this training module to EPA, MPCA and the appropriate county agency early enough such that it may obtain the necessary approvals prior to accepting the first shipment of USFRS XL waste. Further, pursuant to the new rule, the USFRS training module will, at a minimum, identify the hazards presented by the USFRS XL waste, the steps needed to install and replace the ion exchange resin canisters and filter containers, the requirements imposed by these rules, the procedures to follow in the event of a release of the USFRS XL wastes and the proper procedures to decontaminate equipment, structures and material in the event that the generator no longer participates in the XL Project. Prior to approving a person as a participant into the USFRS XL Project, USFRS will obtain a signed certification from that person. The certification will state that the person has reviewed, viewed or read the training materials and agrees to follow it. As part of this certification the potential generator will identify the individual responsible for its compliance with the conditions of these rules, the individual's job title and a description of his or her duties.

Pursuant to new § 266.405, USFRS will provide every potential generator with a material safety data sheet ("USFRS XL waste MSDS") for the USFRS XL waste. USFRS will provide this at the time the company applies to USFRS for participation in this XL Project. The USFRS XL waste MSDS will provide sufficient information for a person to respond safely to a spill or release of USFRS XL waste.[15] Pursuant to § 266.408(h) the generator will maintain and exhibit in a prominent location a copy of the USFRS XL waste MSDS on its property and will provide a copy of it to local police and fire departments and to the local hospital. USFRS will ensure that the USFRS XL waste MSDS prominently instructs individuals in the proper emergency response procedures for handling spills or leaks of the USFRS XL wastes at the generator or while in transit to USFRS. The USFRS XL waste MSDS will also accompany each shipment of USFRS XL wastes.

If an imminent or actual emergency occurs which threatens the release of USFRS XL waste at the generator site, then the generator will notify the EPA, MPCA, USFRS and the appropriate local emergency responders and county agencies. The generator will take actions to ensure the releases do not occur, recur or spread; contact USFRS to arrange for the transport and disposal of the USFRS XL wastes; and make a written recording of the event and its actions in response to such event.

G. Reporting and Recordkeeping Requirements

Sections 266.419, 420 and 421 present the recordkeeping and reporting requirements for USFRS, the generators and transporters. Pursuant to these rules, the generator will not be required to retain copies of the waste analysis or annual reports. Instead the burden will shift to USFRS to retain equivalent information to that contained within these reports. In particular, USFRS will retain for three years a copy of all approval letters to its approved customers and generators of USFRS XL wastes; any correspondence with its approved customers or generators relevant to their participation in this XL Project; a copy of the approved customer's and generator's XL Waste application form, site engineering form, summary of its generator closure review pursuant to § 266.412; waste analysis; its analyses of the approved customer's or generator's storage area; and the Transportation Tracking Document for each shipment of USFRS XL waste.

Each generator will be required to retain for three years records of any spill or emergency notifications and other duties imposed pursuant to § 266.408(e); the signed FPA and its certification; its weekly inspection log required by § 266.408(d); its compliance with the training requirements of § 266.408(h); a copy of the signed Transportation Tracking Document for USFRS XL wastes it generated; and its records of compliance with the decontamination requirements of § 266.412.

Each transporter will retain for three years a copy of the USFRS XL Waste FPA and its certification; a copy of the signed Transportation Tracking Document for USFRS XL waste it transported; and its record of any notification of spills or leaks of USFRS XL wastes required by § 266.411.

In addition to the records listed above, USFRS will develop and submit certain additional reports, lists and documents. Many of these reports and documents are in lieu of requiring the same or similar information from its generators (e.g., annual reports or contingency plan). The reporting requirements are presented in § 266.419 according to their frequency: annual reports (§ 266.419(a)), semi-annual reports (§ 266.419(b)) and quarterly reports (§ 266.419(c)). A summary of each report is presented below.

Quarterly reports are presented in § 266.419(c) and consist of status reports on generator and transporter participation in the XL Project. Separate lists, with similar information, will be reported for each. The generator list is summarized in this paragraph. USFRS will identify on the XL participant list information on its preliminary evaluation of the transporters and generators, the dates of EPA, MPCA and appropriate county approvals, the effective date of a company being added to the USFRS XL Project and any termination date. For the generators, USFRS will also include a summary of USFRS's profile analysis, the generator's process waste streams approved for participation in the XL Project and the condition of the customer's storage area at the time of its application to USFRS. For generators who discontinue participation in this XL Project, USFRS will include on the XL generator list the date of the notice of termination of its participation, the date USFRS removed the last ion exchange canister and filter container, and the date of the USFRS review of the generator's decontamination efforts. USFRS will update the XL participant list as persons are added to or eliminated from this XL Project. USFRS will have the XL generator list available for review by EPA or MPCA at its Roseville, Minnesota facility. USFRS will send a copy of the XL generator list to EPA, MPCA and appropriate county agencies on a quarterly basis.

The annual report requirements are presented in § 266.419(a) and are intended to provide a substitute for the hazardous waste biennial report. USFRS will provide an annual report on all USFRS XL wastes. USFRS will include in the annual report, at a minimum, each USFRS XL waste generator, the quantity of USFRS XL waste that USFRS received from each generator during the calendar year and a certification by USFRS that those wastes were treated at USFRS in accordance with the requirements imposed by new part 266, subpart O. USFRS will include information on the amount of metals it reclaimed and recycled from the resins.

USFRS will develop and track certain information that will be used to determine the environmental benefits derived from the USFRS XL Project. From the generators USFRS will report on an annual basis the following information: the amount of water recycled by the generators, the pretreatment chemicals and energy the generators did not use as a result of participating in this USFRS XL Project, the amount of water discharged to the local POTW before and during this project, the amount of sludge recovered by USFRS before and during this project, the amount of sludge recovered instead of being disposed by a generator (if the generator disposed of the sludge prior to participating in this project), the quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected from each facility (monthly), the frequency of canister and container replacement in terms of process volume, the constituents in the material (ion exchange resins, filters, wastewater treatment sludge, residues) collected at each facility (e.g., recoverable metals, contaminants/non-recoverable materials), and constituents in the material (ion exchange resins, filters, wastewater treatment sludge, residues) disposed by each facility (e.g., contaminants/non-recoverable material).

USFRS will report on an annual basis the following information from its facility: quantity of material (ion exchange resins, filter media, wastewater treatment sludge, residues) to be processed, quantity of metals recovered, the constituents of the recovered material (ion exchange resins, filter media, wastewater treatment sludge, residues), quantity and constituents of the non-recoverable material (ion exchange resins, filter media, wastewater treatment sludge, residues) and how it was disposed.

USFRS shall report on an annual basis the following information from the metal reclamation facility it uses to recycle sludges: the quantity of each metal recovered.

Pursuant to § 266.419(b), USFRS will collect and report on a semi-annual basis financial information related to the costs and savings realized as a result of implementation of this project and sufficient information for EPA to determine the amount of superior environmental benefit resulting from this project. Pursuant to § 266.419(b)(1), the report will contain information which includes, but is not limited to: 1. The volume of waste collected and recycled, 2. The amount of metals recycled, 3. The volume of recycled material sold to others, 4. Data regarding the management of the ion exchange canisters and filter containers, 5. The constituents of the sludge and 6. Information regarding how the sludge and residues are managed.

Additionally, § 266.419(b)(2) requires USFRS to report certain financial information related to implementation of this XL Project. It specifies that USFRS will collect baseline and XL costs. The baseline costs shall be calculated using two scenarios: (1) Typical charges (prior to the XL Project) for pretreating and disposing effluent wastewater under the applicable Clean Water Act requirements and the costs for manifesting, transporting and disposing of F006 sludges; and (2) typical charges that would be incurred if wastes were recycled in compliance with RCRA and requirements for manifesting and transporting those hazardous wastes (including tax obligations under both scenarios). The XL costs will include the current costs to the generator for completing transportation tracking documents, the current transportation costs for XL wastes, the generator's cost to install the ion exchange resin process, and the cost to USFRS of metals reclamation off-site (including costs associated with transportation and disposal). USFRS will compare the baseline costs to the XL costs and provide an analysis of whether the project is resulting in cost savings for the generators and which aspects of the XL Project produce these savings.

[14] EPA changed this requirement from a 55 gallon drum to the appropriately sized polypropylene container based on its review of the public comments. See section V below for a summary of the public comments and the reason for this change.

[15] Based on a review of the public comments EPA modified this requirement to clarify that the USFRS XL waste MSDS must be sufficient to identify the hazards associated with and steps needed to respond to a spill or release of USFRS wastes. EPA also eliminated the requirement that the USFRS XL waste MSDS meet the OSHA requirements for an MSDS and allowed for USFRS to use either an MSDS or an equivalent document. See section V below for summary of the public comments and the reasons for this modification.

H. Additional Requirements Imposed on USFRS

USFRS has a RCRA permit which allows it to receive the USFRS XL wastes. Pursuant to § 266.407 once USFRS receives the USFRS XL waste at its Roseville, Minnesota facility, the waste will lose its USFRS XL waste designation (XL001) and must be handled as a fully regulated hazardous waste (i.e, as F006 and any other applicable hazardous waste code designation). USFRS will determine the appropriate designation of the waste based on its waste profile analysis and knowledge of the waste stream. USFRS will comply with all terms and conditions of its RCRA permit for handling these hazardous wastes. USFRS will also be responsible for the conditions and terms identified in items A–F above as applicable to USFRS—e.g., waste profiling, use of the Transportation Tracking Document, generator annual report, training module, MSDS, discontinuation review of the customer, and transportation of waste to the Roseville, Minnesota facility. USFRS will arrange for the recycling through metals recovery of the metals which are contained in the generator's USFRS XL wastes. Pursuant to § 266.407(b) USFRS may not accept any customers into this Project unless and until it has arranged for recycling of the metals contained in the XL001 wastes it receives. This rule further requires USFRS to recycle the metals contained in the XL001 waste it receives throughout the duration of the XL Project.

To ensure proper coordination of responses to spills, leaks or emergencies of USFRS XL waste at the generator or while in transit, § 266.407(c) requires USFRS to have a spill response coordinator. This person will receive all calls from generators and transporters regarding spills, leaks or emergencies related to the USFRS XL wastes. This person shall also be responsible for coordinating the proper response to such spills, leaks or emergencies.

V. Response to Significant Public Comments and Changes From the Proposed Rule

During the comment period provided for the proposed rule EPA received comments from USFRS, the State of Minnesota and a citizen representing an unidentified third party. A summary of the comments, EPA's responses and any changes from the proposed rule is contained within this section.

Comment. USFRS requested EPA to include "pre" and "post" filters as part of the XL project. USFRS pointed out that the pre and post filters are an integral part of the ion exchange filter process which is the subject of the USFRS XL project. USFRS will handle these filters in the same manner that it does the ion exchange resin canisters. Namely, it will collect them from the generators and send them to a third party for recovery of the metals along with the sludges in the resin canisters. If the pre-and post filters, however, are not included as part of the USFRS XL project they would be considered F006 hazardous waste. A project participant thus would be subject to the USFRS XL project requirement for the ion exchange resin canisters and the RCRA hazardous waste requirements for the pre and post filters. This dual system would discourage generators from participating and thus would reduce the environmental benefits anticipated from this project.

Response. EPA agrees that the pre and post filters should be included as part of this XL project and subject to the same management standards as the ion exchange resin canisters. Consequently, EPA will modify the definition of USFRS XL waste contained in § 266.401.

According to USFRS the ion exchange treatment system consists of three components: (1) filtration of the waste water prior to ion exchange resin treatment ("pre-filter" phase); (2) the ion exchange resin treatment; and (3) filtration of the waste water after it exits the ion exchange resin treatment ("post-filter" phase). The pre and post filters consist of polypropylene wound particle cartridges contained in plastic canisters. The canisters are connected directly by hose to the ion exchange resin canisters. The pre-filters collect a certain size particulate in the waste water prior to it being introduced to the ion exchange resin canister for treatment. The pre-filters are essential to ensuring that the ion exchange resin canister are not plugged or fouled. According to USFRS, without the pre-filter the ion exchange resin canisters will not work as effectively. The post-filters receive the waste waters after they have been treated by the ion exchange resin canisters and prior to discharge or re-use of the treated waste water. According to USFRS, the post-filters will not usually receive as much or as large a particulate size as the pre-filters. They are used for final polishing and as a fail-safe mechanism should there be a leak of the treatment resins from the ion exchange resin canisters. The pre-filters will usually collect metals such as copper, nickel, zinc and chrome. The post-filters may collect some of these same metals but after the waste water has been treated to levels which would meet the water treatment discharge levels for these contaminants. Both filters would be considered F006 hazardous waste by operation of the RCRA derived from rule, regardless of the concentration of the metals, since the waste waters are electroplating waste waters.

Neither the proposed rule nor the preamble to it mentions the pre and post filters. EPA was not aware of their existence and function in the ion exchange treatment system until USFRS raised the issue in its comments. Including these filters within the scope of this project is consistent with the goals of the USFRS XL Project. The preamble to the proposed rule stated that the primary purpose of the USFRS XL Project was to encourage the use of the ion exchange resin treatment system. USFRS suggested that if more companies used this system then there would be an increase in the recycling of the sludges which resulted from the process; a reduction in the use of potable water; and a reduction in the energy associated with the use of potable water in the production process. USFRS stated that generators were reluctant to use the ion exchange resin process because of the stigma and costs associated with the resins being identified as a RCRA hazardous waste. The resins would be considered an F006 hazardous waste by virtue of the electroplating process waste waters which came in contact with them. To reduce the stigma and the costs EPA proposed to identify the ion exchange resin canisters with a unique hazardous waste code (XL001) and to subject them to special management standards contained in new subpart O to part 266.

EPA agrees that if the pre and post filters were not included as part of this XL Project then they would be properly characterized as F006 hazardous waste by virtue of the "derived from rule." The major contaminants on the filters and resin canisters are essentially the same—metals from electroplating waste waters. Regardless of whether they are identified as F006 or XL001 wastes the ion exchange resin canisters and pre and post filters would be subject to the same final disposition—metals recovery—under the USFRS XL Project. However, without making the change requested this would not occur. Additionally, there would be two separate management systems with some incompatibility between them. For example, if the pre and post filters are treated as F006 waste the generator will have to use the uniform hazardous waste manifest; can use any transporter; can arrange for the disposal of the filters at any hazardous waste facility and depending on the volume of wastes it generates can store the filters up to 270 days. The same generator, however, under new subpart O would not be required to use the manifest for the ion exchange resin canisters but would have to use an approved transporter; would have to send the resin canisters to USFRS where USFRS would arrange for metals recovery; and would be limited to a 90 day storage time limit, regardless of the volume of wastes generated by the generator. Such a dual management system can work. However, if USFRS is correct (i.e., that it will act as a disincentive to certain generators) it may be counterproductive to the purpose and goal of this XL project. Conversely, it may be better to subject the filters to the special management standards of new subpart O because it requires metals recovery and for some generators, may place a shorter time period for the on-site storage of the filters. To the extent that it is administratively easier for a generator to have the same management system and requirements for essentially the same wastes it may result in more participants in this XL project. With more participants EPA would expect greater metal recovery amounts and greater reductions in the use of potable water and energy. For all of these reasons EPA believes that it is appropriate and may enhance the success of the USFRS XL project to include the pre and post filters in this XL Project. EPA believes it can do this by revising the definition of USFRS XL001 waste to include the pre-and post-filters and their containers. EPA will revise this definition accordingly and will make conforming changes in other parts of the rules where necessary. For example the MSDS required by § 266.405, the spill response requirements of §§ 266.408 and 411, the closure requirements of § 266.412 and the recycling requirements of § 266.407 will be revised to reflect this change.

Comment. USFRS requested EPA to clarify the definition of USFRS XL waste. USFRS questioned whether the requirement in the definition of "USFRS XL waste" that limited participation to generators who would reuse "substantially all of the treated waste waters" would include processes where up to 50% of the process waters require use of new water in order for the customer to operate its processes effectively. USFRS pointed out that in any water reuse system there is a percent of water that is discharged rather than being returned to the original process (referred to as "bleed off"). Related to this issue USFRS suggested that the USFRS XL project be expanded to generators who use the ion exchange resin system regardless of whether they discharged the treated waste waters or reused them in their production process. USFRS felt that as long as the generators were required to send their resins to USFRS for metals recovery—a primary benefit of this project—there would be recovery of metals and a reduction in the disposal of these metals.

Response. USFRS projected that this project would benefit the environment by reducing the use of potable water in the manufacturing process and increasing the recycling of metals contained in the manufacturing waste waters. In the preamble to the proposed rule, EPA solicited comment on two related topics. First, EPA asked for data or comments on what would be an acceptable percent of "bleed off." USFRS' proposal at that time was limited to those generators who reused their treated waste waters. EPA recognized that some bleed off would occur. However, without data it could not establish a numeric bench mark for water reuse. At that time EPA believed that a numeric benchmark would be useful to ensure that one of the goals of the project was obtained—i.e., reduction in the use of potable water. Second, EPA asked for comments on whether the reduction in the use of potable water was sufficient environmental benefit by itself to warrant proceeding with the USFRS XL project. EPA explained that although it proposed to require the recycling and recovery of the metals in the sludges [16] it was not confident that there were facilities available to complete this task. EPA was concerned that if USFRS was not able to find a recycler of this waste the project would not proceed. Consequently, there would not be any environmental benefit from the Project.

The USFRS XL project is a RCRA regulatory reform initiative. One of the major environmental benefit expected from the USFRS XL project is a reduction in the disposal of the electroplating waste water treatment sludges and an increase in the recovery of metals from the ion exchange resin and filters. An increase the recycling and recovery of metals from the resins and filters would increase the waste disposal environmental benefits derived from this project. During the comment period EPA did not receive any comment suggesting that it should eliminate the recycling requirement. On the contrary, the private citizen strongly encouraged EPA to retain this requirement. Consequently, if USFRS is correct, allowing generators who discharge their treated waters to participate in this project would satisfy this commenter and might enhance this project's ability to recover metals and reduce their disposal. One method of accomplishing this would be to revise the definition of USFRS XL waste to eliminate from the proposed rule the treated water reuse requirement—specifically, eliminate the phrase "ion exchange resin canisters which result in reuse of substantially all of the treated waste waters." By doing this EPA, would also eliminate the need to identify a benchmark amount for bleed off and the requirement for any water re-use.

EPA recognizes that eliminating the water re-use requirement may have an impact on the amount of potable water used in the manufacturing process. This in turn may be less of an environmental benefit than EPA originally anticipated in the August 17, 2000 **Federal Register**. However, it is unclear, at this point, that such a negative impact will occur. It is possible that other factors, such as reduced local taxes for reduced water use or discharge, may work in concert with the rule and result in a net reduction in the use of potable water. To obtain an accurate assessment of the impact of this project on water use and re-use EPA will retain in the final rule the reporting requirements related to water reuse contained in the proposed rule. U.S. EPA believes that such information will be useful and valuable for it to more completely assess the overall environmental impact of this USFRS XL project.

Comment. USFRS wanted EPA to clarify that although its training manual will instruct participants on how to handle spills of USFRS XL waste it will not relieve them of the responsibility, if any, to have their own spill response plans and satisfy all federal, state and local requirements regarding training and how to handle spills.

Response. EPA agrees with USFRS. The applicability section of subpart O, § 266.400 clearly states that a participant in this XL project is relieved from compliance with specific RCRA requirements. All other federal, state and local requirements are applicable to the participants, including spill response and training requirements.

Comment. USFRS questioned the manner in which it will calculate the quantity of metals it recovers from its generators as required in new

[16] Section 266.407 conditions this project on USFRS finding a metals recovery facility and using such facility throughout this XL Project for all USFRS XL wastes.

§§ 266.419(a)(2) and (3). USFRS stated that it will calculate the metals collected/recovered for each generator based on the initial chemical profile analysis it performed on the generator's waste and the volume of resin received for regeneration during the relevant reporting period.

Response. EPA agrees with the method USFRS proposes and does not believe that a change in the rule is needed. The rule presently states that USFRS will report the quantity of metals it recovers at its facility. It does not specify a method for calculating that quantity. EPA recognizes that the method proposed by USFRS will provide it with an estimate of the actual amount of metals recovered not the actual amount recovered that it recovers. EPA believes that such an estimate is sufficient given the other data USFRS will report—amount of ion exchange resins, other wastewater treatment sludges and residues it recovers from each of its generators; the amount of water recycled by the generators and associated treatment costs saved by the generators; the amount of metals it recovers at its facility and the amount of metals actually recovered at off-site metals recovery facilities (see § 266.419(a)(4)).[17]

Comment. USFRS suggested that the rules be revised to allow for continued participation by a participant after it has changed ownership. USFRS stated that it was inappropriate to automatically terminate a participant given the efforts it has expended to enroll transporters and generators and the time it has taken to develop this Project. USFRS suggested that instead of an automatic termination there should be a review of the participant when there is a change in ownership.

Response. EPA agrees that new owners of generators or transporters may participate in this XL Project. EPA, however, does not believe it is appropriate or necessary to allow for a new owner of a generator or transporter to automatically continue participating in this Project pending a review and approval by EPA. EPA does believe that the new rules should be modified to allow for the substitution of a new owner of USFRS and to allow EPA to approve of a modified closure when there is new owner generator.

The August 17, 2000 **Federal Register** proposed that a company's continued participation in this XL Project would terminate when it changed owners. It did not require prior notice of the change in ownership.[18] The rules provided the prior owners with time to close and return to compliance with RCRA (see §§ 266.414–418)[19]. The time periods varied depending on whether the company was a generator, transporter or USFRS. If a generator changed owners the prior owner would have to discontinue generation of USFRS XL waste and complete the closure requirements contained in § 266.412. The prior owner would have 60 days from date of the change in ownership to disconnect its processes from the water treatment resin process, implement alternative treatment and disposal, remove all USFRS XL waste from its property and decontaminate the any contaminated areas.

The August 17, 2000, **Federal Register** proposed that generators and transporters may be added to this XL project at any time. Consequently, a new owner could be added before or after the change in ownership provided it met the criteria for such approval and the appropriate processes were completed. (See §§ 266.402 and 266.403). One of the criteria is prior approval of EPA. EPA's prior approval of XL participants is important to the success of EPA's XL projects and this XL Project in particular. A company must be knowledgeable of and committed to the XL project and the regulations promulgated thereunder. Additionally, it must have an exemplary environmental compliance history.

EPA believes that USFRS suggestion of allowing a new owner to continue without prior EPA approval may allow for a company which does not meet these criteria and does not qualify to participate. When a company changes ownership it is unknown whether the new owners meet these criteria. Additionally, a number of practical problems are presented. The new owners may decide not to participate in the XL project; they may decide to change personnel, operations or generate waste streams different from their predecessor; or they may have to clean-up wastes that the prior owner left. EPA believes that these issues should be resolved before a new owner is added to this XL project and generates USFRS XL waste. In instances where these issues are quickly resolved—e.g., everything stays the same but for the name of the owner—USFRS should be able to expedite the addition of the new owner to this XL project. Since the rules allow for the addition of a new generator or transporter at any time, a new owner could apply to participate prior to the change in ownership. This would minimize the disruption in any continuing operations. The advantage of terminating the prior owner's participation is that it clearly delineates the responsibility for any previously generated USFRS XL waste. The prior owner is responsible for closure.

EPA believes, however, that the termination procedures should be modified in one instance.[20] According to § 266.415(d) once there has been a change in ownership of a generator the prior generator has 60 days to complete the closure requirements of § 266.412. EPA is concerned that the rule as proposed would not allow a new owner to assume the prior generator's closure responsibilities or continue the pre-existing ion exchange resin process. This may be appropriate in certain instances—e.g., where the new owner is not approved or does not want to assume those responsibilities. However, there are other instances where it may be environmentally better to allow the new owner to continue the previous process without disruption or to assume the clean up responsibilities of the prior owner. To strike the proper balance between these two interests and to provide some flexibility EPA will change section 266.415(d) to require the prior owner to complete closure within 60 days of the change in ownership unless, within that time period, EPA has approved of the new owner and EPA has approved of any modifications the new owner proposes to the prior owner's closure responsibilities. If these approvals are not received within this time period the prior owner is still responsible for completing the closure within the 60 days.

The change in ownership of USFRS presents a problem not previously contemplated by EPA when it developed the proposed rule. The rules do not provide a mechanism or procedure to add the new owner of USFRS. Instead, they required USFRS to notify EPA of the change in ownership within 30 days of it happening and then within 90 days to arrange for the transition of all the USFRS XL waste project participants to return to compliance with RCRA. (See § 266.418(b)). Consequently, if USFRS were to change ownership then this XL Project would automatically terminate. This would set into motion the termination of the continued participation of all of the generator and transporters approved for participation in this project. The automatic termination of USFRS could potentially have a significant economic and environmental impact as a large number of companies attempt to switch from the ion exchange resin filter system to some other system within the same time. Such a consequence may be unavoidable where there are substantive reasons for terminating USFRS continued participation or this XL project—e.g. USFRS continuously violates its permit or the project does not demonstrate any environmental benefit. However, in the case of a change in ownership this is not necessarily true. Consequently, EPA believes that some procedure should be established to allow for the new owner of USFRS to continue operating this XL Project. This would be consistent with the RCRA permit rules which allow for the continued operation of a permitted facility after a change in ownership, provided the Agency has approved of the change in ownership. Consequently, EPA has modified § 266.418(b) to require USFRS to provide EPA with 90 days advance notice of any change in ownership and to provide EPA with its proposed revisions to the FPA if the new owner wishes to continue this XL Project. If EPA and the new owner are able to agree upon and sign the proposed revisions to the FPA within that 90 day time frame then the new owner may continue this XL Project. If an agreement and signature is not obtained within that time frame then procedures presently in the rules for automatic termination apply.

Comment. USFRS and MPCA requested that EPA extend the duration of the project to account for the time that it will take to obtain the necessary State, county and federal approvals. Both entities were concerned that it may take up to a year to obtain all of the necessary governmental approvals. This time will erode the five years that were given for the duration of the project.

Response. EPA agrees that sufficient time should be allowed for the project. Proposed § 266.422 stated that the new federal rules would be effective for five years from the effective date of the final rules. However, the preamble to the proposed rules clearly stated that USFRS may not implement the program outlined in the rules until the State of Minnesota either: (1) Receives federal authorization for similar state rules, (2) issues variances under its existing federally authorized hazardous waste program or (3) receives federal authorization for permits it issues to participating generators, transporters and USFRS pursuant to the Minnesota XL statute. Each of these options can easily take six months, at a minimum, to complete.

Minnesota has indicated a preference for the latter option-using its XL statute to develop general permits for the generators and transporters and modifying the existing hazardous waste permit for USFRS. Minnesota most likely will work on the XL permits in a sequential manner. It will develop the generator and transporter general permits first and then make the changes needed to USFRS RCRA hazardous waste permit. It will not issue the modifications to the USFRS RCRA hazardous waste permit until the generator and transporter general permits are completed and Minnesota has received authorization for these permits.[21] In this process the modified USFRS RCRA hazardous waste permit is the last element needed to make this XL project effective in the State.

EPA anticipates that Minnesota will need up to year to complete all the steps needed to implement its preferred option. Consequently, without providing an extension to the effective date of the proposed rule the project will last for only four years, at most, not the five years proposed.

Providing more time may also act as an incentive for more generators to participate in the USFRS XL project. This in turn may provide USFRS and EPA with more reliable information on the environmental benefits derived from the project. It may also provide EPA with additional time to evaluate whether the project can and should be expanded. Consequently, EPA has modified § 266.422 in the following two ways to provide the full five years for the duration of the project. EPA has changed the effective date of subpart O to six months after publication of the final rule in conformance with section 6930(b) of RCRA. Second, EPA has changed § 266.422 to indicate that the project will run for five years from the date that Minnesota issues a modification to the USFRS RCRA permit to implement this XL project. Since the modified RCRA permit is the last step anticipated in Minnesota's implementation process for this project it is reasonable that the duration of the project be measured from that date.

Comment. USFRS requested EPA to amend the rules to allow it more than 30 days to pick up a generator's XL waste. USFRS indicated that this requirement would effectively reduce the 90 day storage allowed for generators of the USFRS XL waste to 30 days. This in turn would have the greatest impact on USFRS being able to attract new customers located outside the Minneapolis-St. Paul area. Generators outside of the metropolitan area would be most sensitive to transportation costs. The 30 day time limit would increase those transportation costs since USFRS expected that there would be more frequent pick-ups with smaller loads. If the time period were extended USFRS felt that some of the expenses could be reduced. USFRS suggested that the rule allow it to pick-up the XL waste within the 90 days allowed for the generator to store the XL waste. USFRS further suggested that it would agree that the rule state that at no time would the XL wastes be allowed to remain on-site for greater than 90 days.

Response. EPA agrees with USFRS' request and will revise § 266.410(a) and (c) to allow it and its transporter to pick up a generator's USFRS XL waste within the 90 days allowed the generator to store the waste. The changes suggested by USFRS are consistent with the goal of the project and the rule and may result in a rule which works better than the proposed rule.

One of the goals of this project is to increase the recycling of F006 waste. It is reasonable to expect that the more participants in this project the greater the chance that this goal will be met. Consequently, if USFRS is correct, then USFRS may be able to maximize the number of participants with EPA providing a longer time period for USFRS to pick up the wastes. EPA selected the 30 day time period in the proposed rule because it appeared that

[17] EPA, expects that the facility USFRS uses to recycle its sludges will be able to provide actual amounts of metals recovered. Consequently, EPA has not changed section 266.419(a)(4).

[18] EPA established the post-notice and termination process in the proposed rules in part to avoid a concern frequently raised on an alternative—prior notice of ownership change and prior EPA approval. Frequently, for business purposes, companies want to keep these changes private until after they have occurred. Requiring prior notice appeared to be impractical.

[19] If a generator or transporter elects to terminate its participation prior to ever generating or transporting USFRS XL waste the rules provide a truncated termination procedure. This procedure does not require removal or decontamination of USFRS XL waste since none have been generated or transported. (See §§ 266.414 and 266.416).

[20] EPA does not believe it is necessary or appropriate to modify the procedures in section 266.414(b), 266.416(b) or 266.417(d), termination of an approved customer, approved transporter and transporter as a result of a change in ownership. For an approved customer and approved transporter there are no closure requirements specified since by definition they will never had handled USFRS XL waste. For the transporter the "closure" would consist merely of transporting the USFRS XL wastes it has to USFRS within 30 days of the change in ownership. This was inadvertently left out of section 266.417(d) but is consistent with 266.417(a), (b) and (c) and the general requirement to transport USFRS XL wastes to USFRS within 30 days of there receipt. (See section 266.410(a)). EPA will add this to section 266.417(d).

[21] Although Minnesota has indicated a preference for issuing general permits under its XL statute, it might later decide to promulgate new state RCRA regulations and submit those to EPA for authorization or to issue variances under its approved RCRA program. In any case, USFRS' RCRA permit will need to be modified.

USFRS could meet this time period. The ultimate goal of the rule was to ensure that there was adequate cooperation between the project participants to accomplish the same goal—i.e., remove the XL waste from the generator's storage area prior to the expiration of the 90 day storage limit. This goal can be met by revising § 266.410(a) and (c) to specify that USFRS and its transporters will pick up a generator's XL waste before the 90 day storage time limit expires on the waste.[22]

Comment. USFRS requested EPA to change § 266.410(a) to allow it more time to send a copy of the Transportation Tracking document it received with the shipment of XL waste to the generator. USFRS stated that 5 days was inconsistent with its present practice approved by the State. Namely, USFRS mails copies of the hazardous waste manifests to the state and the generators once per week.

Response. EPA agrees to extend the time from 5 days to 10 days. This is more stringent than the 30 days allowed under RCRA but should allow USFRS to continue its existing practice which the State has approved for other hazardous waste shipments. It will also provide the generator and USFRS sufficient time to track any missing shipments.

Comment. USFRS requested EPA to modify § 266.410(a) to allow it to provide the generator's with the Transportation Tracking Document and warning statement at the time the transporter arrives at the generator to pick-up the USFRS XL waste. USFRS indicated that such a modification to the rule will make the rule harmonious with its existing system for all wastes. This would allow it to maintain the 48 hour response time for pick-up of its customer's wastes in the local area.

Response. EPA agrees to make the change requested by USFRS in § 266.410(a). The proposed rule stated that USFRS was to provide the Transportation Tracking Document and warning statement to the generator prior to the transporter arriving at the generator. The purpose of the timing requirement was to provide the generator with time to review the document and make any changes that might be necessary. This can be accomplished if the document arrives with the transporter. Additionally, since the generator and the transporter are still responsible for verifying the accuracy of the document under § 266.410(b) and (c) the ultimate goal of the rule is still achieved—i.e., accurate transportation tracking documents.

Comment. USFRS was concerned that it could not meet the MSDS requirements in §§ 266.405, 266.408(g), 266.410(c) and 266.411 because its MSDS covered the ion exchange resins prior to use (i.e., "fresh resins") whereas these rules contemplated an MSDS which covered the resins after use (i.e., with contamination on them). It proposed using another document—the Treatment and Storage form—which identifies the hazards associated with the wastes and emergency response protocols.

Response. EPA will revise § 266.405 to allow USFRS to use the MSDS or an equivalent form which identifies the hazards associated with the resins and filters after use and the emergency response protocols. This change should allow USFRS to use its Treatment and Storage form if it contained the requisite information.

Comment. USFRS stated that in certain instances the subpart O rules are more stringent than RCRA or its routine practices and should be revised to be the same as RCRA (e.g.., generator storage of USFRS XL waste limited to 90 days, regardless of the amount; storage of the USFRS XL waste on an impervious surface; time limits for exiting the XL project which are inconsistent with RCRA and notice to more entities of a spill than just MPCA). USFRS felt that these provisions would make it difficult to convince potential customers who are knowledgeable about RCRA to participate in this program.

Response. An XL project must be environmentally superior to the existing regulatory program. Consequently, EPA would anticipate that certain elements of this XL project would be more stringent than the RCRA regulatory program. In developing the subpart O rules, EPA attempted to balance the desire to maximize the number of participants with the need to ensure that the project would result in superior environmental benefits. EPA believes that it has done that by replacing the manifest and reporting requirements for the generators, expanding the scope of the program to include pre and post filters and eliminating the treated water re-use requirement. In exchange for these provisions EPA believes that the requirements identified as more stringent are a reasonable trade off.

Comment. USFRS suggested that § 266.412 was incorrect based on their understanding that it referred to discontinuation of business not the generator closure identified on page 50307 of the August 17, 2000 **Federal Register**.

Response. EPA disagrees with USFRS. § 266.412 requires the generators to complete closure at the time of termination of the generator's participation in the USFRS XL project. § 266.415 specifies the manner in which a generator may terminate its participation—either voluntarily, as a result of action EPA, MPCA or the County Agencies, as a result of action by USFRS or after a change in ownership. The rule also specifies the time period for completing closure under each of these scenarios—it is 60 days.

Comment. USFRS and MPCA requested EPA to commit to assisting it in expanding this project beyond the State of Minnesota.

Response. As a general goal EPA agrees that expanding an XL Project to other States and other companies may be a desired outcome of its XL program, if the pilot shows promise. EPA, however, believes that it is premature for it to make the commitment USFRS and MPCA seek. XL Projects are participant driven pilot projects. The time and resources necessary to develop a project is significant and is the responsibility of the project sponsor. USFRS did a good job of developing this XL Project with the State of Minnesota and tailoring it to the rules of that State and its local governments. However, in order to expand this project beyond the State of Minnesota USFRS will need to involve other State, local, environmental and industry groups. Additionally, it will need to modify the proposal in a manner which is consistent with each State's authorized hazardous waste program. For example, USFRS' transportation tracking document may present certain States with administrative issues.

To the extent this project is amenable to expansion EPA believes that it can make such a determination after USFRS has implemented this project for one or two years. After that time USFRS will have obtained actual data on the environmental benefits derived from this XL project. USFRS will also have had the opportunity to identify improvements to the Project and to convene the necessary stakeholder meetings. At that time EPA will be in a position to ascertain if this project is capable of being expanded on a national basis and the appropriate manner in which to make such a change.

Comment. USFRS stated that the use of 55 gallon steel drums to collect and contain spills of ion exchange resins would be inappropriate. The steel can corrode when in contact with certain resins[23] or can irreversibly foul them. Additionally, the amount spilled may be significantly less than 55 gallons. As an alternative USFRS suggested that the drum be a polycontainer compatible with the wastes and of sufficient size to contain the amount spilled.

Response. EPA will revise §§ 266.408(e) and 266.411 as suggested by USFRS.

Comment. USFRS was concerned that § 266.408(b) would require the generators to store the USFRS XL wastes in separate areas from their storage of other wastes. USFRS believed that simple segregation of the USFRS XL wastes would be sufficient.

Response. EPA agrees that simple segregation of the USFRS XL wastes from the other wastes is sufficient. It disagrees that § 266.408(b) requires storage in a separate area. Storage in a separate area within a storage area for other wastes would be acceptable.

Comment. One individual felt that the public participation was inadequate. He suggested that there was not enough "non-governmental" stakeholders. He said that the FPA should not be signed until there were additional public meetings and his client had an opportunity to become one of the stakeholders.

Response. Stakeholder involvement and representation is an important element for every XL project. It is the responsibility of the project sponsor and continues throughout the project—even during implementation. EPA regrets when any stakeholder is not able to participate as early in the process and as often as it would like. EPA certainly would expect that USFRS would include any stakeholder who wishes to be added to this stakeholder's group.

EPA disagrees, however, that there was inadequate public participation and that the FPA and rule should not be signed. USFRS had 9 separate stakeholder meetings. They invited and had in attendance representatives from industry, the environmental community, private citizens and the State and local governments. All of this was done prior to EPA public noticing the draft FPA and proposed rules on August 17, 2000. With the August 17, 2000 **Federal Register** EPA invited the public to submit comments and request a public meeting. Requests for a public meeting were to be made by August 24, 2000. EPA did not receive any such requests until it received this request on September 7, 2000. Even though this is a late request for a public meeting EPA has evaluated the merits of the request and believes that an additional public comment period or a public meeting are unnecessary. This commenter submitted two pages of substantive comments on the proposed rule and draft FPA. (EPA presents a more detailed summary and response to these comments below). The commenter was primarily concerned with EPA retaining the recycling requirement. EPA has done that. Additionally, this commenter will continue to have meaningful opportunities to comment on this project after the FPA and rule are signed. As stated earlier, stakeholder involvement continues after the FPA is signed and this rule is promulgated. That involvement will be meaningful. Major implementation issues and decisions still have to be completed. Signing the FPA and new rule is just the first step in the process. For example, the State will have to develop the legal mechanisms which it will use to implement this project. Public involvement may be useful in completing this. Additionally, some of the legal mechanisms the State may use may require public participation prior to completion of them. To the extent the commenter is concerned that it is precluded from participating in the project that is not correct. The project is structured in a manner which allows any person who qualifies to be added to the project as a generator or a transporter. To the extent the commenter is concerned that the environmental benefits of the project may be insufficient, any person—not just stakeholders—may advise EPA, USFRS, MPCA or the County Agencies of project problems at any time. If the problems are major and not capable of being fixed, EPA has retained the ability in both the FPA and rules to terminate this project at an earlier time.

Comment. One commenter responded to EPA's request for comments on whether this project should be conditioned on USFRS' ability to recycle the USFRS XL wastes. The commenter stated that the recycling requirement must be retained. He stated that before EPA eliminated that requirement it needed to conduct further studies. Those studies would provide data on the impact of the increased metal disposal against the environmental benefit of a reduction in the use of potable water. The commenter also wanted EPA to ensure that generators who are currently reclaiming metals from F006 wastes continue to do so.

Response. EPA agrees that the recycling aspect of this Project is a major part of it and has the potential to yield a significant environmental benefit. Furthermore, it appears that there is a market for this service and that USFRS will be able to obtain such services. EPA has, therefore, retained the recycling requirement. Consequently, USFRS and participating generators, through USFRS, will be recycling the USFRS XL wastes.

If the project operates as USFRS projects the amount of metals recycled and the number of generators who recycle metals may increase. USFRS anticipates this would happen, in part, as a result of its resin process collecting more metals prior to waste water discharge to a POTW and in part due to companies doing waste water treatment when they did not previously do it.

EPA disagrees with the commenter's suggestion that certain studies are needed prior to EPA approving of this project. XL projects are intended to pilot new approaches. By their nature, some projects will not have the data on the actual environmental benefits *a priori*. They may be used to collect the data to substantiate the benefits anticipated. Such projects may be used to assist EPA in obtaining the data and experience, on a small scale, it needs to determine whether larger, national changes should be made. This XL project does that. It requires USFRS to collect and analyze data which will allow EPA to assess the comparative environmental benefits derived from the use of its resin regeneration process and the alternative management standards imposed on F006 wastes which are recycled. (See § 266.419).

Comment. The State submitted written comments indicating that it was uncertain of the legal mechanisms it could use to implement the XL project. In its written comments, due to resource constraints and other uncertainties, it generally disagreed with certain options EPA outlined in the preamble to the proposed rule. It suggested that EPA use the FPA to incorporate their understandings and agreement on the implementation options to be used for this project.

Response. EPA shares the State's concerns about the length of time and resources it will need to finish the State and, in two instances, federal authorization proceedings to implement the new subpart O rules. EPA also agrees that the FPA can be used to identify the legal options and mechanisms the EPA and the State may use to implement this XL Project. EPA has revised the FPA to do that.

The FPA allows the State to chose any of the three options EPA identified in the preamble to the August 17, 2000, **Federal Register**. In summary those

[22] USFRS did not request EPA to change the time period it would take the transporter to transport the XL wastes to its facility. Consequently, EPA will retain the requirement in 266.410(c) that the transporter deliver the USFRS XL waste to USFRS within 30 days of it picking it up from a USFRS XL waste generator.

[23] The resin canisters are steel but compatible with the resins because there is a liner which separates the resins from the steel.

options are: (1) Revise its existing hazardous waste rules to mirror new subpart O; (2) issue permits which mirror the new subpart O to the project participants using the State's XL statute; or (3) issue variance(s) which mirror the new subpart O to the project participants using the variance authority in its existing RCRA authorized hazardous waste program or. The first two options require the State to submit them to EPA for federal authorization after they are adopted by the State.[24] The State has indicated its preference for option 2 (issuing permit(s) and submitting an authorization application). To expedite matters, EPA has provided the State with guidance on the elements of an authorization application for option 2. EPA has also committed in the FPA to expedite its review of its request for authorization of option 2. Finally, EPA has delayed the start of the subpart O rules, and thus this project, in a manner which will allow USFRS to implement this XL project for the full five years, regardless of any delays the State or EPA may incur in putting in place the required legal mechanisms.

In addition to the changes already discussed EPA modified §§ 266.401, 266.403(c), 266.414, 266.415 and 266.416. EPA made these changes on its own initiative.

Sections 266.414–418 present the federal procedures for termination of an entities continued participation in this XL Project. EPA added in §§ 266.314, 266.315 and 266.316 that the State and County may have different procedures. Furthermore, EPA added that it is not bound by nor will it follow the State or local procedures. This is true regardless of the enforceable mechanisms the State uses to implement this XL Project. EPA explained this position in the preamble to the August 17, 2000 **Federal Register** and had stated it in proposed §§ 266.417 and 266.418. EPA inadvertently excluded this language in the proposed version of §§ 266.414, 266.415 and 266.416 and is correcting the final version of these sections with this final promulgation.

EPA is revising § 266.401 (definition of USFRS XL waste final project agreement) and § 266.403(c) to change the name Pioneer Transport to Pioneer Tank Lines. USFRS proposed Pioneer Tank Lines as one of the approved transporters for the USFRS XL waste. EPA mistakenly identified this company as Pioneer Transport in the proposed rules. EPA is correcting these rules to (§§ 266.401 and 266.403(c)) to reflect the correct name—Pioneer Tank Lines.

The designation for the regulatory text has been changed from subpart N, §§ 266.300–266.322 in the proposed rule to subpart O, §§ 266.400–266.422 in final rule. This is due to a numbering conflict with a simultaneously proposed rule.

[24] The preamble to the proposed rule provides more information on the options, the rationale for each and the steps needed to make them legally enforceable.

VI. Additional Information

A. What Regulatory Changes Will Be Necessary To Implement This Project?

With the promulgation of this new rule no further federal regulatory changes will be needed. However, since the state of Minnesota is authorized under section 3006 of RCRA to implement the federal RCRA program it will have to complete certain steps to provide USFRS, its generators and transporters with the regulatory flexibility needed to implement the USFRS XL project. The preamble to the proposed rule provides a detailed discussion of the steps Minnesota can take to implement this USFRS XL project. The approved generators, transporters and USFRS are subject to the present state regulations, which do not provide this flexibility, until such time as new regulations are adopted by the state of Minnesota or an equivalent state legal mechanism is used and authorized as part of the approved federal hazardous waste program for Minnesota. Therefore, conforming state regulatory changes or legal mechanisms must be implemented in addition to the proposed federal changes for companies to enter into this XL Project. Additionally, depending on the mechanism selected by the State of Minnesota, EPA may have to review and approve of the mechanism as part of the State's authorized hazardous waste program.

B. Why Is EPA Supporting This New Approach to USFRS XL Waste Management?

EPA is supporting this new approach because it believes that it will provide superior environmental performance by promoting recycling of water and recovery and reuse of metals that would otherwise be land disposed. USFRS and its customers will be complying with requirements that are as protective of public health and the environment as the RCRA requirements that would otherwise be applicable. EPA also believes that implementation of this project will result in a significant cost savings to the participating customers. The success of this project will be evaluated on an ongoing basis and will determine whether this new approach to waste management should be extended to other areas of the country.

C. How Does This Rule Comply With Executive Order 12866?

Because this rules affects only U.S. Filter, its transporters and its customers, it is not a rule of general applicability. It is therefore, not subject to OMB review and Executive Order 12866. In addition, OMB has agreed that review of site-specific rules under Project XL is not necessary. Further, under Executive Order 12866, the Agency first must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of this proposed rule would be significantly less than $100 million and would not meet any of the other criteria specified in the Executive Order and because this proposed rule affects only USFRS and its transporters and generators, it is not a rule of general applicability or a "significant regulatory action" and therefore not subject to OMB review. Further today's proposed rule does not apply to any entity unless they choose on a voluntary basis to participate in this XL Project. Finally, OMB has agreed that review of site specific rules under Project XL is not necessary.

Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. However, in consideration of the very limited scope of today's rulemaking and the considerable public involvement in the development of the draft FPA, the EPA considers 30 days to be sufficient in providing a meaningful public comment period for today's action.

D. Is a Regulatory Flexibility Analysis Required?

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Administrator certifies that this proposal, if promulgated, will not have a significant economic impact on a substantial number of small entities for the reasons explained below. Consequently, EPA has not prepared a regulatory flexibility analysis.

Small entities include small businesses, small organizations and small governmental jurisdictions. For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as : (1) A small business according to RFA default definitions for small business (based on SBA size standards); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Today's rule amends EPA's RCRA Regulations to modify the handling and reporting requirements for certain hazardous waste generators and transporters, as well as for USFRS. USFRS is not a small entity. The modifications authorized by the rule would reduce costs to the generators to whom it applies and those modifications should have no impact on costs to the transporters. EPA has concluded, therefore, that the rule will not have a significant economic impact on a substantial number of small entities.

E. Is an Information Collection Request Required for This Project Under the Paperwork Reduction Act?

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and has assigned OMB control number 2010–0026.

EPA is requiring that information be collected regarding which generators and transporters are eligible for regulatory flexibility under the USFRS XL Project. Information is also needed in order to keep generators, transporters, USFRS, and emergency response teams abreast of XL 001 waste, its contents, and when it is shipped and received. Finally information is needed to determine whether the project produces superior economic and environmental benefits. The success of the project will help determine whether it should be extended to other areas of the country. Participation in the project is voluntary; however, if a generator or transporter decides to participate, EPA requires the filing of this information. Quarterly reports will be publicly available. The estimated total cost burden of collecting the information is $240,670/year and the estimated total length of time to collect it is 4205 hours/year. The estimated total number of respondents is 91. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. EPA is amending the 40 CFR part 9 table of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in this final rule. The table lists the CFR citations for EPA's reporting and recordkeeping requirements, and the current OMB control numbers. This listing of OMB control numbers and their subsequent codification in the CFR satisfy the requirements of the Paperwork Reduction Act and OMB's implementing regulations at 5 CFR part 1320.

F. Does This Project Trigger the Requirements of the Unfunded Mandates Reform Act?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this proposed rule is limited to USFRS and certain of its customers and transporters. This proposed rule would create no federal mandate because it is a voluntary program proposed by USFRS. Further, EPA is imposing no enforceable duties that are anticipated to be more expensive or more onerous for the parties that would exist without this proposed rule. The rule does not change the authorization status of the State. Since the proposed rule is a relaxation of the federal regulatory program, it will not take effect until the State adopts the

rule. The State is under no federal obligation to adopt less stringent requirements. EPA has also determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Nevertheless, in developing this proposed rule, EPA worked closely with MPCA, Ramsey, Hennepin, Anoka, Dakota, Carver, Scott and Washington Counties and received meaningful and timely input in the development of this proposed rule.

G. How Does This Rule Comply With Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks?

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant," as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental, health or safety risks addressed by this action present a disproportionate risk to children. The proposed rule has no identifiable direct impact upon the health and/or safety risks to children and adoption of the proposed regulatory changes would not disproportionately affect children. Finally, all XL projects must demonstrate superior environmental performance. Therefore, EPA anticipates that the proposed rulemaking will benefit all people, including children. The proposed rulemaking is thus in compliance with the intent and requirements of the Executive Order.

H. How Does This Rule Comply With Executive Order 13132 on Federalism?

Executive Order 13132, entitled "Federalism" (64 FR 43255), August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The requirements outlined in today's proposed rule would apply only to the USFRS facility and generators and transporters of USFRS XL waste and will not take effect unless Minnesota chooses to adopt equivalent legal mechanisms or requirements under state law. Thus, the requirements of Section 6 of the Executive Order do not apply to this rule. Although Section 6 of Executive Order 13132 does not apply to this rule, EPA did fully coordinate and consult with State and local officials in developing this rule.

I. How Does This Rule Comply With Executive Order 13175: Consultation and Coordination With Indian Tribal Governments?

Tribal Governments (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

J. Does This Rule Comply With the National Technology Transfer and Advancement Act?

Section 12(d) of NTTAA, Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary standards. This proposed rulemaking sets alternative handling and paperwork requirements for certain hazardous wastes; it does not set technical standards. EPA is not considering the use of any voluntary consensus standards.

K. How Does This Rule Comply With the Congressional Review Act?

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this rule is of particular applicability.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 266

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: May 3, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, parts 261 and 266 of Chapter I of title 40 of the Code of Federal Regulations are amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

Subpart A—General

2. Section 261.6 is amended by revising paragraph (a)(2) introductory text and by adding paragraph (a)(2)(v) to read as follows:

§ 261.6 Requirements for recyclable materials.

(a) * * *

(2) The following recyclable materials are not subject to the requirements of this section but are regulated under subparts C through O of part 266 of this chapter and all applicable provisions in parts 270 and 124 of this chapter:

* * * * *

(v) U.S. Filter Recovery Services XL waste (subpart O).

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922–6925, 6934 and 6937.

2. Part 266 is amended by adding a new subpart O to reads as follows:

Subpart O—Standards Applicable to U.S. Filter Recovery Services XL Waste and U.S. Filter Recovery Services, Inc.

Sec.

266.400 Purpose, scope, and applicability.
266.401 Definitions.
266.402 Procedures for adding persons as generators to EPA's USFRS XL Project.
266.403 Procedures for adding persons as transporters to EPA's USFRS XL Project.
266.404 USFRS requirements related to the development, use and content of USFRS XL Waste Training Module.
266.405 USFRS requirements relative to the development, use and content of USFRS XL Waste MSDS.
266.406 Waste characterization.
266.407 USFRS XL Waste Identification, handling, and Recycling.
266.408 Accumulation and storage prior to off-site transport.
266.409 USFRS XL waste transporter pre-transport requirements.
266.410 USFRS XL Waste Transport and Transportation Tracking Document.
266.411 Release of USFRS XL waste during transport.
266.412 USFRS XL Waste Generator Closure.
266.413 USFRS XL waste generator requirements to maintain alternate treatment or disposal capacity.
266.414 Termination of a USFRS XL waste approved customer's participation in the USFRS XL Project.
266.415 Termination of a USFRS XL waste generator's participation in the USFRS XL Project.
266.416 Termination of a USFRS XL waste approved transporter's participation in the USFRS XL Project.
266.417 Termination of a USFRS XL waste transporter's participation in the USFRS XL Project.
266.418 Termination of USFRS' participation in this XL Project.
266.419 USFRS Recordkeeping and reporting requirements.
266.420 USFRS XL waste generator recordkeeping and reporting requirement.
266.421 USFRS XL waste transporter recordkeeping and reporting requirement.
266.422 Effective Date and Duration of the project.

§ 266.400 Purpose, scope, and applicability.

The purpose of this subpart is to implement the U.S. Filter Recovery Services (USFRS) eXcellence in Leadership (XL) Project. Any person who is a USFRS XL waste generator or transporter must handle the USFRS XL waste in accordance with the requirements contained within this subpart. The standards and requirements of this subpart also apply to USFRS and its facility located at 2430 Rose Place, Roseville, Minnesota. These requirements are imposed on USFRS in addition to any requirements contained in its RCRA hazardous waste permit or other applicable state or federal law. USFRS XL waste generators and transporters are not required to comply with the requirements of 40 CFR 261.5, parts 262 through 266 (except this subpart O), parts 268, 270, 273 and 279 provided they manage USFRS XL waste in compliance with the requirements of this subpart O.

§ 266.401 Definitions.

County Environmental Agencies or County Agencies means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington in Minnesota.

USFRS means U.S. Filter Recovery Services, Inc. whose principal place of business for the purposes of these rules is 2430 Rose Place, Roseville, Minnesota.

USFRS XL Waste means one or more USFRS used water treatment resin canisters and their contents, any associated USFRS pre- or post-resin filters and their containers and their contents from a USFRS XL waste generator located within the State of Minnesota. USFRS XL waste includes the ion exchange resins, the associated pre- and post-resin filters, wastes contained on or within the ion exchange resins and filters and any other wastes contained within the water treatment resin canisters and filter containers. USFRS XL waste also includes spills of XL waste which are handled in accordance with the requirements in this subpart. This definition does not include wastes that were generated prior to the date a generator is added to this USFRS XL Project. USFRS XL waste shall be identified by the waste code XL001.

USFRS XL Waste Application Form means the form approved by EPA and Minnesota Pollution Control Agency (MPCA) as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA and used for characterization of the chemical constituents of a person's USFRS XL waste. The USFRS XL Waste Application Form shall include all attachments by USFRS or the applicant, including but not limited to, the USFRS Site Engineering Form, Systems Engineering Form and any waste analysis.

USFRS XL Waste Approved Customer means only those persons located in Minnesota who have properly identified their wastes and processes on the USFRS XL waste application form; have not been excluded by EPA, MPCA or the County Agencies from participation in

the USFRS XL waste project; have signed the USFRS XL waste Final Project Agreement (FPA); have certified that they have read and understand the USFRS XL waste training module; and have not generated USFRS XL wastes.

USFRS XL waste approved transporter means a transporter located within the State of Minnesota who has a satisfactory safety rating from the United States Department of Transportation (USDOT) in the last year; has not been excluded by EPA, MPCA or the County Agencies from participation in the USFRS XL waste project; has signed the USFRS XL waste FPA; and has signed a certification that it has been trained by USFRS on the proper handling of USFRS XL wastes and understands its responsibilities under this subpart.

USFRS XL Waste Facility or USFRS Facility means the U.S. Filter Recovery Service, Inc. operations located at 2430 Rose Place, Roseville, Minnesota.

USFRS XL Waste Final Project Agreement (FPA) means the agreement signed by USFRS, EPA, MPCA, the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington in Minnesota, Pioneer Tank Lines and USFRS XL waste customers, generators and transporters. The FPA may be modified to add or delete participants, subject to the approval of EPA and MPCA. The FPA was signed by EPA, USFRS and MPCA on September 21, 2000.

USFRS XL Waste Generator means a USFRS XL waste approved customer who generates or generated USFRS XL waste.

USFRS XL Waste Project, USFRS XL Project or XL Project means the program identified in the Final Project Agreement and this part for the generation, transportation and subsequent treatment, storage and disposal of USFRS XL waste.

USFRS XL waste training module means the recorded training program approved by EPA and MPCA as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA and developed by USFRS for the purpose of informing USFRS XL waste approved customers, generators and transporters of the special requirements imposed on them by this part and the proper method of handling USFRS XL wastes.

USFRS XL Waste Transportation Tracking Document means the Transportation Tracking Document developed by USFRS which was approved by EPA and the MPCA as part of the USFRS XL Waste Project or subsequently modified by USFRS and approved by EPA and MPCA; and used when USFRS XL waste is transported off-site from a generator.

USFRS XL Waste Transporter means USFRS or a USFRS XL waste approved transporter who transports USFRS XL waste.

§ 266.402 Procedures for adding persons as generators to EPA's USFRS XL Project.

(a) Any person who wishes to participate in the USFRS XL Project as a generator must obtain the approval of the EPA and the Minnesota Pollution Control Agency (MPCA). The approval of the County Agency is also required if that person will generate USFRS XL waste at a location in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington, Minnesota. The procedures identified in this subpart are to be followed to obtain EPA approval to add a person to the federal USFRS XL Project. USFRS and a proposed generator must also comply with the procedures identified by the MPCA, and appropriate County Agencies. A person may not be added to the federal USFRS XL Project unless it has the approval of EPA, MPCA and as appropriate the County Agencies.

(b) USFRS is the only entity which may propose to add a person as a generator to the USFRS XL Project. USFRS may propose to EPA to add persons to the USFRS XL Project at any time provided, USFRS complies with the requirements of this section. Prior to being considered a USFRS XL waste generator, a person must first be approved as a USFRS XL waste approved customer. Only a USFRS XL waste approved customer may become a USFRS XL waste generator. A person becomes a USFRS XL waste generator after it first generates or causes USFRS XL waste to be regulated.

(c) USFRS will conduct a preliminary evaluation of any person it wishes to propose to EPA to add to the USFRS XL Project as a generator. USFRS will complete this preliminary evaluation prior to proposing to EPA to add such a person to the USFRS XL Project. The preliminary evaluation will consist of the following activities: USFRS will require any person who wishes to become a USFRS XL waste generator to complete and sign the USFRS XL Waste Application Form; USFRS will complete the waste characterization required by 40 CFR 266.406(b); USFRS will evaluate the person's storage area for the USFRS XL waste to determine whether it meets the standards of this subpart O; and USFRS will provide the person with a copy of the USFRS XL waste MSDS, FPA and training module.

(d) After successfully completing the activities identified in paragraph (c) of this section, USFRS will provide EPA with the name and such other information as the Agency may require to determine if a person may participate in the USFRS XL Project as a generator. USFRS will propose for inclusion into the USFRS XL Project only those person(s) whose wastes are compatible with the ion exchange resin process and canisters and whose storage area meets the standards in this subpart O. EPA's approval shall be effective within twenty one days of EPA's receipt of USFRS's written notice proposing to add a person to the USFRS XL Project unless EPA, within that time period, provides USFRS with a written notice rejecting such person.

(e) After securing the approval of EPA, MPCA and the County Agencies, USFRS shall notify the person it proposed to add to the USFRS XL Project in writing that it is approved for participation in the USFRS XL Project. USFRS will assign to that person a unique client number and waste profile number for each waste stream approved for this XL project. USFRS will obtain from that person a copy of the signed USFRS XL waste FPA and a certification that it has read and agrees to follow the USFRS XL waste training module. USFRS shall also ensure that as part of this certification the approved customer identifies its contact person as required by 40 CFR 266.408(h). Upon request by EPA, USFRS will provide EPA with a copy of the signed documents or other documents it requests.

(f) USFRS will accept USFRS XL waste only from those persons who have received the approval of EPA, MPCA and, as appropriate, the County Agencies and who have signed the USFRS XL Project FPA and the certification identified in paragraph (e) of this section. A person's participation in this USFRS XL Project is effective after EPA, MPCA and, as appropriate, the County Agency approve of them and on the date that USFRS receives the signed USFRS XL waste FPA and certification. At that time the person is a USFRS XL waste approved customer. A USFRS XL waste approved customer becomes a USFRS XL waste generator when it first generates or causes USFRS XL wastes to be regulated. A USFRS XL waste generator must handle all USFRS XL wastes generated after the effective date of it being added to the USFRS XL Project in accordance with the provisions of this subpart O. USFRS XL waste that is generated prior to this date is not subject to this subpart O and it must be handled according to the appropriate hazardous waste characterization for that waste, (e.g., F006 and any other applicable waste code).

(g) USFRS will require a USFRS XL waste approved customer and generator to update the USFRS XL waste application form prior to it adding to or modifying the waste streams or processes it identified on its initial USFRS XL waste application form. USFRS will notify EPA, MPCA and as appropriate, the County Agencies whenever a customer or generator notifies USFRS that it has or will add or modify waste streams or processes. EPA will notify USFRS if any further EPA approvals are required.

§ 266.403 Procedures for adding persons as transporters to EPA's USFRS XL Project.

(a) Any person who wishes to participate in the USFRS XL Project as a transporter must obtain the approval of the EPA and the MPCA. The approval of the County Agencies is also required if that person's principal place of business is located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington. The procedures identified in this subpart are to be followed to obtain EPA approval to add a person as a transporter to the federal USFRS XL Project. USFRS and a proposed transporter must also comply with the procedures identified by the MPCA, and as appropriate the County Agencies. A person may not be added to the federal USFRS XL Project unless it has received the approval of EPA, MPCA and as appropriate the County Agencies.

(b) USFRS is the only entity which may propose to EPA to add a person as a transporter to the USFRS XL Project.

(c) USFRS and Pioneer Tank Lines are approved USFRS XL waste transporters. USFRS may propose to EPA to add other persons as USFRS XL waste transporters provided USFRS complies with the requirements of this section. USFRS will conduct a preliminary evaluation of any person who it proposes to add as a USFRS XL waste transporter. As part of that preliminary evaluation USFRS will ascertain whether the transporter has a valid EPA identification number, a valid Minnesota hazardous materials registration ("Minnesota registration") and a satisfactory safety rating from USDOT within the last year.

(d) After successfully completing the activities identified in paragraph (c) in this section USFRS will provide EPA with the name of the transporter, the unique USFRS client identification number for the transporter, the results of its preliminary evaluation identified in paragraph (c) and other information as EPA may require to determine if that person may participate in the USFRS XL Project. USFRS will propose for inclusion into the USFRS XL Project only those person(s) who have a satisfactory safety rating from USDOT. EPA's approval shall be effective within twenty one days of its receipt of USFRS's written notice proposing to add a person to the USFRS XL Project unless EPA, within that time period, provides USFRS with a written notice rejecting such person.

(e) After receiving the approval of EPA, MPCA and as appropriate the County Agencies USFRS shall notify the person in writing that it is approved for participation in the USFRS XL Project. USFRS will obtain from that person a copy of the signed USFRS XL waste FPA and a certification that it has been trained by USFRS on the proper handling of USFRS XL wastes and understands its responsibilities under this subpart O.

(f) USFRS will allow only USFRS XL approved transporters to transport USFRS XL wastes. A person's participation in this USFRS XL Project is effective after it receives the approval of EPA, MPCA and the County Agencies, as appropriate, and on the date that USFRS receives the signed USFRS XL waste FPA and certification. A USFRS XL waste approved transporter becomes a USFRS XL waste transporter when it first transports or accepts for transport USFRS XL waste.

(g) USFRS will require a USFRS XL waste approved transporter or USFRS XL waste transporter to notify it of any change in its rating from USDOT, its Minnesota registration or its EPA identification number. USFRS will notify EPA, MPCA and, the appropriate County Agencies in writing of any such changes. EPA will notify USFRS in writing of any additional information or steps that may be required as a result of such changes.

§ 266.404 USFRS requirements related to the development, use and content of USFRS XL Waste Training Module.

(a) USFRS will develop, implement and maintain a USFRS XL Waste Training Module. USFRS will provide this training module to every person who applies for participation in the USFRS XL Project. USFRS may use any recorded communication media that is appropriate for communicating the requirements of this subpart (e.g., printed brochures, videos, etc.).

(b) The Training Module will, at a minimum, identify the hazards presented by the USFRS XL waste: for generators, explain how to handle the installation and replacement of the ion exchange resin canisters and the pre- and post-resin filters; and explain the requirements imposed on the generator or transporter pursuant to this part.

(c) USFRS shall submit this training module to EPA for approval prior to accepting the first shipment of USFRS XL wastes.

§ 266.405 USFRS requirements relative to the development, use and content of USFRS XL Waste MSDS.

USFRS will develop a USFRS XL waste material safety data sheet (MSDS) or similar document which meets the requirements of this subpart. USFRS will provide a copy of the USFRS XL waste MSDS to every person who applies for participation in the USFRS XL Project. USFRS will ensure that the USFRS XL waste MSDS prominently instructs individuals in the proper handling and emergency response procedures for spills or leaks of the USFRS XL wastes.

§ 266.406 Waste characterization.

(a) *Submission of USFRS XL Waste Application Form by USFRS XL Waste Generator.* A person who proposes to participate in the USFRS XL Project as a generator of USFRS XL wastes must properly identify the wastes and processes which contribute to the production of the USFRS XL waste at its company. For the purposes of this subpart O it shall identify only those waste streams which meet the F006 listing and shall identify them on the USFRS XL waste application form. It shall complete and submit to USFRS the USFRS XL Waste Application Form. It shall update and submit to USFRS the XL Waste Application prior to changing any process which contributes to the USFRS XL waste it generates.

(b) *USFRS Waste Profile Analyses.* For any person which USFRS proposes to add to the USFRS XL Project as a generator, USFRS will perform a waste profile analysis of the waste stream(s) and process(es) which will contribute to the USFRS XL waste at that company. USFRS will update such analyses whenever a USFRS XL waste generator notifies USFRS of a change or modification to its waste stream or process contributing to its USFRS XL waste. USFRS will include in the waste profile analysis a complete chemical analysis of the waste stream(s) and a determination of its compatibility with the ion exchange resin process, canisters and filters. USFRS shall complete such analysis in accordance with the testing methods identified in the waste analysis plan contained within its RCRA hazardous waste permit. USFRS shall assign to each generator a unique

customer identification number and waste profile number.

§ 266.407 USFRS XL waste identification, handling, and recycling.

(a) USFRS XL waste will be denoted by the hazard waste code XL001 while it is handled by the USFRS XL waste generator or transporter. At the USFRS facility, the USFRS XL waste will be denoted by the waste code(s) it would have had at the generator but for its characterization as USFRS XL waste (i.e., F006 and any other applicable characteristic waste code). USFRS and others who may receive residuals from the USFRS XL waste will handle the USFRS XL waste and residuals according to the wastes code(s) it would have had at the generator (i.e., F006 and the appropriate characteristic hazardous waste code) and not according to the XL001 designation. USFRS shall handle the USFRS XL waste at its facility in accordance with its State issued RCRA hazardous waste permit and any applicable federal requirements.

(b) USFRS may not accept any customers into this Project unless and until it has arranged for recycling of the metals contained in the XL001 wastes it receives. USFRS shall continue to recycle the metals contained in the XL001 waste it receives throughout the duration of the XL Project.

(c) USFRS shall identify a spill response coordinator at its facility. This person shall be responsible for coordinating the proper response to any spill, leaks or emergencies of USFRS XL wastes at the generator or during transport. He will also be responsible for receiving the calls from the generators and transporters required by this subpart O for such spills, leaks or emergencies.

§ 266.408 Accumulation and storage prior to off-site transport.

A USFRS waste generator may store its USFRS XL waste on-site for less than 90 days, provided it complies with the following:

(a) *Condition and use of containers.* Except as provided in paragraph (e) of this section, the USFRS waste generator it will store the USFRS XL waste in the USFRS water treatment resin canisters and filter containers. At the time it places the resin canister or filter containers in storage it will ensure that the water treatment resin canisters and filter containers are disconnected from any processes and are sealed. It will ensure that the USFRS XL wastes are not mixed with other solid wastes. It will affix to the resin canisters and filter containers a warning statement containing the information presented in paragraph (c) of this section.

(b) *Condition of storage area.* It will store the USFRS XL waste on an impervious surface. The USFRS waste generator will store the USFRS XL waste separately from other wastes or materials and will ensure that there is adequate aisle space to determine the condition of the USFRS XL waste and to notice and respond to any leaks of USFRS XL waste.

(c) *Pre-transport requirements.* It will place the following warning statement prominently on the USFRS XL waste: XL001 wastes–USFRS ion exchange resin process wastes—Federal Law Prohibits Improper Disposal. This is USFRS XL waste from (insert XL waste generator's name). Handle as a hazardous waste and ship only to USFRS located at 2430 Rose Place, Roseville, MN. This waste was placed in this container on (date) and placed in storage at (insert USFRS XL waste generator's name) on (insert date). *If found, contact USFRS and the nearest police, public safety authority, EPA or MPCA. The USFRS telephone number is (insert phone number). USFRS Transportation Tracking Document Number____ If spilled immediately contain the spill and prevent it from going into any water body; collect the spilled material and place in an appropriately sized polycontainer; contact USFRS and the nearest police, public safety authority, EPA or MPCA.*

(d) *Inspections.* The USFRS waste generator will inspect the condition of the USFRS XL waste weekly while it is in storage at its company. It will maintain a log of these inspections. The log will indicate the date the USFRS XL waste was placed in storage, the condition of the water treatment resin canister and filter containers at that time, the date(s) of the inspection, the person conducting the inspection, and the condition of the water treatment resin canisters and the filter containers and the storage area at the time of the inspection.

(e) *Response to spills or leaks.* The USFRS waste generator will immediately contain and collect any spill or leak of USFRS XL wastes. It will orally notify USFRS, and the duty officer at MPCA (Non-metro: 1–800–422–0798; Metro: 651–649–5451) within 24 hours of discovery of the spill or leak. It will place any spilled or leaked materials in an appropriately sized polycontainer and comply with the requirements of paragraphs (a) through (c) of this section. It will arrange with USFRS for the disposal of that spilled or leaked material with the next shipment of USFRS XL wastes from its company. If allowed by the local POTW it may discharge any leaked or spilled water to its permitted drainage system. Otherwise, such wasters will be sent to USFRS.

(f) *Decontamination of storage area.* The USFRS waste generator will decontaminate all areas, equipment or soils used for or contaminated with USFRS XL waste no later than the dates provided in section §§ 266.412, 266.414 and 266.415.

(g) *USFRS XL Waste MSDS.* It shall maintain and exhibit in a prominent location the USFRS XL Waste MSDS. It shall provide a copy of the USFRS XL waste MSDS to all local entities responsible for responding to releases of hazardous materials or wastes, (e.g., local police and fire departments, hospitals, etc.). It shall retain documentation of its efforts to comply with this paragraph (g).

(h) *Contact person.* No later than the date that it signs the FPA it will designate to USFRS a person who is responsible for handling its USFRS XL waste and its compliance with this subpart. That person shall complete training for the proper handling of USFRS XL waste and shall certify that he has read and understands the requirements imposed by this subpart O and the USFRS XL waste training module. That person shall also be responsible for responding to spills or leaks at the generator.

(i) *Communication devices.* It shall have an operating communication device (e.g., telephone, alarm, etc.) which allows the contact person to notify the appropriate state, local and federal officials and local hospitals and company personnel in case of an emergency.

§ 266.409 USFRS XL waste transporter pre-transport requirements.

A USFRS XL waste transporter will ensure that the USFRS XL waste is within an approved container which prominently displays the following warning statement: XL001 wastes—USFRS ion exchange resin process wastes—Federal Law Prohibits Improper Disposal. This is USFRS XL waste from (insert XL waste generator's name). Handle as a hazardous waste and ship only to USFRS located at 2430 Rose Place, Roseville, MN. This waste was placed in this container on (date) and placed in storage at (insert USFRS XL waste generator's name) on (insert date). *If found, contact USFRS and the nearest police, public safety authority, MPCA or EPA. The USFRS telephone number is (insert phone number). USFRS Transportation Tracking Document Number_____. If spilled immediately contain the spill and prevent it from going into any water body; collect the spilled material and place in an appropriately sized polycontainer; contact USFRS and the nearest police, public safety authority, EPA or MPCA.*

§ 266.410 USFRS XL Waste Transport and Transportation Tracking Document.

A USFRS XL Transportation Tracking Document and USFRS XL Waste MSDS will accompany every shipment of USFRS XL waste from a USFRS XL waste generator off-site. Each resin canister and filter container will have the warning statement required by §§ 266.408(c) and 266.409 affixed to it. USFRS, and the USFRS XL waste generator and transporter shall comply with the following requirements:

(a) *USFRS.* USFRS will require each USFRS XL waste generator to contact USFRS to arrange for the transportation of the USFRS XL waste. USFRS will contact and use only USFRS XL waste transporters to transport the USFRS XL waste. USFRS will require that the USFRS XL waste transporter pick up the generator's USFRS XL waste prior to the expiration of the storage time limit provided to the generator pursuant to § 266.408. USFRS will complete and send to the USFRS XL waste generator the USFRS XL waste Transportation Tracking Document and warning statement identified in §§ 266.408(c) and 266.409. USFRS will ensure that the generator receives these documents by the time the transporter arrives at the generator. USFRS will include on the Transportation Tracking Document all information EPA determines is required to comply with this subpart O. USFRS will direct the USFRS XL waste transporter to ship the USFRS XL waste to its facility at 2430 Rose Place, Roseville, Minnesota within 30 days of its pick-up from a USFRS XL waste generator. If a shipment is not received within 30 days, USFRS will contact the transporter to determine the disposition of the load. If USFRS does not receive the shipment within 5 days of its scheduled arrival date, it will notify EPA, MPCA, the USFRS XL generator and as appropriate the County Agencies. USFRS will send a copy of the Transportation Tracking Document to the USFRS XL waste generator within 10 days of USFRS' receipt of the XL001 waste from the transporter.

(b) *USFRS XL waste generators.* A USFRS XL waste generator must contact USFRS for the off-site transport, treatment, storage or disposal of USFRS XL wastes. A USFRS waste generator will use only a USFRS XL waste transporter to transport the USFRS XL waste to the USFRS Roseville, Minnesota facility located at 2430 Rose Place. It must verify the accuracy of the USFRS XL Waste Transportation Tracking Document and warning statement, make any corrections to them that are necessary and sign the Transportation Tracking Document. It must affix the warning statement to each resin canister and filter container and provide a copy of the USFRS XL Waste Transportation Tracking Document and USFRS XL waste MSDS to the USFRS XL waste transporter at the time it provides the transporter with the USFRS XL waste.

(c) *USFRS XL waste transporter.* A USFRS XL waste transporter shall verify the accuracy of the information contained on the USFRS XL Waste Transportation Tracking Document and on the warning statement. It shall sign and date the USFRS Transportation Tracking Document for each shipment of USFRS XL waste it transports and carry it with each shipment that it carries. It shall carry the USFRS XL waste MSDS with each shipment. It shall pick up each shipment of USFRS XL waste prior to the expiration of the storage time limit provided the generator pursuant to § 266.408. It shall deliver each shipment of USFRS XL waste to the USFRS Roseville, Minnesota facility located at 2430 Rose Place within 30 days of it being picked-up at a USFRS XL waste generator. A USFRS transporter may store USFRS XL waste for no more than 10 days at a transfer facility without being subject to regulation under 40 CFR parts 264, 265, 268 and 270 for the storage of those wastes.

§ 266.411 Releases of USFRS XL waste during transport.

In the event of a release of USFRS XL waste during transportation, a USFRS XL waste transporter must take appropriate immediate action to protect human health and the environment, including preventing the spilled material from entering a water system or a water body. The USFRS XL waste transporter also must comply with the provisions of 40 CFR 263.31. The USFRS XL waste transporter will contact USFRS and the nearest police, public safety authority, EPA or MPCA, provide any emergency responder with a copy of the USFRS XL waste MSDS, handle the spilled material in accordance with the USFRS XL waste MSDS and the direction of any governmental entity charged with emergency response authority and transport any spilled USFRS XL waste and contaminated soils or equipment to the USFRS facility located at 2430 Rose Place, Roseville, Minnesota in a appropriately sized polycontainer.

§ 266.412 USFRS XL waste generator closure.

(a) *Generator responsibilities.* At the time of termination of a USFRS XL generator's participation in the USFRS XL Project, the USFRS XL waste generator will disconnect its process(es) from the water treatment resin canisters and filter containers; implement the alternative treatment or disposal required by § 266.413; arrange for the transport to USFRS of all USFRS XL waste that it has in storage; decontaminate any contamination resulting from the storage or handling of USFRS XL waste; and document its efforts to comply with this closure requirement.

(b) *USFRS responsibilities.* Prior to termination of a USFRS XL waste generator's participation in the USFRS XL Waste Project USFRS will remove all of the USFRS XL waste in the generator's storage area. USFRS will inspect the USFRS XL waste generator to determine if all USFRS XL wastes have been removed and to document the condition of the USFRS XL waste storage area. USFRS will provide a written summary to the customer, EPA, MPCA and as appropriate the County Agencies of its evaluation pursuant to this paragraph (b).

§ 266.413 USFRS XL waste generator requirements to maintain alternate treatment or disposal capacity.

During the period that it is participating in the USFRS XL waste Project, a USFRS XL waste generator shall maintain the ability to legally treat or dispose of its process wastes contributing to the USFRS XL waste by methods other than through transportation and treatment to USFRS' Roseville, Minnesota facility. A USFRS XL waste generator may use this alternative treatment or disposal method only after its participation in this XL Project has been terminated.

§ 266.414 Termination of a USFRS XL waste approved customer's participation in the USFRS XL Project.

The provisions in this section apply to a USFRS XL waste approved customer who has not yet generated USFRS XL waste. If a USFRS XL waste approved customer has generated or first caused to be regulated USFRS XL waste, then it is a USFRS XL waste generator and must comply with the termination provisions contained in § 266.415. The following procedures are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies

may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste approved customer's participation in the USFRS XL Project will terminate when the USFRS XL Project ends. It may terminate earlier either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the appropriate County Agency.

(a) *Termination by the USFRS XL waste approved customer.* A USFRS XL waste approved customer may terminate its participation in the USFRS XL Project at any time prior to its first generating USFRS XL wastes. The USFRS XL waste approved customer will provide 5 days written notice to USFRS, EPA, MPCA and as appropriate the County Agencies its desire to terminate its in the USFRS XL Project. No further action is required by such USFRS XL waste approved customer.

(b) *Change in ownership.* A USFRS XL waste approved customer's participation will be automatically terminated upon a change in ownership. A USFRS XL waste approved customer must notify USFRS, EPA, MPCA and as appropriate the County Agencies within 5 days of a change in its ownership.

(c) *Termination by EPA, MPCA, County Agency or USFRS.* If EPA or USFRS propose to terminate a USFRS XL waste approved customer they shall provide it with 5 days written notice. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If MPCA or the County Agency terminates such person's participation in the federal USFRS XL Project, such person will be automatically terminated without further proceedings under this subpart O.

§ 266.415 Termination of a USFRS XL waste generator's participation in the USFRS XL Project.

The procedures identified in this section are to be followed to terminate a waste generator's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste generator's participation in the USFRS XL Project may terminate when the USFRS XL Project ends. It may also terminate either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the County Agency or at the termination of this subpart O.

(a) *Termination by the USFRS XL waste generator.* The USFRS XL waste generator will provide 60 days written notice to USFRS, EPA, MPCA and the County Agencies of its desire to discontinue participation in the USFRS XL Project. Within the 60 days the USFRS XL waste generator shall accomplish the closure required by § 266.412.

(b) *Termination by EPA, MPCA or the County Agency.* EPA, MPCA or the County Agency may terminate a USFRS XL waste generator's participation. If EPA proposes to terminate such person's participation then it will provide the generator with written notice. EPA retains the right to terminate a USFRS XL waste generator's participation in the USFRS XL Project if the USFRS XL waste generator is in non-compliance with the requirements of this subpart. In the event of termination by EPA, EPA will provide USFRS, the USFRS XL waste generator, MPCA, and as appropriate the County Agencies with 15 days written notice of its intent to terminate a generator's continued participation in the USFRS XL Project. During this period, which commences on receipt of the notice to terminate by the generator, the generator will have the opportunity to come back into compliance or to provide a written explanation as to why it was not in compliance and how it intends to return to compliance. If, upon review of the written explanation EPA re-issues a written notice terminating the generator from this XL Project the generator shall close in accordance with § 266.412. The USFRS XL waste generator shall complete the closure and comply with § 266.412 within sixty days of EPA's re-issuance of the notice of termination. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If MPCA or the County Agency terminates such person's participation in the federal USFRS XL Project, that person's participation will be automatically terminated without further proceedings under this subpart and such person must comply with the closure requirements contained in § 266.412.

(c) *Termination by USFRS.* USFRS may terminate a USFRS XL waste generator's participation in the USFRS XL Project only after providing 60 days written notice to the generator, EPA, MPCA and the county agency. Within this time USFRS will arrange for the transport to its facility of the USFRS XL waste in storage. Additionally, USFRS will inspect the USFRS XL waste generator in accordance with § 266.412(b).

(d) *Termination as a result of changes in ownership.* A USFRS XL waste generator will provide written notice to USFRS, EPA, MPCA and as appropriate the County Agencies of a change in its ownership. It will provide such notice within 10 days of the change in ownership. Within the 60 days of the change in ownership the USFRS XL waste generator shall accomplish the closure required by § 266.412 unless, within that time period, EPA has approved of the new owner and EPA has approved of any modifications the new owner proposes to the prior owner's closure responsibilities. If these approvals are not received within this time period the prior owner is still responsible for completing the closure within the 60 days.

§ 266.416 Termination of a USFRS XL waste approved transporter's participation in the USFRS XL Project.

The provisions in this section apply to a USFRS XL waste approved transporter who has not transported or accepted for transport USFRS XL waste. If a USFRS XL waste approved transporter has transported or accepted for transport USFRS XL waste it is a USFRS XL waste transporter and must comply with the termination provisions contained in § 266.417. The procedures identified in this section are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste approved transporter's participation in the USFRS XL Project will terminate when the USFRS XL Project ends. It may also terminate earlier either voluntarily, upon changes in ownership, upon notice by USFRS, EPA, MPCA or the County Agency.

(a) *Termination by the USFRS XL waste approved transporter.* A USFRS XL waste approved transporter may terminate its participation in the USFRS XL Project at any time prior to its first transporting or accepting for transport USFRS XL wastes. The USFRS XL waste approved transporter will provide 5 days written notice to USFRS, EPA, MPCA, and as appropriate the County Agencies of its desire to terminate its participation in the USFRS XL Project. No further action is required by such USFRS XL waste approved transporter.

(b) *Change in ownership.* A USFRS XL waste approved transporter will be automatically terminated upon a change in ownership. A USFRS XL waste approved transporter must notify USFRS, EPA, MPCA and as appropriate the County Agencies within 5 days of a change in its ownership.

(c) *Termination by EPA, MPCA, the County Agencies or USFRS.* EPA, MPCA, the County Agencies and USFRS may also terminate a USFRS XL waste approved transporter's participation in the USFRS XL. If EPA or USFRS propose such termination they will provide the transporter, each other, MPCA and the appropriate County Agencies with 5 days written notice.

§ 266.417 Termination of a USFRS XL waste transporter's participation in the USFRS XL Project.

The procedures identified in this section are to be followed to terminate a person's participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating the participation of a person from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate a person's continued participation in this USFRS XL Project. A USFRS waste transporter's participation in the USFRS XL Project will terminate when the USFRS XL Project ends. It may terminate earlier either voluntarily, upon a change in ownership of the transporter, upon notice by USFRS, EPA, MPCA or the County Agencies or at the termination of this subpart O.

(a) *Termination by the USFRS XL waste transporter—voluntary and changes in ownership.* The USFRS XL waste transporter will provide 10 days written notice to USFRS, EPA, MPCA and as appropriate the County Agencies of its desire to terminate its participation in the USFRS XL Project or of a change in ownership. Within 30 days of that notice the USFRS XL waste transporter will ensure that all of its shipments of USFRS XL waste are delivered to the USFRS facility.

(b) *Termination by EPA, MPCA or the County Agencies.* EPA, MPCA or the County Agencies may terminate a USFRS XL waste transporter's participation in the USFRS XL Project. If MPCA or the County Agency propose to terminate such person they shall follow their own procedures and provide EPA and USFRS with the results of such proceedings. If MPCA or the County Agency does terminate such person's participation, such person's participation in the federal USFRS XL Project will be automatically terminated without further proceedings under this subpart and the transporter shall ensure that all shipments of XL waste are delivered to the USFRS facility within 30 days of notice of termination. If EPA proposes to terminate a transporter's participation in the USFRS XL Project EPA will provide such person, MPCA, the County Agency and USFRS with a 30 days written notice prior to terminating such person's participation in the USFRS XL Project. EPA retains the right to terminate a USFRS XL waste transporters participation in the USFRS XL Project if the USFRS XL waste transporter is not in compliance with the requirements of this subpart O. During this period, which commences on receipt of the notice by the transporter, the USFRS XL waste transporter will have the opportunity to come back into compliance or to provide a written explanation as to why it was not in compliance and how it intends to return to compliance. If, upon review of the written explanation EPA re-issues a written notice terminating the USFRS XL waste transporter from this XL Project the USFRS XL waste transporter shall ensure that all shipments of USFRS XL waste are delivered to the USFRS facility within 30 days of such re-issued notice.

(c) *Termination by USFRS.* USFRS may terminate a USFRS XL waste transporter's participation in the USFRS XL Project only after providing 30 days written notice to the transporter, EPA, MPCA and as appropriate the County Agencies. Within this time USFRS will arrange for the transport to its facility of the USFRS XL waste in the possession of the USFRS XL waste transporter.

(d) *Change in ownership.* A USFRS XL waste transporter will be automatically terminated upon a change in ownership. A USFRS XL waste transporter must notify USFRS, EPA, the County Agencies and MPCA within 5 days of a change in its ownership. Within 30 days of its notice of change of ownership the USFRS XL waste transporter shall ensure that all shipments of USFRS XL waste in its possession are delivered to the USFRS facility.

§ 266.418 Termination of USFRS' participation in this XL Project.

The procedures identified in this section are to be followed to terminate USFRS' participation in the federal USFRS XL Project. MPCA or the County Agencies may have their own procedures for terminating USFRS' participation from their version of this federal USFRS XL Project. EPA is not bound by and will not follow those State or County procedures to terminate USFRS' continued participation in this USFRS XL Project. USFRS' participation in the USFRS XL Project will terminate when the USFRS XL project ends. It may terminate earlier either voluntarily, upon a change in ownership of USFRS, upon notice of EPA, MPCA or as appropriate the County Agency. The USFRS XL Waste Project is terminated if USFRS' participation is terminated, unless there is a change in ownership of USFRS and EPA, MPCA and the County Agencies have approved the new owner's continuation in the USFRS XL project as provided in paragraph (b) of this section. In such an instance USFRS must supply EPA, MPCA and the County Agencies with a proposed schedule for transitioning all USFRS XL Project participants to compliance with the RCRA requirements within 120 days of a notice to terminate pursuant to this section.

(a) *USFRS' termination of its participation in this XL Project—voluntary termination.* USFRS will provide written notice to all USFRS XL Project participants (e.g., USFRS XL waste approved customers and approved transporters, USFRS XL waste generators and transporters), EPA, MPCA and the County Agencies of its desire to terminate its participation in the USFRS XL Project ("voluntary termination") USFRS will provide its notice of voluntary termination 120 days prior to the date it proposes to terminate this XL Project. Within this 120 days USFRS will arrange for the transition of it and the USFRS XL waste Project participants to return to compliance with the RCRA requirements. During this time all USFRS XL Project participants will complete all closure activities required by § 266.412.

(b) *Termination as a result in a change of ownership of USFRS.* USFRS will provide written notice to EPA, MPCA and the County Agencies of any change in ownership of USFRS. USFRS will provide this notice 90 days prior to a change in ownership. At that time, if the new owner wishes to continue the USFRS XL waste Project it will submit any revisions it proposes to make to the FPA to add itself to the USFRS XL waste project. If EPA and the new owner are able to agree upon and sign the proposed revisions to the FPA within that time frame then the new owner may continue the USFRS XL Project. If an

agreement and signature is not obtained within that time frame, the USFRS XL Project will be terminated. If it does not obtain that approval or does not wish to continue the USFRS XL Project then USFRS will arrange for the transition of all USFRS XL waste Project participants to return to compliance with the RCRA requirements within 120 days of the change in ownership. All USFRS XL waste Project participants will complete all closure activities required by § 266.412.

(c) *EPA or MPCA termination of the USFRS XL Project.* EPA or MPCA may terminate this XL Project after providing written notice to USFRS. EPA retains the right to terminate this XL Project if:

(1) USFRS is in non-compliance with the requirements of this subpart;

(2) This Project does not provide superior environmental benefit; or,

(3) If there is repeated non-compliance by USFRS XL waste generators or transporters.

(d) In the event of termination by EPA, EPA will provide USFRS, MPCA and the County Agencies with 30 days written notice of its intent to terminate this XL Project. During this period, which commences on receipt of the notice by USFRS, USFRS will have the opportunity to come back into compliance, to provide a written explanation as to why it was not in compliance and how it intends to return to compliance or otherwise respond to the reasons for EPA's proposed termination. If, upon review of the written explanation EPA re-issues a written notice terminating this XL Project then USFRS shall submit to EPA within 30 days of its receipt of the re-issued notice its plan for transitioning all USFRS XL waste Project participants to compliance with the RCRA requirements. This transition plan shall contain a proposed schedule which accomplishes compliance with RCRA within 120 days of EPA's re-issued written notice.

§ 266.419 USFRS recordkeeping and reporting requirements.

(a) *Annual reporting.* USFRS will provide an annual report, on October 1, on all USFRS XL wastes. It will provide the information separately for each USFRS XL waste generator. The annual report, at a minimum, will include:

(1) An identification of each USFRS XL waste generator who sent USFRS XL wastes to USFRS; the quantity of XL waste that USFRS received from each USFRS XL waste generator during the calendar year and a certification by USFRS that those USFRS XL wastes were treated and recycled at USFRS in accordance with this subpart O;

(2) The amount of water recycled by the generators, the pretreatment chemicals and energy the generators did not use as a result of participating in this USFRS XL Project, the amount of water discharged to the local POTW before and during this project, the amount of sludge recovered by USFRS before and during this project, the amount of sludge recovered as opposed to disposed of by a generator (if the generator disposed of the sludge prior to participating in this project), the quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected from each facility (monthly), the frequency of resin canister and filter replacement in terms of process volume, the constituents in the material (ion exchange resins, filters, other wastewater treatment sludge, residues) collected at each facility (e.g., recoverable metals, contaminants/non-recoverable materials); and constituents in the material (ion exchange resins, filters, other wastewater treatment sludge, residues) disposed by each facility (e.g., contaminants/non-recoverable material).

(3) Quantity of material (ion exchange resins, filters, other wastewater treatment sludge, residues) to be processed from the XL waste at the USFRS Roseville facility, quantity of the metals recovered from the XL waste at the USFRS Roseville facility, the constituents of the recovered material (ion exchange resins, filters, other wastewater treatment sludge, residues from the XL waste), quantity and constituents of the non-recoverable material from the XL waste (ion exchange resins, filters, other wastewater treatment sludge, residues), and how it was disposed of; and

(4) The quantity of each metal recovered at each metals reclamation facility it uses for this Project.

(b) *Quarterly reporting.* USFRS will submit a quarterly report to EPA, MPCA and the County Agencies on October 1, January 1, April 1 and July 1 which will include:

(1) Sufficient information for EPA to determine the amount of superior environmental benefit resulting from this project. That report will, at a minimum, contain information which includes, but is not limited to: the volume of water and waste collected and recycled; the amount of metals recycled; the volume of recycled material sold to others; data regarding the management of the ion exchange canisters and filter containers; the constituents of the sludge; and information regarding how the sludge and residues are managed;

(2) Financial information related to the costs and savings realized as a result of implementation of this project.

(i) USFRS will collect baseline and XL costs. The baseline costs shall be calculated using two scenarios:

(A) Typical expenses (including any hazardous waste taxes) of the generator (prior to the XL Project) for pretreating and disposing effluent wastewater under the applicable Clean Water Act requirements and the costs for manifesting, transporting and disposing of F006 sludges; and

(B) Typical expenses of the generator that would be incurred if waste were recycled in compliance with RCRA and requirements for manifesting and transportation of those hazardous wastes (including tax obligations under both scenarios).

(ii) The XL costs will include the costs to the generator for completing the Transportation Tracking Document, the transportation costs for XL wastes, the generator's cost to install the ion exchange canisters and filter containers, any other costs the generator incurs such as cleaning up any spills, payment of hazardous waste taxes, etc., the cost to USFRS of metals reclamation off-site (including costs associated with transportation or disposal). USFRS will compare the baseline costs to the XL costs and provide an analysis of whether the project is resulting in cost savings for generators and which aspects of the XL Project produce any savings. USFRS will also submit any of the information required in paragraphs (b)(2)(i)(A) and (B) of this section upon request by EPA, MPCA or the County Agency;

(3) A list of all USFRS XL Waste Approved Customers and Generators. USFRS shall include on that list the customer and generator's name, a summary of the results of the USFRS waste characterization of the customer and generator's waste stream(s) and process(es), the customer's and generator's process waste streams approved for participation in the USFRS XL Waste Project, the unique client number USFRS has assigned to the customer and generator and its waste stream, the date of USFRS notice to EPA and MPCA proposing to add the customer and generator to the USFRS XL Project; the date on which USFRS notified the customer that it is approved for participation in this USFRS XL Project; and the date USFRS received the signed FPA and certification from the customer or generator. The list shall also contain the date of any notice of termination, and if there is a termination, the date on which USFRS recovered all of its USFRS XL wastes from the generator and the date USFRS conducted its visual evaluation of the condition of the USFRS XL waste storage areas and notice of compliance with § 266.412. USFRS will update its waste customer and generator list when new customers and generators have been approved by EPA, MPCA and the County Agencies or when a customer or generator has been terminated from this XL Project; and

(4) A list of all USFRS XL Waste Approved Transporters. USFRS shall include on this list the transporter's unique USFRS client number, the transporter's name, and if available, EPA identification number and its Minnesota registration number, the date of USFRS notice to EPA and MPCA proposing to add the transporter to the USFRS XL Project; the date on which USFRS notified the transporter that it is a USFRS XL Waste Approved Transporter; and the date on which it received the signed USFRS XL waste FPA and certification. The list shall also contain the date of any notice of termination, and if there is a termination, the date on which USFRS recovered all of its USFRS XL wastes from the transporter. This USFRS XL waste transporter list may be modified upon approval of EPA and MPCA.

(c) *Recordkeeping.* USFRS will retain for three years a copy of USFRS XL waste application forms, and correspondence with each USFRS XL waste approved customer and generator; records of any spill or leak notifications it receives; records of its compliance with this subpart O; and the USFRS XL waste Transportation Tracking Document for each shipment from a USFRS XL waste generator.

§ 266.420 USFRS XL waste generator recordkeeping and reporting requirement.

A USFRS XL waste generator will retain for three years a copy of the USFRS XL Waste FPA, with all appropriate signatures; its USFRS XL waste certification; its log of weekly inspections required by § 266.408(d); its record of any notification of spills or leaks of its USFRS XL wastes required by § 266.408(e); its compliance with the training and facility contact requirements of § 266.408(h); a copy of the signed Transportation Tracking Document for USFRS XL waste it generated; and documentation of its compliance with § 266.412.

§ 266.421 USFRS XL waste transporter recordkeeping and reporting requirement.

A USFRS XL waste transporter will retain for three years a copy of the USFRS XL Waste FPA, with all appropriate signatures; its USFRS XL waste certification; a copy of the signed Transportation Tracking Document for USFRS XL waste it transported; and its record of any notification of spills or leaks of its USFRS XL wastes required by § 266.411

§ 266.422 Effective date and duration of the project.

This subpart O is effective from November 23, 2001 until five years after the State of Minnesota modifies the USFRS RCRA hazardous waste permit to incorporate USFRS' duties under this subpart O.

[FR Doc. 01–11671 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6965–2]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; deletion of the Gulf Coast Vacuum Services Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final rule of deletion of the Gulf Coast Vacuum Services Superfund Site (Site), located in Vermilion Parish, Louisiana from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105, 42 U.S.C. 9605(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final rule of deletion is being published by the EPA with the concurrence of the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), because the EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final rule of deletion will be effective July 23, 2001 unless the EPA receives adverse comments by June 21, 2001. If adverse comments are received, the EPA will publish a timely withdrawal of the direct final rule of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Ms. Beverly Negri, Community Involvement Coordinator (6SF–PO), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8157 or 1–800–533–3508.

Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, Suite 12D13, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6524, Monday through Friday 7:30 a.m. to 4:30 p.m.; Vermilion Parish Library, 200 North Magdalen Square, Abbeville, Louisiana, 75011, (318) 893–2674, Monday and Thursday 9:00 a.m. to 8:00 p.m., Tuesday, Wednesday, and Friday 9:00 a.m. to 5:30 p.m., and Saturday 9:00 a.m. to 1:00 p.m.; and Louisiana Department of Environmental Quality, 7290 Bluebonnet Road, Baton Rouge, Louisiana 70809, (225) 765–0487, Monday through Friday 8:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mrs. Katrina Coltrain, Remedial Project Manager (6SF–LP), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8143 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 6 is publishing this Direct Final Notice of Deletion of the Gulf Coast Vacuum Services Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions, if conditions at a deleted site warrant such action.

Because the EPA considers this action to be noncontroversial and routine, the EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless the EPA receives adverse comments by June 21, 2001 on this rule. If adverse comments are received within the 30-day public comment period on this rule, the EPA will publish a timely Withdrawal of this Direct Final Rule of Deletion before the effective date of the deletion, and said deletion will not take effect. The EPA

will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the proposed Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses the Gulf Coast Vacuum Services Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses the EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, the EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, the EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the State of Louisiana on the deletion of the Site from the NPL prior to developing this Direct Final Rule of Deletion.

(2) The State of Louisiana concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this Direct Final rule of Deletion, a parallel proposed Notice of Intent to Delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning this action.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period, the EPA will publish a timely notice of Withdrawal of this Direct Final rule of Deletion, before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the proposed Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter the EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist the EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides the EPA's rationale for deleting the Site from the NPL:

A. Site Location

The Site is located 3.5 miles southwest of the town of Abbeville in Vermilion Parish, Louisiana, on Parish Road P–7–31, also called Junuis Road. The Site occupies approximately 12.8 acres, and is bounded to the north and west by pasture land and to the east and south by the D.L. Mud Superfund Site and the LeBoeuf Canal. Areas adjacent to the Site are used as pasture land for grazing cattle and for other agricultural uses, predominantly rice, sugar-cane, and soybean crop raising. Ten residences are located within ½ mile of the Site on Parish Road P–7–31 and Route 335, the nearest being on the southeast site boundary. Because these homes are outside the corporate limits of Abbeville, residents in the area rely on ground water for their drinking water and for irrigation.

B. Site History

The Site was a vacuum truck and oilfield drilling mud plant operation from approximately 1969 to 1980. During the period that the facility was in operation, unpermitted disposal of contaminated organic and inorganic materials, primarily oil industry-related waste, occurred in several open pits. Gulf Coast Vacuum Services and its predecessors used the property as a trucking terminal and disposal facility for materials and wastes generated from oil and gas exploration and production. Vacuum trucks were rinsed out in several on-site pits, while unpermitted disposal of contaminated material and waste also occurred. Primary hazardous substances at the Site were organic compounds such as benzene, carcinogenic polyaromatic hydrocarbons (PAHs), and metals such as arsenic and barium.

The EPA performed three Removal Actions at the Site prior to the initiation of a Remedial Action (RA). The purpose of these Removal Actions was to prevent contaminated rainwater, which accumulated on top of the sludge pits, from overflowing onto adjacent agricultural fields. These removals were conducted in March through April 1990, February through March 1991, and in April 1992. During each Removal Action, approximately 800,000 gallons of water were pumped, treated, and discharged. In addition, during the 1990 and 1992 removal actions, fencing around the pit areas was installed.

The EPA performed the Remedial Investigation (RI) of the Site from November 1990 through March 1992. Various heavy metal and PAH contaminants were detected at levels on-site that measured above health-based standards.

In July 1992, the EPA released the RI Report and the Feasibility Study (FS). The RI Report included all RI sampling results. The FS provided an in-depth analysis of remedial alternatives, which included on-site and off-site treatment alternatives such as incineration, on-site and off-site containment alternatives such as disposal and capping, and a "no action" alternative. The FS concluded that a "no action" alternative at the Site could result in a potential health threat to the public, through dermal contact with contaminated soils and sludges, and a potential health threat to nearby residents, who rely on ground water for their drinking water.

The EPA, in consultation with the LDEQ, signed two Records of Decision (ROD) on September 30, 1992. The Operable Unit 2 (OU2), Interim Source Control ROD, designed to address the short-term, immediate exposure risks associated with rainwater overflow from the pits, called for treatment of contaminated rainwater to LDEQ's surface discharge standards, the consolidation of the Washout Pit into the West Pit, and the covering of the West Pit.

The September 1992 Operable Unit 1 (OU1), Final Source Action ROD, selected on-site incineration to address the long-term environmental and human health risks associated with the organic contaminants on-site. The OU1 ROD also selected stabilization and solidification of inorganic-contaminated soils and residuals of the organic treatment, and monitoring of the ground water. The OU1 ROD was amended in May 1995 ("the Amended ROD") to change the way in which the organic-contaminated material was handled. Based on the OU1 ROD and the Amended ROD, the Final Source Control remedy for the Site included: on-site biological treatment of organic-contaminated pit sludges (surface and buried), associated soils and tank contents; stabilization and on-site disposal of the treated residuals from the bio-treatment as required to meet performance standards for inorganic compounds, and capping with a two (2) foot compacted clay cover; on-site stabilization and disposal of the Site soils contaminated with metals (inorganics), and capping with a two (2) foot compacted clay cover; and institutional controls, such as deed notices and long-term monitoring of the ground water.

One additional performance standard was that the stabilized material would have to pass Toxicity Characteristic Leaching Procedure (TCLP) requirements using a modified TCLP test (distilled water was substituted for the specified acid) and that the leachate from the TCLP test would also have to meet Clean Water Act Maximum Contaminant Levels.

The OU2 RD Work Plan submitted by the PRP Group was approved by the EPA on September 13, 1993. The OU1 RD Work Plan was approved by the EPA on June 2, 1997. These Work Plans detailed the design criteria and the steps that would be undertaken to achieve the goals of the Site RODs.

The OU2 ROD was implemented by a PRP group, consisting of 13 PRPs who were directed to do the action through a December 11, 1992, Unilateral Administrative Order (UAO). Implementation of the OU2 Remedial Action (RA) began on September 29, 1993. The OU2 RA work, performed in accordance with the UAO Statement of Work and the OU2 RD Work Plan, was completed on September 30, 1994. During the OU2 Interim Action, approximately 2 million gallons of water were treated and discharged, approximately 2,100 cubic yards of contaminated soil were moved from the Washout Pit to the West Pit, and the West Pit was covered with a synthetic cover. The OU2 remedial action was completed on September 30, 1994, the date the EPA approved the OU2 Remedial Action Certification Report.

On June 5, 1995, a Consent Decree (CD) between the EPA and a fourteen-member PRP group was entered in Federal District Court. The PRP group performed the OU1 activities under this CD and its accompanying Statement of Work and the OU1 RD Work Plan. OU1 remedy construction began on June 2, 1997. The PRPs conducted the following remedial activities: on-site biological treatment of 31,617 cubic yards of organic-contaminated pit sludges (surface and buried) and associated soils and tank contents; stabilization and on-site disposal (in the excavated West Pit and Washout Pit) of 21,347 cubic yards of Site soils contaminated with metals (inorganics) and approximately 20,000 cubic yards of biological treatment residuals; capping of the stabilized material with a two (2) foot compacted clay cover and seeding of the cover; fencing of the Site; implementation of deed notices; and ground water monitoring.

Confirmatory samples were taken of all excavated areas of the Site to ensure that all materials with concentrations of contaminants higher than the health-based Remedial Action Goals (RAGs) had been removed. In addition, performance samples were taken to ensure that the bio-treatment residuals met the RAGs, to show that the stabilized Site materials met the TCLP standard, and to show that the stabilized material had the physical properties (such as strength) specified in the RD work plan.

A pre-final inspection was conducted on February 19, 1999, and a final inspection was conducted on March 11, 1999. The EPA determined that the RA was complete during the final inspection, except for the submittal of the RA report and the filing of deed notices. The PRP group submitted the RA Report for OU1 to EPA on June 11, 1999. This report was reviewed by the LDEQ and a representative of the Technical Assistance Grant (TAG) group for the Site, and minor adjustments were made. Institutional controls, in the form of restrictive covenants were filed on September 29, 1999. The EPA approved the RA Report on October 4, 1999, and issued a Final Close Out Report on March 24, 2000.

C. Characterization of Risk

The following contaminants were detected in the various Site media above health-based standards: Surface Soils—arsenic (2.3–56.7 mg/kg) and barium (480–21,400 mg/kg); Sludges—carcinogenic PAHs (.09–7.5 mg/kg), benzene (7–529 mg/kg); and Ground Water-barium (Non-detect (ND)—5550 µg/L), cadmium (ND–210 µg/L), chromium (ND—2580 µg/L), mercury (ND—4.6 µg/L), and lead (ND—2580 µg/L).

The RAGs specified in the OU1 ROD and the Amended ROD are: arsenic, 16 mg/kg; barium, 5,400 mg/kg, total carcinogenic PAHs, 3 mg/kg; total non-carcinogenic PAHs, Hazard Index < 1; previously unidentified carcinogenic compounds of concern (COCs), residual risk < 10–4—10–6 cumulative risk prior to stabilization and capping; and previously unidentified non-carcinogenic compounds of concern, HI < 1.

D. Future Activity

Site Operation & Maintenance (O&M) activities which will be performed by the PRP Group include routine Site inspections to ensure that the cap on the disposal cells remains intact and maintenance of perimeter fencing. These activities are sufficient to maintain the protectiveness of the remedy. The PRP group, as agreed upon in the CD and accompanying Statement of Work and as detailed in the RA Work Plan and the O&M Plan, has assumed all responsibility for O&M at the Site. In addition, under the CD, the PRP Group shall perform ground water monitoring during the O&M period. Plans for O&M are in place and are sufficient to maintain the protectiveness of the remedy. The PRP Group is fulfilling its obligation to perform the O&M. All institutional controls are also in place, as the Site is fenced and a declaration of restrictions was filed with Vermilion Parish on September 29, 1999, restricting use of the Site ground water and limiting activities in the capped disposal cells.

Because the implementation of the Site remedies resulted in hazardous substances remaining on-site at concentration levels above levels that allow for unlimited use and unrestricted exposure (see CERCLA section 121(c), 42 U.S.C. 9621(c), and 40 CFR 300.430(f)(4)(ii)), a review will be conducted at least every five years after

commencement of the Remedial Action to assure that human health and the environment are being protected by the response action. The five-year reviews will be conducted pursuant to "Comprehensive Five-Year Review Guidance," OSWER Directive 9355.7–03B–P, Draft October 1999, or whatever EPA guidance is current at the time of the review. All response activities have been completed at the Site other than O&M and five-year reviews.

E. Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which the EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Louisiana, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, the EPA is deleting the Site from the NPL.

Because the EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period on the proposal, the EPA will publish a timely Withdrawal of this Direct Final rule of Deletion before the effective date of the deletion, and it will not take effect, and the EPA will prepare a response to comments and continue with the deletion process on the basis of the proposed Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 19, 2001.

Lynda F. Carroll,

Acting Regional Administrator, U.S. EPA, Region 6.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended under State of Louisiana ("LA") by removing the site name "Gulf Coast Vacuum Services" and the city "Abbeville, Louisiana."

[FR Doc. 01–12703 Filed 5–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6956–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final deletion of the Cleveland Mill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final deletion of the Cleveland Mill Superfund Site (the "Site"), located in Grant County, New Mexico, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of New Mexico, through the New Mexico Environment Department (NMED) because EPA has determined that all appropriate response actions under CERCLA have been completed at the Site and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Ms. Beverly Negri, Community Involvement Coordinator (6SF–PO), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8157 or 1–800–533–3508.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Suite 12D13, Dallas, Texas 75202–2733, (214) 665–6424, Monday through Friday 7:30 a.m. to 4:30 p.m.; Silver City Public Library, 5151 West College Avenue, Silver City, New Mexico 88061, (505) 538–3672, Monday and Thursday 9:00 a.m. to 8:00 p.m., Tuesday and Wednesday 9:00 a.m. to 6:00 p.m., Friday 9:00 a.m. to 5:00 p.m., and Saturday 9:00 a.m. to 1:00 p.m.; New Mexico Environment Department Library, 1190 St. Francis Drive, Santa Fe, New Mexico 87502, (505) 827–2844, Monday through Friday 8:30 a.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Aisling, Remedial Project Manager (6SF–LT), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8509 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 6 is publishing this direct final notice of deletion of the Cleveland Mill Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the NCP at 40 CFR 300.425(e)(3), sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001 on this document. If adverse comments are received within the 30-day public comment period on this deletion, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Cleveland Mill Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with NMED on the deletion of the Site from the NPL prior to developing this direct final deletion.

(2) The NMED concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

A. Site Location

The Site is located in Grant County, in southwestern New Mexico, approximately 5.5 miles northeast of Silver City, New Mexico. The Site includes approximately 4 acres in mountainous terrain and 14 acres which extend down a drainage area into the streambed of Little Walnut Creek. The surrounding property is located in a rapidly developing residential area that is adjacent to the Gila National Forest and private lands. The population within a 3-mile radius of the Site is estimated to be 1,200.

B. Site History

The Site is a former ore processing mill area adjacent to the Cleveland Mine. The Cleveland Mine, located approximately 0.5 mile northeast of the mill area, is one of the Cleveland Group of Mines located in the West Pinos Altos Mining District. The first of the Cleveland Mining claims was staked in the early 1900s and included a milling operation at the Site. The milling operation employed a gravity separator until 1916, and a flotation process from 1916 until at least 1919. Approximately 125,000 tons of lead, zinc, and copper ore were produced from the Cleveland Mine during the period from about 1900 until 1919. After this time, the site was leased for mining and grazing. The tailings from the milling operations were deposited at the headwaters of the Little Walnut Creek and both the soil and the surface water were contaminated with Site-related hazardous substances.

The Site was proposed for inclusion on the NPL on June 24, 1988, and inclusion was finalized on March 31, 1989, pursuant to section 105 of CERCLA, 42 U.S.C. 9605, identifying the Site as a priority for long-term remedial evaluation and response.

Remedial Investigation and Feasibility Study (RI/FS)

From August 1990 through March 1992, NMED, under an agreement with EPA, conducted a Remedial Investigation (RI) at the Cleveland Mill Superfund Site to determine the nature and extent of the problem presented by the release of hazardous substances, pollutants or contaminants at the Site. Hazardous substances were detected in soil and other surface materials at the site at concentration levels that exceed health-based standards: arsenic ranged from 4.1 to 3,020 milligrams per kilogram (mg/kg); beryllium ranged from 0.25 to 12.8 mg/kg; cadmium ranged from 0.15 to 376 mg/kg; lead ranged from 5.8 to 13,500 mg/kg; and zinc ranged from 57.3 to 122,000 mg/kg. The NMED also conducted a Feasibility Study (FS) on the Site, under an agreement with EPA. The primary objective of the FS, completed in March 1993, was to ensure that appropriate remedial alternatives were developed and evaluated such that relevant information concerning the remedial action options could be presented to a decision-maker (in this case the EPA Region 6 Regional Administrator) and an appropriate remedy selected.

On April 9, 1993, the EPA released the RI and FS Reports. The RI concluded that if no action was taken at the Site, there would be a threat to human health because Site visitors may be exposed to dangerous concentrations of hazardous substances in tailings, sediment, and surface water at the Site. Moreover, there was a potential for the

wells of nearby residents to become contaminated. These residents rely on ground water for drinking.

Record of Decision Findings

On September 24, 1993, after consideration of public comments, the EPA, with the concurrence of the NMED, issued a Record of Decision (ROD) memorializing its selection of a remedy to address the contamination at the Site. The remedy was chosen in accordance with CERCLA and the NCP. The ROD was based on the administrative record for the Site. The overall Site remedy, as described in the 1993 ROD, called for excavation of the contaminated mill waste material, transportation of the waste material to a reprocessor for treatment, and disposal of the treatment residuals at the reprocessing facility in an area where other tailings and residuals from ore-processing were disposed. The remedy in the 1993 ROD did not include a remedy for the shallow on-site aquifer because the EPA believed that the contamination would attenuate once the source (i.e., the contaminated waste material) was removed. Therefore, the 1993 ROD included ground water monitoring, to ensure that the contamination did not worsen or spread to nearby residential wells prior to the excavation and removal of the source of the contamination, and to verify that the ground water quality improved once the source was removed.

Removal Action

In a June 1995, Consent Decree (CD), the participating companies agreed to implement the remedy specified in the 1993 ROD. However, the 1993 ROD remedy was not implemented because the search for an acceptable off-site disposal facility was ultimately unsuccessful, and because, during the search, unanticipated and powerful rainfall events caused hazardous substances from the Site to migrate in contaminated runoff. This unanticipated contaminant migration posed an immediate increased risk to human health and the environment.

On July 11, 1997, to address the immediate risk, the EPA, with the concurrence of the NMED, issued an Action Memorandum that authorized a time-critical removal action to physically address the Site contamination and to restore affected surface areas at the Site. The participating companies agreed to implement this removal action through an EPA Administrative Order on Consent (AOC) which became effective on September 23, 1997. As described below, the removal action included the excavation of the contaminated material, and the placement of that material in an on-Site containment cell. The field activities required by the AOC were completed on November 19, 1998, the date on which the seeds of native plants were sown on the last area of the Site in order to provide vegetative cover. Completion of the final AOC requirement occurred on December 10, 1998, the date the participating companies submitted the Removal Action Final Report which was accepted by EPA.

Cleanup Activities Performed

The cleanup activities at the Site were conducted from September 1997 through December 1998 during the time-critical removal action. The time-critical removal action included:

- Excavation of 164,960 cubic yards of contaminated tailings and sediment from the mine area, the mill area, and the streambed;
- Neutralization of the acidic excavated material through admixing with limestone;
- Disposal of the neutralized material in a limestone cell constructed at the Site;
- Covering of the cell with a multi-layered cap,
- Construction of erosion control measures such as terraces; and
- Reseeding of the disturbed areas of the Site and the disposal cell cap.

C. Characterization of Risk

Contaminated materials were removed from Site soils and sediments until concentrations of contaminants remaining on the Site met the health-based remediation goals specified in the 1993 ROD (these goals were referred to as "Remedial Action Goals" in the ROD) and incorporated into the Action Memorandum as soil and sediment "cleanup levels." Cleanup levels for soil and sediment included: arsenic, 30 milligrams per kilogram in soil (mg/kg); beryllium, 4 mg/kg; cadmium, 140 mg/kg; lead, 500 mg/kg; and zinc, 82,000 mg/kg. At the conclusion of the time-critical removal action, confirmatory samples were taken at all excavated areas of the Site to verify that all soils (including tailings) and sediment with concentrations of contaminants higher than the cleanup levels (i.e., the remediation goals established in the ROD) had been removed.

The environmental threat at the Site was addressed through this time-critical removal. As part of this removal, the waste material in the mill area and in the stream was excavated, the waste material was treated with limestone to neutralize its acidity, the treated material was disposed of in a limestone cell constructed at the Site, and the cell was covered by a multi-layered cap.

The EPA issued an Amended ROD for the Site on September 20, 1999, stating that no further response action was necessary; however, as explained in the Amended ROD, the continuation of ground water and surface water monitoring, operation and maintenance (O&M) of the constructed remedy, and implementation of the existing institutional controls will continue. The O&M activities include inspections to ensure that erosion does not compromise the remedy and to ensure that the revegetation efforts are successful. Institutional controls include restrictive covenants warning against the use of ground water and advising future owners about the risks of disturbing the cover and/or the underlying material.

The original selected remedy, the time-critical removal action and the remedy selected in the Amended ROD (collectively the "Site remedies") are protective of public health and the environment, comply with federal and state requirements that are legally applicable or relevant and appropriate to the remedial action, and are cost effective. The Site remedies utilized permanent solutions to the maximum extent practicable for this Site. This Site meets all the completion requirements as specified in "Close Out Procedures for National Priorities List Sites," OSWER Directive 9320.2–09A–P (2000), and in the June 16, 2000, Site Close Out Report prepared by the EPA Region 6 Superfund Division.

D. Future Activity

Because the implementation of the Site remedies resulted in hazardous substances remaining on-site at concentration levels above levels that allow for unlimited use and unrestricted exposure (see 42 U.S.C. 9621(c), and 40 CFR 300.430(f)(4)(ii)), a review will be conducted at least every five years after commencement of the remedial action (which, at this Site for the purposes of the five-year review only, is considered to be the start of the time-critical removal action) to assure that human health and the environment are being protected by the response action. The five-year reviews will be conducted pursuant to "Structure and Components of Five-Year Reviews," OSWER Directive 9355.7–02 (May 23, 1991) and "Supplemental Five-Year Review Guidance," OSWER Directive 9355.7–02A (July 26, 1994) or other EPA guidance current at the time of the review. All response activities have been completed at the Site other than O&M and five-year reviews.

E. Community Involvement

Public participation activities have been satisfied as required by CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for its decision to delete the Site from the NPL are available to the public at the information repositories.

V. Deletion Action

The EPA, with concurrence of the NMED, has determined that responsible parties have implemented all appropriate response actions required at the Site and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and it will not take effect and EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 22, 2001.

Jerry Clifford,

Deputy Regional Administrator, Region 6.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site for Cleveland Mill, Silver City, NM.

[FR Doc. 01–12705 Filed 5–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6957–6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct Final Deletion of the Brodhead Creek Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is publishing a direct final deletion of the Brodhead Creek Superfund Site (Site) located in the Borough of Stroudsburg, Monroe County, Pennsylvania, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective July 23, 2001, unless EPA receives adverse comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: William Hudson, Community Involvement Coordinator, (3HS43), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5532.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site Information Repositories at the following locations: U.S. EPA Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5364, Monday through Friday 8:00 a.m. to 4:30 p.m.; the Stroudsburg Borough Building, Seventh and Sarah Streets, Stroudsburg, PA 18360, (570) 421–5444, Monday through Friday 8:00 to 5:00 p.m.; and the Pennsylvania Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711–0790, (570) 826–2511, Monday through Friday 9:00 a.m. to 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Banks, Remedial Project Manager (3HS22), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–3214, Fax (215) 814–3002, e-mail *banks.john-d@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
I. Deletion Action

I. Introduction

EPA Region III is publishing this direct final deletion of the Brodhead Creek Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Brodhead Creek Superfund Site and demonstrates how it meets the deletion criteria. Section V

discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA Section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the Commonwealth of Pennsylvania on the deletion of the Site from the NPL prior to developing this direct final deletion.

(2) The Commonwealth of Pennsylvania concurred with the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to the appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such action.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

A. Site Location

The Brodhead Creek Site occupies approximately 12 acres of a flood plain area on the western bank of Brodhead Creek at the confluence of Brodhead Creek and McMichael Creek in the Borough of Stroudsburg in Monroe County, Pennsylvania.

B. Site History

The Site is the former location of a coal gasification plant which operated from approximately 1888 to 1944. A waste product from these operations was a black tar-like liquid ("coal tar") which has a density greater than water and which is principally composed of polynuclear aromatic hydrocarbons ("PAHs"). The coal tar was placed in an open pit located on the Site. This practice continued to the mid-1940s when the plant was abandoned.

On October 7, 1980, during construction repairs to the flood control levee at the Site, materials identified as coal tar were observed seeping into Brodhead Creek. As a result, several investigations and emergency response measures were initiated by EPA, PADEP, and Pennsylvania Power and Light Company (PP&L) from 1981 through 1984, including: (1) Installation of temporary filter fences and underflow dams to intercept coal tar seepage; (2) installation of a temporary coal tar recovery pit on the west bank of Brodhead Creek; (3) construction of a slurry wall by EPA to mitigate coal tar migration from the Site toward Brodhead Creek; (4) excavation of a backwater channel area where coal tar seepage appeared to be particularly significant; and (5) installation of recovery wells in the main coal tar pool by PP&L, with the subsequent recovery of approximately 8,000 gallons of coal tar.

The Site was placed on the NPL in December 1982, with a Hazard Ranking Score of 31.09.

Remedial Investigation and Feasibility Study (RI/FS)

On August 20, 1987, PP&L and Union Gas Company (UGC) entered into a Consent Order and Agreement with the Commonwealth of Pennsylvania to conduct the original remedial investigation and feasibility study (RI/FS) for the Brodhead Creek Site. The original RI/FS was completed in 1991.

The results of the original RI indicated that coal tar from the former coal gasification operations had migrated vertically through the unsaturated and saturated portions of the stream gravel unit underlying the Site to the interface with the silty sand. The silty sand prevents further downward movement of the coal tar because of the higher capillary pressures within that unit. Approximately 4.28 acres of the gravel unit at the Site were contaminated with free and residual coal tar. The free coal tar (i.e., coal tar at 100% pore volume saturation) is limited to a small area of a stratigraphic depression east of the slurry wall near monitoring well MW–2 (the MW–2 Area) and to the lowest portion of the stratigraphic depression located west of the slurry wall (the RCC Area). Both of these free coal tar accumulations are confined from further downward migration by the top of the silty sand unit. Residual coal tar (i.e., coal tar at less than 100% pore volume saturation) can be found throughout the remainder of the 4.28 acres.

The total volume of free coal tar at the Site was estimated to be 9,000 gallons, 8,715 gallons at the RCC Area and 338 gallons at the MW–2 Area. The extent of residual coal tar contamination at the Site was estimated to be from 303,000 gallons to 409,000 gallons.

Characterization of Risk

The risk assessment in the original RI identified PAHs, benzene, and arsenic as the primary contaminants of concern at the Site. Federal Maximum Contaminant Levels (MCLs) for drinking water established pursuant to the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, were exceeded for arsenic, benzene, and benzo(a)pyrene in the subsurface gravel unit. Proposed MCLs were exceeded in the ground water in the gravel unit for the following PAHs: benzo(a)anthracene; benzo(b)fluoranthene; benzo(k)fluoranthene; chrysene, dibenz(a,h)anthracene; and indenopyrene. These PAHs, as well as arsenic and benzene, are "hazardous substances" as defined in Section 101(14) of CERCLA.

After reviewing the results of the original RI/FS, EPA divided the remedial work to be undertaken at the Site into two operable units ("OUs"). These were as follows:

OU–1: Contaminated subsurface soils containing free coal tar in the stream gravel unit

OU–2: Ground water in the stream gravel unit to and including bedrock

EPA determined that an interim remedial action should be taken for OU–1 to initiate reduction of the toxicity, mobility, and volume of contaminants in the stream gravel unit at the Site. The interim remedial action would entail the removal of the free coal tar from the stream gravel unit. The free coal tar was a principal threat to human health and the environment since it imparted high levels of contaminants to the ground water in the stream gravel unit and could serve as a potential source of release of contamination to the ground water in bedrock. Implementation of an interim remedial action would remove the source of the highest level of contamination and would reduce further leaching of contaminants into the ground water. Data generated during the implementation of the interim action and further investigations for OU–2 would provide the information necessary to assist EPA in determining whether (and where) restoration of ground water to beneficial use was feasible. This in turn would enable EPA to issue a final Record of Decision for the Brodhead Creek Site.

Record of Decision Findings for OU–1

In a Record of Decision (ROD) issued on March 29, 1991, EPA selected an interim remedial action for OU–1 which included the following major components:

—Recovery of free coal tar from the subsurface soils utilizing the innovative technology of enhanced recovery (referred to as the Contained Recovery of Oily Waste (CROW) process);

—Disposal of the recovered coal tar at an off-site permitted facility;

—Imposition of institutional controls to limit future use of the Site; and

—Monitoring of ground water and biota in Brodhead Creek to ensure protection of human health and the environment.

Response Actions for OU–1

On September 2, 1992, EPA, PP&L and UGC entered into a Consent Decree under which the companies agreed to implement the remedial design/remedial action (RD/RA) for OU–1 at the Site. The original performance standard in the ROD required that at least 60% of the free coal tar in the subsurface soils be removed. On July 14, 1994, EPA issued an Explanation of Significant Differences (ESD) which revised the performance standard in the ROD by requiring the operation of the CROW process until the increase in cumulative recovery of the coal tar dropped to 0.5% or less per pore volume flushed through the formation. This revision of the performance standard was based on EPA's determination that accurate measurement of the removal of 60% of the free coal tar would not be possible because of the geology of the Site and the nature of the subsurface coal tar contamination. By June of 1996, approximately 1,500 total gallons of coal tar had been removed from the RCC Area and the performance standard had been met.

EPA determined during the CROW operational period that it would not be practical to implement CROW at the MW–2 Area (the area located at monitoring well MW–2) since the MW–2 Area contained only a small amount of free coal tar. Instead, EPA determined that the relatively minor amount of coal tar in the MW–2 Area wells should be removed via intermittent pumping. Approximately 100.5 gallons of coal tar were recovered from the MW–2 Area between February 1996 and March 1997.

Because of the variable nature of the coal tar recovery effort at the MW–2 wells, EPA determined that continued active intermittent pumping of the MW–2 wells could be suspended. However, as part of operation and maintenance of the Site, EPA has required that the MW–2 wells, and any wells in the RCC Area that have historically contained coal tar, be monitored for a free coal tar surface as part of the long-term ground water monitoring requirement at the Site. If a coal tar layer greater than six inches is discovered, it will be removed by pumping at that time.

These changes for the MW–2 Area were documented in a second Explanation of Significant Differences dated September 30, 1997. This second ESD also converted the interim remedy in the ROD for OU–1 into the final remedy for the Site and described the long-term monitoring strategy for the Site.

Record of Decision Findings for OU–2

On June 3, 1992, EPA, PP&L and UGC entered into a Consent Order under which the companies agreed to conduct a Focused RI/FS for OU–2 to further investigate ground water contamination at the Site. On June 30, 1995, EPA issued a ROD for OU–2 at the Brodhead Creek Site. This ROD addressed ground water contamination and residual coal tar contamination in the subsurface soils. In the ROD for OU–2, EPA selected a No Further Action alternative and established a technical impracticability ("TI") zone within which the Agency determined it would be impracticable to remediate ground water and residual coal tar contamination. EPA waived federal MCLs and Pennsylvania's Applicable or Relevant and Appropriate Requirement (ARAR) for cleanup to "background" levels of contamination on the basis of "Technical Impracticability." Several Site-specific constraints made the implementation of engineering solutions to the residual coal tar contamination impracticable. As stated in the OU–2 ROD, these included: (1) the need to temporarily reroute Brodhead Creek to access coal tar-impacted soils beneath the creek bed; (2) the need to reinforce the existing interstate I–80 bridge abutments in order to protect them from the increased velocity and height of the creek which would result from rerouting the creek; and (3) the need to restore wetlands which would be impacted by any remediation alternative. In addition, the existing earthen levee which currently bisects the Site, and which protects the Borough of Stroudsburg and the slurry wall installed by EPA as an emergency action in the early 1980s, would probably sustain damage from the implementation of any engineering alternative, and require repair.

In the ROD for OU–2, EPA determined that the No Further Action alternative, in conjunction with the OU–1 selected remedy, is protective of human health and the environment. Implementation of the OU–1 enhanced recovery program for the free coal tar areas on-site reduced the areas of highest subsurface soil contamination. The OU–1 monitoring program will provide the data required to evaluate the fate of the coal tar-related constituents,

the integrity of the slurry wall and the "health" of the biological community in Brodhead Creek. This will provide long term protection against the unlikely event that Site conditions might change and potential exposures increase. In addition, the slurry wall installed at the Site will continue to prevent free coal tar from discharging to Brodhead Creek.

C. Future Activity

Operation and Maintenance

Operation and Maintenance (O&M) activities, which are performed by PP&L(now known as PPL Electric Utilities Corporation (PPL)) with EPA oversight, include periodic inspections, ground water monitoring, stream sediment and biota monitoring, and the removal of relatively minor amounts of free coal tar from the two stratigraphically isolated areas of the Site, as necessary, but no less often than annually, and any other activities necessary to ensure continued protection of public health and the environment. The free coal tar removal, in conjunction with long-term ground water monitoring, will continue to ensure the effectiveness of the completed remedy at the Brodhead Creek Site.

Five-Year Review

CERCLA requires a five-year review of all sites with hazardous substances remaining above the health based levels for unrestricted use of the Site. Since residual coal tar contamination and ground water contamination remain at the Site, the five-year review process will be used to ensure that the selected remedy continues to be protective of human health and the environment. EPA completed the first five-year review of the Brodhead Creek Site on May 28, 1999. In that five-year review, EPA determined that the remedy was not completely protective of human health and the environment because institutional controls on future land use at the Site had not yet been implemented. On September 22, 2000, institutional controls which limit future land use at the Brodhead Creek Site were implemented by PPL and UGC (now known as PFG Gas, Inc.), and recorded at the Monroe County Courthouse, Recorder of Deeds Office, in Stroudsburg, Pennsylvania. These controls include restricting use of ground water at the Site and prohibiting excavation at the Site unless prior written approval is provided by the property owner, EPA, and PADEP. These institutional controls will reinforce the protectiveness of the selected remedy. EPA has determined that all requirements of the ROD for OU–1, as modified by the ESDs dated July 14, 1994 and September 30, 1997, have been achieved at the Site and the Site is protective of human health and the environment. EPA plans to complete the next five year review prior to May 28, 2004.

D. Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with the concurrence of the Commonwealth of Pennsylvania, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document to delete, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 8, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, U.S. EPA Region III.

For the reasons set out in this document, 40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR., 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR., 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site for "Brodhead Creek, Stroudsburg, PA."

[FR Doc. 01–12707 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6969–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final deletion of the Salem Acres Superfund Site from the National Priorities List.

SUMMARY: EPA—New England is publishing a direct final deletion of the Salem Acres Superfund Site (Site), located in Salem, Massachusetts, from the National Priorities List (NPL).

The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the Commonwealth of Massachusetts, through the Department of Environmental Protection (MADEP) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to Elaine Stanley, Remedial Project Manager, U.S. Environmental Protection Agency—New England, One Congress Street, Suite 1100 (HBO), Boston, Massachusetts 02114–2023, (617) 918–1332, Fax (617) 918–1291, e-mail: *stanley.elainet@epa.gov.*

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. Environmental Protection Agency—New England Records Center, One Congress Street, Suite 1100, (HBS), Boston, Massachusetts 02114–2023, (617) 918–1440 or 1–800–252–3402-toll-free, Monday through Friday—9 a.m. to 5 p.m.; and the Salem Public Library, 370 Essex Street, Salem, Massachusetts 01970, (978) 744–0860, Monday through Thursday—9 a.m. to 9 p.m., Friday and Saturday—9 a.m. to 5 p.m. and Sunday—1 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Elaine Stanley, Remedial Project Manager, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (HBO), Boston, Massachusetts 02114–2023, (617) 918–1332, Fax (617) 918–1291, e-mail: *stanley.elainet@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
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I. Introduction

EPA—New England is publishing this direct final notice of deletion of the Salem Acres Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Salem Acres Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that release may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA Section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. In the case of this Site, a five year review is not necessary since all hazardous substances, pollutants and contaminants have been removed from the Site. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without the application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the Commonwealth of Massachusetts on the deletion of the Site from the NPL prior to developing this direct final deletion.

(2) The Commonwealth of Massachusetts concurred with the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA places copies of the documents supporting the deletion in the Site information repositories identified.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Salem Acres Superfund Site (Site) is an approximately two hundred and thirty-five (235) acre parcel of land located in the Cities of Peabody and Salem, Massachusetts. The entire Site is zoned residential but remains undeveloped. The actual contaminated portion of the Site was confined to the southernmost thirteen acres of the property. This area borders a residential area to the south, wetlands to the east and west and undeveloped upland to the north.

Site History

The contaminated area consisted of three adjacent and separate disposal areas. There is a Responsible Party (RP) associated with each area. The first area where hazardous substances were located consisted of eight unlined sludge lagoons containing industrial sewage sludge originating from and disposed of by the South Essex Sewerage District (SESD), a wastewater treatment plant located in Salem, MA. The second area containing hazardous substances consisted of a coal fly ash pile disposed of by the Massachusetts Electric Company (MEC). Disposal activities by SESD and MEC occurred between the mid 1940's and 1969. The third and final area containing hazardous substances included an old landfill and three debris piles (collectively Landfill) which existed prior to the present ownership of the property. The owner of the property, Ugo DiBiase Salem Realty Trust (DiBiase) is the RP for the Landfill. Generation and disposal of the landfill and debris piles is not known. Although DiBiase did not contribute any waste to the Site, it was deemed liable by virtue of property ownership and failing to take any action to minimize exposure to contaminants. Operable Unit No. 1 includes the entire Site.

EPA conducted two Emergency Removal Actions (ERAs) at the Site, one in 1987 and one in 1990. EPA funded the first action and a portion of the second action with SESD performing and funding the remaining portion of the second action. The first action consisted of lagoon water removal and disposal, capping the lagoons, constructing a slurry wall and provide fencing to preclude site access. The second action consisted drum repacking and storage, fence and gate replacement and installation of signs.

Remedial Investigation and Feasibility Study (RI/FS)

The SESD completed a site-wide Remedial Investigation (RI) on May 29, 1992. They then conducted a Feasibility Study (FS) which was completed in June 1992. Results of the RI showed the nature and extent of contamination and assessed the associated risks from exposure. The contaminants of concern include polynuclear aromatic hydrocarbons (PAHs), polychlorinated biphenyls PCBs, dioxins/furans, volatile organic compounds (VOCs), semi-VOCs (sVOCs), chromium, arsenic, beryllium, vanadium and thallium. The concentration levels for the dioxin equivalent 2,3,7,8-TCDD found during the RA were below the cleanup level of 1 part per billion. The primary exposure pathways for both existing and future land use (residential) that showed unacceptable risk include: ingestion, dermal contact and inhalation of (airborne particulates originating from) sludge, fly ash and contaminated soil.

The FS developed and evaluated various remedies for each contaminated area, including RCRA capping, incineration, immobilization, thermal desorption, solvent extraction, in-situ vitrification, sludge fixation, excavation and off-site disposal.

Record of Decision Findings

A Record of Decision (ROD) was signed on March 25, 1993. The ROD required a preferred remedy of soil/sludge fixation, excavation and off-site disposal at a permitted landfill. Implementation of the preferred remedy required that certain conditions be met which included that the waste must be classified as non-hazardous under RCRA before shipment off-site. If these conditions could not be met, the ROD required construction of a RCRA cap over the hazardous substances to minimize possible exposure, implementation of institutional controls and long term monitoring to assure cap integrity. All areas to be remediated on Site are identified as Operable Unit No. 1. If the preferred remedy proved to be feasible, then no institutional controls or long term monitoring would be required.

On April 11, 1997, EPA issued an Explanation of Significant Difference (ESD). Based on updated toxicity data regarding carcinogenic polyaromatic hydrocarbons (cPAHs), EPA recalculated cleanup values for soils using this new information. The cleanup risk value established in the ROD for the Site was held constant, providing the same level of protectiveness. Each cPAH was given a separate cleanup value rather than a total cPAH value 1.2 parts per million (ppm) provided in the ROD. In addition, EPA calculated a new cleanup value for beryllium after a background study was performed. EPA redefined the background concentration of beryllium in soils as 1.0 ppm and revised the cleanup level from 0.42 ppm to 1.0. The excess lifetime cancer risk resulting from exposure to 1 ppm beryllium in soils given the exposure scenario and assumptions specified in the HRA is 2×10^{-6} which is consistent with EPA's goal for remedial actions (clean up to within the acceptable risk range of 1×10^{-4} to 1×10^{-6}).

Characterization of Risk

The risk assessment performed as part of the RI for existing and future use scenarios determined that unacceptable risks exist from exposure to cPAHs, PCBs, dioxins/furans, VOCs, sVOCs, chromium, arsenic, beryllium, vanadium and thallium. The primary exposure pathways for both existing and future land use (residential) that showed unacceptable risk include: ingestion, dermal contact and inhalation of (airborne particulates originating from) sludge, fly ash and contaminated soil.

Response Actions

Each of the three RPs entered into separate Consent Decrees to pay for past costs expended at the Site, all future costs incurred at the Site and to perform separate remedial designs (RDs) (SESD and MEC only) and remedial actions (RAs) for each responsible area. The U.S. Army Corps of Engineers, on behalf of the EPA, performed the RD for the Landfill with Fund-lead monies. Just prior to the start of a fund lead RA, DiBiase entered into a Consent Decree to perform the RA and to cover certain past and all future costs associated with its cleanup. All future costs incurred by EPA and DEP for each of the three RD/RAs were covered by each respective RP. EPA retained the Corps to provide design review and evaluation, oversight of the remedial actions, including evaluation of quality assurance/quality control (QA/QC) procedures, performance standards and verified that the validated data met the established data quality objectives (DQOs) for each project.

For the first RA, DiBiase excavated approximately 2,000 cubic yards (cy) of material and disposed of it at an off-site permitted landfill. During the remedial action, fly ash was shown to be present well into the landfill. DiBiase removed approximately 1,500 cy of fly ash and MEC agreed to incur the costs associated with this work. Final site restoration of the Landfill and debris piles was performed in the spring of 1996.

MEC commenced RA activities in August 1995 and was substantially completed but discontinued in December 1995 at the boundary of the fly ash area and the adjacent wetland. Approximately 11,000 cy of fly ash and approximately 6,100 cy of adjacent contaminated soils were excavated and shipped off-site to a permitted special waste landfill located in New Hampshire. Site restoration was performed in the spring of 1996.

MEC excavated the remaining fly ash found in the wetlands in August 1999. Approximately 1,000 cy of fly ash was removed from the wetland and shipped off-site to an appropriate landfill. Restoration of the wetland included seeding the slopes with an appropriate wetland soils and seed mix. A final inspection was performed on August 18, 1999. This is the date for which all construction activities were considered complete for the entire Site.

SESD performed treatability tests for the fixation of the sludges during the pre-design phase. The purpose of fixation was to render any ignitable sludges non-ignitable. The treatability study shown that the sludges were non-ignitable and non-RCRA toxic and thus not RCRA-characteristic hazardous waste. SESD implemented the remedy of excavation and off-site disposal. The remedial work commenced in September 1996 and substantially completed in September 1997. Final site restoration was completed in the spring of 1998. A final site inspection for the sludge areas occurred on April 29, 1999.

A total of 28,755 tons of sludge were excavated and disposed of off-site at a permitted solid waste disposal facility located in Maine. A total of 60,304 tons of soil were excavated and disposed of at a solid waste disposal facility in Massachusetts. The slurry wall, sludge lagoon HDPE covers installed during the 1987 ERA and other demolition debris were also removed and sent to the Massachusetts disposal facility. A total of approximately 7.5 million gallons of site water accumulated in the excavated areas were collected and discharged to the SESD treatment plant for treatment via municipal sewer. The water was tested regularly to ensure compliance with the plant's pre-treatment limits. The high volume of water that accumulated in the excavated areas was due to the occurrence of a hundred year storm event, unanticipated depth of excavation and contractor delays based on cost claims with SESD.

Each of the RPs monitored surface water and sediments in the wetlands prior to and after their remediation. SESD was also tasked to monitor Site ground water during and after remediation. The last and final ground water sampling event occurred in May of 1999. The results showed that ground water was not impacted by any remediation. Ground water had also not been impacted by past disposal of materials at the Site.

Cleanup Standards

Remedial action cleanup activities at the Site were consistent with the NCP, the ROD, the ESD and with each RD/RA Consent Decree and provides protection to human health and the environment. RD/RA plans for all phases of construction included a Quality Assurance Project Plan (QAPPs) and incorporated all EPA and State quality assurance and quality control procedures and protocols (where necessary). All procedures and protocol were followed for soil, sediment, water and air sampling during the RA. EPA analytical methods were used for the confirmatory and monitoring samples during all RA activities. EPA has determined that the analytical results, having been Tier III validated, are accurate to the degree needed to assure satisfactory execution of each RA, show that the cleanup standards have been met, and are consistent with the ROD/ESD and the RD plans and specifications.

Operations and Maintenance

The Site has been entirely cleaned up in accordance with the ROD, the ESD and the three CDs. There will be no need for operation and maintenance activities at the Site. The Site requires no institutional controls and now provides for unrestricted use. The Site is zoned as residential. The landowner has informally suggested that he may build multi-family residences on the Site but at the time of this writing, no definitive or formal plans have been made public.

Five-Year Review

No hazardous substances remain at the site above health-based levels after the completion of all remedial actions. Therefore, pursuant to CERCLA Section 121(c) and as provided in OSWER Directive 9355.7–02, Structure and Components of Five-Year Reviews, May 23, 1991 and OSWER Directive 9355.702A, Supplemental Five-Year Review Guidance, July, 26, 1994, five year reviews will not be necessary.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

Informal public meetings were held in the neighborhood prior to and after each remedial action. Representatives from EPA, MADEP and the RPs with their consultants and contractors were present. These meetings proved to be extremely helpful in providing the public, especially the immediate neighborhood residents who would be most affected, with important information regarding activities associated with each remedial action. These meetings were also particularly useful for the agencies and the RPs in hearing and addressing the residents' concerns regarding on-site and off-site activities. Some examples of what the agencies and the RPs implemented as a result of these meetings included: prohibiting truck traffic before 8 a.m. and after 5 p.m. and during school bus pickup and drop off periods; setting a speed limit of 15 m.p.h. for all site-related vehicles on residential streets; daily street cleaning; air monitoring at the site gate adjacent to the neighborhood and the RPs agreeing to repave the neighborhood roadway used to transport wastes off-site.

V. Deletion Action

The EPA, with concurrence from the Commonwealth of Massachusetts, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will become effective July 23, 2001 unless EPA receives adverse comments by June 21, 2001. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 23, 2001.

Ira W. Leighton,

Acting Regional Administrator, U.S. EPA—New England.

For the reasons set out in this document, 40 CFR part 300 continues to read as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended under Salem Acres Superfund Site by removing the "Salem Acres Superfund Site, Salem, Massachusetts".

[FR Doc. 01–12709 Filed 5–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6947–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial direct final deletion of the California Gulch Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 8 announces its deletion of Operable Unit 2 (OU2) of the California Gulch Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. This partial deletion of the California Gulch Site is in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466 (Nov. 1, 1995).

This partial deletion pertains to the area addressed by OU 2, and includes the Malta Gulch Fluvial Tailing, Leadville Corporation Mill, Malta Gulch Tailing Impoundment, and the Malta Tailing Impoundment. EPA has issued a Record of Decision (ROD) for OU 2. EPA bases its partial deletion of this area on the determination by EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), that all appropriate actions under CERCLA have been implemented at these sites.

The California Gulch Site has been divided into 12 operable units. This partial deletion pertains only to OU 2 of the Site. Response activities will continue at the remaining OUs.

DATES: This "direct final" action will be effective July 23, 2001 unless EPA receives significant adverse or critical comments by June 21, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR-SR, 999 18th Street, Suite 300, Denver, CO 80202. Telephone: (303) 312–6552.

Information Repositories:

Comprehensive information on the California Gulch Site is available through EPA, Region 8 public docket, which is located at EPA, Region 8, Superfund Records Center and is available for viewing from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. Requests for documents should be directed to the EPA, Region 8, Superfund Records Center. The address for the Region 8 Superfund Records Center is: U.S. Environmental Protection Agency, Superfund Record Center 999 18th Street, 5th Floor, Denver, CO 80202, Telephone (303) 312–6473.

FOR FURTHER INFORMATION CONTACT: Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR-SR, 999 18th Street, Suite 300, Denver, CO 80202. Telephone: (303) 312–6552.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Partial Site Deletion

I. Introduction

The Environmental Protection Agency, Region 8 announces its deletion of a portion of the California Gulch Superfund Site (Site), located in Lake County, Colorado from the National Priorities List (NPL), which constitutes appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this proposal. This partial deletion pertains to Operable Unit 2 (OU 2), which consists of the Lower Malta Gulch Fluvial Tailing, Leadville Corporation Mill, Malta Gulch Tailing Impoundment, and the Malta Tailing Impoundment.

The Site is divided into 12 Operable Units (OUs) pursuant to agreement reached in a 1994 Consent Decree settlement. The 12 OUs comprising the California Gulch Site are as follows:

1. Yak Tunnel/Water Treatment Plant.
2. Malta Gulch Tailing Impoundments and Lower Malta Gulch Fluvial Tailing.
3. D&RG Slag piles and Railroad Yard/Easement.
4. Upper California Gulch.
5. Asarco Smelter sites/Slag/Mill sites.
6. Starr Ditch/Stray Horse Gulch/Lower Evans Gulch/Penrose Mine Waste Pile.
7. Apache Tailing Impoundments.
8. Lower California Gulch.
9. Residential and Commercial Populated Areas.
10. Oregon Gulch.
11. Arkansas River Valley Floodplain.
12. Site-wide Water Quality.

OUs 2 through 11 were designated in order to facilitate source remediation of specific geographic areas. OUs 2 through 11 pertain to distinct geographical areas corresponding to areas of responsibility for the identified responsible parties with EPA taking responsibility for areas where no responsible party could be identified, the United States was a responsible party, or cash-out settlements had been reached with the responsible parties. OU 12, which covers the entire Site was designated to address Site-wide surface and groundwater after completion of source remediation pursuant to OUs 2 through 11. EPA is deleting the areas addressed by OU 2 because all appropriate CERCLA response actions have been completed in these areas as described in Section IV. However, response activities are not complete for the other areas. Therefore, those areas will remain on the NPL and are not the subject of this partial deletion.

The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). Pursuant to 40 CFR 300.4–25(e) of the NCP, any site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept any dissenting comments on this partial deletion for thirty days following publication of this document in the **Federal Register**.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to § 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required; or
- Section 300.425(e)(1)(ii). All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of an operable unit at a site from the NPL does not preclude eligibility for subsequent Fund-financed actions at the operable unit deleted, it future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does no affect or impede EPA's ability to conduct CERCLA response activities at operable units not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion or partial deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. The following procedures were used for the partial deletion of this site:

(1) EPA, Region VIII has recommended the partial deletion of the California Gulch Site and has prepared the relevant documents.

(2) The State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE) has concurred with EPA's recommendation for a partial deletion.

(3) Concurrent with this partial deletion, a public notice has been published in a local newspaper and has been distributed to appropriate Federal, State and local officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this document in the **Federal Register** and a newspaper of record.

(4) EPA, Region VIII has made all relevant documents available in the Regional Office, Superfund Record Center.

EPA is requesting only dissenting comments on the Direct Final Action to Delete. For deletion of the release from the Site, EPA's Regional Office will accept and evaluate public comments on EPA's action before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period. Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 300.425 (e)(3) of the NCP states that the deletion of a release from a site from the NPL does not preclude eligibility for future response actions.

IV. Basis for Partial Site Deletion

The following provides EPA's rationale for deletion of OU 2 from the NPL and EPA's findings that the criteria in 40 CFR 300.425(e) are satisfied.

Background

The California Gulch Superfund Site is located in Lake County, Colorado approximately 100 miles southwest of Denver. The California Gulch Superfund Site was listed on the National Priorities List on September 8, 1983. The Site is in a highly mineralized area of the Colorado Rocky Mountains covering 16 ½ square miles of a watershed that drains along California Gulch to the Arkansas River. Mining, mineral processing, and smelting activities have occurred at the Site for more than 130 years. The Site includes the City of Leadville, various parts of the Leadville Historic Mining District, and a section of the Arkansas River from the confluence of California Gulch to the confluence of Lake Fork Creek.

A site-wide Phase I Remedial Investigation (Phase I RI), which primarily addressed surface and groundwater contamination, was issued in January 1987. As a result of the Phase I RI, EPA developed the first operable unit at the Site, the Yak Tunnel. This first operable unit was designed to address the largest single source of metallic loading.

The Phase I RI was followed by a number of additional site-wide studies, including the Tailing Disposal Area Remedial Investigation Report, Baseline Human Health Risk Assessment Part A, Part B, and Part C, Ecological Risk Assessment for Terrestrial Ecosystems, Baseline Aquatic Ecological Risk Assessment, Groundwater RI, Surface Water RI, Waste Rock RI, and Site-wide Screening Feasibility Study. In addition, OU 2 specific studies were conducted, including the Malta Gulch Tailing Engineering Evaluation/Cost Analysis and studies conducted by the Hecla Mining Company (Hecla).

In order to expedite the clean-up of the Site, EPA agreed, pursuant to a 1994 Consent Decree settlement, to divide the Site into eleven additional Operable Units. With the exception of OU 12, the operable units pertain to distinct geographical areas corresponding to areas of responsibility for the identified responsible parties and/or to distinct sources of contamination. EPA has taken responsibility for operable units where no responsible party could be identified, the United States was a responsible party, or cash-out settlements had been reached with the responsible parties. Under the settlement agreement reached in 1994, OUs 2 through 11 were designated to deal with areas where the appropriate responsible party or the United States would conduct source remediation. The settlement agreement recognized that additional source remediation or other appropriate response actions related to surface or ground water could occur as part of OU 12 anywhere within the 16.5 square mile of the Site. The OUs are as follows:

1. Yak Tunnel/Water Treatment Plant.
2. Malta Gulch Tailing Impoundments and Lower Malta Gulch Fluvial Tailing.
3. D&RG Slag piles and Railroad Yard/Easement.
4. Upper California Gulch.
5. Asarco Smelter sites/Slag/Mill sites.
6. Starr Ditch/Stray Horse Gulch/Lower Evans Gulch/Penrose Mine Waste Pile.
7. Apache Tailing Impoundments.
8. Lower California Gulch.
9. Residential and Commercial Populated Areas.
10. Oregon Gulch.
11. Arkansas River Valley Floodplain.
12. Site-wide Surface and Ground Water.

The source areas to be addressed by OU 2 included the Malta Gulch Tailing Impoundments, including the Leadville Corporation Mill; the Malta Tailing Impoundment, including the Leadville Silver & Gold Mill facility; and the fluvial tailing in the area known as the Lower Malta Gulch. Pursuant to settlements reached with the responsible parties at each of these properties, EPA is responsible for

conducting the appropriate response actions at these properties.

EPA performed four (4) removal/response actions at these sites. In chronological order, the fluvial tailing in Lower Malta Gulch were excavated from the Gulch and placed in a portion of the Malta Gulch Tailing Impoundment. These materials were graded, capped and revegetated. The remainder of the Malta Gulch Tailing Impoundment was capped in 1992 by Leadville Corporation to control fugitive dust emissions. The material in the Malta Tailing Impoundment (Leadville Silver & Gold) was graded, capped and revegetated. And, forty-two drums were removed from the Leadville Corporation Mill and appropriately disposed.

On September 30, 1999, after completion of the removal actions, EPA issued a Record of Decision for OU 2 presenting EPA's decision that no further CERCLA action, as regards source remediation, is necessary to protect human health and the environment. The OU 2 ROD also provided for long-term monitoring of the Impoundments, including monitoring of the present use restrictions to prevent uses incompatible with the response actions would be necessary at the Malta Gulch Tailing Impoundment and the Malta Tailing Impoundment. Monitoring may include minor maintenance. Monitoring and any minor maintenance will be implemented by the Colorado Mountain College and through funds received by the United States in a settlement with a potentially responsible party. In the event that significant maintenance issues are identified by the Colorado Mountain College, EPA will take appropriate action to ensure protectiveness of the remedy. In addition, five-year reviews are also necessary for these sites.

OU 2 Response Actions

Lower Malta Gulch

The fluvial tailings in Lower Malta Gulch, also identified as Fluvial Tailing #7 in the Tailing Disposal Area Remedial Investigation Report, lie directly downstream of the Malta Gulch Tailing Impoundments. Malta Gulch runs in a southwesterly direction for about three miles where it joins California Gulch.

The fluvial tailing in Lower Malta Gulch originated from the milling operations conducted by the Ore & Chemical Company (OCC) from the fall of 1943 through August 1946. OCC had constructed a large tonnage sink-float mill near the site of the present day Leadville Corporation Mill. OCC deposited approximately 800,000 tons of tailing behind low profile berms. These berms appear to have been unsuccessful in completely containing the tailing and there appears to have been periodic releases of OCC tailing into the Lower Malta Gulch.

Fluvial Tailing Site #7 covered an area of approximately 26 acres. Sampling at this site found lead levels ranging from 5.5 to 47,800 parts per million (ppm). The Time Critical Removal Action for Lower Malta Gulch Fluvial Tailing was performed in the 1995 and 1996 construction seasons. The materials excavated from Lower Malta Gulch Fluvial Tailing were disposed at the Malta Gulch Tailing Impoundment prior to the Non-Time Critical Removal Action which was planned for Malta Gulch Tailing Impoundment in 1996.

During the 1995 construction season, approximately 34,000 cubic yards of contaminated material was removed from Lower Malta Gulch Fluvial Tailing and deposited in the Malta Gulch Tailing Impoundment. Four check dams, and a diversion berm between the upper and lower portions of Malta Gulch were constructed to manage surface runoff. Revegetation work in Malta Gulch was performed in 1996.

The clean-up standard for this removal was the industrial/commercial clean-up level for California Gulch of 6,700 ppm total lead. Confirmation sampling demonstrated that the excavation and removal had successfully lowered lead levels to below the Site residential clean-up level of 3,500 ppm total lead, thus no institutional controls are necessary at this portion of OU 2. Subsequent monitoring in 1997 and 1998 have verified that the revegetation was successful and no long term monitoring is required.

Malta Gulch Tailing Impoundments

The Malta Gulch Tailing Impoundment (MGTI) is located at the upper end of Malta Gulch about two miles west of the City of Leadville. The Stringtown portion of the Leadville Mining Area District, which includes the Malta Gulch Tailing Impoundments (MGTI), was developed between 1879 and 1882 as a large group of placer claims.

As explained above, it appears that the earliest use of this area for tailing disposal was from the fall of 1943 through August 1946 by the OCC. The OCC tailing berms became the pre-cursors to the current basins known as Impoundments #1 and #2. From the period of 1945 to 1973, there was no activity at this portion of the Site although ownership of the property changed hands numerous times. The property was purchased by its current owner, Leadville Corporation, in 1968. In 1974, the Hecla Mining Company (Hecla), in conjunction with Day Mines, leased the property as a site for disposal of tailing generated from its milling of ores from the Sherman Mine which was a silver mine in a dolomite formation. The MGTI, in its present configuration, was constructed in 1974 by Hecla/Day. Hecla/Day also constructed 3 tailing impoundments (#1, 2, 3), two water retention impoundments (#4 and 6) and a clarification basin (#5). The entire facility occupies approximately 23 acres. These milling operations were permitted and bonded by the State of Colorado's Division of Minerals & Geology, and the permit remains in effect. Hecla leased the MGTI from Leadville Corporation until 1987. During its leasehold, Hecla/Day operated an on-site flotation mill that generated approximately 680,000 tons of tailing. No cyanide was used in the processing during this time. The Leadville Corp. refitted the mill to use a cyanide leaching process and approximately 50,000 tons of dolomitic tailing were added to the impoundments in 1988.

Hecla completed an engineering evaluation/cost analysis (EE/CA) for the MGTI in July, 1993. Sampling at the MGTI showed lead in the range of 800 to 57,600 parts per million (ppm). Based on the findings of the EE/CA, EPA conducted a non-time critical removal to consolidate, grade, cap, and revegetate the MGTI.

Capping work at the MGTI included the completion of the dust control dolomite gravel caps at Ponds 1, 2, and 3 that was initiated by Leadville Corporation in 1991. EPA work at the MGTI was performed in two field construction seasons. Clean-up activities commenced on October 5, 1995 and were completed on October 15, 1996. Borrow material was obtained from the Leadville Corporation borrow pit immediate north of the impoundments across County Road 3. Borrow material is comprised of non-mineralized glacial moraine deposits. This helped assure that cap materials had lead levels below the 6,700 mg/kg total lead (the commercial/industrial soil lead action level for this property). Borrow was placed at a depth of 6–12 inches. Prior to capping, 30,000 cubic yards of metals-contaminated fluvial tailings from Lower Malta Gulch were also transported and placed in the MGTI Pond 3. These materials were capped, graded, and revegetated. Other elements of the MGTI clean-up included: The construction of a rip-rap geotextile spillway to control runoff, the stabilization of a section of retainment berm, the reestablishment of the local drainage and fencing, and soil hot spot removals and revegetation of areas around the mill building.

In order to ensure continued protectiveness of the remedy, long-term monitoring will be conducted in accordance with the Monitoring Plan to assure that the cover material and vegetation remain effective. In addition, present zoning of the MGTI is Industrial Mining which will not allow uses inconsistent with the remedy. Periodic monitoring and review is necessary to verify that zoning of the MGTI has not been changed to allow uses inconsistent with the remedy, and that groundwater is not being used as a source of drinking water. Monitoring is also necessary to periodically review the status of this DMG permit. Site closure and reclamation will be completed in accordance with the DMG permit requirements. The long-term monitoring program for the MGTI will be implemented by the Colorado Mountain College. This program will commence upon finalization of the work plan submitted in August 2000.

Malta Tailing Impoundment

The Malta Tailing Impoundment (MTI), owned by Leadville Silver & Gold, Inc., is located 1.5 miles west of Leadville, 0.8 miles north of Stringtown and 0.6 miles north of California Gulch. Leadville Silver & Gold, Inc. constructed a mill to recover pyritic materials from various tailing and waste materials from nearby properties which had been obtained under leasehold arrangements. This pyritic materials recovery process operated from 1983 through 1988.

Approximately 2,000 tons of pyrite were shipped to various off-site smelters for use as a flux. As a result of this operation, approximately 10,000 cubic yards of tailing were disposed of at the Malta Tailing Impoundment.

The Malta Tailing Impoundment consists of three small impoundments surrounded by berms, and occupies 4.6 acres of nearly flat land at the top of a ridge. The total volume of tailing is estimated to be slightly in excess of 10,000 cubic yards.

Areas within the immediate vicinity of the tailing impoundments were littered with scrap metal, concrete slabs, and other mining/processing material. There was also a stockpile of mine waste, including drums of product, nearby.

Sampling of the tailing showed lead concentrations ranging from 3,850 mg/Kg to 7,250 mg/Kg. The tailing and pyritic material presented a risk to human health and the environment, since they are a source of acid mine drainage.

In the fall of 1996, EPA conducted a removal action to consolidate the acid-generating materials, neutralize the acidic leachate, and grade, cap, and revegetate the MTI. In addition, the piles of pyrite concentrate, and drums were removed during the 1996 construction season, for use as a product.

Confirmation samples showed the revegetated soil surface of the impoundment to be below the 6,700 ppm total lead commercial/industrial Site standard.

In order to ensure continued protectiveness of the remedy, long-term monitoring will be required to assure that the cover material and vegetation remain effective. In addition, present zoning of the MTI is Industrial Mining which will not allow uses inconsistent with the remedy. Periodic monitoring and review is necessary to verify that zoning of the MTI has not been changed to allow uses inconsistent with the remedy, and that groundwater is not used as a source for drinking water. Monitoring may include minor maintenance. Monitoring and any minor maintenance will be implemented by the Colorado Mountain College. In the event that significant maintenance issues are identified by the Colorado Mountain College, EPA will take appropriate action to ensure protectiveness of the remedy. This program commenced in July 2000.

Leadville Corporation Mill, Drum Removal

The Leadville Corporation mill is located at the southern boundary of the MGTI. In 1997, officials of the State's Division of Minerals & Geology conducted a mine permit inspection and discovered that 42 drums, in one of the buildings at the Leadville Corporation mill, were corroding and beginning to leak. Since Leadville Corporation did not have the resources to dispose of the drums, the State requested EPA's Emergency Response Team to dispose of them. Thirty-six 55 gallon drums and six 5 gallon drums were involved. The drums contained hazardous substances which represented a threat to human health and the environment. The drums contained acids, bases and flammable liquids.

EPA conducted an emergency removal action in 1998 to address the threats posed by these drums. The drums were over packed and sent off-site for appropriate disposal. This was a complete removal so no monitoring or institutional controls are necessary for this portion of OU 2.

Community Involvement

At Leadville, Colorado, the public interest in the clean up of this Superfund Site has been intensive; many public meetings have been held. Numerous Fact Sheets have been released to the public. On August 2, 1993, the public was notified in the local newspaper that the Final Engineering Evaluation/Cost Analysis (EE/CA), Malta Gulch Tailing, Leadville, Colorado, dated July 29, 1993 was available for review and comment. EPA held a public meeting in Leadville on August 12, 1993. The comment period continued through September 1, 1993. EPA responded to all comments on the EE/CA in a Responsiveness Summary which was prepared in September 1993 prior to the issuance of the Action Memorandum on September 10, 1993. The notice of availability of the Proposed Plan and supporting documents was published in the Leadville Herald Democrat on March 13, 1997. The public comment period was held from March 19, 1997 to April 18, 1997. A Public meeting was held on March 19, 1997. Responses to all comments received during the public comment period are included in the Responsiveness Summary attached to the ROD for OU 2. On September 30, 1999, EPA issued a final ROD for OU 2. As described above, the ROD called only for ongoing monitoring of active response actions and use restrictions. EPA's decision is based on information contained in the final Administrative Record for OU 2. The final Administrative Record is available at the California Gulch Site information repository and the EPA Region 8, Superfund Records Center.

Current Status

Based on the successful completion of the above described removal actions and implementation of the long-term monitoring program for the MGTI and MTI, there are no further response actions planned or scheduled for OU 2.

Because this decision results in hazardous substances remaining on site, above health-based levels, monitoring of the previous response actions will be required. This monitoring will be conducted in addition to site-wide five-year reviews. The next five-year review at the California Gulch Site is scheduled to be initiated in October 2000 for completion in 2001.

While EPA does not believe that any future response action in the Malta Gulch area will be needed, if future conditions warrant such action, the

deletion areas of the California Gulch Superfund Site remain eligible for future Fund-financed response actions. Furthermore, this partial deletion does not alter the status of the other OUs of the Site which are not being deleted and remain on the NPL. EPA, with concurrence from the State of Colorado, has determined that all appropriate CERCLA response actions have been completed at OU 2 and protection of human health and the environment has been achieved in this area. Therefore, EPA is deleting the Malta Gulch area of the California Gulch Superfund Site from the NPL. This action will be effective July 23, 2001. However, if EPA receives dissenting comments by June 21, 2001, EPA will publish a document that withdraws this action.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: February 12, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

Part 300, Title 40 of Chapter 1 of the Code of Federal Regulations is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351, E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

[Amended]

2. Table 1 of appendix B to part 300 is amended by revising the entry for "California Gulch" so that it reads as follows:

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes
•	•	•	•
CO	California Gulch.	Leadville	P
•	•	•	•

P = Sites with partial deletion(s).

[FR Doc. 01–12710 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 441 and 483

[HCFA–2065–IFC2]

RIN 0938–AJ96

Medicaid Program; Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule; amendment and clarification with request for comment.

SUMMARY: On January 22, 2001, we published an interim final rule with comment period (66 FR 7148) that established a definition of a "psychiatric residential treatment facility" that is not a hospital and that may furnish covered Medicaid inpatient psychiatric services for individuals under age 21. The interim final rule established standards for the use of restraints or seclusion that psychiatric residential treatment facilities must have in place to protect the health and safety of residents.

In response to some of the concerns submitted in comments on that interim rule, this document clarifies what facilities are subject to the requirements of the interim final rule, modifies reporting requirements to facilitate HCFA monitoring, and amends staffing requirements applicable to restraints and seclusion.

Due to the operational significance of these issues, amendment to the interim final rule is required by the May 22, 2001 effective date of the interim final rule. Without such amendments, we are concerned that substantial numbers of facilities would not be able to comply with certain requirements of our interim final rule, and that beneficiaries will suffer needless displacement from those facilities. We are also concerned that HCFA will not be able to timely obtain data necessary to monitor for situations involving jeopardy to program beneficiaries. We will accept comments on these amendments, and will address all comments on the interim final rule and these amendments at a later date.

DATES: *Effective date:* May 22, 2001.

Comment date: Comments concerning these amendments to the interim final rule will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on July 23, 2001.

ADDRESSES: Mail written comments (one original and three copies) to the following address ONLY: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2065–IFC2, P.O. Box 8010, Baltimore, MD 21244–8010.

If you prefer, you may deliver your written comments (one original and three copies) by courier to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or C5–15–03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to those addresses may be delayed and could be considered late.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2065–IFC2.

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Julie Brown, HCFA–2065–IFC.

FOR FURTHER INFORMATION CONTACT: Mary Kay Mullen, (410) 786–5480.

SUPPLEMENTARY INFORMATION:

I. Background

On January 22, 2001, we published an interim final rule with comment period (66 FR 7148) that defined a "psychiatric residential treatment facility" that is not a hospital and that may furnish covered Medicaid inpatient psychiatric services for individuals under age 21. The interim final rule established standards for the use of restraints or seclusion in psychiatric residential treatment facilities to protect the health and safety of residents.

Section 3207 of the Children's Health Act of 2000 (Pub. L. 106–310) requires that health care facilities receiving support in any form from any program supported in whole or part with funds appropriated to any Federal department or agency shall protect and promote the rights of each resident of a facility, including the right to be free from any restraint or involuntary seclusion imposed for purposes of discipline or convenience. This Act permits the Secretary to issue regulations that afford residents greater protections regarding restraint and seclusion than the standards published in the new law. Our interim final rule provides greater protections than those required in section 3207.

II. Clarification of Applicability of the Rule

This document clarifies the facilities that are subject to the requirements of the January 22, 2001 interim final rule. It became apparent from the number of comments we received to the interim final rule that many facilities are unclear whether or not they are subject to the requirements of the interim final.

The interim final rule applies to psychiatric residential treatment facilities that receive payment for providing the Medicaid inpatient psychiatric services benefit for individuals under age 21. The Medicaid inpatient psychiatric services benefit for individuals under age 21 may be provided in a psychiatric hospital (that meets the applicable hospital conditions of participation set forth in 42 CFR part 482) or in "another inpatient setting that the Secretary has specified in regulations" pursuant to section 1905(h) of the Social Security Act. As set forth in the interim final rule, psychiatric residential treatment facilities are facilities that are not licensed as hospitals but meet the requirements in 42 CFR part 441 subpart D, the requirements of 42 CFR part 483, subpart G, and have a provider agreement with the state Medicaid agency.

A psychiatric residential treatment facility's payment for inpatient psychiatric services to individuals under age 21 includes compensation for the resident's room and board as well as a comprehensive package of services. This rule does not apply to other providers that receive Medicaid compensation on a service-by-service basis and do not receive Medicaid payment for the individual's room and board. An example would be a facility receiving Medicaid payment for outpatient rehabilitation services.

If a facility is uncertain whether or not this rule applies, it should contact the state Medicaid agency for further information regarding the applicability of this regulation.

Additionally, we have received numerous inquiries regarding the attestation date contained in § 483.374(a)(1). This document does not change the requirement that facilities with a current provider agreement must provide its attestation to the State Medicaid agency by July 21, 2001.

III. Amendments to the Interim Final Rule

This document also makes amendments to sections of the rule relating to orders for the use of restraint and seclusion; consultation with the resident's treatment team physician; monitoring of the resident in seclusion or restraint; and facility reporting requirements. The changes being made are in response to the serious and immediate concerns raised by comments submitted on the interim final rule. These comments described the severe shortage of registered nurses as well as the unavailability of psychiatrists as the two major reasons why facilities would not be able to comply with the requirements of our interim final rule. They stated that the shortage of these personnel is a national problem. Although we considered the ordinary costs of additional personnel in additional staffing in issuing the interim final rule, we did not take into account the lack of availability of sufficient numbers of trained individuals to meet those staffing needs. We agree that the scope of the shortage of professionals to provide services in psychiatric residential treatment facilities is critical. As a result, we are concerned that substantial numbers of facilities will be unable to meet the conditions of participation to participate in the Medicaid program and that beneficiaries will be left without adequate placements. Therefore, we have reviewed the requirements in the interim final rule and are amending the rule to permit staffing alternatives that ensure sufficient beneficiary protection but are less burdensome for facilities.

This document also amends our definition of "personal restraint" to clarify that briefly holding without undue force a resident for the purpose of comforting him or her, or holding a resident's hand or arm to safely escort him or her from one area to another is not a restraint. Many commenters stated that our definition is so broad that staff would be prohibited from comforting an upset resident, or holding a resident's hand to safely escort him or her across a street. This was not our intention, and we are concerned that this reading could prevent facilities from participating in the Medicaid program, and result in needless displacement of Medicaid beneficiaries.

This document also amends our requirements for facility reporting of serious occurrences. We are adding the requirement that a facility must report the death of any resident to the Health Care Financing Administration (HCFA) regional office. This change is required to ensure that HCFA has sufficient timely information to identify threats to beneficiary health and welfare.

The specific changes made in this document are as follows:

Section 483.352 Definitions

In § 483.352, we are amending the definition of "personal restraint" by adding a clarifying statement that "personal restraint" does not include briefly holding without undue force a resident in order to calm or comfort him or her, or holding a resident's hand to safely escort him or her from one area to another.

Section 483.358 Orders for the Use of Restraint or Seclusion

We are amending § 483.358(a) to state that orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the state and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. We have included "other licensed practitioner permitted by the state and the facility to order restraint or seclusion" to be consistent with the language in the Children's Health Act of 2000. As with all staff, other licensed practitioners permitted by the state and the facility to order restraint or seclusion and trained in the use of restraints and seclusion as set out in § 483.376. Section 441.151 also requires that inpatient psychiatric services for recipients under age 21 be furnished under the direction of a physician.

We are amending § 483.358(b) to state that if the resident's treatment team physician is available, only he or she can order restraint or seclusion.

We are amending § 483.358(c) to state that a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with staff.

We are amending § 483.358(d) to state that if the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff, such as a licensed practical nurse. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must verify the verbal order in a signed written form in the resident's record. The physician or other licensed

practitioner permitted by the state and the facility to order restraint or seclusion must be available to staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

We are amending § 483.358(f) to state that a physician or "other licensed practitioner trained in the use of emergency safety interventions, and permitted by the state and the facility to assess the physical and psychological well being of residents" must conduct a face-to-face assessment of the physical and psychological well being of the resident within 1 hour of the initiation of the emergency safety intervention.

We are amending paragraphs (g)(1) and (g)(3) and (j) to include "other licensed practitioner permitted by the state and the facility to order restraint or seclusion".

Section 483.360 Consultation With Treatment Team Physician

We are amending § 483.360 to state that if a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, the resident's treatment team physician must be contacted, unless the ordering physician is in fact the resident's treatment team physician.

Section 483.362 Monitoring of the Residentt In and Immediately After Restraint

We are amending § 483.362(b) to state that if the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

We are amending § 483.362(c) to state that a physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

Section 483.364 Monitoring of the Resident in and Immediately After Seclusion

We are amending § 483.364(c) to state that if the emergency safety situation continues beyond the time limit of the order for the use of seclusion, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

We are amending § 483.364(d) to state that a physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from seclusion.

Section 483.374 Facility Reporting

We are amending § 483.374 by adding a new paragraph (c) to require that facilities report the death of any resident to the Health Care Financing Administration (HCFA) regional office.

IV. Response to Comments on This Interim Final Rule

We will be accepting comments concerning the amendments to the interim final rule contained in this document.

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "DATES" section of this document, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Waiver of Proposed Rulemaking and Waiver of the 30-Day Delay in the Effective Date

In accordance with the requirements of the Administrative Procedures Act (APA), we ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule before the final rule is made effective. The notice of proposed rulemaking required by the APA includes a reference to the legal authority under which the rule is proposed, and the terms and substance of the proposed rule or a description of the subject matter and issues involved.

In November 1994, we issued a proposed rule that contained limitations on the use of restraints and seclusion by psychiatric residential treatment facilities. The interim final rule clarified and further developed these proposed limitations. To the extent that the interim final rule could not be viewed as a logical outgrowth of the 1994 proposed rule, we found good cause to waive requirements for proposed rulemaking. The APA permits waiver of these requirements if the agency finds good cause that notice and comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and its reasons in the rule issued. We found good cause based on the strong public interest in preventing deaths and injuries to children that are the result of inappropriate use of restraint and seclusion in psychiatric residential treatment facilities. The full rationale for this finding was set forth in the preamble to the January 22, 2001 interim final rule.

Because we believe that the amendments and clarifications set forth in this document are essential to the effective implementation of the basic requirements of the January 22, 2001 interim final rule, the same concerns expressed in our waiver of proposed rulemaking for that rule apply here. In addition, without the amendments and clarifications set forth in this document, we believe there is a risk that beneficiaries will be needlessly displaced as substantial numbers of facilities terminate participation in the Medicaid program as psychiatric residential treatment facilities. In particular, absent clarification of the term "personal restraint," facilities could be terminated for failure to meet conditions of participation for actions that do not warrant concern. Absent changes to staffing requirements, nationwide nurse and psychiatrist shortages could mean that numerous facilities would become unable to meet the conditions of participation. The amendments contained in this document will provide adequate beneficiary protections in a less burdensome manner and will minimize potential beneficary displacement. In addition, the changes in this document to include HCFA in reporting requirements are necessary to ensure that HCFA has timely information to monitor jeopardy to program beneficiaries.

In sum, we find good cause to waive asking for comment on these amendments to the January rule before making them effective, based on the public interest of avoiding displacement and other potential harm to program beneficiaries. We invite parties to submit comments on these changes, which we will consider in crafting the final rule that applies to these psychiatric residential treatment facilities.

In addition, we find good cause to waive requirements for a 30 day delay in the effective date of these clarifications and amendments to the interim final rule. Under the APA, publication of a substantive rule must be not less than 30 days before its effective date, unless otherwise provided by the agency for good cause found and published with the rule. These clarifications and amendments are an integral operational part of the overall interim final rule. A delay in the effective date for these clarifications and amendments would be contrary to public interest because a delay would result in inconsistent standards for affected facilities over a relatively short time period. Moreover, there would be some possibility of disruption of services to program beneficiaries to the extent that facilities elect not to continue participation in the Medicaid program until the amendments and clarifications become effective. Moreover, a delay in the effective date would be impracticable to administer because facility guidance, quality monitoring and surveyor training are not designed to accommodate rapid changes in applicable standards. In sum, we find that a 30 day delay in the effective date would be both impracticable and contrary to the public interest because the delay would not be administratively feasible and would risk inconsistent facility standards and potential disruption of services to beneficiaries.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The information collection requirements in the interim rule published in the **Federal Register** on January 22, 2001, as well as the amendments made in this regulation have been approved by OMB through November 30, 2001 under OMB control number 0938–0833. We solicited comments on these requirements in the January 22, 2001 interim final rule, and have made minimal changes to the requirements in this rule. We are again soliciting public comment on each of these issues for the sections that contain information collection requirements. Comments will be considered in evaluating these information collection requirements under the Paperwork Reduction Act.

The following is a summary of the information collection requirements contained in both the January 22 interim rule and in this amendment to the interim rule.

Section 441.151 General Requirements

Paragraph (a)(4) of this section requires that inpatient psychiatric services for individuals under age 21 must be certified in writing to be necessary in the setting in which the services will be provided (or are being provided in emergency circumstances) in accordance with § 441.152.

The certification requirement of this section is not new. The paperwork burden is contained in the referenced § 441.152, which specifies the certification requirements, has been approved under OMB #0938–0754.

Section 483.356 Protection of Residents

Paragraph (c) of this section, "Notification of facility policy," requires facility staff to inform each incoming resident (and, in the case of a minor, the resident's parent(s) or legal guardian(s)) at admission, of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the resident is in the facility. Staff must obtain an acknowledgment, in writing, from the resident, or in the case of a minor, the resident's parent(s) or legal guardian(s), that he or she has been informed of the facility's policy. Staff must file the written acknowledgment in the resident's record.

In order to estimate the burden of this requirement on facilities, we used data from National Center for Health Statistics, *Health, United States* published in 1999 (page 278) which indicated that there were 459 psychiatric residential treatment facilities in 1994, the latest year for which data are available. We estimate an annual growth rate in the number of these facilities to be 2 percent. Using this growth rate, we determined that there would be approximately 475 to 500 psychiatric residential treatment facilities nationally as of FFY 2001. These data showed that there are approximately 70 residents per facility at any one time. This equates to a total nationwide bed capacity approximating 35,000 beds. Through an informal survey of providers, we estimate an average resident length of stay to be 9 months and based on a 9-month stay, each facility would admit an estimated average of 95 residents per year, or an estimated total of up to 47,500 residents nationally. We believe it will take each facility 8 hours to develop a policy statement regarding the use of restraints and seclusion, and an average of 30 minutes to present the information to each incoming resident and the parent(s) or guardian(s), and to obtain and file the acknowledgment.

Thus, there will be a one-time burden of 4,000 hours nationwide to develop the statement and an annual burden of 48 hours per psychiatric residential treatment facility and 23,750 hours nationally to disclose the policy.

Section 483.358 Orders for the Use of Restraint or Seclusion

In accordance with paragraph (d) of this section, a physician's or other licensed practitioner's verbal order must be obtained by a registered nurse or other licensed staff, such as a licensed practical nurse, while the emergency safety intervention is being initiated by staff, or immediately after the emergency safety situation ends. The verbal order must be followed with the physician's or other licensed practitioner's signature verifying the verbal order.

This document changes the January 22 interim rule to allow a registered nurse or other licensed staff such as a licensed practical nurse to obtain a verbal order from a physician or "other licensed practitioner permitted by the state and the facility to order restraint or seclusion", and requires the physician or the other licensed practitioner permitted by the state and the facility to order restraint or seclusion that gave the verbal order to verify, by signature, that he or she gave the order.

While the information collection requirement in this paragraph is subject to the PRA, we believe the burden associated with it is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement are incurred by persons in the normal course of their activities.

In accordance with paragraph (g) of this section, each order for restraint or seclusion must be documented in the resident's record. Documentation must include—

(1) The name of the physician or other licensed practitioner permitted by the

state and the facility to order restraint or seclusion;

(2) The date and time the order was obtained;

(3) The emergency safety intervention ordered, including the length of time for which the physician or other licensed physician permitted by the state and the facility to authorize its use;

(4) The time the emergency safety intervention actually began and ended;

(5) The time and results of any 1 hour assessments required in paragraph (f) of this section.

(6) The emergency safety situation that required the resident to be restrained or put in seclusion; and

(7) The name, title, and credentials of staff involved in the emergency safety intervention.

There are an estimated average of 47 situations per month per psychiatric residential treatment facility where restraint or seclusion is used, or approximately 282,000 situations nationally, per year. We estimate that it will take approximately 30 minutes per situation, or 282 hours annually per psychiatric residential treatment facility, for a national total of 141,000 hours annually to comply with the documentation requirements.

In accordance with paragraph (i) of this section, the facility must maintain an aggregate record of all emergency safety situations, the interventions used, and their outcomes.

Based on 15 minutes per situation, we estimate that it will take 141 hours per psychiatric residential treatment facility, and a national total of 70,500 hours annually to comply with this documentation requirement.

In accordance with paragraph (j) of this section, the physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must sign the order in the resident's record as soon as possible, but no later than 24 hours after the order is issued.

The revision to this paragraph requires an "other licensed practitioner permitted by the state and the facility to order restraint or seclusion" to sign orders he or she has given. This does not increase the facility's burden, since only one person is still signing.

While these information collection requirements are subject to the PRA, we believe the burden associated with them is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement are incurred by persons in the normal course of their activities.

§ 483.360 Consultation With Treatment Team Physician

This section requires that, if a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion and he or she is not the resident's treatment team physician, then the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must consult with the resident's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the resident to be restrained or placed in seclusion and document the time the team physician was consulted.

Paragraph (b) of this section requires the facility to document in the resident's record the date and time the team physician was consulted.

The amendments to the January 22 interim rule, made by this document, require an "other licensed practitioner permitted by the state and the facility to order restraint or seclusion" to follow the same procedures as a physician. This change does not change the burden from that stated in the original interim rule. In that rule, we stated that we estimate that it will take approximately 30 minutes per situation, 282 hours annually per psychiatric residential treatment facility, or 141,000 hours nationally to comply with the documentation and disclosure requirements of this section, based on an assumption that approximately half of the situations will require that the facility staff separately notify the treatment team physician.

Section 483.366 Notification of Parent(s) or Legal Guardian(s)

If the resident is a minor as defined in § 483.352, paragraph (a) of this section requires the facility to notify the parent(s) or legal guardian(s) of a resident who has been restrained or placed in seclusion as soon as possible after the initiation of each emergency safety intervention.

Paragraph (b) of this section requires the facility to document in the resident's record that the parent(s) or legal guardian(s) has been notified of the emergency safety intervention, including the date and time of notification and the name of the staff person providing the notification.

We estimate that it will take 30 minutes to notify a parent or guardian and 15 minutes to document that notification. The total annual burden will be 423 hours per psychiatric residential treatment facility and 211,500 hours nationally, based on the assumption that virtually all of the residents will be minors as defined in § 483.352.

Section 483.370 Postintervention Debriefings

Paragraph (c) of this section requires that staff document in the resident's record that the debriefing sessions required by this section took place.

This documentation will take approximately 30 minutes per situation, or an annual burden of 282 hours per psychiatric residential treatment facility and 141,000 hours nationally.

Section 483.372 Medical Treatment for Injuries Occurring as a Result of an Emergency Safety Situation

Paragraph (b) of this section requires the psychiatric residential treatment facility to have affiliations or written transfer agreements in effect with one or more hospitals approved for participation under the Medicaid program that reasonably ensure that—

(1) A resident will be transferred from the facility to the hospital and admitted in a timely manner when a transfer is medically necessary for medical care or acute psychiatric care;

(2) Medical and other information needed for care of the resident in light of such a transfer, will be exchanged between the institutions in accordance with State medical privacy law, including any information needed to determine whether the appropriate care can be provided in a less restrictive setting; and

(3) Services are available to each resident 24 hours a day, 7 days a week.

Paragraph (c) of this section requires that staff document in the resident's record all injuries that occur as a result of an emergency safety situation, including injuries to staff resulting from that intervention.

While these information collection requirements are subject to the PRA, we believe the burden associated with them is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement are incurred by persons in the normal course of their activities.

Section 483.374 Facility Reporting

Paragraph (a) of this section requires each psychiatric residential treatment facility that provides inpatient psychiatric services to individuals under age 21 to attest, in writing, that the facility is in compliance with our standards governing the use of restraint and seclusion. This attestation must be signed by the facility director.

We estimate that it will take 8 hours per facility to be able to attest to compliance with the standards. This is a one-time burden. The national burden will be 500 multiplied by 8, or 4,000 hours.

Paragraph (b) of this section requires that the facility report serious occurrences involving a resident to both the State Medicaid Agency and, unless prohibited by State law, the State-designated Protection and Advocacy System. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. In the case of a minor, the facility must also notify the parent(s) or legal guardian(s) of the resident involved in a serious occurrence.

Staff must document in the resident's record that the contacts above were made.

The burden for notifying parent(s) or legal guardian(s) is addressed under § 483.366.

We estimate that it will take an additional 15 minutes to document that these contacts were made, for an average annual burden of 141 hours per psychiatric residential treatment facility, with an annual national total of 70,500 burden hours.

In this document, we have added an amendment to § 483.374 by adding a new paragraph (c) to require that the facility report the death of any resident to the HCFA regional office. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. (In the case of a minor, the facility must also notify the parent(s) or legal guardian(s) of the resident involved in a serious occurrence.

We estimate that these notifications will take a total of 15 minutes. This will total an estimated 141 hours per year per facility and 70,500 nationally, for the estimated 282,000 incidents per year.

Section 483.376 Education and Training

Paragraph (f) requires facilities to provide for assessments of staff education and training needs by requiring staff to demonstrate their competencies related to the use of emergency safety interventions on a semiannual basis. This section also provides for staff to demonstrate, on an annual basis, their competency in the use of cardiopulmonary resuscitation.

Paragraph (g) of this section requires the facility to document in the staff personnel records that the training required by § 483.376 was successfully completed.

While these information collection requirements are subject to the PRA, we believe the burden associated with them are exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement are incurred by persons in the normal course of their activities.

The total information collection requirements associated with this regulation will total an estimated 877,750 hours.

Comments

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Attn: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Brenda Aguilar, HCFA Desk Officer.

VII. Regulatory Impact Statement

A. Overall Impact

We have examined the impact of this interim final rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. For purposes of the RFA, all psychiatric residential treatment facilities are considered to be small entities. Individuals and States are not included in the definition of a small entity. Consistent with the RFA, we prepare a regulatory flexibility analysis unless we certify that a rule will not have a significant economic impact on a substantial number of small entities.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. That analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. This regulation does not have an impact on small rural hospitals. However, to the extent the rule may have significant effects on psychiatric residential treatment facilities and their residents, or be viewed as controversial, we believe it is desirable to inform the public of our projections of the likely effects of the proposals.

The Unfunded Mandates Reform Act of 1995 requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in a mandated expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more. This rule has no mandated consequential effect on State, local, or on tribal governments, or the private sector. We have described the anticipated effects of this regulation below.

We have reviewed this interim final rule with comment under the threshold criteria of Executive Order 13132, Federalism. We have determined that this interim final rule with comment does not significantly affect the rights, roles, and responsibilities of States.

This rule is the product of serious concern about improper use of restraints and seclusion in psychiatric residential treatment facilities. This led us to set forth this interim final rule with comment to ensure the protection of residents of these facilities from improper restraint and seclusion practices that could contribute to death or serious injury.

B. Anticipated Effects

Effect on Psychiatric Residential Treatment Facilities

We still maintain that some facilities will need additional staff as a result of the previous interim final rule. The January 22 interim final rule estimated this burden based on the requirement for only registered nurses. This rule does not eliminate that requirement but permits facilities to fullfill this

requirement by allowing other licensed practitioners in lieu of registered nurses.

As stated in our impact statement of January 22, 2001, we believe that it is not only reasonable but critical to resident safety that we require these facilities to provide 24-hour onsite coverage by a registered nurse or other licensed practitioner permitted by the State and the facility. We believe it is appropriate to extend the same level of protections to children and adolescents in these facilities that are provided to them in a hospital.

We are adding a requirement for facilities to report the death of any resident to the HCFA regional office. We are soliciting comments only on this additional HCFA reporting requirement. We believe this additional reporting requirement will have a minimal financial impact on facilities.

C. Summary of Estimated Costs

Psychiatric Residential Treatment Costs

Because of our modification of the rule concerning the use of registered nurses, we have revised this section of the impact statement concerning new staff costs. We recognize that some facilities will need to hire either additional registered nurses or other licensed practitioners permitted by the State and the facility to meet the requirement for 24-hour per day coverage in these facilities. As a result of our modification of the rule, each facility would have to provide for one additional FTE registered nurse or other licensed practitioner permitted by the state and the facility. We did not change the overall estimated numbers of additional FTEs to provide the necessary coverage in all facilities. Our earlier impact analysis can be found in the January, 22, 2001 interim final rule.

D. Alternatives Considered

The changes made in this document are being made after further consideration of alternatives discussed in the January 22, 2001 interim final rule.

E. Conclusion

The CoP for psychiatric residential treatment facilities sets forth a series of requirements to ensure each resident's physical and emotional health and safety. These requirements address each resident's right to be free from restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation. The CoP is a new requirement for facilities that provide inpatient psychiatric residential treatment services to Medicaid eligible individuals under age 21. In accordance with the Regulatory Flexibility Act, we have examined the burden this rule may impose on small entities and certify that this rule will not have a significant impact on a substantial number of entities.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 441

Family planning, Grant programs-health, Infants and children, Medicaid, Penalties, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs-health, Health facilities, Health professionals, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

For the reasons set forth in the preamble, 42 CFR chapter IV, as amended at 66 FR 7148 (January 22, 2001) and 66 FR 15800 (March 21, 2001) is further amended as follows:

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

1. The authority citation for part 483 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 483.352, the definition of "Personal restraint" is revised to read as follows:

§ 483.352 Definitions.

* * * * *

Personal restraint means the application of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body. The term personal restraint does not include briefly holding without undue force a resident in order to calm or comfort him or her, or holding a resident's hand to safely escort a resident from one area to another.

* * * * *

3. Section 483.358 is amended by:

A. Revising paragraphs (a), (c), and (d), (f) introductory text, (g)(1), (g)(3) and (j)

B. Amending paragraph (b) by removing the last two sentences.

§ 483.358 Orders for the use of restraint or seclusion.

(a) Orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the State and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. Federal regulations at 42 CFR 441.151† require that inpatient psychiatric services for recipients under age 21 be provided under the direction of a physician.

* * * * *

(c) A physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with staff.

(d) If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff such as a licensed practical nurse, while the emergency safety intervention is being initiated by staff or immediately after the emergency safety situation ends. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must verify the verbal order in a signed written form in the resident's record. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must be available to staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

* * * * *

(f) Within 1 hour of the initiation of the emergency safety intervention a physician, or other licensed practitioner trained in the use of emergency safety interventions and permitted by the state and the facility to assess the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well being of the resident, including but not limited to—

* * * * *

(g) * * *

(1) The name of the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion;

* * * * *

(3) The emergency safety intervention ordered, including the length of time for which the physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion authorized its use.

* * * * *

(j) The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must sign the restraint or seclusion order in the resident's record as soon as possible.

* * * * *

4. Section 483.360 is amended by revising the introductory text to read as follows:

§ 483.360 Consultation with treatment team physician.

If a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, that person must contact the resident's treatment team physician, unless the ordering physician is in fact the resident's treatment team physician. The person ordering the use of restraint or seclusion must—

* * * * *

5. Section 483.362 is amended by revising paragraphs (b) and (c) to read as follows:

§ 483.362 Monitoring of the resident in and immediately after restraint

* * * * *

(b) If the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

(c) A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

6. Amending section 483.364 by revising paragraphs (c) and (d) to read as follows:

§ 483.364 Monitoring of the resident in and immediately after seclusion

* * * * *

(c) If the emergency safety situation continues beyond the time limit of the order for the use of seclusion, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

(d) A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from seclusion.

7. Section 483.374 is amended by adding paragraph (c) to read as follows:

§ 483.374 Facility reporting.

* * * * *

(c) *Reporting of deaths.* In addition to the reporting requirements contained in paragraph (b) of this section, facilities must report the death of any resident to the Health Care Financing Administration (HCFA) regional office.

(1) Staff must report the death of any resident to the HCFA regional office by no later than close of business the next business day after the resident's death.

(2) Staff must document in the resident's record that the death was reported to the HCFA regional office.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: May 17, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

Dated: May 17, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–13041 Filed 5–21–01; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket Nos. 00–257 and 94–129; FCC 01–153]

2000 Biennial Review—Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The streamlined procedures the Commission adopts here will replace the current, burdensome waiver process. The Commission's new procedures provide for an acquiring carrier to simply self-certify to the Commission, in advance of the transfer, that the carrier will follow the required procedures. This will protect the interests of the affected subscribers by giving them adequate advance notice of the carrier change and ensuring that the change will not cause them financial harm.

DATES: This document contains information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of this final rule.

FOR FURTHER INFORMATION CONTACT: Michele Walters, Associate Division Chief, or Dana Walton-Bradford, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order in CC Docket No. 00–257 and Fourth Report and Order in CC Docket No. 94–129 released on May 15, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

I. Introduction

1. As part of our biennial regulatory review effort, we are amending our carrier change rules to provide a streamlined process for compliance with section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act) in situations involving the carrier-to-carrier sale or transfer of subscriber bases. The streamlined procedures we adopt in this Order will replace the current, more burdensome waiver process. Our new procedures provide for an acquiring carrier to simply self-certify to the Commission, in advance of the transfer, that the carrier will follow the required procedures. This will protect the interests of the affected subscribers, consistent with section 258 and our rules, by giving them adequate advance notice of the carrier change and ensuring that the change will not cause them financial harm.

2. The Commission adopted carrier change authorization and verification requirements to protect consumers from fraudulent changes in presubscribed carriers. It has become clear, however, that the need to obtain a waiver of these requirements imposes undue burdens on carriers seeking to buy, sell, or transfer customer accounts and on the Commission that could be avoided without sacrificing consumer protection. These burdens include the time and resources required to prepare and process the waiver petition and any supplemental filings, the regulatory uncertainty inherent in any waiver process, and, oftentimes, delay. Given the dynamic marketplace, and the likelihood that carriers will continue to buy, sell, and transfer customer lines in the future, we believe it is appropriate to streamline our carrier change rules to ensure that they do not inadvertently inhibit routine business transactions, while ensuring that consumers are protected from fraudulent carrier changes, consistent with section 258 and our rules.

II. Discussion

A. Overview

9. A telecommunications carrier currently must file a request for waiver of our carrier change authorization and verification rules in order to acquire part or all of a subscriber base from another carrier without obtaining individual subscriber consent. We received 51 such requests for waiver in 2000, and we received 12 more in the first four months of 2001. The preparation of these waiver petitions imposes burdens both on carriers and the Commission. These burdens are not limited to the initial filing. Often carriers consult with Commission staff prior to their initial waiver request, and, on occasion, carriers supplement that filing, a time-consuming process. Moreover, carriers have no way of knowing when they will receive a ruling on their waiver requests. Although some carriers have received grants of emergency petitions in as little as one week, it is more typical for carriers to wait at least a month for a ruling because of the heavy volume of these filings, and several petitioners have experienced much longer delays. Incorporating a streamlined certification and notification process into the current rules will significantly reduce the burden on carrier and Commission resources while still protecting consumers' interests. Indeed, all commenters support our proposal to amend our rules to address the sale or transfer of subscriber bases. All commenters also endorse our stated goals: to reduce regulatory burdens, and thereby produce greater certainty in the marketplace, while providing adequate consumer protection consistent with section 258 and our carrier change rules. As discussed in greater detail, the streamlined process for the sale or transfer of subscriber bases adopted in this Order achieves both of these goals.

10. We amend § 64.1120 of our rules to establish a streamlined self-certification process for the carrier-to-carrier sale or transfer of subscriber bases, thereby eliminating the need to obtain a waiver of Commission rules prior to closing a transaction. This process is designed to ensure that the affected subscribers have adequate information about the carrier change in advance, that they are not financially harmed by the change, and that they will experience a seamless transition of service from their original carrier to the acquiring carrier. This process also will provide the Commission with information it needs to fulfill its consumer protection obligations. Under the revised rules, carriers need not obtain individual authorization and verification for carrier changes associated with the carrier-to-carrier sale or transfer of a subscriber base, provided that, not later than 30 days before the planned carrier change, the acquiring carrier notifies the Commission, in writing, of its intention to acquire the subscriber base and certifies that it will comply with the required procedures, including the provision of advance written notice to all affected subscribers.

B. Notice to the Commission

11. We find that it is in the public interest to adopt a carrier self-certification process as the streamlined procedure for notifying the Commission prior to the sale or transfer of a subscriber base. The acquiring carrier must certify, at least 30 days before the intended transaction date, that it will comply with the requirements established in this Order, including the provision of reasonable advance notice to the affected subscribers. The Commission will be able to ensure that consumer interests are protected if it has advance knowledge of such transactions and certification of compliance with the requirements of this streamlined process.

12. Under the streamlined process we adopt in this Order, the acquiring carrier will simply file a letter in CC Docket No. 00–257 with the Secretary of the Commission, no later than 30 days prior to the transfer of the subscriber base to the new service provider, that includes the names of the parties to the transaction, the types of telecommunications services provided to the affected subscribers, the date of the transfer of these subscribers to the acquiring carrier, a certification of compliance with the requirements of this process, and an attached copy of the notice sent to the affected subscribers. In the rare case in which, after the filing of the certification, there is a material change to the required information, such as a change in the date of the subscriber transfer, the acquiring carrier must file written notification of the change(s) with the Commission no more than 10 days after the transfer date designated in the prior filing. While we reserve the right to require the acquiring carrier to send an additional notice to the affected subscribers regarding such material changes, we expect that we will exercise this right infrequently. We disagree with commenters who contend that a self-certification requirement is no less burdensome than the current waiver process, or that this requirement undermines our streamlining efforts. Under this streamlined approach, in contrast to the waiver process, the carrier need not obtain Commission approval in order to complete the transaction.

13. A telecommunications carrier must comply with this streamlined process whenever it acquires subscribers from another carrier through a sale or transfer. For example, if a carrier plans to acquire the subscriber base of another carrier owned by the same parent company, and if, after the transfer, the subscribers' preferred carrier will have a different name, contact number, billing address, and set of rates, terms, and conditions, the acquiring carrier must comply with the procedures adopted in this Order. However, we note that, when a carrier is simply undergoing a name change, it is not in fact acquiring customers through a sale or transfer, and therefore it need not comply with these procedures. As another example, a change in corporate structure that is invisible to the affected subscribers does not constitute a sale or transfer for purposes of section 258 that implicates this streamlined process.

14. The rule amendments we adopt in this Order expressly prohibit use of the streamlined procedure to avoid liability for slamming rule violations by transferring subscribers to another corporation. We caution carriers that the Commission will continue its vigorous slamming enforcement efforts and will not tolerate carrier attempts to avoid liability for slamming rule violations by, for example, transferring subscribers to a sham company. The Commission's Enforcement Bureau will be vigilant in monitoring subscriber transfers effected under these procedures for indications of fraud and will pursue enforcement action against carriers that violate the proscription. We believe that our streamlined process for carrier changes associated with sales or transfers, coupled with vigorous enforcement of our slamming rules, will be sufficient to protect consumers from unscrupulous carriers.

C. Notice to the Affected Subscribers

15. We conclude that carriers acquiring subscribers should provide those subscribers with reasonable advance notice of a carrier change associated with a sale or transfer. We agree with those commenters that support our proposed 30-day advance notice period. We believe that, if an affected subscriber receives notice of the transaction at least 30 days before it occurs, the subscriber will be able to make an informed decision as to whether to accept the acquiring carrier as his or her preferred carrier. We are not persuaded that a 30-day notice requirement will be burdensome and costly to the carriers involved. Based on our extensive experience with waiver petitions related to subscriber sales or transfers, we believe that 30 days is a reasonable notice period to provide subscribers with sufficient opportunity to make an informed decision without creating a burdensome delay for the carriers involved.

16. We conclude that the carrier acquiring a subscriber base should be responsible for notifying the affected subscribers. We note that, in the absence of a waiver or the streamlined process adopted in this Order, the acquiring carrier would be required by the Commission's carrier change authorization and verification rules, and by section 258, to obtain each subscriber's express authorization and verification for the carrier change. We do not agree with SBC that the acquiring carrier will lack access to the necessary subscriber list information. We believe that, in most cases, sufficient subscriber list information will be available to the acquiring carrier and that it is unlikely that a carrier would consummate a purchase of a subscriber base without having immediate access to the subscriber list upon the closing of the purchase agreement. We are confident that carriers can, through normal business negotiations, make arrangements for the acquiring carrier to obtain the necessary information.

17. We further find that the written notice to the affected subscribers should not differ based on the types of service provided or the size of the carriers involved. Because a change in presubscribed service provider affects all subscribers similarly, regardless of the service type or the size of the original or acquiring carrier, there is no basis for varying the notice requirements.

18. We decline to require the acquiring carrier to send a second notice to the affected subscribers. We agree with commenters that argue that the affected subscribers do not need to receive a second written notice that simply reiterates the information provided in the first notice. We recognize that some affected subscribers may fail to read the notice sent prior to the change in service providers; however, as pointed out by several commenters, the affected subscribers will receive notification of the new service provider on their bills under the highlighting requirement of the Commission's truth-in-billing rules. Moreover, we expect that most acquiring carriers will contact the affected subscribers after the transfer as a matter of good business practice. We believe that a second notice may also be costly for carriers, especially smaller carriers.

19. Because section 255 and the Commission's existing rules impose disability accessibility requirements on carriers, we decline to impose additional requirements regarding advance subscriber notices sent to blind or visually-impaired consumers but will incorporate by reference the existing requirements in our amendment to § 64.1120. We believe that our existing rules are sufficient to ensure that the requirements of section 255 are met. We will monitor the situation and, if necessary, will take further action, as appropriate. We also believe that carriers should have the flexibility to meet the needs of the disabled community consistent with statutory and Commission requirements.

20. We note that several incumbent local exchange carriers have raised an issue regarding the application of our rules in situations where a competitive local exchange carrier is leaving a particular market and is required by state law to transfer its customer base to the incumbent. We disagree with these commenters that the streamlined procedures for the sale or transfer of subscriber base adopted in this Order should not be applied to incumbents that must assume the subscribers of a competitive local exchange carrier exiting the market. We believe that the affected subscribers of competitive local exchange carriers are entitled to the same protections and notice as any other subscriber whose carrier is changed due to a sale or transfer. To the extent a situation arises where it is impossible to comply precisely with the requirements set forth in this Order, we delegate authority to the Common Carrier Bureau to resolve on a case-by-case basis.

21. We have carefully evaluated the individual elements that comprise the advance subscriber notice under our streamlined process. We have determined that these requirements are necessary to ensure that the affected subscribers have adequate information about the carrier change, in advance, that they will not suffer financial harm from the involuntary change, and that they will experience a smooth transition to the new service provider. Not later than 30 days before the planned carrier change, the acquiring carrier must give each affected subscriber written notice of the date on which it will become the subscriber's new provider of telecommunications service and of other essential information. As discussed more fully, the advance subscriber notice must disclose: (1) The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier; (2) the fact that the acquiring carrier will be responsible for any carrier change charges associated with the transaction; (3) the subscriber's right to select a different preferred carrier, if an alternative carrier is available; (4) a toll-free customer service telephone number for inquiries about the transfer; (5) the fact that all subscribers receiving the notice, including those who have arranged preferred carrier freezes through their local service providers, will be transferred to the new carrier if they do not select a different preferred carrier before the transfer date; and (6) whether the acquiring carrier will be responsible for resolving outstanding complaints against the selling or transferring carrier.

1. Rates, Terms, and Conditions of the New Service Provider

22. We conclude that the advance subscriber notice provided by the acquiring carrier must contain detailed information on the rates, terms, and conditions of the service(s) the acquiring carrier will provide. The notice must advise the affected subscribers that the stated rates, terms, and conditions will apply on the date that the acquiring carrier becomes their service provider, and it must also disclose the method by which the carrier will inform them of any post-transfer changes. We believe that having such information in advance will enable consumers to make an informed decision regarding the transaction and their choice of preferred carrier, consistent with the goals of section 258.

23. We do not believe it appropriate to permit carriers to simply refer the affected subscribers to the acquiring carrier's website for this information, as several commenters suggested. We recognize that, under our detariffing rules, long distance carriers will be required to provide information on their rates and service offerings on their websites. We note, however, that not all consumers have website access. Moreover, we believe that the involuntary nature of carrier changes associated with a sale or transfer entitles subscribers to receive direct initial notice of the applicable rates, terms, and conditions of the new service offerings. For similar reasons, we reject the proposals made by some commenters to require the advance subscriber notice to include only the rates of the acquiring carrier or no information at all regarding the new carrier's terms or conditions of service.

24. We decline to require the acquiring carrier to continue to charge affected subscribers the same rates as those charged by the selling or transferring carrier for a specified period after the transfer. Several commenters assert that such a requirement may prove difficult and costly, if not impossible, and may serve as a major impediment to these transactions in the marketplace. We believe that such a requirement is unnecessary because the information the affected subscribers will receive in the 30-day advance subscriber notice about the acquiring carrier's rates, terms, and conditions for the telecommunications services at issue, coupled with the reminder of their right to select a different carrier, will enable them to make an informed decision about who their carrier should be and the rates they pay for these services, consistent with the goals of section 258.

2. Notice That the Acquiring Carrier Is Responsible for Carrier Change Charges

25. We conclude that it is appropriate, and consistent with section 258, to require the acquiring carrier to be responsible for any carrier change charges associated with the transaction. We believe that, because carrier changes associated with a carrier-to-carrier sale or transfer are involuntary, subscribers should not bear the burden of the cost of changing service providers. Moreover, we believe that the acquiring carrier is in the best position to cover carrier change charges because it has the billing relationship with the customer after the transfer. We modify slightly our proposal in the *Third Further Notice*, 66 FR 8093, January 29, 2001, to require the advance subscriber notice to state that no carrier charges will be imposed as a result of the transaction because we recognize that some acquiring carriers may not be able to prevent the assessment of a carrier change charge. We recognize that acquiring carriers may need the flexibility to credit or reimburse affected subscribers for such charges, if such charges are imposed outside of the acquiring carrier's control. Our amended rules require the acquiring carrier to take responsibility for any carrier change charges associated with the transaction and to make this fact clear in the advance subscriber notice.

3. Notice of the Subscriber's Right To Select a New Preferred Carrier

26. We agree with commenters that subscribers being transferred from one carrier to the next in a transaction must know that they have the right to make another preferred carrier selection, if an alternative carrier is available. The affected subscribers did not choose the acquiring carrier and should receive reasonable notice that they have the right to select a new carrier if they do not want to be served by the acquiring carrier. Consistent with section 258, we therefore require the acquiring carrier to include such a statement in its advance notice to each of the affected subscribers. We recognize that transfers may include customers who have signed term contracts with the selling or transferring carrier, and that such term contracts may be viewed by the acquiring company as a valuable component of the transaction. While we decline to make an exception to this requirement for term contracts, we conclude that a carrier may state in its notice to an affected term contract subscriber that the subscriber may face termination penalties if the subscriber selects another carrier prior to the expiration of the term contract, if that is the case.

4. Toll-Free Customer Service Telephone Number

27. We further require the acquiring carrier to include a toll-free customer service telephone number in the advance subscriber notice, in order to address any questions or problems that the subscriber may have concerning the change in service providers. This requirement will help ensure that the affected subscribers experience a seamless transition to the new service provider. We note that this requirement does not impose a new regulatory burden on most carriers because the Commission's truth-in-billing rules already require most carriers to provide a toll-free inquiry and dispute resolution number on consumers' telephone bills. Accordingly, this aspect of the subscriber notification requirement merely provides information that most subscribers would obtain, at a minimum, upon receipt of the first bill.

5. Notice That All Affected Subscribers, Including Those With Preferred Carrier Freezes, Will Be Switched to the Acquiring Carrier Unless They Make an Alternative Selection

28. We will require the acquiring carrier to make clear in the advance subscriber notice that all subscribers receiving the notice, including those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the new carrier if they do not select a different preferred carrier before the transfer date. We will also require the acquiring carrier to inform subscribers that existing preferred carrier freezes on the service(s) involved in the transfer will be lifted and that, if they would like to have freeze protection after the transfer, they must contact their local service providers to obtain this service. Section 64.1190 of our rules permits local service providers to offer their subscribers the option of requesting a preferred carrier freeze, an additional measure of protection against unauthorized carrier changes that is consistent with section 258. With such a freeze in place, the subscriber is assured that his or her preferred carrier will not be changed without the subscriber's express consent. Under the circumstances involved in the sale or transfer of a subscriber base, however, a subscriber with a freeze could be left without presubscribed service when the selling or transferring carrier ceases to provide service, if that customer failed to give consent and was not automatically switched to the acquiring carrier. We believe that, under such circumstances, it is preferable, and more consistent with section 258, to permit the transfer of such a subscriber to the acquiring carrier, after adequate advance notice, rather than risk having the subscriber lose presubscribed service altogether. In our experience, there has occasionally been some confusion regarding the status of "frozen" subscribers who are part of a subscriber base being acquired by another carrier pursuant to a sale or transfer. We believe that it is appropriate to ensure that subscribers with preferred carrier freezes in place do not lose presubscribed service even if they fail to respond to notice of an impending carrier change. Under the procedures adopted in this Order, "frozen" subscribers who prefer not to receive service from the acquiring carrier will have sufficient notice of their ability to select another provider, in a manner consistent with section 258. In addition, "frozen" subscribers will have notice of the need to contact their local service providers if they wish to continue to have preferred carrier freeze protection for the service(s) involved in the transfer after the transfer occurs.

6. Notice of Whether the Acquiring Carrier Will Handle Complaints Against the Selling or Transferring Carrier

29. Finally, we conclude that the acquiring carrier must include in the advance subscriber notice whether it will be assuming responsibility for handling the outstanding complaints that the affected subscribers may have against the selling or transferring carrier. As part of the transaction, an acquiring carrier may agree to assume

responsibility for outstanding complaints against the selling or transferring carrier. In order to provide maximum information to affected subscribers, we believe it is appropriate to require the acquiring carrier to provide information about complaint administration to the affected subscribers if the acquiring carrier is assuming responsibility for such complaints.

30. We decline to require the acquiring carrier to handle outstanding complaints against the selling or transferring carrier. While some commenters support requiring the acquiring carrier to commit to handling customer complaints regarding the service of the original carrier and the transfer itself to ensure that transferred subscribers are not deprived of recourse after the transfer, other commenters strongly oppose this approach, and some believe we should place the liability for handling previous complaints on the selling or transferring carrier. We recognize that carriers often factor the costs of complaint administration into their transaction agreements, and we are reluctant to interfere with this process. We believe that it is sufficient to require the acquiring carrier to disclose in the advance subscriber notice whether it has assumed responsibility for handling outstanding complaints against the selling or transferring carrier.

IV. Procedural Matters

A. Final Regulatory Flexibility Analysis

31. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Third Further Notice* in this proceeding. The Commission sought written public comment on the proposals in the *Third Further Notice*, including comment on the IRFA. The comments received are discussed. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for and Objectives of This Action

32. Section 258 of the Act makes it unlawful for any telecommunications carrier "to submit or execute a change in a subscriber's selection of a provider of telephone exchange services or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." In the *Section 258 Order*, 64 FR 7763, February 16, 1999, the Commission established a comprehensive framework of rules to implement section 258 and strengthen its existing anti-slamming rules. Since the release of the *Section 258 Order*, the Commission has received many requests for waiver of its carrier change and authorization rules as a result of carriers selling or transferring their subscriber bases to other carriers, and the carriers desire not to get authorization from each affected subscriber in order to transition in a seamless, efficient manner. The objectives of the modified rules adopted in this Order are to address these types of transactions and provide for a streamlined approach that would meet the consumer protection goals of section 258 and also permit carriers to efficiently transfer customers without the need for Commission approval of a waiver petition.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

33. The Commission received no comments directly in response to the IRFA.

34. *Difference in Advance Notice to Affected Subscribers Based on Types of Service Provided and/or Size of Carrier.* The Commission specifically sought comment on whether the subscriber advance notice requirement should differ in some manner based on the type of service being provided, such as local, intraLATA toll, or interLATA toll service, or upon the size of the carrier(s) involved. All commenters on this issue agree that the advance notice requirement should be the same for all carriers. The Commission determined that, because a change in presubscribed service provider affects all subscribers similarly, regardless of the service type or the size of the original or acquiring carrier, there is no basis for varying the notice requirements.

35. *Second Notice to Affected Subscribers.* The Commission invited parties to comment on whether acquiring carriers should be required to provide each affected subscriber with a second written notice after the transfer has occurred reiterating the same information provided in the pre-transfer notification. Many commenters contend that the requirement of a second notice to the affected subscribers is overly burdensome and costly for carriers with little benefit to the affected subscribers. ITAA specifically noted that a second notice requirement would be particularly burdensome for smaller and midsize carriers, which would be less able to absorb doubling the costs of the subscriber notice requirement. These comments are discussed in more detail. The Commission agrees with these commenters, and others, that affected subscribers do not need to receive a second written notice that simply reiterates the information provided in the first notice. The Commission recognized that, while some affected subscribers may fail to read the notice sent prior to the change in service providers, they will receive notification of the new service provider on their bills under the highlighting requirement of the Commission's truth-in-billing rules. The Commission also concluded that a second notice would be costly for carriers, especially smaller carriers.

3. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

36. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" is defined as a "small business concern" under section 3 of the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 governmental entities in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96 percent) are small entities. According to SBA reporting data, there were 4.44 million small business firms nationwide in 1992. We further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules.

37. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the

number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report. In a recent news release, the Commission indicated that there are 4,822 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

38. The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees. We discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

39. We have included small incumbent LECs in this present RFA analysis. As noted, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

40. *Total Number of Telephone Companies Affected.* The U.S. Bureau of the Census ("Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that 3,497 or fewer telephone service firms are small entity telephone service firms that may be affected by the new rules.

41. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that 2,295 or fewer small telephone communications companies other than radiotelephone companies are small entities that may be affected by the new rules.

42. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that 1,335 or fewer providers of local exchange service are small entities that may be affected by the new rules.

43. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 204 carriers reported that they were engaged in the provision of interexchange services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 204 or fewer small entity IXCs that may be affected by the new rules.

44. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 349 CAP/CLECs carriers and 60 other LECs reported that they were engaged in the provision of competitive local exchange services. We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 349 or fewer small entity CAPs and 60 other LECs that may be affected by the new rules.

45. *Operator Service Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 21 carriers reported that they were engaged in the provision of operator services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 21 or fewer small entity operator service providers that may be affected by the new rules.

46. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 758 carriers reported that they were engaged in the provision of pay telephone services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 758 or fewer small entity pay telephone operators that may be affected by the new rules.

47. *Resellers (including debit card providers).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 454 toll and 87 local entities reported that they were engaged in the resale of telephone service. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 454 or fewer small toll entity resellers and 87 small local entity resellers that may be affected by the new rules.

48. *Toll-Free 800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 and 800-like service ("toll free") subscribers. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use. According to our most recent data, at the end of January 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers that had been assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 7,692,955 or fewer small entity 800 subscribers, 7,706,393 or fewer small entity 888 subscribers, and 1,946,538 or fewer small entity 877 subscribers may be affected by the new rules.

49. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Census Bureau, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Trends in Telephone Service* data, 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 806 or fewer small cellular service carriers that may be affected by the new rules.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

50. We analyze the projected reporting, recordkeeping, and other compliance requirements that might affect small entities.

51. *Notice to the Commission.* The Commission concludes that adopting a carrier self-certification process as the streamlined procedure for notifying the Commission prior to the sale or transfer of a subscriber base is in the public interest. Accordingly, the Commission directs carriers to file a notification letter with the Secretary of the Commission, no later than 30 days prior to the actual transfer of the subscriber base to the new service provider. This notification letter shall include the names of the parties to the transaction, the types of telecommunications services provided to the affected subscribers, the date of the transfer of these subscribers to the acquiring carrier, a certification of compliance with the statutory and Commission requirements that apply to this process, and an attached copy of the notice sent to the affected subscriber. This is a minimal filing requirement for small and large carriers in comparison to the Commission waiver process requirements and, unlike the waiver process, it will not require the carriers to obtain Commission action before completing the transaction. The self-certification to the Commission will serve enforcement and consumer information purposes through providing the Commission with advance notice of these transactions. Certification of these transactions will help ensure compliance with the Commission's rules and will better inform Commission of the status of these transactions in the marketplace so that the Commission can better serve and provide information to affected consumers.

52. *Notice to the Affected Subscribers.* The Commission amends its carrier change and authorization rules to provide a streamlined procedure for all telecommunications carriers that purchase or transfer all or part of their subscriber base. This streamlined approach will benefit all carriers, small and large, by eliminating the time-consuming and resource-intensive Commission waiver process. The Commission concludes that carriers acquiring subscribers should provide those subscribers with reasonable advance notice (*i.e.*, at least 30 days) of a carrier change associated with a sale or transfer. The Commission states that, based on its extensive experience with waiver petitions related to subscriber sales or transfers, 30 days is a reasonable notice period to provide subscribers with sufficient notice and opportunity to make an informed decision without creating a burdensome delay for the carriers involved.

5. Steps Taken To Minimize the Significant Economic Impact of This Action on Small Entities, and Significant Alternatives Considered

53. *Advance Notice to the Affected Subscribers.* The Commission has considered whether the advance subscriber notice requirement adopted herein will impose significant additional costs or administrative burdens on small carriers. The Commission concludes that this requirement would not impose significant additional costs or administrative burdens on small carriers. In this regard, the Commission notes that all carriers, including small carriers, already provide these types of notices as part of the waiver process and do not object to continuing to provide them under the streamlined approach prescribed in the *Third Further Notice.* Accordingly, the Commission concludes that the advance notice requirement is not burdensome.

54. *Second Notice to Affected Subscribers.* To minimize the administrative burden on carriers, particularly small carriers, the Commission has not incorporated a second notice to the affected subscribers into the streamlined process. The Commission recognizes that such a requirement may be costly and therefore burdensome to small carriers. In addition, we note that consumers will receive a *de facto* second notice through the highlighting of new service providers on telephone bills required by the Commission's truth-in-billing rules. Our decision not to adopt the proposed alternative of a required second subscriber notice is consistent with comments filed, including those addressing small entity concerns.

55. *Rates, Terms, and Conditions of the New Service Provider.* The Commission has considered whether to require the acquiring carrier to continue to charge affected subscribers the same rates as those charged by the selling or transferring carrier for a specified period after the transfer. The Commission has determined that such a requirement is not necessary because the information the affected subscribers will receive in the 30-day advance subscriber notice about the acquiring carrier's rates, terms, and conditions for the telecommunications services at issue will enable them to make an informed decision about the rates they pay for these services.

6. Report to Congress

56. The Commission will send a copy of the Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) also will be published in the **Federal Register**.

B. Paperwork Reduction Act

57. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. This document contains information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section.

VI. Ordering Clauses

58. Pursuant to sections 1, 4, 201–205, 255, and 258 of the Communications Act of 1934, as amended, the policies, rules, and requirements set forth herein are adopted. Part 64 is amended as set forth.

59. This document contains information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section.

60. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Amended

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 201, 202, 205, 218–220, and 332 unless otherwise noted. Interpret or apply sections 201, 218, 225, 226, 227, 229, 332, 48 Stat. 1070, as amended. 47 U.S.C. 201–204, 208, 225, 226, 227, 229, 332, 501 and 503 unless otherwise noted.

1. Section 64.1120 is amended by adding paragraph (e) to read as follows:

§ 64.1120 Verification of orders for telecommunications service.

* * * * *

(e) A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's subscriber base without obtaining each subscriber's authorization and verification in accordance with § 64.1120(c), provided that the acquiring carrier complies with the following streamlined procedures. A telecommunications carrier may not use these streamlined procedures for any fraudulent purpose, including any attempt to avoid liability for violations under part 64, subpart K of the Commission rules.

(1) No later than 30 days before the planned transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file with the Commission's Office of the Secretary a letter notification in CC Docket No. 00–257 providing the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the date of the transfer of the subscriber base to the acquiring carrier. In the letter notification, the acquiring carrier also shall certify compliance with the requirement to provide advance subscriber notice in accordance with § 64.1120(e)(3), with the obligations specified in that notice, and with other statutory and Commission requirements that apply to this streamlined process. In addition, the acquiring carrier shall attach a copy of the notice sent to the affected subscribers.

(2) If, subsequent to the filing of the letter notification with the Commission required by § 64.1120(e)(1), any material changes to the required information should develop, the acquiring carrier shall file written notification of these changes with the Commission no more than 10 days after the transfer date announced in the prior notification. The Commission reserves the right to require the acquiring carrier to send an additional notice to the affected subscribers regarding such material changes.

(3) Not later than 30 days before the transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall provide written notice to each affected subscriber of the information specified. The acquiring carrier is required to fulfill the obligations set forth in the advance subscriber notice. The advance subscriber notice shall be provided in a manner consistent with 47 U.S.C. 255 and the Commission's rules regarding accessibility to blind and visually-impaired consumers, 47 CFR 6.3, 6.5 of this chapter. The following information must be included in the advance subscriber notice:

(i) The date on which the acquiring carrier will become the subscriber's new provider of telecommunications service,

(ii) The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the subscriber's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the subscriber of any change(s) to these rates, terms, and conditions.

(iii) The acquiring carrier will be responsible for any carrier change charges associated with the transfer,

(iv) The subscriber's right to select a different preferred carrier for the telecommunications service(s) at issue, if an alternative carrier is available,

(v) All subscribers receiving the notice, even those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring carrier, unless they have selected a different carrier before the transfer date; existing preferred carrier freezes on the service(s) involved in the transfer will be lifted; and the subscribers must contact their local service providers to arrange a new freeze.

(vi) Whether the acquiring carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier, and

(vii) The toll-free customer service telephone number of the acquiring carrier.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AF30

Endangered and Threatened Wildlife and Plants; Final Special Regulations for the Preble's Meadow Jumping Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Preble's meadow jumping mouse (*Zapus hudsonius preblei*) was listed as a threatened species under the Endangered Species Act (Act) of 1973, as amended, on May 13, 1998 (63 FR 26517). At the time the Preble's was listed, a special rule for the conservation of the Preble's was not promulgated; therefore, virtually all of the restrictions under section 9 of the Act became applicable to the species. A proposed special rule was published in the **Federal Register** on December 3, 1998 (63 FR 66777). This special rule is finalized in a modified form that includes some but not all of the provisions previously proposed. The rule establishes protective regulations pursuant to section 9 of the Act. Its duration is 36 months, during which time more comprehensive recovery approaches will be pursued.

DATES: This rule is effective May 22, 2001 through May 22, 2004.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service's Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: In Colorado—contact LeRoy Carlson, at the above address or telephone 303/275–2370. In Wyoming—contact Mike Long, Field Supervisor, Cheyenne, Wyoming, at telephone 307/772–2374.

SUPPLEMENTARY INFORMATION:

Background

The Preble's meadow jumping mouse (*Zapus hudsonius preblei*), a subspecies of the meadow jumping mouse (*Zapus hudsonius*), occurs only along the Rocky Mountain-Great Plains Interface (the Front Range) of eastern Colorado and Southeastern Wyoming. The final rule listing the Preble's as a threatened species under the Act was published in the **Federal Register** on May 13, 1998 (63 FR 26517). Section 4(d) of the Act (16 U.S.C. 1533 (d)) provides that, whenever a species is listed as a threatened species, the Secretary of the Department of the Interior will issue regulations deemed necessary and advisable to provide for the conservation of the species. This is done in either of two ways.

First, the Act authorizes imposition of take prohibitions to endangered species. We, the Fish and Wildlife Service, have issued regulations (50 CFR 17.31) that generally apply to threatened wildlife virtually all the prohibitions that section 9 of the Act (16 U.S.C. 1538) establishes with respect to endangered wildlife. These universal prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to "take" any listed wildlife species, i.e., to harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect any threatened or endangered species or to attempt to engage in any such conduct (16 U.S.C. 1532 (19)).

Second, our regulations for threatened wildlife also provide that a "special rule" under section 4(d) of the Act can be tailored for a particular threatened species. In that case the general regulations applying most section 9 prohibitions do not apply to that species, and the special rule contains the prohibitions (and exemptions) necessary and appropriate to conserve that species.

At the time the Preble's was listed, we did not promulgate a special section 4(d) rule; therefore, the section 9 prohibitions, including the take prohibitions, became applicable to the species. On December 3, 1998, a proposed special rule identifying specific circumstances under which section 9 prohibitions would not apply to the Preble's was published in the **Federal Register** (63 FR 66777). This proposal initiated a 60-day public comment period, which closed February 1, 1999. The public comment period was extended for an additional 45 days through March 5, 1999 (64 FR 4607), and was reopened from March 16 through April 30, 1999 (64 FR 12924).

Briefly, the proposed special rule provided exemptions from section 9 prohibitions for—(1) all activities outside of specified Mouse Protection Areas (areas where Preble's had been documented) and Potential Mouse Protection Areas (areas judged to have high potential to support Preble's); (2) rodent control, ongoing agriculture, maintenance and replacement of existing landscaping, and existing uses of water anywhere within the Preble's range; and (3) under specified standards, alteration of up to 4 percent of Mouse Protection Areas and Potential Mouse Protection Areas as approved by State or local government. After review of comments received, this proposed special rule has been finalized in a modified form, adopting only the second exemption listed above for rodent control, ongoing agriculture, maintenance and replacement of existing landscaping, and existing uses of water anywhere within the Preble's range.

We anticipate that this rule will prohibit actions that threaten the Preble's to the extent necessary to provide for the conservation of the

Preble's. The rule also provides flexibility to private landowners for ongoing activities that will not impede the conservation of the species. We also believe that this rule will garner support of State and local governments, private landowners, and other interested parties and contribute to a lasting, cooperative approach for the long-term conservation of the species.

This rule is best understood in the context of other regulations and actions, already in place or in development, to provide for conservation of the Preble's. First, it is important to understand that an activity prohibited under the general regulations might still be allowed under section 10 of the Act. That section provides for a person to obtain from us, in appropriate circumstances, a permit allowing the "incidental" taking of Preble's. One of the purposes of this rule is to make, in advance, general decisions that certain types of activities are consistent with the conservation of the Preble's, without requiring people to seek additional section 10 permits authorizing those activities. Additional activities that result in take of Preble's that are not exempted by this special rule still can be permitted by the Service under section 10 of the Act.

Currently, the State of Colorado, the Service, and various local governments in Colorado and Wyoming are working together to develop plans to conserve the Preble's and its habitat. This collaborative approach is expected to result in the development of Habitat Conservation Plans and applications to the Service for incidental take permits under section 10 of the Act. These Habitat Conservation Plans will provide an important component of a lasting, effective, and efficient conservation and recovery program for the Preble's.

We are committed to development of a recovery plan for the Preble's that achieves long-term conservation and development solutions. We believe that a recovery program that integrates both biological as well as social factors will have the highest chance of success. One of the purposes of this special rule is to foster cooperation among the Service, the States, local governments, and the private sector in pursuing recovery of the Preble's.

The second important component of the context for this special rule is that Federal agencies are required under section 7 of the Act to utilize their authorities to conserve listed species and to consult with the Service to ensure that their actions are not likely to jeopardize the Preble's. For consultations that involve the use of Federal land, we expect that those lands will be managed in furtherance of the conservation of the species to the maximum extent possible. Other types of section 7 consultations involve actions that are similar to those that are considered under the section 10 process. For example, many of the activities likely to affect Preble's undertaken outside of Federal land, but wholly or partly in wetlands, will be subject to permitting requirements of the Clean Water Act, such as section 404 permits issued by the Army Corps of Engineers.

Third, a variety of Federal, State, and local programs are available to help preserve the Preble's through the acquisition, preservation, and management of its habitat. These include the Service's Partners for Fish and Wildlife Program, the Natural Resource Conservation Service's wetland/riparian habitat protection programs, grant programs administered by Great Outdoors Colorado, city and county open space programs, and activities of local land trusts. In particular, our Partners for Fish and Wildlife Program has proven to be an especially effective approach for wildlife conservation on agricultural lands by providing funding for restoration of wetlands and riparian habitats.

Summary of Comments and Recommendations

In the December 3, 1998, proposed 4(d) rule and associated notifications, and in subsequent notices to extend or reopen the public comment period, we asked all interested parties to submit comments on the proposed rule. We held two public meetings on December 16, 1998, in Lakewood, Colorado. The proposed rule was explained, followed by a question and answer session. Attendance at the afternoon session totaled 104 individuals, while attendance at the evening session totaled 24. We received 614 comment letters in response to the proposed 4(d) rule, including comments from 23 municipal and county governments, 14 environmental organizations, and 60 development, irrigation, and ranching-related organizations. Comments also were received from a member of the Wyoming congressional delegation and from the Governors of Wyoming and Colorado. Almost half of all letters received were associated with various letter-writing campaigns that reflected the same or very similar content.

Written comments, and oral statements presented in the public meetings or received during the comment periods, that are specific to the proposed rule are addressed in the following summary. Comments of a similar nature are grouped under a number of general issues.

Issues and Discussion

Issue 1—The proposed duration of this temporary rule, 18 months, may not provide enough time to develop Habitat Conservation Plans and other long-term strategies to conserve the Preble's.

Response—Based on the progress of ongoing efforts to develop Habitat Conservation Plans, we lengthened the duration of the rule to 36 months. This should provide time not only for completion of Habitat Conservation Plans but for completion of a recovery plan and other conservation efforts for the Preble's. The level of take anticipated to occur from this rule within either an 18-month or 36-month period is not considered to be biologically significant to recovery of the Preble's.

Issue 2—Refinement is needed in mapping Mouse Protection Areas and Potential Mouse Protection Areas that were developed in support of the proposed exemption for activities outside of likely Preble's habitat. Survey data that serve as a basis for the maps are scant, especially on private lands. Preble's use of habitat across its range has not been thoroughly studied. Proposed limits of the exemption as measured outward from occupied or potentially occupied streams and wetlands may be excessive or may be inadequate to include Preble's habitat. Designation of Mouse Protection Areas and Potential Mouse Protection Areas has been characterized by some as de facto designation of critical habitat.

Response—Because of these and other issues, the proposed designation of Mouse Protection Areas and Potential Mouse Protection Areas and the proposed exemption for incidental take outside of such areas have been dropped from the final rule. We will continue to use the best science available to determine distribution, presence, and habitat requirements of the Preble's. We will make such information available through our Colorado and Wyoming Field Offices and our web page. Determinations of Preble's presence and potential for human activities to impact Preble's will continue to occur on a site-by-site basis. Detailed local information on Preble's may be further developed to support Habitat Conservation Plans.

Issue 3—The proposed exemption to allow up to 4 percent of a Mouse Protection Area to be altered under a system of local review is considered by some as arbitrary and without firm scientific support. In addition, local government may not have the funds, expertise, or enforcement authority to take on this responsibility. Local government also may assume increased liability under this exemption.

Response—Because of these and other issues, this proposed exemption from take was dropped from the final rule.

Issue 4—The proposed exemption for rodent control may be used as a means to eliminate Preble's from an area.

Response—As with all exemptions in this rule, only incidental take of Preble's that meets the specific provisions of the rule is exempted. Purposeful take of Preble's would still be prohibited.

Issue 5—Agriculture is often beneficial to the Preble's, and farmers and ranchers are good stewards of land. Flexibility to change agricultural practices within Preble's habitat is needed by farmers and ranchers, yet the proposed exemption would cover only established, ongoing activities.

Response—The exemption for ongoing agriculture recognizes that certain agricultural practices have proven compatible with survival of Preble's. Changes in agricultural practices that are positive or neutral to the Preble's are unlikely to result in take. Recognizing that continuation of existing agricultural activities is likely to result in minimal levels of take, this rule exempts ongoing agricultural activities from take. New agricultural activities could significantly expand the area or degree of take, potentially having larger impacts to the species; therefore, take from new or expanded agricultural activities is not exempted in this rule. Under the appropriate circumstances, section 10 permits can be obtained to allow take of Preble's due to new or expanded agricultural activities.

Issue 6—Exempted agricultural practices need to be better defined. A list of what is not exempted would be useful.

Response—This rule exempts incidental take of Preble's that may result from ongoing agricultural activities. Ongoing agricultural activities would be considered those activities in place at the time of the 1998 listing of the Preble's. We provide this exemption because lands that are currently under agricultural production are believed to have minimal habitat for the Preble's, and because agricultural activities are being conducted in a manner that causes minimal take of Preble's. We are not providing exemption in situations where larger amounts of take may occur. Therefore, this exemption applies to practices customary and necessary for the continuation of existing agricultural production. It does not apply to new activities or to expansion of activities that change the existing activity footprint in size or location. New or expanded activities may remove or significantly alter habitat that is currently occupied by Preble's and, therefore, are not included in this exemption. Questions regarding application of this exemption to specific practices in Colorado may be addressed to our Colorado Field Office, and in Wyoming questions may be addressed to our Wyoming Field Office (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections).

Issue 7—Practices such as crop rotation should be covered under the exemption for ongoing agriculture.

Response—Actions that reflect regular past uses are considered ongoing. Crop rotation consistent with a past pattern would be exempted from take. The ability to document past use may be important if any changes result in take of Preble's.

Issue 8—Exemptions from take should be provided when land enrolled in conservation reserve programs, that provides habitat for the subspecies, is later returned to agricultural production.

Response—This rule does not exempt take when lands maintained for conservation under various government programs are returned to agricultural production. Returning lands to agricultural production after the period of time in which the lands were enrolled in a conservation reserve program represents a change in use. It would not be considered an "existing" agricultural activity and, therefore, would not qualify for the exemption for "existing" agricultural uses. However, take associated with the return of lands from conservation reserve programs to agricultural production may still be authorized under the Habitat Conservation Plan provisions of section 10(a)(1)(B) of the Act.

Issue 9—The exemption from take for maintenance and replacement of existing landscaping also exempts maintenance and replacement of "related structures and improvements." The intent of this exemption should be explained.

Response—Walkways, retaining walls, and other nonvegetative components of landscaping may be maintained and replaced as needed under this exemption. These structures do not normally provide habitat for the Preble's, and maintenance of such structures would likely result in minimal take, if any. "Related structures and improvements" should be viewed in the context of landscaping and not expanded to include houses, garages, or outbuildings. While maintenance or replacement of these larger structures would generally not result in take, on occasion such activity may entail a larger area and duration of disturbance, use of heavy machinery in the surrounding area, and staging of construction materials. In some circumstances, such activity could cause more than minimal take; therefore, while most of this type of activity would not result in any take, we have chosen not to exempt such activity due to those instances where take could be substantial.

Issue 10—The rule does not specify an exemption from take for maintenance of roadsides through mowing, which may occur in or near Preble's habitat. Such activity could result in take of Preble's.

Response—We agree that maintenance of roadsides could in some situations result in take, and if occupied habitat is removed as part of such activities, then the resulting take would probably be more than minimal. For this reason we have not included an exemption from take for roadside maintenance activities. As such activities are not usually undertaken by individuals, we encourage all jurisdictions that engage in maintenance mowing to modify such practices where Preble's may be present to avoid the likelihood of take, or to seek a section 10 permit when the potential for take cannot be avoided.

Issue 11—Water utilization was identified as a factor leading to listing of the Preble's, but is being exempted under this rule.

Response—Only take resulting from existing uses of water associated with perfected water rights is being exempted. Much as with agricultural activities, some existing patterns of water use appear compatible with maintenance of Preble's populations. In some locations, such as in water conveyance ditches, the Preble's exists only because of human manipulation of water flows. The relationship of water use and maintenance of the Preble's and its habitat is complex. During the period of this rule, existing patterns of water use will be exempted.

Issue 12—Some respondents requested clarification on our interpretation of "existing water uses" and "perfected water rights."

Response—An explanation has been added to the final rule which states that existing water uses refers to historical water use practices. In general, any change in water use practices that would require a change of water right or a change in a water use permit will not be exempted in the final rule.

Issue 13—Several respondents requested a broader exemption for any water use permitted or decreed by State

governments. Many Colorado municipalities and water suppliers requested exemption for transfers of perfected water rights and exercise of conditional water rights.

Response—We are not granting a range-wide exemption for water rights transfers, conditional water rights, and other water uses that are not considered "perfected." These actions have a much higher potential to take Preble's than the exercise of perfected water rights. For example, exercise of conditional water rights could result in new flooding of Preble's habitat, and transfer of a historical irrigation right may result in abandonment of a ditch that supports Preble's habitat. We anticipate that exercise of most conditional water rights and transfers will not result in take of Preble's; therefore, in these cases no exemptions from take are needed. If take is likely from such changes, a process exists for pursuing a take permit under section 10 of the Act.

Issue 14—Many commentors requested exemption from take for maintenance of water supply ditches. Ongoing agriculture and use of perfected water rights are exempted from take. Logically, ditches must be maintained to convey water to support these activities (for example, from reservoirs to the agricultural fields). If water supply ditches that currently support Preble's are not maintained, they will ultimately cease to function. If abandoned, they will not convey water or support habitat of value to Preble's.

Response—We are considering proposing an amendment to this rule that provides an exemption from take for certain maintenance practices on water supply ditches.

Issue 15—An exemption from take for the control of noxious weeds may be appropriate. Currently, weed control programs in occupied or potential Preble's habitat are being curtailed for fear that they will be in violation of the Act. Ultimately, this may result in spread of noxious weeds that will, in turn, result in degradation of Preble's habitat.

Response—We are considering proposing an amendment to this rule to provide an exemption from take for certain activities relating to control of noxious weeds.

Issue 16—We received suggestions for additional range-wide exemptions from take covering a number of activities. A partial list includes exemptions for construction of trails, actions to promote public health and safety, construction and maintenance of infrastructure including utility lines and wastewater facilities, maintenance of roads and parking lots, and maintenance activities within waterways.

Response—These activities have the potential for more than minimal amounts of take; therefore, we believe that these additional exemptions are not appropriate or consistent with the conservation of the Preble's. Under appropriate circumstances, permits could be obtained to allow take that may result from these activities. Some of these activities may be addressed through future Habitat Conservation Plans or section 7 consultations.

Issue 17—Voluntary conservation efforts are sufficient to protect the Preble's on private lands.

Response—This rule does not require any conservation measures for the Preble's nor does it prevent individuals from undertaking voluntary conservation measures. We support any parties who wish to undertake voluntary conservation measures and welcome discussions with any party who wishes to consider developing a conservation agreement for the Preble's or its riparian habitat. If the species' status can be improved and threats reduced as a result of voluntary conservation measures, then we may be able to consider removing the Preble's from the list of endangered and threatened species under the Act.

Issue 18—The Service should provide updated maps of known Preble's locations and locations of unsuccessful trapping efforts on a web site accessible to the public.

Response—We are investigating various means to make this information more readily available to the public. In the meantime, the most recent information on known Preble's distribution is available from our Colorado and Wyoming Field Offices. (See **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections.)

Issue 19—The relationship of this rule to a future recovery plan for the Preble's should be explained.

Response—This temporary rule contributes to the conservation of the Preble's and does not compromise the development of a recovery plan. We anticipate developing a recovery plan prior to the termination of this rule.

Issue 20—The Service should provide for an accounting of take occurring under this rule.

Response—This rule provides exemptions from take for specific activities and under limited circumstances. In our best professional judgment, the exemptions provided are consistent with the conservation of the species. The proposed exemptions are not tied to a specific threshold of what would, without the rule, be considered take. We prepared a Biological Opinion under section 7 of the Act to address the likely effects of this rule on the Preble's.

Issue 21—The relationship of this rule to future Habitat Conservation Plans should be explained.

Response—Exemptions provided by this rule are independent of any Habitat Conservation Plan that may be submitted to us. Similar activities may or may not be addressed in a Habitat Conservation Plan at the discretion of the entity developing the plan. We anticipate that comprehensive Habitat Conservation Plans will be developed for the Preble's during the 36-month duration of this rule.

Issue 22—The relationship of this rule to review of Federal activities under section 7 of the Act should be explained.

Response—This rule does not alter Federal agency responsibilities under section 7 of the Act. Federal agencies would be exempt from section 9 prohibitions on take from the activities covered by this rule; however, Federal agencies would not be relieved of any section 7 responsibilities, even for activities exempted by this rule. Any Federal agency that funds, permits, or authorizes an activity that may affect Preble's would still be required to undergo section 7 consultation, even if take from that activity is covered by the exemption in this rule.

Provisions of the Rule

Term of the Rule

This rule will be effective for a period not to exceed 36 months from May 22, 2001. We expect that, during this time period, comprehensive Habitat Conservation Plans for the Preble's will be developed. Anytime during this 36 months, we could propose to extend this rule. Any proposal to extend the rule would be published in the **Federal Register** and would be made available for public review and comment.

Take Prohibitions

Virtually all of the prohibitions under section 9(a) of the Act that apply to endangered species continue to apply to the Preble's, to the same extent that they apply to other threatened species under our general regulations, except that certain activities would be exempted. Except for the exemptions below, it is illegal for any person subject to the jurisdiction of the United States to take any Preble's (i.e., to harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect a Preble's or to attempt any of those actions). It would still be illegal to import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any Preble's, or to possess, sell, deliver, carry, transport, or ship any Preble's that have been taken illegally.

Exempt Activities

The following activities are exempt from the general take provisions listed above, provided that the activities resulting in such take are conducted in accordance with the requirements identified in this special rule. These four exemptions apply anywhere within the Preble's range.

a. *Rodent control within 10 feet of or inside of any structure*—Preble's are generally not found in association with structures such as barns, houses, or other buildings. We believe that any Preble's mortality associated with trapping near these structures would be insignificant and that this exemption will promote public support for Preble's conservation efforts.

b. *Ongoing agricultural activities*—This exemption applies to ongoing agricultural practices but does not apply to new agricultural practices that increase impacts to, or further encroach upon, Preble's habitat. For example, a change from existing grazing practices that would adversely impact Preble's habitat, or a change in mowing practices such as mowing hay closer to a stream supporting Preble's, would not be exempted from take provisions by this rule.

Situations where Preble's populations coexist with ongoing agriculture may provide valuable insight into habitat conditions required by the Preble's and the specific types of grazing and farming practices that are compatible with the Preble's. We believe that the exemption for ongoing agricultural practices will provide a positive incentive for agricultural interests to engage in voluntary conservation activities and will remove some of the existing reluctance by private agricultural landowners to allow Preble's surveys on their lands. Surveys lead to a more complete understanding of the status and distribution of the species, especially within areas largely composed of privately owned farms and ranches. With this knowledge, our ability to develop an effective long-term recovery program will be enhanced.

c. *Maintenance and replacement of existing landscaping and related structures and improvements*—Some existing landscaping activities, such as lawn-mowing and gardening associated with residential or commercial development, golf courses, and parks, have disrupted Preble's habitat in certain areas. However, because take associated with continued landscaping of an area is expected to be minimal, exempting these activities from take provisions is not expected to adversely affect Preble's conservation and recovery efforts.

d. *Existing uses of water associated with the exercise of perfected water rights under State law and interstate compacts and decrees*—In Colorado, perfected water rights refers to uses of water that have been decreed as absolute water rights by any of the Colorado water courts. In Wyoming, perfected water rights refers to water uses that have been granted a permit and a final certificate of appropriation by the Office of the State Engineer. The cumulative effect of the development and exercise of water rights has impacted riparian communities and Preble's in some areas; however, the exercise of certain water rights and water development may benefit riparian communities and Preble's. Take associated with new water development is not exempted.

Existing uses of perfected water rights are exempt only to the extent that they do not exceed the historic amount of diversions and that they occur at the historic locations of use and at historic diversion points. For water rights or permits that have been exercised at less than the decreed or permitted diversion rate, only the historic water use practice will be considered exempt. Existing uses of water rights that are considered exempt include augmentation plans, replacement plans, and exchanges of water that have been recognized by decree or certificate of appropriation.

New actions that are not considered exempt include—any expansion of the existing use of water; changes in time, place, or amount; new exercise of conditional water rights and undecreed exchanges in Colorado; and new exercise of water use permits in Wyoming that have not yet been awarded a final certificate of appropriation. Under appropriate circumstances, permits may be obtained for take from non-exempted actions, including water uses that take Preble's.

Summary of Conservation Benefits

The standard for issuing a 4(d) rule as described in the Act is "whenever any species is listed as a threatened species, the Secretary of the Interior will issue such regulations as he deems necessary and advisable to provide for the conservation of the species." This rule meets this standard, in that it is protective of the Preble's while providing flexibility in managing its conservation and recovery. The rule provides only those temporary exemptions to take provisions of the Act that neither jeopardize the Preble's nor detract from its future recovery.

The exemptions to take prohibitions under section 9 of the Act incorporated into this rule will support the development of meaningful conservation efforts for the Preble's by State and local governments, agricultural interests, and the general public. Exemptions regarding rodent control and landscaping will elicit support from landowners. Exemptions for ongoing agricultural practices and for the exercise of perfected water rights will provide a positive incentive for agricultural interests to engage in voluntary conservation activities, such as participation in the Partners for Fish and Wildlife program. In addition, such exemptions increase the likelihood that members of the agricultural community will support surveys to determine the status of the Preble's on their lands, thus advancing our understanding of the status, distribution, and ecology of this species and facilitating the development of conservation and recovery plans. Any increased access to private lands will provide opportunities to better define existing Preble's populations and to devise appropriate conservation and recovery plans for the mouse.

Prior to finalization, we have reviewed this rule pursuant to the requirements of section 7 of the Act and the National Environmental Policy Act and an Environmental Assessment has been prepared. We also have prepared a Record of Compliance with rule-making requirements, which has undergone public review. Because this rule is a Federal action that may adversely affect the Preble's, section 7 compliance is required and a biological opinion has been prepared. All documents are available from the Service's Colorado and Wyoming Field Offices.

In accordance with 5 U.S.C. 553 (d)(1), we are making this rule effective upon publication. This rule grants exemptions to the take prohibitions that went into effect upon publication of the final rule listing the Preble's meadow jumping mouse as a threatened species on May 13, 1998.

Required Determinations

1. Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, we believe that this rule is not a significant regulatory action.

(a) This rule reduces the regulatory burden of the listing of the Preble's, because it provides exemptions to the take prohibitions of section 9 of the Act

that currently apply throughout the range of the Preble's.

The exemptions to the take prohibitions of the Act provided by this rule will reduce economic costs of the listing. The economic effect of the rule is a benefit to landowners and the economy. Based on the analysis described in the Record of Compliance, the 4(d) rule, by itself, will not have an annual economic impact of more than $100 million, or significantly affect any economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

(b) This rule will not create inconsistencies with other Federal agencies' actions.

Other Federal agency actions are mostly unaffected by this rule, with local government taking the lead in actions relating to the Preble's. The Service is encouraged by State and local governments' efforts to develop effective conservation plans for the Preble's.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

Because the special rule exempts activities from take prohibitions, effects of the rule on entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients would be positive.

(d) This rule will not raise novel legal or policy issues.

The Service has previously promulgated section 4(d) rules for other threatened species.

2. Regulatory Flexibility Act

Based on the analysis described in the Record of Compliance, we have determined that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This rule reduces the regulatory burden of the listing of the Preble's, because without this rule all take prohibitions of section 9 of the Act would continue to apply throughout the range of the Preble's. The rule exempts four types of activities—rodent control, ongoing agricultural activities, landscaping, and ongoing use of existing water rights—from the take prohibitions, avoiding costs that may be associated with modifying or abstaining from conducting these activities in order to avoid take of Preble's.

3. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule reduces regulatory obligations as discussed in 1 above; therefore, based on the information included in the Record of Compliance, this rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

5. Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule reduces the likelihood of potential takings; therefore, a takings implication assessment is not required.

6. Federalism

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. A Federalism Assessment is not required. Currently, the State of Colorado, the Service, and local governmental entities in Colorado and Wyoming are working together to develop plans to conserve the Preble's and its habitat. This collaborative approach is expected to result in the development of Habitat Conservation Plans and applications to the Service for incidental take permits under section 10 of the Act. One of the purposes of this special rule is to foster cooperation among the Service, the States, local governments, and the private sector.

7. Paperwork Reduction Act

The Service has examined this rule under the Paperwork Reduction Act of 1995 and found it contained no requests for additional information or increase in the collection requirements associated with the Preble's other than those already approved for Federal Fish and Wildlife license permits with Office of Management and Budget approval 1018–0094, which has an expiration date of February 28, 2001. For more information concerning these permits, see 50 CFR 17.32.

8. National Environmental Policy Act

The National Environmental Policy Act analysis has been conducted, and an Environmental Assessment has been prepared.

9. Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951) and Part 512, Chapter 2 of the Departmental Manual of the U.S. Department of the Interior, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects, because no Indian trust resources occur within the range of this species.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend 50 CFR part 17, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.40 by adding a new paragraph (l) to read as follows:

§ 17.40 Special rules-mammals.

* * * * *

(l) Preble's meadow jumping mouse (*Zapus hudsonius preblei*).

(1) *What is the definition of take?* To harass, harm, pursue, hunt, shoot, wound, trap, kill, or collect; or attempt to engage in any such conduct. Incidental take is that which occurs when it is incidental to and not the purpose of an otherwise lawful activity. Any take that is not authorized by permit provided through section 7 or section 10 of the Act or that is not covered by the exemptions described below is considered illegal take.

(2) *When is take of Preble's meadow jumping mice allowed?* Take of Preble's meadow jumping mice resulting from the following legally conducted activities, in certain circumstances as described below, is allowed:

(i) *Take under permits.* Any person with a valid permit issued by the Service under § 17.32 may take Preble's meadow jumping mice pursuant to the terms of the permit.

(ii) *Rodent control.* Preble's meadow jumping mice may be taken incidental to rodent control undertaken within 10 feet of or inside any structure. "Rodent control" includes control of mice and rats by trapping, capturing, or otherwise physically capturing or killing, or poisoning by any substance registered with the Environmental Protection Agency as required by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) and applied consistent with its labeling. "Structure" includes but is not limited to any building, stable, grain silo, corral, barn, shed, water or sewage treatment equipment or facility, enclosed parking structure, shelter, gazebo, bandshell, or restroom complex.

(iii) *Established, ongoing agricultural activities.* Preble's meadow jumping mice may be taken incidental to agricultural activities, including grazing, plowing, seeding, cultivating, minor drainage, burning, mowing, and harvesting, as long as these activities are established, ongoing activities and do not increase impacts to or further encroach upon the Preble's meadow jumping mouse or its habitat. New agricultural activities or those that expand the footprint or intensity of the activity are not considered to be established, ongoing activities.

(iv) *Maintenance and replacement of existing landscaping.* Preble's meadow jumping mice may be taken incidental to the maintenance and replacement of any landscaping and related structures and improvements, as long as they are currently in place and no increase in impervious surfaces would result from their maintenance and improvement. Construction of new structures or improvements or expansion of the landscaping in a manner that increases impervious surfaces would not be considered maintenance and replacement of existing landscaping.

(v) *Existing uses of water.* Preble's meadow jumping mice may be taken incidentally as a result of existing uses of water associated with the exercise of perfected water rights pursuant to State law and interstate compacts and decrees. (A "perfected water right" is a right that has been put to beneficial use and has been permitted, decreed, or adjudicated pursuant to State law.) Increasing the use or altering the location of use of an existing water right would not be considered an existing use of water.

(3) *When is take of Preble's not allowed?*

(i) Any manner of take not described under paragraph (l) (2) of this section.

(ii) No person may import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any Preble's meadow jumping mice.

(iii) No person, except for an authorized person may possess, sell, deliver, carry, transport, or ship any Preble's meadow jumping mice that have been taken illegally.

(4) *How long is this rule effective?* This rule is effective for a period of 36 months from May 22, 2001.

(5) *Where does this rule apply?* The take exemptions provided by this rule are applicable within the entire range of the Preble's meadow jumping mouse.

Dated: March 27, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–12792 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 010119022–1113–02; I.D. 120800A]

RIN 0648–AO89

Magnuson-Stevens Fishery Conservation and Management Act; Amendment of Foreign Fishing Fee Table

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the fee table for foreign vessels fishing in the U.S. Exclusive Economic Zone (EEZ). The intent of this action is to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which requires the establishment of a schedule of reasonable fees that apply non-discriminatorily to each foreign fishing nation.

DATES: Effective June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, 301–713–2276

SUPPLEMENTARY INFORMATION:

Regulations at 50 CFR part 600, subpart F govern foreign fishing under the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The regulations provide for the application and issuance of foreign fishing permits under provisions of section 204 (b) of the Magnuson-Stevens Act. Under section 204 (b), foreign vessels may be permitted to catch, process, scout, support and transship in the EEZ.

Section 204 (b)(10) of the Magnuson-Stevens Act requires the establishment of a schedule of reasonable fees to apply non-discriminatorily to each foreign fishing nation. Regulations at 50 CFR 600.518 require, among other things, that foreign vessels authorized to directly harvest fish in the EEZ pay fees based on the number of metric tons of allocated species harvested. The species potentially available for foreign fishing and the fees associated with those species are found in the table at 50 CFR 600.518 (b)(1). In a proposed rule published on March 8, 2001, at 66 FR 13870, NMFS proposed to amend this table by removing species no longer available for allocation, clarifying listings for certain species appearing in the table, adding Atlantic herring as an allocable species, and establishing the fees to be paid for the resulting list of allocable species.

NMFS believes the fees and other changes to the table at 50 CFR 600.518 (b)(1) discussed in the proposed rule published on March 8, 2001, at 66 FR 13870, constitute, in accordance with section 204 (b)(10) of the Magnuson-Stevens Act, a schedule of reasonable fees to apply non-discriminatorily to each foreign fishing nation. The specific details of all the changes proposed for the table at 50 CFR 600.518 (b)(1) are discussed in the preamble to the proposed rule published on March 8, 2001, at 66 FR 13870, and are not repeated here. The fees and other changes are adopted as final. No comments were received regarding the proposed rule published on March 8, 2001, at 66 FR 13870.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding the economic impacts of this action on small entities. As a result, the basis for the certification has not changed and a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing, Foreign relations, Intergovernmental relations.

Dated: May 16, 2001.

Clarence Pautzke,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Chapter VI is amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.518 (b)(1), the table is revised to read as follows:

§ 600.518 Fee schedule for foreign fishing.

* * * * *

(b) * * *

(1) * * *

TABLE—SPECIES AND POUNDAGE FEES

[Dollars per metric ton]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	277.96
2. Herring, Atlantic	25.75
3. Herring, River	49.59
4. Mackerel, Atlantic	64.76
5. Other finfish	45.48
6. Squid, *Illex*	97.56
7. Squid, *Loligo*	321.68

[FR Doc. 01–12872 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 051401A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by the Offshore Component in the Western Regulatory Area in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area in the Gulf of Alaska (GOA). This action is necessary to fully use the 2001 total allowable catch (TAC) of Pacific cod in the Western Regulatory Area.

DATES: Effective 1200 hrs, Alaska local time, May 18, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2001 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA is 1,098 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

NMFS closed the directed fishery for Pacific cod to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area under § 679.20(d)(1)(i) on April 26, 2001 (66 FR 21691, May 1, 2001).

NMFS has determined that approximately 250 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to allow full use of the Pacific cod TAC constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to allow full use of the Pacific cod TAC constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. In addition, this action relieves a restriction on the harvest of Pacific cod in the Western Regulatory Area of the Gulf of Alaska. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 16, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12870 Filed 5–17–01; 4:19 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 99
Tuesday, May 22, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–47–AD]

RIN 2120–AA54

Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD) that applies to Eurocopter France (ECF) Model AS350B, B1, B2, B3, BA, D, and AS355E, F, F1, F2, and N helicopters. That AD currently requires inspecting certain versions of the tail rotor pitch change spider assembly (spider assembly) for the proper rotational torque, axial play, and any brinelling of the bearing. This action would require identifying the spider assembly with index marks to detect bearing spacer rotation, visually checking to ensure that the index marks are aligned before the first flight of each day, and subsequently modifying the bearing spider assembly. This action would also add the ECF Model AS350D1 helicopters to the applicability. This proposal is prompted by operator reports that the spider assembly bearing spacers are rotating. The actions specified by the proposed AD are intended to detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before July 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–47–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Federal Register between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2000–SW–47–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–47–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On November 19, 1999, the FAA issued AD 99–24–18, Amendment 39–11443 (64 FR 66762, November 30, 1999), to require inspecting certain versions of the tail rotor pitch change spider assembly (spider assembly) for the proper rotational torque, axial play, and any brinelling of the bearing. That action was prompted by reports of deterioration of the spider assembly bearing. The requirements of that AD are intended to detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter.

Since the issuance of that AD, there have been reports that the spider assembly spacers are rotating. Eurocopter issued Service Bulletin (SB) No. 05.00.33 for the AS 350 series and 05.00.33 for the AS 355 series helicopters. Both these SB's are dated May 15, 2000 and specify monitoring the spacer and the bearing inner race of the spider assembly for rotation and increasing the tightening torque load of the bearing-to-spacer assembly. The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory and issued telegraphic AD No.'s T2000–222–079(A) and T2000–223–059(A), both dated June 2, 2000, to assure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and

determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other ECF Model AS350B, B1, B2, B3, BA, D, D1, and AS355E, F, F1, F2, and N helicopters of the same type designs, the proposed AD would supersede AD 99–24–18. The proposed AD would require the following:

- Within 10 hours time-in-service (TIS), installing index marks on the spider assembly to detect any bearing spacer rotation;
- Before the first flight of each day, visually checking to ensure that the index marks are aligned; and
- Within 25 hours TIS if bearing spacer rotation is detected or at the next 500 hours inspection if no bearing spacer rotation is detected, modifying the spider assembly. Modifying the spider assembly in accordance with MOD 076554 would constitute terminating action for the requirements of the proposed AD. The visual check proposed may be performed by an owner/operator (pilot) but would need to be entered into the aircraft records showing compliance with paragraph (b) of the AD in accordance with 14 CFR 43.11 and 91.417(a)(2)(v). The AD would allow a pilot to perform this check because it involves only a visual check of the index marks on the spider assembly and can be performed equally well by a pilot or a mechanic.

The FAA estimates that this proposed AD would affect 514 helicopters of U.S. registry. It would take approximately 0.25 work hour per helicopter to identify each spider assembly with index marks and 6 work hours to modify the spider assembly. The average labor rate is $60 per work hour. Required parts would cost approximately $200 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $295,550, assuming that the index marks are placed installed on all helicopters and that the spider assembly is modified on all the helicopters.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11442 (64 FR 66762, November 30, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. 2000–SW–47–AD. Supersedes AD 99–24–18, Amendment 39–11443, Docket No. 99–SW–41–AD.

Applicability: AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N helicopters, with tail rotor pitch change spider assembly (spider assembly), part number (P/N) 350A33–2004–00, –01, –02, –03, –05, or 350A33–2009–00 or –01, installed, and which do not incorporate MOD 076554, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), install identifying index marks on the spider assembly in accordance with (IAW) the Accomplishment Instructions, paragraph 2.B.1, of Eurocopter France Service Bulletin (SB) No. 05.00.33 for Model AS 350 series helicopters or 05.00.33 for Model AS 355 series helicopters. Both SB's are dated May 15, 2000.

(b) Before the first flight of each day, visually check that the index marks on the rotating plate and on the spacer are aligned. The visual check required by the AD may be performed by an owner/operator (pilot) but must be entered into the aircraft records showing compliance with paragraph (b) of the this AD in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

Note 2: This AD allows a pilot to perform this check because it involves only a visual check of the index marks on the bearing spider assembly and can be performed equally well by a pilot or a mechanic.

(c) At the following intervals, modify the spider assembly:

(1) If bearing spacer rotation is detected, within 25 hours TIS, IAW paragraph 2.B.4 of the applicable SB.

(2) If no bearing spacer rotation is detected, at the next 500-hour ("T") inspection, IAW paragraph 2.B.3 of the applicable SB.

(d) Modifying the bearing assembly with MOD 076554 constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this proposal is addressed in Direction Generale de L'Aviation Civile (France) AD No.'s T2000–222–079(A) and T2000–223–059(A), both dated June 2, 2000.

Issued in Fort Worth, Texas, on May 14, 2001.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–12775 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 16

[Notice No. 917]

RIN 1512–AC12

Alcohol Beverage Health Warning Statement (99R–507P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering amending the regulations concerning the placement, legibility, and noticeability of the congressionally mandated health warning statement required to appear on the labels of all containers of alcohol beverages. Based on a petition we have received, we wish to gather information by inviting comments from the public and industry as to whether the existing regulations should be revised.

DATES: Comments must be received on or before August 20, 2001.

ADDRESSES: Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091–0221; ATTN: Notice No. 917. Written comments must be signed, and may be of any length.

E-mail comments may be submitted to: nprm@atfhq.atf.treas.gov. E-mail comments must contain your name, mailing address, and e-mail address. They must also reference this notice number and be legible when printed on not more than three pages 8½″ × 11″ in size. We will treat e-mail as originals and we will not acknowledge receipt of e-mail. See the Public Participation section at the end of this advance notice for requirements for submitting written comments by facsimile.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8210).

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Anti-Drug Abuse Act of 1988, Public Law 100–690 (enacted November 18, 1988), amended the Federal Alcohol Administration Act (FAA Act) by designating the existing sections of the FAA Act as "Title I," and by adding at the end a new title, "Title II—Alcoholic Beverage Labeling." This title, cited as the "Alcoholic Beverage Labeling Act of 1988" (ABLA), requires that the following health warning statement appear on the labels of all containers of alcohol beverages for sale or distribution in the United States:

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

The health warning statement requirement applies to alcohol beverages bottled on or after November 18, 1989, and applies both to interstate and intrastate sale and distribution of alcohol beverages. In addition, the health warning statement must appear on containers of alcohol beverages that are sold, distributed, or shipped to members or units of the U.S. Armed Forces, including those located outside the United States. For purposes of the ABLA, the term "alcoholic beverage" includes any beverage in liquid form which contains not less than one-half of one percent (.5%) of alcohol by volume and is intended for human consumption.

The law specifies that the health warning statement "shall be located in a conspicuous and prominent place on the container of such beverage, as determined by the Secretary [of the Treasury], shall be in type of a size determined by the Secretary, and shall appear on a contrasting background."

On February 14, 1990, we issued final regulations in 27 CFR Part 16 implementing the provisions of the ABLA (T.D. ATF–294; 55 FR 5414). These regulations became effective on November 14, 1990. The final rule was preceded by a notice of proposed rulemaking (Notice No. 678, February 16, 1989; 54 FR 7164), which solicited comments on our temporary regulations (T.D. ATF–282, February 16, 1989; 54 FR 7160). The temporary regulations applied to products bottled between November 18, 1989, and November 13, 1990.

The final regulations provide that the health warning statement must appear on the brand label or separate front label, or on a back or side label, separate and apart from all other information. It must be readily legible under ordinary conditions, and must appear on a contrasting background. Furthermore, labels bearing the health warning statement must be firmly affixed to the container. In order to ensure that the consumer's attention is drawn to the health warning statement, the regulations require that the words "GOVERNMENT WARNING" appear in capital letters and in bold type. The remainder of the warning statement may not appear in bold type.

The regulations specify the maximum number of characters (i.e., letters, numbers, marks) permitted per inch in which the health warning statement may appear. This requirement is intended to ensure that the warning statement is more easily read by the average consumer. Additionally, the regulations prescribe minimum type size requirements for the health warning statement.

Petition

We have received a petition, dated November 17, 1999, filed on behalf of the Center for Science in the Public Interest (CSPI), four members of Congress, the National Council on Alcoholism and Drug Dependence, Inc. (NCADD), and 119 other organizations, requesting an amendment of the regulations regarding the legibility, clarity, and noticeability of the health warning statement. The petitioners included citations to research to support their proposed amendments. Specifically, the petitioners request that the regulations in Part 16 be amended to require the following:

1. *The health warning statement must appear in a prominent place on the front of the container in a horizontal position.* The petitioners contend that many alcohol producers position the warning statement vertically on the margin of the label, thus making the label difficult to read when the container is placed on a shelf. The petitioners also allege that the warning statement often appears crowded and is embedded in the surrounding information, making it hard to locate and read. According to the petitioners, warnings that contain fewer characters per inch, occupy a larger area on the label, and appear less embedded in surrounding information tend to be noticed more readily. The petitioners further state that for maximum effectiveness the warning information should be easy to locate and should appear in the same relative position on all labels. Finally, the petitioners claim that label messages appearing horizontally are significantly more noticeable than warnings that are printed in a vertical position.

2. *The health warning statement must appear in red or black type on a white background, and be surrounded by a lined border.* In addition to placement on the front of the container, the petitioners claim that the research suggests two other elements that would

dramatically improve consumer awareness of the alcohol warning statement, i.e., a clear, lined border surrounding the statement and text in a highly contrasting color. The petitioners refer to one study that found that graphic devices such as boxes help consumers recognize and process a warning message. They refer to another study that found that color helps immensely to increase awareness of warning labels; in fact, the higher the contrast between text and background, the more likely consumers are to notice them.

3. *The first two words of the health warning statement, i.e., "GOVERNMENT WARNING," must appear in capital letters and boldface type that is at least 15 percent larger than the remaining text of the statement. The text of the remaining portion of the warning statement must be in upper and lower-case lettering. A particular type font should be required to maximize legibility.* According to the petitioners, one researcher found that the degree to which the phrase "GOVERNMENT WARNING" stood out from the rest of the label was a significant predictor of the consumer response time. In this regard, the petitioners note that in both the statute and the regulations the words "GOVERNMENT WARNING" appear in capital letters while the text of the statement appears in upper and lower-case letters. However, the regulations do not specify that the text of the warning statement must appear in upper and lower-case letters. The petitioners maintain that it is harder to read the warning when the entire statement appears in capital letters.

4. *The warning statement must appear together with a red pictorial device or icon that is a triangle with an exclamation mark inside.* As proposed by the petitioners, the warning statement would appear as follows:

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

According to the petitioners, several studies have shown that the inclusion of an icon or pictorial element substantially heightens consumer recognition of a warning label. In studies of the way consumer eye-movements track warning labels, the petitioners state that one researcher specifically studied a triangular icon with an exclamation mark inside it and found that this icon produced significantly faster response times than warnings without the icon.

With the above modifications, the petitioners believe that the health warning statement will be "more noticeable, more effective, and will help insure that the labels on alcoholic-beverage containers meet the standards for the warning statement as originally set out by Congress."

Review of Petition by Other Federal Agencies and the Surgeon General

By letters dated December 3, 1999, ATF asked the Food and Drug Administration (FDA), the National Institute on Alcohol Abuse and Alcoholism, the Surgeon General, and the Federal Trade Commission (FTC) to review the petition and provide us with their comments. We also asked for available information regarding the latest scientific studies dealing with the design of alcohol warning labels, as well as any research on warning labels in general.

In his letter of February 15, 2000, the Surgeon General (on behalf of the Food and Drug Administration, the Centers for Disease Control and Prevention, the National Institutes of Health, and the Substance Abuse and Mental Health Services Administration) noted that it has been more than a decade since the alcohol health warning statement and implementing regulations were adopted. As such, revisiting this issue would be a valuable contribution to the public health as the abuse of alcohol beverages continues to represent a serious public health problem. The Surgeon General stated the following:

> If the current mandatory health warning is to serve a public function of informing consumers, it is important that periodic efforts be made to evaluate the placement of the label, its legibility, the extent to which manufacturers are complying with current label requirements, and the level of consumer awareness of the label, particularly under expected conditions of use.

In addition, the Surgeon General indicated that over the last 10 years there has been an abundance of practical experience and science about ways to design and disseminate health information on product packaging. For example, he notes that in Canada and Australia much work has been done to assess the most effective placement of health warnings on tobacco products. He also notes that the FDA has unique and relevant experience in this area through the development and evaluation of food label and nutrient requirements.

By letter dated March 13, 2000, the FTC advised us that it has experience with respect to health warnings, including the "Surgeon General's" warnings required on cigarettes and the warnings required on smokeless tobacco products. In addition, the FTC recently recommended to Congress that cigar manufacturers and marketers be required to comply with a system of multiple rotating warnings, similar to those now in place for cigarettes and smokeless tobacco. The FTC also provided us with citations to some of the relevant research on warning labels with respect to size, placement, pictorials, borders, etc. If ATF decides to explore modifying the requirements with respect to the health warning statement, the FTC recommends that we conduct consumer testing of any proposed changes. Based on its experience, the FTC states that such research is often useful in assessing the prominence, noticeability, and understandability of warnings.

Discussion

ATF is requesting information from consumers, consumer groups, interest groups, associations, and industry members on the desirability of amending the regulations with regard to the legibility and noticeability of the mandated Government health warning statement. Although we are soliciting comments on the following specific questions, we are also requesting any relevant information on the subject.

1. Are consumers aware that the health warning statement must appear on the labels of all alcohol beverages sold in the U.S.?

2. Do consumers look for the warning statement on alcohol beverage containers?

3. Do consumers notice the health warning statement on alcohol beverage containers? Explain.

4. Do consumers read the warning statement on labels of alcohol beverages? Why or why not?

5. Are consumers familiar with the information contained in the alcohol health warning statement?

6. Do consumers find the warning statement on alcohol beverages difficult to read? Explain.

7. Do consumers have examples of alcohol beverages where the warning statement is legible and noticeable? What makes the warning statement legible and noticeable?

8. Do consumers believe the regulations need to be amended to make the warning statement more legible? Explain.

9. What would be the costs associated with adopting any or all of the changes recommended by the petitioners, to the industry and, ultimately, the consumer?

As indicated by the Surgeon General, over the last 10 years there has been an abundance of practical experience and science about ways to design and disseminate health information on product packaging. Accordingly, we are requesting scientific information, i.e., scientific studies, reports, consumer surveys, research literature, etc., that might be useful in assessing the changes suggested by the petitioners concerning the legibility of the health warning statement. As mentioned in the FTC's letter to us, the question of whether any particular warning is clear and prominent is an empirical one. Information submitted should not be limited to that completed within the last few years. Although we believe that such information may be more valid, we are seeking any pertinent information on the subject.

We are also interested in studies that are currently in progress and, if available, any interim findings. We would also like to be advised of any studies currently underway which may not be completed within the 90-day comment period, along with a projected target date for completion.

Executive Order 12866

It has been determined that this advance notice is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this advance notice is not subject to the analysis required by this Executive Order.

Public Participation

We are requesting comments on the petition from all interested persons. We are specifically requesting comments on the clarity of this advance notice and how it may be made easier to understand.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

You may submit written comments by facsimile transmission to (202) 927–8602. Facsimile comments must:

- Be legible;
- Reference this notice number;
- Be 8½″ × 11″ in size;
- Contain a legible written signature; and
- Be not more than three pages long.

We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

Disclosure

Copies of the petition, this notice, and the comments received will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 16

Alcohol and alcoholic beverages, Consumer protection, Health, Labeling, Panalties.

Authority and Issuance

This notice is issued under the authority of 27 U.S.C. 205 and 215.

Dated: April 25, 2001.

Bradley A. Buckles,

Director.

Approved: April 25, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 01–12802 Filed 5–21–01; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD116–3067b; FRL–6979–5]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Repeal of Petroleum Refinery Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This action proposes to approve Maryland's repeal of its petroleum refinery regulation. EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by June 21, 2001.

ADDRESSES: Written comments should be addressed to David Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, at the EPA Region III address above, or by e-mail at *wentworth.ellen@.epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12713 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD112–3066b; FRL–6978–4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions from Distilled Spirits Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the Maryland State Implementation Plan (SIP). The revisions concern the control of volatile organic compound (VOC) emissions from distilled spirits facilities. EPA is proposing these revisions to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act (CAA).

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect.

EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 21, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, at the EPA Region III address above, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 2, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12715 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6965–1]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed notice of intent to delete the Gulf Coast Vacuum Services Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is issuing a proposed notice of intent to delete the Gulf Coast Vacuum Services Superfund Site (Site) located in Vermilion Parish, Louisiana from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA, with the concurrence of the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), has determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

In the "Rules and Regulations" section of today's **Federal Register**, we are publishing a direct final rule of deletion of the Gulf Coast Vacuum Services Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final rule of deletion. If we receive no adverse comment(s) on this action, we will not take further action on this proposed notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final rule of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this proposed notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final rule of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 21, 2001.

ADDRESSES: Written comments should be addressed to: Ms. Janetta Coats, Community Involvement Coordinator, U.S. EPA (6SF–PO), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–7308 or 1–800–533–3508.

FOR FURTHER INFORMATION CONTACT: Mrs. Katrina Coltrain, Remedial Project Manager, U.S. EPA (6SF–LP), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8143 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. EPA Region 6 Library, Suite 12D13, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6524, Monday through Friday 7:30 a.m. to 4:30 p.m.; Vermilion Parish Library, 200 North Magdalen Square, Abbeville, Louisiana, 75011, (318) 893–2674, Monday and Thursday 9:00 a.m. to 8:00 p.m., Tuesday, Wednesday, and Friday 9:00 a.m. to 5:30 p.m., and Saturday 9:00 a.m. to 1:00 p.m.; and Louisiana Department of Environmental Quality, 7290 Bluebonnet Road, Baton Rouge, Louisiana 70809, (225) 765–0487, Monday through Friday 8:00 a.m. to 4:00 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: March 19, 2001.

Lynda F. Carroll,

Acting Regional Administrator, U.S. EPA, Region 6.

[FR Doc. 01–12702 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6956–3]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Cleveland Mill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is issuing a notice of intent to delete the Cleveland Mill Superfund Site (Site), located in Grant County, New Mexico, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of New Mexico, through the New Mexico Environment Department (NMED), have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

In the "Rules and Regulations" section of today's **Federal Register**, we are publishing a direct final deletion of the Cleveland Mill Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 21, 2001.

ADDRESSES: Written comments should be addressed to: Ms. Beverly Negri, Community Involvement Coordinator, U.S. EPA (6SF–PO), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8157 or 1–800–533–3508.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Aisling, Remedial Project Manager, U.S. EPA (6SF–LT), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8509 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. EPA Region 6 Library, Suite 12D13, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6424, Monday through Friday 7:30 a.m. to 4:30 p.m.; Silver City Public Library, 5151 West College Avenue, Silver City, New Mexico, 88061, (505) 538–3672, Monday and Thursday 9:00 a.m. to 8:00 p.m.; Tuesday and Wednesday 9:00 a.m. to 6:00 p.m.; Friday 9:00 a.m. to 5:00 p.m.; and Saturday 9:00 a.m. to 1:00 p.m.; New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, New Mexico 87502, (505) 827–2844, Monday through Friday 8:30 a.m. to 5:30 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: January 22, 2001.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 01–12704 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6957–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Brodhead Creek Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is issuing a notice of intent to delete the Brodhead Creek Superfund Site (Site) located in the Borough of Stroudsburg, Monroe County, Pennsylvania, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), have determined that all appropriate response actions under CERCLA, other

than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund. In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Brodhead Creek Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 21, 2001.

ADDRESSES: Written comments should be addressed to: William Hudson, Community Involvement Coordinator, (3HS43), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5532.

FOR FURTHER INFORMATION CONTACT: John Banks, Remedial Project Manager (3HS22), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–3214, Fax (215) 814–3002, e-mail *banks.john-d@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories:
Comprehensive information about the Site is available for viewing and copying at the Site Information Repositories at the following locations: U.S. EPA Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5364, Monday through Friday 8:00 a.m. to 4:30 p.m.; the Stroudsburg Borough Building, Seventh and Sarah Streets, Stroudsburg, PA 18360, (540) 421–5444, Monday through Friday 8:00 to 5:00 p.m.; and the Pennsylvania Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711–0790, (570) 826–2511, Monday through Friday 9:00 a.m. to 3:00 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: March 8, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, U.S. EPA Region III.

[FR Doc. 01–12706 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6969–6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Salem Acres Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA)—New England is issuing a notice of intent to delete the Salem Acres Superfund Site located in Salem, Massachusetts, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Massachusetts, through the Department of Environmental Protection, have determined that all appropriate response actions under have been completed. However, this deletion does not preclude future actions under Superfund.

In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final deletion of the Salem Acres Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment(s). We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 21, 2001.

ADDRESSES: Written comments should be addressed to: Stacy Greendlinger, Community Involvement Coordinator, U.S. EPA, One Congress Street, Suite 1100, (RAA), Boston, Massachusetts 02114–2023, (617) 918–1403 or 1–800–252–3402-toll-free.

FOR FURTHER INFORMATION CONTACT: Elaine Stanley, Remedial Project Manager, U.S. EPA, One Congress Street, Suite 1100, (HBO), Boston, Massachusetts 02114–2023, (617) 918–1332 or 1–800–252–3402-toll-free.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. Environmental Protection Agency-New England Records Center, One Congress Street, Suite 1100, (HBS), Boston, Massachusetts 02114–2023, (617) 918–1440 or 1–800–252–3402-toll-free, Monday through Friday—9:00 a.m. to 5:00 p.m.; and the Salem Public Library, 370 Essex Street, Salem, Massachusetts 01970, (978) 744–0860, Monday through Thursday—9:00 a.m. to 9:00 p.m., Friday and Saturday—9:00 a.m. to 5:00 p.m. and Sunday—1 p.m. to 5:00 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: March 23, 2001.

Ira W. Leighton,

Acting Regional Administrator, U.S. EPA—New England.

[FR Doc. 01–12708 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6947–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA) proposes to delete Operable Unit 2 (OU2) of the California Gulch Superfund Site, located in Leadville, Colorado, from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution and Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). This action is being taken because EPA, with concurrence from the State of Colorado Department of Public Health and Environment (CDPHE), has determined that all appropriate response actions have been taken and that no further response at the Site is appropriate.

A detailed rationale for this Proposal to Delete is set forth in the direct final rule which can be found in the Rules and Regulations section of this **Federal Register**. The direct final rule is being published because EPA views this deletion action as a noncontroversial revision and anticipates no significant adverse or critical comments. If no significant adverse or critical comments are received, no further activity is contemplated. If EPA receives significant adverse or critical comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments concerning this action must be received by EPA by June 21, 2001.

ADDRESSES: Comments may be mailed to Rebecca Thomas, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR–SR, 999 18th Street, Suite 300, Denver, Colorado 80202. Telephone: (303) 312–6552.

Information Repositories:
Comprehensive information on the California Gulch Site is available through the EPA, Region 8 public docket, which is located at the EPA, Region 8 Superfund Records Center. The address for the Region 8 Superfund Records Center is: U.S. Environmental Protection Agency, Region 8, Superfund Records Center, 999 18th Street, 5th Floor Denver, Colorado 80202, Telephone (303) 312–6473.

FOR FURTHER INFORMATION CONTACT: Rebecca Thomas (EPR–SR), Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR–SR, 999 18th Street, Suite 300, Denver, Colorado 80202. Telephone: (303) 312–6552.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 33 U.S.C. 1312(c)(2); 42 U.S.C. 9601–9657, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351, E.O. 12580, 52 FR 2923; 3 CFR 1987 Comp., p.193.

Dated: February 12, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 01–12711 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 010501108–1108–01; I.D. 040401A]

Endangered and Threatened Species; Finding for a Petition to Designate Critical Habitat for the Bering Sea Stock of Bowhead Whales

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of petition and petition finding.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the receipt of a petition to designate critical habitat for the Western Arctic stock of bowhead whales, *Balaena mysticetus*, under the Endangered Species Act of 1973 (ESA), as amended. NMFS has determined that the petition presents substantial scientific information indicating that this action may be warranted, and is soliciting public comment and information on the petition.

DATES: NMFS is soliciting public comment on the action through August 20, 2001.

ADDRESSES: Written comments concerning this petition should be submitted to Donna Wieting, Chief, Marine Mammal Division, Office of Protected Resources, Silver Spring, MD, 20910. Comments will not be accepted if submitted via e-mail or internet.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Smith, NMFS, Alaska Regional Office, 222 West 7th Avenue, Anchorage, Alaska 99517, telephone (907) 271–5006 or fax (907) 271–3030, or Mr. Michael Payne, NMFS, Alaska Regional Office, P.O. Box 21668, Juneau, Alaska 99802, telephone (907) 586–7235 or fax (907) 586–7012.

SUPPLEMENTARY INFORMATION:

Background

On February 22, 2000, the Center for Biological Diversity, Berkeley, CA, and the Marine Biodiversity Protection Center, Canyon, CA, petitioned NMFS to designate critical habitat for the Western Arctic stock of bowhead whales. The area petitioned for critical habitat includes the Beaufort Sea off Alaska's North Slope between Point Barrow and the Canadian border, from mean high tide to approximately 170 kilometers offshore. The petition was accepted under 5 U.S.C 553 (e).

The bowhead whale was listed as endangered on June 2, 1970, prior to the addition of critical habitat requirements in the ESA, on November 10, 1978. NMFS must evaluate petitions to designate critical habitat for pre-1978 listed species pursuant to 5 U.S.C. 553 (e) under the Administrative Procedure Act (APA). 5 U.S.C. 553 (e) provides that "each agency shall give an interested person the right to petition for the issuance, amendment or repeal of a rule".

NMFS initially responded to the petition on December 14, 2000, with a letter that, at that time, deferred determination on whether the subject action may be warranted pending completion of several on-going studies or scheduled research efforts. NMFS has now determined that the petition presents substantial information

indicating that the designation may be warranted. A copy of the petition is available upon request (see **ADDRESSES**).

NMFS will conduct a review to determine if the petitioned action to designate critical habitat is warranted. The determination will be made on the best available scientific data and the economic impacts of any such designation. A notice of finding will be published in the **Federal Register** and, if the action is warranted, a regulation to implement the action will be proposed.

Bowhead whale stocks were severely depleted by commercial whaling in previous centuries. Estimates of historic bowhead abundance vary but today the Western Arctic stock is estimated at approximately 8000 whales. Many individuals in this population migrate annually from wintering grounds in the Bering Sea north into the Beaufort Sea where the whales spend the summer. It is this summering area that the petitioners recommend for critical habitat designation.

Bowhead whales encounter potential threats from several human activities in the area including subsistence harvest, fishery interactions and industrial development. A subsistence harvest of bowhead whales continues today with Alaska and Canada Natives taking an average of 49 whales (including those struck and lost) each year between 1994 and 1996. The subsistence harvest is considered sustainable and the population of the Western Arctic stock has increased in recent years. No records of a bowhead whale mortality related to fishery interaction exist but the whales are known to occasionally become entangled in fishing gear.

The petitioners assert that action is needed to halt the degradation of bowhead habitat in the Beaufort sea. The petitioners cite the future proliferation of oil and gas development and associated industrial activity as the main threat to the bowheads' habitat. Further, they cite increases in noise, vessel traffic, seismic exploration, drilling and construction as having the potential to elevate threats to bowhead whales in the region. The petitioners assert that such activity also brings a greater risk of pollution from oil spills, waste (toxic and non-toxic) and noise proliferation.

NMFS intends to hold public meetings on this petition and will inform the petitioners and public as to their location and time in a following notice. NMFS will also keep the petitioners and public informed as to the progress of the review. At this time NMFS is soliciting information and comments concerning the petition to ensure that the review is complete and is based on the best available information. We request that the information and comments be accompanied by (1) supporting documentation such as maps, biological references or reprints of pertinent publications and (2) the name, address and associations, institution, or business that the person represents.

Authority: 16 U.S.C. 1531, *et seq.*

Dated: May 17, 2001.

William T. Hogarth,

Acting Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12876 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 050901C]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast Multispecies Fishery Management Plan (FMP) and within the scope of earlier analyses of the impacts. However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Regional Administrator intends to issue an EFP that would allow one federally permitted groundfish vessel to conduct a composite mesh selectivity study with codend covers having a mesh size smaller than authorized under current regulations to target mixed-groundfish species, primarily yellowtail flounder, winter flounder (blackback), summer flounder (fluke), American plaice (dab) and Atlantic cod. The EFP may also allow access to seasonal area closures in the Gulf of Maine (GOM). The Manomet Center for Conservation Sciences (Manomet) submitted an EFP application to determine the selective efficiency of experimental codends and intends to correlate fish behavior with these findings. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before June 6, 2001.

ADDRESSES: Written comments should be sent to Patricia Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on EFP Proposal". Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Management Specialist, 978–281–9103.

SUPPLEMENTARY INFORMATION: Manomet submitted an industry cooperative proposal on April 20, 2001, for one EFP to conduct a composite codend mesh selectivity study to address bycatch and discard of incidental catch and sublegal sized fish in the mixed-groundfish fisheries of the Northeast. The study would be conducted in that portion of the GOM/Georges Bank Regulated Mesh Area extending east from the New Hampshire shoreline at 43° N. lat./70.75° W. long. to 43° N. lat./69° W. long., then following the 69° W. long. line north to the 44° N. lat./69° W. long. point, and then extending west along the 44° N. lat. to the Maine coastline (44° N. lat./69.154° W. long). The permanent Western GOM closure would not be included in the study area.

This industry collaborative study involves Manomet, the Massachusetts Division of Marine Fisheries, and the Maine Department of Marine Resources as co-principal investigators, and proposes to field test two composite mesh combinations against two industry-standard codend mesh sizes as follows: (1) Two composite codends, one made of 6.5-inch (16.51-cm) square mesh on the top half and 6.5-inch (16.51-cm) diamond mesh on the bottom half, and the other made of 6.5-inch (16.51-cm) square mesh on the top half and 6-inch (15.24-cm) diamond mesh on the bottom half; and (2) two industry-standard codends, one made entirely of 6-inch (15.24-cm) diamond mesh and one made entirely of 6.5-inch (16.51-cm) square mesh.

The purpose of the study is to obtain information on the selective efficiency of the four codend configurations. To obtain this information, the length frequency of the population sampled, as well as that of the population retained by each codend type, need to be known. To accomplish this, a 1 7/8-inch (4.78-cm) codend would be used to cover each of the four test codends in order to retain for analysis fish that pass through the larger-mesh codends.

The catch data for each sample (tow) would be used to prepare species-specific mesh selectivity curves. That is, the research would determine the size of each fish species retained by each of the codends tested versus the fish that are excluded by the codends. Data would be pooled for each of the codends tested and the selective efficiency of each codend would be determined for each important target species. Manomet would also collect behavioral information on the reactions and escape responses of key species to fishing gear by means of underwater video recording during fishing operations.

The field trials would begin on or about June 1, 2001, and continue for up to 6 months in order to allow sufficient time to undertake the experimental work under optimum conditions (i.e., good weather or times of high fish concentration). The applicant anticipates that no more than 10 tows per codend type would be required, for a maximum of 40 tows. These commercial gear trials would operate in the designated study area outside the Western GOM Year Round Closure Area. However, the principal investigator may decide that access to the GOM seasonal closure areas is needed, if efforts to obtain the necessary fish samples outside of these areas are unsuccessful. Should access to these areas be necessary, the GOM seasonal closures that may correspond in time and location with the proposed study area are as follows: Rolling Closure Area IV (June 1 to June 30), the Cashes Ledge Closure Area (July 1 to October 31), Rolling Closure Area V (October 1 to November 30), and possibly the Cashes Ledge Conditional Closure Area (November 1 to November 30).

The experimental sampling design (use of double codend) is intended to minimize the number of tows required to yield the necessary amount of catch information. It is estimated that a minimum of 10 tows (1 hour in length) per codend are required to produce satisfactory selectivity curve results. The target species are yellowtail flounder, winter flounder (blackback), summer flounder (fluke), American plaice (dab) and Atlantic cod. The main incidental species are expected to be skates, smooth and spiny dogfish, sculpin, sea raven and sea robin. During the course of the experimental fishery, the participating vessel would be instructed to conduct normal fishing operations. Therefore, the vessel could only retain fish for commercial sale in the amount allowed under its Federal fisheries permits and Days-at-Sea allocations. The catch would be separated into those fish retained inside the codend and those captured in the codend cover. All fish would be measured and weighed by NMFS-certified observers, and all sub-legal fish would be returned to the sea immediately after processing. No undersized fish would be retained on board the vessel. All data would be entered into NMFS logbooks and submitted to NMFS at the completion of the program. In addition, videotape recordings of fish behavior would continue throughout the gear trials.

One EFP would be issued to a federally permitted Northeast multispecies vessel to exempt it from the gear restrictions and, if necessary, the GOM seasonal closure areas of the FMP..

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 15, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12871 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 99
Tuesday, May 22, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Economic Research Service

Notice of Intent to Seek Approval to Collect Information

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Economic Research Service's intention to request approval for a new information collection from School Food Authorities (SFAs) and state and county welfare and food stamp agencies. The study will collect information on the National School Lunch Program (NSLP) and direct certification for free school meals from SFA directors or other key staff and administrative records data from state and county welfare and food stamp agencies.

DATES: Comments on this notice must be received by July 27, 2001 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Joshua Winicki, Food Assistance and Rural Economy Branch, Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M Street, NW., Room S–2091, Washington, DC 20036–5831, 202–694–5448. Submit electronic comments to jwinicki@ers.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Direct Certification and Its Impact on Errors in the National School Lunch Program.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: Approval for new data collection from School Food Authorities and state and county welfare and food stamp agencies.

Abstract: ERS needs to learn more about the influence of direct certification on three objectives of USDA's provision of benefits under the NSLP: (1) Providing free or reduced-price meals to intended recipients while not providing them to children who do not qualify; (2) keeping down the costs of gathering and processing data to administer the program, and (3) ensuring ease of access to program benefits for the intended recipients. Direct certification was designed to address the second and third of these objectives, by improving access to the program and streamlining the administrative process. However, emphasizing these objectives could compromise the first objective by directing benefits to some students who do not qualify for them. The Study of Direct Certification will contribute new information to USDA as it reexamines the appropriate balance among these goals.

The last study of direct certification was based on data from 1996. However, the 1996 study collected no information on the verification process, by which school districts determine the rate at which students are certified for free meals in error. Thus, the previous study could not assess the degree to which the NSLP provides meals to intended recipients while not providing them to children who do not qualify.

Furthermore, two recent trends have made the need for up-to-date information on direct certification even more pressing. First, the policy of direct certification was first introduced in the early 1990s and is believed to have expanded rapidly since that time. Thus, information on the prevalence of direct certification collected in 1996 may no longer be accurate. Second, there is evidence that the number of children certified in error has grown in recent years. Data from the Current Population Survey indicate that the number of children receiving free meals exceeds the number of children identified as income eligible to qualify for free meals, and that this ratio has been growing. In 1993, the number of children estimated to be receiving free lunches was about equal to the number estimated to be income-eligible for this benefit. By 1997, the number of certified children was 118 percent of the number of income-eligible children.

The Study of Direct Certification is being undertaken at this time for greater understanding of how direct certification works and how it affects both certification to receive free and reduced-price meals and the actual receipt of these benefits. The study will also gauge the levels of error in the program and the impacts of direct certification on these error rates. In particular, the study will have three primary objectives:

- Estimate the prevalence of direct certification and the different methods used to implement it.
- Measure the incidence of errors in certification for free and reduced-price meals.
- Estimate the impacts of direct certification on rates of certification, participation, and certification errors.

The main data source to be used to address these will be a survey of School Food Authorities operating in public school districts within the 50 states and the District of Columbia. This survey will be conducted in the winter and spring of early 2002. Supplemental administrative data will be collected from state and county welfare and food stamp agencies.

The sample frame of public school districts for the SFA survey will be the list of local education agencies (school districts) obtained from the National Center for Education Statistics (NCES) Common Core of Data (CCD): Local Education Agency Universe, 1998–1999 (or 1999–2000, if available). A sample of 1,547 public school districts will be selected to obtain approximately 1,200 SFA interviews. This sample will be nationally representative and selected with probability proportional to size, with the measure of size being the square root of the number of low-income children enrolled in the district.

Before conducting the survey, advance letters will be sent to the Chief State School Offices in the states in which sampled districts are located, as well as to the states' representatives to the Education Information Advisory Committee (EIAC) and the districts' superintendents. Next, advance letters will be sent to the SFA directors, along with a fact sheet for them to complete prior to the survey to facilitate the process of conducting the interview. The interviews with approximately 1,200 SFAs will be conducted by telephone, using computer-assisted telephone interviewing (CATI).

Respondent burden will be minimized for the SFA survey by using CATI methods to streamline the interviewing process, and by carefully training interviewing staff on survey procedures. To minimize the number of open-ended questions asked on the survey, responses to open-ended questions from the 1996 SFA questionnaire were examined and used to develop closed-ended questions on this questionnaire. Pretest interviewing results indicated that respondents wanted more survey items to be included on the fact sheet, thus minimizing the time to look up answers while on the telephone with the interviewer. Responses will be voluntary and confidential. To ensure confidentiality, data will be reported only in tabular form, with analysis cells large enough to prevent identification of individual agencies. The data will not be used to evaluate or assess the performance of individual school districts or of the districts within individual states. SFAs will be notified of these confidentiality assurances in their advance letters.

In addition to the SFA survey, administrative data will be collected from state and county welfare or food stamp agencies. First, the agency in each state that assists SFAs in determining the students eligible or potentially eligible for direct certification will be identified. Next, these agencies will be sent a letter informing them of the study and of the data request. Following this, the agencies will be contacted by phone and asked to provide administrative record data containing two key pieces of information for districts within their state selected for the SFA survey sample: (1) A list of students in the district who were determined to be eligible or potentially eligible for direct certification just prior to the 2001–2002 school year; and (2) a list of students in these districts who would have been eligible or potentially eligible for direct certification as of December 15, 2001.

To reduce burden on these agencies, they will be asked to provide this information in whatever form is most convenient for them. Either electronic files or hard copy lists of students will be accepted.

Estimate of Burden: For the SFA survey, burden on respondents will consist of two parts. First, they will have to complete the fact sheet in preparation for the interview. This will take about 90 minutes (1.5 hours) depending on district size and level of computerization. Second, they will have to take the time to complete the interview. This takes 30 minutes (.5 hours). For the administrative-records data collection from state or county welfare and food stamp agencies, a 4 hour burden for the respondent is estimated. We anticipate 75 entities will supply this information (49 states, Washington DC, and 25 California counties).

Respondents: Key staff members of SFAs representing public school districts in the 50 states and the District of Columbia; officials designated by the state or county welfare or food stamp office as the most appropriate to supply the files.

Estimated Number of Respondents: 1,275 in total; including 1,200 SFAs, and 75 state or county welfare or food stamp offices.

Estimated Total Annual Burden on Respondents: 2,700 hours total.

Comments

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

Dated: April 17, 2001.

Susan E. Offutt,

Administrator, Economic Research Service.

[FR Doc. 01–12845 Filed 5–21–01; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on Wednesday, May 30, 2001, at the Wind River Training Center, located at 1262 Hemlock Road, Carson, Washington. The meeting will begin at 10 a.m. and continue until 4 p.m. The purpose of the meeting is to: (1) Discuss fish passage and habitat restoration at Hemlock Dam, and (2) Provide for a Public Open Forum. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The "open forum" provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The "open forum" is scheduled as part of agenda item (2) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Linda Turner, Public Affairs Specialist, at (360) 891–5195, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: May 14, 2001.

Lynn Burditt,

Deputy Forest Supervisor.

[FR Doc. 01–12772 Filed 5–21–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Lower Tillamook Bay Watershed Plan and Environmental Assessment, Tillamook, Oregon

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Tillamook Bay Watershed Plan and Environmental Assessment, Tillamook, Oregon.

FOR FURTHER INFORMATION CONTACT: Bob Graham, State Conservationist, Natural Resources Conservation Service, 101 SW Main, Suite 1300, Portland, Oregon 97204, telephone 503–414–3200.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Bob Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project purpose is for watershed protection. The planned works of improvement include the development and implementation of conservation plans on approximately 60 dairies, 22 heifer replacement operations and 34 other livestock operations.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Terry Nelson, NRCS, 503–414–3014.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: April 27, 2001

Bob Graham,

State Conservationist.

[FR Doc. 01–12862 Filed 5–21–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients.

DATES: Comments on this notice must be received by July 23, 2001 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: James E. Vollmer, Multi-Family Housing Portfolio Management Division, Rural Housing Service, Room 1229, Stop 0782, 1400 Independence Avenue, SW., Washington, DC 20250, Telephone: (202) 720–1060.

SUPPLEMENTARY INFORMATION:

Title: Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients.

OMB Number: 0575–0033.

Expiration Date of Approval: August 31, 2001.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS) is authorized under sections 514, 515, 516, and 521 of Title V of the Housing Act of 1949, as amended, to provide loans and grants to eligible recipients for the development of rental housing in rural areas. Such multi-family housing (MFH) projects are intended to meet the housing needs of persons or families having very low to moderate incomes, senior citizens, the disabled, and domestic farm laborers.

RHS has the responsibility of assuring the public that MFH projects financed are managed and operated as mandated by Congress. This regulation (7 CFR part 1930, subpart C) was issued to insure consistent and proper management and operation of projects financed with MFH loan and grant funds. Minimal requirements have been established as deemed necessary to assure that applicable laws and authorities are carried out as intended.

With the provisions of this regulation, RHS will be able to provide the necessary guidance and supervision to new and existing borrowers to assist in the economical operation of their projects. RHS must be able to assure Congress and the general public that all MFH projects will be operated as economically as possible, for the purposes for which they are intended, and for the benefit of those they are mandated to serve.

The required information is collected on a project-by-project basis and is done so in accordance with the amended Housing Act of 1949, so that RHS can provide guidance and be assured of compliance with the terms and conditions of loan, grant, and/or subsidy agreements.

RHS will use the information collected to identify financially detrimental trends, poor management practices, and potential problems before they manifest themselves in the form of loan delinquencies, unpaid operation expenses, improper discriminatory practices, or high vacancy rates. With this information, RHS can assist the borrower through consultation (supervision) to improve the efficiency of the project and its operation. RHS supervision is especially critical during the first year of operation. In addition, the information provided is intended to verify whether or not the borrower is complying with the terms and conditions of loan, grant, or subsidy agreements. After the first year of operation, the information is requested of the borrower to assure continued compliance with the loan and grant agreements.

Failure by RHS to monitor progress of borrower operation through review of collected information and consultation would reasonably lead to noncompliance with statutory intent in some instances and financial default in others. Corrective action to remove such noncompliance or default would be costly to RHS and the public in terms of program integrity, public confidence, dollars, and staff time.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .90 hours per response.

Respondents: Individuals or households.

Estimated Number of Respondents: 18,200 borrowers, 420,000 tenants and 100,000 tenant applicant respondents.

Estimated Number of Responses per Respondent: 4.43.

Estimated Total Annual Burden on Respondents: 2,143,740 hours.

Copies of this information collection can be obtained from Tracy Gillin, RPMB analyst, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 10, 2001.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 01–12789 Filed 5–21–01; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–810]

Solid Agricultural Grade Ammonium Nitrate from Ukraine: Postponement of Final Determination and Extension of Provisional Measures of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of final antidumping duty determination and extension of provisional measures: solid agricultural grade ammonium nitrate from Ukraine.

SUMMARY: The Department of Commerce (the Department) is postponing the final determination in the antidumping duty investigation of solid agricultural grade ammonium nitrate from Ukraine.

On March 5, 2001, the Department published its preliminary determination in this investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate from Ukraine*, 66 FR 13286 ("Preliminary Notice"). The Preliminary Notice stated that, based on a proper request by Stock Holding Company Concern "Stirol" ("Stirol"), the Department was postponing the final determination by 30 days and, therefore, would issue its final determination no later than 105 days after the date of issuance of the notice (*see* Preliminary Notice, 66 FR at 13287).

Pursuant to section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), on May 14, 2001, Stirol, the sole participating respondent in the investigation, requested that the Department postpone its final determination by an additional 30 days. Stirol further requested that the Department extend to not more than six months the application of the provisional measures prescribed under paragraphs (1) and (2) of section 733(d) of the Act. In accordance with section 735(a) of the Act and 19 CFR 351.210(b), because (1) the preliminary determination in this case is affirmative, (2) the request for postponement was submitted in writing by an exporter who accounts for a significant proportion of exports of the subject merchandise in this investigation, and (3) no compelling reason for denial exists, we are postponing the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register** (*i.e.*, until no later than July 18, 2001). Suspension of liquidation will be extended accordingly.

This extension is in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2).

Dated: May 17, 2001.

Laurie Parkhill,

Acting Deputy Assistant Secretary for Import Administration, Group I.

[FR Doc. 01–12860 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–DS–P

EFFECTIVE DATE: May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder at (202) 482–0189, AD/CVD Enforcement, Office 1, DAS Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

Postponement of Final Determination

The Department of Commerce (the Department) is postponing the final determination in the antidumping duty investigation of solid agricultural grade ammonium nitrate from Ukraine.

On March 5, 2001, the Department published its preliminary determination in this investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate from Ukraine*, 66 FR 13286 ("Preliminary Notice"). The Preliminary Notice stated that, based on a proper request by Stock Holding Company Concern "Stirol" ("Stirol"), the Department was postponing the final determination by 30 days and, therefore, would issue its final determination no later than 105

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–831]

Certain Stainless Steel Sheet and Strip in Coils from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit For Preliminary Results of Antidumping Administrative Review.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the antidumping administrative review on certain stainless steel sheet and strip in coil from Taiwan.

EFFECTIVE DATE: May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Rick Johnson, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–1102 or (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act.

Extension of Time Limit for Preliminary Results

On January 12, 2001, we published an extension of the preliminary results by 90 days. *See* 66 FR 2884. Because of the complex issues enumerated in the Memorandum from Edward C. Yang to Joseph A. Spetrini, *Extension of Time Limit for the Preliminary Results of Administrative Review of Certain Stainless Steel Sheet and Strip in Coils from Taiwan*, on file in the Central Records Unit (CRU) of the Main Commerce Building, Room B–099, we find that it is not practicable to complete this review by the scheduled deadline of July 1, 2001. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the preliminary results of review until July 31, 2001.

Dated: May 14, 2001.

Robert M. James,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–12859 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701A]

Foreign Fishing Vessel Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Regulations at 50 CFR 600.503 require that foreign fishing vessels display the vessel's international radio call sign on the port and starboard sides of the deckhouse or hull, and on a weatherdeck. The numbers must be of a specific size. The display of the identifying number aids in fishery law enforcement and allows other fishermen to report suspicious activity.

II. Method of Collection

No information is collected.

III. Data

OMB Number: 0648–0356.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 5.
Estimated Time Per Response: 45 minutes (15 minutes for each of three markings).
Estimated Total Annual Burden Hours: 4.
Estimated Total Annual Cost to Public: $125.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12865 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701B]

High Seas Fishing Permit Application Information

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. vessels that fish on the high seas (waters beyond the U.S. exclusive economic zone) are required to possess a permit issued under the High Seas Fishing Compliance Act. Applicants must submit information to identify their vessels and intended fishing areas. The application information is used to process applications and to maintain a register of vessels authorized to fish on the high seas.

II. Method of Collection

Paper forms must be mailed to NOAA.

III. Data

OMB Number: 0648–0304.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 200.
Estimated Time Per Response: 30 minutes.
Estimated Total Annual Burden Hours: 100.
Estimated Total Annual Cost to Public: $10,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12867 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701C]

Foreign Fishing Vessel Permit Applications

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 204(b) of the Magnuson-Steven Fishery Conservation and Management Act provides that foreign nations with fishery agreements with the U.S. may apply for permits to fish, to participate in a joint-venture with U.S. vessels, or to transmit fish or fish products within the U.S. economic zone. The regulations can be found at 50 CFR 600, subpart F. The application information is used by various entities, including the National Marine Fisheries Service, U.S. Coast Guard, Regional Fishery Management councils, and Department of State, to determine whether permits should be issued to applicants.

II. Method of Collection

Paper forms are used.

III. Data

OMB Number: 0648–0089.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 25.
Estimated Time Per Response: 1.5 hours for an application for a directed fishery, 2 hours for a joint-venture application, and 45 minutes for a transshipment permit.
Estimated Total Annual Burden Hours:
Estimated Total Annual Cost to Public: $8,800.

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 204(b) of the Magnuson-Steven Fishery Conservation and Management Act provides that foreign nations with fishery agreements with the U.S. may apply for permits to fish, to participate in a joint-venture with U.S. vessels, or to transmit fish or fish products within the U.S. economic zone. The regulations can be found at 50 CFR 600, subpart F. The application information is used by various entities, including the National Marine Fisheries Service, U.S. Coast Guard, Regional Fishery Management councils, and Department of State, to determine whether permits should be issued to applicants.

II. Method of Collection

Paper forms are used.

III. Data

OMB Number: 0648–0089.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 25.
Estimated Time Per Response: 1.5 hours for an application for a directed fishery, 2 hours for a joint-venture application, and 45 minutes for a transshipment permit.
Estimated Total Annual Burden Hours:
Estimated Total Annual Cost to Public: $8,800.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12868 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701D]

Foreign Fishing Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, F/SF4, Room 13304, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2276, ext. 154).

SUPPLEMENTARY INFORMATION:

I. Abstract

Regulations at 50 CFR 600.503 require that foreign fishing vessels that deploy gear that is not physically and continuously attached to the vessel must mark that gear with a buoy displaying the vessel identification number of the vessel and attach a light visible for 2 miles on a night with good visibility. The marking of gear aids law enforcement and enables other fishermen to report on gear placed in unauthorized areas.

There currently are no foreign vessels authorized to do fishing that would be subject to this requirement.

II. Method of Collection

No information is collected.

III. Data

OMB Number: 0648–0354.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 0.
Estimated Time Per Response: 15 minutes per marking.
Estimated Total Annual Burden Hours: 1.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12869 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701E]

Coastal Zone Management Program Administration Grants

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John King, Acting Chief, Coastal Programs Division, NOS, 1305 East-West Highway, Room 11110, Silver Spring, MD 20910 (phone: 301–713–3121, ext. 188).

SUPPLEMENTARY INFORMATION:

I. Abstract

Coastal zone management grants provide funds to states and territories to implement federally approved Coastal Zone Management Programs and to develop assessment documents and multi-year strategies. Paperwork Reduction Act approval is being sought for performance and annual reports, requests for amendments or routine program changes to an approved program, and the submission of program management and assessment/strategy documents.

II. Method of Collection

Information is submitted to respond to requirements detailed in regulations. No forms are used.

III. Data

OMB Number: 0648–0119.

Form Number: None.

Type of Review: Regular submission.

Affected Public: State, local, or tribal government.

Estimated Number of Respondents: 34.

Estimated Time Per Response: 15 hours for a performance report on a state's Coastal Zone Management Program, 27 hours for any other performance report, 800 hours for a program management document, 6 hours for an annual report, 240 hours for an Assessment and Strategy document, 8 hours for an amendment, and 5 hours for documentation related to section 306A of the Coastal Zone Management Act.

Estimated Total Annual Burden Hours: 6,598.

Estimated Total Annual Cost to Public: $250.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12875 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–08–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 001214351–1124–02]

RIN: 0648–ZB02

Dr. Nancy Foster Scholarship Program; Financial Assistance for Graduate Students

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is announcing funding availability for graduate students pursuing masters or doctoral level degrees in oceanography, marine biology, or maritime archaeology through the Dr. Nancy Foster Scholarship Program and is inviting applications for such scholarships. Applicants who have submitted an application for a Dr. Nancy Foster scholarship prior to the publication of this notice should review their applications and submit any revisions or supplemental materials necessary to comply with the application requirements or in recognition of the funding priorities and selection criteria set forth in this notice.

DATES: The Dr. Nancy Foster Scholarship Program application period opened March 26, 2001, 66 FR 16445, and will close June 21, 2001. Applications must be postmarked by the closing date. Scholarship awards will be announced on or about July 19, 2001.

ADDRESSES: Applications should be sent to the Dr. Nancy Foster Scholarship Program, Attention: Office of the Assistant Administrator, 13th Floor, National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910. Copies of form CD–511 may be requested from this address or may be downloaded from the Department of Commerce Web site: http://www.doc.gov. Information on the scholarship program may be obtained from the Web site: http://fosterscholars.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster Scholarship Program, Office of the Assistant Administrator, 13th Floor, National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910 (301–713–3074).

SUPPLEMENTARY INFORMATION: *Authority:* The Dr. Nancy Foster Scholarship Program is authorized by the National Marine Sanctuaries Amendments Act of 2000 (Pub. L. 106–513) to recognize outstanding scholarship in oceanography, marine biology, or maritime archaeology, particularly by women and members of minority groups, and encourage independent graduate-level research through financial support of graduate studies in such fields.

Catalog of Federal Domestic Assistance: This program is listed under CFDA #11.460, titled Special Oceanic and Atmospheric Projects.

Program Description: The Dr. Nancy Foster Scholarship Program provides support for independent graduate-level studies in oceanography, marine biology, or maritime archaeology, particularly by women and members of minority groups. Gender and minority status is not considered when selecting award recipients. However, special outreach efforts are employed to solicit applications from women and minorities. Scholarships are distributed by disciplines, institutions and geography, and by the degree type and level being sought, with selections within distributions based on financial need, the potential for success in a graduate studies program, and the potential for achieving research and career goals. The program is administered through NOAA's National Ocean Service and is funded annually with 1% of the amount appropriated each fiscal year to carry out the National Marine Sanctuaries Act.

Funding Availability: For the 2001–2002 academic year, Dr. Nancy Foster Scholarships may provide support of up to $28,800 per student: a 12-month stipend of $16,800, in addition to a tuition allowance of up to $12,000. A maximum of $57,600 may be provided to masters students (up to two years of support) and up to $115,200 may be provided to doctoral students (up to four years of support). For the 2001–2002 academic year, NOAA expects to award five scholarships. The annual stipend will be paid directly to the scholar. The stipend is intended to defray cost-of-living expenses, and not to support research costs. NOAA anticipates the student and their faculty advisor will secure research funds independent of the scholarship. Tuition and academic fees will be negotiated between the academic institution and the Dr. Nancy Foster Scholarship program manager at NOAA prior to the start of studies. This negotiation is intended to levy scholarship funds and enhance opportunities for scholarship recipients. In those instances in which tuition and academic fees are not totally waived by the academic institution, the tuition allowance in an amount equal to the tuition and fees not waived (but not to exceed $12,000) will be paid directly to the scholar to remittance to the academic institution. If tuition and fees are reduced or waived by the academic institution, then that portion of the tuition allowance not needed (*i.e.*, up to $12,000 in the case of a total waiver) will be retained by NOAA for future scholarships. No money will be paid directly to the student from the tuition allowance for purposes other than the payment of tuition and fees.

Specific instructions regarding the disbursement, management, and reporting requirements for all stipend and tuition allowance payments will be provided at a later date. The awarding of funds beyond the first year will be based on availability of funds, continued eligibility of the student, periodic certification by the academic institution that adequate academic progress is being made, and compliance with applicable reporting requirements. At its discretion, each academic institution may supplement a scholar's stipend from institutional funds in accordance with the supplementation policy of the institution.

Matching Requirements: There are no matching requirements for an award.

Type of Funding Instrument: Grant.

Eligibility Criteria: Only United States citizens currently pursuing or intending to pursue a masters or doctoral level degree in oceanography, marine biology, or maritime archaeology, including the curation, preservation, and display of maritime artifacts, are eligible for an award under this scholarship program. Prospective scholars do not need to be enrolled or admitted to a graduate-level program in order to apply for this scholarship. However, funds will not be released before the applicant is accepted to an accredited institution in the United States with a program emphasis in the areas described above, and certification to that effect has been received by NOAA from that institution. Studies must be conducted on a full-time basis. Recipients of scholarship awards may be employed at the time of the award if it is a requirement of their degree program or directly related to their research effort. Other forms of employment will not be allowed and scholars will be required to submit a letter certifying that they are in compliance with this requirement. Eligibility must be maintained for each succeeding year of support and annual reporting requirements, to be specified at a later date, will apply.

Award Period: This call for applications is for studies beginning in the fall 2001. Stipends will cover a 12 month period. Masters students may be supported for up to two years, and doctoral students for up to four years.

Indirect Costs: No indirect costs will be paid on this award.

Applications: Applications for Dr. Nancy Foster Scholarships are invited. Applications were first invited by **Federal Register** notice on March 26, 2001 (66 FR 16445) with certain needed information only appearing on NOAA's website for the program, http://fosterscholars.noaa.gov. Today's notice contains all necessary information and announces a closing date of June 21, 2001 for the submission of applications. Applicants who submitted an application for a Dr. Nancy Foster scholarship in response to the March 26, 2001, notice should review their applications and submit any revisions or supplemental materials necessary to comply with the application requirements or in recognition of the funding priorities and selection criteria set forth in this notice. Applications and revisions or supplements to applications previously submitted must be postmarked by the closing date. Scholarship awards will be announced on or about July 19, 2001.

Applications: Each application must include these following items:

(I) General Information Sheet

(II) Statement of Intent

(III) Institute Certification (for those applicants who are currently enrolled in a graduate program for which support is requested, or who have received acceptance for fall 2001 enrollment in a graduate program for which support is requested)

(IV) Transcripts

(V) Three Letters of Recommendation

(VI) Declaration

Applicants who have submitted an application for a Dr. Nancy Foster scholarship prior to the publication of this notice should review their applications and submit any revisions or supplemental materials necessary (e.g., Declaration) to comply with the application requirements or in recognition of the funding priorities and selection criteria set forth in this notice.

I. General Information Sheet

Personal Data: Provide your full name, country of citizenship, current address, permanent address, and home and work telephone numbers. If you can be reached by fax or e-mail, include that information. Optional—for statistical collection purposes only: Indicate your gender and whether you are Hispanic or Latino and indicate your race by selecting one or more of the following: American Indian or Alaska Native, Asian, Black or African-American,

Native Hawaiian or Other Pacific Islander, or White.

Degree Sought: State your proposed field of study (oceanography, marine biology or maritime archaeology) and degree type you are seeking (*e.g.*, M.S., M.A., Ph.D). Include the month and year you expect the degree to be awarded. If you have selected a school, state the name and location. If you have not yet selected a school, list your proposed field of study, degree type you are seeking, and state that you have not yet selected a school.

Education: List the academic degrees you have received, or expect to receive by the start of your proposed graduate studies for this program, including the date and institution.

Funding Resources: List all resources you have available to assist you in your graduate studies (e.g., grants, student loans, scholarships).

Publications: If you have published in the technical literature, provide a bibliography. If you have not published, write "NA."

Experience: List relevant experience only (e.g., unpaid employment, military service, internships, residencies, special studies, volunteer work). Give dates and a short description of your duties in each position, starting with the most recent. Include the names, addresses and phone numbers of employers.

II. Statement of Intent

The Statement of Intent is a self-description of your academic, research, and career goals, and how your proposed course of study or research will help you achieve these goals. Include any background information you believe is pertinent, and provide insight into why you have chosen the goals you are pursuing. Provide a descriptive title for your research project if any, or your research area of interest if you do not have a specific research project selected. This statement should demonstrate your organizational, analytical, and written communication skills. The Statement of Intent should be typewritten, single-spaced on a blank piece of paper, and should not exceed one page in length.

III. Institute Certification

For those applicants who are currently enrolled in a graduate program for which support is requested, or who have received acceptance for fall 2001 enrollment in a graduate program for which support is requested, a letter from the institution certifying this must be submitted with your application. The letter should consist of the following information on school letterhead and be signed by a school official: Name and location of the academic institution, the school and department that you currently are attending or plan to attend, and the month and year your studies will begin if you are not currently enrolled. If you have a graduate advisor, list his/her name, address, phone, fax, and e-mail, if available, in the Institute Certification portion of your application. For students not yet accepted to an institution, if selected as an award recipient, a letter from the institution certifying this must be submitted to NOAA before funds can be released.

IV. Transcripts

Provide official transcripts for all previous university/college-level studies.

V. Three Letters of Recommendation

Each application must include three letters of recommendation from individuals who have knowledge of your academic record, research effort, work and/or life experience. Relevant unpaid work, such as internships and volunteer efforts, is applicable. If you have a sponsor or advisor in the program, one of these letters should be from that individual. Letters of recommendation sent apart from the application will not be accepted.

VI. Declaration

Applicants must certify that all statements and information in their applications are true and correct by copying the following on a plain piece of paper, signing it, and including it in their application:

I, the undersigned, declare, under penalty of perjury, that all statements and information in my application are true and correct.

Executed on [insert date]/

Print or Type Name:. _____

Signature:. _____

Funding Priorities: The priority of the program is to fund independent graduate-level studies in oceanography, marine biology, or maritime archaeology with scholarships distributed by disciplines, institutions and geography, and by the degree type and level being sought, with selections within distributions based on financial need, the potential for success in a graduate studies program, and the potential for achieving research and career goals.

Evaluation Criteria: The evaluation criteria and their weights are as follows: a) financial need (30%); b) academic record (25%); c) recommendations (25%); d) organizational, analytical, and written communication skills based on statement of intent (10%); and e) research and career goals and objectives (10%).

Selection Procedures: An advisory panel of experts will review applications based on the evaluation criteria and provide a numerical score for each one. These scores will be used by the selecting official in his/her selection of the recipients of a Dr. Nancy Foster Scholarship. In making final selections, the selecting official will consider availability of funds, distribution of awards across disciplines, institutions and geography, and the degree type and level being sought and will base selections within distributions by score. Therefore, scholarship awards will not necessarily be made to the applications receiving the highest scores.

Announcement of Awards: The names, academic institutions, degrees being sought, research plans, and biographical information of the scholarship awardees will be posted on NOAA's National Ocean Service Web site and may be published in marketing materials developed to advertise the Dr. Nancy Foster Scholarship Program.

Other Requirements:

(1) *Federal Policies and Procedures*—All scholarship recipients are subject to all Federal laws and Federal and DoC policies, regulations, and procedures applicable to Federal financial assistance awards.

(2) *Past Performance*—Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(3) *Preaward Activities*—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs.

(4) *No Obligation for Future Funding*—If an application is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC.

(5) *Delinquent Federal Debts*—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

i. The delinquent account is paid in full,

ii. A negotiated repayment schedule is established and at least one payment is received, or

iii. Other arrangements satisfactory to DoC are made.

(6) *Name Check Review*—A name check will be conducted on the individuals selected for the scholarship. Name checks are intended to reveal if any applicants have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(7) *Recipient Certifications*—All scholarship recipients must submit a completed Form CD–511 (See **ADDRESSES**), "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are provided:

i. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

ii. *Drug-Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

iii. *Anti-Lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

iv. *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

(8) *False Statements*—A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(9) *Classification*—This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). This application has been approved by the Office of Management and Budget (OMB) under control number 0648–0432. Public reporting burden for this collection of information is estimated to average 5 hours for an application and 45 minutes per letter of recommendation. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This document also requires use of a SF–LLL, which has been approved by OMB under control number 0348–0046. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the PRA, unless that collection displays a currently valid OMB control number.

Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

This action has been determined to be not significant for purposes of Executive Order 12866.

Dated: May 15, 2001.

Scott B. Gudes,

Acting Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

[FR Doc. 01–12822 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051601D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service(NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Oversight Committee in June, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Monday, June 4, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the DoubleTree Hotel, 1230 Congress Street, Portland, ME 04102; telephone: (207) 774–5611.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Groundfish Oversight Committee will continue development of management alternatives for Amendment 13 to the Northeast Multispecies Fishery Management Plan. The Committee will review alternatives developed by the Groundfish Plan Development Team and incorporate measures identified over the past year into the management alternatives. While the Committee has been developing measures that fall into three broad approaches - refinements to the status quo, area management, and sector allocation - most of the effort at this meeting will be on refining the status quo option. The Committee will consider alternatives that include possible reductions in days-at-sea allocations and use. Other measures that may be discussed include the use of trip or possession limits, modifications to seasonal and year-round closed areas, changes to gear requirements, and recreational fishing measures. These efforts will lead to development of recommended management alternatives that will be taken to public hearing in the future. Proposed maximum sustainable yield control rules will be reviewed to clarify changes suggested by the Council and the Committee.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 17, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12873 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051601E]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings June 4–11, 2001, in Kodiak, AK.

DATES: The Council's Advisory Panel will begin at 8 a.m., Monday, June 4, and continue through Friday, June 8, 2001. The Scientific and Statistical Committee will begin at 8 a.m. on Monday, June 4, and continue through Wednesday, June 6.

The Council will begin their plenary session at 8 a.m. on Wednesday, June 6, continuing through Monday, June 11, 2001. All meetings are open to the public except executive sessions which may be held during the week at which the Council may discuss personnel issues and/or current litigation.

ADDRESSES: The Advisory Panel will meet at the Kodiak Elks Lodge, 102 Marine Way, Kodiak, AK.

The Scientific and Statistical Committee will meet at the Fishermen's Hall, 503 Marine Way, Kodiak, AK.

The North Pacific Fishery Management Council will meet at the Best Western Kodiak Inn, 236 Rezanof West, Kodiak, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION:

Council: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports:
(a) Executive Director's Report.
(b) State Fisheries Report by Alaska Dept. of Fish and Game.
(c) NMFS Management Report, including updates on halibut subsistence regulations, retention of demersal shelf rockfish, inshore/offshore regulations, and the salmon overfishing definition. (The Council may consider action or direction to staff on any of these subjects if necessary.)
(d) Enforcement and Surveillance reports by NMFS and the U.S. Coast Guard.
(e) Alaska Board of Fisheries Report on halibut local area management plans and halibut subsistence issues; direction to staff if required.
2. Steller sea lion (SSL) measures:
(a) Status reports on research funding, independent scientific review, and report from the Council committees on Reasonable and Prudent Alternatives.
(b) Finalize alternatives for analysis for 2002 fisheries management measures to mitigate fisheries impacts on Steller sea lions.
3. Bering Sea/Aleutian Islands crab rationalization: Review discussion paper on alternatives for analysis and provide direction to staff.
4. Essential Fish Habitat: Report on progress on public scoping meetings.
5. American Fisheries Act:
(a) Final action on a cooperative leasing proposal.
(b) Review and provide direction to staff on report to Congress.
(c) Provide comments on extension of emergency rule for 2001.
(d) Review industry proposal on bycatch measures.
6. Groundfish Programmatic Supplemental Environmental Impact Statement (SEIS): Review and comment to NMFS.
7. Community Purchase of Individual Fishing Quotas: Review discussion paper and industry proposal; provide direction to staff.
8. Community Development Quotas (CDQ): Receive report from CDQ Policy committee; provide direction to staff.
9. Gulf of Alaska Groundfish Rationalization: Review committee report; provide direction to staff.
10. Report on meeting of Regional Fishery Management Council chairmen and on reauthorization of the Magnuson-Stevens Fishery Management and Conservation Act.
11. Staff Tasking: Review current staff tasking and projects to be tasked; provide direction to staff.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Advisory Meetings

Advisory Panel: The agenda for the Advisory Panel will mirror that of the Council listed above, with the exception of the reports under Item 1, and the reports under Item 10.

Scientific and Statistical Committee (SSC): The Scientific and Statistical Committee will address the following issues:

1. Steller sea lion measures listed under item 2 of the Council agenda noted above.
2. Bering Sea/Aleutian Island crab rationalization issues (item 3 on the Council agenda).
3. Essential Fish Habitat Issues (item 4 on the Council agenda).
4. American Fisheries Act Issues (item 5 on the Council agenda).
5. Groundfish Programmatic SEIS (item 6 on the Council agenda).

Other Committee and Workshop Meetings

Ecosystem Committee: The Council's Ecosystem Committee will meet Tuesday evening, June 5, beginning at 6 p.m. at the Kodiak Inn. The Committee will discuss the Groundfish Programmatic SEIS and prepare comments for Council consideration.

Finance Committee: The Council's Finance Committee is tentatively scheduled to meet during the noon hour on Sunday, June 10, to discuss budget issues.

Other committees and workgroups may hold impromptu meetings throughout the meeting week. Such meetings will be announced during regularly scheduled meetings of the Council, Advisory Panel, and SSC, and will be posted at the hotel.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: May 17, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–12874 Filed 5–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Request for Approval of Foreign Government Employment of Air Force Members; OMB Number 0701–0134.

Type of Request: Extension.

Number of Respondents: 144.

Responses per Respondent: 1.

Annual Responses: 144.

Average Burden per Response: 1 hour.

Annual Burden Hours: 144.

Needs and Uses: The purpose of this information collection is to obtain the information needed by the Secretary of the Air Force and the Secretary of State on which to base a decision to approve/disapprove a request to work for a foreign government. This approval is specified by 37 U.S.C., section 908. Respondents are Air Force retired members and certain Reserve members who have gained jobs with a foreign government and who must obtain approval from the Secretary of the Air Force and the Secretary of State. Information, in the form of a letter, includes a detailed description of duty, name of employer, Social Security Number, and statements specifying whether or not the employee will be compensated; declaring if employee will be required or plans to obtain foreign citizenship; declaring that the member will not be required to execute an oath of allegiance to the foreign government; verifying that the member understands that retired pay equivalent to the amount received from the foreign government may be withheld if the member accepts employment with a foreign government before receiving approval. Reserve members must include a request to Inactive Status List Reserve Section (Reserve Section Code RB).

Affected Public: Individuals or Households; Business or Other For-Profit.

Frequency On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 16, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–12828 Filed 5–21–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Air Force Research Laboratory announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms or information technology.

DATES: Consideration will be given to all comments received July 23, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Air Force Research Laboratory, Office of Public Affairs, AFRL/PA, 1864 4th Street, Room 004, Wright-Patterson Air Force Base, OH 45433.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Air Force Research Laboratory, Office of Public Affairs at 937–656–9876.

TITLE: Air Force Research Laboratory Public Awareness Survey.

Needs and Uses: Air Force Research Laboratory has taken on a major effort to educate and communicate to the public contributions the Research Laboratory plays in developing the Air Force of the future. As such, it is imperative the Research Laboratory understands the current level of information the average Air Force member has regarding the laboratory's contributions. With this information, the Air Force Research Laboratory will be better able to develop communication strategies for the Air Force Research Laboratory to employ with the public.

Affected Public: Individuals and households residents (18 years and older) of telephone-equipped households in the U.S. not including Alaska and Hawaii.

Annual Burden Hours: 36.75.

Number of Respondents: 882 Called by phone.

Responses per Respondent: 1.

Average Burden per Response: 5 Minutes.

Frequency: At 2-year intervals.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This survey will serve multiple purposes. It will gauge the American public's awareness of, familiarity with, attitudes about and feelings toward the Air Force Research Laboratory. It will also gauge where the American public would go for information regarding the Air Force Research Laboratory. The survey asks what they currently know about the laboratory and notes some discoveries and projects the lab has worked and whether these are familiar to the American public or not. The survey also asks if they are familiar with the publications and products of the laboratory and asks how satisfied they are with these products. The survey will allow for comparisons of data to better target communication efforts to effectively communicate Air Force Research Laboratory information to the public. Findings from these surveys of the civilian population also will be compared with similar data to be gathered from the internal Air Force population at approximately the same time, providing a valuable head-to-head comparison of civilians' and Air Force people's perceptions of what the Air Force Research Laboratory does.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12853 Filed 5–21–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office

of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 23, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 16, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.
Title: Interim Performance Report for 1st Year Title V Grantees and Interim Performance Report for Title V Grantees.
Frequency: Annually.
Affected Public: Not-for-profit institutions.
Reporting and Recordkeeping Hour Burden

Responses: 150.
Burden Hours: 900.
Abstract: Title V of the Higher Education Act (HEA), provides a discretionary grant program that makes competitive awards to Hispanic-Serving Institutions to assist these institutions of higher education to expand their capacity to serve Hispanic and low-income students. Grantees annually submit a performance report to demonstrate that substantial progress is being made towards meeting the objectives of their project. The Interim Performance Report will be the first of a series of Title V performance reports tailored to strengthen the Department of Education's program-monitoring efforts, enhance customer service, and reduce the overall paperwork burden on grantees.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12797 Filed 5–21–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 21, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 16, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.
Title: Application Kit for New Grants under the Rehabilitation Services Administration (RSA).
Frequency: Annually.
Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden

Responses: 1,000.
Burden Hours: 40,000.
Abstract: Vocational rehabilitation "Federal Assistance" Discretionary Grant Application Forms and Instruction for Rehabilitation Programs on behalf of Individuals with Disabilities are required so that all applications are completed in accordance with specific and unique program requirements.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila.Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12798 Filed 5–21–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1928–000]

Central Maine Power Company; Notice of Filing

May 15, 2001.

Take notice that on May 2, 2001, Central Maine Power Company (CMP), tendered for filing as an initial rate schedule pursuant to section 35.12 of the Federal Energy Regulatory Commission's (the Commission) regulations, 18 CFR 35.12, (i) an unexecuted Form of Service Agreement for Non-Firm Local Point-to-Point Transmission Service between CMP and S.D. Warren Company (S.D. Warren), and (ii) an unexecuted Form of Service Agreement for Non-Firm Local Point-to-Point Transmission Service between CMP and Engage Energy America LLC (Engage), designated as Original Service Agreements 123 and 124, respectively, to CMP's FERC Electric Tariff, Fifth Revised Volume No. 3.

CMP is requesting that these unexecuted transmission service agreements become effective March 30, 2001.

Copies of this filing have been served upon the Commission, the Maine Public Utilities Commission, S.D. Warren, and Engage.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 23, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12787 Filed 5–21–01; 8:45 am]

BILLING CODE 5717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–415–000]

El Paso Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

May 16, 2001.

Take notice that on May 11, 2001, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, with an effective date of June 1, 2001:

Fourth Revised Sheet No. 117
Third Revised Sheet No. 314

El Paso states that the tariff sheets are being filed to revise the Billing Determinant for El Paso Electric Company to 37,318 dth per day and to revise the related revenue crediting threshold.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be field in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12781 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1738–000]

Idaho Power Company; Notice of Filing

May 16, 2001.

Take notice that on May 2, 2001, Idaho Power Company tendered for filing a Notice of Withdrawal of its rate filing of a Firm and Non-Firm Point to Point Transmission Service Agreement with Merchant Energy Group of the Americas, under Idaho Power Company's FERC Electric Tariff, First Revised Volume No. 5, Open Access Transmission Tariff.

Any person desiring to be heard or to protest such filing should file a motion of intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 23, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12786 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–292–001]

Mississippi River Transmission Corporation; Notice of Compliance Filing

May 16, 2001.

Take notice that on May 11, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of May 1, 2001.

Second Revised Sheet No. 226A
First Revised Sheet No. 258

MRT states that the purpose of this filing is to comply with the Commission's order issued April 27, 2001 in Docket No. RP01–292–000. MRT is correcting pagination errors as directed by the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12777 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–506–005]

Northwest Pipeline Corporation; Notice of Compliance Filing

May 16, 2001.

Take notice that on May 10, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective February 25, 2001:

2nd Substitute Eighth Revised Sheet No. 24
2nd Substitute Fifth Revised Sheet No. 259
2nd Substitute First Revised Sheet No. 278–C

Northwest states that the purpose of this filing is to comply with the Commission's order dated April 25, 2001 in Docket Nos. RP00–506–003 and RP00–506–004 directing Northwest to file revised tariff sheets to remove the proposed restrictions for reductions of maximum daily quantities (MDQs) and maximum daily delivery obligations (MDDOs) at individual receipt and delivery points in the event of a partial capacity turnback.

Northwest states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before June 4, 2001.

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12782 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–79–000]

NSTAR Electric & Gas Corp., Complainant, v. Sithe Edgar LLC, Sithe New Boston LLC, Sithe Framingham LLC, Sithe West Medway LLC, Sithe Mystic, PG&E Energy Trading, Respondents; Notice of Complaint

May 16, 2001.

Take notice that on May 14, 2001, NSTAR Electric & Gas Corporation filed a Complaint against suppliers within the Northeastern Massachusetts Area alleging the existence of unmitigated market power during period transmission congestion.

Copies of said filing have been served upon NEPOOL Participants, the ISO New England, Inc., as well as upon the utility regulatory agencies of the six New England States.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before June 4, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before June 4, 2001.

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12778 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–426–004]

Texas Gas Transmission Corporation; Notice of Negotiated Rate

May 16, 2001.

Take notice that on May 11, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective May 11, 2001.

First Revised Sheet No. 40

Texas Gas states that the purpose of this filing is to reflect the new negotiated rate/non-conforming contract in its tariff as required Section 154.112(b) of the Commission's regulations and as directed by Commission Letter Order dated April 27, 2001.

Texas Gas states that copies of the revised tariff sheet is being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12779 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–314–001]

Williston Basin Interstate Pipeline Company; Notice of Compliance Tariff Filing

May 16, 2001

Take notice that on May 11, 2001, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the compliance tariff sheets listed on Appendix A to the filing, to become effective May 1, 2001.

Williston Basin states that on April 27, 2001, the Commission issued its "Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions and Denying Request for Waiver, (Order)" in the above referenced docket. That Order accepted Williston Basin's proposed park and loan service subject to Williston Basin making a compliance filing to address the conditions of the Order. The instant filing is being made in compliance with the provisions of that Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12780 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–1997–001; ER97–3189–030; ER98–1569–004; ER00–1014–001]

PPL Electric Utilities Corporation; Notice of filing

May 15, 2001

Take notice that on May 10, 2001, PPL Electric Utilities Corporation (PPL) tendered for filing a letter stating that PPL will not be filing the requested effective tariff in accordance with the Commission's letter order on April 13, 2001. The April 13, 2001 letter order directed PPL to file the effective tariff language for a settlement offer filed on March 9, 2001 with Allegheny Electric Cooperative (Allegheny), in accordance with Order No. 614. The subject settlement offer does not contain effective tariff language to be filed in a PPL Electric rate schedule. Rather, the settlement contains specific commitments with regard to the disposition of disputes that were outstanding with Allegheny and with regard to future actions not affecting current jurisdictional service.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 31, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12783 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1989–001]

Southwest Power Pool, Inc.; Notice of Filing

May 15, 2001.

Take notice that on May 10, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing a supplement to the tariff changes submitted on May 7, 2001, in Docket No. ER01–1989–000.

Copies of this filing have been served on all affected state commission, SPP customers, and SPP members.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12784 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FERC Docket Nos. CP01–22–000 and CP01–23–000; CSLC EIR No. 703; State Clearinghouse No. SCH2001011020; BLM Reference No. CACA–42662]

North Baja Pipeline, LLC; Supplement to the Notice of Intent/Preparation to Prepare a Joint Environmental Impact Statement/Report for the Proposed North Baja Pipeline Project and Request for Comments on Environmental Issues Related to the Bureau of Land Management's Consideration of an Amendment to the Yuma Resource Management Plan

May 16, 2001.

On December 12, 2000, the Federal Energy Regulatory Commission (FERC or Commission) and the California State Lands Commission (CSLC) issued a Notice of Intent/Preparation (NOI/NOP) to jointly prepare an environmental impact statement/report (EIS/EIR) that will discuss the environmental impacts of North Baja Pipeline, LLC's (NBP) proposed North Baja Pipeline Project in La Paz County, Arizona, and Riverside and Imperial Counties, California. The FERC will be the lead Federal agency in the preparation of the EIS/EIR while the CSLC will be the State Lead Agency for California. The joint document will satisfy the requirements of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act.

The North Baja Pipeline Project would involve the construction and operating of a new 18,810-horsepower compressor station in La Paz County, Arizona, and about 80.0 miles of 36- and 30-inch-diameter pipeline extending from an interconnection with El Paso Natural Gas Company in La Paz County, Arizona, through Riverside and Imperial Counties, California, to an interconnection at the international border between the United States and Mexico. A total of 48.2 miles of the proposed pipeline and one new meter station would be on lands managed by the Bureau of Land Management (BLM) under the jurisdiction of the Palm Springs, El Centro, and Yuma Field Offices. The BLM has agreed to meet its NEPA responsibilities in considering NBP's application to cross these Federal lands by participating as a cooperating agency in the preparation of the EIS/EIR.

The December 12, 2000 NOI/NOP stated that the BLM will use the EIS/EIR to consider a plan amendment, which may be necessary for pipeline construction outside of the designated utility corridors as described in the California Desert Conservation Area Plan, 1980 (as amended). The BLM has recently informed us that it will also use the EIS/EIR to consider an amendment to the Yuma Resource Management Plan (RMP), which may be necessary for pipeline construction across the Milpitas Wash Special Management Area.

By this notice, we [1] are specifically seeking public comments on the BLM's consideration of an amendment to the Yuma RMP. This supplemental NOI/NOP does not reopen the general scoping period for the EIS/EIR. Please carefully follow the instructions below to ensure that your comments are received in time and properly recorded.

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Reference Docket No. CP01–22–000;
- Label one copy of you comments for the attention of the Gas Group 1, PJ–11.1;
- Send an additional copy of your letter to the following individual: Goodyear K. Walker, California State Lands Commission, 100 Howe Ave., . Suite 100 South, Sacramento, CA 95825;
- Mail your comments so that they will be received in Washington, DC on or before June 18, 2001.

Comments, protests and interventions may also be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website at *http://www.ferc.fed.us/efi/doorbell.htm* under the link to the User's Guide. Before you can file comments you will need to create an account by clicking on "Login to File" and then "New User Account."

Availability of Additional Information

Additional information abut the proposed project is available from the Commission's Office of External Affairs at (202)208–1088 or on the FERC website (*www.ferc.fed.us*) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders,

[1] "We," "us," and "our" refer to the staff of the FERC's Office of Energy Projects and the CSLC.

notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS Menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Information concerning the involvement of the CSLC in the EIS/EIR process may be obtained from Kirk Walker, EIR Project Manager, at (916) 574–1893, or on the California State Lands website at http://www.slc.ca.gov.

Information concerning the involvement of the BLM in the EIS/EIR process may be obtained from Lynda Kastoll, Project Manager at (760) 337–4421, or on the BLM website at *http://www.ca.blm.gov/elcentro*.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12788 Filed 5–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

May 16, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Minor License.

b. *Project No.:* 3410–009.

c. *Date Filed:* April 30, 2001.

d. *Applicant:* Woods Lake Hydro Company.

e. *Name of Project:* Woods Lake Hydro Project.

f. *Location:* On Lime Creek, a tributary of Frying Pan River, in Eagle County, Colorado. The project occupies 2.73 acres of federal lands within the White River National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Kenneth M. Knight, Woods Lake Hydro Company, P.O. Box 11175, Aspen, Colorado (970) 925–8854.

i. *FERC Contact:* Gaylord W. Hoisington, (202) 219–2756 or *gaylord.hoisington@FERC.fed.us*.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Comments, protests, interventions and additional study requests may be filed electronically via the internet in lieu of papers. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on the resource agency.

k. This application is not ready for environmental analysis at this time.

l. The existing Woods Lake Project consists of: (1) A 37.3-foot-long, 6-foot-high overflow-type gravity dam; (2) a reservoir having a surface area of 0.018 acre and a storage capacity of 0.09 acre-foot of storage capacity; (3) a gated and screened intake structure; (4) a gated 15-inch 630-foot-long PVC pipeline penstock; (5) a powerhouse containing a generating unit having an installed capacity of 45-kilowatts; (6) a short 24-inch-diameter CMP tailrace pipe; (7) a 1.02-mile-long transmission line; and (8) a switch gear, power controls, breaker boxes switches, meters, transformers, and other appurtenant facilities. The applicant estimates that the total average annual generation would be 98,640 kilowatt-hours. All generated power is utilized within the applicant's existing electric utility system.

m. A copy of the application is available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the *Colorado State Historic Preservation Officer (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which be combined to expedite processing:

Notice of application has been accepted for filing
Notice of NEPA Scoping (unless scoping has already occurred)
Notice of application is ready for environmental analysis
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Ordering issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

David P. Boergers,

Secretary.

[FR Doc. 01–12785 Filed 5–2–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[WH–FRL–6982–3]

Meeting of the Arsenic Cost Working Group of the National Drinking Water Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under section 10(a)(2) of Public Law 92–423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of Arsenic Cost Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on May 29 and May 30, 2001, from 8:30 a.m.–5:00 p.m. Eastern Time, at RESOLVE, 1255 23rd Street, NW., Suite 275, Washington, DC. The meeting is open to the public, but from past experience, seating will likely be limited.

Following the January 22, 2001 **Federal Register** promulgation of the arsenic rule, a number of concerns were raised to EPA by States, public water systems, and other stakeholders regarding the adequacy of science and the basis for national cost estimates underlying the rule. Because of the importance of the arsenic rule and the national debate surrounding it related to science and costs, EPA's Administrator publicly announced on March 20, 2001, that the Agency would take additional steps to reassess the scientific and cost issues associated with this rule and seek further public input on each of these important issues.

The purpose of this meeting is to bring nationally recognized technical experts together to review the cost of compliance estimates associated with the final arsenic in drinking water rule. The meeting is open to the public to observe. The working group members are meeting to: (1) Gather information; and (2) analyze relevant issues and facts. Statements from the public will be taken if time permits.

For more information, please contact Amit Kapadia, Acting Designated Federal Officer, Arsenic Cost Working Group, U.S. EPA, Office of Ground Water and Drinking Water, Mailcode 4607, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Phone number: (202)–260–1688. E-mail: kapadia.amit@epa.gov.

Dated: May 14, 2001.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 01–12879 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00439K; FRL–6785–3]

Pesticide Program Dialogue Committee (PPDC); Inert Disclosure Stakeholder Workgroup; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a conference call meeting of the Inert Disclosure Stakeholder Workgroup. The workgroup was established to advise the Pesticide Program Dialogue Committee on ways of making information on inert ingredients more available to the public while working within the mandates of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and related Confidential Business Information concerns.

DATES: The meeting will be held by conference call on Tuesday, May 22, 2001, from noon to 3 p.m. eastern standard time.

ADDRESSES: Members of the public may listen to the meeting discussions on site at: Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; Conference Room 1123. Seating is limited and will be available on a first come first serve basis.

FOR FURTHER INFORMATION CONTACT: By mail: Cameo Smoot, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone: (703) 305–5454. Office location: 11th floor, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; e-mail: smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general and to persons interested in the availability of public information regarding inert or "other" ingredients in pesticide products regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The Inert Disclosure Stakeholder Workgroup was established to advise the United States Environmental Protection Agency, through the Pesticide Program Dialogue Committee (PPDC), on potential measures to increase the availability to the public of information about inert ingredients (also called "other ingredients") under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Among the factors the workgroup has been asked to consider in preparing its recommendations are: Existing law regarding inert ingredients and Confidential Business Information (CBI); current Agency processes and policies for disseminating inert ingredient information to the public, including procedures for the protection of CBI; informational needs for a variety of stakeholders; and business reasons for limiting the disclosure of inert ingredient information.

The Inert Disclosure Stakeholder Workgroup is composed of participants from the following sectors: environmental/public interest and consumer groups; industry and pesticide users; Federal, State and local governments; the general public; academia and public health organizations.

The Inert Disclosure Stakeholder Workgroup meeting is open to the public. Written public statements are also welcome and should be submitted to the OPP administrative docket OPP–00439A. Any person who wishes to file a written statement can do so before or after the conference call. These statements will become part of the permanent file and will be provided to the workgroup members for their information. If you have any questions about the workgroup, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.For general background information about the Inert Disclosure Stakeholder Workgroup, its mission and a list of its members, go to http://www.epa.gov/pesticides/ppdc/inert/.

2. *In person.* The Agency has established an administrative record for this workgroup under docket control number OPP–00439. The administrative record consists of the workgroup documents including discussion papers, meeting agenda, as well as comments submitted to the workgroup by members of the public. This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00439A in the subject line on the first page of your correspondence.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00439A. Electronic comments may also be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Pesticides, Inerts, PPDC.

Dated: May 11, 2001.

Joseph J. Merenda,

Acting Director, Office of Pesticide Programs.

[FR Doc. 01–12881 Filed 5–17–01 5:06 pm]

BILLING CODE 6560–50–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 5, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Howard Ray Sanders, Owensboro, Kentucky; to acquire additional voting shares of First Security, Inc., Owensboro, Kentucky, and thereby indirectly acquire additional voting shares of First Security Bank, Owensboro, Kentucky.

Board of Governors of the Federal Reserve System, May 16, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12807 Filed 5–21–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc.01-11464) published on pages 23255 and 23256 of the issue for Tuesday, May 8, 2001.

Under the Federal Reserve Bank of Richmond heading, the entry for BB&T Corporation, Winstom-Salem, North Carolina, is revised to read as follows:

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with F&M National Corporation, Winchester, Virginia, and thereby indirectly acquire F&M Bank-Maryland, Bethesda, Maryland; F&M Bank-Central Virginia, Charlottesville, Virginia; F&M Bank-Highlands, Covington, Virginia; F&M Bank-Southern Virginia, Emporia, Virginia; F&M Bank-Northern Virginia, Fairfax, Virginia; F&M Bank-Atlantic, Gloucester, Virginia; F&M Bank-Massanutten, Harrisonburg, Virginia; F&M Bank-Richmond, Richmond, Virginia; F&M Bank-Peoples, Warrenton, Virginia; F&M Bank-Winchester, Winchester, Virginia; and F&M Bank-West Virginia, Ranson, West Virginia. Applicant also has applied to acquire up to 9 percent of F&M Corporation.

In connection with this application, Applicant also has applied to acquire F&M Trust Company, Winchester, Virginia, and thereby engage in trust company activities, pursuant to § 225.28(b)(5) of Regulation Y, and Johnson Mortgage Company, LLC, Newport News, Virginia, and thereby engage in mortgage banking activities, pursuant to § 225.28(b)(1) of Regulation Y.

Comments on this application must be received by June 1, 2001.

Board of Governors of the Federal Reserve System, May 16, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12805 Filed 5–21–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Timberland Bancshares, Inc., El Dorado, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of Timberland Bank, El Dorado, Arkansas.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Sterling Bancsharaes, Inc., Houston, Texas; to merge with Lone Star Bancorporation, Inc., Houston, Texas, and thereby indirectly acquire voting shares of Lone Star Bancorporation of Delaware, Inc., Wilmington, Delaware, and Lone Star Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, May 16, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12806 Filed 5–21–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 5, 2001.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Banco Bradesco S.A., Osasco, Brazil; to engage *de novo* through its subsidiary, Bradesco Securities, Inc., New York, New York, in financial and investment advisory activities and securities brokerage and riskless principal services, pursuant to §§ 225.28(b)(6)(ii), (iii) and (iv) and 225.28(b)(7)(i) and (ii) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Hancock Holding Company, Gulfport, Mississippi, to acquire Lamar Data Solutions, Inc., Purvis, Mississippi, and thereby engage in data processing and transmission services for financial institutions, pursuant to section 225.28(b)(14)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, May 16, 2001

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12804 Filed 5–21–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Tuesday, May 29, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 18, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–13074 Filed 5–18–01; 3:59 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission ("FTC").

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"). The FTC is seeking public comments on its proposal to extend through September 30, 2004 the current PRA clearance for information collection requirements contained in its Used Motor Vehicle Trade Regulation Rule ("Used Car Rule" or "Rule"). That clearance expires on September 30, 2001.

DATES: Comments must be submitted on or before July 23, 2001.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned "Used Car Rule: Paperwork comment."

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 East Monroe, Suite 1860, Chicago, Illinois 60603, (312) 906–5634.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the Used Car Rule, 16 CFR part 455 (OMB Control Number 3084–0108).

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Used Car Rule facilitates informed purchasing decisions by consumers by requiring used car dealers to disclose information about warranty coverage, if any, and the mechanical condition of used cars they offer for sale. The Rule requires that used car dealers display a Buyers Guide that, among other things, discloses information about warranty coverage on each used care offered for sale.

Burden Statement

Estimated total annual hours burden: 1,925,000 hours.

The Rule has no recordkeeping requirements. The estimated burden relating solely to disclosure is 1,925,000 hours. This estimate is based on the number of used car dealers (approximately 80,000[1]), the number of used cars sold by dealers annually (approximately 30,000,000[2]), and the time needed to fulfill the information collection tasks required by the Rule.[3] Staff retains its prior annual burden estimate as the changes in the approximate number of dealers and used cars they sold are marginal.[4]

The Rule requires that used car dealers display a one-page, double-sided Buyers Guide in the window of each used car they offer for sale. The component tasks associated with this requirement include: (1) Ordering and stocking Buyers Guide forms; (2) entering applicable data on Buyers Guides; (3) posting the Buyers Guides on vehicles; and (4) making any necessary revisions in Buyers Guides.

Dealers should need no more than an average of one hour per year to obtain Buyers Guide forms, which are readily available form many commercial printers or can be produced by an office word-processing or desk-top publishing system. Based on a universe of 80,000 dealers, the annual hours burden for producing or obtaining and stocking Buyers Guides is 80,000 hours.

For used cars sold "as is," copying vehicle-specific data from dealer inventories to the Buyers Guide forms and checking off the "no warranty" box may take up to two minutes per vehicle if done by hand, and only seconds for those dealers who have automated the process. Staff conservatively assumes that this task, on average, will require 1.5 minutes. For used cars sold under warranty, checking off the warranty box and adding warranty information may take an additional one minute, i.e., 2.5 minutes. Based on input from industry sources, staff estimates that approximately 60% of used cars sold by dealers are sold "as is," with the remainder sold under warranty. Thus, staff estimates the time required to enter data for used cars sold without warranty is 450,000 hours (30,000,000 X 60% X 1.5 minutes ÷ 60 minutes/hour) and 500,000 hours for used cars sold under warranty (30,000,000 X 40% X 2.5 minutes ÷ 60 minutes/hour), for an overall total of 950,000 hours.

Although the time required to post the Buyers Guides on each used car may vary substantially, FTC staff estimates that, on average, dealers will spend 1.75 minutes per vehicle to match the correct Buyers Guide to the vehicle and place it in or on the vehicle. For the 30,000,000 vehicles sold, the burden associated with this task is 875,000 hours. To the extent dealers are able to integrate this process into other activities performed in their ordinary course of business, this estimate likely overstates the actual burden.

If negotiations between buyer and seller over warranty coverage produce a sale on terms other than those originally entered on the Buyers Guide, the dealer must revise the Guide to reflect the actual terms of sale. According to the rulemaking record, bargaining over warranty coverage rarely occurs. Allowing for revision in 2% of sales, at two minutes per revision, staff estimates that dealers will spend 20,000 hours annually revising Buyers Guides.

Estimated annual cost burden: $28,250,000, consisting of $19,250,000 in labor costs and $9,000,000 in non-labor costs.

Labor costs: Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Staff has determined that all of the tasks associated with ordering forms, entering data on Buyers Guides, posting Buyers Guides on vehicles, and revising them as needed are typically done by clerical or low-level administrative personnel. Using a clerical cost rate of $10 per hour and an estimate of 1,925,000 burden hours for disclosure requirements, the total labor cost burden would be approximately $19,250,000.

Capital or other non-labor costs: The cost of the Buyers Guide form itself is estimated to be 30 cents per form, so that forms for 30 million vehicles would cost dealers $9,000,000. In making this estimate, staff conservatively assumes that all dealers will purchase preprinted forms instead of producing them internally, although dealers may produce them at minimal expense using current office automation technology. Capital and start-up costs associated with the Rule are minimal.

John D. Graubert,

Acting General Counsel.

[FR Doc. 01–12826 Filed 5–21–01; 8:45 am]

BILLING CODE 6750–01–M

[1] The Used Car Market Report 2001 ("Manheim Market Report"), p. 24, published by Manheim Auctions, 1400 Lake Hearn Drive NE, Atlanta, Georgia 30319, citing NADA, CNW Marketing Research. Prior issues of The Used Car Market Report were published by ADT Automotive. The Manheim Market Report reports the number of dealerships in 2000 as 77,750 online at: *http://www.manheimauctions:com/HTML/ucmr/dealership1.htm1#*. For rounding purposes, staff retains its prior estimate of 80,000.

[2] Manheim Market Report, p. 15. The Manheim Market Report estimates the number of used cars sold by dealers in 2000 as 29,800,000. For rounding purposes, staff retains its prior estimate of 30,000,000.

[3] A relatively small number of dealers opt to contract with outside companies to perform the various tasks associated with complying with the Rule. Staff assumes that outside contractors would require about the same amount of time and incur similar cost as dealers to perform these tasks. Accordingly, the hour and cost burden totals shown, while referring to "dealers," incorporate the time and cost borne by outside companies in performing the tasks associated with the Rule.

[4] See notes 1 and 2.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects 1. National Centers of Excellence in Women's Health; supplemental Community Survey—NEW—The Office on Women's Health (OWH) is currently conducting a study

of patient satisfaction and service utilization to assess the National Centers of Excellence in Women's Health program. This proposed collection of information would survey women in three communities with a Center of Excellence in Women's Health (CoE), to compare the data with CoE patient data and national benchmark data. The information will be used to inform the analysis conducted for the CoE study. *Respondents:* Individuals; *Number of Respondents:* 600; *Frequency of Response:* one time; *Burden per Response:* 15 minutes; *Total Burden:* 150 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Written comments should be received within 60 days of this notice.

Dated: May 9, 2001.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01–12776 Filed 5–21–01; 8:45 am]

BILLING CODE 4150–33–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program: Addition of Pneumococcal Conjugate Vaccines to the Vaccine Injury Table

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: Through this notice, the Secretary announces that pneumococcal conjugate vaccines are now covered vaccines under the National Vaccine Injury Compensation Program (VICP), which provides a system of no-fault compensation for certain individuals who have been injured by covered childhood vaccines. This notice serves to include pneumococcal conjugate vaccines under Category XIII (new vaccines) of the Vaccine Injury Table (Table), which lists the vaccines covered under the VICP. This notice ensures that petitioners may file petitions relating to pneumococcal conjugate vaccines with the VICP even before such vaccines are added as a separate and distinct category to the Table through rulemaking.

DATES: This Notice is effective on May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Geoffrey Evans, Medical Director, Division of Vaccine Injury Compensation, BHPr, HRSA, Parklawn Building, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number (301) 443–4198.

SUPPLEMENTARY INFORMATION: The statute authorizing the VICP provides for the inclusion of additional vaccines in the VICP when they are recommended by the CDC to the Secretary for routine administration to children. (See section 2114(e)(2) of the Public Health Service (PHS) Act, 42 U.S.C. 300aa–14(e)(2).) Consistent with section 13632(a)(3) of Pub. L. 103–66, the regulations governing the VICP provide that such vaccines will be included in the Table as of the effective date of an excise tax to provide funds for the payment of compensation with respect to such vaccines. (42 CFR 100.3(c)(4)).

The two prerequisites for adding pneumococcal conjugate vaccines to the VICP as covered vaccines as well as to the Table have been satisfied. First, on December 17, 1999, the excise tax for pneumococcal conjugate vaccines was enacted by Pub. L. 106–170, the Ticket to Work and Work Incentives Improvement Act of 1999, with an effective date of December 18, 1999. Section 523 of this Act provides that all conjugate vaccines against streptococcus pneumoniae (pneumococcus) are added to section 4132(a)(1) of the Internal Revenue Code of 1986, which defines all taxable vaccines. Second, the CDC published its recommendation that pneumococcal conjugate vaccines be routinely administered to children up to 23 months of age in the October 6, 2000, issue of the Morbidity and Mortality Weekly Report.

Under the regulations governing the VICP, Item XIII of the Table specifies that "[a]ny new vaccine recommended by the [CDC] for routine administration to children, after publication by the Secretary of a notice of coverage" is a covered vaccine under the Table. (42 CFR 100.3(a), Item XIII.) As explained above, CDC's recommendation has been made. This Notice serves to satisfy the regulation's publication requirement. Through this notice, pneumococcal conjugate vaccines are now included as covered vaccines under Category XIII of the Table. Because the CDC only recommended pneumococcal conjugate vaccines to the Secretary for routine administration to children, polysaccharide-type pneumococcal vaccines are not covered under the VICP or included on the Table.

Under section 2114(e) of the PHS Act, as amended by section 13632(a) of the Omnibus Budget Reconciliation Act of 1993, a revision to the Table adding a vaccine recommended by the CDC for routine administration to children shall take effect upon the effective date of the tax enacted to provide funds for compensation with respect to the vaccine added to the Table. Thus, pneumococcal conjugate vaccines are included in the Table under Category XIII with an effective date of December 18, 1999. Petitioners may file petitions related to pneumococcal conjugate vaccines as of May 22, 2001.

The Secretary plans to amend the Table through the rulemaking process by including pneumococcal conjugate vaccines as a separate category of vaccines in the Table. December 18, 1999, will remain the applicable effective date when the Secretary makes a corresponding amendment to add pneumococcal conjugate vaccines as a separate category on the Table through rulemaking.

Dated: May 15, 2001.

Elizabeth James Duke,

Acting Administrator.

[FR Doc. 01–12808 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–31–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Alaska Air Carrier Operator and Pilot Survey—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

There is evidence that a disproportionate number of all U.S. aircraft crashes occur in Alaska. Between 1990–1998 there were 823 commuter and air taxi crashes in the U.S., of which 229 (28 percent) were fatal, resulting in 653 deaths. Alaska accounted for 304 (37 percent) of the total crashes, 49 of which were fatal (21 percent of the U.S. fatal crashes), resulting in 131 deaths (20 percent of all U.S. deaths) (NTSB Aviation Accident Database, 1999). Aviation crashes are now the leading cause of occupational fatalities in Alaska.

To address this compelling occupational issue in Alaska, Congress supported implementation of a federal initiative to reduce aviation-related injuries and fatalities. The initiative is a three-year commitment led by a partnership of four federal agencies who share an interest in promoting aviation safety and preventing aircraft crashes—the Federal Aviation Administration (FAA), the National Transportation Safety Board (NTSB), National Weather Service (NWS), and the National Institute for Occupational Safety and Health (NIOSH). The purpose of this joint initiative is to reduce the number of aircraft crashes and deaths, and promote aviation safety within the air transportation industry in Alaska.

This initiative complements another federal/industry initiative to reduce aviation fatalities—the Capstone Program. The Capstone Program, currently implemented in the Bethel, Alaska area includes installation of improved avionics in aircraft used in FAR part 135 operations, an improved ground infrastructure for weather information, data link communications and Flight Information Services, and the development of new GIS-based non-precision instruction approaches at remote airports.

As part of these initiatives, air carrier operators and pilots will be surveyed to obtain information on what they perceive are the risks and hazards contributing to aircraft accidents in Alaska, their opinion about current safety programs, and what they think could be done to improve aviation safety. This information will be analyzed to identify common risk factors, compare them to risk factors identified from analysis of accident reports and published literature, and assess the effectiveness of current and new potential safety interventions. These findings will be useful to Alaska's air transportation industry for trend information to evaluate interventions.

To reduce the total respondent burden and increase efficiency in data collection, we are coordinating and combining the information gathering process for both the joint initiative and a safety study of the Capstone initiative into one effort. The joint initiative will conduct two statewide surveys:

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Operators Survey	200	1	30/60
Capstone Questions for Capstone area Operators	30 (subset of 200)	1	15/60
Pilot Survey	400	1	30/60
Capstone Questions for Capstone area Pilots	50 (subset of 400)	1	15/60
Capstone Pilots not in AIASI Survey	100	1	30/60
Follow-up survey of Operators	200	1	30/60
Follow-up survey of Pilots	400	1	60

Approximately 400 participants in the air carrier operator survey and 500 participants in the pilot survey. The Capstone safety study will add questions to both surveys for respondents in the implementation area, and in addition will continue to survey pilots using Capstone equipment for the duration of that program (through fall 2002). Follow up surveys to assess the effectiveness of the implementation measures would re-survey approximately half of the original statewide sample: about 200 air carrier operators and 250 pilots.

We will use the results of the initial statewide surveys to (1) recommend ways to improve air transportation safety; (2) identify measures to put the recommendations into effect; and (3) guide the ongoing research. Follow up surveys will assess the effectiveness of the program and identify potential improvements. We will use the results of the Capstone study surveys to assess the effectiveness of that program and to recommend improvements. The information can be obtained only from the respondents, as it requests information on skills, knowledge, attitudes, and business practices for which no other source is available. The total annual burden for this collection is 670 hours.

Dated: May 10, 2001.

Nancy E. Cheal,

Acting Associate Direct for Policy Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12773 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–35–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

National Disease Surveillance Program—I. Case Reports (0920–0009)—Extension—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). Formal surveillance of 22 separate reportable diseases has been ongoing to meet the public demand and scientific interest for accurate, consistent, epidemiologic data. These ongoing diseases include: Bacterial meningitis,

dengue, hantavirus, HIV/AIDS, Idiopathic CD4+T-lymphocytopenia, Kawasaki syndrome, Legionellosis, lyme disease, malaria, Mycobacterium avium Complex Disease, plague, Reye Syndrome, tick-borne Rickettsial Disease, toxic shock syndrome, toxocariasis, trichinosis, typhoid fever, and viral hepatitis. Case report forms enable CDC to collect demographic, clinical, and laboratory characteristics of cases of these diseases. This information is used to direct epidemiologic investigations, to identify and monitor trends in reemerging infectious diseases or emerging modes of transmission, to search for possible causes or sources of the diseases, and to develop guidelines for the prevention of treatment. It is also used to recommend target areas in most need of vaccinations for certain diseases and to determine development of drug resistance.

Because of the distinct nature of each of the diseases, the number of cases reported annually is different for each. The total annualized burden is 34,038 hours (131,307 × .259225).

Respondents	Number of respondents	Number of responses per respondent	Average burden respondent (in hours)
Health care workers	55	131,307	0.259225

Dated: May 10, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation Centers for Disease Control and Prevention.

[FR Doc. 01–12774 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01132]

American Indian/Alaska Native Core Capacity Building Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for American Indian/Alaska Native (AI/AN) Core Capacity Building Programs. This program addresses the "Healthy People 2010" focus areas of Maternal, Infant, and Child Health, Cancer, Heart Disease and Stroke, Diabetes, Human Immunodeficiency Virus (HIV), and Immunization and Infectious Diseases.

The purpose of the program is for AI/AN Communities to build core capacity and augment existing programs to reduce disparities in health outcomes for one or more of the designated health priority areas. In addition, the funding will be provided to AI/AN communities that demonstrate need based on high prevalence and related morbidity and mortality and have limited infrastructure and resources to address health disparities.

"Core capacity" is defined as the development of infrastructure and support strategies, including networking, partnership formation, and coalition building to raise and maintain community awareness and support, as well as national awareness of the health priority area needs of AI/AN populations. Core capacity programs include basic health promotion, disease prevention and control functions, ability to capture data, program coordination related to primary and secondary prevention, scientific capacity, training and technical assistance, and culturally competent intervention strategies for addressing the health priority area needs of AI/AN populations.

Background

In 1997, President Clinton committed the nation to an ambitious goal by the year 2010 to eliminate disparities in health status experienced by racial and ethnic minority populations in key areas, while continuing the progress we have achieved in improving the overall health of the American people. In support of this effort, the Department of Health and Human Services (DHHS) identified six health priority areas in which racial and ethnic minorities experience serious health disparities: Infant Mortality, Deficits in Breast and Cervical Cancer Screening and Management, Cardiovascular Diseases, Diabetes, Human Immunodeficiency Virus (HIV) Infections/Acquired Immunodeficiency Syndrome (AIDS), and Deficits in Child and/or Adult Immunizations. On behalf of the DHHS-wide collaborative effort, the Centers for Disease Control and Prevention (CDC) is coordinating and managing a major component of activities to support this initiative.

B. Eligible Applicants

Eligible applicants are federally recognized AI/AN tribal governments and corporations, non-federally recognized tribes and other organizations that qualify under the Indian Civil Rights Act, State Charter Tribes, Urban Indian Health Programs, Indian Health Boards, Inter-Tribal Councils, and other tribal organizations, including urban and eligible inter-tribal consortia.

Tribal organizations, inter-tribal consortia, and urban organizations are eligible if incorporated for the primary purpose of improving AI/AN health and represent such interests for the tribes, Alaska Native Villages and corporations, or urban Indian communities located in its region. AI/AN tribes or urban communities represented may be located in one state or in multiple states. An urban organization is defined as a non-profit corporate body situated in an urban center eligible for services under Title V of the Indian Health Care Improvement Act, PL 94–437, as amended.

Minimal Requirements

1. Application

The application must target American Indian or Alaska Native communities and must address one or more of the following six health priority area(s): Infant Mortality, Deficits in Breast and Cervical Cancer Screening and Management, Cardiovascular Diseases, Diabetes, Human Immunodeficiency Virus (HIV) Infections/Acquired Immunodeficiency Syndrome (AIDS), and Deficits in Child and/or Adult Immunizations. Activities for health priority areas that are not under these categories will not be considered.

2. Tax-exempt Status

For those applicants applying as a private, non-profit organization, proof of tax-exempt status must be provided with the application. Tax-exempt status is determined by the Internal Revenue Service (IRS) Code, Section 501(c)(3). Any of the following is acceptable evidence:

a. A reference to the organization's listing in the IRS's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code.

b. A copy of a currently valid IRS tax-exemption certificate.

c. A statement from a state taxing body, State Attorney General, or other appropriate state official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

d. A certified copy of the organizations's certificate of incorporation or similar document if it clearly establishes the non-profit status of the organization.

Competition is limited to those identified under "Eligible Applicants", because of the problems posed by high prevalence, morbidity and mortality for Infant Mortality, Deficits in Breast and Cervical Cancer Screening and Management, Cardiovascular Diseases, Diabetes, Human Immunodeficiency Virus (HIV) Infections/Acquired Immunodeficiency Syndrome (AIDS), Deficits in Child and/or Adult Immunizations, and the unique challenges faced by this population.

Note: Title 2 of the United States code, Chapter 26 Section 1611 states that an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $1,500,000 is available in FY 2001 to fund approximately five to seven awards. It is expected that the average award will be $250,000, ranging from $200,000 to $300,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

1. Use of Funds

Assistance under this award may consist of developing culturally competent health promotion and disease intervention strategies, building scientific capacity, providing training and technical assistance, and facilitating networking and partnership development, including promoting collaboration with other tribes, national/regional organizations (*e.g.*, Indian Health Boards, Inter-Tribal Councils, etc.), other health organizations (*e.g.*, hospitals, Indian Health Service and Tribal Health Clinics, foundations, National Diabetes Association, etc.), state/local health departments, the Indian Health Service and other Federal government agencies, and other appropriate partners (*e.g.*, business associations, faith-based organizations, etc.).

Applicants will not be eligible for multiple awards for different health priority areas. However, applications addressing related health priority areas (*e.g.*, cardiovascular diseases and diabetes, HIV infection/AIDS and infant mortality, etc.) that have a logical relationship due to common risk factors will be considered.

Funds may not be used to support direct patient medical care, facilities construction, to supplant or duplicate existing funding, or to fund activities for human subjects research.

Although applicants may contract with other organizations under these cooperative agreements, applicants must perform a substantial portion of the activities (including program management and operations) for which funds are requested.

Pre-Application Telephone Conference

Applicants are invited by CDC to participate in a pre-application technical assistance telephone conference May 24, 2001, from 1 p.m. to 3 p.m., Eastern Standard Time to discuss: programmatic issues regarding this program, how to apply, and questions regarding the content of the Program Announcement. This telephone conference is expected to last two hours. The conference name is American Indian/Alaska Native. The telephone bridge number for Federal participants is 404 639–3277; for non-Federal participants call 1–800–311–3437. Participants will need to enter the following conference code when prompted to be connected: code 112686.

2. Funding Preference

Each applicant may submit only one application. Geographic distribution among applicants and diversity in health priority areas may be funding considerations. Applicants should describe the geographic boundaries and make-up of the area for which it is applying. Applicants from the same geographic area are encouraged to collaborate. In addition, a community will not be eligible for multiple awards for different health priority areas. However, applications addressing related health priority areas (*e.g.*, cardiovascular diseases and diabetes; HIV infection/AIDS and infant mortality) will be considered.

Should both a tribal organization and an individual tribe that is currently a member of that organization become award recipients, CDC may choose to ensure that no duplication of effort within the scope of work authorized in this Program Announcement will be conducted within the same target community.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC activities). All Recipient and CDC Activities authorized under this Program Announcement are expected to be completed by the end of the three-year project period.

1. Recipient Activities for Core Capacity Building Programs During the Three-Year Project Period

a. Develop/enhance scientific capacity in epidemiology, statistics, surveillance, and data analysis from new or existing data systems (*e.g.*, vital statistics, hospital discharges, Indian Health Service (IHS) data sets, National Health and Examination Survey (NHANES), Survey of American Indians/Alaska Natives, Behavioral Risk Factor Surveillance System (BRFSS), etc.) to correctly identify the AI/AN population(s) and existing health disparity and to monitor the effectiveness of public health interventions targeting these groups. Scientific capacity should include, but not be limited to, efforts to determine:

(1) Disease trends, including age of onset of disease, age at death, etc.;

(2) Geographic distribution of related health priority area disparities;

(3) Behavioral, social, or ecological risk factors related to the occurrence of disease;

(4) Ways to integrate systems to provide comprehensive data needed for assessing and monitoring the health of populations and program outcomes. Monitoring and program evaluation are considered essential components of building scientific capacity. Scientific capacity may also extend to developing access to outside databases, such as medical care and access to laboratory capacity consistent with the overall direction of the program.

b. *Develop a Community Capacity Plan (CCP).* Develop and implement a Community Capacity Plan, which includes specific objectives for building capacity to reduce disparities in health outcomes for selected health priority area(s)and related risk factors.

The plan should consider culturally appropriate behavioral, policy, and community approaches to reducing morbidity and mortality for the selected health priority area(s).

The CCP should include, but not be limited to, understanding the context, causes, and solutions for the health disparity; community needs assessment to identify and develop training and technical assistance; forming partnerships and engaging in community planning; accumulating resources; plans to develop and implement a culturally appropriate intervention(s) believed to bring about desired effects; planning community and systems changes that alter the environmental context within which individuals and groups behave; and documenting changes in knowledge, attitudes, beliefs, or behaviors among influential individuals or groups, with an intent of diffusing similar changes to a broader community population. For additional information regarding the CCP, please refer to Appendix I.

c. *Evaluation Plan.* Design and implement an evaluation plan to track and measure process and progress in developing a core capacity program. The plan should address measures considered critical to determine the readiness or ability of the AI/AN Community and its members to take action aimed at protective behaviors or changing risk, transforming community conditions and systems so that a supportive context exists to sustain behavior changes over time. In addition, the plan should include time-specific objectives which account for the major activities of the Community Capacity Plan, the means of tracking and measuring the collaborative work with partners, and any other relevant process measures. Time lines, objectives, and other supporting documentation should be included in the evaluation plan.

2. CDC Activities for the Three-Year Project

a. In collaboration with the recipient, provide appropriate training on developing prevention strategies (*e.g.*, building scientific capacity, collaboration and partnerships, implementing guidelines and model programs on disease prevention, etc.), which prepare tribes to mobilize and engage in prevention initiatives for the health priority area(s) selected.

b. Provide technical assistance through conference calls, resource material, training, and updated information, as needed. Facilitate communications locally, regionally, and nationally regarding resources and other opportunities involving capacity building activities. In addition, provide technical assistance through site visits.

c. Participate in the evaluation of activities and initiatives, including annual site visits.

E. Content

Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. Submit an original and five copies of the application, unstapled, and unbound. The narrative should be no more than 30 double-spaced pages, printed on one side, with one-inch margins, and unreduced font. The thirty pages do not include budget, appended pages or items placed within appended pages such as resumes, tribal letters of commitment, other letters of support, etc.

The application should include the following:

1. Introduction—Applicant Description

a. Describe the applicant's tribe, organization or consortia, including purpose or mission (if applicable), years of existence (if applicable), and experience in representing the health-related interests of the represented tribe(s).

b. Describe the represented tribe(s), including:

(1) The total population size of the tribe(s) represented.

(2) The represented tribe(s) geographical locations, their proximity to you and how you plan to reach the tribe(s).

c. Applicants should describe experience in community development, including, but not limited to:

(1) Current and past experience in providing leadership in the development of health-related programs, training programs or health promotion campaigns.

(2) Current and past experience related to one or more of the health priority area(s) or public health disease prevention and control programs, including descriptions of activities and initiatives developed and implemented.

(3) Current and past experience in networking and in building partnerships and alliances with other organizations.

(4) Ability to provide support, outreach, and technical assistance on health-related matters to the represented tribes.

d. Submit a letter of commitment from the represented tribe(s) leadership, which indicates the tribe's willingness to participate in the program, including a copy of the signed original in the Appendix.

2. Need to Address Health Priority Area(s)

Describe the specific community's health problem(s) and need for building capacity to address the selected health priority area(s) among the represented tribe(s). Discuss data needs and how the applicant will assist the tribe(s) in addressing these identified needs. The information provided should describe the following:

a. The extent to which the tribe(s) is impacted by the health priority area(s), including discussion of prevalence rates and any variations in prevalence among represented tribe(s), morbidity and/or mortality, and other evidence of the health disparity.

b. The need to strengthen existing data and add new data.

c. The need for disease prevention and control strategies that are culturally appropriate for their populations, including discussion of the challenges, limitations and/or opportunities for implementing effective prevention programs.

d. The need to develop a comprehensive and sustainable CCP among the represented tribe(s).

3. Community Capacity Plan

Submit a comprehensive and detailed Community Capacity Plan (CCP) that is realistic and achievable over the three-year project period with objectives that are specific, measurable, achievable, and time-phased. The CCP should clearly address the following:

a. A description of how the applicant will conduct and use results of a community needs assessment to develop local or regional, culturally competent training and technical assistance programs to increase the skill-level of tribes and partners in areas such as epidemiologic investigative methods, surveillance, public health policy, and other relevant topics as identified through the needs assessment process (see Appendix for additional information and examples.

b. A description of how the applicant will identify and develop culturally-competent intervention strategies, designed to enhance program efforts to reduce the selected health disparity. Strategies should focus on public policy and community approaches but may include interventions that alter the context within which individuals and groups behave, increase awareness of the disease burden and risk factors, and promote healthy behaviors to reduce the selected disparity.

c. A description of who will be the target of selected activities and how each proposed activity will be achieved.

d. A description of proposed linkages with appropriate partners (*e.g.*, tribal, state, local health departments, and other public or private organizations) in carrying out the proposed activities in the CCP.

e. A description of how the applicant will include affected community members in the development and implementation of the CCP.

f. A description of how the applicant will communicate and disseminate information and guidance to the represented tribes and their memberships (*e.g.*, newsletters, conferences, and meeting minutes).

g. A time line detailing initiation and completion of all activities in the CCP for the three-year project period.

4. Management Plan

a. Provide a description of how the applicant will manage the project to accomplish all proposed activities.

b. Provide a description of how the applicant proposes to staff the project. Provide job descriptions and indicate if they are existing or proposed positions. Staffing should include the commitment of at least one full-time staff member to provide direction for the proposed activities. Demonstrate that the staff member(s) have the professional background, experience, and organizational support needed to fulfill the proposed responsibilities. Where possible, identify staff responsible for completing each activity.

c. Describe the letters of commitment from the represented tribe(s) leadership which indicates the tribe's willingness to participate in the program. Be sure to include the signed original in the Appendix.

d. Submit a copy of the applicant's organizational chart and describe the existing structure and how it supports the development of the proposed CCP for the health priority area(s) selected.

5. Evaluation

a. Applicants should describe how they plan to measure the implementation and progression of various capacity building activities in achieving the objectives during the three-year project period (*e.g.*, understanding the context, causes, and solutions for health disparities, transforming community conditions and systems so that a supportive context exists to form and maintain an effective infrastructure, accumulating resources needed to implement the Community Capacity Plan, etc.).

b. Describe how the applicant will document success in building capacity for the tribe(s) (*e.g.*, surveys conducted, group(s) formed, number of trainings conducted, level of difficulty of the training and their rationale, evidence of acquired skills through application, and the impact on program objectives).

c. Describe how the applicant will assess the quantity and quality of networking efforts (*e.g.*, number of planning meetings or meeting with leadership, the degree of collaboration with leadership and other disease prevention and control programs, and the degree of collaboration with other organizations).

6. Budget and Accompanying Justification

(a) Provide a detailed budget and line-item justification that is consistent with the stated objectives and planned activities. To the extent possible, applicants are encouraged to include budget items for the following:

(1) Travel for a minimum of one or two persons to attend up to one national conference on health promotion and disease prevention related to the selected health priority area(s).

(2) Up to two trips to Atlanta, GA, for a minimum of one or two persons, to attend training and technical assistance workshops.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0348–0043). Forms are available in the application kit and at the following Internet address: http://forms.psc.gov

On or before July 13, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in 1. or 2. above, are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria (100 points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Introduction—Applicant Description (15 points)

a. The extent to which the applicant clearly describes the tribe, organization or consortia, including purpose or mission (if applicable), years of existence (if applicable), and experience in representing the health-related interests of the represented tribe(s).

b. The extent to which the applicant describes the population size of the total tribe(s) represented, geographic location(s) and proximity to the applicant (if applicable).

c. The extent of the applicant's capacity and ability to conduct the activities as evidenced by the:

(1) Current and past experience in providing leadership in the development of health-related programs, training programs or health promotion campaigns.

(2) Current and past experience related to one or more of the health priority area(s) or public health disease prevention and control programs, including descriptions of activities and initiatives developed and implemented.

(3) Current and past experience in networking and in building partnerships and alliances with other organizations.

(4) Ability to provide support, outreach, and technical assistance on health-related matters to the represented tribes.

2. Need to Address Health Priority Area(s) (20 points)

The extent to which the applicant documents the need for building capacity to address the selected health priority area(s) for an AI/AN population, including:

(a) The extent to which the tribe(s) is impacted by the health priority area(s), including discussion of prevalence rates and any variations in prevalence among represented tribe(s), morbidity and/or mortality, and other evidence of the health disparity;

(b) The need to strengthen existing data and add new data;

(c) The need for disease prevention and control strategies that are culturally appropriate for their populations, including discussion of the challenges, limitations and/or other opportunities for implementing effective prevention programs;

(d) The need to develop a comprehensive and sustainable CCP among the represented tribe(s).

3. Community Capacity Plan (25 points)

a. The extent to which CCP is realistic and the extent to which the objectives in the Community Capacity Plan are specific, measurable, achievable, relevant and time-phased and likely to be accomplished during the three-year budget period.

b. Extent to which a community needs assessment will be conducted and used to develop culturally-competent training and technical assistance programs to increase the skill-level of tribes and partners in areas such as epidemiologic investigative methods, surveillance, public health policy, and other relevant topics as identified through the needs assessment process, and organizational involvement in program activities;

c. Extent to which the applicant identifies culturally competent intervention strategies designed to enhance program efforts to reduce the selected health disparity;

d. Extent to which the applicant describes who will be the targeted and how each proposed activity will be achieved;

e. Extent to which the applicant describes proposed linkages with appropriate partners (*e.g.*, tribal, state, local health departments, and other public or private organizations) in carrying out the Community Capacity Plan;

f. Extent to which the applicant describes how affected community members will be included in the development and implementation of the CCP.

g. Extent to which the applicant describes how communication and dissemination of information and guidance will be conducted with the represented tribe(s) and their memberships (e.g., newsletters, conferences, and meeting minutes) and

h. Extent to which the applicant provides time lines for initiation and completion of all proposed activities for the three-year period.

4. Management Plan (25 points)

a. Extent to which the applicant describes how the project will be managed to accomplish all proposed activities.

b. Extent to which the applicant provides a description of proposed staffing for the project, including providing job descriptions and indicating if they are existing or proposed positions. Staffing should include the commitment of at least one full-time staff member to provide direction for the proposed activities. Demonstrate that the staff member(s) have the professional background, experience, and organizational support needed to fulfill the proposed responsibilities. Where possible, identifying staff responsible for completing each activity.

c. Extent to which the applicant describes the letters of commitment from the represented tribe(s') leadership which indicates the tribe's willingness to participate in the program. Inclusion of signed originals should be provided in the Appendix.

d. Extent to which the applicant submits a copy of the applicant's organizational chart, and describes the existing structure and how it supports the development of the proposed CCP for the health priority area(s) selected.

5. Evaluation (15 points)

a. The extent to which the applicant describes how they plan to measure the implementation and progression of various capacity building activities in achieving the objectives during the three-year project period (e.g., understanding the context, causes, and solutions for health disparities; transforming community conditions and systems so that a supportive context exists to form and maintain an effective infrastructure; accumulating resources needed to implement the Community Capacity Plan, etc.).

b. Extent to which the applicant documents success in building capacity for the tribe(s) (e.g., number of trainings conducted, level of difficulty of the training and their rationale, evidence of acquired skills through application, and the impact on program objectives).

c. Extent to which the applicant describes the quantity and quality of networking efforts (e.g., number of planning meetings or meeting with leadership, the degree of collaboration with leadership and other disease prevention and control programs, and the degree of collaboration with other organizations).

6. Budget and Accompanying Justification (Not Scored)

The extent to which the applicant provides a detailed and clear budget consistent with the stated objectives and work plan.

H. Other Requirements

Technical Reporting Requirements Provide CDC With an Original Plus Two Copies of:

1. A progress report on a semi-annual basis. Progress reports are required no later than 30 days after the end of the first six months of the budget period, and 30 days after the end of the twelve-month budget period. The progress reports must include the following for each goal and objective.

a. Comparison of actual accomplishments to the objectives established for the period;

b. Reasons for not meeting any established objectives;

c. Other pertinent information, including explanations of any unexpected events or costs.

2. A financial Status Report (FSR) is required no later than 90 days after the end of each budget period.

3. A final FSR and progress report is required no later than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement. All reports must be submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment II in the application package.

AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act
AR–10 Smokefree Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)(2) [42 U.S.C., section 241(a), and 247b(k)(2)] of the Public Health Service Act, as amended. The catalog of Federal Domestic Assistance number 93.283.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page, Internet address—http://www.cdc.gov click on "funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Robert Hancock, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone: (770) 488–2746, FAX: (770) 488–2820, Email address: rnh2@cdc.gov.

Program technical assistance may be obtained from: Chris Tullier, Project Consultant, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Mailstop K–30, Atlanta, Georgia 30341, Telephone: (770) 488–5482, Email Address: cjt4@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12810 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01084]

Improving Environmental Health Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for improving environmental health programs. This program addresses the "Healthy People 2010" focus areas of Environmental Health and Public Health Infrastructure. The purpose of the program is to identify methods that can be employed to strengthen collaborative linkages and better coordinate and integrate programs between environmental regulatory, environmental public health, and related environmental functions and programs in State, local, and Tribal governments as well as the private sector, academia, volunteer and advocacy groups, and others; to strengthen existing post-employment training and professional credentialing programs for the nation's environmental health workforce; and to develop a model plan for implementing these methods within the recipient's organization and that can be used as a model for similar organizations.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

C. Availability of Funds

Approximately $125,000 is available in FY 2001 to fund one award. It is expected that the award will begin about September 1, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Identify a representative sample of a cross section of environmental health practitioners representing both regulatory and public health perspectives that are employed by the private sector; academia; State and local government; Indian Tribes or Nations; and professional, volunteer, and advocacy organizations.

b. Develop a series of focus group questions that can serve to elicit information about: strengthening linkages among environmental health, environmental regulatory, and private sector professionals; and strengthening post-employment training and professional credentialing programs for environmental professionals in these sectors.

c. Organize and conduct up to four focus group discussions made up of the environmental health professionals referenced in D.1.a. above in up to four geographically representative locations in the United States.

d. Disseminate focus group findings in a report that defines methods to be employed by the recipient organization to improve coordination among the multiple disciplines, missions, and regulatory and public health perspectives represented within the environmental health field and that can be employed to strengthen existing programs that train, credential, and enhance the professional status of the environmental health workforce.

e. Develop and implement a system to evaluate the effectiveness of this project.

2. CDC Activities

a. Provide technical assistance as needed regarding sampling and other methodologic issues associated with the conduct of this project.

b. Provide the recipient with source documents as needed to develop focus group questions.

c. Assist in developing and disseminating the report of focus group findings and related strategies and recommendations.

d. Assist in conducting the project evaluation.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 15 double-spaced pages, printed on one side, with one inch margins, and unreduced font. The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation, and Budget.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm, or in the application kit.

On or before July 27, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement. Deadline: Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in (1) or (2) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Project Plan (30 points)

The extent to which the applicant demonstrates an understanding of the nature of the problem to be addressed. This specifically includes profile of the recipient's employees or members by professional discipline (e.g., sanitarian, environmental engineer) and employer category (e.g., State regulatory agency, local health department) from which focus group samples will be drawn; a description of the barriers that currently affect coordination and collaboration between environmental regulatory, environmental public health, and other related agencies and organizations; a description of the applicant's current credentialing and training programs for environmental health professionals and the need for such programs to be expanded and strengthened; and a plan for incorporating project findings into the recipient's current programmatic, credentialing, and training activities.

2. Project Objectives and Activities (30 points)

The specificity, measurability, and feasibility of objectives and proposed activities, including a schedule for implementing proposed activities, and a description of the responsibilities and time allocations of proposed staff in accomplishing those activities.

3. Organizational Qualifications and Experience (30 points)

Evidence of the applicant's ability to provide staff, space, equipment, and other resources required to accomplish the goals and objectives of the project, including descriptions of the names and qualifications of professional staff to be assigned to the project and the facilities, space, and equipment available for this project.

4. Evaluation (10 points)

Appropriateness of the methods to be used to monitor the implementation of proposed project activities.

5. Budget Justification (not scored)

Extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semi-annual progress reports, no more than 30 days after the end of the report period;

2. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 317(k)(2) of the Public Health Service Act, [42 U.S.C. section 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Nancy Pillar, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2721, Email address: nfp6@cdc.gov.

For program technical assistance, contact: Mr. Kent Taylor, Office of Planning Evaluation, and Legislation, National Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3717, Telephone: (770) 488–7250, Email address: kxt1@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12813 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01094]

Professional Education on Prostate Cancer: Primary Health Care Providers; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 2001 for competing cooperative agreements for "Professional Education on Prostate Cancer: Primary Health Care Providers." This program addresses the "Healthy People 2010" focus area of Cancer.

The purpose of this program is to provide Primary Health Care Professional education on prostate cancer screening including potential benefits and harms, fundamentals of effective patient counsel, and informed decision making.

B. Eligible Applicants

Eligible applicants are private and public nonprofit medical organizations or associations that have established and conducted nationwide professional medical education programs and activities related to health promotion, cancer awareness, mortality and morbidity prevention. Organizations and associations that represent primary health care physicians, including but not limited to family practice physicians and internal medicine specialists, are examples of eligible applicants.

The recommendations developed by the United States Preventive Services Task Force (USPSTF) currently guide programmatic activities at CDC. Therefore, the prostate screening recommendations of eligible organizations should be evidence-based, utilizing current research data and information published in Peer Reviewed medical journals.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $600,000 is available in FY 2001 to fund approximately two awards. It is expected that the average award will be $300,000 ranging from $200,000 to $400,000. It is expected that the awards will begin on or about September 1, 2001, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may vary and are subject to change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Funds may not be expended for the purchase or lease of land or buildings, construction of facilities, renovation of existing space, or the delivery of clinical and therapeutic services. The purchase of equipment is discouraged but will be considered for approval if justified on the basis of being essential to the project and not available from any other source.

D. Program Requirements

In conducting activities to achieve the purpose of this program announcement, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for conducting activities under 2. (CDC Activities).

1. Recipient Activities

a. Develop strategies to increase the knowledge base of Primary Health Care Providers about issues related to prostate cancer screening, determinants of outcomes, and informed decision making.

b. Educational materials may be designed to satisfy requirements for awarding American Medical Association (AMA) Category I continuing medical education credits. As a condition for maintaining a licence to practice medicine in most states, the educational materials developed under this program can provide an appropriate incentive and opportunity for medical providers to satisfy this requirement when attending professional conferences, or as provided through other mechanisms and offerings by medical organizations, associations, and institutions for continuing medical education credits.

c. Establish measurable objectives that can be used to assess accomplishment of project activities.

d. The expertise required to develop the quality of educational materials that are desired is not likely to be found in a single institution or organization because of the scope and complexity of concepts related to prostate cancer screening and patient management. Project objectives will greatly be assisted by establishing partnerships with other appropriate medical organizations that have specific expertise in areas of prostate cancer diagnosis, patient management, and informed decision making, all of which are necessary to increase primary care provider knowledge and reduce inconsistencies in patterns of medical practice.

e. Opportunities for review and comment on the recommended educational materials arising from this program announcement are encouraged and may be provided to other stakeholders and representative organizations with prostate cancer expertise, such as the U.S. Preventive Services Task Force, American Urological Association, American Cancer Society, National Medical Association, AMA, National Cancer Institute, etc.

f. Evaluate project achievements through a well-designed evaluation plan that assesses each objective.

g. Publish and disseminate educational materials to organization members at national, State, and local venues conducive for earning and awarding Continuing Medical Education Credits for primary care providers who master and demonstrate competency in prescribed learning objectives as supplements to existing primary care provider continuing medical education opportunities and improve prostate cancer patient management and practice patterns.

h. Demonstrate ability to engage racial/ethnically diverse health care providers and affiliated organizations by providing documentation of collaboration with racially and ethnically diverse institutions and medical organizations to develop and disseminate educational materials.

2. CDC Activities

a. Provide technical assistance.

b. Collaborate with recipients in the development, evaluation, and dissemination of educational materials designed to improve Primary Health Care Professionals' knowledge and awareness of prostate cancer screening issues.

c. Provide periodic updates about public knowledge, attitudes, and practices regarding early detection and control of prostate cancer.

d. Collaborate with recipients to develop meeting agendas.

e. Collaborate with recipients to develop and publish recommended educational material to this program announcement.

E. Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font. The original and each copy of the application must be submitted unstapled and unbound. Print all material, single-spaced, in a 12-point or larger font on 8½" by 11" paper, with at least 1-inch margins and printed on one side only.

Applicant activities should focus on increasing the knowledge base of primary health care providers on prostate cancer screening and related issues, henceforth referred to in this announcement as Target Physician Population.

1. Background and Need

a. Describe the population of primary care providers as it relates to the purpose of this program announcement, barriers to or gaps in prostate cancer screening knowledge, and strategies to overcome barriers, reduce knowledge gaps, and inconsistencies in patient management.

b. Describe the organization's past and present education activities related to prostate cancer screening and disease control.

c. Describe the applicant's experience related to services provided by primary care practitioners, and the rationale for use of previously conducted or newly developed strategies to enhance prostate cancer screening knowledge and improve patient counseling skills in ways that result in informed decision making.

d. Describe the presence of explicit recommendations regarding prostate cancer screening and demonstrate that data and information used to develop recommendations are consistent with that used by the U.S. Preventive Services Task Force. Additional information can be obtained at the website below: http://hstat.nlm.nih.gov/ftrs/directBrowse.pl?dbName=cps&href=CH10&t=982852733

2. Goals and Objectives

a. *Objectives:* Identify time-framed, measurable objectives consistent with

the purpose of this program announcement.

b. Activities: Clearly identify specific activities and strategies that will be undertaken to achieve each project objective during the budget period.

c. Milestone Chart: Submit a milestone-to-completion chart consistent with the time-frame of the project period.

3. Capabilities

a. Describe the nature and extent of constituent support for past and present organizational activities related to prostate cancer screening, patient counseling, and follow-up.

b. Describe the nature and extent of health care provider education activity, especially those related to prostate cancer screening, patient counseling, follow-up, and informed decision making.

c. Provide a comprehensive plan for national dissemination of educational material and information recommended in connection with this program announcement.

4. Project Management

a. Submit a copy of the organization's mission statement.

b. Describe the organization's structure and function, size, membership, substructure, professional education activities on a regional, State, or local level, and methods of routine communication with members (newsletters, journals, meetings, etc.).

c. Describe each current or proposed position for this project by job title, function, general duties, and activities with which that position will be involved. Include the level of effort and allocation of time for each project activity by staff position. Minimal staffing should include a full-time project coordinator. Accountability and guidance for all activities under this program announcement should have direct oversight provided by senior staff of the funded organization who are knowledgeable about prostate cancer screening, patient management, as well as other related issues.

5. Collaborative Activities

Describe past and proposed collaborative working partnerships with primary health care providers, medical organizations or associations that represent primary health care providers or that have established linkages with that group of providers. Include evidence of formal collaborations and partnerships such as Memorandums Of Agreement.

6. Program Evaluation Plan

Identify methods for measuring progress toward attaining project objectives and monitoring activities. The evaluation plan should include qualitative and quantitative data collection and assessment mechanisms. The plan should include baseline data or mechanisms that will be used to establish baseline data, expected outcomes, minimum data to be collected, systems for collecting and analyzing the data. Examples of the type and scope of data necessary for evaluation purposes may include the following:

a. Describe the access strategy that will be used to reach primary care providers, the number expected to be reached, and a plan for determining how well providers satisfactorily master the information and concepts embodied in the educational materials recommended.

b. Demographic information such as age, sex, race, practice setting, etc.

c. Recommendations for when, where, and how often educational activities should be conducted.

7. Budget and Narrative Justification

Provide a detailed line-item budget and narrative justification of all operating expenses consistent with the proposed objectives and planned activities. Provide precise information about the project purpose for each budget item and itemize calculations when appropriate.

Applicants should budget for the following costs:

Travel

a. A minimum of three persons to Atlanta, Georgia to attend the Annual National Cancer Prevention and Control Conference (3 days).

b. A minimum of three persons to Atlanta, Georgia to report program implementation progress (reverse site visit) and for consultation and technical assistance (2 days) (1 trip per year).

c. Up to 2 additional 2-person trips to Atlanta, or other specified destination to attend national training center educational programs on national work groups, task forces or committees (1–3 days).

F. Submission and Deadline

Submit the original and two copies of PHS–5161 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: http://forms.psc.gov

On or before June 20, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

Received on or before the deadline date; or Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (10 Points)

a. The extent to which the applicant demonstrates understanding of the project's purpose, objectives, and special challenges created by the wide disparity in prostate cancer experienced by high risk and low risk groups. Evidence of efforts to address these special challenges may be demonstrated by the assembly and inclusion of prostate cancer experts throughout all project activities who can articulate concerns unique to certain racial and ethnic groups in the United States.

b. The extent to which the applicant identifies the population of primary care providers population and assess the need for the proposed activities.

c. The extent to which the applicant demonstrates possession of evidence-based recommendations regarding prostate cancer screening.

2. Goals and Objectives (20 Points)

The degree to which specific, time-framed, and measurable objectives, process, and outcome measures are consistent with the stated purpose of the program announcement.

3. Capabilities (25 Points)

a. The extent to which the applicant demonstrates the availability of staff who have participated in professional education activities similar to those described in the proposed project. The staff should possess appropriate qualifications and experience to accomplish project activities (10 points).

b. The quality of the available organizational infrastructure including: office space, administrative and organizational support, and a demonstrated history of effective independent programs, and partnerships with other physician organizations, that have successfully educated large numbers of primary health care providers regarding preventive measures such as cancer screening (10 points).

c. The extent to which applicant demonstrates an ability to engage racial/ethnically diverse health care providers and affiliated organizations by providing documentation of collaboration with racially and ethnically diverse institutions and medical organizations to develop and disseminate educational materials. (5 points).

4. Project Management (15 Points)

The quality and feasibility of the proposed activities for achieving project objectives, including the adequacy of proposed personnel time allocations and the extent to which proposed staff exhibit appropriate qualifications and experience to accomplish project activities. Personnel assigned to complete tasks under this program announcement should hold senior positions within the funded organization as well as in any other organization that may collaborate to complete assigned tasks under this agreement.

5. Collaborative Activities (15 Points)

The appropriateness and relevance of collaborative linkages with Primary Care Physicians or affiliated professional organizations, and the extent to which the applicant demonstrates its ability to access the targeted physician group and disseminate recommended educational materials on a national basis.

6. Program Evaluation Plan (15 Points)

The quality of the evaluation plan for monitoring progress that relates to intervention activities and objectives that are described in the announcement.

7. Budget and Justification (Not scored)

The extent to which the budget is reasonable and consistent with the purpose and objectives of the cooperative agreement.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Annual progress reports;
2. Financial status report; no more than 90 days after the end of the budget period; and
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–7 Executive Order 12372 Review

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

I. Catalog of Federal Domestic Assistance Number

This program is authorized by sections 317(k)(2) [42 U.S.C. 247b(k)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

Should you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Jesse Robertson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Program Announcement 01094, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2747, E-Mail address: jrobertson@cdc.gov.

Programmatic technical assistance may be obtained from: Fred L. Stallings, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway NE., Mail Stop K–55, Atlanta, GA 30341–3724, Telephone number: (770) 488–4293, E-mail address: fls2@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12812 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01121]

Redesigning Cities and Suburbs for Public Health; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for "Redesigning Cities and Suburbs for Public Health." This program addresses the "Healthy People 2010" focus areas of Physical Activity and Fitness; Public Health Infrastructure, Environmental Health and Respiratory Diseases.

The purpose of the program is to create healthier communities by better design and use of our built and natural environment and develop policies and practices surrounding urbanization, transportation, business location, employment, education, recreation, and other related factors that increase physical activity and are conducive to improved health through prevention and promotion.

B. Eligible Applicants

Assistance will be provided only to an organization that is a private nonprofit, non-governmental health, environmental or transportation entity. The organization must have local/state/or regional membership constituencies; and have the capacity and experience to work on major current public policy regarding metropolitan area urban design.

Limited competition is justified because only private nonprofit, non-governmental, health, environmental or transportation entities have conducted research, analysis, and provided regional recommendations in this area from a public health prospective. To determine gaps in public health related to land and water use and its impact on healthier communities, applicants should propose activities that address both metropolitan and rural areas within a region to address partnership building, integration of public concerns,

development of evaluation measures, and for case study comparison and evaluation.

Note: Title 2 of the United States Code, Chapter 26, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $100,000 is available in FY 2001 to fund one award. The award is expected to begin on or about August 15, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

A. Program Requirements

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under 1. Recipient Activities and CDC will be responsible for the activities under 2. CDC Activities.

1. Recipient Activities

a. Facilitate partnerships between public health practitioners and planning agencies and groups.

b. Develop materials that describe the process (who, what, how, etc.) of integrating public

c. Health concerns (suitable for local or state level efforts), including physical activity for transportation and recreation, childhood obesity, and asthma into (a) planning documents and (b) handbooks, guidelines, codes of professional organizations and academic training materials. Serve as workshop presenters and/or discussion leaders.

d. Develop process evaluation measures that can be used to assess progress toward these goals.

e. Develop materials and curriculum, organize and be carry out training workshops and professional presentations for city planners, developers, educators, state and local policymakers, health officials, and other interested parties.

f. Identify state and local policies that promote or restrict physical activity. This activity may focus on specific subsets of the population.

g. Identify or develop case studies of model community plans that include designs to promote walking and bicycling for transportation and recreation.

h. Research, identify examples, and develop materials promoting the understanding and use of law (including statutes, ordinances, regulations, and administrative rules) as a tool for redesigning cities and suburbs for the public's health.

2. CDC Activities

a. Provide consultation and technical assistance in the planning and evaluation of program activities.

b. Collaborate in development of training materials and curriculum for training workshops. May provide experts with subject matter and scientific expertise to serve as workshop presenters and/or discussion leaders.

E. Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative, excluding budget and appendices, should not exceed 35 pages. Pages should be clearly numbered and a complete index to the application and any appendices should be included. The original and each copy of the application must be submitted unstapled and unbound. All materials must be typewritten, double-spaced, with unreduced font on 8½" by 11" paper, with at least 1" margins, headers and footers, and printed on one side only. Application should be organized in the following sections.

1. Executive Summary

Provide a clear, concise, and objectively written statement of the major objectives and components of proposed activities, proposed time frame, and evaluation plan.

2. Existing Resources and Needs Assessment

Describe the documented need for the proposed activities and current activities that provide relevant experience and expertise to perform the proposed activities.

3. Collaborative Relationships

Describe collaborative relationships with other agencies and organizations that will be involved in the proposed activities.

4. Operational and Evaluation Plan

Describe the specific outcome and process objectives for each proposed project with deliverables clearly identified, the major steps required to achieve the objectives, and a projected timetable for completion that displays dates for the accomplishment of specific proposed activities. Describe how achievement of outcome and process objectives, and program effectiveness will be evaluated.

5. Management and Staffing Plan

Describe how the program will be effectively managed including:

a. Management structure including the lines of authority and plans for fiscal control.

b. The staff positions responsible for implementation of the program.

c. Qualifications and experience of the designated staff.

6. Budget and Justification

Provide a detailed budget request and line item justification of all proposed operating expenses.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit and at the following Internet address: http://forms.psc.gov/

On or before July 14, 2001 submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

An independent review group appointed by CDC will evaluate the application according to the following criteria.

1. Resources and Needs Assessment: (25 points)

The relevance of the needs assessment and extent to which the applicant demonstrates that current activities provide regional experience and expertise in community and transportation design (such as land and water use, pedestrian activity and the built environment) that incorporate public health measures in the planning process. The proposed projects.

2. Collaboration: (15 points)

The extent to which the applicant provides evidence of collaborative relationships with prevention research centers, state and local health agencies, local and state government and planning agencies relevant to successful completion of the proposed project(s).

3. Proposed Operational and Evaluation Plan: (35 points)

The extent to which the applicant clearly identifies the specific outcome and process objectives for the proposed projects, deliverables, and the major steps required to meet the objectives; and proposes an evaluation plan that is likely to provide meaningful information about the achievement of the projects.

4. Proposed Implementation Schedule: (10 points)

The extent to which the projected timetable for completion of tasks and for meeting objectives is reasonable and realistic.

5. Project Management and Staffing Plan: (15 points)

The extent to which the applicant demonstrates management structure and staff positions with clear lines of authority and plans for fiscal control, and that designated staff have appropriate qualifications and experience.

6. Budget: (Not Scored)

The extent to which the applicant provides a detailed budget and justification consistent with the proposed program objectives and activities.

H. Other Requirements

Provide CDC with original plus two copies of

1. annual progress reports;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions
AR–14 Accounting System
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic

This program is authorized under section 301 (a), 311(b) and (C) and 317(k)(2) of the Public Health Service Act, [42 U.S.C. section 241(a), 243(b) and (c) and 247(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address: www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements". To obtain business management technical assistance, contact: Jesse Robertson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 01121, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone Number (770) 488–2747, Email address: jrobertson@cdc.gov.

For program technical assistance, contact Thomas Schmid, PhD, CDC/National Center for Chronic Disease, Prevention and Health Promotion, Division of Nutrition and Physical Activity, 4770 Buford Highway NE, Mailstop K46, Atlanta, GA 30341–3717, Telephone Number (770) 488–5471, Email address: TSchmid@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell, III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12811 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01125]

United Nations Foundation: Measles Control and Related Childhood Morbidity Reduction Program; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for control of vaccine preventable diseases with an emphasis on reducing morbidity and mortality caused by measles. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases. The purpose of the program is to support global measles control and morbidity reduction by facilitating the provision of bundled measles vaccine*, technical, laboratory, programmatic consultants, and other services, as needed, to the governments of measles endemic countries.

Note: The term "bundled" refers to vaccine and supplies required to ensure safe injection and safe disposal of vaccine vials and injection materials. Additionally, measles vaccine procurement may include the purchase of vaccine containing antigens for measles (M), measles and rubella (MR), or measles, mumps and rubella (MMR) as per requirements set forth under specific national immunization policies of countries supported under this agreement.

B. Eligible Applicant

Assistance will be provided only to the United Nations Foundation. No other applications are solicited.

Eligibility is limited to the United Nations Foundation (UNF) because it is the most appropriate and qualified agency to conduct the activities under this cooperative agreement:

1. UNF is the only organization whose mission is to serve as the global advocate for United Nations Programmes. The UNF seeks to support the goals and objectives of the United Nations and its Charter in order to promote a more peaceful, prosperous, and just world—with special emphasis on the UN's work, especially on behalf of economic, social, environmental and humanitarian causes. The UNF lists children's health as one of its top four program priorities. Within this priority lies the support of programs seeking to reduce childhood mortality.

2. The proposed program is strongly supportive of, and directly related to, the achievement of United Nations Programmes and CDC/National Immunization Program objectives for the control and prevention of vaccine preventable diseases and coincident reduction in childhood mortality [approximately 900,000 children dio per year due to measles related complications].

The UNF's role as a supporter of United Nations Programmes concerned with children's health issues and programs, together with the United States Agency for International Development (USAID), the Canadian International Development Agency, the American Red Cross, CDC, and others,

are partners in an international effort to increase support and visibility for measles control and mortality reduction.

Note: Title 2 of the United States Code, Chapter 26, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $5 million is available in FY 2001 to fund this award. It is expected that this award will begin on or about September 1, 2001 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Where To Obtain Additional Information

To obtain business management technical assistance, contact: Mike Smiley, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2718, E-mail address: znr6@cdc.gov.

For program technical assistance, contact: Leo Weakland, Deputy Chief, Global Measles Branch, Centers for Disease Control and Prevention, MS–E05, 1600 Clifton Rd., Atlanta, GA 30333, Telephone number: (404) 639–8404, E-mail address: lfw0@cdc.gov.

Dated: May 16, 2001.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12814 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): PA# 01036: Grants for Education Programs in Occupational Safety and Health, Occupational Injury Prevention Research Training Programs

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): PA 01036: Grants for Education Programs in Occupational Safety and Health, Occupational Injury Prevention Research Training Programs.

Times and Dates: 8 a.m.—8:30 a.m., June 13, 2001. (Open) 8:30 a.m.—3 p.m., June 13, 2001. (Closed)

Place: Centers for Disease Control and Prevention, 1600 Clifton Rd, NE., Building 16, Room 1111, Atlanta, Georgia 30333.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement: PA# 01036.

Contact Person for More Information: Bernadine Kuchinski, Occupational Health Consultant, Office of Extramural Coordination and Special Projects, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Rd, NE., M/S D40, Atlanta, Georgia 30333, telephone 404–639–3342. The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 30, 2001.

John C. Burckhardt,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12816 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): PA# 01035: Grants for Education Programs in Occupational Safety and Health, Training Project Grant for Cross-Cultural Training in the Pacific Rim Basin Region

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): PA 01035: Grants for Education Programs in Occupational Safety and Health, Training Project Grant for Cross-Cultural Training in the Pacific Rim Basin Region.

Times and Dates: 3:30 p.m.–3:45 p.m., June 13, 2001. (Open); 3:45 p.m.–4:30 p.m., June 13, 2001. (Closed)

Place: Centers for Disease Control and Prevention, 1600 Clifton Rd, NE., Building 16, Room 1111, Atlanta, Georgia 30333.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement: PA# 01035.

Contact Person for more Information: Bernadine Kuchinski, Occupational Health Consultant, Office of Extramural Coordination and Special Projects, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Rd, NE, M/S D40, Atlanta, Georgia 30333, telephone 404–639–3342.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 30, 2001.

John C. Burckhardt,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12817 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES): Conference Call Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee.

Time and Date: 10:30 a.m.—11:30 a.m., May 31, 2001.

Place: The conference call will originate at the National Center for Environmental Health (NCEH), CDC, in Atlanta, Georgia. Please see "Supplementary Information" for details on accessing the call.

Status: Open to the public, limited only by the availability of telephone ports.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site.

Matters to be Discussed: The conference call agenda is to reach consensus on membership issues. Agenda items are subject to change as priorities dictate.

Supplementary Information: This conference call is scheduled to begin at 10:30 a.m., Eastern Time. To participate in the conference call, please dial 800/311–3437 and enter conference code 375443. You will then be automatically connected to the call.

This notice is being published less than 15 days prior to the meeting due to the scheduling conflicts of the members.

Contact Person for More Information: Paul Renard, Executive Secretary, SRSHES, and Chief, Extramural Activities Section, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, N.E. (E–39), Atlanta, GA 30333, telephone 404/639–2550, fax 404/639–2575.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: May 16, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–12815 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability and Injury Prevention and Control Special Emphasis Panel: Grant Program for Strategies for Improving Health Risk Communication Related to Military Deployments Among Military Personnel, Veterans, Their Family Members, and Their Health Care Providers, PA# 01021; Correction

SUMMARY: This notice was published in the **Federal Register** on April 30, 2001, Volume 66, Number 83, Pages 21388–21389. The meeting times and dates have been revised.

DATES: The meeting times and dates have been revised as follows:

9 a.m.–9:30 a.m., June 4, 2001 (Open)
9:30 a.m.–Noon, June 4, 2001 (Closed)

FOR FURTHER INFORMATION CONTACT: Drue Barrett, Ph.D., Chief, Veterans' Health Activity Working Group, National Center for Environmental Health, CDC, 1600 Clifton Rd, NE, MS E–19, Atlanta, Ga. 30333. Telephone 404/639–4862, e-mail dhb1@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for the both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 16, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–12818 Filed 5–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1168]

Relative Risk to Public Health From Foodborne Listeria Monocytogenes Among Selected Categories of Ready-to-Eat Foods; Draft Risk Assessment Document and Risk Management Action Plan; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS, and Food Safety and Inspection Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA), in cooperation with the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), and the Centers for Disease Control and Prevention, published a notice of availability of a draft risk assessment on the relationship between foodborne *Listeria monocytogenes* and human health and a proposed risk management action plan for *L. monocytogenes* in the **Federal Register** of January 19, 2001 (66 FR 5515). Interested persons were given until March 20, 2001, with an extension to May 21, 2001 (66 FR 13545), to comment on these documents. The LM Working Group has requested a second extension of the comment period in part to collect and review new data and to evaluate the model and the appropriateness of the new data to improve the assessment. In response, FDA and USDA/FSIS are extending the comment period to July 18, 2001; however, the agencies do not anticipate further extensions of the comment period for these draft documents.

DATES: Submit written comments by July 18, 2001.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Docket No. 99N–1168, Food

and Drug Administration, 5630 Fishers Lane, rm. 1060, Rockville, MD 20852. Two copies of any comments are to be submitted, except that individuals may submit one copy. Received comments may be reviewed at the FDA Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Submit one original and two copies of written comments to FSIS Docket Clerk, Docket No. 00–048N, U.S. Department of Agriculture, Food Safety and Inspection Service, rm. 102, Cotton Annex, 300 12th St, SW., Washington, DC 20250–3700. All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For information concerning the draft risk assessment document: Sherri B. Dennis, Risk Assessment Coordinator, Center for Food Safety and Applied Nutrition (HFS–032), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–3984, FAX 202–260–9653, e-mail: sdennis@cfsan.fda.gov.

For information concerning the risk management action plan: Kathy Gombas, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4231, FAX 202–260–0136, e-mail: kgombas@cfsan.fda.gov or Charles Edwards, Food Safety and Inspection Service, U.S. Department of Agriculture, rm. 405, Cotton Annex, 300 12th St. SW., Washington, DC 20250–3700, 202–205–0675, FAX 202–205–0080.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 19, 2001 (66 FR 5515), the Department of Health and Human Services and USDA announced the availability of two documents: A draft risk assessment on the relationship between foodborne *L. monocytogenes* and human health and a draft risk management action plan. Comments were sought on the technical aspects of the draft risk assessment in the following areas: (1) The assumptions made, (2) the modeling technique, (3) the data used, and (4) the transparency of the draft risk assessment document. The agencies also invited comments on the risk management strategies as presented in the draft action plan. Interested persons were given until March 20, 2001, to comment on the draft risk assessment and draft action plan. FDA and USDA/FSIS extended the comment period to May 21, 2001 (66 FR 13545, March 6, 2001), in response to the requests of the National Food Processors Association and the LM Working Group and because a public meeting to receive comments on these documents was scheduled on March 19, 2001, only 1 day before the close of the comment period. The LM Working Group has requested a second extension of the comment period in part to allow time to: (1) Collect and review new data, and (2) evaluate the model and the appropriateness of the new data to improve the assessment. In response, FDA and USDA/FSIS are extending the comment period to July 18, 2001; however, the agencies do not anticipate further extensions of the comment period for these draft documents.

To be considered, submit written comments to FDA Dockets Management Branch or the FSIS Dockets Clerk (addresses above) by July 18, 2001.

Printed copies of the draft risk assessment and the risk management action plan and/or a CD–ROM of the risk assessment model may be requested by faxing your name and mailing address with the names of the documents you are requesting to the CFSAN Outreach and Information Center at 1–877–366–3322. The documents may be reviewed at the FDA Dockets Management Branch or the FSIS Docket Clerk's Office at the addresses and hours noted above. The draft risk assessment and action plan documents are also available electronically as follows: www.cfsan.fda.gov, www.fsis.usda.gov, www.foodsafety.gov.

Dated: May 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13055 Filed 5–18–01; 2:59 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4071]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Final Guidance for Industry on "Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients" (VICH GL18); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (#100) entitled "Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients" (VICH GL18). This guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from a similarly titled guidance regarding pharmaceuticals for human use, which was adopted by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance is intended to recommend acceptable amounts of residual solvents in new animal drugs (referred to as pharmaceuticals or veterinary medicinal products in the final guidance) for the safety of the target animal as well as for the safety of human consumers of products derived from treated food producing animals. It is intended to assist in developing new animal drug applications (referred to as marketing applications in the final guidance) submitted to the European Union, Japan, and the United States.

DATES: You may submit written comments at any time.

ADDRESSES: You may submit written requests for a single copy of the final guidance entitled "Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients" (VICH GL18) to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

You may submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kevin J. Greenlees (HFV–150), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6977, e-mail, kgreenle@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical requirements for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce the differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the: European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand, and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Guidance on Impurities: Residual Solvents

In the **Federal Register** of October 12, 1999 (64 FR 55296), FDA published the notice of availability of the draft guidance entitled "Impurities: Residual Solvents" (VICH GL18) giving interested persons until November 12, 1999, to submit comments. FDA received no comments. The final guidance was submitted to the VICH Steering Committee. At a meeting held on June 14 through 16, 2000, the VICH Steering Committee endorsed the final guidance for industry, VICH GL18.

This guidance is intended to recommend acceptable amounts of residual solvents in new animal drugs (referred to as pharmaceuticals or veterinary medicinal products in the final guidance) for the safety of the target animal as well as for the safety of human consumers of products derived from treated food-producing animals. The guidance is intended to assist in developing new animal drug applications (referred to as marketing applications in the final guidance) submitted to the European Union, Japan, and the United States.

This final level 1 guidance is being issued consistent with FDA's good guidance practices regulation (65 FR 56468, September 19, 2000). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of applicable statutes and regulations. Information collected is covered under OMB control number 0910–0032.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cvm.

IV. Comments

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written or electronic comments regarding this guidance. Written comments should be submitted to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Comments may also be submitted electronically on the Internet at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select "99D–4071 Impurities: Residual Solvents in New Veterinary Medicinal Products" and follow the directions.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12770 Filed 5–21–01; 8:45 am]

BILLING CODE 4150–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2125–N]

Medicaid Program; Infrastructure Grant Program To Support the Design and Delivery of Long Term Services and Supports That Permit People of Any Age Who Have a Disability or Long-Term Illness To Live in the Community

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of funding availability.

SUMMARY: This notice announces the availability of approximately $70 million in grant funding through "Systems Change Grants for Community Living". The "Systems Change" grants include four distinct competitive grant opportunities: (1) "Nursing Facility Transitions"; (2) "Community-Integrated Personal Assistance Services and Supports"; (3) "Real Choice Systems Change"; and (4) "National Technical Assistance Exchange for Community Living". The four grants are designed to assist States to develop enduring infrastructures that support people of any age who have a disability or long-term illness to live and participate in their communities. Applicants include States, State instrumentalities, and other eligible entities as further described in the notice. This notice also contains information about the application process.

DATES: *Deadline for Letter of Intent To Apply:* Applicants should submit a letter of intent to apply for a grant no later than June 8, 2001. Although it is not mandatory for an applicant to submit a letter of intent, we would appreciate receiving a letter of intent from each applicant because it will help us to plan our review panels.

Deadlines for Submission of Grant Applications: To be considered under the Fiscal Year 2001 funding cycle, grant applications must be submitted by the deadlines listed below:

Grants	Application deadline
• Nursing Facility Transitions	July 20, 2001.
• Independent Living Partnerships	
• State Program Grants	
• Community-integrated Personal Assistance Services and Supports	July 20, 2001.
• Real Choice Systems Change	July 20, 2001.
• National Technical Assistance Exchange for Community Living	July 16, 2001.

ADDRESSES: *Letter of Intent to Apply:* The letter of intent to apply is included in the solicitation as Appendix Seven "Letter of Intent to Apply"; the solicitation may be found on the HCFA web site at: *http://www.hcfa.gov/medicaid/systemschange.* All letters of intent to apply must be submitted to: Jeremy Silanskis, Health Care Financing Administration, Center for Medicaid and State Operations, DEHPG/DASI, Mail Stop: S2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Letters of intent to apply may be submitted by facsimile to Jeremy Silanskis at (410) 786–9004. For those unable to access the HCFA web site containing the full solicitation (including Appendices), copies of the solicitation are available through Susan Hill. (See **FOR FURTHER INFORMATION CONTACT.**)

Application Materials: Standard application forms and related instructions are available through either: (1) Judith Norris, Health Care Financing Administration, Office of Internal Customer Support, AGG, Grants Management Staff, Mail Stop: C2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, (410) 786–5130, Internet:Jnorris1@hcfa.gov, or (2) the HCFA web site at: http://www.hcfa.gov/ord/grantop.htm.

Submission of Application: Applicants are required to submit (1) an original and two copies of the application and (2) a 3¼" floppy disk containing at least the narrative and the budget. Although it is not mandatory and does not impact on the scoring of an application, we would appreciate receiving an original and 14 copies of the application. For further information regarding the provisions of the grants, application format and requirements, review criteria and procedures, explanation of timely submission, and other relevant information, applicants must refer to the grant solicitation available on the HCFA web site at: *http://www.hcfa.gov/medicaid/systemschange.*

All application forms and related materials must be submitted to: Judith Norris, Health Care Financing Administration, Office of Internal Customer Support, AGG, Grants Management Staff, Mail Stop: C2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, (410) 786–5130, Internet:Jnorris1@hcfa.gov.

Each type of grant has a specific closing date. (See **DATES** section above.) Applications mailed through the U.S. Postal Service or a commercial delivery service will be considered "on time" if received by close of business on the closing date, or postmarked (first class mail) by the date specified and received within five business days. If express, certified, or registered mail is used, the applicant should obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailings. Applications that do not meet the above criteria will be considered late applications. Applicants who submit late applications will be notified that their applications were not considered in the competition. Late applications will not be reviewed and will be returned to the applicant.

Web Site: To obtain up-to-date information about the "Systems Change" grants and a complete grant solicitation, please check our web site at: *http://www.hcfa.gov/medicaid/systemschange.* For those unable to access the HCFA web site containing the full solicitation (including Appendices), copies of the solicitation are available through Susan Hill. (See **FOR FURTHER INFORMATION CONTACT.**)

FOR FURTHER INFORMATION CONTACT: Questions about the grant program may be directed to: Susan Hill, Health Care Financing Administration, Center for Medicaid and State Operations, DEHPG/DASI, Mail Stop: S2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–2754, Internet:shill@hcfa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

People of all ages who have a disability or long-term illness generally express the same desire to live in the community as do most other Americans. They express a desire to live in their own homes, make their own decisions about daily activities, work, learn, and maintain important social relationships. They express a desire to contribute and participate in their communities and family life.

In 1990, the Congress enacted the Americans with Disabilities Act (ADA) (Pub. L. 101–336). The ADA recognized that "society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem" (42 U.S.C. section 12101(a)(2)). The ADA gave legal expression to the desires and rights of Americans to lead lives as valued members of their own communities despite the presence of disability.

Over the past few years, a consensus for assertive new steps to improve the capacity of our long-term support systems to respond to the desires of our citizenry has been building. Federal, State, and local governments have begun to take actions to renew and reaffirm a commitment to improving the systems that will support people of all ages with disabilities or long-term illnesses who wish to live in their communities.

Several Federal and State initiatives are underway to make community living a reality for more people. We adopted a number of Medicaid policy reforms and issued grants to facilitate State efforts to improve their community services systems. Numerous States have implemented home and community-based waivers through the Medicaid program. As States learn more from these experiences, waivers will continue to evolve. States are interested in building in more consumer choice and consumer-directed services. In addition, the Substance Abuse and Mental Health Services Administration (SAMHSA) announced planning grants to assist States in their planning efforts. The U.S. Department of Housing and Urban Development (HUD) entered into a memorandum of understanding with HHS to coordinate community housing subsidies with human service funds in a manner that will make transition from nursing facilities to the community more feasible. The Administration on Aging (AoA) inaugurated a nationwide caregiver support program.

The Congress also recognized that States face formidable challenges in their efforts to fulfill their legal responsibilities under the ADA. The Congress appropriated funds for these "Systems Change" grants specifically to improve community-integrated services.

In February 2001, President George W. Bush announced a broad "New Freedom Initiative" to "tear down barriers to equality" and grant a "New Freedom" to children and adults of all ages who have a disability or long term illness so that they may live and prosper in their communities. For more information on the President's "New Freedom Initiative", please visit the web site at: http://www.whitehouse.gov.

The "Systems Change Grants for Community Living" described in this document represent an expression of support for States' efforts to provide additional or improved support for community living. In addition, these grants support: the President's "New Freedom Initiative"; the States" efforts to fulfill the ADA; and the long-standing desire of people of all ages who have a disability or long-term illness to live and participate in their communities with dignity and value.

II. Overview and General Requirements for All "Systems Change" Grants

Attached is a chart summarizing the Systems Change Grants. The following four distinct competitive grant solicitations comprise the "Systems Change" grants:

• *"Nursing Facility Transitions (TRANSITIONS)" grants:* The purpose of the "TRANSITIONS" grants is to help eligible individuals make the transition from nursing facilities to the community. Between $10 to $14 million in two types of grants are available from HCFA: State Program grants and Independent Living Partnership grants. State Program grants can be used for a wide range of activities, for example, a State may wish to use State Program grant funds to develop strategies for linking individuals with disabilities to Section 8 rental housing vouchers or developing other coordinated housing strategies. The Independent Living Partnership grants are designed to promote partnerships between States and selected Independent Living Centers (ILCs) [1] to support the transition of individuals from nursing facilities to their communities.

• *"Community-Integrated Personal Assistance Services and Supports (Community PASS)" grants:* Personal assistance is the most frequently used service that enables people with a disability or long-term illness to live in the community. Many States have taken a leadership role in designing systems that not only offer the basic personal assistance service, but also make that service available in a manner that affords consumers maximum control over the selection of individuals working on their behalf and the manner in which services are provided. These grant funds will be used by States to improve personal assistance services that are consumer-directed or offer maximum individual control. Grants totaling $5 to $8 million are available to support States' efforts to improve community-integrated personal assistance services for children and adults of any age who have a disability or long-term illness.

• *"Real Choice Systems Change (Real Choice)" grants:* The goal of these grants is to help design and implement effective and enduring improvements in community long-term support systems to enable children and adults of any age who have a disability or long-term illness to live and participate in their communities. Direct grants totaling $41 to $43 million are available to assist States and their disability and aging communities to work together to find viable ways to expand or improve the design and delivery of community-integrated services. The funds will also support the public-private partnerships and broad public participation (including a consumer task force) that are generally needed to accomplish such an ambitious undertaking.

• *"National Technical Assistance Exchange for Community Living (The Exchange)" grant:* This national technical assistance grant will support the "Real Choice Systems Change" grants, the "Nursing Facility Transitions," and the "Community-Integrated Personal Assistance Services and Supports" efforts. The purpose of this national technical assistance initiative will be to provide technical assistance, training, and information to States, Grantees, consumers, families, and other agencies and organizations. Funding for technical assistance will range from $4 to $5 million.

A. Timing and Duration of Awards

We expect all grant awards to be made before to October 1, 2001. Grantees may expend grant funds over a 36-month period from the date of the award.

B. Match Requirements

Grantees of the Nursing Facility Transitions, Community PASS, and "Real Choice" grants are required to make a nonfinancial recipient contribution of 5 percent of the total grant award. Nonfinancial recipient contributions may include the value of goods and/or services contributed by the Grantee, for example, salary and fringe benefits of staff devoting a percentage of their time to the grant not otherwise included in the budget or derived from Federal funds. Recipient contributions must be included in the Applicant's Budget on Standard Form 424A. The nonfinancial match requirement may also be satisfied if a third party participating in the grant makes an "in-kind contribution," provided that the Grantee's contribution and/or the third-party in-kind contribution equals 5 percent of the total grant award. Third-party "in-kind contributions" may include the value of the time spent by consumer task force members (using appropriate cost allocation methods to the extent that non-Federal funds are involved) who specifically contribute to the design, development, and implementation of the grant.

Grantees applying for the National Technical Assistance Exchange for Community Living grant will be required to make a nonfinancial recipient contribution of 1 percent of the total grant award. Applicants must specify these required recipient contributions in their Budget on Standard Form 424A.

C. Indirect Costs

Reimbursement of indirect costs under each of the four grant solicitations is governed by the provisions of the U.S. Department of Health and Human Services, Grants Policy Directive (GPD) Part 3.01: Post-Award—Indirect Costs and Other Cost Policies. We recommend that applicants review the provisions of this policy directive and applicable Office of Management and Budget (OMB) circulars in preparing budget information. This information is available in the solicitation and online at: http://www.hhs.gov/grantsnet/adminis/gpd/gpd301.htm.

D. Who May Apply

States may apply for *any* grant, except the Independent Living Partnership portion of the "TRANSITIONS" grant. By "State" we refer to the definition provided under 45 CFR 74.2 as "any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments." By "territory or possession" we mean Guam, the U.S. Virgin Islands, American Samoa, and

[1] Independent Living Centers (ILCs) refer to those ILCs recognized under State or Federal Law.

the Commonwealth of the Northern Mariana Islands.

For the "Real Choice Systems Change" grants and the State Program portion of the "Nursing Facility Transitions" grant, only State agencies or instrumentalities may apply. These agencies must have the support and active participation of one of the following: the Governor, the State Medicaid agency, or the State agency administering a relevant section of the 1915(c) home and community-based waiver.

For the Independent Living Partnership portion of the "Nursing Facility Transitions" grant, only Independent Living Centers may apply. Each Applicant must have (1) the support and active participation from the State Medicaid agency or the State agency administering a relevant section of the 1915(c) home and community-based waiver, and (2) the support and active participation of at least two other consumer-governed organizations.

For the "Community PASS" grants, any State agency or any other organization may apply if it has the support and active participation of one of the following: the Governor, the State Medicaid agency, or the State agency administering a relevant section of the 1915(c) home and community-based waiver.

For the "National Technical Assistance Exchange for Community Living" grant, any organization may apply. However, according to 45 CFR 74.81, no funds may be paid as profit to any recipient organization.

States may and are encouraged to apply for more than one type of grant. For example, a State may apply for a "Real Choice Systems Change" grant and also apply for a "Nursing Facility Transitions" grant. Also, different State agencies may apply for different *types* of grants. For example, the Medicaid agency might apply for a "Community PASS" grant, and the agency administering the section 1915(c) waiver might apply for a "Nursing Facility Transitions" grant. However, no State may be awarded more than one grant per State per type of grant. For example, a State may not receive two "Real Choice Systems Change" grants or two "Community PASS" grants. Neither an Independent Living Partnership grant nor a technical assistance grant will count against this limit.

In addition, a State, or other eligible entity, may submit a single application for any one type of grant that is composed of multiple, interrelated projects. For example, a State might submit an application for the "Real Choice Systems Change" grant that is composed of a "one-stop shopping" demonstration and a separate but related project to solve the shortage of front-line workers. While only one entity may receive the grant, the Grantee agency may subcontract portions of the award consistent with the Applicant's proposed project. A potential Applicant may request written clarification from us in advance of the application due date if it is unclear whether it is eligible to apply for a particular grant.

HCFA reserves the right to assure reasonable balance in the awarding of grants, in terms of key factors such as geographic distribution, broad target group representation, etc.

E. Involvement of Consumers, Stakeholders, and Public-Private Partnerships

For all grant solicitations, we strongly encourage the continuous, active involvement of consumers in both project design and implementation. We encourage processes that promote the active involvement of all other stakeholders. In addition, we encourage the development of public-private partnerships that make the most effective use of each partner's expertise.

For the "Real Choice Systems Change" grants, the Congress expressed its preference that the grant applications "be developed jointly by the State and the Consumer Task Force. The Task Force should be composed of individuals with disabilities from diverse backgrounds, representatives from organizations that provide services to individuals with disabilities, consumers of long-term services and supports, and those who advocate on behalf of such individuals" (H. Conf. Rep. No. 106–1033 at 150).

We encourage collaboration with a broad range of public and private organizations whose primary purpose is advocating for people with disabilities or long-term illnesses. Examples of these organizations include State Independent Living Councils, Area Agencies on Aging (AAAs), Developmental Disabilities Councils, State Mental Health Planning Councils, State Assistive Technology Act Projects (AT Act Projects), and other national and statewide consumer disability and aging organizations. We also encourage Applicants to partner with volunteer groups, employers, faith-based service providers, private philanthropic organizations, and other community-based organizations.

For more information regarding the options available to States relative to the consumer task force and other more detailed questions related to these grants, please visit our web site at *http://www.hcfa.gov/medicaid*.

F. Executive Order 12372

Applications for these grants are not subject to review by States under Executive Order 12372, "Intergovernmental Review of Federal Programs" (45 CFR Part 100).

G. Information Collection Requirements

The information collection requirements associated with the solicitation are under review by the Office of Management and Budget. We published a notice in the **Federal Register** on May 10, 2001, to solicit comments on the collection.

Authority: These grants are authorized under section 1110 of the Social Security Act. Funding and Congressional language was provided in the Consolidated Appropriations Act, 2001 (Pub. L. 106–554) (including H.R. 5656 Labor, HHS, and Education Appropriations), and in the accompanying Report, H. Conf. Rep. No. 106–1033. HCFA is the designated HHS agency with administrative responsibility for this grant program.

(Catalog of Federal Domestic Assistance Number: 93.779; Research and Demonstrations)

Dated: May 10, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

BILLING CODE 4120–03–U

CHART OF SYSTEMS CHANGE GRANTS FOR COMMUNITY LIVING - FY 2001

Name of Grant	Application Deadline Date	Who May Apply?	Maximum Award	Average Award	Maximum Project Period	Estimated Number of Awards
1. Nursing Facility Transitions grants (CFDA 93.779)						
◆ Independent Living Partnerships	07/20/01	Independent Living Centers*	$600,000	$200,000	36 mos.	6-8
◆ State Program grants	07/20/01	Any State Agency*	$1,200,000	$600,000	36 mos.	10-18
2. Community-Integrated Personal Assistance Services and Supports grants (CFDA 93.779)	07/20/01	Any Entity*	$1,200,000	$600,000	36 mos.	9-12
3. Real Choice Systems Change grants (CFDA 93.779)	07/20/01	State Agency or Instrumentality*	$3,500,000	$1,000,000	36 mos.	40
4. National Technical Assistance Exchange for Community Living grant (CFDA 93.779)	07/16/01	Any Entity	$4-$5 Million	$4-$5 million	36 mos.	1

* Requires the support and active participaion of one of the following: the Governor, the State Medicaid agency, or the State agency administering a relevant section of the1915(c) home and community-based waiver.

[FR Doc. 01–12882 Filed 5–17–01; 4:37 pm]

BILLING CODE 4120–03–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Computer Matching Program (Match Number 2001–04)

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces a CMP agreement that HCFA plans to conduct with the Department of Defense (DOD). We have provided background information about the proposed matching program in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that HCFA provide an opportunity for interested persons to comment on the CMP, HCFA invites comments on all portions of this notice. See **EFFECTIVE DATES** section below for comment period.

EFFECTIVE DATES: HCFA filed a report of the CMP with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 16, 2001. We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication. We may defer implementation of this matching program if we receive comments that persuade us to do so.

ADDRESS: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), HCFA, Mailstop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during hours specified, Monday through Friday from 9 a.m.–3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Maribel Franey, Health Insurance Specialist, Division of Data Liaison and Distribution, Enterprise Database Group, Office of Information Services, HCFA, Mailstop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–0757 or facsimile (410) 786–5636. The e-mail address is mfraney@hcfa.gov.

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

A. General

The Computer Matching and Privacy Protection Act (CMPPA) of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and added certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 100–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in CMPs:

1. Negotiate written agreements with the other agencies participating in matching programs;
2. Obtain the Data Integrity Board's (DIB) approval of the match agreement;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. HCFA Computer Matches Subject to the Privacy Act

HCFA has taken action to ensure that all of the computer match programs that this agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

Computer Match No. 2001–04

NAME:

Verification of TRICARE Eligibility.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

PARTICIPATING AGENCIES:

The Health Care Financing Administration (HCFA); and the Department of Defense (DOD).

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

The Computer Matching Agreement is executed to comply with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, the Office of Management and Budget (OMB) Circular A–130, titled "Management of Federal Information Resources" (61 FR 6435, February 20, 1996), and OMB guidelines pertaining to computer matching (54 FR 25818, June 19, 1989).

This agreement provides for information matching necessary to implement the information provisions of the National Defense Authorization Act (NDAA) 2001 (Pub. L. 106–398) sections 711 and 712; the NDAA for fiscal year (FY) 1993 (Pub. L. 102–484) section 705, and the NDAA for FY 1992 (Pub. L. 102–190) sections 704 and 713.

PURPOSE(S) OF THE MATCHING PROGRAM:

The purpose of this agreement is to establish the conditions, safeguards, and procedures under which the Health Care Financing Administration (HCFA) will disclose Medicare enrollment information to the Department of Defense (DOD), Defense Manpower Data Center (DMDC), Defense Enrollment and Eligibility Reporting System Office (DEERS), and the Office of the Assistant Secretary of Defense (Health Affairs)/ TRICARE Management Activity (TMA). This disclosure will provide TMA with the information necessary to determine if an individual is eligible to receive extended TRICARE coverage.

Current law requires TMA to provide health care and medical benefits to Medicare—Part A eligible beneficiaries who are enrolled in the medical insurance program under Part B of the Medicare program. In order for TMA to meet these requirements, HCFA agrees to disclose Part A entitlement and Part B enrollment data on this dual-eligible population, which will be used to determine a beneficiary's eligibility for care under TRICARE. DEERS will receive the results of the computer match and provide the information to TMA for use in its program.

CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:

DEERS will furnish HCFA with an electronic file on a monthly basis extracted from DEERS system of records identified as S322.50, entitled "Defense Eligibility Records (DER)," containing social security numbers (SSNs) and date of birth for all DOD-eligible beneficiaries who may also be eligible for Medicare benefits. HCFA will match the DEERS file against its "Enrollment Database (EDB)" system of records (formerly known as the Health Insurance Master Record), System No. 09–70–0502, and will validate the identification of the beneficiary by providing the Health Insurance Claim Number (HICN) that matches against the SSN and date of birth provided by DEERS. The HICN uniquely identifies a Medicare eligible individual. Since Medicare remains the primary payer for many retiree health services, TRICARE will need this information to determine when Medicare has already paid for retiree benefits, so that TRICARE only pays when appropriate. HCFA will also provide the Medicare Part A entitlement and Part B enrollment status of the beneficiary. HCFA's data will help TMA to determine a beneficiary's eligibility for care under TRICARE. DEERS will receive the results of the computer match and provide the information provided in the reply file to TMA for use in its program.

INCLUSIVE DATES OF THE MATCH:

The matching program shall become effective no sooner than 40 days after the report of the matching program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 01–12763 Filed 5–21–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Program Requirements and Review Criteria for Cooperative Agreements for Regional Centers for Health Workforce Studies

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for Cooperative Agreements for fiscal year (FY) 2001 to establish or continue five Regional Centers for Health Workforce Studies (Regional Centers).

The purpose of these Cooperative Agreements is to support health workforce research, analysis and technical assistance with a State and regional focus, including issues regarding the impact of Federal initiatives aimed at improving the training of health professionals and health workforce development in general, both within specific disciplines and as they pertain to the three cross-discipline major trends (diversity, genetics, and geriatrics) identified by HRSA's Bureau of Health Professions (BHPr). In addition, patient-focused cross-discipline research and analysis of issues such as border, mental and oral health, cultural competence, and the impact of health workforce development on access to or financing of a State's or region's health care system will be addressed.

Authorizing Legislation

These Cooperative Agreements are governed by section 761 of title VII of the Public Health Service (PHS) Act (the Act), which authorizes the collection of data and the analysis of workforce related issues.

The Federal role in the conduct of these Cooperative Agreements allows for substantial Federal programmatic involvement with the planning, development, administration, and evaluation of the Regional Centers and their outputs. The BHPr program officer will be assisted in this effort by program staff of the BHPr Divisions. The Federal Government involvement will include:

(a) Participation in the identification and selection of workforce study priorities;

(b) Participation in the review and selection of research projects, which includes providing substantial guidance on Federal policy-relevant issues, or issues of particular national interest that require research and analysis. This includes identification of HRSA programmatic issues for special attention (e.g., diversity) through the Cooperative Agreements;

(c) Participation in the approval of study protocols and methodologies;

(d) Consultation regarding sub-contracts awarded under these Cooperative Agreements, including review of contracts and agreements developed during the implementation of project activities;

(e) Assistance in supplying data relevant to Regional Center studies, or in identifying sources of such data, including other Federal agencies, or other public and private organizations; defining the mission, goals and objectives for the Center;

(f) Assistance in the dissemination of results and, if appropriate, participation in their publication in peer-reviewed journals.

Availability of Funds

Approximately $1,250,000 is available to fund five regional competitive Cooperative Agreements in FY 2001. The project period will be 5 years. This is a one time competition and is not expected to be an ongoing Cooperative Agreement program. Each applicant may request up to $250,000 per year in total costs (direct plus indirect costs) for up to 5 years. Funding for years after the first year will depend on satisfactory performance and the availability of appropriations.

The award recipient institution must share in the cost of the program as follows: for each year funds are awarded under this program, the matching contribution shall be at least one-third of the amount of the Federal award for that year. Up to 50 percent of the recipient's matching contribution may be in the form of in-kind donations such as faculty time, staff time, use of computers and other shared resources.

Because the Regional Centers will have a strong regional component, the BHPr will consider the regional dimension of each center selected to ensure that the geographic distribution of the five selected centers will assure maximum geographic coverage of the nation. Five Regional Centers will be funded at this time, subject to the availability of funds, but only one Regional Center will be approved in each of five of the six geographic areas.

For purposes of this competition, the HRSA six geographic areas are:

(a) HRSA Regions 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 2 (New Jersey, New York, Puerto Rico, Virgin Islands), and 3 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia);

(b) HRSA Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee);

(c) HRSA Regions 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin) and 7 (Iowa, Kansas, Missouri, Nebraska);

(d) HRSA Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas);

(e) HRSA Region 9 (American Samoa, Arizona, California, The Federated States of Micronesia, The Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Nevada, The Republic of the Marshall Islands, and The Republic of Palau);

(f) HRSA Regions 8 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) and 10 (Alaska, Idaho, Oregon, Washington).

For a map and description of the HRSA Regions, see HRSA's web site at: *http://bhpr.hrsa/gov/healthworkforce/fieldoffices.htm.*

Background

The successful Regional Center applicant will have three overriding objectives:

(1) Serve as a national resource in health workforce studies (This may include congressionally-mandated studies such as the recent Pharmacy Shortage Report or lead participation in

educational forums to national legislators and policymakers);

(2) Serve as a resource in health workforce studies to its State(s), region, and rural areas (This may include studies of specific health professional shortages such as nursing, or work with their States primary care offices (PCOs) and primary care associations (PCAs), and State Office of Rural Health, or lead participation in educational forums for State, rural, and local legislators and policymakers); and

(3) Serve as a resource in health workforce studies for HRSA and the BHPr (This may include national studies such as the pharmacy, the paraprofessional workforce, scope-of-practice laws, and the State Health Workforce profiles, or assisting and working with organizations such as Area Health Education Centers (AHECs) or public health training centers in workforce analysis). For examples of past studies see the BHPr, National Center for Health Workforce Information and Analysis web site at: *www.bhpr.hrsa.gov/healthworkforce/.*

Eligible Applicants

Eligible applicants are State or local governments, health professions schools, schools of nursing, academic health centers, community-based health facilities, and other appropriate public or private nonprofit entities. Due to the complexity of the work, experience and infrastructure in health workforce analysis and research is required.

The applicant for a Regional Center should have an established relationship with and knowledge of HRSA's health professions training grant programs and experience in providing technical assistance in health workforce analysis to State and local agencies and organizations such as PCOs and PCAs as a partnership. The applicant. organization will serve as a regional resource in health workforce analysis.

The successful Regional Center applicant will be expected to produce ground-breaking reports that move the field forward, in form of peer reviewed and other publications, presentations at national and regional or State forums, and in web-based publishing. Each center must conduct high-quality research and disseminate findings to colleagues and policymakers at the institutional, Federal, and State levels.

Funding Preference

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories of groups of applications. The following preference is available under this Cooperative Agreement:

Taking into consideration that only five Regional Centers will be funded at this time with a limitation of one Regional Center to be awarded per area as specified above, a funding preference will be given to any qualified application that will show experience with the analysis of health workforce issues as they relate to the nation's Hispanic and border populations. Providing health services to and training health care providers for these often overlapping underserved populations are high priorities for HRSA and BHPr. For example, only 62 primary care physicians per 100,000 population reside in (U.S.-Mexican) border counties compared to 105 per 100,000 nationally, and the poverty rate in these counties is much higher than the national average.

Review Criteria

Applications received will be reviewed by an ad hoc review panel using the following criteria:

(a) The degree to which the proposal contains clearly stated, realistic, and measurable objectives, especially as they relate to Federal, regional or State concerns, policies, or legislative deliberations affecting the health workforce;

(b) The proposed activities and projects for the first year must be specific in content and expected outcome. They should address the 3 major trends identified by the Bureau: genetics, geriatrics, and diversity.

(c) The qualifications and achievements of the proposed center's principal investigator and senior research staff, breadth of knowledge about health workforce disciplines, including level of productivity and national prominence in health workforce research and analysis, and the appropriateness of their time commitment;

(d) The extent of the applicant's experience with research and analysis of:

(1) Specific disciplines such as nursing, primary care medicine and medical specialties, dentistry, pharmacy, public or allied health;

(2) Health workforce issues as they pertain to the three cross-discipline major trends identified by HRSA's BHPr: diversity, genetics, and geriatrics;

(3) Health workforce issues of concern to States, rural, urban, and local areas, in partnership with State PCOs and PCAs, and State Offices of Rural Health;

(4) Issues such as border, Hispanic, mental and oral health, or cultural competence;

(5) Impact of health workforce development on a State's or region's health care system or financing.

(e) The experience and accomplishments of the applicant in health workforce issues and research directly supporting BHPr programs and priorities, especially with regard to important and high visibility contractual work;

(f) The strength of the applicant's plan to actively promote dissemination of research findings both in peer-reviewed journals and to relevant national and State policymakers;

(g) The administrative and management capability of the applicant to carry out the Cooperative Agreements, and the extent to which the budget justifications are complete, appropriate, and cost-effective; and

(h) The extent to which the applicant can demonstrate the ability to obtain non-Federal funding and resources to provide program matching and the likelihood to continue the center's workforce analytical activities beyond the project period.

These Cooperative Agreements will fund either the establishment and operation of a new health workforce research center, or the re-establishment and continuation of an existing center (four Centers for Health Workforce Studies have been in operation for a 3-year period, ending with FY 2000). The new Regional Center must be an identifiable entity within the applicant's institution rather than a set of discrete, investigator-initiated research projects pulled together in one application. It must have a director; a coherent, research agenda; and researchers who function as a team. The principal investigator must be an experienced researcher who provides research leadership and is primarily responsible for the organization and operation of the center. Each Regional center's researchers must collectively possess multidisciplinary skills and have experience in health services and workforce research. Interdisciplinary collaboration in research is encouraged. Although the center will share common resources with the applicant institution, there must be sufficient core staff with significant time commitment to the center.

The funds for each Cooperative Agreement will provide basic support for the center, including the development and implementation of its research agenda, administrative and research staff support, researcher time (although not necessarily at 100 percent), and dissemination of the center research products. Each Cooperative Agreement must not be the sole source of support for the center—the applicant institution must demonstrate a commitment to support the organizational and management structure of the centers, including a matching contribution, and its investigators should seek other funds for the support of its research agenda.

Application Requests, Dates and Address

In order to be considered for competition, applications for these Cooperative Agreements must be received by mail or delivered to the Grants Management Office no later than June 21, 2001. Completed applications should be mailed or delivered to: Grants Management Officer (BHPr), Room 8C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Applications received after the deadline date or sent to any address other than that above will be returned to the applicant and not reviewed. In addition, applications which do not follow format instructions or exceed the page limitation indicated in the proposal instructions will not be accepted for processing and will be returned to the applicant.

Eligible entities interested in receiving materials regarding this program should notify HRSA. Materials will be sent only to those entities making a request. Requests for proposal instructions should be directed to the HRSA website address at *http://bhpr.hrsa.gov/grants2001/.* Applicants may also request a hard copy of these materials from the HRSA Grants Application Center (GAC) at 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209; telephone number 1–877–477–2123. The GAC e-mail address is: *hrsa.gac@hrsa.gov.*

National Health Objectives for the Year 2010

The PHS urges applicants to submit their work plans that address specific objectives of Healthy People 2010, which potential applicants may obtain through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone: 202–783–3238). Particular attention should focus on Healthy People 2010 Workforce Objectives, such as Objectives 1–8 (achieving minority representation in the health professions) and 23–8 (incorporating specific competencies into the public health workforce).

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace; to promote the non-use of all tobacco products; and to promote Pub. L. 103–227, the Pro-Children Act of 1994, which prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Additional Information

Questions concerning programmatic aspects of these Cooperative Agreements will be addressed via conference call. Details pertaining to the conference call will be announced in the application material.

Questions regarding grants policy and business management issues should be directed to: Ms. Wilma Johnson, Grants Management Officer, Bureau of Health Professions, HRSA, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 443–6880.

Paperwork Reduction Act

The standard application form PHS 398, PHS Grant Application, has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0925–0001. OMB review and approval will be required for data collection activities resulting from these Cooperative Agreements which fall under the purview of the Paperwork Reduction Act.

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is also not subject to the Public Health System Reporting Requirements.

Dated: May 14, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–12771 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2001.

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages.

Date and Time: June 7, 2001; 9:30 a.m.–5:30 p.m.; June 8, 2001; 9:30 a.m.–4 p.m.

Place: The Doubletree Hotel Park Terrace on Embassy Row 1515 Rhode Island Avenue, NW., Washington, DC 20005.

The meeting is open to the public.

Agenda items will include, but not be limited to: Welcome; plenary discussion of community-based and interdisciplinary education; guidance provided on an ad hoc basis by Federal program staff from the Division of Interdisciplinary, Community-Based Programs (DICP) and the Division of Medicine and Dentistry (DMD), Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA); and refining standards and writing the Committee report due to the Secretary and the Congress in November 2001.

Meeting content will be based on the Committee's charge under Section 756 of the Public Health Service Act, to include background research and writing of the Committee report and scheduling of topics of the next Committee meeting in September 2001.

Public comment will be permitted before lunch and at the end of the Committee meeting on June 7 and 8, 2001. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, with a copy of their presentation to: Mr. Leo Wermers, Principal Staff Liaison, Division of Interdisciplinary, Community-Based Programs, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1648.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The Division of Interdisciplinary, Community-Based Programs will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but wish to make an oral statement may register to do so at the Doubletree Hotel Park Terrace on Embassy Row, Washington, D.C. on June 7, 2001. These persons will be allocated time as the Committee meeting agenda permits.

FOR FURTHER INFORMATION CONTACT: Anyone requiring information regarding the Committee should contact Mr. Wermers, Division of Interdisciplinary, Community-Based Programs, Bureau of

Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1648.

Dated: May 16, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–12809 Filed 5–21–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–11]

Notice of Proposed Information Collection for Public Comment—Procedure for Obtaining Certificates of Insurance for Capital Program Projects

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 23, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Procedure for Obtaining Certificates of Insurance for Capital Program Projects.

OMB Control Number: 2477–0046.

Description of the need for the information and proposed use: HUD requires Housing Agencies (Has) to obtain certificates of insurance from contractors and subcontractors before beginning work under either the development of a new low-income housing project or the modernization of an existing project. The certificates of insurance provide evidence that worker's compensation and general liability, automobile liability insurance, is in force before any construction work is started.

Agency form numbers, if applicable: None.

Members of affected public: State or Local Government Public Housing Agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 3,000 respondents, 4 responses per respondent, 12,000 total responses, .50 average hours per response, 6,000 hours for the reporting burden, 6,000 hours for the recordkeeping burden, 12,000 hours total burden.

Status of the proposed information collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 15, 2001.

Gloria Cousar,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 01–12795 Filed 5–21–01; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–09]

Announcement of Funding Award—FY 2001 Lead-Based Paint Hazard Control Tides Foundation

AGENCY: Office of the Secretary—Office of Healthy Homes and Lead Hazard Control.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department to the Tides Foundation. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Staci Gilliam, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1785, ext. 110. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-Based Paint Hazard Control grant for the Tides Foundation was issued pursuant to Pub. L. 102–550, Title X, Residential Lead-Based Paint Hazard Reduction Act of 1992.

This notice announces the award of $581,612.00 to the Tides Foundation which will be used to provide financial support and technical assistance to support education and outreach efforts by parent groups and other community-based organizations to protect children from being lead poisoned.

(The Catalog of Federal Domestic Assistance number for this program is 14.900.)

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows: Tides Foundation, P.O. Box 29907, San Francisco, CA 94129–0907. *FY 2001:* $581,612.00. *Total Amount of Grant:* $1,493,921.00.

Dated: May 11, 2001.

David E. Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 01–12796 Filed 5–21–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4456–N–15]

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notification of the establishment of a new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, the Department of Housing and Urban Development (HUD) is giving notice that it proposes to establish a new system of records entitled "Inspector Quality Assurance/Quality Control Administrative Files," which will be used in performing quality assurance and quality control reviews of physical inspections of certain properties performed by inspectors certified in the use of the HUD inspection protocol, and in supporting other administrative requirements related to monitoring inspectors' performance of physical inspections.

DATES: *Effective Date:* This proposal shall become effective without further notice on June 21, 2001, unless comments are received on or before that date which would result in a contrary determination.

Comments Due Date: June 21, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Comments submitted by facsimile (FAX) will not be accepted. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For Privacy Act Information: Jeanette Smith, Department Privacy Act Officer, Telephone Number (202) 708–2374. For REAC, Quality Assurance/Quality Control Administrative Files, Richard Santangelo, Telephone (202) 708–4932, x3002. (These are not toll-free numbers.) A telecommunications device for hearing and speech-impaired persons (TTY) is available at 1–800–877–8339 (Federal Information Relay Services). (This is a toll-free number.)

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, notice is given that HUD proposes to establish a new system of records identified as HUD/REAC–3, the Quality Assurance/ Quality Control Administrative Files of the Real Estate Assessment Center (REAC). REAC is currently responsible for evaluating the physical and financial condition of over 3,000 Public Housing Agencies (PHAs) and approximately 30,000 Federal Housing Administration (FHA) multifamily insured, direct loan, HUD-held, and Section 8 project-based subsidized properties; in the future, REAC may also be responsible for evaluating the physical condition of additional HUD programs identified by statute or regulation, or by contract, the physical condition of other federally-assisted properties (all of these properties are hereinafter referred to collectively as "properties"). The physical condition of certain HUD assisted or insured properties is evaluated using the Uniform Physical Conditions Standards (UPCS), which HUD adopted on September 1, 1998 (see 24 CFR 5.703). Under the UPCS, certain HUD assisted or insured properties are physically inspected annually, unless otherwise notified by HUD, to ensure they are decent, safe, sanitary and in good repair.

To ensure that physical inspections are conducted according to the UPCS or other appropriate protocol, REAC has developed a quality assurance and quality control (QA/QC) process that will monitor inspectors' performance.

There are five levels to the QA process. At the first level, the HUD contractor or other inspection entity is responsible for implementing an internal quality control procedure to ensure that inspections are conducted in accordance with the applicable regulations. At the second level, REAC staff evaluate the inspector's performance and ability to properly apply the UPCS or other appropriate protocol. At the third level, REAC staff evaluate the accuracy of the inspections and the scores. And at the fourth level, REAC research and development staff evaluate the performance of the overall inspection program with regard to the precision and replicability of the inspection protocol. At the fifth level, end users of the information created by REAC will assess the reliability and replicability of the inspection process.

This QA/QC process provides HUD with the assurance that the information in the physical inspection report is accurate and the inspection was conducted according to the UPCS protocol, or other appropriate protocol.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be afforded a 30-day period in which to comment on the new record systems. The new system report was submitted to the Office of Management and Budget (OMB), the House of Representatives Committee on Government Reform and Oversight, and the Senate Committee on Governmental Affairs pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, "Federal Responsibilities for Maintaining Records About Individuals," July 25, 1994; 59 FR 37914.

Accordingly, this notice establishes a new system of records and accompanying routine uses to be created during the physical inspection quality assurance review process at HUD's Real Estate Assessment Center.

Authority: 5 U.S.C. 552a:88 Stat. 1896; 42 U.S.C. 3535(d).

Dated: May 17, 2001.

Gloria R. Parker,

Chief Information Officer.

HUD/REAC–3

SYSTEM NAME

Quality Assurance/Quality Control Administrative Files of the Real Estate Assessment Center.

SYSTEM LOCATION

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

All individuals who are qualified, and who have successfully completed HUD approved training in the use of the data collection device (DCD), UPCS software, and other requirements of the HUD inspection protocol; have successfully passed the test to be certified in the use of the HUD inspection protocol; and have received an inspector identification number and badge from the REAC. The system also covers individuals who have submitted an inspector application, and contains information by individual name of those REAC inspectors and contractors conducting the QA/QC.

CATEGORIES OF RECORDS IN THE SYSTEM

Records may contain correspondence relating to inspector performance. Such correspondence will include periodic reports provided to contract inspection entities or persons who have contracted with HUD or servicing mortgagees to perform inspections, and servicing mortgagees whose employees are certified to conduct inspections. Correspondence may also include complaints about inspector performance or behavior received from owners, agents, servicing lenders or residents; reports of inspector performance that may serve as the basis for appeals or technical reviews; Congressional inquiries; correspondence from Federal, state or local jurisdictions; or other documentation. Also, records consist of documentation regarding inspector qualifications. Such documentation will include inspector applications, resumes, substantiations of training courses attended, test results, etc.

Records also consist of the physical inspection reports prepared by the inspectors and the results of REAC's

acceptance testing procedures. Records may include documentation of observations by REAC QA/QC Inspectors in conjunction with and/or during the Collaborative Quality Assurance (CQA), Independent Quality Assurance (IQA) reviews, or other quality assurance reviews. Other records may include information regarding the planning, conduct and results of the QA/QC process, trend analyses, internal legal assistance requests, information requests, responses to such requests, reports of findings, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Information on statutory authority of housing standards can be found in the United States Housing Act of 1937 (42 U.S.C. 1437, et seq.), and in the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701, et seq.). Subpart G of 24 CFR Part 5 contains information on the uniform physical condition standards and physical inspection requirements for certain HUD housing. A final rule published December 8, 2000 (65 FR 77230), contains information on the uniform physical condition standards and physical inspection requirements for multi-family housing. Information on the Public Housing Assessment System (PHAS) can be found at 24 CFR Part 902, as amended. OMB Circular A–123 (Management Accountability and Control) contains information on agency requirements to develop and implement strategies to ensure accountability and effectiveness of Federal programs. OMB Circular A–130, Appendix I (Federal Agency Responsibilities for Maintaining Records about Individuals) provides information on agency responsibilities for implementing the reporting and publication requirements of the Privacy Act. Additional information on physical inspection requirements of HUD assisted or insured properties can be found in the HUD 2020 Management Reform Plan.

PURPOSE(S):

REAC performs the QA/QC process on inspectors and inspections of properties to assure that the physical inspections are conducted in accordance with the HUD protocol or other appropriate protocol and that the information is accurate and reliable. In the event that the records generated during the process of the review indicate a violation or potential violation of the law, relevant records may be disclosed to the appropriate Federal, state or local authority for investigation or enforcement of the applicable laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under subsection (b) of the Privacy Act of 1974, 5 U.S.C. 552a(b), records may also be disclosed routinely to other users under the following circumstances:

1. In the event that records indicate a violation or potential violation of law, whether criminal, civil or regulatory in nature, the relevant records may be disclosed to the appropriate Federal, state, or local agency charged with the responsibility for investigating or prosecuting such violation or enforcing or implementing such statute, rule or regulation.

2. Records may be disclosed to a congressional office in response to an inquiry from that congressional office made at the request of the individual who is the subject of the records.

3. Records may be disclosed to any committee, subcommittee, or joint committee of Congress if the disclosure pertains to a matter within the legislative or investigative jurisdiction of the committee, subcommittee, or joint committee.

4. Records may be disclosed to HUD contractors or other entities who have entered into working agreements with the individual inspector for these inspection services, PHAs or management agents of HUD-assisted housing properties, servicing mortgagees, or owners or agents of other properties, in order to assist such entities in taking action to recover money or property, where such recovery serves to promote the integrity of the programs or operations of HUD or other contracting Federal agency.

5. Records may be disclosed during the course of an administrative proceeding where HUD or other contracting Federal agency is a party to the litigation and the disclosure is relevant, reasonable and necessary to adjudicate the matter.

6. Records may be disclosed to the Department of Justice for litigation purposes associated with the representation of HUD or other contracting Federal agency before the courts.

7. Records may be disclosed to any source, either private or governmental, to the extent necessary to elicit information relevant to an Office of Inspector General investigation.

8. Records may be disclosed to the HUD contractor or other entity who has entered into a working agreement with an individual inspector for inspection services, in order to assist in evaluating the working relationship between the individual inspector and the HUD contractor or other entity.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored electronically in office automation equipment and manually in file jackets.

RETRIEVABILITY:

Records may be retrieved by computer search and/or by reference to particular inspection number, inspector name, or by the inspector's HUD-issued identification number.

SAFEGUARDS:

Records are maintained in a secure computer network, and in locked filecabinets or in metal file cabinets in rooms with controlled access.

RETENTION AND DISPOSAL:

The records are retained and disposed of in accordance with the General Records Schedule contained in HUD Handbook 2228.2, appendix 14, item 25.

SYSTEM MANAGER(S) AND ADDRESS:

Richard Santangelo, Real Estate Assessment Center, 1280 Maryland Avenue, SW., Suite 800, Washington, DC 20024.

NOTIFICATION PROCEDURE:

The System Manager will accept inquiries from individuals seeking notification of whether the system contains records pertaining to them.

RECORD ACCESS PROCEDURES:

The procedures for requesting access to records appear in 24 CFR parts 16 and 2003.

CONTESTING RECORD PROCEDURES:

The procedures for requesting amendment or correction of records appear in 24 CFR part 16.

RECORD SOURCE CATEGORIES:

Information may be collected from a wide variety of sources, including from HUD, program participants, subject individuals, complainants, witnesses and other non-government sources.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–12839 Filed 5–21–01; 8:45 am]
BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Applicant: Dana Michelle Bisatti, Southern Methodist University/ Department of Geology, Dallas, TX, PRT–025112

The applicant requests a permit to import samples obtained from salvaged leatherback (*Dermochelys coriacea*) marine turtles collected in Costa Rica for the purpose of scientific research. This notification covers activities conducted by the applicant over a five year period.

Applicant: Owen T. Muramatsu, Kaneohe, HI, PRT–042201

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: John Stehle, Craig, CO, PRT–042200

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: Mark Neussle, Scottsdale, AZ, PRT–042510

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: James A. Crane, Jr., York, SC, PRT–042512

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA, PRT–039534

The applicant requests a permit to import one captive-born male Amur leopard (*Panthera pardus orientalis*) from Jungle Cat World, Orono, Canada for the purpose of enhancement of the species through captive propagation.

Applicant: Riverbanks Zoological Park, Columbia, SC, PRT–40699

The applicant requests a permit to import four live Parma wallabies (*Macropus parma*) from the Assiniboine Park Zoo, Winnipeg, Canada, for the purpose of enhancement of the survival of the species through captive propagation.

Applicant: Clifford Brooks, Citrus Heights, CA, PRT–042045

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) trophy from Namibia for the purpose of enhancement of the survival of the species.

Applicant: Monte L. Bean Life Science Museum, Brigham Young University, Provo, UT, PRT–042049

The applicant requests a permit to import one male and one female giant panda (*Ailuropoda melanoleuca*) skin and skull from animals that died naturally at the Chang-qing Nature Preserve, Huayang, Yangxian, Shaanxi, China for the purpose of enhancement of the survival of the species.

Applicant: Enoch D. Brandenburg, Mesa, AZ, PRT–042633

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Lisa Jones-Engel/University of New Mexico, Albuquerque, NM, PRT–039959

The applicant requests a permit to import biological samples from captive-held Orangutan (*Pongo pygmaeus*) and White-handed gibbon (*Hylobates lar*) collected in Indonesia, for scientific research. This notification covers activities conducted by the applicant over a five year period.

Applicant: University of Colorado, Boulder, CO, PRT–040035

The applicant requests a permit to import hair samples from wild ringtailed lemur (*Lemur catta*) for the purpose of enhancement of the survival of the species through scientific research. This notification covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Written data, comments, or requests for copies of these complete applications or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281. These requests must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: USGS, BRD, Alaska Biological Science Center, Anchorage, AK, PRT–766818

Permit Type: Take for scientific research.

Name and Number of Animals: Southern sea otter (*Enhydra lutris nereis*), up to 30 animals from California.

Summary of Activity to be Authorized: The applicant has requested a permit to implant 30 adult sea otters of either sex with TDR/transmitter packages for the purpose of scientific research.

Source of Marine Mammals: Central California coast, as described in current permit.

Period of Activity: Until February 7, 2003, if issued.

Applicant: Mark Clementz, Earth Science Department, University of California, Santa Cruz, CA, PRT–038747

Permit Type: Take for scientific research.

Name and Number of Animals: West Indian manatee (*Trichechus manatus latirostris*), up to 30 specimens providing 1 tooth sample and 1 bone sample.

Summary of Activity to be Authorized: The applicant has requested a permit for the purpose of scientific research to analyze samples of teeth and bone from specimens in a museum collection for assessment of the role that diet plays on manatee health in the wild.

Source of Marine Mammals: archived specimens in the Florida State Museum of Natural History.

Period of Activity: Up to 5 years, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: William Cunningham, MD, Hillsborough, NJ, PRT–042218

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in March 2001 for personal use.

Applicant: Lee Anderson, Jr., Long Lake, MN, PRT–042060

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in March 2001 for personal use.

Applicant: Robert V. Polito, Lebanon, PA, PRT–041826

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort polar bear population in Canada, taken in March 2001 for personal use.

Applicant: Jay W. Furney, Pueblo, CO, PRT–037656

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort polar bear population in Canada, taken in February 2001 for personal use.

Applicant: David Polke, Southbury, CT, PRT–042518

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in March 2001 for personal use.

Applicant: John E. Link, Minong, WI, PRT–042520

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in March 2001 for personal use.

Applicant: Daniel Welch, Curran, MI, PRT–042573

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada, taken in April 2001 for personal use.

Applicant: John Van Horn, Mifflintown, PA, PRT–042638

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted prior to May 31, 2000, from the McClintock Channel polar bear population in Canada, taken in April 2000 for personal use.

Applicant: William Carvajal, El Paso, TX, PRT–042636

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in April 2001 for personal use.

Applicant: Danny Spindler, Evansville, IN, PRT–042635

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, taken in April 2001 for personal use.

Applicant: Gary Sorensen, Paradise, UT, PRT–042199

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort polar bear population in Canada, taken in April 2001 for personal use.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); Fax: (703/358–2281).

Dated: May 11, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–12831 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On March 6, 2001, a notice was published in the **Federal Register**, Vol. 66, No. 44, Page 13566, that an application had been filed with the Fish and Wildlife Service by Circo Hermanos Suarez S.A., San Juan, PR, for a permit (PRT–036843) to import for the purpose of public display seven polar bears (*Ursus maritimus*) obtain from captive and wild sources.

Notice is hereby given that on May 5, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Date: May 11, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–12830 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–10000–1610–00]

Zion National Park; Availability of Final General Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Parks and Recreation Act of 1978; section 102 of the National Environmental Policy Act of 1969 (NEPA); section 202 of the Federal Land Policy and Management Act of 1976 (FLPMA) and 43 CFR part 1610, the Final General Management Plan (FGMP) and Final Environmental Impact Statement (FEIS) for Zion National Park has been prepared. The FGMP/FEIS incorporates a land use plan amendment for BLM's St. George Field Office (formerly called the Dixie Resource Area) Resource Management Plan (RMP), approved March 1999, prepared under a joint planning effort with Zion National Park. This notice announces the availability of the FGMP/FEIS and describes the protest process for the proposed plan amendment to the BLM RMP.

DATES: Those portions of the FGMP/FEIS that concern wild and scenic rivers recommendations on public lands administered by BLM may be protested for a 30 day period to the Director of BLM. The protest period will commence with the date of publication of the Notice of Availability. Protests must be submitted to the Director of the Bureau of Land Management on or before June 21, 2001.

Only those persons or organizations that participated in the scoping or comment periods during the planning process for the Draft Zion General Management Plan/Environmental Impact Statement leading to this Final General Management Plan/ Final Environmental Impact Statement may protest. If BLM's administrative records do not indicate standing in this planning process, any protest will be dismissed without further review. A protesting party may only raise those issues that he/she submitted for the record during the planning process. The period for filing a protest begins with publication of BLM's Notice of Availability for the FGMP/FEIS. The protest should include the specific information described in Appendix J of the FGMP. To be considered timely, a protest must be postmarked no later than the last day of the protest period. At the end of the 30-day protest period, and after the Governor's 60-day consistency review, the BLM's proposed land use plan amendment, excluding any portions under protest, will become final. Approval will be withheld on any portion of the BLM's land use plan amendment under protest until final action has been completed on such protest.

BLM will prepare its own Record of Decision regarding stream segments and adjacent public lands that are managed by BLM. Such decision will constitute a plan amendment to the approved St. George Field Office RMP.

ADDRESSES: Protests must be in writing to the Director, Bureau of Land Management, Attn: Brenda Williams (LS–1050), Protests Coordinator, 1849 C Street, NW., Washington, DC 20240. Overnight Mail Address: Director, Bureau of Land Management; 1620 L Street NW., Suite 1075, Washington, DC 20036; Telephone: (202) 452–5110.

FOR FURTHER INFORMATION CONTACT: Dawna Ferris-Rowley, Assistant Field Office Manager, St. George Field Office, Telephone: (435) 688–3216. Public reading copies of the FGMP/FEIS will be available for review at the following locations: Office of the Superintendent, Zion National Park, Springdale, UT 84767–1099; Telephone: (435) 772–0211; Planning and Environmental Quality, Intermountain Support Office-Denver, National Park Service, PO Box 25287, Telephone: (303) 969–2377; Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843. The FGMP/FEIS is also available for review on the National Park Service's Internet site at www.nps.gov/planning.

SUPPLEMENTARY INFORMATION: On February 26, 2001, the National Park Service (NPS) released the FGMP/FEIS to the public. A Notice of Availability for the FGMP/FEIS was published by the Environmental Protection Agency in the **Federal Register** on March 23, 2001. The Draft General Management Plan/ Draft EIS was released for public review and comments in November, 1999 and was followed by a 90 day comment period. Since the release of the Draft GMP/DEIS, public meetings, workshops, mailings and briefings have been conducted to solicit comments, new information, and ideas for the FGMP/FEIS.

The FGMP/FEIS contains recommendations concerning the eligibility, classification, and suitability of rivers, their tributaries, and adjacent lands for inclusion in the National Wild and Scenic Rivers System, under section 5(d)(1) of the Wild and Scenic Rivers Act of 1968 (as amended). These were evaluated through a cooperative NPS–BLM study, authorized under two Memoranda of Understanding (MOU) concerning wild and scenic river studies in Utah. The first MOU was signed in 1997 by the Governor of Utah, the BLM State Director, the Regional Forester of the USDA Forest Service, the Regional Director of the NPS, and affected local agencies. These entities agreed to cooperatively conduct wild and scenic river studies and to make efforts to reach consensus on the Utah wild and scenic river recommendations to Congress.

In 1998, a second MOU was signed between NPS and BLM for the cooperative study of river segments within Zion National Park and on public lands contiguous to the boundaries of the Park. The recommendations from this NPS–BLM study of river segments on BLM-administered public lands constitute an amendment to the St. George Field Office RMP (approved in 1999).

The following six river segments (totaling 2.3 miles) on BLM-administered public lands were evaluated as eligible, classified as wild, and recommended as suitable for inclusion in the national system: Willis Creek (T. 38 S., R. 11 W., Sec. 27: SWSW–40 acres); Beartrap Canyon (T. 39 S., R. 11 W., Sec. 3: SWNW–40 acres); Goose Creek (T. 39 S., R. 10 W., Sec. 31 NESE, S2SE–120 acres); Shunes Creek, Segment A (T. 42 S, R. 91/2 W., Sec. 17 N2 (portions thereof); Sec. 18 N2; T. 42 S., R. 10 W.; Sec. 1: N2N2 (portions thereof—240 acres); the head of the Middle Fork of Taylor Creek (T. 38 S., R. 11 W., Sec. 30: SWNW–40 acres); and the head of Kolob Creek (T. 39 S., R. 10 W., Sec. 30–40 acres). Although these same river segments were initially found not eligible for further study when considered individually in BLM's original inventory (except for Shunes Creek, Segment B from the dry fall to the Washington County line), they have been found to be both eligible and suitable, when considered in conjunction with contiguous segments in the Park. Approved land use decisions in BLM's St. George RMP will be amended as follows:

Willis Creek Segment: Closed to Motorized and Non-Motorized Off-Highway Vehicle Use; Closed to Mineral Materials; Category 3 for Fluid Minerals; Plan of Operation required for Locatable Minerals.

Kolob Narrows Segment: Closed to Motorized and Non-Motorized Off-Highway Vehicle Use; Category 3 for Fluid Minerals; Plan of Operation required for Locatable Minerals.

Goose Creek Segment: Closed to Motorized and Non-Motorized Off-Highway Vehicle Use; Category 3 for Fluid Minerals; Plan of Operation required for Locatable Minerals.

Robert A. Bennett,

Acting Utah State Director.

[FR Doc. 01–12801 Filed 5–21–01; 8:45 am]

BILLING CODE 1610–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1220–PA]

Special Rule Regarding Operation of Motorized Vehicles

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of a special rule regarding the operation of motorized vehicles within the Texas Creek, Penrose, Grand Canyon Hills, and Sand Gulch OHV "Open" areas on public lands administered by the Royal Gorge Field Office, Colorado.

SUMMARY: Off-highway vehicle (OHV) use in the Texas Creek, Penrose, Grand Canyon Hills, and Sand Gulch OHV "Open" areas has resulted in unacceptable impacts to the public lands, with the potential for more in the future. As a result, the Royal Gorge Field Office is implementing the special rule provision of 43 CFR 8341.2 to address this situation. The Special Rule affects the following sites, all found in Fremont County: 9,720 acres in Texas Creek, located north of Texas Creek; 3,174 acres in Penrose; 2,012 acres in Grand Canyon Hills, located west of Canon City; and 1,449 acres in Sand Gulch, located north of Howard. The use of the Special Rule changes the OHV designation of these four areas to "limited to existing roads and trails". Future interdisciplinary planning will determine the appropriate designated travel routes in these areas.

EFFECTIVE DATE: The implementation of the Special Rule goes into effect with the publication of this notice and shall remain in effect for one year. At the end of each year period it may be reviewed and extended.

ADDRESSES: If you wish to comment or request additional information, you may do so by any of several methods. You may mail or hand deliver your comments or requests to: Field Office Manager, Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Canon City, CO 81212. You may also comment via email to: *RGFOWEB@blm.gov*. Please submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and address in your email message. Comments, including names and addresses of respondents, will be available for public review at the Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Canon City, CO during regular business hours. Individual respondents may request confidentially. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, are available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Levi D. Deike, Field Office Manager or Diana Kossnar, Outdoor Recreation Planner, at the address listed above, 719–269–8500, or John Nahomenuk, Outdoor Recreation Planner, 307 W. Sackett Ave., Salida, CO 81201, 719–539–7289.

SUPPLEMENTARY INFORMATION: The Special Rule provision of 43 CFR 8341.2 allows the authorized officer to close certain areas to specific types of OHV use. In the case of the Texas Creek, Penrose, Grand Canyon Hills, and Sand Gulch OHV "Open" areas, the authorized officer determines that the areas are closed to all forms of OHV use that goes off of existing travel routes. This then effectively changes the OHV designation for the areas to "limited to existing roads and trails", the same designation that is found on the surrounding public lands. The Special Rule is being implemented to preclude current and potential impacts to soils, vegetation, wildlife, and wildlife habitat.

The Royal Gorge Field Office will follow the implementation of this Special Rule with amendments to the Royal Gorge Resource Management Plan. The plan amendment will be completed with full public involvement and the other requirements of 43 CFR 1610.5–5.

This Special Rule does not apply to emergency, law enforcement, and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized or otherwise officially approved by BLM. Violation of this order is punishable by fines and/or imprisonment as defined in 18 U.S.C. 3571. Notice of this Special Rule and detailed maps of the four areas affected will be posted at the Royal Gorge Field Office in Canon City and the Arkansas Headwaters Recreation Area Office in Salida.

Levi D. Deike,

Field Office Manager.

[FR Doc. 01–12800 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–6333–ET; HAG–01–0178; WAOR–56583]

Proposed Withdrawal and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The Corps Of Engineers (COE), Department of the Army, proposes to withdraw 400.27 acres of Public Lands, to protect the investment of federal funds and the existing hydroelectric generating units constructed at the Chief Joseph Dam. This notice closes the lands for up to 2 years from settlement, sale, location and entry under the general land laws, including the mining laws. The public lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: Comments and requests for a public meeting must be received by August 21, 2001.

ADDRESSES: Comments and meetings requests should be sent to the Oregon/Washington State Director, BLM, PO Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Cindy Luciano, COE Seattle District, 206–764–3747, or, Charles R. Roy, BLM Oregon/Washington State Office, 503–952–6189.

SUPPLEMENTARY INFORMATION: On March 29, 2001, the COE filed an application to withdraw the following described public lands from settlement, sale, location and entry under the general land laws, including the mining laws (30 U.S.C. Ch. 2 (1994)), but not the mineral leasing laws, subject to valid existing rights:

Willamette Meridian

T. 29 N., R. 26 E.,
Sec. 9, SW¼SW¼;
Sec. 30, Lot 2.
T. 30 N., R. 26 E.,
Sec. 25, NW¼NE¼;
Sec. 35, SW¼SE¼;
T. 30 N., R. 27 E.,
Sec. 28, SE¼SE¼;
Sec. 29, NE¼NW¼;
Sec. 34, SW¼NW¼, NE¼SW¼.
T. 30 N., R. 28 E.,

Sec. 9, SE¼SE¼;
Sec. 14, NE¼SW¼;

The areas described aggregates 400.27 acres in Douglas County.

The purpose of the proposed withdrawal is to protect the investment of federal funds and the existing hydroelectric generating units constructed at the Chief Joseph Dam.

The lands in Sec. 25, T. 30 N., R. 26 E.; Sec. 29, T. 30 N., R. 27 E.; and Sec. 9, T. 30 N., R. 28 E., are overlapped by Power Site Reserve 129, withdrawn by an Executive Order dated July 2, 1910.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 90 days from the publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, rights-of-way, and disposal of vegetative resources other than under the mining laws.

Dated: May 15, 2001.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 01–12768 Filed 5–21–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States* v. *Applied Science Laboratories, Inc., et al.* (E.D. Va.) Civil Action No. 99CV834, was lodged on May 12, 2001, with the United States District Court for the Eastern District of Virginia. The Consent Decree resolves the claims of the United States under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), for reimbursement of the United States' past response costs incurred in responding to contamination at the Applied Science Laboratories Superfund Site located in Richmond, Virginia. The Consent Decree obligates the estates of John F. Neves and Mattie R. Neves to sell the real property at 2216 Hull Street, Richmond, Virginia, and pay the first $50,000 of the proceeds from the sale to the United States in reimbursement of the past response costs incurred by EPA; the heirs will keep the next $10,000 and any balance above that will be divided evenly between the United States and the heirs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Applied Science Laboratories, Inc.*, DOJ Ref. #90–11–3–07015.

The Consent Decree may be examined at the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and by mail from the Consent Decree Library, Department of Justice, PO Box 7611, Washington, DC 20044–7611. In requesting a copy from the Consent Decree Library, please refer to the referenced case and enclose a check in the amount of $5.00, payable to the U.S. Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–12856 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Consistent with 28 CFR § 50.7, notice is hereby given that on April 17, 2001, a proposed consent decree ("Consent Decree") in *United States* v. *Black Mesa Pipeline, Inc.*, Civil Action No. CIV–01–0681–PCT–EHC, was lodged with the United States District Court for the District of Arizona.

The Consent Decree resolves claims that the United States asserted against Black Mesa in a civil complaint filed concurrently with the lodging of the Consent Decree. The complaint alleges violations of the Clean Water Act at the company's coal slurry pipeline that runs from Peabody Western Coal Co.'s Black Mesa Mine near Kayenta, Arizona to the Southern California Edison Co.'s Mohave Generating Station in Laughlin, Nevada. Specifically, the complaint alleges that there were seven discharges of coal slurry from the pipeline between 1997 and 1999, which discharges reached waters of the United States. The State of Arizona is a co-plaintiff.

The Consent Decree requires defendant to pay a civil penalty of $128,000, plus interest. The payment will be split, with $79,000 being paid to the United States and $49,000 being paid to the State. The Consent Decree also requires defendant to implement a Preventative Measures Plan to prevent further spills and to continue to implement a Protocol for addressing spills should any occur.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Black Mesa Pipeline, Inc.*, Civil Action No. CIV–01–0681–PCT–EHC, and D.J. Ref. 90–5–1–1–06803.

The Consent Decree may be examined at the Office of the United States Attorney, 4000 U.S. Courthouse, 230 North First Street, Phoenix, Arizona or at EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $8.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmenal Enforcement Section.

[FR Doc. 01–12854 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement With Bankruptcy Court in Comprehensive Environmental Response, Compensation and Liability Act Cost Recovery Action

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a Settlement Agreement in *In re General Ceramics, Inc.*, No. 99–33406 (RG) was lodged with the United States Bankruptcy Court for the District of New Jersey on May 14, 2001. This Settlement Agreement resolves certain claims of the United States against General Ceramics, Inc., under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), for payment of response costs incurred and to be incurred at the Boarhead Farms Superfund Site located in Bridgeton Township, Pennsylvania. The Settlement Agreement requires General Ceramics, Inc. pay an allowed claim of $275,000 in full.

The Department of Justice will accept written comments on the proposed Settlement Agreement for seventeen (17) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *In re General Ceramics, Inc.*, DOJ # 90–11–2–06036/1.

Copies of the proposed Settlement Agreement may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, 7th Floor, Newark, NJ 07102, and at EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Settlement Agreement may be obtained by mail from the U.S. Department of Justice, Consent 7611, Washington, DC 20044–7611. When requesting a copy of the proposed Settlement Agreement, please enclose a check to cover the twenty-five cents per page reproduction costs payable to the "Consent Decree Library" in the amount of $2.00, and please reference *In re General Ceramics, Inc.*, DOJ No. 90–11–2–06036/1.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 01–12793 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act, RCRA, EPCRA and CERCLA

Under 28 CFR 50.7, notice is hereby given that on May 11, 2001, a Consent Decree in *United States, et al.*, v. *Marathon Ashland Petroleum LLC*, Civil Action No. 01–40119 was lodged with the United States District Court for the Eastern District of Michigan.

In the Complaint the United States seeks injunctive relief and against Marathon Ashland Petroleum LLC (hereinafter, "MAP"), pursuant to section 113(b) of the Clean Air Act ("CAA"), 42 U.S.C. 7413(b) (1983), *amended by*, 42 U.S.C. 7413(b) (Supp. 1991), the Resource Conservation and Recovery Act, ("RCRA"), 42 U.S.C. 6901 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9603(a) and the Emergency Planning and Community Right to Know Act ("EPCRA"), 42 U.S.C. 11004(a) for alleged violations at MAP's seven refineries located in Robinson, Illinois; Garyville, Louisiana; Texas City, Texas; Catlettsburg, Kentucky; Detroit, Michigan; Canton, Ohio; and St. Paul Park, Minnesota.

Under the settlement, MAP will implement innovative pollution control technologies to greatly reduce emissions of nitrogen oxides ("NO_X") and sulfur dioxide ("SO_2") from refinery process units and adopt facility-wide enhanced monitoring and fugitive emission control programs. In addition, MAP will pay a civil penalty of $3.8 million, and perform supplemental environmental projects totaling approximately $5.9 million. The States of Minnesota, Louisiana, and Ohio, and Wayne County, Michigan will join in this settlement as signatories to the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.*, v. *Marathon Ashland Petroleum LLC*, D.J. Ref. 90–5–2–1–07247.

The Consent Decree may be examined at the Office of the United States Attorney, 1001 Main Street, Suite A, Dyer, Indiana 46311 and at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $50.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Robert D. Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–12855 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1933—Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on June 23, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et. seq.* ("the Act"), Asymmetrical Digital Subscriber Line Forum ("ASDL") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Westwave Communications, Santa Rosa, CA; InfiniLink Corporation, Rancho Santa Margarita, CA; Al Metrix, El Dorado Hills, CA; Tachion Networks, West Long Branch, NJ; Maxcom Telecommunicaciones, Mexico City D.F., Mexico; TeleDream, San Jose, CA; Convergent Networks, Lowell, MA; Cornet Technologies, Springfield, VA; Broadband Gateways, Plano, TX; Voyan Technology, Santa Clara, CA; New Edge Networks, Vancouver, WA; HyperEdge Corporation, Itasca, IL; Prestolite Wire/Krone, Garland, TX; Polycom Inc., Milpitas, CA; Zhone Technologies, Oakland, CA; Ponte Communications, San Mateo, CA; Occam Networks, Santa Barbara, CA; Silicon Labs, Austin, TX; MEDIACENTERS.COM, Chantilly, VA; VideoTele.com, Beaverton, OR; On2.com, New York, NY; DSL.net, New Haven, CT; IP Communications, Dallas, TX; DiscoveryCom, Inc., Huntsville, AL; DSL.com, Inc., Carmel, IN; and Tripath Technology, Santa Clara, CA have been added as parties to this venture. Also, Chameleon Systems, Sunnyvale, CA; Design of Systems on Silicon, Valencia, Spain; Hitachi, Norcross, GA; Hyundai Electronics, Seoul, Republic of Korea; Intracom, S.A., Peania, Attika, Greece; Starnet Technologies, San Jose, CA; Tektronix, Chelmsford, MA; Toshiba Corporation, Tokyo, Japan; Transcend Access Systems, Fremont, CA; Tycho Networks, Santa Cruz, CA; VTT Electronics, Oulu, Finland; WCI Cable, Dover, DE; xDSL Networks, Inc., Towson, MD; ASC, Atlanta, GA; and Cabletron Systems, Piscataway, NJ have been dropped as parties to this venture. In addition, Pulsecom, San Diego, CA has been acquired by ECI Telecom, Altamonte Springs, FL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ASDL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, ADSL filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 25, 1995 (60 FR 38058).

The last notification was filed with the Department on December 8, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 28, 2000 (65 FR 70936).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–12857 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.

Notice is hereby given that, on March 30, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Financial Services Technology Consortium, Inc. ("Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, University Bank, Ann Arbor, MI has joined the Consortium as a principal member. Authentor Systems, Inc., Englewood, CA joined the Consortium as an associate member. National Institute of Standards & Technology (NIST), Gaithersburg, MD joined the Consortium as an advisory member. Also, Department of Treasury, Washington, DC; FundServ, Inc., Toronto, Ontario, Canada; IntraNet, Newton, MA; National Center for Manufacturing Sciences (NCMS), Ann Arbor, MI; and NEC Corporation, Tokyo, Japan have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Financial Services Technology Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On October 21, 1993, Financial Services Technology Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was files with the Department on December 27, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 20, 2001 (66 FR 15758).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–12858 Filed 5–21–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 11, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for PWBA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Prohibited Transaction Class Exemption 81–6.

OMB Number: 1210–0065.

Affected Public: Business or other for-profit; Not-for-profit institutions; and Individuals or households.

Frequency: On occasion.

Number of Respondents: 42,000.

Number of Annual Responses: 126,000.

Estimated Time Per Response: 5 minutes.

Total Burden Hours: 10,500.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $48,000.

Description: Prohibited Transaction Class Exemption 81–6 exempts from the prohibited transaction restrictions of ERISA the lending of securities by plans to banks, registered broker-dealers, and dealers in Government Securities who are parties in interest, except if the borrower or an affiliate has discretionary authority or renders investment advice with respect to the involved plan assets.

The class exemption contains two information collection requirements. First, the borrower must furnish the lending plan fiduciary with the most recent available audited statement of the borrower's financial condition and make a representation at the time of the loan is negotiated that there has been no material adverse change in its financial condition since the audited statement. Second, the loan of the securities is made pursuant to a written agreement,

is intended to ensure that the terms of the transaction are made public and are at least as favorable to the plan as an arms-length transaction with an unrelated party. Individual agreements are not required for each transaction; the agreement may be made in the form of a master agreement covering a series of transactions.

Without the audited statement of the borrower's financial condition and a written agreement, the Department, which may only grant an exemption if it can find that participants and beneficiaries are protected, would be unable to effectively enforce the terms of the class exemption and ensure user compliance.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Regulation relating to Loans to Plan Participants and Beneficiaries who are Parties in Interest with Respect to the Plan.

OMB Number: 1210–0076.

Affected Public: Business or other for-profit; Not-for-profit institutions; and Individuals or households.

Frequency: On occasion.

Number of Respondents: 1,310.

Number of Annual Responses: 1,310.

Estimated Time Per Response: 0.

Total Burden Hours: 0.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): $283,000.

Description: In this regulation (29 CFR 2550.408b–1) the Department sets out the terms of ERISA section 408(b)(1) under which loans from a plan to participants and beneficiaries who are parties in interest are permitted. ERISA section 408(b)(1)(C) requires that loans from a plan to participants and beneficiaries be made in accordance with "specific provisions" set forth in the plan. This regulation proscribes eight specific provisions that must be included in the plan documents. Because 402(a)(1) of ERISA requires that every employee benefit be in writing, these eight specific provisions must also be in writing. The plan document is the legal statement of the plan provisions and governs all plan operations.

The disclosure requirement incorporated within this regulation is intended to ensure that loan programs are operated impartially.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Prohibited Transaction Class Exemption 85–68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers.

OMB Number: 1210–0094.

Affected Public: Business or other for-profit; Not-for-profit institutions; and Individuals or households.

Frequency: On occasion.

Number of Respondents: 120.

Number of Annual Responses: 960.

Estimated Time Per Response: 1 hour.

Total Burden Hours: 960.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Prohibited Transaction Class Exemption 85–68 exempts from the prohibited transaction restrictions of ERISA the investment by employee benefits plan in customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's primary business activity.

The class exemption contains a recordkeeping requirement. Plans are required to maintain for six years from the date of the transaction the records necessary to enable interested parties, including the Department, to determine whether the conditions of the exemption are being met.

Without the records, the Department, which may only grant an exemption if it can find that participants and beneficiaries are protected, would be unable to effectively enforce the terms of the class exemption and ensure user compliance.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–12843 Filed 5–21–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 26, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ESA, and PWBA contact Marlene Howze ((202) 219–8904 or by email to Howze-Marlene@dol.gov). To obtain documentation for ETA, MSHA, OSHA, and VETS contact Darrin King ((202) 693–4129 or by E-Mail to *King-Darrin@dol.gov*).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for FLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OBM is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 82–63, Compensation to fiduciaries for securities lending services to an employee benefit plan.

Type of Review: Extension of a currently approved collection.

OMB Number: 1210–0062.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Frequency of Response: On occasion.

Total Respondents: 42,000.

Total Responses: 126,000.

Total Estimated Burden Hours: 3,500 hours.

Total Annualized Capital/Startup Costs: $0.

Total Annual Cost (Operating and Maintenance): $0.

Description: PTE 82–63 allows certain compensation arrangements to be made for the provision by a fiduciary of securities lending services to an employee benefit plan, if the conditions specified in the exemption are met. In the absence of this exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act. The class exemption has two basic information collection requirements. The first requirement is that the compensation be paid in accordance with a written instrument authorized by a non-lending fiduciary, and the second is that the lending fiduciary furnish the authorizing fiduciary with information needed for the authorizing fiduciary to determine whether the compensation arrangement should be made or renewed.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 91–55, Purchases and Sales of American Eagle Coins.

Type of Review: Extension of a currently approved collection.

OMB Number: 1210–0079.

Record-keeping: Six years.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Frequency of Response: On occasion.

Total Respondents: 3.

Total Responses: 55,000.

Total Estimated Burden Hours: 2,384 hours.

Total Annualized Capital/Startup Costs: $0.

Total Annual Cost (Operating and Maintenance): $0.

Description: Prohibited Transaction Class Exemption 91–55 permits the purchase and sale of American Eagle Coins between individual retirement accounts (IRA) and authorized purchasers from the United States Mint that also are "disqualified persons" within the meaning of Code section 4975(e)(2), with respect to IRAs. The exemption also describes the circumstances under which an interest-free extension of credit in connection with such sales and purchases is permitted. In the absence of an exemption, such purchases and sales and extensions of credit would be impermissible under the Employee Retirement Income Security Act of 1974 (ERISA). The information collection request includes: record keeping; issuing a confirmation statement after each transaction; and disclosing to the person directing the covered transaction certain information about transactions in Coins.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–12844 Filed 5–21–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employment And Training Administration

Trade Adjustment Assistance Program; Designation of Certifying Officers

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of designation of certifying officers.

SUMMARY: The trade adjustment assistance program operates under the Trade Act of 1974 to furnish program benefits to domestic workers adversely affected in their employment by imports of articles which are like or are directly competitive with articles produced by the firm employing the workers. The North American Free Trade Agreement-Transitional Adjustment Assistance amended the Trade Act of 1974 to provide assistance to workers impacted by a shift in production from the workers' firm to Mexico or Canada, or increased company or customer imports from Mexico or Canada of articles like or directly competitive with those produced by the workers' firm. Workers become eligible for program benefits only if the worker group is certified under the Act as eligible to apply for adjustment assistance. From time to time the agency issues an Order designating officials of the agency authorized to act as certifying officers. Employment and Training Order No. 1–01, was issued to revise the listing of officials designated as certifying officers, superseding the previous Order. Employment and Training Order No. 1–01, is published below.

Signed at Washington, D.C., this 10th day of May 2001.

Raymond J. Uhalde,

Deputy Assistant Secretary of Labor, Employment and Training Administration.

[FR Doc. 01–12820 Filed 5–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed revision collection of the following information collection: Operator Controversion (CM–970), Operator Response (CM–970A), Operator Response to Schedule for Submission of Additional Evidence (CM–2970), and Operator Response to Notice of Claim (CM–2870A).

DATES: Written comments must be submitted to the office listed in the addressee section below by July 23, 2001.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

I. Background

The Division of Coal Mine Workers' Compensation administers the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*,) which provides benefits to coal miners totally disabled due to pneumoniosis, and their surviving dependents. When the Division of Coal Mine Workers' Compensation (DCMWC) makes an initial finding that an applicant is eligible for benefits, and, if a coal mine operator has been identified as potentially liable for payment of those benefits, the responsible operator is notified of the initial finding. The CM–970 gives the operator an opportunity to controvert the liability. The CM–970 is used for all claims filed before January 19, 2001. Regulations require that a coal mine operator be identified and notified of potential liability as early in the adjudication process as possible. The CM–970A is sent to the operator with the Notice of Claim notifying the operator of potential liability of payment for benefits. The CM–970A gives the operator an opportunity to agree or disagree with the identification. The CM–970A is be used for all claims filed before January 19, 2001. The CM–2970 and 2970A serve the same purposes as the CM–970 and 970A, will be used for all claims filed after January 19, 2001. Regulatory

authority is found at 20 CFR 725.412 for the CM–970, 20 CFR 725.413 for the CM–970A, 20 CFR 725.410 for the CM–2970, and 20 CFR 725.408 for the CM–2970A.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the approval for this information collection in order to carry out its responsibility to administer the Black Lung Benefits Act. As a result of revised regulations published on December 20, 2000, the wording and appearance of the original CM–970 and CM–970A have been revised. The revised versions of the forms have been designated as the CM–2970 and CM–2970A, and are to be used for those claims filed after January 19, 2001. The CM–970 and CM–970A will continue to be used for all claims filed prior to January 19, 2001. The CM–970 and CM–970A forms will eventually be phased out as the CM–2970 and 2970A replace them.

Type of Review: Revision.

Agency: Employment Standards Administration.

Title: Operator Controversion (CM–970), Operator Response (CM–970A), Operator Response to Schedule for Submission of Additional Evidence (CM–2970), Operator Response to Notice of Claim (CM–2970A).

OMB Number: 1215–0058.

Affected Public: Businesses or other for-profit; State, Local or Tribal Government.

Frequency: On occasion.

Form	Number of respondents	Average time per response	Burden hours
CM–970	400	15 minutes	100
CM–970A	400	15 minutes	100
CM–2970	5,000	10 minutes	833
CM–2970A	5,000	15 minutes	1,250

Total Respondents: 10,800.

Estimated Total Burden Hours: 2,283.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $3,996.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 1, 2001.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 01–12821 Filed 5–21–01; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL CAPITAL PLANNING COMMISSION

Guidelines and Submission Requirements for Antennas on Federal Property in the National Capital Region

AGENCY: National Capital Planning Commission.

ACTION: Proposed commission procedure revision.

SUMMARY: The National Capital Planning Commission has prepared a draft of proposed revisions to its current Guidelines and Submission Requirements for Antennas on Federal Property in the National Capital Region developed in compliance with the Telecommunications Act of 1966, the President's Executive Memorandum on "Facilitating Access to Federal Property for the Siting of Mobile Services Antennas" dated August 10, 1995, the General Services Administration's "Placement of Commercial Antennas on Federal Property" dated June 11, 1997, and Public Law 106–113. The Commission requests public review and comment on the draft proposed guidelines and submission requirements during a 60-day comment period that begins on the date of this notice.

DATES: Submit comments on or before July 23, 2001.

ADDRESSES: All comments should be addressed to: National Capital Planning Commission, Attention: Susan M. Hinton, 401 9th Street, NW, Suite 500 North Lobby, Washington, DC 20576. Comments may also be sent by e-mail to susan.hinton@ncpc.gov. Faxes may be sent to (202) 482–7272. All comments will be fully considered.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Hinton, Community Planner, National Capital Planning Commission, (202) 482–7231 or Mr. Ash Jain, General Counsel, National Capital Planning Commission, (202) 482–7270. A copy of the revised procedures may be requested and is also available at the Commission's Internet website: www.ncpc.gov/what.html

SUPPLEMENTARY INFORMATION: The Commission has drafted revisions to the agency's Guidelines and Submission Requirements for Antennas on Federal Property in the National Capital Region. This revised document addresses necessary changes to the Commission's existing guidelines and submission requirements, which describe how the National Capital Planning Commission will review proposals to locate antennas on federal property in the National Capital Region. The revised guidelines and submission requirements, when adopted in their final form, would supersede the current guidelines and submission requirements approved by the Commission on January 7, 1988 and amended on April 6, 1989, and November 6, 1997.

Dated: May 3, 2001.

Ash Jain,

General Counsel and Congressional Liaison, National Capital Planning Commission.

[FR Doc. 01–12877 Filed 5–21–01; 8:45 am]

BILLING CODE 7520–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business required the deletion of the following item from the previously announced closed meeting (**Federal Register**, Vol. 66, No. 93, page 24409, May 14, 2001) scheduled for Thursday, May 17, 2001:

2. One (1) Personnel Matter. Closed pursuant to exemptions (2) and (6).

The Board voted unanimously that agency business required that this item be removed from the closed agenda. Earlier announcement of this change was not possible.

The previously announced items were:

1. Administrative Action under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).

2. Two (2) Personnel Matters. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–13015 Filed 5–18–01; 12:51 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel for Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel for Social, Behavioral, and Economic Sciences (#1766).

Date/Time: May 31–June 1, 2001, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Rm 525 and 535 (Stafford-II), 4201 Wilson Blvd. Arlington, VA

Type of Meeting: Closed.

Contact Person: Thomas J. Baerwald, Division of Behavioral and Cognitive Sciences, Room 995, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 (703) 292–8754.

Purpose of Meeting: To evaluate proposals submitted for the Biocomplexity in the Environment/Dynamics of Coupled Natural and Human Systems competition.

Agenda: The panel will evaluate proposals and make funding recommendations to NSF staff.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters that are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government Sunshine Act.

Reason for Late Notice: Conflicting schedules of members and the necessity to proceed with the evaluation of proposals.

Dated: May 17, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–12829 Filed 5–21–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Dockets No.: 070–364, 70–3035]

Consideration of License Amendment Requests for the Babcock and Wilcox Facility and Shallow Land Disposal Area in Parks Township, PA, and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of license amendment requests for the Babcock and Wilcox Facility and Shallow Land Disposal Area in Parks Township, Pennsylvania, and opportunity for a hearing.

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of license amendments to Special Nuclear Material License No. SNM–414 (SNM–414), and Special Nuclear License No. SNM–2001 (SNM–2001), both issued to Babcock and Wilcox Company, Pennsylvania Nuclear Service Operation (the license), to authorize amending condition 9, "Authorized Places of Use," of its SNM–414 License at its facility in Parks Township, Pennsylvania and of its SNM–2001 License at its Shallow Land Disposal Area (SLDA).

The licensee has been decommissioning the site in accordance with the conditions discussed in SNM–414. On April 4, 2001, the licensee submitted a license amendment request for change of boundaries by adjusting and transferring two portions of the facility under SNM–414 to a contiguous site under NRC license, SNM–2001, Shallow Land Disposal Area. Both sites are on the NRC's Site Decommissioning Management Plan and the SLDA is being assessed by the U.S. Army Corps of Engineers for possible remediation under the Formerly Utilized Sites Remedial Action Program.

The NRC hereby provides notice that this is a proceeding on request for amendment of a license falling within the scope of Subpart L "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with Section 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Service Branch of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

3. The requester's area of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served by delivering it personally or by mail, to:

1. The applicant, Babcock and Wilcox Company, R.D. 1, Box 355, Vandergrift, PA 15690, Attention Mr. Richard M. Bartosik; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the licensee request and plans are available for inspection at the NRC's Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, MD, 20852.

Dated at Rockville, Maryland, this 14th Day of May, 2001.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Acting Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–12834 Filed 5–21–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

The NRC Seeks Qualified Candidates for the Advisory Committee on Reactor Safeguards

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for resumés.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking qualified candidates for an appointment to its Advisory Committee on Reactor Safeguards (ACRS) to fill a vacancy.

ADDRESSES: Submit resumés to: Ms. Sherry Meador, Administrative Assistant, Operations Support Branch, ACRS/ACNW, Mail Stop T2E–26, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: Congress established the ACRS to provide the NRC with independent expert advice on matters related to the safety of existing and proposed nuclear power plants and on the adequacy of proposed reactor safety standards. The Committee work currently emphasizes safety issues associated with the operation of 103 commercial nuclear units in the United States; the pursuit of a risk-informed and performance-based regulatory approach; license renewal applications; risk-informed revisions to 10 CFR Part 50; power uprates; transient and accident analysis codes; use of mixed oxide and high burnup fuels; and advanced reactor designs.

The ACRS membership includes individuals from national laboratories, academia, and industry who possess specific technical expertise along with a broad perspective in addressing safety concerns. Committee members are selected from a variety of engineering and scientific disciplines, such as nuclear power plant operations, nuclear engineering, mechanical engineering, electrical engineering, chemical engineering, metallurgical engineering, risk assessments, structural engineering, materials science, and instrumentation and process control systems. At this time, candidates are specifically being sought who have 15–20 years of experience, including graduate level education, in the area of thermal hydraulics.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear safety matters, and the ability to solve problems. Additionally, the Commission considers the need for specific expertise in relationship to current and future tasks. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with varying views so that the membership on the Committee will be fairly balanced in terms of the points of view represented and functions to be performed by the Committee.

Because conflict-of-interest regulations restrict the participation of members actively involved in the regulated aspects of the nuclear industry, the degree and nature of any such involvement will be weighed. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities issued by nuclear industry entities, or discontinuance of industry-funded research contracts or grants.

Copies of a resume describing the educational and professional background of the candidate, including any special accomplishments, professional references, current address, and telephone number should be provided. All qualified candidates will receive careful consideration. Appointment will be made without regard to such factors as race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States and be able to devote approximately 80–100 days per year to Committee business. Applications will be accepted until July 16, 2001.

Dated: May 16, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–12833 Filed 5–21–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension: Rule 19b–4(e) and Form 19b–4(e); SEC File No. 270–447; OMB Control No. 3235–0504.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 19b–4(e) permits a self-regulatory organization ("SRO") to immediately list and trade a new derivative securities product so long as such product is in compliance with the criteria of Rule 19b–4(e) under the Securities Exchange Act of 1934 ("Act"). However, in order for the Commission to maintain an accurate record of all new derivative securities products traded through the facilities of SROs and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e), it is necessary that the SRO maintain, on-site, a copy of Form 19b–4(e) under the Act. Rule 19b–4(e) requires SROs to file a summary form, Form 19b–4(e), and thereby notify the Commission, within five business days after the commencement of trading a new derivative securities product. In addition, the Commission reviews SRO compliance with Rule 19b–4(e) through its routine inspections of the SROs.

The collection of information is designed to allow the Commission to maintain an accurate record of all new derivative securities products traded through the facilities of SROs and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e).

The respondents to the collection of information are self-regulatory organizations (as defined by the Act), including national securities exchanges and national securities associations.

Ten respondents file an average total of 100 responses per year, which corresponds to an estimated annual response burden of 100 hours. At an average cost per burden hour of $47.50, the resultant total related cost of compliance for these respondents in $4,750 per year (100 burden hours multiplied by $47.50/hour=$4,750).

Compliance with Rule 19b–4(e) is mandatory. Information received in response to Rule 19b–4(e) shall not be kept confidential; the information collected is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (a) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (b) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: May 15, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12790 Filed 5–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44301; File No. SR–GSCC–00–13]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Establishment of a Cross-Margining Agreement With the Chicago Mercantile Exchange and a Clarification of the Government Securities Clearing Corporation's Cross-Margining Rules

May 11, 2001.

On October 13, 2000, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–GSCC–00–13) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on January 23, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

On August 19, 1999, the Commission approved GSCC's proposed rule change to establish a cross-margining program with other clearing organizations and to begin its program with the New York Clearing Corporation ("NYCC").[3] GSCC is now establishing a cross-margining arrangement with the Chicago Mercantile Exchange ("CME") similar to the one GSCC already has in place with NYCC. With the GSCC–CME cross-margining arrangement, GSCC will implement its "hub-and-spoke" method of cross-margining, which was introduced in the rule filing establishing the GSCC–NYCC cross-margining arrangement and which applies when more than one clearing organization is involved in cross-margining with GSCC.

(i) GSCC's Cross-Margining Program

GSCC believes that the most efficient and appropriate approach for establishing cross-margining links for fixed-income and other interest rate products is to do so on a multilateral basis with GSCC as the "hub." Each clearing organization that participates in a cross-margining arrangement with GSCC (hereinafter a "Participating CO") will enter into a separate cross-margining agreement between itself and GSCC, as NYCC did and now CME will do. Each of the agreements will have similar terms,[4] and no preference will be given by GSCC to one Participating CO over another.

Cross-margining is available to any GSCC netting member (with the exception of inter-dealer broker netting members) that is, or that has an affiliate that is, a member of a Participating CO. Any such member (or pair of affiliated members) may elect to have its margin requirements at both clearing organizations calculated based upon the net risk of its cash and repo positions at GSCC and its offsetting and correlated positions in related contracts carried at the Participating CO. Cross-margining is intended to lower the cross-margining participant's (or pair of affiliated members') overall margin requirement.

The GSCC member (and its affiliate, if applicable) signs an agreement under which it (or they) agrees to be bound by the cross-margining agreement between GSCC and the Participating CO and which allows GSCC or the Participating CO to apply the member's (or its affiliate's) margin collateral to satisfy any obligation of GSCC to the Participating CO (or vice versa) that results from a default of the member (or its affiliate).

Margining based on the net combined risk of correlated positions is based on an arrangement under which GSCC and each Participating CO agree to accept the correlated positions in lieu of supporting collateral. Under this arrangement, each clearing organizations holds and manages its own positions and collateral and independently determines the amount of margin that it will make available for cross-margining (referred to as the "residual margin amount").

GSCC computes the amount by which the cross-margining participant's margin requirement can be reduced at each clearing organization (*i.e.*, the "cross-margin reduction") by comparing the participant's positions and the related margin requirements at GSCC against those at each Participating CO.[5] GSCC offsets each cross-margining participant's residual margin amount (based on related position) at GSCC against the offsetting residual margin amounts of the participant (or its affiliate) at each Participating CO. If the residual margin that GSCC has available for a participant is greater than the combined residual margin submitted by the Participating COs, GSCC will allocate a portion of its residual margin equal to the combined residual margin at the Participating COs. If the combined residual margin submitted by the Participating COs is greater than the residual margin that GSCC has available for that participant, GSCC will first allocate its residual margin to the Participating CO with the most highly correlated position.[6] If the positions are equally correlated, GSCC will allocate pro rata based upon the residual margin amount available at each Participating CO. GSCC and each Participating CO may then reduce the amount of collateral they collect to reflect the offsets between the cross-margining participant's positions at GSCC and its (or its affiliate's) position at the Participating CO.[7] In the event of the default and liquidation of a cross-margining participant, the loss sharing between GSCC and each of the Participating COs will be based upon the foregoing allocations and the cross-margin reduction.

GSCC will guarantee the cross-margining participant's (or its affiliate's) performance to each Participating CO

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 43849 (January 17, 2001), 66 FR 7522.

[3] Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR–GSCC–98–4]. The rule changes necessary for GSCC to engage in cross-margining were made in the NYCC cross-margining rule filing.

[4] It is anticipated that in the interest of conformity NYCC and GSCC will execute a new cross-margining agreement that is substantially the same as the draft agreement with the CME.

[5] NYCC uses GSCC's margin rates to determine margin reduction. CME, which utilizes its own rates, and GSCC will compare margin reduction rates and will use the lower of the two in determining margin reduction.

[6] GSCC has computed and tested disallowance factors that will be applicable to each potential pair of positions being offset. "Disallowance factor" means the specified percentage in the cross-margining agreement between GSCC and CME that is applied to reduce the residual margin amount used to calculate the margin offset.

[7] GSCC and each Participating CO unilaterally have the right to not reduce its participant's margin requirement by the cross-margin reduction or to reduce it by less than the cross-margin reduction. However, the clearing organizations may not reduce a participant's margin requirement by more than the cross-margin reduction.

up to a specified maximum amount which relates back to the cross-margin reduction. There will always be a specified maximum amount that one clearing organization could be required to pay another clearing organization. Each Participating CO will provide the same guaranty up to the same specified maximum amount to GSCC.

GSCC proposed one additional rule change, to Rule 22, Section 4, in this present rule filing in order to further clarify that before GSCC credits an insolvent member for any profit realized on the liquidation of the member's final net settlement positions, GSCC will fulfill its obligations with respect to that member under the cross-margining agreement.

(ii) Information Specific to the Current Agreement between GSCC and CME

(a) *Participation in the cross-margining program:* Any netting member of GSCC other than an inter-dealer broker netting member will be eligible to participate. Any clearing member of CME will be eligible to participate.[8]

(b) *Products subject to cross-margining:* The products that will be eligible for the GSCC–CME cross-margining arrangement will be (1) the Treasury bills, notes, and bonds that are cleared by GSCC and (2) Eurodollar futures contracts with ranges in maturity from 3 months to 10 years and options on such futures contracts cleared by CME.[9] GSCC offset classes will be offset against CME offset classes based on correlation studies and the appropriate disallowance factors will be applied. All eligible positions maintained by a cross-margining participant in its account at GSCC and in its (or its affiliate's) proprietary account at CME will be eligible for cross-margining.[10]

(c) *Margin Rates:* GSCC and CME currently use different margin rates to establish margin requirements for their respective products. Residual margin amounts in the GSCC–CME cross-margining arrangement will always be computed based on the lower of the applicable margin rates. This methodology results in a potentially lesser benefit to the participant but ensures a more conservative result for both GSCC and CME (*i.e.*, more collateral held at the clearing organizations).

(d) *Daily Procedures:* On each business day, it is expected that CME will inform GSCC of the residual margin amounts it is making available for cross-margining by approximately 10 p.m. New York time. GSCC will inform CME by approximately 12 a.m. New York time how much of these residual margin amounts it will use. Reductions as computed will be reflected in GSCC's daily clearing fund calculation.

(iii) Benefits of Cross-Margining

GSCC believes that its cross-margining program enhances the safety and soundness of the settlement process for the government securities marketplace by: (1) Providing clearing organizations with more data concerning members' intermarket positions (which is especially valuable during stressed market conditions) to enable the clearing organizations to more accurately make decisions regarding the true risk of such positions to the clearing organization; (2) allowing for enhanced sharing of collateral resources; and (3) encouraging coordinated liquidation processes for a joint participant, or a participant and its affiliate, in the event of an insolvency. GSCC further believes that cross-margining benefits participating clearing members by providing members with the opportunity to more efficiently use their collateral. More important from a regulatory perspective, however, is that cross-margining programs have long been recognized as enhancing the safety and soundness of the clearing system itself. Studies of the October 1987 market break gave support to the concept to the concept of cross-margining. For example, The Report of the President's Task Force on Market Mechanisms (January 1988) noted that the absence of a cross-margining system for futures and securities options markets contributed to payment strains in October 19878. The Interim Report of the President's Working Group on Financial Markets (May 1988) also recommended that the SEC and CFTC facilitate cross-margining programs among clearing organizations. As a result, the first cross-margining arrangement between clearing organizations was implemented in 1988.[11]

II. Discussion

Under section 19(b) of the Act, the Commission is directed to approve a proposed rule change of a clearing agency if not finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.[12] In section 17A(a)(2)(A)(ii) of the Act, Congress directs the Commission to use its authority under the Act to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for further delivery and options thereon, and commodity options.[13] Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency for which it is responsible.[14] The Commission believes that the approval of GSCC's proposed rule change is consistent with these sections.

First, the Commission's approval of GSCC's proposed rule change to establish a cross-margining arrangement with the CME and to implement its hub and spoke approach to cross-margining with the CME and NYCC is in line with the Congressional directive to the Commission to facilitate linked and coordinated facilities for the clearance and settlement of securities and futures. Second, approval of GSCC's proposal should result in increased and better information sharing between GSCC and Participating COs regarding the portfolios and financial conditions of participating joint and affiliated members. As a result, GSCC and participating COs will be in a better position to monitor and assess the potential risks of participating joint or affiliated members and will be in a better position to handle the potential losses presented by the insolvent of any joint or affiliated member. Therefore, GSCC's proposal should help GSCC better safeguard the securities and funds in its possession or control or for which it is responsible.

[8] The draft GSCC–CME agreement requires ownership of 50 percent or more of the common stock of an entity to indicate control of the entity for purposes of the definition of "affiliate."

[9] Under the GSCC–NYCC cross-margining arrangement are Treasury bills, notes, and bonds cleared by GSCC and Treasury futures cleared by NYCC.

[10] At least initially, the GSCC–CME cross-margining arrangement will be applicable on the futures side only to positions in a proprietary account of a cross-margining participant (or its affiliate) at the CME. The arrangement will not apply to positions in a customer account at CME that would be subject to segregation requirements under the CEA. This is also the case with respect to the GSCC–NYCC cross-margining arrangement.

[11] Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567 (October 7, 1988) [File No. SR–OCC–86–17] (order approving cross-margining program between The Options Clearing Corporations and the Intermarket Clearing Corporation).

[12] 15 U.S.C. 78s(b).

[13] 15 U.S.C. 78q–1(a)(2)(A)(ii).

[14] 15 U.S.C. 78q–1(b)(3)(F).

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–00–13) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12824 Filed 5–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44307; File No. SR–NASD–2001–37]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Trading Halt Authority

May 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 11, 2001, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq" or "Association"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to amend NASD Rule 4120, Trading Halts, to clarify the extent of Nasdaq's authority to halt trading in a security in response to extraordinary market activity that Nasdaq believes may be caused by the misuse or malfunction of an electronic system that is operated by, or linked to, Nasdaq. The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

4120. Trading Halts

(a) No change.

(1)–(5) No change.

(6) Halt trading in a security listed on Nasdaq when:

(i) extraordinary market activity in the security is occurring, such as the execution of a series of transactions for a significant dollar value at prices substantially unrelated to the current market for the security, as measured by the national best bid and offer, and

(ii) Nasdaq believes that such extraordinary market activity may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq.

(b)(1)–(3) No change.

(4) Should Nasdaq determine that a basis exists under Rule 4120(a)[(1), (a)(2), (a)(3), (a)(4), or (a)(5)] for initiating a trading halt, the commencement of the trading halt will be effective simultaneously with appropriate notice in the Nasdaq "NEWS" frame.

(5) No change.

(6) A trading halt initiated under Rule 4120(a)(6) shall be terminated as soon as Nasdaq determines either that the system misuse or malfunction that caused the extraordinary market activity has been corrected or that system misuse or malfunction is not the cause of the extraordinary market activity.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is clarify Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq. NASD Rule 4120 provides Nasdaq with authority to halt trading in securities in a number of circumstances in which Nasdaq deems a trading halt necessary to protect investors and the public interest. The specific bases for initiating a trade halt that are currently listed in Rule 4120 focus primarily on ensuring that investors have access to material news about an issuer. Thus, trading may be halted to allow the issuer to disseminate material news or to allow Nasdaq to request from the issuer information relating to material news or other information that is necessary to protect investors and the public interest. Trading of a security may also be halted in certain circumstances to ensure coordination with a halt of the same or a related security imposed by another market. The decision to halt trading and to resume trading in a particular security are communicated to market participants via the Nasdaq "NEWS" frame of the Nasdaq Workstation.

As a result of the decentralized and electronic nature of the market operated by Nasdaq, the price and volume of transactions in a Nasdaq-listed security may be affected by the misuse or malfunction of electronic systems, including systems that are linked to, but not operated by, Nasdaq. In circumstances where misuse or malfunction results in extraordinary market activity, Nasdaq believes that it may be appropriate to halt trading until the system problem can be rectified. As is true for all trading halts initiated under Rule 4120, a decision to halt trading would require a determination that the action is necessary to protect investors and the public interest. Thus, a misuse or malfunction that has a limited effect on a particular security may not warrant a trading halt. In extraordinary circumstances, however, the system misuse or malfunction may generate significant misinformation about the demand for a particular security in a manner that distorts prices to the detriment of investors.

Under the proposed rule change, Nasdaq would be authorized to initiate a halt if it believes that a particular insurance of extraordinary market activity may be caused by system misuse of malfunction. However, the trading halt would continue only until Nasdaq determines either that the system misuse or malfunction that caused the extraordinary market activity has been corrected or that system misuse or malfunction is not the cause of the extraordinary market activity. Thus, the existence of extraordinary market activity; unrelated to an instance of system misuse or malfunction, would

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

not provide a basis for continuing a trade halt.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[3] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Nasdaq believes the proposed rule change is consistent with these requirements because the amendment will provide Nasdaq with clearer authority to respond to and alleviate market disruptions and thereby protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Nasdaq. All submissions should refer to file number SR–NASD–2001–37 and should be submitted by June 12, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12825 Filed 5–21–01; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78o–3(b)(6).

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44302; File No. SR–NYSE–00–61]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., To Amend the Interpretation of NYSE Rule 412, "Customer Account Transfer Contracts"

May 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 22, 2000, the New York Stock Exchange, Inc. ("NYSE"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change and on February 12, 2001, amended the proposed rule change[3] as described in Items I, II, and III below, which Items have been prepared primarily by the NYSE. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Darla C. Stuckey, Assistant Secretary, NYSE to Jerry Carpenter, Assistant Director, Division of Market Regulation (February 8, 2001).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend its Interpretation of NYSE Rule 412, "Customer Account Transfer Contracts," to expedite the transfer of customer accounts containing proprietary and/or third party products. The text of the proposed rule change is available upon request from the NYSE's Office of the Secretary or through the Commission's Public Reference Branch.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the prupose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. *Introduction.* NYSE Rule 412 prescribes procedures for member organizations transfering customer accounts and requires the use of the automated Customer Account Transfer Service ("ACATS") which is administered by the National Securities Clearing Corporation ("NSCC"). Since ACATS's inception in 1985, several enhancements to the system and to NYSE Rule 412 have allowed for faster and more efficient transfers to customer accounts. Recent ACATS modifications offer the capability to facilitate the transfer of accounts containing third party and/or proprietary products. The proposed amendments to the Interpretation of NYSE Rule 412 relate to these modifications and would provide the number greater flexibility to expedite the transfer of such accounts.

b. *Background.* The transfer process is initiated when, upon a customer's written instructions, the receiving firm[5] submits a Transfer Instruction Form or Transfer Initiation Form ("TIF") to the carrying firm.[6] Although most securities can be transferred through ACATS, member organizations vary widely in their ability to accept and support certain proprietary and/or third party investment products. These differences in servicing capability are particularly problematic with regard to mutual funds.

In order to carry a mutual fund position for a customer's account, the member organization must have a marketing agreement with the investment company that has issued the fund and must have certain corresponding servicing capabilities (*e.g.*, capacity to by and sell shares, reinvest dividends, etc.). The extraordinarily large number of mutual funds that have become available over the last decade has resulted in great variance among member organizations with respect to the third party funds they can sell, service, and support.

c. *Current Situation.* In the current ACATS environment, a carrying firm must deliver third party client mutual funds without knowing whether the receiving firm has the capability to accept, service, and support such funds. If the receiving firm cannot support a particular fund, the delivery will be made to the receiving firm and then to be reversed back to the carrying firm, resulting in substantial processing time by both firms and an overall delay in completing the transfer. To illustrate the point, member organizations approximate that 50% of their ACATS "fails-to-deliver" that must ultimately be reversed are caused by mutual funds the receiving firm is unable to support. The ACATS-generated fails result in considerable expense to carrying firms because they are required to credit the receiving firm funds equivalent to the value of the assets they are unable to deliver.

d. *Proposed Amendments to the Interpretation of NYSE Rule 412.* The proposed amendments to paragraphs (b)(1)/01,/04, and /06 of the Interpretation of NYSE Rule 412, in conjunction with the corresponding modifications to the ACATS system, would allow the receiving firm to review an asset validation report provided by the carrying firm and designate those proprietary and/or third party products (*i.e.*, mutual funds/money market funds) it is unable to support. As to those products it is unable to support, the receiving firm would have to provide the customer with a list of the specific assets and request in writing prior to or at the time it makes such designation, further instructions from the customer with respect to the disposition of such assets. The customer would, at minimum, have to be provided with the following options[7]:

(1) Liquidation;

(2) Retention by the carrying organization;

(3) Physical shipment in the customer's name to the customer; or

(4) Transfer to the third party that is the original source of the product.[7]

The transfer of the other assets in the account would be undertaken simultaneously with the receiving firm's designation of nontransferable assets. The proposed designation requirements on the part of the receiving firm should reduce the overall timeframe for transferring proprietary and/or third party products and should lower the related costs incurred by member organizations.

The proposed amendments also include a notification enhancement that will expedite the disposition of nontransferable carrying firm proprietary products.[8] The current Interpretation requires that the carrying organization provide general notification to the customer if an account to be transferred contains any nontransferable assets. The proposed amendments would require the carrying organization to notify the customer of the specific nontransferable, proprietary assets of the carrying firm that are in the account and would further require the carrying organization to provide the customer with a list of those specific assets.

e. *Internal Reassignment of Accounts.* An additional amendment to the Interpretation of NYSE Rule 412[9] is being proposed to address situations where a carrying organization internally reassigns customer accounts to other registered representatives and establishes new account numbers. The proposed amendment places responsibility for tracking these account number changes with the carrying organization and makes clear that a transfer request rejected on the basis of such reassignment will not be considered a legitimate exception under the new rule.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with section 6(b) of the Act[10] in general and furthers the objectives of section 6(b)(5) of the Act[11] in particular in that it is designed to: promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. These interests are served when procedures governing the transfer of customer accounts are made more efficient.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The NYSE has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[4] The Commission has modified the text of the summaries prepared by the NYSE.

[5] Within the context of NYSE Rule 412, the term "receiving firm" refers to a member organization to which a customer is transferring his account.

[6] Within the context of NYSE Rule 412, the term "carrying firm" refers to a member organization from which a customer is transferring his account.

[7] Rule 412(b)(/06(B).

[8] Rule 412(b)(1)/06(A).

[9] Rule 412(b)(1)/02.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at NYSE's principal office. All submissions should refer to File No. SR–NYSE–00–61 and should be submitted by June 12, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12791 Filed 5–21–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before July 23, 2001.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Jonathan R. Pawlow, Assistant Chief Counsel, Office of Advocacy, Small Business Administration, 409 3rd Street, SW., Suite 7800, Washington DC 20416.

FOR FURTHER INFORMATION CONTACT: Jonathan R. Pawlow, Assistant Chief Counsel, (202) 205–6951 or Curtis B. Rich, Management Analyst, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of State Efforts to Review and Alleviate State Regulatory Burdens on Small Business.

Form No: N/A.

Description of Respondents: The Office of Advocacy is surveying states to gain a better understanding of what states are doing to help small businesses overcome state regulatory hurdles.

Annual Responses: 130.

Annual Burden: 120.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–12827 Filed 5–21–01; 8:45 am]

BILLING CODE 8025–01–P

[12] 17 CFR 200.30–2(a)(12).

DEPARTMENT OF STATE

[Public Notice 3666]

Advisory Committee on International Communications and Information Policy; Meeting Notice

The Department of State is announcing the next meeting of its Advisory Committee on International Communications and Information Policy.

The Committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

There will be a featured guest speaker at the meeting who will speak on an important topic involving international communications and information policy.

This meeting will be held on Thursday, June 14, 2001, from 9:30 a.m.–12:30 p.m. in Room 1105 of the Main Building of the U.S. Department of State, located at 2201 "C" Street, NW., Washington, DC 20520.

Members of the public may attend these meetings up to the seating capacity of the room. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Timothy C. Finton at <fintontc@state.gov> no later than noon on Wednesday, June 13. All attendees for this meeting must use the 23rd Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID. Non-U.S. Government attendees must be escorted by State Department personnel at all times when in the State Department building.

For further information, contact Timothy C. Finton, Executive Secretary of the Committee, at (202) 647–5385 or <fintontc@state.gov>.

Dated: May 14, 2001.

Timothy C. Finton,

Executive Secretary, Advisory Committee on International Communications and Information Policy, Department of State.

[FR Doc. 01–12851 Filed 5–21–01; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

[Public Notice Number: 3662]

Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy, reauthorized pursuant to Public Law 106–113 (H.R. 3194, Consolidated Appropriations Act, 2000), will meet on Thursday, June 7, 2001, in Room 600, 301 4th St., SW., Washington, DC from 9:30 a.m. to 12:00 Noon.

The Commission will discuss its recent trip to Asia, the future of public diplomacy in the Department of State, and the future of the Commission.

Members of the general public may attend the meeting, though attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees. Persons who plan to attend should contact David J. Kramer, Executive Director, at (202) 619–4463.

Dated: May 11, 2001.

David J. Kramer,

Executive Director, Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 01–12849 Filed 5–21–01; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Notice Number 3665]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:00 a.m. on Tuesday, 12 June, in Room 6301, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to finalize preparations for the 50th Session of the Technical Cooperation Committee (TCC 50) and 86th Session of Council of the International Maritime Organization (IMO).

The TCC 50 meeting will be held at IMO Headquarters on 21 June 2001 and will focus on the following items:

—Technical Co-operation Programme (TCP) for 2002–2003;
—Regional Co-ordination and Delivery including a review of IMO's pilot project on regional presence;
—IMO Women in Development Programme;
—Institutional Development and Fellowships;
—Report on the status of funding for the translation of model courses; and
—Election of the Chairman and Vice-Chairman of TCC for 2002.

The 86th Session of the Council is scheduled for 18–22 June 2001, at the IMO Headquarters in London. Items of interest include:

—Committees reports;
—Report on the International Conference on Liability and Compensation for Bunker Oil Pollution Damage;
—Work Program and Budget for 2002–2003;
—Review of the Organization's financial framework in accordance with Assembly resolution A.877(21);
—Report on the status of conventions and other multilateral instruments in respect of which the Organization performs its function;
—World Maritime University;
—IMO International Maritime Law Institute;
—Relations with intergovernmental and non-governmental organizations; and
—Assembly matters.

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Director, International Affairs, U.S. Coast Guard Headquarters, Commandant (G–CI), Room 2114, 2100 Second Street, SW., Washington, DC 20593–0001 or by calling: (202) 267–2280.

Dated: May 11, 2001.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 01–12850 Filed 5–21–01; 8:45 am]

BILLING CODE 4710–01–P

DEPARTMENT OF STATE

[Notice Number 3667]

Shipping Coordinating Committee; International Maritime Organization Legal Committee; Notice of Meetings

The Shipping Coordinating Committee (SHC) will conduct open meetings between June and October, 2001, to assist in formulating the United States position on International Maritime Organization (IMO) Legal Committee negotiations of a draft protocol to the Athens Convention Relating to the Carriage of Passengers and Their Luggage by Sea, 1974 (draft Athens protocol), and also to prepare for other items on the agenda of the eighty-third session of the Legal Committee (LEG 83). LEG 83 will meet from 8 to 12 October 2001.

The U.S. delegation to LEG 83 will consider views on issues raised by the draft Athens protocol as indicated below, but will also allow time for discussion of other topics raised at the meetings. To submit views on the draft Athens protocol in advance of the scheduled meetings, please send them either electronically to *dgoettle@comdt.uscg.mil* or by fax to the attention of LT Daniel J. Goettle at (202) 267–4496 or by mail to Commandant (G–LMI), U.S. Coast Guard, 2100 Second St. SW., Washington, D.C., 20593–0001, attention LT Daniel J. Goettle. Any written submissions may be posted at *http://ofls14.jag.af.mil/dscgi/ds.py/View/Collection-2640*. Additionally, changes to the below schedule of SHC meetings will be posted on this site as well as published in the **Federal Register**. The current text of the draft Athens protocol can be found at: *http://www.uio.no/~erikro/WWW/corrgr/index.html*.

The following meeting schedule has been established to allow time for the preparation of U.S. submissions, if deemed necessary, for consideration of LEG 83. The IMO requires submissions of six or more pages to be sent no later than August 6, 2001, and submissions of less than six pages to be sent no later than September 10, 2001. Each meeting will be held at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. The meetings will be held in room 2415 at 10:00 a.m. The SHC meeting dates and issues for discussion are as follows:

June 14, 2001: The U.S. delegation will consider views on the draft Athens protocol liability scheme. This topic will include consideration of views on: liability of the carrier (Article 3); the performing carrier (Article 4); contributory fault (Article 6); limit of liability for personal injury (Article 7); and the loss of right to limit liability (Article 13). All article references are to the Athens Convention as modified by the draft Athens protocol.

July 10, 2001: The U.S. delegation will consider views on: the draft Athens protocol compulsory insurance provisions (Article 4bis); the time-bar (Article 16); the jurisdictional provisions (Article 17); recognition and enforcement (Article 17bis); invalidity of contractual provisions (Article 18); and other conventions on limitation of liability (Article 19).

August 7, 2001: The U.S. delegation will consider views on all other articles and any other issue raised through a written submission to the Coast Guard after July 10 or raised at this meeting.

September 11, 2001: This meeting is reserved and will be held if necessary to discuss any further views on the draft Athens protocol.

October 2, 2001: In addition to the draft Athens protocol, this meeting will consider views on the remainder of the LEG 83 agenda items. The other issues on the agenda are expected to include: development of a draft convention on wreck removal; the implementation of the International Convention on Liability and Compensation for Damage in Connection With the Carriage of Hazardous and Noxious Substances by Sea; and consideration of two draft resolutions submitted to the Legal Committee by the Joint International Maritime Organization/International Labor Organization Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers, which met from 30 April through 4 May 2001. The first resolution provides guidelines for member states to ensure that shipowners have the financial means to cover liability for the abandonment of seafarers, and the second resolution provides such guidelines for the death or injury of seafarers.

Members of the public are invited to attend the SHC meetings up to the seating capacity of the room. For further information, please contact Captain Joseph F. Ahern or Lieutenant Daniel J. Goettle, U.S. Coast Guard, Office of Maritime and International Law (G–LMI), 2100 Second Street, SW., Washington, DC 20593–0001; telephone (202) 267–1527; fax (202) 267–4496.

Dated: May 16, 2001.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 01–12852 Filed 5–21–01; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9267]

Approval for Experimental Shipboard Installations of Ballast Water Treatment Systems

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is requesting comments about how to provide incentives to further develop ballast water treatment (BWT) technologies and reduce the potential for introducing nonindigenous species (NIS) to the waters of the United States via discharged ballast water. Ideally, vessel owners and operators given approval to install prototype BWT systems would be considered to be in compliance with the first set of future BWT requirements, when they are implemented. Depending on the information received, we may begin developing the type of incentives outlined in this notice.

DATES: Comments and related material must reach the Docket Management Facility on or before July 23, 2001.

ADDRESSES: To make sure your comments and related material are not entered in the docket more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2001–9267) U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) By electronic means through the Web Site for the Docket Management System at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Dr. Richard Everett, Project Manager, Office of Operating and Environmental Standards (G–MSO), Coast Guard, telephone 202–267–0214. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We invite you to provide your views on: The program described in this notice; new and other approaches not identified in this notice; the potential impacts of such a program (including possible unintended or unanticipated consequences); and, any supporting or relevant data or information that you would like the Coast Guard to consider during the development of an approval program. Please explain your views as clearly as possible, describe any assumptions used, and provide copies of data or technical information used to support your views. If you submit comments and related material, please include your name and address, identify the docket number for this notice (USCG–2001–9267), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility as indicated under **ADDRESSES**. Please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period.

Why Is the Coast Guard Asking for Comments?

The problem of how to reduce the threat of introducing foreign organisms to the waters of the U.S. via ballast water discharged from vessels is complex. A number of factors contribute to the complexity of this issue, including: The relative volumes and pumping rates involved in ballasting operations; the great variability in voyage durations and routes; and the great variability in the physical, chemical, and biological make up of the ballast water carried by the vessels that operate in U.S. waters.

Under paragraphs (a) and (b) in section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act (Pub. L. 101–646), as amended by the National Invasive Species Act of 1996 (NISA) (Pub. L. 104–332), Congress directed the Coast Guard to issue regulations and guidelines on ballast water management practices to prevent the introduction of NIS to U.S. waters via the discharge of foreign water from ballast tanks of ships. Specifically, these regulations are to identify mid-ocean ballast water exchange (BWE), or environmentally sound alternative ballast water treatment (BWT) methods determined by the Coast Guard to be as effective as BWE in preventing and controlling infestations of aquatic nuisance species, as acceptable BWT technologies. These regulations are contained in 33 CFR part 151, subparts C and D; we issued these regulations on May 17, 1999 (64 FR 26672).

The development of effective BWT technologies, capable of significantly reducing the probability of introducing foreign organisms via ballast water discharges, is essential. The NISA explicitly directs that such technologies must be "as effective as (BWE)." Currently, the actual "effectiveness" of BWE in reducing the threat of introductions is not well resolved. Concerns have been voiced that exchange as a practice will be inherently difficult to quantify. Furthermore, because safe exchange using existing ballast water systems is not practicable on all voyages, exchange is not capable of providing a sufficient level of protection against the introduction of unwanted foreign organisms. An increasing number of alternative BWT technologies are being developed and tested at small, bench-top, or dockside scales. However, complete evaluation and refinement of the capabilities of such systems requires ship-scale installations that are tested for longer periods of time under a wide range of conditions.

As on-board installation and testing costs are likely to be significant, vessel owners are understandably reluctant to participate in on-board testing projects without assurances that installed experimental systems will be accepted for some specified time should regulations come into effect during the testing period.

The Coast Guard is considering developing a program that would allow vessel owners to apply for advance, conditional approval of experimental BWT systems installed and tested on board their operating vessels. Even though only a limited number of the experimental systems would be approved, the program would help nurture the establishment of collaborative partnerships between technology developers and vessel owners while standards and requirements are being developed. If we approve an experimental BWT system under the terms of the program, it would be considered to meet the requirements of the first set of future regulations regarding BWT.

Are There Any Particular Questions the Coast Guard Is Interested in Having Answered?

While we welcome comments on every aspect on this approval program, to help us ensure that studies are conducted according to well-established principles of experimental design and analysis, we encourage opinions on what specific protocols should be included in the studies associated with the program.

What Are the Details Being Considered for This Program for Approval of Experimental Shipboard Installations of BWT Systems?

The basic procedures and conditions envisioned for the approval program are as follows:

Approval Process

Applications for approval of experimental BWT systems would be accepted and reviewed as follows:

- Applications for advance approval of experimental ballast water treatment systems would be accepted at any time.
- Within 10 working days of receiving an application, applicants would be sent (via surface mail, e-mail, or facsimile transmission) a notice of the completeness of the application package. Applicants with incomplete submissions would be sent an explanation of deficiencies. Incomplete application packages would be returned (provided a self-addressed label and sufficient postage are included), or if deficiencies are minimal, held for 30 days in order to allow the applicant to correct the deficiencies.
- Formal, full reviews of supporting data and proposed study plans would be completed within 45 days of receipt of the application.
- Formal reviews would be conducted by panels of biologists and engineers with expertise in experimental investigations of biota associated with ballast water, water treatment technology, naval architecture, and marine engineering.
- The review panels would provide recommendations to the Coast Guard on the acceptability of the supporting evidence and study plans submitted with each application.
- The Coast Guard would accept or reject each application on the basis of reviews by Coast Guard staff and the recommendations of the review panel.

Criteria for Review

Applications for approval of experimental ballast water treatment systems would be evaluated on the completeness of the following information:

- A letter of commitment from the owner of the specified vessel, the manufacturer or developer of the treatment system, and the principle investigators conducting the tests, stating their intents to carry out all components of the study plan for which they are responsible.
- Documentation stating that the residual concentrations of any primary treatment chemicals or chemicals that occur as disinfection by-products meet all applicable local, state, federal, and tribal requirements.
- Documentation from preliminary, smaller scale, experiments that demonstrates the potential of the system to significantly reduce the threat of introducing nonindigenous species via ballast water discharges. The results would demonstrate a taxonomic breadth of effectiveness across a suite of organisms such as bacteria, phytoplankton (including dinoflagellates and diatoms), heterotrophic protists, rotifers, copepods (cyclopoid and harpacticoid; larval, post-larval, and adult life stages), mollusc larvae, polychaete larvae, mysids, decapod crustaceans (crabs and shrimp; larval, post-larval; and adult), and fish.
- Preliminary and proposed testing experiments would control for confounding factors and include statistical analyses that include formal power analyses (a determination of the ability of a particular statistical test to actually detect a difference among the data) for each statistical test.
- A statement with explanations of the scalability of preliminary experiments.
- A detailed study plan that:

1. Is organized according to a standardized format (to be developed).
2. Experimentally compares the effectiveness of the treatment system to the effectiveness of a specified mode of ballast water exchange.
3. Evaluates the effectiveness of the treatment system over a range of operational (including the cumulative hours of operation, volumes treated, and time since the experimental tanks were last cleaned of sediment) and environmental (including abundance of organisms, organic and inorganic "load", temperature and salinity of water, sea surface characteristics) conditions during operations.
4. Identifies explicit hypotheses about limiting conditions of the specified ship and route.
5. Assures that samples would be representative of the flow or volume from which they are taken.
6. Contains a detailed quality assurance and/or quality control plan.

Conditions of Approval

- Experimental systems would be approved for use on specified ships operating on specified routes.
- Approval of an experimental system would lapse after 1 year if the system was not installed or the testing begun as proposed.
- Experimental systems would be approved for use in all U.S. waters, including the Great Lakes and the Hudson River upstream of the George Washington Bridge.
- Systems approved under the experimental approval program would be considered to meet all BWT requirements promulgated by the Coast Guard for a period of 5 years, or until the first BWT standard is revised, whichever date is earlier. However, in the event that subsequent work reveals adverse effects on ecology or human health, the tests will be discontinued and the approval will lapse.
- Systems approved under the experimental approval program would be subject to all subsequent standards and regulations upon the expiration of the experimental approval period.
- Experimental approval would be contingent on adherence to a detailed study plan designed to test the effectiveness of the treatment system over a specified period of time. The study plan would be described completely in the application and agreed upon by the applicant and the U.S. Coast Guard.
- The experimental team would be required to submit quarterly status reports identifying tasks completed and unanticipated problems. An annual report documenting the work and results to date would be required after every 12 months of testing. A final report documenting the study findings and conclusions would be required no later than six months after the on-board testing is completed.
- Vessels receiving approval for experimental BWT systems would be subject to inspections by Coast Guard personnel to verify the presence and condition of experimental systems.
- The principle scientists and engineers responsible for conducting and analyzing the tests would attend and participate in a technical workshop during which the results of the study, along with other similar studies, would be presented and discussed. The workshops would be organized by the Coast Guard but travel costs and salary would be the responsibility of the participants.

Sample Timeline for Advance Approval Process

Following is an example of a timeline for the approval of an experimental ballast water treatment system. For illustrative purposes, the timeline incorporates the development of a standard and regulations during the test period.

Date	Action
Submit (S)	Application package submitted and reviewed for completeness.
S + 10 days	Application package accepted or rejected for submission to review panel. If complete, application package submitted to independent review panel.
S + 45 days	Application approved or denied. Final approval pends agreement on study plan.
S + 90 days (A)	Study plan negotiated and agreed-upon by Coast Guard and applicant. This date is considered the Approval Date (A). Treatment system considered meeting regulatory requirements for 5 years from this date.
Install (I)	Experimental system installed and adjusted; preliminary organization for study completed. Experimental work begins.
I + 3 months	First progress report submitted to USCG.
I + 6 months	Second progress report submitted to USCG.
I + 9 months	Third Progress report submitted to USCG.
I + 12 months	Annual Report submitted to USCG. Study continues according to schedule, with quarterly and annual reports submitted to the USCG.
Standard/Reg	First U.S. standard and regulations established for ballast water treatment. Operation of experimental system continues under study plan.
A + 5 years	Vessel must meet existing standard and regulations, regardless of date standard and regulations are promulgated.

What Is the Coast Guard's Authority for Taking This Action?

Under 16 U.S.C. 4711, the Coast Guard (acting on behalf of the Secretary of Transportation) is authorized to take this action.

Dated: March 30, 2001.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine, Safety and Environmental Protection.

[FR Doc. 01–12719 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program Camarillo Airport, Camarillo, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the county of Ventura, Camarillo, California, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and Title 14, Code of Federal Regulations, Part 150 (FAR Part 150). These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On September 10, 1998, the FAA determined that the noise exposure maps submitted by the county of Ventura under FAR Part 150 were in compliance with applicable requirements. On May 4, 2001, the Acting Associate Administrator for Airports approved the Camarillo Airport Noise Compatibility Program. All twenty-three of the program measures have been approved. Fourteen measures were approved as voluntary measures and nine measures were approved outright.

EFFECTIVE DATE: The effective date of the FAA's approval of the Camarillo Airport Noise Compatibility Program is May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Armstrong, Airport Planner, Airports Division, AWP–611.1, Federal Aviation Administration, Western-Pacific Region. Mailing address: P.O. Box 92007, Los Angeles, California 90009–2007. Telephone: (310) 725–3614. Street address: 15000 Aviation Boulevard, Hawthorne, California 90261. Documents reflecting this FAA action may be reviewed at this location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for the Camarillo Airport, effective May 4, 2001. Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a Noise Exposure Map, may submit to the FAA, a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with FAR Part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in FAR Part 150 and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and a FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division office in Hawthorne, California.

The county of Ventura submitted the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from May 1997 through March 2000 to the FAA on May 28, 1998, and March 10, 2000. The Camarillo Airport Noise Exposure Maps were determined by FAA to be in compliance with applicable requirements on September 10, 1998. Notice of this determination was published in the **Federal Register** on September 23, 1998.

The Camarillo Airport study contains a proposed Noise Compatibility Program comprised of actions designed for implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on November 6, 2000, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-three proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The Acting Associate Administrator for Airports approved the overall program effective May 4, 2001.

All twenty-three of the program measures have been approved. The following fourteen measures were approved as voluntary measures: Continue prohibiting formation takeoffs and landings without prior permission from the Director of Airports; Continue advising north traffic to fly the downwind leg along U.S. Highway 101; Continue advising Runway 26 arrivals to make base leg turns west of Las Posas Road; Continue advising pattern traffic on Runway 8 to turn to the crosswind leg prior to Las Posas Road; Continue advising right traffic on Runway 8 so as to avoid low overflights of the city; Advise straight-in VFR approaches to Runway 26 to remain south of U.S. Highway 101 and south of housing areas; Advise Runway 26 departures to fly west and north of city when turning right; Require aircraft over 80,000 pounds to land on Runway 8 and depart on Runway 26 whenever safe and practicable; When landings on Runway 26 are necessary, require aircraft over 80,000 pounds to make offset visual approaches from the southeast over farmland; Promote use of NBAA standard noise abatement departure procedures by jets; Promote use of AOPA Noise Awareness Steps by light single and twin engine aircraft; Continue promoting a standard left hand traffic pattern on Runway 26; Designate Runway 26 as the calm wind runway; and advise departures on Runway 8 to make right turns to avoid overflights of city. The following nine measures were approved outright: Use combined 2003 and 2018 noise contours as basis for noise compatibility planning; Set 60 CNEL as the threshold for promoting airport compatible development; Preserve airport-compatible land use designations within 60 CNEL and beneath the close-in traffic pattern; Establish noise compatible guidelines for the review of development projects within the "compatible land use preservation area" and require fair disclosure agreements and covenants for noise-sensitive uses granted a development permit; Maintain and enhance system for receiving, analyzing, and responding to noise complaints; Review Noise Compatibility Plan implementation; Publish pilot guide; Update Noise Exposure Maps and Noise Compatibility Program; Acquire noise monitors.

These determinations are set forth in detail in a Record of Approval endorsed by the Acting Associate Administrator for Airports on May 4, 2001. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal are available for review at the FAA office listed above and at the administrative offices of the county of Ventura, Camarillo, California.

Issued in Hawthrone, California on May 14, 2001.

Ellsworth L. Chan,

Acting Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 01–12835 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (#01–03–C–00–COD) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Yellowstone Regional Airport, Submitted by the Joint Powers Board, Yellowstone Regional Airport, Cody, Wyoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Yellowstone Regional Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before June 21, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David R. Ulane, Airport Manager, at the following address: Joint Powers Board, Yellowstone Regional Airport, P.O. Box 2748, Cody, WY 82414.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Yellowstone Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#01–03–C–00–COD) to impose and use PFC revenue at Yellowstone Regional Airport, under the provisions of 49

U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 14, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Joint Powers Board, Yellowstone Regional Airport, Cody, Wyoming, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 16, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: November 1, 2001.

Proposed charge expiration date: January 1, 2003.

Total requested for use approval: $294,000.00.

Brief description of proposed projects: Encasement of irrigation canal, relocation/reconstruction of parallel taxiway, acquisition of airfield equipment, and general aviation apron expansion.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: Non-scheduled on-demand air carriers filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yellowstone Regional Airport.

Issued in Renton, Washington on May 14, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–12836 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Granted Buy America Waiver

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Granted Buy America Waiver.

SUMMARY: This waiver allows New Flyer of America to count a foreign manufactured articulating joint system used in its low floor buses as a domestic component for purposes of calculating the aggregate domestic content of the vehicle and was predicated on the non-availability of the item in the domestic market. The waiver was granted on April 24, 2001, for the period of two years, or until such time as a domestic source for this articulating joint becomes available, whichever occurs first. This notice shall insure that the public, particularly potential manufacturers, is aware of this waiver. FTA requests that the public notify it of any relevant changes in the domestic market.

FOR FURTHER INFORMATION PLEASE CONTACT: Meghan G. Ludtke, FTA Office of Chief Counsel, Room 9316, (202) 366–4011 (telephone) or (202) 366–3809 (fax).

SUPPLEMENTARY INFORMATION: The above-referenced waiver follows:

April 24, 2001.

Mr. Paul Smith,

Vice President, Sales and Marketing, New Flyer of America, 711 Kerneghan Avenue, Winnipeg, Manitoba, Canada R2C 3T4

Dear Mr. Smith: This letter responds to your correspondence of March 9, 2001, in which New Flyer of America requests a non-availability waiver of the Buy America requirements for the procurement of the Hubner Manufacturing Corporation (Hubner) articulating joint system for use in New Flyer's low floor buses. The system is comprised of three sections, a mechanical artic joint and hydraulic damping unit, an electronic control unit, and a center hoop and bellows.

The Federal Transit Administration's (FTA) requirements concerning domestic preference for federally funded transit projects are set forth in 49 U.S.C. 5323(j). Section 5323(j)(2)(C) addresses the general requirements for the procurement of rolling stock. This section provides that all rolling stock procured with FTA funds must have a domestic content of at least 60 percent and must undergo final assembly in the U.S.

A non-availability waiver would allow New Flyer to count the joint as domestic for the purpose of calculating the aggregate domestic content of the vehicle. You request a waiver under 49 U.S.C. 5323(j)(2)(B), which states the Buy America requirements shall not apply if the item or items being procured are not produced in the U.S. in sufficient and reasonably available quantities or are not of a satisfactory quality. The implementing regulation provides that, "[i]t will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States." 49 CFR 661.7(c)(1). The regulation goes on to note that, "[t]he waivers described in paragraphs (b) and (c) of this section may be granted for a component or subcomponent in the case of the procurement of the items governed by [49 U.S.C. 5323(j)(2)(C)] (requirements for rolling stock). If a waiver is granted for a component or subcomponent, that component or subcomponent will be considered to be of domestic origin for the purposes of section 661.11 of this part." 49 CFR 661.7(f). The regulations allow a bidder or supplier to request a non-availability waiver for a component or subcomponent in the procurement of rolling stock. *See* 49 CFR 661.7(f) and 49 CFR 661.9(d).

New Flyer is a manufacturer of buses and regularly contracts to supply low floor buses to transit authorities and other U.S. customers. You state that the Hubner articulating joint system is necessary for the production of articulated low floor buses and is not available from a domestic source. In addition to the representations in your correspondence, you have also provided me with information indicating that, based on New Flyer's research, there are no U.S. companies with an approved design or the tooling necessary to produce the type of articulated joint required for New Flyer's low floor buses. You also included a letter from Hubner, which indicates that its manufacture of an American low floor articulating joint system is feasible but the manufacturing process would take a minimum of one year to develop.

This matter has been reviewed by FTA's engineering staff who noted that some components of the three sections included in the articulating joint system are available domestically but the entire joint mechanism necessary for New Flyer's vehicle design is not. Additionally, switching to a different type of joint would necessitate costly and time-consuming engineering changes to a low floor vehicle that has a limited share of the market.

Based on the information you have provided, I have determined that the grounds for a non-availability waiver do exist. Therefore, pursuant to the provisions of 49 U.S.C. 5323(j)(2)(B), the waiver is granted for the procurement of Hubner's articulating joint system for the New Flyer low floor buses for the period of two years, or until such time as a domestic source for this joint becomes available, whichever occurs first. In order to insure that the public is aware of this waiver, particularly potential manufacturers, this waiver will be published in the **Federal Register**.

If you have any questions, please contact Meghan G. Ludtke at 202.366–4011.

Very truly yours,

Gregory B. McBride,

Acting Chief Counsel.

Issued: May 16, 2001.

Hiram J. Walker,

Acting Deputy Administrator, Federal Transit Administration.

[FR Doc. 01–12863 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2001–9705]

F/V DEFENDER—Applicability of Ownership and Control Requirements for Fishery Endorsement

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a petition requesting MARAD to issue a determination that the ownership and control requirements of the American Fisheries Act of 1998 and 46 CFR Part 356 are in conflict with an international investment agreement.

SUMMARY: The Maritime Administration (MARAD, we, our, or us) is soliciting public comments on a petition from the owners and mortgagees of the vessel *Defender*—Official Number 554030 (hereinafter the "Vessel"). The petition requests that MARAD issue a decision that the American Fisheries Act of 1998 ("AFA"), Division C, Title II, Subtitle I, Pub. L. 105–277, and our regulations at 46 CFR part 356 (65 FR 44860 (July 19, 2000)) are in conflict with the U.S.-Japan Treaty and Protocol Regarding Friendship, Commerce and Navigation, 206 UNTS 143, TIAS 2863, 4 UST 2063 (1953) ("U.S.-Japan FCN" or "Treaty"). The petition is submitted pursuant to 46 CFR 356.53 and 213(g) of AFA, which provide that the requirements of the AFA and the implementing regulations will not apply to the owners or mortgagees of a U.S.-flag vessel documented with a fishery endorsement to the extent that the provisions of the AFA conflict with an existing international agreement relating to foreign investment to which the United States is a party. If MARAD determines that the AFA and MARAD's implementing regulations conflict with the U.S.-Japan FCN, the requirements of 46 CFR part 356 and the AFA will not apply to the extent of the inconsistency. Accordingly, interested parties are invited to review the petition and to submit their views on this petition and whether there is a conflict between the U.S.-Japan FCN and the requirements of both the AFA and 46 CFR part 356. In addition to receiving the views of interested parties, MARAD will consult with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than June 21, 2001.

ADDRESSES: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dms.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal Holidays. An electronic version of this document and all documents entered into this docket are available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: John T. Marquez, Jr. of the Office of Chief Counsel at (202) 366–5320. You may send mail to John T. Marquez, Jr., Maritime Administration, Office of Chief Counsel, Room 7228, MAR–222, 400 Seventh St., SW., Washington, DC 20590–0001 or you may send e-mail to John.Marquez@marad.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The AFA was enacted in 1998 to give U.S. interests a priority in the harvest of U.S.-fishery resources by increasing the requirements for U.S. Citizen ownership, control and financing of U.S.-flag vessels documented with a fishery endorsement. MARAD was charged with promulgating implementing regulations for fishing vessels of 100 feet or greater in registered length while the Coast Guard retains responsibility for vessels under 100 feet.

Section 202 of the AFA raises, with some exceptions, the U.S.-Citizen ownership and control standards for U.S.-flag vessels that are documented with a fishery endorsement and operating in U.S.-waters. The ownership and control standard was increased from the controlling interest standard (greater than 50%) of § 2(b) of Shipping Act, 1916 ("1916 Act"), as amended, 46 App. U.S.C. 802(b), to the standard contained in § 2(c) of the 1916 Act, 46 App. U.S.C. 802(c), which requires that 75 percent of the ownership and control in a vessel owning entity be vested in U.S. Citizens. In addition, section 204 of the AFA repeals the ownership grandfather "savings provision" in the Anti-Reflagging Act of 1987, Pub. L. 100–239, § 7(b), 101 Stat 1778 (1988), which permits foreign control of companies owning certain fishing vessels.

Section 202 of the AFA also establishes new requirements to hold a preferred mortgage on a vessel with a fishery endorsement. State or federally chartered financial institutions must now comply with the controlling interest standard of § 2(b) of the 1916 Act in order to hold a preferred mortgage on a vessel with a fishery endorsement. Entities other than state or federally chartered financial institutions must either meet the 75% ownership and control requirements of § 2(c) of the 1916 Act or utilize an approved U.S.-Citizen Trustee that meets the 75% ownership and control requirements to hold the preferred mortgage for the benefit of the non-citizen lender.

Section 213(g) of the AFA provides that if the new ownership and control provisions or the mortgagee provisions are determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party, such provisions of the AFA shall not apply to the owner or mortgagee on October 1, 2001, with respect to the particular vessel and to the extent of the inconsistency. MARAD's regulations at 46 CFR 356.53 set forth a process wherein owners or mortgagees may petition MARAD, with respect to a specific vessel, for a determination that the implementing regulations are in conflict with an international investment agreement. Petitions must be noticed in the **Federal Register** with a request for comments. The Chief Counsel of MARAD, in consultation with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements, will review the petitions and, absent extenuating circumstances, render a decision within 120 days of the receipt of a fully completed petition.

The Petitioners

F/V Defender, LLC is a Washington limited liability company which owns the F/V *Defender* in its entirety. Its membership is comprised of the following five entities: (1) Ohai Fisheries, Inc., (2) Ohai Enterprises, Inc., (3) Fram Fisheries, Inc., (4) the Girls, LLC, and (5) Lisa Pace, an individual. Each of the entities is owned by U.S. Citizens and organized under the laws of the State of Washington or is an individual U.S. Citizen. The Petitioner asserts that it meets the U.S. Citizen ownership requirements set forth in 46 CFR Part 356 and is qualified to document a vessel with a fishery endorsement.

Prior to 2001, the Vessel was owned by F/V Defender Limited Partnership. The Partnership was owned 49% by Unisea, Inc. Unisea, Inc., a Washington corporation, is wholly owned by Nippon Suisan Kaisha, Ltd., a Japanese company, and therefore does not qualify as a U.S. Citizen under the AFA. In response to the passage of the AFA, Unisea sold its interest in F/V Limited Partnership to Ohai Enterprises, Inc., one of the members of the F/V Defender, LLC, the current vessel owner. To facilitate this sale, a refinancing of the Vessel that involved Unisea paying off the original preferred mortgage on the vessel was negotiated. Under the refinancing arrangement, Unisea now holds a preferred mortgage on the vessel as security for the loan that it provided to pay off the original mortgage on the Vessel.

Unisea no longer has any ownership interest in the Vessel. However, Unisea is a fish processing company which has had a history of purchasing substantially all of the Vessel's catch. The petition states that Unisea and F/V Defender, LLC have entered into a fishing agreement which would require F/V *Defender*, LLC to sell 90% of the vessel's catch to Unisea through the year 2009.

The Petition

This notice provides a summary of the issues presented in the petition. The portion of the petition in which the Petitioner describes the inconsistencies that it suggests exist between the AFA, MARAD's implementing rules and the Japan FCN can be viewed over the internet and is available for downloading through either the DOT Docket Management System by following the instructions in this notice under **ADDRESSES** or through MARAD's web site at *http://www.marad.gov/afa.html*.

In consideration of the financing provided by Unisea, the members of F/V Defender, LLC have committed the Vessel to continue to sell 90% of its catch to Unisea through 2009. Petitioners believe that the loan agreements and the fishing agreement do not convey impermissible control to a Non-Citizen; however, 46 U.S.C. 356.45 prohibits a fish processor from advancing funds to a vessel owner in return for a security interest in the vessel. The vessel owner submits in the petition, on behalf of Unisea, the mortgagee of the vessel, that such a restriction on holding a security interest in the vessel conflicts with Articles V and VII of the Japan FCN as it discriminates on the basis of alienage against a Japanese mortgagee's ability to obtain adequate security for loans that it has made to the vessel owner.

Requested Action

The petition requests that the Chief Counsel make a determination that the exclusive fishing agreement entered into between F/V *Defender*, LLC and Unisea and the preferred mortgage issued in favor of Unisea may remain in force as any restriction on the fishing agreement or the preferred mortgage imposed by the AFA or 46 CFR Part 356 would be inconsistent with the protections provided to existing investments of Unisea as a mortgagee under the Japan-FCN.

Dated: May 16, 2001.

By Order of the Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

[FR Doc. 01–12837 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2001–9670]

Pacific Prince—Applicability of Ownership and Control Requirements for Fishery Endorsement

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a petition requesting MARAD to issue a determination that the ownership and control requirements of the American Fisheries Act of 1998 and 46 CFR Part 356 are in conflict with an international investment agreement.

SUMMARY: The Maritime Administration (MARAD, we, our, or us) is soliciting public comments on a petition from the owners and mortgagees of the vessel *Pacific Prince*—Official Number 697280 (hereinafter the "Vessel"). The petition requests that MARAD issue a decision that the American Fisheries Act of 1998 ("AFA"), Division C, Title II, Subtitle I, Pub. L. 105–277, and our regulations at 46 CFR Part 356 (65 FR 44860 (July 19, 2000)) are in conflict with the U.S.-Japan Treaty and Protocol Regarding Friendship, Commerce and Navigation, 206 UNTS 143, TIAS 2863, 4 UST 2063 (1953) ("U.S.-Japan FCN" or "Treaty"). The petition is submitted pursuant to 46 CFR 356.53 and § 213(g) of AFA, which provide that the requirements of the AFA and the implementing regulations will not apply to the owners or mortgagees of a U.S.-flag vessel documented with a fishery endorsement to the extent that the provisions of the AFA conflict with an existing international agreement relating to foreign investment to which the United States is a party. If MARAD determines that the AFA and MARAD's implementing regulations conflict with the U.S.-Japan FCN, the requirements of 46 CFR Part 356 and the AFA will not apply to the extent of the inconsistency. Accordingly, interested parties are invited to review the petition and to submit their views on this petition and whether there is a conflict between the U.S.-Japan FCN and the requirements of both the AFA and 46 CFR Part 356. In addition to receiving the views of interested parties, MARAD will consult with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than June 21, 2001.

ADDRESSES: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dms.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal Holidays. An electronic version of this document and all documents entered into this docket are available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: John T. Marquez, Jr. of the Office of Chief Counsel at (202) 366–5320. You may send mail to John T. Marquez, Jr., Maritime Administration, Office of Chief Counsel, Room 7228, MAR–222, 400 Seventh St., SW., Washington, DC 20590–0001 or you may send e-mail to John.Marquez@marad.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The AFA was enacted in 1998 to give U.S. interests a priority in the harvest of U.S.-fishery resources by increasing the requirements for U.S. Citizen ownership, control and financing of U.S.-flag vessels documented with a fishery endorsement. MARAD was charged with promulgating implementing regulations for fishing vessels of 100 feet or greater in registered length while the Coast Guard retains responsibility for vessels under 100 feet.

Section 202 of the AFA, raises, with some exceptions, the U.S.-Citizen ownership and control standards for U.S.-flag vessels that are documented with a fishery endorsement and operating in U.S.-waters. The ownership and control standard was increased from the controlling interest standard (greater than 50%) of § 2(b) of Shipping Act, 1916 ("1916 Act"), as amended, 46 App. U.S.C. 802(b), to the standard contained in § 2(c) of the 1916 Act, 46 App. U.S.C. § 802(c), which requires that 75 percent of the ownership and control in a vessel owning entity be vested in U.S. Citizens. In addition, section 204 of the AFA repeals the ownership grandfather "savings provision" in the Anti-Reflagging Act of 1987, Pub. L. 100–239, § 7(b), 101 Stat 1778 (1988), which permits foreign control of companies owning certain fishing vessels.

Section 202 of the AFA also establishes new requirements to hold a preferred mortgage on a vessel with a fishery endorsement. State or federally chartered financial institutions must now comply with the controlling interest standard of § 2(b) of the 1916 Act in order to hold a preferred mortgage on a vessel with a fishery endorsement. Entities other than state or federally chartered financial institutions must either meet the 75% ownership and control requirements of § 2(c) of the 1916 Act or utilize an approved U.S.-Citizen Trustee that meets the 75% ownership and control requirements to hold the preferred mortgage for the benefit of the non-citizen lender.

Section 213(g) of the AFA provides that if the new ownership and control provisions or the mortgagee provisions are determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party, such provisions of the AFA shall not apply to the owner or mortgagee on October 1, 2001, with respect to the particular vessel and to the extent of the inconsistency. MARAD's regulations at 46 CFR 356.53 set forth a process wherein owners or mortgagees may petition MARAD, with respect to a specific vessel, for a determination that the implementing regulations are in conflict with an international investment agreement. Petitions must be noticed in the **Federal Register** with a request for comments. The Chief Counsel of MARAD, in consultation with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements, will review the petitions and, absent extenuating circumstances, render a decision within 120 days of the receipt of a fully completed petition.

The Petitioners

Pacific Prince, LLC is a Washington limited liability company which owns, in its entirety the fishing vessel *Pacific Prince*. Pacific Prince, LLC is owned by two individual U.S. Citizens and meets the U.S. Citizen ownership requirements of the AFA. MARAD has not yet determined whether Pacific Prince, LLC also complies with the requirement that it be controlled by U.S. Citizens.

The Petition

The Petitioners have filed a consolidated petition for the vessels *Pacific Prince* and *Caitlin Ann*. The *Caitlin Ann* has a registered length of less than 100 feet and therefore is not directly addressed in this notice. However, because the loan agreements, loan guaranties, and fishing agreements on the vessels are related, there will be some discussion related to both vessels. This notice provides a summary of the issues in the petition. The portion of the petition in which the Petitioner describes the inconsistencies that it suggests exist between the AFA, MARAD's implementing rules and the Japan FCN can be viewed over the internet and is available for downloading through either the DOT Docket Management System by following the instructions in this notice under **ADDRESSES** or through MARAD's web site at http://www.marad.gov/afa.html.

The Vessel was purchased by Pacific Prince, LLC from Fishing Vessel Pacific Prince General Partnership in early 2000. In order to fund the purchase of the Vessel, the owners arranged financing through the U.S. Bank National Association ("U.S. Bank"). As part of the buy-out transaction, U.S. Bank required a partial guaranty of payment from a party with financial strength greater than could be offered by the individual U.S. Citizen owners of Pacific Prince, LLC and Caitlin Ann, LLC, the owner of the *Caitlin Ann*. A payment guaranty was obtained from Westward Seafoods, Inc. a Washington corporation ("Westward") which is a wholly owned subsidiary of the Maruha Corporation of Japan and not a citizen of the United States for the purposes of 46 U.S.C. 12102(c) and 46 CFR Part 356. Pursuant to the terms of the guaranty, Westward is obligated to make any of the first nine quarterly payments on the *Pacific Prince* loan, if and to the extent that those payments are not made when due by Pacific Prince, LLC. In the event that Westward is required to make all or part of a payment to U.S. Bank on behalf of Pacific Prince, LLC, the payments will be deemed to be a loan by Westward to Pacific Prince, LLC, secured by a junior preferred mortgage on the Vessel and will be repaid out of excess earnings from the operation of the Vessel. Any amount advanced by Westward under the guaranty that is not repaid, in full, prior to the maturity of the U.S. Bank loan, will become due and payable at that time.

In consideration of the guaranty provided by Westward, the members of Pacific Prince, LLC, and Caitlan Ann, LLC have committed the *Pacific Prince* and *Caitlin Ann* to continue to sell their catch exclusively to Westward for the next four years, as they have in the past, so long as they continue to be paid a competitive market price for their fish.

Requested Action

The petition requests that the Chief Counsel make a determination that the exclusive fishing agreement and the guaranty agreement entered into between Pacific Prince, LLC, Caitlin Ann, LLC, and Westward may remain in force as any restriction on the guaranty or fishing agreement imposed by the AFA or 46 CFR part 356 would be inconsistent with the protections provided to existing investments of Westward and Maruha under the Japan-FCN. Because the rules prohibit a fish processor such as Westward from holding a preferred mortgage on a vessel, even through a mortgage trustee, the petition also seeks a determination that Westward's second preferred mortgage on the Vessels, provided as security for any payment made pursuant to the guaranty, does not convey impermissible control to a Non-Citizen and should be allowed to remain in place as any restrictions on the preferred mortgage would conflict with the protections afforded Westward and Maruha as Mortgagees under the Japan-FCN.

Dated: May 16, 2001.

By Order of the Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

[FR Doc. 01–12838 Filed 5–21–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Mr. G. Sam Foster on behalf of the College of Forest Services of Mississippi State University (WB583–0—5/7/2001), for permission to use certain data from the Board's Carload Waybill Samples. A copy of the requests may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

FOR FURTHER INFORMATION CONTACT: James A. Nash, (202) 565–1542.

Vernon A. Williams,

Secretary.

[FR Doc. 01–12799 Filed 5–21–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Privacy Act of 1974, as Amended; System of Records

AGENCY: Bureau of the Public Debt, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Bureau of the Public Debt, Treasury, is publishing its Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, the Bureau of the Public Debt has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records.

A "purpose" statement has been added to the following three notices: BPD .003-United States Securities (Other than Savings Type Securities); BPD .004-Controlled Access Security System, and BPD .005-Employee Assistance Records. In addition, the language under "Notification Procedure," "Record Access Procedures," and "Contesting Record Procedures," in each notice has been standardized.

Other changes throughout the document are editorial in nature and consist principally of changes to system locations and system manager addresses, retention schedules and updating the records disposal description, and adding microform as a storage medium in all systems of records.

The following system of records has been added to the Bureau's inventory of Privacy Act notices since September 30, 1998: BPD .008—Retail Treasury Securities Access Application. (Published February 15, 2001, at 66 FR 10562).

Systems Covered by This Notice

This notice covers all systems of records adopted by the Bureau up to April 9, 2001. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: May 15, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Table of Contents

BPD .001—Human Resources and Administrative Records
BPD .002—United States Savings-Type Securities
BPD .003—United States Securities (Other than Savings-Type Securities)
BPD .004—Controlled Access Security System
BPD .005—Employee Assistance Records
BPD .006—Health Service Program Records
BPD .007—Gifts to Reduce the Public Debt
BPD .008—Retail Treasury Securities Access Application

Bureau of the Public Debt Treasury/BPD .001

SYSTEM NAME:

Human Resources and Administrative Records-Treasury/BPD.

SYSTEM LOCATION:

Records are maintained at the following Bureau of the Public Debt locations: 200 Third Street, Parkersburg, WV; Park Center, 90 Park Center, Parkersburg, WV; H.J. Hintgen Building, 2nd and Avery Streets, Parkersburg, WV; United Building, 5th and Avery Streets, Parkersburg, WV; and 999 E Street, NW., Washington, DC. Copies of some documents have been duplicated for maintenance by supervisors for employees or programs under their supervision. These duplicates are also covered by this system of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records cover present and former employees, applicants for employment, contractors, vendors, and visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records is limited to those records Public Debt needs to function in an efficient manner and does not cover those records reported under another system of records notice.

(A) *Human Resources Records:* These records relate to categories such as disciplinary and adverse actions; leave and hours of duty; alternate work schedules, standards of conduct and ethics programs; indebtedness; employee suitability and security determinations; grievances; performance problems; bargaining unit matters; Federal labor relations issues; relocation notices; outside employment; recruitment; placement; merit promotion; special hiring programs, including Summer Employment, Veterans Readjustment, Career Development for Lower Level Employees (CADE), Student Employment Programs; position classification and management; special areas of pay administration, including grade and pay retention, premium pay, scheduling of work, performance management and recognition; training and employee development programs; incentive awards; benefits and retirement programs; personnel and payroll actions; insurance; worker's and unemployment compensation; employee orientation; retirement; accident reports; and consolidation of personnel/program efforts among offices.

(B) *Equal Employment Opportunity Records:* These are records of informal EEO complaints and discussions which have not reached the level of formal complaints. After 30 days these records are destroyed or incorporated in a formal complaint file. Formal complaints are handled by the Treasury Department's Regional Complaints Center. Copies of formal complaint documents are sometimes maintained by Public Debt's EEO Office.

(C) *Administrative Services Records:* These records relate to administrative support functions including motor vehicle operation, safety, access to exterior and interior areas, contract guard records, offense/incident reports, accident reports, and security determinations.

(D) *Procurement Records:* These records relate to contractors/vendors if they are individuals; purchase card holders, including the name, social security number and credit card number for employees who hold Government-use cards; procurement integrity certificates, containing certifications by procurement officials that they are familiar with the Federal Procurement Policy Act.

(E) *Financial Management Records:* These records relate to travel by employees and account information for vendors and contractors who are individuals.

(F) *Retiree Mailing Records:* These records contain the name and address furnished by Public Debt retirees requesting mailings of newsletters and other special mailings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 321.

PURPOSE(S):

These records are collected and maintained to document various aspects of a person's employment with the Bureau of the Public Debt and to assure the orderly processing of administrative actions within the Bureau.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) The Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, and the Federal Labor Relations Authority upon authorized request;

(2) Other Federal, State, or local agencies, such as a State employment compensation board or housing administration agency, so that the agency may adjudicate an individual's eligibility for a benefit, or liability in such matters as child support;

(3) Creditors, potential creditors, landlords, and potential landlords when they request employment data or salary information for purposes of processing the employee's loan, mortgage, or apartment rental application (when information is requested by telephone, only verification of information supplied by the caller will be provided);

(4) Next-of-kin, voluntary guardians, and other representative or successor in interest of a deceased or incapacitated employee or former employee;

(5) Unions recognized as exclusive bargaining representatives under 5 U.S.C. chapter 71, arbitrators, and other parties responsible for the administration of the Federal labor-management program if needed in the performance of their authorized duties;

(6) Private creditors for the purpose of garnishing wages of an employee if a debt has been reduced to a judgment;

(7) Authorized Federal and non-Federal entities for use in approved computer matching efforts, limited to those data elements considered necessary in making a determination of eligibility under particular benefit programs administered by those agencies or entities, to improve program integrity, and to collect debts and other monies owed to those agencies or entities or to the Bureau of the Public Debt;

(8) Contractors of the Bureau for the purpose of processing personnel and administrative records;

(9) Other Federal, State, or local agencies in connection with the hiring or retention of an individual, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the issuance of a license, contract, grant, or other benefit;

(10) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(11) Other Federal agencies to effect salary or administrative offset for the purpose of collecting a debt, except that addresses obtained from the Internal Revenue Service shall not be disclosed to other agencies;

(12) Consumer reporting agencies, including mailing addresses obtained from the Internal Revenue Service to obtain credit reports;

(13) Debt collection agencies, including mailing addresses obtained from the Internal Revenue Service, for debt collection services;

(14) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(15) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena;

(16) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

By name, social security number, or other assigned identifier.

SAFEGUARDS:

These records are maintained in controlled access areas. Identification cards are verified to ensure that only authorized personnel are present. Electronic records are protected by restricted access procedures, including the use of passwords and sign-on protocols which are periodically changed. Only employees whose official duties require access are allowed to view, administer, and control these records. Copies of records maintained on computer have the same limited access as paper records.

RETENTION AND DISPOSAL:

Records are maintained in accordance with National Archives and Records Administration retention schedules. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

(A) *Human Resources Records:* Director, Human Resources Division, 200 Third Street, Parkersburg, WV 26106–1328.

(B) *Equal Employment Opportunity Records:* Equal Employment Opportunity Manager, 200 Third Street, Parkersburg, WV 26106–1328.

(C) *Administrative Services Records:* Director, Administrative Services Division, 200 Third Street, Parkersburg, WV 26106–1328.

(D) *Procurement Records:* Director, Division of Procurement, United Building, 5th and Avery Streets, Parkersburg, WV 26106–1328.

(E) *Financial Management Records:* Director, Division of Financial Management, 200 Third Street, Parkersburg, WV 26106–1328.

(F) *Retiree Mailing Records:* Director, Division of Support Services, 200 Third Street, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under "Records Access Procedures." Requests

must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records:

(1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked "Privacy Act Amendment Appeal" and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the subject of the record, authorized representatives, supervisor, employers, medical personnel, other employees, other Federal, State, or local agencies, and commercial entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .002

SYSTEM NAME:

United States Savings-Type Securities-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, Washington, DC, and Parkersburg, WV. Federal Reserve Banks and Branches located at: Buffalo, NY; Kansas City, MO; Minneapolis, MN; Pittsburgh, PA, and Richmond, VA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former owners of, claimants to, persons entitled to, and inquirers concerning United States savings-type securities and interest thereon, including, but not limited to, United States Savings Bonds, Savings Notes, Retirement Plan Bonds, and Individual Retirement Bonds.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) *Issuance:* Records relating to registration, issuance, and correspondence in connection with issuance of savings-type securities. This category includes records of current income savings bonds processed under an automated system which will permit access by selected Federal Reserve Banks and Branches.

(2) Holdings: Records documenting ownership, status, payments by date and account numbers, and inscription information; interest activity; correspondence in connection with notice of change of name and address; non-receipt or over- or underpayments of interest and principal; and numerical registers of ownership. Such records include information relating to savings-type securities held in safekeeping in conjunction with the Department's program to deliver such securities to the owners or persons entitled. This category includes records of current income savings bonds processed under an automated system which will permit access by selected Federal Reserve Banks and Branches.

(3) Transactions (redemptions, payments, and reissues): Records, which include securities transaction requests; interest activity; legal papers supporting transactions; applications for disposition or payment of securities and/or interest thereon of deceased or incapacitated owners; records of retired securities; and payment records. This category includes records of current income savings bonds processed under an automated system which will permit access by selected Federal Reserve Banks and Branches.

(4) Claims: Records including correspondence concerning lost, stolen, destroyed, or mutilated savings-type securities; bonds of indemnity; legal documents supporting claims for relief; and records of caveats entered.

(5) Inquiries: Records of correspondence with individuals who have requested information concerning savings-type securities and/or interest thereon.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 3101, *et seq.*

PURPOSES:

Information in this system of records is collected and maintained to enable Public Debt and its agents to issue savings bonds, to process transactions, to make payments, and to identify owners and their accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Agents or contractors of the Department for the purpose of administering the public debt of the United States;

(2) Next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities and others entitled to the reissue, distribution, or payment for the purpose of assuring equitable and lawful disposition of securities and interest;

(3) Either coowner for bonds registered in that form or to the beneficiary for bonds registered in that form, provided that acceptable proof of death of the owner is submitted;

(4) The Internal Revenue Service for the purpose of facilitating collection of the tax revenues of the United States;

(5) The Department of Justice in connection with lawsuits to which the Department of the Treasury is a party to trustees in bankruptcy for the purpose of carrying out their duties;

(6) The Veterans Administration and selected veterans' publications for the purpose of locating owners or other persons entitled to undeliverable bonds held in safekeeping by the Department;

(7) Other Federal agencies to effect salary or administrative offset for the purpose of collecting debts;

(8) A consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports;

(9) A debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services;

(10) Contractors conducting Treasury-sponsored surveys, polls, or statistical analyses relating to the marketing or administration of the public debt of the United States;

(11) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(12) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena;

(13) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(14) Disclose through computer matching information on individuals owing debts to the Bureau of the Public Debt to other Federal agencies for the purpose of determining whether the debtor is a Federal employee or retiree receiving payments which may be used to collect the debt through administrative or salary offset;

(15) Disclose through computer matching information on holdings of savings-type securities to requesting Federal agencies under approved agreements limiting the information to that which is relevant in making a determination of eligibility for Federal benefits administered by those agencies; and

(16) Disclose through computer matching, information on individuals with whom the Bureau of the Public Debt has lost contact, to other Federal agencies for the purpose of utilizing letter forwarding services to advise these individuals that they should contact the Bureau about returned payments and/or matured, unredeemed securities.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

Information can be retrieved alphabetically by name, address, and period of time the security was issued, by bond serial numbers, other assigned identifier, or, in some cases, numerically by social security number. In the case of securities, except Series G savings bonds, registered in more than one name, information relating thereto can be retrieved only by the names, or, in some cases, the social security number of the registrants, primarily the registered owners or first-named coowners. In the case of gift bonds inscribed with the social security number of the purchaser, bonds are retrieved under that number, or by bond serial number.

SAFEGUARDS:

Information is contained in secure buildings or in areas which are occupied either by officers and responsible employees of Public Debt who are subject to personnel screening procedures and to the Treasury Department Code of Conduct or by agents of Public Debt who are required to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures. Additionally, for those categories of records stored in computers with online terminal access, the information cannot be accessed without proper passwords and preauthorized functional capability.

RETENTION AND DISPOSAL:

Records of holdings, forms, documents, and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interests of the United States Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Administration (NARA). Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Securities Operations, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under "Records Access Procedures." Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

(3) Requests by individuals about securities they own:

(a) For current income savings bonds: Individuals may make inquiries at a Federal Reserve Bank or Branch or directly to the Bureau of the Public Debt, Investor Services, Current Income Services Division, Parkersburg, WV 26106–1328. If the particular Federal Reserve Bank or Branch cannot access the particular record, the individual will be advised to contact the Bureau of the Public Debt. Individuals must provide sufficient information, including their address and social security number, to identify themselves as owner or coowner of the securities. They should provide the complete bond serial numbers, including alphabetic prefixes and suffixes, if known. Otherwise, the series, approximate date, form of registration, and, except for Series G Savings Bonds registered in coownership form, the names and social security numbers of all persons named in the registration should be provided. If a Case Identification Number is known, that should be provided.

(b) For all other types of securities covered by this system of records: Individuals should contact the following: Bureau of the Public Debt, Investor Services, Accrual Services Division, Parkersburg, WV 26106–1328. Individuals should provide sufficient information, including their address and social security number, to identify themselves as owner or coowner of the securities. Individuals must provide sufficient information to identify the securities, such as type or series of security, approximate date of issue, serial number, form of registration, and the name and social security number of the first-named coowner, or in the case of gift bonds the social security number of the purchaser if that number was used.

(4) Requests by anyone other than individuals named on securities must contain sufficient information to identify the securities; this would include type or series of securities, approximate date of issue, serial number, and form of registration. These requests will be honored only if the identity and right of the requester to the information have been established. Send requests to the addresses shown in (3)(a) or (3)(b) above, depending on the type of security involved.

(a) Requests by a beneficiary for information concerning securities registered in beneficiary form must be accompanied by the name and social security number of the owner and by proof of death of the registered owner.

(b) Requests for records of holdings or other information concerning a deceased or incapacitated individual must be accompanied either by evidence of the requester's appointment as legal representative of the estate of the individual or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual.

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked "Privacy Act Amendment Appeal" and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information on records in this system is furnished by the individuals or their authorized representatives as listed in "Categories of Individuals" and issuing agents for securities or is generated within the system itself.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .003

SYSTEM NAME:

United States Securities (Other than Savings-Type Securities)-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, Washington, DC, and Parkersburg, WV. Federal Reserve Banks and Branches located at: Atlanta, GA; Baltimore, MD; Birmingham, AL; Boston, MA; Buffalo, NY; Charlotte, NC; Chicago, IL; Cincinnati, OH; Cleveland, OH; Dallas, TX; Denver, CO; Detroit, MI; El Paso, TX; Houston, TX; Jacksonville, FL; Kansas City, MO; Little Rock, AR; Los Angeles, CA; Louisville, KY; Memphis, TN; Miami, FL; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Oklahoma City, OK; Omaha, NE; Philadelphia, PA; Pittsburgh, PA; Portland, OR; Richmond, VA; Salt Lake City, UT; San Antonio, TX; San Francisco, CA; Seattle, WA; and St. Louis, MO.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former owners of, subscribers to, claimants to, persons entitled to, and inquirers concerning United States Treasury securities (except savings-type securities) and interest thereon and such securities for which the Treasury acts as agents including, but not limited to, Treasury Bonds, Notes, and Bills; Adjusted Service Bonds; Armed Forces Leave Bonds; and Federal Housing Administration Debentures.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) *Issuance:* Records relating to tenders, bids, subscriptions, advices of shipment, requests (applications) for original issue, and correspondence concerning erroneous issue and nonreceipt of securities.

(2) *Holdings:* Records of ownership and interest activity on registered or recorded United States securities (other than savings-type securities); records about fees for TreasuryDirect accounts exceeding a stipulated amount; change of name and address notices; correspondence concerning errors in registration or recordation; nonreceipt or over- and underpayments of interest and principal; records of interest activity; records of unclaimed accounts; and letters concerning the New York State tax exemption for veterans of World War I.

(3) *Transactions (redemptions, payments, reissues, transfers, and exchanges):* Records which include securities transaction requests; records about fees for definitive securities issued; legal papers supporting transactions; applications for transfer, disposition, or payment of securities of deceased or incompetent owners; records of Federal estate tax transactions; certificates of ownership covering paid overdue bearer securities; records of erroneous redemption transactions; records of retired securities; and payment records.

(4) *Claims:* Records including correspondence concerning lost, stolen, destroyed, or mutilated United States securities (other than savings-type securities) or securities for which the Treasury acts as agent and interest coupons thereon; bonds of indemnity; legal documents supporting claims for relief; and records of caveats entered.

(5) *Inquiries:* Records of correspondence with individuals who have requested information concerning United States Treasury securities (other than savings-type securities) or securities for which the Treasury acts as agent.

(6) All of the above categories of records except "(4) Claims" include records of Treasury bills, notes, and bonds in the TreasuryDirect Book-entry Securities System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 3101 *et seq.*

PURPOSE(S):

Information in this system of records is collected and maintained to enable the Bureau of the Public Debt and its agents to issue United States securities (other than savings-type securities), to process transactions, to make payments, and to identify owners and their accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Agents or contractors of the Department for the purpose of administering the public debt of the United States;

(2) Next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities and others entitled upon transfer, exchange, distribution, or payment for the purpose of assuring equitable and lawful disposition of securities and interest;

(3) Any of the owners if the related securities are registered or recorded in the names of two or more owners;

(4) The Internal Revenue Service for the purpose of facilitating the collection of the tax revenues of the United States;

(5) The Department of Justice in connection with lawsuits to which the Department of the Treasury is a party or to trustees in bankruptcy for the purpose of carrying out their duties;

(6) The Veterans Administration when it relates to the holdings of Armed Forces Leave Bonds to facilitate the redemption or disposition of these securities;

(7) Other Federal agencies to effect salary or administrative offset for the purpose of collecting debts;

(8) A consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports;

(9) A debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services;

(10) Contractors conducting Treasury-sponsored surveys, polls, or statistical analyses relating to marketing or administration of the public debt of the United States;

(11) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(12) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena;

(13) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(14) Disclose through computer matching information on individuals owing debts to the Bureau of the Public Debt to other Federal agencies for the purpose of determining whether the debtor is a Federal employee or retiree

receiving payments which may be used to collect the debt through administrative or salary offset;

(15) Disclose through computer matching information on holdings of Treasury securities to requesting Federal agencies under approved agreements limiting the information to that which is relevant in making a determination of eligibility for Federal benefits administered by those agencies; and

(16) Disclose through computer matching, information on individuals with whom the Bureau of the Public Debt has lost contact, to other Federal agencies for the purpose of utilizing letter forwarding services to advise these individuals that they should contact the Bureau about returned payments and/or matured unredeemed securities.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

Information can be retrieved by social security account number, other assigned identifier, or, in some cases, alphabetically by name or numerically by security serial number. In the case of securities registered in more than one name, information relating thereto can generally only be retrieved by social security number or by the name of the first-named owner.

SAFEGUARDS:

Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied either by officers and responsible employees of the Department who are subject to personnel screening procedures and to the Executive Branch and Treasury Department Standards of Conduct or by agents of the Department who are required by the Department to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in a meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures. Additionally, for those categories of records stored in computers with terminal access, the information cannot be obtained or modified without proper passwords and preauthorized functional capability.

RETENTION AND DISPOSAL:

Records of holdings, forms, documents, and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interests of the U.S. Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Administration (NARA). Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGERS AND ADDRESS:

Assistant Commissioner, Securities Operations, Bureau of the Public Debt, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under "Records Access Procedures." Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

(3) Requests by individuals about securities they own:

(a) For Treasury bills, notes, or bonds held in the TreasuryDirect Book-entry Securities System: Individuals may contact the nearest TreasuryDirect Office as listed in the Appendix to this system of records, or the Bureau of the Public Debt, Investor Services, Current Income Services Division, Marketable Assistance Branch, Parkersburg, WV 26106–1328. Individuals should provide sufficient information, including their social security number, to identify themselves as owners of securities and sufficient information, including account number, to identify their TreasuryDirect account.

(b) For all other categories of records in this system of records: Individual owners should contact: Bureau of the Public Debt, Investor Services, Current Income Services Division, Marketable Assistance Branch, Parkersburg, WV 26106–1328. Requests must contain information to identify themselves including name, address, and social security number; the type of security involved such as a registered note or bond, an Armed Forces Leave Bond, etc.; and, to the extent possible specify the loan, issue date, denomination, exact form of registration, and other information about the securities.

(4) Requests by individuals who are representatives of owners or their estates require appropriate authority papers. Write to: Bureau of the Public Debt, Investor Services, Current Income Services Division, Marketable Assistance Branch, Parkersburg, WV 26106–1328, to obtain information on these requirements.

(5) In all cases: The request for information will be honored only if the identity and right of the requester to the information have been established.

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under **SYSTEM MANAGER AND ADDRESS** above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked **PRIVACY ACT AMENDMENT APPEAL** and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information contained in records in the system is furnished by the individuals or their authorized representatives as listed in **CATEGORIES OF INDIVIDUALS,** or is generated within the system itself.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

APPENDIX OF TREASURYDIRECT CONTACTS.

This appendix lists the mailing addresses and telephone numbers of the places that may be contacted by individuals when inquiring about their securities accounts maintained in TreasuryDirect.

TreasuryDirect: P.O. Box 2076, Boston, MA 02106–2076.

TreasuryDirect: P.O. Box 660657, Dallas, TX 75266–0657.

TreasuryDirect: P.O. Box 9150, Minneapolis, MN 55480–9150.

The toll-free telephone number for all three sites is 1–800–722–2678.

Treasury/BPD .004

SYSTEM NAME:

Controlled Access Security System-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, Parkersburg, WV.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of the Public Debt employees, employees of contractors and service companies, and official visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

A record is created for each access to designated areas and contains the individual's name; card number; work shift; access level; time, date, and location of each use of the access card at a card reader.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. Sec. 321; 41 CFR 101–20.103.

PURPOSE:

Information in this system of records is collected and maintained to allow the Bureau of the Public Debt to control and verify access to all Parkersburg, West Virginia Public Debt facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license;

(2) A Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, or in response to a subpoena;

(4) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, arbitrators and other parties responsible for the administration of the Federal labor-management program if needed in the performance of their authorized duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

Information on individuals can be retrieved by name or card number or other assigned identifier.

SAFEGUARDS:

Both the central system and the peripheral system will have limited accessibility. Paper records and magnetic disks are maintained in locked file cabinets with access limited to those personnel whose official duties require access, such as the systems manager, Bureau security officials, and employee relations specialists. Access to terminals is limited through the use of passwords to those personnel whose official duties require access, as for paper records.

RETENTION AND DISPOSAL:

The retention period is for three years. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Administrative Services, 200 Third Street, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under "Records Access Procedures." Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked "Privacy Act Amendment Appeal" and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

The individual concerned, his/her supervisor, or an official of the individual's firm or agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .005

SYSTEM NAME:

Employee Assistance Records-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, 200 Third Street, Parkersburg, WV. This system covers Public Debt employee assistance records that are maintained by another Federal, State, or local government, or contractor under an agreement with Public Debt directly or through another entity to provide the Employee Assistance Program (EAP) functions. The address of the other agency or contractor may be obtained from the system manager below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Public Debt employees and former employees who will be or have been counseled, either by self-referral or supervisory-referral regarding drug abuse, alcohol, emotional health, or other personal problems. Where applicable, this system also covers family members of these employees when the family member utilizes the services of the EAP as part of the employee's counseling or treatment process.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of each employee and, in some cases, family members of the employee who have utilized the Employee Assistance Program for a drug, alcohol, emotional, or personal problem. Examples of information which may be found in each record are the individual's name, social security number, date of birth, grade, job title, home address, telephone numbers, supervisor's name and telephone number, assessment of problem, and referrals to treatment facilities and outcomes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 7361, 7362, 7904; 44 U.S.C. 3101.

PURPOSE(S):

To provide a history and record of the employee counseling session.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) An entity under contract with Public Debt for the purpose of providing the EAP function;

(2) Medical personnel to the extent necessary to meet a bona fide medical emergency in accordance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulations (42 CFR part 2);

(3) Qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, provided individual identifiers are not disclosed in any manner, in accordance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulations (42 CFR part 2);

(4) A third party upon authorization by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor, in accordance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulations (42 CFR part 2);

(5) The Department of Justice or other appropriate Federal agency in defending claims against the United States when the records are not covered by the Confidentiality of Alcohol and Drug Abuse Patient Records regulations at 42 CFR part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

These records are retrieved by the name and social security number or other assigned identifier of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secure room in a locked file cabinet, safe, or similar container when not in use. Automated records are protected by restricted access procedures. Access to records is strictly limited to agency or contractor officials with a bona fide need for the records. When Public Debt contracts with an entity for the purpose of providing the EAP functions, the contractor shall be required to maintain Privacy Act safeguards with respect to such records.

RETENTION AND DISPOSAL:

The retention period is three years after termination of counseling or until any litigation is resolved. Then the records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Division, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under "Records Access Procedures." Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

After you contact the contractor, following are the steps which will be required:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The contractor reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the contractor. For information about how to contact the contractor, write to the appropriate office as shown under "System Manager and Address" above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: After you contact the contractor, following are the steps that will be required:

(1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The contractor reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the contractor. For information about how to contact the contractor, write to the appropriate office as shown under "System Manager and Address" above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records:

(1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, idenfity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel,

Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked "Privacy Act Amendment Appeal" and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, or the contractor's staff member who records the counseling session.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .006

SYSTEM NAME:

Health Service Program Records-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, 200 Third Street, Parkersburg, WV.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Bureau of the Public Debt employees who receive services under the Federal Employee Health Service Program from the Public Debt Health Unit in Parkersburg, West Virginia.

(2) Federal employees of other organizations in the Parkersburg, West Virginia vicinity who receive services under the Federal Employee Health Services Program from the Public Debt Health Unit in Parkersburg, West Virginia.

(3) Non-Federal individuals working in or visiting the buildings, who may receive emergency treatment from the Public Debt Health Unit in Parkersburg, West Virginia.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of an individual's utilization of services provided under the Federal Government's Health Service Program. These records contain information such as: Examination, diagnostic, assessment and treatment data; laboratory findings; nutrition and dietetic files; nursing notes; immunization records; blood donor records; CPR training; First Aider; names, social security number, date of birth, handicap code, addresses, and telephone numbers of individual; name, address, and telephone number of individual's physician; name, address, and telephone number of hospital; name, address, and telephone number of emergency contact; and information obtained from the individual's physician; and record of requested accesses by any Public Debt employee (other than Health Unit personnel) who has an official need for the information.

Note: This system does not cover records related to counseling for drug, alcohol, or other problems covered by System No. Treasury/BPD .005-Employee Assistance Records. Medical records relating to a condition of employment or an on-the-job occurrence are covered by the Office of Personnel Management's System of Records No. OPM/GOVT–10–Employee Medical File System Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901.

PURPOSE(S):

These records document an individual's utilization on a voluntary basis of health services provided under the Federal Government's Health Service Program at the Health Unit at the Bureau of the Public Debt in Parkersburg, West Virginia. Data is necessary to ensure proper evaluation, diagnosis, treatment, and referral to maintain continuity of care; a medical history of care received by the individual; planning for further care of the individual; a means of communication among health care members who contribute to the individual's care; a legal document of health care rendered; a tool for evaluating the quality of health care rendered.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Medical personnel under a contract agreement with Public Debt;

(2) A Federal, State, or local public health service agency as required by applicable law, concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition;

(3) Appropriate Federal, State, or local agencies responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority;

(4) The Department of Justice in connection with lawsuits in which the Department of the Treasury is a party or has an interest;

(5) A Federal agency responsible for administering benefits programs in connection with a claim for benefits filed by an employee;

(6) A Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

(7) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena or in connection with criminal law proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

These records are retrieved by the name or other assigned identifier of the individual to whom they pertain.

SAFEGUARDS:

These records are maintained in a secured room with access limited to Health Unit personnel whose duties require access. Medical personnel under a contract agreement who have access to these records are required to maintain adequate safeguards with respect to such records.

RETENTION AND DISPOSAL:

Records are maintained in accordance with National Archives and Records Administration retention schedules. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Administrative Services, Bureau of the Public Debt, Parkersburg, WV 26106–1328.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under "Records Access Procedures." Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

An individual who requests access to a Health Service Program Record shall, at the time the request is made, designate in writing the name of a responsible representative who will be willing to review the record and inform the subject individual of its content. This does not permit the representative to withhold the records from the requester. Rather, the representative is expected to provide access to the records while explaining sensitive or complex information contained in the records.

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons therefor.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked "Privacy Act Amendment Appeal" and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies; laboratory reports and test results; Health Unit physicians, nurses, and other medical technicians who have examined, tested, or treated the individual; the individual's personal physician; other Federal employee health units; and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .007

SYSTEM NAME:

Gifts to Reduce the Public Debt-Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt, 200 Third Street, Parkersburg, WV.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of gifts to reduce the public debt.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence; copies of checks, money orders, or other payments; copies of wills and other legal documents; and other material related to gifts to reduce the public debt, received on or after October 1, 1984, by the Bureau of the Public Debt either directly from the donor or through the donor's Congressional or other representative.

Note: This system does not cover gifts to reduce the public debt received prior to October 1, 1984, when this function was handled by the Financial Management Service. This system of records does not cover gifts sent to other agencies, such as gifts sent with one's Federal income tax return to the Internal Revenue Service. This system does not include any other gifts to the United States.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3113.

PURPOSES:

These records document the receipt from donors of gifts to reduce the public debt. They provide a record of correspondence acknowledging receipt, information concerning any legal matters, and a record of depositing the gift and accounting for it.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license;

(2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings;

(3) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Disclose information to agents or contractors of the Department for the purpose of administering the public debt of the United States;

(5) Disclose information to a legal representative of a deceased donor for the purpose of properly administering the estate of the deceased;

(6) Disclose information to the Internal Revenue Service for the purpose of confirming whether a tax-deductible event has occurred;

(7) Disclose information to the Department of Justice in connection with lawsuits in which the Department of the Treasury is a party or has an interest.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper, microform, or in electronic media.

RETRIEVABILITY:

These records are retrieved by the name of the donor; amount of gift; type of gift; date of gift; social security number of donor, if provided; control number; check number; State code; or other assigned identifier.

SAFEGUARDS:

These records are maintained in controlled access areas. Automated records are protected by restricted access procedures. Checks and other payments are stored in locked safes with access limited to personnel whose duties require access.

RETENTION AND DISPOSAL:

Records of gifts to reduce the public debt are maintained in accordance with National Archives and Records Administration retention schedules. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGERS AND ADDRESS:

Branch Manager, Current Income and Transactions Accounting Branch, Division of Accounting Services, Securities Operations, Bureau of the Public Debt, Parkersburg, WV 26101.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under "Records Access Procedures." Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must specify:

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) *An appeal must be marked "Privacy Act Amendment Appeal" and specify:*

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, executors, administrators, and other involved persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/BPD .008

SYSTEM NAME:

Retail Treasury Securities Access Application-Treasury/BPD.

SYSTEM LOCATION:

Records are maintained at the following Public Debt locations:

(1) 200 Third Street, Parkersburg, WV;

(2) Park Center, 90 Park Center, Parkersburg, WV;

(3) H.J. Hintgen Building, 2nd and Avery Streets, Parkersburg, WV;

(4) United Building, 5th and Avery Streets, Parkersburg, WV; and

(5) 999 E Street, NW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records cover those individuals who own or make inquiries concerning United States Treasury securities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The types of personal information collected/used by this system are necessary to ensure the accurate identification of individuals doing business with Public Debt or to provide personalized service to these individuals. The types of personal information presently include or potentially could include the following:

(a) Personal identifiers (name, including previous name used; social security number; physical and electronic addresses; telephone, fax, and pager numbers);

(b) Authentication aids (personal identification number, password, account number, shared-secret identifier, digitized signature, or other unique identifier);

(c) Customer demographics (age, gender, marital status, income, number in household, etc.); and

(d) Customer preferences (favorite color, hobby, magazine, etc.; preferred sources for information, such as television, newspaper, Internet, etc.; or dates of importance to the customer, such as birth, anniversary, etc.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 3101, *et seq.*

PURPOSE(S):

The purpose of this system of records is to support Public Debt business processes, process electronic services to the public (E-government), and improve service to investors in Treasury securities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Appropriate Federal, State, local, or foreign agencies or other public authority responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order or license where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a court-ordered subpoena, or in connection with criminal law proceedings where relevant or potentially relevant to a proceeding;

(3) A Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Agents or contractors who have been engaged to assist the Bureau of the Public Debt in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity;

(5) The Department of Justice when seeking legal advice or when

(a) The Department of the Treasury (agency) or

(b) The Bureau of the Public Debt, or

(c) Any employee of the agency in his or her official capacity, or

(d) Any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

(e) The United States, where the agency determines that litigation is likely to affect the agency or the Bureau of the Public Debt, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media, multiple client-server platforms that are backed up to magnetic tape, microform, or other storage media, and/or hard copy.

RETRIEVABILITY:

Records may be retrieved by name, alias names, social security number, account number, or other unique identifier.

SAFEGUARDS:

Public Debt has sophisticated Internet firewall security via hardware and software configurations as well as specific monitoring tools. Records are maintained in controlled access areas. Identification cards are verified to ensure that only authorized personnel are present. Electronic records are protected by restricted access procedures, including the use of passwords, sign-on protocols, and user authentication that are periodically changed. Only employees whose official duties require access are allowed to view, administer, and control these records.

RETENTION AND DISPOSAL:

Public Debt is in the process of requesting approval of a new records schedule that will permit records to be maintained for not more than 90 calendar days after the business relationship with the customer ends. These records will not be destroyed until we receive such approval. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner and Chief Information Officer, Office of Information Technology, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26101.

NOTIFICATION PROCEDURE:

Individuals may submit their requests for determination of whether the system contains records about them or for access to records as provided under "Records Access Procedures." Requests must be made in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

RECORD ACCESS PROCEDURES:

(1) A request for access to records must be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is seeking access by mail, identity may be established by presenting a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

CONTESTING RECORD PROCEDURES:

Initial amendment requests: (1) A request by an individual contesting the content of records or for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the request is made in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the request is made by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Submit requests to the appropriate office as shown under "System Manager and Address" above.

(3) *The request must specify:*

(a) The dates of records in question,

(b) The specific records alleged to be incorrect,

(c) The correction requested, and

(d) The reasons.

(4) The request must include available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau of the Public Debt reserves the right to require additional verification of an individual's identity.

(2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals should be addressed to, or delivered personally to: Chief Counsel, Bureau of the Public Debt, 999 E Street, NW, Room 501, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR parf 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction.

(3) An appeal must be marked "Privacy Act Amendment Appeal" and specify:

(a) The records to which the appeal relates,

(b) The date of the initial request made for correction of the records, and

(c) The date the initial denial of the request for correction was received.

(4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

RECORD SOURCE CATEGORIES:

Information is provided by the individual covered by this system of records or, with their authorization, is derived from other systems of records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–12823 Filed 5–21–01; 8:45 am]
BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program matching Office of Personnel Management (OPM) records with VA pension and parents' dependency and indemnity compensation (DIC) records.

The goal of this match is to compare income status as reported to VA with records maintained by OPM.

VA plans to match records of veterans and surviving spouses and children who receive pension, and parents who receive DIC from VA with OPM benefit records maintained by OPM. The match with OPM will provide VA with data from OPM civil service benefit records.

VA will use this information to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Otherwise, information about a VA beneficiary's receipt of OPM benefits is obtained from reporting by the beneficiary. The proposed matching program will enable VA to ensure accurate reporting of income.

Records To Be Matched

The VA records involved in the match are the VA system of records, VA Compensation, Pension and Education and Rehabilitation Records—VA (58 VA 21/22) first published at 41 FR 924 (March 3, 1976), and last amended at 63 FR 37941 July 14, 1998, with other amendments as cited therein. The OPM records involved in the match are from the OPM Civil Service Retirement Pay File identified as OPM Central–1, Civil Service Retirement and Insurance Records, published as 64 FR 54930, October 8, 1999, as amended May 3, 2000 (65 FR 25775). In accordance with Title 5 U.S.C. 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

The match will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties are submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIBs) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to conduct the matching program to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1154, Washington, DC 20420. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1158, 810 Vermont Avenue, NW., Washington, DC 20420, between 8 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge (212A), (202) 273–7218.

SUPPLEMENTARY INFORMATION: This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: May 7, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–12762 Filed 5–21–01; 8:45 am]
BILLING CODE 8320–01–P

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Federal Register

Tuesday,
May 22, 2001

Part II

Environmental Protection Agency

40 CFR Part 260 et al.
Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, 271

[FRL–6932–4]

RIN 2050–AE21

Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Today, the Environmental Protection Agency (EPA) proposes to revise the Uniform Hazardous Waste Manifest regulations and the manifest form used to track hazardous waste from a generator's site to its site of ultimate disposition.

EPA proposes three major revisions to the manifest system: First, EPA proposes to further standardize the content and appearance of the current manifest form (8700–22 and 22a), to make the form available from a greater number of sources. Second, EPA proposes manifest tracking procedures for the follow-up manifesting of TSDF-rejected RCRA hazardous waste shipment loads, and follow-on shipments of non-empty waste containers containing waste residues. Lastly, EPA proposes giving waste handlers required to use the form the option to complete, send, and store the manifest information electronically. For waste handlers choosing this option, the proposed rule would require the use of a standardized electronic data interchange (EDI) format that facilitates the exchange of data between waste handlers, the use of digital signature technology to sign the manifest, and the use of a standard set of computer security standards for the transmission and storage of manifest data.

EPA proposes these changes to reduce paperwork burden related to the hazardous waste manifest provisions, and in response to many requests for a streamlined and up-to-date hazardous waste tracking system. If finalized, EPA also expects these proposed changes to improve the "cradle-to-grave" hazardous waste tracking system and to ensure that waste reaches its destination without causing harm to human health or the environment.

DATES: Written comments on this proposed rule must be submitted on or before August 20, 2001.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–2000–UWMP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically to: rcra-docket@epa.gov. Comments in electronic format should also be identified by the docket number F–2000–UWMP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway One, First Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page. The index and some supporting materials are available electronically. See the Supplementary Information section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of this rulemaking, contact Richard Lashier (5304W), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308–8796, lashier.rich@epa.gov.

SUPPLEMENTARY INFORMATION:

Internet Availability

This rule is available on the Internet. Using a World Wide Web (WWW) browser, type *http://www.epa.gov/epaoswer/hazwaste/gener/manifest/index.htm*

The official record for this action is in a paper format.

Outline

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Appendix A. Extensible markup language (XML) document type definition for the hazardous waste manifest

I. Authority

These regulations are proposed under the authority of sections 2002, 3001 through 3007, and 3009 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912, 6921 through 6927, 6929 and 6930.

II. Request for Comments

The Agency requests comment on the proposed changes to the manifest form, the proposed procedures for using the form, and on the proposed option for electronic manifests, as described in this document. The manifest system includes both the Uniform Hazardous Waste Manifest (EPA Form 8700–22) and the Uniform Hazardous Waste Manifest Continuation Sheet (EPA Form 8700–22A). The continuation sheet includes many of the same data elements as the manifest form, and merely adds additional fields to identify additional transporters or waste streams which could not fit on the manifest. While this document, for simplicity, discusses the proposed manifest system revisions primarily in the context of the manifest form, it is EPA's intent to implement these revisions with respect to both the manifest and the corresponding data fields found on the continuation sheet. Therefore, those commenting on today's proposal should consider the proposed form revisions, procedures, and electronic manifest options as affecting both the manifest form and the continuation sheet.

To assist in compiling and responding to comments, the Agency requests that commenters include a heading for each issue addressed in their comment which identifies the section(s) of this preamble in which the issue is discussed (and/or the regulatory citation(s) the comment addresses). In addition to hard copies of their comment, the Agency further requests that, if possible, commenters provide an electronic copy of their comment on disk, preferably in ASCII avoiding the use of special characters and any form of encryption. Please identify the software package used to develop the document.

III. Background

A. History of Manifest System

Subtitle C of the Resource Conservation and Recovery Act (RCRA) required to establish a manifest system to track shipments of hazardous waste from a generator's site to the site where the hazardous waste is sent to be managed (that is, cradle-to-grave). EPA published regulations for a manifest system on February 26, 1980. (See 45 FR 12724, February 26, 1980.) The central element of the manifest system is the paper trail—a document showing who is in the control of the hazardous waste at a given time and where the waste is destined for its ultimate disposition. The manifest also identifies the waste in terms of its toxicity (that is, hazard potential) and quantity and therefore, in case of an emergency or waste release, makes the emergency response personnel aware of the potential for human health and environmental hazards the waste may pose.

EPA's authority to establish requirements for a manifest system stems primarily from RCRA Section 3002(a)(5). (See also RCRA Sections 3003(a)(3) and 3004.) Regulations are found in 40 CFR Part 262 (Generators), Part 263 (Transporters), and Part 264 and 265 (Treatment, Storage and Disposal facilities).

DOT regulations at 49 CFR 172.205 state that "No person may offer, transport, transfer, or deliver a hazardous waste (waste) unless an EPA Form 8700–22 and 8700–22A (when necessary) hazardous waste manifest (manifest) is prepared in accordance with 40 CFR 262.70 and is signed, carried, and given as required of that person by this section." In the pre-RCRA days, the Department of Transportation (DOT) requirements for shipping papers were applicable for tracking the movement of industrial and chemical waste. (See 49 CFR 171.3 and 171.8) DOT did not require a specific form but required each transport vehicle to carry required information such as hazardous material name and hazard class. In the 1980 manifest rule, EPA only required that certain information must accompany hazardous waste shipments. EPA believed that this approach would allow the regulated community to adapt its use of shipping papers which are required by DOT's Hazardous Materials Regulations (49 CFR parts 171–180) to accommodate the new EPA requirements. In addition, any State that desired a manifest form was allowed to develop one to satisfy its needs, as long as the State form provided the minimum information requirements of the 1980 rule (45 FR 12729, February 26, 1980). The 1980 manifest rule retained flexibility inherent to the DOT regulations so that the manifest would also be able to serve as the shipping papers required by DOT's hazardous materials transportation regulations. This approach, however, was short-lived.

Soon after the 1980 regulations became effective, more than 20 States developed and required their own manifest forms. These forms met the minimal Federal requirements but also required additional State information. Significant confusion and compliance difficulties resulted from the differing manifest requirements. Often, it was necessary for generators to prepare multiple manifests for interstate shipments to satisfy the requirements of the States through which the hazardous waste traveled. Therefore, EPA and DOT in coordinated rulemaking, with significant assistance from the Association of State and Territorial Solid Waste Management (ASTSWMO) and the Hazardous Materials Advisory Council (HMAC), proposed and later promulgated a Uniform Hazardous Waste Manifest form and procedures for its use. (See 47 FR 9336, March 8, 1982 (proposed rule), and 49 FR 10490, March 20, 1984 (final rule)). This Uniform Hazardous Waste Manifest system remains in place today. The Uniform Hazardous Waste Manifest was designed to eliminate the burden for generators, transporters, and other waste handlers who may have been subject to

several versions of waste tracking system with duplicate information. It also was designed to enable generators and transporters to meet both DOT and EPA regulatory requirements. Under this system, generators and transporters are required to use the Uniform Hazardous Waste Manifest, and States may not require a different manifest in its place. However, the Uniform Hazardous Waste Manifest has State blocks which allow States, at their option, to require the entry of additional specific information to serve their State's regulatory needs. EPA expected that both the States and generators would benefit from this approach since the additional State information requirements could be met on the Uniform Manifest form, and the need for generators to prepare separate manifests for each State entered would be eliminated (49 FR 10499, March 20, 1984). The Uniform Hazardous Waste Manifest requirements, however, do not preclude a State from requiring a generator to send other information under separate cover under the EPA rule (49 FR 10492) or directly to the appropriate agency of a State under the DOT rule (49 FR 10508).

The manifest system in place for the past 20 years has improved the management and enforcement of the national hazardous waste program where it serves several primary purposes:

(1) To serve as a tracking device which creates clear lines of accountability among the participants in the hazardous waste system;

(2) To serve, together with the other EPA and DOT requirements, to protect human health and the environment during the transportation of hazardous waste by providing information on the waste to persons handling the waste and to emergency response personnel; and

(3) To provide the principal basis for EPA's recordkeeping and reporting requirements (45 FR 12728, February 26, 1980).

The hazardous waste manifest was developed to meet both RCRA and HMTA requirements. As a form of DOT-required "shipping paper" the manifest conveys essential emergency information required during transportation, specifically the proper shipping name, hazard class, phone numbers enabling responders to obtain additional information, when necessary. These essential information requirements negated the need of having another set of separate papers, namely shipping paper.

However, the revised form has not entirely mitigated consistency and uniformity problems that occurred with the old manifest requirements primarily because confusion about different State manifest requirements associated with the state optional fields still exist. Also, the existing regulations describe a specific, multi-copy paper form which must be physically carried among waste handlers, and which must be hand-signed as custody of waste shipment changes, making it difficult to integrate the form with computer technologies. (See section VII.D for further discussion related to impediments to automation of the waste tracking system.) Consequently, EPA received further complaints from the regulated community and States. Further discussion regarding these and other problems with the uniform manifest follow.

B. Problems Associated With Uniform Manifest Form

1. Variability

Under the current regulations more than 20 states print the manifest form in accordance with the format specified in federal regulations. As mentioned previously, the manifest form was designed to allow states to continue to meet their individual information needs. However, the different manifest requirements among State Manifest programs have drawn complaints from the regulated community about manifest inconsistency. Most complaints have come from large generators and TSDFs who helped generators prepare forms as part of their business' service. These manifest users have expressed frustration with the uniform manifest because they still found it difficult to complete the state optional portions of the form without first collecting and keeping track of requirements from each state in which they did business. For example, some states have assigned additional generator identification numbers, transporter identification numbers, facility identification numbers, or some combination of the three, while others have not assigned these numbers. Under the current manifest requirements, a state may require any combination of these boxes to be completed in addition to the federally required blocks on the manifest. Thus, a generator who sends waste to multiple states needs keep track of which states require this information on the manifest and ensure that each manifest is filled out correctly for its destination state.

Generators also have expressed their frustration with optional Blocks I "Waste No." and K "Handling Codes . . ." because the inconsistencies among states can make it very labor-intensive for generators to complete those blocks. For example, with respect to completion of Block I, a generator who sends wastes to different states must determine which codes the states require the generator to use in Block I and under which circumstances the generator may use the codes (e.g., when a code is required for hazardous waste being sent to a recycler).

Other manifest variability issues that have caused much vexation for manifest users are the different state manifest copy distribution schemes and the hierarchical manifest acquisition system (See Section IV.A for details on the manifest acquisition system and copy distribution scheme). Specifically, states that require generators to use their state manifest form generally use a 6-part form or an 8-part form. A state that receives hazardous wastes may require both the generator and the TSDF to submit a copy of the manifest to the state so that copies can be matched. In other states, only the generator is required to submit a copy of the form to the state. Often, a person who needs manifest forms from several states cannot obtain them from one location. As a result, a person must contact each state separately to request the state-specific form.

2. State Difficulties

States that collect the manifest have also experienced difficulty with processing the paper manifest form. They may collect hundreds of forms in a month, and either place the manifests in files, or manually enter the information on the forms into a state database system. Manual data entry often results in errors and delay, which could be avoided if the manifest were prepared and transmitted to the states electronically. Also, it is difficult to exchange manifest information between the generator's state and the receiving facility's state because often, their information systems are incompatible, and unable to accept transfers of data from one state to another.

C. Efforts To Improve the Hazardous Waste Manifest System

In 1985, manifest officials in several State environmental agencies formed an Interstate Hazardous Waste Manifest Coordinators Group (IHWMCG) to address manifesting issues and to increase uniformity among State manifest programs. During 1988, the IHWMCG served on the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) Manifest Revisions Task Force to develop regulatory recommendations to EPA to increase effectiveness, efficiency

and consistency of the national hazardous waste manifest system. The Task Forces's recommendations for specific modifications to the Uniform Hazardous Waste Manifest were submitted to EPA as a rulemaking petition on January 8, 1990.

In 1992, EPA embarked upon a negotiated rulemaking effort in an attempt to take advantage of the near consensus already reached by States in the ASTSWMO petition. The Negotiated Rulemaking committee reached agreement on recommendations for revisions to the manifest form. The Negotiated Rulemaking committee recommended that essentially all optional fields on the current manifest form should become mandatory Federal fields. In addition, the Negotiated rulemaking committee recommended several procedures for using the manifest when hazardous waste shipments are rejected by the designated facility, or when the designated facility cannot render containers "RCRA empty." The committee also agreed to expand requirements for imported waste shipments. The final agreement document can be found in the regulatory docket for today's action.

However, before EPA completed the Negotiated rulemaking process, it implemented its reinvention strategy to fulfill the Administration's commitment to reinventing environmental protection. In March 1995, President Clinton, Vice President Gore, and the EPA Administrator put forth an ambitious agenda to reinvent environmental protection as part of the larger goal of creating a federal government that works more efficiently and costs less. The Administration and the Agency have been committed to the goal of reducing the paperwork burden resulting from environmental regulations by at least 25% (Current information about regulatory reinvention is available on EPA's World Wide Web site at *http://www.epa.gov/reinvent/annual97/intro.htm/*). In addition, the Office of Management and Budget (OMB) extended the approval of the manifest ICR for only two years in 1994, with the expectation that EPA would, in the interim, adopt manifest revisions that would address regulatory burden issues surrounding the existing system. In 1996, OMB extended approval of the Manifest ICR, but with the expectation that EPA would explicitly address, among other things, innovative approaches as a way to streamline and reduce the burden of manifest reporting requirements. For example, OMB suggested that EPA develop and pilot test the electronic submission and tracking of manifests. As of 1999, EPA estimates that the paperwork burden (from federal requirements) of the manifest system is 2.92 million hours, making it one of the highest paperwork burdens imposed under RCRA.

Based on the aforementioned factors, EPA reexamined its efforts on the Negotiated rulemaking to determine if they comported with the Administration and Agency's burden reduction initiative. Based on its review, the Agency determined that the negotiated rule, as written, would have increased the annual paperwork burden hours significantly, since the rule adopted most of the Negotiated Rulemaking committee's recommendations which advocated, among other things, including essentially all state optional fields on the current manifest form as mandatory Federal fields. As a result, EPA determined that the Negotiated Rulemaking committee's recommendations could not be implemented without significantly undercutting the Agency's burden reduction goals. In 1996, EPA established an Agency workgroup charged with building upon the recommendations of the negotiated rulemaking effort, as well as meeting the Agency's burden reduction goals. This proposal reflects what the Agency believes to be an appropriate balance between the Negotiated Rulemaking committee recommendations and the Agency's burden goals.

D. To Whom Would These New Regulations Apply?

The table below identifies 45 economic sectors which would likely be affected by the revisions to the RCRA hazardous waste manifest system, as proposed today. EPA derived the list of sectors from data contained in the Office of Solid Waste's 1996 "National Hazardous Waste Constituent Survey," for the sector identity of waste shippers. Because of the numerous sectors at the four-digit SIC level (i.e., six-digit NAICS level), the respective two- and three-digit levels are presented in the table below for many sectors.

LIST OF ECONOMIC SECTORS WHICH ARE LIKELY AFFECTED BY THE PROPOSED REVISIONS TO THE RCRA HAZARDOUS WASTE MANIFEST SYSTEM

Item	SIC Code	NAICS Code	Sector description
1	1794	23593	Construction excavation work.
2	20	311	Food and kindred products manufacturing.
3	2295	31332	Coated fabrics manufacturing.
4	24	321	Lumber and wood products manufacturing.
5	25	337	Furniture and fixtures manufacturing.
6	26	322	Pulp and allied products manufacturing.
7	27	511	Printing and publishing.
8	28	325	Chemicals and allied products manufacturing.
9	29	324	Petroleum and coal products manufacturing.
10	30	326	Rubber and miscellaneous plastic products manufacturing.
11	32	327	Stone, clay and glass products manufacturing.
12	33	331	Primary metal manufacturing industries.
13	34	332	Fabricated metal products manufacturing.
14	35	333	Industrial machinery and equipment manufacturing.
15	36	335	Electronic and other electric equipment manufacturing.
16	37	336	Transportation equipment manufacturing.
17	38	334	Instruments and related products manufacturing.
18	39	339	Miscellaneous manufacturing industries.
19	4111	485	Local and suburban passenger transit.
20	4173	48849	Terminal and service facilities for vehicle transport.
21	42	484	Trucking and warehousing.
22	4212	562112	Hazardous waste collection services.

LIST OF ECONOMIC SECTORS WHICH ARE LIKELY AFFECTED BY THE PROPOSED REVISIONS TO THE RCRA HAZARDOUS WASTE MANIFEST SYSTEM—Continued

Item	SIC Code	NAICS Code	Sector description
23	4491	4883	Marine cargo handling.
24	4512	48111	Air transportation.
25	4613	48691	Refined petroleum pipelines.
26	4789	488999	Transportation services n.e.c.
27	4813	5133	Telephone communications.
28	49	2211	Electric, gas and sanitary services.
29	4953	562211	Hazardous waste treatment and disposal.
30	4959	562910	Hazardous waste remediation services.
31	50	421	Wholesale trade (durable goods).
32	51	422	Wholesale trade (nondurable goods).
33	5912	44–45	Drugstores and proprietary retail stores.
34	6552	23311	Subdividers and developers.
35	7216	81232	Dry cleaning plants.
36	73	541	Business services.
37	7532	811121	Top, body and upholstery repair and paint shops.
38	7699	561	Repair shops and related services n.e.c.
39	8062	62211	General medical and surgical hospitals.
40	8221	61131	Colleges and universities.
41	87	541	Engineering and management services.
42	8999	541	Services n.e.c.
43	95	924–925	Environmental quality and housing administration (state government offices).
44	9661	92711	Space research and technology.
45	9711	92811	National security (e.g. military bases).

The following table presents EPA's estimate of more than 92,000 entities which would potentially be affected by today's proposed rule. Because one of the three proposed revisions to the RCRA manifest system is voluntary (i.e., the proposed use of an electronic manifest form), EPA anticipates that facilities involved in RCRA manifesting activities in these sectors would be differentially affected by the proposed rule, depending upon voluntary adoption rate. Furthermore, affected entities play at least four different roles in the RCRA manifest system: (1) Waste generators who ship wastes off-site, (2) waste transporters (truck, barge, rail operators), (3) waste receivers who treat, store and/or dispose of shipped wastes, and (4) state governments which provide manifest forms, and which also may collect manifest data (although not required under the Federal RCRA manifest program). The sources of these estimates are presented in the "Economics Background Document" (dated 15 May 2000), available from the RCRA Docket.

NUMBER OF ENTITIES WHICH MAY BE AFFECTED BY TODAY'S PROPOSED RULE

Item No. and role of affected entities in manifest system	Entity count
1. Waste generators who may ship wastes off-site (shippers)	89,826
2. Waste transporters (truck, barge, rail operators)	500
3. Waste receivers (treatment, storage, disposal facilities)	2,024
4. State governments (which collect manifest data)	24
Total	92,350

E. How Much Burden and Cost Reduction Does EPA Expect From the Proposed Manifest Form Revisions?

Although there are up-front and annual recurring costs to states and to the private sector associated with all three components of today's proposed rule, EPA designed this rule so that it would have an overall net savings impact on affected entities, primarily associated with anticipated reduction in the annual labor burden for the existing paper-based manifest system. While the proposed rule includes both "regulatory" and "de-regulatory" features, the overall net impact should be a reduction in compliance burdens and costs.

In order to estimate the potential burden reduction for this proposed rule, EPA prepared two separate, but complementary, burden and cost savings estimation documents: (1) An ICR document for the proposed rule ("Information Collection Request 801.#", (ICR), 19 July 2000) as required by OMB under the Paperwork Reduction Act of 1995, for the purpose of officially tracking paperwork burden hours, and (2) an "Economics Background Document," (EBD), 12 May 2000), which applied a relatively broader, economic analysis approach to assessing potential burden reduction savings. (EPA also prepared a third economic study which examined the benefits and costs associated with the electronic equipment automation component of today's proposed rule, which is summarized elsewhere in this preamble).

Compared to the methodology of the ICR, the EBD includes other types of economic costs associated with the RCRA manifest system. For example, the EBD includes burden and costs associated with both Federal and State manifest information collection

requirements, whereas the ICR only covers Federal manifest information collection requirements. Consequently, the EBD estimates a larger baseline annual manifest burden, but it also estimates a larger annual burden savings than the ICR document.

EPA's analysis indicates that all of the components of today's proposed revision to the RCRA manifest system are expected to reduce administrative paperwork burden among all RCRA industrial hazardous waste handlers. The "Information Collection Request Nr.801.#" document estimates that all components of today's proposed revision to the RCRA manifest system, would achieve a reduction of 593,500 hours in national annual burden, representing 25% reduction in burden compared to the 2.335 million hour burden baseline as estimated in the ICR.

In comparison, the "Economics Background Document" (EBD) for this proposed rule suggests that the resultant reduction in waste manifesting burden from all of the proposed revisions combined, is expected to reach 1.241 million hours annually, consisting of 1.162 million hour reduction to waste handlers, and 79,000 hours to state agencies. Compared to the baseline annual RCRA hazardous waste manifest burden of 4.615 million hours as estimated in the EBD, this reduction in burden hours represents 27% annual burden savings. These estimates represent a 50% manifest adoption rate scenario in the EBD, which assumes for simplicity that 50% of manifests become automated in the first year after the today's rule is promulgated.

However, EPA realizes that the projected savings resulting from this rule will more likely be phased in over several years. EPA estimates that the paperwork burden reduction from this rule could eventually be 730,000 to 1.2 million hours per year, depending on the requirements actually promulgated in the final rule, and on the rate of adoption of electronic manifest systems. The actual timing of these burden reductions is therefore uncertain. The burden reduction (190,000 hours) associated with the manifest form revisions would occur over a two-year phase-in period for the new form after the final rule is promulgated. The remaining savings (540,000 to one million hours) could take several more years to realize. The timing of these savings would depend on whether or not EPA would need to issue supplemental proposals addressing manifest automation; the availability of the necessary software and hardware; and the willingness of states and waste handlers to adopt the electronic manifest approach.

F. Effective Date of Final Rule

The effective date of the rule is proposed to be six months after promulgation of the final rule. Upon the effective date of the rule, we are proposing a two-year "delayed compliance date" to allow manifest users to phase-in use of the new form. That is, for that two-year period, manifest users would be allowed to use either the old manifest form or the new manifest form. The Agency is proposing this phase-in period to allow time for vendors, states and waste handlers to get approval to assign manifest tracking numbers and to print forms, as well as to allow time for users to use up existing stocks and find new supplies.

If you use the old manifest form during this two-year period, the two-year delayed compliance date would also apply to proposed regulatory amendments that are directly related to use of the new form (i.e., form printing, manifest tracking numbers, and instructions for filling out the new manifest form) as it would be difficult for a waste handler to comply with these requirements if they are not using the new form. Waste handlers using the old form during this time period would have to comply with all other proposed regulatory requirements, but would continue to comply with the current manifest requirements directly related to use of the old form (i.e., acquisition hierarchy, manifest instructions). For example, a TSD rejecting a shipment of hazardous waste would have to contact the generator for a decision regarding an alternative facility but could use an old form (prepared in accordance with the current instructions for filling out the manifest) to manifest the rejected load.

If you do choose to use the new manifest form during the two-year period, you would be required to comply with the proposed requirements for form printing, manifest tracking numbers, and instructions for filling out the new manifest form. Once the two-year period ends, all manifest users would be required to use only the new manifest form and would also be required to comply with the requirements for form printing, manifest tracking numbers, and instructions for filling out the new manifest form.

The two-year delayed compliance date would not apply to any proposed regulatory amendments related to the electronic manifest proposal. Upon the effective date, waste handlers who opt to use an electronic manifest for a hazardous waste shipment would be required to comply with all the requirements associated with use of the electronic manifest at that time.[1] This would also include the proposed requirements for manifest tracking numbers, and instructions for filling out the new manifest form. EPA does not believe that a phase-in period would be necessary for the electronic manifest because use of the electronic manifest would be optional. Waste handlers would be able to use the paper system until they are prepared to implement the electronic manifest. In addition, waste handlers would probably not opt to use the electronic manifest system unless they were prepared to implement it in accordance with the final requirements.

EPA requests comment on whether a two-year delayed compliance date for the use of the revised uniform Hazardous Waste Manifest (and the proposed requirements directly related to use of the revised manifest) is sufficient. EPA also requests comment on whether a delayed compliance date would be appropriate for the electronic manifest system.

The Agency also requests comments from states on whether they need to make legislative changes to adopt the new manifest or the automation option and if so, how much time is necessary to complete such changes. See Section IX of this preamble for a detailed explanation of how the proposed regulatory changes would be administered and enforced in the States.

IV. The Revised Manifest Form

A. Manifest Form Acquisition

1. How Is EPA Changing the Way Manifest Forms Are Acquired?

EPA proposes to allow manifest users to obtain the form from a greater number of sources for use in any state. In particular, EPA proposes to allow State agencies, waste handlers (generators, transporters, and TSDFs) and commercial business form printers to print the form. EPA is proposing to require those who would print the new manifest to first register with the Agency. The purpose of the registry would be twofold: (1) to ensure that the forms are printed according to the prescribed federal printing specification (i.e., the standardized revised form) and (2) to ensure that a unique number for each manifest would be preprinted on the form. Thus, generators could register to print manifest forms, or they could obtain a manifest form from any registered source of manifest forms.

[1] In authorized states, whether or not a waste handler would be able to use an electronic manifest system would be determined by the RCRA authorized state program. We are tentatively proposing not to require States to adopt the proposed electronic manifest option as part of their authorized program. See Section IX for further discussion.

Under these new proposed regulations, both the current printing arrangements and the acquisition requirements for manifest would change. Currently, authorized States are the primary source of manifests, and States either print these forms themselves or contract with printers to print the form according to the States' specifications. While States that currently print and distribute manifests are required to follow the Uniform Manifest format, the current regulations allow some variability among State manifests, particularly with respect to including and providing instructions for optional fields used in each State, minor formatting variations, and for describing copy submission and mailing requirements. As a result, there are now 24 different State variations of the Uniform Manifest. The current manifest acquisition regulation generally requires that generators obtain their manifests from a State agency, and determines which State manifest must be used. Under the procedures proposed today, State, waste handlers, and commercial form printers could register to print manifests, and the manifests printed by any registered printer could be used in any state.

2. Why Is EPA Proposing this Change?

EPA is proposing a new system for obtaining manifest forms, to reduce the burden that waste handlers currently encounter in obtaining manifests from multiple States, and to reduce or eliminate the variability among states on what forms to use, what is printed on them, and how to use them.

Under the current regulations, a hazardous waste generator must check at least two different State agencies' manifest requirements to determine how and where to obtain a manifest. The current manifest acquisition requirements are set forth in 40 CFR 262.21, which contains a hierarchical scheme for determining which state's manifest should be used for a particular waste shipment. EPA and DOT developed this approach in the 1984 Uniform Manifest Rule, in order to accommodate States that wished to collect and track manifest data, while avoiding conflicts between States' requirements. EPA explained in the 1984 rulemaking that it did not intend to print and supply manifest forms, and the hierarchy approach resulted from the Agency's efforts to effectively arrange the distribution of manifests by the States. 49 FR 10490 at 10495 (March 20, 1984).

The § 262.21 acquisition hierarchy requires a generator to first look to the manifest requirements of the consignment (i.e., the state in which the hazardous waste shipment will be transported to, and subsequently managed in that state) State. If this State supplies a manifest and requires its use, then the consignment State's manifest must be used for the waste shipment. If, however, the consignment State does not supply a manifest, but the generator's State does supply a manifest and requires its use, then the generator must use the manifest required by the generator's state. If neither the consignment nor generator State supplies a manifest, then the generator may obtain the manifest from any source. When EPA announced this hierarchy regulation in 1984, the Agency explained that this approach would serve two important interests: (1) It would help consignment States inform out-of-State generators of requirements to submit manifest copies to the consignment States (i.e., the form would contain a notice to this effect); and (2) it would allow consignment States to pre-print a State manifest document number on each manifest, to aid in tracking the manifest in the States' tracking systems. 49 FR at 10496. The acquisition hierarchy establishes a preference for obtaining the form from the consignment State, as EPA determined in 1984 that a consignment State's interest in overseeing waste management within its borders outweighed any convenience that would result to generators if they were allowed to obtain manifests from a single source. Id.

EPA believes that the current acquisition hierarchy puts unnecessary administrative burden on certain waste handlers, particular those who conduct business in multiple states that require the use of their state manifest. For example, if a waste handler conducts business in multiple states, then he/she must make arrangements to acquire manifest forms from each state or keep stocks of inventory of the varying manifest formats. In addition, waste handlers must become familiar with instructions for the different forms to ensure that they complete the manifests correctly. Removing the current acquisition system, eliminates the aforementioned inconveniences, since the form supplied by states and other manifest sources would be the same.

EPA believes that the factors relied upon in 1984 to support the current acquisition hierarchy would not be significant under the revised manifest proposed today. EPA is proposing to eliminate all but two optional fields (waste codes and handling codes), and EPA believes that most manifests would include these "optional" data as the normal practice. The 6-copy form with unique, pre-printed manifest tracking numbers under the Federal specification would satisfy many of the needs States have previously identified as reasons for controlling the distribution of the manifest. Also, information on State-only wastes, use of optional fields, and State-specific copy submission requirements can be obtained by contacting the States directly, or through published or on-line sources. State contact information and telephone numbers can be found, for example, on the Internet at EPA's website (http://www.epa.gov/epaoswer/osw/stateweb.htm).

EPA believes that the informational purposes served by allowing States to distribute the manifests under the acquisition hierarchy can be met adequately by other means. There would be little, if any, variability remaining in the proposed revised manifest form, and information describing State-specific requirements can be obtained through other means than distribution of the form. In addition, EPA believes that the States' interest in ensuring that unique tracking numbers are provided for each manifest can be met by the proposed printing registry approach.

The proposed change regarding the printing and distribution of the paper form would also be consistent with the changes proposed to implement the electronic manifest system. Thus, the Agency believes that both the electronic and paper formats would be distributed more efficiently and with less burden under the approach proposed today. While the remainder of this discussion focuses on the registry and acquisition requirements for the paper form, the Agency points out that as with the printers of paper manifests, waste handlers who originate an electronic manifest would have to register to get an approved tracking number system.

3. How Much Burden Reduction Does EPA Expect From the Proposed Manifest Form Revisions?

EPA's analysis indicates that today's proposed revision to the RCRA hazardous waste manifest form is expected to reduce administrative paperwork burden among all RCRA industrial hazardous waste handlers who ship wastes off-site. The "Economics Background Document" (12 May 2000) for this proposed rule estimates that the resultant reduction in

waste manifesting burden from the proposed revisions to the manifest form, would be 188,000 hours annually to RCRA hazardous waste handlers. This reduction in burden hours is expected to account for between 16% and 26% of the annual burden hour savings to waste handlers expected from all of the RCRA manifest system revisions proposed today.

4. Where Would a Waste Handler Get Paper Manifest Forms?

Generators and other waste handlers needing the manifest would be able to register with EPA and print their own manifests. Generators could also obtain their manifests from other sources, however. The proposal would allow waste generators to obtain blank copies of the manifest from any of the following sources:

- Any state hazardous waste agency that registers as a printer and prints manifests;
- Commercial business forms printers who register to print the form; and
- Transporters and TSDFs who register to print the form. These companies often provide the manifest as a service to their generator customers.

5. Must a Generator Still Contact the State?

Yes, you would still need to contact the consignment state periodically to determine which of the state-only blocks of information on the manifest you are required to fill out. Also, as mentioned above, EPA determined that while it was not necessary to impose a federal requirement that generators submit copies of each completed manifest form to a State or to EPA, the Agency recognized that states could impose a more stringent manifest system that could involve the submission by generators of copies of every completed manifest form. This proposal does not affect the ability of a state to require the submission of manifests. However, states would no longer be able to print a notice of such requirements on the manifest form. To continue to give states the ability to track manifested shipments of waste, it is still necessary to contact your state to see what they require in terms of state-required information on the manifest and in terms of submitting manifest copies to states.

6. What Special Requirements Would Apply to the Printers of the Universal Manifest?

- You would be required to register with EPA as a forms printer to get your manifest tracking number system approved and to ensure that you adhere to Federal printing specifications and procedures;
- No additional boxes could be added;
- No existing boxes could be deleted;
- You would be required to print a form that had at least the following six copies:

—Copy 1: TSDF to destination State (if required);
—Copy 2: TSDF to generator State (if required);
—Copy 3: TSDF to Generator;
—Copy 4: TSDF's signed file copy
—Copy 5: Transporter's file copy
—Copy 6: Generator's initial copy.

- You would be required to print the form so that the manifest dimensions are 8½×11 inches;
- You would be required to print the form in black ink so that it can be photocopied or faxed;
- You would be required to provide the standardized instructions outlined below;
- You would be required to follow the same copy naming structure as outlined below; and

7. What is the Naming Convention for the Different Copies of the Manifest?

Page 1 (top copy): "Designated facility to consignment State" (if required);
Page 2: "Designated facility to generator State" (if required);
Page 3: "Designated facility to generator";
Page 4: "Designated facility copy";
Page 5: "Transporter copy"; and
Page 6 (bottom copy): "Generator's initial copy."

If the generator is required to submit a copy of the manifest to the generator state, the generator should make a photocopy of the manifest to supply this additional copy. Also, note that a completed manifest may contain fewer pages if the state does not require submission of forms; however, the printer would be required to print a 6-copy form. Under certain circumstances (e.g., exports, imports, additional transporters, exception reporting, and/or states requiring additional copies), more than 6 copies of a manifest may be necessary. In these cases, the generator or transporter should photocopy the most legible copy of the form available to ensure that the extra manifest copies are legible.

8. How Would the Acquisition Regulation Change?

EPA is proposing to replace the current acquisition hierarchy in § 262.21 with a simple requirement that a generator may print its own manifest if it has registered with EPA to do so, or a generator may use a manifest obtained from any commercial printer, state, or other waste handler that has registered with EPA to print the manifest. In addition to amending 40 CFR 262.21, the provisions currently found at 40 CFR 271.10 for States that print manifests and/or require completion of state optional fields would be revised accordingly.

9. How Would Manifest Tracking Numbers be Changed by the Proposal?

Under this proposal, the current fields for the generator's manifest document number (i.e., the generator's U.S. EPA ID number plus a unique 5-digit number that the generator assigns to each manifest) and the state manifest document number would be replaced with one mandatory field that would be called the manifest tracking number (Item 3). Note, that the generator's EPA ID number would still appear on the form; however, it would not be part of the manifest tracking number. The manifest tracking number would be a unique pre-printed number that would be supplied by a registered manifest printer. A waste generator could register with EPA to print its own manifests and assign its own manifest tracking numbers, or, the generator could obtain manifest tracking numbers from other registered sources who print for the generator, including States, transporters, TSDFs, or commercial business form printers.

An entity that wants to print manifests would register with EPA and demonstrate that they have a system in place to ensure that unique, pre-printed numbers would be assigned to each manifest. Similarly, entities implementing an electronic manifest system would register with EPA to ensure that their electronic system would apply a unique manifest tracking number to each electronic manifest.

The advantage of this manifest tracking number requirement is that it would allow waste handlers to acquire uniquely numbered manifests from numerous sources, without having to obtain a different set of forms from each State in which it does business. The proposal would eliminate an "optional" field from the current manifest, and a new mandatory field would replace two existing fields on the manifest. Also, waste handlers with significant involvement in hazardous waste activities would be able to register and print their own manifests for use within their own sites or for use by their multi-state customers. Multi-state operations would benefit especially, as they would no longer need to stock multiple state formats of the manifest.

10. Could States Still Require Use of Only Their Manifests?

When EPA adopted the acquisition hierarchy in 1984, we recognized the need for a regulation that would arbitrate possible conflicts between State manifest requirements for generators located in one state, but disposing of their waste in another. The acquisition hierarchy in current § 262.21 arbitrates such conflicts by establishing a rule that one State manifest is always sufficient for any hazardous waste shipment, and by designating which state's manifest must be used.

With today's proposal, it is still EPA's intent that only one manifest need be obtained to accompany any off-site shipment. Under the revised Uniform Manifest proposed today, variability in the form would be eliminated, and the source of the manifest form used would be immaterial. So, when today's proposed approach becomes effective, States would not be allowed to require use only of a manifest form printed or distributed by the State. States would, of course, be eligible to register and distribute manifests, but State laws which purport to require use only of a form distributed by the State would be deemed inconsistent under 40 CFR 271.4. Otherwise, waste handlers could be required to obtain multiple manifests to satisfy conflicting and duplicative State law requirements for their specific manifests. This result would, in EPA's view, frustrate the accomplishment of our objective to introduce a truly standard manifest form, and amount to an unreasonable burden on the free movement of waste in commerce.

11. Request for Comments

EPA requests comments on the new approach proposed today for printing and obtaining manifests. Would the proposed approach be effective in eliminating burden and variability in the manifest system, or, would it more likely cause disruption to arrangements that are well understood and work well? Is the proposed registry approach the most efficient means for EPA to ensure a standard manifest with pre-printed, unique tracking numbers? Would many waste handlers find it advantageous to print manifests for their own use or the use of their customers? How would the proposal affect these firms' burdens, costs, and manifest operations? Would States that currently derive revenue from the distribution of manifests be disadvantaged unduly by the proposal? Would some States face statutory obstacles to altering their current manifest distribution requirements? Comments addressing these issues would be helpful to the Agency.

EPA also requests comments on an alternative option that would retain the proposed Federal printing specification, but not the proposed registry. Under the alternative option, States would still be the primary source of manifests, and the current acquisition hierarchy would be retained to determine from which State the manifest must be obtained. This option would retain the benefits of the standard manifest format, without disrupting current arrangements for obtaining manifests from States. However, as with the current system, waste handlers would not generally be able to print their own manifests as allowed under the proposed option.

B. International Shipments

1. What is EPA Proposing With Respect to Manifests for Imports and Exports?

EPA is proposing to amend slightly the manifest requirements and the manifest form to provide more clear information on the manifest about import or export shipments. Under today's proposal, the manifest would contain a new "International Shipments" Block. In this new block, the primary exporter or importer of a hazardous waste shipment would be required to check whether a shipment is an export or import and to note the port of exit or entry. In addition, space would be provided in this block for the transporter of an export shipment to sign and date the manifest to indicate when the shipment left the United States. For imports, the transporter would be required to leave a copy of the manifest at U.S. Customs, as is currently required for exports.

2. Why is EPA Proposing This Change?

Under the current regulations for exports, transporters are required to leave a copy of the manifest at U.S. Customs. The current regulations and manifest instructions further require that export manifests include information in the "Special Handling Block" identifying the port of exit, as well as the transporter's signature attesting to the date when the export shipment left the U.S. According to a national transporters' association, the current rules are not well understood, and this has resulted in inadvertent violations by transporters. In part, this is because the manifest form itself is not sufficiently clear on how this information is to be entered. In addition to hindering compliance by transporters, this lack of clarity has also resulted in incomplete submissions that impair EPA's ability to accurately track exports of hazardous waste. To address these concerns, the Agency is proposing to make the existing export tracking requirements more clear in the regulations and on the manifest form itself, which would include an International Shipment Block for collecting the data.

In addition, the Agency is proposing new requirements in connection with imports of hazardous waste. First, the importer would be required to indicate on the new International Shipment Block of the manifest whether a shipment is an import and the port of entry. Second, the transporter bringing import shipments into the U.S. would be required to leave a copy of the manifest with U.S. Customs. Currently, a manifest is required to accompany waste shipments that enter the U.S., but transporters are not required to leave a manifest copy with U.S. Customs for imports. Several ports have nevertheless encouraged the collection of import manifests, and all of the ports collect the export manifests which transporters are currently required to leave with U.S. Customs. Moreover, for international shipments of hazardous waste for recovery within the Organization for Economic Cooperation and Development (OECD), of which the U.S. is a member, a facility in the U.S. receiving an import covered by regulations at 40 CFR Part 262, Subpart H must send a copy of the OECD tracking form to EPA. By requiring that transporters leave a copy of import manifests with U.S. Customs, EPA would achieve better consistency with the current requirements in 40 CFR Part 262, Subpart H that require tracking information on import shipments to be provided to the Government. These import manifests would aid EPA's oversight of waste imports, as the manifests collected by Customs could be turned over to EPA's Import/export program for tracking purposes.

3. How Would the Manifest and the Regulations Change?

To make the requirements more clear, the Agency is proposing to add an International Shipment Block to the manifest. This block would contain checkboxes to indicate whether the shipment is an export or an import, and space to enter the port of exit or entry. For export shipments only, the block would include space for transporters to sign and date the manifest to indicate when a shipment has left the U.S. This block would provide more explicit direction for entering data with respect to exports and imports.

In addition, the regulations at 40 CFR 262.54, 262.60, and 263.20 would be

changed to clarify that primary exporters and importers are to fill out the International Shipment block on the manifest and that transporters of both exports and imports are to leave a copy of the manifest with the U.S. Customs official at the port of exit from the U.S. or at the port of entry to the U.S. EPA would also modify § 271.11(c), since a waste handler who imports waste shipments into the U.S. would be required to leave a copy of the manifest with U.S. Customs.

C. Bulk Packaging

1. How is EPA Changing Its Regulations Related to Bulk Containers?

EPA proposes to change its regulations that relate to bulk containers to be consistent with the DOT definition for bulk packaging which includes any container with a capacity greater than 119 gallons (0.45 cubic meters, 450 liters, or 15.9 cubic feet) or more. Because of this change some containers currently considered bulk under EPA's regulations would no longer be considered bulk. Current RCRA regulations treat as "bulk" containers which hold more than 110 gallons. Under this proposal, a container which holds 119 gallons or less would no longer be considered bulk, including containers of 110 gallons.

The 110 gallon standard was based on DOT requirements which, at the time, defined bulk packaging as 110 gallons or more (47 FR 36092; August 18, 1982). DOT revised these standards[2] in 1991 to make U.S. standards more consistent with international requirements. (See 55 FR 52471, December 21, 1990.) Today's notice proposes to revise RCRA regulations pertaining to bulk containers to be consistent with the DOT definition of bulk packaging.

2. Why is EPA Changing Its Rules Related to Bulk Packaging?

This change would bring EPA into conformity with the standard already used by DOT and the international community, and would increase uniformity in manifesting practices. Generators would be able to use the same standard measurement for bulk containers for all shipments of hazardous materials.

3. How Would This Affect Me?

If you:

(1) handle residues of hazardous waste in containers according to the provisions at § 261.7(b),

(2) are a generator who sends bulk containers of hazardous wastes off-site (see 262.32(b)),

(3) are a transporter who transports bulk shipments by water (see 263.20(e)), or

(4) are a TSDF who receives bulk shipments for management (see 264.71(b)), then: you would have to confirm whether the containers you are managing would still be considered bulk. If the containers you are managing do not meet DOT's definition of bulk, then you would no longer be allowed to handle the waste as bulk under EPA regulations.

4. How Would the Regulations Change?

First, the regulations at 40 CFR 261.7 Residues of hazardous waste in empty containers would change slightly to incorporate DOT's definition of bulk packaging. 40 CFR 261.7 discusses how much hazardous waste may remain in a container that is empty. Among other things, these regulations require that a container must be emptied using the practices commonly employed to remove material from that type of container e.g., pouring, pumping, and aspirating, and that no more than a specified amount of waste must be left in the container. One method of determining whether a container is RCRA "empty" is based on whether the container is greater or less than 110 gallons total capacity.

For containers less than 110 gallons, the regulations at 40 CFR 261.7(b)(1)(iii)(A) state that a container is empty if: "No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size * * *"

If the container is greater than 110 gallons, the regulations at 40 CFR 261.7(b)(1)(iii)(B) state that a container is empty if: "No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size."

This proposal would modify the regulations so that 40 CFR 261.7(b)(1)(iii) would define a container as empty if:

(A) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size, or (B) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

Second, the regulations for generators at 40 CFR 262.32 Marking would change slightly to incorporate DOT's definition of bulk packaging. 40 CFR 262.32(b) requires a generator to mark each container of 110 gallons or less used in transportation with the words "HAZARDOUS WASTE -Federal Law prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency," and write the generator's name, address, and the manifest tracking number on the container. Under the proposed revisions, this marking requirement would apply to containers of 119 gallons or less.

Third, the regulations which refer to "bulk shipment" would not change. The term "bulk shipment" is used in 40 CFR 262.23, 263.20, and 264.71. Where the regulations use the term, these regulations would apply to shipments of a capacity of more than 119 gallons, rather than shipments of more than 110 gallons. Therefore, you would no longer be able to manage a container of between 110 gallons and 119 gallons as a bulk container.

Please note, other than to incorporate the DOT definition for bulk packaging, EPA is not reconsidering, reopening, or requesting comment on the provisions described above.

D. Use of Fractions

1. What Is EPA Changing With Respect to the Use of Fractions in the Quantity Description on the Manifest?

EPA is clarifying that generators and others completing the quantity description for waste being shipped (see Item 13) should use whole numbers to describe non-bulk shipments (less than or equal to 119 gallons) of hazardous waste and that bulk shipments (greater than 119 gallons) may be described using whole numbers where possible, or fractions if necessary.

2. Why is this clarification necessary?

EPA's regulations are silent on the use of fractions on the manifest. EPA has in the past stated that no fractions or decimals should be used and continues to prefer that the quantity description should not include fractions. In March 20, 1984, EPA stated that it ". . . does not believe that the quantity description should include fractions. Rather, the Agency believes that the quantity description should be the most accurate possible without using fractions or decimals."[3]

Despite this past statement, states have experienced an increase in the number of manifests containing descriptions with fractions. State databases may have difficulty accepting numbers such as 30.5 pounds, making the data entry process more difficult. To minimize this, states asked EPA to require that generators and others preparing the manifest only use whole numbers when indicating quantities of waste on the manifest.

While this is a workable solution for non-bulk shipments, the Agency realizes that bulk shipments of hazardous waste may be transported in large containers such as tank trucks, and that fractions may be the best way to accurately describe the contents of the container. Because there would be a significant discrepancy in the amount of hazardous waste recorded on the manifest if one ton were used to describe a container with 0.5 tons of waste, EPA believes that the use of fractions is warranted in bulk containers. Thus, EPA is clarifying that whole numbers should be used for non-bulk shipments of hazardous waste, and that fractions may be used for bulk shipments where necessary.

3. What Would Change?

EPA is proposing to include in the manifest instructions (item 12) a statement that generators and others completing the form must use whole numbers for non-bulk shipments of hazardous waste, except that fractions may be used for bulk shipments where necessary.

E. Emergency Response Phone Number

1. What Is EPA Proposing Related to Emergency Response Phone Numbers on the Manifest?

EPA proposes to designate one space on the manifest for Emergency Response information. DOT currently requires you to use an Emergency Response phone number for most shipments of hazardous materials including all hazardous wastes that are manifested. (See 49 CFR 172.604) While hazardous waste shipments must be shipped with an Emergency Response phone number, the current manifest does not contain a separate block for this information. DOT requires an emergency response phone number in addition to other information to identify the waste. This information is important in aiding emergency responders in dealing with an emergency involving hazardous wastes.

The emergency response phone number must:

- be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;
- reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and
- must reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

Currently, you may place this number in the Special Handling Instructions and Additional Information Block (Item 15), in the Generator's Phone Number Block (Item 4), and in some cases in the margin or on the back of the form. Some generators place this information in the DOT description box, especially if more than one emergency response phone number is needed.

2. Why is EPA Proposing These Changes?

Because there are no explicit directions on the manifest to supply an emergency response phone number, and because there is no designated space for this number, some generators may not be aware that this is a requirement, and emergency responders may not be able to quickly find this information on the form. EPA is proposing to make it more clear that the emergency response phone information is required on the form, and make this information easier to find by designating one space on the manifest for emergency response contact information.

EPA expects that this additional instruction and the removal of other redundant or unnecessary waste handler phone numbers (see discussion below in Section IV.G) would reduce paperwork burden and facilitate the emergency response process by making it clearer which number is to be used in an emergency.

3. How Would This Change Affect the Regulations?

The manifest form would be modified by adding a box specifically for emergency response information, and the instructions would be modified to reflect the addition of this box.

F. Generator Certification

1. How Would the Generator Certification Statements on the Manifest Be Modified?

This proposal would modify the wording of the "shippers certification" and the appearance of the "waste minimization certification" statements. The changes proposed today, however, would not modify the current requirement that generators must sign these certifications on the manifest form each time a manifest is prepared.

2. What Are the Current Requirements to the Generator Certification?

Generators must sign the Generator's Certification found on the manifest form each time a manifest is prepared. The "Generator's Certification" consists of a signature attesting to a statement that the shipment has been properly prepared for transportation (a shipper's certification) and a statement that the generator has a program in place to reduce the volume and toxicity of waste generated (the waste minimization certification). Today's proposal does not modify the requirement that generators make these certifications on the manifest each time a manifest is prepared

The shipper's and waste minimization certification statements are found in Block 16 of the current Uniform Hazardous Waste Manifest followed by space for a single signature (i.e., a single signature is used to attest to both certifications). The content of the shipper's certification statement is as follows:

I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.

Today's proposal would slightly modify this statement. The content of the waste minimization certification statement is as follows:

If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Today's proposal would not modify the waste minimization certification

[2] In 49 CFR 171.8, DOT defines "bulk packaging" to mean "a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment and which has: (1) A maximum capacity greater than 450 (119 gallons) as a receptable for a liquid; (2) A maximum net mass or greater than 400 kg (882 pounds) and a maximum capacity greater than 450 L (119 gallons) as a receptable for a solid; or (3) A water capacity greater than a 454 kg (1000 pounds) as a receptable for a gas as defined in § 173.115 of this subchapter."

[3] See the March 20, 1984 **Federal Register** (49 FR 10498) for this discussion.

statement, but the complete text of this certification statement would no longer appear on the manifest. The single signature in Block 16 would still attest that the signatory certifies both statements.

3. How Would EPA Modify the Language of the Shipper's Certification?

EPA proposes to update the first part of the shipper's certification statement so that it conforms to the DOT shipper's certification (49 CFR 172.204). On December 29, 1994 (59 FR 67487), DOT slightly changed the wording of the Shipper's Certification found at 49 CFR 172.204(a). These changes appear in bold in the following text:

I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labelled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations.

In addition, EPA proposes to delete the words "by highway" from the shipper's certification statement. Currently, if a transportation mode other than highway would be used, generators are instructed to line out the words "by highway" and insert the appropriate mode of transport (i.e., rail, water, or air). EPA does not believe it necessary for the mode of transport to be specified as part of the shipper's certification (see DOT's shipper's certification which does not specify the mode of transport) and eliminating the words "by highway" from this certification would eliminate the need for generators to modify the statement when other forms of transportation are utilized.

EPA currently requires primary exporters to add at the end of the first sentence of the shipper's certification statement the words "and conforms to the terms of the EPA Acknowledgment of Consent to the shipment.". EPA is not proposing to change this requirement.

The new shipper's certification statement on the manifest would read as follows:

I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labelled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations.

4. How Would EPA Change the Appearance of the Waste Minimization Certification Statement?

EPA proposes to replace the current waste minimization certification statement on the manifest with the following statement of certification: I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) or authorized equivalent state regulations is true with respect to this shipment. Section 262.27 would read as follows:

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 16 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment'; or

(b) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

5. Why Is the Agency Proposing this Change to the Appearance of the Waste Minimization Certification Statement?

EPA is proposing these changes because they are necessary to ensure that other proposed form changes such as the inclusion of new fields for rejected loads, container residues, and international shipments would fit on the form. The text of the generator waste minimization statement currently occupies a significant amount of space on the manifest form. Leaving the statement as is, along with the proposed additions to the manifest form would cause the form to exceed a single page. EPA would prefer to maximize the space of the current one page 8½ by 11″ form rather than make it a multiple page form, because we do not want to increase the volume of paper that manifest users already keep on file. In order to accommodate the addition of new fields to the 8½ by 11″ form (i.e., fields for rejected loads, container residues, and international shipments), EPA proposes to remove the full text of the waste minimization statement from the form. The waste minimization certification would still be made on the manifest form, with the waste minimization statements located in the regulations for reference.

G. Elimination of Certain State Optional Boxes

1. Why Is EPA Proposing To Reduce the Number of State Optional Boxes?

EPA proposes to eliminate certain State Optional Boxes to (1) reduce the amount of time spent completing the manifest form, and (2) to reduce the amount of duplicate information. EPA also proposes to remove certain optional fields that might have some significance to certain States, but reportedly do not have wide use and information provided in these fields can be readily obtained elsewhere.

Currently, the Manifest contains eleven Optional blocks (Block A–K). EPA does not require that you complete these blocks. States, however, may require that you complete these blocks to collect specified additional information about the waste that is being shipped, and about those who handle the waste listed on the form.

2. Which Boxes Would Be Eliminated?

EPA proposes to remove the following nine blocks from the manifest form:

Block No.	Name of block
Item A	State Manifest Document Number.
Item B	State Generator's ID.
Item C	State Transporter's ID.
Item D	Transporter's Phone.
Item E	State Transporter's ID.
Item F	Transporters Phone.
Item G	State Facility's ID.
Item H	Facility's Phone.
Item J	Additional Descriptions.

3. Why Is EPA Proposing To Remove Each of These Boxes?

When EPA promulgated the uniform hazardous waste manifest in 1984, it believed that the uniform manifest would reduce regulatory burden on generators and transporters by providing a uniform format for information necessary for the transportation of hazardous waste. The Agency also believed that inclusion of blocks A through J would provide states with space on the form to substantially meet the information needs of their hazardous waste program. In fact, the 1984 rule indicates that the Agency had chosen the optional spaces based on received comments, including recommendations from the (Hazardous Materials Advisory Council) HMAC and ASTSWMO joint task group. However, since the promulgation of the joint EPA/DOT uniform manifest rule EPA has received a number of complaints from the regulated community regarding the burden associated with variability among states manifest requirements. In addition, ASTSWMO created a Task Force (the Task Force consisted of several State hazardous waste program managers), which in 1990 submitted a petition to EPA with recommendations to modify existing manifest regulations, including recommendations to remove certain optional fields from the manifest form entirely. The ASTSWMO petition indicated that the primary objective for

the recommended changes to the nation's hazardous waste management system is to increase uniformity among States. EPA agrees that the manifest form and certain manifest requirements should be modified and that the proposed revisions discussed in today's rule would increase the effectiveness of the manifest system, through the standardization of required and optional fields on the form.

The Agency notes, however, that today's action does not reflect all recommendations provided in the ASTSWMO petition and some of the modifications proposed today conflict with some of the recommendations (e.g., removal of optional field H, Facility phone number). The Agency believes, however, these changes are necessary because, among other reasons, EPA has proposed to include additional blocks on the form for special shipment waste (i.e., emergency response information, rejected loads, container residues, and international shipments) to better track these shipments from cradle to grave. (See sections VI of this preamble for container residues, rejected loads, and section IV.B for international shipments.)

Since the regulated community, including some of the participants of the ASTSWMO petition prefer a one page 8½ by 11″ manifest form (see page 35 of the ASTSWMO petition), the inclusion of these elements on the proposed new form would make it extremely difficult to ensure that these additions, which the Agency believes needs to be added, as well as other proposed changes to the form would fit the one page 8½ by 11″ format. The Agency believes, however, that today's proposed rule is consistent with the goal of the ASTSWMO petition's recommended changes. Further explanations regarding the removal of blocks A through K from the form and combining block J with Item 15 are provided below.

Item A—State Manifest Document Number. EPA proposes to remove the State Manifest Document Number and replace it with a mandatory federal field entitled "Manifest Tracking Number." EPA understands the importance of a unique tracking number for States that actively track manifests and therefore, would provide a single block in which a unique number would be placed. EPA proposes to delete the old federal document number (which consisted of the generator's EPA ID number and a five-digit number assigned by the generator) and the old Item A and replace it with a single federal block called the Manifest Tracking Number. Printers of the manifest would be required to preprint a unique tracking number on each manifest. Forms printers would register with EPA for approval of a unique prefix and of their (sequential) numbering system. Although EPA is removing the state manifest document number, its replacement would allow states to continue to request additional information about the shipment. See section IV.A for further details.

Item B—State Generator's ID. EPA proposes to remove the State Generator's ID block because EPA believes that most States no longer use the State Generator ID number. The ASTSWMO petition supports this and indicates that while some states do use state ID's, the use of the State ID number is limited and has no meaning in other states. The Agency believes that those States that currently use information from the State ID Block can obtain equivalent information with the generator's EPA ID number. The two numbers provide equivalent information about the generators identity, presumably a State could use the EPA ID number to obtain generator information by linking into the Resource Conservation Recovery Information System [4] (RCRIS) with the EPA ID. Therefore, a State that uses the State Generator ID number for tracking purposes should be able to use an EPA ID number as the site specific identifier, by converting their current database system to EPA ID numbers. The ASTSWMO petition also states that the "wave of the future" would be toward converting to EPA ID numbers as site specific identifiers." EPA agrees that the EPA ID number provides site-specific information and believes that the EPA ID should replace the State ID number on the manifest form.

[4] Under the Resource and Recovery Act (RCRA), generators, transporters, treaters, storers, and disposers of hazardous waste as defined by the federally recognized hazardous waste codes, are required to provide information concerning their activities to state environmental agencies, who in turn provide the information to Regional and National U.S. EPA office. The Resource Conservation and Recovery Information System (RCRIS) is a national program management and inventory system of RCRA hazardous waste handlers and is used by the EPA to support its implementation of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The system is primarily used to track a handler's permit or closure status, compliance with Federal and State regulations, cleanup activities, waste handler inventory, and environmental program progress assessment. Handlers can be characterized as fitting one or more of the following categories: treatment, storage, and disposal facilities (TSDFs), large quantity generators, small quantity generators, and transporters. RCRIS information is available from ENVIROFACTS at EPA Headquarters Web Pages: http:/www.epa.gov/enviro/html/rcris/rcris_overview.html.

Item C—State Transporter's ID and Item E—State Transporter's ID (for second transporter). EPA proposes to remove Items C and E (State Transporters ID for first and second transporters) from the form for the same reasons mentioned above regarding generator EPA ID numbers. The manifest instructions also require a transporter to enter his/her EPA ID number on the form. Since hazardous waste transporters are required also to enter EPA ID numbers on the manifest form, States should be able to use the EPA ID number as a transporter identifier instead of the State Transporter ID number.

In addition, EPA is proposing to remove the Transporter ID number from the form because it believes that a large number of States use the State Transporter ID number field for purposes other than its original use. The ASTSWMO petition indicates that many States require waste handlers to record the license plate numbers of transporter vehicles in the Transporter ID. number block.

Item D—Transporter's Phone and Item F—Transporter's Phone (for second transporter). EPA proposes to remove the transporter's phone number blocks for a few reasons. First, the generator and the TSDF both have direct contact with the transporter and would likely have other means of obtaining this information. In addition, a State could obtain the name and phone number of a company contact person from RCRIS. Third, the ASTSWMO petition indicates that the Transporter phone number is most important for emergency response purposes. However, the number typically provided in this block may not be manned 24 hours a day, and thus, is not appropriate as an emergency contact number. As mentioned in Section IV.E. of this preamble, EPA is proposing to designate one space on the manifest for Emergency Response information which would require an emergency response phone number. Therefore, the Agency believes that the transporter phone number is no longer needed on the manifest.

Item G—State Facility ID. EPA proposes to remove the State Facility ID number because the number duplicates information provided by the federal requirement to enter the EPA ID number on the manifest. The TSDF's EPA ID number provides information regarding the TSDF's identity, location, and waste management practices and this information can be accessed from RCRIS by using the federal EPA ID number. The Agency believes that States that currently use the State Facility number to gather information about the TSDF

could get this information from RCRIS. The accessibility of information about receiving facility reduces the need for the State Facility ID number on the manifest form.

Item H—Facility Phone. EPA proposes removing the facility phone number block from the manifest form. Both the ASTSWMO petition and the Negotiated Rulemaking committee supported keeping this phone number on the manifest form because the generator may need it to follow up with the TSDF about lost shipments, etc. However, the Agency believes that the phone number is not necessary on the manifest because the generator can easily obtain this information from company phone lists and business cards. The transporter is also expected to have regular contact with the TSDF and customarily devises a mapping plan separate from the manifest containing directions and telephone numbers. Further, by adding an emergency response information block to the form (See discussion in section IV.E) and retaining the generator's phone number, vital information about the shipment can be readily obtained, eliminating the need for the Facility Phone number block.

Item J—Additional Descriptions for Materials Listed Above & Item 15—Special Handling Instructions and Additional Information. EPA is proposing: (1) To remove item J and to combine information normally entered in Item J with the Special Handling Instructions and Additional Information Block (Item 15); (2) to modify the Special Handling Instructions and Additional Information Block by designating it as Item 14 on the new form; and (3) to modify the manifest instructions for Item 15, allowing for information normally placed in Item J to be placed in new Item 14. The new block would be renamed Additional Descriptions and Special Handling Instructions are currently provided in the Appendix to 40 CFR Part 262. The Agency believes these changes are necessary because they result in a form with more space to accommodate new fields without significantly reducing the ability to provide additional information on the manifest.

Today's proposal removes the instruction, for international shipments, that requires generators to enter the point of departure (City and State) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States. This requirement is no longer necessary because EPA has added separate space on the form, Block 16, to enter export information. (See Section IV.B for further detail).

In addition, today's proposal removes the instruction that prohibits states from requiring additional, new, or different information in the old Block 15. The removal of this instruction is necessary since the proposal would allow information previously entered in Item J (a state optional block normally used for additional state optional information) to be entered in the new Item 14. Today's rule does not change the current manifest instruction under Item 15, which states that the space under Item 15 may be also used to indicate special transportation; treatment, storage, or disposal information; and/or bill of lading information. Today's action merely moves this instruction to Item 14 of the new form. This instruction would be applied to new Item 14, and an addition made to allow state information to also be entered. The proposal would restrict, however, the types of information that States could require generators to enter in Item 14. A State would only be allowed to require generators to enter into Item 14, information relevant to the waste shipment for which there is no specific space on the manifest. Thus, generators may use Item 14 to record information such as chemical names, constituent percentages, physical state, and waste management method. With the exception of information that States might require, generators may only use Item 14 to enter the following information:

- Universal waste shipments;
- Additional waste codes;
- Alternate facility designation;
- Name, address, and phone number of any person other than the person identified in Item 4 (Generator's Name, Mailing Address, and Phone Number) preparing the manifest;
- Name, address, phone number, and EPA identification number of any person who shares generator responsibilities (i.e., co-generators) with the person identified in Item 4 (Generator's Name, Mailing Address, and Phone Number); and
- To reference the "old" manifest tracking number.

The new Additional Descriptions and Special Handling Instructions block may also be used by transporters to indicate that they have combined or divided loads at transfer facilities and to document new or combined manifests and other transportation related information.

4. Why Is EPA Proposing To Amend Items 15 & J of the Old Form?

EPA is proposing to combine Items 15 & J because the proposed additional elements to the form such as Item 16 (International Shipments), necessitate that EPA restructure the form so that it does not exceed the one page 8½ by 11″ format. In addition, the ASTSWMO petition recommended that EPA combine the two optional fields into one block. Also, combining the two boxes reduces the number of spaces provided for narrative information that is not consistently entered and that cannot be easily entered into a computer database.

5. What Regulations Would be Affected by Reducing the Number of State Optional Blocks and Combining Items J and 15 To Create New Item 14?

EPA would revise § 271.10(h) to conform to the proposed revisions mentioned above. These revisions include:

- Modifying § 271.10(h)(1);
- Incorporating paragraph § 271.10(h)(1)(v) in § 262.21(d)(5);
- Modifying and renumbering paragraphs §§ 271.10(h)(2)(v) and (vi) as §§ 271.10(h)(1)(i) and 271.10(h)(1)(ii), respectively;
- Adding new paragraph § 271.10(h)(1)(iii);
- Removing paragraphs § 271.10(h)(2)(i), § 271.10(h)(2)(ii), and § 271.10(h)(2)(iii);
- Removing paragraph § 271.10(h)(2)(iv).
- Modifying and renumbering paragraph § 271.10(h)(2)(vii) as § 271.10(h)(2);
- Adding new paragraph § 271.10(h)(4); and
- Adding new paragraph § 271.10(h)(5).

In addition, today's rule modifies 40 CFR 271.10(j)(1) to conform to the changes made to the Waste Minimization certification. For further details on this revision, please refer to section IX of this preamble.

6. EPA Invites Comment on Today's Proposal to Reduce the Number of State Optional Fields on the Manifest

EPA is specifically requesting comment on the following issues:

- EPA has always required the generator's mailing address on the manifest form. Some states have expressed interest in requiring the physical site address of the generator on the manifest, where that address differs from the mailing address. However, EPA is not inclined to add mailing address information because of increased burden, redundancy with the generator's EPA identification number (i.e., states should be able to obtain the physical site address using the EPA identification number), and lack of space on the manifest form. The Agency is requesting comments on whether the site address should be added to the manifest form and if so, whether it should be used in addition to or in lieu of the mailing address.
- With the elimination of most of the state optional fields, the only state optional fields that would continue to be included on the manifest are (1) federal and state waste codes (new Block A—see Section I below for an explanation), and (2) BRS system type codes (new Block B—see Section H below for an explanation). The Agency requests comment on whether it would be easier on the regulated community, states, etc. to make these two fields mandatory instead of continuing to use them as state optional fields. If so, would further standardizing the manifest in this way offset any burden increase from making those two fields mandatory? The Agency also requests comment on whether generators complete these two fields regardless of whether States require it as part of their State program?

H. Block K Coding System

1. How Would the Requirements for the Codes Used in Block K (Handling Codes) Change?

(Note that the form would be renumbered and Block K (Handling Codes) become Block B (renamed Biennial Report System Type Codes) and be moved to the bottom of the manifest to the section that is filled out by the designated facility.)

Today's rule proposes to use Biennial Report system (BRS) type for the completion of new Block B and to change the name of new Block B to Biennial Report System Type Codes (currently Block K—Handling Codes). This block would only be completed if required by the generation or receiving state. Under RCRA, large quantity generators and TSDFs are required to report every two years on the hazardous waste they generate and manage. One of the elements that generators and TSDFs report in this Biennial Report is the System Type Code, which describes the way in which a waste is managed. System type codes are mandatory data elements on the GM (Generation and Management) and WR (Waste Received) Forms, which must be submitted by Large Quantity Generators (LQGs) and TSDFs for each RCRA hazardous waste generated on-site in a given year. States or EPA regional offices enter the data from the GM Form into a computer database that is eventually assembled into the Hazardous Waste Report (also known as the Biennial Report). The EPA Regions check the quality of the data by comparing the system type code information on a GM Form to manifest data. These comparisons allow Regions to:

- Identify or resolve discrepancies;
- Target LQGs or TSDFs that did not make a BR submission;
- Identify LQGs or TSDFs that need assistance in improving their facility plan;
- Examine waste minimization activities.

Block K (new Block B) is a state optional element of the manifest and EPA proposes that it remain so (we request comment on this issue below); however, the codes used in this box would no longer vary depending on your state, as is the case under the current manifest regulations. Currently, states which require the submission of information in this box also provide the instructions for the codes that should be entered, and these codes differ across the country. Under this proposed rule, there would be no state-specific instructions on how to complete Block B. Instead, only the standardized federal version of the instructions would be used if states require the submission of information in this box.

This standardization should reduce the burden related to completing the manifest by selecting one set of codes that would be used in every state, rather than having the regulated community learn several different coding systems. By proposing to use the System Type Codes found in the Biennial Report instructions as the codes for Block B, this proposed change would increase consistency with the Biennial Report requirements, thus, aiding in the completion of the Biennial Report and reducing the burden associated with the Biennial Report.

Also as part of the proposed change to the manifest, EPA is proposing to change the Block B heading to "Biennial Report System Type Codes for Wastes Listed Above." This would avoid confusion that might arise if the old handling code heading ("Handling Codes for Wastes Listed Above") were to remain with the new instructions for submission of BRS system type codes. The Biennial Report list is comprised of 65 system type codes. These codes indicate the type of management a waste receives (i.e., metals recovery or incineration sludge treatment).

2. What Are the Biennial Report System Type Codes That EPA Proposes To Use?

EPA plans to develop a new list of system type codes for inclusion in the 2001 Biennial Report. This Biennial Report will be published about Fall 2000. Shown below is the full list of system type codes found in the 1999 Hazardous Waste Report Instructions and Forms. Any changes made to those codes during subsequent Biennial Report periods would be adopted accordingly.

List of System Type Codes

Metals Recovery (For Reuse)

M011 High temperature metals recovery
M012 Retorting
M013 Secondary smelting
M014 Other metals recovery for reuse: e.g., ion exchange, reverse osmosis, acid leaching
M019 Metals recovery—type unknown

Solvents Recovery

M021 Fractionation/distillation
M022 Thin film evaporation
M023 Solvent extraction
M024 Other solvent recovery
M029 Solvents recovery—type unknown

Other Recovery

M031 Acid regeneration
M032 Other recovery: e.g., waste oil recovery, nonsolvent organics recovery
M039 Other recovery—type unknown

Incineration Treatment

M041 Incineration—liquids
M042 Incineration—sludges
M043 Incineration—solids
M044 Incineration—gases
M049 Incineration—type unknown

Energy Recovery (Reuse as Fuel)

M051 Energy recovery—liquids
M052 Energy recovery—sludges
M053 Energy recovery—solids
M059 Energy recovery—type unknown

Fuel Blending

M061 Fuel blending

Aqueous Inorganic Treatment

M071 Chrome reduction followed by chemical precipitation
M072 Cyanide destruction followed by chemical precipitation
M073 Cyanide destruction only
M074 Chemical oxidation followed by chemical precipitation
M075 Chemical oxidation only
M076 Wet air oxidation
M077 Chemical precipitation
M078 Other aqueous inorganic treatment: e.g., ion exchange, reverse osmosis
M079 Aqueous inorganic treatment—type unknown

Aqueous Organic Treatment

M081 Biological treatment
M082 Carbon adsorption
M083 Air/steam stripping
M084 Wet air oxidation
M085 Other aqueous organic treatment
M089 Aqueous organic treatment—type unknown

Aqueous Organic and Inorganic Treatment

M091 Chemical precipitation in combination with biological treatment
M092 Chemical precipitation in combination with carbon adsorption
M093 Wet air oxidation
M094 Other organic/inorganic treatment
M099 Aqueous organic and inorganic treatment—type unknown

Sludge Treatment

M101 Sludge dewatering
M102 Addition of excess lime
M103 Absorption/adsorption
M104 Solvent extraction
M109 Sludge treatment—type unknown

Stabilization

M111 Stabilization/chemical fixation using cementitious and/or pozzolanic materials
M112 Other stabilization
M119 Stabilization—type unknown

Other Treatment

M121 Neutralization only
M122 Evaporation only
M123 Settling/clarification only
M124 Phase separation (e.g., emulsion breaking, filtration) only
M125 Other treatment
M129 Other treatment—type unknown

Disposal

M131 Land treatment/application/farming
M132 Landfill
M133 Surface impoundment (to be closed as a landfill)
M134 Deepwell/underground injection
M135 Direct discharge to sewer/POTW
M136 Direct discharge to surface water under NPDES
M137 Other disposal

Transfer Facility Storage

M141 Transfer facility storage—waste was shipped off site without any on-site treatment, disposal, or recycling activity

3. What are the Problems with the Current Coding Systems Used to Complete Block K?

There are two main problems associated with the use of the current coding system:

(1) Handling Code Information Submitted in Block K is Non-standardized. Different States request waste handlers to complete Block K with different information. Some States refer to 40 CFR Parts 264 and 265, Appendix I, Table 2 (i.e., Handling Codes for Treatment, Storage and Disposal Methods) and others refer to state-created codes. The problem of non-standardized codes submitted in Block K is compounded when there is interstate travel of hazardous waste. When more than one State has its own form, the manifest form of the destination state is required instead of the manifest form of the destination state. Generators may be required to learn and use multiple coding systems on the manifest on a regular basis because their wastes may cross state lines and their operations may be located in more than one state.

(2) Differences in Terms Creates Problems Converting from State Codes to System Type Codes. There are a number of differences and similarities among handling codes, state-created codes and system type codes. Some states reference or list both handling codes and state-created codes when they provide instructions for completing Block K. Although the different coding systems may be converted to system type codes for the completion of the Biennial Report, the conversion process may be difficult and labor-intensive for waste handlers and States because of inconsistencies between the different lists of codes and because numerous codes may be listed. Attempts to reconcile lists of codes may result in code matches that are greater than one-to-one, because some states may use more than one handling code to describe the waste management method used on a particular waste stream. The conversion process is further complicated when wastes travel between states and industry, and states are not familiar with the coding systems required by other states. Also, the use of different coding systems may impede state and federal inspections.

4. How Can the Biennial Report System Type Codes Help Resolve the Problems?

The Agency believes the BRS system type codes are useful because the regulated community is already familiar with these codes, and that this familiarity should increase the accuracy of data supplied by the facility owner or operator. In addition, some states have indicated to EPA that any single coding system would be an improvement over the current multiple coding systems that must be converted to system type codes by LQGs, TSDFs and states to assist them with completion of Biennial Report forms. In December of 1997 and January of 1998, EPA held public meetings on the hazardous waste manifest proposed rulemaking. Industry and State participants both suggested, among other things, that EPA should consider combining the manifest data collection activities with the Biennial Reporting System (BRS) data collection activities. Further, some participants suggested that as a first step to integrate BRS and manifest data collection, EPA should consider requiring manifest users to use BRS system type codes to complete Block K on the current manifest, instead of the handling codes currently found in Table 2, Appendix I of Part 264. These participants further stated that a combination of manifest and BRS reporting requirements, rather than separated data collection programs, may result in streamlined reporting and significant burden reductions.

5. Where Would I Find a List of the Codes to be Used in Block B?

EPA would publish the system type codes in the following places:

—in the electronic and hard copy versions of 40 CFR Part 262 Appendix 2-Biennial Report system type codes (full list of the system type codes); and

—in the instructions for completing the Biennial Report—(full list).

In addition, in the manifest instructions for completing Block B, EPA would refer users to the full list of system type codes in Appendix 2 of 40 CFR Part 262 and in the Biennial Report instructions. When the list of system type codes change in the Biennial Report instructions, 40 CFR 262, Appendix 2 would also be changed. This information would also be available on EPA manifest website.

6. Who Would Be Affected by the Proposal To Change Block K to Block B?

States, generators and TSDFs may be affected by this proposal. The proposed instructions would specify who would be required to complete Block B. Because TSDFs are the most familiar with the processes that best describe the way in which a waste is managed at their facility, EPA is proposing that TSDFs be responsible for completing Block B. EPA's preference is for TSDFs to assume this role due to their technical expertise and because circumstances may warrant the need for TSDFs to change their decisions on how to store, treat or dispose of the hazardous wastes they receive from generators. Additionally, the first TSDF (sometimes referred to as the interim TSDF if the waste is to be stored or treated and then sent on to another TSDF) that receives the shipment should be responsible for filling out Block B because the original manifest is often terminated at this point and a new manifest is generated. The Agency specifically requests comment on whether the TSDF should be responsible for filling out Block B of the manifest (where required).

7. How Would Block B Be Filled Out?

One system type code per waste is proposed to be used in Block B. Each system type code in Block B should be clearly linked to the waste it describes in Item 10, "U.S. DOT Description (Including Proper Shipping Name, Hazard Class, ID Number, and Packing Group)." Specifically, the BRS system type code entered in "field a" of Block B should correspond to the U.S. DOT description information provided in "item 10a" of the form. Similarly, BRS system type codes entered in "fields b, c, and d" of Block B should correspond to the U.S. DOT description information entered in "fields 10b, c, d," respectively. If the space in Block B is insufficient for listing system type codes, then new Item 14, "Special Handling Instructions and Additional Information," may be used.

Block B should be completed as follows:

B. Biennial Report System Type Codes for Wastes Listed Above
a. (enter system type code for first waste code listed in Block 10a)
b. (enter system type code for second waste code listed in Block10b)
c. (enter system type code for third waste code listed in Block 10c)
d. (enter system type code for fourth waste code listed in Block 10d)

8. How Would the Regulations Change?

The manifest form would be changed to include a new box entitled "Biennial Report System Type Codes," and the manifest instructions in the Appendix to Part 262 would be changed to instruct the TSDF to use the Biennial Report system type codes. New instructions would be added instructing those TSDFs completing Block B to use Biennial Report codes and a list of the Biennial Report system type codes would be added to 40 CFR part 262 as Appendix 2.

The Agency is also considering two alternatives to today's proposal. The first alternative considers using a new list of codes instead of the full list of system type codes from the existing Biennial Report System. EPA could develop a new simplified list of codes that are similar to the current categories for system type codes found in the Biennial Report. Current BRS system type codes describe the type of hazardous waste management system used to treat or dispose a hazardous waste. One example of system type codes for a hazardous waste management category is "Solvents Recovery," which has within it, a set of unique codes for fractionalization/distillation, thin film evaporation, solvent extraction, other solvent recovery, and solvent recovery. The alternative system would only include the general category found in the system codes list and if "solvent recovery" is taken as the example, would omit the unique codes within "Solvent Recovery." Thus, a facility using solvent extraction to treat a hazardous waste, would only enter "Solvent Recovery."

The second alternative approach EPA is considering would be to require the generator to complete new Block B of the manifest, rather than the TSDF. The Agency is considering whether the information provided by the generator is of greater use than similar information provided by the TSDF.

9. EPA Invites Comment on Today's Proposal and Also Welcomes New Ideas for Manifest and System Type Code Burden Reduction

EPA is specifically requesting comment on the following issues

(a) As an alternative to today's proposal of using the full list of system type codes from the existing Biennial Report System, would industry, states, and other stakeholders prefer a new list of codes that are similar to the current categories for system type codes? (Examples of categories include "Solvents Recovery" and "Incineration.")

(b) As an alternative to requiring the TSDFs to complete Block B of the manifest, should EPA require the generators to complete that section? If so, what are the advantages? How would generator accountability for wastes from "cradle-to-grave" and completion of the Biennial Report be impacted? What other impacts would be expected?

(c) Would industry, states, and other stakeholders prefer standardizing the handling codes from Table 2 of Appendix I, Part 264 and use the standardized handling codes for the completion of new Block B?

(d) Should the entry of information in new Block B of the manifest remain an optional field as proposed, or should it be mandatory?

(e) In looking at manifest and Biennial Report burden together, could an increase in manifest burden lead to or be offset by Biennial Report burden reduction? (For example, if Block B were to change from a state optional element to a mandatory federal element, would manifest burden increase in the short run and Biennial Report burden decrease in the long run?) Which areas of the manifest and Biennial Report should EPA consider or further analyze to achieve net burden reduction in the long run?

I. Block I Waste Code System

1. How Would the Requirements for the Codes Used in Block I Change?

(Note, that the form would be renumbered and Block I (Waste No.) become new Block A (Waste Codes).)

EPA proposes to provide additional space in this optional block so that waste handlers can enter state and federal waste codes in separate locations under new Block A. EPA is also proposing to change the name of this block.

Block A would be divided into two sections—a section for entering federal waste codes and another for entering state waste codes. The top section of Block A would allow reporting of three federal waste codes and the bottom section would allow reporting of three state waste codes. If states require the completion of Block A, then the waste handler must enter Federal waste codes in the appropriate section of Block A according to a hierarchy, with the highest toxicity waste appearing first to alert users of the manifest of their presence.

EPA believes that in most cases six waste codes would be sufficient to adequately describe the waste in Block A. However, it also may be appropriate at times to report more than six codes for a particular waste (for example, a lab pack could contain more than 6 waste codes). For these specific circumstances, the generator would use both Item 10, "U.S. DOT Description (Including Proper Shipping Name, Hazard Class, ID Number, and Packing Group)" and proposed Item 14, "Special Handling Instructions and Additional Information," to describe such a waste.

EPA is also changing the title of Block I from Block I "Waste No." to Block A "Waste Codes" to more accurately reflect what should be entered in this block and more commonly used terminology. This block would need to be completed only if a state required it.

The proposed format for Block A is shown below:

A. WASTE CODES

Federal Waste Code, four partitions	Federal Waste Code, four partitions	Federal Waste Code, four partitions.
State Waste Code, four partitions.	State Waste Code, four partitions	State Waste Code, four partitions.

2. What Is the Problem With Current Block I Reporting Procedures?

Under the current manifest system, waste handlers can use the manifest form for shipments where hazardous and non-RCRA wastes are a part of the same shipment. This may occur because some states regulate non-RCRA waste as hazardous waste and prefer that generators indicate state regulated hazardous waste shipments on the same manifest form. Also, these states may

require that waste handlers enter the federal waste codes for the RCRA regulated wastes and state waste codes for the State-only regulated hazardous waste in Item I of the current form.

Federal and state waste codes are important because they provide a range of useful information about waste shipments and assist states with enforcement, generators with describing a hazardous substance in accordance with DOT regulations, and TSDFs with determining whether a waste can be accepted under its permit. However, under current reporting procedures, such benefits are diminished due to the format of Block I and the lack of clear, uniform instructions. Block I does not distinguish between federal and state sections, nor does it make clear that both federal and state waste codes may be reported. Also, states provide varying instructions, if any, on how to fill out Block I. The ASTSWMO petition addressed this issue and considered, among other things, an option for states to create a separate manifest for reporting "non-RCRA regulated waste" but the petition did not recommend this option. Explanations provided in the petition for not creating a separate manifest rationalized that one manifest ensures uniformity and that a separate manifest would cause confusion for generators because a separate form would require a separate set of instructions, numbering, etc. Further, waste handlers would have to become familiar with several manifest forms, if states required a separate manifest. The Agency agrees with these reasons and also believes that generators would prefer completing one manifest instead of two for combined shipments of hazardous and state-regulated nonhazardous wastes.

3. Who Would Be Affected by This Proposal?

States and waste handlers (i.e., generators) would be affected by this proposal. Block A is a state optional element of the manifest and would remain so, but there would no longer be a need for state-specific manifests with varying instructions on how to complete Block A. The federal manifest would contain standardized instructions for submission of federal and state waste codes in Block A. Generators would complete Block A when required by the generator state, the destination state or both states. EPA believes that this change would not reduce the state's ability to collect this information, and the standardized format (along with the elimination of state-specific manifests) would reduce the time required to complete this block.

4. How Would Block A Be Filled Out?

When the generator state, the destination state or both states require completion of Block A, several reporting scenarios may apply, including use of Item 10 and Item 14. In general, Block A should be used first. Examples follow:

Reporting Waste Codes in Item 10 of the manifest: "US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)" and in Item 14: "Special Handling Instructions and Additional Information". Federal waste codes (either the listed waste code or the code for a hazardous waste characteristic) would be reported in Block A, as applicable. Federal waste codes also may be reported in Item 10 if the generator wants to include that information in Block 10. If more space is needed to report federal waste codes, then Item 14 may be used. Also, Item 14 may be used to report additional state waste codes.

Reporting Federal Waste Codes According to Toxicity. Federal waste codes would be reported according to a hierarchy of the highest toxicity waste appearing first and less toxic wastes appearing thereafter. The proposed hierarchy reflects the Negotiated rulemaking committee's recommendation that wastes with the highest toxicity should be listed first (i.e., acutely hazardous wastes) to alert users of the manifest to their presence. The hierarchy is listed below:

- All acutely hazardous wastes, including all P listed wastes and all acutely hazardous F listed wastes;
- U listed wastes (toxic);
- K listed wastes (specific sources);
- Non-acute F listed wastes (non-specific sources); and
- D wastes (characteristic).

Although today's proposal would require waste handlers to enter waste codes in Block A according to the proposed hierarchy, EPA understands that wastes that are ignitable or reactive may be better described (for safety reasons) if the waste codes for these characteristics are listed first in the hierarchy. Therefore, the Agency proposes that if a state requires waste handlers to complete the new Block A on the manifest, then waste handlers must enter Federal waste codes in block A in accordance with the hierarchical system, unless the wastes in question are ignitable or reactive. In such situations, the Federal waste codes for the ignitable or reactive wastes may be entered first in Block A, if the state allows the generator to do so.

EPA notes that the proposed hierarchical system would apply to Federal waste codes only. EPA did not propose the hierarchical system for state waste codes because it had insufficient information about state waste codes. Therefore, the Agency believes that it would not be appropriate to propose a standardized coding system for state-regulated wastes and believes that it is more appropriate for generators to contact States directly, if necessary, regarding the assignment of state waste codes for a particular state-regulated waste. The Agency would place, however, a list of waste codes for each state on its EPA website so that waste handlers can obtain state waste code information quickly. EPA, however, recommends that generators contact both its state and the consignment state to obtain further instructions to complete Block A.

Reporting Federal Waste Codes According to Toxicity. Hazardous waste that is described by more than one federal waste code within one of the P, U, K, F and D categories would be listed according to toxicity. EPA believes that on occasion, some hazardous waste shipments may contain waste codes from the same hierarchy category. In such cases, the waste handler should list waste codes from the same category in the order which he/she believes is most representative of the waste's attributes. The Agency requests comment on whether the hierarchy approach is the most appropriate method to listing wastes in Block A.

Reporting State Waste Codes. EPA is proposing that the first state box would represent waste regulated by the generator state and the second state box would represent waste regulated by the destination state. State waste codes would be reported as follows:

- If the waste is regulated by the generator state or the destination state, then enter the generator state waste code in the state box and the destination state waste code in the second box:

A. WASTE CODE

(Generator State Waste Code)	(Destination State Waste Code)	

If additional space is needed to report state waste codes, use Item 14, "Special Handling Instructions and Additional Information."

5. How Would the Regulations Change?

The instructions for the manifest found in the 40 CFR 262 Appendix would change to include the Federal waste code hierarchy and the instructions for completing Block A. Also, Block A would be relabeled "Waste Codes" on the manifest form.

6. EPA Invites Comment on the Following Questions Related to the Proposed Changes to Block A.

- Under today's proposal, would the quality of waste code reporting improve, while keeping manifest burden to a minimum?
- Are the proposed format of Block A (i.e., space for 4-digit waste codes) and new standardized procedures for reporting waste codes clear? Are there alternatives that EPA should consider?
- Although today's rule does not propose to establish generic waste codes for lab packs, spent carbon, and incinerator ash, EPA may pursue this in the future as resources permit and welcomes comment on codification of such codes.
- **What alternatives to the proposed toxicity hierarchy would you suggest**

Unmanifested Waste Reporting

1. How Is EPA Changing the Way TSDFs Report Unmanifested Waste?

Today's rule proposes changes in the way a TSDF may submit the "Unmanifested Waste Report" to the EPA Regional Administrator, which is required within 15 days after accepting the waste at a TSDF. Currently, EPA requires TSDFs who accept unmanifested waste to prepare an "Unmanifested Waste Report" (form 8700–13B) for waste that should normally be shipped using a manifest. (See 40 CFR 264.76 and 265.76) Under this proposal, a typed, handwritten, or electronic note may be submitted instead of this report. The typed, handwritten, or electronic note must be legible, and must contain the following information:

(a) The EPA identification number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA identification number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested hazardous waste the facility received;

(e) The method of treatment, storage, or disposal for each hazardous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

2. What Is Unmanifested Waste?

Unmanifested waste is hazardous waste that a TSDF accepts from an off-site source without the required accompanying manifest or shipping paper (in the case of rail and some water shipments). Regulations governing unmanifested waste found at 40 CFR 264.76 and 265.76 should not be confused with similar reporting requirements under regulations for manifest discrepancies found at 40 CFR 264.72 and 265.72 and exception reporting found at 40 CFR 262.42.

3. What Is the Problem With Current Requirements for Unmanifested Waste Reporting?

Current regulations found at 40 CFR 264.76 and 265.76 require TSDFs to submit EPA form 8700–13B, which must be designated "Unmanifested Waste Report." However, EPA announced in the January 28, 1983 *FR* that it was deleting EPA form 8700–13B and its predecessor, EPA form 8700–13, which had appeared in the May 19, 1980 *FR*. Although both forms were linked to annual reporting requirements at that time and were supposed to be adapted for unmanifested waste reporting, EPA deleted them due to the change from annual to biennial reporting. EPA never published a new form for unmanifested waste reporting and the form now required for biennial reporting, EPA form 1300–A/B, "Hazardous Waste Report Instructions and Forms," is not adaptable for unmanifested waste reporting. Although EPA never published a replacement form for reporting unmanifested waste, the regulations still require this form which is generally unavailable to those seeking a copy.

4. How Do Regulations for the Unmanifested Waste, Manifest Discrepancies, and Exception Reporting Compare?

Some aspects of the reporting requirements are similar. See the table below for a comparison.

COMPARISON OF REGULATIONS—UNMANIFESTED WASTE REPORT, MANIFEST DISCREPANCIES, AND EXCEPTION REPORTING

Regulation	Description	Synopsis of reporting requirements
Unmanifested Waste Report 40 CFR 264.76 and 265.76.	Unmanifested waste is hazardous waste that a TSDF accepts without an accompanying manifest or shipping paper, and which is not exempt from the manifest requirement.	*Current:* TSDF must submit to the EPA Regional Administrator an unmanifested waste report on EPA form 8700–13B within 15 days after receiving the waste. *Proposed:* TSDF must submit an unmanifested waste report using a typed, handwritten, or electronic note submitted to the EPA Regional Administrator within 15 days after receiving the waste.
Manifest Discrepancies 40 CFR 264.72 and 265.72.	Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper and the quantity or type of waste actually received at a facility. We are proposing to include container residues and rejected loads as manifest discrepancies.	TSDFs that receive wastes with any significant manifest discrepancy must attempt to reconcile the discrepancy upon discovery and report the discrepancy to the EPA Regional Administrator if the discrepancy is not resolved within 15 days after receiving the waste. We are proposing that TSDFs that reject a load or send a residue off-site would have to prepare a new manifest as instructed under proposed §§ 264.72(c–d) and 265.72(c–d).

COMPARISON OF REGULATIONS—UNMANIFESTED WASTE REPORT, MANIFEST DISCREPANCIES, AND EXCEPTION REPORTING—Continued

Regulation	Description	Synopsis of reporting requirements
Exception Reporting 40 CFR 262.42	Exception reporting is required of LQGs and SQGs when they do not receive the return copy of the manifest signed by the TSDF within a specified time after the waste was accepted by the initial transporter.	A LQG who does not receive the return copy the manifest signed by the TSDF within 35 days after the waste was accepted by the initial transporter must contact the TSDF to inquire of the status of the waste. If the LQG does not receive the return copy of the manifest signed by the TSDF within 45 days of the date the waste was accepted by the initial transporter, the LQG must submit an exception report to the EPA Regional Administrator. A SQG who does not receive the return copy of the manifest signed by the TSDF within 60 days after the waste was date the waste was accepted by the initial transporter must also submit an exception report to the EPA Regional Administrator.

VI. Residues and Rejected Loads: How Must These Shipments be Manifested?

1. What are Residues and Rejected Loads?

Residues

A residue is the hazardous waste that remains in containers such as drums and in vehicles used for transport (such as tanker cars or box cars) after most of the contents of the container have been removed. These residues may be difficult to remove because the contents may have congealed and the receiving facility may not have the equipment to completely empty the container. As a result, the container may hold more than the regulatory threshold for meeting the RCRA definition of "empty," that is, more than 3% of a hazardous waste in a container less than or equal to 119 gallons, or more than 0.3% of a hazardous waste in a container greater than 119 gallons, and must be managed as hazardous waste. (See section IV.C of this rule for a discussion of the proposed changes regarding the term "bulk packaging.")

Rejected Loads

A rejected load is a shipment of hazardous waste that a facility receives, but cannot accept, either because of restrictions in the facility's permit, or due to capacity limitations. A rejected load includes all shipments a facility rejects, in whole or in part, whether rejection occurs before or after the facility has signed the manifest. EPA does not view shipments that are undeliverable for reasons other than rejection by a party at the designated facility as being covered by the term "rejected loads." At 40 CFR 263.21(b) of the current regulations, there is a provision that addresses hazardous waste shipments that cannot be delivered by the transporter. This provision was included in the regulations to deal with emergencies that prevented a delivery to a designated facility, such as a labor strike or fire that causes the designated facility to close. The current § 263.21(b) allows a transporter to deal with such emergency events by contacting the generator for further directions and then revising the manifest according to the generator's instructions. These "undeliverable waste" events that do not involve a rejection by the destination facility would continue to be addressed by the existing regulatory provision, which today's proposal would recodify as 40 CFR 263.21(b)(1). EPA is not reopening or reconsidering the current § 263.21(b) provisions for undeliverable waste; however, we are proposing a new section to § 263.21(b) to clarify the transporter's responsibilities for both "undeliverable" waste and "rejected loads. This proposal would also clarify the procedures to be followed by the rejecting designated facility in connection with noting the rejection on the original manifest, and preparing a new manifest to direct the rejected shipment on to its next destination.

2. What Is EPA Proposing Related to Residues and Rejected Loads?

EPA proposes to improve the tracking of these hazardous waste shipments by adding new data elements on the manifest form for identifying rejected wastes and residues, and by clarifying the requirements and procedures for tracking these wastes with the manifest. The proposed rule addresses both the manifest procedures that would track rejected wastes and residues to alternative facilities, as well as the procedures for dealing with the rare occasions when a facility must return rejected wastes or container residues to the generator. In all such cases, the new regulations would require facilities to note information about the rejected waste or regulated residue on the original manifest, to sign the original manifest certification, and to issue a new manifest to continue the shipment of the rejected load or residue to another off-site destination. EPA is proposing to modify the discrepancy block on the manifest to provide more explicit tracking features for regulated residues and rejected wastes. Space would be provided to identify the material affected by the discrepancy and the reason for the discrepancy. In addition, the facility would cross-reference the manifest tracking number for the new shipment on a space provided for this purpose on the discrepancy block of the original manifest. On the new manifest, the facility would also reference the "old" manifest tracking number in the Special Handling Block. The discrepancy space and facility certification on the new manifest would be reserved for use by the next facility, if necessary (e.g., if the shipment is rejected a second time).

3. To Whom Do These New Requirements Apply?

The new requirements apply to you if you are:

- A "designated facility" that cannot completely "empty" a container to "RCRA empty" standards in § 261.7(a); and
- A TSDF or a hazardous waste recycler who must reject a shipment of hazardous waste, in full or in part; and
- A generator who must receive a returned shipment of a residue or rejected load when there is no alternate facility to which it may be sent.

4. Where Would the Proposed Requirements for Tracking Rejected Wastes and Residues Be Codified?

Today's proposal would result in modifications to several existing regulatory provisions. First, the proposal would modify 40 CFR 264.71 and 264.72 (40 CFR 265.71 and 265.72 for interim status facilities) so that these provisions provide more explicit requirements for tracking rejected wastes and regulated container residues. The proposal would accomplish this by clarifying in § 264.71(a) that a facility must sign the facility owner or operator certification on the manifest for both waste receipts and waste rejections. EPA emphasizes that the facility certification attests to the receipt of the hazardous wastes described on the manifest, except as noted in the discrepancy space. This proposal would clarify that residues and rejected wastes, including full or partial load rejections, are discrepancies to be reported on the discrepancy space. So, facilities would be required to sign the owner or operator certification on every manifest relating to shipments brought to a facility for delivery, either to acknowledge receipt of all the materials on the manifest, or to acknowledge that those materials identified in the discrepancy space (including rejected wastes and residues) were not received for management at the facility.

The proposal would modify § 264.72 (§ 265.72 for interim status facilities) to reflect the changes proposed to the discrepancy space of the manifest form. The form would be revised to include new data fields in the discrepancy space to track rejected wastes and residues. So, § 264.72(a) would be revised to clarify that the scope of the term "manifest discrepancies" would be broadened to include not only the significant differences in waste quantities or types that are the subject of the current discrepancy regulation, but also rejected wastes and regulated container residues. The current regulation's requirements for identifying, reconciling, and reporting "significant discrepancies" would be retained in proposed § 264.72(b) and (c), which would address these as "significant differences" in quantity or in type of wastes. The procedures for addressing rejected wastes or regulated container residues as manifest discrepancies would appear in new § 264.72(d) and (e) for permitted facilities, and in new § 265.72(d) and (e) for interim status facilities. For those instances where an alternative facility is not available to receive a rejected waste or residue shipment, proposed §§ 264.72(f) and 265.72(f) would add procedure governing the return of these wastes to generators. These procedures are discussed below in greater detail.

EPA is also proposing to amend 40 CFR 263.21(b), to add language clarifying the distinction between the transporter responsibilities for "undeliverable" wastes that are not deliverable because of emergencies that prevent delivery, and for rejected wastes. As we discussed above, EPA would retain as § 263.21(b)(1) the existing transporter requirements that apply to shipments that cannot be delivered because of an emergency, e.g., a strike, fire, or similar emergency event which closes the designated facility's or next transporter's operations or which otherwise precludes the transporter from delivering the waste. In such emergency cases, the transporter that cannot deliver the waste shipment to the designated facility, alternate designated facility, or next designated transporter, would still be required to contact the generator for further directions and to revise the manifest according to the generator's instructions. EPA is not reconsidering, reopening, or requesting comment on these existing requirements. The proposal would merely recodify this existing provision at § 263.21(b)(1).

Proposed § 263.21(b)(2) would specifically address transporters' responsibilities respecting rejected wastes. Transporters would be required under this proposal to obtain the facility owner's or operator's signed and dated certification on the manifest identifying the rejection. The transporter would also be required to retain one copy of this manifest, and to give any remaining copies of the manifest to the rejecting TSDF, so that they could be processed in accordance with the new procedures proposed for facilities rejecting wastes at § 264.71, 72.

5. Why Is EPA Proposing These Changes?

EPA is proposing these changes in response to stakeholder recommendations made during the prior Negotiated Rulemaking and an audit conducted by EPA's Office of Inspector General (OIG) in 1995. In the final agreement for the RCRA Manifest Regulatory Negotiation, several recommendations related to residues and rejected loads were made. For residues, the committee recommended that residues in cargo tanks and tank cars that are not RCRA-empty should be manifested as partially rejected loads by the facility that received the shipment. For rejected loads, the committee came up with different recommendations depending on whether the rejected load was rejected in full or in part, and whether the TSDF had signed the manifest or not. Generally, the committee recommended that rejections be noted in the discrepancy box, that rejected waste should in some instances be allowed to be returned to the generator, and that the generator should be involved in the decisions on where rejected wastes should be sent.

The OIG's audit identified several areas where the Agency could make changes to improve the manifest system so that the manifest system provides generators, EPA, or the states with the means to track hazardous waste shipments to their final destinations. The OIG audit provided two specific recommendations related to residues and rejected loads: (1) Require that original generators and manifest numbers be referenced on any new manifests created for reshipments of hazardous waste, and (2) ensure that generators be consulted when partial or full loads of hazardous wastes are rejected or when hazardous wastes remain in "non-empty" containers. EPA believes the changes suggested by the Negotiated Rulemaking stakeholders and the OIG would improve hazardous waste tracking. Specific reasons for making changes in these areas are discussed below.

Problems With Hazardous Waste Residues Left in Containers

Hazardous waste residues are sometimes left in containers such as drums and in vehicles such as tanker trucks or box cars after the waste has been removed from the containers by the designated facility. This can at times represent a significant amount of material. For example, a 6,000 gallon tank trunk that is emptied just to the 0.3% threshold for "empty" would still contain about 20 gallons of hazardous waste. Under current regulations, a hazardous waste container is considered "empty," only if the waste has been removed so that no more than 2.5 centimeters (1 inch) of the waste (or 3% of the waste in containers of less than or equal to 110 gallons (see discussion regarding "bulk" packaging in Section IV.C), or 0.3% of the waste in containers greater than 110 gallons) remains in the container and all waste that can be removed by commonly employed practices has been removed. Containers holding acute hazardous wastes must be triple rinsed. Acute hazardous wastes are those waste that are considered

highly toxic by EPA and are given the hazard code "H" in the hazardous waste lists at 40 CFR 261.31 and 40 CFR 261.33 (i.e., all P-listed wastes and certain F-listed wastes).

When a facility cannot thoroughly clean the container, and is unable to manage the container properly, it must send the "RCRA-regulated" container to an alternate facility. Current regulations do not clearly define the appropriate manifest procedures for such a situation—i.e., it is unclear whether the facility should contact the generator and whether the original manifest, or a new manifest, is required to accompany the shipment to the next facility. States have developed different approaches to dealing with these situations. As a result, these shipments can impose significant burdens on facilities in terms of consulting with state regulatory authorities and sorting out applicable procedures. Also, a facility might complete a new manifest for the shipment to the alternate facility without consulting with the generator of the shipment. The generator might only receive the signed manifest returned by the first facility, but may not receive a copy of the second manifest indicating the ultimate disposition of the regulated container and residue. Thus, the generator may be left unaware of the final disposition of the hazardous waste. When this occurs, one of the main purposes of the manifest—to assist regulated entities and regulatory authorities in tracking hazardous waste from "cradle to grave"—is impaired because there is no systematic approach for linking information about the second shipment to the original manifest and generator. The current regulations require only that the facility shipping the waste residues to the next destination facility be apprised of the disposition of the waste; the original generator is not in the loop for obtaining such information.

The changes to the manifest form and procedures proposed here would ensure that hazardous waste generators are informed of and involved in decisions concerning the ultimate disposition of their hazardous waste, so that regulated quantities of hazardous waste residues can be tracked from the original generating site to the site of ultimate disposition.

Problems With Rejected Loads

In most situations involving off-site transportation of hazardous waste, the hazardous waste shipment arrives at the designated facility without incident and is accepted and ultimately is managed at the designated facility. However, on rare occasions, the owner or operator of the designated facility cannot accept a waste shipment. For example, the TSDF might require the waste have a certain British Thermal Units (BTU) level in order to accept the waste for treatment. If the shipment of waste does not have the required BTU level, the TSDF might reject the waste shipment. Other reasons why a TSDF may not accept a hazardous waste shipment vary, but may include capacity restrictions at the time the waste arrives, equipment failure, or other unanticipated situations. The designated facility may reject a load at the time it arrives at the facility. The designated facility may also reject a load after it has signed the manifest and accepted delivery of the waste shipment, because current regulations allow the facility to sign for receipt of the waste and then test the waste at a later time and reject it if necessary. Current regulations do not clearly define the appropriate manifest procedures for either situation. As with container residues, it is unclear whether the facility should contact the generator and whether the original manifest, or a new manifest, is required to accompany the shipment to the next facility. In current practice, if the facility rejects all or part of a load after having already signed the original manifest, it may prepare a new manifest for the rejected waste and send it to an alternate facility without consulting with the generator. Thus, the original generator may be left unaware of the final disposition of its hazardous waste, because there is currently no consistent approach followed for tracking these shipments and linking the second shipment to the original manifest and generator. The changes to the manifest form and procedures proposed here would also ensure that hazardous waste generators are involved in decisions concerning the ultimate disposition of their hazardous waste and that rejected wastes can be tracked from the generating site to the site of ultimate disposition.

6. How Long Does the TSDF Have To Accept or Reject the Hazardous Waste Shipment?

While EPA does not intend that a TSDF must test the waste before signing the manifest, EPA expects that TSDFs would use good business practices and make a determination within a reasonable time whether to accept or reject all or part of a hazardous waste shipment. Additionally, EPA recognizes that some loads may be rejected after the designated facility has signed the manifest and taken delivery of the waste. The Agency recognizes that the facility's signature on the facility certification of receipt reflects the facts known to the facility at that time, and does not always mean that the TSDF has finally accepted the waste for treatment, storage or disposal.

7. Who Is Responsible for Deciding Where To Send a Residue or Load Rejected by the TSDF?

Because a hazardous waste generator has the most knowledge about its waste and is typically responsible for decisions about the disposition of its hazardous waste, EPA believes it is appropriate to require that the designated facility must contact the generator for his or her decision about the next destination for a rejected load or residue. This approach is consistent with the current manifest system, which generally places the burden on hazardous waste generators to ensure that hazardous waste shipments arrive at their proper destinations. See, e.g., 40 CFR 262.42 regarding "exception reports."

As part of obtaining the generator's decision, the facility should also work out with the generator how the waste should be transported to the next facility and who should be listed as the transporter on the new manifest. If it is not possible to locate in a timely manner an alternative facility that can promptly receive the waste, then the generator may instruct the facility to transport the hazardous waste shipment back to the generator. EPA expects that shipments would be returned to generators only on very rare occasions. The rejecting facility, in consultation with the generator, would first have to attempt to locate another facility that can appropriately manage the waste before resorting to a return shipment to the generator.

The facility rejecting hazardous wastes must ensure that secure custody of the hazardous waste is maintained while arrangements are being made to forward the waste to another facility. In many such situations, EPA expects that the transporter who attempted to deliver the rejected wastes would simply remain at the facility's premises and retain custody of the rejected waste until transportation resumes under the new arrangements made by the facility and generator. The transporter may assist the facility with the arrangements made for forwarding the rejected waste and preparing it for transportation. In those situations, however, where the delivering transporter does not remain on the facility's premises, the rejecting facility must take temporary custody of the waste, and hold it at a secure location until transportation of the waste continues under the new manifest.

8. Must TSDFs Who Reject Waste or Who Have a Regulated Residue Prepare a New Manifest For the Shipment to the Alternative Facility?

Yes. Today's rule clarifies that a TSDF who either rejects hazardous waste or has a regulated residue that must be sent off-site must prepare a new manifest for the shipment to the alternate facility. This clarifies conflicting policies that have arisen under the existing regulations. For example, differing policies have been followed in the past, based on distinctions between fully rejected loads and partially rejected loads, or on distinctions between rejections that occur at the time of attempted delivery of a shipment and those that occur after the original manifest was signed. In some instances, current policies allowed the original manifest to be amended, while in other instances, the policies suggested that a new manifest should be prepared. The work group developing today's proposal concluded that existing policies in this area were conflicting and very confusing. The work group recommended that one consistent approach should govern all rejected waste and residue shipments. Therefore, EPA is today proposing that a new manifest must be prepared in all cases involving a rejected waste or a residue shipment. The designated facility must in all cases close out the original manifest by noting the rejection or the regulated residue, and then prepare a new manifest to send the rejected waste or residue shipment to the alternate facility.

The designated facility would be required to: (1) Check the rejected load or residue box in the discrepancy block of the original manifest; (2) sign the facility certification on the original manifest to certify that the waste shipment was received except as noted (i.e., the rejected waste or residue) in the discrepancy block; (3) write the manifest tracking number of the new manifest on the space provided for this purpose in the discrepancy block of the original manifest; and (4) complete a new manifest for the rejected waste or residue. If the facility rejects all or part of a shipment, or discovers regulated residues, after the facility has signed and returned the original manifest, it would send the generator and delivering transporter an amended copy of the original manifest, revised to show the rejected waste or residue information in the discrepancy space, and showing a new signature certifying to the facts as amended and showing the date of the amendment. These amended manifest procedures would be included in § 264.72(g) and § 265.72(g) of today's proposal.

9. Whose Facility Information Would Go in the "Generator" Block of the Manifest?

Previous policies on tracking rejected loads and residues usually required the designated facility with rejected waste or residues to identify itself in the generator information block of the manifest for the second shipment to the alternate facility. Under this approach, the rejecting facility would provide its EPA ID Number in the Generator's EPA ID Number field, and provide its name and address information in the Generator information fields. When delivering the waste to the first transporter, the rejecting facility would also sign the Generator's Certification statement. However, this approach continues the problem of not keeping the original generator informed of the final disposition of its waste. This results because the alternative facility named as the designated facility on the second manifest would be required under § 264.71(a)(4) to send a copy of the manifest to the rejecting facility, and not the actual "generator" of the hazardous waste, when closing out the second manifest. To avoid this result, EPA is today proposing that in those cases where rejected waste is being forwarded to an alternate facility, and there has been no change in the form of the waste—i.e., the first designated facility performs no treatment and does little more than hold the waste (or repackage it) temporarily so that it may continue in transportation—then the original generator must be identified in the generator information block on the new manifest. As long as the form of the waste has not changed and the waste still carries the same DOT shipping descriptions that it carried when it was brought to the rejecting facility's site, a new waste has not been generated by the rejecting designated facility. The designated facility must, of course, consult with the generator, and once authorized by the generator to ship the rejected wastes or residues to another facility, the rejecting facility would sign the generator's certification to indicate that it has offered the hazardous waste in transportation.

If, however, the designated facility has treated the waste or otherwise managed the waste in such a way as to change its form, change the applicable DOT description for the waste, or generate a new waste, then this procedure would not apply to the second shipment. Instead, the designated facility would be identified on the manifest (Items 1 and 4) as the generator, and would sign the generator's certification in its capacity as a waste generator shipping its waste off-site.

In those instances where the designated facility must return a rejected waste or regulated residue to the generator, the proposal would not require the designated facility to list the actual generator's information in Items 1 and 4 of the manifest. In such instances, the proposal would require the designated facility to identify itself in the generator information section on the new manifest of the return shipment to the generator. This modification is important in order to ensure that the return shipment back to the initial generator can be verified. Under current RCRA requirements, the entity initiating the shipment of hazardous waste (typically the actual generator) is responsible for confirming that the shipment is received by the designated facility (see, 40 CFR 262.42). Thus, if the actual generator were to be identified on the new manifest as both the generator and the destination facility, the rejecting facility would not be able to verify that the waste was indeed received by the actual generator. By identifying the designated facility in the generator information section on the new manifest for the return shipment, the designated facility would be in a position to verify that the generator received the return shipment, or, file an exception report if verification is not received in a timely manner.

Under RCRA regulations, a RCRA "generator" is defined as a person whose act or process produces a hazardous waste, or whose act first causes the waste to be subject to regulation. See 40 CFR 260.10. In the great majority of cases, the person completing the manifest and signing the generator's certification statement is in fact a RCRA "generator" who produced the hazardous waste undergoing transportation. There are times, however, when our Subtitle C regulations require persons other than generators to prepare hazardous waste shipments for transportation. For example, a new manifest must be prepared in cases where a permitted storage facility consolidates wastes from various incoming shipments and later ships the consolidated wastes under a new manifest to another facility, or, when a hazardous waste transporter mixes wastes of different DOT descriptions in a single container. In each of these situations, the consolidating TSDF or transporter is responsible for a limited set of what are typically generator responsibilities, including preparing a manifest for the

shipment. These entities are not considered to be RCRA "generators" (e.g., their processes do not produce the waste), but they may need to complete a new manifest and sign the generator's certification statement in the course of discharging their responsibilities and offering the waste in transportation.

Similarly, today's proposal would clarify the requirements that designated facilities must follow when preparing a new manifest in order to offer rejected wastes or regulated residues in transportation. When a designated facility prepares a rejected waste or residue shipment for off-site transportation under these procedures, it would not assume under this proposal the role or general responsibilities of a RCRA "generator." Rather, the rejecting facility would be responsible for a limited set of generator responsibilities, including the preparation of the new manifest in accordance with 40 CFR Part 262, Subpart B, and ensuring that the waste is properly packaged, marked and labeled in accordance with the current provisions (40 CFR 262.30–33) prescribing pre-transportation requirements that apply to hazardous wastes offered in transportation. Today's proposal would thus clarify how the generator information blocks (Items 1 and 4) and the generator's certification would be completed by a facility shipping these types of wastes.

First, in every case where a designated facility offers rejected waste or regulated residues in transportation, the facility must sign the generator's certification statement. This certification statement includes the "shipper's certification" language certifying that the shipment has been described accurately and prepared properly in all respects for transportation in accordance with national and international laws. The designated facility offering rejected wastes or residues in transportation is responsible for ensuring that the pre-transportation requirements have been complied with, and must certify to their proper execution as a final step in preparing the manifest and offering the wastes in transportation. While the generator's certification statement also includes a waste minimization certification, designated facilities that are not in fact RCRA "generators" of the waste being shipped would not be bound by the waste minimization statements when they sign the generator's certification statement.

Second, on every new manifest prepared by a designated facility for a rejected waste or residue shipment, the appropriate entity to receive back a copy of the manifest from the next designated facility must be identified in the generator information blocks (Items 1 and 4) of the manifest. For waste sent to an alternate facility, that entity would be the actual generator of the hazardous waste, and for waste sent back to the generator it would be the designated facility rejecting the waste. For rejected waste or residue shipments being forwarded to an alternate facility, EPA believes that the generator of the initial shipment should receive a copy of the new manifest from the alternative facility so that the generator would be informed of the fate of these wastes. For shipments being returned to the generator, EPA believes that the rejecting designated facility is the appropriate entity to be identified in Items 1 and 4 of the new manifest, so that the rejecting facility can verify the receipt of the returned shipment by the initial generator named as the designated facility on the new manifest. In this latter situation, EPA's goal of ensuring that the generator is informed of the ultimate disposition of its hazardous waste would be met because the generator would actually be receiving back its hazardous waste shipment. However, the generator is not in the ideal position to verify receipt of the shipment. Consistent with the current manifest requirements (e.g., 40 CFR 262.42), EPA would prefer that a party other than the party to whom the waste is being shipped be responsible for verifying receipt of the shipment. Thus, the proposal would require the rejecting facility to complete the generator information blocks on the new manifest. In every case, however, the proposal would require the rejecting facility preparing the new manifest to sign the generator's certification, as it would be offering the return shipment in transportation, and would be responsible for performing the pre-transportation requirements and certifying to their proper performance.

EPA requests comment on these proposed procedures for facilities to prepare new manifests when forwarding rejected wastes or regulated residues to alternate facilities or when returning such wastes to generators. EPA believes that TSDFs encountering rejected wastes or residues are in the best position to consult with generators on the disposition of these wastes, and to prepare the subsequent shipments in accordance with the generator's directions. The Agency believes that this proposed approach is preferable to requiring the initial generator or delivering transporter to complete a new manifest, since this could bring about unreasonable delays in shipping the waste to its next destination, and result in uncertain management responsibilities while arrangements for the next shipment are pending.

EPA requests comment as well on the proposed approach for completing Items 1 and 4 (the generator information) on the new manifest and for signing the generator's certification. Is it appropriate that the initial generator should be identified as the generator on the new manifest for wastes being forwarded to alternate facilities? For return shipments to generators, do commenters agree with the Agency's conclusion that the interest in tracking receipt of the return shipment requires the rejecting TSDF to complete the generator information (Items 1 and 4) on the new manifest?

Under the proposal, the rejecting facility forwarding or returning rejected wastes or residue shipments would always sign the generator's certification, since EPA believes that this facility would have firsthand knowledge of how the new shipment was prepared and would be in the best position to certify to these facts. So, the rejecting facility offering these wastes in transportation would sign the certification in its capacity as the one shipping or offering the wastes in transportation, and would be liable in this capacity for the truth of the "shipper's certification" language included in the generator's certification statement. Since the rejecting facility is not in fact a RCRA generator, it would not be bound by the waste minimization certification language, which applies only to generators of hazardous waste. EPA requests comment on whether the proposal properly allocates the liability for these pre-transportation acts to the rejecting facility.

Alternatively, EPA could require the rejecting facility to consult with the generator on the disposition of the rejected waste, and then sign the generator's certification "on behalf of" the initial generator. The alternative approach would result in the manifest otherwise being completed in the same manner (i.e., Items 1 and 4 and listing the destination facilities) as under the proposed approach. However, by signing the generator's certification "on behalf of" the initial generator, the generator would be bound by the rejecting facility's signature on the certification statement. The rejecting facility would sign the certification only as the generator's authorized agent, and the facility would not be liable itself for the proper execution of the pre-transportation acts included in the certification. Does this alternative have more merit than the proposed approach, or, is it not fair to hold the generator liable for the proper execution of the pre-transportation acts which it authorizes the rejecting facility to perform, but cannot really supervise from a distance? The Agency requests comment on how best to allocate the shipper/offeror responsibilities included in the generator's certification between the generator and the rejecting facility.

10. What Would You Be Required To Do Under the New Regulations?

Residues Being Sent to an Alternate Facility

If you are a TSDF or hazardous waste recycler or other designated facility who cannot fully empty a container according to 40 CFR 261.7, and you are unable to manage the container yourself and have to send a container with a residue off-site to an alternate facility, you would be required to follow these directions:

- Sign the original manifest acknowledging receipt of the waste and identifying the residues in the Discrepancy block of the original manifest;
- Contact the generator for a decision about where and how to forward the hazardous waste from your facility, and for authorization to prepare a new manifest for the shipment;
- Write the generator's name, address and U.S. EPA ID number in the generator's name and mailing address box on the new manifest (Items 1 and 4);
- Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 9) of the new manifest;
- Copy the manifest tracking number found in Block A or Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20);
- Write the DOT description for the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste;
- Indicate "residue waste from Shipment No. * * *" in the Special Handling block of the new manifest; and
- Sign the Generator's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

Residues Being Sent Back to the Generator

If you are a TSDF or a hazardous waste recycler who cannot fully empty a container according to 40 CFR 261.7, and you have to send the residue back to the generator, you would be required to follow these directions:

- Sign the original manifest acknowledging the waste that was received, and noting the residue in the Discrepancy block of the manifest;
- Contact the generator for a decision about where and how to forward the hazardous waste from your facility;
- Write your name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4);
- Write the initial generator's name, address and U.S. EPA ID number in the designated facility block (Item 9);
- Copy the manifest tracking number found in Block A or Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20);
- Write the DOT description for the residue in Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste;
- Indicate "residue waste from Shipment No. * * *" in the Special Handling Block of new manifest;
- Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

Rejected Loads Being Sent to an Alternate TSDF

If you are a TSDF or a hazardous waste recycler who rejects a load and receives instructions from the generator to send the load to an alternate TSDF, either in full or in part, you would be required to follow these directions:

- Sign the original manifest acknowledging any received waste, check the rejection box in the Discrepancy block, and describe the quantity and type of rejected waste and the reason for the rejection in the description line of the Discrepancy block;
- Contact the generator for forwarding information and for authorization to prepare a new manifest for the rejected waste;
- Write the generator's name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4);
- Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 9);
- Copy the manifest tracking number found in Block A or Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20);
- Write the DOT description for the rejected load in Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.
- Indicate "rejected waste from Shipment No. * * *" in the Special Handling Block of new manifest;
- Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

Rejected Loads Being Sent Back to the Generator

If you are a TSDF or a hazardous waste recycler who rejects a load and receives instructions to send the load back to the generator, either in full or in part, you would be required to follow these directions:

- Sign the original manifest acknowledging any received waste, check the rejection box in the Discrepancy block, and describe the quantity and type of rejected waste and the reason for the rejection in the description line of the Discrepancy block;
- Contact the generator for forwarding information;
- Write your name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4);
- Write the generator's name, address and U.S. EPA ID number in the designated facility block (Item 9);
- Copy the manifest tracking number found in Block A or Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20);
- Write the DOT description for the rejected load in Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste;
- Indicate "rejected waste from Shipment No. * * *" in the Special Handling Block of the new manifest; and
- Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

11. What Conditions Would Apply to a Rejected Waste or Container Residue Shipment Once the Generator Receives It Back From the TSDF?

A generator would have up to 90 or 180 days (depending on his/her SQG or LQG status at the time the generator sent the rejected shipment or container residues to the TSDF) to send the rejected shipment or container residue to an alternate TSDF. Generators would not be required to obtain a RCRA permit for the period of time that the returned

waste is on-site as long as they comply with § 262.34(a) (for generators with 1000 kg or more on-site at time the waste is sent) or § 262.34(d) (for generators with less than 1000 kg on-site). Because EPA intends and expects that hazardous waste would be returned to the generator infrequently (only when an alternate facility is unavailable), the Agency decided not to propose a new time frame, or other requirements, to address these rare occurrences. We believe the simplest approach would be for generators to manage rejected wastes and residues within the existing framework for on-site accumulation, since generators are already set up to handle hazardous waste within 90 or 180 day time frames, and are familiar with managing waste in accordance with the provisions of § 262.34. Please note that small quantity generators would not be able to accumulate greater than 6,000 kg of hazardous waste on-site at any time. The Agency emphasizes that it is not reconsidering, reopening, or requesting comment on the provisions of § 262.34.

In addition, it is important to note that a generator would only be allowed to accumulate a rejected load or residue if that hazardous waste was originally sent to the designated facility with the understanding that the designated facility could accept the waste. In other words, this provision only covers generators who sent the hazardous waste to the designated facility in good faith. EPA would consider a range of factors—e.g., whether a generator has repeatedly sent waste off-site to TSDFs, only to have it rejected and returned, or whether the generator knew or should have known that the TSDF could not accept its waste—in determining whether a given shipment was in good faith or a sham.

12. On What Issues Would EPA Like To Receive Comments?

You are being asked to consider whether these proposed provisions for residues and rejected loads would improve hazardous waste tracking for these shipments. Specifically, EPA would like comments on the following:

- Should EPA require a TSDF to close out the original manifest and prepare a new manifest for all instances where waste is rejected or a regulated residue requires off-site management? Is it desirable to require facilities in all such cases to use the facility certification and discrepancy block to positively identify waste rejections and the reason for the rejection? Are there instances where it is more practical to revise the original manifest rather than generate a new manifest. Is there merit to EPA's proposal to follow one consistent approach (using a new manifest) for all rejection scenarios?
- Are the procedures clear on how rejecting TSDFs must complete the generator information spaces on the new manifest (Items 1 and 4) and sign the generator's certification? The proposal would have the rejecting TSDF responsible for ensuring that the pre-transportation requirements are properly performed with respect to rejected wastes and container residues. Is this an appropriate allocation of responsibility?
- How would transporters be affected by the proposed rejected waste and residue procedures? When a waste is rejected at the time of attempted delivery, is the transporter or the designated facility better suited to contact the generator to obtain instructions for forwarding waste to another facility? Would transporters be delayed unreasonably by the proposed procedures if they must wait for the designated facility to prepare a new manifest?
- What should be the designated facility's responsibility for managing rejected waste while it is awaiting shipment to an alternative facility?
- Do the proposed procedures for rejected loads and residues ensure generator notice and decision-making with respect to the disposition of rejected wastes and residues? Do generators want or need to be involved in decisions involving such wastes?
- Are the directions clear? If not, how can they be made more clear?
- Should a generator be allowed to received his/her own rejected shipment or container residues back from a TSDF? If yes, how long is reasonable for a generator to hold his/her rejected waste before sending it to on to an alternate TSDF? Should EPA allow the accumulation clock to run anew (as proposed), or limit the total time for accumulation to 90 or 180 days? Note: EPA is not reconsidering or requesting comment on the current provisions of § 262.34. We are only requesting comment on those provisions as they would apply to the accumulation of rejected loads or residues under this proposal.

VII. Automation of the Manifest System

A. Introduction

1. Summary of Today's Electronic Manifest Proposal

EPA is today proposing to allow waste handlers (generators, transporters, and treatment, storage or disposal facilities) the option of preparing, transmitting, signing, and storing their manifests electronically. EPA believes that electronic manifesting could greatly reduce the paperwork burdens of the current system, while improving the effectiveness of tracking waste shipments and managing data. In addition, in those states that collect manifests and maintain databases to track manifest data, the proposal would foster a consistent approach for submitting manifest copies electronically to the states. The proposal includes standardized electronic data interchange (EDI) formats and an Internet Forms format for the electronic manifest. These formats should permit the exchange of electronic manifests among waste handlers in a manner that ensures the compatibility and interoperability of these files. The standardized electronic formats should also facilitate the management of manifest data by state programs, as the standard formats would minimize the need for manual data entry or other time-consuming processing of the data prior to its import into the states' tracking databases.

The manifest automation standards in today's proposed rule include 3 major components: (1) the proposed EDI and Internet Forms file standards for the electronic manifest; (2) a proposed standard for electronically signing the manifest with electronic signatures; and (3) a proposed set of computer security standards for computer systems that would create, process, and store electronic manifest records. EPA believes that standards in these 3 areas are essential to the successful implementation of an automated manifest.

In addition to proposing the electronic manifest standards summarized above, this proposed rule would eliminate impediments to an electronic system in the current regulations. Thus, explicit references in the current regulations to the use of specific paper forms and the use of "by hand" signatures would be amended to allow for their electronic equivalents. Likewise, regulatory provisions that now require all manifest copies to be physically carried with the waste shipment would be expanded to allow manifest copies to be transmitted electronically. Moreover, the current record retention requirements would be amended to clarify that the storage and use of electronic records bearing the required electronic signatures would have the same legal effect under RCRA as retaining and using paper copies signed with conventional pen-and-ink signatures. Generally, RCRA regulations require that manifest records be retained for three years from the date of a

shipment, but in many cases, facilities may retain these records indefinitely in order to address potential liabilities for future site cleanups.

2. Why Is EPA Proposing These Changes?

EPA is proposing an electronic approach for manifesting hazardous waste, because the Agency believes that information technologies present tremendous potential for reducing the significant paperwork burdens of the current manifest system. EPA's Regulatory Impact Analysis for this rulemaking estimates that the current manifest system imposes a total paperwork burden on waste handlers and States of more than 4.6 million hours annually, and results in costs of more than $193 million. We discuss the potential burden reduction from the electronic manifest later in this preamble section (see heading 5). We also believe that electronic manifests would give rise to the exchange of higher quality manifest data, and to more timely and efficient access to this data. Data would be of a higher quality, because the direct import of waste shipment and receipt data between electronic manifests and facilities' and states' data bases would give rise to fewer data transposition and interpretation errors than occur now when manifest data must be manually processed from paper forms. As a result, both the tracking of hazardous waste shipments by waste handlers and the management of state hazardous waste programs should be more effective.

Further, this action is consistent with the requirements of the Government Paperwork Elimination Act (GPEA). GPEA generally mandates that agencies accept, by October 2003, electronic documents and electronic signatures for the transactions that agencies conduct with the public and with regulated parties.

While the transition to fully electronic systems would take some time to implement, the Agency is motivated by a desire to transform the manifest system quite dramatically from its current paper-based approach to one that supports paperless manifest completion and transmission. The Agency further desires to establish an "open" or non-proprietary set of standards that would allow the information technology community broad latitude to develop innovative hardware and software solutions. We believe that our proposed approach to manifest automation would allow electronic options to develop for both large and small facilities, so that many may benefit from the greater efficiencies available with an electronic system. EPA emphasizes, of course, that the electronic manifest would be an option available to those who wish to use it; it is not the Agency's intent to mandate its use. Those entities that are more comfortable with the paper form would still be able to obtain and use the paper manifest form to track their hazardous waste shipments.

This approach is consistent with EPA's efforts across all its environmental programs to promote the adoption of electronic reporting, and to ensure implementation in a consistent manner that is compatible with current practices in the private sector. EPA is evaluating all of its programs for regulatory and procedural barriers to the use of electronic records and reports. Thus, this proposal aims at both eliminating impediments to an electronic manifest in the current regulations, and at developing standards that would promote consistent and widespread implementation of an electronic waste tracking system.

3. Who Would Be Affected by These Changes?

EPA anticipates that the electronic manifest would affect all types of hazardous waste handlers, including large and small quantity generators, transporters, and treatment, storage, and disposal facilities (TSDFs). State hazardous waste agencies that collect manifests would also see a large impact on the procedures and resources they use to process manifest copies and enter manifest data into their tracking systems. Currently, about 24 states collect manifests and track this data. States and waste handlers have also expressed support for using electronic manifest data for preparing more easily their submissions to EPA's Biennial Reporting System.

The Agency developed this proposal to ensure that electronic manifesting would be accessible to all types of waste handlers. For example, large generators and TSDFs may find it convenient and economical to extend EDI systems that may already be in place for financial/purchasing information to their waste management departments. These larger facilities may adopt a traditional EDI model that involves transmitting the standard EDI formats across secure Value Added Networks or VANs, or choose to deploy a non-traditional EDI model which uses secure E-mail technology or Secure Socket Layer (SSL) transmissions to pass EDI transaction sets over the Internet. Mid-sized firms and some small entities may find it more practical to implement the electronic manifest as a web form which they access and complete while connected to the Internet. Finally, this proposed approach should also be accessible to many other small generators, who would not otherwise find it practical or efficient to obtain or use their own computer equipment to transmit only a handful of manifests. The proposed rule would clarify that, as with the existing paper manifest system, a generator may authorize another person (e.g., a contractor, transporter or TSDF) to complete and sign the manifest on the generator's behalf. Alternatively, transporter personnel picking up shipments could use remote, portable devices to obtain a generator's electronic signature on an electronic manifest.

4. What Manifest Automation Is Already Occurring?

Existing efforts to automate the manifest can be characterized as limited and uncoordinated. For example, at the "front end" of the manifest system, a variety of customized as well as commercial software products are in place or available to assist generators in tracking their hazardous materials and hazardous waste inventories. Several of these products support the automated preparation of manifests, and the development of manifest templates to be completed in connection with commonly encountered waste streams and shipment profiles. However, consistent with current manifest requirements, these products generate a manifest document which must be printed and signed, and the paper copies then travel with the shipment in the conventional manner. So, any paperwork burden reduction achievable now is limited primarily to the manifest preparation effort.

Similarly, at the "back end" of the manifest system, several states have encouraged their higher volume reporting facilities to submit manifest copies to states in electronic formats. Several states have specified "flat file" standards which are peculiar to each state's database platform and structure, and which define the content fields for each data element in a record strictly according to its physical position in the file. Other states have attempted to use scanners and optical character recognition (OCR) technology to convert paper copies they receive to electronic files that can then be more readily manipulated. More recently, a few states have tried in the past to establish pilot programs allowing their larger waste facilities to submit electronic copies using an EDI approach. These initial pilots were hampered by certain regulatory impediments to a complete

electronic manifest system, and by the small volume of manifests involved, which did not justify investment by waste handlers or state agencies in EDI software and infrastructure.

These limited efforts to date at reporting manifest data electronically have primarily benefitted the state agency receiving the data, by eliminating the resource intensive process of manually re-keying the data from the forms to the tracking system. While these initial efforts have led to some modest improvements in preparing and processing manifests, they have not been sufficiently comprehensive in their scope nor coordinated enough to bring about more meaningful paperwork burden and cost reductions. A preferred approach would be one that would enable a manifest to be initiated electronically, transmitted and signed electronically, stored electronically, and where necessary, reported to states electronically, without the need to convert between paper and electronic formats. This approach would be more effective, because it would eliminate (with minor exceptions) the inefficiency of maintaining both paper and electronic copies for the same shipments, and it would eliminate the manual and burden-intensive processes needed to convert between paper and electronic formats. In addition, if a standard electronic file format were specified as part of this approach, the regulated community could avoid a situation where they would be required to support multiple file formats prescribed by the various states. Thus, this proposal aims at establishing standards for electronic manifesting that could extend to nearly all aspects of the manifest cycle. This proposal would not, however, affect DOT's shipping paper requirements, including the requirement that a paper copy of the manifest or a shipping paper be carried on the transport vehicle. In other limited instances (e.g., a transporter unable to participate in an electronic system), additional paper copies might also be necessary. However, the proposal would promote as far as possible the elimination of paper manifest copies and their related paperwork burdens.

5. How Much Reduction in Burden and Cost Would Be Achieved by Automation?

EPA's analysis suggests that automation of manifest activities would reduce paperwork burdens substantially among all waste handlers. The baseline paperwork burden imposed on waste handlers from all current Federal and State requirements is estimated to exceed 4.4 million burden hours annually. These Federal and State requirements impose compliance costs on waste handlers exceeding $187 million per year. The Regulatory Impact Analysis for this proposal suggests that the reduction in waste handler burden from the electronic manifest would range between 488,000 hours and 938,000 hours annually, assuming that all States would eventually recognize the validity of electronic manifests. This reduction in burden hours from automation is expected to account for between 69% and 82% of the total savings expected from all the manifest system revisions proposed today. In terms of cost reductions, EPA projects that manifest automation could produce between $14.4 million and $26.6 million in cost savings to waste handlers.

In addition, among the States that collect manifest copies and track manifest data, EPA's Regulatory Impact Analysis estimates that these States collectively incur about 200,000 burden hours each year as a result of processing manifests. We further estimate that the submission of electronic copies in standardized electronic formats could reduce these states' manifest processing burden by as much as 79,000 annual hours. Overall, states could realize a cost reduction of about $1.5 million (roughly 25% of current costs) annually in operating their manifest programs, because of reduced data processing costs. Initially, these cost reductions would be offset somewhat by costs which the states would incur as they establish the capability to receive inbound electronic manifests, revise their data bases to reflect the proposed form revisions, and map the electronic documents to their particular information systems.

6. What Other Benefits Would Result From an Electronic Manifest System?

In addition to the significant paperwork burden and cost reductions summarized above, EPA believes that a successful implementation of an electronic manifest system would produce other benefits for waste handlers and state oversight agencies. First, waste handlers could determine in nearly "real time" the status of their waste shipments. A generator could receive nearly immediate electronic confirmation of the receipt of their waste at the designated waste management facility, rather than waiting a month or more (as the current regulations allow) for a written confirmation to arrive in the mail. This could afford waste shippers a level of tracking service that is similar to that already available from commercial package delivery services. This level of tracking is not available under the current paper-based system, which assumes that clerical staff would need several days or weeks to review, mail, and respond to paperwork related to their hazardous waste shipments.

Second, both waste handlers and state agencies could receive more immediate notice of problems that arise during the transportation of a waste shipment. TSDFs could report to generators any significant discrepancies in waste types or amounts or rejected loads within moments of discovering the problem. Likewise, generators would be likely to spot and try to reconcile "exceptions" (occasions when a signed manifest confirming receipt of a shipment by the TSDF is overdue) more quickly than is possible under the current paper-based system, which requires a generator to wait for 35 days to pass before inquiring about the status of a shipment for which written confirmation of receipt is lacking. The current system delays notification of discrepancies and exceptions, because it loads into the notification process the time needed for facility personnel to review their paper files and then mail verifications or other notices to generators. Conceivably, an electronic system would allow this information to be transmitted at or near the time the problem was discovered (i.e., at the time the manifest was signed by a TSDF's receiving personnel), rather than waiting for clerical staff to catch up with several days or weeks of accumulated paperwork.

Third, the proposal should produce higher quality manifest data, since there would be fewer data entry steps that would otherwise invite errors from data interpretation or transposition. State personnel and waste handlers receiving electronic copies would not be as likely to be confronted with illegible manifests, which occur with some frequency with handwritten manifests and carbon copies that do not print clearly. Since electronic forms could be entered into state tracking systems upon receipt at the state agency, access to this data would also be more timely. Many states have advised us that it may take several weeks or even months for data entry personnel to enter data from paper forms into their tracking systems. Therefore, reports generated from electronic systems would be based on more accurate and up-to-date information, and fewer resources would be required to manage the data.

Fourth, when fully implemented, enforcement officials could conduct electronic record searches that would more efficiently target enforcement activities. Not only would electronic searches of files more quickly focus inspection resources on transactions of interest, but it is conceivable that the record inspections could be conducted off-site in advance of on-site activities. So, on-site inspection efforts could be directed more closely at a discussion of significant issues disclosed by the records previously reviewed, rather than exhausting substantial time and resources examining file drawers of paper manifests at the facility.

7. What Are the Concerns Associated With Automated Systems?

There are several potential concerns involved with the transition to an electronic waste manifest system. An emphasis of this proposed rule is to establish requirements for security and data integrity that would minimize these problems. EPA has considered each of these concerns in the course of developing this proposal, and has attempted to address them with appropriate controls. The proposed controls and security requirements that deal with each of these concerns are discussed in section VII.F. of this preamble. We request your comments on these and alternative options to ensure secure transactions, accountability, and data integrity.

a. *Inadvertent or deliberate corruption of records.* Computer software applications manipulate data extremely efficiently, but the power of these programs can also pose serious consequences for data integrity when problems arise. By accident or by design, an individual operating such software could delete or substantially alter their files. For example, hundreds of records stored on a hard disk drive or on floppy disks can be lost if the operator instructs the operating system to format or erase the disk. Also, an original record could be mistakenly or purposefully overwritten by a replacement file that is stored under the same name. So, safeguards must be established to minimize the threat of data loss or corruption. With some digital media, data could be altered without leaving the traceable evidence of alteration that is commonly found with paper erasures and "white-outs." Thus, investigators and prosecutors alike are concerned that it may be more difficult to detect and prosecute at least some cases of computer fraud and forgery. These concerns are balanced, however, by the recognition that using properly designed and implemented electronic systems for processing data can also reduce the likelihood of data loss and the potential for fraud. This results because records can be authenticated electronically and more readily stored in multiple locations. Today's proposal would include electronic signature standards that preclude the alteration of documents after they are signed, the requirement of backup copies to deal with accidents or disasters that cause electronically stored documents to be lost or corrupted, and audit trail requirements to identify the date, time, and source of all operator entries that would create or alter a document. The digital signature method discussed later in this preamble is one effective way to guard against this concern, since digitally signed documents are much less (if at all) susceptible to data alterations than documents signed with other methods.

b. *Unauthorized access to systems or data.* The press has publicized broadly tales of "hackers," that is, individuals who have penetrated computer systems to conduct theft, sabotage, espionage, or other mischief. However, in many instances, the greater threat may be posed not by outsiders, but by insiders who should not have been granted access to the system. A related risk is the danger that persons who create electronic records may rely on the perception that electronic systems are vulnerable to unauthorized access to repudiate documents they have created. Typically, passwords and personal identification numbers (PINs) are employed to control access, and to limit system use to those with a need to know the data. Today's proposal would require electronic systems to use authority checks to limit system access (including access to input or output devices) to authorized persons. Electronic systems would need to be designed to detect attempts at unauthorized access as well as invalid or altered records.

c. *Limited human involvement and speed with which transactions are executed.* With an automated system, information can be created and sent to the recipient in an instant, perhaps without adequate human oversight over data quality. The immediacy and irrevocability of electronic transactions thus require much care on the part of users. At the same time, computer systems are able to perform automatic quality control on transactions quickly, while integrating multiple sources of information. So, in many instances, computer systems may detect problems or data entry errors far more readily than is possible with paper-based systems.

d. *Natural disasters and system failures.* Floods, fires, and earthquakes can quickly wipe out an information system and all its stored records, unless safeguards have been followed and back-up systems and records created. Moreover, networks may "go down," and system crashes can interrupt electronic systems unless they are promptly serviced or backed up with other equipment. On the other hand, paper records are susceptible to many of these same problems, especially where natural disasters are concerned. Paper records may also become useless if they are not indexed or filed properly. Today's proposal would require electronic systems to be designed to protect records from intentional or accidental damage, and to produce secure back-up copies or provide for data recovery in the event of a loss. In addition, as with the current paper-based manifest system, electronic manifest copies would be sent to multiple entities involved with handling the waste or tracking the receipt of waste, including generators, transporters, TSDFs, and states. This redundancy in distributing manifest copies would provide additional protection against loss or undetected data alteration.

e. *Software defects and interoperability issues.* Our increasing reliance on information technology has given rise to the development and use of software applications that are very complex and which are frequently updated or replaced. Even software products that have been heavily tested and widely distributed have been found to contain hidden defects or "back doors" that have hindered their use or have allowed security features to be overridden. As more products become available to support a function, concerns arise about the interoperability of different systems and whether data can be exchanged and processed consistently. As systems are replaced and upgraded, there is also the concern that data that were created by and accessible on the original system would not be accessible on the replacement system. All of these factors may reduce confidence in the trustworthiness of electronic records. Today's proposal addresses these concerns by requiring electronic manifest systems to be validated for their consistent performance and their interoperability with other systems with which data would be exchanged. In addition, the proposal would require facilities to retain prior versions of software and hardware as necessary to access manifest records throughout their retention period.

B. EPA's Current Electronic Reporting Policy

1. What Is EPA's Current Electronic Reporting Policy?

On September 4, 1996, EPA published a "Notice of Agency's General Policy for Accepting Filing of Environmental Reports via Electronic Data Interchange (EDI)" (61 FR 46684). The September 4, 1996 policy sets forth the basic approach for EPA to implement EDI for environmental reporting. The policy does not mandate the use of EDI; rather, it establishes a consistent framework for implementing EDI across EPA programs, so that the benefits of EDI may be maximized. The policy specifically recognizes that other methods of conducting electronic commerce would emerge, and that EDI may not be appropriate for all types of facilities and reports.

EPA first endorsed EDI for environmental reporting in its earlier "Policy on Electronic Reporting," 55 FR 31030 (July 30, 1990). This initial EPA policy statement was intended to promote a uniform Agency approach to electronic reporting that was compatible with current industry and government practices. The policy advocated a standards-based approach grounded on the use of American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 standard formats and communications protocols for EDI.

As described in the September 4, 1996 notice, facilities would, under certain conditions, be able to submit required reports electronically to EPA using EDI. First, the 1996 policy would require reporting facilities to enter into a Terms and Conditions Agreement with the Agency (61 FR 46684). The Terms and Conditions Agreement includes mutual recitals under which the parties recognize the validity and enforceability of electronic submissions, and agree not to contest their validity. The Agreement also contains provisions dealing with when documents are considered to be received, when they should be re-transmitted, when they must be acknowledged, and when they are considered to be signed. Based on EPA's assessment of technology that was current in 1996, as well as costs and the level of certainty thought to be necessary for authentication of most environmental reports, EPA adopted a personal identification number (PIN) based approach for signing and certifying electronic reports. Therefore, the Generic Terms and Conditions Agreement in the 1996 Policy contains provisions dealing with the assignment and management of PINs. The Policy defines a PIN as a sequence of alpha-numeric characters, and it specifies that the appearance of an individual's PIN on an electronic message shall be deemed to indicate the authenticity of the message. 61 FR 46686. Finally, under the 1996 Policy and its Generic Agreement provisions, facilities would be required to adhere to certain security and audit/control requirements, including requirements to retain transmission logs and PIN records. 61 FR 46687.

Significantly, the 1996 Policy was not intended to specify all the requirements applicable to electronic reporting of a specific environmental report. Rather, the 1996 Policy anticipated that program-specific notices would follow, incorporating the explicit technical EDI implementation guidance necessary for a specific program report, as well as any additional security or administrative requirements required by specific EPA programs. Therefore, today's proposal would provide the implementing regulations and specific procedures that authorize the use of EDI for the RCRA hazardous waste manifest program. Today's proposal also expands on or modifies some provisions of the 1996 EDI Policy as it affects the manifest program, reflecting both changes in technology and the specific needs of the manifest program.

2. What Is Electronic Data Interchange (EDI)?

Electronic Data Interchange (EDI) is the transmission, in a standard syntax, of unambiguous information between the computers of organizations that may be completely external to each other. It thus allows for the exchange of information between computer systems that would otherwise be incompatible with one another. It has been widely used by the private and public sectors for commercial transactions and general data transfer, particularly for transactions of a routine or repetitive nature. As an "open systems" approach to data exchange (i.e., data exchange is not limited to entities within a company's own system or closed network), EDI is largely independent of specific technology environments, so it provides a transparent bridge between various hardware and software platforms.

From aerospace and automobile manufacturing to warehousing and wood products, EDI is a dominant form of electronic commerce. In the United States, EDI is based on standard formats and protocols developed and maintained by an independent organization, the ANSI Accredited Standards Committee X12. Supporting these standards are a wide array of commercial software packages and communications networks, and there is a growing reservoir of industry EDI experts that are available to both EPA and the regulated community.

3. How Does EDI Work?

EDI is essentially a series of computer language translations. If two companies agree to exchange data via EDI, each translates their outgoing data into a common EDI "language" which can be read by the EDI translator of the other company. Each company receiving an EDI transmission then converts the incoming data from the common EDI language into a format that can be read by its computer and used in its data base system. Typically, the data transmissions are sent through a third party Value Added Network (VAN), and delivered to each company's mailbox on the VAN. More recently, some companies have begun to use secure E-mail on the Internet as an alternative to using VANs. The EDI standard formats, or transaction sets, are non-proprietary, and data can be sent or received in the standard format independently of the type of software or computer system used by the sender or receiver. Unlike a "flat file" format, which defines the content fields for each data element by its physical position in the file, an EDI transaction set is a relational file format, which contains predefined tagging structures and well defined hierarchical data file structures. The predefined tagging structures specify how the data should be formatted so that the EDI software can interpret the specific contexts and relationships of the data presented in a file. These tags then enable data in EDI files to be defined, transmitted, validated, and interpreted between applications and organizations, since the tagging structures and the data element relationships defined by the tags are understood by all EDI compliant software. The hierarchical data file structures are also significant for EDI, because they represent an orderly scheme for formatting and organizing related pieces of information in a hierarchical manner, that is, in the shape of a pyramid, with each row a collection of information that is linked in a specific way to the information presented directly beneath it. Once users of EDI systems complete the initial installation of EDI software and configure it to map the EDI transaction sets used to their specific information systems, both senders and receivers are free to use their existing information management systems to report, import or manipulate data. They are also spared the trouble and expense of having to develop and maintain their own customized reporting software, or the file standards and communications protocols that enable data to be exchanged with others.

4. Why Would EDI Be Suited to an Automated Manifest System?

EPA believes that an EDI approach to automating the manifest makes sense for several reasons. First, the EDI technology is already used extensively for the exchange of data in the business arena. Although the manifest is not a business transaction, EPA believes that the existing expertise and the existing commercial software products and networks which support the exchange of business data can be leveraged for use with manifest data. Second, the manifest is a high volume, recurring transmission for many larger generators and hazardous waste handlers. EDI is most appropriately applied to routine and repetitive transactions, such as the submission of invoices or health claims forms. Third, EDI is a common method for integrating electronic reporting with existing information systems. Currently, about 28 states maintain manifest tracking databases using different hardware and software platforms and database structures. Many waste handlers also have developed or purchased information systems which they use to track their hazardous wastes and other materials inventories. So, EDI could be a sensible way to accommodate the legacy systems already installed by industry and the states. Also, because EDI is an "open systems" approach maintained by an independent standards body, our adoption of an EDI standard in this proposal would not give an undue competitive advantage to any vendor's particular proprietary product. Further, neither EPA nor our authorized states would need to develop and/or maintain software products and standards under an EDI-based manifest approach.

5. Would a Terms and Conditions Agreement Be Required?

A major component of the September 1996 Electronic Reporting Policy was the requirement that facilities wishing to report electronically to EPA enter into a Terms and Conditions Agreement with the Agency. The major requirements for electronic reporting programs were to be included in this agreement, and the parties to the Agreement would agree not to challenge the validity of electronic documents.

EPA has decided that it is more practical in this rulemaking to specify the key terms and conditions for electronic manifesting in enforceable regulations rather than require entities to enter into Terms and Conditions Agreements. While it may be practical to require an agreement between EPA and individual members of the regulated community to govern their direct reporting to EPA, these are not the circumstances which operate with respect to the manifest. Most electronic transfers of manifests would occur between numerous waste handlers (i.e., EPA is not involved), and it would be very burdensome to require each waste handler to negotiate an agreement with all the entities with whom they might exchange manifests. Therefore, a Terms and Conditions Agreement would not be required for automated manifesting. Key elements of the September 1996 Policy have been incorporated into this proposed rule, and the Policy's content on the issuance and management of PINs has been replaced in this proposal by the proposed requirements for digital signatures and secure digitized signatures. Parties establishing electronic manifesting systems may require others to agree to terms and conditions on the use of their systems, but such contractual matters would not be covered by or affected by this proposal.

6. What Alternatives to Traditional EDI Is EPA Considering?

The Agency is currently evaluating a number of alternative means for transmitting manifests electronically. This evaluation is being guided not only by the September 4, 1996 policy statement, but also by manifest automation pilot tests and other electronic reporting initiatives which EPA has supported in recent years. While the September 1996 policy was based on a traditional EDI approach involving the exchange of ASC X12 transaction sets across a Value Added Network by parties subject to Terms and Conditions Agreements, other approaches may also be viable and in some cases, more practical than conventional EDI conducted across VANs. For those companies using EDI systems, one alternative approach might be to offer these firms the option of securely transmitting EDI transaction sets using "E-mail" and/or File Transfer Protocol (FTP) provided through a third party Internet Service Provider (ISP), rather than a VAN. The Agency is also particularly interested in promoting the use of the Internet for electronic manifesting, as this may be a more practical medium for many facilities who may not be equipped to engage in traditional EDI. So, EPA is examining the merits of an approach under which an electronic manifest would be completed as a "web form," and then transmitted in an Internet markup language known as the Extensible Markup Language or XML. The proposal includes a proposed Document Type Definition format for the manifest. Alternatively, "web form" manifests might be translated to an EDI format by a server hosting EDI translation services, and then transmitted as an ASC X12 compliant manifest to recipients using Internet data transfer protocols.

EPA is today proposing both an EDI option and an Internet Forms (XML language) option for conducting electronic manifesting. We are also interested in taking comments on other approaches that may not be described in today's proposal, but which also appear to have merit given the purposes and workflow process associated with the manifest. The Agency emphasizes, however, that its preferred approach is to rely as much as possible on approaches that are based upon open standards, rather than those that depend upon specific hardware or software that implements proprietary standards.

7. What Are the Manifest Automation Pilots?

In 1998, EPA began conducting the first of several manifest automation pilot tests. The objectives of the pilot are to:

- Demonstrate the feasibility of automating the entire manifest cycle, including preparation, transmission and signing of copies, recordkeeping, and reporting;
- Demonstrate the feasibility of using EDI and other forms of electronic commerce to track waste shipments in a secure and practical manner;
- Facilitate the development of automation standards to be included in this rulemaking;
- Identify and address impediments to manifest automation; and
- Evaluate the savings and costs associated with an automated approach.

The first phase of tests demonstrated an EDI approach involving several waste handlers and state hazardous waste agencies in the States of Illinois, Indiana, and Minnesota. EPA purchased EDI translator software and VAN services from Sterling Commerce Corporation, which customized its Gentran:Smartforms™ software application to incorporate the approved federal convention mapping the ASC X12 Transaction Set 856 to the federal hazardous waste manifest. The software package featured an intuitive user interface and a customized data entry template with built-in edit checks and user aids to facilitate the preparation of EDI manifests. The 1st phase of tests required the 8 industry participants to send numerous manifest transmissions

to other trading partners during the period from July to December 1998. Some of these transmissions reflected real hazardous waste shipments, while others "tracked" simulated events. The tests were planned to model a variety of waste shipment events, including waste receipts, waste rejections, discrepancies, and intra-and inter-state shipments.

The 1st phase of tests relied upon PIN numbers to take the place of handwritten manifest signatures. A 2nd phase of EDI tests was conducted in the Fall of 1999. The 2nd phase of tests integrated the EDI software and manifest formats used in the 1st phase pilot with a security product named "SecurEC™" from Sparta, Inc. The SecurEC™ product added a digital signature authentication method and other security services to make the 1st phase EDI configuration compliant with the ASC X12.58 security protocol. A third phase of the pilot tests began in March 2000, and demonstrated with facilities in New York State, Pennsylvania, and Illinois the feasibility of using Internet Forms technology and digitized signatures to complete and transmit manifests. As these additional tests are completed, EPA would include reports summarizing the results and key lessons learned from the pilot in the record for this rulemaking. Current information about the Manifest Automation Pilot tests is also available on EPA's World Wide Web site at http://www.epa.gov/epaoswer/hazwaste/gener/manifest/

C. Overview of the Electronic Manifest Proposal

1. What Is Included in Today's Proposal on the Electronic Manifest?

Today's proposal includes several components which together define a framework for automating the hazardous waste manifest. The proposal includes several regulatory amendments (summarized below) that would eliminate impediments in the existing regulations to an electronic manifest. The proposal also would add new provisions that set forth standards for the electronic file formats that may be used as electronic manifests, standards for electronic signatures, and standards for trustworthy electronic systems, including electronic record storage.

The proposed electronic manifest system requirements consist of technical standards and computer security controls which EPA believes are necessary in order to ensure system trustworthiness and data integrity in electronic manifests. These controls are also necessary to establish a sufficient foundation for the admissibility of electronic manifest data as evidence in civil or criminal proceedings. In addition, EPA believes these controls would foster commercial acceptance of the electronic manifest as a tool for tracking waste shipments.

2. Is Electronic Manifesting Mandatory for Waste Handlers?

No. Today's proposal would only establish requirements and standards for those regulated hazardous waste handlers (*i.e.*, generators, transporters, and TSDFs) that elect to transmit manifests electronically. It is not the Agency's intention to mandate the use of the electronic manifest by waste handlers, and the paper Uniform Manifest (Forms 8700–22 and 22–A) would remain available for those desiring to complete and transmit their manifests manually. Likewise, nothing in this proposal would require waste handlers to report manifest copies to their states, if they are not already required to do so as a matter of state law.

3. Must Authorized State Programs Adopt Electronic Manifesting?

Today's proposal would not require States to adopt electronic manifest authorities as a part of their authorized RCRA programs. However, EPA is still considering whether States should be required to adopt such authorities in order to ensure consistency with the Federal program and other State programs, and we may include such a requirement as part of the final rule. If States elect to adopt the electronic manifest option, they would be required to adopt authorities addressing the standard electronic formats, the electronic signature standards, and the computer security controls described in this section. The State implementation issues are discussed further in section IX. of the preamble. EPA requests comments on whether specific electronic manifesting requirements are necessary components of states' programs, and on the potential impacts of such requirements.

4. What Happens if the Transporters of My Hazardous Waste Don't Automate?

EPA recognizes that there may be times when an electronic manifest cannot be passed to all the waste handlers involved in a waste shipment. Fundamentally, a TSDF must be able to receive and process electronic manifests, and either the generator or transporter should also have the capability to create or transmit an electronic manifest.

EPA has established these proposed standards so that generators and TSDFs could substantially automate their manifest programs, even if the transporters involved with a shipment do not participate in manifest automation. So, a generator may still participate in electronic manifesting with the designated TSDF receiving the waste shipment, as well as any state agencies that elect to collect manifest copies electronically. Even if the transporters do not participate electronically, the preparation function, recordkeeping and reporting functions, and the key function of verifying receipt by the TSDF could still be accomplished electronically. In such a case, the transporter could provide the generator with a hand-signed copy of the manifest or other shipping paper under 49 CFR Part 172, Subpart C, as DOT shipping paper requirements would not be affected by this proposal. The transporter could retain a hand-signed copy of this paper for its files, and the generator could pass an electronic manifest copy directly to the TSDF with a notation in the transporter signature block that a manual signature is on file. The TSDF could then transmit to the generator electronically its verification of receipt, discrepancy information, or other response related to the shipment. All the waste tracking, signature accountability, record keeping, and emergency response functions of the manifest system are preserved by such an arrangement, even though a part of the shipment record may consist of a signed shipping paper and another part consist of the electronic manifest. Where a signed shipping paper is retained as a generator's or transporter's record, it must also bear the manifest tracking number assigned to the electronic manifest for that shipment, so that the shipping paper records can be linked to the manifest in the event questions are later raised about the shipment, or in the event of an inspection of these records by a RCRA inspector.

5. What Happens if the Generator Is Not Able To Prepare an Electronic Manifest?

While the above discussion deals with the situation where a transporter is not automated, EPA expects that the more frequently encountered issue would be that generators would not be equipped to prepare manifests electronically. Indeed, the electronic manifest would more likely be brought to generators sites by the larger transporters and TSDFs with integrated waste transportation and waste management functions. These entities deal with large numbers of hazardous waste shipments on a day-to-day basis and would have a greater incentive to automate their waste tracking and data management activities.

In those instances where the generator is not automated, the transporter could prepare the electronic manifest data for a particular shipment, and obtain the generator's electronic signature by using a portable device (e.g., a digitizer pad joined to a wireless unit) that captures the generator's signature and initiates the shipment. This approach would mimic closely the current procedure for the paper manifest, and it would not require the generator to purchase or use any of its own computer equipment to enter its manifests into the electronic system. Of course, in a case where the generator signs an electronic manifest using a portable device provided by a transporter, the transporter would need to provide the generator with a hard copy of the manifest for the generator's records.

Alternatively, a non-automated generator could authorize the transporter personnel who come on-site and prepare the shipment for transportation to sign the manifest electronically on the generator's behalf. As with the current paper manifest system, this proposal would also allow a person other than the generator (e.g., a transporter or TSDF) to be authorized by the generator to prepare the manifest and sign the generator's certification on its behalf. Thus, generators that do not participate directly in the automated system may still participate through the efforts of their authorized preparer. This aspect of the proposal is discussed in greater detail below in section VII.G. of this preamble.

EPA believes that participation in the automated system would grow over time, as market forces and customer relationships cause others to become trading partners in the electronic manifest. Companies may decide to offer automated manifesting to their customers to remain competitive with others providing this service. In addition, large generators with multiple sites and highly integrated commercial waste management companies may find it advantageous to purchase multi-site licenses for waste tracking software, which they would deliver to their various sites or generator customers so that they can maximize the benefits which they would realize from automating the large numbers of manifests that they must process.

6. Where Would the New Requirements for Automated Manifesting Be Codified?

The key requirements would be codified in several proposed new sections of 40 CFR Part 262. First, EPA would expand existing 40 CFR 262.20(a) to include a specification for both the paper manifest form and the electronic format allowed under this proposal. The proposal would retitle existing 40 CFR 262.23 (use of the manifest) to focus this section on the paper manifest, and it would add a new 40 CFR 262.24 to discuss the procedures for using the electronic manifest. EPA is also proposing to add a new 40 CFR 262.26 to Subpart B of part 262. This new section would set forth the requirements for electronic manifesting systems, and clarify that electronic manifests that are issued by systems which meet these requirements would be considered the legal equivalent of paper manifests bearing handwritten signatures. Thus, such electronic manifests would be deemed to satisfy any Subtitle C requirements to complete, transmit, retain, or submit a manifest copy, or to produce it for inspection.

A significant new addition to the regulations would be codified at § 262.25, which contains definitions and requirements addressing electronic manifest signatures. This section would include standards for the electronic signatures which may be used to authenticate electronic manifests. Electronic manifest copies would have to be signed with one of the described electronic signature methods and would have to meet the § 262.26 security standards in order to be recognized as the legal equivalent to a hand-signed paper manifest. The proposal further explains that the proposed electronic signatures would consist of either a specific type of electronic signature known as a "digital signature," or an electronically captured form of a handwritten signature, which the proposal defines as a "secure digitized signature." In connection with the proposed "digital signature" standard, section VII.F.11 of this preamble discusses options for establishing a so-called Public Key Infrastructure or PKI to support the issuance, management, and use of the digital certificates that are necessary elements of digital signature systems.

These proposed federal regulations would, however, confer no immediate right or privilege to anyone to begin using electronic manifests in ways not authorized under existing regulations. Before electronic manifesting can begin, a final regulation would need to be promulgated, and waste handlers would need to consult with their state regulatory agencies to determine if their state(s) would recognize the validity of electronic manifests. States that choose to recognize electronic manifests would need to revise their programs to include appropriate manifest automation standards. Waste handlers and state agencies that collect electronic manifests would also need to agree to send and accept electronic manifest transmissions, and would need to prepare themselves technically to initiate such programs. The effects of this regulation on state hazardous waste programs and on state authorization are discussed below in section IX. of this preamble.

D. What Impediments to Automation Would Today's Proposal Remove?

This proposal would amend several current regulations which appear to pose obstacles to implementing an automated hazardous waste manifest system. The impediments arise because the existing regulations which describe the format for the manifest and how to use it were developed nearly 15 years ago, at a time when the current capabilities in electronic commerce were not anticipated. Therefore, the existing regulations describe a specific, multi-copy paper form which must be physically carried among waste handlers, and which must be hand-signed as custody of waste shipments change. These impediments, and the revisions to them proposed in this notice, are summarized in this section of the preamble.

1. Specific Paper Form Designations

Several provisions in the current regulations require the use of specific paper forms for the manifest. Sections 260.10 and 262.20(a) each refer specifically to the use of the current federal forms, that is, EPA Form 8700–22 (the manifest) and, if needed, EPA Form 8700–22A (the continuation sheet). Today's proposal would update these form designations by clarifying that the approved standard EDI formats (ANSI ASC X12) may also be used to convey manifest data electronically. This proposal amends §§ 262.10 and 262.20(a) to add the EDI and Internet Forms formats to the designation of acceptable hazardous waste manifests.

2. "By-hand" Signature Requirements

Certain of the existing regulations appear to bar the use of anything other than a handwritten signature, that is, the traditional act of signing in which the signer uses a stylus or other writing instrument to create the signer's scripted name or other mark on the document. The current references to handwritten signatures are found in § 262.23(a)(2), which requires the generator to sign the manifest by hand and obtain the handwritten signature of the first transporter accepting the waste shipment, and in § 263.20(d)(1), which

requires the transporter to obtain the handwritten signature of the next transporter, or the designated facility. Today's proposal eliminates the restriction to only by-hand signatures, and adopts new language which recognizes that both by-hand signatures and the proposed electronic signature methods may each be used to sign manifests.

3. Physical Transmission of Manifests

Several existing provisions in the regulations suggest that the manifest may only be transmitted physically with the shipment, and the copies manually delivered to the waste handlers involved with a specific shipment. Existing § 263.20(a) states that a transporter cannot accept hazardous waste from a generator unless it is accompanied by a manifest. Sections 262.23(b) and 263.20(d)(3) also discuss the handling of the manifest, and require that the generator or transporter that is delivering the waste shipment to the next transporter or to the TSDF must keep a copy for its files, and then give the remaining paper copies to the waste handler receiving the shipment.

Today's proposal would clarify that in those instances where the electronic manifest is being used, the manifest copies may be transmitted electronically among the waste handlers, and a paper copy of the manifest would not have to be carried with the shipment during transportation if, instead, a hazardous materials "shipping paper" is carried with the shipment. The currently required practice of physically delivering copies of the manifest to waste handlers and carrying a copy of the manifest during transportation would not change for waste handlers who continue to use the conventional paper manifest.

RCRA requires EPA to promulgate regulations applicable to generators and transporters of hazardous waste, including requirements for the use of a manifest system, as necessary to protect human health and the environment (RCRA sections 3002 and 3003). As discussed previously, the manifest serves to protect human health and the environment during transportation of hazardous waste, as well as being a device that ensures that waste can be tracked from its origin to its destination site. As a form of "shipping paper," the manifest conveys essential emergency response information required during transportation, specifically, the proper shipping name, hazard class, hazardous material ID Number, and packing group for hazardous waste shipments, and phone numbers enabling responders to obtain additional information about a shipment in the event of an emergency. EPA incorporated DOT's "shipping paper" requirements into the current hazardous waste form in order to ensure the protection of human health and the environment during the transportation of hazardous waste. In addition, additional waste shipment tracking elements appear on the current manifest, including the EPA ID Numbers identifying each waste handler involved with a shipment, and space for each of the handlers to sign the manifest when they receive custody of a shipment. These manifest elements are intended to ensure that the waste can be tracked from its site of origin to its destination site. Thus, the current manifest form incorporates both DOT "shipping paper" elements to deal with the transportation hazard aspects of a waste shipment, and additional tracking elements unique to RCRA to ensure that hazardous waste shipments are designated for, and in fact arrive at, facilities permitted to handle the hazardous waste.

Today's proposal would clarify that when the electronic manifest is transmitted and signed electronically by waste handlers, a paper manifest would not have to be carried with the hazardous waste shipment during its transportation. This proposal recognizes that the waste tracking functions of the manifest system can be conducted entirely electronically, without carrying and delivering paper copies of the manifest with the shipment. In order to ensure that information about the hazardous waste shipment would be available during its transportation, the proposal would not affect DOT's requirement that a shipping paper be carried on the transportation vehicle. So, a hard copy of a shipping paper would be carried on transportation vehicles to address the transportation hazard and the needs of emergency responders. This requirement would be met under today's proposal by either a print-out of the manifest or other allowed form of DOT shipping paper (e.g., bill of lading) under 49 CFR Part 172, Subpart C. In such a case, we believe that the combination of the DOT shipping paper on the vehicle and the electronic manifest information transmitted electronically would meet all the requirements that arise under RCRA. Specifically, the DOT shipping paper would present all the critical emergency response information required about a shipment during its transportation, and the electronic manifest would preserve the waste tracking functions of the manifest. EPA requests comments on this aspect of the proposal.

4. Electronic Storage of Manifest Copies

Today's proposal also specifies when manifest copies may be stored on electronic media and meet the record retention requirements of the manifest regulations. EPA has previously issued an interpretive letter that provided guidance on this issue, but this rulemaking provides the opportunity to identify more formally the standards which would govern electronic storage.

In May 1996, Safety-Kleen Corporation approached EPA seeking clarification that the federal Subtitle C regulations would permit that company to store image files of signed manifests received at its Denton, Texas, recycling facility. The company had installed equipment at the Denton facility which would enable it to scan completed paper manifests and then store the image files of these manifests on optical disks. An automated index system was created for these manifests, and this permitted one to search for stored manifests by several data elements. The system could display retrieved manifests on the computer screen, or print them as hard copy. EPA concluded that Safety-Kleen's proposed electronic storage system would meet existing RCRA regulations for retention of manifest records. This conclusion was supported by the Agency's findings that the image files would bear the required handwritten signatures, that the electronic records would be accessible to RCRA inspectors, and that the system included back-ups and other security features that satisfied EPA that data integrity would be maintained and that the records would be trustworthy. Since announcing this interpretation in November 1996, at least 11 states have followed this policy in their authorized RCRA programs.

Today's proposed standards for electronic manifest storage would clarify that RCRA allows additional types of manifest records to be stored, beyond the paper copies, image files or facsimile copies allowed under the current regulations. The proposal would also recognize the validity of electronic copies that are signed with the required electronic signatures and maintained by computer systems that meet the technical standards and security controls set forth in proposed § 262.26. These technical standards and controls are discussed in detail below in section VII.E. of this preamble. The controls are designed to ensure the trustworthiness of the computer systems which generate and process the manifest records, so that the data stored on these electronic records may be relied upon as complete and accurate, and protected against accidental or intentional corruption, alteration, or loss. In addition to ensuring data reliability and integrity, the proposed standards would also require reasonable inspector access to the electronic records over the entire record retention period, and safeguards against repudiation. EPA believes that the proposed electronic signature requirements, taken together with the computer security controls of proposed § 262.26, provide a reasonable set of safeguards that would protect the integrity of the records and guard against repudiation by waste handlers who enter data and sign the records. These proposed standards would also afford RCRA inspectors reasonable access to electronic records for purposes of inspecting or copying facility files, or producing evidence for enforcement actions.

E. What Standard Electronic Formats Would Today's Proposal Require?

1. Overview

Sections 260.10 and 262.20(a) of the Subtitle C regulations would be amended by today's proposal to include the standard EDI format and an Internet Forms format that EPA would accept as the electronic hazardous waste manifest. The proposed EDI format is discussed in preamble section E.2. that follows immediately. Section E.3. of this preamble discusses the proposed Internet Forms format. Specific issues for which EPA requests comments are presented in preamble section E.4.

Today's proposal would require persons who choose to develop or participate in an electronic manifesting program to adhere strictly to the electronic manifest formats specified in this rulemaking. EPA has determined that in order to maintain consistency among Federal and authorized State programs, authorized States that choose to implement the electronic manifest options for waste handlers would not be permitted to require a different electronic format or to require additional information to be transmitted electronically in connection with shipments in or being offered for transportation. This is similar to the determination that EPA made with respect to the Uniform Manifest form in 1984, and the Agency believes that several of the same factors supporting our 1984 decision affect the electronic manifest. See 49 FR 10490 at 10491 (March 20, 1984). The free movement of waste shipments would be similarly burdened if transporters and TSDFs could not read or sign off on a manifested waste shipment because of incompatible electronic formats required by one or more states. Transporters entering a particular state requiring another format or additional requirements would need to incur the cost and inefficiency of acquiring additional software to support the other state's format or requirements, or face state enforcement actions if the additional formats/requirements are not supported. In addition, waste handlers called upon to support multiple State formats and differing requirements would likely need to incur the additional cost and inconvenience of acquiring and using software to convert files between the various formats supported by the states. It is conceivable that conflicts that would arise between different states' incompatible formats would actually bring waste handlers' systems down, and further delay the progress of shipments in transportation until such problems could be corrected. In addition to the confusion and burdens on the movement of waste that would result in such cases, EPA believes that non-standard formats would greatly complicate enforcement by RCRA inspectors, since inspectors would need to be trained and perhaps equipped differently to inspect manifests originating from different states. For multi-state facilities, there would likely arise the additional complexity, confusion, and cost of having to obtain software and hardware to support non-standardized manifest formats and procedures, as well as the capacity to convert files between state formats.

The above discussion focuses heavily on the interstate transportation and "free movement of waste" factors that EPA relied upon as well in 1984 when it prescribed the uniform manifest. However, with regard to the successful implementation of an electronic manifest system, EPA also believes that it is critical to recognize the inherently interstate nature of the electronic infrastructure that would need to develop to support electronic transmissions of data. That is, apart from the considerations noted above on how waste movements and transportation vehicles would be slowed or burdened by inconsistent electronic formats, there is the equally important consideration of how the interstate electronic data transmissions themselves would be hindered and burdened by inconsistent formats. The Agency's reliance on standard electronic formats is premised equally on the necessity of ensuring, for example, that an electronic manifest transmission originating with a generator in the State of New York can be readily received, read, and processed by a landfill operator in the State of Alabama, as well as by the transporters that may operate in the transit states that must be passed through en route to the destination facility. While non-uniform paper forms may entail the burden and inefficiency of needing to carry redundant paperwork, incompatible electronic formats can render the data being transmitted unreadable and useless. Additional costs and complexity would be incurred by system developers faced with having to address multiple formats. To the extent that the reliability and accuracy of the systems were to be impaired by format conflicts, the admissibility of the electronic documents in evidence during enforcement actions would similarly be impaired. Therefore, under the Part 271 authorization standards on consistency, any authorized States implementing electronic manifest programs must require only the standard electronic manifest formats promulgated in this rulemaking. Other formats would not be acceptable as a RCRA hazardous waste manifest.

2. Proposed EDI Format

This proposed rule identifies the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 standard formats for Electronic Data Interchange as the standard EDI formats acceptable for electronic manifests. These X12 standard formats (transaction sets) present specified data elements and content in a strictly standardized syntax and structure, which enables these formats to be exchanged unambiguously among different computer systems.

In analyzing the manifest process to determine an appropriate implementation of EDI, it became apparent that two distinct transactions support the tracking functions of the manifest. Initially, the manifest identifies the contents of a hazardous waste shipment as offered for transportation by the generator and received by the transporters. Upon receipt of the shipment by the TSDF, the purpose shifts to providing the generator with a record either verifying the receipt of the shipment by the TSDF, or noting any discrepancies connected with the shipment. During a meeting with industry and state agency stakeholders in April 1999, participants advised EPA that in the EDI setting, the dual functions of the manifest could be best accommodated with separate transaction sets. That is, to reduce potential confusion in the EDI setting, one transaction set should be used to

identify the contents of the shipment and track its transportation, while a distinct transaction set would be used to allow the TSDF to advise the generator of waste receipt or discrepancy information. Based on these recommendations, EPA has adapted two EDI transaction sets or formats to the manifest process. Under today's proposal, EPA would identify X12 transaction set 856 ("Ship Notice/Manifest") for the manifest's waste tracking function, and X12 transaction set 861 ("Receiving Advice/Acceptance Certificate") to carry out the manifest's verification of receipt/discrepancy function. The two transaction sets that EPA has selected for this proposal are fully capable of carrying all the data presently required on the manifest. Also, the 861 transaction set has the added benefit of allowing TSDFs to tie their comments (e.g., waste receipt, rejection or discrepancy) to a particular waste item listed on the manifest.

In order to conform the EDI transaction sets selected to the data requirements of the hazardous waste manifest, EPA developed a customized mapping or "Implementation Convention" for the 856 and 861 EDI transaction sets. As a follow-on step to the Implementation Convention development, EPA submitted the two transaction sets' Implementation Conventions to a federal review and approval process which involved public notice and comment. This approval process is managed by the Federal Electronic Data Interchange Standards Management Coordinating Committee (FESMCC), under the procedures of the Federal Information Processing Standard (FIPS PUB) 161–2, entitled "Electronic Data Interchange." All approved Federal Implementation Conventions are registered with the National Institutes of Science and Technology (NIST). The NIST registry of approved Implementation Conventions, including the hazardous waste manifest IC (856W) and the hazardous waste receipt IC (861W), is located at *http://snad.ncsl.nist.gov/fededi/3060-ic.html*. These approved federal mapping conventions would be revised to reflect any changes to manifest data elements or to designated transaction sets that result from this rulemaking. The revised ICs would then be resubmitted to the FESMCC for approval. EPA would include information on the revisions to the manifest EDI mapping conventions in a technical guidance document that would be prepared to support the final rule notice for this manifest rulemaking.

Subsequent to the adoption of revised ICs in the final manifest rulemaking, EPA may from time to time decide to adopt a new version and release of the ASC X12 standard or to modify the conventional mapping for the manifest. These modifications would address minor, technical changes to the standard, but would not alter the content of the manifest. Proposed § 262.20(a)(3)(i) includes a notification process to deal with these upgrades and modifications. After any such upgrades or modifications have been submitted to the FESMCC Committee and approved under FIPS PUB 161–2 procedures (which provides for notice and comment), EPA would then publish a **Federal Register** notice announcing this change to the implementation convention and establishing the conversion date. After the conversion date, persons using the previous EDI format and convention would have a minimum of 60 days to convert to the new version. In addition, EPA would discontinue support for the previous version no sooner than 90 calendar days after the conversion date. EPA believes that this procedure would provide for a reasonable transition and support period as the ASC X12 standards and implementation conventions are updated.

3. Proposed Internet Forms Format

a. *Background.* The standard language for presenting data on the World Wide Web—the Hyper Text Mark-up Language (HTML)—is not alone well suited for completing manifests that can be signed electronically and preserved as intact records that can be later audited or produced as evidence of completed waste transactions. While web forms are frequently encountered on web sites, the data that is entered in the form fields during a typical HTML browser session are divorced during transmission from the form prompts that elicited the data. So, only the data stream supplied by the sender is sent to the host computer. This leaves HTML transactions open to challenges, since the person submitting the data can later argue that data he or she entered were in response to a different prompt or question, or that the browser altered the appearance of the form so that certain questions were not answered or answered out of order. This type of vulnerability is referred to as a repudiation challenge, and it can be avoided if the data entered are tied unequivocally to the form elements to which they respond. Several vendors have recently developed solutions designed to generate and preserve intact web forms which include both the fields and the responsive data, and which can be signed electronically as records. This results in a much more complete and irrefutable electronic record than is obtained when responding to simple HTML web forms. These products typically are installed as browser extensions or "plug-ins," and they add executable programs or Java applets which modify the HTML language to generate the intact forms on the client computer.

EPA tested one such product during our Manifest Automation Pilot. In the 3rd phase of these pilot tests, EPA and several volunteer partners from industry and the states tested the Internet Forms technology developed by a company known as UWI.Com. (The company has recently changed its name to PureEdge, Inc.). This company's Internet Forms technology is based on a mark-up language known as the Extensible Forms Description Language (XFDL). XFDL is itself a variant of the recently developed Internet language known as Extensible Markup Language or XML.

During the pilot test, EPA developed considerable experience with UWI.Com's Internet Forms technology. The electronic manifest "forms" used in our pilot tests retained both the form structure and the manifest data, and were signed with digitized signatures using PenOp" signature software. The electronic manifest developed for our pilot with the Internet Forms technology and the Action Works Metro work flow management software also supported these features:

- Retention of all the graphical elements familiar to the paper form. The manifests could be processed (prepared, signed, transmitted, and stored) in an entirely digital manner, or printed in hard copy;
- Inclusion of numerous on-line help features and edit checks, to assist users with the process of completing the manifest accurately and quickly;
- Packaging of form structure and data together in a single file that could be easily archived and retrieved;
- Integration with workflow or work group software so that the manifests could be routed to appropriate trading partners, while complying with organizations' specific business processes and logic rules; and
- Support for mapping data directly to a variety of back-end data bases, including Oracle, Sybase, SQL Server, and ODBC-compliant data bases.

b. *What is the Extensible Markup Language (XML)?* The Extensible Markup Language or XML is a relatively new markup language that has been developed to aid the Internet exchange of documents that contain structured information. While the basic language of the World Wide Web, i.e., HTML, is itself a markup language that can deal with how the content of a document is displayed on a computer screen, XML has the additional capability of "tagging" a document's content to indicate what role the content plays.

On a more technical level, XML is defined as a series of related technical specifications that provide a syntax for identifying, exchanging, and displaying data. XML technical specifications are developed by the World Wide Web Consortium, and XML documents would facilitate data exchanges using World Wide Web transfer protocols. Its most significant attribute is its extensibility, a term which connotes the flexibility designed into XML to adapt to a variety of applications and computing environments that need to exchange and manipulate data. XML is not bound by rigid semantics, and it provides program developers with the alphabet and tools to define document element tags as they see fit, and to define the structural relationships between these tags.

XML has recently emerged as the *de facto* method for defining business data for the business to business Internet exchange of data and for commerce on the Web. Recent releases of commercially distributed web browsers, as well as several major commercial data base applications, now support XML specifications. Many information technology experts believe that XML would ultimately become the tool that would extend the benefits of EDI—exchanging routine business data in a structured but technology neutral manner—to web-based electronic commerce. The hope is that XML would make electronic commerce more cost-effective and accessible. XML can take advantage of the openness of the Internet and Web architecture, while perhaps offering lower costs than those currently associated with EDI software and VAN transmission fees.

However, XML has only recently captured significant attention among application developers, and it is still a maturing technology. One of the greatest challenges confronting the success of XML is the current lack of consensus on developing business standards for using the XML specifications. Without some agreement on how data element tags and their relationships would be defined for different business transactions, there is the potential for much fragmentation and chaos in the use of XML. In addition, government and international standards bodies generally are only beginning to examine the possibilities for using XML applications to support reporting data to government web sites. Recently, the United Nations Center for Facilitation of Administration, Commerce and Trade (UN/CEFACT), the international equivalent to the ASC X12 Committee, has chartered a work group to research and identify the technical basis upon which the global implementation of XML can be standardized. Specific subcommittees within the ASC X12, including the transportation committee that oversees transaction set 856, are now in the process of defining XML Document Type Definitions (DTDs) for the various X12 transaction sets.

The use of XML entails agreement on the so-called DTDs and "schema" that would define for different transactions the agreed document structures, the agreed tag identifiers and relationships, agreed data elements and document contents, and agreed exchange requirements. It is EPA's objective to develop in this rulemaking an XML-based manifest format that would establish a standard method for displaying and exchanging manifest data with XML enabled browsers and data base software. Therefore, in addition to the EDI formats discussed above, EPA is proposing an XML-based approach for preparing and transmitting manifests on the Internet. EPA has developed a draft for comment of the Document Type Definition (DTD) that would be used for transmitting the manifest data in the XML language. The draft DTD appears in Appendix A to this preamble. The XML-based manifest would capture and record the same waste shipment data as the paper form and the EDI formats, and would have functionality similar to EDI. The draft DTD for the manifest is set forth in detail in Appendix A to this preamble. EPA requests comment on the XML-based Internet Form manifest and the draft DTD that we are proposing today.

4. What Comments Would Be Helpful To EPA?

EPA requests comments on the proposal's electronic data interchange (EDI) standard and the proposal to include an XML-based Internet Forms approach for the manifest. EPA solicits specific comments on the following issues.

a. *Are the proposed EDI transaction sets appropriate?* EPA requests comment on the proposal to use both X–12 transaction set 856 (the Ship Notice/Manifest) and transaction set 861 (Receipt and Advice) to convey all the waste shipment tracking information required by the hazardous waste manifest. Are there significant business, technical, or practical issues that might arise from recording shipment tracking information with two transaction sets, rather than collecting the information on one format? Would the proposed two transaction set approach complicate the ability to retrieve, reconstruct, and inspect all the information about a waste shipment after it has been filed? Also, is EPA on target with its choice of transaction sets? Are there other business data that the regulated community would like to be able to transmit with data required by the manifest, and should our choice of transaction sets and implementation conventions be revised to reflect this?

b. *Is an XML approach feasible?* EPA acknowledges that XML is a relatively new technology, and that industry standards are generally lacking or only emerging in this field of electronic commerce. Is it feasible for EPA to develop a Document Type Definition in this rulemaking that would "standardize" the XML usage with respect to the manifest, or is this not an appropriate role for EPA? Would the specification of a DTD accomplish our objectives of ensuring free data exchange and interoperability between XML-enabled systems? Is XML a sufficiently stable technology to support EPA's purposes?

c. *Are there alternative formats that EPA should consider?* This proposal would adopt ASC X12 EDI formats (the X12 856 and 861 transaction sets) and their implementation conventions as an EDI standard for electronic manifesting. Alternatively, the Internet Forms approach based on the proposed XML Document Type Definition could be used by those wishing to use a non-EDI solution for transmitting manifests on the Web. EPA selected these standards because they represent technology-neutral approaches that could be supported by many vendors' products, and because they are mappable to and can integrate with existing data systems.

EPA solicits comment on the merits of the two optional electronic manifest approaches proposed today relative to other available options. The Agency recognizes that there are many attractive "smart form" types of software products and other systems available that could be adapted to an electronic manifest. The major shortcoming of these products, in EPA's view, is that they typically are designed around a specific vendor's proprietary product. Thus, the allowance of numerous proprietary formats would likely hamper the free exchange of manifest data and the interoperability of electronic manifesting systems. A variety of proprietary solutions could have the result of fragmenting the market among several incompatible formats, and actually might hamper the acceptance of electronic manifests. Nevertheless, EPA

requests comment on whether other formats should also be recognized, and if so, how the Agency might minimize the conflict between different formats.

d. *Should EPA Address Internet EDI Distinctly?* EPA has not included any distinct content in the proposal to address EDI conducted over the Internet, such as "Web EDI" or EDI transmitted over the Internet by secure E-mail technology. The proposal assumes that Internet EDI (i.e., transmitting EDI transaction sets via the Internet) using the EDI formats proposed in § 262.20(a)(4) would be an option available to those wishing to conduct electronic manifesting on the Internet, in addition to the Internet Forms standard proposed in § 262.20(a)(5). In other words, with Internet EDI, the same EDI transactions sets (ANSI X12 856 and 861) would be used to transmit manifest data, but the Internet would replace Value Added Networks as the delivery mechanism. In this proposal, we are distinguishing Internet EDI from the Internet Forms approach, which does not use ANSI X12 transaction sets to exchange data.

Several products are now emerging on the Internet that would perform so-called "Web EDI." With Web EDI, data entered at the client computer in Hypertext Mark-up Language (HTML) is converted at the server hosting the Web EDI service to X12 standards and transmitted to other trading partners as EDI files. Once received in X12 format, the recipient can then map the incoming information to its specific data base application. The "Web EDI" products that are coming on-line require some initial configuration by the user, but beyond the requirement of browser software, there is no need for local installation of EDI translation software. These services typically charge a small sign-up fee, and charge a transmission fee per transaction.

Should EPA support the availability of both the Internet EDI and Internet Forms methods as options for those who would conduct waste manifesting on the Internet, or, should EPA restrict Internet users to one or the other approach? Does EPA need to require the use of a VAN for EDI transactions, or, could a less expensive Internet-based means of transmitting EDI data (e.g., E-mail or File Transport Protocol) be allowed, provided that companies implementing this approach follow Internet Engineering Task Force (IETF) recommendations (e.g., use third party ISPs and deploy security to protect such transmissions from interception)? See Requirements for Inter-operable Internet EDI, EDIINT Working Group of the IETF, July 8, 1997. Are other controls beyond those referenced in the IETF working document necessary to ensure that Internet EDI is as secure and auditable as traditional EDI conducted on a VAN?

Also, if web sites hosting translation services receive manifest data inputted from a browser, and translate it to an EDI compliant format, how would signatures be applied to these documents? Is it the HTML document or the X12 document that would be signed? Would the translation at the server complicate the verifiability of any digital signatures? Can "Web EDI" meet all of this proposal's requirements for authentication, data integrity, security and non-repudiation? Comments responding to these questions would be very helpful to EPA.

F. What Electronic Record System Controls and Procedures Would This Proposal Require?

The proposal would specify at § 262.26 a minimal set of controls and procedures applicable to computer systems that would prepare and process electronic manifests. The Agency believes that these system controls, when combined with the requirement that electronic manifest copies be signed with secure types of electronic signatures, would assure users and regulators of the authenticity and integrity of electronic manifest records. Specifically, EPA believes that the proposed electronic signature requirements and computer security controls address the following 5 key concerns that have been brought to the Agency's attention as critical to the reliability and enforceability of electronic documents.

i. *Identity.* The proposed controls would assist in demonstrating who affixed their signature to the document. Specifically, such controls as access checks, audit trails, signature agreements, and/or signature verification processes should be helpful to prevent unauthorized use of electronic signatures.

ii. *Intent.* The proposed security provisions would assist in showing that the signor acted with the required intent to adopt the document being signed or to be bound by its contents. This may also involve a showing that the signor understood the significance of the signature act, so that he or she cannot later repudiate their signature as unintended or mistaken. Signature procedures that include warnings about the consequences of affixing a signature, and an opportunity to review and verify the data presented for signature, should aid in demonstrating the requisite intent.

iii. *Tamper-resistance.* The proposed security provisions would also assist in demonstrating that a document was not altered after signature, since the ability to alter data after signature would permit the signor to later repudiate a document as different from the one that he or she actually signed. Signature methods that use encryption processes to inextricably bind the signature to the data signed can safeguard electronic documents from subsequent alteration, as can system audit checks that would disclose any changes to a record, or attempts to change a record.

iv. *Availability.* Copies of electronic manifests should be maintained in such a manner as to be accessible throughout the record retention period. System controls which require the retention of information on software and hardware versions used to create archived records, as well as requirements to retain and maintain previous versions of software, hardware, and system documentation, should ensure that this capability is not compromised.

v. *Interoperability and error detection.* Systems that would exchange electronic manifests should be interoperable, so that data are accurately and reliably processed, signatures verified, and security features necessary to data integrity maintained throughout the exchange of the electronic documents. In addition, electronic systems should be able to detect errors (i.e., altered/corrupt data or invalid signatures), so that invalid records can be flagged and corrected. System security controls, validation requirements, signature verification requirements, and requirements to respond to detected errors and invalid signatures can minimize the possibility of invalid documents being passed by electronic systems.

1. Validation of System Performance and Training

EPA expects that waste handlers would be able to select from numerous hardware and software configurations when establishing their electronic manifesting systems. Such systems may involve a combination of database software, EDI translator or Internet browser software and related plug-ins, work flow management software, operating system software, electronic signature software, communications software, and the related hardware that is involved in creating, processing, viewing, printing, and transmitting files. The Agency also expects that these automated systems may consist of both customized systems designed by or for the waste handler company, and "off-the-shelf" solutions developed by commercial vendors that market products designed specifically for tracking hazardous wastes. In any case, the proposed rule would require that waste handlers establishing electronic manifest systems validate their systems, that is ensure that all the system components (including security features) operate together properly, that system performance ensures accuracy, reliability, and consistent, intended performance, that components are fully interoperable throughout the system, and that the system can meet the computer security requirements of this section and good security practices common to trusted electronic commerce systems, and that appropriate precautions have been taken to ensure that these security measures cannot be avoided or defeated. EPA believes that validation of automated systems is essential to establishing the reliability of such systems and the accuracy of the data they generate.

EPA is also proposing that the system validation would be performed and certified to by an independent third-party with expertise in information systems and their security. EPA is concerned that neither the waste companies developing or acquiring such systems nor the EPA or State RCRA inspectors that would inspect facilities for compliance with RCRA regulations would possess the requisite skills or expertise to validate electronic manifest systems. In addition, the use of an independent and qualified information systems professional should ensure that there has been an objective assessment made of the system's security features. Since the trustworthiness and utility of electronic records and systems would depend heavily on the performance and success of this validation step, EPA is proposing that the qualified systems professional would prepare a written assessment with a certification statement attesting to the system's performance. This written assessment and certification statement would need to be maintained among the facility's records, and made available on request during any EPA or State inspection. Under this proposal, for an electronic system to be validated, the qualified professional would need to certify that the system generates and processes data accurately and reliably, that the system performs consistently and as intended, that the system's hardware and software are fully interoperable with the hardware and software of any other systems with which manifests would be exchanged, that the system is designed and can be operated to meet all the security requirements of this rule and good security practices common to trusted electronic data exchange systems, and that appropriate precautions have been taken to ensure that these security measures cannot be avoided or defeated.

EPA requests comment on the proposed requirement for an independent written assessment of electronic manifest systems. Would validation be more objective and helpful if performed by independent information systems professionals, or would this add unnecessary burdens to the validation procedure? With respect to the system assessments, has EPA proposed a reasonable set of criteria, or, are there other information systems audit criteria and good security practices that we should require to be included in the assessment and certification? With respect to the independent systems professionals, is there some credential, training, licensing or other qualification that EPA should identify in the rule to ensure that only qualified individuals perform these validation assessments? EPA also requests comment on alternatives to independent third-party validation of systems. Should EPA require that software be developed by companies independent of the waste handlers that would use the systems? In the case of systems developed independently of waste handlers, and systems using "off-the-shelf" products, would third-party validation be necessary? Answers to these questions would be very helpful to the Agency.

2. The Ability to Generate Accurate and Complete Records Available for Inspection

As an additional control on electronic manifest systems, this proposal would require that waste handlers' systems have the ability to generate accurate and complete records in both electronic and human readable formats, and which are suitable for and readily available for inspection and copying. In most instances, facilities would retain their electronic records in the electronic formats in which they were created and signed. However, during the course of RCRA inspection, federal or state inspectors may wish to have a human readable copy generated that they may inspect, copy, print, or remove from the facility. Thus, the system must have the capability of generating a readable copy, as well as the electronic copy that is electronically signed and retained as the facility record for the 3-year retention period required in these regulations. In either case, the system records must accurately and completely depict all the information that was entered on the record when it was created.

EPA emphasizes that the electronic formats of records must be available for inspection; it is not sufficient to offer the inspector access only to paper copies generated by the system. Access to electronic records may be vital, since the electronic records may often be the format that would bear the electronic signatures that would authenticate the document and enable the inspector to verify that the document has not been altered. These electronic records may also bear the metadata or audit trail information which may have direct bearing on the trustworthiness and reliability of the record. The signed, electronic copies may also be the format required as evidence in any adjudicatory proceeding in which the data on an electronic manifest are relevant to a disputed issue. In addition, RCRA inspectors would be able to conduct much more efficient inspections of the electronic records than of paper copies. EPA and the states should be able to use efficient, computerized methods to search electronic records and detect trends, inconsistent or erroneous information, possible violations, or other problem areas.

The inspector access required by this proposal must be reasonable access, consistent with section 3007(a) of the RCRA statute. Section 3007(a) of the Act states that any person who generates, stores, treats, disposes, transports, or otherwise handles hazardous wastes must permit inspectors at all reasonable times to have access to and to copy all records relating to their hazardous wastes. EPA understands that RCRA inspectors would lack familiarity with all the possible software that may be used to store, index, and access electronic records. However, the use of electronic record storage systems must not be allowed to become a barrier to inspector access to manifest records. Therefore, facilities should have a knowledgeable person on the premises who can assist the RCRA inspector with the operation of the software that searches and accesses stored manifest records. The indexes or search engines used to search and access these records should be designed with a reasonably intuitive user interface, so that the RCRA inspector can, after a brief orientation session, effectively operate the system, select relevant search parameters, find responsive records, and validate electronic signatures on these records. Nevertheless, the use of new technologies compels the result that access to records may generally require

instruction from and the cooperation of the facilities undergoing inspection.

The requirement to retain electronic manifest records for inspection over several years does raise an issue about maintaining the ability to authenticate these records. For example, with electronic documents that are digitally signed, this requires the digital signature to be verified and the signer's digital certificate to be validated as of the time of the signature. Is the long-term validation of such signatures feasible, given the costs and technical challenges of maintaining a long-term capability to validate digital certificates? Are there practical ways to ensure long-term enforcement capability and liability protection for companies using manifests without imposing the burden and cost of indefinite signature validation mechanisms?

3. The Ability To Protect Records

As a third control on electronic manifest systems, the proposal would require that these systems be designed and operated so that they protect electronic records from damage or alteration, and ensure their accurate and ready retrieval during the entire record retention period. The RCRA regulations generally require that manifest records be retained for a 3-year period.

This control entails more than controlling access to data and audit trail protections against erasures and alterations caused by accident, vandalism, fraud, or sabotage; it also requires that systems and storage media be protected against possible physical causes of damage, such as contact with heat, fire, magnetism, water, etc. The system must also create secure back-up copies of records or otherwise provide for data recovery in the event of damage, errors, or a disaster.

The proposed requirements that records be protected and remain accessible throughout the record retention period imposes additional obligations with respect to system upgrades and revisions. As system upgrades are implemented, it is possible that the newer hardware and software may not be able to read or process files created with earlier versions of software or hardware. Therefore, facilities must either convert their files so that they can be accessed by the upgraded system, or, retain adequate hardware and software to ensure that electronic manifests remain accessible throughout the document retention period. Facilities should also retain information on which software version was used to create their records.

EPA has not specified in this proposal any particular storage media for retaining manifest records. Concerns have been expressed that such records should be retained on a more permanent medium, such as a CD–ROM. The Agency requests comments on the appropriateness and feasibility of a requirement that manifest records be periodically archived on a write-once, read-many medium.

4. The Ability To Limit System Access and Conduct Authority Checks

Authority checks are security devices that grant access to a system or to specific data only when an individual seeking access can establish (typically, by entering a User ID or password when prompted) that their access has been authorized. Access controls and authority checks form the first line of defense of record authenticity and integrity, since they support user identification and authentication. The proposed rule would require that electronic manifest systems be designed and operated with controls (e.g., User ID's and passwords) that limit system access to only authorized individuals, that is, individuals who are authorized to act for and bind the organization in creating, signing, or processing manifests. The integrity of an electronic records system would be readily assailable if unauthorized individuals could enter the system, override security measures, and thereby read or alter records that they are not authorized to see or manipulate. Uncontrolled access could leave a system vulnerable to sabotage or industrial espionage, and open up opportunities for signers to repudiate the genuineness of signed records. Therefore, basic system access controls must be included in every electronic manifest system. Such controls would include assurances that:

- Unique identifiers (e.g., User IDs) are assigned to each authorized person, and the identifiers assigned uniquely identify the user to the system, so that the system can authenticate the user, and ensure individual accountability;
- User authority is defined, and users' access is limited to data required to perform job tasks or other user needs;
- Procedures are in place for User ID and password administration and termination;
- The system enforces secure password procedures and access controls;
- Access and authentication policies and procedures are documented, shared with users, and reviewed periodically; and
- Auditable logs are retained of log-on attempts, and log-on failures or rejections.

The proposed rule would also require authority challenges and other checks to be included at critical points in the system, to ensure that only authorized individuals can use the system, sign records, access input or output devices, alter a record, or perform other discrete system operations. Keeping these functions confined to authorized persons is essential to protecting the integrity of records and ensuring record accuracy and reliability. While EPA believes that the inclusion of such authority checks is fundamental, it would be up to each organization to determine the nature, scope, and mechanisms for performing these checks.

5. Use of Secure Audit Trails

Because it is important to know that electronic records remain complete and accurate during their entire retention period, the proposed rule would also require audit trail controls to be implemented. In this regard, the proposal would require the use of secure, computer-generated, time-stamped audit trails to independently record the date and time of operator entries and actions that create, modify, or delete any electronic records. This control would require that a complete and accurate history of each record be retained, and would preclude modifications that would overwrite or obscure previously recorded information. In other words, the secure, computer-generated audit trail would provide a lasting record of who did what to a record, and when it was done. These audit trail records shall be retained for the same period of time (generally 3 years) as the electronic manifest records, and they shall be made available for inspection upon the request of a RCRA inspector. The audit trail information may be retained as a part of the electronic manifest record, or as a separate record.

The Agency emphasizes the need for strict objectivity in recording audit trail information such as date and time stamps. Therefore, EPA believes that it is vital that this audit trail information be created automatically by the computer system, independently of system operators. Also, the requirement that audit trails be secure means that operators shall not have the ability to either write or modify this data. The history of the record must be preserved, and individual accountability for record integrity maintained.

6. Software-Based Work Flow Controls and Operational System Checks

A key component of a secure and reliable electronic manifest system would be work flow management software that implements the logic rules and process underlying the manifest. During our Manifest Automation Pilot tests, EPA gained special appreciation for the significance of these software-based controls. The manifest work flow is very complex; the manifest must be routed among generators, transporters, and waste management facilities in the proper sequence, and specific data must be entered by specific waste handlers (and signatures applied) at specific points in the circulation of the manifest. Multiple copies must also be distributed at appropriate times. Unlike the current paper manifest, copies of the electronic manifest may not physically accompany and be passed with the waste itself. Therefore, it is essential that an electronic system not leave the routing of the manifest and its proper execution to chance.

To ensure the reliability of the electronic manifest, EPA is proposing that electronic systems be designed with software-based work flow controls and operational system checks to oversee the work flow process. This work flow management software would ensure that the electronic manifest is routed to all waste handlers in the proper sequence, that waste handlers are prompted to sign manifests electronically in the proper sequence and on the appropriate signature blocks, that data entered by previous waste handlers cannot be altered once the previous handler has signed the document, and that the appropriate signed copies of the manifest are distributed to each waste handler involved with a shipment.

Another possible work flow and operational check would address an electronic manifest system's response to invalid signatures. The proposal would require that electronic signatures (digital signatures and secure digitized signatures) be capable of being verified. Both of these signature methods include document binding features (e.g., encrypted hash function or checksums) which enable the recipient to verify that a document has not been altered or corrupted since it was signed. What should be the appropriate system response when an invalid signature is detected? Should EPA include in the work flow controls a requirement that users be alerted to an improperly signed manifest and that the software block further use or transmission of an invalid electronic manifest until it has been replaced with a valid manifest for which the electronic signature can be verified? Alternatively, should the system be designed only to detect invalid signatures and alert the recipient to the requirement to obtain a valid manifest before proceeding? In the latter case, the manifest use regulations could be revised to make it absolutely clear that one may not use an electronic manifest shown to be invalid, but the electronic system would not itself block the use. EPA requests comments on these alternatives, and whether the final rule should include one or the other of these additional work flow controls.

7. Software-Based Data Presentation Features and Signature Prompts

Today's proposal includes two distinct electronic manifest formats, the proposed EDI format and the proposed Internet Form manifest in the XML language. While the Internet Form approach would typically present manifest data in a human readable form that looks like the paper form, the proposed EDI format includes codes and headings that may complicate the viewing of the embedded manifest data. This could be a concern, if the result were that a user wishing to sign the EDI manifest could not readily recognize and verify the data entered prior to signing the document. EPA believes that it is important to the accuracy and trustworthiness of electronic records that those using the EDI formats to satisfy regulatory requirements have a meaningful opportunity to verify data before applying their electronic signatures. Therefore, EPA is proposing that systems using the EDI formats must be able to display the manifest data to those signing manifests in a human readable format that permits the user to readily verify the entered manifest data prior to applying a signature. In practice, this would require that the data be displayed for the signor with the form's predetermined field labels, so that there could be little doubt that the data entered relates to a specific data field of the manifest. EPA requests comment on the feasibility of including these data presentation and verification features as system design requirements, particularly with respect to EDI systems. Typically, EDI systems are designed to minimize human involvement in data exchanges between automated systems. However, when an EDI system is used in a business process such as the completion of manifests, the affixing of electronic signatures is by nature an interactive process. Today's proposal would only require that the data presentation presented to the signor at the time of signature include the human readable display with the field labels. The proposal would not require these display features to be included as a part of the EDI document itself, which would, of course, comply with ANSI X12 structure and syntax requirements.

Moreover, there is a concern that electronic signature methods that deviate significantly from the traditional signature ceremony may not seem as formal or "official" as conventional handwritten signatures. For example, a digital signature may be executed by a mouse click on an item displayed on the computer screen. Therefore, EPA is proposing that electronic manifest systems display a warning message when users are prompted to electronically sign manifests. The warning should appear clearly and conspicuously, and should advise the signer that their electronic signature constitutes a signature for all legal purposes. This message would also remind the signer of the possible civil and criminal sanctions for the misuse of an electronic signature. For digital signatures, the warning message would remind signers that digital signatures can only be used by the person identified as the subscriber in the digital certificate, and that the right to use one's private key to execute digital signatures cannot be delegated to another. The proposed form of the signature prompt warnings is set out at proposed § 262.26(c)(7). EPA requests comment whether these warnings should be displayed for all electronic manifest systems. For example, the "secure digitized signature" method discussed later in this preamble would require the signer to execute their hand signature on a digitizer pad. Is it necessary to display the proposed warning messages for this method of signature, or should the warnings be included only in systems that incorporate the digital signature method, which does not involve a conventional signing ceremony? Also, for digital signature systems, should a warning be displayed prior to executing each signature, or could the same warning be conveyed more effectively at the time a user receives a digital certificate?

8. Full Interoperability of System Software

The quality and reliability of electronic manifest systems and data depend heavily on system developers using software that consistently supports and executes the standard electronic formats, electronic signatures and their verification, the work flow processes that ensure that manifests are routed, signed, and copied appropriately, and the audit trail and other security features of proposed § 262.26. If the software used within an entity, or between entities that exchange manifests, cannot consistently implement these features, then the

reliability and integrity of electronic manifests would be impaired. Therefore, EPA is proposing today that electronic manifests systems shall be designed and tested to ensure full interoperability of the software components, so that the above features are supported and executed consistently throughout the period that a manifest record resides on a system or is exchanged among waste handlers participating in an electronic system. If a person or entity wishes to exchange electronic manifests with another's system, the other system's software must also be fully interoperable with the software of the first system. EPA cannot designate a particular software configuration or specific vendors' products as required or recommended to meet the standards proposed today. However, consistent implementation and software interoperability are essential requirements for trustworthy electronic systems, and system software must be tested and validated for such performance as a part of the system validation assessment that would be required under proposed § 262.26(c)(1). One may not exchange manifests between system components, or between other systems, if interoperability and consistent performance have not been assured. EPA requests comments on this proposal.

Some have suggested that EPA should do more to ensure the quality, reliability, and interoperability of the software that entities adopt to implement the electronic manifest. Apart from the system validation assessments discussed above, there is a concern that available software components that companies might select for their systems should be evaluated more closely at the outset (i.e., prior to its being available for use in a manifest system) to ensure that it is properly designed and shown to be able to meet this rule's security and other performance standards. If software is not closely evaluated for quality, reliability, and interoperability, greater risks might arise that software used by different entities (or even within the same entity) would not perform consistently. Thus, the risks become greater that a software product on one system would be unable to prevent or detect data alteration or corruption, unable to recognize the processes used by other software to validate signatures or to bind signatures to record content, unable to route manifests correctly, and unable to maintain auditability of transaction events. Similarly, if software is not evaluated closely for quality and performance, there is the risk that software may include unnoticed flaws that undermine its security features. Such flaws could later be seized upon by those challenging the accuracy of electronic data, and could be a basis for invalidating manifests that were processed using the defective software.

While EPA believes that the system validation and certification requirements proposed above can diminish these risks, EPA requests comment on whether additional software evaluation mechanisms are necessary. If additional measures are warranted, how would they be structured and implemented? How would such additional evaluation measures enable EPA to ensure that the criteria of this rule are being met and applied consistently? What would be the benefits and adverse consequences of establishing additional evaluation steps?

A separate issue relates to how EPA and the States can know that new electronic manifest systems are being implemented. EPA is taking comment on one additional measure, which would require system sponsors to notify EPA on a one-time basis that they have developed and would be implementing an electronic manifest system. With such information, EPA would be able to gauge the timing and scope of the use of electronic manifests, aiding the Agency's training and outreach efforts and providing the basis for future data collections to evaluate electronic manifests. Notification would not be required from every waste handler using such a system, but only from the entity sponsoring or operating the electronic manifest system. EPA requests comments on whether such a one-time notification requirement would act as a disincentive to the adoption of electronic manifests.

9. Controls Over System Documentation

Errors in conducting system procedures and system maintenance are likely to occur unless controls are applied to the systems documentation that describes how a system operates or is maintained, including standard operating procedures. System documentation should fully and accurately describe the procedural controls employed in creating and maintaining records, and account for each link in the chain of events that produce records and preserve their integrity. This proposal would require the establishment of controls over this system documentation, including adequate controls over the distribution of, access to, and use of the documentation. This requirement would extend to revision and change control procedures as well.

10. Policies Holding Individuals Accountable

Any falsification of a signature or record is a serious matter, regardless of whether the falsification occurs with a paper or electronic record. In this regard, EPA emphasizes that the falsification of an electronic signature or the making of false representations in connection with an electronic manifest would be punishable by law and would carry the same penalties as similar acts done with paper manifests and ink signatures. Under RCRA Section 3008(d)(3), for example, any person who knowingly omits material information or makes false material statements or representations in any manifest, record, or other document prepared for purposes of compliance with RCRA regulations may be subject, upon conviction, to criminal sanctions that may include a fine of not more than $50,000 for each day of violation, or, imprisonment not to exceed two years, or both. In addition, 18 U.S.C. 1001 states more generally that false, fictitious or fraudulent statements or representations to the government may subject a person to criminal penalties.

Despite these strong sanctions that are well understood in the paper environment, there may be a perception that electronic signatures are less formal than handwritten signatures, and this may cause some to believe that errors or falsifications associated with their use are not as serious as errors or falsifications in signing paper records. Therefore, the proposed rule would require organizations using electronically signed electronic manifests to establish and adhere to written policies that hold individuals accountable and responsible for actions initiated under their electronic signatures. These policies are intended as a further deterrent of record and signature falsification. The individual employees who are subject to such policies would better understand the seriousness and consequences of signature or record falsification. Of course, a broad range of disciplinary measures would be available to organizations under their written policies, and organizations should have appropriate discretion to tailor their disciplinary actions so that they provide reasonable sanctions that address the level of employee complicity and intent, while deterring the more serious acts. The intent is that such policies would be implemented and enforced in a way that promotes a strong security environment.

In addition, EPA believes that the proposed digital signature and secure digitized signature methods discussed in section VII.H. of this preamble provide a reasonable basis for applying strict accountability policies. Digital signatures are not trustworthy if the "private key" of the signer is compromised. The compromise of a private key would likely involve either the complicity of or serious negligence of the owner of the key, such as allowing access to one's smartcard or hard disk where the private key is kept, along with the password or PIN necessary to use the private key. Likewise, one should be accountable if they allow others access to their signing devices (e.g., a digitizer pad) in such a way as to provide them the opportunity to "forge" an electronic signature.

EPA requests comments on this proposed set of system controls and procedures. Do these measures define an adequate computer security program that would ensure data integrity and record authenticity? Do these proposed controls provide sufficient flexibility? Can these controls be incorporated practically into commercially available products, and included in waste handlers' operations? How might EPA improve on these controls to make them more understandable and easier to implement?

11. Other System Requirements

In addition to the security and operational controls discussed above, today's proposal also includes several definitions of terms that are intended to provide greater certainty insofar as when an electronic manifest transmission has been received, and when there may be an obligation to retransmit an electronic manifest. Proposed § 262.26(e) would define an electronic manifest to be received by the recipient when it is accessible to the recipient in a format that the recipient can read. Should a recipient receive an unreadable transmission, or one bearing evidence of data corruption (e.g., garbled text or hash functions that do not calculate correctly), he or she would be required to request that the sender re-transmit a proper copy. Moreover, proposed paragraphs (f) and (g) of § 262.26 would aid the sender in establishing the fact of receipt by the recipient. § 262.26(f) would require recipient's systems to send promptly (typically, an automated, immediate response) an acknowledgment of receipt to the sender to acknowledge that a readable record was received by the recipient's system. According to proposed § 262.26(g), the acknowledgment of receipt from the recipient would establish conclusively the fact of receipt and the date of receipt. These proposals should provide assurances to the sender that their electronic transmissions were received in good order, and minimize the possibility of repudiation of the fact of receipt at a later date. Finally, proposed § 262.26(h) would create an obligation on the part of the sender to re-transmit an electronic manifest for which a positive acknowledgment of receipt was not received by the sender within 12 hours of the original transmission, while proposed § 262.26(i) would clarify that the inability of one to transmit a valid electronic manifest does not excuse that person from the obligation to initiate a hazardous waste manifest for their shipment. If a system is not operating properly and would not transmit valid manifests, the person responsible for providing a manifest must then use a paper manifest to accompany and track the progress of the waste shipment.

Similar proposals regarding receipt, acknowledgment of receipt, establishing date of receipt, retransmission, and inability to transmit are included for transporters and TSDFs. The similar transporter proposals are included at proposed § 263.23(d)–(g), while the proposed provisions applicable to facilities are set out at proposed §§ 264.78(f)–(j) and 265.78 (f)–(j). EPA requests comment on the appropriateness of these proposed terms, and whether they would meet our objective of establishing with certainty when electronic manifests are received and when they must be re-transmitted or replaced.

G. EPA's Proposed Electronic Signature Standard

1. Why Are Signatures Important to the Manifest?

A significant issue in this rulemaking is the designation of an electronic signature method that would be at least as secure and trustworthy as the conventional handwritten signature that has been in use for hundreds of years to authenticate paper documents. As a general matter, a signature is used to bind an individual signer uniquely to the text of a signed document, so that the source of the document can be clearly established, and so that the signer cannot later repudiate the transaction. Thus, signatures aid the authentication of a document.

In the context of the hazardous waste manifest, signatures also play more specific roles. The required manifest signatures are used to support certifications by waste handlers to specific facts, and more generally, to show the change of custody of waste shipments during their transportation to off-site treatment, storage, or disposal facilities. The hazardous waste generator initiates the manifest with its signature certifying that the contents of the shipment are fully and accurately described on the manifest by proper shipping name, that the contents are properly classified, packed, marked, and labeled, and that the shipment has been prepared properly for highway transportation. When the shipment arrives at the designated waste management facility, the TSDF signs the manifest as well, and this signature acts as its acknowledgment of the receipt of the shipment, except as specifically noted in the discrepancy space (current Block 19) of the manifest. In addition, as hazardous waste transporters accept custody of the shipment, they also sign off on the manifest form in the designated transporter blocks, and thus acknowledge with their signatures that they have received the materials.

Since the inception of the manifest in 1980, EPA's manifest regulations have required the hand-signed signatures of waste handlers to demonstrate the chain of custody, and to certify that the shipment was prepared properly by the generator or received by the TSDF. During public meetings conducted by EPA in December 1997 and January 1998, nearly all stakeholders attending voiced their support for retaining the role of signatures in the manifest. EPA believes that signatures are an effective means of demonstrating custody and acknowledging accountability. Therefore, this proposal would retain the role of manifest signatures, while authorizing the use of certain electronic signatures in automated systems.

2. What Are the Concerns With Electronic Signatures?

Hand-signed signatures are not perfect, and it is not uncommon for handwritten signatures to be the subject of crude or sophisticated forgery attempts. Nevertheless, the characteristic signature of each individual is an attribute that follows the individual and identifies him or her fairly uniquely to those who are familiar with and can recognize such a signature. When disputes arise, the courts are also familiar with the methods for using hand-signed records as evidence, and the types of expert testimony that can help resolve issues surrounding a disputed signature.

Electronic signatures are relatively new, and there are numerous technologies which purport to provide signature solutions that equal or exceed the level of assurance provided by

handwritten signatures. The technologies tend to be complex, and there is some concern that these technologies have not undergone the kind of review which conventional handwritten signatures have over many centuries of use.

The Agency understands the basis for this concern, and believes that over time, experience with the available signature methods would mitigate much of the concern. EPA believes that the electronic signature approaches proposed today can be made reliable and verifiable, so that they would identify individual signers of manifests to a very high legal and technical standard.

3. How Does Today's Proposal Address Electronic Signatures?

Today's proposal would require that electronic manifests be electronically signed with either a "digital signature" or a "secure digitized signature." The proposal clarifies that electronic manifest copies bearing proper electronic signatures are the legal equivalent of paper manifests bearing handwritten signatures, insofar as meeting any requirement in these regulations to sign a manifest, to use a manifest, or to retain a copy of a manifest as a record.

The proposed amendments recognizing electronically signed manifests are found in proposed § 262.25, entitled Manifest Electronic Signatures, and in proposed § 262.26, which addresses electronic manifest systems and their security. These new provisions would together clarify that a manifest may be signed by either affixing a handwritten signature to a manifest form, or by signing an electronic manifest with a digital signature or secure digitized signature. Each mode of signature would be a valid method for a signer to authenticate the manifest. In this context, the term "authenticate" means simply that the signer is acknowledging that he or she is the source of the document that is signed, and that he or she approves or adopts the statements to which the signature relates. For electronic copies, § 262.26(a) states that electronic copies which are initiated and stored in computer systems which meet the § 262.26(c) procedures and controls, and which are electronically signed with signatures that meet the proposed § 262.25 electronic signature standards, may be used in lieu of hand-signed paper manifest copies to meet the manifest initiation, use, and retention requirements in the RCRA regulations.

Proposed § 262.25 includes at § 262.25(a) a definition of "electronic signature." This term is defined generally to mean a method of signing an electronic document with a computer generated symbol or series of symbols in a way that indicates that a particular person as the source of the document, and indicates such person's approval of the content of the document, or an intent to be bound by the document. While this definition is technology neutral, paragraphs (b) through (f) would clarify that electronic manifests must be signed with one of two types of electronic signatures, the "digital" signature method proposed in § 262.25(c)–(f), or, the "secure digitized signature method" proposed in § 262.25(g). Proposed § 262.25(h) would establish a rebuttable legal presumption that may be of evidentiary value in adjudications that might arise surrounding electronically signed manifests. Under this proposal, proof that a particular individual's electronic signature was affixed to an electronic manifest would be evidence, and could suffice to establish that the individual identified as the signor affixed the signature and did so with the intent to sign the electronic manifest to give it effect.

4. What Is a "Digital Signature?"

Section 262.25(b) of today's proposal would clarify that one type of electronic signature that may be used to authenticate the electronic manifest is a "digital signature." Section 262.25(c) contains a definition of "digital signature" which explains that this is a specific form of electronic signature which is based on asymmetric cryptography. This type of cryptographic method is also known as private key/public key cryptography, since it relies on the mathematical relationship between a pair of "keys" (which are very long numbers) to execute and verify a signature. The technical basis for this signature technology is described below in greater detail.

This digital signature method proposed today in § 262.25(c)–(f) offers several performance advantages which ensure both reliable authentication and data integrity for electronic documents. Digital signatures are powerful authentication devices, because they are:

- Unique to the signer,
- Under the signer's sole control,
- Capable of being verified, and
- Linked to the data, so that any change to the data would cause the invalidation of the signature.

Thus, in addition to identifying the signer of a document, a digital signature has the additional advantage of providing positive verification that the electronic document has not been altered since it was signed. Thus, digital signatures provide enhanced security and data integrity when compared with personal identification numbers (PINs) and other types of electronic signatures. This also makes the digital signature approach more suitable for use in open systems such as the Internet. While the open network may itself be difficult to secure, the digital signature makes it possible to secure the individual signed documents, thereby ensuring the authenticity and integrity of records that are transmitted and received.

5. How Do Digital Signatures Work?

A digital signature is based on cryptography, which is an area of applied mathematics that is more commonly associated with scrambling and unscrambling transmitted messages so that they remain confidential. In creating and verifying digital signatures, however, there is no encryption of data. Instead, the cryptographic process is used only for authentication purposes.

Digital signatures rely on asymmetric or public key cryptography. In a public key system, each user would have two distinct keys known as the "public key" and the "private key." The two keys in each key pair are mathematically related in such a way that: (1) the public key, and only the public key, can authenticate a message that was digitally signed with the related private key; and (2) one cannot feasibly determine or calculate the private key from knowledge of the public key. Once a user has a key pair, he or she must keep the private key secure from disclosure and never transmit it. On the other hand, the public key is distributed freely to all those with whom the user corresponds. Messages digitally signed with party A's private key can be authenticated by party B using A's public key which A has distributed or published. The great advantage of asymmetric cryptography is that communications can be secured across open networks, without the need to share or distribute any secret keys.

Digital signatures are possible because of the key pair relationship in asymmetric cryptography. This follows from the fact that if A's public key is able to validate the digital signature on a message received by B, then B knows with reasonable certainty that the message could only have been digitally signed with the corresponding private key that is held only by A. So, a digital signature created by party A when he "signs" an electronic message using A's private key can be verified by party B with A's public key, and this validation would authenticate A as the source of the document.

The creation and validation of digital signatures is an involved process that involves complex mathematical operations known as encryption algorithms. However, the computations that create and validate digital signatures are conducted by signature system software, and occur transparently to the user. The complexity of the calculations is also what ensures the strength and security of the digital signature method.

To create a digital signature, the signer of a document first uses his or her signature software to create a digital "fingerprint" of the document or message that is being signed. A "hash function" is applied to the message, and the hash function acts on all the binary data in the document to produce a numerical result that is unique to the document. If even one character or punctuation mark in the document is changed, the hash function would compute a different numerical result for the document. This unique calculated number thus represents the entire document, and is called the "hash" or "message digest." The signer's software then uses the message digest value and the signer's private key to generate the digital signature value. This value is forwarded to the recipient along with the text of the document. Upon receipt, the recipient's software verifies the message digest with the sender's public key, and also runs the hash function on the text of the received message. If the sender's public key successfully recovers the message digest, and the numerical result of the recovered digest matches the number calculated by the recipient's hash of the received text, then the digital signature is verified. Verification thus indicates that the digital signature was created with the signer's private key, and secondly, that the document was not altered since it was signed.

6. What Digital Signature Algorithms and Key Lengths Are Acceptable?

This proposal would require that electronic manifesting systems include application support for creating and validating digital signatures that comply with existing standards. Currently, there are several algorithms which can be used to generate a digital signature. In December 1994, the National Institute of Standards and Technology (NIST) adopted the Digital Signature Standard (DSS) as Federal Information Processing Standard 186. The 1994 DSS referenced the Secure Hash Algorithm (SHA) as the required method for calculating message digests. The SHA is a Federal Information Processing Standard that was published by the NIST in April 1995 as FIPS PUB 180–1. According to the Federal DSS, the message digest calculated under the SHA is then input to the DSS's Digital Signature Algorithm (DSA), and the resulting encryption of the message digest creates the digital signature. The DSS was developed to be a standard for federal information systems, in order to improve the utilization and management of computer and related telecommunications systems in the Federal Government.

Despite the specification by NIST of a specific DSS for federal systems, few signature software products were developed that supported the 1994 DSS. Instead, many of the commercial signature products have tended to embrace the algorithm developed by RSA Data Security. Because the RSA algorithm has been demonstrated to be strong and effective, and also because of its widespread commercial acceptance, the NIST determined in December 1998 to include the RSA algorithm in the Federal DSS. Thus, either the earlier DSA announced in 1994 by NIST or the RSA algorithm described in ANSI standard X9.31 may now be used for generating digital signatures in federal information systems. See NIST FIPS PUB 186–1, December 15, 1998.

In light of NIST's recent acceptance of the RSA algorithm, EPA is today proposing that digital signature products used in connection with the hazardous waste manifest must support the Secure Hash Algorithm (for creating message digests) described in FIPS PUB 180–1, and the RSA digital signature algorithm (see ANSI X9.31), in accordance with FIPS PUB 186–1, December 1998. The RSA algorithm is well understood and has been carefully tested, and should provide adequate strength and security for the foreseeable future. EPA believes it is appropriate to standardize manifest digital signatures around the RSA signature algorithm, to facilitate the use and ready verification of digital signatures generated by various commercial signature products.

Digital signature products used in connection with the manifest shall support ANSI X9.31 key generation methods. The modulus, which reflects the strength of the encryption used in creating a digital signature, shall not be less than 1024 bits.

EPA requests comment on the designation of the RSA algorithm and FIPS PUB 186–1 as the standard for manifest digital signatures.

7. Is a Digital Signature Alone Sufficient to Identify Individual Signers?

No. It must be emphasized that, unlike a handwritten signature, a digital signature is not a personal attribute or characteristic of the signer. When a recipient validates a digital signature with the sender's public key, the validation only establishes the fact that the public key and private key are mathematically related. The relationship of the keys to the individual signer is not certain, without additional safeguards that help to bind the signer to the use of the private key.

To ensure the reliability of digital signatures, two potential weaknesses must be safeguarded. First, it is essential that the holder or "owner" of the private key maintains the security of the private key. If one's private key is stolen, lost, or otherwise compromised, then the digital signature system may be compromised. An imposter could then use a stolen private key to sign documents that would appear to be signed by and bind the owner of the key, and unless recipients were made aware of the theft, the public key would appear to validate the imposter's signature. Second, there must be involved a "trusted third party" to ensure that the identity of the individual and his or her public key are securely bound together in the form of a digital certificate, and that all such certificates are properly issued and managed.

8. How Would Today's Proposal Deal With the Security of Private Keys?

Today's proposal would require that individuals protect their private signature keys from disclosure or other compromise. As discussed below, the discovery that a private key has been compromised creates obligations to notify appropriate authorities, who would then provide notice that the certificate associated with that key has been revoked. In addition, the electronic manifest system controls discussed above in section VII.F. of this preamble would require that organizations using electronic manifest systems have policies in place that hold individuals accountable for actions initiated under their electronic signatures. Since employees would be aware of this accountability and the sanctions that their employer may impose for intentional or careless conduct involving their private keys and digital signatures, EPA believes that such controls would provide a reasonable deterrent against signers compromising the security of their private keys. These requirements are no more demanding

than those generally accepted by the public in connection with lost credit cards. When EPA publishes its supplemental notice detailing the manifest PKI, we will provide more information on the proposed security requirements for digital signatures.

Today's proposal would not, however, require that digital signature systems used for signing manifests employ a tokenized digital signature. With tokenized digital signatures, the private key that creates the digital signature resides on a "smart card" or other hardware token, which is carried on the person of an individual signer and accessed with a password or PIN that only the individual would know. Such a hardware-based implementation of a digital signature system can enhance the security of the system beyond that attainable under a system where the private key resides on software stored on one's hard drive or network server. Hardware-based systems provide greater security because the hardware token ties the signature act more closely to the individual holder of the token. A hardware-based system also protects the private encryption key from attacks by hackers or saboteurs. EPA is not proposing the use of the hardware-based approach, because we believe that manifest digital signatures would be sufficiently secure when implemented with software, and because the use of hardware tokens adds additional cost and complexity (installation of card readers) which are not warranted in this application. Organizations desiring higher levels of signature security would of course have the option of implementing a "smart card" or other token-based approach. The Agency requests comment on this issue.

9. Why Is a "Trusted Third Party" Necessary for Digital Signatures?

Beyond the problems presented by loss or theft of private keys, there is a more fundamental issue associated with the creation and use of a digital signature. Validation of a signature with a public key only verifies the relationship between the keys in a given private key/public key pair. As an initial matter, therefore, one must have some objective means of validating that the person who subscribes to or "owns" a given key pair is who they say they are. This need goes to the issue of establishing the bond between the individual signer and the key pair that was generated arbitrarily by the digital signature system.

In digital signature systems, the role of the "trusted third party" that would vouch for the bond between a particular individual and a private key/public key pair is played by Certification Authorities. The Certification Authority (CA) must obtain from individual subscribers some type of proof (e.g., a driver's license or Social Security Number) to establish the identity of the subscriber. In this sense, the CA functions like an electronic notary that certifies that an individual is who they claim to be. When the CA is satisfied with the subscriber's identity proof, it issues a digital certificate that identifies the individual subscriber and their associated public key. The CA signs the subscriber's digital certificate with its private key, so that recipients can (with the CA's public key) validate that the certificate is authentic and in fact originated from the CA. Then, when the subscriber uses its private key to sign a document, he or she could also send a copy of the CA's certificate with the transmission to the recipient. The recipient's application could then verify that the document was signed with the subscriber's private key, and also verify that the certificate is a valid certificate. Enabling the validation of certificates is an essential function of the CA, which must track certificates that have been revoked (e.g., a key was compromised or an employee terminated) or that have expired. So, by checking the CA's on-line registry or data base of revoked certificates, or lists of revoked certificates published in other places, the recipient of a digitally signed document can determine whether it should rely on a given certificate and digital signature.

10. What Digital Certificates Would Be Required Under Today's Proposal?

An international, standardized format has been established for digital certificates, so that digital signature systems may efficiently automate the validation of certificates. To maintain consistency with the international standard, EPA would require in this proposal that digital certificates meeting the current X.509 standard be obtained by subscribers who would use digital signatures to sign electronic manifests. This standard is well established, and has been implemented in numerous signature products that are now available and in use. The current version of the standard is X.509v3, and this certificate standard specifies several data fields, including the name and signature algorithm of the Certificate Authority, the serial number of the certificate in the CA's domain of public key certificates, the name of the subscriber, the public key value and signature algorithm of the subscriber, and period of validity for the particular certificate. Other data fields for unique identifier information and optional extensions are also included in Version 3 of the X.509 certificate standard and are included in a standard Federal profile established by the Federal PKI Steering Committee Technical Working Group chaired by the National Institute Standards and Technology. Information about this standard Federal profile is available at http://gits-sec.treas.gov. EPA requests comment on the inclusion of these X.509 certificate standards in the digital signature approach proposed today for electronic manifests.

11. What Is a Public Key Infrastructure (PKI)?

The entities and services that support the issuance and use of digital certificates make up the so-called public key infrastructure, or PKI. To be fully functional, a PKI must be able to provide the following services to those that would subscribe to or rely on digital certificates:

- Certificate registration or enrollment,
- Certificate issuance and delivery,
- Maintenance of a directory of valid certificates,
- Maintenance of a list of revoked certificates, and
- Maintenance of long-term archives of certificate records.

At the heart of a PKI is a Certificate Authority (CA), which serves as the trusted third party to oversee the certificate enrollment, issuance, validation, and revocation processes. Typically, subscribers (those applying for certificates) would look to CAs to conduct a proper identify proofing inquiry and then issue them digital certificates that accurately convey the subscribers' identity information and public keys. Relying parties (those who would rely on the certificate as proof that they are dealing with the named subscriber) would look to CAs to maintain accurate and timely information to validate certificates, including the maintenance of on-line certificate repositories or data bases that may be queried by relying parties. These services can all be provided by a Certification Authority, but in some instances, a CA may delegate to others specific tasks such as certificate enrollment, collecting identity proofing information, certificate production, or processing validation requests. The CA's identify proofing procedures and the standards that it follows for issuing and managing certificates are typically spelled out in the CA's detailed Certification Practices Statement.

PKIs can be developed for "closed" and "open" user communities. For example, one might wish to authorize the use of digital certificates in the context of a very narrow user community (e.g., those signing and transmitting health claims forms), or, one might wish to use certificates broadly to support all manner of on-line transactions or dealings with public and private entities. The more "open" models for establishing PKIs may involve multiple CAs issuing certificates and processing certificate validation requests. In such cases, issues may arise about the interoperability of the different CAs' certificates, as well as issues about the similarity of their proofing standards and procedures, and whether the different CAs can "cross-certify" and recognize each others" certificates.

There is currently much discussion underway within federal and state governments on the standards and procedures that should govern the issuance and use of digital certificates in government information systems. Significantly, EPA is participating in the Federal Public Key Infrastructure Steering Committee, which includes representatives from more than two dozen federal agencies. This Federal PKI Steering Committee is now developing a Certificate Policy for a Federal Bridge Certification Authority (FBCA) that would establish a framework of minimum requirements for the issuance and management of interoperable digital certificates within the federal government. The FBCA Certificate Policy is currently being developed as a high level statement of the legal aspects of agency CA's operations, rather than the detailed technical aspects. The FBCA Certificate Policy could then be adopted by participating agencies to cover the use of digital certificate services, and fine-tuned to meet the security needs of specific programs. Other public and private sector groups are attempting to address the issue of certificate interoperability, by developing certificate content and processing standards that would facilitate the reliable exchange of digital certificates and their automated validation.

Recently, the General Services Administration (GSA) has established its "Access Certificates for Electronic Services" (ACES) program for issuing digital certificates to support the public's access to federal information systems. The ACES model was conceived as a government-wide PKI structure to be administered under GSA contracts, with certificate services being provided by multiple, commercial vendors awarded ACES contracts. The ACES approach offers these beneficial features:

- A unified, consistent approach to obtaining PKI services from the government, thus avoiding the creation of many, limited scope PKIs for numerous government programs;
- Increased efficiencies and reduced costs to certificate users, through the aggregation of the government's certificate needs across many participating agencies;
- On-line subscriber registration and certificate issuance, with identify proofing of subscribers drawing on several, independent-sourced databases;
- On-line and nearly real-time certificate validation for relying parties;
- A common Certificate Policy to govern all parties' responsibilities and the CAs' operations;
- Assured interoperability of certificate processing by the several ACES contractors (CAs), through the design and operation of the so-called "Certificate Arbitrator Module" that would be developed for the ACES program; and
- Several pricing options for certificate services, the cost of which would be borne by the participating government agencies relying on the certificates issued to the public.

While EPA believes that the ACES program offered by GSA has much to offer, it is not entirely suited to the hazardous waste manifest program. The current ACES model was designed primarily to support those Federal applications (e.g. websites) where members of the public would be reporting data directly to or requesting information from the federal agency. In this model, the federal agency would always be the "relying party" that would be validating the identity of those members of the public dealing with the agency's information system. However, EPA does not now collect manifests from the public, nor does it intend to create a centralized reporting system or national data base for tracking manifest data. Numerous states collect manifests, but ACES is not currently authorized to contract with State agencies for certificate services. In addition, most of the electronic manifest transmissions contemplated by today's proposal would be transmissions among the commercial firms handling hazardous waste shipments, rather than transactions with government agencies. So, the PKI for the manifest system would need to address the fact that the waste handlers would be the typical "relying parties" that would need to validate the certificates of other waste handlers involved in their waste transactions. The PKI would therefore need to provide for certificate services in the context of these routine manifest transmissions between waste handlers, and apportion the cost of certificate issuance and validation services equitably among these entities.

EPA believes that digital signatures and certificates will play a vital role in the near term in bolstering the level of trust accorded electronic transactions. The development of PKIs is at an early stage and very much in flux, and many of the details about how and when EPA would establish PKIs for RCRA and its other environmental programs will not become clear until later in the development of this rulemaking.

For example, EPA's Office of Environmental Information is addressing more generally EPA's efforts to implement the GPEA statute, and issues across EPA's programs for submitting electronic reports to EPA. EPA expects that digital signatures will play in important role in electronic reporting. Currently, EPA is testing a prototype approach for a Central Data Exchange, and is testing the use of ACES certificates in connection with the prototype system. As a part of a submitter registration process, EPA is considering whether to require that those applying for digital certificates execute a hand-signed electronic signature agreement that would contain terms and certifications addressing, among other things, the signer's responsibility to protect its private key from compromise, unauthorized use, or delegation to others. EPA is also considering whether registrants should be required to periodically re-certify that he or she has done nothing in violation of the signature agreement.

The details of EPA's PKI approach are evolving. However, the Agency is today providing notice that it is proposing a digital signature option for electronically signing manifests, and this would necessitate some form of PKI to be established as well. EPA is looking at several approaches for establishing a PKI for the manifest. Commenters are advised to look to future proposals for more detailed information on the PKI topic. Policies developed for PKI in other rules would likely be relevant to and perhaps incorporated into this rulemaking. For example, should EPA conclude that signature agreements with certifications addressing subscribers' responsibilities to protect their private keys are necessary to ensure accountability and enforceability in connection with digital signatures, EPA would likely include similar signature agreement terms for the manifest PKI. Once EPA has established a more comprehensive PKI policy, we will issue a supplemental notice in this rulemaking identifying a more specific

PKI proposal for the manifest. Additional public comments on this topic will be solicited at that time.

12. What PKI Options Are Being Considered for the Manifest?

EPA is evaluating several distinct options for establishing a manifest system PKI. These options differ primarily on the level of centralization of PKI services, and whether government agencies (EPA or authorized state agencies) or commercial waste firms would establish these PKIs to support their digital certificate activities

a. *Centralized PKI for Environmental Programs.* Under this option, EPA would establish a centralized PKI structure to service the manifest program and other environmental programs. This "environmental community PKI" could then deal centrally and efficiently with supplying certificate services to the various entities subject to the reporting and record keeping mandates of the environmental programs administered by EPA or by authorized state programs. This model would appear to be fit well with the "Central Data Exchange" role that the Agency's new Information Office has identified as one of its electronic reporting initiatives. The Central Data Exchange would act as a central hub for receiving, processing, and routing to recipients the many inbound records and reports that external stakeholders would send electronically to EPA or participating state agencies. Under this option, the central receiving facility role would extend also to providing digital certificate services for the environmental community.

Under this option, EPA would likely leverage existing expertise, and contract with one or more commercial CA vendors to supply certificate issuance and processing services. A fairly generic Certificate Policy could be developed to define user roles, responsibilities, and required CA operations. Interoperability requirements could be included in the event that multiple CA vendors are awarded contracts, and links to the CAs' on-line sites for obtaining certificate enrollment and certificate validation services would be provided. A centralized on-line registry or data base of revoked certificates would be maintained by the CAs for the environmental community, so that the status of certificates could be readily determined. The commercial CAs could then bill users directly for the enrollment or validation services provided to subscribers and relying parties.

EPA believes that a centralized PKI approach offers the advantages of greater efficiencies and economies of scale, when compared to models under which each environmental program or commercial enterprise (e.g., a waste disposal company and its customers) would establish its own PKI. Also, a centralized approach appears to offer greater prospects for avoiding interoperability issues in connection with validating the certificates that would be issued to a great number of commercial entities engaging in interstate transactions. The ability to quickly and reliably validate certificates is critical to fostering trust in digitally signed communications.

However, there may be difficulties as well in establishing such a centralized PKI. State electronic signature laws may impose additional controls or licensing requirements on CAs, and an EPA-led PKI would need to yield to or comport with any additional or different standards required under state law. Also, this option is dependent on the participation by many commercial entities and state agencies in a centralized system, and some may prefer to establish their own systems, rather than defer to EPA. Also, the potential liability of contractors performing CA services could also be an issue, and provisions limiting the CAs' liability may need to be included in their contracts, or the vendors may not wish to participate.

b. *Decentralized Approach to PKI.* Under this option, each waste management or other environmental community would establish and operate its own PKI, or obtain the services of commercial vendors who would obtain the certificates and manage them. So, waste management firms might establish PKIs for their networks of facilities and customers. Alternatively, states could be the organizations that establish localized PKIs to deal with the submissions they receive from their regulated communities. EPA would not issue a generic Certificate Policy under this option. Rather, EPA's role in a decentralized approach would be limited to establishing in this rulemaking some minimal criteria which these PKIs should meet, such as minimally acceptable identity proofing by CAs, minimally acceptable key lengths and encryption algorithms, the definition of those events that would necessitate certificate revocation, the maintenance of certificate revocation lists, a determination of the frequency with which certificate status data must be updated, and minimal archiving and auditability criteria for CAs' records of certificates.

This option would appear to offer several benefits. Certificate policies and CA practices could be tailored closely to the needs of the PKI community at hand, as well as the local laws and procedures applicable in the states where the users operate. EPA would be minimally involved in creating "national" PKI policy, or in administering the PKI-related contracts and "central receiving facility" types of support network for PKI services. Also, this rulemaking would only need to address PKI issues minimally.

EPA believes that this option would also pose significant drawbacks. First, anecdotal evidence suggests that setting up a PKI can be an expensive proposition. Establishing a PKI can involve either contracting with vendors to provide these services, or the expenditure of considerable resources on-site to provide the skilled personnel, the technical hardware and software, and the certificate processing data bases needed to provide enrollment and validation services. Some entities would likely not proceed at all with PKIs if they were required to incur these costs alone, and it would appear to be extremely inefficient to have these expenditures duplicated many times over so that numerous PKIs could be established for more narrowly defined communities. Moreover, in the decentralized model, there would be greater likelihood that the certificates that would be issued by numerous CAs operating under disparate Certificate Policies would not be interoperable or recognized by the other CAs.

c. *Hybrid Option.* Under a hybrid approach, EPA would establish a standard Certificate Policy similar to the ACES Program Certificate Policy for the "environmental reporting community" and define the required structure of the X.509 v.3 certificates that would be issued in connection with EPA's environmental programs. EPA would contract with commercial CAs to provide the certificate services for the manifest and other EPA programs. For example, the Agency could contract with one or more of the CAs selected under the ACES procurement process, in order to foster the interoperability of the certificates that these vendors would issue. The Certificate Policy could, for example, allow the State environmental agencies to function as the local registration authorities (LRAs) that would gather certificate enrollment information from subscribers and confirm through local program data bases the content of certificates. Once adequate information is obtained and confirmed by the LRA, it then would direct the CA to issue or renew certificates. The contracts with EPA would provide that CAs would charge the participating commercial entities directly for certificate subscription and validation services. This hybrid option offers many of the advantages of the centralized option, while permitting states to exercise their prerogatives in controlling access to certificates by their regulated community.

EPA requests comments on these three options for establishing a PKI. Comments addressing their relative advantages and disadvantages, as well as suggestions for implementing them effectively would be especially helpful. EPA will address these comments and identify a more specific PKI proposal in the supplemental notice that we will later publish for comment.

13. Proposed "Secure Digitized Signature" Method

EPA recognizes that the digital signature approach discussed above may not be suited to many manifest users. The digital signature technology is clearly a reliable and proven method for authenticating electronic documents, but managing encryption keys and working within a PKI may introduce a level of complexity that some users may find objectionable. In addition, some may find the digital signature method objectionable because it deviates too far from the more familiar signing ceremony that one associates with handwritten signatures. For these users, an electronic signature method that more closely mimics handwritten signatures may be more desirable, especially for use in the field where manifests are typically signed.

Therefore, EPA is proposing "secure digitized signatures" as another signature alternative for the manifest. This alternative would allow electronic manifesting systems to incorporate software, digitizer pads, and electronic pens that create a graphical representation of a signer's handwritten signature. The electronic manifest copies would be signed with the digitizer/pen device, and the manifest records would retain the graphical image of the hand-signed electronic signature. The software would be required to store the signature as a "signature object" that contains the graphical image of the signature, signature capture data, and document binding data. The document binding data required here would be data which show that the signature is cryptographically and inextricably bound to the signed document. In addition, the software would be required to display the graphical signature image in an industry-standard bitmap format (e.g., TIFF or BMP) for viewing or printing. Customers and business partners would therefore be able to recognize such an electronic signature image as the likeness of the signer's signature. In this respect, the digitized signature can be applied and "verified" in the field nearly as easily as a handwritten pen-and-ink type signature.

A key feature of the proposed "secure digitized signature" standard is the inclusion of additional security measures and signature object data beyond the basic signature bitmap image. These additional measures would be required because standard bitmap images alone present security risks that would mitigate their reliability as a means of authenticating electronic records. Standard bitmap files can be readily copied between documents, such that a non-original signature could be applied to a document using conventional "cut-and-paste" editing tools. Without additional safeguards, an imposter could conceivably obtain a bitmap image of another's signature, and apply it to a new document in such a way as to create the impression that the other person signed the document. This would create many opportunities for forging electronic signatures and present plausible scenarios for repudiation of electronic documents.

Therefore, EPA is proposing that electronic manifest systems using this signature method must adopt certain measures that would secure this signature method against the unbridled copying of signature bitmaps. Under today's proposal, "secure digitized signatures" must incorporate these additional features to enhance their authentication and data integrity capabilities:

- The signature software must block access to "cut-and-paste" editing functions;
- The signature software must only accept "real time" signature data input from the digitizer/pen device;
- The signature software shall record the signature data as a "signature object" that contains:
- The graphical image of the signature for display and print operations, in industry-standard bitmap format (e.g., TIFF or BMP),
- Signature capture information, particularly, the claimed identity of the signer (e.g., a user ID) and the date and time of signing, and
- Document binding data, particularly, an encrypted checksum or hash function of the data to which the signature relates.
- The signature software shall allow for verification of signature objects, to establish if data has been changed since the signature was captured.

These features are intended to address signature authenticity and data integrity. EPA has had some experience with the digitized signature method in its Manifest Automation Pilot tests, and based on early results from the 3rd phase of Internet tests, this method appears to be practical and reliable . There are several signature products that are now commercially available which appear to meet the standard proposed here.

14. Request for Comments on Proposed Signature Methods

Today's proposal would require electronic manifests to be electronically signed with either digital signatures meeting the § 262.25(c)–(f) standards or with secure digitized signatures meeting the standards of § 262.25(g). EPA believes that the proposed signature approaches would provide sufficient assurance that a signed manifest is authentic, and that it has not been altered since being signed by a waste handler. EPA believes that the proposed electronic signature methods represent effective ways to bind an individual to his or her unique electronic signature. We believe that these types of electronic signatures can establish a bond as reliable as the bond between an individual and their handwritten signature. Also, we believe that these signature technologies are more practical and proven than other authentication technologies that rely on biometrics (e.g., fingerprint readers or retina scans), as the biometric methods identified to date tend to have significant error rates which hamper their utility. Biometric methods also are not typically implemented in ways that link the biometric parameters being measured to the data being signed, so they are not as helpful in assuring data integrity as the methods proposed here.

The proposed methods do entail some additional cost to users. For example, the digital signature method requires the establishment of a PKI, and in addition, Certification Authorities typically would charge subscribers and relying parties fees to issue and validate digital certificates. Software integrating the signature method with the other manifest preparation and transmission functions would need to be acquired, and depending on the method selected, there may be additional costs associated with digitizers or other peripherals. The Agency is proposing these signature methods in spite of these incremental costs, because we believe that these methods would be instrumental in making electronically signed manifests trustworthy and legally enforceable. Thus, the additional security and

trustworthiness that should result under the proposed approaches balance the cost considerations. EPA requests comment on the electronic signature methods proposed here for the manifest. In particular, comments addressing the following issues would be very helpful to EPA.

- Do manifest signatures require the level of security offered by the digital signature technology?
- Is the proposed software-based implementation of the private signature key a reasonable accommodation of signature security, practical implementation considerations, and cost?
- Would the administrative complexity and cost of establishing or participating in PKIs deter waste handlers from implementing digital signature-based electronic manifest systems?
- Is it practical for waste handlers and their employees to sign manifests using digitizers or digital signature products? Are there human factors or other issues involved that would make such signature methods impractical for hazardous waste shipments?
- For digital signatures, would individuals and sponsoring firms be willing and able to maintain the confidentiality of their private keys, and accept accountability if private keys are compromised? Should EPA require registrants to enter into signature agreements that contain certifications that the private key would be protected from disclosure, unauthorized use, or delegation? Should registrants also be required to periodically re-certify that they have not violated their signature agreements, and if so, what would be the appropriate frequency of such re-certifications? Should the signature agreements and re-certifications be signed by hand?
- What types and quantity of proof of identity should be required to support the issuance of a digital certificate for use in the manifest program? Should applicants be required to present themselves in person to the Certificate or Registration Authority, or should less formal proof be acceptable?
- Is it practical to verify digital signatures on a document such as the manifest, which is signed sequentially by multiple waste handlers, and occasionally edited while it is being transmitted among handlers? Must multiple versions of each manifest document be maintained by the software so that the complete history of the document is preserved?
- How susceptible are digitally signed and electronically stored media to deterioration over time, such that a digital signature might become corrupted during storage and thus fail to validate? Are there practical solutions to this problem?
- Is it feasible to require validation of digital signatures and certificates over the long term? Are there practical ways to ensure long-term authentication and enforcement capability, without requiring indefinite signature validation mechanisms?
- With respect to the secure digitized signature method, does the proposed standard provide adequate security for manifest signatures? Does the similarity of digitized signature images to handwritten signatures offer advantages that manifest users would find attractive? Does software implementing this approach support open standards, rather than proprietary algorithms and standards?
- Is the secure digitized signature approach proposed here adequate to prevent "replay attacks" by which a digitized signature could be appended to another document and thus forged? Are there other practical measures that should be included to guard against copies being substituted for original digitized signatures? Are the algorithms that are used to bind these signatures to record data sufficiently strong to prevent attacks or misuse?
- Should the Agency require that there also be some visual feedback provided to signers during the digitized signature act, so that signers can clearly see how the system is capturing their signatures and thereby enter more accurate signature data? What additional cost would be incurred if digitizer pads were required to provide such feedback?
- Should the proposed secure digitized signature method also require that these systems capture dynamic signature parameters, e.g., speed of signature, pressure applied to the pad, and pen stroke measurements? Should the proposal also require that the captured dynamic signature information be used in real time to validate the digitized signature? Would such data significantly enhance the ability to establish the genuineness of a signature? Are the current products which provide this capability accurate and reliable? Would the forensic evidence produced by these products provide a sufficient and reliable basis for civil and criminal litigation? Which dynamic signature parameters are most relevant and reliable insofar as being helpful to verify an electronic signature as genuine?
- Should EPA be concerned that users of digitized signature systems might be more inclined to enter null or nonsense signatures on a digitizer pad than they would if they were signing a paper document?
- As an additional measure to enhance the security and authenticity of digitized signatures, should EPA require that digitized signatures also be digitally signed? EPA has not included this requirement in the proposed rule option, as it was the Agency's intent to establish the secure digitized signature method as a distinct alternative to the digital signature method. Specifically, we developed the proposed digitized signature method to allow hand signed electronic signatures to be verified without the administrative complexity of a public key infrastructure. While it is technically feasible to digitally sign a digitized signature, EPA is concerned that the additional security gains would be outweighed by the additional cost and complexity associated with implementing this approach.
- Is the proposed secure digitized method practical and cost-effective when compared to hand-signed forms or to the digital signature/PKI alternative?
- Is the Agency being too prescriptive in proposing only the "digital signature" and "secure digitized signature" methods, rather than authorizing the use of "electronic signatures" more broadly? If the Agency adopted a broader approach, what performance or technical criteria would be appropriate for authorizing the use of additional signature methods? What approval process would be followed to authorize any additional methods, and who would be responsible for reviewing and approving such methods? If numerous methods were to be authorized, how would EPA ensure that the manifest's multiple signatures could be readable and readily verifiable by all those who might encounter and wish to rely on the electronic manifests?
- Is it appropriate for the Agency to propose two alternative signature approaches? Would the two alternative methods conflict in practice, and if so, how can EPA minimize this problem? Does the interstate nature of waste transactions and the need for multiple signatures on the manifest provide justification for adopting one uniform method or standard for signatures? If only one signature approach makes sense for the manifest, should EPA adopt the digital signature or the secure digitized method?
- Is there merit to a Personal Identification Number (PIN) system, in which individuals would enter a unique sequence of alpha-numeric characters which they have adopted as their electronic signature. A PIN system may be less costly to implement than other electronic signature alternatives, although such systems can require considerable company and agency oversight in order to issue, manage, and revoke PINs as appropriate. A PIN-based signature system may be appropriate for electronic transactions for which there is not as critical a need for security or strong authentication. However, in the context of developing electronic reporting standards for the Discharge Monitoring Report (a Clean Water Act requirement), EPA concluded that, in order to satisfy standards of proof for criminal prosecutions, it was preferable to require more than simply a PIN for authentication of a record. So, in the Discharge Monitoring Report rulemaking, EPA proposed the use of a PIN signature backed up with a follow-up certification that would be hand-signed and mailed to the Agency. This approach seems impractical for the manifest, and therefore, EPA has not included a PIN approach in today's proposal. However, we solicit comments on the practicality and security of PIN-based methods in the context of the manifest system, and how such an approach could be implemented securely and efficiently.

H. Preparer Signature Proposal

1. What is a "Preparer Signature"?

The manifest is completed when the generator signs the Generator's Certification contained in Block 16 of the Uniform Hazardous Waste Manifest. The generator makes this certification before turning custody of the shipment over to the transporter, and the certification statement attests that the waste shipment is fully and accurately described on the manifest, and that the shipment is in all respects in proper condition for highway transportation according to applicable national and international laws. In addition, the certification includes statements regarding a generator's waste minimization program or, for SQGs, efforts to minimize waste. Currently, the generator's certification requires the hand signature of the generator or an authorized representative of the generator.

Today's proposal would allow an electronic manifest "preparer" to sign a generator's manifest. For purposes of the automated manifest, the proposal would enable such a preparer to sign the generator's certification on behalf of the generator with the preparer's electronic signature.

2. Why Is EPA Proposing To Allow Preparers To Sign Electronic Manifests for Generators?

EPA is aware that it is a common practice for an entity or individual other than the generator (e.g., employee or contractor) to perform the steps necessary to prepare a waste shipment for transportation, including the steps associated with preparing the manifest paperwork. Often, the transporter or the TSDF prepare the manifest paperwork as a part of the service it provides to its generator customers. EPA has already clarified, through an amendment to Item 16 of the manifest instructions, that the handwritten signature on paper manifests may be made by employees or other individuals on behalf of the generator. 51 FR 35190 at 35192 (October 1, 1986). Because the electronic manifest may also be prepared by entities or individuals other than the generator, it is appropriate to provide similar flexibility for the preparation and signing of the electronic manifest. Please note, however, that EPA is not reconsidering, reopening, or requesting comment on the existing rule allowing employees or other individuals to sign the paper manifest on behalf of a generator.

EPA believes that allowing preparers to sign an electronic manifest on behalf of a generator would be particularly important in ensuring that small generators may take advantage of the electronic manifest option. Hazardous waste transporters and TSDFs frequently prepare manifests as a service to smaller generators. While the small or infrequent generator would not be expected to obtain computer equipment or software to conduct automated manifesting, the transporters and TSDFs that deal in larger volumes of manifests would likely find automated manifesting more advantageous. Thus, allowing the preparer to sign the electronic manifest provides a way for small or infrequent generators to participate in the automated system. EPA estimates that small generator manifests may account for about 66% of the manifests circulated annually. So, providing a means to include these manifests would extend the burden reduction effects of manifest automation to these manifests as well, particularly, as they are received and processed by transporters, TSDFs, and State agencies.

3. How Would the Preparer Signature Feature Work?

Under today's proposal, a preparer may initiate electronic manifests for its generator customers only if the preparer has been authorized by the generator to prepare and sign the generator's manifests on behalf of the generator. EPA is further clarifying that the authorization need not be in any specific form, but there must be clear evidence of intent that the preparer is authorized to prepare and sign manifests on behalf of the generator. The generator can limit this authorization to a specific term, or to specific waste types, as appropriate. The generator can also revoke the authorization at any time.

Today's proposal would provide that electronic manifests may be signed electronically by preparers who have been authorized to prepare and sign electronic manifests on behalf of the generator. So, a transporter or TSDF under contract with the generator could arrive on-site for a waste shipment pick-up and have authorization from the generator to prepare the shipment and sign the manifest electronically on behalf of the generator. A person signing a manifest (paper or electronic) on behalf of a generator would not become liable as a RCRA "generator" simply by signing the manifest. The question of whether such a person might also be held responsible for complying with the generator requirements would depend on the facts and circumstances of individual cases. For example, a contractor can under other circumstances be a co-generator of a waste, and in such instances, may in fact assume generator responsibilities for completing the manifest. See 45 FR 72024 at 72026 (October 30, 1980).

Since an authorized preparer does not assume generator responsibilities simply by signing an electronic manifest on behalf of a generator, the generator would in all such cases still be identified on the manifest as the generator of the shipment. Today's proposal would only affect who might perform the physical act of signing the generator's certification in the course of initiating the electronic manifest. Once signed by the preparer, the electronic manifest would then be transmitted electronically to subsequent transporters and the TSDF, and any copies required by generation or destination states could also be supplied electronically, if the states involved allow electronic submission of manifest copies.

4. How Would a Preparer-Signed Electronic Manifest Be Closed Out?

Under today's proposal, the generator would remain responsible for overseeing that its off-site shipments are in fact received by the designated facility or TSDF. So, a preparer authorized to transmit manifests electronically must, at the time the

shipment is initiated, leave a manifest copy (hard copy) with the generator. The generator copy would include a notation that the manifest was initiated electronically by the preparer, and it would indicate the date that the manifest was initiated, and the date that the shipment was delivered to the first transporter. Upon receipt or rejection of the shipment by the designated TSDF, the TSDF would likewise communicate to the generator the fact of receipt, rejection, or any discrepancies. This communication could be provided in the form of a hard copy of the manifest, or a memorandum signed by the TSDF which references the manifest number for the shipment, which states that the waste shipment was received or rejected, and which describes any discrepancies. Thus, the generator would retain these records of receipt, rejection, or discrepancies among its records, just as it now retains a manifest copy signed by the TSDF. The generator would still be expected to reconcile or report any discrepancies or exceptions that might arise. So, under this proposal, the generator's role would not change with respect to close-out of the manifest and reconciling problems.

5. Request for Comments

EPA requests comments on the proposal to allow preparer signatures as a means of initiating generators' electronic manifests. Comments responding to these issues would be useful:

- Should the preparer approach for electronic manifests include additional safeguards to ensure accountability, particularly where preparers allied with transporters or TSDFs are allowed to perform these activities on the generator's behalf?
- Should the preparer signature approach be limited to digital signature systems only? With the secure digitized signature method, it should not be difficult for transporters to obtain digitized signatures from small or medium sized generators using remote, portable devices (with signature pads) that the transporter would bring to the generator's site. Should the rule require generator's signatures to be obtained when this is practical, or, should the preparer signature approach be more widely available regardless of the signature method used?
- Should preparers of electronic manifests be required to have written, hand-signed authorizations from generators authorizing the preparer to sign manifests electronically on behalf of the generator? While written authorization is not required to enable another person to sign one's paper manifest on their behalf, are there reasons unique to the activities of electronic preparers that warrant written authorization to sign an electronic manifest on the generator's behalf?
- Is there an effective alternative to the proposed approach for closing out preparer-initiated electronic manifests that would not require hard copies of manifests to be issued and retained by generators? Could the preparer receive verification of receipt or notice of rejections or discrepancies electronically on behalf of the generator? How would the generator's interests be preserved in such a case, particularly where the preparer is employed by the same entity that operates the receiving facility?

I. Third Party Storage of Manifest Records

1. What Does EPA Mean by Third-Party Storage?

Currently, RCRA facilities are required to maintain manifest records on-site for inspection by RCRA inspectors. Section 3007(a) of the RCRA statute requires that all hazardous waste facilities shall afford RCRA inspectors access at reasonable times to facilities that manage hazardous waste. This section also requires that RCRA inspectors shall be permitted reasonable access to facility records for examination or copying. Significantly, the Act only requires access to records such as manifests; it does not prescribe how that access must be provided.

As document storage methods undergo the transition from retention of paper files to storage or records on electronic media, it becomes less essential where the storage media resides. As long as there is reasonable access to electronic records at a RCRA facility, it should not matter whether the specific document actually resides on a disk at the facility, or whether it is downloaded from a network or server for which the storage media is physically located out of state. As long as the required reasonable access to the file is ensured, and electronic records can be called up, examined, printed, and copied at the facility, EPA does not believe that the Act or policy considerations preclude storage by such "third-party" storers (e.g., commercial network services or record archive services). Indeed, today's proposed rule would impose specific obligations on those storing records electronically to comply with computer security controls, and those that offer electronic storage services commercially may be in a better position than some RCRA waste handlers to bring their systems into compliance with these controls. So, it seems sensible to the Agency that our automated manifesting rules and policy allow flexibility on this issue.

Current facility standards for permitted TSDFs (40 CFR 264.71(a)(5)) and for interim status facilities (40 CFR 265.71(a)(5)) include the direction that manifest copies must be retained "at the facility" for 3 years. EPA believes that this requirement is met if an electronic copy can be produced and accessed at the facility, even though the physical device on which the record may be stored is in fact external to the facility.

2. What Are the Proposed Conditions on Third-Party Storage?

Today's proposal would permit facilities to engage commercial record storage services or networks to provide for electronic storage of manifest copies. This proposal would be conditioned on the records being readily retrievable during the full record retention period, on reasonable inspector access for examination and copying of manifest copies being ensured, and on compliance with this proposal's electronic record system controls. EPA emphasizes that RCRA facilities remain responsible for providing inspectors access to all electronic records; they cannot contract away their responsibility by engaging the services of a commercial storage service provider. Firms would be required to include terms in their contracts with third-party storers providing that records must remain readily accessible during the full record retention period, that reasonable inspector access for examination and copying of manifest records must be available, and that the third-party storage provider must comply with this rule's electronic record system controls.

3. Request for Comments

EPA requests comments on this proposal to permit third-party storage services to aid RCRA facilities in implementing electronic storage programs, by providing off-site storage and archiving media that would be accessible electronically from the RCRA facilities. Is this flexibility desirable to the regulated community, and would it provide an incentive for RCRA facilities to engage in automated manifesting? Would facilities object to sharing custody of their records with off-site vendors, or would they be more agreeable to allowing the off-site vendors to assume this proposal's computer and record security controls? If controversies arise with facilities over record access, would the Agency be frustrated in efforts to obtain records from the third-party service provider? What, if any, RCRA liability should be assumed by the third-party vendor? What, if any, safeguards should EPA include to protect against the possibility that third-party storers may leave the business? EPA seeks comments on these issues related to third-party electronic storage.

VIII. Related Acts of Congress, Executive Orders, and Agency Initiatives

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order No. 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

It has been determined that today's proposed rule is a "significant regulatory action," because it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record. However, today's proposed rule is not "economically significant", because we expect that it would result in net reductions in compliance burdens and costs. The proposal would standardize the manifest form, streamlines certain manifest requirements, and would provide hazardous waste handlers with the option to prepare, transmit, sign, and store their manifests electronically. In those states that collect manifests and maintain databases to track manifest data, today's proposal would also enable the electronic submission of manifest copies to the states. These features are expected to reduce the paperwork burden and other hazardous waste manifesting costs on the regulated community (i.e. waste handlers and states).

In order to quantify and monetize the anticipated economic effects of today's proposed rule, the Agency conducted three separate evaluations of different levels of potential effects of this rule on hazardous waste handlers and on State government regulatory agencies. These three studies are briefly summarized below in this section of the Preamble. They have the following titles and analytic scope, and are available for public review and comment from the RCRA Docket:

—*"Supporting Statement for Information Collection Request Number 801.#"*, 19 July 2000: This study represents the narrowest scope of the three studies, focused primarily on estimating the annual burden hour reduction (and associated reduction in annual labor cost) for today's proposed rule, as it affects 1.76 million annual Federal RCRA manifests. This first study estimates burden hour reduction assuming that 50% of all annual manifests become electronic after promulgation of today's proposed rule.

—*"Economics Background Document: Economic Analysis of the USEPA's Proposed Modifications to the RCRA Hazardous Waste Manifest System"*, 12 May 2000: Building upon the burden hour reduction findings of the ICR, this second study expanded the scope of the economic impact analysis to include potential impacts of the rule on both Federal RCRA and state hazardous waste manifests (2.43 million annual manifests), as well as a cursory estimate of annualized electronic automation equipment costs (to states and to waste handlers) for implementing today's proposed rule. Consequently this study presents a relatively larger baseline estimate of annual manifest activity compared to the ICR study. This second study applies two alternative electronic manifest adoption rate scenarios: 25% and 50% of all annual manifests become electronic, applied to a future three-year time-span. No attempt was made in this study to project quantitatively the future trend in the number of manifests issued, or the effects of future technological changes in electronic data transmission or other costing factors, since this study was designed only to formulate a fairly simplistic analysis to support the proposed rule.

—*"Hazardous Waste Manifest Cost Benefit Analysis"*, October 2000: Building upon the second economic study, this third study is the broadest in scope, as it includes electronic manifest equipment costs associated with existing computerized systems in some companies, as well as includes a more extensive and detailed estimate of both initial and annually recurring costs (to states, to waste handlers, and to EPA) for implementing different, alternative versions ("models") of the proposed electronic manifest automation system. This third study adopts the 2.43 million annual manifest baseline from the second study, but expands the estimated annual manifest activity to 3.01 million manifests, to include additional manifest transmissions for purpose of repeats and continuation sheets, applied to a future ten-year time-span. This study also expands the assumed number of manifests transmitted electronically, in relation to numbers of entities assumed adopting electronic manifests, which include 100% of large quantity waste generators, 25% of small quantity generators, 90% of transporters, and approximately 25% of the hazardous waste treatment, storage and disposal facilities involved in manifest activities. This study estimated costs and potential burden reduction benefits according to multiple alternative implementation scenarios ("models").

Consequently, because each is unique in scope and units of analysis, EPA presents them in the RCRA Docket separately for public review and comment, rather than consolidating them into a single document in support of today's proposed rule. On the other hand, the basic approach of all three studies in estimating their respective different levels of economic effects is similar; to compare current (i.e. 1997–99) baseline manifesting burden hour and other cost requirements, against the burden and cost under today's proposed revisions to the manifest system. The calculations in each study were performed using a series of comparative spreadsheets, incorporating detailed unit labor and other cost estimates for carrying out numerous manifest-related tasks. It is important to indicate that all studies did not attempt to forecast the future trend in the number of manifests issued, or to forecast the effects of future technological changes in electronic data transmission equipment or other costing factors. Consequently, it is important that each study be interpreted as a relatively simple estimate of impacts,

subject to future annual variability, and to other potential sources of uncertainty.

Regulatory Burden Savings Estimates

Based on the findings of the first and second economic study listed above—which focused on estimating burden hours and cost reduction for today's proposed rule—under current Federal and State baseline regulations, the Agency estimates that about 92,350 individual hazardous waste generators and other handlers produce and manifest about 2.433 million hazardous waste shipments for off-site management annually, requiring about 4.416 million waste handler labor hours, costing about $187.0 million annually. State government waste management programs spend an additional 199,000 hours and $6.3 million annually to administer their current waste manifesting programs.

The manifest reform proposal projects an overall net regulatory burden reduction of between 765,000 (low adoption scenario) and 1.241 million (high adoption scenario) labor hours (a baseline savings of 17 to 27 percent), and a corresponding annual reduction in total nationwide manifesting costs of about $23.4 to $37.2 million (a 13 to 19 percent reduction in baseline cost). The major part (i.e. 96 to 99 percent) of these total nationwide savings would accrue to the private sector (waste handlers), but State regulatory agencies would also experience substantial reductions—on the order of 18 to 40 percent in annual burden hours, and 3 to 25 percent in cost—relative to State-level baseline administrative burdens for hazardous waste manifesting.

In terms of basic proposal elements, the manifest form change requirements alone appear to produce potentially a relatively small burden reduction of only about four to 13 percent cost savings from current practices. In addition, as described earlier in this Preamble, the requirement for a uniform nationwide form is an essential prerequisite for efficient electronic automation which is projected to result in quite substantial potential burden reductions for the private sector. The potential incremental benefits from electronic automation of the manifest system are estimated at 87 to 96 percent of current cost. Higher automation adoption rates than those assumed here are possible, given the national trends in internet communications, the potentials for commercial waste transporters and TSD companies to centralize the manifesting functions as an added service to generators, and the scale economies involved in doing so.

In contrast with electronic automation, the additional savings from the telefax option are in the one to two percent range. Labor and cost reductions from faxing would vary inversely with the degree of automation, i.e., the greater the use of electronic manifesting, the less is the need for the faxing of manifests.

In the present proposal, the actual savings resulting from both the automation and fax options depend on the adoption of these options by States as part of their authorized RCRA programs, including both States of origin and States of destination for interstate shipments, and, in some cases, intervening States as well. The Agency's benefit estimates assume that most if not all States would ultimately revise their regulations to allow for both electronic automation and the faxing of manifests within their borders. To the extent that this does not occur or does not take place reasonably quickly, the regulatory burden reductions projected here would either not transpire or would be postponed.

Based on the third economic study which was more expansive in scope by including electronic automation implementation costs, in addition to burden affects, the average annualized implementation cost for the proposed rule is estimated to range between $10.8 to $26.0 million. This range in implementation cost reflects two alternative implementation approaches considered in the study. EPA anticipates that today's proposed rule would offset this implementation cost, by reducing the national annual burden associated with the manifest system, resulting in a net, average annualized national burden cost savings of $82.2 to $86.8 million.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant adverse economic impact on a substantial number of small entities. SBREFA further requires Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The Agency is certifying that there will not be an adverse impact on small business populations as a result of today's rule proposals, and therefore no regulatory flexibility analysis or other SBREFA requirements are necessitated. This certification is based on the following reasons.

With respect to the manifest form changes and automation options, today's proposals include both regulatory and deregulatory features. However, the net effect of these changes should reduce, and not increase, the paperwork and related burdens of the RCRA hazardous waste manifest system. For businesses in general, including all small businesses, the form changes, although required, are designed to reduce the labor time and other costs of acquiring, completing, and submitting hazardous waste manifests. The Agency's proposals regarding the optional use of telefaxed forms and the electronic automation of form preparation and tracking are also designed to facilitate and encourage increased efficiency and reduced costs through the use of modern communications technologies. These possibilities were not available under existing manifest regulations. Although most small businesses waste generators would not be expected to initiate or acquire the automation technology directly, many or most would be expected to share in the savings due to automation undertaken by the waste transportation, treatment and disposal sectors which service the many waste generating sectors. Since these proposals are offered as options to the regulated community, they are unlikely to be employed in situations that do not involve cost savings to waste handlers and generators.

For the reasons discussed above, I hereby certify that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

C. Environmental Justice—Applicability of Executive Order 12898

Pursuant to Executive Order 12898, the Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. The Agency conducted an analysis to identify whether environmental justice concerns might result from today's proposed modifications to the hazardous waste manifest system. To conduct the analysis, we used two criteria, both of which would have to be met in order to flag an environmental justice concern: (i) Are there any adverse impacts from the proposed action, and if so, (ii) would the adverse impacts on minority populations and low-income populations be disproportionately high? We applied both criteria to each rule component: Manifest form changes, automation, use of fax, annual waste minimization certification, and special procedures for problem shipments. We found no adverse impact, and thus no disproportionately high adverse impact, on minority populations and low-income populations, for each component of the proposed rule.

The basic reason for the above finding is that the current features of the manifest system that protect human health and the environment are preserved or enhanced under today's proposed rule. For example, neither the proposed form changes nor the automation proposals would detract from the manifests basic "cradle-to-grave" tracking features that protect human health and the environment. The information essential to identifying the materials involved in shipments and aiding emergency responders would be retained. Manifest automation and faxing may be more convenient for some waste handlers than using regular mail and may result in increased compliance, as well as enable closer real-time tracking of shipments, improved data quality for recipients and better enforcement opportunities. Regarding the change for the waste minimization certification from a per manifest basis to annual basis, this is not expected to alter hazardous waste generation, handling or disposal practices, nor pose an incremental risk to human health and the environment. Similarly, clarification on the manifest of the special procedures for problem loads are designed to improve tracking and therefore would not have adverse effects on human health and the environment.

D. Protection of Children—Applicability of Executive Order 13045

The Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered.

This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866. In addition, the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children, because the manifest system does not itself give rise to environmental media transfer issues. The manifest serves as a tracking device which creates clear lines of accountability among the participants in the hazardous waste system. It also serves to protect human health and the environment during the transportation of hazardous waste by providing information about the waste to persons handling the waste and to emergency response personnel.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The manifest automation component of this rulemaking involves information technology standards for electronic manifest formats and for electronic signatures. Today's proposal includes an electronic format for the manifest based upon the American National Standards Institute (ANSI) Accredited Standards Committee's (ASC) X12 standard format for Electronic Data Interchange or EDI. EPA is also proposing an Internet Forms document definition for the manifest based on the Extensible Mark-up Language (XML) Specifications developed by the World Wide Web Consortium. The World Wide Web Consortium, however, is not a voluntary consensus standards body within the meaning of the NTTAA, and EPA could not identify an applicable consensus standard for creating and transmitting Internet Forms. Therefore, EPA has decided to propose an XML document definition for Internet transmissions of the manifest, as an alternative to the ANSI ASC X12 formats that are customarily transmitted across Value Added Networks. It is possible that the ANSI ASC X12 standards body will develop standards for XML document definitions in the future, and EPA will monitor this situation as we develop a final rulemaking.

The rulemaking also proposes a digital signature method for signing electronic manifests, based on the Digital Signature Standard adopted by the National Institute of Standards and Technology and published in Federal Information Processing Standard (FIPS PUB) 186–1. The proposed digital signature method would require the use of the RSA digital signature algorithm discussed in ANSI X9.31. EPA has also proposed a "secure digitized signature" method for signing manifests electronically, since this method may be a cost-effective alternative to the digital signature method. The Agency could not identify an applicable consensus standard for digitized signatures.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written analysis, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome

alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials to have meaningful and timely input in the development of regulatory proposals, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule does not include a Federal mandate that may result in expenditures of $100 million or more to State, local, or tribal governments in the aggregate, because the UMRA generally excludes from the definition of "Federal intergovernmental mandate" duties that arise from participation in a voluntary federal program. States are not legally required to have or maintain a RCRA authorized program. Therefore, today's proposed rule is not subject to the requirements of sections 202 and 205 of UMRA. In addition, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments under section 203 of UMRA. Small governments would be affected only to the extent that they generate or otherwise handle hazardous wastes, and the net effect of today's proposal should be to reduce paperwork burdens and compliance costs for hazardous waste handlers. Therefore, EPA does not believe that this proposal would have a significant or unique effect on small governments.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection request (ICR) document has been prepared by EPA (ICR No. 801.#, 19 July 2000), copies of which are available to the public from Sandy Farmer, OP Regulatory Information Division; U.S. Environmental Protection Agency (MC 2137); Ariel Rios Building; 1200 Pennsylvania Ave., NW., DC 20460 or by calling (202) 260–2740.

According to the estimates provided in the ICR for this proposed rule, the average annual burden [5] to RCRA hazardous waste handlers as a result of the proposed revisions to the RCRA manifest system, represents a net reduction in burden of about 590,000 hours per year. These burden reductions represent 20% reduction in annual burden hours compared to the baseline burden of 2.920 million hours per year, as estimated in the RCRA manifest system baseline ICR No.801 (22 October 1999).

The public should send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing burden to EPA (at the address given above) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20460, marked "Attention: Desk Officer for EPA."

H. Federalism—Applicability of Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." The Executive Order defines "policies that have federalism implications" to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

The proposed rule would alter the information that a State may require a generator or transporter to submit on the Uniform Manifest, and it would also alter the States' current role in distributing manifests. However, these changes represent relatively minor adjustments to the current manifest system, and they do not alter substantially the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. The manifest would remain a tracking document and shipping paper that is primarily based on Federal requirements found in RCRA and in the hazardous materials transportation laws administered by DOT. As with existing hazardous waste manifest requirements, States would retain the authority to require generators and treatment, storage, and disposal facilities to provide information included in the remaining optional fields on the manifest and to require the submission of additional information related to the hazardous waste shipment under separate cover, so long as such requirements are not inconsistent with the Hazardous Materials Transportation Act (HMTA) or HMTA regulations.

In addition, the proposed rule would not impose substantial direct costs on States and localities. Although states with manifest data tracking programs may incur some start-up costs in converting their tracking systems to accept the revised paper manifest and/or electronic manifests, the proposal neither mandates that States collect manifests, nor mandates that States adopt the electronic manifest option as a part of their programs. Thus, Executive Order 13132 does not apply to this rule.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA consulted substantially with representatives of State government in developing this proposal. The Agency invited State representatives to participate in two public meetings during which we presented our rulemaking objectives and strategies, and solicited comments and concerns. These public meetings were conducted on December 10–11, 1997, and on January 7–8, 1998. Representatives of 23 States and Territories participated in these meetings. In addition, State representatives were invited to participate in the meetings of the EPA work group which developed this proposed rule. Representatives from 4 States (Indiana, Pennsylvania, New Hampshire, and Rhode Island) were selected to participate in the work group meetings, and these States discussed proposed rule options and draft rule language extensively with EPA throughout the development of the proposal.

During our consultations with States on this proposal, the State representatives identified several concerns about: (1) The reductions in the optional fields which States have used to require additional information from facilities; (2) the changes proposed for printing and acquiring manifests; (3) the costs to States of converting to an electronic system, and whether electronic manifesting would be mandatory for States to adopt in their programs; and (4) the lack of court precedents upholding electronic signatures as a means to sign records. A summary of the concerns raised during consultations with the States, and EPA's response to those concerns, is provided below.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposal from State and local officials.

State Concerns and EPA's Responses

1. *Reductions in Optional Fields.* The proposed rule would eliminate several optional fields from the current manifest, particularly, those optional fields that require State ID Numbers (in addition to EPA ID numbers) for generators, transporters, and facilities. The proposal would also eliminate the optional fields for entering transporters' phone numbers and the facility's phone number on the manifest, and replace these with the requirement that there be one emergency response phone number entered on all manifests. The State Manifest Document Number optional field would be replaced with the requirement that all manifests have a unique manifest tracking number.

Several State participants identified the concern that the proposed manifest would hinder States that wish to collect this information. In particular, State representatives indicated to EPA that several States use the State Generator ID field to list a generator's site address, since this may be a distinct address from the mailing address which generators are required to supply on the current form. EPA considered the points raised by State participants with regard to the optional fields during work group meetings. The Agency concluded that the benefits of reducing manifest variability and paperwork burden outweighed the interests States identified in continuing to collect these data on the manifest.

2. *Changes in printing and acquiring manifests.* Currently, generators obtain most of their manifests from State agencies. There are currently 24 States that print and distribute their own manifests for shipments generated in or designated for facilities in these States. The manifests printed by the states reflect the optional fields required to be used in these states, as well as copy submission requirements, mailing addresses for submitting copies, and a pre-printed manifest number that would track the manifest uniquely in the States' data bases. The proposal would adopt a standard Federal printing specification for the manifest, and allow States, waste handlers, and business form printers to register to print manifests according to this specification. There would be less variability among manifests, but the form could be obtained from more sources.

During the work group meetings, State participants discussed their interests in printing and distributing manifests. For several States, selling blank manifests is a source of revenue. In all States that print manifests, there is a concern that manifest document numbers must be assured of being unique and accurate. We were advised that this can be best accomplished by having manifest numbers pre-printed on the forms by the printer. The proposed registry system and Federal printing specification were developed based on State representatives' advice and recommendations. There was substantial discussion of this issue by the States, and their representatives indicated that the proposal would meet most of their concerns. The revenue issue is more difficult to resolve. Some States charge manifest fees only to defray their printing costs, while others collect program revenue beyond that required to recoup costs of supplying manifests. In some instances, manifest fees charged by States are required by legislation.

3. *Costs to States of Converting to Electronic Systems.* During the public meetings on the manifest revisions, State participants voiced concerns that States would incur significant costs in converting to electronic systems for collecting manifests. This issue would be more of a concern if EPA mandated use of the electronic manifest by the States.

Our economic analysis for today's proposal reveals that States that adopt electronic systems for collecting manifests would in fact experience significant cost reductions compared to the current baseline. While each State may incur about $100,000 initially in start-up costs ($38,000 in annualized costs) for automating their systems, we expect that States would realize between $213,000 and $1.58 million in cost savings from the proposed revisions. The electronic manifest accounts for most of these savings, which would more than offset the start-up costs. In addition, EPA has proposed that States would not be required to adopt the electronic manifest option. So, no State would be required to incur these start-up costs, and those States that choose to convert would presumably do so as a matter of self-interest.

4. *Lack of court precedents supporting electronic signatures.* During the development of this proposal, several States commented that the inclusion of the electronic manifest in the proposal was premature, since there are no court precedents upholding the use of electronic signatures. EPA appreciates this concern, which is not unique to this proposed rulemaking on the manifest. However, the Congress has recently enacted legislation which establishes that electronic records and electronic signatures should generally be accorded the same treatment under the law as documents signed by hand. See the Government Paperwork Elimination Act (GPEA), Public Law 105–277, Title XVII (1998). The Agency believes that this statute supplies the authority lacking in prior court decisions supporting the use of electronic signatures. The proposal also includes security controls aimed at ensuring that electronic signatures cannot be repudiated or misused. For example, "digital signatures" would be supported by a Public Key Infrastructure (PKI), including digital certificates (from a trusted Certificate Authority) binding an individual to their signature keys, password protection and non-disclosure obligations for the private signature key, and policies holding individuals accountable for acts taken under their signature.

I. Consultation With Tribal Governments

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 takes effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. EPA developed this proposed rule, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. EPA will analyze and fully comply with the requirements of Executive Order 13175 before promulgating the final rule. Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance

[5] Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

costs on those communities of Indian Tribal governments, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposal would not significantly or uniquely affect the communities of Indian tribal governments, nor would it impose substantial direct compliance costs on them. This proposal does not create a mandate for tribal governments, nor does it impose any enforceable duties on these entities. Therefore, EPA has determined that no communities of Indian tribal governments would be affected by this proposed rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply.

IX. How Would Today's Proposed Regulatory Changes Be Administered and Enforced in the States?

A. Applicability of Federal Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer the RCRA hazardous waste program within the State. Following authorization, the State requirements authorized by EPA apply in lieu of equivalent Federal requirements and become Federally enforceable as requirements of RCRA. EPA maintains independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized States also have independent authority to bring enforcement actions under State law. A State may receive authorization by following the approval process described under 40 CFR part 271. See 40 CFR part 271 for the overall standards and requirements for authorization.

After a State receives initial authorization, new Federal requirements promulgated under RCRA authority existing prior to the 1984 Hazardous and Solid Waste Amendments (HSWA) do not apply in that State until the State adopts and receives authorization for equivalent State requirements. The State must adopt such requirements to maintain authorization.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to HSWA provisions take effect in authorized States at the same time that they take effect in unauthorized States. Although authorized States are still required to update their hazardous waste programs to remain equivalent to the Federal program, EPA carries out HSWA requirements and prohibitions in authorized States, including the issuance of new permits implementing those requirements, until EPA authorizes the State to do so.

Authorized States are required to modify their programs only when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program. See also 40 CFR 271.1(i). Therefore, authorized States are not required to adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent.

B. Authorization of States for Today's Proposal

Except for one provision, we would promulgate today's proposal mainly under non-HSWA statutory authority. The section of today's proposal that would be promulgated under HSWA authority (specifically, RCRA section 3002(b)) is proposed § 262.27, which would consist of the waste minimization certification statement. Therefore, when promulgated, the Agency would add this section of the rule to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to the statutory authority that was added by HSWA. States may apply for final authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble. The proposed regulatory provision would contain the language which is in the current manifest form, but would not be in the proposed revised form except by reference to proposed § 262.27. Generators would still be required to certify to waste minimization statements on the manifest each time a manifest is initiated. Therefore, proposed § 262.27 would be effective under Federal authority before States receive authorization only when the revised manifest form is used in these States.

All the other parts of today's proposal would become effective under RCRA authority in authorized States only when they revise their programs and receive authorization for the final rule.

1. Would Authorized States Be Required To Adopt the New Uniform Manifest Form?

Under today's proposal, authorized States would be required to adopt the new Uniform Manifest form. To obtain and maintain authorization, States and territories are required to be consistent with the federal program and other State programs. Although sections 3006 and 3009 of RCRA allow States to have regulations that are different than the Federal requirements, as long as they are equivalent to or more stringent than or broader in scope, section 3006(b) also requires States to have regulations that are consistent with the federal regulations. The requirements of this statutory provision are codified in 40 CFR 271.4, which specifically applies the consistency requirement to the manifest system under 40 CFR 271.4(c). When EPA originally promulgated the Uniform Manifest in 1984, we found that consistency was extremely important where requirements addressing transportation are concerned. We found during the early years of implementing the RCRA program that a proliferation of many State-specific manifest forms could hamper the movement of hazardous waste to waste management facilities, and that differing manifest use and information requirements between States caused added burdens and confusion among those trying to comply with the Subtitle C regulations. See 49 FR 10490 at 10491 (March 20, 1984). Therefore, in 1984, EPA announced that consistency in the use of the Uniform Manifest would be required from authorized States, and that, with the exception of the limited information allowed in the optional fields, authorized States could not require any other manifest or information to accompany a waste shipment. Id. Based on 16 years of experience with the Uniform Manifest, EPA concludes that variability in the current manifest system should be reduced further, since the current level of variability continues to produce excessive burden, confusion, and compliance problems. Moreover, EPA restates that program consistency

under RCRA section 3006 and 40 CFR 271.4(c) would demand that authorized States must require the use of the Uniform Manifest as revised by today's proposals.

Under 40 CFR 271.4(c) and 271.10(f) and (h), in order to be consistent with the federal program, and receive approval from EPA, States must have a manifest system that includes a manifest format that follows the Federal format required in 40 CFR 262.20(a) and 262.21. Today's proposal would amend § 271.10(h) to correspond with the proposed changes to the manifest format. These amendments are discussed in detail in section IV of today's proposal. Key among these amendments are form revisions that would eliminate most optional fields and establish a new procedure for obtaining a standard manifest form from registered printers. The new, standard manifest format would present authorized states with fewer areas of potential variability than arise under existing regulations. For example, existing § 271.10(h)(1) allows authorized states to supplement the Uniform Manifest format with several pre-printed items, such as a State manifest number, light organizational marks to indicate proper placement of characters, information and instructions in the margins or on the back of the form, and references to specific State laws or regulations following the generator's certification language. The proposed amendments to § 271.10(h) would eliminate provisions addressing States' ability to supplement the form. However, proposed § 271.10(h) would retain language clarifying that States could require information to be supplied to address the two proposed optional fields—Waste Codes (Block A) and Biennial Reporting system type codes (Block B)—and to provide additional waste descriptions in Block 14 of the proposed form.

Because the new uniform manifest would (except for proposed § 262.27 as explained above) be promulgated pursuant to non-HSWA authority, it would not become effective as a RCRA requirement in authorized States until those States revise their programs and receive authorization. However, federal hazardous material transportation law preempts any State, local or Indian tribe requirement on "the preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents" that is not substantively the same as requirements in the hazardous materials regulations. 49 U.S.C. 5125(b)(1)(C). The Department of Transportation currently requires the use of the Uniform Hazardous Waste Manifest for shipments of hazardous waste (which is also a hazardous material). 49 CFR 172.205. Thus, waste handlers would be required, under 49 CFR 172.205, to use the revised Uniform Hazardous Waste Manifest upon the two-year delayed compliance date of the final rule (see Section III.E. for further discussion regarding the two-year delayed compliance date).

EPA has involved the authorized States, as co-implementers of the RCRA program, in the development of today's proposal. We believe that there is support among the States for the manifest revisions. EPA also believes that the States would generally be able to revise their RCRA programs to include this amended manifest form within the proposed transition period, although some States may need to enact legislative changes to effect this change.

2. Would Authorized States Be Required To Adopt Electronic Manifesting?

A significant issue presented by today's proposal is whether the final rule should require that authorized States adopt the electronic manifest option as a part of their approved programs, in order to be consistent. Under RCRA section 3006, authorized State programs must be consistent with the Federal program and other State programs, and EPA's authorization regulations state that State manifest systems that do not meet EPA's requirements or that unreasonably impede the free movement of waste shall be deemed inconsistent. See 40 CFR 271.4(a) and (e).

We are tentatively proposing not to require States to adopt the electronic manifest option. However, we are considering whether States should be required to adopt the electronic manifest option in order to ensure consistency with the Federal program and other State programs. For example, EPA could require States to adopt the electronic manifest option if we were to conclude that the free movement of waste in commerce may be burdened unreasonably if individual States choose not to allow electronic manifests. Similarly, we may require State adoption of the electronic manifest option if we determine that the cumulative effect of a patchwork of States—some recognizing and others not recognizing electronic manifests—may itself unduly burden the free movement of waste. This result may render the State program inconsistent with the federal program under the provisions of 40 CFR 271.4(a). Other reasons that could support EPA's determination under § 271.4(a) to deem State programs that do not provide for electronic manifests to be inconsistent include the concern that the development of electronic manifesting systems by waste handlers would be frustrated significantly if States elected not to adopt the option, and that market forces and consensus processes would not be sufficient to promote and implement the electronic manifest option.

At this time, EPA believes that there are strong practical and business influences that would promote the adoption of electronic manifesting. Many States are in the forefront of efforts to provide electronic access to government services and to encourage electronic commerce, so requiring State programs to adopt the electronic manifest standards may not be necessary to accomplish progress in this area. Moreover, during the public meetings which EPA conducted as we developed this proposal, we stressed the voluntary and optional nature of the manifest automation component of the proposed rule. States likely understood that manifest automation would be optional for state programs as well as for the waste handlers who use the manifest.

Thus, EPA is tentatively proposing that authorized States would not be required to adopt the electronic manifest system as part of their state programs. Under today's proposal, the electronic manifest system would not be effective under RCRA in authorized States unless an authorized State revises its program and receives authorization for the final electronic manifest system requirements. In addition, under today's proposal, an electronic manifest would not be considered a "shipping document" under 49 U.S.C. 5125(b) and thus, hazardous materials transportation law would not preempt state programs that do not allow the use of an electronic manifest.

Although States could choose not to adopt the electronic manifest system, those that do would have to adopt the standards for the electronic formats, electronic signature standards, and computer security controls that we would promulgate when we finalize this proposal. In addition, State programs electing to adopt the electronic manifest option would need to adopt State counterparts to the final regulations that address the use of the electronic manifest by generators, transporters, and TSDFs. As explained in section VII.E.1. of this preamble, the need for a uniform manifest to allow the free movement of waste applies to the electronic manifest as well as the paper manifest, if not more. The state authorization

regulations addressing generator requirements, 40 CFR 271.10(f) and (h), already refer to the manifest regulations, which would impose on states that adopt the electronic manifest option the requirement that their programs be revised to require waste handlers to use the electronic manifest formats, electronic signature standards, and computer security controls described in today's proposal. These areas require a consistent implementation if electronic manifests are to be freely exchanged between waste handlers and state agencies located in various jurisdictions.

However, States would retain the latitude to either adopt or not adopt the preparer signature or third-party storage features of today's proposal. Thus, a state that did not adopt one or both of these features could choose to operate a more stringent program in these areas. The Agency requests comment on how electronic manifesting should be implemented among the various authorized States, how today's proposed standards would impact states that may already have requirements in place or efforts underway to address electronic records and electronic signatures, and how any adverse impacts on State programs might be mitigated.

Appendix A to the Preamble—Extensible Markup Language (XML) Document Type Definition for the Hazardous Waste Manifest

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<!—This document represents the Document Type Definition for the Uniform Hazardous Waste Manifest—>
<!—Signature blocks are represented as #PCDATA until final recommendations are adopted for representing electronic signatures in XML documents—>
<!—References for the W3C Digital Signature Working Group:
XML Signature Syntax and Processing—http://www.w3.org/2000/02/xmldsig#
DTD for Digital Signatures—http://www/w3.org/TR/xmldsig-core/xmldsig-core-schema.dtd—>
<!ELEMENT manifest (title, manifest_tracking_number, generator_info, transporter_info+, tsdf_info, waste_description+, special_handling_instructions, generator_certification, international_shipments, transporter_certification+, tsdf_discrepancy, tsdf_certification, tsdf_hrs_codes*)>
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<!ATTLIST generator_name gname CDATA #REQUIRED>
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<!ELEMENT waste_description (proper_shipping_name, hazard_class, dot_id_no, packing_group, no_of_containers, container_type, total_quantity, unit_wt_vol, waste_codes+)+>
<!ELEMENT proper_shipping_name (#PCDATA)>
<!ATTLIST proper_shipping_name pname CDATA #REQUIRED>
<!ELEMENT hazard_class (#PCDATA)>
<!ATTLIST hazard_class hclass NMTOKEN #REQUIRED>
<!ELEMENT dot_id_no (#PCDATA)>
<!ATTLIST dot_id_no dotid NMTOKEN #REQUIRED>
<!ELEMENT packing_group (#PCDATA)>
<!ATTLIST packing_group pgroup CDATA #REQUIRED>
<!ELEMENT no_of_containers (#PCDATA)>
<!ATTLIST no_of_containers nocon NMTOKEN #REQUIRED>
<!ELEMENT container_type (#PCDATA)>
<!ATTLIST container_type code CDATA #REQUIRED>
<!ELEMENT total_quantity (#PCDATA)>
<!ATTLIST total_quantity totquan CDATA #REQUIRED>
<!ELEMENT unit_wt_vol (#PCDATA)>
<!ATTLIST unit_wt_vol volcode CDATA #REQUIRED>
<!ELEMENT waste_codes (#PCDATA)
<!ATTLIST waste_codes wcode NMTOKEN #IMPLIED>
<!ELEMENT special_handling_instructions (#PCDATA)>
<!ATTLIST special_handling_instructions instr CDATA #IMPLIED>
<!ELEMENT generator_certification (generator_signature, generator_printed_name, generator_date)>
<!ELEMENT generator_signature (#PCDATA)>
<!ELEMENT generator_printed_name (#PCDATA)>
<!ATTLIST generator_printed_name gpname CDATA #REQUIRED>
<!ELEMENT generator_date (#PCDATA)>
<!ATTLIST generator_date gendate CDATA #REQUIRED>
<!ELEMENT international_shipments (intl_import, intl_export, port_of_entry_exit, intl_date, intl_signature)>
<!ELEMENT intl_import (#PCDATA)>
<!ELEMENT intl_export (#PCDATA)>
<!ELEMENT port_of_entry_exit (#PCDATA)>
<!ELEMENT intl_date (#PCDATA)>
<!ATTLIST intl_date intldate CDATA #IMPLIED>
<!ELEMENT intl_signature (#PCDATA)>
<!ELEMENT transporter_certification (transporter_signature, transporter_printed_name, transporter_date)+>
<!ELEMENT transporter_signature (#PCDATA)>
<!ELEMENT transporter_printed_name (#PCDATA)>
<!ATTLIST transporter_printed_name tpname CDATA #REQUIRED>
<!ELEMENT transporter_date (#PCDATA)>
<!ATTLIST transporter_date transpdate CDATA #REQUIRED>
<!ELEMENT tsdf_discrepancy (discrepancy_quantity_type, container_residue, rejected_waste, manifest_reference_no, description)>
<!ELEMENT discrepancy_quantity_type (#PCDATA)>
<!ELEMENT container_residue (#PCDATA)>
<!ELEMENT rejected_waste (#PCDATA)>
<!ELEMENT manifest_reference_no (#PCDATA)>
<!ATTLIST manifest_reference_no mrno NMTOKEN #IMPLIED>
<!ELEMENT description (#PCDATA)>
<!ATTLIST description desc CDATA #IMPLIED>
<!ELEMENT tsdf_certification (tsdf_signature, tsdf_printed_name, tsdf_date)>
<!ELEMENT tsdf_signature (#PCDATA)>
<!ELEMENT tsdf_printed_name (#PCDATA)>
<!ATTLIST tsdf_printed_name tspname CDATA #REQUIRED>
<!ELEMENT tsdf_date (#PCDATA)>
<!ATTLIST tsdf_date tsdfdate CDATA #REQUIRED>
<!ELEMENT tsdf_hrs_codes (tsdf_a, tsdf_b, tsdf_c, tsdf_d)>
<!ELEMENT tsdf_a (#PCDATA)>
<!ATTLIST tsdf_a codea NMTOKEN #IMPLIED>
<!ELEMENT tsdf_b (#PCDATA)>
<!ATTLIST tsdf_b codeb NMTOKEN #IMPLIED>
<!ELEMENT tsdf_c (#PCDATA)>
<!ATTLIST tsdf_c codec NMTOKEN #IMPLIED>
<!ELEMENT tsdf_d (#PCDATA)>
<!ATTLIST tsdf_d coded NMTOKEN #IMPLIED>
```

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practices and procedure, Confidential business information, Hazardous waste.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste.

40 CFR Part 263

Environmental protection, Hazardous materials transportation, Hazardous waste.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: January 4, 2001.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

Subpart B—Definitions

2. Section 260.10 is amended by removing the definition of "Manifest Document Number", revising the definition of "manifest" and adding in alphabetical order the definition of "Manifest tracking number" and "Preparer" to read as follows.

§ 260.10 Definitions.

* * * * *

Manifest means the shipping document EPA Form 8700–22 (including, if necessary, EPA Form 8700–22A), or an electronic format identified in § 262.20(a)(3), originated and signed in accordance with the applicable requirements of parts 262 through 265.

Manifest tracking number means the alphanumeric identification number (i.e., a unique three letter prefix followed by eight numerical digits), which is pre-printed in Item 3 of the Manifest by a registered source.

* * * * *

Preparer means someone authorized by the generator to prepare, complete, and/or sign the generator's Manifest on behalf of the generator.

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

Subpart A—General

4. Section 261.7 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 261.7 Residues of hazardous waste in empty containers.

* * * * *

(b)(1) * * *

(iii)(A) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or

(B) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

5. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912(a), 6922–6925, 6937, and 6938.

6. In § 262.20 the heading and paragraph (a) are revised to read as follows:

§ 262.20 Manifest Formats and General Requirements

(a)(1) *Manifest Requirement.* A generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal must prepare a manifest to describe the hazardous waste being shipped offsite and its routing to a designated facility.

(2) *Paper format.* Generators using a paper manifest form must prepare their manifest on EPA Form 8700–22 and, if necessary, Form 8700–22A, and must prepare their manifest according to the instructions in the appendix to this part 262.

(3) *Electronic formats.* Generators using an electronic format must use either the Electronic Data Interchange (EDI) format described in paragraph (a)(3)(i) of this section, or the Internet Forms format described in paragraph (a)(3)(ii) of this section. All electronic manifests must be used in accordance with the electronic manifest use requirements of § 262.24, signed in accordance with the electronic signature requirements of § 262.25, and generated and maintained on electronic systems which meet the security requirements of § 262.26. Generators using the electronic manifest must prepare the manifest according to the instructions included in the appendix to part 262.

(i) *EDI format.* The EDI format for the manifest must conform to the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 standards for Electronic Data Interchange and the requirements and mapping conventions promulgated by the Federal Electronic Data Interchange Standards Management Coordinating Committee (FESMCC) for the ANSI X12 Transaction Sets 856 (Ship Notice/

Manifest) and 861 (Receipt and Advice). When EPA decides to adopt a new version and release of the ANSI X12 standard or to modify the conventional mapping, EPA will publish a **Federal Register** notice announcing this change to the implementation convention and establishing a conversion date. Those persons using the EDI format would have a minimum of 60 days to conform to the new version or mapping. EPA would discontinue support for the previous implementation convention no sooner than 90 calendar days after the conversion date.

(ii) *Internet forms format.* The Internet Forms format for the manifest must conform to the EPA Approved Document Type Definition, which defines the data elements, tag identifiers, data element relationships, contents, and structure of the Hazardous Waste Manifest, in accordance with the Extensible Markup Language (XML) specifications maintained by the World Wide Web Consortium.

* * * * *

7. Section 262.21 is revised to read as follows:

§ 262.21 Manifest tracking numbers, manifest printing, and obtaining manifests.

(a) *Manifest tracking numbers.* (1) Paper and electronic manifests may not be transmitted without a manifest tracking number assigned in accordance with a numbering system approved by EPA.

(2) A person may not assign manifest tracking numbers without submitting an application to EPA and receiving approval of their manifest tracking number system. The application to EPA must contain the following information:

(i) Name of applicant's organization (e.g., name of state and department or name of company);

(ii) Name of contact person and telephone number;

(iii) Mailing address;

(iv) EPA identification number, if applicable;

(v) Brief description of applicant's government or business activity;

(vi) Applicant's proposed, unique three-letter prefix for its manifest tracking numbers, including an explanation of any limitations to the use of such a prefix, if any (e.g., historic numbers to avoid); and

(vii) Signed certification that the applicant will ensure that no tracking number will be intentionally duplicated and, if applicable, that all manifest printing specifications in paragraph (b) will be followed.

(b) *Manifest printing.* (1) Paper manifest forms must be printed according to the following specifications:

(i) The form must be printed in the same format as EPA Form 8700–22a and b;

(ii) A Manifest Tracking Number assigned in accordance with a numbering system approved by EPA under paragraph (a) of this section must be preprinted in Item Three of the form;

(iii) Boxes cannot be added to the form;

(iv) Boxes cannot be deleted from the form;

(v) The form must be printed in the dimensions of 8½ x 11 inches;

(vi) The form must be printed in black ink that can be photocopied or faxed;

(vii) The instructions in 40 CFR part 262, appendix 1 must be printed on the back of the form;

(viii) Follow the same copy naming structure as outlined below in § 262.21(c)(3);

(ix) The form must be printed as a 6 copy form and it must be indicated on the form that copies of the form must be distributed as follows:

(A) Page 1 (top copy): "Designated facility to destination State" (if required);

(B) Page 2: "Designated facility to generator State" (if required);

(C) Page 3: "Designated facility to generator";

(D) Page 4: "Designated facility copy"

(E) Page 5: "Transporter copy"; and

(F) Page 6 (bottom copy): "Generator to generator State" (if required).

(2) Information required to complete the manifest may be preprinted on the manifest form. In addition, the following may also be printed on the manifest form:

(i) In items 10 and 28 (DOT description), a hazardous materials (HM) column for use in distinguishing between federally regulated wastes and other materials according to 49 CFR 172.201(a)(1);

(ii) Anywhere on the form, light organizational marks to indicate proper placement of characters or to facilitate data entry; and/or

(iii) The State optional boxes may be lightly shaded in the optional boxes;

(iv) In the Generator's Certification box, reference to State laws or regulations following the Federal certification;

(3) Electronic manifests must meet the electronic format requirements described in § 262.20.

(c) *Obtaining manifests.* (1) A generator using a paper manifest may use manifest forms printed by any of the following sources so long as the source of the printed form has registered and received approval from EPA to assign manifest tracking numbers under paragraph (a) of this section, and the form is printed in accordance with the specifications in paragraph (b) of this section:

(i) Any state agency that prints the manifest;

(ii) Commercial Form Printers;

(iii) Any hazardous waste generator, transporter, or TSDF; and

(iv) Brokers or other preparers who prepare or arrange shipments of hazardous waste for transportation.

(2) A generator must contact the consignment state to determine whether that state requires generators to enter optional state information on the manifest. Generators must also contact the consignment state to determine whether they are required to submit a copy of the manifest to the state.

8. Section 262.23 is amended by revising the heading to read as follows:

§ 262.23 Use of the paper manifest.

* * * * *

9. Subpart B is amended by adding new § 262.24;

§ 262.24 Use of the electronic manifest.

(a) *Optional use.* In lieu of using the paper manifest, generators may use an electronic manifest format identified in § 262.20(a)(3). A generator may only use an electronic manifest if:

(1) At least the generator and the designated facility for the shipment are both able to send and receive electronic manifest transmissions using electronic systems that meet the security requirements of § 262.26, or the generator is able to access such an electronic system operated by the transporter who receives the waste shipment from the generator for off-site transportation,

(2) Both the generator (or authorized preparer) and designated facility for the shipment are able to electronically sign their electronic manifests with an electronic signature that meets the requirements of § 262.25, and

(3) If manifest copies are collected by any authorized state(s), the state(s) is able to accept electronic manifest copies in lieu of paper copies, or, the state(s) is provided with suitable paper copies of the manifest.

(b) *Manifest preparation and signature by authorized preparer.* A person who in fact prepares a generator's hazardous waste shipment for off-site transportation may sign the generator's certification on behalf of the generator. Such a preparer may sign the generator's certification on the manifest if:

(1) The generator has authorized the preparer to prepare shipments and initiate manifests on behalf of the generator; and

(2) The preparer provides the generator with a copy of the manifest for the generator's records. In those cases where the preparer signs the generator's certification electronically but the generator is not able to retain an electronic copy of the manifest, the preparer must provide the generator with a paper copy of the manifest, with a notation in the generator's certification block indicating that the manifest was signed electronically by the preparer on behalf of the generator.

(c) *Manifest origination procedures.* A generator originating an electronic manifest must:

(1) Electronically sign the manifest certification in accordance with § 262.25;

(2) Transmit the manifest to the initial transporter and obtain back from this transporter a copy of the manifest bearing the signature of the initial transporter and the date of acceptance of the shipment. If the transporter is not able to accept and sign an electronic manifest, the generator must instead obtain from the transporter a handwritten signature and date of acceptance on a paper copy of the manifest or other shipping paper under 49 CFR part 272, subpart C. If a shipping paper is used to meet this requirement, it must bear the manifest tracking number assigned to the electronic manifest used for tracking the waste shipment.

(3) Retain one electronic copy in accordance with the retention period described in § 262.40(a). If the initial transporter is not able to accept and sign an electronic manifest, or if the generator signs an electronic manifest using the initial transporter's electronic system but is not able to take back an electronic copy, then the generator must retain a hard copy of the manifest or shipping paper signed by the initial transporter. The hard copy retained by the generator must display the manifest tracking number assigned to the shipment.

(4) Provide the initial transporter with one hard copy of the manifest or other hazardous materials shipping paper as defined in 49 CFR 171.8. This hard copy of the manifest or other shipping paper must be carried on the vehicle in accordance with 40 CFR 263.20(c) and the accessibility requirements of 49 CFR 177.817(e), and it must display the manifest tracking number assigned to the shipment.

(d) If any transporter listed on the manifest is not able to accept, sign, and transmit electronic manifest copies, then the generator must also send an electronic manifest copy to the designated facility. The copy transmitted to the designated facility must bear the generator's electronically signed certification, and either the initial transporter's electronic signature and date of acceptance, or a notation indicating that the transporter signed a manifest copy or other shipping paper by hand and the date that the shipment was received by the initial transporter.

(e) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send an electronic copy of the manifest, dated and signed in accordance with this section, to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the electronic manifest are not required for each transporter.

(f) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send an electronic copy of the manifest, dated and signed in accordance with this section, to:

(1) The next non-rail transporter, if any; or

(2) The designated facility, if transported solely by rail; or

(3) The last rail transporter to handle the waste in the United States if exported by rail.

(g) For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

10. Subpart B is amended by adding new § 262.25;

§ 262.25 Electronic manifest signatures.

(a) An "electronic signature" means a method of signing an electronic document with a computer generated symbol or series of symbols in a way that indicates a particular person as the source of the document, and indicates such person's approval of the content of the document, or an intent to be bound by the document.

(b) All electronic manifests must be signed with electronic signatures which meet either the digital signature standard described in paragraphs (c) through (f) of this section, or the secure digitized signature standard described in paragraph (g) of this section.

(c) *Digital signatures.* A "digital signature" means an electronic signature that is based on private key/public key cryptography, and which allows both the identity of the signer and the integrity of the data to be verified.

(d) *Digital signature generation.* (1) The generation of digital signatures must conform to the Digital Signature Standard adopted by the National Institute of Standards and Technology (NIST) in Federal Information Processing Standard (FIPS PUB) 186–1, December 15, 1998. In accordance with FIPS PUB 186–1, the Secure Hash Algorithm (SHA) described in FIPS PUB 180–1 (NIST, April, 1995) and the RSA digital signature algorithm described in ANSI X9.31 must be used to generate and verify digital signatures for the hazardous waste manifest.

(2) Key lengths for encryption keys must be not less than 1024 bits.

(e) *Private key security.* (1) The private encryption key used to generate a manifest digital signature may reside on either software or hardware, e.g., a "smart" card or other hardware token. Access to the private key must be protected by at least one authority challenge, such as a PIN or password. The subscriber must keep the PIN or password confidential at all times.

(2) Individuals are responsible at all times for maintaining the confidentiality of their private keys. The private key must be protected at all times by the subscriber against disclosure, misuse, or compromise. An individual who uses a private key to sign electronic manifests must not delegate the use of their private key to another person.

(f) *Digital Certificate Requirements.* [Reserved]

(g) *Secure digitized signatures.* A "secure digitized signature" means an electronic signature that is created with a system which includes a digitizer device that collects signature data from a stylus that the signer moves across the surface of the device, and which includes software which can process signature input in the following manner:

(1) The signature software must block access to any editing or copying features that might otherwise allow a non-original signature image to be inserted in or copied to a document.

(2) The signature software must be designed to accept only original signature input created dynamically with the digitizer device.

(3) The signature software must record the signature input data as a signature object that contains:

(i) The graphical image of the signer's handwritten signature,

(ii) Signature capture information, including the claimed identity of the signer, and the date and time of the signature.

(iii) Document binding data, particularly, an encrypted checksum or hash function of the data to which the signature relates.

(4) The signature software must allow interrogation and verification of signature objects, to establish whether any data has been changed since a signature was captured. The software must alert the user if an invalid signature is detected.

(5) The signature software must be capable of presenting the graphical image of the captured signature in an industry standard bitmap format (e.g., TIFF or BMP), for display or print operations.

(h) Proof that an individual's electronic signature was affixed to an electronic manifest is evidence, and may suffice to establish, that the individual identified as the signor affixed the signature and did so with the intent to sign the electronic document to give it effect.

11. Subpart B is amended by adding new § 262.26;

§ 262.26 Electronic manifest systems and security.

(a) Electronic manifests must be generated and maintained by electronic systems that comply with paragraph (c) of this section. Electronic copies of manifests, which are electronically signed in accordance with § 262.25, and which are generated or maintained by electronic systems that meet the security requirements of paragraph (c) of this section, will be considered the legal equivalent to paper manifest copies bearing handwritten signatures, for purposes of satisfying any requirement in these regulations to initiate; use, or transmit a manifest, or to retain a record of a manifest copy or produce it for inspection.

(b) Electronic manifest copies as well as any computer systems (hardware and software), controls, and related documentation maintained under this section, must be readily available for, and subject to inspection by any EPA or authorized State inspector.

(c) Electronic systems used to satisfy the requirements in these regulations to initiate, use, transmit, or retain records of manifests, must employ controls and procedures to ensure the authenticity and integrity of their electronic records, and to ensure that the signer of these records cannot readily repudiate the signature and associated records as genuine. Such procedures and controls must include:

(1) Validation of computer systems by an independent, qualified information systems security professional who has prepared a written assessment of the system and has certified that the system generates and processes data accurately and reliably, that the system performs consistently and as intended, that the system is fully interoperable with any other electronic manifest system with which the system exchanges electronic manifests, that the system is designed and can be operated to meet the computer security standards of this section and good security practices common to trusted electronic commerce systems, and that appropriate precautions have been taken to ensure that these security measures cannot be avoided or defeated.

(2) The ability to generate accurate and complete records in both electronic (i.e, EDI and XML) formats and human readable formats, which can be made readily available for inspection, printing, or copying by EPA or State inspectors during the required record retention period.

(3) The ability to protect electronic records from all reasonably foreseeable causes of damage or corruption (including accidental or intentional erasures and alterations, and physical causes such as fire, heat, magnetism or water damage), to ensure their accurate and ready retrieval during the entire record retention period, including the retention of prior versions of hardware and software needed to access electronic records, and to create secure back-up copies of records or otherwise provide for data recovery in the event of damage or errors.

(4) The ability to limit system access to only authorized individuals, and to use authority checks (i.e., user IDs and passwords that uniquely identify each user to the system) to ensure that only authorized individuals can use the system, sign records, access input or output devices, alter a record, or perform discrete system operations,

(5) The ability to provide and maintain a secure computer-generated and time-stamped audit trail for independently recording the date and time of any operator entries and actions that create, modify, or delete records, and for establishing a complete and accurate history of each record in the system.

(6) Software-based operational system checks and work flow controls which implement and oversee the process for routing electronic manifests to waste handlers in the proper sequence, for prompting waste handlers to sign manifests electronically in the proper sequence and on the appropriate signature blocks, for ensuring that data entered by previous waste handlers cannot be altered once they have electronically signed the manifest, and for ensuring that electronic copies bearing the appropriate electronic signatures are distributed to all waste handlers involved with the waste shipment.

(7) Software-based features which ensure that manifest data appear on computer displays in a human readable format (including field labels) which waste handlers can readily verify before they apply their electronic signatures, and that at the time the system prompts a user to sign a manifest electronically, the signature prompt is accompanied by the following warning notice, which must be displayed clearly and conspicuously on the system display:

WARNING: Your electronic signature, when applied to this document, will constitute a signature for all legal purposes. The unauthorized use of an electronic signature, or the making of false statements in connection with an electronic signature, may be subject to civil penalties under State and Federal law, and to Federal criminal penalties under RCRA 3008(d)(3). Where a digital signature is used, only the person named as the subscriber on the digital certificate may apply the digital signature, and the right to use the digital signature cannot be delegated to another person. By using a digital signature, you are certifying that you have not compromised your private key or any password associated with your private key or signature device.

(8) Full interoperability of electronic manifest system features throughout the period that a manifest record resides on a system or is exchanged among waste handlers participating in an electronic system. Full interoperability of system features includes the ability to consistently process and present the required electronic manifest formats, the ability to consistently and reliably route manifests according to the software-based work flow and process controls, the ability to consistently generate and preserve audit trail data for each manifest record created by or received by the system, the ability to detect records that appear to have been altered, and the ability to consistently process and validate electronic signatures. You may exchange electronic manifests with another person's electronic system only if the other system has been assessed under paragraph (c)(1) of this section, and validated as fully interoperable with your system.

(9) Establishment of controls on distribution of, access to, and use of systems documentation that describes how the system operates, how the system components must be installed and configured, how system security features are implemented, or how the system is maintained. These controls extend as well to changes or revisions to system documentation or operating procedures.

(10) Establishment of, and adherence to, written policies that hold individuals accountable and responsible for actions initiated under their electronic signatures, in order to deter record and signature falsification.

(d) *Third-party storage of manifest records.* (1) A generator's electronic manifest records may be stored by a networking service, record archiving service, or other commercial vendor of electronic record storage services provided that such records are maintained in a system that complies with the requirements of this section, including the requirement for reasonable inspector access to records during the entire record retention period, and the requirement for validation of the third-party system's operation by a qualified, independent information systems security professional.

(2) A generator who uses a third-party vendor of electronic record storage services to meet their record retention requirements remains responsible for the proper performance of their record retention requirements, including the requirement to provide reasonable inspector access to the records during the entire record retention period.

(e) *Receipt.* An electronic manifest is deemed to have been received by the recipient when it is accessible to the recipient in a format that can be read by the recipient. If a recipient receives a manifest record for which there is evidence that the data has been corrupted (e.g., garbled text, or hash functions or checksums that do not calculate correctly), the recipient must request that the sender re-transmit a corrected version of the record.

(f) *Acknowledgment of receipt.* When an electronic manifest transmission is received, the recipient must promptly generate and transmit to the sender an acknowledgment that confirms the receipt of data that can be translated by the recipient's system.

(g) *Date of receipt.* The acknowledgment generated by the recipient to confirm the receipt of translatable data will constitute conclusive evidence of receipt of the electronic manifest and will establish the date of receipt. An electronic transmission will not be considered complete until the sender receives the acknowledgment of receipt.

(h) *Retransmission.* If a positive acknowledgment is not received within 12 hours of a transmission, then the person who initiated the transmission must promptly re-transmit the electronic manifest.

(i) *Inability to transmit.* No person will be excused from the requirement to initiate or use a manifest because of a foreseeable or unforeseeable system failure that prevents the transmission of a valid electronic manifest. If a person is unable to initiate or transmit a valid manifest electronically, it must use the paper manifest required to be used in accordance with § 262.20(a)(2) and § 263.20 of this chapter.

(j) *Transmission log.* Each generator who operates an electronic manifest system to transmit or receive electronic manifests must maintain a transmission log covering all electronic manifests sent or received. This log must include for each manifest transmission sent or received, the date, time, and destination/source. The transmission log must also document who had access to the generator's sending or receiving system during the creation, transmission, or receipt of data. The transmission log must be maintained without modification and retained for three years among the generator's manifest records, in accordance with § 262.40(a).

12. Subpart B is amended by adding new § 262.27;

§ 262.27 Waste minimization certification.

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 16 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;" or

(b) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

13. Section 262.32 is amended by revising paragraph (b) to read as follows:

§ 262.32 Marking.

* * * * *

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304:

HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.
Generator's Name and Address _____
Generator's EPA Identification Number ____
Manifest Tracking Number _____

14. Section 262.33 is revised to read as follows:

§ 262.33 Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172, subpart F. If placards are not required, a generator must mark each motor vehicle according to 49 CFR 171.3(b)(1).

15. Section 262.34 is amended by adding new paragraph (j) to read as follows.

§ 262.34 Accumulation time.

* * * * *

(j) A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and then receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of § 264.72 or § 265.72 of this chapter may accumulate the returned waste on-site in accordance with paragraphs (a) and (b) or (d), (e) and (f) of this section, depending on the amount of hazardous waste on-site in that calendar month, except that a small quantity generator can never accumulate more than 6,000 kg on site at any given time.

Subpart E—Exports of Hazardous Waste

16. Section 262.54 is amended by revising paragraphs (c) and (e) to read as follows:

§ 262.54 Special manifest requirements.

* * * * *

(c) In the International Shipments block, the primary exporter must check the export box and enter the point of exit (city and State) from the United States.

* * * * *

(e) The primary exporter may obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

* * * * *

Subpart F—Imports of Hazardous Waste

17. Section 262.60 is amended by revising paragraph (c) and by adding paragraphs (d) and (e) to read as follows:

§ 262.60 Imports of hazardous waste.

* * * * *

(c) A person who imports hazardous waste may obtain the manifest form from any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

(d) In the International Shipments block, the importer must check the import box and enter the point of entry (city and State) into the United States.

(e) The importer must provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste enters the United States in accordance with § 263.20(g)(4) of this chapter.

18. The Appendix to Part 262 is redesignated as appendix 1 to part 262 and revised to read as follows:

Appendix 1 to Part 262—Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700–22 and 8700–22A and Their Instructions) U.S. EPA Form 8700–22

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter which is also compatible with standard computer printers; a firm point pen may also be used—press down hard.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to complete this form (8700–22) and, if necessary, the continuation sheet (8700–22A) for both inter- and intrastate transportation of hazardous waste.

The following statement must be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: 17 minutes for generators, 10 minutes for transporters, and 16 minutes for owners or operators of treatment, storage, and disposal facilities. This includes time for reviewing instructions, gathering data, completing and reviewing the form, and transmitting the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to: Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency, Ariel Rios Building; 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Copies and Copy Distribution

Original forms, carbon copies, carbonless copies, and photocopies of the manifest may be used. All copies must be legible. The top copy of the manifest must accompany the waste in transportation.

Paper manifest must be printed according to the following specifications:

- use the federal manifest format;
- register with EPA as a forms printer to ensure that you adhere to federal printing specifications and procedures subsequent to the registration process;
- preprint an eleven digit alphanumeric number (i.e., the three letter prefix followed by eight digits) under Item Three of the manifest as the Manifest Tracking Number.
- not add additional boxes to the form;
- not delete boxes from the form;
- print the form so that the manifest dimensions are 8½ × 11 inches;
- print the form in black ink so that it can be photocopied or faxed;
- print the standardized instructions outlined in 40 CFR part 262, appendix 1;
- follow the same copy naming structure as outlined below in § 262.21(c)(3);
- print the state optional boxes so that information in them is readable when the form is photocopied or faxed; and
- printer must print a 6 copy form.

Copies of the manifest shall be distributed as follows:

Page 1 (top copy): Designated facility to consignment State (if required);

Page 2: Designated facility to generator State (if required);

Page 3: Designated facility to generator;

Page 4: Designated facility retains

Page 5: Transporter retains; and

Page 6 (bottom copy): Generator to generator State (if required).

BILLING CODE 6560–50–P

UNIFORM HAZARDOUS WASTE MANIFEST

Please print or type.

1. Generator's US EPA ID No.	2. Page 1 of	3. Manifest Tracking No.	Information in the shaded areas is not required by Federal law.
4. Generator's Name and Mailing Address Generator's Phone:			5. Emergency Response Phone Number
6. Transporter 1 Company Name			US EPA ID Number
7. Transporter 2 Company Name			US EPA ID Number
8. Transporter 3 Company Name			US EPA ID Number
9. Designated Facility Name and Site Address			US EPA ID Number

10. US DOT Description (Including Proper Shipping Name, Hazard Class, ID Number, and Packing Group)	11. Containers No.	Type	12. Total Quantity	13. Unit Wt/Vol	14. Waste Codes
a.					
b.					
c.					
d.					

14. Special Handling Instructions and Additional Information

15. **GENERATOR'S CERTIFICATION:** I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national government regulations.

I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) or authorized equivalent state regulations is true with respect to this shipment.

Generator's Printed/Typed Name | Signature | Month | Day | Year

IMPORTS/EXPORTS

16. International Shipments

☐ Import into the U.S. ☐ Export from the U.S. Port of entry/exit

Transporter signature (for exports only) Date leaving U.S.

TRANSPORTER

Transporter Acknowledgement of Receipt of Materials

17. Transporter 1 Printed/Typed Name | Signature | Month | Day | Year

18. Transporter 2 Printed/Typed Name | Signature | Month | Day | Year

19. Transporter 3 Printed/Typed Name | Signature | Month | Day | Year

FACILITY

20. Discrepancies/Other

☐ Discrepancy in quantity ☐ Discrepancy in type ☐ Container residue ☐ Rejected waste

Description Manifest reference no.

21. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 20.

Printed/Typed Name | Signature | Month | Day | Year

[illegible] Report System Type Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)

BILLING CODE 6560–50–C

I. INSTRUCTIONS FOR GENERATORS

Item 1. Generator's U.S. EPA Identification Number

Enter the generator's U.S. EPA twelve digit identification number.

Item 2. Page 1 of ___.

Enter the total number of pages used to complete this Manifest (i.e., the first page (EPA Form 8700–22) plus the number of Continuation Sheets (EPA Form 8700–22A), if any).

Item 3. Manifest Tracking Number

For paper manifests, this number must be pre-printed on the manifest by the forms printer.

Item 4. Generator's Mailing Address and Phone Number

Enter the name of the generator, the address to which the manifest signed by the designated facility should be mailed, and the generator's telephone number. Note, the telephone number (including area code) should be the number where the generator or his authorized agent may be reached to provide instructions in the event of an emergency or if the designated and/or alternate (if any) facility rejects some or all of the shipment. The emergency response phone number must:

1. be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;

2. reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and

3. must reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

Item 5. Emergency Response Phone Number

Enter the number of the generator or the number of a party responsible for providing information about the shipment 24 hours a day.

Item 6. Transporter 1 Company Name, and U.S. EPA ID Number

Enter the company name and U.S. EPA ID number of the first transporter who will transport the waste.

Item 7. Transporter 2 Company Name, U.S. EPA ID Number

If applicable, enter the company name and U.S. EPA ID number of the second transporter who will transport the waste.

Item 8. Transporter 3 Company Name, U.S. EPA ID Number

If applicable, enter the company name and U.S. EPA ID number of the third transporter who will transport the waste.

If more than three transporters are needed, use a Continuation Sheet(s) (EPA Form 8700—22A).

Item 9. Designated Facility Name, Site Address, and U.S. EPA ID Number

Enter the company name and site address of the facility designated to receive the waste listed on this manifest and enter the U.S. EPA twelve digit identification number of the facility.

Item 10. U.S. DOT Description (Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)

Enter the U.S. DOT Proper Shipping Name, Hazard Class or Division, Identification Number (UN/NA) and Packing Group for each waste as identified in 49 CFR part 172. Include technical name(s) and reportable quantity references, if applicable. Any additional waste codes may be entered in Item 14 (special handling and additional information block), or if necessary, in Item 32 on the Continuation Sheet (EPA Form 8700–22A).

Note: If additional space is needed for waste descriptions, enter these additional descriptions in Item 28 on the Continuation Sheet (EPA Form 8700–22A).

Item 11. Containers (Number and Type)

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

Table I. Types of Containers

BA = Burlap, cloth, paper, or plastic bags
CF = Fiber or plastic boxes, cartons, cases
CM = Metal boxes, cartons, cases (including roll-offs)
CW = Wooden boxes, cartons, cases
CY = Cylinders
DF = Fiberboard or plastic drums, barrels, kegs
DM = Metal drums, barrels, kegs
DT = Dump truck
DW = Wooden drums, barrels, kegs
HG = Hopper or gondola cars
TC = Tank cars
TP = Portable tanks
TT = Cargo tanks (tank trucks)

Item 12. Total Quantity

Enter, in designated boxes, the total quantity of waste. Round partial units to the nearest whole unit; do not enter decimals or fractions (unless appropriate for bulk shipments).

Item 13. Units of Measure (Weight/Volume)

Enter, in designated boxes, the appropriate abbreviation from Table II (below) for the unit of measure.

Table II. Units of Measure

G = Gallons (liquids only)
K = Kilograms
L = Liters (liquids only)
M = Metric Tons (1000 kilograms)
N = Cubic Meters
P = Pounds
T = Tons (2000 pounds)
Y = Cubic Yards

Item 14. Special Handling Instructions and Additional Information.

Note: This space may be used to record other information relevant to the waste shipment for which there is no specific space on the Manifest. These items are: universal waste shipments; additional waste codes; alternate facility designation; name, address, and phone number of any person other than the person identified in Item 4 (Generator's Name, Mailing Address, and Phone Number) preparing the manifest; and name, address, phone number, and EPA identification number of any person who shares generator responsibilities (i.e., co-generators) with the person identified in Item 4 (Generator's Name, Mailing Address, and Phone Number). This space may be also used to indicate special transportation; treatment, storage, or disposal information; bill of lading information, and/or the manifest tracking number of the original manifest for rejected loads and residues. If space is available, then generators can use this space for information relevant to their tracks. States may also require additional waste description associated with particular hazardous wastes listed on the Manifest. States cannot require information in this box other than information such as chemical names, constituent percentages, and physical state.

Item 15. Generator's Statement and Preparer's Certification

The generator must read, sign, and date the waste minimization certification statement. In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements.

Generators may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator certifications.

Note: For paper manifests, all of the above information except the handwritten signature required in item 15 may be pre-printed.

II. Instructions for International Shipment Block

Item 16. International Shipments

For export shipments, the primary exporter must check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer must check the import box and enter the point of entry (city and state) into the United States. For exports, the transporter must sign and date the manifest to indicate the day the shipment left the United States. Transporters of hazardous waste shipments must deliver a copy of the manifest to the U.S. Customs when importing or exporting the waste across U.S: borders.

III. Instructions for Transporters

Item 17. Transporter 1 Acknowledgment of Receipt

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt. Only one signature per transportation company is required.

Item 18. Transporter 2 Acknowledgment of Receipt

If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 19. Transporter 3 Acknowledgment of Receipt

If applicable, enter the name of the person accepting the waste on behalf of the third transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Note: Transporters carrying imports or exports of hazardous waste may also have responsibilities to enter information in the International Shipments Block. See above instructions for Item 16.

IV. Instructions for Owners and Operators of Treatment, Storage, and Disposal Facilities

Item 20. Discrepancy Indication Space

The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any discrepancies between the waste described on the Manifest and the waste actually received at the facility. Manifest discrepancies are: significant differences (as defined by §§ 264.72(b) and 265.72(b)) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives; rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 40 CFR 261.7(b).

For rejected loads and residues (40 CFR 264.72(d), (e), and (f), or 40 CFR 265.72(d), (e), or (f)), check the appropriate box if the shipment is a rejected load (i.e., rejected by the designated and/or alternate facility and is sent to an alternate facility or returned to the generator) or a regulated residue that cannot be removed from a container. Enter the reason for the rejection or the inability to remove the residue and a description of the waste. Also, reference the manifest tracking number for the new manifest being used to track the rejected waste or residue shipment on the original manifest. Indicate the original manifest tracking number in Item 14, the Special Handling Block of the new manifest.

Owners or operators of facilities located in unauthorized States (i.e., states in which the U.S. EPA administers the hazardous waste management program) who cannot resolve significant differences in quantity or type within 15 days of receiving the waste must submit to their Regional Administrator (see list below) a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (40 CFR 264.72(c) and 265.72(c)).

Owners or operators of facilities located in authorized States (i.e., those States that have received authorization from the U.S. EPA to administer the hazardous waste management program) should contact their State agency for information on State Discrepancy Report requirements.

EPA Regional Administrators

Regional Administrator, U.S. EPA Region I, John F. Kennedy Federal Building, One Congress St., Boston, MA 02203
Regional Administrator, U.S. EPA Region II, Jacob K. Javits Federal Building, 26 Federal Pl., New York, NY 10278
Regional Administrator, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107
Regional Administrator, U.S. EPA Region IV, 345 Courtland St, NE, Atlanta, GA 30365
Regional Administrator, U.S. EPA Region V, 77 W. Jackson Blvd., Chicago, IL 60604–3507
Regional Administrator, U.S. EPA Region VI, First Interstate Bank Tower at Fountain Place, 1445 Ross Ave, 12th Floor, Suite 1200, Dallas, TX 75202–2733
Regional Administrator, U.S. EPA Region VII, 726 Minnesota Ave., Kansas City, KS 66101
Regional Administrator, U.S. EPA Region VIII, 999 18th St., Suite 500, Denver, CO 80202–2405
Regional Administrator, U.S. EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105
Regional Administrator, U.S. EPA Region X, 1200 Sixth Ave., Seattle, WA 98101

Item 21. Facility Owner or Operator Certification of Receipt (Except As Noted in Item 20)

Enter the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge receipt or rejection of the waste described on the Manifest by signing and entering the date of receipt or rejection where indicated. Since the Facility Certification acknowledges receipt of the waste except as noted in the Discrepancy Space in Item 20, the certification should be signed for both waste receipt and waste rejection, with the rejection being explained in the space in Item 20.

Optional State Information

Blocks A and B are not required by Federal regulations for intra- or interstate transportation. However, States may require generators and owners or operators of treatment, storage, or disposal facilities to complete some or all of Blocks A or B as part of State manifest reporting requirements. Generators and owners and operators of treatment, storage, or disposal facilities should contact State officials to determine whether they must enter information in blocks A and B.

Block A—Waste Codes

Enter up to 3 Federal waste codes in the top part of Block A for wastes described in Item 10. Enter the federal waste codes in accordance with the following hierarchy: all acutely hazardous wastes, including all P listed wastes and all acutely hazardous F listed wastes; all U listed wastes (toxic); all K listed wastes (specific sources); all non-acute F listed wastes (non-specific sources); and all D wastes (characteristic). The use of this hierarchy is required except for ignitable or reactive wastes, which may be better described (for safety reasons) if the waste codes for these characteristics are listed first.

The bottom half of Block A is reserved for entering up to three state-specific waste codes. In general, the first state waste code listed should be the generator state waste code (if applicable) and the second state waste code listed should be the destination state waste code (if applicable).

If additional federal or state waste codes need to be reported, the generator should use Item 14 "Special Handling Instructions and Additional Information."

Block B—Biennial Report System Type Codes

Enter the most appropriate Biennial Report system type code for each waste listed in Item 10. The system type code is to be entered by the first treatment, storage, or disposal facility (TSDF) that receives the waste and is the code that best describes the way in which the waste is managed when shipped to the TSDF. The full list of the Biennial Report system type codes can be found in the electronic and hard copy versions of 40 CFR Part 262 Appendix 2-Biennial Report system type codes (full list of the system type codes) and in the instructions for completing the Biennial Report.

19. Add a new appendix 2 to part 262 to read as follows:

Appendix 2 to Part 262—Biennial Report System Type Codes for Block B of the Uniform Hazardous Waste Manifest

Shown below is the full list of Biennial Report system type codes found in the 1999 Hazardous Waste Report Instructions and Forms. These codes are to be used by the designated facility in completing Block B of the hazardous waste manifest where an authorized state required it. Any changes made to those codes during subsequent Biennial Report periods will be automatically adopted.

List of System Type Codes

Metals Recovery (for Reuse)

M011 High temperature metals recovery
M012 Retorting
M013 Secondary smelting
M014 Other metals recovery for reuse: e.g., ion exchange, reverse osmosis, acid leaching
M019 Metals recovery—type unknown

Solvents Recovery

M021 Fractionation/distillation
M022 Thin film evaporation
M023 Solvent extraction
M024 Other solvent recovery
M029 Solvents recovery—type unknown

Other Recovery

M031 Acid regeneration
M032 Other recovery: e.g., waste oil recovery, nonsolvent organics recovery
M039 Other recovery—type unknown

Incineration Treatment

M041 Incineration—liquids
M042 Incineration—sludges
M043 Incineration—solids

M044 Incineration—gases
M049 Incineration—type unknown

Energy Recovery (Reuse as Fuel)

M051 Energy recovery—liquids
M052 Energy recovery—sludges
M053 Energy recovery—solids
M059 Energy recovery—type unknown

Fuel Blending

M061 Fuel blending

Aqueous Inorganic Treatment

M071 Chrome reduction followed by chemical precipitation
M072 Cyanide destruction followed by chemical precipitation
M073 Cyanide destruction only
M074 Chemical oxidation followed by chemical precipitation
M075 Chemical oxidation only
M076 Wet air oxidation
M077 Chemical precipitation
M078 Other aqueous inorganic treatment: e.g., ion exchange, reverse osmosis
M079 Aqueous inorganic treatment—type unknown

Aqueous Organic Treatment

M081 Biological treatment
M082 Carbon adsorption
M083 Air/steam stripping
M084 Wet air oxidation
M085 Other aqueous organic treatment
M089 Aqueous organic treatment—type unknown

Aqueous Organic and Inorganic Treatment

M091 Chemical precipitation in combination with biological treatment
M092 Chemical precipitation in combination with carbon adsorption
M093 Wet air oxidation
M094 Other organic/inorganic treatment
M099 Aqueous organic and inorganic treatment—type unknown

Sludge Treatment

M101 Sludge dewatering
M102 Addition of excess lime
M103 Absorption/adsorption
M104 Solvent extraction
M109 Sludge treatment—type unknown

Stabilization

M111 Stabilization/chemical fixation using cementitious and/or pozzolanic materials
M112 Other stabilization
M119 Stabilization—type unknown

Other Treatment

M121 Neutralization only
M122 Evaporation only
M123 Settling/clarification only
M124 Phase separation (e.g., emulsion breaking, filtration) only
M125 Other treatment
M129 Other treatment—type unknown

Disposal

M131 Land treatment/application/farming
M132 Landfill
M133 Surface impoundment (to be closed as a landfill)
M134 Deepwell/underground injection
M135 Direct discharge to sewer/POTW
M136 Direct discharge to surface water under NPDES
M137 Other disposal

Transfer Facility Storage

M141 Transfer facility storage—waste was shipped off site without any on-site treatment, disposal, or recycling activity

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

20. The authority citation for part 263 is revised to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

21–23. Section 263.20 is amended by revising paragraphs (a) through (g) and adding paragraph (i) to read as follows:

§ 263.20 The manifest system.

(a)(1) *Manifest Requirement.* A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the requirements of § 262.23, or, for electronic manifests, the requirements of 40 CFR 262.24 and 262:25.

(2) *Exports.* In the case of exports other than those subject to subpart H of 40 CFR part 262, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided in this section, the transporter shall also be provided with an EPA Acknowledgment of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for shipments using an electronic manifest or for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of subpart H of 40 CFR part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84.

(b)(1) *Transporter signature requirement when paper manifest supplied.* Before transporting the hazardous waste, the transporter must sign by hand and date the manifest acknowledging acceptance of the hazardous waste from the generator. Before leaving the generator's property, the transporter must return a signed paper copy of the manifest to the generator.

(2) *Transporter signature requirement when electronic manifest supplied.*—(i) *Transporters participating in electronic manifest systems.* Before transporting the hazardous waste, a transporter participating with the generator in an electronic manifest system must sign electronically and date the manifest acknowledging acceptance of the hazardous waste from the generator, using an electronic signature in accordance with the provisions of § 262.25 of this chapter. Before leaving the generator's property, the transporter must return a signed electronic copy of the manifest to the generator.

(ii) *Transporters unable to participate in electronic systems.* If the generator participates in an electronic manifest system, but the transporter is not able to accept or sign electronic manifests, then the transporter must acknowledge acceptance of the hazardous waste from the generator by signing by-hand and dating a paper copy of the manifest or other shipping paper under 49 CFR part 172, subpart C. Before leaving the generator's property, the transporter must return a copy of this signed manifest or other shipping paper to the generator.

(iii) *Transporter signing electronic manifest on behalf of generator.* If a transporter acts as an authorized preparer of a generator's manifest and signs the generator's certification on behalf of the generator as provided under § 262.24(b) of this chapter, the transporter must, before transporting the hazardous waste, sign electronically and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed electronic copy to the generator before leaving the generator's property. If the generator is not able to accept an electronic copy from the transporter, the transporter must provide the generator with a signed paper copy of the manifest or other shipping paper, with a notation in the generator's certification block indicating that the manifest was signed electronically on behalf of the generator.

(c)(1) For shipments tracked with a paper manifest, the transporter must ensure that the manifest accompanies the hazardous waste shipment and is readily available to, and recognized by, authorities in the event of accident or inspection.

(2) For shipments tracked with an electronic manifest, the transporter must ensure that the electronic manifest is transmitted to the next transporter or to the designated facility prior to or at the time of the delivery of the shipment. In addition, the transporter must ensure that a paper copy of the manifest or other shipping paper as defined under 49 CFR part 172, subpart C accompanies the shipment, and is readily available to, and recognized by, authorities in the event of inspection or accident.

(3) In the case of exports, the transporter must ensure that a copy of the EPA Acknowledgment of Consent also accompanies the waste.

(d)(1) *Transporter delivery of waste for shipments covered by paper manifest.* A transporter who delivers a hazardous waste covered by a paper manifest to another transporter or to the designated facility must:

(i) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;

(ii) Retain one copy of the manifest in accordance with § 263.22; and

(iii) Give the remaining paper copies of the manifest to the accepting transporter or designated facility.

(2) *Transporter delivery of waste for shipments covered by electronic manifest.* A transporter who delivers a hazardous waste covered by an electronic manifest to another transporter or to the designated facility must:

(i) If the delivering transporter participates in the electronic manifest system:

(A) Obtain the date of delivery and the electronic signature of that transporter or of the owner or operator of the designated facility on the manifest;

(B) Retain an electronic copy of the manifest in accordance with § 263.22; and

(C) Transmit the electronic manifest to the accepting transporter or designated facility.

(ii) If the delivering transporter does not participate in the electronic system on which the manifest has been transmitted to the accepting transporter or designated facility:

(A) Obtain the date of delivery and the handwritten signature of the accepting transporter or the owner or operator of the designated facility, on a paper copy of the manifest or other shipping paper under 49 CFR part 272, subpart C, and which bears the manifest tracking number assigned to the shipment by the electronic system; and

(B) Retain this signed copy of the manifest or other shipping paper in accordance with § 263.22.

(e) For shipments involving water (bulk shipment) transportation, the requirements of paragraphs (c), (d), and (f) of this section do not apply if:

(1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;

(2) A shipping paper containing all the information required on the manifest (excluding the EPA Identification numbers, generator certification, and signatures) and, for exports, and EPA Acknowledgment of Consent accompanies the hazardous waste;

(3) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on a paper or electronic manifest and forwards it to the designated facility;

(4) The delivering water transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either a paper copy of the manifest or on the shipping paper; and

(5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with § 263.22.

(f) For shipments involving rail transportation, the requirements of paragraphs (c), (d), and (e) of this section do not apply, and the following requirements do apply:

(1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must:

(i) Sign (by-hand or with an electronic signature) and date the manifest acknowledging acceptance of the hazardous waste;

(ii) Return or transmit a signed copy of the manifest to the non-rail transporter;

(iii) Forward at least three paper copies or an electronic copy of the manifest to:

(A) The next non-rail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States; and

(iv) Retain one copy of the manifest and rail shipping paper in accordance with § 263.22.

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA acknowledgment of Consent accompanies the hazardous waste at all times.

(3)(i) When delivering hazardous waste covered by a paper manifest to the designated facility, a rail transporter must:

(A) Obtain the date of delivery and the handwritten signature of the owner or operator of the designated facility on the manifest, or a handwritten signature on the shipping paper (if the manifest has not been received by the facility); and

(B) Retain a copy of the manifest or signed shipping paper in accordance with § 263.22.

(ii) When delivering hazardous waste covered by an electronic manifest to the designated facility, a rail transporter participating in the electronic manifest system must:

(A) Obtain the date of delivery and the electronic signature of the owner or operator of the designated facility on the manifest; and

(B) Retain an electronic copy of the signed manifest in accordance with § 263.22.

(iii) When delivering hazardous waste covered by an electronic manifest to the designated facility, a rail transporter not participating in the electronic manifest system must:

(A) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on a paper copy of the manifest or shipping paper, which must bear the manifest tracking number assigned to the shipment by the electronic system; and

(B) Retain a copy of the signed manifest or shipping paper in accordance with § 263.22.

(4)(i) When delivering hazardous waste covered by a paper manifest to a non-rail transporter, a rail transporter must:

(A) Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

(B) Retain a paper copy of the manifest in accordance with § 263.22.

(ii) When delivering hazardous waste covered by an electronic manifest to a non-rail transporter, a rail transporter participating in the electronic manifest system must:

(A) Obtain the date of delivery and the electronic signature of the next non-rail transporter on the electronic manifest; and

(B) Retain an electronic copy of the signed manifest in accordance with § 263.22.

(iii) When delivering hazardous waste covered by an electronic manifest to a non-rail transporter, a rail transporter not participating in the electronic manifest system must:

(A) Obtain the date of delivery and handwritten signature of the next non-rail transporter on a paper copy of the manifest or shipping paper, which must bear the manifest tracking number assigned to the shipment by the electronic system; and

(B) Retain a copy of the signed manifest or shipping paper in accordance with § 263.22.

(5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign (by hand or with an electronic signature) and date the manifest and provide a copy to the rail transporter.

(g) Transporters who transport hazardous waste out of the United States must:

(1) Sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;

(2) Retain one copy in accordance with § 263.22(d);

(3) Return a signed copy of the manifest to the generator; and

(4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

* * * * *

(i) Transporters who transport hazardous waste into the United States must give a copy of the manifest to a U.S. Customs official at the point of entry into the United States.

24. Section 263.21 is amended by revising paragraph (b) to read as follows:

§ 263.21 Compliance with the manifest.

* * * * *

(b)(1) If the hazardous waste cannot be delivered in accordance with paragraph (a) of this section because of an emergency condition other than rejection of the waste by the designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

(2) If hazardous waste is rejected by the designated facility listed on the manifest while the transporter is there, then the transporter must obtain the date of rejection and signature of the owner or operator of the designated facility on the manifest, retain one copy of the manifest in accordance with § 263.22, and give the remaining copies of the manifest to the rejecting designated facility. When the transporter is taking back a full or partial shipment, that load must be accompanied by a new manifest.

25. Section 263.22 is amended by revising paragraph (a), and by adding new paragraphs (f) and (g) to read as follows:

§ 263.22 Recordkeeping.

(a)(1) A transporter of hazardous waste must keep a copy of each paper or electronic manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(2) For shipments covered by an electronic manifest, if a provision of this subpart authorizes a transporter to obtain, in lieu of a signed electronic copy of the manifest, a hand-signed paper copy of the manifest or other shipping paper under 49 CFR part 172, subpart C, the transporter must keep a copy of each such manifest or shipping paper for a period of three years from the date the hazardous waste was accepted by the initial transporter.

* * * * *

(f) *Transmission log.* Each transporter who operates an electronic manifest system and transmits or receives electronic manifests must maintain a transmission log covering all electronic manifests sent or received. This log must include for each manifest transmission sent or received, the date, time, and destination/source. The transmission log must also document who had access to the transporter's sending or receiving system during the creation, transmission, or receipt of data. The transmission log covering each calendar year's transmissions must be maintained without modification and retained with the transporter's manifest records for a period of three years from their creation.

(g) *Third-party storage of electronic manifest records.* (1) Electronic manifest records may be stored by a networking service, record archiving service, or other commercial vendor of electronic record storage services provided that such records are maintained in a system that complies with the requirements of § 262.26 of this chapter, including the requirement for reasonable inspector access to records during their retention period, and the requirement for validation of the third-party system's operation by a qualified, independent information systems security professional.

(2) A transporter who uses a third-party vendor of electronic record storage services to meet their record retention requirements remains responsible for the proper performance of their record retention requirements, including the requirement to provide reasonable inspector access during the entire record retention period.

26. Subpart B is amended by adding new § 263.23 to read as follows:

§ 263.23 Electronic manifest systems.

(a) If a transporter of hazardous waste participates in an electronic manifest system, the electronic system used by the transporter to originate, use, sign, transmit, or store electronic manifests shall be designed and operated in accordance with the electronic format standards described in 40 CFR 262.20(a)(3), the electronic signature standards in 40 CFR 262.25, and the system controls and computer security requirements described in 40 CFR 262.26.

(b) Except where a provision of this part specifically requires a paper copy of a manifest or a handwritten signature, manifest copies which are electronically signed in accordance with 40 CFR 262.25 and which are originated, transmitted, or maintained by electronic systems that comply with paragraph (a) of this section, will be considered the legal equivalent to paper manifest copies bearing handwritten signatures.

(c) All computer systems (hardware and software), controls, and related documentation maintained under this section, shall be readily available for, and subject to inspection by any EPA or authorized state inspector.

(d) *Receipt.* An electronic manifest is deemed to have been properly received by the recipient when it is accessible to the recipient in a format that can be read by the recipient. If a recipient receives a manifest record for which there is evidence that the data has been corrupted (e.g., garbled text, or hash functions or checksums that do not calculate correctly), the recipient must request that the sender re-transmit a corrected version of the record.

(e) *Acknowledgment of receipt.* When an electronic manifest transmission is received, the recipient must promptly generate and transmit to the sender an acknowledgment that confirms the receipt of data that can be translated by the recipient's system.

(f) *Date of receipt.* The acknowledgment generated by the recipient to confirm the receipt of translatable data will constitute conclusive evidence of receipt of the electronic manifest and will establish the date of receipt. An electronic transmission will not be considered complete until the sender receives the acknowledgment of receipt.

(g) *Retransmission.* If a positive acknowledgment is not received within 12 hours of a transmission, then the person who initiated the transmission must promptly re-transmit the electronic manifest.

(h) *Inability to transmit.* No person will be excused from the requirement to initiate or use a manifest because of a foreseeable or unforeseeable system failure that prevents the transmission of a valid electronic manifest. If a person is unable to initiate or transmit a valid manifest electronically, it must use the paper manifest required to be used in accordance with 40 CFR 262.20(a)(2) and 40 CFR 263.20.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

27. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

Subpart E—Manifest System, Recordkeeping, and Reporting

28–29. Section 264.71 is amended by revising paragraphs (a) and (b)(4) and adding paragraph (e) to read as follows:

§ 264.71 Use of manifest system.

(a)(1) If a facility receives hazardous waste with a manifest, the owner or operator, or his agent, must sign and date the manifest, as indicated in paragraphs (a)(2), (3), or (4) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was fully rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a paper manifest, the owner or operator, or his agent must:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any discrepancies (as defined in § 264.72(a)) on each copy of the manifest;

(iii) Immediately give the transporter at least one paper copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the paper manifest to the generator; and

(v) Retain at the facility a paper copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives a hazardous waste shipment covered by an electronic manifest, and the generator, transporter, and facility all participate in the electronic manifest system, the owner or operator, or his agent, must:

(i) Electronically sign and date the manifest, using an electronic signature in accordance with the provisions of 40 CFR 262.25, to certify that the hazardous waste covered by the manifest was received;

(ii) Note any discrepancies (as defined in § 264.72(a)) on the electronic manifest;

(iii) Immediately provide the transporter with one electronic copy of the signed manifest;

(iv) Immediately send an electronic copy of the signed manifest to the generator; and

(v) Retain at the facility an electronic copy of each manifest for at least three years from the date of delivery.

(4) If an owner or operator participates with a generator in an electronic manifest system, but receives a hazardous waste shipment from a transporter that does not participate in the electronic system, the owner or operator must:

(i) Hand-sign and date a paper copy of the manifest (or other shipping paper under 49 CFR part 172, subpart C) provided by the delivering transporter, and immediately give the transporter the copy of the hand-signed manifest or shipping paper;

(ii) Electronically sign (using an electronic signature in accordance with § 262.25) and date the electronic manifest covering the shipment that was forwarded to the facility by the generator, to certify that the hazardous waste covered by the manifest was received;

(iii) Note any significant discrepancies in the manifest (as defined in § 264.72(a)) on the electronic manifest;

(iv) Immediately return the electronically signed electronic copy of the manifest to the generator; and

(v) Retain at the facility an electronic copy the manifest for at least three years from the date of delivery.

(b) * * *

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or shipping paper (if the manifest has not been received within 30 days after delivery) to the generator. However, if the generator and the facility participate in an electronic manifest system, the owner or operator, or his agent, shall electronically sign and date (and note any discrepancies) the electronic manifest provided by the generator, and immediately send the signed electronic copy to the generator in lieu of a paper copy.

* * * * *

(e) A facility must contact the consignment state to determine whether that state requires facilities to enter optional state information on the manifest. Facilities must also contact the consignment state to determine whether they are required to submit a copy of the manifest to the state.

30. Section 264.72 is revised to read as follows:

§ 264.72 Manifest discrepancies.

(a) Manifest discrepancies are: Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives; Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 40 CFR 261.7(b).

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight; and for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in 40 CFR 261.7(b), the facility must contact the generator to obtain the generator's instructions for forwarding the waste to another facility that can manage the waste. The facility must send the waste according to the generator's instructions. If it is impossible to locate in a timely manner an alternative facility that can promptly receive the waste, the facility may, with permission of the generator, return the rejected waste or residue to the generator.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or, the facility must provide for secure, temporary custody of the waste pending delivery of the waste to the first transporter designated on the new manifest prepared under paragraph (e) or (f) of this section.

(e) For rejected loads and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the generator's name, address and U.S. EPA ID number in the

generator's name and mailing address box (Items 1 and 4) of a new manifest.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 9) of a new manifest.

(3) Copy the manifest tracking number found in Block A or Item 3 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20) of this chapter.

(5) Write the DOT description for the rejected load or the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(f) For rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the facility's name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4) of a new manifest.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 9) of the new manifest.

(3) Copy the manifest tracking number found in Block A or Item 3 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20),

(5) Write the DOT description for the rejected load or the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation,

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in 40 CFR 261.7(b) after it has already signed a manifest or shipping paper to certify to the receipt of the materials under 40 CFR 264.71(a) or (b), the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 3 of the new manifest to the discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the delivering transporter and to the generator.

31. Section 264.76 is revised to read as follows:

§ 264.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by § 263.20(e) of this chapter, and if the waste is not excluded from the manifest requirement by this chapter, then the owner or operator must prepare and submit a letter to the Regional Administrator within fifteen days after receiving the waste. The unmanifested waste report must contain the following information:

(1) The EPA identification number, name and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste the facility received;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

(b) [Reserved]

32. Subpart E is amended by adding new § 264.78 to read as follows:

§ 264.78 Electronic manifest systems.

(a) If an owner or operator of a facility that treats, stores, or disposes of hazardous waste participates in an electronic manifest system, the electronic system used by the owner or operator to originate, use, sign, transmit, or store electronic manifests must be designed and operated in accordance with the electronic format standards described in 40 CFR 262.20(a)(3), the electronic signature standards in 40 CFR 262.25, and the system controls and computer security requirements described in 40 CFR 262.26.

(b) Except where a provision of this part specifically requires a paper copy of a manifest or a handwritten signature, manifest copies which are electronically signed in accordance with the provisions on electronic manifest signatures in 40 CFR 262.25, and which are originated, transmitted, or maintained by electronic systems that comply with paragraph (a) of this section, will be considered the legal equivalent to paper manifest copies bearing handwritten signatures.

(c) Electronic manifest copies as well as any computer systems (hardware and software), controls, and related documentation maintained under this section, must be readily available for, and subject to inspection by any EPA or authorized state inspector.

(d) *Transmission log.* An owner or operator of a facility which transmits or receives electronic manifests must maintain a transmission log covering all electronic manifests sent or received. This log must include for each manifest transmission sent or received, the date, time, and destination/source identity. The transmission log must also identify who had access to the facility's system during the creation, transmission, or receipt of data. This transmission log must be maintained without modification and retained for 3 years among the facility's manifest records.

(e) *Third-party storage of electronic manifest records.* (1) Electronic manifest records may be stored by a networking service, record archiving service, or other commercial vendor of electronic record storage services provided that such records are maintained in a system that complies with the requirements of 40 CFR 262.26, including the requirement for reasonable inspector access to records during their retention period, and the requirement for validation of the third-party system's operation by a qualified, independent information systems security professional.

(2) A facility owner or operator who uses a third-party vendor of electronic record storage services to meet their record retention requirements remains responsible for the proper performance of their record retention requirements, including the requirement to provide reasonable inspector access during the entire record retention period.

(f) *Receipt.* An electronic manifest is deemed to have been received by the recipient when it is accessible to the recipient in a format that can be read by the recipient. If a recipient receives a manifest record for which there is evidence that the data has been corrupted (e.g., garbled text, or hash functions or checksums that do not calculate correctly), the recipient must request that the sender re-transmit a corrected version of the record.

(g) *Acknowledgment of receipt.* When an electronic manifest transmission is received, the recipient must promptly generate and transmit to the sender an acknowledgment that confirms the receipt of data that can be translated by the recipient's system.

(h) *Date of receipt.* The acknowledgment generated by the recipient to confirm the receipt of translatable data will constitute conclusive evidence of receipt of the electronic manifest and will establish the date of receipt. An electronic transmission will not be considered complete until the sender receives the acknowledgment of receipt.

(i) *Retransmission.* If a positive acknowledgment is not received within 12 hours of a transmission, then the person who initiated the transmission must promptly re-transmit the electronic manifest.

(j) *Inability to transmit.* No person will be excused from the requirement to initiate or use a manifest because of a foreseeable or unforeseeable system failure that prevents the transmission of a valid electronic manifest. If a person is unable to initiate or transmit a valid manifest electronically, it must use the paper manifest required to be used in accordance with § 262.20(a)(2) and § 263.20 of this chapter.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

33. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912(a), 6922, 6923, 6924, 6925, 6935, 6936, and 6937, unless otherwise noted.

Subpart E—MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

34–35. Section 265.71 is amended by revising paragraphs (a) and (b)(4) and adding paragraph (e) to read as follows:

§ 265.71 Use of manifest system.

(a)(1) If a facility receives hazardous waste with a manifest, the owner or operator, or his agent, must sign and date the manifest, as indicated in paragraphs (a)(2), (3), or (4) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was fully rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a paper manifest, the owner or operator, or his agent must:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any discrepancies (as defined in § 265.72(a)) on each copy of the manifest;

(iii) Immediately give the transporter at least one paper copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the paper manifest to the generator; and

(v) Retain at the facility a paper copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives a hazardous waste shipment covered by an electronic manifest, and the generator, transporter, and facility all participate in the electronic manifest system, the owner or operator, or his agent, must:

(i) Electronically sign and date the manifest, using an electronic signature in accordance with the provisions of 40 CFR 262.25, to certify that the hazardous waste covered by the manifest was received;

(ii) Note any discrepancies (as defined in § 265.72(a)) on the electronic manifest;

(iii) Immediately provide the transporter with one electronic copy of the signed manifest;

(iv) Immediately send an electronic copy of the signed manifest to the generator; and

(v) Retain at the facility an electronic copy of each manifest for at least three years from the date of delivery.

(4) If an owner or operator participates with a generator in an electronic manifest system, but receives a hazardous waste shipment from a transporter that does not participate in the electronic system, the owner or operator must:

(i) Hand-sign and date a paper copy of the manifest (or other shipping paper under 49 CFR part 172, subpart C) provided by the delivering transporter, and immediately give the transporter the copy of the hand-signed manifest or shipping paper;

(ii) Electronically sign (using an electronic signature in accordance with § 262.25) and date the electronic manifest covering the shipment that was forwarded to the facility by the generator, to certify that the hazardous waste covered by the manifest was received;

(iii) Note any significant discrepancies in the manifest (as defined in § 265.72(a)) on the electronic manifest;

(iv) Immediately return the electronically signed electronic copy of the manifest to the generator; and

(v) Retain at the facility an electronic copy the manifest for at least three years from the date of delivery.

(b) * * *

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or shipping paper (if the manifest has not been received within 30 days after delivery) to the generator. However, if the generator and the facility participate in an electronic manifest system, the owner or operator, or his agent, shall electronically sign and date (and note any discrepancies) the electronic manifest provided by the generator, and immediately send the signed electronic copy to the generator in lieu of a paper copy.

* * * * *

(e) A facility must contact the consignment state to determine whether that state requires facilities to enter optional state information on the manifest. Facilities must also contact the consignment state to determine whether they are required to submit a copy of the manifest to the state.

36. Section 265.72 is revised to read as follows:

§ 265.72 Manifest discrepancies.

(a) Manifest discrepancies are: Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives; Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 40 CFR 261.7(b).

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight; and for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15

days after receiving the waste, the owner or operator must immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in 40 CFR 261.7(b), the facility must contact the generator to obtain the generator's instructions for forwarding the waste to another facility that can manage the waste. The facility must send the waste according to the generator's instructions. If it is impossible to locate in a timely manner an alternative facility that can promptly receive the waste, the facility may, with permission of the generator, return the rejected waste or residue to the generator.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or, the facility must provide for secure, temporary custody of the waste pending delivery of the waste to the first transporter designated on the new manifest prepared under paragraph (e) or (f) of this section.

(e) For rejected loads and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the generator's name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4) of a new manifest.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 9) of a new manifest.

(3) Copy the manifest tracking number found in Block A or Item 3 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20),

(5) Write the DOT description for the rejected load or the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(f) For rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with § 262.20(a) of this chapter and the following instructions:

(1) Write the facility's name, address and U.S. EPA ID number in the generator's name and mailing address box (Items 1 and 4) of a new manifest.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 9) of the new manifest.

(3) Copy the manifest tracking number found in Block A or Item 3 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 3 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 20),

(5) Write the DOT description for the rejected load or the residue in the Item 10 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation,

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in 40 CFR 261.7(b) after it has already signed a manifest or shipping paper to certify to the receipt of the materials under 40 CFR 265.71(a) or (b), the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 3 of the new manifest to the discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the delivering transporter and to the generator.

37. Section 265.76 is revised to read as follows:

§ 265.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by § 263.20(e) of this chapter, and if the waste is not excluded from the manifest requirement by this chapter, then the owner or operator must prepare and submit a letter to the Regional Administrator within fifteen days after receiving the waste. The unmanifested waste report must contain the following information:

(1) The EPA identification number, name and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste the facility received;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

(b) [Reserved]

38. Subpart E is amended by adding new § 265.78;

§ 265.78 Electronic manifest systems.

(a) If an owner or operator of a facility that treats, stores, or disposes of hazardous waste participates in an electronic manifest system, the electronic system used by the owner or operator to originate, use, sign, transmit, or store electronic manifests must be designed and operated in accordance with the electronic format standards described in 40 CFR 262.20(a)(3), the electronic signature standards in 40 CFR 262.25, and the system controls and computer security requirements described in 40 CFR 262.26.

(b) Except where a provision of this Part specifically requires a paper copy of a manifest or a handwritten signature, manifest copies which are electronically signed in accordance with the provisions on electronic manifest signatures in 40 CFR 262.25, and which are originated, transmitted, or maintained by electronic systems that comply with paragraph (a) of this section, will be considered the legal equivalent to paper manifest copies bearing handwritten signatures.

(c) Electronic manifest copies as well as any computer systems (hardware and software), controls, and related documentation maintained under this section, must be readily available for, and subject to inspection by any EPA or authorized state inspector.

(d) *Transmission log.* An owner or operator of a facility which transmits or receives electronic manifests must maintain a transmission log covering all electronic manifests sent or received. This log must include for each manifest transmission sent or received, the date, time, and destination/source identity. The transmission log must also identify who had access to the facility's system during the creation, transmission, or receipt of data. This transmission log must be maintained without modification and retained for 3 years among the facility's manifest records.

(e) *Third-party storage of electronic manifest records.* (1) Electronic manifest records may be stored by a networking service, record archiving service, or other commercial vendor of electronic record storage services provided that such records are maintained in a system that complies with the requirements of 40 CFR 262.26, including the requirement for reasonable inspector access to records during their retention period, and the requirement for validation of the third-party system's operation by a qualified, independent information systems security professional.

(2) A facility owner or operator who uses a third-party vendor of electronic record storage services to meet their record retention requirements remains responsible for the proper performance of their record retention requirements, including the requirement to provide reasonable inspector access during the entire record retention period.

(f) *Receipt.* An electronic manifest is deemed to have been received by the recipient when it is accessible to the recipient in a format that can be read by the recipient. If a recipient receives a manifest record for which there is evidence that the data has been corrupted (e.g., garbled text, or hash functions or checksums that do not calculate correctly), the recipient must request that the sender re-transmit a corrected version of the record.

(g) *Acknowledgment of receipt.* When an electronic manifest transmission is received, the recipient must promptly generate and transmit to the sender an acknowledgment that confirms the receipt of data that can be translated by the recipient's system.

(h) *Date of receipt.* The acknowledgment generated by the recipient to confirm the receipt of translatable data will constitute conclusive evidence of receipt of the electronic manifest and will establish the date of receipt. An electronic transmission will not be considered complete until the sender receives the acknowledgment of receipt.

(i) *Retransmission.* If a positive acknowledgment is not received within 12 hours of a transmission, then the person who initiated the transmission must promptly re-transmit the electronic manifest.

(j) *Inability to transmit.* No person will be excused from the requirement to initiate or use a manifest because of a foreseeable or unforeseeable system failure that prevents the transmission of a valid electronic manifest. If a person is unable to initiate or transmit a valid manifest electronically, it must use the paper manifest required to be used in accordance with § 262.20(a)(2) and § 263.20 of this chapter.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

39. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

40. Section 271.1(j) is amended by adding the following entries to Table 1 in chronological order by date of publication in the **Federal Register**, to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
.	.	.	.
[*Insert date of publication of final rule in the Federal Register (FR)*].	Waste Minimization Certification in the Revised Manifest Rule.	[*Insert FR page numbers*]	[*Insert date of X months from date of publication of final rule*].

* * * * *

41. Section 271.10 is amended by revising paragraphs (f) and (h) to read as follows:

§ 271.10 Requirements for generators of hazardous wastes.

* * * * *

(f) The State must require that all generators of hazardous waste who transport (or offer for transport) such hazardous waste off-site:

(1) Use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are designated for delivery, and, in the case of intrastate shipments, are delivered to facilities that are authorized to operate under an approved State program or the federal program.

(i) The manifest system must include, in the case of shipments covered by a paper manifest, the use of the paper manifest format as required by § 262.20(a)(2), § 262.21 and § 262.23. No other manifest form, shipping document, or information, other than that required by federal law, may be required by the State to travel with the shipment.

(ii) If the state chooses to allow electronic manifesting, then the manifest system must include, in the case of shipments covered by an electronic manifest, the use of the electronic manifest formats as required by § 262.20(a)(3), § 262.21 and § 262.24. No other electronic manifest format or information, other than that required by federal law, may be required by the state as a means to identify electronically the quantity, composition, origin, routing, and destination of a hazardous waste shipment during its transportation from the point of generation to the point of storage, treatment, or disposal.

(iii) If the state chooses to allow electronic manifesting, then the manifest system must also include the electronic signature requirements in § 262.25 and the electronic manifest systems and security provisions in § 262.26.

(2) Initiate the manifest and designate on the manifest the storage, treatment, or disposal facility to which the waste is to be shipped.

(3) Ensure that all wastes offered for transportation are accompanied by a paper manifest, except:

(i) Shipments subject to § 262.20(e) or (f),

(ii) Shipments by rail or water that are covered by a paper manifest, as specified in 40 CFR 262.23(c) and (d),

(iii) Shipments by rail or water that are covered by an electronic manifest, as specified in 40 CFR 262.24(e) and (f), or

(iv) Shipments covered by an electronic manifest, as specified in 40 CFR 262.24(c).

* * * * *

(h) The State must follow the Federal manifest format for the form and instructions (40 CFR 262.20 and Appendix 1) and may implement certain optional fields to the limited extent described below.

(1) In addition to the federally required information, either the State in which the generator is located or the State in which the designated facility is located may require completion of the following items:

(i) Waste codes (either federal or state codes associated with particular wastes) (Block A), and/or

(ii) Biennial Report system type codes (codes associated with particular waste treatment, or disposal methods) (Block B).

(iii) The additional waste code or Biennial Report system type code information required by the State must fit within the space of Blocks A and B on the form (and, if a continuation sheet is used, Blocks C and D) using normal 12-point pitch. The additional information must be required by state statute or regulation. The State may not require any information that duplicates information required elsewhere on the form.

(2) A state may require additional waste descriptions associated with the particular hazardous wastes listed on the Manifest to be entered in Item 14. This information is limited to information such as chemical names, constituent percentages, physical state, and waste management method. A state may not require information other than information as described in paragraphs (h)(1) and (2) of this section.

(3) No State may impose enforcement sanctions on a transporter during transportation of the shipment for failure of the form to include optional State information items.

(4) Either the State to which a shipment is manifested (consignment State) or the State in which the generator is located (generator State), or both, may require that copies of the manifest form be submitted to the State.

(i) Unless otherwise provided in part 271, the state program shall have standards for generators which are at least as stringent as any amendment to 40 CFR Part 262 which is promulgated after July 1, 1984.

42. Section 271.11 is amended by revising paragraph (c) to read as follows:

§ 271.11 Requirements for transporters of hazardous waste.

* * * * *

(c)(1) The State must require transporters to carry the manifest during transport, except:

(i) In the case of shipments by rail or water, transporters may carry a shipping paper, as specified in 40 CFR 263.20(e) and (f);

(ii) If the State chooses to allow electronic manifesting, transporters must carry either a paper copy of the manifest, or other shipping paper as specified in 40 CFR 263.20(b), (c), (d), and (f).

(2) The State must require the transporter to deliver waste only to the facility designated on the manifest.

(3) The State program must provide requirements for shipments by rail or water equivalent to those under 40 CFR 263.20(e) and (f).

(4) If the State chooses to allow electronic manifesting, the State program must include requirements equivalent to those provisions contained in 40 CFR 263.20(b), (c), (d), and

(f) which address transporters' use of the electronic manifest, requirements equivalent to the provisions in 40 CFR 263.22(a), (f), and (g) which address recordkeeping of electronic manifest records, and requirements equivalent to those under 40 CFR 263.23 which address electronic manifest systems.

(5) For exports of hazardous waste, the state must require the transporter to refuse to accept hazardous waste for export if he knows the shipment does not conform to the EPA Acknowledgment of Consent, to carry an EPA Acknowledgment of Consent to the shipment, and to provide a copy of the manifest to the U.S. Customs official at the point the waste leaves the United States.

(6) For imports of hazardous waste, the State must require the transporter to provide a copy of the manifest to the U.S. customs official at the point the waste enters the United States.

* * * * *

43. Section 271.12 is amended by revising paragraph (i) to read as follows:

§ 271.12 Requirements for hazardous waste management facilities.

* * * * *

(i) Compliance with the manifest system, including:

(1) The requirement that facility owners or operators return a signed copy of the manifest to the generator to certify delivery of the hazardous waste shipment or to identify discrepancies;

(2) If the State chooses to allow electronic manifesting, requirements equivalent to those provisions in 40 CFR 264.71 addressing the use of the electronic manifest, and requirements equivalent to those in 40 CFR 264.78 addressing electronic manifest systems; and

* * * * *

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Federal Register

Tuesday,
May 22, 2001

Part III

Department of Education

Dropout Prevention Demonstration Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.215W]

Dropout Prevention Demonstration Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Note to Applicants: This notice is a complete application package. Together with the statute authorizing these grants and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition. These grants are funded under Title X, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 8001 *et seq.*).

Purpose of Program: To strengthen and expand dropout prevention demonstration projects that combine, in a coherent fashion, strategies that have been demonstrated to be effective in (1) assisting students at risk of dropping out to remain in and graduate from high school, and (2) raising standards and expectations for these students.

Eligible Applicants: State educational agencies (SEAs) and local educational agencies (LEAs).

Deadline for Transmittal of Applications: July 23, 2001.

E-Mail Notification of Intent To Apply for Funding: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to send the Department a short e-mail indicating its intent to submit an application for funding. The e-mail should only note the applicant's intent to submit the application, and should not include information regarding the proposed application. The Secretary requests that this e-mail notification be sent no later than June 21, 2001. The e-mail notification should be sent to dropoutprevention@ed.gov. Applicants that fail to provide this e-mail notification may still apply for funding.

Deadline for Intergovernmental Review: September 19, 2001.

Estimated Available Funds: $5,000,000.

Estimated Range of Awards: $200,000–$500,000.

Maximum Award Amount: The total amount of funding that an SEA or LEA may receive under this competition is $500,000.

Estimated Number of Awards: 10 to 15.

Project Period: 12 months.

Page Limits: Applicants are strongly encouraged to limit the application narrative to the equivalent of not more than 30 double-spaced pages. Information concerning the standards for page size and text is found in the Instructions for the Application Narrative in the Appendix to this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

Supplementary Information:

Many of our communities, particularly those with substantial numbers of Hispanic, Native American, and African American students, are plagued by large numbers of students dropping out of high school. Although there is no one reason why students drop out, there are two strong predictors that can help educators identify the students most at risk of dropping out: poor academic performance and poverty. According to the National Center for Education Statistics' (NCES) annual dropout report, the single strongest school-related dropout predictor is poor academic performance; students who are performing below grade level or who repeat one or more grades are much more likely to drop out than are other students. Additionally, studies show that children from families living in poverty are much more likely to drop out of school than are children from families that are not living in poverty.

Students are more likely to drop out of school during critical transition points, particularly as they are transitioning from middle to high school. The beginning of high school can be a challenging time for students, especially for those who are performing below grade level. High school puts greater academic demands on students and can make school extremely difficult for students that are already academically behind. Therefore, students at risk of dropping out should be identified as early as possible to ensure a greater chance of high school completion. Studies show that intensive dropout prevention strategies targeted at the middle school level with continued support throughout the high school years can be particularly effective in preventing students from dropping out of high school.

The dropout problem is a complex issue that must be addressed through an array of strategies that are both targeted and demonstrated to be effective. States and districts should seek to understand why students decide to leave school and what happens to them after they drop out. The Dropout Prevention Demonstration Program will help communities to build upon, strengthen, or replicate prevention strategies, and to combine them in a comprehensive program that will address the needs of the targeted population.

Description of Program

The Dropout Prevention Demonstration Program is funded under Section 10101 of Title X of the Elementary and Secondary Education Act. The goal of the program is to strengthen and expand projects that utilize strategies demonstrated to be effective for ensuring that students at-risk of dropping out remain in and graduate from high school. The strategies should be combined in a coherent plan so that the needs of the targeted population are effectively addressed. Such strategies should include, but are not limited to:

(1) Accelerated learning strategies for improved academic performance;

(2) Systematic monitoring of attendance;

(3) Family outreach;

(4) Counseling services;

(5) Career and higher education awareness and preparation;

(6) Social support services;

(7) Small schools;

(8) Linkages between feeder elementary, middle, and high schools that serve the same children;

(9) Involvement of business and community groups;

(10) Coordination of project activities with those supported by other Federal, State, and local programs; and

(11) On-going evaluation, data collection, and dropout tracking as a means to increase the quality of services offered to students.

Reporting Requirements and Expected Outcomes

Successful applicants will be required to submit a final performance report and a copy of the project's final evaluation no more than 60 days after the end of the project period. The final evaluation should include baseline data that provides an overview of the dropout conditions that existed at the district prior to the implementation of the project, including specific data on the student population served by the project. It should also describe the quality and nature of the project's implementation, especially as it relates to improving the conditions for dropout prevention within a district and any available outcome data (including achievement data and progress on other school-related indicators).

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Ordinarily, this practice would have applied to the priorities in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts rules that apply to the first competition under a new or substantially revised program from this requirement. This competition is the first held under this program. To ensure timely awards, in accordance with section 437(d)(1) of GEPA, the Secretary has decided to forego public comments with respect to the absolute priorities in this notice. These priorities will apply to the FY 2001 grant competition only.

Absolute Priorities

The following absolute priorities apply to all applicants seeking funding under this competition. An applicant must meet these priorities in order to be eligible for funding.

(1) Dropout rate priority

(a) If an SEA is the applicant, the SEA must propose to assist one or more LEAs, each of which must have a high school dropout rate of at least 10 percent.

(b) If an LEA is the applicant, the LEA must have a high school dropout rate of at least 10 percent.

(c) If an LEA applies in consortium with other LEAs, each LEA must have a high school dropout rate of at least 10 percent.

(d) If an applicant LEA does not serve high school students, the high school dropout rate of the LEA in which a plurality of the applicant's students attend high school must be at least 10 percent.

(e) The high school dropout rate(s) of the LEA(s) must be included as part of the application.

(2) Schools and services priority

(a) The applicant must identify the specific school(s) that will participate in the project and include an assurance from officials at those schools indicating a commitment to participate in the project.

(b) Project services must focus on assisting children in grades 6 through 9.

(3) Collaboration priority

Each applicant must propose to work in collaboration with entities such as institutions of higher education or other public and private agencies, organizations, or institutions.

Definitions: The following definitions apply for the purposes of this program—

A "high school dropout" means a student in grade 9–12 who—

(i) Was enrolled in the district at some time during the 1999–2000 school year;

(ii) Was not enrolled at the beginning of the 2000–2001 school year;

(iii) Has not graduated or completed a program of studies by the maximum age established by a State;

(iv) Has not transferred to another public school district or to a nonpublic school or to a State-approved educational program; and

(v) Has not left school because of death, illness, or a school-approved absence.

"High school dropout rate" means the number of high school dropouts (as defined above) divided by the total number of students enrolled in grades 9–12 at the beginning of the 1999–2000 school year.

Selection Criteria

The maximum score for the selection criteria is 100 points. The maximum score for each criterion is indicated in parenthesis. Within each criterion, the Secretary evaluates each factor equally.

In all instances where the word "project" appears in the selection criteria, reference should be made to the Dropout Prevention Demonstration Program.

The Secretary will use the following selection criteria and factors in evaluating applications for grants:

(a) *Need for project.* (10 points) In determining the need for the proposed project, the Secretary considers the following factors:

(1) The magnitude or severity of the problem to be addressed by the proposed project.

(2) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(b) *Significance.* (20 points) In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The potential contribution of the proposed project to increase knowledge or understanding of educational problems, issues, or effective strategies related to dropout prevention.

(2) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(c) *Quality of design.* (40 points) In determining the quality of the project design, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the applicant proposes to strengthen and expand a dropout prevention project that utilizes strategies that have been demonstrated to be effective in addressing the needs of the target population.

(3) The extent to which the proposed dropout prevention strategies will be combined in a coherent fashion and coordinated with other services and programs that are provided to the target population.

(4) The likelihood that the services to be provided by the proposed project will improve the academic achievement of the targeted population and lead to decreased dropout rates for these students.

(d) *Adequacy of resources.* (10 points) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The extent to which project funds will be coordinated with State, local, and other Federal funds as appropriate, such as Title I, Comprehensive School Reform Demonstration Program, GEAR UP, Smaller Learning Communities, and 21st Century Community Learning Center funds.

(2) The extent to which the costs are reasonable in relation to the objectives, design, and the number of students to be served.

(e) *Quality of the project evaluation.* (20 points) In determining the quality of the evaluation to be conducted of the proposed project, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(3) The extent to which the evaluation will provide guidance about effective strategies suitable for replication in other settings.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local

processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372.

If you want to know the name and address of any State Single Point of Contact (SPOC) you may view the latest SPOC list on the OMB Web site at the following address: http://www.whitehouse.gov/omb/grants.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA #84.215W, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (EST) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

(A) *If You Submit Your Application Electronically:* The U.S. Department of Education is expanding its pilot project of electronic submission of applications to include certain formula and discretionary grant programs. The Dropout Prevention Demonstration Program (CFDA #84.215W) is one of the programs included in the pilot project. If you are an applicant under the Dropout Prevention Demonstration Program, you may submit your application to us in either electronic or paper format.

If you chose to submit your application electronically, you must submit it through the Internet using the software provided on the e-Grants Web site (http://e-grants.ed.gov) by 4:30 p.m. (EST) on the deadline date.

The regular hours of operation of the e-Grants Web site are 6 a.m. until 12 midnight (EST) on Monday, Tuesday, Thursday, and Friday, and 6 a.m. until 7 p.m. on Wednesday and Saturday. The system is unavailable on the second Saturday of every month, Sundays, and Federal holidays.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty, because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Fax a signed copy of the Application for Federal Assistance (ED 424) after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that your agency's Authorized Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right hand corner of ED 424.
5. Fax ED 424 to the Application Control Center within three working days of submitting your electronic application. We will indicate a fax number in e-APPLICATION at the time of your submission.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the Dropout Prevention Demonstration Program at: http://e-grants.ed.gov.

We have included below additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications below).

(B) *If You Send Your Application by Mail:* You must mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.215W, Washington, DC 20202–4725.

You must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If you mail an application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(C) *If You Deliver Your Application by Hand:* You or your courier must hand deliver the original and two copies of the application by 4:30 p.m. (EST) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.215W, Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC 20202.

The Application Control Center accepts application deliveries daily between 8 a.m. and 4:30 p.m. (EST), except Saturdays, Sundays, and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A person delivering an application must show identification to enter the building.

Notes for all Applicants Regarding Transmittal of Applications

(1) If you submit your application by mail, note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

(2) If you send your application by mail or deliver it by hand or by a courier service, the Application Control Center will mail a Grant Application Receipt Acknowledgment to you. If you do not receive the notification of application receipt within 15 days from the date of mailing the application, you should call the U.S. Department of Education Application Control Center at (202) 708–9493.

(3) If you send your application by mail or deliver it by hand or by a courier service, you must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Education Assistance (ED 424; revised November 12, 1999) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(4) If you submit your application through the Internet via the e-Grants Web site, you will receive an automatic acknowledgment when we receive your application.

Parity Guidelines Between Paper and Electronic Applications

Users of e-APPLICATION, a data driven system, will be entering data on-line while completing their applications. This will be more interactive than just e-mailing a soft copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter on-line will go into a database and ultimately will be accessible in electronic form to our reviewers.

This pilot project is another step in the Department's transition to an electronic grant award process. In addition to e-APPLICATION, the Department is conducting a limited pilot of electronic peer review (e-READER) and electronic annual performance reporting (e-REPORTS).

To help ensure parity between electronic and paper copies of grant applications, we are asking each applicant that submits a paper application to adhere to the following guidelines:

- Submit your application on 8½″ by 11″ paper.
- Leave a 1-inch margin on all sides.
- Use consistent font throughout your document. You may also use boldface type, underlining, and italics. However, please do not use colored text.
- Please use black and white, also, for illustrations, including charts, tables, graphs and pictures.
- For the narrative component, your application should consist of the number and text of each selection criterion followed by the narrative. The text of the selection criterion, if included, does not count against any page limitation.
- Place a page number at the bottom right of each page beginning with 1; and number your pages consecutively throughout your document.

Application Instructions and Forms

The appendix to this notice contains all required forms and instructions, including instructions for preparing the application narrative, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), various assurances and certifications, a list of relevant definitions from the authorizing statute and EDGAR, and a checklist for applicants.

In applying for an award under this competition, you must organize your application in the following order and include the following four parts. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (ED 424, Exp. 06/30/2001) and instructions.

Part II: Budget Information-Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Part IV: Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

c. Certifications regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications as printed in this notice in the **Federal Register**. For applicants that do not submit electronically, the application form, assurances, and certifications must each have an original signature. These applicants are required to submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application, one bound and one unbound copy suitable for photocopying. Please mark each application as "original" or "copy." To aid with the review of applications, the Department encourages applicants to submit two additional paper copies of the application. The Department will not penalize applicants who do not provide additional copies. No grant may be awarded unless a completed application form, including the signed assurances and certifications, has been received. (For applicants that submit electronically, see separate instructions under "Instructions For Transmittal of Applications" above).

FOR FURTHER INFORMATION CONTACT: Christine Jackson, Dropout Prevention Demonstration Program, Academic Improvement and Demonstration Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W104, FOB–6, Washington, DC 20202–6254. Telephone: (202) 260–2516. e-mail: christine.jackson@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternative format the standard forms included in the notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have the Adobe Acrobat Reader, which is available free at the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) at (202) 512–1530 or (toll free, at 1–888–293–6498), or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 8001 *et seq.*

Dated: May 16, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

APPENDIX

Instructions for the Application Narrative

The narrative is the section of the application where the selection criteria used by reviewers in evaluating the application are addressed. The narrative must encompass each function or activity for which funds are being requested. Before preparing the application narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

Applicants should note that there is a 30-page suggested page limit for the application narrative. The following standards apply: (1) A "page" is 8.5″ × 11″ (one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative must be double-spaced (no more than three lines per vertical inch). If using a proportional

computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The suggested page limit does not apply to the cover sheet, the one-page abstract, budget section, appendices, and forms and assurances. However, all of the application narrative must be included in the narrative section.

1. Begin with a one-page Abstract summarizing the proposed Dropout Prevention Demonstration project, including a short description of the population to be served by the project.

2. Include a table of contents listing the parts of the narrative in the order of the selection criteria and the page numbers where the parts of the narrative are found. Be sure to number the pages.

3. Describe how the applicant meets the absolute priorities.

4. Describe fully the proposed project in light of the selection criteria in the order in which the criteria are listed in the application package. Do not simply paraphrase the criteria.

5. Provide the following in response to the attached GEPA Sec. 427 "Notice to all Applicants": (1) a reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.

6. When applying for funds as a consortium, individual eligible applicants must enter into an agreement signed by all members. The consortium's agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the consortium's application. The designated applicant must submit the consortium's agreement with its application.

7. Applicants may include supporting documentation as appendices to the narrative. This material should be concise and pertinent to the competition. Note that the Secretary considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

8. Attach copies of all required assurances and forms.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 1810–0637. (Expiration Date: 5/31/2004). The time required to complete this information collection is estimated to average 30 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: Christine Jackson, Dropout Prevention Demonstration Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W104, FOB–6, Washington, DC 20202–6254.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Christine Jackson, Dropout Prevention Demonstration Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W104, FOB–6, Washington, DC 20202–6254.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance (ED 424).
2. Budget Information—Non-Construction Programs ED Form No. 524) and budget narrative.
3. Application Narrative, including information that addresses section 427 of the General Education Provisions Act (see the section "NOTICE TO ALL APPLICANTS"), and relevant appendices.
4. Applicable LEA high school dropout rates.
5. List of participating school(s) and assurances from appropriate school officials.
6. List of entity or entities with which the applicant will collaborate.
7. LEA consortium agreement, if applicable.
8. Assurances—Non-Construction Programs (SF 424B).
9. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).
10. Disclosure of Lobbying Activities (Standard Form LLL).

BILLING CODE 4000–01–P

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved OMB No. 1875-0106 Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
Organizational Unit
City / State / County / ZIP Code + 4

2. Applicant's D-U-N-S Number

3. Applicant's T-I-N

4. Catalog of Federal Domestic Assistance #: 8 4 2 1 5 W → Title: Dropout Prevention Demonstration Program

5. Project Director:
Address:
City / State / ZIP Code + 4
Tel. #: ( ) - Fax #: ( ) -
E-Mail Address:

6. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

7. Type of Applicant *(Enter appropriate letter in the box.)*
A State H Independent School District
B County I Public College or University
C Municipal J Private, Non-Profit College or University
D Township K Indian Tribe
E Interstate L Individual
F Intermunicipal M Private, Profit-Making Organization
G Special District N Other *(Specify)*:

8. Novice Applicant ☐ Yes ☐ No

Application Information

9. Type of Submission:
—PreApplication ☐ Construction ☐ Non-Construction
—Application ☐ Construction ☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: ___/___/_____ End Date: ___/___/_____

12. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #: *OR* b. Assurance of Compliance #:
c. IRB approval date: ☐ Full IRB or ☐ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative
b. Title
c. Tel. #: ( ) - Fax #: ( ) -
d. E-Mail Address:
e. Signature of Authorized Representative Date: ___/___/_____

REV. 11/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are not planned at any time during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If all the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If some or all of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructionsin **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106.** The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a , **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov humansub.htm.

U.S. DEPARTMENT OF EDUCATION
BUDGET INFORMATION
NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004
Expiration Date: 02/28/2003

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

Name of Institution/Organization

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

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Standard Form 424B (Rev. 7-97)
Prescribed by OMB Circular A-102

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	**Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

[FR Doc. 01–12761 Filed 5–21–01; 8:45 am]
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Federal Register

Tuesday,
May 22, 2001

Part IV

Environmental Protection Agency

40 CFR Parts 9, 141, and 142
National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Delay of Effective Date; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 141, and 142

[WH–FRL–6983–8]

RIN 2040–AB75

National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring: Delay of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delay of effective date.

SUMMARY: Today's action delays the effective date of the arsenic in drinking water regulation published on January 22, 2001 (66 FR 6976), to February 22, 2002. The effective date for the arsenic regulation was previously delayed 60 days on March 23, 2001 (66 FR 16134), to May 22, 2001. The effective date for clarifications to compliance and new-source contaminants monitoring in the January 22 arsenic regulation remains unchanged as January 22, 2004.

On March 20, 2001, EPA's Administrator publicly announced that the Agency would take steps to reassess the scientific and cost issues associated with the arsenic rule published on January 22, 2001, and seek further public input on important issues with that rule. On April 23, 2001, EPA published in the **Federal Register** (66 FR 20580) a proposal to delay the effective date of the arsenic rule for an additional nine months in order to conduct reviews of the science and costing analysis and make the results available for public review. Today's action extends the effective date for the arsenic rule from May 22, 2001, to February 22, 2002, in order to conduct the reviews described in the April 23, 2001 **Federal Register** (66 FR 20580). For now, the current standard of 50 µg/L remains the applicable arsenic drinking water standard until the 2006 compliance date for the January 2001 final rule.

DATES: As of May 22, 2001, the effective date of the National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring, amending 40 CFR parts 9, 141 and 142, published in the **Federal Register** on Monday, January 22, 2001, at 66 FR 6976 and delayed on Friday, March 23, 2001, at 66 FR 16134, is further delayed for nine months, from the scheduled effective date of May 22, 2001, to a new effective date of February 22, 2002, except for the amendments to §§ 141.23(c)(9), 141.23(i)(1), 141.23(i)(2), 141.24(f)(15), 141.24(f)(22), 141.24(h)(11), 141.24(h)(20), 142.16(e), 142.16(j), and 142.16(k) which are effective on January 22, 2004. The amendment to § 141.6 in this rule is also effective February 22, 2002.

ADDRESSES: You can review copies of the public comments received on the proposed nine-month extension of the effective date, EPA responses, and all other supporting documents in docket W–99–16–IV at the U.S. EPA Water Docket (4101), East Tower Basement room 57, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, phone: (800) 426–4791 or (703) 285–1093, e-mail: *hotline-sdwa@epa.gov* for general information and copies of arsenic documents. For technical inquiries, contact: James Taft, (202) 260–5519, e-mail: *taft.james@epa.gov*. Contact the Water Docket at (202) 260–3027 to review the supporting documents and public comments on the proposed nine-month extension as well as EPA's responses to those comments.

SUPPLEMENTARY INFORMATION:

Availability of Docket. For an appointment to review the docket for this nine-month extension of the effective date, call 202–260–3027 between 9 a.m. and 3:30 p.m. Eastern Time, Monday through Friday and refer to Docket W–99–16–IV. Every user is entitled to 100 free pages, and after that the Docket charges 15 cents a page. Users are invoiced after they copy $25, which is 267 photocopied pages.

Regulated Entities

A public water system (PWS), as defined in 40 CFR 141.2, provides water to the public for human consumption through pipes or other constructed conveyances, if such system has "at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year." A public water system is either a community water system (CWS) or a non-community water system (NCWS). A community water system, as defined in § 141.2, is "a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents." The definition in § 141.2 for a non-transient non-community water system (NTNCWS) is "a public water system that is not a CWS and that regularly serves at least 25 of the same persons over 6 months per year." Entities potentially regulated by this action are community water systems and non-transient, non-community water systems. The following table provides examples of the regulated entities under this rule.

TABLE OF REGULATED ENTITIES

Category	Examples of potentially regulated entities
Industry	Privately owned/operated community water supply systems using ground water or mixed ground water and surface water.
State, Tribal, and Local Government	State, Tribal, or local government-owned/operated water supply systems using ground water or mixed ground water and surface water.
Federal Government	Federally owned/operated community water supply systems using ground water or mixed ground water and surface water.

The table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in §§ 141.11 and 141.62 as revised by the January 22, 2001 (66 FR 6976) arsenic rule.

Abbreviations Used in This Rule

§—section
µg/L—micrograms per liter, same as ppb
APA—Administrative Procedure Act
BAT—Best available technologies
CCR—Consumer confidence reports (Subpart O)

CFR—Code of Federal Regulations
CWS—Community water system
EPA—U.S. Environmental Protection Agency
FACA—Federal Advisory Committee Act
FR—Federal Register
MCL—Maximum Contaminant Level
MCLG—Maximum Contaminant Level Goal
mg/L—milligrams per liter
NAS—National Academy of Sciences, private entity chartered in 1863 to advise the government
NCWS—Non-community water system
NDWAC—National Drinking Water Advisory Council, chartered under FACA to advise EPA
NPDWR—National primary drinking water regulation
NRC—National Research Council, operating arm of NAS
NTNCWS—Non-transient non-community water system
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
POTWs—Publicly owned treatment works (treat wastewater)
ppb—parts per billion, same as µg/L
PRA—Paperwork Reduction Act
PWS—Public water systems
RFA—Regulatory Flexibility Act
SBREFA—Small Business Regulatory Enforcement Fairness Act
SDWA—Safe Drinking Water Act
TDS—Total dissolved solids
UMRA—Unfunded Mandates Reform Act
U.S.—United States
WHO—World Health Organization

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I. Background and History

A. What is in EPA's January 22, 2001, Final Rule and What Requirements Will Be Affected by a Delay in the Effective Date?

1. Final Arsenic Regulations

In the Monday, January 22, 2001, **Federal Register** (EPA 2001a), EPA issued final regulations for arsenic and clarifications to compliance and new-source contaminants monitoring (66 FR 6976). The Agency established a health-based, non-enforceable Maximum Contaminant Level Goal (MCLG) for arsenic of zero milligrams per liter (mg/L) and an enforceable Maximum Contaminant Level (MCL) for arsenic of 0.01 mg/L (*i.e.*, 10 micrograms per liter (µg/L)). Until the January 2001 arsenic regulation becomes effective, the existing arsenic regulation (*i.e.*, no MCLG and an MCL of 50 µg/L) issued December 24, 1975 (40 FR 59566) remains in effect. (Although EPA lists drinking water standards in Title 40 of the Code of Federal Regulations (40 CFR) in units of mg/L, except where noted, the Agency will refer to arsenic concentrations in µg/L in this preamble.) As part of the January 2001 arsenic regulation, EPA also listed the approved analytical methods to measure compliance, the best available technologies (BAT) and small system technologies that could achieve compliance with the MCL, and the public reporting requirements (changed by revising the MCL to 10 µg/L). The January 2001 rule contained an effective date of March 23, 2001, and a compliance date for this final arsenic regulation of January 22, 2006, five years after publication for all systems.

2. Clarifications for Monitoring and Compliance for New Systems and New Sources

On January 22, 2001 (66 FR 6976), EPA also published regulations for inorganic, volatile organic, and synthetic organic contaminants (EPA, 2001a), and these regulations are not affected by today's action. Sections 141.23(i)(1), 141.23(i)(2), 141.24(f)(15), and 141.24(h)(11) covered the clarifications for monitoring and compliance when a system fails to collect the required number of samples. Sections 141.23(c)(9), 141.24(f)(22), 141.24(h)(20), and 142.16(k) recognized the State-specified time period and sampling frequency for new public water systems and systems using a new source of water for demonstrating compliance with drinking water regulations.

EPA's review of the arsenic rule does not include a review of the clarifications to compliance and new source compliance monitoring regulations issued on January 22, 2001 (66 FR 6976). Therefore, the "effective date for purposes of compliance" for these regulations remains January 22, 2004, as specified in the January 2001 rule in § 141.6(k).

While provisions of the January 2001 final rule will move arsenic into the standardized monitoring framework for inorganics (*i.e.*, §§ 141.23(a)(4)(i), (a)(5), (c), (i)(1), (i)(2), and (k)(2), (k)(3)), the compliance date for the revised arsenic regulations remains January 23, 2006. Until then, the revisions to § 141.11(a) and (b) retain the existing monitoring and compliance requirements of § 141.23(l)—(p) for arsenic.

3. Primacy Requirements

Section 1413(a)(1) of the Safe Drinking Water Act (SDWA), as amended in 1996, requires States with primary enforcement responsibility to adopt drinking water regulations that are no less stringent than EPA's regulations. By statute, States are required to do so no later than two years after EPA promulgates national primary

drinking water regulations unless EPA provides up to a two-year extension. Specifically, States will be required to specify the initial monitoring requirements for new PWSs and new sources (§ 142.16(k)) mentioned in the previous section. In addition, States will have to adopt the wording for submitting more information for newly regulated contaminants per § 142.16(e) and less information than now required for revising primacy for an existing contaminant per § 142.16(j).

EPA is reviewing the final arsenic regulation, and may ultimately decide to revise the MCL published on January 22, 2001. EPA is also aware of the practical implications of such possible decisions on State primacy requirements and State schedules for implementing these changes. As a result, EPA will be working closely with States in this regard and will be addressing the issue of State primacy requirements in more detail in future **Federal Register** actions.

4. Changes in Consumer Confidence Reports (CCR) for Arsenic

The January 2001 revisions to the CCR rule that included new reporting requirements for arsenic will be delayed until February 22, 2002. The final rule issued for the consumer confidence rule (63 FR 44512) on August 19, 1998, at § 141.154(b) required CWSs that detect arsenic between 25 µg/L and 50 µg/L to include an informational statement about EPA's review of the arsenic standard beginning with the report for calendar year 1998 (see § 141.152(a)). Section 141.153(d)(4) requirements stipulate that if arsenic is detected, the CCR must list the MCL (*i.e.*, 50 parts per billion (ppb)), the highest contaminant level used to determine compliance, the range of detected levels (specified in § 141.153(d)(4)(iv)), and likely source(s) of contamination. Section 141.153(d)(6) requires that, for any data indicating violations of the arsenic MCL (*i.e.*, 50 parts per billion (ppb)), the CCR must explain the length of the violation, actions taken to address the violation, and the potential adverse health effects described in appendix A to subpart O.

The final arsenic rule (EPA 2001a) issued on January 22, 2001 (66 FR 6976), made two changes to the annual consumer confidence reports for arsenic. The January 2001 arsenic rule changed the informational reporting for arsenic in § 141.154(b) to require additional information for CWSs that detected between 5 µg/L and 10 µg/L starting with the calendar year 2001 report (due July 1, 2002). The January 2001 rule (66 FR 6976) also added § 141.154(f) to require reporting of health effects information for systems that detect arsenic between 10 µg/L and 50 µg/L beginning with the report due July 1, 2002 and ending January 22, 2006, before the new MCL becomes effective for compliance purposes.

Because of the review of the January 2001 arsenic rule, the reporting requirements in §§ 141.154(b) and (f) relating to arsenic will also need to be reconsidered and may, at the least, need to be amended to delay the due date for reporting. EPA will be considering changes to these CCR requirements for arsenic as part of the forthcoming arsenic rulemaking discussed in section II of today's preamble.

The effect of today's 9-month delay of the effective date is that, for the CCR reports for calendar year 2001, CWSs will continue to implement the CCR requirements for arsenic contained in the August 19, 1998 rule until February 22, 2002, rather than any of the new requirements of the January 22, 2001 rule.

B. What Did EPA Announce on March 20, 2001?

On March 20, 2001, the Administrator announced plans to seek independent reviews of the science and cost estimates supporting the arsenic standard. The March 23, 2001, **Federal Register** notice (66 FR 16134) delayed the effective date for parts of the arsenic rule by 60 days, from March 23, 2001, to May 22, 2001 (EPA, 2001b). That delay was in accordance with the memorandum of January 20, 2001, from the Assistant to the President and White House Chief of Staff, entitled "Regulatory Review Plan," published in the **Federal Register** on January 24, 2001 (66 FR 7702).

C. What Did EPA Propose on April 23, 2001?

On April 23 (66 FR 20580), EPA proposed (EPA, 2001c) a further delay of the effective date for parts of the arsenic rule, until February 22, 2002, to allow additional time for reconsideration of specific aspects of the arsenic rule as explained in the next section. EPA accepted public comments during a 14-day comment period on the proposed delay of the effective date.

D. Why Did EPA Propose Further Review of the Arsenic Rule?

Consistent with the Administrator's public announcement on March 20, the purpose of proposing a 9-month delay to the effective date was to allow additional time for review of the science and costing analyses underlying the arsenic in drinking water rule. EPA understands and appreciates that the question of setting a final arsenic in drinking water standard is a controversial one for several reasons. From an economic standpoint, the new regulation can be expected to have significant impacts on a number of drinking water utilities, especially those serving less than 10,000 people in areas of high naturally occurring arsenic. Stakeholders have an understandable desire to ensure that any new regulation be based on accurate and reliable compliance cost and benefit estimates. Stakeholders also want to be confident that the health risks associated with a new standard have been appropriately evaluated and are based on the best available science.

II. What Will Be the Process for Reviewing the Arsenic Rule?

A. Overview

EPA considered a number of possible mechanisms for conducting the necessary reviews of the underlying science and cost of compliance estimates associated with the arsenic in drinking water rule, and is also considering establishing a third mechanism to review the benefits of the rule. The Agency's criteria for conducting the reviews are to ensure that reviewers are recognized experts in their fields and are as impartial and objective as possible; that the reviews can be completed quickly; and that the results of the review be made publicly available for comment. At present, EPA is using two distinct mechanisms for the review and will continue to consider other steps to ensure timely and thorough review of the standard.

- Review of Health Effects of Arsenic and Consideration of Key Issues Associated with the Risk Analysis: National Academy of Sciences' National Research Council.
- Review of Process for Developing Cost of Compliance Estimates: Specially convened subgroup of the National Drinking Water Advisory Council.

In the case of the National Research Council, EPA is relying on the same independent judgment, objective analysis, and scientific expertise that is reflected in the March 1999 NRC report (NRC, 1999), entitled, "Arsenic in Drinking Water" in reviewing the Agency's interpretation and application of existing arsenic research as well as new studies of arsenic health effects science that have been published since the 1999 report. With regard to costing issues, the National Drinking Water Advisory Council has a charter, under the Federal Advisory Committee Act, to advise the Agency on an array of drinking water issues associated with implementing the national drinking water program and has previously provided recommendations to the Agency in the development of the arsenic in drinking water rule.

As its next step in the process for review of the arsenic MCL, EPA plans to release a proposal requesting comment on a range of arsenic MCLs from 3 µg/L to 20 µg/L. The purpose of this proposal is to provide for additional public comment on the range of arsenic MCLs and the science, cost and benefit and other analysis related to the arsenic rule. EPA will also provide the public an opportunity to comment on the results of the independent science and cost reviews. EPA then plans to analyze the results of these reviews together with any public comment on the range of arsenic MCLs to reach a final decision on how to proceed with regard to the arsenic MCL. As it becomes available, further information on this process will also be available on EPA's arsenic in drinking water webpage at www.epa.gov/safewater/arsenic.html and from the Safe Drinking Water Hotline phone: (800) 426–4791, or (703) 285–1093, e-mail: *Hotline-sdwa@epa.gov*.

B. Approach to Review of Health Science

Under a cooperative agreement with EPA, on May 21 the National Academy of Sciences (NAS) will convene a subcommittee of the National Research Council's (NRC) Committee on Toxicology to prepare a report updating the scientific analyses, uncertainties, and findings of the 1999 NRC report "Arsenic in Drinking Water." Specifically, the subcommittee will review relevant toxicological and health-effects studies published and data developed since the 1999 NRC report, including the toxicological risk-related analyses performed by EPA in support of its regulatory decision-making for arsenic in drinking water. The subcommittee will address only scientific topics relevant to toxicological risk and health effects of arsenic.

The subcommittee will meet approximately three times to discuss and evaluate issues and plans to produce a consensus report in August 2001. The subcommittee will hear presentations from government agencies, industry, and other interested or affected parties. Notices of meetings open to the public are to be posted on the website www.national-academies.org. EPA has asked NRC to make its final report publicly available, and the report will be available in EPA's arsenic rulemaking record.

C. Approach to Review of Cost of Compliance Estimates

The National Drinking Water Advisory Council (NDWAC) is chartered under the Federal Advisory Committee Act (FACA) to advise, consult with, and make recommendations to EPA. The Agency has asked the NDWAC to convene a panel of nationally recognized technical experts to review the cost of compliance estimates associated with the final arsenic rule. In particular, the working group is to review the costing methodologies, assumptions, and information underlying the costs applicable for various categories of water system sizes as well as the aggregated national estimate of system costs underlying the final arsenic rule. As a part of this review, the group should evaluate significant alternative costing approaches or critiques where there is adequate information upon which to evaluate the basis for such alternate estimates or approaches.

Working group members will be asked to attend a series of meetings (approximately three) over the summer of 2001, participate in discussion of key issues and assumptions at these meetings, and review work products of the working group. EPA has asked NDWAC to ensure the working group prepares a report and makes a recommendation to the full NDWAC based on their review of the national cost estimates. The NDWAC, in turn, would submit a report and make a recommendation to EPA. All NDWAC working group meetings and full NDWAC meetings are open to the public, and meeting information is posted on the calendar accessible from *www.epa.gov/safewater*. The report and the final recommendations of the NDWAC will be made available for public review and comment by EPA and will also be available in the arsenic rulemaking record.

III. Response to Comments

A. Comments Specific to the Proposal To Further Delay the Effective Date of the January 22, 2001, Arsenic Rule Until February 22, 2002

The Agency received over 12,000 comments on the April 23, 2001, proposal to delay the effective date of the January 22, 2001, final rule (66 FR 6976) another nine months until February 22, 2002, to allow additional time for reconsideration of the provisions of this final rule. The majority of the comments came from private citizens sending electronic mail (*i.e.*, e-mail). Many of these commenters did not support the extension and cited several reasons for their position: their concerns about the health hazards posed by arsenic in drinking water and the consequences of a delayed effective date on implementation deadlines; their belief that the decade or more of scientific reviews, public hearings, and other deliberations that supported the revised arsenic MCL were sufficient and that additional time is not warranted; and their belief that the standard published on January 22, 2001, is appropriate and should not be delayed further since the 10 µg/L MCL conforms with the standard set by other entities, such as the World Health Organization (WHO). A few commenters believed that the 14-day comment period on the April 23, 2001, proposal was too short to obtain meaningful comment.

Other commenters, most of whom represented the drinking water industry, small system water providers, and States, believed that a short delay to re-examine some of the consequences of the final rule was warranted, especially to carefully consider the financial impact on small systems (*i.e.*, systems serving populations of 10,000 or fewer). These commenters supported a comprehensive and independent review of the underlying science (health studies used and interpretations of these studies) and costing associated with the arsenic final rule. These commenters strongly supported the Agency's plan to use NAS (NRC) and NDWAC expert panels.

The following sections respond to the comments that were specifically directed towards the issue of whether or not to delay the effective date. Section III.B. provides a more general response to the many issues raised by the commenters that were not directly tied to the delay of the effective date.

1. Health Concerns

The overwhelming number of commenters expressed concern about a nine-month delay of the effective date of the revised arsenic rule, due in part to concerns about immediate health impacts due to a delay in implementation of the rule. EPA does not believe that this short delay of the effective date will result in health effects of any kind for several reasons. First of all, the delay EPA issues today is very short; EPA has committed to reviewing the science and cost issues related to the revised final arsenic rule as expeditiously as possible and no later than early next year. Second, the compliance date for the revised arsenic rule was five years in the future even under the January 2001 rule so that there would have been no immediate implementation of the new standard in

any case. Moreover, EPA does not anticipate that this short delay will mean a delay in these compliance deadlines.

2. Adequacy of Existing Scientific Research

Many commenters expressed their belief that extensive research supports the 10 µg/L MCL published in the January 2001 rule and that there is an insufficient technical and procedural basis for reconsidering the rule. Many of these commenters urged the Agency to simply allow the effective date to occur on May 22, 2001, without impediment. The Agency understands these concerns, but wishes to allow time for serious reconsideration of the arsenic standard published on January 22, 2001. A relatively short delay of the effective date provides flexibility for fully reconsidering the rule and a full range of options consistent with SDWA section 1412(b)(9) (concerning review and revisions of existing drinking water regulations). While the Agency agrees that the January 2001 rule was supported by extensive data and analysis, the Agency also agrees with other commenters who argued that this rule is very important and the issues of cost and science that are central to the rulemaking deserve one final review before concluding this rulemaking. Thus, EPA believes that the ultimate decision to be made in early 2002 will be strengthened by allowing additional public comment and a review by expert panels from NAS and NDWAC. This review includes a reconsideration of the 3, 5 and 10 µg/L MCLs suggested by the commenters who oppose the extension. The nine-month period provides a unique opportunity for independent, expert panels to review the Agency's actions in the final rule in connection with both the underlying science and the Agency's compliance cost assumptions and methodologies contained in the final January 2001 rule. This review also provides an opportunity to examine information that has only recently become available. In particular, the Agency is aware of many scientific articles that have become available since the original report of the NAS (NRC 1999) committee published in March 1999.

3. Comparison of January 22, 2001, Standard to WHO Recommended Standard

Several commenters expressed concerns that the Agency may, as a result of a nine-month delay of the effective date, revise the January 22, 2001, standard to a less stringent standard that would not comport with the WHO recommended standard of 10 µg/L. In this regard, the Agency noted in the preamble of the January 2001 final rule (66 FR 7025) that the nonenforceable WHO guideline was not set using the same health endpoints, feasibility of implementation, or other risk management factors that are mandated under SDWA. Because the U.S. drinking water standard for arsenic was not developed using the basis employed in setting the WHO guideline, the Agency specifically noted in the 2001 final rule that a possible future change in the WHO value would not necessarily require a revision to EPA's MCL. For the same reasons, the Agency's MCL is not dependent on arsenic standards established by the European Union, or other countries or international organizations. In any case, the Agency has made no commitment to revise the standard to a concentration more or less stringent than the January 22, 2001, level.

4. Adequacy of Comment Period

The Agency believes that the fourteen-day comment period was sufficient to allow public comment on the very narrow issue of whether or not to provide a short delay of the effective date. Because (1) the issue is so narrow and the implications so minor in light of the five-year compliance period and the length of the delay; (2) the rule had just been issued a few months ago after many months of public input; (3) there has been intense public attention already devoted to this rulemaking: and (4) there is an urgency to the upcoming May 22 deadline, the Agency did not feel that it was necessary to have a longer comment period. Indeed, the number of comments received (over 12,000) greatly exceeded the 1,000 or so comments received on the June 2000 rule that proposed a range of new MCLs for arsenic. The Agency helped facilitate this strong and diverse response with prior publicity and a targeted mailing. Prior to publication of the April 23, 2001, proposal, EPA widely publicized the proposed rule indicating EPA's intention to seek a delay, and performed a direct mailing to approximately 1,000 individuals and organizations who had expressed interest in the arsenic rulemaking.

5. Procedural Concerns

One commenter suggested that the Agency is obliged to provide an opportunity for a public hearing(s) on the proposed regulation to delay the effective date, in accordance with section 1412(d) of SDWA before taking final action on the proposal. Section 1412(d) states that EPA must provide opportunity for public hearing prior to promulgation of regulations under section 1412 of SDWA and consult with NDWAC. Today's action is merely a short delay of the effective date of a recently published national primary drinking water regulation (NPDWR). As such, it is, in essence, a continuation of the rulemaking process to revise the arsenic rule first commenced several years ago. The whole purpose of this delay is to allow for additional public input and NDWAC consultation. The Agency does not believe that it is necessary or appropriate to provide for extensive public comment hearings and consultations on the issue of whether to have further public debate and consultation. Indeed, EPA provided several opportunities for public involvement, including hearings and consulted with NDWAC prior to issuance of the January 22, 2001, NPDWR and will provide an opportunity for a public hearing in developing a final decision of whether and how to revise the January rule, based upon the findings of expert review panels. As discussed earlier, EPA's review includes working with NDWAC on some of the most controversial aspects of the January rule. As a result, while EPA does not believe that it makes sense to hold a public hearing for today's action, the Agency has fully complied with this provision throughout this extended rulemaking on arsenic and will continue to provide public hearing opportunities and hold NDWAC consultations before taking any action to withdraw, modify or supercede the January 2001 rule.

Another procedural question raised by some commenters was whether or not the Agency had met its obligations pursuant to SDWA and Public Law 106–377 (fiscal year 2001 appropriations act for EPA), requiring the Agency to promulgate a final rule by June 22, 2001. These commenters contended that a delay of the effective date would result in the Agency missing that deadline and urged the Agency to allow the rule to go into effect on May 22, 2001. The Agency believes that, independent of the statutory deadline for promulgation, EPA has the authority to establish appropriate effective dates.

6. Review of Underlying Costs and Health Effects Associated With the Rule

Several commenters expressed support for delaying the effective date in order to undertake the necessary scientific and technical reviews. The Agency agrees with the sentiment that additional time for technical reviews of elements of the rule is warranted. The Agency also believes that it is also important to recognize that the economic impact of the 80% decrease in the 50 µg/L MCL to 10 µg/L affects about 4,000 PWSs, many of whom serve populations of less than 3,300. Thus, the per capita cost of the final MCL could be significant at some affected PWSs. The independent review proposed by EPA provides more time to develop a mitigation strategy, and the re-opening of the comment period allows the public to participate in this process and suggest other options.

The Administrator announced her intention to review the cost and science underlying the rule on March 20, 2001. The delay of the effective date for parts of the final arsenic rule by nine months will provide the Agency and the public the benefit of the results of reviews by independent expert panels and allow for additional comment by affected individuals and entities. The reviews will be comprehensive and independent, as suggested by commenters. The results will be a significant and important source of information for the Agency to consider as it makes a final decision. There will be no adverse health impacts resulting from this short delay of the effective date within the five-year compliance period. For these reasons, the Agency in today's rule delays the effective date of the January 22, 2001, final rule until February 22, 2002.

B. Comments Not Specific to the Proposal To Further Delay the Effective Date of the Final Rule

Some commenters also commented on issues not specific to the April 2001 proposal to delay the effective date of the final arsenic rule by nine months. Some of these commenters resubmitted or referenced the same or similar comments that had been submitted in response to the June 22, 2000, proposed rule. A summary of these extra comments follows. EPA does not intend to provide a comprehensive response to these comments because they are not germane to the specific rule issued today. However, many of these issues will be discussed in an upcoming proposal as well as in a future notice providing the results of the reviews of the expert panels referred to earlier.

1. Consumer Confidence Reports

Several commenters disagreed with the consumer confidence reporting (CCR) rule requirements in the revised arsenic rule. Because of the high public awareness about arsenic as a potentially toxic contaminant and carcinogen that may occur in drinking water, the commenters are concerned that these new requirements will unnecessarily alarm consumers. The commenters also noted that one of the reporting requirements is set at 10% of the current 50 µg/L MCL. One commenter believes that the 5 µg/L reporting limit is appropriate, because of the consumer right to know about contamination of their drinking water.

Based on the recent interest and awareness of the general public with arsenic in drinking water, the Agency understands that the requirement for a system to provide health information for arsenic contamination well below the current MCL of 50 µg/L that is in effect until January 22, 2006, requires further analysis and discussion. The Agency will study this issue during the nine-month review of final rule and consider public comment that may be received during that review. The Agency plans to make a final decision whether to revise the arsenic CCR requirements as part of its decision making on whether or not to revise the MCL.

2. Adverse Impacts on Small Systems

Several commenters supporting the delay until February 22, 2002, also noted that the 2001 final rule requires treatment changes that are too costly. Commenters were concerned about costs for small systems. Two commenters also noted that timely compliance with the 2006 date was in jeopardy, because systems affected by the 10 µg/L MCL cannot begin treatment or other changes until the Agency takes final action on the results of the review of the final rule.

The Agency appreciates the support for the delay to allow a review of costs and other issues associated with implementation of the 2001 final rule. The Agency will be further considering concerns raised by commenters with respect to the issue of how to address the impact of the nine-month delay on the compliance dates in the final rule. The statute sets out specific requirements for establishing and extending compliance dates and EPA will comply with these provisions in confirming or revising the January 2001 rule.

Many comments on the April 23, 2001, document were limited to a statement that the costs of the January 2001 rule were too high, or could not be borne within the 2006 time frame. A few commenters resubmitted their comments on the June 2000 proposed rule. These comments on the proposed rule were more detailed and cited specific issues, such as point-of-use devices, feasibility of treatment in arid climates, landfill and waste disposal, wastewater treatment burdens on publicly owned treatment works (POTWs), and impacts of chloride and total dissolved solids (TDS).

Although the Agency has not yet decided whether or how to change the provisions of the January 22, 2001, final rule, the issue of the costs of small system treatment technologies is within the purview of the forthcoming NDWAC review of the cost models used in the final rule. Subsequent to additional public comment on this and other issues, and to the NDWAC expert panel review, the Agency will again address the issues of costs to small systems.

3. Selection and Instruction of the Expert Panels

Several commenters provided detailed suggestions about how to select members and charge the expert panels in the review of the arsenic final rule. Commenters requested that the charge to the panel be very broad and include all of the issues described in the preamble of the final rule. The Agency appreciates the suggestions for charging the expert panels, and is providing the public with several ways to participate in the review of the final arsenic rule process. For example, on May 4, 2001 (66 FR 22551), EPA requested nominations of individuals to serve on the cost working group of NDWAC (EPA, 2001c). This document provided an opportunity to advise EPA on the selection of this expert panel. In addition, many of these issues will be discussed in the future proposed rule that will request comment on a range of arsenic MCLs and provide for additional public comment on the range of science and cost issues related to the arsenic rule (66 FR 20582, April 23, 2001). In the April 2001 document, the Agency noted that the results of the independent science and cost reviews will be made public along with further information on the review process. Finally, much of this information will be available on EPA's drinking water webpage at www.epa.gov/safewater/arsenic.html and from the Safe Drinking Water Hotline. Similarly, on April 17, 2001, the NAS provided notice about its charge to the new arsenic committee on its web site and solicited comment on the provisionally named members of the committee.

The Agency believes there is still a strong basis to specify an arsenic MCL significantly less than the current 50 µg/L standard. Although the Agency will ask for a review of the 3–20 µg/L range proposed in the June 22, 2000, proposed rule, the public may provide evidence to support a higher drinking water arsenic standard.

4. Use of a Sublinear Dose Response Relationship

Some commenters resubmitted their comment on the June 2000 proposal that the dose-response relationship for arsenic health effects should use a sublinear model rather than the model used by EPA to specify the final MCL and MCLG. These commenters believed that a sublinear model would lead to derivation of a higher MCL and possibly a non-zero MCLG.

Although the Agency has not yet decided whether or how to change the provisions of the January 22, 2001, final rule, the nonlinear dose relationship mentioned by commenters is within the purview of the forthcoming NAS review of the science supporting the final rule. Subsequent to this expert panel review, and to public comment on this and other issues, the Agency will determine whether to adopt a nonlinear dose relationship to calculate an MCLG and MCL for arsenic.

IV. Administrative Requirements

A. Executive Order 12866 Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action," and, as such, has not been submitted to OMB for review under the Executive Order.

B. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to Executive Order 13045 because it is not economically significant and the Agency does not have reason to believe that the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. Nonetheless, EPA evaluated the environmental health and safety effects of arsenic in drinking water on children as part of the January 2001 rule and its proposal.

C. Unfunded Mandates Reform Act (UMRA) of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, Tribal, and local governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This is because the rule imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus today's rule is not subject to the requirements of section 202 and 205 of the UMRA. For the same reason, EPA also has determined that this action contains no regulatory requirements that might significantly or uniquely affect small governments. This action does not impose any requirement on anyone. Thus, there are no costs associated with this action. Therefore, today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action does not impose any requirements on anyone and does not voluntarily request information. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the January 22, 2001, regulations, 40 CFR parts 9, 141 and 142 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0231.

E. Regulatory Flexibility Act (RFA), as Aamended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, "which are appropriate to the activities of the agency" after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(3)–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with the Small Business Administration's Chief of Counsel for Advocacy.

For the purposes of assessing the impacts of today's rule on all three categories of small entities, EPA considered small entities to be systems serving 10,000 or fewer customers. In accordance with the RFA requirements, EPA proposed using this alternative definition for all three categories of small entities in the **Federal Register** (63 FR 7605, February 13, 1998), requested public comment and consulted with SBA regarding the alternative definition as it relates to small businesses. In the preamble to the final Consumer Confidence Reports (CCR) regulation (63 FR 4511, August 19, 1998), EPA stated its intent to establish this alternative definition for regulatory flexibility assessments under the RFA for all drinking water regulations and has thus used it in this proposed rulemaking.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any requirements on anyone, including small entities, it merely extends the effective date of the January 2001 rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rulemaking does not impose any new technical standards. EPA's analysis of the NTTAA's application to the arsenic rulemaking is described in the June 22, 2000, proposal at 65 FR 38971–38972 and the January 22, 2001, final rule at 66 FR 7051.

G. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule does not establish or change any requirements. Thus, Executive Order 13132 does not apply to this rule.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. As a result of administrative review of the final regulation published on January 22, 2001, the Environmental Protection Agency (EPA) is delaying the effective date for the drinking water regulation for arsenic. The purpose is to reassess the scientific and cost issues and seek further public input, as well as to fully review the support available for small systems. This delay does not impose any burden on tribes or tribal governments. Thus, Executive Order 13175 does not apply to this rule.

I. Executive Order 12898: Environmental Justice

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agencies' missions by directing agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Today's action does not establish or change any requirements and therefore does not have any environmental justice implications.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will become effective upon publication.

K. Administrative Procedure Act (APA)

Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), generally requires that a substantive rule not become effective prior to 30 days after publication. However, that section allows rules to be effective immediately if the rule relieves a restriction or for other good cause found by the Agency and published with the rule. Today's effective date delay is immediately effective. EPA believes that this action is justified because there is no need to delay the effective date of a rule that merely delays an effective date. This rule has little, if any, substantive impact. Thus, EPA believes that this action is consistent with Section 553 of the APA.

V. References

NRC. 1999. Arsenic in Drinking Water. Washington, DC. National Academy Press.

U.S. EPA. 2000. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Proposed Rule. **Federal Register**. Vol. 65, No. 121, p. 38888. June 22, 2000.

U.S. EPA. 2001a. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Final Rule. **Federal Register**. Vol. 66, No. 14, p. 6976. January 22, 2001.

U.S. EPA. 2001b. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Final Rule; Delay of effective Date. **Federal Register**. Vol. 66, No. 57, p. 16134. March 23, 2001.

U.S. EPA. 2001c. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Notice of Proposed Rulemaking. **Federal Register**. Vol. 66, No. 78, p. 20580. April 23, 2001.

WH. 2001. Memorandum for the Heads and Acting Heads of Executive Departments and Agencies. **Federal Register**. Vo. 66, No. 16, p. 7702. January 24, 2001.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indian lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: May 17, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency takes the following actions:

PARTS 9, 141, AND 142—[DELAY OF EFFECTIVE DATE]

1. To delay the effective date of the amendments to 40 CFR parts 9, 141, and 142 published January 22, 2001 (66 FR 6976), and delayed on March 23, 2001 (66 FR 16134), from May 22, 2001, to February 22, 2002, except for the amendments to §§ 141.23(c)(9), 141.23(i)(1) and (i)(2), 141.24(f)(15), (f)(22), (h)(11) and (h)(20), and 142.16(e), (j), and (k), which are effective January 22, 2004.

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

2. To amend 40 CFR part 141 as follows:

A. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

Subpart A—[Amended]

B. Paragraph (j) of 40 CFR 141.6, as added at 66 FR 7061, January 22, 2001, and amended at 66 FR 16134, March 23, 2001, is further amended by revising the last sentence to read follows:

§ 141.6 Effective dates.

* * * * *

(j) * * * However, the consumer confidence rule reporting requirements relating to arsenic listed in § 141.154(b) and (f) are effective for the purpose of compliance on February 22, 2002.

* * * * *

[FR Doc. 01–12878 Filed 5–21–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Tuesday,
May 22, 2001

Part V

The President

Proclamation 7441—World Trade Week, 2001

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13212—Actions To Expedite Energy-Related Projects

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Vol. 66, No. 99
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Presidential Documents

Title 3—

The President

Proclamation 7441 of May 18, 2001

World Trade Week, 2001

By the President of the United States of America

A Proclamation

Trade has an extraordinary impact on our Nation's economic strength and can be a powerful force for good in the world. This year's World Trade Week, observed in communities across the country, will showcase the value of trade to all our citizens.

Exports have accounted for almost one-quarter of the United States economic growth during the past decade. We continue to be the world's largest exporter of goods and services. From life-saving medical devices to information technology that allows people to be more productive, American ingenuity is bringing some of the best and most competitive and innovative products to the world marketplace.

Across America, our exports support 12 million jobs that pay wages higher than the national average, and high-tech jobs supported by exports pay even more. It is no coincidence that the longest period of sustained economic growth in U.S. history has followed efforts to liberalize trade, such as the North American Free Trade Agreement and the Uruguay Round Agreement that established the World Trade Organization. Trade also leads to more competitive businesses, more choices of goods for consumers, and lower prices.

Along with economic progress, open trade also helps build democracies and spreads freedom as it reinforces the spirit of liberty by spurring economic and legal reforms. When we promote open trade, we promote both economic and political freedom. Societies that open to commerce will one day open to liberty.

World Trade Week celebrates trade as an economic and social engine for progress with a special focus on the services sector—the largest sector in the private economy, providing more than 85 million jobs. These service sector jobs involve a wide range of industries, including banking and insurance, travel, entertainment, telecommunications, energy, and environ mental services. We are proud that the United States is the world's top producer and exporter of services, exporting some $300 billion worth a year.

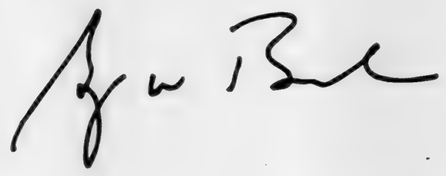
In addition to the significance of exporting services, export of goods continues to be vitally important to our economic performance. More than 20 percent of our domestic goods are exported, and for durable goods the figure jumps to 36 percent. These exports support millions of high-quality U.S. jobs and play a key role in U.S. economic growth. However, our ability to sustain or expand this growth will require tapping the trade potential of the emerging economies in Asia and Latin America, as well as bolstering our trade agreements with developed economies such as Japan and the European Union. Strengthening our trade agreements with these countries, not only opens their economies to U.S. goods and services, but also leads to higher rates of foreign investment. This investment creates growth, jobs, and the means to buy the products we export from the United States.

The United States will work for open trade at every opportunity. The executive and legislative branches need to work together to provide the means

to cooperate on trade objectives. The renewal of U.S. trade promotion authority will bolster a partnership between the executive and legislative branches and will enhance the ability of the United States to negotiate new trade agreements. We will work for more open trade globally through talks in the WTO. We will work to create a free trade zone in the Western Hemisphere by 2005. Our commitment to open trade will be coupled with a commitment to protect our environment and improve labor standards.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 20 through May 26, 2001, as World Trade Week. I encourage Americans to observe this week with events, trade shows, and educational programs that celebrate the benefits of trade to our economy.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–13115
Filed 05–21–01; 10:19 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13211 of May 18, 2001

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to appropriately weigh and consider the effects of the Federal Government's regulations on the supply, distribution, and use of energy, it is hereby ordered as follows:

Section 1. *Policy.* The Federal Government can significantly affect the supply, distribution, and use of energy. Yet there is often too little information regarding the effects that governmental regulatory action can have on energy. In order to provide more useful energy-related information and hence improve the quality of agency decisionmaking, I am requiring that agencies shall prepare a Statement of Energy Effects when undertaking certain agency actions. As described more fully below, such Statements of Energy Effects shall describe the effects of certain regulatory actions on energy supply, distribution, or use.

Sec. 2. *Preparation of a Statement of Energy Effects.* (a) To the extent permitted by law, agencies shall prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for those matters identified as significant energy actions.

(b) A Statement of Energy Effects shall consist of a detailed statement by the agency responsible for the significant energy action relating to:

(i) any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposal be implemented, and

(ii) reasonable alternatives to the action with adverse energy effects and the expected effects of such alternatives on energy supply, distribution, and use.

(c) The Administrator of the Office of Information and Regulatory Affairs shall provide guidance to the agencies on the implementation of this order and shall consult with other agencies as appropriate in the implementation of this order.

Sec. 3. *Submission and Publication of Statements.* (a) Agencies shall submit their Statements of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, whenever they present the related submission under Executive Order 12866 of September 30, 1993, or any successor order.

(b) Agencies shall publish their Statements of Energy Effects, or a summary thereof, in each related Notice of Proposed Rulemaking and in any resulting Final Rule.

Sec. 4. *Definitions.* For purposes of this order:

(a) "Regulation" and "rule" have the same meaning as they do in Executive Order 12866 or any successor order.

(b) "Significant energy action" means any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking:

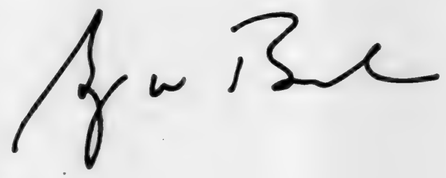
(1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and

(ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or

(2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

Sec. 5. *Judicial Review.* Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
May 18, 2001.

[FR Doc. 01–13116
Filed 5–21–01; 10:19 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13212 of May 18, 2001

Actions To Expedite Energy-Related Projects

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to take additional steps to expedite the increased supply and availability of energy to our Nation, it is hereby ordered as follows:

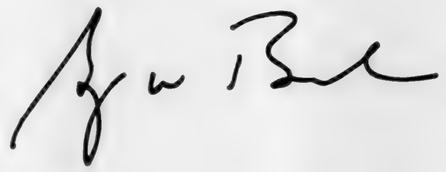
Section 1. *Policy.* The increased production and transmission of energy in a safe and environmentally sound manner is essential to the well-being of the American people. In general, it is the policy of this Administration that executive departments and agencies (agencies) shall take appropriate actions, to the extent consistent with applicable law, to expedite projects that will increase the production, transmission, or conservation of energy.

Sec. 2. *Actions to Expedite Energy-Related Projects.* For energy-related projects, agencies shall expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections. The agencies shall take such actions to the extent permitted by law and regulation, and where appropriate.

Sec. 3. *Interagency Task Force.* There is established an interagency task force (Task Force) to monitor and assist the agencies in their efforts to expedite their review of permits or similar actions, as necessary, to accelerate the completion of energy-related projects, increase energy production and conservation, and improve transmission of energy. The Task Force also shall monitor and assist agencies in setting up appropriate mechanisms to coordinate Federal, State, tribal, and local permitting in geographic areas where increased permitting activity is expected. The Task Force shall be composed of representatives from the Departments of State, the Treasury, Defense, Agriculture, Housing and Urban Development, Justice, Commerce, Transportation, the Interior, Labor, Education, Health and Human Services, Energy, Veterans Affairs, the Environmental Protection Agency, Central Intelligence Agency, General Services Administration, Office of Management and Budget, Council of Economic Advisers, Domestic Policy Council, National Economic Council, and such other representatives as may be determined by the Chairman of the Council on Environmental Quality. The Task Force shall be chaired by the Chairman of the Council on Environmental Quality and housed at the Department of Energy for administrative purposes.

Sec. 4. *Judicial Review.* Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law

or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
May 18, 2001.

[FR Doc. 01–13117
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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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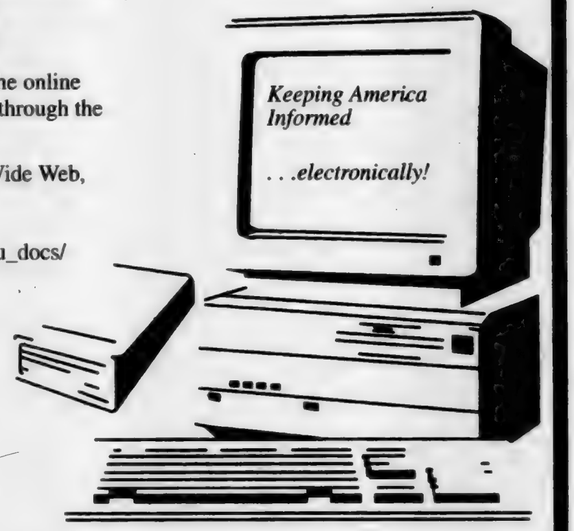

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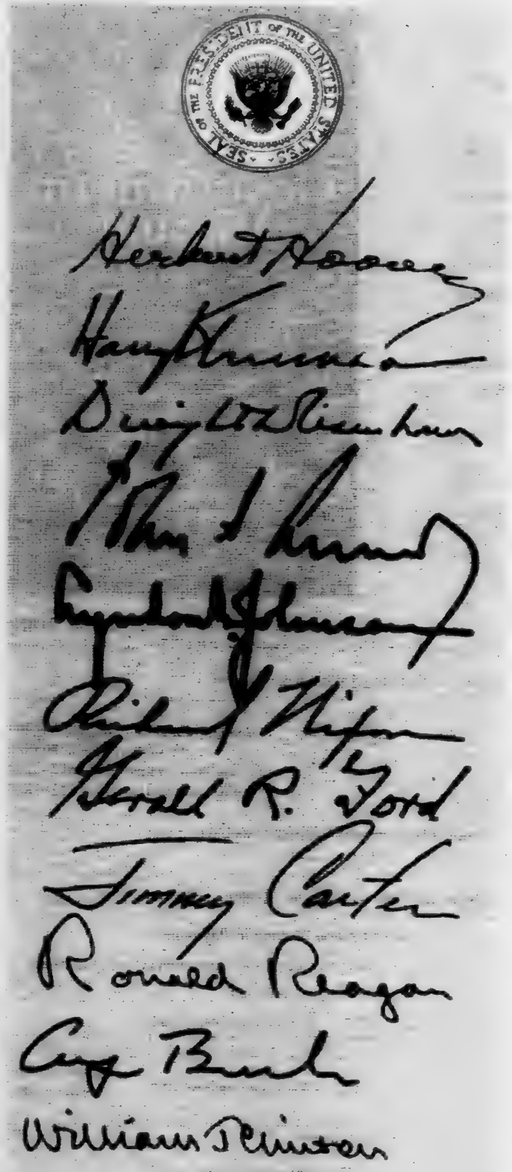

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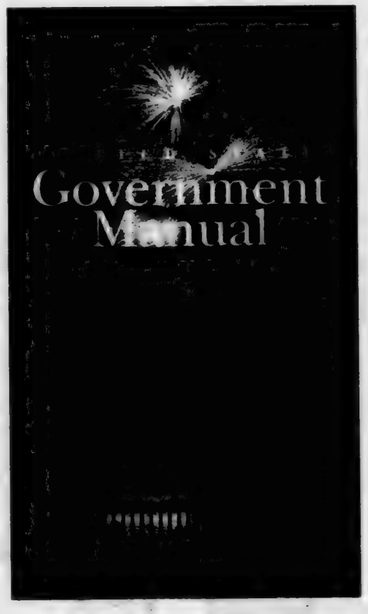

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Federal Register
Vol. 66, No. 100
Wednesday, May 23, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB–00–04]

RIN 0581–AB86

Tobacco Fees and Charges for Permissive Inspection and Certification; Fee Revisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the fee structure and increases fees for domestic permissive inspection and grading of tobacco. Under the Tobacco Inspection Act, fees collected must cover, as nearly as practicable, the Department's costs for performing the inspection service, including administrative and supervisory costs. The fee for permissive inspection of tobacco at receiving points will be based upon poundage and will be set at the same rate as for mandatory inspection at auction, which is $.01 per pound. The fee for permissive inspection at redrying plants will continue to be on an hourly basis and will be increased by about 46 percent. These revisions do not affect the fee for the mandatory inspection of tobacco sold at designated auction markets or permissive export certification.

DATES: Effective May 24, 2001; comments received by June 22, 2001 will be considered prior to issuance of a final rule.

ADDRESSES: Send comments to John P. Duncan III, Deputy Administrator, Tobacco Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456; or Fax: (202) 205–0235. Comments will be made available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, Stop 0280, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 205–0567, Fax: (202) 205–0235.

SUPPLEMENTARY INFORMATION:

Permissive inspections, as authorized under the Tobacco Inspection Act (7 U.S.C. 511–511q), are made available to interested parties on a fee basis sufficient to cover the costs incurred by the Department for the inspection and certification, and other services, including administrative and supervisory costs. This rule revises the fee structure and increase fees for domestic permissive inspection and grading of tobacco.

The AMS conducts reviews of the financial status of this program to determine whether a fee is sufficient. As a result of this review, it has been determined that, at the current fees, insufficient revenue is generated to meet the costs of the program and to maintain an adequate reserve fund. The current hourly fee schedule for domestic permissive inspection has been in effect since October 1, 1991, as published in the **Federal Register** (56 FR 41921) on August 26, 1991. The major factors causing the need for additional funds are increases in Government salaries and benefits, travel allowances, and overall administrative costs since 1991. The crop-year 2000 revenues for permissive inspection and certification services at redrying plants were $213,000 and obligations were $300,000. Without a fee increase, crop-year 2001 and crop-year 2002 revenues for permissive inspection and certification services at redrying plants are projected at about $213,000 per year and obligations are projected at about $300,000 per year, and with a fee increase, crop-year 2001 and crop-year 2002 revenues are projected at $312,000 and obligations are projected at $300,000. This interim final rule will increase the hourly rates charged to users of domestic permissive inspection and certification services performed at redrying plants by about 46 percent. The AMS estimates that the increase in the hourly rate will yield about an additional $100,000 during crop-year 2001 and maintain an adequate reserve.

This rule also revises the fee structure for permissive inspection and certification at receiving points from an hourly basis to a poundage basis at the same rate as for mandatory inspection at auction. A poundage-basis structure is more appropriate for the permissive inspection of tobacco at receiving points. Although it is anticipated that 60–75 percent of the 2001 tobacco crop will be sold by direct contract, and that some of this will be permissively inspected at receiving points, it would be difficult to predict the number of pounds for which permissive inspection will be requested and the resulting revenues. However, based upon the experience of the AMS with mandatory inspection at auction, a fee of $.01 per pound is estimated to cover costs of $841,115 and an adequate reserve (assuming 120 million pounds of contract tobacco will be inspected in crop-year 2001 with revenue of $1,200,000). The costs to entities would be proportional to their use of the service so that costs are shared equitably by all interested parties.

In the past, virtually all quota tobacco was marketed through the auction system under the mandatory inspection program. Mandatory inspection, as required under the Act, takes precedence over other services and fees are assessed based on the pounds graded. AMS has maintained a core grading staff for mandatory inspection and utilized personnel from this staff to provide permissive grading. Other than recertification services performed at redrying plants, only a small amount of tobacco was inspected under the permissive grading program. Consequently, overhead costs and a reserve fund for permissive inspection were covered by the mandatory inspection fees.

However, tobacco marketing practices are changing. During the 2000 marketing year, tobacco companies implemented programs with producers to procure tobacco through direct contracting. Permissive grading services were requested for tobacco beginning in 2000. Tobacco companies also have indicated they will request increased permissive grading services for tobacco purchased directly from producers through contractual sales during the 2001 marketing year. It is anticipated that 60–

75 percent of the 2001 tobacco crop will be sold by contractual sales. With the projected increase in permissive grading requests from contractual tobacco sales, it is necessary for the permissive grading program to be self-supporting. The procedures for grading tobacco and the associated costs are virtually the same at both auction markets and receiving points. The National Advisory Committee for Tobacco Inspection Services, which is mandated by the Omnibus Budget Reconciliation Act of 1981, met on March 6, 2001, and unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction. Accordingly, the fee structure for permissive inspection at receiving points will be based on poundage and will be set at the same level as for mandatory inspection, which is $.01 per pound.

It is also necessary to increase the hourly rates for permissive inspection and to specify that the hourly rates are for permissive inspection at redrying plants. In the past, virtually all permissive inspection was provided at redrying plants for grower cooperatives. These grading services involve confirming the grade previously assigned to tobacco sold on the auction markets to maintain blend consistency for the grower cooperatives. Accordingly, the hourly fee structure will be retained. However, as necessary, the hourly rate will be increased to recover costs. The base hourly rate of $32.40 is raised to $47.40, the overtime rate of $38.70 is raised to $53.70, and Sunday and holiday rate of $48.45 is raised to $64.45. These fees would cover expenses and maintain a reserve that would meet any reasonable contingency. The Department is required by law to fix and collect fees and charges to cover the Department s cost in operating the permissive tobacco inspection program.

Finally, although the provisions are seldom used, the same changes in hourly rates are made for the inspection and certification of nonquota tobacco produced and marketed in a quota area, because this is a similar kind of permissive inspection.

Further, it is hereby found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The tobacco marketing season will begin in June and this action is needed, as soon as possible, so as to treat all types of tobacco on an equal basis, (2) the National Advisory Committee for Tobacco Inspection Services unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction, and (3) this interim final rule provides a 30-day comment period, which is considered appropriate in this action, and all comments timely received will be considered prior to the finalization of this rule.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. There are about 300 tobacco warehouses and about 90,000 producers and almost all warehouses and producers may be classified as small entities. The AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This rule revises the fee structure and increases fees for domestic permissive grading of tobacco. Under the Tobacco Inspection Act of 1935, as amended (7 U.S.C. 511–511q), fees collected must cover, as nearly as practicable, the Department s cost for performing the inspection service, including administrative and supervisory costs. These revisions do not affect the fee for the mandatory inspection of tobacco sold at designated auction markets or permissive export certification.

The AMS conducts reviews of the financial status of this program to determine whether the fee is sufficient. As a result of this review, it has been determined that, at the current fees, insufficient revenue is generated to meet the costs of the program and to maintain an adequate reserve fund. The major factors causing the need for additional funds are increases in Government salaries and benefits, travel allowances, and overall administrative costs since 1991. The crop-year 2000 revenues for permissive inspection and certification services at redrying plants were $213,000 and obligations were $300,000. Without a fee increase, crop-year 2001 and crop-year 2002 revenues for permissive inspection and certification services at redrying plants are projected at about $213,000 per year and obligations are projected at about $300,000 per year, and with a fee increase, crop-year 2001 and crop-year 2002 revenues are projected at $312,000 and obligations are projected at $300,000. This interim final rule will increase the hourly rates charged to users of domestic permissive inspection and certification services performed at redrying plants by about 46 percent. The AMS estimates that the increase in the hourly rate will yield about an additional $100,000 during crop-year 2001 and maintain an adequate reserve.

This rule also revises the fee structure for permissive inspection and certification at receiving points from an hourly basis to a poundage basis at the same rate as for mandatory inspection at auction. The procedures for grading tobacco and associated costs are virtually the same at both auction markets and receiving points. The National Advisory Committee for Tobacco Inspection Services, which is mandated by the Omnibus Reconciliation Act of 1981, met on March 6, 2001, and unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction.

Although it is anticipated that 60–75 percent of the 2001 tobacco crop will be sold by direct contract, and that some of this will be permissively inspected at receiving points, it would be difficult to predict the number of pounds for which permissive inspection will be requested and the resulting revenues. However, based upon the experience of the AMS with mandatory inspection at auction, a fee of $.01 per pound is estimated to cover the costs of $841,115 and an adequate reserve (assuming 120 million pounds of contract tobacco will be inspected in crop-year 2001 with the revenue of $1,200,000). The costs to entities would be proportional to their use of the service so that costs are shared equitably by all interested parties.

Finally, although the provisions are seldom used, the same changes in hourly rates are made for the inspection and certification of nonquota tobacco produced and marketed in a quota area, because this is a similar kind of permissive inspection.

These fees represent the minimum level needed to cover costs for the 2001 crop-year. In the future, AMS will continue to review the program to ensure that fees are adequate. Accordingly, we believe that the impact of this rule would not be significant on the users of the inspection and certification services.

Civil Justice Reform

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Lists of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

Subpart B—Regulations

1. The authority citation for Part 29, subpart B continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

2. In § 29.123, paragraph (b) is revised to read as follows:

§ 29.123 Fees and charges.

* * * * *

(b) *Domestic permissive inspection and certification.* (1) Fees and charges for inspection at redrying plants shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for the actual time required to render the service calculated to the nearest 30-minute period. The hourly rate shall be $47.40 per hour. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $53.70 per hour. The rate of $64.45 per hour shall be charged for work performed on Sundays and holidays. These same fees shall be applicable for hogshead, bale, cases or sample inspections. (2) Fees and charges for inspection of tobacco performed at receiving points is $.01 per pound.

Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Tobacco Produced and Marketed in a Quota Area

3. The authority citation for subpart F continues to read as follows:

Authority: Pub. L. 97–98. 95 Stat. 1266, as amended (7 U.S.C. 1314f).

§ 29.9251 Fees and charges.

4. In § 29.9251 the words "$32.40", "$38.70" and "$48.45" are removed and the words "$47.40" "$53.70" and "$64.45" are added in their place, respectively.

Dated: May 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12935 Filed 5–22–01; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Part 650

RIN 3052–AB56

Federal Agricultural Mortgage Corporation; Risk-Based Capital Requirements; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under part 650 on April 12, 2001 (66 FR 19048). In this final rule, we amended our regulations, through the Office of Secondary Market Oversight (OSMO), by establishing risk-based capital regulations for the Federal Agricultural Mortgage Corporation (Farmer Mac). The final rule in part 650 sets forth the risk-based capital regulations for Farmer Mac, including definitions, methods, parameters and guidelines for developing and implementing the risk-based capital stress test; specifies capital calculation, reporting, and compliance requirements; and delineates our monitoring, examination, supervisory, and enforcement activities with respect to Farmer Mac's compliance with the rule's risk-based capital requirements; and prescribes certain requirements for business and capital planning. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 23, 2001.

EFFECTIVE DATE: The regulation amending 12 CFR part 650 published on April 12, 2001 (66 FR 19048) is effective May 23, 2001.

FOR FURTHER INFORMATION CONTACT:

Carl A. Clinefelter, Director, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TDD (703) 883–4444, or

Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or

Joy Strickland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: May 18, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–13071 Filed 5–22–01; 8:45 am]

BILLING CODE 6705–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–08–AD; Amendment 39–12235; AD 2001–10–09]

RIN 2120–AA64

Airworthiness Directives; Honeywell KC 225 Automatic FlightControl Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Honeywell KC 225 automatic flight control systems (AFCS) that are installed on airplanes. This AD requires you to inspect the KC 225 AFCS to determine the computer modifications (Mods) that are incorporated, deactivate any units with only Mods 1 and/or 2 incorporated, and fabricate and install an appropriate placard if the unit is deactivated/inoperative. The AD would provide, as an alternative method of compliance, the option of installing a unit that incorporated MOD 3 or higher. This AD is the result of several reports that the AFCS is disconnecting without warning

in a gross mistrim configuration. The actions specified by this AD are intended to prevent an undesirable autotrim command that the autopilot cannot detect in the required time. The airplane could then deviate from the selected altitude or the autopilot could disconnect without warning, which could result in heavy loads at the control column. Such loads in the pitch axis could result in loss of control of the airplane.

DATES: This AD becomes effective on June 15, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of June 15, 2001.

The Federal Aviation Administration (FAA) must receive any comments on this rule by August 10, 2001.

ADDRESSES: Send three copies of your comments to FAA,Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–08–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Honeywell, Product Support, One Technology Center, 23500 W. 105th Street, Olathe, Kansas 66061; telephone: (913) 712–2613; facsimile: (913) 712–1306. You may look at this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–08–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Clyde Erwin, AerospaceEngineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4149; facsimile: (329) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The FAA has received reports that the Honeywell KC 225 automatic flight control system (AFCS) is disconnecting without warning during flight in a gross mistrim configuration. The suspect AFCS's incorporate computer modifications (Mods) 1 and/or 2.

Honeywell then conducted a factory test, where it was noted that the pitch trim ran when a malfunction of the trim sense 1 monitor timer happened with out-of-tolerance components in the trim sense 2 monitor timer. The autopilot then disconnected without warning because of other monitors in the autopilot.

What are the consequences if the condition is not corrected? This condition, if not corrected, could result in an undesirable autotrim command that the autopilot cannot detect in the required time. The airplane could then deviate from the selected altitude or the autopilot could disconnect without warning, which could result in heavy loads at the control column. Such loads in the pitch axis could result in loss of control of the airplane.

Is there service information that applies to this subject? Honeywell has issued Installation Bulletin No. 472 Alert, Revision 1, dated January 2001. This installation bulletin includes procedures for:

—Inspecting to determine the currently incorporated computer Mods, which are indicated on the unit's serial number tag;
—Returning the unit to Honeywell for modification; or
—Contacting Honeywell for a warranty replacement unit.

The FAA's Determination and an Explanation of the Provisions of this AD

What has FAA decided? The FAA has reviewed all available information, including the service information referenced above, and determined that:

—The unsafe condition referenced in this document exists or could develop on airplanes equipped with a certain Honeywell KC 225 AFCS configuration;
—Any airplane with one of these AFCS units should have the actions specified in the above service bulletin incorporated; and
—The FAA should take AD action to correct this unsafe condition.

What does this AD require? This AD requires you to accomplish the actions previously specified in Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001.

Will I have the opportunity to comment prior to the issuance of the rule? Because the unsafe condition described in this document could result in potential loss of control of the airplane, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How do I comment on this AD? Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, we invite your comments on the rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send three copies of your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received by the closing date specified above. We may change this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of the AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may read all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

We are reviewing the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001–CE–08–AD." We will date stamp and mail the postcard back to you.

Regulatory Impact

Does this AD impact various entities? These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2001–10–09 Honeywell: Amendment 39–12235; Docket No. 2001–CE–08–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following Honeywell automatic flight control systems (AFCS) that are installed in, but not limited to, the airplanes listed below:

(1) Affected KC 225 AFCS:

Unit	Part No.	Applicable to Serial No.
KC–225	065–00183–0101 065–00183–0201 065–00183–0301 065–00183–0401 065–00183–0501 065–00183–0601 065–00183–2501 065–00183–2601 065–00183–2701 065–00183–2801 065–00183–2901 065–00183–3001	All units

(2) List of airplanes where the affected AFCS could be installed. This is not a comprehensive list and airplanes not on this list that have an affected AFCS installed through field approval or other methods are still affected by this AD:

Manufacturer	Airplane models
Aerostar Aircraft Corporation	PA–60–700P.
The Cessna Aircraft Company	208 and 208B.
Commander Aircraft Corporation	114B and 114TC.
Mooney Aircraft Corporation	M20M and M20R.
The New Piper Aircraft, Inc.	PA–34–220T and PA–46–350P.
Raytheon Aircraft Company (Beech)	58, 95–55, 95–C55, A36, B36TC, D55, and E55.
SOCATA—Groupe Aerospatiale	TB20 and TB21.

(b) *Who must comply with this AD?* Anyone who wishes to operate any airplane that incorporates one of the affectedHoneywell automatic flight control systems must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent an undesirable autotrim command that the autopilot cannot detect in the required time. The airplane could then deviate from the selected altitude or the autopilot could disconnect without warning, which could result in heavy loads at the control column. Such loads in the pitch axis could result in loss of control of the airplane.

(d) *What must I do to address this problem?* To address this problem, you must do the following actions, unless already done:

Action	Compliance time	Procedures
(1) Inspect the KC 225 automatic flight control system (AFCS) (Part Number 065–00183–0101, –0201, –0301, –0401, –0501, –0601, –2501, –2601, –2701, –2801, –2901, or –3001) to determine the currently installed computer modifications (Mods). These modifications are indicated on the AFCS serial number tag.	Within the next 10 hours time-in-service (TIS) after June 15, 2001 (the effective date of this AD).	Do this following the Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001.
(2) If only Mods 1 and/or 2 are incorporated, accomplish the following:	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	Accomplish the deactivation in accordance with Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish the placard requirements of paragraph (d)(2)(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(i) Deactivate the KC 225 AFCS by pulling and banding the autopilot circuit breaker(s) to prevent operation of the KC 225 AFCS in flight; and.		

Action	Compliance time	Procedures
(ii) Fabricate a placard that indicates the KC 225 AFCS is inoperative, and install this placard on the instrument panel within the pilot's clear view. The placard should use letters of at least 0.10-inch in height and contain the following words: "KC 225 AFCS INOPERATIVE.".		
(3) As an alternative method of compliance to paragraphs (d)(2)(i) and (d)(2)(ii) of this AD for the KC 225 AFCS with only Mods 1 and/or 2 installed, accomplish either of the following to return the KC 225 AFCS to operation.	At any time as terminatinig action for all other requirements of this AD.	Do this following the Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001.
(i) Return the AFCS to the Honeywell Service Center for modification to install Mod 1, 2, and 3 (or higher) levels and then incorporate thisAFCS on the airplane; or.		
(ii) Contact Honeywell Product Support for a warranty replacement KC 225 AFCS that contains Mod 1, 2, and 3 (or higher) levels and then incorporate this AFCS on the airplane.		
(4) If no Mods are installed or at least Mods 1, 2, and 3 are installed, ensure that the aircraft records identify Mod status. No further action is required by this AD.	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	Do this following the Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office approves your alternative. Send your request through an FAAPrincipal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane with a Honeywell automatic flight control computer identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. You should include in the request an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Clyde Erwin, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4149; facsimile: (329)946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Honeywell Installation Bulletin No. 472 Alert, Revision 1, dated January 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Honeywell, Business & General Aviation, One Technology Center, 23500 W. 105th Street, Olathe, Kansas 66061. You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on June 15, 2001.

Issued in Kansas City, Missouri, on May 14, 2001.

Melvin D. Taylor,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12634 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–58–AD; Amendment 39–12238; AD 2001–10–12]

RIN 2120–AA64

Airworthiness Directives; GE Aircraft Engines CJ610 Series Turbojet and CF700 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that is applicable to GE Aircraft Engines (GEAE) CJ610 series turbojet and CF700 series turbofan engines that currently requires removal of certain unapproved parts before further flight. This amendment requires removal of additional unapproved parts. This amendment is prompted by the discovery by the FAA of additional unapproved parts not listed in the original AD that have been introduced into the field and might be installed on the affected engines. The actions specified in this AD are intended to prevent the use of unapproved parts which could lead to an uncontained engine failure and damage to the airplane.

DATES: Effective June 7, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–58–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Kevin Donovan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7743, fax (238) 238–7199.

SUPPLEMENTARY INFORMATION: On January 5, 2000, the FAA issued AD 2000–01–09, Amendment 39–11506 (65 FR 1771) to require removal of certain unapproved parts before further flight. That amendment was prompted by findings that life-limited parts, with inaccurate records, have been introduced into the field and might be installed on the affected engines. That condition, if not corrected, could lead to an uncontained engine failure and damage to the airplane.

Since the issuance of that AD, the FAA discovered a compressor rotor during an audit with suspected military markings. The manufacturer confirmed that the marking was an electro-etched Low Cycle Fatigue Cycles (LCFC) marking used strictly on military parts. The original AD, AD 2000–01–09, did not identify this particular compressor rotor or the three additional rotors containing unapproved parts discovered at other locations during subsequent audits.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other GE Aircraft Engines (GEAE) CJ610 series turbojet and CF700 series turbofan engines of the same type design, this AD supersedes AD 2000–01–09 to require removal before further flight of the additional unapproved parts not listed in the original AD that have been introduced into the field and might be installed on the affected engines.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NE–58–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR–part–39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11506 (65 FR 1771, January 12, 2000), and by adding a new airworthiness directive (AD), Amendment 39–12238, to read as follows:

2001–10–12 GE Aircraft Engines (GEAE) Amendment 39–12238. Docket 99–NE–58–AD. Supersedes AD 2000–01–09, Amendment 39–11506.

Applicability

This airworthiness directive (AD) is applicable to GEAE CJ610 series turbojet and CF700 series turbofan engines, with parts listed by part number (P/N) and serial number (SN) in Tables I and II, installed. These engines are installed on, but not limited to, the Dassault-Aviation Fan Jet Falcon 20 series, Sabreliner NA265 series, Learjet 20 series, Israel Aircraft Industries Westwind series, Hansa Jet, Aero Commander, and Jet Commander.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the

owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent the use of unapproved parts, which could lead to an uncontained engine failure and damage to the airplane, accomplish the following:

Replacement of Unapproved Parts

(a) Before further flight, remove any part listed by P/N and SN in Tables I and II of this AD, and replace it with a serviceable part:

TABLE I.—UNAPPROVED PARTS LISTED IN AD 2000–01–09

Part number	Part name	Serial number
3007T98G01	Shaft, compressor drive	HPCTQA11693
3007T98G01	Shaft, compressor drive	HPCTQA11929
3007T98G01	Shaft, compressor drive	HPCTQA1929
3007T98G01	Shaft, compressor drive	HPGTQA9947
3007T98G01	Shaft, compressor drive	TQA14300
37D401014P101	Torque ring, turbine	GGM681
37D401014P101	Torque ring, turbine	GGMCBK1977
37D401014P101	Torque ring, turbine	GGMWZA1230
37D401014P101	Torque ring, turbine	GGMWZA2322
37D401014P101	Torque ring, turbine	GGMWZA4665
37D401014P101	Torque ring, turbine	PMB08403P
37D401014P102	Torque ring, turbine	PMB19204
37D401302P101	Spacer, stage 2	GATI2099WYR
37D401302P101	Spacer, stage 2	GATWZA09656
37D401302P101	Spacer, stage 2	GATWZA10002
37D401302P101	Spacer, stage 2	GATWZA10148
37D401302P101	Spacer, stage 2	GATWZA5419
37D401303P102	Spacer, stage 3	GATCBK02192
37D401303P102	Spacer, stage 3	GATWZA12030
37D401303P102	Spacer, stage 3	GGMWZA1022
37D401303P104	Spacer, stage 3	GATWYR5364
37D401304P104	Spacer, stage 4	GATANWA2378
37D401305P103	Spacer, stage 5	GATANW9528
37D401305P103	Spacer, stage 5	GATANWA7441
37D401305P103	Spacer, stage 5	GATANWA8542
37D401305P103	Spacer, stage 5	GGMANW3172
37D401306P103	Spacer, stage 6	GATANW6380
37D401306P103	Spacer, stage 6	GGMANW2331
37D401306P105	Spacer, stage 6	GATCDY71386
37D401306P105	Spacer, stage 6	GATO7040CDY
37D401307P103	Spacer, stage 7	GAT59653
37D401307P103	Spacer, stage 7	GATANW7170
37D401307P103	Spacer, stage 7	GATANWA7134
37D401307P103	Spacer, stage 7	GGMANW3104
37D401312P101	Disc, stage 2	GATI0156WZA
37D401312P101	Disc, stage 2	GATO8253WZA
37D401312P101	Disc, stage 2	GATWZA3983
37D401312P101	Disc, stage 2	GATWZA6604
37D401312P101	Disc, stage 2	GGMCBK620
37D401312P101	Disc, stage 2	GGMLBA4491
37D401313P101	Disc, stage 3	GATI3249WYI
37D401313P101	Disc, stage 3	GATO7644WZA
37D401313P101	Disc, stage 3	GATWZA6522
37D401313P101	Disc, stage 3	GATWZA6723
37D401313P101	Disc, stage 3	GGMLBA2102
37D401314P102	Disc, stage 4	GAT05572WZA
37D401314P102	Disc, stage 4	GATO4383WZA
37D401314P102	Disc, stage 4	GGMWZA6816
37D401315P101	Disc, stage 5	GAT12406WZA
37D401315P101	Disc, stage 5	GATWZA4753
37D401315P101	Disc, stage 5	GATWZA7093
37D401316P101	Disc, stage 6	GAT10162WZA
37D401316P101	Disc, stage 6	GATWZA4435
37D401316P101	Disc, stage 6	GATWZA7208
37D401316P101	Disc, stage 6	GGMWZA3376
37D401317P101	Disc, stage 7	GAT10013WZA
37D401317P101	Disc, stage 7	GAT13322WZA
37D401317P101	Disc, stage 7	GATI5009WYR
37D401709P101	Disc, stage 8	GATO3900WZA
37D401709P101	Disc, stage 8	GATO5381WZA
37D401709P101	Disc, stage 8	GGMWZA6906
37D401709P101	Disc, stage 8	GGMWZA6942
37E501428P102	Disc and shaft, stage 1	GATI2001WZA

TABLE I.—UNAPPROVED PARTS LISTED IN AD 2000–01–09—Continued

Part number	Part name	Serial number
37E501428P102	Disc and shaft, stage 1	GATWZA8639
37E501428P106	Disc and shaft, stage 1	GATO8474WZA
37E501428P106	Disc and shaft, stage 1	GGMWZA3231
4010T01P01	Seal labyrinth, stage 8	JADCSF334P59
4010T01P01	Seal labyrinth, stage 8	JADCSF5222
4010T01P01	Seal labyrinth, stage 8	JADCSF5444P21
4010T01P01	Seal labyrinth, stage 8	JADMCI3214
4036T24P01	Turbine wheel, stage 2	GATWYR14035
4036T24P01	Turbine wheel, stage 2	GATWYR14655
5013T79P01	Disc, stage 5	GATI1679WZA
5013T82P01	Disc, stage 7	GATI7662WYR
5013T88P01	Spacer, stage 4	GAT69935
5013T88P01	Spacer, stage 4	GATCDY66715
5013T89P01	Spacer, stage 5	GAT60180CDY
5013T89P01	Spacer, stage 5	GAT60180CDY
5013T90P01	Spacer, stage 7	GAT81678CDY
5013T90P01	Spacer, stage 7	GATCDY82036
5018T16P01	Disc, stage 4	GAT12222WYR
6028T44P01	Turbine wheel, stage 1	GAT11900
6028T44P01	Turbine wheel, stage 1	GAT13094
6028T44P01	Turbine wheel, stage 1	GAT14749
6028T44P01	Turbine wheel, stage 1	GAT15160
6028T44P01	Turbine wheel, stage 1	GAT15396WYR
6028T44P01	Turbine wheel, stage 1	GAT15703
6028T44P01	Turbine wheel, stage 1	GAT15821
6028T44P01	Turbine wheel, stage 1	GAT15899
6028T44P01	Turbine wheel, stage 1	GAT59743
6028T44P01	Turbine wheel, stage 1	GAT60190
6028T44P01	Turbine wheel, stage 1	GAT60197
6028T44P01	Turbine wheel, stage 1	GAT60483
6028T44P01	Turbine wheel, stage 1	GAT7321
6028T44P01	Turbine wheel, stage 1	GATA8475
6028T44P01	Turbine wheel, stage 1	GATA8492
6028T44P01	Turbine wheel, stage 1	GATAJ204
6028T44P01	Turbine wheel, stage 1	GATB6925
6028T44P01	Turbine wheel, stage 1	GATBE998
6028T44P01	Turbine wheel, stage 1	GATE2150
6028T44P01	Turbine wheel, stage 1	GATE2259
6028T44P01	Turbine wheel, stage 1	GATE2291
6028T44P01	Turbine wheel, stage 1	GATE2336
6028T44P01	Turbine wheel, stage 1	GATF4496
6028T44P01	Turbine wheel, stage 1	GATF4507
6028T44P01	Turbine wheel, stage 1	GATFE953
6028T44P01	Turbine wheel, stage 1	GATG6470
6028T44P01	Turbine wheel, stage 1	GATV6541
6028T44P01	Turbine wheel, stage 1	GATV6588
6028T44P01	Turbine wheel, stage 1	GATW1573
634E583P04	Turbine wheel, stage 1	GATWZA4994
634E583P5	Turbine wheel, stage 1	GAT10650
634E583P5	Turbine wheel, stage 1	GAT13048
646C596P2	Turbine wheel, stage 2	GATCBK01912
646C596P2	Turbine wheel, stage 2	GATWYR12725
646C596P2 *	Turbine wheel, stage 2	GATWZA9723
646C594P2 *	Turbine wheel, stage 2	GATWZA9723
646C594P1 *	Turbine wheel, stage 2	GATWZA9723
841B690P7	Assy, Turbine wheel, stage 1	GAT9383WZA
841B690P7	Assy, Turbine wheel, stage 1	GATMKF07225
841B690P7	Assy, Turbine wheel, stage 1	GATWYR12358
841B690P7	Assy, Turbine wheel, stage 1	GATWYR13457
841B690P7	Assy, Turbine wheel, stage 1	GATWYR13677
841B690P7	Assy, Turbine wheel, stage 1	GATWZA8110
841B690P7	Assy, Turbine wheel, stage 1	GATWZA8263
841B690P7	Assy, Turbine wheel, stage 1	GATWZA9182
841B690P7	Assy, Turbine wheel, stage 1	OJL0145
841B690P7	Assy, Turbine wheel, stage 1	WDBMKF07219

* The FAA has determined that up to three Stage 2 Turbine wheels, SN GATWZA9723, may have been distributed with three different P/N's. Therefore, while only P/N 646C596P1 is an approved P/N for the CJ610 and CF700 model engine, all three part numbers are listed.

TABLE II.—ADDITIONAL UNAPPROVED PARTS DISCOVERED SINCE PUBLICATION OF AD 2000–01–09

Part Number	Part name	Serial Number
37E501428P102	1st Stg Disc/Shaft/Spacer	GAT14210WYR
37E501428P106	Disc & Shaft Stg 1 Comp	GAT115140WZA
37D401312P101	Disc Stg 2 Comp	GAT2107WYR
37D401312P101	Disc Stg 2 Comp	GAT07432WZA
37D401313P101	Disc Stg 3 Comp	GAT2432WYR
37D401313P101	Disc Stg 3 Comp	GAT10717WZA
5018T16P01	Disc Stg 4 Comp	GAT10058WYR
5018T16P01	Disc Stg 4 Comp	GAT05724WZA
37D401315P101	Disc Stg 5 Comp	GAT16068WYR
37D401316P101	Disc Stg 6 Comp	GAT15035WYR
37D401317P101	Disc Stg 7 Comp	GAT6493WYR
5013T82P01	Disc Stg 7 Comp	GAT15819WYR
37D401709P101	Disc Stg 8 Comp	GAT08842WYR
5013T83P01	Disc Stg 8 Comp	GAT07464WYR
4010T010P02	Seal Rot Stg 8 Comp	JADMSA09181
4010T010P01	Seal Rot Stg 8 Comp	APVM0F00180
4010T01P01	Seal Rot Stg 8 Comp	APVM0F00192
5004T73P02	Shaft Rear Comp	HPCTQA12100
3007T98G01	Shaft Rear Comp	HPCTQ1474
37D401303P102	Spacer Stg 3 Comp	GGMWZA1112
5013T88P01	Spacer Stg 4 Comp	GAT1A402
37D401302P101	Spacer Stg 2 Comp	GATWRY12483
37D401302P103	Spacer Stg 2 Comp	GATE0A00429
37D401303P102	Spacer Stg 3 Comp	GATWZA5858
37D401304P103	Spacer Stg 4 Comp	GATANW10309
37D401304P103	Spacer Stg 4 Comp	GATANWA5510
5013T88P01	Spacer Stg 4 Comp	GATCDY61557
37D401305P103	Spacer Stg 5 Comp	GATANW11066
37D401306P103	Spacer Stg 6 Comp	GATANW09191
37D401306P105	Spacer Stg 6 Comp	GAT8654CDY
37D401307P103	Spacer Stg 7 Comp	GATANW9286
37D401307P103	Spacer Stg 7 Comp	GATANWA6612

Alternate Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Effective Date of This AD

(c) This amendment becomes effective on June 7, 2001.

Issued in Burlington, Massachusetts, on May 16, 2001.

Diane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12942 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–24]

Revision of Class E Airspace, Jackson Hole, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Jackson Hole, WY, Class E airspace to accommodate airspace required for new Standard Instrument Approach Procedure (SIAP) and Departure Procedures (DP) to the Jackson Hole Airport, Jackson Hole, WY. Newly developed approach and departure procedures at the Jackson Hole Airport has made this action necessary. Additional Class E 700-feet, and 1,200 feet controlled airspace, above the surface of the earth is required to contain aircraft executing the Instrument Landing System (ILS) Runway (RWY) 18 Standard Instrument Approach Procedure (SIAP) and the Geyser One and Jacho One Departure Procedures (DP) at Jackson Hole Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Jackson Hole Airport, Jackson Hole, WY.

EFFECTIVE DATE: 0901 UTC, June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–24, 1601 Lind Avenue SW, Renton, Washington 98055–4056: telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On February 13, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Jackson Hole, WY, in order to accommodate a new SIAP and DPs at Jackson Hole Airport, Jackson Hole, WY (66 FR 30). This amendment provides Class E5 airspace at Jackson Hole, WY, to meet current criteria standards associated with the SIAP and DPs. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) revises Class E airspace at Jackson Hole, WY, in order to accommodate newly developed SIAP and DPs to the Jackson Hole Airport, Jackson Hole, WY. This amendment revises Class E5 airspace at Jackson Hole, WY, to meet current criteria standards associated with the SIAP and DPs. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Jackson Hole Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005—Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WY E5—Jackson Hole, WY [Revised]

Jackson Hole Airport, WY
(lat. 43°36′23″N., long. 110°44′17″W.)
Jackson VOR/DME
(lat. 43°36′30″N., long. 110°44′05″W.)

That airspace extending upward from 700 feet above the surface within the 4.3-mile radius of the Jackson Hole Airport, and within 4.4 miles west and 8.3 miles east of the Jackson VOR/DME 200° radial extending from the VOR/DME to 21.4 miles south of the VOR/DME, and within 4.4 miles each side of the 020° radial from the Jackson VOR/DME extending to 17.8 miles; and that airspace extending upward from 1,200 feet above the surface within 15.2 miles west and 18.7 miles east of the Jackson VOR/DME 020° radial extending from the VOR/DME to 44.6 miles north of the VOR/DME, and that airspace west of the Jackson VOR/DME bounded on the northwest by the southeast edge of V–520 extending to 15.2 miles in an arc counterclockwise to the northwest edge of V–465, and that airspace to the south of the Jackson VOR/DME bounded on the northwest by the southeast edge of V–465, on the east by the southwest edge of V–328, on the south by the north edge of V–4 and on the west by long. 112°00′00″W and that airspace east of the Jackson VOR/DME between the 052° radial and 156° radial extending to 33.1 miles; and excluding that airspace within Federal airways; the Big Piney; WY, the Rock Springs, WY; the Driggs, ID, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, May 15, 2001.

Dan A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–13049 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

Flight Crewmember Flight Time Limitations and Rest Requirements; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of enforcement policy; correction.

SUMMARY: On May 17, 2001, at 66 FR 27548, the Federal Aviation Adminstration (FAA) announced to the public the Federal Aviation Administration's (FAA's) intent to rigorously enforce its existing regulations governing flight crewmember rest requirements that are presently codified at 14 CFR 121.471. This document corrects the title of the person who signed the document and inserts the date for the comprehensive review of certificate holders' flight scheduling practices.

EFFECTIVE DATE: This correction is effective on May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Alberta Brown, telephone (202) 267–8166.

Correction

In the **Federal Register** of May 17, 2001, at 66 FR 27548, in FR Doc. 01–12419, make the following corrections:

1. On page 27549, in column 2, in paragraph 3, under "Compliance and Enforcement Plan," in lines 9 and 10, correct [insert date (6 months from publication date)]", to read "November 1, 2001".

2. On page 27549, in column 3, in the signature block, correct the title of the person who signed the document to read "Acting Associate Administrator for Regulation and Certification."

Issued in Washington, DC on May 17, 2001.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 01–12932 Filed 5–22–01; 8:45 am]

BILLING CODE 4913–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 8946]

RIN 1545–AY47

Federal Employment Tax Deposits—De Minimis Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the deposit of Federal employment taxes. The final regulations adopt the rules of the temporary regulations that change the de minimis deposit rule for quarterly and annual periods from $1,000 to $2,500. The regulations affect taxpayers required to make deposits of Federal employment taxes.

DATES: *Effective Date:* These regulations are effective May 23, 2001.

Applicability Date: For dates of applicability, see § 31.6302–1(f)(4).

FOR FURTHER INFORMATION CONTACT: Brinton T. Warren, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 31, Employment Taxes and Collection of Income Tax at the Source. On December 6, 2000, temporary and final regulations (TD 8909) relating to the deposit of Federal employment taxes under section 6302 of the Internal Revenue Code were published in the **Federal Register** (65 FR 76152). A notice of proposed rulemaking (REG–114423–00) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (65 FR 76194). No comments were received from the public in response to the notice of proposed rulemaking.

Explanation of Provisions

These final regulations adopt the rules of the temporary regulations. Under these rules, a taxpayer does not have to make deposits of Federal employment taxes for a quarterly or annual return period if the tax for the period is less than $2,500 and the taxpayer remits its full liability with a timely filed return for the period. The regulations are applicable with respect to quarterly and annual periods beginning on or after January 1, 2001.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of the regulations is Brinton T. Warren of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 is amended by removing the entry for Section 31.6302–1T to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 31.6302–1, paragraph (f)(4) is revised to read as follows:

§ 31.6302–1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

* * * * *

(f) * * *

(4) *De Minimis rule.* For quarterly and annual return periods beginning on or after January 1, 2001, if the total amount of accumulated employment taxes for the return period is less than $2,500 and the amount is fully deposited or remitted with a timely filed return for the return period, the amount deposited or remitted will be deemed to have been timely deposited.

* * * * *

§ 31.6302–1T [Removed]

Par. 3. Section 31.6302–1T is removed.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: May 10, 2001.

Mark A. Weinberger,

Assistant Secretary for Tax Policy.

[FR Doc. 01–12864 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[USCG–2001–9668]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules adopted by the Coast Guard and temporarily effective between January 1, 2001 and March 31, 2001 which were not published in the **Federal Register**. This quarterly notice lists temporary local regulations, security zones, and safety zones of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between January 1, 2001 and March 31, 2001. This notice also lists three regulations that were effective and terminated between September and December, 2000.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20593–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You may electronically access the public docket for this notice on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Christena Green, Office of Regulations and Administrative Law, telephone (202) 267–0133. For questions on viewing, or on submitting material to the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation (202) 366–5149.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damage. Special local regulations are issued to enhance the safety or participants and spectators at regattas and other marine events. Timely publication of these regulations in the **Federal Register** is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. However, the affected public is informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation. Because mariners are notified by Coast Guard officials on-scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, and safety zones.

Permanent regulations are not included in this list because they are published in their entirety in the **Federal Register**. Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The safety zones, special local regulations and security zones listed in this notice have been exempted from review under Executive Order 12866 because of their emergency nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period January 1, 2001 and March 31, 2001, unless otherwise indicated. This notice also includes 3 regulations that were not received in time to be included on the quarterly notices for the third and fourth quarters of 2000.

Dated: May 17, 2001.

S.G. Venckus,

Chief, Office of Regulations and Administrative Law.

DISTRICT QUARTERLY REPORT

District Docket	Location	Type	Effective date
01–00–003	Boston, MA	Safety Zone	01/05/2001
01–01–005	Boston, MA	Safety Zone	01/13/2001
01–01–006	Newport, RI	Safety Zone	03/03/2001
01–01–007	Boston, MA	Safety Zone	01/18/2001
01–01–012	Bath Iron Works, Bath, ME	Safety Zone	02/11/2001
01–01–027	USS Boone Port Visit, Newport, RI	Security Zone	02/23/2001
01–01–029	Narragansett Bay, Newport, RI	Safety Zone	03/29/2001
01–01–035	Boston, MA	Safety Zone	03/16/2001
01–01–039	USS De Wert Port Visit, Newport, RI	Safety Zone	03/19/2001
01–01–042	Portland, ME	Security Zone	03/23/2001
01–01–044	Port of NY/NY	Safety Zone	03/24/2001
05–01–002	Washington, DC	Safety Zone	01/18/2001
09–01–007	Hennepin Bridge, Hennepin, IL	Safety Zone	03/22/2001
09–01–016	Manitowoc, WI	Safety Zone	03/17/2001
13–01–001	Quillayute River, WA	Safety Zone	02/02/2001

COTP QUARTERLY REPORT

COTP Docket	Location	Type	Effective Date
Charleston 01–010	Charleston, SC	Safety Zone	02/08/2001
Guam 01–001	Outer APRA Harbor, Guam	Safety Zone	01/24/2001
Guam 01–002	North of Glass Breakwater, Guam	Safety Zone	01/25/2001
Honolulu 01–002	Hawaii, Kaiwi Channel, Pacific Ocean	Safety Zone	02/24/2001
Honolulu 01–003	Kaiwi, Hawaii	Security Zone	03/20/2001
Honolulu 01–004	Kawaii, Kaiwi Channel, Pacific Ocean	Safety Zone	02/09/2001
Houston-Galveston 01–002	Houston, TX	Safety Zone	01/08/2001
Houston-Galveston 01–001	Houston, TX	Safety Zone	01/05/2001
Jacksonville 01–016	Indian River, Cocoa, FL	Safety Zone	02/24/2001
Jacksonville 01–018	St. Johns River, Palatka, FL	Safety Zone	03/03/2001
Jacksonville 01–021	Cocoa Beach, FL	Safety Zone	03/24/2001
LA/LB 01–001	Queens Gate, Long Beach, CA	Safety Zone	02/15/2001
Memphis 01–001	Mississippi River, M. 727 to 729.5	Safety Zone	02/20/2001
Memphis 01–002	Mississippi River, M. 532 to 525	Safety Zone	02/26/2001
Memphis 01–003	Mississippi River, M. 532 to 525	Safety Zone	03/01/2001
Memphis 01–004	Mississippi River, M. 555 to 550	Safety Zone	03/03/2001
Mobile 01–003	Mobile River at Pier 3 AND 4	Security Zone	02/02/2001
Mobile 01–004	Port of Gulfport, MS	Security Zone	02/03/2001
New Orleans 01–002	LWR Mississippi River, M 95 to 98	Safety Zone	02/14/2001
New Orleans 01–004	LWR Mississippi River, M 95.5	Security Zone	02/21/2001

COTP QUARTERLY REPORT—Continued

COTP Docket	Location	Type	Effective Date
New Orleans 01–005	LWR Mississippi River, M 95 to 96	Safety Zone	02/26/2001
New Orleans 01–006	LWR Mississippi River, M 94 to 96	Safety Zone	03/11/2001
New Orleans 01–007	LWR Mississippi River, M 94 to 96	Safety Zone	03/15/2001
San Diego 01–001	Lake Havasu, Colorado River, AZ	Safety Zone	03/03/2001
San Juan 01–006	Guayanilla, Puerto Rico	Safety Zone	02/05/2001
Savannah 01–022	Savannah, GA	Security Zone	03/14/2001
Savannah	Savannah, GA	Security Zone	03/19/2001
Tampa 01–004	Tampa Bay, FL	Safety Zone	01/20/2001
Wilmington 01–001	Wilmington, North Carolina	Safety Zone	03/27/2001

REGULATIONS NOT ON PREVIOUS 3RD AND 4TH QUARTERLY REPORT

District/COTP	Location	Type	Effective Date
Guam 00–31	Kilo Wharf, APRA Harbor Guam	Safety Zone	09/18/00
Guam 00–034	Agat Bay, Guam	Safety Zone	12/12/00
New Orleans 00–039	LWR Mississippi	Safety Zone	11/30/00

[FR Doc. 01–12976 Filed 4–22–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–063]

RIN 2115–AA97

Safety and Security Zones: USS Samuel Eliot Morison Port Visit, Newport, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety and security zones off the coast of Newport Naval Station, Newport, Rhode Island, during the port visit of the USS SAMUEL ELIOT MORISON to the Newport Naval Station, Newport, Rhode Island. The safety and security zone are needed to safeguard the public, the area encompassing Coddington Cove and the USS SAMUEL ELIOT MORISON and her crew from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into these zones is prohibited unless authorized by the Captain of the Port, Providence, Rhode Island or his authorized patrol representative.

DATES: This rule is effective from 6 a.m., Monday, May 21, 2001, to 12 midnight on Friday, May 25, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection and copying at Marine Safety Office Providence, 20 Risho Avenue, East Providence, Rhode Island between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Casey L. Chmielewski at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for making it effective less than 30 days after **Federal Register** publication. Good cause exists for not publishing a NPRM for this regulation. Due to the sensitive and unpredictable nature of the USS SAMUEL ELIOT MORISON's schedule, the Coast Guard received insufficient notice to publish proposed rules in advance of the event. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to protect the USS SAMUEL ELIOT MORISON, her crew, the public and the area adjoining Coddington Cove.

Background and Purpose

From May 21, 2001, to May 25, 2001, the USS SAMUEL ELIOT MORISON will be berthed at Pier 2 on the Newport Naval Station, Newport, RI. Pier 2 is located within Coddington Cove, along the East Passage of Narragansett Bay. The safety and security zones are needed to protect the USS SAMUEL ELIOT MORISON, her crew and the public from harmful or subversive acts, accidents or other causes of a similar nature in the vicinity of Coddington Cove. The safety and security zones have identical boundaries. All persons, other than those approved by the Captain of the Port or his authorized patrol representative will be prohibited from the zones. The zones encompass the area within a line drawn from the western most edge of the chartered breakwater to the western most edge of Pier 1. The public will be made aware of the safety and security zones through a Broadcast Notice to Mariners made from U.S. Coast Guard Group Woods Hole. U.S. Navy personnel will assist in the enforcement of these zones.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The sizes of the zones are the minimum necessary to provide adequate protection for the USS SAMUEL ELIOT MORISON, her crew, adjoining areas, and the public. The entities most likely to be affected are lobstermen engaged in setting and retrieving pots and pleasure craft engaged in recreational activities and sightseeing. These individuals and vessels have ample space outside of the safety and security zones to engage in these activities and therefore they will not be subject to undue hardship. Commercial vessels, excluding lobstermen, do not normally transit the area of the safety and security zones. Any lobstermen who have gear deployed within the safety and security zones, may request permission from the COTP or his authorized patrol representative to enter the zones to retrieve their gear. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the USS SAMUEL ELIOT MORISON and the public.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we considered whether this proposal will have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit into Coddington Cove from May 21, 2001 to May 25, 2001. The safety and security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the area and only a small number of commercial fishing vessels operate in the area. Vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the safety and security zones to engage in these activities. Before the effective period, we will issue maritime advisories widely available to users of the area.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call LT Casey Chmielewski, telephone (401) 435–2335. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comments on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

We have analyzed this action under Executive Order 13132, and have determined that this rule does not have federalism implications under that order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking Of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of these regulations and concluded that under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–063 to read as follows:

§ 165.T01–063 Safety and Security Zones: USS SAMUEL ELIOT MORISON Port Visit; Newport, RI.

(a) Location. The following area has been declared both a safety zone and a security zone: From a point beginning on land at Latitude 41 degrees 32′13″ N, Longitude 071 degrees 18′43″ W; thence westward along the breakwater to a point on the breakwater at Latitude 41 degrees 31′58″ N, Longitude 071 degrees 19′28″ W; thence southeasterly 1100 yards to a point on the end of Pier 1 at Latitude 41 degrees 31′38″ N, Longitude 071 degrees 19′06″ W; thence east to a point on land at Latitude 41 degrees 31′43″ N, Longitude 071 degrees 18′47″ W; thence north along the shoreline to the beginning point.

(b) Effective date. This rule is effective from 6 a.m. on Monday May 21, 2001, until 12 midnight on Friday, May 25, 2001.

(c) Regulations.

(1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the COTP Providence or his authorized patrol representative.

(2) No person may swim upon or below the surface of the water within the boundaries of the safety and security zones.

(3) All persons and vessels shall comply with the instructions of the COTP, the designated on-scene U.S. Coast Guard or Navy patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Navy patrol personnel include commissioned, warrant, and petty officers of the U.S. Navy.

(4) The general regulations covering safety and security zones in §§ 165.23 and 165.33, respectively, of this part apply.

Dated: May 10, 2001.

Mark G. VanHaverbeke,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01–12977 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–026]

RIN 2115–AA97

Safety Zone: Chicago Harbor, Chicago, IL

AGENCY: Coast Guard, DOT.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the WXRT fireworks display taking place in the Chicago Harbor over Memorial Day weekend. The safety zone is necessary for the protection and safety of passengers and vessels during the fireworks display. The safety zone is intended to restrict vessel traffic from an area of the Chicago Harbor and, in particular, the Monroe Street Harbor area. During this event, vessels will be unable to enter or exit the Monroe Street Harbor.

DATES: This temporary final rule is effective from 9 p.m. until 10 p.m. on May 26, 2001 and May 27, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–026 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois and are available for inspection or copying between 9:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, Illinois 60521. The telephone number is (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Chicago has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of person and property at these events and help minimize the associated risk.

The safety zone will encompass the waters of the Chicago Harbor bounded by the following positions: starting at 41°52.43 N, 087°36.43 W, thence East to 41°52.43 N, 087°36.16 W, thence South to 41°52.28 N, 087°36.16 W, thence West to 41°52.28 N, 087°36.43 W, thence North back to the first position. This area includes a portion of the Monroe Street Harbor including the Grant Park anchorage areas (33 CFR 110.83), the entrance to the Monroe Street Harbor, as well as a portion outside the breakwall for the Monroe Street Harbor.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone, and the zone is in an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The zone is only in effect for few hours on the day of the event. Vessel traffic can safely pass outside the safety zone during the event. Traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Chicago. Before the effective period, we will issue maritime advisories widely available to users of the Port of Chicago by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made. Additionally, the Coast Guard has not received any negative reports from small entities affected during this display in previous years.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Chicago (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 32(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T09–013 is added to read as follows:

§ 165.T09–013 Safety Zone: Chicago Harbor, Chicago, Illinois.

(a) *Location.* The safety zone will encompass the waters of the Chicago Harbor, including a portion of the Monroe Street Harbor and the entrance to the Monroe Street Harbor, bounded by the following positions: starting at 41°52.43 N, 087°36.43 W, thence East to 41°52.43 N, 087°36.16 W, thence South to 41°52.28 N, 087°36.16 W, thence West to 41°52.28 N, 087°36.43 W, thence North back to the first position.

(b) *Effective time and date.* This section is effective from 9 p.m. (local time) until 10 p.m. (local time) on May 26, 2001. In the event the fireworks display is cancelled due to inclement weather, this section is effective during these same times on May 27, 2001. The Coast Guard Captain of the Port, Chicago, and the designated Patrol Commander have the authority to terminate this event at any time. The designated on scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago, or his designated on scene representative.

Dated: May 11, 2001.

R.E. Seebald,

Captain, U.S. Coast Guard, Captain of the Port Chicago.

[FR Doc. 01–12978 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[WV–042–6011a ; FRL–6983–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions from Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves the municipal solid waste (MSW) landfill

111(d) plan submitted by the State of West Virginia, Division of Environmental Protection (DEP), for the purpose of controlling landfill gas emissions from existing landfills. Also, this action delegates EPA authority to enforce the Federal landfill 111(d) plan's compliance schedules. The plan was submitted to fulfill requirements of the Clean Air Act (CAA). The West Virginia (WV) plan establishes emission limits for existing MSW landfills, and provides for the implementation and enforcement of those limits. Except as noted, herein, upon the effective date of this rule approving West Virginia's 111(d) plan for landfills, the Federal plan promulgated on November 8, 1999, will no longer apply in West Virginia.

DATES: This final rule is effective July 23, 2001 unless within June 22, 2001 adverse or critical comments are received. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania; and the West Virginia Division of Environmental Protection, Office of Air Quality, 7012 MacCorkle Avenue, South East, Charleston, West Virginia 25304–2943.

FOR FURTHER INFORMATION CONTACT: James B. Topsale at (215) 814–2190, or by e-mail at topsale.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

This document is divided into Sections I—V, and answers the questions posed below.

I. General Provisions

What action is EPA approving?
What is a State 111(d) plan?
What pollutant(s) will this action control?
What are the expected environmental and public health benefits from controlling landfill gas (LFG) emissions?

II. Federal Requirements the West Virginia DEP 111(d) Plan Must Meet for Approval

What general EPA requirements must the DEP meet to receive approval of its landfill 111(d) plan?
What does the West Virginia State Plan contain?
Does the West Virginia plan meet all EPA requirements for approval?

III. Requirements for Affected MSW Landfill Owners/Operators Must Meet

How do I determine if my MSW landfill is subject to the WV 111(d) plan?
What general requirements must I meet as an affected landfill owner/operator who is subject to the EPA approved WV plan?
If my landfill is subject to the plan's requirement for installation of a LFG collection and control system, what emissions limits must I meet, and in what time frame?
Are there any operational requirements for my installed LFG collection and control system?
What are the testing, monitoring, recordkeeping, and reporting requirements for my landfill?
Am I required to apply for a Title V permit?
If I modify or expand the capacity of my landfill, what additional requirements must I meet?

IV. Final EPA Action

V. Administrative Requirements

I. General Provisions

Question: What action is EPA approving?

Answer: EPA is approving the State of West Virginia (WV) landfill 111(d) plan, as submitted by the WV Division of Environmental Protection (DEP), Office of Air Quality, on May 29, 1998, and as amended on May 15, 2000, and December 20, 2000. Also, EPA is approving the requested delegation of the November 8, 1999 promulgated Federal landfill 111(d) plan (64 FR 60689) generic compliance schedule, including the requirements for the initial design capacity and non-methane organic compound (NMOC) emissions reports. EPA is publishing this approval action without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments.

Question: What is a State 111(d) plan?

Answer: Section 111(d) of the Clean Air Act (CAA) requires that "designated" pollutants, controlled under section 111(b) standards of performance for new stationary sources, must also be controlled at existing sources (i.e., designated facilities) in the same source category. Furthermore, section 111(d) requires EPA to establish procedures for state submittal and EPA approval of state plans that implement state adopted emissions guidelines (EG), promulgated by EPA, for the control of designated pollutants and facilities. State 111(d) plans, approved by EPA, implement and provide for federal enforcement of the EG requirements.

Question: What pollutant(s) will this action control?

Answer: The promulgated March 12, 1996 EPA EG (61 FR 9919) are applicable to existing municipal solid waste (MSW) landfills (i.e., the designated facilities) that emit landfill gas (LFG). LFG consists primarily of carbon dioxide, methane, and nonmethane organic compounds (NMOC). MSW landfills are the largest manmade source of methane emissions in the United States. The designated pollutant, NMOC, is a mixture of more than 100 different compounds, including volatile organic compounds (VOC), and hazardous pollutants (HAP), such as vinyl chloride, toluene, and benzene. A collateral benefit in the control of landfill NMOC is the control of methane.

Question: What are the expected environmental and public health benefits from controlling Landfill Gas emissions?

Answer: Studies indicate that MSW landfill gas (LFG) emissions at certain levels can have adverse effects on both public health and welfare. EPA presented its concerns regarding the health and welfare effects of landfill gases in the preamble to the MSW landfill regulations (61 FR 9905). As noted above, MSW landfills emit NMOC that contains HAP, and VOC, including odorous compounds. Exposure to HAP can lead to cancer, respiratory irritation, and damage to the nervous system. VOC emissions contribute to the formation of ozone which can result in adverse affects on human health and vegetation. Methane contributes to global climate change and can also result in fires or explosions, if the gas accumulates in physical structures on or off the landfill site. The WV 111(d) plan will serve to significantly reduce these potential problems associated with LFG emissions.

II. Federal Requirements the West Virginia DEP's 111(d) Plan Must Meet for Approval

Question: What general EPA requirements must the West Virginia DEP meet to receive approval of the WV 111(d) plan (the "plan")?

Answer: EPA promulgated detailed procedures for submitting and approving State plans in 40 CFR part 60, subpart B. Also, EPA promulgated the MSW landfill EG (subpart Cc) and a related NSPS (subpart WWW) on March 12, 1996, and amended them both on June 16, 1998 and February 24, 1999. The West Virginia plan must meet the requirements of (1) 40 CFR part 60, subpart Cc, §§ 60.30c through 60.36c, and the related subpart WWW; and (2) 40 CFR part 60, subpart B, §§ 60.23 through 26. In addition, a State requesting delegation of authority under the Federal 111(d) plan must demonstrate that it has adequate resources and the legal authority to administer and enforce the program. The DEP has made the required demonstration with respect to the delegated tasks.

States were required to submit their MSW landfill 111(d) plans to EPA on December 12, 1996, pursuant to the provisions of section 111(d) of the CAA and 40 CFR part 60, subpart B, and the promulgated MSW landfill EG. As a result of litigation over the landfill rule, on November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association* v. *Browner, et al.*, No. 96–1152 (D.C. Cir), in accordance with section 113(g) of the Act. *See* 62 FR 60898. Pursuant to the proposed settlement agreement, EPA published, in the **Federal Register,** a direct final rulemaking on June 16, 1998, in which EPA amended 40 CFR part 60, subparts Cc and WWW, to add clarifying language, to make editorial amendments, and to correct typographical errors. The proposed settlement did not vacate or void the March 12, 1996 MSW landfill EG or NSPS. *See* 63 FR 32743–32753, 32783–32784. In part, these amendments clarified the EG regulatory text with respect to landfill mass and volume applicability and Title V permit requirements. On February 24, 1999 (64 FR 9258), EPA amended the MSW landfill rule to further clarify the regulatory text and correct errors with respect to the due date for the submittal of the initial landfill design capacity and emissions rate reports, and the definition of landfill "modification". In summary, these amendments relate to four substantive EG changes: (1) Landfill mass "and " volume applicability threshold language, (2) timely Title V permit applications, (3) the definition of landfill "modification", and (4) the due date for submittal of initial design capacity and NMOC emissions rate reports. Additional technical corrections to the NSPS were published on April 10, 2000 (65 FR 18906).

Question: What does the West Virginia State Plan contain?

Answer: Consistent with the requirements of subparts B and Cc, as amended, the West Virginia Plan contains the following:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;
2. West Virginia Rule 45CSR23, as the enforceable mechanism;
3. A source inventory of known designated facilities, including NMOC emissions rate estimates;
4. Emission collection and control requirements that are no less stringent than those in subpart Cc;
5. A description of the West Virginia process for the review and approval of site-specific gas collection and control design plans
6. A source compliance schedule that requires final compliance no later than that required in EPA's November 8, 1999 Federal 111(d) plan (64 FR 60703);
7. Source testing, monitoring, recordkeeping, and reporting requirements;
8. Records of the public hearings on the State Plan; and
9. Provision for State submittal to EPA of annual reports on progress in plan enforcement.

On May 29, 1998, the DEP submitted the WV 111(d) plan that identifies existing MSW landfills in the State of West Virginia and establishes standards for the control of landfill gas emissions from these facilities. The plan is entitled: "West Virginia Division of Environmental Protection Office of Air Quality State Plan for Municipal Solid Waste (MSW) Landfills". The State has adopted 40 CFR part 60, subparts Cc and WWW, as amended, by reference, such that they apply to both new and existing municipal solid waste (MSW) landfills under one regulation. The adoption of this regulation is incorporated into the State of West Virginia "*Title 45 Legislative Rule Division of Environmental Protection Office of Air Quality*" in Series 23 to Prevent and Control Emissions from Municipal Solid Waste Landfills.

On May 1, 1998, the DEP MSW landfill regulation 45CSR23 became effective. In response to the amended EG and NSPS requirements, the regulation was amended, and became effective on May 1, 2000. 45CFR23 applies to existing MSW landfills and incorporates by reference (IBR) related and applicable new source performance standards, subpart WWW, requirements. Also the amended plan, submitted to EPA on May 15, 2000, contains a request for delegation of EPA's November 8, 1999 Federal landfill 111(d) plan (i.e., 40 CFR part 60, subpart GGG) compliance schedule requirements. In a December 20, 2000 letter to EPA, the DEP clarified that its delegation request included the Federal plan's initial design capacity and NMOC emission rate reporting requirements.

Question: Does the West Virginia plan meet all EPA requirements for approval?

Answer: Yes. The DEP has submitted a 111(d) plan that conforms to all EPA requirements under 40 CFR part 60, subparts B, Cc, and WWW. Details regarding the approvability of plan elements are included in the technical support document (TSD) associated with this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

III. Requirements Affected MSW Landfill Owners/Operators Must Meet

Question: How do I determine if my MSW landfill is subject to the WV 111(d) plan?

Answer: If you commenced construction, reconstruction, or modification of your MSW landfill before May 30, 1991, and have accepted waste at any time since November 8, 1987, or the landfill has additional capacity for future waste deposition, then it is subject to the 111(d) plan requirements.

Question: What general requirements must I meet as an affected landfill owner/operator who is subject to the EPA approved WV plan?

Answer: The plan requires you to submit an initial design capacity report, and possibly a NMOC emissions rate report. If the design capacity of your landfill is equal to or greater than 2.5 million megagrams and 2.5 million cubic meters of MSW, the plan requires you to also submit, concurrently with the design capacity report, an initial NMOC emissions rate report. As required under 40 CFR 62.14355(a) of the Federal landfill 111(d) plan, both the initial capacity and NMOC emissions rate reports were due April 6, 2000. The initial NMOC and any subsequent emissions rate determinations are required to be calculated according to methods specified in the regulation. If your calculated landfill NMOC emissions rate were 50 megagrams/year, or more per year, then you are required to install a MSW landfill gas collection and control system that meets the design and operational requirements specified in 45CSR 23–3 and 3.3, which incorporates by reference all related and applicable NSPS, Subpart WWW, requirements at 40 CFR 60.759 and 753.

Question: If my landfill is subject to the plan's requirement for installation of a LFG collection and control system, what emissions limits must I meet, and in what time frame?

Answer: You must install a landfill gas collection and control system to reduce the collected NMOC emissions by 98 weight-percent, or reduce the emissions from the control device to a concentration of 20 parts per million by volume, or less, for an enclosed combustor. Your final compliance date

and the related increments of progress are dependent upon when your annual emissions rate report initially shows that NMOC emissions are ≥ 50 megagrams per year (Mg/yr). Based on the Federal plan requirements at 40 CFR 62.14356(c), you must meet the following compliance schedule and increments of progress, except as provided in 40 CFR 62.14356(d):

DELEGATED COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS

Increment(s)	Compliance date(s)	
	4/6/00 annual report showing NMOC emissions ≥50 Mg/yr	1st subsequent annual report showing NMOC emissions ≥50 Mg/yr.
Submit final control plan	April 6, 2001	1 year after report.
Award Contracts	December 6, 2001	20 months after report.
Begin on-site construction	April 6, 2002	24 months after report.
Complete on-site construction	October 6, 2002	30 months after report.
Final compliance	October 6, 2002	30 months after report.

Question: Are there any operation requirements for my installed LFG collection and control system?

Answer: Yes, there are operational requirements. The operational requirements are summarized below:

1. Operate the collection system wellheads at negative pressure;

2. Operate the interior collection wellheads with a landfill gas temperature less than 550°C and with either a nitrogen level less than 20 percent, or an oxygen level less than 5 percent;

3. Operate the collection system so that the methane gas concentration is less than 500 parts per million by volume above background at the surface of the landfill;

4. Operate the collection system so that the colleted gases are vented to the control system; and

5. Operate the collection and control system at all times.

Details regarding all operational requirements are stipulated in Subpart WWW, 40 CFR 60.753

Question: What are the testing, monitoring, recordkeeping, and reporting requirements for my landfill?

Answer: Your testing, monitoring, recordkeeping, and reporting requirements are summarized below:

Performance testing, to determine compliance with 98 weight-percent efficiency or the 20 ppmv outlet concentration level, must be completed within 180 days after construction completion on the collection and control system. Testing methods must be consistent with EPA source test methods referenced in the DEP landfill regulation.

Monitoring temperature on a continuous basis is required for enclosed combustion control devices, and flares. Measurement of the gas flow rate from the collection system to an enclosed combustion device, or flare, is required at least once every 15 minutes, unless the bypass line valves are secured in a closed position. Monthly monitoring requirements are specified in the regulation for the gas collection system. Gas wellhead monitored parameters include gauge pressure, nitrogen or oxygen concentration, and temperature. Quarterly monitoring is required of NMOC surface concentrations.

Reporting requirements relate to landfill design capacity and NMOC emission rates; submittal of a collection and control system design plan; and system start-up, performance testing, operations, closure notification, and equipment removal.

Records must be keep on-site of maximum design capacity, current amount of solid waste in-place, year-by-year waste acceptance rate; up-to-date readily accessible records for the life of the control equipment of certain data measured during the initial performance test or compliance determination; and control device vendor specifications until removal.

Details regarding testing, monitoring, recordkeeping, and reporting requirements are stipulated in subpart WWW, 40 CFR 60.754, 60.755, 60.756, and 60.757.

Question: Am I required to apply for a Title V permit?

Answer: Yes, if your landfill design capacity is equal to or greater than 2.5 million Mg and 2.5 million cubic meters. As provided under the delegated provisions of the Federal plan, you are required to apply for a Title V permit no later than April 7, 2001.

Question: If I modify or expand the capacity of my landfill, what additional requirements must I meet?

Answer: Any MSW landfill that commences construction, modification, or reconstruction on or after May 30, 1991 is subject to the EPA new source performance standards (NSPS) for landfills, 40 CFR part 60, subpart WWW.

IV. Final EPA Action

Based upon the rationale discussed, herein, and in further detail in the TSD associated with this action, EPA is approving the West Virginia MSW landfill 111(d) plan, including the delegation of the Federal plan's compliance schedule and initial reporting requirements. Except as noted, herein, upon the effective date of this rule approving West Virginia's 111(d) plan for landfills, the Federal plan promulgated on November 8, 1999, will no longer apply in West Virginia. As provided by 40 CFR 60.28(c), any revisions to the WV section 111(d) plan or associated regulations will not be considered part of the applicable plan until submitted by the DEP in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B, requirements.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the 111(d) plan should relevant adverse or critical comments be filed. This rule will be effective July 23, 2001 without further notice unless the Agency receives relevant adverse comments by June 22, 2001. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 23, 2001 and no further action will be taken on the proposed rule.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing 111(d) plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a 111(d) plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d) plan submission, to use VCS in place of a 111(d) plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule approving West Virginia's 111(d) plan for Municipal Solid Waste landfills does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Hydrocarbons, Reporting and recordkeeping requirements.

Dated: May 1, 2000.

William C. Early,

Acting Regional Administrator, Region III.

40 CFR Part 62, Subpart XX, is amended as follows:

PART 62—[AMENDED]

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart XX—West Virginia

2. A new center heading, and §§ 62.12125, 62.12126, and 62.12127 are added to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills (Section 111(d)) Plan)

§ 62.12125 Identification of plan.

West Virginia 111(d) plan for municipal solid waste landfills, including delegation of Federal plan (64 FR 60689) compliance schedule and reporting requirements, as submitted to the Environmental Protection Agency on May 29, 1998, and as amended on May 15, 2000, and December 20, 2000.

§ 62.12126 Identification of sources.

The plan applies to all existing West Virginia municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991 and that accepted waste at any time since November 8, 1987, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

§ 62.12127 Effective date.

The effective date of the plan for municipal solid waste landfills is July 23, 2001.

[FR Doc. 01–12888 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6982–1]

Protection of Stratospheric Ozone: Notice 15 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of acceptability.

SUMMARY: This document expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the

U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. The substitutes are for use in the refrigeration and air conditioning sector.

EFFECTIVE DATE: May 23, 2001.

ADDRESSES: Information relevant to this document is contained in Air Docket A–91–42, Room M–1500, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone: (202) 260–7548. You may inspect the docket between 8 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying. Submissions to EPA for the use of the substitutes listed in this document may be found under category VI–D of EPA docket A–91–42. Other materials supporting the decisions herein may be found under category IX–B of EPA docket A–91–42.

FOR FURTHER INFORMATION CONTACT: Dave Godwin by telephone at (202) 564–3517, by fax at (202) 565–2155, by e-mail at Godwin.Dave@epa.gov, or by mail at U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to 501 3rd Street, NW., Washington, DC 20001.

Further information can be found by calling the Stratospheric Protection Hotline at (800) 296–1996, Monday through Friday, between the hours of 10 a.m. and 4 p.m. (Eastern Standard Time). For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the original SNAP rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as other EPA publications on protection of stratospheric ozone, are available from EPA's Ozone Depletion World Wide Web site at http://www.epa.gov/ozone/ including the SNAP portion at http://www.epa.gov/ozone/title6/snap/.

SUPPLEMENTARY INFORMATION:

I. Listing of Acceptable Substitutes
Refrigeration and Air Conditioning
II. Section 612 Program
A. Statutory Requirements
B. Regulatory History
Appendix A—Summary of Acceptable Decisions

I. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for substitutes in the refrigeration and air conditioning sector. For copies of the full list of SNAP decisions in all industrial sectors, contact the EPA Stratospheric Protection Hotline at (800) 296–1996.

The sections below discuss the substitute listing in detail. Appendix A contains a table summarizing today's listing decisions. The comments contained in the table provide additional information, but are not legally binding under section 612 of the Clean Air Act. In addition, these comments are not a comprehensive list of other legal obligations you may need to meet when using the substitute. Although you are not required to follow recommendations in the comments section of the table to use a substitute, EPA strongly encourages you to apply the comments when using these substitutes. In many instances, the comments simply refer to standard operating practices in existing industry and/or building-code standards. Thus, many of these comments, if adopted, would not require significant changes to existing operating practices.

Refrigeration and Air Conditioning

1. HFC–134a/HBr (92/8)

The chemical blend of 92% by weight HFC–134a (1,1,1,2-tetrafluoroethane) and 8% by weight HBr (hydrogen bromide) is acceptable for use as the primary heat transfer fluid in new secondary-loop equipment for not-in-kind replacements of systems using:

- CFC–12 and R–502 in retail food refrigeration; and
- CFC–12 and R–502 in cold storage warehouses

HFC–134a/HBr (92/8) is also acceptable as a substitute in new equipment for:

- CFC–11, CFC–12, CFC–114, CFC–115, and R–502 in industrial process refrigeration; and
- CFC–12 and R–502 in refrigerated transport

The submitter of this blend claims that the blend is protected under U.S. Patent Number 5,989,448. This submission may be found under EPA Air Docket A–91–42, item VI–D–275.

Environmental information: The ozone depletion potential (ODP) of HBr is estimated to be less than 0.02, while its atmospheric lifetime is estimated at 2 to 7 days (ICF Risk Screen, EPA Air Docket A–91–42, item IX–B–68).

Due to its short atmospheric lifetime, the global warming potential (GWP) of HBr is very low, while the GWP of HFC–134a is 1600 (100-year integrated time horizon referenced to carbon dioxide) [WMO, Scientific Assessment of Ozone Depletion: 1998]. The contribution of this blend to global warming will be minimized in each end-use through the implementation of the venting prohibition under section 608(c)(2) of the Clean Air Act (see 40 CFR part 82, subpart F). This section and EPA's implementing regulations prohibit venting or release of substitutes for class I and class II ozone depleting substances used in refrigeration and air-conditioning and require proper handling and disposal of these substances, such as recycling or recovery.

HFC–134a has been exempted from the list of volatile organic compounds (VOCs) under Clean Air Act regulations (40 CFR 51.000) for purposes of the State implementation plan (SIP) provisions of the Clean Air Act; HBr has not. Emissions of HBr should be controlled in accordance with VOC restrictions in approved SIPs.

Flammability information: Neither component of this blend is flammable.

Toxicity and exposure data: HBr has an OSHA-established eight-hour Permissible Exposure Limit (PEL) of only 3 ppm. The American Council of Governmental Industrial Hygienists (ACGIH) has recommended a Threshold Limit Value (TLV) of 3 ppm as well. EPA has previously listed HFC–134a, with a Workplace Environmental Exposure Level (WEELs) from the American Industrial Hygiene Association (AIHA) of 1000 ppm, as an acceptable substitute in a variety of applications. EPA expects users of this blend to follow all recommendations specified in the Material Safety Data Sheets (MSDSs) for HBr, HFC–134a and the blend. The Agency also expects that users will adhere to any acceptable exposure limits set by any voluntary consensus standards organization, including the TLVs from the ACGIH and WEELs from the AIHA as stated above.

Because of the health risks, EPA has at this time only evaluated this blend in limited applications. Within the retail food refrigeration and cold storage warehouse end uses, EPA is finding the use of HFC–134a/HBr (92/8) acceptable only for secondary-loop systems; accidental releases of the chemical in these applications are expected to generate negligible potential exposure to the public and workers. Within the refrigerated transport end use, direct exposure to high quantities of the refrigerant is not likely because of the small charge size and the typical placement of the unit away from direct human contact. Within the industrial process refrigeration end use, such as at chemical or other industrial plants, proper exposure controls and ventilation are generally available as well as established protocols for handling potentially hazardous materials, and therefore overall occupational risk is mitigated.

Additional precautions could include installation of warning signs, worker education and technician training. Such practices will further reduce the likelihood of exposure, and are therefore recommended for all approved end uses.

2. Through 13. PFC–330ST, PFC–550HC, PFC–660HC, PFC–1100HC, PFC–1100LT, PGC–100, PGC–150, PFC–331ST, PFC–551HC, PFC–661HC, PFC–1101HC and PGC–151

The chemical blends submitted to EPA with the unregistered trade names listed above are acceptable for use in new and retrofit equipment as substitutes for:

- CFC–13, CFC–113, CFC–114 and blends thereof in very low temperature refrigeration.

IGC Polycold Systems Inc., the submitter of the above-listed blends, claims that the compositions of these blends, tailored for use in its equipment, are confidential business information. A redacted version of this submission may be found under EPA Air Docket A–91–42, item VI–D–267.

Environmental information: Each of these blends contain one or more hydrochlorofluorocarbon (HCFC) component(s), and thus the blends do not have a zero ozone depletion potential (ODP).

The global warming potentials (GWPs) of some of the blend components are very high; however, the GWPs of the blends as formulated are less than the GWPs of the refrigerants they are replacing and less than most other alternatives approved for use within the very low temperature refrigeration end use. EPA strongly encourages the continued search for lower-GWP alternatives for use in this end use and prompt identification and repair of any leaks that may occur. The contribution of these blends to global warming will be minimized through the implementation of the venting prohibition under section 608(c)(2) of the Clean Air Act (see 40 CFR part 82, subpart F). This section and EPA's implementing regulations prohibit venting or release of substitutes for class I and class II ozone depleting substances used in refrigeration and air-conditioning and require proper handling and disposal of these substances, such as recycling or recovery.

Some components of these blends have not been exempted from listing as VOCs under Clean Air Act regulations for purposes of the SIP program. Emissions should be controlled in accordance with requirements in approved SIPs.

Flammability information: The submitter states that tests conducted by Hauser Engineering Services determined that all of the blends, except PGC–100, PGC–150 and PGC–151, are flammable in accordance with ASTM E–681–85. However, a flammability analysis and risk assessment provided by the submitter found little to no associated risk, due in part to the small charge size used and the low probability of a leak occurring in the semi-hermetically-sealed equipment. To further reduce flammability risks, EPA recommends that adequate personnel training and room ventilation be provided.

Toxicity and exposure data: All components in these blends have eight-hour time-weighted average occupational exposure limits, such as Threshold Limit Values (TLVs) from the American Council of Governmental Industrial Hygienists (ACGIH) and Workplace Environmental Exposure Levels (WEELs) from the American Industrial Hygiene Association (AIHA), on the order of 1,000 ppm, with one exception. Although one component does have a WEEL significantly less than 1,000 ppm, the EPA risk screen and occupational exposure scenarios indicate that likely exposure to this chemical or any of the other components of these blends will remain below the recommended limits within the proposed end use, including manufacture and disposal scenarios. Further, the company's Material Safety Data Sheets (MSDSs) for all 12 blends recommend an acceptable exposure limit (AEL) of 30 ppm. These exposure limits for the blends are lower than the WEELs for the components; therefore, EPA believes that the company's recommended AELs are protective of human health. EPA expects users to follow all recommendations specified in the MSDSs for the blends and other safety precautions common in the refrigeration and air conditioning industry.

14. SP34E

On December 18, 2000, EPA listed SP34E as acceptable for use as a substitute for CFC–12 for retrofit and new motor vehicle air conditioning (65 FR 78979). Based on a final rule promulgated by EPA on October 16, 1996 (61 FR 54029), all substitutes listed as acceptable for use in motor vehicle air conditioning must be used with unique fittings for service ports and refrigerant containers. In the original SP34E listing, low-side and high-side service port fittings, as well as fittings for large refrigerant containers (>20 pounds) were identified, but fittings for small cans were not. Since then, the following fittings have been developed for small cans, and use of these fittings is required to use SP34E in motor vehicle air conditioning systems:

Fitting type	Diameter (inches)	Thread pitch (threads/inch)	Thread direction
Small cans	0.3125 (5/16)	24	Left.

II. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.
- *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.
- *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, it must publish the revised lists within an additional six months.

• *90-day Notification*—Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or *existing* chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

• *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

• *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the final rulemaking (59 FR 13044) which described the process for administering the SNAP program. In the same document, EPA issued its first acceptability lists for substitutes in the major industrial use sectors. These sectors include:

- Refrigeration and air conditioning;
- Foam blowing;
- Solvents cleaning;
- Fire suppression and explosion protection;
- Sterilants;
- Aerosols;
- Adhesives, coatings and inks; and
- Tobacco expansion.

These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in this original rule for the SNAP program, EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Therefore, by this action EPA is adding substances to the list of acceptable alternatives without first requesting comment on new listings.

EPA does, however, believe that notice-and-comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from the lists of prohibited or acceptable substitutes. Updates to these lists are published as separate notices of rulemaking in the **Federal Register**.

The Agency defines a "substitute" as any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators, or end-users, when they are responsible for introducing a substitute into commerce.

You can find a complete chronology of SNAP decisions and the appropriate **Federal Register** citations from the SNAP section of EPA's Ozone Depletion World Wide Web site at www.epa.gov/ozone/title6/snap/chron.html. This information is also available from the Air Docket (see **ADDRESSES** section above for contact information).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 7, 2001.

Avis C. Robinson,

Acting Director, Office of Atmospheric Programs, Office of Air and Radiation.

Appendix A.—Summary of Acceptable Decisions

REFRIGERATION AND AIR CONDITIONING

End-Use	Substitute	Recommendation	Comments
Retail food refrigeration, for use as the primary heat transfer fluid in new secondary-loop equipment for not-in-kind replacements of systems.	HFC–134a/HBr (92/8) as a substitute for CFC–12 and R–502.	Acceptable	Users are expected to adhere to the 3 ppm Permissible Exposure Limit and Threshold Limit Value set by OSHA and ACGIH, respectively. Users are expected to follow all recommendations specified in Material Safety Data Sheets for HBr, HFC–134a and the blend. Additional warning signs, worker education and technician training is recommended to minimize exposures.
Cold storage warehouses, for use as the primary heat transfer fluid in new secondary-loop equipment for not-in-kind replacements of systems.	HFC–134a/HBr (92/8) as a substitute for CFC–12 and R–502.	Acceptable	Users are expected to adhere to the 3 ppm Permissible Exposure Limit and Threshold Limit Value set by OSHA and ACGIH, respectively. Users are expected to follow all recommendations specified in Material Safety Data Sheets for HBr, HFC–134a and the blend. Additional warning signs, worker education and technician training is recommended to minimize exposures.
Industrial process refrigeration (new).	HFC–134a/HBr (92/8) as a substitute for CFC–11, CFC–12, CFC–114, CFC–115 and R–502.	Acceptable	Users are expected to adhere to the 3 ppm Permissible Exposure Limit and Threshold Limit Value set by OSHA and ACGIH, respectively. Users are expected to follow all recommendations specified in Material Safety Data Sheets for HBr, HFC–134a and the blend. Additional warning signs, worker education and technician training is recommended to minimize exposures.
Refrigerated transport (new)	HFC–134a/HBr (92/8) as a substitute for CFC–12 and R–502.	Acceptable	Users are expected to adhere to the 3 ppm Permissible Exposure Limit and Threshold Limit Value set by OSHA and ACGIH, respectively. Users are expected to follow all recommendations specified in Material Safety Data Sheets for HBr, HFC–134a and the blend. Additional warning signs, worker education and technician training is recommended to minimize exposures.
Very low temperature refrigeration (retrofit and new).	PFC–330ST, PFC–550HC, PFC–660HC, PFC–1100HC, PFC–1100LT, PGC–100, PGC–150, PFC–331ST, PFC–551HC, PFC–661HC, PFC–1101HC and PGC–151 assubstitutes for CFC–13, CFC–113, CFC–114 and blends thereof.	Acceptable.	

[FR Doc. 01–12893 Filed 5–22–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301124; FRL–6781–7]

RIN 2070–AB78

Aspergillus flavus AF36; Extension of Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a temporary exemption from the requirement of a tolerance for residues of the biological *Aspergillus flavus* AF36, (*A. flavus*) a non-aflatoxin producing strain of *A. flavus*, on cotton when applied or used as aerial pre-bloom applications to cotton in specified counties of Arizona. The Interregional Research Project Number 4 (IR-4), New Jersey Agricultural Experiment Station, Technology Center of New Jersey, Rutgers University, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390, submitted an amended petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting the temporary exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Aspergillus flavus* AF36. The temporary tolerance exemption will expire on December 30, 2003.

DATES: This regulation is effective May 23, 2001. Objections and requests for hearings, identified by docket control number OPP–301124, must be received by EPA on or before July 23, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301124 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-8097; and e-mail address: bacchus.shanaz@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of

entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301124. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 26, 1999 (64 FR 28371) (FRL–6081–2), EPA issued a final rule pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) establishing a temporary exemption from the requirement of a tolerance for residues of *A. flavus* AF36 on cotton grown in 5 counties in Arizona (40 CFR 180.1206). This final rule included a summary of the Agency's assessment of the health effects data submitted in support of the extension of the temporary tolerance exemption. The temporary exemption from tolerance was extended until December 2001 (64 FR 35049, June 30, 1999) (FRL–6087–3) to allow for passage of the treated commodities through the channels of trade.

Comments submitted to the Agency regarding the use of this competitive fungal agent were by the cotton growers in the region who were all in favor of the extension of the exemption from the temporary tolerance. Both the toxigenic and atoxigenic strains are naturally occurring in Arizona. The growers were of the opinion that this technology is likely to reduce the high levels of the naturally occurring, toxin-producing strain of *A. flavus* by displacement. No adverse effects were reported in the yearly annual reports of the Experimental Use Permit, and in some instances aflatoxin levels of cotton seed were reduced in treated cotton.

New section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...." Additionally, section 408(b)(2)(D) requires that the Agency consider "available information concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

The fungal agent is applied preboom to the soil of treated cotton fields. When conditions are appropriate, the AF 36 spores land on the cotton plant and germinate to displace the naturally occurring toxigenic strain. No adverse effects were reported in the annual reports which the registrant submitted as required in the EUP.

This extension of the exemption from the requirement of a temporary tolerance is associated with an extension of an Experimental Use Permit (EUP, EPA Reg. No. 69224–EUP–1). This extension of the EUP will allow aerial application of *A. flavus* AF36 in the following counties of Arizona: Yuma (3,300 acres), Maricopa (13,150 acres), Mohave (1,700 acres) and Pinal (1,850 acres). This final rule extends the temporary exemption from a tolerance for residues of *Aspergillus flavus* AF36 on cotton until December 30, 2003.

Of the strains of *A. flavus* found naturally in Arizona, this atoxigenic strain comprises about 15% of the natural microbial population in the soil, as opposed to the predominant S or toxigenic S strain.

Summaries of the toxicological profile and other relevant manufacturing and health effects data, to comply with the guideline requirements of the Food Quality Protection Act of 1996, were reported in the **Federal Register** publication of the final rule of May 26, 1999, extending the temporary tolerance exemption. Based on the previously submitted data outlined in the final rule, there is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to *A. flavus* AF36 from the limited use pattern of this experimental use permit. This includes all anticipated dietary exposures and all other exposures for which there is reliable information.

The Agency continues to require that the pesticide must not be applied within a boundary of 400 feet of residential areas, schools, daycare and health care facilities and hospitals to minimize exposure to human adults, infants and children.

Data have been submitted to demonstrate that this strain excludes the aflatoxin-producing strain when it is applied prior to flowering. Thus, the proposed use is not likely to result in appreciable increases in the long-term population of *A. flavus* on the crop beyond naturally occurring levels.

Furthermore, there is no expectation of cumulative effects with other pesticides, because this is the only registered experimental microbe in this genus.

As in the earlier EUP, the Agency requires that applicators and other handlers must wear gloves, a dust/mist filtering respirator with NIOSH approval prefix N–95, R–95 or P–95, long sleeved shirt and long pants, and shoes plus socks to mitigate potential worker exposure.

The Food and Drug administration (FDA) regulates the levels of aflatoxin in cotton seed meal and other commodities associated with the production of cotton. Treated cotton and its by products are screened for aflatoxin prior to introduction into the channels of commerce. FDA does not allow cottonseed products containing aflatoxin at 20 parts per billion (ppb) or higher to be used in dairy rations. FDA regulations also do not allow cottonseed products containing aflatoxin above 300 ppb to be used for feeding beef cattle.

C. Codex Maximum Residue Level

An exemption from temporary tolerance for residues of *A. flavus* isolate AF36 on cotton (40 CFR 180.1206) is currently in effect in conjunction with an Experimental Use Permit (61 FR 30235, June 14, 1996, and extended to expire in December 2001) (FRL–5377–6).

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301124 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before july 23, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement"when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301124, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule extends a temporary exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any

information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the [tolerance] in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule."

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2001.

Janet L. Anderson,

Director, Biopesticide and Pollution Prevention Division.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.1206 is revised to read as follows:

§ 180.1206 Aspergillus flavus AF36.

Aspergillus flavus AF36 is temporarily exempt from the requirement of a tolerance in or on cotton when used on cotton in Arizona in accordance with the Experimental Use Permit 69224–EUP–1. The temporary exemption from a tolerance will expire on December 30, 2003.

[FR Doc. 01–12900 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301132; FRL–6784–7]

RIN 2070–AB78

Thiamethoxam; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of thiamethoxam and its metabolite in or on tuberous and corm vegetables crop subgroup, fruiting vegetables crop group, tomato paste, cucurbit vegetables crop group, and pome fruits crop group. Syngenta Crop Protection, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective May 23, 2001. Objections and requests for hearings, identified by docket control number OPP–301132, must be received by EPA on or before July 23, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301132 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dani Daniel, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–5409; and e-mail address: daniel.dani@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations", "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301132. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 5, 1999 (64 FR 34153) (FRL–6072–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (9F5051) for tolerances by Syngenta Crop Protection, P.O. Box 18300 Greensboro, NC 27419–8300. This notice included a summary of the petition prepared by Syngenta Crop Protection, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.565 be amended by establishing tolerances for combined residues of the insecticide thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4H-1,3,5-oxadiazin-4-imine and its metabolite (*N*-(2-chloro-thiazol-5-ylmethyl)-*N'*-methyl-*N''*-nitro-guanidine) in or on the raw agricultural commodities: tuberous and corm vegetables crop subgroup at 0.02 ppm, cucurbit vegetables crop group at 0.20 ppm, pome fruit crop group at 0.20 ppm, fruiting vegetables crop group at 0.25 ppm and tomato paste at 0.80 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that" there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of thiamethoxam and its metabolite in or on tuberous and corm vegetables crop subgroup at 0.02 ppm, fruiting vegetables crop group at 0.25 ppm, tomato paste at 0.80 ppm, cucurbit vegetables crop group at 0.20 ppm, and pome fruits crop group at 0.20 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by thiamethoxam are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity - rat	NOAEL = 1.74 (males), 92.5 (females) mg/kg/day LOAEL = 17.64 (males), 182.1 (females) mg/kg/day based on increased incidence of hyaline change of renal tubular epithelium (males), fatty change in adrenal gland of females, liver changes in females, all at the LOAEL.
870.3100	90–Day oral toxicity - mouse	NOAEL = 1.41 (males), 19.2 (females) mg/kg/day LOAEL = 14.3 (males), 231 (females) mg/kg/day based on increased incidence of hepatocellular hypertrophy. At higher dose levels: decrease in bodyweight and bodyweight gain, necrosis of individual hepatocytes, pigmentation of Kupffer cells, and lymphocytic infiltration of the liver in both sexes; slight hematologic effects and decreased absolute and relative kidney weights in males; and ovarian atrophy, decreased ovary and spleen weights and increased liver weights in females.
870.3150	90–Day oral toxicity - dog	NOAEL = 8.23 (males), 9.27 (females) mg/kg/day LOAEL = 32.0 (males), 33.9 (females) mg/kg/day based on slightly prolonged prothrombin times and decreased plasma albumin and A/G ratio (both sexes); decreased calcium levels and ovary weights and delayed maturation in the ovaries (females); decreased cholesterol and phospholipid levels, testis weights, spermatogenesis, and spermatic giant cells in testes (males).
870.3200	28–Day dermal toxicity - rat	NOAEL = 250 (males), 60 (females) mg/kg/day LOAEL = 1000 (males), 250 (females) mg/kg/day based on increased plasma glucose, triglyceride levels, and alkaline phosphatase activity and inflammatory cell infiltration in the liver and necrosis of single hepatocytes in females and hyaline change in renal tubules and a very slight reduction in body weight in males. At higher dose levels in females, chronic tubular lesions in the kidneys and inflammatory cell infiltration in the adrenal cortex were observed.
870.3700a	Prenatal developmental - rat	Maternal NOAEL = 30 mg/kg/day LOAEL = 200 mg/kg/day based on decreased body weight, body weight gain, and food consumption. Developmental NOAEL = 200 mg/kg/day LOAEL = 750 mg/kg/day based on decreased fetal body weight and anincreased incidence of skeletal anomalies.
870.3700b	Prenatal developmental - rabbit	Maternal NOAEL = 50 mg/kg/day LOAEL = 150 mg/kg/day based on maternal deaths, hemorrhagic uterine contents and hemorrhagic discharge, decreased body weight and food intake during the dosing period. Developmental NOAEL = 50 mg/kg/day LOAEL = 150 mg/kg/day based on decreased fetal body weights, increased incidence of post-implantation loss and a slight increase in the incidence of a few skeletal anomalies/variations.
870.3800	Reproduction and fertility effects - rat	Parental/Systemic NOAEL = 1.84 (males), 202.06 (females)mg/kg/day LOAEL = 61.25 (males), not determined (females) mg/kg/day based on increased incidence of hyaline change in renal tubules in F0 and F1 males. Reproductive NOAEL = 0.61 (males), 202.06 (females) mg/kg/day LOAEL = 1.84 (males), not determined (females) mg/kg/day based on increased incidence and severity of tubular atrophy observed in testes of the F1 generation males. Offspring NOAEL = 61.25 (males), 79.20 (females) mg/kg/day LOAEL = 158.32 (males), 202.06 (females) mg/kg/day based on reduced body weight gain during the lactation period in all litters .
870.4100	Chronic toxicity - dog	NOAEL = 4.05 (males), 4.49 (females) mg/kg/day LOAEL = 21.0 (males), 24.6 (females) mg/kg/day based on increase in creatinine in both sexes, transient decrease in food consumption in females, and occasional increase in urea levels, decrease in ALT, and atrophy of seminiferous tubules in males.
870.4200	Carcinogenicity - mouse	NOAEL = 2.63 (males), 3.68 (females) mg/kg/day

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
		LOAEL = 63.8 (males), 87.6 (females) mg/kg/day based on hepatocyte hypertrophy, single cell necrosis, inflammatory cell infiltration, pigment deposition, foci of cellular alteration, hyperplasia of Kupffer cells and increased mitotic activity; also, an increase in the incidence of hepatocellular adenoma (both sexes). At higher doses, there was an increase in the incidence of hepatocellular adenocarcinoma (both sexes) and the number of animals with multiple tumors. evidence of carcinogenicity
870.4300	Combined chronic carcinogenicity - rat	NOAEL = 21.0 (males), 50.3 (females) mg/kg/day LOAEL = 63.0 (males), 155 (females) mg/kg/day based on increased incidence of lymphocytic infiltration of the renal pelvis and chronic nephropathy in males and decreased body weight gain, slight increase in the severity of hemosiderosis of the spleen, foci of cellular alteration in liver and chronic tubular lesions in kidney in females. no evidence of carcinogenicity
870.5100 and 870.5265	Gene mutation in *S. typhimurium* and *E. coli*	No evidence of gene mutation when tested up to 5,000 µg/plate. There was no evidence of cytotoxicity.
870.5265	Gene mutation in *S. typhimurium*	No evidence of gene mutation when tested up to 5,000 µg/plate.The S9 fraction was from non-induced mouse liver, Aroclor 1254 induced mouseliver, or thiamethoxam induced mouse liver, following dietary administration of thiamethoxam for 14 days at concentrations up to 2,500 ppm.
870.5300	Gene mutation in chinese hamster V79 cells at HGPRT locus	No evidence of gene mutation when tested up to solubility limit.
870.5375	CHO cell cytogenetics	No evidence of chromosomal aberrations when tested up tocytotoxic or solubility limit concentrations.
870.5395	*In vivo* mouse bone marrow micronucleus	Negative when tested up to levels of toxicity in whole animals;however no evidence of target cell cytotoxicity.
870.5550	UDS assay	Negative when tested up to precipitating concentrations
870.6200a	Acute neurotoxicity screening battery - rat	NOAEL = 100 mg/kg/day LOAEL = 500 mg/kg/day based on drooped palpebral closure, decrease in rectal temperature and locomotor activity and increase in forelimb grip strength (males only). At higher dose levels, mortality, abnormal body tone, ptosis, impaired respiration, tremors, longer latency to first step in the open field, crouched-over posture, gait impairment, hypo-arousal, decreased number of rears, uncoordinated landing during the righting reflex test, slight lacrimation (females only) and higher mean average input stimulus value in the auditory startle response test (males only).
870.6200b	Subchronic neurotoxicity screening battery - rat	NOAEL = 95.4 (males), 216.4 (females) mg/kg/day, both highestdose tested. LOAEL = not determined. No treatment-related observations at any dose level. LOAEL was not achieved. May not have been tested at sufficiently high dose levels; however, new study not required because the weight of the evidence from the other toxicity studies indicates no evidence of concern.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.7485	Metabolism and pharmacokinetics - rat	Absorbed rapidly and extensively, widely distributed, followed byvery rapid elimination, mostly in urine. Highest tissue concentrations in skeletal muscle: 10–15% of administered dose. Half life times from tissues ranged from 2–6 hours. Tissue residues after 7 days extremely low. Approximately 84–95% of administered dose excreted in urine and 2.5–6% excreted in feces within 24 hours. Greater than 0.2% detected in expired air. Most excreted as unchanged parent: 70–80% of dose. The major biotransformation reaction is cleavage of oxadiazine ring to corresponding nitroguanidine compound. Minor pathways: (1) cleavage of nitroguanidine group yielding guanidine derivative, (2) hydrolysis of guanidine group to corresponding urea, (3) demethylation of guanidine group, and (4) substitution of the chlorine of the thiazole ring by glutathione. Cleavage between thiazole- and oxadiazine ring occurs to a small extent. Glutathione derivatives prone to further degradation of the glutathione moiety resulting in various sulfur-containing metabolites (e.g. mercapturates, sulfides, and sulfoxides). Both the thiazole and oxadiazine moiety susceptible to oxidative attack. Small but measurable amounts exhaled, most probably as CO2. Metabolites eliminated very rapidly. Enterohepatic circulation negligible.
870.7485	Metabolism and pharmacokinetics - mouse	Approximately 72% of administered dose excreted in the urine;19% excreted in feces. Small but measurable amount detected in expired air(approximately 0.2% of dose). Predominant metabolites: unchanged parent (33–41% of administered dose; 2 other metabolites: 8–12% and 9–18% of administered dose. These are the same structures that were most commonly observed in rat excreta, however the proportions are quite different in mouse excreta. One additional significant metabolite (mouse R6) was isolated from feces samples. Between 30–60% of the administered dose was excreted as metabolites.
870.7600	Dermal penetration - rat	Estimates of dermal absorption were based on the sum ofradioactivity in skin test site, urine, feces, blood, and carcass. Percentage dermal absorption is 27.0, highest mean dermal absorption value across all groups. This value is considered to represent the potential cumulative dermal absorption of test material that might occur after a 10 hour dermal exposure. As the study design did not permit analysis of the fate of skin bound residues, residues at skin site were included in determination of dermal absorption.
Hepatic cell	proliferation study - mouse	NOAEL = 16 (males), 20 (females) mg/kg/day LOAEL = 72 (males), 87 (females) mg/kg/day based on proliferative activity of hepatocytes. At higher dose levels, increases in absolute and relative liver wts, speckled liver, hepatocellular glycogenesis/ fatty change, hepatocellular necrosis, apoptosis and pigmentation were observed.
Replicative DNA synthesis	28–day feeding study - male rat	NOAEL = 711 mg/kg/day (highest dose tested) LOAEL = not established. Immunohistochemical staining of liver sections from control and high-dose animals for proliferating cell nuclear antigen gave no indication for a treatment-related increase in the fraction of DNA synthesizing hepatocytes in S-phase. CGA 293343 did not stimulate hepatocyte cell proliferation in male rats.
Special study to assess liver biochemistry in mouse		NOAEL = 17 (males), 20 (females) mg/kg/day LOAEL = 74 (males), 92 (females) mg/kg/day based on marginal to slight increases in absolute and relative liver weights, a slight increase in the microsomal protein content of the livers, moderate increases in the cytochrome P450 content, slight to moderate increases in the activity of several microsomal enzymes, slight to moderate induction of cytosolic glutathione S-transferase activity. Treatment did not affect peroxisomal fatty acid β-oxidation.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/ UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for thiamethoxam used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR THIAMETHOXAM FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary general population including infantsand children	NOAEL = 100 mg/kg/ day; UF = 100; Acute RfD = 1 mg/kg/day	FQPA SF = 10; aPAD = acute RfD/FQPA SF = 0.1 mg/kg/day	Acute mammalian neurotoxicity study in the rat LOAEL = 500 mg/kg/day based on treatment-related neurobehavioraleffects observed in the FOB and LMA testing (drooped palpebral closure,decreased rectal temperature and locomotor activity, increased forelimbgrip strength)
Chronic Dietary all populations	NOAEL = 0.6 mg/kg/ day; UF = 100; Chronic RfD = 0.006 mg/kg/day	FQPA SF = 10; cPAD = chronic RfD/FQPA SF = 0.0006 mg/kg/ day	2-Generation reproduction study LOAEL = 1.8 mg/kg/day based on increased incidence and severity oftubular atrophy in testes of F1 generation males.
Oral Nondietary (all durations)	NOAEL = 0.6 mg/kg/ day	LOC for MOE = 1,000 (Residential)	2-Generation reproduction study LOAEL = 1.8 mg/kg/day based on increased incidence and severity of tubular atrophy in testes of F1 generation males.
Dermal (all durations) (Residential)	Oral study NOAEL= 0.6 mg/kg/day (dermal absorptionrate = 27%)	LOC for MOE = 1,000 (Residential) LOC for MOE = 100 (Occupational)	2-Generation reproduction study LOAEL = 1.8 mg/kg/day based on increased incidence and severity of tubular atrophy in testes of F1 generation males.
Inhalation (all durations) (Residential)	Oral study NOAEL = 0.6 mg/kg/day (inhalation absorption rate =100%)	LOC for MOE = 1,000 (Residential) LOC for MOE = 100 (Occupational)	2-Generation reproduction study LOAEL = 1.8 mg/kg/day based on increased incidence and severity oftubular atrophy in testes of F1 generation males.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR THIAMETHOXAM FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Cancer (oral, dermal, inhalation)	Q1* (mg/kg/day)$^{-1}$ is 3.77 x 10^{-2}	Greater than 1 x 10^{-6}	Likely carcinogen for humans based on increased incidenceof hepatocellular adenomas and carcinomas in male and female mice.Quantification of risk based on most potent unit risk: male mouse liveradenoma and/or carcinoma combined tumor rate. The upper bound estimateof unit risk, Q1* (mg/kg/day)$^{-1}$ is 3.77 x 10^{-2} in human equivalents.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.565) for the combined residues of thiamethoxam and its metabolite, in or on a variety of raw agricultural commodities. The following raw agricultural commodities have established tolerances: barley, canola, cotton, sorghum, wheat, milk, and the meat and meat byproducts of cattle, goats, horses, and sheep. Risk assessments were conducted by EPA to assess dietary exposures from thiamethoxam in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: tolerence level residues and 100% crop treated.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: percent crop treated (based on projected market shares) and anticipated residues (Tier 3).

iii. *Cancer.* The dietary exposure for determining cancer risk is based on the chronic exposure explained in the previous paragraph using the same assumptions.

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT information as follows in Table 3:

TABLE 3.—THIAMETHOXAM USES AND ESTIMATES OF PERCENT CROP TREATED

Crop	Percent Crop Treated
Tuberous and Corm Vegetables - Crop Subgroup 1 C	9
Fruiting Vegetables (Except Cucurbits - Crop Group 8	15
Cucumbers	5
Melons	13
Casabas	44
Crenshaws	44
Squash	44
Pumpkin	44
Apples	15–20
Crabapples	53
Pears	9
Quinces	53
Loquats	53

The Agency used information provided by the registrant to determine percent crop treated based on projected percent market share information. The Agency believes that the procedures used were the best available, because thiamethoxam is a new chemical and has never been used. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and regional populations.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for thiamethoxam in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of thiamethoxam.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to thiamethoxam they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models the estimated environmental concentrations (EECs) of thiamethoxam for acute exposures are estimated to be 8.0 parts per billion (ppb) for surface water and 1.94 ppb for ground water. The EECs for chronic exposures are estimated to be 0.6 ppb for surface water, and 1.94 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Thiamethoxam is not registered for use on any sites that would result in residential exposure. Although such uses have been requested, they are not being assessed at this time.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether thiamethoxam has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, thiamethoxam does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that thiamethoxam has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children*—i. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* The developmental toxicity studies indicated no quantitative or qualitative evidence of increased susceptibility of rat or rabbit fetus to *in utero* exposure based on the fact that the developmental NOAELs are either higher than or equal to the maternal NOAELs. However, the reproductive studies indicate effects in male rats in the form of increased incidence and severity of testicular tubular atrophy. These data are considered to be evidence of increased quantitative susceptibility for male pups when compared to the parents.

iii. *Conclusion.* Based on: (a) effects on endocrine organs observed across species; (b) the significant decrease in alanine amino transferase levels in the companion animal studies and in the dog studies; (c) the mode of action of this chemical in insects (interferes with the nicotinic acetyl choline receptors of the insect's nervous system) thus a developmental neurotoxicity study is required; (d) the transient clinical signs of neurotoxicity in several studies across species; and (e) the suggestive evidence of increased quantitative susceptibility in the rat reproduction study, the Agency is retaining the FQPA factor which is 10X.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency

calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, the Office of Pesticide Programs (OPP) concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to thiamethoxam will occupy 3% of the aPAD for the U.S. population, 2% of the aPAD for females 13–50 years old, 8% of the aPAD for all infants less than 1 year old and 7% of the aPAD for children 1–6 years old. In addition, there is potential for acute dietary exposure to thiamethoxam in drinking water. The surface water EEC is 8.0 µg/L and the ground water EEC is 1.94 µg/L. Since the surface water value is greater than the ground water value, the surface water value will be used for comparison purposes and will protect for any concerns for ground water concentrations. After calculating DWLOCs and comparing them to the EECs for surface water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO THIAMETHOXAM

Population Subgroup[a]	aPAD(mg/kg)	%aPAD (Food)	Surface Water DWEC (ppb)	Ground Water DWEC(ppb)	Acute DWLOC (ppb)[b]
U.S. General Population	0.1	3	8	1.94	3,400
All infants (< 1 year)	0.1	8	8	1.94	920
Children (1–6 years)	0.1	7	8	1.94	930
Children (7–12 years)	0.1	4	8	1.94	960
Females (13–50 years)	0.1	2	8	1.94	2,900

[a]Population subgroups shown include the U.S. general population and the maximally exposed subpopulation of adults, infants and children, and women of child-bearing age for each exposure scenario.
[b]DWLOC = Maximum Water Exposure (mg/kg/day) — 1,000 µg/mg — body weight (70 kg general population/males 13+, 60 kg females 13+, 10 kg infants and children) ÷ Water Consumption (2 L/day adults, 1 L/day infants and children). Maximum water exposure = aPAD - dietary exposure (mg/kg/day)

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to thiamethoxam from food will utilize 5% of the cPAD for the U.S. population, 13% of the cPAD for all infants < 1 year old and 13% of the cPAD for children 1–6 years old. Proposed residential uses are not being addressed in this risk assessment. In addition to chronic dietary exposure, there is potential for chronic dietary exposure to thiamethoxam in drinking water. The surface water EEC is 0.6 µg/L and the groundwater EEC is 1.94 µg/L. Since the groundwater value is greater than the surface water value, the groundwater value will be used for comparison purposes and will protect for any concerns for surface water concentrations. After calculating the DWLOCs and comparing them to the EECs for groundwater, EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO THIAMETHOXAM

Population Subgroup	cPAD mg/kg/day	cPAD (Food)	Surface Water DWEC (ppb)	Ground Water DWEC (ppb)	DWLOC (ppb)
U.S. Population	0.0006	5	0.6	1.94	20
All infants (< 1 year)	0.0006	13	0.6	1.94	5.2
Children (1–6 years)	0.0006	13	0.6	1.94	5.2
Children (7–12 years)	0.0006	7	0.6	1.94	5.6
Females (13–50 years)	0.0006	3	0.6	1.94	17

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiamethoxam is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiamethoxam is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* The cancer aggregate dietary risk estimate was calculated in two ways, one using the Agency's 20% estimated market share for apples and the other using a 5% estimated market share for apples (as indicated by the registrant). The dietary (food only) cancer risk is either 1.0×10^{-6} or 0.70×10^{-6} with the 20% or 5% estimated market share for apples, respectively. With the 20% market share, it is not possible to estimate a DWLOC for cancer based on an assumed negligible risk value of 1.0×10^{-6}. Using the latter with 5% market share for apples, the DWLOC is extremely low (0.23 ppb). Therefore, for risk management purposes, an assumed negligible risk value of 3.0×10^{-6} will be used to estimate the DWLOC for cancer. The DWLOC for cancer aggregate risk (no residential uses) is calculated using the following equations:

$DWLOC_{cancer}(\mu g/L)$ = chronic water exposure(mg/kg/day) x (body weight (kg))/ consumption (L) x 10^{-3} mg/µg

chronic water exposure (mg/kg/day)=negligible risk/Q* - chronic food exposure(mg/kg/day)

Assuming a risk value of 3×10^{-6}, (which is generally considered to be within the range of 10^{-6}, the risk value considered to represent a negligible cancer risk), for the 20% market share for apples, the chronic water exposure value is estimated to be:

$3 \times 10^{-6}/3.77 \times 10^{-2} - 0.000027 = 0.0000525$ mg/kg/day

The $DWLOC_{cancer}$ = 0.0000525 mg/kg/day x 70 kg/2L x 10^{-3} mg/µg = 1.8 µg/L

Using the same equation, for the 5% estimated market share for apples, the $DWLOC_{cancer}$ = 2.1 µg/L.

The surface water EEC is 0.6 µg/L and the ground water EEC is 1.94 µg/L. Since the ground water value is greater than the surface water value it will be used for comparison purposes and will protect for any concerns for surface water concentrations. The estimated chronic ground water value for thiamethoxam (1.94 µg/L) is greater than the $DWLOC_{cancer}$ for the general population using the 20% market share for apples. Using the 5% market share, the $DWLOC_{cancer}$ is less than the Agency's level of concern.

The Agency used a screening level model designed to estimate pesticide concentrations in shallow groundwater. Although the 20% market share for apples results in EECs that are marginally above the $DWLOC_{cancer}$, a number of factors lead EPA to believe that the actual lifetime exposure through drinking water will be less than the $DWLOC_{cancer}$. These reasons are as follows:

i. Thiamethoxam is systemic. EPA's Tier 1 groundwater model assumes that all of the product that is applied to the crop is available for runoff. The registrant has submitted data to show that a percentage (15–25%) of the product is absorbed by the plant, resulting in that much less product available to leach into groundwater. Although the registrant has submitted data on only 2 crops, beans and cucumbers, it is likely that the total amount of thiamethoxam that is available to leach into groundwater is less than the amount EPA uses as an input into its model. Due to a limited data on the amount absorbed, EPA is unable to quantify this.

ii. Although the Agency model is based on aerobic soil half lives, EPA's risk assessment for cancer estimate is for lifetime exposure. Data indicate the anaerobic aquatic half life for thiamethoxam is shorter than the aerobic soil half life and longer than the aerobic aquatic half life. Although EPA is unable to predict with a high degree of certainty about what happens to thiamethoxam over time in groundwater, this does provide some support for an expectation that concentrations in groundwater will decline between annual applications.

iii. Shallow groundwater modeling is not the perfect model for representing all drinking water from ground water sources. It is likely to be an overestimate of most drinking water, which tends to originate from deeper sources. EPA's experience is that the model is reasonably accurate for shallow drinking water, but the Agency believes that it is less accurate for drinking water from deeper sources.

iv. Currently there is no exposure to thiamethoxam through drinking water. The Agency is establishing conditions of registration for the subject uses of this document which will include two prospective ground water studies and a retrospective monitoring study, so that the reasonable certainty of no harm finding will be sustained.

v. The cancer risk from the food uses alone is 1.0×10^{-6}. The dietary risk is based on residue data derived from the average of field trials, which were performed at a higher applied on rate than were accepted by the EPA. It is not unusual in the Agency's experience for field trial data to be an order of magnitude above actual monitoring. Since thiamethoxam is not registered (for uses other than very recently registered seed treatments), actual monitoring data is not available. It is likely that the actual risk contribution from food will be much lower than current data indicate, which would result in a larger $DWLOC_{cancer}$. EPA expects that this refined $DWLOC_{cancer}$ would be larger than the EECs for the proposed uses.

Thus, EPA does not expect that the general population would be exposed to levels exceeding the $DWLOC_{cancer}$ over a lifetime.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to thiamethoxam residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (HPLC/UV or MS) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no international residue limits for thiamethoxam.

C. Conditions

Registration of the proposed uses will include the requirement for two prospective groundwater studies, as well as monitoring of drinking water in a number of states selected for high cropping density and vulnerable soils.

V. Conclusion

Therefore, the tolerances are established for combined residues of

thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4H-1,3,5-oxadiazin-4-imine) and its metabolite (*N*-(2-chloro-thiazol-5-ylmethyl)-*N'*methyl-*N''*-nitro-guanidine, in or on tuberous and corm vegetables crop subgroup at 0.02 ppm, fruiting vegetables crop group at 0.25 ppm, tomato paste at 0.80 ppm, cucurbit vegetables crop group at 0.20 ppm, and pome fruits crop group at 0.20 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301132 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 23, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301132, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Policies that have tribal implications is defined in the Executive Order to include regulations that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:May 14, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.565 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.565 Thiamethoxam; tolerances for resdues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Cucurbit Vegetables Crop Group	0.2
Fruiting Vegetables Crop Group	0.25
* * * * *	
Pome Fruit Crop Group	0.2
* * * * *	
Tomato Paste	0.80
Tuberous and Corm Vegetables Crop Subgroup	0.02
* * * * *	

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[FR Doc. 01–12899 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL–6983–2]

Wisconsin: Clarification of Codification of Approved State Hazardous Waste Program for Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clarification.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended, the Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 of the Code of Federal Regulations (40 CFR part 272) to codify its authorization of State programs. Through codification the authorized elements of approved State programs are placed in the Code of Federal Regulations (CFR). The codification of State programs is designed to enhance the public's ability to discern the current status of the approved State program and to better alert the public to the specific State regulations that the Federal government can enforce if necessary. The purpose of today's **Federal Register** document is to clarify EPA's codification of Wisconsin's authorized hazardous waste program.

FOR FURTHER INFORMATION CONTACT: Denise Reape, U.S. EPA Region 5, Waste Pesticides and Toxics Division, Program Management Branch (DM–7J), 77 W. Jackson Blvd., Chicago, IL 60604, Phone (312) 353–7925.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This document clarifies certain requirements of the authorized RCRA program in the State of Wisconsin and, therefore, may be of particular interest to persons who generate, treat, store, dispose of, or otherwise handle hazardous waste in the State of Wisconsin.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

Electronically. You may obtain electronic copies of this document by going to the listings from the EPA Internet Home Page at http://www.epa.gov/. To access this

document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. If you have any questions regarding the information in this notice or want copies of any other related documents, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. Background

A. What is Authorization?

When a state is authorized to administer the RCRA program, EPA has made a determination that the state's authorized program is equivalent to the federal program. Thereafter the state's authorized laws and regulations apply in the state in lieu of the equivalent federal program regulations. (See RCRA section 3006(b) and (c)). Authorized States are required to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Authorization revision applications generally consist of a copy of the State regulations, a revised Attorney General's (AG) statement, a revised Program Description, a revised Memorandum of Agreement (MOA), or other documents EPA determines to be necessary (see 40 CFR 271.21(b)(1)). EPA maintains authority to bring enforcement action in authorized States under RCRA sections 3008, 3013, and 7003.

B. Why does EPA Codify Authorized Programs?

EPA codifies authorized State programs through incorporating the authorized state law in the Code of Federal Regulations, to better place regulated entities and members of the public on notice of the requirements pertaining to the generation and management of hazardous waste in a particular State. EPA incorporates by reference only the substantive authorized rules because the federal government uses its own enforcement authorities when bringing actions for alleged violations of the authorized state RCRA program. 40 CFR part 272 has been reserved for codification of approved State RCRA programs.

C. Wisconsin

1. What is the Authorization and Codification History for Wisconsin?

Wisconsin initially received Final Authorization on January 31, 1986 (51 FR 3783, January 30, 1986) to implement its base hazardous waste management program. Wisconsin received authorization for revisions to its program on June 6, 1989 (54 FR 22278, May 23, 1989), January 22, 1990 (54 FR 48243, November 22, 1989), April 24, 1992 (57 FR 15029, April 24, 1992), August 2, 1993 (58 FR 31344, June 2, 1993), October 4, 1994 (59 FR 39971, August 5, 1994) and October 4, 1999 (64 FR 42602, August 5, 1999). EPA uses 40 CFR 272.2501 for codification of decisions to authorize Wisconsin's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA codified Wisconsin's authorized program on April 24, 1989 (54 FR 7422, February 21, 1989), May 29, 1990 (55 FR 11910, March 30, 1990), and November 22, 1993 (58 FR 49199).

2. Which Notices and Requirements are Being Clarified?

In the following authorization and codification documents, EPA included references to a state variance authority which allows the Wisconsin Department of Natural Resources (WDNR) to issue variances from hazardous waste licensing requirements in cases of "undue or unreasonable hardship:"

Effective date	FR cite	This document clarifies references to
April 24, 1989	54 FR 7422, February 21, 1989, at 7424	Wis. Stat. 144.64(3) and WAC NR 181.55(10).
May 29, 1990	55 FR 11910, March 30, 1990, at 11911	WAC NR 181.55(10).
August 2, 1993	58 FR 31344, June 2, 1993, at 31344	WAC NR 181.55(10).
November 22, 1993	58 FR 49199, November 22, 1993, at 49200	Wis. Stat. 144.64(3) and WAC NR 680.50.
October 4, 1999	64 FR 42602, August 5, 1999, at 42607	Wis. Stat. 144.64(3) and 291.31.

There is no analogous Federal variance authority. The purpose of this document is to clarify the limited circumstances under which the State may use this authority to vary an authorized RCRA requirement.

The Wisconsin legislature enacted the State hardship variance in 1978 and the WDNR adopted implementing administrative rules in 1981. Both the statutory and administrative provisions have been amended and renumbered over time; however, at all times relevant to this clarification document the hardship variance authority has been codified in State law at section 144.64(3) or section 291.31 of the Wisconsin Statutes and section NR 181.55(10) or section NR 680.50 of the Wisconsin Administrative Code. Consequently, this document clarifies all references to those specific state statutory and regulatory provisions in the authorization and codification of Wisconsin's hazardous waste program.

3. What is the Clarification?

In the **Federal Register** documents listed above, EPA included reference to section 144.64(3) or section 291.31 of the Wisconsin Statutes and section NR 181.55(10) or section NR 680.50 of the Wisconsin Administrative Code without explaining that the use of these authorities to waive authorized RCRA rules is generally limited to granting variances from the surface impoundment double liner requirements of section 3005(j)(2) through (9) and (13) of RCRA [1] or when the State varies authorized State requirements that are more stringent than current Federal requirements imposing instead the same standards as the less stringent Federal requirements. For example, EPA may promulgate less stringent amendments to Federal rules while the States, because of a temporary lag in authorization, remain authorized for the pre-existing more stringent rules.

[1] Unlike the Federal RCRA program, Wisconsin's hazardous waste requirements do not include a specific waiver for the double liner requirements for RCRA regulated surface impoundments. Instead, the Wisconsin Attorney General, in a statement supporting State authorization, referenced the State hardship waiver as State authority to grant such waivers. EPA is unaware of any instance wherein Wisconsin has granted a waiver from the double liner requirements for surface impoundments.

States may use State waiver authorities to relax authorized State rules to the extent those rules are more stringent than analogous Federal rules (See, for example, 63 FR 65874 at 65925 (November 30, 1998)).

In addition, if a State authorized to implement the RCRA program has a permit waiver authority that is analogous to EPA's authority under section 121(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or RCRA section 7003, it may use this authority to waive the requirement to obtain a RCRA permit with respect to on-site response actions. As explained in EPA guidance, the two preconditions to allowing the use of this authority are that: "(1) The State has the authority under its own statutes or regulations to grant permit waivers; and (2) the State waiver authority is used in no less stringent a manner than allowed under Federal permit waiver authority, for example, section 7003 of RCRA or section 121(e) of CERCLA." (See the Memorandum, "RCRA Permit Requirements for State Superfund Actions", from J. Winston Porter to Regional Administrators, Region I–X (Nov. 16, 1987) (OSWER Dir. No. 9522.00–2).) Nothing in this clarification document changes or affects this policy in any way.

4. Summary

The references in 40 CFR 272.2501 and appendix A to part 272 to sections 144.64(3) and 291.31 of the Wisconsin Statutes and sections NR 181.55(10) and 680.50 of the Wisconsin Administrative Code provide notice that the State, as part of the authorized program, may use this authority only: (1) to grant variances from the surface impoundment double liner requirements of RCRA in those cases wherein the facility meets all of the requirements of RCRA section 3005(j); (2) to grant variances from more stringent authorized requirements that impose instead the same standards as the less stringent federal requirement; and (3) in the manner consistent with sections 7003 of RCRA or 121(e) of CERCLA, as described in applicable EPA guidance. Use of the State hardship variance authority with respect to any other authorized RCRA requirements is not part of the RCRA approved State program. Of course, States retain authority to waive or vary those State requirements that are broader in scope than, and therefore not part of, the Federal RCRA program. Therefore, with certain limited exceptions discussed herein, a State hardship variance cannot excuse compliance with RCRA program requirements. Persons who fail to comply with RCRA program requirements are subject to Federal enforcement under sections 3008, 3013, and 7003 of RCRA.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–12894 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1221, MM Docket No. 01–45, RM–9997]

Digital Television Broadcast Service; Mountain View, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Arkansas Educational Television Commission, licensee of noncommercial educational station KEMB(TV), substitutes DTV channel *13 for DTV channel *35 at Mountain View, Arkansas. *See* 66 FR 12748, February 28, 2001. DTV channel *13 can be allotted to Mountain View in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (35–48–47 N. and 92–17–24 W.) with a power of 20.0, HAAT of 425 meters and with a DTV service population of 337 thousand. With this action, this proceeding is terminated.

DATES: Effective July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–45, adopted May 16, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR Part 73—[Amended]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Arkansas, is amended by removing DTV channel *35 and adding DTV channel *13 at Mountain View.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–12991 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1222, MM Docket No. 01–29, RM–10044]

Digital Television Broadcast Service; Butte, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Eagle Communications, Inc., licensee of station KTVM(TV), substitutes DTV channel 33 for DTV channel 2 at Butte, Montana. *See* 66 FR 9062, February 6, 2001. DTV channel 33 can be allotted to Butte in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (46–00–27 N. and 112–26–30 W.) with a power of 1000, HAAT of 576 meters and with a DTV service population of 122 thousand. Since Butte is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–29,

adopted May 16, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR Part 73—[Amended]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Montana, is amended by removing DTV channel 2 and adding DTV channel 33 at Butte.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–12990 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1220, MM Docket No. 01–41, RM–10058]

Digital Television Broadcast Service; Merced, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Sainte 51, L.P., permittee of station KNSO(TV), substitutes DTV channel 5 for DTV channel 38 at Merced, California. *See* 66 FR 10982, February 21, 2001. DTV channel 5 can be allotted to Merced in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (37–04–18 N. and 119–25–53 W.) with a power of 12.9, HAAT of 532 meters and with a DTV service population of 1452 thousand. With this action, this proceeding is terminated.

DATES: Effective July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–41, adopted May 16, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR Part 73—[Amended]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California, is amended by removing DTV channel 38 and adding DTV channel 5 at Merced.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–12992 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket No. OST–1999–6578]

Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Early Compliance Allowed for Electronic Reporting

AGENCY: Office of the Secretary, DOT.

ACTION: Compliance date on final rule.

SUMMARY: In its final drug and alcohol testing rule published on December 19, 2000, and effective August 1, 2001, the Department authorized laboratories, certified by the Department of Health and Human Services (HHS), to report negative drug testing results to medical review officers (MRO) using only electronic reports and mandated the use of the new Federal Drug Testing Custody and Custody Form (CCF). To provide laboratories lead-time to accomplish the transition to the new CCF, the Department, in coordination with HHS, has determined that earlier compliance with this reporting procedure should be permitted. Additionally, the Department is also permitting early compliance with the reporting of all non-negative results to the MRO using faxed or scanned copies of the laboratory copy of the new CCF.

This document authorizes HHS certified laboratories to initiate electronic reporting as the only reporting necessary for negative results on specimens submitted to laboratories using the new CCF and the reporting of non-negative results using faxed or scanned copies of Copy 1 of the new CCF. Laboratories may continue to use current procedures utilizing mail or courier services.

DATES: This document permits as of May 23, 2001 early compliance with the electronic reporting provisions in the final rule published at 65 FR 79462, and effective August 1, 2001.

FOR FURTHER INFORMATION CONTACT: Don Shatinsky, Drug and Alcohol Policy Advisor, Office of Drug and Alcohol Policy and Compliance, Department of Transportation, 400 7th Street, SW., Room 10403, Washington, DC 20590, at (202) 366–3784 (voice), (202) 366–3897 (fax), or don.shatinsky@ost.dot.gov/.

SUPPLEMENTARY INFORMATION: In the December 19, 2000, **Federal Register** (65 FR 79462), the Department published a comprehensive revision to its drug and alcohol procedures testing regulation (49 CFR Part 40). This complete revision becomes effective August 1, 2001. In this revision, the Department authorizes laboratories to report drug testing results to the MRO electronically and mandates use of the new shorter-version of the Federal Drug Testing Custody and Control Form (CCF).

Currently, the Department and HHS permit laboratories and employers to use the new CCF. The laboratory may transmit all results (negative and non-negative) to the MRO by mail or courier or by either faxing the completed laboratory copy (Copy 1) of the CCF or transmitting a scanned image of the form via computer. On August 1, 2001, for all negative results, laboratories will be permitted to send to MROs an electronically generated laboratory report and will not need to mail, courier, fax or send a scanned copy,

thus initiating substantial savings related to processing paper records.

Additionally, since all laboratories and employers must use the new shorter form as of August 1, 2001, HHS has directed laboratories to treat submission of specimens for drug testing using the older (seven-part) form as a correctable flaw which the laboratory must correct using a memorandum for record from the collection site. Laboratories have indicated to HHS and the Department that without a transition period to change over to the new forms and without gradual phasing in of electronic reporting, they foresee substantial implementation problems. From previous experiences, laboratories have learned that collection sites are reluctant to destroy old forms and continue to use them until they deplete their supply. Without a phase-in period, laboratories are concerned that the continued use of old forms after August 1, will create a substantial paper burden. Also, the new forms were designed specifically to be used with the electronic reporting process. Until this reporting process is in place, there is little motivation to initiate the use of the new forms.

The Department is convinced that authorizing the laboratories and employers to initiate the use of electronic reporting (as provided in the new § 40.97) a few months earlier would have a beneficial impact on the industry. Through this document, the Department consents to laboratories using the procedures provided in the new rule before August 1, 2001. Laboratories are not required to use electronic reporting, however.

Issued this 10th day of May 2001, at Washington, DC.

Kenneth C. Edgell,

Acting Director, Office of Drug and Alcohol, Policy and Compliance.

[FR Doc. 01–12484 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–62–P

Proposed Rules

Federal Register
Vol. 66, No. 100
Wednesday, May 23, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–397–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B16 (including CL–601–3A and CL–601–3R) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B16 series airplanes. This proposal would require modification of the wiring for the internal fuel/defuel panel. This action is necessary to prevent the loss of engine and fuel indications essential for safe flight and landing. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 22, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000-NM–397-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–397–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: James E. Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2000–NM–397–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–397–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B16 series airplanes. TCCA advises of an incident in which the flight crew lost all readouts for the engine and fuel quantity systems in the cockpit of an airplane that had been modified with an internal fuel/defuel panel. The cockpit engine and fuel quantity systems for this configuration are powered from a single source, bypassing the dual power source of the original installation. During the incident, the fuel/defuel panel was left energized following refueling, the circuit breaker for the single power source tripped, and the engine and fuel quantity indications were subsequently lost and could not be recovered. These conditions, if not corrected, could result in the loss of data essential for safe flight and landing.

Explanation of Relevant Service Information

Bombardier has issued Service Bulletin S.B. GEN–28–010, Revision A, dated May 15, 2000, which describes procedures for modifying the wiring for the internal fuel/defuel panel. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2000–24, dated August 15, 2000, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 18 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 60 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of labor and replacement parts. As a result, those costs are not attributable to this proposed AD.

The cost impact discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Bombardier, Inc. (Formerly Canadair): Docket 2000–NM–397–AD.

Applicability: Model CL–600–2B16 (including CL–601–3A and CL–601–3R) series airplanes, certificated in any category, as listed in the following table:

TABLE 1.—APPLICABILITY

Serial Number	Transport Canada Limited Supplemental Type Certificate (STC)	FAA STC
5064	SA90–128	ST00873NY
5075	SA91–22	SA851NE
5080	SA91–42	SA850NE
5092	Q–LSA91–52/D	SA965NE/ST00470NY
5096	Q–LSA91–52/D	SA965NE
5102	Q–LSA92–2/D	ST00364NY
5111	Q–LSA92–1011/D	SA1029NE
5123	Q–LSA93–1002/D	ST00001NY
5125	Q–LSA93–1007/D	No record of FAA STC
5130	Q–LSA93–1023/D	ST00049NY
5139	Q–LSA94–1002/D	ST00086NY
5142	Q–LSA94–1011/D	ST00216NY
5154	Q–LSA94–1023/D	ST00273NY
5156	Q–LSA94–1025/D	ST00423NY
5159	Q–LSA95–1002/D	ST01228NY
5162	Q–LSA95–1003/D	No record of FAA STC
5183	Q–LSA95–1011/D	ST00343NY
5194	Q–LSA96–1006/D	ST00769NY

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of engine and fuel indications essential for safe flight and landing, accomplish the following:

Modification

(a) Within 6 months after the effective date of this AD, modify the wiring for the internal fuel/defuel panel, in accordance with Bombardier Service Bulletin S.B. GEN–28–010, Revision A, dated May 15, 2000.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2000–24, dated August 15, 2000.

Issued in Renton, Washington, on May 17, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12988 Filed 5–22–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

15 CFR Part 303

[Docket No. 991228350–1118–02]

RIN: 0625–AA57

Office of Insular Affairs; Proposed Changes in the Insular Possessions Watch, Watch Movement and Jewelry Program

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Departments propose amending their regulations governing watch duty-exemption allocations and the watch and jewelry duty-refund benefits for producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands). The proposed rule would amend ITA regulations by further clarifying the range of documents that may be needed for verification of duty-free shipments of jewelry into the United States and by clarifying which wages qualify as creditable and which do not for purposes of calculating the duty-refund for watches and jewelry. We also propose amending the regulations by making minor editorial changes within the definition of *new firm* for watches. Finally, we propose amending the duty refund process by dividing the amount of the annual duty refund certificate into two installments. These amendments are being proposed to make grammatical changes, clarify a portion of the regulations, update methods of documentation and help producers receive benefits in a more timely fashion.

DATES: Written comments must be received on or before June 22, 2001.

ADDRESSES: Address written comments to Faye Robinson, Acting Director, Statutory Import Programs Staff, Room 4211, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526, same address as above.

SUPPLEMENTARY INFORMATION: The insular possessions watch industry provision in section 110 of Pub. L. No. 97–446 (96 Stat. 2331) (1983), as amended by section 602 of Pub. L. No. 103–465 (108 Stat. 4991) (1994); additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule of the United States ("HTSUS"), as amended by Pub. L. 94–241 (90 Stat. 263) (1976) requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands ("CNMI"). After the Departments have verified the data submitted on the annual application (Form ITA–334P), the producers' duty-exemption allocations are calculated from the territorial share in accordance with 15 CFR 303.14 and each producer is issued a duty-exemption license. The law further requires the Secretaries to issue duty-refund certificates to each territorial watch and watch movement producer based on the company's duty-free shipments and creditable wages paid during the previous calendar year.

Pub. L. 106–36 (113 Stat. 127) (1999) authorizes the issuance of a duty-refund certificate to each territorial jewelry producer for any article of jewelry provided for in heading 7113 of the HTSUS which is the product of any such territory. The value of the certificate is based on creditable wages paid and duty-free units shipped into the United States during the previous calendar year. Although the law specifically mentions the U.S. Virgin Islands, Guam and American Samoa, the issuance of the duty-refund certificate would also apply to the CNMI due to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94–241), which states that goods from the CNMI are entitled to the same tariff treatment as imports from Guam. *See also* 19 CFR 7.2(a). The law provides that during the first two years, beginning August 9, 1999, jewelry that is assembled in the territories shall be treated as a product of such territories. Thereafter, in order to be considered a product of such territories, the jewelry must meet the U.S. Customs Service substantial transformation requirements (the jewelry must become a new and different article of commerce as a result of production or manufacture performed in the territory). To receive duty-free treatment, the jewelry must also satisfy the requirements of General Note 3(a)(iv) of the HTSUS and applicable Customs Regulations (19 CFR 7.3).

The law specifies, in addition, that watch producer benefits shall not be diminished as a consequence of extending duty-refund benefits to jewelry manufacturers. In the event that the aggregate amount of the calculated duty refunds for both watches and jewelry exceeds the total amount available under Pub. L. 97–446, as amended by Pub. L. 103–465, the watch producers shall receive their calculated amounts; the jewelry producers would then receive amounts proportionately reduced from the remainder. *See* Pub. L. 106–36.

Proposed Amendments

We propose amending Subpart A § 303.2(a)(5), *see* 65 FR 8049 (Feb. 17, 2000), by making grammatical changes.

We also propose amending Subpart A § 303.2(a)(13) and Subpart B § 303.16(a)(9) to explain further what is meant by special services under the definition of wages excluded from being

creditable towards the duty-refund in response to requests for additional clarification of this language. The new language on wages not creditable towards the duty refund would include wages paid to any outside consultant or those persons not involved in the day to day assembly operations or administrative work directly related to the operation of the company. Examples of wages that would not be creditable toward the duty refund would be wages paid to gardeners, construction workers, electricians, plumbers or outside lawyers and accountants. A producer also wanted to know if two producers worked on the same single piece of jewelry, would each producer's wages for their portion of the work be creditable towards each producer's duty refund. The jewelry producer explained that the casting of precious metal is a highly technical process which is very capital intensive and expensive to set up. The producer explained that it would be very helpful if some companies could subcontract such work to a producer who was willing to make the capital investment. The producer also pointed out that having a local caster available would be an added inducement to other jewelry companies to locate in the insular possessions. We agree that given this unique two-step manufacturing process in the production of jewelry, that this request has merit. Therefore, we propose including specific language to address this situation. The proposed regulatory language would allow two separate jewelry producers to have their portion of the wages credited toward their own duty refund for work on a single piece of jewelry which had entered the U.S. free of duty under the program if the companies demonstrate that they worked on the same piece of jewelry, the jewelry received duty-free treatment into the U.S., the companies maintained production and payroll records for dutiable as well as duty-free jewelry shipments into the U.S. or other destinations so that creditable as well as non-creditable wages may be determined, and the records are sufficient for the Departments' verification of the creditable wages and duty-free units shipped into the United States.

We further propose adding alternative documents which may be needed or used during the verification of the amount of duty-free jewelry which entered the United States under the insular program. New shipping methods and the fact that jewelry, unlike watches, does not require a permit (Form ITA–340P), necessitate new ways to document duty-free entry into the United States. Therefore, we propose amending Subpart B § 303.17(b)(4) to include methods of verification such as requiring the consignee (receiver of goods in the U.S.) to certify that shipments which are otherwise unsupported by Customs entry documents or a certificate of origin did, in fact, receive duty-free treatment. These alternative reporting requirements are necessary in order to provide the Departments' auditors with sufficient documentation to verify duty-free shipments.

Finally, we propose amending Subpart A, § 303.2(b)(1) and § 303.12(a), and Subpart B, § 303.16(b)(1) and § 303.19(a)(1) by providing for the issuance of an interim duty refund certificate which would authorize a producer to receive a portion of the total amount of the annual duty refund certificate. The interim amount would be based on reported duty-free shipments and creditable wages paid during the first six months of the same calendar year in which the wages were paid. The interim duty refund certificate would be issued after the required company data were received and the calculations for each company are completed. We propose requiring the receipt of each producer's data by the end of July if the producer wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued by the end of August to all producers who have provided the Departments with the data necessary to calculate the duty refund by the end of July. The verification process and the calculation for the annual duty refund certificate will remain the same. However, that portion of the duty refund that has already been issued via the interim duty free certificate to each producer will be deducted from each producer's annual total duty refund amount. This amendment is being proposed to provide duty refund benefits to producers in a more timely fashion.

Administrative Law Requirements

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule, if promulgated as final, will not have a significant economic impact on a substantial number of small entities. This rulemaking would make minor editorial changes and clarify current language regarding creditable wages neither of which will impose any cost or have any other adverse economic effect on the producers. The rulemaking would also divide the total annual amount of the duty refund certificate into two installments, thereby allowing producers to receive benefits in a more timely fashion. Although the total amount of a duty refund certificate will not change, the proposed rule is intended to have a positive effect on the insular economies by helping the producers improve their cash flows. Finally, the proposed rulemaking would include an alternative method of verification of duty-free shipments of jewelry into the United States for those entries that did not receive Customs entry documents or a certificate of origin for each shipment. If producers want credit for these duty-free shipments, once a year the consignee (receiver of the jewelry shipped into the United States) or producer (if the producer knows that the shipment received duty-free entry into the United States) would prepare a written certification for the Departments' auditors that the shipments received duty-free treatment into the United States. Proposing such a certification is expected to have little, if any, economic impact on a company that did not receive Customs entry documentation. We estimate the certification statement, if used, would create a burden of about ten minutes to complete at a cost of approximately $20 annually.

Paperwork Reduction Act

This proposed rulemaking involves new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, which have been submitted to OMB for approval. Changing the duty refund certificate from an annual to a biannual basis will require the use of three of the current forms, modified to accommodate the change. The public reporting burden for these collection-of-information requirements includes the time for reviewing instructions, searching existing data bases, gathering and maintaining the data needed, and completing and reviewing the collection of information. The issuance of payments under the duty refund certificate on a biannual basis will require the collection of data through the use of a modified version of the annual application, Form ITA–334P. We estimate this will involve a burden of about one hour per producer. One more certificate of entitlement to a duty refund, Form ITA–360P, would also need to be issued to each producer per

year. This form is completed by the Department of Commerce and imposes no burden hours on the producers. Form ITA–361P, the request for refund of duties, is currently used once or twice a year per producer and takes about 10 minutes to complete. Because of the proposed biannual duty refund, we anticipate that most producers would only complete the form between two to three times a year in order to receive such refunds in a more timely manner. We expect Form ITA–361P will only increase the burden by about 10 minutes per producer. Finally, the proposed rulemaking would include an alternative method of verification of the duty-free shipments of jewelry into the United States for those entries that did not receive Customs entry documents or the country of origin certificates for each shipment. This alternative would be in the form of a written certification by the consignee or, if he or she knows, by the producer, that the shipments received duty-free treatment. Because the jewelry portion of the program is new, it is difficult at this time to determine whether this alternative certification will be needed by the new companies or whether they will be able to produce standard Customs entry documents or certificates of origin. The certification by the consignee or producer would be in the form of an annual statement prepared for the auditor. We estimate that it will take about ten minutes to complete at a cost of approximately $20. Collection activities are currently approved by the Office of Management and Budget under control numbers 0625–0040 and 0625–0134. Public comment is sought regarding: Whether the proposed collection-of-information requirements are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including the use of automated collection techniques or other forms of information technology. Send comments regarding any of these burden estimates or any other aspect of the collection-of-information to U.S. Department of Commerce, ITA Information Officer, Washington, DC 20230 and Office of Information and Regulations Officer, Office of Management and Budget, Washington, DC 20503 (Att: OMB Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

Plain English

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

Executive Order 12866

It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, The Departments propose to amend 15 CFR part 303 as follows:

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAM

1. The authority citation for 15 CFR part 303 continues to read as follows:

Authority: Pub. L. 97–446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103–465, 108 Stat. 4991; Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106–36, 113 Stat.127,167.

2. Section 303.2 is amended as follows:

A. The first sentence of § 303.2(a)(5) is amended by removing "which may not be" and adding in its place "not".

B. The second sentence of § 303.2(a)(13) is revised as set forth below.

C. The last sentence of § 303.2(b)(1) is amended by adding "and by producers who wish to receive the duty refund in installments on a biannual basis" at the end of the sentence.

§ 303.2 Definitions and forms.

(a) * * *

(13) * * * Excluded, however, are wages paid to any outside consultants or other professional personnel, such as lawyers and accountants, or to those persons not involved in the day-to-day assembly operations or administrative work directly related to the operations of the company, such as gardeners or construction workers, and for the repair of non-91/5 watches and movements to the extent that such wages exceed the foregoing percentage. * * *

* * * * *

3. Section 303.12(a)(1) is revised to read as follows:

§ 303.12 Issuance and use of production incentive certificates.

(a) *Issuance of certificates.* (1) The total annual amount of the Certificate of Entitlement, Form ITA–360, may be divided and issued on a biannual basis. The first portion of the total annual certificate amount will be based on reported duty-free shipments and creditable wages paid during the first six months of the calendar year, using the formula in § 303.14(c). The Departments require the receipt of the data by July 31 for each producer who wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued on or before August 31 of the same calendar year in which the wages were earned unless the Departments have unresolved questions. The process of determining the total annual amount of the duty refund will remain the same. The completed annual application (Form ITA–334P) shall be received by the Departments on or before January 31 and the annual verification of data and the calculation of each producer's total annual duty refund, based on the verified data, will continue to take place in February. Once the calculations for each producer's duty refund has been completed, the portion of the duty refund that has already been issued to each producer will be deducted from the total amount of each producer's annual duty refund amount. The duty refund certificate will continue to be issued by March 1 unless the Departments have unresolved questions.

* * * * *

4. Section 303.16 is amended as follows:

A. The second sentence of § 303.16(a)(9) is removed and three sentences are added in its place as set forth below.

B. The last sentence of § 303.16(b)(1) is amended by adding "and, with special instructions for its completion, by producers who wish to receive the total annual amount of the duty refund in installments on a biannual basis" at the end of the sentence.

§ 303.16 Definitions and forms.

(a) * * *

(9) * * * Excluded, however, are wages paid for outside consultants or other professional personnel, such as lawyers and accountants, or those persons not involved in the day-to-day assembly operations or the administrative work directly related to the operations of the company, such as gardeners or construction workers, plus any wages paid for the assembly of dutiable jewelry or for the repair of dutiable jewelry to the extent that such wages exceed the percentage set forth above. No more than two insular producers may have their wages credited for their portion of the wages paid for work on a single piece of jewelry which entered the U.S. free of duty under the program. Wages paid by the two producers will be credited proportionally provided both producers demonstrate to the satisfaction of the Secretaries that they worked on the same piece of jewelry, the jewelry received duty-free treatment into the U.S., and the producers maintained production and payroll records sufficient for the Departments' verification of the creditable wage portion (*see* § 303.17(b)). * * *

* * * * *

§ 303.17 [Amended]

5. Section 303.17(b)(4) is amended by adding ", or the certificate of origin for the shipment, or, if a company did not receive such documents from Customs, a certification from the consignee that the jewelry shipment received duty-free treatment, or a certification from the producer, if the producer can attest that the jewelry shipment received duty-free treatment" at the end of the paragraph.

6. Section 303.19(a)(1) is revised to read as follows:

§ 303.19 Issuance and use of production incentive certificates.

(a) *Issuance of certificates.* (1) The total annual amount of the Certificate of Entitlement, Form ITA–360, may be divided and issued on a biannual basis. The first portion of the total annual certificate amount will be based on reported duty-free shipments and creditable wages paid during the first six months of the calendar year, using the formula in § 303.20(b). The Departments require the receipt of the data by July 31 for each producer who wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued on or before August 31 of the same year in which the wages were earned unless the Departments have unresolved questions. The process of determining the total annual amount of the duty refund will remain the same. The completed annual application (Form ITA–334P) shall be received by the Departments on or before January 31 and the annual verification of data and calculation of each producer's total annual duty refund, based on the verified data, will continue to take place in February. Once the calculations for each producer's duty refund has been completed, the portion of the duty refund that has already been issued to each producer will be deducted from the total amount of each producer's annual duty refund amount. The duty refund certificate will continue to be issued by March 1 unless the Departments have unresolved questions.

* * * * *

Faryar Shirzad,

Assistant Secretary for Import Administration, Department of Commerce.

Nikolao Pula,

Acting Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 01–12861 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–125237–00]

RIN 1545–AY60

Debt Instruments With Original Issue Discount; Annuity Contracts; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels the public hearing on proposed regulations relating to the federal income tax treatment of annuity contracts issued by certain insurance companies.

DATES: The public hearing originally scheduled for Wednesday, May 30, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: LaNita Van Dyke of the Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Friday, January 12, 2001 (66 FR 2852), announced that a public hearing was scheduled for Wednesday, May 30, 2001, at 10 a.m., in room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under sections 163(e) and 1271 through 1275 of the Internal Revenue Code. The public comment period for these proposed regulations expired on April 12, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, May 16, 2001, no one has requested to speak. Therefore, the public hearing scheduled for Wednesday, May 30, 2001, is cancelled.

LaNita Van Dyke,

Acting Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–12736 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106791–00]

RIN 1545–AY55

Liabilities Assumed in Certain Corporate Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to liabilities assumed in certain corporate transactions.

DATES: The public hearing originally scheduled for Thursday, May 31, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor of the Regulations Unit, Office of Special Counsel, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on January 4, 2001 (66 FR 748), announced that a public hearing was scheduled for May 31, 2001 at 10 a.m., in room 4718, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 301 of the Internal Revenue Code. The public comment period for these regulations expired on May 10, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of May 15, 2001, no one

has requested to speak. Therefore, the public hearing scheduled for May 31, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–13064 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[REG–107186–00]

RIN 1545–AY50

Electronic Payee Statements; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under sections 6041 and 6051 relating to the voluntary electronic furnishing of payee statements on Forms W–2.

DATES: The public hearing originally scheduled for June 4, 2001, at 10:00 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Sonya M. Cruse of the Regulations Unit at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice or public hearing that appeared in the **Federal Register** on Wednesday, February 14, 2001, (66 FR 10247), announced that a public hearing was scheduled for June 4, 2001 at 10 a.m., in the IRS Auditorium. The subject of the public hearing is proposed regulations under sections 6041 and 6051 of the Internal Revenue Code. The public comment period for these proposed regulations expired on May 14, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, May 15, 2001, no one has requested to speak. Therefore, the public hearing scheduled for June 4, 2001, is cancelled.

LaNita Van Dyke,

Acting Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–12737 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[WV–042–6011b; FRL–6983–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the municipal solid waste landfill 111(d) plan submitted by the West Virginia Division of Environmental Protection (DEP), on May 29, 1998, and as amended on May 15, and December 20, 2000, for the purpose of controlling landfill gas emissions from existing municipal solid waste (MSW) landfills. Also, EPA proposes to delegate its authority to the DEP for the enforcement of the Federal landfill 111(d) plan's compliance schedules. In the final rules section of the **Federal Register**, EPA is approving the plan. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received in writing by June 22, 2001.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: James B. Topsale at (215) 814–2190, or by e-mail at topsale.jim@epa.gov. While additional information may be obtained via e-mail, comments must be submitted in writing to the address provided above.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule of the same title which is located in the rules section of the **Federal Register**.

Authority: 42 U.S.C. 7401–7642.

Dated: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12889 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6981–9]

Protection of Stratospheric Ozone: Notice of Data Availability; New Information Concerning SNAP Program Proposal on HCFC Use in Foams

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is making available to the public information related to a July 11, 2000, proposal under the Significant New Alternatives Policy (SNAP) Program under section 612 of the Clean Air Act. The SNAP program reviews alternatives to Class I and Class II ozone depleting substances and approves use of alternatives which reduce the overall risk to public health and the environment. The July 11, 2000 proposal concerned use of hydrochlorfluorocarbons (HCFCs) in foam blowing applications. The official comment period for the proposal ended on September 11, 2000. However, EPA received information after September 11, 2000 from outside parties through letters, meetings and the Agency's own efforts to obtain information to address public comments. Today, the Agency is making new information obtained after the close of the comment period available for public review and comment. The information being made available includes: sector description and size, alternatives currently used in each sector and technically viable alternatives. Because we plan to use this information in the future when developing a final rule, EPA wants to provide the public with an opportunity to comment on it.

Readers should note that we will only consider comments about the information referenced in this notice and are not soliciting comments on any other topic. In particular, we are not reopening the comment period for the July 11, 2000, proposed rule through this Notice of Data Availability. Neither are we soliciting comments on the HCFC production phaseout established in EPA's December 10, 1993 rulemaking (58 FR 65018).

DATES: We will accept comments on the data through June 22, 2001.

ADDRESSES: You may submit comments to Docket A–2000–18, U.S. Environmental Protection Agency, Office of Air and Radiation (OAR) Docket and Information Center (6102), 401 M Street, SW., Room M–1500, Washington, DC 20460, phone: (202) 260–7548; fax (202) 260–4400. You may submit comments electronically by sending electronic mail through the Internet to: A-and-R-Docket@epamail.epa.gov. Also identify your comments in electronic format with Docket No. A–2000–18. See the **SUPPLEMENTARY INFORMATION** section of this notice for further information about filing comments. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying. To expedite review, a second copy of the comments should be sent to Ms. Anhar Karimjee at the address listed below under **FOR FURTHER INFORMATION CONTACT**. Information designated as Confidential Business Information (CBI) under 40 CFR part 2, subpart 2, must be marked confidential and sent directly to Ms. Anhar Karimjee. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's action should be addressed to Ms. Anhar Karimjee at phone: (202) 564–2683, fax: (202) 565–2095, or e-mail: karimjee.anhar@epa.gov, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mailcode 6205J, Washington, DC 20004. Overnight or courier deliveries should be sent to the office location at 501 3rd Street, NW., Washington, DC 20001.

SUPPLEMENTARY INFORMATION:

Outline

1. What is today's action?
2. What information is EPA making available for review and comment?
3. Where can I get the information?
4. How is this action related to the July 11, 2000 proposed rule?
5. What is EPA not taking comment on?
6. What supporting documentation do I need to include in my comments?

1. What Is Today's Action?

Today, we are making information available on foam blowing applications that could be potentially affected by a Significant New Alternatives Policy (SNAP) action under section 612 of the Clean Air Act. The proposed action, published in the **Federal Register** on July 11, 2000 (65 FR 42653), addressed use of HCFCs in all foam end-uses. EPA proposed 3 actions: (1) Listing HCFC–141b as unacceptable in all foam end-uses, with existing users grandfathered until 2005; (2) listing HCFC–22 and HCFC–142b as unacceptable in all foam end-uses, with existing users grandfathered until 2005; and (3) listing HCFC–124 as unacceptable in all foam end-uses (65 FR 42653). The Agency allowed 60 days for public comment and received 45 responses to the proposal by the close of the comment period (September 11, 2000). The Agency received comments from chemical manufacturers, appliance manufacturers, spray foam manufacturers, associations, and others. Copies can be obtained through the Air Docket by referencing A–2000–18, IV–D–1 through 45 (see **ADDRESSES** section above for docket contact info).

Since the comment period closed, EPA has acquired additional information pertaining to the availability and technical viability of alternatives and the market size and economic impact of the proposal on various industries. This information was obtained through meetings held at the request of industry representatives, letters sent through congressional representatives, letters sent directly to the Agency, and through EPA's own efforts to obtain additional information in order to fully address comments received during the comment period. The purpose of making data available for comment is to ensure that information provided to the Agency since September 11, 2000 (the end of the comment period) is accurate and complete. The information provided will be used to help respond to comments and finalize the July 11, 2000 proposal.

2. What Information Is EPA Making Available for Review and Comment?

Since the comment period ended on September 11, 2000, EPA received 18 letters in response to the proposal mentioned above. These letters can be obtained through the Air Docket, A–2000–18 reference number IV–D–46 through 64. Many of these letters express concern over economic impacts of the proposal including potential small business impacts. The letters also address technical viability and availability of alternatives. Notes from meetings requested by industry representatives are also available in the Air Docket. In general, the purpose of these meetings was for industry representatives to go over comments already formally submitted to EPA and offer the Agency an opportunity to ask clarifying questions. A summary of these meetings along with any new information provided to the Agency during these meetings is available through the Air Docket, A–2000–18 reference number IV–E–1 through 6. The following items in the docket include technical information such as industry overviews and surveys: Air Docket, A–2000–18 reference number IV–D–55, IV–D–61, IV–D–76, IV–E–4, IV–E–6, 7, 8, 9.

EPA obtained additional information through attending public conferences and literature reviews. Although this information is publicly available, the Agency is including it in this notice because some of the information may be used when the Agency takes final action on the proposal. These documents can be obtained through the Air Docket, A–2000–18 reference number IV–D–65 through 75.

Some comments received on the July 11, 2000 proposal suggested that EPA developed the proposal without sufficient up-to-date information on certain sectors of the foam industry. Comments also indicated that the Agency should have evaluated the viability of alternatives in each foam end-use application and the potential small business impacts of the proposal. In an effort to address these concerns, the Agency hired a consultant to gather additional information on certain sectors and is making this information available to the public for review and comment prior to taking final action on the July 11 proposal. The Agency is seeking comments on the accuracy and thoroughness of the following reports:

—Synopsis of comments received from the extruded polystyrene industry
—Overview of challenges facing the polyurethane spray foam industry and other systems house based applications
(a) Comments from the polyurethane systems houses (non-spray foam)
(b) Comments from the polyurethane spray foam systems houses and contractors

EPA has also summarized information available on all foam sectors currently using HCFCs. This information is presented in table format and is

available through Air Docket A–2000–18 reference number IV–D–79. The table consolidates information obtained in response to the proposal along with information collected during the development of the documents outlined above. EPA is soliciting comment on the accuracy of the information presented in the table. In addition to obtaining comments on the accuracy of the information provided, the Agency would like to know if there any other foam applications that use HCFC blowing agents but are not listed in the table.

3. Where Can I Get the Information?

All of the information can be obtained through the Air Docket (see **ADDRESSES** section above for docket contact info). The reports covering the polystyrene, spray, sandwich panels and other foam applications can be obtained through the docket. Reference numbers are as follows:

—Synopsis of comments received from the extruded polystyrene industry: Air Docket A–2000–18 reference number IV–D–77

—Overview of challenges facing the polyurethane spray foam industry and other systems house based applications: Air Docket A–2000–18 reference number IV–D–78

(a) Comments from the polyurethane systems houses (non-spray foam): Air Docket A–2000–18 reference number IV–D–78a

(b) Comments from the polyurethane spray foam systems houses and contractors: Air Docket A–2000–18 reference number IV–D–78b

4. How Is This Action Related to the July 11, 2000 Proposed Rule?

We are soliciting comment to ensure that we use the best information available when making final decisions regarding the July 11, 2000 proposal. Because the information provided in this **Federal Register** document will be used by EPA to addresses comments received on the proposal, the Agency is providing the public with an opportunity to comment on the quality of the available information. This information will be used to ensure that issues relating to the technical viability of alternatives and industry impacts are fully considered by EPA prior to moving forward with a rulemaking in the foams sector.

5. What Is EPA Not Taking Comment On?

EPA is only accepting comments on accuracy and completeness of the information outlined in today's **Federal Register** Notice. EPA is *not* accepting comment on the following:

—HCFC foams proposal published on July 11, 2000 (65 FR 42653)

—HCFC production phaseout established in EPA's December 10, 1993 rulemaking (58 FR 65018)

—Allowance System for Controlling HCFC Production, Import and Export (draft proposal that may be published during comment period on this NODA)

6. What Supporting Documentation Do I Need To Include in My Comments?

Please provide any published studies or raw data supporting your position.

Dated: May 4, 2001.

Paul Stolpman,

Director, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 01–12896 Filed 5–22–01; 8:45 am]

BILLING CODE 8560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[FCC 01–132; CC Docket No. 01–92]

Intercarrier Compensation; Reciprocal Compensation

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment on the concept of a unified intercarrier compensation regime, including alternative approaches such as "bill and keep." It addresses intercarrier compensation-related problems arising from the introduction of local competition, and of new services and technologies, into telecommunications markets.

DATES: Submit comments on or before August 21, 2001, and submit reply comments on or before October 5, 2001.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–B204, 445 12th Street, SW., Washington, DC 20554. Comments may also be filed using the Commission's Electronic Comment Filing System (ECFS) via the Internet at *http://www.fcc.gov/e-file/ecfs.html*. See "Comment Filing Procedures," below, for more detailed instructions on filing comments and reply comments in this proceeding.

FOR FURTHER INFORMATION CONTACT: Jane Jackson, Chief, Competitive Pricing Division, Common Carrier Bureau, (202) 418–1520.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM)* in CC Docket No. 01–92, FCC 01–132, adopted April 19, 2001, and released April 27, 2001. The full text of the *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The full text of the *NPRM* may also be purchased from the Commission's copy contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036, telephone (202) 857–3800, facsimile (202) 857–3805. The full text of the *NPRM* may also be downloaded at: *http://www.fcc.gov/Bureaus/Common Carrier/Notices/2001/fcc01132.doc*. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or at <mcontee@fcc.gov>.

Synopsis of the Notice of Proposed Rulemaking

The *NPRM* seeks comment on the appropriate goals for a new intercarrier compensation regime, including efficient use of the network, and efficient investment in, and deployment of, network infrastructure (including investment in broadband). The *NPRM* seeks comment on the extent to which any proposed regime achieves technological and competitive neutrality, while minimizing regulatory intervention. It also seeks comment on the feasibility of a new regime, the relative trade-offs, and the importance of having a unified regime altogether.

The *NPRM* seeks comment on certain assumptions about intercarrier compensation. For example, do both parties benefit from a call, despite the current regime's simplifying requirement for originating callers to pay for both origination and termination? What is the extent to which terminating carriers have monopoly power over loop access? How much does that bill and keep avoid regulatory intervention in the allocation of common costs, and empower end users to exercise direct control over their access arrangements?

The *NPRM* seeks comment on the relative efficiencies of bill-and-keep arrangements. It questions the validity of the Commission's previous determination that bill and keep is only efficient when there are no traffic-sensitive costs of termination, and only permissible when traffic between two networks is relatively balanced while the rates are symmetric. It asks whether bill and keep would preclude efficient forms of price discrimination (*e.g.*, differential rates for network cost recovery). Furthermore, the *NPRM* seeks comment on how to address the treatment of transport costs, including approaches proposed by two Commission staff working papers that are discussed in the *NPRM*. It also seeks comment on the relative sizes of transactions costs (*i.e.*, measuring and billing) for the various alternatives, and the impact of bill-and-keep on the opportunities for regulatory arbitrage that currently exist in, *e.g.*, Internet telephony, termination of ISP-bound traffic, and terminating access charges for interstate voice traffic.

The *NPRM* also seeks comment on the potential disadvantages of a bill-and-keep arrangement, including: (a) Incentives for carriers to locate central offices inefficiently; (b) how to determine the incremental cost of interconnection when networks are less-than-fully provisioned; (c) the potential for unwanted calls to increase; and (d) the potential for ISPs to begin to charge traffic-sensitive rates or higher flat rates to end users.

With regard to specific services, the *NPRM* seeks comment on whether the Commission should adopt bill and keep for ISP-bound traffic. The *NPRM* asks about local exchange carrier (LEC) cost recovery, and any effects on unbundled network element (UNE) pricing, if the Commission should move to a bill-and-keep regime for all ISP-bound traffic.

The *NPRM* also seeks comment on the relative benefits of bill and keep for all traffic subject to section 251(b)(5) of the Communications Act of 1934 ("the Communications Act"), versus the current per-minute reciprocal compensation rates imposed by most states. The *NPRM* specifically addresses issues concerning points of interconnection, three-carrier calls, and the question of whether bill-and-keep rate structures satisfy the requirements of sections 251(b)(5) and 252(d)(2) of the Communications Act.

In addition, the *NPRM* seeks comment on the Commission's legal authority over interconnection between LECs and commercial mobile radio services (CMRS) under section 332 of the Communications Act, and on the adoption of a new LEC-CMRS intercarrier compensation regime. With regard to interstate access charges, the *NPRM* seeks comment on the eventual application of a bill-and-keep regime, and asks whether it is appropriate to phase in a new access charge regime in stages.

Apart from moving to a bill-and-keep regime, the *NPRM* seeks comment on whether the existing calling-party's-network-pays regime could be reformed to address the problems that motivate this rulemaking. As such, it seeks comment on rate level issues (e.g., identifying "additional costs" under section 252(d)(2) of the Communications Act, and applying presumptive ILEC cost proxies), rate structure issues, single point of interconnection issues, virtual central office codes, and administrative feasibility.

The *NPRM* also seeks comment on the impacts of moving to a new regime on end user rates, and universal service. Furthermore, it seeks comment on legal issues concerning the authority for a new regime, together with the effect of proposals for a unified regime on the division of jurisdictional responsibility between the Commission and the states.

Finally, the *NPRM* seeks comment on the impact of a new regime on interconnection agreements between international carriers, and on interconnection agreements between Internet backbones. It asks about the potential impact on small entities that may result from the adoption of a new regime. It concludes by seeking comment on any further possible approaches to intercarrier compensation that are not addressed in the *NPRM*.

Regulatory Flexibility Act Final Analysis

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *NPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* provided above. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). *See* 5 U.S.C. 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**. *See id.*

I. Need for, and Objectives of, the Proposed Rules

The existing intercarrier compensation regime applies different sets of rules to different types of carriers and to different types of traffic. Basically, this patchwork of rules can be broken down into: (1) reciprocal compensation rules, which apply to the exchange of local traffic; and (2) access rules that apply to traffic exchanged between local carriers and long-distance carriers. Both sets of rules are "calling-party's-network-pays" (CPNP) arrangements (*i.e.*, they require the calling party's network to pay the called party's network to terminate a call). Both sets of rules are also subject to numerous exceptions, such as the enhanced service provider (ESP) exemption from access charges.

This *NPRM* is motivated by numerous problems that have appeared recently concerning the existing rules governing intercarrier compensation. A primary concern is the opportunity, under the current regime, for profit-seeking behavior to take advantage of cost or revenue disparities that are due solely to regulation. For example, competitive local exchange carriers (CLECs) often target Internet service providers (ISPs) as customers in order to become net-recipients of traffic, and thus profit from reciprocal compensation revenues. Similarly, Internet Protocol (IP) telephony threatens to erode access revenues for LECs because it is exempt from the access charges that traditional long-distance carriers must pay. Another major concern is that local carriers possess monopoly power over terminating access. As a result, CLECs often impose access charges that far exceed the regulated access charges of incumbent LECs. Finally, the current regime can generate inefficient traffic-sensitive end-user rates, and can also create incentives for entities to claim to be networks in order to qualify for interconnection, rather than to simply subscribe as a customer.

II. Legal Basis

The legal basis for any action that may be taken pursuant to the *NPRM* is contained in sections 4, 201–202, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–202, 303 and 403, and sections 1.1, 1.411 and 1.412 of the Commission's rules, 47 CFR 1.1, 1.411 and 1.412.

III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization" and "small business concern" under section 3 of the Small Business Act. 5

U.S.C. 601(3). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. 5 U.S.C. 632.

A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." 5 U.S.C. 601(4). Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96 percent) are small entities. According to SBA reporting data, there were 4.44 million small business firms nationwide in 1992. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by rules adopted pursuant to this *NPRM*.

The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission publishes in its *Trends in Telephone Service* report. In a recent news release, the Commission indicated that there are 4,822 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies falling within the two categories, and the number of small businesses in each. We then attempt to further refine those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

We have included small incumbent LECs (small ILECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small ILECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

Total Number of Telephone Companies Affected. The U.S. Bureau of the Census ("Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the new rules.

Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (*i.e.*, wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small ILECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate 2,295 or fewer small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by rules adopted pursuant to this *NPRM*.

Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (*i.e.*, wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that 1,335 or fewer providers of local exchange service are small entities or small ILECs that may be affected by the new rules.

Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (*i.e.*, wireless) companies. According to the most recent *Trends in Telephone Service* data, 204 carriers reported that they were engaged in the provision of interexchange services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 204 or fewer small-entity IXCs that may be affected by rules adopted pursuant to this *NPRM*.

Competitive Access Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (*i.e.*, wireless) companies. According to the most recent *Trends in Telephone Service* data, 349 CAP/CLEC carriers and 60 other LECs reported that they were engaged in the provision of competitive local exchange services. We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 349 or fewer small-entity CAPs and 60 or fewer other LECs that may be affected by rules adopted pursuant to this *NPRM*.

Operator Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (*i.e.*, wireless) companies. According to the most recent *Trends in Telephone Service* data, 21 carriers reported that they were engaged in the provision of operator services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 21 or fewer small-entity operator service providers that may be affected by rules adopted pursuant to this *NPRM*.

Pay Telephone Operators. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (*i.e.*, wireless) companies. According to the most recent *Trends in Telephone Service* data, 758 carriers reported that they were engaged in the provision of pay telephone services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 758 or fewer small-entity pay telephone operators that may be affected by rules adopted pursuant to this *NPRM*.

Resellers (including debit card providers). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (*i.e.*, wireless) companies. According to the most recent *Trends in Telephone Service* data, 454 toll and 87 local entities reported that they were engaged in the resale of telephone service. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 454 or fewer small-toll-entity resellers and 87 or fewer small-local-entity resellers that may be affected by rules adopted pursuant to this *NPRM*.

Toll-Free 800 and 800-Like Service Subscribers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 and 800-like service ("toll free") subscribers. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use. According to our most recent data, at the end of January 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers that had been assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 7,692,955 or fewer small-entity 800 subscribers, 7,706,393 or fewer small-entity 888 subscribers, and 1,946,538 or fewer small-entity 877 subscribers that may be affected by rules adopted pursuant to this *NPRM*.

Cellular Licensees. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (*i.e.*, wireless) companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Therefore, even if all 12 of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, we do not know the number of cellular licensees, since a cellular licensee may own several licenses. The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to recent data, 808 carriers reported that they were engaged in the provision of either cellular or PCS services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are no more than 808 small cellular service carriers.

220 MHz Radio Service-Phase I Licensees. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and 4 nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to radiotelephone communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to a 1995 estimate by the Bureau of the

Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Therefore, assuming that this general ratio has not changed significantly in recent years in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

220 MHz Radio Service-Phase II Licensees. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, 62 FR 15978, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Nine hundred and eight (908) licenses were auctioned in three different-sized geographic areas: 3 nationwide licenses, 30 Regional Economic Area Group (REAG) licenses, and 875 Economic Area (EA) licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: 1 of the Nationwide licenses, 67% of the Regional licenses, 47% of the REAG licenses and 54% of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction. A second 220 MHz Radio Service auction began on June 8, 1999 and closed on June 30, 1999. This auction offered 225 licenses in 87 EAs and 4 REAGs. (A total of 9 REAG licenses and 216 EA licenses. No nationwide licenses were available in this auction.) Of the 215 EA licenses won, 153 EA licenses (71%) were won by bidders claiming small business status. Of the 7 REAG licenses won, 5 REAG licenses (71%) were won by bidders claiming small business status.

Private and Common Carrier Paging. The Commission has adopted a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. A small business will be defined as either: (1) An entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to recent data, 172 carriers reported that they were engaged in the provision of either paging or "other mobile" services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are no more than 172 small paging carriers. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted above in the section concerning paging service carriers, the closest applicable definition under the SBA rules is that for radiotelephone (*i.e.*, wireless) companies, and recent data show that 172 carriers reported that they were engaged in the provision of either paging or "other mobile" services. Consequently, we estimate that there are no more than 172 small mobile service carriers.

Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For block F, an additional classification for "very small business" was added and is defined as an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in blocks A and B. There were 90 winning bidders that qualified as small entities in the C block auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for blocks D, E and F. On March 23, 1999, the Commission held another auction (Auction No. 22) of C, D, E and F block licenses for PCS spectrum returned to the Commission by previous license holders. In that auction, 48 bidders claiming small business, very small business or entrepreneurial status won 272 of the 341 licenses (80%) offered. Based on this information, we conclude that the number of small broadband PCS licensees includes the 90 winning C block bidders, the 93 qualifying bidders in the D, E and F blocks, and the 48 winning bidders from Auction No. 22, for a total of 231 small-entity PCS providers as defined by the SBA and the Commission's auction rules.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions, however, have not yet been scheduled. Given that nearly all radiotelephone companies have no more than 1,500 employees, and no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for our purposes here, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

Specialized Mobile Radio (SMR). The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to two tiers of firms: (1) "small entities," those with revenues of no more than $15 million in each of the three previous calendar years; and (2) "very small entities," those with revenues of no more than $3 million in each of the three previous calendar years. The regulations defining "small entity" and "very small entity" in the context of 800 MHz SMR (upper 10 MHz and lower 230 channels) and 900 MHz SMR have been approved by the SBA. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for our purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz (upper 10 MHz) and 900 MHz SMR bands. There were 60 winning bidders that qualified as small and very small entities in the 900 MHz auction. Of the 1,020 licenses won in the 900 MHz auction, 263 licenses were won by bidders qualifying as small and very small entities. In the 800 MHz SMR auction, 38 of the 524 licenses won were won by small and very small entities.

Marine Coast Service. Between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of this auction, and for future public coast auctions, the Commission defines a "small" business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. A "very small" business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as "small" businesses under the Commission's definition, which has been approved by the SBA.

Fixed Microwave Services. Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For our purposes here, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons. Under this definition, we estimate that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities.

Local Multipoint Distribution Service. The Commission held two auctions for licenses in the Local Multipoint Distribution Services (LMDS) (Auction No. 17 and Auction No. 23). For both of these auctions, the Commission defined a small business as an entity, together with its affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $40 million. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million. Of the 144 winning bidders in Auction Nos. 17 and 23, 125 bidders (87%) were small or very small businesses.

24 GHz—Incumbent 24 GHz Licensees. The rules that we may later adopt could affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The Commission has not developed a definition of small entities applicable to licensees in the 24 GHz band. Therefore, the applicable definition of small entity is the definition under the SBA rules for the radiotelephone industry, providing that a small entity is a radiotelephone company employing fewer than 1,500 persons. The 1992 Census of Transportation, Communications and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. This information notwithstanding, we believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. Both Teligent and TRW, Inc. appear to have more than 1,500 employees. Therefore, it appears that no incumbent licensee in the 24 GHz band is a small business entity.

Future 24 GHz Licensees. The rules that we may later adopt could also affect potential new licensees on the 24 GHz band. Pursuant to 47 CFR 24.720(b), the Commission has defined "small business" for Blocks C and F broadband PCS licensees as firms that had average gross revenues of less than $40 million in the three previous calendar years. This regulation defining "small business" in the context of broadband PCS auctions has been approved by the SBA. With respect to new applicants in the 24 GHz band, we shall use this definition of "small business" and apply it to the 24 GHz band under the name "entrepreneur." With regard to "small business," we shall adopt the definition of "very small business" used for 39 GHz licenses and PCS C and F block licenses: businesses with average annual gross revenues for the three preceding years not in excess of $15 million. Finally, "very small business" in the 24 GHz band shall be defined as an entity with average gross revenues not to exceed $3 million for the preceding three years. The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held. Even after that, the Commission will not know how many licensees will partition their license areas or disaggregate their spectrum blocks, if partitioning and disaggregation are allowed.

39 GHz. The Commission held an auction (Auction No. 30) for fixed point-to-point microwave licenses in the 38.6 to 40.0 GHz band (39 GHz Band). For this auction, the Commission defined a small business as an entity, together with affiliates and controlling interests, having average gross revenues for the three preceding years of not more than $40 million. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these definitions. Of the 29 winning bidders in Auction No. 30, 18 bidders (62%) were small business participants.

Multipoint Distribution Service (MDS). This service involves a variety of transmitters, which are used to relay

data and programming to the home or office, similar to that provided by cable television systems. In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million. This definition of a small entity in the context of MDS auctions has been approved by the SBA. These stations were licensed prior to implementation of section 309(j) of the Communications Act of 1934, as amended. Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 meet the definition of a small business.

MDS is also heavily encumbered with licensees of stations authorized prior to the MDS auction. SBA has developed a definition of small entities for pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes MDS systems, and thus applies to incumbent MDS licensees and wireless cable operators which may not have participated or been successful in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of $11 million annually. Therefore, for purposes of this analysis, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules.

Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

Wireless Communications Services (WCS). This service can be used for fixed, mobile, radio-location and digital audio broadcasting satellite uses. The Commission defined "small business" for the WCS auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one winning bidder that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

General Wireless Communication Service (GWCS). This service was created by the Commission on July 31, 1995 by transferring 25 MHz of spectrum in the 4660–4685 MHz band from the federal government to private sector use. The Commission sought and obtained SBA approval of a refined definition of "small business" for GWCS in this band. According to this definition, a small business is any entity, together with its affiliates and entities holding controlling interests in the entity, that has average annual gross revenues over the three preceding years that are not more than $40 million. By letter dated March 30, 1999, NTIA reclaimed the spectrum allocated to GWCS and identified alternative spectrum at 4940–4990 MHz. On February 23, 2000, the Commission released its *Notice of Proposed Rulemaking* in WT Docket No. 00–32 proposing to allocate and establish licensing and service rules for the 4.9 GHz band.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

There are certain transaction costs for terminating access, including measuring and billing. Under the existing CPNP regime, the terminating LEC bills the originating network, whereas under bill and keep, the terminating LEC may bill its own customers. The *NPRM* seeks comment on the relative transaction costs of each proposal, weighed against the other efficiencies of the various alternatives. Transaction costs can increase under a bill-and-keep arrangement, for example, since each carrier may be responsible for measuring and billing its own customers for all traffic, rather than merely measuring and billing the originating carrier.

Apart from the transaction costs for termination, the *NPRM* more broadly suggests that a new regime could free regulators from allocating transport costs, and from setting the level and structure of termination rates. Where rates had once been set by regulation, individual carriers, including small entities, could inherit this responsibility.

As a result of rules from this proceeding, incumbent LECs and CLECs may be required to discern the amount of traffic carried on their networks that is bound for ISPs. In addition, such incumbent LECs and competitive entrants may be required to produce information regarding the costs of carrying ISP-bound traffic on their networks.

The *NPRM* seeks comment on the extent to which a new regime would comply with reciprocal compensation obligations regarding traffic balances and symmetrical rates. If rules should follow on this issue, they may require carriers to report traffic imbalances, corresponding to rate symmetry. This is especially true in the context of LEC-CMRS interconnection, in which the *NPRM* seeks comment on the feasibility of cost studies that CMRS carriers could use to justify separate treatment.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

Although the transaction costs for terminating access can increase under a bill-and-keep arrangement, the impact on small entities would be minimal since measuring and billing is already a fundamental component of their operations. Furthermore, the advantages of a bill-and-keep regime, in providing clearer demarcations of cost between carriers, appear to outweigh the minimal increase in transaction costs that could occur under bill and keep. With regard to the related task of allocating transport costs, the same reasoning applies to small entities in that the clearer demarcations between carriers inherent in bill and keep outweighs the potential burden of setting the level and structure of termination rates. Regardless, many small entities are competitive entrants such as CLECs, which currently enjoy specific exemptions from ILEC rate regulation.

A potential benefit may accrue to small-entity LECs transporting ISP-bound traffic. As discussed above, the Commission may adopt rules that may require incumbent LECs and CLECs to discern the amount of traffic carried on their networks that is bound for ISPs. As a result of such rules, incumbent LECs and CLECs, including small-entity incumbent LECs and CLECs, will be able to receive compensation for the delivery of ISP-bound traffic that they might not otherwise receive. The *NPRM* separately requests comment on alternative proposals.

The *NPRM* seeks comment on the issue of asymmetrical compensation for unbalanced traffic. Although small entities could experience an increase in reporting and recordkeeping when submitting cost studies to this effect, if adopted, such a requirement would more accurately serve the revenue requirements of small entities in relation to larger competitors.

Finally, the *NPRM* seeks comment on additional impacts on small entities that may result from any new intercarrier compensation regime. When seeking comment on the alternative of contractual arrangements for intercarrier compensation, the *NPRM* asks commenters to address the potential impacts of such a market-based approach on small entities, such as the refusal to carry traffic.

VI. Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rules

None.

Comment Filing Procedures

Pursuant to sections 1.415, 1.419, and 1.430 of the Commission's rules, 47 CFR 1.415, 1.419, 1.430, interested parties may file comments within 90 days after publication in the **Federal Register**, and reply comments within 135 days after publication in the **Federal Register**. All filings should refer to CC Docket No. 01–92. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is CC Docket No. 01–92. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–B204, 445 12th Street, SW., Washington, DC 20554. Regardless of whether parties choose to file electronically or by paper, parties should also serve: (1) Paul Moon, Common Carrier Bureau, 445 12th Street, SW., Room 3–C423, Washington, DC 20554; (2) Jane Jackson, Common Carrier Bureau, 445 12th Street, SW., Room 5–A225, Washington, DC 20554; and (3) the Commission's copy contractor, International Transcription Service, Inc. (ITS), 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 857–3800, with copies of any documents filed in this proceeding. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Wanda Harris, Common Carrier Bureau, 445 12th Street, SW., Room 5–A452, Washington, DC 20554. Such a submission should be on a 3.5-inch diskette formatted in a Windows-compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number—in this case, CC Docket No. 01–92), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage that parties track the organization set forth in the *NPRM* to facilitate our internal review process.

Pursuant to 47 CFR 1.200(a), which permits the Commission to adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires, we announce that this proceeding will be governed by "permit-but-disclose" *ex parte* procedures that are applicable to non-restricted proceedings under 47 CFR 1.1206. Designating this proceeding as "permit-but-disclose" will provide an opportunity for all interested parties to receive notice of the various technical, legal, and policy issues raised in *ex parte* presentations made to the Commission in the course of this proceeding. This will allow interested parties to file responses or rebuttals to proposals made on the record in this proceeding. Accordingly, we find that it is in the public interest to designate this proceeding as "permit-but-disclose."

Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in section 1.206(b) as well. Interested parties are to file any written *ex parte* presentations in this proceeding with the Commission Secretary, Magalie Roman Salas, 445 12th Street, SW., TW–B204, Washington, DC 20554, and serve with copies: (1) Paul Moon, Common Carrier Bureau, 445 12th Street, SW., Room 3–C423, Washington, DC 20554; (2) Jane Jackson, Common Carrier Bureau, 445 12th Street, SW., Room 5–A225, Washington, DC 20554; and (3) International Transcription Service, Inc. (ITS), 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 857–3800.

Because many of the matters on which we request comment in this *NPRM* may call on parties to disclose proprietary information such as market research and business or technical plans, we suggest that parties consult 47 CFR 0.459 about the submission of confidential information.

Ordering Clauses

The actions of the Commission herein ARE TAKEN pursuant to sections 4, 201–202, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–202, 303

and 403, and sections 1.1, 1.411 and 1.412 of the Commission's rules, 47 CFR 1.1, 1.411 and 1.412.

The Commission's Consumer Information Bureau, Reference Information Center, Shall Send a copy of this *NPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–12759 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 66, No. 100

Wednesday, May 23, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

[TM–01–02]

Notice of Organic Certification Cost Share Program

AGENCY: Agricultural Marketing Services, USDA.

ACTION: Notice.

SUMMARY: This Notice invites eligible States to submit a Standard Form 424, Application for Federal Assistance, and to enter into a Cooperative Agreement with the Agricultural Marketing Service for the Allocation of Organic Certification Cost-Share Funds. The Agricultural Marketing Service (AMS) has allocated $1.0 million for an organic certification cost-share program in Fiscal Year 2001. Funds will be available under this program to 15 designated States to assist organic crop and livestock producers in transitioning into the new National Organic Program. Eligible States interested in obtaining cost-share funds for their organic producers will have to submit an Application for Federal Assistance, and will have to enter into a cooperative agreement with AMS for the allocation of such funds.

DATES: Completed applications for federal assistance along with signed cooperative agreements must be received by July 9, 2001 in order to participate in the program.

ADDRESSES: Applications for federal assistance and cooperative agreements shall be requested from and submitted to: Bob Pooler, Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, PO Box 96456, Room 2510-South, Ag Stop 0268, Washington, DC 20090–6456; Telephone: (202) 690–3655; Fax: (202) 205–7808; e-mail: Bob.Pooler@usda.gov. Additional information may be found through the National Organic Program s homepage at http://www.ams.usda.gov/nop.

FOR FURTHER INFORMATION CONTACT: Bob Pooler, Marketing Specialist, National Organic Program, USDA/AMS/TM/NOP, PO Box 96456, Room 2510–South, Ag Stop 0268, Washington, DC, 20090–6456; Telephone: (202) 690–3655; Fax: (202) 205–7808; e-mail: Bob.Pooler@usda.gov.

SUPPLEMENTARY INFORMATION: The Organic Certification Cost-Share Program is part of the Agricultural Management Assistance Program authorized under the Agricultural Risk Protection Act of 2000 (ARPR), Public Law 106–224, section 524, 114 Stat. 387 (2000), 7 U.S.C. 1524. Under the applicable ARPR provisions, the Department is authorized to provide cost share assistance to producers in not more than 15 states which have a historically low participation rate in the Federal crop insurance program. One of the purposes of the ARPR's cost-share program is to assist producers in transitioning to the new National Organic Program authorized under the Organic Foods Production Act of 1990, 7 U.S.C. 6501–6522.

The Department has determined that the following States are eligible to participate in the program: Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, or Wyoming.

To participate in the program, eligible States must complete a Standard Form 424, Application for Federal Assistance, and enter into a written cooperative agreement with AMS. The program will provide cost-share assistance, through participating States, to organic crop and livestock producers who have been certified by a certifying agent as of December 21, 2000. The Department has determined that payments will be limited to 70 percent of an individual producer's certification costs up to a maximum of $500.00.

Authority: Pub. L. 106–224, section 524, 114 Stat. 387 (2000), 7 U.S.C. 1524.

Dated: May 17, 2001.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 01–12937 Filed 5–22–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–01–02]

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: June 21, 2001.

Time: 9 a.m.

Place: United States Department of Agriculture, (USDA), Agricultural Marketing Service (AMS), Tobacco Programs, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, Room 223, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Purpose: To elect officers, establish submarketing areas, recommend opening dates, discuss selling schedules, and other related matters for the 2001 flue-cured tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, STOP 0280, 1400 Independence Avenue, SW., Room 502 Cotton Annex Building, Washington, DC 20250–0280, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting. If you need any accommodations to participate in the meeting, please contact the Tobacco Programs at (202) 205–0567 by June 15, 2001, and inform us of your needs.

Dated: May 17, 2001

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 01–12936 Filed 5–22–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; TAL Industries, Inc.; In the Matter of: TAL Industries, Inc., 901 Corporate Center Drive, Suite 207, Monterey Park, CA 91754, Respondent

Order

The Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), having notified TAL Industries, Inc. (hereinafter "TAL")

of its intention to initiate an administrative proceeding against it pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. secs. 2401–2420 (1994 & Supp. IV 1998)) (hereinafter the "Act"),[1] and the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2000)) (the "Regulations"),[2] based on allegations that TAL committed 24 violations of the former Regulations, *to wit*, 1 violation of § 787.3(b), 13 violations of § 787.5(a)(1), and 10 violations of § 787.6 of the former Regulations, as follows:

1. 15 CFR 787.3(b): Conspiracy

Beginning in 1992 and continuing into 1995, TAL committed 1 violation of § 787.3 of the former Regulations by conspiring and acting in concert with others to violate the Act and former Regulations. The goal of the conspiracy was to obtain Department of Commerce export licenses authorizing the export of machine tools from the United States to the CATIC Machining Company, Ltd. in Beijing, China for use in the machining of parts and components of civil aircraft that were planned for a joint project with the McDonnell Douglas Corporation (hereinafter the "Trunkliner program") and then to divert the machine tools to unauthorized end-users in China, including the Nanchang Aircraft Manufacturing Company. To accomplish the goal of the conspiracy, the conspirators, including TAL, took actions in furtherance of the conspiracy, primarily by making or causing to be made false and misleading representations of material fact, directly and indirectly, to BXA and other U.S. Government agencies. The false and misleading representations included misrepresentations about the end-user and end-use of the machine tools. The conspirators, including TAL, represented that the CATIC Machining Center, Ltd. in Beijing, China would be the end-user of the machine tools and the end-use of the machine tools was for the Trunkliner program. However, the CATIC Machining Company, Ltd. in Beijing, China was not the end-user nor the ultimate consignee of the machine tools, and the machine tools were not for use in the Trunkliner program.

2. 15 CFR 787.5(a)(1): Misrepresentation and Concealment

a. On or about May 26, 1994, TAL committed 10 violations of § 787.5(a)(1) of the former Regulations by making or causing to be made false or misleading representations of material fact to BXA and other U.S. Government agencies in connection with 10 separate export license applications submitted to BXA by Douglas Aircraft (the McDonnell Douglas Corporation) for the export of machine tools to China. For each of these 10 license applications, TAL falsely gave assurances and represented on end-user and ultimate consignee statements, export control documents as defined in § 770.2 of the former Regulations, that the CATIC Machining Company, Ltd. in Beijing, China would be the end-user of the machine tools and the end-use of the machine tools was for machining the parts and components of civil aircraft in the Trunkliner program. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee, and the machine tools were not for use in the Trunkliner program.

b. On or about June 7, 1994 and on or about June 23, 1994, TAL, through the McDonnell Douglas Corporation, committed two violations of § 787.5(a)(1) of the former Regulations by falsely representing to BXA and other U.S. government agencies that the machine tools were to be exported to the CATIC Machining Company, Ltd. in Beijing, China, they were for use in the Trunkliner program, and the Trunkliner program was being was carried out in accordance with the 1992 contract. However, the CATIC Machining Company, Ltd. in Beijing, China was neither the end-user nor the ultimate consignee, the machine tools were not for use in the Trunkliner program, and the Trunkliner program had been delayed and was not being carried out in accordance with the 1992 contract.

c. On or about June 5, 1995, TAL, through the China National Aero-Technology Import and Export Corporation, committed 1 violation of § 787.5(a)(1) of the former Regulations by submitting a letter to BXA falsely representing that the machine tools that were authorized for export to the CATIC Machining Company, Ltd. in Beijing, China and diverted to the Nanchang Aircraft Manufacturing Company in Nanchang, China in violation of the terms and conditions of the licenses would not be unpacked until authorization was received from the U.S. Department of Commerce. However, the stretch press had been unpacked and placed in a building in Nanchang, China.

3. 15 CFR 787.6: Export, Diversion, Reexport, and Transshipment

Between on or about November 12, 1994 and on or about February 18, 1995, TAL committed 10 violations § 787.6 of the former Regulations by violating or causing the violation of the terms and conditions of 10 separate Department of Commerce export licenses. The 10 export licenses named China National Aero-Technology International Supply Company as the purchaser, China Aviation Supply and Marketing Corporation, North China Branch, as the intermediate consignee, CATIC Machining Company, Ltd. as the ultimate consignee, and the Trunkliner program as the end-use. TAL violated the terms and conditions of each of the 10 export licenses by diverting the machine tools to unauthorized end-users in China, including the Nanchang Aircraft Manufacturing Company.

BXA and TAL having entered into a Settlement Agreement pursuant to § 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

It is therefore ordered:

First, that a civil penalty of $1,320,000 is assessed against TAL, which shall be paid to the U.S. Department of Commerce within thirty days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (1983 and Supp. 2000)), the civil penalty owned under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, TAL will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that for a period of ten years from the date of this Order, TAL Industries, Inc., 901 Corporate Center Drive, Suite 207, Monterey Park California 91754, shall be denied its U.S. export privileges as described herein (hereinafter the "denial period"). TAL and all of its successors, assigns, officers, representatives, agents, and employees, may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fourth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of TAL or its successors, assigns, officers, representatives, agents, or employees (hereinafter the "denied person") any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person or the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported form the United States.

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to serve any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Fifth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Sixth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Seventh, that TAL shall produce to the Department of Commerce any documents, in its custody, care or control, that were supplied to the United States in the case of *U.S.* v. *CATIC, et al.*, No. 99–353 (PLF), and TAL hereby certifies that these documents are all the documents that are relevant to the sale, licensing or diversion of the machine tools from the McDonnell Douglas plant in Columbus, Ohio that were allegedly to be used in the Trunkliner program;

Eighth, that for the purposes of authenticating documents and as otherwise agreed to by the parties, TAL shall, at its own expense, made its appropriate employees, representatives, officers or agents available to the Department of Commerce to testify at any administrative proceeding initiated by BXA in connection with the sale, licensing and diversion of the machine tools from the McDonnell Douglas plant in Columbus, Ohio that were allegedly to be used in the Trunkliner program.

Ninth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in these matters, is effective immediately.

Dated: Entered this 11th day of May, 2001.

Dexter M. Price,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 01–13024 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 FR 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. IV 1998)) until November 13, 2000 when the Act was reauthorized. *See* Pub. L. 106–508, 114 Stat. 2360.

[2] The alleged violations occurred in 1994 and 1995. The Regulations governing those violations are found in the 1994 and 1995 versions of the Code of Federal Regulations (15 CFR parts 768–799 (1994–1995)) (hereinafter the "former Regulations"). The former Regulations define the violations that BXA alleges occurred. Since that time, the Regulations have been reorganized and restructured; the Regulations establish the procedures that apply to the matters set forth herein.

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: May 23, 2001.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2000), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2002.

	Period to be reviewed
Antidumping Duty Proceedings	
Japan: Mechanical Transfer Presses, A–588–810	2/1/00–1/31/01
Hitachi Zosen Fukui Corporation d/b/a/ H & F Corporation *	

	Period to be reviewed
*Inadvertently omitted from initiation notice published on March 22,2001 (66 FR 16037).	
Taiwan: Static Random Access Memory Semiconductors, A–583–827	4/1/00–3/31/01
G-Link Technology Corporation	
Giga Semiconductor, Inc., dba GSI Technology	
Mosel Vitelic, Inc./Mosel Vitelic Corp.	
Winbond Electronics Corporation	
The People's Republic of China: Brake Rotors,** A–570–846	4/1/00–3/31/01
China National Automotive Industry Import & Export Corporation, and manufactured by any company other than Shandong Laizhou CAPCO Industry	
Shandong Laizhou CAPCO Industry, and manufactured by any company other than Shandong Laizhou CAPCO Industry	
Shenyang Honbase Machinery Co., Ltd., and manufactured by any other company other than Shenyang Honbase Machinery Co., Ltd., or Laizhou Luyuan Automobile Fitting Co.	
Laizhou Luyuan Automobile Fitting Co., and manufactured by any company other than Laizhou Luyuan Automobile Fitting Co., or Shenyang Honbase Machinery Co., Ltd.	
China National Machinery and Equipment Import & Export (Xinjiang) Corporation, and manufactured by any company other than Zibo Botai Manufacturing Co., Ltd.	
Qingdao (Gren) Co.	
**If one of the named companies does not qualify for a separate rate, all other exporters of brake rotors from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.	
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807	4/1/00–3/31/01
Ekinciler Holding, A.S./Ekinciler Demir Celik A.S.	
Colakoglu Metalurji A.S./Colakoglu Dis Ticaret	
ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S	
Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Ticaret A.S./Diler Dis Ticaret A.S.	
Habas Sinai ve Tibbi Gazler Istihsal Endustrisi A.S.	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 USC 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: May 17, 2001.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 01–13054 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Amended Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review of circular welded non-alloy steel pipe from the Republic of Korea.

SUMMARY: On April 11, 2001, the Department published the final results of the administrative review of the antidumping duty order on circular welded non-alloy steel pipe from the Republic of Korea (*see Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Final Results of Antidumping Administrative Review*, 66 FR 18747 (April 11, 2001) (*"Final Results"*)). On April 16, 2001, the respondents Hyundai Pipe Co., Ltd., Shinho Steel Co., Ltd., and SeAH Steel Corporation submitted allegations of ministerial errors. On April 23, 2001, the domestic interested parties submitted comments. Based on our review of the submissions received from all parties regarding potential ministerial errors, we have made certain corrections to the margin calculation for all three respondents. This correction results in a margin of 2.53 percent for HDP, 0.95 percent for SeAH, and 2.99 percent for Shinho.

EFFECTIVE DATE: May 23, 2001.

FOR FURTHER INFORMATION CONTACT: Greg Campbell or Suresh Maniam, Group 1, Office I, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2239 or (202) 482–0176, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the "Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("Department's") regulations are to 19 CFR Part 351 (2000).

Background

On April 11, 2001, the Department published the *Final Results*. On April 16, 2001, the respondents Hyundai Pipe Co., Ltd.[1] ("HDP"), Shinho Steel Co., Ltd. ("Shinho"), and SeAH Steel Corporation ("SeAH") submitted allegations that the *Final Results* contained ministerial errors. On April 23, 2001, the domestic interested parties submitted comments regarding Shinho's and SeAH's allegations. The period of review ("POR") is November 1, 1998, through October 31, 1999.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Review

The merchandise subject to this review is circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes, and are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in this order.

All carbon-steel pipes and tubes within the physical description above are included within the scope of this review except line pipe, oil-country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. In accordance with the Department's *Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, the Republic of Korea, Mexico, and Venezuela* (61 11608, March 21, 1996), pipe certified to the API 5L line-pipe specification and pipe certified to both the API 5L line-pipe specifications and the less-stringent ASTM A–53 standard-pipe specifications, which falls within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines is outside of the scope of the antidumping duty order.

Imports of these products are currently classifiable under the following *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs, the written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

HDP argued that, due to an anomaly in the SAS software used for the margin calculations, certain U.S. sales were matched to home market sales in a less contemporaneous month, despite the existence of more contemporaneous home market sales of similar merchandise. SeAH and Shinho argued that although the Department intended to remove specification as a matching criterion for similar matches only it, in fact, inadvertently removed specification from the calculation program completely—even for purposes of identical matches.

The domestic interested parties made no comments regarding HDP's ministerial error allegation. Regarding SeAH's and Shinho's ministerial error allegation, the domestic interested parties argued that the allegations are not ministerial in nature. Rather, the domestic interested parties content, SeAH and Shinho are merely rearguing a major point from their briefs, namely, that the margin calculation program ought to reflect the matching methodology or prior reviews of this order.

We have addressed these comments regarding ministerial error allegations in detail in the *Memorandum to Susan Kuhback*, "Ministerial Error Allegations for Final Results of Review" (May 7, 2001). As explained in that memorandum, we agree with DHP's ministerial error allegation. This error, however, affects the margin program for all three respondents and, therefore, we have corrected the error for HDP, as well as for SeAH and Shinho. Regarding SeAh's and Shinho's ministerial error allegations, we find these alleged errors do not constitute ministerial errors under 19 CFR 351.224(c) and, accordingly, have made no changes to the margins to correct them.

Amended Final Results

Based on our review of comments received regarding ministerial errors, we have made the following change to the *Final Results*: We have corrected the SAS calculation program to allow proper matching of U.S. sales to home market sales.

We determine the following dumping margins exist for the period November 1, 1998, through October 31, 1999:

Manufacturer/Exporter	Margin (percent)
Shinho	2.99
SeAH	0.95
HDP	2.53

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: May 11, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13052 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–865]

Notice of Postponement of Final Determination of Antidumping Duty Investigation: Certain Hot-Rolled Carbon Steel Products From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of final determination of antidumping duty investigation.

EFFECTIVE DATE: May 23, 2001.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or James Doyle, Office IX,

[1] In a letter dated January 5, 2001, HDP informed the Department that its corporate name would change to Hyundai Steel Company effective February 1, 2001. On February 27, 2001, the Department initiated a changed circumstances review to determine whether entries naming "Hyundai Hysco" as manufacturer or exporter should receive the cash deposit rate currently applied to HDP. *Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Initiation of Changed Circumstances Antidumping Duty Administrative Review*, 66 FR 12460 (February 27, 2001). Pending a final determination in that changed circumstances review, we will continue to refer to the respondent in the instant review as HDP.

DAS Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0165 and (202) 482–0159, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Background

This investigation was initiated on December 4, 2000. *See Notice of Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products From Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine*, 65 FR 77568 (December 12, 2000). The period of investigation (POI) is April 1, 2000 through September 30, 2000. On May 3, 2001, the Department published the notice of preliminary determination. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 22183 (May 3, 2001).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

In a May 7, 2001 request Shanghai Baosteel Group Corporation, Baoshan Iron and Steel Co., Ltd., and Baosteel Group International Trade Corporation (collectively Baosteel Group) requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and requested an extension of the provisional measures. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Baosteel Group accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting Baosteel Group's request and are postponing the final determination until no later than 135 days after the publication of preliminary determination in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This notice is published in accordance with section 735(a)(2) of the Act.

Dated: May 16, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13053 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Wool Textiles and Textile Products Produced or Manufactured in Colombia

May 18, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 25, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 443 is being increased for swing, reducing the limit for Category 315 to account for the swing being applied. In addition, the limit for Category 443 is also being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66719, published on November 7, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and wool textile products, produced or manufactured in Colombia and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 25, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
315	31,097,800 square meters.
443	158,100 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–13023 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Oman

May 18, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 25, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 77593, published on December 12, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18,2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in Oman and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001.

Effective on May 25, 2001, you are directed to increase the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
334/634	183,370 dozen.
335/635	338,907 dozen.
338/339	703,234 dozen.
340/640	338,907 dozen.
341/641	254,180 dozen.
647/648/847	519,551 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–13021 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Russia

May 18, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: May 25, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement, effected by exchange of notes dated August 13, 1996 and September 9, 1996, as amended on February 26, 2001, and April 30, 2001, between the Governments of the United States and the Russian Federation establishes a limit for wool textile products in Category 435 for the periodJanuary 1, 2001 through December 31, 2001.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limit for the period January 1, 2001 through December 31, 2001.

This limit may be revised if Russia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Russia.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 18, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement, effected by exchange of notes dated August 13, 1996 and September 9, 1996, as amended on February 26, 2001, and April 30, 2001, between the Governments of the United States and the Russian Federation, you are directed to prohibit, effective on May 25, 2001, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 435, produced or manufactured in Russia and exported during the period beginning on January 1, 2001 and extending through December 31, 2001, in excess of 55,204 dozen.

The limit set forth above is subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and the Russian Federation.

Products in the above category exported during 2000 shall be charged to the applicable category limit for that year (see directive dated September 13, 1999) to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such products shall be charged to the limit set forth in this directive.

This limit may be revised if Russia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Russia.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–13022 Filed 5–22–01; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: Commission Meeting, Wednesday, May 30, 2001, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

BABY BATH SEATS (PETITION HP 00–4): The Commission will consider options regarding Petition HP 00–4, filed by the Consumer Federation of America and nine other organizations, requesting that the Commission ban baby bath seats to address a risk of injury or death by drowning.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 21, 2001.

Sadye E. Dunn,

Secretary.

[FR Doc. 01–13175 Filed 5–21–01; 2:48 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: Commission Meeting, Thursday, May 31, 2001, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

MID-YEAR REVIEW: The staff will brief the Commission on issues related to fiscal year 2001 mid-year review.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 21, 2001.

Sadye E. Dunn,

Secretary.

[FR Doc. 01–13176 Filed 5–21–01; 2:48 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

The Commercial Space Technology, Systems Architecture & Policy Panel andThreat Panel Meeting will meet in Kirtland Air Force Base, New Mexico on May 31–June 1, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–13006 Filed 5–22–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

The C2 Advisory Group Meeting will meet in Langley Air Force Base, Virginia on May 24–25, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–13007 Filed 5–22–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability—Draft Environmental Impact Statement (DEIS) for the Northern Training Complex With a Multi-Purpose Digital Training Range and Expanded Maneuver Areas, Drop Zones and Landing Zones at Fort Knox, Kentucky

AGENCY: U.S. Army Armor Center and Fort Knox, Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA), the Army has prepared a Draft Environmental Impact Statement (DEIS) for the construction and operation of a multi-purpose digital training range and a series of maneuver areas, drop zones and landing zones at Fort Knox, Kentucky. The DEIS analyzes the impacts of the proposed facilities. These facilities would provide a multi-functional war-fighting capability to meet the Army's training needs for soldiers in urban and restricted terrain combat scenarios. The DEIS identifies various alternatives and the associated environmental impacts of the proposed alternatives.

DATES: Written comments will be received on or before July 9, 2001 by the U.S. Environmental Protection Agency.

ADDRESSES: Questions about the DEIS, submission of written comments or requests for copies of the DEIS may be made to: Environmental Management Division, Directorate of Base Operations Support, U.S. Army Armor Center, ATTN: ATZK–OSE, Building 1110, Room 216, Ironsides & 6th Avenue, Fort Knox, KY 40121–5000. Submit electronic comments and data by email to: Linda.Pollock@knox.army.mil.

FOR FURTHER INFORMATION CONTACT: Mr. Al Freeland or Mrs. Gail Pollock, Environmental Management Division, Directorate of Base Operations Support, U.S. Army Armor Center, ATTN: ATZK–OSE, Building 1110, Room 216, Ironsides & 6th Avenue, Fort Knox, KY 40121–5000, by calling (502) 624–3629 or by fax at (502) 624–3000.

SUPPLEMENTARY INFORMATION: The proposed project includes upgrading an existing training range to a modern digitized multi-purpose training range; construction of a series of landing zones, drop zones and maneuver areas and a grassed C130 landing strip; upgrade of existing roads; installation of fiber optics and other infrastructure improvements. The facilities would prepare the mounted force warriors for full spectrum combat operations. The proposed facilities would fully support new equipment training such as the M1A2 Main Battle Bank (MBT) Systems Enhancement Package (SEP), the M2A3 Bradley Fighting Vehicles, and the Light Armored Vehicle (LAV III), as well as other enhanced vehicles requiring digital capability. These vehicles are equipped with a dynamic new computer system that uses digital technology to provide soldiers with on the move and instantaneous battlefield communications. The Notice of Intent for the proposed project was published in the **Federal Register** (65 FR 31534, May 18, 2000).

Submit electronic comments and data by sending via electronic mail (email) to Linda.Pollock@knox.army.mil. Submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Fort Knox also accepts data on disks in Microsoft Word 2000 file format or ASCII format.

Individuals who wish to review the DEIS may examine a copy at any of the following locations: Barr Library, 400 Quartermaster Street, Fort Knox, Kentucky 40121–5000 and Ridgeway Memorial Library, 127 North Walnut Street, P.O. Box 146, Shepherdsville, Kentucky 40165.

The DEIS has also been distributed to Federal, state, and local regulatory agencies, known interested organizations, and those individuals who have requested it.

Dated: May 17, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I&E)

[FR Doc. 01–12981 Filed 5–22–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Proposed Army Alternate Procedures Regarding the Protection of Army Historic Properties and Environmental Assessment/Finding of No Significant Impact for the Adoption of the Army Alternate Procedures

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Army Alternate Procedures (AAP) to 36 CFR Part 800: Protection of Army Historic Properties and Environmental Assessment (EA)/ Finding of No Significant Impact (FNSI) for the adoption of the AAP. The Army intends to sign the FONSI unless public comments identify significant impacts or issues that have not been considered. The AAP is an optional procedure that an installation may choose to adopt to satisfy compliance with Section 106 of the National Historic Preservation Act (NHPA) in lieu of the existing regulations set forth in the Advisory Council on Historic Preservation's (Council) regulations at 36 CFR Part 800. The Army and the Council have consulted extensively with State Historic Preservation Officers, Indian tribes and Native Hawaiian organizations, and the National Trust for Historic Preservation throughout the development of the AAP. The EA gives full consideration and adoption of alternate procedures as the proposed action, and two reasonable alternatives to the proposed action.

DATES: Submit comments on or before June 22, 2001.

ADDRESSES: To obtain copies of the proposed AAP, the EA, and FONSI, contact the U.S. Army Environmental Center, ATTN: SFIM–AEC–PA (Joe Ricci), Aberdeen Proving Ground, MD 21010–5401.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Wright at (703) 693–0675.

SUPPLEMENTARY INFORMATION: The proposed action is the adoption of the proposed AAP for compliance with Section 106 of the NHPA and for comprehensive management and preservation of historic properties on lands owned or controlled by the Department of the Army. The AAP, once adopted, would stand in place of the project-by-project review procedures set forth in 36 CFR Part 800. The AAP's build upon and rely on the internal policy requirement for installations to prepare Integrated Cultural Resource Management Plans in accordance with Army Regulation 200–4, Cultural Resources Management, as implemented by more detailed guidance in Department of the Army Pamphlet 200–4. The AAP's would authorize Army installation commanders to develop Historic Property Components (HPC) to the installation's Integrated Cultural Resources Management Plan (ICRMP). Once certified by the Council, the HPC would serve as the installation's Section 106 compliance agreement for a five (5) year period. The installation's Section 106 compliance responsibilities would be met through implementation of the HPC rather than case-by-case, formalized, external review of individual undertakings as presently required by 36 CFR Part 800. Installations choosing not to develop certified HPC's would continue to review undertakings in accordance with 36 CFR Part 800.

The EA considered, evaluated and assessed alternatives: (a) The No Action Alternative (continued project-by-project review under 36 CFR Part 800); (b) The Programmatic Agreement (PA) Alternative (adoption of an agency policy encouraging the use of PA's under existing regulations to implement the historic preservation portions of an installation's ICRMP); and (c) the proposed action alternative (adoption of the AAP's). Consideration of the alternatives analyzed in the EA leads to the Army's decision to adopt the AAP's. The No Action Alternative would allow a continued ad-hoc approach to compliance with Section 106 and management of historic properties. With the anticipated growth in the Army's historic properties inventory, continued review of undertakings on a case-by-case basis will likely remain inefficient and lead to increased program costs. The PA Alternative better meets the stated purpose and need since it would provide a programmatic basis for Section 106 compliance, relying on an installation's ICRMP. The Army's past experience with PA's, however, is that they have not been effective in resolving adverse effects, and, generally result in reversion to case-by-case, formalized, external review when such effects are identified. The proposed action (i.e., AAP's) more squarely meets the stated purpose and need for action. The AAP's) more squarely meets the stated purpose and need for action. The AAP's build on the present management approach established by Army Regulation 200–4 and leverage the existing Army historic properties management policy, programs and participants. Management in this manner will facilitate overall Army

compliance with Section 106; and, will otherwise provide the agency with the ability to act as a more responsible steward for historic properties entrusted to its care.

Copies of the AAP, EA and FONSI can also be found on the Council's web site at www.achp.gov/army.html.

Dated: May 17, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety, and Occupational Health) OASA(I&E).

[FR Doc. 01–13008 Filed 5–22–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 23, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Notice Inviting Proposals for participation in the Experimental Sites Initiative.

Frequency: One time.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 500.

Burden Hours: 2,500.

Abstract: The Secretary invites proposals to reinvent the administration of Federal student assistance programs through the use of the experimental sites authority (Section 487A(b)) of the Higher Education Act of 1965, as amended. The program is intended to encourage institutions to develop innovative strategies to improve Title IV program administration.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12947 Filed 5–22–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 23, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: Campus-Based Reallocation Form E40–4P.

Frequency: On Occasion.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 3,000.

Burden Hours: 500.

Abstract: The Reallocation Form is necessary to determine the funds available and to establish eligibility for the distribution of supplemental Federal Work-Study (FWS) awards.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12948 Filed 5–22–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 22, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: The Joint Application for the Leveraging Educational Assistance Partnership (SLEAP) and Special Leveraging Educational Assistance and Partnership (LEAP) Programs.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 112.

Abstract: The LEAP and SLEAP programs use matching Federal and State funds to provide a nationwide system of grants to assist postsecondary educational students with substantial financial need. On this application the states provide information the Department requires to obligate funds and for program management. The signed assurances legally bind the states to administer the programs according to regulatory and statutory requirements. With the clearance of this collection, the Department is seeking to automate the application for web-based applying for both the LEAP Program and the subprogram, SLEAP. There are no significant changes to the current LEAP form data elements. There are, however, some additional items pertaining to the SLEAP Program which combines the application into one form for both programs.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–12949 Filed 5–22–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.215X]

Teaching American History Grant Program; Notice Inviting Grant Applications for New Awards for Fiscal Year (FY) 2001

Note to Applicants: This notice is a complete application package. Together with the statute authorizing these grants and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a Teaching American History grant under this competition. These grants are funded under Title X, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 8001 *et seq.*).

Purpose of Program: Teaching American History grants will support

programs to raise student achievement by improving teachers' knowledge, understanding, and appreciation of American history. Grant awards will assist local educational agencies (LEAs), in partnership with entities that have extensive content expertise, to develop, document, evaluate, and disseminate innovative, cohesive models of professional development. By helping teachers to develop a deeper understanding and appreciation of American history as a separate subject matter within the core curriculum, these programs will improve instruction and raise student achievement.

Eligible Applicants: Local educational agencies (LEAs), working in partnership with one or more of the following entities:

- Institutions of higher education;
- Non-profit history or humanities organizations; and
- Libraries and museums.

Note: Groups of LEAs interested in submitting a single application must follow the procedures for group applications in 34 CFR 75.127–129 of EDGAR.

E-Mail Notification of Intent To Apply for Funding: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of LEAs that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department with a short e-mail noting the intent to submit an application for funding. The e-mail need not include information regarding the content of the proposed application, only the applicant's intent to submit it. The Secretary requests that this e-mail notification be sent no later than June 22, 2001. The e-mail notification should be sent to Ms. Christine Miller at: TeachingAmericanHistory@ed.gov. Applicants that fail to provide this e-mail notification may still apply for funding.

Deadline for Transmittal of Applications: July 23, 2001.

Deadline for Intergovernmental Review: September 21, 2001.

Estimated Available Funds: $50,000,000.

Estimated Range of Awards: $350,000–$1,000,000 (total funding per grant, for a three-year project period).

Estimated Average Size: $500,000 (total for all three years).

Maximum Award Amount: The total amount of funding that an LEA may receive under this competition is $1,000,000.

Estimated Number of Awards: 75–125.

Project Period: Up to 36 months.

Please note that applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Department will determine at the time of the initial award the funding levels for each year of the grant award. The Department of Education is not bound by any estimates in this notice.

Note: To provide the applicant the capacity to effectively plan for and carry out the comprehensive long-term activities involved in ongoing, intensive professional development, to establish partnerships to support this work, and to document and demonstrate the effectiveness of its program for future dissemination, the Secretary anticipates awarding the entire three-year grant amount for the project at the time of the initial award.

Page Limits: Applicants are strongly encouraged to limit the application narrative to no more than 20 double-spaced pages.

The following standards are preferred: (1) A "page" is 8.5" x 11" (one side only) with one-inch margins (top, bottom, and sides). (2) Use 12-point font for all text in the application narrative.

The page limit does not apply to the cover sheet, the one-page abstract, budget section, appendices, and forms and assurances.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98 and 99.

SUPPLEMENTARY INFORMATION: Budgets must include funds for at least two project staff members to attend a two-day annual meeting of the Teaching American History Grant Program in Washington, DC, each year of the project. Applicants must include funds to cover travel and lodging expenses for these training activities during each year of the project.

Program Description: The Teaching American History grant program is funded under Part A of Title X of the Elementary and Secondary Education Act.

Students who know and appreciate the great ideas of American history are more likely to understand and exercise their civic rights and responsibilities. Their understanding of traditional American history will be enhanced if teachers make the study of history more exciting, interesting, and engaging. Students need teachers who have a thorough understanding of American history as a separate subject within the core curriculum, and incorporate into their teaching effective strategies to help students learn.

The Teaching American History Grant Program will support projects to raise student achievement in American history by improving teachers' knowledge, understanding, and appreciation for American history through intensive, ongoing professional development. These professional development activities should reflect the best available research and practice in teaching, learning, and leadership. Project activities should enable teachers to develop further expertise in American History subject content, teaching strategies, use of technologies, and other essential elements of teaching to higher standards. Projects should be driven by a coherent, long-term plan and should be evaluated on the basis of their impact on teacher effectiveness and student learning. This assessment should guide subsequent professional development efforts.

This program will demonstrate how school districts and institutions with expertise in American history can collaborate over a three-year period to ensure that teachers develop the knowledge and skills necessary to teach American history in an exciting and engaging way. Through these projects, districts will demonstrate comprehensive professional development approaches for providing high-quality American history instruction. In addition to any dissemination conducted directly by grantees, the Department intends to take the products and information resulting from this grant and share the results with other communities.

Under this program, applicants must propose projects that:

- Develop and implement high-quality in-service and/or pre-service professional development that provides educators with content and teaching skills to prepare all students to achieve to higher standards in American history; and
- Develop and implement strategies for sustained and on-going collaboration that will take place over the course of at least three years among teachers and outside experts to improve instruction in American history.

Applicants should consider projects that include at least one or more of the following:

- Supporting participation of teams of teachers in summer institutes and summer immersion activities;
- Supporting school-based collaborative efforts among teachers, including programs that facilitate teacher observation and analyses of fellow history teachers' classroom practice to improve instruction;
- Developing programs to assist new history teachers in the classroom, such as—

(a) Mentoring and coaching by trained mentor teachers over the entire grant period;

(b) Team teaching with experienced history teachers; or

(c) Providing released time for observation and consultation with experienced history teachers;

- Providing collaborative professional development experiences for veteran history teachers;
- Establishing and maintaining professional networks that provide a forum for interaction among teachers and that allow for the exchange of information;
- Providing guidance to teachers on the use of technology to provide access to primary historical documents, enable cooperative learning efforts, and develop effective presentations of historical content; and
- Creating materials documenting the implementation and benefits of the program and products for other educators to use in the course of teaching American history as a separate subject within the core curriculum.

Application Content: To apply for Teaching American History program funds, applicants must fully describe, in their project narrative, projects that:

- Further the development of high-quality professional development programs, through collaboration, designed to improve American history education programs in elementary, middle, or high schools;
- Develop materials designed to help replicate or adapt the program;
- Document the program's outcomes and benefits; and
- Develop products and services that may be used to replicate the program in other settings.

Thus, grant applications must describe existing or proposed strategies that could successfully be implemented, expanded, documented, evaluated and disseminated. Taken together, these strategies and methods should comprise a research-based comprehensive American History education improvement project that:

- Is based on reliable theory, preliminary internal or external research, and evaluation regarding effective practice;
- Has the potential to improve students' achievement in American history;
- Highlights the development of model pre-service and/or in-service professional development for history teachers;
- Involves multiple partners and effectively combines resources to create quality, sustainable programs;
- Demonstrates the feasibility of further replication and dissemination;
- Is applicable to a broad range of rural and urban schools serving poor and disadvantaged students, including those schools that are chronically low-performing;
- Makes effective use of technology to further the program goals; and
- Describes methods by which the applicant will assess the project's outcomes.

Reporting Requirements and Expected Outcomes

The Secretary requires successful applicants to submit annual performance reports that document the grantee's yearly progress toward meeting expected programmatic outcomes. The Secretary will use these reports to measure the success of the grantee's project and contribute to a broader knowledge base about high-quality, effective professional development strategies that can improve the teaching and learning of American history nationwide. In addition, grantees will be required to submit a final performance report, due no later than 90 days after the end of the project period.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Secretary to exempt from rulemaking requirements rules governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). Funding was provided for this new initiative in the FY 2001 appropriations act, enacted December 21, 2000. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards. These requirements will apply to the FY 2001 grant competition only.

Competition Requirements

Absolute Priority: The following requirement applies to all applicants seeking funding under this competition. An applicant must meet this requirement in order to be eligible for funding.

Collaboration With Other Agencies or Institutions

(a) Each applicant must propose to work in collaboration with one or more of the following entities:

- Institutions of higher education;
- Non-profit history or humanities organizations; or
- Libraries or museums.

(a) The applicant must identify the entity or entities with which it will collaborate and include in its application an assurance from appropriate officials of those entities that they will work with the applicant in implementing the proposal.

Invitational Priority

The Secretary is particularly interested in receiving applications from high-poverty rural and urban LEAs for projects designed to improve American history instruction in chronically low-performing schools.

Definition: In addition to definitions in the statute and EDGAR, the following definition applies:

Research-based, when used with respect to an activity or a program, means that, to the extent possible, the activity or program is based on the most rigorous theory, research, and evaluation available and effective in improving student achievement and performance and other program objectives.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for grants under this competition. In all instances where the word "project" appears in the selection criteria, the reference to a Teaching American History program should be made.

The maximum composite score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. Within each criterion, the Secretary evaluates each factor equally.

(a) Need for Project (10 points)

In determining the need for the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project addresses the needs of disadvantaged students and students at risk of educational failure.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) Significance. (20 points)

In determining the significance of the proposed project, the Secretary considers one or more of the following factors:

(i) The potential contribution of the proposed project to increased knowledge or understanding of effective

strategies to improve instruction and student achievement in American History.

(ii) The likelihood that the proposed project will result in systematic improvement in the delivery of professional development to improve teacher's knowledge, understanding and appreciation of American History.

(iii) The extent to which the proposed partnership with institutions with expertise in the field will contribute to teachers' ability to instruct students in American History in an engaging manner.

(iv) The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used effectively in a variety of other settings.

(c) Quality of the Project Design (25 points)

In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the professional development activities to be provided by the project are of sufficient quality, intensity, and duration to lead to improved instruction in American History.

(iii) The extent to which the project involves the collaboration of appropriate partners with expertise in the content of American History to improve teachers' knowledge and instruction.

(iv) The extent to which coherent theory or quality external and internal research and evaluation underlie the proposed project.

(d) Quality of the Management Plan (15 points)

In determining the quality of the management plan for the proposed project, the Secretary considers one or more of the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, continuous improvement strategies and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(e) Quality of Project Personnel (5 points)

In determining the quality of the project personnel, the Secretary considers one or more of the following factors:

(i) The qualifications, including relevant training and experience in American history, of key project personnel and major partners, project consultants and contractors.

(ii) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(f) Quality of the Project Evaluation (15 points)

In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

(g) Adequacy of Resources (10 points)

In determining the adequacy of resources for the proposed project, the Secretary considers:

(i) The extent to which the costs are reasonable and the budget sufficient in relation to the objectives, design, and scope of project activities.

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedures established in each State under the Executive order.

If you want to know the name and address of any State Single Point of Contact (SPOC) you may view the latest SPOC list on the OMB Web site at the following address: *http://www.whitehouse.gov/omb/grants.*

In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, area-wide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372'CFDA #84.215X, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern Standard Time) on the date indicated in this notice. Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA # 84.215X, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC

or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Eastern Standard Time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.215X, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains all required forms and instructions, including instructions for preparing the application narrative, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), various assurances and certifications, and a checklist for applicants.

To apply for an award under this competition, your application must be organized in the following order and include the following four parts. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (ED 424, Exp. 06/30/2001) and Instructions

Part II: Budget Information-Non-Construction Programs (ED Form No. 524) and Instructions

An applicant for a multi-year project must provide a budget narrative that provides budget information for each budget period of the proposed project period.

Part III: Application Narrative

The application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. Applicants are strongly encouraged to limit the application narrative to no more than 20 double-spaced, standard-type pages. The following standards are preferred: (1) A "page" is 8.5" x 11" (one side only) with one-inch margins (top, bottom, and sides). (2) If using a proportional computer font, applicants are requested to use a 12-point font.

Part IV: Assurances and Certifications

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

c. Certifications regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications as printed in this notice in the **Federal Register**. However, the application form, assurances, and certifications must each have an original signature. All applicants are required to submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application, one bound and one unbound copy suitable for photocopying. Please mark each application as "original" or "copy." To aid with the review of applications, the Department encourages applicants to submit two additional paper copies of the application. The Department will not penalize applicants who do not provide additional copies. No grant may be awarded unless a completed application form, including the signed assurances and certifications, has been received.

FOR FURTHER INFORMATION CONTACT: Christine Miller or Alex Stein, Teaching American History Grant Program, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6200. Telephone (202) 260–8766 (Christine Miller) or (202) 205–9085 (Alex Stein). E-mail: *teachingamericanhistory@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

Individuals with disabilities may obtain this notice in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact persons.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 8001 et seq.

Dated: May 17, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

Appendix

Instructions for the Application Narrative

The narrative is the section of the application where the selection criteria used by reviewers in evaluating the application are addressed. The narrative must encompass each function or activity for which funds are being requested. Before preparing the application narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

Applicants should note the preferable page limits for the application narrative stated in this notice under *Page Limits.*

1. Begin with a one-page Abstract summarizing the proposed Teaching American History project, including a description of project objectives and activities and partners in the application. Also include a short description of the population to be served by the project.

2. Include a table of contents listing the parts of the narrative in the order of the selection criteria and the page numbers where the parts of the narrative are found. Be sure to number the pages.

3. Describe how the applicant meets the absolute priority.

4. Describe fully the proposed project in light of the selection criteria in the order in which the criteria are listed in the application package. Do not simply paraphrase the criteria.

5. Provide the following in response to the attached "Notice to all Applicants:" (1) A

reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.

6. If the application is from a group, attach the group's agreement. When applying for funds as a group, such as a consortium, individual eligible applicants must enter into an agreement signed by all members of the group. The group's agreement must detail the activities each member of the group plans to perform, and must bind each member to every statement and assurance made in the group's application. (The designated applicant must submit the group's agreement with its application.)

7. Applicants may include supporting documentation as appendices to the narrative. This material should be concise and pertinent to the competition. Note that the Secretary considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels.

8. Attach copies of all required assurances and forms.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, you are not required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 1810–0639, (Expiration Date: 05/31/2004). The time required to complete this information collection is estimated to average sixty-five (65) hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: Christine Miller, Teaching American History Grant Program, U.S. Department of Education, 400 Maryland Avenue SW, FB–6, 5C126, Washington, DC 20202–6200.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Christine Miller, Teaching American History Grant Program, U.S. Department of Education, 400 Maryland Avenue SW, FB–6, 5C126, Washington, DC 20202–6200.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

__1. Application for Federal Assistance (ED 424)
__2. Budget Information—Non-Construction Programs ED Form No. 524) and budget narrative.
__3. Application Narrative, including information that addresses section 427 of the General Education Provisions Act (see the section entitled "NOTICE TO ALL APPLICANTS"), and relevant appendices.
__4. Group agreement, if applicable.
__5. Assurances—Non-Construction Programs (SF 242B).
__6. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).
__7. Disclosure of Lobbying Activities (Standard Form LLL).

BILLING CODE 4001–01–U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education
Form Approved OMB No. 1875-0106 Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
Organizational Unit
City State County ZIP Code + 4

2. Applicant's D-U-N-S Number
3. Applicant's T-I-N
4. Catalog of Federal Domestic Assistance #: 84215X → Title: Teaching American History Grant Program
5. Project Director:
Address:
City State ZIP Code + 4
Tel. #: ( ) Fax #: ( )
E-Mail Address:
6. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)
7. Type of Applicant *(Enter appropriate letter in the box.)*

A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School District
I Public College or University
J Private, Non-Profit College or University
K Indian Tribe
L Individual
M Private, Profit-Making Organization
N Other *(Specify)*:

8. Novice Applicant ☐ Yes ☐ No

Application Information

9. Type of Submission:

	—PreApplication	*—Application*
	☐ Construction	☐ Construction
	☐ Non-Construction	☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: ___/___/_____ End Date: ___/___/_____

12. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #: OR b. Assurance of Compliance #:
c. IRB approval date: ☐ Full IRB or ☐ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative
b. Title
c. Tel. #: ( ) Fax #: ( )
d. E-Mail Address:
e. Signature of Authorized Representative Date: ___/___/_____

REV. 11/12/99 ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dub.com/dbiv/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking **"Yes"** the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are not planned at any time during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If all the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If some or all of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a , **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gow humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

Name of Institution/Organization

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/68), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	**Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

[FR Doc. 01–12931 Filed 5–22–01; 8:45 am]
BILLING CODE 4001–01–C

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Wednesday, June 13, 2001, 6 p.m.–9:30 p.m.

ADDRESSES: Garden Plaza Hotel, 215 South Illinois Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Stewardship: Mr. David Geiser, Director of Long-Term Stewardship, DOE/Headquarters.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC on May 17, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–13012 Filed 5–22–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, June 7, 2001 6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Rocky Flats site manager Barbara Mazurowski and Kaiser-Hill president Alan Parker will make a joint presentation on worker health and safety issues.
2. A representative from DOE-Headquarters will present the results of their findings on a study of safety issues at the Rocky Flats site.
3. The Environmental Restoration Committee will submit a recommendation for review and approval by the Board.
4. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 9 a.m. to 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on May 17, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–13013 Filed 5–22–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 01–15–NG]

Energia Azteca X, S. de R.L. de C.V. Order Granting Long-Term Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that on May 7, 2001, it issued DOE/FE Order No. 1678 granting Energia Azteca X, S. de R.L. de C.V. (EAX) authority to export up to 135,000 million cubic feet (Mcf) of natural gas per day to northern Baja California, Mexico. The gas will be purchased from Coral Energy Resources, L.P. and transported by El Paso Natural Gas Pipeline and North Baja Pipeline to a U.S./Mexico border crossing near Yuma, Arizona. EAX will use it for fuel to generate electricity at a new 750-megawatt power plant EAX is building near Mexicali, Mexico. The plant is scheduled to begin commercial operation on April 1, 2003, and the exports will continue 15 years beyond that date through March 31, 2018. To the extent needed, additional amounts of gas may be exported on an interruptible basis during the plant's test period which is expected to start July 1, 2002.

This Order may be found on the FE web site at http://www.fe.doe.gov, or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0334, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 9, 2001.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

[FR Doc. 01–13014 Filed 5–22–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 01–13–NG, et al.]

Office of Fossil Energy; H.Q. Energy Services (U.S.) Inc., et al.; Orders Granting and Transferring Authority to Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during April 2001, it issued Orders granting and transferring authority to import and export natural gas. These Orders are summarized in the attached appendix and may be found on the FE web site at http://www.fe.doe.gov, or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on May 15, 2001.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting and Transferring Import/Export Authorizations

Order No.	Date issued	Importer/exporter FE Docket No.	Import Volume	Export volume	Comments
1675	04–12–01	H.Q. Energy Services (U.S.) Inc. 01–13–NG ..	200 Bcf	200 Bcf	Import a combined total from Canada and Mexico and to export a combined total to Canada and Mexico, beginning on May 1, 2001, and extending through April 30, 2003.
1432–A	04–17–01	Husky Gas Marketing Inc. (Successor to Renaissance Energy (U.S.) Inc.) 98–85–NG.			Transfer of long-term authority to import natural gas from Canada.
1037–A	04–17–01	Husky Gas Marketing Inc. (Successor to Renaissance Energy (U.S.) Inc.) 95–15–NG.			Transfer of long-term authority to import natural gas from Canada.
952–A	04–17–01	Husky Gas Marketing Inc. (Successor to Renaissance Energy (U.S.) Inc.) 94–37–NG.			Transfer of long-term authority to import natural gas from Canada.
1676	04–17–01	Virginia Power Energy Marketing, Inc.) 01–12–NG.	730 Bcf		Import and export a combined total from and to Canada, over a two-year term beginning on the date of first delivery.
1275–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 97–36–NG.			Transfer of long-term authority to import natural gas from Canada.
1622–B	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 00–58–NG.			Transfer of blanket authority to import natural gas from Canada.
1253–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 97–03–NG.			Transfer of long-term authority to import natural gas from Canada.
1202–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 96–52–NG.			Transfer of long-term authority to import natural gas from Canada.
1128–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 95–104–NG.			Transfer of long-term authority to import natural gas from Canada.
1282–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 97–37–NG.			Transfer of long-term authority to import natural gas from Canada.
1332–C	04–19–01	Engage Energy America L.L.C. (Successor to Engage Energy America Corp.) 97–48–NG.			Transfer of long-term authority to import natural gas from Canada.
1677	04–26–01	Altagas Marketing (U.S.) Inc. 01–14–NG	15 Bcf		Import from Canada over a two-year term beginning on the date of first delivery.

[FR Doc. 01–13011 Filed 5–22–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–359–000]

Dominion Transmission, Inc.; Notice of Application

May 17, 2001.

Take notice that on May 4, 2001, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP01–359–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon its storage well N205S, located in its Woodhull Storage Field in Steuben County, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

DTI proposes to abandon its storage well N205S and to convert it to an observation well in the Woodhull Storage Pool. DTI requests authorization to abandon N205S because the expenditures required to maintain this well and the gathering lines that connect it to DTI's mainline are not operationally or economically justified. DTI also states that, due to continuing problems with the well and the connecting gathering line, the well has been unavailable to the gathering system each withdrawal season and is contributing nothing to pool deliverability. DTI states that the pool deliverability will be unaffected if well N205S is abandoned and converted to an observation well. DTI further states that it plans to abandon the lines that connect well N205S to DTI's mainline, specifically 1200 feet of 6-inch-diameter well line LN720S and 500 feet of 8-inch-diameter well line LN695S, under DTI's Part 157 blanket certificate authority.

Any questions regarding this application should be directed in writing to Sean R. Sleigh, Manager, Certificates, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia 26301 or by telephone at (304) 627–3462.

Any person desiring to be heard or any person desiring to make any protests with reference to said application should on or before June 7, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for DTI to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 01–12955 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–417–000]

Eastern Shore Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

May 17, 2001.

Take notice that on May 14, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of May 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12957 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10461–002–New York]

Erie Boulevard Hydropower, L.P.; Notice of Extension of Time to File Comments, Recommendations, Terms and Conditions, and Prescriptions

May 17, 2001.

By letter dated April 5, 2001, Erie Boulevard Hydropower, L.P. (Erie) requested an extension of time for the filing of comments in response to the Commission's Notice of Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions issued March 27, 2001, concerning Erie's application for a proposed original license for the Parishville Project on the West Branch of the St. Regis River, near the village of Parishville, St. Lawrence County, New York. Erie stated that it had been meeting with the New York Department of Environmental Conservation (NYSDEC) as part of continuing negotiations on major licensing issues pertaining to the project and anticipated a settlement offer on those issues to be achieved by June 2001. Erie stated that the additional time is needed so the parties to the proceedings (particularly the resource agencies) can avoid having to develop and support positions, especially recommendations or mandatory conditions pursuant to Section 10(j) or Section 18 of the Federal Power Act, that may differ from proposals expected to be arrived at in the settlement offer.

By letter dated April 23, 2001, the Department of the Interior supported Erie's request. By letter dated May 1, 2001, Erie reported it had also obtained verbal agreement on the extension request from representatives of the U.S. Fish and Wildlife Service, the NYSDEC, the Adirondack Mountain Club, New York Rivers United, Trout Unlimited, and American Whitewater.

Upon consideration, notice is hereby given that an extension of time for the filing of comments, recommendations, terms and conditions, and prescriptions is granted, and they are now due on July 25, 2001.

David P. Boergers,

Secretary.

[FR Doc. 01–12960 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10462–002–New York]

Erie Boulevard Hydropower, L.P.; Notice of Extension of Time to File Comments, Recommendations, Terms and Conditions, and Prescriptions

May 17, 2001.

By letter dated April 5, 2001, Erie Boulevard Hydropower, L.P. (Erie) requested an extension of time for the filing of comments in response to the Commission's Notice of Ready for Environmental Analysis and Soliciting, Recommendations, Terms and Conditions, and Prescriptions issued March 27, 2001, concerning Erie's application for a proposed original license for the Allens Falls Project on the West Branch of the St. Regis River, near the village of Parishville, St. Lawrence County, New York. Erie stated that it had been meeting with the New York Department Environmental Conservation (NYSDEC) as part of continuing negotiations on major licensing issues pertaining to the project and anticipated a settlement offer on those issues to be achieved by June 2001. Erie stated that the additional time is needed so the parties to the proceedings (particularly the resource agencies) can avoid having to develop and support positions, especially recommendations or mandatory conditions pursuant to Section 10(j) or Section 18 of the Federal Power Act, that may differ from proposals expected to be arrived at in the settlement offer.

By letter dated April 23, 2001, the Department of the Interior supported Erie's request. By letter dated May 1, 2001, Erie reported it had also obtained verbal agreement on the extension request from representatives of the U.S. Fish and Wildlife Service, the NYSDEC, the Adirondack Mountain Club, New York Rivers United, Trout Unlimited, and American Whitewater.

Upon consideration, notice is hereby given that an extension of time for the filing of comments, recommendations, terms and conditions, and prescriptions is granted, and they are now due on July 25, 2001.

David P. Boergers,

Secretary.

[FR Doc. 01–12961 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–225–003]

Gulf South Pipeline Company, LP; Notice of Compliance Filing

May 17, 2001.

Take notice that on May 14, 2001, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective March 1, 2001:

Substitute First Revised Sheet No. 100
Substitute First Revised Sheet No. 300
Substitute First Revised Sheet No. 400
Substitute First Revised Sheet No. 500
Substitute First Revised Sheet No. 603
Second Sub Original Sheet No. 1416
Second Sub Original Sheet No. 2902
Second Sub Original Sheet No. 2903

In its Order on Compliance filing and Rehearing, issued April 27, 2001, in Docket No. RP01–225, the Commission required Gulf South to refile certain aspects of its open tap and open season tariff provisions, consistent with its directives. This compliance filing incorporates the required changes to the appropriate tariff sheets.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions maybe filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12959 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–416–000]

Northwest Pipeline Corp.; Notice of Proposed Changes in FERC Gas Tariff

May 17, 2001.

Take notice that on May 14, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective June 14, 2001:

1st Rev Third Revised Sheet No. 255
1st Rev Third Revised Sheet No. 256

Northwest states that the purpose of this filing is to propose revisions to Northwest's tariff to provide for the equitable sharing of lateral facility costs between a shipper for whom a lateral facility was initially constructed and a third-party shipper that has requested service on a relatively inexpensive expansion of the original lateral facility.

Northwest states that a copy of this filing has been served upon Northwest's customers and upon interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for

assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12958 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–07–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–317–001]

Reliant Energy Gas Transmission Company; Notice of Compliance Filing

May 17, 2001.

Take notice that on May 14, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective May 1, 2001:

Substitute Second Revised Sheet No. 253

REGT states that the purpose of this filing is to comply with the Commission's order issued April 27, 2001 in Docket No. RP01–317–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12956 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–98–000–000, et al.]

Public Service Company of New Mexico, et al.; Electric Rate and Corporate Regulation Filings

May 16, 2001.

Take notice that the following filings have been made with the Commission:

1. Public Service Company of New Mexico

[Docket No. EC01–98–000]

Take notice that on May 10, 2001, Public Service Company of New Mexico (PNM), filed an application pursuant to Sections 203 of the Federal Power Act, 16 U.S.C. §§ 824b and Part 33 of the Commission's regulations, 18 CFR Part 33. PNM requests authorization to transfer control over PNM to a new holding company that will own PNM through a mandatory share exchange transaction involving existing PNM shareholders.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Oklahoma Gas and Electric Company

[Docket No. EC01–100–000]

Take notice that on May 11, 2001, Oklahoma Gas and Electric Company (OGE) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act requesting authorization to transfer operational control of certain jurisdictional transmission facilities to the Southwest Power Pool Regional Transmission Organization as proposed and described in the filing made by the Southwest Power Pool on October 13, 2000 in Docket No. RT01–34–000.

OGE states that a copy of the filing has been served on the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. PSEG Fossil LLC

[Docket No. EG01–42–000]

Take notice that on May 9, 2001, PSEG Fossil LLC (Applicant), having its principal place of business at 80 Park Plaza, T16, Newark, New Jersey 07102, filed with the Federal Energy Regulatory Commission (FERC or the Commission) an amended and restated application for redetermination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations.

The Applicant is a limited liability company formed under the laws of the State of Delaware. The Applicant is engaged, directly or indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA), exclusively in owning or owning and operating eligible electric facilities and participating in project development activities incidental to such eligible electric facilities as authorized under PUHCA. The Applicant owns and operates eligible facilities located in Pennsylvania and New Jersey.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Electricity Capital, LLC; El Cap I, LLC; El Cap II, LLC

[Docket Nos. EG01–171–000; EG01–177–000; EG01–178–000]

Take notice that on May 11, 2001, Electricity Capital, LLC (Electricity Capital), El Cap I, LLC (El Cap I), and El Cap II, LLC (El Cap II), Delaware limited liability companies, filed with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicants are engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities and selling electric energy and capacity at wholesale. Applicants intend to produce electricity using natural gas-fired generators.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Reliant Energy Mid-Atlantic Power Holdings, L.L.C.

[Docket No. EG01–211–000]

Take notice that on May 10, 2001, Reliant Energy Mid-Atlantic Power Holdings, L.L.C. (Applicant) filed with the Federal Energy Regulatory Commission (Commission) a second amended and restated application for redetermination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations.

The Applicant is a Delaware limited liability company that owns and operates EWGs and eligible facilities in New Jersey, Maryland and Pennsylvania. The Applicant is engaged directly, or indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA), and exclusively in owning or operating or both owning and operating eligible electric facilities and participating in project development activities incidental to such eligible electric facilities as authorized under PUHCA.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Calhoun Power Company I, LLC

[Docket No. EG01–212–000]

Take notice that on May 11, 2001, Calhoun Power Company I, LLC (Calhoun), with its principal office at 700 Universe Boulevard, Juno Beach, Florida 33408, filed with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Calhoun states that it is a Delaware limited liability company developing a 626 megawatt electric generating facility located in Calhoun County near Anniston, Alabama, which will be used to produce energy sold exclusively at wholesale.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Cogeneration Association of California; Coalinga Cogeneration Company; Kern River Cogeneration Company; Mid-Set Cogeneration Company; Sycamore Cogeneration Company; Texaco Kern Field Projects; Sargent Canyon Cogeneration Company; Salinas River Cogeneration Company; Texaco North Midway Cogeneration Project; Texaco McKittrick Cogeneration Project; Midway Sunset Cogeneration Company; and Watson Cogeneration Company

[Docket Nos. EL01–77–000; EL01–64–000; EL01–67–000; EL01–71–000; (Not consolidated)]

Take notice that on May 10, 2001, the Cogeneration Association of California, et al. tendered for filing a Petition for Declaratory Order Finding Federal Preemption or for Enforcement Action Under Section 210(h) of the Public Utility Regulatory Policies Act of 1978, Motion to Intervene in Support of Related Dockets and Motion to Consolidate.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Carolina Power & Light Company Duke Energy Corporation; South Carolina Electric & Gas Company; GridSouth Transco, LLC

[Docket No. RT01–74–002]

Take notice that on May 14, 2001, Carolina Power & Light Company, Duke Energy Corporation, and South Carolina Electric & Gas Company (Applicants), on behalf of GridSouth Transco, LLC, submitted a supplemental filing. The filing includes those revisions to the GridSouth documents required by the Commission's order of March 14, 2001, in Docket No. RT01–74–000.

Comment date: June 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Consumers Energy Company

[Docket No. ER01–318–005]

Take notice that on May 10, 2001, Consumers Energy Company (Consumers) tendered for filing Sub Original Sheet Nos. 129 and 162 to its Open Access Transmission Tariff, Consumers First Revised FERC Electric Tariff No. 6, in compliance with the Commission's April 27, 2001 Order in Docket No. ER01–318–004. Both sheets have effective dates of November 1, 2000.

Copies of the revised tariff sheets were served upon all those on the service list in this proceeding.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER01–889–005]

Take notice that on May 11, 2001, the California Independent System Operator Corporation (ISO) tendered for filing a compliance filing in the above captioned docket. The ISO states that this filing has been served on all parties on the official service list in this docket.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Arizona Public Service Company

[Docket No. ER01–1940–001]

Take notice that on May 11, 2001, Arizona Public Service Company (APS) tendered for filing FERC revisions to its Open Access Transmission Tariff (OATT) to make changes to the Arizona Independent Scheduling Administrator Association's Protocols Manual, Attachment L of APS OATT.

A copy of this filing has been served on all parties on the service list.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of New Mexico

[Docket No. ER01–1845–001]

Take notice that on May 11, 2001, Public Service Company of New Mexico (PNM) tendered for filing a correction to its April 20, 2001 submittal of First Revised Sheet Nos. 90, 91 and 92 of PNM's Open Access Transmission Tariff to incorporate a change to the pricing methodology for energy provided by PNM for Schedule 4—Energy Imbalance Service. The correction incorporates the intended change in the pricing language as described in the transmittal letter to the April 20 filing. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to all PNM Tariff customers, all entities that have pending interconnection requests with PNM and the New Mexico Public Regulation Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER01–173–003]

Take notice that on May 11, 2001, Arizona Public Service Company (APS) tendered for filing FERC ordered revisions to its Open Access Transmission Tariff (OATT) in the above referenced docket.

A copy of this filing has been served on all parties of the official service list.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Kansas City Power & Light Co

[Docket No. ER01–1707–001]

Take notice that on May 11, 2001, Kansas City Power & Light Company (KCPL) tendered for filing an amendment to its initial filing in the above-referenced proceeding. In particular, KCPL has provided additional cost support for its proposed rate and has submitted to proposed rate schedule in the format required by Section 35.9 of the Commission's Regulations (18 CFR 35.9).

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Elizabethtown Power, LLC

[Docket No. ER01–1509–001]

Take notice that on May 11, 2001, Elizabethtown Power, LLC tendered for filing its FERC Electric Tariff, Original Volume No. 1 and accompanying Code

of Conduct in compliance with the Commission's May 10, 2001, Order in the above-referenced docket.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Lumberton Power, LLC

[Docket No. ER01–1507–001]

Take notice that on May 11, 2001, Lumberton Power, LLC tendered for filing its FERC Electric Tariff, Original Volume No. 1 and accompanying Code of Conduct in compliance with the Commission's May 10, 2001, Order in the above-referenced docket.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Perryville Energy Partners, L.L.C.

[Docket No. ER01–1397–001]

Take notice that on May 11, 2001, Perryville Energy Partners, L.L.C. tendered for filing an amendment to the designations submitted with its Application for Acceptance of Market Based Rates, Certain Waivers and Blanket Authority, filed on March 5, 2001.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Xcel Energy Operating Companies Northern States Power Company

[Docket No. ER01–1332–001]

Take notice that on May 11, 2001, Northern States Power Company (NSP), a wholly-owned utility operating company subsidiary of Xcel Energy Inc., tendered for filing in Compliance with the Commission's Order of April 5, 2001, in the above referenced docket.

NSP requests the letter agreements be accepted for filing effective January 1, 2001, and requests waiver of the Commission's notice requirements in order for the Agreements to be accepted for filing on the date requested.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Westar Generating, Inc.

[Docket Nos. ER01–1305–003]

Take notice that on May 11, 2001, Westar Generating, Inc. (Westar) tendered for filing an Order No. 614 conformed Rate Schedule FERC No.1 between Westar and Western Resources, Inc. in compliance with the requirements of the Commission's April 27, 2001 Order Accepting for Filing and Suspending Subject To Refund, Proposed Purchase Power Agreement, Requiring Compliance Filing, Granting Waivers, and Establishing Hearing Procedures, 95 FERC § 61,137.

Copies of the filing were served on the Kansas Corporation Commission, Western Resources, Inc and on each person designated on the official service list compiled by the Secretary in this proceeding.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Southern Energy Delta, L.L.C. Southern Energy Potrero, L.L.C.

[Docket Nos. ER00–936–004; ER00–937–004]

Take notice that on May 11, 2001, Mirant Delta, LLC (formerly Southern Energy Delta, L.L.C.) and Mirant Potrero, LLC (formerly Southern Energy Potrero, L.L.C.) (collectively, the Mirant Parties) tendered for filing a refund report as required by the Offer of Settlement filed in the above-captioned proceedings on September 28, 2000, and approved by letter order issued pursuant to direction of the Commission on March 15, 2001, 94 FERC 61,275 (2001).

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. AmerGen Vermont, LLC

[Docket No. ER00–1027–002]

Take notice that on May 11, 2001, AmerGen Vermont, LLC (AmerGen Vermont) tendered for filing the Power Purchase Agreement with Vermont Yankee Nuclear Power Corporation (VYNPC), designated as AmerGen Vermont, LLC, Rate Schedule FERC No. 2, is canceled effective as of May 11, 2001.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER01–2018–000]

Take notice that on May 10, 2001, Cinergy Services, Inc. (Services) tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy Operating Companies) a Letter Agreement, dated April 3, 2001, as a supplement to the Service Agreement No. 43, dated January 22, 1997, between Southwestern Electric Cooperative, Inc. (SWEC) and the Cinergy Operating Companies under the COC FERC Electric Market-Based Power Sales Tariff, Volume No. 7.

SWEC and the Cinergy Operating Companies have agreed to procedures for the curtailment of some of SWEC's load.

Copies of the filing were served on SWEC and the State Regulatory Commissions of Illinois, Ohio, Kentucky and Indiana.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Public Service Company of New Mexico

[Docket No. ER01–2019–000]

Take notice that on May 10, 2001, Public Service Company of New Mexico (PNM) tendered for filing two executed service agreements with Portland General Electric Company (Portland), under the terms of PNM's Open Access Transmission Tariff. One agreement is for short-term firm point-to-point transmission service and one is for non-firm point-to-point transmission service.

The effective date for the agreements is May 2, 2001, the date of execution. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Portland and to the New Mexico Public Regulation Commission.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Carolina Power & Light Company and Florida Power Corporation

[Docket No. ER01–2020–000]

Take notice that on May 10, 2001, Carolina Power & Light Company (CPL) and Florida Power Corporation (FPC) tendered for filing a Notice of Cancellation of their joint Open Access Transmission Tariff (OATT), FERC Electric Tariff, Original Volume No. 1. This cancellation is being filed because CP&L and FPC have filed separate tariffs to replace the joint OATT on April 26, 2001 in Docket No. ER01–1807–000.

Copies of the filing were served upon the CP&L's and FPC's open access tariff customers, and the state commissions of North Carolina, South Carolina and Florida.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Entergy Services, Inc.

[Docket No. ER01–2021–000]

Take notice that on May 10, 2001, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc., tendered for filing an Interconnection and Operating Agreement with Washington Parish Energy Center, L.L.C. (Energy Center), and a Generator Imbalance Agreement with Energy Center.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Illinois Power Company

[Docket No. ER01–2022–000]

Take notice that on May 10, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, tendered for filing with the Commission an Amended and Restated Service Agreement for Network Integration Transmission Service with Corn Belt Electric Cooperative Inc. (Corn Belt) entered into pursuant to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of May 1, 2001 for the Amended Agreement and accordingly seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to Corn Belt.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. American Transmission Systems, Inc.

[Docket No. ER01–2023–000]

Take notice that on May 10, 2001, American Transmission Systems, Inc. tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for Strategic Energy L.L.C., the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000.

The proposed effective date under the Service Agreement is May 8, 2001 for the above mentioned Service Agreement in this filing.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. American Transmission Systems, Inc.

[Docket No. ER01–2024–000]

Take notice that on May 10, 2001, American Transmission Systems, Inc. tendered for filing a Service Agreement to provide Firm Point-to-Point Transmission Service for Strategic Energy L.L.C., the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000.

The proposed effective date under the Service Agreement is May 8, 2001 for the above mentioned Service Agreement in this filing.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

29. Puget Sound Energy,

[Docket No. ER01–2025–000]

Take notice that on May 10, 2001, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a service agreement for Firm Point-To-Point Transmission Service and a service agreement for Non-Firm Point-To-Point Transmission Service with Merchant Energy Group of the Americas, Inc. (MEGA), as Transmission Customer. A copy of the filing was served upon MEGA.

Comment date: May 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

30. Progress Energy, Inc. On behalf of Florida Power Corporation

[Docket No. ER01–2026–000]

Take notice that on May 11, 2001, Florida Power Corporation (FPC) tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with FirstEnergy Services Corp. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of FPC.

FPC is requesting an effective date of April 15, 2001 for the Service Agreements.

A copy of the filing was served upon the Florida Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

31. Progress Energy, Inc. On behalf of Carolina Power & Light Company

[Docket No. ER01–2027–000]

Take notice that on May 11, 2001, Carolina Power & Light Company (CP&L) tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with FirstEnergy Services Corp. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of CP&L.

CP&L is requesting an effective date of April 15, 2001 for the Service Agreements.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

32. American Electric Power Service Corporation

[Docket No. ER01–2028–000]

Take notice that on May 11, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing blanket Service Agreements for new customers and replacement blanket Service Agreements for existing customers under the AEP Companies' Power Sales Tariffs. The Power Sales Tariffs were accepted for filing by the Commission as FERC Electric Tariff Original Volume No. 5, Effective October 10, 1997 in Docket Number ER 97–4143–00 and FERC Electric Tariff Original Volume No. 8, Effective January 8, 1998 in Docket Number ER 98–542–000.

AEPSC respectfully requests waiver of notice to permit the Service Agreements to be made effective to be effective on or prior to April 16, 2001.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

33. South Carolina Electric & Gas Company

[Docket No. ER01–2029–000]

Take notice that on May 11, 2001, South Carolina Electric & Gas Company (SCE&G) tendered for filing an executed service agreement with SCE&G Merchant Function providing for transmission and ancillary services on a long-term basis to the Ravenel Delivery Point pursuant to SCE&G's Open Access Transmission Tariffs.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

34. South Carolina Electric & Gas Company

[Docket No. ER01–2030–000]

Take notice that on May 11, 2001, South Carolina Electric & Gas Company (SCE&G) tendered for filing an executed service agreement establishing Central Electric Power Cooperative, Inc. (CEPC) as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of March 19, 2001, the date service commenced. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon CEPC and the South Carolina Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

35. Northern Indiana Public Service Company

[Docket No. ER01–2031–000]

Take notice that on May 11, 2001, Northern Indiana Public Service Company (Northern Indiana) tendered for filing a Service Agreement pursuant to its Wholesale Market-Based Rate Tariff with the CMS Marketing, Services and Trading Company (CMS). Northern Indiana has requested an effective date of May 14, 2000.

Copies of this filing have been sent to CMS, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

36. Tucson Electric Power Company

[Docket No. ER01–2033–000]

Take notice that on May 11, 2001, Tucson Electric Power Company tendered for filing one (1) Service Agreement (for firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreement is as follows:

1. Service Agreement for Firm Point-to-Point Transmission Service dated as of March 23, 2001 by and between Tucson Electric Power Company and Arizona Electric Power Cooperative, Inc.—FERC Electric Tariff Vol. No. 2, Service Agreement No. 166. No service has commenced at this time.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

37. Tucson Electric Power Company

[Docket No. ER01–2034–000]

Take notice that on May 11, 2001, Tucson Electric Power Company tendered for filing one (1) Umbrella Service Agreement (for short-term firm service) and one (1) Service Agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows:

1. Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of March 5, 2001 by and between Tucson Electric Power Company and Calpine Energy Services, L.P.—FERC Electric Tariff Vol. No. 2, Service Agreement No. 159. No service has commenced at this time.

2. Form of Service Agreement for Non-Firm Point-to-Point Transmission Service dated as of March 5, 2001 by and between Tucson Electric Power Company and Calpine Energy Serves, L.P.—FERC Electric Tariff Vol. No. 2, Service Agreement No. 160. No service has commenced at this time.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

38. Allegheny Energy Service Corporation on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01–2035–000]

Take notice that on May 11, 2001, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Service Agreement No. 352 to add Calpine Energy Services, L.P. to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000. The proposed effective date under the Service Agreement is May 10, 2001 or a date ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: June 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12950 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 137–002 California]

Pacific Gas and Electric; Notice of Availability of Final Environmental Assessment

May 17, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 F.R. 47897), the Office of Energy Projects has reviewed the application for license for the Mokelumne River Hydroelectric Project, a complex of multiple reservoirs, diversions, conduits, and powerhouses on the North Fork Mokelumne River, east of Sacramento, California in Alpine, Amador, and Calaveras Counties and has prepared a Final Environmental Assessment (FEA) for the project. The project occupies federal lands managed by the USDA Forest Service (Eldorado and Stanislaus National Forests) and the USDI Bureau of Land Management.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the FEA are available for review at the Commission's Public Reference Room, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. The FEA may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

For further information, contact Jim Fargo (202) 219–2848.

David P. Boergers,

Secretary.

[FR Doc. 01–12951 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 17, 2001.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Application Type:* Amendment of License—Small Turbine Generator Installation.

b. *Project No.:* 2145–042 and 943–075.

c. *Date Filed:* May 16, 2001.

d. *Applicant:* Public Utility District No. 1 of Chelan County, Washington.

e. *Name of Project:* Rocky Reach and Rock Island Hydroelectric Projects.

f. *Location:* On the Columbia River near the city of Wenatchee, in Chelan and Douglas Counties, in Washington state. The projects occupy lands managed by the Bureau of Land Management and the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert A. Salter, Public Utility District No. 1 of Chelan County, Washington, P.O. box 1231, Wenatchee, WA, 98807; (509) 663–8121.

i. *FERC Contact:* Questions about this notice can be answered by Vince Yearick at (202) 219–3073 or e-mail address: *vince.yearick@ferc.fed.us.* The Commission cannot accept comments, recommendations, motions to intervene or protest sent by e-mail; these documents must be filed as described below.

j. *Deadline for filing comments, motions to intervene, and protests:* 14 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Filing:* Public Utility District No. 1 of Chelan County, Washington, has filed applications requesting that its licenses for the Rocky Reach and Rock Island projects be amended to allow for the installation of small turbine generators within the attraction water conduits of existing adult fishways.

At the Rocky Reach Project, Chelan PUD would install a small, 0.8 MW, fixed-blade propeller turbine generator within the attraction water conduit upstream of the point where water enters the fishway. The installation would not occur within the fishway itself.

At the Rock Island Project, Chelan PUD would install a small, 0.7 MW, Kaplan turbine generator in the attraction water conduit of the left bank adult fishway. The installation would not occur within the fishway itself.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters in the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number(s) of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12952 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 17, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11938–000.

c. *Date Filed:* March 30, 2001.

d. *Applicant:* Y Canal Hydropower, Inc.

e. *Name of Project:* Y Canal Hydroelectric Project.

f. *Location:* On the North Side Canal Company irrigation system, on a man-made canal, in Gooding County, Idaho, near the Town of Bliss. The project would use land administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contacts:* Rodney Smith or Silvio Coletti, Y Canal Hydropower, Inc. 2727 South Merimac Place, Boise, ID 83709, (208) 562–1527, (Fax) (208) 562–8664, E-mail: power@BalatonPower.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendations,

interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project will include a powerplant, penstock, open cement canal, and a diversion off the Y Canal. No dams, spillways, or reservoirs are proposed for this project. The applicant estimates that approximately 2 miles of new lines will be needed to connect to existing lines.

The project would have an annual generation of 6,709,503 kWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12953 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 17, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11964–000.

c. *Date Filed:* April 18, 2001.

d. *Applicant:* Symbiotic, LLC.

e. *Name of Project:* Blackfoot Dam Hydroelectric Project.

f. *Location:* The proposed project would be located on the Blackfoot River, approximately 35 miles east of the town of Blackfoot, in Caribou County, Idaho. The project would be located on an existing federally-owned dam administered by the Bureau of Indian Affairs.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ .791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Project: (1) An existing earth-fill dam approximately 44 feet high and 304 feet long; (2) a reservoir having a surface area of 38.000 acres with a storage capacity of 350,000 acre-feet at a normal water surface elevation of 6,300 feet; (3) a 8 feet foot-diameter 400 foot-long steel penstock; (4) a concrete powerhouse containing one generating unit with a capacity of 3 megawatts; (5) a 15 kv transmission line approximately 14 miles long; and (6) appurtenant facilities.

The project would have an annual generation of 13.15 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Pubic Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12954 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–4]

Agency Information Collection Activities: New Collection; Comment Request; Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following new Information Collection Request (ICR) to the Office of Management and Budget (OMB): Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 23, 2001.

ADDRESSES: Transportation and Regional Programs Division, Office of

Transportation and Air Quality, Office of Air and Radiation, Mail Code 6406J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A paper or electronic copy of the draft ICR may be obtained without charge by contacting the person listed below.

FOR FURTHER INFORMATION CONTACT: Anne-Marie Pastorkovich, (202) 564–8987, fax: (202) 565–2085, pastorkovich.anne_marie@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are refiners, importers, pipelines, petroleum marketers and other distributors, terminals, fuel oil dealers, fuel additive manufacturers, retailers and wholesale purchaser-consumers.

Title: Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years.

Abstract: The pollution emitted by diesel engines contributes greatly to our nation's continuing air quality problems. On January 18, 2001, EPA published a final rule that establishes standards for heavy-duty engines and vehicles and for highway diesel sulfur control. New emissions standards for these engines and vehicles will apply starting with model year 2007. Since the new technology developed requires low sulfur diesel fuel [15 parts per million (ppm) sulfur or less], the regulations require the availability of this fuel starting by no later than 2006, with all highway diesel fuel required to meet the 15 ppm standard by 2010. See "Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements," 66 FR 5002 (January 18, 2001).

The diesel sulfur rule contains many types of flexibility aimed at reducing burdens on small businesses and those faced with particular hardships. All refiners producing highway diesel fuel and all importers are able to take advantage of the temporary compliance option offered in the final regulations at 40 CFR 80.530. This option would generally permit the refiner or importer to continue to produce or import fuel meeting a 500 ppm sulfur standard until May 31, 2010 through the use of marketable credits.

Diesel producers who market gasoline in the geographic phase-in area defined in the gasoline sulfur regulations may receive additional flexibility under this diesel fuel program (see 40 CFR 80.217 and 80.540). Refiners that seek and are granted small refiner status may have their choice of three options:

- *500 ppm option.* A small refiner may continue to produce and sell diesel fuel meeting the 500 ppm sulfur standard for four additional years, i.e., until June 1, 2010, provided that it reasonably ensures the existence of sufficient volumes of 15 ppm fuel in the marketing area(s) that it serves.
- *Small refiner credit option.* A small refiner that chooses to produce 15 ppm fuel prior to June 1, 2010 may generate and sell credits under the broader temporary compliance option. Since a small refiner has no requirement to produce 15 ppm fuel under this option, any fuel it produced at or below 15 ppm sulfur would qualify for generating credits.
- *Diesel/gasoline compliance date option.* For small refiners that are also subject to the gasoline sulfur program (see 40 CFR subpart H), the refiner may choose to extend the duration of its applicable interim gasoline standards by three years, provided that it produces all of its highway diesel fuel at 15 ppm sulfur beginning on June 1, 2006.

In addition, exemptions are possible for research and development purposes. The specific recordkeeping and reporting requirements for this program, and associated flexibilities, are discussed below. For a more detailed description of the diesel program, please refer to the January 18, 2001 **Federal Register** notice.

This Information Collection Request (ICR) would make ICR additions to the existing fuels regulations applicable to diesel fuel under ICR number 1718.02, which expires July 31, 2001. (ICR number 1718.03 has been reserved for its renewal.) The additional requirements covered under this ICR were included in the final rule published in the **Federal Register** on January 18, 2001.

The information under this ICR will be collected by EPA's Transportation and Regional Programs Division, Office of Transportation and Air Quality, Office of Air and Radiation (OAR), and by EPA's Air Enforcement Division, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance (OECA). The information collected will be used by EPA to evaluate compliance with diesel sulfur control requirements under the diesel rule. This oversight by EPA is necessary to ensure attainment of the air quality goals of the diesel program. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: It is estimated that there will be 48,690 reports, 72,648 burden hours, and total costs (labor, overhead and maintenance, purchased services, and annualized capital costs) of $9,208,880. This figure includes the initial burden associated with learning and adapting to the new requirements. A large portion of this burden relates to labor hours needed for start-up programming needs (*e.g.* establishment of new product codes and adapting company databases to account for credits and in order to generate information in a format for annual reports).

Dated: May 8, 2001.

Deborah K. Wood,

Acting Director, Transportation and Regional Programs Division.

[FR Doc. 01–12892 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6961–7]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing; 40 CFR Part 61, Subpart D

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing; 40 CFR part 61, subpart D; EPA ICR Number 1125.03; OMB Number 2060–0394; expiring October 31, 2001. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 23, 2001.

ADDRESSES: U.S. Environmental Protection Agency, 401 M Street S.W., Office of Compliance, Mail Code 2223A, Washington, D.C. 20460. A hard copy of an ICR may be obtained without charge by calling the identified information contact individual.

FOR FURTHER INFORMATION CONTACT: Elson Lim at (202) 564–7006 and FAX (202) 564–0050, or by E-mail at *Lim.Elson@epa.gov*.

SUPPLEMENTARY INFORMATION: An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collection, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

ICR

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB).

Title: National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing; 40 CFR part 61, subpart D; EPA ICR Number 1125.03, OMB Number 2060–0394, expiring October 31, 2001.

Affected Entities: These standards apply to sources that are rocket motor test sites that use beryllium propellant.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) 40 CFR part 61, subpart D was promulgated on April 6, 1973, and amended on November 7, 1985, for this source category. These standards establish limits for beryllium. The rule requires subject test sites to test ambient air for beryllium during and after firing a rocket motor. Samples are analyzed within 30 days and results are reported to EPA Region by registered letter by the business day following the determination and calculation. The rule also requires continuous stack sampling of beryllium combustion products during and after firing a rocket motor, and analysis and reporting within 30 days. In addition, other reporting requirements include notification of anticipated firing date; air quality emissions and ambient air quality and emission test reports. Recordkeeping requirements include air sampling test results, record of emission test results and making these records available to the Agency. Records are kept for a period of two years for the air sampling test results.

Burden Statement: In the currently approved ICR, the total hours were estimated to be 8.33 and the recordkeeping and reporting burden was estimated to be $299 per year. This estimate was based on one test facility. There are no capital and start-up cost for this ICR. There is also no operation and maintenance cost documented since no new sources are anticipated to become subject of these standards. There are no costs for continuous emission monitoring for this ICR and no known information that may impact the burden in the next ICR.

Dated: May 9, 2001.

Michael Stahl,

Director, Office of Compliance.

[FR Doc. 01–12895 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6977–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Investigations Into Compliance of Stationary Source With the Accidental Release Prevention Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Investigations into Possible Noncompliance of Stationary Sources with the Accidental Release Prevention Program established in 40 CFR Part 68, EPA ICR No. 1956.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 22, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1956.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1956.01. For technical questions about the ICR contact Silvia Palomo on (312) 353–2172.

SUPPLEMENTARY INFORMATION:

Title: Investigations into Compliance of Stationary Sources with the Accidental Release Prevention Program

established in 40 CFR part 68, EPA ICR Number 1956.01. This is a new collection.

Abstract: On June 20, 1996, EPA published risk management regulations mandated under the accidental release prevention provisions under the Clean Air Act Section 112(r)(7), 42 U.S.C. 7412(r)(7). These regulations were codified in 40 CFR part 68. The intent of Section 112(r) is to prevent accidental releases to the air and mitigate the consequences of such releases by focusing prevention measures on chemicals that pose the greatest risk to the environment. The chemical accident prevention rule required owners and operators of stationary sources subject to the rule to submit a risk management plan by June 21, 1999 to EPA. The Office of Chemical Emergency Preparedness and Prevention (OCEPP), Superfund Division, Region 5, is responsible for implementing and enforcing the Risk Management Program. In order to fulfill its responsibilities as the implementing office, OCEPP will collect information from major stationary sources of air emissions to determine whether or not these sources are in compliance with the risk management program regulations.

The information will be requested through certified mail and pursuant to Section 114(a) of the Clean Air Act, 42 U.S.C. 7414(a). Therefore, response to the information collection is mandatory. The information collected will include the names of the regulated substances used, produced, or stored on-site; amount of the regulated substances; copies of inventory records; capacity of the container which stores or handles the regulated substance; and the number of employees.

Any information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on May 9, 2000 (65 FR 26829). EPA received comments on the ICR from the following organizations: American Chemistry Council; Center for Regulatory Effectiveness (CRE); National Paint & Coating Association; and from one person.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 14.8 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Major stationary sources of air emissions that have applied for or obtained a Title V operating permit.

Estimated Number of Respondents: 1,800.

Frequency of Response: One-time.

Estimated Total Annual Hour Burden: 26,640 hours.

Estimated Total Annualized Capital, Operating/Maintenance Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1956.01 in any correspondence.

Dated: May 3, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–12898 Filed 5–22–01; 8:45 am]

BILLING CODE 5550–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–3]

Notice of Final Decision To Grant Vickery Environmental, Incorporated a Modification of an Exemption From the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984 Regarding Injection of Hazardous Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on a request to modify an exemption from the Hazardous and Solid Waste Amendments of the Resource Conservation and Recovery Act.

SUMMARY: Notice is hereby given by the Environmental Protection Agency (EPA or Agency) that modification of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (RCRA) has been granted to Vickery Environmental, Inc. (VEI) of Vickery, Ohio. This modification allows VEI to continue to inject two (2) RCRA-regulated hazardous wastes which will be banned from land disposal on May 7, 2001, as a result of regulations promulgated in the **Federal Register** (FR) on November 8, 2000 (65 FR 67132), into four Class I injection wells at the Vickery, Ohio, facility. As required by 40 CFR part 148, VEI has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the injection zone utilized by VEI's waste disposal facility located near Vickery, Ohio, for as long as the newly exempted wastes remain hazardous. This decision constitutes a final Agency action for which there is no administrative appeal.

DATES: This action is effective as of May 7, 2001.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, USEPA, Region 5, telephone (312) 886–2939. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative record.

SUPPLEMENTARY INFORMATION:

I. Background

Chemical Waste Management (CWM), the predecessor of VEI, submitted a petition for an exemption from the restrictions on land disposal of hazardous wastes on January 19, 1988.

Revised documents were received on December 4, 1989, and several supplemental submittals were subsequently made. The exemption was granted on August 7, 1990. On September 12, 1994, CWM submitted a petition to modify the exemption to include wastes bearing 23 additional RCRA wastes codes. Region 5 reviewed documents supporting the request and granted the modification of the exemption on May 16, 1995. A notice of the modification appeared on June 5, 1995, at 60 FR 29592 *et seq.* On April 9, 1996, CWM submitted a petition to again modify the exemption to allow 91 additional RCRA waste codes. Region 5 reviewed documents supporting the request and granted the modification on the exemption on June 24, 1996. A notice of the modification appeared on July 15, 1996, at 61 FR 36880 *et seq.* Again on May 13, 1997, CWM submitted a request to add 11 waste codes to the list. Region 5 reviewed the evidence submitted by CWM and granted the request. Notice of the approval appeared on August 12, 1997 (63 FR 43109). On October 13, 1997, CWM notified the EPA that the name of the operator of the Vickery facility would become Waste Management of Ohio (WMO). This change was acknowledged by EPA through a letter added to the Administrative Record on November 10, 1997. On August 28, 1998, WMO requested that two additional wastes codes be approved for injection. Notice of the approval appeared on December 10, 1998 (63 FR 68284). In the same year, on November 5, 1998, WMO submitted a petition to exempt four additional waste codes. Approval of this petition appeared on February 10, 1999 (64 FR 6650). On January 24, 2000, Waste Management of Ohio informed EPA of a corporate reorganization and subsequent name change from Waste Management of Ohio to Vickery Environmental, Inc. This change was acknowledged by EPA through a letter added to the Administrative Record on March 9, 2000.

The rule promulgated on November 8, 2000, bans K174 and K175 from injection after May 7, 2001, unless VEI's exemption is modified to allow injection of those wastes. As K-coded wastes, the codes represent a number of chemicals, many of which have already been approved for injection at Vickery under other waste codes. The previously unapproved chemicals found in K174 are: 1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin, 1,2,3,4,6,7,8-Heptachlorodibenzofuran, 1,2,3,4,7,8,9-Heptachlorodibenzofuran, 1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin, and 1,2,3,4,6,7,8,9-Octachlorodibenzofuran. These are all large and complex molecules which will diffuse more slowly than will the chloride ion which is the most mobile molecule already approved for injection. Note that each of the new molecules contains at least seven chlorine atoms. The hazardous material in the waste represented by K175 is mercury which is already approved as D009. After review of the material submitted, the EPA has determined, as required by 40 CFR 148.20(f), that there is a reasonable degree of certainty that the hazardous constituents contained in the wastes bearing the codes to be banned will behave hydraulically and chemically like wastes for which VEI was granted its original exemption and will not migrate from the injection zone in hazardous concentrations within 10,000 years. The injection zone is the Mt. Simon Sandstone and the Rome, Conasauga, Kerbel, and Knox Formations. The confining zone is comprised of the Wells Creek and Black River Formations.

List of RCRA Waste Codes Approved for Injection: D001 D002 D003 D004 D005 D006 D007 D008 D009 D010 D011 D012 D013 D014 D015 D016 D017 D018 D019 D020 D021 D022 D023 D024 D025 D026 D027 D028 D029 D030 D031 D032 D033 D034 D035 D036 D037 D038 D039 D040 D041 D042 D043 F001 F002 F003 F004 F005 F006 F007 F008 F009 F010 F011 F012 F019 F020 F021 F022 F023 F024 F025 F026 F027 F028 F032 F034 F035 F037 F038 F039 K001 K002 K003 K004 K005 K006 K007 K008 K009 K010 K011 K013 K014 K015 K016 K017 K018 K019 K020 K021 K022 K023 K024 K025 K026 K027 K028 K029 K030 K031 K032 K033 K034 K035 K036 K037 K038 K039 K040 K041 K042 K043 K044 K045 K046 K047 K048 K049 K050 K051 K052 K060 K061 K062 K069 K071 K073 K083 K084 K085 K086 K087 K088 K093 K094 K095 K096 K097 K098 K099 K100 K101 K102 K103 K104 K105 K106 K107 K108 K109 K110 K111 K112 K113 K114 K115 K116 K117 K123 K124 K125 K126 K131 K132 K136 K140 K141 K142 K143 K144 K145 K147 K148 K149 K150 K151 K156 K157 K158 K159 K160 K161 K169 K170 K171 K172 K174 K175 P001 P002 P003 P004 P005 P006 P007 P008 P009 P010 P011 P012 P013 P014 P015 P016 P017 P018 P020 P021 P022 P023 P024 P026 P027 P028 P029 P030 P031 P033 P034 P036 P037 P038 P039 P040 P041 P042 P043 P044 P045 P046 P047 P048 P049 P050 P051 P054 P056 P057 P058 P059 P060 P062 P063 P064 P065 P066 P067 P068 P069 P070 P071 P072 P073 P074 P075 P076 P077 P078 P081 P082 P084 P085 P087 P088 P089 P092 P093 P094 P095 P096 P097 P098 P099 P101 P102 P103 P104 P105 P106 P108 P109 P110 P111 P112 P113 P114 P115 P116 P118 P119 P120 P121 P122 P123 P127 P128 P185 P188 P189 P190 P191 P192 P194 P196 P197 P198 P199 P201 P202 P203 P204 P205 U001 U002 U003 U004 U005 U006 U007 U008 U009 U010 U011 U012 U014 U015 U016 U017 U018 U019 U020 U021 U022 U023 U024 U025 U026 U027 U028 U029 U030 U031 U032 U033 U034 U035 U036 U037 U038 U039 U041 U042 U043 U044 U045 U046 U047 U048 U049 U050 U051 U052 U053 U055 U056 U057 U058 U059 U060 U061 U062 U063 U064 U066 U067 U068 U069 U070 U071 U072 U073 U074 U075 U076 U077 U078 U079 U080 U081 U082 U083 U084 U085 U086 U087 U088 U089 U090 U091 U092 U093 U094 U095 U096 U097 U098 U099 U101 U102 U103 U105 U106 U107 U108 U109 U110 U111 U112 U113 U114 U115 U116 U117 U118 U119 U120 U121 U122 U123 U124 U125 U126 U127 U128 U129 U130 U131 U132 U133 U134 U135 U136 U137 U138 U139 U140 U141 U142 U143 U144 U145 U146 U147 U148 U149 U150 U151 U152 U153 U154 U155 U156 U157 U158 U159 U160 U161 U162 U163 U164 U165 U166 U167 U168 U169 U170 U171 U172 U173 U174 U176 U177 U178 U179 U180 U181 U182 U183 U184 U185 U186 U187 U188 U189 U190 U191 U192 U193 U194 U196 U197 U200 U201 U202 U203 U204 U205 U206 U207 U208 U209 U210 U211 U213 U214 U215 U216 U217 U218 U219 U220 U221 U222 U223 U225 U226 U227 U228 U234 U235 U236 U237 U238 U239 U240 U243 U244 U246 U247 U248 U249 U271 U277 U278 U279 U280 U328 U353 U359 U364 U365 U366 U367 U372 U373 U375 U376 U377 U378 U379 U381 U382 U383 U384 U385 U386 U387 U389 U390 U391 U392 U393 U394 U395 U396 U400 U401 U402 U403 U404 U407 U408 U409 U410 U411

I. Conditions

General conditions of this exemption are found at 40 CFR part 148. The exemption granted to VEI on August 7, 1990, included a number of specific conditions. Conditions numbered (1), (2), (3), (4), and (9) remain in force. Construction of a monitoring well required under condition 5 has been completed, and the required monitoring will continue through the life of the facility. Conditions numbered (6), (7), and (8) have been fully satisfied. The results of the work carried out under these conditions confirms that the model used to simulate fluid movement

within the injection zone for the next 10,000 years is valid and results of the simulation bound the region of the injection zone within which the waste will be contained.

Valerie J. Jones,

Acting Director, Water Division, Region 5.

[FR Doc. 01–12891 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6961–8]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92463, EPA gives notice of a Meeting of the Gulf of Mexico Program (GMP) Citizens Advisory Committee.

DATES: The Meeting will be held on Tuesday, June 12, 2001, from 1 p.m. to 5:30 p.m. and on Wednesday, June 13, 2001, from 8:30 a.m. to 11:45 a.m.

ADDRESSES: The meetings will be held at the Florida Marine Research Institute, 100 8th Avenue, S.E., St. Petersburg, FL, (727) 896–8626 ext. 2010

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda is attached.

The meeting is open to the public.

Dated: May 11, 2001.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. 01–12897 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66287; FRL–6784–3]

Benomyl; Receipt of Request for Registration Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by E.I. duPont de Nemours and Company (DuPont) to cancel the registrations for all of their products containing methyl 1-(butylcarbamoyl)-2-benzimidazole carbamate (benomyl). EPA will decide whether to approve the request after consideration of public comment.

DATES: Comments on the requested cancellation of product and use registrations must be submitted to the address provided below by June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Demson Fuller, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8062; fax number: (703) 308–7042; e-mail address: fuller.demson@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–66287. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–66287 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–66287. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or

all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking

This notice announces receipt by the Agency of request from E.I. duPont de Nemours and Company to cancel eight pesticide products registered under sections 3 and 24(c) of FIFRA. These registrations are listed in Table 1.

A. Background Information

Benomyl is a benzimidazole carbamate and systemic foliar fungicide registered for use on almonds, apples, anise, apricots, asparagus, avocado, banana, barley, bean vine, blueberries, brassica (broccoli, Brussels sprouts, cabbage, chicory, chinese cabbage, cauliflower, collards, kale, kohlrabi, mustard greens, rutabagas, and turnips), caneberries (dewberries, blackberries, boysenberries, loganberries, and raspberries), cardoon, carrots, celery, cherries, citrus, conifers, corn, cucurbits (cucumber, melons, pumpkins, and squash), currants, dandelions, dill, figs, grapes, macadamia nuts, mangoes, mushrooms, nectarines, onions, oats, papayas, peaches, peanuts, pears, peas, pecans, peppers, pineapple, pistachio, plums, prunes, rape, rice, rye, soybeans, spinach, strawberry, sugar beets, tomatoes, wheat, and yams.

Dupont met with the Agency on April 18, 2001, and requested a voluntary cancellation of all their registrations for products containing benomyl, to be effective December 31, 2001. Dupont stated that this decision was based on business reasons. They submitted this request in writing in a letter dated April 18, 2001.

On May 1, 2001, Dupont submitted a second letter requesting that the effective date of cancellation be moved from December 31, 2001, to May 1, 2001. Under 6(f)(1(C), a registrant can waive the 180–day comment period for minor uses, however 6(f)(1)(B) requires that the Agency provide for a 30–day comment period before acting on any 6(f) request. Therefore, EPA notes that it cannot grant a cancellation request until the requisite public comment period expires and EPA has considered all public comments received.

B. Requests for Voluntary Cancellation

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless (1) the registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrant has requested that EPA waive the 180–day comment period. EPA is granting the registrants' request to waive the 180–day comment period. EPA anticipates granting the cancellation request shortly after the end of the 30–day comment period for this notice. The registrations for which cancellations were requested are identified in the following table.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Company	Reg. No	Product
E.I. duPont deNemours and Company	352–354	Dupont Benlate® Fungicide
	352–377	Benomyl Technical
	352–385	Dupont Benlate® OD Fungicide
	352–564	Dupont Benlate® SP Fungicide

Additionally, cancellation is requested for the following DuPont Special Local Need (SLN) Registrations:

TABLE 2.—SLN REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

SLN Number	Crop	Reg. No	Product
AZ–930015	Onions	352–354	Dupont Benlate® Fungicide
VT–770005	Apples	352–354	Dupont Benlate® Fungicide
WA–000009	Asparagus Crowns	352–564	Dupont Benlate® SP Fungicide
WA–770040	Asparagus Crowns	352–354	Dupont Benlate® Fungicide

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA section 6(f)(1) further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**, make reasonable efforts to inform persons who rely on the pesticide for minor agricultural uses, and provide a 30–day period in which the public may comment. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1–year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a Data Call-In. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

Dupont stated in their April 18, 2001 letter, that it would not sell or distribute any of the canceled products following the date of cancellation and requested that EPA permit sale of existing stocks of products in the channels of trade until December 31, 2002, as permitted under FIFRA section 6(a)(1). In their May 1, 2001 letter, Dupont proposed that they be permitted to sell and distribute stocks of canceled products until June 30, 2001. Dupont did not request a change in date of December 31, 2002, for existing stocks of products in the channels of trade. EPA anticipates granting these requests.

VI. Future Tolerance Revocations.

EPA anticipates drafting a future **Federal Register** notice proposing revocation of tolerances on commodities on which there has been no registered uses of benomyl. With this notice, EPA seeks comment as to whether any individuals or groups want to support continuation of these tolerances.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 10, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–12905 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100170; FRL–6782–4]

Eastern Research Group, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide-related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the summiteer, will be transferred to Eastern Research Group, Inc. in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Eastern Research Group, Inc. has been awarded a contract to perform work for OPP, and access to this information will enable Eastern Research Group, Inc. to fulfill the obligations of the contract.

DATES: Eastern Research Group, Inc. will be given access to this information on or before May 29, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. Contractor Requirements

Under contract number GS–10F–0036F, the contractor will perform the following:

The contractor shall revise the draft Pesticide Fate Database that was prepared under a previous contract. Revisions may include changes in the database relational structure and format for the Fish Accumulation and the Field Dissipation studies. The Agency shall review the draft database and indicate changes and corrections that must be made. The contractor shall incorporate the changes into the final version.

This contract involves no subcontractors.

OPP has determined that the contract described in this document involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Eastern Research Group, Inc., prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Eastern Research Group, Inc. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Eastern Research Group, Inc. until the requirements in this document have been fully satisfied. Records of information provided to Eastern Research Group, Inc. will be maintained by EPA Project Officers for the contract. All information supplied to Eastern Research Group, Inc. by EPA for use in connection with the contract will be returned to EPA when Eastern Research Group, Inc. has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: May 7, 2001.

Joanne Martin,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 01–12968 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34226A; FRL–6775–9]

Availability of Reregistration Eligibility Decision Document for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability and starts a 60–day public comment period on the Reregistration Eligibility Decision document (RED) for the pesticide active ingredient triallate. The RED represents EPA's formal regulatory assessment of the health and environmental data base of the subject chemical and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Comments, identified by docket control number OPP–34226A, must be received on or before May 20, 2001 in the **Federal Register**.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34226A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Carol Stangel, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8007; and e-mail address: stangel.carol@epa.gov.

For technical questions on this RED, contact: Michael Goodis, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8007; and e-mail address: goodis.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug, and Cosmetic Act (FFDCA); environmental, human health, and agricultural advocates; pesticide users; and members of the public interested in the use of pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**–Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access RED documents and RED fact sheets electronically, go directly to the reregistration pesticide information table on the EPA Office of Pesticide Programs Home Page, at http://www.epa.gov/pesticides/reregistration/status.htm. For related information, see http://www.epa.gov/pesticides.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34226A. The official record consists of the document specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34226A in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34226A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

The Agency has issued a RED for the pesticide active ingredient listed in this document. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical included in this document is substantially complete, and the pesticide's risks have been mitigated so that it will not pose unreasonable risks to people or the environment when used according to its approved labeling. In addition, EPA is reevaluating existing pesticides and reassessing tolerances under the Food Quality Protection Act (FQPA) of 1996. The pesticide included in this notice also has been found to meet the FQPA safety standard.

All registrants of pesticide products containing the active ingredient triallate have been sent the appropriate RED, and must respond to labeling requirements and product-specific data requirements (if applicable) within 8 months of receipt. Products also containing other pesticide active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally-mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing this RED as a final document with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

B. What is the Agency's Authority for Taking this Action?

The legal authority for this RED falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product-specific data on individual end-use products, and either reregistering products or taking "other appropriate regulatory action."

List of Subjects

Environmental protection, Pesticides.

Dated: May 4, 2001.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–12903 Filed 5–22–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1020; FRL–6780–7]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1020, must be received on or before June 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1020 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Fungicide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulation and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1020. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1020 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1020. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the

name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 3, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation, Agricultural Products

PP 0F6139

EPA has received pesticide petition number 0F6139 from BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709–3528 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for combined residues of BAS 500 F or pyraclostrobin (methyl-N-(((1-(4-chlorophenyl)pyrazol-3-yl)oxy, o-tolyl)N-methoxycarbamate) and its metabolite BF 500-3 (methyl-N-(((1-(4-chlorophenyl pyrazol-3-yl)oxy)o-tolyl)carbamate); expressed as parent compound in or on the raw agricultural commodities almond hulls at 1.6 ppm, banana at 0.04 parts per million (ppm), barley (grain) at 0.4 ppm, barley (hay) at 25 ppm, barley (straw) at 6.0 ppm, berries (crop group) at 1.0 ppm, bulb vegetables (crop group) at 0.7 ppm, citrus fruits (crop group) at 0.7 ppm, cucurbits (crop group) at 0.5 ppm, fruiting vegetables (crop group) at 1.0 ppm, grape at 2.0 ppm, grass seed (seed screenings) at 27 ppm, grass seed (straw) at 14.0 ppm, grass seed (forage) at 10.0 ppm, grass seed (hay) at 4.5 ppm, lentil at 0.5 ppm, orange oil at 4.2 ppm, orange pulp (dry) at 6.3 ppm, peanut at 0.05 ppm, peanut oil at 0.1 ppm, pea (dry, seed) at 0.4 ppm, radish tops at 16.0 ppm, raisin at 6.0 ppm, root vegetables (crop subgroup 1-B) at 0.4 ppm, rye (grain) at 0.04 ppm, rye (straw) at 0.5 ppm), stone fruits (crop group) at 0.7 ppm, strawberry at 0.4 ppm, sugar beet (dry pulp) at 1.6 ppm, sugar beet (root) at 0.2 ppm, sugar beet (top) at 8.0 ppm, tomato paste at 2.0 ppm, tree nuts (crop group) at 0.04 ppm, tuberous and corm vegetables (crop subgroup 1-C) at 0.04 ppm, wheat (grain) at 0.2 ppm, wheat (hay) at 6.0 ppm, wheat (straw) at 6.0 ppm, cattle (fat) at 0.1 ppm, cattle (kidney) at 0.1 ppm, cattle (liver) at 0.6 ppm, cattle (milk) at 0.03 ppm, cattle (muscle) at 0.1 ppm, poultry (egg) at 0.1 ppm, poultry (muscle) at 0.1 ppm, poultry (liver) at 0.1 ppm, poultry (fat) at 0.1 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant and animal metabolism.* Nature of the residue studies (OPPTS 860.1300) were conducted in grape, potato and wheat as representative crops in order to characterize the fate of BAS 500 F in all crop matrices. BAS 500 F demonstrated a similar pathway and fate in all three crops. In all three crops the BAS 500 F residues of concern were characterized as parent (BAS 500 F) and BAS 500–3.

2. *Analytical method.* In plants the method of analysis is aqueous organic solvent extraction, column clean up and quantitation by LC/MS/MS. In animals the method of analysis involves base hydrolysis, organic extraction, column clean up and quantitation by LC/MS/MS or derivatization (methylation) followed by quantitation by GC/MS.

3. *Magnitude of residues.* Field trials were carried out in order to determine the magnitude of the residue in the following crops: almond, banana, barley, carrot, citrus, cucurbits (crop group), peas (dry, field), grape, grass grown for seed, lentil, onions (dry bulb and green), peanut, pecan, peppers (bell and chili), pistachio, potato, radish, berries (crop group), rye, stone fruits, strawberry, sugar beet, tomato and wheat. The residue trials in bananas were carried out in Latin America. Field trials for the rest of the crops were conducted in the United States and Canada. Field trials were carried out using the maximum label rate, the maximum number of applications, and the minimum preharvest interval for each crop or crop group. In addition, processing studies were conducted on the following crops to determine concentration factors during normal processing of the raw agricultural commodity into the processed commodities: citrus, grape, peanut, potato, stone fruits, sugar beet, tomato, and wheat. Magnitude of the residue trials were also carried out in cow and poultry.

B. Toxicological Profile

1. *Acute toxicity.* Based on available acute toxicity data BAS 500 F and its formulated products do not pose acute toxicity risks. The acute toxicity studies place technical BAS 500 F in toxicity category IV for acute oral, category III for acute dermal, and category II for acute inhalation. BAS 500 F is category III for both eye and skin irritation and is not a dermal sensitizer. Two formulated end use products are proposed, an Emulsifiable Concentrate (EC) and an Extruded Granule (EG). The EC has an acute oral toxicity category of II, acute dermal of III, acute inhalation of IV, eye and skin irritation categories of III, and is not a dermal sensitizer. The WG has acute oral and dermal toxicity categories of III, acute inhalation of IV, eye irritation of III, skin irritation of IV, and is not a dermal sensitizer.

TABLE 1.—ACUTE TOXICITY OF TECHNICAL BAS 500 F

Study Type	Species	Results	Toxicity Category
Oral LD_{50}	Rat	LD_{50}* > 5,000 mg/kg bwt	IV

TABLE 1.—ACUTE TOXICITY OF TECHNICAL BAS 500 F—Continued

Study Type	Species	Results	Toxicity Category
Dermal LD_{50}	Rat	LD_{50} > 2,000 mg/kg bwt	III
Inhalation LC_{50}	Rat	0.31 < LC_{50}**< 1.07 mg/L	II
Eye irritation	Rabbit	Slight irritation	III
Skin irritation	Rabbit	Moderate irritation	III
Skin sensitization	Guinea pig	Non-sensitizing	
Acute oral neurotoxicity (0, 100, 300, and 1,000 mg/kg bwt)	Rat	No neurotoxic effects at doses up to 1,000 mg/kg	

*Lethal Dose 50%
**Lethal Concentration 50%

TABLE 2.—ACUTE TOXICITY OF FORMULATED END-USE PRODUCT, BAS 500 00F (HEADLINE EC FUNGICIDE)

Study Type	Species	Results	Toxicity Category
Oral LD_{50}	Rat	LD_{50} > 500 mg/kg bwt (males); 260 mg/kg (200–500 mg/kg) bwt (females)	II
Dermal LD_{50}	Rat	LD_{50} > 4,000 mg/kg bwt	III
Inhalation LC_{50}	Rat	LC_{50} = 3.51 mg/L	IV
Eye irritation	Rabbit	Moderate irritation	III
Skin irritation	Rabbit	Moderate irritation	III
Skin sensitization	Guinea pig	Non-sensitizing	

TABLE 3.—ACUTE TOXICITY OF FORMULATED END-USE PRODUCT, BAS500 02F (CABRIO EG AND INSIGNIA FUNGICIDES)

Study Type	Species	Results	Toxicity Category
Oral LD_{50}	Rat	LD_{50} > 2,000 mg/kg bwt	III

TABLE 3.—ACUTE TOXICITY OF FORMULATED END-USE PRODUCT, BAS500 02F (CABRIO EG AND INSIGNIA FUNGICIDES)—Continued

Study Type	Species	Results	Toxicity Category
Dermal LD_{50}	Rat	LD_{50} > 2,000 mg/kg bwt	III
Inhalation LC_{50}	Rat	LC_{50} = 4.7 mg/L	IV
Eye irritation	Rabbit	Slight irritation	III
Skin irritation	Rabbit	Slight irritation	IV
Skin sensitization	Guinea pig	Non-sensitizing	

2. *Genotoxicity.* Ames Test (one study; point mutation): Negative; *in vitro* CHO/HGPRT Locus Mammalian Cell Mutation Assay (one study; point mutation): Negative; *in vitro* V79 Cells CHO Cytogenetic Assay (one study; chromosome damage): Negative; *in vivo* Mouse Micronucleus (one study; chromosome damage): Negative; *in vitro* Rat Hepatocyte (one study; DNA damage and repair): Negative.

BAS 500 F has been tested in a total of five genetic toxicology assays consisting of *in vitro* and *in vivo* studies. It can be stated that BAS 500 F did not show any mutagenic, clastogenic or other genotoxic activity when tested under the conditions of the studies mentioned above. Therefore, BAS 500 F does not pose a genotoxic hazard to humans.

TABLE 4.—SUMMARY OF GENOTOXICITY STUDIES ON BAS 500 F

Study	Test Organism	Concentration Range	Results
Gene mutation: Ames reverse mutation assay	*S. typhimurium* strains TA 1535, TA 100, TA 1537 and TA 98; *E. Coli* strain WP2 uvrA; with and without metabolic activation.	20 to 5,000 µg per plate	Negative with and without metabolic activation
Gene mutation: *in vitro* Chinese Hamster Ovary*in vitro* cell study (HGPRT locus)	HGPRT locus of Chinese Hamster Ovary cells, with and without metabolic activation	0.625 to 20 µg/mL*	Negative with and without activation
Chromosomal aberration:*in vitro* cytogenicity	Chinese hamster V79 cells, with and without metabolic activation	0.005 to 25 µg/mL	Negative with and without metabolic activation
Unscheduled DNA synthesis:*in vitro* assay with primary rat hepatocytes	Primary hepatocytes from Wistar rats	0.004 to 1.0 µg/mL	Negative

TABLE 4.—SUMMARY OF GENOTOXICITY STUDIES ON BAS 500 F—Continued

Study	Test Organism	Concentration Range	Results
Cytogenetic study *in vivo*: mousemicronucleus test	NMRI mice	0, 75, 150 and 300 mg/kg bwt	Negative

*micrograms per milliliter

3. *Reproductive and developmental toxicity.* The reproductive and developmental toxicity of BAS 500 F was investigated in a 2–generation rat reproduction study as well as in rat and rabbit teratology studies. There were no adverse effects on reproduction in the 2–generation study so the no observed adverse effect level (NOAEL) is the highest dose tested of 300 parts per million (ppm) (32.6 milligrams per kilogram body weight per day (mg/kg bwt/day)). Parental toxicity in the form of reduced body weight gain and pup effects were observed at the highest dose tested only. Pup effects consisted primarily of reduced body weight gain. Most likely due to the small pup size, reduced organ weights were observed in the thymus, spleen and brain of F2 pups, and a slight delay in vaginal opening time was observed in some F1 female pups. Therefore, the parental systemic and developmental toxicity NOAELs are the same at 75 ppm (8.2 mg/kg bwt).

No teratogenic effects were noted in either the rat or rabbit developmental studies. In the rat study, maternal toxicity observed at the mid and high dose consisted of decreased food consumption and body weight gain. There were no treatment-related developmental effects. The maternal NOAEL was 10 mg/kg bwt and the developmental NOAEL was the highest dose tested of 50 mg/kg bwt.

In the rabbit teratology study, maternal toxicity observed at the mid and high doses consisted of decreased food consumption and body weight gain (severe at the high dose). An increased postimplantation loss was also observed at the mid and high doses due to an increase in early resorptions. In rabbits, these types of effects are often observed with significant stress on the mothers (as seen by the body weight gain decrease in this study) and not indicative of frank developmental toxicity. The NOAEL for both maternal and developmental toxicity was 5 mg/kg bwt.

TABLE 5.—SUMMARY OF REPRODUCTIVE AND DEVELOPMENTAL STUDIES ON BAS 500 F

Study	NOAEL	LOAEL *	Effects at LOAEL or Higher
Multigeneration rat reproduction: 0, 25, 75, and 300 ppm (0, 2.7, 8.2, and 32.6 mg/kg bwt)	Reproductive function: 32.6 mg/kg bwt (300 ppm); systemic toxicity: 8.2 mg/kg bwt (75 ppm); developmental toxicity: 8.2 mg/kg bwt (75 ppm)	Reproductive function: >32.6 mg/kg bwt (> 300 ppm); systemic toxicity: 32.6 mg/kg bwt (> 300 ppm); developmental toxicity: 32.6 mg/kg bwt (> 300 ppm)	No impairment of reproductive function at any of the dose levels tested. 300 ppm: parental - reduced body weight and food consumption; pups - reduced body weight during lactation with corresponding organ weight changes (F2) and slightly delayed vaginal opening (F1 only)
Rat teratology: 0, 10, 25, and 50 mg/kg bwt	Maternal toxicity: 10 mg/kg bwt; developmental toxicity: 50 mg/kg bwt	Maternal toxicity: 25 mg/kg bwt; developmental toxicity: > 50 mg/kg bwt	No teratogenic effects. 25 mg/kg bwt: maternal effects were decreased body weight gain and decreased food consumption. 50 mg/kg bwt: maternal effects were a severe decrease in body weight gain, and reduced food consumption.
Rabbit teratology: 0, 5, 10, and 20 mg/kg bwt	Maternal: 5 mg/kg bwt; developmental toxicity: 5 mg/kg bwt	Maternal: 10 mg/kg bwt; developmental toxicity: 10 mg/kg bwt	No teratogenic effects. 10 mg/kg bwt: maternal effects were decreased body weight gain and food consumption, and decreased mean gravid uterus weight; developmental effects were increased post-implantation loss due to early resorptions, with subsequent decrease in mean live fetuses per rabbit. 20 mg/kg bwt: maternal effects were severely decreased body weight gain, decreased food consumption, and decreased gravid uterus weight; developmental effects were increased postimplantation loss due primarily to early resorptions.

*Lowest observed adverse effect level

4. *Subchronic toxicity.* The subchronic toxicity of BAS 500 F was investigated in 90–day feeding studies with rats, mice and dogs, and in a 28–day dermal administration study in rats. A 90–day neurotoxicity study in rats was also performed. Generally, mild toxicity was observed. At high dose levels in feeding studies, general findings in all three species were decreased food consumption and body weight gain and a thickening of the duodenum. Anemia occurred at high dose levels in both rats and mice with accompanying extramedullary hematopoiesis of the spleen in rats. In rats only, a finding of liver cell hypertrophy was indicative of a physiological response to the handling of the chemical. Overall, only mild toxicity was observed in oral subchronic testing.

In the 28–day repeat dose dermal study, no systemic effects were noted up to the highest dose tested.

In a 90–day rat neurotoxicity study, a direct neurotoxic effect was not observed. The grip strength of forelimbs was statistically significantly decreased in high dose females at the end of the study. This was assessed as being related to the significant body weight impairment at this dose level. This is confirmed by the fact that functional observational batteries and motor activity measurement did not reveal any other signs indicative for neurotoxicity. Moreover, comprehensive microscopic investigation of the central and peripheral nervous system did not reveal any substance-dependent changes. This is outlined in the table.

TABLE 6.—SUMMARY OF SUBCHRONIC STUDIES FOR BAS 500 F

emsp;	NOAEL	LOAEL	Effects at LOAEL or Higher
4–Week dermal rat: 0, 40, 100, and 250 mg/kg bwt	250 mg/kg bwt (systemic)	> 250 mg/kg bwt	Skin irritation at application site; no systemic effects related to treatment
90-Day rat feeding study: 0, 50, 150, 500, 1000 and 1,500 ppm (0, 3.5, 10.7, 34.7, 68.8 and 105.8 mg/kg bwt for males; 0, 4.2, 12.6, 40.8, 79.7,and 118.9 mg/kg bwt for females).	3.5 mg/kg bwt males; 4.2 mg/kg bwt females (equivalent to 50 ppm both sexes)	10.7 mg/kg bwt males; 12.6 mg/kg bwt females (equivalent to 150 ppm both sexes)	Generally mild toxicity at high doses. 150 ppm (LOAEL): decreased absolute liver weight males; increased extramedullary hematopoiesis. ≥ 500 ppm: decreased food consumption and body weight change; leukocytosis; hemolytic anemia males; mild anemia females; decreased serum liver enzymes; increased relative weights of spleen and adrenal gland (both sexes), kidney, testes, brain (males), and liver and ovaries (females); mucosal hyperplasia of duodenum; increased extramedullary hematopoiesis of spleen; hepatocellular hypertrophy.
90-Day mouse feeding study: 0, 50, 150, 500, 1,000, and 1,500 ppm (0, 9.2, 30.4, 119.4, 274.4, and 475.5 mg/kg bwt for males; 0, 12.9, 40.4, 162, 374.1, and 634.8 mg/kg bwt for females)	9.2 mg/kg bwt males; 12.9 mg/kg bwt females (equivalent to 50 ppm for both sexes)	30.4 mg/kg bwt males; 40.4 mg/kg bwt females (equivalent to 150 ppm both sexes)	Generally mild toxicity at high doses. 150 ppm (LOAEL): decreased body weight gain and hematocrit (males); decreased triglycerides and thickening of the duodenum (females). ≥ 500 ppm: decreased body weight change; mild leukopenia; mild hypochromic microcytic anemia; decreased serum protein, globulins, and triglycerides; thickening of the duodenal mucosa.
90–Day Beagle dog feeding study: 0, 100, 200 and 450 ppm (0, 2.8, 5.8, and 12.9 mg/kg bwt males; 0, 3.1, 6.2, 13.6 mg/kg bwt females)	5.8 mg/kg bwt males; 6.2 mg/kg bwt females (equivalent to 200 ppm for both sexes)	12.9 mg/kg bwt males; 13.6 mg/kg bwt females (equivalent to 450 ppm both sexes)	Generally mild toxicity at high doses. 450 ppm (LOAEL): Decreased food consumption (females); slight body weight loss and diarrhea; decreased serum protein, albumin, and globulins; increased platelets (females); hypertrophy in duodenum.
90-Day rat feeding neurotoxicity study 0, 50, 250, 750 - males, 0, 50, 250 and 1500 ppm - females (0, 3.5, 16.9, 49.9 mg/kg bwt - males; 0, 4.0, 20.4, 49.9 and 119.9 mg/kg bwt - females)	Systemic: 3.5 mg/kg bwt (50 pm) - males; 20.4 mg/kg bwt (250 ppm)- females .	Systemic: 16.9 mg/kg bwt (250 ppm) - males; 49.9 mg/kg bwt (750 ppm) - females	250 ppm (males): Reduced food and water consumption.

5. *Chronic toxicity.* The following are summaries of chronic toxicity studies submitted to EPA.

BAS 500 F was administered to groups of five male and five female purebred Beagle dogs in the diet at concentrations of 0, 100, 200 and 400 ppm over a period of 12 months. Signs of toxicity were observed at the high dose. Diarrhea was observed throughout the study period for both sexes. High dose males and females initially lost weight and body weight gain was decreased for the entire study period for females. Hematological changes observed were an increase in white blood cells in males, and an increase in platelets in both sexes at the high dose. Clinical chemistry demonstrated a

decrease in serum total protein, albumin, globulins, and cholesterol in high dose animals of both sexes, possibly due to the diarrhea and reduced nutritional status of the animals. The NOAEL was 200 ppm (ca. 5.5 mg/kg bwt/day males; 5.4 mg/kg bwt/day females).

For the chronic toxicity portion of the rat study, BAS 500 F was administered to groups of 20 male and 20 female Wistar rats at dietary concentrations of 0, 25, 75, and 200 ppm for 24 months. For the carcinogenicity portion of the rat study, BAS 500 F was administered to groups of 50 male and 50 female Wistar rats at dietary concentrations of 0, 25, 75, and 200 ppm for 24 months. The results of a 2–year chronic toxicity study and a 2–year carcinogenicity study in rats indicate that a maximum tolerated dose was clearly met at the high dose of 200 ppm (ca. 9 mg/kg bwt males and 12 mg/kg bwt females). This is demonstrated by a body weight gain depression of 10–11% in males and 14–22% in females. The only other effect observed was a decrease in serum alkaline phosphatase in both sexes at the high dose and decreased alanine aminotransferase in high dose males. There was no evidence that BAS 500 F produced a carcinogenic effect in rats. The NOAEL for the chronic rat and the cancer rat study is 75 ppm (ca. 3.4 mg/kg bwt/day males; 4.6 mg/kg bwt/day females).

BAS 500 F was administered to groups of 50 male and 50 female B6C3F1 mice at dietary concentrations of 0, 10, 30, 120, and 180 ppm (females only) for 18 months. Body weights were reduced at the highest doses tested in both males and females. The high dose body weight gain decreases of 27% in females and 29% in males exceeded that required for a maximum tolerated dose. No other signs of toxicity were noted at any dose level. The NOAEL was found to be 120 ppm (ca. 20.5 mg/kg bwt/day) for females and 30 ppm (ca. 4.1 mg/kg bwt/day) for males. There was no evidence that BAS 500 F produced a carcinogenic effect in mice.

6. *Carcinogenicity.* There were no tumors associated with treatment observed in either a 2–year rat oncogenicity study or in an 18–month mouse oncogenicity study. Based on EPA Proposed Guidelines For Carcinogen Risk Assessment, BASF believes that BAS 500 F will be classified as "not likely" to be carcinogenic to humans. Under the current assessment method, BASF believes that EPA will classify BAS 500 F as Group E '(evidence of noncarcinogenicity to humans).

TABLE 7.—SUMMARY OF CHRONIC TOXICITY/ONCOGENICITY STUDIES ON BAS 500 F

Study	NOAEL	LOAEL	Comments
12–Month beagle dog feeding study: 0, 100, 200 and 400 ppm (0, 2.8, 5.5 and 10.8 mg/kg bwt males; 2.7, 5.4, 11.2 mg/kg bwt females)	5.5 mg/kg bwt males; 5.4 mg/kg bwt females (200 ppm both sexes)	10.8 mg/kg bwt males; 11.2 mg/kg bwt females (400 ppm both sexes)	Generally mild toxicity. 400 ppm: decreased body weight gain (initially in males and throughout study in females); decreased food consumption (females); diarrhea; decreased serum total protein, albumin, globulins, and cholesterol; increased platelets; increased white blood cells (males).
18-Month mouse oncogenicity study: 0, 10, 30, and 120 ppm males (1.4, 4.1, and 17.2 mg/kg bwt); 0, 10, 30, 120 and 180 ppm females (1.6, 4.8, 20.5, 32.8 mg/kg bwt)	4.1 mg/kg bwt males (30 ppm); 20.5 mg/kg bwt females (120 ppm)	17.2 mg/kg bwt males (120 ppm); 32.8 mg/kg bwt females (180 ppm)	Generally mild toxicity. No treatment-related tumors. 120 ppm: decreased body weight and body weight change (males). 180 ppm (females only): Decreased body weight and body weight change.
24-Month chronic toxicity study in Rats: 0, 25, 75, and 200 ppm (0, 1.1, 3.4, and 9.0 mg/kg bwt males; 0, 1.5, .4.6 and 12.3 mg/kg bwt females)	3.4 mg/kg bwt males; 4.6 mg/kg bw females (75 ppm both sexes)	9.0 mg/kg bwt males; 12.3 mg/kg bwt females (200 ppm both sexes)	Generally mild toxicity. 200 ppm: decreased body weight and body weight change; decreased serum alkaline phosphatase (both sexes) and alanine aminotransferase (males)
24-month carcinogenicity study in rats: 0, 25, 75 and 200 ppm (0, 1.2, 3.4, and 9.2 mg/kg bwt males; 0, 1.5, 4.7, and 12.6 mg/kg bw females)	3.4 mg/kg bwt males; 4.7 mg/kg bwt females (75 ppm both sexes).	9.2 mg/kg bwt males; 12.6 mg/kg bwt females (200 ppm both sexes)	Generally mild toxicity. No treatment-related tumors. 200 ppm: decreased body weight gain (both sexes); decreased food consumption (males); increased liver cell necrosis.

7. *Animal metabolism.* In hens the residues of concern were determined to be parent compound and a hydroxlated metabolite, BAS 500–16. In goats the residues of concern were determined to be parent and a hydroxylated metabolite BAS 500–10.

8. *Metabolite toxicology.* A comparison of the rat metabolism results with the plant metabolism/residue results indicate that toxicology studies performed with the parent compound are sufficient to cover dietary exposure. Therefore, no specific toxicity studies were conducted on metabolites of this compound.

9. *Endocrine disruption.* No specific tests have been conducted with BAS 500 F to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity studies (i.e., subchronic and chronic toxicity, teratology, and multigeneration reproductive studies) which would suggest that BAS 500 F produces endocrine-related effects.

10. *Threshold effects.* Based on a review of the available chronic toxicity data, BASF believes EPA will establish the Reference Dose (RfD) for BAS 500 F at 0.04 mg/kg/day. This RfD for BAS 500 F is based on the 2–year chronic and 2–year oncogenicity studies in rats with a threshold average NOAEL of 4 mg/kg/day for males and females. Using an uncertainty factor of 100, the RfD is calculated to be 0.04 mg/kg/day. Based on the acute toxicity data, BASF believes that 500 F does not pose any dietary risks.

11. *Non-threshold effects.* There were no tumors associated with treatment observed in either a 2–year rat oncogenicity study or in an 18–month mouse oncogenicity study. Based on EPA Proposed Guidelines For Carcinogen Risk Assessment, BASF believes that BAS 500 F will be classified as "not likely" to be carcinogenic to humans. Under the current assessment method, BASF believes that EPA will classify BAS 500 F as Group E (evidence of noncarcinogenicity to humans).

C. Aggregate Exposure

BASF believes that pyraclostrobin does not pose any acute dietary risks, so an acute exposure analysis is not necessary. Based on a review of the available chronic toxicity data, BASF believes EPA will base the chronic RfD for pyraclostrobin on the 2–year chronic and 2–year oncogenicity studies in rats, which had an average threshold NOAEL of 4 mg/kg/day for males and females. BASF further believes that EPA will use an uncertainty factor of 100 and establish the RfD at 0.04 mg/kg/day. The following table expresses the results of the chronic aggregate analysis of exposure to pyraclostrobin. This analysis is discussed further below.

TABLE 8.—SUMMARY OF CHRONIC AGGREGATE EXPOSURE TO BAS 500 F

	U.S. Population (% of RfD)	Children 1–6 (% of RfD)
Chronic dietary exposure	5%	10%
Residential exposure*	2.5%	12.5%
Total RfD used by diet and residential exposure	7.5%	22.5%
Remainder of RfD available for water (%) (Drinking Water Level of Concern)	92.5%	77.5%
SCIGROW modelground water estimation**	<1%	<1%
GENEEC model (56 d) surface water estimation**	<1%	<1%
Total of RfD used by diet, water and residential	7.5%	77.5%

*Acute values used as worst case
**Used highest values predicted from the model for all agricultural uses; assumes 2 liters/day consumed and 60 kg bwt for adults and 1 liter/day and 10 kg bwt for children

1. *Dietary exposure*— i. *Food.* For purposes of assessing the potential dietary exposure, BASF has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from the proposed tolerances for BAS 500 F.

A Tier 1 worst case estimate of dietary exposure was conducted assuming that 100% of all crops for which tolerances are established are treated and that pesticide residues are always found at the tolerance levels. The TMRC from the proposed uses of BAS 500 F on all crops is 0.002 mg/kg bwt/day and utilizes 5% of the RfD for the overall U.S. population. The exposure of the most highly exposed subgroup in the population, children (1–6 years old), is 0.004 mg/kg bwt/day and utilizes 10% of the RfD.

The following table summarizes the mean dietary exposures and the percents of RfD occupied by these exposures.

TABLE 9.—SUMMARY OF CHRONIC DIETARY EXPOSURE TO BAS 500 F—(DRES (DIETARY RISK EVALUATION SYSTEM))

Group	µg/kg body weight/day	%RfD
U.S. population	2.004	5
All infants (<1 year old)	2.260	6
Children 1–6 years old	4.144	10
Children 7–12 years old	2.092	5
Females 13–50 years old	1.338	3

ii. *Drinking water.* Estimates of ground water levels and surface water levels were determined using the Screening Concentration in Groundwater (SCIGROW) and Generic Estimated Environmental Concentration (GENEEC) models, respectively. The drinking water levels of concern (DWLOCs) for chronic exposure are obtained by subtracting the chronic dietary food exposures and residential exposures from the RfD, as outlined in Table 10.

TABLE 10.—PERCENTAGES OF REFERENCE DOSE FOR CHRONIC WATER EXPOSURE TO BAS 500 F

	U.S. Population (% of RfD)	Children 1–6 (% of RfD)
Chronic dietary exposure	5%	10%
Residential exposure*	2.5%	12.5%
Total RfD used by diet and residential	7.5%	22.5%
Remainder of RfD available for water (%) (Drinking Water Level of Concern)	92.5%	77.5%
SCIGROW ground water estimation**	<1%	<1%
GENEEC (56 d) surface water estimation**	<1%	<1%

TABLE 10.—PERCENTAGES OF REFERENCE DOSE FOR CHRONIC WATER EXPOSURE TO BAS 500 F—Continued

	U.S. Population (% of RfD)	Children 1–6 (% of RfD)
Total of RfD used by diet, water and residential	7.5%	77.5%

*Acute values used as worst case
** Used highest values predicted from the model for all agricultural uses; Assumes 2 liters/day consumed and 60 kg bwt for adult and 1 liter/day and 10 kg bwt for child

The SCIGROW and GENEEC estimates of ground and surface water levels for BAS 500 F are well below the DWLOC. Overall, using worst-case parameters the predicted aggregate exposure by all potential routes for both adults and children is less than the chronic referencedose.

2. *Non-dietary exposure.* BAS 500 F is planned for use on residential lawns. Acute exposure was estimated using data from a BAS 500 F turf transferable residue (TTR) study, a dermal penetration of 2.6% and default values from the EPA Standard Operating Procedures for residential exposure. For adults, the exposure estimate of 0.001 mg/kg bwt/day is equivalent to only 2.5% of the chronic reference dose. Estimation of exposure of children includes dermal contact on the lawn plus oral ingestion via fingers in the mouth, grass and dirt. Using the worst-case EPA defaults, the acute exposure result is estimated to be 0.005 mg/kg bwt/day which is 12.5% of the chronic Reference Dose.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." BAS 500 F is a foliar fungicide which belongs to the new class of strobilurin chemistry. It is a synthetic analog of strobilurin A, a naturally occurring antifungal metabolite of the mushroom *Strobillurus tenacellus* (Anke et. al., 1977). The active ingredient acts in the fungal cell through inhibition of electron transport in the mitochondrial respiratory chain at the position of the cytochrome-bc1 complex. The protective effect is due to the resultant death of the fungal cells by disorganization of the fungal membrane system. BAS 500 F also acts curatively to prevent the increase and spread of fungal infections by inhibiting mycelial growth and sporulation on the leaf surface. BAS 500F inhibits spore germination, germ tube growth and penetration into the host tissues.

The EPA is currently developing methodology to perform cumulative risk assessments. At this time, there is no available data to determine whether BAS 500F has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, BAS 500 F does not appear to produce a toxic metabolite produced by other substances

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and based on the completeness and the reliability of the toxicity data, BASF has estimated that aggregate exposure to BAS 500 F will utilize 5% of the RfD for the U.S. population. BASF concludes that there is a reasonable certainty that no harm will result from the aggregate exposure to BAS 500 F, including anticipated dietary exposure and non-occupational exposures.

2. *Infants and children.* A developmental study was conducted via oral gavage in rats with dosages of 0, 10, 25, and 50 mg/kg bwt/day with a maternal NOAEL of 10 mg/kg bwt/day and a developmental NOAEL of 50 mg/kg bwt/day. No evidence of developmental toxicity was observed up to the highest dose tested. These NOAELs are higher than the NOAEL of 4 mg/kg bwt/day from the chronic rat study used to establish the RfD.

A developmental study was conducted via oral gavage in rabbits with dosages of 0, 5, 10, and 20 mg/kg bwt/day. The NOAEL for both maternal and developmental toxicity was 5 mg/kg bwt/day. No teratogenic effects were observed at any dose level, and the only developmental effect observed was an increase in postimplantation loss at doses which produced maternal toxicity. These NOAELs are higher than the NOAEL of 4 mg/kg bwt/day from the chronic ratstudy used to establish the RfD.

A 2–generation reproduction study in rats was conducted with dosages of 0, 2.7, 82, and 32.6 mg/kg bwt/day. The NOAELs are 32.6 mg/kg bwt/day (highest dose tested) for reproductive function and 8.2 mg/kg bwt/day for parental and developmental toxicity. No impairment of reproductive function was noted at any dose level. At the high dose reduced parental body weight gains were accompanied by reduced pup weights and corresponding reduced pup organ weights (F2 only) and slightly delayed vaginal opening (F1 only). The slight delay in vaginal opening was most likely due to the smaller pups and corresponding delay in physical development. These NOAELs are higher than the NOAEL of 4 mg/kg bwt/day from the chronic rat study used to establish the RfD.

Based on these results, no additional safety factors to protect children are warranted. Since developmental and reproductive toxicity occurs at levels above the levels shown to exhibit parental toxicity and since these levels are higher than those used to calculate the RfD, BASF believes the RfD of 0.04 mg/kg/day (4 mg/kg/day and an Uncertainty Factor of 100) is an appropriate measure of safety for infants and children.

Dietary exposure of the most highly exposed subgroup in the population, children (1–6 years old) is 0.004 mg/kg bwt/day. This accounts for 10% of the RfD. Worst case default predictions indicate that residential uses of BAS 500 F will amount to 12.5% of the RfD and that contamination of drinking water is extremely small and amounts to <1% of the reference dose. Aggregate exposure of children (1–6 years old) amounts to 22.5% of the RfD. In addition, there were no significant findings in relevant toxicity studies (i.e., subchronic and chronic toxicity, teratology, and multi-generation reproductive studies) which would suggest that BAS 500 F produces endocrine-related effects.

Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to BAS 500 F, including all anticipated dietary exposure and all other non-occupational exposures.

F. International Tolerances

A maximum residue level (MRL) has not been established for BAS 500 F in any crop by the Codex Alimentarius Commission.

[FR Doc. 01–12907 Filed 5–22–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1019; FRL–6780–2]

Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical In or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1019, must be received on or before June 23, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1019 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1019. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1019 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1019. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Reseach Project Number 4 (IR-4)

PP 5E4434 and 0E6219

EPA has received pesticide petitions (5E4434 and 0E6219) from the Interregional Reseach Project Number 4 (IR-4), New Jersey Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903 proposing, pursuant to section 408(d) of FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of the fungicide, aluminum tris (O-ethylphosphonate) (referred to in this document as fosetyl-Al) in or on the raw agricultural commodities as follows:

1. PP 5E4434 proposes the establishment of tolerances for the bushberrysubgroup, and lingonberry, salal, and juneberry at 40 parts per million (ppm).

2. PP 0E6221 proposes the establishment of tolerances for turnip roots and tops (leaves) at 50 ppm, peas (succulent) at 0.3 ppm, and citrus at 5 ppm.

EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of these petitions. Additional data may be needed before EPA rules on these petitions.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of fosetyl-Al in plants is adequately understood. Adequate data on the nature of the residues in plants, including identification of major metabolites and degradates of fosetyl-Al, are available. Radiolabeled studies on the uptake, translocation and metabolism in plants show that the chemical proceeds through hydrolytic cleavage of the ethyl ester. The major residues are fosetyl-Al, phosphorus acid, and ethanol. The tolerances are established for the parent only, that is fosetyl-Al.

2. *Analytical method.* Adequate methods are available for enforcement purposes. There are two analytical methods acceptable for determining residues of fosetyl-Al in plants: a gas chromatography method is available for enforcement of tolerance in pineapple and is listed as Method I in PAM, Vol. II; a gas chromatography/phosphorus specific flame photometric detector (FPD-P) method (Rhone-Poulenc Method No. 163) for citrus has undergone a successful method tryout on oranges and has been sent to the Food and Drug Administration for inclusion in PAM as Method II.

3. *Magnitude of residues.* Magnitude of residue data are adequate for the proposed commodities.

B. Toxicological Profile

1. *Acute toxicity.* A complete battery of acute toxicity studies for fosetyl-Al technical has been conducted. The lethal doseLD_{50} from the acute oral rat is 5.4 grams/kilograms (g/kg) and the LD_{50} from an acute dermal rabbit study is>2 g/kg. The LD_{50} for a rat inhalation study is >1.73 milligrams/liter (mg/L). The acute oral rat and primary dermal irritation studies indicate category IV toxicity. A guinea pig dermal sensitization study shows fosetyl-Al is not a skin sensitizer. The primary eye irritation study in rabbits shows fosetyl-Al to be an eye irritant with Category I toxicity.

2. *Genotoxicity.* Fosetyl-Al is neither mutagenic nor genotoxic. The genetic toxicity potential of fosetyl-Al was assessed in several assays. Eight mutagenicity tests performed with fosetyl-Al were negative. The tests included two Ames assays with *S. typhimurium*, two phase induction assays using *E. coli*, two micronucleus studies in mice, one DNA repair assay using *E. coli* and one mutation assay in *Saccharomyces cerevisiae*.

3. *Reproductive and developmental toxicity.* Fosetyl-Al is not a reproductive toxicant and shows no evidence of estrogenic or androgenic related effects.

i. In a three generation reproduction study, fosetyl-Al was administered to rats at dietary levels of 0, 6,000, 12,000 or 24,000 ppm. No adverse effects on reproductive performance or pup survival were observed in any dose group. The lowest observed adverse effect level (LOAEL) was established at 12,000 ppm based on effects on animal weights and urinary tract changes. The no observed adverse effect level (NOAEL) for all effects was 6,000 ppm.

ii. A developmental study in rats dosed via oral gavage at 500, 1,000 or 4,000 mg/kg/day showed a developmental NOAEL of 1,000 mg/kg. At 4,000 mg/kg, there was maternal toxicity, as evidenced by effects on animal weights, maternal deaths, increased resorptions, and delayed fetal ossification.

iii. A rabbit developmental study showed no toxic effects at oral doses up to 500 mg/kg. Effects of fosetyl-Al on fetal development were observed only in the rat at a dose producing severe maternal toxicity. In the absence of maternal toxicity, no adverse effects on fetal development were observed, i.e. at

1,000 mg/kg/day in rats or at 500 mg/kg/day in rabbits.

4. *Subchronic toxicity.* In subchronic studies, no significant toxicity was observed even at doses exceeding the limit of 1,000 mg/kg/day.

i. A 21–day dermal study in rabbits showed mild to moderate skin irritation and a NOAEL of 1.5 g/kg/day.

ii. A 90–day feeding study in rats showed a NOAEL of>5,000 ppm; the LOAEL was 25,000 ppm with extramedullary hematopoiesis in the spleen.

iii. A 90–day dog feeding study showed a NOAEL of 10,000 ppm and a LOAEL at 50,000 ppm, at which the test animals had a lower serum potassium level than untreated animal.

5. *Chronic toxicity.* Chronic toxicity studies have been conducted in dogs and rats.

i. *Dog.* Fosetyl-Al was fed to dogs for 2 years at concentrations of 0, 10,000, 20,000, and 40,000 ppm. The NOAEL was 10,000 ppm, equivalent to 250 mg/kg/day. The LOAEL was 20,000 ppm based on a slight degenerative effect on the testes. These testicular changes, as well as a few scattered clinical changes, were seen in the high dose dogs. No effects were observed in the urinary tract.

ii. *Rat.* Fosetyl-Al was administered via a mixture in the diet to CD rats at target levels of 0, 2,000, 8,000, and 30,000/40,000 ppm for approximately 2 years. Based on these levels, respective doses were 100, 400 and 2,000/1,500 mg/kg/day. After 2 weeks at 40,000 ppm, this dietary level was reduced to 30,000 ppm due to the occurrence of red coloration of the urine and a decrease in body weight gain. Although these findings were no longer apparent after week 2, analytical verification of dietary levels revealed that the highest dietary level ranged from approximately 38,000 to 61,000 ppm during the first 32 weeks of the study. No significant differences in body weight or food consumption were noted at 2,000 or 8,000 ppm. No biologically significant differences were observed in ophthalmoscopy, hematology, clinical chemistry, or urinalysis for treated and control animals. Calculi in the urinary bladder were observed for several male and female rats in the high dose group. Non-neoplastic findings consisted of epithelial hyperplasia and inflammation in the urinary bladders of males at 30,000/40,000 ppm. Increased incidences of hydronephrosis, inflammation, and epithelial hyperplasia in the kidney were also observed in males from the high dose group. Females from the same group exhibited increased incidences of epithelial hyperplasia in the urinary bladder and hydronephrosis in the kidney. The NOAEL in the chronic rat study was 8,000 ppm (400 mg/kg/day). The lowest NOAEL for chronic effects of fosetyl-Al is 10,000 ppm (250 mg/kg/day) based on the dog study. This NOAEL is based on minor changes at 20,000 ppm. In the rat, calculi in the urinary bladder and related histopathological changes in the bladder and kidneys of males and females were observed at 30,000/40,000 ppm.

6. *Carcinogenicity.* Long-term feeding studies were conducted with technical grade fosetyl-Al in mice and rats and with monosodium phosphite, the primary urinary metabolite of fosetyl-Al, in rats. These studies, and a mechanistic study in rats, are described below:

i. *Rat.* In addition to the chronic studies previously noted, calculi in the urinary bladder were also observed for several male and female rats at 30,000/40,000 ppm. Microscopic examination revealed transitional cell carcinomas and papillomas in the urinary bladders of high dose males. A statistically significant increase in adrenal pheochromocytomas (benign and malignant combined) was observed in males at 8,000 and 30,000/40,000 ppm. The adrenal slides were independently reread by two consulting pathologists who found no significant dose-related increases in the incidence of pheochromocytomas or hyperplasia.

The NOAEL for fosetyl-Al in the chronic rat study was 8,000 ppm; however, a subsequent mechanistic study in rats conducted with dietary levels of 8,000, 30,000 and 50,000 ppm demonstrated that the massive doses of 30,000 and 50,000 ppm fosetyl-Al alter calcium/phosphorous homeostasis resulting in severe acute renal injury, similar to that observed in the chromic rat study, and the formation of calculi in kidneys, ureters, and bladder. Under conditions of chronic exposure, these effects could lead to the formation of bladder tumors as seen in the chronic rat study. At 8,000 ppm, no evidence of renal injury was observed, a result consistent with the absence of bladder tumors. Thus, the bladder tumors induced by fosetyl-Al were the result of acute renal injury followed by a chronic toxic reaction rather than a true carcinogenic effect. An carcinogenicity study in rats was conducted with monosodium phosphite administered via dietary mixture at levels of 2,000, 8,000, and 32,000 ppm. No evidence of carcinogenicity was observed in this study.

ii. *Mouse.* A 2–year feeding/carcinogenicity study was conducted in mice fed diets containing fosetyl-Al at 0, 2,500, 10,000, or 20,000/30,000 ppm. The 20,000 ppm dose was increased to 30,000 ppm during week 19 of the study. The NOAEL for all effects was 20,000/30,000 ppm (3,000/4,500 mg/kg/day). There were no carcinogenic effects observed under the conditions of this study.

iii. The Office of Pesticide Programs', Health Effects Division, Carcinogenicity Peer Review Committee (CPRC) concluded in their report of June 29, 1993 that the pesticidal use of fosetyl-Al is unlikely to pose a carcinogenic hazard for humans given that: Tumors develop in rats under extreme conditions that are unlikely to be achieved other than under laboratory conditions (at a dose in excess of the EPA dose limit for carcinogenicity studies); tumors in rats are believed to develop only at doses that produce stones; human dietary exposure to fosetyl-Al is only about one-500,000th of the NOAEL for stone formation in the rat (the most sensitive experimental model); and the dose of fosetyl-Al which can be absorbed dermally by applicators is also probably too low to result in stone formation. EPA has therefore chosen to use the Reference Dose (RfD) to quantify dietary risk to humans.

7. *Animal metabolism.* Rat metabolism studies showed that most of the radiolabel rapidly appeared in exhaled carbon dioxide. There was also some radiolabel excreted in the urine as phosphite, along with a smaller amount as the unchanged parent compound. It appears that fosetyl-Al is essentially completely absorbed after ingestion and extensively hydrolyzed to carbon dioxide which is exhaled. The phosphite is excreted in the urine without further oxidation to phosphate. Aluminum does not appear to be absorbed to a significant extent from the gastrointestinal trac.

8. *Metabolite toxicology.* There are no metabolites of toxicological concern. The tolerances are established for the parent only, that is fosetyl-Al.

9. *Endocrine disruption.* No evidence of estrogenic or androgenic effects were noted in any study with fosetyl-Al. No adverse effects on mating or fertility indices and gestation, live birth, or weaning indices were noted in a three-generation rat reproduction study at doses well above EPA's limit of 1,000 mg/kg/day. Therefore, Aventis Crop Science concludes that fosetyl-Al does not have any effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure.* EPA has established the chronic RfD for fosetyl-

Al at 2.5 mg/kg/day. This RfD is based on a NOAEL of 250 mg/kg/day from a 2–year feeding study in dogs and the use of a 100 fold safety factor to account for interspecies and intraspecies differences. No appropriate endpoint attributable to a single dose exposure was identified in oral toxicity studies. Therefore, an acute RfD was not established and there is no expectation of acute risk. Since no dermal or systemic toxicity was seen at the limit dose following repeated dermal applications in the 21–day toxicity study using rats, no endpoint value was calculated for short- and intermediate-term exposure and risk. The Agency has concluded that fosetyl-Al is unlikely to pose a carcinogenic hazard to humans. Therefore, a cancer exposure and risk assessment is not appropriate.

i. *Food.* For all currently registered uses of fosetyl-Al, chronic food exposure for various subgroups of the U.S. population was estimated by EPA through the use of the Dietary Exposure Evaluation Model (DEEM) software. The DEEM analysis evaluated the individual food consumption as reported by respondents in the USDA 1989-1991 nationwide Continuing Surveys of Food Intake by Individuals. As the risk estimate was low for even the most highly exposed subpopulation, no anticipated residues were used. One hundred percent crop treated and tolerance level residues were assumed for all crops. Based on the results of this conservative analysis, exposure to fosetyl-Al residues from the proposed uses is expected to be minimal. Aventis Crop Science concludes that dietary exposure to fosetyl-Al resulting from the currently registered and the proposed uses of the product will be well below the Agency's level of concern.

ii. *Drinking water.* There is no established maximum contaminant level or health advisory level for fosetyl-Al. The potential for ground water and/or surface water contamination by fosetyl-Al and its degradates is expected to be very low, in most cases, due to the rapid degradation of the compound in soil to non-toxic degradates under both aerobic and anaerobic conditions. Under aerobic laboratory conditions, the half-life of fosetyl-Al is between 1 and 1.5 hours in loamy sand, silt loam and clay loam and 20 minutes in sandy loam soil. The degradation proceeds through the hydrolysis of the ethyl ester bond, resulting in the formation of phosphorous acid and ethanol. The ethanol is further degraded into carbon dioxide. Based on the short half-life of fosetyl-Al and the known fate of phosphates under anaerobic conditions, EPA determined that an anaerobic soil metabolism study was not necessary. An anaerobic aquatic soil metabolism study was conducted. When anaerobic conditions were established by flooding soil, the half-life was 40 hours with silty clay loam and 14 hours with sandy loam soil. Aventis Crop Science expects that potential fosetyl-Al residues in drinking water are not a significant contribution to aggregate exposure.

2. *Non-dietary exposure.* Fosetyl-Al is currently registered for residential use on turf and ornamental plants. Chronic exposure is not expected for residential uses. There is also no expectation of acute risk. No appropriate endpoint attributable to a single dose exposure was identified in oral toxicity studies and consequently, an acute RfD cannot be calculated. No endpoint value is calculable for short- and intermediate-term exposure and a risk analysis cannot be performed since no dermal or systemic toxicity was seen at the limit dose following repeated dermal applications in the 21–day toxicity study using rats. The Agency has previously concluded that fosetyl-Al is unlikely to pose a carcinogenic hazard to human. Therefore, a cancer exposure and risk assessment is not appropriate. Thus, Aventis Crop Science concludes that the ornamental and turf uses do not add significantly to the aggregate exposure for fosetyl-Al.

D. Cumulative Effects

Effects associated with fosetyl-Al are unlikely to be cumulative with any other compound. The formation of calculi and bladder tumors in rats is the only significant toxicological effect observed with fosetyl-Al. These effects were observed in rat only at a dose which not only exceeds estimated human exposure by several orders of magnitude but is in excess of the EPA dose limit for carcinogenicity studies. Therefore, an aggregate assessment based on common mechanisms of toxicity is not appropriate as exposure to humans will be well below the levels producing calculi and bladder tumors in rats. Further, considering the rapid elimination of fosetyl-Al in the rat metabolism study, any effects associated with fosetyl-Al are unlikely to be cumulative with any other compound. Based on these reasons, only the potential risks of fosetyl-Al are considered in the exposure assessment.

E. Safety Determination

1. *U.S. population.* Chronic risk estimates associated with exposure to fosetyl-Al in food and water are expected to be well below the Agency's level of concern. The DEEM chronic exposure analysis previously performed by the Agency for all currently registered food uses shows that exposure to fosetyl-Al utilizes 3.1% of the cPAD for the U.S. population, 2.7% of the cPAD for females (13–50 years), 6.3% of the cPAD for children 1-6 years old, and 4.2% of the cPAD for non-Hispanic (other than black or white). This analysis was conducted assuming 100% crop treated and tolerance level residue values for all crops. The contribution of fosetyl-Al residues in surface and ground water to chronic aggregate exposure is expected to be minimal. Therefore, Aventis Crop Science concludes that even when considering the potential incremental risk resulting from the proposed uses, there is a reasonable certainty that no harm will result from aggregate exposure to fosetyl-Al residues.

2. *Infants and children.* No indication of increased susceptibility of rat or rabbit fetuses to *in utero* and/or postnatal exposure was noted in the developmental and reproductive toxicity studies. The Agency has previously determined that no additional safety factor to protect infants and children is necessary for this product.

Using the conservative assumptions described in the exposure section, aggregate exposure to fosetyl-Al from currently registered food uses will utilize up to 6.3% of the RfD for infants and children. Even when considering the potential incremental dietary risk resulting from the proposed uses, the potential for exposure to residues in drinking water and from non-dietary, non-occupational exposure, the aggregate exposure to fosetyl-Al is expected to be well below 100% of the RfD. Aventis Crop Science concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to fosetyl-Al residues.

F. International Tolerances

There are presently no Codex Alimentarius Commission maximum residue levels established for residues of fosetyl-Al.

[FR Doc. 01–12906 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1023; FRL–6782–5]

Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1023, must be received on or before June 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1023 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph M. Tavano, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8375; e-mail address: tavano.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1023. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1023 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1023. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 11, 2001.

Richard P. Keigwin, Jr., Acting,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Rohm and Haas Company

1F6259

EPA has received a pesticide petition (1F6259) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of methoxyfenozide benzoic acid, 3-methoxy-2-methyl-,2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide in or on the raw agricultural commodity stone fruits crop group and prunes at 5 and 7 parts per million (ppm) respectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The qualitative nature of methoxyfenozide residues in plants and animals is adequately understood and was previously published in the **Federal Register** of July 5, 2000 (65 FR 41355) (FRL–6496–5).

2. *Analytical method.* An high performance liquid chromotography using ultra-violet detection (HPLC/UV) method TR 34–00–109 for the enforcement of tolerances in stone fruits has been developed. Confirmatory method validation data have been submitted for this method. The validated limit of quantitation (LOQ) of the analytical method was 0.02 ppm in all matrices for methoxyfenozide.

3. *Magnitude of residues.* Geographically representative field trials with methoxyfenozide 80WP and 2F formulations were conducted to support the proposed crop group tolerance for the stone fruit representative crops peaches, plums and cherries. The results of the field trials indicate that residues of methoxyfenozide will not exceed the proposed crop group tolerance of 5.0 ppm for stone fruits or 7.0 ppm for prunes.

B. Toxicological Profile

The toxicological profile and endpoints for methoxyfenozide which supports this petition to establish tolerances were previously published in the **Federal Register** of July 5, 2000 (65 FR 41355).

B. Aggregate Exposure

1. *Dietary exposure—i. Food.* Acute exposure and risk. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No appropriate toxicological endpoint attributable to a single exposure was identified in the available toxicology studies on methoxyfenozide including the acute neurotoxicity study in rats, the developmental toxicity study in rats and the developmental toxicity study in rabbits. Since no acute toxicological endpoints were established, Rohm and Haas considers acute aggregate risk to be negligible.

Rohm and Haas used the Dietary Exposure Evaluation Model™ (DEEM) V.7.075; Novigen Sciences, Washington, DC) software for conducting a chronic dietary (food) risk analysis. DEEM is a dietary exposure analysis system that is used to estimate exposure to a pesticide chemical in foods comprising the diets of the U.S. population, including population subgroups. DEEM contains food consumption data as reported by respondents in the USDA continuing surveys of food intake by individuals conducted in 1994–1996. Rohm and Haas assumed 100% of crops would be treated and contain methoxyfenozide residues at the tolerance level. The following tolerance levels were used in the analysis:

Commodity	Tolerance level, ppm
Bulb vegetables	0.1 ppm
Corn, aspirated grain fractions	1.0 ppm
Corn, field, forage	15 ppm
Corn, field, grain	0.05 ppm
Corn, field, stover (fodder)	105 ppm
Corn, oil	0.2 ppm
Corn, silage	5.0 ppm
Corn, sweet, forage	30 ppm
Corn, sweet (K+CWHR)	0.05 ppm
Corn, sweet, stover (fodder)	60 ppm
Cotton, undelinted seed	2.0 ppm
Fat*	0.5 ppm
Fruiting vegetables	2.0 ppm
Grapes	1.0 ppm
Head and stem brassica (5A)	6.5 ppm
Herbs and spices	8 ppm
Leaf petioles (4B)	10.0 ppm
Leafy brassica greens (5B)	20.0 ppm

Commodity	Tolerance level, ppm
Leafy vegetables (4A)	25 ppm
Leaves of root and tuber vegetables	0.1 ppm
Legume vegetables	0.05 ppm
Liver	0.4 ppm
Meat*	0.02 ppm
Meat byproducts* (except liver)	0.1 ppm
Milk	0.1 ppm
Pome fruit	1.5 ppm
Prunes	7.0 ppm
Raisins	1.5 ppm
Root and tuber vegetables	0.05 ppm
Stone fruits	5.0 ppm

* Of cattle, goats, hogs, horses, and sheep.

Processing factors were also applied to grape juice (1.2x), grape juice concentrate (3.6x), apple juice/cider (1.3x), apple juice concentrate (3.9x), dried apples (8x), dried pears (6.25x), tomato juice (1.5x), tomato puree (3.3x), tomato paste (5.4x), tomato catsup (2.5x), dried tomatoes (14.3x), dehydrated onions (9x), white dry potatoes (6.5x), sprouted soybean seeds (0.33x), corn grain sugar (high fructose corn syrup; 1.5x), dried beef (1.92x), dried veal (1.92x), dried apricots (6.0x), dried cherries (4.0x), cherry juice (1.5x), dried peaches (7.0x), dried plums (5.0x), and plum/prune juice (1.4x). The processing factors are default values from DEEM.

As shown in the following table, the resulting dietary food exposures occupy up to 37.6% of the chronic population adjusted dose (PAD) for the most highly exposed population subgroup, children 1 to 6 years old. These results should be viewed as conservative (health protective) risk estimates. Refinements such as use of percent crop-treated information and/or anticipated residue values would yield even lower estimates of chronic dietary exposure.

SUMMARY: CHRONIC DIETARY EXPOSURE ANALYSIS BY DEEM (TIER 1)

Population subgroup	Exposure milligram/kilogram/day (mg/kg/day)	Percent of chronic PAD
U.S. population—48 contiguous States	0.0189	18.9
All infants (<1–year)	0.0315	31.5
Nursing infants <1–year old	0.0134	13.4
Non-nursing infants <1–year old	0.0368	36.8
Children 1 to 6 years old	0.0376	37.6
Children 7 to 12 years old	0.0216	21.6
Females 13+ (nursing)	0.0156	19.1
U.S. population (autumn season)	0.0191	19.1
U.S. population (spring season)	0.0190	19.0
Northeast region	0.0206	20.6
Western region	0.0210	21.0
Hispanics	0.0191	19.1
Non-Hispanic/non-white/non-black	0.0249	24.8

Percent chronic PAD = (Exposure divided by chronic PAD) x 100%.

The subgroups listed are:

1. The U.S. population (total).
2. Those for infants and children.
3. The other subgroup(s), if any, for which the percentage of the chronic PAD occupied is greater than that occupied by the subgroup U.S. population (total).
4. The most highly exposed of the females subgroups (in this case, females, (13+ years, nursing).

ii. *Drinking water.* There are no water-related exposure data from monitoring to complete a quantitative drinking water exposure analysis and risk assessment for methoxyfenozide. Generic expected environmental concentration (GENEEC) and/or EPA's pesticide root zone model/exposure analysis modeling system (PRZM/EXAMS) (both produce estimates of pesticide concentration in a farm pond) are used to generate estimated environmental concentrations (EECs) for surface water and screening concentration in ground water (SCI-GROW) (an empirical model based upon actual monitoring data collected for a number of pesticides that serve as benchmarks) predicts EECs in ground water. These models take into account the use patterns and the environmental profile of a pesticide, but do not include consideration of the impact that processing raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models at this stage is to provide a coarse screen for assessing whether a pesticide is likely to be present in drinking water at concentrations which would exceed human health levels of concern.

A drinking water level of comparison (DWLOC) is the concentration of a pesticide in drinking water that would be acceptable as a theoretical upper limit in light of total aggregate exposure to that pesticide from food, water, and residential uses. HED uses DWLOCs internally in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. In the absence of monitoring data for a pesticide, the DWLOC is used as a point of comparison against the conservative EECs provided by computer modeling (SCI-GROW, GENEEC, PRZM/EXAMS).

a. *Acute exposure and risk.* Because no acute dietary endpoint was determined, Rohm and Haas concludes that there is a reasonable certainty of no harm from acute exposure from drinking water.

b. *Chronic exposure and risk.* Tier II screening-level assessments can be conducted using the simulation models SCI-GROW and PRZM/EXAMS to generate EECs for ground and surface water, respectively. The modeling was conducted based on the environmental profile and the maximum seasonal application rate proposed for methoxyfenozide (1.0 lb ai/acre/season). PRZM/EXAMS was used to generate the surface water EECs, because it can factor the persistent nature of the chemical into the estimates.

The EECs for assessing chronic aggregate dietary risk used by HED are 6 parts per billion (ppb) (in ground water, based on SCI-GROW) and 98.5 parts per billion (ppb) (in surface water, based on the PRZM/EXAMS, long-term mean).The back-calculated DWLOCs for

assessing chronic aggregate dietary risk range from 624 ppb for the most highly exposed population subgroup (children 1 to 6 years old) to 2,839 ppb for the U.S. population (48 contiguous States—all seasons).

The SCI-GROW and PRZM/EXAMS chronic EECs are less than the Agency's level of comparison (the DWLOC value for each population subgroup) for methoxyfenozide residues in drinking water as a contribution to chronic aggregate exposure. Rohm and Haas thus concludes with reasonable certainty that residues of methoxyfenozide in drinking water will not contribute significantly to the aggregate chronic human health risk and that the chronic aggregate exposure from methoxyfenozide residues in food and drinking water will not exceed the Agency's level of concern (100% of the chronic PAD) for chronic dietary aggregate exposure by any population subgroup. EPA generally has no concern for exposures below 100% of the chronic PAD, because it is a level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to the health and safety of any population subgroup. This risk assessment is considered high confidence, conservative, and very protective of human health.

DWLOC FOR CHRONIC EXPOSURE TO METHOXYFENOZIDE

Population subgroup	Chronic PAD (mg/kg/day)	Food exposure (mg/kg/day)	Maximum water exposure (mg/kg/day)	SCI-GROW (µg/L)	GENEEC 56–day Average (µg/L)	DWLOC (µg/L)
U.S. population–48 contiguous states		0.0189	0.0811			2,839
Females 13+ (nursing)		0.0191	0.0809			2,427
Non-nursing infants <1–year old	0.10	0.0368	0.0632	6	98.5	632
Children 1 to 6 years old		0.0376	0.0624			624
Children 7 to 12 years old		0.0216	0.0784			784

Notes: Maximum water exposure (mg/kg/day) = chronic PAD (mg/kg/day) - chronic food exposure. DWLOC (µg/L) = (Maximum water exposure (mg/kg/d) x body weight (kg)) divided by (1/1,000 mg/µg x water consumed daily (L/day)). Body weights (kg) for adults is 70, for females 13+ is 60 kg and for all children is 10 kg. Drinking water consumption is 2 liters per day for adults and 1 liter per day for children.

2. *Non-dietary exposure.* Methoxyfenozide is not currently registered for use on any residential non-food sites. Therefore, there is no non-dietary acute, chronic, short- or intermediate-term exposure.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether methoxyfenozide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, methoxyfenozide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, it is assumed that methoxyfenozide does not have a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* Using the DEEM exposure assumptions described in this unit, Rohm and Haas has concluded that aggregate exposure to methoxyfenozide from food will utilize 18.9% of the chronic PAD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is children 1 to 6 years old at 37.6% of the chronic PAD and is discussed below. EPA generally has no concern for exposures below 100% of the chronic PAD because the chronic PAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to methoxyfenozide in drinking water, the aggregate exposure is not expected to exceed 100% of the chronic PAD. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to methoxyfenozide residues.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of methoxyfenozide, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (UF) (usually 100 for combined interspecies and intraspecies variability) and not the additional ten-fold MOE/UF when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

The toxicology data base for methoxyfenozide included acceptable developmental toxicity studies in both rats and rabbits as well as a 2–generation reproductive toxicity study in rats. The data provided no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to methoxyfenozide. There is a complete toxicity data base for methoxyfenozide and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Based on the completeness of the data base and the lack of prenatal and postnatal toxicity, EPA determined that an additional safety factor was not needed for the protection of infants and children.

Since no acute toxicological endpoints were established, acute aggregate risk is considered to be negligible. Using the exposure assumptions described in this unit, Rohm and Haas has concluded that aggregate exposure to methoxyfenozide from food will utilize 37.6% of the cPAD for infants and children. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to methoxyfenozide in drinking water, Rohm and Haas does not expect the aggregate exposure to exceed 100% of the cPAD. Short and intermediate term risks are judged to be negligible due to the lack of significant toxicological effects observed. Based on these risk assessments, Rohm and Haas concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to methoxyfenozide residues.

F. International Tolerances

There are no established or proposed Codex, Canadian or Mexican limits for residues of methoxyfenozide in/on plant or animal commodities. Therefore, no compatibility issues exist with regard to the proposed U.S. tolerances.

[FR Doc. 01–12904 Filed 5–22–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50885; FRL–6777–9]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit (EUP) to the following pesticide applicant. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Mandula, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Hwy., Rm. 9016, Crystal Mall #2, Arlington, VA; (703) 308–7378; e-mail address: mandula.barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the designated contact person listed for the individual EUP.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. EUP

EPA has issued the following EUP: *73417–EUP–1.* Issuance. Greenville Farms, 1689 N. 1200 E. Logan, Utah 84341. This EUP allows the use of 83 pounds of the herbicide dyers woad rust on 12 acres of rangeland to evaluate the control of dyers woad. The program is authorized only in the State of Utah. The EUP is effective from March 1, 2001 to March 1, 2002.

Persons wishing to review this EUP are referred to the designated contact person. Inquiries concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: May 2, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–12902 Filed 5–22–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6962–8]

Massachusetts Marine Sanitation Device Standard; Receipt of Petition

Notice is hereby given that a petition has been received from the State of Massachusetts requesting a determination of the Regional Administrator, U.S. Environmental Protection Agency, pursuant to section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and Public Law 100–4, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Three Bay/Centerville Harbor Area in the Town of Barnstable, County of Barnstable, State of Massachusetts, to qualify as a "No Discharge Area" (NDA). The areas covered under this petition include Cotuit Bay, West Bay, East Bay, and Squaw Island Marsh, north of a line drawn 500 feet south of their mouths at Nantucket Sound. The area also includes the following sub-embayments: North Bay, Prince Cove, Marstons Mills River South of Route 28, Scudder Bay South of Bumps River Road, Bumps River East of Bumps River Road, Centerville River West of Craigville Beach Road, and Halls Creek South of

Craigville Beach Road. The proposed NDA encompasses approximately 2,150 surface acres in the Southwest corner in the Town of Barnstable. The area is roughly bounded by: 41°36′40.0″ N by 70°26′41.1″ W, 41°37′26.9″ N by 70°19′05.4″ W, 41°38′19.8″ N by 70°19′21.9″ W, and 41° 39′03.2″ N—70°24′53.6″ W.

The State of Massachusetts has certified that there will be two pump-out facilities located within the proposed area to service vessels in the Three Bay/Centerville Harbor Area. The first, is a pump-out boat operated by the Harbormasters Office, and docked at the Oyster Harbor Marine when not in use. The boat has a holding capacity of 300 gallons. The pump-out boat is available Wednesday through Sunday from 0930 to 1630 (9:30 a.m.–4:30 p.m.) from Memorial Day to Thanksgiving. The pump-out boat is accessible by VHF marine radio via Channel 9 and by calling the Marine and Environmental Affairs Division (MEAD) in Barnstable at (508) 790–6273. The second pump-out facility is a self service trailer unit and located at the Oyster Harbor Marine, with a holding capacity of 250 gallons, and provides access for vessels up to 50 feet in length and a draft of 4 feet at mean low water. This facility is available daily from June 15 through September 15 from approximately 0800 to 1700 (8 a.m. to 5 p.m.). During the early spring and late fall this facility is available by contacting the Harbormaster Office by phone at (508) 790–6273.

The town of Barnstable maintains public facilities at four locations, Loops Beach, Craigville Beach, Covells Beach and Dowse's Beach, and are seasonal. In addition the three marinas located within the proposed NDA provide on-shore toilet facilities for marina patrons and their guests.

The waste from the pump-out boat is off loaded to the trailer unit and then transported to the Barnstable Water Pollution Control Facility. The Barnstable Board of Health issues a waste permit for this disposal.

The number of mooring permits indicate that 1,667 vessels reside within the Three Bay/Centerville Harbor Area and 1584 are identified as recreational and 83 are commercial vessels. The Three Bay/Centerville Harbor Area is primarily a "parking lot" harbor and 70% of the vessel population is under 25 feet in length, and therefore do not have any type of Marine Sanitation Device (MSD). There are a number of locations in the Three Bay/Centerville Harbor Area with public launching ramps, however, the size and condition of the ramps and the depth of the water generally limit use to vessels 25 feet and under. In addition to the vessels that reside in the Three Bay/Centerville Harbor Area, there is a transient population estimated at 110 vessels which have MSDs.

The resources of the Three Bay/Centerville Harbor Area are recreational and commercial. There are four public beaches, the Dead Neck Audubon Bird/Wildlife Refuge, and town conservation lands located within the proposed No Discharge Area. The area is also used by both recreational and commercial shell fishermen for the harvest of quahogs, and soft-shell clams.

Comments and reviews regarding this request for action may be filed on or before June 22, 2001. Such communications, or requests for information or a copy of the applicant's petition, should be addressed to Ann Rodney, U.S. Environmental Protection Agency—New England Region, 1 Congress Street, Suite 1100, CWQ, Boston, MA 02114–2023. Telephone: (617) 918–1538.

Ira Leighton,

Acting Regional Administrator, Region 1.

[FR Doc. 01–12890 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–7]

Notice of Availability for Public Review and Comment of the Continuing Planning Process (CPP) for the State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability for public review and comment of the continuing planning process (CPP) for the State of Missouri.

SUMMARY: The Clean Water Act (the Act) at section 303(e) and EPA's implementing regulation at 40 CFR 130.5, require that each State shall establish and maintain a continuing planning process (CPP) consistent with the Act. Each State is responsible for managing it's water quality program to implement the processes specified in the CPP, and EPA is responsible for periodically reviewing the adequacy of the State's CPP. This document is being published in accordance with paragraph 3 of the settlement agreement in the matter of American Canoe Association, *et al.*, v. EPA, No. 98–1195–CV–W–SOW–ECF Cons. with 98–4282–CV–W–SOW–ECF. Consistent with the settlement agreement, EPA is publishing this notice of availability of the CPP to interested parties. The current CPP in force for the Missouri Department of Natural Resources (MDNR) is the 58 page document entitled Continuing Planning Process dated May 1984. By November 27, 2001 EPA will prepare a preliminary written summary of its review of the CPP and will make that summary available upon request to interested parties for their review and comment. There will be a 60 day comment period following the completed summary. Copies of the CPP will be available beginning May 28, 2001 by contacting the person listed in the following **FOR FURTHER INFORMATION CONTACT** section. Once available, copies of EPA's preliminary written summary may also be requested.

Footnote—The Missouri Department of Natural Resources (MDNR) has acknowledged that the 1984 CPP needs updating. The MDNR 2000 Water Planning 604(b) grant contains a workplan element that calls for the review and revision of the current CPP, with a preliminary draft scheduled for May, 2001 and a final draft tentatively scheduled for submission to the Missouri Clean Water Commission in late 2001. This process is underway. When an official draft is made available by MDNR for public review, this office will likewise make it available for public review. EPA intends to review and comment on the draft.

FOR FURTHER INFORMATION CONTACT: Robert Steiert, Water, Wetlands and Pesticide Division, Geographic Planning and Coordination Branch at (913) 551–7433 or by E-mail at steiert.robert@epa.gov .

Dated: May 16, 2001,

Nat Scurry,

Acting Deputy Regional Administrator, Region VII.

[FR Doc. 01–13047 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–1]

Clean Water Act Section 303(d): Final Agency Action on 11 Total Maximum Daily Loads (TMDLs) and Final Agency Action on 26 Determinations That TMDLs Are Not Needed

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces final agency action on 11 TMDLs prepared by EPA Region 6 for waters listed in Louisiana's Mermentau and Vermilion/Teche river basins, under section 303(d) of the Clean Water Act (CWA). This notice also announces final agency action removing 26 waterbody/pollutant combinations from the Louisiana 303(d) list because new data/information shows that water quality standards are being met. EPA evaluated these waters and prepared the 11 TMDLs in response to a Court Order dated October 1, 1999, in the lawsuit *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Under this court order, EPA is required to prepare TMDLs when needed for waters on the Louisiana 1998 section 303(d) list by December 31, 2007. EPA is also required to add or delete waters to the schedule as new data confirms that waters are or are not meeting water quality standards. Documents from the administrative record files for the 26 determinations that TMDLs are not needed and for the final 11 TMDLs, including TMDL calculations and responses to comments, may be viewed at *www.epa.gov/region6/water/tmdl.htm*. The administrative record files may be obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA), styled *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. Discussion of the court order may be found at 65 FR 54032 (September 6, 2000).

EPA Takes Final Agency Action on 11 TMDLs

By this notice EPA is taking a final agency action on the following 2 fecal coliform TMDLs for waters located within the Mermentau and Vermilion/Teche basins:

A TMDL for subsegment 060205 (Bayou Teche) was written and included in the same TMDL written for subsegments 060301 (of Bayou Teche) and 060401 (also of Bayou Teche) as referenced at 65 FR 19762–19764 of the **Federal Register** published on April 12, 2000 as well as 66 FR 18087–18089 of the **Federal Register** published on April 5, 2001. However, as no explicit reference was given to subsegment 060205 in either of the aforementioned notices, this notice is to serve as notice that the TMDL is inclusive of subsegment 060205. As cited in the **Federal Register** notices described above, the TMDL written for subsegment 060205, as well as subsegments 060301 and 060401, may be viewed at *www.epa.gov/region6/water/tmdl.htm* (click on "Finalized TMDL Reports * * *").

A TMDL for subsegment 050303 (Bayou Castor) was written and included in the same TMDL written for subsegment 050301 (Bayou Nezpique) as referenced at 65 FR 19762–19764 of the **Federal Register** published April 12, 2000 as well as 65 FR 18087–18089 of the **Federal Register** published April 5, 2001. However, as no explicit reference was given to subsegment 050303 in either of the aforementioned notices, this notice is to serve as notice that the TMDL is inclusive of subsegment 050303. As cited in the **Federal Register** notices described above, the TMDL written for subsegment 050303, as well as subsegment 050301, may be viewed at *www.epa.gov/region6/water/tmdl.htm* (click on "Finalized TMDL Reports * * *).

As comment on these TMDLs has already been requested previously, no further comment is requested.

Also by this notice EPA is taking a final agency action on the following 9 TMDLs for waters located within the Mermentau and Vermilion/Teche basins:

Subsegment	Waterbody name	Pollutant
050703	White Lake	Total Dissolved Solids.
050703	White Lake	Chloride.
050801	Vermilion River—Headwaters To Bayou Fusilier Bourbeaux Junction to New Flanders.	Sulfate.
050802	Vermilion River—From New Flanders to Intracoastal Waterway	Sulfate.
060205	Bayou Teche—Headwaters at Bayou Courtableau to I–10	Sulfate.
060205	Bayou Teche—Headwaters at Bayou Courtableau to I–10	Chloride.
060201	Bayou Cocodrie-from U.S. Hwy 167 to the Bayou Boeuf-Cocodrie Diversion Canal (Scenic).	Total Dissolved Solids.
060206	Indian Creek Reservoir	Temperature.
060202	Bayou Cocodrie-Cocodrie Diversion Canal to its intersection with Bayou Boeuf.	Total Dissolved Solids.

EPA requested the public to provide EPA with any significant data or information that may impact the 9 TMDLs at 65 FR 67742 (November 13, 2000). The comments received and EPA's response to comments may be found at *www.epa.gov/region6/water/tmdl.htm*.

FINAL AGENCY ACTION REMOVING 26 WATERBODY/POLLUTANTS FROM THE LOUISIANA 303(D) LIST BECAUSE TMDLS ARE NOT NECESSARY

Subsegment	Waterbody description	Pollutant	Reason for delisting
050101	Bayou Des Cannes—Headwaters to Mermentau River.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050103	Bayou Mallet	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050201	Bayou Plaquemine Brule-Headwaters to Bayou Des Cannes.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050901	Mermentau River Basin Coastal	Oil & Grease	Assessment of new data and information shows it is meeting WQS.

FINAL AGENCY ACTION REMOVING 26 WATERBODY/POLLUTANTS FROM THE LOUISIANA 303(D) LIST BECAUSE TMDLS ARE NOT NECESSARY—Continued

Subsegment	Waterbody description	Pollutant	Reason for delisting
060802	Vermilion River—from New Flanders (Ambassador Caffery) Bridge at Hwy 3073 to Intracoastal Waterway.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060904	Vermilion River—B890 Basin New Iberia Southern Drainage Canal.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060907	Franklin Canal	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
061101	Bayou Petite Anse	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060804	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060901	Bayou Petite Anse	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050402	Lake Arthur and Lower Mermentau	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050602	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050701	Grand Lake	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050702	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050703	White Lake	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060205	Bayou Teche—Headwaters at Bayou Courtableau to I–10.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060212	Chatlin Lake Canal and Bayou DuLac	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060701	Tete Bayou	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060702	Lake Fausse Point and Dauterive Lake	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060906	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060910	Boston Canal and Associated Canals (Estuarine).	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
061103	Freshwater Bayou Canal	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
050501	Bayou Queue de Tortue—Headwaters to Mermentau River.	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060902	Bayou Carlin (Delcambre Canal)—Lake Peigneur To Bayou Petite Anse (Estuarine).	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
060803	Vermilion River Cutoff	Oil & Grease	Assessment of new data and information shows it is meeting WQS.
061102	Intracoastal Waterway	Oil & Grease	Assessment of new data and information shows it is meeting WQS.

EPA requested the public to provide to EPA any significant data or information that may impact the determination that 26 TMDLs are not necessary at 66 FR 15472 (March 19, 2001). No comments were received.

Dated: May 3, 2001.

Sam Becker,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 01–12886 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6982–9]

Clean Water Act Section 303(d): Availability of Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment of the administrative record file for one TMDL prepared by EPA Region 6 for waters listed in Louisiana's Mermentau and Vermilion/Teche river basins, under section 303(d) of the Clean Water Act (CWA). EPA prepared this TMDL in response to a Court Order dated October 1, 1999, in the lawsuit *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Under this court order, EPA is required to prepare TMDLs when needed for waters on the Louisiana 1998 section 303(d) list by December 31, 2007.

DATES: Comments on this TMDL must be submitted in writing to EPA on or before June 22, 2001.

ADDRESSES: Comments on this TMDL should be sent to Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733. For further information, contact Ellen Caldwell at (214) 665–7513. The administrative record file for this TMDL is available for public inspection at this address as well.

Copies of the TMDL and its respective calculations may be viewed at *www.epa.gov/region6/water/tmdl.htm* or obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. Discussion of the court order may be found at 65 FR 54032 (September 6, 2000).

EPA Seeks Comments on One TMDL

By this notice EPA is seeking comment on the following TMDL for waters located within the Mermentau and Vermilion/Teche basins:

Subsegment	Waterbody name	Pollutant
060204	Bayou Courtableau—Origin to West Atchafalaya Borrow Pit Canal	Oil and Grease.

EPA requests that the public provide to EPA any water quality related data and information that may be relevant to the calculations for this TMDL, or any other comments relevant to this TMDL. EPA will review all data and information submitted during the public comment period and revise the TMDL where appropriate. EPA will then forward the TMDL to the Court and the Louisiana Department of Environmental Quality (LDEQ). LDEQ will incorporate the TMDL into its current water quality management plan.

Dated: May 3, 2001.

Sam Becker,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 01–12887 Filed 5–22–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 14, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 22, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.
Title: Standards for Co-channel and Adjacent Channel Interference in the Land Mobile Radio Services.
Form No.: N/A.
Type of Review: New collection.
Respondents: Business or other for-profit.
Number of Respondents: 19 respondents.
Estimated Time Per Response: 40 hours.
Frequency of Response: One time reporting requirement.
Total Annual Burden: 760 hours.
Total Annual Cost: N/A.
Needs and Uses: The collection requires frequency coordinators in the Land Mobile radio services to arrive at a consensus standard to be used to determine co-channel and adjacent channel interference and to make a one time report of these standards to the Commission.

OMB Control No.: 3060–XXXX.
Title: Sections 90.35(b)(2) and 90.175(b)(1).
Form No.: N/A.
Type of Review: New collection.
Respondents: Business or other for-profit; state, local or tribal government.
Number of Respondents: 3,800.
Estimated Time Per Response: 1 hour.
Frequency of Response: One time reporting requirement, third party disclosure requirement.
Total Annual Burden: 120 hours.
Total Annual Cost: N/A.
Needs and Uses: The rules require applicants proposing to operate a land mobile radio station that have service contours that overlap an existing land mobile station to obtain written concurrence of the frequency coordinator associated with the industry for which the existing station license was issued, or the written concurrence of the licensee of the existing station.
OMB Control No.: 3060–XXXX.
Title: Public Safety—State Interoperability Channels.
Form No.: N/A.
Type of Review: New collection.
Respondents: State, local or tribal government.
Number of Respondents: 50.
Estimated Time Per Response: .5 hour.
Frequency of Response: One time reporting requirement.
Total Annual Burden: 25 hours.
Total Annual Cost: N/A.
Needs and Uses: This collection requires states to notify the FCC regarding their intentions concerning administration of the interoperability public safety channels. The requirement will be used by Commission personnel in determining which states will be responsible for the administrative and technical oversight of operations on the interoperability spectrum.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–12993 Filed 5–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 201098–001.
Title: New Orleans/Carnival Terminal Agreement.
Parties: The Board of Commissioners of the Port of New Orleans Carnival Corporation.
Synopsis: The proposed amendment increases the improvements to the facilities, increases Carnival's obligation for use of the facilities and changes the term of the agreement. The agreement will run until December 31, 2005.

Agreement No.: 201121.
Title: New Orleans/Pacorini Terminal Agreement.
Parties: The Board of Commissioners of the Port of New Orleans Pacorini USA, Inc.
Synopsis: The proposed agreement is for a lease of the Alabo Street Wharf Terminal Complex. The agreement runs through April 14, 2006.

Agreement No.: 201122.
Title: Pacific Maritime Services Cooperative Working Agreement.
Parties: SSA Ventures, Inc., SSA Pacific Terminals, Inc., COSCO Terminals America, Inc.
Synopsis: The proposed agreement provides for the joint ownership of Pacific Maritime Services, LLC, a firm providing container stevedoring, terminal and related services in Long Beach , California. The agreement runs through June 30, 2011.

Dated: May 18, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 01–13062 Filed 5–22–01; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

AIF Services, Inc., 8500 NW 30th Terrace, Miami, FL 33122, *Officer:* Roberto Lores, Jr. President (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Agency International Forwarding, Inc., 8500 NW., 30th Terrace, Miami, FL 33122, *Officer:* Roberto Lores, Jr. President (Qualifying Individual).

Dated: May 18, 2001.

Bryant L. VanBrakle, Jr.,
Secretary.

[FR Doc. 01–13061 Filed 5–22–01; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding dates shown below:

License Number: 4048F.
Name: General Construction and Industrial Equipment, Inc. d/b/a Gencie.
Address: 4800 East 79th Ave., Suite 106, Miami, FL 33166.
Date Revoked: November 8, 2000.
Reason: Failed to maintain a valid bond.

License Number: 14323F.
Name: Hefco International, Inc. d/b/a Hefco International d/b/a Sea Viper Shipping.
Address: 16725 Aldine Westfield, Houston, TX 77032.
Date Revoked: March 29, 2001.
Reason: Failed to maintain a valid bond.

License Number: 12707N.
Name: Maritrans Inc.
Address: 275 N. Central Avenue, Valley Stream, NY 11580.
Date Revoked: April 11, 2001.
Reason: Surrendered License voluntarily.

License Number: 2634.
Name: PLI, Inc. dba Procurement Logistics International.
Address: 6101 Dixie Drive, Houston, TX 77087.
Date Revoked: February 28, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4470.
Name: Tri-Pmex, Inc.
Address: P.O. Box 891888, Temecula, CA 92589–1888.
Date Revoked: May 31, 1999.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–13060 Filed 5–22–01; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 6, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Robert Shaw Owen, Alan Craig Owen, and Eric Lyle Owen, all of Gleason, Tennessee; to acquire additional voting shares of Bancshares of Gleason, Inc., Gleason, Tennessee, and thereby indirectly acquire additional voting shares of Bank of Gleason, Gleason, Tennessee.

Board of Governors of the Federal Reserve System, May 17, 2001.

Robert deV. Frierson,
Associate Secretary of the Board.

[FR Doc. 01–12970 Filed 5–22–01; 8:45 am]
BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposal

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before July 23, 2001.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Mary M. West, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Report of Selected Balance Sheet Items for Discount Window Borrowers.
Agency form number: FR 2046.
OMB control number: 7100–0289.
Frequency: On occasion.
Reporters: Depository institutions.
Annual reporting hours: 2,654 hours.
Estimated average hours per response: 0.75 hours for adjustment or extended credit borrower; 0.25 hours for seasonal credit borrowers.
Number of respondents: 684.
Small businesses are affected.
General description of report: This information collection is required by sections 10B, 11(a)(2), and 11(i) of the Federal Reserve Act (12 U.S.C. 347b and 248(a)(2) and (i)) and individual respondent data are regarded as confidential (5 U.S.C. 552(b)(4)).
Abstract: The Federal Reserve's Regulation A, "Extensions of Credit by Federal Reserve Banks," requires that Reserve Banks review balance sheet data in order to guard against inappropriate discount window borrowing situations. Borrowers report certain balance sheet data for a period that encompasses the dates of borrowing.

2. *Report title:* Report of Terms of Credit Card Plans.
Agency form number: FR 2572.
OMB control number: 7100–0239.
Frequency: Semiannual.
Reporters: Commercial banks, savings and loans, savings banks, and finance companies.
Annual reporting hours: 75 hours.
Estimated average hours per response: 0.25 hours.
Number of respondents: 150.
Small businesses are not affected.
General description of report: The Board is authorized to collect this voluntary information collection (15 U.S.C. 1646(b)). The data are not considered confidential.
Abstract: This report was collected for the last time as of January 31, 2000; it was discontinued prior to the July 2000 reporting date pursuant to the Federal Reports Elimination and Sunset Act of 1995 (Sunset Act) (Pub. L. 104–66). In December 2000, the Congress approved the American Homeownership and Economic Opportunity Act of 2000 (Act) that restored the reporting of this information collection, along with forty others. Title XI of the Act states that Section 3003(a)(1) of the Sunset Act "shall not apply to any report required to be submitted under any of the following provisions of law: * * *

Section 8 of the Fair Credit and Charge Card Disclosure Act of 1998 (15 U.S.C. 1637 note); * * *". Upon reinstatement, this report will collect data on credit card pricing and availability from a sample of at least 150 financial institutions that offer credit cards. The information will be reported to the Congress and made available to the public in order to promote competition within the industry.

3. *Report title:* Annual Report on Status of Disposition of Assets Acquired in Satisfaction of Debts Previously Contracted.

Agency form number: FR 4006.
OMB control number: 7100–0129.
Frequency: Annual.
Reporters: Banking holding companies.
Annual reporting hours: 3,000 hours.
Estimated average hours per response: 5 hours.
Number of respondents: 600.
Small businesses are affected.
General description of report: This information collection is required (12 U.S.C. 1842(a) and 1843(c)(2)) and may be given confidential treatment upon request (5 U.S.C. 552(b)(4)).

Abstract: Bank holding companies that have acquired assets or shares through foreclosure in the ordinary course of collecting a debt previously contracted (DPC) are required to submit the report annually for assets or shares that have been held beyond two years from the acquisition date. The report does not have a required format; bank holding companies submit the information in a letter. The letter contains information on the progress made to dispose of such assets or shares and also requests permission for a one-year extension to hold them, as applicable. The Federal Reserve may grant requests for up to three one-year extensions. This report is required pursuant to the Board's authority under the Bank Holding Company Act and Regulation Y. The Federal Reserve uses the information to fulfill its statutory obligation to supervise bank holding companies.

4. *Report title:* Notice of Branch Closure.

Agency form number: FR 4031.
OMB control number: 7100–0264.
Frequency: on occasion.
Reporters: state member banks.
Annual reporting hours: 783 hours.
Estimated average hours per response: 2 hours for reporting requirements; 1 hour for disclosure requirements; 8 hours for recordkeeping requirements.
Number of respondents: 226.
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 1831r–1(a)(1)) and may be given confidential treatment upon request (5 U.S.C. 552(b)(4)).

Abstract: These reporting, recordkeeping, and disclosure requirements regarding the closing of any branch of an insured depository institution are imposed by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). There is no reporting form associated with the reporting portion of this information collection; state member banks notify the Federal Reserve by letter prior to closing a branch. The Federal Reserve uses the information to fulfill its statutory obligation to supervise state member banks.

Board of Governors of the Federal Reserve System, May 17, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–12971 Filed 5–22–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Bank of Montreal*, Toronto, Ontario, Canada, and Bankmont Financial Corp., Chicago, Illinois; to merge with First National Bancorp, Inc., Joliet, Illinois, and thereby indirectly acquire voting shares of First National Bank of Joliet, Joliet, Illinois.

2. *Harris Joliet Bankcorp, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bancorp, Inc., Joliet, Illinois, and thereby indirectly acquire voting shares of First National Bank of Joliet, Joliet, Illinois.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Bank of DeSoto, N.A., Employee Stock Ownership Trust*, DeSoto, Texas; to acquire 38.43 percent of the voting shares of D Bancorp, Inc., DeSoto, Texas, and thereby indirectly acquire voting shares of Bank of DeSoto, N.A., DeSoto, Texas.

Board of Governors of the Federal Reserve System, May 17, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–12969 Filed 5–22–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL ACCOUNTING OFFICE

Commercial Activities Panel

AGENCY: General Accounting Office.

ACTION: Notice of public hearing.

SUMMARY: Section 832 of the National Defense Authorization Act for Fiscal Year 2001 requires the Comptroller General of the United States to convene a panel of experts to study the transfer of commercial activities currently performed by government employees to federal contractors, a procedure commonly known as "contracting out" or "outsourcing." This notice announces the first of three public hearings to be held by the Commercial Activities Panel ("the Panel"). For the first hearing, the Panel is interested in hearing views on the principles and policies that should govern decisions concerning whether particular functions should be performed by the public sector or the private sector.

DATES: The Commercial Activities Panel will hold a public hearing on June 11, 2001, beginning at 9:00 a.m. in the Walsh-Reckord Hall of States at One Massachusetts Avenue, Washington, DC. Individuals or groups that wish to attend or participate in the hearing should notify the Panel and submit written summaries of their statements by June 4, 2001.

ADDRESSES: Submit requests to attend or participate in the hearing, written summaries of oral statements, and any other relevant materials via E-mail to *A76panel@gao.gov* or to the General Accounting Office, Office of the General Counsel, Room 7476, 441 G St., NW, Washington, DC 20548. See **SUPPLEMENTARY INFORMATION** for other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: William T. Woods, Project Director, (202) 512–8214; E-mail: *woodsw@gao.gov*

SUPPLEMENTARY INFORMATION: Section 832 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, Oct. 30, 2000, directs the Comptroller General of the United States to convene a panel of experts to study the policies and procedures governing the transfer of commercial activities for the federal government from government personnel to a federal contractor. The Panel's study is to include a review of: (1) procedures for determining whether functions should continue to be performed by government personnel; (2) procedures for comparing the costs of performing functions by government personnel with the costs of performing those functions by federal contractors; (3) implementation by the Department of Defense of the Federal Activities Inventory Reform (FAIR) Act of 1998 (Pub. L. 105–270, 112 Stat. 2382, 31 U.S.C. 501 note); and (4) procedures of the Department of Defense for public-private competitions under Office of Management and Budget (OMB) Circular A–76. Formation of the Panel was announced in the **Federal Register** on April 17, 2001 (66 FR 19786). By May 1, 2002, the Comptroller General must submit to Congress a report of the Panel on the results of the study, including recommended changes with regard to implementing policies and enactment of legislation.

During the course of its work, the Panel will hold several public hearings. Interested parties are invited to attend these hearings to provide their perspectives on sourcing issues. The first public hearing will be held on June 11, 2001, in the Walsh-Reckord Hall of States at One Massachusetts Avenue, NW, Washington, DC. The hearing will begin at 9:00 a.m. The focus of this first hearing will be the principles and policies underlying outsourcing. Specifically, the Panel is interested in hearing views on the principles and policies that should govern decisions concerning whether particular functions should be performed by the public sector or by the private sector. Future hearings will focus on other aspects of outsourcing.

Any party who would like to attend the hearing or make a presentation should contact William T. Woods at (202) 512–8214 or *woodsw@gao.gov*. Those who wish to make presentations at the hearing should submit written summaries of their oral statements via E-mail or regular mail as indicated in the **ADDRESSES** section by 5:30 p.m. on June 4, 2001. The Panel will attempt to accommodate all interested parties who respond before the deadline. Each presenter will have 3 to 5 minutes to make an oral statement at the hearing. Interested parties who would like to make electronic presentations during the hearing must indicate their desire to do so by the June 4 deadline. More detailed guidance on hearing procedures will be provided to presenters by E-mail in advance of the hearing. Any interested party may submit full statements for inclusion in the hearing record by 5:30 p.m. on June 15. The hearing will be transcribed.

Two additional hearings currently are planned outside of Washington, DC. A public hearing will be held in Indianapolis, Indiana, on August 8, 2001, which will focus on alternatives to the public/private competitions conducted pursuant to OMB Circular A–76. Another public hearing will be held in San Antonio, Texas, on August 15, 2001, and will address current processes under OMB Circular A–76 and the FAIR Act. Further information, including the exact locations and times of these hearings, will be announced in a later **Federal Register** notice. In addition, a notice was issued on March 23, 2001 (66 FR 16245), seeking submission of public comments identifying significant sourcing issues, as well as references to or copies of written materials related to these issues. The Panel will continue to consider all such information received at any time.

Electronic Access and Filing

This notice is available on GAO's website at *http://www.gao.gov* under "Commercial Activities Panel." Requests to participate in the hearing, electronic presentations, written summaries of oral statements, full statements, and other submissions regarding outsourcing issues may be sent via E-mail to *A76panel@gao.gov*.

Dated: May 18, 2001.

Jack L. Brock, Jr.,

Managing Director, Acquisition and Sourcing Management, General Accounting Office.

[FR Doc. 01–13051 Filed 5–22–01; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

GENERAL SERVICES ADMINISTRATION

Guidelines for Public Access Defibrillation Programs in Federal Facilities

AGENCY: Office of Public Health and Science, Office of the Secretary, HHS and Office of Governmentwide Policy, GSA.

ACTION: Notice of availability of guidelines.

SUMMARY: The Department of Health and Human Services (HHS) and the General Services Administration (GSA) have worked collaboratively to develop the following guidelines, entitled "Guidelines for Public Access Defibrillation Programs in Federal Facilities." Theses guidelines were prepared, in part, in response to a May 19, 2000, Presidential Memorandum pertaining to the establishment of guidelines for the placement of automated external defibrillators (AEDs) in Federal buildings.

In addition, the Department of Health and Human Services is publishing this notice pursuant to section 7 of the Healthcare Research and Quality Act of 1999, Public Law 106–129, 42 U.S.C. 241 note, and section 247 of the Public Health Service Act, 42 U.S.C. 238p (as added by section 403 of the Public Health Improvement Act, Public Law 106–505).

The guidelines provide a general framework for initiating a design process for public access defibrillation (PAD) programs in Federal facilities and provide basic information to familiarize facilities leadership with the essential elements of a PAD program. The guidelines are not intended to exhaustively address or cover all aspects of AED or PAD programs. They are aimed at outlining the key elements of a PAD program so that facility-specific, detailed plans and programs can be developed in an informed manner.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Real Property Policy Division (MPR), Room 6210, General Services Administration,

1800 F Street, NW., Washington, DC 20405, telephone 202–501–1737. Arrangements to receive the policy guidelines in alternative format may be made by contacting the named individual.

Dated: May 15, 2001.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy, General Services Administration.

Arthur J. Lawrence,

Assistant Surgeon General, Acting Principal Deputy Assistant Secretary for Health, Department of Health and Human Services.

Attachment—Guidelines for Public Access Defibrillation Programs in Federal Facilities, January 18, 2001

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1.0 Purpose

The primary purpose of these guidelines is to provide a general framework for initiating a design process for a public access defibrillation (PAD) program in Federal facilities. A secondary purpose is to familiarize Federal agencies with the essential elements of such a program. The design of a PAD program in any Federal facility will be unique, and depend on many factors, including the population demographics of the facility/Federal area, and size and location of the facility/Federal area. The design process and key elements of a PAD program cited in these guidelines are intended to provide a foundation upon which individually tailored programs are developed and implemented.

This document is not intended to be a comprehensive summary of all aspects of automated external defibrillator (AED) use or PAD programs. Rather, it is aimed at providing sufficient information to understand the basic key elements of a program and to launch an effective planning and implementation process. There are numerous sources for training and education programs as well as model protocols that can be used at various stages in the planning. The required medical consultation can be obtained from Federal sources or private contractors.

2.0 General

Over the past several years, advances in technology have provided several innovative opportunities to prevent unnecessary disability and death. One of the most important of these advances is the AED. The ease of use of AEDs by the trained lay public has led to the increasing development of PAD programs. The decreased cost of acquisition and upkeep of AEDs now makes it possible to increase further the availability and access to these life-saving devices.

Ventricular fibrillation (VF) is a common arrhythmia leading to cardiac arrest and death. VF is unorganized electrical activity of the heart, resulting in producing no blood flow or pulse and which will lead to death. Defibrillation is the only technique that is effective in returning a heart in VF to its normal rhythm. Although defibrillation has been shown to be effective in correcting this abnormality in most cases, up until the advent of AEDs defibrillation has been a medical intervention only available to be performed by credentialed health professionals and trained emergency medical service personnel. While it is difficult to use an AED improperly, AEDs are not without risks if used improperly. AEDs are prescription devices that are intended to be operated only by individuals who have received proper training and within a system that integrates all aspects from first responder care to hospital care. Hence, a significant emphasis on proper training and linkage (notification or transfer) to emergency medical services (EMS) systems is critical. The value of the AED technology is that an AED will not energize unless an appropriate shockable cardiac rhythm is detected.

The efficacy of defibrillation is directly tied to how quickly it is administered. Although the outside limit of the "window of opportunity" in which to respond to a victim and take rescue actions is approximately 10 minutes, the sooner the AED is utilized within that time period, the more likely it is that it will be effective and that a patient will have a normal heart beat restored and fully recover. As the length of time between the onset of sudden cardiac arrest and defibrillation increases, the less the chance of restoration of heart beat and full recovery. In general, for every minute that passes between the event and defibrillation, the probability of survival decreases by 7 to 10 percent. After 10 minutes, the probability of survival is extremely low. The importance of rapid and positive intervention is reflected in the American Heart Association's (AHA)"Chain of Survival" concept.

Today's AEDs are relatively inexpensive and usable by persons with limited training. The advantage of well structured PAD programs is that they provide better trained individuals and increase accessibility, and, as a result, increase the potential to reduce response times and markedly increase the probability of survival and full recovery.

The "Chain of Survival" is designed to optimize a patient's chance for survival of sudden cardiac arrest. There are four links in the chain: early access, early cardiopulmonary resuscitation (CPR), early defibrillation, and early advanced cardiac life support (ACLS).

Early access means that members of the community have been trained to quickly recognize possible cardiac arrest and that a mechanism for immediate communication of the event and activation of an EMS response is in place to assure that fully trained EMS personnel and equipment can arrive quickly at the scene. Early CPR by bystanders provides ventilation and circulation, "buying" precious minutes for EMS teams to arrive with a full set of ACLS equipment. The core concept of the PAD strategy is to initiate CPR promptly and bring the defibrillator and a trained LayResponder/Rescuer (LRR) into the incident sooner than a fully equipped EMS unit can be on location.

The material in these guidelines is based upon the recommendations, programs, and literature on AEDs from the AHA and the American Red Cross (ARC), leaders in the encouragement of AED installation, training, and usage. The AHA and ARC cooperate with other organizations in developing and improving standards for AEDs. Users of this guidance should check the latest AHA, ARC, and National Safety Council (NSC) information for updates and/or changes in recommendations.

Special Note: As is the case in most clinical developments, the science-supporting efficacy in controlled settings usually precedes evidence of effectiveness when implemented large scale in real world settings. The science surrounding the effectiveness of AEDs, as well as the technology of AEDs themselves, is evolving.

For Federal agencies in GSA controlled space, the Designated Official should take reasonable steps to assure that a program's supervising physician reviews the facility's program on a regular basis in light of the most current scientific literature. The Designated Official is the highest-ranking official of the primary occupant agency of a Federal facility; or, alternatively, a designee selected by mutual agreement of occupant agency officials (see 41 CFR 101–20.003(g)). AED programs should evolve based on the best available science to assure the most efficient use of resources and the best outcomes possible. Federal sites implementing AED programs should strongly consider coordinating with, and becoming a component of, organized research or evaluation efforts in their communities. Assistance in determining if a facility is eligible to participate in such an effort can be obtained through the National Heart, Lung, and Blood Institute, AHA, American College of Emergency Medicine (ACEM) or the nearest research university/academic health center.

3.0 The Concept of Public Access Defibrillation (PAD)

Traditionally, EMS systems employ paramedic and emergency medical technician (EMT)—level personnel in conjunction with some level of involvement by community members, predominantly bystanders who are CPR trained. Most communities provide CPR training opportunities either through a local institution or via programs sponsored by units of a local or State/Territorial government. Until recently, AEDs and other defibrillation devices have been brought to locations by the local EMS system. The size, cost, and complexity of these devices, as well as other factors, have constrained their use. With recent advances in technology, many of the previous constraints have been reduced or eliminated. Increasingly, AEDs are being deployed in public facilities such as sports arenas, shopping malls, and airports, or in police and fire units, thus potentially decreasing the time between cardiac arrest and access to defibrillation.

However, optimal improvement in survival from sudden cardiac arrest that occurs in a non-medical setting may require a program that utilizes community "volunteer" lay responders or rescuers (non-medical LRRs), who have been trained in CPR and in the appropriate use of AEDs. A comprehensive, well integrated community approach to the use of AEDs would serve a large proportion of the community (a facility, a campus, etc.). LRRs could quickly respond to, identify, and treat a cardiac arrest patient and activate the formal EMS system.

"Public access" to AEDs does not mean that any member of the public who witnesses an event should be able to use an AED. "Public access" refers to the accessibility of the device itself. While AEDs are reasonably uncomplicated to use, the AED should be used only by persons who have received proper training and education and who have been certified by a competent authority. Persons without these basic credentials should not use the device.

4.0 Establishing a PAD Program in a Federal Facility

Before establishing a program in a facility, each agency should enlist the assistance of not only the personnel at that location, but also local training, medical, and emergency response resources. These partnerships are fundamental to any successful PAD program. In some instances, a facility may be large enough to have training, medical, and emergency response resources integral to Federal operations. For the most part, this will be the exception rather than the rule, but the same principles apply. The more closely the PAD program is connected to such resources and the more visibility and support given to the program by the facility leadership, the more effective and successful will be the program.

Each PAD program should include the following major elements:

- Support of the Program by Agency Leadership
- Training/Certifying and Retraining Personnel in CardiopulmonaryResuscitation (CPR) and the Use of the AED and Accessories
- Obtaining Medical Direction and Medical Oversight
- Understanding Legal Aspects
- Development and Regular Review of PAD and Operational Protocols
- Development of an Emergency Response Plan and Protocols, Including a Notification System to Activate Responders
- Integration with Facility Security and Emergency Medical Services (EMS) Systems
- Maintaining Hardware and Support Equipment on a Regular Basis and After Each Use
- Development of Quality Assurance and Data/Information Management Plans
- Development of Measurable Performance Criteria, Documentation and Periodic Program Review
- Review of New Technologies

It is important to emphasize that PAD programs are not isolated "one time events." PAD programs should be reviewed on a regular basis and improved where possible. Additionally, after every incident involving use of the PAD system, a thorough post-event review of system performance should be undertaken. The skills of personnel who are potential responders and rescuers should be refreshed and new personnel trained. The program should make an effort to routinely and regularly assess the operating state and condition of AED and support equipment as well.

A key element in assuring that your PAD program will be clearly understood and will function well is the development of standard operating procedures (SOPs) for the major components of the program. SOPs, as well as the program as a whole, should be periodically revisited and revised where appropriate.

5.0 Designing a PAD Program

Given the wide variation in Federal work facilities, there will be significant variation in the complexities associated with program design. Small, physically compact offices will require different levels of planning and design than large, multi-building facilities spread over campus environments. Facility leadership should take steps to assure that all stakeholders, including those who are external to the facility, are afforded the opportunity to participate in planning and design. Although it is possible to have the full range of planning and design activities performed via consultant or contract, it should be kept in mind that the actual responders at a facility typically will be those who work there and that both individual employees" and unions" interests, in accordance with union contracts, should be considered in any process. Officials in the facility's management "chain of command" must have close involvement at every step, as specified for occupants of facilities under GSA custody and control in 41 CFR 101–20.103–4, entitled "Occupancy Emergency Program."

While most Federal agencies' facilities are single tenant buildings or may have several tenants under the clear command/leadership of a ranking official, many GSA facilities contain multiple tenants that are not under the direction of a single agency official. 41 CFR 101–20.103, entitled "Physical protection and building security," provides guidance on coordinating and implementing a comprehensive OccupancyEmergency Program. (The definition of "emergency" in this part

(see 41 CFR 101–20.003(i)) includes medical emergencies.) In facilities that are multi-tenant, special attention should be paid to avoid confusion about decision-making processes and authority for the development and operation of a PAD program. It is recommended that the Federal agencies in multi-tenant circumstances follow the guidelines described in 41CFR 101–20.103 to assure clarity of responsibility and accountability.

Because Federal law enforcement officers routinely respond to emergencies within Federal properties and are familiar with all sites within their jurisdiction and are required to be first aid and CPR trained, it is recommended that all Federal Police Officers also receive the necessary training in the use of AEDs. Federal agencies should also consider the security implications of training contract guards in the use of AEDs since these guards have responsibilities to guard entry points and other fixed posts within a facility. The security implications of contract guards abandoning these posts during a medical emergency should be carefully considered in the development and operation of a PAD program.

We recommend that Automated External Defibrillator response orders be included as part of each facility's Occupant Emergency Plan. See ATTACHMENT A, entitled "SAMPLE AED PROTOCOL AND RESPONSE ORDER ELEMENTS."

6.0 Selecting Your AEDs

Only commercially available AEDs that have been cleared for marketing by the Food and Drug Administration (FDA) should be considered for use in a PAD program. Prior to purchasing, it is important for facility leadership to seek assistance in the selection of a device for deployment in the facility. Because technology is developing quite rapidly, seeking the advice of an individual or organization with current knowledge about AEDs is essential. Involving a medical oversight provider(s) is crucial.

Additionally, as there are some differences in the devices currently on the market, an expert can help to explain the relative advantages and disadvantages of AEDs for your particular location. Utilizing a single brand of AED within a facility will greatly simplify training, maintenance, and data management. It would be wise to contact local EMS personnel to seek their opinion and to clarify protocols with respect to equipment use.

Currently, there are Federal Supply Service (FSS) Supply contracts for AEDs. A prescription from a physician overseeing the AED placement must accompany the order before the AED manufacturer can accept the order and deliver the AED. Your procurement office can assist in locating current contract information and prices.

In the future, additional products are likely to receive approval for marketing from the FDA. Program designers should take steps to confirm that all devices that are acquired have received FDA marketing approval and that the use of AEDs in their respective facilities fully complies with FDA labeling requirements.

Special Note: AEDs are prescription devices. In a PAD program, plans and protocols that are approved by a supervising physician are considered a prescription. The selection of a particular AED and associated equipment are integral components of a PAD program. Once the physician has approved and signed-off on AED selection and placement, this becomes the authorizing prescription for procurement of the device(s).

Emergency response and AED usage protocols that are signed by a physician are a prescription constituting legal "permission" for properly trained and certified individuals to use AEDs in a particular manner as outlined in the protocol. Responders must be familiar with and trained in the context of the approved procedures in the facility and strictly adhere to these procedures when an emergency occurs.

The actual selection and procurement of AEDs should be one of the last steps in the design of a facility's PAD program and should be done under the guidance and written authorization of the PAD program's supervising physician. The protocol for AED usage that is developed as part of a facility's PAD program is an integral part of the physician's prescription and serves as the authorizing document for AED use. Protocols should be periodically reassessed in accordance with a regular schedule of reviews as determined in consultation with the PAD's supervising physician. A current protocol that takes into consideration both new treatment recommendations and any changes in the FDA labeling of the AED should be integrated into the PAD training and education and re-training programs.

Essentially, the protocols that are signed by the supervising physician set the medical standards and criteria for the operation of the PAD program and all of its components. Systems operated within the boundaries and criteria of these signed protocols are considered to be under a physician's supervision, whether or not the physician is physically present in the facility. As noted in this guidance, PAD programs should be reviewed on a regular basis (after each activation and/or on a regular basis) with changes made as needed under the direction of the supervising physician. These revised or re-certified protocols constitute new or renewed prescriptions.

7.0 Medical Oversight of Your PAD Program

AEDs are medical devices that are to be used under the advice and consent of a physician only by individuals with the proper training and certification. Therefore, medical oversight is an essential component of PAD programs. This oversight can be provided either by a facility's own medical staff, such as a Health Unit, or contractor or through an agency-wide designated Federal physician in accordance with state and local laws. It is best to seek medical input from the very beginning of the design of your program. A physician should be involved as a consultant in all aspects of the program, not only as the program's prescribing physician, but also as an active participant in all aspects.

Medical and physician oversight does not mean that a physician is required to be present to manage the PAD program on a day-to-day basis. However, it is prudent for facility leadership to develop management and oversight protocols of lay program overseers to assure that quality is consistently maintained. Physicians can be extremely helpful in assisting facility leadership in linking their PAD program with the community at large and with appropriate EMS and hospital systems. Additionally, a central role for the physician is conducting assessment of the PAD system's performance after the use of an AED, including review of the AED data and the electrocardiograph tracing of a victim.

8.0 Legal Issues

Any PAD program should be reviewed by legal counsel to assure that the program, as designed, comports with all applicable Federal, State and local authorities. PAD programs establish procedures for dealing with emergent medical situations that present an appreciable risk of serious bodily injury and death regardless of the degree of care exercised by those involved in responding to the situation. These situations are often the subject of regulation by various authorities. The risk of liability for failing to comport with applicable regulations, and for acts or omissions that result in harm, are important and ever-present concerns that should be addressed in the PAD program. Though federal facilities generally are not subject to state and local authority, federal law can incorporate or adopt specific state and local authorities or otherwise make them applicable to federal facilities.

One of the most important legal concerns with any PAD program will be the potential liability of those who respond to the emergent situation, including, potentially, Federal employees. The following principles should be considered in developing a PAD program:

- As a general rule, the Federal Tort Claims Act, 28 U.S.C. sections 1346(b), 2671–80, (FTCA) immunizes Federal employees acting *within the scope of the employment* from personal liability for most tortious conduct. Whether an individual Federal employee was acting within or without of the scope of his/her employ is, under the FTCA, determined by the substantive law of the state where the act or omission occurred. Employees whose use of an AED is outside the scope of their employment may be eligible for federal representation, but could be personally liable for any harm that results from the use of the AED.
- The liability of the Federal government for injuries caused by Federal employees acting within the scope of their employment is determined by the FTCA as well. The FTCA, provides that liability is determined according to the law of the place where the wrongful or negligent act or omission occurred. Under the FTCA, the Federal government is not liable for the wrongful acts of any person who is not a "Federal employee," defined in 28 U.S.C. section 2671.
- Under the FTCA, the United States is not liable for the wrongful acts of government contractors. Thus, a PAD program should consider reposing responsibility for responding to emergency medical situations on a contractor over which we do not exercise day-to-day control. ThePAD program should, however, include criteria to assure that the contractor has the requisite expertise, training and resources.
- Many states have enacted legislation to provide some degree of immunity to lay individuals who provide assistance to people in distress. The laws are called "Good Samaritan" laws. Because these laws vary from state to state, management of individual facilities should be aware of the law applicable to them. Attachment B (entitled "Draft Summary of Legislative Activity by State as of June 1, 2000") is a recent abstract of state/territorial "Good Samaritan" laws.
- Congress recently provided additional protection from civil liability for AED use in the Public Health Improvement Act, Public Law 106–505 (November 13, 2000). Subtitle A of Title IV of the Act, the Cardiac Arrest Survival Act of 2000, provides persons who use or attempt to use an AED, and persons who acquire an AED, immunity from civil liability for harms resulting from the use or attempted use of the AED, subject to a number of important exceptions. The statute provides a default immunity only, however: the federal immunity displaces a State rule of decision only to the extent that State has no statute or regulations that provide users or acquirers with immunity for civil liability arising from emergent use of an AED. The statute explicitly states that its provisions are not intended to waive any protections from liability for Federal officers and employees provided in the FTCA or Westfall Act.

Nothing in these guidelines or in any PAD program established pursuant to these guidelines should be read as creating a duty for Federal employees or contractors not otherwise existing under applicable state or Federal law to provide assistance to persons in medical distress.

9.0 Lay Responder/Rescuer (LRR) Training

Even in the case where large facilities have self-contained emergency medical services systems, it is still advisable to devise a training program for LRRs. The greater the number of well trained LRRs that are available, the more effective a PAD program will be. Overall effectiveness will be improved as the number of personnel who are fully trained and willing to respond increases. As a general matter, in facilities where there are sufficient numbers of personnel to permit in-house training programs, a routine training schedule should be established. An additional benefit of in-house training is that training in groups that correspond closely with work groups tends to build a better sense of team and responsibility than would individual, separate training.

Nationally recognized training organizations such as the AHA, ARC, and NSC, provide materials and guidance through a variety of courses that include combined CPR and AED training. These programs provide comprehensive materials for the training of LRRs and are targeted toward providing lay persons all of the information and training necessary to competently assess the status of a victim, administer CPR if necessary, and to properly operate an AED. It is important for LRRs to be trained on the maintenance and operation of the specific AED model that will be used in their PAD program.

Some locales may wish to take an additional step and organize their responses around a team approach. The recommended training course provides flexible training and will incorporate elements of 2-person rescue techniques that accommodate a "response team" approach.

All PAD training programs should include a component that descibes and explains the facility specific program. All retraining or refresher programs should, likewise, include this component to assure that LRRs are aware of the most current information regarding their specific PAD program.

Training is not a one-time event. Leadership should seek to maintain and improve the LRRs' skills and abilities. Formal refresher training should be conducted at least every two years. Computer-based programs and video teaching materials permit more frequent review. Facility leadership should make periodic contact with the AHA to assure that advances in techniques and care are incorporated into their PAD program, and training in them is promptly made available to LRRs. It is recommended that LRR teams engage in periodic "scenario" practice sessions to maintain their skills and rehearse protocols.

Facility leadership is urged to develop a vigorous approach to maintaining and improving skills. Thus, aside from formal annual re-certification, mock drills and practice sessions will be important to maintain current knowledge and a reasonable comfort level among LRRs and/or teams. The frequency of such sessions will vary from facility to facility. Organizations currently operating PAD programs routinely complete practice sessions on a monthly to quarterly schedule. The intervals for conducting these exercises should be established in consultation with the physician providing medical oversight.

10.0 Placement of and Access to AEDs

While there is no single "formula" to determine the appropriate number, placement, and access system for AEDs, there are several major elements that should be considered. However, all considerations are based upon (1) an optimal response time of 3 minutes or less and (2) assessing the level of risk in a facility's environment. Factors that should be considered include:

- *Response Time:* The optimal response time is 3 minutes or less. This interval begins from the moment a

person is identified as needing emergency care to when the AED is at the side of the victim. Survival rates decrease by 7 to 10 percent for every minute that defibrillation is delayed. Therefore, it is recommended that Federal agencies train as many employees as possible on the use of AEDs.

• *Demographics of the Facility's Workforce:* Leadership should examine the make up of the resident workforce. Because the likelihood of an event occurring increases with age, consideration should be given to the age profile of the workforce.

• *Visitors:* Facilities (including Federal areas, such as Wilderness Areas and National Parks) that host large numbers of visitors are more likely to experience an event, and an appraisal of the demographics of visitors should be included in an assessment.

• *Specialty Areas:* Facilities where strenuous work is conducted are more likely to experience an event. Additionally, specialty areas within facilities such as exercise and work out rooms should be considered to have a higher risk of an event than areas where there is minimal physical activity.

• *Physical Layout of Facility:* Response time should be calculated based upon how long it will take for an LRR with an AED walking at a rapid pace to reach a victim. Large facilities and buildings with unusual designs, elevators, campuses with several separate buildings, and physical impediments all present unique challenges to LRRs. In some larger facilities, it may be necessary to incorporate the use of properly equipped "golf cart" style conveyances to accommodate time and distance conditions.

• *Physical Placement of AEDs:* Facilities that have large open areas present unique challenges.

11.0 Characteristics of Proper AED Placement

There are several elements that contribute to proper placement of AEDs. The major elements are:

• An easily accessible position (*e.g.*, placed at a height so those shorter individuals can reach and remove, unobstructed access, etc.)

• A secure location that prevents or minimizes the potential for tampering, theft, and/or misuse, and precludes access by unauthorized users.

Facilities should take additional steps to assure that an AED has not been stolen or improperly removed.

• A location that is well marked, publicized, and known among trained staff. Periodic "tours" of locations are recommended.

• A nearby telephone that can be used to call backup, security, EMS, or 911 to be sure that additional help is dispatched.

• Protocols should clearly address procedures for activating local EMS personnel. These protocols should include notification of EMS personnel of the quantity, brands, and locations of AEDs within the facility. This information will enhance dispatch and the EMS responder protocol, enabling proper planning and scene management once EMS personnel arrive at the victim's side. Equipment stored in a manner in which the removal of the AED automatically notifies security, EMS, or a central control center is ideal.

• Where automatic notification of the opening of an AED storage cabinet or removal of an AED from a cabinet is not implemented, emphasis should be placed on notification procedures and equipment placement in close proximity to a telephone.

Equipment To Be Placed With AEDs

It is recommended that additional items that may be necessary to a successful rescue be placed into a bag and be stored and accessible with the AED. Keep in mind that CPR is an essential element of an effective rescue and that as a victim collapses, other physical injury may occur concurrently:

• A set of simplified directions for CPR and the use of the AED

• Non-latex protective gloves (several pairs in small, medium, and large sizes)

• Appropriate sizes of CPR face masks with detachable mouthpieces, plastic or silicone face shields (preferably clear), with one-way valves, or other type of barrier device that can be used in mouth to mouth resuscitation

• Disposable razor to dry shave a victim in chest areas if needed, as well as a supply of 4x4 gauze pads to clear/dry an area, to assure proper electrode-to-skin contact

• A pair of medium size bandage or blunt end scissors

• Spare battery and electrode pads

• Two biohazard or medical waste plastic bags for waste or for transport of the AED should it become contaminated

• Pad of paper and writing tools

• One absorbent towel

In large or complex facilities, access routes should be given careful consideration. Such facilities may demand the use of a designated responder or team approach, in which at least one responder has keys or passes to allow for the use of a more direct or elevator override key to expedite access and transport by appropriate medical or EMS personnel.

12.0 Follow-Up After an AED Is Used

All AEDs are equipped with a credit card size device (*e.g.*, data card) or have the capacity to internally store data for later downloading, that will record and contain information about the patient's heart rhythm, AED assessment functioning, and the characteristics of the shock(s) administered. Depending on the design of a particular PAD, the AED will either accompany the victim to the hospital or will be retained on site for the medical advisor of the PAD's review. The proper disposition of the AED and its electronic recorder module must be addressed in a PAD program's protocols.

After an event, the PAD medical director should be promptly notified, and a review and assessment of performance should be performed. This process is best led by the PAD's physician overseer. A copy of the full report should be provided to and reviewed by the Designated Official and any other authorities, as required by state and local laws.

Incident reports and follow-up should be performed as soon as possible, and restocking of supplies and returning the AED to service should be accomplished. All aspects of the performance of the system, people, device, and protocols should be addressed in a non-judgmental manner with an eye toward verifying or improving effectiveness and to identify problem areas that must be resolved. Responsibility for each step should be clearly articulated in protocols. The results of routinely scheduled and post event reviews should be shared and discussed with facility management and other interested parties as deemed appropriate in a particular facility. Individuals with responsibility for facility oversight are also responsible for the PAD program and should remain informed about their program's performance.

Post event reviews should be arranged and conducted with sensitivity to issues of medical and patient record confidentiality. As such, the physician overseeing the PAD program should conduct a thorough medical documentation review prior to the "process" evaluation that will be conducted by or for individuals with responsibility for facility management. The physician should be charged with assuring that privileged or confidential patient information is shielded.

An essential post-event consideration is the psychological effect on LRRs and others. It is not at all uncommon for LRRs, witnesses, and co-workers to have psychological or stress reactions to an event. These people may have both emotional and physical reactions that need to be tended to, but for which there is a reluctance to come forward to ask for help. Facility leadership has a positive obligation to pro-actively reach out and offer help, affirming that such responses are normal and to a large extent to be expected. Post-event support is especially important in cases where a rescue is unsuccessful. Post-event support should be available and offered promptly after an event, and the invitation to seek assistance should remain open. This type of psychological care is best provided by trained professionals with expertise in the area of critical incident stress management. Provision of these psychological services should be addressed in the PAD program design and protocols.

Attachment A.—Sample AED Protocol and Response Order Elements

Activation of the AED Response Team

1. During Health Unit Duty Hours: 7 a.m. to 12 a.m. Monday through Friday; weekends and Federal holidays, the health center is closed. In any potentially life-threatening cardiac emergency:

(a) The first person on the scene will:

(i) Call the Security Console by dialing "0000" and inform them of the location and nature of the emergency.

(ii) Remain with the victim, send a co-worker to meet the emergency team at a visible location and escort to the site.

(b) Security Personnel immediately upon receiving the call will:

(i) Notify the AED response team by dialing the group notification number for the AED team pagers; Enter the code for the location of the emergency.

(ii) Notify local EMS 911.

(iii) Inform the EMS operator of location and nature of emergency and that an AED unit is on site.

(iv) Notify Federal Police Officer(s) to meet the EMS personnel and escort them to the site of the emergency.

(v) Notify Federal Police Officer(s) to respond to the site and offer any assistance needed (if staffing allows).

(c) Health Unit Staff immediately upon receiving the notification will proceed directly to the scene with the Health Unit AED and other emergency equipment (2 nurses will respond if available).

(d) Other AED responders immediately upon receiving the notification will:

(i) (The team member previously designated to transport the AED unit) obtain the AED unit closest to them or to the site of the emergency and proceed with it to the emergency site.

(ii) (All other AED responders) go directly to the site of the emergency.

Emergency Site Protocol

—Whichever AED responder arrives on the scene first will assess the victim. If AED use is indicated, the AED trained personnel will administer the AED and CPR according to established protocols (see Automated External Defibrillation Treatment Algorithm).

—When the Health Unit Nurse is on the scene, he/she shall be in charge of directing the activities until the local EMS arrives and assumes care of the victim.

—Any additional AED responders shall assist with CPR, recording of data and time, notifications, crowd control, escorting of EMS, as needed. Any additional AED units will remain on site as a back-up.

2. Non-Health Unit Hours: 12 a.m. to 7 a.m. Monday through Friday, and All Hours Saturday and Sunday and Federal holidays. In any potentially life-threatening cardiac emergency:

(a) The first person on the scene will:

(i) Call the Security Console by dialing, "0000" inform them of the location and nature of the emergency.

(ii) Remain with the victim, send a co-worker to meet the emergency team at a visible location and escort to the site.

(e) Security Personnel immediately upon receiving the call will:

(i) Notify the AED response team by dialing the group notification number for the AED team pagers, enter the code for the location of the emergency.

(ii) Notify local EMS 911.

(iii) Notify Federal Police Officer(s) to meet the EMS personnel and escort them to the site of the emergency.

(iv) Notify Federal Police Officer(s) to respond to the site and offer any assistance needed (if staffing allows).

(c) AED Responders immediately upon receiving the notification will:

(i) (The team member previously designated to transport the AED unit) obtain the AED unit closest to them or to the site of the emergency and proceed with it to the emergency site.

(ii) (All other AED responders) go directly to the site of the emergency.

(iii) (Whichever AED responder arrives on the scene first) assess the victim. If AED use is indicated, the AED trained personnel will administer the AED and CPR according to established protocols (see Automated External Defibrillation Treatment Algorithm) until local EMS professionals arrive and assume care of the victim.

Attachment B

Draft Summary of Legislative Activity by State as of June 1, 2000

47 States Provide Limited Immunity for Lay Responders

1. Alabama—6/99
2. Alaska—4/98
3. Arizona—5/99
4. Arkansas—2/99
5. California—7/99
6. Colorado—3/99
7. Connecticut—10/98
8. Florida—4/97
9. Georgia—3/98
10. Hawaii—5/98
11. Idaho—3/99
12. Illinois—8/99
13. Indiana—2/99
14. Iowa—2/98—*Administrative rules or regulations allow AED use by laymen and provide immunity
15. Kansas—3/98
16. Kentucky—2/2000
17. Louisiana—6/99
18. Maryland—4/99
19. Massachusetts—11/99* strengthened 5/98 law
20. Minnesota—3/98
21. Michigan—11/99
22. Mississippi—3/99
23. Missouri—3/98
24. Montana—4/99
25. Nebraska—4/99
26. Nevada—6/97
27. New Hampshire—7/99
28. New Jersey—3/99
29. New Mexico—4/99
30. New York—8/98
31. North Dakota—3/99
32. Ohio—11/98
33. Oklahoma—4/99
34. Oregon—6/99
35. Pennsylvania—12/98
36. Rhode Island—95
37. South Dakota—2/00
38. South Carolina—6/99
39. Tennessee—5/99* strengthened 5/98 law
40. Texas—6/99
41. Utah—3/99
42. Vermont—5/00
43. Virginia—3/99
44. Washington—6/98
45. Wisconsin—7/99
46. West Virginia—3/99
47. Wyoming—3/99

BILLING CODE 4820-23-P

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STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
ALABAMA	ALA. CODE § 6-5-332 (1999) ALA. CODE § 6-5-332.3 (1999) AED Use	Yes, lay person immunity, but no extended immunity	Yes	Yes – AHA, ARC or other nationally recognized course	Yes	Yes – Notification and activation
ALASKA	ALASKA STAT. § 09.65.090 (Michie 2000) ALASKA STAT. § 18.08.095 (Michie 2000)	Yes	No	Yes-AHA, ARC or other Health Dept approved course	Yes-Physician Approval of AED Purchase	Requires notification of location and activation of EMS at time of use
ARIZONA	ARIZ. REV. STAT. § 2263 (2000) General Stat. ARIZ. REV. STAT. § 2262 (2000) Use & training req. ARIZ. REV. STAT. § 2264 (2000) AED Exemption ARIZ. REV. STAT. § 2261 (2000) AED Def.	Yes	Yes	Yes – Heartsaver AED	Yes	Yes
ARKANSAS	ARK. CODE ANN. § 17-95-101 (Michie 1999) Gen. ARK. CODE ANN. § 17-95-605 (Michie 1999) AED	Yes	Yes	Yes	Yes	Yes
CALIFORNIA	CAL. CIV. § 1714.21 (West 2000) AED ImmunityCAL. HEALTH & SAFETY § 1797.190 (West 2000) Use CAL. HEALTH & SAFETY § 1797.196 (West 2000) Req. for owners; Penalties for violations CAL. BUS. & PROF. CODE § 2395 (West 2000) Gen. Stat.	Yes	Yes	Yes-requires training to AHA or ARC standards	Yes	Yes
COLORADO	COLO. REV. STAT. § 13-21-108 (2000) Lim. Liab. for AED use.	yes	No immunity for trainers	Yes	Yes	Yes
CONNECTICUT	CONN. GEN. STAT. § 52-557b (2000)	Yes	No	Yes-AHA or ARC standards	No	Yes

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DELAWARE		Yes, through existing Good Sam but language is vague	Proposed	Proposed	Not proposed	Proposed – only if purchased with State funds.
FLORIDA	FLA. STAT. ANN. § 401.2915 (West 2000) Training & contact EMS reqs. FLA. STAT. ANN. § 768.13 (West 2000) Gen. Stat.	Yes	No	Yes-Source not Specified	No	Encourages registration; requires activation of EMS
GEORGIA	GA. CODE ANN. § 51-1-29 (1999) Gen. Stat.	Yes	No	Yes-Approved by Dept of Human Resources	Yes-"direct supervision of a physician"	Requires notification of location and Activation of EMS
HAWAII	HAW. REV. STAT. § 663-1.5(e) (1999) AED Immunity HAW. REV. STAT. § 453-2 (1999) License Req. HAW. REV. STAT. § 457-8 (1999) License Req.	Yes	Yes – except trainers	Yes- training under an AED program administered by a physician	Yes-administered by a physician	No
IDAHO	IDAHO CODE § 5-330 (1999) Gen. Stat.	Yes	No specific mention of limited immunity for MD's, trainers companies.	Yes	Yes	Yes: location and after use notification
ILLINOIS	745 ILL. COMP. STAT. 49/12 (West 2000) AED Immunity, License Req.	Yes	Yes	Yes-AHA standards	Yes – under new bill	Yes – under new bill
INDIANA	IND. CODE ANN. § 34-4-12-1 (West 2000)	Yes	Yes – acquirers only No immunity for physician or trainer	Yes-National or state approved course	Yes-"enlist medical direction in use of AED and CPR"	Requires notification of location and activation of EMS
IOWA	IOWA CODE § 613.17 (1999) Gen. Stat.	Yes-Same as provided to other EMS providers	No	Yes-Approved by Dept of Public Health	Yes-Medical Director required	Requires registration with EMS

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KANSAS	KAN. STAT. ANN. § 65-2891 (1999) KAN. STAT. ANN. § 65-6128 (1999) KAN. STAT. ANN. § 65-6129(b) (1999) Cert. Necess.	Yes	No	Some training elements may include first aid and proficiency in AED	NO	Encourages notification, requires EMS activation at use
KENTUCKY	KY. REV. STAT. ANN. § 411.148 (Banks-Baldwin 1999) Gen. Stat.	Yes	Yes	Yes - Expected users receive AHA, ARC or other nationally recognized training course	Yes	Yes - activation and notification
LOUISIANA	LA. REV. STAT. ANN. § 37:1732 (West 1999) LA. REV. STAT. ANN. § 9:2793 (West 2000) Gratuitous Service Imm. LA. REV. STAT. ANN. § 40:1236.14 (West 2000) AED Immunity LA. REV. STAT. ANN. § 40:1236.13 (West 2000) Training req.	Yes includes expected AED users regularly on the premises (covers those that have AED use in their job description)	Yes includes MDs and APRNs, trainers, acquirers, persons responsible for site where AED is located	Yes- AHA or other nationally recognized course	Yes	Yes-activation and notification
MAINE	ME. REV. STAT. ANN. tit. 14 § 164 (West 2000) Gen. Stat.					
MARYLAND	MD. CODE ANN., CTS. & JUD. PRO. § 5-603 (1999) Gen. Stat.	Yes	Yes – except trainers	Yes	Yes	Yes
MASSACHUSETTS	MASS. GEN. LAWS ch. 12 § 112 (2000) AED Stat.	Yes	Yes – MD, acquirer	Yes-AHA or ARC guidelines	Yes	Yes
MICHIGAN	MICH. COMP. LAWS § 333.70965(2) (1999) AED Stat.	Yes	Yes- acquirer, MD, trainer	No	No	No
MINNESOTA	MINN. STAT. § 604A.01 (2000) AED Definition & Immunity	Yes	Yes, as a part of Good Sam	Yes, in appropriations bills but not in Good Sam leg.	No	No

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DRAFT SUMMARY OF LEGISLATIVE ACTIVITY BY STATE AS OF JUNE 1, 2000

STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
MISSISSIPPI	MISS. CODE ANN. § 73-25-37(2) (2000) AED Immunity	Yes –trained responders	Yes – Trainers and MD's only	Yes	Yes	Yes
MISSOURI	MO. REV. STAT. § 190.092 (2000) AED Immunity MO. REV. STAT. § 537.037 (2000) Gen. Stat.	Yes	No	Yes	Yes	Requires notification and activation of EMS
MONTANA	MONT. CODE ANN. 50-6-505 (2000) AED Limited Liability MONT. CODE ANN. 50-6-501 (2000) AED Def. MONT. CODE ANN. 50-6-502 (2000) Req. for Use MONT. CODE ANN. 50-6-503 (2000) Training Req.'s MONT. CODE ANN. 27-1-714 (2000) Gen. Stat.	Yes	Yes	Yes	Yes	Yes, location and activation
NEBRASKA	NEB. REV. ST. § 71-5178 (2000) AED Plan NEB. REV. ST. § 71-51,102 (2000) AED Def. NEB. REV. ST. § 25-21,186 (2000) Gen. Stat.	Yes	No	Yes	No	No
NEVADA	NEV. REV. STAT. § 41.500.8 (2000) AED User Limited Liability NEV. REV. STAT. § 41.505 (2000) Gen. Stat.	Yes	Yes – except physician	Yes – AHA or ARC standards	No	Yes - notification

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NEW HAMPSHIRE	N.H. REV. STAT. ANN. § 153-A:11 (2000) AED Exception to Liability N.H. REV. STAT. ANN. § 153-A:28 (2000) Intent N.H. REV. STAT. ANN. § 153-A:29 (2000) AED Def. N.H. REV. STAT. ANN. § 153-A:30 (2000) AED Training N.H. REV. STAT. ANN. § 153-A:31 (2000) AED Limited Liability N.H. REV. STAT. ANN. § 508.12 (2000) N.H. REV. STAT. ANN. § 508.12-a (2000)	Yes	Yes – any person, association, corp. etc., that acquires and maintains an AED. *No specific mention of MD or trainer.*	Yes	No	No
NEW JERSEY	N.J. STAT. ANN. § 2A:62A-23 (West 2000) Legis. Findings on AED's N.J. STAT. ANN. § 2A:62A-24 (West 2000) AED Def. N.J. STAT. ANN. § 2A:62A-25 (West 2000) Req. of Acquisition of AED N.J. STAT. ANN. § 2A:62A-26 (West 2000) Cert. For Use N.J. STAT. ANN. § 2A:62A-27 (West 2000) AED Civil Liability N.J. STAT. ANN. § 2A:62A-1 (West 2000) Gen. Stat.	Yes	Yes – Requires company to have plan in place before Dr. will prescribe AED	Yes	Yes	Yes

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STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
NEW MEXICO	N.M. STAT. ANN. § 24-10B-4M (Michie 2000) AED Plan N.M. STAT. ANN. § 24-10C-2 (Michie 2000) Legis. Findings N.M. STAT. ANN. § 24-10C-3 (Michie 2000) AED Def. N.M. STAT. ANN. § 24-10C-4 (Michie 2000) AED Req.'s for Use N.M. STAT. ANN. § 24-10-3 (Michie 2000) Gen. Stat.	Yes	Yes	Yes – nationally recognized course	Yes	Yes
NEW YORK	N.Y. PUB. HEALTH LAW § 3000-a (McKinney 2000) AED User Immunity N.Y. PUB. HEALTH LAW § 3000-b (McKinney 2000) AED Def. N.Y. PUB. HEALTH LAW § 3013 (McKinney 2000) Gen. Stat."	Yes	Yes	Yes	Yes	Yes
NORTH CAROLINA	N.C. GEN. STAT. § 90-21.14 (1999)	Yes	Yes	Yes	No	Yes
NORTH DAKOTA	N.D. CENT. CODE § 32-03.1-023 (1999) AED Req.'s N.D. CENT. CODE § 32-03-40 (1999) Emer. Treatment Immunity	Yes	Yes, need to strengthen language to include property owner	Yes	Yes	Yes

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OHIO	OHIO REV. CODE ANN. § 2305.235 (Anderson 2000) AED Def. OHIO REV. CODE ANN. § 3701.85 (Anderson 2000) Duty of AED Owners OHIO REV. CODE ANN. § 4765.35 (Anderson 2000) First Responder Def. OHIO REV. CODE ANN. § 4765.37 (Anderson 2000) EMT Def. OHIO REV. CODE ANN. § 4765.49 (Anderson 2000) Immunities	Yes	No immunity for acquirer. Immunity for Physician and trainer	Yes-Allows trained person to use, but does not tie training to immunity	Yes	Requires activation of EMS at time of use
OKLAHOMA	OKLA. STAT. tit. 76 § 5A (2000) AED User Immunity OKLA. STAT. tit. 76 § 5 (2000) Gen. Stat.	Yes	Yes for acquirers No specific immunity mentioned for MD's or trainers.	Yes	Yes	Yes
OREGON	OR. REV. STAT. § 30.801 (1999) AED User Immunity OR. REV. STAT. § 30.800 (1999) Emer. Assistance Immunity OR. REV. STAT. § 682.135 (1999) Req. for License	Yes –	Yes – acquirers, trainers, MD's	Yes – course approved by Health Division of Dept. of Dept. of Human Resources	Yes	Yes – Notification and activation
PENNSYLVANIA	42 PA. CONS. STAT. § 8331.2 (2000) AED User Immunity 42 PA. CONS. STAT. § 8331 (2000) Gen. Stat.	Yes	No	Yes-Not specific	No	No

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RHODE ISLAND	R.I. GEN. LAWS § 9-1-34 (2000) AED User Immunity R.I. GEN. LAWS § 23-6.2-2 (2000) Approving Placement of AED's R.I. GEN. LAWS § 23-6.2-1 (2000) Decl. of R.I. Policy on AED's R.I. GEN. LAWS § 9-1-27.1 (2000) Gen. Stat.	Yes	Yes, trainers and medical directors only	Yes-AHA or ARC standards	No	No
SOUTH CAROLINA	S.C. CODE ANN. § 44-76-10 (Law. Co-op 2000) AED Act S.C. CODE ANN. § 44-76-20 (Law. Co-op 2000) AED Def. S.C. CODE ANN. § 44-76-30 (Law. Co-op 2000) AED Training S.C. CODE ANN. § 44-76-40 (Law. Co-op 2000) AED User Immunity S.C. CODE ANN. § 44-76-50 (Law. Co-op 2000) Applicability of Act ***S.C. CODE ANN. § 15-1-310 (Law. Co-op 1999) Gen. Stat.***	Yes	Yes – acquirers & prescribing physician. No immunity for trainers	Yes – AHA, ARC or National Safety Council standards	Yes – health care professional to serve as program liaison	Yes – activation and notification
SOUTH DAKOTA	S.D. CODIFIED LAWS § 20-9-4.3 (Michie 2000) AED Def. S.D. CODIFIED LAWS § 20-9-4.4 (Michie 2000) AED User Immunity S.D. CODIFIED LAWS § 20-9-4.6 (Michie 2000) AED Trainer Immunity S.D. CODIFIED LAWS § 20-9-4.7 (Michie 2000) Owner Notification Req.'s S.D. CODIFIED LAWS § 20-9-4.1 (Michie 2000) Gen. Stat.	Yes	Yes	Yes	Yes	Yes

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STATE	STATE "GOOD SAMARITAN" STATUTES	IMMUNITY FOR RESCUERS	RESCUERS IMMUNITY FOR ACQUIRERS AND ENABLERS	ENCOURAGES/ REQUIRES CPR & AED TRAINING	ENCOURAGES/ REQUIRES MEDICAL INVOLVEMENT	ENCOURAGES/ REQUIRES EMS NOTIFICATION
TENNESSEE	TENN. CODE ANN. § 63-6-218 (1999) TENN. CODE ANN. § 68-140-701 – 68-140-710 (1999)	Yes	Yes	Yes – AHA or equivalent	Yes	Yes- Requires notification of EMS service; requires activation of EMS at time of use
TEXAS	TEX. HEALTH & SAFETY CODE ANN. § 779.006 (West 2000) AED imm. TEX. HEALTH & SAFETY CODE ANN. § 779.001 (West 2000) AED Def. TEX. HEALTH & SAFETY CODE ANN. § 779.002 (West 2000) AED Train. TEX. HEALTH & SAFETY CODE ANN. § 779.003 (West 2000) AED Maint. TEX. HEALTH & SAFETY CODE ANN. § 779.004 (West 2000) AED Use TEX. HEALTH & SAFETY CODE ANN. § 779.005 (West 2000) Not. Req's TEX. HEALTH & SAFETY CODE ANN. § 779.006 (West 2000) Owner Req's TEX. CIV. PRAC. & REM. CODE ANN. § 74.001 (West 2000) Liability Imm. TEX. CIV. PRAC. & REM. CODE ANN. § 74.002 (West 2000) Lic. Req.	Yes –trained users	Yes	Yes – approved by Dept. of Health	Yes	Yes –activation and notification
UTAH	UTAH CODE ANN. § 58-31b-701 (1999) AED User Immunity	Yes	Yes, healthcare providers providing instruction on use	Yes-AHA guidelines	Yes	Yes
VERMONT		Yes	Yes	Yes	Yes	Yes

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VIRGINIA	VA. CODE ANN. § 8.01-225.A.6 (Michie 1999) AED User Immunity	Yes	Yes	Yes	Yes	Yes
WASHINGTON	WASH. REV. CODE § 70.54.310 (1999) Immunity for SED User	Yes	Yes	Yes-AHA guidelines	Yes-Authorizes possession	Requires AED manufacturer to register; requires activation of EMS at time of use
WEST VIRGINIA	W. VA. CODE § 16-4D-4 (1999) AED User Limitation on Liability W. VA. CODE § 16-4D-1 (1999) Legis. Findings W. VA. CODE § 16-4D-2 (1999) AED Def. W. VA. CODE § 16-4D-3 (1999) Early AED Programs W. VA. CODE § 55-7-15 (1999) Gen. Stat.	Yes	Yes	Yes-AHA standards	No	No
WISCONSIN	WIS. STAT. § 895.48 (2000) Limitations on Liability WIS. STAT. § 146.50 (2000) AED Def.	Yes – trained	Yes – provider of device, owner of device, trainer.	Yes - approved by Dept. of Health & Family services	No	Yes – written notification
WYOMING	WYO. STAT. ANN. § 35-26-103 (Michie 2000) AED Limited Liability WYO. STAT. ANN. § 35-26-101 (Michie 2000) AED Def. WYO. STAT. ANN. § 35-26-102 (Michie 2000) AED Use WYO. STAT. ANN. § 1-1-120 (Michie 2000) Gen. Stat. WYO. STAT. ANN. § 33-36-106 (Michie 2000) Gen. Exemptions	Yes	Yes	Yes	Yes	Yes
WASHINGTON, DC						

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BILLING CODE 8320–23–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 01044]

Program To Build Capacity Among American Indian Tribes Impacted by Releases from the Hanford Nuclear Reservation; Notice of Availability of Funds

A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to Build Capacity among American Indian Tribal Governments impacted by releases from the Hanford Nuclear Reservation. The program addresses the "Healthy People 2010" focus areas of Environmental Health, Health Communication, Mental Health and Mental Disorders, and Public Health Infrastructure.

The purpose of the program is to address the Tribal public health issues that result from hazardous substances in the environment due to the Hanford Nuclear Reservation in the southeastern area of Washington State. The program will focus on: (1) Building Tribal environmental health capacity (2) addressing health issues from releases of hazardous substances into the environment (3) develop culturally appropriate health education materials and/or vehicles to engage Tribal community members in public health activities.

These awards are intended to enhance the Tribes ability to collaborate with ATSDR in conducting public health activities related to potential human exposures from the Hanford Nuclear Reservation. ATSDR understands that the nine Tribes eligible under this program are sovereign nations, and that each Tribe's capacities and capabilities are unique and different. To address the individual nature of Tribal issues, ATSDR is prepared to work collaboratively with each Tribe individually to develop a unique program to address each Tribe's needs.

B. Eligible Applicants

This program is directed only to the following federally recognized American Indian Tribal Governments: Coeur d'Alene Tribe; Coville Confederated Tribes; Confederated Tribes of the Umatilla Indian Reservation; Kalispel Tribe; Kootenai Tribe of Idaho; Nez Perce Tribe; Spokane Tribe; Confederated Tribes of the Warm Springs Reservation of Oregon; and Yakama Indian Nation. This announcement is limited to only these tribes due to their proximity to the site and the pre-determined air pathway emissions affecting their respective reservation.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $450,000 is available in FY 2001 to fund approximately 9 awards. It is expected that the average award will be $50,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services. Funds for contractual service may be requested; the primary recipient of ATSDR funds must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. Equipment may be purchased with these funds; however, the equipment proposed should be appropriate and reasonable for the activity to be conducted. Equipment may be acquired only when authorized, and the application should provide a justification of need to acquire equipment, the description, and the cost of purchase versus leasing. At the completion of the project, the equipment will be returned to ATSDR.

D. Program Requirements

In order to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities) and ATSDR will be responsible for the activities listed under 2. (ATSDR Activities).

1. Recipient Activities

a. Review and update the needs assessment to verify knowledge, skills, and capabilities to address the health issues as a result of releases of hazardous substances into the environment from the Hanford Nuclear Reservation.

b. Develop an Environmental Health Plan (EHP) related to public health needs resulting from exposures and potential exposures to releases of hazardous substances into the environment from the Hanford Nuclear Reservation. The EHP will build Tribal capacity to address public health issues, based on the outcomes of the needs assessment. The EHP can be part of or spur the development of a Tribal Comprehensive Environmental Health Plan that addresses more general environmental health needs.

c. Based on activities in the EHP, actively engage with ATSDR in site-specific activities, including public health assessments, health consultations, community involvement, community health education, and health outcome data education.

d. Develop Tribal capacity to assist in the implementation and evaluation of health education activities for Tribal community members.

e. Develop culturally appropriate health education materials for Tribal members, community members, Tribal health and environmental professionals and paraprofessional, and other health care providers working with native communities.

f. Participate in and contribute to the Hanford Health Effects Subcommittee and Inter-Tribal Council on Hanford Health Projects.

g. Develop Tribal capacity to use toxicological databases and other databases to continue to identify toxicological issues.

h. Identify environmental health issues and tools necessary to benchmark Tribal health to be included in the EHP.

i. Review and participate in ATSDR public health assessment and consultation activities.

2. ATSDR Activities

a. Assist the recipient in developing the Environmental Health Plan to build Tribal capacity and address health issues and identified releases of hazardous materials into the environment from the Hanford Nuclear Reservation.

b. Assist in the development, implementation, and evaluation of culturally competent health education materials/activities for Tribal community members.

c. Assist in the development of community profiles using the results of the needs assessment that has been developed by the Tribe.

d. Provide support for Tribal participation in the Hanford Health Effects Subcommittee and Inter-Tribal Council on Hanford Health Projects.

e. Provide support and training to allow the Tribes to effectively interact and provide information for public health assessments and consultations. ATSDR will identify and make available appropriate training courses as resources permit.

f. Assist in the development and use of toxicological information resources.

g. Provide support for the coordination of activities between Tribal Governments and Federal and State public health agencies.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and 12 point font.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfor.htm.*

On or before July 25, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by ATSDR.

Evaluations will be based on the extent to which the applicant has:

1. Developed and administered effective culturally competent measures to engage community members in environmental public health activities. Describe the ability to provide environmental health education in a timely manner in response to Tribal issues which are specific to the Hanford Nuclear Reservation. (10 Percent)

2. Described how the environmental health needs assessment that was completed under the previous cooperative agreement announcement will be used for environmental health. (10 Percent)

3. Outlined the activities to develop an Environmental Health Plan (EHP) which includes; statement of the problem, methods of analysis, implementation strategies, implementation and evaluation. Within the plan, described the environmental health needs/issues of the Tribe and explain the strategies in which the Tribe plans to resolve each need/issue. Explained the ability of the Tribe to respond to environmental health needs/issues. Specifically, demonstrated the Tribes' ability to address health issues that occur as a result of actual or potential human exposures to hazardous substances including methods to analyze and evaluate toxicological, community and environmental health data/information. Ensure the Hanford Nuclear Reservation is addressed in the EHP. (40 Percent)

4. Described the Tribes capability (or inability) to carry out the proposed EHP. Describe the technical assistance needed to develop the EHP. Explain what additional items or issues you will have to address when developing the EHP. (20 Percent)

5. Described how the Tribe will resolve current problems of exposures of hazardous substances in the environment related to the Hanford Nuclear Reservation. (20 Percent)

6. Budget Justification (Not Scored)—The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds. The applicant should describe and indicate availability of facilities and equipment necessary to carry out this project.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semi-annual reports;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–18 Cost Recovery
AR–19 Third Party Agreements

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 104(i)(14)(15), and (17) of the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. sections 9604(i)(14)(15), and (17)], as amended. The Catalog of Federal Domestic Assistance number is 93.236.

J. Where To Obtain Additional Information

This and other ATSDR announcements can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Nelda Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number: 770–488–2722, Email address: NAG9@cdc.gov.

For program technical assistance, contact: Dean Seneca, MPH, MCURP, Coordinator, Office of Tribal Affairs, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE (E–32), Atlanta, GA 30333, Telephone number: 404–639–4507, Email address: zkg8@cdc.gov.

Dated: May 16, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–12940 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 01108]

Soil-Pica, Soil-Ingestion and Health Outcome Investigation Site-Specific Health Activities; Notice of Availability of Funds

A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to conduct a site-specific activity health outcome investigation for the Vasquez Boulevard and I–70 (VBI70 site) in the Denver, Colorado metro area. This program addresses the "Healthy People 2010" priority area of Environmental Health.

The purpose of this program is: (1) To determine if soil-pica and soil-ingestion are potential sources of arsenic and lead exposure in preschool children in a community where arsenic and lead levels were found elevated in soil samples from residential yards and (2) to identify cases of acute arsenic or lead poisoning in households with a high contaminate level.

B. Eligible Applicants

Assistance will be provided only to The Colorado Department of Public Health and Environment (CDPHE). No other applications are solicited.

CDPHE is the most appropriate and qualified recipient to conduct the activities specified under this cooperative agreement because:

1. CDPHE, as the lead public health agency in Colorado, has conducted prior activities of this type (Globeville) in the Denver area.

2. CDPHE has experience working with community based research in the Denver area and has an ongoing relationship with the VBI70 community

3. The community and the Environmental Protection Agency (EPA) have requested that the study be conducted this summer to capture peak exposure from outdoor activities. Prior soil arsenic levels ranged from 12–133 mg/kg. The EPA's removal action level is 400 mg/kg. Prior soil lead levels ranged as high as 1,131. The EPA's removal action level for lead is 200 mg/kg.

C. Availability of Funds

Approximately $250,000 is available in FY 2001 to fund one award. It is expected that the award will begin on or about July 15, 2001, and will be made for a 12-month budget within a project period of up to 2 years. Funding estimates are subject to change.

D. Where To Obtain Additional Information

Business management technical assistance may be obtained from: Nelda Y. Godfrey, Grants Management Specialist, Grants Management Branch, Procurement & Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone Number: (770) 488–2722, E-mail Address: *nag9@cdc.gov*.

Program technical assistance may be obtained from:

Dave Campagna, Ph.D., Epidemiologist, Division of Health Studies, Agency for Toxic Substances and Disease Registry, Executive Park, Building 4, Suite 1300, Atlanta, GA 30305, Telephone Number: (404) 639–5144, E-mail Address: *Dcampagna@cdc.gov*.

Or

Maggie Warren, Funding Resource Specialist, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Rd., NE., Mail Stop E–31, Atlanta, GA 30333, Telephone Number: (404) 639–5114, E-mail Address: *mcs9@cdc.gov*.

Dated: May 16, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–12941 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–01–05]

Fiscal Year 2001 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Request for applications for National Legal Assistance and Elder Rights Projects to provide state and area agencies on aging and/or their legal assistance providers with one or more of the following services: (1) Case consultations; (2) training; (3) provision of substantive legal advice and assistance; and (4) assistance in the design, implementation, and administration of legal assistance delivery and elder rights advocacy systems.

SUMMARY: The Administration on Aging announces that under this program announcement it will hold a competition for grant awards for *three* (3) to *five* (5) projects. The federal share of project costs is expected to range from $150,000 to $250,000 per year for a project period of three years. The purpose of these projects is to enhance the leadership capacity of state and area agencies on aging to support elder rights activities and to improve the quality and accessibility of the legal assistance provided to older people.

The deadline date for the submission of applications is July 9, 2001. Public and/or nonprofit agencies, organizations, or institutions are eligible to apply. To be considered for funding, however, applicants must be experienced in providing support and technical assistance on a nationwide basis to states, area agencies on aging, legal assistance providers, ombudsmen, elder abuse prevention programs, and other organizations interested in the legal rights of older individuals.

Application kits are available by writing to the U.S. Department of Health and Human Services, Administration on Aging, Office of State and Community Programs, 330 Independence Avenue, S.W., Room 4751, Washington, DC 20201, by calling 202/619–0067 or on the web at *http://www.aoa.gov/t4/fy2001*.

Dated: May 18, 2001.

Norman L. Thompson,

Acting Principal Deputy Assistant Secretary for Aging.

[FR Doc. 01–13010 Filed 5–22–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01042]

The Development and Implementation of the Directly-Obeerved Treatment, Short-Course Strategy by the Private Sector in the Philippines;Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for the development and implementation of the directly observed treatment, short-course (DOTS) strategy by the private sector in the Philippines. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases. For a copy of "Healthy People 2010", visit the internet site: http://www.health.gov/healthypeople.

The purpose of this program is two-fold: (1) To develop several directly-observed treatment, short-course (DOTS) models designed for the private health-care system in years one and two; and (2) to implement and evaluate these pilot approaches in years two and three in a major urban area in the Philippines.

Since there are no existing private-sector models for DOTS, this program will support the development, implementation and evaluation pilot DOTS models designed for the private health-care system in a major urban area in the Philippines.

The elimination of tuberculosis (TB) in the United States (U.S.) is directly linked to the control of TB in immigrants' countries of origin. In 1999, 43 percent of all TB cases were identified in persons who were born in a foreign country; the Republic of the Philippines was the second ranking country of origin.

In a recent report, TB rates in the Philippines were determined to be some of the highest in the world. Given current U.S. immigration patterns, direct technical assistance to the Philippines for improving TB control is justified and considered essential by the Division of Tuberculosis Elimination (DTBE), Centers for Disease Control and Prevention (CDC) to meet medium and long-term domestic mission targets. This support and assistance directly involves the Philippines Department of Health (PDOH). The PDOH is rapidly instituting the World Health Organization's national case management strategy to improve TB control. Directly observed treatment, short-course (DOTS), strategy calls for (i) national political commitment, (ii) passive case detection by smear microscopy, (iii) a standardized free-of-charge, short-course (six months) chemotherapy administered by direct observation (DOTS), (iv) a regular supply of antituberculosis drugs, and (v) an integrated reporting and evaluation system.

DOTS has been demonstrated to be effective when a significant proportion of the population has access. Currently, most people in the Philippines seek TB care from the private sector health-care system and continue to receive care in this system. The incidence of TB is greater in urban areas than it is in rural areas. Recent informal surveys suggest that little of the private sector health care delivery system utilizes the critical components of DOTS. This leads to inadequate treatment, increased death and morbidity, increased transmission, and increasingly the generation of drug resistant strains of TB. In addition, despite success in the public sector health-care system, it is highly unrealistic in the Philippines to expect that the majority of persons seeking care in the private sector health-care system will seek care in the public sector health-care system or be referred to the public sector health-care system by their private physicians if TB is suspected. Although not a part of the World Health Organization (WHO) DOTS strategy, the PDOH recognizes that the private-sector must be included in TB control for DOTS to improve TB control in the Philippines.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations, universities, colleges, research institutions and hospitals currently located in the Philippines. These entities should be distinct legal organizations that are registered with the Philippines Security and Exchange Commission.

C. Availability of funds

Approximately $68,000 is available for FY 2001 to fund this award. The award is anticipated to begin on or about June 30, 2001 for a 12-month budget period within a three-year project period. It is anticipated that $100,000 will be available in FY 2002. (This second year funding will be available after October 1, 2001.) However, this and funding for subsequent years will be dependent on satisfactory progress, independent evaluation by DTBE and the United States Agency for International Development, and the availability of funds. (Funding amounts for subsequent years have not been finalized.) Funding estimates may change.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Develop several private-sector DOTS models and the related administrative infrastructure for TB control in a large metropolitan area of the Philippines.

b. Collaborate with the PDOH, WHO, USAID and other public and private-sector entities in the Philippines.

c. At the end of one year of funding, identify and propose project activities to implement and evaluate private-sector DOTS models to the CDC.

d. Implement and evaluate private-sector DOTS models in subsequent years.

Continuation awards within the project period will be made on the basis of the following criteria:

(1) Satisfactory progress in meeting project objectives;

(2) Objectives for the new budget period are realistic, specific, and measurable;

(3) Proposed changes in described methods of operation, need for financial support, and/or evaluation procedures will lead to achievement of project objectives; and

(4) The budget request is clearly justified and consistent with the intended use of cooperative agreement funds.

2. CDC Activities

a. CDC will provide assistance in the development and implementation of the private-sector DOTS models. These might include:

(1) participation in meetings and review of proposals to develop DOTS models.

(2) site visits before, during, and after pilot implementation to provide training and assistance with the analysis and dissemination of lessons learned.

(3) collaborative assistance in all aspects of the evaluation phase.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be written in English, follow the outline below and be no longer than twelve double-spaced pages(excluding appendices and attachments) printed on one side, with 2.5 cm margins and 12 CPI font.

1. *General Objective:* one sentence that describes the project.

2. *Background and Rationale:* A brief section of several paragraphs that describe activities for the first two years. Describe the organization carrying out the proposal. Listing a plan for year three is not necessary.

3. *Proposed Models/Methods:* Describe each of several models and the plans to develop these models (one paragraph each). Describe the necessary relationship with other key organizations or industries required for the implementation of each model. Include a time line in table format with a separate brief timetable description for the first 12 months.

4. *Evaluation Plan:* Briefly, discuss the plan for monitoring progress toward each of the objectives.

5. *Project Leaders:* List project leaders and their affiliations. Outside of the page limit, include letters of support.

6. *Budget:* Submit a brief line item budget breakdown and narrative justification that is consistent with program purpose and proposed activities for year one. Include an estimate of second year requirements.

F. Submission and Deadline

Submit the original and two copies of the application PHS form 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov/...Forms, or in the application kit. On or before July 1, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the objective review committee. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Extent to which the applicant demonstrates an understanding of the requirements, problems, objectives, complexities, and interactions required of this project. (20 Points)

2. Degree to which the proposed objectives are clearly stated, realistic, time phased, and related to the purpose of this project. (20 points)

3. Appropriateness and thoroughness of the workplan and time-line for administering this project. (30 points)

This cooperative agreement enables the development and pilot implementation of TB control programs in the private-sector in the Philippines. The report and dissemination of information and lessons learned are considered program evaluation (and not a research activity) as determined by NCHSTP/CDC. It is not anticipated that a research activity will be funded from the support from this cooperative agreement.

4. Appropriate qualifications, experience, leadership ability, and percentage of time project director will commit to the project. (15 points)

5. Appropriate qualifications, experience and description of how staff will be utilized in relation to the activities to be performed to accomplish the work and their percentage of time to be spent on the project; curriculum vitaes should be provided. (15 points)

6. Budget: The extent to which the budget relates directly to project activities, is clearly justified, and is consistent with intended use of funds. The budget should include funds for (to be included). (Not Scored)

H. Other Requirements

Technical Reporting Requirements

Provide the CDC with original and two copies of:

1. Annual progress reports. Progress reports must include the following for each program, function, or activity involved:

a. a comparison of actual accomplishments to the goals established for the period;

b. the reasons for slippage if the established goals are not met; and

c. other pertinent information including, when appropriate, analysis and explanation of unexpected high costs of performance.

2. Financial Status Report no more than 90 days after the end of first year budget period; and

3. Final financial and performance reports no more than 90 days after the end of the project period. Send all reports to the Grants and Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this announcement.

AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying

I. Authority and catalog of federal Domestic Assistance

This program is authorized under sections 301 and 307 of the Public Health Service Act. The Catalog of Federal Domestic Assistance Number is 93.947, TB Demonstration, Research, Public and Professional Education Projects.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on "Funding" then "Grants and Cooperative Agreements."

To receive additional written information and to request an application kit, call 1–888-GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Mattie B. Jackson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2696, Email address: mij3@cdc.gov.

For program technical assistance, contact: Michael F. Iademarco, MD, MPH or Michael L. Qualls, MPH, Division of Tuberculosis Elimination, Centers for Disease Control and Prevention, 1600 Clifton Road, Mailstop E–10, Atlanta, GA 30333, Telephone number:(404)639–8120, Email addresses: miademarco@cdc.gov mqualls@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12985 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01134]

Initiatives To Develop and Implement Programs To Enhance Epilepsy Public Awareness and Partnership, Education, and Communication; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for "Initiatives to Develop and Implement Programs to Enhance Epilepsy Public Awareness and Partnership, Education, and Communication." This program addresses the "Healthy People 2010" focus areas of Disability and Secondary Conditions.

The purpose of this program is to conduct epilepsy programs to promote public awareness and partnerships; to provide epilepsy education for the general public and for health care providers; and to develop and enhance communication channels to allow for improved interaction and information sharing among those with epilepsy and their families, as well as those who advocate for persons with epilepsy and those who provide care and services for persons with epilepsy, researchers, public health specialists, and the general public.

B. Eligible Applicants

Assistance will be provided only to private, non-profit 501(c)(3) organization that is a national voluntary health organization dedicated to assisting persons with epilepsy. Specifically, CDC was directed to expand epilepsy surveillance, public awareness activities, public and provider education, prevention research, and activities to combat stigma.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $1,300,000 is available in FY 2001 to fund one award. It is expected that the award will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

The applicant shall conduct activities in one or more of the following three priority areas listed in the application instructions.

a. Partnership Building

(1) Provide financial and personnel support to epilepsy affiliates/chapters to facilitate building collaborative public health partnerships with state and local health departments.

(2) Provide financial and personnel support to health related organizations (other than epilepsy affiliates/chapters) to facilitate building collaborative partnerships.

(3) Expand ongoing communication vehicles (i.e., listservs, web sites, newsletters, conference calls, meetings) to facilitate problem solving and idea sharing among organizations involved in collaborative activities to strengthen programs to promote public awareness of epilepsy, provide education for those with epilepsy, the general public, and for health care providers, and enhance communication channels.

b. Create Awareness/Improve Health Communications

(1) Expand a sustained multifaceted media relations outreach program.

(2) Expand, implement and evaluate strategies to disseminate existing educational materials, particularly those that focus on teens with epilepsy, to those with epilepsy who are under served.

c. Consumer and Provider Education

(1) Expand the development or adaption, evaluation, and dissemination of low-literacy epilepsy education materials and/or educational materials for large minority groups (e.g., Hispanic, Asian, American Natives, African American).

(2) Develop, evaluate, and disseminate epilepsy self-management materials delivered through traditional and/or alternative delivery mechanisms (i.e., Internet-based, CD ROM, other).

(3) Develop appropriate training on selected epilepsy interventions with demonstrated cost-effectiveness with appropriate experts including international organizations.

(4) Develop, evaluate, and disseminate continuing medical education (CME) or CME and continuing education units (CEU) granting self study professional education through alternative delivery mechanisms (i.e., Internet based, CD–ROM).

2. CDC Activities

a. Collaborate in planning, implementing, and evaluating strategies and programs.

b. Assist in the analysis and interpretation of the evaluation phase of projects or programs.

c. Provide programmatic consultation and guidance in support of the program.

d. Assist in the planning and implementation of linkages with local, national, or international epilepsy organizations or agencies.

E. Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font. The application should be organized in the following sections.

1. Executive Summary

Provide a clear, concise, and objectively written statement of the major objectives and components of proposed activities, proposed time frame, and evaluation plan. Document your organization's national network by providing a list of your affiliate locations. Also, include proof of your non-profit status.

2. Existing Resources and Needs Assessment

Describe the documented need for the proposed activities and current activities that provide relevant experience and expertise to perform the proposed activities.

3. Collaborative Relationships

Describe collaborative relationships with other agencies and organizations that will be involved in the proposed activities.

4. Operational and Evaluation Plan

Describe the specific outcome and process objectives for each proposed activity, the major steps required to achieve the objectives, and a projected timetable for completion that displays dates for the accomplishment of specific proposed activities. Describe how achievement of outcome and process objectives, and program effectiveness will be evaluated.

5. Management and Staffing Plan

Describe how the program will be effectively managed including:

(a) Management structure including the lines of authority and plans for fiscal control.

(b) The staff positions responsible for implementation of the program.

(c) Qualifications and experience of the designated staff.

6. Budget and Justification

Provide a detailed budget request and line-item justification of all proposed operating expenses.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: http://forms.pcs.gov

On or before July 7, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Resources and Needs Assessment: (25 points)

The relevance of the needs assessment and extent to which the applicant demonstrates that current activities provide experience and expertise for the proposed projects.

2. Collaboration: (15 points)

The extent to which the applicant provides evidence of collaborative relationships with other agencies and organizations relevant to successful completion of the proposed projects. The extent to which the applicant documents their nationwide affiliate network.

3. Proposed Operational and Evaluation Plan: (35 points)

The extent to which the applicant clearly identifies the specific outcome and process objectives for the proposed activities, and the major steps required to meet the objectives; provides a realistic plan for involving others in the project; and proposes an evaluation plan that is likely to provide meaningful information about the achievement of the projects.

4. Proposed Implementation Schedule: (10 points)

The extent to which the projected timetable for completion of tasks and for meeting objectives is reasonable and realistic.

5. Project Management and Staffing Plan: (15 points)

The extent to which the applicant demonstrates management structure and staff positions with clear lines of authority and plans for fiscal control, and that designated staff have appropriate qualifications and experience. This includes:

A. The proposed justification when representation is limited or absent.

B. A statement as to whether the design of the study is adequate to measure differences when warranted.

C. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

6. Budget: (Not Scored)

The extent to which the applicant provides a detailed budget and justification consistent with the proposed program objectives and activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with an original plus two copies of:

1. semiannual progress reports;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the sections 301(a) and 317(k)(2) the Public Health Service Act, [42 U.S.C. 241(a) and 247b(k)(2)], as amended. The Catalogue of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and cooperative Agreements."

Should you have questions after reviewing the contents of all the documents, business management assistance may be obtained from: Michelle Copeland, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 01134, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2686, E-mail: stc8@cdc.gov.

For program technical assistance, contact: Mike Waller, Centers for Disease Control and Prevention, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, 4770 Buford Highway NE, Atlanta, GA, 30341–3717, Telephone: (770) 488–5264,E-mail: mnw1@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12983 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01030]

National Programs To Promote Physical Activity Among Youth; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for cooperative agreement programs for "National Programs to Promote Physical Activity Among Youth". This program addresses the "Healthy People 2010" focus area of "Physical Activity and Fitness."

The purpose of the program is for national organizations to become an integral part of a broad national strategy to support projects that help schools and communities nationwide implement activities and reinforce national youth media campaign messages that promote healthy activity, especially physical activity, among youth. These activities should target youths ages 9 to 13 years old, their parents and other primary care-givers, and others who can influence pre-teens (e.g., teachers, coaches, school personnel, community leaders, teenagers). Additional background information on CDC's National Youth Media Campaign and physical activity resources can be found in Appendix I and Appendix II.

B. Eligible Applicants

Assistance will be provided to national organizations that are private health, education, or social services agencies (professional or voluntary); qualify as a non-profit 501(c) (3) entity; have affiliate offices or local, state, or regional membership constituencies in a minimum of 10 states and territories; and have the capacity and experience to assist their affiliates offices and membership constituencies. Affiliate offices and local, state, or regional membership constituencies may not apply in lieu of, or on behalf of, their parent national office.

Note: Title 2 of the United States Code, Chapter 26, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $625,000 is available in FY 2001 to fund approximately five awards. It is expected that the average award will be $125,000, ranging from $100,000 to $175,000. It is expected that the awards will begin on or about September 15, 2001, and will be for a 12-month budget period within a 24-month project period. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Priority

Priority will be given to national organizations that have constituencies that can have an influence on pre-teens and those who influence pre-teens including parents, teachers, coaches, school personnel, community leaders and teenagers. Public comments on the proposed Funding Priority are not being solicited due to insufficient time prior to the funding date.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1 (Recipient Activities), and CDC will be responsible for the activities listed under 2 (CDC activities).

1. Recipient Activities

a. Link proposed activities with established national youth media campaign messages, and activities that promote healthy activity, especially physical activity, among youth. Whenever possible, conduct proposed activities in communities hosting grassroots events to promote physical activity as part of national youth media campaigns.

b. Work with the media to promote school-and community-based youth physical activity programs and activities.

c. Use existing media tools, including national youth media campaign tools and resources (as they become available) to achieve program objectives.

d. Develop partnerships with media; businesses; national health, education, and social services organizations; federal agencies; and state and local education, health, and social services agencies to reinforce national youth media campaign messages (as they become available).

e. Participate in an expert panel meeting on school-and community-based strategies for reinforcing and supporting media messages including national youth media campaign messages, tools, and resources.

f. Support, develop, and implement one or more of the following activities:

(1) Develop, pilot-test, finalize, and distribute tools to educate parents about the importance of physical activity to the health and well-being of youth, their role in promoting and supporting their child(ren) and other youth in being physically active, and engaging parent-teacher organizations in assessing and improving the quality of a school's physical activity program (i.e., quality, daily physical education; extracurricular physical activity programs consisting of intramural activities and/or physical activity clubs, and interscholastic sports; daily recess periods for elementary school students; and classroom health education that complements physical education). Examples of such tools include written materials and presentation materials (e.g., slides and other audiovisual aids, answers to frequently asked questions), and a Web site.

(2) Develop, pilot-test, finalize, and distribute tools that educate school administrators and other decision-makers about the importance and key comments of a school physical activity program (i.e., quality, daily physical education; extracurricular physical activity programs consisting of intramural activities and/or physical activity clubs, and interscholastic sports; daily recess periods for elementary school students; and classroom health education that complements physical education) and specific actions that they can take to support school physical activity programs. Examples of such tools include written materials and presentation materials (e.g., slides and other audiovisual aids, answers to frequently asked questions).

(3) Develop, pilot-test, finalize, and distribute tools for assessing and evaluating student performance in school physical education based on student achievement of the National Standards for Physical Education. Examples of such tools include performance indicators, assessment options, and scoring rubrics.

(4) Develop, pilot-test, finalize, and distribute tools to educate decision-makers about the importance of implementing state- and school district-level systems to hold schools accountable for student achievement in school physical education based on district, state, or national standards and actions they can take to support and establish physical education accountability systems. Examples of such tools include written materials and presentation materials (e.g., slides and other audiovisual aids, answers to frequently asked questions) that provide background on school reform (e.g., standards-based education, school accountability), strengths and weaknesses of various models of accountability for school physical education (e.g., state graduation exit exams, state report cards) and specific examples of physical education accountability models that currently exist in states and school districts.

(5) Develop, pilot-test, finalize, and distribute model professional staff development sessions for physical education teachers and other teachers

assigned to teach physical education on cutting-edge topics such as assessment of student performance in school physical education, development and monitoring of personal physical activity plans for students, and use of technology in physical education. For each staff development topic, the model could include items such as goals/objectives and a "lesson plan" for the staff development session; audiovisual aids; list of resources on the topic (e.g., national experts, books/materials, web sites); talking points on key issues; answers to frequently asked questions; and sample instructional materials, techniques, lesson plans, and assessments to support instruction in physical education classes.

(6) Develop, pilot-test, finalize, and distribute a model for offering intramural physical activities and/or physical activity clubs that appeal to all students, particularly those who are not athletically gifted, with an emphasis on addressing the needs and interests of pre-teen girls. The model could include varied and innovative activities, student input into what activities are offered, and strategies to overcome barriers to participation (e.g., lack of incentives for adult supervisors, transportation home after the activity, cost to students).

(7) Support walk to school initiatives (e.g., National Walk Our Children to School Day, CDC's KidsWalk-to-School program) in various communities in different regions of the country. Written materials could be developed and distributed to describe the initiatives of the communities such as a description of the activity, amount and type of participation, leaders and partners, barriers and how they were overcome, lessons learned, and future plans.

(8) Develop, pilot-test, finalize, and distribute a model for keeping school physical activity facilities open outside of school hours for use by community members (particularly pre-teens, 9–13 years old) for physical activity participation/programs.

(9) Develop, pilot-test, finalize, and distribute a model for making community-based youth physical activity programs accessible to all youth (particularly pre-teens, 9–13 years old). The model could include innovative approaches to overcoming barriers to youth participation in community physical activity programs such as lack of incentives for adult supervisors, transportation between home and school and the programs, and cost to participants.

(10) Support and provide technical assistance to state physical activity coalitions to develop diverse partnerships to promote physical activity among youth through increased public awareness/education (e.g., media) and development and implementation of policies and programs. Partners could include individuals, organizations, and agencies that represent health, education, social services, parks and recreation, transportation, and community design; parents; youth; community members; business partners; media; and others who can promote policy changes that can affect physical activity participation. Written materials could be developed and distributed to summarize the status of each coalition such as a description of their policy and programmatic activities, members and partnerships, barriers and how they were overcome, lessons learned, and future plans.

2. CDC Activities

a. Provide programmatic consultation and guidance related to program planning, implementation, and evaluation; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

b. Coordinate with national organizations and state and local education agencies, as well as other relevant organizations and agencies, in planning and conducting national strategies designed to encourage healthy activity, especially physical activity, to promote healthy lifestyles and displace unhealthy, risky behaviors.

c. Assist with planning and conducting an expert panel meeting of national organizations and state and local education agencies and other appropriate organizations, agencies, and individuals on school-and community-based strategies.

E. Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow the criteria as you construct your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

1. Background and Need (No More Than 2 Pages)

a. Describe the problem(s) being addressed by the national organization's proposed activities.

b. Describe the need for the proposed activities nationally.

2. Capacity (No More Than 4 Pages)

a. Describe the national organization's efforts and relevant experience that support the promotion of healthy activity, especially physical activity, for youth, including such factors as:

(1) Current and previous experience related to the described problem and need and the proposed activities;

(2) Current and previous experience related to publicizing, marketing, and garnering media attention for programs and activities, particularly efforts related to the promotion of healthy activity, especially physical activity, for youth;

(3) Current and previous experience related to communicating to/with decision-makers and others who can influence youth such as their parents or other primary care-givers, teachers, coaches, school personnel, community leaders, and peers, particularly efforts related to discussing the benefits of healthy activity, especially physical activity, for youth;

(4) Current and previous experience related to coordinating/collaborating with federal, state, and local government agencies, and non-governmental organizations that work in the areas of health, education, social services, and other relevant areas, particularly efforts related to the promotion of healthy activity, especially physical activity, for youth;

(5) Current and previous experience related to building and/or participating in alliances, networks, or coalitions, particularly efforts related to the promotion of healthy activity, especially physical activity, for youth.

b. Describe the national organization's constituents and affiliates as follows:

(1) Type of constituency;

(2) Number of constituents and affiliates;

(3) Location of constituents and affiliates;

(4) How the constituents and affiliates work with or influence youths ages 9 to 13, their parents or other primary care-givers, and other key influential adults in promoting healthy activity, especially physical activity;

(5) How the constituents and affiliates work with decision-makers in discussing the benefits of healthy activity, especially physical activity.

3. Operational Plan (No More Than 6 Pages)

a. *Goals.* List goals that specifically relate to completion of program requirements at the end of the one year project period.

b. *Objectives:* List objectives that are specific, measurable, and feasible to be accomplished during the 12-month budget period. The objectives should relate directly to the project goals and recipient activities.

c. Describe in narrative form, and display on a timetable, specific activities that are related to each objective. Indicate when each activity will occur as well as when preparations for activities will occur. Also, indicate who will be responsible for each activity and identify staff who will work on each activity.

4. Administration and Management (No More Than 2 Pages)

a. Provide in the application appendices job descriptions for key staff who will work on the proposed activities.

b. Demonstrate that key personnel have the necessary background and qualifications for the proposed responsibilities; ensure for each position the appropriate education and experience; and include curriculum vitae and letters of support from already-identified contractors (if applicable) who will work on the proposed activities.

c. Provide an organizational chart that illustrates the national organization's structure in regard to member/staff roles and positions. Describe lines of communication, accountability, reporting, authority, and management and control systems.

5. Collaboration (No More Than 2 Pages)

Describe the types of proposed collaboration and the agencies and organizations with whom collaboration will be conducted. Examples of such activities include, but are not limited to:

a. Coordinating or collaborating with relevant agencies and organizations on the development, dissemination, and implementation of the national organization's proposed activities.

b. Linking with national youth media campaign messages and activities that promote healthy activity, especially physical activity, among youth, and conducting pilot-testing of projects in communities hosting grassroots events to promote youth physical activity as part of national youth media campaign events.

c. Participating in teleconferences, workshops, and meetings with other agencies and organizations to conduct national youth media campaign activities.

d. Participating in an expert panel meeting on school and community-based strategies for reinforcing and supporting National Youth Media Campaign messages, tools, and resources.

6. Evaluation Plan (No More Than 2 Pages)

Describe plans to evaluate progress in meeting objectives and conducting activities during the budget period. Specify what data will be obtained and present a plan that includes how the data will be obtained, prepared in a specific report(s), and used to improve the program. Indicate in the plan who will do what and when.

7. Budget and Justification (No More Than 2 Pages)

Provide detailed budget and line-item justification for all operating expenses that are consistent with proposed objectives and planned activities, including funds to travel at least one staff person to a two-day expert panel meeting in Atlanta, Georgia on school- and community-based strategies for reinforcing and supporting National Youth Media Campaign messages, tools, and resources.

F. Submission and Deadline

Letter of Intent (LOI)

A LOI is requested for this program. On or before June 1, 2001, fax the LOI to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement. The narrative should be no more than one double-spaced page, printed on one side, with one inch margins, and unreduced font. Your letter of intent will be used to enable the program to better estimate the number of reviewers that will be required to review applications. The LOI should consist of a simple statement of the organization's intention to apply. The information contained within the letter of intent will not be reviewed or used as part of the application review process.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: http://forms.psc.gov.

On or before July 15, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications will be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following evaluation criteria by an independent review group appointed by CDC.

1. Background and Need (10 points)

The extent to which the applicant describes the problem(s) being addressed by their proposed activities and the need for their proposed activities nationally.

2. Capacity (35 points)

The extent to which the applicant demonstrates the capacity and ability of their organization and constituency to influence pre-teens, their care-givers and promote healthy activity for youth, especially physical activity. The care-givers, and others who can influence pre-teens (e.g, teachers, coaches, school personnel, community leaders, teenagers).

3. Operational Plan (30 points)

The extent to which the applicant:

a. *Identifies Goals.* The extent to which the applicant has submitted goals that are specific and feasible for the projected one year project period and are consistent with program requirements.

b. *Identifies Objectives.* The extent to which the applicant has submitted objectives for the one year budget period that are specific, measurable, and feasible and are related directly to the program's goals.

c. Describes in narrative form, and on a timetable, specific activities related to each objective.

4. Administration and Management (10 Points)

The extent to which the applicant identifies staff that have the responsibility, capability, and authority to carry out each activity, as evidenced by job descriptions, curriculum vitae, organizational charts, and letters of support from already-identified contractors (if applicable).

5. Collaboration (10 Points)

The extent to which the applicant provides letters of commitment from

proposed collaborators and partners, and describes how they will coordinate or collaborate with relevant agencies and organizations to conduct their proposed activities and integrate their proposed activities with national youth media campaign messages and activities that promote healthy activity, especially physical activity, among youth.

6. Evaluation Plan (5 Points)

The extent and method to which the applicant proposes to measure progress in meeting objectives and program effectiveness, and presents a reasonable plan for obtaining data, reporting the results, and using the results for programmatic decisions.

7. Budget and Justification (Reviewed, But Not Scored)

The extent to which the budget is reasonable and consistent with the purposes and activities of the program.

H. Other Requirements

Technical Reporting Requirement

Provide CDC with the original plus two copies of:

1. Annual progress reports.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the application kit.

AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirement
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 311(b) and (c), and 317 (k)(2) [42 U.S.C. 241(a), 243 (b) and (c), and 247b(K)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.938.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov. Click on "Funding" then "Grants and Cooperative Agreements."

Cynthia Collins, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention (CDC), Program Announcement 01031, 2920 Brandywine Rd., Room 3000, MS E–18, Atlanta, GA 30341–4146, Telephone number: 770–488–2757, Fax: 770–488–2820, Email: coc9@cdc.gov.

For program technical assistance, contact:

Mary Vernon-Smiley, Chief, Special Populations Program Section, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE MS K–31, Atlanta, GA 30341, Telephone number: 770–488–6199, Email: mev0@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12984 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01110]

Applied Research in Emerging Infections Investigations of West Nile Virus; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for Applied Research in Emerging Infections Investigations of West Nile Virus. This program addresses the "Healthy People 2010" focus area Immunization and Infectious Diseases.

The purpose of the program is to provide assistance to organizations in developing applied research efforts pertaining to West Nile (WN) virus and other arboviruses that occur in the United States (U.S.).

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $2,000,000 is available in FY 2001 to fund approximately ten to twelve awards. It is expected that the average award will be $150,000, ranging from $100,000 to $300,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

Develop and implement applied research investigations on one or more of the following topics:

a. Determine the current and future geographic distribution of WN virus. Utilize longitudinal laboratory-based surveillance systems for WN virus in humans, birds, other selected animals, and mosquitoes to determine the geographic distribution of WN virus in the Western Hemisphere.

b. Determine the contribution of bird migration to WN virus dispersal. Develop laboratory and field-based systems to better understand avian dissemination of WN virus. Studies could include determining the frequency and duration of chronic avian infections that would allow the long range transport and recrudescence of viremias necessary to infect mosquitoes.

c. Characterize WN virus mosquito vector and vertebrate host relationships. Analyze the vertebrate host and mosquito vector relationships of WN virus in the U.S. and the Western Hemisphere. Target selected species involved in maintenance, epidemic/epizootic transmission cycles, or both to determine what effective prevention and control strategies will be required. It is critical that the principal species and the range of these species be determined.

d. Characterize mosquito biology, behavior, and vector competence for WN virus in the U.S. Investigate the different vector species important in WN virus transmission in each geographic or ecologic region to understand better their biology and behavior. Investigate the principal mosquito vectors involved in maintenance, bridge (from enzootic to peridomestic), and epidemic/epizootic transmission to understand and design more effective methods for prevention and control.

e. Develop and evaluate prevention strategies. These strategies can include but are not limited to better defining target areas for mosquito control in response to documented WN virus activity, derivation and implementation of new, natural compounds to repel and control mosquito-vectors of disease and determining the efficacy of public outreach materials and campaigns in reducing risk from WN virus infection.

f. Develop laboratory diagnostic tests that are more sensitive, specific and reproducible than current laboratory methods used to detect West Nile virus. Test methods may include, but are not limited to serology, culture, nucleic acid amplification or antigen detection.

g. Identify the clinical spectrum of North American WN virus disease and its long-term prognosis in humans. Determine the spectrum of illness caused by WN virus infection in humans, including the long-term consequences of acute infection of the central nervous system. In addition to the severe end of the clinical spectrum (viral encephalitis), determine the degree to which mild viral syndromes occur, whether these patients have any unique clinical presentations that may be characteristic or even pathognomonic, whether they have viremia and, if so, its magnitude and duration. Determine if effective clinical management of severe disease will require detailed clinical studies of confirmed human cases of WN virus infection.

h. Identify risk factors for WN virus exposure and disease. Data on the risk factors associated with human and animal infection with WN virus are required to develop more effective prevention strategies, particularly when educating the public to take specific prevention measures to reduce exposure to infection.

i. Characterize the genetics, pathogenesis, virulence and possible direct transmission and persistence of the North American strain of WN virus as it compares to other WN viruses in animal models and wildlife. Little is known about the pathogenesis of WN virus in humans or other animals. Investigate, to better understand, whether genetic changes in WN viruses influence their phenotypic expression (e.g., host and vector range); the possibility of persistent infections including the duration of chronic infection and reactivation in birds or other animals; the possibility and importance of direct transmission without the help of mosquitoes; and the identification of overwintering mechanisms in Culex and Aedes species mosquitoes.

2. CDC Activities

a. Provide technical assistance, as requested, in the design or evaluation of experimentation.

b. Assist in the analysis of laboratory test data, as appropriate, depending on the needs of the recipient.

c. Assist in the acquisition of appropriate samples for study, as requested.

d. Assist in the coordination of research activities among different recipient sites.

e. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

E. Content

Letter of Intent (LOI)

An LOI is optional for this program. The narrative should be no more than 3 single-spaced pages, printed on one side, with one inch margins, and unreduced font. Your letter of intent will be used to enable CDC to plan for the review, and should include the following information (1) the program announcement number 01110, (2) name and address of institution, (3) name, address, and telephone number of contact person and (4) the applied research investigation topic(s) selected for submission. Notification can be provided by facsimile, postal mail, or electronic mail (E-mail).

Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

1. Abstract

Provide a brief (two pages maximum) abstract of the project and specify the applied research investigation topic(s) selected for submission. Clearly identify the project period proposed.

2. Background and Need

Discuss the background and need for the proposed project. Demonstrate a clear understanding of the purpose and objectives of this program announcement. Discuss and demonstrate how the proposed project addresses an important gap which is of public health importance.

3. Capacity and Personnel

Describe applicant's past experience in conducting activities similar to that being proposed. Describe applicant's resources, facilities, and professional personnel that will be involved in conducting the project. Include in an appendix curriculum vitae for all professional personnel involved with the project. Describe plans for administration of the project and identify administrative resources/personnel that will be assigned to the project. Clearly identify specific assigned responsibilities for all key professional personnel. Provide in an appendix letters of support from all key participating non-applicant organizations, individuals, etc. (if any), which clearly indicate their commitment to participate as described in the operational plan.

4. Objectives and Technical Approach

Present specific objectives for the proposed research which are measurable and time-phased and are consistent with the Purpose and Recipient Activities of this announcement. Present a detailed operational plan for initiating and conducting the research which clearly

and appropriately addresses these objectives (if proposing a multi-year project, provide a detailed description of first-year activities and a brief overview of subsequent-year activities). Include a clear description of applicant's technical approach/methods which are directly relevant to the above objectives. Describe specific study protocols or plans for the development of study protocols. Describe the nature and extent of collaboration with CDC and/or others during various phases of the research. Describe in detail a plan for evaluating progress toward achieving process and outcome project objectives. If the project will employ a particular research subject population, describe characteristics of the patient population and how research in this subject group will yield generalizable information. Describe contingency plans which acknowledge how the research will address likely obstacles and assure that the proposed task(s) can still be completed. Include sample size calculations where appropriate to assure that measurable objectives can be evaluated.

5. Budget

Provide a detailed budget as outlined in the application Errata Instruction Sheet for PHS 398.

F. Submission and Deadline

Letter of Intent (LOI)

On or before June 15, 2001, submit the LOI to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398)]. Forms are available in the application kit and at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm

On or before July 15, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Plan (20 Points)

The extent the proposed research plan shows scientific validity and whether the plan addresses a stated purpose of this program.

2. Capacity (40 Points)

a. The extent the applicant documents and describes their general expertise in the areas relevant to their submitted application (e.g., diagnostic test development, field studies with zoonotic diseases, working with small animal models of disease).

b. The extent the applicant describes and documents their experience in research on mosquito-borne viral diseases and flaviviruses in particular.

c. The extent to which the applicant has the appropriate project personnel, organizational structure, and administrative support to assure meeting proposed objectives.

d. The extent to which the applicant has access to necessary biological materials or study populations.

3. Objectives and Prospects (15 points)

The extent the objectives along with the prospects for successfully achieving them and the likelihood that the product(s) of the investigation will result in the development of better prevention or intervention measures.

4. Evaluation (20 points)

a. The feasibility of completing the proposed studies and meeting measurable objectives within the project period.

b. The extent to which the applicant proposes appropriate methods for evaluating the projects and/or design methods that are adequate to measure differences, when warranted.

5. Inclusion of Women, Ethnic, and Racial Groups (5 points)

Applicants should meet CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic populations for appropriate representation, (2) the proposed justification when representation is limited or absent, (3) a statement as to whether the design of the study is adequate to measure differences when warranted, and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

6. Budget (Not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

7. Human Subjects (Not scored)

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.)

8. Animal Subjects (Not scored)

Does the application adequately address the requirements of the PHS Policy on Humane Care and Use of Laboratory animals by Awardee Institutions?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. semiannual progress reports;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit of the announcement.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–3 Animal Subjects Requirements
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a) [42 U.S.C. 241(a)] and 317(k)(2) [42 U.S.C. 247b(k)(2) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Program Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Gladys Gissentanna, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2753, E-mail address: gcg4@cdc.gov.

For program technical assistance, contact: Dr. John Roehrig, Division of Vector-Borne Infectious Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, P. O. Box 2087 (Foothills Campus), Fort Collins, CO 80522, Telephone number: 970–221–6442, E-mail address: jtr1@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12982 Filed 5–22–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Program Announcement No. ACF/ACYF/CB FY 2001–01A; Announcement of the Availability of Financial Assistance and Request for Applications to Support Adoption Opportunities Demonstration Projects, Child Abuse and Neglect Discretionary Activities, Abandoned Infants Assistance Awards, and Project To Build the Analytical Capacity of State Child Welfare Programs

AGENCY: Administration on Children, Youth and Families (ACYF), ACF.

ACTION: Correction.

SUMMARY: This document contains a correction to the Notice that was published in the **Federal Register** on Tuesday, May 1, 2001 (66 FR 21760). On page 21761, Column three, the information in the "Project Duration" section of priority area 2001B.1 National Resource Center on Child Maltreatment is in error. The correct information is as follows: The cooperative agreement will be awarded for a project period not to exceed 36 months. The initial grant award will be awarded for a 12-month budget period. The award of continuation funding beyond the 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center at 1–800–351–2293 or send an email to *cb@cgnet.com*. You may also contact Sally Flanzer, Children's Bureau, at 202–215–8914.

Dated: May 18, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–13044 Filed 5–22–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01F–0233]

Alcide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Alcide Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acidified sodium chlorite solutions as an antimicrobial agent in processing waters applied to processed fruits and vegetables.

DATES: Submit written comments on the petitioner's environmental assessment by June 22, 2001.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 1A4729) has been filed by Alcide Corp., 6561 154th Ave. NE., Redmond, WA 98052. The petition proposes to amend the food additive regulations in § 173.325 *Acidified sodium chlorite solutions* (21 CFR 173.325) to provide for the safe use of acidified sodium chlorite solutions as an antimicrobial agent in processing waters applied to processed fruits and vegetables.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may submit to the Dockets Management Branch written comments by June 22, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and

this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 4, 2001.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–13068 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 11, 2001, 11:30 a.m. to 2:30 p.m.

Location: Food and Drug Administration, 8800 Wisconsin Ave., Bldg. 29–B, conference room 1NN06, Bethesda, MD. This meeting will be held via telephone conference call. A speaker phone will be provided in the conference room to allow public participation in the meeting.

Contact: Nancy T. Cherry or Denise H. Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138, (301–443–0572 in the Washington, DC area), code 12391. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss the intramural scientific research program of the Laboratory of Pediatric and Respiratory Viral Diseases.

Procedure: On June 11, 2001, from 11:30 a.m. to 1:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 31, 2001. Oral presentations from the public will be scheduled between approximately 12:20 p.m. and 1:25 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 31, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On June 11, 2001, from 1:30 p.m. to 2:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The meeting will be closed to discuss personal information concerning individuals associated with the research program.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 17, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–13070 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–1195]

Guidance for Industry on Bioanalytical Method Validation; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Bioanalytical Method Validation." This guidance provides assistance to sponsors of investigational new drug applications (INDs), new drug applications (NDAs), abbreviated new drug applications (ANDAs), and their supplements in developing validation information on bioanalytical methods for pharmacokinetic (PK) evaluation of human clinical pharmacology, bioavailability (BA), and bioequivalence (BE) studies. The guidance also applies to bioanalytical methods used for nonhuman pharmacology/toxicology studies and preclinical studies. For studies related to the veterinary drug approval process, this guidance applies only to blood and urine BA, BE, and PK studies.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Vinod P. Shah, Center for Drug Evaluation and Research (HFD–350), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5635.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled "Bioanalytical Method Validation." This guidance provides recommendations to sponsors of INDs, NDAs, ANDAs, and their supplements in developing validation information for bioanalytical methods for PK evaluations of human clinical pharmacology, BA studies, and BE studies. The information in this guidance generally applies to bioanalytical procedures such as gas chromatography (GC), high-pressure liquid chromatography (LC), combined GC and LC mass spectrometric (MS) procedures such as LC–MS, LC–MS–MS, GC–MS, GC–MS–MS, and immunological and microbiological procedures performed for quantitative determination of drugs and or metabolites in biological matrices such as serum, plasma, or urine. The guidance also applies to other bioanalytical matrices such as tissue and skin samples.

In the **Federal Register** of January 5, 1999 (64 FR 517), FDA announced the availability of a draft guidance entitled "Bioanalytical Methods Validation for Human Studies." This January 1999 document gave interested persons an opportunity to comment through March 8, 1999. The agency received a total of 36 comments. All comments received during the comment period have been carefully reviewed and incorporated in this revised guidance where appropriate. In addition, a workshop entitled "Bioanalytical Method Validation—A Revisit with a Decade of Progress" was held January 12 to 14, 2000. This guidance also incorporates the recommendations from the January 2000 workshop.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The guidance represents the agency's current thinking on the validation of methods for the assay of drugs and/or metabolites in human biological matrices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12908 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1497]

The Mammography Quality Standards Act Final Regulations Document #4; Final Guidance for Industry and FDA; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "The Mammography Quality Standards Act Final Regulations Document #4; Final Guidance for Industry and FDA." The final regulations implementing the Mammography Quality Standards Act of 1992 (the MQSA) became effective April 28, 1999. The final guidance document is intended to assist facilities and their personnel to meet the MQSA final regulations.

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the guidance document entitled "The Mammography Quality Standards Act Final Regulations Document #4; Final Guidance for Industry and FDA" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Charles A. Finder, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

The draft guidance document was issued for public comment in the **Federal Register** of September 13, 2000 (65 FR 55265). The comment period ended on December 13, 2000. The draft guidance was discussed with the National Mammography Quality Assurance Advisory Committee at the September 28, 2000, meeting. The final guidance document has been modified from the original draft guidance to address the seven public comments received. There were several clarifying changes made to the document, particularly dealing with the issues of what constitutes a "major repair" and when the physicist must perform onsite evaluations. Several decision tree flow diagrams were added to the document to help clarify these issues. Overall, there were no major substantive changes made to the document.

II. Significance of the Guidance

This guidance document represents the agency's current thinking on the MQSA final regulations guidance. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statutes and regulations.

The agency has adopted the good guidance practices (GGPs) regulation, which sets forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document is issued as a level 1 guidance consistent with GGPs.

III. Electronic Access

In order to receive "The Mammography Quality Standards Act Final Regulations Document #4; Final Guidance for Industry and FDA" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1159) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. "The Mammography Quality Standards Act Final Regulations Document#4; Final Guidance for Industry and FDA" will also be available on CDRH's mammography Web site at http://www.fda.gov/cdrh/mammography. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov.ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this guidance at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 16, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–12909 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0495]

Prescription Drug User Fee Act (PDUFA) II Five-Year Plan—FY 2001 Update; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an internal planning document entitled "PDUFA II Five-Year Plan—FY 2001 Update." The updated plan to achieve PDUFA II goals for the drug review process takes into account changes in revenue projections and workload based on actual revenue and application receipts in fiscal year (FY) 1998, FY 1999, and FY 2000 and updated projections for FY 2001 and FY 2002.

DATES: Submit written comments on the plan at any time. Comments will be considered as the agency makes annual adjustments to the plan in the second quarter of each FY.

ADDRESSES: Submit written requests for single copies of this plan to the Office of Management and Systems (HF–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, Attn: Frank Claunts. Send a self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the plan to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the plan.

FOR FURTHER INFORMATION CONTACT: Frank Claunts, Office of Management Systems (HF–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4427.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of an internal planning document entitled "PDUFA II Five-Year Plan—FY 2001 Update." The Prescription Drug User Fee Act of 1992 (PDUFA) was amended and extended through the year 2002 by the Food and Drug Administration Modernization Act of 1997. The amended and extended PDUFA is referred to as PDUFA II. PDUFA II authorizes appropriations and fees that will provide FDA with resources to sustain the drug review staff developed through FY 1997 and to achieve the even more stringent new goals.

The updated FY 2001 plan begins with a statement of purpose, provides background information on PDUFA and a summary of the new goals, and updates the 10 major assumptions on which the plan is based. This is the third update of the plan since it was initially published in July 1998. The updated plan summarizes individual plans of agency components with major PDUFA responsibilities and also provides a consolidated agency summary. The updated plan to achieve PDUFA II goals for the drug review process takes into account changes in revenue projections and workload based on actual revenue and application receipts in FY 1998, FY 1999, and FY 2000 and updates projections for FY 2001 and FY 2002. Attachments include the **Federal Register** notice of December 18, 2000 (65 FR 79107), establishing prescription drug user fee rates for FY 2001, updated 5-year estimates of PDUFA fees and revenues, and the revised PDUFA II Information Management Five-Year Plan.

We are making this plan available to all that have an interest. We welcome comments and will consider them in the future as annual adjustments are made to the plan.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the plan at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The FY 2001 update and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/oc/pdufa2/5yrplan.html.

Dated: May 17, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13069 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2001.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: June 21, 2001; 3 p.m.–6:30 p.m.; June 22, 2001, 8 a.m.–5 p.m.; June 23, 2001, 9 a.m. to 5:30 p.m.; June 24, 2001, 8 a.m.–10:15 a.m.

Place: Hyatt Regency Hotel, 575 Memorial Drive, Cambridge, MA 02139–4896, Phone: (617) 492–1234.

The meeting is open to the public.

Agenda: The Council will focus its agenda on strategic and operational plans for the current fiscal year. The Council will be attending three community meetings in Raymond, NH, Worcester, MA, and Providence, RI, on Friday, June 22, to discuss integrated primary medical care, the integration of primary care, mental and behavioral health, and oral health. Transportation will not be provided to the general public.

Agenda items and times are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Ms. Eve Morrow, Division of National Health Service Corps, at (301) 594–4144.

Dated: May 17, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–12910 Filed 5–22–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Customer/Partner Satisfaction Survey of the NIDCD Minority and Disability Supplement Program

SUMMARY: Under the provisions of Section 3507 (a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute on Deafness and Other Communication Disorders (NIDCD), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. The proposed information collection was previously published in the **Federal Register** on January 26, 2001, page 7919–7920, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Customer/Partner Satisfaction Survey of the NIDCD Minority and Disability Supplement Program. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The NIDCD was established to support biomedical and behavioral research and research training in hearing, smell, balance, taste, voice, speech and language. Although minorities and people with disabilities will soon dominate the work force, these groups are underrepresented in the professional fields of science and health. To encourage members of these groups to pursue careers in these fields, NIDCD provides opportunities for extramural grant recipients to mentor promising candidates. The proposed survey will collect information from participants in the Minority and Disability Supplement Program and will yield information about satisfaction of participants with the program and how participation may have lead to the pursuit of a career in the health field. *Frequency of Response:* One. *Affected Public:* Individuals. *Type of Respondent:* Minority individuals and individuals with disabilities who have previously participated in the Supplement Program. The annual reporting burden is as follows: *Estimated Number of Respondents:* 200. *Estimated Number of Responses per Respondent:* One. *Average Burden Hours Per Response:* 0.5; and *Estimated Total Annual Burden Hours Requested:* 100. The annualized cost to respondents is estimated at: $150. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Survey of Participant	200	1	0.5	100
Total	200			100

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Judith A. Cooper, Ph.D., Chief, Scientific Programs Branch, NIDCD, NIH, 6120 Executive Blvd., EPS 400–C, MSC 7180, Bethesda, MD 20892, or call non toll-free number (301) 496–5061, or E-mail your request, including your address to: *judith_cooper@nih.gov*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: April 26, 2001.

David Kerr,

Executive Officer, NIDCD.

[FR Doc. 01–12912 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, NIH.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, NIH.

Date: June 7, 2001.

Time: 9 am to 3:30 pm.

Agenda: Report from the Acting Director, NIH, Update on the Reorganization Activities in the Center for Scientific Review, Report from the Extramural Construction Working Group, Technology Transfer Issues, and an Update on Regulatory Burden and Modular Grants.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 10, Bethesda, MD 20892.

Contact Person: Janice C. Ramsden, Committee Mgmt. Officer, Office of the Director, NIH, Building 1, Room 333, Bethesda, MD 20892, 301–496–0959.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/about/director/acd.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12914 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Secretary's Advisory Committee on Xenotransplantation.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such assign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Secretary's Advisory Committee on Xenotransplantation.

Date: July 2–3, 2001.

Time: July 2, 2001, 8:30 a.m. to 5:30 p.m.

Agenda: Infectious disease issues in xenotransplantation.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Time: July 2, 2001, 7:30 p.m. to 9 p.m.

Agenda: Infectious disease issues in xenotransplantation.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Time: July 3, 2001, 8:30 a.m. to 2:00 p.m.

Agenda: Infectious disease issues in xenotransplantation.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Groesch, PhD, Executive Director, Secretary's Advisory Committee on Xenotransplantation, Office of Science Policy, Rockledge I, Room 750, Rockville, MD 20852, 301–496–9838.

Information is also available on the Institute's/Center's home page: www4.od.nih.gov/oba/xenomtg.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12924 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Development of High-Yield Technologies for Isolating Exfoliated Cells in Body Fluids.

Date: June 11, 2001.

Time: 8 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, 6130 Executive Blvd., Conference Room C, Rockville, MD 20852.

Contact Person: Kenneth L. Bielat, PhD, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8043, Bethesda, MD 20892, (301) 496–7576.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12915 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Cancer Prevention Research Small Grants Program.

Date: June 19, 2001.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8066, Bethesda, MD 20892–7405, (301) 496–7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12916 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee F—Manpower & Training.

Date: June 13–15, 2001.

Time: 8 am to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Mary Bell, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Phs. Dhhs, 6116 Executive Boulevard, Room 8113, Bethesda, Md 20892–8328, 301–496–7978.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12917 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel General Clinical Research Centers.

Date: June 12, 2001.

Time: 7 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John L. Meyer, PhD, Deputy Director, Office of Review, National Center for Research Resources, National Institutes of Health, 6705 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6018, Bethesda, MD 20892–7965, 301–435–0806, meyerj@ncrr.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12928 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel (RFA: HL–01–010) Non-Mouse Models of Diabetes Complications in Cardiovascular and Microvascular Diseases.

Date: June 12, 2001.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.

Contact Person: William J. Johnson, PhD, NIH/NHLBI/DEA/Review Branch, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–9692, 301–435–0277.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12926 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: June 21, 2001.

Open: 8:30 am to 12 pm.

Agenda: The meeting will be open to the public to discuss administrative details relating to Council business and special reports.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: 1 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Steven J. Hausman, PhD, Deputy Director, NIAMS/NIH, Bldg. 31, room 4C–32, 31 Center Dr, MSC 2350, Bethesda, MD 20892–2350, (301) 594–2463.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 11, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12913 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: June 15, 2001.

Time: 8 am to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Gary S. Madonna, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12918 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: June 7–8, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Virginian Suites Conference Center, 1500 Arlington Blvd., Arlington, VA 22209.

Contact Person: Anna Ramsey-Ewing, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, ar15o@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12919 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology and Infectious Diseases Research Committee.

Date: June 14, 2001.

Open: 9 a.m. to 10 a.m.

Agenda: Reports from various institute staff.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Closed: 10 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gary S. Madonna, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12920 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant application and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institutes of Allergy and Infectious Diseases Special Emphasis Panel "Peripheral Tolerance and Autoimmunity."

Date: June 13, 2001.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Room 2223, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nasrin Nabavi, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, nn30t@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12922 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel

Date: May 23, 2001.

Time: 10 am to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Blvd., Suite 400, Rockville, MD 20852.

Contact Person: Sean O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: June 18, 2001.

Time: 8:30 am to 4 pm.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Boulevard, Suite 409, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ronald Suddendorf, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2926.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12927 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: June 7, 2001.
Time: 5 pm to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: June 20, 2001.
Time: 10:30 am to 11:30 am.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: July 6, 2001.
Time: 2:00 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.21, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12929 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial priority such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: June 19–20, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, *mcarey@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12930 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: May 25, 2001.
Time: 8:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Hotel, 30 Whalley Avenue, New Haven, CT 06511.
Contact Person: Michael A Oxman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892, 301/435–3565, oxmanm@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12923 Filed 5–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 1, 2001.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Rosslyn, 1900 North Fort Myer Drive, Arlington, VA 22209.
Contact Person: Lee Rosen, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 3–5, 2001.
Time: 7 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892, (301) 435–1779, riverse@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.
Date: June 4–5, 2001.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Lee Rosen, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 4, 2001.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Syed Quadri, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892, (301) 435–1211.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Endocrinology and Reproductive Sciences and Integrated Review Group, Biochemical Endocrinology Study Section.
Date: June 4–5, 2001.
Time: 7 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Debora L. Hamernik, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, (301) 435–4511, hamernid@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Radiology Study Section.
Date: June 5–6, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, bradleye@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 5, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Old Town Alexandria, 480 King Street, Alexandria, VA 22314.
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Center for Scientific Review Panel.
Date: June 5, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Jurys Washington Hotel, Washington, DC 20036.
Contact Person: Syed Husain, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892–7850, (301) 435–1224, husains@csr.nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 1.
Date: June 5–6, 2001
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.
Contact Person: Gamil C Debbas, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

Name of Committee: Center for Scientific Review Panel.
Date: June 5, 2001.
Time: 4 p.m. to 4:20 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Lee Rosen, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 5, 2001.
Time: 4:20 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Lee Rosen, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 5, 2001.
Time: 12 p.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 453–1179, bradleye@csr.nih.gov.

Name of Committee: Oncological Sciences Integrated Review Group, Pathology B Study Section.
Date: June 6–8, 2001.

Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Martin L. Padarathsingh, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 6, 2001.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Michael Knecht, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Visual Sciences C Study Section.
Date: June 7–8, 2001.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., MONET IV, Washington, DC 20024–2197.
Contact Person: Carole L. Jelsema, Ph.D., Scientific Review Administrator, MDCN Integrated Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892–7850, (301) 435–1248, jelsemac@csr.nih.gov.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 2.
Date: June 7–8, 2001.
Time: 8:30 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Ramesh K. Nayak, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026, nayakr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 7–8, 2001.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Angela M. Pattatucci-Aragon, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 7–8, 2001.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Julian Azorlosa, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 7–8, 2001.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Thomas A. Tatham, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, tathamt@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 8, 2001.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Betty Hayden, Ph.D., Scienctific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, (301) 435–1223, haydenb@csr.nih.gov.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Medicinal Chemistry Study Section.
Date: June 8–9, 2001.
Time: 8:30 a.m. to 7:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Bozeman Comfort Inn, 1370 North 7th Avenue, Bozeman, MT 59715.
Contact Person: Ronald J. Dubois, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722, duboisr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 8, 2001.
Time: 9:30 a.m. to 11:30 a.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, room 5134, MDC 7840, Bethesda, MD 20892, (301) 435–1019.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 01–12925 Filed 5–22–01; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, As Amended; Addition of a New System of Records

AGENCY: Department of the Interior.
ACTION: Proposed addition of a new system of records.

SUMMARY: The Department of Interior is issuing public notice of its intent to add a new Department-wide Privacy Act system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a). This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency (5 U.S.C. 552a(e)(4)). The new system of records is called the "DOI–05: The Volunteer Services File."

DATES: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this proposed system of records may do so by submitting comments in writing to the Departmental Privacy Act Officer, U.S. Department of the Interior, Office of Information Resources Management, MS 5312 MIB, 1849 C Street, NW., Washington, DC 20240, or by e-mail at *Marilyn_Legnini@doi.gov*. Comments received on or before July 2, 2001 will be considered. The system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. In that case the Department will publish any changes to the routine uses.

FOR FURTHER INFORMATION CONTACT: John Mahoney, Office of Planning and Performance Management, Office of the Secretary, by phone at 202–208–4560, email at: *John_Mahoney@doi.gov*, or mail at MS–5259–MIB, 1849 C St., NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Interior Volunteer Services File system will contain information on individuals for the purpose of determining an interest in a volunteer opportunity, suitability for the opportunity, and for administration of the volunteer program.

A copy of the system notice for "Interior Volunteer Services File System" DOI–05, follows.

Dated: May 18, 2001.

Marilyn Legnini,
Departmental Privacy Act Officer, Department of Interior.

INTERIOR/DOI–05

SYSTEM NAME:

Interior Volunteer Services File System.

SECURITY CLASSIFICATION:

Not classified.

SYSTEM LOCATION:

The records of this system are located at various field offices of Department of Interior bureaus which currently utilize volunteers. See Interior Bureau headquarter offices listed below or from the Department of Interior web site at www.doi.gov:

(1) U.S. Geological Survey, Volunteer for Science Program, Office of Communications, 12201 Sunrise Valley Drive, Reston, VA 20192.

(2) U.S. Fish and Wildlife Service, Volunteer Program, Headquarters Office, National Wildlife Refuge System, 4401 N. Fairfax Drive, Rm 670, Arlington, VA 22203.

(3) Bureau of Reclamation, Volunteer Program, Office of Policy, Department of the Interior, 1849 C. St. NW., Washington, DC 20240.

(4) Bureau of Land Management, Environmental Education and Volunteers Group, 1849 C. St., LS–406, Washington, DC 20240.

(5) National Park Service, Servicewide Volunteer Coordinator, Rm. 7312, 1849 C Street NW., Washington, DC 20240.

(6) Information from on-line applications from the Volunteer Page web site is managed by the National Business Center, U.S. Department of the Interior, Second Floor, Parker Building, Reston, Virginia 20192.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons performing work for the Department of Interior as volunteers but not as an employee of the agency. It includes interested persons, individuals involved in community, youth organizations, high schools and colleges.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file may contain application forms; name; address; home phone number; facility where the individual is providing volunteer services; name of the supervisor; dates volunteered; date terminated; any physical or medical condition the facility staff needs to be aware of; emergency contact name, address, telephone, and relationship to the volunteer, and (if applicable) specific training the volunteer needs; personal equipment the volunteer needs; and reimbursable expenses provided to the volunteer; agreements to perform the services described; emergency notification data; contact information; time sheets; skills and qualification information; receipt for property; compensation for injuries; performance evaluation; and other information necessary to manage the volunteer program for each DOI bureau or office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use by Department of the Interior bureaus and offices to identify persons interested in participating in a government volunteer program, and for all necessary purposes for managing the volunteer program.

Disclosures outside the Department of the Interior may be made under the routine uses listed below without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected.

(1) To an expert, consultant, or contractor (including employees of the contractor) of the Department that performs, on the Department's behalf, services requiring the use of these records.

(2) To another government natural resource agency for the purpose consistent with the purpose identified above;

(3) The Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(1) The Department or any component of the Department;

(2) Any Departmental employee acting in his or her official capacity;

(3) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee, or

(4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and

(b) The Department deems the disclosure to be:

(1) Relevant and necessary to the proceedings; and

(2) Compatible with the purpose for which we compiled the information.

(4) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license, when the Department becomes aware of a violation or potential violation of a statute, rule, regulation, order or license.

(5) To a congressional office in response to an inquiry an individual has made to the congressional office.

(6) To the Office of Personnel Management or the General Accounting Office when the information is required for evaluation of the child care subsidy program.

Disclosure to Consumer Reporting Agencies:

Pursuant to 5 U.S.C. 552a(b)12, records can be disclosed to consumer reporting agencies as they are defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored both in file folders, and in electronic form, in computer systems.

Retrievability:

Indexed by name of the volunteer, control number assigned the volunteer, or social security number.

Safeguards:

Access to records in the system is limited to authorized personnel whose official duties require such access. Paper records are maintained in locked metal file cabinets and/or in secured rooms. Electronic records conform to Office of Management and Budget and Departmental guidelines reflecting the implementation of the Computer Security Act of 1987 (40 U.S.C. 759). Electronic data will be protected through user identification, passwords, database permissions and software controls. Such security measures will establish different access levels for different types of users.

Retention and Disposal:

Records in this system are covered by each individual Bureau/Office records schedule that has a Volunteer Program.

National Archives and Records Administration guidance on permanent and temporary records disposition is followed.

System Manager(s) and Address:

Officials responsible for the Headquarters and field office system of records specific to that oversight are provided in the listing above under "System Location."

Notification Procedures:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to them, from the organizational unit for which he or she performed work. The request must be in writing, signed by the requester, include the requester's full name and Social Security Number, dates when work was performed, program under which enrolled, and location where work was performed. (See 43 CFR 2.60 for procedures on making inquiries).

Record Access Procedures:

For copies of your records write to the pertinent System Managers at the locations above. The request envelope and letter should be clearly marked "PRIVACY ACT REQUEST FOR ACCESS." A request for access must meet the content requirements of 43 CFR 2.63(b)(4)).

Contesting Record Procedures:

Use same procedures as "Records Access Procedures" section above. (See 43 CFR 2.71).

Record Source Categories:

Information from this system comes primarily from the individual himself, the sponsoring organization, work supervisors and volunteer program officials.

Exemptions Claimed for the System:

None.

[FR Doc. 01–12989 Filed 5–22–01; 8:45 am]
BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting; Klamath River Basin Fisheries Task Force

AGENCY: Fish and Wildlife Service, Interior.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force (Task Force) will meet from 8:00 a.m. to 5:00 p.m. on June 21, 2001, and from 8:00 a.m. to 11:30 p.m. on June 22, 2001.

PLACE: The meeting will be held at the Shilo Inn, 2500 Almond Street, Klamath Falls, Oregon.

FOR FURTHER INFORMATION CONTACT: Phil Detrich, Project Leader, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, California 96097, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Jill Parker,

Acting California/Nevada Operations Manager, California/Nevada Office, Fish and Wildlife Service.

[FR Doc. 01–13048 Filed 5–22–01; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–2800/1610]

Notice of Availability; Draft Environmental Impact Statement/Draft Resource Management Plan Amendment; Falcon to Gonder Project; Proposed Power Transmission Line Project in Lander, Elko, Eureka, and White Pine Counties, NV

AGENCY: Bureau of Land Management (BLM), Interior.

COOPERATING AGENCIES: Nevada Division of Wildlife, Nevada State Historic Preservation Office.

ACTION: Notice of availability of the Draft Environmental Impact Statement/ Draft Resource Management Plan Amendment (DEIS/DRMPA) for the Falcon to Gonder Project, Lander, Elko, Eureka, and White Pine Counties, Nevada.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), 40 Code of Federal Regulations 1500–1508 Council on Environmental Quality Regulations, 43 Code of Federal Regulations 2800, and 43 Code of Federal Regulations 1600, notice is hereby given of the availability of the Draft Environmental Impact Statement/Draft Resource Management Plan Amendments (DEIS/DRMPA), prepared by the Bureau of Land Management (BLM) to analyze a proposed Falcon to Gonder 345 kV transmission line project and associated RMP amendments. The DEIS/DRMPA considers the environmental effects of five transmission line alternatives, along with the No Action Alternative. The project involves the BLM Nevada State Office, as well as BLM's Battle Mountain, Elko, and Ely Field Offices and includes public and private lands in Elko, Eureka, Lander, and White Pine Counties, Nevada.

DATES: Written comments must be postmarked or otherwise delivered by 4:30 p.m. on August 23, 2001. Copies of the DEIS may be obtained at the Nevada State Office or the Battle Mountain, Elko, or Ely BLM Field Offices. Public meetings will be held in the following locations from 7:00 p.m. to 9:00 p.m. on the dates indicated:

June 19, 2001. Carlin City Hall Court Room, 101 South 8th Street, Carlin, NV.

June 20, 2001. Eureka Opera House, 31 South Main Street, Eureka, NV.

June 21, 2001. BLM Ely Field Office, 702 North Industrial Way, Ely, NV.

ADDRESSES: Written comments should be addressed to the Bureau of Land Management, Battle Mountain Field Office, ATTN: Mary Craggett, 50 Bastian Road, Battle Mountain, Nevada 89820. Comments, including names and street addresses of respondents, will be available for public review at the above address during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays, and may be published in the Final EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Mary Craggett (775) 635–4060.

SUPPLEMENTARY INFORMATION: On December 17, 1998, Sierra Pacific Power Company (SPPC) filed a right-of-way application with the BLM for the construction, operation, and maintenance of an approximately 165–185 mile long 345 kV electric transmission line that would connect the Falcon substation (north of Dunphy, Nevada) with the Gonder substation (north of Ely, Nevada). The project would improve electricity import and export capabilities to meet anticipated growth in SPPC's system.

The project, as currently proposed, identifies several route alternatives. The northern portion of any route would head south from the Falcon substation to Highway 50 near Eureka along one of several possible alignments. The southern portion of any route alternative would then head east along Highway 50 to follow an existing Sierra 230 kV line to the Gonder substation. The current alternatives are identified as the Crescent Valley (a), Crescent Valley (b), Pine Valley (a), Pine Valley (b), and Buck Mountain alternatives. The No Action alternative is also analyzed. The Pine Valley (a) route is BLM's preferred alternative.

As part of the proposed action, the BLM is also considering amendments to the RMPs for the Shoshone-Eureka Resource Area, Elko Resource Area, and Egan Resource Area to establish rights-of-way utility corridors along the preferred alignment. The Elko RMP also requires modifying the existing "low visibility" corridor along Interstate 80. Amendments to the Shoshone-Eureka RMP also include the deletion of a utility planning corridor that runs parallel to State Highway 305.

Robert V. Abbey,

State Director, Nevada, Bureau of Land Management.

[FR Doc. 01–12963 Filed 5–22–01; 8:45 am]
BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–030–01–1610–DO]

Extension of Scoping Period for the Lower Potomac River Coordinated Management Plan/Environmental Assessment

AGENCY: Bureau of Land Management, Milwaukee Field Office, Interior.

ACTION: Extension of scoping period.

SUMMARY: On April 30, 2001, the Bureau of Land Management (BLM), Milwaukee Field Office, filed a Notice of Intent to prepare a coordinated management plan (CMP) in the **Federal Register** (66 FR 21412–3) for the Lower Potomac River project area located in Charles County, Maryland. The CMP will be prepared to determine whether and where to acquire land within the project area.

In order to provide the public with a better opportunity to identify issues and concerns, the scoping period will be extended to June 29, 2001. See the April 30, 2001, notice for more information about the project.

DATES: Comments should be postmarked no later than June 29, 2001 to ensure the issues they raise are considered in the plan.

ADDRESSES: Comments may be mailed to the following addresses: James W. Dryden, Field Office Manager, Milwaukee Field Office, P.O. Box 631, Milwaukee, Wisconsin 53201–0631 or Ed Ruda, Project Leader Manager, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153.

FOR FURTHER INFORMATION CONTACT: Ed Ruda, Project Leader.at (703) 440–1663, or by electronic mail at ed—ruda@es.blm.gov, or Howard Levine, Planning and Environmental Coordinator at (414) 297–4463, or by electronic mail at howard_levine@es.blm.gov.

Dated: May 11, 2001.

James W. Dryden,

Milwaukee Field Manager.

[FR Doc. 01–12962 Filed 5–22–01; 8:45 am]
BILLING CODE 4310–PN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–01–1420–BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert M. Scruggs, Chief, Branch of Geographic Services, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6545.

SUPPLEMENTARY INFORMATION: 1. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on the first business day after 30 days from the publication of this notice: The plat, representing the dependent resurvey of a portion of the east boundary of Township 11 South, Range 69 East, and an independent resurvey of a portion of the south boundary and a portion of the subdivisional lines, superseding section 36, as shown on the plat approved December 2, 1881, Township 11 South, Range 69 East, of the Mount Diablo Meridian, in the state of Nevada, under Group No. 796, was accepted May 8, 2001.

This survey was executed to meet certain needs of the Bureau of Land Management and Nevada Land and Resource Company.

2. Subject to valid existing rights, the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, these lands are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to official filing of the Plat of Survey described in paragraph 1, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: May 10, 2001.

Robert M. Scruggs,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 01–12964 Filed 5–22–01; 8:45 am]
BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park, Bar Harbor, Maine; Acadia National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, June 4, 2001.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at U.S. Naval Station, Schoodic Peninsula, Winter Harbor, Maine, at 1:00PM to consider the following agenda:

1. Review and approval of minutes from the meeting held February 5, 2001.
2. Committee reports
   Land Conservation
   Park Use
   Science
3. Old business
4. Chairman's report
5. Superintendent's report
6. Public comments
7. Proposed agenda for next Commission meeting on Monday, September 10, 2001.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: May 9, 2001.

Len Bobinchock,

Acting Superintendent, Acadia National Park.

[FR Doc. 01–13067 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 12, 2001. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St., NW., NC400, Washington, DC 20240. Written comments should be submitted by June 7, 2001.

Carol D. Shull,

Keeper of the National Register of Historic Places.

GEORGIA

Burke County

McCanaan Missionary Baptist Church and Cemetery, McCanaan Church Rd., Sardis, 01000643

Clarke County

Brightwell Shotgun Row, 366–376 Barber St., Athens, 01000642

Crawford County

Williams—Moore— Hillsman House, West Hopewell Rd., at Colbert Rd., Roberta, 01000645

Fulton County

Building at 161 Spring St., 161 Spring St., NW., Atlanta, 01000644

Means Street Historic District, Bounded by Marietta St., Bankhead and Ponders Aves., and the Southern rail line, Atlanta, 01000648

Hancock County

Sparta Cemetery, N of jct. of Hamilton and Boland Sts., Sparta, 01000647

Troup County

Royal Theater, 301 E. Main St., Hogansville, 01000646

ILLINOIS

Cook County

Chicago Varnish Company Building, 33 W. Kinzie St., Chicago, 01000649

MASSACHUSETTS

Worcester County

Crocker Field Historic District, River St., Fitchburg, 01000651

Warren Town Hall, 1 Main St., Warren, 01000650

MICHIGAN

Calhoun County

Roosevelt Community House, 107 Evergreen Rd., Springfield, 01000653

MINNESOTA

Hennepin County

Christ Church Lutheran, 3244 34th Ave., S, Minneapolis, 01000654

MISSOURI

St. Louis Independent city Saint Louis Provident Association building, 2221 Locust St., St. Louis (Independent City), 01000652

OKLAHOMA

Cleveland County

Ledbetter, H.E., House, (Bruce Goff Designed Resources in Oklahoma MPS) 701 W. Brooks, Norman, 01000655

Garvin County

First National Bank Building, 100 West Main, Stratford, 01000659

Lincoln County

Rock Cafe, (Route 66 in Oklahoma MPS) 114 W. Main St., Stroud, 01000661

McIntosh County

Oklahoma Odd Fellows Home at Checotah, 211 West North St., Checotah, 01000660

Murray County

Historic Downtown Sulphur Commercial District, West Muskogee St., from W 1st St. to W 5th St., and W 5th., Sulphur, 01000662

Oklahoma County

Jones, Charles G., Farmstead, 12061 NE 108th St., Jones, 01000658

The "Y" Chapel of Song, 100 N. University; on the campus of the University of Central Oklahoma, Edmond, 01000657

Tulsa County

Riverside Studio, (Bruce Goff Designed Resources in Oklahoma MPS) 1381 Riverside Dr., Tulsa, 01000656

White City Historic District, Roughly bounded by E. 2nd St., S. Fulton Av./ Frisco RR Tracks, E. 11th St., and S. Yale Ave., Tulsa, 01000663

SOUTH DAKOTA

Brule County

Dunlap Methodist Episcopal Church, Jct. of 369th Ave., and 264th St., Platte, 01000666

Minnehaha County

Brandon Village, 2.5 mi. SW of Brandon, Brandon, 01000664

TEXAS

Tom Green County

Harris Drug Store, (San Angelo MRA) 114 S. Chadbourne St., San Angelo, 01000665

A request for Removal has been made for the following resource:

OHIO

Erie County

Hotel Breakers, Cedar Point, Sandusky, 82003565

[FR Doc. 01–13066 Filed 5–22–01; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–702 (Review)]

Ferrovanadium and Nitrided Vanadium From Russia

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Background

The Commission instituted this review on June 5, 2000 (65 FR 35668) and determined on September 1, 2000 that it would conduct a full review (65 FR 55047, September 12, 2000). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on November 29, 2000 (65 FR 71120). The hearing was held in Washington, DC, on March 15, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination is this investigation to the Secretary of Commerce on May 15, 2001. The views of the Commission are contained in USITC publication 3420 (May 2001), entitled Ferrovanadium and Nitrided Vanadium from Russia (Inv. No. 731–TA–702 (Review)).

By order of the Commission.
Issued: May 16, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12883 Filed 5–22–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–414 and 731–TA–928 (Preliminary)]

Softwood Lumber From Canada

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines,[2] pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber, provided for in subheadings 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Canada and sold in the United States at less than fair value (LTFV).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Bragg not participating.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On April 2, 2001, a petition was filed with the Commission and Commerce by the Coalition for Fair Lumber Imports Executive Committee,[3] Washington, DC; the United Brotherhood of Carpenters and Joiners, Portland, OR; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Nashville, TN, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of subsidized and LTFV imports of softwood lumber from Canada. Accordingly, effective April 2, 2001, the Commission instituted countervailing and antidumping duty investigations Nos. 701–TA–414 and 731–TA–928 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 9, 2001 (66 FR 18508). The conference was held in Washington, DC, on April 23, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 17, 2001. The views of the Commission are contained in USITC Publication 3426 (May 2001), entitled Softwood Lumber from Canada: Investigations Nos. 701–TA–414 and 731–TA–928 (Preliminary).

By order of the Commission.
Issued: May 18, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–13058 Filed 5–22–01; 8:45 am]

BILLING CODE 7020–02–P

[3] The Coalition for Fair Lumber Imports Executive Committee is comprised of Hood Industries, International Paper Co., Moose River Lumber Co., New South, Inc., Plum Creek Timber Co., Potlatch Corp., Seneca Sawmill Co., Shearer Lumber Products, Shuqualak, Lumber Co., Sierra Pacific Industries, Swift Lumber, Inc., Temple-Inland Forest Products, and Tolleson Lumber Co., Inc.

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–875, 880, and 882 (Final)]

Certain Steel Concrete Reinforcing Bars From Indonesia, Poland, and Ukraine

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Indonesia, Poland, and Ukraine of certain steel concrete reinforcing bars,[2] provided for in subheading 7214.20.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Stephen Koplan, Vice Chairman Deanna Tanner Okun, and Commissioner Lynn M. Bragg determine that a regional industry in the United States is materially injured by reason of imports from Indonesia, Poland, and Ukraine of certain steel concrete reinforcing bars. The defined region consists of all the states east of the Mississippi plus Arkansas, Louisiana, Missouri, and Texas, as well as the District of Columbia and Puerto Rico. Commissioner Marcia E. Miller, Commissioner Jennifer A. Hillman, and Commissioner Dennis M. Devaney determine that an industry in the United States is materially injured by reason of imports from Indonesia, Poland, and Ukraine of certain steel concrete reinforcing bars. The Commission also determined that critical circumstances did not exist with respect to subject imports from Poland and Ukraine.

in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective June 28, 2000, following receipt of petitions filed with the Commission and Commerce by the Rebar Trade Action Coalition (RTAC) (Washington, DC) and its individual members.[3] The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain steel concrete reinforcing bars from Indonesia, Poland, and Ukraine were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 14, 2001 (66 FR 10317). The hearing was held in Washington, DC, on April 5, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 25, 2001. The views of the Commission are contained in USITC Publication 3425 (May 2001), entitled Certain Steel Concrete Reinforcing Bars from Indonesia, Poland, and Ukraine: Investigations Nos. 731–TA–875, 880, and 882 (Final).

Issued: May 17, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12884 Filed 5–22–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Forum on Issues Relating to Electronic Filing and Maintenance of Documents

AGENCY: United States International Trade Commission.

ACTION: Notice announcing public forum.

SUMMARY: The United States International Trade Commission announces a public forum on issues relating to electronic filing and maintenance of documents.

DATES: The forum will be held on Wednesday, June 20, 2001, beginning at 10 a.m.

ADDRESSES: The forum will be held in Room 101, 500 E Street SW., Washington, DC 20436.

The event is open to the public, and registration is not required to attend. Seating will be available on a first-come, first-served basis. Any person wishing to make an initial statement, of no more than five minutes in length, may file a request to do so directed to the Secretary to the Commission. Other attendees will be given an opportunity to make statements, as time permits. A request to make an initial statement should indicate the following information: (1) The name of the person desiring to make a statement; (2) the organization or organizations represented by that person, if any; (3) contact information (address, telephone, and e-mail); and (4) information on the specific focus or interest of the person (or his or her organization) and any questions or issues the person would like to raise. A request may be sent by e-mail to "dockets@usitc.gov," or by mail or hand delivery to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

The deadline for receipt of requests is Wednesday, June 13, 2001.

Any person may file written comments about the issues discussed in this notice. Any such comments should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, and must be filed no later than July 6, 2001.

FOR FURTHER INFORMATION CONTACT: Marilyn Abbott (202–205–2799), Deputy Secretary, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (at URL http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: The Commission is holding a forum to seek the public's views on issues relating to electronic filing and maintenance of documents. In particular, and as discussed more fully below, the Commission would like to obtain views on (1) What features of an electronic system might be helpful to users, (2) what technical difficulties might arise in connection with such a system, and (3) how the agency might implement such a system.

In 1996, the Commission established the Electronic Document Imaging System (EDIS), which stores and provides access to docket records in agency investigations. The Commission now is contemplating replacing EDIS with a new document management system that would provide better functionality. In particular, Commission is seeking as part of the new system the capability to accept documents electronically.

The Commission's Rules of Practice and Procedure currently provide for the filing of documents with the agency in paper form. Consistent with the Government Paperwork Elimination Act (GPEA)(Div. C, Title XVII, Pub. L. 105–277), the Commission is considering permitting parties and other persons to file some documents with the agency electronically. The Commission contemplates obtaining the capability to, *inter alia:* (1) Permit a person to make a filing by uploading it electronically to a Commission Web site; (2) provide security to protect confidential business and business proprietary information from unauthorized disclosure; (3) verify the identity of the submitter through a password, electronic signature, or other security system; (4) acknowledge receipt of the submission by an electronic message to establish when filing occurred; and (5) alert in-house users of new submissions. A new Commission document management system might also permit faster searches for and retrieval of documents in the Commission's docket files than currently permitted by EDIS.

Permitting electronic filing would involve both the acquisition of new information technology and the revision of the agency's procedures, including the Rules of Practice and Procedure. The Commission will provide an opportunity for public comment on any proposed rules amendments, but is seeking the views of the public now on the broader issues raised by the prospect of allowing electronic filing. The Commission encourages party representatives, other document filers, and other interested persons to participate in the forum and provide their views on the issues discussed below as well as others they wish to raise. Considerations such as technical and funding constraints may limit the Commission's ability to implement some of the features that may be suggested at the forum, but the agency plans to take all such views into account in determining whether and how to permit electronic filing and to provide other facilities for doing docket-related business with the Commission electronically.

The Commission wants any document management system it may implement to benefit users inside and outside the agency. Permitting electronic filing would serve no purpose if document filers did not choose to file electronically. Consistent with the GPEA, the Commission does not intend to require electronic filing. The Commission encourages attendees to provide their views on what system features would be helpful to them. For example, some document formats may be easier to use than others. Moreover, some documents, such as papers drafted by the submitter, may be easier to file electronically than others, such as appendices containing material from reference works in hard copy. Further, how deadlines are set for electronic filing may affect a filer's decision to choose between paper and electronic filing.

A particularly relevant topic for the forum would be the potential technical difficulties that may arise in connection with electronic filing. For example, the software that removes confidential business information from the public versions of paper filings may not suffice for an electronic filing. Also, various circumstances may result in a failure to connect to the agency's website, delaying or preventing filing. To aid in such a discussion, the Commission encourages participants in the forum to bring technical staff familiar with the computer systems of participants' organizations.

The Commission is also interested in attendees' comments on how to change the filing process. Currently, filers generally must submit an original and fourteen paper copies of a document. Electronic filing would present the agency with a number of options for how to proceed with respect to that requirement. The Commission could remove entirely the requirement for submitting paper copies. That would mean that Commission personnel either would forgo the use of paper copies or would incur staff time and printing costs making copies for their use. Alternatively, the agency could continue, over the long or short term, to require a number of paper copies. Moreover, the Commission could permit filers to submit certain documents electronically while other types of document would continue to be filed in paper form. In addition, for those documents that eventually would be fileable electronically, electronic filing could be phased in over time so that initially parties could file some documents electronically, but other documents might continue in paper form.

The Secretary to the Commission will preside at the forum, assisted by agency staff who are members of the agency's Document Imaging Oversight Committee. The forum will be open to the public. However, to seek an opportunity to make an initial statement, no longer than five minutes in length, a person must submit a request to do so by the deadline for requests set out above. A person who attends the forum without having submitted such a request will be given an opportunity to make a statement as time permits. A person may submit written comments on the issues raised in this notice by the deadline for written comments set out above whether or not he or she files a request or attends the forum.

Issued: May 17, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12885 Filed 5–22–01; 8:45 am]

BILLING CODE 7020–02–P

[3] The individual members of RTAC on whose behalf the petitions were filed are as follows: AmeriSteel (Tampa, FL); Auburn Steel Co., Inc. (Auburn, NY); Birmingham Steel Corp. (Birmingham, AL); Border Steel, Inc. (El Paso, TX); CMC Steel Group (Seguin, TX); Marion Steel Co. (Marion, OH); Nucor Steel (Darlington, SC); and Riverview Steel (Glassport, PA). Auburn was not a petitioner with respect to Indonesia.

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to The Comprehensive Environmental Response Compensation and Liability Act ("CERCLA")

Notice is hereby given that a proposed consent decree in *United States* v. *Agway Inc., et al.* Civ. No. 3:01cv0637 NAM/GLS, was lodged on May 1, 2001 with the United States District Court for the Northern District of New York. The Consent Decree concerns hazardous waste contamination at the Tr-Cities Barrel Superfund Site (the "Site"), located in the Town of Fenton, Broome County, New York. The Consent Decree would resolve the liability for reimbursement of response costs incurred by the United States in connection with the Site as to forty-three potentially responsible parties against whom the United States filed a complaint on behalf of the United States Environmental Protection Agency ("EPA"). The Consent Decree also requires the settling defendants to perform the Remedial Design/Remedial Action ("RD/RA") as set forth in the Record of Decision issued by EPA on March 31, 2000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Agway Inc., et al.*, DOJ Ref. #90–11–3–1514/1.

The proposed consent decree may be examined at the office of the United States Attorney for the District of New Jersey, 231 Foley U.S. Courthouse, 445 Broadway, Albany, NY 12207 (contact Assistant United States Attorney James Woods); and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866 (contact Assistant Regional Counsel, Michael Mintzer). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $29.00 (25 cents per page reproduction costs) for the Consent Decree without Appendices, or in the amount of $61.50 for the Consent Decree with all Appendices, payable to the Consent Decree Library.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 01–13027 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the policy of the Department of Justice, notice is hereby given that a proposed consent decree in *The United States of America* v. *The Atlantic Richfield Company, the Atlantic Richfield Company* v. *The United States of America* Civ. Nos. 1:99–CV–1743 and 5:98–CV–2645, was lodged with the United States District Court for the Northern District of Ohio, on May 4, 2001. The United States brought an action against Defendant, the

Atlantic Richfield Company ("ARCO") pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for, *inter alia*, reimbursement of costs incurred and to be incurred, by the United States in connection with response actions at the Alsco Anaconda Superfund Site ("Site") in Gnadenhutten, Ohio. ARCO has implemented a remedial action that the United States Environmental Protection Agency selected for the Site and asserted claims pursuant to Section 106(b) of CERCLA to recover certain of its response costs from the Hazardous Substance Superfund.

Under the proposed decree, ARCO will pay $1,135,000 in satisfaction of the United States' claims against it. The proposed decree also provides for dismissal with prejudice of ARCO's claims against the United States for reimbursement of certain costs ARCO incurred in connection with response actions it performed at the Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *The Atlantic Richfield Company*, D.J. Ref. 90–11–3–488B.

The proposed consent decree may be examined at the office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue, Cleveland, Ohio 44114–2600; and at the Region V office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. A copy of the proposed consent decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States* v. *The Atlantic Richfield Company*. D.J. Ref. 90–11–3–488B.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–13028 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act ("RCRA")

Pursuant to Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree ("Decree") in *United States* v. *Raymond T. James and Rattan Investment Co., Inc.*, Civ. No. 1999/145, was lodged on May 7, 2001 with the United States District Court for the District of the Virgin Islands.

In this action, the United States sought civil penalties and injunctive relief, alleging that the operator of a gas station popularly known as "Charlie's Gas Station," located in Christiansted, St. Croix, U.S. Virgin Islands, violated provisions of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901–6992k. More particularly, the United States alleged that the operators of Charlie's Gas Station failed to employ the release detection methods required for the underground storage tanks (USTs) at the facility under federal regulations applicable to USTs set forth at 40 CFR Part 280, Subpart D, and failed to respond to various information requests sent to them by EPA under the authority of Sections 3007(a) and 9005(a) of RCRA, 42 U.S.C. 6927(a), 6991d(a). The Decree would resolve the liability of the defendants, Raymond T. James and Rattan Investment Co., Inc., for the alleged violations. The Decree requires the defendants to come into compliance with UST regulations by permanently closing the USTs at Charlie's Gas Station (which have been temporarily closed since December 22, 1998) within sixty days after entry of the Decree, which closure will entail cleaning and emptying the USTs, performing a site assessment within five days thereafter to determine whether there is any contamination at the facility, and , if such contamination is found, implementing corrective action. The Decree further requires the defendants to pay a civil penalty of $6,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States* v. *Raymond T. James and Rattan Investment Co., Inc.*, DOJ Ref. #90–7–1–06362.

The Decree may be examined at the office of the United States Attorney for the District of the Virgin Islands, 1108 King St., Suite 201, St. Croix, U.S.V.I. 00820–4951 (contact Assistant United States Attorney Ernest F. Batenga); and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, 10007–1866 (contact Assistant Regional Counsel Donna DeCostanzo). A copy of the Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–13025 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in the action entitled *United States of America* v. *Shell Oil Company and Motiva Enterprises LLC*, Civil Action No. 3:01CV00093 RNC (D. Conn.), was lodged on April 27, 2001 with the United States District Court for the District of Connecticut. The proposed consent decree resolves claims of the United States, on behalf of the U.S. Environmental Protection Agency, under Sections 111 and 112 of the Clean Air Act, 42 U.S.C. 7411 and 7412, its implementing federal regulations, and the Connecticut State Implementation Plan, against defendants Shell Oil Company and Motiva Enterprises LLC. These claims are for injunctive relief and civil penalties arising from defendants' alleged violations of the Clean Air Act, its implementing regulations, and the State Implementation Plan in connection with their operation of a bulk gasoline terminal located within the Towns of Bridgeport and Stratford, Connecticut.

Under the terms of the proposed consent decree, the defendants: (1) Will pay a civil penalty of $390,155 to the United States; (2) will purchase and permanently retire twenty-two tons worth of nitrogen oxide emission reduction credits during ozone season, to be purchased in either Connecticut, Massachusetts, New York, or Rhode Island; (3) have ceased operation of loading bay no. 5 at the gasoline terminal as of December 28, 2000, and are permanently enjoined from resuming any further operation of that loading bay until and unless they obtain the appropriate operating permit from the Connecticut Department of Environmental Protection; and (4) are permanently enjoined from loading gasoline or other volatile organic compounds into barges at the terminal without use of a vapor collection and disposal system.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Shell Oil Company and Motiva Enterprises LLC*, Civil Action No. 3:01V00093 RNC (D. Conn.), DOJ Ref. No. 90–5–2–1–06921.

The proposed consent decree may be examined at the Office of the United States Attorney, 157 Church Street, New Haven, Connecticut 06510, or at the U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, Massachusetts 02114–2023. A copy may be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611. In requesting a copy by mail, please refer to the referenced case and enclose a check in the amount of $3.75 (25 cents per page reproduction costs for the Decree) made payable to Consent Decree Library.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 01–13026 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant To the Oil Pollution Act of 1990 (OPA), the Clean Water Act (CWA), and the Resource Conservation and Recovery Act (RCRA)

Notice is hereby given that a proposed Consent Decree (Decree) in *United States* v. *V–1 Oil Company*, Civil Action No. 96–0454–E BLW, was lodged May 2, 2001, with the United States District Court for the District Of Idaho.

The Complaint filed in the above-referenced matter alleges that V–1 Oil Company (the Defendant) is liable under the Oil Pollution Act of 1990 (OPA) and the Clean Water Act (CWA) for costs incurred by the Environmental Protection Agency and the United States Coast Guard as a result of the release or substantial threat of a release of oil at a former gasoline service station in Preston, Idaho (the Facility). In the Complaint, the United States also sought civil penalties for violation of an administrative order issued pursuant to the CWA and the Resource Conservation and Recovery Act (RCRA).

Under the proposed Decree, the Defendant shall pay $722,000 in reimbursement of removal costs. Additionally, the Defendant shall pay $478,000 in civil penalties. In exchange, the United States is granting Defendant a covenant not to sue or take administrative action against Defendant for the claims alleged in the Complaint. This covenant not to sue extends only to Defendant and does not extend to any other persons.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, and should refer to *United States* v. *V–1 Oil Company*, DOJ Ref. #90–5–1–1–4396A.

The proposed Decree may be examined at the office of the United States Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy of the Consent Decree, please refer to the referenced case number and enclose a check in the amount of $4.50, payable to the Consent Decree Library.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–13029 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National, Cooperative Research and Production Act of 1993—nLine Corporation

Notice is hereby given that, on August 11, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), nLine Corporation has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are nLine Corporation, Austin, TX; InterScience, Inc., Troy, NY; PixelVision, Inc., Beaverton, OR; and Light Age, Inc., Somerset, NJ. The nature and objectives of the venture are to conduct research on technology for advanced semiconductor device inspection. The activities of this venture will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13040 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on November 20, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), The Asymmetrical Digital Subscriber Line Forum ("ADSL") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Applied Innovation, Dublin, OH; Bel Fuse, San Diego, CA; Sharegate, Reno, NV; XIRCOM, Thousand Oaks, CA; Sedona Networks, Kanata, Ontario, CANADA; RC Networks, San Diego, CA; Accelerated Networks, Richardson, TX; DXO Telecom, Seoul, REPUBLIC OF KOREA; AdEvia Limited, London, England, UNITED KINGDOM; Calix Networks, Petaluma, CA; NHC Communications,

Mount Royal, Quebec, CANADA; Netility, Sunnyvale, CA; Kasenna, Mountain View, CA; Xpeed Networks, San Jose, CA; Interactive Enterprise Ltd., Dublin, IRELAND; QS Communications, Cologne, GERMANY; Spirent Communications, Nepean, Ontario, CANADA; Sonus Networks, Freehold, NJ; Ericsson Aheadcom, Vienna, AUSTRIA; KPNQwest, The Hague, THE NETHERLANDS; Proscend Communication, Hsinchu, TAIWAN; Mariposa Technology, Petaluma, CA; CES Computer Solutions, Chester, NY; Legerity, Austin, TX; and L.E.A., Cesson Sevigne, FRANCE have been added as parties to this venture. Also, GTE/Bell Atlantic, New York, NY has been acquired by Verizon, New York, NY. Also, the following companies have changed their names: Velocity Communications, Fremont, CA is now Ikanos Communications, Fremont, CA is now RIAS Corporation, Fremont, CA; and Siecor, Keller, TX is now Corning Cable Systems, Keller, TX.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, an ADSL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, ADSL filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 1995 (60 FR 38058).

The last notification was filed with the Department on June 23, 200. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13035 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—The Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on January 25, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), The Asymmetrical Digital Subscriber Line Forum ("ADSL") has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Sheer Networks, Sunnyvale, CA; Navini Networks, Plano, TX; Sapphore Communications, Santa Clara, CA; Garnet Systems Co., Seoul, REPUBLIC OF KOREA; Birch Telecom, Kansas City, MO; BroadJump, Austin, TX; DSLB it Hantro Oy, Oulu, FINLAND; and eAccess Ltd., Tokyo, JAPAN have been added as parties to this venture. Also, the following companies have changed their names: Concentric Networks, San Jose, CA is now XO Communications, San Jose, CA; Digicom Systems, Milpitas, CA is now broadxent, Milpitas, CA; Silicon Automated Systems, Bangalore, INDIA is now Sasken Communication Technologies, Bangalore, INDIA; Telesoft International, Alta Loma, CA is now Broadframe Corp., Alta Loma, CA; Helsinki, Helsinki, FINLAND is now Elisa Communications, Helsinki, FINLAND; Acterna, Salem, VA is not TTC, Germantown, MD; and DSL Testworks, Nepean, Ontario, CANADA is now Spirent, Nepean, Ontario, CANADA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ADSL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, ADSL filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 1995 (60 FR 38058).

The last notification was filed with the Department on November 20, 2000. A notice for this filing has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13039 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Industrial Macromolecular Crystallography Association ("IMCA")

Notice is hereby given that on July 18, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Industrial Macromolecular Crystallography Association (IMCA) filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Bayer Corporation has withdrawn as a member and 3-Dimensional Pharmaceuticals, Inc., a corporation of Delaware with its principal place of business in Exton, PA, has become a member. In addition, three members have changed their legal names following mergers: The Upjohn Company has changed its name to Pharmacia and Upjohn Company, Peapack, NJ; G.D. Searle & Co. has changed its name to Pharmacia Corporation, Peapack, NJ; and Parke-Davis Pharmaceutical Research has changed its name to Pfizer Global Research and Development, Ann Arbor Laboratories. Pfizer, Inc., Ann Harbor, MI.

No other changes have been made in either the membership or planned activitity of the group research project. Membership in this group research remains open, and IMCA intends to file additional written notification disclosing all changes in membership.

On October 23, 1990, IMCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 3, 1990 (55 FR 49953).

The last notification was filed with the Department on April 8, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 25, 1996 (61 FR 18410).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13034 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Multiservice Switching Forum

Notice is hereby given that, on April 4, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Multiservice Switching Forum ("MSF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Anda Networks, San Jose, CA; Armillaire Technologies, Bethesda, MD; Nahi Networks, Petaluma, CA; Telica, Marlboro, MA; University of New Hampshire, Durham, NH; and Vocal Data, Richardson, TX have been added as parties to this venture. Also, 2nd Century Communications, Tampa, FL; 3COM, Santa Clara, CA; ADC Telecommunications, Richardson, TX; BellSouth, Atlanta, GA; CopperCom, Santa Clara, CA; Hitachi Telecom, Tokyo, JAPAN; NetPlane, Dedham, MA; PairGain, Tustin, CA; Telefonica de Espana, Madrid, SPAIN; Telia, Stockholm, SWEDEN; Tellabs, Lisle, IL; Vivace Networks, San Jose, CA; and Xbind, New York, NY have been dropped as parties to this venture.

No other changes have been in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSF intends to file additional written notifications disclosing all changes in membership.

On January 22, 1999, MSF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28519).

The last notification was filed with the Department on January 8, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 29, 2001 (66 FR 17202).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13037 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on July 19, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), National Center For Manufacturing Sciences, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Cross Company (dba Cross Huller—North America), Sterling Heights, MI; MAPAL, Inc., Piscataway, NJ; Savi Technology, Inc., Sunnyvale, CA; SoftZone Engineering, Inc., Plymouth, MI; Triton Systems, Inc., Chelmsford, MA; Arizona State University, Tempe, AZ; The Federal Technology Center, North Highlands, CA; Michigan Manufacturing Technology Center, Ann Arbor, MI; and Sandia National Laboratories, Albuquerque, NM have been added as parties to this venture. Also, AccuData, Inc, Jackson, MI; Automated Precision , Inc., Gaithersburg, MD; CAMotion, Inc., Atlanta, GA; Cargill Detroit Corporation, Clawson, MI; Cognition Corporation, Bedford, MA; Crystallume, Inc., Santa Clara, CA; Electrosource, Inc., San Marcos, TX; Framework Technologies Corporation, Medina, OH; ICAMP, Inc., Bolton, CT; I.Q. Plus Corporation, Toronto, Ontario, CANADA; Lambda Technologies, Inc., Morrisville, NC; Liburdi Dimetrics Corporation, Dearborn, MI; Liburdi Engineering Limited, Dearborn, MI; Liburdi Pulsweld Corporation, Dearborn, MI; Lockheed Martin Corporation, Idaho Falls, ID; Manufacturing Control Associates, Inc., Palatine, IL; ORSCO, Inc., Shelby Township, MI; SP^3, Mountain View, CA; Spatial Technology, Inc., Boulder, CO; Sprint Communications Corporation, Reston, VA; Timesavers, Inc., Minneapolis, MN; TRW Broadband Communication Network, Carson, CA; UES, Inc., Dayton, OH; WebEnable, Inc., Harvard, MA; Ecole Polytechnique, Montreal, Quebec, CANADA; IIT Research Institute, Chicago, IL; Independent Lubricant Manufacturers Association, Alexandria, VA; Michigan Biotechnology Institute, Lansing, MI; Robert C. Byrd Institute For Advanced Flexible Manufacturing Systems, Huntington, WV; Rensselaer Polytechnic Institute, Troy, NY; State Board of Technical Colleges, St. Paul, MN; University of Texas at Arlington, Fort Worth, TX; and University of Texas at Austin Manufacturing Systems Center, Austin, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the National Center For Manufacturing Sciences, Inc. intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, the National Center for Manufacturing Sciences, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on March 21, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 9, 2000 (65 FR 48737).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13033 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum ("PERF")

Notice is hereby given that, on March 20, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum ("PERF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Oryx Energy Company, Dallas, TX has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petroleum Environmental Research Forum ("PERF") intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, Petroleum Environmental Research Forum ("PERF") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on August 18, 2000. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on October 6, 2000 (65 FR 59875).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 01–13030 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on April 18, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FMSC Group Inc., Bethlehem, PA has been added as an Associate Member of this venture; and Bulk Materials International Company, Newton, CT is no longer an Associate Member. Also, Southdown, Inc., Owen Sound, Ontario, CANADA was acquired by CEMEX, Monterrey, MEXICO; and Southdown, Inc. and CEMEX USA, Houston, TX are now known as Cemex, Inc.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of February 5, 1995 (50 FR 5015).

The last notification was filed with the Department on February 13, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13032 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The SNP Consortium Ltd.

Notice is hereby given that, on January 31, 2000 and April 14, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), The SNP Consortium ("TSC") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, International Business Machines Corporation, Armonk, NY; Motorola, Inc., Schaumburg, IL; and Amersham Pharmacia Biotech Inc., Piscataway, NJ have been added as parties to this venture. In addition, Hoechst Marion Roussel, Inc., Bridgewater, NJ, has been recognized and is now named Aventis Pharmaceuticals Inc.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TSC intends to file additional written notification disclosing all changes in membership.

On April 20, 1999, TSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 7, 1999 (64 FR 54645).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13038 Filed 4–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—VSI Alliance

Notice is hereby given that, on April 10,2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), VSI Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Arasan Chip System, San Jose, CA; Axeon Limited, Aberdeen, Scotland, UNITED KINGDOM; Beach Solutions Ltd., Tavistock, England, UNITED KINGDOM; Annette Bunker (individual member), Salt Lake City, UT; Jeffrey Choi (Jong Kwan) (individual member), San Jose, CA; InTime Software, Inc., Cupertino, CA; Memec Core, Raleigh, NC; Morpho Technologies, Irvine, CA; Nazomi Communications, Inc., Santa Clara, CA; Gang Qu (individual member), College Park, MD; Verplex Systems, Inc., Milpitas, CA; and Xi'An Swip Co., Ltd., Xi'an, Shaangxi, PEOPLE'S REPUBLIC OF CHINA have been added as parties to this venture. Also, 3Com Corporation, Santa Clara, CA; A Priori Microsystems, Inc., Fukuoka, JAPAN; Artest Corp., Phoenix AZ; Avaz Networks (formerly Communications Enabling Technology), Irvine, CA; Prakash Bare (individual member), San Jose, CA; Gatefield Corp., Fremont, CA; Dominique Houzet (individual member), Toulouse, FRANCE; IMMS, Thuringen, GERMANY; Innoveda Ltd., Herzlia, ISRAEL; Massana, Inc., Campbell, CA; Pioneer Corporation, Tokyo, JAPAN; Pivotal Technologies, Pasadena, CA; RocketChips, Inc., Minneapolis, MN; Sierra Research and Technology, Inc., Westlake Village, CA; Mandayam Sriva (individual member), Menlo Park, CA; Synplicity, Inc., Sunnyvale, CA; Texas Instruments, Inc., Dallas, TX; The Silicon Group, Austin, TX; and Frank Vahid (individual member), Riverside, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VSI Alliance intends to file additional written notification disclosing all changes in membership.

On November 29, 1996, VSI Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 4, 1997 (62 FR 9812).

The last notification was filed with the Department on January 16, 2001. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on March 20, 2001 (66 FR 15760).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13036 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Wireless Application Protocol Forum, Ltd.

Notice is hereby given that, on April 3, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Wireless Application Protocol Forum, Ltd. ("WAP") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CacheFlow Inc., Tokyo, JAPAN; CASIO SOFT CO., LTD., Tokyo, JAPAN; Cellnext Solutions Limited, New Delhi, INDIA; Cisco Systems, Inc., Research Triangle Park, NC; Finetix Limited, London, England, UNITED KINGDOM; GEO Interactive Media Group Ltd., Givataim, ISRAEL; iConverse, Waltham, MA; Interactive Trust Network, Inc., Atlanta, GA; Jataayu Software Ltd., Bangalore, INDIA; MobiApps, Inc., McLean, VA; Niragongo Inc., Herzliya, ISRAEL; Sila Communications Ltd., London, England, UNTIED KINGDOM; SingleSignOn.Net Inc., Reston, VA; and ValiCert, Inc., Mountain View, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and WAP intends to file additional written notifications disclosing all changes in membership.

On March 18, 1998, WAP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72333).

The last notification was filed with the Department on January 8, 2001. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–13031 Filed 5–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,405]

Cabot Performance Materials Boyertown, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Cabot Performance Materials, Boyertown, Pennsylvania. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–38,405; Cabot Performance Materials, Boyertown, Pennsylvania (May 2, 2001)

Signed at Washington, D.C. this 3rd day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–13005 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,732 and TA–W–38,732A]

Haggar Clothing Company Edinburg Manufacturing Edinburg, Texas and Weslaco Operations, Weslaco, Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 12, 2001, applicable to workers of Haggar Clothing Company, Edinburg Manufacturing, Edinburg, Texas and Haggar Clothing Company, Weslaco Operations, Weslaco, Texas. The notice was published in the **Federal Register** on May 2, 2001 (FR 66 22006).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce men's pants, shorts and coats. New findings show that there was a previous certification, TA–W–35,858 and TA–W–38,858A, issued on April 30, 1999, for workers of Haggar Clothing Company, Edinburg Manufacturing, Edinburg, Texas and Haggar Clothing Company, Weslaco Operations, Weslaco, Texas who were engaged in employment related to the production of men's pants, shorts and coats. That certification expired April 30, 2001. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from February 14, 2000 to May 1, 2001, for workers of the subject firm.

The amended notice applicable to TA–W–38,732 and TA–W–38,732A is hereby issued as follows:

All workers of Haggar Clothing Company, Edinburg Manufacturing, Edinburg, Texas (TA–W–38,732) and Haggar Clothing Company, Weslaco Operations, Weslaco, Texas (TA–W–38,732A) who became totally or partially separated from employment on or after May 1, 2001 through April 12, 2003 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 7th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12998 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the

subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 4, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 4, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 23rd day of April, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Appendix

PETITIONS INSTITUTED ON 04/23/2001

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,067	Thomas Saginaw Ball (UAW)	Saginaw, MI	04/03/2001	Linear actuators.
39,068	Elizabeth Webbing Mills (Co.)	Central Falls, RI	04/09/2001	Polyester and nylon webbing.
39,069	Rosboro Lumber Co. (Wkrs)	Springfield, OR	04/06/2001	Softwood dimensional lumber.
39,070	Eagle Knitting Mills (UNITE)	Shawano, WI	02/16/2001	Cut and sew apparel.
39,071	H.H. Fessler Knitting (Wkrs)	Shoemakersville, PA	04/06/2001	Ladies' apparel.
39,072A	Fayette Enterprises (Co)	Fayette, MS	04/05/2001	Occasional tables.
39,072	Thomasville Furniture Ind (Co.)	Johnson City, TN	04/05/2001	Occasional tables.
39,073	Pen Tab—Stuart Hall (PACE)	Kansas City, MO	03/29/2001	Paper commodities, school supplies.
39,074	Chief Wenatchee, Inc (Co.)	Wenatchee, WA	04/03/2001	Apples.
39,075	Irving Tanning Co. (Co.)	Hartland, ME	04/09/2001	Finished leather.
39,076	Republic Technologies (USWA)	Lorain, OR	03/21/2001	Steel bars.
39,077	Nucor Bearing Products (Wkrs)	Wilson, NC	04/06/2001	Bearing components.
39,078	Agilant Technologies (Wkrs)	Rockaway, NJ	04/05/2001	Power supplies.
39,079	Glenmore Plastic (UNITE)	Brooklyn, NY	03/30/2001	Printing and plastic.
39,080	Aur Resources (Co.)	Sparks, NB	03/24/2001	Mining and metal exploration.
39,081	Bassett Furniture Ind. (Co.)	Basset, VA	04/02/2001	Household wood furniture.
39,082	Birmingham Steel (USWA)	Joliet, IL	04/03/2001	Flats, rounds, and squares.
39,083	Crystal Springs Apparel (Wkrs)	Crystal Springs, MS	03/28/2001	Men's shirts.
39,084	Consolidated Auto Screen (Wkrs)	Woonsocket, RI	04/04/2001	Printed materials.
39,085	Samuel Bent LLC (Wkrs)	Gardner, MA	04/04/2001	Wooden chairs and tables.
39,086	Dunbrooke Industries (Co.)	Lexington, MO	03/06/2001	Outerwear jackets.
39,087	John Roberts, Inc. (Co.)	New York City, NY	04/03/2001	Ladies' dresses.
39,088	WSW of Sharon (Wkrs)	Sharon, TN	03/01/2001	Children's sleepwear.
39,089	Custom Machine (Wkrs)	Great Bend, PA	03/29/2001	Pullies, shafts and machine parts.
39,090	Standflex (IAM)	Oriskany, NY	04/04/2001	Galvanized steel.
39,091	Heraeus Electro Nite (IBT)	Philadelphia, PA	03/28/2001	Thermocouples, heating devices.
39,092	Fountaine International (Co.)	Rocky Mount, NC	04/05/2001	Fifth wheels assemblies.
39,093	Wulfrath Refractories (USWA)	Tarentum, PA	04/10/2001	Dolomitic refractory products.
39,094	Antech (Wkrs)	El Paso, TX	03/28/2001	Generators, power machines.
39,095	Hammond and Associates (Co.)	Lexington, AL	04/02/2001	Tee shirts.
39,096	GMW Logging (Wkrs)	Central Point, OR	04/06/2001	Timber, logs.
39,097	Vastar Resource, Inc. (Wkrs)	Carthage, TX	04/09/2001	Crude oil.
39,098	Seal Glove Manufacturing (Co.)	Millensburg, PA	04/04/2001	Industrial work gloves.
39,099	ABC Rail (USWA)	Calena, AL	04/07/2001	Rail road wheels.
39,100	Paper Converting Machine (UAW)	Green Bay, WI	04/04/2001	Paper converting machinery.
39,101	Eureka Company (The) (Co.)	El Paso, TX	04/03/2001	Upright vacuum cleaners.
39,102	Boy Harness Co. (Co.)	Osceola, IA	04/09/2001	Gun cases and luggage.
39,103	Sierra Pine Ltd (IAM)	Springfield, OR	04/11/2001	Particleboard.
39,104	Alexander Doll Co. (AITNWA)	New York, NY	04/09/2001	Porcelain dolls & doll accessories.
39,105	Exide Technologies (Co.)	Dunmore, PA	04/05/2001	Automotive batters.
39,106	Manpower Employment Serv. (Wkrs)	Fairfield, IA	04/09/2001	Provide temp. employees.

[FR Doc. 01–13003 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act (WIA) Section 167, the National Farmworker Jobs Program (NFJP)

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of formula allocations for the Program Year (PY) 2001 National Farmworker Jobs Program (NFJP), request for comments and waiver of competition for the succeeding 2-year grant period.

SUMMARY: Under section 182(d) of the Workforce Investment Act (WIA) of 1998, ETA is publishing the PY 2001 allocations for the NFJP authorized under section 167 of the WIA. The allocations are distributed to the States by a formula that estimates, by State, the relative demand for NFJP services. The allocations in this Notice apply to the PY beginning July 1, 2001. Under section 167(c)(4)(B) of WIA, the ETA is waiving the requirement for competition for the 2-year grant period beginning July 1, 2001.

DATES: Comments must be submitted on or before May 31, 2001.

ADDRESSES: Comments should be sent to Ms. Alicia Fernandez-Mott, Chief, Division of Seasonal Farmworker Programs, Room N–4641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Her e-mail address is afernandez@doleta.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Alicia Fernandez-Mott, Chief, Division of Seasonal Farmworker Programs, RoomN–4641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Her telephone number is (202) 693–3729. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1999, we published a Notice of a new formula for allocating funds available for the NFJP (formerly referred to as the section 402 Migrant and Seasonal Farmworker (MSFW Program)) in the **Federal Register** at 64 FR 27390 (May 19, 1999). The Notice explains how the new formula achieves its purpose of distributing funds geographically by State service area on the basis of each area's relative share of farmworkers who are eligible for enrollment in the NFJP. The new formula consists of a rational combination of multiple data sets that were selected to yield the relative share distribution of eligible farmworkers. The combined-data formula is substantially more relevant to the purpose of aligning the allocations with the eligible population than the allotments determined by the prior formula.

The realignments made by new formula gave rise to significant changes in relative funding levels. These changes are primarily attributable to the inherent weaknesses of the data sources used under the prior formula. The changes are also attributable to the fact that the data had gradually become significantly date-stale. The magnitude of the realignments is substantial for some of the States that are scheduled to experience decreases as a result of the transition from the original distributions to the distributions provided by the new formula. To provide a smooth transition to the realigned distributions, Part IV of the May 19, 1999 Notice stated a strategy for phased implementation of the new formula through four incremental "hold harmless" stages. The stages provide a graduated implementation of the formula allocations by limiting the rate of reduction in relative funding levels to the four annual increments of 95 percent of the 1998 level in PY 1999, 90 percent in PY 2000, 85 percent in PY 2001, and 80 percent in PY 2002. Full implementation of the new (combined-data) formula will be reached on the 5th year allocation in PY 2003. The May 19, 1999, Notice provides that PY 2001 is the third stage hold-harmless year, under which each State service area will receive no less than 85 percent of its PY 1998 allocation. (See 64 FR 27390, 27399 at section IV(3) (May 19, 1999)). PY 2001 is the operating year that begins on July 1, 2001.

Because it is the best available allocation tool, we continue to implement the new formula by applying the third implementation step of the formula described in the May 19, 1999, Notice to allocate PY 2001 WIA section 167 funds. The rationale for the new allocation formula and the underlying methodology on how the new formula realigns the distribution of NFJP allocations, is fully explained in the May 19, 1999 Notice. Section III of this Notice describes how the PY 2001 formula allocations are adjusted to account for the budget additions provided by Congress.

The Department of Labor invites comments on our decision to continue the phased implementation of this formula in allocating PY 2001 funds for the NFJP.

II. Limitation on Non-NFJP Uses of Section 167 Funds

The Fiscal Year 2001 appropriation for all the MSFW programs under WIA section 167 is $76,770,000. Under 20 CFR 669.240(a), "[a]t least 94 percent of the funds appropriated each year for the WIA section 167 farmworker activities must be allocated to State service areas, based on the distribution of the eligible MSFW population. * * *" This means that $72,163,800 is the minimum amount that must be allocated under the formula for PY 2001, and it is the amount allocated for PY 2001 under this Notice.

In appropriating the funds for PY 2001, Congress provided direction for the use of additional funds authorized above the amount requested in the budget. In the Senate Committee on Appropriations Report 106–293, the Committee recommended the additional funding to offset the scheduled adjustment to those State service areas undergoing a reduction in funding, by financing the difference between their PY 1998 level and the PY 2001 hold-harmless adjusted level. The additional funding was approved in the final appropriation legislation.

III. PY 2001 Allocations

In PY 2001, the base amount selected for allocation under the formula using the third step's 85 percent hold harmless allotment, is the PY 1999 allocated amount of $67,596,408. The additional funding provided under congressional direction in PYs 1999, 2000, and 2001 is applied cumulatively to sustain at their 1998 levels those State service areas that receive a declining relative share of funding by the progressive application of the new formula.

The details for the PY 2001 allocations are provided in the table provided at the end of this Notice. The third step (85 percent hold-harmless) allocations are given in column "E". For comparison with the figures in Column "E", column "F" uses the table's software program to provide an arithmetic calculation of 85 percent of the PY 1998 allotments. Column "G" provides the additional "make whole" amounts allotted under the congressional recommendation to bring to their PY 1998 levels those State service areas where the demographics reflected under the formula show there has been a decline in the relative share of eligible farmworkers. At this stage, the PY 2001 amount allotted is the sum of the third step's formula allotment (column "E") of $67,606,916 and the "make-whole" amount of $4,242,312 which brings all States to their PY 1998 levels (column G). However, the total amount allocated at this stage is $314,572 short of the minimum 94 percent amount ($72,163,800) that must be allocated to the State areas for operating the NFJP. To allocate this amount, column H carries over from column D the unadjusted formula relative shares for the States experiencing a rising relative share. Column I shows the percentage calculation of the relative distribution among those States. Column J distributes the $314,572 using the percentages determined under column I. Column K which is the sum of columns E, G and J, provides the final NFJP allotments for PY 2001.

IV. Rhode Island and the Minimum Funding Provisions

Part V of the May 19, 1999, **Federal Register** Notice provides that a State service area allocated less than $60,000 could be combined with an adjoining State service area. As in PY 2000, the PY 2001 Rhode Island area allocation is

combined with the Connecticut area allocation.

In PY 2003, which is the next scheduled NFJP competition cycle, we intend to compete the combined two-State geographic area of Connecticut and Rhode Island as a single service area.

V. PY 2001 Allotments

The final (far right-hand) column K of the "Allocation Table" provides the allotments for the NFJP in PY 2001. Grantees will use these figures in preparing the PY 2001 NFJP grant plans.

VI. PY 1999 and 2000 Competition

The competition for the current 2-year period, comprising the 1999 and 2000 Program Years, was held in 1999. Under the authority of section 167(c)(4)(B), the Department of Labor is waiving the requirement for competition of the succeeding 2-year period (PYs 2001 and 2002) for each recipient grantee.

Under WIA section 167(c)(4)(B) grantees are required to submit a 2-year plan for the second biennial period that is satisfactory to the Grant Officer. The requirement for competition for the recipient will be considered to be waived upon the Grant Officer's receipt of a satisfactory 2-year plan.

Signed at Washington, D.C., this 11th day of May, 2001.

Shirley M. Smith,

Administrator, Office of Adult Services.

NATIONAL FARMWORKER JOBS PROGRAM STATE ALLOCATIONS FOR PROGRAM YEAR 2001 ($72,163,800)

State	PY 1998 allotments	PY 2001 formula allocation w/o hold-harmless adjustment	PY 2001 formula % share w/o hold-harmless	PY 2001 allocation with hold-harmless adjustment	85% of PY98 allotments (compare)	Adjust. to bring states to PY 1998 levels	States with an increase relative share (percent)	Relative share among Col. H states (percent)	Alloctn. to achieve 94% min.	PY 2001 allots.
A	B	C	D	E	F	G	H	I	J	K
Alabama	$791,835	$437,632	0.67768	$873,060	$673,060	$118,775				$791,835
Arizona	1,519,645	1,719,287	2.66228	1,697,659	1,291,698	0	2.662	3.62	$11,403	1,709,062
Arkansas	1,167,409	724,893	1.12247	992,298	992,298	175,111			0	1,167,409
California	14,591,138	20,067,526	31.07392	16,668,927	12,402,467	0	31.074	42.31	133,107	16,802,034
Colorado	805,523	992,449	1.53678	906,281	684,695	0	1.537	2.09	6,583	914,864
Connecticut	206,024	303,689	0.47025	237,468	175,120	0	0.470	0.64	2,014	239,482
Delaware	118,334	125,899	0.19495	125,899	100,584	0	0.195	0.27	835	126,734
Florida	4,631,415	2,465,700	3.81808	3,936,703	3,936,703	694,712			0	4,631,415
Georgia	1,711,615	876,499	1.35723	1,454,873	1,454,873	256,742			0	1,711,615
Idaho	877,438	1,079,184	1.67108	989,177	745,822	0	1.671	2.28	7,158	996,335
Illinois	1,425,808	1,424,912	2.20643	1,425,808	1,211,937	0	2.206	3.00	9,451	1,435,259
Indiana	781,615	927,202	1.43574	877,617	664,373	0	1.436	1.96	6,150	883,767
Iowa	1,314,394	1,078,955	1.67073	1,117,235	1,117,235	197,159			0	1,314,394
Kansas	697,839	1,078,783	1.67046	809,536	593,163	0	1.670	2.27	7,156	816,692
Kentucky	1,352,613	1,043,179	1.61533	1,149,721	1,149,721	202,892			0	1,352,613
Louisiana	796,032	484,907	0.75086	676,627	676,627	119,405			0	796,032
Maine	327,397	174,702	0.27052	278,287	278,287	49,110			0	327,397
Maryland	306,291	383,789	0.56332	343,957	260,347	0	0.563	0.77	2,413	346,370
Massachusetts	351,027	298,012	0.46146	298,373	298,373	52,654			0	351,027
Michigan	878,541	944,430	1.46242	944,430	746,845	0	1.462	1.99	5,264	950,694
Minnesota	1,274,775	879,095	1.36125	1,083,559	1,083,559	191,216			0	1,274,775
Mississippi	1,449,044	571,321	0.88467	1,231,687	1,231,687	217,357			0	1,449,044
Missouri	1,094,524	976,379	1.51189	976,379	930,345	118,145			0	1,094,524
Montana	667,189	461,861	0.71518	567,111	567,111	100,078			0	667,189
Nebraska	774,884	1,092,397	1.69154	887,991	658,651	0	1.692	2.30	7,246	895,237
Nevada	200,795	159,091	0.24635	170,676	170,676	30,119			0	200,795
New Hampshire	112,600	100,958	0.15633	100,958	95,710	11,642			0	112,600
New Jersey	400,038	698,545	1.08168	472,365	340,032	0	1.082	1.47	4,633	476,998
New Mexico	598,720	934,978	1.44778	695,528	506,912	0	1.448	1.97	6,202	701,730
New York	1,850,667	1,088,774	1.68593	1,573,067	1,573,067	277,600			0	1,850,667
North Carolina	3,006,003	1,897,104	2.93760	2,555,103	2,555,103	450,900			0	3,006,003
North Dakota	468,362	609,496	0.94379	531,469	398,108	0	0.944	1.29	4,043	535,512
Ohio	904,951	1,264,492	1.95803	1,035,876	769,208	0	1.958	2.67	8,387	1,044,263
Oklahoma	608,145	1,276,891	1.97723	740,354	516,923	0	1.977	2.69	8,470	748,824
Oregon	1,087,697	1,452,311	2.24886	1,238,069	924,542	0	2.249	3.06	9,633	1,247,702
Pennsylvania	1,221,441	1,549,985	2.40010	1,381,926	1,038,225	0	2.400	3.27	10,281	1,392,207
Rhode Island	0	38,832	0.06013	4,021	0	0	0.060	0.08	258	4,279
South Carolina	1,080,106	391,046	0.60552	918,090	918,090	162,016			0	1,080,106
South Dakota	692,869	456,831	0.70739	588,939	588,939	103,930			0	692,869
Tennessee	957,799	720,217	1.11523	814,129	814,129	143,670			0	957,799
Texas	5,979,800	6,697,752	10.37126	6,873,294	5,082,830	0	10.371	14.12	44,426	6,717,710
Utah	245,354	268,106	0.44612	275,185	208,551	0	0.446	0.61	1,911	277,096
Vermont	213,134	105,217	0.16293	181,164	181,164	31,970			0	213,134
Virginia	1,036,441	708,789	1.09754	880,975	880,975	155,466			0	1,036,441
Washington	1,705,576	2,262,216	3.50297	1,939,806	1,449,740	0	3.503	4.77	15,005	1,954,811
West Virginia	219,325	100,275	0.15527	186,426	186,426	32,899			0	219,325
Wisconsin	1,229,201	953,157	1.47593	1,044,821	1,044,821	184,380			0	1,229,201
Wyoming	201,911	232,207	0.35956	225,954	171,624	0	0.360	0.49	1,540	227,494
Total Cntr. U.S.	63,933,384	64,579,952	100.00	64,580,848	N/A	4,077,948	73.436	1.00000	314,570	68,973,366
Conterminous U.S.	63,933,384	64,579,952	95.53755							
Hawaii	251,607	204,254	0.30217	213,868	213,868	37,739			0	251,607
Puerto Rico	2,938,827	2,812,202	4.16028	2,812,200	2,498,003	126,627			0	2,938,827
Subtot. (HI+PR)	3,190,434	3,016,456	4.46	3,026,068	N/A	164,366			0	3,190,434
Total U.S.	67,123,818	67,596,408	100.00	67,606,916		4,242,314			314,570	72,163,800

NATIONAL FARMWORKER JOBS PROGRAM STATE ALLOCATIONS FOR PROGRAM YEAR 2001 ($72,163,800)—Continued

State	PY 1998 allotments	PY 2001 formula allocation w/o hold-harmless adjustment	PY 2001 formula % share w/o hold-harmless	PY 2001 allocation with hold-harmless adjustment	85% of PY98 allotments (compare)	Adjust. to bring states to PY 1998 levels	States with an increase relative share (percent)	Relative share among Col. H states (percent)	Alloctn. to achieve 94% min.	PY 2001 allots.
A	B	C	D	E	F	G	H	I	J	K
										72,163,800
									314,570	72,163,800

[FR Doc. 01–13019 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4435]

Bayer Corporation, Consumer Care Division, Elkhart, IN; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Bayer Corporation, Consumer Care Division, Elkhart, Indiana. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–4435; Bayer Corporation Consumer Care Division Elkhart, Indiana (May 2, 2001)

Signed at Washington, D.C. this 3rd day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–13004 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,350; Hill Knitting Mills, Richmond Hill, NY

TA–W–38,798; PTC Alliance, Jane Lew, WV

TA–W–39,642; Global Tex LLC, d/b/a Bates of Maine, Lewiston, MI

TA–W–38,866; AGP, LLC, Sherman, TX

TA–W–38,893; The Budd Co., Stamping and Frame Div., Philadelphia, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,694; Thrall Car, Thrall Car North American Rail, Chicago Heights, IL

TA–W–38,588; Rhoda, Lee, Inc., New York, NY

TA–W–39,055; Newport Steel Corp., Newport, KY

TA–W–38,469; Gile Orchards, Alfred, ME

TA–W–38,691; Cone Mills Corp., Raytex Plant, Marion, SC

TA–W–38,923; Sunshine Precious Metals, Inc., Kellogg, ID

TA–W–39,188; Rhoda Lee, Inc., New York, NY

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–39,012, A & B; Commtough, Inc., Mountain View, CA, New York, NY and Miami Beach, FL

TA–W–38,785; Vesuvius USA, Gadsden, AL

TA–W–39,149; Daimler Chrysler AG, Auburn Hills, MI

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–38,984; AVX Tantalum Corp., Biddeford, ME

All worker separations occurred prior to the March 31, 2001 expiration of the previous certification. The current petition can only cover workers separated after March 31, 2001. The Melt Shop has not been in operation since that time.

TA–W–38,848; Allvac, Latrobe, PA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,072 & A; Thomasville Furniture Industries, Johnson City, TN & Fayette Enterprises, Fayette, MS: April 5, 2000.

TA–W–39,140; Dunbrooke Industries, Ocean Springs, MS: April 11, 2000.

TA–W–38,960; Spectron Lasers USA, Inc., Warwick, RI: March 12, 2000.

TA–W–38,623; Eaton Aeroquip Corp., Aeroquip Precision Speres Div., Ann Arbar, MI: January 18, 2000.

TA–W–38,524; The Quaker Oats Co., Shiremanstown, PA December 20, 1999.

TA–W–39,153; Salon Manufacturing, Rhinelander, WI: April 9, 2000.

TA–W–39,101; The Eureka Co., El Paso, TX Including Temporary Workers of

Southwest Staffing, Inc., Employed at The Eureka Co, El Paso, TX: April 3, 2000.
TA–W–38,726; Avery Dennison Fassion Roll Div., Quakertown, PA: February 8, 2000.
TA–W–39,154; Jonathan Engineered Solutions, Fullerton, CA: April 6, 2000.
TA–W–38,815; Johnston Industries, Inc., Columbus, GA: February 15, 2000.
TA–W–38,881; Viasystems Technologies Corp., LLC, Richmond, VA March 9, 2000.
TA–W–39,094; Ajay Leisure Products, Inc., Delavan, WI: August 19, 1999
TA–W–38,666; Marco Distributing, Idaho Falls, ID: January 12, 2000.
TA–W–38,634; Spectrum Dyed Yarns, Inc., Belmont, NC: January 23, 2000.
TA–W–38,776; Smith and Nephew, Inc., Casting Div., Charlotte, NC: Febuary 13, 2000.
TA–W–38,540; New York Air Brake Corp., Div. of Knorr Brake Co., Watertown, NY: December 30, 1999.
TA–W–39,083; Crystal Springs Apparel, LLC, Formerly Bernstein & Son Shirt Corp., Crystal Springs, MS: November 10, 2000.
TA–W–39,098; Seal Glove Manufacturing, Inc., Millersburg, PA: April 4, 2000.
TA–W–38,807; Heckett Multiserve, Div. of Harsco Corp., Employed at WCI Steel, Inc., Warren, OH: January 21, 2001
TA–W–38,792 & A; Stitches, Inc., Red Boiling Springs, TN and Gamaliel, KY: Febraury 26, 2000.
TA–W–39,040 & A; Lebanon Apparel, Lebanon, VA and Three Creek Apparel, Castelwood, VA: March 28, 2000.
TA–W–38,440 & A, B, C, D; U.S. Forest Industries, Inc., Medford, OR, Grants Pass, OR, South Fork, CO, Abbeville, AL & Graceville, FL: November 21, 1999.
TA–W–39,178; Annalee Mobilitee Dolls, Inc., Meredith, NH: April 12, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of May, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04613; The Budd Co., Stamping and Frame Div., Philadelphia, PA
NAFTA–TAA–04763; CMS Hartzell Manufacturing, St. Paul, MN
NAFTA–TAA–04661; Sunshine Precious Metals, Inc., Kellogg, ID
NAFTA–TAA–04634; AGP LLC, Sherman, TX

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

NAFTA–TAA–04774; Commtouch, Inc., Mountain View, CA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04586; O–Z/Gedney, Pittston, PA: February 21, 2000.
NAFTA–TAA–04362 & A, B, C, D; U.S. Forest Industries, Inc., Medford, OR, Grants Pass, OR, South Fork, CO, Abbeville, AL, Graceville, FL: November 21, 1999.
NAFTA–TAA–04425; New York Air Brake Corp., Div. of Knorr Brake Co., Watertown, NY: December 30, 1999.
NAFTA–TAA–04667; Ten Cate Enbi, West Henrietta, NY: March 14, 2000.
NAFTA–TAA–04757; Seal Glove Manufacturing, Inc., Millersburg, PA: April 12, 2000.
NAFTA–TAA–04736; Minnesota Rubber Div., Quadion Corp., Minneapolis, MN: April 5, 2000.
NAFTA–TAA–04765; Techalloy Co., Inc., Fine Wire Div., Including Die Shop, Northampton, MA: April 5, 2000.
NAFTA–TAA–04754; Fontaine International, Fontaine Fifth Wheel, Rocky Mount, NC: April 5, 2000.
NAFTA–TAA–04559; Avery Dennison, Fasson Roll Div., Quakertown, PA February 8, 2000.
NAFTA–TAA–04744; The Eureka Co., El Paso, TX, Including Temporary Workers of Southwest Staffing, Inc., Employed at The Eureka Co., El Paso, TX: April 4, 2000.
NAFTA–TAA–04764; Solon Manufacturing, Rhinelander, WI: April 9, 2000.
NAFTA–TAA–04580; Corning Cable Systems LLC, Champion Products Div., Pensacola, FL: January 26, 2000.
NAFTA–TAA–04820; Tridelta Industries, Inc., Mentor, OH: April 10, 2000.
NAFTA–TAA–04775; Jonathan Engineered Solutions, Fullerton, CA: March 27, 2000.
NAFTA–TAA–04635; Viasystems Technologies Corp., LLC, Richmond, VA: March 9, 2000.
NAFTA–TAA–04413; The Quaker Oats Co., Shiremanstown, PA: December 20, 1999.

I hereby certify that the aforementioned determinations were issued during the month of May, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 11, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–12997 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,932]

Johnson & Johnson Medical, Inc., El Paso, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 26, 2001, in response to a worker petition which was filed on behalf of workers at Johnson & Johnson Medical, Inc., El Paso, Texas.

The petitioning workers work at a production facility outside of the United States and consequently have no standing to file a petition. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

A petition for NAFTA Transitional Adjustment Assistance has been filed on behalf of workers at the subject firm (NAFTA 4668). A determination on that petition will be made concurrently with this determination.

Signed at Washington, DC this 8th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–12996 Filed 5–27–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4668]

Johnson & Johnson Medical, Inc., El Paso, TX; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–1 concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on March 26, 2001, in response to a petition filed on behalf of workers at Johnson & Johnson Medical, Inc., El Paso, Texas. The subject firm produces disposable surgical products (aprons, drapes, packs).

The petitioning workers work at a production facility outside of the United States and consequently have no standing to file a petition. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

A petition for Trade Adjustment Assistance has been filed on behalf of workers at the subject firm (TA–W–38, 932). A determination on that petition will be made concurrently with this determination.

Signed in Washington, DC, this 8th day of May, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–13001 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4336]

Philips Electronics North America Corp., Philips Display Components Co., Ottawa, Ohio; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) and application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Philips Electronics North America Corporation, Philips Display Components Company, Ottawa, Ohio, The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–4336; Philips Electronics North America Corporation, Philips Display Components Company, Ottawa, Ohio (May 2, 2001)

Signed at Washington, DC this 3rd day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–13000 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigation Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petition for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of DTAA not later than June 4, 2001.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than June 4, 2001.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 10th day of May, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Appendix

Subject Firm	Location	Date Received at Governor's Office	Petition No.	Articles Produced
Texler (Co.)	Hacedonia, OH	05/04/2001	NAFTA–4, 825	Tooling and plastic components
Krupp Hoesch Suspensions (Co.)	Hamilton, OH	05/02/2000	NAFTA–4, 826	Front and rear suspension springs
MK Acquisition (Wkrs)	Orrville, OR	05/04/2001	NAFTA–4, 827	Car and truck components
Hoskins Manufacturing (Co.)	Charlevoix, MI	05/01/2001	NAFTA–4, 828	Spark plug alloys
SGL Carbon (USWA)	Niagara Falls, NY	04/27/2001	NAFTA–4, 829	Carbon graphite
Centis (Wkrs)	Brea, CA	05/01/2001	NAFTA–4, 830	Page protector
Avery Dennison—Spartan International (Wkrs).	Holt, MI	03/06/2001	NAFTA–4, 831	Spiral tubes for tape
ECK Industries (GMP)	St. Manitowoc, WI	04/20/2001	NAFTA–4, 832	Aluminum castings
Creat Uniform—Aramark (Wkrs)	New York City, NY	04/27/2001	NAFTA–4, 833	Medical and fast food uniforms
Admiral Marine Construction (Co.)	Port Angeles, WA	05/02/2001	NAFTA–4, 834	Yacht components
E.I. DuPont (Co.)	Camden, SC	05/02/2001	NAFTA–4, 835	Nylon synthetic fiber
Honeywell (Co.)	Torrance, CA	05/03/2001	NAFTA–4, 836	Aerospace heat exchangers and components
FCI Electronics (Wkrs)	Hanover, PA	05/03/2001	NAFTA–4, 837	Electrical connectors
Republic Paperboard (PACE)	Commerce City, CO	05/04/2001	NAFTA–4, 838	Wallboard paper
Emerson (Co.)	St. Louis, MO	05/04/2001	NAFTA–4, 839	Heating, ventilation & cooling products
OSRAM Sylvania Products (AFGW)	Wellsboro, PA	05/04/2001	NAFTA–4, 840	Lamps and light bulbs
Allied Textiles USA (Co.)	Charlotte, NC	05/04/2001	NAFTA–4, 841	Texile recycling
Technimark (Wkrs)	Randleman, NC	05/07/2001	NAFTA–4, 842	Plastic injection molding
D and J Apparel (Co.)	Albemarle, NC	05/07/2001	NAFTA–4, 843	Sweatshirts, sweatpants and t-shirts
Spectrum Control (Wkrs)	Fairview, PA	05/04/2001	NAFTA–4, 844	Filter plates, filtered terminal blocks
M. Fine and Sons (UNITE)	Middlesboro, KY	05/07/2001	NAFTA–4, 845	Jeans
Lear Corporation (UNITE)	Lewistown, PA	05/07/2001	NAFTA–4, 846	Automotive carpeting
Oglevee LTD (Co.)	Fredonia, PA	05/07/2001	NAFTA–4, 847	Geranium impatient cuttings
Newport Steel Corporation (Co.)	Newport, KY	04/12/2001	NAFTA–4, 848	Steel
Thomas and Betts (Wkrs)	Horseheads, NY	05/07/2001	NAFTA–4, 849	Cable connections for TVs
APV Crepaco (Wkrs)	Lake Mills, WI	05/08/2001	NAFTA–4, 850	Food processing
United Plastics Group (Wkrs)	Anaheim, CA	05/07/2001	NAFTA–4, 851	Plastic injection molded parts
Pilkington Libbey Owens Ford (Wkrs)	Sherman, TX	05/08/2001	NAFTA–4, 852	Auto glass

[FR Doc. 01–13002 Filed 5–22–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4358]

Warm Springs Forest Products Industries, Warm Springs, OR; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Warm Springs Forest Products Industries, Warm Springs, Oregon. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–4358; Warm Springs Forest Products Industries Warm Springs, Oregon (May 2, 2001)

Signed at Washington, DC, this 3rd day of May, 2001.

Edward A. Tomchick,
Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–12999 Filed 5–22–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension of the Request for State or Federal Workers' Compensation Information (CM–905).

DATES: Written comments must be submitted to the office listed in the **ADDRESSEE** section below on or before July 23, 2001.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Mine Safety and Health Act of 1977, as amended, and 20 CFR 725.535, direct that DOL Black Lung benefit payments to a beneficiary for any month be reduced by any other payments of State or Federal benefits for workers' compensation due to pneumoconiosis.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks hte approval for this information collection in order to determine the amounts of black lung benefits paid to beneficiaries. Black Lung amounts are reduced dollar for dollar, for other black lung related workers' compensation awards the beneficiary may be receiving from State or Federal programs.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Request for State or Federal Workers' Compensation Information.
OMB Number: 1215–0060.
Affected Public: Federal government; State, Local or Tribal Government.
Frequency: On occasion.
Total Respondents: 3,522.
Time per Response: 15 minutes.
Estimatd Total Burden Hours: 881.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $11,799.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 14, 2001.

Margaret J. Sherrill,
Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning Employment Standards Administration.

[FR Doc. 01–13020 Filed 5–22–01; 8:45 am]
BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

Giant Merchandising Debarment

AGENCY: Office of Federal Contract Compliance Programs, Labor

ACTION: Notice of debarment: Giant Merchandising, 5655 Union Pacific Avenue, Los Angeles, California 90022.

SUMMARY: This notice advises of the debarment of Giant Merchandising (hereinafter "Giant"), as an eligible bidder on Government contracts or extensions or modifications of existing contracts. The debarment is effective immediately.

FOR FURTHER INFORMATION CONTACT: Harold M. Busch, Acting Deputy Assistant Secretary for Federal contract Compliance, U.S. Department of labor, 200 Constitution Ave., NW., Room C–3325, Washington, DC 20210 (202–693–1062).

SUPPLEMENTARY INFORMATION: On April 19, 2001, pursuant to 41 CFR 60–30.13(a), Administrative Law Judge Karst issued a Decision and order approving the consent Decree entered into by Giant Merchandising, 5655 Union Pacific Avenue, Los Angeles, CA 90022 ("Giant"), and the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP). Under the terms of the Consent Decree, Giant and any and all purchasers, successors, assignees, and/or transferees are declared ineligible for

the award of any future contracts funded in whole or in part with Federal funds and ineligible for extension or other modifications of any existing Government contracts. The Decision and Order is set forth below. The debarment from future Government contracts and subcontracts and the ineligibility for extensions or other modifications is effective immediately and shall be lifted after a fixed term of six months from the date of the Decision and Order approving the Consent Decree, provided Giant complies with the terms of this Consent Decree.

Dated: Signed May 17th, 2001, Washington, DC.

Harold M. Busch,

Acting Deputy Assistant Secretary for Federal Contract Compliance.

Department of Labor, Office of Administrative Law Judges, San Francisco, CA

[Case No. 2001–OFC–2]

Issue date: April 19, 2001.

In the Matter of: Office of Federal Contract Compliance Programs, Department of Labor, Plaintiff, vs. Giant Merchandising, Defendant

Decision and Order Approving Consent Decree

The parties filed an executed Consent Decree, a copy of which is attached on April 17, 2001. Review of the Consent Decree shows that it is in compliance with 41 CFR 60–30.13 and that it fairly and adequately resolves all pending issues for this matter.

Accordingly, the Consent Decree is hereby *Approved*. Such Consent Decree constitutes my findings of fact and conclusions of law and constitutes full, final, and complete adjudication of this matter.

Alexander Karst,
Administrative Law Judge.

A copy of the above named document was sent to the following:

Patricia Winkler, Human Resources Manager, Giant Merchandising, 5655 Union Pacific Avenue, Los Angeles, CA 90022
Matthew Halpern, Esq., Jackson Lewis Schnitzler & Krupman, 1000 Woodbury Road, Suite 402, Woodbury, NY 11797
Gerald M. Levin, Chairman & CEO, Time Warner, Inc., 75 Rockefeller Plaza, New York, NY 10019
Michelle Serrou, Office of the Solicitor-Div. of Civil Rights, U.S. Department of Labor, Room N–2464, 200 Constitution Ave., NW., Washington, DC 20210
Solicitor of Labor, U.S. Department of Labor, Office of the Solicitor, Room S–2002, FPB, 200 Constitution Ave., NW., Washington, DC 20210
Special Counsel to the Assistant Secretary of Labor, U.S. Department of Labor, Employment & Training Administration, 200 Constitution Ave., NW., Rm. N–4671, Washington, DC 20210
Offc of Fed. Contract Compliance Programs, U.S. Department of Labor, Room C–3325, 200 Constitution Ave., NW., Washington, DC 20210
Associate Solicitor-Civil Rights Division, U.S. Department of Labor, Room N–2464, 200 Constitution Ave., NW., Washington, DC 20210
Daniel Teehan, Regional Solicitor, U.S. Department of Labor, 71 Stevenson Street, Suite 1110, San Francisco, CA 94105
Vivian Chan,
Legal Technician.

Office of Administrative Law Judges

Department of Labor, Office of Federal Contract Compliance Programs, Plaintiff, v. Giant Merchandising, Defendant

[Case No. 01–OFC–2]

Consent Decree

This Consent Decree is entered into between the Plaintiff, United States Department of Labor, Office of Federal Contract Compliance Programs (hereinafter "OFCCP") and Defendant, Giant Merchandising (hereinafter "Giant") in complete resolution of the Administrative Complaint filed in this matter. The Complaint was filed by OFCCP against Giant alleging violations of Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303) and Executive Order 12086 (43 FR 46501) (hereinafter "Executive Order"); Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (hereinafter "Section 503"); and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212 (hereinafter "VEVRAA").

In the Administrative Complaint, OFCCP alleged that Giant violated its contractual obligations under Executive Order 11246, section 503, and VEVRAA by failing to submit to OFCCP information requested in a survey document bearing OMB Control Number 1215–0196 ("the Equal Opportunity Survey" or "EO Survey"). The EO Survey requested information relating to personnel activity at Giant's facility located in Commerce, California (hereinafter "Commerce facility").

In its Answer, Giant denied that the Company had violated the Executive Order, Section 503 and VEVRAA and asserted that the cited laws and/or regulations did not apply to the Defendant at the time that it was asked to respond to the EO Survey.

Part A—Jurisdiction and Procedural History

1. The Office of Administrative Law Judges has jurisdiction over this action pursuant to sections 208 and 209 of Executive Order 11246, 41 CFR 60–1.26, 41 CFR Part 60–30; section 503, 41 CFR 60–741.65; VEVRAA and 41 CFR 60–250.29.

2. This matter was brought by OFCCP to enforce the contractual obligations imposed by the Executive Order, section 503 and VEVRAA and the regulations issued pursuant thereto. The Administrative Complaint invoked the expedited OFCCP hearing procedures, 41 CFR 60–30.31, *et seq.*

3. In its Complaint, OFCCP alleged that Giant had refused to give OFCCP access to or to supply it with records or other information as required by the equal opportunity clause; specifically, it alleged that Giant had failed and refused to complete the EO Survey mailed to Giant by OFCCP and received by Giant on April 28, 2000. The EO Survey required Defendant to furnish to OFCCP, within 30 days from the date of receipt, certain information relating to personnel activity at the Commerce facility.

4. In its Answer, Giant contended that the Executive Order, section 503 and VEVRAA did not apply at the time that Giant was asked to respond to the EO Survey and, therefore, Giant had no obligation under the applicable laws and regulations to supply OFCCP with the information it had requested. Giant further denied that it was obligated to complete the EO Survey and averred that it submitted the EO Survey on January 31, 2000.

5. Giant denies that it violated Executive Order 11246, section 503 and VEVRAA.

6. Giant does not admit any violation of law or other obligation. The parties agree that this Consent Decree is not, and may not be used, as a admission of any violation by Giant, or as a basis for asserting Giant's noncompliance with any labor and employment laws, rules or regulations.

7. Giant is a joint venture between Warner Bros. Records Inc., and Warner Music GM Merchandising Inc., and is headquartered in Commerce, California. Giant is engaged in the business of manufacturing, printing, and distributing commercial art and graphic design in the form of silk-screened tee-shirts and other wearables.

8. At all times pertinent to this matter, OFCCP has alleged that Giant had a Government contract of $50,000 or more, and had 50 or more employees. Giant denied that it had a Government contract of $50,000 or more at the time OFCCP sought submission of the EO Survey.

9. At all times pertinent to this matter, Giant maintained and operated the Commerce facility located at 5655 Union Pacific Avenue, Commerce, California 90022.

10. Giant has never obtained a waiver of coverage from the Deputy Assistant Secretary for Federal contract Compliance for its Commerce Facility.

11. The EO Survey received by Giant, on April 28, 2000, sought from Giant information relating to its current personnel practices. This information is of the type that Federal contractors are required to maintain. 41 CFR 60–1.12; 41 CFR 60–250.52 41 CFR 60–740.80.

12. OFCCP contended, in this action, that Giant was required to respond to the EO Survey within 30 days from the date of receipt, *i.e.*, on or before May 28, 2000. Giant denied that it was required to do so.

13. Giant did not complete the EO Survey for its Commerce facility by May 28, 2000.

14. By letter dated June 22, 2000, Shirley J. Wilcher, Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, sent, by certified mail a Notice to Show Cause within 30 days why Giant's non-submission of the EO Survey should not be deemed a violation of the Executive Order, and why defendant should not be subject to the sanctions provided by law and regulation for such a violation. The Notice to Show Cause was accompanied by a second copy of the EO survey.

15. On August 1, 2000, a letter dated May 22, 2000, was faxed to OFCCP by Patricia Winkler, Human Resources Manager for Giant. In the May 22, 2000 letter, Jesse L. Atilano, President and CEO of Labor Law, requested an exemption for Giant based on the assertion that Giant did not have sales exceeding the "statutory dollar amount of $500,000.00. On August 16, 2000, OFCCP contacted Mr. Atilano to inform him that the threshold dollar amount which creates in Government contractors the duty to prepare and maintain a written Affirmative Action Program is $50,000. Mr. Atilano stated that he did not believe that Giant was a Federal contractor but that he needed to confirm the dollar amount of Giant's contracts.

16. On January 12, 2001, the Administrative Complaint was filed in this matter.

17. On January 31, 2001, Giant provided to OFCCP a complete response to the EO Survey at issue in this case.

Part B—General Provisions

18. The record that is the basis for this Consent Decree consists of the Administrative Complaint, Answer and the Consent Decree including attachments thereto.

19. This Consent Decree shall not become final until it has been signed by the Administrative Law Judge. The Effective Date of the Decree shall be the date on which it is signed by the Administrative Law Judge.

20. This Consent Decree shall be binding upon Giant, and any and all purchasers, successors, assignees, and/or transferees, and shall have the same force and effect as an order made after a full hearing.

21. The parties waive all further procedural steps to contest the binding effect of the Consent Decree, and any right to challenge or contest the obligations entered into pursuant to this Decree. Pursuant to 41 CFR 60–30.13, an Order by the Administrative Law Judge accepting this Consent Decree shall constitute the final administrative order in this matter.

22. Subject to the performance by Giant of all duties and obligations contained in this Consent Decree, all alleged violations identified or which could have been identified in the Administrative Complaint shall be deemed fully resolved. However, nothing herein is intended to relieve Giant form compliance with the requirements of the Executive Order, section 503 and VEVRAA or the regulations promulgated pursuant thereto, or to limit OFCCP's right to review Giant's compliance with such requirements.

23. Giant agrees that there shall be no retaliation of any kind against any person who has provided information or assistance concerning this Decree.

Part C—Specific Provisions

24. Giant agrees to a fixed-term debarment of six months during which Giant will not be eligible to receive future contracts or modifications or extensions of existing contracts. The six month debarment will commence on the Effective Date of this Decree. The Deputy Assistant Secretary will grant reinstatement, pursuant to 41 CFR 60–1.31, if Giant complies with the terms of this Decree. No additional proceedings before the Office of Administrative Law Judges are necessary for Giant to be reinstated.

Part D—Implementation and Enforcement of the Decree

25. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implantation of the provisions of this Consent Decree, is retained by the Office of Administrative Law Judges for one year form the Effective Date of this Decree.

26. If at any time after the Effective Date of this Decree, OFCCP believes that Giant has violated any portion of this Consent Decree, Giant will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. The notification will provide Giant with 15 calendar days to respond in writing except where OFCCP alleges that such a delay would result in irreparable injury.

27. Enforcement proceedings for violation of this Consent Decree may be initiated at any time after the 15 days referred to in paragraph 26 has elapsed (or sooner, if irreparable injury is alleged) upon filing with the Court a motion for an order of enforcement and/or sanctions. The issues in a hearing on the motion shall related solely to the factual and legal claims make in the motion and Giant's defense thereto.

28. Liability for violation of this Consent Decree shall subject Giant to sanctions set forth in the Executive Order, section 503 and VEVRAA and their implementing regulations, including contract cancellation and/or debarment, and the appropriate relief.

29. If an application or motion for an order of enforcement or clarification indicates by signature of counsel that the application or motion is unopposed by OFCCP and Giant, the application or motion may be presented to the Court without hearing and the proposed Order may be implemented immediately. If an application or motion is opposed by any party, the party in opposition shall file a written response within 20 calendar days of receipt. The Office of Administrative Law Judges may, if it deems it appropriate, schedule a hearing on the application or motion.

30. The Agreement herein set forth is hereby approved and shall constitute the Final Administrative Order in this case.

Agreed and Consented To:

On Behalf of the Defendant, Giant Merchandising:

Date: April 13, 2001.

Matthew B. Halpern,
Jackson, Lewis, Schnitzler & Krupman, 1000 Woodbury Road, Suite 402, Woodbury, NY 11797

On Behalf of the Plaintiff, U.S. Department of Labor, Office of Federal Contract Compliance Programs:

Judith E. Kramer,
Acting Solicitor of Labor.
Gary M. Buff, *Associate Solicitor.*
Debra A. Millenson,
Senior Trial Attorney.
Michelle Serrou
Attorney, Department of Labor, Office of the Solicitor, Civil Rights Division.

[FR Doc. 01–12995 Filed 5–22–01; 8:45 am]
BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of existing safety standards.

SUMMARY: Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of an existing safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term "FR Notice" appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

FOR FURTHER INFORMATION CONTACT: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Contact Barbara Barron at 703–235–1910.

Dated at Arlington, Virginia this 16th day of May 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

Affirmative Decisions on Petitions for Modification

Petitioner: Sidney Coal Company, Inc.

[Docket No.: M–2000–002–C]

FR Notice: 65 FR 10563.
Regulation Affected: 30 CFR 75.1902(d)(1).
Summary of Findings: Petitioner's proposal is to have its underground fuels storage facilities remain at the present location and make the following changes and adjustments for safety concerns: (i) Offset the fuel tank 35 feet from any track or transportation; (ii) maintain the storage facility out of direct line of flatcars, mantrips, and other equipment that is moving up or down the slope; (iii) ventilate the facility directly into the return air course and equip the facility with a fire suppression system and other safety features, and fireproof and inspect the facility on a daily basis, and (iv) add a carbon monoxide sensor. This is considered an acceptable alternative method for the Mine #1. MSHA grants the petition for modification for a permanent underground diesel fuel storage facility installed within 100 feet of a slope in the Mine #1 with conditions.

Petitioner: Europa Coal Company.

[Docket No.: M–2000–013–C]

FR Notice: 65 FR 16966.
Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to use a 2,400 volt Joy 14CM continuous miner instead of a 1,000 volt continuous miner inby the last open crosscut and within 150 feet from pillar workings. This is considered an acceptable alternative method for the Europa Mine. MSHA grants the petition for modification for the Europa Mine with conditions.

Petitioner: Big Ridge, Inc. (Formerly Sugar Camp Coal, LLC).

[Docket No.: M–2000–021–C]

FR Notice: 65 FR 19928.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use air coursed through belt haulage entries to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system in the supply road with branches extended to the belt line at certain locations as an early warning fire detection system. This is considered an acceptable alternative method for the Willow Lake Portal Mine. MSHA grants the petition for modification for the Willow Lake Portal Mine to allow air coursed through conveyor belt entries to be used to ventilate working places with conditions.

Petitioner: West Ridge Resources, Incorporated.

[Docket No.: M–2000–025–C]

FR Notice: 65 FR 19928.
Regulation Affected: 30 CFR 75.1909(b)(6).
Summary of Findings: Petitioner's proposal is to: (i) Install gear lockout devices on its diesel grader to limit the speed to a maximum of 10 miles per hour when operating the grader in an underground coal mine or on the surface of an underground coal mine; and (ii) provide training to every grader operator on the proper techniques for lowering the blade to restrict the speed and to stop the grader, on the proper gear selection for grading, and on the proper speed for grading. This is considered an acceptable alternative method for the West Ridge Mine. MSHA grants the petition for modification for the West Ridge mine with conditions.

Petitioner: Andalex Resources, Incorporated.

[Docket No.: M–2000–026–C]

FR Notice: 65 FR 19928.
Regulation Affected: 30 CFR 75.1909(b)(6).
Summary of Findings: Petitioner's proposal is to: (i) Install gear lockout devices on its diesel grader to limit the speed to a maximum of 10 miles per hour when operating the grader in an underground coal mine or on the surface of an underground coal mine; and (ii) provide training to every grader operator on the proper techniques for lowering the blade to restrict the speed and to stop the grader, on the proper gear selection for grading, and on the proper speed for grading. This is considered an acceptable alternative method for the Aberdeen Mine and Pinnacle Mine. MSHA grants the petition for modification for the Aberdeen Mine and Pinnacle Mine with conditions.

Petitioner: Elk Run Coal Company, Inc.

[Docket No.: M–2000–028–C]

FR Notice: 65 FR 31611.
Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to use continuous mining machines with nominal voltage not to exceed 2,300 volts. This is considered an acceptable alternative method for the White Knight Mine. MSHA grants the petition for modification for the White Knight Mine to use 2,400-volt continuous miner system(s) with conditions.

Petitioner: B & B Anthracite Coal Company.

[Docket No.: M–2000–029–C]

FR Notice: 65 FR 31611.
Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Rock Ridge Slope Mine. MSHA grants the petition for modification for the Rock Ridge Slope Mine with conditions.

Petitioner: West Ridge Resources, Inc.

[Docket No.: M–2000–030–C]

FR Notice: 65 FR 31611.
Regulation Affected: 30 CFR 75.500(d).
Summary of Findings: Petitioner's proposal is to use non-permissible low voltage or battery powered electronic testing and diagnostic equipment in or inby the last open crosscut. This is considered an acceptable alternative method for the West Ridge Mine. MSHA grants the petition for modification for the West Ridge Mine with conditions.

Petitioner: Freeman United Coal Mining Company.

[Docket No.: M–2000–037–C]

FR Notice: 65 FR 31609.
Regulation Affected: 30 CFR 75.1909(b)(6).
Summary of Findings: Petitioner's proposal is to operate its diesel-powered road grader without front wheel brakes. The petitioner proposes to operate its diesel grader at a maximum speed of 10 miles per hour, lower the grader blade (mold board) to increase stopping capability in emergencies, and provide training for the grader operators on how to recognize appropriate levels of speed for different road and slope conditions. This is considered an acceptable alternative method for the Crown II Mine. MSHA grants the petition for modification for the Crown II Mine with conditions.

Petitioner: Neumeister Coal Company.

[Docket No.: M–2000–038–C]

FR Notice: 65 FR 31610.
Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the No. 2 Slope Mine. MSHA grants the petition for modification for the No. 2 Slope Mine with conditions.

Petitioner: Tito Coal.

[Docket No.: M–2000–039–C]

FR Notice: 65 FR 31610.
Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Whites Vein Mine. MSHA grants the petition for modification for the Whites Vein Slope Mine with conditions.

FR Notice: 65 FR 40141.
Petitioner: Bowie Resources, Ltd.

[Docket No.: M–2000–048–C]

Regulation Affected: 30 CFR 75.901(a).
Summary of Findings: Petitioner's proposal is to use a 460 KW, 480-volt wye connected diesel-powered generator for utility power and to move and operate electrically powered mobile equipment and stationary equipment throughout the mine. This is considered an acceptable alternative method for the Bowie #2 Mine. MSHA grants the petition for modification for the 480-volt, three-phase, 460KW diesel-powered generator (DPG) set, Serial No. 26630–12/99, supplying power to a 400-KVA three-phase auto-transformer and three-phase 480-, and 995-volt power circuits for the Bowie #2 Mine with conditions.

FR Notice: 65 FR 40141.
Petitioner: Bowie Resources, Ltd.

[Docket No.: M–2000–049–C]

Regulation Affected: 30 CFR 75.500(d).
Summary of Findings: Petitioner's proposal is to use non-permissible low voltage or battery powered electronic testing and diagnostic equipment in or inby the last open crosscut. This is considered an acceptable alternative method for the Bowie #2 Mine. MSHA grants the petition for modification for the Bowie #2 Mine with conditions.

FR Notice: 65 FR 40141.
Petitioner: Bowie Resources, Ltd.

[Docket No.: M–2000–050–C]

Regulation Affected: 30 CFR 75.1002–1(a).
Summary of Findings: Petitioner's proposal is to use non-permissible low voltage or battery powered electronic testing and diagnostic equipment within 150 feet of pillar workings. This is considered an acceptable alternative method for the Bowie #2 Mine. MSHA grants the petition for modification for the Bowie #2 Mine under controlled conditions and upon compliance with the terms and conditions in the Proposed Decision and Order.

FR Notice: 65 FR 40141.
Petitioner: Alex Energy, Inc.

[Docket No.: M–2000–051–C]

Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to use high-voltage longwall mining equipment, with the nominal voltage of longwall circuits not to exceed 4,160 volts. This is considered an acceptable alternative method for the Jerry Fork Eagle Mine. MSHA grants the petition for modification for the Jerry Fork Eagle Mine with conditions.

FR Notice: 65 FR 40141.
Petitioner: Rustler Coal Company.

[Docket No.: M–2000–053–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Orchard Slope Mine. MSHA grants the petition for modification for the Orchard Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: M & H Coal Company.

[Docket No.: M–2000–057–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Mercury Slope Mine. MSHA grants the petition for modification for the Mercury Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: UAE CoalCorp Associates.

[Docket No.: M–2000–058–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Harmony Mine. MSHA grants the petition for modification for the Harmony Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: M & M Coal Company.

[Docket No.: M–2000–059–C]

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the LV #3 Vein Slope Mine. MSHA grants the petition for modification for the LV #3 Vein Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: L Coal Company.

[Docket No.: M–2000–060–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Lenig Tunnel Mine. MSHA grants the petition for modification for the Lenig Tunnel Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: A. L. Coal Company.

[Docket No.: M–2000–061–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Robert L. Derck Mine. MSHA grants the petition for modification for the Robert L. Derck Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Three W. M. U. G Mine Company.

[Docket No.: M–2000–063–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Orchard Slope Mine. MSHA grants the petition for modification for the Orchard Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Snyder Coal Company.

[Docket No.: M–2000–065–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serve both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Rattling Run Mine. MSHA grants the petition for modification for the Rattling Run Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Snyder Coal Company.

[Docket No.: M–2000–066–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the N. & L. Slope Mine. MSHA grants the petition for modification for the N. & L. Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: S & M Coal Company.

[Docket No.: M–2000–067–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Buck Mountain Slope Mine. MSHA grants the petition for modification for the Buck Mountain Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: R S & W Coal Company, Inc.

[Docket No.: M–2000–068–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the R. S. & W. Drift Mine. MSHA grants the petition for modification for the R. S. & W. Drift Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Rhen Coal Company.

Docket No.: M–2000–069–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Skidmore Slope Mine. MSHA grants the petition for modification for the Skidmore Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: R & D Coal Company.

[Docket No.: M–2000–070–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Buck Mt. Slope Mine. MSHA grants the petition for modification for the Buck Mt. Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Primrose Coal Company No. 2.

[Docket No.: M–2000–071–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Buck Mountain Vein Slope Mine. MSHA grants the petition for modification for the Buck Mountain Vein Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Nowacki Coal Company.

[Docket No.: M–2000–072–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Nowacki Coal Co. Slope Mine. MSHA grants the petition for modification for the Nowacki Coal Co. Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Little Rock Coal Company.

[Docket No.: M–2000–0074–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the No. 1 Slope Mine. MSHA grants the petition for modification for the No. 1 Slope Mine with conditions.

FR Notice: 65 FR 40140.

Petitioner: Little Buck Coal Company.

[Docket No.: M–2000–075–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the #3 Slope Buck Mtn. Mine. MSHA grants the petition for modification for the #3 Slope Buck Mtn. Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Jordan Coal Company.

[Docket No.: M–2000–076–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Jordan #1 Slope Mine. MSHA grants the petition for modification for the Jordan #1 Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Joliett Coal Company.

[Docket No.: M–2000–077–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the #3 Vein Slope Mine. MSHA grants the petition for modification for the #3 Vein Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: R & R Coal Company (Formerly B & L Coal Co.).

[Docket No.: M–2000–079–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the R & R Coal Company Mine. MSHA grants the petition for modification for the R & R Coal Company Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: F. K. Z. Coal Company.

[Docket No.: M–2000–080–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the No. 1 Slope Mine. MSHA grants the petition for modification for the No. 1 Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: D & D Company.

[Docket No.: M–2000–082–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the Primrose Slope Mine. MSHA grants the petition for modification for the Primrose Slope Mine with conditions.

FR Notice: 65 FR 40140.
Petitioner: Chestnut Coal Company.

[Docket No.: M–2000–083–C]

Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to reduce its mine rescue teams to two teams with three members each and one alternate who serves both teams, instead of having two mine rescue teams with five members and one alternate. This is considered an acceptable alternative method for the No. 10 Slope Mine. MSHA grants the petition for modification for the No. 10 Slope Mine with conditions.

FR Notice: 65 FR 49017.
Petitioner: Pine Ridge Coal Company.

[Docket No.: M–2000–085–C]

Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to modify its previously granted petition for modification, docket number M–98–004–C, to allow 2,400 volt cables to be used inby the last open crosscut at the working continuous miner sections at the Pine Ridge Coal Company, Robin Hood No. 9 Mine (I.D. No. 46–02143), be transferred to its Whites Branch Mine (I.D. No. 46–08827). This is considered an acceptable alternative method for the Pine Ridge Coal Company, Whites Branch Mine. MSHA grants the petition for modification for the 2,400-volt continuous miner system(s) used at the Whites Branch Mine with conditions, and grants application for relief to give effect to September 12, 2000, proposed decision and order.

FR Notice: 65 FR 49017.
Petitioner: The Pittsburgh & Midway Coal Mining Company.

[Docket No.: M–2000–087–C]

Regulation Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal is to plug and abandon oil and gas wells, and mine through the oil and gas wells with a longwall mining machine instead of maintaining a 300-foot barrier around the well. This is considered an acceptable alternative method for the North River No. 1 Mine. MSHA grants the petition for modification for the North River No. 1 Mine with conditions.

FR Notice: 65 FR 49018.
Petitioner: 3–D Management Services, Inc.

[Docket No.: M–2000–092–C]

Regulation Affected: 30 CFR 75.503.
Summary of Findings: Petitioner's proposal is to use a spring-loaded device on battery plug connectors on mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load instead of using padlocks. This is considered an acceptable alternative method for the Campbells Creek #5 Mine. MSHA grants the petition for modification for the Campbells Creek #5 Mine with conditions.

FR Notice: 65 FR 58821.
Petitioner: Marfork Coal Co., Inc.

[Docket No.: M–2000–121–C]]

Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to use high-voltage (2,400-volt) cables to power longwall mining equipment. This is considered an acceptable alternative method for the Coon Cedar Grove Mine. MSHA grants the petition for modification for the 2,400-volt continuous miner system(s) at the Coon Cedar Grove Mine with conditions.

Petitioner: D & A Resources, Inc.

[Docket No.: M–2000–122–C]

FR Notice: 65 FR 64261.
Regulation Affected: 30 CFR 75.503.
Summary of Findings: Petitioner's proposal is to use a threaded ring and a spring-loaded device on battery plug connectors on mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load instead of using padlocks. This is considered an acceptable alternative method for the Mine No. 4. MSHA grants the petition for modification for the Mine No. 4 with conditions.

Petitioner: Magic Coal Company.

[Docket No.: M–2000–130–C]

FR Notice: 65 FR 64262.
Regulation Affected: 30 CFR 75.503.
Summary of Findings: Petitioner's proposal is to use a threaded ring and

a spring-loaded device on battery plug connectors on mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load instead of using padlocks. This is considered an acceptable alternative method for the Magic Mine. MSHA grants the petition for modification for the Magic Mine with conditions.

Petitioner: Peabody Coal Company.

[Docket No.: M–2000–133–C]

FR Notice: 65 FR 64262.

Regulation Affected: 30 CFR 75.503.

Summary of Findings: Petitioner's proposal is to use a spring-loaded metal locking device to secure battery connecting plugs to machine-mounted battery receptacles on permissible mobile battery-powered scoop cars and tractors to prevent the cable plug from inadvertently disengaging from the receptacle instead of using padlocks. This is considered an acceptable alternative method for the Camp #11 Mine. MSHA grants the petition for modification for the Camp #11 Mine with conditions.

Petitioner: Consolidation Coal Company.

[Docket No.: M–1999–023–C]

FR Notice: 64 FR 25517.

Regulation Affected: 30 CFR 75.364(b)(2).

Summary of Findings: Petitioner's proposal is to establish evaluation points A and B to measure air and gas due to hazardous conditions in certain areas of the return air course, to maintain the evaluation points in good condition at all times, and to have a certified person test for methane and the quantity of air on a weekly basis and record the results, date, time, and his/her initials in a book kept on the surface, available for inspection by interested persons. This is considered an acceptable alternative method for the Rend Lake Mine. MSHA grants the petition for modification for the unsafe-to-travel segment (approximately 250 feet) of the 2 West Mains and North Mains return air course Mine with conditions.

Petitioner: Snyder Coal Company.

[Docket No.: M–1999–031–C]

FR Notice: 64 FR 32551.

Regulation Affected: 30 CFR 75.364(b)(1), (4), and (5).

Summary of Findings: Petitioner's proposal is to travel and thoroughly preshift examine the intake haulage slope and primary escapeway areas from the gunboat/slope car at the section's intake gangway level with an alternative air quality evaluation, and have the examiner record the results of these examinations in a book kept on the surface, instead of conducting daily or weekly examinations, due to significant fall hazards. This is considered an acceptable alternative method for the Rattling Run Slope Mine. MSHA grants the petition for modification for the Rattling Run Slope Mine with conditions.

Petitioner: Snyder Coal Company.

[Docket No.: M–1999–032–C]

FR Notice: 64 FR 32552.

Regulation Affected: 30 CFR 75.1100–2.

Summary of Findings: Petitioner's proposal is to use portable fire extinguishers where rock dust, water cars, and other water storage equipped with three 10 quart pails is not practical. The petitioner proposes to use two portable fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face. This is considered an acceptable alternative method for the Rattling Run Slope Mine. MSHA grants the petition for modification for the Rattling Run Slope Mine with conditions.

Petitioner: Canyon Fuel Company, LLC.

[Docket No.: M–1999–049–C]

FR Notice: 64 FR 41139.

Regulation Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal is to use belt air to ventilate working places in areas of the mine where two-entry mining system is not used. The petitioner proposes to install a low-level carbon monoxide monitoring system as an early warning fire detection system in all belt entries used as intake air courses. This is considered an acceptable alternative method for the Dugout Canyon Mine. MSHA grants the petition for modification to allow air coursed through conveyor belt entries to be used to ventilate working places, in sections of the mine that do not use a two-entry mining system, for the Dugout Canyon Mine with conditions.

Petitioner: Coal Miners, Inc.

[Docket No.: M–1999–50–C]

FR Notice: 64 FR 41139.

Regulation Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal is to use air coursed through belt haulage entries to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system as an early warning fire detection system in the supply road with branches extended to the beltline at certain locations. This is considered an acceptable alternative method for the Eagle Valley Mine. MSHA grants the petition for modification for the Eagle Valley Mine with conditions.

Petitioner: Consolidation Coal Company.

[Docket No.: M–1999–055–C]

FR Notice: 64 FR 41139.

Regulation Affected: 30 CFR 75.364(b)(4).

Summary of Findings: The Petitioner's proposal is to establish evaluation check points to conduct weekly examinations for methane in certain areas of the return air course, to use a smoke tube to verify the direction of air flow, and instruct the examiner to record the results of the examinations in a record book kept on the surface available to interested parties. This is considered an acceptable alternative method for the Shoemaker Mine. MSHA grants the petition for modification for the Shoemaker Mine with conditions.

Petitioner: Canyon Fuel Company, LLC.

[Docket No.: M–1999–057–C]

FR Notice: 64 FR 41140.

Regulation Affected: 75.360(b)(9).

Summary of Findings: Petitioner's proposal is to install an Atmospheric Monitoring System (AMS) for continuous monitoring of electrical installations for carbon monoxide and methane instead of conducting a preshift examination. This is considered an acceptable alternative method for the SUFCO Mine. MSHA grants the petition for modification for the preshift examination of remote electrical installations and compressors serving mine de-watering pump installations conducted by pumpers who are certified mine examiners at the SUFCO Mine with conditions.

Petitioner: Canyon Fuel Company, LLC.

[Docket No.: M–1999–073–C]

FR Notice: 64 FR 49247.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of front wheel brakes on its diesel graders at the Skyline Mine No. 3, Dugout Canyon Mine, and SUFCO Mine. The petitioner proposes to limit the speed of the diesel graders to 10 miles per hour by blocking out gear ratios that provide a higher speed, and to train the grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Skyline Mine No. 3, Dugout Canyon Mine, and the SUFCO Mine. MSHA grants the petition for modification for the Skyline Mine No. 3, Dugout Canyon Mine, and the SUFCO Mine with conditions.

Petitioner: Bowie Resources Limited.

[Docket No.: M–1999–100–C]

FR Notice: 64 FR 57663.

Regulation Affected: 30 CFR 75.1909(b)(6)

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of front wheel brakes on diesel graders used at the Bowie No. 2 Mine. The petitioner proposes to limit the speed of the graders to 10 miles per hour by block welding a steel stop bar across the gear selector slot to the 5th and 6th gears, and train the diesel grader operators to drop the grader blade in the event the brakes fail and on how to recognize the appropriate speeds to use on different roadway and slope conditions. This is considered an acceptable alternative method for the Bowie No. 2 Mine. MSHA grants the petition for modification for the Bowie No. 2 Mine with conditions.

Petitioner: Wabash Mine Holding Company.

[Docket No.: M–1999–107–C]

FR Notice: 64 FR 70054.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to equip diesel graders with devices that limit the speed of the diesel graders to 10 miles per hour and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Wabash Mine. MSHA grants the petition for modification for the Wabash Mine with conditions.

Petitioner: Blue Mountain Energy, Inc.

[Docket No.: M–1999–109–C]

FR Notice: 64 FR 70054.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to equip diesel graders with devices that limit the speed of the diesel graders to 10 miles per hour and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Deserado Mine. MSHA grants the petition for modification for the Deserado Mine with conditions.

Petitioner: Black Beauty Coal Company.

[Docket No.: M–1999–110–C]

FR Notice: 64 FR 70054.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternate method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to limit the speed of the diesel graders to 10 miles per hour and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Air Quality #1 Mine. MSHA grants the petition for modification for the Air Quality 1 Mine with conditions.

Petitioner: Consolidation Coal Company.

[Docket No.: M–1999–119–C]

FR Notice: 64 FR 70055.

Regulation Affected: 30 CFR 75.312(c) and (d).

Summary of Findings: Petitioner's proposal is to test automatic closing doors and automatic fan signal devices every 31 days without shutting down the fan and without removing miners from the mine. This is considered an acceptable alternative method for the Shoemaker Mine. MSHA grants the petition for modification for the Shoemaker Mine for tests of: (1) The automatic fan stoppage signal device; and (2) the automatic closing air flow reversal prevention doors to be performed without shutting down the mine fan, and without removing the miners from the mine with conditions.

Petitioner: Plateau Mining Company.

[Docket No.: M–1999–137–C]

FR Notice: 64 FR 1914.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternative method in lieu of the front wheel brakes on diesel graders. The petitioner proposes to equip diesel graders with devices that limit the speed of the diesel graders to 10 miles per hour, and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Willow Creek Mine. MSHA grants the petition for modification for the Willow Creek Mine with conditions.

Petitioner: Lodestar Energy, Inc.

[Docket No.: M–1999–141–C]

FR Notice: 65 FR 1914.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to use an alternative method in lieu of the front wheel-brakes on diesel graders. The petitioner proposes to equip the diesel grader with devices that limit the speed of the diesel grader to 10 miles per hour, and to train the diesel grader operators to drop the grader blade in the event the brakes fail. This is considered an acceptable alternative method for the Baker Mine. MSHA grants the petition for modification for the Baker Mine with conditions.

Petitioner: Mallie Coal Company, Inc.

[Docket No.: M–98–091–C]

FR Notice: 64 FR 2519.

Regulation Affected: 30 CFR 75.380(f)(4).

Summary of Findings: Petitioner's proposal is to use one twenty or two ten-pound portable chemical fire extinguishers on each Mescher Jeep. The petitioner proposes to install one fire extinguisher in the operator's deck if two fire extinguishers are used, and install the other fire extinguisher on the jeep readily accessible to the operator. If one fire extinguisher is used, it will be installed in the operator's deck. A total of twenty pounds of fire extinguisher capability will be carried on each jeep and the operator will inspect each fire extinguisher daily prior to entering the mine. This is considered an acceptable alternative method for the Mine No. 4. MSHA grants the petition for modification for the Mine No. 4 with conditions.

[FR Doc. 01–13042 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–43–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0173(2001)]

Course Evaluation Form; Extension of the Office of Management of Budget's Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information-collection requirements contained in its Course Evaluation Form.

Request for Comment: The Agency has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;

• The quality, utility, and clarity of the information collected; and

• Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

DATES: The public must submit written comments to the office listed under **ADDRESSES** on or before July 23, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR 1218–0173(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20201; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to: (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Gail Butler, Division of Administration and Training Information, OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, Illinois 60018; telephone (not toll free): (847) 297–4810; e-mail: *gail.butler@osha.gov* or facsimile: (847) 297–4810. A copy of the Agency's Information-Collection Request (ICR) supporting the need for information-collection requirements specified in the Course Evaluation Form is available for inspection and copying in the Docket Office, or by requesting a mailed copy from Todd Owen at (202) 693–2444. For electronic copies of this ICR, contact OSHA on the Internet at *http://www.osha.gov/*.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of it containing effect to reduce paperwork and respondent (e.g., employer) burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information burden is correct.

Section 21 of the Occupational Safety and Health Act of 1970 (the "OSHA Act") (see 29 U.S.C. 670) authorizes the Occupational Safety and Health Administration ("OSHA" or the "Agency" to conduct training and employee education. Paragraphs (a), (b), and (c) of Section 21 require, respectively, that the Agency: "(C)onduct, directly or by grants or contracts,(1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and(2) informational programs on the importance of and proper use of adequate safety and health equipment"; "(C)onduct, directly or by grants or contracts, short-term training of personnel engaged in work related to (their) responsibilities under the Act"' and "(1) provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe and unhealthful working conditions in employments covered by this Act, and (2) consult with and advise employers and employees, and organizations representing employers and employees as to effective means of preventing occupational injuries and illnesses.

As authorized by the appropriate provisions of section 21 of the Act, the OSHA Training Institute (the "Institute") provides basic, intermediate, and advanced training and education in occupational safety and health for federal and state compliance officers, Agency professionals and technical-support personnel, employers, employees, organizations representing employees and employers, educators who develop curricula and teach occupational safety and health courses, and representatives of professional safety and health groups. This program includes the courses on occupational safety and health provided by the Institute at its national training facility in Des Plaines, Illinois. In addition to conducting courses at the OSHA Training Institute in Des Plaines, Illinois, the Institute is also administering a program whereby several institutions in various locations throughout the United States have been authorized as OSHA Training Institute Education Centers. These Education Centers conduct a specific number of OSHA courses that are geared for private sector and other Federal Agency personnel. The goal of the Education Center program is to expand the accessibility of high-quality OSHA training courses.

All students completing training courses at the Institute and the Education Centers are requested to complete the Course Evaluation Form (OSHA Form 49, 08–98 edition) on the last day of class. Students may be Federal, state, private sector, local or tribal government employees. The Course Evaluation Form contains ten close-ended questions. The form requests participant feedback on ten elements to assess communication and accomplishment of learning objectives, course content, training environment, relevance of topics to job, effectiveness of exercises, workshops, laboratories, field trips and audiovisuals, usefulness of course materials and handouts, and overall rating of course. The feedback provides an overall impression of the student's experience for the course. Students provide more detailed feedback in the narrative sections of the form. Course Evaluation Form student input provides a standardized tool for collecting quality data that has been used to determine program successes and shortcomings. This quality data has assisted the Training Institute in directing resources where they can do the most good. All Course Evaluation Forms are reviewed by the course chairperson, instructors, the Institute Director and the supervisor responsible for that course. Ratings provide baseline data from which to draw conclusions about the effectiveness and quality of the training courses and to assess the level of student satisfaction with the course. Evaluation data is used to determine which courses may need improvement. Problem areas are noted and the supervisor discusses them with the course chairperson. Courses needing further improvement are scheduled for a more comprehensive follow-up course evaluation with recommendations for improvement. Revised courses are closely monitored to determine if problem areas have been resolved.

II. Proposed Actions

OSHA proposes to extend Office of Management and Budget (OMB) approval of the collection-of-information (paperwork) requirements specified in Course Evaluation Form. The Agency will summarize the comments submitted in responses to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Course Evaluation Form.

OMB Number: 1218–0173.

Affected Public: Individuals; business or other for-profit organizations; Federal government; State, Local, or Tribal governments.

Number of Respondents: 16,300.

Frequency: On occasion.

Total Responses: 16,300.

Average Time per Response: 10 minutes.

Estimated Total Burden Hours: 2,716 hours.

IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and the Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Dated: Signed at Washington, DC on May 18, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13043 Filed 5–22–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts Combined Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that two meetings of the Leadership Initiatives Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 2506 as follows:

Visual Arts (Creativity and Organizational Capacity categories): June 19–21, 2001, Room 716. A portion of this meeting, from 1:30 a.m. to 2:30 p.m. on June 21st, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 5:30 p.m. on June 19th and 20th, and from 9 a.m. to 11 a.m. and 12 p.m. to 5 p.m. on June 21st, will be closed.

Opera (Creativity and Organizational Capacity categories): June 26–27, 2001, Room 714. A portion of this meeting, from 1 p.m. to 2 p.m. on June 27th, will be open to the public for policy discussion. The remaining portions of this meeting, from 10 a.m. to 6:15 p.m. on June 26th, and from 9 a.m. to 1 p.m. and 2 p.m. to 4:30 p.m. on June 27th, will be closed.

The closed portions of these meetings are for the purposes of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 12, 2000, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: May 17, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–12911 Filed 5–22–01; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL INSTITUTE FOR LITERACY

Notice of Meeting

AGENCY: National Institute for Literacy (NIFL).

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Board (Advisory Board). This notice also describes the function of the Advisory Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATE AND TIME: June 7, 2001 from 10:00 am to 5:00 pm.

ADDRESSES: National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Shelly Coles, Executive Assistant, National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006. Telephone number (202) 233–2027, email scoles@nifl.gov.

SUPPLEMENTARY INFORMATION: The Advisory Board is established under the Workforce Investment Act of 1998, Title II of Public Law 105–220, Sec. 242, the National Institute for Literacy. The Advisory Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Advisory Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Advisory Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Advisory Board performs the following function (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Advisory Board on the award of fellowships. The National Institute for Literacy Advisory Board meeting on June 7, 2001, will focus on future and current NIFL programs activities, and other relevant literacy activities and issues. Records are kept of all Advisory Board proceedings and are available for public inspection at the National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006, from 8:30 am to 5 pm.

Dated: May 14, 2001.

Carolyn Y. Staley,

Acting Executive Director.

[FR Doc. 01–12994 Filed 5–22–01; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on June 6–8, 2001, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Friday, November 17, 2000 (65 FR 69578).

Wednesday, June 6, 2001

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–11:20 a.m.: Proposed Risk-Informed Revisions to 10 CFR 50.46 and Proposed Revisions to the Framework for Risk-Informing the Technical Requirements of 10 CFR Part 50 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding proposed risk-informed revisions to 10 CFR 50.46, "Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Nuclear Power Reactors," and proposed revisions to the framework for risk-informing the technical requirements of 10 CFR Part 50.

11:20 a.m.–12:15 p.m.: Potential Margin Reductions Associated with Power Uprates (Open)—The Committee will hear a presentation by and hold discussions with ACRS Senior Fellow, Dr. A. W. Cronenberg, regarding his

views on the adequacy of the staff's review process for power uprates and potential safety margin reductions associated with power uprates.

1:15 p.m.–3:15 p.m.: Draft Final Safety Evaluation Report for the South Texas Project Nuclear Operating Company (STPNOC) Request to Exclude Certain Components from the Scope of Special Treatment Requirements Required by Regulations (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final Safety Evaluation Report on the STPNOC exemption request.

3:35 p.m.–4:30 p.m.: Discussion of General Design Criteria (Open)—The Committee will hear a presentation by and hold discussions with Mr. J. N. Sorensen, ACRS Senior Fellow, regarding his views on risk-informing General Design Criteria included in Appendix A to 10 CFR Part 50.

4:50 p.m.–7:00 p.m.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as proposed ACRS reports on: Risk-Based Performance Indicators; Response to the EDO's letter of April 12, 2001 on Topics Raised by the ACRS Pertaining to Issues Associated with Industry Use of Thermal-Hydraulic Codes; and Response to NRC Chairman Meserve's May 7, 2001 Memorandum Regarding Differing Professional Opinion on Steam Generator Tube Issues.

Thursday, June 7, 2001

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:45 a.m.: Need to Revise 10 CFR Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants" (Open)—The Committee will discuss the need for revising 10 CFR Part 54.

10:00 a.m.–11:00 a.m.: Regulatory Challenges for Advanced Power Reactors (Open)—The Committee will discuss follow-up matters resulting from the June 4–5, 2001 Workshop of the ACRS Subcommittee on Advanced Reactors and develop a course of action for dealing with these matters in the future.

11:00 a.m.–11:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

11:45 a.m.–12:00 Noon: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

1:00 p.m.–1:30 p.m.: Arrangements for the Visit to the Waterford Plant and Region IV Office (Open)—The Committee will discuss arrangements and logistics for the June 27–28, 2001, visit to the Waterford Plant and NRC Region IV Office.

1:30 p.m.–7:00 p.m.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Friday, June 8, 2001

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open).

8:35 a.m.–9:00 a.m.: Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

9:00 a.m.–10:00 a.m.: Meeting with Commissioner Dicus (Open)—The Committee will meet with NRC Commissioner Dicus to discuss items of mutual interest.

10:15 a.m.–2:30 p.m.: Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

2:30 p.m.–3:00 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2000 (65 FR 60476). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. James E. Lyons, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Mr. James E. Lyons prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. James E. Lyons if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Mr. James E. Lyons (telephone 301–415–7371), between 7:30 a.m. and 4:15 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: May 17, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–13016 Filed 5–22–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on June 6, 2001, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, June 6, 2001—12:15 p.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: May 15, 2001.

James E. Lyons,

Associate Director for Technical Support ACRS/ACNW.

[FR Doc. 01–13017 Filed 5–22–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment will hold a meeting on June 22, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, June 22, 2001—8:30 a.m. until 12 p.m.

The Subcommittee will review the staff's draft Individual Plant Examination of External Events (IPEEE) Insight Report (draft NUREG–1742). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: May 17, 2001.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–13018 Filed 5–22–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Changes in Domestic Rates and Fees on Modification

AGENCY: Postal Service.

ACTION: Notice of implementation of changes to domestic rates and fees.

SUMMARY: This notice sets forth the changes to domestic rates and fees to be implemented as a result of the Decision of the Governors of the United States Postal Service on the Recommended Decision on Further Reconsideration of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2000–1, dated May 7, 2001.

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel J. Foucheaux, Jr., (202) 268–2989.

SUPPLEMENTARY INFORMATION: On January 12, 2000, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a Request for a Recommended Decision on Proposed Changes in Rates of Postage and Fees for Postal Services (Request). The PRC designated the filing as Docket No. R2000–1. On November 13, 2000, pursuant to its authority under 39 U.S.C. 3624, the PRC issued its Recommended Decision on the Postal Service's Request to the Governors of the Postal Service.

Pursuant to 39 U.S.C. 3625, the Governors of the United States Postal Service acted on the PRC's recommendations on December 4, 2000. In one decision, the Governors rejected the PRC's recommendations regarding Courtesy Envelope Mail, Information-Based Inidicia Program Mail, a flat-rate envelope for Priority Mail, and maximum weight figures for Standard Mail letters and breakpoint figures for Standard Mail. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Selected Mail Classification Matters, Docket No. R2000–1. In the second decision, the Governors acted on the remainder of the PRC's recommendations. Decision of the

Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2000–1. The Governors allowed under protest all of the remaining classification, fee, and rate changes. The Governors requested reconsideration of a number of issues from the Commission, including revenue requirement, First-Class Mail costs, Bound Printed Matter rates, and nonprofit Standard Mail rates. The Commission thereafter issued a notice soliciting comments on matters allowed under protest in the Governors' decision.

In the Commission's Further Recommended Decision, issued on February 9, 2001, the Commission recommended changes to rates for Bound Printed Matter and Certified Mail, but declined to make further adjustments in the revenue requirement.

In a decision dated March 5, 2001, the Governors rejected the Commission's Further Recommended Decision, and resumbitted the Request, pursuant to 39 U.S.C.3625(d). Decision of the Governors of the Unitd States Postal Service on the Further Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2000–1. On April 10, 2001, the Commission issued an Opinion and Recommended Decision on Further Reconsideration, wherein it declined to reconsider its rate recommendations. On May 7, 2001, the Governors exercised their authority to modify the rates recommended by the Commission. Decision of the Governors of the United States Postal Service on the Recommended Decision on Further Reconsideration of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R2000–1.

Attachment A to the Governors' Decision on Further Reconsideration, setting forth the fee and rate changes ordered into effect by the Governors, is set forth below. The rates and fees shown below reflect the revisions made to Rate Schedules 122 (Express Mail Custom Designed), 521.2C (Parcel Select DMBC Rates), and 522A-D (Bound Printed Matter) in errata issued on May 15, 2001. In accordance with the Decision of the Governors and Resolution No. 01–8 of the Board of Governors, the Postal Service hereby gives notice that the rate and fee changes set forth below will become effective at 12:01 a.m. on July 1, 2001.

Attachment A To The Decision Of The Governors Of The United States Postal Service On The Recommended Decision On Further Reconsideration Of The Postal Rate Commission On Postal Rate And Fee Changes, Docket No. R2000–1

MODIFIED RATE AND FEE SCHEDULES

[Express Mail Schedules 121, 122 and 123]

Weight not exceeding (pounds)	Schedule 121 Same Day Airport Service	Schedule 122 Custom Designed	Schedule 123 Next Day and Second Day PO to PO	Schedule 123 Next Day and Second Day PO to Addressee
½		$9.40	$9.55	$12.45
1		13.95	14.10	16.25
2		13.95	14.10	16.25
3		16.90	17.05	19.15
4		19.75	19.90	22.05
5		22.60	22.75	24.85
6		25.45	25.60	27.70
7		28.15	28.30	30.45
8		29.40	29.55	31.65
9		30.65	30.80	32.95
10		31.85	32.00	34.15
11		33.40	33.55	35.70
12		35.85	36.00	38.10
13		37.10	37.25	39.85
14		38.50	38.65	40.80
15		39.75	39.90	42.00
16		41.10	41.25	43.40
17		42.50	42.65	44.75
18		43.75	43.90	46.05
19		45.05	45.20	47.35
20		46.45	46.60	48.70
21		47.70	47.90	50.00
22		49.00	49.20	51.30
23		50.40	50.60	52.70
24		51.65	51.80	53.95
25		53.00	53.20	55.25
26		54.30	54.45	56.60
27		55.65	55.85	57.90
28		56.95	57.10	59.25
29		58.30	58.45	60.55
30		59.65	59.80	61.90
31		60.95	61.10	63.20
32		62.25	62.40	64.55
33		63.60	63.75	65.80
34		64.90	65.05	67.20
35		66.25	66.40	68.45
36		67.55	67.70	69.85
37		68.80	68.95	71.35
38		70.40	70.35	73.00
39		72.00	71.65	74.60

MODIFIED RATE AND FEE SCHEDULES—Continued

[Express Mail Schedules 121, 122 and 123]

Weight not exceeding (pounds)	Schedule 121 Same Day Airport Service	Schedule 122 Custom Designed	Schedule 123 Next Day and Second Day PO to PO	Schedule 123 Next Day and Second Day PO to Addressee
40		73.65	73.10	76.25
41		75.25	74.70	77.85
42		76.90	76.35	79.55
43		78.50	77.95	81.10
44		80.15	79.60	82.70
45		81.75	81.20	84.15
46		83.10	82.75	85.40
47		84.50	84.45	86.90
48		85.85	86.00	88.20
49		87.20	87.35	89.50
50		88.50	88.65	90.85
51		89.95	90.15	92.30
52		91.25	91.40	93.60
53		92.65	92.80	95.00
54		94.00	94.15	96.30
55		95.30	95.50	97.70
56		96.80	96.95	99.10
57		98.05	98.20	100.40
58		99.40	99.55	101.80
59		100.95	101.10	103.30
60		102.50	102.65	104.85
61		104.25	104.40	106.60
62		105.80	105.95	108.20
63		107.45	107.60	109.75
64		109.10	109.30	111.50
65		110.75	110.90	113.05
66		112.45	112.60	114.80
67		114.05	114.20	116.35
68		115.75	115.90	118.10
69		117.35	117.50	119.65
70		118.95	119.10	121.30

Schedules 121, 122 and 123 Notes:
1. The applicable 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service.
2. Add $10.25 for each pickup stop.
3. Add $10.25 for each Custom Designed delivery stop.

FIRST-CLASS MAIL RATE SCHEDULE 221

[Letters and Sealed Parcels]

	Rate (cents)
Regular	
Single Piece: First Ounce	34.0
Presort[1]	32.2
Qualified Business Reply Mail	31.0
Additional Ounce[2]	23.0
Nonstandard Surcharge	
Single Piece	11.0
Presort	5.0
Automation-Presort[1]	
Letters[3]	
Basic Presort[4]	28.0
3-Digit Presort[5]	26.9
5-Digit Presort[6]	25.5
Carrier Route Presort[7]	24.5
Flats[8]	
Basic Presort[9]	31.2
3-Digit Presort[10]	29.7
5-Digit Presort[11]	27.7
Additional Ounce[2]	23.0
Nonstandard Surcharge	5.0

Schedule 221 Notes

[1] A mailing fee of $125.00 must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate. For presorted mailings weighing more than 2 ounces, subtract 4.6 cents per piece.

[2] Rate applies through 13 ounces. Heavier pieces are subject to Priority Mail rates.

[3] Rates apply to bulk-entered mailings of at least 500 letter-size pieces, which must be delivery point barcoded and meet other preparation requirements specified by the Postal Service and, for the Basic Presort rate, documents provided for entry as mail using Mailing Online or a functionally equivalent service, pursuant to section 981.

[4] Rate applies to letter-size Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

[5] Rate applies to letter-size Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations specified by the Postal Service.

[6] Rate applies to letter-size Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations specified by the Postal Service.

[7] Rate applies to letter-size Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

[8] Rates apply to bulk-entered mailings of at least 500 flat-size pieces, each of which must be delivery point barcoded or bear a ZIP+4 barcode, and must meet other preparation requirements specified by the Postal Service, and, for the Basic Presort rate, to documents provided for entry as mail using Mailing Online or a functionally equivalent service, pursuant to section 981.

[9] Rate applies to flat-size Automation-Presort category mail not mailed at the 3-Digit or 5-Digit rate.

[10] Rate applies to flat-size Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations specified by the Postal Service.

[11] Rate applies to flat-size Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations specified by the Postal Service.

FIRST-CLASS MAIL RATE SCHEDULE 222

[Cards]

	Rate (cents)
Regular	
Single Piece	21.0
Presort[1]	19.0
Qualified Business Reply Mail	18.0

First-Class Mail Rate Schedule 222—Continued

[Cards]

	Rate (cents)
Automation-Presort [1, 2]	
Basic Presort [3]	17.4
3-Digit Presort [4]	16.8
5-Digit Presort [5]	16.1
Carrier Route Presort [6]	15.0

Schedule 222 Notes

[1] A mailing fee of $125.00 must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate.

[2] Rates apply to bulk-entered mailings of at least 500 pieces, which must be barcoded and meet other preparation requirements specified by the Postal Service and, for the Basic Presort rate, to documents provided for entry as mail using Mailing Online or a functionally equivalent service, pursuant to section 981.

[3] Rate applies to Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

[4] Rate applies to Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

[5] Rate applies to Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

[6] Rate applies to Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

First-Class Mail Schedule 223

[Priority Mail Subclass]

Weight not exceeding (pounds)	Zones [1, 2, 3]	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.50	$3.50	$3.50	$3.50	$3.50	$3.50
2	3.95	3.95	3.95	3.95	3.95	3.95
3	5.20	5.20	5.20	5.20	5.20	5.20
4	6.45	6.45	6.45	6.45	6.45	6.45
5	7.70	7.70	7.70	7.70	7.70	7.70
6	8.10	8.30	8.35	8.50	9.55	10.40
7	8.40	8.90	9.00	9.30	10.60	11.85
8	8.50	9.50	9.65	10.10	11.65	13.30
9	8.65	10.10	10.30	10.90	12.70	14.75
10	8.75	10.65	10.95	11.80	13.75	16.20
11	9.00	11.25	11.60	12.80	14.80	17.65
12	9.25	11.85	12.25	13.75	15.85	19.10
13	9.65	12.45	12.90	14.75	16.90	20.55
14	10.05	13.05	13.55	15.70	17.95	22.00
15	10.45	13.65	14.20	16.65	19.00	23.45
16	10.85	14.25	14.85	17.60	20.05	24.90
17	11.25	14.85	15.50	18.60	21.10	26.35
18	11.65	15.45	16.30	19.55	22.15	27.80
19	12.05	16.05	17.05	20.50	23.20	29.25
20	12.45	16.65	17.85	21.40	24.25	30.70
21	12.85	17.25	18.60	22.40	25.30	32.15
22	13.25	17.85	19.35	23.35	26.35	33.60
23	13.65	18.45	20.15	24.30	27.40	35.05
24	14.05	19.05	20.95	25.25	28.45	36.50
25	14.45	19.65	21.75	26.25	29.50	37.95
26	14.85	20.25	22.45	27.20	30.55	39.40
27	15.25	20.85	23.25	28.15	31.60	40.85
28	15.65	21.45	24.05	29.10	32.65	42.30
29	16.05	22.05	24.85	30.05	33.70	43.75
30	16.45	22.65	25.60	31.05	34.75	45.20
31	16.85	23.25	26.35	31.95	35.80	46.65
32	17.25	23.85	27.15	32.90	36.85	48.10
33	17.65	24.45	27.95	33.85	37.90	49.55
34	18.05	25.05	28.70	34.80	38.95	51.00
35	18.45	25.65	29.50	35.80	40.00	52.45
36	18.85	26.25	30.25	36.75	41.05	53.90
37	19.25	26.95	31.05	37.70	42.10	55.35
38	19.65	27.55	31.80	38.70	43.15	56.80
39	20.05	28.25	32.60	39.65	44.20	58.25
40	20.45	28.95	33.40	40.60	45.25	59.70
41	20.85	29.55	34.15	41.55	46.30	61.15
42	21.25	30.25	34.90	42.45	47.40	62.60
43	21.65	30.90	35.70	43.45	48.45	64.05
44	22.05	31.55	36.50	44.40	49.55	65.50
45	22.45	32.25	37.25	45.35	50.60	66.95
46	22.85	32.90	38.00	46.30	51.65	68.40
47	23.25	33.55	38.80	47.30	52.75	69.85
48	23.65	34.25	39.60	48.25	53.80	71.30
49	24.05	34.90	40.35	49.20	54.90	72.75
50	24.45	35.55	41.15	50.15	55.95	74.20
51	24.85	36.25	41.90	51.10	57.00	75.65
52	25.25	36.90	42.70	52.10	58.05	77.10
53	25.65	37.55	43.45	53.05	59.10	78.55
54	26.05	38.20	44.25	53.95	60.15	80.00
55	26.45	38.90	45.05	54.90	61.20	81.45

First-Class Mail Schedule 223—Continued

[Priority Mail Subclass]

Weight not exceeding (pounds)	Zones [1, 2, 3]	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
56	26.85	39.55	45.80	55.90	62.25	82.90
57	27.25	40.20	46.55	56.85	63.30	84.35
58	27.65	40.90	47.35	57.80	64.35	85.80
59	28.05	41.55	48.15	58.75	65.40	87.25
60	28.45	42.20	48.95	59.75	66.45	88.70
61	28.85	42.90	49.65	60.70	67.50	90.15
62	29.25	43.50	50.45	61.65	68.55	91.60
63	29.65	44.20	51.25	62.60	69.60	93.05
64	30.05	44.90	52.05	63.60	70.65	94.50
65	30.45	45.50	52.75	64.50	71.70	95.95
66	30.85	46.20	53.55	65.45	72.75	97.40
67	31.25	46.90	54.35	66.40	73.80	98.85
68	31.65	47.50	55.15	67.35	74.85	100.30
69	32.05	48.20	55.90	68.35	75.90	101.75
70	32.45	48.90	56.65	69.30	76.95	103.20

Schedule 223 Notes

[1] The 2-pound rate is charged for matter sent in a "flat rate" envelope provided by the Postal Service.

[2] Add $10.25 for each pickup stop.

[3] EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

Standard Mail Rate Schedule 321A

[Regular Subclass Presort Categories[1]]

	Rate (cents)
Letter Size	
Piece Rate	
Basic	25.3
3/5-Digit	23.3
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Non-Letter Size [2]	
Piece Rate	
Minimum per Piece [3]	
Basic	32.2
3/5 Digit	26.6
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Pound Rate [3]	66.8
Plus per Piece Rate	
Basic	18.4
3/5-Digit	12.8
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

Schedule 321A Notes

[1] A fee of $125.00 must be paid each 12-month period for each bulk mailing permit.

[2] Residual shape pieces are subject to a surcharge of $0.18 per piece. For parcel barcode discount, deduct $0.03 per piece.

[3] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

Standard Mail Rate Schedule 321B

[Regular Subclass Automation Categories[1]]

	Rate (cents)
Letter Size [2]	
Piece Rate	
Basic Letter [3]	20.0
3-Digit Letter [4]	19.0
5-Digit Letter [5]	17.7
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Flat Size [6]	
Piece Rate	
Minimum per Piece [7]	
Basic Flat [8]	27.8
3/5-Digit Flat [9]	23.9
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Pound Rate [7]	66.8
Plus per piece Rate	
Basic Flat [8]	14.0
3/5-Digit Flat [9]	10.1
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

Schedule 321B Notes

[1] A fee of $125.00 must be paid once each 12-month period for each bulk mailing permit.

[2] For letter-size automation pieces meeting applicable Postal Service regulations.

[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.

[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

[6] For flat-size automation mail meeting applicable Postal Service regulations.

[7] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.

[9] Rate applies to flat-size automation mail presorted to single or multiple three-and five-digit ZIP Code destinations as specified by the Postal Service.

Standard Mail Rate Schedule 322

[Enhanced Carrier Route Subclass[1]]

	Rate (cents)
Letter Size	
Piece Rate	
Basic	17.8
Basic Automated Letter [2]	15.7
High Density	15.3
Saturation	14.5
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
DDU	2.9
Non-Letter Size [3]	
Piece Rate	
Minimum per Piece [4]	
Basic	17.8
High Density	15.6
Saturation	14.9
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
DDU	2.9
Pound Rate [4]	53.8
Plus per Piece Rate	
Basic	4.6
High Density	2.4
Saturation	1.7
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

STANDARD MAIL RATE SCHEDULE 322—Continued

[Enhanced Carrier Route Subclass [1]]

	Rate (cents)
DDU	14.0

[1] A fee of $125.00 must be paid each 12-month period for each bulk mailing permit.
[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
[3] Residual shape pieces are subject to a surcharge of $0.15 per piece.
[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 323A

[Nonprofit Subclass Presort Categories [1]]

	Rates (cents)
Letter Size	
Piece Rate	
Basic	15.8
3/5 Digit	14.6
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Non-Letter Size [2]	
Piece Rate	
Minimum per Piece [3]	
Basic	22.0
3/5 Digit	17.1
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Pound Rate [3]	55.0
Plus per Piece Rate	
Basic	10.7
3/5 Digit	5.8
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

[1] A fee of $125.00 must be paid once each 12-month period for each bulk mailing permit.
[2] Residual shape pieces are subject to a surcharge of $0.18 per piece. For parcel barcode discount, deduct $0.03 per piece.
[3] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 323B

[Nonprofit Subclass Automation Categories [1]]

	Rate (cents)
Letter Size [2]	
Piece Rate	
Basic Letter [3]	13.3
3-Digit Letter [4]	12.3
5-Digit Letter [5]	10.8
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Flat Size [6]	
Piece Rate	
Minimum per Piece [7]	
Basic Flat [8]	17.9
3/5-Digit Flat [9]	15.4
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
Pound Rate [7]	55.0
Plus per Piece Rate	
Basic Flat [8]	6.6
3/5-Digit Flat [9]	4.1
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4

[1] A fee of $125.00 must be paid once each 12-month period for each bulk mailing permit.
[2] For letter-size automation pieces meeting applicable Postal Service regulations.
[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.
[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.
[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.
[6] For flat-size automation mail meeting applicable Postal Service regulations.
[7] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.
[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.
[9] Rate applies to flat-size automation mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

STANDARD MAIL RATE SCHEDULE 324

[Nonprofit Enhanced Carrier Route Subclass [1]]

	Rate (cents)
Letter Size	
Piece Rate	
Basic	11.8
Basic Automated Letter [2]	10.5
High Density	9.5
Saturation	8.9
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
DDU	2.9
Non-Letter Size [3]	
Piece Rate	
Minimum per Piece [4]	
Basic	11.8
High Density	10.2
Saturation	9.7
Destination Entry Discount per Piece	
BMC	1.9
SCF	2.4
DDU	2.9
Pound Rate [4]	37.0
Plus per Piece Rate	
Basic	4.2
High Density	2.6
Saturation	2.1
Destination Entry Discount per Pound	
BMC	9.3
SCF	11.4
DDU	14.0

[1] A fee of $125.00 must be paid each 12-month period for each bulk mailing permit.
[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
[3] Residual shape pieces are subject to a surcharge of $0.15 per piece.
[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

PERIODICALS RATE SCHEDULE 421

[Outside County Subclass [1 2 12]]

	Postage rate unit	Rate [3] (cents)
Per Pound		
Nonadvertising Portion	Pound	17.9
Advertising Portion [11]		
Delivery Office [4]	Pound	15.3
SCF [5]	Pound	19.5
1&2	Pound	23.8
3	Pound	25.3
4	Pound	29.2
5	Pound	35.1
6	Pound	41.3

PERIODICALS RATE SCHEDULE 421—Continued

[Outside County Subclass [1 2 12]]

	Postage rate unit	Rate [3] (cents)
7	Pound	48.8
8	Pound	55.2
Science of Agriculture		
Delivery Office	Pound	11.5
SCF	Pound	14.6
Zones 1&2	Pound	17.9
Per Piece		
Less Nonadvertising Factor [6]		6.7
Required Preparation [7]	Piece	33.3
Presorted to 3-digit	Piece	28.3
Presorted to 5-digit	Piece	21.9
Presorted to Carrier Route	Piece	13.9
Discounts:		
Prepared to Delivery Office [4]	Piece	1.7
Prepared to SCF [5]	Piece	0.8
High Density [8]	Piece	2.6
Saturation [9]	Piece	4.4
Automation Discounts for Automation Compatible Mail [10]		
From Required:		
Prebarcoded letter size	Piece	6.7
Prebarcoded flats	Piece	4.2
From 3-Digit:		
Prebarcoded letter size	Piece	5.2
Prebarcoded flats	Piece	3.5
From 5-Digit:		
Prebarcoded letter size	Piece	4.1
Prebarcoded flats	Piece	2.5

[1] The rates in this schedule also apply to Nonprofit (DMCS Section 422.2) and Classroom rate categories. These categories receive a 5 percent discount on all components of postage except advertising pounds. Moreover, the 5 percent discount does not apply to commingled nonsubscriber, nonrequestor, complimentary, and sample copies in excess of the 10 percent allowance under DMCS sections 412.34 and 413.42, or to Science of Agriculture mail.
[2] Rates do not apply to otherwise Outside County mail that qualifies for the Within County rates in Schedule 423.
[3] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[4] Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.
[5] Applies to mail delivered within the SCF area of the originating SCF office.
[6] For postage calculations, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.
[7] Mail not eligible for carrier-route, 5-digit or 3-digit rates.
[8] Applicable to high density mail, deducted from carrier route presort rate.
[9] Applicable to saturation mail, deducted from carrier route presort rate.
[10] For automation compatible mail meeting applicable Postal Service regulations.
[11] Not applicable to qualifying Nonprofit and Classroom publications containing 10 percent or less advertising content.
[12] For a "Ride-Along" item enclosed with or attached to a periodical, add $0.10 per copy (experimental).

PERIODICALS RATE SCHEDULE 423%

[Within County]

	Rate (cents)
Per Pound	
General	14.6
Delivery Officer [1]	11.5
Per Piece	
Required Presort	10.1
Presorted to 3-digit	9.3
Presorted to 5-digit	8.4
Carrier Route Presort	4.8
Per Piece Discount	
Delivery Office [2]	0.5
High Density (formerly 125 piece) [3]	1.5
Saturation	2.1

PERIODICALS RATE SCHEDULE 423%—Continued

[Within County]

	Rate (cents)
Automation Discounts for Automation Compatible Mail [4]	
From Required:	5.2
Prebarcoded Letter size.	
Prebarcoded Flat size	2.7
From 3-digit:	
Prebarcoded Letter size	4.6
Prebarcoded Flat size	2.4
From 5-digit:	
Prebarcoded Letter size	3.9
Prebarcoded Flat size	2.1

[1] Applicable only to carrier route (including high density and saturation) presorted pieces to be delivered within the delivery area of the originating post office.
[2] Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.
[3] Applicable to high density mail, deducted from carrier route presort rate. Mailers also may qualify for this discount on an alternative basis as provided in DMCS section 423.83.
[4] For automation compatible pieces meeting applicable Postal Service regulations.
[5] For a "Ride-Along" item enclosed with or attached to a periodical, add $0.10 per copy (experimental).

PACKAGE SERVICES RATE SCHEDULE 521.2A

[Parcel Post SubClass Inter-BMC Rates]

Weight not exceeding (pounds)	Zone 1&2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.42	$3.45	$3.45	$3.45	$3.45	$3.45	$3.45
2	3.42	3.45	3.45	3.45	3.45	3.45	3.45
3	3.90	4.23	4.66	4.71	4.76	4.81	4.86
4	4.05	4.51	5.33	5.80	5.95	6.00	6.05
5	4.19	4.76	5.78	7.00	7.15	7.20	7.25
6	4.33	5.01	6.20	7.70	8.03	8.25	8.84
7	4.46	5.23	6.59	8.38	8.90	9.49	10.69
8	4.60	5.44	6.92	8.96	9.60	10.74	12.53
9	4.70	5.63	7.26	9.50	10.30	11.99	14.20
10	4.83	5.82	7.58	10.01	11.00	13.24	15.26
11	4.93	6.00	7.89	10.48	11.70	14.20	16.14
12	5.03	6.16	8.17	10.92	12.40	15.15	16.98
13	5.13	6.30	8.43	11.33	13.10	16.10	17.79
14	5.23	6.48	8.69	11.72	13.80	17.05	18.57
15	5.32	6.62	8.94	12.08	14.44	17.66	19.33
16	5.40	6.76	9.17	12.42	14.86	18.20	20.05
17	5.50	6.88	9.40	12.74	15.28	18.72	20.76
18	5.58	7.01	9.60	13.04	15.65	19.19	21.44
19	5.67	7.14	9.81	13.33	16.01	19.66	22.10
20	5.74	7.25	9.98	13.61	16.35	20.09	22.74
21	5.82	7.38	10.17	13.88	16.69	20.51	23.36
22	5.89	7.48	10.35	14.13	16.99	20.90	23.97
23	5.97	7.61	10.54	14.35	17.28	21.27	24.56
24	6.02	7.70	10.69	14.59	17.57	21.63	25.14
25	6.10	7.80	10.86	14.80	17.84	21.96	25.70
26	6.16	7.90	11.01	15.02	18.10	22.29	26.25
27	6.24	8.00	11.15	15.21	18.34	22.59	26.79
28	6.29	8.09	11.32	15.41	18.58	22.88	27.31
29	6.36	8.19	11.46	15.58	18.80	23.16	27.83
30	6.42	8.28	11.58	15.75	19.01	23.44	28.33
31	6.49	8.35	11.72	15.92	19.23	23.71	28.82
32	6.54	8.45	11.85	16.08	19.42	23.96	29.30
33	6.60	8.54	11.98	16.24	19.61	24.20	29.78
34	6.66	8.60	12.09	16.39	19.79	24.42	30.24
35	6.72	8.69	12.22	16.54	19.96	24.64	30.70
36	6.77	8.76	12.35	16.68	20.14	24.85	31.14
37	6.82	8.83	12.44	16.82	20.30	25.06	31.58
38	6.88	8.92	12.56	16.94	20.45	25.25	32.01
39	6.94	8.98	12.66	17.06	20.60	25.43	32.43
40	6.99	9.06	12.77	17.19	20.76	25.63	32.85
41	7.05	9.14	12.87	17.31	20.90	25.80	33.26
42	7.10	9.20	12.97	17.41	21.03	25.96	33.66
43	7.14	9.27	13.07	17.52	21.17	26.13	34.05
44	7.19	9.32	13.16	17.62	21.29	26.28	34.44
45	7.24	9.40	13.26	17.73	21.42	26.43	34.74
46	7.29	9.46	13.35	17.84	21.54	26.58	34.93
47	7.35	9.53	13.43	17.92	21.66	26.72	35.12
48	7.39	9.59	13.53	18.02	21.75	26.85	35.30
49	7.43	9.65	13.62	18.11	21.87	26.99	35.46
50	7.48	9.70	13.68	18.20	21.98	27.13	35.63
51	7.53	9.77	13.78	18.28	22.08	27.24	35.78
52	7.57	9.83	13.86	18.37	22.18	27.36	35.94
53	7.62	9.88	13.92	18.45	22.28	27.48	36.10
54	7.66	9.95	14.01	18.53	22.37	27.60	36.24
55	7.70	9.98	14.09	18.60	22.45	27.70	36.38
56	7.76	10.06	14.16	18.68	22.55	27.81	36.52
57	7.80	10.11	14.24	18.75	22.63	27.92	36.64
58	7.84	10.16	14.30	18.82	22.71	28.01	36.77
59	7.89	10.21	14.38	18.89	22.80	28.10	36.89
60	7.93	10.26	14.46	18.95	22.86	28.20	37.02
61	7.99	10.33	14.52	19.02	22.95	28.30	37.18
62	8.03	10.37	14.58	19.09	23.01	28.37	37.33
63	8.05	10.43	14.66	19.14	23.09	28.46	37.49
64	8.09	10.47	14.72	19.19	23.15	28.54	37.63
65	8.14	10.52	14.78	19.26	23.23	28.62	37.77
66	8.19	10.58	14.84	19.31	23.28	28.70	37.90
67	8.24	10.62	14.91	19.38	23.36	28.77	38.04
68	8.27	10.67	14.98	19.43	23.41	28.85	38.18
69	8.31	10.71	15.04	19.48	23.48	28.93	38.29
70	8.35	10.77	15.10	19.54	23.53	28.99	38.43

PACKAGE SERVICES RATE SCHEDULE 521.2A—Continued

[Parcel Post SubClass Inter-BMC Rates]

Weight not exceeding (pounds)	Zone 1&2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Oversize parcels[5]	34.75	38.94	45.10	54.87	66.41	82.14	106.31

[1] For Origin Bulk Mail Center Discount, deduct $0.90 per piece.
[2] For BMC Presort, deduct $0.23 per piece.
[3] For barcode discount, deduct $0.03 per piece.
[4] For nonmachinable Inter-BMC parcels, add $2.00 per piece.
[5] See DMCS section 521.61 for oversize Parcel Post.
[6] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[7] For each pickup stop, add $10.25.

PACKAGE SERVICES RATE SCHEDULE 521.2B

[Parcel Post Subclass Intra-BMC Rates]

Weight not exceeding (pounds)	Local	Zone 1&2	Zone 3	Zone 4	Zone 5
1	$2.74	$3.04	$3.04	$3.04	$3.04
2	2.74	3.04	3.04	3.04	3.04
3	2.98	3.44	3.47	3.47	3.47
4	3.20	3.60	3.86	3.86	3.93
5	3.40	3.74	4.18	4.21	4.40
6	3.56	3.88	4.48	4.50	4.83
7	3.63	4.00	4.74	4.77	5.23
8	3.72	4.14	4.98	5.02	5.61
9	3.80	4.24	5.18	5.27	5.96
10	3.88	4.37	5.44	5.51	6.29
11	3.95	4.47	5.62	5.72	6.59
12	4.03	4.59	5.78	5.93	6.90
13	4.10	4.69	5.92	6.13	7.16
14	4.17	4.78	6.02	6.33	7.43
15	4.23	4.87	6.16	6.50	7.68
16	4.31	4.95	6.30	6.67	7.91
17	4.36	5.05	6.43	6.85	8.13
18	4.42	5.12	6.56	7.00	8.36
19	4.47	5.22	6.68	7.15	8.56
20	4.55	5.29	6.80	7.28	8.75
21	4.59	5.36	6.92	7.40	8.94
22	4.64	5.45	7.02	7.52	9.12
23	4.70	5.51	7.15	7.63	9.30
24	4.75	5.58	7.25	7.73	9.46
25	4.81	5.64	7.35	7.83	9.62
26	4.85	5.72	7.44	7.93	9.76
27	4.90	5.78	7.55	8.02	9.92
28	4.95	5.84	7.65	8.10	10.06
29	5.01	5.91	7.75	8.19	10.20
30	5.07	5.97	7.83	8.27	10.35
31	5.11	6.03	7.90	8.34	10.47
32	5.15	6.10	8.00	8.42	10.59
33	5.21	6.15	8.08	8.49	10.73
34	5.25	6.21	8.15	8.55	10.83
35	5.29	6.26	8.24	8.62	10.94
36	5.33	6.31	8.31	8.68	11.07
37	5.37	6.36	8.38	8.74	11.17
38	5.41	6.43	8.46	8.80	11.28
39	5.47	6.49	8.54	8.85	11.37
40	5.51	6.53	8.60	8.90	11.48
41	5.56	6.60	8.69	8.95	11.57
42	5.60	6.64	8.75	9.00	11.66
43	5.64	6.68	8.82	9.05	11.76
44	5.70	6.74	8.88	9.10	11.84
45	5.73	6.78	8.94	9.23	11.93
46	5.77	6.85	9.02	9.27	12.01
47	5.82	6.90	9.07	9.31	12.09
48	5.86	6.94	9.14	9.35	12.19
49	5.89	6.99	9.20	9.39	12.26
50	5.93	7.02	9.26	9.42	12.34
51	5.98	7.09	9.31	9.46	12.41
52	6.01	7.13	9.39	9.49	12.48
53	6.05	7.16	9.43	9.52	12.55

PACKAGE SERVICES RATE SCHEDULE 521.2B—Continued

[Parcel Post Subclass Intra-BMC Rates]

Weight not exceeding (pounds)	Local	Zone 1&2	Zone 3	Zone 4	Zone 5
54	6.10	7.20	9.47	9.56	12.63
55	6.14	7.25	9.50	9.60	12.69
56	6.17	7.30	9.53	9.63	12.75
57	6.21	7.35	9.55	9.65	12.83
58	6.25	7.39	9.58	9.68	12.89
59	6.29	7.43	9.61	9.71	12.95
60	6.31	7.48	9.63	9.73	13.02
61	6.36	7.53	9.66	9.76	13.08
62	6.40	7.57	9.68	9.81	13.13
63	6.44	7.61	9.70	9.87	13.19
64	6.48	7.65	9.72	9.91	13.25
65	6.52	7.69	9.75	9.96	13.30
66	6.54	7.75	9.77	10.02	13.37
67	6.60	7.79	9.79	10.07	13.41
68	6.63	7.81	9.80	10.11	13.46
69	6.64	7.86	9.82	10.16	13.52
70	6.65	7.90	9.84	10.21	13.57
Oversize parcels [3]	19.82	28.99	28.99	28.99	28.99

[1] For barcode discount, deduct $0.03 per piece.
[2] For nonmachinable intra-BMC parcels, add $1.35 per piece.
[3] See DMCS section 521.61 for oversize Parcel Post.
[4] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[5] For each pickup stop, add $10.25.

PACKAGE SERVICES RATE SCHEDULE 521.2C

[Parcel Post Subclass Parcel Select—Destination BMC Rates]

Weight not exceeding (pounds)	Zone 1&2	Zone 3	Zone 4	Zone 5
1	$2.13	$2.48	$2.75	$2.99
2	2.13	2.48	2.75	2.99
3	2.36	2.89	3.31	3.42
4	2.57	3.27	3.81	3.88
5	2.78	3.63	4.16	4.35
6	2.96	3.97	4.45	4.78
7	3.14	4.28	4.72	5.18
8	3.31	4.59	4.97	5.56
9	3.47	4.87	5.22	5.91
10	3.63	5.15	5.46	6.24
11	3.77	5.41	5.67	6.54
12	3.91	5.66	5.88	6.85
13	4.05	5.87	6.08	7.11
14	4.18	5.97	6.28	7.38
15	4.30	6.11	6.45	7.63
16	4.42	6.25	6.62	7.86
17	4.53	6.38	6.80	8.08
18	4.65	6.51	6.95	8.31
19	4.75	6.63	7.10	8.51
20	4.86	6.75	7.23	8.70
21	4.96	6.87	7.35	8.89
22	5.06	6.97	7.47	9.07
23	5.15	7.10	7.58	9.25
24	5.24	7.20	7.68	9.41
25	5.33	7.30	7.78	9.57
26	5.42	7.39	7.88	9.73
27	5.50	7.50	7.97	9.87
28	5.59	7.60	8.05	10.01
29	5.67	7.70	8.14	10.15
30	5.75	7.78	8.22	10.30
31	5.82	7.85	8.29	10.42
32	5.90	7.95	8.37	10.54
33	5.97	8.03	8.44	10.66
34	6.04	8.10	8.50	10.78
35	6.11	8.19	8.57	10.89
36	6.18	8.26	8.63	11.02
37	6.25	8.33	8.89	11.12
38	6.31	8.41	8.75	11.23

PACKAGE SERVICES RATE SCHEDULE 521.2C—Continued

[Parcel Post Subclass Parcel Select—Destination BMC Rates]

Weight not exceeding (pounds)	Zone 1&2	Zone 3	Zone 4	Zone 5
39	6.37	8.49	8.80	11.32
40	6.44	8.55	8.85	11.43
41	6.50	8.64	8.90	11.52
42	6.56	8.70	8.95	11.61
43	6.62	8.77	9.00	11.71
44	6.67	8.83	9.05	11.79
45	6.73	8.89	9.18	11.88
46	6.79	8.97	9.22	11.96
47	6.84	9.02	9.26	12.04
48	6.89	9.09	9.30	12.14
49	6.94	9.15	9.34	12.21
50	6.97	9.21	9.37	12.29
51	7.04	9.26	9.41	12.36
52	7.08	9.34	9.44	12.43
53	7.11	9.38	9.47	12.50
54	7.15	9.42	9.51	12.58
55	7.20	9.45	9.55	12.64
56	7.25	9.48	9.58	12.70
57	7.30	9.50	9.60	12.78
58	7.34	9.53	9.63	12.84
59	7.38	9.56	9.66	12.90
60	7.43	9.58	9.68	12.97
61	7.48	9.61	9.71	13.03
62	7.52	9.63	9.76	13.08
63	7.56	9.65	9.82	13.14
64	7.60	9.67	9.86	13.20
65	7.64	9.70	9.91	13.25
66	7.70	9.72	9.97	13.32
67	7.74	9.74	10.02	13.36
68	7.76	9.75	10.06	13.41
69	7.81	9.77	10.11	13.47
70	7.85	9.79	10.16	13.52
Oversize parcels [3]	18.85	20.65	27.84	28.94

[1] For barcode discount, deduct $0.03 per piece. Barcode discount is not available for DBMC mail entered at an ASF, except at the Phoenix, AZ ASF.
[2] For nonmachinable DBMC parcels, add $1.45 per piece.
[3] See DMCS section 521.61 for oversize Parcel Post.
[4] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[5] A mailing fee of $125.00 must be paid once each 12-month period for Parcel Select.

PACKAGE SERVICES RATE SCHEDULE 521.2D

[Parcel Post Subclass Parcel Select—Destination SCF Rates]

Weight not exceeding (pounds)	
1	$1.71
2	1.71
3	1.85
4	1.99
5	2.12
6	2.24
7	2.35
8	2.45
9	2.56
10	2.65
11	2.74
12	2.83
13	2.92
14	3.00
15	3.08
16	3.15
17	3.22
18	3.29
19	3.36
20	3.43

PACKAGE SERVICES RATE SCHEDULE 521.2D—Continued

[Parcel Post Subclass Parcel Select—Destination SCF Rates]

Weight not exceeding (pounds)	
21	3.49
22	3.55
23	3.61
24	3.67
25	3.73
26	3.78
27	3.83
28	3.89
29	3.94
30	3.99
31	4.03
32	4.08
33	4.13
34	4.17
35	4.21
36	4.26
37	4.30
38	4.34
39	4.38
40	4.42

PACKAGE SERVICES RATE SCHEDULE 521.2D—Continued

[Parcel Post Subclass Parcel Select—Destination SCF Rates]

Weight not exceeding (pounds)	
41	4.46
42	4.50
43	4.53
44	4.57
45	4.61
46	4.64
47	4.67
48	4.71
49	4.74
50	4.77
51	4.80
52	4.84
53	4.87
54	4.90
55	4.93
56	4.96
57	4.98
58	5.01
59	5.04
60	5.07

PACKAGE SERVICES RATE SCHEDULE 521.2D—Continued

[Parcel Post Subclass Parcel Select—Destination SCF Rates]

Weight not exceeding (pounds)	
61	5.10
62	5.12
63	5.15
64	5.17
65	5.20
66	5.22
67	5.25
68	5.27
69	5.30
70	5.32
Oversize parcels [1]	11.35

[1] See DMCS section 521.61 for oversize Parcel Post.
[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[3] A mailing fee of $125.00 must be paid once each 12-month period for Parcel Select.

PACKAGE SERVICES RATE SCHEDULE 521.2E

[Parcel Post Subclass Parcel Select—Destination Delivery Unit Rates]

Weight not exceeding pounds	
1	1.28
2	1.28
3	1.33
4	1.38
5	1.43
6	1.47
7	1.51
8	1.55
9	1.58
10	1.62
11	1.65
12	1.68
13	1.71
14	1.74
15	1.77
16	1.79
17	1.82
18	1.85
19	1.87
20	1.89
21	1.92
22	1.94
23	1.96
24	1.98
25	2.00
26	2.02
27	2.04
28	2.06
29	2.07
30	2.09
31	2.10
32	2.11
33	2.12
34	2.13
35	2.14
36	2.15
37	2.16
38	2.17
39	2.18
40	2.19
41	2.20
42	2.21
43	2.22
44	2.23

PACKAGE SERVICES RATE SCHEDULE 521.2E—Continued

[Parcel Post Subclass Parcel Select—Destination Delivery Unit Rates]

Weight not exceeding pounds	
45	2.24
46	2.25
47	2.26
48	2.27
49	2.28
50	2.29
51	2.30
52	2.31
53	2.32
54	2.33
55	2.34
56	2.35
57	2.36
58	2.37
59	2.38
60	2.39
61	2.40
62	2.41
63	2.42
64	2.43
65	2.44
66	2.45
67	2.46
68	2.47
69	2.48
70	2.49
Oversize parcels [1]	6.98

[1] See DMCS section 521.61 for oversize Parcel Post.
[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
[3] A mailing fee of $125.00 must be paid once year 12-month period for Parcel Select.

PACKAGE SERVICES RATE SCHEDULE 522A

[Bound printed matter subclass single piece rates]

Weight not exceeding (pounds)	Zones						
	1&2	3	4	5	6	7	8
1	$1.80	$1.83	$1.87	$1.93	$1.99	$2.06	$2.21
1.5	1.80	1.83	1.87	1.93	1.99	2.06	2.21
2	1.84	1.88	1.94	2.02	2.10	2.19	2.38
2.5	1.90	1.95	2.00	2.11	2.21	2.33	2.57
3	1.94	2.00	2.08	2.20	2.32	2.46	2.75
3.5	1.99	2.06	2.15	2.29	2.43	2.60	2.93
4	2.03	2.11	2.21	2.37	2.55	2.72	3.11
4.5	2.07	2.17	2.29	2.47	2.65	2.87	3.30
5	2.13	2.23	2.36	2.55	2.77	3.00	3.47
6	2.22	2.35	2.49	2.74	2.99	3.26	3.83
7	2.31	2.46	2.63	2.92	3.21	3.53	4.19
8	2.40	2.57	2.78	3.10	3.44	3.81	4.55
9	2.50	2.68	2.91	3.27	3.66	4.07	4.92
10	2.60	2.80	3.05	3.45	3.87	4.34	5.27
11	2.68	2.91	3.19	3.63	4.09	4.61	5.64
12	2.78	3.03	3.33	3.81	4.32	4.88	6.00
13	2.87	3.14	3.47	3.99	4.54	5.15	6.36
14	2.97	3.26	3.61	4.17	4.76	5.42	6.73
15	3.06	3.37	3.75	4.35	4.98	5.69	7.09

[1] For barcode discount, deduct $0.03 per piece.

PACKAGE SERVICES RATE SCHEDULE 522B

[Bound Printed Matter Subclass Basic Presort and Carrier Route Presort Rates]

Zone	Per piece		Per pound
	Basic [1]	Carrier route [2]	
1&2	$0.97	$0.87	$0.07
3	0.97	0.87	0.09
4	0.97	0.87	0.12
5	0.97	0.87	0.16
6	0.97	0.87	0.20
7	0.97	0.87	0.25
8	0.97	0.87	0.34

[1] For barcode discount, deduct $0.03 per piece.
[2] Applies to mailings of at least 300 pieces presorted to carrier route as specified by the Postal Service.

PACKAGE SERVICES RATE SCHEDULE 522C

[Bound Printed Matter Subclass Destination Entry Basic Presort]

	DBMC Zone 1&2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5	DSCF	DDU
Per Piece Rate	0.83	0.83	0.83	0.83	0.69	0.62
Per Pound Rate	0.06	0.09	0.12	0.16	0.06	0.03

[1] For barcode discount, deduct $0.03 per piece. Barcode discount is not available for DDU and DSCF rates and DBMC mail entered at an ASF (except Phoenix, Arizona ASF).
[2] A mailing fee of $125.00 must be paid once each 12-month period to mail at any destination entry Bound Printed Matter rate.

PACKAGE SERVICES RATE SCHEDULE 522D

[Bound Printed Matter Subclass Destination Entry Carrier Route Presort]

	DBMC Zone 1&2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5	DSCF	DDU
Per Piece Rate	0.73	0.73	0.73	0.73	0.59	0.52
Per Pound Rate	0.06	0.09	0.12	0.16	0.06	0.03

[1] A mailing fee of $125.00 must be paid once each 12-month period to mail at any destination entry Bound Printed Matter rate.

PACKAGE SERVICES RATE SCHEDULE 523

[Media Mail Subclass]

	Rates (dollars)
First Pound:	
Not presorted [4]	1.33
Level A Presort (5–digits) [1, 2]	0.73
Level B Presort (BMC) [1, 3, 4]	1.03
Each additional pound through 7 pounds	0.45
Each additional pound over 7 pounds	0.30

[1] A mailing fee of $125.00 must be paid once each 12–month period for each permit.
[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.
[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.
[4] For barcode discount, deduct $0.03 per piece.

PACKAGE SERVICES RATE SCHEDULE 524

[Library Mail Subclass]

	Rates (dollars)
First Pound:	
Not presorted [4]	1.26
Level A Presort (5-digits) [1, 2]	0.69
Level B Presort (BMC) [1, 3, 4]	0.98
Each additional pound through 7 pounds	0.43
Each additional pound over 7 pounds	0.29

[1] A mailing fee of $125.00 must be paid once each 12-month period for each permit.
[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.
[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.
[4] For barcode discount, deduct $0.03 per piece.

FEE SCHEDULE 911

[Address Corrections]

Description	Fee
Per manual correction	$0.60
Per automated correction	0.20

FEE SCHEDULE 912 [1]

Description	Fee
ZIP Coding of Mailing Lists	
Per thousand addresses	$73.00
Correction of Mailing Lists	
Per submitted address	$0.25
Minimum charge per list	$7.50
Address Changes for Election Boards and Registration Commissions	
Per change of address	$0.23
Sequencing of Address Cards	
Per correction	$0.25

[1] When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

I. Post Office Boxes

FEE SCHEDULE 921
[Post Office Boxes and Caller Service]

Box Size[2]	Fee Group B2	C3	C4	C5	D6	D7	E
Semi-annual Box Fees[1]:							
1	$30.00	$27.50	$22.50	$19.00	$10.00	$8.50	$0.00
2	45.00	40.00	32.50	27.50	16.00	13.00	0.00
3	85.00	75.00	60.00	50.00	25.00	22.50	0.00
4	170.00	150.00	125.00	87.50	50.00	40.00	0.00
5	300.00	250.00	212.50	150.00	90.00	65.00	0.00

[1] A customer ineligible for carrier delivery may obtain a post office box at Group E fees, subject to administrative decisions regarding customer's proximity to post office.
[2] Box Size 1 = under 296 cubic inches; 2 = 296–499 cubic inches; 3 = 500–999 cubic inches; 4 = 1000–1999 cubic inches; 5 = 2000 cubic inches and over.

II. Key Duplication and Lock Charges

Description	Fee
Key duplication or replacement	$4.00
Post office box lock replacement	10.00

III. Semi-annual Caller Service Fee—$375.00

IV. Annual Call Number Reservation Fee

(All applicable Fee Groups)—$30.00.

FEE SCHEDULE 931
[Business Reply Mail]

Description	Fee
Active business reply advance deposit account:	
Per piece	
Qualified (without optional Quarterly fee)	$0.05
Qualified (with optional Quarterly fee)	0.01
Nonletter-size, using weight averaging	0.01
Other	0.10
Payment of postage due charges if active business reply mail advance deposit account not used:	
Per piece	0.35
Monthly Fees for customers using weight averaging for nonletter-size business reply	600.00

FEE SCHEDULE 931—Continued
[Business Reply Mail]

Description	Fee
Optional Qualified BRM Quarterly Fee	1,800.00

Accounting fee for advance deposit account (see Fee Schedule 1000).
Permit fee (with or without advance deposit account) (see Fee Schedule 1000).

FEE SCHEDULE 932
[Merchandise Return]

Description	Fee
Accounting fee for advance deposit account (see Fee Schedule 1000)	
Permit fee (see Fee Schedule 1000).	

FEE SCHEDULE 933
[On-Site Meter Service]

Description	Fee
Meter Service (per employee)	$31.00
Meters reset and/or examined (per meter)	4.00
Checking meter in or out of service (per meter)	[1] 4.00

[1] Fee does not apply to Secured Postage meters.

FEE SCHEDULE 942
[Registered Mail]

Declared Value of Article[1]	Fee (in addition to postage)	Handling charge
$ 0.00	$7.25	
0.01 to 100	7.50	
100.01 to 500	8.25	
500.01 to 1,000	9.00	
1,000.01 to 2,000	9.75	
2,000.01 to 3,000	10.50	
3,000.01 to 4,000	11.25	
4,000.01 to 5,000	12.00	

Fee Schedule 934

[Reserved]

FEE SCHEDULE 935
[Bulk Parcel Return Service]

Description	Fee
Per Returned Piece	$1.62

Accounting fee for advance deposit account (see Fee Schedule 1000).
Permit fee (see Fee Schedule 1000).

FEE SCHEDULE 936
[Shipper Paid Forwarding]

Description	Fee
Accounting fee for advance deposit account (see Fee Schedule 1000)..	

FEE SCHEDULE 941
[Certified Mail]

Description	Fee (in addition to postage)
Per piece	$2.10

FEE SCHEDULE 942—Continued
[Registered Mail]

Declared Value of Article[1]	Fee (in addition to postage)	Handling charge
5,000.01 to 6,000	12.75	
6,000.01 to 7,000	13.50	
7,000.01 to 8,000	14.25	
8,000.01 to 9,000	15.00	
9,000.01 to 10,000	15.75	
10,000.01 to 11,000	16.50	
11,000.01 to 12,000	17.25	
12,000.01 to 13,000	18.00	
13,000.01 to 14,000	18.75	
14,000.01 to 15,000	19.50	
15,000.01 to 16,000	20.25	
16,000.01 to 17,000	21.00	
17,000.01 to 18,000	21.75	
18,000.01 to 19,000	22.50	
19,000.01 to 20,000	23.25	
20,000.01 to 21,000	24.00	
21,000.01 to 22,000	24.75	
22,000.01 to 23,000	25.50	
23,000.01 to 24,000	26.25	
24,000.01 to 25,000	27.00	
25,000.01 to $1 million	27.00	plus 75 cents for each $1,000 (or fraction thereof) over $25,000.
Over $1 million to $15 million	758.25	plus 75 cents for each $1,000 (or fraction thereof) over $1 million.
Over $15 million	11258.25	plus amount determined by the Postal Service based on weight, space and value.

[1] Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.

FEE SCHEDULE 943
[Insurance]

Coverage	Fee[1] (in addition to postage)
Express Mail Insurance	
Document Reconstruction:	
$0.01 to $ 500	no charge.
Merchandise:	
$0.01 to $500	no charge.
$500.01 to 5000	$1.00 for each $100 (or fraction thereof) over $500 in value.
General Insurance	
$0.01 to $50	$1.10.
$50.01 to $100	$2.00.
$100.01 to $5000	$2.00 plus $1.00 for each $100 (or fraction thereof) over $100 in coverage.

[1] For bulk insurance coverage between $0.01 to $50.00, deduct $0.60 per price. For bulk insurance coverage between $50.01 to $5,000.00, deduct $0.80 per piece.

FEE SCHEDULE 944
[Collect on Delivery]

Description	Fee (in addition to postage)
Amount to be collected, or Insurance Coverage Desired:	
$0.01 to $50	$4.50
50.01 to 100	5.50
100.01 to 200	6.50
200.01 to 300	7.50
300.01 to 400	8.50
400.01 to 500	9.50
500.01 to 600	10.50
600.01 to 700	11.50
700.01 to 800	12.50
800.01 to 900	13.50
900.01 to 1000	14.50
Notice of nondelivery of COD	3.00
Alteration of COD charges or designation of new addressee	3.00
Registered COD	4.00

FEE SCHEDULE 945
[Return Receipts]

Description	Fee (in addition to postage)
Receipt requested at time of mailing[1]:	
Items other than merchandise	$1.50

FEE SCHEDULE 945—Continued
[Return Receipts]

Description	Fee (in addition to postage)
Merchandise (without another special service)	2.35
Receipt requested after mailing[2]	3.50

[1] This receipt shows the signature of the person to whom the mailpiece was delivered, the date of delivery and the delivery address, if such address is different from the address on the mailpiece.
[2] This receipt shows to whom the mailpiece was delivered and the date of delivery.

FEE SCHEDULE 946
[Restricted Delivery]

Description	Fee (in addition to postage)
Per Piece	$3.20

FEE SCHEDULE 947
[Certificate of Mailing]

Description	Fee (in addition to postage)
Individual Pieces	
Original certificate of mailing for listed pieces of all classes of ordinary mail (per piece)	$0.75
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.25
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy)	0.75
Bulk Pieces	
Identical pieces of First-Class and Standard Mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:	
Up to 1,000 pieces (one certificate for total number)	3.50
Each additional 1,000 pieces or fraction	0.40
Duplicate copy	0.75

FEE SCHEDULE 948
[Delivery Confirmation]

Description	Fee (in addition to postage)
Used in Conjunction with Priority Mail	
Electronic	$0.00
Manual	0.40
Used in Conjunction with Parcel Post, Bound Printed Matter, Library Mail, and Media Mail	
Electronic	0.12
Manual	0.50
Used in Conjunction with Regular and Nonprofit Standard Mail	
Electronic	0.12

FEE SCHEDULE 949
[Signature Confirmation]

Description	Fee (in addition to postage)
Used in Conjunction with Priority Mail	
Electronic	$1.25
Manual	1.75

FEE SCHEDULE 949—Continued
[Signature Confirmation]

Description	Fee (in addition to postage)
Used in Conjunction with Parcel Post, Bound Printed Matter, Library Mail, and Media Mail	
Electronic	1.25
Manual	1.75

FEE SCHEDULE 951
[Parcel Air Lift]

Description	Fee (in addition to Parcel Post postage)
Up to 2 pounds	$0.40
Over 2 up to 3 pounds	0.75
Over 3 up to 4 pounds	1.15
Over 4 pounds	1.55

FEE SCHEDULE 952
[Special Handling]

Description	Fee (in addition to postage)
Not more than 10 pounds	$5.40
More than 10 pounds	7.50

FEE SCHEDULE 961
[Stamped Envelopes]

Description	Fee (in addition to postage)
Single Sale: #6¾ size and #10 size	
Basic	$0.08
Special	0.09
Household (50): #6¾ size through #10 size	
Basic	3.50
Special	4.50
Bulk (500): #6¾ size	
Plain Basic	12.00
Printed Basic	17.00
Bulk (500): >#6¾ size through #10 size	
Plain Basic [1, 2]	14.00
Printed Basic	20.00
Plain Special	19.00
Printed Special	25.00

[1] Available in "double window" style.

[2] Available in "savings bond" style.

Note: "Basic" envelopes include "regular" (no window), "window" (single window), "pre-cancelled regular", and "pre-cancelled window" styles. "Special" envelopes include all envelopes with patched in indicia. "Printed" envelopes are available with multi-color printing.

FEE SCHEDULE 962
[Stamped Cards]

Description	Fee (in addition to postage)
Stamped Card	$0.02
Double Stamped Card	0.04

FEE SCHEDULE 971
[Money Orders]

Description	Fee
Domestic—$0.01 to $700	$0.90
APO–FPO—$0.01 to $700	0.25
Inquiry Fee, which includes the issuance of copy of a paid money order	2.75

FEE SCHEDULE 981
[Mailing Online]

Description	Fee
Fees are calculated by multiplying 1.52 times the sum of printer contractual costs for the particular mailing and 0.5 cents per impression for other Postal Service costs P = Printer Contractual Costs; I = Number of Impressions	1.52×(P+0.5xI)

Certification of a system as functionally equivalent to Mailing Online (see Fee Schedule 1000).

This provision expires the later of:

a. three years after the implementation date specified by the Postal Service Board of Governors, or

b. if, by the expiration date specified in (a), a proposal to make Mailing Online permanent is pending before the Postal Rate Commission, the later of:

[1] three months after the Commission takes action on such proposal under section 3624 of Title 39, or

[2] if applicable—on the implementation date for a permanent Mailing Online.

FEE SCHEDULE 1000

Description	Fee [1]
First-Class Presorted Mailing	$125.00
Regular, Enhanced Carrier Route, Nonprofit, and NonprofitEnhanced Carrier Route Standard Mail Bulk Mailing	125.00
Periodicals	
A. Original Entry	350.00
B. Additional Entry	50.00
C. Re-entry	40.00
D. Registration for News Agents	40.00
Parcel Select	125.00
Bound Printed Matter: Destination BMC, SCF, and DDU	125.00
Media Mail Presorted Mailing	125.00
Library Mail Presorted Mailing	125.00
Authorization to Use Permit Imprint	125.00
Special Services	
Bulk Parcel Return Service	
A. Permit	125.00
B. Accounting Fee (advance deposit account)	375.00
Business Reply Mail	
A. Permit (with or without advance deposit account)	125.00
B. Accounting Fee (advance deposit account)	375.00
Mailing Online [2]	
A. Certification of a system as functionally equivalent to Mailing Online	125.00
Merchandise Return	
A. Permit	125.00
B. Accounting Fee (advance deposit account)	375.00
Shipper Paid Forwarding	
A. Accounting Fee (advance deposit account)	375.00

[1] Fees must be paid once each 12-month period.

[2] This provision expires the later of:

a. Three years after the Mailing Online implementation date specified by the Postal Service Board of Governors, or

b. If, by the expiration date specified in (a), a proposal to make Mailing Online permanent is pending before the Postal Rate Commission, the later of:

1. Three months after the Commission takes action on such proposal under section 3624 of Title 39, or

2. —If applicable—on the implemenation date for a permanent Mailing Online.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–13063 Filed 5–22–01; 8:45 am]

BILLING CODE 7710–12–U

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24978; 812–12466]

Nations Fund Trust, et al.; Notice of Application

May 16, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 ("Act") for an exemption from section 17(a) of the Act.

SUMMARY: Applicants request an order to permit certain series of Nations Funds Trust ("NFST") to acquire all of the assets and liabilities of certain series of Nations Fund Trust ("NFT"), Nations Fund, Inc. ("NFI"), Nations Reserve ("NR"), and Nations LifeGoals Funds, Inc. ("NLG") (the "Reorganization"). Because of certain affiliations, applicants may not rely on rule 17a-8 under the Act.

Applicants: NFT, NFI, NR, NLG, NFST and Banc of America Advisors, LLC. ("BAALLC").

Filing Date: The application was filed on February 26, 2001, and amended on May 16, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 7, 2001, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, One Bank of America Plaza, 101 South Tryon Street, Charlotte, NC 28255.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, (202) 942–0634, or Janet M. Grossnickle, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. NFT, a Massachusetts business trust, NFI, a Maryland corporation, NR, a Massachusetts business trust, and NLG, a Maryland corporation, are open-end management investment companies registered under the Act. NFT currently offers 34 series, one of which will participate in the Reorganization. NFI offers six series, two of which will participate in the Reorganization. NR currently offers 16 series, two of which will participate in the Reorganization. NLG offers three series, all of which will participate in the Reorganization. The participating series of NFT, NFI, NR and NLG are collectively referred to as the "Acquired Funds." Two of the Acquired Funds are feeder funds ("Acquired Feeder Funds") which invest all of their assets in corresponding master portfolios ("Master Portfolios") of Nations Master Investment Trust ("NMIT"), an open-end management

investment company registered under the Act.

2. NFST, a Delaware business trust, is an open-end management investment company registered under the Act. NFST is organizing seven new series, (the "Acquiring Funds," and together with the Acquired Funds, the "Funds").[1] Two of the Acquiring Funds will be feeder funds ("Acquiring Feeder Funds," together with the Acquired Feeder Funds, the "Feeder Funds") which will invest all of their assets in corresponding Master Portfolios of NMIT.[2]

3. BAALLC is registered under the Investment Advisers Act of 1940 ("Advisers Act") and is the investment adviser for the Acquired Funds that are not Feeder Funds as well as the Acquired Feeder Funds' corresponding Master Portfolios. The Acquired Funds that are not Feeder Funds and the Acquired Feeder Funds' corresponding Master Portfolios are currently subadvised by either Banc of America Capital Management Inc. ("BACAP") or Marsico Capital Management, LLC ("Marsico Capital"), which are investment advisers registered under the Advisers Act. BAALLC is also the investment adviser, and BACAP and Marsico Capital are also the investment subadvisers, respectively, for the Acquiring Funds that are not Feeder Funds, and the Acquiring Feeder Funds' corresponding Master Portfolios, except for one Acquiring Fund where BACAP and Chicago Equity Partners LLC ("Chicago Equity") are co-subadvisers. BAALLC, BACAP and Marsico Capital are wholly-owned subsidiaries of Bank of America Corporation. Chicago Equity is not an affiliated person of BAALLC or any other company in the Bank of America Group (as defined below).

4. Bank of America Corporation, Bank of America, N.A., and/or certain of their affiliates that are under common control with BAALLC (the "Bank of America Group"), hold of record, in their name and in the names of their nominees, more than 5% (and in some cases, more than 25%) of the outstanding voting securities of each of the Acquired Funds. All such securities are held for the benefit of others in a trust, agency, custodial, or other fiduciary or representative capacity. None of the companies of the Bank of America Group owns an economic interest in any of the Funds.

5. On August 23, 2000, the board of trustees of NFST (the "Acquiring Funds' Board,") and the board of directors or trustees of NFT, NFI, NR and NLG (the "Acquired Funds' Boards," together with the Acquiring Funds' Board, the "Boards"), including all of the directors or trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Members") of the respective Funds, approved an agreement and plan of reorganization ("Plans") on behalf of each Acquiring Fund and Acquired Fund. Under the Plans, on the date following the closing date ("Closing Date"), which is currently anticipated to be June 8, 2001, each class of each Acquiring Fund will acquire all of the assets and liabilities of the corrresponding class of the Acquired Fund in exchange for shares of designated classes of the Acquiring Fund that have an aggregate net asset value equal to the value of the class of the Acquired Fund's net assets, determined as of the Closing Date unless mutually agreed otherwise ("Valuation Time"). The value of the assets will be determined in accordance with NFT's, NFI's, NR's, NLG's and NFST's then current valuation procedures stated in their prospectuses. On the date following each Closing Date, the Acquired Funds will make a pro rata distribution of shares of the Acquiring Fund to its shareholders and liquidate.

6. Applicants state that the Acquiring Funds will pursue investment objectives and following principal investment strategies that are either identical or similar to those of the Acquired Funds. Each of the Acquired Funds has multiple classes of shares, and the respective Acquiring Fund will have the same classes of shares. Applicants state that the distribution and shareholder servicing arrangements for the respective classes of the Acquired Fund are substantially identical to the arrangements of the corresponding classes of the Acquiring Fund. For purposes of calculating any deferred sales charge, each Acquired Fund's shareholders will be deemed to have held shares of the respective Acquiring Fund since the date the shareholder initially purchased shares of the Acquired Fund. No sales charge will be imposed in connection with the Reorganization.

7. The Boards, including all of the Independent Members, found that participation in the Reorganization is in the best interest of each of their respective Funds and that the interests of each Fund's existing shareholders will not be diluted as a result of the Reorganization. In approving the Reorganization, the Boards considered, among other things: (a) The potential effect of the Reorganization; (b) the respective expense ratios of the Funds; (c) the compability of the investment objectives and investment strategies of the Funds; (d) the terms and conditions of the Reorganization; and (e) the tax-free nature of the Reorganization. The Boards also noted that BAALLC and its affiliates (but not the Funds) will bear the expenses associated with the Reorganization, and considered potential benefits of the Reorganization to BAALLC and its affiliates.

8. Each Plan may be terminated at any time by mutual written consent of the Acquiring Fund and the Acquired Fund at any time through the Closing Date. In addition, either Board may terminate the Plan under certain circumstances specified in the Plan. The consummation of the reorganization is subject to the following conditions: (a) A registration statement under the Securities Act of 1933 for the Acquiring Funds will have become effective; (b) the Acquired Funds' shareholders will have approved their respective Plan; (c) applicants will have received exemptive relief from the SEC with respect to the issues in the application; (d) the funds will have received an opinion of counsel conerning the tax-free nature of the Reorganization; and (e) the Acquired Fund will have declared a dividend to distribute substantially all of its investment company taxable income and net capital gain, if any, to its shareholders. Applicants agree not to make any material changes to the Plan that affect the application without prior SEC staff approval.

9. Definitive proxy solicitation materials have been filed with the SEC and were mailed to the Acquired Funds' shareholders on or about January 29, 2001. A special meeting of the Acquired Funds' shareholders was held on April 12, 2001, and the Acquired Funds' shareholders approved their respective Plan.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of that person acting as principal, from selling any security or other property to, or purchasing any security or other property from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidation, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants state that the Bank of America Group holds of record more than 5% (and in some cases, more than 25%) of the outstanding voting securities of each of the Acquired Funds. Because of this ownership, applicants state that the Funds may be deemed affiliated persons for reasons other than those set forth in rule 17a–8 and therefore unable to rely on the rule. Applicants request an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganizaiton satisfy the standards set forth in section 17(b). Applicants note that the Boards, including a majority of the Independent Members, found that participation in the Reorganization is in the best interests of each Fund that the interests of the existing shareholders of each Fund will not be diluted as a result of the Reorganization. Applicants also note that the Reorganization will be based on the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12933 Filed 5–20–01; 8:45 am]

BILLING CODE 8010–01–M

[1] A registration statement for the seven shell Acquiring Funds was filed with the SEC on October 13, 2000 and became effective on December 27, 2000.

[2] The Acquired Funds and the corresponding Acquiring Funds are: (i) NFT Nations Balanced Assets Fund and NR Nations Asset Allocation Fund into NFST Nations Government Securities Fund; (ii) NFI Nations U.S. Government Bond Fund and NFI Nations Government Securities Fund into NFST Nations Government Securities Fund; (iii) NR Nations Marsico Focused Equities Fund into NFST Nations Marsico Focused Equities Fund; (iv) NR Nations Marsico Growth and Income Fund into NFST Nations Marsico Growth and Income Fund; (v) NLG Nations LifeGoal Growth Portfolio into NFST Nations LifeGoal Growth Portfolio; (vi) NLG Nations LifeGoal Balanced Growth Portfolio into NFST Nations Lifegoal Balanced Growth Portfolio; and (vii) NLG Nations LifeGoal Income and Growth Portfolio into NFST Nations Lifegoal Income and Growth Portfolio.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44309; File No. SR–Amex–2001–04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to the Listing and Trading of Trust Issued Receipts

May 16, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 7, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change, and amended such proposed rule change on May 8, 2001,[3] described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposal and Amendment No. 1 on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Amex Rule 1202 to provide eligibility requirements for Component Securities represented by a series of Trust Issued Receipts ("TIRs") that became part of such TIR when the security was either: (a) Distributed by a company whose securities are already included as a Component Security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a Component Security that are no longer outstanding due to a merger, consolidation, corporate combination or other event. The text of the proposed rule filing is below. Additions are in italics; deletions are in brackets.

Trust Issued Receipts

Initial and Continued Listing

Rule 1202

Trust Issued Receipts will be listed and traded on the Exchange subject to application of the following criteria:

(a)–(e) No change.

* * * Commentary

.01 No change.

.02 The eligibility requirements for Component Securities that are represented by a series of Trust Issued Receipts and that became part of the Trust Issued Receipt when the security was either: (a) distributed by a company already included as a Component Security in the series of Trust Issued Receipts; or (b) received in exchange for the securities of a company previously included as a Component Security that is no longer outstanding due to a merger, consolidation, corporate combination or other event, shall be as follows:

(i) the Component Security must be listed on a national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;

(ii) the Component Security must be registered under section 12 of the Exchange Act; and

(iii) the Component Security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Sector Classification represented by Component Securities included in the Trust Issued Receipt at the time of the distribution or exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed rule Change

1. Purpose

In September 1999, the Exchange adopted rules for the listing and trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 made non-substantive changes to the text of proposed Commentary .02 of Amex Rule 1202. *See* letter from Claire P. McGrath, Vice President and Special Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated May 4, 2001.

of TIRs.[4] TIRs are negotiable receipts that are issued by trusts and represent investors' discrete identifiable and undivided beneficial ownership interest in the securities deposited into the trust. Since that time, the Exchange has listed 15 TIRs under the trade name HOLDRS, representing a wide variety of industry sectors (*e.g.*, Internet, biotechnology, pharmaceutical and telecommunications), and the market as a whole (*e.g.*, Market 2000+HOLDRS and Eurpoe 2001 HOLDRS).

In September 2000, to accommodate the listing of additional TIRs, the Exchange revised the existing listing criteria and trading rules to permit the listing and trading of TIRs pursuant to Rule 19b–4(e).[5] The Exchange established the following eligibility criteria for Component Securities represented by a series of TIRs:

- Each Component Security must be registered under section 12 of the Exchange Act;
- Each Component Security must have a minimum public float of at least $150 million;
- Each Component Security must be listed on a U.S. national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;
- Each Component Security must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period;
- Each Component Security must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million; and
- The most heavily weighted Component Security may not initially represent more than 20% of the overall value of the TIR.

Recently, the rules relating to the distributions of securities by Component Securities in a trust has been revised to provide: (a) If a company whose securities are included in a series of TIRs distributes a security, the distributed security will remain in the trust as a Component Security if it is listed for trading on a U.S. national securities exchange or through the facilities of Nasdaq and its Standard & Poor's sector classification is the same as the sector classification represented by the other Component Securities in the trust at the time of the distribution; and (b) if the securities of a company that are included in a series of TIRs are no longer outstanding as a result of a merger, consolidation, corporate combination or other event, any securities received in exchange for those securities will remain in the trust as a Component Security if it is listed for trading on a U.S. national securities exchange or through the facilities of Nasdaq and its Standard & Poor's sector classification is the same as the sector classification represented by the other Component Securities in the trust at the time of the merger, consolidation, corporate combination or other event.

As a result of this change, a security that is automatically deposited into the trust as a result of a distribution or a corporate event may remain in the trust even though it does not meet all of the initial eligibility requirements set forth in Commentary .01 to Amex Rule 1202. For example, securities distributed by an issuer or exchanged in a merger generally do not have measurable price and trading histories, and may not have a minimum public float of $150 million. There is no requirement to review the securities that are represented by TIRs on an ongoing basis to determine whether Component Securities continue to meet the initial eligibility requirements. The Exchange now proposed to amend Amex Rule 1202 to provide eligibility requirements for a Component Security that became part of a trust when the security was either: (a) Distributed by a company already included as a Component Security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a Component Security and that are no longer outstanding due to a merger, consolidation, corporate combination or other event. The eligibility requirements for such Component Securities are as follows:

- Such Component Security must be listed on national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;
- Such Component Security must be registered under Section 12 of the Exchange Act; and
- Such Component Security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Sector Classification represented by Component Securities already included in the TIR at the time of the distribution or exchange.

The Exchange believes that it is appropriate in these limited situations to provide alternate eligibility criteria for Component Securities. To reduce the number of distributions of securities from the TIR which cause inconvenience and increased transaction and administrative costs for investors, it is useful to allow certain securities that are received as part of a distribution from a company or as the result of a merger, consolidation, corporate combination or other event to remain in the TIR. The proposed eligibility requirements ensure that Component Securities included in a TIR as a result of a distribution or exchange event are widely held (having been distributed to all of the shareholders holding the original Component Security), traded through the facilities of an exchange or Nasdaq and registered under section 12 of the Act.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act[7] in general, and furthers the objectives of section 6(b)(5)[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–2001–04 and should be submitted by June 13, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6(b)(5) of the Act.[9] Specifically, the Commission finds that the proposal to provide an alternate eligibility criteria for Component Securities received as part of a distribution or as a result of a merger, consolidation, corporate combination or other event to remain in the trust will prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.[10]

The Amex has requested that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act.[11]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** pursuant to section 19(b)(2).[12] There are TIRs currently listed and trading that have adopted the revised distribution provisions and such distributed or exchange securities may have or will shortly become Component Securities in one or more trusts issuing TIRs. Accordingly, the Commission finds that it is consistent with section 6(b)(5) of the Act[13] to approve the proposal on an accelerated basis to accommodate such possibility.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[14] that the proposed rule change (SR–Amex–2001–04) and Amendment No. 1 are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12934 Filed 5–22–01; 8:45 am]

BILLING CODE 8010–01–M

[4] See Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999).

[5] Rule 19b–4(e), adopted by the Commission on December 8, 1998, permits the Exchange to list and trade new derivative securities products without a rule change provided the Exchange has in place trading rules, procedures, a surveillance program and listing standards that pertain to the class of securities covering the new product. See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70921 (December 22, 1998).

[6] 15 U.S.C. 78*l*.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(5).

[10] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78s(b)(2).

[12] 15 U.S.C. 78s(b)(2).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before June 22, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, D.C. 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Other funding under the SBDC Umbrella.

No: 2186.

Frequency: On Occasion.

Description of Respondents: SBA Business Development Centers.

Annual Responses: 58.

Annual Burden: 29.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–13009 Filed 5–22–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner; Benefit Adjustments Pursuant to Public Law 106–554

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: Pub. L. 106–554 authorizes Federal agencies to compensate beneficiaries, to the extent practicable and feasible, for any shortfall in benefits that may have been caused by an error that affected the Consumer PriceIndex starting in 1999. This index, produced by the Bureau of Labor Statistics in the Department of Labor, was slightly understated for certain months in 1999.Pursuant to Pub. L. 106–554, the Commissioner has determined that some recipients of Social Security and Supplemental Security Income benefits did experience a shortfall in payments in 2000 and 2001 due to the Consumer PriceIndex error. This is because the 2.4-percent cost-of-living increase, promulgated in the **Federal Register** on October 25, 1999, would have been 2.5 percent in the absence of the 1999 Consumer Price Index error.

Accordingly, the Commissioner has proposed, and the Office of Management and Budget has approved, a plan for making the appropriate compensation payments under Pub. L. 106–554.By August 1, 2001, we will make a one-time payment that compensates for the entire shortfall experienced in months prior to August 2001. Benefits paid in August 2001 and later will be adjusted as if the Consumer Price Index error had not occurred. In this notice we are announcing the appropriate bases and formulas we will use to compute benefits to be paid in August 2001 and thereafter.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Chief Actuary,Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013.

Background

Sections 215(i)(1) and 1617 of the Social Security Act (the Act) provide that the Consumer Price Index (CPI) be used to determine "automatic" adjustments to benefits under title II and title XVI of the Act. The Bureau of Labor Statistics (BLS) in the Department of Labor publishes the CPI. On September 28, 2000, the BLS announced their discovery of a software error used in the CPI calculation, affecting the calculation for months after 1998. The BLS recalculated the CPI for each month from January 1999 through August 2000. Based on criteria related to the size of the error, the BLS revised the CPI for January 2000 through August 2000, but did not revise the index for January through December of 1999.

Effects of Pub. L. 106–554

Section 308 of Pub. L. 106–554, enacted December 21,2000, requires the Office of Management and Budget and Federal agencies that administer benefit programs to determine whether the CPI computation error for 1999 resulted in a shortfall in payments to beneficiaries and to compensate beneficiaries for any such shortfall. We determined that the 2.4-percent cost-of-living increase, promulgated in the **Federal Register** on October 25, 1999, would have been 2.5 percent in the absence of the 1999 CPI error. We also determined that the 3.5-percent cost-of-living increase, promulgated in the **Federal Register** on October 24, 2000, was not affected by the 1999 CPI error. In compliance with Pub. L. 106–554, payments will be made to compensate for the past shortfall, and ongoing payments will be increased to the extent required to remove the effects of the CPI error. The following describes the basis for such compensation and adjustment.

Basis for Compensation and Adjustment

Bulletin No. 01–04 from the ExecutiveOffice of the President, Office of Management and Budget, dated January 16,2001, contains the recalculated CPI values for 1999 (these were not published as revisions by the BLS). For the quarter ending September 30, 1999, the published CPI for Urban Wage Earners and Clerical Workers was in error only for the month of September. The published CPI for September 1999 is 164.7 while the recalculated value is 164.8. Thus, the recalculated CPI values for this quarter are: July 1999, 163.3; August 1999, 163.8; and for September 1999, 164.8. The average CPI for this calendar quarter was originally determined based on published values to be 163.9. It is 164.0 based on the recalculated CPI values. The average CPI for the third quarter of 1998 is 160.0 (this was unaffected by the computation error). Thus, on a recalculated basis, the average CPI for the quarter ending September 30, 1999, exceeds the average for the quarter ending September 30, 1998, by 2.5 percent.

The quarter ending September 30, 1999, was a cost-of-living computation quarter for all purposes of the Act. The average CPI for the quarter ending September 30, 2000, (169.7 as published October 24, 2000 in the **Federal Register**) exceeds that for the quarter ending September 30, 1999 on either basis, (164.0 recalculated or 163.9 based on BLS-published monthly CPIs) by 3.5 percent. Thus, the cost-of-living increase for December 2000 remains 3.5 percent, unchanged from the value previously promulgated.

Title II Benefits

Consistent with the above cost-of-living increase calculations and pursuant to Pub. L. 106–554, we will calculate title II benefits, to be paid in August 2001 and later, as if the December 1999 cost-of-living increase had been 2.5 percent. Such calculation applies only in the case of workers and family members for whom eligibility for benefits (that is, the worker's attainment of age 62, or disability or death before age 62) occurred before 2000.

For eligibility after 1978, we generally determine benefits by means of a formula. This formula, while unaffected by the CPI error, produces an initial benefit that is subsequently increased with cost-of-living increases that become effective in or after the first year of eligibility.

For eligibility before 1979, we determine title II benefits by means of a benefit table. Both the table for December 1999 and the table for December 2000 are affected when they are computed as if the cost-of-living increase for December 1999 had been 2.5 percent. The table for December 2000 is affected because values in that table are dependent on those in the December 1999 table. A copy of either adjusted table is available on the Internet at http://www.ssa.gov/OACT/ProgData/tableForm.html. For a printed copy, write to:Social Security Administration, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Other title II benefits given by specific tables are "special minimum" benefits, as described in section 215(a)(1)(C)(i) of the Act. As in the case of the benefit tables applicable to beneficiaries eligible before 1979, the special minimum benefit tables for both December 1999 and December 2000 are affected by computation as if the December 1999 cost-of-living increase had been 2.5 percent. The adjusted tables are shown below.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Number of years of coverage	Payable for December 1999		Payable for December 2000	
	Primary insurance amount	Maximum family benefit	Primary insurance amount	Maximum family benefit
11	$28.50	$43.20	$29.40	$44.70
12	57.50	86.90	59.50	89.90
13	86.80	130.50	89.80	135.00
14	115.60	174.00	119.60	180.00
15	144.70	217.30	149.70	224.90
16	173.80	261.30	179.80	270.40
17	202.90	305.10	210.00	315.70
18	232.00	348.60	240.10	360.80
19	261.00	392.20	270.10	405.90
20	290.00	435.70	300.10	450.90
21	319.40	479.70	330.50	496.40
22	348.20	523.10	360.30	541.40
23	377.60	567.40	390.80	587.20
24	406.70	610.70	420.90	632.00
25	435.70	653.90	450.90	676.70

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS—Continued

Number of years of coverage	Payable for December 1999		Payable for December 2000	
	Primary insurance amount	Maximum family benefit	Primary insurance amount	Maximum family benefit
26	465.10	698.40	481.30	722.80
27	494.00	741.70	511.20	767.60
28	523.00	785.20	541.30	812.60
29	552.00	829.00	571.30	858.00
30	581.10	872.30	601.40	902.80

Title XVI Benefits

Supplemental Security Income (SSI) payment levels for the aged, blind, and disabled, payable under title XVI of the Social Security Act, are increased annually with cost-of-living increases. For SSI payment levels for the year 2000, we used a cost-of-living increase of 2.4 percent based on published CPI figures. Pursuant to Pub. L. 106–554, in order to compensate for the shortfall in past benefit payments and provide the basis for adjusting ongoing and future payments, we will adjust the title XVI Federal payment levels as if the cost-of-living increase for January 2000 had been 2.5 percent. Accordingly, we provide the following calculations of title XVI payment levels.

For 1999, we derived the monthly benefit amounts for an eligible individual, an eligible individual with an eligible spouse, and for an essential person from yearly unrounded Federal SSI benefit amounts of $6,010.02, $9,014.01, and $3,011.89. For adjusted 2000 values, these yearly unrounded amounts increase by 2.5 percent (on a recalculated basis) to $6,160.27, $9,239.36, and $3,087.19 respectively. Each of these resulting amounts must be rounded, when not a multiple of $12, to the next lower multiple of $12. Accordingly, the corresponding adjusted annual amounts, effective for 2000, are $6,156, $9,228, and $3,084. Dividing the yearly amounts by 12 gives the corresponding monthly amounts for 2000—$513, $769, and $257, respectively. Of these 3 monthly amounts, only the $513 amount for an eligible individual is higher than the previously determined value for 2000 (based on the published CPI).

Similarly, SSI payment levels for the aged, blind, and disabled increased by 3.5 percent effective for January 2001. For 2001, the adjusted yearly unrounded amounts for 2000, as shown above, increase by 3.5 percent to $6,375.88, $9,562.74, and $3,195.24 for an eligible individual, an eligible individual with an eligible spouse, and for an essential person, respectively. Following the procedure outlined above, the corresponding adjusted monthly amounts for 2001 are $531, $796, and $266. Again, of these 3 monthly amounts, only the amount for an eligible individual ($531) is higher than the previously determined value for 2001.

Dated: May 18, 2001.

Larry G. Massanari,

Acting Commissioner of Social Security.

[FR Doc. 01–13131 Filed 5–21–01; 11:23 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3664]

United States International Telecommunication Advisory Committee (ITAC)—Telecommunication Standardization Sector (ITAC–T) and U.S. Study Group A & B; Notice of Meetings

The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee—Telecommunication Standardization (ITAC–T) National Committee and US Study Group A and B. The purpose of the Committees is to advise the Department on policy and technical issues with respect to the International Telecommunication Union and international telecommunication standardization and development. Except where noted, meetings will be held at the Department of State, 2201 "C" Street, NW., Washington, DC.

The ITAC–T National Committee will meet on May 30, 2001, from 2:00 to 5:00 at a location to be determined to continue drafting new ITAC–T Guidelines.

The ITAC–T U.S. Study Group A will meet from 9:30 to noon on June 4, 2001, to prepare for meetings of ITU–T Study Groups 2 and 3 at a location to be determined.

US Study Group B will meet on Thursday, June 14, 2001 from 9:30 to 3:30 at the Department of Commerce, Room B841A, 1401 Constitution Ave, NW., Washington, DC 20230 to prepare for the next ITU–T Study Group 4 meeting. Enter the building at the main entrance on 14th Street.

Members of the general public may attend these meetings. Directions to meeting locations and actual room assignments may be determined by calling the Secretariat at 202 647–0965/2592. For meetings held at the Department of State: entrance to the building is controlled; people intending to attend any of the ITAC meetings should send a fax to (202) 647–7407 not later than 24 hours before the meeting for preclearance. This fax should display the name of the meeting (ITAC T, U.S. Study Group) and date of meeting, your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, passport, U.S. Government identification card. Enter the Department of State from the C Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: May 15, 2001.

Marian Gordon,

Director, Telecommunication & Information Standardization, U.S. Department of State.

[FR Doc. 01–13148 Filed 5–21–01; 2:08 pm]

BILLING CODE 4710–45–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements filed during the week ending May 11, 2001

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2001–9642
Date Filed: May 9, 2001
Parties: Members of the International Air Transport Association
Subject: PTC2 EUR 0373 dated 8 May 2001
TC2 Within Europe Expedited Resolutions r1–r4
Intended effective date: 31 May 2001
Docket Number: OST–2001–9651
Date Filed: May 9, 2001
Parties: Members of the International Air Transport Association
Subject:
MV/PSC/109 dated April 4, 2001
Mail Vote S075 (Euro-Related Resolutions/RP) r1–r7
Intended effective date: 1 June 2001
Docket Number: OST–2001–9669
Date Filed: May 11, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC2 EUR 0374 dated 11 May 2001
Within Europe Expedited Resolutions r1–r20
PTC2 EUR 0375 dated 11 May 2001
Within Europe Expedited Resolutions 002q, 078y r21–r22
PTC2 EUR 0376 dated 11 May 2001
Within Europe Expedited Resolution 002L r23
Intended effective dates: 1 June, 15 June, 1 July 2001

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 01–12975 Filed 5–22–01; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD09–01–027]

Great Lakes Icebreaking: Recording Decision on Final Environmental Impact Statement

AGENCY: Coast Guard, DOT.
ACTION: Notice of availability.

SUMMARY: The Coast Guard announces the availability of its Record of Decision for the Final Environmental Impact Statement ("FEIS") issued on 26 July 2000. In accordance with the National Environmental Policy Act and the Council of Environmental Quality Regulations, the Coast Guard has approved the preferred alternative for Ninth Coast Guard District icebreaking activity.

ADDRESSES: The Record of Decision is available for inspection or copying at the Ninth Coast Guard District Legal Office, 1240 East Ninth Street, Room 2075, Cleveland, Ohio 44199–2060 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, Telephone (216) 902–6010. Any interested party may request a copy of the EIS by writing or calling the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22161, (800) 553–6847 and asking for document number PB 2000–105–877.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Record of Decision, contact LCDR Clayton Diamond, Ninth Coast Guard District Legal Office, 1240 East Ninth Street, Room 2075, Cleveland, Ohio 44199–2060, Telephone (216) 902–6010. For questions regarding the FEIS, contact Mr. Frank Blaha, U.S. Coast Guard Civil Engineering Unit, 1240 East Ninth Street, Room 2179, Cleveland, Ohio 44199–2060, Telephone (216) 902–6258.

SUPPLEMENTARY INFORMATION: The Record of Decision is based upon the FEIS for USCG icebreaking operations on the Great Lakes. The USCG will implement the preferred alternative by continued icebreaking operations in order to engage in the agency's primary duties: facilitation of shipping, flood control, search and rescue, and research and development, through icebreaking in the Great Lakes. All practicable measures to avoid or minimize environmental impacts from winter commercial shipping operations, including icebreaking, have been identified and incorporated in the preferred alternative.

Dated: May 3, 2001.

James D. Hull,
Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.
[FR Doc. 01–12980 Filed 5–22–01; 8:45 am]
BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of RTCA Special Committee 147 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

DATES: The meeting will be held June 12–13, 2001 starting at 9:00 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1120, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 147 meeting. The agenda will include:

- June 12, 13:
  - Opening Session (Welcome and Introductory Remarks, Review/ Approve Summary of Previous Meeting, Review of Open Action Items)
  - FAA Traffic Alert and Collision Avoidance System (TCAS) Program Status Report (FAA Headquarters, Technical Center and ARINC Monitoring Program)
  - EUROCONTROL TCAS Transition Program (Implementation Status, Problems Discovered from Europeans, Monitoring Programs, EMOTION/7 Discussions)
  - Requirements Working Group (RWG) report on RWG proposed changes to DO–185A and review of RWG recommendations
  - Closing Session (Future Actions/ Activities, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 17, 2001.

Janice L. Peters,
FAA Special Assistant, RTCA Advisory Committee.
[FR Doc. 01–13050 Filed 5–22–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Notice and request for comments.

SUMMARY: In order to comply with the requirements of the Paperwork Reduction Act of 1995 concerning proposed extensions of information collection requirements, FinCEN is soliciting comments concerning Treasury Form TD F 90–22.49, Suspicious Activity Report by Casinos ("SARC"), which is used by Nevada casinos to file reports with the U.S. Department of the Treasury of potentially suspicious transactions and activities that may occur by, at, or through a Nevada casino.

DATES: Written comments must be received on or before July 23, 2001.

ADDRESSES: Direct all written comments to the Financial Crimes Enforcement Network, Office of Compliance and Regulatory Enforcement, Attn.: SARC Comments, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182–2536.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or for a copy of the SARC form should be directed to Leonard C. Senia, Regulatory Program Specialist (Team Leader), Office of Compliance and Regulatory Enforcement, (202) 354–6412; or Stacie A. Larson, Office of Chief Counsel, (703) 905–3590. A copy of the SARC form can be obtained through the Internet at http://www.treas.gov/fincen/forms.html. (Also, comments may be submitted by electronic mail to the following Internet address: "*regcomments@fincen.treas.gov*" with the caption in the body of the text, "Attention: PRA Comments—SARC").

SUPPLEMENTARY INFORMATION: The gaming regulation of the State of Nevada requires certain casinos licensed by that state to report suspicious transactions to the Treasury Department. *See,* Nevada Gaming Commission Regulation 6A, Section 100, effective October 1, 1997. Regulation 6A applies to all Nevada casinos with gross annual gaming revenue in excess of $10 million and having an annual table games statistical win in excess of $2,000,000. TD F 90–22.49 is the form used to make the report.

Information collected on the SARC will be made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel in the official performance of their duties. The information collected is used for regulatory purposes and in investigations involving money laundering, tax violations, fraud, and other financial crimes.

This notice proposes no changes to the current text of the TD F 90–22.49 or its instructions.

In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information on TD F 90–22.49, is presented to assist those persons wishing to comment on the information collection. The estimates below are based on FinCEN's experience with SARC forms that were filed during calendar year 2000.

Title: Suspicious Activity Report by Casinos ("SARC").

Form Number: TD F 90–22.49.

OMB Number: 1506–0006.

Type of Request: Extension of a currently approved information collection.

Description of Respondents: Businesses.

Estimated Number of Respondents: 110.

Estimated Number of Annual Responses: 107.

Frequency: As required.

Estimate of Burden: Reporting average of 31 minutes per response; recordkeeping average of 5 minutes per response.

Estimate of Total Annual Burden on Respondents: Reporting burden estimate=55 hours; recordkeeping burden estimate=9 hours. Estimated combined total of 64 hours.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $20 per hour, the total cost to the public is estimated to be $1,280.

Estimate of Total Other Annual Costs to Respondents: None.

Request for Comments

FinCEN specifically invites comments on the following subjects: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information shall have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the completion of the form. These comments on costs should be divided into two parts: (1) Any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

Responses to the questions posed by this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Dated: May 15, 2001.

James F. Sloan,
Director, Financial Crimes Enforcement Network.
[FR Doc. 01–13059 Filed 5–22–01; 8:45 am]
BILLING CODE 4820–03–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 01–10]

Preemption Determination

AGENCY: Office of the Comptroller of the Currency, Treasury.
ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing its response to a written request for the OCC's opinion of whether Federal law would preempt a Michigan statute, as interpreted by the Michigan Financial Institutions Bureau, that limits the ability of national banks to make loans to finance motor vehicle sales. The OCC has determined that the state law, as interpreted, would be preempted under Federal law.

FOR FURTHER INFORMATION CONTACT: MaryAnn Nash, Counsel, or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION: The request for a preemption opinion was submitted by two national banks, headquartered in Ohio, that are engaged in the business of motor vehicle financing in Ohio and other states (collectively, the Requesters). As part of that business, the Requesters engage in motor vehicle sales financing through automobile dealers. In these arrangements, the Requesters enter into agreements with dealers under which the dealers act as the Requesters' agents for the purpose of soliciting loans to finance motor vehicles, taking applications for the vehicle loans,

preparing loan documentation, and obtaining the buyers' signatures. The Requesters prescribe the terms of the loan, including the interest rate, fund the loan, and issue loan approvals in Ohio.

In a ruling dated January 1, 2000, the Michigan Financial Institutions Bureau (FIB) issued a declaratory ruling in which it concluded that the proposed arrangement between the Requesters and the dealers would result in "installment sales contracts" governed by the Michigan Motor Vehicle Sales Act (MVSFA). Compliance with the MVSFA effectively would prohibit the Requesters from originating motor vehicle loans using dealers as agents.

The Requesters have asked for the OCC's opinion on whether the National Bank Act would preempt the MVSFA as interpreted by the FIB. The Requesters note that the National Bank Act expressly authorizes national banks to make loans as well as to engage in activities incidental to lending. 12 U.S.C. 24 (Seventh). The Requesters assert the FIB's characterization of its proposed program as an "installment sales contract" subject to the provisions of the MVSFA impairs their ability to exercise a Federally authorized power.

As is explained in greater detail in the response, the OCC agrees that national banks are authorized under 12 U.S.C. 24 (Seventh) to engage in the business of lending, either directly or through an agent. The OCC further agrees that the Michigan law, as interpreted by the FIB, would be preempted. It frustrates the Requesters ability to exercise their lending authority by limiting the Requesters' use of agents, it prohibits the Requesters from charging interest rates permitted by their home state as authorized by 12 U.S.C. 85, and it seeks to apply a state licensing requirement to national banks, as a precondition to their exercise of powers granted under Federal law.

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 generally requires the OCC to publish notice in the **Federal Register** of requests for preemption opinions in one of the four specified areas: community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches. 12 U.S.C. 43. Section 114 also requires the OCC to publish any final opinion letter in which the OCC concludes that Federal law preempts a state law in one of these four areas. Without expressly determining whether section 114 applied to this request, the OCC published a Notice of Request for Preemption Determination dated October 25, 2000 (65 FR 63917). The OCC is publishing its response to the request as an appendix to this notice.

Dated: May 15, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

Appendix

Thomas A. Plant
Senior Vice President, Assistant General Counsel, National City Bank, 1900 East Ninth Street, Cleveland, OH 44114–3484

Daniel W. Morton
Vice President and Senior Counsel, The Huntington National Bank, Legal Department, 10th Floor, Huntington Center, Columbus, OH 43287

Re: *Michigan Motor Vehicles Sales Finance Act*

Dear Messrs. Plant and Morton: This responds to your letters dated September 14, 2000 and September 21, 2000 (collectively, the Letters) on behalf of National City Bank, Cleveland, Ohio and The Huntington National Bank, Columbus, Ohio (collectively, the Banks). In the Letters, you request confirmation by the Office of the Comptroller of the Currency of your view that Federal law preempts a Michigan statute, as interpreted by the Michigan Financial Institutions Bureau (FIB), that limits the ability of national banks to make loans to finance motor vehicle sales. For the reasons discussed below, we conclude that Federal law would preempt the Michigan statute as interpreted by the FIB.

Background

The Banks are national banks headquartered in Ohio with offices in several other states. The Banks are engaged in the business of motor vehicle financing in Ohio and other states. The Banks typically engage in motor vehicle sales financing through automobile dealers. In these arrangements, the Banks enter into agreements with the dealers under which the dealers act as the Banks' agents for the purpose of soliciting loans to finance motor vehicles, taking applications for the vehicle loans, preparing the loan documentation, and obtaining the buyers' signatures on all required documents. The Banks prescribe the terms of the loan, including the minimum interest rate, and fund the loans and issue loan approvals in Ohio.

Because of questions regarding the interpretation of Michigan law, the Banks first sought a declaratory ruling from FIB on the applicability of the Michigan Motor Vehicle Sales Act (the MVSFA) to this proposed arrangement. In a ruling dated January, 1, 2000 (the Ruling),[1] the FIB concluded that, the proposed arrangement between the banks and Michigan motor vehicle dealers would result in "installment sale contracts" subject to the MVSFA.[2] However, in order for a motor vehicle installment sale contract to comply with the MVSFA: (1) The dealer must originate the loan as a licensed installment seller of motor vehicles; and (2) the bank may only purchase the loan as a licensed sales finance company.[3] The transaction must also comply with the several other requirements of the MVSFA that apply to installment sale contracts.[4] This interpretation of the MVSFA effectively prohibits a national bank from originating motor vehicle loans using a dealer as the bank's agent. You asked our view on whether Federal law would preempt the MVSFA as interpreted by the FIB.

The OCC published a notice of your request in the **Federal Register**,[5] and invited interested parties to comment. The OCC received thirteen comments in response to the notice. Several commenters opined that Federal law does preempt the state law in question. These commenters cited the authority of national banks under 12 U.S.C. 24(Seventh) to engage in lending activities and other activities necessary to carry on the business of banking. These commenters also noted that Federal law preempts state laws that purport to regulate an activity that is authorized by Federal law and that insured depository institutions are free to engage in the full range of permissible activities in accordance with the Gramm-Leach-Bliley-Act (GLBA).

The remaining commenters opined that Federal law should not be viewed as preempting the MVSFA as interpreted by the FIB. One of these commenters, the Michigan Commissioner of the Office of Financial and Insurance Services, submitted a lengthy comment restating the conclusions reached by the FIB in its Declaratory Ruling and raising several other arguments opposing Federal preemption of what the State regulator views as a State consumer protection act. The other commenters asserted, variously, that the Riegle-Neal Act requires a national bank to establish a branch in order to lend money in another state, that the OCC should not issue any opinion stating

[1] In the Matter Of: Request by Rodney D. Martin on Behalf of National City Bank for a Declaratory Ruling on the Applicability of the Motor Vehicle Sales Finance Act to Certain Transactions (January 1, 2000).

[2] Section 2 of the MVSFA defines an "installment sale contract" as one "for the retail sale of a motor vehicle, or which has a similar purpose or effect, under which part or all of the price is payable in 2 or more scheduled payments subsequent to the making of the contract * * *." Michigan Compiled Laws (MCL) 492.102(9); Michigan Sales Act (MSA) 23.628(2)(9).

[3] MCL 492.103(a)and (b); MSA 23.628(3)(a) and (b).

[4] These include, for example, provisions concerning the form and contents of an installment sales contract, disclosures that must be made to the buyer, the amount and computation of fees and finance charges, and prohibited charges. *See* MCL 492.112–492.134.

[5] *See* 65 FR 63917 (October 25, 2000)(the Notice). As stated in the Notice, section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (the Riegle-Neal Act) (Pub. L. 103–328, sec. 114, 108 Stat. 2338, 2366–68 (1994), codified at 12 U.S.C. 43) requires the OCC to publish notice in the **Federal Register** before issuing a final written opinion about the preemptive effect of Federal law in the areas of community reinvestment, consumer protection, fair lending, and the establishment of interstate branches. Without making a determination as to whether section 114 applies to this preemption opinion request, the OCC decided that it was appropriate to use notice and comment procedures given the significance of the legal issues presented.

or implying that non-bank entities may benefit from the preemptive effect of the National Bank Act when they act as agents for national banks, and that the OCC should defer to Michigan regulator's interpretation of the Michigan statute. One commenter adopted a more neutral stance and encouraged the OCC to be mindful of the vital interests of states in the area of consumer protection.

Analysis

Permissibility of the Activity

The threshold question in any preemption analysis is whether the activities in question are permissible for a national bank under Federal law. If they are not, then there is no preemption issue.

The Banks' proposed activity is fashioned from three component parts: The Banks propose to engage in the business of lending, they seek to use third-party agents in connection with that business, and they seek to apply the interest rates permissible in their home state to these motor vehicle loans. All three activities are permissible under Federal law.

First, section 24(Seventh) specifically authorizes national banks to make loans. Thus, a national bank need look no further than the express language of the statute for authorization to make loans. Section 24(Seventh) also authorizes national banks to engage in the more general "business of banking" and activities incidental thereto. The Supreme Court has made clear that the "business of banking" authorized by section 24(Seventh) is a broad, flexible concept that allows the National Bank Act to adapt to changing times. See *NationsBank of North Carolina, N.A.* v. *Variable Annuity Life Ins. Corp.*, 513 U.S. 251, 258, n.2 (1995) ("We expressly hold that the "business of banking" is not limited to the enumerated powers in section 24 Seventh and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated."). An activity will be deemed "incidental" to the business of banking if it is "convenient or useful in connection with the performance of" a power authorized under Federal law. *Arnold Tours, Inc.* v. *Camp*, 472 F.2d 427, 432 (1st Cir. 1972).

Second, the authority of national banks under section 24(Seventh) permits a national bank to use the services of agents and other third parties in connection with a bank's lending business. Federal banking regulations specifically provide that a national bank may "use the services of, and compensate persons not employed by, the bank for originating loans."[6] 12 CFR 7.1004(a). Likewise, the regulations permit national banks to utilize the services of third parties to disburse loan proceeds. 12 CFR § 7.1003(b). These agents may undertake these activities at sites that are neither the main office nor a branch office of the bank provided the requirements of those regulations are satisfied. 12 CFR §§ 7.1003(b), 7.1004(b).

Finally, under 12 U.S.C. 85, national banks may charge interest in accordance with the laws of the state where the bank's main office is located without regard to where the borrower resides and despite contacts between the loan and another state. The U.S. Supreme Court has specifically upheld this authority. *Marquette National Bank* v. *First of Omaha Service Corp.*, 439 U.S. 299 (1978).[7] Based on this analysis, it is clear that each of the component activities that together comprise the Banks' proposed activities through Michigan automobile dealers is permissible under well-settled authority.[8]

Preemptive Effect of Federal Law

In our opinion, Federal law preempts the MVSFA as interpreted by the FIB in its Declaratory Ruling, because the statute, as interpreted, conflicts with Federal law authorizing the Bank to engage in the activities in question and with the OCC's exclusive visitorial powers over national banks. These points are addressed in more detail below, following a brief summary of the law governing preemption and the OCC's visitorial powers.

Preemption and Visitorial Powers

When the Federal government acts within the sphere of authority conferred upon it by the Constitution, Federal law is paramount over, and may preempt, state law. U.S. Const. art. VI, cl. 2 (the Supremacy Clause); *Cohen* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 414 (1821) (Marshall, C.J.). Federal authority over national banks stems from several constitutional sources, including the Necessary and Proper Clause and the Commerce Clause of the United States Constitution. U.S. Const. art. I, section 8, cl.3, cl. 18; *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 409 (1819).

The United States Supreme Court has identified several bases for Federal preemption of state law. First, Congress may expressly state that it intends to preempt state law. E.g., *Jones* v. *Rath Packing Co.*, 430 U.S. 519 (1977). Second, a Federal statute may create a scheme of Federal regulation "so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it." *Rice* v. *Norman Williams Co.*, 458 U.S. 654, 659 (1982). Third, the state law may conflict with a Federal law. See, e.g., Franklin National Bank, 347 U.S. 373 (1954); *Davis* v. *Elmira Savings Bank*, 161 U.S. 275 (1896). In elaborating on this third test, the Supreme Court has stated—

Federal law may be in "irreconcilable conflict" with state law. *Rice* v. *Norman Williams Co.*, 458 U.S. 654, 659 (1982). Compliance with both statutes, for example, may be a "physical impossibility," *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132, 142–143 (1963); or, the state law may "stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines* v. *Davidowitz*, 312 U.S. 52, 67 (1941).

Barnett Bank v. *Nelson*, 517 U.S. 25, 31 (1996). The Court in Barnett went on to state that—

In defining the pre-emptive scope of statutes and regulations granting a power to national banks, these cases (i.e., national bank preemption cases) take the view that normally Congress would not want States to forbid, or to impair significantly, the exercise of a power that Congress explicitly granted. To say this is not to deprive States of the power to regulate national banks, where * * * doing so does not prevent or significantly interfere with the national bank's exercise of its powers.

517 U.S. at 33.

A conflict between a state law and Federal law need not be complete in order for Federal law to have preemptive effect. Where a Federal grant of authority is unrestricted, for example, state law that attempts to place limits on the scope and exercise of that authority will be preempted. See, e.g., *New York Bankers Association, Inc.* v. *Levin*, 999 F. Supp. 716 (W.D.N.Y. 1998). Thus, Federal law preempts not only state laws that purport to prohibit a national bank from engaging in an activity permissible under Federal law but also state laws that condition or confine the exercise by a national bank of its express or incidental powers.

As the Court stated in Barnett,

* * * where Congress has not expressly conditioned the grant of "power" upon a grant of state permission, the Court has ordinarily found that no such condition applies. In Franklin Nat. Bank, the Court made this point explicit. It held that Congress did not intend to subject national banks' power to local restrictions, because the Federal power-granting statute there in question contained "no indication that Congress [so] intended * * * as it has done by express language in several other instances."

517 U.S. at 34 (citations omitted; emphasis in original).

Application of Federal Law to State Statutes

As noted above, it is well established that a national bank may engage in the business of lending, either directly or through an agent. See 12 U.S.C. 24(Seventh). In our view, the FIB's interpretation of Michigan law to include bank originated loans within the definition of "installment sales contracts" subject to the MVSFA conflicts with Federal law and significantly interferes with the Banks' ability to exercise their lending authority in three distinct ways.

[6] This is not a situation where a loan product has been developed by a non-bank vendor that seeks to use a national bank as a delivery vehicle, and where the vendor, rather than the bank, has the preponderant economic interest in the loan.

[7] See also OCC Interpr. Ltr. No. 822 (February 17, 1998), reprinted in (1997–1998 Transfer Binder) Fed. Banking L. Rep. (CCH) P 81–265 (identifying circumstances, not applicable here, under which national banks must use rates permitted by a state, other than its main office state, in which the bank has a branch).

[8] As mentioned above, several commenters questioned the permissibility of the Banks activities under the Riegle-Neal Act. These commenters argued that, under the Riegle-Neal Act, the Banks would be required to establish branches in Michigan in order to lend money there and that Michigan state consumer protection laws would apply to the branches. Nothing in the Riegle-Neal Act, however, requires that a bank have a branch in a state as a prerequisite to lending in that state. (We note that both banks have branches in Michigan. Consequently, the provision of the Riegle-Neal Act relating to the applicability of state law to a branch of an out-of-state bank is discussed subsequently in this letter.)

First, the FIB's interpretation of Michigan law prohibits banks from using automobile dealers as agents to originate loans. Congress intended to permit national banks to have "all such incidental powers as shall be necessary to carry on the business of banking." 12 U.S.C. 24(Seventh). Federal regulations expressly interpret this grant to include the authority to use agents to originate loans. See 12 CFR § 7.1004. To the extent that a state asserts the right to restrict or condition a national bank's exercise of the Federally granted powers, that state's law will be preempted. Barnett, supra, at 34; Franklin, supra, at 378; *Bank of America National Trust & Savings Ass'n.* v. *Lima*, 103 F. Supp. 916, 918, 920 (D. Mass. 1952) (exercise of national bank powers is not subject to state approval; states have no authority to require national banks to obtain a license to engage in an activity permitted to them by Federal law).[9]

Second, by effectively prohibiting the Banks from originating loans at an automobile dealership in Michigan, the FIB's interpretation of the MVSFA prevents the Banks from exercising its power under 12 U.S.C. 85, as previously discussed, to charge the interest rates permitted by its home state, Ohio. To the extent the FIB interprets the MVSFA to subject the Banks to interest rate limitations of other states, it is preempted by Federal law.

Finally, it is our opinion that the FIB's interpretation of the MVSFA that would require a national bank to obtain a state license and treat the transaction as a loan purchase from a dealership also is preempted by the Federal law giving the OCC exclusive visitorial authority over national banks. A state requirement that a national bank obtain state approval or license to exercise a power authorized under Federal law is an assertion by the state that it has supervisory or regulatory authority over national banks. This is in direct conflict with the Federal law providing that the OCC has exclusive visitorial powers over national banks except as otherwise provided by Federal law. 12 U.S.C. 484; 12 CFR 7.4000. A state law that purports to vest this authority in a state is preempted. In this case, it is our opinion that the FIB's application of the state licensing requirement to national banks would be preempted on this basis as well.

The characterization by several of the commenters of the MVSFA as a consumer protection statute does not alter this conclusion. With respect to banks with interstate branches, the Riegle-Neal Act provides:

> [t]he laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-state national bank to the same extent as such state laws apply to a branch of a bank chartered by that State except—
>
> (i) When Federal law preempts that application of such state laws to a national bank * * *

12 U.S.C. 36(f)(1)(A) (emphasis added).

Thus, the Riegle-Neal Act does not protect state consumer laws to the extent that they are preempted by Federal law and, as discussed, it is our opinion that the MVFSA is preempted by Federal law.[10]

Conclusion

To the extent the FIB interprets the MVSFA to limit the Banks' proposed motor vehicle financing arrangement, it is our opinion that it is preempted by Federal law. We trust that this is responsive to your inquiry. Our conclusions are based on the facts and representations made in your letters. Any material change in facts or circumstances could affect the conclusions stated in this letter.

Sincerely,

Julie L. Williams,

First Senior Deputy Comptroller and Chief Counsel.

[FR Doc. 01–12946 Filed 5–22–01; 8:45 am]

BILLING CODE 4810–33–P

[9] See also OCC Interpr. Ltr. No. 866 (Oct. 8, 1999), reprinted in [1999–2000 Transfer Binder] Fed. Banking L. Rep. (CCH) P 81–360 (state law requirements that purport to preclude national banks from soliciting trust business from customers located in states other than where the bank's main office is located would be preempted); OCC Interpr. Ltr. No. 749 (Sept. 13, 1996), reprinted in [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) P 81–114 (state law requiring national banks to be licensed by the state to sell annuities would be preempted); OCC Interpr. Ltr. 644 (March 24, 1994), reprinted in [1994 Transfer Binder] Fed. Banking L. Rep. (CCH) P 83,553 (state registration and fee requirements imposed on mortgage lenders would be preempted).

[10] In addition, we note under the circumstances that section 85 permits the bank to charge interest in accordance with Ohio law and preempts any state law requirement that Michigan usury law applies to the loans at issue. See OCC Interpr. Ltr. 822, supra n. 6. Because the activities in question do not involve insurance, the unique preemption standard established under the McCarran-Ferguson Act is not at issue 12 U.S.C. 1012. Nor are the recently enacted provisions of the GLBA. 15 U.S.C. 6701.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1116

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1116, Foreign Tax Credit.

DATES: Written comments should be received on or before July 23, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Foreign Tax Credit.

OMB Number: 1545–0121.

Form Number: 1116.

Abstract: Form 1116 is used by individuals (including nonresident aliens), estates, or trusts who paid foreign income taxes on U.S. taxable income, to compute the foreign tax credit. This information is used by the IRS to determine if the foreign tax credit is properly computed.

Current Actions: There are no changes being made to Form 1116 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 779,773.

Estimated Time Per Respondent: 3 hours, 38 minutes.

Estimated Total Annual Burden Hours: 2,837,771.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 17, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–13065 Filed 5–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0300]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 22, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0300."

SUPPLEMENTARY INFORMATION:

Title: Veterans Application for Assistance in Acquiring Special Housing Adaptations, VA Form 26–4555d.

OMB Control Number: 2900–0300.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–4555d is used by disabled veterans in applying for special housing and adaptations to dwellings. Grants are available to assist disabled veterans in making adaptations to their current residences or one, which they intend to live in as long as the veteran or a member of the veteran's family owns the home. It also provides information for use in approving or disapproving a veteran's application for a grant.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 17, 2000, on page 61380.

Affected Public: Individuals or households.

Estimated Annual Burden: 25 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 75.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0300" in any correspondence.

Dated: May 4, 2001.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–12972 Filed 5–22–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERAN AFFAIRS

Office of Research and Development; Department of Veterans Affairs Human Research Protection Accreditation Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of draft accreditation standards.

SUMMARY: This notice informs interested parties that draft standards for the Department of Veterans Affairs (VA) Human Research Protection Accreditation Program (VAHRPAP) will be available for public comment on the National Committee for Quality Assurance (NCQA) Web site: www.ncqa.org.

DATES: The public comment period will start May 16, 2001, and will continue through June 1, 2001.

ADDRESS: The preferred method for receiving comments is as a Microsoft Word file attached to an e-mail message. The e-mail message should be sent to *VAHRPAP@ncqa.org* and have "Public Comment" in the subject line. Please include your name, organizational affiliation and telephone number in any e-mail correspondence.

Mail written comments (one original and three copies) to the following address: NCQA, Attn: VAHRPAP, 2000 L Street, NW., Suite 500, Washington, DC 20036. If you sent your comments by e-mail, please do not send duplicate comments by mail.

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs awarded a five-year contract to the National Committee for Quality Assurance (NCQA) to conduct an accreditation program, the first of its kind, to help to ensure that VA medical centers are complying with VA and other applicable Federal regulations for the protection of human subjects of research. NCQA is a private, non-profit organization dedicated to improving health care quality, with 10 years of experience in accrediting and certifying health care programs. NCQA will partner with Medical Care Management Corporation (MCMC) to design the program and to recruit, credential and schedule surveyors. MCMC has established a large panel of experienced clinical researchers who evaluate the appropriateness of experimental treatments, conduct technology assessments and review research protocols.

VA conducts biomedical, health services, and rehabilitation research to improve the health care delivered to the Nation's veterans. The Office of Research and Development (ORD) has developed policies, consistent with the Common Rule and the Food and Drug Administration (FDA) regulations, to safeguard human subjects in research. Also, as part of its responsibilities in protecting human subjects, VA's Office of Research Compliance and Assurance (ORCA) collaborates with the Office of Research and Development in carrying out this accreditation contract, and will analyze trends from the accreditation reports for continuing quality improvement. The VA Human Research Protection Accreditation Program (VAHRPAP) will provide a routine external evaluation of compliance with VA and other Federal policies.

FOR FURTHER INFORMATION: For further information about the accreditation program, contact NCQA Customer Service, at (202) 955–5697. For questions about the Department of Veterans Affairs human subjects protection policies or programs, call Brenda Cuccherini, PhD, VA Office of Research and Development, at (202) 408–3614.

Dated: May 16, 2001.
Anthony J. Principi,
Secretary of Veterans Affairs.
[FR Doc. 01–12974 Filed 5–22–01; 8:45 am]
BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Adjustments for Service-Connected Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the Veterans' Compensation Cost-of-Living Adjustment Act of 2000, Public Law 106–413, the Department of Veterans Affairs (VA) is hereby giving notice of adjustments in certain benefit rates. These adjustments affect the compensation and dependency and indemnity compensation (DIC) programs.

DATES: These adjustments are effective December 1, 2000, the date provided by Public Law 106–413.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service (212A), Veterans Benefit Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7218.

SUPPLEMENTARY INFORMATION: Section 2 of Public Law 106–413 provides for an increase in each of the rates in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code. VA is required to increase these benefit rates by the same percentage as increases in the benefit amounts payable under title II of the Social Security Act. In computing increased rates in the cited title 38 sections, fractions of a dollar are rounded down to the nearest dollar. The increased rates are required to be published in the **Federal Register**.

The Social Security Administration has announced that there will be a 3.5 percent cost-of-living increase in Social Security benefits. Therefore, applying the same percentage, the following rates for VA compensation and DIC programs will be effective December 1, 2000:

DISABILITY COMPENSATION (38 U.S.C. 1114)

Disability Evaluation (percent)	Monthly rate
10	$101
20	194
30	298
40	427
50	509

DISABILITY COMPENSATION (38 U.S.C. 1114)—Continued

Disability Evaluation (percent)	Monthly rate
60	769
70	969
80	1,125
90	1,266
100	2,107

38 U.S.C. 1114(k) through (s)	Monthly rate
38 U.S.C. 1114(k)	$78; $2,621; $78; $3,677
38 U.S.C. 1114(l)	$2,621
38 U.S.C. 1114(m)	$2,891
38 U.S.C. 1114(n)	$3,290
38 U.S.C. 1114(o)	$3,677
38 U.S.C. 1114(p)	$3,677
38 U.S.C. 1114(r)	$1,578; $2,350
38 U.S.C. 1114(s)	$2,359

Additional Compensation for Dependents (38 U.S.C. 1115(1))

38 U.S.C. 1115 (1)	Monthly Rate
38 U.S.C. 1115(1)(A)	$121
38 U.S.C. 1115(1)(B)	$208; $63
38 U.S.C. 1115(1)(C)	$82; $63
38 U.S.C. 1115(1)(D)	$98
38 U.S.C. 1115(1)(E)	$229
38 U.S.C. 1115(1)(F)	$192

Clothing Allowance (38 U.S.C. 1162)—$565 per year.

DIC TO A SURVIVING SPOUSE (38 U.S.C. 1311)

Pay grade	Monthly rate
E–1	$911
E–2	911
E–3	911
E–4	911
E–5	911
E–6	911
E–7	942
E–8	995
E–9(1)	1,038
W–1	962
W–2	1,001
W–3	1,031
W–4	1,090
O–1	962
O–2	995
O–3	1,063
O–4	1,125
O–5	1,239
O–6	1,396
O–7	1,509
O–8	1,653
O–9	1,771
O–10(2)	1,943

(1) If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, the surviving spouse's monthly rate is $1,119.

(2) If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, the surviving spouse's monthly rate is $2,083.

DIC TO A SURVIVING SPOUSE (38 U.S.C. 1311(A) THROUGH (D))

38 U.S.C. 1311(a) through (d)	Monthly rate
38 U.S.C. 1311(a)(1)	$911
38 U.S.C. 1311(a)(2)	197
38 U.S.C. 1311(b)	229
38 U.S.C. 1311(c)	229
38 U.S.C. 1311(d)	110

DIC TO CHILDREN (38 U.S.C. 1313)

38 U.S.C. 1313	Monthly rate
38 U.S.C. 1313(a)(1)	$386
38 U.S.C. 1313(a)(2)	$556
38 U.S.C. 1313(a)(3)	$723
38 U.S.C. 1313(a)(4)	$723; $140

SUPPLEMENTAL DIC TO CHILDREN (38 U.S.C. 1314)

38 U.S.C. 1314	Monthly rate
38 U.S.C. 1314(a)	$229
38 U.S.C. 1314(b)	$386
38 U.S.C. 1314(c)	$194

Section 304 of Public Law 106–419 replaces the previous 38 U.S.C. 5503(b)(1)(A) estate limitation threshold of $1,500 for withholding of benefits, and $500 for resumption of benefits. The provision affects certain incompetent, hospitalized or institutionalized veterans who do not have a dependent spouse or child.

The new estate value limit for withholding of benefits is increased to five times the 100 percent service-connected disability rate for a veteran who does not have dependents. The estate value amount at which benefits may be resumed is now one half of that rate. This new formula will cause the estate limitation threshold to change with each change to basic compensation rates.

As a result, and effective November 1, 2000, the estate limitation threshold is increased to $10,180 for withholding of benefits, and $5,090 for resumption of benefits. This is based on compensation rates in effect at the time of passage of Public Law 106–419.

Also, effective December 1, 2000, the estate limitation threshold is increased to $10,535 for withholding of benefits, and $5,267.50 for resumption of benefits. This is based on the legislative increase to basic compensation rates effective December 1, 2000.

VA will publish the current dollar amounts for withholding and resumption of benefits under 38 U.S.C. 5503(b)(1)(A) with the **Federal Register** notices for future legislative adjustments.

Dated: May 16, 2001.
Anthony J. Principi,
Secretary of Veterans Affairs.
[FR Doc. 01–12973 Filed 5–22–01; 8:45 am]
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Federal Register

Wednesday,
May 23, 2001

Part II

Small Business Administration

13 CFR Part 108
New Markets Venture Capital Program; Final Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

RIN 3245–AE40

New Markets Venture Capital Program

AGENCY: U.S. Small Business Administration.

ACTION: Final rule; Withdrawal of interim final rule.

SUMMARY: The U.S. Small Business Administration ("SBA") adds a new regulation to implement the New Markets Venture Capital Program Act of 2000 ("the Act"). The Act authorizes SBA to issue regulations necessary to implement the program. The regulations set forth the requirements for: Newly-formed venture capital companies to qualify to become New Markets Venture Capital ("NMVC") companies to make developmental venture capital investments in smaller enterprises located in low-income geographic areas and provide operational assistance to such enterprises receiving such investments; and Existing Specialized Small Business Investment Companies ("SSBICs") to qualify for grants to provide operational assistance to smaller enterprises located in low-income geographic areas and which such SSBICs have financed or expect to finance.

SBA also withdraws the interim final rule on the New Markets Venture Capital Program originally published on January 22, 2001, the effective date of which subsequently was delayed until June 22, 2001. Because the interim final rule is withdrawn, it will not take effect on June 22, 2001.

DATES: *Effective Date:* This final rule is effective on May 23, 2001.

Applicability Date: This final rule applies to all applications received no later than the application deadline date and time.

Withdrawal Date: The interim final rule adding 40 CFR part 108, which was published at 66 FR 7218 and delayed at 66 FR 10811 and 66 FR 20530, is withdrawn as of May 23, 2001.

FOR FURTHER INFORMATION CONTACT: Austin Belton, Director, Office of New Markets Venture Capital, Investment Division, or Louis Cupp, Policy Analyst, Investment Division, at (202) 205–6510. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

The New Markets Venture Capital Program Act of 2000 ("the Act") was created by the Consolidated Appropriations Act of 2001, Public Law 106–554, enacted December 21, 2000. Congress recognized that despite the nation's overall economic prosperity, many underserved areas in America have not experienced such prosperity and millions of Americans living in these areas do not have access to jobs or entrepreneurial opportunities. It enacted the New Markets Venture Capital ("NMVC") program to help create an economic infrastructure in such underserved areas by encouraging business growth through program-supported investment. This type of investing is known in the community development venture capital industry as "double bottom line" investing, because the investments have both an anticipated financial and social return. Social returns include creating sustainable jobs at businesses receiving investments from NMVC companies, and encouraging such businesses to provide much-needed new products and services within underserved areas.

Congress noted that between 1997 and 1998, the median income for the nation's households rose 3.5 percent in real terms, yet 12.7 percent of Americans (34.5 million people) still live below the poverty line. Many of these Americans live in inner city and rural areas, where job opportunities are scarce and there is little to attract small business investors. In rural and urban communities, poverty remains a persistent problem. Job growth is well below the national average, with unemployment at or above 14%. Unemployment is 7.5% in the African American urban community, and is 6.4% in the Hispanic urban population; both are nearly double the national average. Despite these statistics, Congress found that it is not enough to create jobs in these pockets of poverty, rather these communities need a new economic infrastructure to enable them to develop their full potential and participate fully in the economic mainstream. The NMVC program will encourage the growth of such an infrastructure by supporting new equity capital investments by NMVC companies and SSBICs and by providing operational assistance to smaller enterprises located in low-income geographic areas whose growth will foster the creation of wealth and job opportunities in such areas.

SBA will enter into participation agreements with NMVC companies to fulfill these statutory purposes. The Act authorizes SBA to guarantee debentures of NMVC companies. Such debentures leverage the private capital that NMVC companies must raise and enable them to make the equity investments in low-income geographic areas contemplated by the Act. The Act also authorizes SBA to provide grants to NMVC companies to provide operational assistance to smaller enterprises in which they invest. In addition, the Act enhances the ability of existing SSBICs to invest in smaller enterprises in low-income areas by giving them grants to provide operational assistance to such enterprises in connection with such investments.

SBA will enter into participation agreements with NMVC companies that have a solid business plan for making investments in the low-income geographic areas targeted by the Act, and that have the most likelihood of expanding economic opportunities in such areas.

II. Rulemaking History

On January 22, 2001, 66 FR 7218, SBA published in the **Federal Register** an interim final rule with an effective date of February 21, 2001. SBA subsequently published in the **Federal Register** on February 20, 2001, 66 FR 10811, a delay of the effective date of the final rule until April 23, 2001. The delay was for the purpose of giving Administration officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President and Chief of Staff memorandum entitled "Regulatory Review Plan," published in the **Federal Register** on January 24, 2001.

On April 23, 2001, 66 FR 20530, SBA published in the **Federal Register** notice of a further delay of the effective date of the interim final rule, to June 22, 2001. The purpose of this further delay was to give Administration officials additional time for further review and consideration of new regulations, consistent with that "Regulatory Review Plan," before the interim final rule became effective.

Also on April 23, 2001, 66 FR 20531, SBA published in the **Federal Register** a proposed rule implementing the NMVC program, and a proposed withdrawal of the previously published interim final rule. The proposed rule incorporated substantive changes resulting from the Administration's review of the interim final rule. The deadline for public comments on the proposed rule was May 4, 2001. SBA received one comment, which is addressed in Section IV.A, below.

III. Withdrawal of Interim Final Rule

SBA withdraws the interim final rule it published in the **Federal Register** on January 22, 2001 (66 FR 7218). SBA received no comments on its proposed rulemaking action of withdrawing its previously published interim final rule and implementing the NMVC program instead with this final rule. SBA withdraws the interim final rule before it becomes effective on June 22, 2001, for the purpose of implementing the NMVC program instead with this final rule, which is based on the proposed rule SBA published in the **Federal Register** on April 23, 2001 (66 FR 20531). The purpose of implementing the NMVC program with this final rule instead of the interim final rule is to implement the program with substantive changes resulting from the Administration's review of the interim final rule.

IV. Discussion of Comments on and Changes to the Proposed Rule

A. Public Comments

SBA received one comment in response to the proposed rule. The majority of the commenter's comments concern the ways in which SBA changed various regulations in the proposed rule from the versions of those regulations in the previously published interim final rule. This section focuses on only those comments, and does not discuss those comments that reiterate comments already made and already discussed in the preamble to the proposed rule.

With regard to the proposed definition of "Relevant Venture Capital Finance" in § 108.50, as changed from the version of this definition previously published in the interim final rule, the commenter recommends that SBA implement its earlier version of this definition. The commenter believes that SBA's proposed change will result in SBA not considering the organizational mission of the NMVC company when determining the qualifications of the management team. SBA will implement this regulation as proposed, for the following reasons. First, SBA believes that the proposed definition does not have any effect on the separate regulatory requirement in § 108.120 that in order to be eligible for the program, a NMVC company applicant must have as its primary mission the economic development of one or more low-income areas. Second, the change will allow applicants and SBA to focus on management team members' demonstrable prior equity investment activities in small business in low-income areas, rather than attempting to prove the intent behind such prior activities.

The commenter noted that SBA eliminated from the proposed rule § 108.240, which had been included in the previously published interim final rule, and recommended that SBA put that section back into the final rule. That section concerns the circumstances in which non-cash assets may be included in private capital. The commenter suggested that the NMVC program should not be more stringent than the Small Business Investment Company ("SBIC") program in this regard. SBA declines to implement this regulation in the final rule. SBA believes that, unlike SBICs, NMVC companies should not be allowed to include non-cash assets in their private capital. First, SBA selects SBICs through a non-competitive process, but will select NMVC companies through a competitive process in which SBA will compare applicants to one another. SBA will not have sufficient time in the selection process to first evaluate an applicant's proposed non-cash assets before that applicant is compared to other applicants. SBA could not ensure the integrity and fairness of the selection process if it were to compare an applicant that proposes to raise all of its capital in the form of cash to an applicant that proposes to have some of its capital be in the form of non-cash assets, without first reviewing and evaluating such non-cash assets. Second, even in the SBIC program, the permitted contribution of non-cash assets for inclusion in private capital is extremely limited. In practice, generally the only non-cash assets SBA approves are "pre-licensing investments," which are not expected in the NMVC program.

The commenter objected to the change SBA made in the proposed rule to § 108.330, from the version previously published in the interim final rule. SBA revised a $5,000 application fee due in two installments, $2,000 at application submission and $3,000 at the time of final approval, to a $5,000 grant issuance fee due in advance at application submission. The commenter suggested that the only purpose for this change is to deter applicants. On the contrary, SBA desires to encourage professional venture capital funds, committed to participating in the program, to apply for NMVC company designation. SBA believes that asking applicants to pay the grant issuance fee at the time of application will ensure this result. As stated in the preamble to the proposed rule, SBA has determined that the Act authorizes SBA to charge a fee in connection with its issuance of a grant. SBA has decided to collect the entire fee in advance, as opposed to just a portion, in order to avoid the administrative costs of collecting the fee in two installments. SBA continues to believe that the amount of the fee is reasonable, and the fee ultimately will be borne only by successful applicants.

The commenter addressed the requirements in proposed § 108.710 that 80 percent of the businesses receiving financing from a NMVC company be smaller enterprises, be located in low-income areas, and receive equity capital investments, and that 80 percent of the total dollars invested by a NMVC company be in the form of equity capital investments in smaller enterprises located in low-income areas. The commenter makes several recommendations: First, that SBA eliminate the requirement that 80 percent of businesses receive equity capital investments; second, that SBA eliminate the 80 percent of dollars requirement and replace it with a requirement that an NMVC company only must invest 100 percent of its leverage (but none of its regulatory capital) in the form of equity capital investments; and third, that SBA replace the proposed 80 percent of businesses and 80 percent of total investment dollars requirement with only an 80 percent of businesses requirement. Some of these suggestions reiterate comments this commenter made in response to the interim final rule, and some relate to the changes SBA made to this regulation between the version published in the interim final rule and the version published in the proposed rule.

The commenter presents several reasons for its recommendations. First, it believes that the Act does not state that 80 percent of businesses must receive equity capital investments. Second, it states that NMVC companies need to have more investment flexibility to offset the higher risks of investments in low-income areas, including an ability to invest a portion of funds as amortizing debt. SBA has considered the commenter's suggestions and has decided to implement § 108.710 as proposed for the following reasons.

With regard to the requirement that 80 percent of the businesses in which a NMVC company invests must receive equity capital investments, as well as be smaller enterprises located in low-income areas, SBA believes that the Act requires this. This implements the requirement outlined in the definition of "participation agreement" in section 351(6)(B) of the Small Business Investment Act ("SBI Act"), as amended by the Act, that a NMVC company must make investments in smaller enterprises at least 80 percent of which are located in low-income areas. This also implements the legislative purposes stated in section 352 of the SBI Act, as amended by the Act, which include

"encouraging developmental venture capital investments in smaller enterprises primarily located in low-income geographic areas" and "to establish a developmental venture capital program with the mission of addressing the unmet equity investment needs of small enterprises located in low-income geographic areas."

"Developmental venture capital" is defined in section 351(1) of the SBI Act, as amended by the Act, as equity capital investments with the primary objective of fostering economic development in low-income areas. SBA believes that the clear purpose of the Act, read as a whole, is to promote equity capital investments in smaller enterprises in low-income areas. Accordingly, SBA believes § 108.710(a)(1) is required by the Act.

SBA also believes that the additional requirement SBA proposed in § 108.710(a)(2), that 80 percent of the total dollars a NMVC company has invested also must be in the form of equity capital investments in smaller enterprises located in low-income areas, fulfills the purposes of the Act, discussed above. SBA believes that the Act as a whole encourages NMVC companies to take a proactive posture with respect to the companies in which they invest, and to take reasonable risks in making investments in such companies. Several features of the NMVC program already offset the expectation of higher risk and lower rate of return to a NMVC company in making equity capital investments in smaller enterprises located in low-income areas. First, a NMVC company does not have to repay interest on its guaranteed debentures during the first five years after issuance, which gives the company time patiently to allow the businesses in which it invests to grow and, thus, for its investments to generate returns. Second, there is no limitation on the amount of ownership interest a NMVC company can take in a business in which it invests, thus giving the company the ability to act to reduce the risk of the business' failure. Third, the program includes a grant component, which gives a NMVC company additional resources to help increase the potential for a return on its investment in a business.

The commenter commented on the change SBA made in proposed § 108.2030, from the version previously published in the interim final rule, regarding the acceptable length of time within which commitments or annuities for grant matching resources may be payable. The commenter suggested that SBA allow NMVC companies to expend their grant matching resources over a period of 10 years as originally stated, rather than five years as stated in the proposed rule. The commenter suggested that doing so is not specifically prohibited by statute and would give NMVC companies the ability to provide operational assistance throughout the term of their investments.

SBA considered the consequences of implementing this suggestion, including the fact that it could result in a NMVC company expending all of its SBA grant funds before it expends any of its grant matching resources. After deliberation SBA has decided to implement the regulation as proposed, for several reasons.

First, SBA believes that implicit in the Act is a requirement that SBA's grant funds and a NMVC company's or SSBIC's grant matching resources be expended simultaneously within the same period of time. Since SBA believes that by law it can make its grants funds available for expenditure only for a period of time not exceeding five years, SBA believes it also should place the same time restriction on the expenditure of grant matching resources.

Second, from a grant administration perspective, it would not be the most efficient use of SBA's resources to continue to monitor grants to SSBICs and NMVC companies for a 10-year period when SBA's grant funds have been fully expended within the first five years. Pursuant to paragraph .71 of Circular A–110 of the Office of Management and Budget ("OMB"), SBA must not perform a close-out on such grants until the grant project is complete. Pursuant to the Act, the purpose of the grant is providing operational assistance to small businesses in connection with investments, and the grant project would not be complete until both the SBA grant funds and the NMVC company's or SSBIC's grant matching resources had been expended for this purpose.

Third, SBA believes that simultaneous expenditure by SSBICs and NMVC companies of both grant funds and grant matching resources will give SBA the best ability to ensure proper implementation of the NMVC program. If SBA monitors the use of both resources simultaneously, SBA can ensure that grants are being used for purposes that are authorized by the Act and that best fulfill the objectives of the NMVC program. If SBA finds that such funds and resources are not being used properly, or if a NMVC company or SSBIC is not complying with other grant requirements, pursuant to paragraph .22(h) of OMB Circular A–110, SBA can withhold payment of further grant funds until the situation is remedied.

B. Other Changes to the Proposed Rule

SBA made substantive changes to §§ 108.380(a)(1)(i)(A) and (B) concerning the amounts of regulatory capital and operational assistance grant matching resources a conditionally approved NMVC company must raise in order to receive from SBA final approval as a NMVC company. These changes implement a solution to a problem raised by a comment SBA received in response to the interim final rule, and already discussed in the preamble to SBA's proposed rule.

The commenter had advised that if SBA over-commits its grant funds, it could result in SBA giving applicants less than the 30 percent "grant-to-private-capital ratio" contemplated by the Act, due to the pro rata reduction in the amount of grant award each applicant would receive. The commenter suggested that SBA revise § 108.380(a)(1)(i)(B) to limit the amount of grant matching resources a conditionally approved NMVC company must raise in order to receive final approval. The commenter suggested this limit should be an amount not more than the amount of operational assistance grant that SBA has "conditionally designated for that NMVC company." In essence, the commenter suggested that SBA place a limit on the amount of grant funds SBA would award to an applicant.

SBA proposed not to implement this suggestion for several reasons discussed in the preamble to the proposed rule (66 FR 20532–20533). However, SBA recognized that the possibility remained that an applicant might raise more regulatory capital and grant matching resources than it proposed to raise in its application, and more than SBA anticipated when SBA evaluated the applicant's application and made conditional approvals based on its selection process and the amount of appropriated funds available.

SBA continues to believe that the solution suggested by the commenter, placing a limit on the amount of grant funds SBA will award, is not allowable under § 358(a)(4) of the SBI Act, as amended by the Act. Under that section, SBA must award a grant in an amount equal to the amount of grant matching resources an applicant actually raises. Upon further deliberation, however, SBA believes it does have the discretion under the statutory scheme to place a limit on the amount of regulatory capital and grant matching resources an applicant is allowed to raise after filing its application. SBA believes that this solution will achieve the result sought by the commenter but using a different approach.

SBA's selection process will include an evaluation of the proposals submitted by applicants, which will include specific amounts of capital and grant matching resources the applicants propose to raise. SBA will evaluate, among other things, the extent to which an applicant will concentrate its resources in particular low-income geographic areas, and the extent to which the applicant's proposed activities will promote economic development and the creation of wealth and job opportunities in such areas. This evaluation necessarily will include an assessment of the amounts of capital and grant matching resources an applicant intends to raise and to concentrate in particular low-income areas, in relation to the impact those resources might have on those areas.

SBA also will be selecting applicants for conditional approval so as to achieve the greatest extent of potential nationwide and rural/urban impact of the program. This process necessarily will include an assessment of the amounts of capital and grant matching resources an applicant intends to raise, in relation of the number of particular low-income areas toward which the applicant proposes to direct its activities.

For these reasons, a key factor in SBA's selection of applicants for conditional approval will be the amounts of capital and grant matching resources an applicant proposes in its application. In order to preserve both the integrity of the competitive selection process and the delicate balance between the various aspects of the applications SBA selects for conditional approval, SBA believes it must hold the selected applicants to fulfilling the plans as they have proposed in their applications and upon which SBA based its decision to select them. Accordingly, SBA has changed §§ 108.380(a)(1)(i)(A) and (B) to state that in order to receive final approval from SBA, a conditionally approved applicant must raise amounts of capital and grant matching resources equal to the amounts it set forth in its application to SBA. An applicant must not raise more or less than such amounts.

For these same reasons, SBA also has made similar substantive changes to §§ 108.2000(b)(6) and 108.2030(d)(2) regarding the amount of capital and grant matching resources that SSBIC applicants must raise.

SBA has made technical corrections to §§ 108.720(c)(1)(i) and (ii), concerning real estate businesses that are ineligible to receive financings from NMVC companies. SBA modeled this regulation on § 107.720(c), concerning real estate businesses that are ineligible to receive financings from SBICs. This SBIC regulation refers to particular major group and industry numbers contained in the Standard Industrial Classification ("SIC") Manual. In promulgating a similar regulation for the NMVC program, SBA attempted to translate the SIC Manual references into equivalent references to the North American Industrial Classification System (NAICS) Manual, which is SBA's current size standard classification system. SBA re-examined this proposed regulation as a result of a question received by an interested member of the public and realized that SBA had not correctly translated the SIC Manual references into NAICS Manual references. This final rule corrects this technical error and conforms this regulation to the parallel regulation applicable to SBICs.

V. Section by Section Analysis

The following is a section by section analysis of SBA's regulations to add a new part 108 to title 13 of the Code of Federal Regulations to implement the Act.

A. General Information About the Regulations

As you read through the section by section analysis of particular regulations, you will see that SBA models many of these regulations on similar regulations governing SBA's SBIC program, found in part 107 of this title. In addressing the challenge of implementing the NMVC program, SBA is able to draw upon the experience that it has gained over the last 43 years in administering the SBIC program.

The SBIC program was created by the Small Business Investment Act of 1958 in response to a Federal Reserve study finding that small businesses in general were unable to obtain the long-term debt and equity funds that they needed for success. The basic objective of the program is to attract and supplement private capital, managed by private investment managers, to meet that need. SBA licenses such companies as SBICs, regulates their activities to ensure that they are financially sound and serve the program's public policy objectives, and supplements their private capital by guaranteeing debentures or other securities that they issue.

The SBIC program has been extraordinarily successful in recent years and today represents a major factor in small business financing. It is estimated that 34 percent of all companies receiving institutional venture capital in 1999 obtained it from an SBIC. In fiscal year 2000, SBICs invested a record $5.5 billion in more than 3,000 small growth companies. This was accomplished with a budget appropriation of just $24.3 million.

A key strength of the SBIC program lies in the fact that all investment decisions are made by private individuals with their own money at first risk. However, this also represents a limitation in that such investment activities are profit driven and generally are not targeted to small businesses located in low-income areas. Low-income investments typically are smaller and more costly to make, and they require significantly more assistance over the investment period than most SBIC investments. At the same time, they generally offer a more limited profit potential to the investor. The NMVC program addresses these factors by adding to the SBIC structure an operational assistance grant subsidy and by recruiting managers and investors that have an economic development objective in addition to their financial one.

Because of these many similarities between SBICs and NMVC companies and between these two venture capital programs, SBA incorporates into the NMVC program many of the SBIC regulations that SBA believes are fundamental to the safety and soundness of the SBIC program.

B. Section by Section Analysis

Sections 108.10 through 108.50 briefly describe the NMVC program, state the legal basis for the program, definitions, and provide guidance on how to read part 108. Most of the definitions come directly from 13 CFR part 107, which governs the SBIC program. Most of the newly defined terms come directly from the Act, and SBA does not supplement or modify them. SBA also adds several new definitions, including the terms "Low-Income Enterprise" and "Low-Income Investment," as a shorter way to describe equity capital investments in a smaller enterprise that, at the time of the initial financing, has its principal office located in a low-income geographic area.

Sections 108.100 through 108.160 describe the qualifications for the NMVC program. Under the Act, NMVC companies must be newly formed for-profit entities. SBA requires that NMVC companies be organized under state law and be either corporations, limited liability companies, or limited partnerships. SBA requires that they

have qualified management, have economic development as their primary mission, and identify particular low-income geographic areas in which they propose to focus their investment activities. SBA models these regulations on the SBIC program, including the requirements that NMVC companies must have management and ownership diversity and that SBA will require pre-approval of all management expenses of a NMVC company (see 13 CFR 107.100 through 107.160).

Sections 108.200 through 108.240 address capitalization of a NMVC company, including minimum capital requirements, permitted sources of capital, and limitations on non-cash contributions to capital. These regulations also are modeled on similar regulations in the SBIC program (see 13 CFR 107.200 through 107.250).

Sections 108.300 through 108.330 set forth policies and procedures for application for designation as a NMVC company. SBA will allow submission of applications for participation in the NMVC program only during a specific application period, to be set forth in a Notice of Funds Availability published in the **Federal Register**, as opposed to a rolling admissions process. SBA will use this method of selecting applicants for three reasons. First, SBA believes this method will enable SBA to achieve the statutory directive of ensuring, to the extent possible and given the applications received, nationwide availability of developmental venture capital. SBA will compare applications both for quality and other criteria described in the regulations, and for the geographic areas they intend to cover so as to choose the best applications for each geographic area and avoid duplication within specific geographic areas. Second, SBA has received one-year appropriated funds for operational assistance grants, and the statute requires SBA to distribute available appropriated funds pro rata among NMVC companies and SSBICs that apply for such grants. (See discussion of §§ 108.2000 through 108.2040 for more information about how SBA proposes to administer the operational assistance grant program.) Submission of all applications for these grant funds at the same time will allow SBA to distribute these funds among all eligible and qualified recipients. Third, SBA believes this procedure will allow SBA to orderly administer appropriated funds it may receive in subsequent fiscal years, by allowing SBA to open up the NMVC program to new rounds of applicants.

SBA will require applicants for participation in the NMVC program to submit an application, similar to the application for the SBIC program but which also includes the requirement for a comprehensive business plan. Many of the topics SBA will require applicants to include in their business plans are outlined in section 354(b) of the SBI Act, as amended by the Act, regarding application for the NMVC program. In addition, SBA will use the following additional topics: market analysis of the specific low-income areas towards which the applicant proposes to target its investments and other activities, operational capacity and investment strategies, plans for raising capital and matching funds for operational assistance grants, and projected amount of investment in low-income areas as opposed to outside those areas. Based in part on the experience of other Federal agencies with similar economic development programs, SBA believes these additional topics will allow SBA to ensure that applicants understand the objectives of the NMVC program and have a good plan for accomplishing those objectives and for creating and maintaining a viable investment fund.

SBA also will assess a fee for receiving a grant under the NMVC program to ensure that applicants are professional venture capital firms committed to participate in the program.

Sections 108.340 through 108.395 describe SBA's evaluation criteria and selection process for participation in the NMVC program. SBA will consider ten criteria in its evaluation and selection of applicants for participation in the NVMC program. Most of the specified criteria are set forth in the Act. SBA will use the following additional selection criteria not specifically described in the Act: the quality of the applicant's business plan in terms of meeting the objectives of the program; the strength and likelihood for success of the applicant's operations and investment strategies; the need for developmental venture capital investments in the geographic areas in which the applicant proposes to concentrate its activities; and the extent of the applicant's understanding of the markets in such geographic areas. Based in part on the experience of other Federal agencies with similar economic development programs, SBA believes these additional evaluation criteria are effective indicators of whether the objectives of the NMVC program will be met.

The Act provides for SBA to conditionally approve companies for participation in the NMVC program, based on SBA's evaluation of their applications. Conditionally approved companies must raise the required amounts of capital and of matching funds for the operational assistance grant award from SBA within a time period specified by SBA. As provided in the Act, SBA will finally approve as NMVC companies all conditionally approved NMVC companies that raise the required amount of capital within the time period specified by SBA and sign a participation agreement with SBA. Section 108.380(b) also sets forth procedures under which SBA may grant to conditionally approved companies, as provided in the Act, an exception to the requirement to raise all of their required matching funds for their operational assistance grants before SBA designates them as finally approved NMVC companies.

Sections 108.400 through 108.470 describe SBA's requirements for changes in ownership, control, or structure of a NMVC company. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.400 through 107.475).

Sections 108.500 through 108.585 describe SBA's requirements for managing the operations of a NMVC company. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.500 through 107.590).

Sections 108.600 through 108.680 describe SBA's record keeping, record retention, and reporting requirements for NMVC companies. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.600 through 107.680). SBA also will require each NMVC company to provide reports concerning the community development impact of each investment it makes, as well as reports on its administration and use of grant funds as required by Circular A–110 of the Office of Management and Budget, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations." SBA anticipates that to the extent not inconsistent with SBA's regulations for the NMVC program, NMVC companies' administration and use of grant funds will be subject to OMB Circular A–110 and to Part 31 of the Federal Acquisition Regulations, 48 CFR part 31, "Contract Cost Principles and Procedures." OMB Circular A–110 is optional for use in connection with grants to commercial organizations. SBA will apply it to NMVC companies in order to take advantage of existing and well-known grant administrative procedures and policies to facilitate SBA's orderly administration of grants to NMVC companies. (See the discussion of §§ 108.2000 through 108.2040 concerning applicability of these same procedures and policies to grants to SSBICs.)

Sections 108.690 through 108.692 describe SBA's requirements for SBA's examinations of NMVC companies. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.690 through 107.692).

Sections 108.700 through 108.885 describe SBA's requirements for determining the eligibility of financings of small businesses by NMVC companies, and regarding types of allowable financings. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.700 through 107.885).

Section 108.710 sets forth the requirement that at the close of each year, 80 percent of the concerns that NMVC companies have financed must be smaller enterprises that, as of the time of the initial financing, had their principal office in a low-income geographic area and in which the NMVC companies have made equity capital investments as defined in the regulations (see proposed § 108.50). This regulation implements the requirement outlined in the definition of "participation agreement" in section 351(6)(B) of the SBI Act. SBA interprets this statutory section to refer to 80 percent of the businesses in which a NMVC company invests. Section 108.710 also requires that for all financings extended by a NMVC company, the NMVC company must have invested at least 80 percent (in total dollars) in low-income investments. In other words, 80 percent of the dollars used to finance business concerns must be invested in equity capital investments in smaller enterprises located in low-income areas. This provision will require that a substantial portion of a NMVC company's capital and leverage go toward making equity investments in smaller enterprises located in low-income areas. SBA believes that this will fulfill one of the Act's purposes—to address the unmet equity investment needs of businesses located in low-income areas.

Sections 108.1100 through 108.1720 describe SBA's requirements and procedures for NMVC companies to obtain leverage from SBA and the procedures governing how SBA will fund leverage. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.1100 through 107.1720).

Sections 108.1810 through 108.1840 describe defaults by NMVC companies on the terms and conditions governing their participation in the NMVC program, and SBA's remedies upon such defaults. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.1810 through 107.1840).

Section 108.1900 concerns termination by a NMVC company of its participation in the NMVC program. This regulation is modeled after a similar regulation for the SBIC program (see 13 CFR 107.1900).

Sections 108.1910 through 108.1930 address miscellaneous issues, including application for an exemption from regulatory requirements and the effect of regulation changes on transactions previously consummated. These regulations are modeled after similar regulations for the SBIC program (see 13 CFR 107.1910 through 107.1930).

Section 108.1940 sets forth procedures under which SBA may designate additional census tracts or equivalent county divisions as low-income geographic areas. This regulation implements the authority given to SBA's Administrator in section 351(3)(A)(iii) of the SBI Act, as amended by the Act. SBA has designed these procedures to allow for maximum opportunity by interested members of the public to ask SBA to designate specific census tracts or equivalent county divisions as additional low-income geographic areas.

Sections 108.2000 through 108.2040 set forth requirements and procedures for operational assistance grants to both NMVC companies and to SSBICs. SBA will award such grants only after receiving and evaluating applications in response to a Notice of Funds Availability published in the **Federal Register**. SBA will award grants to SSBICs and to NMVC companies in such a way as to promote developmental venture capital investments nationwide and in both urban and rural areas.

SBA also will require SSBICs to provide reports on its administration and use of grant funds as required by OMB Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations." SBA anticipates that to the extent not inconsistent with these regulations, SSBICs' administration and use of grant funds will be subject to OMB Circular A–110 and to part 31 of the Federal Acquisition Regulations, 48 CFR part 31, "Contract Cost Principles and Procedures." OMB Circular A–110 is optional for use in connection with grants to commercial organizations (some SSBICs are for-profit, others are non-profit). SBA will apply it to SSBICs in order to take advantage of existing and well-known grant administrative procedures and policies to facilitate SBA's orderly administration of grants to SSBICs.

VI. Justification for Immediate Effective Date of Final Rule

The Administrative Procedures Act ("APA") requires that "publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). SBA finds that good cause exists to make this final rule become effective immediately the same day it is published in the **Federal Register**.

The purpose of this APA provision is to provide interested and affected members of the public sufficient time to adjust their behavior before the rule takes effect. Potential NMVC company and SSBIC applicants have had since January 22, 2001 to consider, digest, and understand these regulations, the vast majority of which have not changed from the form in which they were published on January 22, 2001. Potential applicants and other interested parties also have had two opportunities to participate in notice and comment proceedings concerning these regulations. For these reasons, SBA believes that potential applicants and other interested parties have had ample time to adjust their behavior to comply with these regulations. In addition, SBA believes that potential applicants have a strong interest in seeing this rule get implemented in final form so that they may apply for the benefits of the NMVC program and so that SBA may select applicants and award appropriated funds before such funds expire at the end of this fiscal year.

SBA first published these regulations in the **Federal Register** on January 22, 2001, in the form of an interim final rule. On that same date, SBA made available to the public, via its web site, the application forms for NMVC company designation. SBA has made available to potential SSBIC applicants the appropriate application forms upon request.

Despite the fact that the regulations originally were promulgated as an interim final rule, SBA offered a 60-day comment period that expired on March 23, 2001. SBA received three public comments.

SBA republished these regulations, with several limited substantive and technical changes, as a proposed rule in the **Federal Register** on April 23, 2001. Some of the changes SBA made were the result of its consideration of

comments received on the interim final rule. Again, SBA provided an opportunity for public comment, and SBA received one comment. This final rule implements the regulations as proposed, with the exception of one technical change that arose from a question received from an interested member of the public, and one substantive change that arose from a public comment. Accordingly, SBA believes that interested members of the public have had ample opportunity to participate formally in SBA's rulemaking process as well as to influence informally SBA's development of these governing regulations and administrative procedures.

In addition to the four months since January 22, 2001, when these regulations first were published, potential applicants also will have an additional time period of approximately one week between the effective date of the final rule and SBA's anticipated application deadline. This will allow potential applicants to review their behavior and applications and determine whether they wish or need to make any adjustments before submitting their applications.

SBA also believes, based on its contacts with interested members of the public, that there is stronger interest in the immediate implementation of the NMVC program, than in a further 30-day delay in program implementation. In addition to its formal rulemaking activities, over the past three months SBA officials have talked and met with many potential applicants, investors, and donors of grant matching resources, and other interested parties, to explain the application forms, the regulations, and SBA's proposed administration of the NMVC program. SBA is aware of many potential applicants that have been putting together their application packages, contacting and obtaining commitments from potential investors and donors, and working with counsel on legal documentation, since January 22, 2001.

SBA also believes that interested members of the public are fully aware of the time constraints upon its implementation of the NMVC program during this fiscal year. SBA posted on its web site on January 22, 2001, a preliminary overview of the NMVC program. The overview describes the NMVC program generally and its implementation during SBA's fiscal year 2001 specifically. As a result of this overview and of the many contacts SBA staff have had with interested members of the public, potential applicants are fully aware of the fact that SBA believes its funds for operational assistance grant awards, appropriated to SBA for fiscal year 2001, expire on September 30, 2001. SBA believes that potential applicants are fully aware of the implication of this limitation on SBA's appropriated funds. SBA must evaluate and select applicants for conditional approval, provide time for conditionally approved applicants to raise capital and grant matching resources, and finalize legal documentation and agreements with finally selected applicants, in the time period between the application deadline and September 30, 2001. An additional 30-day delay will only shorten this extremely tight time frame. For these reasons, SBA believes that potential applicants have a stronger interest in the immediate implementation of the NMVC program, than in a further 30-day delay in program implementation.

VII. Regulatory Compliance Section—Compliance With Executive Orders 12866, 12988 and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this rule as a "significant" regulatory action under Executive Order 12866. A regulatory assessment is set forth below.

Low-income communities in the United States face multiple and varied barriers to sustainable growth. But a common obstacle for virtually all such communities is that they are unable to attract sufficient equity capital and technical assistance for starting and expanding businesses. Federal Reserve Board Chair Alan Greenspan has observed that equity capital is crucial to the existence of an innovative and productive business community, especially in lower-income communities. Yet the existing private venture capital industry is heavily concentrated in affluent, high technology regions located in only a handful of states.

In order to promote economic development and address the unmet equity needs of smaller businesses located in low-income areas, Congress passed and President Clinton signed into law the legislation creating the NMVC program. SBA will use these regulations to implement and administer the NMVC program. NMVC companies will be newly formed for-profit investment companies with private management. Their objective will be to create an economic infrastructure in underserved areas. NMVC companies will accomplish this by making equity investments in smaller enterprises, primarily located in low-income geographic areas. SBA anticipates that this type of investing will generate both financial and social returns. The social returns can include creating sustainable jobs at businesses receiving investments from NMVC companies, and encouraging such businesses to provide much-needed new products and services within underserved areas.

SBA estimates that the NMVC program will cost approximately $1 million annually to administer. The cost to the government includes the costs of staff (including benefits) and all other overhead expenses. SBA proposes to select participants for the NMVC program and regulate NMVC operations to ensure that public policy objectives are being met. Toward that end, SBA proposes to require NMVC companies to provide regular performance reports and take part in annual financial examinations.

SBA estimates that it will cost a NMVC company approximately $6,000 to apply for designation as a NMVC company, not including a $5,000 grant issuance fee due in advance at the time of application. This includes the cost of one staff person at a level comparable to a Federal employee at a GS–13 grade level spending 160 hours to complete the application. After receiving designation as a NMVC company, the annual cost to the NMVC company will be based on compliance with the reporting requirements of the program. SBA anticipates that compliance with the reporting requirements of the program will cost approximately $1,500. This includes the cost of one staff person at a level comparable to a Federal employee at a GS–13 grade level spending approximately 40 hours preparing the required performance and financial reports. The costs to NMVC companies and SSBICs that choose to participate in the grant aspect of the program include approximately $1,500 to prepare the initial grant application (approximately 40 hours of work), and approximately $600 annually thereafter to prepare the required quarterly status reports (approximately 16 hours of work). Again, these costs are estimated based upon one staff person at a level comparable to a Federal employee at a GS–13 grade level. There also is a fee payable by the NMVC company each time SBA examines the company. This rule sets forth a base fee for the examination of $3,500.

SBA believes that there are no alternatives to this regulatory action that could more adequately address the equity needs of the nation's low-income areas. In developing the regulations, application package and reporting materials SBA purposefully followed proven industry practices. Based upon the foregoing, SBA believes that its rule implements the congressionally mandated NMVC program in the most cost effective and efficient manner.

Compliance With Executive Order 12988

SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of Executive Order 12988.

Compliance With Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this rule has no federalism implications because the legislation authorizing it addresses private, for-profit concerns (NMVC companies) working directly with entrepreneurs.

Compliance With Regulatory Flexibility Act, 5 U.S.C. 601–612

The NMVC program is expected to result in the creation of approximately 15–20 NMVC companies. The program's impact will be felt to a greater extent on the small businesses that the NMVC companies invest in and assist through this program. However, SBA has determined that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

The legislation creating the NMVC program authorizes $100 million to guarantee debentures to NMVC companies and $30 million for operational assistance grants to NMVC companies and SSBICs. In addition, NMVC companies must raise capital totaling $100 million, and NMVC companies and SSBICs must raise grant matching resources totaling $30 million. Thus, the total funding allocation for the NMVC program, including matching funds raised by NMVC companies and SSBICs, is $260 million. These funds have been authorized for use over a period of five years. Based upon industry practices, it is highly unlikely that the funds will be disbursed in total in one year. A NMVC company's minimum life is 10 years and NMVC companies' investments are typically made during their first five to seven years of existence. Generally, a NMVC company will fund three or at most four businesses in one year out of the 20 to 30 businesses it will fund over its life.

The average size of an investment by a community development company is approximately $300,000. Based upon a total funding allocation of $260 million and an average investment in a small business of $300,000, approximately 867 small businesses will be affected by this program during the lives of the NMVC companies authorized with this legislation. Based upon 1997 Economic Census data, SBA estimates that there are approximately 5 million small businesses in the United States and 867 constitutes less than 1% of those businesses.

Further, NMVC companies must invest in "smaller enterprises" which are defined as businesses with a net worth not greater than $6 million and average net income of not greater than $2 million. Based upon an average investment of $300,000, an investment in a business with a net worth of $6 million would equate to 5% of the business's net worth. A 5% investment is not likely to have a significant effect on a small business. Additionally, industry practices indicate that while the average investment in a particular business is $300,000, this amount may not be disbursed all at once. The average investment per round in the industry is approximately $185,000, which is only 3% of the business's net worth.

Compliance with Paperwork Reduction Act, 44 U.S.C. Ch. 35

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, the collection of information ("collection") for this program includes the NMVC program application package and reporting and recordkeeping requirements. SBA previously requested from the Office of Management and Budget ("OMB") an emergency clearance of this collection. OMB reviewed and approved the collection and assigned OMB control number 3245–0332.

SBA has made the collection available to the public on SBA's web site at http://www.sba.gov/inv and by calling Terri Dennin at (202) 205–6234. SBA already has provided the public with a 60-day comment period on this collection (66 FR 7218). SBA received no comments on the collection.

List of Subjects in 13 CFR Part 108

Community development, Government securities, Grant programs—business, Reporting and recordkeeping requirements, Securities, Small businesses.

For the reasons stated in the preamble, the Small Business Administration adds 13 CFR part 108 to read as follows:

PART 108—NEW MARKETS VENTURE CAPITAL ("NMVC") PROGRAM

Subpart A—Introduction to Part 108

Sec.
108.10 Description of the New Markets Venture Capital Program.
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Authority: 15 U.S.C. 689–689q and Pub. L. 106–554, 114 Stat. 2762A.

Subpart A—Introduction to Part 108

§ 108.10 Description of the New Markets Venture Capital Program.

The New Markets Venture Capital ("NMVC") Program is a developmental venture capital program for the purpose of promoting economic development and the creation of wealth and job opportunities in low-income geographic areas and among individuals living in such areas. SBA selects and then enters into participation agreements with selected newly formed venture capital companies, and provides leverage in the form of debenture guarantees to such companies to allow them to make equity capital investments in smaller enterprises located in low-income geographic areas. SBA also awards grants to such companies and to Specialized Small Business Investment Companies so that they can provide operational assistance to such smaller enterprises in connection with such investments.

§ 108.20 Legal basis and applicability of this part 108.

The regulations in this part implement Part B of Title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.). All NMVC Companies must comply with all applicable SBA regulations, accounting guidelines and valuation guidelines for NMVC Companies, available from SBA.

§ 108.30 Amendments to Act and regulations.

A NMVC Company is subject to all provisions of the Act and parts 108 and 112 of title 13 of the Code of Federal Regulations.

§ 108.40 How to read this part 108.

(a) *Center headings.* All references in this part to SBA forms, and instructions for their preparation, are to the current issue of such forms (available from Investment Division, SBA). Center headings are descriptive and are used for convenience only. They have no regulatory effect.

(b) *Capitalizing defined terms.* Terms defined in § 108.50 have initial capitalization in this part 108.

(c) "*You.*" The pronoun "you" as used in this part 108 means a NMVC Company unless otherwise noted.

Subpart B—Definition of Terms Used In This Part 108

§ 108.50 Definition of terms.

The following definitions apply to this part 108:

Act means the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

Affiliate or *Affiliates* has the meaning set forth in § 121.103 of this chapter.

Applicant means any entity submitting an application to SBA for designation as a NMVC Company under this part.

Articles mean articles of incorporation or charter for a Corporate NMVC Company, the partnership agreement or certificate for a Partnership NMVC Company, and the operating agreement or other organizational documents for a LLC NMVC Company.

Assistance or *Assisted* means Financing of or management services rendered to a Small Business by or through a NMVC Company pursuant to the Act and this part.

Associate of a NMVC Company means any of the following:

(1)(i) An officer, director, employee or agent of a Corporate NMVC Company;

(ii) A Control Person, employee or agent of a Partnership NMVC Company;

(iii) A managing member of a LLC NMVC Company;

(iv) An Investment Adviser/Manager of any NMVC Company, including any Person who contracts with a Control Person of a Partnership NMVC Company to be the Investment Adviser/Manager of such NMVC Company; or

(v) Any Person regularly serving a NMVC Company on retainer in the capacity of attorney at law.

(2) Any Person who owns or controls, or who has entered into an agreement to own or control, directly or indirectly, at least 10 percent of any class of stock of a Corporate NMVC Company or 10 percent of the membership interests of an LLC NMVC Company, or a limited partner's interest of at least 10 percent of the partnership capital of a Partnership NMVC Company. However, neither a limited partner in a Partnership NMVC Company nor a non-managing member in an LLC NMVC Company is considered an Associate if such Person is an entity Institutional Investor whose investment in the Partnership, including commitments, represents no more than 33 percent of the capital of the NMVC Company and no more than five percent of such Person's net worth.

(3) Any officer, director, partner (other than a limited partner), manager, agent, or employee of any Associate described in paragraph (1) or (2) of this definition.

(4) Any Person that directly or indirectly Controls, or is Controlled by, or is under Common Control with, a NMVC Company.

(5) Any Person that directly or indirectly Controls, or is Controlled by, or is under Common Control with, any Person described in paragraphs (1) and (2) of this definition.

(6) Any Close Relative of any Person described in paragraphs (1), (2), (4), and (5) of this definition.

(7) Any Secondary Relative of any Person described in paragraphs (1), (2), (4), and (5) of this definition.

(8) Any concern in which—

(i) Any person described in paragraphs (1) through (6) of this definition is an officer; general partner, or managing member; or

(ii) Any such Person(s) singly or collectively Control or own, directly or indirectly, an equity interest of at least 10 percent (excluding interests that such Person(s) own indirectly through ownership interests in the NMVC Company).

(9) Any concern in which any Person(s) described in paragraph (7) of this definition singly or collectively own (including beneficial ownership) a majority equity interest, or otherwise have Control. As used in this paragraph (9), "collectively" means together with any Person(s) described in paragraphs (1) though (7) of this definition.

(10) For the purposes of this definition, if any Associate relationship described in paragraphs (1) through (7) of this definition exists at any time within six months before or after the date that a NMVC Company provides Financing, then that Associate relationship is considered to exist on the date of the Financing.

(11) If any NMVC Company has any ownership interest in another NMVC Company, the two NMVC companies are Associates of each other.

Capital Impairment has the meaning set forth in § 108.1830(b).

Central Registration Agent or *CRA* means one or more agents appointed by SBA for the purpose of issuing TCs and performing the functions enumerated in § 108.1620 and performing similar functions for Debentures funded outside the pooling process.

Close Relative of an individual means:

(1) A current or former spouse;

(2) A father, mother, guardian, brother, sister, son, daughter; or

(3) A father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Commitment means a written agreement between a NMVC Company and an eligible Small Business that obligates the NMVC Company to provide Financing (except a guarantee) to that Small Business in a fixed or determinable sum, by a fixed or determinable future date. In this context the term "agreement" means that there has been agreement on the principal economic terms of the Financing. The

agreement may include reasonable conditions precedent to the NMVC Company's obligation to fund the commitment, but these conditions must be outside the NMVC Company's control.

Common Control means a condition where two or more Persons, either through ownership, management, contract, or otherwise, are under the Control of one group or Person. Two or more NMVC companies are presumed to be under Common Control if they are Affiliates of each other by reason of common ownership or common officers, directors, or general partners; or if they are managed or their investments are significantly directed either by a common independent investment advisor or managerial contractor, or by two or more such advisors or contractors that are Affiliates of each other. This presumption may be rebutted by evidence satisfactory to SBA.

Community Development Finance means debt and equity-type investments in low-income communities.

Conditionally Approved NMVC Company means a company that—

(1) Has applied for participation as a NMVC Company, and

(2) SBA has conditionally approved to participate in the NMVC program for a specified period of time not to exceed two years, subject to the company fulfilling the requirements to be a NMVC Company within that specified period of time.

Control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a NMVC Company or other concern, whether through the ownership of voting securities, by contract, or otherwise.

Control Person means any Person that controls a NMVC Company, either directly or through an intervening entity. A Control Person includes:

(1) A general partner of a Partnership NMVC Company;

(2) Any Person serving as the general partner, officer, director, or manager (in the case of a limited liability company) of any entity that controls a NMVC Company, either directly or through an intervening entity;

(3) Any Person that—

(i) Controls or owns, directly or through an intervening entity, at least 10 percent of a Partnership NMVC Company or any entity described in paragraphs (1) or (2) of this definition; and

(ii) Participates in the investment decisions of the general partner of such Partnership NMVC Company;

(4) Any Person that controls or owns, directly or through an intervening entity, at least 50 percent of a Partnership NMVC Company or any entity described in paragraphs (1) or (2) of this definition.

Corporate NMVC Company. See definition of NMVC Company in this section.

Debentures means debt obligations issued by NMVC companies pursuant to section 355 of the Act and held or guaranteed by SBA.

Debt Securities are instruments evidencing a loan with an option or any other right to acquire Equity Securities in a Small Business or its Affiliates, or a loan which by its terms is convertible into an equity position. Consideration must be paid for all options that you acquire.

Developmental Venture Capital means capital in the form of Equity Capital Investments in Smaller Enterprises made with a primary objective of fostering economic development in Low-Income Geographic Areas.

Distribution means any transfer of cash or non-cash assets to SBA, its agent or Trustee, or to partners in a Partnership NMVC Company, or to shareholders in a Corporate NMVC Company, or to members in an LLC NMVC Company. Capitalization of Retained Earnings Available for Distribution constitutes a Distribution to the NMVC Company's non-SBA partners, shareholders, or members.

Equity Capital Investments means investments in the form of common or preferred stock, limited partnership interests, options, warrants, or similar equity instruments, including subordinated debt with equity features if such debt provides only for interest payments contingent upon and limited to the extent of earnings. Equity Capital Investments must not require amortization. Equity Capital Investments may be guaranteed by one or more third parties; however, neither Equity Capital Investments nor such guarantee may be collateralized or otherwise secured. Investments classified as Debt Securities are not precluded from qualifying as Equity Capital Investments. Equity Capital Investments may provide for royalty payments only if the royalty payments are based on the earnings of the concern.

Equity Securities means stock of any class in a corporation, stock options, warrants, limited partnership interests in a limited partnership, membership interests in a limited liability company, or joint venture interests.

Financing or *Financed* means outstanding financial assistance provided to a Small Business by a NMVC Company, whether through:

(1) Loans;

(2) Debt Securities;

(3) Equity Securities;

(4) Guarantees; or

(5) Purchases of securities of a Small Business through or from an underwriter (see § 108.825).

Guaranty Agreement means the contract entered into by SBA which is a guarantee backed by the full faith and credit of the United States Government as to timely payment of principal and interest on Debentures and SBA's rights in connection with such guarantee.

Includible Non-Cash Gains means those non-cash gains (as reported on SBA Form 468) that are realized in the form of Publicly Traded and Marketable securities or investment grade debt instruments. For purposes of this definition, investment grade debt instruments means those instruments that are rated "BBB" or "Baa", or better, by Standard & Poor's Corporation or Moody's Investors Service, respectively. Non-rated debt may be considered to be investment grade if a NMVC Company obtains a written opinion from an investment banking firm acceptable to SBA stating that the non-rated debt instrument is equivalent in risk to the issuer's investment grade debt.

Institutional Investor means:

(1) *Entities.* Any of the following entities if the entity has a net worth (exclusive of unfunded commitments from investors) of at least $1 million, or such higher amount as is specified in this paragraph (1). (See also § 108.230(c)(4) for limitations on the amount of an Institutional Investor's commitment that may be included in Private Capital.)

(i) A State or National bank, trust company, savings bank, or savings and loan association.

(ii) An insurance company.

(iii) A 1940 Act Investment Company or Business Development Company (each as defined in the Investment Company Act of 1940, as amended (15 U.S.C. 8a–1 et seq.).

(iv) A holding company of any entity described in paragraph (l)(i), (ii) or (iii) of this definition.

(v) An employee benefit or pension plan established for the benefit of employees of the Federal government, any State or political subdivision of a State, or any agency or instrumentality of such government unit.

(vi) An employee benefit or pension plan (as defined in the Employee Retirement Income Security Act of 1974, as amended (Public Law 93–406, 88 Stat. 829), excluding plans established under section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C. 401(k)), as amended).

(vii) A trust, foundation or endowment exempt from Federal income taxation under the Internal Revenue Code of 1986, as amended.

(viii) A corporation, partnership or other entity with a net worth (exclusive of unfunded commitments from investors) of more than $10 million.

(ix) A State, a political subdivision of a State, or an agency or instrumentality of a State or its political subdivision.

(x) An entity whose primary purpose is to manage and invest non-Federal funds on behalf of at least three Institutional Investors described in paragraphs (l)(i) through (l)(ix) of this definition, each of whom must have at least a 10 percent ownership interest in the entity.

(xi) Any other entity that SBA determines to be an Institutional Investor.

(2) *Individuals.* (i) Any of the following individuals if he/she is also a permanent resident of the United States:

(A) An individual who is an Accredited Investor (as defined in the Securities Act of 1933, as amended (15 U.S.C. 77a-77aa)) and whose commitment to the NMVC Company is backed by a letter of credit from a State or National bank acceptable to SBA.

(B) An individual whose personal net worth is at least $2 million and at least ten times the amount of his or her commitment to the NMVC Company. The individual's personal net worth must not include the value of any equity in his or her most valuable residence.

(C) An individual whose personal net worth, not including the value of any equity in his or her most valuable residence, is at least $10 million.

(ii) Any individual who is not a permanent resident of the United States but who otherwise satisfies paragraph (2)(i) of this definition provided such individual has irrevocably appointed an agent within the United States for the service of process.

Investment Adviser/Manager means any Person who furnishes advice or assistance with respect to operations of a NMVC Company under a written contract executed in accordance with the provisions of § 108.510.

Lending Institution means a concern that is operating under regulations of a state or Federal licensing, supervising, or examining body, or whose shares are publicly traded and listed on a recognized stock exchange or NASDAQ and which has assets in excess of $500 million; and which, in either case, holds itself out to the public as engaged in the making of commercial and industrial loans and whose lending operations are not for the purpose of financing its own or an Associate's sales or business operations.

Leverage means financial assistance provided to a NMVC Company by SBA through the guaranty of a NMVC Company's Debentures, and any other SBA financial assistance evidenced by a security of the NMVC Company.

Leverageable Capital means Regulatory Capital, excluding unfunded commitments.

LLC NMVC Company. See definition of NMVC Company in this section.

Loan means a transaction evidenced by a debt instrument with no provision for you to acquire Equity Securities.

Loans and Investments means Portfolio securities, assets acquired in liquidation of Portfolio securities, operating concerns acquired, and notes and other securities received, as set forth in the Statement of Financial Position of SBA Form 468.

Low-Income Enterprise means a Smaller Enterprise that, as of the time of the initial Financing, has its Principal Office located in a Low-Income Geographic Area.

Low-Income Geographic Area ("LI Area") means—

(1) Any population census tract (or in the case of an area that is not tracted for population census tracts, the equivalent county division, as defined by the Bureau of the Census of the United States Department of Commerce for purposes of defining poverty areas), if—

(i) The poverty rate for that census tract is not less than 20 percent;

(ii) In the case of a tract—

(A) That is located within a metropolitan area, 50 percent or more of the households in that census tract have an income equal to less than 60 percent of the area median gross income; or

(B) That is not located within a metropolitan area, the median household income for such tract does not exceed 80 percent of the statewide median household income; or

(C) As determined by the Administrator in accordance with § 108.1940 of this part, a substantial population of Low-Income Individuals reside, an inadequate access to investment capital exists, or other indications of economic distress exist in that census tract; or

(2) Any area located within—

(i) A Historically Underutilized Business Zone ("HUBZone") as defined in section 3(p) of the Small Business Act and 13 CFR 126.103;

(ii) An Urban Empowerment Zone or Urban Enterprise Community (as designated by the Secretary of the United States Department of Housing and Urban Development); or

(iii) A Rural Empowerment Zone or Rural Enterprise Community (as designated by the Secretary of the United States Department of Agriculture).

Low-Income Individual means an individual whose income (adjusted for family size) does not exceed—

(1) For metropolitan areas, 80 percent of the area median income; and

(2) For nonmetropolitan areas, the greater of—

(i) 80 percent of the area median income, or

(ii) 80 percent of the statewide nonmetropolitan area median income.

Low-Income Investment means an Equity Capital Investment in a Low-Income Enterprise.

Management Expenses has the meaning set forth in § 108.520.

NAICS Manual means the latest issue of the North American Industrial Classification System Manual, prepared by the Office of Management and Budget, and available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pa., 15250–7954.

New Markets Tax Credit program means the tax credit created by the Consolidated Appropriations Act of 2001, Public Law 106–554 (114 Stat. 2762A), enacted December 21, 2000, to be implemented by the Internal Revenue Service, United States Department of Treasury.

New Markets Venture Capital Company or *NMVC Company* means a corporation (Corporate NMVC Company), a limited partnership organized as required by § 108.160 (Partnership NMVC Company), or a limited liability company (LLC NMVC Company) that—

(1) Has been granted final approval by SBA under § 108.390, and

(2) Has entered into a Participation Agreement with SBA. For certain purposes, the Entity General Partner of a Partnership NMVC Company is treated as if it were a NMVC Company (see § 108.160(a)).

1940 Act Company means a NMVC Company which is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*).

1980 Act Company means a NMVC Company which is registered under the Small Business Investment Incentive Act of 1980 (Public Law 96–447, 94 Stat. 2275).

Operational Assistance means management, marketing, and other technical assistance that assists a Small Business with its business development.

Original Issue Price means the price paid by the purchaser for securities at the time of issuance.

Participation Agreement means an agreement between SBA and a company to which SBA has granted final approval under § 108.390, that—

(1) Details the company's operating plan and investment criteria; and

(2) Requires the company to make investments in Smaller Enterprises at least 80 percent of which Smaller Enterprises are located in LI Areas.

Partnership NMVC Company. See definition of NMVC Company in this section.

Person means a natural person or legal entity.

Pool means an aggregation of SBA guaranteed Debentures approved by SBA.

Portfolio means the securities representing a NMVC Company's total outstanding Financing of Smaller Enterprises. It does not include idle funds or assets acquired in liquidation of Portfolio securities.

Portfolio Concern means a Small Business Assisted by a NMVC Company.

Principal Office means the location where the greatest number of the concern's employees at any one location perform their work. However, for those concerns whose "primary industry" (see 13 CFR 121.107) is service or construction (see 13 CFR 121.201), the determination of principal office excludes the concern's employees who perform the majority of their work at job-site locations to fulfill specific contract obligations.

Private Capital has the meaning set forth in § 108.230.

Publicly Traded and Marketable means securities that are salable without restriction or that are salable within 12 months pursuant to Rule 144 (17 CFR 230.144) of the Securities Act of 1933, as amended, by the holder thereof, and are of a class which is traded on a regulated stock exchange, or is listed in the Automated Quotation System of the National Association of Securities Dealers (NASDAQ), or has, at a minimum, at least two market makers as defined in the relevant sections of the Securities Exchange Act of 1934, as amended (15 U.S.C. 77b *et seq.*), and in all cases the quantity of which can be sold over a reasonable period of time without having an adverse impact upon the price of the stock.

Regulatory Capital means:

(1) *General.* Regulatory Capital means Private Capital, excluding non-cash assets contributed to a NMVC Company, a Conditionally Approved NMVC Company, or an Applicant, and non-cash assets purchased by a Conditionally Approved NMVC Company or an Applicant, unless such assets have been converted to cash or have been approved by SBA for inclusion in Regulatory Capital. For purposes of this definition, sales of contributed non-cash assets with recourse or borrowing against such assets shall not constitute a conversion to cash.

(2) *Exclusion of questionable commitments.* An investor's commitment to a NMVC Company, Conditionally Approved NMVC Company, or Applicant is excluded from Regulatory Capital if SBA determines that the collectability of the commitment is questionable.

(3) *Exclusion of amounts designated for Operational Assistance match.* Regulatory Capital excludes any portion of Private Capital that is designated as matching resources in accordance with § 108.2030(b)(3).

Relevant Venture Capital Finance means Equity Capital Investments in small businesses in low-income communities or benefiting low-income communities.

Retained Earnings Available for Distribution means Undistributed Net Realized Earnings less any Unrealized Depreciation on Loans and Investments (as reported on SBA Form 468), and represents the amount that a NMVC Company may distribute to investors (including SBA) as a profit Distribution, or transfer to Private Capital.

SBA means the Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Secondary Relative of an individual means:

(1) A grandparent, grandchild, or any other ancestor or lineal descendent who is not a Close Relative;

(2) An uncle, aunt, nephew, niece, or first cousin; or

(3) A spouse of any person described in paragraph (1) or (2) of this definition.

Small Business means a small business concern as defined in section 103(5) of the Act (including its Affiliates), and which meets the criteria applicable to the Small Business Investment Company program as set forth in part 121 of this chapter.

Small Business Investment Company (SBIC) means a Licensee, as that term is defined in § 107.50 of this chapter.

Smaller Enterprise means any Small Business that:

(1) Together with its Affiliates has a net worth of not more than $6.0 million and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two years no greater than $2.0 million; or

(2) Both together with its Affiliates, and by itself, meets the size standard of § 121.201 of this chapter at the time of Financing for the industry in which it is then primarily engaged.

Specialized Small Business Investment Companies (SSBICs) means any Small Business Investment Company that—

(1) Invests solely in small business concerns that contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages; and

(2) Was licensed under section 301(d) of the Small Business Investment Act, as in effect before September 30, 1996.

Trust means the legal entity created for the purpose of holding guaranteed Debentures and the guaranty agreement related thereto, receiving, holding and making any related payments, and accounting for such payments.

Trust Certificate Rate means a fixed rate determined at the time Debentures are pooled.

Trust Certificates (TCs) means certificates issued by SBA, its agent or Trustee and representing ownership of all or a fractional part of a Trust or Pool of Debentures.

Trustee means the trustee or trustees of a Trust.

Undistributed Net Realized Earnings means Undistributed Realized Earnings less Non-cash Gains/Income, each as reported on SBA Form 468.

Unrealized Appreciation means the amount by which a NMVC Company's valuation of each of its Loans and Investments, as determined by its Board of Directors or General Partner(s) in accordance with NMVC Company's valuation policies, exceeds the cost basis thereof.

Unrealized Depreciation means the amount by which a NMVC Company's valuation of each of its Loans and Investments, as determined by its Board of Directors or General Partner(s) in accordance with NMVC Company's valuation policies, is below the cost basis thereof.

Unrealized Gain (Loss) on Securities Held means the sum of the Unrealized Appreciation and Unrealized Depreciation on all of a NMVC Company's Loans and Investments, less estimated future income tax expense or estimated realizable future income tax benefit, as appropriate.

Subpart C—Qualifications for the NMVC Program

Organizing a NMVC Company

§ 108.100 Business form.

A NMVC Company must be a newly formed for-profit entity or, subject to § 108.150, a newly formed for-profit subsidiary of an existing entity. It must be organized under State law solely for the purpose of performing the functions and conducting the activities contemplated under the Act. It may be organized as a corporation ("Corporate NMVC Company"), a limited partnership ("Partnership NMVC Company"), or a limited liability company ("LLC NMVC Company").

§ 108.110 Qualified management.

An Applicant must show, to the satisfaction of SBA, that its current or proposed management team is qualified and has the knowledge, experience, and capability in Community Development Finance or Relevant Venture Capital Finance, necessary for investing in the types of businesses contemplated by the Act, the regulations in this part and its business plan. In determining whether an Applicant's current or proposed management team has sufficient qualifications, SBA will consider information provided by the Applicant and third parties concerning the background, capability, education, training and reputation of its general partners, managers, officers, key personnel, and investment committee and governing board members. The Applicant must designate at least one individual as the official responsible for contact with SBA.

§ 108.120 Economic development primary mission.

The primary mission of a NMVC Company must be economic development of one or more LI Areas.

§ 108.130 Identified Low Income Geographic Areas.

A NMVC Company must identify the specific LI Areas in which it intends to make Developmental Venture Capital investments and provide Operational Assistance under the NMVC program.

§ 108.140 SBA approval of initial Management Expenses.

A NMVC Company must have its Management Expenses approved by SBA at the time of designation as a NMVC Company. (See § 108.520 for the definition of Management Expenses.)

§ 108.150 Management and ownership diversity requirement.

(a) *Diversity requirement.* You must have diversity between management and ownership in order to be a NMVC Company. To establish diversity, you must meet the requirements in paragraphs (b) and (c) of this section.

(b) *Percentage ownership requirement.* No Person or group of Persons who are Affiliates of one another may own or control, directly or indirectly, more than 70 percent of your Regulatory Capital or your Leverageable Capital.

(c) *Non-affiliation requirement.* At least 30 percent of your Regulatory Capital and Leverageable Capital must be owned and controlled by Persons unaffiliated with your management and unaffiliated with each other, and whose investments are significant in dollar and percentage terms as determined by SBA. Such Persons must not be your Associates (except for their status as your shareholders, limited partners or members) and must not Control, be Controlled by, or be under Common Control with any of your Associates. A single "acceptable" Institutional Investor may be substituted for two or three of the three investors who are otherwise required. The following Institutional Investors are "acceptable" for this purpose:

(1) Entities whose overall activities are regulated and periodically examined by state, Federal or other governmental authorities satisfactory to SBA;

(2) Entities listed on the New York Stock Exchange;

(3) Entities that are publicly-traded and that meet both the minimum numerical listing standards and the corporate governance listing standards of the New York Stock Exchange:

(4) Public or private employee pension funds;

(5) Trusts, foundations, or endowments, but only if exempt from Federal income taxation; and

(6) Other Institutional Investors satisfactory to SBA.

(d) *Voting requirement.* The investors required for you to satisfy diversity may not delegate their voting rights to any Person who is your Associate, or who Controls, is Controlled by, or is under Common Control with any of your Associates, without prior SBA approval.

(e) *Requirement to maintain diversity.* You must maintain management-ownership diversity while you are a NMVC Company. If, at any time, you no longer have the required management-ownership diversity, you must:

(1) Notify SBA within 10 days; and

(2) Re-establish diversity within six months.

§ 108.160 Special rules for NMVC Companies formed as limited partnerships.

(a) *Entity General Partner.* (1) A general partner which is a corporation, limited liability company or partnership (an "Entity General Partner") shall be organized under state law solely for the purpose of serving as the general partner of one or more NMVC companies.

(2) SBA must approve any person who will serve as an officer, director, manager, or general partner of the Entity General Partner. This provision must be stated in an Entity General Partner's Certificate of Incorporation, operating agreement, limited partnership agreement or other similar governing instrument.

(3) An Entity General Partner is subject to the same examination and reporting requirements as a NMVC Company under sections 361 and 362 of the Act. The restrictions and obligations imposed upon a NMVC Company by §§ 108.1810, 108.30, 108.410 through 108.450, 108.470, 108.500, 108.510, 108.585, 108.600, 108.680, 108.690 through 108.692, and 108.1910 apply also to an Entity General Partner of a NMVC Company.

(4) The general partner(s) of your Entity General Partner(s) will be considered your general partner.

(5) If your Entity General Partner is a limited partnership, its limited partners may be considered your Control Person(s) if they meet the definition for Control Person in § 108.50.

(b) *Other requirements for Partnership NMVC Companies.* If you are a Partnership NMVC Company:

(1) You must have a minimum duration of 10 years or two years following the maturity of your last-maturing Leverage security, whichever is longer. After 10 years, if all Leverage has been repaid or redeemed and all amounts due SBA, its agent, or Trustee have been paid, the Partnership NMVC Company may be terminated by a vote of your partners;

(2) None of your general partner(s) may be removed or replaced by your limited partners without prior written approval of SBA;

(3) Any transferee of, or successor in interest to, your general partner shall have only the rights and liabilities of a limited partner pending SBA's written approval of such transfer or succession; and

(4) You must incorporate all the provisions in this paragraph (b) in your limited partnership agreement.

(c) *Obligations of a Control Person.* All Control Persons are bound by the disciplinary provisions of sections 365 and 366 of the Act and by the conflict-of-interest rules under § 108.730. The term NMVC Company, as used in §§ 108.30, 108.460, and 108.680, includes all of the NMVC Company's Control Persons. The conditions

specified in § 108.1810 and § 108.1910 apply to all general partners.

(d) *Liability of general partner for partnership debts to SBA.* Subject to section 365 of the Act, your general partner is not liable solely by reason of its status as a general partner for repayment of any Leverage or debts you owe to SBA unless SBA, in the exercise of reasonable investment prudence, and with regard to your financial soundness, determines otherwise prior to the purchase or guaranty of your Leverage.

(e) *Special Leverage requirement.* Before your first issuance of Leverage, you must furnish SBA with evidence that you qualify as a partnership for tax purposes, either by a ruling from the Internal Revenue Service or by an opinion of counsel.

Capitalizing a NMVC Company

§ 108.200 Adequate capital for NMVC Companies.

You must meet the requirements of §§ 108.200–108.230 in order to qualify for designation as a NMVC Company and to receive Leverage.

§ 108.210 Minimum capital requirements for NMVC Companies.

You must have Regulatory Capital of at least $5,000,000 and Leverageable Capital of at least $500,000 to become a NMVC Company.

§ 108.230 Private Capital for NMVC Companies.

(a) *General.* Private Capital means the contributed capital of a NMVC Company, plus unfunded binding commitments by Institutional Investors (including commitments evidenced by a promissory note) to contribute capital to a NMVC Company.

(b) *Contributed capital.* For purposes of this section, contributed capital means the paid-in capital and paid-in surplus of a Corporate NMVC Company, the members' contributed capital of a LLC NMVC Company, or the partners' contributed capital of a Partnership NMVC Company, in each case subject to the limitations in paragraph (c) of this section.

(c) *Exclusions from Private Capital.* Private Capital does not include:

(1) Funds borrowed by a NMVC Company from any source.

(2) Funds obtained through the issuance of Leverage.

(3) Funds obtained directly from any Federal agency or department.

(4) Any portion of a commitment from an Institutional Investor with a net worth of less than $10 million that exceeds 10 percent of such Institutional Investor's net worth.

(d) *Non-cash capital contributions.* Capital contributions in a form other than cash are excluded from Private Capital.

(e) *Contributions with borrowed funds.* You may not accept any capital contribution made with funds borrowed by a Person seeking to own an equity interest (whether direct or indirect, beneficial or of record) of at least 10 percent of your Private Capital. This exclusion does not apply if:

(1) Such Person's net worth is at least twice the amount borrowed; or

(2) SBA gives its prior written approval of the capital contribution.

Subpart D—Application and Approval Process for NMVC Company Designation

§ 108.300 When and how to apply for designation as a NMVC Company.

(a) *Notice of Funds Availability ("NOFA").* SBA will publish a NOFA in the **Federal Register**, advising potential applicants of the availability of funds for the NMVC program. An entity may then submit an application for designation as a NMVC Company. When submitting its application, an Applicant must comply with both these regulations and any requirements specified in the NOFA, including submission deadlines. The NOFA may specify limitations, special rules, procedures, and restrictions for a particular funding round.

(b) *Application form.* An Applicant must apply for designation as a NMVC Company using the application packet provided by SBA. Upon receipt of an application, SBA may request clarifying or technical information on the materials submitted as part of the application.

§ 108.310 Contents of application.

Each Applicant must submit a complete application, including the following:

(a) *Amounts.* The Applicant must indicate the amounts of—

(1) Regulatory Capital it proposes to raise;

(2) Binding commitments for contributions in cash or in-kind it proposes to raise, and/or an annuity it proposes to purchase, in accordance with the requirements of § 108.2030, as its matching resources for its Operational Assistance grant award (the aggregate of which must be not less than 30 percent of the Regulatory Capital it proposes to raise under paragraph (a)(1) of this section).

(b) *Comprehensive business plan.* The Applicant must submit a comprehensive business plan covering at least a five-year period, addressing the specific items described in § 108.320, and which demonstrates that the Applicant has the capacity to operate successfully as a NMVC Company.

(c) *New Markets Tax Credit program.* Applicant must address if and to what extent it intends to conform its activities to the New Markets Tax Credit laws. If Applicant plans to seek a New Markets Tax Credit, Applicant also must state the amount of tax credit allocation it intends to seek.

§ 108.320 Contents of comprehensive business plan.

(a) *Executive summary.* The executive summary must include a description of—

(1) The Applicant;

(2) Its strategy for how it proposes to make successful Developmental Venture Capital investments in identified LI Areas;

(3) The markets in the LI Areas it proposes to serve; and

(4) How it intends to work with community organizations in and be accountable to the residents of identified LI Areas in order to facilitate its Developmental Venture Capital investments.

(b) *Capacity, skills, and experience of the management team.* An Applicant must provide information generally as to the background, capability, education, reputation and training of its general partners, managers, officers, key personnel, investment committee and governing board members. The Applicant also must provide information specifically on these individuals' qualifications and reputation in the areas of Community Development Finance and/or Relevant Venture Capital Finance, including the impact of these individuals' activities in these areas.

(c) *Market analysis.* An Applicant must provide an analysis of the LI Areas in which it intends to focus its Developmental Venture Capital investments and Operational Assistance to Smaller Enterprises, demonstrating that the Applicant understands the market and the unmet capital needs in such areas and how its activities will meet these unmet capital needs through Developmental Venture Capital investments and will have a positive economic impact on those areas. The analysis must include a description of the extent of the economic distress in the identified LI Areas. An Applicant also must analyze the extent of the demand in such areas for Developmental Venture Capital investments and any factors or trends that may affect the Applicant's ability to make effective Developmental Venture Capital investments.

(d) *Operational capacity and investment strategies.* An Applicant must submit information concerning its policies and procedures for underwriting and approving its Developmental Venture Capital investments, monitoring its portfolio, and maintaining internal controls and operations.

(e) *Regulatory Capital.* An Applicant must include a detailed description of how it plans to raise its Regulatory Capital. An Applicant must discuss its potential sources of Regulatory Capital, the estimated timing on raising such funds, and the extent of the expressions of interest to commit such funds to the Applicant.

(f) *Plan for providing Operational Assistance.* An Applicant must describe how it plans to use its grant funds to provide Operational Assistance to Smaller Enterprises in which it will make Developmental Venture Capital investments. Its plan must address the types of Operational Assistance it proposes to provide, and how it plans to provide the Operational Assistance through the use of licensed professionals, when necessary, either from its own staff or from outside entities.

(g) *Matching resources for Operational Assistance grant.* An Applicant must include a detailed description of how it plans to obtain binding commitments for cash or in-kind contributions, and/or to purchase an annuity, to match the funds requested from SBA for the Applicant's Operational Assistance grant. If it proposes to obtain commitments for cash or in-kind contributions, it also must estimate the ratio of cash to in-kind contributions (in no event may in-kind contributions exceed 50 percent of the total contributions). Applicant must discuss its potential sources of matching resources, the estimated timing on raising such funds, and the extent of the expressions of interest to commit such funds to the Applicant. Potential sources of matching resources must satisfy the requirements in § 108.2030(b)(1).

(h) *Projected amount of investment in LI Areas.* An Applicant must describe the amount of its total Regulatory Capital and Leverage that it proposes to invest in Smaller Enterprises located in LI Areas, as compared to the amount that it proposes to invest in Small Businesses located outside of LI Areas.

(i) *Projected impact.* An Applicant must describe the criteria and economic measurements to be used to evaluate whether and to what extent it has met the objectives of the NMVC program. It must include:

(1) A description of the extent to which it will concentrate its Developmental Venture Capital investments and Operational Assistance activities in identified LI Areas;

(2) An estimate of the social, economic, and community development benefits to be created within identified LI Areas over the next five years or more as a result of its activities;

(3) A description of the criteria to be used to measure the benefits created as a result of its activities;

(4) A discussion about the amount of such benefits created that it will consider to constitute successfully meeting the objectives of the NMVC program.

(j) *Affiliates and business relationships.* Applicant must submit information regarding the management and financial strength of any parent or holding entity, affiliated firm or entity, or any other firm or entity essential to the success of the Applicant's business plan.

§ 108.330 Grant issuance fee.

An Applicant must pay to SBA a grant issuance fee of $5,000. An Applicant must submit this fee in advance, at the time of application submission. If SBA does not select an Applicant as a Conditionally Approved NMVC Company or designate an Applicant as a NMVC Company, SBA will refund this fee to the Applicant.

Subpart E—Evaluation and Selection of NMVC Companies

§ 108.340 Evaluation and selection—general.

SBA will evaluate and select an Applicant to participate in the NMVC program solely at SBA's discretion, based on SBA's review of the Applicant's application materials, interviews or site visits with the Applicant (if any), and background investigations conducted by SBA and other Federal agencies. SBA's evaluation and selection process is intended to—

(a) Ensure that Applicants are evaluated on a competitive basis and in a fair and consistent manner;

(b) Take into consideration the unique proposals presented by Applicants;

(c) Ensure that each Applicant that SBA designates as a NMVC Company can fulfill successfully the goals of its comprehensive business plan; and

(d) Ensure that SBA selects Applicants in such a way as to promote Developmental Venture Capital investments nationwide and in both urban and rural areas.

§ 108.350 Eligibility and completeness.

SBA will not consider any application that is not complete or that is submitted by an Applicant that does not meet the eligibility criteria described in subpart C of this part. SBA, at its sole discretion, may request from an Applicant additional information concerning eligibility criteria or easily completed portions of the application in order to allow SBA to consider that Applicant's application.

§ 108.360 Evaluation criteria.

SBA will evaluate and select an Applicant for participation in the NMVC program by considering the following criteria—

(a) The quality of the Applicant's comprehensive business plan in terms of meeting the objectives of the NMVC program;

(b) The likelihood that the Applicant will fulfill the goals described in its comprehensive business plan;

(c) The capability of the Applicant's management team;

(d) The strength and likelihood for success of the Applicant's operations and investment strategies;

(e) The need for Developmental Venture Capital investments in the LI Areas in which the Applicant intends to invest;

(f) The extent to which the Applicant will concentrate its activities on serving the LI Areas in which it intends to invest, including the ratio of resources that it proposes to invest in such areas as compared to other areas;

(g) The Applicant's demonstrated understanding of the markets in the LI Areas in which it intends to focus its activities;

(h) The likelihood that and the time frame within which the Applicant will be able to—

(1) Raise the Regulatory Capital it proposes to raise for its investments, and

(2) Obtain the binding commitments for contributions in cash or in-kind and/or an annuity it proposes to obtain as its matching resources for its Operational Assistance grant award;

(i) The strength of the Applicant's proposal to provide Operational Assistance to Smaller Enterprises in which it plans to invest;

(j) The extent to which the activities proposed by the Applicant will promote economic development and the creation of wealth and job opportunities in the LI Areas in which it intends to invest and among individuals living in LI Areas; and

(k) The strength of the Applicant's application compared to applications submitted by other Applicants

intending to invest in the same or proximate LI Areas.

§ 108.370 Conditional approval.

From among the Applicants submitting eligible and complete applications, SBA will select a number of Applicants and will conditionally approve such selected Applicants to participate in the NMVC program. SBA will give each such Conditionally Approved NMVC Company a specific period of time, not to exceed two years, to satisfy the requirements to become a NMVC Company.

§ 108.380 Final approval as a NMVC Company.

(a) *General rule.* With respect to each Conditionally Approved NMVC Company, SBA will either:

(1) Grant final approval to participate in the NMVC program and designate such company as a NMVC Company, if such Conditionally Approved NMVC Company:

(i) Within the specific period of time SBA gave to it when SBA conditionally approved it for participation in the NMVC program, has raised:

(A) The amount of Regulatory Capital set forth in its application, pursuant to § 108.310(a)(1), which must be at least $5,000,000; and

(B) The amount of matching resources for its Operational Assistance grant award set forth in its application, pursuant to § 108.310(a)(2), which must be at least $1,500,000 or 30 percent of the Regulatory Capital it raised, whichever is greater; and

(ii) Enters into a Participation Agreement with SBA; or

(2) Revoke SBA's conditional approval of the company, at which time it is no longer a Conditionally Approved NMVC Company and must not participate in the NMVC program or represent itself as a Conditionally Approved NMVC Company.

(b) *Exception to requirement to raise matching resources.* (1) *General.* At its discretion and based upon a showing of good cause, SBA may consider a Conditionally Approved NMVC Company to have satisfied the requirement in paragraph (a)(1)(i)(B) of this section to raise matching resources in the amount of at least 30 percent of its Regulatory Capital if the Conditionally Approved NMVC Company—

(i) Already has raised at least 20 percent of the total amount of required matching resources; and

(ii) Has a viable plan that reasonably projects its capacity to raise the remainder of the required amount of matching resources.

(2) *Request for exception.* Before the expiration of the time period given to it by SBA to meet the requirements to become a NMVC Company, a Conditionally Approved NMVC Company may submit to SBA a request that SBA grant the exception described in paragraph (b)(1) of this section. Such Conditionally Approved NMVC must present to SBA evidence of good cause for such request, as well as evidence supporting the elements of the exception described in paragraph (b)(1) of this section.

(3) *No applicability to Regulatory Capital.* The exception described in this section applies only to matching resources for the Operational Assistance grant award. Under no circumstances will SBA designate a Conditionally Approved NMVC Company as a NMVC Company if such Conditionally Approved NMVC Company does not raise the required minimum amount of Regulatory Capital within the time period SBA gave it to do so.

Subpart F—Changes in Ownership, Structure, or Control

Changes in Control or Ownership of NMVC Company

§ 108.400 Changes in ownership of 10 percent or more of NMVC Company but no change of Control.

You must obtain SBA's prior written approval for any proposed transfer or issuance of ownership interests that results in the ownership (beneficial or of record) by any Person, or group of Persons acting in concert, of at least 10 percent of any class of your stock, partnership capital or membership interests.

§ 108.410 Changes in Control of NMVC Company (through change in ownership or otherwise).

You must obtain SBA's prior written approval for any proposed transaction or event that results in Control by any Person(s) not previously approved by SBA.

§ 108.420 Prohibition on exercise of ownership or Control rights in NMVC Company before SBA approval.

Without prior written SBA approval, no change of ownership or Control may take effect and no officer, director, employee or other Person acting on your behalf shall:

(a) Register on your books any transfer of ownership interest to the proposed new owner(s);

(b) Permit the proposed new owner(s) to exercise voting rights with respect to such ownership interest (including directly or indirectly procuring or voting any proxy, consent or authorization as to such voting rights at any meeting of shareholders, partners or members);

(c) Permit the proposed new owner(s) to participate in any manner in the conduct of your affairs (including exercising control over your books, records, funds or other assets; participating directly or indirectly in any disposition thereof; or serving as an officer, director, partner, manager, employee or agent); or

(d) Allow ownership or Control to pass to another Person.

§ 108.430 Notification to SBA of transactions that may change ownership or Control.

You must promptly notify SBA as soon as you have knowledge of transactions or events that may result in a transfer of Control or ownership of at least 10 percent of your capital. If there is any doubt as to whether a particular transaction or event will result in such a change, report the facts to SBA.

§ 108.440 Standards governing prior SBA approval for a proposed transfer of Control.

SBA approval is contingent upon full disclosure of the real parties in interest, the source of funds for the new owners' interest, and other data requested by SBA. As a condition of approving a proposed transfer of control, SBA may:

(a) Require an increase in your Regulatory Capital;

(b) Require the new owners or the transferee's Control Person(s) to assume, in writing, personal liability for your Leverage, effective only in the event of their direct or indirect participation in any transfer of Control not approved by SBA; or

(c) Require compliance with any other conditions set by SBA, including compliance with the requirements for minimum capital and management-ownership diversity as in effect at such time for new NMVC Companies.

§ 108.450 Notification to SBA of pledge of NMVC Company's shares.

(a) You must notify SBA in writing, within 30 calendar days, of the terms of any transaction in which:

(1) Any Person, or group of Persons acting in concert, pledges shares of your stock (or equivalent ownership interests) as collateral for indebtedness; and

(2) The shares pledged are at least 10 percent of your Regulatory Capital.

(b) If the transaction creates a change of ownership or Control, you must comply with § 108.400 or § 108.410, as appropriate.

Restrictions on Common Control or Ownership of Two or More NMVC Companies

§ 108.460 Restrictions on Common Control or ownership of two (or more) NMVC Companies.

Without SBA's prior written approval, you must not have an officer, director, manager, Control Person, or owner (with a direct or indirect ownership interest of at least 10 percent) who is also:

(a) An officer, director, manager, Control Person, or owner (with a direct or indirect ownership interest of at least 10 percent) of another NMVC Company; or

(b) An officer or director of any Person that directly or indirectly controls, or is controlled by, or is under Common Control with, another NMVC Company.

Change in Structure of NMVC Company

§ 108.470 SBA approval of merger, consolidation, or reorganization of NMVC Company.

You may not merge, consolidate, change form of organization (corporation or partnership) or reorganize without SBA's prior written approval. Any such merger or consolidation will be subject to § 108.440.

Subpart G—Managing the Operations of a NMVC Company

General Requirements

§ 108.500 Lawful operations under the Act.

You must engage only in the activities contemplated by the Act and in no other activities.

§ 108.502 Representations to the public.

You may not represent or imply to anyone that the SBA, the U.S. Government or any of its agencies or officers has approved any ownership interests you have issued or obligations you have incurred. Be certain to include a statement to this effect in any solicitation to investors. Example: You may not represent or imply that "SBA stands behind the NMVC Company" or that "Your capital is safe because SBA's experts review proposed investments to make sure they are safe for the NMVC Company."

§ 108.503 NMVC Company's adoption of an approved valuation policy.

(a) *Valuation guidelines.* You must prepare, document and report the valuations of your Loans and Investments in accordance with the Valuation Guidelines for SBICs issued by SBA. These guidelines may be obtained from SBA's Investment Division.

(b) *SBA approval of valuation policy.* You must have a written valuation policy approved by SBA for use in determining the value of your Loans and Investments. You must either:

(1) Adopt without change the model valuation policy set forth in section III of the Valuation Guidelines for SBICs; or

(2) Obtain SBA's prior written approval of an alternative valuation policy.

(c) *Responsibility for valuations.* Your board of directors, managing members, or general partner(s) will be solely responsible for adopting your valuation policy and for using it to prepare valuations of your Loans and Investments for submission to SBA. If SBA reasonably believes that your valuations, individually or in the aggregate, are materially misstated, it reserves the right to require you to engage, at your expense, an independent third party acceptable to SBA to substantiate the valuations.

(d) *Frequency of valuations.* (1) You must value your Loans and Investments at the end of the second quarter of your fiscal year, and at the end of your fiscal year.

(2) On a case-by-case basis, SBA may require you to perform valuations more frequently.

(3) You must report material adverse changes in valuations at least quarterly, within thirty days following the close of the quarter.

(e) *Review of valuations by independent public accountant.* (1) For valuations performed as of the end of your fiscal year, your independent public accountant must review your valuation procedures and the implementation of such procedures, including adequacy of documentation.

(2) The independent public accountant's report on your audited annual financial statements (SBA Form 468) must include a statement that your valuations were prepared in accordance with your approved valuation policy.

§ 108.504 Equipment and office requirements.

(a) *Computer capability.* You must have a personal computer with a modem, and be able to use this equipment to prepare reports (using SBA provided software) and transmit them to SBA. In addition, you must have access to the Internet and the capability to send and receive electronic mail via the Internet.

(b) *Facsimile capability.* You must be able to receive facsimile messages 24 hours per day at your primary office.

(c) *Accessible office.* You must maintain an office that is convenient to the public and is open for business during normal working hours.

§ 108.506 Safeguarding the NMVC Company's assets/internal controls.

You must adopt a plan to safeguard your assets and monitor the reliability of your financial data, personnel, Portfolio, funds and equipment. You must provide your bank and custodian with a certified copy of your resolution or other formal document describing your control procedures.

§ 108.507 Violations based on false filings and nonperformance of agreements with SBA.

The following shall constitute a violation of this part:

(a) *Nonperformance.* Nonperformance of any of the requirements of any Debenture or of any written agreement with SBA.

(b) *False statement.* In any document submitted to SBA:

(1) Any false statement knowingly made; or

(2) Any misrepresentation of a material fact; or

(3) Any failure to state a material fact. A material fact is any fact that is necessary to make a statement not misleading in light of the circumstances under which the statement was made.

§ 108.509 Employment of SBA officials.

Without SBA's prior written approval, for a period of two years after the date of your most recent issuance of Leverage (or the receipt of any SBA Assistance as defined in part 105 of this chapter), you are not permitted to employ, offer employment to, or retain for professional services, any person who:

(a) Served as an officer, attorney, agent, or employee of SBA on or within one year before such date; and

(b) As such, occupied a position or engaged in activities which, in SBA's determination, involved discretion with respect to the granting of SBA Assistance.

Management and Compensation

§ 108.510 SBA approval of NMVC Company's investment Adviser/Manager.

You may employ an Investment Adviser/Manager who will be subject to the supervision of your board of directors, managing members, or general partner. If you have Leverage or plan to seek Leverage, you must obtain SBA's prior written approval of the management contract. SBA's approval of an Investment Adviser/Manager for one NMVC Company does not indicate approval of that manager for any other NMVC Company.

(a) *Management contract.* The contract must:

(1) Specify the services the Investment Adviser/Manager will render to you and to the Small Businesses in your Portfolio; and

(2) Indicate the basis for computing Management Expenses.

(b) *Material change to approved management contract.* If there is a material change, both you and SBA must approve such change in advance. If you are uncertain if the change is material, submit the proposed revision to SBA.

§ 108.520 Management Expenses of a NMVC Company.

SBA must approve your initial Management Expenses and any increases in your Management Expenses.

(a) *Definition of Management Expenses.* Management Expenses include:

(1) Salaries;

(2) Office expenses;

(3) Travel;

(4) Business development;

(5) Office and equipment rental;

(6) Bookkeeping; and

(7) Expenses related to developing, investigating and monitoring investments.

(b) Management Expenses do not include services provided by specialized outside consultants, outside lawyers and independent public accountants, if they perform services not generally performed by a venture capital company.

Cash Management by a NMVC Company

§ 108.530 Restrictions on investments of idle funds by NMVC Companies.

(a) *Permitted investments of idle funds.* Funds not invested in Small Businesses must be maintained in:

(1) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States, which mature within 15 months from the date of the investment; or

(2) Repurchase agreements with federally insured institutions, with a maturity of seven days or less. The securities underlying the repurchase agreements must be direct obligations of, or obligations guaranteed as to principal and interest by, the United States. The securities must be maintained in a custodial account at a federally insured institution; or

(3) Certificates of deposit with a maturity of one year or less, issued by a federally insured institution; or

(4) A deposit account in a federally insured institution, subject to a withdrawal restriction of one year or less; or

(5) A checking account in a federally insured institution; or

(6) A reasonable petty cash fund.

(b) *Deposit of funds in excess of the insured amount.* (1) You are permitted to deposit funds in a federally insured institution in excess of the institution's insured amount, but only if the institution is "well capitalized" in accordance with the definition set forth in regulations of the Federal Deposit Insurance Corporation, as amended (12 CFR 325.103).

(2) Exception: You may make a temporary deposit (not to exceed 30 days) in excess of the insured amount, in a transfer account established to facilitate the receipt and disbursement of funds or to hold funds necessary to honor Commitments issued.

(c) *Deposit of funds in Associate institution.* A deposit in, or a repurchase agreement with, a federally insured institution that is your Associate is not considered a Financing of such Associate under § 108.730, provided the terms of such deposit or repurchase agreement are no less favorable than those available to the general public.

Borrowing by NMVC Companies From Non-SBA Sources

§ 108.550 Prior approval of secured third-party debt of NMVC companies.

(a) *Definition.* In this section, "secured third-party debt" means any non-SBA debt secured by any of your assets, including secured guarantees and other contingent obligations that you voluntarily assume and secured lines of credit.

(b) *General rule.* You must get SBA's written approval before you incur any secured third-party debt or refinance any debt with secured third-party debt, including any renewal of a secured line of credit, increase in the maximum amount available under a secured line of credit, or expansion of the scope of a security interest or lien. For purposes of this paragraph (b), "expansion of the scope of a security interest or lien" does not include the substitution of one asset or group of assets for another, provided the asset values (as reported on your most recent annual Form 468) are comparable.

(c) *Conditions for SBA approval.* As a condition of granting its approval under this section, SBA may impose such restrictions or limitations as it deems appropriate, taking into account your historical performance, current financial position, proposed terms of the secured debt and amount of aggregate debt you will have outstanding (including Leverage). SBA will not favorably consider any requests for approval which include a blanket lien on all your assets, or a security interest in your investor commitments in excess of 125 percent of the proposed borrowing.

(d) *Thirty-day approval.* Unless SBA notifies you otherwise within 30 days after it receives your request, you may consider your request automatically approved if:

(1) You are in regulatory compliance;

(2) The security interest in your assets is limited to either those assets being acquired with the borrowed funds or an asset coverage ratio of no more than 2:1;

(3) Your request is for approval of a secured line of credit that would not cause your total outstanding borrowings (not including Leverage) to exceed 50 percent of your Leverageable Capital.

Voluntary Decrease in Regulatory Capital

§ 108.585 Voluntary decrease in NMVC Company's Regulatory Capital.

You must obtain SBA's prior written approval to reduce your Regulatory Capital by more than two percent in any fiscal year. At all times, you must retain sufficient Regulatory Capital to meet the minimum capital requirements in the Act and § 108.210, and sufficient Leverageable Capital to avoid having excess Leverage in violation of section 355(d) of the Act.

Subpart H—Recordkeeping, Reporting, and Examination Requirements for NMVC Companies

Recordkeeping Requirements for NMVC Companies

§ 108.600 General requirement for NMVC Company to maintain and preserve records.

(a) *Maintaining your accounting records.* You must establish and maintain your accounting records using SBA's standard chart of accounts for SBICs, unless SBA approves otherwise. You may obtain this chart of accounts from SBA.

(b) *Location of records.* You must keep the following records at your principal place of business or, in the case of paragraph (b)(3) of this section, at the branch office that is primarily responsible for the transaction:

(1) All your accounting and other financial records;

(2) All minutes of meetings of directors, stockholders, executive committees, partners, or other officials; and

(3) All documents and supporting materials related to your business transactions, except for any items held by a custodian under a written agreement between you and a Portfolio Concern or non-SBA lender, or any securities held in a safe deposit box, or by a licensed securities broker in an amount not exceeding the broker's per-account insurance coverage.

(c) *Preservation of records.* You must retain all the records that are the basis for your financial reports. Such records must be preserved for the periods specified in this paragraph (c), and must remain accessible for the first two years of the preservation period.

(1) You must preserve for at least 15 years or, in the case of a Partnership NMVC Company or LLC NMVC Company, at least two years beyond the date of liquidation:

(i) All your accounting ledgers and journals, and any other records of assets, asset valuations, liabilities, equity, income, and expenses.

(ii) Your Articles, bylaws, minute books, and NMVC Company application.

(iii) All documents evidencing ownership of the NMVC Company including ownership ledgers, and ownership transfer registers.

(2) You must preserve for at least six years all supporting documentation (such as vouchers, bank statements, or canceled checks) for the records listed in paragraph (b)(1) of this section.

(3) After final disposition of any item in your Portfolio, you must preserve for at least six years:

(i) Financing applications and Financing instruments.

(ii) All loan, participation, and escrow agreements.

(iii) Size status declarations (SBA Form 480).

(iv) Any capital stock certificates and warrants of the Portfolio Concern that you did not surrender or exercise.

(v) All other documents and supporting material relating to the Portfolio Concern, including correspondence.

(4) You may substitute a microfilm or computer-scanned or generated copy for the original of any record covered by this paragraph (c).

(d) *Additional requirement.* You must comply with the recordkeeping and record retention requirements set forth in Circular A–110 of the Office of Management and Budget. (OMB circulars are available from the addresses in 5 CFR 1310.3.)

§ 108.610 Required certifications for Loans and Investments.

For each of your Loans and Investments, you must have the documents listed in this section. You must keep these documents in your files and make them available to SBA upon request.

(a) SBA Form 480, the Size Status Declaration, executed both by you and by the concern you are financing. By executing this document, both parties certify that the concern is a Small Business. For securities purchased from an underwriter in a public offering, you may substitute a prospectus showing that the concern is a Small Business.

(b) SBA Form 652, a certification by the concern you are financing that it will not illegally discriminate (see part 112 of this chapter).

(c) A certification by the concern you are financing of the intended use of the proceeds. For securities purchased from an underwriter in a public offering, you may substitute a prospectus indicating the intended use of proceeds.

(d) For each Low-Income Investment, a certification by the concern you are financing as to the basis for its qualification as a Low-Income Enterprise.

§ 108.620 Requirements to obtain information from Portfolio Concerns.

All the information required by this section is subject to the requirements of § 108.600 and must be in English.

(a) *Information for initial Financing decision.* Before extending any Financing, you must require the applicant to submit such financial statements, plans of operation (including intended use of financing proceeds), cash flow analyses, projections, and such community economic development information about the company, as are necessary to support your investment decision. The information submitted must be consistent with the size and type of the business and the amount of the proposed Financing.

(b) *Updated financial and community economic development information.* (1) The terms of each Financing must require the Portfolio Concern to provide, at least annually, sufficient financial and community economic development information to enable you to perform the following required procedures:

(i) Evaluate the financial condition of the Portfolio Concern for the purpose of valuing your investment;

(ii) Determine the continued eligibility of the Portfolio Concern;

(iii) Verify the use of Financing proceeds; and

(iv) Evaluate the community economic development impact of the Financing.

(2) The president, chief executive officer, treasurer, chief financial officer, general partner, or proprietor of the Portfolio Concern must certify the information submitted to you.

(3) For financial and valuation purposes, you may accept a complete copy of the Federal income tax return filed by the Portfolio Concern (or its proprietor) in lieu of financial statements, but only if appropriate for the size and type of the business involved.

(4) The requirements in this paragraph (b) do not apply when you acquire securities from an underwriter in a public offering (see § 108.825). In that case, you must keep copies of all reports furnished by the Portfolio Concern to the holders of its securities.

(c) *Information required for examination purposes.* You must obtain any information requested by SBA's examiners for the purpose of verifying the certifications made by a Portfolio Concern under § 108.610. In this regard, your Financing documents must contain provisions requiring the Portfolio Concern to give you and/or SBA's examiners access to its books and records for such purpose.

Reporting Requirements for NMVC Companies

§ 108.630 Requirement for NMVC companies to file financial statements and supplementary information with SBA (SBA Form 468).

(a) *Annual filing of Form 468.* For each fiscal year, you must submit to SBA financial statements and supplementary information prepared on SBA Form 468. You must file Form 468 on or before the last day of the third month following the end of your fiscal year, except for the information required under paragraphs (e) and (f) of this section, which must be filed on or before the last day of the fifth month following the end of your fiscal year.

(1) *Audit of Form 468.* An independent public accountant acceptable to SBA must audit the annual Form 468.

(2) *Insurance requirement for public accountant.* Unless SBA approves otherwise, your independent public accountant must carry at least $1,000,000 of Errors and Omissions insurance, or be self-insured and have a net worth of at least $1,000,000.

(b) *Interim filings of Form 468.* When requested by SBA, you must file interim reports on Form 468. SBA may require you to file the entire form or only certain statements and schedules. You must file such reports on or before the last day of the month following the end of the reporting period. When you submit a request for a draw under an SBA Leverage commitment, you must also comply with any applicable filing requirements set forth in § 108.1220.

(c) *Standards for preparation of Form 468.* You must prepare SBA Form 468 in accordance with SBA's Accounting Standards and Financial Reporting

Requirements for Small Business Investment Companies, which you may obtain from SBA.

(d) *Where to file Form 468.* Submit all filings of Form 468 to the Office of New Markets Venture Capital in the Investment Division of SBA.

(e) *Reporting of social, economic, or community development impact information on Form 468.* Your annual filing of SBA Form 468 must include an assessment of the social, economic, or community development impact of each Financing. This assessment must specify the fulltime equivalent jobs created, the impact of the Financing on the revenues and profits of the business and on taxes paid by the business and its employees, and a listing of the number and percentage of employees who reside in LI Areas.

(f) *Reporting of community development information.* For each Financing of a Low-Income Enterprise, your Form 468 must include an assessment of such Financing with respect to:

(1) The social, economic or community development benefits achieved as a result of the Financing;

(2) How and to what extent such benefits fulfilled the goals of your comprehensive business plan and Participation Agreement;

(3) Whether you consider the Financing or the results of the Financing to have fulfilled the objectives of the NMVC program; and

(4) Whether, and if so, how you achieved accountability to the residents of the LI Area in connection with that Financing.

§ 108.640 Requirement to file portfolio financing reports (SBA Form 1031).

For each Financing you make (excluding guarantees), you must submit a Portfolio Financing Report on SBA Form 1031 within 30 days of the closing date.

§ 108.650 Requirement to report portfolio valuations to SBA.

You must determine the value of your Loans and Investments in accordance with § 108.503. You must report such valuations to SBA within 90 days of the end of the fiscal year in the case of annual valuations, and within 30 days following the close of other reporting periods. You must report material adverse changes in valuations at least quarterly, within thirty days following the close of the quarter.

§ 108.660 Other items required to be filed by NMVC Company with SBA.

(a) *Reports to owners.* You must give SBA a copy of any report you furnish to your investors, including any prospectus, letter, or other publication concerning your financial operations or those of any Portfolio Concern.

(b) *Documents filed with SEC.* You must give SBA a copy of any report, application or document you file with the Securities and Exchange Commission.

(c) *Litigation reports.* When you become a party to litigation or other proceedings, you must give SBA a report within 30 days that describes the proceedings and identifies the other parties involved and your relationship to them.

(1) The proceedings covered by this paragraph (c) include any action by you, or by your security holder(s) in a personal or derivative capacity, against an officer, director, Investment Adviser or other Associate of yours for alleged breach of official duty.

(2) SBA may require you to submit copies of the pleadings and other documents SBA may specify.

(3) Where proceedings have been terminated by settlement or final judgment, you must promptly advise SBA of the terms.

(4) This paragraph (c) does not apply to collection actions or proceedings to enforce your ordinary creditors' rights.

(d) *Notification of criminal charges.* If any officer, director, or general partner of the NMVC Company, or any other person who was required by SBA to complete a personal history statement, is charged with or convicted of any criminal offense other than a misdemeanor involving a minor motor vehicle violation, you must report the incident to SBA within 5 calendar days. Such report must fully describe the facts that pertain to the incident.

(e) *Reports concerning Operational Assistance grant funds.* You must comply with all reporting requirements set forth in Circular A–110 of the Office of Management and Budget and any grant award document executed between you and SBA.

(f) *Other reports.* You must file any other reports SBA may require in writing.

§ 108.660 Reporting changes in NMVC Company not subject to prior SBA approval.

(a) *Changes to be reported for post-approval.* This section applies to any changes in your Articles, ownership, capitalization, management, operating area, or investment policies that do not require SBA's prior approval. You must report such changes to SBA within 30 days for post approval.

(b) *Approval by SBA.* You may consider any change submitted under this section to be approved unless SBA notifies you to the contrary within 90 days after receiving it. SBA's approval is contingent upon your full disclosure of all relevant facts and is subject to any conditions SBA may prescribe.

Examinations of NMVC Companies by SBA for Regulatory Compliance

§ 108.690 Examinations.

All NMVC companies must submit to annual examinations by or at the direction of SBA for the purpose of evaluating regulatory compliance.

§ 108.691 Responsibilities of NMVC Company during examination.

You must make all books, records and other pertinent documents and materials available for the examination, including any information required by the examiner under § 108.620(c). In addition, the agreement between you and the independent public accountant performing your audit must provide that any information in the accountant's working papers be made available to SBA upon request.

§ 108.692 Examination fees.

(a) *General.* SBA will assess fees for examinations in accordance with this section. Unless SBA determines otherwise on a case by case basis, SBA will not assess fees for special examinations to obtain specific information.

(b) *Base fee.* A base fee of $3,500 will be assessed, subject to adjustment in accordance with paragraph (c) of this section.

(c) *Adjustments to base fee.* The base fee will be decreased based on the following criteria:

(1) If you have no outstanding regulatory violations at the time of the commencement of the examination and SBA did not identify any violations as a result of the most recent prior examination, you will receive a 15% discount on your base fee; and

(2) If you were fully responsive to the letter of notification of examination (that is, you provided all requested documents and information within the time period stipulated in the notification letter in a complete and accurate manner, and you prepared and had available all information requested by the examiner for on-site review), you will receive a 10% discount on your base fee.

(d) *Delay fee.* If, in the judgment of SBA, the time required to complete your examination is delayed due to your lack of cooperation or the condition of your records, SBA may assess an additional fee of up to $500 per day.

Subpart I—Financing of Small Businesses by NMVC Companies

Determining the Eligibility of a Small Business for NMVC Financing

§ 108.700 Compliance with size standards in part 121 of this chapter as a condition of Assistance.

You are permitted to provide financial assistance and management services only to a Small Business. To determine whether an applicant meets the size standards for a Small Business, you may use either the financial size standards in § 121.301(c)(1) of this chapter or the industry standard covering the industry in which the applicant is primarily engaged, as set forth in § 121.301(c)(2) of this chapter.

§ 108.710 Requirement to finance Low-Income Enterprises.

(a) *Low-Income Enterprise Financings.* At the close of each of your fiscal years—

(1) At least 80 percent of your Portfolio Concerns must be Low-Income Enterprises in which you have an Equity Capital Investment; and

(2) For all Financings you have extended, you must have invested at least 80 percent (in total dollars) in Equity Capital Investments in Low-Income Enterprises.

(b) *Non-compliance with this section.* If you have not reached the percentages required in paragraph (a) of this section at the end of any fiscal year, then you must be in compliance by the end of the following fiscal year. However, you will not be eligible for additional Leverage until such time as you reach the required percentages (see § 108.1120).

§ 108.720 Small Businesses that may be ineligible for financing.

(a) *Relenders or reinvestors.* You are not permitted to finance any business that is a relender or reinvestor. Relenders or reinvestors are businesses whose primary business activity involves, directly or indirectly, providing funds to others, purchasing debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair.

(b) *Passive Businesses.* You are not permitted to finance a passive business.

(1) *Definition.* A business is passive if:

(i) It is not engaged in a regular and continuous business operation (for purposes of this paragraph (b), the mere receipt of payments such as dividends, rents, lease payments, or royalties is not considered a regular and continuous business operation); or

(ii) Its employees are not carrying on the majority of day to day operations, and the company does not provide effective control and supervision, on a day to day basis, over persons employed under contract; or

(iii) It passes through substantially all of the proceeds of the Financing to another entity.

(2) *Exception for pass-through of proceeds to subsidiary.* With the prior written approval of SBA, you may finance a passive business if it is a Small Business and it passes substantially all the proceeds through to one or more subsidiary companies, each of which is an eligible Small Business that is not passive. For the purpose of this paragraph (b) (2), "subsidiary company" means a company in which at least 50 percent of the outstanding voting securities are owned by the Financed passive business.

(3) *Exception for certain Partnership NMVC companies.* With the prior written approval of SBA, if you are a Partnership NMVC Company, you may form one or more wholly owned corporations in accordance with this paragraph (b) (3). The sole purpose of such corporation(s) must be to provide Financing to one or more eligible, unincorporated Small Businesses. You may form such corporation(s) only if a direct Financing to such Small Businesses would cause any of your investors to incur unrelated business taxable income under section 511 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 511). Your investment of funds in such corporation(s) will not constitute a violation of § 108.730(a).

(c) *Real Estate Businesses.* (1) You are not permitted to finance:

(i) Any business classified under subsector 5311 (Lessors of Real Estate) of the NAICS Manual; or

(ii) Any business listed under subsector 5312 (Offices of Real Estate Agents and Brokers) unless at least 80 percent of the revenue is derived from non-Affiliate sources.

(2) You are not permitted to finance a business, regardless of NAICS classification, if the Financing is to be used to acquire or refinance real property, unless the Small Business:

(i) Is acquiring an existing property and will use at least 51 percent of the usable square footage for an eligible business purpose; or

(ii) Is building or renovating a building and will use at least 67 percent of the usable square footage for an eligible business purpose; or

(iii) Occupies the subject property and uses at least 67 percent of the usable square footage for an eligible business purpose.

(d) *Project Financing.* You are not permitted to finance a business if:

(1) The assets of the business are to be reduced or consumed, generally without replacement, as the life of the business progresses, and the nature of the business requires that a stream of cash payments be made to the business's financing sources, on a basis associated with the continuing sale of assets. Examples include real estate development projects and oil and gas wells; or

(2) The primary purpose of the Financing is to fund production of a single item or defined limited number of items, generally over a defined production period, and such production will constitute the majority of the activities of the Small Business. Examples include motion pictures and electric generating plants.

(e) *Farm land purchases.* You are not permitted to finance the acquisition of farmland. Farmland means land, which is or is intended to be used for agricultural or forestry purposes, such as the production of food, fiber, or wood, or is so taxed or zoned.

(f) *Public interest.* You are not permitted to finance any business if the proceeds are to be used for purposes contrary to the public interest, including but not limited to activities which are in violation of law, or inconsistent with free competitive enterprise.

(g) *Foreign investment.* (1) *General rule.* You are not permitted to finance a business if:

(i) The funds will be used substantially for a foreign operation; or

(ii) At the time of the Financing or within one year thereafter, more than 49 percent of the employees or tangible assets of the Small Business are located outside the United States (unless you can show, to SBA's satisfaction, that the Financing was used for a specific domestic purpose).

(2) *Exception.* This paragraph (g) does not prohibit a Financing used to acquire foreign materials and equipment or foreign property rights for use or sale in the United States.

(h) *Financing NMVC companies or SBICs.* You are not permitted to provide funds, directly or indirectly, that the Small Business will use:

(1) To purchase stock in or provide capital to a NMVC Company or SBIC; or

(2) To repay an indebtedness incurred for the purpose of investing in a NMVC Company or SBIC.

§ 108.730 Financings which constitute conflicts of interest.

(a) *General rule.* You must not self-deal to the prejudice of a Small Business, the NMVC Company, its shareholders or partners, or SBA. Unless you obtain a prior written exemption

from SBA for special instances in which a Financing may further the purposes of the Act despite presenting a conflict of interest, you must not directly or indirectly:

(1) Provide Financing to any of your Associates, except for a Small Business that satisfies all of the following conditions:

(i) Your Associate relationship with the Small Business is described by paragraph (8) or (9) of the definition of Associate in § 108.50;

(ii) No Person triggering the Associate relationship identified in paragraph (a)(1)(i) of this section is a Close Relative or Secondary Relative of any Person described in paragraph (1), (2), (4), or (5) of the definition of Associate in § 108.50; and

(iii) No single Associate of yours has either a voting interest or an economic interest in the Small Business exceeding 20 percent, and no two or more of your Associates have either a voting interest or an economic interest exceeding 33 percent. Economic interests shall be computed on a fully diluted basis, and both voting and economic interests shall exclude any interest owned through the NMVC Company.

(2) Provide Financing to an Associate of another NMVC Company if one of your Associates has received or will receive any direct or indirect Financing or a Commitment from that NMVC Company or a third NMVC Company (including Financing or Commitments received under any understanding, agreement, or cross dealing, reciprocal or circular arrangement).

(3) Borrow money from:

(i) A Small Business Financed by you;

(ii) An officer, director, or owner of at least a 10 percent equity interest in such business; or

(iii) A Close Relative of any such officer, director, or equity owner.

(4) Provide Financing to a Small Business to discharge an obligation to your Associate or free other funds to pay such obligation. This paragraph (a)(4) does not apply if the obligation is to an Associate Lending Institution and is a line of credit or other obligation incurred in the normal course of business.

(b) *Rules applicable to Associates.* Without SBA' s prior written approval, your Associates must not, directly or indirectly:

(1) Borrow money from any Person described in paragraph (a)(3) of this section.

(2) Receive from a Small Business any compensation in connection with Assistance you provide (except as permitted under § 108.825(c)), or anything of value for procuring, attempting to procure, or influencing your action with respect to such Assistance.

(c) *Applicability of other laws.* You are also bound by any restrictions in Federal or State laws governing conflicts of interest and fiduciary obligations.

(d) *Financings with Associates.* (1) *Financings with Associates requiring prior approval.* Without SBA's prior written approval, you may not Finance any business in which your Associate has either a voting equity interest or total equity interests (including potential interests) of at least five percent, except as otherwise permitted under paragraph (a)(1) of this section.

(2) *Other Financings with Associates.* If you and an Associate provide Financing to the same Small Business, either at the same time or at different times, you must be able to demonstrate to SBA's satisfaction that the terms and conditions are (or were) fair and equitable to you, taking into account any differences in the timing of each party's financing transactions.

(3) *Exceptions to paragraphs (d)(l) and (d)(2) of this section.* A Financing that falls into one of the following categories is exempt from the prior approval requirement in paragraph (d)(1) of this section or is presumed to be fair and equitable to you for the purposes of paragraph (d)(2) of this section, as appropriate:

(i) Your Associate is a Lending Institution that is providing financing under a credit facility in order to meet the operational needs of the Small Business, and the terms of such financing are usual and customary.

(ii) Your Associate invests in the Small Business on the same terms and conditions and at the same time as you.

(iii) Both you and your Associate are NMVC companies.

(e) *Use of Associates to manage Portfolio Concerns.* To protect your investment, you may designate an Associate to serve as an officer, director, or other participant in the management of a Small Business. You must identify any such Associate in your records available for SBA's review under § 108.600. Without SBA's prior written approval, the Associate must not:

(1) Have any other direct or indirect financial interest in the Portfolio Concern that exceeds, or has the potential to exceed, the percentages of the Portfolio Concern's equity set forth in paragraph (a)(1) of this section.

(2) Receive any income or anything of value from the Portfolio Concern unless it is for your benefit, with the exception of director's fees, expenses, and distributions based upon the Associate's ownership interest in the Concern.

(f) *1940 and 1980 Act Companies: SEC exemptions.* If you are a 1940 or 1980 Act Company and you receive an exemption from the Securities and Exchange Commission for a transaction described in this section, you need not obtain SBA's approval of the transaction. However, you must promptly notify SBA of the transaction.

(g) *Restriction on options obtained by NMVC Company's management and employees.* Your employees, officers, directors, managing members or general partners, or the general partners of the management company that is providing services to you or to your general partner, may obtain options in a Financed Small Business only if:

(1) They participate in the Financing on a *pari passu* basis with you; or

(2) SBA gives its prior written approval; or

(3) The options received are compensation for service as a member of the board of directors of the Small Business, and such compensation does not exceed that paid to other outside directors. In the absence of such directors, fees must be reasonable when compared with amounts paid to outside directors of similar companies.

§ 108.740 Portfolio diversification ("overline" limitation).

(a) Without SBA's prior written approval, you may provide Financing or a Commitment to a Small Business only if the resulting amount of your aggregate outstanding Financings and Commitments to such Small Business and its Affiliates does not exceed 20 percent of the sum of:

(1) Your Regulatory Capital as of the date of the Financing or Commitment; plus

(2) Any permitted Distribution(s) you made during the five years preceding the date of the Financing or Commitment which reduced your Regulatory Capital.

(b) For the purposes of paragraph (a) of this section, you must measure each outstanding Financing at its current cost plus any amount of the Financing that was previously written off.

§ 108.760 How a change in size or activity of a Portfolio Concern affects the NMVC Company and the Portfolio Concern.

(a) *Effect on NMVC Company of a change in size of a Portfolio Concern.* If a Portfolio Concern no longer qualifies as a Small Business you may keep your investment in the concern and:

(1) Subject to the overline limitations of § 108.740, you may provide additional Financing to the concern up to the time it makes a public offering of its securities.

(2) Even after the concern makes a public offering, you may exercise any stock options, warrants, or other rights to purchase Equity Securities which you acquired before the public offering, or fund Commitments you made before the public offering.

(b) *Effect of a change in business activity occurring within one year of NMVC Company's initial Financing.* (1) *Retention of Investment.* Unless you receive SBA's written approval, you may not keep your investment in a Portfolio Concern, small or otherwise, which becomes ineligible by reason of a change in its business activity within one year of your initial investment.

(2) *Request for SBA 's approval to retain investment.* If you request that SBA approve the retention of your investment, your request must include sufficient evidence to demonstrate that the change in business activity was caused by an unforeseen change in circumstances and was not contemplated at the time the Financing was made.

(3) *Additional Financing.* If SBA approves your request to retain an investment under paragraph (b)(2) of this section, you may provide additional Financing to the Portfolio Concern to the extent necessary to protect against the loss of the amount of your original investment, subject to the overline limitations of § 108.740.

(c) *Effect of a change in business activity occurring more than one year after the initial Financing.* If a Portfolio Concern becomes ineligible because of a change in business activity more than one year after your initial Financing you may:

(1) Retain your investment; and

(2) Provide additional Financing to the Portfolio Concern to the extent necessary to protect against the loss of the amount of your original investment, subject to the overline limitations of § 108.740.

Structuring NMVC Company's Financing of Eligible Small Businesses

§ 108.800 Financings in the form of equity interests.

You may not, inadvertently or otherwise:

(a) Become a general partner in any unincorporated business; or

(b) Become jointly or severally liable for any obligations of an unincorporated business.

§ 108.820 Financings in the form of guarantees.

(a) *General rule.* At the request of a Small Business or where necessary to protect your existing investment, you may guarantee the monetary obligation of a Small Business to any non-Associate creditor.

(b) *Exception.* You may not issue a guaranty if:

(1) You would become subject to State regulation as an insurance, guaranty or surety business; or

(2) The amount of the guaranty plus any direct Financings to the Small Business exceed the overline limitations of § 108.740, except that a pledge of the Equity Securities of the issuer or a subordination of your lien or creditor position does not count toward your overline.

(c) *Pledge of NMVC Company's assets as guaranty.* For purposes of this section, a guaranty with recourse only to specific asset(s) you have pledged is equal to the fair market value of such asset(s) or the amount of the debt guaranteed, whichever is less.

§ 108.825 Purchasing securities from an underwriter or other third party.

(a) *Securities purchased through or from an underwriter.* You may purchase the securities of a Small Business through or from an underwriter if:

(1) You purchase such securities within 90 days of the date the public offering is first made;

(2) Your purchase price is no more than the original public offering price; and

(3) The amount paid by you for the securities (less ordinary and reasonable underwriting charges and commissions) has been, or will be, paid to the Small Business, and the underwriter certifies in writing that this requirement has been met.

(b) *Recordkeeping requirements.* You must keep records available for SBA's inspection which show the relevant details of the transaction, including, but not limited to, date, price, commissions, and the underwriter's certifications required under paragraphs (a)(3) and (c) of this section.

(c) *Underwriter's requirements.* The underwriter must certify whether it is your Associate. You may pay reasonable and customary commissions and expenses to an Associate underwriter for the portion of an offering that you purchase.

(d) *Securities purchased from another NMVC Company or from SBA.* You may purchase from, or exchange with, another NMVC Company, Portfolio securities (or any interest therein). Such purchase or exchange may only be made on a non-recourse basis. You may not have more than one-third of your total assets (valued at cost) invested in such securities. If you have previously sold Portfolio securities (or any interest therein) on a recourse basis, you shall include the amount for which you may be contingently liable in your overline computation.

(e) *Purchases of securities from other non-issuers.* You may purchase securities of a Small Business from a non-issuer not previously described in this section if such acquisition is a reasonably necessary part of the overall sound Financing of the Small Business.

Limitations on Disposition of Assets

§ 108.885 Disposition of assets to NMVC Company's Associates.

Except with SBA's prior written approval, you are not permitted to dispose of assets (including assets acquired in liquidation) to any Associate. As a prerequisite to such approval, you must demonstrate that the proposed terms of disposal are at least as favorable to you as the terms obtainable elsewhere.

Subpart J—SBA Financial Assistance for NMVC Companies (Leverage)

General Information About Obtaining Leverage

§ 108.1100 Type of Leverage and application procedures.

(a) *Type of Leverage available.* You may apply for Leverage from SBA in the form of a guarantee of your Debentures.

(b) *Applying for Leverage.* The Leverage application process has two parts. You must first apply for SBA's conditional commitment to reserve a specific amount of Leverage for your future use. You may then apply to draw down Leverage against the commitment. See §§ 108.1200 through 108.1240.

(c) *Where to send your application.* Send all Leverage applications to SBA, Investment Division Office of New Markets Venture Capital, 409 Third Street, SW., Washington, DC 20416.

§ 108.1120 General eligibility requirement for Leverage.

To be eligible for Leverage, you must be in compliance with the Act, the regulations in this part, and your Participation Agreement.

§ 108.1130 Leverage fees payable by NMVC Company.

There is no fee for the issuance of Debentures by a NMVC Company.

§ 108.1140 NMVC Company's acceptance of SBA remedies under § 108.1810.

If you issue Leverage, you automatically agree to the terms and conditions in § 108.1810 as it exists at the time of issuance. The effect of these terms and conditions is the same as if they were fully incorporated in the terms of your Leverage.

Maximum Amount of Leverage for Which a NMVC Company Is Eligible

§ 108.1150 Maximum amount of Leverage for a NMVC Company.

The face amount of a NMVC Company's outstanding Debentures may not exceed 150 percent of its Leverageable Capital.

Conditional Commitments by SBA To Reserve Leverage for a NMVC Company

§ 108.1200 SBA's Leverage commitment to a NMVC Company—application procedure, amount, and term.

(a) *General.* Under the provisions in §§ 108.1200 through 108.1240, you may apply for SBA's conditional commitment to reserve a specific amount and type of Leverage for your future use. You may then apply to draw down Leverage against the commitment.

(b) *Applying for a Leverage commitment.* SBA will notify you when it is accepting requests for Leverage commitments. Upon receipt of your request, SBA will send you a complete application package.

(c) *Limitations on the amount of a Leverage commitment.* The amount of a Leverage commitment must be a multiple of $5,000. SBA, in its discretion, may determine a minimum dollar amount for Leverage commitments. Any such minimum amounts will be published in Notices in the **Federal Register** from time to time.

(d) *Term of Leverage commitment.* SBA's Leverage commitment will automatically lapse on the expiration date stated in the commitment letter issued to you by SBA.

§ 108.1220 Requirement for NMVC Company to file financial statements at the time of request for a draw.

(a) If you submit a request for a draw against SBA's Leverage commitment more than 90 days since your submission of an annual Form 468 or a Form 468 (Short Form), you must:

(1) Give SBA a financial statement on Form 468 (Short Form); and

(2) File a statement of no material adverse change in your financial condition since your last filing of Form 468.

(b) You will not be eligible for a draw if you are not in compliance with this section.

§ 108.1230 Draw-downs by NMVC Company under SBA's Leverage commitment.

(a) *NMVC Company's authorization of SBA to guarantee securities.* By submitting a request for a draw against SBA's Leverage commitment, you authorize SBA, or any agent or trustee SBA designates, to guarantee your Debenture and to sell it with SBA's guarantee.

(b) *Limitations on amount of draw.* The amount of a draw must be a multiple of $5,000. SBA, in its discretion, may determine a minimum dollar amount for draws against SBA's Leverage commitments. Any such minimum amounts will be published in Notices in the **Federal Register** from time to time.

(c) *Effect of regulatory violations on NMVC Company's eligibility for draws.* (1) *General rule.* You are eligible to make a draw against SBA's Leverage commitment only if you are in compliance with all applicable provisions of the Act and SBA regulations (i.e., no unresolved statutory or regulatory violations) and your Participation Agreement.

(2) *Exception to general rule.* If you are not in compliance, you may still be eligible for draws if:

(i) SBA determines that your outstanding violations are of non-substantive provisions of the Act or regulations or your Participation Agreement and that you have not repeatedly violated any non-substantive provisions; or

(ii) You have agreed with SBA on a course of action to resolve your violations and such agreement does not prevent you from issuing Leverage.

(d) *Procedures for funding draws.* You may request a draw at any time during the term of the commitment. With each request, submit the following documentation:

(1) A statement certifying that there has been no material adverse change in your financial condition since your last filing of SBA Form 468 (see also § 108.1220 for SBA Form 468 filing requirements).

(2) If your request is submitted more than 30 days following the end of your fiscal year, but before you have submitted your annual filing of SBA Form 468 (Long Form) in accordance with § 108.630(a), a preliminary unaudited annual financial statement on SBA Form 468 (Short Form).

(3) A statement certifying that to the best of your knowledge and belief, you are in compliance with all provisions of the Act and SBA regulations (i.e., no unresolved regulatory or statutory violations) and your Participation Agreement, or a statement listing any specific violations you are aware of. Either statement must be executed by one of the following:

(i) An officer of the NMVC Company;

(ii) An officer of a corporate general partner of the NMVC Company;

(iii) An individual who is authorized to act as or for a general partner of the NMVC Company; or

(iv) An individual who is authorized to act as or for a member-manager of the NMVC Company.

(4) A statement that the proceeds are needed to fund one or more particular Small Businesses or to provide liquidity for your operations. If required by SBA, the statement must include the name and address of each Small Business, and the amount and anticipated closing date of each proposed Financing.

(e) *Reporting requirements after drawing funds.* (1) Within 30 calendar days after the actual closing date of each Financing funded with the proceeds of your draw, you must file an SBA Form 1031 confirming the closing of the transaction.

(2) If SBA required you to provide information concerning a specific planned Financing under paragraph (d)(4) of this section, and such Financing has not closed within 60 calendar days after the anticipated closing date, you must give SBA a written explanation of the failure to close.

(3) If you do not comply with this paragraph (e), you will not be eligible for additional draws. SBA may also determine that you are not in compliance with the terms of your Leverage under § 108.1810.

§ 108.1240 Funding of NMVC Company's draw request through sale to third-party.

(a) *NMVC Company's authorization of SBA to arrange sale of securities to third-party.* By submitting a request for a draw of Debenture Leverage, you authorize SBA, or any agent or trustee SBA designates, to enter into any agreements (and to bind you to such agreements) necessary to accomplish:

(1) The sale of your Debenture to a third-party at a rate approved by SBA; and

(2) The purchase of your security from the third-party and the pooling of your security with other securities with the same maturity date.

(b) *Sale of Debentures to a third-party.* If SBA arranges for the sale of your Debenture to a third-party, the sale price may be an amount discounted from the face amount of the Debenture.

Funding Leverage by use of SBA Guaranteed Trust Certificates ("TCs")

§ 108.1600 SBA authority to issue and guarantee Trust Certificates.

(a) *Authorization.* Section 356 of the Act authorizes SBA to issue TCs and to guarantee the timely payment of the principal and interest thereon. Any guarantee by SBA of such TC is limited to the principal and interest due on the Debentures in any Trust or Pool backing such TC. The full faith and credit of the United States is pledged to the payment of all amounts due under the guarantee of any TC.

(b) *SBA authority to arrange public or private fundings of Leverage.* SBA in its discretion may arrange for public or private financing under its guarantee authority. Such financing arranged by SBA may be accomplished by the sale of individual Debentures, aggregations of Debentures, or Pools or Trusts of Debentures.

(c) *Pass-through provisions.* TCs shall provide for a pass-through to their holders of all amounts of principal and interest paid on the Debentures in the Pool or Trust against which they are issued.

(d) *Formation of a Pool or Trust holding Leverage Securities.* SBA shall approve the formation of each Pool or Trust. SBA may, in its discretion, establish the size of the Pools and their composition, the interest rate on the TCs issued against Trusts or Pools, fees, discounts, premiums and other charges made in connection with the Pools, Trusts, and TCs, and any other characteristics of a Pool or Trust it deems appropriate.

§ 108.1610 Effect of prepayment or early redemption of Leverage on a Trust Certificate.

(a) The rights, if any, of a NMVC Company to prepay any Debenture is established by the terms of such security, and no such right is created or denied by the regulations in this part.

(b) SBA's rights to purchase or prepay any Debenture without premium are established by the terms of the Guaranty Agreement relating to the Debenture.

(c) Any prepayment of a Debenture pursuant to the terms of the Guaranty Agreement relating to such security shall reduce the SBA guarantee of timely payment of principal and interest on a TC in proportion to the amount of principal that such prepaid Debenture represents in the Trust or Pool backing such TC.

(d) SBA shall be discharged from its guarantee obligation to the holder or holders of any TC, or any successor or transferee of such holder, to the extent of any such prepayment. whether or not such successor or transferee shall have notice of any such prepayment.

(e) Interest on prepaid Debentures shall accrue only through the date of prepayment.

(f) In the event that all Debentures constituting a Trust or Pool are prepaid, the TCs backed by such Trust or Pool shall be redeemed by payment of the unpaid principal and interest on the TCs; provided, however, that in the case of the prepayment of a Debenture pursuant to the provisions of the Guaranty Agreement relating to the Debenture, the CRA shall pass through pro rata to the holders of the TCs any such prepayments including any prepayment penalty paid by the obligor NMVC Company pursuant to the terms of the Debenture.

§ 108.1620 Functions of agents, including Central Registration Agent, Selling Agent and Fiscal Agent.

(a) *Agents.* SBA may appoint or cause to be appointed agent(s) to perform functions necessary to market and service Debentures or TCs pursuant to this part.

(1) *Selling Agent.* As a condition of guaranteeing a Debenture, SBA may cause each NMVC Company to appoint a Selling Agent to perform functions that include, but are not limited to:

(i) Selecting qualified entities to become pool or Trust assemblers ("Poolers").

(ii) Receiving guaranteed Debentures as well as negotiating the terms and conditions of sales or periodic offerings of Debentures and/or TCs on behalf of NMVC companies.

(iii) Directing and coordinating periodic sales of Debentures and/or TCs.

(iv) Arranging for the production of Offering Circulars, certificates, and such other documents as may be required from time to time.

(2) *Fiscal Agent.* SBA shall appoint a Fiscal Agent to:

(i) Establish performance criteria for Poolers.

(ii) Monitor and evaluate the financial markets to determine those factors that will minimize or reduce the cost of funding Debentures.

(iii) Monitor the performance of the Selling Agent, Poolers, CRA, and the Trustee.

(iv) Perform such other functions as SBA, from time to time, may prescribe.

(3) *Central Registration Agent.* Pursuant to a contract entered into with SBA, the CRA, as SBA's agent, will do the following with respect to the Pools or Trust Certificates for the Debentures:

(i) Form an SBA-approved Pool or Trust;

(ii) Issue the TCs in the form prescribed by SBA;

(iii) Transfer the TCs upon the sale of original issue TCs in any secondary market transaction;

(iv) Receive payments from NMVC companies;

(v) Make periodic payments as scheduled or required by the terms of the TCs, and pay all amounts required to be paid upon prepayment of Debentures;

(vi) Hold, safeguard, and release all Debentures constituting Trusts or Pools upon instructions from SBA;

(vii) Remain custodian of such other documentation as SBA shall direct by written instructions;

(viii) Provide for the registration of all pooled Debentures, all Pools and Trusts, and all TCs;

(ix) Perform such other functions as SBA may deem necessary to implement the provisions of this section.

(b) *Functions.* Either SBA or an agent appointed by SBA may perform the function of locating purchasers, and negotiating and closing the sale of Debentures and TCs. Nothing in the regulations in this part shall be interpreted to prevent the CRA from acting as SBA's agent for this purpose.

§ 108.1630 SBA regulation of Brokers and Dealers and disclosure to purchasers of Leverage or Trust Certificates.

(a) *Brokers and Dealers.* Each broker, dealer, and Pool or Trust assembler approved by SBA pursuant to these regulations shall either be regulated by a Federal financial regulatory agency, or be a member of the National Association of Securities Dealers (NASD), and shall be in good standing in respect to compliance with the financial, ethical, and reporting requirements of such body. They also shall be in good standing with SBA as determined by the SBA Associate Administrator for Investment (see paragraph (c) of this section) and shall provide a fidelity bond or insurance in such amount as SBA may require.

(b) *Suspension and/or termination of Broker or Dealer.* SBA shall exclude from the sale and all other dealings in Debentures or TCs any broker or dealer:

(1) If such broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been suspended, SBA will suspend such broker or dealer for the duration of such suspension by the supervisory agency.

(2) If such broker or dealer has been indicted or otherwise formally charged with a misdemeanor or felony bearing on its fitness, such broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

(3) If such broker or dealer has suffered an adverse final civil judgment holding that such broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the

market for Debentures or TCs may be terminated.

(c) *Termination/suspension proceedings.* A broker's or dealer's participation in the market for Debentures or TCs will be conducted in accordance with part 134 of this chapter. SBA may, for any of the reasons stated in paragraphs (b)(1) through (b)(3) of this section, suspend the privilege of any broker or dealer to participate in this market. SBA shall give written notice at least ten (10) business days prior to the effective date of such suspension. Such notice shall inform the broker or dealer of the opportunity for a hearing pursuant to part 134 of this chapter.

§ 108.1640 SBA access to records of the CRA, Brokers, Dealers and Pool or Trust assemblers.

The CRA and any broker, dealer and Pool or Trust assembler operating under the regulations in this part shall make all books, records and related materials associated with Debentures and TCs available to SBA for review and copying purposes. Such access shall be at such party's primary place of business during normal business hours.

Miscellaneous

§ 108.1700 Transfer by SBA of its interest in a NMVC Company's Leverage security.

Upon such conditions and for such consideration as it deems reasonable, SBA may sell, assign, transfer, or otherwise dispose of any Debenture held by or on behalf of SBA. Upon notice by SBA, a NMVC Company will make all payments of principal and interest as shall be directed by SBA. A NMVC Company will be liable for all damage or loss which SBA may sustain by reason of such disposal, up to the amount of the NMVC Company's liability under such security, plus court costs and reasonable attorney's fees incurred by SBA.

§ 108.1710 SBA authority to collect or compromise its claims.

SBA may, upon such conditions and for such consideration as it deems reasonable, collect or compromise all claims relating to obligations held or guaranteed by SBA, and all legal or equitable rights accruing to SBA.

§ 108.1720 Characteristics of SBA's guarantee.

If SBA agrees to guarantee a NMVC Company's Debentures, such guarantee will be unconditional, irrespective of the validity, regularity or enforceability of the Debentures or any other circumstances that might constitute a legal or equitable discharge or defense of a guarantor. Pursuant to its guarantee, SBA will make timely payments of principal and interest on the Debentures.

Subpart K—NMVC Company's Noncompliance With Terms of Leverage

§ 108.1810 Events of default and SBA's remedies for NMVC Company's noncompliance with terms of Debentures.

(a) *Applicability of this section.* By issuing Debentures, you automatically agree to the terms, conditions and remedies in this section, as in effect at the time of issuance and as if fully set forth in the Debentures.

(b) *Automatic events of default.* The occurrence of one or more of the events in this paragraph (b) causes the remedies in paragraph (c) of this section to take effect immediately.

(1) *Insolvency.* You become equitably or legally insolvent.

(2) *Voluntary assignment.* You make a voluntary assignment for the benefit of creditors without SBA's prior written approval.

(3) *Bankruptcy.* You file a petition to begin any bankruptcy or reorganization proceeding, receivership, dissolution or other similar creditors' rights proceeding, or such action is initiated against you and is not dismissed within 60 days.

(c) *SBA remedies for automatic events of default.* Upon the occurrence of one or more of the events in paragraph (b) of this section:

(1) Without notice, presentation or demand, the entire indebtedness evidenced by your Debentures, including accrued interest, and any other amounts owed SBA with respect to your Debentures, is immediately due and payable; and

(2) You automatically consent to the appointment of SBA or its designee as your receiver under section 363(c) of the Act.

(d) *Events of default with notice.* For any occurrence (as determined by SBA) of one or more of the events in this paragraph (d), SBA may avail itself of one or more of the remedies in paragraph (e) of this section.

(1) *Fraud.* You commit a fraudulent act that causes detriment to SBA's position as a creditor or guarantor.

(2) *Fraudulent transfers.* You make any transfer or incur any obligation that is fraudulent under the terms of 11 U.S.C. 548.

(3) *Willful conflicts of interest.* You willfully violate § 108.730.

(4) *Willful non-compliance.* You willfully violate one or more of the substantive provisions of the Act or any substantive regulation promulgated under the Act or any substantive provision of your Participation Agreement.

(5) *Repeated Events of Default.* At any time after being notified by SBA of the occurrence of an event of default under paragraph (f) of this section, you engage in similar behavior that results in another occurrence of the same event of default.

(6) *Transfer of Control.* You willfully violate § 108.410, and as a result of such violation you undergo a transfer of Control.

(7) *Non-cooperation under paragraph (h) of this section.* You fail to take appropriate steps, satisfactory to SBA, to accomplish any action SBA may have required under paragraph (h) of this section.

(8) *Non-notification of Events of Default.* You fail to notify SBA as soon as you know or reasonably should have known that any event of default exists under this section.

(9) *Non-notification of defaults to others.* You fail to notify SBA in writing within ten days from the date of a declaration of an event of default or nonperformance under any note, debenture or indebtedness of yours, issued to or held by anyone other than SBA.

(e) *SBA remedies for events of default with notice.* Upon written notice to you of the occurrence (as determined by SBA) of one or more of the events in paragraph (d) of this section:

(1) SBA may declare the entire indebtedness evidenced by your Debentures, including accrued interest. and/or any other amounts owed SBA with respect to your Debentures, immediately due and payable; and

(2) SBA may avail itself of any remedy available under the Act, specifically including institution of proceedings for the appointment of SBA or its designee as your receiver under section 363 (c) of the Act.

(f) *Events of default with opportunity to cure.* For any occurrence (as determined by SBA) of one or more of the events in this paragraph (f), SBA may avail itself of one or more of the remedies in paragraph (g) of this section.

(1) *Excessive Management Expenses.* Without the prior written consent of SBA, you incur Management Expenses in excess of those permitted under §§ 108.510 and 108.520.

(2) *Improper Distributions.* You make any Distribution to your shareholders or partners, except with the prior written consent of SBA, other than:

(i) Distributions permitted under § 108.585; and

(ii) Payments from Retained Earnings Available for Distribution based on either the shareholders' or members' pro-rata interests or the provisions for profit distributions in your partnership agreement, as appropriate.

(3) *Failure to make payment.* Unless otherwise approved by SBA, you fail to make timely payment of any amount due under any security or obligation of yours that is issued to, held or guaranteed by SBA.

(4) *Failure to maintain Regulatory Capital.* You fail to maintain the minimum Regulatory Capital required under these regulations or, without the prior written consent of SBA, you reduce your Regulatory Capital except as permitted by § 108.585.

(5) *Capital Impairment.* You have a condition of Capital Impairment as determined under § 108.1830.

(6) *Cross-default.* An obligation of yours that is greater than $100,000 becomes due or payable (with or without notice) before its stated maturity date, for any reason including your failure to pay any amount when due. This provision does not apply if you pay the amount due within any applicable grace period or contest the payment of the obligation in good faith by appropriate proceedings.

(7) *Nonperformance.* You violate or fail to perform one or more of the terms and conditions of any security or obligation of yours that is issued to, held or guaranteed by SBA, or of any agreement (including your Participation Agreement) with or conditions imposed by SBA in its administration of the Act and the regulations promulgated under the Act.

(8) *Noncompliance.* Except as otherwise provided in paragraph (d) (5) of this section, SBA determines that you have violated one or more of the substantive provisions of the Act or any substantive regulation promulgated under the Act.

(9) *Failure to maintain diversity.* You fail to maintain diversity between management and ownership as required by § 108.150.

(g) *SBA remedies for events of default with opportunity to cure.* (1) Upon written notice to you of the occurrence (as determined by SBA) of one or more of the events of default in paragraph (f) of this section, and subject to the conditions in paragraph (g)(2) of this section:

(i) SBA may declare the entire indebtedness evidenced by your Debentures, including accrued interest, and/ or any other amounts owed SBA with respect to your Debentures, immediately due and payable; and

(ii) SBA may avail itself of any remedy available under the Act, specifically including institution of proceedings for the appointment of SBA or its designee as your receiver under section 363(c) of the Act.

(2) SBA may invoke the remedies in paragraph (g)(l) of this section only if:

(i) It has given you at least 15 days to cure the default(s); and

(ii) You fail to cure the default(s) to SBA's satisfaction within the allotted time.

(h) *Repeated non-substantive violations.* If you repeatedly fail to comply with one or more of the non-substantive provisions of the Act or any non-substantive regulation promulgated under the Act, SBA, after written notification to you and until you cure such condition to SBA's satisfaction, may deny you additional Leverage and/ or require you to take such actions as SBA may determine to be appropriate under the circumstances.

(i) *Consent to removal of officers, directors, of general partners and/or appointment of receiver.* The Articles of each NMVC Company must include the following provisions as a condition to the purchase or guarantee by SBA of Leverage. Upon the occurrence of any of the events specified in paragraphs (d)(1) through (d)(6) or (f)(1) through (f)(3) of this section as determined by SBA, SBA shall have the right, and you consent to SBA's exercise of such right:

(1) With respect to a Corporate NMVC Company, upon written notice, to require you to replace, with individuals approved by SBA, one or more of your officers and/or such number of directors of your board of directors as is sufficient to constitute a majority of such board; or

(2) With respect to a Partnership NMVC Company or an LLC NMVC Company, upon written notice, to require you to remove the person(s) responsible for such occurrence and/or to remove the general partner or manager of the NMVC Company, which general partner or manager shall then be replaced in accordance with NMVC Company's Articles by a new general partner or manager approved by SBA; and/or

(3) With respect to a Corporate or Partnership or LLC NMVC Company, to obtain the appointment of SBA or its designee as your receiver under section 363(c) of the Act for the purpose of continuing your operations. The appointment of a receiver to liquidate a NMVC Company is not within such consent, but is governed instead by the relevant provisions of the Act.

Computation of NMVC Company's Capital Impairment

§ 108.1830 NMVC Company's Capital Impairment definition and general requirements.

(a) *Significance of Capital Impairment condition.* If you have a condition of Capital Impairment, you are not in compliance with the terms of your Leverage. As a result, SBA has the right to impose the applicable remedies for noncompliance in § 108.1810(g).

(b) *Definition of Capital Impairment condition.* You have a condition of Capital Impairment if your Capital Impairment Percentage, as computed in § 108.1840, exceeds 70 percent.

(c) *Quarterly computation requirement and procedure.* You must determine whether you have a condition of Capital Impairment as of the end of each fiscal quarter. You must notify SBA promptly if you are capitally impaired.

(d) *SBA's right to determine NMVC Company's Capital Impairment condition.* SBA may make its own determination of your Capital Impairment condition at any time.

§ 108.1840 Computation of NMVC Company's Capital Impairment Percentage.

(a) *General.* This section contains the procedures you must use to determine your Capital Impairment Percentage. You must compare your Capital Impairment Percentage to the maximum permitted under § 108.1830(b) to determine whether you have a condition of Capital Impairment.

(b) *Preliminary impairment test.* If you satisfy the preliminary impairment test, your Capital Impairment Percentage is zero and you do not have to perform any more procedures in this section. Otherwise, you must continue with paragraph (c) of this section. You satisfy the test if the following amounts are both zero or greater:

(1) The sum of Undistributed Net Realized Earnings, as reported on SBA Form 468, and Includible Non-Cash Gains.

(2) Unrealized Gain (Loss) on Securities Held.

(c) *How to compute your Capital Impairment Percentage.* (1) If you have an Unrealized Gain on Securities Held, compute your Adjusted Unrealized Gain using paragraph (d) of this section. If you have an Unrealized Loss on Securities Held, continue with paragraph (c)(2) of this section.

(2) Add together your Undistributed Net Realized Earnings, your Includible Non-cash Gains, and either your Unrealized Loss on Securities Held or your Adjusted Unrealized Gain.

(3) If the sum in paragraph (c)(2) of this section is zero or greater, your Capital Impairment Percentage is zero.

(4) If the sum in paragraph (c)(2) of this section is less than zero, drop the negative sign, divide by your Regulatory Capital (excluding Treasury Stock), and multiply by 100. The result is your Capital Impairment Percentage.

(d) *How to compute your Adjusted Unrealized Gain.* (1) Subtract Unrealized Depreciation from Unrealized Appreciation. This is your "Net Appreciation".

(2) Determine your Unrealized Appreciation on Publicly Traded and Marketable securities. This is your "Class I Appreciation".

(3) Determine your Unrealized Appreciation on securities that are not Publicly Traded and Marketable and meet the following criteria, which must be substantiated to the satisfaction of SBA (this is your "Class 2 Appreciation"):

(i) The Small Business that issued the security received a significant subsequent equity financing by an investor whose objectives were not primarily strategic and at a price that conclusively supports the Unrealized Appreciation;

(ii) Such financing represents a substantial investment in the form of an arm's length transaction by a sophisticated new investor in the issuer's securities; and

(iii) Such financing occurred within 24 months of the date of the Capital Impairment computation, or the Small Business' pre-tax cash flow from operations for its most recent fiscal year was at least 10 percent of the Small Business' average contributed capital for such fiscal year.

(4) Perform the appropriate computation from the table in § 107.1840(d)(4) of this chapter.

(5) Reduce the gain computed in paragraph (d) (4) of this section by your estimate of related future income tax expense. Subject to any adjustment required by paragraph (d)(6) of this section, the result is your Adjusted Unrealized Gain for use in paragraph (c)(2) of this section.

(6) If any securities that are the source of either Class 1 or Class 2 Appreciation are pledged or encumbered in any way, you must reduce the Adjusted Unrealized Gain computed in paragraph (d)(5) of this section by the amount of the related borrowing or other obligation, up to the amount of the Unrealized Appreciation on the securities.

Subpart L—Ending Operations as a NMVC Company

§ 108.1900 Termination of participation as a NMVC Company.

You may not terminate your participation as a NMVC Company without SBA's prior written approval. Your request for approval must be accompanied by an offer of immediate repayment of all of your outstanding Leverage (including any prepayment penalties thereon), or by a plan satisfactory to SBA for the orderly liquidation of the NMVC Company.

Subpart M—Miscellaneous

§ 108.1910 Non-waiver of SBA's rights or terms of Leverage security.

SBA's failure to exercise or delay in exercising any right or remedy under the Act or the regulations in this part does not constitute a waiver of such right or remedy. SBA's failure to require you to perform any term or provision of your Leverage does not affect SBA's right to enforce such term or provision. Similarly, SBA's waiver of, or failure to enforce, any term or provision of your Leverage or of any event or condition set forth in § 108.1810 does not constitute a waiver of any succeeding breach of such term or provision or condition.

§ 108.1920 NMVC Company's application for exemption from a regulation in this part 108.

(a) *General.* You may file an application in writing with SBA to have a proposed action exempted from any procedural or substantive requirement, restriction, or prohibition to which it is subject under this part, unless the provision is mandated by the Act. SBA may grant an exemption for such applicant, conditionally or unconditionally, provided the exemption would not be contrary to the purposes of the Act.

(b) *Contents of application.* Your application must be accompanied by supporting evidence that demonstrates to SBA's satisfaction that:

(1) The proposed action is fair and equitable; and

(2) The exemption requested is reasonably calculated to advance the best interests of the NMVC program in a manner consistent with the policy objectives of the Act and the regulations in this part.

§ 108.1930 Effect of changes in this part 108 on transactions previously consummated.

The legality of a transaction covered by the regulations in this part is governed by the regulations in this part in effect at the time the transaction was consummated, regardless of later changes. Nothing in this part bars SBA enforcement action with respect to any transaction consummated in violation of provisions applicable at the time, but no longer in effect.

§ 108.1940 Procedures for designation of additional Low-Income Geographic Areas

(a) *General.* On its own initiative or upon written request by a Person which addresses the relevant factor(s) set forth in paragraph (b) of this section, SBA may consider whether to designate additional census tracts (or equivalent county divisions) as LI Areas.

(b) *Criteria.* SBA will consider one or more of the following factors in determining whether to designate a particular census tract (or equivalent county division) as an additional LI Area:

(1) A substantial number of Low-Income Individuals reside in that census tract (or equivalent county division).

(2) As adequately supported by studies or other analyses or reliable data, that census tract (or equivalent county division) has a pattern of unmet needs for investment capital.

(3) As adequately supported by studies or other analyses or reliable data, that census tract (or equivalent county division) has indications of economic distress.

(c) *Procedure for designation.* (1) If SBA decides to consider the designation of an additional LI Area, SBA will publish in the **Federal Register** a notice that it is considering such designation. SBA will advise the public that it will consider any comments supporting or opposing the designation, submitted within a specified time period.

(2) In making a final decision on whether to designate a particular census tract (or equivalent county division) as an additional LI Area, SBA will consider evidence submitted by any requester, SBA's own research, any public comments submitted, and any other information deemed relevant by SBA.

(3) If SBA designates a particular census tract (or equivalent county division) as an additional LI Area, SBA will publish a notice in the **Federal Register** and, if appropriate, will amend this part to include the additional LI Area.

Subpart N—Requirements and Procedures for Operational Assistance Grants to NMVC Companies and SSBICs

§ 108.2000 Operational Assistance Grants to NMVC Companies and SSBICs.

(a) *NMVC Companies.* Regulations governing Operational Assistance grants to NMVC Companies may be found in subparts D and E of this part.

(b) *SSBICs.* (1) *Notice of Funds Availability ("NOFA").* SBA will publish a NOFA in the **Federal Register**, advising SSBICs of the availability of funds for Operational Assistance grants to SSBICs. This NOFA will be the same as the NOFA described in § 108.300(a), or will be published simultaneously with that NOFA. An SSBIC may submit an application for an Operational Assistance grant only during the time period specified for such purpose in the NOFA.

(2) *Eligibility.* An SSBIC is eligible to apply for an Operational Assistance grant if:

(i) It intends to increase its Regulatory Capital, as in effect on December 21, 2000, and to make Developmental Venture Capital investments in the amount of such increase;

(ii) It intends to raise binding commitments for contributions in cash or in-kind, and/or to purchase an annuity, in an amount not less than 30 percent of the intended increase in its Regulatory Capital described in paragraph (b)(2)(i) of this section; and

(iii) It has a plan describing how it intends to use the requested grant funds to provide Operational Assistance to Smaller Enterprises in which it has made or expects to make Developmental Venture Capital investments.

(3) *Application requirements.* (i) *How to apply.* An SSBIC must apply for an Operational Assistance grant using the application packet provided by SBA. Upon receipt of an application, SBA may request clarifying or technical information on the materials submitted as part of the application.

(ii) *Grant issuance fee.* An SSBIC must pay to SBA a grant issuance fee of $5,000. An SSBIC must submit this fee in advance, at the time of application submission. If SBA does not award a grant to the SSBIC, SBA will refund this fee to the SSBIC.

(4) *Contents of Application.* Each application must contain the information specified in the application packet provided by SBA, including the following information:

(i) *Amounts.* An SSBIC must specify the amount of Operational Assistance grant funds it seeks from SBA and the amount of Regulatory Capital it intends to raise after December 21, 2000.

(ii) *Plan.* An SSBIC must submit a plan addressing the following issues:

(A) *Plan for providing Operational Assistance.* The SSBIC must describe how it plans to use its grant funds to provide Operational Assistance to Smaller Enterprises in which it will make Developmental Venture Capital investments. Its plan must address the types of Operational Assistance it proposes to provide, and how it plans to provide the Operational Assistance through the use of licensed professionals, when necessary, either from its own staff or from outside entities.

(B) *Matching resources for Operational Assistance grant.* The SSBIC must include a detailed description of how it plans to obtain binding commitments for contributions in cash or in-kind, and/or to purchase an annuity, to match the funds requested from SBA for the SSBIC's Operational Assistance grant. If it proposes to obtain commitments for cash or in-kind contributions, it also must estimate the ratio of cash to in-kind contributions (in no event may in-kind contributions exceed 50 percent of the total contributions). The SSBIC must discuss its potential sources of matching resources, the estimated timing on raising such match, and the extent of the expressions of interest to commit such match to the SSBIC.

(C) *Projected amount of investment in LI Areas.* The SSBIC must describe the amount of Developmental Venture Capital investments it intends to make.

(D) *Track record of management team in obtaining public policy results through investments.* The SSBIC must provide information concerning the past track record of the SSBIC in making investments that have had a demonstrable impact on the socially or economically disadvantaged businesses targeted by the SSBIC program (for example, new businesses created, jobs created, or wealth created). Such information might include case studies or examples of the SSBIC's successful Financings.

(E) *Market analysis.* The SSBIC must provide an analysis of the LI Areas in which it intends to makes its Developmental Venture Capital investments and provide its Operational Assistance to Smaller Enterprises, demonstrating that the SSBIC understands the market and the unmet capital needs in such areas and how its activities will meet these unmet capital needs through Developmental Venture Capital investments and have a positive economic impact on those areas. The analysis must include a description of the extent of the economic distress in the identified LI Areas. The SSBIC also must analyze the extent of the demand in such areas for Developmental Venture Capital investments and any factors or trends that may affect the SSBIC's ability to make effective Developmental Venture Capital investments.

(F) *Regulatory Capital.* The SSBIC must include a detailed description of how it plans to raise its Regulatory Capital. The SSBIC must discuss its potential sources of Regulatory Capital, the estimated timing on raising such funds, and the extent of the expressions of interest to commit such funds to the SSBIC.

(G) *Projected impact.* The SSBIC must describe the criteria and economic measurements to be used to evaluate whether and to what extent it has met the objectives of the NMVC program. It must include:

(*1*) An estimate of the social, economic, and community development benefits to be created within identified LI Areas over the next five years or more as a result of its activities;

(*2*) A description of the criteria to be used to measure the benefits created as a result of its activities;

(*3*) A discussion about the amount of such benefits created that it will consider to constitute successfully meeting the objectives of the NMVC program.

(5) *Evaluation and selection.* SBA's evaluation and selection process is intended to ensure that SSBIC requests are evaluated on a competitive basis and in a fair and consistent manner. SBA will evaluate and select SSBICs for an Operational Assistance grant award solely at SBA's discretion, by considering the following criteria:

(i) The strength of the SSBIC's application, including the strength of its proposal to provide Operational Assistance to Smaller Enterprises in which it intends to invest;

(ii) The SSBIC's regulatory compliance status and past track record in being able to accomplish program goals through its investment activity;

(iii) The likelihood that and the time frame within which the SSBIC will be able to raise the Regulatory Capital it intends to raise and obtain the matching resources described in paragraph (b)(4)(ii)(B) of this section;

(iv) The need for Developmental Venture Capital investments in the LI Areas in which the SSBIC intends to invest;

(v) The SSBIC's demonstrated understanding of the markets in the LI Areas in which it intends to invest;

(vi) The extent to which the activities proposed by the SSBIC will promote economic development and the creation of wealth and job opportunities in the LI Areas in which it intends to invest and among individuals living in LI Areas;

(vii) The likelihood that the SSBIC will fulfill the goals described in its

application and meet the objectives of the NMVC program; and

(viii) The strength of the SSBIC's application compared to applications submitted by other SSBICs intending to invest in the same or proximate LI Areas.

(6) *Grant award.* An SSBIC selected for an Operational Assistance grant award will receive a grant award only if it increases its Regulatory Capital and raises the amount of matching resources set forth in its application, pursuant to paragraph (b)(4)(i) of this section, which must be at least the amount required in § 108.2030(d)(2), by a date established by SBA.

§ 108.2010 Restrictions on use of Operational Assistance grant funds.

(a) *Restrictions applicable only to SSBICs.* An SSBIC that receives an Operational Assistance grant must use both grant funds awarded by SBA and its matching resources only to provide Operational Assistance in connection with a Low-Income Investment made by the SSBIC with Regulatory Capital raised after December 21, 2000.

(b) *Restrictions applicable to NMVC Companies and SSBICs.* A NMVC Company or a SSBIC that receives an Operational Assistance grant must not use either grant funds awarded by SBA or its matching resources for "general and administrative expense," as defined in the Federal Acquisition Regulations, "Contract Cost Principles and Procedures," 48 CFR 31.001.

§ 108.2020 Amount of Operational Assistance grant.

(a) *Amount of grant to NMVC Company.* NMVC Companies are eligible for an Operational Assistance grant award equal to the amount of matching resources raised by the NMVC Company in accordance with §§ 108.380(a)(1)(i)(B) and 108.2030.

(b) *Amount of grant to SSBIC.* SSBICs are eligible for an Operational Assistance grant award equal to the amount of matching resources raised by the SSBIC in accordance with §§ 108.2000 and 108.2030.

(c) *Pro rata reductions.* In the event that the total amount of funds available to SBA for purposes of making Operational Assistance grant awards to NMVC Companies and SSBICs is not sufficient to award grants in the amounts described in paragraphs (a) and (b) of this section, SBA will make pro rata reductions in the amounts otherwise awarded to each such NMVC Company and SSBIC.

§ 108.2030 Matching requirements.

(a) *General.* All Operational Assistance grant funds SBA awards to an NMVC Company or a SSBIC must be matched on a dollar for dollar basis with funds or other resources raised by the NMVC Company or SSBIC.

(b) *Allowable sources.* (1) Any source other than SBA is an allowable source of matching resources for an Operational Assistance grant award.

(2) Neither a NMVC Company nor a SSBIC may use funds or other resources that it has used to satisfy a legal requirement for obtaining funds under any other Federal program, to satisfy the matching resources requirements described in this part.

(3) A portion of Private Capital may be designated as matching resources if the designated funds are used to purchase an annuity pursuant to paragraph (c)(2)(iv) of this section or are otherwise segregated in a manner acceptable to SBA.

(c) *Type and form of matching resources.* (1) Matching resources may come from cash contributions or in-kind contributions. In-kind contributions cannot exceed 50 percent of the total amount of match raised by the NMVC Company or SSBIC.

(2) Matching resources may be in the form of:

(i) Cash;

(ii) In-kind contributions;

(iii) Binding commitments for cash or in-kind contributions that may be payable over a multiyear period acceptable to SBA (but not to exceed five years); and/or

(iv) An annuity, purchased with funds other than Regulatory Capital, from an insurance company acceptable to SBA and that may be payable over a multiyear period acceptable to SBA (but not to exceed five years).

(d) *Amount of matching resources.*

(1) *NMVC Companies.* The amount of matching resources required of an NMVC Company is set forth in § 108.380(a)(1)(i)(B).

(2) *SSBICs.* The amount of matching resources required of an SSBIC is 30 percent of the increase in its Regulatory Capital since December 21, 2000, as set forth in its application pursuant to § 108.2000(b)(4)(i), with which it has made or will make Low-Income Investments.

§ 108.2040 Reporting and recordkeeping requirements.

(a) *NMVC Companies.* Policies governing reporting, record retention, and recordkeeping requirements applicable to NMVC Companies may be found in subpart H of this part.

(b) *SSBICs.* An SSBIC receiving an Operational Assistance grant award must comply with all reporting, record retention and recordkeeping requirements set forth in Circular A–110 of the Office of Management and Budget and any grant award document executed between SBA and the SSBIC, as well as the reporting requirements in § 108.630(f) and the filing requirement in § 108.640.

Dated: May 8, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–12501 Filed 5–22–01; 8:45 am]

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Federal Register

Wednesday,
May 23, 2001

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Abandoned Mine Land (AML) Fee Collection and Coal Production Reporting on the OSM–1 Form; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

RIN 1029–AB95

Abandoned Mine Land (AML) Fee Collection and Coal Production Reporting on the OSM–1 Form

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (we or OSM) is revising its regulations governing Abandoned Mine Land (AML) reclamation fee reporting to allow for the electronic filing of the information required on the OSM–1 Form.

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Spillane, Office of Surface Mining Reclamation and Enforcement, Denver Federal Center, Building 20, Room B–2005, Denver, Colorado 80225; Telephone 303–236–0330, Ext 278. E-mail: sspillan@osmre.gov. Additional information concerning OSM and related documents may be found on OSM's Internet home page at *www.osmre.gov* under Financial Management.

SUPPLEMENTARY INFORMATION:

I. Background Information.
II. How Does This Final Rule Change Reporting Requirements?
III. Procedural Matters and Certifications.

I. Background Information

Why Are We Publishing This Rule?

On October 21, 1998, the Government Paperwork Elimination Act (GPEA), Pub. L. 105–277, Title XVII, was signed into law. GPEA requires agencies, by October 21, 2003, to provide for (1) the option of electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and (2) the use and acceptance of electronic signatures, when practicable. GPEA § 1707 specifies that "[e]lectronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form."

In compliance with GPEA, we published a proposed rule on February 15, 2000 (65 FR 7706), which would allow a coal operator (or the entity reporting for the operator) the option of electronically filing information required by OSM's Abandoned Mine Land (AML) Reclamation Program.

What Is the AML Reclamation Program?

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Abandoned Mine Reclamation Fund (fund) in response to concern over extensive environmental damage caused by past coal mining activities. Money from the fund is used to reclaim abandoned and inadequately reclaimed mining areas where there is no continuing reclamation responsibility by any person under state or federal law. The fund is financed by a reclamation fee assessed on every ton of coal produced at the rate of 35 cents per ton of surface mined coal, 15 cents per ton of underground mined coal, and 10 cents per ton for lignite. The reclamation fee must be paid to OSM once every calendar quarter.

The authority to collect the reclamation fee at the above rate is due to expire in 2004. After that date, the fee will be established and collected at a rate sufficient to allow the Secretary to transfer from the fund to the United Mine Workers of America Combined Benefit Fund the sum necessary to fulfill the responsibilities under section 402(h) of SMCRA.

OSM administers the AML program and fund. Reclamation is accomplished through grants to approved state and tribal AML reclamation programs. These AML reclamation programs are implemented through regulations in 30 CFR subchapter R and through implementing guidelines published in the **Federal Register** on March 6, 1980 (45 FR 27123), and revised on December 30, 1996 (45 FR 68777). Currently, 23 states and 3 Indian tribes have approved AML reclamation programs.

How Is the AML Fee Reported Under the Current Regulations?

Sections 402(a) and (b) of SMCRA, 30 U.S.C. 1232(a) and (b), require companies to pay a reclamation fee on coal production no later than 30 days after the end of each calendar quarter. SMCRA and the implementing regulations also require all operators of coal mining operations to submit a statement identifying:

(1) The permittee;
(2) The operator in addition to the permittee;
(3) The owner of the coal;
(4) The person purchasing the coal;
(5) The amount of coal sold, used, or transferred during the calendar quarter;
(6) The type of coal;
(7) The method of coal removal;
(8) The preparation plant, tipple, or loading point for the coal;
(9) The permit number required under section 506 of SMCRA; and
(10) The Mine Safety and Health Administration identification number.

Each quarterly report must also contain a notification of any changes in the information required by section 402(c) of SMCRA since the date of the preceding quarterly report. The accuracy of the report must be sworn to by the operator and notarized. The operator is responsible for the information provided and subject to the sanctions provided for in section 402(d)(1) of SMCRA. See 30 U.S.C. 1232(c) and 30 CFR 870.15.

What Options Were Considered for Electronic Filing?

The proposed rule published on February 15, 2000, contained rule language which would have revised our regulations to allow a coal operator (or the entity reporting for the operator) the option of filing the OSM–1 Form electronically. Because of the notary requirement in section 402(c) of SMCRA, the proposed rule also required the operator to print out and maintain on file, a properly notarized paper copy of the OSM–1 Form for review by OSM's Fee Compliance auditors.

In order to further simplify the process and to make it easier for the operator to store records electronically, we reopened the comment period on January 22, 2001 (66 FR 6511) and presented additional options for consideration. In the reopening notice, we asked for comments on an option which would allow the operator to electronically submit the OSM–1 Form and include a statement made under penalty of perjury that the information contained in the form is true and correct. The statement would not have to be notarized but it would have to be electronically signed, dated, and transmitted to OSM as part of the OSM–1 Form.

In the reopening notice, we also solicited comments on whether we should issue a final rule which would provide the operator with two alternative electronic filing methods in addition to the existing paper process. The electronic filing methods would be the one contained in the proposed rule which requires the operator to maintain on file a properly notarized paper copy of the OSM–1 Form submitted electronically, or in the alternative, the electronic filing method contained in the reopening notice which requires the operator to submit an electronically signed and dated statement made under penalty of perjury.

II. How Does This Final Rule Change Reporting Requirements?

No comments were received on either the proposed rule or on the reopening notice. Therefore, based on the options contained in the proposed rule and in the reopening notice, we are adopting a final rule which will allow the operator to: (1) Submit a properly notarized paper copy of the OSM–1 Form as is currently authorized by regulation, (2) submit the OSM–1 Form electronically while maintaining a properly notarized paper copy of the identical form, or (3) submit the OSM–1 Form electronically with an electronically signed and dated statement made under penalty of perjury that the information contained in the form is true and correct.

How Will the Electronic Submission Process Work?

Under current procedures, when the OSM–1 Form is mailed to a respondent, the majority of the information on the OSM–1 Form (i.e., company name, address, contact person, telephone number, permit number, MSHA ID, etc.) is already pre-printed on the OSM–1 before it is mailed to the respondent, thus reducing the time to complete the form. We have developed a computer-based electronic form that also contains the same information.

The computer-based electronic form may be accessed at the OSM website *www.osmre.gov/finance.htm*. Companies can log in and complete the OSM–1 Form on-line. Access to the website will be controlled by User ID and password which will be used as the method of electronic signature. When initially accessing the website, companies can down-load encryption software which is free. The data which is encrypted can be read only by the company and OSM and the data submitted by the company cannot be changed by unauthorized persons. A file transfer protocol (FTP) version of the electronic OSM–1 Form allows companies with a large number of reporting permits to automate their filing process by transferring their data report files directly from their computer to OSM. The FTP process uses a form of electronic signature called a Public Key Infrastructure (PKI). PKI is a system for encrypting, decrypting, signing and verifying the data transferred electronically. With PKI, the company (user) can obtain a free download of the software for a private signing key. With this key, the user creates a digital signature on an electronic file or encrypts the data. OSM, as the recipient of the file, employs the public key to validate the signature made with the private key or decrypts the data. The two keys are mathematically linked and form a unique pair. Only the public key can validate the signature made with the associated private key(s). This process also verifies that the file has not been altered since its encryption. The companies that use FTP will also need a user identification and password which can be obtained from the OSM website at *www.osmre.gov/finance.htm*. This will enable them to print their OSM–1 report from the website after their data is transferred.

Section 870.17(b)—Partial Electronic Transmission

Under § 870.17(b), the operator (or entity reporting for the operator) only needs to access the electronic version of the OSM–1 Form, update changes, add missing information, and send it back to OSM. However, because of the notary requirement in section 402(c) of SMCRA, this method of filing also requires the operator to print out and maintain on file, a properly notarized paper copy of the identical OSM–1 Form for review by OSM's Fee Compliance auditors.

We had hoped to implement a system by which the operator could electronically transmit the OSM–1 Form as described above, and also electronically sign and notarize it prior to sending it to OSM. This would have eliminated the need to print out and maintain a properly notarized paper copy of the form. We determined, however, that while electronic notarization is legal, the majority of states have not enacted laws governing its use, and the infrastructure required to electronically notarize and transmit a document is not readily available nationwide. As the means to electronically notarize a document become readily available, we will review our regulations and process to determine whether there is a need to modify our system to accept electronic notarization.

Section 870.17(c)—Complete Electronic Transmission

Under § 870.17(c), the operator (or entity reporting for the operator) can electronically submit the OSM–1 Form and include a statement made under penalty of perjury that the information contained in the OSM–1 Form is true and correct. The statement does *not* have to be notarized but it does have to be electronically signed, dated, and transmitted to OSM as part of the OSM–1 Form.

The authority for filing the form without notarization is found in 28 U.S.C. 1746. Section 1746 provides in part:

> Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:
>
> * * * * *
>
> (2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".

It was the intent of Congress in enacting the provisions of 28 U.S.C. 1746 to spare people the cost and inconvenience of notarizing a document. Its use in conjunction with the electronic filing of the OSM–1 Form allows us to further simplify the filing process for the operator. It also makes it possible for the operator to store records electronically since it is no longer necessary, as in the other two methods, to maintain on file, a properly notarized paper copy of the OSM–1 Form. Under GPEA § 1707, an electronic record of the OSM–1 Form with the unsworn statement made under penalty of perjury is sufficient.

When Can I Start To File the OSM–1 Form Electronically?

This rule is effective on June 22, 2001. We will accept electronic filings of the OSM–1 form after that date.

III. Procedural Matters and Certifications

1. Executive Order 12866—Regulatory Planning and Review

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

a. This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

Approximately 1,021 respondents submit the OSM–1 Form covering more than 3,900 permits 4 times a year. The

proposed rule will give respondents the option of submitting the reports electronically. Because electronic filing under the proposed rule is optional and because the requirement to file the information already exists, any increase in costs that may result is expected to be negligible.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule merely provides the option of transmitting the required information electronically.

c. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

d. This rule does not raise novel legal or policy issues.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the findings that the additions to the rule will not significantly change costs to industry and will not affect state or local governments. Furthermore, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets. Use of the electronic filing method for the OSM–1 Form is an option available to industry and it may reduce the cost of reporting.

3. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more for the reasons stated above.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions because the rule does not impose new requirements on the coal mining industry or consumers.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises for the reason stated above.

4. Unfunded Mandates

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) is not required.

5. Executive Order 12630—Takings

In accordance with Executive Order 12630, the rule does not have takings implications. This determination is based on the fact that the rule will not have an impact on the use or value of private property and so, does not result in significant costs to the government.

6. Executive Order 13132—Federalism

This rule does not have Federalism implications. It will not have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government." As previously stated, the rule will provide coal operators with the option of electronically filing reports which they are currently required to file in paper form with OSM. States are not involved in the process.

7. Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

The information collection authority for this rulemaking has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0063.

9. National Environmental Policy Act

OSM has reviewed this rule and determined that it is categorically excluded from the National Environmental Policy Act process in accordance with the Departmental Manual 516 DM 2, Appendix 1.10.

List of Subjects in 30 CFR Part 870

Incorporation by reference, Reporting and record keeping requirements, Surface mining, Underground mining.

Dated: May 16, 2001.

Piet de Witt,

Acting Assistant Secretary for Land and Minerals Management.

For the reasons set forth in the preamble, 30 CFR Part 870 is amended as set forth below.

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING.

1. The authority citation for Part 870 is revised to read as follows:

Authority: 28 U.S.C. 1746, 30 U.S.C. 1201 *et seq.*, and Pub. L. 105–277.

2. Section 870.15 is amended as follows:

a. In paragraph (b), remove the first sentence and add three new sentences in its place; and

b. Revise paragraph (d)(1)(iv) to read as follows:

§ 870.15 Reclamation fee payments.

* * * * *

Each operator must use mine report Form OSM–1 (or any approved successor form) to report the tonnage of coal sold, used, or transferred. The report must also include the name and address of any person or entity who, in a given quarter, is the owner of 10 percent or more of the mineral estate for a given permit, and any entity or individual who, in a given quarter, purchases ten percent or more of the production from a given permit during the applicable quarter. The operator can file a report under this section either in paper format or in electronic format as specified in § 870.17. * * *

* * * * *

(d) * * *

(1) * * *

(iv) Use OSM's approved form or approved electronic form to report coal tonnage sold, used, or for which ownership was transferred, to the address indicated in the Instructions for Completing the OSM–1 Form.

* * * * *

3. Section 870.17 is added to read as follows:

§ 870.17 Filing the OSM–1 Form electronically.

You, the operator, may submit a quarterly electronic OSM–1 Form in place of a quarterly paper OSM–1 Form. Submitting the OSM–1 Form electronically is optional. If you submit your form electronically, you must use a methodology and medium approved by OSM, and do one of the following:

(a) Maintain a properly notarized paper copy of the identical OSM–1 Form for review and approval by OSM's Fee Compliance auditors. (This is needed to comply with the notary requirement in the Act.); or

(b) Submit an electronically signed and dated statement made under penalty of perjury that the information contained in the OSM–1 Form is true and correct.

[FR Doc. 01–13057 Filed 5–22–01; 8:45 am]

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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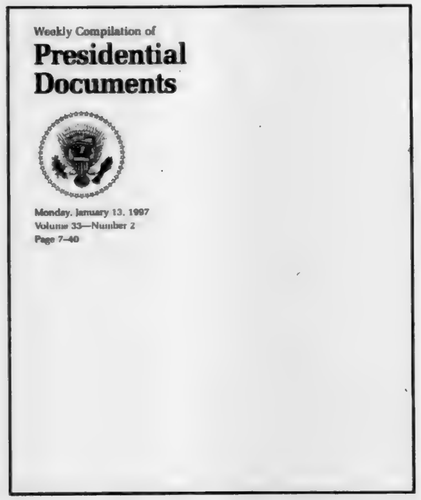

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The President

Proclamation 7442 of May 18, 2001

National Maritime Day, 2001

By the President of the United States of America

A Proclamation

Throughout our history, America's economic prosperity has been closely tied to its maritime geography. From indigenous peoples navigating our majestic rivers to colonists settling along the New World's eastern shores, natives and immigrants alike have relied on the sea and our bountiful inland waterways for commerce and security.

In colonial days and in the 19th century, America's maritime industries facilitated the exchange of goods and the migration of pioneers. During World War II, some 6,000 American seafarers and more than 700 U.S. merchant ships fell to enemy action, many in the infamous Run to Murmansk. No branch of our Armed Forces, save the Marine Corps, suffered a higher casualty rate. Today, our Merchant Marine continues this proud tradition.

As recently as the Persian Gulf War and during humanitarian and military operations since, a unique partnership of Government, industry, and labor has continued its vital maritime service to our Nation. Many civilian merchant mariners crew the Maritime Administration's Ready Reserve Force, which is observing its 25th anniversary.

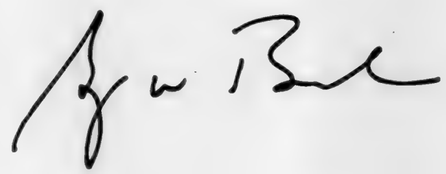
Today, the U.S. maritime fleet has decreased in the number of vessels in the international trades, but it transports goods more efficiently and economically than ever before. These U.S. ships deliver a billion tons of imports and exports each year in our foreign trade and another billion tons of waterborne domestic trade. Many merchant seafarers are trained at outstanding institutions such as the U.S. Merchant Marine Academy at Kings Point, New York, the six State maritime academies, and several union and industry training facilities.

To help ensure continued competitiveness, we must tailor our maritime policy to the challenges of the 21st century. America's Marine Transportation System will help determine our long-term economic health and improve our ability to respond quickly and effectively in crisis. Within the next 2 decades, cargo will double. Accordingly, my Administration is working with Government agencies, the maritime industry, shippers, labor unions, and environmental groups to ensure that our waterways continue to serve as a sound transportation option in the face of ever-growing congestion on highways and rail lines.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by joint resolution approved on May 20, 1933, has designated May 22 of each year as "National Maritime Day" and has authorized and requested that the President issue an annual proclamation calling for its appropriate observance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 22, 2001, as National Maritime Day. I call upon the people of the United States to celebrate this observance and to display the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–13296
Filed 05–23–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
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Thursday, May 24, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG67

List of Approved Spent Fuel Storage Casks: HI-STAR 100 Revision; Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of May 29, 2001, for the direct final rule that appeared in the **Federal Register** of March 13, 2001 (66 FR 14483). This direct final rule amended the NRC's regulations by revising the Holtec International HI-STAR 100 cask system listing within the "List of approved spent fuel storage casks" to include Amendment No. 2 to the Certificate of Compliance (CoC).

DATES: The effective date of May 29, 2001 is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking website (http://ruleforum.llnl.gov). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail, spt@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: On March 13, 2001 (66 FR 14483), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72 to revising the Holtec International HI-STAR 100 cask system listing within the "List of approved spent fuel storage casks" to include Amendment No. 2 to the Certificate of Compliance (CoC). Amendment No. 2 revises the HI-STAR 100 cask system Appendix B of the Technical Specifications (TS), Item 1.4.6, "Specific Parameters and Analysis for the Storage Pad and Foundation" to simplify the language of this specification. The current 60-g limit for cask drop and tipover events in TS Item 1.4.6 would remain unchanged. This document confirms the effective date. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on the date noted above. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 18th day of May 2001.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 01–13145 Filed 5–23–01; 8:45 am]

BILLING CODE 7590–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 613

RIN 3052–AB90

Eligibility and Scope of Financing

AGENCY: Farm Credit Administration.

ACTION: Direct final rule with opportunity to comment.

SUMMARY: The Farm Credit Administration (FCA) through the FCA Board (Board) issues a final rule amending two regulations that govern eligibility and scope of financing for farm-related service businesses and non-farm rural homeowners. The amended rule implements the decision that the United States Court of Appeals for the District of Columbia issued on January 19, 1999. As a result of these amendments, Farm Credit System (FCS or System) banks and associations that extend long-term mortgage credit will be able to finance only necessary capital structures, equipment and initial working capital for eligible farm-related service businesses. Additionally, the revised rule allows System banks and associations to finance only homes that people who live in rural areas own and occupy as their principal residences.

DATES: Unless we receive significant adverse comment on or before June 25, 2001, these regulations shall be effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish notice of the effective date in the **Federal Register**. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision may be addressed separately from the remainder of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not subject of a significant comment. In such a case, we would then tell you how we expect to continue further rulemaking on the provisions that were the subject of significant adverse comment.

ADDRESSES: You may mail or deliver written comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or send them by facsimile transmission to (703) 734–5784. You may also submit comments by electronic mail to *"reg-comm@fca.gov"* or through the Pending Regulations section of our Web site at "www.fca.gov." You may review copies of all comments that we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Robert Donnelly, Senior Accountant, Regulation and Policy Division, Office of Policy Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4450, TDD (703) 883–4444; or Richard A. Katz, Senior Attorney, Regulatory Enforcement Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Background

On January 30, 1997, we adopted new regulations that govern eligibility and scope of financing for FCS customers. *See* 62 FR 4429. These regulations expanded the availability of affordable credit to farmers, ranchers, aquatic producers and harvesters, processing and marketing operators, farm-related businesses, rural homeowners, cooperatives and rural utilities.

Two commercial bank trade associations claimed that five of the six new customer eligibility regulations violated the Farm Credit Act of 1971, as amended (Act), and they filed suit in the United States District Court for the District of Columbia for a declaratory judgment and an injunction against the FCA. The United States District Court ruled that all of the challenged regulations complied with the Act and it granted summary judgment to the FCA. *See Independent Bankers Ass'n of Am.* v. *Farm Credit Admin.*, 986 F. Supp. 633 (D.D.C. 1997).

The plaintiffs appealed, and the Court of Appeals ruled that the regulations, with two exceptions, are consistent with the Act. *See Independent Bankers Ass'n of Am.* v. *Farm Credit Admin.*, 164 F.3d 661 (D.C. Cir., 1999). According to the appellate court's ruling, § 613.3020 did not adequately implement section 1.11(c)(1) of the Act because it did not specifically limit FCS banks and associations that extend long-term mortgage credit to financing necessary capital structures, equipment, and initial working capital for eligible farm-related service businesses. The court also ruled that § 613.3030 is inconsistent with the Act because it allowed System banks and associations to finance rural homes that are not owned and occupied by borrowers who live in rural areas. We amend §§ 613.3020 and 613.3030 so they comply with the Court of Appeals' decision.

II. Farm-Related Service Businesses

The plaintiffs challenged three aspects of our eligibility regulation for farm-related service businesses. They claimed that § 613.3020 violated the Act because it:

- Repealed provisions in the former regulation that required System banks and associations to finance farm-related business that furnish only "custom-type" services[1] to farmers and ranchers.
- Failed to sufficiently restrict lending to businesses that furnished goods, rather than services to farmers and ranchers.
- Did not expressly limit loans by FCS long-term mortgage lenders to necessary capital structures, equipment and initial working capital.

Both the district court and appeals court ruled in the FCA's favor on the first two claims. According to both courts, eligible farm-related service businesses are not required by the Act to furnish only custom-type services to farmers and ranchers. Both courts also upheld § 613.3020(b)(1), which allows System banks and associations to finance eligible businesses that sell goods to farmers and ranchers if they derive more than 50 percent of their income from furnishing these customers farm-related services.

The Court of Appeals, however, ruled that section 1.11(c)(1) of the Act authorizes System mortgage lenders to finance only necessary capital structures, equipment and initial working capital for eligible farm-related service businesses, and that § 613.3020 failed to implement this statutory requirement. *See* 164 F.3d at 667. Accordingly, we add a new paragraph (c) at the end of § 613.3020 so this regulation complies with the appellate court's ruling. As amended, § 613.3020 explicitly states that the authority of System long-term lenders to finance eligible farm-related service businesses is limited to necessary capital structures, equipment, and initial working capital. Consistent with the court's ruling, FCS associations that extend short- and intermediate-term credit to farm-related service businesses under sections 1.10(b) and 2.4(a)(3) of the Act are not subject to the limitation in new § 613.3020(c).

III. Rural Housing

The two commercial bank trade associations also challenged our rural housing regulation, § 613.3030, because it did not require eligible borrowers to occupy rural homes that the System finances. The Court of Appeals ruled that § 613.3030 conflicts with the rural housing provisions of the Act. The court found that sections 1.11(b)(1) and 2.4(a)(2) of the Act restrict eligibility for non-farm rural home loans to rural residents. The court's ruling also stated that the legislative history of the Act supports requiring owner-occupancy of rural homes as a condition for receiving credit from System institutions.

We amend § 613.3030 so it conforms to the appellate court's ruling. A revision to the definition of "rural homeowner" in § 613.3030(a)(1) explicitly requires an eligible rural homeowner to reside in a rural area. Additionally, we modify the definition of "rural home" in § 613.3030(a)(2) so this regulation authorizes System banks and associations to finance only rural homes that each borrower owns and occupies. The revised regulation also retains the requirement that the System will finance only a rural home that is the principal residence of the borrower.

IV. Direct Final Rule

We are amending §§ 613.3020 and 613.3030 by a direct final rulemaking. The Administrative Procedure Act, 5 U.S.C. 551–59, *et seq.* (APA), supports direct final rulemaking, which is a streamlined technique for Federal agencies to enact noncontroversial regulations on an expedited basis, without the usual notice and comment period. This process enables us to reduce the time and resources we need to develop, review, clear, and publish a final rule while still affording the public an adequate opportunity to comment or object to the rule.

In a direct final rulemaking, we notify the public that the rule will become final on a specified future date unless we receive significant adverse comment during the comment period. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision may be addressed separately from the remainder of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not subject of a significant comment. In such a case, we would then tell you how we expect to continue further rulemaking on the provisions that were the subject of significant adverse comment.

A significant adverse comment is one where the commenter explains why the rule would be inappropriate (including challenges to its underlying premise or approach), ineffective, or unacceptable without a change. In general, a significant adverse comment would raise an issue serious enough to warrant a substantive response from the agency in a notice-and-comment proceeding.

Direct final rulemaking is justified under section 553(b)(B) of the APA. Section 553(b)(B) is the APA's "good cause" exemption that allows an agency to omit notice and comment on a rule when it finds "that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." In direct final rulemaking, the agency finds that the rule is sufficiently straightforward and noncontroversial to make normal notice and comment unnecessary under the APA. However, rather than eliminating public comment altogether, which is permissible under section 553(b)(B), the agency gives the public an opportunity to respond to the agency's conclusion that public input on the rule is unnecessary.

We believe that a direct final rulemaking is the appropriate method for amending the eligibility regulations to conform to the Court of Appeals' ruling on farm-related service businesses and rural housing. These two regulations should no longer be controversial because we have addressed the policy issues in an extensive rulemaking that included two comment periods and the Court of Appeals resolved the ensuing legal dispute. This direct final rule brings §§ 613.3020 and 613.3030 into full compliance with the appellate court's ruling. Under the circumstances, we believe that an expedited rulemaking to amend §§ 613.3020 and 613.3030 is in the best interest of the FCS, the borrowers who own System institutions, commercial banks, and rural America.

For these reasons, we do not anticipate significant adverse comment on this direct final eligibility rule. If, however, we receive significant adverse comment during the comment period, we will publish a notice of withdrawal of the relevant provisions of this rule that will also indicate how further rulemaking will proceed. If we receive no significant adverse comment, we will publish our customary notice of the effective date of the rule following the required Congressional waiting period under section 5.17(c)(1) of the Act.

List of Subjects in 12 CFR Part 613

Agriculture, Banks, Banking, Credit, Rural areas.

For the reasons stated in the preamble, part 613 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

1. The authority citation for part 613 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 2.2, 2.4, 2.12, 3.1, 3.7, 3.8, 3.22, 4.18A, 4.25, 4.26, 4.27, 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2073, 2075, 2093, 2122, 2128, 2129, 2143, 2206a, 2211, 2212, 2213, 2243, 2252).

Subpart A—Financing Under Titles I and II of the Farm Credit Act

2. Amend § 613.3020 by adding a new paragraph (c) to read as follows:

§ 613.3020 Financing for farm-related service businesses.

* * * * *

(c) *Limitation.* The authority of Farm Credit banks and associations operating under section 1.7(a) of the Act to finance eligible farm-related service businesses under paragraphs (b)(1) and (b)(2) of this section is limited to necessary capital structures, equipment, and initial working capital.

§ 613.3030 [Amended]

3. Amend § 613.3030 as follows:

a. Add the words "resides in a rural area and" after the word "who" and before the word "is" in paragraph (a)(1); and

b. Remove the words "the occupant's" in paragraph (a)(2) and add in its place the words "owned and occupied as the rural homeowner's".

Dated: May 18, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–13132 Filed 5–23–01; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–85–AD; Amendment 39–12236; AD 2001–10–10]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes. This action requires an inspection of the wiring of the primary and alternate static port heaters for chafing, loose connections, and evidence of arcing, and to determine what type of insulation blanket is installed in the area of the static port heaters; and corrective actions, if necessary. This action is necessary to ensure that insulation blankets constructed of metallized Mylar™ are removed or protected from the area of the static port heater. Such insulation blankets could propagate a small fire that is the result of an electrical short of the static port heater and could lead to a much larger fire and smoke in the cabin. This action is intended to address the identified unsafe condition.

DATES: Effective June 8, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–85–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch; ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident of smoke in the cabin on a McDonnell Douglas Model MD–88 airplane. An investigation discovered

[1] "Custom-type services" are defined as tasks that farmers and ranchers can perform for themselves, but instead hire outside contractors to perform. *See* 62 FR 4429, 4438 (Jan. 30, 1997).

evidence of a fire adjacent to the right-side alternate static port heater. It was discovered that the wiring of the static port heater had shorted, which caused an ignition source for the metallized Mylar™ (i.e., polyethyleneteraphthalate) insulation blanket directly inboard of the heater element. Insulation blankets constructed of metallized Mylar™ in the area of the static port heater, if not corrected, could propagate a small fire that is the result of an electrical short of the static port heater and could lead to a much larger fire and smoke in the cabin.

The static port heater on McDonnell Douglas Model MD–90–30 series airplanes and Model DC–9–81, –82, –83, and –87 series airplanes are identical to those on the affected Model MD–88 airplane. Therefore, all of these models are subject to the same unsafe condition.

Other Related Rulemaking

The FAA is planning to address the identified unsafe condition of McDonnell Douglas Model MD–90–30 series airplanes in a separate rulemaking action.

The FAA, in conjunction with Boeing and operators of McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

The FAA has previously issued AD 2000–11–01, amendment 39–11749 (65 FR 34322, May 26, 2000), that address insulation blankets made from metallized polyethyleneteraphthalate (MPET) on certain McDonnell Douglas Model DC–9–80 and MD–90–30 series airplanes, and Model MD–88 airplanes. However, this AD does NOT terminate or otherwise amend the requirements of AD 2000–11–01.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin MD80–30A092, including Appendix, dated March 14, 2001, which describes procedures for a visual inspection of the wiring of the primary and alternate port heaters for chafing, loose connections, and evidence of arcing, and to determine what type of insulation blanket is installed in the area of the static port heaters; and corrective actions, if necessary. The corrective actions include:

1. Repairing or replacing wiring with new wiring, if necessary; and

2. Replacing any metallized Mylar™ insulation blanket with a metallized Tedlar™ insulation blanket by using the removed blanket as a pattern, or applying a Douglas material specification (DMS) 1984 tape patch to the outboard side of the metallized Mylar™ insulation blanket in the area adjacent to the primary and alternate static ports and reidentifying the modified blankets.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes of the same type design, this AD is being issued to ensure that insulation blankets constructed of metallized Mylar™ are removed or protected from the area of the static port heater. Such insulation blankets could propagate a small fire that is the result of an electrical short of the static port heater and could lead to a much larger fire and smoke in the cabin. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between the Service Bulletin and the AD

Operators should note that, although the referenced service bulletin recommends accomplishing the visual inspection within 6 months (after the issue date of the service bulletin), the FAA has determined that an interval of 6 months would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (2 hours). In light of all of these factors, the FAA finds a 3-month compliance time for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

For cases where a metallized Mylar™ insulation blanket is installed, this AD, unlike the referenced service bulletin, provides two additional options (i.e., Options 3 and 4). Option 3 removes the metallized Mylar™ insulation blanket material by cutting away the metallized film and fiberglass batting, and sealing the trimmed cutout with DMS 1984 tape, so that no fiberglass is exposed. Option 4 replaces the metallized Mylar™ insulation blanket with an insulation blanket that meets the requirements of AD 2000–11–01, or that has been approved by the Manager, Los Angeles Aircraft Certification Office (ACO), as an alternative method of compliance with the requirements of AD 2000–11–01. The FAA finds that these actions would adequately address the identified unsafe condition.

Condition 2 of the Accomplishment Instructions of the referenced service bulletin addresses metallized Tedlar™ insulation blankets that are found installed. Metallized Tedlar™ insulation blankets can be reinstalled on airplanes, because they are not subject to the identified unsafe condition of this AD. The FAA finds that in addition to metallized Tedlar™ insulation blankets, there are other non-metallized Mylar™ insulation blankets that are not subject to the identified unsafe condition of this AD. Therefore, for this AD, we have decided not to use the phrase "metallized Tedlar™ insulation blankets." For these cases, the AD will refer to insulation blankets not constructed of metallized Mylar™.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–85–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–10–10 McDonnell Douglas: Amendment 39–12236. Docket 2001–NM–85–AD.

Applicability: Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in Boeing Alert Service Bulletin MD80–30A092, including Appendix, dated March 14, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that insulation blankets constructed of metallized Mylar™ are removed or protected from the area of the static port heater, which could propagate a small fire that is the result of an electrical short of the static port heater and could lead to a much larger fire and smoke in the cabin, accomplish the following:

Inspection

(a) Within 3 months after the effective date of this AD, do a general visual inspection of the wiring of the primary and alternate port heaters for chafing, loose connections, and evidence of arcing, and to determine what type of insulation blanket is installed in the area of the static port heaters, per Boeing Alert Service Bulletin MD80–30A092, including Appendix, dated March 14, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Note 3: Insulation blankets that are marked with "DMS 2072, Type 2, Class 1, Grade A;" "DMS 2072, Type 2, Class 1;" or "DMS 1996, Type 1;" are constructed of metallized polyethyleneteraphthalate (MPET).

Repair or Replacement for Any Chafing, Loose Connection, or Arcing

(b) If any chafing, loose connection, or arcing is detected during the inspection required by paragraph (a) of this AD, before further flight, repair or replace wiring with new wiring, per Boeing Alert Service Bulletin MD80–30A092, including Appendix, dated March 14, 2001.

No Metallized Mylar™ (i.e., polyethyleneteraphthalate) Insulation Blanket(s) Installed

(c) If the insulation blankets that are installed in the area identified in paragraph (a) of this AD are not constructed of metallized Mylar™, no further action is required by this AD for those blankets.

Metallized Mylar™ (i.e., polyethyleneteraphthalate) Insulation Blanket(s) Installed

(d) If any insulation blanket that is installed in the area identified in paragraph (a) of this AD is constructed of metallized Mylar™, before further flight, do the actions specified in paragraph (d)(1), (d)(2), (d)(3), or (d)(4) of this AD.

(1) Option 1. Replace the metallized Mylar™ insulation blanket with a metallized Tedlar™ insulation blanket by using the removed blanket as a pattern, per Boeing Alert Service Bulletin MD80–30A092, including Appendix, dated March 14, 2001.

(2) Option 2. Apply a Douglas material specification (DMS) 1984 tape patch to the outboard side of the metallized Mylar™ insulation blanket in the area adjacent to the primary and alternate static ports and reidentify the modified blankets, per Boeing Alert Service Bulletin MD80–30A092, including Appendix, dated March 14, 2001.

(3) Option 3. Remove the metallized Mylar™ insulation blanket material by cutting away the metallized film and fiberglass batting to match the blanket patch shown in VIEW A or B of Figure 1 of Boeing Alert Service Bulletin MD80–30A092, including Appendix, dated March 14, 2001. Seal the trimmed cutout with DMS 1984 tape, so that no fiberglass is exposed.

(4) Option 4. Replace the metallized Mylar™ insulation blanket with an insulation blanket that meets the requirements of AD 2000–11–01, amendment

39–11749, or that has been approved by the Manager, Los Angeles Aircraft Certification Office (ACO), as an alternative method of compliance with the requirements of AD 2000–11–01.

Note 4: Accomplishment of the action(s) required by paragraphs (d)(2) or (d)(3) of this AD does NOT terminate or otherwise amend the requirements of AD 2000–11–01. Operators are still required, within 5 years after June 30, 2000 (the effective date of AD 2000–11–01), to replace insulation blankets made from metallized polyethyleneteraphthalate (MPET) with new insulation blankets per AD 2000–11–01.

Compliance with Requirements of AD 2000–11–01

(e) Accomplishment of the replacement required by paragraph (d)(1) or (d)(4) of this AD is acceptable for compliance with AD 2000–11–01 for the replaced blanket only.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) Except as provided by paragraphs (d)(3) and (d)(4) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin MD80–30A092, including Appendix, dated March 14, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on June 8, 2001.

Issued in Renton, Washington, on May 16, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12944 Filed 5–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–116–AD; Amendment 39–12241; AD 2001–10–15]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document adopts a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135 and –145 series airplanes. This action requires a one-time inspection to detect incorrect wiring of electrical connectors to the pressure switches and cartridges on the fire extinguisher bottles for the engines and the auxiliary power unit (APU); disconnection and reconnection of the wiring, as necessary; and adjustment of the length of the harnesses on the fire extinguisher bottles to avoid future misconnections. This action is prompted by the issuance of mandatory continuing airworthiness information issued by a foreign civil airworthiness authority. This action is necessary to prevent the issuance of erroneous commands or the receipt of erroneous information pertaining to the fire extinguisher system for the engines and the APU, which could result in the inability to put out a fire in an engine or in the APU. This action is intended to address the identified unsafe condition.

DATES: Effective June 8, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 2001.

Comments for inclusion in the Rules Docket must be received on or before June 25, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–116–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–116–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or the FAA, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Program Management and Services Branch, ACE–118A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–135 and –145 series airplanes. The DAC advises that electrical connectors to pressure switches and cartridges on the fire extinguisher bottles for the engines and the auxiliary power unit (APU) may have been reversed during production or maintenance. This condition, if not corrected, could result in the issuance of erroneous commands or the receipt of erroneous information pertaining to the fire extinguisher system for the engines and the APU, resulting in the inability to put out a fire in an engine or the APU.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145–26–0009, dated January 26, 2001, which describes procedures for a one-time general visual inspection to detect

incorrect wiring of electrical connectors to the pressure switches and cartridges on the fire extinguisher bottles for the engines and the APU; disconnection and reconnection of the wiring, as necessary; and adjustment of the length of the electrical harnesses on the fire extinguisher bottles to avoid future misconnections. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 2001–04–01, dated April 23, 2001, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

The airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent the issuance of erroneous commands or the receipt of erroneous information pertaining to the fire extinguisher system for the engines and the APU, resulting in the inability to put out a fire in an engine or the APU. This AD requires accomplishment of the actions specified in the service bulletin described previously.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g. reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–116–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–10–15 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–12241. Docket 2001–NM–116–AD.

Applicability: Model EMB–135 and –145 series airplanes, certificated in any category, having serial numbers listed in EMBRAER Service Bulletin 145–26–0009, dated January 26, 2001.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the issuance of erroneous commands or the receipt of erroneous information pertaining to the fire extinguishing system for the engines and the auxiliary power unit (APU), resulting in the

inability to put out a fire in an engine or in the APU, accomplish the following:

Inspection

(a) Within 100 flight hours after the effective date of this AD: Perform a one-time general visual inspection to detect incorrect wiring of electrical connectors to the pressure switches and cartridges on the fire extinguisher bottles for the engines and the APU, in accordance with paragraph 3.D. of the Accomplishment Instructions of EMBRAER Service Bulletin 145–26–0009, dated January 26, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) If the wiring connections are correct: Prior to further flight, adjust the length of the harnesses to the fire extinguisher bottles, in accordance with the service bulletin.

(2) If the wiring connections are incorrect: Prior to further flight, re-connect them and adjust the length of the harnesses to the fire extinguisher bottles, in accordance with the service bulletin.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The inspection, reconnection, and adjustment shall be done in accordance with EMBRAER Service Bulletin 145–26–0009, dated January 26, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 2001–04–01, dated April 23, 2001.

Effective Date

(e) This amendment becomes effective on June 8, 2001.

Issued in Renton, Washington, on May 17, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12986 Filed 5–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–81–AD; Amendment 39–12240; AD 2001–10–14]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737, 747, 757, 767, and 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737, 747, 757, 767, and 777 series airplanes. This action requires repetitive inspections of any chemical oxygen generators and/or passenger, attendant, or lavatory service unit assemblies of the passenger oxygen system that have been replaced, to verify correct installation of the release pin in the generator firing mechanism of the oxygen generator; and corrective action, if necessary. This action is necessary to find and fix incorrect installation of the release pin in the generator firing mechanism, which could result in the unavailability of supplemental oxygen and possible incapacitation of passengers and cabin crew during an in-flight decompression. This action is intended to address the identified unsafe condition.

DATES: Effective June 8, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–81–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–81–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Susan Letcher, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2670; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating the incorrect installation of the release pin in the generator firing mechanism of the chemical oxygen generator of the passenger, attendant, and lavatory service unit assemblies. One report on a Model 757 series airplane revealed that 11 oxygen generators failed to activate following a decompression event, due to incorrect installation of the release pins in the generator firing mechanism. Investigation of certain other Model 757 series airplanes revealed additional generators with incorrectly installed release pins. Another report on a Model 737 series airplane revealed incorrectly installed release pins on half the generators on that airplane. The incorrect installation is attributed to inadequate operator maintenance. Such incorrect installation can prevent activation of the chemical oxygen generator, which releases the flow of supplemental oxygen through the oxygen masks, and could result in incapacitation of passengers and cabin crew during an in-flight decompression.

Model 737 and 757 series airplanes are equipped with chemical oxygen generators that have an in-line firing mechanism. This type of firing mechanism is also found on Model 747, 767, and 777 series airplanes equipped with chemical oxygen generators. The in-line firing mechanism contains a safety pin and a release pin, and a generator with this type of firing mechanism will only activate if both pins are removed. The safety pin is installed in the generator for shipment and is removed when the generator is installed on the airplane. The release pin is attached by lanyards to oxygen masks located in the passenger service unit, and flight attendant and lavatory oxygen boxes. If the passenger supplemental oxygen system is deployed in flight, the action of an individual donning the oxygen mask will cause the release pin to pull out of the generator firing mechanism. Such action will activate the oxygen generator and subsequently release the oxygen flow.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following Boeing Special Attention Service Bulletins:

Service bulletin	Date	Model
737–35–1076	March 1, 2001	737
737–35–1077	March 1, 2001	737
747–35–2111	March 1, 2001	747
757–35–0021	March 1, 2001	757
757–35–0022	March 1, 2001	757
767–35–0043	March 1, 2001	767
767–35–0044	March 1, 2001	767
777–35–0008	March 1, 2001	777

These service bulletins describe procedures for a detailed visual inspection of any chemical oxygen generators, and passenger, attendant, or lavatory service unit assemblies of the passenger oxygen system that have been replaced, to verify correct installation of the release pin in the generator firing mechanism; and corrective action, if necessary. The corrective action includes relocation of any release pin incorrectly installed in the safety pin hole to the release pin hole. Accomplishment of the action specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to find and fix incorrect installation of the release pin in the generator firing mechanism of the oxygen generator, which could result in the unavailability of supplemental oxygen and possible incapacitation of passengers and cabin crew during an in-flight decompression. This AD requires accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Difference Between This AD and the Service Bulletins

The service bulletins specify a one-time inspection of any chemical oxygen generators and passenger, attendant, or lavatory service unit assemblies of the passenger oxygen system that have been replaced, to verify correct installation of the release pin in the generator firing mechanism; and corrective action, if necessary; which would eliminate the need for any further action. However, this AD requires repetitive inspections and corrective action following the replacement of any existing generators done after the initial inspection and corrective action required by this AD. The FAA has determined that these additional inspections and corrective action are necessary because expended or expiring chemical oxygen generators are routinely removed and replaced by operators. The manufacturer provides instructions for the removal and replacement of the oxygen generators in the applicable airplane maintenance manuals, and per these procedures, the safety pin is removed AFTER the release pin is installed. But the reports of erroneous release pin installation have been attributed to inadequate operator maintenance practices, and certain contributing factors include incorrect or misleading diagrams in certain maintenance manuals and the installation of rings/pins in the generator release pin hole as a means of preventing activation during shipment.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–81–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–10–14 Boeing: Amendment 39–12240. Docket 2001–NM–81–AD.

Applicability: Model 737, 747, 757, 767, and 777 series airplanes equipped with chemical oxygen generators, certificated in any category; as listed in the following Boeing Special Attention Service Bulletins, as applicable:

TABLE 1.—SERVICE BULLETINS

Service bulletin	Date	Model
737–35–1076	March 1, 2001	737
737–35–1077	March 1, 2001	737
747–35–2111	March 1, 2001	747
757–35–0021	March 1, 2001	757
757–35–0022	March 1, 2001	757
767–35–0043	March 1, 2001	767
767–35–0044	March 1, 2001	767
777–35–0008	March 1, 2001	777

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix incorrect installation of the release pin in the generator firing mechanism of the chemical oxygen generator, which could result in the unavailability of supplemental oxygen and possible incapacitation of passengers and cabin crew during an in-flight decompression; accomplish the following:

Detailed Visual Inspections

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(a) For airplanes having any chemical oxygen generator and/or passenger, attendant, or lavatory service unit assembly that contains a chemical oxygen generator that has been replaced: Within 90 days after the effective date of this AD, do a detailed visual inspection of the chemical oxygen generator of the applicable assembly to verify correct installation of the release pin in the generator firing mechanism per the Accomplishment Instructions of the applicable service bulletin listed in Table 2., below. Before further flight, after replacement of any chemical oxygen generator and/or passenger, attendant, or lavatory service unit assembly that contains a chemical oxygen generator, repeat the detailed visual inspection.

TABLE 2.—SERVICE BULLETINS

Service bulletin	Date	Model
737–35–1076	March 1, 2001	737
737–35–1077	March 1, 2001	737
747–35–2111	March 1, 2001	747
757–35–0021	March 1, 2001	757
757–35–0022	March 1, 2001	757
767–35–0043	March 1, 2001	767
767–35–0044	March 1, 2001	767
777–35–0008	March 1, 2001	777

Corrective Action

(1) If no discrepancy (release pin in safety pin hole) is found after doing the inspection required by paragraph (a) of this AD, no further action is required until replacement of any existing chemical oxygen generator and/or passenger, attendant, or lavatory service unit assembly that contains a chemical oxygen generator.

(2) If any discrepancy is found after doing the inspection required by paragraph (a) of this AD, before further flight, do the corrective action per the applicable service bulletin listed in Table 2., above.

Note 3: The release pin and safety pin are located in the generator firing mechanism. The safety pin hole is the hole in the generator firing mechanism that is closest to the main body of the generator. The release pin hole is the hole in the generator firing mechanism located furthest from the main body of the generator. The center axis of the release pin hole is perpendicular to the center axis of the safety pin hole.

Note 4: Inspections and corrective action done before the effective date of this AD, per Boeing Telex M–7200–00–02474, dated October 9, 13, 19, or 31, 2000; or Boeing Telex M–7200–00–03040, dated December 18, 2000; are considered acceptable for compliance with the initial inspection and corrective action specified in paragraph (a) of this AD. However, prior accomplishment of the inspections and corrective action specified in the telexes does not eliminate the need for the repetitive inspections required by paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with the following Boeing Special Attention Service Bulletins, as applicable:

TABLE 3.—SERVICE BULLETINS

Service bulletin	Date	Model
737–35–1076	March 1, 2001	737
737–35–1077	March 1, 2001	737
747–35–2111	March 1, 2001	747
757–35–0021	March 1, 2001	757
757–35–0022	March 1, 2001	757
767–35–0043	March 1, 2001	767
767–35–0044	March 1, 2001	767
777–35–0008	March 1, 2001	777

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on June 8, 2001.

Issued in Renton, Washington, on May 17, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12987 Filed 5–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–21–AD; Amendment 39–12168; AD 2001–07–03]

RIN 2120–AA64

Airworthiness Directives; Hartzell Propeller Inc. Y-shank Series Propellers; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2001–07–03 applicable to Hartzell Propeller Inc. Y-shank series propellers that was published in the **Federal Register** on April 4, 2001 (66 FR 17806). The words "and those" in the first sentence of the Applicability paragraph of the regulatory text are incorrect and must be deleted. This document corrects the Applicability paragraph. In all other respects, the original document remains the same.

DATES: Effective on June 4, 2001.

FOR FURTHER INFORMATION CONTACT: Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–7031, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A final rule airworthiness directive applicable to Hartzell Propeller Inc. Y-shank series propellers (FR Doc. 01–8066) was published in the **Federal Register** on April 4, 2001 (66 FR 17806). The following correction is needed:

§ 39.13 [Corrected]

On page 17808, in the third column, in the Applicability Section of the regulatory text of AD 2001–07–03, in the first paragraph, beginning in the first line, "This AD is applicable to all Hartzell Propeller Inc. Y-shank series propellers and those identified by hub serial numbers (SN's) in Table 1 of this airworthiness directive (AD)." is corrected to read " This AD is applicable to all Hartzell Propeller Inc. Y-shank series propellers identified by hub serial numbers (SN's) in Table 1 of this airworthiness directive (AD).".

Issued in Burlington, MA, on May 15, 2001.

Diane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12943 Filed 5–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–66–AD; Amendment 39–12237; AD 2001–10–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes. This action requires an inspection of the wiring of the primary and alternate static port heaters for chafing, loose connections, and evidence of arcing, and to determine what type of insulation blanket is installed in the area of the static port heaters; and corrective actions, if necessary. This action is necessary to ensure that insulation blankets constructed of metallized Mylar™ are removed or protected from the area of the static port heater. Such insulation blankets could propagate a small fire that is the result of an electrical short of the static port heater and could lead to a much larger fire and smoke in the cabin. This action is intended to address the identified unsafe condition.

DATES: Effective June 8, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–86–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: . Comments sent via fax or the Internet must contain "Docket No. 2001–NM–86–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident of smoke in the cabin on a McDonnell Douglas Model MD–88 airplane. An investigation discovered evidence of a fire adjacent to the right-side alternate static port heater. It was discovered that the wiring of the static port heater had shorted, which caused an ignition source for the metallized Mylar™ (i.e., polyethyleneteraphthalate) insulation blanket directly inboard of the heater element. Insulation blankets constructed of metallized Mylar™ in the area of the static port heater, if not corrected, could propagate a small fire that is the result of an electrical short of the static port heater and could lead to a much larger fire and smoke in the cabin.

The static port heater on McDonnell Douglas Model MD–90–30 series

airplanes and Model DC–9–81, –82, –83, and –87 series airplanes are identical to those on the affected Model MD–88 airplane. Therefore, all of these models are subject to the same unsafe condition.

Other Related Rulemaking

The FAA is planning to address the identified unsafe condition of McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes in a separate rulemaking action.

The FAA, in conjunction with Boeing and operators of McDonnell Douglas Model MD–90–30 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

The FAA has previously issued AD 2000–11–01, amendment 39–11749 (65 FR 34322, May 26, 2000), that address insulation blankets made from metallized polyethyleneteraphthalate (MPET) on certain McDonnell Douglas Model DC–9–80 and MD–90–30 series airplanes, and Model MD–88 airplanes. However, this AD does NOT terminate or otherwise amend the requirements of AD 2000–11–01.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin MD90–30A023, including Appendix, dated March 14, 2001, which describes procedures for a visual inspection of the wiring of the primary and alternate port heaters for chafing, loose connections, and evidence of arcing, and to determine what type of insulation blanket is installed in the area of the static port heaters; and corrective actions, if necessary. The corrective actions include:

1. Repairing or replacing wiring with new wiring, if necessary; and

2. Replacing any metallized Mylar™ insulation blanket with a metallized Tedlar" insulation blanket by using the removed blanket as a pattern, or applying a Douglas material specification (DMS) 1984 tape patch to the outboard side of the metallized Mylar™ insulation blanket in the area adjacent to the primary and alternate static ports and reidentifying the modified blankets.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–90–30 series airplanes of the same type design, this AD is being issued to ensure that insulation blankets constructed of metallized Mylar™ are removed or protected from the area of the static port heater. Such insulation blankets could propagate a small fire that is the result of an electrical short of the static port heater and could lead to a much larger fire and smoke in the cabin. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between the Service Bulletin and the AD

Operators should note that, although the referenced service bulletin recommends accomplishing the visual inspection within 6 months (after the issue date of the service bulletin), the FAA has determined that an interval of 6 months would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (2 hours). In light of all of these factors, the FAA finds a 3-month compliance time for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

For cases where a metallized Mylar™ insulation blanket is installed, this AD, unlike the referenced service bulletin, provides two additional options (i.e., Options 3 and 4). Option 3 removes the metallized Mylar™ insulation blanket material by cutting away the metallized film and fiberglass batting, and sealing the trimmed cutout with DMS 1984 tape, so that no fiberglass is exposed. Option 4 replaces the metallized Mylar™ insulation blanket with an insulation blanket that meets the requirements of AD 2000–11–01, or that has been approved by the Manager, Los Angeles Aircraft Certification Office (ACO), as an alternative method of compliance with the requirements of AD 2000–11–01. The FAA finds that these actions would adequately address the identified unsafe condition.

Condition 2 of the Accomplishment Instructions of the referenced service bulletin addresses metallized Tedlar" insulation blankets that are found installed. Metallized Tedlar" insulation blankets can be reinstalled on airplanes, because they are not subject to the identified unsafe condition of this AD. The FAA finds that in addition to metallized Tedlar" insulation blankets, there are other non-metallized Mylar™ insulation blankets that are not subject to the identified unsafe condition of this AD. Therefore, for this AD, we have decided not to use the phrase "metallized Tedlar" insulation blankets." For these cases, the AD will refer to insulation blankets not constructed of metallized Mylar™.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–86–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–10–11 McDonnell Douglas: Amendment 39–12237. Docket 2001–NM–86–AD.

Applicability: Model MD–90–30 series airplanes, as listed in Boeing Alert Service Bulletin MD90–30A023, including Appendix, dated March 14, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that insulation blankets constructed of metallized Mylar™ are removed or protected from the area of the static port heater, which could propagate a small fire that is the result of an electrical short of the static port heater and could lead to a much larger fire and smoke in the cabin, accomplish the following:

Inspection

(a) Within 3 months after the effective date of this AD, do a general visual inspection of the wiring of the primary and alternate port heaters for chafing, loose connections, and evidence of arcing, and to determine what type of insulation blanket is installed in the area of the static port heaters, per Boeing Alert Service Bulletin MD90–30A023, including Appendix, dated March 14, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Note 3: Insulation blankets that are marked with "DMS 2072, Type 2, Class 1, Grade A;" "DMS 2072, Type 2, Class 1;" or "DMS 1996, Type 1;" are constructed of metallized polyethyleneteraphthalate (MPET).

Repair or Replacement for Any Chafing, Loose Connection, or Arcing

(b) If any chafing, loose connection, or arcing is detected during the inspection required by paragraph (a) of this AD, before further flight, repair or replace wiring with new wiring, per Boeing Alert Service Bulletin MD90–30A023, including Appendix, dated March 14, 2001.

No Metallized Mylar™ (i.e., polyethyleneteraphthalate) Insulation Blanket(s) Installed

(c) If the insulation blankets that are installed in the area identified in paragraph (a) of this AD are not constructed of metallized Mylar", no further action is required by this AD for those blankets.

Metallized Mylar™ (i.e., polyethyleneteraphthalate) Insulation Blanket(s) Installed

(d) If any insulation blanket that is installed in the area identified in paragraph (a) of this AD is constructed of metallized Mylar", before further flight, do the actions specified in paragraph (d)(1), (d)(2), (d)(3), or (d)(4) of this AD.

(1) *Option 1.* Replace the metallized Mylar™ insulation blanket with a metallized Tedlar™ insulation blanket by using the removed blanket as a pattern, per Boeing Alert Service Bulletin MD90–30A023, including Appendix, dated March 14, 2001.

(2) *Option 2.* Apply a Douglas material specification (DMS) 1984 tape patch to the outboard side of the metallized Mylar™ insulation blanket in the area adjacent to the primary and alternate static ports and reidentify the modified blankets, per Boeing Alert Service Bulletin MD90–30A023, including Appendix, dated March 14, 2001.

(3) *Option 3.* Remove the metallized Mylar™ insulation blanket material by cutting away the metallized film and fiberglass batting to match the blanket patch shown in VIEW A or B of Figure 1 of Boeing Alert Service Bulletin MD90–30A023, including Appendix, dated March 14, 2001. Seal the trimmed cutout with DMS 1984 tape, so that no fiberglass is exposed.

(4) *Option 4.* Replace the metallized Mylar™ insulation blanket with an insulation blanket that meets the requirements of AD 2000–11–01, amendment 39–11749, or that has been approved by the Manager, Los Angeles Aircraft Certification Office (ACO), as an alternative method of compliance with the requirements of AD 2000–11–01.

Note 4: Accomplishment of the action(s) required by paragraphs (d)(2) or (d)(3) of this AD does NOT terminate or otherwise amend the requirements of AD 2000–11–01. Operators are still required, within 5 years after June 30, 2000 (the effective date of AD 2000–11–01), to replace insulation blankets made from metallized polyethyleneteraphthalate (MPET) with new insulation blankets per AD 2000–11–01.

Compliance with Requirements of AD 2000–11–01

(e) Accomplishment of the replacement required by paragraph (d)(1) or (d)(4) of this AD is acceptable for compliance with AD 2000–11–01 for the replaced blanket only.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that

provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) Except as provided by paragraphs (d)(3) and (d)(4) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin MD90–30A023, including Appendix, dated March 14, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on June 8, 2001.

Issued in Renton, Washington, on May 16, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12945 Filed 5–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Part 450

RIN 1505–AA82

Government Securities Act Regulations: Definition of Government Securities

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury ("Treasury," "We," or "Us") is issuing in final form an amendment to the regulations issued under the Government Securities Act of 1986, as amended ("GSA"). Section 208 of the Gramm-Leach-Bliley Act amended the definition of the term "government securities" in the Securities Exchange Act of 1934, as it applies to a bank, to include qualified Canadian government obligations. To conform with this change in definition, we are issuing a technical amendment to Part 450 of the GSA regulations governing depository institutions' government securities holdings in custody for customers.

EFFECTIVE DATE: May 24, 2001.

ADDRESSES: You may download the final rule from Treasury's Bureau of the Public Debt website at the following address: www.publicdebt.treas.gov. It is also available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To visit the library, call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena (Executive Director), Lee Grandy (Associate Director), or Deidere Brewer (Government Securities Specialist), Bureau of the Public Debt, Government Securities Regulations Staff, (202) 691–3632.

SUPPLEMENTARY INFORMATION: This final rule deals with the recent change in definition of "government securities" in the Securities Exchange Act of 1934 ("the Exchange Act") to include certain Canadian government obligations, as applied to banks. On February 26, 2001 (66 FR 11548), we published a proposed amendment to Part 450 of the GSA regulations. No comment letters were received. Therefore, we have decided to adopt the amendment unchanged from its proposed form. This statutory change affects two groups of GSA regulations—Subchapter A (17 CFR Parts 400–449), issued under Title I of the GSA, and Subchapter B (17 CFR Part 450), issued under Title II of the GSA—which we discuss separately. Because the statutory change is picked up automatically in Subchapter A, we are not making any regulatory change to Subchapter A. We are making a technical and clarifying change to Subchapter B.

Subchapter A

Title I of the Government Securities Act of 1986 [1] (Section 15C of the Exchange Act) requires "government securities brokers" and "government securities dealers" (which may include banks) to provide notice to their regulators and comply with the requirements prescribed by Treasury in 17 CFR, subchapter A, parts 400–449. Among those requirements is compliance with rules in subchapter B (part 450).[2]

Part 401 provides a series of exemptions for financial institutions. These exemptions include limited government securities brokerage and government securities dealer activities and certain repurchase transactions with customers. Thus, even if a financial institution does not provide notice as a government securities broker or dealer, it may be subject to Subchapter A by virtue of its reliance on the exemptions in Subchapter A. One of the conditions of these exemptions is that a financial institution must comply with the requirements in Subchapter B (Part 450).

The GSA amended the Exchange Act by adding a definition of the term "government securities" at section 3(a)(42) of the Exchange Act.[3] In Subchapter A of the implementing regulations for the GSA,[4] we defined "government securities" at § 400.3(m) [5] as having the meaning set out in section 3(a)(42) of the Exchange Act.

Section 208 of Title II, Subtitle A of the Gramm-Leach-Bliley Act [6] (the "G–L–B Act") amended the definition of "government securities" in the Exchange Act by adding a new subparagraph (E) at section 3(a)(42). The amendment provides that "government securities" means "for purposes of sections 15, 15C and 17A as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes of the United States."

Because § 400.3(m) of the regulations currently defines "government securities" to have the meaning set out at section 3(a)(42) of the Exchange Act, the statutory change to include certain Canadian government obligations will now be automatically incorporated without requiring a technical change. Any U.S. banks that transact business in U.S. government securities, may now be subject to the GSA regulations (including the exemptions). U.S. banks currently transacting business in U.S. government securities are already subject to the GSA regulations.

[1] Pub. L. 99–571, 100 Stat. 3208 (1986).

[2] See 17 CFR 403.5(a), (d)(1)(vi).

[3] 15 U.S.C. 78c(a)(42).

[4] 52 FR 27910 (July 24, 1987).

[5] 17 CFR 400.3(m).

[6] Gramm-Leach-Bliley Act sec. 208; Pub. L. No. 106–102, 113 Stat. 1338 (1999).

Subchapter B

As noted above, Subchapter A of the regulations requires institutions subject to Subchapter A (*i.e.*, government securities brokers and dealers and exempt institutions) to also comply with the rules in Subchapter B. In addition, under Title II of the GSA (31 U.S.C. 3121(h), 9110) depository institutions that are not government securities brokers or dealers and that hold government securities for the account of customers must comply with the rules prescribed by Treasury in 17 CFR, subchapter B, part 450. Thus, there are three categories of institutions that must follow the rules in subchapter B—(a) financial institution government securities brokers and dealers (as required by the rules in Subchapter A), and (b) exempt financial institutions (also as required by the rules in Subchapter A), and (c) depository institutions that are not government securities brokers or dealers and that hold government securities for the account of customers.

Because two of these categories of institutions ((a) and (b)) are based on one statutory authority (Title I of the GSA), and the third category ((c)) is based on another statutory authority (Title II of the GSA), we are changing the definition of "government securities" in § 450.2(e) to take this into account. Section 450.2(e)(1), the definition applicable to institutions that are required under the rules in subchapter A to follow the subchapter B rules, will now include qualified Canadian government obligations. Section 450.2(e)(2) of the definition is narrower and does not include qualified Canadian government obligations. It is applicable to institutions that are required to follow the Subchapter B rules solely because of the requirements of Title II of the GSA.

Therefore, for institutions required to follow the rules in Subchapter B as a result of the requirements of subchapter A, § 450.2(e)(1)(i) and (e)(1)(ii) will extend the requirements of subchapter B to institutions holding qualified Canadian government obligations for customer accounts.

The G–L–B Act was enacted on November 12, 1999. The effective date of Subtitle A of Title II of the G–L–B Act is 18 months after enactment, or May 12, 2001. To minimize the period during which the amended regulation is not in effect and to encourage timely compliance by entities that may now be subject to our regulations, Treasury finds good cause exists as required under the Administrative Procedures Act (5 U.S.C. 553(d)) to make this final amendment to the GSA regulations effective on May 24, 2001.

Special Analysis

The final rule only makes a technical amendment to the GSA regulations to conform to a change in definition of the term "government securities" made by the G–L–B Act. Therefore, the final rule is not a "significant regulatory action" for the purposes of Executive Order 12866.

For the same reason it is hereby certified pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et. seq*) that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 17 CFR Part 450

Banks, banking, Government securities, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, we amend 17 CFR part 450 as follows:

PART 450—CUSTODIAL HOLDINGS OF GOVERNMENT SECURITIES BY DEPOSITORY INSTITUTIONS

1. The authority citation for Part 450 is revised to read as follows:

Authority: Sec. 201, Pub. L. 99–571, 100 Stat. 3222–23 (31 U.S.C. 3121, 9110); Sec. 101, Pub. L. 99–571, 100 Stat. 3208 (15 U.S.C. 78o-5(b)(1)(A), (b)(4), (b)(5)(B)).

2. Section 450.2 is amended by revising paragraph (e) to read as follows:

§ 450.2 Definitions

* * * * *

(e) *Government securities* means:

If . . .	Then . . .
(1)(i) A depository institution is a government securities broker and dealer as defined in sections 3(a)(43) and 3(a)(44) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(43)–(44)).	"Government securities" means those obligations described in subparagraphs (A), (B), (C), or (E) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C), (E))
(ii) A depository institution is exempt under Part 401 of this chapter from the requirements of Subchapter A.	"Government securities" means those obligations described in subparagraphs (A), (B), (C), or (E) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C), (E))
(2) A depository institution is not a government securities broker or dealer as defined in sections 3(a)(43) and 3(a)(44) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(43)–(44)).	"Government securities" means those obligations described in subparagraphs (A), (B), or (C) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C))

* * * * *

Dated: May 18, 2001.

Donald V. Hammond,

Acting Under Secretary, Domestic Finance.

[FR Doc. 01–13138 Filed 5–23–01; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 208

RIN 1010–AC70

Small Refiner Administrative Fee

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is eliminating the cost recovery fees it charges small refiners to participate in the Small Refiner Royalty-in-Kind (RIK) Program. MMS believes these fees are no longer justified under the requirements of the Office of Management and Budget (OMB) Circular No. A–25.

EFFECTIVE DATE: This rule is effective June 25, 2001.

FOR FURTHER INFORMATION CONTACT: Paul A. Knueven, Chief, Regulations and FOIA Team, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 320B2, Denver, Colorado 80225–0165; telephone (303)

231–3151; FAX (303) 231–3385; e-mail Carol.Shelby@mms.gov.

SUPPLEMENTARY INFORMATION: The principal authors of this final rule are Larry Cobb, Royalty in Kind, Minerals Revenue Management, MMS, and Sarah L. Inderbitzin of the Office of the Solicitor, Department of the Interior.

I. Background

On September 26, 2000, MMS published a proposed rulemaking in the **Federal Register** (65 FR 57771) in which we proposed to remove the regulatory requirement to charge small refiners a fee to recover the costs of administering the small refiner RIK program (30 CFR 208.4(b)(4)). We reasoned that because of new competitive procedures for selling RIK oil, MMS receives market value for the oil. When the Government sells personal property under business-type conditions, user charges are based on market price and yield net revenues above the bureau's costs. Consequently, MMS is in compliance with the requirements in OMB Circular A–25 and does not need to assess a separate cost recovery fee for the small refiner RIK program.

MMS received one comment in response to our proposed rulemaking. A major oil company asked us to address an apparent inconsistency between language in the proposed rulemaking and the general provisions of the recently-promulgated Federal crude oil royalty valuation rule (65 FR 14022, March 15, 2000). The comment quoted a sentence from the proposed rulemaking: "The market-based prices are applicable spot market prices, with appropriate location, quality, and market-value adjustments for a particular area." (65 FR at 57771) The commenter argued that this allegedly was in contrast to the Federal crude oil rule which, the commenter asserted, allows no additional adjustments above transportation and quality.

MMS believes there is no inconsistency between the pricing mechanism used by the small refiner program and the valuation requirements under the Federal crude oil rule. In both cases, if spot market index prices are used, adjustments for both location and quality are permitted, which account for the difference in value between the lease and the market center where the spot price is published. Accordingly, we believe the small refiner program and the Federal crude oil rule methodologies are consistent.

II. Procedural Matters

1. Summary Cost and Benefit Data

This final rule eliminates the fee charged small refiners to recover the costs of administering the small refiner RIK program. This rule imposes the following costs and benefits to the four groups affected by MMS regulations: industry, state and local governments, Indian tribes and allottees, and the Federal Government. The cost and benefit information in this Item 1 of Procedural Matters is used as the basis for the Departmental certifications in Items 2–11.

A. Industry

Small refiners will benefit from no longer paying an administrative fee (about $430,000 assessed across all active RIK contracts in calendar year 1999). However, small refiners will pay market value for RIK oil upfront rather than a typically lower price quoted by lessees upon removal from the lease and subsequently adjusted upward through audit. We believe that the combined financial impact of eliminating the fee while paying full market value for RIK oil will be a nominal revenue change to small refiners.

Eliminating the administrative fee will provide small refiners certainty in the prices they will pay for royalty oil. Pricing certainty allows small refiners to anticipate revenues and expenses more accurately and better plan future business activities. This benefit is not quantifiable at this time.

B. State and Local Governments

States are unaffected by the small refiner RIK program because they do not share in revenues accruing from Federal leases on the Outer Continental Shelf—the only leases participating in the program.

C. Indian Tribes and Allottees

Indian tribes and allottees are unaffected by the small refiner RIK program because they do not share in revenues accruing from Federal leases on the Outer Continental Shelf—the only leases participating in the program.

D. Federal Government

The U.S. Treasury General Fund will forego annual revenues of about $430,000—the administrative fee assessed across all active RIK contracts in calendar year 1999. However, with the changes to the RIK program that created the need for this rule, MMS will no longer have to rely on prices reported by third parties and impose separate cost recovery fees because we will receive full market value for our royalty oil. We believe that the combined financial impact of eliminating the fee while receiving full market value for RIK oil will be a nominal revenue change to the Federal Government.

MMS will achieve administrative savings because we will no longer have to take action to collect additional monies owed by small refiners when subsequent audits show that prices quoted by lessees understated the oil's market value. This benefit is not quantifiable at this time.

2. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

3. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). See item 1. Summary Cost and Benefit Data, A. Industry, above for further information on the impact of this rule on small businesses. The small refiner RIK program had approximately five participants in calendar year 1999, all of which were small businesses as defined by the U.S. Small Business Administration. By participating in the small refiner RIK program, these refiners obtain noteworthy benefits that will not be reduced or changed by this rulemaking:

- Access to a crude oil marketplace where the major integrated oil companies and large refiners account for the majority of the crude oil traded;
- A stable source of supply at equitable market-based prices which helps the small refiner sustain operations at or near normal operating capacity; and
- A vital source of trade stock, thereby creating the opportunity to "exchange" royalty oil for the quality or type of crude oil feed stock needed to sustain their mix of refined products.

4. Small Business Regulatory Enforcement Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

5. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

6. Takings (Executive Order 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. This rule does not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

7. Federalism (Executive Order 13132)

In accordance with Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially or directly affect the relationship between the Federal and state governments or impose costs on States or localities.

8. Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

9. Paperwork Reduction Act of 1995

This rule does not contain an information collection, as defined by the Paperwork Reduction Act, and the submission of Office of Management and Budget Form 83–I is not required.

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

11. Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, this rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

List of Subjects in 30 CFR Part 208

Continental shelf, Government contracts, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources.

Dated: May 17, 2001.

Piet deWitt,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons set forth in the preamble, 30 CFR part 208 is amended as follows:

PART 208—SALE OF FEDERAL ROYALTY OIL

1. The authority citation for part 208 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701; 41 U.S.C. 601 *et seq.*; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

§ 208.4 [Amended]

2. In § 208.4, remove paragraph (b)(4).

[FR Doc. 01–13118 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–064]

RIN 2115–AA97

Safety and Security Zones: USS Hawes Port Visit, Newport, RI.

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety and security zones off the coast of Newport Naval Station, Newport, Rhode Island, during the port visit of the USS HAWES to the Newport Naval Station, Newport, Rhode Island. The safety and security zone are needed to safeguard the public, the area encompassing Coddington Cove and the USS HAWES and her crew from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into these zones is prohibited unless authorized by the Captain of the Port, Providence, Rhode Island or his authorized patrol representative.

DATES: This rule is effective from 6 a.m., Thursday, May 31, 2001, to 12 midnight on Sunday, June 3, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection and copying at Marine Safety Office Providence, 20 Risho Avenue, East Providence, Rhode Island between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Casey L. Chmielewski at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for making it effective less then 30 days after **Federal Register** publication. Good cause exists for not publishing a NPRM for this regulation. Due to the sensitive and unpredictable nature of the USS HAWES's schedule, the Coast Guard received insufficient notice to publish proposed rules in advance of the event. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to protect the USS HAWES, her crew, the public and the area adjoining Coddington Cove.

Background and Purpose

From May 31, 2001, to June 3, 2001, the USS HAWES will be berthed at Pier 2 on the Newport Naval Station, Newport, RI. Pier 2 is located within Coddington Cove, along the East Passage of Narragansett Bay. The safety and security zones are needed to protect the USS HAWES, her crew and the public from harmful or subversive acts, accidents or other causes of a similar nature in the vicinity of Coddington Cove. The safety and security zones have identical boundaries. All persons, other than those approved by the Captain of the Port or his authorized patrol representative will be prohibited from the zones. The zones encompass the area within a line drawn from the western most edge of the chartered breakwater to the western most edge of Pier 1. The public will be made aware of the safety and security zones through a Broadcast Notice to Mariners made

from U.S. Coast Guard Group Woods Hole. U.S. Navy personnel will assist in the enforcement of these zones.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The sizes of the zones are the minimum necessary to provide adequate protection for the USS HAWES, her crew, adjoining areas, and the public. The entities most likely to be affected are lobstermen engaged in setting and retrieving pots and pleasure craft engaged in recreational activities and sightseeing. These individuals and vessels have ample space outside of the safety and security zones to engage in these activities and therefore they will not be subject to undue hardship. Commercial vessels, excluding lobstermen, do not normally transit the area of the safety and security zones. Any lobstermen who have gear deployed within the safety and security zones, may request permission from the COTP or his authorized patrol representative to enter the zones to retrieve their gear. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the USS HAWES and the public.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we considered whether this rule will have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit into Coddington Cove from May 31, 2001 to June 3, 2001. The safety and security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the area and only a small number of commercial fishing vessels operate in the area. Vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the safety and security zones to engage in these activities. Before the effective period, we will issue maritime advisories widely available to users of the area.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call LT Casey Chmielewski, telephone (401) 435–2335. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comments on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

We have analyzed this action under Executive Order 13132, and have determined that this rule does not have federalism implications under that order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of these regulations and concluded that under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: § 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–064 to read as follows:

§ 165.T01–064 Safety and security zones: USS HAWES port visit; Newport, RI.

(a) Location. The following area has been declared both a safety zone and a security zone: From a point beginning on land at Latitude 41 degrees 32′ 13″ N, Longitude 071 degrees 18′ 43″ W; thence westward along the breakwater to a point on the breakwater at Latitude 41 degrees 31′ 58″ N, Longitude 071 degrees 19′ 28″ W; thence southeasterly 1100 yards to a point on the end of Pier 1 at Latitude 41 degrees 31′ 38″ N, Longitude 071 degrees 19′ 06″ W; thence east to a point on land at Latitude 41 degrees 31′ 43″ N, Longitude 071 degrees 18′ 47″ W; thence north along the shoreline to the beginning point.

(b) Effective date. This rule is effective from 6 a.m. on Thursday, May 31, 2001, until 12 midnight on Sunday, June 3, 2001.

(c) Regulations.

(1) In accordance with the general regulations in 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the COTP Providence or his authorized patrol representative.

(2) No person may swim upon or below the surface of the water within the boundaries of the safety and security zones.

(3) All persons and vessels shall comply with the instructions of the COTP, the designated on-scene U.S. Coast Guard or Navy patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Navy patrol personnel include commissioned, warrant, and petty officers of the U.S. Navy.

(4) The general regulations covering safety and security zones in section 165.23 and 165.33, respectively, of this part apply.

Dated: May 10, 2001.

Mark G. VanHaverbeke,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01–12979 Filed 5–23–01; 8:45 am]

BILLING CODE 4910–15–U

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Changes for First-Class Mail, Standard Mail, and Bound Printed Matter Flats

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the Domestic Mail Manual (DMM) to implement the following mail preparation standards: For First-Class Mail, packages of Presorted rate flats and packages of automation rate flats that are part of the same mailing job and reported on the same postage statement must be co-trayed according to the standards in DMM M910; For Standard Mail, packages of Presorted rate flats and packages of automation rate flats that are part of the same mailing job and reported on the same postage statement must be co-sacked according to the standards in DMM M910; For Standard Mail, packages of Enhanced Carrier Route flats and 5-digit packages of Presorted flats must be sacked or palletized using the labeling list L001 scheme sort. This includes the scheme sorts included in the optional preparation methods in DMM M920, M930, and M940; and For Bound Printed Matter, packages of Carrier Route flats and 5-digit packages of Presorted flats must be sacked or palletized using the labeling list L001 scheme sort.

EFFECTIVE DATE: September 1, 2001.

FOR FURTHER INFORMATION CONTACT: Anne Emmerth, 703–292–3641, aemmerth@email.usps.gov.

SUPPLEMENTARY INFORMATION: On March 16, 2001 (66 FR 15206), the Postal Service published in the **Federal Register** a proposed rule seeking comments on proposed changes to the Domestic Mail Manual (DMM) that would revise mail preparation standards for flats. The original comment period ended on April 13, 2001; as of that date, no comments were received. On April 17, 2001 (65 FR 19740), the Postal Service re-opened the comment period through May 4 to allow customers more time to comment on the proposed changes. The Postal Service received one comment.

Generally, the changes are intended to align mail preparation more closely with the way that the Postal Service transports and processes flat-size mail. The co-traying requirements for First-Class Mail flats and the co-sacking requirements for Standard Mail flats will result in fewer less-than-full trays and sacks and an overall reduction in the number of trays and sacks prepared by mailers and processed by the Postal Service. For Presorted rate Standard Mail, with sack-based rates, this requirement also will result in lower postage rates for some mail that will move to a finer sack presort level. Requiring the use of labeling list L001 for sacked carrier route Standard Mail and Bound Printed Matter flats also will result in fewer sacks prepared by mailers. For mail on pallets, use of L001 will create more 5-digit level pallets, resulting in fewer package handlings for the Postal Service and better service for mailers.

The changes are outlined below by class of mail; the DMM language follows at the end of this final rule.

In response to the proposed rule, the Postal Service received one comment from a large commercial printer. The commenter expressed support for the mail preparation changes in the proposed rule and believes that these changes will improve service and handling of 5-digit containers and reduce the number of sacks. The commenter suggested that the proposed September 1 implementation date be moved to January 2002. The commenter explained that in September the mailing industry will be in the midst of preparing its heaviest volumes for the fall mailing season, which is not a convenient time to implement new and complex preparation standards.

The Postal Service appreciates receiving supportive comments and thanks the commenter for responding to the proposed rule. The Postal Service recognizes that mail preparation changes can be disruptive to mailers who must adjust presort software systems and internal operations. The standards in this final rule will result in more efficient and cost-effective mail handling for the Postal Service and better service and postage savings for mailers. Therefore, implementing these changes on September 1 will allow the Postal Service and its customers to capture savings and efficiencies during the time of heaviest mail volume.

Based on the comment received and discussions with other mailers and presort software vendors regarding these changes, the Postal Service will implement the standards in this final rule on September 1, 2001. This will allow time for programming, testing, and installation of new presort software, and time for mailers to adjust their internal processes in advance of the fall mailing season.

The changes implemented in this final rule are as follows:

1. First-Class Mail

Required Co-Traying

Since January 7, 2001, mailers have had the option to use M910 to co-tray packages of Presorted rate flats and automation rate flats that are part of the same mailing job (see M130.1.6 and M820.1.9). This final rule changes that option into a requirement. Therefore, effective September 1, 2001, any First-Class Mail mailing job that contains packages of Presorted rate flats and packages of automation rate flats and is

reported on a single postage statement must be co-trayed using M910.1.0.

2. Standard Mail

a. Scheme Sort

Currently, Standard Mail Enhanced Carrier Route flats are sorted to two required sack levels and one optional sort level (required carrier route, optional 5-digit scheme carrier routes using labeling list L001, and required 5-digit carrier routes) (see M620.4.0). This final rule changes the optional sort level into a required sort level. Therefore, effective September 1, 2001, all Enhanced Carrier Route Standard Mail flats must be sorted to all three required sack levels (carrier route, 5-digit scheme carrier routes, and 5-digit carrier routes).

Current M620.4.0 contains sack preparation requirements for Standard Mail Enhanced Carrier Route flats and irregular parcels. In order to apply the labeling list L001 scheme sort only to flats, the sacking requirements for flats have been separated into a different section. Therefore, the sack preparation requirements for irregular parcels are included in this final rule only to show renumbering and reorganization. There are no mail preparation changes for Standard Mail Enhanced Carrier Route irregular parcels.

Currently, mailers have the option to use the L001 scheme sort for packages of Standard Mail Enhanced Carrier Route flats and 5-digit packages of Presorted flats on pallets (see M045.3.2). This final rule changes the two optional sort levels using labeling list L001 (5-digit scheme carrier routes and 5-digit scheme) into required sort levels. Therefore, effective September 1, 2001, packages of carrier route rate flats on pallets must be sorted to 5-digit scheme carrier routes pallets as the first sort level, and 5-digit packages of Presorted flats must be sorted to 5-digit scheme pallets as the first sort level.

Under the advanced preparation options in M920, M930, and M940, mailers currently have the option of sorting Standard Mail packages with or without using the L001 scheme sort. This final rule eliminates the "non-L001" sort (current M920.2.4, M920.2.6, M930.2.4, and M940.2.4). Therefore, effective September 1, 2001, mailers sorting Standard Mail flats under M920, M930, or M940 will be required to use the L001 scheme sort.

These changes apply to regular and nonprofit Standard Mail flats.

b. Required Co-Sacking

Since January 7, 2001, mailers have had the option to use M910 to co-sack packages of Presorted rate flats and packages of automation rate flats that are part of the same mailing job (see M610.1.5 and M820.1.9). This final rule changes that option into a requirement. Therefore, effective September 1, 2001, any Standard Mail mailing job that contains packages of Presorted rate flats and packages of automation rate flats and is reported on a single postage statement must be co-sacked using M910.3.0.

These changes apply to regular and nonprofit Standard Mail flats.

3. Bound Printed Matter

Scheme Sort

Currently, Bound Printed Matter Carrier Route flats are sorted to two required sack levels and one optional sort level (required carrier route, optional 5-digit scheme carrier routes using labeling list L001, and required 5-digit carrier routes) (see M723.2.3). This final rule changes the optional sort level into a required sort level. Therefore, effective September 1, 2001, all Bound Printed Matter carrier route flats must be sorted to all three required sack levels (carrier route, 5-digit scheme carrier routes, and 5-digit carrier routes).

Currently, mailers have the option to use the L001 scheme sort for packages of Bound Printed Matter carrier route flats and 5-digit packages of Presorted flats on pallets (M045.3.3). This final rule changes the two optional sort levels (5-digit scheme carrier routes and 5-digit scheme) into required sort levels. Therefore, effective September 1, 2001, packages of carrier route rate flats on pallets must be sorted to 5-digit scheme carrier routes pallets as the first sort level, and 5-digit packages of Presorted flats must be sorted to 5-digit scheme pallets as the first sort level.

There are no other mail preparation changes for Bound Printed Matter.

PAVE Certification

For mailings that are co-trayed or co-sacked under M910, documentation produced by PAVE-certified software or standardized documentation under P012 must be submitted with each mailing job. Use of PAVE-certified software is required for the advanced "merging" preparation options in M920, M930, and M940, which include the L001 scheme sort.

Implementation Date

The implementation date for these changes is September 1, 2001. This date allows presort software vendors time to update and distribute software to their customers and includes time for installation and testing of the software.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons mentioned above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the Domestic Mail Manual (DMM) as follows:

E ELIGIBILITY

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E600 Standard Mail

E610 Basic Standards

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8.0 PREPARATION

Each Standard Mail mailing is subject to these general standards:

* * * * *

[Amend 8.0c to read as follows:]

c. For letter-size and flat-size mail, all pieces in an automation mailing must be eligible for an automation rate. Separate automation and Presorted rate mailings of flats that are reported on the same postage statement must be co-sacked under M910. Separate automation, Presorted, and Enhanced Carrier Route mailings of flats may be co-containerized under M920, M930, or M940.

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E700 Package Services

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E750. Destination Entry

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E752. Bound Printed Matter

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3.0 DESTINATION SECTIONAL CENTER FACILITY (DSCF) RATES

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3.2 Presorted Flats

[Amend 3.2 by removing the word "optional" to show that the scheme sort is required.]

Presorted flats in sacks for the 5-digit, 3-digit, and SCF sort levels or on pallets at the 5-digit scheme, 5-digit, 3-digit, SCF, and ASF sort levels may claim DSCF rates. Mail must be entered at the appropriate facility under 3.1.

* * * * *

3.5 Carrier Route Flats

[Amend 3.5 by removing the word "optional" to show that the scheme sort is required.]

Carrier route flats in sacks at all sort levels or on pallets at 5-digit scheme carrier routes, 5-digit carrier routes, 3-digit, SCF, and ASF sort levels may claim DSCF rates. Mail must be entered at the appropriate facility under 3.1.

* * * * *

4.0 DESTINATION DELIVERY UNITS (DDU) RATES

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4.2 Presorted Flats

[Amend 4.2 by removing the word "optional" to show that the scheme sort is required.]

Presorted flats that weigh more than 1 pound in 5-digit sacks, on 5-digit scheme and 5-digit pallets, or prepared as bedloaded 5-digit packages may claim DDU rates. Mail must be entered at the appropriate facility under 4.1. Presorted flats weighing 1 pound or less are not eligible for DDU rates.

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4.5 Carrier Route Flats

[Amend 4.5 by removing the word "optional" to show that the scheme sort is required.]

Carrier Route flats in sacks, on 5-digit carrier routes scheme and 5-digit carrier routes pallets, or prepared as bedloaded carrier route packages may claim DDU rates. Mail must be entered at the appropriate facility under 4.1.

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M MAIL PREPARATION AND SORTATION

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

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1.3 Preparation Instructions

For the purposes of preparing mail:

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[Amend 1.3j to show that the L001 scheme sort is required for Standard Mail Enhanced Carrier Route flats and Bound Printed Matter Carrier Route flats.]

j. A 5-digit/scheme carrier routes sort for carrier route rate Periodicals flats and irregular parcels (nonletters), Enhanced Carrier Route rate Standard Mail flats, and Carrier Route Bound Printed Matter flats, prepared in sacks or as packages on pallets yields a 5-digit scheme carrier routes sack or pallet for those 5-digit ZIP Codes listed in L001 and 5-digit carrier routes sacks or pallets for other areas. The 5-digit ZIP Codes in each scheme are treated as a single presort destination subject to a single minimum sack or pallet volume, with no further separation by 5-digit ZIP Code required. Sacks or pallets prepared for a 5-digit scheme carrier routes destination that contain carrier route packages for only one of the schemed 5-digit areas are still considered to be sorted to 5-digit scheme carrier routes and are labeled accordingly. The 5-digit/scheme carrier routes sort is required for carrier route packages of flat-size and irregular parcel Periodicals, for Enhanced Carrier Route Standard Mail flats, and for Carrier Route Bound Printed Matter flats. Preparation of 5-digit scheme carrier routes sacks or pallets must be done for all 5-digit scheme destinations.

[Amend 1.3k to show that the scheme sort is required for Standard Mail flats and Bound Printed Matter flats.]

k. A 5-digit/scheme sort for Periodicals flats and irregular parcels (nonletters), Standard Mail flats, and Presorted Bound Printed Matter flats prepared as packages on pallets yields 5-digit scheme pallets containing automation rate and Presorted rate 5-digit packages for those 5-digit ZIP Codes listed in L001 and yields 5-digit pallets containing automation rate and Presorted rate 5-digit packages for other areas (automation rate packages are not applicable to Bound Printed Matter). The 5-digit ZIP Codes in each scheme are treated as a single presort destination subject to a single minimum pallet volume, with no further separation by 5-digit ZIP Code required. Pallets prepared for a 5-digit scheme destination that contain 5-digit packages for only one of the schemed 5-digit areas are still considered to be sorted to the 5-digit scheme and are labeled accordingly. The 5-digit/scheme sort is required for flat-size and irregular parcel-size Periodicals, for Standard Mail flats, and for Presorted Bound Printed Matter flats. The 5-digit/scheme sort may not be used for other mail prepared on pallets, except for 5-digit packages of Standard Mail irregular parcels that are part of a mailing job that is prepared in part as palletized flats at automation rates. Preparation of 5-digit scheme pallets must be done for all 5-digit scheme destinations.

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M040 Pallets

M041 General Standards

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5.0 PREPARATION

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5.2 Required Preparation

These standards apply to:

[Amend 5.2a to show that the L001 scheme sort is required for Standard Mail flats.]

a. Periodicals, Standard Mail, and Package Services (except for Parcel Post mailed at BMC Presort, OBMC Presort, DSCF, and DDU rates). A pallet must be prepared to a required sortation level when there are 500 pounds of Periodicals, Standard Mail, or Package Services mail in packages or sacks; 500 pounds of parcels; or six layers of Periodicals or Standard Mail letter trays. For packages of Periodicals flats and irregular parcels and packages of Standard Mail flats on pallets that are prepared under the standards for package reallocation to protect the SCF pallet (M045.4.0), not all mail for a 5-digit scheme carrier routes, 5-digit scheme, 5-digit carrier routes, or 5-digit pallet or for a merged 5-digit scheme, merged 5-digit, or 3-digit pallet is required to be on that corresponding pallet level. For packages of Standard Mail flats on pallets prepared under the standards for package reallocation to protect the BMC pallet (M045.5.0), not all mail for a required ASF pallet must be on an ASF pallet. Mixed ADC or mixed BMC pallets of sacks, trays, or machinable parcels, as appropriate, must be labeled to the BMC or ADC (as appropriate) serving the post office where mailings are entered into the mailstream. The processing and distribution manager of that facility may issue a written authorization to the mailer to label mixed BMC or mixed ADC pallets to the post office or processing and distribution center serving the post office where mailings are entered. These pallets contain all mail remaining after required and optional pallets are prepared to finer sortation levels under M045, as appropriate.

* * * * *

5.6 Mail on Pallets

These standards apply to mail on pallets:

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[Amend 5.6g to read as follows:]

g. For Periodicals flats and irregulars, Standard Mail flats, and Bound Printed Matter flats, packages of carrier route rate mail must be prepared on separate 5-digit pallets from automation and

Presorted rate mail. Exception: For Periodicals and Standard Mail, under the standards in M920, M930, and M940, carrier route rate, automation rate, and Presorted rate packages can be combined onto the same merged 5-digit scheme pallet and merged 5-digit pallet for applicable 5-digit ZIP Codes.

[Delete 5.6h.]

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M045 Palletized Mailings

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3.0 PALLET PRESORT AND LABELING

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3.2 Standard Mail Packages, Sacks, or Trays on Pallets

[Amend the introduction to 3.2 and 3.2a through 3.2d to show that the scheme sort using L001 is required for packages of Standard Mail flats.]

Mailers must prepare pallets in the sequence listed below, except that mailings of sacks on pallets, trays on pallets, and irregular parcels must be prepared beginning with 3.2c (because L001 scheme sort is not permitted). Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031. At the mailer's option, Standard Mail flats prepared as packages on pallets may be palletized in accordance with the advanced presort options in M920, M930, or M940.

a. 5-Digit Scheme Carrier Routes. Required for packages of flats on pallets. Not permitted for sacks or trays on pallets, or for irregular parcels on pallets except under M011. May contain only carrier route rate packages for the same 5-digit scheme under L001. Scheme sort must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit carrier routes pallets under 3.2c.

(1) Line 1: use L001, Column B.

(2) Line 2: "STD FLTS"; followed by "CARRIER ROUTES" or "CR-RTS"; followed by "SCHEME" or "SCH."

b. 5-Digit Scheme. Required for packages of flats on pallets. Not permitted for sacks or trays on pallets, or for irregular parcels on pallets except under M011. May contain only automation rate and/or Presorted rate packages for the same 5-digit scheme under L001. Scheme sort must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit pallets under 3.2d.

(1) Line 1: use L001, Column B.

(2) Line 2: "STD FLTS 5D"; followed by "BARCODED" or "BC" if the pallet contains automation rate mail; followed by "NONBARCODED" or "NBC" if the pallet contains Presorted rate mail; followed by "SCHEME" or "SCH."

c. 5-Digit Carrier Routes. Required for sacks and packages; optional for trays. May contain only carrier route rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: "STD FLTS" or "STD IRREG" or, for trays on pallets only, "STD LTRS" as applicable; followed by "CARRIER ROUTES" or "CR-RTS."

d. 5-Digit. Required for sacks and packages; optional for trays. May contain only automation rate and/or Presorted rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: "STD FLTS 5D" or "STD IRREG 5D" or, for trays on pallets only, "STD LTRS 5D" as applicable; followed by "BARCODED" or "BC" if the pallet contains automation rate mail; followed by "NONBARCODED" or "NBC" if the pallet contains Presorted rate mail.

* * * * *

3.3 Bound Printed Matter Flats—Packages and Sacks on Pallets

[Amend the introduction to 3.3 and 3.3a through 3.3d to show that the scheme sort using L001 is required for packages of Bound Printed Matter flats.]

Mailers must prepare pallets in the sequence listed below, except that mailings of sacks on pallets must be prepared beginning with 3.3c (because L001 scheme sort is not permitted). Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031.

a. 5-Digit Scheme Carrier Routes. Required for packages of flats on pallets. Not permitted for sacks on pallets. May contain only Carrier Route rate packages for the same 5-digit scheme under L001. Scheme sort must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit carrier routes pallets under 3.3c.

(1) Line 1: use L001, Column B.

(2) Line 2: "PSVC FLTS," followed by "CARRIER ROUTES" or "CR-RTS" and "SCHEME" or "SCH."

b. 5-Digit Scheme. Required for packages of flats on pallets. Not permitted for sacks on pallets. May contain only Presorted rate packages for the same 5-digit scheme under L001. Scheme sort must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit pallets under 3.3d.

(1) Line 1: use L001, Column B.

(2) Line 2: "PSVC FLTS 5D" followed by "SCHEME" or "SCH."

c. 5-Digit Carrier Routes. Required for sacks and packages. May contain only Carrier Route rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: "PSVC FLTS" followed by "CARRIER ROUTES" or "CR-RTS."

d. 5-Digit. Required for sacks and packages. May contain only Presorted rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: "PSVC FLTS 5D."

* * * * *

4.0 PACKAGE REALLOCATION TO PROTECT SCF PALLET FOR PERIODICALS FLATS AND IRREGULAR PARCELS AND STANDARD MAIL FLATS ON PALLETS

[Amend 4.1 to delete references to optional sort levels.]

4.1 Basic Standards

Package reallocation to protect the SCF pallet is an optional preparation method (if performed, package reallocation must be done for the complete mailing job); only PAVE-certified presort software may be used to create pallets under the standards in 4.2 through 4.4. The software will determine if mail for an SCF service area would fall beyond the SCF level if all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, merged 5-digit, 5-digit carrier routes, 5-digit, or 3-digit pallets are prepared. Reallocation is performed only when there is mail for the SCF service area that would fall beyond the SCF pallet level (e.g., to an ADC or BMC pallet). The amount of mail required to bring the mail that would fall beyond the SCF level back to an SCF level is the minimum volume that will be reallocated, where possible.

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M100 First-Class Mail (Nonautomation)

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M130 Presorted First-Class Mail

1.0 BASIC STANDARDS

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1.6 Co-Traying With Automation Rate Mail

Except for automation rate mailings prepared under the tray-based preparation option in M820.3.0, if a single mailing job contains an automation rate mailing and a Presorted rate mailing and both mailings are reported on the same postage statement, then the mailing job must be presorted under the co-traying standards in M910.

* * * * *

M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

1.0 BASIC STANDARDS

1.1 All Mailings

In addition to the preparation standards in 2.0 through 5.0, the following basic standards must be met for all Presorted rate mailings:

* * * * *

[Amend 1.1f to change the reference from 1.3 to 1.4.]

f. Subject to 1.4, letter-size pieces must be prepared in trays and, unless palletized, flat-size pieces must be prepared in sacks.

* * * * *

[Renumber current 1.2 through 1.6 as 1.3 through 1.7, respectively. Add new 1.2 to read as follows:]

1.2 Additional Standards for Sacked Flats Mailing Jobs Containing More Than One Mailing

The following standards apply:

a. If the mailing job contains a carrier route mailing, an automation rate mailing, and a Presorted rate mailing, then it must be prepared under one of the following options: 1) the carrier route mailing must be prepared under E630 and M620 and the automation rate and Presorted rate mailings must be prepared under M910; or 2) all three mailings in the mailing job must be prepared under M920.

b. If the mailing job contains an automation rate mailing and a Presorted rate mailing, then it must be prepared under the co-sacking standards in M910.

c. If the mailing job contains a carrier route mailing and a Presorted rate mailing, then it must be separately sacked under M610 and M620 or prepared using the merged sacking option under M920.

d. If the mailing job contains a carrier route mailing and an automation rate mailing, then it must be separately sacked under M620 and M820 or prepared using the merged sacking option under M920.

* * * * *

[Delete renumbered 1.6 (former 1.5), Co-Sacking With Automation Rate Mail, and renumber 1.7 as 1.6. Amend 1.6 to read as follows:]

1.6 Merged Containerization of Flat-Size Carrier Route, Automation Rate, and Presorted Rate Mail

Under the optional preparation method in M920, 5-digit packages of Presorted flats must be co-sacked with packages of carrier route flats prepared under M620 and with 5-digit packages of automation flats prepared under M820 in merged 5-digit scheme sacks and merged 5-digit sacks. Under the optional preparation methods in M920, M930, or M940, 5-digit packages of Presorted flats must be copalletized with packages of carrier route rate flats prepared under M620 and with 5-digit packages of automation rate flats prepared under M820 on merged 5-digit scheme pallets and merged 5-digit pallets. See 1.2a for information on when preparation under M920 may be required.

* * * * *

M620 Enhanced Carrier Route Standard Mail

1.0 BASIC STANDARDS

* * * * *

[Amend 1.6 to read as follows:]

1.6 Merged Containerization of Flat-Size Carrier Route, Automation Rate, and Presorted Rate Mail

Under the optional preparation method in M920, packages of carrier route rate flats must be co-sacked with 5-digit packages of Presorted rate flats prepared under M610 and with 5-digit packages of automation rate flats prepared under M820 in merged 5-digit scheme sacks and merged 5-digit sacks. Under the optional preparation methods in M920, M930, or M940, packages of carrier route rate flats must be copalletized with 5-digit packages of Presorted flats prepared under M610 and with 5-digit packages of automation rate flats prepared under M820 on merged 5-digit scheme pallets and merged 5-digit pallets.

* * * * *

Note: The current DMM combines the preparation standards for flats and irregulars into one section. Because the L001 scheme sort will be required for flats but not for irregulars, the current single section has been split into two sections: one for flats and one for irregulars. The standards for irregulars are included in this final rule because they have been renumbered and reorganized; however, there are no changes to the mail preparation for irregular parcels.

[Amend 4.0 to add the required L001 scheme sort for flats to read as follows:]

4.0 SACK PREPARATION—FLATS

4.1 Required Sack Minimums

A sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, a single-piece weight of 1.92 ounces (0.12 pound) results in 125 pieces weighing 15 pounds. Identical-weight pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum; those that weigh more must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 125-piece or 15-pound minimum applies) or sack by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the 125-piece ("PCS") or 15-pound ("WT") threshold or the method in 4.1b ("BOTH").

4.2 Sack Preparation

Sack size, preparation sequence, and labeling:

a. Carrier route: required (minimum of 125 pieces/15 pounds, smaller volume not permitted).

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: "STD FLTS ECRWSS" or "STD FLTS ECRWSH" or "STD FLTS ECRLOT" as applicable, followed by the route type and number.

b. 5-digit scheme carrier routes: required (no minimum).

(1) Line 1: use L001, column B.

(2) Line 2: "STD FLTS CR-RTS SCH."

c. 5-digit carrier routes: required (no minimum).

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: "STD FLTS CR-RTS."

[Renumber current 5.0, Residual Pieces, as 6.0. Add new 5.0 to read as follows:]

5.0 SACK PREPARATION—IRREGULAR PARCELS

5.1 Required Sack Minimums

A sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, a single-piece weight of 1.92 ounces (0.12 pound) results in 125 pieces weighing 15 pounds. Identical-weight pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum; those that weigh more must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 125-piece or 15-pound minimum applies) or sack by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the 125-piece ("PCS") or 15-pound ("WT") threshold or the method in 5.1b ("BOTH").

5.2 Sack Preparation

Sack size, preparation sequence, and labeling:

a. Carrier route: required (minimum of 125 pieces/15 pounds, smaller volume not permitted).

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: "STD IRREG WSS" or "STD IRREG WSH" or "STD IRREG LOT" as applicable, followed by the route type and number.

b. 5-digit carrier routes: required (no minimum).

(1) Line 1: use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

(2) Line 2: "STD IRREG CR–RTS."

* * * * *

M700 Package Services

* * * * *

M720 Bound Printed Matter

* * * * *

M723 Carrier Route Bound Printed Matter

* * * * *

2.0 REQUIRED PREPARATION—FLATS

* * * * *

2.3 Sack Preparation

Preparation sequence and Line 1 sack labeling:

* * * * *

[Amend 2.3b to show that the L001 scheme sort is required, not optional.]

b. 5-digit scheme carrier routes: required (no minimum); for Line 1, use L001, Column B.

* * * * *

M800 All Automation Mail

* * * * *

M820 Flats

1.0 BASIC STANDARDS

* * * * *

[Amend 1.9 to show that co-traying is required for First-Class Mail and co-sacking is required for Standard Mail.]

1.9 Required Co-Traying and Co-Sacking With Presorted Rate Mail

The following standards apply:

a. First-Class Mail: Except for mailings prepared under the tray-based preparation option in 3.0, if the mailing job contains an automation rate mailing and a Presorted rate mailing and both mailings are reported on the same postage statements, then the mailing job must be prepared under the co-traying standards in M910.

b. Periodicals:

(1) If the mailing job contains a carrier route mailing, an automation rate mailing, and a Presorted rate mailing, then it must be prepared under one of the following options: (1) the carrier route mailing must be prepared under E230 and M220 and the automation rate and Presorted rate mailings must be prepared under M910; or (2) all three mailings in the mailing job must be prepared under M920.

(2) If the mailing job contains an automation rate mailing and a Presorted rate mailing, then it must be prepared under the co-sacking standards in M910.

(3) If the mailing job contains a carrier route mailing and an automation rate mailing, then it must be separately sacked under M220 and M820 or prepared using the merged sack option under M920.

c. Standard Mail:

(1) If the mailing job contains a carrier route mailing, an automation rate mailing, and a Presorted rate mailing, then it must be prepared under one of the following options: (1) the carrier route mailing must be prepared under E630 and M620 and the automation rate and Presorted rate mailings must be prepared under M910; or (2) all three mailings in the mailing job must be prepared under M920.

(2) If the mailing job contains only an automation rate mailing and a Presorted rate mailing and both mailings are reported on the same postage statement, then the mailing job must be prepared under the co-sacking standards in M910.

(3) If the mailing job contains only a carrier route mailing and an automation rate mailing, then it must be separately sacked under M620 and M820 or prepared using the merged sack option under M920.

[Amend 1.10 to read as follows:]

1.10 Optional Merged Containerization With Presorted and Carrier Route Flats

When the conditions and preparation standards in M920, M930, or M940 are met, 5-digit packages of Presorted, automation, and carrier route rate mail that are part of the same mailing job may be combined on merged 5-digit scheme sacks or pallets and merged 5-digit sacks or pallets. Packages co-sacked or copalletized must be part of the same mailing job and mail class.

* * * * *

M900 Advanced Preparation Options for Flats

M910 Co-Traying and Co-Sacking Packages of Automation and Presorted Mailings

1.0 FIRST-CLASS MAIL

1.1 Basic Standards

[Amend the introduction of 1.1 and 1.1a to show that co-traying is required:]

Packages of flats in an automation rate mailing prepared under M820.2.0 must be co-trayed with packages of flats in a Presorted rate mailing under the following conditions:

a. The automation rate pieces and Presorted rate pieces are part of the same mailing job and are reported on the same postage statement.

* * * * *

3.0 STANDARD MAIL

3.1 Basic Standards

[Amend the introduction of 3.1 and 3.1a to show that co-sacking is required:]

Packages of flats in an automation rate mailing must be co-sacked with packages of flats in a Presorted rate mailing under the following conditions:

a. The automation rate pieces and Presorted rate pieces are part of the same mailing job and are reported on the same postage statement.

* * * * *

M920 Merged Containerization of Packages Using the City State Product

* * * * *

2.0 STANDARD MAIL

2.1 Basic Standards

Carrier route packages of flats in a carrier route rate mailing may be placed in the same sack or on the same pallet as 5-digit packages of flats from an automation rate mailing and 5-digit packages of flats from a Presorted rate mailing under the following conditions:

* * * * *

[Amend 2.1f to delete references to the optional L001 scheme sort. This sort is now required.]

f. If sortation under this section is performed, merged 5-digit sacks or pallets must be prepared for all 5-digit ZIP Codes with an "A" or "C" indicator in the City State Product that permits such preparation when there is enough volume for the 5-digit ZIP Code to prepare that sack or pallet.

* * * * *

[Amend 2.1k to delete references to the optional L001 scheme sort. This sort is now required.]

k. The packages from each separate mailing must be sorted together into sacks (co-sacked) under 2.3 and 2.4 or on pallets (copalletized) under 2.5 using presort software that is PAVE-certified.

* * * * *

[Delete 2.4 and 2.6. Renumber 2.5 (sacking with scheme sort) as 2.4. Renumber 2.7 (palletizing with scheme sort) as 2.5. Amend the title and introduction of renumbered 2.4 to read as follows:]

2.4 Sack Preparation and Labeling

Mailers must prepare sacks in the following manner and sequence. All carrier route packages must be placed in sacks under 2.4a through 2.4e as described below. Mailers must prepare all merged 5-digit scheme sacks, 5-digit scheme carrier routes sacks, and merged 5-digit sacks that are possible in the mailing based on the volume of mail to the destination using L001 and the Carrier Route Indicators field in the City State Product. Mailers must label sacks according to the Line 1 and Line 2 information listed below and under M032.

* * * * *

[Amend the title and introduction of renumbered 2.5 to read as follows:]

2.5 Pallet Preparation and Labeling

Mailers must prepare pallets in the manner and sequence listed below and under M041. Mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and/or the City State Product. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

* * * * *

M930 Merged Palletization of Packages Using a 5% Threshold

* * * * *

2.0 STANDARD MAIL

2.1 Basic Standards

[Amend the introduction to read as follows:]

Carrier route packages of flats in a carrier route rate mailing may be placed on the same pallet as 5-digit packages of flats from an automation rate mailing and 5-digit packages of flats from a Presorted rate mailing under the following conditions:

* * * * *

[Amend 2.1d and 2.1e to delete references to the optional L001 scheme sort.]

d. Automation rate 5-digit packages and Presorted rate 5-digit packages may be copalletized with carrier route packages only when the pieces in the 5-digit packages do not exceed the 5% threshold described in 2.3. Pallets of mail sorted in this manner are called "merged 5-digit scheme" pallets.

e. If sortation under this section is performed, merged 5-digit scheme pallets must be prepared whenever there is enough volume of carrier route and 5-digit packages under M041 and 2.3 to prepare such pallets.

* * * * *

[Amend 2.1h to delete references to the optional L001 scheme sort.]

h. The packages from each separate mailing must be sorted together on pallets (copalletized) using presort software that is PAVE-certified.

* * * * *

2.3 5% Threshold Standards

[Amend the introduction of 2.3 to show that the L001 scheme sort is the only allowable sort.]

Mailers may place 5-digit packages with carrier route packages on the same merged 5-digit scheme and merged 5-digit pallet if all of the following conditions are met:

* * * * *

[Delete 2.4. Renumber 2.5 (palletizing with scheme sort) as 2.4. Amend the title and introduction of renumbered 2.4 to read as follows:]

2.4 Pallet Preparation and Labeling

Mailers must prepare pallets of packages in the manner and sequence listed below and under M041. Mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and the 5% threshold. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

* * * * *

M940 Merged Palletization of Packages Using the City State Product and a 5% Threshold

* * * * *

2.0 STANDARD MAIL

2.1 Basic Standards

[Amend the introduction to read as follows:]

Carrier route packages of flats in a carrier route rate mailing may be placed on the same pallet as 5-digit packages of flats from an automation rate mailing and 5-digit packages of flats from a Presorted rate mailing under the following conditions:

* * * * *

[Amend 2.1f to delete references to the optional L001 scheme sort.]

f. If sortation under this section is performed, then merged 5-digit scheme pallets must be prepared whenever there is enough volume of carrier route and 5-digit packages under M041 to prepare such pallets using the criteria in 2.1e and the sortation criteria in 2.4.

* * * * *

[Amend 2.1j to delete references to the optional L001 scheme sort.]

j. The packages from each separate mailing must be sorted together on pallets (copalletized) using presort software that is PAVE-certified.

* * * * *

2.3 5% Threshold Standard

[Amend the introduction to show that the L001 scheme sort is the only allowable sort.]

For 5-digit ZIP Codes with a "B" or "D" indicator in the City State Product, mailers may place 5-digit packages with carrier route packages on the same merged 5-digit scheme and merged 5-digit pallet if all of the following conditions are met:

* * * * *

[Delete 2.4. Renumber 2.5 (palletizing with scheme sort) as 2.4. Amend the title and introduction to read as follows:]

2.4 Pallet Preparation and Labeling

Mailers must prepare pallets of packages in the manner and sequence listed below and under M041. Mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001, the City State Product, and the 5% threshold. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under M031.

* * * * *

An appropriate amendment to 39 CFR Part 111 to reflect these changes will be published.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–13174 Filed 5–23–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 224–0279a; FRL–6982–6]

Revisions to the California and Arizona State Implementation Plans, Antelope Valley Air Pollution Control District and Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Antelope Valley Air Pollution Control District (AVAPCD) and Maricopa County Environmental Services Department (MCESD) portions of the respective California and Arizona State Implementation Plans (SIPs). These revisions concern volatile organic compound (VOC) emissions from solvent cleaning operations and automotive windshield washer fluid use. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 23, 2001 without further notice, unless EPA receives adverse comments by June 25, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

Antelope Valley Air Pollution Control District, 43301 Division Street, Suite 206, Lancaster, CA 93539.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1199.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rules did the States Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB) and Arizona Department of Environmental Quality (ADEQ).

TABLE 1.—SUBMITTED RULES

Local Agency	Rule No.	Rule Title	Adopted	Submitted
AVAPCD	1171	Solvent Cleaning Operations	11/17/98	02/16/99
MCESD	344	Automotive Windshield Washer Fluid	04/07/99	08/04/99

On April 23, 1999 and August 25, 1999, these respective rule submittals from the CARB and ADEQ were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved a version of Rule 1171 into the California SIP on July 14, 1995. The AVAPCD adopted revisions to the SIP-approved version on November 17, 1998 and CARB submitted them to us on February 16, 1999. There are no previous versions of Rule 344 in the Arizona SIP, although the MCESD adopted an earlier version of this rule on April 3, 1996, and ADEQ submitted it to us on February 26, 1997. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What Is the Purpose of the Submitted Rules?

These rules limit the emissions of VOCs from solvent cleaning operations and automotive windshield washer fluid use. The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The AVAPCD and MCESD regulate ozone nonattainment areas (see 40 CFR part 81). Rule 1171 must fulfill RACT; because Rule 344 does not apply to major sources, it is not required to impose RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. "Guidance Document for Correcting VOC Rule Deficiencies," (Little Blue Book), April 1991.

4. National Volatile Organic Compound Emissions Standards for Consumer Products, 40 CFR part 59, subpart C.

5. Article 2, Consumer Products, of the California Code of Regulations Title 17, section 94507–94517.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The TSDs describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agencies modify the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by June 25, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on July 23, 2001. This will incorporate these rules into the federally enforceable SIP.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection

burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 27, 2001.

Michael Schulz,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(94)(i)(E) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(94) * * *

(i) * * *

(E) Rule 344, adopted on April 7, 1999.

* * * * *

Subpart F—California

3. Section 52.220 is amended by adding paragraphs (c)(262)(i)(E)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(262) * * *

(i) * * *

(E) * * *

(*2*) Rule 1171, adopted on November 17, 1998.

* * * * *

[FR Doc. 01–13045 Filed 5–23–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301124; FRL–6782–1]

RIN 2070–AB78

Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for the pesticides listed in Unit II. of the **SUPPLEMENTARY INFORMATION**. These actions are in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of these pesticides. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA.

DATES: This regulation is effective May 24, 2001. Objections and requests for hearings, identified by docket control number OPP–301125, must be received by EPA on or before June 25, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301125 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: See the listing below for the name of a specific contact person. The following mailing address and telephone number apply to all contact persons: Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366.

Pesticide	CFR cite	Contact person	E-mail
Diuron	40 CFR 180.106	Shaja R. Brothers	brothers.shaja@epamail.epa.gov
Terbacil	40 CFR 180.209	Beth Edwards	edwards.beth@epa.gov
Hydramethylnon Clopyralid	40 CFR 180.395 40 CFR 180.431	Libby Pemberton	pemberton.libby@epa.gov
Imidacloprid Spinosad	40 CFR 180.472 40 CFR 180.495	Andrew Ertman	ertman.andrew@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301125. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA published final rules in the **Federal Register** for each chemical/commodity listed below. The initial issuance of these final rules announced that EPA, on its own initiative, under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) was establishing time-limited tolerances.

EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or time for public comment.

EPA received requests to extend the use of these chemicals for this year's growing season. After having reviewed these submissions, EPA concurs that emergency conditions exist. EPA assessed the potential risks presented by residues for each chemical/commodity. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18.

The data and other relevant material have been evaluated and discussed in the final rule originally published to support these uses. Based on that data and information considered, the Agency reaffirms that extension of these time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended until the date listed below. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on the date listed, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on the commodity after that date will not be unlawful, provided the residue is present as a result of an application or use of a pesticide at a time and in a manner that was lawful under FIFRA, the tolerance was in place at the time of the application, and the residue does not exceed the level that was authorized by the tolerance. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Tolerances for the use of the following pesticide chemicals on specific commodities are being extended:

1. *Diuron.* EPA has authorized under FIFRA section 18 the use of diuron, in catfish ponds for control of blue green algae in Arkansas and Mississippi. This regulation extends a time-limited tolerance for combined residues of the herbicide, diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) and its metabolites convertible to 3,4-dichloroaniline in or on catfish fillets at 2.0 ppm for an additional 2–year period. This tolerance will expire and is revoked on June 30, 2003. A time-limited tolerance was originally published in the **Federal Register** on July 30, 1999 (64 FR 41297) (FRL–6087–2).

2. *Terbacil.* EPA has authorized under FIFRA section 18 the use of terbacil on watermelon for control of weeds in Delaware, Maryland, and Virginia. This regulation extends a time-limited tolerance for residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites 3-tert-

butyl-5-chloro-6-hydroxymethyluracil, 6-chloro-2,3-dihydro-7-hydroxymethy 3,3-dimethyl-5H oxazolo (3,2-a) pirimidin-5-one, and - 6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one), calculated as terbacil in or on watermelon at 0.4 ppm for an additional 2–year, 1–month period. This tolerance will expire and is revoked on June 30, 2003. A time-limited tolerance was originally published in the **Federal Register** on June 20, 1997 (62 FR 33557) (FRL–6080–5).

3. *Hydramethylnon.* EPA has authorized under FIFRA section 18 the use of hydramethynon on pineapple for control of big-headed and Argentine ants in Hawaii: This regulation extends a time-limited tolerance for residues of the insecticide hydramethylnon; tetrahydro-5,5-dimethyl-2-(1H)-pyrimidinoine (3-(4-trifluoromethyl)phenyl)-1-[2-[4(trifluoromethyl)phenyl]ethenyl]-2-propenylidene) hydrazone in or on pineapple at 0.05 ppm for an additional 2–year, 1–month period. This tolerance will expire and is revoked on June 30, 2003. A time-limited tolerance was originally published in the **Federal Register** on March 4, 1998 (63 FR 10537) (FRL–5767–1).

4. *Clopyralid.* EPA has authorized under FIFRA section 18 the use of clopyralid on canola for control of Canada thistle and perennial sowthistle in Minnesota, Montana, and North Dakota. This regulation extends a time-limited tolerance for residues of the herbicide clopyralid in or on canola at 3 ppm for an additional 1–year, 11–month period. This tolerance will expire and is revoked on June 30, 2003. A time-limited tolerance was originally published in the **Federal Register** on May 16, 1997 (62 FR 26949) (FRL–5718–2).

5. *Imidacloprid—Blueberries.* EPA has authorized under FIFRA section 18 the use of imidacloprid on blueberries for control of oriental beetles and blueberry aphids in New Jersey. This regulation extends a time-limited tolerance for combined residues of the insecticide imidacloprid; (1-6-chloro-3-pyridinyl)methyl-*N*-nitro-2-imidazolidinimine) and its metabolites containing the 6-chloropyridinyl moiety, all expressed as parent in or on blueberries at 1.0 ppm for an additional 2–year, 1–month period. This tolerance will expire and is revoked on June 30, 2003. A time-limited tolerance was originally published in the **Federal Register** on July 21, 1999 (64 FR 39041) (FRL–6088–3).

6. *Spinosad.* EPA has authorized under FIFRA section 18 the use of spinosad on cranberries for control of sparganothis fruitworm in Massachusetts. This regulation extends a time-limited tolerance for residues of the insecticide spinosad; Spinosyn A (Factor A; CAS #131929–60–7) or 2-[(6-deoxy-2,3,4-tri-O-methyl-α-L-manno-pyranosyl)oxy-13-[[5-(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2, 3, 3a, 5a, 5b, 6, 9, 10, 11, 12, 13, 14, 16a, 16b- tetradecahydro-14-methyl-1H-as-indaceno[3,2-doxacyclododecin-7,15-dione; and Spinosyn D (Factor D; CAS #131929–63–0) or 2-(6-deoxy-2,3,4-tri-O-methyl-α-L-manno-pyranosyl)oxy-13[[-5-(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2, 3, 3a, 5a, 5b, 6, 9, 10, 11, 12, 13, 14, 16a, 16b-tetradecahydro 4,14-methyl-1H-as-indaceno[3,2]-doxacyclododecin-7, 15–dione in or on cranberries at 0.02 ppm for an additional 2–year, 1–month period. This tolerance will expire and is revoked on June 30, 2003. A time-limited tolerance was originally published in the **Federal Register** on July 21, 1999 (64 FR 39053) (FRL–6086–7).

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301125 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 25, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27).

Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental

Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301125, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994); or require OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established under FFDCA section 408(l)(6) in response to an exemption under FIFRA section 18, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 2, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.106 [AMENDED]

2. In § 180.106(b), amend the table entry for catfish fillets by revising the

expiration date "6/30/01" to read "6/30/03".

§ 180.209 [AMENDED]

3. In § 180.209(b), amend the table entry for watermelon by revising the expiration date "5/30/01" to read "6/30/03".

§ 180.395 [AMENDED]

4. In § 180.395(b), amend the table entry for pineapple by revising the expiration date "5/30/01" to read "6/30/03".

§ 180.431 [AMENDED]

5. In § 180.431(b), amend the table entry for canola by revising the expiration date "7/31/01" to read "6/30/03."

§ 180.472 [AMENDED]

6. In § 180.472(b), amend the table entry for cranberries by revising the expiration date "06/01/01" to read "6/30/03."

§ 180.495 [AMENDED]

7. In § 180.495(b), amend the table entry for cranberries by revising the expiration date "06/01/01" to read "6/30/03."

[FR Doc. 01–12901 Filed 5–23–01; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[WO–850–1820–XZ–24–1A]

RIN 1004–AD34

Application Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This administrative final rule amends the regulations pertaining to execution and filing of forms in order to reflect the new address of the California and Montana State Offices of the Bureau of Land Management (BLM). All filings and other documents relating to public lands in California and Montana must be filed at the new address of the State Offices. This rule will have no impact or cost to the public. The benefits of the rule are limited.

EFFECTIVE DATE: May 24, 2001.

FOR FURTHER INFORMATION CONTACT: Kelly Odom, at (202) 452–5028. To reach Ms. Odom, persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: This administrative final rule reflects the administrative action of changing the addresses of the California and Montana State Offices of BLM. It changes the addresses for the filing of documents relating to public lands in California and Montana, but makes no other changes in filing requirements. Therefore, this amendment is published as a final rule with the effective date shown above.

Because this final rule is an administrative action to change the address for two BLM State Offices, BLM has determined that it has no substantive impact on the public. It imposes no costs, and merely updates a list of addresses included in the Code of Federal Regulations for the convenience of the public. The Department of the Interior, therefore, for good cause finds under 5 U.S.C. 553(b)(B) and 553(d)(3) that notice and public procedure thereon are unnecessary and that this rule may take effect upon publication.

Because this final rule is a purely administrative regulatory action having no effects upon the public or the environment, it has been determined that the rule is categorically excluded from review under section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

As required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property. No private property rights would be affected by a rule that merely reports address changes for BLM State Offices. The Department therefore certifies that this proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights.

Further, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) that it will not have a significant economic impact on a substantial number of small entities. Reporting address changes for BLM State Offices will not have any economic impact whatsoever.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

BLM has determined that this rule is not significant under the Unfunded Mandates Reform Act of 1995, because it will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Further, this rule will not significantly or uniquely affect small governments.

List of Subjects in 43 CFR Part 1820

Administrative practice and procedure, Application procedures, Execution and filing of forms, Bureau offices of record.

For the reasons discussed in the preamble, the Bureau of Land Management amends 43 CFR part 1820 as follows:

Dated: May 16, 2001.

Piet deWitt,

Acting Assistant Secretary, Land and Minerals Management.

PART 1820—APPLICATION PROCEDURES

1. The authority citation for Part 1820 continues to read as follows:

Authority: 5 U.S.C. 552, 43 U.S.C. 2, 1201, 1733, and 1740.

Subpart 1821—General Information

2. Section 1821.10(a) is revised to read as follows:

§ 1821.10 Where are BLM offices located?

(a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices and their respective geographical areas of jurisdiction are as follows:

State Offices and Areas of Jurisdiction

Alaska State Office, 222 West 7th Avenue, #13, Anchorage, AK 99513–7599—Alaska Arizona State Office, 222 North Central Avenue, Phoenix, AZ 85004–2203—Arizona California State Office, 2800 Cottage Way, Suite W–1834, Sacramento, CA 95825–1886—California
Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215–7093—Colorado
Eastern States Office, 7450 Boston Boulevard, Springfield, VA 22153–3121—Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all States east of the Mississippi River
Idaho State Office, 1387 South Vinnell Way, Boise, ID 83709–1657—Idaho
Montana State Office, 5001 Southgate Drive, P.O. Box 36800, Billings, MT 59101–4669—Montana, North Dakota and South Dakota
Nevada State Office, 1340 Financial Way, Reno, NV 89502–7155—Nevada

New Mexico State Office, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, NM 87502–0115—Kansas, New Mexico, Oklahoma and Texas
Oregon State Office, 1515 Southwest 5th Avenue, P.O. Box 2965, Portland, OR 97208–2965—Oregon and Washington
Utah State Office, 324 South State Street, P.O. Box 45155, Salt Lake City, UT 84145–0155—Utah
Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003–1823–Wyoming and Nebraska

[FR Doc. 01–12965 Filed 5–23–01; 8:45 am]
BILLING CODE 4310–84–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1552

[FRL–6955–3]

Acquisition Regulation; Administrative Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing this final rule that amends the Environmental Protection Agency Acquisition Regulation (EPAAR) by making administrative changes to be consistent with Federal Acquisition Regulation (FAR) provisions.

EFFECTIVE DATE: May 24, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Schaffer, U.S. EPA, Office of Acquisition Management, Mail Code (3802R), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Telephone: (202) 564–4366.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule was published in the **Federal Register** (65 FR 58921) on October 3, 2000, providing for a 60-day public comment period. Interested parties were afforded an opportunity to participate in the making of this rule. No public comments were received.

B. Executive Order 12866

This is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB).

C. Paperwork Reduction Act (PRA)

The information collection requirement (ICR) in 1552.219–71, Procedures for Participation in the EPA Mentor-Protege Program, is covered by OMB clearance number 2030–0006. Copies of the ICR document may be obtained from Sandy Farmer, by mail at the EPA Office of Environmental Information, Collection Strategies Division, U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by email at *farmer.sandy@epa.gov*, or by calling (201) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. Include the ICR clearance number in any correspondence.

The government-wide information collection requirement in 1552.245–73, Government Property, is covered by OMB clearance number 9000–0075, which is maintained by the General Services Administration. This final rule contains no other clauses with information requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's final rule on small entities, small entity is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the final rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This final rule merely incorporates existing EPA solicitation and contract provisions into the EPAAR and will have no adverse impact on small entities. The requirements under this final rule impose no additional reporting, record-keeping, or compliance costs on small entities.

E. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and Tribal governments, and the private sector. This final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures that are far below the level established for UMRA applicability. Thus, the final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

G. Executive Order 13132

Executive Order 13132 entitled, "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule merely incorporates existing EPA solicitation and contract provisions into the EPAAR. Thus, the requirements of section 6 of the Executive Order do not apply to this final rule.

H. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by Tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian Tribal government "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This final rule does not significantly or uniquely affect the communities of Indian Tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this final rule.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rules report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Authority: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b. 48 CFR Chapter 15 is amended as follows:

List of Subjects in 48 CFR Part 1552

Government procurement.

1. The authority citations for 48 CFR part 1552 continues to read as follows:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended; 40 U.S.C. 486(c); and 41 U.S.C. 418b.

2. In Section 1552.211–70, in the clause "Reports of Work" and in alternate 1 revise the effective date of the clause from "Feb 1998" to read "Oct 2000".

3. In Section1552.211–79 "Compliance with EPA Policies for Information Resources Management" revise the effective date of the clause from "Sept 1991" to read "Oct 2000."

4. Section1552.219–70 Mentor-Protege Program is revised to read as follows:

1552.219–70 Mentor-Protege Program.

As prescribed in 1519.203(a), insert the following clause:

MENTOR-PROTEGE PROGRAM

OCT 2000

(a) The Contractor has been approved to participate in the EPA Mentor-Protege program. The purpose of the Program is to increase the participation of small disadvantaged businesses (SDBs) as subcontractors, suppliers, and ultimately as prime contractors; to establish a mutually beneficial relationship with SDB's and EPA's large business prime contractors (although small businesses may participate as Mentors); to develop the technical and corporate administrative expertise of SDBs which will ultimately lead to greater success in competition for contract opportunities; to promote the economic stability of SDBs; and to aid in the achievement of goals for the use of SDBs in subcontracting activities under EPA contracts.

(b) The Contractor shall submit an executed Mentor-Protege agreement to the contracting officer, with a copy to the Office of Small and Disadvantaged Business Utilization or the Small Business Specialist, within thirty (30) calendar days after the effective date of the contract. The contracting officer will notify the Contractor within thirty (30) calendar days from its submission if the agreement is not accepted.

(c) The Contractor as a Mentor under the Program agrees to fulfill the terms of its agreement(s) with the Protege firm(s).

(d) If the Contractor or Protege firm is suspended or debarred while performing under an approved Mentor-Protege agreement, the Contractor shall promptly give notice of the suspension or debarment to the Office of Small and Disadvantaged Business Utilization and the contracting officer.

(e) Costs incurred by the Contractor in fulfilling their agreement(s) with the Protege firm(s) are not reimbursable on a direct basis under this contract.

(f) In an attachment to Standard Form 294, Subcontracts Report for Individual Contracts, the Contractor shall report on the progress made under their Mentor-Protege agreement(s), providing:

(1) The number of agreements in effect; and

(2) The progress in achieving the developmental assistance objectives under each agreement, including whether the objectives of the agreement have been met, problem areas encountered, and any other appropriate information.

(End of clause)

5. Section 1552.219–71, Procedures for Participation in the EPA Mentor-Protege Program, is revised to read as follows:

1552.219–71 Procedures for Participation in the EPA Mentor-Protege Program.

As prescribed in 1519.203(b), insert the following provision:

PROCEDURES FOR PARTICIPATION IN THE EPA MENTOR-PROTEGE PROGRAM

OCT 2000

(a) This provision sets forth the procedures for participation in the EPA Mentor-Protege Program (hereafter referred to as the Program). The purpose of the Program is to increase the participation of small disadvantaged businesses (SDBs) as subcontractors, suppliers, and ultimately as prime contractors; to establish a mutually beneficial relationship with SDBs and EPA's large business prime contractors (although small businesses may participate as Mentors); to develop the technical and corporate administrative expertise of the SDBs which will ultimately lead to greater success in competition for contract opportunities; to promote the economic stability of SDBs; and to aid in the achievement of goals for the use of SDBs in subcontracting activities under EPA contracts. If the successful offeror is accepted into the Program they shall serve as a Mentor to a Protege (SDB) firm(s), providing developmental assistance in accordance with an agreement with the Protege firm(s).

(b) To participate as a Mentor, the offeror must receive approval in accordance with paragraph (h).

(c) A Protege must be a small disadvantaged business (SDB) concern as defined under Federal Acquisition Regulation (FAR) 19.001, and a small business for the purpose of the Small Business Administration (SBA) size standard applicable to the North American Industry Classification System (NAICS) code applicable to the contemplated supplies or services to be provided by the Protege firm to the Mentor firm. Further, consistent with EPA's 1993 Appropriation Act, socially disadvantaged individuals shall be deemed to include women.

(d) Where there may be a concern regarding the Protege firm's eligibility to participate in the program, the protege's eligibility will be determined by the contracting officer after the SBA has completed any formal determinations.

(e) The offeror shall submit an application in accordance with paragraph (k) as part of its proposal which shall include as a minimum the following information.

(1) A statement and supporting documentation that the offeror is currently performing under at least one active Federal contract with an approved subcontracting plan and is eligible for the award of Federal contracts;

(2) A summary of the offeror's historical and recent activities and accomplishments under their SDB program. The offeror is encouraged to include any initiatives or outreach information believed pertinent to approval as a Mentor firm;

(3) The total dollar amount (including the value of all option periods or quantities) of EPA contracts and subcontracts received by the offeror during its two preceding fiscal years. (Show prime contracts and subcontracts separately per year);

(4) The total dollar amount and percentage of subcontract awards made to all SDB firms under EPA contracts during its two preceding fiscal years. If recently required to submit a SF 295, provide copies of the two preceding year's reports;

(5) The number and total dollar amount of subcontract awards made to the identified Protege firm(s) during the two preceding fiscal years (if any).

(f) In addition to the information required by (e) above, the offeror shall submit as a part of the application the following information for each proposed Mentor-Protege relationship:

(1) Information on the offeror's ability to provide developmental assistance to the identified Protege firm and how the assistance will potentially increase contracting and subcontracting opportunities for the Protege firm, including subcontract opportunities in industry categories where SDBs are not dominant in the offeror's vendor base.

(2) A letter of intent indicating that both the Mentor firm and the Protege firm intend to enter into a contractual relationship under which the Protege will perform as a subcontractor under the contract resulting from this solicitation and that the firms will negotiate a Mentor-Protege agreement. Costs incurred by the offeror in fulfilling the agreement(s) with the Protege firm(s) are not reimbursable as a direct cost under the contract. The letter of intent must be signed by both parties and contain the following information:

(i) The name, address and phone number of both parties;

(ii) The Protege firm's business classification, based upon the NAICS code(s) which represents the contemplated supplies or services to be provided by the Protege firm to the Mentor firm;

(iii) A statement that the Protege firm meets the eligibility criteria;

(iv) A preliminary assessment of the developmental needs of the Protege firm and the proposed developmental assistance the Mentor firm envisions providing the Protege. The offeror shall address those needs and how their assistance will enhance the Protege. The offeror shall develop a schedule to assess the needs of the Protege and establish criteria to evaluate the success in the Program.

(v) A statement that if the offeror or Protege firm is suspended or debarred while performing under an approved Mentor-Protege agreement the offeror shall promptly give notice of the suspension or debarment to the EPA Office of Small Disadvantaged Business Utilization (OSDBU) and the contracting officer. The statement shall require the Protege firm to notify the Contractor if it is suspended or debarred.

(g) The application will be evaluated on the extent to which the offeror's proposal addresses the items listed in (e) and (f). To the maximum extent possible, the application should be limited to not more than 10 single pages, double spaced. The offeror may identify more than one Protege in its application.

(h) If the offeror is determined to be in the competitive range, the offeror will be advised by the contracting officer whether their application is approved or rejected. The contracting officer, if necessary, may request additional information in connection with the offeror's submission of its revised or best and final offer. If the successful offeror has submitted an approved application, they shall comply with the clause titled "Mentor-Protege Program."

(i) Subcontracts of $1,000,000 or less awarded to firms approved as Proteges under the Program are exempt from the requirements for competition set forth in FAR 52.244–5(b).

(j) Costs incurred by the offeror in fulfilling their agreement(s) with a Protege firm(s) are not reimbursable as a direct cost under the contract. Unless EPA is the responsible audit agency under FAR 42.703–1, offerors are encouraged to enter into an advance agreement with their responsible audit agency on the treatment of such costs when determining indirect cost rates. Where EPA is the responsible audit agency, these costs will be considered in determining indirect cost rates.

(k) Submission of Application and Questions Concerning the Program. The application for the Program shall be submitted to the contracting officer, and to the EPA OSDBU, at the following addresses for headquarters procurements:

Socioeconomic Business Program Officer, Office of Small and Disadvantaged Business Utilization, U. S. Environmental Protection Agency, Ariel Rios Building (3801R), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Telephone: (202) 564–4322, Fax: (202) 565–2473

The application for the Program shall be submitted to the contracting officer, and to the Small Business Specialist, at the following address for RTP procurements:

Small Business Program Officer, Contracts Management Division (MD–33), U. S. Environmental Protection Agency, Research Triangle Park, NC 27711, Telephone: (919) 541–2249, Fax: (919) 541–5539

The application for the Program shall be submitted to the contracting officer, and to

the Small Business Specialist, at the following address for Cincinnati procurements:

Small and Disadvantaged Business Utilization Officer, Contracts Management Division, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Telephone: (513) 487–2024, Fax: (513) 487–2004

(End of provision)

6. Section 1552.219–72, Small Disadvantaged Business Participation Program, is revised to read as follows:

1552.219–72 Small Disadvantaged Business Participation Program.

As prescribed in 1519.204(a), insert the following clause:

SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM

OCT 2000

(a) Section M of this solicitation contains a source selection factor or subfactor related to the participation of small disadvantaged business (SDB) concerns in the performance of the contract. The nature of the evaluation of an SDB offeror under this evaluation factor or subfactor is dependent upon whether the SDB concern qualifies for the price evaluation adjustment under the clause at FAR 52.219–23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, and whether the SDB concern specifically waives this price evaluation adjustment.

(b) In order to be evaluated under the source selection factor or subfactor, an offeror must provide, with its offer, the following information:

(1) The extent of participation of SDB concerns in the performance of the contract in terms of the value of the total acquisition. Specifically, offerors must provide targets, expressed as dollars and percentages of the total contract value, for SDB participation in the applicable and authorized North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce. Total dollar and percentage targets must be provided for SDB participation by the prime contractor, including team members and joint venture partners. In addition, total dollar and percentage targets for SDB participation by subcontractors must be provided and listed separately;

(2) The specific identification of SDB concerns to be involved in the performance of the contract;

(3) The extent of commitment to use SDB concerns in the performance of the contract:

(4) The complexity and variety of the work the SDB concerns are to perform; and

(5) The realism of the proposal to use SDB concerns in the performance of the contract.

(c) An SDB offeror who waives the price evaluation adjustment provided in FAR 52.219–23 shall provide, with their offer, targets, expressed as dollars and percentages of the total contract value, for the work that it intends to perform as the prime contractor in the applicable and authorized NAICS Industry Subsectors as determined by the Department of Commerce. All of the offeror's identified targets described in paragraphs (b) and (c) of this clause will be incorporated into and made part of any resulting contract.

(End of provision)

7. Section 1552.219–73, Small Disadvantaged Business Targets, is revised to read as follows:

1552.219–73 Small Disadvantaged Business Targets.

As prescribed in 1519.204(b), insert the following clause:

SMALL DISADVANTAGED BUSINESS TARGETS

OCT 2000

(a) In accordance with FAR 19.1202–4(a) and EPAAR 1552.219–72, the following small disadvantaged business (SDB) participation targets proposed by the contractor are hereby incorporated into and made part of the contract:

Contractor targets	NAICS major group	Dollars	Percentage of total contract value
Total Prime Contractor Targets (including joint venture partners)			
Total subcontractor targets			

(b) The following specifically identified SDB(s) was (were) considered under the Section—SDB participation evaluation factor or subfactor (continue on separate sheet if more space is needed):

(1) _____
(2) _____
(3) _____
(4) _____
(5) _____

The contractor shall promptly notify the contracting officer of any substitution of firms if the new firms are not SDB concerns.

(c) In accordance with FAR 52.219–25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, the contractor shall report on the participation of SDB concerns in the performance of the contract no less than thirty (30) calendar days prior to each annual contractor performance evaluation [contracting officer may insert the dates for each performance evaluation (i.e., every 12 months after the effective date of contract)] or as otherwise directed by the contracting officer.

(End of provision)

8. In Section 1552.232–73 "Payments—Fixed-Rate Services Contract" revise the effective date of the clause from "APR 1984 to read to "OCT 2000."

Dated: February 21, 2001.

Judy S. Davis,

Acting Director, Office of Acquisition Management.

[FR Doc. 01–12701 Filed 5–23–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 001226367–0367–01; I.D. 121500E]

Magnuson-Stevens Act Provisions; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Corrections

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Corrections to the 2001 specifications for the Pacific Coast groundfish fishery.

SUMMARY: This document contains corrections to the 2001 groundfish fishery specifications and management measures for the Pacific Coast groundfish fishery, which were published on January 11, 2001 and amended at 66 FR 10211 (February 14, 2001), at 66 FR 18409 (April 9, 2001), and at 66 FR 22467 (May 4, 2001).

DATES: Effective May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko, NMFS,(206) 526–6140.

SUPPLEMENTARY INFORMATION:

Background

The 2001 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone and state waters off the coasts of Washington, Oregon, and California, as authorized by the Pacific Coast Groundfish Fishery Management Plan, were published in the **Federal Register** on January 11, 2001 (66 FR 2338), and

amended at 66 FR 10211 (February 14, 2001), at 66 FR 18409 (April 9, 2001), and at 66 FR 22467 (May 4, 2001). Table 4, 2001 Trip Limits for Limited Entry Fixed Gear, in the specifications contained errors in the limits for Minor shelf rockfish, canary rockfish, and Bocaccio, South of 34° 27′ N. lat. (Pt. Conception). This document corrects these errors and republishes Table 4 in its entirety.

Corrections

In the rule FR Doc. 01–11297, in the issue of Friday, May 4, 2001, (66 FR 22467), make the following corrections:

1. Table 4 is corrected and republished in its entirety to read as follows:

BILLING CODE 3510–22–S

Table 4. 2001 Trip Limits[1] for Limited Entry Fixed Gear
Read Section IV.A. NMFS Actions before using this table.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,500 lb/ 2 months		1,500 lb/ 2 months			1,500 lb/ 2 months
3	South	14,000 lb/ 2 months		14,000 lb/ 2 months			14,000 lb/ 2 months
4	**Splitnose - South**	8,500 lb/ 2months		14,000 lb/ 2 months			4,000 lb/ 2 months
5	**Pacific ocean perch 5/**	1,500 lb/ month		2,500 lb/ month			1,500 lb/ month
6	**Sablefish**						
7	North of 36° N. lat.	300 lb/ day, 2,700 lb/ 2 months					
8	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
9	**Longspine thornyhead**	6,000 lb/ 2 months		6,000 lb/ 2 months			6,000 lb/ 2 months
10	**Shortspine thornyhead**	1,500 lb/ 2 months		1,500 lb/ 2 months			1,500 lb/ 2 months
11	**Dover sole**						
12	North	65,000 lb/ 2 months		20,000 lb/ 2 months			20,000 lb/ 2 months
13	South	35,000 lb/ 2 months		35,000 lb/ 2 months			35,000 lb/ 2 months
14	**Flatfish - North**						
15	Arrowtooth flounder	20,000 lb/ trip		30,000 lb/ month for all flatfish except Dover sole			20,000 lb/ trip
16	Petrale sole	No restriction					No restriction
17	Rex sole	No limit					No limit
18	All other flatfish 2/	No limit					No limit
19	**Flatfish - South**						
20	Arrowtooth flounder	20,000 lb/ trip		No limit			20,000 lb/ trip
21	Petrale sole			No limit			
22	Rex sole			No limit			
23	All other flatfish 2/			No limit			
24	**Whiting 3/**	20,000 lb/ trip		Primary Season			20,000 lb/ trip
25	**Minor shelf rockfish**						
26	North	300 lb/ month		1,000 lb/ month			300 lb/ month
27	South						
28	40°10' - 34°27' N. lat.	500 lb/ month		CLOSED 4/	1,000 lb/ month		500 lb/ month
29	South of 34°27' N. lat.	CLOSED 4/	500 lb/ month	1,000 lb/ month			
30	**Canary rockfish**						
31	North	100 lb/ month		300 lb/ month			100 lb/ month
32	South						
33	40°10' - 34°27' N. lat.	100 lb/ month		CLOSED 4/	300 lb/ month		100 lb/ month
34	South of 34°27' N. lat.	CLOSED 4/	100 lb/ month	300 lb/ month			
35	**Widow rockfish**						
36	North	3,000 lb/ month					
37	South						
38	40°10' - 34°27' N. lat.	3,000 lb/ month		CLOSED 4/	3,000 lb/ montb		
39	South of 34°27' N. lat.	CLOSED 4/		3,000 lb/ month			
40	**Yellowtail - North 5/**	1,500 lb/ month					
41	**Bocaccio - South 5/**						
42	40°10' - 34°27' N. lat.	300 lb/ month		CLOSED 4/	500 lb/ month		300 lb/ month
43	South of 34°27' N. lat.	CLOSED 4/	300 lb/ month	500 lb/ month			
44	**Chilipepper - South 5/**						
45	40°10' - 34°27' N. lat.	2,500 lb/ month		CLOSED 4/	2,500 lb/ month		
46	South of 34°27' N. lat.	CLOSED 4/		2,500 lb/ month			
47	**Cowcod**	**CLOSED 4/ -- All Retention is Prohibited**					
48	**Minor nearshore rockfish**						
49	North	10,000 lb/ 2 months, no more than 4,000 lb of which may be species other than black or blue rockfish 6/		7,000 lb/ 2 months, no more than 4,000 lb of which may be species other than black or blue rockfish 6/			
50	South						
51	40°10' - 34°27' N. lat.	2,000 lb/ 2 months	CLOSED 4/	Shoreward of 20 fm depth 2,000 lb/ 2 months, otherwise CLOSED 4/			2,000 lb/ 2 months
52	South of 34°27' N. lat.	Shoreward of 20 fm depth 2,000 lb/ 2 months, otherwise CLOSED 4/		2,000 lb/ 2 months			
53	**Lingcod 7/**						
54	North	CLOSED 4/		400 lb/ month			CLOSED 4/
55	South						
56	40°10' - 34°27' N. lat.			CLOSED 4/	400 lb/ month		CLOSED 4/
57	South of 34°27' N. lat.	CLOSED 4/		400 lb/ month			CLOSED 4/

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.
2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with a trip limit.
3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. See IV.B.(3)(c).
4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7). in the time or area indicated. See IV.A.(7).
5/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area (Table 2).
6/ The "per trip" limit for black rockfish off Washington also applies. See paragraph IV.B.(4).
7/ The size limit for lingcod is 24 inches (61 cm) in the north, and 26 inches (66 cm) in the south, total length
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Dated: May 18, 2001.

Clarence Pautzke,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13078 Filed 5–23–01; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 051601A]

Fisheries of the Exclusive Economic Zone Off Alaska; Species that Comprise the Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary to fully use the second seasonal apportionment of the 2001 halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA.

DATES: Effective 1200 hrs, Alaska local time, May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of the 2001 halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA is 100 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

NMFS closed the directed fishery for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska under § 679.20(d)(7)(i) on April 27, 2001 (66 FR 21886, May 2, 2001).

NMFS has determined that approximately 51 mt remain in the second seasonal apportionment. Therefore, NMFS is terminating the previous closure and is opening directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to allow full use of the second seasonal apportionment of the 2001 halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to allow full use of the second seasonal apportionment of the 2001 halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. In addition, this action relieves a restriction on the species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 17, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13073 Filed 5–18–01; 3:57 pm]

BILLING CODE 3510–33–S

Proposed Rules

Federal Register
Vol. 66, No. 101
Thursday, May, 24, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SPATS No. MT–022–FOR]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Montana regulatory program (hereinafter, the "Montana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana proposes a statutory revision concerning the transfer of a revoked permit. Montana intends to revise its program to improve operational efficiency.

DATES: We will accept written comments on this amendment until 4 p.m., m.d.t. June 25, 2001. If requested, we will hold a public hearing on the amendment on June 18, 2001. We will accept requests to speak until 4 p.m., m.d.t. on June 8, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below. You may review copies of the Montana program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Federal Building, Room 2128, Casper, WY 82601–1918.

Neil Harrington, Acting Chief, Industrial and Energy Minerals Bureau, Montana Department of Environmental Quality, 1520 E. Sixth Ave., Helena, Montana 59620–0901, Telephone: (406) 444–4973.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–6550. Internet: gpadgett@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program.
II. Description of the Proposed Amendment.
III. Public Comment Procedures.
IV. Procedural Determinations.

I. Background on the Montana Program

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Description of the Proposed Amendment

By letter dated April 27, 2001, Montana sent us a proposed amendment to its program (Administrative Record No. MT–19–01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to a statutory revision passed by the 2001 Montana legislature. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

Specifically, Montana proposes to provide that a revoked permit will not terminate until 5 years after revocation, or until substantial revegetation occurs; that a person applying for the transfer of a revoked permit that has not terminated shall submit an application to the department that contains the information required for a permit applicant in Montana's statutes and that upon receipt on such application, the department shall cease reclamation activities on the permit area; that a person applying for a revoked permit need not submit any additional information unless the department can show that significant changes in the environmental baseline data have occurred; that the department may not prepare a review for permit transfer unless the department can show that the operation has caused or may cause significant impacts that have not been analyzed previously in an environmental review document; that the department shall process applications under timeframes already in the statutes; that following public comment period, the department shall transfer the permit when the new operator provides proof of site ownership or control and adequate bonding, with the requirement that prior to creating additional surface disturbance, all preexisting permit deficiencies and modifications necessary shall be corrected to the satisfaction of the department and that any preestablished environmental monitoring requirements continue; that under certain conditions the permit may not be transferred; that the department is not required to reimburse the former permittee or surety for funds expended for reclamation, monitoring or site maintenance; and that this statute does not apply to the revocation or transfer of an operating permit on Federal lands.

III. Public Comment Procedures.

Under the provisions of 30 CFR 732.17(h), OSM requests your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Montana program.

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Casper Field Office.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. MT–022–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at (307) 261–6550.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on June 8, 2001. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year

on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 14, 2001.

Peter Rutledge,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 01–13157 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–091–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the West Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The program amendment consists of changes to the West Virginia Surface Mining Reclamation rules at 38 CSR 2 as contained in House Bill 2663. The amendment submitted by the State is intended to render the West Virginia program no less effective than the Federal requirements.

DATES: If you submit written comments, they must be received on or before 4:00 p.m. (local time), on June 25, 2001. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. (local time), on June 18, 2001. Requests to speak at the hearing must be received by 4:00 p.m. (local time), on June 8, 2001.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

You may review copies of the West Virginia program, the proposed amendment, a listing of any scheduled hearings, and all written comments received in response to this document at the addresses below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Charleston Field Office.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301 Telephone: (304) 347–7158. E-mail: chfo@osmre.gov.

West Virginia Department of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0515. The proposed amendment will be posted at the Department's Internet page: http://www.dep.state.wv.us.

In addition, you may review copies of the proposed amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004. (By Appointment Only)

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 323 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5915–5956). You can find later actions concerning the conditions of approval and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Discussion of the Proposed Amendment

By letter dated May 2, 2001 (Administrative Record Number WV–1209), the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its program. The program amendment consists of changes to the West Virginia Surface Mining Reclamation rules at 38 CSR 2 as amended by House Bill 2663. The amendment submitted by the State is intended to render the West Virginia program no less effective than the Federal requirements.

We are not requesting comments on the proposed changes to CSR 38–2–3.14.b.12, concerning the partial removal of coal processing refuse piles, for the following reason. In 1990, we stated that "the removal, transport and use (without onsite reprocessing) of coal mine refuse which does not meet the definition of "coal" set forth in 30 CFR 700.5; i.e., ASTM Standard D 388–77, is not subject to regulation [under SMCRA]." 55 FR 21314; May 23, 1990. CSR 38–2–3.14.b.12 pertains to the removal of coal refuse that does not meet the definition of coal. Therefore, it is not subject to regulation under SMCRA, and will not be considered here.

You will find West Virginia's program amendment presented below.

1. CSR 38–2–2.39 Definition of "Cumulative Impact"

This definition is being amended by deleting the existing language and adding in its place the following language.

2.39. Cumulative Impact Area means the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and groundwater systems. Anticipated mining shall include the entire projected lives through bond releases of:

2.39.a. The proposed operation;

2.39.b. All existing operations;

2.39.c. Any operation for which a permit application has been submitted to the Director, and;

2.39.d. All operations required to meet diligent development requirements for leased Federal coal for which there is actual mine development information available.

2. CSR 38–2–3.12.a.1. Subsidence Control Plan

This provision is being amended by adding the words "a narrative indicating" to the survey and map requirements of this subsection. As amended, this provision requires a survey, map, and a narrative indicating whether or not subsidence could cause material damage to the identified structures and water supplies.

We note that this amendment is in response to the required program amendment codified at 30 CFR 948.16(zzz). This required amendment provides that the State must amend the West Virginia program to require that the map of all lands, structures, and drinking, domestic and residential water supplies which may be materially damaged by subsidence show the type and location of all such lands, structures, and drinking, domestic and residential water supplies within the permit and adjacent areas, and to require that the permit application include a narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable resource lands or could contaminate, diminish, or interrupt drinking, domestic, or residential water supplies. For further information, see the February 9, 1999, **Federal Register** (64 FR 6201, 6206–6207).

3. CSR 38–2–3.14.a. Removal of Abandoned Coal Refuse Piles

This provision is being amended by changing the proviso concerning material that meets the ASTM standard of the minimum BTU value to be classified as coal. As amended, if the material at existing abandoned coal processing waste piles meets the minimum BTU value standard to be classified as coal, as set forth in ASTM standard D 388–99, and if not AML eligible, a permit application which meets all applicable requirements of this rule shall be required. Prior to this amendment, the words "and if not AML eligible" did not appear in the provision, and the provision did not require the submittal of a permit application if the material met the minimum BTU value to be classified as coal.

This amendment has been submitted to address the required regulatory program amendment codified at 30 CFR 948.16(nnnn). In the May 5, 2000, **Federal Register** (65 FR 26130, 26130–26131), we did not approve CSR 38–2–3.14.a. to the extent that it would apply to the removal of abandoned coal mine refuse piles where, on average, the material to be removed meets the definition of coal in 30 CFR 700.5. In addition, we did not approve subsection 3.14 to the extent that it could be interpreted as applying to the on-site processing of abandoned coal refuse piles. Consequently, we required at 30 CFR 948.16(nnnn) that the State amend its program to either: (1) Delete subsection 3.14; or (2) revise subsection 14 to clearly specify that its provisions apply only to activities that do not qualify as surface coal mining operations as that term is defined in 30 CFR 701.5; i.e., that subsection 3.14 does not apply to either the removal of abandoned coal mine waste piles that, on average, meet the definition of coal or to the on-site reprocessing of coal mine waste piles. We also stated that if the State chooses the second option, it should also submit the sampling protocol that will be used to determine whether the refuse piles meet the definition of coal. The sampling protocol must be designed to ensure that no activities meeting the definition of surface coal mining operations escape regulation under the State counterpart to SMCRA and the Federal regulations.

4. CSR 38–2–3.22.e. Base Line Surface Water Information

This provision is being amended by adding the following sentence.

"Material damage to the hydrologic balance outside the permit areas means any long term or permanent change in the hydrologic balance caused by surface mining operation(s) which has a significant adverse impact on the capability of the affected water resource(s) to support existing conditions and uses."

5. CSR 38–2–16.2.c.4. Bonding for Subsidence Damage

This provision is being amended by deleting the existing first two sentences. In their place, the following sentences are added.

The director shall issue a notice to the permittee that subsidence related material damage has occurred to lands, structures, or water supply, and that the permittee has ninety (90) days from the date of notice to complete repairs or replacement. The director may extend the ninety (90) day abatement period but such extension shall not exceed one (1) year from the date of the notice. Provided, however, the permittee demonstrates in writing, and the director concurs that subsidence is not complete, that not all probable subsidence related material [damage] has occurred to lands or structures; or that not all reasonably anticipated changes have occurred affecting the water supply, and that it would be unreasonable to complete repairs or replacement within the ninety (90) day abatement period.

In addition, the final existing sentence is being amended by adding the following words to the end of that sentence: "to land or structures, or the estimated cost to replace water supply."

This amendment is intended to address the required program amendment codified at 30 CFR 948.16(ffff). For more information, see Finding 26 in the February 9, 1999, **Federal Register** (64 FR 6201, 6212–6213).

6. CSR 38–2–3.31.c. Federal, State, County, Municipal, or Other Local Government-Financed Highway or Other Construction Exemption

This subsection is new, and provides the following: "Funding less than fifty percent (50%) may qualify if the construction is undertaken as part of an approved reclamation project in accordance with WV Code § 22–3–28."

This revision is intended to revise the West Virginia program to add the additional flexibility afforded by the revised Federal definition of the term "government-financed construction" at 30 CFR 707.5. For more information, see the February 12, 1999, **Federal Register** (64 FR 7469).

7. CSR 38–2–3.32.g. Permit Issuance—Unanticipated Event or Condition

This provision is amended by adding new language at the end of the existing one-sentence paragraph, and by adding three new subdivisions. As amended, the provision is as follows:

3.32.g. The prohibition of subdivision 3.32.c shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface mine eligible for remining under permit held by the applicant that meets the requirements of 30 CFR 773.15(4)(i). An event will be presumed to be unanticipated for purposes of this paragraph if it:

3.32.g.1. Arose after remining permit was issued.

3.32.g.2. Was related to prior mining; and

3.32.g.3. Was not identified in the remining permit.

8. CSR 38–2–5.2.a. Intermittent or Perennial Stream Buffer Zone

This provision is amended by deleting the words, "normal flow or gradient of the stream, adversely affect fish migration or related environmental values, materially damage the." In addition the words "or other environmental resources" are added. As amended, the provision is as follows:

5.2.a. Intermittent or Perennial Stream. No land within one hundred feet (100′) of an intermittent or perennial stream shall be disturbed by surface mining operations including roads unless specifically authorized by the Director. The Director will authorize such operations only upon finding that surface mining activities will not adversely affect the water quantity and quality or other environmental resources of the stream and will not cause or contribute to violations of applicable State or Federal water quality standards. The area not to be disturbed shall be designated a buffer zone and marked accordingly.

9. CSR 38–2–11.3.a.3. Surety Bonds

This provision is new, and is as follows:

11.3.a.3. Surety received after July 1, 2001 must be recognized by the treasurer of state as holding a current certificate of authority from the United

States Department of the Treasury as an acceptable surety on federal bonds.

10. CSR 38–2–12.2.e. Bond Release

This provision is being amended by prohibiting bond release if water discharged requires passive treatment. The provision currently prohibits bond release if chemical treatment is needed. In addition, a new sentence is added that clarifies that measures approved in the permit and taken during mining and reclamation to prevent the formation of acid drainage shall not be considered passive treatment.

This amendment is intended to address the required program amendment codified at 30 CFR 948.16(qqq). This required amendment requires that the West Virginia program be amended to clarify that bond may not be released where passive treatment systems are used to achieve compliance with applicable effluent limitations. For more information, see Finding 2, in the February 21, 1996, **Federal Register** (61 FR 6511, 6517). As amended, the provision is as follows:

12.2.e. Notwithstanding any other provisions of this rule, no bond release or reduction will be granted if, at the time, water discharged from or affected by the operation requires chemical or passive treatment in order to comply with applicable effluent limitations or water quality standards. Measures approved in the permit and taken during mining and reclamation to prevent the formation of acid drainage shall not be considered passive treatment; Provided, That the Director may approve a request for Phase I but not Phase II or III, release if the applicant demonstrates to the satisfaction of the Director that either:

* * *.

11. CSR 38–2–12.4.e. Responsibility for Reclamation Costs of Forfeited Bonds

This provision is amended by deleting the words, "or other responsible party." This amendment is intended to address the required program amendment codified at 30 CFR 948.16(jjjj). For more information, see the November 12, 1999, **Federal Register** (64 FR 61506–61507). As amended, this provision is as follows:

12.4.e. The operator or permittee shall be liable for all costs in excess of the amount forfeited. The Director may commence civil, criminal or other appropriate action to collect such costs.

12. CSR 38–2–14.8.a.6. Constructed Outcrop Barriers

This provision is new. This amendment is intended to address the required program amendment codified at 30 CFR 948.16(xx). For more information, see Finding 32 in the February 21, 1996, **Federal Register** (61 FR 6511, 6524–6525), and Finding 8(a) in the October 4, 1991, **Federal Register** (56 FR 50256, 50264–50265). This new provision is as follows:

14.8.[a.]6. Constructed outcrop barriers shall be designed using standard engineering procedures to inhibit slides and erosion to ensure the long-term stability of the backfill. The constructed outcrop barriers shall have a minimum static safety factor of 1.3, and where water quality is paramount, the constructed barriers shall be composed of impervious material with controlled discharge points.

13. CSR 38–2–24.4. Requirements To Release Bonds

This provision is being amended by deleting language concerning an exception to the requirements to release bonds, and by adding a new proviso concerning revegetation. This amendment is intended to address the required program amendment codified at 30 CFR 948.16(pppp). For more information, see Finding 9 in the May 5, 2000, **Federal Register** (65 FR 26130, 26133). As amended, the provision is as follows:

24.4. Requirements to Release Bonds. Bond release for remining operations shall be in accordance with all of the requirements set forth in subsection 12.2 of this rule; Provided that there is no evidence of a premature vegetation release.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), we are seeking comments, on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the West Virginia program.

Written Comments

If you submit written or electronic comments on the proposed amendment during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments

Please submit Internet comments as an ASCII, Word Perfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. WV–091–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Charleston Field office at (304) 347–7158.

Availability of Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during our regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing

If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on June 8, 2001. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulation.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 14, 2001.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 01–13156 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 224–0279b; FRL–6982–7]

Revisions to the California and Arizona State Implementation Plans, Antelope Valley Air Pollution Control District and Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Antelope Valley Air Pollution Control District (AVAPCD) and Maricopa County Environmental Services Department (MCESD) portions of the respective California and Arizona State Implementation Plans (SIPs). These revisions concern volatile organic compound (VOC) emissions from solvent cleaning operations and automotive windshield washer fluid use. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by June 25, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection

Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

Antelope Valley Air Pollution Control District, 43301 Division Street, Suite 206, Lancaster, CA 93539.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (Air–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1199.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: AVAPCD 1171 and MCESD 344. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 27, 2001.

Michael Schulz,

Acting Regional Administrator, Region IX.

[FR Doc. 01–13046 Filed 5–23–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 73, 74, and 78

[ET Docket No. 01–75; FCC 01–92]

Revisions to Broadcast Auxiliary Service Rules

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: In this document the Commission conducts an extensive review of the Broadcast Auxiliary Services (BAS) rules and proposes changes to create a more efficient BAS that can readily adapt to regulatory and technological changes. In addition, the Commission examines the relationship between BAS, the Cable Television Relay Service (CARS), and the Fixed Microwave Service. The Commission also examines the use of wireless assist video devices (WAVDs) on unused television channels.

DATES: Comments must be submitted on or before June 25, 2001, and reply comments on or before July 23, 2001.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of Secretary, Federal Communications Commission, 445 12th Street, SW., TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ira Keltz, Office of Engineering and Technology, (202) 418–0616..

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making* in ET Docket No. 01–75, adopted March 16, 2001, and released March 20, 2001. The complete text of this *Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of the Notice of Proposed Rule Making

1. The *Notice of Proposed Rule Making* conducts an extensive review of the Broadcast Auxiliary Services (BAS) rules and proposes changes to create a more efficient BAS that can readily adapt to regulatory and technological changes. The *Notice of Proposed Rule Making* also examines the relationships between the BAS and the radio services that share frequency bands with the BAS. In many cases the BAS, the Cable Television Relay Service (CARS) (part 78), and Fixed Microwave Services (FS) (part 101) authorize technically and operationally similar stations (i.e., they use the same equipment, channelization, bandwidth, etc.) in shared frequency bands. The technical rules for these services are not always consistent, which, at times, has led to confusion regarding compliance and difficulties when licensees in different services have tried to operate in common geographic areas. Because we believe that this issue must be addressed to ensure that shared bands are used as efficiently as possible, we initiate this proceeding and again seek comment on the best way to conform the technical rules for these services.

2. One of our main goals is to ensure that licensees can operate in an environment in which the potential for interference is minimized. Interference protections are essential to spectrum usage rights to prevent licensees from unduly affecting other licensees in terms of system operation or cost. Nonetheless, we attempt to establish rules that are no more restrictive than necessary to achieve our goals in order to provide maximum flexibility to our licensees. Therefore, we seek comment on the extent that commenters believe our proposals or other portions of the rules relevant to this proceeding are more restrictive than necessary to achieve our goals.

3. The significant proposals made by this *NPRM* concerning BAS, as well as CARS and FS operations that share frequency bands with BAS, are as follows:

- We propose to permit TV and aural BAS stations to use any available digital modulation techniques in all BAS frequency bands. This proposal would allow BAS stations to take advantage of the latest developments in technology and to smooth the transition to digital TV and radio.
- We propose to update the BAS emission masks to facilitate the introduction of digital equipment and to provide consistency with those used in part 101.
- We propose to modify the equation used by BAS and CARS for determining the maximum effective isotropic radiated power (EIRP) for short path lengths. This proposal would eliminate the steep reduction in EIRP for path lengths shorter than the minimum for which we permit the use of full power.
- We propose to allow BAS and CARS stations to use automatic transmit power control (ATPC) in order to facilitate more efficient spectrum use.
- We propose to update the transmitter power rules for BAS and CARS to provide EIRP limits for all frequency bands.
- We propose to require TV BAS and CARS services to prior coordinate their frequency use when using shared frequency bands. This proposal would serve to minimize instances of harmful interference that occur when a new station begins transmitting.

4. In addition, we make a variety of proposals designed to update the BAS rules. Our initiatives include instituting temporary conditional authority for all

BAS stations, updating the Remote Pickup BAS channel plan to provide compatibility with the channel plan adopted for private land mobile radio (PLMR) in the Commission's Refarming proceeding (PR Docket No. 92–235), updating the short-term operation rules, and updating the BAS application rules to make them consistent with the Universal Licensing System (ULS). We also propose, without discussion, many minor rule changes intended to clarify or fix typographical errors in existing rules.

5. Finally, we propose to allow wireless assist video devices to operate on certain VHF–TV and UHF–TV channels on a non-interference basis to services allocated on that spectrum. These devices, which are already used by broadcasters, are needed to aid film and television producers in filming at various locations in a cost effective manner and should result in a greater use of a finite spectrum resource.

BAS Technical Rules (Part 74) and Conforming Technical Rules for Parts 74, 78 and 101

Digital Modulation in the 2 GHz, 7 GHz, and 13 GHz Bands

6. Emission limitation requirements (emission masks) for digital modulation is addressed in 47 CFR 74.637(c), which provides an emission mask for analog or digital modulation in the 6425–6525 MHz, 17,700–19,700 MHz, and 31.0–31.3 GHz bands. Although the rules do not specifically prohibit digital modulation in other TV BAS bands (i.e., 2025–2110 MHz, 2450–2483.5 MHz, 6875–7125 MHz, and 12,700–13,250 MHz), the Commission policy relative to BAS has been to allow digital modulation only in bands where it is specifically authorized. To facilitate the transition to digital TV and to accommodate narrower channels in the 2 GHz band, we propose to modify the rules in § 74.637 to permit digital modulation in all TV BAS bands. In addition, to allow aural BAS licensees to take advantage of the spectral efficiency that digital modulation offers, we propose to modify 47 CFR 74.535 to permit the use of any digital modulation in all aural BAS bands.

Maximum Effective Isotropic Radiated Power (EIRP) for Short Paths

7. 47 CFR 74.644 specifies the minimum path length for which the maximum EIRP will be authorized for fixed links for TV BAS. Applicants proposing path lengths shorter than those specified, are required to reduce power in accordance with the equation provided in the rule section. We note that the rules in 47 CFR 78.108(b) for the CARS also use the same equation as used for BAS for determining the minimum path length. We believe that the CARS also would benefit from modifying the equation for determining maximum power for short path lengths. Accordingly, we propose to modify our rules to implement in 47 CFR 74.644 and 78.108 the same equation codified at 47 CFR 101.143 for determining the maximum EIRP for path lengths shorter than the specified minimum. We seek comment on this proposal.

8. We note that 47 CFR 74.644 does not specify a minimum path length for fixed BAS links in the 2450–2483.5 MHz band. However, part 101 does specify a minimum path length of 17 kilometers for the FS in all bands between 1850 and 7150 MHz. To promote spectrum efficiency by preventing the use of overpowered systems over short paths, we believe it would be beneficial to specify a minimum path length for BAS in the 2450–2483.5 MHz band. Thus, we propose to adopt a minimum path length of 17 kilometers for the BAS in the 2450–2483.5 MHz band. We request comment on whether this proposal would unnecessarily constrain part 74 operations. Additionally, we propose to grandfather any existing fixed links that may be less than 17 kilometers at their current power.

Transmitter Power

9. Currently, 47 CFR 74.636 and 74.534 specify the power limitations for TV and aural BAS, respectively. For some frequency bands only transmitter output power is specified, and for some frequency bands both transmitter output power and EIRP, which describes the amount of energy that is actually being radiated by the transmitting antenna, are specified. Because EIRP describes the amount of energy that is actually being radiated, it is the parameter that is pertinent to understanding the RF environment for coordinating stations and mitigating interference. Further, the use of the equation for maximum EIRP for short path lengths proposed above is contingent on the rules specifying a maximum EIRP value in each frequency band in which the equation applies. In addition, specification of EIRP values for BAS is consistent with the Commission's implementation of the Universal Licensing System (ULS), which is used to process BAS applications with those in part 101. We propose to modify the BAS rules to specify maximum EIRP values for all aural and TV BAS frequency bands.

10. We note that the rules in part 101 for FS microwave licensees specify EIRP values. Where EIRP values exist in the part 101 rules for fixed operations in frequency bands shared with fixed BAS, we propose to adopt the part 101 value for fixed BAS in the same band. Because many BAS and part 101 services are similar in nature, it appears reasonable for the same values to be used in both rule parts. Specifically, we propose that fixed operations for TV BAS in the 1990–2110 MHz and 2450–2500 MHz bands have EIRP limits of 45 dBW. For aural BAS in the 944–952 MHz band, we propose to limit EIRP to 40 dBW, which is identical to the limit specified in part 101 for FS in the 941.5–944 MHz and 952–960 MHz bands.

11. EIRP values also are necessary for mobile TV BAS operations in the 1990–2110 MHz and 2450–2500 MHz. The EIRP limits for mobile BAS can be generated using the maximum allowable transmitter power currently specified in the part 74 rules in conjunction with the gain of commonly available antennas. Our research suggests that typical maximum antenna gain is approximately 25 dBi in the 1990–2110 MHz and 2450–2500 MHz bands, and the maximum transmitter power is 12 watts (10.8 dBW) in these bands; this equates to an EIRP of 35.8 dBW. Accounting for some line loss, we propose to allow mobile operations to transmit at a maximum EIRP of 35 dBW in the 1990–2110 MHz and 2450–2500 MHz bands.

12. We also propose to adopt similar EIRP limits for CARS in frequency bands shared with part 74 and 101 operations to ensure that the anticipated benefits of these proposals can be enjoyed by all licensees in these bands. Specifically, we propose to adopt an EIRP limit of 35 dBW for mobile CARS operations in the 1990–2110 MHz band, identical to the proposal for TV BAS, and maintain the 55 dBW EIRP (fixed) and 45 dBW EIRP (mobile) limits for TV BAS and CARS operations in the 12,700–13,250 MHz band. We note that the part 101 rules for FS stations operating in the 12,700–13,250 MHz band only allow a maximum EIRP of 50 dBW. However, because BAS and CARS stations transmit multichannel video signals and FS stations do not, we believe the additional power is warranted to ensure reliable service. Finally, we propose to grandfather at their current power levels, existing stations that may be transmitting at EIRP levels above those proposed.

13. We seek comment on all aspects of these proposals. In particular, we ask commenters to address whether the proposed EIRP values are appropriate for BAS and CARS operations, and whether they provide adequate power

for BAS and CARS stations to transmit over typical distances for various types of applications. Are the power levels too high as to cause difficulty in coordinating operations in certain areas? Would these proposals negatively impact the flexibility of BAS and CARS operations? Because digital signals generally require less power than analog signals, should we consider adopting different power standards for digital and analog equipment? If so, what should those values be? Also, commenters should address whether the EIRP for part 101 users operating in the 12,700–13,250 MHz band should be raised to 55 dBW.

14. Finally, we note that the transmitter power rules in part 101 specify only EIRP values and do not specify values for transmitter output power. Should we similarly amend the BAS rules to remove the specifications for transmitter output power from the rules? When considering this, commenters should keep in mind that FCC Form 601 does not collect output power for TV and aural BAS applications. Furthermore, for the purpose of frequency coordination only the EIRP is needed because it is a measure of station presence and transmitter output power is not. Commenters should also address what effect such action may have on the equipment authorization process and what changes to those processes may need to be made.

Emission Masks

15. Emission masks serve to maximize spectrum efficiency by permitting reasonable and practical information transfer within a channel and at the same time limiting out of band emissions to minimize adjacent channel interference. Our rules contain a number of emission masks tailored to specific operations and channel sizes. Although the same equipment is often certified and used by licensees in different services, our rules, in some cases, allow each service to use a different emission masks for the same type of emission (e.g., FM, AM, etc.) in the same frequency band.

16. We propose to make the emission mask requirements for BAS consistent with the emission mask requirements for FS microwave services in part 101. We believe that the part 101 emission masks have proven effective for this type of service and that imposing a single set of standards across shared frequency bands will simplify the manufacturing and equipment authorization processes. Additionally, consistent rules will provide a level of certainty to licensees regarding the expected RF environment, minimize the potential of harmful interference and simplify the frequency coordination process. Additionally, we propose to grandfather existing equipment authorized pursuant to current emission masks. We seek comment on these proposals.

TV BAS:

- For FM modulation in all TV BAS frequency bands, to eliminate the FM emission mask of § 74.637(a) and to apply the FM emission mask of § 74.637(c)(1). The emission mask in paragraph (c)(1) of § 74.637 would provide equipment manufacturers more flexibility in the design of equipment because it permits the out-of-band emissions to be attenuated at a slightly slower rate. Such flexibility can be gained without compromising the interference potential of these transmitters because we believe that the specified attenuation is sufficient to protect adjacent channel operations;
- For digital modulation in TV BAS frequency bands above 15 GHz, to apply the emission mask for digital modulation in § 74.637(c)(2);
- For digital modulation in all TV BAS frequency bands below 15 GHz, to apply the emission mask for digital modulation in § 101.111(a)(2)(i) of this chapter;
- For vestigial sideband amplitude modulation in all TV BAS frequency bands, to apply the emission mask for vestigial sideband amplitude modulation in § 74.637(c)(3); and
- For all other types of modulation in all TV BAS frequency bands, to apply the emission mask of § 74.637(b).

Aural BAS:

- For FM modulation in all aural BAS frequency bands, to eliminate the FM emission mask of § 74.535(a) and to apply the FM emission mask of § 74.535(e)(1). As with the choice of emission mask for TV BAS, the emission mask of paragraph (e)(1) would provide equipment manufactures more flexibility in equipment design than the emission mask of paragraph (a) of § 74.535;
- For digital modulation in aural BAS frequency bands above 15 GHz, to apply the emission mask for digital modulation in § 74.535(e)(2);
- For digital modulation in aural BAS frequency bands below 15 GHz, to apply the emission mask for digital modulation in § 101.111(a)(2)(i) of this chapter; and
- For all other types of modulation in all aural BAS frequency bands, to apply the emission mask of § 74.535(b).

17. In trying to provide consistency among the various rule parts, we are also mindful of certain differences between them, such as the type of multiplexing employed, the type and amount of data or program material transmitted, and the method of transmission. For example, BAS and CARS are beginning to deploy digital multichannel video systems which are not used by FS users. Additionally, these stations may use various modulation schemes, such as OFDM or COFDM and others. In light of these developments, we seek comment on the validity of our proposals to adopt the Part 101 digital emission masks for BAS.

18. One of the main objectives of this NPRM is to provide the necessary regulatory framework to ensure that digital equipment can be used in all BAS frequency bands. It is likely that for the foreseeable future many BAS operations both above and below 15 GHz will continue to be analog. However, as users upgrade equipment and the transition to DTV continues, more digital equipment will be deployed. Given this situation, we ask commenters to address whether the BAS and FS should continue to have different digital emission masks above and below 15 GHz. We note that analog BAS operations in shared bands above 15 GHz, e.g., the 17.7–19.7 GHz band, are currently operating adjacent channel to digital Part 101 equipment. Additionally, we ask commenters to address whether the current Part 101 emission masks are applicable to BAS operation. Commenters that believe a different emission mask should be adopted should provide details on an appropriate emission masks for digital operation. What parameters need to be considered? What type of roll-off is appropriate to ensure sufficient information transfer while providing adequate protection to adjacent channels? Also, we seek comment of whether the same or different emission masks should be applied to CARS and FS stations.

19. We also propose to adopt a standard measurement procedure for the above proposed emission masks to measure the emission's interference potential and ensure that the instrumentation does not detrimentally affect the measurement. Therefore, we propose that the measuring instrumentation for complying with the emission masks use a minimum resolution bandwidth of 100 kilohertz for bands below 1 GHz and a resolution bandwidth of 1 megahertz for bands above 1 GHz. This proposal is consistent with available measurement instrumentation. Additionally, we note that the current industry trend for measuring digital emissions just outside the channel is to use measuring instrumentation having a minimum resolution capability of 1% of the bandwidth of the carrier emission. This is evidenced by measurement procedures and interpretations in our rules (see, e.g., 47 CFR 15.321(d), 15.323(d) and 24.238(b)) for the licensed Personal Communications Services (PCS) and unlicensed PCS devices. Should a similar measurement procedure for emissions adjacent to the channel be used for BAS? We seek comment on our proposal, including what procedures should be used. To ensure consistency across frequency bands shared with the FS microwave service, should a similar measurement requirement be adopted for part 101 emission masks? If we adopt similar emission masks for the CARS, should a similar measurement requirement be adopted for part 78 emission masks?

20. With respect to compliance with the emission mask requirements, an additional issue that must be addressed is equipment that multiplexes both analog and digital signals for transmission over a single channel. Such operation complicates the equipment certification process because the emission masks are referenced to either analog or digital modulation techniques, but not both. In the FS, a transmitter is considered to be using digital modulation techniques, and must meet those emission requirements, when digital modulation occupies 50% or more of the total peak frequency deviation of a transmitted radio frequency carrier. We believe this rule has worked well for equipment in use under part 101, and we propose to adopt a similar requirement for the emission masks for TV and aural BAS. We seek comment on whether this is the best method for ensuring compliance with our emission mask rules when analog and digital signals are multiplexed.

21. Finally, an issue related to the characterization of analog/digital multiplexed transmitters involves the assignment of emission designators. In many cases, this hybrid equipment uses frequency division multiplexing and transmits the analog and digital signals side-by-side. When this technique is used, the analog and digital signals are transmitted on frequencies offset from the assigned frequency. For example, a hybrid transmitter with a 25 megahertz bandwidth may have a 15 megahertz analog signal centered on a frequency 5 megahertz above the assigned frequency and a digital signal centered on a frequency 7.5 megahertz below the assigned frequency. SBE asks that these transmitters be licensed using a dual emission designator, rather than the single designator used for conventional FM video analog STLs. We note that the ULS is not designed to recognize a dual emission designator and is unable to capture the information SBE requests. ULS does, however, enable licensees to obtain authorizations for both analog and digital emissions by allowing multiple emission designators to be associated with an authorized frequency. In this instance, though, the emission designator would need to depict the entire 25 megahertz bandwidth for each type of emission. We further note that the information sought by SBE can be determined using the transmitter manufacturer and model number which ULS does collect. For these reasons, we propose that hybrid radios that multiplex analog and digital signals continue to use a single emission designator. We seek comment on this proposal.

Automatic Transmit Power Control

22. Since 1996 when the Commission amended its part 101 rules, Automatic Transmit Power Control (ATPC) has been used successfully in the FS microwave bands. Because ATPC has been beneficial to efficient spectrum use in FS operations under part 101, we propose to amend the part 74 rules to state that TV BAS licensees may also use ATPC. We see no reason why the benefits of using ATPC should be limited to the TV BAS, and thus we also propose to modify §§ 74.534 and 78.101 of our rules to allow licensees of aural BAS and CARS stations to use ATPC as well.

Interference to Geostationary Satellites

23. Because the geostationary satellite rules are subject to international agreement, maintaining them in multiple rule parts is cumbersome and has led to varying requirements among the rules in parts 74, 78, and 101 because they are not always updated at the same time. To remedy this situation, we propose to simplify the organization of the geostationary satellite protection rules by eliminating duplicative rule sections and having them appear only once. Therefore, we propose that the technical rules for protecting geostationary satellites from interference from terrestrial systems be maintained in part 101, and that parts 74 and 78 merely state that licensees must comply with the geostationary satellites protection rules contained in part 101. This proposal will have the effect of simplifying and streamlining our rules by keeping the rules regarding a common subject in one place, which ensures consistent treatment of all our licensees. Additionally, should these rules need future updating due to changes in the Radio Regulations or changes in service allocations, only one rule section will need to be amended. We seek comment on this proposal.

Frequency Coordination

24. Currently, parts 74 and 78 of the Commission's rules for TV BAS and CARS require that the frequency coordination procedures of part 101 be used for assignments in the 6425–6525 MHz and 17.7–19.7 GHz bands. The part 101 procedures generally require parties to coordinate their planned spectrum use with affected parties prior to filing a license application. Additionally, the TV BAS and CARS rules specify identical interference protection criteria for the 12,700–13,250 MHz band. Such rules are necessary to promote spectrum efficiency and to minimize the potential for any system to cause harmful interference to other systems in the same frequency band. In the *part 101 Order*, 61 FR 26670, May 28, 1996, the Commission amended its rules to conform the frequency coordination procedures for microwave systems to the TIA industry standards and to apply these standards to all bands.

25. As stated in the *part 101 Order*, common procedures and standards will simplify the rules and lead to economies of scale in microwave equipment. Those same benefits can also be enjoyed by BAS and CARS. Thus, we propose to require that all prospective applicants in frequency bands above 1990 MHz for TV BAS and CARS coordinate their planned spectrum use prior to filing applications, using the procedures of § 101.103(d). Further, in order that applicants and licensees can easily locate the coordination rules, we propose to amend § 78.36 to mirror the part 101 coordination rules. We seek comment on this proposal and ask if we should reference the part 101 rule within part 78 rather than reproducing it.

26. In addition to the efficiency benefits stated above, uniform frequency coordination requirements will simplify the coordination of stations operating in shared frequency bands and minimize the potential of stations causing harmful interference. We seek comment on our proposal to require TV BAS and CARS operations to prior coordinate their stations using the part 101 procedures. In considering this proposal, commenters should address whether a frequency coordination requirement should be imposed uniformly across the United States or should it only apply to the most heavily congested markets. If frequency coordination should only apply in certain markets, commenters should state which markets are

appropriate and the factors used in making that determination.

27. Additionally, we note that coordination rules are not specified for aural BAS stations. Recognizing that thousands of aural BAS stations are in use serving AM and FM radio stations across the United States, we seek comment on whether the lack of coordination requirements for this service has led to interference situations. Should the Commission require aural BAS stations operating above 944 MHz to also adhere to the procedures of § 101.103(d)?

Frequency Tolerance

28. Frequency tolerance is the maximum permissible deviation of the center frequency of an emission from its assigned frequency. To streamline our rules further and to offer manufacturers common technical standards for equipment, we propose to amend the frequency tolerance rules for TV BAS. Specifically, consistent with the proposal made in the *part 101 NPRM*, 65 FR 38333, June 20, 2000, we propose to eliminate separate frequency tolerance requirements for base and mobile operations. Additionally, we note that the current TV BAS frequency tolerance rules do not specify a limit for the 2450–2483.5 MHz band. To remedy this situation, we propose to adopt a frequency tolerance of 0.001% for fixed and mobile TV BAS equipment operating in the 2450–2483.5 MHz band. This proposal is consistent with the frequency tolerance allowed in Part 101 for FS this band. Finally, we propose to grandfather existing authorized equipment at their current frequency tolerance. We seek comment on this proposal.

Use of the 13.150–13.2125 GHz Band by BAS and CARS Pickup Stations

29. Recently, in ET Docket No. 98–206, the Commission allocated Non-Geostationary Fixed Satellite Service (NGSO FSS) uplinks on a co-primary basis in the 12.75–13.25 GHz band. However, the NGSO FSS systems were excluded from operating in the 13.15–13.2125 GHz band (channels A19, A20, B19 and B20). The 13.15–13.20 GHz portion of that band is currently used by TV BAS and CARS Pickup Stations within 50 kilometers of the top 100 television markets and by fixed TV auxiliary stations in all other areas. In the *NGSO Order*, 66 FR 7607, January 24, 2001, the Commission expanded these exclusions in favor of TV BAS and CARS to include frequencies up to 13.2125 GHz and to extend to the entire United States. The Commission took this action with the expectation that BAS and CARS mobile operations will concentrate their mobile use on those four channels. Based on the action taken in the *NGSO Order*, we propose to update § 74.602(a) Note 2 to reflect these changes. Further, we propose to grandfather all fixed stations that were licensed in the 13.15–13.2125 MHz band prior to the effective date of the rules in the *NGSO Order*. We seek comment on this proposal.

Use of the 31.0–31.3 GHz and 38.6–40.0 GHz Bands by the BAS and CARS

30. In 1997, the Commission reallocated the 31.0–31.3 GHz band to the Local Multipoint Distribution Service. Consequently, BAS and CARS are no longer authorized to obtain new assignments in that band, and a search of our database reveals that there are not any currently active authorizations for BAS or CARS in that band. In this connection, we note that the frequency assignment rules in 47 CFR 74.502 for aural BAS, 74.602 for TV BAS, and 78.18 for CARS no longer reference the 31.0–31.3 GHz band. However, many of the technical rules continue to mention this band. Therefore, we propose to eliminate references to technical parameters for the 31.0–31.3 GHz band that currently exist in the aural BAS, TV BAS and CARS rules.

31. Similar to the 31.0–31.3 GHz band, the Commission, in 1997, adopted rules and procedures to assign the 38.6–40.0 GHz band by competitive bidding. This band had been available for assignment to mobile BAS and CARS licenses without bandwidth limitation and on a secondary basis to fixed stations. In addition to the new assignment procedures, the Wireless Telecommunications Bureau (WTB), pursuant to delegated authority, adopted a *Freeze Order*, 61 FR 8062, March 1, 1996, announcing that the Commission would no longer accept for filing any new applications for 39 GHz licenses in the Common Carrier or Operational Fixed Point-to-Point Radio Services. In May 2000, the Commission assigned 2,173 licenses in 175 Economic Areas by competitive bidding in this band. Because the band has been auctioned and consistent with the *Freeze Order*, no new assignments can be made for BAS or CARS licenses in the 38.6–40.0 GHz band. Accordingly, we propose to remove all references to the 38.6–40.0 GHz bands from the BAS and CARS rules. As a final matter we note that there are 16 incumbent Television Pickup BAS and no CARS licensees operating in this band. The BAS licensees may continue to operate under the parameters of their current licenses and to renew them in the future. We seek comment on this proposal.

Additional Rule Consolidation

32. We make various proposals which conform rules among parts 74, 78, and 101. In general, for service specific rules, such as maximum EIRP for short path lengths and transmitter power, we keep those rules with each rule part. However, for rules that affect each of the services sharing spectrum, our preference is to list that rule only in one location and cross reference the other rule parts to that single listing. For example, we propose that the rules regarding interference to geostationary satellites be listed only in part 101 and cross referenced from parts 74 and 78. When several services are subject to the same requirements, having that requirement in only one location ensures consistent treatment of all our licensees and simplifies the update process if any of these procedures should change. We seek comment on whether there are additional instances in which the rules can be consolidated and cross referenced.

BAS Service Rules (Part 74)

Temporary Conditional Authority

33. To complement the above proposal that aural and TV BAS stations coordinate their applications prior to filing, we propose to allow applicants who apply for new or modified stations to operate under temporary conditional authority after an application has been properly filed with the Commission. Our experience regarding temporary conditional operation in parts 90 and 101 has shown it to be a useful tool which enables applicants to begin providing service in a timely manner without having to wait for the Commission to finish processing their applications. This proposal, however, is contingent on our proposal to require prior frequency coordination of the requested operations. By relying on the coordination process, the Commission can be assured that BAS operations will not cause harmful interference to existing stations.

34. In addition to requiring prior coordination, we propose to make temporary conditional authority subject to the following conditions:

- The applicant must be eligible to operate the particular class of broadcast auxiliary station.
- The station must be operating in conformance with the rules for that particular class of station and in accordance with the terms of the frequency coordination.

- The application does not propose operation in an area that requires international coordination.
- The application does not request a waiver of the Commission's rules.
- The proposed station will not significantly affect the environment as defined in part 1, subpart I of the Commission's rules.
- The antenna structure either has a FCC Registration Number or is determined to not need one.
- The proposed station affords protection to radio "quiet" zones and monitoring stations.

35. We also propose to allow temporary conditional authority for low power auxiliary stations authorized under part 74, subpart H. Although these stations do not require prior coordination and we are not proposing to add such a requirement, we believe that they can operate under this authority without harming existing operations due to the restriction that they limit their power to 1 watt output power.

36. We propose to remove 47 CFR 74.431(g) and adopt a new rule section, 47 CFR 74.25, to allow temporary conditional authorizations for all broadcast auxiliary services. We seek comment on these proposals.

Short-Term Operation

37. Section 47 CFR 74.24 provides broadcast licensees regulated under part 73 of our rules (i.e., AM, FM, and TV broadcast stations, including Class A stations) with the authority to operate a broadcast auxiliary station on a short-term basis, for up to 720 hours per year, without prior authorization from the Commission. This rule provides broadcasters with flexibility to respond to short term situations such as a newsworthy event outside of a station's normal operating area, without coming to the Commission with requests for special temporary authority (STA). We note that this rule does not afford the same flexibility to broadcast network entities, cable network entities, or Low Power Television Stations (LPTV), even though these entities are eligible to hold BAS licenses. Because we believe that broadcast and cable network entities and LPTV stations would benefit from the short-term operation rule and such use would provide equity under our rules for all entities eligible for a BAS license, we propose to expand the eligibility of this rule.

38. As noted, there is a notification requirement with which licensees must comply prior to operating under the short-term operation rule. This notification requirement, however, does not apply when "* * * an unanticipated need for immediate short-term mobile station operation would render compliance with the provisions of this paragraph impractical." For example, a station may wish to send a news crew to report on a natural disaster that occurs outside of its service area, which by its nature is not a planned event. On the other hand, stations may wish to report from a convention or sporting event or other planned events. In these instances, it is not acceptable to bypass the notification requirement. Because these are scheduled events, stations should have ample time to provide the necessary notification prior to the event. Accordingly, we propose to clarify that entities may not invoke the notification exception for scheduled events.

39. The Commission often designates a coordinator as the single point of contact for advance coordination of auxiliary broadcast frequency usage for major national and international level scheduled news events. In the past, groups would petition the Commission prior to a major event and volunteer to act as the special event coordinator. The Commission has taken this action based on concern that uncoordinated use of auxiliary broadcast stations on a temporary basis might result in spectrum congestion and excessive interference causing less complete broadcast coverage. Currently, the rules do not contain a procedure for designating a coordinator for short-term operations. To remedy this deficiency, we propose that procedures to designate a coordinator for short-term operations be placed in the rules. Specifically, the Commission will not, on its own, designate a special events coordinator. Such designation will continue to be bestowed on an entity only after the Commission receives a request to designate a coordinator. The Commission will issue a Public Notice to inform the broadcast industry that such a designation has been made. Typically, these Public Notices have been issued at least three months prior to an event, with many occurring up to a year prior. Once an organization receives such designation, coordination must be done on a non-discriminatory basis. Entities must abide by the decision of the coordinator. However, if a disagreement arises, the Commission will be the final arbiter of any dispute. We seek comment on this proposal.

40. We also seek comment on the current limitation of 720 hours per year per frequency for short-term operations. Based on the way event coverage has changed over time, is this limit still appropriate? Should it be increased or decreased? Additionally, we note that there is no requirement for stations to log or report their short-term use under this section, and thus there is no way to track operation under this rule and verify compliance. Should we require stations to keep a log of their short term use in their station records, or alternatively, should we eliminate the 720 hour limit? We seek comment on this and all aspects of our proposals regarding the short-term operation rule.

Use of UHF–TV Channels for TV STLs and TV Relay Stations

41. Under 47 CFR 74.602(h), TV STLs and TV relay stations may be authorized, on a secondary basis, to operate on spectrum allocated for UHF–TV stations. In addition to being secondary to full power UHF–TV and Class A TV stations, these stations are also secondary to LPTV stations and translator stations, and to land mobile stations authorized under parts 22 and 90 of the rules in areas where land mobile sharing is currently permitted. Also, because transmissions by TV STL and relay stations are not necessarily used by licensees to transmit information for broadcast over the air, their signals are not intended for reception by the general public. To meet these obligations, licensees generally employ a narrow-beam point-to-point signal. The rules, however, do not contain any guidelines regarding acceptable power limits or antenna specifications for these stations. Instead, the Commission has developed policies to determine compliance of these stations with the rules. Specifically, applicants that request output power greater than 20 watts or a transmitting antenna with a 3 dB beamwidth greater than 25 degrees are asked to submit an engineering analysis to demonstrate why the higher output power or wider beamwidth is necessary. Because the Commission is increasingly relying on automated processing, as evidenced by the ULS, we believe that it would be beneficial to codify operational parameters for these stations so that prospective applicants have as much information as possible to assist them. We believe that this will shorten the application process by minimizing the number of applications that need to be returned due to failure to submit an engineering analysis if the stated specifications are exceeded. We believe that an appropriate trigger for requiring an engineering analysis is an EIRP for the proposed system of 35 dBW. We expect that allowing licensees to use EIRPs up to 35 dBW without submitting an engineering analysis will provide licensees with flexibility to choose optimal power and antennas for their

systems while meeting the requirements of transmitting on a non-interference basis and propose to adopt this limit in our rules.

42. We believe that our current policy, which limits the antenna to a 3 dB beamwidth of 25 degrees or less has served both users and those they are required to protect. The Commission also has generally requested operators of these stations to transmit using vertical polarization, rather than the standard horizontal polarization that is employed for TV transmissions. The Commission implemented this policy to safeguard STL and relay station transmission from reception by the public. We believe that these criteria also should be codified in the rules. Accordingly, we propose to modify 47 CFR 74.602(h) of the rules to require applicants for TV STLs or TV relay stations to comply with the three technical parameters described above or to submit an engineering analysis explaining why higher power, a wider antenna, or a different polarization is needed.

43. In addition, we note that the Commission regularly licenses TV translator relay stations on UHF–TV channels. Therefore, to make the rules consistent with current licensing policy, we propose to explicitly state in 47 CFR 74.602(h) that these stations may be authorized to operate on UHF–TV channels on a secondary basis, subject to the same guidelines described above. We seek comment on this proposal.

44. Finally, the current rules in 47 CFR 74.602(h) authorize the secondary point-to-point use of TV STL and TV relay stations on UHF–TV channels 14–69. We note that the Balanced Budget Act of 1997 directed the Commission to auction recaptured television broadcast spectrum and to allocate spectrum in the 746–806 MHz band (UHF–TV channels 60–69) for public safety services and for commercial use. The Commission has already implemented the reallocation of the 746–806 MHz band and intends to reallocate the 698–746 MHz band (UHF–TV channels 52–59) in the future. In light of the reallocation of the UHF–TV channels above channel 51, we propose to limit future secondary point-to-point use of TV STL and TV relay stations to UHF–TV channels 14–51. We further propose to grandfather existing stations that operate on the UHF–TV channels above channel 51. We seek comment on this proposal.

TV BAS Sound Channels

45. 47 CFR 74.603 of the Commission's rules provides authority for TV BAS stations to use an aural broadcast STL or intercity relay station licensed under the aural BAS rules to transmit the aural portion of a television broadcast program. This use is on a secondary non-interference basis to programming of aural broadcast stations. It is our understanding that the current practice within the industry is to use multiplexing techniques, rather than separate sound channels, to transmit the aural portion of their programming along with the video portion over a single TV BAS channel. Therefore, we believe that 47 CFR 74.603 is no longer necessary, and we propose to eliminate it. Additionally, we propose to eliminate the corresponding provision of 47 CFR 74.502(b) that provides TV BAS licensees' authorization to use the aural BAS channels. If we eliminate these provisions as proposed, we seek comment on whether the aural BAS rules need to be modified to specify that aural BAS stations are for the transmission of aural program material of an aural broadcast station in all places where the rules simply refer to a broadcast station.

46. We seek comment on whether we should delete 47 CFR 74.603(c), which provides grandfathering rights so that TV BAS stations could continue operating aural STL or intercity relay stations that were in service prior to July 10, 1970. That rule states that such grandfathering could continue until the Commission makes a decision on their disposition through a rule making proceeding. In particular, we seek comment on whether any stations continue to maintain and operate separate stations for aural and video content and where such use occurs. This proposal might particularly affect stations in smaller markets where there are fewer AM or FM radio stations.

Remote Pickup Broadcast Auxiliary Frequency Assignment

47. In 1984, the Commission wrote a comprehensive revision of the rules for remote pickup frequency assignments, which split the channels in the 150 MHz, 160 MHz and 450 MHz bands into 5 kilohertz channels that could be "stacked" to create channels of various sizes. Thus, licensees could continue operating their equipment under existing licenses and new licensees, and existing licensees seeking to update their systems could make use of newer narrowband technology. The *Report and Order*, 49 FR 45155, November 15, 1984, however, stated that an effective date for these rules would be specified in a future Order. To date, the Commission has not taken such action. The rules written in 1984 were intended to provide licensees more freedom to choose and implement new technologies in their effort to make the most efficient use of the spectrum. Because many technical and regulatory changes have occurred since 1984, we propose to amend the rules adopted in 1984, to ensure that this objective will be achieved.

48. The channel plan in place prior to the 1984 revision provided 60 kHz channel spacing in the 150 MHz (Group K_1 channels) and 160 MHz (Group K_2 channels) VHF bands and various channel spacings (from 10 kHz to 100 kHz) in the 450 MHz UHF band.

49. Since 1984, significant advances have been achieved in the development of narrowband radios, such as the maturation of digital modulation techniques, improved coding processes, and development of more stable oscillators. In 1995, based on advances such as these, the Commission adopted a narrowband channel plan for the 150–174 MHz and 450–512 MHz bands used by part 90 Private Land Mobile Radio Service (PLMRS) licensees. In that decision, the Commission adopted a channel plan in which channels were spaced every 7.5 kilohertz in the 150 MHz band and every 6.25 kilohertz in the 450 MHz band. Under certain circumstances, these channels could be stacked to allow the use of 6.25, 12.5 or 25 kilohertz equipment.

50. Because many of the 150 MHz and 160 MHz Remote Pickup channels are shared with the part 90 Industrial/Business Pool, we believe that it would be beneficial for both services to share a common channel plan. These benefits include more predictable adjacent channel performance, easier coordination procedures, and economies of scale for equipment. Under the 1984 rules, however, these benefits would not be realized if Remote Pickup licensees modify their operating frequencies to correspond to channel centers based on 5 kilohertz spacing. A shift to 5 kHz spacing for BAS would create an operating environment in which parts 74 and 90 licensees are operating co-channel offset by 2.5 kilohertz or by 5 kilohertz. In many cases there would be significant overlap of RF energy between adjacent channels which could degrade the performance of user's systems as other nearby users attempt to transmit on closely spaced adjacent channels. In addition to the increase in potential interference, these conflicting channel plans would complicate the frequency coordination process. Consequently, we propose to amend the frequency assignment rules for the 150 MHz and 160 MHz bands in 47 CFR 74.402 to be consistent with the channel plan in effect in part 90 (i.e., 7.5 kilohertz channel spacing). Additionally, we propose to allow licensees to stack up to 4 channels to operate on channels as wide as 30 kilohertz. We believe that implementing this channel plan suits Remote Pickup BAS operators as it does PLMRS providers, and it will benefit users by allowing for common equipment to be used for both parts 74 and 90 licensees. Remote Pickup Service licensees would be able to take advantage of further advancements in land mobile radio technology as it is developed and brought to market. We believe that the vast majority of licensees in the 150 MHz and 160 MHz bands can be accommodated by the proposed channel plan without having to change their equipment. There are only 7 remote pickup licensees in the 150 MHz band and 25 in the 160 MHz band that have begun operating using the 1984 channel plan. Only these licensees would need to transition to the proposed plan.

51. We also propose to modify the 1984 channel plan for the Group N_1 and N_2 450 MHz Remote Pickup channels. In this case, we propose to standardize the remote pickup channel plan with the part 90 channel plan by listing channels 6.25 kilohertz apart and allowing licensees to stack up to 8 channels (50 kilohertz). Although part 74 licensees do not share this band with part 90 licensees, by aligning to the part 90 channel plan, BAS licensees in this band will reap the same benefits as those expected for the VHF band. Under our proposal, a transition to the proposed plan would be needed only for those licensees who implemented the 1984 plan.

52. To accommodate all licensees who are operating in compliance with the 1984 channel plan, we propose to give them three years from the date a new channel plan is adopted by the Commission to modify their equipment and comply with the new plan. We believe that this provides licensees adequate time to either retune or replace equipment. However, because the number of licensees affected by our proposals is small, we propose to provide them the option to continue operating using the 1984 channel plan after the three year transition period ends, but only on a secondary, non-interference basis. We believe that this course of action will minimize disruption to existing remote pickup BAS systems. Finally, we note that this proposal is consistent with the treatment of part 90 licensees that were operating on 5 kHz channels in the VHF band prior to the *Refarming* proceeding.

53. The Group P channels are limited to operational communications, including tones for signaling and for remote control and automatic transmission system control and telemetry. Because there are only eight Group P channels (four at each end of the band) and they are limited to this specialized use, we are not inclined, at this point, to alter them. However, in light of the technological advances in radio cited above, we are not convinced that the Group R and Group S wide bandwidth channels are still needed. Although we are not making specific proposals for these three groups of channels, we seek comment on the extent to which these channels are being used. Should their current bandwidth designations be maintained or should they also be aligned with the 6.25 kilohertz channel plan?

54. Because Remote Pickup Service licensees will benefit most by having the capability to choose from a wide variety of radios, and in accordance with our proposal to standardize the Remote Pickup channels with those listed in part 90, we believe that this service should adhere to the technical standards of part 90. In this way, part 74 licensees could choose from among the wide variety of radios available for PLMRS licensees. Accordingly, for equipment designed to operate on channels with bandwidths of 30 kilohertz or less in the VHF and UHF Remote Pickup Service bands, we propose that the equipment comply with the part 90 technical rules for the emission mask and frequency stability. Additionally, we ask commenters to address whether the transient frequency behavior rules in 47 CFR 90.214 would be appropriate to impose on remote pickup service transmitters.

Federal Narrowbanding of 162–174 MHz Band Land Mobile Frequencies

55. The Interdepartment Radio Advisory Committee (IRAC) has been working for the last several years on narrowbanding Federal Government operations in a number of frequency bands. Based on the work of the IRAC, the National Telecommunications and Information Administration (NTIA) has published the final policy in the Manual of Regulations and Procedures for Federal Frequency Management. We note that one of the frequency bands subject to narrowbanding is the 162–174 MHz band, and that the Remote Pickup BAS may share, on a secondary basis, two frequencies—166.25 MHz and 170.15 MHz—in this band with Federal Government users. Under 47 CFR 2.106, Note US11, remote pickup stations may use these frequencies except within 150 miles of New York City where they are reserved for use by public safety users, in Alaska, or in the Tennessee Valley Authority area. We also note that these frequencies are used in some areas by fixed stations in the Emergency Alert System (EAS) to relay information to local stations for dissemination to the public. It has been the policy of NTIA and the FCC to protect these EAS stations from potential harmful interference.

56. Under the narrowbanding policies adopted by NTIA, all new Federal Government systems after January 1, 1995, and all Federal Government systems after January 1, 2005, in the 162–174 MHz band must be capable of operating within a 12.5 kHz channel. The current Commission rules provide for operations on channels up to 25 kilohertz wide. In order to ensure continued successful sharing of the spectrum with Federal Government users, we propose to require that Remote Pickup BAS use of the 166.25 MHz and 170.15 MHz frequencies be in accordance with the same 12.5 kHz channel size and meet the January 1, 2005 implementation schedule applicable for all Federal Government users. Notwithstanding the need for new equipment, what are the advantages and/or disadvantages to implementing this proposal? For example, migrating to the narrow channels may improve adjacent channel performance, but will it harm the quality of the information being transmitted? Additionally, we propose to formally acknowledge the protected status of non-Federal Government stations operating on these frequencies that are used as an integral part of the EAS. These proposals encompass a revision of § 2.106, footnote US11 and a change in § 74.462 of our rules. We seek comment on these proposals.

Universal Licensing System and BAS

57. ULS is an automated licensing system and integrated database designed to infuse greater efficiency into the licensing process by using a consolidated set of application forms, automating many license review processes, and facilitating electronic application filing and data retrieval. The Wireless Telecommunications Bureau began using ULS for Aural and TV BAS licensing on August 30, 1999 and for Remote Pickup BAS on September 19, 2000. Due to this transition, many BAS service rules require updating to reflect ULS application processing procedures. Many of these changes are ministerial in nature, such as updating application form numbers. In some cases, more substantive rule changes are necessary and merit additional discussion. These proposals are discussed further.

General Application Procedures

58. One of the main changes promulgated by the *ULS Report and Order*, 63 FR 68904, December 14, 1998, was to consolidate the application and processing rules for all wireless services into a single subpart in part 1 of the Commission's rules. Subpart F of part 1 is now the sole section of rules that wireless applicants and licensees, including BAS applicants and licensees, consult regarding the handling of various application procedures. To make clear that the BAS adheres to the rules laid out in part 1, Subpart F, we propose amending 47 CFR 1.901 and 1.902 to add the appropriate references to part 74. Similarly, we propose to add a new section, 47 CFR 74.6, to reference BAS applicants and licensees to the application and processing rules in part 1, Subpart F.

Construction Period for BAS Stations

59. Under the part 1, Subpart F rules, the Commission issues a license which specifies the construction period set forth in the rule part governing the specific service. Licensees are to notify the Commission when operations commence, and licensees that fail to commence operations within the required construction period automatically forfeit their license. Stations operating under the broadcast auxiliary rules are subject to the construction requirements specified in 47 CFR 73.3598, which provide three years to construct stations from the date a construction permit is issued. However, a two step license mechanism of issuing a construction permit and a license subsequent to construction is not used for wireless services. Instead, the current practice is to issue a TV or aural BAS license with a requirement to construct a station within 18 months and a remote pickup BAS license with a requirement to construct a station within 12 months. We propose to amend 47 CFR 73.3598 and related rules in part 73 to remove references to broadcast auxiliary stations and to create a new § 74.34 to specify rules for the construction of BAS stations.

60. Accordingly, we propose to modify the rules to codify current Commission practice. We propose to modify the construction period for remote pickup BAS to 12 months; the same period allowed for PLMR stations authorized under part 90. Also, we propose to modify the construction period for TV and aural BAS stations to 18 months. We believe that fixed aural and TV BAS stations are similar to fixed microwave stations, which are authorized under part 101 and have an 18 month construction period. We seek comment on this proposal, including alternative time periods for constructing BAS stations.

Special Temporary Authority

61. Under the rules in part 74, BAS licensees may apply for an STA by informal application, which has generally been interpreted to mean by letter request. In the *ULS Report and Order*, the Commission adopted rules that eliminate letter requests for all purposes where a form can be used. In implementing this policy, the Commission stated that this will, "reduce applicant and licensee burdens, increase efficiency and better serve the public interest." In keeping with this policy and the stated benefits, we propose to amend the part 74 rules for BAS to require that STA requests follow the procedures outlined in 47 CFR 1.931 of the Commission's rules. We note that when an immediate STA is needed during times of emergency or natural disaster, requests can be made via telephone or facsimile and such requests can be granted orally. In these situations, STA recipients are required under the rules to follow up with a formal application as soon as feasibly possible. We seek comment on this proposal.

Classification of Filings as Major or Minor

62. In the *ULS Report and Order*, the Commission adopted rules to define certain actions as major changes for all wireless services. Additionally, the Commission adopted rules which define major changes for each service category. Minor changes are defined as all changes that are not major. These designations when used in conjunction with other adopted rule amendments assist the Commission in streamlining the licensing process. As an example, § 1.947(b) allows applicants to make minor modifications to their stations without prior Commission approval so long as they file an application form within thirty days of making such a modification. ULS, programmed with logic that can automatically determine if an application for modification is major or minor, can then process these applications without the need for prior intervention by Commission staff. Applicants get their applications processed faster, and Commission staff is freed up to concentrate on other tasks.

63. Accordingly, we propose to amend the part 74 rules in accordance with the procedures already adopted in the ULS proceeding for major and minor amendments and modifications. Specifically, amendments to aural and TV BAS applications and modifications to aural and TV BAS licenses would be evaluated based on the rules defining a major change in 47 CFR 1.929(a) and (d) and remote pickup BAS applications would adhere to the rules set forth in 47 CFR 1.929(a) and (c)(4). In many cases, the rules adopted in the *ULS Report and Order* provide more flexibility than the current part 74 rules afford BAS licensees. The proposal described herein would implement rule changes that treat BAS applicants in a consistent manner with the treatment given other wireless services. We seek comment on all aspects of this proposal.

Emission Designators

64. 47 CFR 74.462 of the Commission's rules specifies authorized emissions for remote pickup BAS frequencies and frequency bands. We note that this section contains emission designators that no longer conform to current International Telecommunication Union (ITU) specifications or to those contained in subpart C of part 2 of the Commission's rules. Accordingly, we propose to update § 74.462 to replace all outdated emission designators with emission designators that conform to ITU specifications and part 2 rules. We seek comment on this proposal.

AMPTP Petition

65. AMPTP has petitioned the Commission to allow the use of wireless assist video devices (WAVDs) on a secondary, non-interference basis on unused TV channels in the upper VHF and the UHF bands. Video assist devices produce low resolution images that can be used by members of a production crew to make decisions with respect to content, lighting, and image framing.

Proposals

66. We believe that there is a sufficient basis for proposing rules to allow motion picture and TV producers to use WAVDs under certain conditions designed to minimize the interference risk to users of the band. This would be an appropriate expansion of the capabilities they are currently provided in part 74 of our rules, and provides them with the same capabilities as other part 74 licensees who can so operate under other existing rule sections. However, we are concerned that expanding the use of WAVDs not increase the interference risk to current or future authorized spectrum users. As noted, several commenters stated that the use of WAVDs would proliferate and be used by unauthorized users in a similar fashion to our experience with wireless microphones. We believe that there are significant differences between the cost of wireless microphones and WAVDs that will limit the use of these devices. Further, we do not believe that WAVDs are widely available. We request specific comments regarding the costs of WAVDs and whether these costs will limit their use. We also seek comment on the availability of these devices. Are they widely available to the general public? Additionally, we request comments on how the FCC can restrict the use of WAVDs by authorized users.

67. It appears that WAVDs cannot be easily accommodated in or are not suitable to other bands. In addition, we believe that these devices would be beneficial in keeping film and TV production costs down and allowing needed mobility and increased safety during filming. Therefore, we propose to amend the Commission's rules in part 74 to authorize motion picture and TV producers as well as TV BAS license holders to use VHF-TV and UHF-TV spectrum for WAVDs under conditions as set forth below. We propose to add the rules for these devices in a new 47 CFR 74.870 in part 74, subpart H, Low Power Auxiliary Stations. WAVDs would be subject to complying with all rules in subpart H, except where such requirements differ from those described below.

Eligibility, Status, and Licensing

68. We propose that motion picture and television producers, as defined in 47 CFR 74.801, be eligible to operate WAVDs. These entities are currently eligible to hold Low Power Auxiliary Station licenses. Our proposal, therefore, would extend to all entities eligible to hold a part 74 license, the opportunity to use WAVDs. We also propose to limit the use of WAVDs to production facilities or locations for use in producing material being filmed or taped for later showing on television broadcast stations. Thus, WAVDs could not be used for ENG operations or to assist with the production of live events. Additionally, we propose that WAVDs be excluded from operating under the rules for short-term operation used by other part 74 licensees. These restrictions are intended to minimize the possibility for interference similar to what parts 73 and 74 licensees have experienced from other co-channel operations in the vicinity of their operations, such as TV BAS and wireless microphones.

69. To further reduce the interference potential of these devices, we propose that WAVDs be authorized on a non-interference basis. Thus, WAVDs could not cause harmful interference to any existing or future allocated services operating in accordance with the Table of Allocations in part 2 of the Commission's rules, and WAVD users would be responsible for correcting any instance of harmful interference using any means necessary, up to and including shutting down the transmitter. We do not, however, propose to change the existing allocation of this spectrum for the broadcasting service (and land mobile in the 470–512 MHz band). This proposal is consistent with the treatment of wireless microphones operating on the same spectrum.

70. We propose to require that WAVD users obtain a license from the Commission prior to operation. Specifically, we propose that applicants use FCC Form 601 to apply for an WAVD license. As with wireless microphones, applicants would file FCC Form 601 Main Form and Schedule H—Technical Data Schedule for the Private Land Mobile and Land Mobile Broadcast Auxiliary Radio Services (parts 90 and 74). We propose that, similar to other BAS licensees, the license term for a WAVD license be concurrent with the normal licensing period for TV broadcast stations located in the same area of operation. A WAVD licensee would not be geographically limited, subject only to the channel separation rules we would adopt. These licenses are normally issued for a period of eight years with the expiration date determined by the area of the country in which the station operates. For applicants that propose to operate at various sites either regionally or nationally, the license period would be determined by the location of the applicant as indicated on FCC Form 601. Further, we propose that a WAVD licensee be authorized to use any authorized frequency and to operate on as many frequencies simultaneously as necessary, subject to the limitations and the notification requirements described below. Finally, because of the limited eligibility we propose for WAVDs and the nature of their use, we propose that WAVD licenses be non-assignable and non-transferable. We request comment on all aspects of these proposals concerning eligibility, status and licensing.

Authorized Frequencies

71. We propose to allow WAVDs to operate on unused television broadcast frequencies, subject to certain conditions. Specifically, we propose that WAVDs be authorized to use the 180–210 MHz band (corresponding to VHF–TV channels 8–12) and the 470–608 MHz and 614–698 MHz bands (corresponding to UHF–TV channels 14–36 and 38–51). We believe that WAVDs can effectively operate on this spectrum on a non-interference basis.

72. We are not proposing to allow WAVDs in the 174–180 MHz and 210–216 MHz bands (TV channels 7 and 13) because these bands are adjacent to bands which accommodate the Low Power Radio Service (LPRS), which supports auditory assistance devices and health care aids that operate pursuant to 47 CFR 90.265 of our rules. Because there are a large number of channels available, these restrictions should not impair the utility of this new service. We note that the nomadic nature of LPRS and WAVD operations could make it difficult to prevent interference between these services. In addition, by not allowing WAVDs to operate on these channels, we also would protect from interference the Navy's SPASUR radar system, which operates in the 216.88–217.08 MHz band.

73. We propose to specifically exclude WAVDs from using land mobile radio channels, in the 470–512 MHz band (TV channels 14–20) in cities where such use is authorized by the rules. Additionally, we propose to restrict the use of WAVDs on channels adjacent to public safety channels in those cities. Therefore, all TV channels listed in 47 CFR 90.303 of our rules will be excluded from WAVD use at the locations listed in that rule. In addition, we propose that 482–488 MHz (TV channel 16), which New York City public safety users are using under a waiver, also be excluded from WAVD usage in that area. Another exclusion we propose is 476–494 MHz (TV channels 15–17) in the Gulf of Mexico, which is used by the Private Land Mobile Radio Service and for communication links in the Offshore Radiotelephone Service (ORS) under part 22 of our rules. Finally, we propose to exclude 488–494 MHz (TV channel 17) in Hawaii, which is used for common carrier control and repeater stations for point-to-point inter-island communications.

74. We also propose that WAVDs be excluded on a nationwide basis from operating in the 608–614 MHz band (TV channel 37) to protect radio astronomy operations. This proposal is in accordance with the Table of Allocations in part 2 of the Commission's rules which specifies that no stations will be authorized to transmit in that band. We also note that the Commission has recently authorized the use of medical telemetry in the 608–614 MHz band and this exclusion will protect those operations. Finally, we propose that WAVDs not be allowed to use channels above 698 MHz (channel

51) in the UHF-TV band. This proposal recognizes that part of the TV band above channel 51 has been and more will be reallocated to uses other than broadcasting. We seek comment on all aspects of these proposals on authorized frequencies.

Technical and Operational Requirements

75. In addressing technical and operational requirements for WAVDs, our proposals are designed to protect other users of the TV bands. We propose to limit the ERP of WAVDs to 250 milliwatts. This should provide adequate power for reliable transmissions up to 300 meters. Additionally, the lower ERP limit will provide more protection to other users of the TV band. To further minimize the potential for harmful interference by preventing the ability of users to use high gain antennas, we also propose to require that the transmitting devices contain a permanently attached antenna. We also seek comment on whether an alternative limit on power levels may be more appropriate. We seek answers to the following:

- What signal strength is necessary at the WAVD receiver to ensure reliable use?
- Is 250 milliwatts ERP adequate to ensure this signal strength at 300 meters or is a different ERP more appropriate?
- What assumptions are being used in making this calculation?
- How is the signal strength affected by antenna height?
- Should the rules specify a relationship between antenna height and power?

76. AMPTP asks that we allow WAVDs to operate with a bandwidth up to 6 megahertz to provide sufficient operating flexibility. Because they state that these devices will transmit audio, video, and time information either in analog or digital format, this appears to be a reasonable request. Further, we believe that producers can benefit from low equipment costs by taking advantage of economies of scale by using existing NTSC or newer DTV equipment. Accordingly, we propose to allow WAVDs to operate with a bandwidth up to 6 MHz, limited to transmitting on a single TV channel (i.e., WAVD transmissions may not overlap the TV channel edge). To ensure compliance with this requirement, we propose that WAVDs be subject to the same emission limitations that we are proposing for other TV BAS transmitters.

77. We also propose that all WAVD transmitters be authorized for use under the certification procedures of part 2 of our rules. This third-party review process will insure that these transmitters are designed to the parameters ultimately adopted. We seek comment on whether we should authorize these low power devices under declaration of conformity (DOC) procedures. The DOC process would allow manufacturers to declare compliance with our requirements, provided the equipment is tested for compliance using an accredited laboratory and is properly labeled. Because these are new devices, we do not believe that use of verification procedures, in which no independent third-party testing is required, is appropriate.

78. AMPTP proposed that WAVDs be authorized to operate with a separation distance of at least 120 kilometers from an authorized user of the TV band to avoid interference. This distance corresponds to the Grade B contour of a TV station operating in the upper VHF–TV band with maximum power. We note that wireless microphones, which may use up to 50 milliwatts and 250 milliwatts output power in the VHF–TV and UHF–TV bands, respectively, maintain distances of up to 129 kilometers from TV broadcasting stations, a distance slightly larger than the Grade B contour. Although the ERP we are proposing for WAVDs is higher than that authorized for wireless microphones operating in the upper VHF TV band, we also have proposed to allow WAVDs to operate with a bandwidth of 6 megahertz compared to the maximum 200 kilohertz authorized for wireless microphones. Therefore, the energy radiated from a WAVD will be spread over a much larger bandwidth than that used for wireless microphones resulting in less signal energy in any given portion of the bandwidth. This difference coupled with the ability of wireless microphones to avoid sensitive portions of the TV signal due to their smaller bandwidth should offset the difference in power levels between the two devices. Thus, similar to the rules for wireless microphones, we propose that WAVDs maintain 129 kilometers separation from TV broadcasting stations, including low power TV stations and translator stations operating on the same frequency. To protect TV stations, we believe that this distance is more appropriate than the 120 kilometer distance proposed by AMPTP because it requires that these devices operate completely outside the Grade B contour, whereas the 120 kilometer distance would allow WAVDs to be located at the edge of the Grade B contour with the potential for generating signals into it. We seek comment on whether this distance is appropriate to protect both NTSC and DTV signals from harmful interference. We will not require a minimum separation distance from WAVDs to other TV BAS operations on the TV channels. We believe that the directional nature of the TV BAS operations, coupled with our proposals for notification prior to operation, are adequate to protect TV BAS operations.

79. To protect land mobile stations operating in the 470–512 MHz band, we have proposed to require WAVDs to maintain at least 6 MHz frequency separation when operating in the same area. To further define this protection criteria we propose to require WAVDs to maintain a separation of at least 200 kilometers from the coordinates listed in 47 CFR 90.303 when operating co-channel (i.e., at least 52 kilometers away from the nearest mobile station). We note that this proposed separation distance between WAVDs and land mobile stations is less than that proposed for TV stations. However, we believe that land mobile receivers do not require the same level of protection as television receivers because land mobile receivers are more robust than television receivers (i.e., they operate with up to 25 kilohertz bandwidths as opposed to 6 megahertz for TV and therefore allow less energy to pass through the receiver).

80. For operations by the ORS and PLMRS in the Gulf of Mexico in the 476–494 MHz band, the Commission's rules stipulate various zones in which each allocated TV channel can be used. ORS and PLMRS stations are mostly used for point-to-point or point-to-multipoint operations, which do not require the same level of protection as mobile services due to the directional nature of fixed transmissions. Communications with mobile stations in the Gulf of Mexico are generally limited to stations within the gulf (e.g., stations on boats or aircraft) or to stations on the shore. Therefore, we propose to exclude WAVDs from operating within 52 km of the Gulf of Mexico in the 476–494 MHz band. This would provide the same level of protection as we proposed to provide to mobile stations operating within U.S. cities. We also propose to exclude WAVDs from operating within 52 km of Hawaii in the 488–494 MHz band. We seek comment on whether these proposals are sufficient to protect land mobile stations or conversely whether they are overly restrictive such that they inhibit the use of WAVDs. Commenters who believe that our proposals are overly restrictive should address the level of protection necessary to protect land mobile operations.

81. The proposals set forth are designed to maximize the number of channels and areas in which WAVDs can operate while at the same time protecting broadcasters and land mobile users from harmful interference. Subject to the proposed limitations, WAVDs would have use of VHF–TV channels 8–12 and UHF–TV channels 22–36 and 38–51 nationwide. For UHF–TV channels 14–21 our proposals would prohibit WAVD use on certain channels in and around a limited number of cities, but allow their use across the rest of the United States. As an alternative, to protect land mobile users, we could prohibit WAVDs from operating on UHF–TV channels 14–21 altogether. Such an option would limit the number of available operating channels for WAVDs at most locations nationwide. However, it would also create a simpler regulatory framework. We seek comment on this option. Specifically, what is the effect of prohibiting the use of WAVDs on UHF–TV channels 14–21 on their ability to find vacant channels on which to operate in various areas?

82. We propose that prior to operating at a specific location, a WAVD licensee must notify the local broadcast coordinator in the area where they wish to operate. In this regard, we note that SBE maintains a list of local coordinators on their web site at *http://www.sbe.org*. Alternatively, in areas where there may not be a local coordinator, we propose that a WAVD licensee must notify any TV station within 161 kilometers (100 miles) operating on channels adjacent to the WAVD. We believe that notification rather than full coordination is sufficient for these devices due to their low ERP and limited operating range. We are inclined to agree with AMPTP that the requirements adopted in WT Docket No. 99–168 can be used as the basis for our proposal. We propose slight modifications to the procedures adopted in that proceeding to reflect differences in the services (i.e., WAVDs need notification for temporary use at specific locations with the notification being accomplished by a local independent coordinator, as opposed to land mobile coordination which is usually done for long-term or permanent use by a national level coordinator). Specifically, we propose that each notification include the proposed frequency or frequencies, location, antenna height, type of emission, effective radiated power, intended dates of operation, and licensee contact information. Because we have proposed to limit use of WAVDs to scheduled productions, we believe that it is reasonable to require that these notifications be made at least ten business days prior to the date that WAVD use is required. We believe that this provides adequate time for the coordinator to respond to the applicant. We further propose that failure of a coordinator to respond to such a notification will be interpreted as an approval. Applicants should be aware that we are proposing that coordinators have the full ten days to respond to a coordination request and should plan to initiate notification as far in advance as possible to avoid production delays. We believe that our proposal strikes a reasonable balance between the requirements of producers and the needs of the coordinator to study the notification and provide comments as necessary. We propose that the coordinator's recommendation regarding the specific operation of a particular WAVD—whether it can operate as proposed or with suggested modifications to operating parameters—is to be followed by the WAVD licensee. Of course, licensees may appeal to the Commission if they disagree with a coordinator. We propose that in these instances, the licensee bear the burden of proof in overturning the coordinator's recommendation. The requirements proposed herein would ensure that WAVDs operate in a manner that will minimize the potential for harmful interference. We decline to propose specific technical guidelines in order to provide coordinators a large degree of latitude to tailor requirements to specific local operating environments. Our experience has been that coordinators have performed their duties with a high degree of professionalism and integrity and we believe that the coordinators will continue to act in this manner. We seek comment on our notification proposals. Specifically, do we need to require that additional information be provided? Is the ten-day period for a coordinator to respond to a request enough time or too much time? Should specific technical criteria, such as C/I ratios, be adopted?

83. Additionally, we propose that WAVD licensees be subject to the station identification requirements of 47 CFR 74.882, which require that stations transmit station identification at the beginning and end of each period of operation at a single location. As with wireless microphones, we believe that even with the low power levels that WAVDs will use, such a requirement is necessary so that if any interference is experienced, it can readily be traced back to its source and can be mitigated. We seek comment on these additional aspects of proposed technical operational requirements for WAVDs.

84. Finally, to ensure that users understand the proper operation and requirements of WAVDs, we propose that manufacturers include certain information in the product literature that is included with the device. Section 302 of the Communications Act provides the Commission with authority to make reasonable regulations governing the interference potential of devices which emit radio frequency energy. For WAVDs, we propose that the product literature supplied to the user include the statements explaining that an FCC license is needed prior to operating, explaining that operation may not cause interference to TV reception, and identifying the intended uses of the device. In order to provide flexibility to manufacturers, we do not propose specific language or placement of this information, so long as it is included with the device. We believe that providing this information with the product literature will minimize the potential for these devices to proliferate to unauthorized users and cause interference to TV. We seek comment on this proposal. Commenters should address whether the required information is sufficient or if more or less information should be required.

Initial Regulatory Flexibility Analysis

85. As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Notice of Proposed Rule Making* (NPRM). Written public comments are requested on this IRFA and must be filed by the deadlines for comments on the *Notice of Proposed Rule Making*. The Commission will send a copy of the *Notice of Proposed Rule Making*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[2] In addition, the Notice of Proposed Rule Making and IRFA (or summaries thereof) will be published in the **Federal Register**.[3]

A. Need for, and Objectives of, the Proposed Rules

86. The *Notice or Proposed Rule Making* presents a significant update to

[1] See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 et. seq., has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Tittle II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 5 U.S.C. 603(a).

[3] Id.

the Broadcast Auxiliary Service (BAS). Many of the proposals are intended to ease the transition from current analog equipment to the digital equipment that will be necessary to support digital TV. Additionally, this *NPRM* proposes to implement changes to streamline the licensing process and make the BAS licensing rules consistent with those used in the rest of the wireless services. These proposals pave the way for BAS to take full advantage of the Commission's Universal Licensing. This *NPRM* also seeks to implement changes that would make the rules consistent among similar services, such as BAS, fixed service microwave, and Cable Television Relay Service (CARS). Finally, the *NPRM* proposes to allow motion picture and television producers access to certain VHF and UHF TV channels for wireless video assist devices (WAVDs). WAVDs increase the safety of production sets and at the same time enable these groups to save money on production costs.

B. Legal Basis

87. This action is authorized under Sections 1, 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 4(i), 154(i), 302, 303(f) and (r), 332, 337.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

88. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities.[5] Under the Small business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[6]

89. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[7] Nationwide, as of 1992, there were approximately 275,801 small organizations.[8] The definition of "small governmental entity" is one with populations of fewer than 50,000.[9] There are approximately 85,006 governmental entities in the nation.[10] This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number have populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000.[11] The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities that may be affected by our rules.

90. The proposals in this NPRM would affect licensees of BAS (remote pickup, aural, and television), CARS, and fixed microwave services. Additionally, they affect manufacturers of equipment that supports the BAS. BAS involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit to the studio or from the studio to the transmitter). CARS includes transmitters generally used to relay cable programming within cable television system distribution systems. The Commission has not developed a definition of small entities applicable to these licensees. Therefore, the applicable definitions of small entities for each of these services under the Small Business Administration (SBA) rules is as follows: (1) For TV BAS, we will use standard industrial classification (SIC) code 4833 (Television Broadcasting Stations) which are classified as small businesses if they have annual revenues of no more than $10.5 million;[12] (2) For Aural BAS, we will use SIC code 4832 (Radio Broadcasting Stations) which are classified as small businesses if they have revenue of no more than $5 million;[13] (3) For Remote pickup BAS we will use SIC code 4833 when used by a TV station or 4832 when used by a radio station. The definition of small business for these codes has already been listed; (4) For CARS, we will use SIC code 4841 (Cable and Other Pay Television Services) which are classified as small businesses if they have annual revenue of no more than $11 million;[14] (5) For fixed microwave, we will use SIC code 4812 (Radiotelephone Communications) which are classified as small businesses if they employ no more than 1,500 people;[15] (6) For BAS equipment manufacturers, we will use SIC code 3663 (Radio and Television Broadcasting and Communications Equipment) which are classified as small businesses if they employ no more than 750 people.[16]

91. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that 715 TV broadcasting firms out of a total of 885 had less than $10 million annual revenue,[17] 4748 radio broadcasting firms[18] out of a total of 4932 had less than $5 million annual revenue,[19] between 1401 and 1471 cable television firms out of a total of 1573 had less than $11 million annual revenue,[20] and more than 1166 radiotelephone firms out of a total of 1178 had fewer than 1,500 employees.[21] Similarly, the 1992 Census of Manufactures shows that between 908 and 925 out of 948 radio and television communications equipment manufacturing establishments[22] had fewer than 750 employees.[23] Any of these small businesses can potentially be affected by the proposals of the *NPRM*. We seek comment on this analysis. In providing such comment, commenters are requested to provide information regarding how many total and small business entities would be affected.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

92. Under the proposals contained in this *NPRM*, there are changes to reporting, recordkeeping, and other compliance requirements. In many cases, these changes streamline the existing licensing process or provide additional flexibility to licensees and applicants. Many of the proposed changes are related to the use of the Universal Licensing System (ULS) by BAS applicants and licensees. As explained in the *NPRM*, applicants for BAS stations must apply through the Wireless Telecommunications Bureau using the ULS, which was adopted by *Report and Order* in 1998.[24] To comply with this system, our proposals for BAS are consistent with the decisions reached in that *Report and Order*. Accordingly, our proposals include eliminating requests made by letter if there is a standard application form which can be used instead,[25] modifying the rules defining major and minor changes to those used for fixed microwave systems,[26] and eliminating the need to report transmitter output power and requiring that all stations comply with limits on effective isotropic radiated power.[27] We also propose to change the period of construction for a BAS station from the currently used three years to eighteen months, consistent with the period used for fixed microwave stations.[28]

93. Additionally, we propose to conform some of the rules that affect frequency bands that are shared among BAS licensees (part 74), CARS licensees (part 78), and fixed microwave licensees (part 101). Here, we propose to update the rules that protect interference to geostationary satellites from receiving harmful interference from fixed stations to those currently listed in the ITU International Radio Regulations. The effect of this update is to expand the number of frequency bands to which these rules apply.[29] We also propose to adopt for BAS equipment, emission limitations that are consistent with those already being used for fixed microwave stations.[30] We also propose that all BAS applicants for stations operating above 944 MHz, comply with the same frequency coordination guidelines in place for fixed microwave stations.[31]

94. Further changes entail providing technical guidelines for TV studio-to-transmitter links and TV relay stations that operate on UHF–TV channels. These guidelines have always been imposed, but never codified.[32] Also, with respect to BAS Remote Pickup stations, we propose to alter their channel plan to be consistent with the same channel spacing requirements as are used for Private Land Mobile Radio stations in Part 90 of our rules.[33] Finally, we propose to allow a new type of device to operate on certain VHF and UHF TV channels, wireless assist video devices. Because they are new, we propose rules for the licensing and use of these devices.[34] We request comment on how these requirements can be modified to reduce the burdens on small entities and still meet the objectives of this proceeding.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

95. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[35]

96. We have proposed to reduce burdens wherever possible. Our proposals regarding the BAS would reduce burdens on small entities. First, we have proposed to allow aural and TV BAS licensees to use digital modulation techniques in all of their allocated frequency bands. Currently, they can only use these techniques in a few bands and must file waiver requests and requests for special temporary authority (STA) to transmit digital signals in other bands. Our proposals would eliminate the need for these waivers and STAs, thus saving businesses the time it takes to prepare these requests and their associated filing fees.[36] Second, we have proposed to alter the equation used to determine the allowable EIRP for short path lengths. Under our proposal, there would no longer be a large drop-off in allowable EIRP when the path length of a fixed station was slightly shorter than the minimum necessary for maximum power. The effect of this would be to provide more flexibility in the way small entities design their systems. Because they would be able to use fewer sites, this would have the effect would be a reduction in the cost of a system.[37] Third, we have proposed to allow automatic transmit power control (ATPC). ATPC would benefit small entities by reducing outages to digital receivers and expanding battery life. Both of these effects benefit small businesses by making their systems more reliable.[38]

97. Many of our proposed rule amendments and their benefits, stem from the use of the ULS for application filing. This system, by providing for electronic filing on standardized forms benefits small entities in several ways. Applicants can submit applications to the Commission as soon as they have the necessary information on-hand. And they can get instant feedback as to the correctness of that application; ULS will not accept the application for filing unless it is correct on its face. If there are errors, ULS will provide error messages so that the application can be corrected and resubmitted. Also, the system makes extensive use of electronic processing, so that many of the tasks that were done by hand are now done by the computer. The overall effect is that application are processed faster and licenses are issued sooner, thus allowing small entities to begin

[4] Id. at 603(b)(3).
[5] Id. at 601(3).
[6] Id. at 632.
[7] Id. at 601(4).
[8] Department of Commerce, U.S. Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).
[9] 5 U.S.C. 601(5).
[10] 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.
[11] Id.
[12] 13 CFR 121.201, SIC Code 4833 (NAICS code 51312).
[13] Id., SIC Code 4832 (NAICS code 513112, Radio Stations).
[14] Id., SIC Code 4841 (NAICS code 51322, Cable and Other Program Distribution).
[15] Id., SIC Code 4812 (NAICS code 513322, Cellular and Other Wireless Telecommunications).
[16] Id., SIC Code 3663 (NAICS code 33422).
[17] See U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 4, Revenue Size of Firms: 1992, SIC Code 4833 (issued May 1995) (1992 Census of Communications).
[18] A firm is a business organization or entity consisting of one domestic establishment (location) or more under common ownership or control. All establishments of subsidiary firms are included as part of the owning or controlling firm. For the economic census, the terms "firm" and "company" are synonymous.
[19] See 1992 Census of Communications, SIC Code 4832.
[20] Id., SIC Code 4841. The number of small businesses is characterized as a range because the threshold annual revenue determining a small business in this category is $11 million, but the relevant census data is reported as annual revenue in the $10 million to $24,999,999 range.
[21] Id., Table 5, Employment Size of Firms: 1992, SIC Code 4812 (issued May 1995). The number of small businesses is not given as a definite number because the threshold number of employees determining a small business in this category is 1,500, but the relevant census data is only reported as firms with 1,000 or more employees.
[22] An establishment is defined as a single physical location where manufacturing is performed. A company, on the other hand, is defined as a business organization consisting of one establishment or more under common ownership or control.
[23] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Manufactures, MC92–I–36D, Industry Series, Communications Equipment, Including Radio and Television, Table 4, Industry Statistics by Employment Size of Establishment: 1992, SIC Code 3663 (issued Mar. 1995).
[24] See para. 75 in the NPRM.
[25] See para. 78 in the NPRM.
[26] See para. 79 in the NPRM
[27] See para. 18 in the NPRM.
[28] See para. 76 in the NPRM.
[29] See para. 35 in the NPRM.
[30] See para. 25 in the NPRM.
[31] See para. 37 in the NPRM.
[32] See para. 55 in the NPRM.
[33] See para. 66 in the NPRM.
[34] See paras 93–107 in the NPRM.
[35] 5 U.S.C. 603(c).
[36] See para. 9 in the NPRM.
[37] See para. 13 in the NPRM.
[38] See para. 33 in the NPRM.

providing service in a more timely manner.[39]

98. We have proposed rules in the *NPRM* that would conform rules for similar services that share spectrum. These are TV BAS, CARS, and the fixed microwave service. As a whole, these proposals reduce burdens to small entities because many of these entities have licenses in each of these rule parts, but must currently contend with different rules in each part. Thus, small entities will benefit because they will, in many instances, be able to comply with a common set of rules for their systems, which operate in any of the named services.[40]

99. Additionally, we have proposed many other changes that will benefit small entities. We have proposed to require that BAS systems prior coordinate their frequency use. Such a requirement will ensure that systems begin operating in a manner that minimizes the potential of causing interference. This protects the new system from possibly being shut down due to causing interference and protects the existing system from suffering a service disruption from receiving interference. Both of these results will benefit small entities operating in the BAS service.[41] Along with the frequency coordination requirement, we have proposed to extend the ability to operate under temporary conditional authority to all BAS frequency bands. This would benefit small entities by allowing them to begin operating sooner.[42] Further, we have proposed to extend the reach of the short-term operation rule to all entities eligible for a BAS license. This benefits small entities because many would not need to obtain additional licenses from the Commission to provide limited service a few times a year in areas in which they do not traditionally operate. Such a change would save small entities the time and money that they would otherwise expend obtaining a license.[43] Another proposed change entails us laying out the technical requirements for operating TV STLs or TV relay stations on UHF–TV channels. By doing this, applicants will know before applying exactly the requirements they must meet in order to obtain a license, thereby reducing the number or applications that must be returned by the Commission. Thus, small entities will benefit by not having to respond to returned applications.[44] We have also proposed to alter the channel plan for remote pickup BAS to conform to the channel plan adopted for PLMR services. Unless the same technical criteria are used for both services, different radios must be developed. Thus, our proposal would benefit small entities by keeping equipment costs down.[45] Finally, we have proposed to allow motion picture and television producers to operate a new type of device, wireless assist video devices, on certain unused VHF and UHF TV channels. This will benefit small entities by providing a more cost effective means for producers to monitor multiple camera angles when producing program material.[46]

100. The regulatory burdens we have retained, such as filing applications on appropriate forms, are necessary to ensure that the public receives the benefits of new and existing services in a prompt and efficient manner. We also considered revising the burden of frequency coordination, but found that this alternative would unnecessarily increase the potential of harmful interference.[47] Additionally, under the frequency coordination procedures proposed, entities may self coordinate rather than paying a frequency coordinator.[48] We will continue to examine alternatives in the further with the objectives of eliminating unnecessary regulations and minimizing significant economic impact on small entities. We seek comment on significant alternatives commenters believe we should adopt.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

101. None.

Ordering Clauses

102. Pursuant to sections 1, 4(i), 302, 303(f) and (r), 332 and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 4(i), 154(i), 302, 303(f), and (r), 332, 337, this Notice of Proposed Rulemaking is hereby Adopted.

103. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *NPRM*, including the Initial Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

[39] See Section III–B of NPRM.
[40] See Section III–C of NPRM.
[41] See para. 37 in the NPRM.
[42] See para. 46 in the NPRM.
[43] See para. 50 in the NPRM.
[44] See para. 55 in the NPRM.
[45] See para. 62 in the NPRM.
[46] See paras. 90–107 in the NPRM.
[47] See paras. 37–40 in the NPRM
[48] 47 CFR 101.103(d).

List of Subjects

47 CFR Part 1

Adminstrative practice and procedure, Radio, Television.

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 73

Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

47 CFR Part 74

Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

47 CFR Part 78

Cable television, Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Proposed Rules Change

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Parts 1, 2, 73, 74, and 78 as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

2. Section 1.901 is revised to read as follows:

§ 1.901 Basis and purpose.

The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C 151 *et seq.* The purpose of the rules in this subpart is to establish the requirements and conditions under which entities may be licensed in the Wireless Radio Services as described in this part and in parts 13, 20, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97 and 101 of this chapter.

3. Section 1.902 is revised to read as follows:

§ 1.902 Scope.

In case of any conflict between the rules set forth in this subpart and the rules set forth in parts 13, 20, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97, and 101 of Title 47, Chapter I of the Code of Federal Regulations, the rules in this part 1 shall govern.

4. Section 1.929 is amended by revising the introductory text of paragraphs (c)(4) and (d) to read as follows:

§ 1.929 Classification of filings as major or minor.

* * * * *

(c) * * *

(4) In the Private Land Mobile Radio Services (PLMRS), the remote pickup broadcast auxiliary service, and GMRS systems licensed to non-individuals:

* * * * *

(d) In the microwave, aural broadcast auxiliary, and television broadcast auxiliary services:

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

5. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

6. Section 2.106 is amended as follows:

a. Revise pages 25, 26, 37, and 38 of the Table.

b. In the list of United States footnotes, revise footnote US11.

c. In the list of non-Federal Government footnotes, revise footnote NG115.

The revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 47-68 MHz	50-54 AMATEUR S5.166 S5.167 S5.168 S5.170		50-73	50-54 AMATEUR	Amateur (97)
	54-68 BROADCASTING Fixed Mobile S5.172	54-68 FIXED MOBILE BROADCASTING		54-72 BROADCASTING NG115 NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
68-74.8 FIXED MOBILE except aeronautical mobile	68-72 BROADCASTING Fixed Mobile S5.173	68-74.8 FIXED MOBILE			
	72-73 FIXED MOBILE			72-73 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
	73-74.6 RADIO ASTRONOMY S5.178		73-74.6 RADIO ASTRONOMY US74		
S5.149 S5.174 S5.175 S5.177 S5.179	74.6-74.8 FIXED MOBILE	S5.149 S5.176 S5.179	74.6-74.8 FIXED MOBILE US273		Private Land Mobile (90)
74.8-75.2 AERONAUTICAL RADIONAVIGATION S5.180 S5.181			74.8-75.2 AERONAUTICAL RADIONAVIGATION S5.180		Aviation (87)
75.2-87.5 FIXED MOBILE except aeronautical mobile	75.2-75.4 FIXED MOBILE S5.179		75.2-75.4 FIXED MOBILE US273		Private Land Mobile (90)

	75.4-76 FIXED MOBILE	75.4-87 FIXED MOBILE	75.4-88	75.4-76 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
S5.175 S5.179 S5.184 S5.187	76-88 BROADCASTING Fixed Mobile S5.185	S5.149 S5.182 S5.183 S5.188 87-100 FIXED MOBILE BROADCASTING		76-88 BROADCASTING NG115 NG128 NG129 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
87.5-100 BROADCASTING S5.190	88-100 BROADCASTING		88-108 US93	88-108 BROADCASTING US93 NG2 NG128 NG129	Broadcast Radio (FM) (73) Auxiliary Broadcasting (74)
100-108 BROADCASTING S5.192 S5.194					
108-117.975 AERONAUTICAL RADIONAVIGATION S5.197			108-117.975 AERONAUTICAL RADIONAVIGATION US93		Note: The NTIA Manual (footnote G126) states that differential GPS stations may be authorized in the 108-117.975 MHz band, but the FCC has not yet addressed this footnote.
117.975-137 AERONAUTICAL MOBILE (R)			117.975-121.9375 AERONAUTICAL MOBILE (R) S5.111 S5.199 S5.200 591 US26 US28		Aviation (87)
			121.9375-123.0875 591 US30 US31 US33 US80 US102 US213	121.9375-123.0875 AERONAUTICAL MOBILE 591 US30 US31 US33 US80 US102 US213	
			123.0875-123.5875 AERONAUTICAL MOBILE S5.200 591 US32 US33 US112		
S5.111 S5.198 S5.199 S5.200 S5.201 S5.202 S5.203 S5.203A S5.203B			See next page for 123.5875-137 MHz		See next page for 123.5875-137 MHz

470-849 MHz (UHF) Page 37

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
470-790 BROADCASTING	470-512 BROADCASTING Fixed Mobile S5.292 S5.293	470-585 FIXED MOBILE BROADCASTING S5.291 S5.298	470-608	470-512 FIXED NG127 BROADCASTING LAND MOBILE NG66 NG114 NG115 NG128 NG149	Public Mobile (22) Broadcast Radio (TV) (73) Auxiliary Broadcasting (74) Private Land Mobile (90)
	512-608 BROADCASTING S5.297	585-610 FIXED MOBILE BROADCASTING RADIONAVIGATION S5.149 S5.305 S5.306 S5.307		512-608 BROADCASTING NG115 NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
	608-614 RADIO ASTRONOMY Mobile-satellite except aeronautical mobile-satellite (Earth-to-space)	610-890 FIXED MOBILE BROADCASTING	608-614 LAND MOBILE US350 RADIO ASTRONOMY US74 US246		Personal (95)
	614-806 BROADCASTING Fixed Mobile		614-890	614-698 BROADCASTING NG115 NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcast. (74)
				698-746 BROADCASTING NG115 NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcast. (74) Note: Band to be reallocated and auctioned by Sept. 30, 2002.
				746-764 FIXED MOBILE BROADCASTING NG115 NG128 NG159	Wireless Communications (27) Broadcast Radio (TV) (73) Auxiliary Broadcast. (74) Private Land Mobile (90)

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				764-776 FIXED MOBILE NG115 NG128 NG158 NG159	Auxiliary Broadcasting (74) Private Land Mobile (90)
S5.149 S5.291A S5.294 S5.296 S5.300 S5.302 S5.304 S5.306 S5.311 S5.312				776-794 FIXED MOBILE BROADCASTING NG115 NG128 NG159	Wireless Communications (27) Broadcast Radio (TV) (73) Auxiliary Broadcast. (74) Private Land Mobile (90)
790-862 FIXED BROADCASTING				794-806 FIXED MOBILE NG115 NG128 NG158 NG159	Auxiliary Broadcasting (74) Private Land Mobile (90)
	S5.293 S5.309 S5.311			806-821 FIXED LAND MOBILE NG30 NG31 NG43 NG63 NG115	Public Mobile (22) Private Land Mobile (90)
	806-890 FIXED MOBILE BROADCASTING			821-824 LAND MOBILE NG30 NG43 NG63	Private Land Mobile (90)
				824-849 FIXED LAND MOBILE NG30 NG43 NG63 NG151	Public Mobile (22)
S5.312 S5.314 S5.315 S5.316 S5.319 S5.321					
See next page for 862-890 MHz	S5.317 S5.318	S5.149 S5.305 S5.306 S5.307 S5.311 S5.320		See next page for 849-894 MHz	See next page for 866-896 MHz

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United States (US) Footnotes

* * * * *

US11 The use of the frequencies 166.25 and 170.15 MHz may be authorized to non-Government remote pickup broadcast base and land mobile stations and to non-Government base, fixed and land mobile stations in the public safety radio services (the sum of the bandwidth of emission and tolerance is not to exceed 12.5 kHz, except that authorizations in existence as of January 1, 2002, using 25 kHz bandwidth are permitted to continue in operation until January 1, 2005) in the lower 48 contiguous States only, except within the area bounded on the west by the Mississippi River, on the north by the parallel of latitude 37° 30′ N., and on the east and south by that arc of the circle with center at Springfield, Illinois, and radius equal to the airline distance between Springfield, Illinois, and Montgomery, Alabama, subtended between the foregoing west and north boundaries, on the condition that harmful interference shall not be caused to Government stations present or future in the Government band 162'174 MHz. The use of these frequencies by remote pickup broadcast stations shall not be authorized for locations within 150 miles of New York City; and use of these frequencies by the public safety radio services will not be authorized except for locations within 150 miles of New York City. As an exception to the secondary status of all other non-Government stations operating on the frequencies 166.25 and 170.15 MHz, non-Government remote pickup broadcast base stations operating as an integral part of the Emergency Alert System shall have primary status.

* * * * *

Non-Federal Government (NG) Footnotes

* * * * *

NG115 In the bands 54–72 MHz, 76–88 MHz, 174–216 MHz, 470–608 MHz, and 614–806 MHz, wireless microphones and wireless assist video devices may be authorized on a non-interference basis, subject to the terms and conditions set forth in 47 CFR part 74, subpart H.

* * * * *

PART 73—RADIO BROADCAST SERVICES

7. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

8. Section 73.3500 is amended by removing the entries for Forms 313 and 313–R from the table in paragraph (a) and adding entries for Forms 601 and 603 in numerical order to read as follows:

§ 73.3500 Application and report forms.

(a) * * *

Form No.	Title
* * * * *	
601	FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.
603	FCC Wireless Telecommunications Bureau Application for Assignments of Authorization and Transfers of Control.
* * * * *	

§ 73.3533 [Amended]

9. Section 73.3533 is amended by removing and reserving paragraph (a)(3).

§ 73.3536 [Amended]

10. Section 73.3536 is amended by removing and reserving paragraph (b)(3).

11. Section 73.3598 is amended by revising paragraph (a) to read as follows:

§ 73.3598 Period of construction.

(a) Each original construction permit for the construction of a new TV, AM, FM or International Broadcast; low power TV; TV translator; TV booster; FM translator; or FM booster, or to make changes in such existing stations, shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

12. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(f) and 554.

13. Section 74.5 is amended by redesignating paragraphs (a)(4) through (a)(6) as paragraphs (a)(5) through (a)(7), and adding new paragraphs (a)(4) and (f) to read as follows:

§ 74.5 Cross reference to rules in other parts.

* * * * *

(a) * * *

(4) Subpart F, "Wireless Telecommunications Services Applications and Proceedings". (§§ 1.901 to 1.981).

* * * * *

(f) Part 101, "Fixed Microwave Services".

14. Section 74.6 is added to read as follows:

§ 74.6 Licensing of broadcast auxiliary and low power auxiliary stations.

Applicants for and licensees of remote pickup broadcast stations, aural broadcast auxiliary stations, television broadcast auxiliary stations, and low power auxiliary stations authorized under subparts D, E, F, and H of this part are subject to the application and procedural rules for wireless telecommunications services contained in part 1, subpart F, of this chapter.

15. Section 74.15 is amended by revising paragraph (f) to read as follows:

§ 74.15 Station license period.

* * * * *

(f) Licenses held by broadcast network-entities under Subpart F of this part will ordinarily be issued for a period of 8 years running concurrently with the normal licensing period for broadcast stations located in the same area of operation. An application for renewal of license shall be filed in accordance with the provisions of § 1.949 of this chapter.

* * * * *

16. Section 74.24 is amended by revising the introductory text, paragraphs (a), (d) including the note (f), (g), (h)(1) and the last two sentences of paragraph (i), and by removing the Note following paragraph (h)(1) to read as follows:

§ 74.24 Short-term operation.

All classes of broadcast auxiliary stations provided for in subparts D, E, F and H of this part, except wireless video assist devices, may be operated on a short-term basis under the authority conveyed by a part 73 license or a broadcast auxiliary license without prior authorization from the FCC, subject to the following conditions:

(a) Licensees operating under this provision must be eligible to operate the particular class of broadcast auxiliary station.

* * * * *

(d) Short-term operation under this section shall not exceed 720 hours annually per frequency.

Note to Paragraph (d): Certain frequencies shared with other services which are normally available for permanent broadcast auxiliary station assignment may not be available for short-term operation. Refer to any note(s) which may be applicable to the use of a specific frequency prior to initiating operation.

* * * * *

(f) Stations operated pursuant to this section shall be identified by the transmission of the call sign of the associated part 73 broadcast station or broadcast auxiliary station.

(g) Prior to operating pursuant to the provisions of this section, licensees shall, for the intended location or area-of-operation, notify the appropriate frequency coordination committee or any licensee(s) assigned the use of the proposed operating frequency, concerning the particulars of the intended operation and shall provide the name and telephone number of a person who may be contacted in the event of interference. Except as provided further, this notification provision shall not apply where an unanticipated need for immediate short-term mobile station operation would render compliance with the provisions of this paragraph (g) impractical.

(1) A CARS licensee shall always be given advance notification prior to the commencement of short-term operation on or adjacent to an assigned frequency.

(2) The Commission may designate a frequency coordinator as the single point of contact under this section for advance coordination of major national and international events. Once designated, all short-term auxiliary broadcast use under this section must be coordinated in advance through the designated coordinator.

(i) Coordinators under this provision will not be designated unless the Commission receives a request to designate a coordinator.

(ii) The Commission will issue a Public Notice with information regarding the designation of such a coordinator.

(iii) All coordination must be done on a non-discriminatory basis.

(iv) All licensees must abide by the decision of the coordinator. The Commission will be the final arbiter of any disputes.

(3) An unanticipated need will never be deemed to exist for a scheduled event, such as a convention, sporting event, etc.

(h) * * *

(1) Use of broadcast auxiliary service frequencies below 470 MHz is limited to areas of the United States south of Line A or west of Line C unless the effective radiated power of the station is 5 watts or less. See § 1.928(e) of this chapter for a definition of Line A and Line C.

* * * * *

(i) * * * It shall simply be necessary for the licensee to contact the potentially affected agency and obtain advance approval for the proposed short-term operation. Where protection to FCC monitoring stations is concerned, approval for short-term operation may be given by the District Director of a Commission field facility.

* * * * *

17. Section 74.25 is added to read as follows:

§ 74.25 Temporary conditional operating authority.

An applicant for a new broadcast auxiliary radio service station or a modification of an existing station under subpart D, E, F, or H of this part may operate the proposed station during the pendency of its applications upon the filing of a properly completed formal application that complies with the rules for the particular class of station, provided that the following conditions are satisfied:

(a) *Conditions applicable to all broadcast auxiliary stations.* (1) Stations operated pursuant to this section shall be identified by the transmission of the call sign of the associated part 73 broadcast station, if one exists, or the prefix "WT" followed by the applicant's local business telephone number for broadcast or cable network entities.

(2) The antenna structure(s) has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by subpart B of part 17 of this chapter; or the antenna or tower structure does not exceed 6.1 meters above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the FCC.

(3) The grant of the application(s) does not require a waiver of the Commission's rules in this chapter.

(4) The applicant has determined that the facility(ies) will not significantly affect the environment as defined in § 1.1307 of this chapter.

(5) The station site does not lie, within a radio "Quiet Zone" identified in § 1.924 of this chapter.

(b) *Conditions applicable to remote pickup broadcast auxiliary stations.* (1) The auxiliary station must be located within 80 km (50 mi) of the broadcast studio or broadcast transmitter.

(2) The applicant must coordinate the operation with all affected co-channel and adjacent channel licensees in the area of operation. This requirement can be satisfied by coordination with the local frequency committee if one exists.

(3) Operation under this provision is not permitted between 152.87 MHz and 153.35 MHz.

(c) *Conditions applicable to aural and television broadcast auxiliary stations.* (1) The applicable frequency coordination procedures have been successfully completed and the filed application is consistent with that coordination.

(2) The station site does lie within an area requiring international coordination.

(3) If operated on frequencies in the 17.8–19.7 GHz band, the station site does not lie within any of the areas identified in § 1.924 of this chapter.

(d) Operation under this section shall be suspended immediately upon notification from the Commission or by the District Director of a Commission field facility, and shall not be resumed until specific authority is given by the Commission or District Director. When authorized by the District Director, short test operations may be made.

(e) Conditional authority ceases immediately if the application(s) is returned by the Commission because it is not acceptable for filing.

(f) Conditional authorization does not prejudice any action the Commission may take on the subject application(s). Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. An applicant operating pursuant to this conditional authority assumes all risks associated with such operation, the termination or modification of the conditional authority, or the subsequent dismissal or denial of its application(s).

18. Section 74.34 is added to read as follows:

§ 74.34 Period of construction; certification of completion of construction.

(a) Each aural and television broadcast auxiliary station authorized under subparts E and F of this part must be in operation within 18 months from the initial date of grant.

(b) Each remote pickup broadcast auxiliary station authorized under subpart D of this part must be in operation within 12 months from the initial date of grant.

(c) Failure to timely begin operation means the authorization terminates automatically.

(d) Requests for extension of time may be granted upon a showing of good cause pursuant to § 1.946(e) of this chapter.

(e) Construction of any authorized facility or frequency must be completed by the date specified in the license as pursuant to § 1.946 of this chapter.

19. Section 74.402 is revised to read as follows:

§ 74.402 Frequency assignment.

Operation on all channels listed in this section (except: 26.07, 26.11, 26.45, 450.01, 450.02, 450.98, 450.99, 455.01, 455.02, 455.98, and 455.99 MHz) shall

be in accordance with the "priority of use" provisions in § 74.403(b). The channel will be assigned by its center frequency, channel bandwidth, and emission designator. In general, the frequencies listed in this section represent the center of the channel or channel segment. When an even number of channels are stacked in those sections stacking is permitted, channel assignments may be made for the frequency halfway between those listed.

(a) The following channels (except 1606, 1622, and 1646 kHz) may be assigned for use by broadcast remote pickup stations using any emission (other than single sideband or pulse) that will be in accordance with the provisions of § 74.462:

(1) MF Channels: 1606, 1622, and 1646 kHz. The channel 1606 kHz is subject to the condition listed in paragraph (e)(1) of this section.

(2) HF Channels: 25.87, 25.91, 25.95, 25.99, 26.03, 26.07, 26.09, 2.611, 26.13, 26.15, 26.17, 26.21, 26.23, 26.25, 26.27, 26.29, 26.31, 26.33, 26.35, 26.37, 26.39, 26.41, 26.43, 26.45, and 26.47 MHz. The channels 25.87–26.09 MHz are subject to the condition listed in paragraph (e)(2) of this section.

(3) VHF Channels: 166.25 and 170.15 MHz. These channels are subject to the condition listed in paragraph (e)(8) of this section.

(4) UHF Channels: 450.01, 450.02, 450.98, 450.99, 455.01, 455.02, 455.98, 455.99 MHz. These channels are subject to the condition listed in paragraph (e)(9) of this section.

(b) Up to four of the following 7.5 kHz VHF segments and up to eight of the following 6.25 kHz UHF segments may be stacked to form a channel which may be assigned for use by broadcast remote pickup stations using any emission contained within the resultant channel in accordance with the provisions of § 74.462:

(1) VHF segments: 152.8625, 152.870, 152.8775, 152.885, 152.8925, 152.900, 152.9075, 152.915, 152.9225, 152.930, 152.9375, 152.945, 152.9525, 152.960, 152.9675, 152.975, 152.9825, 152.990, 152.9975, 153.005, 153.0125, 153.020, 153.0275, 153.035, 153.0425, 153.050, 153.0575, 153.065, 153.0725, 153.080, 153.0875, 153.095, 153.1025, 153.110, 153.1175, 153.125, 153.1325, 153.140, 153.1475, 153.155, 153.1625, 153.170, 153.1775, 153.185, 153.1925, 153.200, 153.2075, 153.215, 153.2225, 153.230, 153.2375, 153.245, 153.2525, 153.260, 153.2675, 153.275, 153.2825, 153.290, 153.2975, 153.305, 153.3125, 153.320, 153.3275, 153.335, 153.3425, 153.350, and 153.3575. These channels are subject to the conditions listed in paragraphs (e)(3), (e)(4), and (e)(5) of this section.

(2) VHF segments: 160.860, 160.8675, 160.875, 160.8825, 160.890, 160.8975, 160.905, 160.9125, 160.920, 160.9275, 160.935, 160.9425, 160.950, 160.9575, 160.965, 160.9725, 160.980, 160.9875, 160.995, 161.0025, 161.010, 161.0175, 161.025, 161.0325, 161.040, 161.0475, 161.055, 161.0625, 161.070, 161.0775, 161.085, 161.0925, 161.100, 161.1075, 161.115, 161.1225, 161.130, 161.1375, 161.145, 161.1525, 161.160, 161.1675, 161.175, 161.1825, 161.190, 161.1975, 161.205, 161.2125, 161.220, 161.2275, 161.235, 161.2425, 161.250, 161.2575, 161.265, 161.2725, 161.280, 161.2875, 161.295, 161.3025, 161.310, 161.3175, 161.325, 161.3325, 161.340, 161.3475, 161.355, 161.3625, 161.370, 161.3775, 161.385, 161.3925, 161.400. These channels are subject to the condition listed in paragraph (e)(6) of this section.

(3) VHF segments: 161.625, 161.6325, 161.640, 161.6475, 161.655, 161.6625, 161.670, 161.6775, 161.685, 161.6925, 161.700, 161.7075, 161.715, 161.7225, 161.730, 161.7375, 161.745, 161.7525, 161.760, 161.7675, 161.775. These channels are subject to the conditions listed in paragraphs (e)(4) and (e)(7) of this section.

(4) UHF segments: 450.03125, 450.0375, 450.04375, 450.050, 450.05625, 450.0625, 450.06875, 450.075, 450.08125, 450.0875, 450.09375, 450.100, 450.10625, 450.1125, 450.11875, 450.125, 450.13125, 450.1375, 450.14375, 450.150, 450.15625, 450.1625, 450.16875, 450.175, 450.18125, 450.1875, 450.19375, 450.200, 450.20625, 450.2125, 450.21875, 450.225, 450.23125, 450.2375, 450.24375, 450.250, 450.25625, 450.2625, 450.26875, 450.275, 450.28125, 450.2875, 450.29375, 450.300, 450.30625, 450.3125, 450.31875, 450.325, 450.33125, 450.3375, 450.34375, 450.350, 450.35625, 450.3625, 450.36875, 450.375, 450.38125, 450.3875, 450.39375, 450.400, 450.40625, 450.4125, 450.41875, 450.425, 450.43125, 450.4375, 450.44375, 450.450, 450.45625, 450.4625, 450.46875, 450.475, 450.48125, 450.4875, 450.49375, 450.500, 450.50625, 450.5125, 450.51875, 450.525, 450.53125, 450.5375, 450.54375, 450.550, 450.55625, 450.5625, 450.56875, 450.575, 450.58125, 450.5875, 450.59375, 450.600, 450.60625, 450.6125, 450.61875, 455.03125, 455.0375, 455.04375, 455.050, 455.05625, 455.0625, 455.06875, 455.075, 455.08125, 455.0875, 455.09375, 455.100, 455.10625, 455.1125, 455.11875, 455.125, 455.13125, 455.1375, 455.14375, 455.150, 455.15625, 455.1625, 455.16875, 455.175, 455.18125, 455.1875, 455.19375, 455.200, 455.20625, 455.2125, 455.21875, 455.225, 455.23125, 455.2375, 455.24375, 455.250, 455.25625, 455.2625, 455.26875, 455.275, 455.28125, 455.2875, 455.29375, 455.300, 455.30625, 455.3125, 455.31875, 455.325, 455.33125, 455.3375, 455.34375, 455.350, 455.35625, 455.3625, 455.36875, 455.375, 455.38125, 455.3875, 455.39375, 455.400, 455.40625, 455.4125, 455.41875, 455.425, 455.43125, 455.4375, 455.44375, 455.450, 455.45625, 455.4625, 455.46875, 455.475, 455.48125, 455.4875, 455.49375, 455.500, 455.50625, 455.5125, 455.51875, 455.525, 455.53125, 455.5375, 455.54375, 455.550, 455.55625, 455.5625, 455.56875, 455.575, 455.58125, 455.5875, 455.59375, 455.600, 455.60625, 455.6125, 455.61875, 455.6375, 455.6625, 455.6875, 455.7125, 455.7375, 455.7625, 455.7875, 455.8125, 455.8375, 455.8625 MHz.

(2) [Reserved]

(d) Up to two of the following 50 kHz segments may be stacked to form a channel which may be assigned for use by broadcast remote pickup stations using any emission contained within the resultant channel in accordance with the provisions of § 74.462. Users committed to 100 kHz bandwidths and transmitting program material will have primary use of these channels.

(1) UHF segments: 450.900, 450.950, 455.900, and 455.950 MHz.

(2) [Reserved]

(e) Conditions on Broadcast Remote Pickup Service channel usage as referred to in paragraphs (a) through (d) of this section:

(1) Operation is subject to the condition that no harmful interference is caused to the reception of AM broadcast stations.

(2) Operation is subject to the condition that no harmful interference is caused to stations in the broadcast service.

(3) Operation is subject to the condition that no harmful interference is caused to stations operating in accordance with the Table of Frequency Allocations set forth in part 2 of this chapter. Applications for licenses to use frequencies in this band must include statements showing what procedures will be taken to ensure that interference will not be caused to stations in the Industrial/Business Pool (part 90 of this chapter).

(4) These frequencies will not be licensed to network entities.

(5) These frequencies will not be authorized to new stations for use on board aircraft.

(6) These frequencies are allocated for assignment to broadcast remote pickup stations in Puerto Rico or the Virgin Islands only.

Note to Paragraph (e)(6): These frequencies are shared with Public Safety and Industrial/Business Pools (part 90 of this chapter).

(7) These frequencies may not be used by broadcast remote pickup stations in Puerto Rico or the Virgin Islands. In other areas, certain existing stations in the Public Safety and Industrial/Business Pools (part 90 of this chapter) have been permitted to continue operation on these frequencies on the condition that no harmful interference is caused to broadcast remote pickup stations.

(8) Operation on the frequencies 166.25 MHz and 170.15 MHz is not authorized:

(i) Within the area bounded on the west by the Mississippi River, on the north by the parallel of latitude 37 degrees 30 minutes N., and radius equal to the air-line distance between Springfield, Ill., and Montgomery, Alabama, subtended between the foregoing west and north boundaries;

(ii) Within 150 miles (241 km) of New York City; and

(iii) In Alaska or outside the continental United States; and is subject to the condition that no harmful interference is caused radio stations in the band 162–174 MHz.

(9) The use of these frequencies is limited to operational communications, including tones for signaling and for remote control and automatic transmission system control and telemetry.

(f) License applicants shall request assignment of only those channels, both in number and bandwidth, necessary for satisfactory operation and for which the system is equipped to operate. However, it is not necessary that each transmitter within a system be equipped to operate on all frequencies authorized to that licensee.

(g) Remote pickup stations or systems will not be granted exclusive channel assignments. The same channel or channels may be assigned to other licensees in the same area. When such sharing is necessary, the provisions of § 74.403 shall apply.

20. Section 74.431 is amended by removing and reserving paragraph (g) and revising paragraph (i) to read as follows:

§ 74.431 Special rules applicable to remote pickup stations.

* * * * *

(i) Remote pickup mobile or base stations may be used for activities associated with the Emergency Alert System (EAS) and similar emergency survival communications systems. Drills and tests are also permitted on these stations, but the priority requirements of § 74.403(b) must be observed in such cases.

21. Section 74.432 is amended by revising paragraphs (b), (g), and (k) and by designating the Note at the end of the section as Note to § 74.432 to read as follows:

§ 74.432 Licensing requirements and procedures.

* * * * *

(b) Base stations may operate as automatic relay stations on the frequencies listed in § 74.402(b)(4) and (c)(1) under the provisions of § 74.436, however, one licensee may not operate such stations on more than two frequency pairs in a single area.

* * * * *

(g) An application for a remote pickup broadcast station or system shall specify the broadcasting station with which the remote pickup broadcast facility is to be principally used and the licensed area of operation for a system which includes mobile stations shall be the area considered to be served by the associated broadcasting station. Mobile stations may be operated outside the licensed area of operation pursuant to § 74.24. Where the applicant for remote pickup broadcast facilities is the licensee of more than one class of broadcasting station (AM, FM, TV), all licensed to the same community, designation of one such station as the associated broadcasting station will not preclude use of the remote pickup broadcast facilities with those broadcasting stations not included in the designation and such additional use shall be at the discretion of the licensee.

* * * * *

(k) In case of permanent discontinuance of operations of a station licensed under this subpart, the licensee shall cancel the station license using FCC Form 601. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

Note to § 74.432: * * *

22. Section 74.433 is amended by revising paragraphs (b) and (c) to read as follows:

§ 74.433 Temporary authorizations.

* * * * *

(b) A request for special temporary authority for the operation of a remote pickup broadcast station must be made in accordance with the procedures of § 1.931(b) of this chapter.

(c) All requests for special temporary authority of a remote pickup broadcast station must include full particulars including: licensee's name and address, facility identification number of the associated broadcast station or stations, call letters of remote pickup station (if assigned), type and manufacturer of equipment, power output, emission, frequency or frequencies proposed to be used, commencement and termination date, location of operation and purpose for which request is made including any particular justification.

* * * * *

23. Section 74.451 is amended by revising paragraph (a) to read as follows:

§ 74.451 Certification of equipment.

(a) Applications for new remote pickup broadcast stations or systems or for changing transmitting equipment of an existing station will not be accepted unless the transmitters to be used have been certificated by the FCC pursuant to the provisions of this subpart, or have been certificated for licensing under part 90 of this chapter and do not exceed the output power limits specified in § 74.461(b).

* * * * *

24. Section 74.452 is revised to read as follows:

§ 74.452 Equipment changes.

(a) Modifications may be made to an existing authorization in accordance with §§ 1.929 and 1.947 of this chapter.

(b) All transmitters initially installed after November 30, 1977, must be certificated for use in this service or other service as specified in § 74.451(a).

25. Section 74.462 is amended by revising paragraph (a) and the table in paragraph (b), by removing paragraphs (f) and (g) and by designating the Note at the end of the section as Note to § 74.462 to read as follows:

§ 74.462 Authorized bandwidth and emissions.

(a) Each authorization for a new remote pickup broadcast station or

system shall require the use of certificated equipment and such equipment shall be operated in accordance with emission specifications included in the grant of certification and as prescribed in paragraphs (b), (c), and (d) of this section.

(b) * * *

Frequencies	Authorized bandwidth (kHz)	Maximum frequency deviation [1] (kHz)	Type of emission [2]
KHz 1606, 1622, and 1646	10	N/A	A3E
MHz:			
25.87 to 26.03	40	10	A3E, F1E, F3E, F9E
26.07 to 26.47	20	5	A3E, F1E, F3E, F9E
152.8625 to 153.3575 [3]	30/60	5/10	A3E, F1E, F3E, F9E
160.860 to 161.400	60	10	A1E, A2E, A3E, F1E, F2E, F3E, F9E
161.625 to 161.775	30	5	A1E, A2E, A3E, F1E, F2E, F3E, F9E
166.25 and 170.15 [4]	12.5/25	5	A1E, A2E, A3E, F1E, F2E, F3E, F9E
450.01, 450.02, 450.98, 450.99, 455.01, 455.02, 455.98, 455.99	10	1.5	A1E, A2E, A3E, F1E, F2E, F3E, F9E
450.03125 to 450.61875, 455.03125 to 455.61875	Up to 25	5	A1E, A2E, A3E, F1E, F2E, F3E, F9E
450.6375 to 450.8625, 455.6375 to 455.8625	25–50	10	A1E, A2E, A3E, F1E, F2E, F3E, F9E
450.900, 450.950, 455.900, 450.950	50–100	35	A1E, A2E, A3E, F1E, F2E, F3E, F9E

[1] Applies where F1E, F2E, F3E, or F9E emissions are used.
[2] Stations operating above 450 MHz shall show a need for employing A1E, A2E, F1E, or F2E emission.
[3] New or modified licenses for use of the frequencies will not be granted to utilize transmitters on board aircraft, or to use a bandwidth in excess of 30 kHz and maximum deviation exceeding 5 kHz
[4] After January 1, 1995, all new systems, and after January 1, 2005, all systems must be capable of operating within a 12.5 kHz channel.

* * * * *

Note to § 74.462: * * *

26. Section 74.482 is amended by revising paragraphs (a) and (e) and by designating the Note at the end of the section as Note to § 74.482 to read as follows:

§ 74.482 Station identification.

(a) Each remote pickup broadcast station shall be identified by the transmission of the assigned station or system call sign, or by the call sign of the associated broadcast station. For systems, the licensee (including those operating pursuant to § 74.24) shall assign a unit designator to each station in the system. The call sign and (unit designator, where appropriate) shall be transmitted at the beginning and end of each period of operation. A period of operation may consist of a single continuous transmission, or a series of intermittent transmissions pertaining to a single event.

* * * * *

(e) For stations using F1E or G1E emissions, identification shall be transmitted in the unscrambled analog (F3E) mode or in International Morse Code pursuant to the provisions of paragraph (d) of this section at intervals not to exceed 15 minutes. For purposes of rule enforcement, all licensees using F1E or G1E emissions shall provide, upon request by the Commission, a full and complete description of the encoding methodology they currently use.

Note to § 74.482: * * *

27. Section 74.502 is amended by removing the first four sentences of paragraph (b) introductory text and adding five new sentences in their place to read as follows:

§ 74.502 Frequency assignment.

* * * * *

(b) The frequency band 944–952 MHz is available for assignment to aural STL and ICR stations. One or more of the following 25 kHz segments may be stacked to form a channel which may be assigned with a maximum authorized bandwidth of 300 kHz except as noted further. The frequencies listed further are the centers of individual segments. When stacking an even number of segments, the center frequency specified will deviate from the list further in that it should correspond to the actual center of stacked channels. When stacking an odd number of channels, the center frequency specified will correspond to one of the frequencies listed further. * * *

* * * * *

28. Section 74.532 is amended by removing the Note following paragraph (d) and revising paragraph (f) to read as follows:

§ 74.532 Licensing requirements.

* * * * *

(f) In case of permanent discontinuance of operations of a station licensed under this subpart, the licensee shall cancel the station license using FCC Form 601. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

29. Section 74.534 is revised to read as follows:

§ 74.534 Power limitations.

(a) *Transmitter output power.* (1) Transmitter output power shall be limited to that necessary to accomplish the function of the system.

(2) In the 17,700 to 19,700 MHz band, transmitter output power shall not exceed 10 watts.

(b) In no event shall the average equivalent isotropically radiated power (EIRP), as referenced to an isotropic radiator, exceed the values specified in this section. In cases of harmful interference, the Commission may, after notice and opportunity for hearing, order a change in the effective radiated power of this station. The maximum transmitter output power and maximum allowable (EIRP) follows:

Frequency band (MHz)	Maximum transmitter output power (watts) [1]	Maximum allowable EIRP (dBW)
944 to 952		+40
17,700 to 18,600	10.0	+55
18,600 to 19,700		+35

[1] Peak envelop power.

(c) The EIRP of transmitters that use Automatic Transmitter Power Control (ATPC) shall not exceed the EIRP specified on the station authorization. The EIRP of non-ATPC transmitters shall be maintained as near as practicable to the EIRP specified on the station authorization.

30. Section 74.535 is amended by revising paragraphs (a), (b) and (d), removing paragraphs (e) and (f), and redesignating paragraph (g) as new paragraph (e) to read as follows:

§ 74.535 Emission and bandwidth.

(a) The mean power of emissions shall be attenuated below the mean transmitter power (P) in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned (center) frequency by more than 50% up to and including 100% of the authorized bandwidth: At least 25 dB;

(ii) On any frequency removed from the assigned (center) frequency by more than 100% up to and including 250% of the authorized bandwidth: At least 35 dB;

(iii) On any frequency removed from the assigned (center) frequency by more than 250% of the authorized bandwidth: At least 43+10 $\log_{10}$ (mean output power in watts) dB, or 80 dB, whichever is the lesser attenuation.

(2) When using transmissions employing digital modulation techniques:

(i) For operating frequencies below 15 GHz, in any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 50 decibels:

$A = 35 + 0.8(P - 50) + 10 \text{ Log}_{10} B.$

(Attenuation greater than 80 decibels is not required.)

Where:

A = Attenuation (in decibels) below the mean output power level.

P = Percent removed from the carrier frequency.

B = Authorized bandwidth in MHz.

(ii) For operating frequencies above 15 GHz, in any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels:

$A = 11 + 0.4(P - 50) + 10 \text{ Log}_{10} B.$

(Attenuation greater than 56 decibels is not required)

(iii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least 43+10 Log_{10} (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(b) For all emissions not covered in paragraph (a) of this section, the peak power of emissions shall be attenuated below the peak envelope transmitter power (P) in accordance with the following schedule:

(1) On any frequency 500 Hz inside the channel edge up to and including 2500 Hz outside the same edge, the following formula will apply:

$A = 29 \text{ Log}_{10} [(25/11)[(D + 2.5 - (W/2)]^2] \text{ dB}$

(Attenuation greater than 50 decibels is not required)

Where:

A = Attenuation (in dB) below the peak envelope transmitter power.

D = the displacement frequency (kHz) from the center of the authorized bandwidth.

W = the channel bandwidth (kHz).

(2) On any frequency removed from the channel edge by more than 2500 Hz: At least 43+10 Log_{10} (P) dB.

* * * * *

(d) For purposes of compliance with the emission limitation requirements of this section, digital modulation techniques are considered as being employed when digital modulation occupies 50 percent or more to the total peak frequency deviation of a transmitted radio frequency carrier. The total peak frequency deviation will be determined by adding the deviation produced by the digital modulation signal and the deviation produced by any frequency division multiplex (FDM) modulation used. The deviation (D) produced by the FDM signal must be determined in accordance with § 2.202(f) of this chapter.

* * * * *

§ 74.536 [Amended]

31. Section 74.536 is amended by removing the entry for 31.0 to 31.3 and footnotes 2 and 3 from the table in paragraph (c).

32. Section 74.537 is amended by revising paragraphs (b) and (c) to read as follows:

§ 74.537 Temporary authorizations.

* * * * *

(b) A request for special temporary authority for the operation of an aural broadcast STL or an intercity relay station must be made in accordance with the procedures of § 1.931(b) of this chapter.

(c) All requests for special temporary authority of an aural broadcast auxiliary stations must include full particulars including: licensee's name and address, facility identification number of the associated broadcast station(s), call letters of the aural broadcast STL or intercity relay station, if assigned, type and manufacturer of equipment, effective isotropic radiated power, emission, frequency or frequencies proposed for use, commencement and termination date and location of the proposed operation, and purpose for which request is made including any particular justification.

* * * * *

33. Section 74.551 is amended by revising paragraph (a), removing paragraphs (b) and (c), and redesignating paragraph (d) as new paragraph (b) to read as follows:

§ 74.551 Equipment changes.

(a) Modifications may be made to an existing authorization in accordance with §§ 1.929 and 1.947 of this chapter.

* * * * *

§ 74.561 [Amended]

34. Section 74.561 is amended by removing the entry for 31,000 to 31,300 from the table.

35. Section 74.602 is amended by revising paragraph (a) introductory text preceding the table of frequency assignment, footnote 2 of the table in paragraph (a) introductory text, and paragraphs (d), (f), (h), and (i)

introductory text and by removing and reserving paragraph (a)(2) to read as follows:

§ 74.602 Frequency assignment.

(a) The following frequencies are available for assignment to television pickup, television STL, television relay and television translator relay stations. The band segments 17,700–18,580 and 19,260–19,700 MHz are available for broadcast auxiliary stations as described in paragraph (g) of this section. Additionally, the band 38.6–40.0 GHz is available for assignment without channel bandwidth limitation to TV pickup stations on a secondary basis to fixed stations. The band segment 6425–6525 MHz is available for broadcast auxiliary stations as described in paragraph (i) of this section. Broadcast network-entities may also use the 1990–2110, 6425–6525 and 6875–7125 MHz bands for mobile television pickup only. The table of frequency follows:

* * * * *

[2] The band 13.150–13.2125 GHz is reserved exclusively for the assignment of Television Pickup and CARS Pickup stations on a co-equal basis. Fixed television auxiliary stations licensed prior to the effective date of the rules in ET Docket No. 98–206, may continue operation on channels in the 13.15–13.2125 GHz band, subject to periodic license renewals.

* * * * *

(d) Cable television relay service stations may be assigned channels in Band D between 12,700 and 13,200 MHz subject to the condition that no harmful interference is caused to TV STL and TV relay stations authorized at the time of such grants. Similarly, new TV STL and TV relay stations must not cause harmful interference to community antenna relay stations authorized at the time of such grants. The use of channels between 12,700 and 13,200 MHz by TV pickup stations is subject to the condition that no harmful interference is caused to Cable Television Relay Service stations, TV STL and TV relay stations, except as provided for in footnote 2 to the table in paragraph (a) of this section. Band D channels are also shared with certain Private Operational Fixed Stations, see § 74.638.

* * * * *

(f) TV auxiliary stations licensed to low power TV stations and translator relay stations will be assigned on a secondary basis, i.e., subject to the condition that no harmful interference is caused to other TV auxiliary stations assigned to TV broadcast stations, or to cable television relay service stations (CARS) operating between 12,700 and 13,200 MHz. Auxiliary stations licensed to low power TV stations and translator relay stations must accept any interference caused by stations having primary use of TV auxiliary frequencies.

* * * * *

(h) TV STL, TV relay stations, and TV translator relay stations may be authorized to operate fixed point-to-point service on the UHF TV channels 14–69 on a secondary basis and subject to the provisions of subpart G of this part and those specified further:

(1) These stations must not interfere with and must accept interference from current and future full-power UHF–TV stations, LPTV stations, and translator stations. They will also be secondary to land mobile stations in areas where land mobile sharing is currently permitted.

(2) Applications for authorization in accordance with this paragraph may be submitted without an engineering analysis if they comply with the following technical requirements:

(i) Maximum EIRP is limited to 35 dBW;

(ii) Transmitting antenna beamwidth is limited to 25 degrees (measured at the 3 dB points); and

(iii) Vertical polarization is used.

(i) *6425 to 6525 MHz-Mobile Only.* Paired and un-paired operations permitted. Use of this spectrum for direct delivery of video programs to the general public or multi-channel cable distribution is not permitted. This band is co-equally shared with mobile stations licensed pursuant to parts 78 and 101 of this chapter. The following channel plans apply:

* * * * *

§ 74.603 [Amended]

36. Section 74.603 is amended by removing and reserving paragraph (b).

§ 74.604 [Amended]

37. Section 74.604 is amended by removing and reserving paragraph (a).

38. Section 74.631 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 74.631 Permissible service.

(a) The licensee of a television pickup station authorizes the transmission of program material, orders concerning such program material, and related communications necessary to the accomplishment of such transmissions, from the scenes of events occurring in places other than a television studio, to its associated television broadcast station, to an associated television relay station, to such other stations as are broadcasting the same program material, or to the network or networks with which the television broadcast station is affiliated. * * *

* * * * *

39. Section 74.632 is amended by removing the last two sentences of paragraph (a) and the Note following paragraph (f), and revising paragraphs (c), (e), and (g).

§ 74.632 Licensing requirements.

* * * * *

(c) An application for a new TV pickup station shall designate the TV broadcast station with which it is to be operated and specify the area in which the proposed operation is intended. The maximum permissible area of operation will generally be that of a standard metropolitan area, unless a special showing is made that a larger area is necessary.

* * * * *

(e) A license for a TV translator relay station will be issued only to licensees of low power TV and TV translator stations. *However,* a television translator relay station license may be issued to a cooperative enterprise wholly owned by licensees of television broadcast translators or licensees of television broadcast translators and cable television owners or operators upon a showing that the applicant is qualified under the Communication Act of 1934, as amended.

* * * * *

(g) In case of permanent discontinuance of operations of a station licensed under this subpart, the licensee shall cancel the station license using FCC Form 601. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

40. Section 74.633 is amended by revising paragraphs (b) and (c) to read as follows:

§ 74.633 Temporary authorizations.

* * * * *

(b) A request for special temporary authority for the operation of a remote pickup broadcast station must be made in accordance with the procedures of § 1.931(b) of this chapter.

(c) All requests for special temporary authority of a television broadcast auxiliary station must include full particulars including: licensee's name and address, facility identification number of the associated broadcast station(s) (if any), call letters of the television broadcast STL or intercity relay station (if assigned), type and manufacturer of equipment, effective isotropic radiated power, emission, frequency or frequencies proposed for use, commencement and termination date and location of the proposed operation, and purpose for which

request is made including any particular justification.

* * * * *

41. Section 74.636 is revised to read as follows:

§ 74.636 Power limitations.

(a) On any authorized frequency, transmitter peak output power and the average power delivered to an antenna in this service must be the minimum amount of power necessary to carry out the communications desired and shall not exceed the values listed in this paragraph (a). Application of this principle includes, but is not to be limited to, requiring a licensee who replaces one or more of its antennas with larger antennas to reduce its antenna input power by an amount appropriate to compensate for the increased primary lobe gain of the replacement antenna(s). In no event shall the average equivalent isotropically radiated power (EIRP), as referenced to an isotropic radiator, exceed the values specified in the table in this paragraph (a). In cases of harmful interference, the Commission may, after notice and opportunity for hearing, order a change in the effective radiated power of this station. The table follows:

Frequency band (MHz)	Maximum allowable transmitter power		Maximum allowable EIRP	
	Fixed (W)	Mobile (W)	Fixed (dBW)	Mobile (dBW)
2025 to 2110	20.0	12.0	+45	+35
2450 to 2500	20.0	12.0	+45	+35
6425 to 6525	.....	12.0	.....	+35
6875 to 7125	20.0	12.0	+55	+35
12,700 to 13,250	5.0	1.5	+55	+45
17,700 to 18,600	10.0	.....	+55	.....
18,600 to 18,800[1]	10.0	.....	+35	.....
18,800 to 19,700	10.0	.....	+55	.....

[1] The power delivered to the antenna is limited to −3 dBW.

(b) The EIRP of transmitters that use Automatic Transmitter Power Control (ATPC) shall not exceed the EIRP specified on the station authorization. The EIRP of non-ATPC transmitters shall be maintained as near as practicable to the EIRP specified on the station authorization.

42. Section 74.637 is amended by revising paragraphs (a), (b) and (c) and by removing the entries for 31,000 to 31,300 and 38,600 to 40,000 from the table in paragraph (g) to read as follows:

§ 74.637 Emissions and emission limitations.

(a) The mean power of emissions shall be attenuated below the mean transmitter power (P) in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned (center) frequency by more than 50% up to and including 100% of the authorized bandwidth: At least 25 dB;

(ii) On any frequency removed from the assigned (center) frequency by more than 100% up to and including 250% of the authorized bandwidth: At least 35 dB;

(iii) On any frequency removed from the assigned (center) frequency by more than 250% of the authorized bandwidth: At least 43+10 log [10] (mean output power in watts) dB, or 80 dB, whichever is the lesser attenuation.

(2) When using transmissions employing digital modulation techniques:

(i) For operating frequencies below 15 GHz, in any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 50 decibels:

$A = 35 + 0.8\ (P - 50) + 10\ Log_{10}\ B.$

(Attenuation greater than 80 decibels is not required.)

Where:

A = Attenuation (in decibels) below the mean output power level.

P = Percent removed from the carrier frequency.

B = Authorized bandwidth in MHz.

(ii) For operating frequencies above 15 GHz, in any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels:

$A = 11 + 0.4(P - 50) + 10\ Log_{10}\ B.$

(Attenuation greater than 56 decibels is not required.)

(iii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least $43 + 10\ Log_{10}$ (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(3) Amplitude Modulation. For vestigial sideband AM video: On any frequency removed from the center frequency of the authorized band by more than 50%: at least 50 dB below peak power of the emission.

(b) For all emissions not covered in paragraph (a) of this section, the peak power of emissions shall be attenuated below the peak envelope transmitter power (P) in accordance with the following schedule:

(1) On any frequency 500 Hz inside the channel edge up to and including 2500 Hz outside the same edge, the following formula will apply:

$A = 29\ Log_{10}\ [(25/11)[(D + 2.5 - (W/2)]^2]$ dB

(Attenuation greater than 50 decibels is not required.)

Where:

A = Attenuation (in dB) below the peak envelope transmitter power.

D = the displacement frequency (kHz) from the center of the authorized bandwidth.

W = the channel bandwidth (kHz).

(2) On any frequency removed from the channel edge by more than 2500 Hz: At least $43 + 10\ Log_{10}$ (P) dB.

(c) For purposes of compliance with the emission limitation requirements of this section, digital modulation techniques are considered as being employed when digital modulation occupies 50 percent or more to the total peak frequency deviation of a transmitted radio frequency carrier. The total peak frequency deviation will be determined by adding the deviation produced by the digital modulation signal and the deviation produced by any frequency division multiplex (FDM) modulation used. The deviation (D) produced by the FDM signal must be

determined in accordance with § 2.202(f) of this chapter.

* * * * *

43. Section 74.638 is revised to read as follows:

§ 74.638 Frequency coordination.

(a) Coordination of all assignments above 1990 MHz will be in accordance with the procedure established in § 101.103(d) of this chapter, except that the prior coordination process for mobile (temporary fixed) assignments may be completed orally and the period allowed for response to a coordination notification may be less than 30 days if the parties agree.

(b) Channels in Band D are shared with certain Private Operational Fixed Stations authorized under part 101, § 101.147(p) of this chapter and Cable Television Relay Stations authorized under part 78, § 78.18 of this chapter. All Broadcast Auxiliary use of these bands is subject to coordination using the following procedure:

(1) Before filing an application for new or modified facilities under this part, the applicant must perform a frequency engineering analysis to ensure that the proposed facilities will not cause interference to existing or previously applied for stations in this band of a magnitude greater than that specified in paragraphs (b)(2) and (b)(3) of this section.

(2) The general criteria for determining allowable adjacent or co-channel interference protection to be afforded, regardless of system length or type of modulation, multiplexing or frequency band, shall be such that the interfering signal shall not produce more than 1.0 dB degradation of the practical threshold of the protected receiver. Degradation is determined by calculating the ratio in dB between the desired carrier signal and undesired interfering signal (C/I ratio) appearing at the input to the receiver under investigation (the victim receiver). The development of the C/I ratios from the criteria for maximum allowable interference level per exposure and the methods used to perform path calculations shall follow generally acceptable good engineering practices. Procedures as may be developed by the Electronics Industries Association (EIA), the Institute of Electrical and Electronics Engineers, Inc. (IEEE), the American National Standards Institute (ANSI) or any other recognized authority will be acceptable to the FCC.

(3) Where the development of the carrier to interference ratio (C/I) is not covered by generally acceptable procedures or where the applicant does not wish to develop the carrier to interference ratio, the applicant shall employ the following C/I protection ratios:

(i) Co-channel interference: For both sideband and carrier-beat, (applicable to all bands), the previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 90 dB.

(ii) Adjacent channel interference: The existing or previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 56 dB.

44. Section 74.641 is amended by revising paragraphs (a) introductory text, (a)(5) and (b) introductory text and by removing the entry for 31,000 to 31,300 and footnotes 2 and 3 from the table in paragraph (a)(1), to read as follows:

§ 74.641 Antenna systems.

(a) For fixed stations operating above 2025 MHz, the following standards apply:

* * * * *

(5) Pickup stations are not subject to the performance standards stated in this section.

(b) All fixed stations are to use antenna systems in conformance with the standards of this section. TV auxiliary broadcast stations are considered to be located in an area subject to frequency congestion and must employ a Category A antenna when:

* * * * *

45. Section 74.643 is revised to read as follows:

§ 74.643 Interference to geostationary-satellites.

Applicants and licensees must comply with § 101.145 of this chapter to minimize the potential of interference to geostationary satellites.

46. Section 74.644 is amended by revising the table in paragraph (a) and paragraph (b) to read as follows:

§ 74.644 Minimum path lengths for fixed links.

(a) * * *

Frequency band (MHz)	Minimum path length (km)
Below 1990	n/a
1990–7125	17
12,200–13,250	5
Above 17,700	n/a

(b) For paths shorter than those specified in the Table, the EIRP shall not exceed the value derived from the following equation:

EIRP = MAXEIRP − 40 log(A/B) dBW

Where:

EIRP = The new maximum EIRP (equivalent isotropically radiated power) in dBW.

MAXEIRP = Maximum EIRP as set forth in the Table in § 74.636 of this part.

A = Minimum path length from the Table above for the frequency band in kilometers.

B = The actual path length in kilometers.

Note to Paragraph (b): For transmitters using Automatic Transmitter Power Control, EIRP corresponds to the maximum transmitter power available, not the coordinated transmit power or the nominal transmit power.

* * * * *

47. Section 74.651 is amended by revising paragraphs (a) and (b), removing paragraphs (c) and (d), and redesignating paragraph (e) as new paragraph (c) to read as follows:

§ 74.651 Equipment changes.

(a) Modifications may be made to an existing authorization in accordance with §§ 1.929 and 1.947 of this chapter.

(b) Multiplexing equipment may be installed on any licensed TV broadcast STL, TV relay or translator relay station without authority from the Commission.

* * * * *

§ 74.655 [Amended]

48. Section 74.655 is amended by removing the last sentence of paragraph (a).

49. Section 74.661 is amended by revising the table to read as follows:

§ 74.661 Frequency tolerance.

* * * * *

Frequency band (MHz)	Frequency tolerance (%)
1990 to 2110	[1] 0.005
2450 to 2483.5	0.001
6425 to 6525	0.005
6875 to 7125	[1] 0.005
12,700 to 13,250	[1] 0.005
17,700 to 18,820	0.003
18,920 to 19,700	0.003

[1] Television translator relay stations shall maintain a frequency tolerance of 0.002%.

50. Section 74.801 is amended by adding a definition for Wireless Assist Video Device in alphabetical order to read as follows:

§ 74.801 Definitions.

* * * * *

Wireless assist video device. An auxiliary station authorized and operated by motion picture and television program producers pursuant to the provisions of this subpart. These stations are intended to transmit over distances of approximately 300 meters for use as an aid in composing camera shots on motion picture and television sets.

51. Section 74.802 is amended by revising paragraph (b)(3) to read as follows:

§ 74.802 Frequency assignment.

* * * * *

(b) * * *

(3) 470.000–608.000 MHz and 614.000–806.000 MHz: All zones 113 km (70 miles).

* * * * *

52. Section 74.832 is amended by revising paragraphs (e), (g), and (i) to read as follows:

§ 74.832 Licensing requirements and procedures.

* * * * *

(e) An application for low power auxiliary stations or for a change in an existing authorization shall specify the broadcast station, or the network with which the low power broadcast auxiliary facilities are to be principally used as given in paragraph (h) of this section; or it shall specify the motion picture or television production company or the cable television operator with which the low power broadcast auxiliary facilities are to be solely used. A single application, filed on FCC Form 601 may be used in applying for the authority to operate one or more low power auxiliary units. The application must specify the frequency bands which will be used. Motion picture producers, television program producers, and cable television operators are required to attach a single sheet to their application form explaining in detail the manner in which the eligibility requirements given in paragraph (a) of this section are met.

* * * * *

(g) Low power auxiliary licensees shall specify the maximum number of units that will be operated.

* * * * *

(i) In case of permanent discontinuance of operations of a station licensed under this subpart, the licensee shall cancel the station license using FCC Form 601. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

* * * * *

53. Section 74.833 is amended by revising paragraphs (b) and (c) to read as follows:

§ 74.833 Temporary authorizations.

* * * * *

(b) A request for special temporary authority for the operation of a remote pickup broadcast station must be made in accordance with the procedures of § 1.931(b) of this chapter.

(c) All requests for special temporary authority of a low power auxiliary station must include full particulars including: licensees name and address, statement of eligibility, facility identification number of the associated broadcast station (if any), type and manufacturer of equipment, power output, emission, frequency or frequencies proposed to be used, commencement and termination date, location of proposed operation, and purpose for which request is made including any particular justification.

* * * * *

54. Section 74.870 is added to read as follows:

§ 74.870 Wireless video assist devices.

Television Broadcast Auxiliary licensees and motion picture and television producers, as defined in § 74.801, may operate wireless video assist devices on a non-interference basis on VHF and UHF television channels to assist with production activities.

(a) The use of wireless video assist devices must comply with all provisions of this subpart, except as indicated in paragraphs (b) through (i) of this section.

(b) Wireless video assist devices may only be used for scheduled productions. They may not be used to produce live events and may not be used for electronic news gathering purposes.

(c) Wireless video assist devices may operate with a bandwidth not to exceed 6 MHz on frequencies in the band 180–210 MHz (TV channels 8–12) and 470–698 MHz (TV channels 14–51) subject to the following restrictions:

(1) The bandwidth may only occupy a single TV channel.

(2) Operation is prohibited within the 608–614 MHz (TV channel 37) band.

(3) Operation is prohibited within 129 km of a television broadcasting station, including Class A television stations, low power television stations and translator stations.

(4) For the area and frequency combinations listed in the following table, operation is prohibited within the distances indicated from the listed geographic coordinates (Note: All coordinates are referenced to the North American Datum of 1983.):

Area	North latitude	West longitude	Excluded frequencies (MHz)	Excluded channels		
				200 km	128 km	52 km
Boston, MA	42°21′24.4″ ..	71°03′23.2″ ..	470–476	14		
			476–482		15	
			482–488	16		
			488–494		17	
Chicago, IL	41°52′28.1″ ..	87°38′22.2″ .	470–476	14		
			476–482	15		
			482–488		16	
Cleveland, OH [1]	41°29′ 51.2″	81°41′ 49.5″	470–476	14		
			476–482		15	
			482–488	16		
			488–494		17	
Dallas/Fort Worth, TX	32°47′09.5″ ..	96°47′38.0″ ..	476–482		15	
			482–488	16		
			488–494		17	
Detroit, MI [1]	42°19′48.1″ ..	83°02′56.7″ ..	470–476		14	
			476–482	15		
			482–488		16	
			488–494	17		
Gulf of Mexico			476–494			15, 16, 17
Hawaii			488–494			17
Houston, TX	29°45′26.8″ ..	95°21′37.8″ ..	482–488		16	
			488–494	17		

Area	North latitude	West longitude	Excluded frequencies (MHz)	Excluded channels		
				200 km	128 km	52 km
Los Angeles, CA	34°03'15.0"	118°14'31.3"	494–500		18	
			470–476	14		
			476–482		15	
			482–488	16		
			488–494		17	
			500–506		19	
			506–512	20		
			512–518		21	
Miami, Fl	25°46'38.4"	80°11'31.2"	470–476	14		
			476–482		15	
New York/N.E. New Jersey	40°45'06.4"	73°59'37.5"	470–476	14		
			476–482	15		
			482–488	16		
			488–494		17	
Philadelphia, PA	39°56'58.4"	75°09'19.6"	494–500		18	
			500–506	19		
			506–512	20		
			512–518		21	
Pittsburgh, PA	40°26'19.2"	79°59'59.2"	470–476	14		
			476–482		15	
			488–494		17	
			494–500	18		
			500–506		19	
San Francisco/Oakland, CA	37°46'38.7"	122°24'43.9"	476–482		15	
			482–488	16		
			488–494	17		
			494–500		18	
Washington D.C./MD/VA	38°53'51.4"	77°00'31.9"	482–488		16	
			488–494	17		
			494–500	18		
			500–506		19	

[1] The distance separation requirements are not applicable in these cities until further order from the Commission.

(d) Wireless video assist devices are limited to a maximum of 250 milliwatts ERP and must limit power to that necessary to reliably receive a signal at a distance of 300 meters.

(e) The antenna of a wireless video assist device must be permanently attached to the transmitter. When transmitting the antenna must not be more that 10 meters above ground level.

(f)(1) A license for a wireless video assist device will authorize the license holder to use all frequencies available for wireless video assist devices, subject to the limitations specified in this section.

(2) Licensees may operate as many wireless video assist devices as necessary, subject to the notification procedures of this section.

(g) *Notification procedure.* Prior to the commencement of transmitting, licensees must notify the local broadcasting coordinator of their intent to transmit. If there is no local coordinator in the intended area of operation, licensees must notify all adjacent channel TV stations within 161 km (100 mi) of the proposed operating area.

(1) Notification must be made at least 10 working days prior to the date of intended transmission.

(2) Notifications must include:

(i) Frequency or frequencies.
(ii) Location.
(iii) Antenna height.
(iv) Emission type(s).
(v) Effective radiated power.
(vi) Intended dates of operation.
(vii) Licensee contact information.

(3) Failure of a coordinator to respond to a notification request prior to the intended dates of operation indicated on the request will be considered as having the approval of the coordinator.

(4) Licensees must operate in a manner consistent with the response of the coordinator. Disagreements may be appealed to the Commission. However, in those instances, the licensee will bear the burden of proof and proceeding to overturn a coordinator's recommendation.

(h) Licenses for wireless video assist devices may not be transferred or assigned.

(i) The product literature that manufacturers include with a wireless assist video device must contain information regarding the requirement for users to obtain an FCC license, the requirement that stations must locate at least 129 kilometers away from a co-channel TV station, the limited class of users that may operate these devices, the authorized uses, the need for users to obtain a license, and the requirement that a local coordinator (or adjacent channel TV stations, if there is no local coordinator) must be notified prior to operation.

55. Section 74.882 is revised to read as follows:

§ 74.882 Station identification.

(a) For transmitters used for voice transmissions and having a transmitter output power exceeding 50 mW, an announcement shall be made at the beginning and end of each period of operation at a single location, over the transmitting unit being operated, identifying the transmitting unit's call sign or designator, its location, and the call sign of the broadcasting station or name of the licensee with which it is being used. A period of operation may consist of a continuous transmission or intermittent transmissions pertaining to a single event.

(b) Each wireless video assist device, when transmitting, must transmit station identification at the beginning and end of each period of operation. Identification may be made by transmitting the station call sign by visual or aural means or by automatic transmission in international Morse telegraphy.

(1) A period of operation is defined as a single uninterrupted transmission or a series of intermittent transmissions from a single location.

(2) Station identification shall be performed in a manner conducive to prompt association of the signal source with the responsible licensee. In exercising the discretion provided by this section, licensees are expected to act in a responsible manner to assure that result.

PART 78—CABLE TELEVISION RELAY SERVICE

56. The authority citation for part 78 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

57. Section 78.36 is revised to read as follows:

§ 78.36 Frequency coordination.

(a) Coordination of all assignments will be in accordance with the procedure established in paragraph (b) of this section, except that the prior coordination process for mobile (temporary fixed) assignments may be completed orally and the period allowed for response to a coordination notification may be less than 30 days if the parties agree.

(b) *Frequency coordination.* For each frequency authorized under this part, the following frequency usage coordination procedures will apply:

(1) *General requirements.* Proposed frequency usage must be prior coordinated with existing licensees, permittees and applicants in the area, and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference on active channels, applied-for channels, or channels coordinated for future growth. Coordination must be completed prior to filing an application for regular authorization, or a major amendment to a pending application, or any major modification to a license. In coordinating frequency usage with stations in the fixed satellite service, applicants must also comply with the requirements of § 101.21(f) of this chapter. In engineering a system or modification thereto, the applicant must, by appropriate studies and analyses, select sites, transmitters, antennas and frequencies that will avoid interference in excess of permissible levels to other users. All applicants and licensees must cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or re-engineer a proposal in cases involving conflicts. Applicants should make every reasonable effort to avoid blocking the growth of systems as prior coordinated. The applicant must identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved, an explanation must be submitted with the application. Where technical problems are resolved by an agreement or operating arrangement between the parties that would require special procedures be taken to reduce the likelihood of interference in excess of permissible levels (such as the use of artificial site shielding) or would result in a reduction of quality or capacity of either system, the details thereof may be contained in the application.

(2) Coordination procedure guidelines are as follows:

(i) Coordination involves two separate elements: notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that coordination, including response, has been completed. The names of the licensees, permittees and applicants with which coordination was accomplished must be specified. If such notice and/or response is oral, the party providing such notice or response must supply written documentation of the communication upon request;

(ii) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

(A) Applicant's name and address.
(B) Transmitting station name.
(C) Transmitting station coordinates.
(D) Frequencies and polarizations to be added, changed or deleted.
(E) Transmitting equipment type, its stability, actual output power, emission designator, and type of modulation (loading).
(F) Transmitting antenna type(s), model, gain and, if required, a radiation pattern provided or certified by the manufacturer.
(G) Transmitting antenna center line height(s) above ground level and ground elevation above mean sea level.
(H) Receiving station name.
(I) Receiving station coordinates.
(J) Receiving antenna type(s), model, gain, and, if required, a radiation pattern provided or certified by the manufacturer.
(K) Receiving antenna center line height(s) above ground level and ground elevation above mean sea level.
(L) Path azimuth and distance.
(M) Estimated transmitter transmission line loss expressed in dB.
(N) Estimated receiver transmission line loss expressed in dB.
(O) For a system utilizing ATPC, maximum transmit power, coordinated transmit power, and nominal transmit power;

Note to Paragraph (b)(2)(ii): The position location of antenna sites shall be determined to an accuracy of no less than ±1 second in the horizontal dimensions (latitude and longitude) and ±1 meter in the vertical dimension (ground elevation) with respect to the National Spacial Reference System.

(iii) For transmitters employing digital modulation techniques, the notification should clearly identify the type of modulation. Upon request, additional details of the operating characteristics of the equipment must also be furnished;

(iv) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Any response to notification indicating potential interference must specify the technical details and must be provided to the applicant, in writing, within the 30-day notification period. Every reasonable effort should be made by all applicants, permittees and licensees to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file its application without a response;

(v) The 30-day notification period is calculated from the date of receipt by the applicant, permittee, or licensee being notified. If notification is by mail, this date may be ascertained by:

(A) The return receipt on certified mail;

(B) The enclosure of a card to be dated and returned by the recipient; or

(C) A conservative estimate of the time required for the mail to reach its destination. In the last case, the estimated date when the 30-day period would expire should be stated in the notification;

(vi) An expedited prior coordination period (less than 30 days) may be requested when deemed necessary by a notifying party. The coordination notice should be identified as "expedited" and the requested response date should be clearly indicated. However, circumstances preventing a timely response from the receiving party should be accommodated accordingly. It is the responsibility of the notifying party to receive written concurrence (or verbal, with written to follow) from affected parties or their coordination representatives;

(vii) All technical problems that come to light during coordination must be

resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefor;

(viii) Where a number of technical changes become necessary for a system during the course of coordination, an attempt should be made to minimize the number of separate notifications for these changes. Where the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified. When changes are not numerous or complex, the party receiving the changed notification should make an effort to respond in less than 30 days. When the notifying party believes a shorter response time is reasonable and appropriate, it may be helpful for that party to so indicate in the notice and perhaps suggest a response date;

(ix) If, after coordination is successfully completed, it is determined that a subsequent change could have no impact on some parties receiving the original notification, these parties must be notified of the change and of the coordinator's opinion that no response is required;

(x) Applicants, permittees and licensees should supply to all other applicants, permittees and licensees within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating applicants, permittees and licensees, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation;

(xi) Parties should keep other parties with whom they are coordinating advised of changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was initiated, parties may assume that such frequency use is no longer desired unless a second notification has been received within 10 days of the end of the 6 month period. Renewal notifications are to be sent to all originally notified parties, even if coordination has not been successfully completed with those parties; and

(xii) Any frequency reserved by a licensee for future use in the bands subject to this part must be released for use by another licensee, permittee or applicant upon a showing by the latter that it requires an additional frequency and cannot coordinate one that is not reserved for future use.

58. Section 78.101 is amended by removing the entry for 2,025 to 2,110 MHz and adding a new entry for 1,990 to 2,110 MHz in numerical order in the table in paragraph (a) and adding paragraph (c) to read as follows:

§ 78.101 Power limitations.

(a) * * * *

Frequency band (MHz)	Maximum allowable transmitter power		Maximum allowable EIRP	
	Fixed (W)	Mobile (W)	Fixed (dBW)	Mobile (dBW)
1,990 to 2,110		20.0		+35
* * * * *				

* * * * *

(c) The EIRP of transmitters that use Automatic Transmitter Power Control (ATPC) shall not exceed the EIRP specified on the station authorization. The EIRP of non-ATPC transmitters shall be maintained as near as practicable to the EIRP specified on the station authorization.

§ 78.103 [Amended]

59. Section 78.103 is amended by removing the entry for 31,000 to 31,300 from the table in paragraph (e).

§ 78.105 [Amended]

60. Section 78.105 is amended by removing the entries for 31,000 to 31,300 and 38,600 to 40,000, and Footnotes 2 and 3 from the table in paragraph (a)(1).

61. Section 78.106 is revised to read as follows:

§ 78.106 Interference to geostationary-satellites.

Applicants and licensees must comply with § 101.145 of this chapter to minimize the potential of interference to geostationary satellites.

62. Section 78.108 is amended by revising paragraph (b) to read as follows:

§ 78.108 Minimum path lengths for fixed links.

* * * * *

(b) For paths shorter than those specified in the Table in paragraph (a) of this section, the EIRP shall not exceed the value derived from the following equation:

EIRP = MAXEIRP − 40 log(A/B) dBW

Where:

EIRP = The new maximum EIRP (equivalent isotropically radiated power) in dBW.

MAXEIRP = Maximum EIRP as set forth in the Table in § 74.636 of this part.

A = Minimum path length from the Table above for the frequency band in kilometers.

B = The actual path length in kilometers.

Note to Paragraph (b): For transmitters using Automatic Transmitter Power Control, EIRP corresponds to the maximum transmitter power available, not the coordinated transmit power or the nominal transmit power.

* * * * *

§ 78.111 [Amended]

63. Section 78.111 is amended by removing the entry for 31,000 to 31,300 from the table.

[FR Doc. 01–11539 Filed 5–23–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45, 98–171, 90–571, 92–237, 99–200, 95–116; FCC 01–145]

Federal-State Joint Board on Universal Service.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers.

DATES: Comments are due on or before June 25, 2001. Reply comments are due on or before July 9, 2001. Written comments by the public on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due on or before June 25, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before July 23, 2001.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, DC 20503, or via the Internet to vhuth@omb.eop.gov. Parties should also send three paper copies of their filings to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5–B540, Washington, D.C. 20554. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5–B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket Nos. 96–45, 98–171, 90–571, 92–237, 99–200, 95–116 released on May 8, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

This NPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

The NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection(s) contained in this NPRM, as required by the PRA, Public Law 104–13. Public and agency comments on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due on or before June 25, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before July 23, 2001.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–0855.

Title: Telecommunications Reporting Worksheet and Associated Requirements, CC Docket No. 96–45.

Form No.: FCC Form 499.

Type of Review: Proposed Revised Collection.

Respondents: Business or other for-profit.

Title	Number of respondents	Est. time per response	Total annual burden
1. Assessment on a Revenue Basis	5,000	9.5*	81,250
Total Annual Burden:			81,250
Cost to Respondents: $0.			

*9.5 hours for respondents that file the annual filing and 6 hours for respondent that file the quarterly filing.

Title	Number of respondents	Est. time per response	Total annual burden
2. Assessment on a Flat Fee Basis	5,000	6*	45,000
Total Annual Burden:			45,000
Cost to Respondents: $0.			

*6 hours for respondents that file the annual filing and 3 hours for respondent that file the quarterly filing.

Title	Number of respondents	Est. time per response	Total annual burden
3. Recovery of Universal Service Contributions—Lifeline Exception	5,000	1*	7,500
Total Annual Burden:			7,500
Cost to Respondents: $0.			

*1 hour for respondents that file the annual filing and .5 hour for respondent that file the quarterly filing.

Needs and Uses: In this Notice of Proposed Rulemaking, we seek comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service

fund and the manner in which carriers may recover those costs from their customers. Section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, requires carriers providing interstate telecommunications services to contribute to universal service. Under the current universal service rules, carriers' contributions are assessed as a percentage of their interstate and international end-user telecommunications revenues. The Universal Service Administrative Company would use information filed on carrier revenues, line counts, or number of accounts to determine the quarterly universal service contribution factor.

Synopsis of NPRM

I. Introduction

1. In this Notice of Proposed Rulemaking (NPRM), we seek comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. Section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), requires carriers providing interstate telecommunications services to contribute to universal service. Under the current universal service rules, carriers' contributions are assessed as a percentage of their interstate and international end-user telecommunications revenues. For carriers electing to recover their universal service contributions from their customers, the Commission generally has not specified a particular method of recovery. Rather, the Commission has required that contributors not shift more than an equitable share of their contributions to any customer or group of customers, and that carriers provide accurate, truthful, and complete information regarding the nature of the charge.

2. In this NPRM, we seek comment on whether and how to streamline and reform the universal service contribution methodology. We seek comment on specific proposals to require carriers to contribute based on a percentage of collected revenues, or to contribute on the basis of a flat-fee charge, such as a per-line charge. Additionally, we seek comment on limiting the manner in which carriers recover their contribution costs from their customers. If carriers choose to recover universal service contributions from their customers through line items, we propose to require carriers to do so through a uniform universal service line item that corresponds to the contribution assessment on the carrier.

3. We believe that we may need to revisit the concepts underlying the existing contribution system, in light of current market trends, to ensure that providers of interstate telecommunications services continue to "contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service." Since the Commission's initial implementation of section 254 of the Act in 1997, we have seen many significant developments in the interstate telecommunications marketplace. We have witnessed the entry of new providers into the long distance market, including Regional Bell Operating Companies (RBOCs) that have received approval under section 271 of the Act to provide interstate telecommunications. We also are seeing certain wireline interexchange carriers suffer declining revenues in light of growing competition. Growth in the wireless telecommunications sector, as well as the advent of Internet Protocol (IP) telephony, has changed the dynamics of the interstate telecommunications market. Furthermore, many carriers are bundling services together in creative ways, such as offering flat-rate packages that include both interstate and intrastate telecommunications and non-telecommunications products and services.

4. Changes to the universal service contribution methodology may be necessary to simplify and streamline the contribution process for carriers. For example, although not mandated by the Commission, many carriers choose to recover most, if not all, of their universal service contributions through line items on their customers' bills. Even though the Commission sets a uniform contribution factor for universal service, carriers may decide to boost this factor in order to account for "uncollectible" revenue and other variables. We believe that this process may require carriers to engage in complex calculations in order to fully recover their contribution costs through a line item on customer bills.

5. We also have concerns about the extent to which the universal service line item fee varies from one carrier to the next, even though the contribution factor set by the Commission is uniform across carriers. For example, in the fourth quarter 2000, the Commission established a contribution factor of 5.6688 percent. The major interexchange carriers, however, imposed line-item fees on residential and business customers ranging from approximately 5.9 percent to 8.6 percent. For the second quarter of 2001, after the Commission established a contribution factor of 6.8823%, one interexchange carrier raised its residential line item to 12%. This discrepancy between the contribution factor and the amount carriers charge consumers is inexplicable to the casual observer. Moreover, it appears that some carriers have chosen to recover universal service contributions through a line item on only certain classes of customers. Some carriers may be recovering universal service contributions from pre-subscribed customers through line items that are well in excess of the contribution factor, while recovering, through service rates, an unidentified amount of such costs from other customers of services such as pre-paid calling cards or dial-around service. The end result may be that certain customer classes are bearing a disproportionate share of the carrier's cost of universal service contributions, which could, in some circumstances, be inconsistent with the Commission's directive that contributors not shift more than an equitable share of their contributions to any customer or group of customers.

6. The Commission has an obligation to ensure that the universal service contribution system remains consistent with the statute, is reflective of current market trends, is simple for carriers to administer, and does not shift more than an equitable share of carrier contributions to any class of customers. We therefore conclude that we should revisit the issue of how contributions to the universal service fund are assessed on carriers and how carriers may recover such contribution costs from consumers. In this NPRM, we seek comment on how to streamline the assessment and recovery of universal service contributions, especially in light of recent developments in the telecommunications marketplace, while maintaining a universal service fund that is consistent with the requirements of the Act. We welcome input from all segments of the industry, consumer groups, state commissions, and the members of the Federal-State Joint Board on Universal Service (Joint Board).

II. Procedural Issues

A. Ex Parte

7. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted,

except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Initial Paperwork Reduction Act of 1995 Analysis

8. This NPRM contains either a proposed or modified information collection. As part of a continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due July 23, 2001. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

C. Initial Regulatory Flexibility Act Analysis

9. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for and Objectives of the Proposed Rules

10. The Commission seeks comment in this NPRM as a part of its implementation of the Act's mandate that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service." Specifically, we seek comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. We seek comment on whether and how to revise the universal service contribution methodology. We seek comment on specific proposals to require carriers to contribute based on a percentage of collected revenues, or to contribute on the basis of a flat-fee charge, such as a per-line charge. Additionally, we seek comment on limiting the manner in which carriers recover contribution costs from end users. If carriers choose to recover universal service contributions from their end users through line items, we propose to require carriers to do so through a uniform universal service line item that corresponds to the contribution assessment on the carrier.

2. Legal Basis

11. The legal basis as proposed for this NPRM is contained in sections 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 4(i), 4(j), 201–205, 254, 403.

3. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

12. The Commission's contributor reporting requirements apply to a wide range of entities, including all telecommunications carriers and other providers of interstate telecommunications services that offer telecommunications services for a fee. Thus, we expect that the rules adopted in this proceeding could have a significant economic impact on a substantial number of small entities. Of the estimated 5,000 filers of the Telecommunications Reporting Worksheet, FCC Form 499, we do not know how many are small entities, but we offer a detailed estimate of the number of small entities within each of several major carrier-type categories.

13. To estimate the number of small entities that could be affected by these proposed rules, we first consider the statutory definition of "small entity" under the RFA. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."

14. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

15. A "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

16. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. According to data in the most recent report, there are 4,822 interstate carriers. These carriers include, *inter alia*, incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

17. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in

providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

18. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

19. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), payphone providers or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually on the Form 499–A. According to our most recent data, there are 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 541 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in this Order.

20. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Trends Report*, 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small cellular service carriers that may be affected by the proposed rules, if adopted.

21. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. If this general ratio continues in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

22. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, 62 FR 16004, April 3, 1997, we adopted criteria for defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Two auctions of Phase II licenses have been conducted. In the first auction, nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: One of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

23. *Private and Common Carrier Paging.* In the Paging *Third Report and Order*, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends Report*, 427 carriers reported that they were engaged in the provision of paging and messaging services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 427 small paging carriers that may be affected by the decisions and rules adopted in this Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

24. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

25. *Narrowband PCS.* To date, two auctions of narrowband PCs licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order*, 65 FR 35875, June 6, 2000. A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

26. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

27. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

28. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined "small business" for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and

was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

29. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

30. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

31. Any decisions on rule changes adopted in this proceeding potentially could modify the reporting and recordkeeping requirements of telecommunications service providers regulated under the Communications Act. As discussed previously, we potentially could require telecommunications service providers to file additional and/or different monthly or quarterly reports. In addition, we seek comment on whether to modify or eliminate the interim safe harbor for wireless telecommunications carriers. We also seek comment on whether to eliminate the *de minimis* exemption from universal service contribution requirements. Any such reporting requirements potentially could require the use of professional skills, including legal and accounting expertise. Without more data, we cannot accurately estimate the cost of compliance with a carrier surcharge by small telecommunications service providers. In this NPRM, we therefore seek comment on the frequency with which carriers subject to a carrier surcharge should submit reports to USAC, the types of burdens carriers will face in periodically submitting reports to USAC, and whether the costs of such reporting are outweighed by the potential benefits of a carrier surcharge. Entities, especially small businesses, are encouraged to quantify the costs and benefits of carrier surcharge reporting requirement proposals.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

32. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

33. As discussed previously, this NPRM seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. We seek comment on whether and how to revise the universal service contribution methodology. We seek comment on specific proposals to require carriers to contribute based on a percentage of collected revenues, or to contribute on the basis of a flat-fee charge, such as a per-line charge. Additionally, we seek comment on limiting the manner in which carriers recover contribution costs from end users. If carriers choose to recover universal service contributions from their end users through line items, we propose to require carriers to do so through a uniform universal service line item that corresponds to the contribution assessment on the carrier. The NPRM also seeks comment on any other mechanisms for the assessment and recovery of universal service contributions.

34. Wherever possible, the NPRM proposes general rules, or alternative rules to reduce the administrative burden and cost of compliance for small telecommunications service providers. As discussed, under the current universal service contribution rules interstate telecommunications service providers whose annual universal service contribution is expected to be less than $10,000 are not required to contribute to the universal service mechanisms. In this NPRM, we seek comment on the impact of the proposed contribution assessment methodologies on the current *de minimis* exemption to the universal service contribution requirement. We specifically seek comment on whether to retain, modify, or eliminate the *de minimis* exemption. We also more generally seek comment from small businesses on the costs and benefits of reporting requirements associated with the various proposed universal service assessment methodologies. Finally, the NPRM seeks comment on measures to avoid significant economic impact on small business entities, as defined by section 601(3) of the Regulatory Flexibility Act.

6. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

35. None.

D. Comment Filing Procedures

36. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments June 25, 2001, and reply comments July 9, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

37. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

38. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

39. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Sheryl Todd, Accounting Policy Division, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 96–45, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

40. Written comments by the public on the proposed and/or modified information collections are due on or before June 25, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before July 23, 2001.

III. Ordering Clauses

41. Pursuant to the authority contained in sections 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended, this Notice of Proposed Rulemaking is adopted.

42. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–13114 Filed 5–23–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 051501D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 5 to the Fishery Management Plan for the Shrimp Fishery off the Southern Atlantic States

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a draft supplemental environmental impact statement (DSEIS); request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) intends to prepare a DSEIS to assess the impacts on the natural and human environment of management measures proposed in its draft Amendment 5 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP). The purpose of this document is to solicit public comments on the scope of the issues to be addressed in the DSEIS and to provide information on the Council's intended schedule for completing the DSEIS and submitting it to NMFS for filing and for further public comment.

DATES: Written comments on the scope of the issues to be addressed by the DSEIS for draft Amendment 5 must be received by the Council by June 25, 2001.

ADDRESSES: Written comments on the scope of the DSEIS and requests for additional information on the management measures proposed in draft Amendment 5 should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; phone: 843–571–4366; fax: 843–769–4520; e-mail: *Kim.Iverson@noaa.gov*or *Robert.Mahood@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, 843–571–4366, or Dr. Peter Eldridge, NMFS, 727–570–5305.

SUPPLEMENTARY INFORMATION: Management measures for rock shrimp under the FMP apply in the exclusive economic zone (EEZ) in the South Atlantic. For the purposes of the FMP and its implementing regulations, the South Atlantic consists of the Atlantic Ocean off the southern Atlantic states (i.e., from the Virginia/North Carolina border through the Florida Keys). The FMP currently establishes the following management measures for rock shrimp: Federal fishing vessel permits necessary to fish for, sell, transfer, or possess rock shrimp in or from the South Atlantic EEZ; Federal dealer permits to receive rock shrimp harvested in the South Atlantic EEZ; requirement for selected dealers to report receipts and prices of rock shrimp harvested from the South Atlantic EEZ; and a prohibition on fishing for or possessing rock shrimp in or from the Oculina Bank habitat area of particular concern.

The Council is preparing draft Amendment 5 to the FMP. Amendment 5 will address the following issues: (1) The implementation of a limited entry program for the rock shrimp fishery to remove speculative interests from the fishery and ensure the economic viability of the rock shrimp industry; (2) the establishment of mesh size restrictions to reduce the harvest of small rock shrimp; (3) the requirement for vessel operator permits and vessel monitoring systems to ensure better compliance with the FMP's management measures and implementing regulations; and (4) the specification of geographic areas within which these aforementioned management measures would apply.

The Council is preparing a DSEIS as an integrated part of Amendment 5. The DSEIS will describe the amendment's proposed management measures and their reasonable alternatives and will assess the environmental impacts of these proposed and alternative measures. The Council is requesting written comments on the scope of the issues to be addressed in the DSEIS.

Based on input to be received during 7 public hearings that the Council is conducting from May 3, 2001, through June 19, 2001 (see notice of these hearings at 66 FR 22144) on a preliminary draft of Amendment 5 and associated DSEIS, the Council intends to revise draft Amendment 5, as appropriate, and to finalize the DSEIS. The Council intends that the current public hearings on its preliminary draft Amendment 5 and DSEIS supplement, for scoping purposes, the three scoping meetings it held in 1994 to invite initial public input on the scope of the issues to be addressed by Amendment 5 and the types of environmental impacts associated with alternative management measures, including those proposed measures listed here. With the exception of the requirement for operator permits, which was disapproved by NMFS as contained in a previous FMP amendment, these management measures have not been

included in a previous FMP amendment.

Once the Council completes the DSEIS, it will submit it to NMFS for filing with the Environmental Protection Agency (EPA). EPA will publish in the **Federal Registe**r a notice of availability of the DSEIS for public comment. This procedure is pursuant to the Council on Environmental Quality's regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA) (40 CFR parts 1500-1508) and to NOAA's Administrative Order 216-6 regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council intends to consider public comments received on the DSEIS before adopting final management measures for a final Amendment 5. The Council intends to prepare a final supplemental environmental impact statement (FSEIS) in support of its final Amendment 5. The Council would then submit the final Amendment 5 and supporting FSEIS to NMFS for Secretarial review, approval, and implementation under the Magnuson-Stevens Fishery Conservation and Management Act. NMFS will announce availability of Amendment 5 for public review during the Secretarial review period though notice published in the **Federal Register**. During Secretarial review, NMFS will also file the FSEIS with EPA for a final public comment period on the FSEIS. This comment period will be concurrent with the Secretarial review period and will end prior to final agency action to approve, disapprove, or partially approve Amendment 5. All public comment periods on Amendment 5, its proposed implementing regulations, and on its associated FSEIS will be announced through notice published in the **Federal Register**. NMFS will consider all public comments received during the Secretarial review period for Amendment 5 (60–day period), whether they are on the amendment, the FSEIS, or the proposed regulations, prior to final agency action.

Copies of the preliminary draft Amendment 5/DSEIS may be obtained by contacting the Council (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 17, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13072 Filed 5–18–01; 3:57 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 0104–13093–1093–01; I.D. 032301C]

RIN 0648–AP18

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance Notice of Proposed Rulemaking (ANPR)

SUMMARY: NMFS announces that it is considering, and seeking public comment on, revisions to Federal American lobster regulations for the Exclusive Economic Zone (EEZ) in response to recommendations from the Atlantic States Marine Fisheries Commission (ASMFC) to NMFS in Addendum II to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP). Addendum II, approved by the ASMFC on February 1, 2001, revises the Amendment 3–egg production schedule in each of seven lobster conservation management areas (LCMAs) to end overfishing of American lobster stocks by the end of 2008. The management measures defined in Addendum II to meet the egg production targets include a series of minimum gauge size increases (increases in the minimum allowable harvest size of American lobster) in five of the seven LCMAs, trap gear modifications, and a 4–year trap reduction schedule for LCMA 3.

DATES: Written comments must be received at the appropriate address or facsimile (fax) number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on or before June 25, 2001.

ADDRESSES: Written comments must be sent to: Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to (978) 281–9117. Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Peter Burns, Fishery Management Specialist, (978) 281–9144, fax (978) 281–9117.

SUPPLEMENTARY INFORMATION: The fishery for American lobster takes place from North Carolina to Maine. More than 50 percent of American lobsters harvested are landed in Maine, with the balance landed mostly in or from Massachusetts, Rhode Island, Long Island Sound and Georges Bank. Over 80 percent of the lobster harvest occurs in state waters, which extend from the coast to 3 nautical miles (5.56 km) from shore. The lobster fishery occurs year-round in the United States, including the summer and fall months when the lobsters are molting. Approximately 97 percent of lobsters are taken in lobster traps. The rest are taken in trawls, gillnets, and dredges and by divers.

Prior to December 1999, the American lobster resource was managed in state waters by the ASMFC under the auspices of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA), and in Federal waters by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Acknowledging that approximately 80 percent of the American lobster harvest occurs in state waters, and in an effort to establish a more effective lobster management regime by enhancing interjurisdictional cooperation, NMFS issued a final rule in December 6, 1999 (64 FR 68228) for the American lobster fishery. That final rule removed management measures issued under authority of the Magnuson-Stevens Act and replaced them with the same and a variety of new management measures issued under the authority of ACFCMA. ACFCMA provides NMFS with the authority to implement regulations in Federal waters that are compatible with effective implementation of the ISFMP and consistent with the national standards of the Magnuson-Stevens Act. Such Federal regulations are promulgated pursuant to ACFCMA at 50 CFR part 697.

Amendment 3 of the ISFMP was approved by the ASMFC in December 1997 to achieve a healthy American lobster resource and develop a management regime that provides for sustained harvest, maintains opportunities for participation, and provides forthe cooperative development of conservation measures by all stakeholders. Following the May 2000 release of an updated peer-reviewed lobster stock assessment (ASMFC Stock Assessment Peer Review Report No. 00–01), which revised lobster egg production estimates and confirmed that overfishing of lobster stocks is occurring throughout the species range, the ASMFC developed Addendum II to Amendment 3 for implementing additional measures

needed to rebuild American lobster stocks. Addendum II, approved by ASMFC in February 2001, establishes a revised egg production schedule to restore egg production in each LCMA to greater than the overfishing definition by the end of 2008. Measures under the addendum to help achieve this goal include a series of minimum gauge size increases and an increase in the minimum escape vent size of lobster trap gear fished in state and Federal waters of LCMA 2 (inshore Southern New England), LCMA 3 (offshore waters), LCMA 4 (inshore Northern Mid-Atlantic), LCMA 5 (inshore Southern Mid-Atlantic), and the Outer Cape Management Area, but not LCMA 1 (Gulf of Maine) and LCMA 6 (Long Island Sound). The addendum also calls for a revised timeline for LCMA 3 trap reductions, previously approved by the ASMFC under Addendum I. By approving Addendum II, the states have agreed to implement the first annual LCMA-specific gauge increases by December 31, 2001, and to implement the escape vent increase by 2003. On February 26, 2001, NMFS received a recommendation from ASMFC to implement complementary Federal measures for Federal waters of LCMAs 2, 4, 5, and the Outer Cape, as well as in LCMA 3 (comprised entirely of Federal waters).

Specifically, the minimum allowable harvest size of American lobster in state waters of LCMAs 2,4,5 and the Outer Cape is scheduled to increase from 3 1/4 inches (in.) (8.26 cm) to 3 9/32 in. (8.33 cm) in 2001, and increase 1/32 in. (0.08 cm) annually until 2004 to an ultimate minimum size of 3 3/8 in. (8.57 cm). The ASMFC recommends that the gauge increases in Federal waters of LCMA 2, 4, 5, and the Outer Cape, as well as in LCMA 3 follow this same schedule. If the egg production targets of the ISFMP have not been reached by 2004, ASMFC further recommends additional annual increases in LCMA 3 of 1/32 in. (0.08 cm) until 2008, to an ultimate minimum size of 3 ¼ in. (8.89 cm). The current minimum allowable harvest size for American lobster in all Federal waters is 3 1/4 in. (8.26 cm).

Under Addendum II, states will require that each lobster trap have at least one rectangular escape vent measuring 2 in. (5.08 cm) by 5 3/4 in. (14.61 cm), or at least two circular escape vents, measuring 2 ¼ in. (6.35 cm) in diameter. The ASMFC recommends that Federal regulations implement these new escape vent size requirements in Federal waters. At the current time, Federal regulations require that all lobster trap gear have a rectangular portal with an unobstructed opening not less than 1 15/16 in. (4.92 cm) by 5 3/4 in. (14.61 cm); or two circular portals with unobstructed openings not less than 2 7/16 in. (6.19 cm) in diameter.

Also, Addendum II recommends that the trap reduction schedule previously adopted for LCMA 3 under Addendum I of Amendment 3 to the ISFMP be updated to account for the elapsed time between the two addenda. If implemented through Federal regulations, each LCMA 3 trap allocation of greater than 1200 traps would be reduced on a sliding scale basis over 4 years, not to fall below 1200 traps. LCMA 3 allocations of less than 1200 traps would remain at their initial qualifying level and not increase from that baseline number. No allocation would exceed 2656 traps during the first year of implementation. At the end of the fourth year, the maximum number of traps allowed for any vessel would be 2267. At the current time, fishing effort in LCMA 3 is restricted to a fixed maximum limit of 1800 traps per vessel.

Addendum II furthermore recommends that NMFS require LCMA 3 lobstermen to maintain vessel logs to record lobster harvest. Current Federal regulations do not require vessel logs. Another component of the addendum includes a review of management measures in all LCMAs, by June 2001, to determine if other measures are needed to achieve ISFMP stock rebuilding objectives. Any adjustments would be adopted by ASMFC as a separate addendum by January 2002, at which time ASMFC may recommend further changes to Federal regulations.

ASMFC recommends that NMFS adopt Addendum II's revised egg production schedule in all EEZ areas throughout the range of the lobster resource and implement the associated management measures (gauge increases, modifications to lobster trap gear requirements and LCMA 3 trap reduction schedule, and vessel log reporting requirement) in the Federal waters of the applicable LCMAs. NMFS is considering proposed rulemaking to revise further the Federal lobster regulations to be compatible with the ASMFC's ISFMP and is seeking comments on implementation of the ASMFC's recommendations for Federal waters.

Authority: 16 U.S.C. 1851 note; 16 U.S.C. 5101 *et seq.*

Dated: May 17, 2001.

Clarence Pautzke,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13076 Filed 5–23–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 101
Thursday, May 24, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Giant Sequoia National Monument Scientific Advisory Board Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Presidential Proclamation, Establishment of the Giant Sequoia National Monument (Proclamation 7295 of April 15, 2000), and the Federal Advisory Committee Act (Pub. L. 92–463), the Giant Sequoia National Monument Scientific Advisory Board was chartered. The purpose of the board is to provide scientific guidance to the Secretary of Agriculture through the U.S. Department of Agriculture Forest Service (USDA) during the development of the management plan and its environmental impact statement for the Giant Sequoia National Monument. The board represents a range of disciplines spanning the physical, biological, and social sciences. At the first meeting, the board will review the charter, consider operating procedures; designate a chairperson; and discuss the proclamation, including the status of the management planning process. While all Scientific Advisory Board meetings are open to public attendance, the board will determine procedures for public participation.

DATES: The meeting will held June 12 and 13, 2001, beginning each day at 8 a.m. and ending at 4 p.m.

ADDRESSES: The meeting will be held at the Hume Lake Christian Camp, 64144 Hume Lake Road, Hume Lake, California 93628. A field visit to parts of the Giant Sequoia National Monument and the Sequoia-Kings Canyon National Parks will be held as part of the meeting.

FOR FURTHER INFORMATION CONTACT: To receive further information contact Arthur L. Gaffrey, Designated Federal Official to the Scientific Advisory Board, telephone: (559) 784–1500, extension 1111.

SUPPLEMENTARY INFORMATION: An agenda for the meeting can be requested from the Designated Federal Official prior to the meeting. Written comments for the Scientific Advisory Board may be submitted to Forest Supervisor Arthur L. Gaffrey, Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257. Members at this time include:

Dr. Paul E. Waggoner, Connecticut Agricultural Experiment Station;
Dr. George M. Woodell, Woods Hole Research Center;
Dr. Jeanne Nienaber Clarke, Professor at University of Arizona;
Dr. Nathan L. Stevenson, U.S. Geological Survey, U.S.D.I.;
Dr. Daniel L. Tormey, private consultant with Entrix, Inc.;
Dr. David M. Graber, National Park Service, U.S.D.I.;
Dr. Douglas D. Piirto, California Polytechnic State University at San Luis Obispo; and A Tule River Indian Tribe Representative.

Dated: May 17, 2001.

Juliet B. Allen,

Acting Forest Supervisor, Sequoia National Forest.

[FR Doc. 01–13126 Filed 5–23–01; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 7 p.m. and adjourn at 9 p.m. on June 20, 2001, at the Hilton Lafayette, 1521 West Pinhook Road, Lafayette, Louisiana 70505. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 17, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–13167 Filed 5–23–01; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Initiation of Antidumping Duty Investigation: Folding Metal Tables and Folding Metal Chairs From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 24, 2001.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Steve Bezirganian, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405 or (202) 482–1131, respectively.

Initiation of Investigation

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA").

The Petition

On April 27, 2001, the Department of Commerce ("the Department") received a petition filed in proper form by Meco Corporation ("petitioner"). On May 10 and May 16, 2001, petitioner submitted clarifications of the petition. The petitioner is a producer of folding metal tables and chairs. In accordance with section 732(b) of the Act, the petitioner alleges that imports of folding metal tables and folding metal chairs from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the U.S. industry.

The petitioner is the sole domestic producer of folding metal tables and accounts for over 25 percent of domestic production of folding metal chairs, as defined in the petition. The petitioner has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, with respect to the subject merchandise.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, when determining the degree of industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The petition covers folding metal tables and folding metal chairs as defined in the Scope of the Investigation section, below, and alleges that this constitutes a single class or kind of merchandise. The petitioner defines the domestic like product as the class or kind of merchandise covered by the scope of the investigation. The Department has no basis on the record at this time to find the petitioner's definition of the domestic like product to be inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition for the purposes of initiation. However, the Department will take into account any comments submitted by parties in connection with this issue during the course of the proceeding, and revisit the issue, if appropriate.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Finally, section 732(c)(4)(D) of the Act provides that if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering agency shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

In this case, the Department has determined that the petition (and subsequent amendments) contain adequate evidence of industry support; therefore, polling is unnecessary. See Initiation Checklist at Attachment III on Industry Support. Petitioner claims that it is the sole U.S. producer of the folding metal chairs within the domestic like product and that it, along with five other companies are the U.S. manufacturers of the folding metal chairs within the domestic like product. To estimate total domestic production of folding tables and chairs, the petitioners relied on actual production information for itself and two other producers and estimated production volumes for the three remaining producers. The Department confirmed the reasonableness of petitioner's estimates through direct calls to the other members of the domestic industry. See Memorandum to the File from Helen M. Kramer, May 17, 2001. Based on this information, we have concluded that the petition has support from producers representing more than 50 percent of U.S. production of folding tables and chairs.

We note that the data we collected for purposes of determining industry support included separate data for folding metal tables as compared to folding metal chairs. We further note that these data plainly indicate that, even if the Department were to treat folding metal tables as a separate domestic like product from folding metal chairs, there would still be adequate domestic industry support for each like product category. See Initiation Checklist at Attachment III on Industry Support.

Scope of the Investigation

The merchandise subject to this investigation consists of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal ("folding metal tables"). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

- Lawn furniture;
- Trays commonly referred to as "TV trays";
- Side tables;
- Child-sized tables;
- Portable counter sets consisting of rectangular tables 36″ high and matching stools; and
- Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with

[1] See *Algoma Steel Corp. Ltd.*, v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988); High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition, 56 FR 32376, 32380–81 (July 16, 1991).

rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010 and 9403200030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service purposes, the Department's written description of the merchandise is dispositive.

As discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by June 6, 2001. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, Attention: Helen M. Kramer. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which our decision to initiate is based. Petitioner has provided separate margin calculations for folding metal chairs and folding metal tables. Should the need arise to use any of this information in our preliminary or final determinations, we will re-examine the information and may revise the margin calculations, if appropriate.

Export Price

The petitioner based export prices on quotations during the period of investigation (POI) from two Chinese producers of folding metal chairs and five-piece sets consisting of a folding metal table and four folding metal chairs. The price quotes were FOB Chinese port. Petitioner estimated the export prices for tables using the price offered for complete sets. Petitioner allocated the price for the set to the individual components on the basis of relative normal value. The petitioner did not deduct an amount from these prices for transportation from the plant to the port.

Normal Value

The petitioner asserts that the PRC is a nonmarket economy country (NME) within the meaning of section 771(18) of the Act. Thus, pursuant to section 773(c) of the Act and in accordance with the Department's usual practice with respect to NMEs, the normal value of the products should be based on the producer's factors of production, valued in a surrogate market economy country. In previous investigations, the Department has determined that the PRC is an NME, and the presumption of NME status continues for the initiation of these investigations. See, e.g., Final Determination of Sales at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the People's Republic of China, 60 FR 16437 (March 30, 1995).

It is our practice in NME cases to calculate normal value based on the factors of production of those factories that produced subject merchandise sold to the United States during the period of investigation.

In the course of this investigation, all parties will have the opportunity to provide relevant information related to the NME status of the PRC and the assignment of separate rates to individual exporters. See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the PRC, 59 FR 22585 (May 2, 1994).

The petitioner based the factors of production (i.e., raw materials, labor, and energy) for the subject merchandise on its own experience, claiming that its production process is similar to that of the Chinese producers. Based on information petitioner obtained from Chinese producers of the subject merchandise during visits to their factories, petitioner states that they are sourcing cold-rolled carbon steel flat products from Taiwan as the major material input. Petitioner used the average unit value of Chinese imports from Taiwan of certain types of cold-rolled carbon steel flat products during the POI for the major material input. Remaining material inputs were valued by the petitioner, where possible, using Indian import data for the period April through December 1998, adjusted to eliminate imports from NME countries and very low quantity imports, and adjusted for inflation. Utility inputs were valued using published data for India, adjusted for inflation. India is an acceptable surrogate country because its level of economic development is comparable to that of the PRC and it is a producer of the subject merchandise. Lacking information on the distances required to transport inputs to the Chinese factories, petitioner used 0.5 percent of the input value to estimate transportation of the direct materials from the supplier or port to the plant.

Based on comparisons of export price to the factors of production, the calculated dumping margins ranged from 21.31 percent to 82.46 percent. See Initiation Checklist at Attachment I.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of folding metal tables and folding metal chairs from the PRC are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. The petitioner contends that the industry's injured condition is evident in the declining trends in employment, net operating profits, net sales volumes, profit-to-sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including lost sales and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation (see Initiation Checklist at Attachment II Re: Material Injury).

Initiation of Investigation

We have examined the petition on folding metal tables and chairs and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material injury to the domestic producers of domestic like products by reason of imports allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of folding metal tables and folding metal chairs from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless the investigation is extended, we will make our preliminary determination by October 4, 2001.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition and the clarifications to the petition has been provided to the representatives of the government of the PRC.

International Trade Commission (ITC) Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine by June 11, 2001, whether there is a reasonable indication that imports of folding metal tables and folding metal chairs from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in termination of the investigation. Otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: May 17, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13166 Filed 5–23–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052101B]

Reporting Requirements for the Ocean Salmon Fishery off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Chris Wright, F/NWR2, 7600 Sandpoint Way NE, Seattle, WA 98115–6349 (phone 206–526–4323).

SUPPLEMENTARY INFORMATION:

I. Abstract

Based on the management regime specified each year, designated regulatory areas in the commercial ocean salmon fishery off the coasts of Washington, Oregon, and California may be managed by numerical quotas. To accurately assess catches relative to quota attainment during the fishing season, catch data by regulatory area must be collected in a timely manner. Requirements to land salmon within specific time frames and in specific areas may be implemented in the preseason regulations to aid in timely and accurate catch accounting for a regulatory area. State landing systems normally gather the data at the time of landing. If unsafe weather conditions or mechanical problems prevent compliance with landing requirements, fishermen need an alternative to allow for a safe response. Fishermen would be exempt from landing requirements if the appropriate notifications are made to provide the name of the vessel, the port where delivery will be made, the approximate amount of salmon (by species) on board, and the estimated time of arrival.

II. Method of Collection

Notifications are made by at-sea radio or cellular phone transmissions.

III. Data

OMB Number: 0648–0433.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 40.
Estimated Time Per Response: 15 minutes.
Estimated Total Annual Burden Hours: 10.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 17, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–13171 Filed 5–23–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coast Zone Management: Federal Consistency Appeal by Port of Seattle From an Objection by the State of Washington

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Dismissal of appeal.

By letters dated July 17 and August 19, 1998, the Port of Seattle (Appellant) filed with the Secretary of Commerce notices of appeal pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, (CZMA), 16 U.S.C. 1451 *et seq.*, and the Department of Commerce's implementing regulations at 15 CFR part 930, subpart H. The first appeal was taken from an objection by the State of Washington (State) to the Appellant's consistency certification for a Clean Water Act section 404 permit to construct a runway and airport support facilities at Seattle-Takoma International Airport. The second appeal was taken from a later "conditional concurrence" by the State with the same consistency certification.

At the Appellant's request, the General Counsel for the National Oceanic and Atmospheric Administration (NOAA) granted a stay of the consistency appeals pending disposition of parallel appeals that had been filed simultaneously by the Port of

Seattle with the Washington Pollution Control Hearings Board (Board). The State did not oppose the stay. The two appeals before the Board have been dismissed. With the dismissal of the appeals before the Board, the Appellant requested that the two consistency appeals be dismissed. The State concurred and NOAA accordingly dismissed the appeals. The Appellant is barred from filing another appeal from the State's objection to its consistency certification. This is a final agency action for purposes of judicial review.

FOR FURTHER INFORMATION CONTACT: Stephanie Campbell, Attorney-Adviser, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, Maryland 20910, (301) 713–2967.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: May 8, 2001.

Craig O'Connor,

Acting General Counsel.

[FR Doc. 01–13152 Filed 5–23–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051801A]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Atlantic Mackerel, Squid, and Butterfish Monitoring Committee will hold a public meeting.

DATES: The meeting will be held Tuesday, June 12, 2001, from 10 a.m.–4 p.m.

ADDRESSES: This meeting will be held at the Sheraton International Hotel at BWI Airport, 7032 Elm Road, Baltimore, MD; telephone: 410–859–3300.

Council Address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to develop 2002 quota recommendations for Atlantic mackerel, *Loligo* and *Illex* squid, and butterfish and consider possible in-season adjustments to the 2001 quota specifications.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at 302–674–2331 at least 5 days prior to the meeting date.

Dated: May 18, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13077 Filed 5–23–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051801B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit 1276.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has issued permit 1276 to Mr. Jay Holder, of Florida Fish and Wildlife Conservation Commission (1276).

ADDRESSES: The permit and related documents are available for review in the indicated office, by appointment:

For permits 1276: Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (phone: 301–713–1401, fax: 301–713–0376, e-mail: *Terri.Jordan@noaa.gov*)

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under Section 10(a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species is covered in this notice:

Fish

Endangered Shortnose Sturgeon (*Acipenser brevirostrum*)

Permits Issued

Permit #1276

Notice was published on January 25, 2001 (66 FR 7742) that Mr. Jay Holder, of Florida Fish and Wildlife Conservation Commission applied for a scientific research permit (1276). The applicant proposes to conduct an absence/presence study for shortnose sturgeon in the St. John River, Florida. Shortnose sturgeon were last reported in the system in the 1970s and 1980s. The primary objective of the study is to determine the existing population level of shortnose sturgeon within the river system. The applicant will use the NMFS approved sampling protocols for a presence/absence study. Obtaining an estimate of shortnose sturgeon numbers will allow resource partners to implement the secondary objective whereby other recovery plan strategies for the species can proceed. Permit 1276 was issued on May 10, 2001, authorizing take of listed species. Permit 1276 expires December 31, 2004.

Dated: May 18, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–13172 Filed 5–23–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051701F]

Marine Mammals; File No. 1007–1629

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Leszek Karczmarski, Ph.D., Marine Mammal Research Program, Texas A&M University, 4700 Avenue U, Building 303, Galveston, Texas 77551, has applied in due form for a permit to take spinner dolphins, Stenella longirostris, for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before June 25, 2001.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Protected Species Coordinator, Pacific Area Office, NMFS, 1601 Kapiolani Blvd., Rm, 1110, Honolulu, HI 96814-4700; phone (808) 973–2935; fax (808) 973–2941; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Jill Lewandowski or Lynne Barre, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Specific research objectives include: (a) comparing population structure and social behavior; (b) assessing the genetic differences between the groups/populations in the three atolls and estimating the rate of gene flow; (c) determining intra- and inter-group associations and intra- and inter-sexual relationships; (d) assessing the effects of social behavior on genetic diversity and population structure relative to the geographic distance between the atolls; and (e) producing an evolutionary model of spinner dolphin social structure and mating system relative to habitat, where both ecological and social selective pressures are considered.

In meeting these research objectives, the applicant requests authorization to take 1,400 individual spinner dolphins annually by photo-identification and behavioral observation (both above and below water) and 400 individual spinner dolphins annually through the collection of genetic swab samples with a maximum of 700 swab samples collected over the course of the permit. The applicant also requests authorization to take additional individual spinner dolphins incidental to the above listed research activities.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 5, 2001.

E. Ruth Johnson,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–13173 Filed 5–23–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 244, Subcontracting Policies and Procedures; OMB Number 0704–0253.

Type of Request: Extension.

Number of Respondents: 90.

Responses Per Respondent: 1.

Annual Responses: 90.

Average Burden Per Response: 16 hours.

Annual Burden Hours: 1,440.

Needs and Uses: Administrative contracting officers use this information in making decisions to grant, withhold, or withdraw purchasing system approval at the conclusion of a contractor purchasing system review. Withdrawal of purchasing system approval would necessitate Government consent to individual subcontracts. This information collection includes the requirements of DFARS 244.305–70, Granting, Withholding, or Withdrawing Approval. DFARS 244.305–70 requires the administrative contracting officer, at the completing of the in-plant portion of a contractor to submit within 15 days its plan for correcting deficiencies or making improvements to its purchasing system.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. David M. Pritzker.

Written comments and recommendations on the proposed information collection should be sent to Mr. Pritzker at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 18, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13134 Filed 5–23–01; 8:45 am]

BILLING CODE 5001–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 247, Transportation, and related Clauses at 252.247; OMB Number 0704–0245.

Type of Request: Extension.

Number of Respondents: 60,270.

Responses Per Respondent: 8.

Annual Responses: 464,682.

Average Burden Per Response: 20 minutes (average).

Annual Burden Hours: 149,874.

Needs and Uses: Department of Defense contracting officers use this information to verify that prospective contractors have adequate insurance prior to award of stevedoring contracts; to provide appropriate price adjustments to stevedoring contracts; and to assist the Maritime Administration in monitoring compliance with requirements for use of U.S.-flag vessels in accordance with the Cargo Preference Act of 1904 (10 U.S.C. 2631).

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain to retain benefits.

OMB Desk Officer: Mr. David M. Pritzker.

Written comments and recommendations on the proposed information collection should be sent to Mr. Pritzker at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 18, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13135 Filed 5–23–01; 8:45 am]

BILLING CODE 5001–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of the Mass Destruction

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).

DATES: June 18 & 19, 2001

ADDRESSES: Rand, 1200 South Hayes Street, Arlington, VA 222022–5050

Proposed Schedule and Agenda: Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 8:30 a.m. until 5:30 p.m. on June 18, 2001 and from 8:30 a.m. until 3:30 p.m. on June 19, 2001. Time will be allocated for public comments by individuals or organizations.

FOR FURTHER INFORMATION: RAND provides information about this Panel on its web site at http://www.rand.org/organization/nsrd/terrpanel; it can also be reached at (703) 413–110 extension 5282. Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Mail written presentations and requests to register to attend the open public session to: Priscilla Schlegel, RAND, 1200 South Hayes Street, Arlington, VA 22202–5050. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13136 Filed 5–23–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant Infrared Imaging Systems, Columbus, Ohio, an exclusive license in U.S. Patent Number 6,230,046, entitled "System and Method for Enhanced Visualization of Subcutaneous Structures."

A license for this patent will be granted unless a written objection is received within 60 days from the date of publication of this Notice. Information concerning this Notice may be obtained from Mr. William H. Anderson, Associate General Counsel (Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Anderson can be reached at 703–588–5090 or by fax at 703–588–8037.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–13153 Filed 5–23–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant Lumera Corporation, a corporation of Washington State, having a place of business at 19910 North Creek Parkway, Bothell, Washington 98011–3008, an exclusive license in U.S. Patent Number 5,887,116, entitled, "Integrated Circuit Compatible Electro-Optic Device Using Conductive Polymer Cladding Layers," issued on March 23, 1999, and U.S. Patent Number 5,892,859, entitled "Integrated Circuit Compatible Electro-Optic Controlling Device for High Data Rate Optical Signals," issued April 6, 1999.

A license for these patents will be granted unless a written objection is received within 60 days from the date of publication of this Notice. Information concerning this Notice may be obtained from Mr. William H. Anderson, Associate General Counsel (Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Anderson can be reached at 703–588–5090 or by fax at 703–588–8037.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–13154 Filed 5–23–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Patent for Exclusive, Partially Exclusive, or Non-Exclusive License

AGENCY: U.S. Army Soldier and Biological Chemical Command, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or nonexclusive licenses under the following patent listed in the **SUPPLEMENTARY INFORMATION** paragraph.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, phone (508) 233–4928 or e-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR Part 404. The following patent number, title, and issue date is provided:

Patent Number: US 6,228,997 B1.

Title: Transesterification of Insoluble Polysaccharides.

Issue Date: May 8, 2001.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–13158 Filed 5–23–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Membership of the Defense Logistics Agency (DLA) Senior Executive Service (SES) Performance Review Board (PRB)

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of membership—2001 DLA PRB.

SUMMARY: This notice announces the appointment of members to the Defense Logistics Agency Senior Executive Service (SES) Performance Review Board (PRB). The publication of PRB composition is required by 5 U.S.C. 4314(c)(4). The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations to the Director, Defense logistics Agency, with respect to pay level adjustments and performance awards, and other actions related to management of the SES cadre.

EFFECTIVE DATE: July 1, 2001.

ADDRESSES: Defense Logistics Agency, 8725 John J. Kingman Road, STE 2533, Fort Belvoir, Virginia 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Karon Webb, SES Program Manager, HQC Human Resources Office, Defense Logistics Agency, Department of Defense, (703) 767–6427.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of DLA career executives appointed to serve as members of the SES PRB. Members will serve a 1-year term, which begins on July 1, 2001.

PRB CHAIR:

Mr. Phillip Steely, Executive Director

MEMBERS:

Mr. Frank Lotts, Deputy Director, Logistics Operations

Ms. Phyllis Campbell, Deputy Commander, Defense Distribution Center

Dr. Linda Furiga, Comptroller

RADM Raymond A. Archer III, SC, USN

Vice Director, Defense Logistics Agency

[FR Doc. 01–13155 Filed 5–23–01; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.132A]

Centers for Independent Living; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Purpose of program: This program provides support for planning, conducting, administering, and evaluating centers for independent living (centers) that comply with the standards and assurances in section 725 of the Rehabilitation Act of 1973, as amended (Act), consistent with the State plan for establishing a statewide network of centers. Centers are consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agencies that are designed and operated within local communities by individuals with disabilities and provide an array of independent living (IL) services.

Eligible Applicants: To be eligible to apply, an applicant must—(a) be a consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency as defined in 34 CFR 364.4(b); (b) have the power and authority to meet the requirements in 34 CFR 366.2(a)(1); (c) be able to plan, conduct, administer, and evaluate a center for independent living consistent with the requirements of section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366; and (d) either—(1) not currently be receiving funds under Part C of Chapter 1 of Title VII of the Act; or (2) propose the expansion of an existing center through the establishment of a separate and complete center (except that the governing board of the existing center may serve as the governing board of the new center) in a different geographical location. Eligibility under this competition is limited to entities proposing to serve areas that are unserved or underserved in the States and territories listed under *Available Funds and Estimated Number of Awards.*

Applications Available: June 1, 2001.

Deadline for Transmittal of Applications: July 30, 2001.

Deadline for Intergovernmental Review: September 28, 2001.

Available Funds and Estimated Number of Awards: $3,860,114 in available funds and an estimated 52 awards, distributed in the following manner:

Eligible entities	Available funds	Estimated number of awards
American Samoa	$154,046	1
California	719,404	18
Delaware	105,236	1
Florida	301,617	2
Illinois	365,437	7
Iowa	90,000	2
Kansas	44,241	1
Kentucky	100,000	3
Maryland	176,443	1
Michigan	333,373	3
New Hampshire	105,236	1
New Mexico	23,847	3
New York	400,000	2
North Carolina	133,257	1
Oregon	40,000	1
South Carolina	130,172	1
South Dakota	95,000	1
Tennessee	142,804	1
Texas	400,000	2

Estimated Range of Awards: $7,949 to $200,000.

Estimated Average Size of Awards: $74,232.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department, General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82,

85, and 86; and (b) The regulations for this program in 34 CFR parts 364 and 366.

Priority:

Competitive Preference Priority: This competition focuses on projects designed to meet the competitive preference priority in the notice of final competitive preference for this program, published in the **Federal Register** on November 22, 2000 (65 FR 70408). Under 34 CFR 75.105(c)(2)(i), up to 10 points may be earned based on the extent to which an application includes effective strategies for employing and advancing in employment qualified individuals with disabilities as project employees in projects awarded in this competition. In determining the effectiveness of those strategies, we will consider the applicant's prior success, as described in the application, in employing and advancing in employment qualified individuals with disabilities. Therefore, within this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the selection criteria in 34 CFR 366.27, for a total possible score of 110 points.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs via its Web site: http://www.ed.gov/pubs/edpubs.html; Or you may contact ED Pubs at its e-mail address: edpubs@inet.ed.gov

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.132A.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

For Further Information Contact: James Billy, U.S. Department of Education, 400 Maryland Avenue, SW., room 3326, Switzer Building, Washington, DC 20202–2741. Telephone: (202) 205–9362. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document: You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 29 U.S.C. 796f, 796f–1, 796f–4, and 796f–5.

Dated: May 18, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–13102 Filed 5–23–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Environmental Management Advisory Board; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Alternative Technologies to Incineration Committee (ATIC) of the Environmental Management Advisory Board (EMAB). The EMAB is a Federal Advisory Committee Act (FACA) entity.

DATES: Wednesday, June 13, 2001.

ADDRESSES: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW., (Room 1E–258), Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Executive Director of the Environmental Management Advisory Board, (EM–10), 1000 Independence Avenue SW., (Room 5B–161), Washington, DC 20585. The telephone number is 202–586–4400. The Internet address is *james.melillo@em.doe.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management Advisory Program from the perspective of affected groups, as well as state, local, and tribal governments. The Board will contribute to the effective operation of the Environmental Management Advisory Program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing EM and by helping to secure consensus recommendations on those issues. The ATIC will examine emerging candidate technologies identified by the Department for treatment for disposal of mixed transuranic (TRU) and low-level wastes previously scheduled for incineration at the Idaho National Engineering and Environmental Laboratory (INEEL). The Department is identifying these technologies through implementation of its technology Research Development Deployment & Demonstration (RDD&D) plan. The ATIC will facilitate stakeholder comment and communications on issues related to emerging alternative technologies to incineration for the treatment of mixed TRU and low-level wastes.

Preliminary Agenda

Wednesday, June 13, 2001

8:30 a.m.—Welcome and Introductions
—Introductory Comments
—Background and History, The Blue Ribbon Panel
—The ATIC Action Plan
—Overview of EM–50 R&D Effort
—The Stakeholder Forum
—Organizational Discussions
—Public Comment Period
4:00 p.m.—Adjournment

Public Participation

This meeting is open to the public. If you would like to file a written statement with the Committee you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, please contact Mr. Melillo at the address or telephone number listed above, or call the Environmental Management Advisory Board office at 202–586–4400, and we will reserve time for you on the agenda. You may also register to speak at the meeting on June 13, 2001, or ask to speak during the public comment period. Those who call in and or register in advance will be given the opportunity to speak first.

Others will be accommodated as time permits. The Board Chairs will conduct the meeting in an orderly manner.

Minutes

We will make the minutes of the meeting available for public review and copying by August 13, 2001. The minutes and transcript of the meeting will be available for viewing at the Freedom of Information Public Reading Room (1E–190) in the Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. The room is open Monday through Friday from 9:00 a.m.–4:00 p.m. except on Federal holidays.

Issued in Washington, DC on May 18, 2001.

Belinda Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–13137 Filed 5–23–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Compliance Filing

May 18, 2001.

In the matter of: Docket Nos. RP01–295–001, RP01–294–001, RP01–300–001, RP01–303–001, RP01–346–001, RP01–367–001, RP01–302–001, RP01–340–001, RP01–309–001, RP01–308–001, RP01–358–001, RP01–286–001, RP01–338–001, RP01–301–001, RP01–304–001, RP01–288–001, RP01–366–001, RP01–347–001, RP01–341–001, RP01–321–001, RP01–296–001, RP01–311–001, RP01–310–001, RP01–363–001, RP01–328–001, RP01–365–001, RP01–312–001, RP01–362–001 and RP01–364–001 (Not Consolidated); ANR Storage Company, Blue Lake Gas Storage Company, Clear Creek Storage Company, L.L.C., Destin Pipeline Company, L.L.C., Discovery Gas Transmission LLC, Florida Gas Transmission Company, Garden Banks Gas Pipeline, LLC, Gulf South Pipeline Company, LP, Gulf States Transmission Corporation, High Island Offshore System, L.L.C., Michigan Gas Storage Company, Midcoast Interstate Transmission, Inc., Midwestern Gas Transmission Company, Mississippi Canyon Gas Pipeline, LLC, Nautilus Pipeline Company, L.L.C., Northern Border Pipeline Company, Northern Natural Gas Company, Petal Gas Storage Company, Sabine Pipe Line LLC, Southern Natural Gas Company, Steuben Gas Storage Company, Stingray Pipeline Company, Tennessee Gas Pipeline Company, Texas Gas Transmission Corporation, Trailblazer Pipeline Company, Transwestern Pipeline Company, U–T Offshore System, L.L.C., Venice Gathering System, L.L.C., and Williams Gas Pipelines Central, Inc.;

Take notice that the above-referenced pipelines made filings in compliance with the Commission's "Order on Filings in Compliance with Order No. 587–M", issued April 26, 2001, Docket No. RM96–1–015 and in numerous individual pipeline dockets.[1]

Due to the numerous individual pipelines that have filed in compliance with the Commission's order, the filings are being noticed as a basket notice, and the proceedings are not consolidated. The Commission will act on each pipeline filing individually.

Any person desiring to file a protest must file a separate protest in each docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13092 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

[1] Standards for Business Practices of Interstate Natural Gas Pipeline, Docket No. RM96–1–015, 95 FERC ¶61,127 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–420–000]

City of Dunlap, TN, Complainant, v. East Tennessee Natural Gas Company, Respondent; Notice of Complaint

May 18, 2001.

Take notice that on May 16, 2001 the City of Dunlap, Tennessee (Dunlap) filed a complaint against East Tennessee Natural Gas Company (ETNG) alleging that ETNG had improperly rejected Dunlap's request to increase its contract entitlements for firm transportation service under ETNG's Rate Schedule FT–GS and requesting that the Commission direct ETNG to provide such increase and other relief as appropriate.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before June 5, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before June 5, 2001. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13089 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–418–000]

Equitrans, L.P.; Notice of Proposed Changes In FERC Gas Tariff

May 18, 2001.

Take notice that on May 15, 2001, Equitrans, L.P. (Equitrans) tendered for filing as parts of its FERC Gas Tariff Original Volume No. 1 the following revised tariff sheets, with an effective date of May 15, 2001:

First Revised Sheet No. 229 Superseding Original Sheet No. 229
First Revised Sheet No. 230 Superseding Original Sheet No. 230
Second Revised Sheet No. 258 Superseding First Revised Sheet No. 258
First Revised Sheet No. 277 Superseding Original Sheet No. 277

First Revised Sheet No. 278 Superseding Original Sheet No. 278
Third Revised Sheet No. 308 Superseding Second Revised Sheet No. 308

Equitrans states that the tariff sheets are being filed to implement its new gas transportation management system in accord with Version 1.4 of the GISB Standards as required by Order No. 587–M, issued on November 30, 2000, in Docket No. RM96–1–015, 93 FERC 61,223 (2000).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–13087 Filed 5–23–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–63–003]

Great Lakes Gas Transmission Limited Partnership; Notice of Compliance Filing

May 18, 2001.

Take notice that on May 15, 2001, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff Second Revised Volume No. 1, the following sheets with an effective date of April 30, 2001:

Substitute Seventh Revised Sheet No. 4
Substitute Sixth Revised Sheet No. 13

Great Lakes states that these tariff sheets are being filed to a) comply with the Commission's April 27, 2001 Letter Order wherein Great Lakes was directed to correct an editing error in Seventh Revised Sheet No. 4 and b) restate Sixth Revised Sheet No. 13 as a result of the rejection of Fifth Revised Sheet No. 13 in the Commission's April 25, 2001 Letter Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–13084 Filed 5–23–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–337–002]

Kern River Gas Transmission Company; Notice of Proposed Pro Forma Changes In FERC Gas Tariff

May 18, 2001.

Take notice that on May 15, 2001, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following pro forma tariff sheets:

Sheet No. 124
Sheet No. 125
Sheet No. 126
Sheet No. 126–A
Sheet No. 127
Sheet No. 128
Sheet No. 200
Sheet No. 201
Sheet No. 202

Kern River states that the purpose of this filing is to submit pro forma tariff sheets revising Kern River's scheduling procedures to specify how mainline, receipt point and delivery point capacity will be allocated in compliance with Order No. 637, and to propose a segmentation policy to be added to Kern River's tariff.

Kern River also states that in the April 17, 2001 technical conference in this docket, the parties agreed to file comments on this pro forma proposal by June 1, 2001.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–13085 Filed 5–23–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–31–001]

Kern River Gas Transmission Company; Notice of Amendment

May 18, 2001.

Take notice that on May 11, 2001, Kern River Gas Transmission Company (Kern River), 295 Chipeta Way, Salt Lake City, Utah, 84158, filed in Docket No. CP01–31–001 an amendment to its November 15, 2000 application in Docket No. CP01–31–000 for authority

to construct and operate the remaining facilities required for its 2002 Expansion Project, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Kern River states that after incorporating the facilities currently being installed for its short-term California Action Project (authorized in Docket No. CP01–106–000) into the design of its originally proposed 2002 Expansion Project, Kern River states that it now requests issuance of a certificate of public convenience and necessity only: (i) To install an additional compressor unit at its existing Muddy Creek Compressor Station (Muddy Creek) in Lincoln County, Wyoming; (ii) to upgrade its existing Opal Meter Station in Lincoln County, Wyoming; and (iii) to install a new electric motor-driven compressor unit at the Daggett Compressor Station (Daggett) in San Bernardino County, California. Kern River states that these proposed facilities will cost approximately $31.4 million to construct and that the 2002 Expansion Project also will be allocated a pro rata share (124.5/145.5) of the California Action Project costs that were proposed to be levelized or amortized over 15 years.

Kern River states that it continues to request an up-front determination that its 2002 Expansion Project qualifies for rolled-in rate treatment. Kern River states that the rolled-in effect of the 2002 Expansion billing determinants (124,500 Dth/d) and the cost of service attributable thereto will reduce the otherwise applicable rates for existing rolled-in shippers by approximately 6 to 7 percent, partially offset by an increase in fuel gas and electricity cost reimbursement obligations for compression on the expanded system.

It is also stated by Kern River that to ensure recovery of its actual electric fuel costs for the proposed electric compressor at Daggett from the shippers flowing gas through that station (excluding California Action Project shippers, which are subject to a separate, incremental fuel in-kind reimbursement obligation), Kern River states that it continues to request approval of a pro forma tariff provision establishing an electric compressor fuel surcharge. However, it is stated that the initial surcharge now is proposed to be $0.0099 per Dth of applicable flow through the station, based on updated volumes and electric costs.

Kern River states that, since the 2002 Expansion shippers require service by May 1, 2002, in order to serve the fuel requirements of new and eisting electric power generation facilities in California, Kern River requests the Commission to grant the requested authorizations by no later than August, 2001, so construction can commence at Muddy Creek by September 1, 2001, before the advent of winter weather in Wyoming.

Any questions regarding this application should be directed to Gary K. Kotter, Manager, Certificates, Kern River Gas Transmission Company, P.O. Box 58900, Salt Lake City, Utah 84158–0900, call (801) 584–7117.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before June 8, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be palced on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to itnervene as early in the process as possible.

Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–13095 Filed 5–23–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2738–049]

New York State Electric & Gas Corporation; Notice of Site Visit

May 18, 2001.

On May 31, 2001, the Office of Energy Projects staff will participate in a site visit to the area proposed for a change

in land rights at the Kents Falls development of the Saranac River hydroelectric Project operated by New York State Electric & Gas Corporation, in Clinton County, New York. The inspection will begin at 9 a.m. at the Kents Falls hydroelectric plant located on Kents Falls Road in the Town of Schuyler Falls, New York.

All interested parties may attend the inspection. Those planning to attend must provide their own transportation. For further information, please contact the Commission's Office of External Affairs at (202) 208–0004.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13097 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–232–001]

Northwest Pipeline Corporation; Notice of Compliance Filing

May 18, 2001.

Take notice that on May 15 2001, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective August 16, 2001:

Sub Second Revised Sheet No. 16
Sub Fourth Revised Sheet No. 17
Sub Seventh Revised Sheet No. 18
Sub Second Revised Sheet No. 18–A
Sub First Revised Sheet No. 30
Fifth Revised Sheet No. 31
Fourth Revised Sheet No. 32
First Revised Sheet No. 33
Sub Second Revised Sheet No. 100
Sub Original Sheet No. 100–A
Sub Third Revised Sheet No. 254
Sub Fourth Revised Sheet No. 255
Sub Fourth Revised Sheet No. 256
Third Revised Sheet No. 257
Second Revised Sheet No. 311
Second Revised Sheet No. 312
Second Revised Sheet No. 322
Original Sheet No. 323
Sheet No. 324
Second Revised Sheet No. 357
Original Sheet No. 357–A

Northwest states that the purpose of this filing is to comply with the Commission's Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions issued March 16, 2001 in Docket No. RP01–232–000 (Order). Northwest states that it has submitted (1) responses to the questions in the Order, and (2) revised tariff sheets pertaining to its facilities reimbursement procedures.

Northwest states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13091 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–482–000]

Reliant Gas Transmission Company; Notice of Technical Conference

May 18, 2001.

On August 15, 2000, Reliant Gas Transmission Company (Reliant) submitted a filing to comply with Order No. 637. Several parties have protested various aspects of Reliant's filing.

Take notice that a technical conference to discuss the various issues raised by Reliant's filing will be held on Thursday, June 7, 2001, at 10 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Parties protesting aspects of Reliant's filing should be prepared to discuss alternatives.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13086 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 460–001 Washington]

Tacoma Public Utilities; Notice of Teleconference

May 18, 2001.

a. *Date and Time of Teleconference:* Thursday, May 31, 2001 at 1:00 pm (EDT).

b. *FERC Contact:* Patrick Murphy at 202–219–2659, patrick.murphy@ferc.fed.us

c. *Purpose of the Teleconference:* To clarify the additional information requested by the U.S. Fish and Wildlife Service, in a letter dated February 1, 2001, to prepare a biological opinion on the effect of relicensing and operating the Cushman Hydroelectric Project, FERC No. 460, Mason County, Washington, on the federally listed as threatened distinct population segment of Coastal-Puget Sound bull trout (*Salvelinus confluentus*).

d. Only the FWS and the Commission are consulting parties for purposes of the teleconference. However, the License applicant and other interested parties to the relicensing proceeding will be permitted to provide relevant information, consistent with the limited purpose of the teleconference. Any party wishing to participate in the teleconference should notify Mr. Patrick Murphy of the Commission staff at 202–219–2659 by May 29, 2001. Those participants who are located in the project area (i.e., western Washington state) are asked to coordinate with other participant locations to minimize the telephone connection sites. Details of the connection procedure will also be provided when you contact Mr. Murphy. Please contact Mr. Lynn Childers, FWS, Lacey, WA at 360–753–5831, to coordinate consolidation of telephone connection sites.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13096 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–421–000]

Texas Eastern Transmission, LP; Notice of Tariff Filing

May 18, 2001.

Take notice that on May 16, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing to be effective October 1, 2001.

Texas Eastern states that the purpose of this filing is to comply with Ordering Paragraph (F) of the Order Issuing Certificate issued April 12, 2001, in Docket No. CP00–404–000 (April 12 Order). Texas Eastern states that the revised tariff sheets implement the incremental recourse rate approved in the April 12 Order and the related negotiated rate.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions as well as parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13090 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–419–000]

TransColorado Gas Transmission Company, Notice of Tariff Filing

May 18, 2001.

Take notice that on May 15, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to be effective June 18, 2001:

Fifth Revised Sheet No. 200
Fourth Revised Sheet No. 201
Second Revised Sheet No. 203A
Third Revised Sheet No. 204
Sixth Revised Sheet No. 205
Fifth Revised Sheet No. 206
Third Revised Sheet No. 206A
Second Revised Sheet No. 206B and 206C
Third Revised Sheet No. 207 to 210
Fourth Revised Sheet No. 215 and 217
Third Revised Sheet No. 219
Fourth Revised Sheet No. 221
Fifth Revised Sheet No. 222
Third Revised Sheet No. 223 and 227
Second Revised Sheet No. 227D and 227E
Third Revised Sheet No. 228
Fourth Revised Sheet No. 230 and 232
Second Revised Sheet No. 233A
Third Revised Sheet No. 235 and 246
Seventh Revised Sheet No. 247
Fifth Revised Sheet No. 264

TransColorado stated that this filing is being made to change TransColorado's references to its web site services to a more standardized name, rather than the proprietary system entitled the Direct Access Request and Tracking System (DART). References to the DART system has been superseded by TransColorado's Interactive Website, pursuant to the Commission's Order Nos. 587–G and 587–I. The currently required format for such internet web sites was largely defined by GISB Version 1.4, which the Commission adopted in Order No. 587–M, effectively May 1, 2001.

TransColorado states that a copy of this filing has been served upon TransColorado's customers, the Colorado Public Utilities Commission and New Mexico Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13088 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

May 18, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11988–000.

c. *Date Filed:* April 23, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Savage Dam Hydroelectric Project.

f. *Location:* The proposed project would be located on an existing dam owned by the City of San Diego, California, on the Otay River in San Diego County, California. Part of the project would be on lands administered by the City of San Diego.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* July 23, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official site list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* (1) An existing earth-fill dam 174 feet high and 750 feet long; (2) an existing reservoir having a surface area of 1,100 acres with a storage capacity of 49,500 acre-feet at an normal water surface elevation of 485 feet; (3) a 96-inch diameter 1,900 foot-long steel penstock; (4) a powerhouse containing one 3 MW generating unit with a capacity of 3 megawatts; (5) a 15 kv transmission line approximately 9 miles long; and (6) appurtenant facilities.

The project would have an annual generation of 11.1GWh.

l. A copy of the publication application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13081 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted For Filing and Soliciting Comments, Protests, and Motions to Intervene

May 18, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Type of Application: Preliminary Permit.

b. Project No.: 11995–000.

c. Date filed: April 23, 2001.

d. Applicant: Symbiotic, LLC.

e. Name and Location of Project: The Bishop Creek Dam Hydroelectric Project would be located at the existing Bishop Creek Dam, owned by Pacific Reclamation Company, on Bishop Creek in Elko County, Nevada.

f. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. Applicant Contact: Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. FERC Contact: James Hunter, (202) 219–2839.

i. Deadline for filing comments, protests, and motions to intervene: July 23, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11995–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would consist of: (1) The existing 80-foot-high, 407-foot-long earthfill dam and Bishop Creek Reservoir, with an 800-acre surface area at normal elevation 5,600 feet; (2) an 800-foot-long, 5-foot-diameter steel penstock; (3) a powerhouse containing two 0.81-megawatt generating units; (4) a 2-mile-long, 15-kV transmission line; and (5) appurtenant facilities. The project would have an average annual generation of 10.64 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n: Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13082 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 18, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11990–000.

c. *Date filed:* April 23, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The South Fork Dam Hydroelectric Project would be located at the existing South Fork Dam, owned by the State of Nevada, on the South Fork Humbolt River in Elko County, Nevada.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11990–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would consist of: (1) The existing 70-foot-high, 1,650-foot-long earthfill dam and South Fork Reservoir, with a 1,650-acre surface area at normal elevation 3,950 feet; (2) a 300-foot-long, 10-foot-diameter steel penstock; (3) a powerhouse containing two 1.1-megawatt generating units; (4) a 20-mile-long, 15-kV transmission line; and (5) appurtenant facilities. The project would have an average annual generation of 14.45 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) names in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Document—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13083 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 18, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11916–000.

c. *Date filed:* March 21, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Navajo Diversion Project would be located near Gobernador Canyon in San Juan County, New Mexico. Part of the project would be on federal lands administered by the Bureau of Reclamation and the Bureau of Land Management.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, fax (208) 745–7909.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11916–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, it an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would use the existing Bureau of Reclamation Diversion Dam Impoundment which has a storage capacity of 1.709 million acre-feet and would consist of: (1) A power generating facility at the outlet of an existing pressurized irrigation conveyance tunnel (5,970 msl) which would contain a powerhouse with a total installed capacity of 16.1 megawatts; (2) a 25-foot-long, 17.5-foot-diameter penstock; (3) a 3.7-mile-long, 25 kv transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 92.74 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13098 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Acception for Filing and Soliciting Comments, Protests, and Motions to Intervene

May 18, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11921–000.

c. *Date filed:* March 26, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Gray Reef Dam Project would be located on the North Platte River in Natrona County, Wyoming. Part of the project

would be on federal lands administered by the Bureau of Reclamation.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, fax (203) 745–7909.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Regulatory Commission, 888 First Street, NW., Washington, DC 20426. Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11921–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would use the existing Bureau of Reclamation Gray Reef Dam impoundment which has a storage capacity of 1,804 acre-feet and would consist of: (1) A powerhouse with a total installed capacity of 5 megawatts: (2) a 25-foot-diameter penstock: (3) a 5-mile-long, 25 kv transmission line; and (4) appurtenant facilities. The project would have and average annual generation of 15 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 28 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comment, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS" "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

[FR Doc. 01–13099 Filed 5–23–01; 8:45am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 18, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11937–000.

c. *Date filed:* March 30, 2001.

d. *Applicant:* Natural Bridge Hydropower, Inc.

e. *Name and Location of Project:* The proposed project would be located on the "Jim Byrns Slough Natural Bridge", a man-made waterway on the Big Wood River in Lincoln County, Idaho near the Town of Richfield.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contacts:* Mr. Rodney Smith or Silvio Coletti, Natural Bridge Hydropower, Inc., 2727 South Merimac Place, Boise, ID 83709, (208) 562–1527, fax (208) 562–8664.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protests, and comments may be filed electronically via the intervene in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi.doorbell.htm.

Please include the project number (P–11937–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would consist of: (1) A new concrete diversion dam, 8 feet high and 30 feet wide connecting to a 3400-foot-long concrete canal, 10 feet wide and 6 feet deep; (2) a 3300-foot-long, 64-inch-diameter penstock; (3) a concrete powerhouse with a total installed capacity of 566 kilowatts; (4) a three-quarter-mile-long, 600 v. transmission line; and (5) appurtenant facilities. The project would have an average annual generation of 3.48 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call 202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13100 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 18, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11987–000.

c. *Date Filed:* April 23, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* O'Shanessey Dam Hydroelectric Project.

j. *Location:* The proposed project would be located on an existing dam owned by the City of San Francisco, California, on the Tuolumne River in Tuolumne County, California. Part of the project would be on lands administered by the City of San Francisco.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID

83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* (1) An existing concrete dam 312 feet high and 900 feet long; (2) a reservoir having a surface area of 1,972 acres with a storage capacity of 360,400 acre-feet at an normal water surface elevation of 3,870 feet; (3) a 120-inch diameter 300 foot-long steel penstock; (4) a powerhouse containing two 4.25MW generating units with a project capacity of 8.5 megawatts; (5) a 25 kv transmission line approximately 20 miles long; and (6) appurtenant facilities.

The project would have an annual generation of 57.6 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application either a competing development application or notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any other above-name documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13101 Filed 5–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM93–11–000]

Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992

Issued May 18, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Annual Change in the Producer Price Index for Finished Goods, Minus One Percent.

SUMMARY: The Commission is issuing the index that oil pipelines must apply to their July 1, 2000–June 30, 2001 index ceiling levels to compute their index ceiling levels for the period July 1, 2001 through June 30, 2002, in accordance with 18 CFR 342.3(d). This index, which is the percent change (expressed as a decimal) in the annual average Producer Price Index for Finished Goods from 1999 to 2000, minus one percent, is 0.027594. Oil pipelines must multiply their July 1, 2000–June 30, 2001 index ceiling levels by 1.027594 to compute their index ceiling levels for the period July 1, 2001 through June 30, 2002.

FOR FURTHER INFORMATION CONTACT: David Ulevich, Office of Markets, Tariffs, and Rates, Corporate Applications, Group 2, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–0678.

SUPPLEMENTARY INFORMATION:

Notice of Annual Change in The Producer Price Index For Finished Goods, Minus One Percent

The Commission's regulations include a methodology for oil pipelines to change their rates through use of an index system that established ceiling levels for such rates. The index system as set forth at 18 CFR 342.3 is based on the annual change in the Producer Price Index for Finished Goods (PPI–FG), minus one percent. The regulations provide that each year the Commission will publish an index reflecting the final change in the PPI–FG, minus one percent, after the final PPI–FG is made available by the Bureau of Labor Statistics in May of each calendar year.

The annual average PPI–FG index figure for 1999 was 133.0 and the annual average PPI–FG index figure for 2000 was 138.0.[1] Thus, the percent change (expressed as a decimal) in the annual average PPI–FG from 1999 to 2000, minus one percent, is 0.027594.[2] Oil pipelines must multiply their July 1, 2000–June 30, 2001 index ceiling levels by 1.027594 [3] to compute their index ceiling levels for the period July 1, 2001, through June 30, 2002, in accordance with 18 CFR 342.3(d). For guidance in calculating the ceiling levels for each period beginning January 1, 1995,[4] see *Explorer Pipeline Company*, 71 FERC ¶ 61,416 at n.6 (1995).

[1] The final figure for the annual average PPI–FG is published by the Bureau of Labor Statistics in mid-May of each year. This figure is publicly available from the Division of Industrial Prices and Price Indexes of the Bureau of Labor Statistics, at (202) 606–7705, and is available in print in August in Table 1 of the annual data supplement to the BLS publication *Producer Price Indexes*. The PPI data are also available via the Internet. The Internet address is <http://www.fedstats.gov>. This site contains data from a number of government agencies; to obtain the BLS data, click on agencies, then click on Bureau of Labor Statistics, then click on data, Most Requested Series, scroll to Producer Price Indexes-Commodities (Finished Goods), for the latest available data.

[2] [138.0 − 133.0] / 133.0 = 0.037594 − .01 = 0.027594.

[3] 1 + 0.027594 = 1.027594.

[4] For a listing of all prior multipliers issued by the Commission, see the Commission's website, *www.ferc.fed.us*. The table of multipliers can be found under the headings "Oil" and "Index."

Document Availability

In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home Page (*http://www.ferc.fed.us*) on CIPS in ASCII and WordPerfect 6.1. User assistance is available at 202–208–2222 or by E-mail to *cips.master@ferc.fed.us*.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Home Page using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to *rimsmaster@ferc.fed.us*.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contract; RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13093 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

May 18, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Exempt

1. CP00–165–000, 04–30–01, Larry E. Golden
2. Project No. 2042, 05–10–01, Timothy B. Bechelder
3. Project No. 1354, 05–08–01, Nicholas Markevich
4. CP01–49–000, 05–08–01, Bobbye Miller
5. CP01–49–000, 05–08–01, Bobby Miller
6. Project No. 2042, 05–08–01, Timothy B. Bachelder

7. Project No. 1354, 05–08–01, Frank Winchell
8. Project No. 1354, 05–08–01, Karen Miller
9. Project No. 3090, 05–10–01, Maureen Winters
10. Project No. 1354, 05–14–01, Native American community representatives
11. Project No. 2016–044, 05–15–01, Pam Klatt

Prohibited

1. Project Nos. 2071–015 and 2111–011, 04–18–01, Ken S. Berg

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13094 Filed 5–22–01; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 18, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Greer Bancshares Incorporated, Greer, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Greer State Bank, Greer, South Carolina, and thereby indirectly acquire voting shares of Century South Bank of Alabama, Oxford, Alababa; Century South Bank of Central Georgia, National Association, Macon, Georgia; Century South Bank of Dahlonega, Dahlonega, Georgia; Century South Bank of Danielsville, Danielsville, Georgia; Century South Bank of Dawsonville, Dawsonville, Georgia; Century South Bank of Ellijay, Ellijay, Georgia; Century South Bank of Fannin County, National Association, Blue Ridge, Georgia; Century South Bank of Lavonia, Lavonia, Georgia; Century South Bank of Northeast Georgia, National Association, Gainesville, Georgia; Century South Bank of Polk County, Copperhill, Tennessee, and Century South Bank of the Coastal Region, National Association, Savannah, Georgia.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. TRB Bancorp, Inc., Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Greenbelt Bancshares, Inc., Quanah, Texas, and thereby indirectly acquire voting shares of The Security National Bank of Quanah, Quanah, Texas.

Board of Governors of the Federal Reserve System, May 18, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–13079 Filed 5–23–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Notice of Meeting; Hair Analysis, Exploring State-of-the-Science Panel Discussion

Name: Agency for Toxic Substances and Disease Registry (ATSDR) announces panel discussion: Hair Analysis, Exploring the State-of-the-Science.

Times and Dates: 8 a.m.–5 p.m., June 12, 2001; 8 a.m.–12:30 p.m., June 13, 2001.

Place: Radisson Hotel, Executive Park Atlanta, 2061 N. Druid Hills Road, Atlanta, GA, 30329. To make hotel reservations, please call the hotel directly at 404–321–4174. Reference the "Hair Analysis Panel" to receive the group rate of $78.00 plus 12% tax. You must make your reservation before May 20, 2001. After this date any remaining rooms will be released from our block and sold on a space and rate available basis.

Purpose: ATSDR is holding a panel discussion to review and discuss the current state-of-the-science related to hair analysis. ATSDR has invited a cross-section of scientists with expertise in fields including hair analysis, toxicology, and medicine to participate in 1½ days of discussions on a variety of topics, including analytical methods, factors affecting the interpretation of analytical results, toxicologic considerations, and data gaps/research needs. Panel discussions will explore whether hair analysis is a useful tool in evaluating exposures to hazardous substances present in the environment. ATSDR will use the scientific input received as part of the discussions to develop a framework for determining when measuring contaminant levels in hair can help support scientifically defensible public health evaluations.

Status: Open to the public, limited only by space available. Seating is limited so please register in advance so that we can hold a space for you. Register by contacting ATSDR's contractor, Eastern Research Group, Inc. (ERG). ERG's meeting registration line is 781–674–7374; when you call this number, reference the "Hair Analysis Panel." A limited amount of time will be set aside for members of the public to present brief oral comments regarding hair analysis scientific issues. Oral presentations will be limited to 10 minutes, and the number of people giving oral comments may be limited by the time available. Opportunity for making oral comment will be provided on a first-come, first-served basis; therefore, the public is encouraged to register in advance to present oral comments by contacting ERG's registration line at 781–674–7374. The public may also submit written comments. ATSDR will incorporate oral and written comments into its summary report. The report will capture the salient points of panel discussions and observer comments. After the meeting, the agency will consider all scientific input received to support the development of interim guidance regarding the use of hair analysis in ATSDR's public health evaluations.

Background Information: ATSDR conducts public health assessments to evaluate possible public health implications of contaminants associated with hazardous waste sites and other environmental releases. An important step in ATSDR's assessment process is examining exposures to contaminants under site-specific conditions and determining whether people are being exposed to harmful levels. In most of the agency's evaluations, the environmental concentration serves as a surrogate for "exposure."

To refine its assessments and to fill data gaps, ATSDR sometimes identifies ways to more precisely quantify exposures, such as measuring body burdens of a particular contaminant or its metabolites (e.g., lead in blood). On a site-by-site basis, ATSDR evaluates what additional exposure data might be practical and useful to obtain to further support public health evaluations and ultimately to help determine the disease potential of a particular exposure. ATSDR seeks to determine the overall utility of hair analysis as one such exposure assessment tool. ATSDR's overall goal is to receive expert opinion on the following four general questions related to hair analysis. A number of specific questions related to these issues will also be discussed.

- When is it appropriate to consider hair analysis in assessing human exposures to environmental contaminants?
- When is it inappropriate to consider hair analysis in assessing human exposures to environmental contaminants?
- What data gaps exist that limit the interpretation and use of hair analysis in the assessment of environmental exposures? What research is needed to fill these data gaps?
- For what substances do reliable hair analysis methods exist?

Contact Person for More Information: Dr. Allan Susten, Assistant Director for Science, Division of Health Assessment and Consultation, ATSDR, at 404–639–0625 or Dr. Deanna Harkins, Medical Officer, Commissioned Corps of the U.S. Public Health Service, Division of Health Education and Promotion, ATSDR, at 404–639–4669. For questions about logistics, contact ERG at 781–674–7374.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 18, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–13128 Filed 5–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01066]

Applied Research on Antimicrobial Resistance; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2091 funds for a grant program for Applied Research on Antimicrobial Resistance (AR). This program addresses the "Healthy People 2010" focus area Immunization and Infectious Diseases.

The purpose of the program is to provide assistance for applied research aimed at prevention and control of the emergence and spread of antimicrobial resistance in the U.S. This AR research program will focus on two areas: (1) AR in rural areas; and (2) Microbiologic mechanisms of dissemination of AR genes and relationship to antimicrobial drug use, including (a) in health care settings and (b) from food animals to humans. This program's design will implement Part 1 of the Public Health Action Plan to Combat Antimicrobial Resistance, Domestic Issues. For more information visit the internet site: *www.cdc.gov/drugresistance/actionplan/index.htm.*

1. AR in Rural Areas (See Attachment II for additional information)

This research includes four components that will provide information needed to prevent and control AR in rural areas in the U.S.: Surveillance of antimicrobial infections, promoting appropriate antimicrobial drug prescribing, preliminary assessment of environmental impact of antimicrobials, and development of new antimicrobial products.

2. Microbiologic Mechanisms of Dissemination of AR Genes and Relationship to Antimicrobial Drug Use (See Attachment III for additional information)

This research will develop information necessary to prevent and control the emergence and spread of resistance in selected bacteria in health care settings and from food animals to humans, including mechanisms of resistance, dissemination of resistance, and the impact of antimicrobial use on dissemination of resistance.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Applicants may apply for either Antimicrobial Resistance in Rural Areas or Microbiologic Mechanisms of Dissemination of AR Genes and Relationship to Antimicrobial Drug Use or both. Proposals for Antimicrobial Resistance in Rural Areas must address all four components: Surveillance, Promoting Appropriate Antimicrobial Drug Prescribing, Assessment of Environmental Impact of Antimicrobials (environmental sampling or sentinel human populations), and New Antimicrobial Products.A separate application is required for each research area (rural health and microbiologic mechanisms).

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $3,100,000 is available in FY 2001 as follows: Approximately $2,200,000 will be available for one award in focus area (1) and approximately $900,000 will be available for five awards in focus area (2), for an average award of $100,000 to $500,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. The funding estimates may change.

A continuation award within an approved project period will be made on the basis of satisfactory progress as

evidenced by required reports and the availability of funds.

D. Program Requirements

Projects must meet the following requirements

1. AR in Rural Areas (See Attachment II for additional information)

Develop and implement comprehensive intervention projects to prevent and control AR in rural areas in the U.S.

a. Surveillance

Implement a practical, cost-effective system for monitoring antimicrobial drug resistance and use patterns that is operationally useful for prevention and control efforts in rural areas.

Taking into account factors relevant in rural settings, implement an epidemiologically representative, clinical laboratory based surveillance network for acute bacterial infections of public health importance that are commonly acquired in one or more of three settings: The community, health-care system, and/or the food supply.

b. Promoting Appropriate Antimicrobial Drug Prescribing

Measure antimicrobial drug prescribing and assess factors that influence such prescribing in rural areas. Use these data to conduct and evaluate appropriate use programs. Promote appropriate antimicrobial drug prescribing in human medicine and optionally in veterinary medicine.

c. Preliminary Assessment of Environmental Impact of Antimicrobials

Through pilot studies, assess the likelihood of environmental impact of antimicrobial drug use in modern agriculture and/or aquaculture.

d. New Antimicrobial Products

Identify and Investigate compounds, particularly naturally occurring substances, that may be useful in combating antimicrobial resistance in rural settings.

2. Microbiologic Mechanisms of Dissemination of AR Genes and Relationship to Antimicrobial Drug Use (See Attachment III for additional information)

Develop information necessary to prevent and control the emergence and spread of resistance in selected bacteria (see below) through better understanding the mechanisms through which resistance develops and spreads in field settings.

Projects should address one or more of the following: (1) Vancomycin resistance in staphylococci; (2) Cephalosporin resistance in *Klebsiella pneumoniae, Salmonellae,* or other Enterobacteriaceae through extended-spectrum β-lactamases, AmpC, or other β-lactamases; (3) Streptogramin (e.g., quinupristin/dalfopristin) resistance in enterococci; or (4) Fluoroquinolone resistance in *Escherichia coli.*

E. Application Content

Letter of Intent (LOI)

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter of intent shall be submitted on or before June 15, 2001 to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement. The letter should identify the announcement number, name the principal investigator, and briefly describe the scope and intent of the proposed research work. The letter of intent does not influence review or funding decisions, but the number of letters received will enable CDC to plan the review more effectively and efficiently.

Application

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the evaluation criteria listed below. The Research Plan for each research area should be no more than 25 pages, printed on one side, with one inch margins, and letters must not be smaller than 10 point font.

F. Submission and Deadline

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS–398).

On or before July 16, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (10 points)

Extent to which applicant's discussion of the background for the proposed project demonstrates a clear understanding of the purpose and objectives of this grant program. Extent to which applicant illustrates and justifies the need for the proposed project that is consistent with the purpose and objectives of this grant program.

2. Capacity (40 points total)

a. Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. (10 points)

b. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research related to that proposed as evidenced by curriculum vitae, publications, etc. (20 points)

c. Extent to which applicant includes letters of support appropriate non-applicant organizations, individuals, etc. Extent to which the letters clearly indicate the author's commitment to participate and/or collaborate as described in the operational plan. (10 points)

3. Objectives and Technical Approach (50 points total)

a. Extent to which applicant describes specific objectives of the proposed project which are consistent with the purpose and goals of this grant program and which are measurable and time-phased. (10 points)

b. Extent to which applicant presents a detailed operational plan for initiating and conducting the project, which clearly and appropriately addresses all Program Requirements. Extent to which applicant clearly identifies and describes appropriate study sites (per Program Requirements 1.a and 3.a). Extent to which applicant clearly identifies specific assigned responsibilities for all key professional personnel. Extent to which the plan clearly describes applicant's technical approach/methods for conducting the proposed studies and extent to which the plan is adequate to accomplish the objectives. Extent to which applicant describes specific study protocol(s), the roles of partners or collaborators or plans for the development of study protocols that are appropriate for achieving project objectives. (30 points)

c. If the proposed project involves human subjects, the degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation. (2) The proposed justification when representation is limited or absent. (3) A statement as to whether the design of the study is adequate to measure differences when warranted. (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits will be documented. (see Other Requirements for additional information regarding this requirement for research projects). (5 points)

d. Extent to which applicant provides a detailed and adequate plan for evaluating study results and for evaluating progress toward achieving project objectives. (5 points)

4. Budget (not scored)

Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of grant funds.

5. Human Subjects (not scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with an original plus two copies of the following:

1. Annual progress reports;
2. Financial status report, no more than 90 days after the end of the budget period; and
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a) and 317(k)(2) of the Public Health Service Act, [42 U.S.C. Sections 241(a) and 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

To receive additional written information and to request an application kit, call 1–888-GRANTS4 . (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Gladys Gissentanna, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Mailstop K75, Atlanta, GA 30341–4146, Telephone number: 770–488–2753, Email address: gcg4@cdc.gov.

For program technical assistance, contact: Marsha Jones, Health Scientist, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, N.E., Mailstop C–12, Atlanta, GA 30333, Telephone number: 404–639–2603. Email address: maj4@cdc.gov.

Dated: May 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–13127 Filed 5–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research and Evaluation; Grant to the Institute for Responsible Fatherhood and Family Revitalization

AGENCY: Office of Planning, Research and Evaluation, ACF, DHHS.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that a noncompetitive grant award is being made to the Institute for Responsible Fatherhood and Family Revitalization to build the Institute's capacity and infrastructure and expand the provision of direct services to reunite fathers and families. As a Congressional setaside, this one-year project is being funded noncompetitively. The Institute has community-based service centers in several states and has successfully served so far more than 7000 fathers and their families. The cost of this one-year project is $500,000.

FOR FURTHER INFORMATION CONTACT: K. A. Jagannathan, Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Phone: 202–205–4829.

Dated: May 18, 2001.

Howard Rolston,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 01–13143 Filed 5–23–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00P–1340]

Determination That ROWASA (mesalamine) Rectal Suppositories, 500 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its determination that ROWASA (mesalamine) Rectal Suppositories, 500 milligrams (mg) was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for

mesalamine rectal suppositories, 500 mg.

FOR FURTHER INFORMATION CONTACT: S. Mitchell Weitzman, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5670.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (the 1984 amendments) (Public Law 98–417), which authorized the approval of duplicate versions of drug products approved under an ANDA. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved under a new drug application (NDA). Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

On June 12, 2000, Able Laboratories, Inc., under 21 CFR 10.30, submitted a citizen petition (Docket No. 00P–1340/CP1) to FDA. The petition requested that the agency determine whether mesalamine Rectal Suppositories, 500 mg, was withdrawn from sale for reasons of safety or effectiveness. Mesalamine rectal suppositories, 500 mg, is the subject of NDA 19–919. FDA approved NDA 19–919, held by Solvay Pharmaceuticals, Inc. (Solvay), on December 18, 1990. On July 1, 1999, Solvay informed FDA that ROWASA Rectal Suppositories had been voluntarily recalled after repeated, sporadic dissolution specification failures were observed.

FDA has reviewed its records and, under § 314.161, has determined that Solvay's decision to recall and terminate marketing mesalamine rectal suppositories, 500 mg, was not for reasons of safety or effectiveness. Accordingly, the agency will continue to list mesalamine rectal suppositories, 500 mg, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to mesalamine rectal suppositories, 500 mg, may be approved by the agency.

Dated: May 17, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13169 Filed 5–23–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 28, 2001, 8 a.m. to 5 p.m.

Location: Center for Drug Evaluation and Research Advisory Committee conference room 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Karen M. Templeton-Somers, Center for Drug Evaluation and Research, (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or by e-mail: SomersK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss parameters used for extrapolation from the adult to the pediatric setting in solid tumors and malignancies of the central nervous system.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by June 18, 2001. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 8:45 a.m., and 1 p.m. and 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 18, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 17, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–13168 Filed 5–23–01; 8:45 am]

BILLING CODE 4150–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2001.

Name: Advisory Commission on Childhood Vaccines (ACCV)

Date and Time: June 7, 2001; 10 a.m.–12 p.m.

Place: Audio Conference Call

The full Commission will meet on Thursday, June 7, from 10 a.m. to 12 p.m. (eastern standard time) via audio conference call. The meeting is open to the public. The public can join the conference call by calling 1–877–709–5340 and providing the following information:

Leader's name: Thomas E. Balbier, Jr.

Password: ACCV

The agenda includes a briefing on the Institute of Medicine's Immunization Safety Review Committee Report on Measles-Mumps-Rubella Vaccine and Autism. Public comment will be permitted at the end of the presentation. Oral comments will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2124. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but desire to make an oral statement, may do so at the end of the presentation. If time is available, these persons will be allocated time to make oral statements.

Anyone requiring information regarding the Commission should contact Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2124.

Agenda items are subject to change as priorities dictate.

Dated: May 18, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–13139 Filed 5–23–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Neurological Disorders and Stroke Council, May 24, 2001, 10:30 am to May 25, 2001, 12 pm, 45 Center Drive, Natcher Building, Conference Room E½, Bethesda, MD, 20892 which was published in the **Federal Register** on May 2, 2001, 66 FR 21994.

The Training Sub. & Neuroinformatics, Computational Neurosci. & Infrastructure Sub. is changed to an open session; the time remains the same. The Clinical Trials Sub. will be open from 8:30 am to 9 am and closed from 9 am to 10 am. The meeting is partially Closed to the public.

Dated: May 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13107 Filed 5–23–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, NIH–ES–01–06.

Date: June 18, 2001.

Time: 8:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, NIH–ES–01–07

Date: June 19, 2001.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709.

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: May 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13108 Filed 5–23–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Communication Disorders Review Committee, June 20, 2001, 8 am to June 22, 2001, 5 pm, Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036 which was published in the **Federal Register** on May 2, 2001, 66 FR 21992.

The meeting has been changed to start on June 20, 2001 and end on June 21, 2001. The meeting is closed to the public.

Dated: May 17, 2001.

LaVerne Y. Stringfield,

Directror, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13110 Filed 5–23–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: June 5, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 400C, Rockville, MD 20852.

Contact Person: Stanley C. Oaks, Jr., Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13111 Filed 5–23–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group Biological Aging Review Committee.

Date: June 4–5, 2001.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: James P. Harwood, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/ Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Neuroscience of Aging Review Committee.

Date: June 4–5, 2001.

Time: 6 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Louise L. Hsu, The Bethesda Gateway Building, 7201 Wisconsin Avenue Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: June 7, 2001.

Time: 2:30 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Health Scientific Administrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: June 12, 2001.

Time: 4:30 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Confernece Call).

Contact Person: Ramesh Vemuri, Health Scientific Administrator, Office of Scientific Review, National Institute of Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Small Grants in Sociology and Psychology.

Date: June 14, 2001.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Mary Ann Guadagno, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Committee.

Date: June 14–15, 2001.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: William A. Kachadorian, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2c212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel Review of a grant application on early indicators of later work levels, disease and death.

Date: June 14–15, 2001.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Quadrangle Club, 1155 East 57th St., Chicago, IL 60638.

Contact Person: Arthur D. Schaerdel, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Cognition and Hippocampal/Cortical Systems in Aging.

Date: June 14–15, 2001.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson at Cross Keys, 5100 Falls Road, Baltimore, MD 21210.

Contact Person: Ramesh Vemuri, Health Scientific Administrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Behavior and Social Science of Aging Review Committee, Nutrition, Disability, and Health Care Costs in Old People.

Date: June 15, 2001.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin, Suite 502C, Bethesda, MD 20892.

Contact Person: Mary Ann Guadagno, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: June 22, 2001.

Time: 1 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin, Suite 502C, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: William A. Kachadorian, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Novel Mechanisms of NSAID Action in Alzheimer's Disease.

Date: June 25–26, 2001.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Mariott La Jolla, 4240 La Jolla Village Drive, La Jolla, CA 92037.

Contact Person: Ramesh Vemuri, Health Scientific Administrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: June 26, 2001.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Arthur D. Schaerdel, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: June 27–29, 2001.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday, Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Jerry M: Chernak, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: June 9–10, 2001.

Time: 7:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 4100 Presidential Blvd., Philadelphia, PA 19131.

Contact Person: James P. Harwood, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13112 Filed 5–23–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: June 14–15, 2001.

Date: June 15–14, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: The committee will review selected human gene transfer protocols; NIH policy on serious adverse event reporting; data management activities related to human gene transfer clinical trials; discussion on the risk group designation for E. coli strain B; and other matters to be considered by the Committee.

Place: Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Amy P. Patterson, MD, Acting Executive Secretary, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, 301–496–9838.

Information is also available on the Institute's/Center's home page: www4.od.nih.gov/oba/, where an agenda and any additional information for the meeting will be posted when available.

Note: "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually ever NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: May 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13109 Filed 5–23–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Changes to a Fiscal Year (FY) 2001 Funding Opportunities Notice

AGENCY: Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services Administration (SAMHSA), DHHS.

ACTION: Modification/Clarification of a Notice of Funding Availability Regarding the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention Minority HIV Prevention Initiatives Funding Announcement.

SUMMARY: This notice is to inform the public that the SAMHSA/CSAP announcement No. SP–01–006, Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) in Minority Communities (Short Title: Minority HIV Prevention Initiatives) will be changed. Effective immediately, ALL domestic public and private non-profit, youth-serving, community-based organizations that serve predominantly racial and ethnic minority populations disproportionately impacted by the HIV/AIDS epidemic will be eligible to apply for Category 3 funds; eligibility will not be restricted to faith-based organizations or to community-based organizations collaborating with faith-based organizations.

This change in eligibility will ensure that all community-based, youth-serving organizations will have an opportunity to compete for funding on an equal footing. The emphasis is on an organization's qualifications and capacity to effectively provide substance abuse prevention and HIV prevention services to racial and ethnic minority youth, not on its secular or religious status. Faith-based organizations continue to be eligible to apply for funding in all three categories and will, like all other applicants, be evaluated based on how well they can provide the

specified services to the target population.

In addition to this change in eligibility, the Category 3 definition for the youth target population has also been clarified as including individuals age 9 through 17.

SP–01–006, Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention (HIVP) in Minority Communities (Short Title: Minority HIV Prevention Initiatives), was previously published in the **Federal Register** on March 20, 2001 (Vol. 66, Number 54, pages 15733–15735).

Program Contact: For questions concerning program issues, contact: Elaine Parry, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Rockwall II, 9th Floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–0365, Email: *EParry@SAMHSA.gov*.

Dated: May 21, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–13235 Filed 5–22–01; 12:27 pm]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to sections 10(a)(1)(A) and 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE042395

Applicant: George Thomas Watters, Columbus, Ohio

The applicant requests a permit to take (collect, transport, and relocate) the following mussels in Indiana: Fanshell (*Cyprogenia stegaria*), Northern riffleshell (*Epioblasma rangiana*), and Clubshell (*Pleurobema clava*).

Permit Number TE042945

Applicant: Melody Myers-Kinzie, Lafayette, Indiana

The applicant requests a permit to take (capture, handle, and release) northern riffleshell (*Epioblasma torulosa rangiana*), clubshell (*Pleurobema clava*), and rough pigtoe (*Pleurobema plenum*) in Indiana.

Permit Number TE042946

Applicant: Robert J. Sheehan, Southern Illinois University, Carbondale, Illinois

The applicant requests a permit to take (capture, tag, and release) pallid sturgeon (*Scaphirhynchus albus*) in the Mississippi River from St. Louis, Missouri to the mouth of the Ohio River. Juvenile pallid sturgeon sampled in trawls may be subject to lethal take for identification. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number TE043011

Applicant: Ody Brooks Enterprises, Cedar Springs, Michigan

The applicant requests a permit to take (survey, capture, and collect) Karner blue butterfly (Lycaeides melissa samuelis) in Kent County, Michigan. The scientific research is aimed at enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who requests a copy from the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, peter_fasbender@fws.gov, telephone (612) 713–5343, or Fax (612) 713–5292.

Dated: May 17, 2001.

T.J. Miller,

Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 01–13129 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–EU; I–017096 C, I–517 C, I–4427 C, I–9081 C, I–6941 C]

Termination of Desert Land Entry Classifications, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates 5 Desert Land Entry Classifications so the land can be patented under Section 206 of the Federal Land Policy and Management Act of 1976.

EFFECTIVE DATE: May 24, 2001.

FOR FURTHER INFORMATION CONTACT: Catherine D. Foster, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3863.

SUPPLEMENTARY INFORMATION: The following lands have been classified as suitable for Desert Land Entry. The classification and segregation, as it affects the following described lands, is hereby terminated:

T. 6 N., R. 5 W., B.M.
Section 2: SW¼NE¼, SE¼NW¼, W½SE¼ (I–017096 C);
Section 10: S½NE¼, NE¼SE¼ (I–517 C);
Section 10: S½SE¼ (I–9081 C);
Section 13: SE¼SW¼ (I–6941 C).

The following lands have been classified as non suitable for Desert Land Entry. The classification and segregation, as it affects the following described lands, is hereby terminated:

T. 6 N., R. 5 W., B.M.
Section 10: NW¼SE¼ (I–4427 C);

The area described above aggregates 440 acres in Payette County.

At 9 a.m. on May 24, 2001, the Desert Land Entry classifications identified above will be terminated. The lands will remain closed to location and entry under the public land laws and the general land laws, as the lands are currently segregated for exchange.

Dated: May 11, 2001.

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 01–13119 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW153411]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation for coal exploration license.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201 (b), and to the regulations adopted as 43 CFR 3410, all interested parties are hereby invited to participate with Ark Land Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 43 N., R. 71 W., 6th P.M., Wyoming
Sec. 2: Lots 5–20;
Sec. 11: Lots 1–16;
Sec. 12: Lots 2 (NW¼ & S½), 3–16;
Sec. 13: Lots 1–16;
Sec. 14: NW¼NW¼, Lots 1–15;
Sec. 24: Lots 1–16;
Sec. 25: Lots 1–16; T. 44 N., R. 71 W., 6th P.M., Wyoming
Sec. 35: Lots 1–16.
Containing 5,063.6875 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to obtain data on the Wyodak coal seam.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW153411): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in The News-Record of Gillette, WY, once each week for two consecutive weeks beginning the week of May 28, 2001, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Ark Land Company no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Ark Land Company, Attn: Michael Lincoln, P.O. Box 460, Hanna, WY 82327, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: May 14, 2001.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 01–13124 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–014–01–1430–EU; HAG–01–0177]

Notice of Direct Sale of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of direct sale of public lands in Klamath County, Oregon (OR 56099).

SUMMARY: The following land has been found suitable and is classified for direct sale under Section 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 43 U.S.C. 1719, and Section 7 of the Taylor Grazing (43 U.S.C. 315f). The land will be sold at no less than the fair market value of $18,200 .00. The land will not be offered for sale until at least 60 days after this notice.

Willamette Meridian,

T. 38 S., R. 10 E.
Section 6 Lot 7
Section 7 NE¼NE¼, NE¼NW¼.
Containing approximately 120.12 acres.

The above described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statutes, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, which ever occurs first.

This land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal agency. No significant resource values will be affected by this disposal. The sale is consistent with BLM's planning for the land involved and the public interest will be served by the sale.

Purchasers must be U.S. citizens, 18 years of age or older, a state or state instrumentality authorized to hold property, or a corporation authorized to own real estate in the state in which the land is located.

The lands are being offered to Meadow Lake Incorporated using the direct sale procedures authorized under 43 CFR 2743.3–3. Direct sale is appropriate because there is no public access to the public lands and lands owned Meadow Lake Inc. surround the public lands.

The terms, conditions, and reservations applicable to this sale are as follows:

1. A right-of-way for ditches and canals will be reserved to the United States in under 43 U.S.C. 945.

2. All oil and gas and geothermal resources in the land will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act of 1976.

3. The mineral interests being offered for conveyance have no known mineral value. The acceptance of a direct sale offer will constitute an application for conveyance of the mineral estate, with the exception of the oil and gas and geothermal interests which will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act of 1976.

4. Patents will be issued subject to all valid existing rights and reservations of record.

If land identified in this notice is not sold it will be offered competitively on a continuing basis until sold.

Detailed information concerning the sale, including the reservations, sale procedures, and planning and environmental documents, is available at the Klamath Falls Field Office 2795 Anderson Ave. Building 25 Klamath Falls, OR 97603.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Klamath Falls Resource Area Office at the above address. Objections will be reviewed by the District Manager who may sustain, vacate, or modify this realty action. In absence of any objections, this realty action will become the final action of the Department of the Interior. Questions should be directed to Tom Cottingham at the above address or by phone at 541/885–4141.

Dated: April 27, 2001.

Teresa A. Raml,

Manager, Klamath Falls Resource Area.

[FR Doc. 01–13121 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–14000–01–1610–DU]

Resource Management Plan Amendment

AGENCY: Bureau of Land Management, Glenwood Springs Field Office, Department of the Interior.

ACTION: Notice of Intent to Prepare a Fire Management Plan and Environmental Assessment (EA) and Amend the Glenwood Springs Field Office Resource Management Plan (RMP).

SUMMARY: The Bureau of Land Management (BLM) Glenwood Springs Field Office (GSFO) has fire protection responsibility on more than 550,000 acres of public land in Eagle, Garfield, Pitkin, Routt, Mesa and Rio Blanco Counties in Colorado. A fire management plan (FMP) plan will provide managers and the public a framework for managing wildland fire and prescribing vegetation treatments. The Environmental Assessment (EA) will serve as the analysis for implementing wildland fire management. Public lands will be managed under one of four management catagories for purposes of wildland fire management. The description of these categories follows:

A. The values in these areas are threatened by all types of fire. Fires will be aggressively suppressed and no prescribed fire management would be planned. Mechanical and/or chemical fuel treatments would be utilized to reduce hazard fuel loadings in this zone.

B. These areas also have values that are threatened by wildfires, but might benefit from the careful application of fire. Wildfires will be aggressively suppressed, but prescribed fire with other fuel treatment reduction methods (mechanical or chemical) will be considered as a management alternative in certain situations.

C. The natural resource values in these areas are not significantly threatened or benefitted by wildfires. Wildfires will be managed by an appropriate management response (AMR) as provided for in the FMP. Suppression options will range from aggressive suppression, to a nonaggressive containment action that considers least cost as a primary consideration. Predetermined constraints (ecological, air quality, political, fire load, time of year, etc.) will be included in a wildfire situation analysis (WFSA) to help the line officer in decision making. These areas do contain values that may benefit from the application of fire, so prescribed fires will be an option for natural resource management. Mechanical and/or chemical fuel treatments could also be utilized to reduce hazard fuel loadings in this zone.

D. These areas have no natural resource values that are threatened by wildfires, and contain some natural resources that would benefit from fire, both wildfire and prescribed fire. If pre-existing conditions are met (ecological, air quality, political, fire load, time of year, etc.) wildfires may be allowed to burn without suppression actions to benefit natural resources. Fires that are suppressed will be managed with the AMR range of alternatives. A WFSA will be conducted on all fires where aggressive suppression does not take place, the line officer's decision will be documented. Prescribed fire will also be a management alternative to meet resource objectives. Mechanical and/or chemical fuel treatments could also be utilized to reduce hazard fuel loadings.

DATES: The BLM can best utilize your input if you submit comments pertaining to important values, wildland fire management and prescribed (fire, mechanical and chemical) vegetation treatments before June 30, 2001. Public meetings (dates to be announced) are tentatively planned for Eagle, Glenwood Springs and Rifle, Colorado.

ADDRESSES: Comments should be sent to the Field Manager—Fire Management Plan, Glenwood Springs Field Office, Bureau of Land Management, 50629 Highway 6 & 24, P.O. Box 1009, Glenwood Springs, CO 81602.

FOR FURTHER INFORMATION CONTACT: Requests to be placed on a mailing list and notified of public meetings should be mailed to the address above. You can also telephone Brian Hopkins at (970) 947–2840 or e-mail him at *bhopkins@co.blm.gov*. Documents and maps relevant to the planning process will be available for public review at the Glenwood Springs Field Office and, as feasible, available on the Glenwood Springs Field Office website at *http://www.co.blm.gov/gsra/gshome.htm*.

SUPPLEMENTARY INFORMATION: FMPs are being updated to comply with the 1995 Federal Wildland Fire Management Policy and the 2001 Review and Update of the 1995 Federal Wildland Fire Management Policy. The Policy directs Field Offices to have an approved FMP for every area with burnable vegetation. In addition, land uses, land issues and vegetation (fuels) have changed since the completion of the 1984 RMP, especially along the private land—public land interface. The GSFO FMP will update fire and vegetation management in light of these changes.

The goals of the FMP are to address issues including: (1) Human safety; (2) Protection of improvements, property, cultural resources, threatened or endangered species and high value resources; (3) Return fire to its natural role in the ecosystem; (4) Protection and enhancement of other natural resources; (5) Hazardous fuel reduction; and (6) Fiscal efficiency of fire management operations.

We will provide opportunities for local governments, state agencies and the public to participate in the planning process. Individuals will have the opportunity to attend public meetings, write letters, telephone and meet directly with the interdisciplinary planning team.

Anne Huebner,

Glenwood Springs Field Manager.

[FR Doc. 01–13120 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1040–PH]

Notice of Intent To Prepare the Cache Creek Travel Management Plan and Amend the Royal Gorge Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an amendment to the Royal Gorge Resource Management Plan, and prepare an Environmental Assessment (EA).

SUMMARY: The Bureau of Land Management (BLM) announces the initiation of a Resource Management Plan (RMP) amendment for the Cache Creek Travel Management Plan, pursuant to the BLM planning regulations in 43 CFR 1600. The proposed Travel Management Plan will convert BLM's current Off-Highway Vehicle (OHV) designation of "limited to existing roads and trails" to one of "limited to designated roads and trails", to implement a decision in the Royal Gore Resource Management Plan, approved in May 1996. The EA will analyze and compare the impacts of the change in OHV designation and management with continuing current management, and other alternatives that may be identified. The Travel Management Plan is being prepared through coordination with other federal, state and local agencies, and affected public land users.

DATES: Interested parties may submit written comments to the Field Office Manager at the address listed below. Comments will be accepted until June 15, 2001.

ADDRESSES: If you wish to comment, request additional information or request to be put on the mailing list, you may do so by any of several methods. You may mail or hand deliver your comments or requests to: Field Office Manager, Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Canon City, CO 81212, (719) 269–8500. You may also comment via email to: *RGFOWEB@blm.gov*. Please submit email comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and address in your email message.

Comments, including names and addresses of respondents, will be available for public review at the BLM office listed above during regular business hours. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Levi D. Deike, Field Office Manager, or Pete Zwaneveld, Team Leader at the Royal Gorge Field Office address listed above or by calling (719) 269–8500.

SUPPLEMENTARY INFORMATION: The planning area involves approximately 3,760 acres located in northern Chaffee County, about 15 miles north of Buena Vista, CO. The main issues anticipated for this planning effort are: (1) Impacts to water quality, vegetation, including riparian and wetland areas; and soils; (2) impacts to wildlife habitat, especially the elk critical winter range and elk calving area, and (3) impacts to public land users and adjacent private landowners. The Cache Creek Travel Management Plan is being prepared by an interdisciplinary team, including representation from recreation, wildlife, riparian/wetlands, fisheries, minerals, lands, archaeology, and forestry. The analysis and proposed plan amendment are scheduled for completion in September 2001.

Notification will be made to the Governor of Colorado, Chaffee & Lake County Commissioners, adjacent landowners, and potentially affected members of the public. A public comment period will be established upon completion of the EA on the Cache Creek Travel Management Plan. The time frame for the public comment period will be announced in the local media. The Proposed Plan Amendment will be published during the EA process and will include a 30-day protest period.

Levi D. Deike,

Field Office Manager.

[FR Doc. 01–13122 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–BJ: GP01–0186]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 21 S., R. 32½ E., accepted April 27, 2001
T. 21 S., R. 33 E., accepted April 27, 2001
T. 38 S., R. 2 W., accepted April 30, 2001
T. 39 S., R. 3 W., accepted April 30, 2001
T. 21 S., R. 1 W., accepted May 1, 2001

Washington

T. 21 N., R. 12 W., accepted May 4, 2001
T. 35 N., R. 10 E., accepted May 4, 2001

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above listed plats represent dependent resurveys, survey, and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 SW. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: May 7, 2001.

Robert D. DeViney, Jr.,

Branch of Realty and Records Services.

[FR Doc. 01–13123 Filed 5–23–01; 8:45 am]

BILLING CODE 4310–33–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before June 25, 2001 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Brooke Dickson, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730 or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on March 13, 2001 (66 FR 14597). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA;

(b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Item Approval Request List.
OMB number: 3095–0025.
Agency form number: NA Form 14110 and 14110A.
Type of review: Regular.
Affected public: Business or for-profit, nonprofit organizations and institutions, federal, state and local government agencies, and individuals or households.
Estimated number of respondents: 2,816.
Estimated time per response: 15 minutes.
Frequency of response: On occasion (when respondent requests copies of motion picture, audio, and video holdings from NARA).
Estimated total annual burden hours: 704 hours.

Abstract: The information collection is prescribed by 36 CFR 1254.72. The collection is prepared by researchers who cannot visit the appropriate NARA research room or who request copies of records as a result of visiting a research room. NARA offers limited provisions to obtain copies of records by mail and requires requests to be made on prescribed forms for certain bodies of records. NARA uses the Item Approval Request List form to track reproduction requests and to provide information for customers and vendors.

Dated: May 17, 2001.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 01–13164 Filed 5–23–01; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

Application for a License To Export Highly-Enriched Uranium

Pursuant to 10 CFR 110.70(b)(2) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link <*http://www.nrc.gov/NRC/ADAMS/index.html*> at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the application for a license to export special nuclear material noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this application follows.

NRC EXPORT LICENSE APPLICATION

	Description of material		End use	Country of destination
	Material type	Total qty		
Name of Applicant; Date of Application: Transnuclear, Inc.; May 7, 2001. Date Received; Application Number: May 8, 2001; XSNM03192	Highly-Enriched Uranium (93.34%).	32.36 kg Uranium/30.20 kg U-235.	Fuel for BR–2 Research Reactor.	Beligum.

Dated this 18th day of May 2001 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Deputy Director Office of International Programs.

[FR Doc. 01–13144 Filed 5–23–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

May 1, 2001.

Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of May 1, 2001, of two deferrals contained in one special message for FY 2001. The message was transmitted to Congress on January 18, 2001.

Deferrals (Attachments A and B)

As of May 1, 2001, $1.5 billion in budget authority was being deferred from obligation. Attachment B shows the status of each deferral reported during FY 2001.

Information From Special Message

The special message containing information on the deferrals that are covered by this cumulative report is printed in the edition of the **Federal Register** cited below: 66 FR 8985, Monday, February 5, 2001.

Mitchell E. Daniels, Jr.,

Director.

Attachment A

STATUS OF FY 2001 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	1,946.7
Routine Executive releases through May 1, 2001	–408.5
Overturned by the Congress	
Currently before the Congress	1,538.2

BILLING CODE 3110–01–P

ATTACHMENT B
Status of FY 2001 Deferrals - As of May 1, 2001
(In thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Special Message	Releases (-): Cumulative OMB/Agency	Releases (-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5/1/01
DEPARTMENT OF STATE									
Other									
United States Emergency Refugee and Migration Assistance Fund	D01-1	145,310		1/18/01	40,033				105,277
INTERNATIONAL ASSISTANCE PROGRAMS									
International Security Assistance Economic Support Fund	D01-2	1,801,382		1/18/01	368,505				1,432,877
TOTAL, DEFERRALS		1,946,692			408,538				1,538,154

[FR Doc. 01–13075 Filed 5–23–01; 8:45 am]
BILLING CODE 3110–01–C

POSTAL SERVICE

Sunshine Act Meeting; Notice

TIMES AND DATES: 12:30 p.m., Monday, June 4, 2001; 8:30 a.m., Tuesday, June 5, 2001.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW, in the Benjamin Franklin Room.

STATUS: June 4 (Closed); June 5 (Open).

MATTERS TO BE CONSIDERED:

Monday, June 4—12:30 p.m. (Closed)
1. Financial Performance.
2. Rate Case Briefing.
3. Facilities Update.
4. Leveraging Assets.
5. Strategic Planning.
6. Compensation Issues.
7. Personnel Matters.

Tuesday, June 5—8:30 a.m. (Open)
1. Minutes of the Previous Meetings, May 1, May 7–8, and May 15, 2001.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Quarterly Report on Financial Results.
4. Capital Investments.
   a. Surface Air Support System.
   b. Teterboro, New Jersey, Processing and Distribution Center.
5. Tentative Agenda for the July 9–10, 2001, meeting in Evansville, Indiana.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

David G. Hunter,
Secretary.

[FR Doc. 01–13253 Filed 5–22–01; 2:50 pm]
BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extension:
Form N–5, SEC File No. 270–172, OMB Control No. 3235–0169
Form N–8A, SEC File No. 270–135, OMB Control No. 3235–0175
Form N–8B–2, SEC File No. 270–186, OMB Control No. 3235–0186

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Form N–5—Registration Statement of Small Business Investment Companies Under the Securities Act of 1933 and the Investment Company Act of 1940

Form N–5 is the integrated registration statement form adopted by the Commission for use by a small business investment company which has been licensed as such under the Small Business Investment Act of 1958 and has been notified by the Small Business Administration that the company may submit a license application, to register its securities under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] ("Securities Act"), and to register as an investment company under section 8 of the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] ("Investment Company Act"). The purpose of registration under the Securities Act is to ensure that investors are provided with material information concerning securities offered for public sale that will permit investors to make informed decisions regarding such securities. The Commission staff reviews the registration statements for the adequacy and accuracy of the disclosure contained therein. Without Form N–5, the Commission would be unable to carry out the requirements of the Securities Act and the Investment Company Act for registration of small business investment companies. The respondents to the collection of information are small business investment companies seeking to register under the Investment Company Act and to register their securities for sale to the public under the Securities Act. The estimated number of respondents is two and the proposed frequency of response is annually. The estimate of the total annual reporting burden of the collection of information is approximately 352 hours per respondent, for a total of 704 hours.

Form N–8A—Notification of Registration of Investment Companies

Form N–8A is the form that investment companies file to notify the Commission of the existence of active investment companies. After an investment company has filed its notification of registration under section 8(a) of the Investment Company Act, the company is then subject to the provisions which govern certain aspects of its organization and activities, such as the composition of its board of directors and the issuance of senior securities. Form N–8A requires an investment company to provide its name, state of organization, form of organization, classification, if it is a management company, the name and address of each investment adviser of the investment company, the current value of its total assets and certain other information readily available to the investment company. If the investment company is filing simultaneously its notification of registration and registration statement, Form N–8A requires only that the registrant file the cover page (giving its name, address and agent for service of process) and sign the form in order to effect registration.

The Commission uses the information provided in the notification on Form N–8A to determine the existence of active investment companies and to enable the Commission to administer the provisions of the Investment Company Act with respect to those companies. Each year approximately 263 investment companies file a notification on Form N–8A. The Commission estimates that preparing Form N–8A requires an investment company to spend approximately one hour so that the total burden of preparing Form N–8A for all affected investment companies is 263 hours.

Form N–8B–2—Registration Statement of Unit Investment Trusts That Are Currently Issuing Securities

Form N–8B–2 is the form used by unit investment trusts ("UITs") that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor, to comply with the filing and disclosure requirements imposed by section 8(b) of the Investment Company Act. Form N–8B–2 requires disclosure about the organization of a UIT, its securities, the trustee, the personnel and affiliated persons of the depositor, the distribution and redemption of securities, and financial statements. The Commission uses the information provided in the collection of information to determine compliance with section 8(b) of the Investment Company Act.

Based on the Commission's industry statistics, the Commission estimates that there would be approximately 24 initial filings on Form N–8B–2 and 11 post-effective amendment filings to the form. The Commission estimates that each registrant filing an initial Form N–8B–2 would spend 44 hours in preparing and filing the form and that the total hour burden for all initial Form N–8B–2 filings would be 1,056 hours. Also, the Commission estimates that each UIT filing a post-effective amendment to Form N–8B–2 would spend 16 hours in preparing and filing the amendment and that the total hour burden for all post-effective amendments to the form would be 176 hours. By combining the total hour burdens estimated for initial Form N–8B–2 filings and post-effective amendments filings to the form, the Commission estimates that the total annual burden hours for all registrants on Form N–8B–2 would be 1,232.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

Dated: May 17, 2001.

Jonathan G. Katz,
Secretary.

[FR Doc. 01–13159 Filed 5–23–01; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–14800]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (CollegeLink.com, Common Stock, $.001 Par Value)

May 18, 2001.

CollegeLink.com, a Delaware corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.001 par value ("Security"), from listing and registration on the American Stock Exchange LLC ("Amex").

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

In making the decision to withdraw the Security from listing on the Exchange, the Issuer considered:

(1) Its non-compliance with the Amex maintenance standards concerning the price per share of an issuer's security, and

(2) Its non-compliance with the Amex maintenance standards concerning the net tangible assets of an issuer.

The Issuer represents that it will seek to facilitate the Security being quoted on the OTC Bulletin Board effective May 22, 2001. The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before June 8, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,
Secretary.

[FR Doc. 01–13160 Filed 5–23–01; 8:45 am]
BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).
[2] 17 CFR 240.12d2–2(d).
[3] 15 U.S.C. 78*l*(b).
[4] 15 U.S.C. 78*l*(g).
[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24979; 812–10320]

Tremont Corporation; Notice of Application

May 17, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under sections 2(a)(9) and 3(b)(2) of the Investment Company Act of 1940 (the "Act").

Summary of Application: Tremont Corporation ("Applicant" or "Tremont") requests an order declaring that it controls NL Industries, Inc. ("NL") and that applicant is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities.

Filing Dates: The application was filed on August 30, 1996, and amended on May 14, 1997, and April 27, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 11, 2001, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549–0609. Applicant, 1999 Broadway, Suite 4300, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenless, Branch Chief, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Applicant, a Delaware corporation formed in 1987 as a wholly-owned subsidiary of NL, is primarily engaged in the business of producing and selling titanium metals and titanium dioxide. Applicant's shares are listed and traded on the New York and Pacific Stock Exchanges. Applicant conducts its operations through Titanium Metals Corporation ("TIMET") and NL. Applicant states that TIMET is one of the world's leading integrated producers of titanium metal products. Applicant further states that it owns approximately 39% of TIMET's outstanding voting securities and primarily controls TIMET. Applicant also states that NL is an international producer and marketer of titanium dioxide pigments to customers worldwide. Applicant owns approximately 20.4% of NL's outstanding voting securities.[1] Applicant states that, as of December 31, 2000, its interests in TIMET and NL represented approximately 23% and 68%, respectively, of applicant's total assests (exclusive of Government securities and cash items) on an unconsolidated basis. Applicant also has wholly-owned subsidiaries TRECO L.L.C. that is engaged in the real estate business and relies on section 3(c)(1) of the Act, and NL Insurance Limited of Vermont ("NLIV"), an insurance company that is exempt pursuant to section 3(c)(3) of the Act.

Applicant's Legal Analysis

1. Under section 3(a)(1)(C) of the Act, an issuer is an investment company if it is engaged or proposes to engage in the business of investing, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40 percent of the value of the issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Under section 3(a)(2) of the Act, investment securities iclude all securities except Government securities, securities issued by employee securities companies, and securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exclusions from the definition of investment company in section #3(c)(1) or 3(c)(7) of the Act.

2. Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(1)(C) of the Act, the SEC may issue an order declaring an issuer to be primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company. That section creates a presumption that an owner of more than 25% of a company's outstanding voting securities controls the company, and that an owner of 25% or less of a company's outstanding voting securities does not control the company. Section 2(a)(9) further provides that any such presumption may be rebutted by evidence.

3. Applicant requests an order under section 2(a)(9) of the Act declaring that it controls NL and under section 3(b)(2) declaring that applicant is primarily engaged, through TIMET and NL as controlled companies, in a business other than that of investing, reinvesting, owning, holding or trading in securities.

4. Applicants states that it controls NL within the meaning of section 2(a)(9) of the Act, notwithstanding that it owns less than 25% of NL's outstanding voting securities, through significant and active participation in the management of NL. Five of the members of the board of directors of Tremont ("Tremont board") are also members of NL's seven member board of directors. Mr. J. Landis Martin, Chairman of the Board, Chief Executive Officer and President of Tremont also serves as the Chief Executive Officer and President of NL. Ms. Susan E. Alderton, a member of the Tremont board, also serves as Chief Financial Officer, Vice President and Treasurer of NL. Mr. Harold C. Simmons, a member of the Tremont board, also serves as Chairman of the Board of NL. Applicant states that the directors and officers of Tremont play an active role in setting NL's general policies and provide support to NL's management, and that a finding of control under section 2(a)(9) therefore is appropriate.

5. Under section 3(b)(2) of the Act, in determining whether an applicant is primarily engaged in a non-investment company business, the SEC considers the following factors: (a) Applicant's historical development; (b) applicant's public representations of policy; (c) the activities of applicant's officers and directors; (d) the nature of applicant's present assets; and (e) the sources of applicant's present income.[2]

a. *Historical Development:* Applicant states that since its formation in 1987, it has been engaged primarily in the businesses of petroleum services and bentonite mining, as well as the production and sale of titanium metals and titanium dioxide.

b. *Public Representations of Policy:* Applicant states that it has consistently held itself out as a holding company conducting its business operations through TIMET, NL, and TRECO. Applicant states that it does not hold and has never held itself out as an investment company within the meaning of the Act.

c. *Activities of Officers and Directors:* Applicant states that the primary activities of its officers and directors are participating in the governing and operational activities of TIMET and NL.

d. *Nature of Assets:* Applicant states that, as of December 31, 2000, its interest in TIMET represented 23%, and its interest in NL represented 68%, of applicant's total assets on an unconsolidated basis (exclusive of Government securities and cash items).

e. *Sources of Income:* Applicant states that, for the four quarters ended December 31, 2000, it had net income after taxes of $9.2 million, of which 91.5% was attributable to TIMET, NL and NLIV.

6. Applicant thus asserts that it meets the requirements for an order under section 3(b)(2) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–13080 Filed 5–23–01; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant states that approximately 60.2% of NL's outstanding voting securities is held by Valhi, Inc. ("Valhi"). Applicant also states that 80.02% of its outstanding voting securities is held by Tremont Group, Inc. ("TGI"), a company that is 80.01% held by Valhi and 19.99% held by Tremont Holdings LLC ("Tremont Holdings"), a single member limited liability company owned by NL. Tremont Holdings holds directly an additional 0.13% of applicant's outstanding voting securities. Applicant further states that TGI may be deemed to control applicant and Mr. Harold C. Simmons may be deemed to control Valhi.

[2] *See Tonopah Mining Company of Nevada*, 26 S.E.C. 426 (1946).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44321; File No. SR–NASD–2001–31]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealer, Inc. Relating to SelectNet Fees

May 18, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 4, 2001, the Nation Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to retroactively extend from April 2, 2001, until March 31, 2002, or through the date of implementation ("Implementation Date") of the Nasdaq National Market Execution System ("NNMS"), whichever is sooner, the pilot program under NASD Rule 7010(i), "SelectNet Service," which provides reduced fees for members who enter directed SelectNet orders.[4] The current pilot program expired on March 31, 2001.[5]

II. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD Rule 7010(i) contains a pilot program that provides reduced SelectNet fees for members who enter directed orders in SelectNet. The pilot program, which went into effect in 1998,[6] was extended most recently through May 31, 2001.[7] Nasdaq proposes to retroactively apply the SelectNet pricing structure provided under the pilot program for the period from April 2, 2001, until March 31, 2002, or the Implementation Date, whichever is sooner.[8] Nasdaq notes that it explained the reasons for the SelectNet fee structure provided under the pilot program in its 1998 Notice. Since then, Nasdaq states that SelectNet usage has continued at elevated levels. As such, Nasdaq believes that an extension of the reduced SelectNet fees through the Implementation Date is warranted.

Under the proposed extension of the pilot program, SelectNet fees will continue to be assessed in the following manner: (1) $1.00 will be charged for each of the first 50,000 SelectNet orders entered and directed to one particular market participant that is subsequently executed in whole or in part, $.70 for the next 50,000 directed orders executed that same month, and $.20 for all remaining directed orders executed that month; (2) no fee will be charged to a member who receives and executes a directed SelectNet order; (3) the existing $2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a $0.25 fee will remain in effect for any member who cancels a SelectNet order.

Beginning on the Implementation Date, Nasdaq will assess SelectNet fees in the following manner:[9] (1) $.90 will be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part; (2) no fee will be charged to a member who receives and executes a directed SelectNet order; (3) the existing $2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; (4) market participants will be assessed $.70 per order for the first 25,000 orders executed monthly, $.50 per order for the next 25,000 orders executed monthly, and $.10 for each remaining liability order executed monthly; and (5) a $0.25 fee will remain in effect for any member who cancels a SelectNet order.

Nasdaq will also charge the same fees for trades of Nasdaq SmallCap and NNM securities commencing on the Implementation Date.[10] To accomplish this, Nasdaq will reduce the fees charged for trades of SmallCap securities through SOES. Beginning on the Implementation Date, fees for NNMS trades of NNM securities and SOES trades of SmallCap securities will be assessed in the following manner: (1) A fee of $.50 per order executed for the first 150,000 orders executed under 2000 shares, monthly; (2) a fee of $.30 for each remaining executed order of less than 2000 shares, monthly; (3) a fee of $.90 per order for all orders over 2000

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The current proposal replaces File No. SR–NASD–2001–25, which NASD filed on April 2, 2001, and withdrew on April 23, 2001. *See* letter from Jeffrey S. Davis, Assistant General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 20, 2001.

[4] On January 14, 2000, the Commission approved rule changes that: (1) establish the NNMS, a new platform for the trading of Nasdaq National Market ("NNM") securities; (2) modify the rules governing the use of SelectNet for trading NNM issues; and (3) leave unchanged the trading of Nasdaq SmallCap securities on the Nasdaq's Small Order Execution System ("SOES"). *See* Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 3987 (January 25, 2000) (order approving File No. SR–NASD–99–11). Nasdaq has already established the fees to be assessed for use of the NNMS and SelectNet after the NNMS begins operating. *See* Securities Exchange Act Release No. 43001 (June 30, 2000), 65 FR 42741 (July 11, 2000) (notice of filing and immediate effectiveness of File No. SR–NASD–00–41) ("June 30 Notice").

[5] *See* June 30 Notice, *supra* note 4. In its proposal, Nasdaq requests retroactive application of the fees provided under the pilot program, dating to the expiration of the pilot on March 31, 2001.

[6] *See* Securities Exchange Act Release No. 39641 (February 10, 1998), 63 FR 8241 (February 18, 1998) (File No. SR–NASD–98–06) ("1998 Notice"). The pilot program was originally implemented for a 90-day trial period, commencing the day the proposal was published in the **Federal Register**.

[7] *See* June 30 Notice, *supra* note 4.

[8] Nasdaq expects the implementation Date to occur on July 9, 2001. Telephone conversation between Jeffrey S. Davis, Assistant General Counsel, Office of the General Counsel, Nasdaq, and Yvonne Fraticelli, Special Counsel, Division, Commission, on May 9, 2001.

[9] As noted above, Nasdaq established these fees in a previous proposal. *See* June 30 Notice, *supra* note 4.

[10] As noted above, Nasdaq established these fees in a previous proposal. *See* June 30 Notice, *supra* note 4.

shares; and (4) no fee will be charged to a member who receives an execution in SOES or NNMS.

2. Statutory Basis

Nasdaq believes the proposed rule change is consistent with section 15A(b)(5) [11] of the Act, which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–31 and should be submitted by June 14, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of section 15A of the Act.[12] Specifically the Commission finds that the proposal is consistent with section 15A(b)(5) of the Act, which requires that the rules of a national securities association provide for the equitable allocation of reasonable dues, fees and charges among members and issuers and other persons using any facility or system which the association operates or controls.[13]

The Commission notes that the pilot program provided in NASD Rule 7010(i), which establishes reduced fees for members who enter directed SelectNet orders, was implemented in February 1998 [14] and was most recently extended through March 31, 2001.[15]

The Commission finds that it is consistent with the Act to permit retroactive application of the pilot program from the expiration of the current pilot program and to extend the pilot program through March 31, 2002, or the Implementation Date, whichever is sooner, to allow market participants to continue to receive the benefit of the reduced Select Net fees provided under the pilot program.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the **Federal Register**.[16] Specifically, the Commission notes that accelerated approval of the proposal will allow the pilot program to continue without interruption. Accordingly, the Commission finds that it is consistent with sections 15A(b)(5) [17] and 19(b) [18] of the Act to approve the proposal on an accelerated basis.

V. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–NASD–2001–31), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–13162 Filed 5–23–01; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78o–3(b)(5).

[12] 15 U.S.C. 78o–3.

[13] 15 U.S.C. 78o–3(b)(5).

[14] *See* 1998 Notice, *supra* note 6.

[15] *See* June 30 Notice, *supra* note 4.

[16] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

[17] 15 U.S.C. 78o–3(b)(5).

[18] 15 U.S.C. 78s(b).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–2(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44311; File No. SR–Phlx–2001–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Interim Intermarket Linkage Program

May 16, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 14, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 under the Act, proposes to adopt a rule authorizing implementation of "interim linkages" with the other options exchanges.[3]

II. Self-Regulatory Organization's Statement of the Propose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On January 30, 2001, the Commission approved similar proposals submitted by the Chicago Board Options Exchange, Inc. ("CBOE") and the International Securities Exchange LLC ("ISE"). *See* Securities Exchange Act Release No. 43904 (January 30, 2001), 66 FR 9112 (February 6, 2001). On February 20, 2001, the Commission issued a notice of filing and immediate effectiveness of a similar proposal submitted by the Pacific Exchange, Inc. ("PCX"). *See* Securities Exchange Act Release No. 43986 (February 20, 2001), 66 FR 12576 (February 27, 2001).

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to implement certain aspects of an intermarket options linkage on an "interim" basis. The interim linkage would utilize existing market infrastructure to facilitate the sending and receiving of order flow between Phlx Specialists and later, Registered Options Traders, and their counterparts on the other options exchanges as an interim step towards development of a "permanent" linkage. The Exchange proposes that the interim linkage would be in effect on a pilot basis until January 31, 2002.

By way of background, the Commission has approved a linkage plan that now includes all five options exchanges.[4] The options exchanges continue to work towards implementation of this linkage, which include contracting with a third party to build a linkage infrastructure. Since this will take a significant amount of time, the options exchanges have discussed implementing an "interim" linkage. Such a linkage would use the existing market infrastructure to route orders between market makers on the participating exchanges in a more efficient manner.

The key component of the interm linkage would be the participating exchanges opening their automated customer execution systems, on a limited basis, to market maker orders. Specifically, market makers, such as Phlx Specialists and later Registered Options Traders, would be able to designate certain orders as "customer" orders, and thus, would receive execution under the automatic execution parameters of participating exchanges pursuant to the interim linkage.[5]

This proposed rule would authorize the Phlx to implement bilateral or multilateral interim arrangements with the other exchanges to provide for equal access between market makers on our respective exchanges. The Exchange currently anticipates that initial arrangements would allow Phlx Specialists and their equivalents on the other exchanges, when they are holding customer orders, to send orders reflecting the customer orders to the other market for execution when the other market has a better quote. Such orders would be limited in size to the lesser of the size of the two markets' "firm" quotes for customer orders. The Exchange expects that the interim linkage may expand to include limited access for pure principal orders of no more than 10 contracts.

Under the proposed rule, all interim linkage orders must be "immediate or cancel" (that is, they cannot be placed on an exchange's limit order book), and a market maker can send a linkage order only when the other (receiving) market is displaying the best national bid or offer and the sending market is displaying an inferior price. This should allow a Phlx Specialist to access the better price for its customer. In addition, if the interim linkage includes principal orders, it would allow market makers to attempt to "clear" another market displaying a superior quote. Any exchange participating in the interim linkage will implement heightened surveillance procedures to help ensure that their respective market makers send only properly-qualified orders through the interim linkage.

Phlx Specialist' participation in the interim linkage will be voluntary. Only when a Phlx Specialist and their equivalent on another exchange believe that this form of mutual access would be advantageous will the exchanges employ the interim linkage procedures. The Exchange believes that the interim linkage should benefit investors and should provide useful experience to help the exchanges in implementing the full linkage.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [6] in general and furthers the objectives of section 6(b)(5) [7] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the Exchange as a "non-controversial" rule change pursuant to section 19(b)(3)(A) of the Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9] Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change, it has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6).

The Exchange has requested that the Commission waive the 5-day pre-filing requirement and accelerate the operative date of the proposal. The Commission finds that it is appropriate to accelerate the operative date of the proposal and designate the proposal to become operative today.[10]

The Commission finds good cause for waiving the 5-day pre-filing requirement and accelerating the operative date of the proposed rule change. The Commission notes that it has approved similar proposals filed by the ISE and the CBOE.[11] Acceleration of the

[4] *See* Securities Exchange Act Release Nos. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000); 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); and 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000).

[5] As with other orders that are executed under the automatic execution parameters of the Exchange, when a limit order constitutes the Exchange's best bid or offer, the specialist executes the incoming order against that order.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] *See* note 4, *supra*.

operative date should enable investors effecting transactions on the Phlx to obtain better prices displayed on other exchanges and thus, is consistent with section 6(b)(5) of the Act.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to SR–Phlx–2001–52 and should be submitted by June 14, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–13161 Filed 5–23–01; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 3676]

Culturally Significant Objects Imported for Exhibition Determinations: "Etsrnal Egypt: Masterworks of Ancient Art From the British Museum"

AGENCY: Department of State.

ACTION: Notice; correction.

SUMMARY: On August 24, 2000, Notice was published on page 52804 of the **Federal Register** (Volume 65, Number 169) by the Department of State pursuant to Pub. L 89–259 relating to the exhibit "Eternal Egypt: Masterworks of Ancient Art from the British Museum." The referenced Notice is corrected as follows. In the **SUMMARY** after "July 7, 2002," add the following additional venue: "The Fine Arts Museums of San Francisco, CA, California Palace of the Legion of Honor, from on or about August 10, 2002, to on or about November 3, 2002,"

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Jacqueline Caldwell, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6982). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 16, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–13151 Filed 5–23–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3674]

Culturally Significant Objects Imported for Exhibition Determinations: "Picasso: The Artist's Studio"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Picasso: The Artist's Studio," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Wadsworth Atheneum in Hartford, CT from on or about June 7, 2001 to on or about September 23, 2001, and at The Cleveland Museum of Art, Cleveland, OH from on or about October 28, 2001 to on or about January 6, 2002, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–5997). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 16, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–13149 Filed 5–23–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3675]

Culturally Significant Objects Imported for Exhibition Determinations: "Syria: Land of Civilization"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Syria: Land of Civilization," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the exhibit objects at the Riverfront Arts Center in Wilmington, DE from on or about July 14, 2001 to on or about October 21, 2001 and at the Fernbank Museum of Natural History, Atlanta, GA, from on or about February 15, 2002 to on or about May 20, 2002 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 16, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–13150 Filed 5–23–01; 8:45 am]

BILLING CODE 4710–08–P

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3663]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet in the Department of State, 2201 "C" Street NW., Washington, DC, June 18–19, 2001 in Conference Room 1107. Prior notification and a valid photo are mandatory for entrance into the building. One week before the meeting, members of the public planning to attend must notify Gloria Walker, Office of the Historian (202–663–1124) to provide dates of birth, Social Security numbers, and telephone numbers.

The Committee will meet in open session from 1:30 p.m. through 3 p.m. on Monday, June 18, 2001, to discuss declassification and transfer of Department of State electronic records to the National Archives and Records Administration and the Foreign Relations series. The remainder of the Committee's sessions from 3:30 p.m. to 4:45 p.m. on Monday, June 18, 2001 and from 9 a.m. to 1 p.m. on Tuesday, June 19, 2001, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). The agenda calls for discussions of still unresolved options for modernizing the Foreign Relations series as well as agency declassification decisions concerning the series. These are matters not subject to public disclosure under 5 U.S.C. 552b(c)(1), and the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to Marc J. Susser, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663–1123, (e-mail *history@state.gov*).

Dated: May 16, 2001.

Marc J. Susser,

Executive Secretary of the Advisory Committee on Historical Diplomatic Documentation, Department of State.

[FR Doc. 01–13147 Filed 5–23–01; 8:45 am]

BILLING CODE 4710–11–P

STATE DEPARTMENT

[Public Notice 3609]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on June 27 and 28, 2001, in Acme, Michigan. Pursuant to Section 10 (d) of the Federal Advisory Committee Act and 5 U.S.C. 552b [c] [1] and [4], it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda will include updated committee reports, a world threat overview and a round table discussion that calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, D.C. 20522–1003, phone: 202–663–0533.

Dated: May 11, 2001.

Peter E. Bergin,

Director of the Diplomatic Security Service, Department of State.

[FR Doc. 01–13146 Filed 5–23–01; 8:45 am]

BILLING CODE 4710–24–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee on Small and Minority Business (ISAC–14) will hold a meeting on June 11, 2001, from 12 noon to 5 p.m. The meeting will be opened to the public from 12 noon to 5 p.m.

DATES: The meeting is scheduled for June 11, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held at the Delta Centre-Ville Hotel, VIP Boardroom #522, 777 University Street, Montreal, Quebec, Canada.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg, Pam Wilbur, or Kelly Parsons (202) 482–4792, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (principal contacts), or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the meeting the following topics will be addressed:

- Presentation by USFCS officer in Montreal;
- Presentation by Canadian SME Task Force on SME trade policy issues in Canada;
- Discussion with Canadian Sectoral Advisory Groups on International Trade (SAGITs) on SME trade policy issues;
- Discussion on Dispute Resolution;
- Presentation on SME programs by the Royal Bank of Canada; and Committee business.

Heather K. Wingate,

Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–13133 Filed 5–23–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–8809; Notice 2 EGO Vehicles Inc.]

Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standards Nos. 119 and 120

EGO Vehicles Inc.("Ego"), a Delaware corporation located in Fairhope, Alabama, through counsel in San Francisco, California, has applied for a temporary exemption of its "eGO" motor driven cycle from Federal Motor Vehicle Safety Standards Nos. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*, and No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*. The basis of the application is that an exemption would make easier the development or field evaluation of a low-emission motor vehicle and would not unreasonably lower the safety level of the vehicle.

Notice of receipt of the application was published on February 13, 2001, and an opportunity afforded for comment (66 FR 10051).

EGO seeks an exemption of two years from the requirements of Standards Nos. 119 and 120. Standard No. 119 establishes performance and endurance, marking, and treadwear indicators for motorcycle tires. Standard No. 120 establishes requirements for DOT-certified rims of certain sizes to ensure compatibility with DOT-certified tires of

the same sizes. The eGO vehicle is not a motorcycle of conventional configuration, having a "chassis design * * * similar to that of a large scooter, but it has handlebars, a seat and other components that make it more similar in appearance and operation to a bicycle." The eGO is powered by a single electric motor producing less than 2 horsepower, and is therefore a "motor driven cycle," a subcategory of motorcycle under NHTSA definitions and regulations. The speed of the eGO "is limited by its controller and drivetrain configuration to less than 20 miles per hour."

EGO states that it has located "many high-performance bicycle rims and tires," but that "none of the manufacturers of these components has certified these products as compliant with FMVSS 119 or 120." The most similar components that EGO has located are moped tires and rims. However, the "performance capabilities of these tires and rims are excessive given the low weight, low speed, and limited range of the eGO. Further, the dimensions of these products are not compatible with the eGO's chassis design or braking system * * *."

EGO deems its only alternative to develop a specific tire and rim combination. However, testing "would be an extremely high cost to bear for a manufacturer of a new and innovative low-emission vehicle that is still at an early stage of its product life." EGO argues that "amortizing the cost of testing over the limited number of vehicles sold would significantly increase the cost of this low-emission vehicle, reducing the market for the product and Petitioner's ability to evaluate its performance and market potential."

In EGO's opinion, an exemption would not unreasonably degrade the safety of the vehicle "because Petitioner has selected the eGO's rims and tires based on stringent design criteria, considering the operating environment, gross vehicular weight, and top speed of the vehicle." Standard No. 119 "seems especially inappropriate because the eGO cannot, by design, operate continuously for longer than approximately 75 minutes, or be propelled at a speed greater than 20 mph." The endurance test (S6.1) "simulates conditions that would never be encountered by the operator of the vehicle simply by nature of the vehicle's design and performance restraints." The purpose of Standard No. 120, in EGO's view "is to assure that a consumer will be able to purchase a tire that fits a given rim, and that any tire purchased in a given size will fit a rim of that size." The petitioner believes it has achieved that purpose in the tires and rims it has selected for the eGO, and it will encourage owners "to use the replacement rims that we specify in the documentation provided with the vehicle."

According to EGO, an exemption would be in the public interest as supporting an innovative low-cost, low-emission means of transportation. An exemption would be consistent with the objectives of traffic safety because the petitioner intends to comply with the regulations that the Consumer Product Safety Commission has promulgated for bicycles. The petitioner also points out that no tire and rim requirements are imposed by Standard No. 500, *Low-speed Vehicles*, on passenger-carrying vehicles with a slightly higher maximum speed (20 to 25 mph).

We received no comments on EGO's petition.

In order to grant the petitioner's request, NHTSA must find that "an exemption would make easier the development or field evaluation of" the eGO, and that the exemption "would not unreasonably lower the safety level of the vehicle."

The eGO is represented to be more like a bicycle than a motor driven cycle and that the most similar components that it has discovered are moped tires and rims. However, EGO has concluded that the dimensions of moped tires and rims are not compatible with the eGO's chassis design or braking system. In view of the fact that Standards Nos. 119 and 120 do not prescribe requirements for bicycle-like tires and rims, and that those that are available are not compatible, we believe that the petitioner has sustained the argument that an exemption from these requirements would make easier the development and field evaluation of the vehicle.

Given the fact that the maximum speed of the eGO is 20 mph or less, the vehicle is intended to be operated in urban and suburban environments and not on freeways or expressways. Thus, the tires are not likely to be subject to the same stresses as those manufactured for use on higher-speed vehicles. Further, an exemption from Standard No. 119 is also an exemption from Standard No. 120 which applies to vehicles equipped with pneumatic tires for highway service and requires them, in pertinent part, to be equipped with tires that meet Standard No. 119.

It is in the public interest to promote the use of low-emission vehicles, particularly in crowded urban environments. It is anticipated that the eGO will be certified to comply with all other Federal motor vehicle safety standards that apply to motor-driven cycles.

In consideration of the foregoing, it is hereby found that EGO Vehicles, Inc., has met its burden of persuasion that an exemption would make easier the development or field evaluation of a low-emission motor vehicle and would not unreasonably lower the safety level of the vehicle. It is further found that an exemption is in the public interest and consistent with the objectives of motor vehicle safety. Accordingly, EGO Vehicles Inc. is hereby granted NHTSA Temporary Exemption No. 2001–2 from 49 CFR 571.119 Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars, and 49 CFR 571.120 Standard No. 120, Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*. The temporary exemption expires April 1, 2003.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on May 18, 2001.

L. Robert Shelton,

Executive Director.

[FR Doc. 01–13130 Filed 5–23–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain a copy of the submission by calling the Acting OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the Acting OTS Clearance Officer, Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to: *infocollection.comments@ots.treas.gov.*

DATES: Submit written comments on or before June 25, 2001.

OMB Number: 1550–0078.

Form Number: Not applicable.

Type of Review: Renewal.

Title: Lending and Investment.

Description: Savings associations must maintain adequate documentation to support their lending and investment activities. OTS staff may request the information during examinations.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents, Estimated Burden Hours Per Respondent, Frequency of Response, and Total Reporting Burden:

Regulatory provision (12 C.F.R.)	Number of respondents	Number of annual responses	Total number of yearly responses	Number of hours per response	Total number of hours yearly
§ 560.101 and Appendix A to § 560.101	1,068	1	1,068	40	42,720
§ 562.1(b); § 560.170	1,068	1	1,068	44.4	47,419
§ 563.41(e); § 563.42(e)	1,068	1	1,068	4.6	4,913
§ 560.172; Part 564	1,068	130	138,840	.33	45,817
§ 560.93(f)(2)	1,068	9	9,612	1	9,612
§ 560.210 (Initial Notice)	1,068	415	443,220	.11	48,754
§ 560.210 (Adjustment Notice)	1,068	415	443,220	.4	177,288
§ 590.4(h)	176	2	352	1	352
§ 560.32	1,068	1	1,068	8	8,544
§ 560.35	120	1	120	20	2,400
Totals					387,819

Acting Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation Division.

[FR Doc. 01–13125 Filed 5–23–01; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register
Vol. 66, No. 101
Thursday, May 24, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 96–262; FCC 01–146]

Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers

Correction

In rule document 01–12758, beginning on page 27892, in the issue of Monday, May 21, 2001 make the following correction:

§ 61.62 [Corrected]

On page 27900, in the first column, §61.62, paragraph (c), in the 13th line, "June 20, 2005" should read "June 21, 2004".

[FR Doc. C1–12758 Filed 5–23–01; 8:45 am]
BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0040]

Submission for OMB Review; Comment Request Entitled Application for Shipping Instructions and Notice of Availability

Correction

In notice document 01–11530 appearing on page 23257 in the issue of Tuesday, May 8, 2001, make the following correction:

In the second column, under **ADDRESSES**, two lines from the bottom, "100 F Street" should read "1800 F Street".

[FR Doc. C1–11530 Filed 5–23–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG–2001–8659]

RIN 2115–AG05

Notification of Arrival; Addition of Charterer to Required Information

Correction

In proposed rule document 01–10838, beginning on page 21710 in the issue of Tuesday, May 1, 2001, make the following correction:

§160.213 [Corrected]

On page 21715, in the second column, §160.213, in amendatory instruction 6.b., in the second line, "and" should read "and add".

[FR Doc. C1-10838 Filed 5–23–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
May 24, 2001

Part II

Department of Housing and Urban Development

24 CFR Parts 5 et al.
Screening and Eviction for Drug Abuse and Other Criminal Activity; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 200, 247, 880, 882, 884, 891, 960, 966, and 982

[Docket No. FR–4495–F–02]

RIN 2501–AC63

Screening and Eviction for Drug Abuse and Other Criminal Activity

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations for the public housing and Section 8 assisted housing programs, and for other HUD assisted housing programs, such as the Section 221(d)(3) below market interest rate (BMIR) program, Section 202 program for the elderly, and Section 811 program for persons with disabilities, and Section 236 interest reduction program. All of these programs were affected by 1998 amendments to the statute authorizing the public housing and Section 8 programs. These amendments give Public Housing Agencies (PHAs) and assisted housing owners the tools for adopting and implementing fair, effective, and comprehensive policies for screening out programs applicants who engage in illegal drug use or other criminal activity and for evicting or terminating assistance of persons who engage in such activity.

DATES: *Effective Date:* June 25, 2001.

FOR FURTHER INFORMATION CONTACT: For tenant-based Section 8 and public housing—Patricia Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4224, Washington DC, 20410; telephone (202) 708–0744 or the Public and Indian Housing Resource Center at 1–800–955–2232. Ms. Arnaudo also may be reached via the Internet at Patricia_S._Arnaudo@hud.gov.

For the Section 8 project-based programs—Willie Spearmon, Director, Office of Housing Assistance and Grants Management, Office of Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–3000. Mr. Spearmon also may be reached via the Internet at Willie_Spearmon&hud.gov.

Only the Public and Indian Housing Resource Center number is toll-free. Persons with hearing or speech impairments may access the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

HUD published a proposed rule to implement the applicant screening and tenant eviction procedures to make HUD-assisted housing safer places to live on July 23, 1999 (64 FR 40262), which superseded earlier proposed rules for the Section 8 and public housing programs covering this subject. Crime prevention in federally assisted housing will be advanced by the authority to screen out those who engage in illegal drug use or other criminal activity, and both prevention and enforcement will be advanced by the authority to evict and terminate assistance for persons who participate in criminal activity.

The changes proposed in that rule derived from several sources. (See the chart published in the July 23, 1999, proposed rule at 64 FR 40264–40265 for more detail.) Section 9 of the Housing Opportunity Program Extension Act (Pub. L. 104–120, 110 Stat. 834–846, approved March 28, 1996)("the Extension Act") amended sections 6 and 16 of the United Stated Housing Act of 1937 (42 U.S.C. 1437a, *et seq.*) ("the 1937 Act"). Sections 428, 506, 545, and 575–579 of the HUD Appropriation Act for Fiscal Year 1999 (Pub. L. 105–276, approved Oct. 21, 1998) amended sections 3, 6, 8, and 16 of the 1937 Act and created other statutory authority concerning crime and security provisions in most federally assisted housing (42 U.S.C. 13661–13664). Title V of the HUD Appropriation Act for Fiscal Year 1999 (Pub. L. 105–276, approved October 21, 1998) was designated the Quality Housing and Work Responsibility Act of 1998 and is referenced in this rule as "the QHWRA" or "the 1998 Act." Section 903 of the Personal Responsibility and Work Opportunity Act of 1996 (Pub. L. 104–193, approved August 22, 1996, 110 Stat. 2105, 2348) amended sections 6(l) and 8(d)(1) of the 1937 Act concerning terminating tenancy for fleeing to avoid prosecution, custody or confinement after commission of a felony, or for violation of probation or parole.

Although owners and PHAs have been free to deny admission to applicants for assisted housing on the basis of criminal activity, these new statutory provisions mandate denial of admission for specified criminal activity. In implementing the new mandatory provisions, HUD does not impair existing authority of owners and PHAs to deny admission for criminal activity other than that specified in this rule or which has taken place at times other than those specified. In addition, although this rule provides a mechanism for obtaining access to criminal records, HUD recognizes that many PHAs and owners may now use other means of obtaining criminal records and may continue to use these other means of obtaining that information. The portion of this rule that addresses access to criminal records, subpart J of part 5, does not affect those other means. However, HUD cautions PHAs and owners to handle any information obtained about criminal records in accordance with applicable State and Federal privacy laws and with the provisions of the consent forms signed by applicants.

The preamble to the July 23, 1999, proposed rule provided additional information about the proposed implementation of the Extension Act and the 1998 Act.

II. Significant Differences Between This Final Rule and the Proposed Rule

This final rule takes into consideration the public comments received on the proposed rule and attempts to simplify the rule where possible. The more significant changes made to the July 23, 1999 proposed rule by this final rule are described below.

1. *Revised and reorganized regulatory text.* HUD has revised and reorganized the majority of the proposed regulatory text. These changes are not substantive, but are designed to streamline the contents of the proposed rule and make the new requirements easier to understand. For example, the final rule uses a more reader-friendly question and answer format. The more significant of these clarifying and organizational changes are described in greater detail in this section.

2. *Cross-reference to generally applicable definitions (§ 5.100).* The final rule eliminates unnecessary redundancy by relocating the definitions of commonly used terms to subpart A of 24 CFR part 5 (see § 5.100 of this final rule). The program regulations using the defined terms have been revised to simply cross-reference to 24 CFR part 5, rather than repeating the generally applicable definitions.

3. *Authority to screen applicants and evict tenants (24 CFR part 5, subpart I).* This final rule reorganizes and clarifies the provisions of the proposed rule concerning the authority of housing providers to screen and evict tenants. Some of the 1998 Act provisions require certain actions, while other provisions authorize various actions. In the proposed rule, this distinction was not always entirely clear. HUD has made several revisions to proposed 24 CFR part 5, subpart I to clarify these differences. For example, the final rule adds a new § 5.851, which discusses these distinctions.

The final rule also locates the specifically authorized actions in separate sections from the mandatory actions. This reorganization reveals the statutory distinction between treatment of illegal drug use and other drug-related criminal activity. Current illegal use of a drug is the subject of a mandatory prohibition on admission. Past eviction for drug-related criminal activity and conviction for methamphetamine production are also the subject of statutory prohibitions on admission. Certain other drug-related criminal activity is required by statute to be included in the lease as a basis for eviction in the Section 8 and public housing programs, and this policy has been applied to other federally assisted housing programs as well.

4. *Prohibition on admission of sex offenders (§ 5.856).* Because the prohibition against admitting persons subject to a lifetime registration requirement under a State sex offender registration program is mandatory, but not captured under the heading of the other subjects of mandatory screening, that provision is now contained in its own section of part 5 (see new § 5.856). Similarly, the sex offender provision is positioned in the other program regulations to emphasize the mandatory nature of this provision as a screening element.

5. *Reorganization of 24 CFR part 5, subpart J.* Subpart J of the final rule is reorganized slightly, to place all of the applicability and purpose discussions in one section (the new § 5.901), and all the definitions in one section (the new § 5.902). The remaining two sections on general criminal offender records and sexual offender registration are renumbered, as a result.

6. *Opportunities to dispute criminal record information (§ 5.903(f)).* This final rule adds a new § 5.903(f), which requires the PHA to provide the subject of an accessed criminal record and the applicant or tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information. This opportunity must be provided before the denial of admission, eviction, or lease enforcement action on the basis of such information.

7. *Penalties for improper release of information (§ 5.903(h)).* This final rule adds a new § 5.903(h), which describes the possible criminal penalties and civil liability for unauthorized disclosure of criminal records and information.

8. *Lease and termination of tenancy under the Section 8 Moderate Rehabilitation Program (§ 882.511).* This final rule amends 24 CFR part 882 (entitled "Section 8 Moderate Rehabilitation Program") to clarify drug-related lease requirements under the program regulations. Specifically, the final rule adds a new § 882.511(a)(2), which requires the lease to provide that certain drug-related criminal activity is grounds for termination of the tenancy. In addition, the lease must provide that the owner may terminate the tenancy when the owner determines that a pattern of illegal drug use interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

9. *Removal of duplicative provision (§ 882.514(g)).* The final rule removes one paragraph from the Section 8 Moderate Rehabilitation regulation dealing with family obligations (§ 882.514(g)), since its coverage of denial of admission and termination of tenancy is now covered in §§ 882.518(c) and (d).

10. *Admission and occupancy changes (24 CFR part 960).* On March 29, 2000 (65 FR 16692), HUD published a final rule implementing the changes to the admissions and occupancy requirements for the public housing and Section 8 assisted housing programs made by the QHWRA. Among other amendments, the Admissions and Occupancy final rule made several changes to 24 CFR part 960. The part 960 regulations had earlier been proposed to be amended by the July 23, 1999 proposed rule on screening and eviction for drug abuse and other criminal activity. Accordingly, this final rule updates or revises the proposed revisions to part 960 to reflect publication of the final rule on admissions and occupancy.

11. *Reference to PHAS screening and eviction procedures (24 CFR parts 960 and 966).* The final rule revises the regulations governing public housing admissions and occupancy (24 CFR part 960) and lease and grievance requirements (24 CFR part 966) to reference criminal screening and eviction procedures under the Public Housing Assessment System (PHAS). Under the PHAS, PHAs that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points (see 24 CFR 902.43(a)(5)).

12. *Post office notification requirements (§ 966.4(l)(5)).* To correct the proposed rule's inadvertent removal of a provision from the public housing eviction provisions, the final rule restores the current rule's requirement in § 966.4(*l*)(5) that a PHA notify the local post office when the PHA evicts an individual or family for criminal activity. This provision implements a statutory requirement (42 U.S.C. 1437d(n)) that is intended to prevent the return to the development of the evicted person to obtain mail.

13. *Termination of tenancy under Housing Choice Voucher program (24 CFR part 982).* The rule for the Section 8 tenant-based certificate and voucher programs on termination of tenancy for drug-related criminal activity is based on section 8(d)(1)(B)(iii) and section 8(o)(7)(D) of the 1937 Act (42 U.S.C. 1437f(d)(1)(B)(iii) and 1437f(o)(7)(D)), as well as on section 577 of the 1998 Act. The final rule changes the proposed revision of § 982.310(c) to remove two non-exclusive examples of when the owner may terminate tenancy for drug-related criminal activity.

14. *Screening and Eviction by Responsible Entity.* Public commenters had expressed concern that in all programs the responsible entity be encouraged to consider all the circumstances of the family before taking action based on proscribed activity by one member of the household. Public commenters had objected to the provision of the proposed rule that purported to mandate a period of ineligibility for prior eviction for drug-related criminal activity that was longer than three years. Public commenters had expressed the view that the consideration of rehabilitation was not prominent enough in the rule. All of these elements, plus specific requirements, and adherence to the entity's standards and policies, are included in the provisions regarding discretion. (This provision is discussed at greater length in response to the public comments.)

15. *Clarification of eviction for drug use by guests and other persons.* Various sections of the proposed rule allow PHAs the option of evicting the tenant when a "covered person" engages in improper activity "on or off" the premises (in the case of public housing) and "on or near" the premises (in the case of Section 8 programs). The concept of "covered person" is an umbrella term including (in addition to the tenant) guests, members of the tenant's household, and "other persons under the tenant's control." HUD has defined "guest" in this context to mean anyone staying in the unit with the permission of the tenant or another household member with the authority to give such permission. In order to distinguish the concept of "other person" from "guest," HUD is defining "other person under the tenant's control" to mean a short-term invitee

who is not "staying" in the unit. The rule specifies that such a person is only under the tenant's control during the period of the invitation, and the person is on the premises because of that invitation. Hence, in §§ 5.858, 882.511, 882.518(c)(1), 966.4(f)(12), 966.4(l)(5), and 982.310(c), the final rule replaces the proposed term "covered person" with more specific language to clarify this distinction.

16. *More precise cross-references.* Sections 247.3, 880.607, and 884.216, describing when landlords in the assisted housing programs governed by those sections may terminate tenancy for criminal activity or alcohol abuse, provide cross-references to part 5, subparts I and J generally. The final rule cross-references directly to the most applicable sections of part 5 to avoid any potential for confusion.

III. Responses to Public Comments

The public comment period on the proposed rule closed on September 21, 1999. During this period, HUD received 29 public comments. The commenters were comprised of 17 public housing agencies (PHAs) and their representatives, including four State Housing Finance Agencies and their representatives, three legal aid organizations, three managers of Section 8 housing, four resident groups, one Federal government agency, and one legal organization representing PHAs. The following discussion of comments (and HUD's responses to the comments) is organized according to the regulatory section to which the comment applies, in sequential order. The corresponding sections for particular programs are also listed in the headings.

A. General Comments Not Regarding a Particular Regulatory Section

Comment. Residents of an assisted development that had been for elderly persons only but had added other residents recently expressed their general support for the rule, hoping that the rule will help rid their development of problem tenants engaged in drug-related activity. An owner of a Single Room Occupancy project who participates in HUD's Shelter Plus Care program praised the rule for giving the owner the ability to reject and evict tenants who engage in illegal activities specifically related to drug and alcohol use, noting that the rule will improve the quality of life for its 195 residents. This owner also praised the new authority for a PHA to check criminal records, as a way to restrict tenancy to suitable applicants.

Response. With the new statutory authority owners and PHAs should have the tools to deny or terminate assistance to families whose criminal actions interfere with the safety and security of the other residents.

Comment. A legal organization representing PHA interests commended the Department for an excellent overall effort in its regulatory implementation of the 1998 Act. The organization commented that HUD had shown a commendable reluctance to further complicate an already complex statutory scheme with regulations that are more detailed than necessary.

Response. In that vein, HUD declines to elaborate upon some of the statutory terms that commenters have urged HUD to define. In some cases, the terms may already have been the subject of judicial clarification. HUD is attempting to limit its role to amplifying the statute only where necessary.

B. Definitions—§ 5.100

Comment. HUD's adoption of a revised definition of "violent criminal activity" was praised by a legal aid organization, but the organization recommended the "nontrivial bodily injury or property damage" be changed to "serious bodily injury or property damage." An organization providing legal support to PHAs and their counsel also expressed support of this revised definition, particularly with respect to its inclusion of threatening behaviors.

Response. HUD has adopted this change. On further consideration of the issue, HUD has decided that the word "serious" is a more common legal term and therefore preferable. HUD intends no change in meaning.

C. Prohibiting Admission of Drug Criminals—§§ 5.854, 960.204, 982.553

Comment. Sections 5.854 and 960.204 (§§ 5.853, 960.203 at the proposed rule stage), and 982.553(a) of the proposed rule provide that the responsible entity must adopt standards that prohibit admission of applicants:

- If the entity determines that a household member is engaged in or has engaged in drug-related criminal behavior; or
- If the entity determines it has reasonable cause to believe that illegal drug use by a household member may threaten peaceful enjoyment by other residents.

Comments asserted that most of the provisions concerning whether a family is eligible for admission or continued occupancy use a phrase placing the responsibility on the owner or PHA determination of a condition, not on the objective existence of the condition. Representatives of housing owners and residents asked what is meant by reasonable cause for an owner to believe that a condition exists (e.g., that there is illegal use of a drug by a household member that is a threat to others, as described in § 5.854(a)(2)). They noted a contrast with other provisions that seem to be based on the existence of the condition, such as whether a household member "has been evicted from federally assisted housing for drug-related criminal activity." (§ 5.853 proposed; § 5.854 final) They recommended that the rule should either (1) make the objective existence of the condition rather than a PHA or owner determination the critical factor resulting in ineligibility or termination of assistance; or (2) state the process and standards to be used by the PHA or owner in making its determination.

Response. Section 576 of the 1998 Act refers to the PHA or owner's determination with respect to drug use, criminal activity, or a pattern of activity that would have potential negative impact on other residents. In these provisions, the Congress and the Department recognize that the entities that are responsible for direct administration of the assisted housing programs should have latitude for practical and reasonable day-to-day judgments whether household members have committed criminal activity or other activity that is grounds for denial or termination of assistance. Thus, the final rule simply reflects the statutory language. HUD notes, however, that nothing in the language of the rule on the question of owner determinations would change any ability to challenge in court the responsible entity's action or change any applicable court standard of review of such action.

Comment. A legal aid organization criticized HUD's implementation of restrictions against persons who have engaged in illegal drug use in § 5.854 (§ 5.853 of the proposed rule). The commenter argued that, based on section 576(b) of the 1998 Act, the rule should permit such persons to be excluded only if there is a link with a threat to health, safety or peaceful enjoyment of others.

Response. HUD disagrees that this link must be present in every case related to illegal drug use or drug-related criminal activity. Section 576(b)(1)(A) of the 1998 Act provides independent authority to bar admission of persons currently engaged in illegal drug use, without reference to any effect on health, safety, or right to peaceful enjoyment of the premises. Although section 576(b) links a pattern of illegal drug use to interference with the rights of others, the language of section 576(c) gives broad authority to owners to screen out applicants involved in drug-related activity—which includes illegal drug use, as well as commercial drug crime—without any necessary finding of current interference with the rights of others.

The language of section 576(c) mentions the anticipated effect on others in connection with an owner's choice to prohibit admission of persons involved in forms of criminal activity other than drug-related criminal activity or violent criminal activity—to designate serious forms of criminal activity in addition to drug crime or violent crime. While section 576(c) confirms that an owner may deny admission to criminal offenders, the law also specifies that this new statutory authority is "in addition to any other authority to screen applicants. * * * " Section 8 of the 1937 Act already provided that "the selection of tenants shall be the function of the owner." (See 42 U.S.C. 1437f(d)(1)(A).) In public housing also, there is nothing that requires the PHA to admit certain families or precludes the PHA from screening for potential of disruptive behavior. For many years, the public housing regulations in part 960 have, in fact, required the PHA to screen out families likely to engage in such behavior.

Following the structure of section 576 of the 1998 Act, § 5.854 implements the mandatory screening provisions of paragraphs (a) and (b) of the statute, and § 5.855 implements the permissive screening provisions of paragraph (c) of the statute. Section 576(c) permits exclusion without a showing of current interference with others.

Comment. Based on section 576(c) of the 1998 Act, the rule should require exclusion for past drug-related criminal activity in § 5.854 (§ 5.853 of the proposed rule) to be limited to activity during a "reasonable time preceding the date when the applicant household would otherwise be selected for admission" (or past criminal activity in § 5.854(a).)

Response. HUD agrees with the commenter about when the reasonable period should apply and has added this language to § 5.855(a) (§ 5.854 of the proposed rule), which deals with the owner's authority to prohibit admission for violent criminal activity or other criminal activity that threatens the peaceful enjoyment of other residents. In each case, HUD has made corresponding changes in comparable provisions of §§ 960.203 (concerning standards for PHA tenant selection criteria) and 982.553 (concerning admission to the Section 8 voucher program).

Comment. A legal aid organization recommended that HUD specify what a reasonable time period is, for consistency nationwide. A distinction should be made between an appropriate period for drug-related or violent criminal activity and other disqualifying criminal activity, with "no more than three years" applying to drug-related and violent criminal activity, and a shorter period for other criminal activity. A PHA that expressed an opinion on the subject recommended that the time period be left to the determination of the owner (or PHA).

Response. HUD believes it would be too rigid for it to define a reasonable time period in a manner that covers every circumstance nationally. The reasonable time period is still left up to the owner (or PHA) to determine in its admission policies. Owners and PHAs may want to adopt standards that differentiate what is a reasonable period for different categories of criminal activity. While HUD considers that five years may be a reasonable period for serious offenses, depending on the offense, some PHAs or owners may not agree. The owners and PHAs should make these decisions in the best interests of their communities.

Comment. Legal aid organizations and a mental health organization objected to the provision of proposed § 5.853(c) (final § 5.854(a)) that permits an owner to establish a reasonable period during which a person previously evicted from a federally assisted project for drug-related criminal activity may be denied admission to assisted housing. They argued that the statute sets this period at three years, giving the owner authority to override the requirement to deny admission if there is evidence of rehabilitation. They pointed out that the rule would permit exclusion of a person on this basis for longer than three years without any evidence that the applicant would interfere with the health, safety, or enjoyment of other tenants, in violation of the statute.

Response. Section 576(a) of the 1998 Act provides that an applicant "shall not be eligible" for admission to federally assisted housing "during the three-year period beginning on the date of [eviction from such housing by reason of drug-related criminal activity]." However, the statutory language does not in any way limit the authority of the responsible entity to screen out applicants in any other circumstance—whether for criminal activity or for any other reason. There is nothing in the statute that requires an owner or PHA to admit an applicant who has previously been evicted from federally assisted housing for drug-related criminal activity at any point in time.

Since the intent of the statute was to strengthen protections against admitting persons whose presence in assisted housing might be deleterious, HUD does not interpret this new provision as a constraint on the screening authority that owners and PHAs already had. Therefore, the statute permits owners and PHAs to establish a reasonable period, which may vary depending on the type of drug-related criminal activity involved.

The final rule distinguishes the mandatory ineligibility provision applicable during a three-year period from the owner's authority to establish a reasonable period longer than three years to prohibit admission of such applicants. The first, mandatory, prohibition on admission is found in § 5.854(a). The second, discretionary, extension of the period of the prohibition is referenced in § 5.852(d)).

Comment. The exceptions permitting eligibility for a previously evicted applicant are stated in proposed § 5.853(a). The elaboration on the statutory language "the circumstances leading to the eviction no longer exist" provided in the rule are when "the criminal household member has died or is imprisoned." One commenter urged HUD to add a third example: When that household member "is no longer in the household."

Response. HUD declines to add this example (§ 5.853 of the proposed rule is § 5.854 at the final rule stage). Temporary absence from the household is not a sufficient basis for granting an exception. PHAs and owners can make determinations of circumstances that they are certain satisfy the statutory language.

Comment. A PHA objected to § 5.853(b) of the proposed rule concerning submission of evidence related to drug-related criminal activity, because the section appeared to require the submission of evidence by every applicant, regardless of the absence of any allegations of drug-related criminal activity by any household members at any time. Other commenters expressed concern about abuse of the authority to seek such evidence unless the evidence were sought from every applicant.

Response. Proposed 24 CFR 5.853(b) was intended to implement the provision of section 576(c) of the 1998 Act that provides the authority to prohibit admission. The rule provides that the owner may choose to consider the application of an applicant to whom the owner has previously denied admission if the owner has sufficient evidence that no member of the

household is engaged in criminal activity. In such a case, a family must supply information or documentation required by HUD or the responsible entity to make an admission decision. This provision, and the statute on which it is based, do not preclude the owner from asking for criminal background information in connection with the initial application. (See § 5.903(b) of this final rule with respect to obtaining consent from every applicant family for release of criminal records.)

Comment. An organization representing owners of assisted housing in the State of Minnesota, wrote to point out conflicts between the actions to prohibit admission of persons who have been engaged in drug use and State law that prohibits discrimination on the basis of past drug use. Does this rule preempt State law with respect to this protection?

Response. HUD declines to speculate here about the applicability of this rule to particular local situations. If there is a concern about a specific potential conflict between the HUD rule and a State or local law, the applicable HUD field office should be contacted.

Comment. One commenter criticized the statement in the preamble of the proposed rule that the 1998 Act amendments to the 1996 Extension Act provisions on ineligibility of illegal drug users and alcohol abusers confirm that a PHA or owner may deny admission or terminate assistance for the whole household that includes a person involved in the proscribed activity. In essence, since rehabilitation of the household member with the offending substance abuse problem is the only way to cure the household's ineligibility, the preamble to the proposed rule stated that the whole household is held responsible for that member's rehabilitation. The commenter said that the statute did not authorize such action.

Response. Both the denial of admission and termination of assistance provisions of the 1998 Act contain provisions that give PHAs the discretion to hold an entire household responsible for the actions of members. Section 576(b) of the 1998 Act (42 U.S.C. 13661(b)) provides that a household must be denied admission if the household has "a member" with respect to whom the PHA or owner determines that it has reasonable cause to believe is involved in illegal drug use or alcohol abuse that is a threat to others. The statute provides that rehabilitation of the member can render the household eligible for admission. Similarly, section 577 of the 1998 Act (42 U.S.C. 13662(a)) allows a PHA or owner to terminate the tenancy or assistance for any household with a member who is determined to be illegally using drugs or whose illegal drug use or alcohol abuse is determined to be a threat to others.

Comment. A legal aid organization stated that section 576(c)(2) of the 1998 Act (42 U.S.C. 13661(c)(2)) gave HUD the responsibility for specifying "by regulation" what would constitute sufficient evidence to ensure that a member of the family who had engaged in criminal activity has not engaged in such activity for a reasonable period. A PHA recommended that the standard should be the absence of an arrest for drug-related crimes within a time specified by the owner or PHA.

Response. HUD agrees that the rule should include more guidance concerning the evidence obtained after the owner's initial denial of admission because of criminal activity by a household member. The final rule addresses this issue in § 5.855(c), which states that an owner would have "sufficient evidence" if the individual submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the reasonable period, supported by evidence from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which the owner verified. The applicant will need to supply information that will permit the owner to contact these sources of information, and the owner will need to verify supporting evidence. Comparable changes have been made to the sections on both drug-related and other crimes in parts 960 and 982.

D. Prohibiting Admission of Other Criminals—§§ 855, 5.856, 960.204, 982.553

Comment. Two representatives of owners point out that § 5.854 of the proposed rule (§ 5.855 of the final rule) merely permits owners to prohibit admission of applicants who are engaged in violent criminal activity, while § 5.853 of the proposed rule (§ 5.854 of the final rule) requires owners to prohibit admission of applicants they have "reasonable cause" to believe are currently involved in drug-related criminal activity or alcohol abuse. They recommended that HUD require denial of admission in both cases.

Response. The statutory language on which these two sections are based makes that distinction. Compare section 576(c) with section 576(b)(1)(B) (42 U.S.C. 13661(c) with 13661(b)(1)(B)).

Comment. An organization representing owners suggested that the rule may not permit denial of admission because of theft or fraud, or any other crime that does not fit the definitions of threatening criminal activity.

Response. The rule does not overrule an owner's authority to screen tenants for crimes or behavior not described in the rule. Section 576 of the 1998 Act recognized existing screening authority of PHAs and owners with its lead in phrase: "*in addition to any other authority to screen applicants,* * * *." [emphasis added] The final rule covers this subject in a new § 5.851. In addition, the final rule separates mandatory actions from permissive actions, both of which reside in the context of existing authority.

Comment. The requirement of § 5.854(c) of the proposed rule to check whether any member of a household is the subject of a lifetime registration requirement under a State sex offender registration program constitutes a significant burden. The search should be limited to consultation with appropriate officials of the state in which the PHA (or owner) is located and to any state in which the applicant is known to have resided.

Response. HUD agrees that the search can be limited to these states. The final rule reflects this policy—in the new § 5.856 and in § 5.905(a).

E. Prohibiting Admission of Alcohol Abusers—§§ 5.857, 960.204, 982.553

Comment. A legal aid organization argued that alcohol abusers must be found to be a threat to others, and that the rule should focus on behavior rather than status. The organization commented that this provision should cross-reference the applicability of consideration of rehabilitation.

Response. Section 5.857 of the final rule includes the link between admissions standards and the alcohol abuser's impact on others, as the proposed rule did. The rule concerning consideration of rehabilitation is found in another paragraph of the same section in the case of public housing (proposed § 960.203; final § 960.205) and the voucher program (§ 982.553), and in a nearby section in the case of other project-based programs (proposed § 5.855; final § 5.862), so no cross-reference is necessary.

F. Termination of Assistance for Drug-Related Criminal Activity—§§ 5.858, 966.4(f)(12)(i) & (l)(5)(i), and 982.310(c)

Comment. A legal aid organization criticized regulatory language that would allow a project owner to terminate an assisted tenancy because a tenant "has engaged in" drug-related criminal activity. The comment stated

that section 577(a) of the 1998 Act only supports eviction for past drug-related criminal activity when there is a pattern of illegal drug use that interferes with the "health, safety, and peaceful enjoyment" of others. The commenter recommended that the rule follow the statute more closely and that the rule add a reference to consideration of rehabilitation.

Response. Section 577 of the 1998 Act requires the owner to use lease provisions that allow the owner to terminate tenancy if a household member "is illegally using" a controlled substance, or if the owner determines that drug use or abuse interferes with peaceful enjoyment by other residents. However, section 577 of the 1998 Act does not supplant or supersede statutory and regulatory authority that authorize the owner to terminate tenancy for drug-related criminal activity (e.g., for present or past drug dealing during the term of the tenancy), or that require the owner to use a lease that allows the owner to terminate the tenancy for such drug crime. The 1998 Act was enacted to promote "safety and security in public and assisted housing" by supplementing and strengthening existing statutory tools for fighting criminal activity by assisting housing residents (see subtitle F of the 1998 Act, which includes section 577).

For Section 8 programs, section 8(d) mandates that program leases "shall provide" that "any drug-related criminal activity" on or near the premises by a covered person during the term of the lease is grounds for termination of tenancy (42 U.S.C. 1437f(d)(1)(B)(iii)). The additional "safety and security" requirements enacted in the 1998 law must be implemented in tandem with the existing termination requirements in section 8 of the 1937 Act, so that owners have authority to evict drug dealers as well as drug users, and the authority to evict for past drug-related criminal activity during the term of tenancy, as well as for continuing or recent drug-related criminal activity. Existing HUD program regulations for the various assisted housing programs already provide authority for an assisted project owner to terminate tenancy for drug-related and other forms of criminal activity (see 24 CFR part 247, 24 CFR 880.607). Such provisions are included in the HUD model lease for Section 8, Section 236, and Section 221(d)(3) below-market interest rate projects. The new termination of tenancy requirements under this rule (§§ 5.856 and 5.857 of the proposed rule; §§ 5.858 through 5.861 of the final rule) are consistent with termination of tenancy requirements in the existing program regulations.

For public housing, the 1937 Act (section 6(l)(6)), 42 U.S.C. 1437d(l)(6)) requires that a PHA use leases that "provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a [covered person] shall be cause for termination of tenancy." Thus, the illegal drug use criterion of section 577 of the 1998 Act adds little regarding eviction of illegal drug users for the public housing program, but adds a provision on alcohol abuse. None of the statutes explicitly addresses the timing of the offending activity. The final rule does not include the phrase "during the term of the lease" that would have been added by the proposed rule, since that phrase is unnecessary. Activity occurring only prior to the time the leaseholder signed the lease, or the household member or guest joined the household or became a guest, would not be a basis for termination of tenancy. The provision on consideration of rehabilitation is not included in the eviction provision itself but is included in the regulatory provisions that address generally the authority of a responsible entity in making admission and termination decisions (see §§ 5.852, 960.203, 966.4, 982.310, and 982.552).

Comment. A PHA challenged the use of term "on or near such premises" with respect to the location of the drug-related criminal activity that is grounds for eviction (in proposed § 5.856) (eviction from assisted projects) and §§ 982.310(c)(1)(i) and (c)(2)(i)(C)) (eviction from housing of families assisted Section 8 tenant-based programs). A PHA noted that the phrase was changed to "on or off such premises" by a 1996 statute.

Response. Sections 6(k) and 6(l)(6) of the 1937 Act now use the term "on or off such premises" with respect to drug-related or violent criminal activity in stating conditions for which leases must require termination of tenancy, and in distinguishing which types of termination of tenancy can be the subject of an expedited grievance procedure, respectively, in the *public housing program.* However, sections 8(d)(1)(B)(iii) and 8(o)(7)(D)of the 1937 Act, concerning leases used in the *Section 8 programs,* still use the term "on or near such premises" with respect to drug-related criminal activity that is cause for termination of tenancy. Section 576(c) of the 1998 Act, referenced in section 6(l)(7) of the 1937 Act, provides for denial of admission on the basis of drug-related or violent criminal activity, without mention of its location.

In the final rule, the provisions applicable only to public housing (part 966) use the term "on or off." References to "on or near" are found in all the provisions concerning termination of tenancy applicable to Federal Housing Administration subsidized housing and assisted housing for the elderly, as well as to the Section 8 program (part 5, subpart I, and part 982).

Comment. One commenter pointed out that § 966.51(a)(2)(i)(B), which implements the expedited public housing grievance procedure provision of the statute, should reflect the statutory change authorizing eviction for drug-related criminal activity "on or off" public housing premises.

Response. HUD has made this change.

Comment. Two representatives of public housing tenants objected to the provision of § 966.4(f)(12)(i) that permits eviction from public housing based on criminal activity off the premises by a guest of the household unrelated in time to the visit to the premises and unrelated to its effect on residents of the premises or the vicinity. One of them stated that the Section 8 rule is more reasonable in that the Section 8 rule only permits such eviction if the guest's criminal activity took place on or near the premises. This commenter suggested that the provision requires a demonstration that the resident had control over the guest's actions and that the actions constituted a serious violation of the resident's lease. Another commenter suggested that the criminal activity serving as the basis for termination be required to take place on the premises.

Response. HUD is not persuaded by these arguments to change the "on or off the premises" language of rule, because the "on or off the premises" language in the statute pertaining to public housing, 42 U.S.C. 1437d(l)(6), potentially applies to guests and "other persons under the tenant's control," and is not qualified by whether the resident knew about or literally "controlled" the guest's unlawful actions. Rather, the question is one of legal control; by "control," the statute means control in the sense that the tenant has permitted access to the premises. See HUD's 1991 rule on public housing lease and grievance procedures, 56 FR 51560, 51562 ("the question * * * is whether the person in question was in the premises with the consent of a household member at the time of the criminal activity * * *.") See also, for example, *Housing Authority of New*

Orleans v. *Green*, 657 So.2d 552, 553 (La.Ct.App.), *writ denied*, 661 So.2d 1355 (La.1995), *cert. denied*, 517 U.S. 1169, 116 S.Ct. 1571, 134 L.Ed.2d 670 (1996). HUD has revised the definition of "guest" and added a definition of "other person under the tenant's control" to the general definitions section of 24 CFR part 5. HUD has also revised 24 CFR 966.4(f)(12) and 966.4(l)(5)(i)(B) to clarify how the concept of "control" relates to tenant liability for the behavior of guests and others.

In order to provide guidance as to the scope of the tenant's legal control and hence potential responsibility, the rule has been revised to provide that a "guest" is a person temporarily staying in the unit with the consent either of the tenant or of a household member with express or implied authority to consent on behalf of the tenant. The definition of "guest" also has been revised to clarify that the activity of a guest is actionable under this provision only if the activity takes place while the person is a guest; only in that case can the tenant's legal control extend to actions that occur off public housing premises.

In contrast, if a person (with the tenant's consent) visits public housing premises for only a short period of time and is not "staying" in the tenant's unit, the tenant's legal control necessarily would be limited by the brevity of the visit and would not extend to activity off public housing premises. Because the rule's definition of "guest" now includes only persons "staying" in the unit with consent, the rule uses the phrase "other person under the tenant's control" to denote this latter category of non-guest invitee, over whom the tenant's legal control necessarily applies only during the period of invitation onto public housing premises. HUD has made similar changes in the relevant sections dealing with Section 8 assistance to make those provisions consistent with public housing.

HUD has also clarified that a commercial visitor such as a delivery person only visiting the premises for the purpose of making a delivery and having no other contact with the unit or relationship with the tenant ordinarily would not be a person under the tenant's control, and hence the tenant would not be liable for any improper activity by the delivery person. HUD has added to the definition of "other person under the tenant's control" a sentence clarifying the exclusion from the definition of persons on the premises for brief, infrequent visits for legitimate commercial purposes. Of course, if it could be shown that if such a commercial visitor were engaging in prohibited activity and the tenant knew about it or was somehow involved in it, there would be no such exclusion.

Some courts have disagreed with HUD's concept of legal control and have read into 42 U.S.C. 1437d(6)(l) a requirement that the tenant have some degree of knowledge or ability to control the unlawful behavior. See, for example, *Rucker* v. *Davis*, 237 F.3d 1113 (9th Cir., 2001) (*en banc*).

If individual PHAs are subject to binding court decisions, of course they should follow them even though HUD's interpretation may differ. Quite apart from these decisions, PHAs may conclude in particular instances that no useful purpose would be served by terminating a tenancy on the basis of a crime committed by a guest or other person with whom the leaseholder only had a minimal connection. The fact that statutorily required lease provisions would allow PHAs to terminate tenancy under certain circumstances does not mean that PHAs are required to do so in each case where the lease would allow it.

Comment. A PHA requested that in the Section 8 tenant-based assistance program HUD not restrict an owner's right to terminate tenancy for violent criminal activity that occurs only "on or near the premises." The owner should not have to wait until the criminal activity comes "home" before removing such a tenant.

Response. Section 8 authorizes eviction for violent criminal activity "on or near the premises," or alternatively for any criminal activity that threatens other residents of the development or the peaceful enjoyment of their homes of residents in the vicinity (42 U.S.C. 1437f(d)(1)(B)(iii) and 1437f(o)(7)(D)). The final rule reflects these distinctions. (See § 982.310.)

G. Evicting Other Criminals—§§ 5.859, 966.4(l)(5), 982.310(c)(2), and 982.553(b)(2)

Comment. A legal services organization recommended restoring language of § 966.4(l)(5), preserving for PHAs (and adding for courts) "discretion to consider all of the circumstances of the case, including the seriousness of the offense, the extent of participation by family members, and the effects that the eviction would have on family members not involved in the proscribed activity." The commenter cited support for this position in a Congressional committee report on the 1990 amendment to the statutory foundation for this provision. That report suggested that eviction would be inappropriate if the tenant had no knowledge of the criminal activities of guests or had taken reasonable steps to prevent the activity. (S. Rep. No. 316, 101st Congress, 2d Sess. 179, reprinted in 1990 U.S. Code Cong. & Admin. News 5763, 5941.) The commenter urged changes to the rules for Section 8 project-based and tenant-based assistance, as well, to encourage courts to consider all circumstances and exercise discretion in a humane manner when evicting a tenant for another person's criminal activity.

Response. As discussed in more detail elsewhere in the preamble, the final rule allows the necessary flexibility for PHAs with respect to public housing and owners with respect to project-based assistance and tenant-based assistance. This is consistent with the cited committee report language, which in any event has not been reflected in any statute. The committee report language for both the House and Senate versions of the QHWRA emphasizes efforts to make assisted housing safer for residents, which is consistent with the final rule.

The statute does not authorize courts to exercise this same type of discretion. Courts determine whether a violation of the lease has occurred and whether the lease provides that such a violation is grounds for eviction of the persons whom the PHA seeks to evict. In the latter regard, HUD recognizes that some courts, such as the Ninth Circuit in *Rucker* v. *Davis*, prompted by their differing view of Congressional intent, have read into the lease provision mandated by Section 6(l)(6) a requirement that a PHA, in certain circumstances, demonstrate particularized fault or other lack of "innocence" on the part of a leaseholder when a PHA seeks to terminate a lease based on a crime committed by someone other than the leaseholder. Obviously, PHAs must abide by any such binding court decisions in their jurisdictions, even though HUD has a differing view. However, it is important to recognize that even in those jurisdictions, a court's function under HUD's regulations is to determine whether an eviction meets the requirements of the lease and of Section 6(l)(6) as they have been interpreted in that jurisdiction, and not whether a PHA has considered additional social and situational factors that HUD's regulations authorize, but do not require, a PHA to consider in making its decision whether or not to pursue eviction of any family or individual whom, under the lease, the PHA has the legal right to evict (see, for example, § 966.4(f)(5)(vii)(B).) See *Minneapolis Public Housing Authority* v. *Lor*, 591 N.W.2d 700 (Minn. 1999).

Comment. Another commenter took a different view of such discretion conferred on PHAs with respect to termination of tenancy. A legal organization representing PHA interests, stated that when PHAs are given discretion to do something they are not required to do it. Certainly, courts should not exercise the discretion for them. To avoid this possibility, this commenter recommended adding language to the effect that (a) the existence of discretion on the part of PHAs does not obligate them to exercise the discretion in any particular case; and (b) the discretion in the regulation is not intended to confer the discretion to consider circumstances other than proof of lease violation on any court or party other than the PHA. The commenter argued that such a position is consistent with the policy of giving PHAs the maximum flexibility possible in the operation of assisted housing, ensuring safe and livable environments.

Response. HUD agrees that conferring discretion on PHAs to take action does not require them to take action, and that HUD's conferral of discretion on PHAs in deciding whether to terminate tenancy in each case does not constitute a conferral of discretion on local courts to consider factors other than those appropriate under the lease. Of course, by the same logic, it should also be noted that, insofar as PHAs possess discretion to determine for themselves when to initiate eviction proceedings, they are neither required by law nor encouraged by HUD to terminate leaseholds in every circumstance in which the lease would give the PHA grounds to do so. However, the rule does not need to add the language suggested by the commenter as these points are already inherent in the regulatory language.

Comment. One PHA recommended that, in the Housing Choice Voucher Program, the rule authorizing an owner to terminate the tenancy of any tenant who engages in violent criminal activity on or near the premises (§ 982.310(c)(2)) should be revised to cover commission of a felony or serious misdemeanor, regardless of where it was committed. This PHA also recommended a change in the provision that prohibits participants from engaging in drug-related or violent criminal activity, or other criminal activity or alcohol abuse that threatens the health, safety, or peaceful enjoyment of the premises (§ 982.551(l) and (m). The commenter urged HUD to revise this provision so that the criminal activity that is actionable does not require force and does not have to be committed in the vicinity of the development. Provisions authorizing PHAs to terminate assistance to participants (§§ 982.552 and 982.553) should also be revised, according to this commenter, to permit termination of assistance of participants who commit a felony or misdemeanor, regardless of where it is committed. This recommendation is based on the need for public support for assisted housing programs.

Response. In the voucher program, an owner's termination of tenancy must be based on a serious or repeated violation of the lease, violation of law that imposes obligations on the tenant in connection with occupancy, or other good cause (§ 982.310). The existing rule describes certain types of criminal activity that violate federal law with respect to the obligations of tenants. This rule amends the existing regulations to reflect the requirements of the statutes it is implementing with respect to criminal activity and tenant obligations as they relate to an owner's right to terminate tenancy. This rule also reflects these provisions with respect to a PHA's rights and obligations to terminate assistance with respect to criminal activity.

The statutes being implemented in this rulemaking specifically require owners to adopt leases that authorize eviction for illegal drug use (or for a pattern of illegal drug use that would interfere with other residents' rights) without regard to location, but they do not broaden the type of criminal activity or remove the proximity condition with respect to other drug-related or violent criminal activity as the commenter urges HUD to do in the rule. Nonetheless, the rule permits an owner to specify in the lease grounds for eviction other than those specifically mandated by these statutes to be included in the lease or to evict for "other good cause." An owner who used a standard lease that provided that commission of any felony or serious misdemeanor by a household member is grounds for termination would have grounds to evict a tenant for serious lease violation for such criminal behavior, in accordance with § 982.310, if that lease provision were consistent with State and local law and were applied equally to voucher holders and other tenants. (See section 8(o)(7)(B) (42 U.S.C. 1437f(o)(7)(B).) "Other good cause" is subject to interpretation by local courts, but may well encompass some categories of activity and location that the commenter seeks to cover.

Comment. One commenter stated that there is statutory authority for termination of tenancy for criminal activity other than drug-related criminal activity if the criminal activity is a threat to others in the Section 8 existing housing program. While that authority is reflected in § 5.857 of the proposed rule, applicable to termination of tenancy in the project-based assistance program, there is no comparable provision pertaining to tenant-based assistance.

Response. Section 982.310(c)(2) of the proposed rule reflects this authority. Since the statute speaks in terms of termination of tenancy, not termination of assistance, the language is not repeated in the section on termination of assistance in the tenant-based assistance program, § 982.553.

Comment. One PHA expressed disappointment that the public housing rule provision on termination of tenancy does not go farther, to terminate for violent criminal activity on or off the premises and for criminal or other activity by a covered person that threatens other residents, PHA employees, or residents in the immediate vicinity. The PHA stated that the provisions of the "Public Housing Management Reform Act of 1997" require that these form the basis for termination of tenancy in the public housing program.

Response. The referenced proposed legislation was not enacted. This final rule implements the legislation that was enacted. The 1937 Act already provided for termination if a member of the household, guest or other person under the tenant's control engaged in criminal activity that threatens residents or in any drug-related criminal activity on or off the premises.

Paragraphs (1)(2)(iii) and (1)(5) of § 966.4 of the proposed rule addressed the issue of what activity forms the basis for termination of tenancy—the first in terms of what constitutes "other good cause", and the other in terms of criminal activity or alcohol abuse that is actionable, based on the recent statutory revisions. Notable differences between the two provisions are that:

(1) Paragraph (1)(2) used the term "member of the household", whereas paragraph (1)(5) used the broader term "covered person," which is defined in § 966.2;

(2) Paragraph (1)(2) addressed other criminal activity if the activity is a threat to others, whereas paragraph (1)(5) addressed only criminal activity; and

(3) Paragraph (1)(2) was silent about where the activity takes place, whereas paragraph (1)(5) specified that drug-related criminal activity is actionable regardless of whether it is committed on or off the premises.

The final rule consolidates these provisions in paragraph (1)(5). The

consolidated provision deals only with criminal activity. The final rule retains the reference to "covered person," with the difference that, in the case of drug-related criminal activity, in order to clarify the reasonable extent of the tenant's legal "control," the rule, as discussed above, differentiates between "other person under the tenant's control" and tenants themselves, guests and other household members. The final rule maintains the provision that specifies the location of criminal activity only with respect to drug-related criminal activity, consistent with the statute for public housing. (Authority for Section 8 project-based assistance is similar to that for public housing on this issue, while the authority for tenant-based assistance (section 8(o)(7)(D)) puts violent criminal activity in the same category as drug-related for purposes of the location where it takes place—"on or near the premises".) It is clear, however, that if violent criminal activity threatens the residents of the housing, that activity would be actionable under the rule, even without the location being specified.

Comment. Section 5.857(a) of the proposed rule requires that criminal activity that threatens the health, safety, or peaceful enjoyment of their residences by persons residing in the "immediate vicinity of the premises" is cause for termination of tenancy (based on the authority of sections 8(d)(1)(B)(iii) and 8(o)(7)(D)). For the public housing program, the proposed rule seemed to cover action that is a threat to persons residing in the "immediate vicinity" in § 966.4(l)(2) but did not in § 966.4(l)(5). That difference was resolved in favor of covering such impact. Two representatives of owners asked for guidance on the meaning of the phrase "immediate vicinity of the premises." Litigation impeded their implementation of "on or near the premises" language formerly found in the 1937 Act. A PHA asked whether "near the premises" in proposed § 5.856 and "in the immediate vicinity of the premises" in proposed § 5.857 had different meanings, and whether either of them meant farther away than the "1000 feet" away that their current leases provide. A tenant organization also asks for clarification of what specific distance is meant.

Response. The terms used in proposed §§ 5.856 and 5.857 (final §§ 5.858 and 5.859) are both derived directly from the statute. The courts will interpret these terms as part of endorsing or repudiating actions taken by PHAs under their standards.

Comment. Proposed §§ 5.857(b) and 982.553(b)(2)(ii) (see also, §§ 966.4(l)(5)(ii)(B)) require that the lease must provide that the owner may terminate the tenancy if a member of the household is fleeing prosecution or confinement for a felony or is violating parole. A PHA pointed out that although the rule requires the lease to contain this provision, the rule states that PHAs and owners "may" terminate tenancy on this basis. The PHA objects to requiring this as a lease provision if the PHA or owner has no intention of enforcing it. An owner representative points out that a court is unlikely to enforce such a provision by evicting an entire family because one person fits one of these categories. The commenter states that it is more likely that the court would simply evict the offender if the other household members have not caused a disturbance and are current in the rent.

Response. The rule provisions follow the statutory requirements. This final rule does make one adjustment: where the proposed rule applied the fugitive felon provision to "a member of the household," in fact, Section 6(l)(9) of the 1937 Act, as added by section 903 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, 110 Stat 2105, requires PHAs to use leases that provide that the fact that a "tenant" is fleeing to avoid prosecution, custody or confinement for a felony, or is violating a condition of probation or parole, is a basis for termination of tenancy. Similarly, section 8(*d*)(1)(B)(v) of the 1937 Act requires HAP contracts between PHAs and Section 8 owners to require the owners to use leases that include the fugitive felon provisions in respect to "tenants" as a basis for termination of tenancy. Section 8(o)(7) of that Act requires the HAP contract between a PHA and owner participating in the Section 8 voucher program to contain terms generally applicable to the owner's other tenants and include any addenda required by the Secretary. This provision is included in an addendum required by the Secretary for the voucher program. Hence, the final rule applies the fugitive felon provisions to "tenants." Of course, a PHA can include additional lease provisions that do not violate 42 U.S.C. 1437d(l)(2) or any express statutory provision. Hence, PHAs may include, so long as they do not violate any applicable laws, reasonable lease provisions that could, for example, require the tenants to exclude fugitive felons or parole violators from the household, and make failure to do so a basis for breach of the lease. Of course, PHAs may also consider other circumstances per section 982.552(c)(2).

While some PHAs and owners may choose not to take action against tenants who are fleeing felons or parole violators, the statute requires that PHAs and owners use leases that afford that option. The statutes and these implementing regulations also leave to PHAs and owners sufficient discretion to use their authority in a way that serves the best interests of the development and the community.

It should be noted that proposed §§ 5.857(b) is § 5.859(b) in this final rule. Also, the Section 8 fugitive felon provision, proposed 982.553(b)(2)(ii), is located at § 982.310(c)(2)(ii) of the final rule.

H. Evidence of Criminal Activity—§§ 5.861, 966.4(l)(5), and 982.553(c)

Comment. A legal aid organization and a mental health organization challenged this section because the section does not specifically reference a threat posed by the criminal activity to other residents. (Other similar sections cited by the commenter were §§ 882.518(b)(3), 960.203(d), 966.4(l)(5)(iii), and 982.553(c).)

Response. The intent of proposed § 5.858 was not to provide an independent basis for denial of admission or termination of tenancy but to add a provision applicable to all the other sections. HUD has clarified that by adding to that section (§ 5.861 of the final rule) after the words "by a family member" the phrase "in accordance with the provisions of this subpart," and comparable language to § 966.4(l)(5). In fact, §§ 882.518(b)(3), 960.203(d), and 982.553(c) already contain such references.

Comment. Several commenters noted that § 982.553(c) uses the term "household member" as opposed to "covered person"; stated that the same problem is found in § 982.310(c)(1)(B) and (c)(3); and questioned where there is any significance to that difference in terminology.

Response. The statutory restrictions on admission pertain to members of the household, while most (but not all) provisions relating to termination of tenancy refer to actions by the broader category of "covered person" (which includes tenants, guests, and "other persons under the tenant's control"). (As examples of eviction provisions that apply to categories more narrow than "covered person," see § 577 of QHWRA, 42 U.S.C. 13662 (household members) and 42 U.S.C. 1437d(l)(9) (tenants).) The sections in the final rule that apply only to termination of tenancy use the term "covered person," except that, in some

cases where the proposed rule referred to "covered person," the final rule differentiates between tenants, household members and guests and "other persons" in order to clarify potential tenant responsibility for the off-premises actions of others.

Comment. A problem was stated by representatives of owners, PHAs, and tenants: what type of evidence and what standard of evidence should be used to determine that a person has engaged in criminal activity. The proposed rule just stated that the owner or PHA need not rely on an arrest or conviction. Some commenters observed that, in the absence of a conviction, courts have been skeptical of owners seeking to evict a tenant for criminal activity, and owners are generally not prepared to provide their own witnesses to prove such an offense. Proposed solutions included (1) stating only that a conviction is unnecessary; (2) restoring the language of the current § 982.553(c), which authorizes a PHA to terminate assistance when a preponderance of the evidence indicates that a family member has engaged in drug-related or violent criminal activity; and (3) stating who bears the burden of proof and the procedures to be followed. The legal aid organization recommending the second solution said that it interprets this language to mean that the allegation is more likely so than not so. The organization recommends this standard to avoid arbitrary determinations by owners or PHAs.

Response. In the final rule, HUD has adopted the first recommended approach with respect to most programs. Section 5.861 specifies that with respect to eviction for criminal activity, neither an arrest nor a conviction is necessary, and the responsible entity need not satisfy the standard of proof used for a criminal conviction. This provision is replicated elsewhere for public housing (§§ 960.203(d) and 966.4(l)(5)(iii)). For termination of assistance, however, in the Section 8 tenant-based and moderate rehabilitation programs, the final rule retains the reference to preponderance of evidence, since there is no expectation of a court proceeding with respect to this termination of a benefit, and HUD wants to assure that the action is not taken lightly. (See §§ 882.518(d), 982.310(c), and 982.553(c).)

I. Terminating Assistance to Alcohol Abusers—§§ 5.860, 966.4(l)(5), 982.310(c), and 982.553(b)

Comment. A legal services organization criticized these sections for appearing to require abstinence from alcohol to be considered rehabilitated from alcohol abuse that would threaten others. The language of § 982.553(e) of the proposed rule, for example, refers to a "household member who is no longer engaging in such abuse" and successful completion of "a supervised drug or alcohol rehabilitation program."

Response. These provisions (the language of § 982.553(e) is found in § 982.552(c)(2)(iii) of the final rule) relate only to cessation of alcohol "abuse" sufficient to constitute a threat, and to the PHA's option to consider the successful completion of a treatment program. The commenter reads content into the rule that is not there. Therefore, HUD declines to change the rule in response to this comment.

Comment. An owner's representative noted that, although the owner's lease must provide for termination of tenancy for alcohol abuse that threatens the health or safety of other residents, the action to terminate such a tenancy is a voluntary one by the owner. This decreases the potential conflict between human rights protection for alcohol abusers and this rule.

Response. HUD agrees with this comment. No change in the language of the rule is needed.

J. Drug Use and Alcohol Abuse: Consideration of Circumstances—§§ 5.852, 966.4(l)(5), 982.553(e)

Comment. A resident organization objected to the fact that an owner is not required to consider whether the household member involved has completed or is participating in a rehabilitation program. Another organization recommended that the rule make more explicit that a PHA is not required to consider rehabilitation.

Response. The statute clearly states that the PHA or owner may consider whether the person is rehabilitated. The rule reflects this statutory language in § 5.852 of the final rule.

Comment. A legal services organization criticized the organization of the treatment of rehabilitation as a consideration in admission and termination decisions. This commenter recommended creating a stand-alone section on rehabilitation that is then cross-referenced in all of the admission and termination-related sections.

Response. In subpart I of part 5, proposed § 5.860 addressed the issue of rehabilitation, and the final rule continues to address this matter in § 5.852. Each of the specific program regulations contains a comparable provision. Of course, where rehabilitation is an element that would render an applicant not ineligible under the law—with respect to a tenant previously evicted for drug-related criminal activity—the applicable rule provision mentions this element. Additional language to cross-reference these rehabilitation provisions is unnecessary.

Comment. Proposed § 5.860(a) includes three ways of demonstrating rehabilitation: (1) current participation in a supervised program; (2) successful completion of a supervised program; or (3) otherwise having been rehabilitated successfully. A legal aid organization and a mental health organization pointed out in paragraph (b) of this section does not include the third prong in the discussion of the types of evidence that may be submitted by a household member and argues that such persons (who may have succeeded with Alcoholics Anonymous) should not be excluded for lack of proof of participation in a supervised program. (See the comparable provisions in parts 882, 960, and 966.)

Response. HUD has revised the rule in response to this comment (See section 5.852(c) of the final rule).

Comment. One legal aid organization criticized the provision that requires evidence to be provided of participation in rehabilitation program, claiming that the requirement inherently conflicts with the privacy of rehabilitation records and the lack of any obligation on the part of rehabilitation facilities to provide information to PHAs or owners.

Response. The statute contemplates consideration by the PHA or owner of such evidence. (see 42 U.S.C. 13661(b)(2).) In order to be able to consider the evidence, the regulation provides that the PHA or owner may require the applicant or tenant to provide it. In addition, the household could provide the evidence voluntarily to bolster its application for admission or its response to a proposal to terminate tenancy.

Comment. Two organizations representing tenants objected to provisions, such as proposed § 5.860(b)(1), that permit an owner or PHA to require the exclusion from the household of a person who engaged in or is culpable for the drug use or alcohol abuse. They contended that such authority could be used against individuals who have been in recovery for a long period of time and present no threat to other tenants or the premises. They argued that such treatment would constitute a violation of their rights under the Fair Housing Act and the Americans with Disabilities Act.

Response. This provision has no effect unless the owner or PHA has the right under the regulations to deny admission or to terminate tenancy on the basis of

the offending activity. The regulation follows the statute.

Comment. Another commenter suggested that HUD revise the rule's provision for conditional admission or continued assistance to provide that after the eligibility determination is made, the household be allowed to decide whether to revise its composition to eliminate a member whose conduct prevents admission or continued occupancy for the entire household.

Response. Owners and PHAs may permit withdrawal of a problematic family member from the applicant's household once a negative decision has been made, but there is no statutory basis to require them to do so. The final rule addresses this matter in § 5.852.

Comment. A legal organization representing PHA interests and a representative of public housing and Section 8 tenants advocated extending the discretion of PHAs to exclude a household member to avoid evicting innocent family members more broadly than provided in the proposed rule. For example, § 966.4(1)(5)(vi)(B) of the proposed rule would give PHAs the discretion to impose as a condition of continued assistance to family members the exclusion of the household member engaged in alcohol and drug abuse but does not cover criminal activity generally.

Response. In fact, one section currently mentions the authority to exclude culpable family members with respect to any action or failure to act on the part of the family—§ 982.552(c)(2)(ii), as amended on October 21, 1999 (64 FR 56915). On further reflection, HUD has decided that the responsible entity's authority to exclude culpable family members should be stated explicitly, and this authority should apply to any basis for termination. As discussed above, HUD has created a section in 24 CFR part 5 to address this issue, § 5.852, and HUD has revised sections that previously just applied to drug and alcohol abuse to deal more broadly with a responsible entity's authority in this area. HUD has revised § 982.552(c) to reflect a PHA's authority generally in screening and eviction.

K. Access to Criminal and Drug Treatment Records and Information—§§ 5.903, 5.905, 960.204, 960.205 and 982.553

Comment. A legal organization representing PHA interests suggested that information about a person being subject to a lifetime sex offender registration requirement might be obtained in more than one way. The organization requested that the rule require denial of admission to an applicant if law enforcement authorities inform the owner or PHA that a member of the household is subject to such a requirement, making the public document check or PHA criminal history background check unnecessary in such a circumstance.

Response. The method a responsible entity uses to assure that it is not admitting a person ineligible on this basis is up to the responsible entity, based on its assessment of good business practice. The primary regulatory provision on sex offender registration verification is § 5.905, which applies only to obtaining records under section 578 of the 1998 Act (42 U.S.C. 13663). (See also §§ 960.204(a)(4) and 982.553(a)(2)(ii).) A responsible entity may verify such information in another manner, such as obtaining information lawfully from law enforcement agencies or other sources, or directly accessing a listing of persons subject to a lifetime registration requirement under a State sex offender registration program.

Comment. A PHA asked what agencies maintain information about persons who are subject to a lifetime sex offender registration requirement. The PHA stated that its local law enforcement agencies do not keep this information.

Response. Many states have passed legislation that authorizes the establishment of automated data bases that provide information on all registered sex offenders. (For example, the Texas Department of Public Safety maintains a web site at www.sexoffenders.com with this information, in compliance with State law.) In states where an automated system is not yet in operation, a responsible entity may need to perform another form of criminal history check. In such States, a computerized inquiry may generate a message that suggests contacting the Governor's office or District Attorney to obtain information on registered sex offenders.

Comment. A PHA organization objected to the provisions of § 5.902(d) and (e) of the proposed rule, which provide for PHAs to obtain records for owners and to apply owners' admissions standards, and the underlying statutory provisions. The organization stated that PHAs are not in the business of interpreting leases and owners' application criteria and that this function is not consistent with the responsibility or mission of public housing.

Response. The statute (42 U.S.C. 1437d(q)(1)(B) requires these procedures, which are found in § 5.903 of the final rule.

Comment. A legal organization representing PHA interests suggested that § 5.902(f) of the proposed rule be modified to provide that a PHA could condition the performance of criminal records checks and applying the owner's admissions standards on obtaining a reasonable agreement with the owner holding the PHA harmless from costs associated with third-party claims and litigation arising out of the performance of these services. The organization recommended that the rule specifically hold PHAs harmless from legal actions directed at the owner because of the owner's admission policies, action or inaction, and regarding the owner's use of criminal conviction records, should the PHA be required to disclose them in accordance with § 5.902(f)(8) of the proposed rule.

Response. Congress has made performance of these criminal records checks for owners part of the responsibilities of PHAs. (See 42 U.S.C. 1437d(q)(1)(B).) They must, therefore, perform them in accordance with legal requirements, including the requirements not to act negligently and to adhere to confidentiality provisions of the statute. However, HUD agrees that PHAs should not be required to absorb costs incurred as the result of being brought into litigation arising from a challenge to the validity of an owner's admission standards.

The final rule makes two changes in response to this comment. Paragraph (d)(4) of § 5.903 provides that the reasonable costs incurred by a PHA for which the PHA is entitled to reimbursement includes not only any fees charged to the PHA by the law enforcement agency but also the PHA's own related staff and administrative costs. The administrative costs would include a portion of insurance costs to cover any potential liability for performing functions for owners and litigation costs that are solely attributable to the owner's policies. With respect to release of criminal records to the owner, § 5.903(e)(2) of the final rule provides protection for a PHA requested to release records in connection with an eviction. The new paragraph provides that the PHA may rely on an owner's certification that the criminal record is necessary to proceed with a judicial eviction to evict the tenant based on criminal activity of the identified household member as demonstrated by the criminal conviction record.

Comment. An owner's representative suggested that HUD require current residents to sign consent release forms

for criminal background checks at the annual reexaminations. Otherwise, problem tenants may refuse to sign a consent form.

Response. The occasion for residents to sign a consent form for verifications related to their occupancy of assisted housing is not currently prescribed by regulation. HUD declines to change that policy in this rulemaking, but is exploring a possible change in this policy in the future.

Comment. One PHA reported that the FBI has refused to give the PHA the identification number that is necessary to access the background records because the PHA does not administer a public housing program, in addition to its Section 8 housing assistance programs.

Response. Section 575(c) of the QHWRA expanded the applicability of criminal background check authority from "public housing" to "covered housing assistance," which includes tenant-based and project-based assistance under Section 8. That section also required that a PHA receiving information on behalf of an owner keep the information it receives confidential, in accordance with regulations to be prescribed by HUD. Therefore, the FBI is awaiting publication of this final rule before providing access to criminal records to PHAs that do not administer a public housing program.

Comment. A PHA and a representative of housing owners reported that private apartment owners routinely obtain criminal conviction records, as well as numerous other types of confidential records, directly or through firms that provide screening services. They questioned the need to give PHAs responsibility to obtain such records and apply the owner's criteria to screen applicants. One suggested this only be done where an owner certifies and documents that it is unable to access criminal conviction records directly or through a readily available service. The other recommended that the rule authorize owners to obtain the records directly and require them to establish a system of records management that would adequately safeguard them.

Response. The final rule is not changed with respect to this request. The statute does not require that access through PHAs be a last resort. This rule does not prevent owners from obtaining records in another way, as stated in § 5.903 of the final rule.

Comment. A PHA indicated that the rule provisions authorizing PHAs to charge owners a fee for obtaining criminal records relevant to the owner's admission or occupancy standards ignore the difficulty of establishing what is a reasonable fee. How will disputes be resolved? Other PHAs indicated that they do not have the staff to perform the criminal records (or sex offender registration) check function, and charging a fee could not provide sufficient compensation for them to hire additional staff. They also objected to expecting a PHA to review owners' policies and make decisions regarding admission for the owners, saying it would be an undue burden and would subject the PHA to potential liability.

Response. The statute requires PHAs to perform the function. They may, however, pass along the costs attributable to performing this function to the owner. See discussion above responding to concerns about liability. HUD trusts that owners and PHAs will be able to reach agreement on reasonable fees to reimburse PHAs for their costs.

Comment. Two State housing finance agencies and an organization representing State housing agencies questioned whether the statute and regulation requiring a PHA to obtain criminal records on behalf of an owner apply to their operation of Section 8 New Construction and Substantial Rehabilitation projects. Although they agreed that criminal records are required to be provided by PHAs administering "covered housing assistance," which does include such projects, they stated that the term used with respect to owner requests for assistance is "project-based assistance under Section 8," which is defined in section 8(f)(6) not to include new construction and substantial rehabilitation projects. They argued that project owners should be responsible for performing this function.

Response. The legislative history indicates a clear intent to cover new construction and substantial rehabilitation projects under the provision requiring PHA performance of this function. (See H.R. 2, 105th Cong., 2d Sess. § 641, and especially § 645; S. 462, 105th Cong., 2d Sess. §§ 301 and 305 (1998).)

Comment. One of these State housing finance agencies took the approach that none of the provisions of Subpart J, concerning criminal background checks, should be applicable to State housing finance agencies. The agency argued that it entered the program as a financier of projects, using that skill to get the projects built, and criminal background checks were not required at that time. The State agency's skills are not related to the skills necessary for this function, and owners can get this kind of information in other ways. "Addition of this responsibility is a unilateral expansion of a PHA's responsibilities, not only with respect to the projects whose HAP contracts the PHA administers, but also with respect to any assisted housing that exists within the PHA's jurisdiction, whether or not there is a contractual relationship between the PHA and the owner."

Response. The rule is not changed, because the statute applies this provision to all PHAs, including State housing finance agencies that are administering programs covered under 24 CFR 5.100.

Comment. Section 5.902(e)(1)(i) of the proposed rule permits use of criminal conviction records for applicant screening for all the covered programs. However, § 5.902(e)(1)(ii) of the proposed rule explicitly excludes the Section 8 tenant-based assistance program from using the records for lease enforcement and eviction. This poses a problem in persuading owners to participate in the program, according to two representatives of owners.

Response. This distinction is based on the statute. Section 6(q)(1)(B) of the 1937 Act is limited to obtaining information for owners of project-based Section 8 projects.

Comment. A legal aid organization pointed out that § 966.4(l)(5) of the proposed rule provides that public housing leases must provide that if a "PHA seeks to terminate the tenancy for criminal activity as shown by a criminal record, the PHA must provide the tenant with a copy of the criminal record before a PHA grievance hearing or court trial concerning the termination of tenancy or eviction, and the tenant must be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial." Section 982.553(d) contains a similar provision with respect to the Section 8 tenant-based assistance program. However, § 5.902 of the proposed rule does not provide an applicant or tenant of a Section 8 project-based project the right to see and dispute the accuracy and relevance of a criminal conviction, as required by the statute (section 6(q)(2) of the 1937 Act). Tenants of project-based assistance should have this opportunity to dispute a record to be used in case of denial of admission, lease enforcement and/or eviction. The PHA that obtains the records should be the entity that provides the right to dispute the accuracy or relevance of the record.

Response. Section 5.903(g) of the proposed rule (§ 5.903(f) of the final rule) provides for the PHA to offer such an opportunity with respect to sex offender registration information. A

similar paragraph has been added to the general criminal records section and to § 966.4(l)(5).

Comment. A PHA stated that § 966.4(l)(5)(iv) of the proposed rule is inconsistent with § 966.51(a)(2), which permits a PHA to omit a grievance hearing and proceed directly with court action where there is a termination of tenancy or eviction that involves threat to the health, safety, or right to peaceful enjoyment of the premises by other tenants or employees of the PHA or any drug-related criminal activity.

Response. Under § 966.51(a)(2), the opportunity to dispute the accuracy and relevance of the record required by § 966.4(l)(5) may be provided at the eviction proceeding rather than at a grievance hearing, if the direct eviction proceeding is authorized.

Comment. A legal aid organization stated that the rule does not give tenants a chance to dispute the criminal record and its relevancy before the adverse action is taken, i.e., before the eviction action is filed in court. The organization bases the right of tenants to have this opportunity on section 6(q)(2) of the 1937 Act, which requires that before an adverse action is taken with respect to assistance under the assisted housing programs on the basis of a criminal record, the PHA must provide the tenant or applicant a copy of the record an opportunity to dispute the accuracy and relevance of the record. The organization recommends changing the rule language allowing the challenge "in the grievance hearing or court trial" to allowing this challenge "before the grievance hearing or commencement of court proceedings."

Response. Allowing the record to be disputed in the grievance hearing or the trial, rather than before such events, protects tenants and applicants sufficiently from "adverse action" and comports with due process. The actual adverse action does not occur until the completion of the proceeding. HUD declines to add an unnecessary layer of administrative proceedings.

Comment. A legal aid organization also recommended that the rule include a statement that the rule does not preempt any state law that provides stronger protections for the subject of criminal record inquiries, such as where the opportunity to dispute is stronger.

Response. Congress did not address the issue of preemption, and HUD declines to generalize.

Comment. A legal services organization and a mental health organization objected to the language of § 960.204(c)(3) of the proposed rule requiring a drug abuse treatment facility to provide information at the request of a PHA. They stated that the law governing release of such information, the Public Health Service Act (42 U.S.C. 290dd–2) and implementing regulations (42 CFR part 2), authorizes but does not require the release of information if the patient has signed an appropriate consent form. They urged HUD to remove this paragraph. A legal organization representing PHAs took the other side of the argument. This organization stated that drug treatment facilities should be required to provide the information requested by PHAs as long as the request is made consistent with the Public Health Service Act. Such information is necessary to successful implementation of the provisions of the 1998 Act.

Response. The 1998 Act does not require release of the information. The Act states that the facility will not be liable for damages for releasing information if done consistent with the Public Health Service Act. The final rule (in § 960.205, which now addresses this matter) removes the subject paragraph, relying instead on the paragraph that emphasizes the lack of liability for proper release.

Comment. Section 960.204(c) of the proposed rule should reference the Public Health Service Act, 42 U.S.C. 290dd-2 and the HHS implementing regulations, 42 CFR part 2, to make sure that PHAs are aware of all the relevant law, according to a legal aid organization. HUD should provide a model form to be used for consent to access treatment facility records.

Response. The proposed rule did reference the statute in § 960.204(d)(3). The final rule adds the requested statutory and regulatory reference to § 960.205(c)(1).

Comment. To conform to section 6(t) of the 1937 Act, there are two points at which the rule must assure nondiscrimination, a legal aid organization insists. First, § 960.204(c) must be revised to clarify that the treatment facility consent form may only be requested of an applicant if all applicants are asked to sign such a form. Second, the PHA must make inquiry only about every applicant or about every applicant that satisfies the statutory criteria related for special interest. This commenter urged HUD to use the carefully crafted language of the statute on this point.

Response. The final rule (in § 960.205(c)) clarifies that a PHA may require an applicant to sign a consent form for obtaining information from a drug abuse treatment facility only if all applicants are required to provide such consent.

Comment. Section 960.204(d) of the proposed rule recognizes the authority of a treatment facility to charge the PHA a fee for providing information. A legal aid organization suggests that the rule clarify that there is no statutory basis for the PHA to pass these fees on to the applicant or resident.

Response. The statute is silent with respect to this issue. However, historically the costs for obtaining and verifying necessary information to admit applicants and make subsequent determinations about their income and rent have been considered an expense of doing business for the PHA or owner, covered through the administrative fee or operating subsidy (see §§ 5.903(d)(4) and 982.553(d)(3)), since the purpose of the programs is to serve low income families. Therefore, consistent with current HUD policy, the rule (§ 960.205(d)(5)) prohibits PHAs and owners from passing on the cost of obtaining drug abuse treatment facility records to applicants or residents.

Comment. The question of a PHA's liability for its policy on using a consent form for applicants to inquire about them at drug abuse treatment facilities is not addressed in the rule, one PHA stated. Proposed § 960.204(e) describes the two possible policies that are permitted. Another paragraph should be added to declare that a PHA will not be liable for damages based on which policy the PHA adopts.

Response. Section 960.205(d)(4) of the final rule is clear that the PHA is not liable if the PHA does not request or receive information of this sort.

L. Management of Records—5.903(g), and 960.205(f)

Comment. PHAs and the FBI commented on management of the records. (Proposed § 960.204(f)(1)(iii)(B) provides that a drug abuse treatment facility record be destroyed after the statute of limitations for a civil action has expired—presumably without a suit having been filed. Sections 5.902(g) and 5.903(f) of the proposed rule provide more generally that criminal records must be destroyed once the purpose for which the record was requested has been accomplished.) PHAs objected to keeping the record of criminal conviction separate from the applicant or tenant file and to the requirement that the record be destroyed once it is no longer needed. Their concern is that they would not have ready access to the record to defend a denial of admission to a program.

Response. To assure the confidentiality of criminal records, the final rule (§ 5.903(g)) adopts the approach used with respect to drug abuse treatment facility records for criminal records. The records must be destroyed when the purpose(s) for which the record was requested has been accomplished and the time has expired for a challenge to the action being taken without the institution of a court action, or final disposition of any such litigation has been concluded. We note that a PHA might use application and consent forms that apply to all of its housing programs. In that case, the PHA might retain a record until it had acted on the application with respect to all of its programs before concluding that all of the purposes for which the record was sought have been accomplished. This authority in no way prevents a PHA from disposing of the record after using it with respect to the first program on which the PHA makes a determination and obtaining more recent records before making a subsequent determination for another program with respect to the same applicant.

Comment. Proposed § 960.204(f) addresses when treatment facility information must be destroyed. A legal aid organization stated that the statute's provision that an applicant's consent expires 5 days after the PHA's decision to approve or deny the application, means that the rule should provide for destruction of the record containing such information 5 days after the decision to approve the application. The record should not be allowed to be kept until 5 days after admission to a unit, since placement on a waiting list might take place substantially before admission to a unit.

Response. The rule does not delay destruction of the record until actual admission. Section 960.205(c)(2) of the final rule provides that the consent form expires automatically after the PHA makes the final decision to either approve or deny the admission of such person. However, § 960.205(f) provides that, if the person is denied admission, the record is to be destroyed in a timely manner after the statute of limitations for a civil action challenging the denial has expired. This provision tracks the statute and is necessary to assure that the PHA has the necessary records to respond to possible litigation. The final rule expands on this provision so that, if a court challenge is filed, the rule permits preservation of the record until final disposition of the action.

Comment. On the other side of the issue, the FBI wanted the actual criminal record to be sealed. The FBI stated that although the applicant or tenant's record would have to refer to the existence of a criminal record concerning a household member, the actual record should not be maintained in a manner to allow access for unofficial purposes.

Response. In view of the penalties for unauthorized disclosure provided by section 6(q)(1) of the 1937 Act—misdemeanor conviction, $5,000 fine, and liability for damages and attorney fees and costs—the agencies have agreed that it is unnecessary to provide that the record be sealed.

Comment. A PHA objected to the requirement of proposed § 960.204(c)(2) that requires that the consent form used to obtain information from a drug treatment facility expire automatically after the PHA has made a final decision to approve or disapprove an application for admission. A single consent form is routinely used for many agencies, which is often updated annually.

Response. The statute specifies this limitation (found in § 960.205(c)(2) of the final rule). PHAs can alter the consent forms they use to address the statutory requirement.

Comment. A legal aid organization recommended that the penalties for violation of confidentiality obligations be stated clearly in any section dealing with access to criminal records. The organization also recommended that PHAs be instructed in the use of NCIC records, especially the fact that any incident for which there is no final disposition must be treated as if the subject is innocent.

Response. The final rule includes reference to the penalties for violation of confidentiality obligations, as well as referencing that some sources (such as the NCIC) may specify how their records are to be used. (See revised § 5.903 of the final rule.)

Comment. In connection with use of a criminal conviction record in judicial eviction proceedings, the FBI wanted the PHA (and not the owner) to retain the records if the PHA took responsibility for initiating the proceedings. If the information must be provided to owners, the FBI recommended establishing a penalty for misuse of the information similar to that provided for misuse by officers, employees, and authorized representatives of a PHA. And the consent form used by owners should reflect the possible use of criminal records in an eviction action.

Response. The statute provides that "any person" who knowingly and willfully discloses criminal records information obtained under the authority of section 575 of the 1998 Act to an individual not authorized by law to receive it is subject to conviction of a misdemeanor and a fine of up to $5,000. The statute gives examples of who is covered by the term "any person" that relate to PHA agents—not project owners, but the words do not limit the term's meaning to PHA agents. The final rule includes project owners in the examples of entities who may be subject to a criminal penalty. The statute does not appear to authorize civil liability against any entity other than a PHA, so the rule reflects that conclusion. The rule is silent about the content of the owner's consent form.

Comment. Section 960.203(e) of the proposed rule provides that before denying admission to the public housing program on the basis of a criminal record, the PHA must provide the "household" with a copy of the record. Section 982.553(d) has a comparable provision, using the term "family" instead of "household." The FBI commented that dissemination of criminal records is limited to those with authorization (such as the PHA) and the person who is the "subject" of the record, not to other persons in the household.

Response. The final rule reflects HUD's statutory requirement to provide information to the applicant or tenant to permit the applicant or tenant to dispute the accuracy or relevance of the record. (See §§ 5.903, 5.905, 960.205, 966.4, and 982.553, implementing 42 U.S.C. 1437d(q) and 13663(d).)

Comment. If a PHA currently obtains criminal conviction records, i.e., without the authority of the new rule, and obtains drug abuse treatment program records without this new authority, is the PHA free of the restrictions on records management imposed by the new rule? Although § 5.903(f)(2) of the proposed rule, concerning sex offender registration, and § 960.204(f), concerning drug abuse treatment program information, refer to information received under the authority of their provisions, § 5.902 of the proposed rule, concerning criminal conviction records, is not so limited. The final rule should emphasize that current information collection practices dealing with all of these subjects may continue unaffected by the new rule.

Response. The rule does not affect other means used by PHAs to verify suitability for admission. However, HUD cautions PHAs and owners to handle any information obtained from other records in accordance with applicable State and Federal privacy laws and with the provisions of the consent forms signed by applicants.

Comment. A legal services organization urged HUD to emphasize, in the rule or preamble, that a PHA or owner cannot avoid the records safeguards of this rule by requiring the

applicant to obtain the information for them. PHAs and owners should be directed not to rely on criminal conviction records obtained from credit reports.

Response. The final rule clarifies that records received directly from the family are subject to the limitations of this subpart. Since PHAs and owners may determine that a household member has engaged in criminal activity without relying on a conviction, HUD is not prohibiting them from consulting evidence from sources other that those provided under proposed 24 CFR part 5, subpart I.

M. Miscellaneous

Comment. One criticism of the rule's organization was that any provision that might involve access to criminal records or lifetime sex offender registries should include a cross-reference to the sections stating the requirements for gaining access, and the associated protections.

Response. The final rule adds these cross-references to 24 CFR part 5, subpart J. (See §§ 882.518(b)(3), 960.204, 966.4(l)(5), 982.310(c)(3), and 982.553(d).)

Comment. A legal services organization criticized the revision of § 966.4(l)(2)(i) of the proposed rule on the basis that HUD's revision eliminates the distinction between serious lease violations and minor lease violations. The organization stated that this section, as revised, categorizes as serious "any violation of a household obligation under § 966.4(f)." This commenter recommended that the paragraph be revised to state that a serious lease violation "includes a serious violation of any material term of the lease or a serious violation of any household obligation described in paragraph (f) of this section."

Response. The final rule follows the organization of this section made by another recently published final rule that addresses admission and occupancy issues (65 FR 16730–16731, March 29, 2000). That rule restored the language concerning serious lease violations that this commenter favored. This final rule now only adds the provisions needed in this section to implement the provisions of the 1998 Act.

Comment. A representative of PHA interests suggested that the rule authorize termination of tenancy in two additional cases: (1) where the PHA attempted to obtain criminal background information before admitting an applicant but only discovers after admission the facts that should have disqualified the tenant because of a criminal conviction; and (2) where the tenant is found to have made one or more material false statements or omissions or otherwise committed fraud in connection with any application for assistance or recertification. The commenter stated that this would afford PHAs a method of avoiding tort exposure that might result from the continued presence of potentially dangerous individuals.

Response. In the final rule, these two examples have replaced the examples relating to criminal activity stated as "other good cause" in the proposed rule. (Criminal activity is already specifically listed as a grounds for termination under paragraphs (l)(2)(ii), referring to paragraph (l)(5) of § 966.4.)

Comment. A representative of assisted tenants recommended that HUD endorse the practice of using an informal fact finding committee before terminating any tenancy. The committee, to be composed of tenants and staff, could interview residents and neighbors and investigate allegations of criminal or drug-related incidents, making findings of fact on which a decision to proceed with termination would be based. Another residents' representative recommended that the final rule require all PHAs to establish a panel of residents and PHA staff to set policy and oversee implementation of the PHA's grievance procedure.

Response. Owners of project-based assistance developments are encouraged to employ administrative actions to resolve potential eviction cases before resorting to court action. The rule does not prescribe particular procedures. PHA grievance procedure operation is unchanged in this rule.

Comment. A PHA was disappointed that the rule does not address how to handle domestic violence, which is often related to drug and alcohol abuse, and for which eviction is often a remedy that would penalize the victim. The PHA recommended that HUD require tenants who are victims or perpetrators of domestic violence to counseling within 72 hours of the occurrence. Only after such counseling is ineffective would eviction proceedings be initiated.

Response. If a responsible entity has grounds to evict a family because of domestic violence (for violent criminal activity), then the entity has the authority to take various actions short of eviction. Those may include the counseling suggested by the commenter or permitting continued occupancy on condition that the household member who has committed the domestic violence is removed from the lease and vacates the unit.

IV. Findings and Certifications

Paperwork Reduction Act

The information collections contained in §§ 5.853, 5.854, 5.855, 5.903, 5.905, 882.517, 960.205a, and 982.553 have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and assigned OMB approval number 2577–0232. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in connection with publication of the proposed rule, in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding is applicable to this final rule and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose a Federal mandate that will result in the expenditure by State, local, or tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this final rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this final rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the final rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this final rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination were described in some detail in the preamble to the proposed rule, and they are applicable to this final rule, as well. No public comments addressed this issue, in response to the specific request for comment regarding any less burdensome alternatives to the proposed rule that would meet HUD's objectives as described in that rule.

Executive Order 13132, Federalism

This final rule does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132.

Catalog

The Catalog of Federal Domestic Assistance numbers for the programs affected by this interim rule are 14.120, 14.195, 14.850, 14.855 and 14.857.

List of Subjects

24 CFR Part 5

Administrative practices and procedures, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 200

Administrative practice and procedure, Aged, Civil rights, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 247

Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements, rural areas.

24 CFR Part 891

Aged, Capital advance programs, Civil rights, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low- and moderate-income housing, Mental health programs, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 960

Aged, Grant program—housing and community development, Individuals with disabilities, Public housing.

24 CFR Part 966

Grant programs—housing and community development, Public housing.

24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

2. Amend § 5.100 by adding the definitions of *covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, other person under the tenant's control, premises,* and *violent criminal activity* in alphabetical order:

§ 5.100 Definitions.

Covered person, for purposes of 24 CFR 5, subpart I, and parts 966 and 982, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

* * * * *

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

* * * * *

Federally assisted housing (for purposes of subparts I and J of this part) means housing assisted under any of the following programs:

(1) Public housing;

(2) Housing receiving project-based or tenant-based assistance under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f);

(3) Housing that is assisted under section 202 of the Housing Act of 1959, as amended by section 801 of the National Affordable Housing Act (12 U.S.C. 1701q);

(4) Housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the National Affordable Housing Act;

(5) Housing that is assisted under section 811 of the National Affordable Housing Act (42 U.S.C. 8013);

(6) Housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715*l*(d)(3)) that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act (12 U.S.C. 1715*l*(d)(5));

(7) Housing insured, assisted, or held by HUD or by a State or local agency under section 236 of the National Housing Act (12 U.S.C. 1715z–1); or

(8) Housing assisted by the Rural Development Administration under section 514 or section 515 of the Housing Act of 1949 (42 U.S.C. 1483, 1484).

* * * * *

Guest, only for purposes of 24 CFR part 5, subparts A and I, and parts 882, 960, 966, and 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of parts 966 and 982 apply to a guest as so defined.

* * * * *

Household, for purposes of 24 CFR part 5, subpart I, and parts, 960, 966, 882, and 982, means the family and PHA-approved live-in aide.

* * * * *

Other person under the tenant's control, for the purposes of the definition of *covered person* and for parts 5, 882, 966, and 982 means that the person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as *premises* is defined in this section)

because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control.*

Premises, for purposes of 24 CFR part 5, subpart I, and parts 960 and 966, means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

* * * * *

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

3. Amend part 5 by adding new subparts I and J, to read as follows:

Subpart I—Preventing Crime in Federally Assisted Housing—Denying Admission and Terminating Tenancy for Criminal Activity or Alcohol Abuse

General

Sec.

5.850 Which subsidized housing is covered by this subpart?
5.851 What authority do I have to screen applicants and evict tenants?
5.852 What discretion do I have in screening and eviction actions?
5.853 Definitions.

Denying Admissions

5.854 When must I prohibit admission of individuals who have engaged in drug-related criminal activity?
5.855 When am I specifically authorized to prohibit admission of individuals who have engaged in criminal activity?
5.856 When must I prohibit admission of sex offenders?
5.857 When must I prohibit admission of alcohol abusers?

Terminating Tenancy

5.858 When authority do I have to evict drug criminals?
5.859 When am I specifically authorized to evict other criminals?
5.860 When am I specifically authorized to evict alcohol abusers?
5.861 What evidence of criminal activity must I have to evict?

Subpart I—Preventing Crime in Federally Assisted Housing—Denying Admission and Terminating Tenancy for Criminal Activity or Alcohol Abuse

General

§ 5.850 Which subsidized housing is covered by this subpart?

(a) If you are the owner of federally assisted housing, your federally assisted housing is covered, except as provided in paragraph (b) or (c) of this section.

(b) If you are operating public housing, this subpart does not apply, but similar provisions applicable to public housing units are found in parts 960 and 966 of this title. If you administer tenant-based assistance under Section 8 or you are the owner of housing assisted with tenant-based assistance under Section 8, this subpart does not apply to you, but similar provisions that do apply are located in part 982 of this title.

(c) If you own or administer housing assisted by the Rural Housing Administration under section 514 or section 515 of the Housing Act of 1949, this subpart does not apply to you.

§ 5.851 What authority do I have to screen applicants and to evict tenants?

(a) *Screening applicants.* You are authorized to screen applicants for the programs covered by this part. The provisions of this subpart implement statutory directives that either *require* or *permit* you to take action to deny admission to applicants under certain circumstances in accordance with established standards, as described in this subpart. The provisions of this subpart do not constrain your authority to screen out applicants who you determined are unsuitable under your standards for admission.

(b) *Terminating tenancy.* You are authorized to terminate tenancy of tenants, in accordance with your leases and landlord-tenant law for the programs covered by this part. The provisions of this subpart implement statutory directives that either require or permit you to terminate tenancy under certain circumstances, as provided in 42 U.S.C. 1437f, 1437n, and 13662, in accordance with established standards, as described in this subpart. You retain authority to terminate tenancy on any basis that is otherwise authorized.

§ 5.852 What discretion do I have in screening and eviction actions?

(a) *General.* If the law and regulation permit you to take an action but do not require action to be taken, you may take or not take the action in accordance with your standards for admission and eviction. Consistent with the application of your admission and eviction standards, you may consider all of the circumstances relevant to a particular admission or eviction case, such as:

(1) The seriousness of the offending action;

(2) The effect on the community of denial or termination or the failure of the responsible entity to take such action;

(3) The extent of participation by the leaseholder in the offending action;

(4) The effect of denial of admission or termination of tenancy on household members not involved in the offending action;

(5) The demand for assisted housing by families who will adhere to lease responsibilities;

(6) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and

(7) The effect of the responsible entity's action on the integrity of the program.

(b) *Exclusion of culpable household member.* You may require an applicant (or tenant) to exclude a household member in order to be admitted to the housing program (or continue to reside in the assisted unit), where that household member has participated in or been culpable for action or failure to act that warrants denial (or termination).

(c) *Consideration of rehabilitation.* (1) In determining whether to deny admission or terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, you may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, you may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(2) If rehabilitation is not an element of the eligibility determination (see § 5.854(a)(1) for the case where it must be considered), you may choose not to consider whether the person has been rehabilitated.

(d) *Length of period of mandatory prohibition on admission.* If a statute requires that you prohibit admission of persons for a prescribed period of time after some disqualifying behavior or event, you may apply that prohibition for a longer period of time.

(e) *Nondiscrimination limitation.* Your admission and eviction actions must be consistent with fair housing and equal opportunity provisions of § 5.105.

§ 5.853 Definitions.

(a) *Terms found elsewhere.* The following terms are defined in subpart A of this part: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, other person under the tenant's control, premises, public housing, public housing agency (PHA), Section 8, violent criminal activity.*

(b) *Additional terms* used in this part are as follows.

Currently engaging in. With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, *currently engaging in* means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current.

Owner. The owner of federally assisted housing.

Responsible entity. For the Section 8 project-based certificate or project-based voucher program (part 983 of this title) and the Section 8 moderate rehabilitation program (part 882 of this title), *responsible entity* means the PHA administering the program under an Annual Contributions Contract with HUD. For all other federally assisted housing, the responsible entity means the owner of the housing.

Denying Admissions

§ 5.854 When must I prohibit admission of individuals who have engaged in drug-related criminal activity?

(a) You *must* prohibit admission to your federally assisted housing of an applicant for three years from the date of eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity. However, you may admit the household if:

(1) The evicted household member who engaged in drug-related criminal activity has successfully completed an approved supervised drug rehabilitation program; or

(2) The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

(b) You *must* establish standards that prohibit admission of a household to federally assisted housing if:

(1) You determine that any household member is currently engaging in illegal use of a drug; or

(2) You determine that you have reasonable cause to believe that a household member's illegal use or a pattern of illegal use of a drug may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

§ 5.855 When am I specifically authorized to prohibit admission of individuals who have engaged in criminal activity?

(a) You may prohibit admission of a household to federally assisted housing under your standards if you determine that any household member is currently engaging in, or has engaged in during a reasonable time before the admission decision:

(1) Drug-related criminal activity;

(2) Violent criminal activity;

(3) Other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or

(4) Other criminal activity that would threaten the health or safety of the PHA or owner or any employee, contractor, subcontractor or agent of the PHA or owner who is involved in the housing operations.

(b) You may establish a period before the admission decision during which an applicant must not have engaged in the activities specified in paragraph (a) of this section (*reasonable time*).

(c) If you previously denied admission to an applicant because of a determination concerning a member of the household under paragraph (a) of this section, you may reconsider the applicant if you have sufficient evidence that the members of the household are not currently engaged in, and have not engaged in, such criminal activity during a reasonable period, determined by you, before the admission decision.

(1) You would have *sufficient evidence* if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which you verified. (See subpart J of this part for one method of checking criminal records.)

(2) For purposes of this section, a household member is *currently engaged in* the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

§ 5.856 When must I prohibit admission of sex offenders?

You must establish standards that prohibit admission to federally assisted housing if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In the screening of applicants, you must perform necessary criminal history background checks in the State where the housing is located and in other States where the household members are known to have resided. (See § 5.905.)

§ 5.857 When must I prohibit admission of alcohol abusers?

You must establish standards that prohibit admission to federally assisted housing if you determine you have reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Terminating Tenancy

§ 5.858 What authority do I have to evict drug criminals?

The lease must provide that drug-related criminal activity engaged in on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control, is grounds for you to terminate tenancy. In addition, the lease must allow you to evict a family when you determine that a household member is illegally using a drug or when you determine that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

§ 5.859 When am I specifically authorized to evict other criminals?

(a) *Threat to other residents.* The lease *must* provide that the owner may terminate tenancy for any of the following types of criminal activity by a covered person:

(1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises); or

(2) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises.

(b) *Fugitive felon or parole violator.* The lease *must* provide that you may terminate the tenancy during the term of the lease if a tenant is:

(1) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

(2) Violating a condition of probation or parole imposed under Federal or State law.

§ 5.860 When am I specifically authorized to evict alcohol abusers?

The lease must provide that you may terminate the tenancy if you determine that a household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

§ 5.861 What evidence of criminal activity must I have to evict?

You may terminate tenancy and evict the tenant through judicial action for criminal activity by a covered person in accordance with this subpart if you determine that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying a criminal conviction standard of proof of the activity.

Subpart J—Access to Criminal Records and Information

Sec.

5.901 To what criminal records and searches does this subpart apply?
5.902 Definitions.
5.903 What special authority is there to obtain access to criminal records?
5.905 What special authority is there to obtain access to sex offender registration information?

Subpart J

Access to Criminal Records and Information

§ 5.901 To what criminal records and searches does this subpart apply?

(a) *General criminal records searches.* This subpart applies to criminal conviction background checks by PHAs that administer the Section 8 and public housing programs when they obtain criminal conviction records, under the authority of section 6(q) of the 1937 Act (42 U.S.C. 1437d(q)), from a law enforcement agency to prevent admission of criminals to public housing and Section 8 housing and to assist in lease enforcement and eviction.

(b) *Sex offender registration records searches.* This subpart applies to PHAs that administer the Section 8 and public housing programs when they obtain sex offender registration information from State and local agencies, under the authority of 42 U.S.C. 13663, to prevent admission of dangerous sex offenders to federally assisted housing.

(c) *Excluded records searches.* The provisions of this subpart do not apply to criminal conviction information or sex offender information searches by a PHA or others of information from law enforcement agencies or other sources other than as provided under this subpart.

§ 5.902 Definitions.

(a) *Terms found elsewhere.* The following terms used in this subpart are defined in subpart A of this part: *1937 Act, drug, federally assisted housing, household, HUD, public housing, public housing agency (PHA), Section 8.*

(b) *Additional terms* used in this subpart are as follows:

Adult. A person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

Covered housing. Public housing, project-based assistance under section 8 (including new construction and substantial rehabilitation projects), and tenant-based assistance under section 8.

Law enforcement agency. The National Crime Information Center (NCIC), police departments and other law enforcement agencies that hold criminal conviction records.

Owner. The owner of federally assisted housing.

Responsible entity. For the public housing program, the Section 8 tenant-based assistance program (part 982 of this title), the Section 8 project-based certificate or project-based voucher program (part 983 of this title), and the Section 8 moderate rehabilitation program (part 882 of this title), *responsible entity* means the PHA administering the program under an Annual Contributions Contract with HUD. For all other Section 8 programs, responsible entity means the Section 8 owner.

§ 5.903 What special authority is there to obtain access to criminal records?

(a) *Authority.* If you are a PHA that administers the Section 8 program and/or the public housing program, this section authorizes you to obtain criminal conviction records from a law enforcement agency, as defined in § 5.902. You may use the criminal conviction records that you obtain from a law enforcement agency under the authority of this section to screen applicants for admission to covered housing programs and for lease enforcement or eviction of families residing in public housing or receiving Section 8 project-based assistance.

(b) *Consent for release of criminal conviction records.* (1) In order to obtain access to records under this section, as a responsible entity you must require every applicant family to submit a consent form signed by each adult household member.

(2) By execution of the consent form, an adult household member consents that:

(i) Any law enforcement agency may release criminal conviction records concerning the household member to a PHA in accordance with this section;

(ii) The PHA may receive the criminal conviction records from a law enforcement agency, and may use the records in accordance with this section.

(c) *Procedure for PHA.* (1) When the law enforcement agency receives your request, the law enforcement agency must promptly release to you a certified copy of any criminal conviction records concerning the household member in the possession or control of the law enforcement agency. NCIC records must be provided in accordance with NCIC procedures.

(2) The law enforcement agency may charge you a reasonable fee for releasing criminal conviction records.

(d) *Owner access to criminal records.*—(1) *General.* (i) If an owner submits a request to the PHA for criminal records concerning an adult member of an applicant or resident household, in accordance with the provisions of paragraph (d) of this section, the PHA must request the criminal conviction records from the appropriate law enforcement agency or agencies, as determined by the PHA.

(ii) If the PHA receives criminal conviction records requested by an owner, the PHA must determine whether criminal action by a household member, as shown by such criminal conviction records, may be a basis for applicant screening, lease enforcement or eviction, as applicable in accordance with HUD regulations and the owner criteria.

(iii) The PHA must notify the owner whether the PHA has received criminal conviction records concerning the household member, and of its determination whether such criminal conviction records may be a basis for applicant screening, lease enforcement or eviction. However, except as provided in paragraph (e)(2)(ii) of this section, the PHA must not disclose the household member's criminal conviction record or the content of that record to the owner.

(2) *Screening.* If you are an owner of covered housing, you may request that the PHA in the jurisdiction of the property obtain criminal conviction

records of an adult household member from a law enforcement agency on your behalf for the purpose of screening applicants.

(i) Your request must include a copy of the consent form, signed by the household member.

(ii) Your request must include your standards for prohibiting admission of drug criminals in accordance with § 5.854, and for prohibiting admission of other criminals in accordance with § 5.855.

(3) *Eviction or lease enforcement.* If you are an owner of a unit with Section 8 project-based assistance, you may request that the PHA in the location of the project obtain criminal conviction records of a household member from an appropriate law enforcement agency on your behalf in connection with lease enforcement or eviction.

(i) Your request must include a copy of the consent form, signed by the household member.

(ii) If you intend to use the PHA determination regarding any such criminal conviction records in connection with eviction, your request must include your standards for evicting drug criminals in accordance with § 5.857, and for evicting other criminals in accordance with § 5.858.

(iii) If you intend to use the PHA determination regarding any such criminal conviction records for lease enforcement other than eviction, your request must include your standards for lease enforcement because of criminal activity by members of a household.

(4) *Fees.* If an owner requests a PHA to obtain criminal conviction records in accordance with this section, the PHA may charge the owner reasonable fees for making the request on behalf of the owner and for taking other actions for the owner. The PHA may require the owner to reimburse costs incurred by the PHA, including reimbursement of any fees charged to the PHA by the law enforcement agency, the PHA's own related staff and administrative costs. The owner may not pass along to the applicant or tenant the costs of a criminal records check.

(e) *Permitted use and disclosure of criminal conviction records received by PHA—(1) Use of records.* Criminal conviction records received by a PHA from a law enforcement agency in accordance with this section may only be used for the following purposes:

(i) *Applicant screening.* (A) PHA screening of applicants for admission to public housing (part 960 of this title);

(B) PHA screening of applicants for admission to the Housing Choice Voucher Program (section 8 tenant-based assistance) (part 982 of this title);

(C) PHA screening of applicants for admission to the Section 8 moderate rehabilitation program (part 882 of this title); or the Section 8 project-based certificate or project-based voucher program (part 983 of this title); or

(D) PHA screening concerning criminal conviction of applicants for admission to Section 8 project-based assistance, at the request of the owner. (For requirements governing use of criminal conviction records obtained by a PHA at the request of a Section 8 owner under this section, see paragraph (d) of this section.)

(ii) *Lease enforcement and eviction.* (A) PHA enforcement of public housing leases and PHA eviction of public housing residents;

(B) Enforcement of leases by a Section 8 project owner and eviction of residents by a Section 8 project owner. (However, criminal conviction records received by a PHA from a law enforcement agency under this section may not be used for lease enforcement or eviction of residents receiving Section 8 tenant-based assistance.)

(2) *PHA disclosure of records.* (i) A PHA may disclose the criminal conviction records which the PHA receives from a law enforcement agency only as follows:

(A) To officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information. For example, if the PHA is seeking to evict a public housing tenant on the basis of criminal activity as shown in criminal conviction records provided by a law enforcement agency, the records may be disclosed to PHA employees performing functions related to the eviction, or to a PHA hearing officer conducting an administrative grievance hearing concerning the proposed eviction.

(B) To the owner for use in connection with judicial eviction proceedings by the owner to the extent necessary in connection with a judicial eviction proceeding. For example, criminal conviction records may be included in pleadings or other papers filed in an eviction action, may be disclosed to parties to the action or the court, and may be filed in court or offered as evidence.

(ii) This disclosure may be made only if the following conditions are satisfied:

(A) If the PHA has determined that criminal activity by the household member as shown by such records received from a law enforcement agency may be a basis for eviction from a Section 8 unit; and

(B) If the owner certifies in writing that it will use the criminal conviction records only for the purpose and only to the extent necessary to seek eviction in a judicial proceeding of a Section 8 tenant based on the criminal activity by the household member that is described in the criminal conviction records.

(iii) The PHA may rely on an owner's certification that the criminal record is necessary to proceed with a judicial eviction to evict the tenant based on criminal activity of the identified household member, as shown in the criminal conviction record.

(iv) Upon disclosure as necessary in connection with judicial eviction proceedings, the PHA is not responsible for controlling access to or knowledge of such records after such disclosure.

(f) *Opportunity to dispute.* If a PHA obtains criminal record information from a State or local agency under this section showing that a household member has been convicted of a crime relevant to applicant screening, lease enforcement or eviction, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant or tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information. This opportunity must be provided before a denial of admission, eviction or lease enforcement action on the basis of such information.

(g) *Records management.* Consistent with the limitations on disclosure of records in paragraph (e) of this section, the PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is:

(1) Maintained confidentially;

(2) Not misused or improperly disseminated; and

(3) Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation.

(h) *Penalties for improper release of information.*—(1) *Criminal penalty.* Conviction for a misdemeanor and imposition of a penalty of not more than $5,000 is the potential for:

(i) Any person, including an officer, employee, or authorized representative of any PHA or of any project owner, who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance under the authority of this section under false pretenses; or

(ii) Any person, including an officer, employee, or authorized representative of any PHA or a project owner, who

knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive the information.

(2) *Civil liability.* (i) A PHA may be held liable to any applicant for, or tenant of, covered housing assistance affected by either of the following:

(A) A negligent or knowing disclosure of criminal records information obtained under the authority of this section about such person by an officer, employee, or authorized representative of the PHA if the disclosure is not authorized by this section; or

(B) Any other negligent or knowing action that is inconsistent with this section.

(ii) An applicant for, or tenant of, covered housing assistance may seek relief against a PHA in these circumstances by bringing a civil action for damages and such other relief as may be appropriate against the PHA responsible for such unauthorized action. The United States district court in which the affected applicant or tenant resides, in which the unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible resides, has jurisdiction. Appropriate relief may include reasonable attorney's fees and other litigation costs.

§ 5.905 What special authority is there to obtain access to sex offender registration information?

(a) *PHA obligation to obtain sex offender registration information.* (1) A PHA that administers a Section 8 or public housing program under an Annual Contributions Contract with HUD must carry out background checks necessary to determine whether a member of a household applying for admission to any federally assisted housing program is subject to a lifetime sex offender registration requirement under a State sex offender registration program. This check must be carried out with respect to the State in which the housing is located and with respect to States where members of the applicant household are known to have resided.

(2) If the PHA requests such information from any State or local agency responsible for the collection or maintenance of such information, the State or local agency must promptly provide the PHA such information in its possession or control.

(3) The State or local agency may charge a reasonable fee for providing the information.

(b) *Owner's request for sex offender registration information.*—(1) *General.* An owner of federally assisted housing that is located in the jurisdiction of a PHA that administers a Section 8 or public housing program under an Annual Contributions Contract with HUD may request that the PHA obtain information necessary to determine whether a household member is subject to a lifetime registration requirement under a State sex offender registration requirement.

(2) *Procedure.* If the request is made in accordance with the provisions of paragraph (b) of this section:

(i) The PHA must request the information from a State or local agency;

(ii) The State or local agency must promptly provide the PHA such information in its possession or control;

(iii) The PHA must determine whether such information may be a basis for applicant screening, lease enforcement or eviction, based on the criteria used by the owner as specified in the owner's request, and inform the owner of the determination.

(iv) The PHA must notify the owner of its determination whether sex offender registration information received by the PHA under this section concerning a household member may be a basis for applicant screening, lease enforcement or eviction in accordance with HUD requirements and the criteria used by the owner.

(3) *Contents of request.* As the owner, your request must specify whether you are asking the PHA to obtain the sex offender registration information concerning the household member for applicant screening, for lease enforcement, or for eviction and include the following information:

(i) Addresses or other information about where members of the household are known to have lived.

(ii) If you intend to use the PHA determination regarding any such sex offender registration information for applicant screening, your request must include your standards in accordance with § 5.855(c) for prohibiting admission of persons subject to a lifetime sex offender registration requirement.

(iii) If you intend to use the PHA determination regarding any such sex offender registration information for eviction, your request must include your standards for evicting persons subject to a lifetime registration requirement in accordance with § 5.858.

(iv) If you intend to use the PHA determination regarding any such sex offender registration information for lease enforcement other than eviction, your request must include your standards for lease enforcement because of criminal activity by members of a household.

(4) *PHA disclosure of records.* The PHA must not disclose to the owner any sex offender registration information obtained by the PHA under this section.

(5) *Fees.* If an owner asks a PHA to obtain sex offender registration information concerning a household member in accordance with this section, the PHA may charge the owner reasonable fees for making the request on behalf of the owner and for taking other actions for the owner. The PHA may require the owner to reimburse costs incurred by the PHA, including reimbursement of any fees charged to the PHA by a State or local agency for releasing the information, the PHA's own related staff and administrative costs. The owner may not pass along to the applicant or tenant the costs of a sex offender registration records check.

(c) *Records management.* (1) The PHA must establish and implement a system of records management that ensures that any sex offender registration information record received by the PHA from a State or local agency under this section is:

(i) Maintained confidentially;

(ii) Not misused or improperly disseminated; and

(iii) Destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation.

(2) The records management requirements do not apply to information that is public information, or is obtained by a PHA other than under this section.

(d) *Opportunity to dispute.* If a PHA obtains sex offender registration information from a State or local agency under paragraph (a) of this section showing that a household member is subject to a lifetime sex offender registration requirement, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record, and the applicant or tenant, with a copy of such information, and an opportunity to dispute the accuracy and relevance of the information. This opportunity must be provided before a denial of admission, eviction or lease enforcement action on the basis of such information.

PART 200—INTRODUCTION TO FHA PROGRAMS

4. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

5. Add a new § 200.37 to read as follows:

§ 200.37 Preventing crime in federally assisted housing.

See part 5, subparts I and J of this title, for provisions concerning preventing crime in federally assisted housing, including programs administered under section 236 and under sections 221(d)(3) and 221(d)(5) of the National Housing Act.

PART 247—EVICTIONS FROM SUBSIDIZED AND HUD-OWNED PROJECTS

6. The authority citation for part 247 continues to read as follows:

Authority: 12 U.S.C. 1701q, 1701s, 1715b, 1715l, and 1715z–1; 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

7. In § 247.2, revise the last sentence in the definition of "subsidized project" to read as follows:

§ 247.2 Definitions.

* * * * *

Subsidized project. * * * For purposes of this part, *subsidized project* also includes those units in a housing project that receive the benefit of:

(1) Rental subsidy in the form of rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); or

(2) Housing assistance payments for project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f). However, this part is not applicable to Section 8 project-based assistance under parts 880, 881, 883 and 884 of this title (except as specifically provided in those parts).

8. In § 247.3, revise paragraph (a)(3) to read as follows:

§ 247.3 Entitlement of tenants to occupancy.

(a) * * *

(3) Criminal activity by a covered person in accordance with sections 5.858 and 5.859, or alcohol abuse by a covered person in accordance with section 5.860. If necessary, criminal records can be obtained for lease enforcement purposes under section 5.903(d)(3).

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

9. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

10. In § 880.607, revise paragraph (b)(1)(iii) to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(1) * * *

(iii) Criminal activity by a covered person in accordance with sections 5.858 and 5.859, or alcohol abuse by a covered person in accordance with section 5.860. If necessary, criminal records can be obtained for lease enforcement purposes under section 5.903(d)(3).

* * * * *

PART 882—SECTION 8 MODERATE REHABILITATION PROGRAMS

11. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

12. In § 882.102, amend paragraph (b) by removing the definitions of the terms *drug-related criminal activity, drug-trafficking,* and *violent criminal activity,* and revise paragraph (a) to read as follows:

§ 882.102 Definitions.

(a) *Terms found elsewhere.* The following terms are defined in part 5, subpart A of this title: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, MSA, other person under the tenant's control, public housing agency (PHA), Section 8, and violent criminal activity.*

* * * * *

13. In § 882.511, amend paragraph (a) by adding after the heading a paragraph designation (1), and by adding a new paragraph (a)(2).

§ 882.511 Lease and termination of tenancy.

(a) * * *

(2) The lease must provide that drug-related criminal activity engaged in on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control is grounds for the owner to terminate tenancy. In addition, the lease must provide that the owner may terminate the tenancy of a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

* * * * *

§ 882.514 [Amended]

14. In § 882.514, remove paragraph (a)(2) and redesignate paragraph (a)(3) as paragraph (a)(2), and remove paragraph (g).

15. Add § 882.518 to read as follows:

§ 882.518 Denial of admission and termination of assistance for criminals and alcohol abusers.

(a) *Requirement to deny admission.*—(1) *Prohibiting admission of drug criminals.* (i) The PHA must prohibit admission to the program of an applicant for three years from the date of termination of tenancy if any household member's federally assisted housing tenancy has been terminated for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:

(A) The household member who engaged in drug-related criminal activity and whose tenancy was terminated has successfully completed an approved supervised drug rehabilitation program, or

(B) The circumstances leading to the termination of tenancy no longer exist (for example, the criminal household member has died or is imprisoned).

(ii) The PHA must establish standards that permanently prohibit admission to the program if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(iii) The PHA must establish standards that prohibit admission of a household to the program if the PHA determines that any household member is currently engaging in illegal use of a drug or that it has reasonable cause to believe that a household member's pattern of illegal use of a drug, as defined in § 5.100 of this title, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) *Prohibiting admission of sex offenders.* The PHA must establish standards that prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In this screening of applicants, the PHA must perform criminal history background checks necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the State where the housing is located and in other States where household members are known to have resided.

(b) *Authority to deny admission.*—(1) *Prohibiting admission of other criminals.* The PHA may prohibit admission of a household to the program under standards established by the PHA if the PHA determines that any

household member is currently engaged in or has engaged in during a reasonable time before the admission decision:

(i) Drug-related criminal activity;

(ii) Violent criminal activity;

(iii) Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

(iv) Other criminal activity which may threaten the health or safety of the owner or any employee, contractor, subcontractor or agent of the owner who is involved in the owner's housing operations.

(2) *Reasonable time.* The PHA may establish a period before the admission decision during which an applicant must not have engaged in the activities specified in paragraph (b)(1) of this section "reasonable time".

(3) *Sufficient evidence.* If the PHA has denied admission to an applicant because a member of the household engaged in criminal activity in accordance with paragraph (b)(1) of this section, the PHA may reconsider the applicant if the PHA has sufficient evidence that the members of the household are not currently engaged in, and have not engaged in criminal activity during a reasonable period, as determined by the PHA, before the admission decision.

(i) The PHA would have "*sufficient evidence*" if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which the PHA verified.

(ii) For purposes of this section, a household member is "currently engaged in" criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

(4) *Prohibiting admission of alcohol abusers.* The PHA must establish standards that prohibit admission to the program if the PHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) *Terminating assistance.*—(1) *Terminating assistance for drug criminals.* (i) The PHA may terminate assistance for drug-related criminal activity engaged in on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control. In addition, the PHA may terminate assistance if the PHA determines that a household member is illegally using a drug or when the PHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(ii) The PHA must immediately terminate assistance for a family under the program if the PHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(2) *Terminating assistance for other criminals.* (i) The PHA must establish standards that allow the PHA to terminate assistance for a family if the PHA determines that any household member is engaged in criminal activity that threatens the health, safety, or right of peaceful enjoyment of the premises by other residents or by persons residing in the immediate vicinity of the premises.

(ii) The PHA may terminate assistance for a family if the PHA determines that a member of the household is:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

(B) Violating a condition of probation or parole imposed under Federal or State law.

(3) *Evidence of criminal activity.*

(i) The PHA may terminate assistance for criminal activity in accordance with this section if the PHA determines, based on a preponderance of the evidence, that a covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity.

(ii) See part 5, subpart J, of this title for provisions concerning access to criminal records.

(4) *Terminating assistance for alcohol abusers.* The PHA must establish standards that allow termination of assistance for a family if the PHA determines that a household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

16. The authority citation for part 884 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

17. In § 884.216, revise paragraph (b) to read as follows:

§ 884.216 Termination of tenancy.

* * * * *

(b) Termination of tenancy for criminal activity by a covered person is subject to 24 CFR 5.858 and 5.859, and termination of tenancy for alcohol abuse by a covered person is subject to 24 CFR 5.860.

PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

18. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

19. Revise § 891.430 to read as follows:

§ 891.430 Denial of admission, termination of tenancy, and modification of lease.

(a) The provisions of part 5, subpart I, of this title apply to Section 202 and Section 811 capital advance projects.

(b) The provisions of part 247 of this title apply to all decisions by an owner to terminate the tenancy or modify the lease of a household residing in a unit (or residential space in a group home).

20. Revise § 891.630 to read as follows:

§ 891.630 Denial of admission, termination of tenancy, and modification of lease.

(a) The provisions of part 5, subpart I, of this title apply to Section 202 direct loan projects.

(b) The provisions of part 247 of this title apply to all decisions by a Borrower to terminate the tenancy or modify the lease of a family residing in a unit.

21. Revise § 891.770 to read as follows:

§ 891.770 Denial of admission, termination of tenancy, and modification of lease.

(a) The provisions of part 5, subpart I, of this title apply to Section 202 direct loan projects with Section 162 assistance for disabled families.

(b) The provisions of part 247 of this title apply to all decisions by a Borrower to terminate the tenancy or modify the lease of a family residing in a unit (or residential space in a group home).

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

22. The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z–3, and 3535(d).

23. In § 960.102, paragraph (a)(1) is revised to read as follows:

§ 960.102 Definitions.

(a) *Definitions found elsewhere.* (1) *General definitions.* The following terms are defined in part 5, subpart A of this title: *1937 Act, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, MSA, premises, public housing, public housing agency (PHA), Section 8, violent criminal activity.*

* * * * *

24. Subpart B of part 960 is revised to read as follows:

Subpart B—Admission

960.200 Purpose.
960.201 Eligibility.
960.202 Tenant selection policies.
960.203 Standards for PHA tenant selection criteria.
960.204 Denial of admission for criminal activity or drug abuse by household members.
960.205 Drug use by applicants: obtaining information from drug treatment facility.
960.206 Waiting list: Local preferences in admission to public housing program.
960.208 Notification to applicants.

§ 960.200 Purpose.

(a) This subpart states HUD eligibility and selection requirements for admission to public housing.

(b) See also related HUD regulations in this title concerning these subjects:

(1) 1937 Act definitions: part 5, subpart D;

(2) Restrictions on assistance to noncitizens: part 5, subpart E;

(3) Family income and family payment: part 5, subpart F;

(4) Public housing agency plans: part 903;

(5) Rent and reexamination: part 960, subpart C;

(6) Mixed population developments: part 960, subpart D;

(7) Occupancy by over-income families or police officers: part 960, subpart E.

§ 960.201 Eligibility.

(a) *Who is eligible?* (1) Basic eligibility. An applicant must meet all eligibility requirements in order to receive housing assistance. At a minimum, the applicant must be a family, as defined in § 5.403 of this title, and must be income-eligible, as described in this section. Such eligible applicants include single persons.

(2) *Low income limit.* No family other than a low income family is eligible for admission to a PHA's public housing program.

(b) *Income used for eligibility and targeting.* Family annual income (see § 5.609) is used both for determination of income eligibility under paragraph (a) and for PHA income targeting under § 960.202

(c) *Reporting.* The PHA must comply with HUD-prescribed reporting requirements that will permit HUD to maintain the data, as determined by HUD, necessary to monitor compliance with income eligibility and targeting requirement.

§ 960.202 Tenant selection policies.

(a) *Selection policies, generally.* (1) The PHA shall establish and adopt written policies for admission of tenants.

(2) These policies shall provide for and include the following:

(i) Targeting admissions to extremely low income families as provided in paragraph (b) of this section.

(ii) Deconcentration of poverty and income-mixing in accordance with the PHA Plan regulations (see 24 CFR part 903).

(iii) Precluding admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the residents or the project environment;

(iv) Objective and reasonable policies for selection by the PHA among otherwise eligible applicants, including requirements for applications and waiting lists (see 24 CFR 1.4), and for verification and documentation of information relevant to acceptance or rejection of an applicant, including documentation and verification of citizenship and eligible immigration status under 24 CFR part 5; and

(v) Policies of participant transfer between units, developments, and programs. For example, a PHA could adopt a criterion for voluntary transfer that the tenant had met all obligations under the current program, including payment of charges to the PHA.

(b) *Targeting admissions to extremely low income families.*

(1) *Targeting requirement.* (i) Not less than 40 percent of the families admitted to a PHA's public housing program during the PHA fiscal year from the PHA waiting list shall be extremely low income families. This is called the "basic targeting requirement."

(ii) To the extent provided in paragraph (b)(2) of this section, admission of extremely low income families to the PHA's Section 8 voucher program during the same PHA fiscal year is credited against the basic targeting requirement.

(iii) A PHA must comply with both the targeting requirement found in this part and the deconcentration requirements found in part 903 of this chapter.

(2) *Credit for admissions to PHA voucher program.* (i) If admissions of extremely low income families to the PHA's voucher program during a PHA fiscal year exceeds the 75 percent minimum targeting requirement for the PHA's voucher program (see 24 CFR 982.201(b)(2)), such excess shall be credited (subject to the limitations in paragraph (b)(2)(ii) of this section) against the PHA's basic targeting requirement for the same fiscal year.

(ii) The fiscal year credit for voucher program admissions that exceed the minimum voucher program targeting requirement shall not exceed the lower of:

(A) Ten percent of public housing waiting list admissions during the PHA fiscal year;

(B) Ten percent of waiting list admission to the PHA's Section 8 tenant-based assistance program during the PHA fiscal year; or

(C) The number of qualifying low income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low income family means a low income family other than an extremely low income family.

(c) *Adoption and availability of tenant selection policies.* These selection policies shall:

(1) Be duly adopted and implemented;

(2) Be publicized by posting copies thereof in each office where applications are received and by furnishing copies to applicants or tenants upon request, free or at their expense, at the discretion of the PHA; and

(3) Be consistent with the fair housing and equal opportunity provisions of § 5.105 of this title; and

(4) Be submitted to the HUD field office upon request from that office.

§ 960.203 Standards for PHA tenant selection criteria.

(a) The tenant selection criteria to be established and information to be considered shall be reasonably related to individual attributes and behavior of an applicant and shall not be related to those which may be imputed to a particular group or category of persons

of which an applicant may be a member. The PHA may use local preferences, as provided in § 960.206.

(b) Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points. (See 24 CFR 902.43(a)(5).) This policy takes into account the importance of screening to public housing communities and program integrity, and the demand for assisted housing by families who will adhere to lease responsibilities.

(c) In selection of families for admission to its public housing program, or to occupy a public housing development or unit, the PHA is responsible for screening family behavior and suitability for tenancy. The PHA may consider all relevant information, which may include, but is not limited to:

(1) An applicant's past performance in meeting financial obligations, especially rent;

(2) A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants; and

(3) A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants. (See § 960.204.) With respect to criminal activity described in § 960.204:

(i) The PHA may require an applicant to exclude a household member in order to be admitted to the housing program where that household member has participated in or been culpable for actions described in § 960.204 that warrants denial.

(ii) The PHA may, where a statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.

(d) In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense).

(1) In a manner consistent with the PHA's policies, procedures and practices referenced in paragraph (b) of this section, consideration may be given to factors which might indicate a reasonable probability of favorable future conduct. For example:

(i) Evidence of rehabilitation; and

(ii) Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs;

(2) *Consideration of rehabilitation.* (i) In determining whether to deny admission for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the PHA may require the applicant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(ii) If rehabilitation is not an element of the eligibility determination (see § 960.204(a)(1)), the PHA may choose not to consider whether the person has been rehabilitated.

§ 960.204 Denial of admission for criminal activity or drug abuse by household members.

(a) *Required denial of admission.* (1) *Persons evicted for drug-related criminal activity.* The PHA standards must prohibit admission of an applicant to the PHA's public housing program for three years from the date of the eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:

(i) The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or

(ii) The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

(2) *Persons engaging in illegal use of a drug.* The PHA must establish standards that prohibit admission of a household to the PHA's public housing program if:

(i) The PHA determines that any household member is currently engaging in illegal use of a drug (For purposes of this section, a household member is "currently engaged in" the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current); or

(ii) The PHA determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(3) *Persons convicted of methamphetamine production.* The PHA must establish standards that permanently prohibit admission to the PHA's public housing program if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(4) *Persons subject to sex offender registration requirement.* The PHA must establish standards that prohibit admission to the PHA's public housing program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In the screening of applicants, the PHA must perform necessary criminal history background checks in the State where the housing is located and in other States where household members are known to have resided. (See part 5, subpart J of this title for provisions concerning access to sex offender registration records.)

(b) *Persons that abuse or show a pattern of abuse of alcohol.* The PHA must establish standards that prohibit admission to the PHA's public housing program if the PHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) *Use of criminal records.* Before a PHA denies admission to the PHAs public housing program on the basis of a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record. (See part 5, subpart J of this title for provisions concerning access to criminal records.)

(d) *Cost of obtaining criminal record.* The PHA may not pass along to the applicant the costs of a criminal records check.

§ 960.205 Drug use by applicants: obtaining information from drug treatment facility.

(a) *Purpose.* This section addresses a PHA's authority to request and obtain information from drug abuse treatment facilities concerning applicants. This section does not apply to information requested or obtained from drug abuse treatment facilities other than under the authority of section 6(t).

(b) *Additional terms* used in this section are as follows:

(1) *Currently engaging in illegal use of a drug.* Illegal use of a drug occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

(2) *Drug abuse treatment facility.* An entity:

(i) That holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use; and

(ii) That is either an identified unit within a general care facility; or an entity other than a general medical care facility.

(c) *Authorization by household member for PHA to receive information from a drug abuse treatment facility.* (1) The PHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head or spouse regardless of age, one or more consent forms signed by such household member that:

(i) Requests any drug abuse treatment facility to inform the PHA only whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use;

(ii) Complies with the form of written consent required by 42 CFR 2.31; and

(iii) Authorizes the PHA to receive such information from the drug abuse treatment facility, and to utilize such information in determining whether to prohibit admission of the household member to the PHA's public housing program in accordance with § 960.203. (See the Public Health Service Act, 42 U.S.C. 290dd–2, and implementing regulations at 42 CFR part 2, with respect to responsibilities of the drug abuse treatment facility.)

(2) The consent form submitted for a proposed household member must expire automatically after the PHA has made a final decision to either approve or deny the admission of such person.

(d) *PHA request for information from drug use treatment facility.* (1) The PHA may request that a drug abuse treatment facility disclose whether the drug abuse treatment facility has reasonable cause to believe that the proposed household member is currently engaging in the illegal use of a drug (as defined in § 5.100 of this title).

(2) The PHA's request to the drug abuse treatment facility must include a copy of the consent form signed by the proposed household member.

(3) A drug abuse treatment facility is not liable for damages based on any information required to be disclosed under this section if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd–2).

(4) The PHA is not obligated to request information from a drug treatment facility under this section, and is not liable for damages for failing to request or receive such information.

(5) A drug abuse treatment facility may charge the PHA a reasonable fee for information provided under this section. The PHA may not pass along to the applicant or tenant the costs of obtaining this information.

(e) *Prohibition of discriminatory treatment of applicants.* (1) A PHA may request information from a drug abuse treatment facility under paragraph (d) of this section only if the PHA has adopted and has consistently implemented either of the following policies, obtaining a signed consent form from the proposed household members:

(i) *Policy A—Request for all families.* Under Policy A, the PHA must submit a request for information to a drug abuse treatment facility in accordance with paragraph (d) of this section before admitting any family to the PHA's public housing program. For each such family, the request must be submitted for each proposed household member described in paragraph (c)(1) of this section.

(ii) *Policy B—Request for certain household members.* Under Policy B, the PHA must submit a request to a drug abuse treatment facility only with respect to each proposed household member:

(A) Whose criminal record indicates prior arrest or conviction for any criminal activity that may be a basis for denial of admission under § 960.205; or

(B) Whose prior tenancy records indicate that the proposed household member:

(1) Engaged in the destruction of property;

(2) Engaged in violent activity against another person; or

(3) Interfered with the right of peaceful enjoyment of the premises of other residents.

(4) The policy adopted by the PHA must be included in the PHA administrative plan and the PHA plan.

(f) *Records management and confidentiality.* Each PHA that receives information from a drug abuse treatment facility under this section must establish and implement a system of records management that ensures that any information which the PHA receives from the drug abuse treatment facility about a person:

(1) Is maintained confidentially in accordance with section 543 of the Public Health Service Act (12 U.S.C. 290dd–2);

(2) Is not misused or improperly disseminated; and

(3) Is destroyed, as applicable:

(i) Not later than 5 business days after the PHA makes a final decision to admit the person as a household member under the PHA's public housing program; or

(ii) If the PHA denies the admission of such person as a household member, in a timely manner after the date on which the statute of limitations for the commencement of a civil action based upon that denial of admissions has expired without the filing of a civil action or until final disposition of any such litigation.

§ 960.206 Waiting list: Local preferences in admission to public housing program.

(a) *Establishment of PHA local preferences.* (1) The PHA may adopt a system of local preferences for selection of families admitted to the PHA's public housing program. The PHA system of selection preferences must be based on local housing needs and priorities as determined by the PHA. In determining such needs and priorities, the PHA shall use generally accepted data sources. Such sources include public comment on the PHA plan (as received pursuant to § 903.17 of this chapter), and on the consolidated plan for the relevant jurisdiction (as received pursuant to part 91 of this title).

(2) The PHA may limit the number of applicants that qualify for any local preference.

(3) PHA adoption and implementation of local preferences is subject to HUD requirements concerning income-targeting (§ 960.202(b)), deconcentration and income-mixing (§ 903.7), and selection preferences for developments designated exclusively for elderly or disabled families or for mixed population developments (§ 960.407).

(4) The PHA must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences.

(b) *Particular local preferences—*(1) *Residency requirements or preferences.*

(i) Residency requirements are prohibited. Although a PHA is not prohibited from adopting a residency preference, the PHA may only adopt or

implement residency preferences in accordance with non-discrimination and equal opportunity requirements listed at § 5.105(a) of this title.

(ii) A residency preference is a preference for admission of persons who reside in a specified geographic area ("residency preference area"). A county or municipality may be used as a residency preference area. An area smaller than a county or municipality may not be used as a residency preference area.

(iii) Any PHA residency preferences must be included in the statement of PHA policies that govern eligibility, selection and admission to the program, which is included in the PHA annual plan (or supporting documents) pursuant to part 903 of this chapter. Such policies must specify that use of a residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

(iv) A residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

(v) Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area. The PHA may treat graduates of, or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

(2) *Preference for working families.* The PHA may adopt a preference for admission of working families (families where the head, spouse, or sole member, is employed). However, an applicant must be given the benefit of the working family preference if the head and spouse, or sole member is age 62 or older, or is a person with disabilities.

(3) *Preference for person with disabilities.* The PHA may adopt a preference for admission of families that include a person with disabilities. However, the PHA may not adopt a preference for persons with a specific disability.

(4) *Preference for victims of domestic violence.* The PHA should consider whether to adopt a local preference for admission of families that include victims of domestic violence.

(5) *Preference for single persons who are elderly, displaced, homeless or a person with disabilities.* The PHA may adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

(c) *Selection for particular unit.* In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms. In selection of families to occupy units with special accessibility features for persons with disabilities, the PHA must first offer such units to families which include persons with disabilities who require such accessibility features (see §§ 8.27 and 100.202 of this title).

(d) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a resident family may not be provided a housing unit with two or more bedrooms.

(e) *Selection method.* (1) The PHA must use the following to select among applicants on the waiting list with the same priority for admission:

(i) Date and time of application; or

(ii) A drawing or other random choice technique.

(2) The method for selecting applicants must leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the PHA plan.

§ 960.208 Notification to applicants.

(a) The PHA must promptly notify any applicant determined to be ineligible for admission to a project of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination.

(b) When a determination has been made that an applicant is eligible and satisfies all requirements for admission, including the tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined.

PART 966—PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURE

25. The authority citation for part 966 is revised to read as follows:

Authority: 42 U.S.C. 1437d and 3535(d).

26. The heading for part 966 is revised to read as set forth above.

27. Revise § 966.1 to read as follows:

§ 966.1 Purpose and applicability.

(a) This part is applicable to public housing.

(b) Subpart A of this part prescribes the provisions that must be incorporated in leases for public housing dwelling units.

(c) Subpart B of this part prescribes public housing grievance hearing requirements.

28. Add a new § 966.2 to read as follows:

§ 966.2 Definitions.

The following terms are defined in part 5, subpart A of this title: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, other person under the tenant's control, public housing, premises, public housing agency, Section 8, violent criminal activity.*

29. In § 966.4, revise paragraphs (d)(1), (f)(12), (1)(2), (1)(3)(i), and (1)(5) to read as follows:

§ 966.4 Lease requirements.

* * * * *

(d) Tenant's right to use and occupancy. (1) The lease shall provide that the tenant shall have the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests. The term *guest* is defined in 24 CFR 5.100.

* * * * *

(f) *Tenant's obligations.* The lease shall provide that the tenant shall be obligated: * * *

(12) (i) To assure that no tenant, member of the tenant's household, or guest engages in:

(A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; or

(B) Any drug-related criminal activity on or off the premises;

(ii) To assure that no other person under the tenant's control engages in:

(A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; or

(B) Any drug-related criminal activity on the premises;

(iii) To assure that no member of the household engages in an abuse or pattern of abuse of alcohol that affects the health, safety, or right to peaceful enjoyment of the premises by other residents.

* * * * *

(1) * * *

(2) *Grounds for termination of tenancy.* The PHA may terminate the tenancy only for:

(i) Serious or repeated violation of material terms of the lease, such as the following:

(A) Failure to make payments due under the lease;

(B) Failure to fulfill household obligations, as described in paragraph (f) of this section;

(ii) Other good cause. Other good cause includes, but is not limited to, the following:

(A) Criminal activity or alcohol abuse as provided in paragraph (1)(5) of this section;

(B) Discovery after admission of facts that made the tenant ineligible;

(C) Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income;

(D) Failure of a family member to comply with service requirement provisions of part 960, subpart F, of this chapter—as grounds only for non-renewal of the lease and termination of tenancy at the end of the twelve-month lease term; and

(E) Failure to accept the PHA's offer of a lease revision to an existing lease: that is on a form adopted by the PHA in accordance with § 966.3; with written notice of the offer of the revision at least 60 calendar days before the lease revision,is scheduled to take effect; and with the offer specifying a reasonable time limit within that period for acceptance by the family.

(3) *Lease termination notice.* (i) The PHA must give written notice of lease termination of:

(A) 14 days in the case of failure to pay rent;

(B) A reasonable period of time considering the seriousness of the situation (but not to exceed 30 days):

(1) If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or

(2) If any member of the household has engaged in any drug-related criminal activity or violent criminal activity; or

(3) If any member of the household has been convicted of a felony;

(C) 30 days in any other case, except that if a State or local law allows a shorter notice period, such shorter period shall apply.

* * * * *

(5) *PHA termination of tenancy for criminal activity or alcohol abuse.*

(i) *Evicting drug criminals.* (A) *Methamphetamine conviction.* The PHA must immediately terminate the tenancy if the PHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(B) *Drug crime on or off the premises.* The lease must provide that drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control, is grounds for the PHA to terminate tenancy. In addition, the lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or when the PHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(ii) *Evicting other criminals.* (A) *Threat to other residents.* The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

(B) *Fugitive felon or parole violator.* The PHA may terminate the tenancy if a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under Federal or State law.

(iii) *Eviction for criminal activity.* (A) *Evidence.* The PHA may evict the tenant by judicial action for criminal activity in accordance with this section if the PHA determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

(B) *Notice to Post Office.* When a PHA evicts an individual or family for criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

(iv) *Use of criminal record.* If the PHA seeks to terminate the tenancy for criminal activity as shown by a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record before a PHA grievance hearing or court trial concerning the termination of tenancy or eviction. The tenant must be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial.

(v) *Cost of obtaining criminal record.* The PHA may not pass along to the tenant the costs of a criminal records check.

(vi) *Evicting alcohol abusers.* The PHA must establish standards that allow termination of tenancy if the PHA determines that a household member has:

(A) Engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or

(B) Furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

(vii) *PHA action, generally.* (A) *Assessment under PHAS.* Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures and can document that they appropriately evict any public housing residents who engage in certain activity detrimental to the public housing community receive points. (See 24 CFR 902.43(a)(5).) This policy takes into account the importance of eviction of such residents to public housing communities and program integrity, and the demand for assisted housing by families who will adhere to lease responsibilities.

(B) *Consideration of circumstances.* In a manner consistent with such policies, procedures and practices, the PHA may consider all circumstances relevant to a particular case such as the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

(C) *Exclusion of culpable household member.* The PHA may require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

(D) *Consideration of rehabilitation.* In determining whether to terminate tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in

such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the PHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13662). For this purpose, the PHA may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(E) *Length of period of mandatory prohibition on admission.* If a statute requires that the PHA prohibit admission of persons for a prescribed period of time after some disqualifying behavior or event, the PHA may apply that prohibition for a longer period of time.

(F) *Nondiscrimination limitation.* The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of § 5.105 of this title.

* * * * *

30. In § 966.51, revise paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) and add paragraph (a)(2)(i)(C) to read as follows:

§ 966.51 Applicability.

(a) * * *

(2)(i) * * *

(A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;

(B) Any violent or drug-related criminal activity on or off such premises; or

(C) Any criminal activity that resulted in felony conviction of a household member.

* * * * *

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

31. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

32. Amend § 982.4 as follows:

a. Remove the definitions of *drug-related criminal activity, drug-trafficking,* and *violent criminal activity* from paragraph (b);

b. Revise paragraph (a)(2) to read as follows:

§ 982.4 Definitions.

(a) * * *

(2) *Terms found elsewhere.* The following terms are defined in part 5, subpart A of this title: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, MSA, other person under the tenant's control, public housing, Section 8,* and *violent criminal activity.*

* * * * *

33. In § 982.54, add a new paragraph (d)(4)(iii) to read as follows:

§ 982.54 Administrative plan.

* * * * *

(d) * * *

(4) * * *

(iii) Standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with § 982.553;

* * * * *

34. In § 982.310, revise paragraph (c) and add a new paragraph (h) to read as follows:

§ 982.310 Owner termination of tenancy.

* * * * *

(c) *Criminal activity.* (1) *Evicting drug criminals due to drug crime on or near the premises.* The lease must provide that drug-related criminal activity engaged in, on or near the premises by any tenant, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control, is grounds for the owner to terminate tenancy. In addition, the lease must provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) *Evicting other criminals.* (i) *Threat to other residents.* The lease must provide that the owner may terminate tenancy for any of the following types of criminal activity by a covered person:

(A) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);

(B) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or

(C) Any violent criminal activity on or near the premises by a tenant, household member, or guest, or any such activity on the premises by any other person under the tenant's control.

(ii) *Fugitive felon or parole violator.* The lease must provide that the owner may terminate the tenancy if a tenant is:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

(B) Violating a condition of probation or parole imposed under Federal or State law.

(3) *Evidence of criminal activity.* The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person in accordance with this section if the owner determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. (See part 5, subpart J, of this title for provisions concerning access to criminal records.)

* * * * *

(h) *Termination of tenancy decisions.*—(1) *General.* If the law and regulation permit the owner to take an action but do not require action to be taken, the owner may take or not take the action in accordance with the owner's standards for eviction. The owner may consider all of the circumstances relevant to a particular eviction case, such as:

(i) The seriousness of the offending action;

(ii) The effect on the community of denial or termination or the failure of the owner to take such action;

(iii) The extent of participation by the leaseholder in the offending action;

(iv) The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;

(v) The demand for assisted housing by families who will adhere to lease responsibilities;

(vi) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;

(vii) The effect of the owner's action on the integrity of the program.

(2) *Exclusion of culpable household member.* The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

(3) *Consideration of rehabilitation.* In determining whether to terminate

tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(4) *Nondiscrimination limitation.* The owner's termination of assistance actions must be consistent with fair housing and equal opportunity provisions of § 5.105 of this title.

35. Amend § 982.551 by redesignating paragraph (m) as paragraph (n); adding a new paragraph (m); and revising paragraph (l) to read as follows:

§ 982.551 Obligations of participant.

* * * * *

(l) *Crime by household members.* The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see § 982.553).

(m) *Alcohol abuse by household members.* The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

* * * * *

36. Amend § 982.552 by revising paragraphs (b)(1), (c)(1)(iv) and (c)(2), and by adding new paragraph (c)(1)(xi), to read as follows:

§ 982.552 PHA denial or termination of assistance for family.

* * * * *

(b) *Requirement to deny admission or terminate assistance.* (1) For provisions on denial of admission and termination of assistance for illegal drug use, other criminal activity, and alcohol abuse that would threaten other residents, see § 982.553.

* * * * *

(c) * * *

(1) * * *

(iv) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program (see also § 982.553(a)(1));

* * * * *

(xi) If the family has been engaged in criminal activity or alcohol abuse as described in § 982.553.

(2) *Consideration of circumstances.* In determining whether to deny or terminate assistance because of action or failure to act by members of the family:

(i) The PHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

(ii) The PHA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. The PHA may permit the other members of a participant family to continue receiving assistance.

(iii) In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the PHA consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the PHA may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(iv) If the family includes a person with disabilities, the PHA decision concerning such action is subject to consideration of reasonable accommodation in accordance with part 8 of this title.

(v) *Nondiscrimination limitation.* The PHA's admission and eviction actions must be consistent with fair housing and equal opportunity provisions of § 5.105 of this title.

* * * * *

37. Revise § 982.553 to read as follows:

§ 982.553 Denial of admission and termination of assistance for criminals and alcohol abusers.

(a) *Denial of admission.* (1) *Prohibiting admission of drug criminals.*

(i) The PHA *must* prohibit admission to the program of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:

(A) That the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or

(B) That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).

(ii) The PHA must establish standards that prohibit admission if:

(A) The PHA determines that any household member is currently engaging in illegal use of a drug;

(B) The PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or

(C) Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(2) *Prohibiting admission of other criminals—(i) Mandatory prohibition.* The PHA *must* establish standards that prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In this screening of applicants, the PHA must perform criminal history background checks necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the State where the housing is located and in other States where the household members are known to have resided.

(ii) *Permissive prohibitions.* (A) The PHA *may* prohibit admission of a household to the program if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the admission:

(1) Drug-related criminal activity;

(2) Violent criminal activity;

(3) Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

(4) Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract

administration function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor or agent).

(B) The PHA may establish a period before the admission decision during which an applicant must not to have engaged in the activities specified in paragraph (a)(2)(i) of this section ("reasonable time").

(C) If the PHA previously denied admission to an applicant because a member of the household engaged in criminal activity, the PHA may reconsider the applicant if the PHA has sufficient evidence that the members of the household are not currently engaged in, and have not engaged in, such criminal activity during a reasonable period, as determined by the PHA, before the admission decision.

(1) The PHA would have "sufficient evidence" if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which the PHA verified.

(2) For purposes of this section, a household member is "currently engaged in" criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

(3) *Prohibiting admission of alcohol abusers.* The PHA must establish standards that prohibit admission to the program if the PHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(b) *Terminating assistance*—(1) *Terminating assistance for drug criminals.* (i) The PHA *must* establish standards that allow the PHA to terminate assistance for a family under the program if the PHA determines that:

(A) Any household member is currently engaged in any illegal use of a drug; or

(B) A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(ii) The PHA must immediately terminate assistance for a family under the program if the PHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(iii) The PHA must establish standards that allow the PHA to terminate assistance under the program for a family if the PHA determines that any family member has violated the family's obligation under § 982.551 not to engage in any drug-related criminal activity.

(2) *Terminating assistance for other criminals.* The PHA must establish standards that allow the PHA to terminate assistance under the program for a family if the PHA determines that any household member has violated the family's obligation under § 982.551 not to engage in violent criminal activity.

(3) *Terminating assistance for alcohol abusers.* The PHA must establish standards that allow termination of assistance for a family if the PHA determines that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) *Evidence of criminal activity.* The PHA may terminate assistance for criminal activity by a household member as authorized in this section if the PHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

(d) *Use of criminal record.*—(1) *Denial.* If a PHA proposes to deny admission for criminal activity as shown by a criminal record, the PHA must provide the subject of the record and the applicant with a copy of the criminal record. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with § 982.554. (See part 5, subpart J for provision concerning access to criminal records.)

(2) *Termination of assistance.* If a PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record in accordance with § 982.555.

(3) *Cost of obtaining criminal record.* The PHA may not pass along to the tenant the costs of a criminal records check.

Dated: April 25, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–12840 Filed 5–23–01; 8:45 am]

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May 24, 2001

Part III

Environmental Protection Agency

40 CFR Part 80

Approval of Colorado's Petition To Relax the Federal Gasoline Reid Vapor Pressure Volatility Standard for 2001; Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–6984–7]

Approval of Colorado's Petition To Relax the Federal Gasoline Reid Vapor Pressure Volatility Standard for 2001

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency ("EPA" or "the Agency") is taking direct final action approving the State of Colorado's June 23, 2000, petition to relax the federal Reid Vapor Pressure ("RVP") gasoline standard that applies to gasoline introduced into commerce in the Denver/Boulder area from June 1 to September 15 (the ozone control season). By this action, the RVP standard will be relaxed from 7.8 pounds per square inch ("psi") to 9.0 psi for the 2001 ozone control season. The Agency does not believe that this action will cause environmental harm to the Denver/Boulder area. The area has been in compliance with the ozone standard since 1987. The area's gasoline has been subject to a 9.0 psi RVP standard since 1992 because EPA has approved relaxations of Denver/Boulder's RVP standard from 7.8 psi to 9.0 psi for the past eight years.

DATES: This action will be effective July 23, 2001, unless the Agency receives adverse or critical comments or a request for a public hearing by June 25, 2001. If the Agency receives adverse or critical comments, EPA will publish in the **Federal Register** a timely withdrawal of this direct final rule informing the public that this rule will not take effect.

ADDRESSES: Any person wishing to submit comments should submit them (in duplicate, if possible) to the two dockets listed below, with a copy forwarded to Richard Babst, U.S. Environmental Protection Agency, Transportation and Regional Programs Division, 1200 Pennsylvania Avenue, NW., (Mail Code: 6406J), Washington, DC 20460.

Public Docket: Materials relevant to this petition are available for inspection in public docket A–2000–53 at the Air Docket Office of the EPA, Room M–1500, 401 M Street, SW., Washington, DC 20460, (202) 260–7548, between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A duplicate docket CO–RVP–01 has been established at U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, CO, 80202–2466, and is available for inspection during normal working hours. Interested persons wishing to examine the documents in this docket should contact Kerri Fiedler at (303) 312–6493 at least 24 hours before the visiting day. As provided in 40 CFR part 2, a reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Richard Babst at (202) 564–9473 facsimile: (202) 565–2085, e-mail address: *babst.richard@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this rule are those regulated entities involved with the production, distribution, importation, and sale of gasoline that is supplied and consumed in the Denver/Boulder, Colorado nonattainment area.[1] Regulated categories include:

Category	Examples of regulated entities
Industry	Gasoline refiners and importers, gasoline terminals, gasoline truckers, blenders, gasoline retailers and wholesale purchaser-consumers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this rule. To determine whether you are affected by this rule, you should carefully examine the requirements in § 80.27 of title 40 of the Code of Federal Regulations ("CFR"). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Background

A. History of Gasoline Volatility Regulation

In 1987, EPA determined that gasoline had become increasingly volatile, causing an increase in evaporative emissions from gasoline-powered sources. The most common measure of fuel volatility under ambient conditions—which is useful in evaluating vehicle evaporative emissions—is the Reid Vapor Pressure ("RVP"). These emissions from gasoline, referred to as volatile organic compounds ("VOCs"), are precursors for ozone and contribute to the nation's ground-level ozone problem. Ground-level ozone causes health problems, including damaged lung tissue, reduced lung function, and lung sensitization to other pollutants.

Under authority in section 211(c) of the Clean Air Act (as amended in 1977), EPA promulgated regulations on March 22, 1989 that set maximum volatility levels for gasoline sold during the summer ozone control season. These regulations were referred to as Phase I of a two-phase nationwide[2] program, which was designed to reduce the volatility of commercial gasoline during the summer high ozone season by setting maximum RVP standards.[3] On June 11, 1990, EPA promulgated more stringent volatility controls for Phase II.[4] The requirements established maximum volatility standards of 9.0 psi and 7.8 psi (depending on the state, the month, and the area's ozone attainment status) during the ozone control season—June 1 to September 15.

The 1990 CAA Amendments established a new section 211(h) to address fuel volatility. Section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. It further requires EPA to establish more stringent RVP standards in non-attainment areas if EPA finds such standards "necessary to generally achieve comparable evaporative emissions (on a per vehicle basis) in non-attainment areas, taking into consideration the enforceability of such standards, the need of an area for emission control and economic factors." Section 211(h) bans EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that EPA may impose a lower (more stringent) standard in any former ozone non-attainment area redesignated to attainment.

On December 12, 1991, EPA promulgated regulations to modify the Phase II volatility regulations pursuant to section 211(h).[5] The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. Areas designated as non-attainment retained the original Phase II standards published in 1990.[6]

[1] This area encompasses Denver's entire six-county Consolidated Metropolitan Statistical Area, with the exception of Rocky Mountain National park in Boulder County and the eastern portions of Adams and Arapahoe counties.

[2] Hawaii, Alaska and U.S. territories were excepted.

[3] 54 FR 11868 (March 22, 1989).

[4] 55 FR 23658 (June 11, 1990).

[5] 56 FR 64704 (December 12, 1991).

[6] 55 FR 23658 (June 11, 1990).

As stated in the preamble for the Phase II volatility controls,[7] and reiterated in the proposed change to the volatility standards published in 1991,[8] EPA will rely on states to initiate changes to the EPA volatility program that they believe will enhance local air quality and/or increase the economic efficiency of the program within the statutory limits.[9] The Governor of a state may petition EPA to set a volatility standard less stringent than 7.8 psi for some month or months in a non-attainment area. The petition must demonstrate the existence of a particular local economic impact that makes such changes appropriate and must demonstrate that sufficient alternative programs are available to achieve attainment and maintenance of the ozone NAAQS.

B. History of Federal RVP Requirements for the Denver/Boulder Area

On November 6, 1991, EPA issued ozone nonattainment designations pursuant to section 107(d)(4)(A) of the Act (56 FR 56694). In that notice, EPA designated the Denver-Boulder area as a nonattainment area[10] and classified it as a "transitional area" as determined under section 185A of the CAA.[11]

Because the Denver/Boulder area was designated as a transitional nonattainment area, the volatility standard applicable under the federal RVP rule promulgated on December 12, 1991, was 9.0 psi RVP in May and 7.8 psi from June 1 to September 15, beginning in 1992.[12] Since 1992, in response to petitions from the Governor of Colorado, EPA has waived the 7.8 psi RVP requirement for the Denver/Boulder area and required only 9.0 psi RVP in the area for the ozone control season.[13] For in-depth discussions of these actions, please refer to the **Federal Register** notices. In general, EPA granted these petitions to relax the 7.8 psi standard based on evidence presented by Colorado that showed economic hardship to consumers and industry if the 7.8 psi standard were retained. EPA's decision to grant these petitions was also based on evidence that demonstrated that the 7.8 psi standard was not necessary given the area's record of continued attainment of the 1-hour ozone standard.

On August 8, 1996, the Governor of Colorado submitted a maintenance plan and requested EPA to redesignate the Denver/Boulder area to attainment for the 1-hour ozone NAAQS.[14] EPA did not proceed with any action on the Governor's request as the maintenance plan had both legal and technical problems which precluded EPA's full approval.

In July 1997,[15] EPA established a new 8-hour ozone NAAQS of 0.08 parts per million (ppm). At that time, EPA also promulgated regulations governing when the 1-hour ozone standard would no longer apply to areas. On June 5, 1998 (63 FR 31014), in accordance with these regulations, EPA issued final rules for several areas that were attaining the 1-hour standard, including the Denver/Boulder area, finding that the 1-hour ozone standard no longer applied to these areas.[16] As a result of the finding that the 1-hour ozone standard no longer applied to the Denver/Boulder area, the August 8, 1996, 1-hour ozone redesignation and maintenance plan became moot and no further action was contemplated by either the State or EPA.

In 1998, the governor of Colorado again requested that EPA waive the federal 7.8 psi RVP requirement for the Denver/Boulder area. Finding that while a 9.0 psi RVP standard was in place, the Denver/Boulder area had attained the 1-hour ozone standard and was monitoring attainment of the 8-hour standard since 1994, EPA concluded that retaining the 9.0 psi RVP standard would not cause the area's air quality to significantly deteriorate. See 63 FR 31627, (June 10, 1998). Moreover, EPA concluded that imposing a 7.8 psi standard would result in significant costs for consumers and refiners. EPA therefore extended its waiver relaxing the federal RVP standard for the area to 9.0 psi for the ozone control seasons of 1998 through 2000. EPA explained that designations under the new 8-hour standard would be made by July 2000, and that consideration of a permanent revision to the federal RVP standard for the area would be appropriate at that time.

On May 14, 1999, the Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded, but did not vacate, the revised 8-hour ozone standard.[17] On February 27, 2001, the Supreme Court affirmed in part and reversed in part the judgment of the Court of Appeals and remanded the decision to the Court of Appeals for further proceedings.[18] In the interim period, while the Supreme Court was considering the case, EPA reinstated the 1-hour ozone standard in all areas of the nation to ensure the availability of a fully enforceable Federal ozone standard to protect public health.[19] With reinstatement of the 1-hour ozone standard, the 1-hour standard designations and classifications that applied in such areas at the time the standard was revoked were also reinstated. Reinstatement of the 1-hour standard in the Denver/Boulder area became effective January 16, 2001. With reinstatement of the standard, the Denver/Boulder area returned to nonattainment for the 1-hour ozone standard with a "transitional" classification.

As a result of the reinstatement of the nonattainment designation, the Denver Regional Air Quality Council and the State have developed a revised maintenance plan that updates the August 8, 1996, Governor's submittal and addresses EPA's technical and legal concerns with the 1996 submittal. The Governor submitted a new redesignation request and revised maintenance plan to EPA on November 30, 2000. The revised maintenance plan submittal incorporates a gasoline RVP limit of 9.0 psi. Since maintenance of the 1-hour ozone NAAQS is shown for the entire

[7] The Phase II final rulemaking discussed procedures by which states could petition EPA for more or less stringent volatility standards. See 55 FR 23660 (June 11, 1990).

[8] See 56 FR 24242 (May 29, 1991).

[9] See CAA section 211(h)(1) (allowing EPA to set a standard more stringent than 9.0 psi as necessary to achieve comparative emissions in nonattainment areas considering enforceability, the need of an area for emissions control and economic factors).

[10] The nonattainment area encompasses Denver's entire six-county Consolidated Metropolitan Statistical Area, with the exception of Rocky Mountain National Park in Boulder County and the eastern portions of Adams and Arapahoe Counties.

[11] Section 185A defines a transitional area as "an area designated as an ozone nonattainment area as of the date of enactment of the Clean Air Act Amendments of 1990 [that] has not violated the national primary ambient air quality standard for ozone for the 36-month period commencing on January 1, 1987, and ending on December 31, 1989." In fact, according to monitoring data, the Denver-Boulder area attained and has continued to maintain the 0.12 parts per million (ppm) 1-hour standard since 1987.

[12] The standard applicable in other areas of Colorado is 9.0 psi from May 1 to September 15.

[13] See 53 FR 26067 (April 30, 1993); 59 FR 15629 (April 4, 1994); 61 FR 16391 (April 15, 1996); and 63 FR 31627 (June 10, 1998).

[14] In order for EPA to redesignate an area to attainment under section 107(d)(3)(D) of the CAA, the Governor must submit a redesignation request and a maintenance plan that meets the requirements of section 107(d)(3)(E) and section 175A of the CAA, the redesignation requirement of the General Preamble for the Implementation of Title I of CAA Amendments of 1990 (57 FR 13498 (April 16, 1991), and 57 FR 18070 (April 28, 1992)), and addresses the provisions of EPA's redesignation policies and guidance documents. In general, the ozone maintenance plan must demonstrate long-term (i.e., 10 years) maintenance of the ozone NAAQS.

[15] 62 FR 38856 (July 18, 1997).

[16] Similar rulemakings for other areas were promulgated on July 22, 1998 (63 FR 39432) and June 9, 1999 (64 FR 30911).

[17] *American Trucking Assoc. v. EPA*, 175 F.3d 1027 (D.C. Cir. 1999).

[18] *Whitman v. Am. Trucking Assn'ns, 121 S.Ct. 903 (2001).*

[19] 65 FR 45182 (July 20, 2000).

maintenance time period of 1993 through 2013 with this 9.0 psi limit, Colorado has requested that the 9.0 psi summertime RVP limit (10.0 psi for ethanol blends) be made permanent for the Denver/Boulder area once EPA approves the redesignation request and maintenance plan. EPA anticipates a final approval of the State's redesignation request in the late spring of 2001.

II. Colorado's Petition

A. What Did Colorado Request in Its Petition?

On June 23, 2000, The Honorable Bill Owens, Governor of Colorado, sent a letter to Ms. Rebecca Hammer, Acting Administrator of EPA's Region VIII, requesting that EPA provide a waiver of the 7.8 psi federal RVP standard and that "the 9.0 psi volatility standard be continued in the Denver/Boulder metropolitan area for the summertime ozone season in 2001."

B. Justification for Granting Colorado's Petition To Waive the 7.8 RVP Standard for 2001

As described above, for changes to the federal volatility standard EPA must find the following: (1) The existence of a particular local economic impact that makes changes to the otherwise applicable standard appropriate; and (2) that sufficient alternative programs are available to achieve attainment and maintenance of the ozone NAAQS. The petition and available evidence indicate that imposing the 7.8 psi standard would result in costs to consumers and industry and that these costs are not reasonable given that the 7.8 psi RVP standard is not necessary to ensure continued attainment of the 1-hour ozone standard.

The Colorado Petroleum Association[20] has estimated that the cost of providing gasoline to the Denver market without the waiver would cost the refiners who supply the Denver area approximately $15–25 million. Six refiners supply the Denver market and these refiners vary in size, refining capacity and complexity. The Colorado Petroleum Association estimates that all of the refiners would have to spend capital dollars to upgrade and reconfigure their facilities to provide gasoline blended at the 7.8 psi RVP level for the Denver market. Documentation submitted in support of Colorado's petition for relaxation of the 7.8 psi RVP standard indicate that implementation of that standard would cost the consumer about 1.5 cents more per gallon of gasoline with an overall seasonal cost of $4,500,000.[21]

The record also supports the conclusion that retention of the 9.0 psi standard will not cause deterioration of air quality in the Denver/Boulder area. As stated above, the area has continued to meet the 1-hour ozone standard since 1987 without the implementation of the 7.8 psi standard. With continued vehicle fleet turnover to lower-emitting vehicles and continued implementation of the State's existing VOC and NO_x control programs,[22] we believe sufficient controls are in place to ensure maintenance of the ozone NAAQS in the short-term.

The Governor has requested a one-year extension of EPA's waiver of the federal 7.8 psi RVP standard for the Denver/Boulder area, pending final approval of the State's redesignation request. EPA believes that the appropriate time to assign a permanent RVP standard for the area will be following redesignation of the Denver/Boulder area.

III. Final EPA Action

EPA has decided to grant Denver/Boulder's petition for approval of a waiver of the federal volatility standard of 7.8 psi RVP for the 2001 ozone control season. The applicable federal volatility standard for the Denver/Boulder area for the 2001 ozone control season, therefore, will be 9.0 psi RVP. This action represents a continuation of previously approved relaxations of the RVP standard.

Because this rulemaking merely extends for one additional year the waiver allowing the Denver/Boulder area to continue to receive gasoline containing up to 9.0 psi RVP as it has since 1992, EPA is publishing this rule without prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. In the "Proposed Rules" section of today's **Federal Register**, however, we are publishing a separate document that will serve as the proposal to grant Colorado's petition if adverse comments are filed. This direct final rule will be effective on July 23, 2001 without further notice unless we receive adverse comment by June 25, 2001. If EPA receives adverse comment, we will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on today's proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and therefore is not subject to these requirements.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule continues the current relaxation of the Federal 7.8 psi RVP standard and thus avoids imposing the costs that the existing Federal regulations would otherwise impose. Today's rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885 (April 23, 1997)) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant action as defined by Executive Order 12866, and because it does not address an environmental health or safety risk that would have a disproportionate effect on children.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255 (Aug. 10, 1999)), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This rule does not have federalism implications. Today's rule affects the level of the Federal RVP standard with which businesses supplying gasoline to the Denver/Boulder area must comply. It will not have substantial direct effects on the States, on the relationship between the national government and the States or or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Therefore, Executive Order 13132 does not apply to this rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to use available and applicable voluntary consensus standards. This rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A "major rule" cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(a).

H. Regulatory Flexibility

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities.

[20] Memorandum from Stan Dempsey, Colorado Petroleum Association, Denver, CO, to Kerri Fiedler, EPA Region VIII, dated 2/27/2001.

[21] Memorandum from K.B. Livo, Colorado Department of Public Health and Environment, to Kerri Fiedler, Region VIII, dated 12/07/2000.

[22] In particular, EPA notes that Colorado has had a motor vehicle inspections and maintenance program since 1981 (Automobile Inspection and Readjustment, State Regulation No. 11 ("Motor Vehicle Emissions Inspection Program")). A more stringent and effective "enhanced" inspection and maintenance program began in the Denver/Boulder area in 1995.

In addition, Regulation No. 3 ("Air Contaminant Emissions Notices") and Regulation No. 6 ("Standards of Performance for New Stationary Sources") control emissions from industrial facilities and cap VOC and NO_x emission from new or modified major stationary sources, and Regulation No. 7 ("Emissions of Volatile Organic Compounds") contains RACT requirements for commercial and industrial sources of VOCs.

I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

"On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this rule was developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084". Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249 (November 6, 2000)), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Today's rulemaking does not have tribal implications. The rule affects the level of the Federal RVP standard applicable to gasoline supplied to the Denver/Boulder area. It therefore affects only refiners, distributors and other businesses supplying gasoline to the Denver/Boulder area and will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

J. Electronic Copies of Rulemaking

A copy of this action is available on the Internet at *http://www.epa.gov/otaq* under the title: "Direct Final Rule—Approval of Colorado's Petition to Relax the Federal Gasoline Reid Vapor Pressure Volatility Standard for 2001."

K. Statutory Authority

Authority for this action is in sections 211(h) and 301(a) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (42 U.S.C. 7545(h) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 16, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATIONS OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211, and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545 and 7601(a).

2. In § 80.27(a)(2), the table is amended by revising the entry for Colorado and footnote 2 to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

* * * * *

(a) * * *

(2) * * *

APPLICABLE STANDARDS[1] 1992 AND SUBSEQUENT YEARS

State	May	June	July	August	September
Colorado[2]	9.0	7.8	7.8	7.8	7.8

[1] Standards are expressed in pounds per square inch (psi).

[2] The standard for 1992 through 2001 in the Denver-Boulder area designated nonattainment for the 1-hour ozone NAAQS in 1991 (see 40 CFR 81.306) will be 9.0 for June 1 through September 15.

[FR Doc. 01–13140 Filed 5–23–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–6984–9]

Approval of Colorado's Petition to Relax the Federal Gasoline Reid Vapor Pressure Volatility Standard for 2001

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA" or "the Agency") is proposing to approve the State of Colorado's petition to relax the Reid Vapor Pressure ("RVP") gasoline standard that applies to gasoline introduced into commerce in the Denver-Boulder area from June 1 to September 15, 2001. The Agency proposes to approve a relaxation of the federal RVP standard for this area from 7.8 pounds per square inch ("psi") to 9.0 psi for the year 2001, as an amendment to EPA's gasoline volatility regulations at 40 CFR 80.27. The Agency does not believe that this action will cause environmental harm to Denver/Boulder area residents. EPA has approved relaxations of Denver/Boulder's RVP standard from 7.8 psi to 9.0 psi for the past eight years and the area has remained in compliance with the ozone standard since 1987.

DATES: Comments on this proposed rule must be received in writing by June 25, 2001.

ADDRESSES: Materials relevant to this petition are available for inspection in public docket A–2000–53 at the Air Docket Office of the EPA, Room M–1500, 401 M Street, SW., Washington, DC 20460, (202)260–7548, between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A duplicate public docket CO–RVP–01 has been established at U. S. EPA Region VIII, 999 18th Street, Suite 500, Denver, CO 80202–2466, and is available for inspection during normal working hours. Interested persons wishing to examine the documents in this docket should contact Kerri Fiedler at (303) 312–6493 at least 24 hours before the visiting day. As provided in 40 CFR part 2, a reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Richard Babst at (202) 564–9473, facsimile: (202) 565–2085, e-mail address: *babst.richard@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: For more information on this proposal, please see EPA's direct final rule published in the Rules and Regulations section of this **Federal Register** which approves Colorado's petition for relaxation of the federal gasoline Reid Vapor Pressure standard for 2001. The Agency views this direct final rule as a noncontroversial action for the reasons discussed in the Direct Final Rule published in today's **Federal Register**. If no adverse or critical comments or requests for a public hearing are received in response to this proposal, no further action is contemplated in relation to this rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This proposed action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and therefore is not subject to these requirements.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) Public Law 104–4 establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate or the private sector in any one year. Today's proposed rule continues the current relaxation of the Federal 7.8 psi RVP gasoline standard and thus avoids imposing the costs that the existing Federal regulations would otherwise impose. Today's proposed rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, because small governments will not be significantly or uniquely affected by this proposed rule, the Agency is not required to develop a plan with regard to small governments.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885 (April 23, 1997)) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant action as defined by 12866, and because it does not address an environmental health or safety risk that would have a disproportionate effect on children.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255 (August 10, 1999)), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. Today's proposed rule affects the level of the Federal RVP gasoline standard with which businesses supplying gasoline to the Denver/Boulder area must comply. It will not have substantial direct effects on the States, on the relationship between the national government and the States or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Therefore, Executive Order 13132 does not apply to this proposed rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d)(15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to use available and applicable voluntary consensus standards. This proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule. EPA has also determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because this proposed rule continues the relaxation of the Federal volatility gasoline standard that has been in effect in the Denver/Boulder area since 1992, and thus imposes no new requirements on small entities. Instead, today's proposed rule relieves the regulatory burden associated with the 7.8 psi RVP requirement that would otherwise apply to all entities, including small entities subject to this standard. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have significant economic impacts on a substantial number of small entities.

H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this proposed rule was developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084.

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249 (November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Today's proposed rulemaking does not have tribal implications. The proposed rule affects the level of the Federal RVP standard applicable to gasoline supplied to the Denver/Boulder area. It therefore affects only refiners, distributors and other businesses supplying gasoline to the Denver/Boulder area and will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

I. Electronic Copies of Rulemaking

For more information about this proposed rule and more details as described in the preamble to the direct final rule see a copy of this rule on the Internet at *http://www.epa.gov/otaq* under the title: "Direct Final—Approval of Colorado's Petition to Relax the Federal Gasoline Reid Vapor Pressure Volatility Standard for 2001."

J. Statutory Authority

Authority for this action is in sections 211(h) and 301(a) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (42 U.S.C. 7545(h) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 16, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble to this proposal and the preamble to the related direct final rule, part 80 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 80—REGULATIONS OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211, and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545 and 7601(a).

2. In § 80.27(a)(2), the table is amended by revising the entry for Colorado and footnote 2 to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

* * * * *

(a) * * *

(2) * * *

APPLICABLE STANDARDS[1] 1992 AND SUBSEQUENT YEARS

State	May	June	July	August	September
Colorado[2]	9.0	7.8	7.8	7.8	7.8

[1] Standards are expressed in pounds per square inch (psi).

[2] The standard for 1992 through 2001 in the Denver-Boulder area designated nonattainment for the 1-hour ozone NAAQS in 1991 (see 40 CFR 81.306) will be 9.0 for June 1 through September 15.

[FR Doc. 01–13141 Filed 5–23–01; 8:45 am]

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Federal Register

Thursday,
May 24, 2001

Part IV

Department of Defense

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Elizabeth River, Craney Island, VA; Proposed Rule

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Elizabeth River, Craney Island, VA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing regulations to establish a restricted area in the vicinity of the Craney Island Refueling Station, Portsmouth, Virginia. These regulations will enable the Navy to enhance security around vessels moored at the facility. 33 U.S.C. 1 states, in part, that: It shall be the duty of the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his/her judgment the public necessity may require for the protection of life and property. The regulations are necessary to safeguard Navy vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

DATES: Written comments must be submitted on or before June 25, 2001.

ADDRESSES: U. S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, D.C. at (202) 761–4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, Regulatory Branch, at (757) 441–7653.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C.1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C.3) the Corps proposes to amend the restricted area regulations in 33 CFR part 334 by adding § 334.293 which establishes a restricted area in the Elizabeth River adjacent to the Craney Island Refueling Station in Portsmouth, Virginia. The public currently has unrestricted access to the facility and units assigned there. To better protect vessels and personnel stationed at the facility, the Commander, Navy Region, Mid-Atlantic has requested the Corps of Engineers establish a Restricted Area which will enable the Navy to implement a waterside security program that is currently not available at the facility.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.293 would be added to read as follows:

§ 334.293 Elizabeth River, Craney Island Refueling Pier Restricted Area.

(a) *The area.* The waters within an area beginning at a point on the shore at latitude 36°53′17.4″ N, longitude 76°20′21″ W; thence easterly to latitude 36°53′16.8″ N, longitude 76°20′14.4″ W; thence southwesterly to latitude 36°53′00″ N, longitude 76°20′18″ W; thence southeasterly to latitude 36°52′55.2″ N, longitude 76°20′16.5″ W; thence southwesterly to latitude 36°52′52.2″ N, longitude 76°20′18″ W; thence southwesterly to latitude 36°52′49.8″ N, longitude 76°20′25.8″ W; thence northwesterly to latitude 36°52′58.2″ N, longitude 76°20′33.6″ W; thence northeasterly to a point on the shore at latitude 36°53′00″ N, longitude 76°20′30″ W; thence northerly along the shoreline to the point of beginning.

(b) *The regulation.* No vessel or persons may enter the restricted area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* The regulation in this section shall be enforced by the Commander, Navy Region, Mid-Atlantic, and/or persons or agencies as he/she may designate.

Dated: May 4, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–13103 Filed 5–23–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Elizabeth River, Lambert's Bend, VA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing regulations to establish a restricted area in the vicinity of Lambert's Bend and the Craney Island Refueling Station, Portsmouth, Virginia.

These regulations will enable the Navy to enhance security around vessels moored at the facility. 33 U.S.C. 1 states, in part, that: It shall be the duty of the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his/her judgment the public necessity may require for the protection of life and property. The regulations are necessary to safeguard Navy vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

DATES: Written comments must be submitted on or before June 25, 2001.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, D.C. at (202) 761–4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, Regulatory Branch, at (757) 441–7653.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the restricted area regulations in 33 CFR Part 334 by adding § 334.295 which establishes a restricted area in the Elizabeth River, near Lambert's Bend adjacent to the Naval Deperming Station, Portsmouth, Virginia. The public currently has unrestricted access to the facility and units assigned there. To better protect vessels and personnel stationed at the facility, the Commander, Navy Region, Mid-Atlantic has requested the Corps of Engineers establish a Restricted Area which will enable the Navy to implement a waterside security program that is currently not available at the facility.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.295 would be added to read as follows:

§ 334.295 Elizabeth River, Lamberts Bend, Naval Deperming Station, Restricted Area.

(a) *The area.* The waters within an area beginning at 36°52′10″ N, longitude 76°20′02″ W; thence easterly to latitude 36°52′10″ N, longitude 76°19′55″ W; thence southerly to latitude 36°51′57″ N, longitude 76°19′55″ W; thence westerly to latitude 36°51′57″ N, longitude 76°20′02″ W; thence northerly to the point of origin.

(b) *The regulation.* No vessel or persons may enter the restricted area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commander, Navy Region, Mid-Atlantic, and/or persons or agencies as he/she may designate.

Dated: May 4, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–13104 Filed 5–23–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Hampton Roads and Willoughby Bay, VA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing to amend the regulations which established a restricted area, in waters of the United States, adjacent to the Norfolk Naval Base, Norfolk, Virginia. The proposed amendment will close off an open area on the south side of the base and changes the enforcement responsibility from the base Commander to the Commander, Navy Region, Mid-Atlantic. These regulations will enable the Navy to enhance security around vessels moored at the facility. 33 U.S.C. 1 states, in part that: It shall be the duty of the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his/her judgment the public necessity may require for the protection of life and property. The regulations are necessary to safeguard Navy vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

DATES: Written comments must be submitted on or before June 25, 2001.

ADDRESSES: U. S Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, D.C. at (202) 761–4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, Regulatory Branch, at (757) 441–7653.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C.1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the restricted area regulations in 33 CFR 334.300.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Public Law 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR Part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.300 would be revised to read as follows:

§ 334.300 Hampton Roads and Willoughby Bay, Norfolk Naval Base, Restricted Area.

(a) *The area.* (1) The waters within an area beginning at latitude 36°55′55″ N, longitude 76°20′02″ W; thence northwesterly to latitude 36°56′00″ N, longitude 76°20′08″ W; thence northerly along the eastern limit of Norfolk Harbor Channel to latitude 36°57′52″ N, longitude 76°20′00″ W; thence easterly to latitude 36°57′52″ N, longitude 76°19′35″ W; thence to latitude 36°57′47.7″ N, 76°18′57″ W; thence southeasterly to latitude 36°57′26″ N, longitude 76°18′42″ W; thence easterly to latitude 36°57′26.2″ N, longitude 76°17′55.2″ W; thence southerly to latitude 36°57′05″ N, longitude 76°17′52″ W; thence southeasterly to latitude 36°56′56.2″ N, longitude 76°17′27″ W; thence northeasterly to latitude 36°57′10″ N, latitude 76°16′29″ W; thence to the shoreline at latitude 36°57′18.8″ N, longitude 76°16′22″ W at the Naval Air Station.

(2) Beginning at a point on the Naval Station shore at latitude 36°56′37.5″ N, longitude 76°19′44″ W; thence westerly and northerly along the breakwater to its extremity at latitude 36°56′41.5″ N, longitude 76°19′54″ W; thence westerly to a point on the eastern limit of Norfolk Harbor Channel at latitude 36°56′41.5″ N, longitude 76°20′05.5″ W; thence northerly along the eastern limit of Norfolk Harbor Channel to latitude 36°57′52″ N, longitude 76°20′00″ W; thence easterly to latitude 36°57′52″ N, longitude 76°19′35″ W; thence to latitude 36°57′47.7″ N., longitude 73°18′57″ W; thence southeasterly to latitude 36°57′26″ N, longitude 76°18′42″ W; thence easterly to latitude 36°57′26.2″ N, longitude 76°17′55.2″ W; thence southerly to latitude 36°57′05″ N, longitude 76°17′52″ W; thence southeasterly to latitude 36°56′56.2″ N, longitude 76°17′27″ W; thence northeasterly to latitude 36°57′10″ N, longitude 76°16′29″ W; and thence to the shoreline at latitude 36°57′18.8″ N, longitude 76°16′22″ W, at the Naval Air Station.

(b) *The regulation.* No vessel or persons may enter the restricted area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commander, Navy Region, Mid-Atlantic, and/or persons or agencies as he/she may designate.

Dated: May 4, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–13105 Filed 5–23–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Little Creek Harbor, VA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing regulations to establish a restricted area in the vicinity of the Little Creek Amphibious Base, Little Creek, Virginia. These regulations will enable the Navy to enhance security around vessels moored at the facility. 33 U.S.C. 1 states, in part that: It shall be the duty of the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his/her judgment the public necessity may require for the protection of life and property. The regulations are necessary to safeguard Navy vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

DATES: Written comments must be submitted on or before June 25, 2001.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, D.C. at (202) 761–4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, Regulatory Branch, at (757) 441–7653.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the restricted area regulations in 33 CFR Part 334 by adding § 334.305 which establishes a restricted area in Little Creek Harbor adjacent to the Naval Amphibious Base (NAB) in Little Creek, Virginia. NAB is the homeport of numerous ships, small boats and special operational units. The public currently has unrestricted access to the facility and units assigned there. To better protect vessels and personnel assigned to NAB, the Commander, Navy Region, Mid-Atlantic has requested the Corps of Engineers establish a Restricted Area which will enable the Navy to implement a waterside security program that is currently not available at the facility.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.305 would be added to read as follows:

§ 334.305 Little Creek Harbor, Fisherman's Cove, Little Creek Amphibious Base, Little Creek, Virginia, Restricted Area.

(a) *The area.* (1) *The restricted area.* The waters within an area beginning at a point on shore at latitude 36°55′57.7″ N, longitude 76°10′35″ W; thence southwesterly to a point on the opposite shore at latitude 36°55′53″ N, longitude 76°10′44″ W, thence southerly to latitude 36°55′21.2″ N, longitude 76°10′42″ W; thence southwesterly to latitude 36°55′17.8″ N, longitude 76°10′49″ W; thence northwesterly to a point in Fisherman's Cove at latitude 36°55′22″ N, longitude 76°11′15.5″ W; thence southerly to latitude 36°55′19.2″ N, longitude 76°11′16″ W, thence easterly along the southern shoreline of Fisherman's Cove, the entire shoreline of Little Creek Harbor, Little Creek Cove and Desert Cove (so as to encompass the entire harbor area) to latitude 36°55′18″ N, longitude 76°10′30″ W; thence to the point of origin.

(2) *The exclusion area.* The exclusion area is a subset of the restricted area in paragraph (a)(1) of this section and includes all waters in Little Creek Harbor, Little Creek Cove and Desert Cove south of a line beginning at latitude 36°55′15.8″ N, longitude 76°10′58.8″ W; and ending at latitude 36°55′19.3″ N, longitude 76°10′29.5″ W.

(b) *The regulations.* (1) *Restricted area.* Vessels or persons may travel through the restricted area between the entrance to Little Creek Channel and Fisherman's Cove at anytime. Vessels or persons transiting through this area are subject to all applicable federal and state laws including laws or regulations designed to protect the naval facility, and persons or vessels assigned therein. Federal and State law enforcement officials may at any time take action to ensure compliance with their respective laws. In addition, this regulation authorizes navy security personnel, designated by the Commander Navy Region, Mid-Atlantic or persons authorized to act in his/her behalf, the authority to ascertain the identity and intent of any vessels and/or persons transiting the restricted area that indicate by way of appearance or action they are a possible threat to government assets. If a determination is made that the vessel and/or persons are a threat to government assets located within the restricted area, Navy security units may take actions as provided by law or regulation that are deemed necessary to protect government personnel and assets located within the restricted area.

(2) *Exclusion area.* No vessel or persons may enter the exclusion area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* (1) The regulation in this section shall be enforced by the Commander, Navy Region, Mid-Atlantic, and/or persons or agencies as he/she may designate.

(2) Federal and State Law enforcement vessels and personnel may enter either the restricted area or exclusion area at any time to enforce their respective laws.

(3) Enforcement actions will not be taken by the Navy or its designees for vessels or persons stationed at Coast Guard Station Little Creek, and vessels or persons working at one of the commercial facilities within the exclusion area with proper identification and clearance.

Dated: May 4, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–13106 Filed 5–23–01; 8:45 am]

BILLING CODE 3710–92–P

Federal Register

Thursday,
May 24, 2001

Part V

The President

Proclamation 7443—National Hurricane Awareness Week, 2001

Federal Register
Vol. 66, No. 101
Thursday, May 24, 2001

Presidential Documents

Title 3—

The President

Proclamation 7443 of May 22, 2001

National Hurricane Awareness Week, 2001

By the President of the United States of America

A Proclamation

One of the most dramatic, damaging, and potentially deadly weather events is a hurricane. Each year on average, six hurricanes develop over the Atlantic Ocean, Caribbean Sea, or Gulf of Mexico. Many of these remain over the ocean with little or no impact on the continental United States. Unfortunately, though, on average five hurricanes strike the United States coastline every 3 years. These storms can cause significant damage that can cost individuals, businesses, and government billions of dollars. Worst of all, however, is the loss that can never be recovered: human life.

Currently more than 48 million people live along hurricane-prone coastlines in the United States. The growing number of residents living in these areas, as well as the millions of tourists who visit our Nation's beaches annually, has increased the difficulties in evacuating people from areas that are threatened by an impending hurricane. This problem is further compounded by the fact that a large majority of people living in these areas have never experienced the force of a major hurricane and its devastating impact.

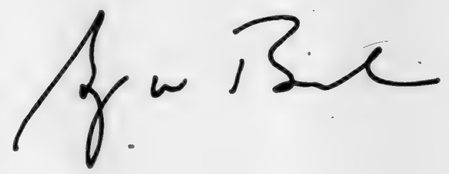
Increasingly, many Americans have begun working to ensure that common-sense measures are implemented to protect themselves and their property from natural disasters including floods, tornadoes, and earthquakes. Their foresight, hard work, and respect for the awesome power of nature often yields great benefits for their communities. They are to be commended for this preventive work, and we should learn from their example as we plan for future disasters.

All Americans must be more vigilant about preparing for disasters in advance, rather than just responding to them after they occur. Specific actions can be taken in advance of a storm that will further protect property, help to ensure that businesses are able to resume work quickly after a storm, and ultimately save lives. In addition, the Federal Emergency Management Agency (FEMA) estimates that for every dollar spent in damage prevention, two are saved in repairs.

The National Oceanic and Atmospheric Administration's (NOAA) researchers and forecasters continue to improve the accuracy of hurricane warnings that enable residents to evacuate and emergency personnel to effectively respond well in advance of the storm's arrival. In addition, FEMA and NOAA have focused their resources toward encouraging community leaders to work with Federal, State, and local agencies, as well as volunteer agencies, schools, the private sector, and the news media to collectively undertake activities that diminish the destruction of natural disasters. For hurricane-prone areas, these measures can include residents stockpiling emergency provisions, learning evacuation routes, installing hurricane shutters, building residential safe rooms and community shelters, adopting stronger building codes, and retrofitting existing buildings. These measures have proved effective, and I encourage citizens living in these areas to look for ways that they can better prepare themselves and their communities to reduce the potential devastating impact of these storms.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 20 through May 26, 2001, as National Hurricane Awareness Week. I call upon government agencies, private organizations, schools, news media, and residents in hurricane-prone areas to work towards the prevention of needless storm damage and to join me in raising awareness of the hazards posed by hurricanes.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



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Federal Register

Thursday,
May 24, 2001

Part VI

The President

Executive Order 13213—Additional Measures With Respect To Prohibiting the Importation of Rough Diamonds From Sierra Leone

Federal Register
Vol. 66, No. 101
Thursday, May 24, 2001

Presidential Documents

Title 3—

The President

Executive Order 13213 of May 22, 2001

Additional Measures With Respect To Prohibiting the Importation of Rough Diamonds From Sierra Leone

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code, and in view of the national emergency described and declared in Executive Order 13194 of January 18, 2001, and United Nations Security Council Resolutions 1306 of July 5, 2000, and 1343 of March 7, 2001,

I, GEORGE W. BUSH, President of the United States of America, take note that in Executive Order 13194, the President responded to, among other things, the insurgent Revolutionary United Front's (RUF) illicit trade in diamonds to fund its operations in the civil war in Sierra Leone by declaring a national emergency and, consistent with United Nations Security Council Resolution 1306, by prohibiting the importation into the United States of all rough diamonds from Sierra Leone except for those importations controlled through the Certificate of Origin regime of the Government of Sierra Leone. United Nations Security Council Resolution 1343 takes note that the bulk of RUF diamonds leaves Sierra Leone through Liberia and that such illicit trade cannot be conducted without the permission and involvement of Liberian government officials at the highest levels; determines that the active support provided by the Government of Liberia for the RUF and other armed rebel groups in neighboring countries constitutes a threat to international peace and security in the region; and decides that all states shall take the necessary measures to prevent the importation of all rough diamonds from Liberia, whether or not such diamonds originated in Liberia. The Government of Liberia's complicity in the RUF's illicit trade in diamonds and its other forms of support for the RUF are direct challenges to United States foreign policy objectives in the region as well as to the rule-based international order that is crucial to the peace and prosperity of the United States. Therefore, I find these actions by the Government of Liberia contribute to the unusual and extraordinary threat to the foreign policy of the United States described in Executive Order 13194 with respect to which the President declared a national emergency. In order to deal with that threat and to ensure further that the direct or indirect importation into the United States of rough diamonds from Sierra Leone will not contribute financial support to further aggressive actions by the RUF or to the RUF's procurement of weapons; to implement United Nations Security Council Resolution 1343; and to counteract, among other things, the Government of Liberia's facilitation of and participation in the RUF's illicit trade in diamonds through Liberia, I hereby order the following additional measures be taken with respect to prohibiting the importation of rough diamonds from Sierra Leone:

Section 1. Except to the extent provided in regulations, orders, directives, or licenses issued pursuant to this order, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted prior to the effective date of this order, the direct or indirect importation into the United States of all rough diamonds from Liberia, whether or not such

diamonds originated in Liberia, on or after the effective date of this order is prohibited.

Sec. 2. Any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited. Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. The definitions contained in section 4 of Executive Order 13194 apply to the terms used in this order.

Sec. 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and UNPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including modification, suspension, or termination of licenses or authorizations in effect as of the date of this order.

Sec. 5. This order is not intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, or any other person.

Sec. 6. (a) This order is effective at 12:01 a.m. eastern daylight time on May 23, 2001.

(b) This order shall be transmitted to the Congress and published in the **Federal Register**.

THE WHITE HOUSE,
May 22, 2001.

[FR Doc. 01–13381
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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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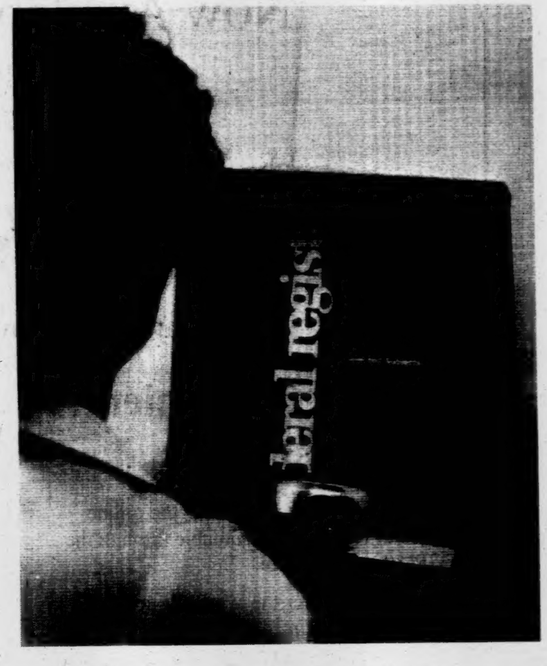

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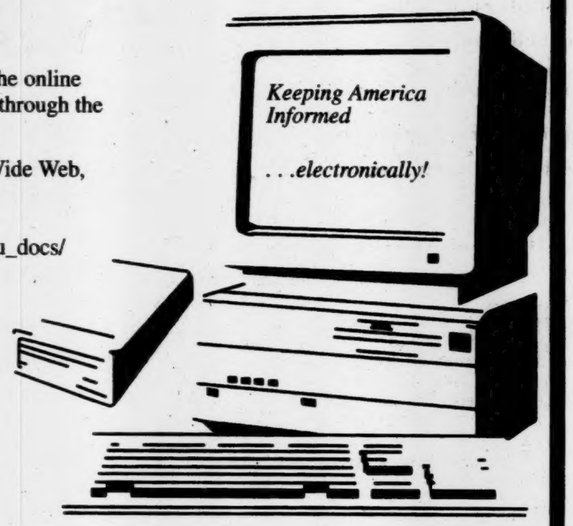

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